

VOLUME ONE

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**Appeal from Sumter County
R. Ferrell Cothran, Jr., Circuit Court Judge**

RECEIVED

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S.C. Supreme Court

STEPHEN COREY BRYANT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000518

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

v.

STEPHEN COREY BRYANT)

DEFENDANT.)

TRANSCRIPT OF RECORD

04-GS-40-10096, 06-GS-43-702
06-GS-43-00696, 06-GS-43-701
06-GS-43-00699, 06-GS-43-700
06-GS-43-697, 06-GS-43-698
September 2-5, 8, 9, 11, 2008
Sumter, South Carolina

BEFORE:

THE HONORABLE THOMAS A. RUSSO , JUDGE.

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	79 06-GS-43-700 with sentencing sheet	9/95
15	80 06-GS-43-702 with sentencing sheet	9/95
	81 06-GS-43-701 with sentencing sheet	9/95
16	82 SCDPPPS/SCDC chart	9/95
	83 Photo of driveway (Dennis)	9/182
17	84 Photo of driveway (Ammons)	9/196
	85 SLED pistol application	9/95
18	86 Sales receipt	9/95
	87 Aerial photo of Tolar Boat Landing	9/95
19	88 Bullet from Clinton Brown	9/256
	89 Body diagram, Clinton Brown	9/256
20	90 Photos/blood spots (A, B)	9/262
	91 Photos, shell casing (A, B)	165/263
21	92 Shell casing, Clinton Brown	9/263
	93 Diagram, Gainey crime scene	165/290
22	94 Photos, Cliff Gainey crime scene (A-L)	9/291
	95 Shell casing, Gainey	9/297
23	96 Shell casing, Gainey	9/297
	97 Shell casing, Gainey	9/331
24	98 Bullet, Gainey	9/331
	99 Photos, Chris Gainey (A-F)	9/307
25	100 Photos, Brian Horton (A-G)	9/324

1	101 Stipulation, Qwik Fare video	9/95
	102 Stipulation, McDonalds video	9/95
2	103 Stipulation, Pantry/Exxon video	9/95
	104 Diagram, Chris Burgess crime scene	9/362
3	105 Photos, Chris Burgess crime scene (A-Q)	9/364
	106 Shell casing, Burgess	9/368
4	107 Shell casing, Burgess	9/368
	108 Bullet, Burgess	9/128
5	109 Tennis shoes	9/95
	110 Wal-mart receipt/steaks	9/95
6	111 Wal-mart steak container	9/95
	112 T-shirt, Stephen Bryant's	9/95
7	113 Photos, Larry Justice (A-D)	9/391
	114 Photos (A-C)	9/602
8	115 Photos, Billy Cockerill (A-E)	9/602
	116 Photos, Troy Baker (A-E)	9/602
9	117 Photos, Col. George Summers (A-B)	9/602
	118 Photos, Kim Dees (A-G)	9/602
10	119 Photos, Mildred Tietjen (A-J)	9/602

11 DEFENDANT'S:

12	No.	Description	ID/EVD
	1	Phone log	707
13	2	Subpoena for phone records	726
	3	Interview of Gina Creech	735/735
14	4	Timeline	920
	5	Geneology chart	920/946
15	6	Picture of Stephen Bryant	920/946
	7	Photo of Stephen Bryant	920/946
16	8	Photo	920/946
	9	Photo	920/946
17	10	Photo	920/946
	11	Photo	920/946
18	12	Photo of family	920/946
	13	Photo of family	920/946
19	14	Letter	920/1002

20 COURT'S:

21	1	Search warrant/residence	28
	2	Search warrant/defendant's truck	28
22	3	Court order	152
	4	Court's exhibit list, page 3	569

23

24

25

1 (WHEREUPON, State Exhibits Nos. 1 through 66, 71-87, 89-91,
2 93-119 were marked for identification only.)

3 THE COURT: All right. For the record we're here in
4 the matter of the State of South Carolina versus Stephen Corey
5 Bryant. Back on August the 18th of 2008 Mr. Bryant was before
6 the Court and represented by his attorneys Jack Howle and John
7 Clark and at that time entered a plea of guilty to the various
8 indictments. Solicitor, the -- I don't have a copy of those
9 indictments but 'cause I'm not sure which one of those
10 indictments was the indictment where the State had noticed the
11 Defense of seeking the death penalty.

12 MR. JACKSON: Your Honor, that's indictment
13 2006-GS-43-699.

14 THE COURT: Okay. And then so we're here today to
15 proceed with the sentencing phase with matters associated with
16 that indictment?

17 MR. JACKSON: That's correct, Your Honor.

18 THE COURT: All right. Mr. Howle, any matter that we
19 need to take up before we proceed?

20 MR. HOWLE: Yes, Your Honor. In regard to the pleas
21 that we entered on August the 18th one thing, and I spoke to the
22 solicitor this morning and I think we have a clear understanding
23 on -- I want to make sure. The comment that Your Honor had made
24 in regard to when he pled to this particular indictment, was
25 something to the effect that you're not only admitting that you

1 committed that particular offense but may have made reference to
2 it being aggravating, something of that nature. We just wanted
3 to be sure that we have the same understanding with the Court as
4 in this particular phase of the trial. The burden is still on
5 the State to prove those aggravating circumstances that are
6 listed in the statute or would be nonstatutory and cannot just
7 simply say simply pled to that the aggravation is established and
8 we don't have to say anything. We just want to make sure that
9 that's still a requirement that the State must prove.

10 THE COURT: And you're absolutely correct, Mr. Howle.
11 The law provides that the State has the burden of proving any
12 aggravating circumstances beyond a reasonable doubt.

13 MR. HOWLE: Thank you.

14 THE COURT: And that's their standard, which as the
15 State's aware.

16 MR. HOWLE: So the plea itself basically it's just to
17 this phase of the trial; but proof wise, any proof in regard to
18 matters that the statute provides for sentencing, aggravation,
19 mitigation, whatever, has got to be established at this hearing
20 or this trial now.

21 THE COURT: Right. The State's burden with regard to
22 proof of aggravation is beyond a reasonable doubt, and of course
23 the Defense's burden with regards to proving any mitigation would
24 be any evidence that would indicate the existence of the
25 mitigation.

1 MR. JACKSON: And the plea itself to this murder or
2 this armed robbery other than getting us to here -- in other
3 words, as an exhibit that I saw listed that was actually the, I
4 guess, indictments in the attached sentence sheet he's already
5 signed. I don't really know what the purpose of having that as
6 an exhibit is, but I -- when I first saw it I was concerned that
7 somehow that was going to be presented as some of the evidence to
8 show the aggravation or some aspect proven the aggravation that
9 the State has to prove. And it just puzzled me that it was
10 listed as an exhibit. I realize that Your Honor is going to have
11 it in front you because you've got to write the sentence on it
12 when you, like the earlier thing, make that determination. But
13 by it being listed as an exhibit rather than just the normal
14 indictments passed up. I really wasn't sure as to how the
15 solicitor was going to use just the fact he signed, that he had
16 signed the plea sheet regard to the charges on this particular
17 indictment.

18 THE COURT: Solicitor, you want to address that?

19 MR. JACKSON: No, sir.

20 THE COURT: I assume that during the course of the
21 proceedings we'll see what the State intends to do regarding
22 that.

23 MR. HOWLE: 'Cause I know Your Honor knows he pled to
24 it.

25 THE COURT: But the -- any statutory aggravating

1 circumstances have got to be proven beyond a reasonable doubt.
2 Now of course, what are you referring to the charge that he pled
3 to, the robbery?

4 MR. HOWLE: Yes, sir, the armed robbery.

5 THE COURT: Well, I mean, that's -- that is an
6 aggravating circumstance so I -- you're saying that the State
7 then has to come forth and prove all the elements of the armed
8 robbery beyond a reasonable doubt.

9 MR. HOWLE: Establish as an aggravating circumstance
10 they've got to. Otherwise, Your Honor, any time somebody pled to
11 something like that say, well, if that itself is an aggravating
12 circumstance we don't have to show anything. I don't think
13 that's true whether the jury would have found him guilty or
14 whether he pled.

15 THE COURT: Well, why don't ---

16 MR. HOWLE: Also they've still got to put up the
17 evidence beyond a reasonable doubt that that offense occurred if
18 it's going to be considered as an aggravating circumstance in a
19 death penalty.

20 MR. JACKSON: Judge, we're prepared to put that
21 evidence up. We intend to prove that we will prove it.

22 THE COURT: I anticipated seeing that although I don't
23 know the response is going to be. What we'll do is we'll proceed
24 with the hearing, and the State has their burden of proof and
25 whether they meet that burden of proof will be determined as we

1 go through the proceedings.

2 MR. HOWLE: Thank you.

3 MR. CLARK: Your Honor, if I could just ---

4 THE COURT: Yes, sir.

5 MR. CLARK: ---make a point on that. What we want to
6 make clear is that the guilty plea would not be used for any
7 purpose during this hearing and that's our concern whether the
8 Court is going to consider the guilty plea in any manner
9 whatsoever during this sentencing hearing. It's our position
10 that the guilty plea cannot be considered as evidence to
11 establish the aggravation in any form or fashion, and that's
12 really our concern of whether the Court intends to consider the
13 guilty plea in determining whether aggravation is established in
14 this hearing.

15 THE COURT: Well, I mean, that may be moot since -- it
16 appears, and again, we may have to just wait and see where it
17 goes, but it appears that the State does intend to provide that
18 evidence during this phase of the case. And I'm not sure what
19 they're going to present.

20 MR. CLARK: Beg the Court's indulgence.

21 THE COURT: Sure.

22 (Pause while attorneys Mr. Clark and Mr. Howle confer.)

23 THE COURT: All right. Anything further before we ---

24 MR. CLARK: Your Honor, there is one other matter
25 regarding 16-3 -- 16-3-20 Subsection B on requirement that the

1 State is required to comply with and last week we did file a
2 motion in that regard. Your Honor, the Solicitor has filed on or
3 around April 27th, 2007 notice. I made a copy for the Court's
4 reference. It's in the clerk's file with the clerk.

5 THE COURT: Thank you, sir.

6 MR. CLARK: Your Honor, and last week he provided us a
7 list of exhibits and then he supplemented that list of exhibits.
8 I do not believe this list is part of the record, and I want to
9 make this list part of the record. I don't know if the Court
10 wants to make it a Court's exhibit or defendant's exhibit. I
11 think Court's exhibit would be fine with us. Your Honor, it's
12 our position that the notice that has been provided does not
13 comply with 63 -- 16-3-20(b) in that it is not specific enough,
14 it's vague, it's ambiguous, and that we object to it and we move
15 that the State's notice of intent to seek death be dismissed
16 based on its failure to comply with the notice requirement. Your
17 Honor, if our motion is denied then we would move that the State
18 be strictly restricted to matters that fall squarely within the
19 notice that they provided us. And they be strictly restricted to
20 those matters. That's all I have on that, Your Honor.

21 THE COURT: All right, sir. I don't have -- you've got
22 it in front of you, Mr. Clark. I don't have the code section
23 right in front of me, but if I recall in my reading of the code
24 section it simply provides that the State is to put the Defense
25 on notice of what circumstances of aggravation it intends to

1 present during the course of a trial. It doesn't seem to be any
2 requirement as to how detail they go into the evidence they
3 intend to use to prove that aggravation, simply that you're on
4 notice of what aggravating circumstances they intend to prove.

5 MR. CLARK: Your Honor, and I agree the statute 16-3 --
6 16-3-20 Subsection B says, only such evidence in aggravation as
7 the State has informed the defendant in writing before the trial
8 is admissible. Your Honor, this requirement rests on due
9 process, on due process basis, or due process interest and it --
10 the statute doesn't say specifically, but from a due process
11 standpoint I believe the law requires the Solicitor and the State
12 to put us on notice so that we can know what to defend. That's
13 the whole purpose of the statute, and our contention is that they
14 provide us with a list of exhibits. And we certainly know what
15 those exhibits are, but my issue goes to the evidence that they
16 intend to present. And by the notice that they provide, that
17 they filed on April 27th, our position is that that is not
18 specific enough. It doesn't put us on notice of what aggravating
19 circumstances that we should be required to defend, and I'll just
20 read from the notice. It says that: "The State intends to submit
21 other evidence in aggravation which is relevant to the character
22 of the defendant and/or the circumstances of the crime. Such
23 evidence will certainly include but in no way be limited to sworn
24 testimony and exhibits introduced in the guilt phase of the
25 trial. Victim impact evidence, defendant's prior criminal

1 record, proof of commission of other crimes during the period of
2 October 5 through 13, 2004, proof of defendant's conduct during
3 incarceration, the information and materials provided to Defense
4 pursuant to Rule 5 Brady disclosure, and any and all other
5 evidence relevant to jury's sentencing determination." Well Your
6 Honor, we didn't have a guilt phase so their reference to sworn
7 testimony and exhibits, well they gave us the exhibits but
8 because we didn't have a guilt phase we have no way of knowing
9 what the sworn testimony is. And I submit that this notice is
10 just far too broad. It doesn't put us in any better position to
11 know what the aggravating circumstances are than if they hadn't
12 given it to us because sworn testimony -- there was no -- we're
13 not aware of what sworn testimony that they or who they intend to
14 present, what they intend to talk about, testified to. If there
15 had been a guilt phase then we would certainly be aware of that
16 but at this point we're not. And the portion of the notice that
17 talks about information and materials provided to the Defense
18 pursuant to Rule 5 and Brady, well, I think the statute requires
19 them to be a little more specific than that because if it didn't,
20 then there would be no need for the language in the statute. The
21 State could just say, well here's Brady and that's our notice,
22 but the statute specifically says really they have to tell us in
23 writing what evidence they intend to use and they just have not
24 done that. As I said they ---

25 THE COURT: Well, they put you on notice that the

1 murder was committed while in the commission of a crime of armed
2 robbery with the use of a deadly weapon, that the defendant's
3 prior criminal record, proof of his commission of other crimes
4 during the time period, proof of his conduct during
5 incarceration, which I'm assuming included charges that stem from
6 that conduct that he pled guilty to.

7 MR. CLARK: Your Honor, if I could, as I understand the
8 only aggravating factor in this case is armed robbery. That's
9 the only aggravating factor.

10 THE COURT: The only statutory ---

11 MR. CLARK: Yes, sir.

12 THE COURT: ---aggravating factor.

13 MR. CLARK: Yes, sir.

14 THE COURT: But the State is allowed to put up
15 nonstatutory aggravating factors.

16 MR. CLARK: And that brings me to another point, Your
17 Honor. There is no -- other than his character and the fact that
18 commission of crimes during his incarceration that's all we've
19 been specifically advised of. And evidence as to aggravation
20 there has been, that that's statutory aggravation, there has been
21 no notice provided by the State on that and I think it violates
22 my client's right to due process and it doesn't comply with the
23 statute. To simply say that they're going to prove the
24 circumstances of the case and that we should know what the
25 testimony is from the guilt phase, I think it doesn't meet the

1 due process test when there was no guilt phase. And so I think
2 under these circumstances that there's a little more required. I
3 probably would be making a different argument or no argument at
4 all if we had a guilt phase, but we're at the substantial
5 disadvantage because we don't have any idea what testimony
6 they're referring to in this notice and they haven't made it any
7 clearer.

8 THE COURT: Solicitor, you want to respond?

9 MR. SALEEBY: Your Honor, if it please the Court. This
10 matter has been addressed by the Court on several occasions
11 before. And basically it's the same argument as the Defense
12 request whether before the trial or at the beginning of the
13 penalty phase that they were supposed to have an itemized laundry
14 list of however many items that supposed to say this is exactly
15 what's coming up. And probably the clearest authority is State
16 versus Owens which is decided in September of 2001. I apologize,
17 I have the opinion number but I do not have the citation, full
18 citation. It's opinion number 25354. And in that case the State
19 introduced notice of a defen-- or gave a notice and the notice
20 had a regular notice of aggravating circumstances and they
21 brought a statement in involving involvement in another crime.
22 And the Court said we assume that this rule, this statute
23 16-3-20(b), we assume it requires the State to notify defendant
24 is going to introduce character evidence. Because the State has
25 said we're going to introduce characteristics of the defendant

1 before, during, and after the crime. The Court held that it was
2 proper that if you give evidence of his character that would
3 include the admission to the other crime. So I think what the
4 Court is saying and has said in other decisions such as State
5 versus Humphries, which had to do with victim impact statements.
6 And I have that decision; it's 325 S.C. 28, 479, Southeast Second
7 52, 1996; that the references to the categories is sufficient
8 that there is no need for itemization. And I think both of those
9 decisions fully support us proceeding with the notice.

10 THE COURT: Thank you, sir.

11 MR. CLARK: Your Honor, if I could just briefly
12 respond.

13 THE COURT: Yes, sir.

14 MR. CLARK: Your Honor, State v. Owens is not -- is
15 distinguishable from this case. State v. Owens involved a
16 defendant who was convicted of murder I believe, and between the
17 conviction during the 24 hour waiting period he was accused of
18 another murder and the issue was whether the State could use the
19 murder that he was accused of and had confessed to after his
20 conviction but before the sentencing phase could be used as
21 character evidence and the State said -- and the Court said it
22 could be used as character evidence because the State had already
23 notified the defendant that it was going to use character
24 evidence. So that case is distinguishable from this case and is
25 not on point and does not address the defendant's objection.

1 Sure in this case the State has told us that they're going to
2 present character evidence, and I concede that they notified us
3 of the character evidence. What our, his issue goes to, is the
4 other evidence and that they refer to as in their notice that
5 says sworn testimony, sworn testimony admitted at trial. So I --
6 State v. Owens is not on point for this issue when we haven't had
7 a trial, we don't know what evidence that they intend to use.
8 The statute requires that they tell us in writing and they have
9 not. And I just want to respond to State v. Owens.

10 THE COURT: Thank you, sir. I'm going to deny your
11 motion. It may be that which -- and let me make clear. It
12 doesn't preclude you from during the course of these proceedings
13 from making objections as things arise, but at this stage I think
14 the notice that was given has been appropriate pursuant to
15 statute and state law. Anything further?

16 MR. CLARK: Not at this point, Your Honor.

17 THE COURT: All right. Now anything further from the
18 State before we begin?

19 MR. JACKSON: I got a couple. Not on this issue but a
20 couple of other items.

21 THE COURT: All right. I'll be happy to hear from you
22 with regards to those.

23 MR. JACKSON: Your Honor, we took the guilty plea back
24 on Monday, August the 18th. There's one indictment
25 2006-GS-43-697, that was a burglary at Mr. Ammons', Mr. James

1 Ammons' place. Inadvertently put in a serial number that was
2 incorrect and the serial number that was placed into the record
3 actually was the NCIC number that was placed in the computer
4 system to track the stolen weapon that was stolen from his house.
5 The correct serial number is VYJ1085. I discussed this with Mr.
6 Howle. I don't believe the Defense has any objection with me
7 putting that on the record.

8 MR. HOWLE: We have no objection with that correction
9 being made.

10 THE COURT: All right. That correction then will be
11 made with regard to the serial number.

12 MR. JACKSON: Your Honor, as we go into phase two the
13 State would make a motion that anything that came out of phase
14 one -- obviously we didn't have a trial -- but anything that came
15 out of phase one would be part of the record, will be part of the
16 phase two as we continue into phase two.

17 THE COURT: All right.

18 MR. JACKSON: Which is incorporated therein.

19 THE COURT: All right, sir. Now gentlemen, as everyone
20 is aware as we proceed with the trial on the sentencing phase
21 that we're not before a jury. We'll conduct this trial just as
22 we would as if it were before a jury; but regarding opening
23 statements or whatever, if you want to make that fine, if you
24 waive that that's fine too. I mean, I'll -- in other words, I'll
25 leave that to your discretion how you want to proceed regarding

1 that. State, you intend to ---

2 MR. JACKSON: Your Honor, at the appropriate time we'll
3 have an opening statement. There are some evidentiary issues
4 that we would like to address with the Court.

5 THE COURT: All right.

6 MR. JACKSON: Search warrant, that type stuff we need
7 to do before we do opening statements.

8 THE COURT: Okay, all right. Well, let's go ahead and
9 proceed with that.

10 MR. JACKSON: All right. Your Honor, if it please the
11 Court, things that we have listed out with the search and seizure
12 issues we're prepared to go forward with that. There are two
13 search warrants. Also the statements, Your Honor, we'd like to
14 go over the statements this morning to find out if there are any
15 objections to the statements and their admissibility. Then we've
16 got -- we've got close to 115 exhibits listed and Defense has
17 looked at all of them. I believe that after you hear the search
18 warrant evidence and the other evidence that was seized or
19 discovered in this case we can put on the record everything that
20 we stipulate to.

21 THE COURT: All right.

22 MR. JACKSON: And we should do that before we get
23 started. Also we would like to renew our motion for discovery.
24 We have not gotten anything from any of the experts they intend
25 to call and agree -- would ask for that again since we're here

1 and it's time for phase two. And the last thing, Your Honor,
2 we've got a consent order for DNA. I don't think that's going to
3 be objected to; but if it, is we've got a witness here that will
4 counteract. We're prepared to start with the search warrants.

5 THE COURT: All right, Defense.

6 MR. HOWLE: Your Honor, I think it's double talk. I'm
7 trying to figure out what's going on with this. Initially he
8 said that anything that occurred in the plea portion is evidence
9 in this trial. We kind of get right back to whether or not the
10 admission in regard to a plea and armed robbery I still don't
11 know how he intends to use it but when he says that it's like not

12 only is that in evidence ---

13 THE COURT: But Mr. Howle, let me -- 'cause you're --
14 I'm somewhat confused. You're telling me that now 'cause as I
15 sit here now I'm both the finder of fact and the judge of the
16 law -- I'm the judge and the jury -- that I'm not to consider the
17 fact that the defendant pled guilty to armed robbery? That's not
18 a consideration I can take into my considerations on the case?

19 MR. HOWLE: Your Honor, they've still got the burden to
20 prove ---

21 THE COURT: They don't have to prove ---

22 MR. HOWLE: ---the aggravation that ---

23 THE COURT: He pled guilty to it.

24 MR. HOWLE: I understand that, Judge.

25 THE COURT: How is that not proof of the existence of

1 it?

2 MR. HOWLE: It's still a bifurcated matter. He pled to
3 that ---

4 THE COURT: And they say they intend to go into it in
5 detail so again, I'm kind of withholding any ruling on that till
6 I see what the State does present.

7 MR. HOWLE: But it sounds like if he says I want to
8 put that sentencing sheet into evidence then there's my evidence
9 to prove that there's an aggravating factor 'cause he pled to it
10 and that just defeats the whole purpose of having to prove beyond
11 a reasonable doubt that that aggravating statutory aggravating
12 circumstance exists. I don't think they can just ride the coat
13 tail and say well, yeah, he pled. If the jury had found him
14 guilty and found him guilty of armed robbery they still during
15 the second phase would have to show to the Court satisfaction or
16 to the jury's satisfaction that an aggravating circumstance has
17 happened. And I just think the plea itself is not an automatic
18 or that aggravating ---

19 THE COURT: I'm not sure that's what he's saying, but I
20 think what he's saying is the proceeding that we had during the
21 guilt phase, during the guilt phase where we took the guilty
22 pleas, that that's all part of this matter as well as they go
23 into their case. I'm not, I mean, I don't, I don't know what
24 they intend to do. It doesn't sound like they intend to say,
25 okay Judge, he pled guilty to armed robbery so we're moving on to

1 the next one.

2 MR. HOWLE: Your Honor, I hope that's not what they're
3 saying.

4 THE COURT: Well, I don't know.

5 MR. HOWLE: Well he says I want to move this in
6 evidence as the fact that he pled. I mean, obviously we wouldn't
7 be in the sentencing phase if there hadn't been a guilt phase
8 where guilt was established whether by plea or jury or whatever.

9 THE COURT: Sure, that's obvious. So I mean, that is
10 part of the record. That is the record. That is the record of
11 the first phase of this trial.

12 MR. HOWLE: But that doesn't lessen the requirement
13 that they've got to prove beyond a reasonable doubt that that
14 aggravating circumstance occurred.

15 THE COURT: I didn't say it did.

16 MR. HOWLE: I know, but I just want to make because
17 when they say they just want to introduce that into evidence I
18 don't know what purpose it is for. I don't want to do that and
19 later argue that somehow they established that. I'm not trying
20 to talk in circles. I just want to make sure that Court is going
21 to expect that burden of proof to be met.

22 THE COURT: Well, we'll let the State put up whatever
23 case they put up and see if they've met the burden. Are you
24 prepared to proceed with the search warrant issues?

25 MR. CLARK: Your Honor, there is one other issue.

1 THE COURT: All right.

2 MR. CLARK: Your Honor, at this time Defendant would
3 move to withdraw his guilty plea to armed robbery under the
4 indictment, his guilty plea to armed robbery on indictment
5 2006-699. Your Honor, the basis of Defendant's motion is that
6 plea was not based on substantial factual basis and was not
7 knowingly and voluntarily entered by him as he did not
8 understand, know, and appreciate that it would be used as a
9 aggravating circumstance. Therefore, Your Honor, we would move
10 to withdraw the defendant's plea to the charge of armed robbery
11 under 699. That'd be all, Your Honor.

12 THE COURT: So then you wish to have a jury trial
13 regarding that?

14 MR. CLARK: Your Honor, we still would ask the Court to
15 decide his guilt or innocence on that charge. We're still
16 waiving a jury trial, but we leave that -- we'd ask that, for a
17 bench trial on that count of the indictment. And Your Honor, I
18 don't think that there's a substantial factual basis as decided
19 by the Solicitor during the guilty plea that establishes the
20 statutory elements of armed robbery in, on this particular
21 indictment. And as I mentioned earlier the defendant did not
22 knowingly and voluntarily plead to it knowing that it would be
23 considered an aggravating circumstance in the penalty phase of
24 this case.

25 THE COURT: All right. I'm going to deny the motion to

1 withdraw that guilty plea. The plea back in October -- excuse
2 me, August the 18th of 2008, and I don't recall every word that
3 was spoken during the plea, but the defendant was read his
4 rights. I believe he understood those, reviewed all of the
5 constitutional waivers, his voluntariness there was not any
6 question. There's nothing that I recall regarding the entering
7 of the plea to cause the Court any concern that the defendant was
8 not entering into his plea voluntarily, willingly, and knowingly.
9 This issue arises because of some fear that I think the Defense
10 has of the State simply going to put up the guilty plea and say
11 that's all we got to do. I told you that I'm not going to make a

12 ruling on an issue before the issue is before the Court. I don't
13 know what the State is going to present during the course of
14 their -- this phase of the trial. If the State does not prove
15 beyond a reasonable doubt the aggravating circumstances, then the
16 Court just as a jury would operate under the same law, and that
17 is, that they'd not met their burden. There's nothing in this
18 record or the record of October -- of August the 18th that would
19 cause the Court to feel that the plea was anything but a free and
20 voluntary plea and waiver of rights and it was qualified and
21 accepted by the Court. So I'm going to respectfully deny that
22 request. Anything else?

23 Yes, sir.

24 MR. CLARK: That's all we have.

25 THE COURT: Are you ready to proceed with the search

SW - D. FLORENCE - DIRECT

1 warrant?

2 MR. CLARK: Subject to our motions, Your Honor, yes.

3 THE COURT: Absolutely, yes. All right. Thank you,

4 sir.

5 Solicitor, you ready to proceed?

6 MR. JACKSON: The State calls David Florence, Your

7 Honor.

8 (Court's Exhibit Nos. 1 and 2 were marked

9 and made a part of the record.)

10 THE COURT: Come around to be sworn please, sir..

11 THE DEPUTY CLERK OF COURT: Place your left hand on the

12 Bible and raise your right hand. State your name please.

13 THE WITNESS: David Earl Florence.

14 WHEREUPON,

15 DAVID EARL FLORENCE,

16 having been duly sworn by the clerk of court, testified as
17 follows:

18 THE DEPUTY CLERK OF COURT: Have a seat up there

19 please. State your full name. Spell your last name for the

20 record please.

21 THE WITNESS: David Earl Florence, F-L-O-R-E-N-C-E.

22 DIRECT EXAMINATION

23 BY MR. JACKSON:

24 Q Investigator Florence, I know this is unusual. I'm usually

25 standing on the other side of the courtroom drawing your

attention to the jury. We got you a swivel seat. If you'd

SW - D. FLORENCE - DIRECT

- 1 turn around and address the judge and questions please.
- 2 A Yes, sir.
- 3 Q Your name for the record please.
- 4 A David Earl Florence.
- 5 Q And where do you work?
- 6 A Sumter County Sheriff's Office.
- 7 Q How long have you been with the Sheriff's Department?
- 8 A Approximately 22 years.
- 9 Q What kind of positions have you held since you've been
- 10 there, David?
- 11 A I've held patrol supervisor, patrol officer, narcotics
- 12 commander, and currently lieutenant of investigations.
- 13 Q So your current rank is lieutenant?
- 14 A Yes, sir.
- 15 Q Were you involved in the investigation of four shootings,
- 16 three murders back in mid October of 2004?
- 17 A Yes, sir, I was.
- 18 Q Did you participate in obtaining search warrant?
- 19 A Yes, sir, I did.
- 20 Q Did you fill out the search warrants yourself?
- 21 A Yes, sir.
- 22 Q How many search warrants did you do?
- 23 A Two.
- 24 Q Let me hand you Court's Exhibit 1 and Court's Exhibit 2 and
- 25 tell me what these are. Tell the judge.

SW - D. FLORENCE - DIRECT

- 1 A Court's Exhibit 1, search warrant for the residence.
- 2 Q And Court's Exhibit 2?
- 3 A Court's Exhibit 2 is the search warrant for the vehicle.
- 4 Q For the vehicle? Whose vehicle was that?
- 5 A Stephen Corey Bryant's.
- 6 Q Whose residence was that?
- 7 A Residence of Stephen Corey Brant.
- 8 Q Now you filled those out yourself?
- 9 A Yes, sir.
- 10 Q Did you put in the description of property sought?
- 11 A Yes, sir, I did.
- 12 Q And did you put it in description of premises to be
- 13 searched?
- 14 A Yes, sir.
- 15 Q And be person, place, or thing?
- 16 A Yes, sir, that's correct.
- 17 Q Did you put in the reason for belief property sought as on
- 18 the subject premises?
- 19 A Yes, sir.
- 20 Q And that's what we call probable cause affidavit.
- 21 A Yes, sir.
- 22 Q And you did that in both search warrants?
- 23 A I did, sir.
- 24 Q Who signed the search warrants, affidavit? Who signed the
- 25 affidavit?

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- 1 A I signed the affidavit.
- 2 Q And did you take it to a magistrate?
- 3 A Yes, sir, judge ---
- 4 Q Both of them.
- 5 A Yes, sir.
- 6 Q Which magistrate?
- 7 A Magistrate Lee Tindal.
- 8 Q And did she swear you in?
- 9 A Yes, sir.
- 10 Q Who did you confer with before you went to her and before
- 11 you wrote up the search warrants?
- 12 A At that time Lieutenant James Turner.
- 13 Q And was he also involved in the investigation?
- 14 A Yes, sir, he was.
- 15 Q And did you have some independent knowledge other than your
- 16 conference with Investigator Turner that you included in
- 17 the search warrant?
- 18 A Yes, sir. Information about the ballistics as far as the
- 19 bullets matching.
- 20 Q All right. When you went to see Judge Tindal, if you would
- 21 look at Court's Exhibit 1 for me.
- 22 A All right, sir. Yes, sir.
- 23 Q Let's look at description of premises to be searched. If
- 24 you would advise the Court of what you have there.
- 25 A Yes, sir. The premises to be searched, a tan single-wide

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1 mobile home with brown trim located at [REDACTED]
2 [REDACTED], Sumter, South Carolina. This is to
3 include all vehicles, outbuildings on said property as well
4 as all persons in -- on the property during execution of
5 the warrant.

6 Q And that would be Stephen Corey Bryant's residence?

7 A Yes, sir, that is correct.

8 Q Who else was there?

9 A His girlfriend Judith Justice.

10 MR. JACKSON: Your Honor, I've got certified copies of
11 these if you would like to use them.

12 THE COURT: That would be helpful. Thank you, I
13 appreciate that.

14 MR. JACKSON: They're not marked, but they're certified
15 copies of what he has.

16 THE COURT: Thank you, sir.

17 BY MR. JACKSON:

18 Q Now if you go to -- well, tell me this, how did you know
19 that was his residence?

20 A I got the information from Investigator Turner 'cause he
21 had been there prior to this search warrant on a different
22 investigation.

23 Q How recent had you been there?

24 A The day before.

25 Q The day before. Had talked with you?

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1 A Yes, sir, that's correct.

2 Q And y'all knew that to be his residence?

3 A Yes, sir.

4 Q Now go to Court Exhibit 2 if you would. Refer to
5 description of the premises to be searched. Court Exhibit
6 2 would be the truck; is that correct?

7 A That is correct, sir.

8 Q Whose truck would that be?

9 A Stephen Corey Brant.

10 Q Would you explain to the Court, put on the record the
11 description of the truck that you used in the search
12 warrant?

13 A All right, sir. Description of the truck was a GMC pickup
14 truck 1990 model with South Carolina tag 563RTR registered
15 to Stephen Corey Bryant of lot [REDACTED]
16 Sumter County, S.C.

17 Q All right. Now if you would go back to Court's Exhibit 1
18 and we're going to refer to the description of property
19 sought.

20 A Yes, sir.

21 Q Court Exhibit 1 would be the residence of Bryant. If you
22 would put on the record the description of property that
23 you were looking for at the residence of Stephen Corey
24 Bryant?

25 A And that was number one?

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1 Q Yes, sir.

2 A One pair of white tennis shoes with blue and red trim. One
3 2000 -- I'm sorry, one 20-ounce pepsi cola bottle, one
4 40-caliber handgun unknown make, .40-caliber ammunition, a
5 cell phone with the number [REDACTED] with the initials T.J.
6 on it, as well as any other items involved in the murders
7 in Sumter County in the past two weeks.

8 Q All right, if you'd look at Court Exhibit 2. That'd be the
9 description of property sought. Advise the Court of what
10 was in Court Exhibit 2 which would be the search warrant
11 for the truck.

12 A Description of property sought, one pair or white tennis
13 shoes with blue and red trim, one 20-ounce pepsi cola
14 bottle, .40-caliber handgun unknown make, .40-caliber
15 ammunition, a cell phone with phone number [REDACTED] with
16 the initials T.J. on it, as well as any other items related
17 to the murders in Sumter County the past two weeks.

18 Q Who would T.J. refer to?

19 A Mr. Tietjen.

20 Q Mr. Willie Tietjen?

21 A Yes, sir.

22 Q He was one of the murder victims?

23 A Yes, sir.

24 Q All right. Now, the two search warrants collectively,
25 Court's Exhibit 1 and Court Exhibit 2, and the reason for

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1 affidavit -- excuse me, the reason for affiant's belief
2 that the property sought is on the subject premises which
3 is our probable cause affidavit you use the same one for
4 both search warrants; is that correct?

5 A That's correct.

6 Q If you simply would advise the Court what you got as the
7 basis for your probable cause and do you have an attachment
8 along with it?

9 A I do, sir.

10 Q And that's the attachment A?

11 A Yes, sir.

12 Q If you would advise him as what's in attachment A.

13 A All right, sir. This is being read from Court Exhibit
14 Number 1, and the probable cause is Sumter County
15 Investigator James Turner on 10/12 of '04 went to the above
16 residence and spoke with Stephen Corey Bryant about a case
17 where Bryant is the victim. During the time Investigator
18 Turner noticed a white pair of tennis shoes with blue and
19 red trim on the truck passenger side floorboard of Bryant's
20 1990 GMC pickup truck, South Carolina tag 563RTR registered
21 Stephen Corey Bryant of lot [REDACTED] in
22 Sumter County, SC. A 20-ounce pepsi cola bottle was also
23 in the truck. Investigator Turner also noticed that one of
24 the tires on the truck had a portion of the tread missing
25 from one of the tires. On 10/13/08 -- I'm sorry, on '04,

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1 Sumter County investigators were called to the crime scene
2 on F [REDACTED] where a
3 body was found with gunshot wounds. At the scene, crime
4 scene, Investigator Turner recognized a pair of white
5 tennis shoes with a red and blue trim as those that he
6 observed in Stephen Corey Bryant's truck the previous day.
7 A 20-ounce pepsi cola bottle was also found at this scene.
8 Tire tracks were found on the scene that Investigator
9 Turner stated were consistent with the tires he observed on
10 Bryant's pickup truck. Two .40-caliber shell casings were
11 also found at the crime scene. And based on this
12 information is this affiant's belief that the tennis shoes
13 investigator observed, Investigator Turner observed, in
14 Bryant's truck on 10/12 of '04 are the same tennis shoes
15 found at the crime scene on [REDACTED] as well as the
16 20-ounce pepsi cola bottle. The two .40-caliber shell
17 casings are consistent with the two other recent murders in
18 Sumter County. This affiant also believes that the tennis
19 shoes and the 20-ounce pepsi cola bottle will not be found
20 in the truck but certain other items or other property will
21 be found in the vehicle or in the residence or other
22 locations on the property associated with the murder on
23 [REDACTED] as well as the other recent murders in Sumter
24 County.

25 Q Now you signed that affidavit?

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- 1 A Yes, sir, I did.
- 2 Q Both search warrants?
- 3 A That's correct.
- 4 Q And what was the date?
- 5 A The date on that was October the 13th, '04.
- 6 Q And did Judge Tindal find probable cause?
- 7 A She did, sir.
- 8 Q Did she sign and date both search warrants?
- 9 A Yes, sir, she did.
- 10 Q Did she send you to execute the search warrants?
- 11 A Yes, sir, she did.
- 12 Q Did she note the time that she actually signed them?
- 13 A The time she signed it was 12/27 p.m. on October the 13th.
- 14 Q And that's noted on the search warrant?
- 15 A Yes, sir, below her signature.
- 16 Q Now after she issued those, Lieutenant Florence, did you go
- 17 straight on out and execute them?
- 18 A No, sir, I did not.
- 19 Q Tell the judge where you went.
- 20 A I met with Investigator Turner and Mr. Jackson at the
- 21 Solicitor's office.
- 22 Q And what did we discuss?
- 23 A We discussed the search warrant and some other items that I
- 24 was not aware of at that time that had needed to be added
- 25 into the search warrant.

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- 1 Q And that was information that Captain Turner had?
- 2 A That is correct, sir.
- 3 Q And so what did y'all -- what did y'all decide to do about
- 4 that?
- 5 A We decided that we would contact Judge Tindal again and
- 6 meet with her and have these items added into the search
- 7 warrant on property that we were looking for at the scene.
- 8 Q Anything wrong with the search warrant the way it was?
- 9 A No, sir, it was not.
- 10 Q Just wanted to add some additional information?
- 11 A That is correct.
- 12 Q Okay. And did you find Judge Tindal?
- 13 A Yes, sir. We found Judge Tindal and we met with her and
- 14 she swore myself and Investigator Turner, and the
- 15 information was added to the search warrants.
- 16 Q Where was she when you found her?
- 17 A She was at [REDACTED].
- 18 Q Eating lunch?
- 19 A Yes, sir.
- 20 Q And y'all went there?
- 21 A Yes, sir.
- 22 Q And who was present when you met with Judge Tindal?
- 23 A Judge Tindal, Investigator Turner, myself, and Solicitor
- 24 Kelly Jackson.
- 25 Q All right. Both of you were sworn?

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- 1 A Yes, sir.
- 2 Q Who provided the additional information at the time?
- 3 A Investigator Turner provided the information verbally to
- 4 Judge Tindal.
- 5 Q Did he give some additional probable cause for the two
- 6 search warrants?
- 7 A Bear with me just a moment. Yes, sir, I think he did.
- 8 Q And was that -- okay, all right. So he did. Did he list
- 9 more items to be sought at the residence of Stephen Corey
- 10 Bryant?
- 11 A Yes, sir.
- 12 Q And are those items noted on the search warrant for the
- 13 residence which would be Court Exhibit 1?
- 14 A Yes, sir, they are.
- 15 Q And are they noted in a different color ink?
- 16 A Yes, sir, they're noted in red ink.
- 17 Q And what time did she sign that particular -- did she sign
- 18 it again?
- 19 A Yes, sir. She indicated in red writing supplemental
- 20 additional and sworn at 1:30 p.m.
- 21 Q Okay. Did she also initial a probable cause affidavit on
- 22 it?
- 23 A Yes, sir, she did, to show that that was part of the
- 24 information that was sworn to.
- 25 Q Were there any items added into Court's Exhibit 2 which

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1 would be for the truck as far as items to be sought?

2 A No, sir.

3 Q Did she initial the probable cause affidavit in search
4 warrant of Court Exhibit 2?

5 A This was a copy of the original with her initials on the
6 backside of it, yes, sir.

7 Q And if you would show the judge -- his doesn't have
8 different color -- exactly what you have that would
9 indicate what supplemental information had been provided.

10 A Then signature on the copy of the additional form and this
11 shows the original which is the same as this. She's also
12 signed that one and these are the items that were added.

13 THE COURT: Okay.

14 BY MR. JACKSON:

15 Q So the added items on Court Exhibit 1 which you note in
16 red.

17 A Yes, sir.

18 Q And you gave -- Captain Turner gave oral testimony
19 supplementing the probable cause affidavit on both of them?

20 A That is correct.

21 Q Both of you were sworn?

22 A Yes, sir.

23 Q But you didn't give any additional testimony?

24 A No, sir, I just wrote the additional information in the
25 search warrant.

SW - D. FLORENCE - DIRECT

1 Q And did she take that additional information into
2 consideration?

3 A Yes, sir.

4 Q What was different in time the first time you went and got
5 the search warrant to when you and Kathy Turner went
6 together to give the additional information?

7 A The initial search warrant was signed at 12:27 p.m. and the
8 supplemental addition was signed and sworn at 1:30 p.m.,
9 approximately an hour.

10 Q After meeting with Judge Tindal at [REDACTED] did you
11 then go and execute the search warrant?

12 A Yes, sir, immediately.

13 Q Was Stephen Corey Bryant present when you got there?

14 A Yes, sir, he was.

15 Q How about Judy Justice?

16 A Yes, sir, she was.

17 Q Tell the judge who that is.

18 A Judy Justice is Stephen Corey Bryant's girlfriend.

19 Q She also lived there?

20 A Yes, sir.

21 Q Did you execute the search warrant at the residence?

22 A Yes, sir, we did.

23 Q And did you recover items?

24 A Yes, sir.

25 Q Did you photograph the items?

SW - D. FLORENCE - DIRECT

1 A Yes, sir. Crime scene investigator did photograph those
2 items.

3 Q Beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 (Pause while the attorneys review exhibits).

6 BY MR. JACKSON:

7 Q Without going into particular items, we'll save that for
8 the end, you recovered the items at Stephen Corey Bryant as
9 a result of Court Exhibit 1?

10 A Yes, sir.

11 Q And as far as the truck is concerned you recovered items
12 inside the truck?

13 A That is correct, sir.

14 Q And also in the bed of the truck?

15 A Yes, sir.

16 Q At a later time did Stephen Corey Bryant carry you out to a
17 couple of places in Sumter County and assist you in
18 recovering items?

19 A Yes, sir, he did.

20 Q Did you photograph all of the items that without mentioning
21 them all, as you found them did you photograph every
22 particular item?

23 A Yes, sir.

24 Q As a result of executing the search warrant that day was
25 Bryant arrested that day?

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1 A Yes, he was.

2 Q And did you seize the T-shirt he was wearing that day?

3 A Yes, sir.

4 Q That would be State's Exhibit 112. And when you got to the
5 Sumter Lee Regional Detention Center and did you also
6 photograph him in his jumpsuit and photograph him later?

7 A Yes, sir.

8 Q State's Exhibit 66. And at one point did you go back to
9 the residence of Stephen Corey Bryant and retrieve a ribeye
10 steak package from Wal-Mart from Ms. Judy Justice?

11 A Yes, sir, I did.

12 Q Now with whom would you have left a copy of the Court's
13 Exhibit 1 and Court Exhibit 2?

14 A With his girlfriend Judy Justice.

15 Q And did you file returns on your search warrants?

16 A I did, sir.

17 Q And were they timely filed?

18 A Yes, sir, they were.

19 Q What's the date on the return?

20 A The date on the return was October the 20th, '04.

21 Q Signed, dated, and filed?

22 A Yes, sir.

23 Q And --

24 A By Judge Tindal.

25 Q And would you tell us what items were found based on the

SW - D. FLORENCE - DIRECT

1 return on Court Exhibit 1 which would be the residence?

2 A All right, sir. A box of Winchester .40-caliber ammunition
3 containing six rounds, wallet with assorted change,
4 33-dollars, a pair of men's blue jeans faded Glories,
5 assorted bag of jewelry, coins and a book, one map, brown
6 shoes eight-and-a-half found in living room, basic
7 cigarette butt found in the ashtray in the living room
8 area, basic cigarette butt found in the ashtray in the
9 kitchen, two basic cigarette butts found in the ashtray by
10 the computer, one plastic bag containing a green leafy
11 substance and 1.5 rolling papers in a tin can, one pair of
12 boots eight-and-a-half, a Jamal temple medal taken out of a
13 pair of pants, blue jeans left rear pocket, one Gateway
14 computer, a Regent home theater system, a Basic light
15 cigarette pack empty, a Sharpe TV, a sanyo VCR, RCA DVD
16 player, two one dollar silver certificates, one piece of
17 paper with the name on it, I believe was Craig, with the
18 number 7204488, a magnetic refrigerator calendar, three
19 remote controls, and a black nylon book bag with drawings
20 and other associated papers and one fish aquarium with
21 accessories.

22 Q All that came from the residence?

23 A Yes, sir.

24 Q And it was all photoed? It was all photographed?

25 A Yes, sir.

SW - D. FLORENCE - DIRECT

1 Q Okay. Would you tell us what's on the return from having
2 been recovered on the interior of the truck?

3 A The return on the interior of the truck, one Smith and
4 Wesson model 4046 indicated serial number VYJ1085 with a
5 black holster and a clip containing nine rounds of
6 .40-caliber ammunition, one Basic light cigarette box that
7 was empty on the front seat, and a two dollar bill on the
8 sun visor.

9 Q And do you have a list of some of the items later seized
10 from the truck bed?

11 A Yes, sir, I do.

12 Q What would those be?

13 A A camera case with contents, camera and accessories,
14 emergency tool kit, a SKIL saw and a red case, a cordless
15 drill in a black case, a nylon bag blue, an ammo box
16 containing a quantity of tools, a lantern, and a yellow
17 bicycle.

18 Q And Wal-Mart steak package which is not on the return was
19 later received from Judy Justice from that residence?

20 A Yes, sir. Yes, sir.

21 Q And again, the items in the truck were photoed as well?

22 A Yes, sir, they were.

23 Q Lieutenant Florence, that's all the questions I've got for
24 you right now. If you will answer any questions the
25 Defense lawyers might have.

SW - D. FLORENCE - CROSS

1 A Yes, sir.

2 MR. CLARK: If it please the Court, Your Honor.

3 THE COURT: Yes, sir.

4 CROSS - EXAMINATION

5 BY MR. CLARKE:

6 Q Lieutenant Florence, did you ever get Ms. Justice's consent
7 to search the residence?

8 A During the search?

9 Q Yes, sir.

10 A No, sir, we did not. We didn't need it; we had a search
11 warrant.

12 Q You proceeded on with the search warrant, right?

13 A That's correct.

14 Q And do you have the actual hard copies of what's been --
15 the two search warrants?

16 May I approach the witness, Your Honor?

17 THE COURT: Yes, sir.

18 THE WITNESS: That's one search warrant there. That's
19 the vehicle and that is the residence.

20 BY MR. CLARKE:

21 Q All right. Now Court Exhibit 1 is the search warrant,
22 correct?

23 A That's correct.

24 Q And then is it correct that this warrant was supplemented
25 after it was issued?

SW - D. FLORENCE - CROSS

- 1 A Yes, sir.
- 2 Q All right. Was another warrant issued or did Judge Tindal
3 just write on this same warrant?
- 4 A She just indicated on the red writing on the same one.
- 5 Q So only one warrant was ever issued?
- 6 A That's correct.
- 7 Q And it was supplemented on the same day it was issued?
- 8 A Yes, sir, that was on the residence.
- 9 Q All right. Was there a separate warrant for the truck?
- 10 A Yes, sir, this is it right here.
- 11 Q And that's Court Exhibit 2. And was that warrant ever
12 supplemented?
- 13 A Yes, sir, it was signed indicating a supplemental I had
14 back there in red writing by the judge.
- 15 Q On the warrant for the truck?
- 16 A Yes, sir, the back of the supplement where she initialed
17 it.
- 18 Q And Mr. Florence, you actually signed the affidavit; didn't
19 you?
- 20 A Yes, sir, I did.
- 21 Q And in the affidavits you related to the Court what Mr.
22 -- what Investigator Turner told you, right?
- 23 A As far as the?
- 24 Q As far as the probable cause section of the warrant or for
25 the house or for both of the warrants?

SW - D. FLORENCE - CROSS

- 1 A Yes, sir, basically.
- 2 Q And Detective Turner didn't actually sign those affidavits,
3 did he?
- 4 A No, sir.
- 5 Q You signed them?
- 6 A Right.
- 7 Q But you didn't -- you weren't the one that actually
8 witnessed -- you were relaying to the Court what Detective
9 Turner said, right?
- 10 A Absolutely.
- 11 Q And he never signed an affidavit supporting these warrants,
12 did he?
- 13 A No, sir.
- 14 Q All right. Now looking at State's Exhibit Number 1 this is
15 the search warrant for the residence, right?
- 16 A Yes, sir, that is correct.
- 17 Q All right. That's Number 1? That's Court's Exhibit Number
18 1?
- 19 A Yes, sir.
- 20 Q And in that affidavit you submitted it's important that
21 search warrant you -- and it speaks for itself, but you
22 told the Court that you were looking for a pair of white
23 tennis shoes; is that correct?
- 24 A Yes, sir.
- 25 Q Now, and you listed some other items, the .40-caliber

SW - D. FLORENCE - CROSS

1 weapon and that, and other items on the affidavit section,
2 right?

3 A That's correct.

4 Q But now turning to the reasons that you believe that the
5 property was on the premises, isn't it true that you simply
6 told the Court that Mr. Turner saw some white tennis shoes
7 in a truck the day before?

8 A Yes, sir.

9 Q All right. And that the truck was registered to
10 Mr. Bryant?

11 A That's correct.

12 Q Right?

13 A Yes, sir.

14 Q And that it was a 20-ounce pepsi bottle in the truck?

15 A Yes, sir.

16 Q Right? And that there was a portion of the tread missing
17 from the tire on that truck, right?

18 A Yes, sir.

19 Q And that you go on to say that investigators were called to
20 the crime scene on [REDACTED] and the body was found
21 with a gunshot wound, right?

22 A That's correct.

23 Q And that a pair of shoes, tennis shoes were found at the
24 scene, right?

25 A Yes, sir.

1 Q And that some tire treads were found at the scene
2 consistent with the truck tires, right?

3 A Yes, sir.

4 Q 'Cause he thought that the two truck tires were missing
5 some tread?

6 A That's correct.

7 Q And then you also told the Court that two .40-caliber shell
8 casings were also found at the crime scene, right?

9 A Yes, sir.

10 Q Then you went on to tell the Court that it's your belief
11 that the tennis shoes Investigator Turner observed in
12 Bryant's truck on October 12 are the same tennis shoes
13 found on the crime scene?

14 A Yes, sir.

15 Q And that the .40-caliber shell casings are consistent with
16 two other recent murder victims, right?

17 A Yes, sir.

18 Q And then you finished up by saying you believe that the
19 tennis shoes and the 20-ounce pepsi bottle would not be
20 found in the truck?

21 A That's correct.

22 Q Is that right?

23 A That's correct.

24 Q But certain other property will be found in the vehicle or
25 in this residence or other location on the property

SW - D. FLORENCE - CROSS

1 associated with the murder on [REDACTED] well as
2 other recent murders in Sumter County; is that correct?

3 A Yes, sir.

4 Q And that is all the evidence that you gave the Court to get
5 this warrant; isn't that true?

6 A That is correct.

7 Q And isn't it true, Investigator Florence, that in that
8 narrative or in the affidavit that you submitted there was
9 no other evidence that you told the Court about that
10 estab-- that you believe would lead to evidence in the
11 residence, was there?

12 A No, sir, other than the fact that other property would be
13 located there based on the information that we had.

14 Q Right. And the information that you relayed to her is that
15 Investigator Turner saw some shoes in the truck, right?

16 A Yes, sir.

17 Q Saw a coke bottle, right?

18 A Right.

19 Q And had an issue about some tire treads, right?

20 A Yes, sir.

21 Q But isn't it true that there was no evidence or no reason
22 to believe that you conveyed to the magistrate that
23 evidence would be found in his residence?

24 A Yes, sir, it was based on verbal testimony, sworn statement
25 from Investigator Turner to the other items that were

SW - D. FLORENCE - CROSS

1 issued in the search warrant.

2 Q Okay. So Investigator Turner also addressed the
3 magistrate?

4 A Yes, sir.

5 Q Well, what did he tell her was his probable cause for
6 believing that evidence was in the residence?

7 A Items that he saw there that were items that were stolen
8 from another murder scene.

9 Q All right. He told the magistrate that?

10 A Yes, sir.

11 Q And what were they? Or do you know?

12 A Yes, sir. They are indicated in the report here, items to
13 be seized or property sought.

14 Q All right. Yeah, and I understand that's what he was
15 seeking.

16 A Yes, sir.

17 Q Now you're reading from the property sought section of that
18 warrant, right?

19 A That's correct.

20 Q But I'm focusing on his probable cause for believing that
21 the items were in the house. I want you to tell me what
22 probable cause was presented to the magistrate that
23 evidence of a crime were in the residence, not the truck,
24 the residence.

25 A With the statement it said that this affiant believes that

SW - D. FLORENCE - CROSS

1 the tennis shoes, 20-ounce pepsi bottle will not be found
2 in the truck but certain other property will be found in
3 the vehicle or in the residence and other locations on the
4 property associated with the murder on [REDACTED] as
5 well as other recent murders in Sumter County.

6 Q Okay. Now what was his reason for believing that these
7 items would be found in the residence? What were the
8 reasons that he provided the magistrate that these items
9 relevant to a criminal or to a crime scene or to a murder
10 would be found in the residence? What was the probable
11 cause to believe that something was in the residence?

12 A He relayed that to the magistrate verbally when we met to
13 add the addition to the search warrant that he had observed
14 those items in the residence while talking to Mr. Bryant
15 the day before.

16 Q Okay. So he observed items in the residence?

17 A That is correct.

18 Q And do you know what they were?

19 A I believe they were TV set, a DVD player, and a couple of
20 other things but I don't have all those.

21 Q All right. But they're not listed on the warrant, are
22 they?

23 A No, sir.

24 Q All right. And so you will concede that whatever his
25 probable cause entered the residence that factual -- that

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1 factual statement that he swore to is not written on the
2 warrant?

3 A Yes, sir, I believe it is.

4 Q Can you point it out to me where it is that he provided
5 probable -- sworn, sworn statement to the magistrate that
6 he believe -- that he had probable cause to believe
7 something was in the residence?

8 A He verbally told the magistrate under -- after being sworn
9 and that's where the sentence comes in about the residence
10 and other location of properties that we believe that
11 property will be found in the vehicle and/or in the
12 residence of the location.

13 Q So that's it?

14 A Yes, sir.

15 Q But he didn't provide a basis for his belief on that
16 warrant, did he?

17 A Other than the fact what I just read to you and his swear,
18 being sworn, sworn statement to the judge verbally.

19 Q But there's nothing in that warrant that says he saw
20 something in that residence, is there?

21 A No, sir.

22 Q Absolutely nothing in the warrant that says he saw
23 something in the residence?

24 A No, sir.

25 Q But your testimony is that he testified in -- he.

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1
2 supplemented that warrant through verbal testimony about seeing
3 something in that residence?

4 A That is correct.

5 Q And do you remember what he -- what he told the judge?

6 A Not per se. I can only give you overview of some items he
7 listed that I listed in the search warrant, then the judge
8 signed it in red ink.

9 Q All right. But now the search warrant, the items is what
10 he's looking for, right?

11 A That's correct.

12 Q All right. But it doesn't say he saw them in Mr. Bryant's
13 trailer, does it?

14 A No, sir. No, sir.

15 Q And you can't remember any sworn testimony he gave about
16 that?

17 A Other than the fact he saw them in the trailer and he swore
18 to the judge that during the time that it was amended.

19 Q Okay, thank you.

20 MR. CLARK: Beg the Court's indulgence, Your Honor.

21 THE COURT: Yes, sir.

22 MR. CLARK: Thank you, Investigator Florence, that's
23 all I have, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. JACKSON:

SW - J. TURNER - DIRECT

1 Q Just one question. Most of the items you recovered were
2 they given back to the rightful owner?

3 A Yes, they were.

4 Q And that's why we have all the other photographs?

5 A That is correct, sir.

6 MR. JACKSON: Your Honor, the State calls Captain James
7 Turner.

8 THE DEPUTY CLERK OF COURT: State your name please.

9 THE WITNESS: James R. Turner.

10 WHEREUPON,

11 JAMES R. TURNER,
12 having been duly sworn by the deputy clerk of court,
13 testified as follows:

14 THE DEPUTY CLERK OF COURT: State your full name, spell
15 your last name for the record.

16 THE WITNESS: James R. Turner, T-U-R-N-E-R.

17 DIRECT EXAMINATION

18 BY MR. JACKSON:

19 Q Captain Turner, where are you employed, sir?

20 A Sumter County Sheriff's Office.

21 Q How long have you been with the Sheriff's Office?

22 A Eighteen years.

23 Q And your current rank?

24 A Captain.

25 Q And your current position is what?

SW - J. TURNER - DIRECT

1 A I'm the captain over criminal investigations division.

2 Q How long have you had that position?

3 A Since November of 2006.

4 Q Back in October of 2004 were you involved in the murder
5 investigations and shootings subject to these search
6 warrants Court's Exhibit 1 and 2?

7 A Yes.

8 Q And did you participate in the search warrants as well?

9 A Yes.

10 Q Did you confer with David Florence prior to him going to
11 the magistrate to get the search warrants?

12 A I did.

13 Q And if you would tell the Court briefly on October the 12th
14 your experience at Stephen Corey Bryant's house and the
15 items that you saw there and things that you noticed there?

16 A Myself and Captain David Caldwell went to Stephen Corey
17 Bryant's house. He'd been developed as a suspect and
18 somebody, person of interest, and I told Caldwell that I
19 knew where he lived. I had actually had a case that he --
20 where he was a victim and I'd go around and show him where
21 he lived at. So as we drove off we found him. He was
22 cutting the grass in his yard. And got out the car,
23 introduced ourselves to him, and they started talking to
24 him about the case that he reported. I noticed, just
25 happened to notice in his truck what they call a dream

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1 catcher synonymous with Indians, American Indians and
2 not -- I said you part Indian, and he said, yeah, and he
3 went into the spill. And we started talking, just having
4 conversation. During that time we actually walked over to
5 his truck and being that he was a suspect and in homicides
6 I started looking around in his truck see if I could see
7 anything that might stand out being involved in them.
8 That's when I noticed a pair of tennis shoes in the
9 passenger side floorboard. There was a pepsi cola bottle
10 and a McDonald bag. One thing about these tennis shoes I
11 noticed that red clay on them, but on one particular area I
12 thought it was blood actually and I kind of looked at it
13 closely. It end up just being a red clay mark. We
14 continued our conversation and actually Captain Caldwell
15 got involved in conversation about computers and actually
16 was invited into his house. And in the house I noticed
17 there was a large TV and a DVD player and a fish tank, a
18 sound system. What was kind of odd to me about it he also
19 in the house in the corner was a smaller TV and VCR nicely
20 built, but this larger TV was kind of looked like to me was
21 hastily put up so I just made some mental notes of it. And
22 we talked to him a few more minutes and I left, or we left.

23 Q Was the aquarium hooked up, had fish in it and everything?
24 A Yeah, it did. It had some kind of like a bass or
25 something, some kind of fresh water fish, but it was

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1 sitting on the floor by the TV.

2 Q Okay. Did you notice anything about the truck or the
3 tires?

4 A Being that I was at the Gainey scene I was looking at the
5 tires kind of remember back exactly the tire pattern was at
6 that scene.

7 Q Now you mentioned the Gainey scene. For the judge's ---

8 A I was ---

9 Q ---benefit that would have been ---

10 A October 9th.

11 Q ---October 9th, which was a Saturday?

12 A Yes.

13 Q And you had been there at that crime scene?

14 A Yes.

15 Q And seen some tire treads there. All right. And this is
16 October 12th, which is Tuesday, that you're at the house?

17 A That's right.

18 Q And talked to us about the tire.

19 A Just looking at the tires I happened to notice -- I just
20 happened to be in the right position. On the driver's rear
21 tire there was a piece of tread about three quarters of
22 inch wide, 12 inches long missing, and it was actually a
23 half-inch deep also. Just happened to notice that and make
24 a note of it. And like I said, we left. Later on I made a
25 phone call to a Gary Farmer in reference to some of the

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1 property missing from Mr. Gainey's residence and he give me
2 the informa-- he told me that he had purchased this stuff
3 from Mr. Gainey, told me what it was. And in my mind by
4 seeing one in the house I said that's the exact same stuff,
5 the same stuff he told me is missing from Gainey's house is
6 what's in Bryant's house.

7 Q And which items are you referring to?

8 A The TV, sound system, the aquarium, there was something
9 else too.

10 Q VCR?

11 A The VCR.

12 Q So that stuff was reported missing from Mr. Gainey ---

13 MR. CLARK: Your Honor, I would object to the leading
14 of the witness. I know it's a bench trial but.

15 THE COURT: All right, sustained.

16 BY MR. JACKSON:

17 Q Whose residence was that stuff missing from?

18 A Mr. Gainey.

19 Q And who reported that to you?

20 A Ultimately Linda Coker and Clifton -- I mean, Garris Varner
21 actually confirmed what the name brands of the items were.
22 They referred to the TV as big screen TV which that was one
23 of the questions I had for Mr. Varner was what size TV
24 you're talking about. He said it was a 36 inch TV.

25 Q You saw all that on Tuesday?

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1 A I did.

2 Q Confronted Mr. Varner?

3 A I did.

4 Q And tell us what you saw on Wednesday morning at the
5 Burgess crime scene.

6 A On Wednesday morning I was actually called -- was called --
7 I was headed to work when a call came out about Mr.
8 Burgess', a body had been found at [REDACTED] so I
9 responded. Lieutenant Florence, Sheriff Mims at the time,
10 Captain Tommy Berring, we all, several other officers,
11 Sergeant Maxton responded to that crime scene out there. I
12 walked up to the -- they stayed back. I walked up around
13 the scene and I saw the tennis shoes, the McDonald's,
14 McDonald's bag, and then the pepsi cola bottle. At that
15 time I called Sheriff Mims, Captain Berring, and Lieutenant
16 Florence over and I told them, I said, I believe I know who
17 did this and this is why. I said those tennis shoes were
18 in Stephen Corey Bryant's truck yesterday. I said there's
19 a red mark on it. And I said for some around here you'll
20 see there's a red mark on the side, got red clay on it.
21 There was a pepsi cola bottle, 20-ounce pepsi cola bottle
22 was there beside the shoes in the floorboard. It was my
23 belief that it all got knocked off on the ground. I said,
24 further, he had a piece of tread missing out the tire and
25 there should be a hump of dirt. Well, and I turned and I

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1 showed it to him. He was, you know, he was so many feet.
2 There was a little hump of dirt in the tire tread and I
3 said no doubt in my mind who did this. And we then
4 proceeded to make some phone calls and got Mr. Jackson
5 involved at that time.

6 Q Now did you confer with David Florence about that
7 information?

8 A He was -- we were riding together.

9 Q Okay. So y'all were both well versed on that information?

10 A Yes, sir.

11 Q Okay. And armed with that did he go to seek the search
12 warrant?

13 A We had a meeting which we contacted you and we -- as we
14 were coming in we was talking and I was giving him the
15 information that I knew. I came and spoke with you and
16 Lieutenant Florence went to the magistrate.

17 Q And he came back with a search warrant?

18 A Yes, sir.

19 Q And you agree with everything that was in this search
20 warrant?

21 A I did.

22 Q All right. And after he brought the search warrant back
23 where did the three of us go?

24 A Well, I had my conversation with you and Mr. Saleeby.
25 There was more information that you felt like should have

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1 been added so we made contact with the magistrate, Judge
2 Tindal, and went to [REDACTED] to at least advise her
3 of this additional information.

4 Q And did she swear you in when you got there?

5 A She did.

6 Q And did you provide additional information?

7 A I did.

8 Q If you would share with the Court the additional
9 information that you provided and explain to him each
10 particular one.

11 A Okay. I talked about the first one which says that I
12 observed the house and property inside the residence of
13 Stephen Bryant matching the description of items and
14 property stolen from Clifton Gainey's residence. Item of
15 TV, VCR, sound system.

16 Q Let me stop you right there. Is that what she added in on
17 Court Exhibit 1 and put in the little parentheses?

18 A I need to see it. I believe she did. Yes.

19 Q You thought those items needed to be in there because you
20 saw them the day before?

21 A I did.

22 Q All right. What else did you advise Judge Tindal?

23 A I advised her that I had that Monday afternoon prior to the
24 Tietjen murder that during the investigation of Gainey I
25 received a phone call anonymously that a blue vehicle, a

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1 blue full sized pickup was seen in Gainey's yard around
2 lunch time the same day that he was killed, same day he was
3 found dead later on that day. Prior to going to -- prior
4 to Tuesday afternoon going, meeting with David Caldwell,
5 myself around lunch time and Captain Tommy Berring I was
6 telling Captain Berring about my, some of my suspicions,
7 and we'd also received a phone call that tag of Bryant's
8 tag was called in by another person that was seen in that
9 area. And I had run the tag and I told Captain Berring, I
10 said, I got a case with this guy, let's go out there and
11 I'll show you where he lives at. I hadn't been able to
12 catch him so around lunch time on Tuesday we went out
13 there, nobody was home, and around the doorstep I noticed
14 that there was two burning cigarettes. One was a Virginia
15 Slim, one was a basic menthol with gold band, and you know,
16 you know, investigating not unless y'all -- Virginia Slims
17 are most commonly smoked by females so I picked up, what,
18 four or five of the basic cigarettes just for purposes of
19 getting DNA. They were just on the ground just to see if
20 this guy might be involved. I went and -- I actually went
21 one other place and made a stop and then I had occasion to
22 meet when Captain Caldwell. While we were standing in the
23 yard I asked him about how long it would take to get the
24 DNA back from the cigarettes and I told him about what had
25 happened lunch time. He said, you know, we can do it in a

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1 couple of days. I said, well I had these cigarettes that
2 were in a bag. He looked at them, he said, this is the
3 same thing we just found inside the house.

4 Q All right. Explain that, which house?

5 A The Tietjen residence.

6 Q In the Tietjen residence you found what?

7 A A basic menthol cigarette butt. I think it was found in a
8 cup with some water in it or something.

9 Q All right.

10 A Anyway, that was another thing that was added to it about
11 the cigarette butts and they matched from Bryant's house to
12 the Tietjen house and at least brand. Another thing was an
13 individual matching the general description of Bryant as
14 well as vehicle matching general description of the vehicle
15 owned by Stephen Corey Bryant was seen at the Tietjen home
16 prior to the murder, just as a passerby basically said
17 there was a white male by a blue pickup truck out by the
18 road on the day this murder happened in the afternoon.
19 Nothing further, just a passerby happened when it all
20 broke, saw it and he called in. I guess it came out in the
21 paper and he saw it and passed that information on. The
22 fifth thing the vehicle seen -- a vehicle seen leaving the
23 Gainey murder scene matches the joint description of the
24 vehicle used by Stephen Bryant. There again, it was blue
25 green full-sized pickup truck with a white male sitting in

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1 it. That's what witnesses who actually found the body
2 said. And when he asked, are you all right, talking to the
3 person on the ground, this person took off. He was just
4 sitting there and he just took off. Item six, an
5 eyewitness, this gentleman name was Larry Geddings, said as
6 he was coming off of [REDACTED] cross the [REDACTED]
7 [REDACTED] he passed a blue pickup truck, GMC pickup
8 truck, with two white males in it going west. This is
9 approximately two miles on the same road, two miles from
10 the crime scene where the murder scene around 7:00.

11 Q And that would have been which murder scene?

12 A Gainey's.

13 Q And that would have Saturday before the ---

14 A October the 9th, that's right.

15 Q Okay.

16 A And then the final being that I was involved pretty much
17 from the beginning I knew about the Clint Brown shooting
18 which happened on the 8th out at Wateree I knew a
19 .40-caliber shell casing was involved.

20 Q That was at Wateree River?

21 A That's right.

22 Q What else?

23 A I was at the Gainey scene and I saw shell casing recovered
24 at the Gainey scene.

25 Q And that was Saturday at [REDACTED]?

SW - J. TURNER - DIRECT

1 A That's right. And then I was at the Tietjen murder scene
2 which was, of course, that October 9th. I also saw same
3 brand caliber shell casings with that. At that scene we
4 also early Wednesday morning like one or 1:30, all that
5 evidence the shell casing had been sent to SLED. And SLED
6 called back approximately 1:30 in the morning and said that
7 they all matched, the same gun was used in the Brown
8 shooting, the Gainey murder, the Tietjen murder, and so we
9 knew we was looking for the same gun, was used by the same
10 person probably. So we had that information that Wednesday
11 when we got ---

12 Q Those shell casings similar to the ones that were found at
13 the Burgess murder?

14 A Yes.

15 Q The ones you tested?

16 A They were actually the same.

17 Q And they were what, .40 caliber what?

18 A They were Winchester .40-caliber.

19 Q Okay. And you carried that information to Judge Tindal
20 that afternoon while she was having lunch?

21 A She was eating lunch with her husband.

22 MR. JACKSON: Your Honor, that's all the questions I
23 have at this time for Mr. Captain Turner.

24 THE COURT: Mr. Clark.

25 CROSS - EXAMINATION

SW - J. TURNER - CROSS

1 BY MR. CLARKE:

2 Q Mr. Turner, do you have that search warrant?

3 A Yes, sir.

4 Q This is Court's Exhibit Number 1; right, Mr. Turner? It's
5 number 1, right?

6 A Yes, uh-huh.

7 Q Okay. And just so I'm clear, I see on the reasons section
8 it was written in red ink supplemental added and sworn
9 1:30 p.m. You see that?

10 A Yes, sir.

11 Q All right. Now my question is, the supplemental
12 information, is that contained in the body of that search
13 warrant?

14 A Yes.

15 Q Supplemental information that you gave her, is it contained
16 in the search warrant?

17 A Not about the -- every -- the only thing that is contained
18 in the body which is in parentheses right here in red which
19 is how she noted it, is where it was added on. Additional
20 property being sought. One Sharpe 36 inch color TV, model
21 36VS560, one RCA DRC22ON VCR digital player and surround
22 sound speaker. That was the part she added in.

23 Q Okay. And that's to the section that's headed with
24 description of property sought, right?

25 A Yes, sir.

SW - J. TURNER - CROSS

1 Q But there was nothing ever written in what we call the
2 probable cause section or the section that's headed with
3 reason for affiant's belief that the property sought is on
4 the subject premises. There was nothing ever written or
5 supplemented in the writing to this document in that
6 section was there?

7 A No, sir. I was sworn and I told her the information.

8 Q All right. So you would agree with me that this warrant to
9 search Mr. Bryant's house was already issued before you
10 supplemented it; wasn't it?

11 A That's right.

12 Q So the first time this warrant was issued it was based on
13 the four corners or the four corners of this document,
14 right?

15 A Sir, actually what happened was as we were coming up here I
16 provided the information to Lieutenant Florence.

17 Q All right.

18 A On what I saw, what I knew. He -- it was decision was made
19 because I was asked to come meet with the solicitor and
20 Mr. Saleeby, I came here, provided information that I knew
21 to them. We had several telephone calls back and forth
22 between myself and Lieutenant Florence. The judge was
23 satisfied that there was sufficient to issue the search
24 warrant. We were then asked by the solicitor to bring --
25 or I was asked to have David, Lieutenant Florence come and

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1 we all met and that's when it was discovered that we have
2 additional information and we thought that the judge needed
3 to know. And that's when we find the location of Judge
4 Tindal. I was sworn along with Lieutenant Florence. The
5 part with being that the stuff I saw and house the night
6 before was added to the search warrant and she reached --
7 or she initialed or reassigned that at 1:30 that day.

8 Q Right. So, but my point is, as you call it the stuff that
9 you saw in the house the day before, that wasn't given to
10 Judge Tindal before she issued the warrant the first time,
11 was it?

12 A No, sir, it wasn't.

13 Q So by the time you supplemented it it had already been
14 issued; isn't that true?

15 A That's right.

16 Q Based on what was written on this warrant, right?

17 A That's right.

18 Q All right. And just so the record is clear, and what you
19 supplemented it you supplemented it only orally, right?

20 A Other than the additional on the TV.

21 Q Right.

22 A And VCR and she wrote that down.

23 Q Right. And that's on the section of description of
24 property sought?

25 A That's right.

SW - J. TURNER - CROSS

1 Q Right. But there was nothing ever written about the
2 reason, the probable cause section? There was nothing else
3 supplemented in that section, was there, in writing?

4 A I believe if you read down the reason why we suspected Mr.
5 Bryant it says that a 20-ounce pepsi bottle was also in the
6 truck. You know, I -- I also, it says, Investigator Turner
7 also noticed that one of the tires on this truck had
8 portion of the tread missing from the one -- from one of
9 the tires.

10 Q Right, but what I'm asking you, as far as what you
11 supplemented it with when y'all found Judge Tindal at
12 lunch, none of that was ever written on here, was it?

13 A Only thing that's on there that, I mean, there's a lot of
14 stuff about how we were on Mr. Bryant but was added on
15 there about the TV, the VCR. That stuff was stolen from
16 Clifton Gainey's residence. It was not on there when
17 Lieutenant Florence first got the warrant. But it was
18 pert-- it was pertinent because we confirmed that that was
19 in his house the night before.

20 Q Right.

21 A And ---

22 Q Go ahead.

23 A But the information on how I -- we suspected, why we
24 suspected Corey Bryant was in the initial warrant. That
25 was not supplemental and that was the fact that I saw the

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1 stuff in his truck the day before.

2 Q Right, the fact that you saw stuff in the truck, right, but
3 nothing about what you saw in the house. Is that right?

4 A That's right. When the search warrant came over here the
5 solicitor noticed that was missing. We called Judge
6 Tindal, said hey, we need to add this stuff to it, and she
7 said she agreed. I was sworn. It was added to the warrant
8 within an hour of the discovery and then at that time the
9 warrant was executed.

10 Q All right. And Detective Turner, or Investigator Turner,
11 you testified that on October 12th you went to Mr. Bryant's
12 residence, you were looking for him, right?

13 A I -- we had developed, I had developed enough information
14 which I had -- I contacted Sergeant, Lieutenant Florence.
15 First information I got occurred Monday afternoon prior to
16 the Tietjen murder that Mr. Vaughn said that, I had
17 conversation with him that I should look at Stephen Corey
18 Bryant because he had evil eyes. I had no idea who Stephen
19 Corey Bryant was at that time, and then I remembered the
20 report so I went and pulled the report.

21 Q Right, but you -- but you went to his residence and I
22 believe you testified that he made -- it was at lunch time
23 and he wasn't there; is that right?

24 A You want me to explain to you how I got to Mr. Bryant's?

25 Q Well, no ---

SW - J. TURNER - CROSS

- 1 A Or you want me to tell you what I did on that Tuesday?
- 2 Q I don't necessarily need you to explain to me. I just want
- 3 you to answer the question did you go to the house looking
- 4 for him?
- 5 A Around 12:00 I did.
- 6 Q And he was not there, right?
- 7 A He was not home.
- 8 Q And I believe you testified that you picked up some
- 9 cigarette butts and you took them into your possession that
- 10 day, didn't you?
- 11 A I did.
- 12 Q And isn't it true that you had no warrant to seize those
- 13 butts that day, did you?
- 14 A They were laying on the ground outside in his yard.
- 15 Q Right. And they were not on -- they were on private
- 16 property, right?
- 17 A They in plain view.
- 18 Q Right?
- 19 A Not -- yes, sir, they were on private property.
- 20 Q They were in plain view and nobody ever gave you permission
- 21 to seize those cigarette butts, did they?
- 22 A No, sir.
- 23 Q And you didn't have a search warrant to seize them, did
- 24 you?
- 25 A No, sir.

SW - J. TURNER - CROSS

- 1 Q And you took them anyway, right?
- 2 A Yes, sir.
- 3 Q All right. Now when -- tell me, did you ever go to
- 4 Mr. Gainey's residence?
- 5 A I went there -- I went by there. I met with Lieutenant
- 6 Brian Horton with the Sumter Fire Department on Monday
- 7 afternoon.
- 8 Q All right. Monday afternoon. And that would have been the
- 9 -- do you have any notes from that meeting?
- 10 A No, sir. I just went around there, I asked him to check on
- 11 the arson part of it because somebody set fire. He called
- 12 me back and said that -- we basically talked about what the
- 13 fire was and that obviously some stuff appeared to have
- 14 been removed from the house.
- 15 Q Right. Okay, now would that have been the 12th?
- 16 A No, sir. That would have been the -- yes, sir, that would
- 17 have been the 12th.
- 18 Q That was that Monday?
- 19 A Monday.
- 20 Q All right. And so up to the 12th you had never been to
- 21 Mr. Gainey's resident; isn't that true?
- 22 A Actually I didn't even know who Mr. Gainey was until about
- 23 12:00 on the 11th.
- 24 Q Right.
- 25 A His body was finally identified.

SW - J. TURNER - CROSS

1 Q All right. So his body wasn't identified until the 11th
2 on, that was a Sunday?

3 A Sunday night. It was about 11:30, 12:00 at night.

4 Q Right, right. And then you said on the 12th you had
5 conversation with a Mr. Horton, Investigator Horton?

6 A I actually called him earlier that morning. Once we had
7 some more information I was advised that night by the
8 person, by Ms. Coker, his wife, or ex-wife, that some stuff
9 was missing, that there was fire at his house Saturday
10 evening and some stuff missing.

11 Q Okay, what exactly did she tell you was missing? Or did
12 she tell you?

13 A I believe she told me there was a big TV missing, surround
14 sound system, and the VCR.

15 Q Do you have any notes from that conversation?

16 A (No verbal response.)

17 Q All right. Did she give you particular details on models
18 and brands and description of the property?

19 A No, sir.

20 Q All right. And did you at any point get a particular
21 description on models, details of the property that was
22 missing from the Gainey residence?

23 A On Tuesday night I did, I called.

24 Q On Tuesday night?

25 A I called Garriss Varner.

SW - J. TURNER - CROSS

- 1 Q Okay. Was that the 12th?
- 2 A Yes, sir.
- 3 Q All right. And that was before you got the search warrant?
- 4 A Yes, sir.
- 5 Q So you called who? Garris Varner?
- 6 A Garris Varner.
- 7 Q And that was Mr. -- that was Mr. Bryant and Mr. Gainey's
- 8 employer at one point? And he gave you description of what
- 9 was missing?
- 10 A He said he bought it.
- 11 Q He told you he bought it?
- 12 A Uh-huh.
- 13 Q All right. And had he been in the residence, in the Gainey
- 14 residence after the fire? Was that his ---
- 15 A No.
- 16 Q Had he been in that residence after the fire?
- 17 A Yes, sir, 'cause he's the owner of the residence.
- 18 Q All right. And what did he tell you? What did he tell you
- 19 was missing and what kind of description of it did he give
- 20 you? And do you have any notes from that conversation with
- 21 him?
- 22 A Sir, I need that right there.
- 23 Q Do you have any notes from that conversation?
- 24 A No, sir.
- 25 Q So you never took any notes about these missing items?

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1 A Yes, sir, I took some notes but I don't have them with me.
2 But what I do have is what I gave to the judge the next day
3 what Mr. Varner. He didn't have any serial numbers but he
4 said based on the paperwork apparently the tag he pulled
5 off the box since this stuff was new, that the TV we
6 looking for is a Sharpe 36-inch color TV model number
7 36VS60.

8 Q And are you reading from the return?

9 MR. JACKSON: Your Honor, if he can finish answering
10 the question.

11 THE COURT: All right.

12 BY MR. CLARKE:

13 Q I ask what you're reading from?

14 A Reading from the search warrant.

15 Q May I see that? Would you show me where you're reading
16 from.

17 A Between these two marks. It's a supplemental. That was
18 the information that we added.

19 Q All right. Go ahead, I'm sorry.

20 A RCA DRC22ON, VCR digital player, and surround sound
21 speakers.

22 Q Okay, all right. And Mr. Turner, when you went to
23 Mr. Bryant's residence and you said you went in that, in
24 that time, you just recognize this television and this VCR
25 in general terms; isn't that true? I mean, when you saw it

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1 when you went in the house isn't it true that there was
2 nothing distinctive about these items that you could
3 describe to the magistrate other than the fact that you saw
4 a TV surround sound and a VCR in the man's house?

5 A There was a couple of things that was distinctive about
6 this. One, one thing I saw was how the TV and stuff was
7 set up. The wires were laying all over the floor and I
8 believe there's a picture that shows all that. The wires,
9 this TV was hastily put up which got my curiosity up. He
10 had a TV in the corner built in a nice cabinet. This thing
11 is just sitting on top of a little table. It's not made
12 for it. That's the first thing.

13 Q Right.

14 A I noticed the names of it. I mean, there was a Sharpe TV.
15 And there was RCA VCR. I contacted when I got back to the
16 office that night and I asked Mr -- 'cause they refer to it
17 as a big screen TV. My big screen TV is some, you know, 45
18 ---

19 Q 50 inches.

20 A I'm looking -- that's what I'm looking for. When I asked
21 Mr. Varner, I said, can you give me any serial numbers or
22 anything about the TV. He said no, but I do have, I can
23 tell you that it's a Sharpe 36-inch TV which I knew that
24 was a Sharpe TV and it was about 36-inches. And the model
25 number which I didn't look at the model number on the TV

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1 because you have to look in the back. I did know the brand
2 name was Sharpe on the front and it's 36-inches. The
3 other thing was the RCA DVR, the RCA digital player that
4 was sitting on the floor it was RCA which is exact same
5 thing he's telling me. Now I got two items that are unique
6 to the Gainey residence. And it's true he could have
7 bought them from Wal-Mart where everybody else bought them
8 from but it was consistent with what he said being in the
9 house and there was a surround system. And thirdly, third
10 thing was the fish tank sitting on the floor with a little
11 bit of water in it with fish in it. The fish tank was also
12 missing from the Gainey residence. The next door neighbor
13 said he just sold Mr. Gainey the fish tank.

14 Q All right. Are you done?

15 A Yes, sir.

16 Q All right. So other than the fact that you thought
17 Mr. Bryant had a Sharpe television and a Sharpe television
18 was missing ---

19 A Yes, sir.

20 Q ---there was nothing on that ---

21 A No, sir.

22 Q ---that television at the Bryant residence that was
23 distinctive that said it was the same one that came from

24 ---

25 A No, sir.

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- 1 Q ---the Gainey residence?
- 2 A That's true.
- 3 Q It just happened to be the same type of television, right?
- 4 A That's right.
- 5 Q And you weren't even sure what the dimensions on the TV
- 6 were, were you?
- 7 A No, sir. I'm pretty good at measurement and I knew it was
- 8 35, 36-inches.
- 9 Q Right. But nothing distinctive?
- 10 A No, sir.
- 11 Q Other than it was a Sharpe television, right?
- 12 A No, sir.
- 13 Q And this RCA, I'm not sure what kind of player you're
- 14 talking about. Is it a DVR, is it a DVD player?
- 15 A It's a DVR and it has a surround system with it.
- 16 Q All right. And---
- 17 A Like it's a home theater system basically.
- 18 Q Right. And RCA probably made millions of them, right?
- 19 A Yes, sir.
- 20 Q Nothing indicated that -- nothing linked it to Mr. Gainey's
- 21 house, did it?
- 22 A No, sir.
- 23 Q Just the same type of television, right?
- 24 A Same kind of TV, same kind of VCR, and same general
- 25 description of the fish tank.

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1 Q Right. And just the fact that it was the same type, is
2 that in your mind evidence of a crime, Mr. Turner? Doesn't
3 that fall short of it being that of it being evidence of
4 criminal activity?

5 A Well, sir, being an investigator it's something, you know,
6 you can't dismiss it. You know, you can't dismiss any of
7 it. It's part -- it's piece to puzzle.

8 Q Was there anything illegal in and of itself about the
9 television in Mr. Bryant's house?

10 A No, sir.

11 Q Anything illegal in and of itself about the DVR player?

12 A No, sir.

13 Q About the surround sound?

14 A No, sir.

15 Q About the fish tank?

16 A No, sir.

17 Q And there was nothing identifying that it was from
18 Mr. Gainey's house, was there?

19 A Other than it was as far as brand name and general
20 description it matched stuff stolen from Mr. Gainey's
21 house.

22 Q Right, but nothing identifying that linked it to
23 Mr. Gainey's house, was there?

24 A No, sir. No serial numbers were made available to me. He
25 did not have them.

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- 1 Q And Mr. Bryant didn't tell you he got them from -- he
2 didn't question him about where they came from, did you?
- 3 A No, sir, I wasn't -- I didn't want Mr. Bryant to -- we were
4 doing murder investigation. I didn't want to tip
5 Mr. Bryant off and have him flee when, you know, I'm just
6 trying to search for information.
- 7 Q So other than the same brands that was it, right?
- 8 A That's right.
- 9 Q That's the only probable cause you had to believe that
10 these were from a crime from Mr. Gainey's residence, right?
- 11 A That's right.
- 12 Q There were no distinctive markings on them, right?
- 13 A That's right.
- 14 Q Did you know -- did you know what particular color they
15 were? Didn't even know that, did you?
- 16 A As far as when the report was made, or when I talked to
17 Mr. Varner? I knew what color they were. I mean, I called
18 Mr. Varner to get the information. I asked him to tell me
19 what color.
- 20 Q What color were they?
- 21 A I believe the TV is black and the RCA I want to say black
22 and gray. Black and gray on both of them.
- 23 Q So you weren't exactly sure what color they were, were you,
24 as you are not today?
- 25 A That's right because color really wasn't an issue. The

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1 make and model stuff was more issue to me.

2 Q Right, right. So it could have been these were just the
3 same make and model, right?

4 A Could have been.

5 Q Okay. Nothing saying that they came from Mr. Gainey's
6 house or that they were stolen or anything, right?

7 A No, sir, just consistent with what is missing from
8 Mr. Gainey's house.

9 Q And based on the fact they were consistent you used that to
10 get a search warrant to search his house, right?

11 A Well, Mr. Clark, to answer the question is you got to go
12 back to what happened at the burglaries. The reason we
13 getting search warrants is because the evidence I saw the
14 day before that connects Mr. Bryant to the burglaries, you
15 know, this is just additional, you know. We were going to
16 get search warrants for what was seen -- we were getting
17 search warrants for the truck.

18 Q Right.

19 A So I mean, it wasn't like I was going solely out there to
20 look for the stuff for Gainey. We already knew Bryant was
21 connected now.

22 Q Right. Well, what was at the Burgess site only went to the
23 truck, right?

24 A That's right.

25 Q All right. And had nothing to do with what was inside the

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1 residence. You had -- let me ask you this, did you have
2 probable cause to search the house as result of the Burgess
3 crime scene? I'm talking about the house.

4 A I would say so because we looking for the gun, you know, we
5 knew that on four different occasions the same gun. We now
6 had evidence now that we had a fifth crime that involves
7 Mr. Bryant so we're not just going to search the truck,
8 we're going to search all his property.

9 Q Thank you, Mr -- Investigator Turner.

10 MR. CLARK: Thank you, Your Honor.

11 MR. JACKSON: Your Honor, that's all the questions I
12 have for Captain Turner. Your Honor, that's all the witnesses
13 that I will call on the search warrants. It will be the State's
14 position that places to be searched are stated with legal
15 specificity in particularity. The property to be seized is also
16 stated with particularity and legal sufficiency and that these
17 two search warrants were issued based on sufficient probable
18 cause connecting these four shootings, three murders, and one
19 assault and battery with intent to kill, stolen property
20 therefrom. There's a written affidavit from Lieutenant Florence
21 supplemented by oral testimony of Captain Turner. The returns
22 were both properly executed, timely filed, and taken back to the
23 issue of magistrate. We would ask the Court rule they be
24 sufficient.

25 MR. CLARK: Your Honor, it's our position that the.

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1 search warrant for the residence is not based on probable cause;
2 that the -- you got a couple of things going on here. One, you
3 got, I think, a fruit of the poisonous tree argument is in that
4 the warrant was issued prior to the magistrate being given any
5 probable cause for the residence. And what it comes down to
6 Detective Turner testified extensively but it comes down to the
7 question of whether appliances of similar -- of the same make and
8 model as he calls it, called it, and a similar appearance,
9 without anything else connecting indicating criminal activity or
10 connecting to Mr. Gainey's residence or to one or the other crime
11 scenes I do not believe establishes probable cause. He simply
12 said, we saw some items that were same type items. And if that
13 were the case then everyone in Sumter County with the same type
14 of appliances could be subject to a search warrant without
15 anything more.

16 Your Honor, I, one other thing -- one other thing, Your
17 Honor, the search warrant, if you look at the reason to believe
18 probable cause existed never even mentions that they're
19 investigating the Gainey case. Search warrant simply talks
20 about, I'm sorry, it does talk about crime scene on [REDACTED]
21 [REDACTED] Your Honor, I apologize. It talks about the Burgess
22 murder or murder investigation only. It doesn't mention that
23 it's in connection with the Gainey case at all. It talks about
24 the crime scene on [REDACTED] and the tennis shoes being found
25 etc., etc., etc., etc. It talks about the .40-caliber. It talks

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1 about what they saw in his truck. And then on the affidavit
2 section he talks -- they put in other items involved in the
3 murders in Sumter County in the past two weeks. One Sharpe
4 36-inch color TV. Well, he puts the model number on there on the
5 affidavit. Talks about one RCA DRC, VCR digital player and
6 surround sound speakers. So our position, Your Honor, is that
7 they never established probable cause other than the fact that
8 the man had the same type of things in his home, nothing
9 connected him to a crime. Thank you, Your Honor.

10 THE COURT: Thank you, sir. I think the evidence has
11 established that the warrants were properly issued. I go back to
12 I did have some concern initially regarding the warrant to the
13 residence, but that warrant was supplemented and amended prior to
14 execution and so that, I think, cured whatever deficiency may
15 have been in existence at that time. The -- keeping in mind that
16 the standard is probable cause. And based on the officer's
17 testimony to the magistrate that there was, and I understand what
18 you're saying without anything more, there's simply -- I don't
19 know if I've got the names right, but the Sharpe TV, the RCA, DVR
20 player, the surround sound system and the aquarium that the day
21 before those exact items were items taken during the another
22 crime I think establishes at least probable cause purposes
23 sufficient evidence to have the warrants issued. So I find that
24 both warrants were properly issued and the items seized would be
25 admissible.

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1 MR. JACKSON: Thank you, Your Honor. The photographs
2 that were associated with the items seized as a result of the
3 search warrants would be State's Exhibit 14-A through -T, State's
4 Exhibit 15-A through -I, State's Exhibit 16-A through -M, and
5 State's Exhibit 17-A through -E. That's also the [REDACTED]
6 [REDACTED] search. Your Honor, the shirt was taken which would be
7 State's Exhibit 112. Photographs later taken of Bryant, Sumter
8 Regional Detention Center, State's Exhibits A, B, and C, and
9 State's Exhibit 110 which is back to State's -- Detective Judy
10 Justice. I believe at this point based on search issues we would
11 move those into evidence and I believe there's a stipulation.

12 THE COURT: And we're talking about the photographs?
13 Okay.

14 MR. CLARK: Your Honor, our -- we maintain our motion
15 regarding the search warrants.

16 THE COURT: Certainly. I understand that but subject
17 to the based on the Court's ruling on the warrants with no
18 objection to those.

19 MR. JACKSON: Thank you.

20 THE COURT: All right.

21 MR. JACKSON: Your Honor, we've got a list of Exhibits
22 that I believe we can go through and put on the record things
23 that we have stipulated to.

24 Is that right?

25 It's the list that Your Honor has. We might can do to

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1 that quickly if you want.

2 THE COURT: All right.

3 MR. CLARK: Your Honor, we -- beg the Court's
4 indulgence.

5 THE COURT: Yes, sir.

6 (Attorneys Jackson and Clark confer.)

7 MR. JACKSON: Your Honor, if I could list for the
8 record some exhibits that I believe are going to come in without
9 objection and you've got a copy, Your Honor.

10 THE COURT: I've got a copy of the list, yeah.

11 MR. JACKSON: All right, sir. State's Exhibit 1
12 without objection.

13 THE COURT: Okay.

14 MR. JACKSON: State's Exhibit 2 without objection.

15 THE COURT: All right.

16 MR. JACKSON: State's Exhibit 3 without objection.

17 THE COURT: Okay.

18 MR. JACKSON: And then 4 through 13 we're reserving for
19 later.

20 THE COURT: All right.

21 MR. JACKSON: State's Exhibit 14, 15, 16, and 17 are
22 the photographs we just discussed without objection. State's
23 Exhibit 18 without objection. State's Exhibit 19 and 20 without
24 objection. State's Exhibit 21, 22, 23, 24, 25, 26, 27, 28, 29,
25 30, 31, 32, without objection and want to reserve a ruling on

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1 Number 33.

2 THE COURT: All right.

3 MR. JACKSON: State's Exhibits 34 without objection.

4 35, 36, 37, 38, without objection.

5 THE COURT: All right.

6 MR. JACKSON: Your Honor, State's 39 through 61 which
7 is listed on Page 3 of 6, all without objection.

8 THE COURT: All right, sir.

9 MR. JACKSON: State's 62 through 84 which is Page 4
10 without objection. Your Honor, we'll note 67, 68, 69, 70 there's
11 not an exhibit next to those. We don't have one assigned to
12 those numbers. Those are extra numbers if something comes up.

13 THE COURT: All right.

14 MR. JACKSON: Page 5, State's Exhibit 85 through 108
15 all without objection.

16 THE COURT: All right.

17 MR. JACKSON: Page 6, State's Exhibit 109, 110, 111,
18 112 without objection and understanding Defense reserves the
19 right to object to 113 through 119.

20 THE COURT: All right. Mr. Clark, does that all jive
21 with your list, sir?

22 MR. CLARK: Your Honor, we got, just I need to go back
23 through these. I got a couple of issues with a couple of them.
24 If we can go back into the beginning. I think that's where I
25 kind of got lost. On Page 6 what were your intentions regarding

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1 Page 6?

2 THE COURT: Page 6 my understanding is 109, 110, 111
3 and 112. 110 and 112 being subject to the ruling, you know, on
4 my ruling on the search warrant but those are without objection.
5 But 113, 14 was -- not 14 -- 113, -14, 115, -17, -18 and -19
6 that the Defense has reserved your objections to those.

7 MR. CLARK: That's correct on Page 6, Your Honor. Can
8 we take a look at Page 5 now just to make sure.

9 THE COURT: Page 5 my understanding was that everything
10 on Page 5 is without objection.

11 MR. CLARK: All right. Your Honor, we would object to
12 Number 88, number 89, number 90, 91, 92, 93, 94, through 99.

13 THE COURT: So at this point 88 through 99?

14 MR. CLARK: Yes, sir. As well as 100, Your Honor.

15 THE COURT: Okay.

16 MR. CLARK: Also 104 through 108.

17 THE COURT: All right.

18 MR. CLARK: Then turn to Page 4. Your Honor, we would
19 object to 62 through 66.

20 MR. JACKSON: 66 is what you just agreed to with the
21 pictures.

22 (Attorney Jackson and Clark confer.)

23 MR. CLARK: Your Honor, we object to number 78, the
24 sentencing sheet regarding the guilty plea to ---

25 THE COURT: Armed robbery.

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1 MR. CLARK: Yes, sir.

2 THE COURT: All right. Is that a multiple -- I'm
3 assuming that's a multiple count indictment?

4 MR. CLARK: Yes, Your Honor.

5 THE COURT: And your objection is to the armed robbery?

6 MR. CLARK: Yes, sir.

7 THE COURT: Okay.

8 MR. CLARK: Object to number 61.

9 THE COURT: All right, let me just to make sure I'm
10 right. Mr. Clark, it's on Page 4, you object to 62 through 66
11 and then you object to 78 the armed robbery ---

12 MR. CLARK: Yes, sir.

13 THE COURT: ---indictment?

14 MR. CLARK: Yes, sir.

15 THE COURT: Okay. And then now we're on Page 3.

16 MR. CLARK: Your Honor, and I also believe we have an
17 objection to 83 and 84.

18 THE COURT: 83 and 84, okay.

19 MR. CLARK: Yes, sir.

20 THE COURT: All right.

21 MR. CLARK: Then on Page 3.

22 THE COURT: Yes, sir.

23 MR. CLARK: Number 61.

24 THE COURT: Okay.

25 MR. CLARK: And 55 through 59. And Your Honor,

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1 regarding Number 51, 49, 49, 48, 47 and 46, 44, 41, 40 and 39, we
2 object to those.

3 THE COURT: Okay.

4 MR. CLARK: Because we need to maintain our motion to
5 suppress and I don't want to consent now and waive our position
6 on the motion.

7 THE COURT: Let me make sure I got that right. Page 3,
8 39 through 41 you object to, 44, 46 through 49, 51, 55 through
9 59, and 61; is that correct?

10 MR. CLARK: Yes, Your Honor.

11 THE COURT: All right. And then Page 2, on Page 2 I
12 understand 33.

13 MR. CLARK: Yes, sir, 33. And we'd like to reserve our
14 position on 34.

15 THE COURT: 34, all right.

16 MR. CLARK: I believe that takes care of it, Your
17 Honor, unless you want to look at the first page again.

18 THE COURT: And so page one you reserve your objection
19 on 4 through 13; is that correct?

20 MR. CLARK: Yes, sir, Your Honor.

21 THE COURT: And then everything else is, all right?

22 MR. CLARK: Let me ask a question about 17. We're not
23 certain about 17, Your Honor, so want to reserve number 17.

24 THE COURT: Okay. All right. That's everything, Mr.
25 Clark ---

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1 MR. CLARK: Yes, Your Honor.

2 THE COURT: ---on those? Anything else before we
3 break?

4 MR. JACKSON: Judge, I apologize, I spoke with Mr.
5 Howle this morning and I thought that we were on the same sheet
6 of music on these particular exhibits.

7 THE COURT: That's okay, we got it now though.

8 MR. JACKSON: Well, I'm not so sure I do, Your Honor. I
9 hate to ask the Court to run back through them, but I was backing
10 up on ---

11 THE COURT: You want me to go back -- I'll go back
12 through them quickly if you want me to.

13 MR. JACKSON: Thank you.

14 THE COURT: All right. My records show -- and please
15 Mr. Clark, or Mr. Howle, y'all go along with me to make sure I'm
16 saying this correctly. On Page 1, 1, 2 and 3 are without
17 objection, 4 through 13 reserved for objections, 14, 15 and 16
18 without objection, reserve objection on 17, and 18, 19 and 20 are
19 without objection. On Page 2, everything on that page is without
20 objection except for number 33 and 34, objection is reserved for
21 those. On Page 3, objection reserved on 39 through 41, 44, 46
22 through 49, 51, 55 through 61. Everything else is without
23 objection. On Page 4, let me -- thank you. On Page 3 number 60
24 is without objection.

25 MR. CLARK: Your Honor, we're going to reserve number

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1 60.

2 THE COURT: You did reserve on 60 as well, okay.

3 MR. CLARK: Yes, sir.

4 THE COURT: Then on Page 4, 62 through 66, objection
5 has been reserved. And on 78, objection reserved as to the armed
6 robbery indictment and then objections are reserved on 83 and 84.
7 Everything else is fine. And then on Page 5, reserved objections
8 to 88 through 100 and 104 through 108. And then on Page 6, 109
9 through 112 are without objection and everything else objections
10 reserved.

11 MR. JACKSON: That's correct, Your Honor.

12 THE COURT: You got that, Solicitor?

13 MR. JACKSON: The only thing I need to make sure it's
14 not because of chain of custody because I had been advised by
15 Defense up and until through this morning chain of custody were
16 stipulated on certain items and now it's objection.

17 MR. CLARK: It's not on chain of custody.

18 MR. JACKSON: All right, thank you.

19 THE COURT: All right. Anything else before we break?

20 MR. JACKSON: Afternoon schedule, Your Honor?

21 THE COURT: Well, we'll start back at -- 3:00 good?

22 MR. JACKSON: How about 2:30?

23 THE COURT: We can do that.

24 MR. JACKSON: Start with opening at 2:30, Your Honor?

25 THE COURT: Court will be in recess then till 2:30.

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1 (WHEREUPON, State Exhibits Nos. 1, 2, 3, 14, 15, 16, 18, 19, 20,
2 21 through 32, 35, 36, 37, 38, 42, 43, 45, 50, 52, 53, 54, 71-77,
3 79-82, 85, 86, 87, 101, 102, 103, 109 through 112 were admitted
4 into evidence.)

5 (WHEREUPON, a lunch break was taken and court resumed at 2:40
6 p.m.)

7 THE COURT: All right. Ready to proceed?

8 MR. JACKSON: Yes, sir.

9 THE COURT: Defense ready?

10 MR. CLARK: Yes, Your Honor.

11 THE COURT: All right, Solicitor.

12 MR. SALEEBY: May it please the Court.

13 THE COURT: Yes, sir.

14 MR. SALEEBY: Your Honor, given the complexity and the
15 number of the offenses that we have involved in the situation we
16 thought the Court would benefit from a synopsis of the offenses
17 and hopefully a -- an indication of where and how the evidence
18 will reveal itself to you over the next couple of days. Now
19 although this defendant has pled guilty beyond a reasonable doubt
20 to every offense that he's been charged with and each and every
21 element of the offense I can assure you that we look forward to
22 taking the opportunity to prove them again to your satisfaction
23 beyond a reasonable doubt both as a judge of the law and the
24 judge of the facts. We have the fact witnesses, we have the
25 physical evidence, and we're prepared to present them.

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1 We come to this moment and these deliberations only
2 because of the choices of one person, Stephen Corey Bryant.
3 Choices, deliberate, willful, intentional choices. He is here
4 today by choice. He would not say that to you, but he is here
5 today by choice and most of the people that you're going to hear
6 from to testify are not here by choice. They're here because of
7 the choices that he made and what impact that has had on them and
8 their loved ones. To put it all in a nutshell, in less than two
9 weeks and about nine days in October of 2004 this man killed
10 three people and shot another one and left him for dead.

11 MR. CLARK: Your Honor, objection at this point. I
12 know it's an opening statement but the State has already gone
13 beyond the scope of this hearing and I submit that the --
14 anything other than the aggravation regarding Mr. Tietjen and
15 indictment 699 is beyond the scope of the hearing and not
16 relevant. As I understand it the other crimes may be admissible
17 for character purposes only, but I would object to Mr. Saleeby
18 trying three cases in one. I just make that point.

19 THE COURT: All right. It is opening statement; and as
20 you indicated, the other crimes are relevant to some issues in
21 this hearing so I'm going to give him latitude on the opening
22 statement.

23 MR. SALEEBY: And of course, Your Honor, the guidance
24 from our Court that the facts and circumstances of the particular
25 crime and those things which reflect on the character of the

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1 defendant are permissible. Obviously, if I in the shoes of the
2 defendant, his counsel, I would prefer that the Court put
3 blinders on and not look past that particular set of
4 circumstances. However, he's entitled when he gets the
5 opportunity to discuss mitigation to go as far and wide as deep
6 as he possibly can because you as a sentencing authority need to
7 hear it. But our court has equally said that you as a sentencing
8 authority are entitled to hear things which reflect on his
9 character, and the fact that he killed three people and shot
10 another one and left him for dead within the space of nine days
11 reflects on his character as does the fact that he broke into
12 four homes and/or robbed and or burglarized somebody and chose on
13 every occasion when he left a body to take the possessions that
14 belonged to that body and to convert them to his own use.

15 Apparently four years in the Department of Corrections
16 and a year-and-a-half on supervised probation has little or no
17 impact on him because in the Fall of 2004 he started a very
18 deliberate process of burglarizing and terrorizing the Wedgefield
19 Community, that part of Sumter which is shown on State's Exhibit
20 Number 1 and which will be referred to quite some bit. His
21 method of operation which reflects his character was clever, it
22 was calculated, and it was cunning. He chose an area that was
23 close to where he lived. He chose -- he chose an area that was
24 sparsely populated, that was primarily rural in nature. He chose
25 homes that were isolated, homes that were down long driveways,

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1 homes that were out of eye sight and ear shot of neighbors. He
2 chose to do his recognizance in the daytime when people would be
3 working, rather than at night. And he chose to drive his truck
4 throughout that area. And on those occasions when he ran into
5 somebody when he was doing his recognizance like Mr. Tom Dennis
6 you'll hear from tomorrow, he had a cover story that would
7 apparently justify or legitimize him being in that particular
8 area. He acted with focus; he acted with purpose. He was there
9 to break into other people's houses. He was there to steal other
10 people's property and he was adept at doing it which reflects on
11 his character.

12 He starts north of 378 in an area we call Horatio on
13 Monday, October the 4th. That's when Tom Dennis saw him and he
14 told Tom Dennis, well, my truck broke down, somebody took my
15 truck, will you help me with my truck. And Mr. Dennis was
16 suspicious but nothing happened. But the next day when
17 Mr. Dennis came back to his place of business which is out in the
18 country, he found that his home had been broken into. That's one
19 of the indictments that this man has pled guilty to.

20 Three days later on February -- on Friday, October the
21 8th, he went to the home of Mr. James Ammons. Mr. James Ammons
22 lived south in what we would call the Pinewood area. He, like
23 the other targets, is down a long driveway out of ear sight, out
24 of ear shot, and out of our sight once again in the daytime
25 somewhere between 11 and 1:30 or 11:30 and 1:30. The house is

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1 broken into. Mr. Bryant breaks into the house or slides open the
2 back open glass and goes in the back door. According to
3 Mr. Ammons he leaves the television on to deter people coming in.
4 His daughter who lives with him sometimes turns the radio on.
5 When Mr. T.J. Hanson who's been -- who's been hunting on the
6 property and had a truck break down, comes in the house, the
7 phone doesn't work, there's no radio, there's no TV. He thinks
8 he hears something. He leaves. When he comes back, and he comes
9 back with Mr. Ammons, the bed which was previously intact is now
10 torn up, the .40-caliber pistol is missing, and the bullets are
11 missing. After the theft of that .40-caliber weapon and armed
12 with that weapon and those bullets, Mr. Bryant now chose to
13 elevate how he would go about imposing his will on other people.

14 Now at first glance when you see these four victims
15 you'll say they don't have anything in common. But when you look
16 more closely you will find that they were available, they were
17 isolated, they were vulnerable, and they were defenseless. And
18 that's what ties them together, not who they were or where they
19 lived or what they did. Another thing that ties them together is
20 that three of them were shot in the back and the fourth one ---

21 MR. CLARK: Your Honor, again, we object. This case is
22 about one victim and, Your Honor, I hate to interrupt Mr. Saleeby
23 but ---

24 MR. SALEEBY: It's okay.

25 MR. CLARK: Thank you. The Rules of Evidence and the

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1 methods of proving character I don't think that he's entitled to
2 prove character by specific instances. Now I'm talking about
3 Rule 405, the Rules of Evidence. He's only -- he's not entitled
4 to prove character by specific instances in his case in chief.
5 And I'm speaking specifically about 405(b). So I think it's
6 prejudicial, highly improper, to try four cases when we're here
7 for one case, and I maintain my objection this opening argument
8 and to other evidence that does not go to this case.

9 THE COURT: Mr. Clark, you would agree though that this
10 is not just a typical burglary case or murder case. In other
11 words, we're in the second phase of a bifurcated death penalty
12 trial where character is an issue. I do agree with that, Your
13 Honor. What my contention is the methods or means by which he
14 can prove character, and that's where 405(b) comes into play.
15 Rule 404 sets out what character evidence can be used for. Then
16 Rule 405 sets out how you can prove character, and Subsection A
17 says you can prove it by reputation or opinion. But then the
18 section and subsection I think that's on point here is 405(b).
19 In cases in which character or trade of character of a person is
20 an essential element of a charge, claim, or defense proof may
21 also be made by a specific instance of that person or conduct.
22 And my point is, character is not an element of a charge, claim,
23 or defense at this point and so he cannot go into specific
24 instances. I do agree this is a penalty phase, but I think the
25 Rules of Evidence still apply; otherwise, there's no guidance,

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1 Your Honor. I mean, where if this rule doesn't apply then what
2 are the limitations. But I think 405 is clear on the means or
3 the methods of proving character and it does not allow
4 prosecution to just throw in everything including the kitchen
5 sink when it's not relevant to this issue, to the issue before
6 the Court. And that's the other thing I would point out. In
7 this case the Court's got to decide whether the murder of
8 Mr. Tietjen is accompanied by an aggravating circumstance. That
9 case, that particular charge, whether it's accompanied by an
10 aggravated circum -- aggravating circumstance. What Mr. Saleeby
11 is attempting to do is prove aggravation through, as he said in
12 his own words, four other cases, choices that he made. And that
13 is simply not permitted under the rules and under the statutory
14 scheme 16-3-20.

15 MR. SALEEBY: Your Honor, I -- the decisions are too
16 numerous to count about what you're allowed to go into in the
17 second phase, the penalty phase of a death penalty trial as it
18 reflects on character. Events which have happened in prison. We
19 cited a case where somebody committed a homicide between the time
20 the trial started and time the trial end, other criminal
21 offenses. That's the whole purpose of this proceedings.

22 THE COURT: I'm going to note your exception,
23 Mr. Clark, but I'm going to overrule your objection. You may
24 proceed.

25 MR. SALEEBY: Your Honor, three men shot in the back:

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1 Willard Tietjen, seriously disabled. The first shooting was at
2 the Wateree Bridge, Clinton Brown. This decision -- this -- the
3 choice to shoot Mr. Brown was as wanton and as malicious as it
4 was random. He was just there fishing. He had no contact, no
5 previous knowledge. He was there minding his own business; but
6 he was isolated, he was available, and he was vulnerable. And
7 Mr. Bryant chose to shoot him because he could because he had
8 that .40-caliber that he had taken from James Ammon's house that
9 same day and he couldn't wait to use it.

10 The very next day he took a friend of his by the name
11 of Clifton Gainey, took him and drove him down a dirt road close
12 to which Mr. Gainey lived. While Mr. Gainey had his back turned
13 to him, his pants unzipped and his pants unbuttoned he shot him
14 in the back twice and then he shot him once more for good
15 measure. He left him there on the side of the road. He drove to
16 his house. He stole his TV, his DVD, his fish tank, set the
17 house afire, and then he took it all home and told his girlfriend
18 he had a surprise for her. Two days later he was at Mr. Willard
19 Tietjen's house. This is a charge of murder and armed robbery.
20 This was not his first visit there as he told law enforcement and
21 as Ms. Tietjen can tell you because a couple of days early -- she
22 recalls it as being Friday, October the 8th -- she actually saw
23 his truck outside and asked her husband about it. And he said
24 the same thing that Mr. Bryant said, he had come by and made up a
25 story, wanted to see somebody, what person was it, and look for a

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1 phone book. He was scouting out Mr. Tietjen and know that it
2 didn't take him too long to see that Mr. Tietjen had trouble
3 moving about. He was isolated, he was vulnerable, and he was
4 defenseless. And after he shot him nine times point blank with
5 this .40-caliber then he proceeded in this continuous,
6 inseparable chain of events to methodically go through his house
7 room by room and steal, steal from his basement tools, steal a
8 camera, steal from bedrooms, jewelry, steal Shriners medallions
9 and tools. He even took personal property off of his body and
10 took his wallet and went through the contents. He took his
11 social security card and his driver's license. He even took the
12 Shriners ring off his finger. And because it had blood in it he
13 took it in the bathroom to wash it off; but in his excitement of
14 stealing so much he left it behind. What you hear about how this
15 crime was committed will tell you more about his character than
16 any fifty witnesses.

17 Christopher Burgess was two days later. Early morning
18 hours of Wednesday, October the 13th he was a target of
19 convenience. He met him at a convenience store and give him a
20 ride and took him down this dirt road here called [REDACTED].
21 Uncandidly, like Clifton Gainey he was shot in the back, his
22 pants unbuttoned, unzipped as if he was relieving himself.
23 Shot once in the back, another in the front for good measure.
24 And then Mr. Bryant rode off with his bicycle, with Mr. Burgess's
25 bicycle and with some ribeye steaks that Mr. Burgess had just

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1 purchased from Wal-Mart. After all of that occurred and law
2 enforcement officers did one heck of a good job in arresting him,
3 when he was incarcerated he still managed to find the fight in
4 him to viciously beat one guard, a charge he has plead guilty to,
5 and threaten another one.

6 And so what we would say to the Court is that the facts
7 and circumstances of what he did, how he did it, and how much of
8 it he did, will tell you more about his character and who he is
9 than any fifty or thousand witnesses. Thank you, sir.

10 MR. CLARK: If it please the Court, Your Honor.

11 THE COURT: Yes, sir.

12 MR. CLARK: It's simply our position that the issue
13 before the Court is whether the murder of Mr. Tietjen was
14 accompanied by an aggravating circumstance. I submit to the
15 Court that the evidence will not rise to a level of proof beyond
16 a reasonable doubt that an aggravating circumstance accompanied
17 the murder. If the Court should find that an aggravating
18 circumstance has been proven it is simply our position that the
19 mitigating evidence that we will present will outweigh the
20 aggravation that's presented to the Court. That's pretty much
21 our position. Thank you.

22 THE COURT: Thank you, Mr. Clark.

23 All right. The State may proceed.

24 MR. JACKSON: Thank you, Your Honor. The first witness
25 we'll call will be out of order, Your Honor, it's Mr. Joel

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1 Sexton -- Doctor Sexton, I apologize. We need to call him out of
2 order based on some scheduling matters that he has and with the
3 Court's permission we'll bring him forth.

4 THE COURT: Sure.

5 THE DEPUTY CLERK OF COURT: Place your left hand on the
6 Bible and raise your right hand. State your name please, sir.

7 THE WITNESS: Doctor Joel Steven Sexton.

8 WHEREUPON,

9 JOEL STEVEN SEXTON,
10 having been duly sworn by the Deputy Clerk of Court,
11 testified as follows:

12 THE DEPUTY CLERK OF COURT: Have a seat up here please,
13 sir. State your full name spelling your last name please, sir.

14 THE WITNESS: Doctor Joel Steven Sexton. It's
15 S-E-X-T-O-N.

D I R E C T E X A M I N A T I O N

16
17 BY MR. SALEEBY:

18 Q Doctor Sexton, for part of this examination I'm going to
19 stand over here so I can just be looking towards the judge
20 as you're speaking. And then we'll move over there when we
21 need to use the diagrams. Doctor Sexton, the first thing
22 I'd like for you to do is tell us where you're employed,
23 what you do.

24 A I'm a pathologist with specialization in forensic
25 pathology. I'm currently retired as of last week, but I'm

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1 still functioning as a part-time forensic pathology for the
2 practice I started in Newberry which is Newberry
3 Pathologist Associates, and fill in sometimes in the
4 hospital as well and hospital pathology. I've been doing
5 that in Newberry 25 years. Prior to that I was at the
6 Medical University teaching there and doing forensic cases
7 for the whole state for about 17 years, and was the county
8 medical examiner for Charleston 1973 to 1983.

9 MR. SALEEBY: Your Honor, inasmuch as we don't have a
10 jury I won't ask anymore questions but would submit Doctor Sexton
11 be well qualified to speak as an expert in the area of forensic
12 pathology.

13 THE COURT: Defense have any?

14 MR. CLARK: No objection, Your Honor.

15 THE COURT: All right. Doctor Sexton is eminently
16 qualified as an expert in that field and I'll be glad to take his
17 testimony.

18 THE WITNESS: Thank you, Your Honor.

19 BY MR. SALEEBY:

20 Q Doctor Sexton, I'll first give you an umbrella question and
21 then come back specifically. I will ask you if you
22 participated in conducting an autopsy of Willard Tietjen?

23 A Yes, I did.

24 Q And did you also conduct an autopsy of Mr. Clifton Gainey?

25 A That's correct.

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1 Q And did you also conduct an autopsy of Mr. Christopher
2 Burgess?

3 A I did.

4 Q All right. I'm going to refer to those, and first of all,
5 speak about Willard Tietjen and ask you if you conducted an
6 autopsy of him in Newberry on, I think, it's Tuesday,
7 October the 12th of 2004?

8 A That's correct. Started that at one in the afternoon.

9 Q Would you tell the Court what you found when you observed
10 him externally, Mr. Tietjen?

11 A He came to us dressed in a pair of jeans, a white T-shirt
12 with God Bless America across the front, and a pair of
13 socks, and underwear.

14 Q No shoes?

15 A No shoes. His pants were unzipped, unbuttoned. His belt
16 was unbuckled. In addition to gunshot wounds, which I'll
17 describe in a moment, it was interesting that he had burns
18 on both eyes as though a cigarette or something been put
19 out in the eye because it clearly had burned the skin on
20 the left side.

21 MR. CLARK: Your Honor, I object to the speculation as
22 though his testimony. I think he testified that he observed, but
23 he said as though something had happened. I object to that.

24 THE COURT: Overruled.

25 THE WITNESS: In my opinion within reasonable medical

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1 certainty there was a burn on the left eye that was
2 yellowish-brown which generally occurs after the heart has
3 stopped. The right eye had the ashes and some burning actually
4 in the eye itself. I can't say whether this occurred while he
5 was still conscious, but it was certainly after his heart had
6 stopped beating so he may or may not have felt that. There was a
7 burn of the beard, hair, and the skin of the right cheek, a
8 fairly large burn the size of a nickel on the right cheek. He
9 had a total of nine gunshot wounds.

10 BY MR. SALEEBY:

11 Q Let me ask you before you get to the gunshot wounds, you
12 had burns to the eyes and burns to the beard. This --
13 whether or not the heart has stopped beating does the skin
14 ever react?

15 A Well, we do autopsies in hospital setting on someone that's
16 less than an hour or so dead the skin and muscle does react
17 when you do the dissection. It's an involuntary thing. I
18 have no way of knowing whether the person -- obviously
19 those cases they didn't feel that because they'd been dead
20 long enough. In his case I can't say exactly how long the
21 interval was between when he received the fatal gunshot
22 wound to the head and when these burns occurred. So he may
23 or may not have felt that.

24 Q And you say he had nine gunshot wounds?

25 A That's correct. And categorizing them they were three that

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1 were most consistent with being him being shot while he's
2 standing upright. One of these enters his right cheek and
3 goes out the back of his neck on the right side so it's
4 fairly horizontal. One goes across the top of his head
5 from right to left and hit the skull hard enough that it
6 may have rendered him slightly incapacitated because the
7 six of the shots are obviously coming up from the feet.
8 One enters the top of the left shoulder and goes out the
9 back, and that one we found in the clothing because there
10 was a bullet inside the clothing. We felt like it was this
11 one. There were others that exit the back. But this one I
12 feel in my opinion with a reasonable degree of medical
13 certainty was standing upright and went forward whereas the
14 other three were in my opinion with reasonable degree of
15 medical certainty fired while he was supine on the ground
16 because they're coming from his feet. One goes through the
17 right arm into the abdomen and out the top of the left
18 shoulder. Two hit the right hand and go into the abdomen
19 and come out in the back on the right side. They go upward
20 and to the rear. Another one goes through the right arm
21 and actually goes up into the head behind the left ear.
22 When a bullet goes through the body or through a portion of
23 the body or some other intermediate target instead of
24 producing a round hole or a podal (ph) hole it produces a
25 hole consistent with a bullet tumbling. It's a very

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1 irregular one so we can tell in this case one went between
2 the fingers here and the nice round hole there in the skin
3 of the hand whereas a irregular hole in the abdomen. Same
4 with the one that nicked the finger or went through the
5 finger on the left hand and the one that went through the
6 arm and the one that went through the left arm. So I've
7 got six shots all coming up, two going up into the head
8 from the left side, one having gone through the arm, the
9 other one hitting directly there, two coming left abdomen
10 one of which hit the hand and going upward, one very
11 acutely upward, one ends up about halfway up the chest or
12 the back and then one going through the arm and going up
13 and coming out the left shoulder. So all of those are in a
14 path that would not be conceivable to occur unless he's
15 lying on his back or he's standing up on some scaffold.
16 There was no indication of that at the scene is what we
17 were told.

18 Q Did you collect any projectiles from the body of Willard
19 Tietjen?

20 A I did.

21 Q I'm going to show you two State's Exhibit 30-A and 30-B
22 which I think are in evidence. Ask you to take a look at
23 these, 30-A first.

24 A 30-A is in a container that bears my label. It indicates
25 where the shot was located and the neck. And this is the

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1 one we arbitrarily designate as gunshot wound number two
2 which entered the left side of the front of the neck and
3 exited the back near the midline. I take pictures of the
4 bullet, closeup pictures, which show the shape of the
5 bullet and the coloration and this matches those
6 photographs.

7 Q And you recovered that from what part of his body?

8 A This is the one that was found under the body. It also
9 bears my mark on the base and on the container. It was
10 found under the body having not completely gone through the
11 shirt on the back.

12 Q It went through the body but didn't exit the shirt?

13 A That's correct.

14 Q All right. And what about 30-B?

15 A 30-B is the bullet that we arbitrarily designated as number
16 five based on the way we order it, the way we numbered the
17 wounds, not anything to do with sequence of fire. It's
18 also in a container that I've initialed. It is partly
19 deformed. It matches three photographs I took of the base
20 at each side of the bullet.

21 Q Doctor Sexton, go ahead.

22 A It also bears my mark on the base so. This is the bullet
23 that is number five which is one of the fatal rounds passed
24 through the soft tissue of the left arm while the head is
25 turned to one side and comes upward and hits behind the

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1 left ear, goes on up into the brain and is one of the two
2 fatal shots that entered the brain.

3 Q Of the nine different bullet wounds that he had how many of
4 them were fatal or potentially fatal?

5 A The two in the head in my opinion within reasonable degree
6 of medical certainty were the fatal shots. One had gone
7 first through the left arm. There were a number of
8 potentially fatal shots that struck internal organs which
9 had he not received the wounds to the head would have bled
10 long enough to have bled out internally. It's interesting
11 he only had about a pint of blood internally from all of
12 those gunshot wounds which indicates he probably died from
13 the head wounds fairly soon after he was shot in the other
14 locations 'cause you'd expect to see more blood if he -- if
15 it's been a longer interval.

16 Q What is your opinion to a reasonable medical certainty of
17 the cause of his death?

18 A In my opinion with reasonable medical certainty is the
19 gunshot wound to the head and the damage to the brain that
20 they caused, one being behind the left ear and one through
21 the left arm and also entering behind the left ear.

22 Q Now when you were examining Mr. Tietjen did you find
23 evidence of other preexisting medical conditions, and if
24 so, would you tell us what were they?

25 A He did. His heart was the size of a cow's heart. When we

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1 live with high blood pressure which may not have any other
2 symptoms occasionally we'll see people with hearts close to
3 that size who just collapse and die, and that's the only
4 thing we find is a large heart. His heart was, like I say,
5 large and had started to dilate and become flabby when
6 you're having to force pressure in the blood vessels
7 throughout the body and all the vessels in the body and
8 under stress they constrict. It's like trying to force or
9 drink, say, a milk shake through a coffee stirrer instead
10 of a large straw. So the heart gets stronger and stronger,
11 gets thicker and thicker, it finally starts failing, and
12 it's just thinning out and dilating but it's real heavy
13 because it's gone through those stages. So he had a
14 failing heart which may have had symptoms of that. As I
15 mentioned, sometimes we'll see a person all they have is
16 that and they seem rather healthy until they collapse and
17 die. He also had evidence that his heart had been doing
18 this for some time because the pressure in the heart was so
19 great it couldn't force all the blood out with each beat of
20 the heart so blood had backed up into his liver and had
21 caused the effects of pressure backing up from the liver.
22 It was twice its normal size because of that backwards
23 pressure which we generally associate what's called
24 congestive heart failure which leaves you sort of weak and
25 short of breath.

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1 Q Did he have any artificial devices implanted?

2 A Let me refer to that. I don't recall right offhand. Oh,
3 yes. He had a MED alert indicating that he was a diabetic,
4 that he had a pacemaker in place, and we did find the
5 pacemaker under the skin on the left upper chest. So he
6 did have indication that his heart had been failing even
7 more than what we saw in the organs because he had a
8 pacemaker to help start it back if it should stop.

9 Q You mentioned the word cow's heart. How is a cow's heart
10 size-wise comparison to the human heart? Is it ---

11 A It's usually twice the normal size to begin with. There's
12 a -- cow's heart starts around 500-grams which is what his
13 was, it was 498. A human heart normally is from 230 to
14 200-grams.

15 Q And his liver was twice its size too?

16 A That's correct.

17 Q Did he have any lung or pulmonary conditions?

18 A We saw some indication that the lungs may have had some
19 problems but not the type that showed serious organic
20 changes that we could see, but you can have problems with
21 your lungs and it not be that bad when you're looking at it
22 but gross later microscopically.

23 Q What kind of -- these conditions would manifest them how?
24 How would someone suffering from what you have referred to,
25 what, how would that manifest it in their daily activities

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1 or mobility or what have you?

2 A It would vary but you would expect them to be short of
3 breath and be easily tired, but short of that it would
4 depend on the individual and how they cope with that.

5 Q All right. So if you would please I'm going to ask you to
6 use these two easels and a couple of diagrams that I've got
7 here and I'd like for you to show the judge the path of the
8 these bullets.

9 MR. SALEEBY: Your Honor, out of abundance of caution
10 we're moving into evidence, if they have not already been done
11 so, State's Exhibit 60-A which is a front and back generic
12 anatomical diagram. That's -- and 60-B, each of which have
13 Mr. Tietjen's name on it.

14 THE COURT: All right. Mr. Clark, you've reserved
15 objection to those? Any objection to those diagrams, sir?

16 MR. CLARK: No, sir, Your Honor.

17 THE COURT: All right.

18 (WHEREUPON, State Exhibits Nos. 60-A, 60-B were admitted into
19 evidence.)

20 BY MR. SALEEBY:

21 Q Doctor Sexton, what I have here is we have different
22 wounds, and we have different colors that you've referred
23 to three of the shots being, for my lack of a better word,
24 perpendicular and three which appear to be from the feet
25 up. Could you demonstrate on these diagrams to the Court

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1 what you're referring to.

2 A First there are some that start, as in this case, I'm not
3 doing them any particular order. Here's one that enters
4 the left side of the neck and passes downward and actually
5 exits the backside of the body so I'm making this exit
6 wound a dotted line. And this is one of the gunshot wounds
7 that in my opinion is while he's standing up and just bent
8 forward so as to get that path with his left upper shoulder
9 toward the person doing the shooting.

10 Q Just show the Court on me if how far that'd be?

11 A It's entering the left side of the body so it's in this
12 location, if the gun is somewhere along this path. It
13 would go in and come out the middle of the back where
14 it's -- and that's one of the ones that we recovered 'cause
15 there was a tear in the clothing but not in a nice hole
16 like it had for the others that has exited the back. There
17 was one that goes cross the top of the head, and it enters
18 right here and continues across. It's a grazing wound.
19 When a bullet goes through the skin the way it tears you
20 can tell which way it's going and where it enters. We'll
21 have a unique characteristic of abrasion collar. And the
22 abrasion collar is on the back right of head and the tear
23 went across the top of the head. As I mentioned that was
24 in a location where it could have stunned him by the impact
25 on the skull even though it was tangential. The other one

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1 that's coming from the front is here at his chin, and it
2 goes out the back of the neck and continues going. So he's
3 got three that are consistent with him standing up and/or
4 bent forward: One from the shoulder, one across the top of
5 the head entering from the left back, and one going through
6 the right cheek and out the back of the neck or right side.
7 Here's one that goes through the cheek, comes out the back
8 of the neck and continues. Here's one that goes into the
9 top of the shoulder here, the bottom of the neck and comes
10 out the back. And then there's one that goes across the
11 top of the head entering from the back right -- I've drawn
12 it on the wrong side of that one. This enters on the right
13 side, enters from this side and goes backwards. If you've
14 got some whiteout I can white that out. It enters from the
15 right side of the head like this, goes across the top of
16 the head like so. So he's got three that are consistent
17 with him being upright. He's got six that enter from lower
18 on the body, one of them goes through the right arm.

19 Q Just for the record here you're using black, using three
20 that are straight on. You're using blue to show the ones
21 that come from the feet up?

22 A That's correct. Goes in the back of the right arm, comes
23 out the inside of that arm through a path that's going
24 upward. It enters the abdomen just near the bottom of the
25 chest through an irregular hole and comes out on the front

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1 of the shoulder here. So it's going upward in this path.

2 So it enters the back of the arm, goes through the arm,
3 continues on like so.

4 Q And what would account for it going through the arm hitting
5 the back first? How would the body be in position?

6 A That would be with the arm across the chest or abdomen, the
7 upper abdomen, and that also puts the holes in the hands
8 over the wounds that entered the left abdomen. So all
9 three of those occurred with the arm across the abdomen.
10 There are holes in the hands. There's one through the web
11 of between the middle finger and the ring finger, and
12 there's one that goes in the back of the right hand and
13 comes out the palm. And both of these end up -- I'm not
14 going to draw over here, but those go upward. One of them
15 goes all the way up to here before it exits, and it exits
16 the back. And the other one parallels that and goes a
17 little further all the way up to here before it exits. And
18 then there's one that enters between those that doesn't
19 strike the head that comes out a little closer, little
20 lower on the back. So we've got one, two, three, four that
21 are going upward. Then we've got the one that goes through
22 the back of the arm, enters here, goes forward, comes out
23 the front of the arm with the arm raised up in front of the
24 face. And then it continues on up here, enters right here
25 behind the ear and is found actually in the head at about

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1 that location. So I'm going to label that one number five
2 'cause that's what we labeled it on the -- and that was the
3 other wound, other bullet that we just identified. So
4 number five goes through the arm, hits behind the left ear,
5 and is found in the head. Then we've got one that enters
6 behind the ---

7 Q Let me ask you about the left arm. You said it was over
8 his -- over his head. That would be if he were on the
9 floor that would be like what?

10 A You'd have to be in a position so that the left arm was up
11 sort of like this going through the arm for this side with
12 the top and then coming in the back of the head.

13 Q All right, sir.

14 A So it's actually coming in the back of the arm, coming out
15 the front of the arm, and going into the side of the head
16 behind the ear. Then we've got another shot that enters
17 right here and goes out the top of the head a little more
18 of an angle going this way and goes out the top of the
19 head. We arbitrarily designate it number one. So we've
20 got one, two, three, four, five, six that are going upward.
21 All the ones in blue are going upward whereas the three in
22 black are going downward or to the rear and more consistent
23 with him standing up. Over here and ---

24 Q These three that you're showing here would be consistent
25 with him showing up and being shot here or here?

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- 1 A It's coming in behind the ear across the top of the head,
2 then straight in through the cheek and then down into this
3 left shoulder and -- or top of the left shoulder near the
4 neck and then out the back.
- 5 Q All these would be what you call distance more than
6 18-inches, no gun powder stippling or anything like that?
- 7 A None of the wounds show any indication that they were
8 closer than 2-feet. Pistols of this type will generally
9 throw powder anywhere from 12 to 24-inches and sometimes
10 further, but there's no indication of powder hitting the
11 bare skin or being on the white T-shirts in this
12 individual.
- 13 Q And these other shots would be consistent with the shooter
14 standing where and the body being where?
- 15 A The shooter standing somewhere near the feet 'cause the arm
16 is across the chest. At this point depending on whether
17 the -- Mr. Tietjen is right flat on his back or part way on
18 his side, this one goes from his right to his left. All
19 the other go from his left to his right so it depends on
20 whether he's moving any when he gets the shot through his
21 right arm as to whether the person doing the shooting was
22 here all the time shooting upward or whether they were at
23 one point near the left -- I'm sorry, near the right foot
24 and the other time over near the left foot. But they're
25 all passing upward, and I put them over here as well. This

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1 one goes up behind the ear, comes out the top of the head,
2 and this one goes in a little bit behind it and stays in
3 the body. And that was number five. This one is number
4 one. And we've got the ones coming up across the abdomen,
5 goes through the arm, and after going through the arm it
6 goes into the chest, comes out the top of this shoulder
7 here on the other side of the body coming up like this and
8 backwards. The others are going here on this side, body.
9 One goes through this arm, this upper arm from back to
10 front, coming out the front of the arm and it goes on up
11 into the head at that location. It requires the arm to be
12 raised in order for it to do it as you can see from this
13 angle.

14 Then you've got one going in here and I've got here
15 in the back. Call that number nine. We've got seven and
16 eight here that come out the back, different angles most of
17 them coming pretty much straight. We'll draw this one
18 first. Coming out the back. Oh, one goes up just about
19 the same angle, little more shallow. That's three, four,
20 five, seven, eight, nine, yes, that's all of them.

21 Q Okay, I'll let you take your seat back, sir. You also had
22 the occasion to do an autopsy on Clifton Gainey; is that
23 correct?

24 A That's correct.

25 Q And that was on October the 11th, 2004, in Newberry?

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1 A Yes, that is correct.

2 Q All right.

3 A 8:30 in the morning.

4 Q Please tell us what you observed when you did your external
5 examination of Mr. Gainey.

6 A We always ask the ---

7 MR. CLARK: Your Honor, same objection, Your Honor.
8 And I just cite State v. Major, 301 SC 181, 391 SC2d 235,
9 proposition that this is not proper character evidence.

10 THE COURT: You don't have a copy of that, do you?

11 MR. CLARK: Beg your pardon?

12 THE COURT: You don't have a copy of that case, do you?

13 MR. CLARK: No, sir, Your Honor, but it is cited in the
14 notes, the rules, and that was a case that changed the law in
15 South Carolina that said that if an accused offers evidence of
16 good character regarding specific character traits the State may
17 then cross-examine as to particular bad acts. And all before
18 that character is only proven in this state by reputation or
19 opinion. But that case opened the door for character evidence in
20 limited circumstances, I submit, not to allow prosecution in this
21 case to go into specific details of they aren't relevant to
22 whether Mr. Tietjen's murder was accompanied by aggravation.

23 THE COURT: All right. I'm going to note your
24 objection, overrule, allow the State to proceed.

25 MR. SALEEBY: All right. Thank you, Your Honor.

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1 BY MR. SALEEBY:

2 Q Doctor Sexton, I was asking you now as to Clifton Gainey if
3 you would tell the Court what you found when you examined
4 him externally.

5 A He arrived as he was found unresponsive and dead wearing
6 cut-off blue jeans, a black T-shirt, like hiking shoes.
7 His pants are unzipped. He's got three gunshot wounds and
8 those are the only real injuries that he has are the three
9 gunshot wounds. He's got ---

10 Q If you would describe them generally before I ask you to
11 step down and to show us on the diagram please, sir.

12 A He's got one that enters his right back and goes toward ---

13 Q His right back?

14 A The right back. And goes towards the front and exits the
15 front of his chest or mid chest region. One goes in the
16 back of his left arm near the armpit or axilla and comes
17 out anteriorly. One goes along his finger and makes a
18 crease in his finger then goes through the top of his right
19 shoulder, hits him in the right jaw, and then falls whereas
20 it doesn't penetrate from the jaw. So it's gone through
21 the finger, reentry wound in the shoulder that comes out
22 the top of shoulder, and then abrasion consistent with it
23 hitting the right side of his face.

24 Q And did you make a determination as to what was his cause
25 of death?

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- 1 A Yes. Because of the gunshot that entered the chest and
2 went through his right lung he bled sufficiently internally
3 to cause his death.
- 4 Q That would have been ---
- 5 A You'd have to lose about three pints of blood to die.
6 Acutely you can donate a pint of blood with no problem and
7 sometimes they can take two and give you back some of that
8 fluid, but when you lose three pints quickly it's enough to
9 cause death or even two pints quickly. So he bled to death
10 from the gunshot wound to the back.
- 11 Q Two shots to the -- two gunshot wounds to the back, one you
12 said came in through the right arm?
- 13 A That's correct. There's a gunshot wound on the right side
14 of the back, one of the back of the left arm that comes out
15 the front, and then one that goes through his finger on his
16 right hand, his middle finger, goes through that finger,
17 goes through the top of the shoulder and then hits him in
18 the right side of the cheek.
- 19 Q Would that impact -- would such a wound cause a defensive
20 or reflex?
- 21 A Right. Consistent with the arm being out in front of him
22 and him leaning away so that that path going through the
23 finger, top of the shoulder all lines up as a straight
24 line.
- 25 Q And that projectile would not have been -- that shot would

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1 not have been the one that caused his death?

2 A Correct.

3 Q So the one that you call shot number two arbitrarily would
4 have been the one that caused his death?

5 A Correct. The one that entered the right back and went
6 through the right lung.

7 Q Could you use an anatomical diagram to illustrate your
8 testimony?

9 A Certainly.

10 MR. SALEEBY: Your Honor, we would now move the
11 introduction of State's Exhibit Number 61.

12 THE COURT: All right.

13 MR. CLARK: We maintain our objection, Your Honor, ---

14 THE COURT: Objection overruled.

15 MR. CLARK: ---to it not being relevant.

16 (WHEREUPON, State Exhibit No. 61 was admitted into evidence.)

17 BY MR. SALEEBY:

18 Q It's labeled C. Gainey. Let's use it. If you can
19 illustrate to the Court where these, where these shots came
20 from.

21 A The first shot on the diagram is here on the right back.
22 It goes into the back near the armpit. It travels
23 horizontally to the front of the body going out the front.
24 That's why I'm making the exit wound dotted. So it enters
25 the left back, goes to the front, comes out the front of

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- 1 the chest in a horizontal path. There's one that enters
2 the back of the left arm, passes a little bit downward and
3 out the front of the left arm. And then there's one that
4 goes through the right middle finger, sort of grazes the
5 inside of the right middle finger going in this direction.
6 It goes in and out the shoulder. It's coming up this way
7 upper arm, goes in and out of the shoulder, hits on the
8 right side of the jaw here at this point and then falls
9 off. And presumably could have been found at the scene; I
10 don't know whether it was or not. So there are three
11 wounds: One that goes horizontally into the right side of
12 the back, comes out the front of the chest; one that goes
13 in the back of the left arm and comes out the front. Both
14 of those go all the way through. This one grazes the
15 finger with the arm out to the right so this is a straight
16 path going through the shoulder and hitting the cheek.
- 17 Q The one that you're showing on the left, the one that you
18 said would have hit the cheek and fallen out, if a
19 projectile was found on the scene under the head would that
20 be the projectile that most likely would wash from that
21 shot?
- 22 A I would say it's more likely that than the one that goes
23 through the arm. That goes through only soft tissue would
24 probably have kept going. And if he'd been down at that
25 time would probably have gone down into the ground. But he

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1 could have been standing up when he got this and it fell
2 somewhere near him and he could have fallen in that
3 location.

4 Q Could he have been on the ground when he received that shot
5 and went through the hand and the head?

6 A Could have because that also would allow it to be right
7 there near his head.

8 Q Would shot number, the first one you showed, the fatal
9 shot, would that have been horizontal from a distance?

10 A Again, these -- the black shirt we can't say with absolute
11 certainty because there may have been microscopic evidence
12 of how the particles there but there was none obviously
13 apparent. And that's consistent with being at a distance
14 of greater than a couple of feet and a horizontal shot,
15 makes it most consistent within a reasonable medical
16 certainty of being while he is standing up and more often
17 than not the first shot.

18 Q More often than not it would -- that would have immediately
19 incapacitated him because of where he was shot but it -- or
20 not?

21 A Its' very difficult to say.

22 MR. CLARK: Objection, Your Honor. My objection to
23 that opinion is based on the lack of notice. And we were given
24 the autopsy but I do not believe that opinion was given to us and
25 therefore I submit that we were not notified of it and therefore

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1 in writing as the statute requires. I object to him giving
2 opinions that we were never apprized of, had no opportunity to
3 defend. And Your Honor, I believe that is the -- well, the
4 similar issue came up in the Susan Smith case. I don't know that
5 that has precedential value but the circuit court in that case
6 would not allow opinion testimony that was not specifically
7 written and provided to the defendant. And in this case, Your
8 Honor, we were provided the autopsy but opinion such as when the
9 person is incapacitated was never presented to us. We had no
10 idea this was going to be presented and unfairly prejudices
11 Mr. Bryant, we object to it.

12 THE COURT: All right, sir. I'll sustain. Sustain the
13 objection.

14 BY MR. SALEEBY:

15 Q Doctor Sexton, could you tell if the first shot was when
16 the -- if the first shot would have been consistent with
17 someone standing up?

18 A It could be either. It certainly considered what we
19 generally see when a standing up and shot the shot is
20 parallel to the floor and goes horizontal. But the person
21 could also sustain that lying down and the right ankle
22 somebody shooting from the side.

23 Q If one moved after one of these shots that would have no
24 bearing on what the angling of entry was or anything, would
25 it?

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1 A Certainly if either the shooter or the person being shot
2 moves between shots then the path is going to be different.
3 If the two stay exactly the same position you expect all
4 the paths to be the same. But in this case obviously the,
5 all three paths are a little different.

6 Q All right. And the shot that was the fatal shot passed
7 through the heart and the lungs?

8 A Through the lung.

9 Q Through the lung?

10 A It was through the right.

11 Q Didn't hit the brain or the spine?

12 A Correct.

13 Q All right, sir, I'll let you be seated and I'll ask you
14 about Mr. Burgess next. Did you have the occasion to
15 conduct an autopsy on Mr. Christopher Burgess on
16 October 14th, 2004?

17 A Yes, that's correct. We did that at ten in the morning.

18 Q And did you do an external examination on him?

19 A I did.

20 Q And would you tell us what you found please, sir?

21 A He also arrived with a pair of jeans and had a white
22 T-shirt.

23 MR. CLARK: Your Honor, if you would just note the same
24 objection. I don't want to keep interrupting.

25 THE COURT: Absolutely, Mr. Clark. The Defense's

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1 objection to testimony regarding this murder is also evident.

2 THE WITNESS: His, like I say, he's got on a pair of
3 jeans, a white T-shirt, white shorts, white shoes and dark socks.

4 BY MR. SALEEBY:

5 Q What conditions were his jeans in?

6 A I was looking to see. All of them were unzipped. I don't
7 remember whether he was unbuttoned. Just a moment.

8 Q You say all of them?

9 A It was unzipped and unbuttoned. And he had evidence of two
10 gunshot wounds, one from the back entering from the back
11 left side of his body and then one entering his left cheek.
12 And again, there was no indication that these were close
13 range. These were all some distance. No evidence of
14 tattooing or stippling of the powder.

15 Q Did you recover any projectiles?

16 A In this case we recovered one projectile and that's one of
17 the head.

18 Q I'm going to show you State's Exhibit Number 108 and ask
19 you if you can identify it.

20 A This is labeled with the proper name Christopher Burgess
21 and where the bullet's from the head with our autopsy
22 number with my initials on it, and it's Exhibit 108.

23 MR. SALEEBY: And we move its introduction at this
24 time, Your Honor.

25 THE WITNESS: I would mention also matches ---

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1 MR. SALEEBY: Let the judge rule on the objection.

2 MR. HOWLE: Objection.

3 THE COURT: Overrule the objection, allow it.

4 (WHEREUPON, State Exhibit No. 108 was admitted into evidence.)

5 BY MR. SALEEBY:

6 Q Go ahead, Doctor Sexton.

7 A It matches the three photographs that I took of the
8 deformed bullet. It matches the mark on the base so it's
9 the bullet, the fatal bullet, from Mr. Burgess's head.

10 Q I'm now going to show you State's Exhibit Number 110 and
11 ask you if you collected this from the personal belongings
12 of Mr. Burgess.

13 A Yes. This is a Wal-Mart receipt that was found in his
14 pocket and it is the same one that we recovered.

15 MR. SALEEBY: Your Honor, if it's not in evidence I
16 move it in evidence at this time.

17 THE COURT: All right. That's without objection; is
18 that correct?

19 MR. CLARK: Yes, that's correct.

20 THE COURT: All right.

21 (WHEREUPON, State Exhibit No. 110 was admitted into evidence.)

22 BY MR. SALEEBY:

23 Q Exhibit Number 110 is a Wal-mart receipt; is that correct?

24 A Yes, that's correct.

25 Q And is it dated 10/30/04 at 2:53. I think that's a.m,

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1 02:53?

2 A That's correct.

3 Q And is it for a snack cake and two ribeye steaks; is that
4 correct?

5 A Correct, a snack cake and two ribeye steaks.

6 Q Would it assist you in your testimony to be able to use a
7 diagram to show the path of these two bullets?

8 A Yes, it would.

9 MR. SALEEBY: Your Honor, at this time we would move
10 into evidence State's Exhibit Number 62, the diagram of
11 Mr. Burgess.

12 MR. CLARK: Same objection, Your Honor.

13 THE COURT: Note Defense objection to do that.

14 (WHEREUPON, State Exhibit No. 62 was admitted into evidence.)

15 THE WITNESS: Mr. Burgess had two gunshot wounds. One
16 entered the chest about mid chest and traveled to the front
17 slightly downward and again exited the front of the body.

18 BY MR. SALEEBY:

19 Q That entered the chest or the back?

20 A I'm sorry, entered the back. Exits the chest but enters
21 the back. The other one enters the front of the face on
22 the left side, left cheek, and passes downward into the
23 left -- I'm sorry, downward to the right. There's both of
24 them enter the left side of the back, the left side of the
25 face. They go slightly downward into the right, and the

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1 one in the face is the fatal one. The other one caused
2 some bleeding but ---

3 Q Is that this bullet is State's Exhibit Number 108 the one
4 that was retrieved from his skull?

5 A That is correct.

6 Q All right, sir. And what kind of impact would you receive
7 if a .40-caliber slug in that part of the head have on you?

8 A Well, it entered the base of the skull where the brain stem
9 is located that constructs -- that causes your heart beat
10 respiration to stop those immediately. It's interesting
11 though it also went through the aorta and heart causing
12 extensive bleeding internally, enough bleeding to have
13 caused death. But there was still contusion and again the
14 heart was still beating when the shot to the head occurred
15 so. And the shot to the head would immediately render him
16 unconscious and probably immediately stop the heart because
17 it hit that area of the brain that controls the heart beat
18 and respiration. So the shot in the back obviously in my
19 opinion with a reasonable medical certainty occurred before
20 the shot to the head. I don't know how long you get that
21 amount of bleeding in a matter of seconds. That's less
22 than a minute because it hit the largest vessel in the
23 body, the aorta, as well as the heart.

24 Q The back shot was first?

25 A Yes, that's my opinion.

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1 Q And he had ---

2 A Then he pulled back for the second.

3 Q ---shot the second.

4 Q Did he have other medical problems, did Mr. Burgess?

5 A He also has an enlarged heart and enlarged liver, not

6 nearly as enlarged as Mr. Tietjen, but it was enlarged.

7 Just a second and I'll check my -- the amount. I take it

8 back. His was even larger than Mr. Tietjen's, and his

9 liver was also enlarged. His liver is nearly twice the

10 normal size and his heart was more than twice normal size.

11 Q That's all the questions I have. Please answer any
12 questions counsel has.

13 THE COURT: Mr. Clark.

14 MR. CLARK: No questions, Your Honor.

15 THE COURT: Thank you, Doctor Sexton, you're free to
16 go, sir.

17 MR. SALEEBY: Your Honor, we would ask if he can be
18 excused. He's got other places to go and the Court's up here.

19 MR. CLARK: No objection, Your Honor.

20 MR. JACKSON: Your Honor, at this time we'd like to
21 switch gears and offer the testimony on the statements and their
22 admissibility before we start going forward with the case that
23 actually will end up with Court's Exhibit statements.

24 THE COURT: All right, sir.

25 MR. SALEEBY: One moment, Your Honor. Let me get

1 things squared away.

2 THE COURT: Yes, sir.

3 MR. SALEEBY: Your Honor, if I could, I'd just like to
4 put one more thing on the record in response to the arguments we
5 have heard, and I haven't had the opportunity to do that yet.
6 But I have had the occasion to be in a number of these cases and
7 I know Your Honor has studied the law a good bit. The rules that
8 have been cited have to do with the usual admission of evidence.
9 Under normal rules and circumstances and not in the penalty phase
10 of a death penalty case an authority which is contrary to the
11 argument being made in terms of evidence of prior convictions
12 would be the State versus Johnny Olandis Bennett, Jr. tried in
13 Lexington County, affirmed in June of 2006. And in that case, as
14 in this case, the defendant pled or the defendant was convicted
15 of a number of crimes and got a number of convictions in
16 connection with the death of a particular person, and then the
17 State introduced evidence of a prior conviction for assault and
18 battery of a high and aggravated nature and that testimony
19 included having the mothers of the victims talking about the
20 extent of the injuries. And the Court dealt with it in quite
21 some detail and concluded, first of all, that it was relevant and
22 went on to say in a footnote -- this is Chief Justice Toal --
23 academically South Carolina has long recognized that information
24 about prior convictions is admissible in a capital sentencing
25 proceedings stating that this rule is so fundamental it requires

1 no citation of authority. It's derived from the principal that
2 receiving evidence of prior crimes is probative of the character
3 of the defendant and consistent with the sentencing authority's
4 duty to conduct an inquiry broad in scope largely unlimited
5 either as to the kind of information you may consider or the
6 source for which it may come. So I just would like to have that
7 on the record because I understand the objections and don't --
8 understand that's counsel's role and appreciate that, but I'd
9 like to be able to put that on as well.

10 THE COURT: All right. Thank you, Solicitor.

11 MR. SALEEBY: Your Honor, we're prepared to call
12 witnesses in terms of admissibility of the statements and I would
13 tell the Court that the defendant gave two statements, separate
14 statements in close a point in time on the day he was arrested
15 primarily to SLED agents but with the Sheriff's Department
16 present. And afterwards on three separate occasions gave
17 statements to Captain Turner, Lieutenant Florence, and what we
18 would like to do is present them in sequence and first of all go
19 over the events of October 13th of 2004.

20 MR. CLARK: Your Honor, I'd just like to respond to
21 Mr. Saleeby's citation of State v. Bennett. Your Honor, as I
22 read State v. Bennett that evidence was admitted as victim impact
23 evidence and not character evidence. And I agree, I did read the
24 footnote that Justice Toal wrote and she said that character
25 evidence is admissible, and I don't argue with that. My

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1 argument is the extent to which it is admissible so I just want
2 to respond that I don't think Bennett stands for the proposition
3 that you can admit that evidence as character evidence. That was
4 a case the Court said it was admissible as victim impact evidence
5 and that was testimony by a victim. In this case I object to the
6 testimony by experts and other reasons.

7 THE COURT: Yes, thank you, sir.

8 MR. SALEEBY: We would call Jamie Turner back to the
9 stand.

10 THE COURT: All right.

11 MR. JACKSON: You're still under oath.

12 THE COURT: Sir, come around, you're still under oath.

13 THE WITNESS: Yes, sir.

D I R E C T E X A M I N A T I O N

14
15 BY MR. SALEEBY:

16 Q Captain Turner, you're being re-called to the stand for the
17 explicit purpose of telling us about the circumstances of
18 the arrest of Mr. Bryant. This would have been on
19 Wednesday, October the 13th, 2004; is that correct?

20 A Yes, sir.

21 Q And what agency participated in this arrest?

22 A It was Sumter County Sheriff's Office, Richland County
23 Sheriff's Office, SLED, FBI agents, and I believe it was a
24 marshal, U.S. marshal also there.

25 Q All right. Was perimeter established in the area

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1 headquarters some sort of approach before you went into the
2 house, or went to the house?

3 A Yes, sir. SLED -- several officers from SLED and Richland
4 County, Richland County officers established observation a
5 distance away, and there was four SWAT team members that
6 were positioned in and around the house prior to entry team
7 coming.

8 Q All right. And how was the defendant brought out of his
9 house or led out of his house, and how did he come out,
10 under what circumstances?

11 A Myself and I believe it was eight -- there was actually two
12 armored vehicle SWAT team members. I was in the first
13 vehicle along with Lieutenant Florence and I had
14 Mr. Bryant's phone number so I called him first. And once
15 we got in position outside and told him we were outside and
16 that SWAT -- I mean, SLED/SWAT, and please don't try to do
17 anything, we need you to come outside. And he told me he
18 had something to do and hung the phone up. I immediately
19 called him right back and said, you don't understand, you
20 need to come outside now. And at that time he came outside
21 and agents of SLED handcuffed him and searched him.

22 Q Was he placed under arrest at that point in time?

23 A He was.

24 Q Did you advise him of any constitutional rights?

25 A I did.

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1 Q And are those what's commonly known as Miranda rights?

2 A Yes, sir.

3 Q Did you use any device to assist you in advising him of
4 those rights?

5 A I use a Miranda, a card that I keep in my wallet.

6 Q All right. I'd like you to produce that. I'd like you to
7 read it into the record for the Court at this time.

8 A What was the second part?

9 Q I'd like you to read it into the record for the benefit of
10 the Court at this time.

11 A Using this card, it says, "Miranda warning. Number one,
12 you have the right to remain silent. Anything you say can
13 and will be used against you in a court of law. You have a
14 right to talk to a lawyer and have him or her present with
15 you while you are being questioned. If you cannot afford
16 to hire a lawyer one will be appointed to represent you
17 before any questioning if you wish. You can decide at any
18 time to exercise these rights and not answer any questions
19 or make any statements." And then I asked, you know, I
20 would ask him, you understand your rights, you have any
21 questions. And at that -- you know, he said yes or no.

22 Q He said what?

23 A I said he would, you know, personal response. In this case
24 he said, yes, he understood them.

25 Q All right. Did he appear to be under influence of anything

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1 or do you not be in a position to be able to comprehend
2 what you were saying to him?

3 A He didn't appear to be under influence of anything and he
4 said he understood what was said, what I told him.

5 Q All right. What I was asking in addition to what you told
6 him, in addition to what he told you, from normal
7 observations did he appear to understand what you were
8 saying?

9 A Yes, sir.

10 Q Did you participate in any further interrogation of him,
11 questioning him that day either on the scene or down at the
12 law enforcement center?

13 A No, sir.

14 Q All right. On subsequent occasions did you and Lieutenant
15 Florence have the occasion to talk with him?

16 A Yes, sir.

17 Q All right. I may ask you about that later, ask Lieutenant
18 Florence at that point in time, but those are all the
19 questions I have for you for now.

20 THE COURT: Anything?

21 MR. CLARK: No, sir, Your Honor.

22 MR. SALEEBY: We would now call David Caldwell to the
23 stand.

24 THE DEPUTY CLERK OF COURT: Place your left hand on the
25 Bible, raise your right. State your name please.

SW - D. CALDWELL - DIRECT

1 THE WITNESS: David Alvin Caldwell.

2 WHEREUPON,

3 DAVID ALVIN CALDWELL,

4 having been duly sworn by the Deputy Clerk of Court,

5 testified as follows:

6 THE DEPUTY CLERK OF COURT: Have a seat up here please.

7 State your full name, spell your last name please.

8 THE WITNESS: David Alvin Caldwell, C-A-L-D-W-E-L-L.

9 DIRECT EXAMINATION

10 BY MR. SALEEBY:

11 Q Mr. Caldwell, if you would please tell us who you work for,
12 what your rank is, and what your job is there.

13 A I work for the State Law Enforcement Division. I've been
14 there a little over 30 years. I'm a captain. My primary
15 job is one of investigating violent crime.

16 Q Have you been doing that for most of your 30 years?

17 A Yes, sir, 20 of them.

18 Q All right, sir. Did you have the occasion to participate
19 in the investigation of either Mr. Tietjen's homicide or
20 Mr. Burgess' or Mr. Gainey's or any combination of the
21 above?

22 A All of the above.

23 Q All right. And how are you invited into this process and
24 what did you -- when did you first become involved?

25 A The first I became specifically involved was on the 12th of

SW - D. CALDWELL - DIRECT

- 1 October of 2004. The -- we had got a request for
2 assistance from the Sheriff's Office. And I and SLED agent
3 Mark Creech, some others, Bo Barton, came to Sumter and
4 began to discuss the recent murders in Sumter County with
5 Jamie Turner and David Florence.
- 6 Q Were you aware of the information that has developed that's
7 been previously testified in terms of information leading
8 to the search warrant after the death of Mr. Burgess?
- 9 A Yes, sir.
- 10 Q Did you participate in the operation for the service of the
11 search warrant and the arrest of Stephen Corey Bryant?
- 12 A Yes, sir, I was in one of the armored vehicles with Jamie
13 Turner when he made the phone call and was present when
14 Jamie Mirandised him and began to speak with Stephen Corey
15 Bryant at that time.
- 16 Q All right. Just to make sure -- the rights were given by
17 the arresting officer Mr. Turner?
- 18 A Yes, sir.
- 19 Q But after the rights were given you engaged Mr. Bryant in
20 conversation?
- 21 A Yes, sir, that's correct.
- 22 Q All right. To your knowledge and opinion did he speak with
23 you freely and voluntarily?
- 24 A Yes, sir.
- 25 Q Did he appear to understand what you were saying to him and

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1 could you understand what he was saying to you?

2 A Yes, sir.

3 Q All right. Let's go ahead and tell the Court how that
4 developed.

5 A We spoke for about 15 minutes describing the fact that
6 there's a lot of evidence that indicated his guilt in these
7 murders. He did not at that time admit to that. He was
8 saying that he suspected a man named Garris Varner being
9 involved. Then the more that I spoke with him the less
10 comfortable he got, and then he said that he wanted to
11 speak with an attorney about 15 minutes after I started
12 speaking to him.

13 Q And what did you do at that point in time?

14 A Ceased talking to him and I walked away to talk to my
15 chief, then Robert Stewart. And a couple of minutes after
16 I walked away from him one of our agents, Charles Horton,
17 came to me and said that Mr. Bryant wanted to speak with
18 me. I went back over there and he said that he wanted to
19 speak. Trying to be very cautious about this request for
20 an attorney earlier I started going into Miranda with him
21 again; and I said, earlier you said you want an attorney,
22 now you're saying you want to speak with me without one.
23 And as I started going into it he said I know all about
24 Miranda and he said -- he referred to it as his right to
25 privacy. He cut off my Mirandizement at that moment and

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1 said that he would speak to me. He said I'll speak to you
2 about the stuff I want to talk about and I won't about the
3 stuff I don't want to talk about. So we spoke several more
4 minutes, and he was telling me about Garris Varner and how
5 he thought that Garris Varner could be involved, that
6 Garris was not the nice person that some people thought he
7 was. And this went on for several minutes. And then I
8 asked him, or he asked me -- how, I asked him, I said let's
9 go to the Sheriff's Office and let's get this straight, we
10 can sit down and talk with me there and let's get all this
11 straight because I was indicating to him that I believed, I
12 still believed he was guilty. So we left at that time and
13 he and I sat in the back of the cruiser. We were driven to
14 the Sheriff's Office and continued talking there. Those
15 conversations eventually resulted in a written statement.

16 Q All right. When you got to the Sheriff's Office where were
17 you located and who was located there with you?

18 A I can't remember whose office we were in. We were in an
19 office complex.

20 Q You were in an office. I'm not asking whose it was but who
21 was in the office with you besides Mr. Bryant?

22 A David Florence.

23 Q Okay. The man who previous testified, a lieutenant with
24 the Sheriff's Office?

25 A Yes, sir.

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1 Q All right. And tell us how your conversation went and how
2 you went about turning your conversation into a written
3 statement.

4 A One of the earl-- first thing he said to me was he had
5 tried to seek mental health, get mental treatment, said
6 that he had failed at that and described to me that he had
7 not had a good childhood and went on eventually to tell me
8 about -- if I can refer to my notes I see which one he told
9 me about first. The first one he told me about was Mr.
10 Burgess, said that he had run into him. He couldn't sleep
11 the night that, of the early morning when Mr. Burgess was
12 killed. Said he got up and drove around, encountered Mr.
13 Burgess at the store, picked him up at the store and that
14 they had driven around. Mr. Burgess had asked him if he
15 would take him somewhere and he was driving him around.
16 And he said, we got out to take a leak, I locked the door,
17 he comes around and I shot him, I don't remember how many
18 times.

19 Q Let me ask you this in terms of the sequence. Did he talk
20 about a number of different crimes or talk about a number
21 of different subjects that did not involve crimes? Did he
22 talk about a number of topics is basically my question.

23 A Yes, sir. He talked about finding the weapons. He talked
24 about calling Ms. Thompson at Healthy Minds. Said he found
25 the guns at a recycling center.

SW - D. CALDWELL - DIRECT

- 1 Q How did you go about getting this information that he was
2 giving you from his verbal statements to something that he
3 could eventually be black and white that we could give to
4 the Court.
- 5 A I took some notices with pen and paper and eventually would
6 describe what he had told me to Gwen Herrod who worked the
7 Sheriff's Office. She typed these things up. I would let
8 Mr. Bryant review it. I made sure he could read. I had
9 him read several things to me so I knew he could read. And
10 he would review them and then he signed a statement.
- 11 Q All right. Before he signed any statement what did you do
12 with the transcription of the first things he told? Did --
13 was he further interviewed after he talked about that by
14 you or anybody else?
- 15 A After I spoke with him and got a signature on one statement
16 then other agents and a psychiatrist spoke with him. He
17 had talked about how he wished he could be hypnotized to
18 help him remember more details and he said maybe a doctor
19 could do that. Well, we happened to have a psychiatrist
20 with us that night assisting us from the Department of
21 Mental Health. She spoke with him and SLED agents Bo
22 Barton, Mark Creech. David Florence interviewed him
23 additionally.
- 24 Q And did he give additional information?
- 25 A He did.

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1 Q All right. Did anybody hypnotize him or in your presence?

2 A No, sir.

3 Q Was he threatened or coerced or promised anything by you or
4 anybody else in your presence?

5 A Not at all.

6 Q All right. Did he appear to understand what you were
7 asking him and did he appear to be responding in an
8 intelligent manner?

9 A He did. In so often self-serving manner he changed his
10 story but he seemed to be lucid and intelligent.

11 Q After he changed his story were those -- was that version,
12 that second version of the event likewise typed by Ms.
13 Herrod?

14 A Yes, sir.

15 Q Was a rights form executed and were copies signed by you,
16 signed by him, and witnessed by you and other SLED agents?

17 A Yes, sir.

18 Q And I'm not prepared to introduce it at this time, but I'm
19 going to just show you for identification purposes if you
20 can tell us what State's Exhibit Number 54 is?

21 A State's Exhibit Number 54 is a Miranda, advice of rights
22 and a waiver of rights signed by myself, Mr. Bryant, Mark
23 Creech, and Bo Barton I believe.

24 Q All right. This is State's Exhibit Number 55. Can you
25 tell the Court what it is.

SW - D. CALDWELL - DIRECT

1 A This is anoth-- State's Exhibit Number 55 is another
2 statement typed by Ms. Herrod and signed by Mr. Bryant,
3 myself, and other investigators that were present.

4 Q All right. And State's Exhibit Number 56. I think one of
5 them is two pages but this one is three pages.

6 A Yes, sir. This would be, State's Exhibit Number 56 is the
7 second written statement that Ms. Herrod prepared and
8 signed by Steven, myself, and Mark Creech.

9 Q And once again, the reason for two typed statements was
10 what?

11 A Well, after I spoke with him and got this first statement
12 I -- he -- I was convinced that he was involved more fully
13 in more than two crimes so I stepped out of the room,
14 others stepped in and continued to speak with him and he
15 eventually told more about his involvement in the other
16 crimes.

17 Q All right, sir. Those are all the questions I have for
18 Mr. Caldwell at this time.

19 THE COURT: Anything from Defense?

20 MR. CLARK: No objection, Your Honor.

21 THE COURT: All right, thank you, sir.

22 MR. SALEEBY: We would call Mr. Mark Creech to the
23 stand please.

24 THE DEPUTY CLERK OF COURT: State your name please.

25 THE WITNESS: John Mark Creech.

DW - J. CREECH - DIRECT

1 WHEREUPON,

2 JOHN MARK CREECH,

3 having been duly sworn by the Deputy Clerk of Court,

4 testified as follows:

5 THE DEPUTY CLERK OF COURT: Have a seat up here please.

6 State your name, spell your last name.

7 THE WITNESS: John Mark Creech, C-R-E-E-C-H.

8 DIRECT EXAMINATION

9 BY MR. SALEEBY:

10 Q Mr. Creech, please tell the Court who you work with.

11 A I work with the State Law Enforcement Division.

12 Q How long have you worked with them and in what capacity?

13 A I'm a senior agent with the Pee Dee, assigned to the Pee
14 Dee region which is headquartered out of the Florence/
15 Effingham area. I've been there almost nine years. I've
16 got over 22 years law enforcement experience, excuse me,
17 over 21 years. Next June will be 22. I have worked as
18 investigator with the Clarendon County Sheriff's Office,
19 lieutenant over investigations with the Manning Police
20 Department, and I've also worked for the Third Circuit
21 Solicitor's Office prior to my going to SLED.

22 Q Did you have occasion on October the 13th, 2004 to
23 participate in the investigation in the arrest of and the
24 questioning of Mr. Stephen Corey Bryant?

25 A Yes, sir.

DW - J. CREECH - DIRECT

1 Q All right. I'll ask you specifically if you had any
2 conversation with him at his trailer where he was arrested?

3 A No, sir.

4 Q Did you have the occasion to come into contact with him at
5 the law enforcement center sometime in the late afternoon,
6 early evening of this particular day, Wednesday, October
7 the 13th?

8 A Yes, sir.

9 Q All right. Tell us how you had the occasion to come into
10 contact with him, in particular as involves both of these
11 statements. First of all, statements the original, the
12 first called State's Exhibit Number 55 and then the second
13 one called State's Exhibit Number 56. If you'd just tell
14 the judge how those things evolved.

15 A Myself and Bo Barton were at the scene, but we did not
16 participate ---

17 Q Bo Barton is who?

18 A Another SLED agent. I think his real name is Derwin
19 Barton; we call him Bo.

20 Q All right, sir.

21 A He was assisting Captain Caldwell. He's in the behavioral
22 science division at SLED. They had been working with the
23 Sheriff's Office for several days about these prior
24 murders. I was assisting the Sheriff's Office with a
25 totally unrelated crime, and that was the occasion I was in

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1 Sumter. When all these things begin to unfold I was also
2 here and I assisted them. Myself and Agent Barton went to
3 the Sheriff's Office and Captain Caldwell and David
4 Florence were interviewing Mr. Bryant in the last office on
5 the right down the hallway at investigations where
6 investigator Robert Burnish has a office in -- Captain
7 Caldwell stepped out, stated that they had been talking
8 with him, he wouldn't go into anything to do with Tietjen
9 and said y'all can go in and talk with him. I think he was
10 going to go smoke a cigarette or get something to drink.
11 So myself and Agent Barton went in. David Florence was
12 still sitting there and we sat down. Agent Barton reminded
13 Mr. Bryant of his rights and asked him if he mind talking
14 with us being present. He stated he did not mind.

15 Q Did he appear to understand his rights?

16 A Yes, sir. Yes, sir. He requested to speak with his
17 girlfriend Judy. I believe her last name is Justice. I
18 may be wrong on the last name but I know it's Judy. And I
19 stepped out and told Captain Caldwell he wants to call her,
20 his girlfriend. He says get him to write her a letter. So
21 we went back in. He gave him some sheets of paper and he
22 spent several minutes writing his girlfriend a letter. He
23 got through. We begin to talk with him. And I noticed a
24 section in the letter that said something about it's over,
25 it's finally over. And I said, well, Steven that's true,

DW - J. CREECH - DIRECT

1 it is finally over, it's over. He said yes, sir, and he
2 became emotional. And I said, well, will you be willing to
3 talk with us and just tell us what happened, we just want
4 the truth. And he had been going over a statement with us
5 that Ms. Herrod had typed up as relation to the
6 conversation he had had outside of our presence but in the
7 presence of Captain Caldwell and David Florence. I had a
8 copy of that statement.

9 Q That'd be basically State's Exhibit 55.

10 A I'm sorry, yes, sir, State's Exhibit 55.

11 Q All right. So you had that working draft of that?

12 A Yes, sir. And we began to go over his statement that he
13 had given previously. He changed a few things. There's a
14 line in here that says, I found the gun at a recycling
15 center below my house three miles away. He said that
16 there was also a 12-gauge pump that I left there. He said
17 that was true but he did not find the pistol. He had
18 actually broken into a house at Pinewood some while back
19 and had gone in through a sliding glass window that was
20 open and had taken the gun. Then he went on down, talked a
21 little bit about -- the next paragraph talks about a black
22 guy that he encountered he had given a ride to. He talked
23 about how he wanted to take him somewhere to buy crack; he
24 didn't want to do that. They ended up down a dirt road.
25 They both got out the truck to take a leak and the guy came

DW - J. CREECH - DIRECT

1 around. He thought the guy was going to take the truck
2 from him. He felt threatened, reached under the seat, got
3 the pistol and shot him. He then goes into the events of
4 Monday afternoon. He stated that his truck had overheated
5 and had stopped beside the road.

6 Q Let me ask you, is this off the first statement or is this
7 additional information he's given the three of you now?

8 A This is additional information he's given the three of us.

9 Q Of the additional information how is that additional
10 information taken and putting into a written form -- and
11 put into a written form?

12 A When we got -- when he got through talking we all three
13 went into Captain Baron's office. We spoke with Captain
14 Caldwell. All three of us told Captain Caldwell what
15 transpired and Gwen Herrod was sitting at the computer and
16 she was typing everything up. And then at some point in
17 time, and that is State's Exhibit 56 which is a second
18 statement basically mirroring this first one with
19 additional corrections and additions to it.

20 Q All right. And did he sign these three documents, the
21 waiver of rights, and the statement which is State's
22 Exhibit 54, State's Exhibit Number 56 which we're referring
23 to the first one? It has some handwritten notes on the
24 bottom, whose are those?

25 A Those are his handwriting.

DW - J. CREECH - DIRECT

1 Q And then State's Exhibit Number 56, which we're referring
2 to is the second statement, that would be the one given --
3 it was you and Mr. Barton there with Lieutenant Florence?

4 A That's correct.

5 Q And did he sign each of these?

6 A Yes, sir.

7 Q In your presence?

8 A Yes, sir.

9 Q And did you witness them?

10 A Yes, sir.

11 Q All right. Please answer any questions that counsel has
12 for you.

13 MR. CLARK: No questions, Your Honor.

14 THE COURT: Thank you, sir. You may step down.

15 MR. SALEEBY: Your Honor, at this time before he steps
16 down I would like to move the introduction into evidence of these
17 three statements, rights form State's Exhibit 54, and State's
18 Exhibit Number 55 which we've had the original or -- I'm sorry,
19 number one on 10/13/04 and number 56 would be number 2 on
20 10/13/04.

21 THE COURT: I think 54 is in without objection which is
22 the waiver of rights form; is that correct? Mr. ---

23 MR. SALEEBY: I got lost, Your Honor.

24 MR. CLARK: That is correct, Your Honor.

25 THE COURT: And any objection to 55, 56?

DW - J. CREECH - DIRECT

1 MR. CLARK: No, sir, Your Honor.

2 THE COURT: 55 and 56 are in without objection.

3 (WHEREUPON, State Exhibits Nos. 55 and 56 were admitted into
4 evidence.)

5 MR. SALEEBY: And your Honor, while I have Mr. Creech
6 on the stand -- and I apologize, this is not with reference to
7 the statement but Mr. Creech actually was received a court order
8 that was consented to by Mr. Howle and took some blood from SLED,
9 took some blood from the detention center that was drawn in his
10 presence up to SLED. I didn't know if we were going to have a
11 legal argument over that, but I could have him testify about that
12 right now.

13 THE COURT: Sir, is there going to be any question as
14 to admissibility of Investigator Creech's involvement?

15 MR. CLARK: No objection, Your Honor. Mr. Howle
16 consented to it in the beginning as far as we're concerned.

17 THE COURT: So that's not going to be an issue that
18 Mr. Creech is going to have to testify to?

19 MR. HOWLE: No, sir.

20 MR. CLARK: No, sir.

21 MR. SALEEBY: Well, we have the nurse who drew the
22 blood and will it be necessary for us to bring her?

23 MR. HOWLE: Your Honor, I previously stated to the
24 solicitor's office that as far as the chain of custody on those
25 that I was not -- we will not contest any chain.

DW - J. CREECH - DIRECT

1 THE COURT: Okay. So we don't need the nurse or
2 anything.

3 MR. HOWLE: No.

4 MR. SALEEBY: Would you want me to ask him a few
5 questions just to build the record?

6 THE COURT: I f you'd like but...

7 MR. SALEEBY: Okay. If you don't mind.

8 BY MR. SALEEBY:

9 Q Mr. Creech?

10 A Yes, sir.

11 Q Did you get a court order signed by Judge Thomas Cooper,
12 Jr. on October 10th, 2005 signed both by Solicitor Kelly
13 Jackson and consented by Jack D. Howle, Jr., attorney for
14 the defendant? Did you get that order?

15 A Yes, sir, I was called by your office to come to Sumter and
16 pick this up. I came by and picked up a copy of this
17 order, went to the Sumter County jail, met with a nurse
18 Lawson I believe her first name was.

19 Q Angela Lawson?

20 A Angela Lawson, yes, sir.

21 Q Did you know her to be an LPN working at Sumter-Lee
22 Regional Detention Center?

23 A I questioned her that day. She told me she was a LPN; she
24 had drawn blood on previous occasions. And Mr. Bryant was
25 brought up. Blood was drawn in my presence. That blood

DW - J. CREECH - DIRECT

1 was given to me and I went immediately to SLED and logged
2 it in as evidence.

3 Q All right, I realize you're not medical personnel.

4 A No, sir.

5 Q But as far as you could determine was it done in a
6 medically safe way?

7 A Yes, sir.

8 MR. SALEEBY: All right. That's all we need to do to
9 build that record, Judge.

10 THE COURT: Thank you, sir.

11 THE WITNESS: Yes, sir.

12 THE COURT: You may step down.

13 MR. SALEEBY: Your Honor. We would now call David
14 Florence back to the stand.

15 THE COURT: All right.

16 Investigator Florence, you're still under oath.

17 THE WITNESS: Yes, sir.

18 MR. SALEEBY: Your Honor, I propose this could be a
19 court exhibit or not just a court order. I don't -- just a part
20 of the record, an order for drawing blood, do we need to make
21 that part of the record?

22 THE COURT: Yeah, we can make it a Court's exhibit.

23 (Court's Exhibit Number 3 was marked and made a part of
24 the record.)

25 DIRECT EXAMINATION

SW - D. FLORENCE - DIRECT

1 BY MR. SALEEBY:

2 Q Mr. Florence, you've previously been introduced to the
3 Court. I'm going to call your attention to a series of
4 contacts with the defendant Stephen Corey Bryant as it
5 relates to certain statements that were given. I'm going
6 to start with the statement that's labeled only for
7 identification, not into evidence, as State's Exhibit
8 Number 57 which is dated October the 15th of 2004. So just
9 take a look at that.

10 A Yes, sir.

11 Q Okay. Now I will ask you what the circumstances were of
12 you and Captain Turner having contact with Stephen Corey
13 Bryant and how that statement came into being.

14 A All right, sir. On I guess it was the 15th Sergeant Turner
15 received a message from one of our other investigators
16 Robert Burnish that a correctional officer at the jail
17 asked him to pass on a message to Captain Turner or myself
18 that Steven Bryant wanted to speak with us. He was
19 requesting us to come down and speak with him.
20 Investigator Burnish stated that he received information
21 from a Sergeant Glover at the Correctional Center. We went
22 to the jail and picked up Mr. Bryant and brought him back
23 to the law enforcement center, and at that time he was
24 advised of his rights again and he filled out a waiver of
25 rights form signed by me, Mr. Bryant and ---

SW - D. FLORENCE - DIRECT

1 Q I'm going to ask you, did you initiate this contact?

2 A No, sir, I did not.

3 Q Did Captain Turner initiate this contact?

4 A No, sir.

5 Q Did Mr. Burnish initiate this contact?

6 A No, sir.

7 Q When you encountered Mr. Bryant what did you do to
8 guarantee that he himself had initiated this contact?

9 A We have a standard Miranda warning waiver of rights form
10 that we use, and I advised him of his Miranda warning and
11 asked him to read them as well and I signed it after I
12 advised him of his rights and he read it and he put his
13 initials on it as well indicating he understood his rights.

14 Q All right. And that's going to be the waiver form?

15 A Yes, sir.

16 Q All right. I'm going to call your attention to the first
17 paragraph there. Whose handwriting is this statement in?

18 A This is written in Stephen Bryant's handwriting.

19 Q All right. And I'll just look at -- this would be page 1
20 of seven pages called voluntary statement. If you would
21 read into the record the first two sentences.

22 A "I, Stephen C. Bryant made contact with Investigator D.E.
23 Florence and Sergeant James Turner on 10/15/04 to talk with
24 them freely about the investigations brought upon me." Do
25 you want me to read further?

SW - D. FLORENCE - DIRECT

- 1 Q Yeah.
- 2 A "I contacted correctional officers to notify Investigator
3 Florence and Sergeant Turner that I was -- that I needed to
4 speak to them on an important matter."
- 5 Q All right now, did he sign each page?
- 6 A Yes, sir, he did.
- 7 Q Did you witness each page?
- 8 A Yes, sir, I witnessed as well as Captain Turner.
- 9 Q All right. Was he threatened or coerced or intimidated by
10 you or Captain Turner or anybody in your presence?
- 11 A No, sir.
- 12 Q Was he promised anything by you or anybody in your
13 presence?
- 14 A No, sir.
- 15 Q Did he appear to you to have any problems understanding
16 what you were asking him or what he was telling you?
- 17 A No, sir.
- 18 Q Did he do anything -- did he -- did he have any mannerisms
19 or speech patterns that gave you cause to stop the process
20 because you questioned his ability to follow?
- 21 A No, sir.
- 22 Q That would be State's Exhibit Number 57 for identification.
23 I'm going to move you forward now to October the 19th. Did
24 you have the occasion to take a statement from him on that?
- 25 A Yes, sir, I did.

SW - D. FLORENCE - DIRECT

1 Q Please tell the Court the facts and circumstances
2 surrounding that particular situation.

3 A On October the 19th I received a voice mail from
4 correctional officer Lieutenant McMillan stating that
5 Stephen Bryant was requesting to speak with me and Captain
6 Turner. Lieutenant McMillan had stated in voice mail that
7 she had called on previous day, and that I spoke with
8 Sergeant -- Captain Turner about that at that particular
9 time and he indicated he received a voice mail as well. At
10 that time we went and made contact with Mr. Bryant and
11 brought him to the law enforcement center as we did last
12 time. And I advised him of his rights signing my initials
13 to each one and then asking him to read them, read those
14 rights again, and if he understood those rights to put his
15 initials there as well which he did.

16 Q Did you initiate that contact or did he?

17 A He did, sir.

18 Q To your knowledge did Captain Turner at the detention
19 center have anything to do with initiating that contact?

20 A No, sir.

21 Q Before speaking with him you executed this form; is that
22 correct?

23 A That is correct.

24 Q All right. Did he sign -- you signed it in his presence?

25 A Yes, sir.

SW - D. FLORENCE - DIRECT

- 1 Q All right. Would you read into the record the first
2 paragraph of his actual statement.
- 3 A All right sir. "My name is Stephen C. Bryant. I made
4 contact through the correctional officers at Sumter-Lee
5 Regional Detention Center that I wanted to talk with
6 Investigator Florence and other officers and a psychiatrist
7 freely about any questions and things on my mind on October
8 the 19th, 2004."
- 9 Q All right. Did he proceed to give you this statement?
- 10 A Yes, sir, he did.
- 11 Q Is this his handwriting or somebody else?
- 12 A That is his handwriting.
- 13 Q Is it witnessed by you and Captain Turner?
- 14 A Yes, sir.
- 15 Q Did he sign every page?
- 16 A He did, sir.
- 17 Q Was he threatened or coerced by you or by anybody in your
18 presence?
- 19 A No, sir.
- 20 Q Was he promised anything, any reward, any leniency, any
21 particular punishment by you or anybody in your presence?
- 22 A No, sir.
- 23 Q Was there anything about his speech patterns or his
24 mannerism, his behavior, which led you to believe that he
25 was having difficulty coping or understanding what you were

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1 saying or giving you this information?

2 A No, sir.

3 Q All right. Move forward to State's Exhibit Number 59 for
4 identification and ask you if you had the occasion to take
5 a statement from Mr. Bryant on October 21st of 2004.

6 A Yes, sir, I did.

7 Q All right. Would you tell the Court the circumstances
8 under which this statement came.

9 A Yes, sir. On the said date of October 21st, '04 I went to
10 jail to serve a warrant on unrelated case. I made contact
11 with Lieutenant Gilliard, the supervisor with the
12 Correctional Center, who indicated to me that Stephen Corey
13 Bryant wanted to speak with me or Captain Turner at that
14 time. I finished up my business there. We picked up
15 Mr. Bryant again and took him back to the law enforcement
16 center. And at that time I again got a Miranda warning
17 waiver of rights form and I read it to him. I initialed it
18 and got him to do the same, and he initialed it as well
19 indicating that he understood it. It was signed by me as a
20 witness to his signature.

21 Q On each of these forms your initial to the left of the
22 rights means what?

23 A That means that I read it, read each line to him, one
24 through six.

25 Q And his initials to the left means what?

SW - D. FLORENCE - DIRECT

1 A That he also read it and he understood what he read.

2 Q Would you please read the first sentence into the record
3 off of his statement.

4 A Yes, sir. "On October 21st I made contact with
5 Investigator Florence and Sergeant Turner through officers
6 Bonnie at Sumter-Lee regional Detention Center that I
7 needed -- I needed to get with them meaning need to talk
8 with us on an important, a matter of some importance" -- of
9 some important information -- I'm sorry.

10 Q All right. Was he threatened or coerced ---

11 A No, sir.

12 Q ---by you or Captain Turner or anybody in your presence?

13 A No, sir, he was not.

14 Q Was he promised anything, any leniency, any particular
15 reward?

16 A No, sir.

17 Q Please answer any questions counsel has for you.

18 A Yes, sir.

19 MR. CLARK: No questions for this witness, Your Honor.

20 THE COURT: All right. Thank you, sir. You may step
21 down.

22 MR. SALEEBY: Your Honor, we would move the
23 introduction into evidence of State's Exhibit Number 58, State's
24 57, 58 and 59. Those would be the originals of the statements
25 that were gathered by Lieutenant Florence and Captain Turner.

1 THE COURT: All right.

2 MR. CLARK: No objection, Your Honor.

3 THE COURT: All right, without objection State's 57,
4 58, 59 are in.

5 (WHEREUPON, State Exhibits Nos. 57, 58, 59 were admitted into
6 evidence.)

7 MR. SALEEBY: Your Honor, there are a number of
8 statements on a number of different copies I have gone through
9 and tried to extract what he said on each particular subject by
10 date, and I'm passing up for your use a copy and giving a copy to
11 defense counsel and I tried to be absolutely complete. If I
12 haven't I'm sure they'll let me know. Your Honor, that's all we
13 have in terms of this, I suppose, we call it in-camera proceeding
14 about admissibility.

15 MR. CLARK: Your Honor, if I could just be very ---

16 THE COURT: Yes, sir.

17 MR. CLARK: We do not object to the statements
18 regarding this case, but we maintain our objections as to
19 relevance with regards to the other statement, other issues,
20 other cases, yes, sir.

21 THE COURT: We're going to take a short break at this
22 time.

23 MR. JACKSON: Judge, the only thing, the only other
24 additional thing I was going to attempt to do this afternoon was
25 put in the stipulations on the prior record via the sentencing

1 sheets and certified indictments from the other counts.

2 THE COURT: All you have for today?

3 MR. JACKSON: That's all we're going to do today. I
4 wanted to put that on the record.

5 THE COURT: Let's do that. We'll go ahead then.

6 MR. JACKSON: All right, sir. Your Honor, it's my
7 understanding that Defense is stipulating to all these with the
8 exception of the one with the armed robbery count on indictment
9 699.

10 MR. CLARK: That's correct, Your Honor.

11 THE COURT: That's correct. The 699, the objection is
12 to the indictment, the charge of armed robbery.

13 MR. CLARK: Yes, sir.

14 THE COURT: Okay.

15 MR. JACKSON: Your Honor, State's Exhibit 71 is
16 indictment 98-GS-28-5965. It's an indictment from Kershaw
17 County. It's for attempted burglary in the second degree. The
18 defendant pled guilty on May the 20th of 1998. He was sentenced
19 to a YOA not to exceed six years with three years probation.
20 That sentence was given by Judge Durham Cole, and I have the
21 sentencing sheet and certified copy of the indictment.

22 THE COURT: All right.

23 MR. JACKSON: State's Exhibit 72 is indictment
24 99-GS-28-7019. It was also a Kershaw County indictment. The
25 defendant Stephen Corey Bryant pled guilty to burglary in the

1 second degree on January the 28th of 1999. He was sentenced to
2 seven years, suspended to five years and five years probation.
3 Now that judge -- the judge that sentenced him was Judge Jimmy
4 Williams. Your Honor, at the same time there was a probation
5 revocation. That particular plea violated the probation that had
6 to do with indictment 98-5965 that he pled to in '98. And
7 State's Exhibit 73 is the probation revocation and citation where
8 his probation was revoked on January the 28th of 1999. The YOA
9 sentence was converted to an active sentence, three years, revoke
10 18 months and run it concurrent with the seven years suspended
11 five years and five years probation that he got for the burglary
12 second he pled to that particular day.

13 THE COURT: Okay.

14 MR. JACKSON: State's Exhibit 74 is the certified copy
15 of the Sumter County indictment 2006-GS-43-696 which is the
16 burglary second Mr. Bryant pled guilty upon on August 18th and
17 also the sentencing sheet. State's Exhibit 75 is indictment
18 2006-GS-43-697. This is the indictment for burglary in the first
19 degree whereupon Mr. Bryant pled guilty on August the 18th.
20 That's a certified copy of that indictment and that sentencing
21 sheet. State Exhibit 76 is Richland County indictment
22 2004-GS-20-10096 whereupon Mr. Bryant pled guilty to assault and
23 battery with intent to kill out of a case that occurred in
24 Richland County, and we have a certified copy of that indictment
25 and the sentencing sheet. State's Exhibit 77 is a Sumter County

1 indictment 2006-GS-43-698 whereupon Stephen Corey Bryant pled
2 guilty to a murder, burglary in the first degree, and arson in
3 the second degree. That includes a certified copy of the
4 indictment and certified copies of the sentencing sheets. That
5 also was August the 18th.

6 State's Exhibit 78 is 2006-GS-43-699 Sumter County
7 indictment. Your Honor, that's the case that we have called for
8 trial involving Mr. Tietjen. That indictment is for murder,
9 armed robbery, and possession of stolen hand good -- handgun.
10 This will be the one they have reserved the right not to
11 stipulate ---

12 THE COURT: Reserving their objection to armed robbery.

13 MR. JACKSON: Yes, that's correct. And we have
14 certified copies of that indictment and also those sentencing
15 sheets. State's Exhibit 79 is indictment 2006-GS-43-700 Sumter
16 County indictment, Stephen Corey Bryant. He pled guilty on
17 August 18th of murder and possession -- excuse me, just pled
18 guilty to murder on that particular indictment on August 18th.
19 We have again the certified copy of the indictment and the plea
20 sheet. State's Exhibit 80 is Sumter County indictment
21 2006-GS-43-702. That involves Stephen Corey Bryant in a count of
22 threatening life of a public employee whereupon he pled guilty on
23 August 18th. Again, a certified copy of the indictment and
24 sentencing sheet. And finally, Your Honor, State's Exhibit 81,
25 and that's indictment 2006-GS-43-701 Sumter County indictment

1 wherein Stephen Corey Bryant was indicted for assault and battery
2 with intent to kill. He pled guilty to that count on August the
3 18th and we have a certified copy of that indictment and that
4 sentencing sheet.

5 THE COURT: All right, sir. All of those are in
6 without objection but for the charge of armed robbery on
7 indictment 699, and that's in but over Defense objection.

8 MR. JACKSON: Yes, sir.

9 THE COURT: Anything further?

10 MR. JACKSON: That's all we have today, Your Honor.

11 THE COURT: Let me ask you all just for scheduling
12 purposes 'cause, and you know, we're just dealing with us and not
13 a jury. Y'all want to start at nine or do you want to say 9:30?
14 What do you want to do?

15 MR. JACKSON: Your Honor, I would suggest 9:30. At the
16 rate we're going through the witnesses it probably will be good
17 we have 9 to 9:30 to line them up so at 9:30 when Your Honor
18 comes on the Bench we will be ready to present.

19 THE COURT: All right. Well then we'll -- the court
20 will be in recess then till 9:30 tomorrow morning.

21 MR. CLARK: Thank you, Your Honor.

22 THE COURT: Thank you everybody.

23 (WHEREUPON, the proceedings were concluded for the day to be
24 reconvened on September 3, 2008 at 9:48 a.m.)

25 (WHEREUPON, State Exhibits Nos. 88 and 92 were marked for

SW - S. HOLLAND - DIRECT

1 identification only.)

2 THE COURT: All right. Is there anything we need to
3 take up before we proceed?

4 MR. JACKSON: Nothing on behalf of the State, Your
5 Honor.

6 MR. CLARK: Nothing on behalf of Defendant.

7 THE COURT: All right. Solicitor, are you ready to go?

8 MR. JACKSON: Yes, sir. The State calls Ms. Sharon
9 Holland, Your Honor.

10 THE COURT: Ms. Holland, if you'll come around please.

11 THE DEPUTY CLERK OF COURT: Place your left hand on the
12 Bible, raise your right hand.

13 WHEREUPON,

14 SHARON A. HOLLAND,

15 having been duly sworn by the Deputy Clerk of Court,
16 testified as follows:

17 THE DEPUTY CLERK OF COURT: Have a seat up here please.
18 ma'am. State your full name, spell your last name please, ma'am.

19 THE WITNESS: Sharon A. Holland, H-O-L-L-A-N-D.

20 DIRECT EXAMINATION

21 BY MR. JACKSON:

22 Q Ms. Holland, where do you work?

23 A The South Carolina Probation and Parole and Pardon
24 Services, Sumter County.

25 Q And how long you been there?

SW - S. HOLLAND - DIRECT

- 1 A With the agency 15 years. I was in Sumter for about seven
2 then I moved over to Lee County in 2000, came back to
3 Sumter in January of 2004.
- 4 Q January of 2004.
- 5 A Yes, sir.
- 6 Q Okay. And what position do you hold here in Sumter County
7 with the probation department?
- 8 A I'm the agent in charge of the office.
- 9 Q How many you got working under you?
- 10 A Approximately 20.
- 11 Q Ms. Holland, at my request did you research some probation
12 records on Stephen Corey Bryant?
- 13 A Yes, sir.
- 14 Q And date of birth, that'd be April the 12th of 1981.
- 15 A That's correct.
- 16 Q White male?
- 17 A Yes, sir.
- 18 Q When do you show that Stephen Corey Bryant first fell under
19 the supervision of the Department of Probation?
- 20 A May 20th, 1998.
- 21 Q And that would have been for indictment 98-GS-28-5965, a
22 Kershaw County indictment?
- 23 A Yes, sir.
- 24 Q And for what crime was that?
- 25 A Burglary second nonviolent.

SW - S. HOLLAND - DIRECT

- 1 Q Do you have the sentence that he received?
- 2 A Yes. He received a YOA sentence not to exceed six years
- 3 which was suspended to three years probation.
- 4 Q So he got a probationary sentence?
- 5 A That's correct.
- 6 Q Second chance?
- 7 A Yes, sir.
- 8 Q About what age would he have been when he was sentenced?
- 9 A Seventeen. He was -- he turned 17 on May, I'm sorry, on
- 10 April 12th of that year and he was sentenced May 20th of
- 11 that same year 1999.
- 12 Q So he just turned 17?
- 13 A Yes, sir.
- 14 Q When he was put on probation do you have conditions of
- 15 probation that they have to live under?
- 16 A Yes, sir, we have ---
- 17 Q Let me hand you -- I'm sorry.
- 18 A We have the standard conditions of probation.
- 19 Q Let me hand you State's Exhibit 73. That's the probation
- 20 paperwork for him; is that correct?
- 21 A Yes, sir.
- 22 Q And do you show that he signed that?
- 23 A Yes, sir.
- 24 Q Document, what date?
- 25 A He signed this on May 20th, 1998.

SW - S. HOLLAND - DIRECT

1 Q And if you would refer to the additional conditions of
2 probation on that form and read into the record number one
3 if you would.

4 A "Number one, I shall report in person to the South Carolina
5 Department of Probation Parole and Pardon Services office
6 on the day of my sentencing or release and as instructed by
7 the Department and shall make complete and truthful reports
8 to my agent."

9 Q And would you read number three. And if you could read
10 them slow enough so Ms. Frances can get them down.

11 A Okay. "I shall not use controlled substances except when
12 properly prescribed by a licensed physician, nor consume
13 alcoholic beverages to access nor enter establishments
14 whose primary business is the sale and drinking of
15 alcoholic beverages. Further I shall submit to urinalysis
16 or blood test when instructed by the agents of the
17 Department and I agree that any of these test results may
18 be used as evidence in any hearing for the violation of the
19 conditions of my supervision."

20 Q So he wasn't supposed to be using illicit drugs?

21 A Yes, -- no, sir, he was not.

22 Q Would you read number four?

23 A "I shall not possess or purchase any firearms or other
24 dangerous weapons and I shall not associate with any person
25 who has a criminal record, any person who my agent has

SW - S. HOLLAND - DIRECT

- 1 instructed me to avoid."
- 2 Q So he wasn't even allowed to possess a firearm?
- 3 A That's correct.
- 4 Q And would you read number six?
- 5 A "I shall not violate any federal, state, or local law and I
- 6 shall immediately contact my agent if I'm arrested or
- 7 questioned by a law enforcement official for any reason
- 8 whatsoever."
- 9 Q All right. And those are conditions that would have been
- 10 explained to him?
- 11 A Yes, sir.
- 12 Q All right. Ms. Holland, when he first came under probation
- 13 how long until he reoffended again?
- 14 A Well, he was sentenced in May, on May 20th, 1998 and then
- 15 he was revoked on January 28th of 1999 so that span of May
- 16 of '98 to January of 1999.
- 17 Q All right. Do you have -- do you have the incident date of
- 18 the arrest for which he would have violated?
- 19 A Yes, sir. Actually, the offense happened on December 16th
- 20 of 1998.
- 21 Q So he made it from May 20th of '98 to December the 16th of
- 22 '98?
- 23 A That's correct.
- 24 Q Roughly seven months?
- 25 A Yes, sir.

SW - S. HOLLAND - DIRECT

- 1 Q And what was he arrested for in December of 1998?
- 2 A That was another burglary nonviolent, burglary second
3 degree nonviolent.
- 4 Q And he pled guilty to that burglary?
- 5 A Yes, sir.
- 6 Q I think you said January 28, 1999 was the probation
7 revocation date?
- 8 A Yes, sir.
- 9 Q All right. What sentence did he get for the burglary
10 itself?
- 11 A The burglary he was served -- received seven years
12 suspended to five years and five years probation.
- 13 Q That sentence date was also January 28th, 1999.
- 14 A That's correct.
- 15 Q That's the same date probation revocation was held?
- 16 A Yes, sir.
- 17 Q And the probation revocation, what became of the sentence
18 for the 1998 indictment for attempted burglary?
- 19 A Judge Williams converted the YOA sentence to three year
20 sentence and then revoked 18 months of that three years and
21 terminated the probation to run concurrent with the new
22 charges.
- 23 Q Okay. So at that point he went into the Department of
24 Corrections?
- 25 A That's correct.

SW - S. HOLLAND - DIRECT

- 1 Q And what was the release date for him?
- 2 A He was released to our supervision on December 22nd, 2002.
- 3 Q So from January 28th, 1999 until release date December 22
- 4 of 2002 he remained incarcerated in South Carolina
- 5 Department of Corrections?
- 6 A That's correct.
- 7 Q Did he max-out?
- 8 A Yes, sir.
- 9 Q And when he was released from prison on December 22nd of
- 10 2002 he came back under your supervision?
- 11 A Yes.
- 12 Q And what was -- what gave you control over him? What gave
- 13 you supervisory authority over him?
- 14 A He had a five year probation case that was attached to the
- 15 1999 indictment.
- 16 Q So once he finished serving time he had five years tacked
- 17 on for y'all to watch him.
- 18 A That's correct.
- 19 Q And when was that five years to run?
- 20 A Until January 21st of 2007.
- 21 Q Same conditions as before?
- 22 A Yes, sir.
- 23 Q The one that we put in the record. That would have been a
- 24 third chance?
- 25 A Yes, sir.

SW - S. HOLLAND - DIRECT

1 Q How long till he reoffended again?

2 A He was actually arrested on October 14th of 2004.

3 Q And that's for the crimes for which he pled guilty on
4 August the 18th of this year?

5 A Yes, sir.

6 Q How long -- how long, Ms. Holland, has he been in either
7 the custody of Department of Corrections or under the
8 supervision of the Department of Probation Pardon and
9 Parole Services?

10 A It appears approximately from May 22nd of 1998 in one form
11 or another either under our supervision or in the
12 Department of Corrections until he was released
13 January 22nd of 2002, and of course, he was arrested again
14 October 13th, 2004.

15 Q Okay. Let me get you to refer to State's Exhibit 82 which,
16 Your Honor, I believe is in evidence without objection. All
17 right, this would have been the start date for Stephen
18 Corey Bryant May 20, 1998?

19 A That's correct.

20 Q And again, would you tell us the sentence.

21 A It was a youthful offender act sentence of six years that
22 was suspended to three years probation.

23 Q And he was under your supervision during this period of
24 time reflected in the green color?

25 A Yes, sir.

SW - S. HOLLAND - DIRECT

1 Q And when again did he go to Department of Corrections?

2 A January 28th, 1999.

3 Q And he stayed in until the release date of?

4 A December 22nd, 2002.

5 Q So fell back under your supervision?

6 A Yes, sir, for probation.

7 Q Continued in the green color here until what date?

8 A October 13th, 2004.

9 Q That's when he was arrested for the current charge?

10 A Correct.

11 Q And he's been in pretrial detention since?

12 A Yes, sir.

13 Q Ms. Holland, do you have the date when he last reported to
14 his probation agent back in 2004 before this crime was
15 committed?

16 A Yes, sir. That was September 1st, 2004.

17 Q September 1, '04. And when was the next reporting date?

18 A He was scheduled to report again on October 6th, 2004 at
19 12:15 p.m.

20 Q Did he come in that day?

21 A No, sir, he did not.

22 Q Did you have any contact with -- did the Department have
23 any contact with him between one September and sixth of
24 October?

25 A Yes, sir. There was a telephone contact with Mr. Bryant

SW - S. HOLLAND - DIRECT

1 and Agent Creech who was his supervising agent at the time
2 on September 30th, 2004.

3 Q And what was the substance of that?

4 A He just called to report that he had law enforcement
5 contact which is one of the conditions of supervision. He
6 stated that he had been walking down [REDACTED] and was
7 covering his face about 10 p.m. on September 29th, 2004.
8 He stated that law enforcement spotted him walking and
9 bleeding and stopped to help him. Offender could not give
10 any other information to the agent. He was asked who was
11 the law enforcement who assisted him, and he could not give
12 a name. He stated there were about -- it was about 12
13 there. Before he hung up the phone he stated to Agent
14 Creech they better do something or I will.

15 Q So he reported himself as a victim because he had contact
16 with law enforcement.

17 A Correct.

18 Q But on Sept-- on October 6th did he call to report that he
19 had burglarized Mr. Tom Dennis' home on October 5th?

20 A No, sir, our last contact was September 30th.

21 Q Ms. Holland, that's all the questions I have for you. If
22 you'd answer anything Defense may want to ask.

23 THE COURT: Any questions Mr. Clark, or Mr. Howle?

24 MR. CLARK: Yes, Your Honor.

25 CROSS - EXAMINATION

SW - S. HOLLAND - CROSS

1 BY MR. CLARKE:

2 Q Ms. Holland, how are you today?

3 A I'm good.

4 Q Mr. Bryant was pretty young when he got involved with your
5 agency; wasn't he?

6 A Yes, sir.

7 Q Only 17 years old?

8 A Yes, sir.

9 Q Is that correct?

10 A Yes.

11 Q And isn't it true that he was never on probation for any
12 crimes of violence?

13 A No, sir, he wasn't.

14 Q All right. And other than being arrested the monitoring
15 agent never attempted to violate him?

16 A No, sir. We had some in-house financial stuff we conducted
17 on him just to kind of restructure some restitution;
18 otherwise, there were no other violations.

19 Q Other than being arrested he pretty much complied with
20 requirements of being on probation; didn't he?

21 A That's correct.

22 Q And you confirm that he was never on probation for any
23 violent crime?

24 A No, sir, both offenses were nonviolent.

25 Q You brought a file with you today?

SW - S. HOLLAND - CROSS

1 A A completed file? I just have some notes for myself.

2 Q And you didn't bring your file?

3 A No, sir, I did not.

4 MR. CLARK: Beg the Court's indulgence, Your Honor.

5 THE COURT: Yes, sir.

6 BY MR. CLARK:

7 Q Ms. Holland, do you -- you didn't bring the physical file,
8 did you?

9 A Well, I have the faxed copies that were sent to me from our
10 records department which were the contents of the file.

11 Q Can I take a look at what you have please?

12 A Sure.

13 Q Ms. Holland, in September, in October of 2004 who was
14 Mr. Bryant's supervising agent?

15 A Agent Gina Creech.

16 Q And you reviewed, you took a look at the file before you
17 came, right?

18 A That's correct.

19 Q All right. Are you aware of any entry in the file where
20 Mr. Bryant advised Ms. Creech around October of 2004 that
21 he needed some psychological counseling or attention? You
22 aware of that?

23 A No, sir, it's not documented.

24 Q You don't have any personal knowledge of that?

25 A No, sir.

SW - S. HOLLAND - CROSS

1 Q Have you spoken with Ms. Creech about the case at all?

2 A During the time back in 2004 of course we discussed it at
3 length because he had been arrested for the murders but not
4 recently, no.

5 Q Was that ever mentioned to you by her?

6 A Yes, sir.

7 Q Can you tell the Court what she told you about him asking
8 her for psychological help or counseling.

9 A She just mentioned that he said something about needing it
10 or wanting it and she recommended he go to Healthy Minds.

11 Q Okay. When you say needing it or wanting it, what -- when
12 you say "it" can you make it a little more clear?

13 A Oh, counseling. He was saying he was having some memories
14 of some things that happened in his past and she asked that
15 she just advise he go to Healthy Minds.

16 Q And what is Healthy Minds?

17 A It is -- it's an agency that we use for our sex offenders.
18 They go there for their counseling and we also sometimes
19 recommend victims go there. It's really geared for sex
20 offenders.

21 Q Is it a place where you can get psychological counseling?

22 A Yes, sir.

23 Q And your agency uses this office Healthy Minds?

24 A That's correct.

25 Q Who are the doctors there or professionals there, do you

SW - S. HOLLAND - REDIRECT

1 know?

2 A Donna Fleche (ph) is the primary that we use.

3 Q Okay. And do you know -- you say Ms. Creech told you about
4 this after he was arrested, right?

5 A Yes, sir.

6 Q All right. Do you know -- when did she indicate that he
7 asked her for this assistance?

8 A I don't remember indicating when it was actually requested.

9 Q All right. It was before he was arrested though, wasn't
10 it?

11 A Oh, yes, it was.

12 Q Do you know whether it was before October 8th, 2004?

13 A I can't say for sure, but with him being arrested October
14 13th I would say yes, but I don't know for sure.

15 MR. CLARK: All right. Beg the Court's indulgence,
16 Your Honor.

17 THE COURT: Yes, sir.

18 MR. CLARK: Thank you, Ms. Holland, that's all I have.

19 THE COURT: Anything further, Solicitor?

20 REDIRECT EXAMINATION

21 BY MR. JACKSON:

22 Q Ms. Holland, after it was recommended or the agency
23 recommended if he wanted to have help, he never showed up,
24 did he?

25 A No, sir. Like I said, our last contact was October -- I'm

SW - S. HOLLAND - RECROSS

1 sorry, September first.

2 MR. JACKSON: That's all I have, Your Honor.

3 THE COURT: All right.

4 MR. CLARK: May I follow up, Your Honor.

5 THE COURT: Yes, uh-huh.

6 RECROSS - EXAMINATION

7 BY MR. CLARKE:

8 Q You say he never showed up. What do you mean he never
9 showed up?

10 A He reported September first, 2004 as scheduled.

11 Q Right.

12 A He was scheduled to come back October 6 and he never
13 reported.

14 Q Okay. But you don't know whether he went to Healthy Minds
15 or not, do you?

16 A No.

17 Q Okay. Thank you, Ma'am.

18 THE COURT: Thank you, Ma'am. You may step down.

19 MR. JACKSON: Your Honor, the State calls Mr. Tom
20 Dennis.

21 THE COURT: Mr. Dennis, if you would please come
22 around, sir.

23 WHEREUPON,

24 ROBERT THOMAS DENNIS,

25 having been duly sworn by the Deputy Clerk of Court,

SW - R. DENNIS - DIRECT

1 testified as follows:

2 THE DEPUTY CLERK OF COURT: Place your left hand on the
3 Bible. State your name please.

4 THE WITNESS: Robert Thomas Dennis.

5 THE DEPUTY CLERK OF COURT: Have a seat up here please.
6 State your name. Spell your last name please.

7 THE WITNESS: Robert Thomas Dennis, D-E-N-N-I-S.

8 DIRECT EXAMINATION

9 BY MR. JACKSON:

10 Q Mr. Dennis, if I could get you to swivel around that chair
11 a little bit. Mr. Dennis, where do you live, sir?

12 A [REDACTED] in [REDACTED]

13 Q And that is Sumter County?

14 A Yes, sir.

15 Q How long you been there?

16 A On the property about 20 years but I been living on it
17 about ten.

18 Q Single family dwelling out there?

19 A Yes, sir. And ---

20 Q How many acres you got?

21 A A little less than 300.

22 Q Kind of in the middle of it ---

23 A Yes, sir, my house is right in the middle of it.

24 Q ---that you live. Who lives out there with you?

25 A Nobody.

SW - R. DENNIS - DIRECT

1 Q By yourself?

2 A By myself.

3 Q Describe that location for me.

4 A Well, my house is right on the edge of the foot plain of
5 the Wateree River and I have river front property. You go
6 down [REDACTED] When the public road ends my
7 driveway starts. I have a gate there and my house is right
8 on high ground right at the edge of the river swamp right
9 in the middle of the property.

10 Q A lot of your property is just plain swamp land?

11 A Good bit of it, about half of it.

12 Q Rest of it planted pines and stuff like that?

13 A Planted pines, duck ponds, yes.

14 Q Your driveway, describe your driveway for us.

15 A It's crushed stone driveway approximately half a mile long,
16 straight shot into the house.

17 Q All right. You got a building you use for a business back
18 there?

19 A I have a little barn that I've finished off an office.

20 Q An office?

21 A Yes, sir.

22 Q All right, if you would describe that to the judge please.

23 A Well, it's a little barn with shed on each side of it and a
24 loft and I've remodeled it and put french door on the front
25 of it and finished off the inside with -- I insulated it,

SW - R. DENNIS - DIRECT

1 put some blue Styrofoam insulation board up and then I
2 finished it off inside with mullen blue cypress.

3 Q How far is the office/barn from the house that you live in?

4 A It's to the left of the yard before you get to my house.

5 Q Okay. 10 feet, 20 feet, what?

6 A About 40 feet from the house. Off to the left side, off
7 the left side of the yard.

8 Q Let me show you what is State's Exhibit 83. We're going to
9 look at the screen back here.

10 Mr. Greenan, if you would turn it on.

11 THE COURT: My records indicate, Mr. Clark, that you
12 reserve the objection to the photo of this driveway.

13 MR. CLARK: Which one is that now?

14 THE COURT: Number 83. Any objection to that at this
15 time?

16 MR. CLARK: No objection, Your Honor.

17 THE COURT: 83 in evidence. Solicitor, you may proceed
18 without objection.

19 MR. JACKSON: Thank you, Your Honor.

20 (WHEREUPON, State Exhibit No. 83 was admitted into evidence.)

21 BY MR. JACKSON:

22 Q This is State's Exhibit 83 which is now in evidence without
23 objection. Tell the judge what that is please.

24 A That's my driveway, the entrance to my property. It shows
25 the pavement ending and my driveway starting and my gate

SW - R. DENNIS - DIRECT

- 1 going into my property.
- 2 Q So your house is down that direction?
- 3 A Yes, sir, down, down the hill there.
- 4 Q And state main, its line ends right there?
- 5 A Yes, sir.
- 6 Q Any other road around this way to the left as I'm pointing
- 7 around to the right? Is that -- that's the way in?
- 8 A That is the way into my property. Now you'll notice a
- 9 power line right of way to the left of my driveway, and
- 10 there is a culvert right outside the gate there between
- 11 right behind the sign right.
- 12 Q Right in this area?
- 13 A Culvert right there, yes, sir, the...
- 14 Q Is there a ditch right along here?
- 15 A There is a ditch, yes, sir, and that culvert there you can
- 16 drive over to the power line right of way across that
- 17 culvert.
- 18 Q Okay. Let me get you to look right here, State's Exhibit
- 19 1. Something -- this area, you mentioned an intersection
- 20 [REDACTED] 1, is that about right here?
- 21 A Yes, sir.
- 22 Q What we call Stateburg?
- 23 A Stateburg, yes, sir.
- 24 Q If you'll show the judge the general area of where your
- 25 home and office would be on this particular map. I know we

SW - R. DENNIS - DIRECT

1 don't have [REDACTED] there. Would it be north of here?

2 A Yes, sir. If you're coming from Sumter you take a right on
3 261 and go down to the [REDACTED]. You make a
4 left on [REDACTED]. You go through Horatio past
5 the Moore store and [REDACTED] takes a right and
6 goes on through [REDACTED]. And if you
7 go straight right there that's the beginning of [REDACTED]
8 [REDACTED] by the little fire department.

9 Q You out here in this area?

10 A Yes, sir, down on the river.

11 Q All right.

12 A That's correct.

13 Q October 4, Mr. Dennis, you remember what day of the week
14 October 4 was?

15 A It was on a Monday.

16 Q And if you'd tell the judge, walk him through what you
17 experienced on October 4th.

18 A I was in my house and had a knock on the front door, went
19 to the door, and there's a window right beside the front
20 door and I looked out the window and I saw Mr. Bryant
21 standing at the door. And I opened the door, wasn't afraid
22 of anything. I opened the door. He started apologizing.
23 He said, sir, I know I'm not supposed to be here, I know
24 I'm trespassing, my little brother stole my pickup truck
25 this morning, he's got it stuck up here on your property,

SW - R. DENNIS - DIRECT

1 would you please come help me get my truck out and I'll be
2 gone. I said okay. So it was deer season. I have a
3 30-Aut 6 there so I laid it in the back seat of my
4 Explorer. And Mr. Bryant got in the passenger side, was
5 parked right at the front steps there. And I drove him
6 over to the barn which is my office, and there was a little
7 small log chain hanging there and I said if you grab the
8 chain there and throw it behind your seat and we'll go up
9 there and get you out. So we drove up to the end of the
10 driveway. I got out and opened the gate which was not
11 locked. I don't ever lock my gate. It's just got a chain
12 on it with a clip that locks so. I got out, opened the
13 gate. I said now I'm going to back down to you. He had --
14 what he had done he had driven across the culvert right
15 outside the gate and tried to go down the power line right
16 of way. It was grown up with broom straw. It's across the
17 drainage ditch and his front-end had dropped off in the
18 drainage ditch. And he didn't have four wheel drive on the
19 old pickup truck so I said, I'm going to back down to you,
20 hook up the chain, I'll put it in four wheel drive, see if
21 we can get you out. So we did. We hooked up the chain; I
22 pulled him out. And I -- and he backed up behind me all
23 the way out to the culvert. And then he stopped and
24 brought the chain and put it behind the seat, passenger
25 side, and I rolled the window down. I said, now before I

SW - R. DENNIS - DIRECT

1 let you go I want to know who you are, and you know, give
2 me a little information. So I had an envelope laying there
3 and I had a pen so he said his name was Carlos Bryant and
4 that he lived on [REDACTED] and that his phone
5 number was a [REDACTED] blah, blah, blah, blah. So part of
6 each -- part of that information he gave me was correct.
7 His last name was correct. He lived on [REDACTED] and he
8 had a [REDACTED] stain (ph) but he changed a little bit of all
9 three pieces of information. So anyway, I wrote it down
10 and I said, okay, I will let you go. So anyway, I drove
11 back in my gate and I got out to close it and he backed on
12 out and took off. He waved good-bye to me. I got back to
13 the office and took the chain to hang it back up on the
14 nail and he had left me a five dollar tip on the chain. So
15 I said, well, what a nice young man so anyway. The next
16 day I was working in my office and over in the afternoon,
17 Tommy Glascock is a good friend of mine, called me, he said
18 Tommy, we got two tickets to the Clemson homecoming that
19 you take your dad, y'all sit in my box seats. I said,
20 well, I should be out there before you close, Tommy. So I
21 left the office about 4:30, got to Tommy's just before
22 five.

23 Q Let me stop you there. That's on Tuesday?

24 A This was on Tuesday the next day, yes.

25 Q October 5th?

SW - R. DENNIS - DIRECT

1 A The 5th, October the 5th on Tuesday.

2 Q And you were last in your office about what time?

3 A About 4:30 I left to go make sure I got to Tommy's by five
4 I remember distinctly. Anyway, so I got there and visited
5 with Tommy prior he gave me the tickets. And I left his
6 office, came on into town, and had dinner, had supper. And
7 I'm a member of Sumter Shag Club. I went to the shag club
8 that night, went straight home and went to bed that night.
9 And the next morning I went out and I discovered that my
10 office had been robbed. My laptop was gone, my briefcase
11 was gone, and a zipper bag with quite a bit of checks,
12 money orders, and some cash was also gone. And the window,
13 well, if you go in the front door my office window to the
14 right was up. And any rate, I realized that I'd been
15 robbed. I called the Sheriff's Department. They sent a
16 detective out, well, take fingerprints and all like that
17 and an officer, was two of them.

18 Anyway, they claim they couldn't find any
19 fingerprints in my office and that whoever it was a real
20 professional, they wiped everything down. They couldn't
21 find any fingerprints at all. So I said, well, here's some
22 information on a guy that was here yesterday morning, and I
23 laid the envelope that I'd written the information down he
24 give me on the copy machine, made him a copy, said check
25 this guy out, this is probably your man. Furthermore,

SW - R. DENNIS - DIRECT

1 here's his boot print where he jumped out the window when
2 he left here. I was redoing my office at the time. It was
3 a dirt -- it was dirt up under the shed on that side and he
4 had found a little small aluminum ladder. He propped it
5 up, then he tried to pry the window up. The pry mark, the
6 pry mark was still there like maybe a pry -- like a
7 carpenter uses, you know, to pry. Anyway, crowbar
8 whatever. I -- there was a big piece of blue insulation
9 board that I used in remodeling my office laying on the
10 ground right out, right under the window, so when he'd
11 gotten -- he tried to come in the window first prying it.
12 And he'd gotten dirt, dust, and dirt all over his boots and
13 then he couldn't get the window up so he came around the
14 front door. I left the window -- I left it unlocked; it
15 wasn't even locked. So he came on in and it had to have
16 happened this way. While he was in the office the hunters
17 that were leasing my hunting rights drove up in a pickup
18 truck and parked near the office. He got out with their 30
19 Auts or whatever rifles they were hunting with, and he saw
20 them coming. He had time to grab my laptop, the money bag,
21 put it in my briefcase and jump out the window. And the
22 woods is about 20 feet behind my office so assuming he ran
23 in the woods they never saw him. He was -- he had hid his
24 vehicle outside the gate. There's some planted pines
25 outside the gate on the right-hand side of the road up

SW - R. DENNIS - DIRECT

1 there on some property on outside the -- he'd gone into old
2 driveway and made a sharp left in some plum bushes and
3 planted pines. You couldn't have seen the truck from the
4 road from where he hid it. So I'm assuming he was slipping
5 into my property while I was driving out to go get the
6 football tickets. And he had time to get in the office and
7 get the brief case and get the laptop and get the money
8 bag, and they drove up and he went out the window that he
9 had tried to come in and got really good boot prints on the
10 plastic, on the Styrofoam blue insulation board that was
11 right under the window, several really good boot prints on
12 there. So I broke off a piece of that board and gave it to
13 the officers and said here is his boot print, here's his
14 information, check him out, this is your man. So ---

15 Q Let me ask you, the information did you also have a
16 description of the truck?

17 A I did give a description of the truck, yes, sir.

18 Q Okay. You recall what that was?

19 A It was a, I believe, it was a Chevrolet kind of blue and
20 white older model Chevrolet.

21 Q Okay.

22 A Anyway...

23 Q Did you know at that time who it was?

24 A No, I didn't know for sure but I assumed.

25 Q Gave the information to law enforcement.

SW - R. DENNIS - DIRECT

1 A Gave it to the law enforcement officer.

2 Q And what happened later that week or the following weeks?

3 A Well, the shooting started. Start shooting people. And

4 anyway, I called down at the Sheriff's Department, asked

5 them if they had had a chance to check out the information.

6 They said, well, we're too busy working on the serial

7 killer case, we hadn't had a chance to work on yours. I

8 said okay. And a few more days went by I went by the

9 Sheriff's Department and I said, have y'all had a chance to

10 work on my case, I know you got this other going on. And

11 they said, no, we've lost all the information you gave us.

12 They lost the envelope, they lost the blue board with the

13 boot print on it. I said, well, I've got another boot

14 print and I still got the original envelope that I wrote

15 the information down on, I'm going home and I'm going to

16 get it again for you, I'm going to give it back to you,

17 please try to solve it. I said, they stole my laptop and a

18 bunch of money from me. And I went home, I got them

19 another boot print, I got another copy of the envelope with

20 the information I'd gotten from him on it, took it back

21 down there to them. And still didn't hear anything and

22 then next thing I knew I'm driving in my driveway coming

23 home one afternoon and my neighbor Eddie Jackson called me

24 on cell phone. He said you need to get to your house

25 quick, turn on the TV, they got your man on TV. And I

SW - R. DENNIS - CROSS

1 did and it was him.

2 Q When you say "him," you see that person in the courtroom
3 today?

4 A Mr. Bryant.

5 Q Mr. Bryant ---

6 A Yes, sir.

7 Q ---sitting right over here at defense table?

8 A He didn't have the beard and mustache at the time but he
9 had a little stubbly beard.

10 Q All right, sir. Did you get any of your stuff back, Mr.
11 Dennis?

12 A No, sir, never got anything back. Now I was able to
13 recover on the checks and money orders, most of those. I
14 did get reimbursed on those.

15 Q Now the area where you live would you describe that as
16 isolated and remote?

17 A Absolutely.

18 Q All right, sir. That's all the questions I have for
19 Mr. Dennis. The Defense lawyers may have some.

20 A Okay.

21 CROSS - EXAMINATION

22 BY MR. CLARK:

23 Q Mr. Dennis, just a couple of questions. Mr. Bryant never
24 tried to physically harm you, made any threats to you, did
25 he?

SW - J. AMMONS - DIRECT

1 A Oh, no, no.

2 Q You were the victim of basically a property crime, right?

3 A Yes, sir.

4 Q Somebody broke in your office and stole something from you.
5 That's pretty much it, right?

6 A Yes.

7 Q Thank you, sir. Nothing else.

8 THE COURT: Thank you, Mr. Dennis.

9 MR. JACKSON: Your Honor, the State would call
10 Mr. James Ammons.

11 THE COURT: Mr. Ammons, if you'd please come around.

12 THE DEPUTY CLERK OF COURT: Place your left hand on the
13 Bible, raise your right hand. State your name please.

14 THE WITNESS: James Ammons.

15 WHEREUPON,

16 JAMES ALLEN AMMONS,
17 having been duly sworn by the Deputy Clerk of Court,
18 testified as follows:

19 THE DEPUTY CLERK OF COURT: Have a seat up here please,
20 Sir. State your full name, spell your last name please, sir.

21 THE WITNESS: James Allen Ammons, A-M-M-O-N-S.

22 DIRECT EXAMINATION

23 BY MR. JACKSON:

24 Q Good morning, Mr. Ammons.

25 A Good morning.

SW - J. AMMONS - DIRECT

- 1 Q Mr. Ammons, if you would tell the judge where you live,
2 sir.
- 3 A [REDACTED]
- 4 Q And are you married?
- 5 A No, sir.
- 6 Q Got children?
- 7 A Yes, sir.
- 8 Q How many children do you have?
- 9 A Four.
- 10 Q Four? What ages are they?
- 11 A 38, 30, 19 and 18.
- 12 Q Are you working?
- 13 A No, sir.
- 14 Q Retired?
- 15 A Retired.
- 16 Q Where did you retire from?
- 17 A I didn't really retire. I got hurt on my job and I'm
18 disabled.
- 19 Q Disabled? Okay, and where were you working when you got
20 medical retired?
- 21 A Lay law environmental services.
- 22 Q Lay law environmental. That's here in Sumter County?
- 23 A That's right, or used to be here in Sumter County. Has its
24 place landfill in Pinewood.
- 25 Q Right, right. Now you gave us your address. If you would

SW - J. AMMONS - DIRECT

1 tell the judge kind of describe where your house is.

2 A It's sometimes the laws come out there and they have
3 problem finding it. If you go to [REDACTED] and turn right
4 on [REDACTED] 1 and go down to the first paved road to the left it
5 says [REDACTED]. You go down there that first dirt road
6 and there's a long dirt road. That's one way to entry to
7 it. The other is come through [REDACTED]
8 like you're going to [REDACTED]

9 Q Yes, sir.

10 A Turn right on [REDACTED] and go around and there's a
11 dirt road there that runs [REDACTED] [REDACTED] [REDACTED] Time
12 you turn on that off [REDACTED] I live in [REDACTED] the first
13 driveway. It's very remote, out in the middle of nowhere.

14 Q How many acres of land you got?

15 A Twenty.

16 Q Where is your house situated on that 20 acres?

17 A Three fourths of the way to the back.

18 Q Anything between you and the dirt road in front of you?

19 A Where you go in my driveway there's pine trees. You can't
20 see my house from the dirt road. Coming one direction you
21 might be able to see it through the trees coming up, but
22 you got to really be looking for it to see it.

23 Q Okay. About how long is your driveway?

24 A Oh, me, about a half a mile or longer.

25 Q What's the closest neighbor to you?

SW - J. AMMONS - DIRECT

- 1 A Oh, you can't see the neighbors.
- 2 Q As the crow flies what's the closest neighbor?
- 3 A I would say a half a mile. Between a quarter and a half a
- 4 mile.
- 5 Q Okay. Your driveway, paved driveway, dirt driveway?
- 6 A Dirt driveway.
- 7 Q Let me -- let me show you State's Exhibit 1. Mr. Ammons,
- 8 this would be road from [REDACTED]. Sumter is up
- 9 here; is that right?
- 10 A That's right.
- 11 Q And [REDACTED] goes from [REDACTED]
- 12 A Goes to Pinewood, that's right.
- 13 Q All right. Your place would be where? Is this an area
- 14 yours, would be down [REDACTED] [REDACTED] It's not exactly on
- 15 this map.
- 16 A It's not exactly on that map from what I'm seeing.
- 17 Q But you'd be south of there?
- 18 A Yes.
- 19 Q Towards the bottom of this?
- 20 A Right.
- 21 Q All right. Let me show you State's Exhibit number 84 if
- 22 you'd look and -- Your Honor, I believe there's an
- 23 objection to this one as well.
- 24 MR. CLARK: We withdraw the objection.
- 25 THE COURT: Without objection 84.

SW - J. AMMONS - DIRECT

1 (WHEREUPON, State Exhibit No. 84 was admitted into evidence.)

2 BY MR. JACKSON:

3 Q If you'd look on the screen, Mr. Ammons. Mr. Ammons, if
4 you'd tell the judge what that is.

5 A That's my driveway.

6 Q That's a driveway. All right, what's out here at the very
7 front? Is that the dirt road that you were talking about?

8 A That's right.

9 Q And if somebody wants to go to your house they got to go
10 down that driveway?

11 A That's right. That's the only way you can get to my
12 driveway unless you cross other people's property going
13 through the woods.

14 Q Got any posted signs or anything like that down that
15 driveway?

16 A Yes. At the time I had no trespassing on that post there
17 and right past the trees, the telephone pole, there's one
18 about 14-foot up in the air. It's up there so nobody could
19 pull it off.

20 Q Very good. Now if you would describe your house for me,
21 Mr. Ammons. You can spin on around and face the judge
22 again. What kind of house you got up?

23 A I got a 1994 Fleetwood saddlebrook mobile home, double
24 wide.

25 Q Double wide mobile home. How many doors you got on it?

SW - J. AMMONS - DIRECT

1 A Three.

2 Q Got any carports or sheds, anything like that?

3 A Not back then; I do now. But not back then.

4 Q Okay. Driveway lead right up to the house?

5 A Right. Well, it comes up, then you just make a little turn
6 to the house.

7 Q Okay.

8 A The front of my house does not face the dirt road, but it
9 was all clear land. It wasn't nothing to block how to get
10 to the house.

11 Q If you'll go back to October 8th, 2004. Do you remember
12 what day of the week that was?

13 A I think it was Friday.

14 Q It would have been a Friday. Who was living at your house
15 with you at that time?

16 A Me and my daughter.

17 Q And she was -- that's the 18 year old now?

18 A That's the 18 year old.

19 Q She was how old then?

20 A She was probably around 14.

21 Q Okay. And if you'll tell the judge what your daily events
22 are with you and your daughter on a school day.

23 A Whoo. Normally we'd get up. She cranks up the radio
24 pretty loud, takes her shower, we eat. And I have to fight
25 her to get her dressed to get to school on time, typical

SW - J. AMMONS - DIRECT

1 teenager. And we got ready to leave and we went out to the
2 car and she decided that she left some lip liner or
3 something another and she had to run back in the house and
4 get that and I ---

5 Q Which door do y'all normally come in and out of?

6 A The sliding glass door.

7 Q Sliding glass door. Do you keep that one locked or
8 unlocked?

9 A I would say the majority of the time it's unlocked.

10 Q Unlocked. Now the other ones you keep locked?

11 A Keep the other ones locked.

12 Q That one because you use it all the time it just mostly
13 stays unlocked. All right, when you leave this morning,
14 when you leave in the mornings you normally turn on any
15 appliances?

16 A I normally turn the TV on right where you open the sliding
17 glass doors to deter anybody that comes up there and wants
18 to break into the house or something.

19 Q All right. That morning did you leave the TV on when you
20 left?

21 A Sure did.

22 Q And was your sliding glass door left unlocked?

23 A Probably so, the reason being I went out to the car and
24 then my daughter ran back in the house and she said she
25 can't remember whether she left the door open or whether it

SW - J. AMMONS - DIRECT

1 was shut.

2 Q How about locked or unlocked?

3 A It was unlocked.

4 Q Now you took her to school?

5 A Yes, sir.

6 Q And then where did you go?

7 A I went to doing my running around Sumter paying the light
8 bill, telephone bill, getting parts for vehicle.

9 Q And did you later go back to Pinewood to your house?

10 A Sure did.

11 Q And tell the judge about the activity driving back to
12 Pinewood?

13 A I got a phone call from T.J. Hansen, said that my phone
14 wasn't working. I give him permission to hunt the lower
15 part of my property, and he's very close friend of the
16 family so he knew he could come -- he's like a son to me so
17 he could come into the house and I told him that my phone
18 should be working but I was on the way home. And he had
19 left the house. He went in the bedroom to use the phone.
20 It wasn't working so he left the house and walked all the
21 way back down the dirt road to the Johnsons to use the
22 phone I think.

23 Q Did you catch up with him going back to your house?

24 A Not when I went -- I didn't catch up with him going back to
25 the house. I went straight to the house and I went in.

SW - J. AMMONS - DIRECT

1 And I checked the phone, I said, well, there's something
2 wrong here. And I went back outside and the wires had been
3 cut off. I mean, they had been cut off so close they
4 couldn't be reattached and ---

5 Q Let me ask you, did you pick T.J. up on the side of the
6 road going back to the house?

7 A I think I -- after I went to the house and found the wires
8 were cut then I went to get T.J..

9 Q Okay.

10 A And then we went back to the house?

11 Q Okay. But y'all went into the house together?

12 A Right.

13 Q All right. And when you got to the house was the door open
14 or closed, the sliding glass door?

15 A I think it was open.

16 Q It was open? And was the TV on or off the way you left it?

17 A Off.

18 Q And how about any radio in your daughter's room, on or off?

19 A Her radio was off.

20 Q All right. How did you find the bedroom in your house?

21 A After I found that out I went to looking for my weapon and
22 when I got back to the house the mattress and stuff had
23 been moved, been moved, and the mattress had been moved and
24 the only thing was missing was my weapon and box of shells.

25 Q Okay. When you say moved you mean just slid over a little

SW - J. AMMONS - DIRECT

1 bit or?

2 A Tossed over.

3 Q Tossed over. That's the pistol you kept underneath your
4 mattress?

5 A I kept it in several places. We've had some problems out
6 there in Manchester Forest people shooting guns all the
7 time in the night. My biggest fear is somebody coming in
8 normally while I was asleep. I had it there under the
9 mattress or under my pillow.

10 Q It was under the mattress then?

11 A Uh-huh.

12 Q And did you report it to law enforcement?

13 A Yes, sir.

14 Q And that would have been around 1:30?

15 A That's right.

16 Q And they came out there?

17 A Well, they came out there and couldn't find the place so
18 the officer turned around and went back to town. After
19 about an hour I called them and she said, well, he's
20 already been out there and I said, well, ma'am, he has no
21 way of calling me, the phone wires and stuff been cut so
22 she sent him back out there. And he come to the house.

23 Q Okay.

24 A I met him at the road and he followed me to the house.

25 Q So you went to get him and brought him in.

SW - J. AMMONS - DIRECT

1 A I went out to the highway and waited on him.

2 Q Did you give him a sales receipt for the gun?

3 A Not at that -- not at that time I don't think I did. I
4 can't remember.

5 Q All right. But some point in time did you give him a copy
6 of the sales receipt?

7 A I give him a copy of the sale and the hard plastic case
8 that I bought the weapon in.

9 Q Uh-huh. And the copy of the pistol purchase application
10 with SLED?

11 A That's right.

12 Q Okay. What type of pistol was it, Mr. Ammons?

13 A It was a Smith and Wesson .40-caliber semiautomatic on a
14 stainless steel frame.

15 Q Okay. Let me hand you State's Exhibit 85 and 86.

16 MR. JACKSON: I don't have the list to see if that's
17 agreed to, Your Honor.

18 THE COURT: That's fine.

19 BY MR. JACKSON:

20 Q Let me hand you 85 and 86. These have been admitted
21 without objection. Tell me what that is, 86.

22 A This is the receipt where I bought it at Tony's Gun Shop.

23 Q Okay. And when did you buy the gun? Have a date on it?

24 A Yes, March first, 1996.

25 Q Okay. Got the serial number on there or not?

SW - J. AMMONS - DIRECT

- 1 A Yes. Yes, sir, it does.
- 2 Q Okay. Would you read that, read this serial number into
3 the record right here?
- 4 A The -- okay.
- 5 Q Yes, sir.
- 6 A VYJ1085.
- 7 Q All right. And let me hand you this. Is this your pistol
8 purchase and application record you filled out with SLED?
- 9 A That's right.
- 10 Q And that shows you hadn't been in any trouble and all that
11 stuff?
- 12 A Yes, sir. At the time they didn't approve it right off.
13 About 15 minutes later it raised a flag that I had a
14 concealed weapon permit at the time.
- 15 Q Okay, which you had?
- 16 A Yeah.
- 17 Q So that was fine. Then you filled that paperwork out
18 properly and bought that pistol?
- 19 A Right.
- 20 Q All right, sir. Did it have a holster with it?
- 21 A Yes, sir.
- 22 Q When is the last time you saw your gun holster in that box
23 shut, Mr. Ammons?
- 24 A Whenever it was stolen. I've asked to see it but they told
25 me I'd see it in due time, or I would get to see it.

SW - J. AMMONS - DIRECT

1 Q Mr. Ammons, you're going to get to see it today. Is that
2 box of bullets you have had on your dresser that day?

3 A Yes---

4 Q Was it ---

5 A ---sir.

6 Q Was it a brand new box at the time? That's the holster
7 your gun was in, State's Exhibit 36?

8 A Yes, sir.

9 Q And the bullets would have been State's Exhibit 38. Now
10 the gun, would it have had a clip in it?

11 A Yes, sir.

12 Q All right. That would be State's Exhibit 37.

13 THE COURT: We've got some objections regarding those.

14 MR. CLARK: Your Honor, we just reiterate our position
15 on the search warrant.

16 THE COURT: All right. The objection is pursuant to
17 the Court's ruling on the search warrant?

18 MR. CLARK: Yes, sir.

19 THE COURT: All right. And that's been overruled but
20 your objection is noted.

21 BY MR. JACKSON:

22 Q And State's Exhibit 35 is a .40-caliber pistol, Mr. Ammons.

23 A Yeah, it's mine.

24 Q That's your gun?

25 A (No verbal response.)

SW - T. HANSEN - DIRECT

1 Q You hadn't seen it since that day?

2 A Have not seen it since that day.

3 Q All right, sir.

4 A I'd like to see it again. I bought it for home protection.

5 Q Mr. Ammons, that's all the questions I've got for you right
6 now. If you'd answer any questions that any of the Defense
7 lawyers have.

8 MR. CLARK: No questions for this witness, Your Honor.

9 THE COURT: Mr. Ammons, thank you, sir. You may step
10 down.

11 MR. JACKSON: Your Honor, the State calls Mr. T.J.
12 Hansen.

13 THE COURT: Mr. Hansen, if you would please come around
14 to be sworn, sir.

15 THE BAILIFF: Place your left hand on the Bible. State
16 your name please.

17 THE WITNESS: Tony Hansen.

18 WHEREUPON,

19 TONY HANSEN,
20 having been duly sworn by the Deputy Clerk of Court,
21 testified as follows:

22 THE DEPUTY CLERK OF COURT: Have a seat up here please.
23 State your full name. Spell your last name please.

24 THE WITNESS: Tony Hansen, H-A-N-S-E-N.

25 DIRECT EXAMINATION

SW - T. HANSEN - DIRECT

1 BY MR. JACKSON:

2 Q Good morning, Mr. Hansen. Mr. Hansen, tell the judge where
3 you live.

4 A [REDACTED].

5 Q All right. What part of Sumter County is that?

6 A Right off [REDACTED].

7 Q Out there close to Mr. Ammons?

8 A Well, it's in between [REDACTED].

9 Q You know Mr. Ammons?

10 A Yes, sir.

11 Q Tell the judge how you know him.

12 A I know him from church and football.

13 Q You hunt his land?

14 A Yes, sir.

15 Q And you got nickname for him?

16 A Tex.

17 Q How long you been knowing him?

18 A Probably ten years.

19 Q All right. You familiar with his property 'cause you hunt
20 it?

21 A Yes, sir.

22 Q Got a couple of deer stands out there?

23 A Yes, sir.

24 Q All right. On October 8th of the 2004 would you have had a
25 chance to go out to Mr. Ammons property?

SW - T. HANSEN - DIRECT

- 1 A It was at a Friday.
- 2 Q Friday, yes, sir.
- 3 A I don't know exactly what -- I can't remember what date it
- 4 was but it was that Friday.
- 5 Q All right. And did you go out there to one of your deer
- 6 stands?
- 7 A Yes, sir.
- 8 Q All right. After you left the deer stand what happened to
- 9 the truck?
- 10 A Well, I went to take corn to put corn out because I put
- 11 corn out on Fridays and I got off work early and went to
- 12 put the corn out. And it's a low bottom and I got my truck
- 13 stuck down in the bottom.
- 14 Q All right. Well, after you got your truck stuck where did
- 15 you go for help?
- 16 A To Tex's house.
- 17 Q Up to Tex's house?
- 18 A Yes, sir.
- 19 Q That would be Mr. Ammons?
- 20 A Yes, sir.
- 21 Q Did you walk up there to his trailer?
- 22 A First I went and walked to try to find some boards and
- 23 stuff to throw under my tires to try to get my truck out
- 24 before I bothered anybody. And went back and tried that
- 25 and I couldn't get it so then I came back to Tex's house

SW - T. HANSEN - DIRECT

1 and walked to the back door. I was hollering for him
2 'cause I saw -- he's got a bunch of cars in the yard all
3 the time. And I went to the back door and realized the
4 back door was open so I started hollering for him.

5 Q All right. When you say open you mean it was slid open or
6 just unlocked?

7 A Yes, sir. It was, you know, just open about that far.

8 Q Okay, all right. So you went in. You're thinking he's
9 home?

10 A I thought he might be. I mean, he leaves stuff open all
11 the time so I didn't know whether he was or not. I
12 hollered for him, and I know him so I just went walking in.
13 And I didn't hear him and so I went to try to find a phone
14 to try to call him. And I went to try to use the phone, I
15 believe it was in the living room, and I couldn't get a
16 dial tone. So I thought I heard something in the front of
17 the trailer so I went up there I thought he might have been
18 hiding from me playing around with me.

19 Q Were you calling his name out?

20 A Yes, sir. And walked up there and I didn't see anything.
21 So then I walked to his bedroom 'cause I thought maybe that
22 phone worked, and I sat on his bed and tried to use the
23 phone and couldn't get a dial tone.

24 Q You say you sat on his bed?

25 A Yes, sir.

SW - T. HANSEN - DIRECT

- 1 Q Mattress wasn't thrown off to the side?
- 2 A No, sir.
- 3 Q You sat right there on that bed?
- 4 A Yes, sir.
- 5 Q And picked that phone up?
- 6 A Yes, sir.
- 7 Q And the line was busy. Then what did you do?
- 8 A Then I walked out. I walked down the road to a lady from
- 9 our church. I tried calling everybody; I couldn't get
- 10 anybody.
- 11 Q All right. Let me ask you a few questions. When you went
- 12 in the house, the TV right there by the door was it on or
- 13 off?
- 14 A It was off.
- 15 Q Did you hear any radio on or off? Did you hear any radio
- 16 music from his daughter?
- 17 A Huh-uh.
- 18 Q Did you see any strange cars in the driveway or down his
- 19 road or on the property where you were?
- 20 A I saw a blue truck in the back of the field behind Tex's
- 21 house but I don't know whose truck it was.
- 22 Q Okay.
- 23 A 'Cause there's a guy that hunts back there with a blue
- 24 truck so I thought it might have been his.
- 25 Q Okay, all right. When you finally left the property and

SW - T. HANSEN - DIRECT

1 went to the lady's house you go to church with were you
2 able to catch up with Tex?

3 A After a while, yes, sir.

4 Q All right. Tell the judge about that, what y'all did
5 together.

6 A Well, I called everybody and even called Tex. I think I
7 left him a message on his phone. And about that time it
8 was probably about 30 minutes I'd been calling people, and
9 then I saw Tex coming down the road and I waved him down
10 and we hopped in the truck to go there and I told him, you
11 know, you need to pay your phone bill 'cause his phone was
12 cut off. He said my phone ain't cut off. I said you need
13 to learn to shut your door too. He said my door wasn't
14 open. So we went there and we realized the phone had been
15 -- phone line had been cut off.

16 Q How did you realize that?

17 A 'Cause that's the first thing he checked 'cause he said, I
18 paid my phone bill, my phone should be working. And then
19 we walked on inside and realized his mattress had been
20 flipped over and the gun was gone.

21 Q And it wasn't like that when you were in there ---

22 A No, sir.

23 Q ---the short time before. Let me ask you this, when you
24 were in there trying to use the phone, when you left, did
25 you close that sliding door or leave it open?

1 A I don't know.

2 Q Okay. That's all the questions I have, Mr. Hansen. If
3 you'd answer anything the Defense lawyers have.

4 MR. CLARK: No questions for this witness, Your Honor.

5 THE COURT: All right, thank you, Mr. Hansen. You may
6 step down.

7 MR. JACKSON: Your Honor, at this time I'd like to
8 publish the statements that were made in this case by Mr. Bryant
9 particularly on the Ammons case.

10 THE COURT: All right, sir.

11 And we'll note your objection to those statements,
12 Mr. Clark.

13 MR. CLARK: Thank you, Your Honor.

14 MR. JACKSON: I'll read them right here. Is this fine
15 right here?

16 THE COURT: As long as Frances can hear you.

17 MR. JACKSON: I'm going to follow along.

18 THE COURT: Okay.

19 MR. JACKSON: Your Honor, the first statement would
20 have been given on October 13th of 2004 which would have been the
21 day he was arrested. "I found the gun at a recycling place below
22 my house about 3-miles away. This was about a month ago. There
23 was a 12-gauge pump that I left there. They were in a metal bin
24 with appliances. The gun was a 45 Smith and Wesson. There was a
25 box of bullets. I think they were Winchesters." Now the second

1 statement given on October 13th, 2004.. "I really did not find
2 the gun in a dumpster but I got it from a house near Pinewood a
3 few weeks back. My truck was running low on gas and I stopped at
4 a house. I knocked on the door and no one was there. I went to
5 a sliding glass door that was partially open and went inside. I
6 found a gun and took it." And Your Honor, his later statement on
7 October 15, 16 of 2004, it's as follows. "On October 8th I was
8 driving around [REDACTED] and was running low on gas so I
9 pulled into this yard where someone lived hoping they could help
10 me out with some gas. As I pulled into the yard I noticed a
11 small truck in the yard. I knocked on the front door but got no
12 answer, but thought I heard someone on the inside so I walked
13 around to the back door which was a sliding glass door that was
14 slightly open. I heard the TV on and a radio playing in the
15 background. I stuck my head in the door and hollered hello, is
16 anyone home, but got no answer. I went back in my truck and sat
17 there for a moment. I then grabbed my knife and cut the phone
18 wires and then entered the home. As I was walking around in the
19 home I noticed a box of .40-caliber bullets on the nightstand
20 beside the bed so I lifted up the mattress and seen the handgun
21 there under the mattress and took it and the bullets and got out
22 of the house and walked to and got into my truck and left the
23 house. My intentions were from that point on was to sell the gun
24 for money."

25 MR. SALEEBY: May we proceed, Your Honor?

SW - B. RYAN - DIRECT

1 THE COURT: Yes, sir.

2 MR. SALEEBY: We call Barbara Ryan to the stand.

3 THE COURT: All right, Ms. Ryan, if you'd please come
4 around to be sworn please.

5 THE DEPUTY CLERK OF COURT: Place your left hand on the
6 Bible, raise your right hand. State your name please.

7 THE WITNESS: Barbara Ryan.

8 WHEREUPON,

9 BARBARA CUSSO RYAN,
10 having been duly sworn by the Deputy Clerk of Court,
11 testified as follows:

12 THE DEPUTY CLERK OF COURT: Have a seat up here please,
13 ma'am.

14 State your name. Spell your last name please.

15 THE WITNESS: Barbara Cusso Ryan, R-Y-A-N.

16 DIRECT EXAMINATION

17 BY MR. SALEEBY:

18 Q Ms. Ryan, tell us where you live please, ma'am.

19 A I live at [REDACTED] in Irmo, South Carolina.

20 Q And how long have you lived there?

21 A Since November 2006.

22 Q And what's your occupation?

23 A I'm a CPA.

24 Q And where is your business located and is it a group or
25 private practice?

SW - B. RYAN - DIRECT

1 A I work for Grant Thornton, LLP. It's a very large
2 accounting firm in the world and it's in Columbia.

3 Q And how long have you worked with them?

4 A Since 2002.

5 Q Where were you living in September of 2004?

6 A I lived in [REDACTED] off of [REDACTED]
7 [REDACTED]

8 Q And how long had you lived at that location?

9 A Since two -- 2001 or 2002. I can't remember exactly.

10 Somewhere in there, yes.

11 Q At least a couple of years ago?

12 A Yes. My husband and I at the time bought my
13 father-in-law's house so it was, you know, it was his
14 house. The house had been in the family a long time.

15 Q Okay. Who was your husband at that time and who was your
16 father-in-law and tell us again where the property was
17 located.

18 A My husband at the time, James Hugh Ryan, the third. His
19 dad is James Hugh Ryan, Jr. and the house is at [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Q All right. I'm going to direct your attention to this
23 diagram here which would be State's Exhibit Number 1. And
24 realizing you're a bit away from it this would be [REDACTED]
25 [REDACTED]. Does this represent your house?

SW - B. RYAN - DIRECT

1 A Yes, that looks like it right there.

2 Q All right. I'm going to put this sticker on there that's
3 got your name on it. Just for reference purposes how far
4 away from your house would be the house of Willard Tietjen?

5 A It's probably about a mile, maybe not even that far.

6 Q If you would please tell the judge how your sit -- how far
7 off of 261 your house sits.

8 A It's probably about a third of a mile off the highway, and
9 it's a kind of a winding driveway. It's all wooded. You
10 can't see the house from the road.

11 Q If you would please at this time I'm going to project on
12 the screen State's Exhibit Number 63 for identification.

13 THE COURT: All right.

14 MR. SALEEBY: And we're going to move its introduction
15 as well once she identifies it.

16 THE COURT: Any objection? You noted, reserved
17 objection on that. That's 63.

18 MR. SALEEBY: Yes, sir.

19 All right, Ms. Ryan.

20 MR. CLARK: No objection, Your Honor.

21 THE COURT: All right.

22 (WHEREUPON, State Exhibit No. 63 was admitted into evidence.)

23 BY MR. SALEEBY:

24 Q This would be State's Exhibit Number 63. Would you please
25 tell the judge what you're looking at there.

SW - B. RYAN - DIRECT

- 1 A That is the entrance to my driveway. That's [REDACTED],
2 the paved road, and then that's the dirt driveway that
3 winds up into the woods slightly to the left and then back
4 to the right would be my house.
- 5 Q All right. Just if you might have gone over that a little
6 bit, if we were turning off of [REDACTED] [REDACTED] route would the
7 driveway take to get to your house?
- 8 A It's a pretty driveway. It curves slightly left and then
9 right. You know, it feeds right from the house. There's
10 no other roads off of this; it's all woods.
- 11 Q Can your house be seen from the road?
- 12 A No.
- 13 Q Do you have any neighbors living close enough to you that
14 you can be seen direct line of sight?
- 15 A No.
- 16 Q How about within -- how far is the closest neighbor as the
17 crow flies?
- 18 A There's probably -- the closest house might be about a mile
19 but it's still so far back in the woods I've never even
20 seen it.
- 21 Q All right. I want to talk with you about the events of on
22 or about Tuesday, September 28th, 2004. Were you at home
23 on that day?
- 24 A I was.
- 25 Q And who was living with you at the time, and who was -- who

SW - B. RYAN - DIRECT

1 lived in the house at the time and who was with you on that
2 particular date?

3 A At the time me and my husband and then our two children.
4 My son at the time was three and my daughter was newborn.
5 She was born in July so I was home on maternity leave with
6 her. And so at that -- on that day my husband was at work.
7 My son was a little preschool morning program, and I was at
8 home with my daughter.

9 Q And tell the judge what happened that morning around 11:00.

10 A I was at home basically alone with my little girl, and my
11 father-in-law was building a house down, you know, a mile
12 or two away, and he wanted his builder to come and look at
13 something in our house to measure. So the builder had come
14 up actually through the back of all the property right off
15 the main road and had ---

16 Q Not off of this driveway?

17 A Not off of that driveway, no.

18 Q You say there's a back road. What does it connect to?

19 A There's a -- if you went down another just a couple of
20 hundred yards there's a dirt road that comes off of [REDACTED]
21 that leads to that neighbor's house that I was telling you
22 about. That comes up behind what was our barn at the time.
23 It's, you know, I don't even know if that road has a name.
24 I don't think it does. I think it's just his driveway.
25 And there's a gate down there, but many times that gate was

SW - B. RYAN - DIRECT

1 open because that's how you went back into the property.
2 So there was a dirt road. That's where the -- my
3 father-in-law's house was being built and that's how the
4 builder came up through the back through all of the
5 property.

6 Q Not off of the main road?

7 A Not off the main road. Not off the main road. And I don't
8 remember if he got there probably, I don't know, 10 or
9 10:30 to just measure some things and he had one of his
10 fellows with him. And not long after they had been there
11 there was a knock at the door. Or somebody drove up.
12 Actually you hear people drive up because it's very, very
13 quiet and I thought that was strange. I asked the builder
14 it was one of his people coming to do something; he said
15 no. And someone -- and somebody came to my front door and
16 knocked on the door.

17 Q And is that somebody here in the courtroom today?

18 A Yes, that's Mr. Bryant over there.

19 Q All right. Mr. Bryant knocked on your front door. Tell
20 the judge what conversation he had with you there.

21 A I went to the door and had my sleeping daughter on my
22 shoulder where she stayed for a while. But opened the door
23 and Mr. Bryant asked me very strange kind of line of
24 questioning saying he was looking for his father William
25 Bryant, he hadn't seen him in 20 years and but he thinks he

SW - B. RYAN - DIRECT

1 -- or he used to live somewhere around this area and did I
2 know him. And I said no, and I think the area you're
3 talking about is down the road a little ways. And I said
4 no. And I thought I was going to shut the door and then he
5 said, well, do you have a phone book because I'd like to
6 find him. And I said, yes, and that's kind of when I, you
7 know, I got concerned but he made a step to kind of come
8 into the house and I said just wait right here. And I
9 closed the door all but maybe a crack. I went and got the
10 phone book still carrying my daughter and looked up the
11 Bryants and found him, handed him the phone book open to
12 the right list of names, and then went back to the door and
13 handed it to him and he looked at it out on my front porch
14 for what seems like a long time. And then I finally said
15 do you see what you're looking for, and he said no. And he
16 handed me back the phone book and left.

17 Q Where was your builder this second time you came back to
18 the door?

19 A When I came back to the door he thought it was really odd
20 and I kind of said something like, isn't this strange. And
21 so he came more or less to be seen. He was kind of
22 standing more behind me.

23 Q You asked your builder to come to be close to be seen?

24 A Yes. Yes.

25 Q All right.

SW - B. RYAN - DIRECT

1 A So as soon as I shut the door we went over to the other
2 side of my house and looked out my windows off of my
3 utility room and kitchen to go see what he was driving
4 because we didn't really pay attention beforehand. We
5 couldn't get the license number. We didn't really try to
6 get the license number but did see the truck at that point.

7 Q And what kind of truck did you recall it being at that
8 point?

9 A It was a like a two-tone blue and white or gray pickup
10 truck, you know, kind of dirty like it'd been on a lot of
11 dirt roads and just didn't really pay much attention to it
12 other than that. I wasn't sure if it was a GMC or
13 Chevrolet at that point.

14 Q Did you see him get in the vehicle and leave?

15 A I mean, he did leave so, yes, I saw him leave. He drove
16 off.

17 Q Did you have the occasion to see the vehicle later that
18 day?

19 A Yes, I -- my -- the builder left not long after that. I
20 thought it was kind of strange and almost I think I even
21 tried to call my husband but he was tied up at that point.
22 And I said -- so maybe 30 minutes later I had to go get my
23 son from his little program so I left the house and went
24 back out the main driveway.

25 Q You came out this way?

SW - B. RYAN - DIRECT

- 1 A Came out this way. And I'm going to take a left to go back
2 towards 378.
- 3 Q Turning this way?
- 4 A Yes.
- 5 Q On State's Exhibit Number 1 would you be coming out there
6 heading up the ---
- 7 A Up, yes, toward [REDACTED]. I looked to my right
8 and down a couple hundred yards is the truck.
- 9 Q Over this way?
- 10 A Over that way. It's just pulled over on the side of the
11 road. There's nothing there, you know, on this side of the
12 road. It's just pulled over sitting there and that's when
13 I just -- I picked up my cell phone and called 9-1-1.
- 14 Q And why did you call 911?
- 15 A Because I figured that he's sitting there waiting for me to
16 leave or looking for houses to attempt to go break into the
17 middle of the morning on a work day and it just seemed
18 strange.
- 19 Q All right. So you called 9-1-1 and tell us about that.
- 20 A Well, I went ahead and took my left. As soon as they put
21 me through to, I think, a dispatcher quickly and said we
22 need you to go get that license tag, you need to turn
23 around, and so I did, still talking to the lady on the
24 phone. And about that time when I turned around, was
25 headed back toward my driveway, he passed me so he was

SW - B. RYAN - DIRECT

1 coming the other direction and I said, well, he just passed
2 me, I still didn't get the license number. And they were,
3 you know, which way do you think he went? I don't know
4 because the road curves. So I turned back around to
5 attempt to follow him and didn't find him. I did go back
6 out to [REDACTED] and sheriff's deputies were going down,
7 you know, 378 but they said they didn't find him and that
8 was kind of the end of it.

9 Q Were you able to see the truck well enough at that point
10 this time to determine it was a GMC?

11 A It was a GMC, yes, when it passed me. I just kind of know
12 the difference.

13 Q I want to show you a couple of photographs which I think
14 are State's Exhibits 14-B, -E, and -G. Just ask, is it --
15 use these two and ask you if these photographs of that
16 truck appears to be the similar one to the truck you saw on
17 that day?

18 A That does appear to be, yeah, it's hard to see the two-tone
19 on those pictures but, yes. That appears to be it, yes.

20 Q Thank you, Ma'am. Please answer any questions counsel has
21 for you.

22 MR. CLARK: No questions of this witness, Your Honor.

23 MR. SALEEBY: Judge, we would ask that she could be
24 excused so she could get back.

25 MR. CLARK: No objection, Your Honor.

SW- D. DURANT - DIRECT

1 MR. SALEEBY: We'd call Debra Durant to the stand.

2 THE COURT: Ms. Durant, if you would please come
3 around.

4 THE DEPUTY CLERK OF COURT: Place your left hand on the
5 Bible, raise your right hand. State your name please.

6 THE WITNESS: Debra Durant.

7 WHEREUPON,

8 DEBRA DURANT,
9 having been duly sworn by the Deputy Clerk of Court,
10 testified as follows:

11 THE DEPUTY CLERK OF COURT: Have a seat up here please,
12 ma'am. State your name, spell your last name.

13 THE WITNESS: Debra Durant, D-U-R-A-N-T.

14 DIRECT EXAMINATION

15 BY MR. SALEEBY:

16 Q Ms. Durant, please tell us where you live, how long you
17 lived there.

18 A I live on [REDACTED] and
19 I've been there 20 years.

20 Q All right. Please tell us how long you've lived in Sumter
21 County.

22 A For about 30 years.

23 Q And married?

24 A Yes.

25 Q And how many members of your family?

SW- D. DURANT - DIRECT

1 A I have two children.

2 Q And what are their ages?

3 A 16 and 18.

4 Q And who is your husband and where does he work?

5 A Doctor Eddie Durant, Junior, and he works at Sumter Family
6 Dental Center.

7 Q All right. I want you to describe, if you would please,
8 the, once again, the area of the county that you live in
9 and the nature of your particular driveway.

10 A I live right off ---

11 Q Using State's Exhibit Number 1 here.

12 A I live right off of Highway 261 three miles actually from
13 Highway 261 down Mine Hill Road about two-and-a-half miles
14 and then I actually live on River Swamp Road and that's my
15 driveway that's a half a mile long. You cannot see my
16 house from the road.

17 Q All right. And we have a Wedgefield, we have a Belles
18 Mill, and would it be Wedgefield also known as Mine Hill
19 would be right here; is that correct?

20 A That's right.

21 Q And would this represent your driveway, what's known as
22 River Swamp Road?

23 A Yes, yes, River Swamp Road is my driveway.

24 Q I'm going to put this, it has your name underneath that.
25 Describe to the Court if you will please, 261 is a paved

SW- D. DURANT - DIRECT

1 road, is it not?

2 A That's right.

3 Q What about [REDACTED]?

4 A It's a gravel road.

5 Q All right. And what about this road over here to the west
6 of it, [REDACTED]

7 A That's a clay, muddy road.

8 Q And how far back off of this gravel road, [REDACTED],
9 is your house located?

10 A Off of [REDACTED] it's one half mile. My driveway is
11 one half mile [REDACTED]

12 Q I'm going to show a photograph here that has been marked
13 for identification. It's not in evidence yet, which is
14 going to be State's Exhibit Number 65 and I would ask you
15 if that is a fair and accurate representation of your
16 driveway.

17 A Yes, it is.

18 MR. SALEEBY: Your Honor, at this time we would move
19 its introduction.

20 MR. CLARK: No objection, Your Honor.

21 THE COURT: All right, without objection.

22 (WHEREUPON, State Exhibit No. 65 was admitted into evidence.)

23 BY MR. SALEEBY:

24 Q All right. Just to help the Court, if you would,

25 Ms. Durant, is this taken from the location of [REDACTED]

SW- D. DURANT - DIRECT

- 1 Road?
- 2 A Yes.
- 3 Q All right. As I'm following this with the lazor is -- do
- 4 we have to get up to this rise before we get to your home?
- 5 A Yes. When you get to the top of the hill you're like in my
- 6 front door.
- 7 Q All right. And which way does your house face? Does it
- 8 face towards us which would be in this photograph to the
- 9 south?
- 10 A No, it actually faces [REDACTED].
- 11 Q Foxville, which would be over to the west?
- 12 A Uh-huh.
- 13 Q Let me ask you about Monday, October 4th, 2004. Were you
- 14 home that day?
- 15 A Yes, I was.
- 16 Q And did you have somebody working at your house on that
- 17 day?
- 18 A Yeah, my housekeeper was there.
- 19 Q And was there anybody else who had been working at your
- 20 house?
- 21 A A painter. I had a painter there that he was a elderly man
- 22 and he come up to my door couple of times to ask me
- 23 questions. And I was waiting to go for a walk with my dog.
- 24 Q And was he there or did he leave at any point in time?
- 25 A Yes, he left, and then somebody came driving back up just

SW- D. DURANT - DIRECT

- 1 as I let my dogs out and I thought ---
- 2 Q Hold on just a second and let me ask you, about what time
- 3 of day was this?
- 4 A I'm going to say about nine, ten.
- 5 Q When he left did he -- is that a.m. or p.m.?
- 6 A A.m.
- 7 Q When he left did he use this driveway?
- 8 A Yes.
- 9 Q All right. How long after that did another vehicle pull
- 10 up?
- 11 A Just a few minutes.
- 12 Q Now you were inside or outside?
- 13 A Inside. I had just let my dogs out and I was headed out.
- 14 Q All right. Tell the Court what kind of dogs you had there.
- 15 A Poo -- well, I've got five poodles I was taking for a walk.
- 16 I also have two mastiffs. They're kind of my guard dogs.
- 17 Q All right. Are these poodles inside or outside dogs?
- 18 A They're inside.
- 19 Q How about the mastiffs?
- 20 A They're outside.
- 21 Q Were the mastiffs outside?
- 22 A Yes.
- 23 Q Do they roam free?
- 24 A Yes.
- 25 Q Do the poodles stay inside and have to be exercised?

SW- D. DURANT - DIRECT

1 A Yes.

2 Q All right. So as you were starting to stake your poodles
3 outside tell us about what happened next.

4 A Well, invariably when I let them out somebody drives up,
5 they're not used to cars. So this time I let them out and
6 I heard them barking and I knew somebody was driving up.
7 And as I went to the front door thinking it was the painter
8 coming back I went to walk out and there was a GMC truck
9 right there with a strange looking person in it that scared
10 me half to death. And I'm like, wow, and I say can I help
11 you. And my dogs were out and it just took me so offguard,
12 we just don't have a lot of people just randomly driving
13 up.

14 Q All right. And you see that person in the courtroom today?

15 A Yes.

16 Q Will you please identify him for the Court?

17 A Mr. Bryant.

18 Q All right. So Mr. Bryant pulled up in a pickup truck?

19 A Yes.

20 Q And how close to your house did he come?

21 A Right up to the door to the front door where I walk out. I
22 mean, I walked out and walked down my step and he was right
23 there.

24 Q Was that unusual?

25 A Very unusual.

SW- D. DURANT - DIRECT

1 Q All right. Please tell us what conversation you had with
2 him and where you were standing during this conversation.

3 A I was standing right talking to him while he was sitting in
4 the truck and I asked him if I could help him and he said
5 he was looking for a Mr. Bryant that built houses, a
6 contractor, and that he was -- he was trying to find the
7 house he was building to do some work with him, that he
8 worked with him. And I said, you know, there's nobody up
9 here by that name or nobody that I know of building a
10 house.

11 Q All right. What else did he ask you?

12 A I don't remember what else he asked me.

13 Q Did he ask you anything about [REDACTED]

14 A He just said that he thought -- he was looking for a house
15 that was being built there because he worked, you know, he
16 was looking to work there.

17 Q All right. Tell us about [REDACTED] [REDACTED] What kind of
18 road is that?

19 A That's my driveway.

20 Q All right. Is it marked or was it at that time marked in
21 any way to indicate it was private.

22 A Yes. It was with a blue sign saying that's private
23 driveway. And at the time we had wooden gates and they
24 posted signs on them. We've since gotten metal gates. But
25 there was wooden gates out there; and there was posted

SW- D. DURANT - DIRECT

1 signs, no trespassing signs all over it because we have
2 people always trying to come out there and deer hunt.

3 Q He told you he was a contractor. What, if anything, did
4 you see that either confirmed or aroused your suspicions
5 about that?

6 A Nothing. He looked -- he didn't look like a working man to
7 me. I didn't see anything in his truck, any kind of tools.
8 We have a good friend that comes up and he does that type
9 work and there's always stuff thrown in the back of the
10 truck. Nothing in this truck to indicate any kind of work
11 at all.

12 Q All right.

13 A And he was very clean-cut, very polite and just, you know,
14 something very suspicious. It just didn't fit to me.

15 Q And where were your mastiffs during the time you were
16 talking to him?

17 A They were out there and they were upset. They were kind of
18 jumping around. They weren't growling at him or anything.
19 They were just acting very different than they usually do.

20 Q And what did you tell him about leaving?

21 A Oh, and my poodles were out and I asked him when he left if
22 he would please back out very slowly as to not run over my
23 dogs because they just run all around cars. And he did;
24 He complied with that. He did. He backed out very slow
25 and at that time I went in and wrote down his tag number.

SW- D. DURANT - DIRECT

- 1 Q All right. Did you later have occasion to report that tag
2 number to the police?
- 3 A Later I did, yes.
- 4 Q All right. I'm going to show you some photographs of the
5 truck. We may have to bring the lights down. And I'll ask
6 you if this appears to be the same truck?
- 7 A Yes.
- 8 Q Those are State's Number E and D. That appears to be same
9 truck?
- 10 A Yes, it was kind of bluish gray.
- 11 Q All right. I'm going to bring this up close because of the
12 detail with the light. I'm going to show you one more
13 photograph which is State's Exhibit Number 4-C with a tag
14 number of 563RTR.
- 15 A Uh-huh.
- 16 Q And is that the number you wrote down?
- 17 A Yes, it is.
- 18 Q All right. Did you have the occasion to see Mr. Bryant or
19 that truck any later after that?
- 20 A No, except on TV.
- 21 Q All right. After the notification on television and the
22 word through the neighborhood is that when the police were
23 notified or police contacted you and you gave them this
24 information?
- 25 A Yes.

SW - J. LEROUX - DIRECT

1 Q Thank you so much, Ms. Durant. Ms. Durant, please answer
2 any questions counsel has for you.

3 MR. CLARK: No questions. Your Honor.

4 THE COURT: Thank you, Mrs. Durant.

5 MR. SALEEBY: If she can be excused we'd appreciate it,
6 Your Honor.

7 THE COURT: Any objection?

8 MR. CLARK: No, sir.

9 THE COURT: Ms. Durant, you're free to go.

10 MR. SALEEBY: We call Jennifer Barnes Leroux.

11 THE DEPUTY CLERK OF COURT: Please place your left hand
12 on the Bible, raise your right hand.

13 WHEREUPON,

14 JENNIFER BARNES LEROUX,

15 having been duly sworn by the Deputy Clerk of Court,

16 testified as follows:

17 THE DEPUTY CLERK OF COURT: Have a seat up there
18 please, ma'am. State your name, spell your last name please.

19 THE WITNESS: Jennifer Barnes Leroux, L-E-R-O-U-X.

20 DIRECT EXAMINATION

21 BY MR. SALEEBY:

22 Q Ms. Leroux, please tell us where you live.

23 A I live at [REDACTED].

24 Q How long have you lived in Sumter County?

25 A All my life. Thirty-three years.

SW - J. LEROUX - DIRECT

- 1 Q Where are you working now?
- 2 A I work at Crestwood High School.
- 3 Q And how long have you been married?
- 4 A I've been married almost three years.
- 5 Q Were you married in September or October of 2004?
- 6 A No, sir.
- 7 Q Where were you living then?
- 8 A I was living at my parents' house on [REDACTED].
- 9 Q And how long had your parents and you lived at that
- 10 location?
- 11 A For about 15, 20 years.
- 12 Q All right. I show you State's Exhibit Number 1 and show
- 13 you here, this would be [REDACTED] which runs
- 14 perpendicular to [REDACTED] is that correct?
- 15 A Yes, sir.
- 16 Q And is it close to where [REDACTED] goes off to the
- 17 west and McLaurin goes off to the east?
- 18 A Yes, sir.
- 19 Q And would this location here close to the intersection be
- 20 the location of your home?
- 21 A Yes, sir.
- 22 Q I'm going to put this tag just identifying it as being your
- 23 home there, Ms. Leroux. Actually it's got your -- it was
- 24 -- it's a Brown resident; you were a Brown then. Now tell
- 25 the Court, if you would please, what kind of driveway you

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1 have, what -- that road, [REDACTED], what kind of road.

2 A It's a gravel road.

3 Q And your parents' home at the time had what kind of
4 driveway leading up to their house?

5 A A straight driveway.

6 Q All right. I'm going to show you a photograph which is
7 marked for identification as State's Exhibit Number 64 and
8 move its introduction at this time. If you can -- if you
9 can identify that as being the driveway to your parents'
10 house?

11 A Yes, sir, that's their driveway.

12 MR. SALEEBY: We move its introduction.

13 MR. CLARK: No objection, Your Honor.

14 THE COURT: Without objection.

15 (WHEREUPON, State Exhibit No. 64 was admitted into evidence.)

16 BY MR. SALEEBY:

17 Q If you would please I'm going to ask you where you're from,
18 where your house is, can you see any neighbor's house?

19 A No, sir.

20 Q All right. And how far away from your home, your parents'
21 home then, would have been the closest neighbor as the crow
22 flies, approximately?

23 A Probably about a mile.

24 Q Okay. Let's call your attention to the late afternoon
25 Sunday of October the 3rd, 2004. Were your parents -- you

SW - J. LEROUX - DIRECT

- 1 and your parents home at that time?
- 2 A I was at home and my parents were getting ready to leave to
- 3 go take off the trash.
- 4 Q All right. You have to have your trash because you live
- 5 out the county taken to a central site?
- 6 A Yes, sir.
- 7 Q Did your parents leave together?
- 8 A Yes, sir.
- 9 Q How long after they left did somebody else show up?
- 10 A Not long at all. I mean, it wasn't even five minutes.
- 11 Q And tell us about that please.
- 12 A As -- when my parents left I started to go upstairs. And
- 13 as I was walking up the stairs when you get to the very top
- 14 of the stairs there's two really big glass windows. And I
- 15 looked out the window and I saw a light blue truck coming
- 16 down my driveway. And my neighbor who lives up the road
- 17 from me, his father drives a light blue truck and I figured
- 18 it was just him, and I was like, whatever he wants, you,
- 19 know, he can come back later, you know, I was getting ready
- 20 to go do something and didn't want to be bothered. So I
- 21 walked in my room and was getting my things together to go
- 22 take a shower and someone rang the door bell. They rang it
- 23 twice and I ignored it. So then I was looking out of my
- 24 bedroom window and there was a gentleman standing in the
- 25 middle of my driveway hollering very loud, is anyone here,

SW - J. LEROUX - DIRECT

1 is anyone here. And I just continued to look out my
2 bedroom window and ---

3 Q Tell us what happened next.

4 A So after, you know, hollering is anyone here, I guess he
5 figured no one is here so he had -- when he pulled into my
6 driveway he pulled straight in like you normally would pull
7 into a driveway. He went to get into his truck and went to
8 back his truck up into my carport.

9 Q Under your carport?

10 A Yes, sir.

11 Q Is that the usual parking place for people visiting?

12 A Yes, sir.

13 Q Was that -- was the parking place neighbors park under your
14 carport?

15 A No, they just pull straight, straight in.

16 Q So I'm asking if when he pulled under the carport was that
17 a usual thing or unusual thing?

18 A Very unusual.

19 Q All right. Tell us what you did as a result of that.

20 A I left, you know, I started to go downstairs and as I
21 walked into the kitchen -- the kitchen is right above the
22 carport. I guess he heard me walking across the floor and
23 he got in his truck and drove away.

24 Q I will ask you this, have you been in your carport
25 downstairs and been able to hear folks walking upstairs in

SW - J. LEROUX - DIRECT

1 the kitchen?

2 A Yes, sir.

3 Q And the vehicle when it was pulled under the carport was it
4 nose first or backed in?

5 A It was backed in.

6 Q So as you walked through the kitchen where were you headed?

7 A I was headed to the back door to confront him.

8 Q All right. Did you get to the back door before the vehicle
9 pulled off?

10 A No, sir.

11 Q And how did the vehicle pull off?

12 A He just, you know, pulled out and just left my driveway.

13 Q Were you able to see -- how much of the individual were you
14 able to see?

15 A All I saw was the back of him.

16 Q You didn't see a face?

17 A No, sir.

18 Q How much from the back were you able to get any-- what
19 could you tell from looking at the man from the back?

20 A He had curly brown hair, about medium height. I could see
21 him from head to toe. I just, you know, that was really
22 about it.

23 Q Were you able get a look at the vehicle?

24 A Yes, sir.

25 Q Did you -- I understand you to say previously that the

SW - C. BROWN - DIRECT

1 vehicle might have been a little similar to one of the
2 neighbors that you knew?

3 A Yes, sir.

4 Q This will be State's Exhibits Number 14-D and -E and I'll
5 ask you if that appears to be similar in make and model to
6 the truck you saw on that day.

7 A Yes, sir.

8 Q Thank you very much. Please answer any questions counsel
9 has for you.

10 MR. CLARK: No questions, Your Honor.

11 THE COURT: Thank you.

12 MR. SALEEBY: We would ask that she be excused.

13 MR. CLARK: No objection.

14 THE COURT: Thank you, Ms. Leroux, you may be excused,
15 ma'am.

16 MR. JACKSON: Your Honor, the State calls Clinton
17 Brown.

18 THE COURT: Ladies and gentlemen, we're going to just
19 take a short recess, take about ten minutes, then we'll resume.
20 Court will be in recess.

21 (WHEREUPON, a recess was taken from the proceedings.)

22 THE DEPUTY CLERK OF COURT: Place your left hand on the
23 Bible, raise your right hand. State your name please.

24 THE WITNESS: Clinton Brown.

25 WHEREUPON,

SW - C. BROWN - DIRECT

1 CLINTON W. BROWN,
2 having been duly sworn by the Deputy Clerk of Court,
3 testified as follows:

4 THE DEPUTY CLERK OF COURT: Have a seat up here please.
5 State your name, spell your last name for the record please.

6 THE WITNESS: Clinton W. Brown, B-R-O-W-N.

7 DIRECT EXAMINATION

8 BY MR. JACKSON:

9 Q Mr. Brown, if I can get you to swivel around this way and
10 face the judge himself. Where do you live, Mr. Brown?

11 A Right now in Olanta (ph) Trailer Park.

12 Q All right. Is that here in Sumter County?

13 A Yes, sir.

14 Q You originally from Sumter?

15 A No, sir.

16 Q Where are you from?

17 A A little place called Clearbrook, Virginia.

18 Q Virginia?

19 A Yes, sir.

20 Q And long you been down here in Sumter, South Carolina?

21 A Ten years.

22 Q Ten years. Are you married?

23 A Yes, sir.

24 Q How long you been married?

25 A Thirty-eight.

SW - C. BROWN - DIRECT

- 1 Q Is your wife still with you?
- 2 A Yes, sir.
- 3 Q How many children you got?
- 4 A Four.
- 5 Q How many grandchildren you got?
- 6 A Seven.
- 7 Q Are you working now?
- 8 A No, sir.
- 9 Q When is the last time you were employed?
- 10 A 2000.
- 11 Q And what were you doing back in 2000?
- 12 A Working for the County.
- 13 Q Doing what kind of work for Sumter County?
- 14 A Working for Dillon Park.
- 15 Q Dillon Park? That's part of our Parks and Recreation
- 16 Department here in the county?
- 17 A Yes, sir.
- 18 Q And what kind of work were you doing for the County?
- 19 A At that time I was -- we was cleaning off land over in
- 20 Dillon Park.
- 21 Q Okay. And did you retire in 2000?
- 22 A I didn't retire. I had a heart attack and they stopped me
- 23 from work.
- 24 Q All right. Did you have a heart attack on the job?
- 25 A Yes, sir.

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- 1 Q All right. Tell the judge what your health condition would
2 have been after you recovered from the heart attack?
- 3 A I had -- I have congestive heart failure.
- 4 Q All right. Do you have any disabilities or anything you
5 can and can't do?
- 6 A No, sir. What, now?
- 7 Q Yes, sir.
- 8 A I can't do nothing now.
- 9 Q Can't do nothing now?
- 10 A They won't let me do no work.
- 11 Q All right. Back in 2004 what was your physical condition?
- 12 A I still couldn't work.
- 13 Q Couldn't work?
- 14 A My heart was -- my heart was so bad they couldn't put a
15 pacemaker in there.
- 16 Q Could you cut the grass and do stuff like that back in
17 2004?
- 18 A Well, they tell -- they told me not to push no mowers.
- 19 Q Not to push no mowers?
- 20 A I can ride a lawn mower but not to push.
- 21 Q So you weren't able to do a lot of physical stuff in 2004?
- 22 A No, sir.
- 23 Q What are your hobbies, Mr. Brown?
- 24 A Hunting and fishing.
- 25 Q Hunting and fishing. Where do you like to fish?

SW - C. BROWN - DIRECT

- 1 A Anywhere they got water.
- 2 Q Back in October of 2004 did you like to do some fishing
- 3 back then?
- 4 A Yes, sir.
- 5 Q Did you frequent the Wateree River and fish the Wateree
- 6 River?
- 7 A Yes, sir.
- 8 Q Were you a boat fisherman or bank fisherman?
- 9 A Bank fisherman.
- 10 Q Let me call your attention to October the 8th, 2004. Did
- 11 you remember which day of the week that would have been?
- 12 A Friday.
- 13 Q Friday. And were you at home beginning of that Friday?
- 14 A Yes, sir.
- 15 Q And did you later decide to go fishing?
- 16 A Yes, sir.
- 17 Q And where was it that you went fishing that afternoon?
- 18 A Down to 76/378 bridge right at the landing.
- 19 Q At the landing?
- 20 A Boat landing.
- 21 Q Okay. Would you have been on the Richland County side of
- 22 the river or Sumter County side of the River?
- 23 A Richland County side.
- 24 Q Richland County side. All right, let me ask you this, took
- 25 your fishing gear with you?

SW - C. BROWN - DIRECT

- 1 A Yes, sir.
- 2 Q Did you take a cooler full of beer or bottle of liquor or
3 anything like that?
- 4 A No, sir.
- 5 Q Didn't have any alcoholic stuff to drink down there?
- 6 A No, sir.
- 7 Q Were you drinking at all that day?
- 8 A No, sir.
- 9 Q All right. You remember about what time you would have
10 gotten down to the landing to go fishing?
- 11 A About three.
- 12 Q About three?
- 13 A 3:30.
- 14 Q Sometime that afternoon?
- 15 A Yes, sir.
- 16 Q Anybody else fishing with you or did you go by yourself?
- 17 A I went by myself, but when I got there it was another
18 gentleman there.
- 19 Q There was another fellow there fishing?
- 20 A Yes, sir.
- 21 Q All right. Now when you got to the landing did you go to
22 river to fish or did you go to another area to fish?
- 23 A I went -- I went there's some back water.
- 24 Q Some back water?
- 25 A Yes, sir. I went down under the bridge and up on a peak

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1 the river goes. And you got -- we call it backup water up
2 the creek.

3 Q All right. You said there was another man down there
4 fishing?

5 A Yes, sir.

6 Q Would you describe him?

7 A He was a black gentleman.

8 Q Okay.

9 A Probably my age, but he had left.

10 Q When you first got there was he fishing in the same area

11 ---

12 A He was ---

13 Q ---with you?

14 A As a matter of fact I wandered where he was. I like to
15 talk a lot and I started talking.

16 Q And so he was right there fishing with you?

17 A He was fishing, yes, sir.

18 Q Okay. Let me show you State's Exhibit 1. You say you went
19 down to 378 to the bridge. The landing, was that the Billy
20 Tower Landing?

21 A Yes, sir.

22 Q And that'd be right here on State's Exhibit 1?

23 A Yes, sir.

24 Q All right. That little black line right now right there is
25 that what you call back water?

SW - C. BROWN - DIRECT

- 1 A Yes, sir.
- 2 Q So that kind of runs into the river?
- 3 A Yes, sir.
- 4 Q Forms a little peak you say?
- 5 A Yes, sir.
- 6 Q And that's where you like to fish. I don't want you to
- 7 give your fishing spot. Now that's where you were fishing?
- 8 A They can have it; I don't go down no more.
- 9 Q Right there would have been where you were fishing?
- 10 A Yes, sir.
- 11 Q And the other gentleman was right there ---
- 12 A Right there beside me, yes, sir.
- 13 Q ---fishing? State's Exhibit 87 which I believe, Your
- 14 Honor, is in without objection. Mr. Brown, let me point
- 15 right here. This is the parking lot you're talking about
- 16 at the landing?
- 17 A Yes, sir.
- 18 Q All right. This white line here, what's that represent?
- 19 A That's where I walk under the bridge and up the little path
- 20 and where you (inaudible.)
- 21 Q So there's a little path that goes through there? A lot of
- 22 people fish in there?
- 23 A Yes, sir, there's a lot of people go in there.
- 24 Q At least enough to keep the path worn down?
- 25 A Yes, sir.

SW - C. BROWN - DIRECT

- 1 Q So this about where you were sitting?
- 2 A Yes, sir.
- 3 Q And this right here would be what you call back water, that
- 4 little creek or canal?
- 5 A Yes, sir.
- 6 Q All right. And this would be which road?
- 7 A That's the river.
- 8 Q All right. What were you sitting on down there at that
- 9 little canal?
- 10 A Five gallon bucket.
- 11 Q While you were sitting there fishing and this other black
- 12 gentleman was there too did somebody else come up there
- 13 while y'all are fishing?
- 14 A Yes, sir.
- 15 Q Tell the judge about that.
- 16 A Young white man.
- 17 Q Young white man. Did y'all have a conversation? Did he
- 18 speak to you?
- 19 A When he came in he didn't speak. He went on, went up the
- 20 creek. When he came back down he said, he said, I seen a
- 21 couple of small alligators. I told him, I said, well, if
- 22 you went on back a little further you'd see some big ones
- 23 back there. That was all was said.
- 24 Q Did he hang around or did he walk on off?
- 25 A Went on down, went on out.

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- 1 Q You kept fishing?
- 2 A Yes, sir.
- 3 Q Now that man that walked up can you identify him as
- 4 Mr. Bryant or not?
- 5 A Yes, sir.
- 6 Q And was that Mr. Bryant that walked up ---
- 7 A Mr. Bryant.
- 8 Q ---and spoke to you?
- 9 A Yes, sir.
- 10 Q Now did you call him any names?
- 11 A Oh, no.
- 12 Q Use any racial slurs towards him?
- 13 A No, sir, no, sir.
- 14 Q Any threatening remarks to him?
- 15 A No.
- 16 Q Just little casual conversation about alligators?
- 17 A Yes, sir.
- 18 Q The other black man that was sitting there fishing with you
- 19 how close was he to you?
- 20 A About as far as me to the judge.
- 21 Q About from you to the judge. Y'all just sitting there
- 22 together?
- 23 A Sitting there talking.
- 24 Q Come a time when he left?
- 25 A He left about 15 minutes after Bryant left.

SW - C. BROWN - DIRECT

1 Q He picked his fishing stuff up and ---

2 A Yes, sir. Well, he was complaining about he ain't had no
3 -- nothing to keep his fish in. I wasn't going to give him
4 my bucket so I told him I had some plastic over in my
5 truck, plastic bag. So I went to my truck and got a couple
6 of plastic bags for him. When I got back he put his fish
7 in, say nice knowing you, nice meeting you, and then he
8 left.

9 Q So you there by yourself?

10 A By myself.

11 Q Tell the judge what happened.

12 A I was sitting there still catching fish. I told the guy I
13 was leaving, but I was still catching fish so I sat there a
14 little bit longer. I thought it was a backfiring but I was
15 shot. I got up off the bucket, moved back, and propped
16 myself up against a tree. The next thing I know my back
17 started burning, and I rest behind, see what wrong with my
18 back. Back full of blood and I said, oh, lord, I don't
19 know what's going on now. I said, I say, I had to go to
20 the hospital. So I started out and I thought of my fishing
21 stuff and turned around, went back, got all my fishing
22 stuff, my bucket and other things, then I drove myself to
23 the hospital.

24 Q And where were you shot?

25 A In the back.

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- 1 Q In the back.
- 2 A Yes, sir.
- 3 Q Did you see who shot you?
- 4 A No, sir.
- 5 Q Did you hear anybody coming up behind you?
- 6 A No, sir.
- 7 Q You just heard the gun shot, thought something backfired?
- 8 A Uh-huh.
- 9 Q And then you felt it. All right. When you got to your
10 truck was anybody at the landing to help you?
- 11 A Nobody.
- 12 Q No trucks, no nothing?
- 13 A Nobody. I looked up at the sky. When I looked at myself
14 in the mirror of the truck, I said, great day, what am I
15 going to do now. I looked up at the sky and said, well,
16 lord it's me and you buddy, I got to go to the hospital so
17 I jumped in the truck and took off.
- 18 Q Did you go all the way to Tuomey Hospital?
- 19 A All the way to Tuomey Hospital.
- 20 Q Did you speed a little bit ?
- 21 A I run pull the truck out, glad I didn't blow it up. I run
22 all the way into -- when you come into Sumter there's a
23 Burger King. I come out of fifth gear in fourth and
24 straight to the hospital I come. Run through, run through
25 red lights. And I got to the hospital I run around the

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1 parking lot twice, couldn't find no parking spot, so I went
2 right in front of the door, emergency room door, and a
3 security guard told me, well you can't park there. I said
4 well, buddy, I have to, I don't think I can move no
5 further. He said, well, you can't park there. I said
6 well, I took the key out, threw it at him, here you move
7 it, I got to go in here. He said, what's wrong. I said I
8 don't know, I think I'm shot. He come around, looked at my
9 back. He took off running. I said where you going. He
10 said I got to get a wheelchair. I said, just help me in,
11 I'll be all right. So when we went through the door he
12 hollered to the people at the desk, I think the man been
13 shot. And I don't know where they came from but they took
14 me straight to the emergency room.

15 Q Did they do the surgery on you in there?

16 A Yes, sir.

17 Q How long were you in the hospital?

18 A Nine days.

19 Q And how long before you were up moving around at the house?

20 A Long time.

21 Q Long time?

22 A Yes, sir.

23 Q Okay. Have you had any problems? Have you recovered
24 fairly well?

25 A I recovered good. Thank God I recovered good.

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1 Q Still go down and fish a little bit?

2 A No, I don't go down there no more.

3 Q You go somewhere else now?

4 A Yes, sir. My brother stopped me from going by myself.

5 Q He did. Now ---

6 A Every now and then I'll go out but I don't -- I go where a
7 bunch of people is at.

8 Q Mr. Brown, looking over here at State's Exhibit 87, this is
9 where you were sitting on the bucket when you got shot in
10 the back?

11 A Yes, sir.

12 Q All right, sir. Mr. Brown, that's all the questions I got
13 for you right now. Answer anything Mr. Clark or Mr. Howle
14 have for you.

15 A All right.

16 MR. CLARK: No questions, Your Honor.

17 THE COURT: All right. Thank you, Mr. Brown. You may
18 step down, sir.

19 MR. JACKSON: Your Honor, the State calls Doctor Mark
20 Crabbe.

21 THE DEPUTY CLERK OF COURT: Place your left hand on the
22 Bible, raise your right hand. State your name please.

23 THE WITNESS: Mark Crabbe.

24 WHEREUPON,

25 MARK CRABBE,

SW - M. CRABBE - DIRECT

1 having been duly sworn by the Deputy Clerk of Court,
2 testified as follows:

3 THE DEPUTY CLERK OF COURT: Have a seat up here please
4 sir. State your full name, spell your last name please.

5 THE WITNESS: Mark Crabbe, C-R-A-B-B-E.

6 DIRECT EXAMINATION

7 BY MR. JACKSON:

8 Q Doctor Crabbe, you live here in Sumter with us?

9 A I do.

10 Q And where are you employed, sir?

11 A I'm with Sumter Surgical Associates and I work at Tuomey
12 Hospital.

13 Q That's our hospital here in Sumter County?

14 A It is.

15 Q How long you been working here in Sumter?

16 A 16 years.

17 Q Did you work in the hospital business or been a doctor
18 prior to that, or did you come straight here out of medical
19 school?

20 A I was in air force ten years as a surgeon before I came
21 here.

22 Q Where did you get your undergraduate degree?

23 A I went to the Citadel.

24 Q And when did you graduate from the Citadel?

25 A '77.

SW - M. CRABBE - DIRECT

- 1 Q Where did you go to graduate school?
- 2 A At the Medical University in Charleston.
- 3 Q Any specialized training in your field of medicine?
- 4 A In surgery in the air force.
- 5 Q And how long did you say that was, ten years?
- 6 A It was in the air force for ten years.
- 7 Q You testified before in court in courts of law?
- 8 A I have.
- 9 Q As an expert?
- 10 A I have.
- 11 Q And currently you are working where at Tuomey Hospital?
- 12 A At private practice group of general surgeons which is
- 13 Sumter Surgical Associates.
- 14 Q And you handle folks that come into the emergency room,
- 15 whatever they may have?
- 16 A We take care of all the trauma.
- 17 MR. JACKSON: Your Honor, at this time I move to
- 18 qualify him as an expert in the area of general surgery, trauma
- 19 treatment, emergency surgical procedures, and exploratory
- 20 surgery.
- 21 THE COURT: Any objection?
- 22 MR. CLARK: No objection.
- 23 THE COURT: All right, he's so qualified.
- 24 BY MR. JACKSON:
- 25 Q Doctor Crabbe, were you working on October the 8th of 2004?

SW - M. CRABBE - DIRECT

1 A I was.

2 Q That was in the emergency room across the street at Tuomey
3 Hospital?

4 A Yes, sir.

5 Q Did you have an opportunity to encounter Mr. Clinton Brown?

6 A I took care of Mr. Brown when he came into the emergency
7 room.

8 Q And if you would tell the judge what happened that
9 particular evening.

10 A I was the surgeon on call. Mr. Brown came in. I was
11 notified he was a gunshot, a victim, and that initially
12 when he arrived he was in stable condition with good vital
13 signs but then quickly deteriorated with blood pressure in
14 the 70s. The emergency room physicians put chest tubes in,
15 got blood out of his left chest. He had an obvious gunshot
16 entry wound in his back of his left chest, was unstable.
17 We had done an x-ray which showed some, a bullet in the
18 left upper abdomen and what looked to be blood in the chest
19 and some air in the abdomen, and I felt needed to be
20 emergently taken to the operating room, transfused him,
21 took him to surgery where I did exploratory lab and removed
22 a good deal of blood. Found several injuries which were
23 repaired and stopped the bleeding and stabilized Mr. Brown.
24 Q What were the injuries that you found that you had to
25 repair?

SW - M. CRABBE - DIRECT

1 A He had a through-and-through injury to his diaphragm, or
2 two holes in the diaphragm. There's bleeding from his
3 lung, bleeding in from his chest cavity into the abdominal
4 cavity, had a laceration to the spleen, had a laceration to
5 one of the blood vessels to his colon and had a hematoma
6 bruising around his kidney.

7 Q Did the bullet actually exit the body?

8 A No, the bullet was lodged right under his rib cage in the
9 front in the subcutaneous or fatty tissue. It was right
10 under the skin.

11 Q Let me hand you what's been marked as State's Exhibit 88.
12 Chain of custody has been stipulated to. Doctor Crabbe,
13 tell us what this item is.

14 A All right. This is a bullet that was removed that I
15 removed.

16 Q From Mr. Clinton Brown?

17 A That's correct.

18 Q Let me get you, if you would, with the Court permission
19 step down to the diagram.

20 MR. CLARK: Let me if I may, Solicitor.

21 MR. JACKSON: Yes, sir.

22 MR. CLARK: Objection reserved on 88 which is the
23 bullet and the body diagram.

24 THE COURT: What's the number again?

25 MR. CLARK: Number 88 and 89. Since the doctor has

SW - M. CRABBE - DIRECT

1 identified them we withdraw any objections.

2 THE COURT: All right, okay. Without objection 88 and
3 89.

4 (WHEREUPON, State Exhibits Nos. 88 and 89 were admitted into
5 evidence.)

6 BY MR. JACKSON:

7 Q If you will come down here to 89, Mr. Crabbe. If you
8 would, show us on here approximately where the entrance
9 wound was, the entrance gunshot wound.

10 A About right there.

11 Q And it traveled all the way through and show us where you
12 took it out of his body on the front.

13 A Okay.

14 Q Where would you have to cut him open to do exploratory
15 surgery? All the way down the sternum to the naval?

16 A Right below, right.

17 Q All right, sir. You can resume your seat, sir. Doctor
18 Crabbe, is there any indication whatsoever he may have been
19 intoxicated or had been drinking way too much when he came
20 in?

21 A There is not.

22 Q Could you tell us to a degree of medical certainty how
23 close he came to dying?

24 MR. CLARK: Objection, Your Honor. That opinion was
25 not provided to us and I would object to it as being -- as not

SW - M. CRABBE - CROSS

1 being relevant.

2 THE COURT: Overruled. You may answer the question.

3 THE WITNESS: Well, Mr. Brown was unstable with a blood
4 pressure in the 70s. He had lost a total of about six units of
5 blood and was really close to passing away by the time we were
6 doing surgery on him. So he came pretty close to dying, about as
7 close as you can come, and certainly would have passed on if he
8 hadn't been tended to as we did so.

9 BY MR. JACKSON:

10 Q Simply from loss of blood if nothing else?

11 A That's correct.

12 Q All right, sir. Doctor Crabbe, that's all the questions I
13 have for you. If you would please answer any questions the
14 Defense attorneys have.

15 CROSS - EXAMINATION

16 BY MR. CLARK:

17 Q Just briefly, Doctor Crabbe. Do you expect Mr. Brown to
18 have any serious problems in the future, is he completely
19 recovered?

20 A My impression is that he does appear to have recovered very
21 well from this and is, in my discussions with him he's been
22 doing fine.

23 Q Thank you. That's all I have, Your Honor.

24 MR. JACKSON: Your Honor, would it be all right if
25 Doctor Crabbe is excused from his subpoena?

SW - R. OATES - DIRECT

1 THE COURT: Any objection, Mr. Clark?

2 MR. CLARK: No, sir, Your Honor.

3 THE COURT: Thank you for coming, sir.

4 THE WITNESS: Thank you.

5 MR. JACKSON: Your Honor, the State calls Investigator
6 Robert Oates.

7 THE DEPUTY CLERK OF COURT: Place your left hand on the
8 Bible, raise your right hand. State your name please.

9 THE WITNESS: Robert Oates.

10 WHEREUPON,

11 ROBERT CECIL OATES,
12 having been duly sworn by the Deputy Clerk of Court,
13 testified as follows:

14 THE DEPUTY CLERK OF COURT: Have a seat up here please.
15 State your name, spell your last name please, sir.

16 THE WITNESS: Robert Cecil Oates, O-A-T-E-S.

17 DIRECT EXAMINATION

18 BY MR. JACKSON:

19 Q Investigator Oates, you live where?

20 A I live in Blithewood which is in Richland County.

21 Q Richland County?

22 A Yes, sir.

23 Q Where are you employed?

24 A I'm employed with the Richland County Sheriff's Department.

25 Q How long you been working with the Richland County Sheriff

SW - R. OATES - DIRECT

- 1 Department?
- 2 A 8-and-a-half years.
- 3 Q What are the various positions that you held there?
- 4 A Master deputy, training officer, and now crime scene
- 5 investigator.
- 6 Q Were you working as a crime scene investigator on
- 7 October 8th of 2004?
- 8 A Yes, sir.
- 9 Q That would have been a Friday?
- 10 A Yes, sir.
- 11 Q Were you called to the Wateree River in Richland County to
- 12 process a crime scene?
- 13 A Yes, I was.
- 14 Q About what time did you get there, do you remember?
- 15 A At 2118 hours or 9:18 p.m.
- 16 Q At 9:18 p.m. Already dark?
- 17 A Yes, sir.
- 18 Q Who was there at the scene when you got there?
- 19 A When I got there Sergeant Raglan who is a sergeant over the
- 20 region. When this incident took place he was there and
- 21 another deputy.
- 22 Q They would also be Richland County Sheriff's Office
- 23 employees?
- 24 A Yes, sir.
- 25 Q Because that was actually Richland County, not Sumter

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1 County?

2 A Yes, sir.

3 Q Did you get a briefing from Sergeant Raglan about what had
4 occurred?

5 A Yes, sir.

6 Q And based on that briefing did you start processing the
7 scene?

8 A Yes, sir, I did.

9 Q All right. Did you process the parking lot or at least
10 look around?

11 A Yes, sir.

12 Q The path that went over towards where Mr. Brown was
13 sitting?

14 A Yes, sir. I started from my vehicle which was in the
15 parking lot and took the route that I was explained to by
16 Sergeant Raglan.

17 Q Okay. When you got over to the area where he was sitting
18 did you find anything?

19 A Yes, I did.

20 Q And tell us what you found.

21 A I found some blood stains on the grounds.

22 Q All right. What else did you find?

23 A I also found a spent or fired Winchester .40-caliber shell
24 casing.

25 Q And that would have been in the area over close to the

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1 little canal Mr. Brown showed us?

2 A Right, yes, sir.

3 Q Let me show you some photographs if you don't mind, State's
4 Exhibit 90-A. If you will look over here.

5 THE COURT: This is what exhibit?

6 MR. JACKSON: This is 90-A, Your Honor.

7 THE COURT: Oh, 90-A.

8 MR. JACKSON: This is with objection.

9 MR. CLARK: If he can identify it.

10 MR. JACKSON: Unless there's any -- John, you want to
11 withdraw your objection?

12 MR. CLARK: I prefer he identify it.

13 BY MR. JACKSON:

14 Q Tell us what this picture is.

15 A This is -- I'm sorry. This is a medium range photograph of
16 a number 2 evidence marker and the area or where the
17 bloodstains are located.

18 Q All right. Can you actually see the bloodstains in the
19 photograph?

20 A Yes.

21 Q Take this pointer and point that out to the judge.

22 A (Complies.)

23 Q Right in there?

24 A Right there.

25 Q All right. State's Exhibit 90-B, same thing, that's

SW - R. OATES - DIRECT

1 close-up view?

2 A Yes, sir, that's a close-up range shot of the blood stains.

3 Q So you took those photographs that evening?

4 A Yes, sir, I did.

5 Q All right, sir.

6 MR. JACKSON: Your Honor, I move those into evidence.

7 MR. CLARK: No objection, Your Honor.

8 THE COURT: All right, without objection, 90-A and -B.

9 (WHEREUPON, State Exhibits Nos. 90-A and 90-B were admitted into
10 evidence.)

11 BY MR. JACKSON:

12 Q Now I show you State's Exhibit 91-A and ask if you can
13 identify that one.

14 A Yes, sir. That is another medium range photograph of the
15 spent or fired Winchester .40-caliber shell casing.

16 Q And 91-B?

17 A And that is actually a close-up range photograph of the
18 .40-caliber Winchester fired shell casing.

19 Q And that's where you located it?

20 A Yes, sir.

21 Q Did you collect it?

22 A Yes, I did.

23 MR. JACKSON: Your Honor, we move this photograph into
24 evidence, these two, 91-A and -B.

25 MR. HOWLE: No objection.

SW - R. OATES - DIRECT

1 THE COURT: Without objection, 91-A, - B.
2 (WHEREUPON, State Exhibits Nos. 91-A and 91-B were admitted into
3 evidence.)

4 BY MR. JACKSON:

5 Q I show you what's been marked as State's Exhibit 92 and ask
6 you what that is.

7 A This is the container that holds the .40-caliber Winchester
8 fired shell casing.

9 Q That's the one that you collected?

10 A Yes, it is.

11 Q That's the one shown in Exhibit 91-B?

12 A Yes, it is.

13 Q Did you carry that to SLED to have it processed for
14 ballistics?

15 A Yes, sir.

16 MR. JACKSON: Your Honor, we'd move this into evidence
17 at this time.

18 MR. CLARK: No objection, Your Honor.

19 THE COURT: All right, without objection.

20 (WHEREUPON, State Exhibit No. 92 was admitted into evidence.)

21 BY MR. JACKSON:

22 Q Now the bullet that Doctor Crabbe recovered was it also
23 sent to your department at SLED for ballistics?

24 A Yes, sir, it was.

25 Q Did you find -- did you find a big knife laying around

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1 anywhere at the crime scene?

2 A No, sir.

3 Q Did you find a pile of beer cans somebody been sitting
4 there drinking all day long?

5 A No, sir.

6 Q Or liquor bottles, wine bottles?

7 A No, sir.

8 Q Investigator, that's all the questions I have at this time.
9 Would you answer any the Defense counsel has.

10 MR. CLARK: No questions, Your Honor.

11 THE COURT: All right. Thank you, sir. You may step
12 down.

13 MR. JACKSON: The State calls Roy Lee Lambert.

14 THE CLERK OF COURT: Place your left hand on the Bible,
15 raise your right hand. State your name please.

16 THE WITNESS: Roy Lee lambert.

17 WHEREUPON,

18 ROY LEE LAMBERT,
19 having been duly sworn by the Deputy Clerk of Court,
20 testified as follows:

21 THE DEPUTY CLERK OF COURT: Have a seat up here please,
22 sir.

23 THE WITNESS: Roy Lee Lambert, L-A-M-B-E-R-T.

24 DIRECT EXAMINATION

25

SW - R. LAMBERT - DIRECT

- 1 BY MR. JACKSON:
- 2 Q Mr. Lambert, where do you live?
- 3 A I live at [REDACTED], Sumter.
- 4 Q That's here in Sumter County?
- 5 A Yes, sir.
- 6 Q What area of Sumter County is that?
- 7 A It's off Oswego Highway.
- 8 Q Oswego Highway. How long have you lived here in Sumter?
- 9 A I moved here in June of 1999.
- 10 Q Are you working now?
- 11 A No, sir.
- 12 Q Do you know Stephen Corey Bryant?
- 13 A Yes, sir, I met him while fishing down at Wateree River.
- 14 Q While fishing down at the Wateree River. Do you remember
- 15 about the time you met him?
- 16 A Not exact date, no, sir.
- 17 Q How about a month and year, did you know him in 2004?
- 18 A Yes.
- 19 Q October of 2004?
- 20 A Yes.
- 21 Q And did you -- had you met him prior to that during the
- 22 summer time?
- 23 A No, sir.
- 24 Q You hadn't?
- 25 A It was probably two months before he was arrested.

SW - R. LAMBERT - DIRECT

- 1 Q Okay.
- 2 A That -- that I met him at the river.
- 3 Q July, August of 2004?
- 4 A Yes, sir.
- 5 Q And you say you met him at the river. That'd be the
- 6 Wateree River?
- 7 A Yes, sir.
- 8 Q Just down there fishing or?
- 9 A Yes, under the bridge on to the left on the Sumter side.
- 10 Q Did y'all become somewhat friends?
- 11 A Yes. I had explained to him that, you know, I fish by
- 12 myself 'cause my wife didn't care for fishing. And that's
- 13 when he told me that he build houses for a living and he
- 14 would build three or four houses, you know, in the year and
- 15 then he would take the remainder of the year off. And we
- 16 switched telephone numbers, you know, that way we could
- 17 have, you know, someone to fish with rather than fishing
- 18 alone. And when I would get ready to go fishing I would
- 19 call him or if he got ready to go fishing he would call me.
- 20 Q Did y'all fish together often prior to October?
- 21 A Probably six or eight times probably.
- 22 Q And each one would be down at the Wateree River?
- 23 A Yes, sir.
- 24 Q Sometimes Sumter side, sometime Richland County side?
- 25 A Sumter County side all the time.

SW - R. LAMBERT - DIRECT

- 1 Q Sumter County side. All right. Now you say you talked on
2 the phone with him before?
- 3 A Yes, sir.
- 4 Q All right. You got a cell phone?
- 5 A Yes, sir.
- 6 Q You got a home phone as well?
- 7 A Yes, sir.
- 8 Q You talked to him on both lines?
- 9 A Yes.
- 10 Q Anything distinctive about his voice?
- 11 A It was easy to recognize his voice.
- 12 Q Okay.
- 13 A After I talked to him the first time on the phone.
- 14 Q All right. You have caller ID on your phones?
- 15 A Yes, sir.
- 16 Q So you would pick up his number if he would call you?
- 17 A Yes, sir.
- 18 Q October 9th of 2004 I believe that -- do you remember what
19 day of the week that was?
- 20 A That was a Saturday.
- 21 Q That was a Saturday. And did you get a phone call from
22 Mr. Bryant that morning?
- 23 A Yes.
- 24 Q And about what time did he call you?
- 25 A Approximately around 9, 9:30.

SW - R. LAMBERT - DIRECT

1 Q Do you recognize his voice?

2 A Yes, sir.

3 Q Would you tell the judge what your conversation with Mr.
4 Bryant was on Saturday morning the 9th of October. Tell it

5 ---

6 A He ---

7 Q ---just like it was.

8 A Word for word?

9 Q Yes, sir.

10 A He told me that he was really nervous and I asked him why,
11 and he told me I shot me a damn nigger last night down by
12 the river. And I had detected, you know, that he didn't
13 tell the truth much so I really didn't believe him. And he
14 told me this big black gentleman had come over, said he was
15 drunk and or on something, you know. Said he come over and
16 was mumbling and going on at him and said then he walked
17 away and he come back and when he come back he had a big
18 butcher knife above his shoulder and was coming at him and
19 he said I shot him twice in the stomach and the chest. And
20 still at this time I didn't, I didn't believe what he was
21 telling me. And I didn't see anything on the news or in
22 the newspaper. And then I called him on Tuesday morning,
23 the following Tuesday morning, and I told him I was going
24 fishing and he met me down there. When he pulled up he
25 told me, he said, if I see any damn cops, he said, I'm

SW - R. LAMBERT - DIRECT

1 getting the hell out of here. And I'm, you know, still
2 thinking, you know, boy you're really pushing this as far
3 as you can, you know. And we fished, and he pulled out a
4 knife to -- he, you know, made, fixed up his line putting
5 the hooks and weights on. And he pulled out a knife and I
6 told him, I said, my exact words was, dam, I like that
7 knife. I somewhat collect. And I asked him, I said, would
8 you be interested in selling it? He said, well, make me a
9 price. I told him, I said, well hell, it's yours, you make
10 me a price. He told me ten dollars and I gladly reached in
11 my pocket, pulled out a 20 and give it to him, and he give
12 me the knife and ten dollars in change. Shortly after that
13 I went -- well, I went, I left and went home and then
14 Stephen come to my house.

15 Q Let me ask you this, did he show you anything else down
16 there at the river?

17 A A Winchester knife which is anybody that knows anything
18 about knives Winchesters are very poor quality so and I
19 told him I was not interested.

20 Q All right.

21 A And then when I went home ---

22 Q Did he show you anything else down there?

23 A No, sir.

24 Q Didn't show you a pistol?

25 A No, that was -- that was once he had came to my house.

SW - R. LAMBERT - DIRECT

1 Q Okay, go ahead, go ahead, I'm sorry.

2 A Then a little later on he came to my house and he went out
3 to his truck and he said, I got something I want to show
4 you. He come back and he showed me a pistol and without my
5 glasses I couldn't read the caliber but I could definitely
6 see the Smith and Wesson emblem on it. And my
7 brother-in-law at that time was somewhat of a collector.
8 And I told Stephen, I said, man I, know somebody that will
9 buy that. And he explained to me, well, it's really not
10 for sell. He said, it's got blood on it. And not really
11 thinking about it, you know, thinking about the lies that I
12 had heard in the past I didn't believe that either, you
13 know, and I looked at it and I seen no blood on it. And
14 shortly after he left my house and the following morning
15 when my mother-in-law went to work she took the paper along
16 with her. And she called me and told me, says, don't go
17 back to the Wateree River, somebody was shot down there
18 Friday night. And that's when it started coming together
19 to me. I said, well -- I went up -- my wife at the time
20 worked at Levy, Whittingburg, Hoefer, and Davis. I went up
21 and spoke with her 'cause I was very nervous and didn't
22 know what to do. So I went up and talked to her and she
23 told me, said, well, you need to go to the police. Well, I
24 didn't want him to see my truck at the police department
25 and then, you know, figure out what was going on and then

SW - R. LAMBERT - DIRECT

1 come shoot me as well. So I went over and talked to my
2 neighbor Carl Brown which is a retired deputy sheriff, and
3 he explained to me that he would get down and talk to him
4 within the next couple of days. And I thought to myself,
5 you know, it's not a couple of days time to wait. So I
6 went back home and that's when I -- my mother-in-law and my
7 wife come home from work and that's when I called crime
8 stoppers to report it. And when I called them they told me
9 that he was just arrested which was quite the relief.

10 Q And what became of the knife that you bought?

11 A When the following day the detectives had left a note on my
12 door. I called them and I come up to see the detectives
13 and talk with them, and you know, tell them what little I
14 knew. And they asked me, you know, for the knife and I
15 give them a knife.

16 Q Okay. Let me show you a photograph State's Exhibit 18. If
17 you can turn around and look right up here. Is that --
18 tell me what that is Mr. Lambert.

19 A That's a Renn (ph), Renn weapon, German made knife which is
20 the one that I bought from Stephen Bryant.

21 Q You bought that for ten dollars?

22 A Yes, sir.

23 Q Turned it back over to law enforcement?

24 A Yes, sir.

25

SW - LAMBERT - CROSS

1 Q All right, sir.

2 MR. JACKSON: Your Honor, I'd offer this photograph
3 into evidence at this time.

4 THE COURT: I think that is without objection.

5 MR. JACKSON: All right. Mr. Lambert, that's all the
6 questions I have for you right now. If you would answer anything
7 the Defense lawyers have.

8 MR. CLARK: We didn't have an objection to that. We
9 just wanted to track it.

10 THE COURT: Any questions?

11 MR. CLARK: Just a couple.

12 THE COURT: All right.

13 CROSS - EXAMINATION

14 BY MR. CLARK:

15 Q Sir, you said that in talking with Mr. Bryant you found a
16 lot of what he said to you hard to believe; is that ---

17 A Yes, sir.

18 Q Is that correct?

19 A Yes, sir.

20 Q And is it correct that he told you what some people might
21 call tall tales?

22 A Yes, sir.

23 Q He told you things that were I guess some people would call
24 them self-aggrandizing or told you things about himself
25 that made him seem big or important or something like that?

SW - LAMBERT - CROSS

1 A In the beginning I really believed him when he said he
2 built houses which later, I mean, it was kind of obvious
3 that, you know, he wasn't the type person to -- didn't have
4 the mind of a person who would build a house.

5 Q So at some point it was your opinion that he wasn't
6 mentally ---

7 MR. JACKSON: Objection, Your Honor. Going into matter
8 of his mental state.

9 THE COURT: Well, I mean, I'll sustain to the extent
10 you're asking him about his opinion. He can ask him about his
11 observations.

12 MR. CLARK: Yes, sir.

13 BY MR. CLARK:

14 Q So is it correct based on your observations you didn't
15 believe him?

16 A No, sir.

17 Q All right. So he told you that he built houses?

18 A Yes, sir.

19 Q And that he built a couple, then he made enough money and
20 took the rest of the year off; is that right?

21 A Yes, sir.

22 Q What else did he tell you that -- what other -- can you
23 tell us anything else he told you?

24 A I don't -- I don't recall the exact stories but you can sit
25 and listen to a story and, you know, sometimes it's a

SW - LAMBERT - CROSS

1 little too far fetched to believe.

2 Q And how many times do you believe he told you stories that
3 were ---

4 A Numerous.

5 Q Numerous? Were these stories child like Mr. ---

6 A No.

7 Q They weren't child like?

8 A No.

9 Q What made you believe they were tales?

10 A Well, when some things just don't happen the way it was
11 being told and it was kind of obvious to me that -- and in
12 fact, I had, I had brought it to his attention, you know,
13 why lie because it makes no sense to me. And I had done
14 that more than one time.

15 Q And after doing that he continued to tell you what you
16 thought were tall tales?

17 A Yes, sir.

18 Q And these were mostly about himself?

19 A Yes, sir.

20 Q And things that he had done and accomplished?

21 A Yes, sir.

22 Q Thank you, sir, that's all I have.

23 MR. JACKSON: Nothing further, Your Honor, if Mr.
24 Lambert can be excused.

25 THE COURT: Any objection to Mr. Lambert being excused?

1 MR. CLARK: No objection.

2 THE COURT: Thank you, sir, you're free to go.

3 MR. JACKSON: Your Honor, next I would like to publish
4 the statement we got from defendant Stephen Corey Bryant related
5 to this case.

6 THE COURT: All right, sir. And of course, Mr. Clark,
7 subject to your objection earlier.

8 MR. JACKSON: Your Honor, the first one would have been
9 given October 13th of 2004: Last Friday, I don't remember what
10 time, it was day light, I went to the river of 378 to fish. I
11 saw a black guy there who was fishing and he gave me some harsh
12 judgment. He said you ain't one of them redneck mother fuckers
13 who is racist and call people niggers. I felt threatened and I
14 shot him, then I went home. It was still day light, late in the
15 evening. Judy got home around 11:20 or 11:30 that night. We
16 went back to the bridge to feed the stray cats that live there.
17 The police pulled me down there and to talk about the shooting."

18 Your Honor, the second statement it's indicated
19 October 15th, 16 of 2004. "I went down to the Wateree River to
20 do some fishing. I went on the Sumter County side first and
21 fished for a while first but had no luck. So I went to Richland
22 County side and noticed two black guys down fishing on the canal.
23 So I went to my truck, rolled me a joint, and smoked it. I then
24 walked to the dock and sat there for a while and one of the black
25 guys left. I went down to my truck and got my fishing rod and

1 went down to the canal and done some fishing. But as I was
2 entering the woods the black guy asked me, that I ain't one of
3 those racist redneck mother fuckers who lives to call -- likes to
4 call us people niggers, are you? I said no. We exchanged words
5 after that and I started to feel threatened by him 'cause he was
6 approaching me in a threatening manner so I pulled the gun out on
7 him to scare him but when he seen the gun he said, oh, I'll get
8 you. And as I was pointing the gun at him he turned the same
9 time I pulled the trigger and the bullet hit him in the back. He
10 turned around and started charging me so I shot him again to stop
11 him. Then I ran and got into my truck and left to go home for a
12 while, but I don't know if I hit him when I fired the second
13 shot."

14 Your Honor, the last one is dated October the 19th of
15 2004. "There was another black guy down at the river who I
16 mentioned was there before that I remember there were him of the
17 other one saying he's probably just another red neck. This guy
18 was driving a Dodge truck or maybe a Chevy. I don't remember.
19 Put on the front of the truck was a personal license plate saying
20 grandpas, question mark, not sure what else, but it had a cat
21 fish air brushed on it. As he was leaving I heard him holler
22 back to the other guy saying, yeah, I'll be here tomorrow and
23 I'll see you then."

24 Your Honor, the State would call Mr. Billy Morton.

25 THE COURT: All right, come around to be sworn.

SW - W. MORTON - DIRECT

1 THE DEPUTY CLERK OF COURT: Place your left hand on the
2 Bible, raise your right hand. State your name please.

3 THE WITNESS: Billy Morton.

4 WHEREUPON,

5 WILLIAM D. MORTON,

6 having been duly sworn by the Deputy Clerk of Court,

7 testified as follows:

8 THE DEPUTY CLERK OF COURT: Have a seat up there
9 please. State your full name, spell your last name please.

10 THE WITNESS: William D. Morton, M-O-R-T-O-N.

11 DIRECT EXAMINATION

12 BY MR. JACKSON:

13 Q Mr. Morton, where do you live now?

14 A I live off of 378 right now.

15 Q 378 where?

16 A In front of Shaw Air Force base.

17 Q Okay. Where were you living back in October of 2004?

18 A In Wedgefield.

19 Q In Wedgefield.

20 A Yes, sir.

21 Q Let me show you State's Exhibit 1. Here is a pointer. If

22 you would show the judge where you were living back in

23 October of 2004.

24 A About right there.

25 Q That's right off [REDACTED]

SW - W. MORTON - DIRECT

- 1 A Yes, sir.
- 2 Q If you were going from there say over to [REDACTED] which
3 route would you take?
- 4 A Take small [REDACTED] [REDACTED] [REDACTED] go up to cross [REDACTED] and all
5 the way across to [REDACTED].
- 6 Q [REDACTED] the closest paved road to where you were living?
- 7 A Yes, sir.
- 8 Q Now this area all around here, what would it be known as?
- 9 A [REDACTED]
- 10 Q [REDACTED]?
- 11 A Yes, sir.
- 12 Q You kind of lived in the middle of [REDACTED]
- 13 A Yes, sir.
- 14 Q You married?
- 15 A Not yet.
- 16 Q Not yet. Are you fixing to get married?
- 17 A Yes, sir.
- 18 Q Where do you work?
- 19 A I work for the army.
- 20 Q And were you working back then?
- 21 A Yes, sir, I was.
- 22 Q What were you doing back in October of 2004?
- 23 A I was remodeling houses and all that.
- 24 Q Did you have any affiliation with the County?
- 25 A Yes, sir, I was a voluntary fire fighter.

SW - W. MORTON - DIRECT

1 Q Volunteer fire fighter?

2 A Yes, sir.

3 Q If you would draw your attention back to October the 9th of
4 2004. Do you remember which day of the week that would
5 have been?

6 A That was Friday I believe.

7 Q Friday or Saturday?

8 A Yeah, one of those.

9 Q One of those?

10 A Yes, sir.

11 Q If you can tell the judge what you were doing that
12 particular evening.

13 A One of the guys I work with on the fire department, his
14 wife just had a baby. I believe she just had the baby and
15 we were going to eat. And I was going to meet him at his
16 house so I left my house and he lived on [REDACTED]

17 — [REDACTED] So I cut across [REDACTED] like I always do to
18 go over there. And I passed [REDACTED] where there's a
19 couple of houses, went down a little bit further where it
20 was pretty remote and everything. There was a truck parked
21 in the middle of the road, didn't have no lights on it or
22 nothing. It was between 7:30, 8:00 so it was dark.

23 Q Okay. Did you have your lights on?

24 A Yes, I had my headlights on.

25 Q And dark enough you had your headlights on?

SW - W. MORTON - DIRECT

1 A Yes, sir. There was a truck parked in the middle of the
2 road, didn't have no headlights on. Thought it might have
3 been a hunter or something coming out of the woods or
4 whatever but. I pulled up behind him and the truck sped
5 off and went down a little bit and then turned its
6 headlights on. There was a guy laying on the side of the
7 road. I got out. I didn't know if the guy was drunk or,
8 you know, passed or whatever. But I got out and spoke to
9 him and he didn't answer nothing so and he was laying in a
10 fetal position. So I got out, went over, and I shook him;
11 he didn't move. And I seen a little bit of blood on his
12 chest. Checked his vital signs. He was not breathing or
13 anything like that so I called the police. And that's when
14 they showed up.

15 Q So you called 9-1-1.

16 A Yes, sir.

17 Q Was anybody with you or you were by yourself?

18 A I was by myself. There was another gentleman pulled up
19 maybe a minute or two after I did. He pulled up behind me.

20 Q Was the body still warm?

21 A Yes.

22 Q Rigid in any way?

23 A No.

24 Q Let me show you again on State's Exhibit Number 1. If you
25 would, this right here would be [REDACTED]

SW - W. MORTON - DIRECT

- 1 A Yes, sir.
- 2 Q All right. And you left this area and traveled [REDACTED]
- 3 [REDACTED]
- 4 A Yes, sir.
- 5 Q In an easterly direction?
- 6 A Yes, sir.
- 7 Q And this [REDACTED]
- 8 A There's a couple of houses right there, yes, sir.
- 9 Q There is back at the top of [REDACTED]?
- 10 A Yes, sir.
- 11 Q That's the closest houses in that area?
- 12 A Uh-huh.
- 13 Q All right. [REDACTED], that's a real nice paved
- 14 road, two lanes?
- 15 A No.
- 16 Q What is that?
- 17 A Dirt road, fields on both sides, woods.
- 18 Q Very isolated, very remote?
- 19 A Yes, sir.
- 20 Q This about the spot where you found the body?
- 21 A Yes, sir. Just before there's a little creek just past
- 22 where I found his body at. But all before that is nothing
- 23 but woods and real thick brush and stuff like that.
- 24 Q And the truck you saw the lights were off?
- 25 A Yes, sir.

SW - L. MAYES - DIRECT

1 Q Didn't come on until how far down the road?

2 A There's a curve probably a hundred yards up from where I
3 found him at, and he turned on and just went through.

4 Q Okay. Mr. Morton, that's all the questions I've got. If
5 you would answer any the Defense lawyers have.

6 MR. CLARK: No questions of this witness, Your Honor.

7 THE COURT: All right. Thank you, Mr. Morton, you may
8 leave, sir.

9 MR. JACKSON: Your Honor, the State calls Trip Mayes.

10 THE DEPUTY CLERK OF COURT: Place your left hand on the
11 Bible. State your name please.

12 THE WITNESS: Lowman C. Mayes, the third also known as

13 ---

14 WHEREUPON,

15 LOWMAN C. MAYES,
16 having been duly sworn by the Deputy Clerk of Court,
17 testified as follows:

18 THE DEPUTY CLERK OF COURT: Have a seat up here please.
19 Spell your last name.

20 THE WITNESS: Lowman C. Mayes, the III. Last name,
21 M-A-Y-E-S.

22 DIRECT EXAMINATION

23 BY MR. JACKSON:

24 Q Mr. Mayes, you live here in Sumter?

25 A Yes, I do.

SW - L. MAYES - DIRECT

- 1 Q Where do you work?
- 2 A I work with the Sumter County Sheriff's Office.
- 3 Q Are you a sheriff's deputy?
- 4 A Yes, sir, as an investigator.
- 5 Q You're in the investigator department?
- 6 A Yes, sir.
- 7 Q How long you been with the Sheriff's Department?
- 8 A I been with the Sheriff's Office a little about
- 9 six-and-a-half years now.
- 10 Q Were you an investigator back in October '04?
- 11 A No, sir. I was assigned to the patrol division as a
- 12 corporal.
- 13 Q Were you working on October 9th of 2004?
- 14 A Yes, sir.
- 15 Q Would that have been a Saturday?
- 16 A Yes, sir, it would.
- 17 Q Were you riding alone that night or with somebody?
- 18 A I was alone in my patrol car.
- 19 Q Did you get called out to [REDACTED]
- 20 A Yes, sir, I did.
- 21 Q And what was the nature of the call?
- 22 A There was a man laying in the road and was bleeding.
- 23 Q Okay. Refer to State's Exhibit 1. Is this the approximate
- 24 location on [REDACTED] that you responded to?
- 25 A Yes, sir.

SW - L. MAYES - DIRECT

- 1 Q You one of the first responders there?
- 2 A Yes, sir.
- 3 Q Mr. Morton there when you got there?
- 4 A Yes, sir, he was.
- 5 Q And did you speak with him?
- 6 A Just briefly.
- 7 Q Told you what he knew?
- 8 A Yes, sir.
- 9 Q What did you do after that?
- 10 A We secured the scene. EMS pulled up right behind us. As a
- 11 matter of fact, I passed them while I was in route. They
- 12 pulled up right behind us so they come and checked him out,
- 13 checked the victim and called for the coroner. And so we
- 14 secured the scene and notified investigation.
- 15 Q Were you able to find any identification on the person who
- 16 was shot on the side of the road?
- 17 A No, sir, I didn't look for any of that. Once we notified
- 18 investigations we just -- they normally check all that
- 19 stuff.
- 20 Q Okay. But as far as you know at that particular time he
- 21 was unidentified?
- 22 A Correct.
- 23 Q You also working on Sunday the next day?
- 24 A Yes, sir, I was.
- 25 Q And did you get involved in this particular investigation

SW - L. MAYES - DIRECT

- 1 again Sunday evening?
- 2 A Yes, sir.
- 3 Q Tell the judge how you got involved on Sunday evening.
- 4 A I forget about what time it was. I received a call from
- 5 dispatch to go to address and I don't remember the exact
- 6 address on [REDACTED] -- for report of a missing
- 7 person. When I arrived at the residence I met with Ms.
- 8 Linda Coker and her children, and they kind of told me that
- 9 they were -- couple of the children were trying to get in
- 10 touch with their father and was unable to. And it was very
- 11 unlikely for them not to contact him or be able to contact
- 12 him. And I started getting a little bit of a description
- 13 of him, of the, of their father, and it somewhat fit the
- 14 description of the victim on [REDACTED]. So I then
- 15 notified my sergeant which then in turn notified
- 16 investigations and Captain Turner responded out there and
- 17 picked up Ms. Coker.
- 18 Q All right. And when you were out there was Ms. Coker and
- 19 her children, would Chris Gainey have been one of them?
- 20 A Yes.
- 21 Q Okay. And their father was missing, her husband, and had
- 22 been missing since Saturday?
- 23 A I think it was her ex-husband at the time.
- 24 Q Okay.
- 25 A Yes, sir.

SW - R. MACKESSY - DIRECT

1 Q Where did y'all take them?

2 A I stayed at the residence and Captain Turner took her. I
3 don't know where he took her but...

4 Q Did she later identify the body then that night?

5 A From my understanding, yes, sir.

6 Q Okay. Was that -- that would have been Cliff Gainey?

7 A Yes, sir.

8 Q And that's when y'all found out who it was that was on the
9 side of the road on Saturday?

10 A Yes, sir.

11 Q All right. Investigator Mayes, that's all the questions I
12 have for you. If you would answer anything the Defendant
13 may have.

14 MR. CLARK: No questions, Your Honor.

15 THE COURT: Thank you, sir.

16 MR. JACKSON: Your Honor, the State calls Investigator
17 Ray Mackessy.

18 THE DEPUTY CLERK OF COURT: Place your left hand on the
19 Bible, raise your right hand. State your name please.

20 THE WITNESS: Raymond A. Mackessy.

21 WHEREUPON,

22 RAYMOND A. MACKESSY,
23 having been duly sworn by the Deputy Clerk of Court,
24 testified as follows:

25 THE WITNESS: State your full name please.

SW - R. MACKESSY - DIRECT

1 THE DEPUTY CLERK OF COURT: Raymond A. Mackessy,
2 M-A-C-K-E-S-S-Y.

3 DIRECT EXAMINATION

4 BY MR. JACKSON:

5 Q Investigator Mackessy, you live here in Sumter?

6 A Yes, sir.

7 Q And who do you work for?

8 A Sumter County Sheriff's Office.

9 Q How long have you been with the Sheriff's Department?

10 A Nearly 23 years.

11 Q What position do you currently hold?

12 A I'm sergeant with the investigative division, supervisor of
13 crime scene unit.

14 Q How long have you been doing that?

15 A Here in Sumter I've been doing it since 1987 and prior to
16 that I did it for two years with the Baltimore Police
17 Department.

18 Q Any schooling or special training you had other than all
19 these years of experience in crime processing?

20 A Yes, sir. I received training with the Baltimore Police
21 Department, with the Baltimore police crime lab, with the
22 FBI. I received training here in South Carolina with the
23 State Law Enforcement Division Criminal Justice Academy,
24 the FBI, and various private forensic firms.

25 Q Have you testified before as an expert in crime scene

SW - R. MACKESSY - DIRECT

1 processing?

2 A Yes, sir, both in state and federal court.

3 Q And obviously you've been qualified.

4 A Yes, sir.

5 MR. JACKSON: Your Honor, at this time I move him --
6 move his qualifications to be an expert in crime scene
7 processing.

8 THE COURT: Any questions?

9 MR. CLARK: No objection, Your Honor.

10 THE COURT: All right. Without objection.

11 BY MR. JACKSON:

12 Q Investigator Mackessy, were you called out on October
13 the 9th of 2004?

14 A Yes, sir.

15 Q Where did you respond?

16 A I responded to [REDACTED].

17 Q For what purpose?

18 A To process the scene of a murder.

19 Q And [REDACTED], if you would describe this road for
20 us.

21 A [REDACTED] off of [REDACTED]
22 It's a dirt road. And it runs up to, I believe, [REDACTED] I
23 believe it runs up to.

24 Q Dirt road all the way?

25 A Dirt road all the way, yeah.

SW - R. MACKESSY - DIRECT

- 1 Q Any problem getting to the crime scene?
- 2 A No, sir. There was a lot of emergency vehicles there at
- 3 the scene.
- 4 Q All right. But you got to the crime scene?
- 5 A Yes, sir.
- 6 Q And when you got there what did you find?
- 7 A I found the victim Clifton Gainey. He was laying on his
- 8 side on the roadway there, [REDACTED] about 2.2
- 9 miles west of [REDACTED].
- 10 Q Would [REDACTED] be the closest paved road where you
- 11 were?
- 12 A Yes, sir.
- 13 Q And that was over two miles away?
- 14 A Yes, sir.
- 15 Q Go ahead.
- 16 A And I found the victim laying on his side. He was dressed
- 17 in a blue T-shirt, cut off blue jeans and tennis shoes. I
- 18 observed the zipper on the victim's pants was down and then
- 19 I saw bullet wounds in the body.
- 20 Q Did you take some measurements?
- 21 A Yes, sir, I took -- measured and sketched the scene.
- 22 Q All right, you sketched the scene. That would be -- did
- 23 you produce a diagram?
- 24 A Yes, sir.
- 25 Q All right. Let me hand you State's Exhibit 93 and ask you

SW - R. MACKESSY - DIRECT

1 if you can identify this.

2 A Yes, sir. That's the sketch I made.

3 Q Does that portray the measurements that you took?

4 A Yes, sir, that portrays the measurements.

5 Q Location of the body?

6 A Yes, sir.

7 Q Roads, that type thing?

8 A Yes, sir.

9 MR. JACKSON: Your Honor, at this time we would offer
10 this into evidence, State's Exhibit 93.

11 MR. CLARK: No objection, Your Honor.

12 THE COURT: All right, without objection State's 93.

13 (WHEREUPON, State Exhibit No. 93 was admitted into evidence.)

14 MR. JACKSON: Judge, if I may come up the steps here.

15 THE COURT: Yes, sir.

16 MR. JACKSON: This doesn't fit well on the projector.

17 BY MR. JACKSON:

18 Q We'd ask you just, if you would tell the judge what
19 position the body was found and which way it was facing,
20 that type stuff based on your diagram.

21 A Yes, sir. The body was laying on this left side really and
22 the body was found when measurements of the head to the
23 edge of the next page road which was [REDACTED]
24 that's 2.2 miles away. There was two fired Winchester
25 .40-caliber cartridge casings found approximately 4-feet 4

SW - R. MACKESSY - DIRECT

1 inches from the feet of the victim. I designated those as
2 marker one and two. On this side of the road I found some
3 fired impressions which proved later on to be of no
4 evidentiary value, but I did designate these three and four
5 and took photographs of them. The next road would be west
6 of the victim would be [REDACTED] It's a small dirt road
7 that runs into [REDACTED]

8 Q All right. Did you photograph these items that you found.?

9 A Yes, sir.

10 Q All right, sir.

11 MR. JACKSON: Your Honor, we're going to look at
12 State's Exhibit 94-A through -L, photographs of the crime which I
13 believe there's an objection to.

14 THE COURT: All right.

15 MR. CLARK: No objection, Your Honor.

16 MR. JACKSON: No objection.

17 THE COURT: 94-A through -L without objection.

18 (WHEREUPON, State Exhibits Nos. 94-A through 94-L were admitted
19 into evidence.)

20 BY MR. JACKSON:

21 Q Now Investigator Mackessy, if you would tell us what this
22 particular photograph represents. There's a pointer here
23 to the left.

24 A Over here on the left side of the road is the victim. This
25 is looking towards [REDACTED] which is the

SW - R. MACKESSY - DIRECT

1 paved road down here. Of course you can't see it in this
2 photo. Of course you can't at all because the road bends
3 but 2.2 miles down this road is [REDACTED].

4 Over here is marker numbers 1 and 2. They're designated as
5 the fired cartridge casing that I found near the victim.

6 Over here is markers 3 and 4 which were tire impressions
7 that I've already testified were no evidentiary value,
8 later found out to be.

9 Q State's Exhibit 94-B.

10 A 94-B is another view of the victim and the fired cartridge
11 casings 1 and 2. This is looking in the opposite direction
12 looking down towards [REDACTED] and looking in the -- that'd
13 be west, looking west in this direction.

14 Q Okay. If you would go to 94-C please.

15 A 94-C depicts the two fired Winchester .40-caliber cartridge
16 cases which I designated as 1 and 2. It's a close-up view
17 of the two of them.

18 Q 94-D?

19 A 94-D is the -- a shot of the victim and the victim's
20 relationship to the fired cartridge cases.

21 Q All right, what -- can you tell what that is in the
22 victim's pocket, the right pocket there?

23 A The pocket's pulled out as if I'm reaching inside and
24 pulled it out.

25 Q 94-E.

SW - R. MACKESSY - DIRECT

1 MR. CLARK: Your Honor, I object to the last statement
2 the investigator made as if someone reached in and pulled it out
3 as being speculation. That's not opinion, expert opinion he can
4 give.

5 THE COURT: All right. I'm going to overrule. It's
6 just his observation.

7 BY MR. JACKSON:

8 Q This will be 94-E. That's just taken from different
9 direction?

10 A 94-E is taken from different direction.

11 Q And if you'll ---

12 A It shows a zipper, front zipper of the pants pulled down
13 and also the pocket out.

14 Q 94-F?

15 A 94-F is a photo of the upper half of the victim. It also
16 includes the front zipper pulled down and the pants pocket
17 out.

18 Q The wound to the right hand was explained by Doctor Sexton.
19 Would you point out to the judge the approximate location
20 of that wound.

21 A That wound was right in here.

22 Q How about on the hand, where it went by the hand, if you
23 recall.

24 A I don't recall which hand it was, that wound was.

25 Q Okay, 94-G?

SW - R. MACKESSY - DIRECT

1 A 94-G is a photograph of a bullet wound in the back of the
2 victim.

3 Q Okay. 94-H?

4 A 94-H is bullet wound in the chest area.

5 Q That'd be an entrance wound or exit wound?

6 A It's an exit wound I believe in the chest.

7 Q 94-I?

8 A 94-I is a bullet wound in the right jaw of the victim.

9 Q All right. Now when you photographed the shell casing did
10 you also collect them?

11 A Yes, sir.

12 Q Let me hand you State's Exhibit 95 and 96, ask you what
13 these are.

14 A 95 and 96 are the two fired .40-caliber cartridge cases
15 that I found on the road near the victim.

16 Q And did you take those to SLED for ballistics?

17 A Yes, sir. They were sent to SLED.

18 Q Did you find any knives around the victim?

19 A No, sir.

20 Q No knives around his hands or his body or anywhere?

21 A No, sir.

22 Q How about a beer bottle close to the victim that could have
23 used as a weapon?

24 A No, sir.

25 Q Nothing across the road like he'd thrown it at somebody,

SW - R. MACKESSY - DIRECT

- 1 just a beer bottle laying there?
- 2 A No, sir, didn't find anything like that.
- 3 Q Any identification on the victim?
- 4 A No, sir.
- 5 Q And this was on Saturday; is that correct?
- 6 A That's correct.
- 7 Q Who went to the autopsy, Investigator Mackessy?
- 8 A I did.
- 9 Q And when you got to the autopsy what, if anything, did you
- 10 -- of evidentiary value did you learn?
- 11 A That the autopsy revealed a bullet grazing to the right
- 12 hand, entrance and exit hole to the right shoulder,
- 13 entrance and exit wound to the left shoulder. There was --
- 14 of course we conducted gunshot residue testing on the
- 15 victim's hands which I covered at the scene that night
- 16 before he was removed.
- 17 Q Okay. But you found out there were how many gunshot wounds
- 18 once you got the autopsy?
- 19 A I don't have that listed so as to how many.
- 20 Q How many gunshot wounds did you think there were when y'all
- 21 were processing the scene?
- 22 A I thought there was three.
- 23 Q And you thought there were three?
- 24 A When we were at the scene.
- 25 Q And when you got to the autopsy do you remember if that was

SW - R. MACKESSY - DIRECT

1 confirmed or not?

2 A There -- I believe there was three ---

3 Q There were?

4 A ---confirmed at the autopsy.

5 Q Okay. So that meant you needed to go back and look for
6 another shell casing?

7 A Yes, sir.

8 Q All right. Also at the autopsy or at the scene did you
9 recover his wallet, his keys, or any identification?

10 A Not at the crime scene or at the autopsy.

11 Q So when Doctor Sexton or whoever goes through the pockets
12 all that stuff is gone?

13 A Yes, sir, it was gone.

14 Q Now did y'all -- did you return to the scene?

15 A Yes, sir. Myself and Captain Turner returned to the scene
16 the next day, Tuesday the 12th.

17 Q And that was for what purpose?

18 A To search for any bullets or fired cartridge casings left
19 at the scene.

20 Q Were you able to search or did you get called away once you
21 got there?

22 A I got called away to another call and Captain Turner
23 remained at the scene to do the searching and collecting if
24 he found it.

25 Q Investigator Mackessy, that's all I have for you. If you'd

SW - C. GAINNEY - DIRECT

1 answer any questions the Defense attorneys have.

2 THE COURT: You're moving 95 and 96 in?

3 MR. JACKSON: Into evidence, yes, sir.

4 THE COURT: Any objection to 95 and 96, shell casings?

5 MR. CLARK: No, sir, Your Honor.

6 THE COURT: All right.

7 MR. CLARK: No questions of this witness.

8 (WHEREUPON, State Exhibits Nos. 95 and 96 were admitted into
9 evidence.)

10 MR. JACKSON: Judge, did you want to -- I see it's
11 1:00.

12 THE COURT: Yeah, I'd like to break unless you have
13 somebody.

14 MR. JACKSON: That will be fine.

15 THE COURT: All right. Ladies and gentlemen, it's
16 lunch break. We're going -- we'll start back at 2:30.

17 (WHEREUPON, a lunch break was taken and court resumed at 2:40
18 p.m.)

19 MR. JACKSON: Your Honor, the State calls Chris Gainey.

20 THE COURT: All right.

21 THE DEPUTY CLERK OF COURT: Come around please. Place
22 your left hand on the Bible, raise your right hand. State your
23 name please.

24 THE WITNESS: Christopher Dale Gainey.

25 WHEREUPON,

SW - C. GAINNEY - DIRECT

1 CHRISTOPHER DALE GAINNEY,
2 having been duly sworn by the Deputy Clerk of Court,
3 testified as follows:

4 THE DEPUTY CLERK OF COURT: Have a seat up here please.
5 State your full name, spell your last name please.

6 THE WITNESS: Christopher Dale Gainney, last name
7 G-A-I-N-E-Y.

8 DIRECT EXAMINATION

9 BY MR. JACKSON:

10 Q Mr. Gainney, tell the judge how old you are.

11 A 17 years old.

12 Q You've not been through something like this before.

13 A No, sir.

14 Q If you'll just relax, look toward me and the judge and if
15 you'll answer the questions and tell the judge exactly what
16 has gone on. You're 17 now, Chris?

17 A Yes, sir.

18 Q Okay. Where do you live?

19 A [REDACTED] y [REDACTED].

20 Q Is that here in Sumter?

21 A Yes, sir.

22 Q And who you live with?

23 A My mother.

24 Q Your mother? Have you got any sisters that live with you?

25 A I've got two sisters. One of them is out the house.

SW - C. GAINNEY - DIRECT

- 1 Q How about a brother, got a brother?
- 2 A Yes, sir.
- 3 Q Does he live with you?
- 4 A Yes, sir.
- 5 Q All y'all live in that same house?
- 6 A Yes, sir.
- 7 Q All right. Back in October of 2004 where were you living
- 8 then?
- 9 A With my father on Broome Street.
- 10 Q And who was your dad?
- 11 A Clifton Dale Gainney.
- 12 Q Clifton Gainney. And that's the man that was killed in the
- 13 case we're talking about; is that right?
- 14 A Yes, sir.
- 15 Q Who else was living with you and your dad back then, Chris?
- 16 A It was just us two.
- 17 Q Just the two of you, all right. Let me refer you to
- 18 State's Exhibit Number 1 over here. Swing around a little
- 19 bit. You said you and your dad lived on Broome Street?
- 20 A Yes, sir.
- 21 Q And would this be Broome Street right here?
- 22 A Yes, sir.
- 23 Q All right. Tell me what kind of, what kind of home y'all
- 24 lived in.
- 25 A Two bedroom single-wide.

SW - C. GAINES - DIRECT

- 1 Q Two bedroom single-wide mobile home?
- 2 A Yes, sir.
- 3 Q Who had keys to the mobile home?
- 4 A Me and my father.
- 5 Q You and your dad. Did he own it or was he renting it from
- 6 somebody?
- 7 A He was renting it.
- 8 Q Each of you have your own room?
- 9 A Yes, sir.
- 10 Q He had his, you had yours?
- 11 A Yes, sir.
- 12 Q Who kept the neatest room?
- 13 A Me.
- 14 Q You did? How old were you back then, October of 2004?
- 15 A Thirteen.
- 16 Q Thirteen. Were you in school?
- 17 A Yes, sir.
- 18 Q Who got you to school every day?
- 19 A Repeat that question.
- 20 Q Who got you to school?
- 21 A I rode the bus.
- 22 Q You rode the bus? All right. Was your dad driving at the
- 23 time?
- 24 A No, sir.
- 25 Q Why is that?

SW - C. GAINES - DIRECT

- 1 A His license was suspended from DUIs.
- 2 Q So he couldn't even drive?
- 3 A No, sir.
- 4 Q Did he have a car?
- 5 A No, sir.
- 6 Q So it was the two of you then in that mobile home and he
- 7 didn't have a way around and you didn't either. All right.
- 8 If you kept a neater room was his just real un-neat or
- 9 what?
- 10 A His bed was made and everything. It's just a bunch of
- 11 stuff an old roommate left there and boxes everywhere.
- 12 Q But not just torn up and messed up?
- 13 A No, sir. It was just everywhere all over his room though.
- 14 Q Did y'all have an entertainment system?
- 15 A Yes, sir.
- 16 Q And where was that located?
- 17 A In the living room.
- 18 Q In the living room? What all was part of the entertainment
- 19 system?
- 20 A 36 inch Sharpe TV, two DVD players, a VCR, and a surround
- 21 sound.
- 22 Q And the surround sound? All of that was located in the
- 23 living room?
- 24 A Yes, sir.
- 25 Q Did you also have an aquarium?

SW - C. GAINY - DIRECT

- 1 A Yes, sir.
- 2 Q Was it set up yet?
- 3 A No, sir.
- 4 Q Okay. Now the weekend of October 8th, 9th and 10th of 2004
- 5 do you kind of recall that weekend?
- 6 A Yes, sir.
- 7 Q Friday, October the 5th you would have been in school that
- 8 day.
- 9 A Yes, sir.
- 10 Q And when you got off to school that day did you go to your
- 11 mom's house or your dad's house?
- 12 A Going to my mom's.
- 13 Q And tell the judge why, what the plan was for that weekend.
- 14 A Spend time with my mother and some friends and then Sunday
- 15 morning, well, Sunday afternoon go to church.
- 16 Q Did you stay with your mom on Friday?
- 17 A Yes, sir.
- 18 Q And did all the brothers and sisters were there Friday, all
- 19 the kids?
- 20 A Yes, sir.
- 21 Q And on Saturday, what happened on Saturday?
- 22 A My mom wanted to go grocery stopping and she wanted to drop
- 23 me and my little brother off at my father's. That was
- 24 about 4:30, 5:00 and he wasn't there.
- 25 Q He wasn't there. Okay. Did you -- obviously you weren't

SW - C. GAINEY - DIRECT

1 looking for a car because he doesn't have one. Did you go
2 inside and look for him?

3 A Yes, sir.

4 Q And he wasn't there?

5 A No, sir.

6 Q Was the door locked or unlocked?

7 A Locked.

8 Q It was locked. So you had to use your key to get in?

9 A Yes, sir.

10 Q Did you go back check your dad's room to see if he was in
11 there?

12 A Yes, sir.

13 Q Was his room in order?

14 A Yes, sir.

15 Q How about yours?

16 A Yes, sir.

17 Q Anything stolen out of the house at that time?

18 A Not at that time, no.

19 Q No electronics missing?

20 A No, sir.

21 Q Did you come back later that day looking for your dad?

22 A About 7:30, 8:00.

23 Q About 7:30?

24 A Yes, sir.

25 Q All right. Tell the judge what happened then.

SW - C. GAINES - DIRECT

1 A We got out of the vehicle and with smoke, something burning
2 and ---

3 Q Was that 7:30?

4 A About 7:30, 8:00.

5 Q Okay.

6 A And we noticed that the house was on fire and the door was
7 unlocked.

8 Q Let me stop you there, Chris. You came back at 7:30. Did
9 you then come back later at 8:30?

10 A It was about 11:00 me and my sister went back and that's
11 when everyone noticed everything was gone.

12 Q Okay. Before you and your sister went back do you remember
13 going to the house two times or three times?

14 A I thought it was about three times, but I can't remember a
15 third time if we did. I mean, I remember going there but I
16 don't remember nothing.

17 Q You think you went back at 7:30.

18 A Yes, sir.

19 Q And do you think you went back 8:30 as well to call the
20 fire department?

21 A That was around 7, 8:00, 7:30, 8:00 whenever we noticed the
22 fire and everything. It was like we waited a while trying
23 to figure out whether my dad was in there or not.

24 Q Okay. And was he in there?

25 A No, sir.

SW - C. GAINES - DIRECT

- 1 Q Tell the judge again about checking the doorknob.
- 2 A We opened the door and I didn't -- I know I locked the door
- 3 back about -- it was probably about 5:30 the first time I
- 4 locked the door back whenever we went there. And Charles
- 5 opened the door and smoke was flaming out.
- 6 Q Were you able to get inside?
- 7 A No, sir.
- 8 Q And what did y'all do?
- 9 A I went across the street to call the fire department.
- 10 Q Okay. And y'all called the fire department almost
- 11 immediately after y'all realized there was a fire?
- 12 A Yes, sir, about 20 minutes out there.
- 13 Q Did they come put the fire out?
- 14 A Yes, sir.
- 15 Q Would that have been around 8:30 that night?
- 16 A Yes, sir.
- 17 Q Your dad wasn't found there?
- 18 A No, sir.
- 19 Q What did y'all do after the fire department got there?
- 20 A We all went home I believe.
- 21 Q To your mother's place?
- 22 A To my mother's, yeah.
- 23 Q And later then did you go back to the house later?
- 24 A Me and my sister did.
- 25 Q And about what time did y'all go back?

SW - C. GAINES - DIRECT

1 A About 10:30, 11:00.

2 Q And what did you notice when you went back that evening?

3 A All the electronics in the living room was missing.

4 Q Speak a little bit louder.

5 A All of the electronics from out of the living room was
6 missing.

7 Q How about your dad's bedroom, what did it look like?

8 A The bed and mattress was thrown off the bed. Closet door
9 was open, doors were open.

10 Q Looked like somebody had gone through it?

11 A Yes, sir.

12 Q How about the fish tank, was it there?

13 A No, sir.

14 Q Chris, let me show you some photographs. These will be
15 State's Exhibit 99-A through -F. I ask you to identify
16 these and these are with no objection.

17 THE COURT: Any objections to photographs A through F?

18 MR. CLARK: Can we have those photos, quick look. No
19 objection, Your Honor.

20 THE COURT: All right, without objection, that's
21 Numbers State's 99-A through -F.

22 (WHEREUPON, State Exhibits Nos. 99-a through 99-F were admitted
23 into evidence.)

24 BY MR. JACKSON:

25 Q All right. Chris, we're going to show you a photograph,

SW - C. GAINES - DIRECT

- 1 99-A. All right, Chris, tell the judge what this is right
2 here. What's this building?
- 3 A That's mine and my father's house.
- 4 Q All right. And that's where y'all lived back in October of
5 2004?
- 6 A Yes, sir.
- 7 Q And this would have been on Saturday, October the 9th?
- 8 A Yes, sir.
- 9 Q What's this item of furniture out here?
- 10 A That's the couch.
- 11 Q And where is that normally located?
- 12 A In the living room.
- 13 Q What's right inside that door there?
- 14 A Living room.
- 15 Q That's where the living room so the couch would have been
16 in there. All right, is that the door you would have come
17 to and felt the heat on the handle?
- 18 A Yes, sir.
- 19 Q Okay. And that's where y'all first started looking for
20 your dad?
- 21 A Yes, sir.
- 22 Q States' Exhibit 99-B. Whose room is that?
- 23 A That's mine.
- 24 Q Neat and orderly?
- 25 A Yes, sir.

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- 1 Q That's the way you left it on Friday when you went to
2 school?
- 3 A Yes, sir.
- 4 Q And it was still that way when you came back on Saturday?
- 5 A Yes, sir.
- 6 Q And then Saturday evening when you came back?
- 7 A Yes, sir.
- 8 Q All right. 99-Y. Whose room is that?
- 9 A That's my father's room.
- 10 Q And is that the way he normally keeps it?
- 11 A No, sir.
- 12 Q And is that the way it was when you first went there on
13 Saturday afternoon?
- 14 A No, sir.
- 15 Q But is that the way it was when you came back after the
16 fire?
- 17 A Yes, sir.
- 18 Q And what do you notice about that particular room that's
19 different than you saw before?
- 20 A Door is open, closet is open, stuff all over the floor and
21 mattress thrown off the bed.
- 22 Q All right.
- 23 A Sheets off.
- 24 Q 99-D, another picture of your dad's room?
- 25 A (No response.)

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- 1 Q You have to speak 'cause she's got to write down what you
2 say. Is that another photograph of your dad's room?
- 3 A Yes, sir.
- 4 Q All right. 99-E. That'd be what?
- 5 A My father's drawer.
- 6 Q Normally kept like that and opened up?
- 7 A It wasn't that messy.
- 8 Q Okay. 99-F, what's this a picture of?
- 9 A Clock on the kitchen wall.
- 10 Q A clock on the kitchen wall. Now that clock wasn't on the
11 kitchen wall when you went back at 11:00, was it?
- 12 A No, sir.
- 13 Q Where was it?
- 14 A It was on the floor.
- 15 Q Down on the floor. Was that clock operating and working on
16 Friday and Saturday?
- 17 A Yes, sir.
- 18 Q And it was up on the wall when you went there Saturday
19 afternoon?
- 20 A Yes, sir.
- 21 Q But it was on the floor when you came back Saturday night?
- 22 A Yes, sir.
- 23 Q Chris, did you know on Saturday where your dad was?
- 24 A No, sir.
- 25 Q When did y'all first really start worrying about him?

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- 1 A Saturday night.
- 2 Q Saturday night?
- 3 A Over the week we couldn't get in touch with him.
- 4 Q Was it unlikely for him not to be back at home unless y'all
- 5 know where he was?
- 6 A He'd always -- he'd find a way to call us and tell us.
- 7 Q Did you find him on Sunday morning?
- 8 A No, sir.
- 9 Q What did y'all do on Sunday?
- 10 A Sunday afternoon I believe my mother reported to missing
- 11 person.
- 12 Q Missing person to law enforcement?
- 13 A Yes, sir.
- 14 Q And when did y'all ultimately find out about your dad?
- 15 A About two hours, maybe in between 12 and 1:00 in the
- 16 morning.
- 17 Q In the morning? Sunday night and Monday morning?
- 18 A Yes, sir.
- 19 Q And did Deputy Mayes come out to the house and meet with
- 20 y'all?
- 21 A Yes, sir.
- 22 Q And you were there?
- 23 A Yes, sir.
- 24 Q And then he -- and your mom went downtown with Investigator
- 25 Turner?

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- 1 A Yes, sir.
- 2 Q And then she came back and told y'all what had happened?
- 3 A Yes, sir.
- 4 Q Okay. Let me ask you, Chris, do you know Stephen Corey
- 5 Bryant?
- 6 A Yes, sir.
- 7 Q Did you know him back then when you were 13 back in 2004?
- 8 A Yes, sir.
- 9 Q Tell the judge how you knew who he was.
- 10 A He worked with my father and he'd come around every now and
- 11 again, drink a few beers, snuff a little bit.
- 12 Q Did he and your dad fish together?
- 13 A Yes, sir.
- 14 Q Did they do other things together, ride around and stuff
- 15 like that?
- 16 A Um, not that I know of. I mean, maybe whenever I was in
- 17 school or something but I knew they were friends.
- 18 Q They were friends?
- 19 A Yes, sir.
- 20 Q And how long had they been friends?
- 21 A I believe since my father started working with Garris. I
- 22 don't know when that was.
- 23 Q Okay. He would have been familiar with where your dad
- 24 lived and if your dad didn't have a vehicle; is that right?
- 25 A Yes, sir.

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1 Q And would have been familiar with the layout of the house
2 that you and your dad lived in, ---

3 A Yes, sir.

4 Q ---bachelor pad. Now when you went back in that night
5 around 11:00 did you notice anything missing from the
6 living room?

7 A The electronics.

8 Q Tell the judge what electronics were missing.

9 A 36-inch Sharpe TV, VCR, two DVD players, and surround
10 sound, and aquarium.

11 Q Aquarium was gone too?

12 A Yes, sir.

13 Q Were you ever called by taking down to Sumter County
14 Sheriff's Department to look at some equipment that was
15 recovered?

16 A Garris was called and Garris came and picked me up and he
17 took me with him.

18 Q And what did they have down at the Sheriff's Department?

19 A The TV, two DVD players, the VCR, and surround sound.

20 Q And those items were recovered and brought back to y'all?

21 A Yes, sir.

22 Q And those were the ones that came out of the mobile home?

23 A Yes, sir.

24 Q I don't have anymore questions of you right now. If you
25 would, answer any questions that the Defense lawyers have.

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1 MR. CLARK: No questions, Your Honor.

2 THE COURT: Thank you, Mr. Gainey. You may step down.

3 MR. JACKSON: Your Honor, if Mr. Gainey could also be
4 excused.

5 MR. CLARK: No objection, Your Honor.

6 THE COURT: Without objection. Mr. Gainey, you're free
7 to go.

8 MR. JACKSON: Your Honor, the State calls Lieutenant
9 Brian Horton.

10 THE COURT: Lieutenant Horton, if you will please come
11 around to be sworn, sir.

12 THE DEPUTY CLERK OF COURT: Place your left hand on the
13 Bible, raise your right hand. State your name please.

14 THE WITNESS: Brian James Horton.

15 WHEREUPON,

16 BRIAN JAMES HORTON,
17 having been duly sworn by the Deputy Clerk of Court,
18 testified as follows:

19 THE DEPUTY CLERK OF COURT: Have a seat up here please.
20 State your full name, spell your last name please.

21 THE WITNESS: Brian James Horton, H-O-R-T-O-N.

22 DIRECT EXAMINATION

23 BY MR. JACKSON:

24 Q I believe I called you lieutenant and it's supposed to be
25 captain; isn't it?

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- 1 A Yes, sir.
- 2 Q My apologies. Captain Horton, you live here in Sumter?
- 3 A I do, sir.
- 4 Q Where do you work?
- 5 A I work for the Sumter Fire Department.
- 6 Q How long have you been with the fire department?
- 7 A I been a volunteer for 16 years and been full-time employed
- 8 for 13 years with the city of Sumter.
- 9 Q What positions have you held during your full-time
- 10 employment with the Fire Department?
- 11 A As a firefighter up to ranks of training officer, also
- 12 handling all investigations and origin and cause for the
- 13 fire department.
- 14 Q Have you had training, general or specialized, in cause and
- 15 origin of fires?
- 16 A Yes, sir. I have had over six hundred hours of training in
- 17 origin and cause investigation as well as arson
- 18 investigation, over 1600 hours of training in fire incident
- 19 management. I have a bachelor degree in criminal justice
- 20 as well as fixing to finish in a masters degree in public
- 21 administration. I'm also the president of the arson
- 22 association of State South Carolina, and I'm an instructor
- 23 with the fire academy and teach the arson program.
- 24 Q Have you ever been qualified as an expert in cause and
- 25 origin in arson investigation?

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1 A I have, sir.

2 Q And testified in court?

3 A I have, sir.

4 Q At least how many times?

5 A I've been qualified on three occasions in this judicial
6 system, sir.

7 MR. JACKSON: Your Honor, I would ask that he be
8 qualified as an expert for cause and origin of arson
9 investigations.

10 MR. CLARK: Your Honor, we don't have any objection to
11 him being qualified. We would object to any expert opinions that
12 he offers on the basis that we were not provided with written
13 notice of any opinions that he's going to render.

14 THE COURT: Can you help him with that? You intend to
15 go into his expert opinions?

16 MR. JACKSON: I was going to ask his expert opinion if
17 it was accidental or intentional.

18 MR. CLARK: And Your Honor, if we could, there's
19 nothing that we can gleam from the discovery or -- didn't provide
20 us written notice, there's nothing obviously in the discovery
21 that we can gleam that would tell us what his opinion would be.
22 First time I'm hearing this today.

23 MR. JACKSON: I believe we ---

24 THE COURT: Go ahead.

25 MR. JACKSON: Your Honor, I believe we have provided

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1 some information, I'll check, but we certainly been pursuing an
2 arson case since the day it was public ---

3 THE COURT: Well ---

4 MR. JACKSON: ---and he pled and intentionally lighting
5 the fire.

6 THE COURT: I'm going to overrule the objection.
7 Mr. Bryant did, in fact, plead guilty to arson and I'll allow the
8 State to go into the case.

9 MR. JACKSON: Thank you, Your Honor.

10 BY MR. JACKSON:

11 Q Captain Horton, October the 9th, 2004 did the Fire
12 Department get called out to [REDACTED]?

13 A Sumter Fire Department to respond, yes, sir.

14 Q And that was for what purpose?

15 A We were called out at I believe it was 8:40 to a structural
16 fire at that residence.

17 Q 8:40 in the evening?

18 A Yes, sir, on the ninth of October.

19 Q And what time did the Sumter Fire Department arrive?

20 A 8:52, sir.

21 Q And what time did they later depart?

22 A Off the top of my head I do not remember. It was probably
23 about an hour-and-a-half. It would have been around 10:00
24 I think they departed from the scene.

25 Q Okay. Able to put the fire out to your knowledge?

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1 A Yes, sir. They encountered a small fire inside the living
2 room of the residence, extinguished the fire, removed smoke
3 from the residence. No one was home at the time of the
4 fire. Fire department found the front door open when they
5 arrived on the scene.

6 Q On October the 11th -- did you go out there on the 9th.

7 A No, sir, I did not respond on the 9th.

8 Q On October the 11th that was on a Monday; is that correct?

9 A That's correct.

10 Q Did you get involved with an investigation of cause and
11 origin of the fire at [REDACTED]?

12 A Yes, sir, I was called by the Sheriff's Department
13 reference to a fire that occurred there and being that the
14 occupant of the residence had been found deceased and been
15 shot to death.

16 Q Okay. What did you find when you went there on that
17 Monday?

18 A When I got there that Monday I contacted the owner of the
19 property Mr. Varner to contain consent to search the
20 property meaning he was the lawful property owner. I found
21 residence that was secure. The doors were locked in the
22 residence. No apparent exterior damage to the structure.
23 There was a couch in the front yard the Fire Department had
24 removed and took outside and had burnt. I waited on
25 Mr. Varner to meet me there and got a consent to search

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1 before I entered the property.

2 Q Did you find any forced entry?

3 A No, sir, all the doors were secure. There were no pry
4 marks on any doors. All windows were intact. No
5 appearance of any forced entry at all in the residence.

6 Q Outside the first thing was the burnt couch?

7 A Yes, sir. The burnt couch in front of the front porch the
8 fire department placed there.

9 Q And when you went in the front door which room did you come
10 in to?

11 A When you walk in the front door you're in the living room
12 where the couch would have been at the time of the fire.

13 Q Tell the judge what you found in the living room.

14 A Typically when we go to a scene we do a systematic search,
15 walk around exterior of the structure and make our way into
16 the structure. As I entered the living room structure
17 looking for the most heaviest burns to the least burned
18 area we work our way -- I'm sorry.

19 Q Let me get you to slow down. She's typing light speed.

20 A I apologize. We look at the -- for the most heaviest burn
21 area looking where the fire progressed from. And I
22 determined that point the fire had starting in the living
23 room area is where the most amount of damage was done.
24 It's also where the couch was located. That was in the
25 living room structure.

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1 Q What else did you notice about the living room?

2 A There was the blind demarcations in the living room where
3 the smoke had started where the fire came. And also there
4 was an entertainment center in the living room that was
5 appeared to be towards the middle of the floor pulled away
6 from the wall. And what struck me as odd was I found RCA
7 plugs which are like hook up TV and VCRs laying on the
8 floor and DVDs and VCR tapes on this entertainment center
9 with nothing else there. And on that entertainment center
10 on the surface there were -- it was completely soot covered
11 which indicates there was nothing there present at the time
12 of the fire. Had there been like a TV or VCR/DVD player
13 the smoke would actually -- would not have been in that
14 area. You could see where something had been removed so
15 indicated that whatever had been on that entertainment
16 center wasn't there at the time the fire occurred.

17 Q Okay. Were you able to rule out any accidental fires?

18 A Yes, sir. We looked at the area of where the fire started,
19 the actual origin, narrowed it down to the point of which
20 was the couch. There was no electrical activity around the
21 couch that started on the fire. We took samples at that
22 time just to rule out any possible accelerants may be
23 present. The fire appeared to be a slow fire that didn't
24 appear to be accelerated at the time and one of those
25 things we take to rule out. And it appeared that fire was

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1 started on the couch with a open ignition source.

2 Q Explain an open ignition source.

3 A An open ignition source may be a lighter or match where
4 somebody actually takes and lights either a furnishing or
5 material such as maybe some papers or ordinary combustion
6 like clothing on fire.

7 Q And could this have been a fire that started from say a
8 cigarette or a joint smothering in the cushions?

9 A When you look at the entire circumstances of a fire seen
10 much like an investigation you have to weigh in on all
11 information you've gathered. Once we determine the fire
12 appeared to be an accidental fire we look at the time
13 frames. A cigarette fire is something that takes a long
14 period of time to occur which actually ignite and smolder,
15 and the percentage of those are relatively -- it's hard to
16 get a cigarette to start a fire. Much like the fact that
17 if you've ever been in someone's resident who smokes you
18 may see a mark on a piece of furniture or carpet where
19 there's no fire. A cigarette actually has to be encased or
20 insulated for it to radiate heat. The ash of a cigarette
21 is relatively cool compared to the core temperature of a
22 cigarette. When somebody is smoking it of course it burns;
23 when they're not, it's just smoldering. There's nothing on
24 the couch to indicate where a cigarette could have
25 insulated itself. Only was on the couch was seat cushions

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1 that we could find, remaining seat cushions there.

2 Q Let me show you State's Exhibit 99-A. This is 99-A. This
3 would be the mobile home that you found that Monday
4 morning?

5 A Yes, sir, this is the mobile home I responded to.

6 Q Photographs you took?

7 A Yes, sir, I took this photograph.

8 Q And what's this item of furniture here?

9 A This is the couch that was removed by the Fire Department
10 placed in the front yard.

11 Q All right. Let me show you State's Exhibit 100-A, close up
12 of what?

13 A Of the couch, what's left of the cushions and materials on
14 the couch.

15 Q All right. Go to 100-B. What is this area here?

16 A This is a picture from the front door as you enter of the
17 living room area. To your right is where the couch would
18 have been located at.

19 Q Right in this area?

20 A And you see the heaviest area of damage is there located
21 there and the kitchen is beyond the area.

22 Q Okay. 100-C.

23 A That is a close-up picture of where the couch would have
24 been located at. The heavy burn you see there is from
25 where the fire was actually ignited at and were some

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1 drop-down materials of the couch were actually burning.

2 Q 100-D. What's this door right here to begin with?

3 A That's the door I entered through. That was the door the
4 Fire Department found open when the arrived on the scene.

5 Q This area right here of the rug?

6 A Again, that's the area where the heaviest fire damage
7 occurred where the couch is located at.

8 Q And this item here?

9 A This is what I determined to be an entertainment center
10 that was pulled away from the wall. Inside of the room
11 they had DVDs and tapes on top of it.

12 Q What did you notice about the DVDs and the tapes?

13 A They were covered in soot. They were actually there on top
14 of it and there was no DVD player or VCR player or things
15 there.

16 Q All right. State's Exhibit 100-E. That would be a
17 close-up of?

18 A That's a close-up of where the entertainment was, center
19 was located at. The DVD was on the top of the
20 entertainment center and the tapes, and the other parts of
21 where there's nothing at.

22 Q Okay. And it would be soot in these areas?

23 A Yes. The picture doesn't really show but you actually can
24 see the soot all the way around. You look at the corner of
25 the entertainment center you can the soot in there, light

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1 covering soot. Typically if there was like a TV present on
2 top of this you wouldn't see the soot that's there. You
3 can -- if you look at the clean mark you can see where the
4 DVDs up at the top are actually moved around some. That's
5 actually a clean area protecting area of protection and
6 that's what you would see if there was something there at
7 the time the fire occurred.

8 Q So the fact there's soot around these areas in the picture
9 indicates obviously nothing else was there?

10 A No sir, there was nothing at the time of the fire.

11 Q 99-F -- excuse me, 100-F.

12 A These are RCA plugs I found laying on the floor behind the
13 entertainment center against the wall.

14 Q And 100-G?

15 A Another picture of the R -- of the actual entertainment
16 center pulled away from the wall, the RCA plugs laying at
17 the base of the floor.

18 Q Let me get you to look at 99-F. What is that?

19 A This is a picture of the clock I found in the remaining on
20 the floor in the living room where when a fire burns a lot
21 of times you'll see we have -- fire actually has current.
22 It actually when it's burning it starts putting off energy
23 and force and things start falling like pictures and
24 clocks. And this is an indication of where the clock fell
25 off the wall and to me it's an indication when the clock

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1 actually stopped and fell off the wall.

2 Q And it stopped what time?

3 A 8:25 and we were called at 8:40 to the fire scene.

4 Q And what amount of time would you say it passed from when
5 this fire started? Been a long time, short amount of time?

6 A No, sir, this fire just started. This fire had just gotten
7 into the development stage not long before this clock came
8 off the wall.

9 Q Okay. Not long meaning how long?

10 A Within five minutes. At five minutes, five/ten minutes at
11 the most.

12 Q Okay.

13 MR. JACKSON: Your Honor, at this time we would move
14 photograph State's Exhibit 100-A through G into evidence.

15 MR. CLARK: No objection, Your Honor.

16 THE COURT: All right. Without objection State's 100-A
17 through G.

18 (WHEREUPON, State Exhibit No. 100-A was admitted into evidence.)

19 BY MR. JACKSON:

20 Q And Captain Horton, if you would tell us, you think this
21 was an accidental fire?

22 A No, sir. When looking at the scene I actually -- when I
23 walked through the whole building I noticed the back bedroom of
24 the residence had been what I term to be ransacked, beds knocked
25 over, drawers pulled out, the entertainment center being pulled

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1 away from the wall, items appeared to be missing at the time of
2 the fire. The couch where the fire had started at, no indication
3 it was accidental fire. And then while on the scene taking
4 evidence everything I contacted Investigator Turner and advised
5 him of what our findings were and my time frames. And in looking
6 everything after the fact it's not an accidental fire. There was
7 not enough time for a cigarette to shoulder, burn, ignite a couch
8 and cause this fire to happen accidentally.

9 Q So would you say this was an intentional fire?

10 A Yes, this fire again was intentionally set with an open
11 flame.

12 Q Captain, that's all the questions I've got for you. If you
13 would answer anything the Defense has.

14 MR. CLARK: No questions for this witness, Your Honor.

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

16 MR. JACKSON: Your Honor, the State calls Captain Jamie
17 Turner.

18 THE COURT: Captain Turner, you are still under oath,
19 sir.

20 DIRECT EXAMINATION

21 BY MR. JACKSON:

22 Q Captain Turner, where do you work, sir?

23 A Sumter County Sheriff's Office.

24 Q And you live here in Sumter as well?

25 A I do.

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1 Q How long have you been on the Sheriff's Department?

2 A Eighteen years.

3 Q Again, if you would tell us again what your position with
4 the sheriff's department is.

5 A My rank is captain. I'm commander of investigations
6 division.

7 Q And back in 2004 you were what position?

8 A I was sergeant investigation division.

9 Q Now you were involved in the investigation of Mr. Cliff
10 Gainey's murder?

11 A I was.

12 Q And did you actually go out to the scene on [REDACTED]

13 [REDACTED]

14 A I did.

15 Q Were any of your officers able to identify Clifton Gainey
16 as a murder victim on that particular day on Saturday?

17 A No, sir.

18 Q And when were y'all able to identify finally who this
19 person was that had a body later figured out who it was?

20 A It was around a little after 9:30 on Sunday night which
21 would have been the 10th, and I received phone call from
22 Trip Mayes, Deputy Trip Mayes, that said he believed he
23 might know who the person -- might know who the person was
24 they found on [REDACTED]. I came to the address on
25 -- I can't, -- not [REDACTED]. I went to [REDACTED]

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1 [REDACTED] and that's when I met with Linda Thompson and her
2 children, began giving me a description of that, of the
3 person Mr. Gainey. And I then called the coroner Ms. Moore
4 and asked her to meet me, the mother, and that I had
5 somebody that possibly could I.D. the body and I took
6 Ms. Thompson and met with Mr. Moore at Tuomey.

7 Q You said Ms. Linda Thompson. At the time she would have
8 been Ms. Linda Coker?

9 A Linda Coker, I'm sorry.

10 Q All right. So you took them out there?

11 A I took them out there, yes, sir.

12 Q Was she able to identify Cliff?

13 A Yes, sir.

14 Q Okay. You went out to the crime scene on Saturday,
15 correct?

16 A Saturday night, yes, sir.

17 Q And did you go back with Investigator Ray Mackessy at a
18 later time?

19 A On the Tuesday.

20 Q On the Tuesday and that would have been the 12th?

21 A 12th.

22 Q And if you would remind the judge, why did y'all go back on
23 the Tuesday?

24 A Sergeant Mackessy went to the autopsy which was on Monday
25 and he called me from the autopsy and told me that there

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1 was -- they was actually -- he'd been shot three times.
2 And I told him when he come back that we had discussed
3 apparently we -- I knew he'd found two shell casings and
4 apparently he had another shell casing at on [REDACTED]
5 [REDACTED] so of course that happened later in one day afternoon
6 then the Tietjen murder happened and we -- we go respond to
7 that. So the next morning we had decided after lunch me
8 and him would go back out to [REDACTED] with a metal
9 detector to try to locate the other shell casing. He was
10 actually ahead of me. And once we arrived there about the
11 time we were arriving there he was called to go back to the
12 Tietjen house and I told him just go ahead to that Tietjen
13 residence and I would stay out on [REDACTED] [REDACTED] and
14 search for the other shell casing.

15 Q All right. Did you find anything out there on [REDACTED]
16 [REDACTED]

17 A I did. I actually found two items.

18 Q What did you find?

19 A One being a bullet and one being a shell casing.

20 Q And did you photograph those items?

21 A I did.

22 Q And did you collect those items?

23 A I did.

24 Q And did you note them on the diagram?

25 A I did.

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- 1 Q Let me show you, let me find State's Exhibit 93. This is
2 the diagram that was earlier introduced through
3 Investigator Mackessy. If you would show the judge the
4 location on the diagram of the items that you collected on
5 Tuesday.
- 6 A I found the bullet. Actually it was blood still, I mean,
7 left from the initial crime scene in the position of the
8 head. That was the only spot of blood. Found bullet
9 directly in that blood spot approximately inch to an
10 inch-and-a-half deep in the dirt. Then over here, on the
11 three and four, they had actually -- this spot nearby about
12 18-feet away was the shell casing, .40-caliber Winchester
13 shell casing, spent shell casing.
- 14 Q And you collected those items?
- 15 A I did.
- 16 Q Let me show you State's Exhibit 94-J photograph. 94-J.
17 Captain Turner, I'm going to hand you the pointer. That's
18 your vehicle we're looking at?
- 19 A That is.
- 20 Q All right. And if you would walk the judge through that
21 and tell him what you found and show him where you marked
22 it.
- 23 A This is number one. You can actually see where I kind of
24 already uncovered these bullets see what it was. This is
25 where Mr. Gainey's body was located, actual spot of the

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1 bullet and the bullet was located in this spot of blood.

2 Number two is approximately 18-feet away, I think 18-feet 2
3 inches. This is where the shell casing is located, and
4 it's actually 40-degree angle from this location to this
5 location.

6 Q All right, let me show you 94-K. Tell us what that is.

7 A Close-up picture. That's a shell casing that was located
8 across the road from where the body was at.

9 Q And 94-L?

10 A That's a close-up of the bullet which you can see the
11 bullet right here. This is actually a flag, a orange flag
12 with wire. It's just showing this is my labeling. That's
13 the bullet, and it's actually there's still some of the
14 remnants of the blood here.

15 MR. JACKSON: Your Honor, at this time I move these
16 three photographs into evidence.

17 THE COURT: All right.

18 MR. JACKSON: 94-J, 94-K and 94-L.

19 THE COURT: Those are in. Without objection. Those
20 are already in.

21 MR. JACKSON: All right, sir.

22 BY MR. JACKSON:

23 Q Captain Turner, I'm going to hand you State's Exhibit 97.
24 Can you tell what that is?

25 A Manila envelope with the label item two spent casing. It's

SW - J. TURNER - DIRECT

1 got my handwriting on it. This is going to be the spent
2 shell casing from that scene.

3 Q So that's the shell casing that you collected that day?

4 A Yes, sir.

5 Q And item State's Exhibit 98.

6 A This is a bullet, manila envelope with my handwriting on
7 it. This is item one. It's a spent bullet that I
8 collected at the scene.

9 MR. JACKSON: Your Honor, at this time I move State's
10 Exhibit 97 and 98 into evidence.

11 THE COURT: All right, 97 and 98. Any objection?

12 MR. CLARK: No, sir.

13 THE COURT: All right, without objection.

14 (WHEREUPON, State Exhibits Nos. 97 and 98 were admitted into
15 evidence.)

16 BY MR. JACKSON:

17 Q Now at a later time when y'all did search warrant at the
18 home of Stephen Corey Bryant I show you some photographs
19 and ask you if you can identify some items. 16-J, can you
20 tell us what that item is?

21 A That's a picture of the Sharpe television that I saw in
22 Stephen Corey Bryant's house on the, I believe it would be
23 the 12th.

24 Q Okay. Next Exhibit, 16-K.

25 A Sanyo VCR and RCA home entertainment center I also saw in

SW - J. TURNER - DIRECT

1 that house on the 12th.

2 Q State's Exhibit 16-L?

3 A That's the base speaker for surround sound that goes to the
4 RCA home theater system.

5 Q And State's Exhibit 16-M?

6 A That is the fish tank.

7 Q And those were all items recovered at the execution of the
8 search warrant I believe on 13 October of '04.

9 A Yes, sir.

10 Q On Wednesday?

11 A Yes, sir.

12 Q And what became of all those items?

13 A They were identified and returned back to the owner
14 Mr. Varner and his son Chris Gainey came and got them.

15 Q Now did you receive any other property belonging to
16 Mr. Cliff Gainey from Judy Justice or from Stephen Bryant?

17 A Ms. Justice, we inquired about some keys on Mr. Cliff
18 Gainey. She said that when she contacted us and said that
19 on the night, on that Saturday night on the 9th that
20 Mr. Bryant came by there, said he had something to show her
21 and it was the TV, the Sharpe TV and that he bought this
22 for her on what -- and that he came back -- he goes outside
23 and comes back in as soon as he finds a set of keys and
24 hands her the set of keys. Thinking somebody lost the keys
25 she puts them in a drawer. When we start asking about the

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1 keys she remembers this happening and gives us the keys
2 that's ended up being Cliff Gainey's keys that he had on
3 his person that actually was the keys to his house.

4 Q So y'all recovered those and got them back to the Gainey
5 family?

6 A I believe we gave them back to Mr. Varner.

7 Q Mr. Varner. Now, did you recover a video from the Kwik
8 Fare in your investigation of the Clifton Gainey murder?

9 A I did.

10 Q And I've got that as State's Exhibit 101 which I believe is
11 already in without objection. And Your Honor, we would
12 like to play that quickly and let Investigator Turner tell
13 you what it is. Captain Turner, you can tell him what it
14 is before we play it and it doesn't last long.

15 THE COURT: What number is it again?

16 MR. JACKSON: 101, Your Honor.

17 THE WITNESS: Judge, it's a pop-up presentation, a
18 couple of still pictures actually taken off the video tape. Then
19 there's three short videos, one showing Mr. Gainey entering, one
20 showing Mr. Gainey coming out, and Mr. Bryant driving around and
21 Mr. Gainey gets in the truck. And then the other angle actually
22 shows Mr. Gainey coming out and the truck driving out and going
23 down the road.

24 BY MR. JACKSON:

25 Q And this would have been prior to the murder.

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1 A This was the Saturday afternoon.

2 THE COURT: All right. And any objection?

3 MR. CLARK: No, sir, Your Honor, we just would object
4 to his characterization. I think the video would speak for
5 itself.

6 THE COURT: All right. No objection to the video
7 coming in. Is that right, Mr. Clark?

8 MR. CLARK: That's correct, Your Honor.

9 THE COURT: All right. Thank you, sir. Without
10 objection.

11 THE WITNESS: Do you want me to tell what it is?

12 BY MR. JACKSON:

13 Q That would be Mr. Gainey on the left?

14 A That's Mr. Gainey going in. That's Mr. Bryant in his truck
15 on the other side of the gas pumps. That's Mr. Gainey
16 walking out to Mr. Bryant's truck. That's Bryant's truck.
17 Mr. Gainey is on the right-hand side. That's another
18 picture of Mr. Bryant's truck leaving. You can see
19 Mr. Gainey on the right-hand side and Mr. Bryant on the
20 left. This is the video. Mr. Gainey going in the store.
21 Mr. Gainey coming back out the store. Mr. Bryant's truck.
22 You see Mr. Gainey on the right. Mr. Bryant driving and
23 make a right turn heading south on [REDACTED]. And that is a
24 picture, video of Mr. Gainey and Mr. Bryant's truck coming
25 around. That's Mr. Gainey coming out of the store entering the

1 truck. You see Mr. Bryant's truck going by heading south on

2

3 Q Thank you. Lieutenant.

4

5 MR. JACKSON: Your Honor, that's all the questions I
6 have of Captain Turner. If you'd answer any questions Defense
7 may have.

8

9 MR. CLARK: No questions, Your Honor.

10

11 THE COURT: All right. Thank you, sir. You may step
12 down.

13

14 MR. JACKSON: Your Honor, at this time I'd like to
15 publish the statement Stephen Corey Bryant made with relation to
16 the Clifton Gainey murder.

17

18 THE COURT: All right, sir.

19

20 MR. JACKSON: October 13th, 2004, the first statement.

21

22 "Last Saturday I gave Cliff Gainey some dope. It was about one
23 in the afternoon. We hung out for a couple of hours. I was in
24 my truck. I went to his house and bought some stuff he was
25 selling. I bought a TV, VCR, DVD player, and a surround system.

26

27 It was 100 dollars all together. I gave him 75 in cash and some

28

29 dope, marijuana, that's all I'll do. I don't remember shooting

30

31 him. I'd like for the police to put me under hypnosis so I can

32

33 get all this out of me. We were on the couch together, smoked

34

35 some marijuana. I got in my truck and went to McDonalds on

36

37 [REDACTED]. I got a supersized double quarter pounder number

38

39 three. That would have been about 2:30 or 3 in the afternoon.

1 The receipt for the food is probably still in my truck. Then I
2 went home, listened to AOL music, and cleaned the house. I went
3 to Judy's work at the Hollywood Box office. I'll be on their
4 security tapes. That would show the date and time. Followed her
5 home about 11:20; they close at 11 on Saturday. I stayed home
6 all night. We may have gone to Wal-mart together."

7 Your Honor, later on the October 13th of 2004 he gave a
8 second statement. "I remember going to Gainey's house and
9 sitting around smoking dope and drinking beer. I left and went
10 to the store and got some Bud Lite. I came back. I don't
11 remember shooting Gainey but I could have. I don't remember
12 going down a dirt road."

13 Your Honor, the third statement was given October 15
14 and 16 of 2004. "On October 9th Cliff called me and said he
15 needed some dope so I later drove to his house with some weed and
16 we smoked a little and he was drinking. We he ran out of the
17 beer I drove up to the store down the street and got him a 12
18 pack of beer and went back to his house. He started drinking
19 again and smoking weed and as well as I was smoking weed. We was
20 listening to the radio. And I told him I just could have gotten
21 a gun off somebody and I showed the gun to him and he held the
22 gun and he said he would like to shoot it. So I gave him the
23 weed he asked for, for a DVD player, and had -- and had in it --
24 and had a VCR. Then we left and drove down some dirt roads and
25 done some fishing at some different creeks, and he wanted to stop

1 and take a leak so I stopped and took one myself. And as I got
2 done he was saying, damn, I know I must be fucked up, I'm trying
3 to take a belt off that I don't have. And as he was undoing his
4 pants I noticed him getting a knife out of his pants and that's
5 when I shot him. Unsure of how many times I shot him but
6 remember sitting on my knees crying for him because he was a
7 friend. I heard someone say, hey, are you all right and didn't
8 see anyone and I left and went to his house to get his TV and his
9 audio system to that TV shortly after Garris Varner pulled up and
10 asked me what was going on. I told him Cliff got a good job with
11 me and he was moving in with me so he would have a way back and
12 forth to work. I asked Garris to help me load his TV into my
13 truck and he did and then he said to tell Cliff to give me a call
14 and let me know what's going on, and then he left and I left
15 shortly after. I was smoking a cigarette and a joint in his
16 house and possibly the cig or the joint rolled off the end table
17 that I put it out on and possibly caught the couch on fire by
18 pure accident. I did not set the fire to his house. I went home
19 and unloaded everything except the TV. I then went to Box Office
20 Video where Judy worked and told her I had a surprise for her
21 which was the TV. So I stayed with her till closing time and
22 followed her home and we unloaded the TV."

23 Your Honor, the next one was on October the 19th of
24 2004. "October 9, 2004 I also remember now picking Cliff's knife
25 up off the ground. I also remember him having a beer bottle in

1 his left hand getting ready to throw it near the direction I was,
2 and that I went by the 76 car wash and threw his wallet into the
3 trash bin. I forgot I still had his keys. When I got to the
4 video store, which I'm pretty sure I've gotten out of his pocket,
5 made like someone had dropped them out, dropped them at the video
6 store and turned them in there at the store to my girlfriend
7 Judy. Cliff also said, Steve, I wondered what it would be like
8 to get shot because I knew this guy who got shot. He said he
9 remembered seeing a big bright light before his eyes. I said I
10 couldn't tell you. I don't know exactly why I shot Cliff. Only
11 thing I can is his actions brought back a bad memory and I felt
12 scared. The beer bottle, the way he was holding it and the knife
13 the way he concealed it, was like how my father used to. I
14 remember kneeling beside his body and crying for him because he
15 was a good friend of mine."

16 Your Honor, the last one is dated October 21 of 2004.
17 "On October 21st I made contact with Investigator Florence and
18 Sergeant Turner through Officer Bourniak (ph), SLRDC that I
19 needed to with them at some point -- excuse me, on some
20 information. I remember now that he was coming on to me
21 sexually. He was saying while he was taking a leak and many
22 beers and joints that there was a side of him that he never
23 explored before but was curious about. He said it was one of the
24 reasons why him and his wife split because he couldn't stay happy
25 with her on the inside of him sexually. He was saying he always

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1 wondered what it would be like with another man and that he would
2 like to try it with me. And after he stopped taking a leak he
3 turned to me with his penis fully erect saying this is what I'll
4 do to him. I stood there for a moment, then I started cussing
5 him out telling him, you know, I ain't like that. That's when I
6 hurt his feelings; I could tell I did. And he was getting ready
7 to throw the beer bottle at me he had in his left hand, and
8 that's when I started freaking out and the next thing I remember
9 shooting him.

10 Your Honor, the State calls Officer B.R. Stiles.

11 THE COURT: Mr. Stiles, if you'd come up.

12 THE DEPUTY CLERK OF COURT: Place your left hand on the
13 Bible, raise your right hand. State your name please.

14 THE WITNESS: Corporal Benjamin Stiles.

15 WHEREUPON,

16 BENJAMIN R. STILES,
17 having been duly sworn by the Deputy Clerk of Court,
18 testified as follows:

19 THE WITNESS: Benjamin R. Stiles, S-T-I-L-E-S.

20 DIRECT EXAMINATION

21 BY MR. JACKSON:

22 Q Officer Stiles, who do you work with?

23 A The City of Sumter Police Department.

24 Q Live here in Sumter?

25 A Yes, I do.

SW - B. STILES - DIRECT

- 1 Q With your family?
- 2 A Yes, sir.
- 3 Q All right. How long have you been working with the police
- 4 department?
- 5 A Approximately six years.
- 6 Q And what position or duties have you had here with the
- 7 police department?
- 8 A I've been a corporal field training officer. That's pretty
- 9 much it with this department, sir.
- 10 Q What position do you hold now?
- 11 A Corporal and field training officer.
- 12 Q That where you are now?
- 13 A Yeah.
- 14 Q October of 2004 what position were you in?
- 15 A I was a patrol officer.
- 16 Q Duties and responsibilities of a patrol officer would be
- 17 what?
- 18 A Basically answering calls for service, locating suspicious
- 19 activity, arresting criminals, investigating crimes.
- 20 Q All right. Were you working October the 13th of 2004?
- 21 A Yes, I was.
- 22 Q That would have been a Wednesday?
- 23 A Yes, sir.
- 24 Q And what shift would you have been working?
- 25 A I was working midnight shift from 5:45 in the evening till

SW - B. STILES - DIRECT

1 6:00 in the morning.

2 Q Were you working by yourself?

3 A Yes, I was.

4 Q Marked car, unmarked car?

5 A Marked car.

6 Q Did you come in contact with a Mr. Christopher Burgess?

7 A Yes, sir, I did.

8 Q About what time?

9 A It was approximately 1:30 in the morning.

10 Q And where and how did you come in contact with Christopher
11 Burgess?

12 A I was traveling eastbound on [REDACTED] passing coming up
13 on Woodlawn Avenue and I observed Mr. Burgess traveling
14 westbound on a bicycle with no headlight on it carrying a
15 suit case. I stopped him and I got out with him just
16 because of the fact it was a little bit suspicious to be
17 carrying a suitcase riding a bicycle in the middle of the
18 night with a headlight on.

19 Q You talk with him?

20 A Yes, I did. I spoke with him for several minutes,
21 identified him, asked him if I could take a look in his
22 suit case. He allowed me to do that. There was nothing
23 suspicious and I let him go ahead and go about his
24 business.

25 Q How was he dressed?

SW - B. STILES - DIRECT

- 1 A I'm sorry?
- 2 Q Do you remember how he was dressed?
- 3 A No, I do not recall exactly, sir. I believe he was wearing
- 4 jeans, but I don't really recall.
- 5 Q What color was the bike?
- 6 A Actually, sir, he was wearing a white T-shirt and blue
- 7 jeans.
- 8 Q White T-shirt and blue jeans?
- 9 A That's correct.
- 10 Q What color was the bike if you recall?
- 11 A I believe the bicycle was yellow and black.
- 12 Q Yellow and black? When he left which direction of travel
- 13 did he go?
- 14 A He actually left traveling north on Woodlawn at the time.
- 15 And I later came in contact with him approximately about 45
- 16 minutes later further west on [REDACTED] actually in
- 17 [REDACTED] which is off of Wallace Street just to the west
- 18 of [REDACTED] actually just west of [REDACTED]
- 19 Q All right. And tell the judge about that encounter.
- 20 A I had received a call for a domestic dispute. Subject was
- 21 wearing a white T-shirt, blue jeans. Inside that area
- 22 apparently had left from that house. I was currently
- 23 looking for the subject, came across Mr. Burgess again.
- 24 From a distance I didn't correlate the two; however, when I
- 25 came up on him I realized that it was Mr. Burgess. He was

SW - B. STILES - DIRECT

1 still -- still had the bicycle, did not have the suitcase
2 at that time and he was inside the park.

3 Q Okay. Did you talk to him again?

4 A I did talk to him. We actually laughed about the second
5 encounter, and I apologized for stopping him a second time,
6 however, explained what was going on and he was very
7 understanding at that particular situation.

8 Q And that would have been around what time in the morning?

9 A It was approximately 45 minutes later so it was sometime
10 between 2:15 and 2:30.

11 Q Let me get you to refer over here to State's Exhibit 1.
12 We've spent most of our case out here in the county moving
13 in the city. If you'd take this pointer and show the judge
14 where you first encountered Mr. Burgess.

15 A I contacted him approximately right here at Woodlawn
16 Avenue. I spoke to him for a couple of minutes there, and
17 then later on about 45 minutes later right here at Waller
18 Street.

19 Q Let me show you two photographs, State's Exhibit 14-I and
20 14-T.

21 MR. JACKSON: Your Honor, these I believe are already
22 in evidence.

23 BY MR. JACKSON:

24 Q 14-I and 14-T, what do you know that's there in the
25 background?

SW - T. GOVAN - DIRECT

1 A It's a bicycle on top of something that's red.

2 Q All right. Would that yellow bike be similar and
3 consistent with one that you saw Mr. Burgess riding?

4 A Yes, sir, it's very consistent with it.

5 Q And next exhibit please. 14-I, the same bicycle?

6 A Appears to be.

7 Q Okay. That's all the questions I have, Officer Stiles. If
8 you would answer anything the Defense counsel has for you.

9 MR. CLARK: No questions, Your Honor.

10 THE COURT: Thank you, sir, you may step down.

11 MR. JACKSON: Your Honor, the State calls Tawanda
12 Govan.

13 THE COURT: Ms. Govan, please come forward.

14 THE DEPUTY CLERK OF COURT: Place your left hand on the
15 Bible, raise your right hand. State your name please.

16 THE WITNESS: Tawanda (ph) Govan.

17 WHEREUPON,

18 TAWANDA GOVAN,
19 having been duly sworn by the Deputy Clerk of Court,
20 testified as follows:

21 THE DEPUTY CLERK OF COURT: Have a seat up here please,
22 ma'am. State your full name, spell your last name.

23 THE WITNESS: Tawanda Govan, G-O-V-A-N.

24 DIRECT EXAMINATION
25

SW - T. GOVAN - DIRECT

- 1 BY MR. JACKSON:
- 2 Q Good afternoon, Ms. Govan?
- 3 A Hi.
- 4 Q Ms. Govan, you live here in Sumter?
- 5 A Yes, sir.
- 6 Q Where do you live?
- 7 A In Sumter.
- 8 Q In Sumter, all right. Are you working now?
- 9 A No.
- 10 Q You're not? Where did you last work?
- 11 A At Young's Food Store.
- 12 Q And were you -- where were you working back in October of
- 13 2004?
- 14 A The Kangaroo Market Express on [REDACTED]
- 15 [REDACTED]
- 16 Q [REDACTED]. Would that be this Pantry Food
- 17 Store here?
- 18 A Yes.
- 19 Q That's [REDACTED]?
- 20 A Uh-huh.
- 21 Q That's where you were. What was your position there?
- 22 A Cashier.
- 23 Q A cashier?
- 24 A CSR.
- 25 Q You know Christopher Burgess? You know ---

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- 1 A By seeing him---
- 2 Q ---Christopher Burgess?
- 3 A By seeing him around town, that's it, and coming in the
- 4 store.
- 5 Q So you knew him from around town and you knew him coming in
- 6 the store?
- 7 A Yes.
- 8 Q Did you see him often in the store back in those days?
- 9 A Every now and then.
- 10 Q Did you talk to him?
- 11 A Yeah, 'cause he like to flirt.
- 12 Q He liked to flirt. Would he come in any particular time,
- 13 daytime, nighttime?
- 14 A He coming when he feel like it.
- 15 Q What was he usually traveling on?
- 16 A Bicycle.
- 17 Q Did you know Stephen Corey Bryant?
- 18 A Yeah.
- 19 Q How did you know Stephen Corey Bryant?
- 20 A By coming in the store.
- 21 Q Coming in the store. Did he come in there often?
- 22 A Yeah, because he used to ride his motorcycle or he drive
- 23 his truck. I think it's a four door Chevy older model.
- 24 Q Did he speak with you every now and then, talk with you?
- 25 A I was nervous of him. He would speak ---

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- 1 Q Nervous of him? But you knew who he was?
- 2 A Yeah, when he came in the store.
- 3 Q Okay. And why would you have been nervous?
- 4 A Because the way he look.
- 5 Q Back in October of 2004 were you working on October 13th?
- 6 A Yes, I was in there.
- 7 Q What shift were you working?
- 8 A Third.
- 9 Q Anybody else working with you?
- 10 A Yes, somebody -- a girl named Sherelle.
- 11 Q And do you remember---
- 12 A She came in I was still there but I was about to leave.
- 13 Q Okay. And do you remember was that a Wednesday?
- 14 A I believe so.
- 15 Q Do you recall Christopher Burgess coming in the store?
- 16 A Yeah. He came in the store and he was just chitter
- 17 chatting. He got something and he came and lean on the
- 18 counter and started talking to Sherelle.
- 19 Q How about Stephen Corey Bryant, did he come in there?
- 20 A Well, yeah, I see him. When he came in the store I backed
- 21 up and like tried to get out of sight but I seen him. He
- 22 came in the store and they shook hands.
- 23 Q They did? The two of them did?
- 24 A Uh-huh.
- 25 Q All right. Did y'all have a video at that particular

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1 store?

2 A Yeah, we had video. It wasn't working too well but it was
3 working.

4 Q It was working that time? And was some -- them coming in
5 captured on some of that video?

6 A Yeah, I believe so, yeah.

7 Q And you remember, let me ask this, was it raining outside
8 or do you remember?

9 A I believe it was raining because he parked the bicycle
10 beside the window.

11 Q Parked the bicycle beside the window?

12 A Yeah.

13 Q Would that be a little yellow and black bicycle?

14 A I couldn't see the color of the bike.

15 Q But the two of them came to the store that morning?

16 A Not together but Chris was in there first and the other man
17 came in next.

18 Q All right.

19 MR. JACKSON: At this time, Your Honor, we'd like to
20 publish that video.

21 THE COURT: All right. Which one is that?

22 MR. JACKSON: That is State's Exhibit 103.

23 THE COURT: All right.

24 MR. JACKSON: I believe is in evidence without
25 objection.

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1 THE COURT: Yes, sir, it is without objection.

2 BY MR. JACKSON:

3 Q All right, would this be the store, Ms. Govan?

4 A Yes, sir.

5 Q All right. Who's that fellow right there?

6 A Chris.

7 Q All right.

8 MR. JACKSON: Go ahead, Mr. Turner.

9 (Video is published to the Court.)

10 THE WITNESS: And that's the back of the store.

11 BY MR. JACKSON:

12 Q Okay. Who is that?

13 A Brian.

14 INVESTIGATOR TURNER: That's Bryant right there.

15 BY MR. JACKSON:

16 Q Can you see either of them there?

17 A Yeah, Chris standing right there and Bryant at the
18 register.

19 Q Okay. Is that Chris?

20 A No, that's another customer.

21 Q Who is that?

22 A That's him at the counter on our telephone.

23 Q Ma'am?

24 A That's him at the counter on our telephone.

25 Q Chris?

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1 A Yeah.

2 Q Is that what he liked to do, come and use y'all's phone?

3 A When I see him.

4 Q All right. That's all we have on that video. Now what
5 time would that video have been? What was ---

6 A Early in the morning 'cause shift don't change over till
7 about six.

8 Q Okay. Would the time that's on the video be correct?

9 A Yeah.

10 Q That would be 4:20 in the morning, all right. Do you know
11 if they left together or not, or you didn't see?

12 A I seen both of them walk outside together.

13 Q Both of them walk outside together. Ms. Govan, that's all
14 the questions I have of you. If you would answer any
15 questions that the Defense lawyers have.

16 CROSS - EXAMINATION

17 BY MR. CLARK:

18 Q Ms. Govan, just a couple of questions. You said that
19 Mr. Bryant scared you.

20 A Yeah, he made me nervous. When I work in a convenience
21 store I get a mental list of everything someone has on.

22 Q Okay. And you get a mental list of what they have on?

23 A Yeah, just in case because I was nervous of him.

24 Q Okay. What about him made you nervous?

25 A Just the way he look and the way he appeared on his

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1 motorcycle when he came to the store. It just something I
2 didn't felt comfortable around him.

3 Q Was it the way he was acting?

4 A He quiet but I just didn't feel comfortable around him.

5 Q Would you describe his actions as being odd?

6 A He'll come in and get his beer and his basics and his
7 looking around the store and then he'll leave.

8 Q Thank you. That's all I have.

9 MR. JACKSON: That's all I have for Ms. Govan, Your
10 Honor.

11 THE COURT: Thank you. Ms. Govan.

12 THE WITNESS: Okey dokey.

13 MR. JACKSON: Your Honor, the next thing we have to
14 publish is a video of McDonalds, State's Exhibit 102, which I
15 believe is in without objection.

16 BY MR. JACKSON;

17 Q Investigator Turner, y'all also recovered a video from
18 McDonalds?

19 A We did.

20 Q If you'll show that to the judge. What was the date and
21 time of this video?

22 A This is on the 13th around 4 a.m.

23 Q Okay. Is that the correct time, 4:03?

24 A 4:03. Five seconds.

25 Q Okay.

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1 A This is -- this is a still photograph of the back camera.
2 This is Mr. Bryant in his truck coming around. This is a
3 photograph of Mr. Bryant at the window. This is a close-up
4 of the same photograph. This is where the back was -- his
5 T-shirt recovered from him later on that day. This is the
6 actual video. And Judge, it's going to be kind of quick.

7 THE COURT: All right.

8 INVESTIGATOR TURNER: Mr. Bryant's truck is going to
9 come by pretty quick. That's him coming. That's the back camera
10 of him coming in. That's Mr. Bryant at the window and that's it.

11 BY MR. JACKSON:

12 Q Thank you. You -- show the judge walking by where
13 McDonalds is on the State's Exhibit 1.

14 A McDonalds is right here or [REDACTED] right by where the
15 officer saw Mr. Burgess. This is McDonalds. That's the
16 Pantry.

17 Q Thank you.

18 MR. JACKSON: The State calls Tony Jackson.

19 THE DEPUTY CLERK OF COURT: Place your left hand on the
20 Bible, raise your right hand. State your name please.

21 THE WITNESS: Tony Jackson.

22 WHEREUPON,

23 TONY CURTIS JACKSON,
24 having been duly sworn by the Deputy Clerk of Court,
25 testified as follows:

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- 1 THE DEPUTY CLERK OF COURT: Have a seat up here please.
2 State your full name, spell your last name please.
- 3 THE WITNESS: Tony Curtis Jackson, J-A-C-K-S-O-N.
- 4 BY MR. JACKSON:
- 5 Q Good afternoon, Mr. Jackson.
6 A Good afternoon.
7 Q Tony, tell the judge where you live.
8 A I live in Batesburg, South Carolina.
9 Q And that's not in Sumter County?
10 A No, sir.
11 Q All right.
12 A That's Saluda County.
13 Q How far -- how far away?
14 A Oh, I'm not sure.
15 Q How long did it take you to get here today?
16 A Probably about an hour and twenty minutes.
17 Q Okay. What would somebody from Batesburg be doing around
18 our area on October 13th, 2004?
19 A I came down here to do some hunting.
20 Q Okay, do some hunting?
21 A Oh, yeah.
22 Q What kind of hunting?
23 A Deer hunting.
24 Q Were you hunting in the Manchester forest area?
25 A Yes, sir.

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- 1 Q What time did you come over to Sumter County that morning?
- 2 A I left my house between 4 and 4:15 that morning.
- 3 Q Okay.
- 4 A I was here probably around 5:30, between 5:30 and 6.
- 5 Q Tell the judge about your morning's activity.
- 6 A Well, I came in, it was raining. I went down the dirt
- 7 roads, you know, was going in, and it was real, rainy, real
- 8 muddy. Car going up the hill kind of overheated. I pulled
- 9 up on the side of the road waiting on the day light, the
- 10 rain to slack up. My car cooled off, didn't look like the
- 11 rain was going to slack up so I said I'm going to go home.
- 12 And so I started down the dirt road, come back out and hit
- 13 [REDACTED]. And I pulled over where another road crossed into the
- 14 road I was on.
- 15 Q You know the name of the road you were on?
- 16 A I sure don't.
- 17 Q Was it [REDACTED]
- 18 A It could have been. I believe it was [REDACTED]. And got
- 19 some water to pull my car out the mud hole. When I got my
- 20 car to proceed on back to [REDACTED] I was driving down the dirt
- 21 road and I noticed ahead of me, probably two hundred yards,
- 22 I was like, man, somebody done throw trash out. You know,
- 23 it's like out here they're going to come out here and throw
- 24 out trash. The closer I got I noticed that it wasn't
- 25 trash. I got up noticed it was a body on the side of road.

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- 1 I pulled over, slowed down, looked and looked, seen the
2 person was apparently not alive. I then left, trying to
3 stay out of the tire tracks to leave evidence of who was in
4 there, went back to the Battons Store and I called Sumter
5 County Sheriff's Department.
- 6 Q Battons store is what little crossroad of Sumter if you
7 know?
- 8 A I sure don't.
- 9 Q But you went back to Battons grocery, you knew there was a
10 phone there?
- 11 A Yes, sir.
- 12 Q And you called law enforcement?
- 13 A Yes, sir.
- 14 Q Did they come?
- 15 A Yes, sir.
- 16 Q Where did they meet you?
- 17 A They met me at Battons.
- 18 Q And tell the judge what happened after law enforcement
19 showed up.
- 20 A Okay. I road with the officer back to the road where the
21 body was. We parked approximately 70 yards away from the
22 scene. He got out, walked, confirmed that the person was
23 deceased. We -- he secured the scene. I stood back at the
24 other end of the scene where the road came in. Some --
25 another load of them came in. They got out, walked around,

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1 looked at the scene. We waited around for officers from
2 Columbia to come down. And forensics, they came down, took
3 photographs, secured the scene, took photographs of my
4 shoes and tire tracks, tire tracks of the truck or vehicle
5 that was there before me.

6 Q That was your participation in it?

7 A Pretty much that was it.

8 Q Okay. Mr. Jackson, that's all the questions I have with
9 you. If you'd answer any questions these lawyers have.

10 MR. CLARK: No questions, Your Honor.

11 THE COURT: Thank you, Mr. Jackson.

12 MR. JACKSON: Thank you for coming, Mr. Jackson.
13 Your Honor, may he be excused?

14 THE COURT: Any objection?

15 MR. CLARK: No objection.

16 MR. JACKSON: Your Honor, I'm looking at the hour.
17 Would you like to take afternoon break now or?

18 THE COURT: Yeah, that will be good. We'll be in
19 recess about ten minutes.

20 (WHEREUPON, a recess was taken from the proceedings.)

21 THE COURT: Go ahead.

22 MR. JACKSON: Yes, sir, Your Honor, the State calls Rod
23 Green, South Carolina Law Enforcement.

24 THE COURT: Mr. Green, please come around, sir.

25 THE DEPUTY CLERK OF COURT: Place your left hand on the

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1 Bible, raise your right hand. State your name please.

2 THE WITNESS: Rod Green.

3 WHEREUPON,

4 RODERICK GREEN,

5 having been duly sworn by the Deputy Clerk of Court,

6 testified as follows:

7 THE DEPUTY CLERK OF COURT: Have a seat up here please.

8 State your full name, spell your last name please.

9 THE WITNESS: My name is Roderick Green, G-R-E-E-N.

10 DIRECT EXAMINATION

11 BY MR. JACKSON:

12 Q Mr. Green, you're employed with whom?

13 A I'm employed with the South Carolina Law Enforcement
14 Division otherwise called SLED.

15 Q How long you been with SLED?

16 A I've been with SLED over 8-and-a-half years now.

17 Q What positions have you held there?

18 A Beginning at SLED I was in the latent print crime scene
19 division. I'm now a narcotics investigator.

20 Q Have you ever worked crime scene process?

21 A Yes, I have.

22 Q And when were you working crime scene processing?

23 A From 2000 till about 2006 I worked in crime scene
24 processing.

25 Q And what type of training, general or specialization would

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1 you have?

2 A I have a bachelor of science degree from Furman University
3 in Geology. I'm a certified law enforcement officer in
4 South Carolina, and SLED has an internal training program
5 which is a two year program which we concentrated on
6 fingerprints and also on crime scene processing.

7 Q Have you testified as an expert in crime scene processing
8 before?

9 A Yes, I've testified as an expert in State and Federal Court
10 for crime scene.

11 MR. JACKSON: Your Honor, if there's no objection I
12 move to qualify him as an expert in crime scene processing.

13 MR. CLARK: No objection, Your Honor.

14 THE COURT: All right, without objection.

15 BY MR. JACKSON:

16 Q Mr. Green, were you called into Sumter County on
17 October 13th of 2008?

18 A Yes, sir.

19 Q And who was the requested agency?

20 A The requesting agency was Sumter County Sheriff's Office.

21 Q What was the nature of the call that you got?

22 A The initial call was death investigation homicide.

23 Q And did you meet up with Sumter County Sheriff's Department
24 here in Sumter County?

25 A Yes.

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- 1 Q And where did you meet with them?
- 2 A They met us on [REDACTED] and sort of drove us to the
- 3 scene; we followed them.
- 4 Q All right. You said [REDACTED] 1 -- did you say [REDACTED]?
- 5 A [REDACTED]
- 6 Q [REDACTED] up there where we call Stateburg?
- 7 A Yes, I believe that's correct.
- 8 Q And they escorted you into the crime scene?
- 9 A Yes, sir.
- 10 Q About what time did you get there, if you recall?
- 11 A We got there about 10:00 that morning.
- 12 Q All right. Any of them, when they got you there you have
- 13 any idea where you were down in the woods?
- 14 A Not really.
- 15 Q All right. How would you describe that particular area
- 16 where they took you?
- 17 A It was a rural area, just a single dirt road where the
- 18 scene, crime scene was.
- 19 Q See houses and homes down in that area?
- 20 A I don't remember seeing any.
- 21 Q Okay. When you got there was the scene already taped off?
- 22 A Yes, it was.
- 23 Q And were you given a briefing by anybody from the Sheriff's
- 24 Department?
- 25 A Yes. Sergeant Mackessy was there and I believe he briefed

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1 me on what, what they had so far.

2 Q All right. Let me refer you to State's Exhibit Number 1
3 here. If you'll show the judge on this map, where was it
4 that you met up with the Sumter County Sheriff's Department
5 in the very beginning? [REDACTED] believe you said.

6 A Yes, we met right here at [REDACTED]

7 Q And which route did they take you in?

8 A We went south on [REDACTED] turned right here on [REDACTED] and
9 then up towards the crime scene.

10 Q That's on [REDACTED]

11 A Yes, sir.

12 Q All right, sir. When you got to the crime scene tell Judge
13 Russo what you found there.

14 A We found one deceased male laying in the roadway. His head
15 was facing south on the road. There was several shell
16 casings there on the scene across from near his body.
17 There were tire treads there on the road. We also found
18 other miscellaneous items spread across the road in that,
19 in that area.

20 Q How about tell the judge, if you could, which items you
21 found. Do you have that list with you, various things that
22 were around?

23 A Yeah.

24 Q You got your diagram?

25 A Yes.

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1 Q Okay.

2 A We found several -- two .40-caliber casings, fired casings,
3 found a cigarette lighter on the road. There was a wrapper
4 from a cigarette box. There were a pair of Nike Air tennis
5 shoes, found a pepsi bottle, and this is all near the
6 victim. There's also a McDonalds paper bag, and then we
7 also noted several footwear and tire impressions.

8 Q All right. After you went through and looked at everything
9 at the crime scene did you do a diagram?

10 A Yes, sir, we did.

11 Q All right. How about, if you would, this is State's
12 Exhibit 104. Tell the judge what this is.

13 A Yes. This is a diagram that we completed that day
14 outlining everything we found in the location in relation
15 to the body.

16 Q That's a diagram you prepared?

17 A Yes, sir.

18 MR. JACKSON: Your Honor, if that's not in evidence I
19 would offer it into evidence at this time.

20 THE COURT: All right. Item Number 104, any objection?
21 This is the diagram Agent Green prepared.

22 MR. CLARK: No, sir, Your Honor.

23 THE COURT: All right, without objection, 104.

24 (WHEREUPON, State Exhibit No. 104 was admitted into evidence.)

25 BY MR. JACKSON:

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- 1 Q Agent Green, I don't -- normally have a big old blow-up
2 here showing a jury. If you will just lean up over here.
3 Show the judge, talk to him, show him the position of the
4 body in reference to the diagram.
- 5 A Yes, sir. This is pointing north on [REDACTED]. We
6 came in this direction, parked our cars over here, and we
7 walked up to the scene. This is the victim. His head
8 is -- he's laying on the road; his head is pointing south.
9 And right -- all the numbered locations is where we found
10 some of the evidence and how it relates to the body.
- 11 Q Do you recall anything special about the victim's pants?
- 12 A His pants were still buttoned or buckled but the zipper was
13 down.
- 14 Q Zipper was down?
- 15 A Yes.
- 16 Q Did you mark all your items that you got on that diagram?
- 17 A Yes.
- 18 Q Item number one, now what is item number one?
- 19 A Item number one is right here is a .40-caliber casing.
- 20 Q Item number four?
- 21 A Item number four right here is another .40-caliber casing.
- 22 Q Items number five, six, seven, eight, and nine. Show those
23 to the judge.
- 24 A Five was right here, that's the cigarette lighter. Six is
25 here and that's the wrapper from a box of cigarettes.

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1 Seven was here, that's the pair of Nike tennis shoes.

2 Eight right there, that's the pepsi bottle. And the nine

3 is right here is the McDonalds paper bag.

4 Q Did you photograph all these items that you numbered and
5 marked on the diagram?

6 A Yes, we did.

7 Q Also photographed the body of Christopher Burgess and the
8 crime scene?

9 A That's correct.

10 Q I'm going to show you photographs, State's' Exhibit 105-A
11 through Q.

12 MR. JACKSON: Would these be without objection,
13 Mr. Clark?

14 MR. CLARK: What number is that?

15 THE COURT: 105.

16 MR. CLARK: May I see those please, those photos.

17 (Pause.)

18 MR. CLARK: Your Honor, I object to being they are
19 cumulative and that'd be our objection.

20 THE COURT: All right, overruled. I'm going to allow
21 them in.

22 (WHEREUPON, State Exhibits Nos. 105-A through -Q were admitted
23 into evidence.)

24 BY MR. JACKSON:

25 Q All right, State's Exhibit 105-A, you tell the judge what

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1 that is.

2 A This is a photograph of the scene. We are north of the
3 body facing south, and you can see the victim on the
4 left-hand side there of the road.

5 Q State's Exhibit 105-B.

6 A This is a photograph taken where south of the body pointing
7 north, and this is the victim here laying on the side of
8 the road with the evidence markers of some of the items
9 I've already talked about marked.

10 Q State's Exhibit 105-C.

11 A This is evidence marker one. It's that .40-caliber shell
12 casing that we marked, photographed.

13 Q And D.

14 A This is evidence marker -- evidence marker four is a
15 photograph of a shell casing. Can't really see it in this
16 photograph. I believe it's somewhere embedded in that, in
17 that shoe print.

18 Q 105-E?

19 A This is a photograph of the cigarette lighter that we found
20 on the road.

21 Q F?

22 A This is a photograph of the cigarette wrapper from the box
23 that we found.

24 Q G?

25 A This is a photograph of the Nike tennis shoes that was near

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1 the body.

2 Q H?

3 A This is a photograph of the pepsi bottle that was also
4 right next to the body.

5 Q I?

6 A And that's a photograph -- it was marker nine of the
7 McDonalds paper bag that was next to the body.

8 Q J?

9 A This is another photograph of the victim where standing
10 north of the victim pointing the camera south photograph.

11 Q And in the bottom right-hand corner of that what would
12 those items be?

13 A Right here are the Nike Air tennis shoes. And next to the
14 tennis shoes is the pepsi bottle.

15 Q Okay. And that's where they would have been when you found
16 them?

17 A Yes, sir.

18 Q All right, sir. K?

19 A This is another photograph of the victim. We're just
20 photographing his entire body from the side.

21 Q And the bottom right of his foot?

22 A Bottom right is the McDonalds paper bag.

23 Q L?

24 A This is a photograph of the victim from south where we're
25 facing the camera north and just a photograph of him on

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1 that side of the road, right side of the road.

2 Q M?

3 A This is a closer shot of the victim. You see his pants
4 appear to be buttoned and the zipper is down.

5 Q N?

6 A This is a photograph of the victim where showing this wound
7 here to the chest, and at this point we've also bagged his
8 hands.

9 Q Okay. Do you know if that was an entrance or exit wound?

10 A I could look through my notes from the autopsy. I don't
11 remember if that was the entry or exit.

12 Q Doctor Sexton will testify; we'll refer to him. O, 105-O?

13 A This is a shot of the victim's back, and we're just showing
14 it's a through and through wound we believe from the front
15 to the back or whichever direction. It's a through and
16 through wound.

17 Q Okay. 105-P?

18 A This is a close-up shot of the victim's face as he was
19 found laying there.

20 Q And 105-Q?

21 A Another close-up shot and we also -- we're getting a closer
22 shot of this wound here in the face which appeared to be a
23 bullet wound.

24 Q That was -- that's the one when the -- you went to the
25 autopsy, correct?

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1 A Yes, that's correct.

2 Q That's the one where the bullet was actually recovered by
3 Doctor Sexton?

4 A That's correct. They recovered one bullet from his head.

5 Q All right, sir. Now you let me show you State's Exhibit
6 109, and ask you if you can identify these.

7 A Yes. These are the Nike tennis shoes that were found next
8 to the victim.

9 Q They were on the side of the road?

10 A Yes.

11 Q Now were they taken back to the home of Judy Justice?

12 A Yes, they were.

13 Q And did she identify those as her tennis shoes?

14 A Yes, she did.

15 MR. JACKSON: Your Honor, at this time we would move
16 the tennis shoes into evidence if they're not already.

17 THE COURT: All right, they're in without objection.

18 (WHEREUPON, State Exhibit No. 109 was admitted into evidence.)

19 BY MR. JACKSON:

20 Q State's Exhibit 106, if you will tell what else that is
21 please.

22 A This is the fire casing from the photographs I have marked
23 number one.

24 Q That's the shell casing you collected?

25 A Yes, shell casing I collected.

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1 Q And 107?

2 A This is the fire shell casing I also collected that was
3 evidence marker number four in the photos.

4 Q And did you take those items to SLED for ballistics
5 testing?

6 A Yes, they were taken to SLED for ballistics test.

7 MR. JACKSON: Your Honor, I would move 106 and 107 into
8 evidence at this time unless there's an objection.

9 THE COURT: Any objection, Mr. Clark?

10 MR. CLARK: No objection, Your Honor.

11 THE COURT: All right. Items 106 and 107 without
12 objection.

13 (WHEREUPON, State Exhibits Nos. 106 and 107 were admitted into
14 evidence.)

15 BY MR. JACKSON:

16 Q Now you mentioned tire impression. Tell the judge what you
17 found about the tire impressions out there on the road.

18 A The impressions -- one of the impressions on the road we
19 noted there was a huge defect in the tire meaning that the
20 -- there was a large amount of tread missing in one of the
21 tires. And just depending on which way he was driving we
22 knew that tire would have been one of the rear tires simply
23 because, you know, as well assuming that he's driving
24 forward the rear tires are going to cover the tracks of the
25 tires in front. So looking at the impression and guessing

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1 that he was driving in a northerly direction we figured
2 that tire would have been the driver's side rear tire of
3 the vehicle.

4 Q And would the items, the pepsi bottle, the shoes and the
5 McDonalds bag that were on the side of the road, would
6 those be consistent with having fallen out of the passenger
7 door?

8 A Yes.

9 MR. CLARK: Objection, Your Honor, I don't know --
10 well, we withdraw that objection.

11 THE COURT: All right, sir.

12 BY MR. JACKSON:

13 Q Now on the tire comparison did you -- finish telling us
14 about the tire comparison. You made the note that you
15 thought it was a rear tire?

16 A Yes.

17 Q Probably rear left?

18 A That's correct, rear driver's side.

19 Q You photographed and got impressions?

20 A Yes.

21 Q All right. Did you later go back to the residence of
22 Stephen Corey Bryant and look at his tires?

23 A Yes, that's correct.

24 Q Tell the judge what determination you made after doing
25 that.

SW - R. GREEN - DIRECT

1 A Once we arrived at the house we saw the truck. We looked
2 at the rear driver's side tires and it did have a lot of
3 missing tread out of that tire, which was consistent with
4 what we saw on the scene.

5 Q All right. Now you went to the autopsy; is that correct?

6 A Yes.

7 Q And I believe at the autopsy there was a bullet collected
8 by Doctor Sexton?

9 A That's correct.

10 Q And let me show you State's Exhibit 1-T of Doctor Sexton
11 testified -- 110, I'm sorry, the Wal-Mart receipt. Do you
12 remember where that came from?

13 A On the scene as well as at the autopsy we pulled several
14 papers and identification items out of the victim's pocket
15 and this was one of them.

16 Q So that came out of the victim's pocket at the autopsy?

17 A Either at the autopsy or at the scene. I think we -- I
18 think I found some and I think they -- once we got the
19 autopsy they may have found a few more papers deeper in his
20 pockets.

21 Q All right. Again, the casings and the bullet found at the
22 autopsy were taken to SLED for ballistics testing; is that
23 correct?

24 A Yes, that's correct.

25 Q Now back at the residence of Stephen Corey Bryant, State's

1 Exhibit 35 which is in evidence, .40-caliber Smith and
2 Wesson pistol, did you get that gun and also carry it to
3 SLED for ballistics testing?

4 A Yes, I did.

5 MR. JACKSON: I beg the Court's indulgence just a
6 moment.

7 THE COURT: Yes, sir.

8 MR. JACKSON: Investigator Green, that's all I have for
9 you. If you'd answer any questions that the Defense answer
10 attorneys have.

11 MR. CLARK: No questions for this witness, Your Honor.

12 THE COURT: All right, thank you, sir.

13 MR. JACKSON: Your Honor, may he be excused?

14 THE COURT: Any objection to Agent Green being excused?
15 Mr. Clark, any objection to Agent Green being excused?

16 MR. CLARK: Oh, no, sir, Your Honor.

17 THE COURT: You're free to go sir.

18 MR. JACKSON: Your Honor, at this point I would like to
19 publish the statements made by Stephen Corey Bryant in the
20 Christopher Burgess murder.

21 THE COURT: All right, sir.

22 MR. JACKSON: Your Honor, the first one was taken on
23 October 13th of 2004. "Early this morning I could not sleep when
24 I went for a drive. I went to the gas station across the street
25 from the [REDACTED]. There was a

1 black guy in there talking to the cashier. This was about 1 or
2 1:30 in the morning. I was high on marijuana. He wanted a ride.
3 I gave him a ride and he would tell me where to turn. He started
4 smoking something; I think it was crack. He was drunk. I don't
5 like drunks. I don't drink myself. He started getting weird on
6 me like he was getting mad. I was taking him to Wedgefield, and
7 he directed me down some muddy roads and said he needed to take a
8 leak. He got out of the car and he must have knocked Judy's
9 shoes out. When he got out -- Judy is my fiance. When he got
10 out I locked his door. He acted like he was going to come around
11 the truck. I didn't want to get trapped in there so I got out, I
12 shot him. I don't remember how many times. When he fell and I
13 knew he was dead, I put the gun on his chest because it was over.
14 I drove back home."

15 Your Honor, he gave a second statement on October 13th
16 of 2004. "Last night, I went to a convenience store across from
17 the [REDACTED]. There was a black
18 guy in there talking to a cashier who appeared to be intoxicated.
19 This guy asked me for a ride to [REDACTED]. The black guy
20 got in my truck and put his bicycle in the back. We began to
21 ride with the black guy telling me which way to go. He wanted me
22 to go to a street off [REDACTED] to buy drugs, but I wouldn't
23 go. We ended up at a dirt road here in [REDACTED]. We went down
24 to take a leak and I got out on the driver's side and he got out
25 on the passenger side. We went to the bathroom. The black guy

1 then started making demands as to where he wanted me to take him.
2 This pissed me off, and the black guy came around the truck and I
3 thought he was going to take my truck from me. I reached under
4 the seat and grabbed a gun and shot the black man. When the man
5 turned I shot him again. I laid the gun on the black man's
6 chest, looked at him about five minutes, and then thought to
7 myself that it was over. I don't think it was intentional
8 because I felt threatened. This one was not intentional. I may
9 have laid the gun down and picked it back up."

10 Your Honor, he gave a third statement on October 15 and
11 16 of 2004. "On October 13th around 4 a.m I stopped at
12 McDonalds, got me a #3 meal and was heading home. I stopped for
13 gas at the corner pantry and while I was inside paying for it a
14 black guy came on to me like he'd known me for years. He started
15 talking and said he needed a ride to [REDACTED] where he
16 lived. I smelt the beer on his breath but gave him a ride
17 anyway. He then pointed for me to go down the street I didn't
18 know right off [REDACTED] for some dope. I said no. He then started
19 getting mad so he then tells me just to take him to [REDACTED]
20 [REDACTED] So I did take him to [REDACTED] but that wasn't good
21 enough for him so he started telling me I need to go here and
22 there. And we drove around for a while. And he told me to go
23 down this dirt road. He was saying, man, I need some dope. He
24 had me to pull over so he could use the bathroom. I did. And I
25 also got out and took a leak. After I done my business I

SW - H. JONES - DIRECT

1 noticed and started to feel threatened by him. He was
2 approaching me telling me in a threatening tone that I was going
3 to take him here and there; and I said, no, I'm not, if that's
4 the way you're going to act then you can find your own way home.
5 He got mad and started approaching me in a threatening manner
6 like he was getting ready to overcome me and take my truck. I
7 then pulled out the .40-caliber Smith and Wesson and shot him
8 before he could get to me. I'm not sure how many times I shot
9 him, but he was dead when I left him there to go home for the
10 night to be with only one who would bring comfort to me 'cause it
11 was something I needed. It was over for me. It was done with
12 all; it was over."

13 Your Honor, the State calls Mr. Herman Jones.

14 THE DEPUTY CLERK OF COURT: Place your left hand on the
15 Bible, raise your right hand. State your name please.

16 THE WITNESS: Good afternoon.

17 WHEREUPON,

18 HERMAN JONES,

19 having been duly sworn by the Deputy Clerk of Court,
20 testified as follows:

21 THE DEPUTY CLERK OF COURT: Have a seat up here
22 please. State your full name, spell your last name.

23 THE WITNESS: Herman Jones, J-O-N-E-S, last name.

24 DIRECT EXAMINATION
25

SW - H. JONES - DIRECT

1 BY MR. JACKSON:

2 Q Mr. Jones, you live here in Sumter?

3 A Yes, sir.

4 Q Where are you employed?

5 A Sumter Lee Regional Detention Center.

6 Q And for the judge's benefit, that's our county jail?

7 A Yes, it is.

8 Q All right, sir. Let me get you to pivot around a little
9 bit and face us. Thank you very much. How long you been
10 out there?

11 A Approximately nine -- going on 19 years.

12 Q 19 years. Seen a lot of people in and out of there?

13 A Yes, sir.

14 Q What rank do you currently hold?

15 A I'm currently a sergeant.

16 Q And what are some of your duties and responsibilities of a
17 sergeant?

18 A To insure care, custody, and control of all the inmates and
19 supervising officers to make sure they're doing their job.

20 Q Okay. So you got some supervisory authority over the other
21 officers?

22 A Yes, sir.

23 Q Out at Sumter Lee Regional Detention Center, if you would
24 describe the pods and cells and the different levels such
25 as maximum security and others.

SW - H. JONES - DIRECT

- 1 A Would I describe it?
- 2 Q Uh-huh.
- 3 A Well, we have one maximum area -- well, two really. But we
- 4 have approximately 58 cells in this particular area and all
- 5 rooms. No free movement, everybody is behind the door.
- 6 Q No free movement?
- 7 A Right.
- 8 Q Everybody is behind the door?
- 9 A Correct. In this particular area, in lockup.
- 10 Q Okay. How many people in the particular cell?
- 11 A Well, we have one. Some rooms may have two.
- 12 Q Do they have different privileges for each pod, things like
- 13 that?
- 14 A Yes.
- 15 Q What different liberties would you have in maximum security
- 16 compared to something else?
- 17 A Well, maximum security you're not -- you're locked behind
- 18 the doors. In the open pods you have freedom to use the
- 19 phone and television, movement, you know, everything.
- 20 Q Okay. Now back in -- well, let me ask you this, are you
- 21 familiar with Stephen Corey Bryant?
- 22 A Yes, I am.
- 23 Q And was he an inmate at Sumter Lee Regional Detention
- 24 Center back in March of 2005?
- 25 A Yes, he was.

SW - H. JONES - DIRECT

1 Q Did you have some contact with him back in that particular
2 year?

3 A Yes, I did.

4 Q Tell the judge, first of all, how you were familiar with
5 Stephen Corey Bryant?

6 A Well, I was familiar with him when he coming in with the
7 crimes he was supposedly committed. But what happened, I
8 mean, during that time when he was in lockup, he's in the
9 lock-up area, and he requested -- he requested certain
10 things that I wouldn't do for him, you know, like, you
11 know, open the door for this or that. And that's when I
12 was threatened, you know, I was threatened about when I
13 open this door what's going to happen that he might, he's
14 going to go do my f'ing ass, you know.

15 Q Tell the judge, had you had some run-ins with him, some
16 minor run-ins before the incident on the March 9th?

17 A Well, just a couple with several threats. And I -- after
18 those several threats I decided to go ahead and write it up
19 and pursue it because, you know, I didn't know how far it
20 was going to go.

21 Q I mean, the first ones didn't seem to bother you as much?

22 A No, it didn't.

23 Q And then on March the 9th of 2005 describe exactly what
24 happened, who was with you when you went down there to his
25 pod or his cell?

SW - H. JONES - DIRECT

1 A I can't even remember exactly what officer was working with
2 me at that time, but he was asking me to open the door for
3 something; I can't remember what it was.

4 Q Bryant was?

5 A Yes.

6 Q Okay.

7 A I think we had a incident with the fire things that busted
8 and I think water started leaking through the rooms. And I
9 was asked to open -- well, I couldn't open no doors at that
10 time, but I was asked to open the door and I told him I
11 wasn't going to open it and that's when he started with the
12 threats about when the nurse -- you know, we have a nurse
13 come around to give medication. So he told me when the
14 nurse come around to give the medication, when I open his
15 door he was going to come out and go to my fucking ass
16 because he ain't got nothing to lose.

17 Q Okay. And what happened when you came around when the
18 nurse opened the door?

19 A When I came around with the nurse I made sure I had some
20 other officers with me and as she open -- as the door
21 opened he stepped out, looked me in my eyes with his hands
22 balled up.

23 Q Show us. Show us what ---

24 A You know, just stood up and looked at me and said, now
25 what you going to do. So all I did was demanded to him step back

SW - H. JONES - CROSS

1 in his room. I said step back in your room and he like stood
2 there a couple of seconds, you know, looking at me like he was
3 ready to swing. Then about another second or two he just backed
4 up back in the room.

5 Q But you had some other guards there with you?

6 A Yes, I had some assistance with me.

7 Q That one you took seriously?

8 A Yes.

9 Q That one was different than the others?

10 A Oh, yes.

11 Q Is this ---

12 A Others was behind the door. Once that door is open it's a
13 whole different story, you know.

14 Q Okay. And is this the same Stephen Corey Bryant that's
15 sitting here today at Defense table?

16 A Yes, it is.

17 Q Mr. Jones, that's all the questions I have. If you'd
18 answer any questions Defense attorneys may have.

19 MR. CLARK: Mr. Jones, just a couple of questions.

20 CROSS - EXAMINATION

21 BY MR. CLARKE:

22 Q You said that on this particular day the water sprinkler or
23 water ---

24 A Yeah, water sprinkler.

25 Q --was leaking down into his cell?

SW - H. JONES - CROSS

- 1 A Right, a few -- several cells.
- 2 Q Right. And was his one of them though?
- 3 A Yes, it was.
- 4 Q Okay. And he asked you about letting him out?
- 5 A Yes.
- 6 Q Because of that?
- 7 A Yes.
- 8 Q But you couldn't let him out, right?
- 9 A That's correct.
- 10 Q And that's what made him upset?
- 11 A I assume that did.
- 12 Q When he was asking you to let him out he wasn't threatening
- 13 you then, was he?
- 14 A Not at that time, no.
- 15 Q It was only after you couldn't let him out.
- 16 A Yes.
- 17 Q Right. And he never physically attacked you or anything,
- 18 did he?
- 19 A No, he didn't.
- 20 Q All right. Then he didn't have to be restrained or
- 21 anything, did he?
- 22 A No.
- 23 Q And he voluntarily went back into his cell, complied with
- 24 your order, right?
- 25 A Yes, he did.

SW - H. JONES - CROSS

- 1 Q All right. And you've been a correctional officer for 19
2 years, right?
- 3 A Yes.
- 4 Q And is a threat or harsh words by inmates, is that kind of
5 a common thing?
- 6 A Well, not really. I mean, we get threatened all the time.
- 7 Q Right.
- 8 A But then sometimes when it goes too far, you know, when you
9 have someone -- this is -- this wasn't the first time.
- 10 Q Right.
- 11 A And after I realized it seemed serious I'd take, I take
12 action.
- 13 Q Okay. A couple of times you didn't even take it seriously,
14 did you?
- 15 A No, I didn't.
- 16 Q What about this time that made you take it seriously?
- 17 A Because I think if I would have opened that door by myself
18 that something would have happened.
- 19 Q Okay. Just based on the way he, just his actions seemed
20 more aggressive this time?
- 21 A Yes.
- 22 Q Okay. But ultimately nothing did happen, did it?
- 23 A No, nothing happened.
- 24 Q Thank you, sir. And since then did you have any problems
25 after that with him?

SW - H. JONES - CROSS

- 1 A No, I didn't.
- 2 Q Since that day he -- you had encounters with him after that
- 3 though, didn't you?
- 4 A Yes, I have.
- 5 Q Just daily routines that you have to go through and get
- 6 medication and food and stuff like that, right?
- 7 A Yes.
- 8 Q And you didn't have any other problems after that day?
- 9 A No, not since that day.
- 10 Q All right. And since that day at least with you he would,
- 11 would you agree that when he was, with you, that he was a
- 12 model inmate?
- 13 A I wouldn't say a model inmate but I didn't have anymore
- 14 problems.
- 15 Q He complied with all of your requests?
- 16 A Oh, yes, he complied.
- 17 Q Did everything you asked him to do?
- 18 A Yes.
- 19 Q Never threatened you again?
- 20 A No.
- 21 Q He was there for some time after that?
- 22 A Yes, he was.
- 23 Q How long?
- 24 A Approximately another year maybe or so.
- 25 Q And what date did this happen again, do you remember?

SW - L. JUSTICE - DIRECT

1 A It was a couple of three years ago. I think it was '05.

2 I'm not sure exactly the date.

3 Q What's the date?

4 MR. JACKSON: Is that March 9, 2005?

5 THE WITNESS: Yes.

6 BY MR. CLARKE:

7 Q So that was a couple of months after he got there, six
8 months or so after he got there?

9 A Approximately, yes.

10 Q Right. And your belief is he stayed there a couple, at
11 least a year more and he never threatened you again?

12 A No.

13 Q Okay. Thank you, sir.

14 MR. JACKSON: That's all the questions I have for him,
15 Your Honor.

16 Your Honor, we call Mr. Larry Justice.

17 THE COURT: Mr. Justice, come around.

18 THE CLERK OF COURT: Place your left hand on the Bible,
19 raise your right hand. State your name please.

20 THE WITNESS: Larry Justice.

21 WHEREUPON,

22 LARRY ALLEN JUSTICE,

23 having been duly sworn by the Deputy Clerk of Court,
24 testified as follows:

25 THE DEPUTY CLERK OF COURT: Have a seat up here please,

SW - L. JUSTICE - DIRECT

1 sir. State your full name, spell your last name please, sir.

2 THE WITNESS: Larry Allen Justice. Last name, Justice,
3 J-U-S-T-I-C-E.

4 DIRECT EXAMINATION

5 BY MR. JACKSON:

6 Q How are you doing this afternoon, Mr. Justice?

7 A Fine.

8 Q Mr. Justice, you live here in Sumter County?

9 A Yes, I do.

10 Q And tell the judge how long you've lived here?

11 A For 54 years.

12 Q And how old are you?

13 A 56.

14 Q All right. Are you married, sir?

15 A No, sir.

16 Q All right.

17 A Been divorced for 32 years.

18 Q All right. Do you have any children by that marriage?

19 A I have two daughters and six grandchildren.

20 Q Brothers and sisters?

21 A I have five brothers and one sister.

22 Q Who do you live with right now, Mr. Justice?

23 A My mother lives with me. She's 87 years old.

24 Q And you take care of her?

25 A Yes.

SW - L. JUSTICE - DIRECT

- 1 Q All right. Are you working right now, Mr. Justice?
- 2 A No, sir, I'm placed on disability. I -- since the attack I
- 3 suffer brain damage. I can't -- I don't enunciate.
- 4 Q That's fine.
- 5 A Like I used to, I mean, not like you.
- 6 Q Yes, sir.
- 7 A Or the eloquence of Mr. Green, but I -- my memory is slow.
- 8 I had an aneurysm that became inflamed, and I've had two
- 9 brain surgeries also.
- 10 Q All right. Let me stop you and back you up just a little
- 11 bit, okay, and I'll try to ask you some, maybe a few short
- 12 yes/no questions, all right. Did you go on disability
- 13 because of the attack out at the jail?
- 14 A Exactly.
- 15 Q Is that the last time that you worked?
- 16 A Yes, sir.
- 17 Q That was -- would that have been on October 26th of 2005?
- 18 A 2005.
- 19 Q All right. Back then you were working at the Sumter County
- 20 Sumter Lee Regional Detention Center?
- 21 A Exactly.
- 22 Q And were you a guard or an officer out there?
- 23 A Right.
- 24 Q Did you have an occasion on October the 26th to go into a
- 25 pod or a cell where Mr. Stephen Corey Bryant was being

SW - L. JUSTICE - DIRECT

- 1 held?
- 2 A Right. Section C which is maximum security.
- 3 Q Was that all men?
- 4 A All men.
- 5 Q And would you tell the judge would that be one man per room
- 6 or two or three men per room?
- 7 A One man per room.
- 8 Q Did you do checks on people in maximum security?
- 9 A Exactly.
- 10 Q And tell me about the checks that you do on people and the
- 11 inmates that are in maximum security.
- 12 A Daylight hours do check every hour. During the night hours
- 13 after lights out you do a check every 30 minutes.
- 14 Q What's the feeding routine for meals?
- 15 A Feeding routine in Section C we have a panel that
- 16 electronically opens and closes the doors of each cell.
- 17 Officer in the control room, I call the number out of the
- 18 cell and the cell doors open. Of course I open it and feed
- 19 them and then close the cell door back.
- 20 Q What do you ---
- 21 A I actually -- I actually hand them their food.
- 22 Q A tray of food?
- 23 A Yeah.
- 24 Q And then you come back later and you pick it back up?
- 25 A Right, yeah, right. They get -- they get, you know, they,

SW - L. JUSTICE - DIRECT

1 you know, they say 20 minutes but I normally give them, you
2 know, 30, 40 minutes, you know, to eat and all.

3 Q On October 26th were you participating in the feeding
4 routine when you got to Stephen Corey Bryant's cell?

5 A Right.

6 Q And were you giving out food or taking up trays?

7 A I was taking up the trays.

8 Q Tell Judge Russo what happened when you got to Stephen
9 Corey Bryant's cell?

10 A Well, I -- it was actually cell Number 101. I called cell
11 101. The officer in the control room opened the door, and
12 the door opened from the right to the left. And of course,
13 you understand, these are large heavy metal doors. You
14 know, it was just a small strip of glass, you know, that
15 you could see inside. Anyway, I had to bag -- I had gloves
16 on of course and the bag in my hand to get the tray.
17 Actually had sit the tray in front of the door, which a lot
18 of them will do that, you know, and they're not normally
19 near the door when they open it. I opened the door. And
20 as a matter of fact, Mr. Bryant picked the tray up himself
21 which was a little unusual, you know, put the tray in the
22 plastic bag for me. Of course I thanked him. I reached to
23 -- the door was open and I reached back to close the cell
24 door, and when I did is when he come toward me and he
25 sucker-punched me and he hit me in my face. He knocked me

SW - L. JUSTICE - DIRECT

1 approximately 8 to 10-feet against a group of telephones
2 that are out in about approximately the middle of the pod
3 section. See the C pod is a lot smaller than the other pod
4 section. I could see stars. Basically that's all I could
5 see was stars. And when I hit back like this he came at me
6 again, and I believe he pushed me and hit me at the same
7 time because the next thing I knew the back of my head hit
8 the brick wall on the other side of the pod and then I
9 became dazed. I went -- I fell forward and the front of my
10 head, the last thing I remember seeing was a drain. They
11 had the drains drain out when you wash it, but I hit the
12 front of my head there and I was basically out of it. I
13 was just basically knocked out, you know, I didn't know
14 what was going on. Officer in the control room, of course,
15 called for backup, you know. And with backup it doesn't
16 take just a few seconds, less than a minute to take
17 everybody to come in to the cell. The officer in the
18 control room said that he continued kicking me ---

19 MR. CLARK: Objection, Your Honor, to hearsay.

20 THE WITNESS: ---stomping me.

21 MR. CLARK: Objection to the hearsay.

22 THE COURT: Sustained.

23 BY MR. JACKSON:

24 Q You don't remember anything after you went blacked out, hit
25 the drain, right?

SW - L. JUSTICE - DIRECT

1 A No.

2 Q Okay. When did you come to Mr. Justice?

3 A Whenever Sergeant Kelly came in one of the officers said,
4 Mr. Justice, we need to get you out of here right now.
5 That's when she came over and helped me up.

6 Q Okay.

7 A And got me out.

8 Q And where did they take you?

9 A To the nurse's station because we have a 24 hour nurse at
10 the facility.

11 Q And after that did you go on to the hospital?

12 A Stayed in the hospital.

13 Q Would you tell the judge briefly about your injuries. Did
14 you have any injuries to the eye socket?

15 A Broken eye socket.

16 Q Broken eye socket?

17 A Nose, on the inside my nose was broke. Nose on the
18 outside.

19 Q How about the side of the nose?

20 A Crushed this side of my sinus cavities, broke my jaw bone,
21 knocked two teeth loose which I finally lost those. There
22 was another bone -- I forgot the name of it -- on this
23 side. There were a total of seven broken bones in my face,
24 and I had to have total reconstruction on this side to
25 bring my sinus cavities back out and try to get them

SW - L. JUSTICE - DIRECT

1 adjusted back in line, which of course they're still not,
2 still not right, but I mean...

3 Q Mr. Justice, I want to hand you some photographs of State's
4 Exhibit 113-A through -D. I'm going to hand them to you
5 right there, and if you will look at these. And do these
6 accurately portray injuries that you got on your face that
7 day?

8 A Yes, sir. Yes, sir. Yes, sir. These look like -- these
9 are right after the incident.

10 Q Taken down there at the jail before they took you to the
11 hospital?

12 A At the nurse's station. These were actually taken at the
13 nurse's station, yeah, and ---

14 MR. JACKSON: Your Honor, if there's no objection I
15 move those into evidence at this time.

16 THE WITNESS: Yeah, taken at the nurse's station.

17 MR. CLARK: No objection.

18 THE COURT: All right. State's 113, photos A through D
19 without objection.

20 (WHEREUPON, State Exhibits Nos. 113-A through 113-D were admitted
21 into evidence.)

22 THE WITNESS: Of course, I am through ---

23 MR. JACKSON: Hang on just a minute, Mr. Justice.

24 BY MR. JACKSON:

25 Q Mr. Justice, you don't know from your own memory 'cause you

SW - L. JUSTICE - DIRECT

1 were blacked out if someone -- if he continued to beat you,
2 kicking you or not, from your own personal knowledge?

3 A Well, I felt him once or twice kicking me in the sides.

4 Q Okay, before you went out ---

5 A I did feel that, you know, I could feel that.

6 Q Okay, let me ask you a couple of questions about your
7 injuries. I see you're walking with a cane now. Were you
8 walking with a cane before this?

9 A No, sir, I have equilibrium problems.

10 Q This has affected your equilibrium?

11 A Yes, sir. I have to walk with a cane to keep from falling.
12 I fall over, easily fall.

13 Q Are there other complications you're still having as a
14 result of this?

15 A Yes, sir. I have severe migraine headaches. I have an
16 aneurysm I had -- they placed -- they couldn't operate on
17 it like a normal aneurysm and just clamp it off, stop the
18 blood flow because it was in the middle of my brain. They
19 would have to actually take my brain out. But with the --
20 it went in through the groin area. They placed in -- it's
21 a new procedure. They placed 26 stainless steel coils in
22 the aneurysm itself to keep the blood flow from entering
23 that aneurysm, you know. I've -- I'm still under doctor's
24 care and go to the Medical University of South Carolina every six
25 months for tests.

SW - L. JUSTICE - CROSS

1 Q All right. Mr. Justice, that's all the questions I have
2 for you. If you'd answer any questions that the Defense
3 lawyer has.

CROSS-EXAMINATION

4
5 BY MR. CLARK:

6 Q Mr. Justice, I'm really sorry you got injured the way you
7 did. I just have a few questions I need to ask you, okay.
8 As far as your aneurysm is concerned, isn't it true that
9 the aneurysm is unrelated to the injury that you received
10 in the attack? Isn't that true, sir?

11 A That can be prov-- that cannot be proved or disproved.

12 Q Right. So there's no evidence or to any degree of medical
13 certainty that your aneurysm was caused by Mr. Bryant? You
14 would ag---

15 A The only thing I can say is what my doctor said at the
16 Medical University of South Carolina.

17 Q Uh-huh.

18 A That it's rare but it could happen.

19 Q Okay. We got a copy of your medical record from Tuomey
20 Health Care System, and do you deny that those records
21 indicate that your aneurysm is an incidental finding
22 unrelated to the injury? You're not ---

23 A Not by a neurologist.

24 Q Right. But you don't deny that that's what ---

25 A Right, I won't deny it.

SW - L. JUSTICE - CROSS

- 1 Q You won't deny that?
- 2 A But I'm saying ---
- 3 Q You think it might have had some affect on it, right? Let
- 4 me ask it this way.
- 5 A If you blow up a tire on a car and it has a weak spot on
- 6 it.
- 7 Q Right.
- 8 A It's going to become a knot in there. That's like an
- 9 aneurysm.
- 10 Q Right.
- 11 A If your blood pressure goes up, it's the same thing as
- 12 inflating the tire.
- 13 Q Right.
- 14 A My blood pressure is 105 over 65, been like that for years.
- 15 When they take me -- when they took me down to the nurse's
- 16 station, if you'll look at the records my blood pressure
- 17 was over 200, it's over 180.
- 18 Q Right.
- 19 A Now, that's why it could be.
- 20 Q Right.
- 21 A You see what I'm saying. But that it -- the neurologist at
- 22 Medical University of South Carolina says that ---
- 23 Q But I'm not asking you to tell what anybody said.
- 24 A ---it could happen, okay.
- 25 Q Right.

SW - L. JUSTICE - CROSS

1 A It's a possibility.

2 Q Right. But ---

3 A It's rare but it could happen.

4 Q Yeah. But you're not here today saying that there is
5 medical evidence with any certainty that Mr. Bryant caused
6 the aneurysm that you have?

7 A I'm not saying he did.

8 Q Yes, sir.

9 A No, sir, I'm not.

10 Q Right.

11 A I'm saying he -- it's other injuries that are enough to
12 keep me from performing normal duties and working.

13 Q I understand.

14 A Such as memory loss.

15 Q Yes, sir.

16 A And impediments between my speech, equilibrium.

17 Q And do you know how much, how much of the problems are
18 caused by the aneurysm, or you can't say for sure?

19 A Only thing caused by the aneurysm would be migraines.

20 Q Migraines caused by the aneurysm? What about the loss of
21 balance and loss of equilibrium? You know, what affect the
22 aneurysm has?

23 A That's not caused by the aneurysm.

24 Q But the fact of the matter is you had the aneurysm before
25 this incident, right?

SW - L. JUSTICE - CROSS

- 1 A Yes.
- 2 Q And it was discovered when you were being examined for
3 these injuries?
- 4 A That's right.
- 5 Q Is that correct?
- 6 A And ---
- 7 Q Right.
- 8 A It went from the size of a pea to the size of a dime in two
9 weeks.
- 10 Q After the incident?
- 11 A After the incident.
- 12 Q Well now, you don't have any idea what it looked like
13 before the incident, do you?
- 14 A Sir?
- 15 Q You don't -- you didn't know you had it until this incident
16 occurred, right?
- 17 A That's right.
- 18 Q Right. So you don't know what size it was before this
19 incident, do you?
- 20 A I'm going by what the doctor said at Tuomey Hospital.
- 21 Q Okay. But of course you didn't know you had it before this
22 incident, did you?
- 23 A I've already answered that and said no.
- 24 Q Okay, all right. Now Mr. Justice, you started with the
25 detention center in 2003, is that correct? 2004?

SW - L. JUSTICE - CROSS

- 1 A 2003.
- 2 Q 2003. Did you -- you sure it wasn't 2004, September 2004?
- 3 A No, 2003.
- 4 Q It was 2003, all right. So ---
- 5 A To the best of my recollection ---
- 6 Q Go ahead. It wasn't before ---
- 7 A ---because my recollection is not very good.
- 8 Q I understand. It wasn't before 2003 though, was it?
- 9 A No, sir.
- 10 Q All right. And the incident with Mr. Bryant happened on
- 11 2007; is that correct?
- 12 A Not -- I don't know, no.
- 13 Q Let me see; I can check that.
- 14 A That doesn't sound right.
- 15 Q Hold on a second. I'm sorry, 2005, October 25th, 2005?
- 16 How long have you been out of work, sir?
- 17 A Since October of 2005.
- 18 Q Right, okay. So that's when the incident occurred, right?
- 19 A Right.
- 20 Q You hadn't worked since the date of the incident, right?
- 21 A No.
- 22 Q And you believe you started there 2003; is that right?
- 23 A Right.
- 24 Q And Mr. Justice, wouldn't it be fair to say that during
- 25 your two years at the detention center you had a lot of

SW - L. JUSTICE - CROSS

- 1 problems with inmates there, would that be fair to say?
- 2 A No, sir.
- 3 Q Would it be fair to say that you were accused on several
- 4 occasions of improper conduct towards inmates? Would that
- 5 be -- would that be fair to say?
- 6 A I wouldn't know what you mean by unfair conduct.
- 7 Q Okay. Well ---
- 8 A You need to be more specific.
- 9 Q All right, sir.
- 10 A A inmate can write up an officer for a lot of different
- 11 things.
- 12 Q Did you ever have ---
- 13 A They thrive on it.
- 14 Q Okay. Well, isn't it true that you had some anger
- 15 management issues while you were employed there, sir?
- 16 A What?
- 17 Q Anger management issues, that you would yell out and get
- 18 angry frequently while you worked there.
- 19 A Not that I can relate.
- 20 Q Okay. Do you remember an incident where you were
- 21 disciplined back on August 19th of 2004 for yelling at your
- 22 supervisor? Do you remember that incident involving
- 23 Mr. Braxton?
- 24 A Yes, sir.
- 25 Q And I believe you admitted to that incident; didn't you?

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1 A I would admit to that.

2 Q All right. And do you remember on less than a month after
3 that on September 9 of 2004 you were disciplined for
4 calling an inmate stupid?

5 A For act---

6 Q Weren't you disciplined for that?

7 A For acting stupid.

8 Q Okay. And you told him he was acting stupid, right?

9 A Yep.

10 Q And as you sit here today you admit that's a violation of
11 your -- of the policy; isn't it? You're not supposed to
12 tell an inmate he's acting stupid, are you?

13 A If he's acting stupid he's acting stupid.

14 Q Okay.

15 A I can't change that.

16 Q Okay. And I'm not asking you -- I'm not asking you to
17 change that, but what I'm asking about is the policy that
18 you're supposed to follow as a corrections officer.

19 Doesn't that ---

20 A And there's policies that inmates are supposed to follow as
21 inmates.

22 Q Right. Well, I'm not asking you about what they're
23 supposed to do. I'm asking you what you and what you're
24 supposed to do as a corrections officer. Didn't you
25 violate the policy by telling an inmate he was stupid or

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1 acting stupid according to what you're saying? Didn't you
2 violate policy when you did that?

3 A I'll say yes.

4 Q All right. And the reason why the policy is that you're
5 not supposed to make derogatory comments to the inmates is
6 because that could insight them; isn't that the reason
7 behind that policy?

8 A Could be.

9 Q All right. And then on -- even before that in June of '04
10 weren't you disciplined for using foul language towards
11 inmates?

12 A No, sir.

13 Q You ---

14 A Not that I can remember.

15 Q All right.

16 A I've never used a foul language to an inmate, period.

17 Q All right.

18 A I never gave Stephen Bryant any reason whatsoever to attack
19 me the way I was attacked, period.

20 Q But if your personnel file says you were disciplined in
21 June of 2004 for using foul language, you dispute that?

22 A I dispute that.

23 Q All right. Do you ---

24 A Just like I disputed my argument with Sergeant Braxton.

25 Q Okay.

SW - L. JUSTICE - CROSS

- 1 A He had a 12-dollar watch. I have a five hundred dollar
2 watch. He wrote me up for being a minute-and-a-half late
3 to a meeting.
- 4 Q And you got ---
- 5 A And he hollered at me down the hallway with other people
6 present and told me that I needed to buy me another watch.
7 That's what got it started.
- 8 Q Okay.
- 9 A Period.
- 10 Q And ---
- 11 A The end of subject. Then we went to the lieutenant's
12 office and then we were both written up. And the major
13 sided with me, and I went back to work to my normal duties.
- 14 Q So you -- it's your testimony you weren't warned for
15 yelling?
- 16 A I was not late.
- 17 Q I'm not asking you about being late. I'm asking you were
18 you warned for yelling at your supervisor?
- 19 A That's right.
- 20 Q You were warned about that?
- 21 A That's right.
- 22 Q All right. So nobody sided with you on that issue?
- 23 A Didn't have to.
- 24 Q All right.
- 25 A I told him -- you could hear us all over the jail.

SW - L. JUSTICE - CROSS

- 1 Q All right. Now did you -- do you deny, sir, that is
2 Officer Haynesworth your supervisor? Was he one of your
3 supervisors?
- 4 A Yes, sir.
- 5 Q All right. Do you deny that he warned you about using foul
6 language?
- 7 A Yes, sir.
- 8 Q You deny that or do you admit that?
- 9 A I deny that.
- 10 Q And if there's a note in your personnel file you say that's
11 not true?
- 12 A I say that's not true.
- 13 Q Okay, all right. And do you admit that a grievance was
14 filed against you in June of 2004 about a statement you
15 made that you didn't care whether inmates' food was cold or
16 not, that you were going to eat when you got home. You
17 remember that incident?
- 18 A No, sir.
- 19 Q You don't remember the incident? Well, you remember a
20 correctional officer named Dale Morleno? You remember Mr.
21 Dale Morleno?
- 22 A Yes, sir.
- 23 Q Do you remember being cited about using some very foul
24 language about Dale Morleno? Remember that?
- 25 A No, sir.

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1 Q So if there's an entry in your personnel file that you were
2 cited for using some foul language about correctional
3 officer Dale Morleno, you deny that?

4 A I deny it.

5 Q Even if it's in your personnel file?

6 A Even if it's in the personnel file.

7 Q Do you remember ever being accused of it? Are you saying
8 you don't have any memory of that ever happening?

9 A Don't have any memory.

10 Q Okay, all right. And do you remember in October of '04 you
11 being accused of striking an inmate in the head, an inmate
12 George Williams? You remember that?

13 A No, sir.

14 Q So you don't ever remember being accused of that?

15 A No, sir.

16 Q So if there's a record of that in your file where you deny
17 that that ever occurred?

18 A I deny it.

19 Q And you don't remember ever being accused of it?

20 A That's right.

21 Q You don't remember anything about it?

22 A That's right.

23 Q All right. And Mr. Justice, you testified on direct about
24 your memory loss. You talked about how you couldn't
25 remember things, you remember that?

SW - L. JUSTICE - CROSS

1 A Do what?

2 Q You remember testifying about the extent of your memory
3 loss?

4 A That's right.

5 Q All right. But yet you were able to recover, recall
6 specific details about what happened with Officer Braxton
7 and the other incidents. You can recall those details
8 years later, but you testified on direct that you can't
9 remember. Can you explain that how you can remember
10 specific details about what happened with Officer Baxton
11 and what he yelled about the cost of your watch and the
12 cost of his watch but you can't remember other things? How
13 can you explain that, sir?

14 A Don't know. But the brain is a funny thing.

15 Q Right. But you can remember things from years ago; can't
16 you?

17 A Yes, sir, I can have -- you can also have short term memory
18 losses too. I can read my Bible at night, 30 minutes later
19 I can't remember what I read.

20 Q But you can remember what happened three years ago, four
21 years ago, right, in great detail, right?

22 A Some things.

23 Q All right.

24 A Some things I can't.

25 Q So how many times were you accused of inappropriate conduct

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1 towards inmates in the three years that you were -- well,
2 the two years that you were working there, do you remember?

3 A No.

4 Q But you were accused at least once in those two years;
5 weren't you?

6 A Repeat the question.

7 Q Do you remember how many times you were accused of
8 inappropriate conduct towards inmates in the two years that
9 you worked there?

10 A No.

11 Q You don't remember? Thank you, sir, that's all I have.

12 MR. JACKSON: No questions, Mr. Justice.

13 THE COURT: All right. Thank you, Mr. Justice.

14 MR. JACKSON: May he be excused?

15 THE COURT: Any objection?

16 MR. CLARK: No, sir, Your Honor.

17 MR. JACKSON: Judge, I'd like to call one more witness

18 before we close for the day and that's all. The State calls

19 Wanda Grinnell.

20 THE DEPUTY CLERK OF COURT: Place your left hand on the
21 Bible, raise your right. State your full name please.

22 THE WITNESS: Wanda Grinnell.

23 WHEREUPON,

24 WANDA G. GRINNELL,

25 having been duly sworn by the Deputy Clerk of Court,

SW - W. GRINNELL - DIRECT

1 testified as follows:

2 THE DEPUTY CLERK OF COURT: Have a seat up here. State
3 your name please, spell your last name please.

4 THE WITNESS: Wanda D. Grinnell, G-R-I-N-N-E-L-L.

5 BY MR. JACKSON:

6 Q Ms.Grinnell, I apologize for mispronouncing your name. You
7 live here in Sumter?

8 A Yes, sir, I do.

9 Q All right. And are you working right now?

10 A No, sir, I'm not.

11 Q Did you used to work at Sumter Lee Regional Detention
12 Center?

13 A Yes, sir.

14 Q Were you working there on October 26th of 2005?

15 A Yes, sir.

16 Q And what was your position back then?

17 A I was a detention officer.

18 Q A detention officer. How long had you worked there in
19 October?

20 A Say about eight months.

21 Q About eight months?

22 A Yeah.

23 Q All right. On October 26th of 2005 were you working in a
24 control room?

25 A Yeah, I was like a control room. It was a pod, a C- pod.

SW - W. GRINNELL - DIRECT

- 1 Q Okay. And inmates in those pods, are they in maximum
2 security?
- 3 A On the C side?
- 4 Q Uh-huh.
- 5 A Yes.
- 6 Q Okay. And that's where Stephen Corey Bryant would have
7 been?
- 8 A Yes.
- 9 Q So you were working the control room on the C-pod where he
10 was being housed?
- 11 A Well, actually I wasn't working C-pod. I was working
12 A-pod. Mens usually work the C-pod.
- 13 Q But you were there in the control room?
- 14 A I was in the control room.
- 15 Q And could see C-pod as well as A-pod?
- 16 A Yes.
- 17 Q And Mr. Larry Justice was working that day?
- 18 A Yes, sir.
- 19 Q Were y'all the only two that were in there at that time?
- 20 A Yes, sir, and then we would have relievers.
- 21 Q What was Larry Justice doing when he had his encounter with
22 Stephen Corey Bryant, do you remember?
- 23 A He was picking up the trays.
- 24 Q Picking up food trays?
- 25 A Picking up food trays.

SW - W. GRINNELL - DIRECT

- 1 Q All right. When he goes down to pick up the food trays
2 does he have to look back at you and coordinate with you to
3 get a door unlocked?
- 4 A Yes, I could hear him through the intercom.
- 5 Q Okay.
- 6 A Because I would have it on, the PA, and he would tell me
7 when he get to a certain door and then I would open that
8 door for him.
- 9 Q Very good. When he got down to Stephen Corey Bryant's room
10 or his cell did he ask you to open that door?
- 11 A He asked me randomly, repeatedly to open that door, but I
12 was assisting the A-side 'cause they were -- it was a
13 pretty rowdy day and the ladies were, you know, getting out
14 of control as well as the mens so I would tell him, just
15 hold on a minute, I get to him. And when I got to him I
16 opened it and then I was able to observe him -- oh no, on
17 and off when he was picking up the trays.
- 18 Q Do you remember which cell Stephen Corey Bryant was in?
- 19 A He was in cell one, C-1. He was in the very first cell.
- 20 Q Okay. And did Mr. Justice get down to his cell and ask for
21 you to open the door?
- 22 A Yes.
- 23 Q And did you open the door?
- 24 A Yes.
- 25 Q Tell the judge what you saw after you opened the door.

SW - W. GRINNELL - DIRECT

1 A Well, when I looked over I saw Justice at the door picking
2 up the tray. And he was standing there and he was
3 saying -- I heard him say thank you. And then when I
4 looked up he was pushing him over against the wall and I
5 seen him against ---

6 Q Who was pushing who?

7 A Bryant, Stephen Corey Bryant was pushing him, Mr. Justice
8 up against the wall, and then he was working on him pretty
9 good.

10 Q What you mean working on him?

11 A He was fisting him, you know, and then I -- I called for
12 backup and then I didn't get no response so. And I kept my
13 eye on Mr. Justice see what he was able to do because I
14 wasn't able to get to him, you know, so I -- he was curled
15 up, you know, he beat him down. He dropped down to the
16 floor and he was curled up and he was trying to defend
17 himself. And then he was kicking him in the head and
18 anywhere he could get him. You know, he was working on him
19 like he was real angry.

20 Q Okay. So you saw that?

21 A Yes.

22 Q How long did it last?

23 A That's the thing, I was so shaken off I was off terms on
24 the minutes, seconds, you know, that he was beating him. I
25 wasn't, you know, because I was keeping my eye on the

SW - W. GRINNELL - DIRECT

- 1 ladies at the same time but I was continually calling for
2 backup until I got a response over the radio.
- 3 Q You mentioned intercom. You could hear what was going on
4 the inside?
- 5 A Yeah.
- 6 Q Mr. Justice have a radio on him?
- 7 A Yes, he had a radio.
- 8 Q So that's how you could hear, it came over the intercom?
- 9 A That's how he was able to hear me call for backup.
- 10 Q Okay. Well, tell the judge about that. You say you called
11 for backup. How do you do that, what do you do?
- 12 A Well, you just get on the radio and you just, you know,
13 when something happens you just call for backup. You just
14 say, you know, you need backup. And I said we -- out a
15 C-pod, I don't know how I respond to it, you know. I just
16 said that we needed backup, you know. I was letting them
17 know that a officer was being injured and they then came
18 little faster.
- 19 Q So Justice has got a radio on the inside the pod?
- 20 A Yeah. He has to have a radio so.
- 21 Q So you could hear over that radio?
- 22 A Yeah, you can hear over that radio.
- 23 Q Okay. So he and Bryant both would have known you had
24 called?
- 25 A Uh-huh.

SW - W. GRINNELL - DIRECT

- 1 Q Now called first time?
- 2 A I called the first time.
- 3 Q All right. Did you call a second time?
- 4 A I called a second time.
- 5 Q And did you call a third time for backup?
- 6 A I called a third time.
- 7 Q And what did you hear over the radio when you called the
8 third time?
- 9 A I heard Sergeant Kelly respond to me. I heard Major Lane.
10 And I know I heard Major Lane saying what is going on
11 'cause she was way down the hall. She told me she heard
12 the call way down the hall.
- 13 Q Okay. And when you're calling out the first call, second
14 call, and then the third call, it wasn't until the third
15 call you got a response?
- 16 A Yes.
- 17 Q Did Bryant continue to beat Mr. Justice after the first
18 call?
- 19 A No. After -- yeah, after the first call he was still
20 beating him but ---
- 21 Q After second call?
- 22 A Yes.
- 23 Q What happened after the third call? Somebody responded
24 back we're on the way?
- 25 A He went in the room, cell room, and closed the door.

SW - W. GRINNELL - DIRECT

1 Q By himself?

2 A By himself.

3 Q And then the response team got there?

4 A Uh-huh.

5 Q How bad would you -- how bad would you say the beating was,
6 if you were to describe it?

7 A I would say about ten.

8 MR. CLARK: Object. I mean, you know, the photographs
9 are in. Mr. Justice testified. I don't know what this witness
10 can characterize how bad it was.

11 MR. JACKSON: Judge, she watched it. She's testified
12 she watched it.

13 MR. CLARK: But she ---

14 THE COURT: I'm going to overrule. She can testify to
15 what she saw.

16 BY MR. JACKSON:

17 Q Tell us what you saw.

18 A I just basically saw him taking a beating, you know, and it
19 was severe.

20 Q Severe?

21 A Yes.

22 Q Did the medics get there to help?

23 A Did?

24 Q Did the medics get there to help him?

25 A I didn't see any medics. All I saw was Sergeant Kelly help

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1 him up off the floor. I don't know what happened after
2 that. They, you know.

3 Q But at the point after you called for the third time the
4 radio, over the radio, they said they were coming Bryant
5 stopped himself?

6 A Yeah.

7 Q Went back in the cell?

8 A He stopped himself.

9 Q He was not removed by the other officers?

10 A Huh-uh.

11 Q Ms. Reynolds -- Ms. Grinnell, that's all the questions I
12 have.

13 A Okay.

14 Q If you'd answer any questions Mr. Clark has.

15 MR. CLARK: Thank you.

16 CROSS - EXAMINATION

17 BY MR. CLARKE:

18 Q Ms. Grinnell, how far away were you from the incident side?

19 A I was just right in the control room. I wasn't that far
20 away. I could see him through the window.

21 Q Okay. The control room is at the end of the hall, right?

22 A No, it's right at the pod. It's right in the pod.

23 Q So you were actually inside the pod?

24 A Uh-huh.

25 Q Okay. So how far in feet would you estimate this incident

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1 was away, you were away from the incident? Can you point
2 something in the courtroom that might have been.

3 A Probably just about 1, 2-feet.

4 Q So you were right close to it?

5 A Uh-huh.

6 Q Okay. And were you paying attention to Mr. Justice before
7 the incident occurred ---

8 A Uh-huh.

9 Q ---or was your attention divided on other things?

10 A No, I was paying attention.

11 Q Didn't you testify that there was other incidents going on
12 in the women's pod?

13 A Yes, but that was before I opened that door.

14 Q Right.

15 A Because I have to tend to one side before I can assist
16 Justice because I have to keep an eye on him as an officer.

17 Q Right. So before you opened the door you really was not --
18 you were not watching him before you opened the door, were
19 you?

20 A No, because none of the doors were open.

21 Q Right. And you were occupied with the women's sides of
22 that pod?

23 A I was telling them to settle down; I had something else
24 going on.

25 Q So you don't really know what transpired between Justice

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- 1 and Mr. Bryant before you opened the door, do you?
- 2 A Not to what has been said or anything, no.
- 3 Q Right. And you don't know whether Bryant was provoked by
- 4 anything Justice did or not, do you?
- 5 A No, I don't.
- 6 Q And isn't it true that if Mr. Bryant wanted to continue to
- 7 beat on Mr. Justice he could have?
- 8 A That's irrelevant for me to say because I wouldn't know
- 9 that because to me, you know, inmates, you know, they get
- 10 into it with officers and I can't say what they're ---
- 11 Q Well, let me -- maybe you didn't understand my question.
- 12 Let me ask it again to you. Nobody pulled him off from
- 13 Mr. Justice, did they?
- 14 A No.
- 15 Q He just stopped on his own, right?
- 16 A He stopped to me because he heard the call.
- 17 Q Well, I understand that, but nobody physically pulled him
- 18 off, right?
- 19 A No.
- 20 Q Is that correct?
- 21 A That's correct.
- 22 Q All right. So there was nothing or nobody preventing him
- 23 from continuing to beat this man was there?
- 24 A No, it wasn't.
- 25 Q And he did it without any interruption by anyone on the

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- 1 staff, right? He stopped.
- 2 A He just stopped.
- 3 Q Right. And then he stopped. He went back in his cell,
- 4 closed the door.
- 5 A Yes, sir.
- 6 Q Didn't try to take over the pod, did he?
- 7 A No, he didn't.
- 8 Q Right. He didn't attack you either, did he?
- 9 A He couldn't have; I didn't go in.
- 10 Q So what was separating you from the area where he was
- 11 beating on Mr. Justice? Was anything separating you?
- 12 A There is a door in the control room and no one is to leave
- 13 the control room without turning that panel over. I at the
- 14 time wasn't thinking to turn the panel over and assist
- 15 Mr. Justice with Larry Bryant -- Stephen Bryant.
- 16 Q So he couldn't get to you?
- 17 A So he couldn't get to me.
- 18 Q So you were in behind the wall?
- 19 A I was in there controlling the panel.
- 20 Q Okay. And Mr. Bryant didn't use a weapon, did he?
- 21 A I can't say. I didn't see ---
- 22 Q You didn't see him with one?
- 23 A ---him with one. I -- no, I don't know what he could have
- 24 used or ---
- 25 Q How long had you been working there?

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1 A About eight months.

2 Q You had -- so you had just started eight months before
3 this?

4 A Yeah, I hadn't been there a full year.

5 Q Okay. Thank you, Ma'am. That's all I have.

6 MR. JACKSON: No further questions, Your Honor.

7 THE COURT: Thank you, Ma'am. You may step down.

8 MR. JACKSON: Your Honor, that's all we have for today.

9 We'd like to start 9:30 in the morning if that suits you.

10 THE COURT: All right. Court will be in recess till

11 9:30 tomorrow morning.

12 (WHEREUPON, the proceedings were concluded for the day at 5:43
13 p.m. to be reconvened on September 4, 2008 at 9:48 a.m.)

14 THE COURT: All right. Anything we need to take up
15 before we proceed?

16 MR. JACKSON: Nothing from the State, Your Honor.

17 MR. HOWELL: Your Honor, the only thing I would discuss
18 now I guess when I talked to Mr. Jackson earlier this week he
19 anticipated that he would go into Friday. And yesterday we were
20 talking and he said, well, we'll move a little faster than we
21 thought, we'll probably end up today. Now it looks like we may
22 end up a little sooner than that. I don't know if we'll go to
23 the end of the day or not. I've got my witnesses all out of
24 town. We were anticipating starting tomorrow. That's when
25 everybody basically has made their arrangements with work,

1 whatever, to be here even though we served subpoenas on all of
2 them. I just wanted the Court to be aware that if we finished up
3 a little bit early today we would like to start tomorrow. That's
4 when we anticipated our witnesses being here.

5 THE COURT: The Gamecocks play tonight so I got no
6 problem with that. No, and I'm just kidding about that. No,
7 that's not a problem, I understand. We'll go as long as we can
8 go today, and you know, when we reach that stopping point we'll
9 recess and then we'll pick up tomorrow morning.

10 MR. HOWLE: I will tell the Court, Your Honor, we
11 anticipate we start tomorrow morning with our witnesses and we go
12 tomorrow and Monday and then in all likelihood would be concluded
13 Monday with the witnesses.

14 THE COURT: Okay. And Solicitor, I'm correct, the
15 schedule, we, I mean, we're scheduled, we got all week. Next --
16 we're not under any time constraints?

17 MR. JACKSON: That's correct, Your Honor. The
18 courthouse belongs to us next week.

19 THE COURT: Well, we'll do that then. We'll go as long
20 as we -- as long as the State needs to go. If they take the
21 whole day great; if they go into tomorrow that's fine. If we end
22 a little early we don't need to worry. Thank you, Jack.

23 Are you ready, Solicitor?

24 MR. SALEEBY: If it please the Court, we would call
25 Mildred Tietjen to the stand.

SW- M. TIETJEN - DIRECT

1 THE DEPUTY CLERK OF COURT: Place your left hand on the
2 Bible, raise your right hand. State your name please.

3 THE WITNESS: Mildred Tietjen.

4 WHEREUPON,

5 MILDRED CAROL TIETJEN,

6 having been duly sworn by the Deputy Clerk of Court,

7 testified as follows:

8 THE DEPUTY CLERK OF COURT: Have a seat up here please,
9 ma'am. State your full name, spell your last name please.

10 THE WITNESS: Mildred Carol Tietjen, T-I-E-T-J-E-N.

11 DIRECT EXAMINATION

12 BY MR. SALEEBY:

13 Q Ms. Tietjen, if you would please, if you would rotate that
14 chair in this direction so you can be talking towards the
15 judge and me. Ms. Tietjen, where were you born and raised?

16 A I was born in Le Mars, Iowa and raised there. I did live
17 there, had for 19 years.

18 Q How long have you lived in Sumter County?

19 A Since 1984.

20 Q So that ---

21 A 24 years.

22 Q Do you have any children?

23 A I have one daughter.

24 Q And please tell us who that is.

25 A That's Kimberly Dees.

SW- M. TIETJEN - DIRECT

- 1 Q Do you have any grandchildren?
- 2 A I have two grandchildren and three step grandchildren.
- 3 Q Where do you work?
- 4 A I work at Sumter OBGYN.
- 5 Q In what capacity?
- 6 A I'm an LPN, and I'm the phone nurse there.
- 7 Q Phone nurse, which means you do what?
- 8 A People call in for problems or prescriptions of whatever.
- 9 It's put through to my phone and I either answer the phone
- 10 or call them back and help them.
- 11 Q Where do you live?
- 12 A I live at [REDACTED]
- 13 Q And how long have you lived there?
- 14 A 22 years.
- 15 Q With reference here to State's Exhibit Number 1, this being
- 16 [REDACTED]
- 17 [REDACTED], would that be where
- 18 your residence is?
- 19 A Yes.
- 20 Q Ms. Tietjen, how long were you married to your husband
- 21 Willard?
- 22 A Thirty-nine years. It would have been 40 years in April.
- 23 Q And did he have a nickname?
- 24 A T.J..
- 25 Q And what was his primary profession or his first career?

SW- M. TIETJEN - DIRECT

- 1 A His first career was in the air force. He was radar
2 maintenance, then he was cross training in minutions.
- 3 Q Did he retire from the air force?
- 4 A He retired after 23 years.
- 5 Q And what year was that?
- 6 A 1985, July of 1985.
- 7 Q Did he have other jobs after that?
- 8 A He worked at Wally's Hardware here in town. He worked at
9 the Longley Supply for a while here in town, an electrical
10 wholesaler and when he left that he went into the
11 insurance.
- 12 Q Was he active in any organizations?
- 13 A He was active in the masonic lodge, the Scottish right
14 club, and the shrine, the Jamal Shrine in Columbia.
- 15 Q In October of 2004 who was living at your house in
16 [REDACTED]?
- 17 A Just me and my husband.
- 18 Q Did you have any pets?
- 19 A We had three dogs, or I still have three dogs.
- 20 Q Do you still -- are these the same three dogs?
- 21 A Yes.
- 22 Q Would you tell the Court what types of dogs they were?
- 23 A A little 3-pound chihuahua, a 5-pound chihuahua, and then
24 an Australian terrier which is about the size of a cocker
25 spaniel.

SW- M. TIETJEN - DIRECT

1 Q All right. And can you tell us where the smaller dogs, the
2 chihuahuas, ordinarily were kept.

3 A They're house dogs. They're mostly in the house and they
4 -- my husband didn't let the little one walk very much.

5 Q If you had to confine them in the house what part of the
6 house would they be confined to?

7 A In the back bedroom.

8 Q What about the Australian terrier, what was that dog's
9 name?

10 A Sassy.

11 Q And what was that dog's disposition or temperament?

12 A Usually pretty calm, but if somebody, stranger came she was
13 pretty noisy and looked aggressive anyway.

14 Q Your husband was how old in October of 2004?

15 A 62.

16 Q Please tell the Court what medical problems he suffered
17 from then.

18 A He had been diabetic for quite some time. And then he
19 developed some heart problems. We didn't really know at
20 first. He would just pass out for no reason, and they
21 diagnosed him with sick sinus syndrome and that meant that
22 his heart would slow way down sometimes and then other
23 times it would speed up very fast. And he couldn't
24 tolerate the medicine for the fast heart rate, but they did
25 put a pacemaker in to control the slow heart rate so. And

SW- M. TIETJEN - DIRECT

1 he was also in the early stages of Alzheimers and the
2 medicine was keeping that kind of under control.

3 Q What kind of impact was the early stages of Alzheimers
4 having on him?

5 A He didn't always remember things. We were a house of
6 notes. We left notes all over the house to kind of remind
7 him. And if any phone calls come in he always wrote them
8 down so.

9 Q What was the cumulative impact of his diabetes, this
10 syndrome you've referred to and his Alzheimers, could he
11 work?

12 A No, he was on disabilities. He couldn't work and the
13 diabetus kind of left him with neuropathy. He had trouble
14 walking a lot; he walked with a cane. And even though he
15 was a very large man he's tall and he was very weak. At
16 times I felt like if I bumped into him I'd knock him over
17 if he didn't have a came.

18 Q He didn't work. He walked with a cane. Did he drive?

19 A Rarely. And he only drove if I was with him and he was
20 having a very good day.

21 Q Did he have a truck?

22 A Yes.

23 Q Was it operational?

24 A No.

25 Q What did he do most of his days while you went off to work?

SW- M. TIETJEN - DIRECT

1 A He was at home all most of the time unless somebody come
2 by. He had friends that would come and see him a couple of
3 times a week. He'd visit with people on the phone. He had
4 a computer. He would be on that some. He'd watch TV. He
5 napped every afternoon but he always had my supper ready
6 for me when I came home.

7 Q Was he a smoker?

8 A He was, smoked cigarettes.

9 Q Was he supposed to smoke?

10 A No.

11 Q If he did smoke what did he smoke?

12 A I'm not sure 'cause he usually didn't smoke in front of me.
13 He would smoke outside if I was home, and I would know it
14 just because I'd smell it on his breath.

15 Q Would you know what kind of cigarettes he kept if he kept
16 them?

17 A No I don't.

18 Q Did he smoke cigars?

19 A No. We had some from a baby shower, you know, people
20 having babies. We had them at the house but he never
21 smoked a cigar.

22 Q Ms. Tietjen, let me call your attention to a few days'
23 activities prior to Friday, October the 8th, and ask you if
24 any activity or actions of your dog, your terrier Sassy,
25 caused you and your husband to do anything.

SW- M. TIETJEN - DIRECT

1 A I came home from work on Friday and I wasn't home long, and
2 our terrier who alerts us that anybody around strange
3 started barking and usually if it was just some little
4 thing in the yard I could calm her down. But she wouldn't
5 settle down; she just kept barking. And I couldn't get her
6 to come in off the deck. She -- like there was something
7 out there. We thought it was hunters 'cause she just
8 wouldn't settle; she just kept barking. And that happened
9 a couple of evenings, and I would say to her, is there a
10 prowler out here, you know.

11 Q A what?

12 A I'd ask her, is there a prowler out here, you scare them
13 away, you know, talking to the dog like it was a human.
14 But that happened two, I know at least two other evenings
15 that...

16 Q All right, thank you, Ma'am. Let me ask you now
17 specifically as to Friday, October the 8th. What kind of
18 hours were you working on Friday?

19 A I worked till 1:00.

20 Q One in the afternoon?

21 A Yes.

22 Q Please tell us what happened when you came home on that
23 day.

24 A I went to turn in our driveway. I seen a truck sitting
25 facing our driveway on the edge of the road, but I

SW- M. TIETJEN - DIRECT

1 didn't -- again, it's hunting season; I thought it was
2 hunters. I went on in the house and I was getting ready to
3 change clothes because on Fridays was kind of our day. I'd
4 come home. My husband would be all dressed and ready; we'd
5 go out for lunch. So I was changing clothes and Sassy
6 started raising a fuss. We got her calmed down and we left
7 and we went to town.

8 Q Did you have any conversation with your husband about
9 having seen a truck?

10 A When the dogs started barking I said, well, it's probably
11 hunters because there's a truck out in front of our yard in
12 front of the drive. And he said, well, there was somebody
13 here and they were looking for a Kimberly Smith and asked
14 if I knew where they lived and he said he didn't; but he
15 helped the guy, got the phone book out, helped the guy and
16 they couldn't find who he was looking for.

17 Q He didn't identify the person by description or by name?

18 A No.

19 Q I want you to look at a couple of photographs, if you would
20 please. I think these are State's Exhibits 4-D and -C. If
21 you would just look at the screen, I'm sorry, we have to
22 turn you around there. Does that truck look familiar to
23 you?

24 A It's the color but what I seen was it had GMC on the front

25 ---

SW- M. TIETJEN - DIRECT

- 1 Q All right. We're going to show you ---
- 2 A ---because I was looking straight at the front.
- 3 Q I'll show you another photograph, States' Exhibit 4-D. And
- 4 does that look familiar?
- 5 A I don't remember if it had a cover on but that was the
- 6 color of the truck.
- 7 Q Was it a GMC?
- 8 A I'm sure it was a GMC because we own one and it was on the
- 9 front of it it said GMC and that's ---
- 10 Q And that's what helped you remember it?
- 11 A That's right, uh-huh.
- 12 Q And that was Friday the 8th you said somebody -- your
- 13 husband said somebody come by looking for a Kimberly Smith?
- 14 A Yes.
- 15 Q And he produced a phone book to try to help him.
- 16 A Yes.
- 17 Q Ms. Tietjen, if you would please, I'd like you to discuss
- 18 with the Court now the events of Monday, October the 11th,
- 19 2004. You recall that day; do you not?
- 20 A Yes, sir.
- 21 Q What's the last time that day you saw or spoke to your
- 22 husband?
- 23 A When I was getting ready to go to work he walked out with
- 24 me that morning to the truck.
- 25 Q About what time was that?

SW- M. TIETJEN - DIRECT

- 1 A Probably about 8:20, 8:30.
- 2 Q How was he dressed?
- 3 A He had on blue jeans and a T-shirt.
- 4 Q How was he moving on that day?
- 5 A He was having a pretty good day.
- 6 Q Was he still using a cane?
- 7 A He was still using a cane because he went outside.
- 8 Q And what did he go outside to do?
- 9 A To get the newspaper.
- 10 Q And if you recall, where was he and what was he doing when
- 11 your eyes last saw him?
- 12 A He was standing on the sidewalk in front of our house, and
- 13 he had the newspaper in his hand.
- 14 Q Your house is, sits how far off the road [REDACTED]?
- 15 A Maybe not quite a city block, a little less.
- 16 Q I'll show you photographs of that later. When you left
- 17 your house that day was it in the condition that you
- 18 usually live in it or was there anything out of order, out
- 19 of the ordinary on that morning?
- 20 A It was like it usually is.
- 21 Q All right. Do you have an answering machine in your house?
- 22 A Yes, sir.
- 23 Q And where does that answering machine sit?
- 24 A It was on the end table in the living room beside my
- 25 husband's chair.

SW- M. TIETJEN - DIRECT

- 1 Q Is it kept on?
- 2 A All the time.
- 3 Q Why?
- 4 A Just in case my husband's outside I can leave him a message
- 5 that I called and he usually returned my call.
- 6 Q Did he also have a cell phone?
- 7 A Yes, sir.
- 8 Q And where would he carry it?
- 9 A He always had it on him. He had a clip that he had on his
- 10 belt. He'd clip it on the belt or ---
- 11 Q And when did he -- when would he use the cell phone?
- 12 A He used lot of times used it to call me to call my cell
- 13 phone. When he was outside he would use it.
- 14 Q Did he use the voice mail function?
- 15 A No.
- 16 Q Did you attempt to call your husband from your place of
- 17 work at approximately one p.m. that day?
- 18 A Yes.
- 19 Q And which phone did you call and to distinguish between the
- 20 two I'll refer to the land line, the one that's hooked to
- 21 the wall, and the cell phone, okay?
- 22 A Okay.
- 23 Q At about 1 p.m. which phone did you try to call?
- 24 A I was getting ready to go to lunch so I called him on the
- 25 land line, and I get the machine and I did not get -- he

SW- M. TIETJEN - DIRECT

- 1 did not pick up so I thought he was talking to a friend
2 'cause he wouldn't pickup call waiting so...
- 3 Q You had call waiting but he wouldn't, he didn't engage it?
- 4 A No, he'd get confused on what to do with it so he -- I'd
5 just tell him let it, they'll call back.
- 6 Q So the machine not picking up meant one or two things to
7 you which were what again?
- 8 A What I thought was he was talking to some friends.
- 9 Q And if he wasn't talking to some friends then what would
10 the alternative have been?
- 11 A The machine would have been picked up or he would have
12 picked up.
- 13 Q Or could it have been off if it wasn't -- if there was no
14 response?
- 15 A It would have been -- that's a possibility but it didn't
16 occur to me that it would have been off. I didn't worry
17 and I thought that it was turned off.
- 18 Q I understand, but not getting anything either he's on the
19 line or the machine is off; is that correct?
- 20 A Right.
- 21 Q Now that was your first call to the land line. Did you
22 call in again that afternoon?
- 23 A Yes. I called in a few minutes before five.
- 24 Q And where did you call him from?
- 25 A I called him from the office where I work to let him know

SW- M. TIETJEN - DIRECT

1 I'd be coming home. But again, I was on the land line; and
2 again, the phone didn't pick up and he didn't answer.

3 Q So either he was on the other line or the phone is off.
4 Did you try again a few minutes later?

5 A Yes, I did.

6 Q Was this the land line again?

7 A Yes.

8 Q What happened this time?

9 A This time I got the machine so I left him a message that I
10 was getting ready to leave the office and that I would be
11 home soon.

12 Q And that's approximately what time?

13 A Probably 5:25.

14 Q These are three times you tried to call them. The first
15 two times, no answer, and the machine doesn't pick up?

16 A Yes.

17 Q He's either on the other line or it's cuff off. When you
18 call back about 5:20 the machine engages?

19 A Yes.

20 Q He doesn't answer, you leave a message?

21 A Yes.

22 Q What did you do next to try to find out where he was?

23 A Well, I thought he was out walking our dogs, and I thought
24 now when he comes in he's going to see the message and
25 he'll call me and I'll be driving home and I didn't want to

SW- M. TIETJEN - DIRECT

1 be talking on my cell phone then so I called him on his
2 cell phone.

3 Q Did you call your daughter as well?

4 A I called my daughter before.

5 Q All right. So after you called the land line three times
6 and last time left a message you called your daughter
7 Kimberly?

8 A Yes.

9 Q What did you tell Kimberly?

10 A I asked her if she had heard from her father. I hadn't
11 been able to get a hold of him that afternoon. I said he
12 must be having a really good day so...

13 Q All right. Did you try to contact him now on his cell
14 phone?

15 A Yes, I did.

16 Q And it's approximately what time now?

17 A 5:30.

18 Q All right. Tell the judge what happened when you called
19 the cell phone.

20 A When I called the cell phone a strange voice answered the
21 phone. And I asked to speak to T.J. and he said T.J. is
22 dead. And I thought it was somebody playing a bad joke on
23 me. So I said, no, I don't believe you. I said, let me
24 talk to T.J.. He said, I killed him. He said he's dead.
25 I said, no, this is not a funny joke, you know, let me talk

SW- M. TIETJEN - DIRECT

1 to T.J.. I said, this joke's gone far enough. And he
2 said, no, it's not a joke. I said, well who are you. He
3 said, I'm the prowler.

4 Q I'm the prowler?

5 A Yeah. And I said, no, who are you? I said this isn't a
6 joke anymore. And we engaged in this conversation and he
7 hung up on me.

8 Q Did you identify -- could you tell if this was a male or
9 female voice?

10 A Not really. I really wasn't...

11 Q After this person said that they were the prowler and that
12 you said you don't believe them did they make any response
13 to you with regard to the answering machine?

14 A Oh, yes, they did say that I said I didn't believe him and
15 he said, well, who do you think turned your -- you've
16 called three times, who do you think turned your answering
17 machine off and turned it back on to see who was calling.
18 And that's what gave me this hint of doubt that maybe it
19 wasn't a joke.

20 Q You called three times, who do you think turned your
21 answering machine on and off.

22 A Uh-huh.

23 Q What did you do next, Ms. Tietjen?

24 A I called 9-1-1.

25 Q And after you called 9-1-1 what did you do?

SW- M. TIETJEN - DIRECT

1 A I was going home. 9-1-1 -- I called 9-1-1. They said if I
2 was going home, if law enforcement was there I could stop.
3 If law enforcement was not there I was to go on by. So
4 there was my friend Alice was in the lab with me and heard
5 this conversation going on and she said she was going with
6 me. And the office manager walked in and wanted to know
7 what was going on and we told her and she said, well,
8 you're not going alone. So we went on out to the house, I
9 rode with Alice and Judy drove my car.

10 Q Did you attempt to call your husband's cell phone ---

11 A Yes, sir.

12 Q ---again?

13 A Yes, we did.

14 Q And was that from the office or on the way?

15 A From the office.

16 Q And tell the Court about that conversation.

17 A He said T.J. was dead.

18 Q You called your husband's cell phone number?

19 A Right.

20 Q Who answered?

21 A The strange voice -- the same strange voice answered and
22 told me, I told you T.J. is dead, and don't call again.

23 And he hung up on me.

24 Q When you arrived at your home on [REDACTED] with
25 your fellow coworkers was anybody there?

SW- M. TIETJEN - DIRECT

- 1 A Law enforcement was there and they pushed us off out into
2 the yard on to the grass.
- 3 Q What could you see or tell about your house from where you
4 were there on the road?
- 5 A There wasn't too much strange going on, but the only thing
6 that made me anxious was the ter -- the Australian terrier
7 was on the deck barking, barking, barking and would not
8 stop.
- 9 Q That was your dog Sassy?
- 10 A Yes.
- 11 Q Where did Sassy normally stay?
- 12 A She was normally in the house, kind of had the run of the
13 house.
- 14 Q Ms. Tietjen, I'll show you some photographs later. But
15 it's not represented on this diagram State's Exhibit Number
16 2 but would you explain to the Court where the porch is
17 that you say your dog was on.
- 18 A Off the dining room there's a door.
- 19 Q Is this the door?
- 20 A Yes. And the porch is around there and around to the
21 front.
- 22 Q Here?
- 23 A Yes, uh-huh. And Sassy was out there.
- 24 Q And Sassy usually stays inside with your husband?
- 25 A Right.

SW- M. TIETJEN - DIRECT

- 1 Q When you saw that what was your reaction?
- 2 A I knew something was wrong because my husband would not
- 3 leave the dog bark like that. If he was able he would be
- 4 getting her in or he'd be out on the deck to see what she
- 5 was barking about.
- 6 Q Did you do anything to assist the deputies to get inside of
- 7 your house?
- 8 A I gave them a house key.
- 9 Q And what did they do?
- 10 A They went down and they went -- they knocked on the door
- 11 and the door bell, then they went in.
- 12 Q And then what happened so far as their involvement with
- 13 you?
- 14 A They came out and told me that my husband was gone, that
- 15 they were sorry.
- 16 Q At any point during this situation while you were on the
- 17 the way did you and Kimberly talk on the phone again?
- 18 A Yes, she called and I was on my cell phone. I said we were
- 19 going out there. And she said where are you at. I said
- 20 I'm on my way home. I didn't want to tell her what the man
- 21 had told me, but she had talked to him and she said -- she
- 22 started crying and said don't go home, don't go home, it's
- 23 not safe. And I said, I know. She said we -- she said
- 24 I've talked to the man and he told me ---
- 25 Q You said the man. And you telling me this is a male voice

SW- M. TIETJEN - DIRECT

1 or you're still not sure.

2 A I was not sure but I figured if somebody killed my husband
3 it would probably be a man. But I told her I talked to him
4 and that I had people going and we wouldn't go in without
5 law enforcement.

6 Q Ms. Tietjen, if you would please, now it's going to be my
7 responsibility to ask you to show some things and some
8 photographs to the Court that basically you and you alone
9 can best identify. I would ask you if this, is this a
10 reasonably fair diagram of your home?

11 A (No verbal response.)

12 Q All right. You need to speak up so we can have it on the
13 record.

14 A Yes.

15 Q How many levels are there in your house?

16 A My house kind of looks like a two story house because it
17 has a full basement, and it's not -- you come up six steps
18 to get into the proper part of my house as you can see.

19 Q All right. Let me show you this area right here. Would
20 this be the front door?

21 A Yes.

22 Q Do you walk up steps to come up to this level?

23 A Yes, six steps.

24 Q You have three bedrooms to the left of the diagram or to
25 the right as we're showing them here?

SW- M. TIETJEN - DIRECT

- 1 A Yes.
- 2 Q All right. One of these bedrooms, bottom lower left, is
3 noted as master bedroom. Who kept -- who slept in that
4 bedroom?
- 5 A My husband slept in that bedroom.
- 6 Q Did he have any sleep conditions?
- 7 A He had sleep ap-- yes, sleep apnea. He had to sleep with
8 sleep apnea machine on that night and he lots of times was
9 up and down through the night. He napped a lot. He took
10 short naps a lot of times.
- 11 Q Two other bedrooms indicated as 2 and Number 3, which one
12 did you use?
- 13 A Number two.
- 14 Q All right. With this as I move to your right would this be
15 your bathroom?
- 16 A Yes.
- 17 Q These are a set of steps, where do they lead to?
- 18 A They lead to the basement.
- 19 Q All right. Out of this hallway what's this area we're
20 looking at?
- 21 A That's the kitchen area and a little dining. Where that
22 table is is where the dining area table for eating.
- 23 Q And to the right is what?
- 24 A That's like the formal dining room.
- 25 Q And what is this area?

SW- M. TIETJEN - DIRECT

1 A The living room.

2 Q And is that, in fact, where you and your husband lived?

3 A Yes.

4 Q Next thing I want to do is show you some photographs and
5 ask you first, yes or no, if you can identify them. My
6 only question to you as I show you these photographs one at
7 a time is, first of all, if you can iden-- I don't need
8 those darkened yet. Is if you can identify as being your
9 house fair and accurate representation on October the 11th
10 of 2004. And these are State's Exhibits 5-A, 5-B, C, D, E,
11 F, J, K, L, M, N, O, P, Q, P -- well, I'm sorry, Q, O, P,
12 P, O, Q R, my bad. S, T, U, V, W, X, Y and Z. Are those
13 fair and accurate representations of your husband on that
14 day? Speak up.

15 A Yes, they are.

16 MR. SALEEBY: Your Honor, we move the introduction at
17 this time.

18 MR. CLARK: May I take a look at those please.

19 BY MR. SALEEBY:

20 Q While he's doing that I'm going to show you some more.

21 (Pause while the witness reviews photographs and Mr. Clark
22 reviews photographs.)

23 MR. CLARK: No objection to series 5 and 6.

24 THE COURT: State's 5-A through -Z and State's 6-A
25 through -F are admitted without objection.

1 (WHEREUPON, State Exhibits Nos. 5-A through 5-Z and 6-A through
2 6-F were admitted into evidence.)

3 MR. CLARK: No objection to 8.

4 THE COURT: Exhibits 8-A through -H. No objection?

5 MR. CLARK: That's correct, Your Honor, no objection.

6 (WHEREUPON, State Exhibits Nos. 8-A through 8-H were admitted
7 into evidence.)

8 MR. CLARK: As well as 11-A through -E.

9 THE COURT: 11-A through -E without objection.

10 MR. CLARK: Yes, sir. Yes, sir.

11 (WHEREUPON, State Exhibits Nos. 11-A through 11-E were admitted
12 into evidence.)

13 MR. CLARK: Or 12 or 13, Your Honor.

14 THE COURT: And 12-A through -E and 13-A through -C.

15 MR. CLARK: That's correct.

16 THE COURT: Without objection on that.

17 (WHEREUPON, State Exhibits Nos. 12-A through 12-E and 13-A
18 through 13-C were admitted into evidence.)

19 MR. SALEEBY: Your Honor, if you'd give me just a
20 second to make sure I got those right. Is that 5-A to -Z?

21 THE COURT: Yes, sir.

22 MR. SALEEBY: And 6-A to -F?

23 THE COURT: Yes, sir.

24 MR. SALEEBY: 8-A to -H.

25 THE COURT: Yes, sir.

1 MR. SALEEBY: 9-A to -D?

2 THE COURT: Did you look at 9, Mr. Clark?

3 MR. CLARK: I don't think I saw 9.

4 MR. JACKSON: I don't believe you saw these.

5 MR. CLARK: No objection to 9.

6 THE COURT: All right. 9-A through D.

7 (WHEREUPON, State Exhibits Nos. 9-A through 9-D were admitted
8 into evidence.)

9 MR. CLARK: Or 4-A through -H.

10 THE COURT: 4-A through 4-H without objection.

11 (WHEREUPON, State Exhibits Nos. 4-A through 4-H were admitted
12 into evidence.)

13 BY MR. SALEEBY:

14 Q Ms. Tietjen, these are a lot of photographs. Just give me
15 a minute to get them ready.

16 MR. CLARK: No objection to 10-A through -C.

17 THE COURT: All right.

18 (WHEREUPON, State Exhibits Nos. 10-A through 10-C were admitted
19 into evidence.)

20 MR. SALEEBY: And that's 11, 12, and 13. That is in?

21 THE COURT: Yes, sir.

22 BY MR. SALEEBY:

23 Q Ms. Tietjen, I'm not going to have you go through all of
24 these photographs. However, from a representative point of
25 view I want to show you a photograph of the room and I'm

1 going to ask you if you found things, articles missing in
2 that particular room. And I will also ask you if the room
3 was in the same condition as when you left. But let's
4 start by orienting the Court about the outside of your
5 house, and if you would turn and face that television
6 please, ma'am. Tell Your Honor what State's Exhibit 4-H
7 is. What is that?

8 A Okay. That's looking down my driveway from [REDACTED]
9 [REDACTED] and that's my house. That's the front of my house.

10 Q I'm going to show you now State's Exhibit Number 4-C. What
11 are we looking at here?

12 A Okay. That's the front of my house, the front door and
13 the deck that the dog was on.

14 Q And the dog was in what part of the deck?

15 A Like the upper part there.

16 Q Does the deck wrap around the side of the house?

17 A Yes. It wraps around. It's all open to the door to the
18 dining room.

19 Q This is State's Exhibit Number 4-D.

20 A That door is my dining room door and ---

21 Q Where is that, ma'am?

22 A On the side of the house.

23 Q Is that it?

24 A Yes. That's the dining room door and leads out onto the
25 deck. That's the only way to get on that deck.

1 Q If I refer you from that photograph to State's Exhibit 2,
2 is that the same door that's represented there?

3 A Yes, sir.

4 Q Right outside the dining room.

5 A Yes.

6 Q All right, very good. I'm going to show you now State's
7 Exhibit Number 11-A. What room is this if you can tell?

8 A That's the master bedroom.

9 Q And that would be on State's Exhibit Number 12 there?

10 A Yes.

11 Q Is there anything different, the condition of this bedroom,
12 that you see right there when you left that morning?

13 A Those cubbards weren't open. The drawers were on the
14 floor. You know, it -- it's really rather tore up and
15 that's not -- there wouldn't have been anything on the
16 floor at all and the drawers would have been in the
17 dresser.

18 Q Let's look at State's Exhibit 11-E.

19 A That's ---

20 Q What does that show you?

21 A That's the same bedroom and those things wouldn't have been
22 open. Those things wouldn't have been on the floor.

23 Q What is that I'm pointing to right there, if you can tell?

24 A It's a box, looks like a box.

25 Q When you got back in the house did you discover anything

- 1 missing from that particular bedroom?
- 2 A My husband had several things from the shrine. Some ---
- 3 Q Such as?
- 4 A Shrine medallions. He had two of them, shrine jewelry. He
- 5 had a masonic necklace with a diamond in it. That was
- 6 missing. Camera case was missing with cameras.
- 7 Q Those things were there when you left that morning so far
- 8 as you know but they were gone when you got back in to
- 9 check it?
- 10 A Yes.
- 11 Q All right. Were any of those items ever returned to you?
- 12 A One of the medals was returned to me but it wasn't
- 13 complete. It had been torn apart. His shrine ring -- no,
- 14 his shrine ring was not in there. The camera case was
- 15 returned to me with the cameras.
- 16 Q All right. I'll show you the photographs of that. Let's
- 17 go to what we have as bedroom number two. And I don't know
- 18 if I asked you or not. Is this the bedroom that you used?
- 19 A Yes.
- 20 Q And that's front upper left?
- 21 A Yes.
- 22 Q Is this your bedroom?
- 23 A Yes.
- 24 Q Is that the condition that you left it in that morning?
- 25 A Absolutely not.

- 1 Q What's different about that room?
- 2 A There's things all over the floor, dresser drawers are out.
- 3 My dresser drawers were always closed. Just looks kind of
- 4 trashed and it wouldn't have been that way.
- 5 Q State's Exhibit Number 12-B. Can you get a little closer?
- 6 That's your bedroom.
- 7 A Yes, sir.
- 8 Q What's different about that?
- 9 A All the things that are on the floor I wouldn't have had
- 10 anything on the floor. All my dresser drawers would have
- 11 been in the chest there.
- 12 Q State's Exhibit Number 12-C.
- 13 A There's my bed but I wouldn't have had all that stuff on
- 14 it.
- 15 Q What did you find missing out of your bedroom when you got
- 16 back in it?
- 17 A I was missing some jewelry, but my jewelry was in the other
- 18 bedroom in a jewelry chest.
- 19 Q Most of your jewelry is in the other bedroom. Is that
- 20 bedroom number three?
- 21 A Yes.
- 22 Q Let me show you photographs of bedroom number three. This
- 23 was a spare bedroom; wasn't it?
- 24 A Yes.
- 25 Q State's Exhibit Number 13-A. How's that different when you

- 1 left it that morning?
- 2 A There's stuff all over the bed and that's my jewelry chest.
- 3 Q And what was missing out of this?
- 4 A There was some watches and there was a couple of rings, my
5 original diamond engagement ring. And wedding band was
6 missing from there. A ruby set was missing from there. I
7 think four or five watches were missing from there.
- 8 Q Were any of those items ever returned to you?
- 9 A None of those were returned.
- 10 Q All right. This is State's Exhibit Number 9-C. Tell us
11 what this is, how it's different from when you left that
12 morning. What is this, what area are we looking at here?
- 13 A That's in the hallway.
- 14 Q Would that be this area here that I'm showing on diagram S
15 ---
- 16 A Yes.
- 17 Q ---3?
- 18 A Uh-huh.
- 19 Q What's different than when you left that morning?
- 20 A The drawers were opened; the stuff's thrown on the floor.
- 21 Q And here's State's Exhibits Number 9-D. Does that help you
22 show a little bit better?
- 23 A That's the same hallway and emptied the drawers there.
- 24 Q Anything missing from that that you could identify?
- 25 A I don't recall that anything was, you know, I mean, the

1 things sitting on top were in that drawer but I don't
2 recall anything being stolen from there.

3 Q All right. Let's look at your basement, State's Exhibit
4 Number 9-B. I only have a photograph of the stairs.

5 A Okay.

6 Q And these -- but that would be the statement as this we're
7 showing on State's Exhibit S-3. What kind of items were
8 missing out of your basement, Ms. Tietjen?

9 A There was some tools, a SKIL saw, a drill, the key to the
10 dune buggy that was in the dune buggy. I don't recall any
11 other thing.

12 Q Were any of those items returned to you?

13 A Yes, some of those were returned to me.

14 Q All right.

15 A Of the drill and the SKIL saw or the jigsaw, the tool bag.
16 I think there was some tools, enamel canvas, some tools in
17 it.

18 Q I'll show you photographs of that later. Let's move to
19 your kitchen. State's Exhibit 8-A. Zoom in a bit. And
20 what's different than when you left that morning?

21 A The drawers are open; the doors open. I pretty well keep
22 them all closed.

23 Q State's Exhibit 8-B.

24 A Again, things are left open and...

25 Q Let's go to your dining room please, ma'am. This is

1 State's Exhibit Number 6-A. Anything out of place when you
2 got to look back in your dining room?

3 A There's more things on the table than normal.

4 Q I'm sorry, say that again?

5 A There's more things on the table than normal.

6 Q That's not how you left it that morning?

7 A No.

8 Q All right. Now let's take a look at your front wall.

9 State's Exhibit Number 5-A. Is that your front door?

10 A Yes, sir.

11 Q Are those the steps where we backed off the steps? What is
12 this object which is to our right of the front door,
13 probably be the left as you came in?

14 A That's the cane that my husband used.

15 Q Is that where the cane usually stayed or did it stay
16 someplace else?

17 A No, it -- usually he was using it or it was hanging in the
18 bedroom that he slept in.

19 Q All right. State's Exhibit Number 8- excuse me, 5-B.
20 Ms. Tietjen, what's different about this room than when you
21 left that morning?

22 A Well, the kitchen chairs and the dining rooms chairs are
23 sitting, there's stuff all over the floor. Pictures off
24 the wall on the floor.

25 Q What kind of pictures?

1 A It looks like mostly family pictures that I had hanging on
2 the wall. They were on my living room wall, those
3 pictures.

4 Q And these chairs we're looking at, they belong in the
5 living room or they live someplace else ordinarily?

6 A They live in the kitchen.

7 Q All right. Let's look from the dining room into that
8 living room area, State's Exhibit 5-C. What's different
9 about that than when you left that morning?

10 A That's one of the dining room chairs in there. Stuff on
11 the floor. I can't...

12 Q Let's look at State's Exhibit 5-F. What is this?

13 A That's our answering machine and telephone.

14 Q And which table here in State's Exhibit Number S-3, which
15 table would it sit on here, ma'am?

16 A It'd be right next to the chair labeled A there.

17 Q Here?

18 A Yes.

19 Q All right, thank you. State's Exhibit 5-H. Tell the Court
20 what we're looking at and where the items we're looking at
21 came from. What are we looking at there? What's this
22 object?

23 A Okay, that brown?

24 Q Yes.

25 A That is some lederhosen that we had bought in Germany and

- 1 that came from the closet in the master bedroom.
- 2 Q What's this piece of furniture it's sitting on?
- 3 A That's the -- that looks like the love seat.
- 4 Q And that ---
- 5 A Yeah, there you go. That's the love seat from our -- in
- 6 our living room.
- 7 Q Which one would be represented here on the State's Exhibit
- 8 S-3?
- 9 A That one.
- 10 Q The one at the top?
- 11 A Yes.
- 12 Q Towards the front of the house?
- 13 A Yes. And those papers would have been from probably from
- 14 the closet in the master -- in that cubbard in the master
- 15 bedroom.
- 16 Q This is State's Exhibit 5-J. Zoom in just a bit. What do
- 17 we see there, how is that different than when we left --
- 18 when you left that morning?
- 19 A Those all pictures that would have been on the wall in my
- 20 living room.
- 21 Q Who are these pictures of?
- 22 A They're pictures of -- this one down in the corner is my
- 23 daughter, my granddaughter, and myself. All the children
- 24 are either my granddaughter and my grandson, and at the
- 25 very top is my husband with his grandson. And those were

1 all on the wall or sitting up in the hutch or on the
2 mantle. They were all displayed in my living room.

3 Q On the walls?

4 A On the walls, uh-huh.

5 Q This is State's Exhibit Number 5-T. Tell us what we're
6 looking at here please, ma'am. What piece of furniture is
7 that, where is it in the living room, and what are we
8 looking at on it?

9 A That's my coffee table and ---

10 Q Where is that represented here?

11 A Number 4, that's where it was.

12 Q Is this it?

13 A That's where it was, yes.

14 Q And what are these objects we're looking at on it?

15 A Those are candles. Throughout the year I would buy candles
16 when they were on sale 'cause I used red, white, and green
17 candles in my fireplace during the holidays. Just about
18 all the summer I would burn candles in there instead of
19 lighting the fireplace fire.

20 Q When you left that morning were there candles displayed in
21 in that manner on your coffee table in your living room?

22 A No. Most of those candles would have been in the cubbard
23 in the living room.

24 Q What I want to do now please, ma'am, is I will get you off
25 the television or the TV screen for a moment and show you

- 1 some things and ask you if these things, if you can
2 identify them if you would please, Ma'am. This object is
3 State's Exhibit 41. Please tell the Court what that is.
- 4 A His friends gave him that full of popcorn.
- 5 Q His friends who?
- 6 A Bob Summers.
- 7 Q All right. And when Mr. Summers gave him this what was in
8 it?
- 9 A It was full of popcorn and he offered everybody popcorn
10 that came into the house so he could get it empty 'cause it
11 was also a bank, and he wanted to use it as a bank.
- 12 Q And where did this stay in your house?
- 13 A It stayed on the hearth in the living room.
- 14 Q When you got home and got back in your house was it there?
- 15 A No.
- 16 Q All right. Once the popcorn was eaten out of this thing
17 what went into it?
- 18 A All of his loose change.
- 19 Q Was there anything other than loose change in it?
- 20 A When he started putting his change in there Bob came by and
21 put a dollar bill in there.
- 22 Q And when Bob Summers put a dollar bill in there did he mark
23 it in any way?
- 24 A Yes.
- 25 Q And how did he mark it?

1 A To T.J. from RES, Robert Earl Summers.

2 Q That's State's Exhibit Number 46. I think it's in
3 evidence.

4 MR. CLARK: No objection, Your Honor.

5 THE COURT: All right, without objection, 46.

6 MR. CLARK: Neither do we object to 41.

7 MR. SALEEBY: Your Honor, I thought 41 was already in.
8 Maybe not.

9 THE COURT: No, we went back and...

10 (WHEREUPON, State Exhibits Nos. 41 and 46 were admitted into
11 evidence.)

12 BY MR. SALEEBY:

13 Q Did your husband keep silver certificates?

14 A Yes, sir.

15 Q He was a collector of sorts?

16 A Of some sorts, yes. If he found a silver certificate he'd
17 keep it.

18 Q Where did he keep it, if you recall?

19 A I don't recall where he kept them.

20 Q All right. And I'm certainly not going to ask you if you
21 can identify these particular bills, but do you recall if
22 he had fives as well as ones?

23 A He had 20-dollars in silver certificates I believe.

24 Q Twenty total?

25 A 20 total, yes.

1 Q All right. Now that's one over there for Mr. Summers. 2,
2 3, 4, 5, 10, 15, 20, that would be the same amount he had?

3 A Yes.

4 Q This has been marked for identification as State's Exhibit
5 Number 40. Does that appear to be your husband's cell
6 phone or one very close to it?

7 A It looks like what he, at least what he had. I think he
8 had his initials on it somewhere maybe at one time.

9 Q I can't tell.

10 MR. SALEEBY: Okay. We would move its introduction,
11 Your Honor.

12 THE COURT: Any objection to State's 40?

13 MR. CLARK: Your Honor, I didn't hear. Did the witness
14 identify that?

15 THE COURT: She identified as a cell phone.

16 THE WITNESS: It's like he had. We had matching cell
17 phones and it's exactly like we had.

18 BY MR. SALEEBY:

19 Q You had an Okia just like this too?

20 A Yes, I did.

21 Q Okay.

22 MR. CLARK: Your Honor, I'm not sure that's identifying
23 that particular phone.

24 MR. JACKSON: We'll put it in through somebody else,
25 not a problem.

1 THE COURT: All right. Mr. Saleeby, did you move the
2 silver certificates in? I wasn't sure.

3 MR. JACKSON: I only moved one in.

4 THE COURT: Okay.

5 MR. SALEEBY: And that was this one.

6 THE COURT: Yes, sir, 46.

7 BY MR. SALEEBY:

8 Q Ms. Tietjen, I'm going to call your attention back again to
9 the screen and ask you if you can identify that which is
10 State's Exhibit Number 18.

11 A That was my husband's staghorn knife that we bought in
12 Germany, and it would have been in the knife holder on the
13 the side of the lederhosen and it was on the couch. It was
14 on the love seat.

15 Q Okay. I want you to -- this knife, where did this knife
16 usually stay?

17 A He kept it in his lederhosen which was in the shelf on the
18 bedroom he slept in.

19 Q In the master bedroom?

20 A Yes.

21 Q Where in the master bedroom exactly would it have been?

22 A As you come in the door there's a closet there right to the
23 left. It was in the closet. It was in a closet on the
24 shelf. It's in a box all wrapped in tissue paper,
25 lederhosen and the knife where they -- in the suspenders.

1 The whole outfit is there together.

2 Q In his bedroom in his closet in a box wrapped in tissue
3 paper?

4 A Yes, sir.

5 Q His lederhosen and that knife?

6 A Yes.

7 Q This would be State's Exhibit Number 39. I want to know if
8 it's in evidence for identification and you take a look at
9 that and tell us what it is.

10 A It's a metal social security card that he had made, and
11 it's got his social security and name on it.

12 MR. SALEEBY: Move its introduction if it's not in,
13 Your Honor.

14 MR. CLARK: No objection, Your Honor.

15 THE COURT: All right, without objection, 39.

16 (WHEREUPON, State Exhibit No. 39 was admitted into evidence.)

17 BY MR. SALEEBY:

18 Q Where did the social security card usually stay?

19 A In his wallet.

20 Q Where did his wallet usually stay?

21 A In his pocket or on the night stand.

22 Q Where did his cell phone usually stay?

23 A On him or on the night stand. If -- that's -- even if it
24 was plugged in it was on the night stand.

25 Q Where did his driver's license usually stay?

1 A In his wallet.

2 Q This is State's Exhibit Number 17-E. Can you tell us what
3 that is please, ma'am?

4 A That's his driver's license.

5 MR. SALEEBY: We move its introduction if it's not in,
6 Judge.

7 THE COURT: All right, that's what number?

8 MR. SALEEBY: 17-E.

9 THE COURT: Any objection to 17-E?

10 MR. CLARK: No, sir, Your Honor.

11 THE COURT: All right, without objection.

12 (WHEREUPON, State Exhibit No. 17-E was admitted into evidence.)

13 BY MR. SALEEBY:

14 Q Ms. Tietjen, I've got to turn your attention to the
15 television again and show you State's Exhibit Number 14-G
16 and -H. We can show both of them at the same time. Please
17 tell -- well, let's do -G first. Back up a little bit.
18 There we go. And -H underneath it can you tell the Court
19 what we're looking at.

20 A Those were emergency kits. And like a home, one of those
21 it's like for a home kit, I believe, in the home with tools
22 in it and the other one was like for the car.

23 Q And where did those things stay?

24 A I believe that the home one stayed in the -- under the
25 little stand in the hallway and the other one stayed in the

- 1 closet down in the foyer.
- 2 Q Were both of those missing when you got back in the house?
- 3 A Yes, sir.
- 4 Q Were they later returned to you?
- 5 A I believe so, yes, sir.
- 6 Q Thank you. I show you now State's Exhibits Number 14-J
- 7 and -K. Can you tell the Court what we're looking at now.
- 8 A That's his camera case with his cameras and lenses and
- 9 camera equipment.
- 10 Q And where did they belong in the house?
- 11 A They were in that white cabinet in the master bedroom.
- 12 Q In his bedroom in his cabinet?
- 13 A Yes.
- 14 Q In a case?
- 15 A Yes.
- 16 Q And were those later -- were they missing on the 11th?
- 17 A Yes, sir.
- 18 Q Were they later returned to you?
- 19 A Yes, sir.
- 20 Q Thank you. State's Exhibit Number 14-L. And can you turn
- 21 it the other way. Yeah. Can you tell the Court what we're
- 22 looking at?
- 23 A That looks like an ammo box that he kept tools in mainly
- 24 for his dune buggy.
- 25 Q Was this a shriners dune buggy?

- 1 A Yes.
- 2 Q And where did it normally stay?
- 3 A In the basement.
- 4 Q Thank you. State's Exhibits Number 14-M and -O. What are
- 5 we looking at here?
- 6 A A blue nylon tool bag that he'd gotten recently and it
- 7 looks like it's got his saw, drill in it. He got had
- 8 gotten a new drill.
- 9 Q Where did those objects stay?
- 10 A Usually he would have had them in the basement.
- 11 Q And were they missing when you got back in your house?
- 12 A Yes, sir.
- 13 Q And were they later returned by law enforcement?
- 14 A Yes, sir.
- 15 Q State's Exhibits Number 14-P and -Q. What are we looking
- 16 at?
- 17 A That's his drill bits that went with the drill he had. It
- 18 was in a case with assorted bits and tips that for his
- 19 drill.
- 20 Q And where did they belong?
- 21 A I believe the basement.
- 22 Q Were they missing when you got back in the house?
- 23 A Yes, sir.
- 24 Q Were they later returned?
- 25 A Yes.

1 Q State's Exhibit Number 14-R and -S. Can you tell the Court
2 what we're looking at there?

3 A That looks like his new drill.

4 Q And where did the new drill belong, where did it stay?

5 A In the basement.

6 Q And was it missing when you got back into your house?

7 A Yes, sir.

8 Q And did -- was it later returned to you?

9 A Yes, sir.

10 Q Was that staghorn knife that was part of his lederhosen
11 outfit ever returned to you?

12 A Yes, sir.

13 Q This is State's Exhibit Number 47. Can you identify that?

14 A That's his shrine medallion. It's not complete anymore.
15 There's supposed to be a lot more bars to it, but that's
16 what his shrine medallion was.

17 THE COURT: Your Honor, if it's not in evidence we move
18 its introduction now.

19 MR. CLARK: What number is that, Your Honor?

20 THE COURT: Number 47.

21 MR. CLARK: No objection, Your Honor.

22 THE COURT: All right, without objection.

23 (WHEREUPON, State Exhibits No. 47 was admitted into evidence.)

24 BY MR. SALEEBY:

25 Q Where did this medallion ordinarily belong?

1 A He had a case that he kept his Fez in, and in the center of
2 that there was a comb and he kept it down in there so when
3 he went to shrine functions he'd have his Fez and his
4 medallion that he wore.

5 Q All right. A case he kept this medal, State's Exhibit
6 Number 47 in a case. Where did the case stay?

7 A On the shelf in his bedroom closet in the master bedroom.

8 Q In his bedroom in his closet on a shelf in a box.

9 A In a case.

10 Q Ms. Tietjen, did you when you got back in the house find
11 some objects that you thought needed to be turned over to
12 law enforcement officers?

13 A Yes, sir.

14 Q And tell us what two objects those were?

15 A One was a cigarette wrapper that nobody in our family or
16 house that I was aware of ever smoked that brand of
17 cigarette.

18 Q I'm going to show you State's Exhibit Number 52. I think
19 it's already in evidence. But is this the object, this
20 basic cigarette pack?

21 A Yes.

22 Q Tell the judge where you found this.

23 A It was kind of thrown behind the refrigerator and like it
24 had kind of scorched the wood in my kitchen.

25 Q This would be your kitchen. Where would your refrigerator

1 be?

2 A Beside the stove.

3 Q Here?

4 A Yes. There's a space between the stove and the
5 refrigerator.

6 THE COURT: Any objection to State's 52?

7 MR. CLARK: No, sir, Your Honor.

8 THE COURT: All right, without objection.

9 BY MR. SALEEBY:

10 Q And State's Exhibit Number 53 is a shell. I'm sure you
11 didn't mark or identify this shell, but did you find the
12 shell in your house? Where did you -- if so where?

13 A My son-in-law flushed the commode and it kind of came up in
14 the water afterwards. It was in the toilet.

15 Q Did you retrieve it and give it to David Florence?

16 A He retrieved it and I called David Florence to come and get
17 these items.

18 MR. SALEEBY: Your Honor, I have it in evidence but if
19 it's not I move it now.

20 MR. CLARK: Number again?

21 THE COURT: 53.

22 MR. HOWLE: We had stipulated to that one.

23 THE COURT: Did you?

24 MR. SALEEBY: I thought you did.

25 THE COURT: Got it in evidence then without objection.

1 MR. SALEEBY: One moment, sir, if you don't mind.

2 BY MR. SALEEBY:

3 Q Did your husband wear a Shriners ring?

4 A Yes, sir.

5 Q Do you recall what hand?

6 A I believe his right hand.

7 Q Ms. Tietjen, were there any other items returned to you
8 that I neglected to ask you about?

9 A Not that I recall -- a flashlight, a lantern type
10 flashlight I think.

11 Q All right. How about some walkie-talkies? Were they
12 returned to you?

13 A Yes, sir, they were returned to me.

14 Q I think I have a picture of the walkie-talkies. Where were
15 the walkie-talkies usually kept?

16 A They were on the dresser in his bedroom.

17 Q State's Exhibit number 15-B. Can you tell the Court what
18 those are.

19 A Those are walkie-talkies that we had used before we got our
20 cell phones and that's the flashlights that was returned to
21 me.

22 Q That's the flashlight beside it, the yellow object upper
23 left?

24 A Yeah.

25 Q Ms. Tietjen, thank you for being so patient with me. I'm

SW- M. TIETJEN - CROSS

1 sorry I had to ask you all these questions.

2 THE COURT: Any questions, Mr. Clark?

3 MR. CLARK: Yes, Your Honor, just briefly.

4 CROSS - EXAMINATION

5 BY MR. CLARK:

6 Q Ms. Tietjen, I'm John Clark and I've been appointed to
7 represent Mr. Bryant in this case. I have to ask you just
8 a few questions. First of all, I'm sorry about the loss of
9 your husband. I can imagine how terrible that was for the
10 family as understanding he was a fine man. I just need to
11 ask you a few questions. Ms. Tietjen, would it be correct
12 to say that the death of your husband had a tremendous
13 impact on your family and on yourself?

14 A Absolutely.

15 Q And is there anything that can be done to lessen the impact
16 of what happened?

17 A Not really. I mean, time takes care of a lot of things but
18 a loss is a loss.

19 Q Yes, ma'am. You understand that in this proceeding the
20 State is seeking to put Mr. Bryant to death. You
21 understand that?

22 A Yes, sir.

23 Q And if he is put to death would that lessen the impact that
24 this incident has had on you, you and your family? Would
25 that make it any better for you and your family?

SW- M. TIETJEN - CROSS

- 1 A I can't say it would make it any better, but I feel he
2 deserves a punishment because he made the choice to do what
3 he did so whatever the Court decides to do I'm okay with
4 it.
- 5 Q Yes, ma'am. But you can't say it would make it any better
6 for you and your family, would it?
- 7 A No, not one way or the other.
- 8 Q Ms. Tietjen, Mr. Bryant -- you received a letter of apology
9 from Mr. Bryant; didn't you?
- 10 A Yes, sir.
- 11 Q And you turned that over to the Sheriff's Department and
12 the authorities; is that correct?
- 13 A Yes, sir.
- 14 Q And in that letter Mr. Bryant apologized for what he did;
15 didn't he?
- 16 A Yes, sir.
- 17 Q And it was a right lengthy letter that he wrote you; wasn't
18 it?
- 19 A Yes, sir.
- 20 Q And he attempted to explain some of the circumstances of
21 his life and why this occurred; didn't he?
- 22 A Yes, sir.
- 23 Q And not to go over the letter in its entirety, but he
24 started out telling you about some abuse that he suffered
25 as a child; didn't he?

SW- M. TIETJEN - CROSS

1 A Yes, sir.

2 Q And the abuse he mentioned, was that -- it was both
3 physical and sexual at the hands of his family members;
4 didn't he?

5 A Yes, sir.

6 Q And he also told you about when he tried to run away as a
7 child but had nowhere to run. Didn't the letter say that?

8 A Yes.

9 Q And at one point in the letter he mentioned being sent to
10 juvenile detention as a juvenile; didn't he?

11 A Yes, sir.

12 Q And he said that that was the only time in his life that he
13 felt safe and could enjoy himself with kids his age?

14 A Yes, sir.

15 Q And he said that -- that before the incident that occurred
16 with your husband he had started having some dreams and
17 some mental problems; didn't he?

18 A Yes, sir.

19 Q And he said he had sought help from Probation from other
20 agencies but wasn't able to get any help?

21 A Yes, sir.

22 Q And then he pretty much closed the letter by saying again
23 just how sorry he was and how the whole thing was -- he thought
24 about it every day and that he feels pain because of what he did,
25 right?

SW - M. TIETJEN - REDIRECT

1 A I believe so.

2 Q And he offered yet another apology to you and your family?

3 A Yes, sir.

4 Q And Ms. Tietjen, the letter that I'm referring to it was
5 written to you shortly after this happened; wasn't it?

6 A Yes, sir.

7 Q Would you agree that it was dated November 30th, 2004?
8 Does that sound about the right time frame?

9 A That could have been, yes, sir.

10 Q Short time after this happened? Ma'am, I thank you for
11 answering my questions and again I offer you my sympathies
12 for what happened to you. Thank you.

13 A Thank you.

14 REDIRECT EXAMINATION

15 BY MR. SALEEBY:

16 Q Ms. Tietjen, you have no way of knowing what information he
17 put in that letter was accurate or inaccurate?

18 A No, sir, I don't.

19 MR. SALEEBY: That's all I have.

20 THE COURT: Thank you.

21 MR. CLARK: Nothing further, Your Honor.

22 THE COURT: You may step down.

23 MR. JACKSON: Well call Kimberly Dees.

24 THE DEPUTY CLERK OF COURT: Place your left hand on the
25 Bible, raise your right hand. State your name please, ma'am.

SW - K. DEES - DIRECT

1 THE WITNESS: Kimberly Dees.

2 WHEREUPON,

3 TIMBERY SUE DEES,

4 having been duly sworn by the Deputy Clerk of Court,

5 testified as follows:

6 THE DEPUTY CLERK OF COURT: Have a seat up here please.

7 State your full name, spell your last name.

8 THE WITNESS: Kimberly Sue Dees, D-E-E-S.

9 DIRECT EXAMINATION

10 BY MR. SALEEBY:

11 Q Ms. Dees, if you'd just turn and speak to me and tell the
12 judge how long you've lived in Sumter.

13 A I originally moved to Sumter in 1984. I left briefly in
14 1992 in about April of 1992 when I returned to Sumter in
15 February of 1994 and I've resided there since.

16 Q And who are your parents?

17 A My father was Willard Erving Tietjen, Junior and my mother
18 is Mildred Carol Carson (ph) Tietjen.

19 Q And who are you married to?

20 A I am married to Robert Bruce Dees.

21 Q How long have y'all been married?

22 A It was five years in July, sir.

23 Q How many children do you have?

24 A I have two children from my first marriage that reside with
25 my husband and I, and I have three stepsons.

SW - K. DEES - DIRECT

1 Q Living in Sumter were you living here in 2004?

2 A Yes, sir, I was.

3 Q How frequently did you see your father?

4 A One to two times a week.

5 Q What can you tell us about his health and his mobility?

6 A His mobility was limited because of the pain from his
7 neuropathy. He did not drive unless he had somebody with
8 him to relieve him when he was having a very good day. He
9 had memory problems. The days I didn't go visit him I
10 would call him frequently throughout the day to check on
11 him at different points in the day to make sure he was
12 okay. If he didn't respond I would leave work and go to
13 the house to check on him and then call my mother to let
14 her know what I'd found.

15 Q Was he supposed to smoke?

16 A No, sir, but he did.

17 Q And what kind did he smoke and what did he do with it?

18 A He smoked Pall Mall menthol light 100s and in the front
19 hallway of my mother's house there's book cases that have a
20 cook book collection that belongs to me, and there's a
21 large wooden recipe box that holds oversized recipe cards
22 and he would hide the cigarettes in there.

23 Q Did he smoke cigars and basic cigarettes?

24 A No, sir, he did not smoke basic cigarettes and he did not
25 smoke cigars.

SW - K. DEES - DIRECT

- 1 Q Mrs. Dees, I want you to call your attention to Monday
2 October the 11th, 2004.
- 3 A Yes, sir.
- 4 Q I'm sure you'll never forget that day. Did you have the
5 occasion to receive a call from your mother sometime
6 shortly after five p.m.?
- 7 A Yes, sir, I did.
- 8 Q And tell us about that.
- 9 A My mother called me between 5 and 5:15 to ask me if I had
10 talked to my dad that day. I was working at Tommy Sumter
11 Academy. I don't know what happened. At the time I
12 normally would have called but I had not made my typical
13 daily phone call so I had not heard from my father at that
14 point. And I relayed that information to my mother and she
15 asked me if I would try to reach him because she had to
16 finish up work.
- 17 Q Did you then attempt to call your father?
- 18 A Yes, sir, I did. I made the ---
- 19 Q I'm going to ask you -- when I ask you about these phone
20 calls I'll try to keep them numbered, and I will ask you
21 whether or not you used the land line or the cell phone.
- 22 A Yes, sir.
- 23 Q And I will ask you were you making these calls from a cell
24 phone or from a land line?
- 25 A Yes, sir.

SW - K. DEES - DIRECT

1 Q Which were you using?

2 A Initially I was using my land line and I made the first
3 call to my father's home using, calling his land line.

4 Q And did you get a response?

5 A The answering machine picked up and I left a message to let
6 him know we were trying to get a hold of him and to please
7 call me back.

8 Q That's the first call to the land line and you left a
9 message?

10 A Yes, sir, I did.

11 Q All right. Did you try again later?

12 A No, sir. As soon as I hung the phone up from calling the
13 land line I used my land line to call his cell phone
14 because when he would nap late in the day he would put his
15 cell phone in his chest pocket so that the sound would wake
16 him up. So I called his cell phone to see if he would
17 answer that, and it rang and went to voice mail so I just
18 hung up because my father did not utilize the voice mail
19 feature of the cell phone.

20 Q That was your second call and it was to his cell phone.

21 A Yes, sir.

22 Q Did you make another call?

23 A Yes, sir. As soon as I hung up from that I used my land
24 line to call his home phone again and left a second message
25 on his machine.

SW - K. DEES - DIRECT

- 1 Q And your message was basically what?
- 2 A My message was mother and I are trying to get a hold of
- 3 you, please call one of us either on our land lines or our
- 4 cell phone and let us know you're okay.
- 5 Q What did you do when you made no contact then?
- 6 A I returned to -- I used my land line to call his cell phone
- 7 and again it went to voice -- it rang; it went to voice
- 8 mail so I hung up. And my fifth call was from my land line
- 9 to his land line. And I left a message. By then I was
- 10 getting frantic and I left a message that said if you're
- 11 there please pick up and answer me and if you're out with
- 12 your dogs or in the rest room please call me as soon as you
- 13 get this message. And I hung up and I made the sixth call
- 14 to his cell phone.
- 15 Q All right. Before then -- at this point you've made five
- 16 calls, three to the land line leaving messages on his
- 17 answering machine, two others to his cell phone ---
- 18 A Yes, sir.
- 19 Q ---going over the voice mail. You made a sixth phone call?
- 20 A Made a sixth phone call, yes, sir.
- 21 Q Tell us about that.
- 22 A On the sixth phone call the phone rang. A man's voice said
- 23 hello. It didn't -- I couldn't tell if it was my dad's
- 24 voice or not. It sounded almost like I'd woken somebody
- 25 up. And so I said, are you okay, this is daughter, are you

SW - K. DEES - DIRECT

1 okay, talk to me. And a voice on the other end of the line
2 said, I'm having a wonderful day, how are you.

3 Q I'm having a wonderful day, how are you?

4 A Yes, sir. And I said, I'm so sorry, I must have dialed the
5 wrong number to which the gentleman's voice, no, you've
6 called the right number, this is TJ's telephone. And I
7 said, where is T.J., I want to talk to T.J.. And he said
8 you can't, I killed him. And I said, this isn't funny, who
9 are you. He said -- I'm the prowler. And I said, excuse
10 me, who are you? He said, I'm the prowler. I said, this
11 is not a funny joke, put my father on the phone, I want to
12 speak to my father now. And he said, I told you, you can't
13 talk to T.J., he's dead, I killed him three hours ago. And
14 he laughed at me and hung up the phone.

15 Q What did you do then, Mrs. Dees?

16 A At that point I screamed and handed the phone, the land
17 line, to my husband and said there's a man on the -- my dad
18 -- who has my dad's cell phone, he's claiming to have
19 killed him. And I picked up my cell phone and from my cell
20 phone I called my mother's cell phone, and I tried to talk
21 her not into going home because I did not know the
22 conversation she had had with law enforcement and that she
23 had gotten anybody to answer my dad's cell phone. So I
24 called her and begged her not to go home, and she said she
25 had to. And I said, you don't understand. And she said,

SW - K. DEES - DIRECT

1 no, you don't understand. I said there's a man answering
2 my father's cell phone. And she said, I know, that's why I
3 have to meet law enforcement. I said is it true what he's
4 saying that he killed my father; and she said, I don't
5 know, that's why I have to meet law enforcement. And she
6 told me to stay put at my house and my husband used the
7 land line to make further calls and notify law enforcement
8 and as well as call the cell phone.

9 Q Your husband tried to call the police and call TJ's phone
10 again?

11 A He called TJ's phone again, and then after he talked to
12 whoever he talked to then he called law enforcement and
13 they assured him somebody was on route to meet my mother
14 and they offered to send officers to our home to stay with
15 us until they could get my mother to me.

16 Q And he laughed at you before he hung up.

17 A Yes, sir, he did.

18 Q Please answer any questions counsel has for you.

19 A Yes, sir.

20 MR. CLARK: No questions, Your Honor.

21 THE COURT: You may step down.

22 Mr. Dees, come around please, sir.

23 THE DEPUTY CLERK OF COURT: Place your left hand on the
24 Bible, raise your right hand. State your name please.

25 THE WITNESS: Robert Bruce Dees.

SW - R. DEES - DIRECT

1 WHEREUPON,

2 ROBERT BRUCE DEES,
3 having been duly sworn by the Deputy Clerk of Court,
4 testified as follows:

5 THE DEPUTY CLERK OF COURT: Have a seat up here please.
6 State your full name, spell your last name please.

7 THE WITNESS: Robert Bruce Dees, last name D-E-E-S.

8 DIRECT EXAMINATION

9 BY MR. SALEEBY:

10 Q Mr. Dees, where were you born and raised?

11 A Sumter, South Carolina.

12 Q And did you ever serve in the armed forces of the United
13 States?

14 A Yes, sir.

15 Q And which service and how long?

16 A Ten years active duty in United States Air Force and then
17 seven years in the Army National Guard.

18 Q And what kind of training or specialized specialty training
19 did you get in the National Guard?

20 A National Guard was field artillery.

21 Q How about Air Force?

22 A Medical service technician.

23 Q Is that like EMT?

24 A Yes, sir.

25 Q Where do you work now?

SW - R. DEES - DIRECT

1 A I work at Gan Resort and Communities in Blithewood, also
2 with Wade Investigative Services, also in Blithewood.

3 Q And how long you been doing that?

4 A About a year-and-a-half with that company.

5 Q You been married to Kim five years?

6 A Yes, sir.

7 Q And y'all have children and stepchildren?

8 A I have her two stepchildren and my three children.

9 Q I understand. How often did you see your father-in-law?

10 A Sometimes maybe three times a week.

11 Q Can you tell us about his mobility and his movements and
12 his general state of health and vigor or lack of same?

13 A He, like my wife testified, he walked with a cane. He was
14 real slow. And on his bad days we didn't really go out
15 there and bother him because he slept a lot of the day
16 away. On his good days if I was working Columbia at the
17 time I'd go right by there on the way home. Sometimes I'd
18 swing in to see if he wanted to go to the Huddle House for
19 lunch, and I'd have coffee and talk with him, walk the dogs
20 with him. And a lot of times when I was there he would --
21 we be having a conversation and he would just fall asleep
22 right in the middle of conversation.

23 Q A bad day was when he didn't feel good enough to get up and
24 get around; is that right?

25 A Right.

SW - R. DEES - DIRECT

- 1 Q And a good day he was more mobile and more active?
- 2 A Yes, sir.
- 3 Q Mr. Dees, I want to ask you about the afternoon of Monday,
4 October the 11th, 2004. Were you home with your wife that
5 evening around 5:30 or 5:45?
- 6 A Yes, sir.
- 7 Q I would like you to tell the Court what you heard and what
8 you did particular with as with regard to your wife's
9 attempts to contact her father by phone.
- 10 A I was in the bedroom and she was on the front porch. And I
11 went outside for some reason, and I heard her on the phone.
12 Actually I kind of heard her scream. That's when I went
13 out there.
- 14 Q Yes, sir.
- 15 A I didn't hear the conversations, but she'd handed me the
16 land line, said he killed my father, or my daddy is dead,
17 or something to that effect. And when I talked to her to
18 figure out what was going on and I called TJ's cell phone.
- 19 Q You called TJ's cell phone?
- 20 A Yes, sir, from the land line.
- 21 Q All right. Tell us about that conversation.
- 22 A A gentleman answered the phone.
- 23 Q A man?
- 24 A A man. And I said, let me speak to T.J.. He goes, you
25 can't. I said, who is this? He said, I'm the man who

SW - R. SUMMERS - DIRECT

1 killed T.J.. And I said, and I was like, what? He goes,
2 I'm the man who killed T.J., don't fucking call him no
3 more, hung up the phone, just sounded aggravated.

4 Q What did you do then?

5 A I attempted to call back again. No answer. I tried back a
6 third time, no answer. Then I called 9-1-1, explained who
7 we were, and what was going on and they told me that
8 officers have already been responded or in route to that
9 location.

10 Q Thank you, Mr. Dees. Please answer any questions Defense
11 has for you.

12 MR. CLARK: No questions for Mr. Dees. Thank you.

13 MR. SALEEBY: You may step down.

14 We call Bob Summers to the stand please.

15 THE DEPUTY CLERK OF COURT: Place your left hand on the
16 Bible, raise your right hand. State your name please.

17 THE WITNESS: Bob Summers.

18 WHEREUPON,

19 ROBERT E. SUMMERS,
20 having been duly sworn by the Deputy Clerk of Court,
21 testified as follows:

22 THE DEPUTY CLERK OF COURT: Have a seat up here please.
23 State your full name, spell your last name.

24 THE WITNESS: Robert E. Summers, S-U-M-M-E-R-S.

25 DIRECT EXAMINATION

SW - R. SUMMERS - DIRECT

1 BY MR. SALEEBY:

2 Q Mr. Summers, where do you live, sir?

3 A Sumter, South Carolina.

4 Q How long have you lived in Sumter?

5 A I'd say going on 20 something years.

6 Q And your family live here?

7 A My family is spread in Alabama, Columbia.

8 Q Is that your children?

9 A My children.

10 Q All right. You live here with your wife?

11 A Yes, sir.

12 Q Where do you work?

13 A I've been with Eckerd Drugs which is now Rite Aid for 20
14 something years.

15 Q What kind of work you do you do with them?

16 A Manager.

17 Q And how long have you been doing that in Camden?

18 A I've been up there eight years.

19 Q But you've worked with them in different locations; ---

20 A Yes.

21 Q ---is that correct? How well did you know Willard Tietjen
22 and his family?

23 A Very well. I met Mr. Tietjen in 1990 when we went through
24 the shrine together. We were initiated together. And from
25 that time on we were very close. We just -- our friendship

SW - R. SUMMERS - DIRECT

1 just got kept, kept growing.

2 Q What kinds of things would you and he do together?

3 A Well, we -- besides participating in all the shrine events
4 together, parades, different things. We went on vacation
5 together. We participated in the birth of Kimberly's
6 children and we grew as a family, our parents each one.

7 Q Would you ever get together for breakfast?

8 A Many times. As he got sicker there and couldn't get out I
9 used to take him every week and we'd go out for breakfast
10 especially the afternoon riding around through town so he
11 could see the sites, getting him out of the house.

12 Q You got him out of the house. He was pretty much home
13 bound as he got sicker?

14 A Yes, sir.

15 Q At one point were you able to walk together and did that
16 diminish as he became less mobile?

17 A We used to always take a walk through Swan Lake and around
18 that area and talk. When his, like I say, we -- any family
19 events, holidays, things like that we would get together,
20 our families.

21 Q Did you check on him regularly?

22 A All the time. I used to call. If I didn't go over there
23 in the morning for coffee like if I was going to work in
24 the afternoon, then in the morning I'd sometimes call him
25 see if he was all right.

SW - R. SUMMERS - DIRECT

- 1 Q Let me ask you about the morning of Monday, October the
2 11th, 2004. Do you recall that day?
- 3 A Yes, sir.
- 4 Q Did you have occasion to call T.J., Willard Tietjen?
- 5 A Yes, sir. I called him that morning to tell him a joke.
- 6 Q About what time?
- 7 A Between 10:30 and 11.
- 8 Q Okay, sir. Go ahead and tell the Court.
- 9 A He liked a lot of jokes and he was good at them. And this
10 particular customer came in and told me one so I called him
11 that morning just to say hello and tell him that joke.
- 12 Q And did you in fact do that, tell him that joke?
- 13 A Yes, sir, I did.
- 14 Q Could you tell how he was doing based on your conversation?
- 15 A From what I could tell he was fine.
- 16 Q Did he give any indication anything was wrong or anybody
17 was there?
- 18 A Not a bit.
- 19 Q And when did you learn of his death?
- 20 A When did I learn of?
- 21 Q Of his death?
- 22 A Mildred called me that night and when she called me I
23 was -- it was just unbelievable. I just, you know, I said
24 this ain't no joke, and she said no. And it was just
25 unbelievable.

SW - R. SUMMERS - DIRECT

1 Q And you had talked with him about you say sometime between
2 10:30 and 11?

3 A Yes, sir.

4 Q Were you good enough friends that you gave him gifts
5 sometimes?

6 A Oh, yes, any little gag gifts or something.

7 Q I'm going to show you State's Exhibits Number 41. I think
8 it's in evidence now, and ask you if you can identify it.

9 A Yes, sir, I gave him that. It was full of popcorn.

10 Q All right. And just tell us -- tell what you did with it
11 and how the use of it evolved.

12 A Well, we got them in that day and I thought of him and
13 'cause I knew he hated popcorn. And it had a little bank
14 on the side so I figured he'd have to eat the popcorn or
15 somebody would to use the bank so I bought it for him and
16 brought it to him. And a couple of -- about a week later I
17 put the dollar bill in there.

18 Q I was going to ask you about that. One way or the other
19 the popcorn got gone?

20 A Popcorn got ate by the family.

21 Q All right. Now I'm going to show you State's Exhibit
22 Number 46, and I think this is in evidence, and I would
23 ask you to show this to the judge and tell him what it is.

24 A After he had ate all the popcorn and then put some change
25 in the bank, start to use it for his fund, I put that

SW - T. COLCLOUGH - DIRECT

1 dollar bill in there, said I was the first one to give him
2 one.

3 Q Put it in here?

4 A Yes, sir.

5 Q And it says, what's it say on the left-hand side?

6 A To T.J., and that's my initials, R-E-S.

7 Q All right, sir. Thank you, Mr. Summers, please answer any
8 questions counsel has.

9 MR. CLARK: No questions for Mr. Summers, thank you.

10 THE COURT: Thank you, Mr. Summers.

11 THE WITNESS: Thank you.

12 THE COURT: Ladies and gentlemen, we've been going for
13 a while. We're going to take a 10, 15 minute break. We'll start
14 back, be in recess about 10, 15 minutes.

15 (WHEREUPON, a recess was taken from the proceedings.)

16 THE COURT: Yes, sir.

17 MR. SALEEBY: Your Honor, we call Lieutenant Terrence
18 Colclough to the stand please.

19 THE DEPUTY CLERK OF COURT: Place your left hand on the
20 Bible, raise your right hand. State your name please.

21 THE WITNESS: Terrence Rondell Colclough.

22 WHEREUPON,

23 TERRENCE RONDELL COLCLOUGH,
24 having been duly sworn by the Deputy Clerk of Court,
25 testified as follows:

SW - T. COLCLOUGH - DIRECT

1 THE DEPUTY CLERK OF COURT: Have a seat up here please.
2 State your full name, spell your last name please sir.

3 THE WITNESS: Terrence Rondell Colclough,
4 C-O-L-C-L-O-U-G-H.

5 DIRECT EXAMINATION

6 BY MR. SALEEBY:

7 Q How long have you lived here in Sumter?

8 A All my life.

9 Q And how long have you worked for the Sheriff's Department?

10 A 13 years.

11 Q And what particular division have you worked with?

12 A Work with the patrol division.

13 Q Were you working patrol in October of 2004?

14 A Yes, I was.

15 Q And what was your rank and what were your duties on that
16 day?

17 A At that time I was a sergeant on patrol shift supervisor.

18 Q You were the patrol shift supervisor.

19 A Yes, I was.

20 Q And which shift were you on?

21 A I was on the B shift.

22 Q And the B shift would be what hours?

23 A And we were on night shift that particular day.

24 Q And what hours?

25 A It's 6 p.m. to 6 a.m.

SW - T. COLCLOUGH - DIRECT

- 1 Q All right. And what time do you start making the
2 transition, actually get on duty?
- 3 A We actually start changing over at approximately five p.m.
- 4 Q All right. I would ask you if you had the occasion to
5 respond to a call at the Tietjen residence around between 5
6 and 6 that evening. If you'd tell the court yes or no, and
7 if so, about what time.
- 8 A Yes, I did, and it was approximately at 5:44 p.m. that
9 particular day.
- 10 Q That's when the call came in?
- 11 A The call actually came in at 5:42 p.m.
- 12 Q 5:42, all right. And when was -- people dispatch, y'all
13 dispatched?
- 14 A We was dispatched at 5:44 p.m.
- 15 Q And what time did the first officer arrive on the scene?
- 16 A And the first officer arrived on the scene at 6:08 p.m.
17 that particular day.
- 18 Q All right. We've tried to identify it before. You being
19 living in the county being on patrol are you familiar with
20 the Wedgefield Section?
- 21 A Yes, sir, I am.
- 22 Q And are you familiar with Mr. Tietjen's home?
- 23 A Yes, I am.
- 24 Q All right. And you were the shift that was coming on. Was
25 there also a shift going off?

SW - T. COLCLOUGH - DIRECT

1 A Yes, it was. It was another shift that was about to go
2 home at about 6:00.

3 Q Did officers from both shifts respond?

4 A Yes, it was, both shifts.

5 Q Had you known Mr. Tietjen before this day?

6 A Yes, I did. Frequently Mr. Tietjen was, prior to him
7 becoming ill recently, probably in the early 1990's, early
8 2000, he was -- he frequented at one of the gas stations
9 Parker (ph) Exxon, always offered the deputies coffee,
10 actually stop by his residence to get coffee and doughnuts
11 and so forth.

12 Q You knew where he was then?

13 A Yes, I did.

14 Q All right. And this would be what we're referring to as
15 the close to the intersection [REDACTED]

16 [REDACTED]

17 A [REDACTED], that's correct.

18 Q I'm going to show you a couple of aerial photographs. If
19 you would please just try to orient the Court as to the
20 driveway. I think these are State's Exhibits 2-A to -C.
21 Do you recognize the area?

22 A Yes, I do.

23 Q All right. What road are we looking at here?

24 A You're actually looking at [REDACTED] as it
25 approached [REDACTED].

SW - T. COLCLOUGH - DIRECT

- 1 Q And is this [REDACTED] running up and down this way?
- 2 A Yes, it is.
- 3 Q And would this be the Tietjen residence?
- 4 A Yes, it is.
- 5 Q All right, let's look at B. A little bit closer up. Tell
- 6 us what we're looking at, sir.
- 7 A You're looking at the same intersection but a little bit
- 8 closer looking at [REDACTED] approaching
- 9 [REDACTED] south.
- 10 Q Is this [REDACTED] up from the bottom right?
- 11 A Yes, it is. [REDACTED]
- 12 Q This is [REDACTED]?
- 13 A And that's [REDACTED]
- 14 Q And is this the driveway?
- 15 A Yes, it is.
- 16 Q Is this a power right of way here?
- 17 A That is. It's a clearing.
- 18 Q All right. And 2-C. All these photographs show woods and
- 19 show no other houses in the area. Is that the way it
- 20 appeared in October of 2004?
- 21 A Yes, it is.
- 22 Q All right. Thank you. You may take the photos down. When
- 23 you got to the scene who was there please, Mr. Colclough?
- 24 A We had one other deputy was one of the first responder on
- 25 the scene. That was Deputy MaCauley. When I approached

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1 the scene therefore Deputy MaCauley briefed me on actually
2 what he had learned. Mrs. Tietjen was there at the
3 residence. She was set aside along close towards the
4 driveway portion of [REDACTED] of her resident.
5 After I spoke with Deputy MaCauley I went spoke with
6 Mrs. Tietjen. Therefore, she then briefed me on the
7 incident reference to the phone calls reference to a
8 someone when she actually called her husband and someone
9 gave her knowledge that her husband had been killed. And
10 also prior to me coming to the call it was another call
11 that was dispatched that was -- that came from
12 Mrs. Tietjen's daughter in reference to a 9-1-1 call so we
13 actually had two 9-1-1 calls in reference to that residence
14 that a phone call was received that Mr. Tietjen was killed
15 inside the residence.

16 Q Did you observe a dog out on the porch?

17 A Yes, I did.

18 Q What preparation did you make of going in to the Tietjen
19 home? Did you get a key?

20 A Yes, I did. I spoke with Mrs. Tietjen. She went ahead and
21 gave me a key. Then what I did was the units that was
22 available I positioned them around the residence. I placed
23 Deputy MaCauley on the rear portion of the residence to
24 watch the back door, and I took the other two deputies that
25 was arrived later after I arrived along with to actually go

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1 inside the residence to clear it.

2 Q What did you do as you approached the house to just for
3 security purposes and determine what was inside?

4 A From tactical purposes we went on approached the residence
5 quietly, then as we got to the door along with the key we
6 called out Mr. Tietjen's name, called out law enforcement,
7 no one answered.

8 Q Did you have to use the key to get inside?

9 A We actually swiveled the door. We didn't have to use the
10 key because the door was open.

11 Q All right. On State's Exhibit S-2 previously being
12 identified as the top of the diagram and this area would be
13 the front door; is that correct?

14 A That's correct.

15 Q Why don't you just take this lazor and tell the judge how
16 you and your fellow officers approached this scene.

17 A All right. What we did, Your Honor, first we approached
18 the front stairway, entered the residence. Like I said,
19 the door was unlocked but it was closed, slightly ajar.
20 Went inside in this hallway here. Started calling out
21 again law enforcement. I was first. I had two other
22 deputies behind me. We therefore approached the -- we went
23 inside the hallway slowly. Came to this point to the
24 T-section of the residence here, and we heard some dogs
25 barking inside this particular bedroom here. We came

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1 forward a little bit more, looked towards this side what
2 appeared to be some type of living room or a den and we
3 spotted a male laying on the floor appeared to be deceased
4 with candles lit on the table right there over on this
5 side.

6 Q Candles lit in the area of the body?

7 A Yes, it was candles was also lit around the area, the body
8 also.

9 Q On the table and around the body. What were the lighting
10 conditions at the house and around 6:00 in October?

11 A It was -- when we first went inside the house it appeared
12 the house could have been older house where it didn't have
13 ceiling lights so they had lanterns around the residence so
14 it was very, very dark. They had plenty of blinds since
15 out there so it's fairly dark inside the residence.

16 Q From where you were at the top of the stairs you were able
17 to see both Mr. Tietjen's body and these candles lit?

18 A Yes, sir.

19 Q What did you do then?

20 A What we then do then was just as soon as we spotted Mr.
21 Tietjen's body we exit the residence slowly backwards.
22 Then the purpose on why we did that for me to be able to go
23 ahead make sure that the ambulance was on its way, also to
24 call for investigators along with the commanders on our
25 call.

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1 Q You backed out, regrouped and called for help?

2 A Yes, sir.

3 Q All right. Were you given instructions how to proceed from
4 that point?

5 A Affirmative. We received approval from the commander to go
6 ahead finish on clearing the residence. One more deputy
7 pulled up shortly after that. Four of us then, of course I
8 was in the front, went in, cleared the entire residence,
9 went forth each -- by each bedroom. Your Honor, when we
10 came back inside the residence first thing what we did was
11 instead of going into this section into the living room or
12 dining room or den we went forward into the kitchen area
13 around by where Mr. Tietjen was laying that actually check
14 his vitals. And then once we ---

15 Q You checked his vitals and what did you find out?

16 A That he was deceased.

17 Q What would you observe about his body just from your
18 examination?

19 A There was blood across his chest and appeared to be a
20 gunshot wound.

21 Q Did he have any marks anywhere else on his body?

22 A It was pretty much in disarray. It was something never
23 seen.

24 Q What condition was his face in?

25 A His face appeared to have some burns on it like the eye

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1 lashes, eye brows, that was also burned.

2 Q Was there anything on his chest?

3 A It was a notebook or a folder that was on his chest
4 appeared to have some type of letter or so forth in the
5 inside of it.

6 Q Did you leave it where it was?

7 A Yes, sir, we did.

8 Q When you went back in there did you have any idea whether
9 there was anybody else in the house other than Mr. Tietjen
10 and the dogs?

11 A No, sir, what we did, we completely cleared the residence
12 after we checked for it to make sure that the scene was
13 safe for the investigators and for rescue to come to the
14 residence, go inside the residence.

15 Q And you say there were two dogs. Were they contained in a
16 bedroom?

17 A Yes, sir. The dogs was inside the bedroom so that was also
18 the first thing that we noticed when we approached the
19 residence that the curtains and the blind was also moving
20 because of the dogs was actually inside that particular
21 bedroom.

22 Q And the dog that was out on the porch was that -- was the
23 door closed so that dog couldn't get back inside?

24 A Yes, it was.

25 Q Did EMS arrive?

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1 A Yes, EMS did arrive.

2 Q And what could they do, what did you do after that?

3 A All right. After that sent a deputy in along with EMS to
4 make sure that the scene, the inside of the scene was
5 secured. Then what we did was secure the perimeter and so
6 and I went out and spoke to Mrs. Tietjen. She had some
7 questions to ask and she asked me was her husband inside
8 the residence. I said, yes, ma'am, he was.

9 Q Did you remain on the scene?

10 A Yes, sir.

11 Q And were you there when officers from SLED came to process
12 the scene?

13 A I left prior to the SLED officers coming by. I left when
14 our investigators came up.

15 Q All right, thank you. Please answer any questions counsel
16 has for you.

17 MR. CLARK: No questions, Your Honor.

18 THE COURT: Thank you, sir. You may step down.

19 MR. SALEEBY: We ask may he be excused and we call
20 Phillip Coonfield to the stand.

21 WHEREUPON,

22 PHILLIP E. COONFIELD,

23 having been duly sworn by the Deputy Clerk of Court,

24 testified as follows:

25 THE DEPUTY CLERK OF COURT: Have a seat up here please.

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1 State your full name, spell your last name please, sir.

2 THE WITNESS: Phillip E. Coonfield, C-O-O-N-F-I-E-L-D.

3 DIRECT EXAMINATION

4 BY MR. SALEEBY:

5 Q Mr. Coonfield, please tell us where you were born and
6 raised?

7 A I was born and raised in Marion County, South Carolina.

8 Q And tell us who you work with now.

9 A I work with the South Carolina law Enforcement Decision
10 also known as SLED.

11 Q How long have you worked with SLED?

12 A I've worked with those guys over nine-and-half years.

13 Q And before you worked with SLED did you have any other law
14 enforcement experience?

15 A No, sir.

16 Q What have you done since you've been with SLED these --
17 9-and-a-half years?

18 A I worked with latent prints crime scene unit for
19 approximately 7-and-a-half years, currently assigned to the
20 tactical operations, blood hound tracking unit for the past
21 two years.

22 Q Were you working in the crime scene processing latent
23 prints division in October of 2004?

24 A Yes, sir, I was.

25 Q Now prior to that date how long have you been working in

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1 the crime scene process?

2 A Prior to '04 I was there approximately five-and-a-half
3 years.

4 Q And what training do you have in the area of crime scene
5 processing?

6 A I completed a two year in-house training program where we
7 serve under court qualified senior examiners. Also
8 completed courses in crime scene photography, crime scene
9 processing, latent print development, footwear examination
10 development, blood stain pattern analysis, and crime scene
11 reconstruction.

12 Q And how many crime scenes have you worked and processed do
13 you think?

14 A I've worked over two hundred violent crimes, crime scenes.

15 Q And how many times have you been qualified to testify as an
16 expert in the courts of this state?

17 A Close to 20 times I believe.

18 MR. SALEEBY: Your Honor, we submit that he would be
19 well qualified to testify as an expert in area of crime scene
20 processing.

21 MR. CLARK: No objection, Your Honor.

22 THE COURT: All right, so qualified.

23 BY MR. SALEEBY:

24 Q Mr. Coonfield, let me direct your attention to the evening
25 hours of October the 11th, 2004. Was SLED requested to

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- 1 assist the Sumter County Sheriff's Office in processing the
2 Tietjen residence?
- 3 A Yes, sir, we were.
- 4 Q And were you one of the responders?
- 5 A I was.
- 6 Q And who else responded with you?
- 7 A Special Agent Bruce Gant also with the crime scene
8 department responded with me as well.
- 9 Q All right. Please tell us why you have more than one
10 person respond.
- 11 A There are several reasons. Two people together we work
12 hand-in-hand, will review each other's casework. We'll
13 also go through the scene together. We can also divide up
14 with some responsibilities. For example, in this case
15 Bruce would go through and take notes; we went through and
16 took photographs.
- 17 Q Did you work in what you prepared on these things together
18 is I guess my question?
- 19 A Yes, sir.
- 20 Q Observing and collecting?
- 21 A That's correct.
- 22 Q All right. And did the two of you document and check each
23 other's work in terms of what you gathered, what you did
24 with it?
- 25 A Yes, sir.