

ORIGINAL

Volume I of II

STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM CHESTER COUNTY
D. Craig Brown, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRENDA BRATSCHI,

APPELLANT

APPELLATE CASE NO. 2012-211980

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT
STATE'S EXHIBIT # 24 (CD OF 911 CALL)**

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2010-GS-21-00661
	)	
	)	
	)	
State Of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Brenda Miles Bratschi	)	)
<u>DEFENDANT</u>	)	April 16-19, 2012
		Florence, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE; and a jury.

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

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 ROBERT N. WELLS, ASSISTANT SOLICITOR
 Attorneys for the State

H. LEE HERRON, ESQ.
 KAYE FRALEY, ESQ.
 Attorneys for the Defendant

KESHIA REED

Official Court Reporter

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1	<u>E X H I B I T S</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
3	S-1A	Photo		255
4	S-1B	Photo		255
5	S-1C	Photo		63
6	S-1D	Photo		63
7	S-1E	Photo		63
8	S-1F	Photo		63
9	S-1G	Photo		63
10	S-1H	Photo		255
11	S-1I	Photo		63
12	S-1J	Photo		255
13	S-1K	Photo		255
14	S-1L	Photo		63
15	S-1M	Photo		63
16	S-1N	Photo		63
17	S-1O	Photo		63
18	S-1P	Photo		63
19	S-2A	Photo		255
20	S-2B	Photo		64
21	S-2C	Photo		255
22	S-2D	Photo		64
23	S-3A	Photo		66
24	S-3B	Photo		255
25	S-4A	Photo		68

<u>E X H I B I T S</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	S-4B	Photo		68
4	S-4C	Photo		248
5	S-4D	Photo		68
6	S-4E	Photo		248
7	S-4F	Photo		248
8	S-4G	Photo		248
9	S-4H	Photo		248
10	S-4I	Photo		68
11	S-4J	Photo		248
12	S-4K	Photo		248
13	S-4L	Photo		68
14	S-4M	Photo		68
15	S-4N	Photo		248
16	S-5A	Photo		526
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	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	S-9	Warrant	82	
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5	S-11	Photo		176
6	S-12	Photo		176
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22	S-28	Photo		248
23	S-29	Tire Thumper		253
24	S-30	X-Rays	278	
25	S-31	Photo	401	405

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I N D E X

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-32	Photo	402	406
S-33	Photo	402	406
S-34	Photo	402	406
S-35	Photo		433
D-1	Ammunition		261
D-2	Warrant		568
C-1	CD of 9-1-1 Call		99

1 help her out. She needs something for work to go back
2 today.

3 THE CLERK: I'll talk with her.

4 THE COURT: All right. Is the camera on right
5 now, ma'am?

6 REPORTER: It's off.

7 THE COURT: All right. I just got this request
8 that was handed up to me. I want all this on the record.
9 Giving you authorization to electronic photographic
10 coverage of judicial proceedings, which you have every
11 right to be in here, okay. But the rule also requires
12 that you give reasonable notice to the Court, not after
13 you set up and handed up the notice. I'm going to sign
14 this order giving you authorization to do so. Just for
15 future reference, you're suppose to get these to the Court
16 within a reasonable time not after you already in here and
17 have a camera set up.

18 REPORTER: Yes, sir, I appreciate it. Thank
19 you.

20 THE COURT: All right. Now, the remaining
21 matters that we need to take up with regards to today deal
22 with matters pertaining to evidence that the State intends
23 to introduce during the course of this trial pursuant to
24 Rule 404(b) the South Carolina Rules of Evidence. At this
25 time, Mr. Ozment, I'm going to recognize you on behalf of

1 the State. I'll be happy to hear from you with regards to
2 this matter.

3 MR. OZMENT: Thank you, Your Honor. Just in
4 regards for purpose of the record, I believe at this point
5 we have provided the Court with some photographs of
6 Mr. Bratschi. A copy of the 9-1-1 call that we would
7 intend to introduce obviously just the relevant portions
8 of that entire recording as well as some family court
9 records. I would just ask that for the record that be
10 included. The State would call Investigator Kathleen
11 Street to the stand.

12 THE CLERK: Do you swear to tell the truth, the
13 whole truth, and nothing but the truth so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please be seated and state your full
16 name for the record.

17 THE WITNESS: It's Kathleen Vargovchik Street.

18 THE COURT: Spell your last name for the record
19 please, ma'am.

20 THE WITNESS: V as in victory, A-R-G-O-V as in
21 victory, C-H-I-K.

22 THE COURT: Mr. Ozment.

23 WHEREUPON,

24 Kathleen V. Street,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION IN-CAMERA

BY MR. OZMENT:

Q How are you today, Mrs. Streett?

A Fine.

Q Please state what you do?

A I'm a criminal investigator for the Florence County Sheriff's office.

Q How long have you acted in that capacity?

A Since 2000.

Q How long have you been in law enforcement?

A Since 1994.

Q All right. Do you have any experience or I guess specific experience investigating criminal domestic violence?

A I do.

Q Do you have any special training in that area?

A I do. Actually, in addition to the yearly CDV updates that we do in the in-service trainings and things, I went through a course at the Federal Law Enforcement Training Center and actually helped developed their national training protocol from investigating criminal domestic violence incidences.

Q All right. Now, turning to this case, how did you become involved in the incident between the Bratschis' on October 21st 2004?

1 A I was notified by my lieutenant that there was an
2 assault that had occurred in the Coward area of the county
3 in that we had two victims that were either in route or
4 already at Lake City Hospital and that it appeared to be
5 from what the responding deputies had said that it was
6 domestically related.

7 Q All right. Where did you respond to first?

8 A I went to the hospital first.

9 Q All right. Did you see Mr. Bratschi while you were
10 at the hospital?

11 A I did.

12 Q Describe -- and I realize maybe detailed, but briefly
13 kind of describe for me what his injuries consisted of?

14 A He was -- he had on a pair of blue jeans and a
15 hospital gown at one point and some flip flops. He had
16 severe trauma, head trauma. He was bleeding from some
17 head wounds and also wounds near his eye. He had bruising
18 all over his upper body also.

19 Q All right. Did you talk to him about what had happen
20 that day?

21 A I did.

22 Q Okay. And following your conversation with him, what
23 was the next step in your investigation?

24 A I located his wife.

25 Q Okay.

1 MR. OZMENT: Your Honor, may I approach the
2 witness?

3 THE COURT: Yes, sir.

4 BY MR. OZMENT:

5 Q Investigator Streett, I'm going to hand you some
6 photographs. Can you identify the individual in those
7 photographs?

8 THE COURT: While she's looking through those
9 photographs, Mr. Ozment, you provided obviously a copy of
10 these photographs to Mr. Herron?

11 MR. OZMENT: I have in discovery, Your Honor. I
12 have not shown him exactly which ones I'm showing right
13 now.

14 THE COURT: Could you please?

15 MR. HERRON: I'll let her go through them. I'll
16 just take a quick look at them, Your Honor.

17 THE COURT: Okay. Thank you. You may continue,
18 Mr. Ozment.

19 BY MR. OZMENT:

20 Q Okay. Investigator Streett, what is contained in
21 those photographs?

22 A Those are the photographs of Randy Bratschi?

23 Q All right. And when were those photographs taken?

24 A That day at the hospital.

25 Q Are those accurate representations of what he look

1 like that day in the hospital?

2 A Yes.

3 MR. OZMENT: All right. Your Honor, at this
4 time, we would move these photographs into evidence for
5 the purposes of this hearing.

6 THE COURT: All right. Any objection?

7 MR. HERRON: No objection for purpose of this
8 hearing, Your Honor.

9 THE COURT: Hold on let her mark them. Why
10 don't we do this, put one identifying marker on them,
11 count the number of photographs for the record, so you
12 don't have to mark every single photograph on you. What
13 I'm going to do is ask you, Keshia, rather than you
14 counting them, give them back to Officer Streett --
15 Investigator Streett and you let her count them. So you
16 can put on the record what her count is.

17 A I count 16.

18 THE COURT: Investigator Streett has counted
19 photographs and she's come up with the number 16. Is that
20 what you had, Mr. Ozment?

21 MR. OZMENT: That sounds about right, Your
22 Honor.

23 THE COURT: All right. You may continue.

24 MR. OZMENT: Thank you, Your Honor.

25

1 (WHEREUPON, State's Exhibits Nos. 1A-1P were
2 admitted into evidence for Jackson vs. Denno hearing
3 only.)

4 BY MR. OZMENT:

5 Q Prior to your conversation with Mr. Bratschi, I think
6 you said you look for Ms. Bratschi. Were you able to find
7 Ms. Bratschi?

8 A Yes, I did.

9 Q Did you talk to her at that time?

10 A I did.

11 Q Did she appear to have any injuries when you spoke to
12 her?

13 A She had a cut on her thumb.

14 Q All right.

15 MR. HERRON: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. OZMENT:

18 Q I'm handing Investigator Streett four photographs.
19 Can you please look at those four photographs and tell me
20 what you see?

21 A Those are the photographs of Ms. Bratschi?

22 Q All right. Now, with your conversation with her, do
23 those photographs appear to be an accurate representation
24 of her injuries that day?

25 A Yes.

1 MR. OZMENT: All right. At this time, Your
2 Honor, we would move those four photographs into evidence
3 for the purposes of this hearing.

4 MR. HERRON: No objection, Your Honor, for
5 purpose of this hearing.

6 THE COURT: All right.

7 (WHEREUPON, State's Exhibits Nos. 2A-2D were
8 admitted into evidence.)

9 BY MR. OZMENT:

10 Q In talking with Ms. Bratschi, were you able to
11 ascertain what injuries she had?

12 A What she told me and what I could see, yes.

13 Q Okay. And what were those injuries?

14 A The injury on her thumb.

15 Q All right. And that's the injury I see in the
16 photograph?

17 A Correct.

18 Q Okay. Following your conversation with Ms. Bratschi,
19 what was the next step in your investigation?

20 A They advise me that they were going to admit
21 Mr. Bratschi and sent forensics -- they had already been
22 at the house and then we were going back to the incident
23 location?

24 Q Okay. Did you respond to the incident location?

25 A I did.

1 Q What investigation did you do at the incident
2 location?

3 A Basically looked around at the area and looked at the
4 general area where Mr. Bratschi and Ms. Bratschi both had
5 stated that the incident had occurred and basically
6 compared what their stories were and what they had told me
7 to what we could see there at the house.

8 Q Were there any potential weapons you were looking for
9 when you went to the house?

10 A Yes.

11 Q And what were those?

12 A A small baseball bat type of a wooden club?

13 Q Okay. When you were at the incident location, did
14 you find a weapon that matched that description?

15 A I did. One of the forensic techs did?

16 Q Okay. And why was it that you were looking for a
17 small baseball bat wooden-type club?

18 A Because that's what they said had been used in the
19 incident.

20 Q Okay. From your investigation whose injuries were
21 caused by that club?

22 A Mr. Bratschi's.

23 Q Okay. Have you seen the club since then?

24 A Yes.

25 Q Could you describe it just briefly for me?

1 A Looks like a small wooden baseball bat. It's about
2 this long. It's actually in two pieces now, so you put
3 them all together it would be about that long.

4 Q And you're indicating probably what two feet long
5 about?

6 A Correct.

7 MR. OZMENT: All right. May I approach the
8 witness, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. OZMENT:

11 Q Investigator Streett, I'm handing you two photos.
12 Can you identify what's in those photos?

13 A This is that part of the club that we located at the
14 incident location.

15 Q All right. Is that consistent with your examinations
16 of the club?

17 A Yes.

18 MR. OZMENT: All right. At this time, we would
19 move those two photos into evidence for purposes of this
20 hearing.

21 MR. HERRON: No objection to the purpose of this
22 hearing, Judge.

23 COURT REPORTER: Give me just a second to mark
24 them.

25

1 (WHEREUPON, State's Exhibits Nos. 3A-3B were
2 admitted into evidence for the purpose of this
3 hearing only.)

4 BY MR. OZMENT:

5 Q While you were at the incident location, did you see
6 any signs of a struggle?

7 A Yes.

8 Q What did you see?

9 A There was blood on the ground in the dirt around the
10 area where the incident took place and also claw marks,
11 scratch marks on the ground in the dirt.

12 Q Okay. Did you find blood anywhere else on the
13 property?

14 A Pardon.

15 Q Was there blood anywhere else on the property?

16 A There was a blood trail leading back around I believe
17 the four wheeler and back up into the house and into the
18 kitchen area, laundry room and kitchen area of the house.

19 Q Was there blood on the four wheeler?

20 A I believe there was some blood found on the four
21 wheeler.

22 Q Okay. And then when you said leading around, what do
23 you mean by that?

24 A There was a blood trail where Mr. Bratschi had stated
25 that he had walked back into the house.

1 Q Okay. Investigator Streett, I'm handing you 14
2 photos. Could you look at those and tell me if they --
3 what do you see in them?

4 A You want me to describe each one individually or just
5 basically...

6 Q You can view them all kind of what ---

7 A These are indicative of the claw marks that I mention
8 on the ground. The blood spatter on the ground also and
9 then the blood trail leading from that area back into the
10 residence.

11 Q All right. Do you see a telephone in any of those
12 pictures?

13 A I do.

14 Q What is there anything on the telephone?

15 A It's bloody.

16 Q Okay.

17 MR. OZMENT: At this time, we would move those
18 photos into evidence for purposes of this hearing as well.

19 THE COURT: Mr. Herron.

20 MR. HERRON: No objection for purposes of this
21 hearing.

22 THE COURT: Hold on a minute.

23 (WHEREUPON, State's Exhibits Nos. 4A-4N were
24 admitted into evidence.)
25

1 BY MR. OZMENT:

2 Q After your examination of the scene, what did you do
3 next at that point in your investigation?

4 A I went back by the hospital and then I went back to
5 the sheriff's office. That was about it for that day.

6 Q Okay. Did you meet with Mr. Bratschi again after
7 this?

8 A I did.

9 Q Okay. Do you recall roughly when that was?

10 A It was after he was released from the hospital on the
11 26th.

12 Q All right. Did you have a chance to look at his
13 injuries that day?

14 A I did.

15 MR. OZMENT: May I approach one more time with
16 pictures, Your Honor?

17 THE COURT: Yes, sir.

18 BY MR. OZMENT:

19 Q I'm handing you seven pictures. Can you look at
20 those and tell me what you see in those pictures?

21 A These are the photographs of Randy Bratschi that were
22 taken at the sheriff's office.

23 Q And do those accurately represent his injuries that
24 day?

25 A They do.

1 MR. OZMENT: At this time, Your Honor, we would
2 ask that those pictures be moved into evidence for the
3 purposes of this hearing?

4 MR. HERRON: No objection for purposes of this
5 hearing.

6 (WHEREUPON, State's Exhibits Nos. 5A-5G were
7 admitted into evidence.)

8 THE COURT: Mr. Ozment.

9 BY MR. OZMENT:

10 Q Did you interview Mr. Bratschi again on that day?

11 A I did.

12 Q Did you also speak to Ms. Bratschi again after the
13 time you spoke of at the hospital?

14 A I did.

15 Q Did they both give statements?

16 A Yes.

17 Q After you had spoken to both of them, what were --
18 were there any -- what investigations did you conduct?

19 A Basically, I took their statements and I took
20 photographs and things from the crime scene and put
21 together what we call probable cause request form for a
22 warrant of Ms. Bratschi.

23 Q Had you asked Mr. Bratschi to do anything for you as
24 far as help you investigate this?

25 A We discussed several things regarding family court

1 issues that he had questions about. I also asked him to
2 check into some financial matters at the bank for me.

3 Q Okay. What did you ask him to check into at the bank
4 for you?

5 A To see what kind of banking records that he could get
6 since both of them had said that they were on their way to
7 the credit union that day when the incident happened.

8 Q All right. Did you eventually receive banking
9 records?

10 A I did.

11 Q Okay. And from your examination of those banking
12 records, what did they indicate to you?

13 A That there had been sums of money taken out time
14 after time resulting in the accounts being overdrawn?

15 Q Okay. Do you recall was that how that was taken out
16 was it by debit card, checks, cash?

17 A There were checks written on the account and there
18 were also debit card withdrawals?

19 Q Okay. From your investigation at the time that this
20 assault occurred was the account at zero or overdrawn?

21 A At that time, I didn't have that information.

22 Q Okay. But subsequently have you?

23 A Yes.

24 Q So what?

25 A It had been overdrawn.

1 Q Okay. From your discussions with Mr. Bratschi was he
2 surprise that his bank account had been overdrawn?

3 A Surprised at that time, yes.

4 Q Okay. Did you at any time ask him for permission to
5 have his medical records?

6 A I did.

7 Q Would those be the medical records from when he went
8 to the emergency room?

9 A That's correct he sign the medical records release
10 form.

11 MR. OZMENT: Your Honor, may I approach?

12 THE COURT: Yes, sir.

13 BY MR. OZMENT:

14 Q I'm handing you a packet of documents. Could you
15 look at that and tell me what it is?

16 A This is a copy of the medical records release form
17 that he signed for me. They appear to be his medical
18 records also.

19 Q Okay. There's a couple places in there -- and those
20 are medical records you received?

21 A That's correct.

22 MR. OZMENT: Your Honor, at this time we would
23 ask that those medical records be made -- be moved into
24 evidence for purposes of this hearing?

25 MR. HERRON: No objection to this hearing, Your

1 Honor.

2 THE COURT: Without objection.

3 (WHEREUPON, State's Exhibit No. 6 was admitted
4 into evidence.)

5 BY MR. OZMENT:

6 Q Investigator Streett, there's a couple places in
7 those medical records where I have tabbed -- can you turn
8 to the first one and look at that and tell me what it is?

9 A It appears to be the history and physical report from
10 10-21 of '04.

11 Q All right. Could you read for me the history there
12 at the time?

13 A Says chief complaint alleged altercation with head
14 and chest trauma, history of present illness 54-year-old
15 Caucasian male comes in today after allegedly being hit in
16 the head and chest by baseball bat by his wife. He states
17 it happen about an hour ago. He states that they had been
18 getting along fine. He did not know there was anything
19 going on. It came out of nowhere with no warning. He
20 states that he did not lose consciousness, but certainly
21 did get blurry and almost passed out. But he never
22 completely lost consciousness. He does believe he had
23 lost consciousness, she would have continued to beat him,
24 but he was able to get to his feet and at that point she
25 ran. He states that most of the pain is in the left

1 maxillary facial area. He does have some left rib pain.
2 He does have several lacerations to his forehead, which
3 were sutured while he was in the emergency room and they
4 appear to be doing well. He does have some
5 subconjunctival hematoma again, but this appears stable at
6 this time.

7 Q Okay. Now, there's a second place I have also
8 flagged. Can you turn to that page and tell me what it's
9 saying?

10 A It's also a medical record from the E.R.

11 Q All right. Could you read for me there what the
12 statement -- describing what the injury is?

13 A Says chief complaint alleged altercation head and
14 chest trauma, history of present illness. The patient is
15 a 54-year-old Caucasian male who presents for quote,
16 alleged altercation head and chest trauma, end quote.
17 Patient is brought to the emergency room by EMS. He
18 states that about one hour ago he was beaten by his wife
19 with a wooden club. This occurred about one hour ago. He
20 states that this came out of no where, he had no warning.
21 He states that they had not been arguing or appeared to
22 been getting along well. The patient admits that he was
23 nearly knocked out. He states that he believes that he
24 would have been killed by his wife if he had lost
25 consciousness. Patient denies any loss of vision or

1 unilateral weakness. He admits mostly pain to his left
2 maxillary facial area. He sustained a laceration to the
3 left maxillary face and left forehead. He also admits
4 soreness to his left anterior and lateral chest area as
5 well as right upper chest. He denies any abdominal pain
6 or pain to his lower extremities slash upper extremities.

7 Q Thank you. I believe you also mentioned a minute ago
8 that you had talk to Mr. Bratschi about some actions he
9 could take in family court. What did you discuss with him
10 and tell him he could do at that time?

11 A He expressed a large amount of fear of his wife and
12 we suggested that he file a petition for family court
13 order of protection.

14 Q All right. Do you know if he did that?

15 A He did. He assisted one of our victim's advocates,
16 assisted him with getting that petition filled.

17 Q When you say one of our victim advocates, what do you
18 mean by that?

19 A We have two victim advocates that work with us at the
20 sheriff's office that help crime victims with victim
21 services such as SOVO benefits, family court issues,
22 anything basically that they would need.

23 Q Okay.

24 MR. OZMENT: May I approach, Your Honor?

25 THE COURT: Yes, sir.

1 BY MR. OZMENT:

2 Q Investigator Streett, I'm handing you three sheets of
3 paper. Can you look at those three sheets of paper and
4 tell me what they are?

5 A The first one appears to be the affidavit for the
6 petition for the order of protection and then the second
7 and third pages are the actual petition?

8 Q All right. Do you see a stamp on there where it was
9 filed with the family court?

10 A Yes.

11 Q Okay.

12 MR. OZMENT: Your Honor, at this time we would
13 ask that these documents be made evidence for purposes
14 of this hearing.

15 MR. HERRON: No objection for this hearing.

16 THE COURT: All right, without objection.

17 (WHEREUPON, State's Exhibit No. 7 was admitted
18 into evidence for this hearing only.)

19 BY MR. OZMENT:

20 Q Investigator Streett, on the request for emergency
21 hearing is there -- did you see a sworn affidavit of
22 Mr. Bratschi?

23 A Yes.

24 Q Could you read that for me?

25 A You want me to start from the beginning?

1 Q Yeah, the part he filled in.

2 A On 10-21-04, my wife and I left to go to the credit
3 union. About one mile down the road, Brenda stated that
4 she needed to go back home that she had a stomach ache.
5 We returned home and we both went inside. She came out of
6 the bathroom, so I walked outside to get in the car. Out
7 of the blue, I felt a blow to the back of my neck that
8 brought me to my knees. I manage to turn around but was
9 kind of in and out of consciousness. At this time, Brenda
10 was repeatedly beating me about my body with a wooden club
11 that truck driver's use to check the air in their tires.
12 I was continuously beaten until the stick broke. I manage
13 to get to the shed and grabbed a hoe. At that time, she
14 ran. I manage to call 9-1-1. I have several bruises and
15 lacerations -- back up I'm sorry. I have several broken
16 bones in my face, cracked ribs and several bruises and
17 lacerations. I do believe Brenda was attempting to kill
18 me and I am afraid for my life.

19 Q Did Mr. Bratschi sign that?

20 A He did.

21 Q All right. Do you see on there whether the family
22 court judge granted the request for emergency hearing?

23 A Yes, it was granted.

24 MR. OZMENT: May I approach, Your Honor?

25 THE COURT: Yes, sir.

1 BY MR. OZMENT:

2 Q All right. Investigator Streett, I'm handing you
3 four sheets of paper. Could you look at that and tell me
4 if you can identify from the caption what it is?

5 A This is the copy of the family court issued order of
6 protection.

7 Q Do you see a stamp on there where it was filed with
8 the court?

9 A Yes.

10 Q At the end of it, do you see where the judge signed
11 it?

12 A Yes.

13 Q All right. Do you know in essence what the family
14 court order stated?

15 A Basically, it states that the abuse occurred on
16 10-21-04 stated at [REDACTED] Georgetown Road to
17 establish jurisdiction that the petition was filed on the
18 27th of October. The hearing was held on the 28th, both
19 parties were present. States that they were husband and
20 wife, that the evidence establishes that the respondent,
21 which is listed as Brenda Bratschi, represents a credible
22 threat to the physical safety of the victim. The
23 respondent used or attempted to use or threatened to use
24 physical force against the petitioner, which is Randy
25 Bratschi that is reasonably expected to cause bodily

1 injury. And he also has indicated on here that the
2 petitioner which is Randy Bratschi should have the use and
3 possession of the home and furnishings located at [REDACTED]
4 [REDACTED] Georgetown Road in Coward. Also has other
5 checked petitioner will have possession of the vehicles
6 and be responsible for all expenses. And then the
7 restraining order per se is respondent is temporarily
8 restrained, prohibited and forbidden to abuse, threaten to
9 abuse or molest petitioner or engage in any other conduct
10 that would place the petitioner in reasonable fear of
11 bodily injury. Respondent is temporarily restrained and
12 prohibited from using, attempting to use or threatening to
13 use physical force against that petitioner that would
14 reasonably be expected to cause bodily injury. Respondent
15 is temporarily restrained, prohibited and forbidden to
16 communicate or attempt to communicate with the petitioner
17 in any way or enter or attempt to enter petitioner's
18 place of residence, employment, education.

19 Next is sole exclusive possession of the residence
20 and furnishings located at the aforementioned address
21 appearing under number 11 of this order is awarded to the
22 petitioner with petitioner making the mortgage and or
23 rental payments plus any taxes and or insurance on the
24 property. So respondent is temporarily restrained,
25 prohibited and forbidden to transfer, incumber, destroy,

1 sell or otherwise dispose of except in the ordinary course
2 of business real or personal property jointly owned or
3 lease by the parties or in which in the petitioner claims
4 an equitable interest including but not limited to the
5 following, which is blank. It also goes on to further
6 order that the petitioner will receive vehicles and is
7 responsible for all expenses for the vehicles. It also
8 list the federal firearms prohibition and an expiration
9 date of October 28 of 2005.

10 MR. OZMENT: All right. At this time, Your
11 Honor, we would move that order -- into evidence for
12 purposes of this hearing only.

13 THE COURT: Any objection, Mr. Herron?

14 MR. HERRON: Not for purposes of this hearing,
15 Your Honor.

16 THE COURT: So admitted.

17 (WHEREUPON, State's Exhibit No. 8 was admitted
18 into evidence.)

19 BY MR. OZMENT:

20 Q Investigator Streett, after your investigation of the
21 medical records, taking statements, did the preliminary
22 investigation banking information, did you determine you
23 had probably cause to arrest anyone in this case?

24 A I actually did the warrant request on the day after.

25 Q Okay. And based on your investigation, what did you

1 determine happen that day?

2 A That there was a brutal assault on Randy Bratschi at
3 the hands of his wife Brenda Bratschi.

4 Q All right. Did you have any discussion on what to
5 charge him with excuse me -- charge her with?

6 A The judge and I at that time, yes, being a domestic
7 -- being domestic in nature it was between criminal
8 domestic violence of a high and aggravated nature and what
9 we call at that time ABWIK, assault and battery with
10 intent to kill.

11 Q What did you ultimately sign a warrant for?

12 A Assault and battery with intent to kill.

13 Q What made you decide to sign a warrant for that as
14 oppose to the CDV high?

15 A I felt that the injuries that were evident there with
16 Mr. Bratschi definitely indicated that someone had
17 attempted to kill him.

18 Q All right.

19 MR. OZMENT: May I approach for the last time,
20 Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. OZMENT:

23 Q Investigator Streett, I'm handing you one piece of
24 paper this time. Could you identify that for me?

25 A That's a copy of the warrant that I received from

1 Judge White.

2 MR. OZMENT: All right. Your Honor, at this
3 time, we would move that warrant into evidence for
4 purposes of this hearing only.

5 MR. HERRON: No objection for purposes of this
6 hearing, Your Honor.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit No. 9 was admitted
9 into evidence for this hearing only.)

10 BY MR. OZMENT:

11 Q And what is that warrant for?

12 A Assault and battery with intent to kill.

13 MR. OZMENT: No further questions at this time,
14 Your Honor.

15 THE COURT: Mr. Herron, cross-examination.

16 MR. HERRON: Thank you, Your Honor.

17 CROSS-EXAMINATION IN-CAMERA

18 BY MR. HERRON:

19 Q Investigator Streett, why not charge her with
20 attempted murder?

21 A That is basically the statute that we use for
22 attempted murder assault and battery with intent to kill.

23 Q Okay. Now, as part of your investigation, did you
24 see any injuries on Ms. Bratschi?

25 A I did.

1 Q What injuries did you see on her?

2 A On her thumb.

3 Q Did you see any bruising, bumps, scraps on her head?

4 A No, I didn't see any of those.

5 Q Did you look for them?

6 A I looked at her. I didn't examine her, but I looked
7 at her.

8 Q Did she tell you that she had some -- bump on her
9 head?

10 A She did.

11 Q You didn't look?

12 A I couldn't see anything.

13 Q Okay. Did you feel on her head to see if you felt a
14 bump?

15 A I don't think that I did.

16 Q How about any bruises on her body? Did she tell you
17 she had any bruises or bumps or scrapes on her body?

18 A She might have told me that she did, but I didn't see
19 any.

20 Q Did you look?

21 A I looked, she was clothed.

22 Q But you didn't ask her say, hey, let's go back in the
23 room and let me see what you're talking about?

24 A There was none that I could see.

25 Q Cause she had on pants?

1 A Right, she had on jeans.

2 Q You didn't even ask her to pull up her leg?

3 A Well, the medical records when she was treated would
4 have indicated her injuries also.

5 Q I understand. But my question to you Investigator
6 Streett, did you even ask her to pull up her leg and show
7 you a scrap or bruise or anything?

8 A No.

9 Q You just looked at her fully clothe and said that's
10 ---

11 A Correct.

12 Q Now, did -- as part of your investigation, isn't it
13 true that Randy Bratschi indicated that he never struck
14 Brenda Bratschi?

15 A Pretty much.

16 Q Did you see on Brenda Bratschi's thumb a cut mark?

17 A I did.

18 Q Where you attribute that -- on the basis of what you
19 saw that day, where did you think that cut mark came from?

20 A She told me that he hit her with the hoe and that she
21 had put her hands up over her head to block the blow and
22 that the hoe hit her on the thumb.

23 Q Based on what you saw was that consistent or
24 inconsistent with what you -- with what Randy Bratschi
25 told you?

1 A He didn't mention hitting her with a hoe, but what
2 she said in the manner that she got hit was consistent.

3 Q So do you believe she was struck with a hoe based on
4 what you saw, based on what she told you?

5 A Yes.

6 Q Okay. Just so we're clear, Randy Bratschi when he
7 gave you his story never said that he struck Brenda
8 Bratschi?

9 A Correct.

10 Q Okay. Would you agree this is a he-said-she-said
11 incident?

12 A No.

13 Q Okay. And was it just the extent of the injuries
14 that caused you to believe that Brenda Bratschi attempted
15 to kill Randy or was there anything else other than the
16 extent of the injuries?

17 A Well, it was the totality of the circumstances all
18 together. I mean, the way that the scene looked. If he
19 -- there was only two people there. So basically, we had
20 to look at the photographs and take the statements of both
21 parties and see which one was more probable. And Randy's
22 story was a lot more probable than Brenda's?

23 Q You say it is more probable? I mean, Brenda told you
24 that she threw up her hands to stop from getting hit and
25 you saw the cut on her finger. Didn't Brenda say she was

1 also scared and ran around the rodeo and grab the bat --
2 grab the tire thumper to defend herself. Is that what she
3 told you?

4 A She did.

5 Q Well, couldn't that be consistent with what you
6 found?

7 A It could be consistent, but it's still -- if she had
8 hit him -- struck him one time and then fled the scene
9 like she did, then that would be more consistent.

10 Q Well, how about this scenario how about if he struck
11 her one time -- if she struck him one time and he falls
12 down and gets up and says I'm going to kill you. And she
13 in fear of her life keeps striking him because she's
14 worried about him getting up and coming after her.
15 Wouldn't that be consistent?

16 A It could be.

17 Q Okay. But you don't believe that's what happened?

18 A No.

19 Q Okay. How many guns did Randy Bratschi have?

20 A I'd have to go back and look exactly. He had
21 several.

22 Q More than five?

23 A I'm not sure of the exact amount.

24 Q Would you say more than two or three?

25 A Yes.

1 Q And he also had a .9 millimeter handgun?

2 A He did.

3 Q Okay. And when deputies were called that day, isn't
4 it true that he also said on the phone that I got my gun
5 if she comes in here, I'm going to kill her?

6 A Yes, I believe so.

7 Q Now, just so for the Court's benefit, Brenda Bratschi
8 at the time lived with Randy Bratschi?

9 A Right.

10 Q And I know you're not sure the exact number of guns,
11 but we agree it was more than two or three. Would it be
12 reasonable to believe that Brenda Bratschi knew where
13 Randy kept the guns?

14 A I would think so.

15 Q Okay. I guess, my question is if she wanted to kill
16 Randy Bratschi couldn't she just have easily got a gun,
17 came up to him behind his head and shot him in the head?
18 Wouldn't that be easier than trying to beat him to death
19 with a baseball bat?

20 A You have to ask her that.

21 Q Okay. All right. Now, let's talk about Randy
22 Bratschi. Based on your investigation, you also
23 discovered that Randy Bratschi has a history of criminal
24 domestic violence; isn't that true?

25 A He had been arrested for CDV before in the past, yes.

1 Q When was he arrested for CDV?

2 A I don't have the exact date. It was when he was
3 married to his previous wife.

4 Q Would that be -- I'm not going to hold you to a
5 certain date, but was it ten years before the incident
6 with Brenda, a year? Can you just narrow it down ballpark
7 it for me?

8 A It would be within the previous ten years definitely.

9 Q Okay. And what were the allegations of that criminal
10 domestic violence incident with Randy Bratschi and his
11 previous wife?

12 A I don't have the incident report here in front of me
13 in order to give you all the details.

14 Q Can you get access to that incident report?

15 A Yes.

16 Q Okay. Did Randy Bratschi plead guilty, not guilty?
17 What was the outcome of that criminal domestic violence?

18 A To my knowledge, the charges were dismissed.

19 Q Was it dismissed because he agreed to give his wife a
20 divorce in exchange for -- not fighting a divorce if his
21 wife agreed to dismiss the charges?

22 A That I don't know.

23 Q Okay. Other than what we just talked about the
24 previous CDV, is there any other information from your
25 investigation any other facts that we haven't talked about

1 regarding that previous CDV previous with his previous
2 wife?

3 A Repeat that again.

4 Q Let me ask you this in that previous CDV, were there
5 any medical treatment rendered to his wife, his previous
6 wife?

7 A I don't know.

8 Q Do you have access to that information? Can you get
9 that information?

10 A If it's in the case file. I don't know what's in the
11 case file.

12 Q How hard is it to get to the case file?

13 A I would have to see what's on file at the office.

14 Q Okay. But y'all keep those files?

15 A To my knowledge, we do.

16 Q Okay. So you're not sure whether or not any medical
17 treatment was rendered to his wife. Do you know in that
18 previous incident whether or not it was any medical
19 treatment rendered to Randy?

20 A I don't know.

21 Q Okay. Now, the financial records isn't it also true
22 that during your investigation after Randy Bratschi went
23 missing that you had occasion to listen to some messages
24 on his answering machine?

25 A Yes.

1 Q Do you remember there being a number of messages that
2 seem to indicate that people wanted to get in touch with
3 him because of personal business matters?

4 A Would appear to be bill collectors, yes.

5 Q That was my next question. I'm not trying to put
6 words in your mouth, but it sounded to me like there were
7 bill collectors calling?

8 A That's correct.

9 Q Okay. There's was a Discover card you remember that?

10 A Yes.

11 Q And there was, I think, City Bank or whatever bank it
12 was calling him?

13 A Uh-huh.

14 Q Is it unusual that spouses fight over money?

15 A I wouldn't say it's unusual.

16 Q Isn't the two leading causes of divorce is sex and
17 money, right?

18 A Yes.

19 Q Okay. So it would appear to you on the basis of your
20 investigation with the number of messages that were left,
21 that there were financial troubles within the marriage; is
22 that fair to say?

23 A Yes.

24 Q Okay. Did you have occasion to ask Randy Bratschi
25 about his -- what part he played in the financial help and

1 Randy Bratschi and Brenda Bratschi manage their bank
2 account, manage their money, do you have?

3 A I do.

4 Q Tell the Court how that was set up based on your
5 investigation?

6 A He said that his paycheck, a good portion of it went
7 towards the loans that he had for his boat and vehicle.
8 And I believe a line of credit or personal loan that he
9 had. And then the balance was put into a checking
10 account. And that they didn't really didn't have a whole
11 lot of bills except for a few credit cards and cable bill,
12 electric bill, you know things like that. And that Brenda
13 wrote those checks and sign his name to it and paid the
14 bills.

15 Q Okay. Did Randy Bratschi indicate to you that he
16 ever had a problem with Brenda Bratschi the way she was
17 taking care of the money?

18 A Yes.

19 Q Tell me about that?

20 A He said that shortly after they got married that he
21 had gone to get some money out of his account and that it
22 was overdrawn by about \$2,000.

23 Q Okay. Describe that fight that occurred at that
24 time?

25 A Basically, he got upset about it and he said she

1 refused to talk to him about it.

2 Q Okay. But no physical altercation?

3 A Not according to him or her.

4 Q I saw in the case notes that there was a bullet hole
5 found in the trailer?

6 A That's correct.

7 Q Tell me -- and explain to the Court what Randy's
8 explanation of the bullet hole in his trailer was?

9 A Randy and other family members said that there was a
10 argument between two other family members, which didn't
11 include Randy. I believe, it was his niece and someone
12 that she was in a relationship with and that there was a
13 gun discharge during this incident.

14 Q Okay. Now, this incident we're talking about today
15 the assault and battery with intent to kill that occurred
16 in 2004; isn't that true?

17 A Correct.

18 Q And it's 2012 now. Why hasn't that case been brought
19 to trial?

20 A I don't know.

21 Q Now, isn't it also true that Randy Bratschi as part
22 of your investigation told you that sometimes to clear his
23 mind to get away from it all for the lack of better term,
24 he would sometimes go to the landing. Do you remember
25 that?

1 A I don't know if Randy told me that, but I know that
2 several people had said that at times that he would ride
3 around and occasionally go to the landing to clear his
4 head.

5 Q Where was the truck eventually found at was it Bluff
6 Landing?

7 A Dewitts Bluff Landing off Old River Road.

8 Q Do you know remember whether or not his previous or
9 his friends had said anything about when he clear his head
10 he go to Bluff Landing? Do you remember anything about
11 that?

12 A And he was known to go, I think, cat fishing -- some
13 sort of fishing from there too.

14 Q Okay. When you conducted your investigation and you
15 went to the house, do you remember seeing that .9
16 millimeter sitting on the kitchen counter that Randy had
17 had after the assault and battery with intent to kill
18 incident?

19 A I believe it was holstered up.

20 Q Okay. But you do remember ---

21 A It was in the house, yeah.

22 Q But you don't -- because before I get too far ahead
23 of myself. There was a incident in which the guns were
24 stolen from the house?

25 A That's correct.

1 Q Okay. Do you have any way of knowing whether or not
2 they were able to recover the guns that were stolen?

3 A I believe they did.

4 Q And who did they recover them from. Did they recover
5 them from the defendant or is it a pawnshop? What about
6 that?

7 A Not sure of the circumstances, but I know they did
8 have a suspect and they figured out he had taken the guns.

9 Q Okay. And you had this incident in 2004. And when
10 Randy went missing, did you have a belief that he was
11 dead?

12 A I didn't know what was -- I didn't know what had
13 happened or if anything at all had happened in the
14 beginning.

15 Q When you found the body in 2009 was there any
16 indication, evidence, forensic DNA, eyewitnesses that
17 would lead you to believe that Brenda Bratschi killed
18 Randy Bratschi?

19 A He was under their house.

20 Q Other than that?

21 A Not really.

22 Q Okay. Now, wasn't there also an incident with Sue
23 Hill that you were made aware of?

24 A An incident with who?

25 Q Sue Hill.

1 A And who?

2 Q Susan Hill?

3 A Right, Sue and who?

4 Q Ask it a different way. Isn't it true about three or
5 four weeks before Randy went missing that Brenda caught
6 Randy over at Sue Hill's house?

7 A There was an altercation between Brenda and Randy on
8 Red Doe Lane near Sue Hill's house, that's correct.

9 Q Now, when you say altercation, are you talking about
10 physical altercation ---

11 MR. OZMENT: Your Honor, the State would object
12 to this just because I think we've gone outside the scope
13 of assault and battery with intent to kill.

14 MR. HERRON: Your Honor, with all due respect, I
15 think, that it's all interlinked between the assault and
16 battery with intent to kill and the restraining order that
17 was issued on behalf of the assault and battery intent to
18 kill and what incidents occurred between the assault and
19 battery and the restraining order and the disappearance.
20 I think it's all related as far as the assault and battery
21 with intent to kill goes.

22 THE COURT: Well, here's the issue we're
23 addressing right now and that issue is whether or not the
24 State can put up evidence of this prior incident between
25 Ms. Bratschi and Mr. Bratschi under Rule 404(b). The

1 State has to prove by clear and convincing evidence that
2 she in fact was the perpetrator of that alleged offense.
3 And I think you have gone well beyond that.

4 MR. HERRON: Okay. I will bring it back.

5 THE COURT: So I will sustain the objection,
6 keep it to the issues that we're dealing with right now.
7 Thank you.

8 MR. HERRON: Yes, Your Honor.

9 BY MR. HERRON:

10 Q Investigator Streett, can you relate the information
11 that you just gave the Court with regards to the assault
12 and battery with intent to kill without the use of visual
13 aids, without showing a jury the pictures -- can you
14 relate the extent of the injuries that you saw without
15 having pictures?

16 A Can I describe to the jury what I saw? I can
17 describe to the jury what I saw.

18 Q Okay. Can you describe to the jury what Randy had
19 said to you as a result of your investigation without the
20 use of a 9-1-1 call, can you do that?

21 A Repeat that again I'm sorry.

22 Q That is probably a bad question. I'll move on.

23 MR. HERRON: Your Honor, one moment please.

24 THE COURT: Yes, sir.

25 (WHEREUPON, a pause in the proceedings.)

1 BY MR. HERRON:

2 Q Investigator Streett, can you describe to the jury
3 the contents of Randy Bratschi's 9-1-1 call without
4 actually playing the 9-1-1? Do you have that ability
5 based on what you seen and heard as a result of your
6 investigation? Can you describe to the jury what 9-1-1
7 call consisted of?

8 A Not based on my recall, no. I can't tell you what he
9 said on the 9-1-1 call.

10 Q If you were able to hear the 9-1-1 call today, could
11 you then give that information to the jury without having
12 to play the 9-1-1 call?

13 A If I could listen to it again, I'm sure I could relay
14 to them what was said.

15 MR. HERRON: I don't have any other questions,
16 Judge. Thank you.

17 THE COURT: Mr. Ozment, any redirect?

18 MR. OZMENT: Briefly, Your Honor.

19 REDIRECT EXAMINATION IN-CAMERA

20 BY MR. OZMENT:

21 Q Investigator Streett, Mr. Herron asked you about
22 Brenda's injuries. Where did you talk to Brenda that
23 first time that you saw her thumb?

24 A In the waiting room at the hospital.

25 Q All right. Did she receive any treatment to your

1 knowledge at the hospital?

2 A I don't think so.

3 Q Were you able to recover any medical records from the
4 hospital?

5 A No.

6 Q All right. Were you planning on talking to her again
7 at the hospital that day?

8 A Not at the hospital.

9 Q Okay. You have any idea how long she stayed at the
10 hospital?

11 A No, I'm not sure.

12 MR. OZMENT: Okay. No further questions, Your
13 Honor.

14 THE COURT: Mr. Herron?

15 MR. HERRON: No other questions, Your Honor.

16 THE COURT: All right, ma'am, you may step down.
17 Thank you.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 THE COURT: Mr. Ozment, be happy to hear from
21 you by way of any argument.

22 MR. OZMENT: Well, briefly, Your Honor, the last
23 jury matter, I have a copy of the 9-1-1 call, I would ask
24 that it be made a Court's Exhibit. I know it was
25 submitted to the Court previously. I think purpose of the

1 record it would be sufficient as oppose to playing it if
2 the Court just notes that it has listen to it, but I would
3 ask that it be made a Court's Exhibit.

4 THE COURT: Any objection?

5 MR. HERRON: No, Your Honor.

6 (WHEREUPON, Court's Exhibit No. 1 was marked for
7 the record.)

8 THE COURT: All right. For the record, I have
9 listen to the 9-1-1 call that has been referenced to
10 during the process of this hearing. In fact, the Court's
11 listen to it on two separate occasions. Let me ask this
12 question of you, Mr. Ozment, the copy of the 9-1-1 tape
13 that was given to me for my purpose of hearing it, there
14 was another incident on that CD. Has the 9-1-1 tape that
15 you handed up to the Court to be marked as Court's
16 Exhibit, does that 9-1-1 call also include the previous
17 call that has, in my opinion, unless -- and you correct me
18 if I'm wrong, has nothing to do with this case?

19 MR. OZMENT: Your Honor, that tape has not been
20 edited. It does include the first one. Before it is
21 submitted to the jury, we would be happy to make the Court
22 a copy that is cut back or edited to just what's involved
23 in this case.

24 THE COURT: Okay. Because there was a call on
25 there from a totally different case. It has nothing to do

1 with this particular case and has nothing to do with this
2 particular case. I would not believe that it would be
3 relevant in any way shape or form to this case.

4 MR. OZMENT: I agree, Your Honor, it's just
5 apparently the way they pull those 9-1-1 calls from back
6 in 2004. They came off in chunks, if you will.

7 THE COURT: Okay. All right. Anything from the
8 State with regards to argument?

9 MR. OZMENT: Your Honor, under Rule 404(b). The
10 case law we believe that all of this evidence with the
11 assault and battery with intent to kill would first, Your
12 Honor, was correct in saying the State must prove by clear
13 and convincing evidence that Ms. Bratschi was the
14 perpetrator of this prior bad act. We believe we've met
15 that burden of proof.

16 We believe it falls under the motive and intent
17 exception under 404(b). Under I believe it's the Martucci
18 case, the court talks about when the criminal defendant
19 prior bad acts are directed toward the same victim in a
20 very similar nature. The acts admissible in the crime
21 we're here about today that they should be admissible,
22 also talks about the prior incident between the victim and
23 the defendant to give the nature of their relationship
24 should be admissible to me. This act falls squarely
25 within that exception being that it only happen five weeks

1 ahead of time. If you look at the injuries and the
2 statements, the only real consistent conclusion that can
3 be drawn is that certainly he received the brunt of it and
4 was attacked and certainly didn't fight back until he had
5 to based on how beaten he was by the time that he finally
6 got inside to call the police. Furthermore, I think the
7 State's entitled to give a snapshot of the prior bad act
8 and not just, you know, not just say she was charged, not
9 just submit the warrant. But actually give a snapshot of
10 the prior bad acts as it is all probative of the conduct
11 that happened five weeks later.

12 Lastly, Your Honor, as malice is an element of
13 the assault and battery with intent to kill, it is
14 particularly probative as this is a murder case as the
15 malice element of murder. So we would lastly submit that
16 that also matches up and would allow this evidence to be
17 admissible.

18 THE COURT: All right. Anything else?

19 MR. OZMENT: Nothing at this time, Your Honor.

20 THE COURT: Mr. Herron.

21 MR. HERRON: Thank you, Your Honor. Your Honor,
22 I agree they should be allowed to have a snapshot of the
23 incident, but they want a whole lot more than a snapshot.
24 They want about ten, 15 pictures, a 9-1-1 call and they
25 want to bring in a broken, what I classify as a broken

1 baseball bat, that's a whole lot more than a snapshot.
2 And when it comes to 404(b), the Court can take into
3 consideration the prejudicial value versus its probative
4 effect. I have no problem with a snapshot. I have no
5 problem describing the incident. What I do have a problem
6 with is giving the fact that Mrs. Streett excuse me --
7 Investigator Streett has indicated to all my questions
8 that she can give the jury a snapshot, an idea of what
9 went on that day without showing the pictures which are
10 graphic, Your Honor. I mean, one of these pictures I know
11 can't make it clear enough for the record. It appears
12 Randy Bratschi has his head tilted back. And if you
13 didn't know any better, you would think he was dead
14 because of the extent of the injuries and just the way the
15 picture looks.

16 So, Your Honor, as far as the prejudicial value
17 goes, I think it clearly outweighs the probative effect
18 when Investigator Street can tell the jury that he had
19 facial lacerations, hey he had bruising, hey he had
20 bruises, hey he had broken bones. And not only that, they
21 want the pictures, the 9-1-1 call, the broken bat. They
22 want to allow in his medical records that is basically not
23 only prejudicial, I would say cumulative and serve no
24 purpose other than just to beat a dead horse so to speak.
25 Kathleen Street has indicated she can do all that without

1 visual aids.

2 As far as the 9-1-1 call, that's -- I have
3 concerns with the pictures and the baseball bat,
4 obviously, Judge, but I think the main concern for me is
5 the 9-1-1 call itself. I know Your Honor has heard it
6 twice. I've heard it countless times and it strikes me
7 every time as being a man crying for help. And he clearly
8 says on the 9-1-1 tape several times, she's trying to kill
9 me. She's trying to kill me. Judge, Ms. Bratschi here
10 today is sitting here accused of murder. To allow the
11 jury to hear the defendant (sic) say, she's trying to kill
12 me. She's trying to kill me. If she comes in here, I'm
13 going to shoot her. She's trying to kill me. If that
14 doesn't -- if that prejudicial effect doesn't outweigh the
15 probative value, I submit to you there's nothing that can
16 because this woman is on trial for murder. And for the
17 jury to hear the decedent, his own voice, a voice from the
18 grave, I can already hear the closing arguments the voice
19 from the grave, say she's trying to kill me, she's trying
20 to kill me. Your Honor, it's basically making this a
21 trial within a trial. And what I really have a problem
22 with and I think Your Honor should have a problem with is
23 why this case hasn't been brought to trial yet.

24 If this was a ABWIK or attempted murder or
25 whatever they want to have it claimed as, this occurred

1 back in 2004. He -- charges weren't brought for the
2 murder until 2009. So they stand here today on the eve of
3 a murder trial basically wanting to have another trial
4 within a trial for the ABWIK when they would have already
5 brought that as a separate action.

6 I would say, Judge, so the record is clear,
7 Ms. Bratschi's speedy trial rights have been violated. I
8 don't know what Mr. Ozment's idea of a speedy trial is or
9 what the Solicitor's office speedy trial is, but I know
10 what a speedy trial isn't. A speedy trial is not eight
11 years after the fact. There's no way, you can't. I don't
12 think there's anybody that would stand up here and make a
13 argument with a straight face that says that that's a
14 speedy trial. She has never been tried for the assault
15 and battery with intent to kill. I would submit that the
16 reason that she hasn't is because the State wanted to use
17 that against her in the murder trial because if she would
18 have been tried for the assault and battery with intent to
19 kill, which I believe they would not be able to meet their
20 burden of proof in that case because the decedent is
21 unavailable. So instead of taking that chance that she
22 comes back with a not guilty verdict which would
23 definitely throw -- cause them some problems with a prior
24 bad act if a jury found her not guilty.

25 Instead of taking that chance, what they've done

1 is they said, hey, we'll just keep it on there that way
2 worse case scenario the judge let's it in as a prior bad
3 act. Worse case scenario, you know, they may not believe
4 that, but they may believe that the incident causes some
5 malice or intent as regards to the murder trial. So
6 they're trying to have their cake and eat it too without
7 their better phrase, Your Honor, because they haven't
8 tried her and they had the ability to try her for eight
9 years, so they're putting a trial within a trial. It has
10 nothing to do with what she's charged with. Mr. Ozment
11 said that it's very similar and he cites the case law.

12 Okay, so he gets beat with a baseball bat.
13 Let's just assume that's true, very similar to what. We
14 have no idea whatsoever. There's going to be no evidence
15 presented whatsoever as to how Randy Bratschi died. We
16 don't know. Nobody knows. So to say that the incident in
17 four weeks before he disappeared is very similar to the
18 murder based on what. There's -- Mr. Ozment can correct
19 me, but there is no cause of death in this case. He
20 disappeared and he was found. The remains have no
21 evidence that would indicate it was a beating. There was
22 no broken bones in the remains, a gunshot. So when he
23 says it's very similar, I would say very similar to what.
24 We just don't know.

25 Your Honor, we can -- I would respectfully argue

1 to the Court that this whole fight in and of itself is
2 unfairly prejudicial, but especially, especially the 9-1-1
3 call when the alternative we can have a transcript of the
4 9-1-1 call read into the record. I think that
5 accomplishes what the -- and before I get ahead of myself,
6 I would still say it's prejudicial, Judge, the transcript.
7 But I think to lower the prejudicial value to take the
8 fear out of the voice, the voice from the grave argument
9 so to speak, like I said that's going to be said at some
10 point why not just read the transcript into the record,
11 read both transcripts say this is Randy Bratschi's 9-1-1
12 call, here it is. And then it's still prejudicial but is
13 not as prejudicial as I think, Your Honor, and I can agree
14 that the 9-1-1 call in. When you hear the man ha, ha,
15 he's clearly out of breath. She's trying to kill me,
16 she's trying to kill me. If she comes in here, I'm going
17 to shot her, which is pretty much what he said word for
18 word and I'm not -- I don't think I'm over exaggerating
19 with the tone of my voice what is said in the 9-1-1 call.
20 So I would just respectfully ask that Your Honor -- does
21 not allow this previous bad act to come into evidence
22 because they could already have a trial for that and prove
23 her guilty or not guilty. And if, Your Honor, is want --
24 if Your Honor is going to allow that bad act, let's try to
25 save some of that prejudicial effect so it doesn't

1 outweigh the probative value by doing something like
2 reading the transcript into the record or keeping the
3 pictures out of evidence especially when Investigator
4 Streett indicated she would be able to describe to the
5 jury, so the jury would get an idea of this incident.
6 That's my argument, Judge.

7 THE COURT: Mr. Ozment, anything in response?

8 MR. OZMENT: Briefly, Your Honor, there's never
9 been a speedy trial motion filed with the assault and
10 battery with intent to kill. If today was a motion for
11 it, let me know because on the outcome of this we may very
12 well do it in June. Nothing further.

13 THE COURT: Let me ask this question,
14 Mr. Ozment, on the 9-1-1 tape do you all anticipate or
15 intend to -- cause there's two calls on there. First call
16 is Ms. Bratschi calling 9-1-1, which lasted just a few
17 minutes followed by a call of Mr. Bratschi. The State
18 intend to play the 9-1-1 tape in its entirety or just his
19 call?

20 MR. OZMENT: We would just play his call as if
21 Your Honor finds by clear and convincing evidence that
22 he's the perpetrator of the act. I don't see how her call
23 would be relevant.

24 THE COURT: All right. Anything else,
25 Mr. Herron?

1 MR. HERRON: No, Your Honor. Your Honor, may I
2 have just... The part that really sticks out in my mind
3 is the trying to kill me language, trying to kill me.
4 Whether that be by transcript or by the 9-1-1, I think
5 that phrase in and of itself is unduly prejudicial, overly
6 prejudicial and I think that prejudicial effect outweighs
7 the probative value just that one phrase she's trying to
8 me. Again, this incident happened four to five weeks
9 before a disappearance, so I would just respectfully ask
10 Your Honor to keep trying to kill me phrase out.

11 THE COURT: Let me ask you all this at least I
12 think I did prior to today have each of you sat down and
13 gone through these photographs together to see what you
14 can agree on, what you can't agree on. And the reason I
15 ask that at this point, I mean there's multiple
16 photographs some of which are same or similar type
17 photographs which are duplicative in my opinion, which the
18 Court doesn't necessarily believe that all of them should
19 come in which you're asking. To some degree -- let me say
20 this, I understand what the State is trying to do here
21 right now is simply show by clearing and convincing
22 evidence that she was the allege perpetrator and that's
23 why each of the photographs that were introduced in their
24 respective -- at their respective time, Mr. Ozment noted
25 for the record that they were being introduced for the

1 purposes of this hearing, purposes of this hearing. Is
2 that correct, Mr. Ozment?

3 MR. OZMENT: That's correct, Your Honor. And
4 certainly for this hearing I did every photograph and all
5 that at the trial. I don't plan on sending the jury back
6 with 60 photos of the scene at the hospital. Certainly, I
7 would agree that's duplicative, that was just for purposes
8 of this hearing to support Your Honor's finding.

9 THE COURT: All right. Now, what I'm going to
10 do is give a ruling on the 404(b) information as far as
11 what comes in or as far as whether or not prior act of
12 October 21st; is that correct? Yes, October 21, 2004,
13 prior incident of October 24th is admissible. Once I make
14 a ruling on that, I guess, depending upon my ruling you
15 all need to sit down and see what photos you can agree on
16 and which ones you can't agree on that which you agree on
17 I'll be to happy make a ruling at that time.

18 Now, under South Carolina law evidence of prior
19 bad acts or crimes to prove the defendant's guilt for the
20 crime charge are inadmissible, that's under Rule 404.
21 However, there's an exception under Rule 404 evidence of
22 prior bad acts are admissible if such evidence tends to
23 establish motive, intent, absence of mistake or accident
24 or common scheme or plan or the identity of the person
25 charged with the commission of the offense or present

1 crime excuse me. To be admissible, the prior bad act must
2 logically relate to the crime with which the defendant has
3 been charged. If the defendant was not convicted, and
4 that's a situation we have here, the defendant was not
5 convicted of the prior crime, evidence of the prior crime
6 must be by clear and convincing evidence, by clear and
7 convincing evidence. The State in putting forth the
8 testimony of Investigator Streett here today along with
9 the numerous documents that were introduced, were all done
10 for the purposes of this hearing for the Court to
11 determine whether or not the State has establish by clear
12 and convincing evidence that the defendant, Ms. Bratschi,
13 was the allege perpetrator of the assault and battery with
14 intent to kill. I want to make it clear for the record
15 that that's what all of this evidence was introduced for
16 at this time, at this time.

17 Now, clear and convincing evidence is that
18 degree of proof which will produce in the mind of the
19 trier of fact a firm belief as to the allegations sought
20 to be established, such proof is immediate more than mere.
21 It's more than a clear and convincing evidence as a more
22 than a mere preponderance of the evidence but less than is
23 required for proof beyond a reasonable doubt. It does not
24 mean clear and convincing evidence, does not mean clear
25 and unequivocal.

1 Now, based upon testimony of Officer Streett
2 here today and based upon the numerous documents that
3 were introduced into trial or excuse me -- introduced
4 during the course of this hearing this afternoon, the
5 Court does find that the State has established by clear
6 convincing evidence that Ms. Bratschi was the alleged
7 perpetrator of this particular incident.

8 Now, the next step in this analysis process is
9 whether or not the probative value is outweighed by any
10 unfair prejudice to the defendant. Even if the prior bad
11 act evidence is clear and convincing and falls within an
12 exception, it must be excluded if it's probative value is
13 substantially outweighed by the danger of unfair prejudice
14 to the defendant.

15 The determination of prejudicial effect of the
16 evidence must be based on the entire record and the result
17 would general turn on the facts of the case. Unfair
18 prejudice under our case law means an undue tendency to
19 suggest a decision of an improper basis. Commonly,
20 they're not necessarily an emotional one.

21 Under State v. Sweat 362 S.C. 117, which is a
22 2004 case. Court found that -- Supreme Court found that
23 evidence of previous difficulties or ill feelings between
24 an accuse and a victim and a fact showing the cause of
25 such difficulties or ill will is admissible in the

1 question of motive where there is some connection of cause
2 and effect between the evidence and the crime. Certainly
3 evidence which has been presented by the State of previous
4 difficulty or ill feelings, ill feelings between the
5 accused and the victim in this case.

6 In State v. Sweat, the Court went on to say --
7 and let me just point out for the record under State v.
8 Sweat, there was a prior incident in October of 2001. And
9 the incident in that question took place in December of
10 2001. The Court said in State v. Sweat that the testimony
11 about the October incident was highly probative and tended
12 to show motive and intent and it completed the State's
13 theory of the case. I believe that the testimony or the
14 evidence of the prior bad act of Ms. Bratschi in this case
15 first of all has been establish clear and convincing
16 evidence, that it is highly probative, intends to show
17 motive and intent. And it does complete the State's
18 theory of the case in this particular situation or in this
19 particular case.

20 Furthermore, I believe that it would give the
21 jury the necessary background to explain -- Mr. Ozment
22 said a snapshot, but I think it would give the jury the
23 background of what went on here. And it would be part of
24 a snapshot so to speak of the context or the motive and
25 intent of the defendant in this particular case.

1 Now, I think the next question that the Court
2 must address is the evidence which the State intends to
3 introduce in what ruling the Court makes on what evidence
4 they tend to introduce. I think you get into totally
5 another analysis of prejudicial effect outweighing the
6 probative value once the Court is made aware of what
7 evidence the State actually intends to introduce in
8 putting up the 404(b) evidence in this case.

9 Therefore, at this time, I would ask or we gone
10 stop and instruct the lawyers to get together see what
11 evidence can be agreed upon, what evidence can't be agreed
12 upon as to what can be admitted into evidence and we will
13 come back on the record. I will give you all until four
14 o'clock to look at that information. We will resume court
15 at four o'clock, that which you can agree on let me know.
16 That which you can let me know as well and I will make a
17 ruling on what you can't agree upon. Anything further,
18 Mr. Ozment?

19 MR. OZMENT: Nothing, Your Honor.

20 THE COURT: Mr. Herron?

21 MR. HERRON: No, Your Honor.

22 THE COURT: All right. We will stand at ease
23 until four o'clock.

24 (WHEREUPON, a break was taken.)

25 THE COURT: All right. We are going to be

1 conducting business up here at side bar because all of the
2 evidence is up here. Mr. Ozment is up here at side bar
3 along with Mr. Herron, so I ask that you all hold it down
4 so we can make sure we get what we need to put on the
5 record on the record. First of all, I'd ask,
6 Mr. Ozment -- and again, this is -- Mr. Herron has made an
7 objection I just want to make it clear for the record,
8 he's made an objection to the 404(b) testimony coming in
9 with regards to this prior incident involving or allegedly
10 involving his client and Mr. Bratschi. The Court has
11 found by clear and convincing that the State has establish
12 by clear and convincing evidence that Ms. Bratschi was the
13 alleged perpetrator in this matter. And therefore, I'm
14 letting the State put up evidence on this prior incident.
15 What I've asked the lawyers to do is look at those
16 documents that were introduced during the 404(b) hearing
17 to determine what they could agree upon, but I just want
18 to make it clear for the record that Mr. Herron's
19 objection still stands with regards to the introduction of
20 the 404(b) even though they've looked at this stuff and
21 have agreed on stuff coming in. His agreement -- at least
22 my understanding and you correct me if I'm wrong,
23 Mr. Herron, his agreement is based upon my ruling that the
24 404 evidence is coming in with regards to the prior
25 incident. Is that correct, Mr. Herron?

1 MR. HERRON: That's correct, Your Honor.

2 THE COURT: All right. Mr. Ozment.

3 MR. OZMENT: Your Honor, I think it may be just
4 easier to take it item by item. I think Mr. Herron and I
5 are in agreement that the warrant for the ABWIK comes in.

6 THE COURT: And the warrant was previously
7 marked as exhibit what?

8 MR. OZMENT: Which would be exhibit seven, Your
9 Honor. Wait, Your Honor, the warrant looks like it's
10 actually exhibit nine, exhibit nine, Your Honor.

11 THE COURT: Okay.

12 MR. OZMENT: I don't know if Mr. Herron needs to
13 agree on the record.

14 MR. HERRON: I agree with that, Your Honor.

15 THE COURT: Subject to my prior ruling.

16 MR. OZMENT: Your Honor, in regard to the
17 medical records which was State's Exhibit 6, the first
18 page of State's Exhibit 6 we agree will come in. The
19 rest will not be entered by the State.

20 MR. HERRON: That's my understanding as well,
21 Your Honor.

22 THE COURT: The first page only.

23 MR. OZMENT: Yes, Your Honor, and we can provide
24 the Court another copy for ease of recordkeeping. In
25 regard to pictures, Your Honor, Mr. Herron and I have

1 agreed that exhibits 1H, 1J, 1L, 1A, 1B, 1E, 3B, 2A, 2C --

2 THE COURT: 2A and C?

3 MR. OZMENT: Yes. 5B, 5D, 5E, and 5G, and
4 lastly 4H, 4E, 4N, 4J, 4K, 5G, 4F and 4C. Those are all
5 photographs. And we have agreed on those.

6 MR. HERRON: That's correct, Your Honor, we have
7 subject to your ruling.

8 MR. OZMENT: Then, Your Honor, the one's we have
9 not agreed on that we may need to take up at this time
10 would be the physical club. It is not here before the
11 Court today due to scheduling. The witnesses didn't come
12 this afternoon, so our physical evidence didn't come from
13 the evidence room at the sheriff's office. However, I
14 think we both know what it is. How would you like us to
15 go through it, Your Honor?

16 MR. HERRON: Your Honor, if I could just state
17 my objection to the club. Your Honor, my objection to the
18 club is we have a picture of the club itself, so my
19 objection is it be duplicative to bring up the actual club
20 itself. And again, I still say that the club and or the
21 picture of the club still unfairly prejudicial. However,
22 to remove some of that prejudice, I think a picture of the
23 club would suffice.

24 MR. OZMENT: Your Honor, in response, there are
25 two halves of the club. The second half is found by a

1 subsequent purchaser of the property hidden under the
2 shed. I think the fact that we know it was used that day
3 and broken that day and it happen it was found sometime
4 later hidden. The sheriff's office never found it when it
5 searched the property. We need both halves to make it
6 make sense to show it to one club.

7 THE COURT: All right. Don't have a -- let me
8 -- you got photographs of all of that.

9 MR. OZMENT: I have pictures of the half that
10 was found that day. The half that was found later was
11 brought into the sheriff's department or actually was
12 given to a deputy by the individual that found it. If you
13 want to, Your Honor, we can wait on this until we actually
14 ruling put it in.

15 THE COURT: All right. I will do that.

16 MR. OZMENT: Okay. By that, you mean you will
17 ---

18 THE COURT: I'm going to wait, I want to see.

19 MR. OZMENT: Your Honor, the next will be the
20 9-1-1 call we can't agree on. The State's position would
21 be that Mr. Bratschi's call would come in as it would not
22 be excuse me -- would be hearsay, but it would be subject
23 to exception as an excited utterance and a present sense
24 impression of something that had just happened
25 immediately, I believe, is the language of the rule.

1 THE COURT: And I think Mr. Herron would agree
2 that it would fall under that exception or one of the
3 hearsay exceptions. However, I don't think he would agree
4 that the probative value outweighs the prejudicial effect.

5 MR. HERRON: I couldn't have said it better,
6 Your Honor.

7 THE COURT: How about address that for me?

8 MR. OZMENT: Your Honor, the State's position
9 would be that it shows it's probative motive and intent.
10 It fits within the exception in being that it speaks to
11 malice of that she was trying to kill him then and that
12 malice we would argue continue, which was the malice for
13 the murder. It also is the victim's own words telling,
14 you know, what actually happened that day as well as his
15 belief that he was about to die. We would argue that it's
16 highly probative for the State's case.

17 MR. HERRON: Your Honor, if I could just be
18 heard briefly. My client has a Sixth Amendment right to
19 confront her accuser. I cannot cross-examine
20 Mr. Bratschi, obviously, so I would say it not only
21 violate her Constitutional Rights to confront the witness.
22 Other than that, it's also highly prejudicial for a
23 decedent, a voice from the grave, if you want to use that
24 terminology to say she's trying to kill me when she's
25 charged with murder if that supposedly happen four or five

1 weeks later. I honestly don't see how my client can get a
2 fair trial if that's going to be the mind set of the
3 prosecution and what the jurors hear from the decedent.
4 She's trying to kill me. I think that phrase in and of
5 itself renders it unfairly prejudicial. And I don't see
6 how my client can get a fair trial if that was to come in.
7 And on that same issue, Judge, there's also -- while we're
8 talking about it so I want have to be repetitive in the
9 family court ruling ---

10 MR. OZMENT: We agreed that's not coming in.

11 MR. HERRON: Okay, never mind.

12 THE COURT: Well, I'm not letting that in and
13 that is -- let me hold it. What I'm talking about here I
14 don't know what it was marked as. It's marked as State's
15 Exhibit Number 7, which include the motion and affidavit
16 for emergency hearing. It was an affidavit filled out by
17 Mr. Bratschi. The bulk of which was redacted and the
18 only thing that was left on this petition or affidavit is
19 that I have several broken bones in my face, cracked ribs
20 and several bruises and lacerations. I do believe Brenda
21 was attempting to kill me and I'm afraid for my life, that
22 was what was left on the motion and affidavit. It is the
23 Court's ruling that I'm not going to allow this motion and
24 affidavit to come in, that I think that the ultimate
25 ruling by the family court serves the purpose of

1 establishing that a protective order was in place and sets
2 forth the grounds for that finding by the Court.

3 Let me ask you this, Mr. Herron, in my review of
4 the Court's order Officer Streett testified that the
5 respondent, being your client in this matter, was present
6 at that hearing; is that correct?

7 MR. HERRON: That's based on my understanding,
8 Your Honor. I think it's actually listed that she was
9 represented by counsel.

10 THE COURT: It says she's pro se.

11 MR. HERRON: Oh, you're right, Your Honor. I
12 think petitioner that would be Randy Bratschi and I
13 believe the respondent, I think, would be Brenda
14 Bratschi. I think she's listed it as being represented by
15 James Dotson, Jr. And that's my understanding of what had
16 occurred as well through conversations that I've had.

17 THE COURT: Well, I mean, on the second page of
18 this order at the top, it says respondent second line does
19 not indicate that she appeared. It says and there's a
20 space for her to -- says respondent did, did not appear
21 and is not address by the Court. Mr. Ozment has handed up
22 here an affidavit of service, that certainly indicated
23 that she was put on notice of the hearing had an
24 opportunity to be there and whether or not she was there,
25 I don't know. Investigator Streett testified she was

1 there.

2 MR. HERRON: It's my understanding as well she
3 was there represented by counsel.

4 THE COURT: Well, the order says she was pro se.

5 MR. OZMENT: Your Honor, that's the petition for
6 order. This is the actual order right here.

7 THE COURT: You're right, I'm sorry.

8 Mr. Dotson represented her. The only thing I would say on
9 this order is that Ms. Bratschi's personal identification
10 information date of birth, social security number that
11 needs to be redacted.

12 MR. HERRON: And, Your Honor, if you're talking
13 about the family court just so I'm protected on the
14 record. My objection to that, Your Honor, would be that,
15 I think, it gives undue validity to the order because
16 my concern is that the jury -- juror would potentially
17 take that order back there and say to himself or amongst
18 themselves, well, this family court judge said that she
19 tried to kill him and issued an order. And to me there's
20 a grave danger of a juror believing that that matter has
21 already been adjudicated at least by one judge. And they
22 don't know the ends and outs of the family court system.
23 And to be honest with you, I'm not sure either. But I do
24 know there was not a hearing on the matter. And when I
25 say a hearing, I'm talking about evidence was presented

1 and a judge or a jury found guilt in the matter. What
2 that is and my understanding is a temporary order based
3 on an affidavit that was provided by the decedent. My
4 concern is that a juror would say, well, this judge found
5 that she tried to kill him. As a matter of fact not only
6 did he find that she tried to kill him, after she -- after
7 the judge found she tried to kill him, he said you need to
8 stay away from him, that's my only concern with that. I
9 think we can avoid that by just stipulating that a judge
10 did issue an order of protection because I don't want a
11 juror to take them back there and nitpicking that apart
12 when they don't know exactly what that is.

13 THE COURT: Mr. Ozment, why can't you accomplish
14 the same purpose by stipulation there was one sheet --
15 there's evidence clearly coming in that she engaged in
16 conduct that you've established by clear and convincing
17 evidence to the Court that she engaged in conduct where
18 she was charged with assault and battery with intent to
19 kill, which under your theory of the case goes motive and
20 intent. In listening to Mr. Herron's argument, the sole
21 reason you're putting this evidence up is to establish
22 motive and intent. What does this order have to do with
23 motive and intent?

24 MR. OZMENT: Your Honor, the order itself while
25 it resulted from the prior bad act does not directly go to

1 motive and intent, but our purposes of that order is we're
2 going to have testimony from multiple witnesses on
3 different instances where Ms. Bratschi was checking on the
4 whereabouts of Mr. Bratschi or Ms. Bratschi appeared to be
5 following Mr. Bratschi or she was showing up at his
6 residence on the weekend that he went disappeared and our
7 purpose is to show that was in violation of the family
8 court order.

9 MR. HERRON: But we'll stipulate that there was
10 a family court order and restraining order issued.

11 MR. OZMENT: In the Sweat case, there's good
12 language that the State doesn't have to stipulate to
13 anything. It has a right to present it's case as it sees
14 fit.

15 THE COURT: You do and no question about that.
16 What is for me to determine now is whether or not -- I
17 mean, I think it's a relevance issue at this point. The
18 relevance that any evidence tending to show a fact at
19 issue -- is this -- is it a fact at issue that she
20 violated -- one that there's a family court order in
21 place, protective order and if she violated it. Is that a
22 fact at issue?

23 MR. OZMENT: Yes, Your Honor, because I think it
24 show the jury her state of mind at the time that when she
25 was told to stay away from him.

1 THE COURT: Yes, I understand that. My point is
2 can that not be establish through testimony. If he
3 stipulates that there was a family court order in place
4 that she was to stay away from him, you still get to bring
5 that out. You still get to show through these witnesses
6 that she violated that.

7 MR. OZMENT: I don't see how that doesn't lead
8 us back to the Sweat argument, the State has a right to
9 prove it's case.

10 THE COURT: You do have a right to prove your
11 case. Let me look at ---

12 MR. OZMENT: What is your concern with the
13 order?

14 THE COURT: And the Sweat case talks about the
15 prior incident, but it doesn't go into all the evidence.

16 MR. OZMENT: I misspoke. I meant the Martucci
17 case and the probative ---

18 THE COURT: I mean, those dealt with
19 photographs, prior photographs of a child, that was a
20 defendant that was charged with homicide by child abuse.
21 There were photographs that were introduced of prior
22 instances of bruises et cetera on that child. But go
23 ahead I'm sorry.

24 MR. OZMENT: And, yeah, I said the Sweat case, I
25 mean, the Martucci case. The language I'm pointing to is

1 after autopsy photographs of the child. The court says
2 the State has a right to prove every element of the crime
3 charge and is not obligated to rely upon a defendant's
4 stipulation. My argument here is that I mean -- if I go
5 to the stipulation, essentially that's Mr. Herron agreeing
6 it's relevant and it should come in. And so I'm having
7 trouble appreciating what the difference is if that makes
8 sense.

9 MR. HERRON: My argument is not relevant, I
10 think that's going to be part of the case. My concern is
11 again when I've stated that a juror is taking back a court
12 order and not knowing exactly what goes into that court
13 order because it's a reasonable expectation that a juror
14 may say, well, look at this order. This family court
15 judge thought she tried to kill him and gave a restraining
16 order.

17 THE COURT: Anything new you've already said
18 that. Anything else you want to add on that?

19 MR. OZMENT: Your Honor, I think I said this at
20 the break, but I didn't say it on the record. My response
21 to that would be that to me an error of law -- I believe,
22 something in the jury charge would be sufficient for that,
23 that's not an issue here.

24 (WHEREUPON, a pause in the proceedings.)

25 THE COURT: All right. This is what I'm going

1 to do on the order. I'm going to ask that the respondent
2 identifiers be redacted as I said social security number
3 and date of birth, as well as paragraph two and three on
4 the order. Paragraph two indicates venue is proper in
5 this county since this is a county where the act of abuse
6 occurred. I want that redacted as well as paragraph three
7 which says abuse occurred on October 21, '04 and it says
8 as stated in petition. The petition isn't coming in, so
9 that stuff I think should be redact as well. The
10 remainder of it does not make any specific findings. It
11 simply orders that she stay away from him essentially,
12 okay. I'm going to allow it in subject to that ruling on
13 redacting that portion of the family court order. What's
14 next?

15 MR. OZMENT: Your Honor, I believe, all left to
16 rule on is the 9-1-1 call.

17 THE COURT: I previously told you all earlier
18 today my inclination that I was letting the 9-1-1 tape in.
19 I want to think about it little a bit more. And I do have
20 a concern about prejudicial effect. I certainly think it
21 clearly falls under hearsay exception, clearly does. The
22 other issue is final analysis is whether probative value
23 is outweighed by the prejudicial effect.

24 MR. HERRON: Your Honor, if I could just add ---

25 THE COURT: I'm talking right now. I will let

1 you talk in just a second. The Martucci case that you
2 cited and I've looked at and it dealt with obviously
3 photographs. I mean, it doesn't deal with specific
4 evidence certainly believe that a probative value versus
5 prejudicial effect is one of those. It's the analysis
6 that the Court has to look at. And the law is clear, you
7 know, that prejudice while it's not solely determined upon
8 one of the issues in looking at whether or not prejudicial
9 effect outweighs the probative value is whether or not it
10 has a tendency for the jury to base a decision essentially
11 on a motion or something other than the evidence that's
12 presented. All right, Mr. Herron.

13 MR. HERRON: Just so the record is protected, I
14 know I mention this on another piece of evidence that we
15 were discussing, but again, my client does have a Sixth
16 Amendment Right to confront her accuser and I have no way
17 of crossing the decedent and I believe I can't if ---

18 THE COURT: Here's the other issue though. She
19 had every opportunity through counsel to cross-examine him
20 on the very issues that we're talking about here in the
21 family court hearing with a lawyer.

22 MR. HERRON: With all due respect, Your Honor, I
23 don't think that's what was the intent of the family court
24 hearing. And I believe Your Honor just made my point for
25 me in regards to the family court issue because I see a

1 juror taking that family court order back there and
2 saying, well, the judge ordered it, but it wasn't a final
3 adjudication of the fact. It was simply a temporary
4 restraining order, hey, you stay away from her, that was
5 my whole concern with a juror seeing that and thinking
6 that and I don't blame them. If I saw a court order that
7 said stay away from her, I wouldn't necessarily put that
8 was a temporary restraining order. I wouldn't know who
9 cross-examined who, what kind of evidence presented. I
10 would say, hey, the judge told her -- the judge must have
11 believe he tried to kill her or she tried to kill him,
12 that was my concern. But I understand what Your Honor is
13 saying. I do have what I feel to be a legitimate concern
14 with the family court issue.

15 THE COURT: Well, I think I have cured any
16 concern you've had about that order as far as a finding by
17 the family court that she in fact -- it comes down to a
18 credibility issue between whether or not they believe.

19 MR. HERRON: But my concern is by allowing that
20 family court order to come in. I think, we're lending
21 credibility to the decedent's side of the story because
22 now they had a court order from a family court judge
23 adjudicating a fact, hey, well, the judge told her to stay
24 away. If the judge didn't believe that she was trying to
25 kill him, that's my concern, but that's not what the

1 family court is there for. At least, especially not in
2 that hearing that was simply a temporary restraining
3 order, so I feel that the valid reasonable concern that I
4 have on my behalf of my client that lead when that order
5 comes gives credence to a he-said-she-said issue.

6 THE COURT: Well, you've made your objection for
7 the record. I think you've made it abundantly clear.
8 I've ruled on that and I don't want to hear anything else
9 with regard to that order. If I'm wrong, I may be wrong,
10 but I think -- and I want you to make sure your client is
11 protected, but once I ruled on it -- I've made my ruling
12 on that.

13 MR. HERRON: And, Your Honor, in regards to
14 speed things up tomorrow, in regards to all these pieces
15 of evidence cause as Your Honor said we beat that horse
16 dead, do I need to so the record is protected can I just
17 say objection?

18 THE COURT: Subject to my previous objection.

19 MR. HERRON: I just want to make sure the record
20 would still be protected and I'm not giving up any
21 appellate rights on the issue.

22 THE COURT: As far as I'm concerned, you're
23 protecting the record and whether or not the Court of
24 Appeals believe you protecting it, I can't give you advice
25 on that.

1 MR. HERRON: I just didn't want to have these
2 arguments. I didn't want continuously beating a dead
3 horse, that's what I'm trying to get at because I know
4 Your Honor is tired of hearing from me.

5 THE COURT: No, I'm not. You got a job to do,
6 Mr. Herron. I want to think about the 9-1-1 tape, okay,
7 some more.

8 MR. OZMENT: Your Honor, if I have our tech
9 savvy person cut down the tape in the event you let it in,
10 would you be inclined to let both calls in or just the
11 second call in, just so I know how to have him cut off.

12 THE COURT: Well, my initial inclination was to
13 let both calls in because it gives both sides of the story
14 as far as what happened that day, that was my initial
15 inclination.

16 MR. OZMENT: Okay.

17 MR. HERRON: Your Honor, why we're on that
18 subject maybe save sometime in the future if we play
19 Ms. Bratschi's statement to Kathleen Streett again,
20 there's some polygraph vocabulary in there, some dialogue
21 about vocabulary. It's my intent and after discussing it
22 with Mr. Ozment and he plans on calling Investigator
23 Streett last in this case, that will give me sometime to
24 cut the portion of the statement out that talks about
25 polygraph, but play -- because she gives two statements to

1 Mrs. Streett, Investigator Streett. I believe one in '04
2 and then when the body was found '09 she gives one in
3 July. And then Your Honor's made this ruling on the
4 statement was given in December. The statements that I
5 would be playing would be the 2004 statement as well the
6 July 2009 statement. I can't be for sure, but I know in
7 one of those there's -- I believe it was '09 would you be
8 willing to take a polygraph. And she said, well, I need
9 to talk to my lawyer. I would just want to cut that part
10 out and I just want it to be clear to the Court that's
11 okay that I do that because I don't think that's
12 obviously...

13 THE COURT: I don't think that's admissible, Mr.
14 Ozment. The issues pertaining to polygraph that's what
15 he's talking about.

16 MR. OZMENT: Clearing none of that would be
17 admissible.

18 THE COURT: It's not inadmissible.

19 MR. HERRON: I will get together with Mr. Ozment
20 beforehand before I play it and we just agree I cut it off
21 at the appropriate time because it kinds of bleeds over
22 cause they start talking about polygraph. I think they
23 jump back in. I'll get together with Mr. Ozment, so that
24 want be an issue.

25 MR. OZMENT: Purpose of the record you mention

1 this, do I have this marked as court's exhibit to go along
2 with the order to show she had -- she was served?

3 THE COURT: I don't personally think that's an
4 issue. I will leave that up to you as to whether or not
5 you want to mark it.

6 MR. OZMENT: I'm fine with that. I don't think
7 it matters to the jury. I didn't know since Your Honor
8 looked at it if we should have it marked as court's
9 exhibit.

10 THE COURT: I don't see any need to having it
11 marked unless Mr. Herron...

12 MR. HERRON: No, Your Honor.

13 THE COURT: Anything else?

14 MR. OZMENT: Nothing at this time, Your Honor.

15 MR. HERRON: Your Honor, we have Frankie Miles
16 may be a witness.

17 MR. OZMENT: For the defense.

18 MR. HERRON: He is represented by counsel
19 Mr. Anderson. I've talked with Mr. Anderson and he said
20 he'd be willing to accept the subpoena. However,
21 Mr. Miles is here, so I really don't feel the need. But
22 me and Mr. Ozment has talked since he is represented and
23 he's currently charged with misprision, that may be
24 something that we need to have Mr. Anderson over here
25 because it's my intent as of right now and I'm not trying

1 to play games. After they rest their case, I do plan on
2 putting up some witnesses. And I believe Mr. Miles would
3 be one of those witnesses. So if we could -- I can call
4 Mr. Anderson I just want ---

5 THE COURT: I'm not going to allow you to go
6 into any questioning on facts about the case that he's --
7 may be pending against him. I mean, if you do -- first of
8 all, I don't think that's relevant. Second of all, he has
9 every right to invoke the Fifth Amendment protections.

10 MR. HERRON: He does. And he's charged -- Mr.
11 Ozment can correct me if I'm wrong, he's charged with
12 misprision of a felony and this is the felony he's charged
13 with. So I think -- he's does fall -- he does have -- in
14 my opinion, he does have evidence that I could present to
15 a jury as far as the time line goes and where Randy was
16 and where his mother was. But if he wants to take the
17 fifth, then that's ---

18 MR. OZMENT: Your Honor, I would just say that
19 he needs to be advised of his Fifth Amendment Rights
20 because the basis of the misprision of the felony is based
21 on the times he said he talked to Randy or saw Randy and
22 when they say Randy disappeared.

23 THE COURT: Well, if you intend on calling him
24 as a witness, you've indicated Mr. Anderson is aware of
25 it. Mr. Anderson is his lawyer. Mr. Anderson -- and I've

1 known him a long time, shared office space with him. And
2 certainly if he feels like he needs to be here, he'll be
3 here. Certainly knowing Mr. Anderson would advise his
4 client of his rights, but again the Court can advise him
5 that he has a Fifth Amendment Right.

6 MR. HERRON: I think that's it, Your Honor.

7 THE COURT: All right.

8 MR. OZMENT: I have a few exhibits we can
9 pre-mark before tomorrow.

10 THE COURT: All right. We will resume at nine
11 o'clock in the morning. Thank you.

12 (WHEREUPON, the proceedings were concluded for
13 the day to be reconvened on April 17, 2012.)

14 THE COURT: All right. A couple things I want
15 to put on the record before we bring the jury out. I had
16 a conference in chambers with the lawyers Mr. Ozment and
17 Mr. Herron. One thing Mr. Ozment handed up to me State's
18 Exhibit Number 8 this morning for me to look at. After
19 reviewing State's Exhibit Number 8 again, I instructed him
20 pursuant to my ruling yesterday to redact paragraph four
21 and five of that family court order which has been done,
22 which has been done pursuant to my instruction.

23 The other issue we left here yesterday -- I've
24 handed back State's Exhibit 7, which was the affidavit or
25 the petition for the family court protective order. I've

1 handed that document back to the court reporter that was
2 not admitted into evidence and I've handed that back to
3 the court reporter.

4 The other issue dealt with the 9-1-1 tape, 9-1-1
5 call from the previous incident between Ms. Bratschi and
6 Mr. Bratschi. After further consideration of whether or
7 not to allow the 9-1-1 tape in, I asked the State
8 yesterday what they intended to play on the 9-1-1 tape and
9 the reason for asking that is there was a call from
10 Ms. Bratschi to the 9-1-1 dispatch followed by a telephone
11 call from Mr. Bratschi to 9-1-1 dispatch. But when I
12 asked that question yesterday, Mr. Ozment indicated that
13 he only intended to play the 9-1-1 call from
14 Mr. Bratschi. Defense counsel objected to the playing of
15 that 9-1-1 tape believing that it would be the probative
16 value would be outweighed by the prejudicial effect of
17 that telephone call. I have listen to that tape on more
18 than one occasion. And this what my ruling is I am going
19 to allow the 9-1-1 tape to be played. However, I am not
20 going to limit it to just Mr. Bratschi's call.

21 The State has indicated that they want to be
22 allowed to show the entire picture so to speak of the case
23 or the prior incident. And I believe that the entire
24 picture of the case or that prior incident would
25 necessitate the playing of her 9-1-1 call as well which

1 would come down to a credibility issue between
2 Ms. Bratschi and Mr. Bratschi as to what happened that day
3 for the jury to make a decision on it. Mr. Ozment has
4 indicated that he has handed up to the court reporter an
5 edited version. And I say edited of the 9-1-1 tape was
6 due to the fact that there was a prior 9-1-1 call in from
7 an unknown individual about a totally unrelated incident
8 that lasted for approximately ten minutes, I believe, on
9 the tape that was initially or the CD that was initially
10 given to me pursuant to my instruction that has been taken
11 off of the CD since it has absolutely nothing to do with
12 this case. Is there anything else with regards to that
13 matter from the State?

14 MR. OZMENT: Nothing, Your Honor.

15 THE COURT: Mr. Herron.

16 MR. HERRON: Not that matter, Your Honor. But
17 me and Mr. Ozment have agreed there was a piece of
18 evidence that me and him did not see in the evidence room.
19 There was a note left by Frank Miles at the scene at the
20 Bratschi residence. We have a copy and me and Mr. Ozment
21 have agreed that the copy can indeed come into evidence
22 even though me and him didn't see the original. So we've
23 agreed to that and I will be submitting that as evidence
24 at the appropriate time.

25 THE COURT: Anything else from the State before

1 we bring the jury out?

2 MR. OZMENT: Nothing from the State.

3 THE COURT: From the defense?

4 MR. HERRON: Nothing from the defense.

5 (WHEREUPON, the jury came into open court.)

6 THE COURT: Madam clerk, would you swear the
7 jury please.

8 (WHEREUPON, the jury was sworn.)

9 THE COURT: Okay. All right. Mr. Aldrich and
10 Ms. Gregg, you two individuals have been selected as
11 alternates in this case and right now you're the only two
12 individuals that have assigned seating. So when you come
13 in and out of the courtroom if you all will sit in those
14 two chairs, I would appreciate it.

15 Ladies and gentlemen, we are about to begin the
16 trial or the case of the State of South Carolina vs.
17 Brenda Miles Bratschi. Before we begin the trial, I want
18 to tell you that this trial probably will be different
19 from what you might expect. Many people do not have the
20 chance to attend actual court sessions as you are doing
21 now and may think from watching television or movies or
22 reading books that trials are always full of high drama,
23 intense action and riveting circumstances. While all of
24 these things may be true at times, this trial is not for
25 entertainment. It is a fundamental part of our democracy.

1 (WHEREUPON, a pause in the proceedings.)

2 THE COURT: Mr. Ozment, you recognize for
3 opening statement.

4 MR. OZMENT: May it please the Court, Your
5 Honor.

6 THE COURT: Yes, sir.

7 MR. OZMENT: Hell has no furry like a woman
8 scorned. You're going to hear testimony in this case
9 about how a body was found under a trailer in 2009, that
10 body tested and turned to be Randy Bratschi. It was Randy
11 Bratschi's trailer. You're going to hear testimony that
12 the body was buried, wrapped in a tarp and hidden under
13 the trailer.

14 Now, it will be pretty obvious Mr. Bratschi
15 didn't bury himself under the trailer, so we're going to
16 ask you to do this week is to determine who put
17 Mr. Bratschi under that trailer and how they did it.

18 Now, the State intends to prove that there is
19 only one person that have the motive, the means and the
20 opportunity to kill Randy Bratschi and put him under that
21 trailer and leave him there to rot for five years before
22 he was found.

23 Starting with motive, you're going to hear
24 testimony in this case about a previous incident between
25 the victim, Randy Bratschi, and his wife Brenda Bratschi,

1 who's sitting over there at the defense table. In that
2 incident, you're going to hear testimony that Mr. Bratschi
3 suspicious about some activity in his bank account mainly
4 that it was empty. And he said come on we are going to
5 go to the bank and sort this out. Well, you're going to
6 hear testimony that Ms. Bratschi said her stomach hurt and
7 wanted to go back home before they went to the bank. You
8 then will hear testimony how she attacked him with a tire
9 thumper that 18-wheeler driver's use to thump tires. She
10 beat him over the head, beat his face in, broke his ribs.
11 You will see the tire thumper. You'll see that she beat
12 him with a tire thumper until the tire thumper broke in
13 half. You're going to hear after that she was charged
14 with a crime and that crime is still pending because
15 Mr. Bratschi has been missing.

16 So that leads me to motive where I start.
17 You're going to hear testimony that Mr. Bratschi was the
18 only eyewitness other than Ms. Bratschi to that crime that
19 she was accused of. Now, following that and following
20 Mr. Bratschi's release from the hospital, you're going to
21 hear testimony that Mr. Bratschi went to the family court.
22 He filed something for what we would call a restraining
23 order against Ms. Bratschi. And you're going to hear that
24 the family court granted that restraining order. You're
25 going to hear that after he filed that restraining order

1 and after they were separated and after Ms. Bratschi
2 wasn't allowed to come around any more, that Mr. Bratschi
3 became friends with another woman. I think, you will hear
4 testimony they weren't quite boyfriend and girlfriend, but
5 they were more than just hanging out. And you're going to
6 hear testimony how Brenda Bratschi stalked that other
7 woman, how she stalked Randy Bratschi, how she checked up
8 on where they were, how she tell people I hired a private
9 investigator to track him down and know what he's up to.
10 You're going hear testimony of her jealousy. If she
11 couldn't have him, no one else could.

12 So let's look at the motive. The defendant had
13 motive. You will hear testimony that there were three
14 reasons Brenda Bratschi's world would radically change
15 unless she killed Randy Bratschi.

16 Going on to means, like I just said, you're
17 going to hear testimony that she almost killed him once.
18 She was this close. You're going to hear from a doctor
19 who will describe his injuries in the emergency after that
20 first assault. You're going to hear about how his cheek
21 bones were busted in. You're going to hear about how his
22 orbital cavities were broken. You're going to see
23 pictures of the swelling and the blood. You're going to
24 see pictures of the bruises on his chest for his broken
25 ribs. You're going to hear his 9-1-1 call. She almost

1 did it once. There was nothing stopping her from doing it
2 again. She know she could do it. She came back and
3 finish the job.

4 Lastly, motive means and third one opportunity.
5 Now, who would know Randy Bratschi's habits better than
6 his wife. You're going to hear that she had lived at the
7 house that he was found under. She knew his work
8 schedule, you're going to hear that. No one knew better
9 than Brenda what Randy was up to, what Randy's day-to-day
10 routine was. You'll hear testimony about it. You'll hear
11 testimony that when Randy left work on Friday, Friday
12 morning, he was never seen again. You'll hear testimony
13 that when his body was found, he still had his work boots
14 on.

15 You will also in addition to that is there
16 eyewitness who saw Brenda leaving the property that
17 weekend. You're also going to hear from the eyewitness
18 who can state that he picked Brenda Bratschi up late on
19 the night of the Friday he went missing by Dewitt's Bluff
20 boat landing near Pamplico.

21 Now, you're also going to hear testimony that
22 Randy Bratschi's car was found at Dewitt's Bluff Landing
23 near Pamplico. As you hear the evidence in this case, I
24 just want to use your common sense. The reason we pick
25 juries in this country the way that we do is because we

1 know that the best judge of facts, the best judge of the
2 accused is every day folks with good old common sense.
3 And that's what I would ask you to think about when you
4 hear the evidence in this case. It's only one story that
5 makes sense. Hell has no furry like a woman scorned.
6 Hell has no furry like Brenda Bratschi. Thank you.

7 THE COURT: Mr. Ozment, can you and Mr. Herron
8 approach for just a second?

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury, but out of the hearing of the
11 jury.)

12 THE COURT: Mr. Herron, you recognized for
13 opening statement.

14 MR. HERRON: How, where, when and who, how where
15 when and who? Now, ladies and gentlemen of the jury, I
16 just had a kid, he's about to turn two. So I know what a
17 Dr. Suess book sounds like. How, where, when and who and
18 I know that sounds like a title of a Dr. Seuss book, but
19 it's from it as you can imagine. This case isn't about
20 children's fairy tail. This case is about cold-blooded
21 murder. Murder is the most serious crime for which we
22 have laws for and that lady right there is accused of not
23 only murdering her ex-husband but sticking him underneath
24 the trailer.

25 Now, burden in this case rest on the State of

1 South Carolina. They have to prove to y'all beyond a
2 reasonable doubt, not ten doubts, not five doubts, not
3 three doubts. A reasonable doubt that Brenda Bratschi not
4 only killed Randy Bratschi, but then put his body up
5 underneath the trailer, but they are going to have a big
6 problem doing that because they can't answer basic
7 questions. They can't answer how, where, when and who.
8 They cannot answer how Randy Bratschi was killed. You
9 will hear no evidence shooting, strangling, drowning. You
10 are not going to hear any evidence of how Randy Bratschi
11 died, none. You are not going to hear any evidence of
12 where Randy Bratschi was killed. No evidence, nobody is
13 going to get on the stand and say, hey, we found this here
14 or bullet here. They're not going to be able to answer
15 where Randy Bratschi was killed. They're not even going
16 to be able to answer when Randy Bratschi was killed.

17 Now, Mr. Ozment says Randy Bratschi went missing
18 on Friday night. I tell you something that's news to
19 Heath Matthews, that's some news to Denny Matthews and
20 that's news to Bubba Miles cause they going to get on that
21 stand and they going to tell you they saw Randy Bratschi
22 after Friday. Frankie Miles is going to tell you that he
23 talked to Randy Bratschi on Saturday. Heath Matthews was
24 with him. He's going to say I heard Randy talking to
25 Frankie on the phone. Denny Matthews is going to get on

1 that stand and swear under oath he saw Randy Bratschi
2 Sunday. So the when if that's they're theory of the case,
3 the when is Friday night, they're going to have huge
4 problems with that because they're going to be at least
5 three witnesses that say it can't be that way. But the
6 most important, the fundamental question that they will
7 not be able to answer, the elephant in the room the most
8 important question is who. They are not going to be able
9 to answer the basic question of who killed Randy Bratschi.

10 Now, they have theories. They have things that
11 look bad. But as the judge is going to explain to you,
12 looking bad and having a theory is not carrying their
13 burden of proof beyond a reasonable doubt, a reasonable
14 doubt. They can't answer the four basic questions.

15 Now, I'm going to go ahead and tell you two
16 things I don't like about jury trials. First thing I
17 don't like is how you all are drawn. I hate that you all
18 have to come walk up here and stand right here and have
19 this table whisper about you and then this table whisper
20 about you. I know that makes you feel uncomfortable.
21 I've done it before, it made me feel uncomfortable. Let
22 me tell you something -- stand up, Brenda. The State of
23 South Carolina, the State of South Carolina has accused
24 this woman right here of murder, not only murder but
25 putting her husband up underneath the trailer imagine how

1 she feels. Thank you, Brenda.

2 Second thing, I don't like about jury trials is
3 you all don't get to talk. I always thought that was kind
4 of strange that people who have to make the decision don't
5 get to ask questions because y'all are the final sayers of
6 the fact. You all are the ones that make decisions, so
7 I'm going to make deal with you.

8 It's going to be my job to try and be you alls
9 voice because I'm going to try to ask the questions and
10 these ain't tricky lawyer questions. I'm going to ask
11 basic questions that I think you all want answered, so I
12 promise I'm going to try and do my best to do that. If
13 they can't answer the basic questions and I'm not perfect
14 I may miss a question that you all may have. But if they
15 can't answer my basic questions I think you all want
16 answered or ones that you have yourself, all I'm going to
17 ask you to do is at the end of this case render a verdict
18 that speaks the truth. And the judge is going to go tell
19 you verdict means speak the truth and the truth is, ladies
20 and gentlemen of the jury, we don't know what happened to
21 Randy Bratschi.

22 Now, just a little bit about the facts 2004,
23 2009, today 2012. Now, 2004 you're going to hear evidence
24 that Randy Bratschi went missing, something that
25 Mr. Ozment failed to mention guess who reported him

1 missing, Brenda Bratschi reported Randy Bratschi missing
2 went to the sheriff's department, hey, my husband's
3 missing will you all look into it. She reports him
4 missing.

5 Now, there was a fight and you all been around
6 long enough that you all know one thing for sure when it's
7 a he-said-she-said kind of matter, there's three sides to
8 a story. There's he side of the story. There's a she
9 side of the story and somewhere in the middle lies the
10 truth.

11 Now, there was a fight in 2004. Now, you going
12 to hear the facts about that fight and you also going to
13 hear Brenda Bratschi's side of the story that she actually
14 called 9-1-1 after she left. You going to hear Brenda
15 Bratschi say that Randy Bratschi attacked her. Randy
16 Bratschi did not deserve to die, but he wasn't perfect.
17 I'm not perfect. None of you all are perfect. Randy
18 Bratschi had some problems. You going to hear testimony
19 about his drinking problem. Randy Bratschi got up in the
20 morning and the first thing he went to do is he went to
21 the refrigerator and grabbed a Budlight.

22 You going to hear testimony that on the way to
23 work he had three Budlights in the car, drink three on the
24 way to work. On the way back home from work, he drink
25 three or four beers. He kept drinking until basically

1 until he went to bed, got up the next day and started all
2 over, so he wasn't perfect.

3 You going to hear Brenda Bratschi's side of the
4 story about the fight. You're going to hear on Randy
5 Bratschi's answering machine that Randy Bratschi had money
6 problems. All married couples think you will hear the two
7 basic causes of divorce is lack of sex and money. You
8 going to hear Brenda Bratschi testify that Randy Bratschi
9 was on medication. He not only a diabetic, but he was on
10 all kinds of medication. Brenda Bratschi is going to
11 tell you through her statement that that frustrated Randy,
12 he was not able to perform. He had performance problems.
13 He had money problems and he had a drinking problem. He
14 was a frustrated man. You're also going to hear testimony
15 that sometimes when he got frustrated to get away from it
16 all, he drive to a bluff. He drive to the river clear his
17 head, just drive there and clear his head. You will hear
18 testimony about that.

19 Now, the Solicitor, hell, hath no furry like a
20 woman sworn. Let's talk about that what you going to
21 hear. You going to hear that after this fight that Randy
22 Bratschi goes to family court and you going to hear what
23 all that encompasses, got a restraining order.

24 Now, Randy Bratschi was seeing a lady name Susan
25 Hill, seeing a lady name Susan Hill. A week or two before

1 he goes missing, he's over at Sue Hill's house. Like any
2 wife, Brenda Bratschi had her suspicions about what was
3 going on. When Randy Bratschi showed up at Sue Hill's
4 house guess who's outside waiting for him, Brenda
5 Bratschi. You know what she does, she catches him
6 red-handed. You know what she does catching him -- going
7 into his lover's house. She's so mad, she's so furious.
8 She's so scorned, she goes up to him and says, hey, shines
9 a flashlight in his face and says I wonder how long this
10 has been going on and walks away. Shines a flashlight in
11 his face and says, I wonder how long this has been going
12 on, walks away. If that's a woman scorned, if that's a
13 woman that's getting ready to kill her husband, she did a
14 good job covering up when she catches him red handed. She
15 goes home that night. She called Susan Hill. This is a
16 woman that's so angry she's getting ready to kill Randy.
17 She calls Sue Hill and says I hope you're having a good
18 time with my husband and that's all is made of that. But
19 the State would have you believe that Brenda Bratschi was
20 so scorn, so angry, so mad that she killed Randy Bratschi
21 been on the time that she catches him red handed, I wonder
22 how long this has been going on and walks away, that's the
23 facts of that. I'm going to ask you to take all that into
24 consideration when you render your decision.

25 Now, you're also going to hear testimony that

1 Randy Bratschi goes missing a couple weeks later. And
2 you're going to hear testimony from people that saw Randy
3 later on that weekend. You also going to hear testimony
4 from people who saw Brenda after she supposedly did all
5 this killing and putting the body underneath. You're
6 going to hear testimony from people. I'm going to ask
7 them, hey, she just killed her husband how was she acting,
8 that's their theory she just killed her husband how is she
9 acting. They're going to say she acted like normal Brenda
10 to me. Normal, Brenda you just kill somebody put them
11 underneath the trailer, you going to go around acting all
12 normal, no worry, no nothing, that's what they going to
13 tell you.

14 Now, all I'm going to do is -- before I get into
15 that, I want you all to keep in mind this fight in 2004,
16 this supposed attempted murder, this assault and battery
17 with intent to kill, she's still charged with that. She's
18 still charged with that. The State has had from 2004 to
19 2012 to bring that case to trial. This is the one where
20 she almost killed him and almost beat him to death with a
21 baseball bat. They've had eight years to bring that case
22 to trial. They haven't. They chosen instead to bring the
23 murder case to trial. I want to ask you at the end of
24 this case think about why you wouldn't bring the attempted
25 murder charge that supposed happen in 2004 to trial yet.

1 I want you to take all that stuff into consideration.

2 Now, ladies and gentlemen of the jury, you're
3 going to hear a lot and I'm going to try to ask the best
4 questions I can. But I just want you to remember one
5 thing that just because somebody says something about
6 somebody -- and speaking of that, you going to hear an
7 investigator say something I never heard an investigator
8 ask someone accused of something. The investigator on the
9 tape is going to ask, well, Brenda, how come all these
10 people in Coward say you had something to do with it. You
11 going to hear from Brenda Bratschi on at least two
12 statements, two statements. These statements were
13 voluntary statements. She didn't have a lawyer with her.
14 She went into the sheriff's office to give at least two
15 recorded statements. And I hope the State plays them for
16 you because if they don't, I am. Because I think it's
17 important that you hear from the woman that's accused of
18 murder. So if they don't play them for you, I am. In
19 those statements investigator's going to say, well, how
20 come all these rumors are flying around Coward that you
21 had something to do with it. Brenda's going to say, how
22 am I suppose to know that. Kathleen Streett is going to
23 say, Brenda, tell us what happened to Randy. Kathleen, I
24 don't know. You're lying, Brenda. No, I'm not.
25 Kathleen, I don't know what happened to him, I don't know

1 what to tell you. I don't know. You will never hear her
2 waiver. You will never hear her search for words. They
3 going to ask her consistently time and time again on at
4 least two different occasions tell us what happened to
5 Randy. I don't know.

6 You also going to hear about the investigation
7 and certain things in the investigation. They were so
8 desperate, they hired a psychic. I don't know how you
9 feel about psychics. I don't know if it's a 800 number or
10 900 number or something. I want you to take all things
11 into consideration when you determine whether or not they
12 have carried their burden of proof beyond a reasonable
13 doubt and just because things look a certain way that is
14 not enough, just because people are talking about you
15 because there's rumors flying around that is not enough.
16 They have to prove to you all, they have to answer the
17 basic questions how, where, when and who. And, ladies and
18 gentlemen of the jury, the truth of this matter is that in
19 this case the truth is we don't know what happened to
20 Randy Bratschi.

21 THE COURT: Mr. Ozment, call your first witness.

22 MR. OZMENT: Your Honor, the State would call
23 Marty McDonald to the stand.

24 THE CLERK: If you will, sir, go to the witness
25 stand, place your left hand on the Bible, raise your right

1 hand. Do you swear to tell the truth, the whole truth,
2 and nothing but the truth so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please be seated and state your name
5 for the record.

6 THE WITNESS: Marty Dale McDonald.

7 THE COURT: Mr. Ozment.

8 WHEREUPON,

9 Marty McDonald,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q How are you today, Mr. McDonald?

14 A I'm good.

15 Q What do you do?

16 A I'm a construction worker.

17 Q All right. Where you from?

18 A I live in Bono currently, originally from Kingstree.

19 Q Okay. On July 16th 2009, what were you doing that
20 day?

21 A I had gotten off work, had a company moving the
22 trailer from the lot that me and my fiancé had purchased.
23 When I arrived there, they were ---

24 Q Where is that lot?

25 A It's at the corner of Friendfield and Old Georgetown

1 Road. I haven't live there in over a year, so I can't
2 remember the exact street address.

3 Q Is it in Florence County?

4 A Yes, it is.

5 Q Okay. Continue you were at the lot that you had
6 bought.

7 A The moving company was there connecting to the mobile
8 home to move it. They connected, move the trailer off the
9 road and I was beginning the clean up process.

10 Q Was anybody with you at that time?

11 A My cousin was right down the street, he was coming to
12 help me.

13 Q Okay. The trailer that was being moved do you know
14 how long it had been there. Do you know what it's story
15 was?

16 A I knew who the trailer belong to. I knew the story
17 of Randy being missing.

18 Q Was it on the property when you bought the property?

19 A Yes.

20 Q You were saying after it was moved, what did you do
21 next?

22 A I went to start cleaning up and laying out markers
23 where we wanted the new home to be sitting and stuff. And
24 when I walked over to the area, I noticed the tarp and
25 stuff, didn't really, you know, catch my attention at

1 first. Then I notice something -- my first thought was
2 actually that it was a gourd. And I took a stick that I
3 had in my hand and when I rolled it over I realized what
4 it was. And then I began to notice the other bones and
5 stuff laying there.

6 Q What was the thing that you said you thought was a
7 gourd what was it?

8 A It was the skull.

9 Q What did you do at that time?

10 A It's really kind of a blur because I kind of
11 panicked, you know, at first. It was a shock. I called
12 my fiancé first for some reason. I really don't know why
13 and told her to call the sheriff's department. And so she
14 made the original call to sheriff's defendant. And my
15 cousin had pulled up, you know, as I was on the phone with
16 her. And at that time, it's kind of just a blur, you
17 know. Like I say, I was kind of in shock. We just sat
18 there and waited for the deputies to show up. It started
19 storming. My cousin and I grabbed some paper machine felt
20 that was laying there, you know, in the area and just kind
21 of laid across the body.

22 Q What color was that?

23 A It's kind of a brownish color about the color of the
24 deputies uniforms.

25 Q Okay. And then how long -- did you end up putting

1 another trailer or home on the property?

2 A Oh, yeah, we -- they started digging foundation as
3 soon as the land was cleared back to us.

4 Q Okay. And then how long did you say you live there?

5 A We moved -- trying to remember.

6 Q You can estimate if you need to?

7 A It's been -- I don't know may be August, I guess, of
8 the following year.

9 Q Okay.

10 A Sometime around August or September. I been through
11 getting married, divorced. The whole thing in the past
12 three years, so it's been a lot of stuff running together
13 for me.

14 Q Okay. Was there any other structures on the
15 property?

16 A Yeah, there was a little outbuilding that pump -- the
17 well and pump was housed in.

18 Q Okay. When you were living on the property, were you
19 aware of -- have you ever spoken to the sheriff's office
20 or anything about some of the alleged history of the
21 property?

22 A Not so much with the sheriff's office.

23 MR. HERRON: Your Honor, I object to any hearsay
24 about what he's heard from other people about history of
25 the property.

1 THE COURT: I'm going to allow him to testify.
2 He's not testifying as to what individuals have said.

3 Go ahead, Mr. Ozment.

4 BY MR. OZMENT:

5 Q So were you aware kind of the alleged history of the
6 property?

7 A Yes, I was.

8 Q Okay. You mention that outbuilding. Did you ever
9 remove that outbuilding or take apart that outbuilding
10 anything like that?

11 A I remove the floor, did some upgrades stuff on it.

12 Q Okay. When you removed the floor, did you find
13 anything?

14 A I found what I believe to be half of a tire thumper
15 at the time.

16 Q Okay.

17 MR. OZMENT: Your Honor, may I approach the
18 witness?

19 THE COURT: Yes, sir.

20 BY MR. OZMENT:

21 Q Mr. McDonald, I'm going to ask you to look in this
22 paper bag and tell to -- don't take it out yet. But just
23 tell me what you see?

24 A Yeah, that would be what I found the tire thumper.

25 Q And looking at it is that exactly what you found?

1 A Yeah, it's exactly like I found it.

2 Q What did you with that after you found it?

3 A When I found it, like I said due to the stories that
4 I had heard and stuff, I suspected it might be something
5 of interest to the investigation, so I had on gloves,
6 leather gloves. I picked it up sat it to the side and we
7 called the sheriff's defendant and they sent a deputy out
8 to pick it out.

9 Q Okay.

10 MR. OZMENT: Your Honor, at this time the State
11 would move that half of a tire thumper into evidence.

12 MR. HERRON: No objection, Your Honor.

13 THE COURT: Without objection. Hold on a
14 minute, let her mark it. That's State what, madam court
15 reporter.

16 COURT REPORTER: Twenty-five.

17 THE COURT: State's Number 25 admitted without
18 objection.

19 (WHEREUPON, State's Exhibit No. 25 was admitted
20 into evidence.)

21 BY MR. OZMENT:

22 Q Mr. McDonald, you can take it out now if you don't
23 mind. Now, where exactly you find -- you said it was
24 under the floor board. You can kind of describe to me
25 where that was?

1 A It was if you walk up to the little outbuilding,
2 there was like a porch area and then you would walk into a
3 room. The porch area, I guess, was may be 12 by eight and
4 it was underneath that porch area.

5 Q All right. And for the porch area -- to put
6 something under the floorboard, you actually have to pull
7 up the floorboard?

8 A No.

9 Q Like slide ---

10 A It was -- underneath was wide open.

11 Q Okay.

12 MR. OZMENT: No further questions for this
13 witness, Your Honor.

14 THE COURT: Cross-examination.

15 MR. HERRON: Thank you.

16 CROSS-EXAMINATION

17 BY MR. HERRON:

18 Q How you doing, Mr. McDonald?

19 A Okay.

20 Q When you all moved the trailer, can you tell the jury
21 an idea of how deep the remains that you discovered? I
22 mean, was it six feet deep, was it six inches can you give
23 us an idea?

24 A It was no more than 16, 18 inches I would believe.

25 Q All right, sixteen, 18 inches.

1 MR. HERRON: Your Honor, may I approach the
2 witness?

3 THE COURT: Yes, sir.

4 BY MR. HERRON:

5 Q You see any blood on State's Exhibit 25? Does it
6 appear to you any blood on there dried or otherwise?

7 A Continue rolling it please. Looks like there was a
8 clump of something right there at one time.

9 MR. HERRON: Your Honor, can I have the witness
10 step down?

11 THE COURT: Yes.

12 Make sure you speak loud enough so my court
13 reporter can hear.

14 BY MR. HERRON:

15 Q Mr. McDonald, I have you in front of the jury on
16 State's Exhibit 25. I'm rolling it around and my question
17 to you is whether or not you saw any blood and you seem to
18 indicate you think that that -- you think that's a --
19 dried up blood?

20 A It's a clump of something.

21 Q You don't see any -- you don't see any what you would
22 classify as blood on the State's Exhibit 25.

23 A I'm not a professional to determine if something is
24 blood or not.

25 Q But you know what dry blood looks like? You seen dry

1 blood?

2 A Yeah.

3 Q Okay. It does not appear that on State's Exhibit 25
4 there's any dry blood other than what you -- a clump right
5 there?

6 A Yeah.

7 MR. HERRON: Okay, thanks.

8 I don't have any other questions, Judge, thanks.

9 THE COURT: Any redirect?

10 MR. OZMENT: None, Your Honor. I would ask that
11 this witness be released from his subpoena.

12 THE COURT: Any objection by the defense?

13 MR. HERRON: No, Your Honor.

14 THE COURT: All right. Mr. McDonald, you may
15 step down as you have already done and you are excused
16 from any further responsibilities under your subpoena.
17 Thank you for being here.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 THE COURT: Call your next witness please.

21 MR. OZMENT: Your Honor, the State calls Deputy
22 Jay McLaurin to the stand.

23 THE CLERK: Do you swear to tell the truth, the
24 whole truth, and nothing but the truth so help you God?

25 THE WITNESS: I do.

1 THE CLERK: Please be seated and state your full
2 name for the record?

3 THE WITNESS: John Franklin McLaurin, IV.

4 WHEREUPON,

5 Jay McLaurin,

6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q How are you today, Deputy McLaurin?

10 A Good.

11 Q How long you work for sheriff's office?

12 A Five years in August.

13 Q All right. What do you do for the sheriff's office?

14 A I'm a street supervisor. I'm a sergeant for the
15 patrol shift.

16 Q Okay. Did you have any law enforcement experience
17 before you work for the sheriff's office?

18 A I was a parole agent for Florence County for two and
19 a half years.

20 Q All right. On July 16th 2009, were you working for
21 the sheriff's office at that time?

22 A I was.

23 Q All right. Did you respond out to a call on North
24 Old Georgetown Road?

25 A Yes.

1 Q All right. What was that call about?

2 A It was in reference to a complainant who had found
3 what he believe to be bones.

4 Q Okay. Did you make contact with that person when you
5 reached the property?

6 A I did.

7 Q Do you recall his name?

8 A Marty Dale McDonald.

9 Q When you arrived at the scene, what did you do first?

10 A It was raining really really hard, so we had to move
11 fast. And he took us over to where he found what he
12 believe to be human remains. And I viewed them, I believe
13 them to be human remains also. And immediately began to
14 rope off the area and completed crime scene log of who had
15 entered the crime scene and who hadn't.

16 Q Okay. And when you say you roped off the area is
17 that with like that yellow crime scene tape like I see on
18 TV?

19 A Yes, we did a very large area cause we didn't know --
20 it was raining. We didn't know how large the area was
21 going to be.

22 Q Okay. Do you recall any -- stated that you saw the
23 human remains? Did you see the any gray tarps or gray
24 machine felt around the bones?

25 A I did. You could see where Mr. McDonald had stated

1 that it was raining. They were trying to preserve
2 whatever they could and they laid some tarps over the top
3 of it.

4 Q Okay. Was there another tarp?

5 A There was a blue tarp kind of mixed in with the dirt
6 and the bones.

7 Q Okay. You stated that you started the crime scene
8 log. Can you explain to me what a crime scene log is?

9 A It's a list of the people's names. The reason they
10 are at the scene and it's also their signatures, so that
11 we can keep track of who's entering the crime scene.

12 Q Why didn't you keep a crime scene log on a case like
13 this?

14 A Because we -- I mean, we found the human body. We
15 want to know whose been in the crime scene and who hasn't,
16 so we can try to exclude any evidence.

17 Q Okay.

18 MR. OZMENT: Your Honor, may I approach?

19 THE COURT: Yes, sir.

20 BY MR. OZMENT:

21 Q Okay. Deputy McDonald, I'm handing you a sheet of
22 paper that's been marked, I believe, State's Exhibit 22.
23 Could you look at that and identify that for me?

24 A Yes, it's our form for a crime scene log at the
25 sheriff's office.

1 Q All right. Do you see your name on that crime scene
2 log?

3 A Yes, at the top is the reporting officer.

4 Q Okay. Is this a copy, obviously, of the crime scene
5 log that you kept?

6 A Yes.

7 MR. OZMENT: Your Honor, at this time we would
8 move State's Exhibit 22 into evidence.

9 MR. HERRON: No objection, Judge.

10 THE COURT: Without objection State's Exhibit
11 Number 22 admitted into evidence.

12 (WHEREUPON, Plaintiff's Exhibits No. 22 was
13 admitted into evidence.)

14 BY MR. OZMENT:

15 Q Okay. Approximately, how long did you stay at the
16 scene that day?

17 A I stayed out there probably -- it was a while
18 probably two or three hours.

19 Q All right. Did you stay at the scene until it had
20 been fully precessed and cleared if you will?

21 A No, I stayed there until all the forensics corporals
22 had arrived and several of the investigators.

23 MR. OZMENT: No further questions for this
24 witness, Your Honor.

25 THE COURT: Cross-examination.

1 MR. HERRON: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. HERRON:

4 Q How you doing is it Sergeant McLaurin?

5 A Uh-huh.

6 Q Sergeant McLaurin, can you give the jury an idea of
7 he -- the remains were in the ground?

8 A It was -- I think's probably foot, foot and a half.
9 It was -- I mean, you can see where the mobile home had
10 been drug off the property, so the earth was kind of dug
11 up a good bit.

12 Q The earth surrounding that wasn't dug up, can you
13 tell the jury was it solid, was it sandy. Can you give us
14 an idea -- understand where dug it up it was obviously
15 loose, but around it can you give any ideas is it hard
16 clay, is it sand, is it soft dirt? Can you give us an
17 idea?

18 A It kind of be hard to say because it was raining so
19 hard that day. It was a really bad storm that day.

20 Q Okay. When you discovered the body, do you have any
21 evidence of how Randy Bratschi was killed?

22 A No.

23 Q Do you have any idea where he was killed?

24 A No.

25 Q Do you have any idea when he was killed?

1 A No.

2 Q Any evidence that you found doesn't give any idea who
3 did the killing, did it?

4 A No.

5 MR. HERRON: No further questions, Your Honor.

6 MR. OZMENT: Nothing further of this witness,
7 Your Honor. I ask that he be released from his subpoena.

8 MR. HERRON: No objection.

9 THE COURT: Sir, you may step down. You are
10 released. You are finished with regards to any further
11 obligations under your subpoena.

12 (WHEREUPON, the witness leaves the witness
13 stand.)

14 THE COURT: Next witness.

15 MR. OZMENT: Your Honor, the State would call
16 Corporal Andrew Clendenin to the stand.

17 THE CLERK: Do you swear to tell the truth, the
18 whole truth, and nothing but the truth so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Please be seated and state your full
21 name for the record.

22 THE WITNESS: Andrew Robert Clendenin.

23 WHEREUPON,

24 Andrew Clendenin,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OZMENT:

Q How are you today, Corporal Clendenin?

A I'm doing well.

Q Good. How long have you been in law enforcement?

A This past 12 years.

Q All right. And what do you do currently?

A I am a crime scene investigator with the Florence County Sheriff's Office.

Q All right. How long have you been doing that?

A The last seven years.

Q Is that exactly like CSI seen on television?

A Not quit what you see on television but similar.

Q All right. On July 16th 2009, did you respond out to North Old Georgetown Road in Coward?

A Yes, I did.

Q Okay. What was that in reference to?

A It was in reference to finding human remains on the property.

Q All right. When you got to the scene, describe kind of generally what you saw?

A Basically, I saw an empty lot where they moved a mobile home. Mobile home was actually sitting in the roadway. When I actually arrived on scene, it was raining kind of heavily and then it stopped. I walked out on to

1 the property where I seen kind of like an L shaped ditch
2 where the -- what I believe to be the trailer tongue had
3 drug under the ground as it was move from the property.

4 Q And that L-shape ditch was that in the area that use
5 to be under the trailer?

6 A Correct.

7 Q Okay. Was the scene taped off when you got there?

8 A Yes, it was.

9 Q Did you have a camera with you when you responded?

10 A Yes, I did.

11 Q Did you take some photos when you responded out that
12 day?

13 A I did. I took digital photographs of the scene.

14 MR. OZMENT: May approach, Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. OZMENT:

17 Q Officer Clendenin, I'm handing you State's Exhibits
18 10 through 21. Could you flip through those and just tell
19 me what you see? Are those the photos you took that you
20 spoke of?

21 A Those are the photographs that I took of the scene
22 that day?

23 Q All right. Would you thumb through them and tell me
24 if those accurately portray the scene that day?

25 A Yes, they do.

1 Q Okay.

2 MR. OZMENT: Your Honor, at this time we would
3 move State's Exhibits -- those exhibits into evidence.

4 THE COURT: What are the numbers?

5 COURT REPORTER: Ten through 21.

6 THE COURT: Mr. Herron, you need to look at
7 those?

8 MR. HERRON: No, Your Honor. No objection, Your
9 Honor.

10 THE COURT: State's Exhibits 10 through 21
11 admitted without objection.

12 (WHEREUPON, State's Exhibits Nos. 10-21 were
13 admitted into evidence.)

14 THE COURT: Mr. Ozment.

15 MR. OZMENT: Thank you, Your Honor. Your Honor,
16 may I have Corporal Clendenin step down?

17 THE COURT: Yes, sir.

18 MR. OZMENT: And permission to publish the
19 photos to the jury?

20 THE COURT: Permission granted.

21 BY MR. OZMENT:

22 Q Corporal Clendenin, and I apologize not the largest
23 photos, but looking at State's Exhibit 10, what do you see
24 in this photo?

25 A This is the blue tarp found on the property where the

1 mobile home was removed.

2 THE COURT: What exhibit are you referring to,
3 Mr. Ozment?

4 MR. OZMENT: State's Exhibit 10.

5 THE COURT: Okay, thank you.

6 BY MR. OZMENT:

7 Q All right. And was that tarp -- explain to me, I
8 guess, under the trailer where was it located?

9 A Actually, it look like it was somewhere underneath
10 the trailer and then pulled out from the -- unearthed by
11 the trailer off the property.

12 Q All right. Now, looking at State's Exhibit 12. I
13 see some numbers here on a little yellow, I guess, cards
14 for a lack of better term. What are these numbers?

15 A These are little yellow tower markers that we use to
16 mark evidence on the scene, sort of marks -- you can see
17 the L-shape ditch that I was talking about on the scene.

18 Q Okay. And now that's in State's Exhibit 12 and
19 State's Exhibit 13, 14, 15 and 16. I see those yellow
20 cards again. Are those the same thing?

21 A Yes, every time that I seen something of interest I
22 mark it with a yellow tower marker.

23 Q All right. And going back to State's Exhibit 12, I
24 can kind of see a curved art shaped trench, what is that?

25 A This is what I believe the trailer tong actually dug

1 into the area and had those moved from the trailer.

2 Q All right. And when you said that these placards
3 noted evidence of the scene. What sort of evidence will
4 we be talking about here?

5 A They appear to be human remains scattered among and
6 out through the property, so I started marking with yellow
7 tower markers.

8 Q Okay. What do I see in State's Exhibit 11?

9 A That would be where I found the actual skull inside
10 the trench?

11 Q All right. Now, after you saw all that stuff on top
12 of the dirt, what did you do next with the scene?

13 A After I initially walk through and Deputy McLaurin
14 showed me each piece of what he observed, I started
15 photographing and then marking with the other towers and
16 re-photographing again.

17 Q Okay. And after you marked, at what point did you
18 start collecting evidence?

19 A Once everything had been majored and documented into
20 a crime scene drawing done by Corporal Adam Moore of the
21 scene.

22 Q Okay. At any point did you start to go beneath the
23 surface of the dirt?

24 A Once everything was photographed and collected from
25 the top, then we started down.

1 Q Okay. Did you find anything as you were excavating?

2 A Yes, we did.

3 Q Now, holding up State's Exhibit 17, what do I see in
4 that photo?

5 A I found a bottom of a huge -- actually stick up on
6 top.

7 Q Was anything connected to the shoe?

8 A Yes, actually once we excavated the earth down, we
9 actually found the leg bone and sock still located in the
10 shoe.

11 Q Now, after you had excavated, what did you do with
12 the bones that you recovered?

13 A We took a white sheet and started laying them out on
14 the sheet.

15 Q Okay. And looking at State's Exhibit 18, 19 and 20
16 what are those showing?

17 A These show where the human remains we started laying
18 them out try to organize as we collected them.

19 Q Okay. Do these show all the remains that were
20 covered that day?

21 A On that day, yes.

22 Q Okay. And lastly, I will let you go sit back down.
23 What is State's Exhibit 21?

24 A This is how -- initially when I walked up to the
25 scene how I found it.

1 Q All right. You can retake the witness stand,
2 Corporal Clendenin. Was any other clothing found in the
3 excavation?

4 A Yes, once we started excavating the earth down, we
5 actually found that -- looks like a Dicky shirt that was
6 pretty much barely there due to decomposition in the
7 earth.

8 Q Did you find any -- anything that wasn't skeletal.
9 In other words, you know, any remains in the human that
10 were -- I guess, soft if you will?

11 A Pretty much everything was skeletonize except for the
12 clothing and a belt that was attach to the clothing and
13 look like a tobacco pouch that was once in the clothing.

14 Q Okay. What did you do and we saw them on the white
15 sheets? How were -- what happened to those after that?
16 How did they leave the scene eventually?

17 A Once we got everything together that we could, we
18 initially boxed them up and then Corporal Adam Moore took
19 them back to Florence County Sheriff's Office.

20 Q All right. Did you return to the scene at any point
21 after that day?

22 A Yes, I did. I stayed there as long as I could that
23 night. And once the night fall until a point, we could no
24 longer see, we return the next day.

25 Q What did you do the next day?

1 A We started shifting through the excavation site
2 again to see if anything remained at the scene.

3 Q Okay. Were you -- did you recover any further
4 evidence that next day?

5 A Yes, we recovered one small button and some more
6 smaller bones from the actual excavation site.

7 Q What was done with those items?

8 A Those were taken back to the Florence County
9 Sheriff's Office.

10 Q All right.

11 MR. OZMENT: No further questions at this time,
12 Your Honor.

13 THE COURT: Mr. Herron, cross-examination.

14 MR. HERRON: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. HERRON:

17 Q How you doing, Corporal Clendenin?

18 A I'm doing well.

19 Q CSI is crime scene investigation. I know it's not
20 exactly what you see on TV, but as part of your job, you
21 collect all sorts of evidence; is that correct?

22 A That's correct.

23 Q Would you find any spint bullet shells?

24 A No, I did not.

25 Q Did you find a knife?

1 A No, I did not.

2 Q Did you find any rope?

3 A No, I did not.

4 Q Did you see any injuries of the skull like a bullet
5 hole or anything like that?

6 A No, I did not.

7 Q Okay. And based on the evidence that you discovered
8 -- before I get into that. How deep was the remains in
9 your opinion in the ground? Because there was one part in
10 there with the shoes. I think you testified on direct
11 that it was sticking up through the ground?

12 A Yes.

13 Q How deep was that shoe -- when you say sticking up in
14 the ground was it -- was it a level ground or that ground
15 already been recovered? I'm just trying to get an idea of
16 how deep.

17 A That ground was initially in that L trench and it's
18 started out at about nine inches and buried depending on
19 how the trailer tongue kind of dug in all the way through.

20 Q So at its shallowest end in your opinion it was about
21 nine inches?

22 A About nine inches to begin with and then started up
23 and down from there.

24 Q Okay. Based on what you discovered, do you have any
25 idea of how Randy Bratschi died?

1 A No, I do not.

2 Q Do you have any idea where he was killed?

3 A No, I do not.

4 Q Do you have any idea when he was killed?

5 A No, I do not.

6 Q And based on the evidence you discovered, do you
7 have any idea who killed him?

8 A I do not know.

9 MR. HERRON: Thank you. No further questions,
10 Your Honor.

11 THE COURT: Mr. Ozment, anything further?

12 MR. OZMENT: No further questions at this time,
13 Your Honor. We would ask that Corporal Clendenin not be
14 released from his subpoena quite yet and in the event we
15 need to call him to process another crime scene, we be
16 allowed to recall him.

17 THE COURT: Sir, you may step down. Thank you.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 THE COURT: Call your next witness.

21 MR. OZMENT: Your Honor, the State would call
22 Adam Moore to the stand.

23 THE CLERK: Do you swear to tell the truth, the
24 whole truth, and nothing but the truth so help you God?

25 THE WITNESS: I do.

1 THE CLERK: Please be seated and state your full
2 name for the record?

3 THE WITNESS: Adam Thomas Moore.

4 WHEREUPON,

5 Adam Moore,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q How are you today, Mr. Moore?

10 A Very good.

11 Q What do you do for a living?

12 A I'm a crime scene investigator with the sheriff's
13 office here in Florence County.

14 Q All right. How long have you been in law
15 enforcement?

16 A Since 2005.

17 Q All right. How long have you been a crime scene
18 investigator with the sheriff's office?

19 A Since 2006.

20 Q Okay. Did you respond to a call on North Georgetown
21 Road on July 16th 2009?

22 A Yes, I did.

23 Q What was that in regards to?

24 A Corporal Andrew Clendenin contacted me and advise me
25 that we had a possible recovery of human remains.

1 Q All right. Do you recall approximately what time you
2 responded to the scene?

3 A Approximately 5:37 p.m.

4 Q Okay. When you arrived on the scene, did it have
5 crime scene tape up around it?

6 A Yes, it did.

7 Q Okay. Did you see the horse-shoe shaped, I guess, or
8 I don't know what they call it, what are the tongue I
9 think drug. Did you see that on the ground when you got
10 there?

11 A Yes, I did.

12 Q All right. Did you help put the little yellow cards
13 up to mark where various evidence was?

14 A Corporal Clendenin began doing that.

15 Q Okay. Did you see him do that?

16 A Yes.

17 Q What were you doing while he was doing that?

18 A While he was doing that, I was standing by.

19 Q Okay. Did you at any time make any sort of sketch of
20 the scene?

21 A Yes, I did.

22 MR. OZMENT: May I approach the witness, Your
23 Honor?

24 THE COURT: Yes, sir.

25

1 BY MR. OZMENT:

2 Q Investigator Moore, I'm handing you State's Exhibit

3 23. Could you look at that and identify it for me?

4 A Yes,, I can.

5 Q What is that?

6 A State's Exhibit 23 is a list of the measurements that
7 we took from the points on the scene to the items of
8 evidence marked?

9 Q Okay. And I see numbers here on the left-hand side
10 of this what number correspond to?

11 A Numbers correspond to the yellow evidence towers
12 that were placed out.

13 Q And on the second and third and forth pages tell me
14 what those consist of?

15 A The second page is an accurate description not to
16 scale of the horse-shoe shaped trench located on scene at
17 North Old Georgetown Road with the numbered item markers
18 on it. The third page is a another sketch of the
19 horse-shoe shaped trench with measurements showing how big
20 the overall trench was and then the fourth page is another
21 sketch with measurements of points of interest on the
22 trench itself.

23 Q All right. Who created these sketches?

24 A I did.

25 Q All right.

1 MR. OZMENT: Your Honor, at this time we move
2 State's Exhibit, I believe, it was 23 into evidence.

3 MR. HERRON: No objection, Your Honor.

4 THE COURT: Without objection State's Exhibit 23
5 admitted into evidence.

6 (WHEREUPON, State's Exhibit No. 23 was admitted
7 into evidence.)

8 BY MR. OZMENT:

9 Q Corporal Moore excuse me -- Investigator Moore, so
10 you stated the numbers I see one through 17, so number one
11 here is number one on the yellow card?

12 A Yes, that's correct.

13 Q And on this I see services pole to item number, light
14 pole to item number, what were these?

15 A The service pole and the light pole are two places
16 that we took measurements from. They were fixed positions
17 that probably not be moved.

18 Q Were they on the property when you got there?

19 A Yes, they were.

20 Q Okay. Explain to me how you created this?

21 A The measurements are taken using a triangulation
22 method meaning we would take from -- in this case, the
23 service pole to item number one as one measurement and
24 then use the light pole to item number one as a secondary
25 measurement. So when we -- if we had to do a

1 reconstruction of the scene, we could place item number
2 one exactly where item number one was found on the day of
3 the actual finding of the item of evidence.

4 Q All right. After you observed Corporal Clendenin put
5 out the little yellow placards, what did you do next?

6 A We then began taking measurements. I recorded the
7 measurements as Corporal Clendenin actually did the
8 measuring.

9 Q Did you help recover the bones from the scene?

10 A I did until I was called away on another separate
11 call.

12 Q Okay. Did you return this call?

13 A I did once I dropped off evidence from the previous
14 call, I gathered cardboard boxes and then returned to the
15 scene.

16 Q What did you do with the cardboard boxes?

17 A The cardboard boxes were then packaged -- the bones
18 were packaged in the cardboard boxes and I transported the
19 human remains from the North Old Georgetown Road scene to
20 our evidence room and secured them in our evidence room.

21 Q Okay. Where did the bones go next?

22 A On Friday, July 17th, I retrieved the boxes of bones
23 from the evidence room and transported them to the Medical
24 University of South Carolina.

25 Q Okay. Did you at any point take them back from the

1 Medical University of South Carolina?

2 A No, I did not.

3 Q Okay. While you were at the Medical University of
4 South Carolina, what happened to clothing that was with
5 the bones?

6 A The items that were found with bones were returned to
7 me and I transported them back to Florence and put them
8 back in the evidence room.

9 Q Okay. Did that include the boots I saw on one of the
10 pictures that we put into evidence earlier?

11 A Yes, it did.

12 Q Okay.

13 MR. OZMENT: Your Honor, may I approach the
14 witness?

15 THE COURT: Yes, sir.

16 BY MR. OZMENT:

17 Q Okay. Mr. Moore, I'm going to ask that you don't
18 take them out and look at it and tell me what you see?

19 A It is a pair of work boots, hiking style boots.

20 Q All right. Are they clean or dirty?

21 A They are dirty.

22 Q Okay. Are those the boots that were recovered from
23 the Bratschi property that day?

24 A Yes, they are.

25 Q Okay.

1 MR. OZMENT: Your Honor, at this time the State
2 would move those two boots into evidence.

3 THE COURT: Any objection?

4 MR. HERRON: No, Your Honor.

5 THE COURT: All right, sir. State's Exhibit 26
6 admitted into evidence without objection.

7 Mr. Ozment, you may continue.

8 (WHEREUPON, State's Exhibit No. 26 was admitted
9 into evidence.)

10 MR. OZMENT: May I approach the witness, Your
11 Honor?

12 THE COURT: Yes, sir.

13 BY MR. OZMENT:

14 Q Mr. Moore, can you look at these boots and tell me if
15 you can see what brand of boots they are?

16 A They are Red Wing.

17 Q If you can't tell, just say yes or no. Can you tell
18 if those are steal toe boots are not?

19 A Yes, they are.

20 Q Okay. Describe to me when those boots were found,
21 you know, was anything in them?

22 A The actual leg bones, foot bones, all the small bones
23 of the feet were actually all contained within the work
24 boots themselves.

25 Q Okay. Were any socks found in them?

1 A Yes, a pair of -- they were unable to determine the
2 color of two pair of socks because of the decomposition
3 from being in the ground.

4 Q Okay.

5 MR. OZMENT: Your Honor, I have no further
6 questions for this witness.

7 THE COURT: Mr. Herron, cross-examination.

8 CROSS-EXAMINATION

9 BY MR. HERRON:

10 Q How you doing, Investigator Moore?

11 A Very good.

12 MR. HERRON: Your Honor, may I approach the
13 witness?

14 THE COURT: Yes, sir.

15 BY MR. HERRON:

16 Q On what's been marked State's Exhibit 26, do you see
17 any -- do you see where the fabric has been stained by
18 blood, the fabric of the shoes?

19 A Be unable to determine that.

20 Q But if the fabric was stained, you still be able to
21 see the stain?

22 A It would depend on how long the -- these particular
23 boots probably not because of the length of time they been
24 in the ground.

25 Q Okay. And how -- when you got to the scene, how deep

1 were the remains in the dirt?

2 A One of the heels was sticking out of the ground as
3 Corporal Clendenin has previously described. And then the
4 excavation down was may be a foot and a half to two feet
5 at the most once it was completely excavated.

6 Q I think Investigator Clendenin said at some point in
7 time it was like nine inches?

8 A That would be describing the way the trench was, the
9 U-shape trench and the initial deep was about nine inches.

10 Q Okay. That's before it had been disturbed?

11 A Before it had been excavated, yes.

12 Q Okay. So at the shallowest end the remains were
13 about nine inches down.

14 A Well, at the shallowest end it would have been
15 approximately an inch, inch and a half was -- the heel was
16 sticking up.

17 Q Was that on the disturbed ground or the undisturbed
18 ground?

19 A No, that was the undisturbed ground.

20 Q So a heel was sticking up out of the ground and it
21 hadn't been disturbed?

22 A No.

23 MR. HERRON: Your Honor, may I approach the
24 witness?

25 THE COURT: Yes, sir.

1 BY MR. HERRON:

2 Q Just so we give the jury an idea, would you agree --
3 I'm not sure exactly, but a piece of paper about eight and
4 a half by 11?

5 A Yes.

6 Q Okay. So if the boots were sticking up, that's eight
7 and a half inches, you saying they been out of the ground?

8 A Without looking at a photograph of the scene, I
9 wouldn't be able to determine, but from recollection it
10 was an inch, inch and a half sticking out of the ground.

11 Q Okay. Did you discover any evidence of bullet
12 casings?

13 A No, sir, I did not.

14 Q A knife?

15 A There was a pocket knife located in the victim's
16 pants pocket.

17 Q He had a knife in his pocket?

18 A Yes, that's correct.

19 Q Did -- on the pants was the gun holster on there?

20 A There was no holster found.

21 Q Okay. Do you have any evidence that you can
22 determine of how Randy Bratschi died?

23 A No, I cannot.

24 Q Where he died?

25 A No, I cannot.

1 Q When he died?

2 A No, sir.

3 Q There's no evidence that you discovered that can tell
4 you who killed Randy Bratschi?

5 A No, sir, there's not.

6 MR. HERRON: Thank you. I don't have any other
7 questions, Judge.

8 THE COURT: Mr. Ozment.

9 MR. OZMENT: Nothing further, Your Honor.

10 THE COURT: All right. Sir, you may step down.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 THE COURT: Call your next witness, please.

14 MR. WELLS: Investigator James Allen.

15 THE CLERK: You swear to tell the truth, the
16 whole truth and nothing but the truth so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated and state your full
19 name for the record.

20 THE WITNESS: James Allen, III.

21 WHEREUPON,

22 James Allen,

23 after first having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25

1 BY MR. WELLS:

2 Q Investigator Allen, whom are you employed?

3 A Florence County Sheriff's Office.

4 Q And how long have you been employed with them?

5 A Approximately ten years.

6 Q And what are your main duties there?

7 A I'm a property crimes investigator.

8 Q All right. In that regard where you involved in this
9 case back on August 30th 2009?

10 A Yes, sir, I was.

11 Q Were arrangements made in order to determine the
12 identity of the skeletal remains, for the remains to be
13 taken to a place in Texas, I believe, the North Texas
14 Health Science Center in Fort Worth, Texas?

15 A Yes, sir.

16 Q And was that the purpose for additional DNA testing
17 that could not be done in South Carolina?

18 A Yes, sir.

19 Q In that regard in August of 2009, did you and, I
20 believe, several of the other officers Officer Paul Bird,
21 Shane Prince and Kathleen Street take the remains that had
22 been found believe to be Randy Bratschi as well as related
23 items to this location in Texas?

24 A Yes, sir, we did.

25 Q And were those items delivered to the North Texas

1 Health Science Center in Fort Worth on August 30th 2009
2 and turned over to them?

3 A Yes, they were.

4 MR. WELLS: That's all.

5 THE COURT: Mr. Herron.

6 MR. HERRON: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. HERRON:

9 Q Investigator Allen, were you responsible for other
10 than the transport of the evidence from here to Texas?
11 Did you happen to go to the crime scene itself?

12 A I did stop by, but I was not involved in it.

13 Q When you say you stopped by, when did you stop by?

14 A The date of discovery. I don't recall the date.

15 Q When you went out there during -- on the date of the
16 discovery, did you see how deep the bones were?

17 A I did not, sir.

18 Q Okay. What did you do out there on the day of
19 discovery? Do you do an investigation, just tell the jury
20 what you did?

21 A I didn't do anything. I pulled up, no help was
22 needed and I left.

23 Q Okay. Based on what you saw and the evidence that
24 you were made available with, do you have any idea of how
25 Randy Bratschi died?

1 MR. HERRON: No objection, Your Honor.

2 THE COURT: All right, Mr. Moore, you released
3 from any further obligations with regards to your
4 subpoena. Thank you.

5 Call your next witness please.

6 MR. WELLS: I call Ms. Kendra Felipe-Ortega.

7 THE CLERK: Do you swear to tell the truth, the
8 whole truth, and nothing but the truth so help you God?

9 THE WITNESS: Yes, I do.

10 THE CLERK: Please be seated and state your full
11 name for the record.

12 THE WITNESS: Kendra Felipe-Ortega.

13 WHEREUPON,

14 Kendra Felipe-Ortega,
15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. WELLS:

18 Q Kendra, with whom are you employed?

19 A I'm employed at the University of North Texas Health
20 Science Center in Fort Worth.

21 Q And in particular what is your occupation with them?

22 A I'm currently a forensic DNA analyst.

23 Q And as forensic DNA analyst, what do you primarily
24 do?

25 A I primary in my position I obtain DNA from

1 unidentified human remains and then I analyze that data
2 and generate what most people would know as a DNA profile.

3 Q All right. In that regard would you relate to the,
4 ladies and gentlemen of the jury, your training and
5 experience in the field of DNA analyst.

6 A I have a bachelor's degree in biology, a master
7 degree in forensic genetics. I have ten years of
8 experience in genetic testing and six years of experience
9 as a forensic DNA analyst.

10 Q And during this time period, have you continued to
11 undergo various training seminars and odd things of that
12 sort?

13 A Yes, every year I have to obtain a minimum of eight
14 hours of education whether be it classes or any kind of
15 speeches or scientific meetings where I stay up front on
16 the new scientific developments in my field.

17 Q And would you estimate the number of DNA analysis you
18 done to be in the hundred or thousands?

19 A It's in the thousands.

20 MR. WELLS: Your Honor, in that regard, I would
21 move that Ms. Kendra Felipe-Ortega be declared an expert
22 in the field of DNA analysis?

23 THE COURT: Any objection?

24 MR. HERRON: No objection, Your Honor.

25 THE COURT: All right. Before you go any

1 further, Mr. Wells, let me give the jury an instruction.
2 Ladies and gentlemen, normally a witness or a person
3 cannot give an opinion testimony. Normally, when a person
4 testifies, they must testify as to what they either saw,
5 heard or sense by smell or something of that nature.
6 However, there is an exception when someone is qualified
7 because of education or experience. They are permitted to
8 give their opinion in certain areas if the Court qualifies
9 them that way. This witness, ladies and gentlemen, is
10 being qualified as an expert in the field of DNA analysis
11 to give opinion testimony in that area, that does not mean
12 that you must accept the opinion, but it is evidence for
13 you to use in any way that you see fit and give the weight
14 and credibility you believe as appropriate.

15 Mr. Wells, you may continue.

16 MR. WELLS: Thank you, Your Honor.

17 BY MR. WELLS:

18 Q Kendra, back in 2009, did you have occasion to
19 receive remains of a body believe to be one Randy
20 Bratschi from the Florence County Sheriff's Office?

21 A May I refer to my case file please?

22 Q Yes.

23 A On August 31st 2009, we did receive a case that is
24 related to Randy Bratschi.

25 Q Very good. And did that include human remains?

1 A Yes, it did.

2 Q All right. Now, were you also subsequently provided
3 a DNA profile prepared by the South Carolina Law
4 Enforcement Division of Randy Bratschi?

5 A Yes.

6 Q And did you also receive samples of four relatives of
7 Randy Bratschi, that being three siblings brothers and
8 sister and a daughter?

9 A Yes, on January 20th 2010, we received family
10 reference samples.

11 Q And what type of samples were those?

12 A Buckle swabs which is a saliva sample.

13 Q All right. Now, let me ask you in a case like this
14 where you are trying to determine the identify of a person
15 why would you also ask for samples of relatives such
16 brothers and sisters and a child?

17 A In situations with unidentified human remains, it's
18 often very unlikely that we would have a direct comparison
19 meaning that you would have any type of sample that you
20 knew came from a missing person that you could compare to
21 the unidentified remains profile. So in those situations,
22 we ask for family reference samples who compared the DNA
23 profile we obtain from the unidentified remains two family
24 members to make conclusion as to whether or not this
25 person could be one of their missing relatives.

1 Q Now, in this case, would you relate what testing you
2 did so far as to human remains that were provided?

3 A For the unidentified human remains first after they
4 arrived at our facility, they were then transported to our
5 office in Denton, Texas and they received anthropological
6 analysis. That anthropologist then took samples from
7 these remains and sent them back to the University of
8 North Texas Health Science Center from which we took these
9 small bones samples and we proceeded to process for DNA.
10 First that involves grinding up the bone samples into a
11 very fine powder and then we use a lot of different
12 chemicals that have been extensively validated for this
13 technique to what we call extract the DNA basically means
14 all these chemicals are going to break open in those bones
15 and take all DNA out of it. From that extraction, we then
16 move on to what we amplification. And that just basically
17 means, that we make lots and lots of copies of the DNA.
18 It does not change the DNA any way, it just makes lots and
19 lots of copies like a copy machine would do to a piece of
20 paper and that way it would be easier for us to work with
21 it because we have so much of it then. And that allows us
22 to then use some photo techniques to generate an image
23 that we call a DNA profile and that is where forensic
24 analyst looks at the DNA profile and actually analyzes it
25 and is trained extensively to interpret what this image

1 means. That is the DNA profile that was then compared to
2 the family reference samples and to the DNA profile
3 obtained from the South Carolina Law Enforcement Division.

4 Q All right. Now, did you do DNA testing of the
5 samples provided of the relatives, the three siblings and
6 the child?

7 A The same general DNA process was used on the
8 reference samples. It's a slightly different technique
9 just because one sample is blood, one sample is saliva,
10 but the general process is the same and we did obtain a
11 DNA profile from all of those family members as well.

12 Q All right. And did you do one kind or two kinds of
13 DNA profile?

14 A In our lab we do for this particular case two
15 different types of DNA testing. First, we obtained what
16 we consider autosomal DNA profile. This is the DNA that
17 most people would recognize from television like CSI. You
18 get half of this DNA from your mother and half from your
19 father and that combined makes up a completely unique
20 genetic profile for every individual on earth. We also
21 did mitochondrial DNA testing. Mitochondrial DNA is
22 something that is passed down from mothers to children.
23 So any siblings that have the same mother will have the
24 same mitochondrial DNA profile. A mother will have the
25 same profile as her child. When you combine these two

1 types of testing, it works extremely well for familial
2 comparisons because you can compare the mitochondrial
3 across siblings or mothers and children, but then you also
4 have the autosomal DNA to compare as well.

5 Q All right. Now, what did you find as far as your
6 comparisons first with the DNA profile provided the person
7 name Randy Bratschi from the South Carolina Law
8 Enforcement Division?

9 A First, with that profile, the South Carolina Law
10 Enforcement Division gives us a profile that they claimed
11 and provided the name of Randy Bratschi. So we use that
12 as a direct reference profile from Randy Bratschi. And we
13 compared it to the profile that we obtained from the
14 unidentified human remains. And our comparison showed a
15 direct match. From that moment, we then take a
16 statistical analysis which basically means we just have to
17 attach a number to determine the strength of this match.
18 So what we do is called the random match probability in a
19 situation with the direct comparison and that means that
20 you have to determine the probability of randomly picking
21 out anybody in the population and then having that same
22 genetic profile with the exclusion of this person being a
23 genetic identical twin or triplet or any sort of identical
24 sibling. Our findings were that the DNA profile submitted
25 by the South Carolina Law Enforcement Division was a --

1 was consistent with the profile we obtained from the
2 unidentified human remains. And that it had a frequency
3 of occurrence in approximately 1.13 quadrillion Caucasian
4 individuals. To give you a little perspective, there are
5 approximately seven billion people on the earth, so you
6 would have to take over 185,000 earths, take all of the
7 people on over 185,000 earths and line them all up and
8 then randomly pick one person out before you could ever
9 have a hope of finding one person that matches that
10 profile exactly.

11 Q Now, so far as the relatives, the siblings and the
12 daughter, what did you do as far as compare as far as
13 those people?

14 A Those are different comparison because every person
15 has a unique autosomal genetic profile as I stated. You
16 cannot take a family member and compare it to unidentified
17 remains and expect to have a direct match. So what we do
18 in that situation is we do what we call likelihood ratio.
19 So first we compare them through our computer system to
20 determine if the DNA is consistent. It's not going to be
21 a direct match, but known family members have a lot of
22 things in common. You might have the same eye color, the
23 same hair color, tend to look a like, that's all
24 genetically related, so while their DNA want match, it
25 will be consistent with being family. From then, we do a

1 likelihood ratio which means on one side, you have the
2 probability that this is some random person that just
3 happens to have a consistent profile with the person
4 you're looking for. On the other hand, you use what the
5 family reference sample information has given you which is
6 whether they say they're a sibling or a brother -- a
7 daughter or son. And that side of the likelihood ratio
8 means, yes, this unidentified remains is the person they
9 are looking for. And then you'll apply statistical
10 probability to that. So for this likelihood ratio, we
11 have determine that first of all the unidentified human
12 remains were consistent with being a sibling of Michael
13 Ard Bratschi, which was one family reference sample
14 consistent with being a sibling of Sandra Sanders, with
15 being a sibling of Gilbert Bratschi and the unidentified
16 remains were consistent with being a father of Melissa
17 Lammy. Given that the likelihood ratio we calculated
18 was approximately 3.3 trillion times more likely that the
19 unidentified human remains was a sibling of these three
20 individuals and father of Melissa Lammy as to oppose being
21 unrelated random individual from the Caucasian population.
22 So again, a likely ratio is slightly different than the
23 random match, probability match I think described earlier.
24 In this situation, this number just needs to be greater
25 than one. If this number is greater than one, it means

1 the unidentified remains fit the scenario that this is the
2 person they're looking for. If it's less than one, it
3 means it's probably not a family member of the people that
4 submitted family reference samples 3.3 trillion is much
5 greater than one.

6 Q So all of your testing that was totally consistent
7 that it was the identity of the person would be to Randy
8 Bratschi?

9 A Our DNA testing is consistent with that theory, yes.

10 MR. WELLS: All right, answer any questions
11 defense counsel may have.

12 THE COURT: Mr. Herron.

13 MR. HERRON: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. HERRON:

16 Q How you doing, Dr. Ortega?

17 A Good, thank you.

18 Q I want to talk to you about DNA in general. Blood
19 has DNA in it true?

20 A Yes.

21 Q Were you given -- did you test the boots that were
22 found on the decedent Randy Bratschi?

23 A No, sir.

24 Q Let me ask you about that. If you had been given
25 those boots, could you have determine whether or not there

1 were any blood stains either visible or had disappeared
2 through DNA testing on the boots.

3 A Our lab does have the ability to do testing of blood
4 stains, yes.

5 Q Okay. So if the decedent had been shot and bled on
6 his boots, you be able to determine whether or not there
7 were any blood on those boots?

8 A We would be able to determine if there are blood on
9 the boots if it had not degraded.

10 Q How about the blue tarp that the remains were found
11 in? Did the sheriff department give you the blue tarp to
12 test that?

13 A No, sir.

14 Q If there had been some blood from either the decedent
15 or the suspected perpetrator -- is it possible that you
16 found that?

17 A It's possible.

18 Q Okay. As far as the remains go, you obviously have
19 no way of knowing how the remains got there? I mean,
20 there's no test that you could do to determine how the
21 remains got where they were?

22 A No, sir.

23 Q And who put them there?

24 A No.

25 Q Okay. Other than just the remains, were you given

1 anything else to test the DNA?

2 A Again, we were given the unidentified human remains
3 and the family reference samples.

4 Q Okay. Was there -- did you test any of the fabric
5 that was found on the remains?

6 A No, sir.

7 Q Okay. If there had been blood on the fabric, could
8 you have been able to ascertain whether or not there had
9 been blood on there?

10 A Possibly, yes.

11 Q Okay.

12 MR. HERRON: Thank you, Doctor. I appreciate
13 it.

14 MR. WELLS: Nothing further.

15 THE COURT: All right, ma'am, you may step down.

16 MR. WELLS: Any objection if she be excused?

17 MR. HERRON: No objection, Your Honor.

18 THE COURT: Ma'am, you are excused from any
19 further obligation with regards to your subpoena. You are
20 free to leave. Thank you for being here.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 MR. OZMENT: May we approach, Your Honor.

24 THE COURT: Yes, sir.
25

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

4 THE COURT: Ladies and gentlemen, we're going to
5 take a morning break at this time. We been going about an
6 hour and a half and I think I told you yesterday we
7 typically run about an hour and a half to two hours
8 between breaks. I'm going to ask that you step to your
9 jury room right now for your morning break and I will get
10 you back out here, not going to give you a time frame when
11 I'm going to get you out here try not to keep you back out
12 there any longer than absolutely necessary. But I'll get
13 you back out here as quickly as possible. My instructions
14 remain the same. Do not discuss the case until you're
15 instructed to do so. Everybody else remain seated while
16 the jury exits the courtroom to the jury room.

17 (WHEREUPON, the jury retire to the jury room.)

18 THE COURT: Okay. I have a question I want to
19 ask before we take a break. Prior to us beginning the
20 trial of this case, there was a matter that was discussed
21 back in chambers of a prior CDV which Mr. Bratschi was
22 charged with. My question is and it was conveyed to me by
23 the State by Mr. Ozment that that CDV, prior CDV was
24 nol-prossed; is that right, Mr. Ozment?

25 MR. OZMENT: That's my understanding, Your

1 Honor, yes.

2 THE COURT: Well, my question is -- and my
3 understanding of what was conveyed to me back in chambers
4 was that the prior CDV involved a former spouse of
5 Mr. Bratschi not Ms. Brenda Bratschi but a former spouse;
6 is that correct?

7 MR. OZMENT: That's correct, Your Honor.

8 THE COURT: Is that right, Mr. Herron?

9 MR. HERRON: That was my understanding, Your
10 Honor.

11 THE COURT: All right, my question at this point
12 is when did that alleged CDV between Mr. Bratschi and his
13 prior spouse not Ms. Brenda Bratschi, but the prior spouse
14 when did that take place?

15 MR. OZMENT: I have don't have the exact date.

16 THE COURT: I want to know that if you'll check
17 on that for me.

18 MR. OZMENT: All right, Your Honor.

19 THE COURT: We'll stand at ease.

20 You need to check on your witnesses and let me
21 know as soon as you find out.

22 (WHEREUPON, a break was taken.)

23 THE COURT: It's my understanding the State has
24 clerk up here from family court and is prepared to go
25 forward with this witness at that time. Is that correct,

1 Mr. Ozment?

2 MR. OZMENT: That is correct, Your Honor.

3 THE COURT: Is that your understanding, Mr.
4 Herron?

5 MR. HERRON: Yes, Your Honor. And for the
6 Court's Mrs. Fraley, my partner, will be questioning.

7 THE COURT: Okay. What we going to do it's my
8 understanding based upon what was conveyed to me that
9 after this witness, the State's next witness is not going
10 to be here until 1:30. So we're going to break court at
11 that time after family court clerk testifies. I'm going
12 to ask that court personnel be back here at one o'clock
13 and the jury will be back here at 1:30 in case there's
14 some matters -- and I think there will be a couple things
15 we need to address with regards to this prior CDV charge
16 of Mr. Bratschi. I'm going to look at a couple things
17 before I make a ruling on that, but I want court personnel
18 to be back here at one o'clock so we can go ahead and put
19 that on the record and move forward with the first witness
20 at 1:30. Anything from the State before we bring the jury
21 back out?

22 MR. OZMENT: Nothing from the State, Your Honor.

23 THE COURT: From the defense?

24 MR. HERRON: Nothing, Your Honor.

25 THE COURT: Ms. Joe.

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: All right. Mr. Privette, I'm gone
3 ask that you and this young man on the front seated to my
4 -- closest to me in the blue shirt if you two will switch
5 seats please, sir. I'm going to or I have appointed you
6 as the foreperson of this jury. For the remainder of this
7 trial, that will be your assigned seat, okay. Everybody
8 else can sit wherefore they so desire when they come in
9 and out of the courtroom. But, Mr. Privette, that will be
10 your seat throughout the remainder of this trial.

11 State's recognize call your next witness please.

12 MR. OZMENT: Your Honor, the State would call
13 Ms. Linda Harris to the stand.

14 THE COURT: Ms. Harris, come around to be sworn
15 please.

16 THE CLERK: If you will, ma'am, stop right
17 there, place your left hand on the Bible and raise your
18 right hand. Do you swear to tell the truth, the whole
19 truth, and nothing but the truth so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Please be seated and state your full
22 name for the record.

23 THE WITNESS: Linda T. Harris.

24 WHEREUPON,

25 Linda Harris,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. OZMENT:

4 Q How are you today, Ms. Harris?

5 A Fine. Thank you.

6 Q Good. Tell me what you do for a living?

7 A I am deputy clerk two with the Florence County family
8 court under the supervision of the Clerk of Court Connie
9 Reel-Shearin.

10 Q How long have you been working with the clerk of
11 court's office?

12 A Forty years.

13 Q All right. How much of that was with the family
14 court?

15 A All of it.

16 Q All right.

17 MR. OZMENT: May I approach, Your Honor?

18 THE COURT: Yes, sir.

19 BY MR. OZMENT:

20 Q Ms. Harris, I'm handing you what has been marked
21 State's Exhibit 8. Could you identify that for me?

22 A Yes, sir, it's a family court order of protection
23 from Domestic Abuse Act.

24 Q Can you tell me what the names of the parties are on
25 that?

1 A Randy Bratschi and Brenda Miles Bratschi.

2 Q All right. And is there some sort of docket number
3 or I don't know how you organize things in family court.
4 I don't make it to family court. But what is -- some sort
5 of identifying number on that?

6 A 2004-DR-21-1992.

7 Q All right. Do you see somewhere on that document
8 where it was stamped by the family court, that it was
9 filed with the clerk of court's office?

10 A Yes, I do.

11 Q And was that order signed by a judge?

12 A Yes, sir, it is.

13 Q All right.

14 MR. OZMENT: Your Honor, at this time we would
15 move the order into evidence for this case.

16 THE COURT: Mr. Herron.

17 MR. HERRON: No objection.

18 THE COURT: Without objection so admitted
19 State's Exhibit Number what?

20 THE WITNESS: Eight.

21 THE COURT: Thank you, ma'am.

22 THE WITNESS: You welcome.

23 (WHEREUPON, State's Exhibit No. 8 was admitted
24 into evidence.)

25 THE COURT: Anything further, Mr. Ozment?

1 MR. OZMENT: Yes, Your Honor.

2 BY MR. OZMENT:

3 Q Ms. Harris, can you just explain to me what that
4 order is and what does that do?

5 A It is an order where somebody has requested for --
6 it's to be restrained from any way harm and threatening or
7 molesting or any way committing any kind of act of abuse
8 or harm to the person.

9 Q Okay. And if I wanted to file one of those, what's
10 the process that a person has to go through to obtain one
11 of those orders?

12 A They would could come into our office. There is also
13 another agency that assist with this also Pee Dee
14 Coalition. And they would come into our office and ask
15 for an application for a petition for domestic violence.
16 We give them the application. Once they fill it out, then
17 we have to send it up to our judge to approve whether it's
18 gone be granted or denied as a petition to be processed
19 further for emergency hearing or hearing within 15 days.

20 Q Okay. And so at that point when a judge is approving
21 or denying, he's not approving the order, he's just
22 approve -- allowing a hearing; correct?

23 A That is correct.

24 Q In this case, do you know if a judge said that, yes,
25 he would allow a hearing or no he wouldn't?

1 A Yes, sir.

2 Q Okay. Was a hearing held in this case?

3 A Yes, sir, it was.

4 Q Okay. Is there any way you can tell looking at that
5 who was present at the hearing?

6 A Yes, sir, it appears that both parties were present
7 at the time.

8 Q All right. So that would be Randy Bratschi and
9 Brenda Bratschi?

10 A That is correct.

11 Q Okay. What happened at one of those hearings?

12 A The judge hears both sides testimony. And from the
13 testimony, the judge makes a decision as to whether he's
14 going to grant or deny an order of protection.

15 Q Okay. And in this case and that order in front of
16 you, did he grant or deny an order of protection?

17 A He granted it.

18 Q Okay. And in this case, who was seeking protection
19 and who was, I guess, being asked to stay to away?

20 A Randy Bratschi.

21 Q Okay. He was ---

22 A The plaintiff.

23 Q Okay. Which means he was seeking protection?

24 A Yes, sir.

25 Q Okay. Can you tell from looking at that order what

1 the judge ordered as far as the parties contact with each
2 other and that kind of thing?

3 A The judge did order a restraining order from
4 committing further acts of abuse or threats of abuse, also
5 restrain from any contact with the petitioner plaintiff.
6 And it was effective until October 28th 2005, which would
7 be a year from the date that he heard the issues. And he
8 also granted the petitioner plaintiff possession of the
9 vehicles and be responsible for all expenses. And that
10 the respondent was temporary restrain, prohibited and
11 forbidden to abuse, threaten to abuse, molest the
12 plaintiff or engage in any other conduct that would place
13 the petitioner in reasonable fear of bodily injury. It
14 also says the evidence establish that the respondent
15 represents a credible threat to the physical safety of the
16 victim. The respondent used, attempted to use or threaten
17 to use physical force against the petitioner and that is
18 reasonable expected to cause bodily injury.

19 Q Is there anything in the order that speaks of
20 Ms. Bratschi staying away from Mr. Bratschi is address or
21 any location?

22 A It states that the respondent is temporarily
23 restrain, prohibited and forbidden to communicate or
24 attempt to communicate with the petitioner in any way or
25 to enter or attempt to enter petitioner's place of

1 residence, employment, education or any other following
2 locations.

3 Q All right. Can you tell -- you mention that it was
4 good for a year. Can you tell what date this order went
5 into effect?

6 A Yes, sir, October the 28th 2004.

7 Q All right. This is my last question. In paragraph
8 12, what does that paragraph state anywhere or item 12?

9 A Petitioner should have use and possession of the home
10 and furnishings located at [REDACTED] Georgetown Road
11 in Coward, South Carolina, with respondent petitioner
12 making the mortgage and or rental payments, plus any taxes
13 or insurance on the property.

14 Q All right. And did the judge order that in this
15 case?

16 A Yes, sir.

17 Q All right.

18 MR. OZMENT: No further questions for this
19 witness, Your Honor.

20 THE COURT: Mrs. Fraley.

21 CROSS-EXAMINATION

22 BY MRS. FRALEY:

23 Q Ms. Harris, when a petitioner fills out a request for
24 a hearing for an order of protection, is there some type
25 of level of proof that's required?

1 A What they normally says is if it's abuse or
2 threatening of life, but we don't question that. We allow
3 them to fill out the petition. It's not for us to say
4 whether it's, you know, an action where we can decide
5 that.

6 Q So, for example, if I was alleging that my husband
7 was abusing me all of -- if I submitted a police report,
8 it would be reasonable for a judge to grant a hearing
9 based on that?

10 A Possibly, yes, ma'am.

11 Q Okay. And under that scenario if a hearing was
12 granted and the judge issued a order of protection for me,
13 that wouldn't necessary mean that my husband was guilty of
14 that; correct?

15 A Not necessarily.

16 Q From your understanding, it would mean that the judge
17 just found it reasonable to issue the order of protection?

18 A Yes, ma'am.

19 Q So based on that would you say that they are fairly
20 easily granted?

21 A Most of them are, yes, ma'am.

22 Q Okay.

23 MRS. FRALEY: Thank you, Mrs. Harris.

24 THE COURT: Mr. Ozment.

25 REDIRECT EXAMINATION

1 BY MR. OZMENT:

2 Q Does the clerk's office make the determinations of
3 whether these are granted or not?

4 A No, sir, the judge makes that decision.

5 Q All right. So Mrs. Fraley was asking about that,
6 that's out of your purview, if you will; correct?

7 A Yes, sir.

8 MR. OZMENT: All right. No further questions,
9 Your Honor. And we would ask that ---

10 THE COURT: Hold on a minute.

11 Mrs. Fraley, you got anything else?

12 MRS. FRALEY: No, Your Honor.

13 THE COURT: All right. Now, Mr. Ozment.

14 MR. OZMENT: We would ask that this witness be
15 released from her subpoena to continue working in the
16 clerk's office.

17 THE COURT: Any objection?

18 MR. HERRON: No objection from the defense, Your
19 Honor.

20 THE COURT: All right. Ma'am, thank you for
21 being here. You are released from any further obligation
22 with regard to your subpoena. Have a good day.

23 (WHEREUPON, the witness leaves the witness
24 stand.)

25 THE COURT: Ladies and gentlemen of the jury,

1 what we're going to do now, I'm going to give you an
2 extended lunch break. It's approximately 11:25 at least
3 according to the clock behind you. My watch says 11:24.
4 I'm going to go ahead and let you go to lunch. I'm going
5 to ask that you be back here at 1:30, at 1:30 and we will
6 resume the trial of this case at that time.

7 Now, during your break, I remind you, ladies and
8 gentlemen, that you're not to discuss this case, not to
9 discuss this case in any manner with anybody. This
10 includes your fellow jurors, friends, family, people
11 involved in this trial or anyone else. If anyone tries to
12 talk to you about this case, please let me know upon your
13 return immediately upon your return. Do not read, watch,
14 or listen to any news reports or discussions about this
15 trial. Remember to keep an open mind because you're to
16 decide this case based solely upon the evidence and
17 testimony that's presented in this courtroom and nowhere
18 else. And you're not to begin your deliberations until
19 instructed to do so by this court. Again, I'm going to
20 let you go to lunch right now but ask that you be back in
21 your jury room at 1:30. You all are free to go.
22 Everybody else remain seated while the jury leaves the
23 courtroom.

24 (WHEREUPON, the jury is excuse for a lunch
25 break.)

1 THE COURT: Anything else from the State at this
2 time, Mr. Ozment?

3 MR. OZMENT: Not at this time, Your Honor.

4 THE COURT: From defense counsel?

5 MR. HERRON: No, Your Honor.

6 THE COURT: All right. I would ask that you all
7 be back here at one o'clock, at one o'clock so we can take
8 up this other matter that we had previously discussed with
9 regards to Mr. Bratschi prior CDV, one o'clock. Thank
10 you.

11 (WHEREUPON, a lunch break was taken.)

12 THE COURT: All right. Back on the record, I
13 want to make a ruling on this matter that Mr. Herron had
14 brought up previously on his desire to bring out a prior
15 charge of criminal domestic violence against the victim
16 Mr. Bratschi in this case. Prior to us breaking for
17 lunch, I inquire from the State exactly when that prior
18 incident occurred and what the disposition of that prior
19 incident was as well. The State has provided to me which
20 from my understanding was shown to Mr. Herron; is that
21 correct, Mr. Herron?

22 MR. HERRON: It was, Your Honor.

23 THE COURT: What the State's provided to me and
24 I didn't identify it before you answered me in the
25 affirmative, but it's a wrap sheet indicating the date of

1 the arrest of Mr. Bratschi. And it is a disposition sheet
2 indicating the disposition of the CDV. And you've seen
3 those, right, Mr. Herron?

4 MR. HERRON: Yes, Your Honor.

5 THE COURT: Now, from looking at these documents
6 that the State has provided to me, Mr. Bratschi was
7 arrested for CDV criminal domestic violence on June 18,
8 1998, June 19, 1998. He was found not guilty. The other
9 sheet here is the disposition from Lake City Magistrate's
10 Court indicating that Mr. Bratschi was found not guilty of
11 criminal domestic violence on November 30th 1998 at a
12 bench trial. It appears that he was found not guilty at
13 this bench trial due to the complainant failing to appear,
14 failing to appear. And that was in again all in 1998.
15 Mr. Herron has in seeking to bring out this prior CDV and
16 the ruling of the Court is that this prior CDV charge
17 which did not result in a conviction will not be
18 admissible. I will site the case of State vs. Mekler,
19 which is 368 S.C., 368 S.C. 1. In State vs. Mekler and
20 Mekler is spelled M-E-K-L-E-R. In Mekler, the Court cites
21 the State vs. Day, State vs. Day, 341 S.C. 410, 341 S.C.
22 140. Mekler in citing Day raises the issue or citing day
23 says the Supreme Court stated that in a murder prosecution
24 of one pleading self-defense against an attack by the
25 deceased evidence of other specific instances of violence

1 on the part of the deceased are not admissible unless they
2 were directed against the defendant.

3 First of all, Mr. Herron's desire to bring out
4 this prior CDV relates to the prior assault and battery
5 with intent to kill charge, that's what he's attempting to
6 do which has not been tried, which is a case that's still
7 pending which the State has been allowed to introduce
8 evidence of to show motive and intent for the charge that
9 she's currently on trial for, that she is currently on
10 trial for. And is noted that she is not asserting
11 self-defense in this case that we are on trial for right
12 now.

13 The Court goes on to say if in prior specific
14 instances of violence were directed against others and
15 that's the situation we have here. If they were so
16 closely connected at the point of time or occasion with
17 the homicide as reasonably to indicate the state of mind
18 of the deceased at the time of the homicide or to produce
19 reasonable apprehension of great bodily harm, then it
20 would be admissible. Due to that holding in State vs. Day
21 which is being cited by Mekler, the prior CDV offense
22 occurred over six years prior to over six years prior to
23 2004 when Mr. Bratschi and Ms. Bratschi were engaged in
24 this altercation, that altercation being the assault and
25 battery with intent to kill. Furthermore, the previous

1 altercation or CDV was not Ms. Bratschi. It was his -- I
2 think a previous wife of his. Due to the remoteness of
3 time over six years, I do not believe and the fact that it
4 wasn't Ms. Bratschi, I do not believe that it would be
5 admissible in this case because it certainly would not be
6 admissible to show the deceased state of mind at the time
7 the alleged homicide took place. So therefore, I'm not
8 going to allow it, Mr. Herron, but your objection is so
9 noted for the record.

10 MR. HERRON: Your Honor, would it be proper to
11 offer a proffer of this and I can do it by way of a court
12 exhibit. I think you got the documents in front of you
13 that ---

14 THE COURT: But I think that the appropriate way
15 to probably do that, I'm not exactly sure what witness you
16 intended to bring that out through whether it was through
17 Investigator Streett.

18 MR. HERRON: It was Investigator Streett.

19 THE COURT: From my understanding and what has
20 been conveyed to me by Mr. Ozment and in the presence of
21 you think and we've -- I think you asked him yesterday
22 when he intended to call her. And he indicated that she
23 was going to be his last witness. I will allow you to
24 proffer that through her at the appropriate time.

25 MR. HERRON: And, Your Honor, there's one other

1 matter not related to that if I could bring it up. I
2 should have made -- brought this to the Court's attention
3 earlier, but there's several witnesses that I've seen
4 enter the courtroom. I was wondering if the Court could
5 order -- sequester some of the witnesses. Witnesses I
6 haven't made too much to deal out of law enforcement, but
7 there are certain factual witnesses that I don't think
8 would be proper for them to hear other people testifying
9 and getting their stories matched up. So I would
10 respectively request that any other witnesses that the
11 State has to offer be sequestered from one another and not
12 be able to hear testimony from other witnesses.

13 THE COURT: Mr. Ozment.

14 MR. OZMENT: Your Honor, at this point we've
15 already started the trial. We haven't ---

16 THE COURT: Go ahead, I'm sorry.

17 MR. OZMENT: Certainly, I'm surprise this motion
18 is coming now. Secondly, this isn't a case where
19 eyewitness testimony that conflicts over something
20 occurring. So in that sense, there's no witness going to
21 change their story because so and so said no, you know,
22 whatever the car was orange because there's no conflicting
23 eyewitness testimony, so I don't really find it necessary
24 in this case.

25 MR. HERRON: Your Honor, just briefly. There is

1 a conflict as to when Randy Bratschi went missing is going
2 to be the State's position based on the opening, based on
3 evidence that I've seen the State present that he went
4 missing on Friday night. There are going to be several
5 witnesses to say that that's simply not the case and some
6 of their witnesses are going to I think -- I think it
7 would just be proper that they just be sequestered, that's
8 why I'm asking that sequester.

9 THE COURT: Anything else, Mr. Ozment?

10 MR. OZMENT: If you are incline to sequester
11 witnesses, obviously all the witnesses for the defense
12 would also need to be sequestered.

13 THE COURT: Well, you know, sequestration is a
14 discretionary call on the Court's behalf something that's
15 typically done at the outset of a trial. For the record,
16 I will note that the witnesses to this point have been law
17 enforcement essentially other than the clerk from the
18 family court dealt with the restraining order and the --
19 Ms. Ortega dealt with the DNA. And granted Mr. McDonald
20 wasn't law enforcement, he was the one that bought the
21 property and found the remains. What I will do since it's
22 a discretionary matter, I will grant defense counsel's
23 request that the remaining witnesses be sequestered. But
24 I will also grant your request as well. And that my
25 instructions are that no witness, no witness should be

1 discussing their testimony with other witnesses as this
2 trial proceeds along and that goes for both sides. All
3 right.

4 MR. OZMENT: Also, Your Honor, also request that
5 Investigator Streett be allowed to stay as she's the lead
6 investigator on the case.

7 THE COURT: And I will allow her to stay in
8 here. Anything else, Mr. Ozment?

9 MR. OZMENT: Not at this time, Your Honor,
10 obviously, I'll need a minute to sequester my witnesses.

11 THE COURT: Well, we got a few minutes before
12 the jury.

13 Mr. Herron, anything else?

14 MR. HERRON: No, Your Honor.

15 THE COURT: We will stand down until 1:30.

16 (WHEREUPON, a break was taken.)

17 MR. WELLS: Your Honor, as I understand your
18 ruling the defense witnesses will be sequestered as well.
19 He seems to think they can stay in the courtroom and I
20 don't believe that was the Court's ruling.

21 THE COURT: That was not the Court's ruling.
22 And if you have any witnesses, they have to be sequestered
23 as well.

24 MR. HERRON: Do you have any place that we can
25 take them.

1 THE COURT: You can put them downstairs on the
2 ninth floor in that jury assembly room.

3 MR. HERRON: Thank you, Your Honor.

4 MR. OZMENT: Your Honor, briefly also we would
5 ask that Mr. Clendenin subpoena be lifted. We do not
6 anticipate recalling him.

7 THE COURT: Any objection?

8 MR. HERRON: No, Your Honor.

9 THE COURT: Without objection I'll excuse
10 Mr. Clendenin. Let me address this while we're in here
11 too. It's two young ladies seated in the back of the
12 courtroom here.

13 What are y'all's name to my left? Stand up and
14 speak please.

15 SHAKALA: Shakala.

16 DIAMOND: And Diamond.

17 THE COURT: And who else?

18 DIAMOND: Diamond.

19 THE COURT: Diamond?

20 DIAMOND: Yes.

21 THE COURT: It's my understanding that you are
22 -- both of you all are -- your mother or relative is on
23 the jury in this case; is that correct?

24 DIAMOND: Yes, sir.

25 SHAKALA: Yes.

1 THE COURT: All right. I'm telling you right
2 now if you gone sit in here during the course of this
3 trial and listen to what goes on, that you are not, that
4 you are not to discuss anything, anything that goes on in
5 this courtroom outside the presence the jury with family
6 members or anybody else that may be seated on this jury.
7 If you do so, you could be fined and or put in jail by
8 virtue of being held in contempt. Do each of you
9 understand that?

10 DIAMOND: Yes, sir.

11 SHAKALA: Yes, sir.

12 THE COURT: Thank you.

13 (WHEREUPON, a break was taken.)

14 THE COURT: Okay. We got all the jurors.

15 Anything from the State before I bring the jury
16 back in?

17 MR. OZMENT: No, Your Honor.

18 THE COURT: You sure seem to...

19 MR. OZMENT: I'm double checking. No, Your
20 Honor.

21 THE COURT: Mr. Herron.

22 MR. HERRON: No, sir, Your Honor.

23 THE COURT: If you'll bring us the jury,
24 Ms. Joe.
25

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: All right. Mr. Foreman, ladies and
3 gentlemen of the jury, I hope you all had a nice lunch and
4 ready and prepared to move forward this afternoon. One
5 thing I didn't tell you yesterday or today before we
6 broke, I see a couple of you have jackets on. You might
7 want to bring a jacket, it can get cool in here. You can
8 blame that on me, okay. I like to keep it cool in here
9 when I have to wear this robe up here I get hot and plus
10 on top of that me drinking coffee up here it doesn't help.
11 So these ladies in here and individuals in the courtroom
12 tend to fuss at me keeping the temperature down in here,
13 but I like it cool. So you might want to bring a coat if
14 it gets too cool in here, so you'll have that during the
15 course of the day that you here.

16 Mr. Ozment, you recognize call your next witness
17 please for the State.

18 MR. OZMENT: Your Honor, the State calls Rollins
19 Rhodes to the stand.

20 THE CLERK: Place your left hand on the Bible
21 and raise your right hand. Do you swear to tell the
22 truth, the whole truth, and nothing but the truth so help
23 you God?

24 THE WITNESS: I swear.

25 THE CLERK: Please be seated and state your full

1 name for the record.

2 THE WITNESS: Michael Rollins Rhodes.

3 WHEREUPON,

4 Michael Rollins Rhodes,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. OZMENT:

8 Q Investigator Rhodes, how are you today?

9 A Good, thank you.

10 Q Good. How long have you been in law enforcement?

11 A Almost ten years.

12 Q All right. Where did you start out?

13 A On patrol -- actually in the jail.

14 Q Here in Florence?

15 A Yes.

16 Q Okay. And how long did you stay in the jail?

17 A Not very long six months.

18 Q Then where did you go?

19 A Patrol division.

20 Q All right. Are you still in patrol division?

21 A No, I'm currently in narcotics investigation.

22 Q Okay. Back in October of 2004, what were you doing
23 at that time?

24 A I was with the patrol division.

25 Q All right. Back on October 21st 2004, did you

1 respond to a call on Old North Georgetown Road in Coward?

2 A Yes, I did.

3 Q What was the nature of that?

4 A For a -- I think it came out as a domestic violence
5 call assault and battery.

6 Q Okay. Did you make it to the address on Old
7 Georgetown Road?

8 A I didn't. While in route to the call our dispatch
9 advised that one of the 9-1-1 callers was at Coward P.D.

10 Q What did you do at that point?

11 A I responded to Coward police department and my back
12 up went on to the other 9-1-1 call came from.

13 Q Okay. When you got to Coward Police Department who
14 did you find there?

15 A The defendant was there at the police department.

16 Q Okay. What did she state to you had happen that day?

17 A She said that she and her husband were going to, I
18 think, a credit union not sure where or going to town or
19 somewhere I'm not sure. Her husband I think they were
20 walking to the car and her husband -- something told her
21 to look behind her and he had a hoe in his hand and came
22 at her with the hoe. And I think he -- the way she
23 describe was she would put her hands up like this and the
24 hoe struck her on the hand.

25 Q Okay. Did she convey to you that she retaliated in

1 any way?

2 A She did. She said she grabbed a wooden stick from
3 under the car seat. I think it was to get him -- started
4 hitting him to get him away from her.

5 Q Okay. Did you view any sort of injury on her?

6 A I think she had a small laceration on her thumb or
7 one of her fingers. I mean, it was minimal.

8 Q Okay. Did you see any other injuries on her?

9 A No.

10 Q Okay. Did she appear to be in any terrible pain
11 anything like that?

12 A No.

13 Q Okay. From the Coward Police Department where did
14 you respond to next?

15 A To the Lake City emergency room.

16 Q Okay. At the Lake City emergency room, who did you
17 make contact with there?

18 A With Randy.

19 Q And who was Randy?

20 A Her husband.

21 Q Okay. Did -- were you able to speak with Randy at
22 that location?

23 A Yes, I did.

24 Q Okay. Did you observe any injuries on Mr. Randy?

25 A Yes.

1 Q Okay. Describe to me briefly, you know, kind of
2 simply as you can what injuries you saw on Mr. Bratschi?

3 A His face, he had lacerations to his face, was very
4 swollen in the face, bruising on the chest area. I mean,
5 he was in pretty bad shape.

6 Q Okay. Did his story match with the story that
7 Ms. Bratschi told you?

8 A No.

9 Q Okay. By looking at the two individuals who appeared
10 to have got the brunt of the fight?

11 A Bratschi did, her husband.

12 Q After you spoke to Mr. Bratschi or excuse me I take
13 that back. Did Mr. Bratschi call 9-1-1 as well?

14 A Yes.

15 Q Okay.

16 A I'm pretty sure he did.

17 Q Okay. So after you spoke to Mr. Bratschi what did
18 you do after that?

19 A I think I spoke to Frankie Miles, which is her son,
20 Brenda's son about where the stick was and things like
21 that because the stories didn't match.

22 Q Do you know if the stick was subsequently found?

23 A I think it was.

24 Q At any point did you call an investigator.

25 A Yes, I contacted Kathleen Streett, who is the

1 domestic violence investigator.

2 Q Okay.

3 MR. OZMENT: No further questions for this
4 witness, Your Honor.

5 THE COURT: Mr. Herron.

6 MR. HERRON: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. HERRON:

9 Q Investigator Rhodes, how you doing?

10 A Good.

11 Q When you talked to Randy, did Randy inform you that
12 he had numerous guns in the household?

13 A No.

14 Q Did you see -- as part of your investigation, did you
15 ever go out to the Bratschi resident and take a look
16 around or did Randy show you anything?

17 A No.

18 Q Did he tell you that he had a gun holster with a .9
19 millimeter?

20 A No.

21 Q You said the stories didn't match up and that Randy
22 got the brunt of it. Is it possible that Brenda hit
23 Randy. He fell down as he was trying to get up to come
24 after her. She kept hitting him because she was scared is
25 that possible?

1 A You asking for my opinion?

2 Q I'm asking is that possible if Randy took a swing at
3 her and missed and Brenda finally clocked him. Randy
4 goes on the ground and as Randy is trying to get up to get
5 at Brenda in fear for her safety, she hits him numerous
6 times cause she doesn't want him to get up is that
7 possible?

8 A I guess it's possible.

9 Q Were you out there whenever the actual body was
10 discovered in 2009?

11 A I think I was there, but I wasn't actually in the
12 crime scene that I remember.

13 Q Okay.

14 MR. HERRON: Your Honor, can I have one moment
15 please?

16 THE COURT: Yes, sir.

17 BY MR. HERRON:

18 Q Okay. Investigator Rhodes, Brenda Bratschi called
19 9-1-1; is that correct?

20 A Yes.

21 Q Is that something that you would expect somebody to
22 do that just try to kill somebody?

23 A I don't know.

24 MR. HERRON: No further questions.

25 THE COURT: Mr. Ozment.

1 MR. OZMENT: Briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. OZMENT:

4 Q Investigator Rhodes, Mr. Herron asked you if it was
5 possible that Randy had -- I believe, what he said was
6 Randy had struck her. Then she while he was on the ground
7 kept beating him and kept beating him, is that likely?

8 A I don't think so. I mean, not while she was beating
9 him. I don't see how that could have happen.

10 MR. OZMENT: No further questions, Your Honor.

11 MR. HERRON: Can I have one follow?

12 THE COURT: Yes.

13 RECROSS-EXAMINATION

14 BY MR. HERRON:

15 Q Have you seen the baseball bat that was actually
16 discovered or the tire thumper?

17 A Yeah.

18 Q Have you seen it?

19 A I think I've seen it.

20 MR. HERRON: Your Honor, may approach the
21 witness?

22 THE COURT: Yes, sir.

23 BY MR. HERRON:

24 Q I want to show you what's been marked State's Exhibit
25 25. Is it your belief that's what Brenda Bratschi beat

1 Randy Bratschi with?

2 A Yes.

3 Q Do you see any blood on that?

4 A No, I don't get ---

5 Q Take a look at it?

6 A I rather not hold it.

7 Q I'll go slow.

8 A From what I can tell, no.

9 Q And Randy Bratschi had blood on his face when you saw
10 him; is that correct?

11 A Yes, right.

12 MR. HERRON: No further questions, Your Honor,
13 thank you.

14 THE COURT: All right, sir, you may step down.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 MR. OZMENT: Your Honor, we would ask for
18 Investigator Rhodes be release from his subpoena?

19 THE COURT: Any objection?

20 MR. HERRON: No, Your Honor.

21 THE COURT: Sir, you are released from any
22 further obligation with regard to your subpoena. You are
23 free to leave. Thank you.

24 MR. OZMENT: At this time the State would call
25 Darlene McCutcheon to the stand.

1 THE CLERK: If you will, ma'am, go to the Bible,
2 place your left hand, raise your right hand. Do you swear
3 to tell the truth, the whole truth and nothing but the
4 truth so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please be seated and state your name
7 for the record.

8 THE WITNESS: Esther Darlene McCutcheon.
9 WHEREUPON,

10 Darlene McCutcheon,
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q How are you today, Ms. McCutcheon?

15 A Good.

16 Q Good. What do you do currently?

17 A I'm a stay at home mom.

18 Q Have you worked previously?

19 A Yes.

20 Q Did you work as a 9-1-1 call operator at one point?

21 A Yes, sir.

22 Q How long did you do that?

23 A From '96 until 2008 almost 12 years.

24 Q All right. Do you recall in October 21st, I believe,
25 of 2004 receiving a call from a Randy Bratschi?

1 A Yes, sir.

2 Q From your recollection, what was the general nature
3 of the crime he was calling about?

4 A Criminal domestic violence CDV said he had been
5 attacked.

6 Q Okay. Are those calls recorded?

7 A Yes, sir.

8 Q Explain to me how that -- I guess just briefly how
9 that process works?

10 A Well, from the moment you answered the phone
11 everything is recorded.

12 Q Okay. And both sides of the conversations were
13 recorded?

14 A Yes, sir.

15 Q All right. What happened to those recordings once it
16 is recorded?

17 A Well, they're kept for years.

18 Q In case say you need them in court.

19 A Well, in some cases, they're pulled immediately
20 that's basically up to the investigator decide how soon
21 they needed pulled or not.

22 Q Okay. Do you know if the conversation of
23 Mr. Bratschi was recorded?

24 A Yes.

25 Q Okay. And to your knowledge was that kept on the

1 recording system as is normally done?

2 A Yes, sir.

3 Q All right.

4 MR. OZMENT: We have no further questions for
5 this witness, Your Honor.

6 THE COURT: Mr. Herron.

7 CROSS-EXAMINATION

8 BY MR. HERRON:

9 Q Ms. McCutcheon, as a 9-1-1 operator, have you ever
10 had a call where someone said, hey, I just tried to kill
11 somebody, I need you to come out here and send a police
12 officer?

13 A Yes, sir.

14 Q And as far as the 9-1-1 call itself goes both sides
15 were recorded; is that correct?

16 A Yes, sir.

17 MR. HERRON: Nothing further questions, Your
18 Honor.

19 THE COURT: Mr. Ozment.

20 MR. OZMENT: Your Honor, at this time we would
21 ask that she be relieved of her subpoena and we would ask
22 that we can play the 9-1-1 call.

23 THE COURT: Mr. Herron.

24 MR. HERRON: No problems with that, Your Honor.

25 THE COURT: Ma'am, you free to go.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 MR. OZMENT: Your Honor, for the record, I'm
4 preparing State's Exhibit 24 to be played for the jury.

5 MR. HERRON: Your Honor, before they get
6 started, can I just place an objection on the record?

7 THE COURT: Yes, sir.

8 MR. HERRON: Your Honor, renew my previous
9 objection under 403 unfairly prejudicial and probative to
10 hearsay and violates the confrontation clause of
11 Constitutional Rights.

12 THE COURT: Your objection so noted for the
13 record.

14 (WHEREUPON, State's Exhibit No. 24 was admitted
15 into evidence a CD of a 9-1-1 call and it played for
16 the jury and was not transcribed into the record.)

17 THE COURT: Mr. Ozment, call your next witness.

18 MR. OZMENT: Your Honor, we would call Deputy
19 Paul Byrd to the stand.

20 THE CLERK: If you will, sir, place your left
21 hand on the Bible and raise your right hand. Do you swear
22 to tell the truth, the whole truth, and nothing but the
23 truth so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated and state your full

1 name for the record.

2 THE WITNESS: Paul Byrd.

3 WHEREUPON,

4 Paul Byrd,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. OZMENT:

8 Q How are you today, Investigator Byrd?

9 A Very good, thank you.

10 Q What do you do for a living?

11 A I work with the crime scene unit with the Florence
12 County Sheriff's Office.

13 Q How long have you been working in that capacity?

14 A A little over seven and a half years.

15 Q What did you do before that?

16 A Highway patrol deputy.

17 Q How long were you in that capacity?

18 A I was with the sheriff's office for over a year. And
19 then before that, I worked with the City of Marion doing
20 the same capacity.

21 Q Back in 2004, did you have occasion to work on a
22 assault and battery with intent to kill against Mr. Randy
23 Bratschi?

24 A I did.

25 Q What was your involvement with that case?

1 A At that time I was in training, just join the unit.

2 And so I was secondary as far as crime scene response was.

3 And I had responded out to photograph and collect evidence
4 from the scene.

5 Q All right. What did you do when you first -- where
6 was the scene?

7 A I'm sorry.

8 Q Where was the scene?

9 A The actual address was [REDACTED] Georgetown Road
10 in Coward.

11 Q All right. Is that in Florence County?

12 A In Florence County, yes.

13 Q Okay. When you first arrived at the scene, what did
14 you do at that point?

15 A First thing I do when arrived on the scene was
16 basically take a look around and walk through the scene
17 responding deputy or generally show us through give us an
18 idea what we need to do in order to process.

19 Q Okay. Did you have any idea what you were looking
20 for when you got there or were you just assessing
21 everything new? What were you looking to do when you got
22 there?

23 A Honestly at the time, I was just looking for
24 direction because like I said I was in training. And this
25 is the first case of this nature that I've had any

1 dealings with.

2 Q Okay. Did you have your camera with you?

3 A Yes, I took digital photographs of the scene.

4 Q Okay.

5 MR. OZMENT: Your Honor, may I approach the
6 witness?

7 THE COURT: Yes.

8 BY MR. OZMENT:

9 Q Investigator Byrd, I'm going to hand you State's
10 Exhibits 3B along with 4H, 4E, 4N, 4J, 4K, 4G, 4F and 4C.
11 I'm going to ask you to look at those and tell me if you
12 recognize them?

13 A Okay.

14 Q State's Exhibit 27 and 28 ask you to look at those as
15 well.

16 A Okay. State's 27 will be the photograph I took of
17 the front. This will be the front of the residence where
18 the scene actually took place.

19 Q If you want to, you can flip through it. Let me ask
20 about the photographs and then we'll go one by one.

21 A Okay.

22 Q Those appear to be the photographs of the scene that
23 day?

24 A They do.

25 Q Do they accurately represent your recollection of

1 what the scene look like that day?

2 A Yes, they do.

3 MR. OZMENT: At this time, Your Honor, we would
4 move the exhibits I previously name be put into evidence
5 at this time.

6 MR. HERRON: No objection, Your Honor.

7 THE COURT: All right. So admitted without
8 objection.

9 (WHEREUPON, State's Exhibits Nos. 4C, 4E, 4F,
10 4G, 4H, 4J, 4K, 4N, 27 and 28 was admitted into
11 evidence.)

12 MR. OZMENT: Your Honor, can the witness step
13 down for a second?

14 THE COURT: Yes.

15 BY MR. OZMENT:

16 Q Investigator Byrd, you started to speak about these
17 two pictures just a minute ago, but what am I seeing
18 looking at State's Exhibit 28 and State's Exhibit 27?

19 A Twenty-eight this is an actual side view of this
20 structure, looking at it on the front of this will be
21 front side. This is the side yard on the left side of the
22 residence.

23 Q All right. Did you find a -- part of a tire thumper
24 while you were at the scene that day?

25 A Yes.

1 Q Can you see that in State's Exhibit 28 anywhere?

2 THE COURT: I need you to speak up please for my
3 court reporter.

4 A Yes, it's in the bottom right-hand corner of the
5 photograph of State's Exhibit 28.

6 MR. OZMENT: Permission to publish to the jury,
7 Your Honor?

8 THE COURT: So granted.

9 Can you all see on the far right? Okay.

10 BY MR. OZMENT:

11 Q Investigator Byrd, I'm not going to hold up State's
12 Exhibit 3B. What do I see in that picture?

13 A That's a close up shot of the broken upper part
14 handle of the tire thumper.

15 Q So this is a closer up of what we saw on the exhibit
16 we just discussed?

17 A That's correct?

18 Q Investigator Byrd, State's Exhibit 4N, H and K
19 appeared to be pictures of the ground, what is the
20 significance of these pictures?

21 A Well, these again these are close-up shots kind of
22 zoom down on the ground of where it appear there's some
23 type of altercation for the tire thumper was located and
24 this is just a close-up shots of what appear to be blood
25 on some leaves there.

1 Q And on State's Exhibit K what's -- why did you take
2 that picture?

3 A Well, just trying to show where there was some type
4 of altercation in the sand with leaves all over it at the
5 side of the yard and that's what I was trying to depict
6 with the photograph there trying to show it.

7 Q Okay. And that would be this kind of swoosh type
8 shape in State's Exhibit 4G, 4F, I see a four wheeler what
9 was the significance of these photographs?

10 A Well, appears to be blood on the tire and the four
11 wheeler. This is a close-up shot and this would be a --
12 this is a way to show what you're actually trying to make
13 a close up of.

14 Q Do you recall where the four wheeler was on the
15 property?

16 A Off to a little shed back to the left-hand side kind
17 of straight behind where appear the altercation took place
18 and far back there the shed was right outside.

19 Q Okay. At the shed where there any other outbuilding
20 of the property that you recall?

21 A No, I just recall the left-hand side kind of far back
22 right behind it.

23 Q Okay. Looking at State's Exhibits 4J and 4E what am
24 I looking at on these two photographs?

25 A 4J is a photograph of the deck at the back door of

1 the residence and just a showing what leaves a trail of
2 blood up to the door droplets.

3 Q Okay. And of 4E what about that photograph?

4 A 4E is kind of -- kind of before that actual
5 photograph showing the same thing that the deck of the
6 back of the house where the steps going up. Again trying
7 to photograph what appear to be blood on the steps?

8 Q Thank you. Lastly, State's Exhibit 4C what am I
9 looking at in that photograph?

10 A That would be was a stone from in the house sitting
11 on the deck of the back door area right there sitting up
12 on the rail.

13 Q Okay. And now I see the substance on that phone was
14 this substance -- what color was that substance?

15 A It's a red substance we believe it to be blood..

16 Q And it was like that when you found it?

17 A Correct.

18 Q You can take a seat again. Thank you. Investigator
19 Byrd, you talked about kind of seeing the scuffle on
20 the ground and the blood going up the stairs into the
21 residence. From standing on the scene were you able to
22 kind of find like a trail or half of where that blood went
23 to and from?

24 A Well, yes, what's what we actually did from the area
25 where we had photographed what appeared to be blood in the

1 leaves. In this area, we figured that a scuffle possibly
2 took place there. And that's what we actually tracked,
3 the little droplets around to the back of the residence
4 and followed it up the stairs on the deck to the backdoor.

5 Q Do you recall if there was blood in the house as
6 well?

7 A I believe that there was -- it was into the kitchen
8 area.

9 Q Okay.

10 MR. OZMENT: Your Honor, may I approach the
11 witness?

12 MR. HERRON: Yes, sir.

13 BY MR. OZMENT:

14 Q Investigator Bryd, I'm handing you a paper bag with
15 something in it. Can you look in that paper bag and
16 identify what you see in it for me?

17 A It is the handle of the broken tire thumper.

18 Q Okay. Is that the actual handle of the broken tire
19 thumper you recovered from the scene that day?

20 A Yes, it is.

21 Q All right.

22 MR. OZMENT: Your Honor, at this time we would
23 ask that this handle of the broken tire thumper be made
24 evidence in this case.

25 MR. HERRON: No objection, Your Honor.

1 (WHEREUPON, State's Exhibit No. 29 was admitted
2 into evidence.)

3 MR. OZMENT: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes, sir.

6 BY MR. OZMENT:

7 Q Investigator Byrd, can you take out the handle of
8 that tire thumper for me. I'm placing next to you for a
9 reference State's Exhibit 25, that handle did you ever
10 recover the other half of that excuse me -- that day did
11 you recover the other half of that tire thumper anywhere?

12 A No.

13 Q Did you look for it?

14 A We did.

15 Q All right. But that's all you were able to locate?

16 A This is all we were able to locate.

17 Q Okay. Could you look at State's Exhibit 25 for me.
18 Could you just hold that up for me? Does that appear to
19 be consistent with the other half of the handle that you
20 found that day?

21 A That appears to be consistent, yes.

22 Q All right. A minute ago you reference that there was
23 another outbuilding on the property where the four wheeler
24 was located; is that correct?

25 A Yes, sir.

1 Q Did you search that outbuilding?

2 A We did.

3 Q Did you search under it?

4 A I've looked under it, did not crawl. It was very low
5 to the ground.

6 Q Did you remove any floorboards?

7 A No.

8 Q You can put those back in the bag and take your
9 gloves off.

10 MR. OZMENT: Can I approach, Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. OZMENT:

13 Q Okay. Investigator Byrd, did you also respond to the
14 hospital on the day in question?

15 A I did.

16 Q Did you -- what did you do when you got to the
17 hospital?

18 A We met with Mr. Randy Bratschi and also a Brenda
19 Bratschi.

20 Q Were they both at the hospital?

21 A They were both at the Lake City Hospital McLeod E.R.

22 Q Okay. Did you have occasion at that time to observe
23 their injuries?

24 A I did.

25 Q Did you photograph those injuries?

1 A Yes, I did.

2 Q I'm going to hand you State's Exhibit 1H, 1J, 1L, 1A,
3 1B and 1E as well as 2A and 2C. You look at those
4 photographs and tell me first if those were consistent
5 with photographs you took that day?

6 A Yes, they are.

7 MR. OZMENT: All right. Your Honor, we would
8 ask that these exhibits that I just named would be moved
9 into evidence.

10 MR. HERRON: No objection, Your Honor.

11 THE COURT: Without objection.

12 (WHEREUPON, State's Exhibit Nos. 1A, 1B, 1H, 1J,
13 1L and 2A and 2C and 3B were admitted into evidence.)

14 MR. OZMENT: Your Honor, I ask that the witness
15 can step down again?

16 THE COURT: All right.

17 BY MR. OZMENT:

18 Q Investigator Byrd, I'm handing State's Exhibit 2C and
19 2A, if you could identify what these photographs are for
20 the jury?

21 A Exhibit 2A was a full shot of Brenda Bratschi that
22 was at the hospital down in a separate room set up right
23 there. I always take a full shot of anyone while we are
24 doing a crime scene and then we start working our way into
25 any possible injuries or anything like that. 2C would be

1 the hand of Ms. Brenda Bratschi there. And she had a
2 laceration on her thumb and I was photographing that and
3 beside it is a scale or ruler that we used to show the
4 basic size of it.

5 Q All right. And did you -- do you recall if you
6 photographed any other injuries on Ms. Bratschi?

7 A That was the only injury that I locate and
8 photograph.

9 Q Okay. And so the only close up you took of this
10 laceration on the thumb that I see in 2C?

11 A Correct.

12 MR. OZMENT: Permission to publish to the jury,
13 Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. OZMENT:

16 Q Turning to Mr. Bratschi tell me what I see in 1H and
17 1E?

18 A 1H would be the left side of the face of Randy
19 Bratschi showing injuries up to the cheek bone area and
20 lacerations and bruising.

21 Q All right. Is there any on the forehead?

22 A Yes, I believe.

23 Q And then 1E why did you take that picture?

24 A It's another photograph of Mr. Bratschi laying in the
25 hospital bed there with bandages on him.

1 Q So this is after he's been cleaned up in 1E?

2 A Correct.

3 Q Okay. You stated with Ms. Bratschi that any time you
4 do an investigation you take a full body shot. Is that
5 what I'm seeing in 1A?

6 A Yes, that's him in the hospital bed and I did a long
7 shot like that.

8 Q Okay. Now, I'm going to show you 1L and 1J. What
9 are these photographs of?

10 A 1L is the rib area just under the chest of
11 Mr. Bratschi in a hospital bed there and scale here to try
12 to show some bruising.

13 Q Okay.

14 A And 1J again I'm not certain exactly what ---

15 THE COURT: I need you to speak up Investigator
16 Byrd.

17 A 1J I'm not exactly certain where exactly on the body
18 this is. This looks like the small of the back area, but
19 I'm not hundred percent on that, it's so close.

20 Q Okay. And lastly 1B what is that a photograph of?

21 A 1B would be a shot of Brenda Bratschi's feet at the
22 hospital, she was wearing flip flops and just shows what
23 appears to be blood on the bottom of the pants leg and
24 also on the right flip flop.

25 Q Is this Brenda or is this Randy?

1 A I believe it was Brenda, but I'm actually not a
2 hundred percent sure.

3 Q Would it help to look ---

4 A It's possibly to see the pants. They're so close up.

5 Q Take 1A back from the jury. Looking at photo 1A?

6 A Correction that would be Randy Bratschi's feet excuse
7 me.

8 Q All right. You can retake the stand, Investigator
9 Bryd. I'm going to warn you I'm going to ask you to come
10 down one more time in just a second. Who was it that you
11 said you were training under at this time?

12 A At the time it was Corporal Kim Cockfield.

13 Q Okay. Do you recall Mr. Bratschi coming to the
14 sheriff's office after he was released from the hospital?

15 A No.

16 Q Okay. Following taking the photos at the scene and
17 collecting them and then go to the emergency room taking
18 photos there, did you have any other involvement as to the
19 assault and battery with intent to kill portion of this
20 case?

21 A No.

22 Q Okay. Briefly five years later in 2009, did you
23 respond to the same scene that you had responded to in
24 2004?

25 A Well, I did. I believe the property was under

1 different ownership at that time but, yes.

2 Q But was it the same address?

3 A It was the same address, yes.

4 Q What was that in reference to?

5 A That was in reference to the recovery of some body
6 remains that were unearth?

7 Q Okay. And what -- where were those remains located
8 on the property?

9 A Well, the person that had actually purchased the
10 property had moved out the existing mobile home that was
11 in the photographs. And during the process of that, the
12 frame or something another of the actual mobile home being
13 drug out actually dug a trench and at the same time they
14 found human remains or bones whenever they pulled it out
15 and then they called us.

16 Q Okay. And did you help -- what was your role with
17 the remains? What did you actually do?

18 A My role was response to assist with the other two
19 gentlemen in my unit anything of that nature could take
20 many many hours. So we all get involve with that and I
21 assisted with the recovery of the remains.

22 Q All right. And then lastly after the remains were
23 recovered, did you get an all expense trip to Texas out of
24 this also?

25 A I did an all expense one way 18-hour trip.

1 Q What was that trip for?

2 A That was to take the remains to the University of
3 North Texas, I believe, it is to actually have the -- try
4 to get DNA so we can have identification of the body. It
5 was beyond what the pathologist we use in Charleston was
6 able to complete.

7 MR. OZMENT: No further questions for this
8 witness, Your Honor.

9 THE COURT: Mr. Herron.

10 MR. HERRON: Your Honor, may I have one moment
11 please?

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. HERRON:

15 Q How you doing, Investigator Byrd?

16 A Very good, thank you.

17 Q We saw each other, I think, a couple weeks ago;
18 didn't we?

19 A I believe we did, yeah.

20 Q Tell the jury about little bit about the place you
21 work the evidence room? Describe it for us is it a big
22 place, small place.

23 A It's large but not large enough. We have a pass code
24 card to get into a first section like a breeze way area,
25 that's gated in. And then you have to have access with an

1 actual physical key to get into the back only a few people
2 are allowed back there.

3 Q And your job is to basically process the evidence
4 that's brought into you; is that correct?

5 A Our initial job would be to basically locate and
6 document and collect and preserve evidence. And then we
7 also do have to step in and handle the evidence room at
8 times that our evidence custodian taken a trip or
9 something of that nature or off.

10 Q If I was to ask you was there a lot, a large amount
11 of exhibits paraphernalia that you were asked to process
12 for this case. Was there a large amount?

13 A I say there was a fair amount.

14 Q I think when you showed it to me, it was two buggy
15 fulls -- basically, I call shopping carts full of things
16 that we looked at. Do you remember that?

17 A Right.

18 Q And one of those things that we looked at did you
19 show me some ammunition that you recovered from the Randy
20 Bratschi household?

21 A Yes.

22 MR. HERRON: Okay. Your Honor, may I approach
23 the witness?

24 THE COURT: Yes, sir.

25

1 BY MR. HERRON:

2 Q Okay. I want you to take a look through there and
3 just tell the jury or if you recognize what you -- what's
4 in the box?

5 A It's a box of various ammunition.

6 MR. HERRON: Your Honor, at this time I would
7 like to have that marked as Defendant's Exhibit 1?

8 THE COURT: For identification?

9 MR. HERRON: To be place into evidence, Your
10 Honor.

11 THE COURT: All right. Any objection,
12 Mr. Ozment?

13 MR. OZMENT: No objection, Your Honor.

14 (WHEREUPON, Defendant's Exhibit No. 1 was
15 admitted into evidence.)

16 MR. HERRON: May I approach the witness, Your
17 Honor?

18 THE COURT: Yes, sir.

19 BY MR. HERRON:

20 Q We'll come back to that, Officer Bryd. Now, you work
21 the initial -- with the fight that be fair to say. You
22 work the fight between Randy Bratschi and Brenda Bratschi?

23 A Correct.

24 Q That was the handle in open view when you got there?

25 A It was.

1 Q Okay. Did you see any of their goats out there when
2 you went out there?

3 A I don't recall seeing any goats in the yard.

4 Q How about a Labrador did you see that?

5 A No.

6 Q Okay. Now, do you know whose blood that was on the
7 four wheeler and the grassy area? Do you know whose blood
8 that was?

9 A No.

10 Q Okay. Now, when you were at the hospital and you had
11 occasion to talk to Randy Bratschi, he told you that he
12 never struck Brenda Bratschi; is this correct?

13 A No, I don't ask any questions. All I do is do the
14 photographs and collect the physical evidence.

15 Q Okay. Let me ask it a different way. Based on the
16 photographs that you took of Brenda Bratschi, did it
17 appear that she had been struck with some kind of sharp
18 object on her hand?

19 A Honestly, I have no idea what could have caused it.
20 There was a laceration on the thumb.

21 Q Was it bleeding or did it appear to have bled down
22 her leg?

23 A It's possibly could have bled. It was not bleeding
24 when I photographed it.

25 Q Okay. Now, go back to the box ---

1 MR. HERRON: Your Honor, could I have the
2 officer step down?

3 THE COURT: Yes, sir.

4 MR. HERRON: Your Honor, I'm not going to pass
5 it around, but I like to place it in front of the jury.

6 THE COURT: Okay.

7 BY MR. HERRON:

8 Q Okay. I'm going to ask you to identify what's -- and
9 this all coming out of Defendant's Exhibit 1. What that
10 appears to be?

11 A 522 long riffle bullets.

12 Q So we got a .22. How about what's in that?

13 A Three 12-gauge shotgun shells.

14 THE COURT: Speak up please.

15 BY MR. HERRON:

16 Q How about that?

17 A One 12-gauge shotgun shell.

18 Q How about that?

19 A Two 12-gauge shotgun shells.

20 Q How about that?

21 A Two 130 ought six riffle bullet.

22 Q How about that?

23 A And 522 long riffle bullets.

24 Q How about that?

25 A It is a Winchester box of 12-gauge shotgun shells

1 containing 612 gauge shotgun shells.

2 Q How about that?

3 A It's a bag of .9 millimeter luger bullets
4 approximately ten.

5 Q Can you tell me what that is and explain to the jury
6 what hollow point means?

7 A I can tell you this is a nearly empty box .22
8 Maxi-Mag bullets. Hollow point simply just a hollowed out
9 area at the end of a bullet which suppose give it more
10 impact. I'm not a ballistic expert. It's my
11 understanding of it.

12 Q This appear to be .9 millimeter hollow point bullets?

13 A They do.

14 Q How about these two boxes?

15 A One Remington box of 308 bullets and another box 308
16 Winchester bullets.

17 Q And these were all found in Ms. Bratschi's house; is
18 that correct?

19 A Correct.

20 Q Okay. And Brenda Bratschi was living with Randy
21 Bratschi at the time of the incident?

22 A To the best of my knowledge.

23 Q Tell the jury what that is?

24 A It's a box of 30 ought six riffle bullets.

25 Q How about these?

1 A That was a plastic bag containing five 308 riffle
2 bullets.

3 Q How about these?

4 A And two boxes of Federal 30 ought six riffle bullets.

5 Q And how about these?

6 A And box of Remington 22 long riffle cartridges.

7 Q Did it appear -- did you collect any guns from the
8 Bratschi residence?

9 A We did collect guns, yes.

10 Q How many guns did you collect?

11 A I have to look at my notes, it was quite a few.

12 Q Do you have your notes with you?

13 A Yes.

14 Q Can you tell the jury based on your notes please?

15 A Looks like six from the house.

16 Q Did you collect any other guns other than six from
17 the house, from a car or anything around the house?

18 A A Rugger .9 millimeter handgun retrieved from the
19 front of the boat, which was located under the shed?

20 Q Did Randy Bratschi have a holster for that .9
21 millimeter gun? Did you collect any?

22 A I believe there was a holster in the kitchen.

23 Q And a holster not to be silly about it, but we're
24 talking about kind of old west where you can actually
25 carry it on you. Is that what we're talking about?

1 A Right.

2 Q Okay. So we got seven guns at the house; is that
3 correct?

4 A Correct.

5 Q Okay. Now, when you worked the scene, I'm going to
6 show you State's Exhibit 25. Is that what you collected
7 from the scene in regards to the fight?

8 A No.

9 Q Okay. You collected the handle?

10 A The handle, right.

11 Q Now, you can have a seat. How much did Brenda
12 Bratschi weigh in comparison to Randy Bratschi, do you
13 remember?

14 A I don't know.

15 Q Would you agree that Randy Bratschi was bigger than
16 Brenda Bratschi?

17 A I can agree with that.

18 Q Okay. Now, if you're a woman that wants to kill
19 someone, is it easier to do it with one of these?

20 MR. OZMENT: Your Honor, I would object to the
21 speculation Investigator Byrd is not a woman.

22 MR. HERRON: I think he can answer the question.

23 THE COURT: Ask your question again.

24 BY MR. OZMENT:

25 Q Investigator Byrd, in you're opinion, if you're a

1 woman that wants to kill a man, is it easier to do it with
2 a bullet or a baseball bat?

3 THE COURT: I'll allow it. Go ahead.

4 A I would say a bullet.

5 Q We know that there were at least seven guns in the
6 Bratschi house at the time supposed assault and battery
7 with intent to kill. We do know that, right?

8 A Correct.

9 Q Brenda Bratschi had access to all seven of them; is
10 that correct?

11 A I can't answer whether she did or didn't.

12 MR. HERRON: Okay. Your Honor, may I have one
13 moment please?

14 THE COURT: Yes, sir.

15 (WHEREUPON, a pause in the proceedings.)

16 MR. HERRON: No further questions, thanks
17 Investigator Byrd.

18 THE COURT: Mr. Ozment.

19 MR. OZMENT: No further questions for this
20 witness.

21 THE COURT: Sir, you may step down.

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 MR. OZMENT: We ask that Investigator Bryd also
25 be excused from his subpoena.

1 THE COURT: Okay, any objection?

2 MR. HERRON: No, Your Honor.

3 THE COURT: Sir, you are excused from any
4 further obligation with regards to your subpoena. You
5 free to leave thank you.

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 THE COURT: Mr. Ozment, can you and Mr. Herron
9 approach.

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury.)

13 THE COURT: All right. Ladies and gentlemen,
14 we're going to take a break at this time. I'm going to
15 ask that you step to the jury room, but do not discuss the
16 case at this time. Do not discuss the case until you are
17 instructed to do so. I'll get you back out here as
18 quickly as possible. Thank you.

19 (WHEREUPON, the jury retire to the jury room.)

20 THE COURT: Okay. We'll stand at ease.

21 (WHEREUPON, a break was taken.)

22 THE COURT: Anything from the State before we
23 bring the jury in?

24 MR. OZMENT: Nothing.

25 THE COURT: From the defense?

1 MR. HERRON: No, Your Honor.

2 THE COURT: After the doctor, Mr. Ozment, who
3 did you intend to call?

4 MR. OZMENT: Your Honor, we have four more
5 witnesses here. I would describe it as kind of medium
6 length witnesses some will be shorter, some will be
7 longer.

8 THE COURT: Medium being 30 minutes or 40
9 minutes?

10 MR. OZMENT: Well, normally maybe but seems like
11 with this case that's more like 15 or 20 minutes.

12 THE COURT: Okay. I'm just trying to get a
13 gauge for...

14 MR. OZMENT: I would think the doctor's
15 testimony would not be 20 to 25 minutes.

16 THE COURT: Okay.

17 MR. OZMENT: I think we would run until five
18 o'clock. If you want to run past five o'clock, I can call
19 and get the next few witnesses up here.

20 THE COURT: Well, if we going to run past five,
21 then I need to give the jury an opportunity to make any
22 telephone calls they need to make.

23 MR. WELLS: I think what we would propose to do
24 is just to call the witnesses we have here and the others
25 just have here in the morning.

1 THE COURT: Let's see where we get with the
2 witnesses we have here and maybe...

3 MR. WELLS: Cause we'll finish tomorrow
4 regardless even with just putting up these four or five
5 witnesses and put up the rest tomorrow.

6 THE COURT: Okay. Anything else the State
7 before we bring the jury out?

8 MR. OZMENT: Nothing, Your Honor.

9 THE COURT: Mr. Herron, anything further?

10 MR. HERRON: No, Your Honor.

11 THE COURT: All right, Ms. Joe.

12 (WHEREUPON, the jury came into open court.)

13 THE COURT: Mr. Privette, ladies and gentlemen
14 of the jury, I hope you all had a nice break. We are
15 ready to proceed with the trial of this case.

16 Mr. Ozment, you recognize call your next
17 witness please.

18 MR. OZMENT: Your Honor, the State would call
19 Dr. Ernest Atkinson to the stand.

20 THE CLERK: If you will, sir, stop right there
21 place your left hand on the Bible and raise your right
22 hand. Do you swear to tell the truth, the whole truth,
23 and nothing but the truth so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated and state your full

1 name for the record?

2 THE WITNESS: Ernest McIntosh Atkinson.

3 THE COURT: Mr. Ozment.

4 WHEREUPON,

5 Dr. Ernest Atkinson,

6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q How are you today, Dr. Atkinson?

10 A Great.

11 Q Good. What do you do?

12 A I have a family practice was in Lake City now in
13 Kingstree.

14 Q All right. How long have you been a family
15 practitioner?

16 A Twenty plus years.

17 Q All right. Where did you go to college?

18 A Wofford.

19 Q All right. Where did you go to med school?

20 A Medical University of South Carolina.

21 Q Following medical school, did you have any specialize
22 training to preparing you to be a family practitioner?

23 A I did residency at McLeod.

24 Q Okay. Are you from this area originally?

25 A Grew up in Kingstree.

1 Q All right. You said Lake City and then Kingstree.
2 You ever practice anywhere other than Lake City and
3 Kingstree?

4 A No.

5 Q Okay. Are you licensed to practice medicine in South
6 Carolina?

7 A Yes.

8 MR. OZMENT: All right. Your Honor, at this
9 point, the State would like to make Dr. Atkinson an expert
10 in the field of family practice in practicing medicine?

11 MR. HERRON: No objection from defense, Your
12 Honor.

13 THE COURT: All right. Ladies and gentlemen,
14 Dr. Atkinson is being qualified as an expert in the field
15 of family practice as I previously instructed you with
16 regards to expert witnesses. Normally, a person cannot
17 give opinion testimony. Normally, when a person
18 testifies, they must either testify as to what they either
19 saw, heard or sense by smell or something of that nature.
20 However, there is an exception when an individual is
21 qualified as an expert. As I said, Dr. Atkinson is being
22 qualified as an expert in the field of family practice to
23 give an opinion in that area, in that area. That does not
24 mean, ladies and gentlemen, that you must accept the
25 opinion, but it is evidence for you to use in any way you

1 see fit and give it the weight and credibility you believe
2 is appropriate.

3 Mr. Ozment.

4 MR. OZMENT: Thank you, Your Honor.

5 BY MR. OZMENT:

6 Q Dr. Atkinson, testing your memory back in 2004, did
7 you see a Randy Bratschi in the Lake City Hospital?

8 A I somewhat remember, but I also in reviewing the
9 records, yes.

10 Q Okay. What was your specific role in Mr. Bratschi's
11 visit to the hospital that day?

12 A After the E.R. physician finished stabilizing him, I
13 admitted him to the hospital and took care of him for the
14 next 24 hours.

15 Q Okay. Did you actually go to the hospital and see
16 him?

17 A Yes.

18 Q Okay. When Mr. Bratschi came in what was -- now, in
19 general terms for me state what he said had happen to him
20 and like I said general terms form?

21 A Again, after reviewing the records, Mr. Bratschi
22 stated that he had been attacked, hit with a blunt object
23 and escaped called EMS.

24 Q Okay. Did you have a chance to observe him that day
25 and sense subsequently looking at the file, were you able

1 determine what his injuries were?

2 A He had multiple contusions and pretty severe facial
3 injuries.

4 Q All right.

5 MR. OZMENT: May I approach the witness, Your
6 Honor.

7 THE COURT: Yes, sir.

8 BY MR. OZMENT:

9 Q Okay. Dr. Atkinson, I'm going to show you some
10 photos that are already in evidence. Dr. Atkinson, I'm
11 showing you State's Exhibit 1A, State's Exhibit 1H. Do
12 those photos -- is that how you remember Mr. Bratschi
13 looking that day?

14 A Again, it's eight years ago, this would be consistent
15 with the records.

16 Q Okay. You said he had damage to his face. Can you
17 explain to me, you know, what was broken, what exactly
18 that damage was?

19 A Well, according to the radiologist and again
20 referring to the records he had a basilar skull fracture.
21 He had a left temporal bone extending through the middle
22 ear with displacement of the ossicles which are the small
23 bones in the ears, fracture to the left maxillary sinus,
24 which appeared to go through the anterior and inferior
25 wall, also had a large hematoma, which is blood built up

1 in the sinuses and fracture to the floor of the left
2 orbit.

3 Q All right. And in layman's terms if we can just kind
4 of go through one by one, basilar skull fracture, what
5 does that mean?

6 A A basilar skull fracture would probably be a fracture
7 somewhere in the back part of the skull.

8 Q Okay, so it's the dome part of the skull?

9 A Yes, the actual -- where the brain sits.

10 Q Okay. The left temporal bone extending through the
11 middle ear and displacement of the middle ear. I'm going
12 to murder this word ossicle.

13 A Ossicle that would be the fracture in the bone right
14 in temporal area and it apparently had enough force to
15 blow the small bones in his ear out of place.

16 Q And so the ear was ---

17 A A fracture is here, that's the temporal fracture.
18 The middle ear would be the bones inside. You know, when
19 a kid gets a tube in their ear, the bones are sitting back
20 there around where that tube would go. And the inferior
21 wall the orbit would be up under your eye here.

22 Q Okay, under the eye. Okay. Now, fracture of the
23 left maxillary sinus including lateral interior --
24 inferior wall, what does that mean?

25 A Again, the floor of the orbit would be behind the eye

1 where the eye wall sits. Those fractures are in this
2 area, which is the maxillary sinus right above your teeth.
3 You wisdom teeth extend up into your maxillary sinus.

4 Q Is that kind of what I would call my checkbook?

5 A Yes.

6 Q Okay. So that was crush or broken?

7 A This is a little different bone. It's the bones up
8 under here.

9 Q Okay. And then stated that also the sinus was filled
10 with blood explain to me what -- how does that happen?

11 A Probably when this happen, you broke a bone it began
12 bleeding. Blood is going to go somewhere and it just
13 filled up the sinus cavity.

14 Q Okay. Are you aware of any sort of x-rays or CT
15 scans were taken?

16 A Yes, he had CT's of his head and facial bones I think
17 and also chest x-ray.

18 Q All right. And have you an opportunity just to look
19 at those?

20 A Yes.

21 Q And does it appear those were taken of Randy
22 Bratschi?

23 A Yes.

24 Q Okay.

25 MR. OZMENT: Your Honor, just for identification

1 purposes, I would ask that these CT scans just be marked
2 as State's Exhibit. I'm not submitting them into
3 evidence.

4 MR. HERRON: No, objection.

5 THE COURT: Without objection marked for
6 identification. What are the numbers again?

7 COURT REPORTER: Thirty.

8 (WHEREUPON, State's Exhibit No. 30 was marked
9 for identification only.)

10 THE COURT: Mr. Ozment.

11 MR. OZMENT: Beg the Court's indulgence just one
12 minute.

13 (WHEREUPON, a pause in the proceedings.)

14 BY MR. OZMENT:

15 Q What was, I guess, the treatment for all of these
16 injuries?

17 A Basically, what we did is stabilize make sure his
18 electrolytes were okay, which are chemicals in your blood,
19 make sure his diabetes was controlled. And then the next
20 day we sent him to Dr. Farror E.N.T. here in Florence to
21 take care of the fractures.

22 Q When you say Dr. Farror is a E.N.T. what is that?

23 A Ear, nose, throat doctor.

24 Q You mention he has diabetes. From your examination
25 of him and from being his doctor, what preexisting

1 condition did you know him to have?

2 A Only two I have here are hypertension and diabetes.

3 Q All right. And was he -- can you tell if he was on
4 any sort of treatment for those two conditions?

5 A He was on blood pressure pills and he was on insulin
6 for the diabetes.

7 Q All right. What type of diabetes did he have?

8 A It appears he had type two.

9 Q All right. Can you explain to me, I guess, what's
10 the difference?

11 A Type two is the one we see more often. It's a lot of
12 times a more -- it's an adult onset type thing. Pills can
13 usually control it. Your pancreas is still working but
14 failing. Your body is not recognizing insulin. Where as
15 type one is more the juvenile type where your pancreas no
16 longer produces insulin and you have to have all insulin
17 outside.

18 Q Okay. So saying that he had type two diabetes was on
19 insulin. Does that mean was his diabetes essentially --
20 did it require upkeep -- I mean, if he didn't take his
21 insulin would anything happen?

22 A Yes, it's possible, not as likely is with a type one,
23 but certainly sugar would have probably become out of
24 control.

25 Q Okay. What affect would that have on him if sugar

1 became out of control?

2 A Type twos usually don't have as much trouble as type
3 ones. They don't usually go into the comas that people
4 hear about, but long term -- it's more long term problems.
5 They can do the other, but more than likely it would have
6 caused in stage, you know, liver, kidney, brain, heart
7 that kind of stuff.

8 Q Okay. Do you recall if he said he had any rib
9 injuries when he was in the emergency room?

10 A According to this he said he had been hit in the rib
11 area, yes.

12 Q Okay. From your examination of the medical records
13 and examining Mr. Bratschi at that time, how would you
14 decide -- how would you describe the nature of these
15 injuries? You say they were moderate injury, severe
16 injury or how would you kind characterize these?

17 A I put them at pretty severe.

18 Q Okay. Would you say the injuries are life
19 threatening?

20 A The ones that he sustained from these injuries
21 probably not life threatening.

22 Q Okay. Now, most of his blows kind of the front of
23 the face and side of the face?

24 A Yes.

25 Q What if one of those would had been to the back of

1 the head?

2 A From these number of fractures apparently, they were
3 pretty strong blows and, yes, if it hit the right place it
4 could have killed him.

5 MR. OZMENT: No further questions, Your Honor.

6 THE COURT: Mr. Herron.

7 MR. HERRON: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. HERRON:

10 Q Just so we clear for the jury, Dr. Atkinson -- first
11 of all how you doing?

12 A Good.

13 Q Just so we clear for the jury, these are non-life
14 threatening injuries?

15 A The ones that I have sustained here it's possible,
16 but not as life threatening as the other ones I've seen.

17 Q Do you have listed on your doctors notes how big
18 Randy Bratschi was? How much did he weigh?

19 A 190.

20 Q You have any idea how tall he was?

21 A I think he was like 5'9, 5'10.

22 Q Okay. Do you have in there whether or not there was
23 any kind of blood test to see whether or not Randy
24 Bratschi was under the influence of alcohol when he came
25 into E.R.?

1 A According to the E.R. records E.T.X. was not ordered?

2 Q If it had been ordered, would that have shown whether
3 or not Randy Bratschi was the under influence of alcohol?

4 A Yes.

5 Q Okay. Did he give as his history that he drank a
6 lot?

7 A Not according to these records. I don't see any
8 alcohol history here.

9 Q Okay. Did you -- were you also Randy's personal
10 physician at some point in time?

11 A Yes.

12 Q Can you give the jury an idea if he had any kind of
13 medical condition other the than diabetes, stomach
14 condition or...

15 A Again, without other records, I can only go by what I
16 have here.

17 Q Okay. And if it's a he said, she said fight, you
18 don't have any way of knowing what the truth is, do you?

19 A No, sir.

20 MR. HERRON: Your Honor, can I have one second?

21 THE COURT: Yes, sir.

22 (WHEREUPON, a pause in the proceedings.)

23 MR. HERRON: No further questions. Thank you,
24 Doctor.

25 THE COURT: Mr. Ozment.

1 MR. OZMENT: Nothing further for this witness,
2 Your Honor.

3 THE COURT: All right, sir. Dr. Atkinson, you
4 may step down. Thank you.

5 MR. OZMENT: We would also ask that he be
6 excused from his subpoena.

7 THE COURT: Any objection by the defense?

8 MR. HERRON: No, Your Honor.

9 THE COURT: Dr. Atkinson, you are excuse, free
10 to leave, have no further responsibilities under your
11 subpoena. Thank you for being here.

12 (WHEREUPON, the witness leaves the witness
13 stand.)

14 THE COURT: Call your next witness.

15 MR. OZMENT: Your Honor, the State would call
16 Kathy Merrill to the stand.

17 THE CLERK: If you will, ma'am, come to the
18 witness stand. If you will, ma'am, stop right there.
19 Place your left hand on the Bible and raise your right
20 hand. Do you swear to tell the truth, the whole truth,
21 and nothing but the truth so help you God?

22 THE WITNESS: Yes.

23 THE CLERK: Please be seated right there on the
24 witness stand and state your full name for the record?

25 THE WITNESS: Kathy Merrill.

1 WHEREUPON,

2 Kathy Merrill,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. OZMENT:

6 Q How are you today, Mrs. Merrill?

7 A Fine.

8 Q Good. What do you do?

9 A I'm a house wife who stays at home.

10 Q I know you're nervous. Can I give you some water
11 will that help any?

12 A No, thank you.

13 Q Did you know Randy Bratschi?

14 A Yes, sir.

15 Q How did you know Randy?

16 A From my husband work with him. I met him like that.

17 Q All right. How -- and just give me a ballpark figure
18 about how long had you known Randy until 2004?

19 A About -- maybe about 14 years.

20 Q Okay. Were y'all all friends?

21 A Yes, sir.

22 Q What sort of things would you do together?

23 A We cook and they come over. We go there and cook
24 with them and stuff like that.

25 Q All right. Do you know Brenda Bratschi also?

1 A Yes, sir.

2 Q How did you know Ms. Bratschi?

3 A Through Randy.

4 Q Okay. Were Brenda and Randy married when you first
5 got to know Randy?

6 A No, I don't think they were.

7 Q Okay. Are you aware of an assault when it's alleged
8 that Brenda attacked Randy?

9 A Yes, sir.

10 Q How did you find out about that assault?

11 A Well, he didn't show up for work. And they had call
12 like -- he called me to pick him up when he was in the
13 hospital.

14 Q Okay.

15 A I had to pick him up.

16 Q Did you pick him up from the hospital?

17 A Yes, sir.

18 Q Okay. When you picked him up from the hospital,
19 where did he want to go?

20 A He ask me to -- could I take him to the credit union.

21 Q Okay. Was that the first place he asked to go?

22 A Yes, sir.

23 Q Did you take him to the credit union?

24 A Yes, sir.

25 Q Do you know why he wanted to go to the credit onion?

1 A Yes, sir.

2 Q Why did -- go ahead.

3 A He had said that he wanted, I guess, to check his
4 checking account balance and all because I think he
5 thought money was missing.

6 Q Okay. How about -- I know this is a long time ago
7 but roughly how long was he in the credit union?

8 A Stayed may be ten minutes at the most.

9 Q Did you go in with him?

10 A No, sir, I stayed in the car.

11 Q Okay. When he came back to the car, where did you go
12 next?

13 A We went back to my house.

14 Q Okay. And you stayed with him?

15 A Yes, sir.

16 Q Was anybody else at your house when you came home?

17 A No, sir.

18 Q Okay. Did your husband come home at some point?

19 A Yes, sir, it was maybe about 30 minutes after, it
20 wasn't too long.

21 Q What did y'all do that night if you remember?

22 A Just -- we just stayed -- he has a garage and they
23 sat out there.

24 Q Okay. Was there -- now, after you picked up Randy
25 from the hospital and took him to your house, did you have

1 an occasion to clean Mr. Bratschi's trailer?

2 A Yes, sir.

3 Q Was anybody with you when you did that?

4 A Yes, sir.

5 Q Who was with you?

6 A Sue.

7 Q Sue who?

8 A Susan Hill.

9 Q Was she friends with all the same people?

10 A Yes, sir.

11 Q Okay. When you got to trailer that day, do you

12 recall if it was locked or unlocked?

13 A It was locked.

14 Q Okay. Did that surprise you?

15 A Yes.

16 Q Why did that surprise you?

17 A Well, because Randy -- when he ask Sue to clean and

18 or me to go with her, he told us that it would be

19 unlocked.

20 Q Okay. Was your -- so when it was locked, what did

21 you do next?

22 A We went back to Randy's work. I think Sue had called

23 him. And we got a key, so we could go back and clean it.

24 Q Okay. Do you know if Randy was surprised that the

25 trailer was locked?

1 A Yes, cause he said he had left it unlocked.

2 Q Okay. Did you clean his trailer that day?

3 A Yes.

4 Q Okay. Now, during the same time period we're talking

5 about after the attack, did you ever talk to Ms. Bratschi?

6 A Yes, sir.

7 Q When did you talk to her?

8 A This was after the attack. She come to the house one

9 day.

10 Q Did you invite her over? Why did she come to the

11 house?

12 A She just came by.

13 Q Did she say why she was there? Why did you think she

14 was there?

15 A She said that she had hired a private investigator

16 and he had took pictures.

17 Q Took pictures of who?

18 A Of Randy and Sue.

19 Q Okay. About how long was she at the house that day?

20 A Not long.

21 Q Less than 30 minutes?

22 A Yeah.

23 Q Okay. Was anybody at the house when that happened?

24 A Not that I know of. If Rusty might have been there,

25 he might have been outside in the garage.

1 Q When you say Rusty who are you referring to?

2 A I mean, my husband Russell.

3 Q Okay. Did you have any other contact with
4 Ms. Bratschi during this time?

5 A No.

6 Q Okay. Now, right after Thanksgiving of that year
7 2004, were you going to go to the turkey shoot?

8 A Yes, sir.

9 Q Okay. Tell me who all was planning on going to the
10 turkey shoot?

11 A I was going and Russell and I think Ed went and Rusty
12 and I think Sue's parents were down. They live at the
13 beach. I think that was all that was going.

14 Q Was Sue going to go?

15 A I can't remember.

16 Q Okay. Do you know if Randy Bratschi was planning on
17 going?

18 A Yes, sir.

19 Q Okay. On that evening, what did y'all -- when you
20 left your house, where did you go?

21 A We went to Randy's. We were going to pick him up
22 down there.

23 Q Okay. Do you remember was this -- you remember which
24 day of the week it was in and around Thanksgiving?

25 A No.

1 Q Okay. Do you remember if you saw any cars at Randy's
2 house that night?

3 A I believe the Isuzu was there.

4 Q What color is that car, if you remember?

5 A Black.

6 Q Did you get out of the car at Randy's house?

7 A I can't remember if I did. I was trying to think if
8 I did or not. I know Rusty did, Russell.

9 MR. OZMENT: Beg the Court's indulgence just a
10 moment.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. OZMENT: No further questions at this time,
13 Your Honor.

14 THE COURT: Mr. Herron.

15 MR. HERRON: Can I have one moment, Your Honor.

16 THE COURT: Yes, sir.

17 (WHEREUPON, a pause in the proceedings.)

18 CROSS-EXAMINATION

19 BY MR. HERRON:

20 Q Hey, Mrs. Merrill, how you doing today?

21 A Fine.

22 Q I promise I want bite your head off or anything. I
23 just want to ask you a few questions. Now, you said on
24 direct examination that you knew Randy for about 14 years?

25 A Uh-huh.

1 Q Did he have a drinking problem?

2 A Not that I knew of. I mean, he drink occasionally.

3 Q Okay. When him and Brenda first met, did he
4 introduce you to Brenda?

5 A Yes, when I first met her.

6 Q Tell us about your relationship with you -- that you
7 observed between Randy and Brenda?

8 A We go eat. They cook, they enjoy cooking. My
9 husband like to cook, we cook out. We enjoyed it.

10 Q Did you ever see Brenda strike Randy?

11 A No.

12 Q Okay. You ever see her yell and cuss and fuss at
13 him?

14 A No.

15 Q Okay. And tell us about your relationship with Sue
16 Hill? When did Sue Hill first come into the picture? Let
17 me ask you this, how long have you known Sue Hill?

18 A Well, I haven't talk to her like lately. We were
19 friends, but then I haven't talk to her in several years.
20 Maybe, occasionally off and on. But for while, I knew her
21 for like three years she come over.

22 Q When did you first meet Sue?

23 A She was seeing a friend of Rusty's.

24 Q Okay. Did Randy -- when were you first made aware
25 that Randy and Sue were seeing each other?

1 A This was after the assault when they started seeing.

2 Q Yes, ma'am. Do you know when after the assault they
3 started seeing each other?

4 A No, sir.

5 Q How do you know it was after the assault or do you
6 know if it was after the assault? Could they have been
7 seeing each other before this?

8 A I don't think so. They could have, I don't think
9 they were.

10 Q Now, you said Brenda came over to your house was that
11 something out of ordinary or had she come over there
12 before?

13 A She's come before to our house because we cooked and
14 everything.

15 Q So it's nothing out of the ordinary with Brenda
16 coming over to your house?

17 A No.

18 Q Okay. And she told you that she suspected that Randy
19 was seeing Sue Hill?

20 A She said she hired a private investigator and that
21 she had pictures. She had proof and pictures and
22 everything.

23 Q What did you think about when she said I got a
24 private investigator and taking pictures of Randy and Sue,
25 did you know that Randy and Sue were seeing each other at

1 the time?

2 A Yeah.

3 Q Okay. What did you tell Brenda?

4 A Sir?

5 Q What did you tell Brenda? Did you tell her, yeah,
6 they're seeing each other?

7 A I didn't really talk about it really to her.

8 Q Is it because you didn't want to tell Brenda that
9 Randy was cheating on her with Sue?

10 A No, because I think she knew that they were.

11 Q Okay. So other than her saying that she had a
12 private investigator following Randy, did she say anything
13 else?

14 A No.

15 Q And this ---

16 A She said she had pictures and everything.

17 Q And this conversation just so we clear for the jury
18 took place after the fight that they had?

19 A This was after.

20 Q Okay. Now, is it true that Randy told everybody at
21 work that he got in an automobile accident?

22 A Yes.

23 Q Okay.

24 A He told some I think.

25 Q He told people he got in an automobile accident

1 because he was embarrassed?

2 A Yes, he told me that when I took him to the credit
3 union that day.

4 Q He told you he got in an automobile accident ---

5 A No, he didn't tell me that. He said when he went in
6 if they ask anything, he was embarrassed, that he had been
7 in automobile accident. I don't know if he told them
8 that. I don't know if they asked because I was in the
9 car.

10 Q Okay. Now, the week of Thanksgiving if you could
11 take me through that if you don't mind, when did y'all
12 make plans to go -- I think y'all said a turkey shoot?

13 A I suppose it was maybe a few days before.

14 Q Okay. What was Randy's demeanor a few days before
15 Thanksgiving?

16 A He seem fine.

17 Q Did he seem worried that somebody was looking over
18 his shoulder? Did he seem nervous?

19 A Not really.

20 Q Seem like regular old Randy?

21 A Uh-huh.

22 Q And this was after the fussing and the fighting
23 between him and Brenda?

24 A Yes.

25 Q Okay. Did you talk to Brenda or see Brenda any that

1 week?

2 A I can't remember.

3 Q Okay. Let me ask you this, do you remember Brenda
4 ever other than talking about hiring an investigator --
5 let me strike that, let me back up. Did Brenda seem angry
6 that Randy Delyn Bratschi was seeing Sue or she just say I
7 got an investigator going to look into it?

8 A Oh, she look like she was upset, yes.

9 Q Did she say anything like I'm going to kill that
10 sorry S.O.B.?

11 A Oh, no.

12 Q Did she say anything -- I don't want to put words in
13 your mouth, I'm just trying to get an idea what Brenda's
14 demeanor was?

15 A She didn't say that, but she didn't like it.

16 Q How long you been married -- is it Russell?

17 A Yes, sir.

18 Q How long y'all been married?

19 A Thirty something years.

20 Q Let me ask you this, that's a long marriage
21 congratulations. If you found out that Russell was seeing
22 another woman, would you be upset?

23 A Yes.

24 Q Would you be just as upset as Brenda Bratschi seem to
25 be?

1 A Yeah.

2 Q Okay. All right. Now, the week of Thanksgiving what
3 was y'all plans -- how did Sue get invited to go to the
4 turkey shoot because I think you said ---

5 A I can't remember if she went or not.

6 Q Okay. What was y'all's plans as far as the turkey
7 shoot go, how did they come about? I mean, is that
8 something you do every year or is that just out of the
9 blue? Can you tell the jury how that came about?

10 A I guess Rusty and them decided to go because they're
11 the one that shoot -- that go to it and we just rode.

12 Q Who is Rusty?

13 A My husband.

14 Q That's your husband and you call him Rusty, okay.
15 How is his relationship with Randy? Were they best
16 buddies?

17 A They were, yes, sir.

18 Q Okay. Were you familiar -- who is Squirrel?

19 A That's my husband.

20 Q That's who they call Squirrel, your husband that's
21 his nickname?

22 A Yes, sir.

23 Q Okay. Were you there one night when Randy showed up
24 and this was after the fight and Randy showed up and
25 Brenda was with Squirrel? Were you there that night when

1 they were around -- siting around, I think, a campfire
2 drinking beer and just hanging out and talking?

3 A If they were, I don't remember.

4 Q Okay. Let me be a little more specific. Do you
5 remember Randy coming up to Brenda talking to Squirrel and
6 then Randy saying -- kicking the chair and saying who's
7 this. Do you remember that?

8 A No, sir.

9 Q Okay. Do y'all sometimes sit outside and hang out
10 and talk?

11 A Yes, sir.

12 Q Okay. Where do y'all sit outside at? Is it your
13 house, your husband's house?

14 A He has a shop, garage.

15 Q Is that a normal thing for y'all to do sit outside
16 and hang out?

17 A Yes, sir.

18 Q Y'all have a fire pit or anything like that?

19 A No, sir.

20 Q Just hang out and sit around the shop. Y'all grill
21 out and all that stuff?

22 A Yes, sir.

23 Q Now, the week of Thanksgiving when you showed up at
24 Randy's house, tell the jury what you said you saw a
25 Rodeo; is that correct?

1 A Yes, sir.

2 Q What day was that?

3 A I think it was on a Saturday.

4 Q On a Saturday?

5 A Well, it was the day -- I'm not really sure what day
6 if you want to know the truth.

7 Q I got you. If the turkey shoot was on a Thursday or
8 a Friday, could it have ---

9 A It was after Thanksgiving.

10 Q It was after Thanksgiving, okay. And you show up and
11 you see a Rodeo at the house?

12 A Yes, sir.

13 Q Was that Randy's Rodeo or Brenda's Rodeo, who drove
14 that Rodeo most of the time?

15 A I think Brenda did.

16 Q Brenda drove it most of the time.

17 A But they both drove it -- I mean, they shared it.

18 Q And Randy was suppose to come with y'all to the
19 turkey shoot; is that right?

20 A Yes, sir.

21 Q Okay. Tell the jury what happened when you got there
22 and Randy didn't come out what was said and what was your
23 reaction?

24 A We were shocked. I mean, I was shocked. When Rusty
25 went and knocked on the door.

1 Q When is the last time that you or Rusty had talked to
2 Randy on the phone, do you remember?

3 A I can't remember that.

4 Q Okay. Did Randy have a cell phone?

5 A I can't remember that either.

6 Q Do you remember if you or your husband when Randy
7 didn't come to the door if y'all called his cell phone or
8 do you remember calling anybody?

9 A I'm not sure if they did.

10 Q Okay.

11 A I know he knocked on the door and everything.

12 Q Do you remember if he tried to open it?

13 A No, I'm not sure.

14 Q Okay. So you didn't make any calls or you or your
15 husband didn't make any calls to anybody just went there
16 he wasn't there and you left; is that true?

17 A Yes, sir.

18 Q Then y'all went to the turkey shoot?

19 A Uh-huh.

20 Q How long did y'all stay at the turkey shoot?

21 A I guess, maybe an hour or hour. I'm not sure, it's
22 been so long.

23 Q Okay. What's the next thing -- time that you
24 remember talking to Brenda or talking to Randy?

25 A I don't think -- I mean, we didn't talk to him any

1 more.

2 Q Okay. And that was the day after Thanksgiving -- you
3 didn't see him that day, right?

4 A No.

5 Q Okay. Now, did Randy ever tell y'all he like to go
6 to a landing and clear his head whenever he just wanted to
7 think about stuff?

8 A I don't remember that. He might have told my
9 husband, Russell.

10 Q Okay. But you don't remember him saying it?

11 A Uh-huh.

12 Q Did you have any problem with Brenda coming -- this
13 was after the big fight that Randy and Brenda had. Did
14 you have a problem with Brenda coming into your -- showing
15 up at your house? Were you scared of her?

16 A I wasn't afraid of her, but I really wasn't
17 comfortable with her coming since that had happen.

18 Q And Randy seeing Sue at the time?

19 A Uh-huh.

20 Q Would you say y'all ---

21 A Well, not just that with her coming after the assault
22 and everything, I wasn't afraid of her, no.

23 Q Okay. Would you say y'all knew Randy for 14 years;
24 is that right?

25 A Yes, sir.

1 Q And how long did y'all know Brenda for about two or
2 three?

3 A Probably.

4 Q Okay. Now, did Brenda also tell you when she was at
5 your house, that she had hired a divorce lawyer?

6 A I don't remember that.

7 Q You don't remember her saying that she was going to
8 talk to Cheryl Turner Hopkins here in Florence?

9 A She might have, I can't remember.

10 Q But you don't know if y'all -- if she talked about
11 getting a divorce from Randy, but she could have?

12 A Yes, sir.

13 Q Okay. But you're not sure. All right.

14 MR. HERRON: Your Honor, may I have one moment?

15 THE COURT: Yes, sir.

16 (WHEREUPON, a pause in the proceedings.)

17 BY MR. HERRON:

18 Q Now, Mrs. Merrill, did Randy and your husband get
19 into a -- I call it a fuss, not really a fist fight but a
20 fuss about a chain saw?

21 A Yes, sir.

22 Q Tell the jury about that?

23 A I think he wanted -- Randy wanted to borrow it, but
24 Rusty didn't really like to lend his tools, you know,
25 things out like that to people even though he was close to

1 Randy.

2 Q And Randy knew Russell excuse me -- Rusty Squirrel
3 for about 14 years?

4 A Yes, sir.

5 Q Was there one point in there where he didn't talk to
6 his friend of 14 years for about four and five months
7 cause he was mad at him?

8 A Yes, sir.

9 Q This was over a chain saw?

10 A I believe it might have a lot -- I think it was more
11 than that.

12 Q Okay. What else do you think it was?

13 A I don't know if Brenda didn't want them -- I just
14 don't know, but they really didn't speak. Maybe, they did
15 at work, I don't know. Eventually, they got back ---

16 Q I didn't mean to cut you off?

17 A Together.

18 Q Okay. When you went over to Randy's house, did you
19 ever see him have a .9 millimeter on his hip?

20 A I don't remember that. I know he had guns, yes, sir.

21 Q Okay. How many guns did Randy have? Do you
22 remember?

23 A No, several. My husband likes them too. He had a
24 good many.

25 Q Were you -- what do you know about the robbery of the

1 guns at Randy's house? Do you know anything about that?

2 A I know he had one that was stolen.

3 Q Okay. When did that robbery take place, do you
4 remember?

5 A I remember Randy and Brenda said a friend of there's
6 had come over. And when he left, he had a gun at the back
7 door. And when he left, the gun was gone, the shotgun.

8 Q Do you remember an incident where someone came into
9 Randy's house and stole all of his guns?

10 A No.

11 Q You don't remember that? You know who George Fry is?

12 A Yes, sir.

13 Q Who is George Fry?

14 A I mean, he live down there near -- down from Randy
15 that's all I know.

16 Q Did he ever hang out with y'all around the shed or
17 whatever?

18 A He's been over before not a lot.

19 Q Just so we clear for the jury. You had never seen
20 Brenda Bratschi be violent or even raise her voice at
21 Randy Bratschi; is that true?

22 A No.

23 MR. HERRON: Thank you. Mrs. Merrill, thank you
24 for being here.

25 THE COURT: Mr. Ozment.

1 MR. OZMENT: Briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. OZMENT:

4 Q Mrs. Merrill, Mr. Herron asked you about Brenda
5 coming over one day and whether you were happy she was
6 there. And I think you said something to the effect of
7 you didn't feel comfortable with her being there. When
8 Brenda normally came over to your house was it with Randy
9 or by herself?

10 A She come with Randy.

11 Q Okay. Go ahead.

12 A She been there before.

13 Q But was it normal that she would come over just show
14 up unannounced without Randy?

15 A No, usually they came together.

16 MR. OZMENT: No further questions, Your Honor.

17 THE COURT: Mr. Herron.

18 RECROSS-EXAMINATION

19 BY MR. HERRON:

20 Q Mrs. Merrill, if someone -- if your husband was
21 cheating on you with someone else would you ---

22 MR. OZMENT: Your Honor, I would object that
23 this is outside the scope of redirect.

24 MR. HERRON: Can I finish my question?

25 THE COURT: Can you approach?

1 (WHEREUPON, beginning of bench conference on the
2 record.)

3 MR. HERRON: I think the question was did she
4 feel uncomfortable with her showing up there by herself
5 was that unusual, that's all I'm trying to establish.
6 It's not unusual for a wife who's being cheated on to go
7 talk to some friends.

8 THE COURT: I'm going to allow it

9 (WHEREUPON, a bench conference on the record has
10 ended.)

11 THE COURT: All right, go ahead.

12 BY MR. HERRON:

13 Q Mrs. Merrill, if your husband was cheating on you,
14 would you want to go talk to all your friends to see
15 whether or not they seen or heard anything about that
16 about your husband seeing another lady?

17 A I suppose.

18 MR. HERRON: Thank you, Mrs. Merrill, appreciate
19 it.

20 THE COURT: All right. Ma'am, you may step
21 down. Thank you.

22 MR. OZMENT: Can Mrs. Merrill be released from
23 her subpoena, Your Honor?

24 THE COURT: Any objection?

25 MR. HERRON: No, Your Honor.

1 THE COURT: Ma'am, you may step down. You free
2 to go. You have no further obligations with regards to
3 the subpoena. Thank you for being here.

4 (WHEREUPON, the witness leaves the witness
5 stand.)

6 MR. OZMENT: Your Honor, at this time the State
7 would call Susan Hill to the stand.

8 THE COURT: Who's your next witness, Mr. Ozment?

9 MR. OZMENT: Susan Hill.

10 THE CLERK: If you will stop right there, place
11 your left hand on the Bible and raise your right hand. Do
12 you swear to tell the truth, the whole truth, and nothing
13 but the truth so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please be seated right there in the
16 witness chair and state your full name for the record.

17 THE WITNESS: Susan Hill.

18 WHEREUPON,

19 Susan Hill,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. OZMENT:

23 Q How are you today, Ms. Hill?

24 A Good.

25 Q Good. What do you do for a living?

- 1 A I work in accounting at International Knife and Saw.
- 2 Q Are you married?
- 3 A No.
- 4 Q Where do you live?
- 5 A On Red Doe Road in Florence.
- 6 Q Are you from this area?
- 7 A No.
- 8 Q Where did you grow up?
- 9 A From Terry, Pennsylvania.
- 10 Q How long have you lived down here in the Florence
- 11 area?
- 12 A Probably about 15 years.
- 13 Q Okay. Did you know Randy Bratschi?
- 14 A Yes.
- 15 Q How did you know Mr. Bratschi?
- 16 A I worked with him at Stone Container, that's when I
- 17 first met him.
- 18 Q How long did you work there?
- 19 A Probably about three half years.
- 20 Q When did you start working there?
- 21 A I think somewhere around '94.
- 22 Q All right. When did you first meet Randy in that
- 23 time period?
- 24 A Shortly after I had started there.
- 25 Q When did you and Randy become friends? I mean, more

1 than just working with him?

2 A We basically hung out in the same circle of friends.

3 Q Who were some of your mutual friends?

4 A Russell and Kathy Merrill, Ed Jeffcoat, Stacy Watts,
5 lots of people use to get together.

6 Q What sort of things would y'all do?

7 A Cook, eat.

8 Q Okay. Are you aware of an incident where Randy was
9 assaulted by his wife?

10 A Yes.

11 Q Okay. Did anything about you and Randy's
12 relationship change after the assault?

13 A Yes.

14 Q Tell me what changed?

15 A Closer friendship.

16 Q Okay. And when you say closer friendship, what do
17 you mean by that?

18 A Seeing each other.

19 Q Okay. Were you dating?

20 A Yes.

21 Q Okay. Now, were you seeing Randy in a dating sense
22 before the assault?

23 A No.

24 Q Okay. Did you ever have an affair with Randy
25 Bratschi?

1 A No.

2 Q How long after the actually strike that -- let me
3 back up for a minute. After the assault happened, explain
4 to me how you and Randy's relationship evolved at that
5 point. I mean, how did it kind of -- what sort of things
6 were you doing that it made more than just how you been
7 before?

8 A Just talking more on the phone and stuff and it was
9 basically a week prior. Of course, he worked that
10 Tuesday, Wednesday, Thursday night before Thanksgiving and
11 we were actually alone together Monday and Tuesday night.

12 Q And that's ---

13 A I'm sorry Sunday and Monday night.

14 Q When you say Sunday and Monday night, we're talking
15 about the week of Thanksgiving?

16 A Yes.

17 Q And we're talking about Sunday, Monday before
18 Thanksgiving?

19 A Sunday, Monday before Thanksgiving, yes.

20 Q Okay. Before that that Sunday morning before
21 Thanksgiving that week had you and Randy been -- what I
22 would say dating before that?

23 A And let me -- the only time we were alone just him
24 and I together was Sunday and Monday before Thanksgiving
25 just those two days.

1 Q Okay. And so never before that?

2 A Never before not alone. I mean, like as a group
3 Russell and Kathy or me down like at Russell and Kathy's
4 or something, yes.

5 Q Okay. But you never been like one on one date before
6 that Sunday before Thanksgiving?

7 A Correct.

8 Q Okay. Well, tell me that Sunday before, what did
9 y'all have plan for that evening.

10 A He called me and he just didn't want to be alone at
11 the house, just said let's go somewhere.

12 Q Okay. So what happened next?

13 A He -- there was knocking at my back door. And he
14 came in the back door and he said she's out there. And I
15 said who? And he said Brenda. She was sitting on my
16 road, on a dirt road.

17 Q When you say my road ---

18 A Where I live near my house.

19 Q The road in front of your house?

20 A Well, kind of on the side of my house.

21 Q The road your house is on?

22 A Right.

23 Q How did -- what was his demeanor? Did he seem -- how
24 did he seem when he said that as he was coming through
25 your door?

1 A He was a little nervous.

2 Q Okay. Did he shut the door behind him?

3 A Yes.

4 Q Do you recall if you locked it?

5 A I don't recall if I locked it or not.

6 Q Okay. Do you know at that time if Randy was scared
7 or had been intimidated by Brenda at all?

8 A He seem to be that night, yes.

9 Q Okay. Did you see Brenda on the road?

10 A I did not actually see her on the road, no.

11 Q Did you have any contact with Brenda that night?

12 A Yes, she called my house.

13 Q So your house phone like a land line?

14 A Yes.

15 Q What did -- tell me how that happened?

16 A She called my house and said have fun with my husband
17 and she hung up.

18 Q Okay. How long between Randy getting there and the
19 phone call like how long was the time period?

20 A Two, three minutes if that.

21 Q Okay. So not very long?

22 A No.

23 Q After she called, what did y'all do the rest of the
24 evening?

25 A He drove down National Cemetery and went to a little

1 -- we went to Shingles, it's a club on National Cemetery.

2 Q Why did you go to Shingles?

3 A Because it was the only place that served alcohol on
4 Sunday.

5 Q How long did you stay there?

6 A Probably until 11.

7 Q Okay. What happened when you left?

8 A We went back to my house.

9 Q Okay. When is the next time you saw Randy?

10 A Monday.

11 Q Okay. What did y'all plan to do Monday?

12 A We just rode around and went to -- it's a place
13 that's over somewhere near where he lives. I can't even
14 remember the name of the place.

15 Q Was that place, I mean -- the restaurant or bar?

16 A Yes, it was a bar.

17 Q Okay. How long did -- what time did you go to that
18 place on Monday?

19 A I'm not sure.

20 Q Was it daylight, dark?

21 A It was night.

22 Q How long did you stay?

23 A Maybe a few hours.

24 Q Okay. Did you have any contact with Brenda on
25 Monday?

1 A No.

2 Q Okay. Was there ever a time that you were let me
3 back up during this time were you still eating like said
4 you were earlier with the Merrills and with that same kind
5 of group of folks occasionally?

6 A I'm sorry would you repeat.

7 Q During this interim time period that we're talking
8 about, were you still hanging out with the Merrills, Ed
9 Jeffcoat and that same crowd were y'all still all friends
10 and hanging out together?

11 A Oh, yeah.

12 Q Okay. Did you ever -- were you ever at Squirrel's
13 house at the same time as Brenda?

14 A Yes.

15 Q Tell me what happened -- when was that?

16 A It's been several times.

17 Q Okay. And that was in the time between the assault
18 and when he disappeared? I'm sorry let me back up maybe I
19 wasn't clear. Were you ever at Squirrel's house at the
20 same time as Brenda between the time of the assault and
21 the time Randy disappeared?

22 A Once.

23 Q Okay. What happened -- when was that?

24 A I'm not positive.

25 Q Okay. Was it before that week of Thanksgiving that

1 we talking about a minute ago?

2 A Yes.

3 Q Okay. What was going on over at Squirrel's that
4 night?

5 A If I remember correctly, it was just me, Kathy and
6 Russell that were there and Brenda pulled up.

7 Q Okay. Did she stay very long?

8 A She stayed for a while.

9 Q Okay. Did she talk about Randy at all while she was
10 over there?

11 A Yes.

12 Q What did she say about Randy?

13 A She was talking about it was when he was assaulted
14 and she was discussing what had happened.

15 Q Okay. What did she say had happened?

16 A That something to the effect that they were going to
17 the bank and Randy had go to the bathroom and she turned
18 around and went back to the house and that he had
19 assaulted her, that's what she was saying.

20 Q Okay. Had you ever talked to Randy about the
21 assault?

22 A Yes.

23 Q Is that the story that Randy told you?

24 A No.

25 Q Okay. Did you ever in the same period between the

1 assault and before he disappeared, did you ever clean
2 Randy's house?

3 A Yes.

4 Q When was that approximately?

5 A Shortly after the assault.

6 Q Okay. Who was with you then?

7 A Kathy.

8 Q Was it before that week of Thanksgiving that we been
9 talking about?

10 A It was before that.

11 Q Had you arrange with Randy that you would go clean
12 his house?

13 A Yes.

14 Q When you got there, was the door locked or unlocked?

15 A It was locked.

16 Q Did that surprise you?

17 A Yes.

18 Q Why did that surprise you?

19 A Because he said he was going to leave the door
20 unlocked.

21 Q Okay. What did you do when the door was locked?

22 A Went to the paper mill and got the key.

23 Q All right. Did you see Randy at the paper mill?

24 A Yes.

25 Q Did he seem surprised that the door was locked?

1 A Yes, he said it was unlocked when he left.

2 Q Did you go back and clean the house?

3 A Yes.

4 MR. OZMENT: Beg the Court's indulgence for just
5 a moment.

6 (WHEREUPON, a pause in the proceedings.)

7 BY MR. OZMENT:

8 Q Around the same time did you ever have any suspicious
9 activity with the door locks at your house?

10 A Yes.

11 Q Tell me about that?

12 A I was down at Russell and Kathy's and I come home at
13 dark and there was a light on in my house. I went to a
14 neighbors instead of going home because I don't -- I
15 didn't leave my light on I know that. And I actually --
16 the back door was ajar.

17 Q Okay. Do you know if it was locked when you left?

18 A My doors, yes, they were locked.

19 Q Okay. Do you always lock your doors?

20 A I always lock my doors.

21 Q Do you have a dog?

22 A I do.

23 Q Where was the dog?

24 A Outside.

25 Q Okay. Did you eventually -- what did you do when you

1 went to your neighbor's house because you seen that your
2 house didn't look right?

3 A Call the police.

4 Q Okay. Did you eventually go in your house?

5 A Yes.

6 Q Did anything appear to be disturbed?

7 A No.

8 Q Anything missing?

9 A No.

10 Q Did you ever or did the police ever come up with any
11 explanation of why your house has been unlocked and the
12 dog in the yard and the light on?

13 A Not that I can recall.

14 Q Okay. What was your reaction to that?

15 A Little nervous.

16 Q Okay.

17 MR. OZMENT: Beg the Court's indulgence for just
18 a moment.

19 (WHEREUPON, a pause in the proceedings.)

20 BY MR. OZMENT:

21 Q You stated a minute ago that your dog was outside.
22 Was the dog -- does the dog when you left the house inside
23 or outside?

24 A Yes, it's an inside dog.

25 Q Okay.

1 MR. OZMENT: No further questions, Your Honor.

2 THE COURT: Mr. Herron.

3 MR. HERRON: Thank you.

4 CROSS-EXAMINATION

5 BY MR. HERRON:

6 Q How you doing, Ms. Hill?

7 A I'm good thank you.

8 Q Ms. Hill, I'm trying to give the jury an idea of how
9 long you had known Randy before I think you said y'all had
10 a closer friendship. Did -- now, isn't it true that you,
11 Randy, Kathy Merrill, Russell Merrill, Squirrel all hung
12 out together; is that true?

13 A Uh-huh, yes.

14 Q You have to say yes just for the court reporter cause
15 she's got to take everything down. Now, when did you and
16 Randy first become intimate?

17 A Monday before he was missing, Monday prior to
18 Thanksgiving.

19 Q Okay. Now, when was the last time that you, Brenda
20 and Randy had all hung out together?

21 A Before the assault sometime I'm not positive when.

22 Q What was -- let me ask you this had Brenda ever --
23 you ever seen Brenda raise her voice or scream or cuss at
24 Randy?

25 A No.

1 Q Had you ever seen Brenda strike Randy?

2 A No.

3 Q So before the assault was the last time that y'all
4 hung out together; is that right?

5 A Sometime before, yes.

6 Q Okay. Can you give the jury an idea how soon before
7 the assault was -- that's a bad question. The assault
8 happens can you give the jury an idea how close between
9 the assault and the last time that y'all hung out together
10 before the assault was it a week, was is it a month? I'm
11 just trying to get an idea.

12 A I would say it -- I would say that it had been a
13 while because they didn't come to functions like they use
14 to as often is what I'm trying to say. I'm not sure when
15 the last time.

16 Q Did you think Brenda knew about you and Randy before
17 the assault?

18 A No.

19 Q How do you know that she wouldn't have known about
20 you and Randy?

21 A Because there wasn't anything before the assault.

22 Q Well, I think you said you talked many times on the
23 phone; is that correct?

24 A No, I was talking during the time frame after the
25 assault before he went missing.

1 Q Okay. So according to you there was no intimate
2 relationship or even telephone relationship before the
3 assault?

4 A That's correct.

5 Q So why would Brenda want to kill Randy for something
6 that he hadn't done with you yet, does that make sense?

7 MR. OZMENT: Your Honor, that calls for
8 speculation.

9 THE COURT: I sustain the objection.

10 Mr. Herron, rephrase your question.

11 BY MR. HERRON:

12 Q So you telling this jury that before the supposed
13 assault and battery with intent to kill that there was
14 absolutely no relationship between, intimate relationship
15 between you and Randy; is that correct?

16 A That's absolutely correct.

17 Q So Brenda wouldn't have known about any relationship
18 because there was no relationship; is that correct before
19 the assault?

20 A That's correct.

21 Q Okay. So my question is is there's no reason for her
22 to try to be upset about Randy for cheating on her when
23 there was no relationship, was there, before the assault?

24 MR. OZMENT: Objection, Your Honor, again, she
25 -- this speculation of what Brenda would be thinking?

1 MR. HERRON: I think they made a whole case of
2 what Brenda was thinking, Your Honor.

3 THE COURT: Would the lawyers approach a minute?

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury, but out of the hearing of the
6 jury.)

7 BY MR. HERRON:

8 Q Now, Ms. Hill, you testified that there was no
9 relationship before this assault; is that correct?

10 A That is correct.

11 Q Okay. When was -- and you also testified there was
12 no telephone relationship?

13 A That is correct.

14 Q Okay. So are you telling the jury in a period of
15 four to five weeks that you and Randy went from no
16 relationship before the assault until the Sunday before
17 Thanksgiving y'all became intimate in a period of four or
18 five weeks is that what you're telling the jury?

19 A Yes.

20 Q Now, isn't it true that the reason Brenda Bratschi
21 show up at your house the Sunday before Thanksgiving,
22 isn't it true that you actually had called Brenda Bratschi
23 to find out where Brenda Bratschi was?

24 A No, that is not true.

25 Q Let me put it another way. Did you ever call Brenda

1 Bratschi at any point in time after the assault and say,
2 Hey, Brenda started a conversation and then ask her where
3 you at?

4 A No, I did talk to Brenda Bratschi on the telephone on
5 friendship basis.

6 Q Did you ever try to ascertain whether it was okay for
7 you to see Randy Bratschi by finding out where Brenda
8 Bratschi was?

9 A No.

10 Q Okay. Now, do you believe that Brenda Bratschi tried
11 to kill Randy Bratschi? That was a question. Do you
12 believe that Brenda Bratschi tried to kill Randy Bratschi?

13 A I don't know.

14 Q I guess my next question is if you felt that Brenda
15 Bratschi tried to beat her husband to death with a
16 baseball bat, wouldn't you be a little nervous about
17 seeing Randy Bratschi, wouldn't you be nervous how Brenda
18 Bratschi what she would do to you?

19 A No.

20 Q You wouldn't be nervous? If a woman about beats her
21 husband half to death with a baseball bat, aren't you
22 going to be nervous as far as seeing that wife's -- that
23 woman's husband on an intimate relationship? You not
24 going to be nervous?

25 A No.

1 Q Okay. I'll move on. Now, the night that Brenda
2 Bratschi showed up at your house, isn't it true that
3 Brenda Bratschi, the woman scorn as the prosecutor would
4 have the jury believe, she went up to Randy Bratschi --
5 now, what time did Randy Bratschi show up at your house?

6 A I'm not positive as to what time it was.

7 Q Was it after nighttime?

8 A Yes.

9 Q Okay. So a married man shows up at another woman's
10 house and the wife is at the house of the woman that she
11 feels that her husband is going in to have a relationship
12 with. Now, tell the jury isn't it true that that night
13 that when Brenda Bratschi was so irate, so scorned, so
14 mad, isn't it true she goes up to Randy Bratschi, shines a
15 flashlight in his face and says I wonder how long this has
16 been going on, turns around and walks away; isn't that
17 true?

18 A I don't know.

19 Q You were there you don't know -- let me ask it
20 another way. Did Randy Bratschi come in and say, oh, my
21 gosh, she's out here. She's trying to kill me call the
22 police. Did Randy come in and do that? The woman that
23 supposedly tried to kill him four weeks earlier he come in
24 and say call the police, she's out there I need help. Did
25 he come in and do that?

1 A No.

2 Q No, because isn't it true Brenda Bratschi said I
3 wonder how long this been going on and walks away?

4 A But you're asking me if she said that. I was not
5 outside with him.

6 Q Well, let me ask you a different question.

7 THE COURT: Hold on a minute.

8 A I didn't hear and see what she said.

9 THE COURT: Let her finish hold on, hold on.

10 MR. HERRON: I'm sorry, Your Honor.

11 THE COURT: Neither one of you can talk over
12 each other. My court reporter can't take down but one
13 person at a time understood.

14 MR. HERRON: Yes, Your Honor.

15 THE COURT: All right. Now, ma'am, you may
16 finish your response.

17 Let her finish her response, Mr. Herron, before
18 you continue with your next question, okay.

19 You may finish your response.

20 A Thank you. Like I said, I was inside of the house
21 when Brenda and Randy whenever they were outside. I've
22 already stated that I did not see her or her vehicle
23 there. She called my house that's how I knew she was out
24 there.

25 Q And I apologize for cutting her off, I didn't mean

1 to. But my question, Ms. Hill, is I understand that you
2 didn't hear exactly what was said, but did you hear any
3 screaming outside?

4 A No.

5 Q Raised voices?

6 A No.

7 Q Did Randy come in and say call the police, she's out
8 there she's going to get me?

9 A No.

10 Q Okay. Now, isn't it true that after Randy Bratschi
11 came in, he was so worried about Brenda that he went out
12 drinking with you at Shingles? Y'all went out drinking
13 after Brenda supposedly caught him red handed; isn't that
14 true?

15 A Yeah.

16 Q Did he seemed worried about his safety when he's out
17 drinking on National Cemetery Road with a woman that he's
18 cheating on his wife with, did he seem worried about his
19 safety at that point?

20 A No.

21 Q Okay. Now, isn't it true that Randy had a drinking
22 problem?

23 A No.

24 Q He didn't have problem?

25 A I don't think he did.

1 Q Let me ask you this, when he was over at your house,
2 did he go buy some Bud Light and put in your refrigerator
3 or did you have beer in your refrigerator?

4 A I had beer in my refrigerator.

5 Q Did he wake up the first thing in the morning, he
6 went to the refrigerator and grabbed a beer?

7 A No.

8 Q Okay. How long did it take him before he got up,
9 before he went to the refrigerator and grabbed a beer?

10 A Honestly, I don't know that. I don't know the answer
11 to that question.

12 Q Did he drink more than ten beers in a day in your
13 presence?

14 A No.

15 Q Okay. Had you ever seen him over at Russell's --
16 Russell Merrill's and Kathy Merrill's house drinking beer?

17 A Yes.

18 Q Did you ever see him take a cooler on the way to work
19 where he drink three beers on the way and three beers on
20 the way back from work?

21 A No.

22 Q Okay. You didn't see that. Okay. And just so we're
23 clear for the jury, you testified that Randy seemed a
24 little nervous after Brenda had confronted him outside?

25 A Yes.

1 Q Did Randy ever tell you that Brenda was -- had
2 contacted Cheryl Turner Hopkins in seeking divorce advice?

3 A Not that I can recall.

4 Q Did Randy ever go contact a lawyer about a divorce?

5 A I don't know.

6 Q Okay.

7 MR. HERRON: Can I have a moment, Your Honor.

8 THE COURT: Yes, sir.

9 (WHEREUPON, a pause in the proceedings.)

10 BY MR. HERRON:

11 Q Okay. Has Brenda Bratschi ever made a threat against
12 you?

13 A No.

14 Q You don't know what happened to Randy, do you?

15 A No.

16 MR. HERRON: No further questions, Your Honor.

17 THE COURT: Mr. Ozment.

18 MR. OZMENT: All right. Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. OZMENT:

21 Q Mr. Herron was asking you all about what happened
22 outside the house that night. The first time you knew
23 Randy was at your house was when he was at the backdoor?

24 A Yes.

25 Q Okay. When was the only contact you had with Brenda

1 that night?

2 A By phone.

3 Q That same week of Thanksgiving went through Sunday
4 went through Monday, were you planning on seeing Randy
5 again that week?

6 A During the week of Thanksgiving?

7 Q Yeah, that same ---

8 A Yes.

9 Q When was that?

10 A Friday after Thanksgiving.

11 Q What were you planning on doing Friday?

12 A We were actually going to the turkey shoot with
13 Russell and Kathy.

14 Q Who else was going?

15 A Steve that works at the paper mill and my parents.

16 Q Okay. Did you go to Randy's house that Friday night?

17 A Yes.

18 Q Who were you with when you went?

19 A Kathy, my mom, my dad, Russell, Steve and me.

20 Q Okay. Do you recall if there was any vehicles that
21 -- any vehicles at the trailer that were there when you
22 got there?

23 A Yes.

24 Q What vehicle would that be?

25 A The Isuzu.

1 Q What color was the Isuzu?

2 A From what I can remember a dark blue or black.

3 Q Okay.

4 MR. OZMENT: No further questions of this
5 witness.

6 MR. HERRON: Your Honor, one quick one.

7 THE COURT: Yes.

8 RECROSS-EXAMINATION

9 BY MR. HERRON:

10 Q Was there anything out of place, seem out of the
11 ordinary, give you any cause for concern that Friday that
12 y'all showed up at Randy's house, anything that y'all saw
13 outside that gave you cause for concern made you worry in
14 any way shape or form?

15 A No.

16 MR. HERRON: Thank you.

17 THE COURT: All right, ma'am, you may step down.
18 Thank you.

19 MR. OZMENT: We ask that Ms. Hill be released
20 from her subpoena, Your Honor.

21 MR. HERRON: No objection, Your Honor.

22 THE COURT: Without objection, ma'am, you are
23 excused and may leave. You have no further
24 responsibilities under your subpoena.

25 (WHEREUPON, the witness leaves the witness

1 stand.)

2 MR. OZMENT: Your Honor, the State would call Ed
3 Jeffcoat to the stand.

4 THE COURT: Mr. Ozment, while he's coming, can
5 you and Mr. Herron come here for a minute please.

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)

9 THE CLERK: Sir, stop right there, place your
10 left hand on the Bible and raise your right hand. Do you
11 swear to tell the truth, the whole truth, and nothing but
12 the truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seated in the witness
15 chair and state your full name for the record.

16 THE WITNESS: Edward Bruce Jeffcoat.

17 WHEREUPON,

18 Edward B. Jeffcoat,
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. OZMENT:

22 Q How are you today, Mr. Jeffcoat?

23 A All right.

24 Q Good. Tell me what you do for a living?

25 A I'm a mechanic at Rock Ten in Florence.

1 Q All right. What do Rock Ten use to be called?

2 A Smurfit-Stone.

3 Q How long you work at Smurfit-Stone Container or Rock
4 Ten?

5 A May will be 30 years.

6 Q All right. Are you from this area?

7 A Yeah, I live in Morris Cross Road.

8 Q Okay. Do you know Randy Bratschi?

9 A Yea, I knew him.

10 Q Okay. How long did you know Randy?

11 A I guess, we kind of hung together for about five, six
12 year something like that.

13 Q When you say hung together, what kind of stuff did
14 y'all do together?

15 A I mean, we work together on the same crew at the
16 mill. And we cook together and we go out to bars places
17 like that, go fishing.

18 Q I got you. And I realize it's not exact, but about
19 how many times a week would you all hang out outside of
20 work?

21 A Two or three times, that's according to what was
22 going on.

23 Q Right. I got you. Do you know Brenda Bratschi?

24 A Yeah, I met her through Randy.

25 Q Okay. Are you aware of an incident where Brenda

1 assaulted Randy?

2 A Yeah.

3 Q Tell me do you know if Randy missed any work from
4 that?

5 A Yeah, he was out of work for a good while.

6 Q Okay. Did he ever come by and see you during that
7 time he was out of work?

8 A Right before he came back -- well, he get short time,
9 he fixing to go back to work. I was in my backyard, it
10 was right about dark and he come by and he just kind of
11 wanted to know, what was being said at work, you know,
12 about, you know, Brenda beating him. And really the guy
13 -- you know how people gossip stuff like that wasn't much
14 of that going on. They ask me how Randy doing or whatever
15 and when he's coming back. And I said I don't know you
16 need to talk to Squirrel?

17 Q I got you. Did Squirrel work the same shift as you
18 and Randy?

19 A Me and Squirrel work the same shift, but Randy he
20 work swing shift.

21 Q Okay.

22 A I told Randy that day when he come by, you know, that
23 when I was sitting up cutting up deer meat up under the
24 shed that, you know, the guys really wasn't talking about
25 it, but he was just concern about it when he come back to

1 work.

2 Q Okay. What was Randy's reaction hearing that?

3 A Well, you know, he kind of felt better in a way.

4 Q Okay. The week of Thanksgiving which was a few weeks
5 after that, when was the last time you saw Randy that
6 week?

7 A Let's see last time I seen him I want to say
8 Thanksgiving morning or Friday morning.

9 Q Okay. And how -- explain to me why were you seeing
10 him that morning?

11 A See he had some life jackets of mine that I left in
12 his boat when we went fishing a little while back. I was
13 looking for them everywhere. And I say, oh, I left the
14 life jackets in Randy's boat. So I got Randy and told him
15 I needed the life jackets because I was going to the
16 Little Pee Dee River and camp out that weekend. And he
17 said he told me Frankie, her son, was at Santee and he
18 should be back Thursday evening, Friday morning something.
19 I said okay and when I seen him that morning, I want to
20 say it was Friday morning. And he said that Frankie was
21 suppose to be back and he bring the life jackets to me.
22 And when I got off work, I didn't see the life jackets. I
23 say, well, I have to go buy some. And Tim Meadows come by
24 and he said, Ed, if you need some life jackets, I got two
25 of them. He heard me talking about it.to, So he loan me

1 his life jackets. I went on about my business.

2 Q Did you go camping that weekend?

3 A Yeah. I never heard Randy disappeared until I came
4 back to work that Monday morning. I come back that Sunday
5 and when I went to work that Monday morning, my and Randy
6 boss man came to me say, Ed, have you seen Randy? I said
7 no. He said well he's missing. I said what you mean he's
8 missing. They said he's missing. I said I don't know. I
9 said how long he's been missing. Since Friday. And I
10 said let me go talk to Squirrel. And that's when I went
11 to talk to Russell Murrell.

12 Q Now, do you know Susan Hill, Sue Hill?

13 A Yeah.

14 Q How long have you known Sue?

15 A I don't know. We dated for a couple years. It
16 didn't work out. I knew her probably about three or four
17 years prior before that.

18 Q When you say that y'all dated a couple years, kind of
19 give me a time frame when was that y'all kind of dated?

20 A Oh, Lord, okay, I say it was probably 10 or 12 years
21 ago.

22 Q Was it before Randy went missing?

23 A Yeah.

24 Q Was it a substantial amount of time before?

25 A Well, I say probably two to three years before Randy.

1 Q Between the time that Randy was assaulted and the
2 time that Randy went missing, did Brenda Bratschi ever
3 contact you?

4 A Yes, she call me one day and, you know, see this was
5 before Randy got missing. Sue and Randy started seeing
6 each other. And why I don't know because when me and her
7 seeing each other she hated Randy. Didn't like Brenda
8 neither, you know. I don't think Brenda liked her. But
9 Sue and Randy started messing around with each other and
10 then, you know, I guess she was following Randy and Sue,
11 you know, stalking whatever. And she call me up -- well,
12 Sue call me up like that Saturday.

13 Q When you say Saturday, what Saturday?

14 A This was the Saturday before he got missing. She
15 called me up that Saturday. She said Ed ---

16 MR. HERRON: I object to the hearsay, Your
17 Honor. Sue Hill was just here to testify, she could have
18 testified to what she said, be hearsay for him to say what
19 Sue Hill told him, hearsay, Your Honor.

20 MR. OZMENT: Your Honor, I can rephrase the
21 question.

22 THE COURT: All right.

23 BY MR. OZMENT:

24 Q After your conversation with Ms. Hill, what did you
25 do?

1 A Well, you know, I told Sue -- you know, she told me
2 what was going on about Brenda. And I told her I said,
3 well, you need to stay out of it. You know, mind your own
4 business. Well, she ain't never listen to me before, so
5 why would she listen to me then.

6 Q All right. And after that, did Brenda ever contact
7 you?

8 A Yeah, it was at -- let's see I went to work that
9 Monday morning.

10 Q And which Monday?

11 A Before he got missing.

12 Q Okay.

13 A Before he got missing. When I got off work, I seen I
14 had a message on my answering machine and it was Brenda.
15 And I said, oh, my God what she doing calling me, you
16 know. So I got kind of pissed about that because, you
17 know, I didn't want to get involved in it. Let them work
18 it out Randy and Brenda. So I got up there and I wanted
19 to get in touch with Sue. I gave y'all the message.

20 Q But what did the message say?

21 A It was something like Ed you want ever believe what
22 Randy and Sue whatever. I guess, she was trying to make
23 me jealous, like I was going to get jealous of Randy and
24 Sue together. Well, I didn't care.

25 Q So were you jealous of Randy and Sue?

1 A No, no. I got in contact with Sue. I call her work.
2 She was working at Honda then and come to find out she
3 didn't go to work that day. And then I find her at
4 Russell Merrill's. I went -- and come to find out her and
5 Randy went to -- right on National Cemetery Road black
6 joint there Shingles Lounge. They went out there that
7 night and I guess so nobody would know who they were and
8 that's the reason she didn't go to work that day.

9 MR. OZMENT: No further questions at this time,
10 Your Honor.

11 THE COURT: Mr. Herron.

12 MR. HERRON: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. HERRON:

15 Q Hey, Mr. Jeffcoat, how you doing?

16 A All right.

17 Q Mr. Jeffcoat, you said something I agree with you you
18 said you know how people gossip. People gossip; don't
19 they?

20 A Yeah.

21 Q A lot of gossip going on around this case?

22 A I guess so.

23 Q How many guns did Randy have?

24 A I don't know exactly how many he had.

25 Q Was it more than five?

1 A I'm ain't sure.

2 Q Did he have a .9 millimeter that he sometime wore on
3 his belt?

4 A I don't know.

5 Q Okay. That message isn't it true that message said,
6 hey, Ed, this is Brenda. You will never guess who Randy
7 is seeing?

8 A Something similar to that, yeah.

9 Q Did I do her accent right?

10 A I mean, it sound something similar to that.

11 Q She's a country girl isn't that right?

12 A Something similar to it.

13 Q Ain't nothing wrong with that. Did Brenda ever say
14 anything to you about hiring a divorce lawyer?

15 THE COURT: I need a verbal response please.

16 A No, sir.

17 Q Do you know if Brenda hired a divorce lawyer?

18 A I never heard about a divorce or anything until, you
19 know, until when she beat him. I don't know. I never
20 heard of a divorce lawyer at any time.

21 Q Okay. After the fight, do you know if Randy or
22 Brenda had talk to a divorce lawyer?

23 A I didn't talk to him about it, no.

24 Q Okay. Did Randy have a drinking problem?

25 A I guess we all do I recon. Some people say all of us

1 do.

2 Q Okay. Let me ask you a different way. Did Randy get
3 out of bed first thing he grab was a beer out of the
4 refrigerator?

5 A I seen him do that.

6 Q Okay. He drink three or four on the way to work?

7 A I've seen him drink a couple of them on the way to
8 work.

9 Q He drink three or four on the way back from work?

10 A I probably did. I don't see him every day.

11 Q When y'all hung out, did he drink pretty much
12 nonstop?

13 A He drank.

14 Q He drank a lot, okay.

15 MR. HERRON: Can I have a moment, Your Honor.

16 THE COURT: Yes, sir.

17 (WHEREUPON, a pause in the proceedings.)

18 BY MR. HERRON:

19 Q Mr. Jeffcoat, how long you known Brenda?

20 A Brenda I never met -- the only time I known Brenda is
21 through Randy. You know, I mean -- I only seeing each
22 other.

23 Q Did you ever see Brenda yell and cuss?

24 A I never seem them fight. I never seen them two
25 fight. That's what surprise me cause I never seen them

1 fight. I always heard, you know, like I said you always
2 hear things about somebody's character or whatever. And,
3 you know, I mean, I hear things about Brenda. I said no,
4 I ain't never seen that side.

5 Q Okay. So you never heard Brenda yell at Randy and
6 you never see Brenda get physical?

7 A Never seen them fight.

8 MR. HERRON: Thank you, Mr. Jeffcoat. Thank you
9 for being here.

10 THE COURT: Mr. Ozment, anything further?

11 MR. OZMENT: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q Mr. Jeffcoat, Mr. Herron asked you about Randy
15 drinking. Did Randy function at work? Did he do his job?

16 A Yeah, he was good at it.

17 Q Briefly, what was kind of his job at Smurfit-Stone?

18 A He's an electrician. I mean, he have to do other
19 task like, you know, like this multi-craft mill here, you
20 know. He electrician, he have to do all of it mechanical,
21 electrical, and might be some welding involved, you know,
22 ain't no telling.

23 Q So did he fix stuff?

24 A Oh, yeah.

25 Q Was he ever -- did you ever see him so drunk that he

1 couldn't work?

2 A No, no.

3 Q Did he generally come to work when he was suppose to?

4 A Well, I mean, he work seven days a week if he could
5 now, you know.

6 MR. OZMENT: No further questions, Your Honor.

7 RECROSS-EXAMINATION

8 BY MR. HERRON:

9 Q Mr. Jeffcoat, when Randy drank when you hung out with
10 him a lot, did you ever see a change in his attitude? Did
11 he get mean?

12 A No.

13 Q Start fussing?

14 A No.

15 Q Any change whatsoever?

16 A Just laugh cut up and have fun, no.

17 MR. HERRON: Thank you, Mr. Jeffcoat.

18 THE COURT: Thank you, sir, you may step down.

19 MR. OZMENT: Can Mr. Jeffcoat be excused from
20 his subpoena, Your Honor?

21 MR. HERRON: No objection, Your Honor.

22 THE COURT: All right, sir, you excused, have no
23 further obligations with regards to your subpoena. Thank
24 you for being here.

25 (WHEREUPON, the witness leaves the witness

1 stand.)

2 THE COURT: Ladies and gentlemen, it is
3 approximately you go by my watch 20 till five. By that
4 clock behind you all, it's about a quarter till, about 17,
5 18 till. What we're going to do right now is we're going
6 to break for the balance of today, been told that the next
7 witness may be lengthy. And I don't want to keep you here
8 too late tonight. I will tell you may be tomorrow if you
9 need to make arrangements. I don't like to go beyond
10 five, but sometimes we have to if we're in the middle of
11 a witness' testimony. I'm not going to stop a witness'
12 testimony right at five o'clock on the dot to leave here,
13 but I just want to advise you that over the next day or so
14 as we continue this trial, it may be that we go beyond
15 five o'clock if necessary. So just want to go ahead and
16 put you on notice of that in case you need to make
17 arrangements and let people know that you may be here past
18 five o'clock. So none of your family gets worried about
19 you calling trying to figure out where you are, okay.
20 What we're going to do right now is we're going to stop
21 for the balance of today.

22 During this overnight recess as I've told you
23 before, that you are not to discuss this case. You are
24 not to discuss this case with anyone including your fellow
25 jurors, friends, family members or people involved in this

1 trial or anyone else. If anyone tries to talk to you
2 about this case during your overnight break, you are to
3 let me know immediately. Do not read, watch, listen to
4 any news reports or discussions about this trial.

5 Remember, ladies and gentlemen, you have been
6 selected as fair and impartial jurors in this case. You
7 are to decide this case based solely upon the evidence and
8 testimony presented during the course of this trial and
9 you are not to discuss it at all or do any independent
10 investigation on your own. You are to decide this case
11 and discuss it only after I've instructed you to do so.
12 So at this time I'm going to excuse you for the balance of
13 the day. Hope you all have a good evening, look forward
14 to having you back here in the morning. Please be back
15 here at nine o'clock in the morning, nine o'clock in the
16 morning. We'll start as promptly as possible at that
17 time. Thank you. Everybody else remain seated.

18 (WHEREUPON, the jury was excuse for the day.)

19 THE COURT: Anything from the State at this time
20 before we break?

21 MR. OZMENT: Nothing at the time, Your Honor.

22 THE COURT: Mr. Herron, anything?

23 MR. HERRON: Nothing, Your Honor, other than
24 just for the Court's -- it is my intent after Mr. Ozment
25 finish his case the defense will be putting on a case

1 basically witnesses I have listed tell, Your Honor, just a
2 matter of scheduling. There are two statements that I do
3 plan to introduce. The statements that were given to
4 Investigator Streett by Brenda Bratschi. I think, it's on
5 two different occasions. I think one of them is actually
6 a video, but I do plan on playing those, so that may take
7 sometime. But other than that the other witnesses
8 probably want take too long, so depending on how things go
9 tomorrow, it may get to the jury.

10 THE COURT: It's not going to go to the jury
11 tomorrow. I mean, he's told me -- Mr. Ozment told me up
12 here at side bar he's got ten more witnesses.

13 MR. HERRON: Okay.

14 THE COURT: I know the first six we did this
15 morning went fairly quick, but my policy is I don't like
16 to give a jury a case after three or four o'clock in the
17 afternoon.

18 MR. HERRON: Thank you, Your Honor.

19 THE COURT: If we finish testimony tomorrow, my
20 position will be that you all would argue and I give them
21 the charge Thursday morning. We'll see where we get at
22 the conclusion of tomorrow and kind of go from there. If
23 we do finish the testimony tomorrow, what I would like to
24 do possibly Thursday this is just giving you all a little
25 heads up. First of all, if you got any request to charge,

1 you need to have it to my law clerk first thing in morning
2 before we start. If we finish testimony tomorrow, what I
3 would do is meet with you all, the lawyers involved in
4 this case, nine o'clock Thursday morning have a charging
5 conference in my chambers to go over the charge, start
6 arguments and finish with the charge beginning at ten
7 o'clock on Thursday morning. But we'll see kind of how
8 things shake out tomorrow afternoon where we end up with
9 the testimony.

10 MR. HERRON: Your Honor, will we have the
11 charging conference before we start our closing arguments?

12 THE COURT: That's the purpose of it, yes, sir.

13 MR. HERRON: Thank you, just making sure.

14 MR. OZMENT: You want the request to charge by
15 tomorrow morning?

16 THE COURT: By tomorrow morning.

17 MR. OZMENT: I understand. All right.

18 THE COURT: Anything else?

19 MR. HERRON: Your Honor, I don't think there's
20 been -- since, you ask for request to charge been any
21 allegations of self defense so as far as the murder goes.

22 THE COURT: Well, I mean, it hadn't been at this
23 point. I don't what your defense -- what you intend to
24 put up in your defense.

25 MR. HERRON: I just go ahead let Mr. Ozment know

1 let the Court know that's not part of -- I've spoken to
2 all the witnesses and I'm 99.9 percent sure that's not
3 gone be made an issue through them, so I don't think
4 potentially made an issue.

5 THE COURT: Anything else, Mr. Ozment?

6 MR. OZMENT: Nothing further, Your Honor.

7 THE COURT: Anything further, Mr. Herron?

8 MR. HERRON: No, Your Honor.

9 THE COURT: We will stand at ease until nine
10 o'clock in the morning. Thank you.

11 (WHEREUPON, the proceedings were concluded for
12 the day to be reconvened on April 18, 2012.)

13 THE COURT: All right. Is the State ready to
14 proceed?

15 MR. OZMENT: Yes, Your Honor.

16 THE COURT: Defense counsel ready to proceed?

17 MR. HERRON: Yes, Your Honor, you are.

18 THE COURT: Bring us the jury please, ma'am.

19 (WHEREUPON, the jury came into open court.)

20 THE COURT: Mr. Foreman, ladies and gentlemen of
21 the jury, I hope you all had a nice evening last night and
22 are ready to proceed here today.

23 Mr. Ozment, call your next witness please.

24 MR. OZMENT: Thank you, Your Honor. The State
25 calls Russell Merrill to the stand.

1 MR. HERRON: Your Honor, may we approach while
2 we waiting?

3 THE COURT: Yes, sir.

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury, but out of the hearing of the
6 jury.)

7 THE COURT: Ladies and gentlemen of the jury, I
8 apologize. I'm going to have to ask you to step back to
9 the jury room for just a minute while we take up a matter
10 outside your presence. Do not discuss the case. I will
11 get you back out here as quickly as possible.

12 (WHEREUPON, the jury retire to the jury room.)

13 THE COURT: All right. Yes, sir.

14 MR. HERRON: Your Honor, I apologize to the
15 Court. I should have brought this up to the Court when I
16 was getting all my notes ready. In Kathleen Streett's
17 investigative notes, Russell Merrill informs her I tell
18 you what -- in her notes, he said Merrill said that Randy
19 had been sick a lot in the past year suffering from bouts
20 of unexplained diarrhea. And they thought it was funny
21 with quotation marks, that it was usually when he would
22 eat something that Brenda would cook for him and never
23 when he cooked himself or ate elsewhere. Your Honor, it's
24 -- and he also by the way he also said that Randy
25 indicates that he thought he had prostate cancer, so you

1 can't unring a bell. And I don't want Mr. Merrill getting
2 up there and just blanketed statement while I think Brenda
3 been trying to kill him all along because she tried to
4 poison him because he had diarrhea. Well, the man thought
5 he had prostate cancer that explains that and you can't
6 unring a bell. And I would ask respectfully request that
7 the Court instruct Mr. Merrill that he is not to make
8 statements that first of all saying not relevant to this,
9 been no accusation of Brenda poisoning him at any point in
10 time. And I would just respectfully ask Your Honor to
11 instruct Mr. Merrill that he's not to make those kind of
12 statements.

13 THE COURT: Mr. Ozment.

14 MR. OZMENT: We have no intention of making that
15 part of our case, want be any question pointed at anything
16 within that area.

17 MR. HERRON: Your Honor, I'm not saying they're
18 going to go there. I'm worried about Mr. Merrill on his
19 own accord just blurting it out and you can't unring that
20 bell.

21 THE COURT: All right, Mr. Merrill. You are
22 Mr. Russell Merrill?

23 MR. MERRILL: Yes, sir.

24 THE COURT: You been in here while defense
25 counsel has just raised this issue; is that correct?

1 MR. MERRILL: Yes, sir.

2 THE COURT: You hear what he said?

3 MR. MERRILL: Yes, sir.

4 THE COURT: You understand what he's asking that
5 you not be allowed to talk about anything with regards to
6 speculation that Ms. Bratschi may have been trying to
7 poison Mr. Bratschi. You understand that?

8 MR. MERRILL: Yes, sir.

9 THE COURT: You understand you're not allowed to
10 testify with regards to any of that?

11 MR. MERRILL: Yes, sir.

12 THE COURT: You understand that?

13 MR. MERRILL: Yes, sir.

14 THE COURT: You understand that if you disregard
15 this Court's order on that, you could be held in contempt,
16 do you understand that?

17 MR. MERRILL: Yes.

18 MR. HERRON: Thank you, Your Honor.

19 THE COURT: Anything else from the State or
20 defense counsel before we bring the jury back out?

21 MR. HERRON: No, Your Honor.

22 MR. OZMENT: Nothing from the State.

23 THE COURT: Go ahead and bring us the jury
24 please, ma'am.

25

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: All right, Mr. Ozment, call your
3 next witness please.

4 MR. OZMENT: Your Honor, the State call would
5 call Russell Merrill to the stand.

6 THE CLERK: If you will, sir, place your left
7 hand on the Bible and raise your right hand. Do you swear
8 to tell the truth, the whole truth, and nothing but the
9 truth so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Please be seated right there in the
12 witness chair and state your name for the record?

13 THE WITNESS: Russell Walter Merrill.

14 WHEREUPON,

15 Russell Merrill,

16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. OZMENT:

19 Q How are you today, Mr. Merrill?

20 A I'm doing great.

21 Q Good. Now, do you also have some nicknames?

22 A Yeah, yes, sir.

23 Q What your wife call you?

24 A Well, we don't want to go there. Really, I've had
25 two Mushy and Squirrel, that's my nickname that's what I

1 go by now.

2 Q Okay. All right. Did you know Randy Bratschi?

3 A Yes, sir.

4 Q How long did you know Randy?

5 A About 15 years.

6 Q Okay. How did you know Randy?

7 A At work.

8 Q Okay. Where did y'all work?

9 A Smurfit-Stone Container. It was Smurfit Container,
10 then it went with something else. Then we ended being
11 Smurfit-Stone Container. Now, we're Rock Ten.

12 Q How long have you worked there total?

13 A Thirty-nine years.

14 Q Okay. What do you -- you can be brief with me. But
15 what do you do at Smurfit-Stone Container?

16 A I'm a general mechanic. We fix anything and
17 everything.

18 Q All right. What did Randy do?

19 A He was a general mechanic, but he was more on
20 technical aspect. He and I probably one best been out
21 there at the paper mill.

22 Q Okay. Do you know Brenda Bratschi?

23 A Yes, sir.

24 Q How do you know Brenda?

25 A I knew Brenda through Randy.

1 Q When you first became friends with Randy, was he
2 married to Brenda at that time?

3 A No.

4 Q Okay. When you say you and Randy were friends, what
5 kind of stuff did y'all do together?

6 A Just about everything, cook, you know, we had talks.
7 We built things together. I mean, we just real good
8 friends. We got into fishing -- got him into fishing.
9 Brenda and him got into the fishing aspect of what we did
10 at the river. Everything working out great.

11 Q Good. Working at Smurfit Container are any
12 requirements as far as -- now, Rock Ten, but at the time
13 Smurfit-Stone were there any requirements by what you
14 wear?

15 A They don't have a really bad dress code. You know,
16 you have to have your safety PP items. Ear plugs for
17 hearing. You have to have your steel toes. Safety
18 glasses. You know, your harnesses if you're above four
19 feet and, you know, just safety items.

20 Q Right. So what did Randy usually wear to work?

21 A He wore about the same thing that everybody else
22 does. He wear a pair of your boots, heavy duty pants,
23 have you a belt. He was mostly in -- he didn't have to
24 push around a tool box, that little pouch and a little
25 tool and everything, hard hat, safety glasses and that's

1 basically it. You know, in the cold weather, you dress up
2 with your little jacket. He had a red and black type
3 jacket that he wore like old timey and he had a hat to
4 match it.

5 Q Okay. Would he ever wear like what I would call a
6 work shirt kind of a over shirt?

7 A Well, everybody did. You know, you have to do it in
8 layers. You know you be in one place, one minute it be
9 hot. Next minute, it be 40 below zero. You have to just
10 take things on and off as you needed to.

11 Q Okay. Are steel toe boots real comfortable to wear?

12 A No.

13 Q Okay. Do you know if Randy wore his steel toes just,
14 you know, on the weekends or around?

15 A He wore them a lot of places. Mostly when he was
16 off, he would wear the L.L. Bean type shoes.

17 Q Like a duck boat?

18 A Yeah, they had rubber on the bottom and leather
19 things, you know, the ones that people wore when they duck
20 hunt. He work them a lot.

21 Q Okay. Did you ever know Randy to wear flip flops?

22 A Oh, yes, that mostly hot weather July, August
23 something like that.

24 Q Now, are you familiar with an assault between Brenda
25 and Randy that happen in October of 2004?

1 A Yes, sir.

2 Q How did you become aware of that incident?

3 A I got a phone call and I went down to the hospital.

4 Q Who called you?

5 A Well, I think it was Mrs. Streett and then Randy he
6 wasn't able to do so. And I went down there to the
7 hospital in Lake City, their little small hospital. You
8 know, not one in Florence, the little small one.

9 Q Right.

10 A And he was in intensive care then.

11 Q Okay. While he was in the hospital and out of work,
12 did you do anything for him?

13 A Yes, sir.

14 Q What were you doing for him?

15 A He first thing wanted me to do is -- we talked and he
16 wanted me to take and make sure you get -- he lived out in
17 the country. The other times when he had the issue with
18 his pancreas problem and he was down -- he was probably in
19 every room at Carolinas Hospital Systems. He ended up
20 down to MUSC and he had people breaking in his place a
21 time or two. And I take care of the stuff. Kathy would
22 pay the bills. And Norman Wise's wife, Cecil, she's the
23 mail lady, she get mail. And we take care all of that for
24 him and pay the bills for him and stuff and make sure
25 everything was caught up and keep things going. And then

1 with this issue here, he -- the only thing he wanted to do
2 is get the truck over to my house and make sure they knew
3 at work, you know, what the issue was. He didn't say
4 nothing about being beat up because he was kind of
5 embarrassed, you know. If anybody said anything, tell
6 them he been like in a car wreck. He was embarrassed.

7 Q I understand. Did you talk to Randy soon after he
8 got out of the hospital?

9 A Did I talk with him soon after he got -- oh, yeah, we
10 kept in touch.

11 Q Do you know if when he got out was he scared of
12 Brenda at all?

13 A Yes, sir.

14 Q Do you know if he was kind of being paranoid -- when
15 I say paranoid I don't mean without good reason, but I'm
16 saying kind of ---

17 MR. HERRON: Your Honor, that calls for
18 speculation. The witness would have no way of knowing
19 that.

20 THE COURT: Rephrase your question, Mr. Ozment.

21 BY MR. OZMENT:

22 Q Do you know that when he got out of the hospital was
23 he attentive and kind of acting wary, looking out for
24 Brenda kind of?

25 MR. HERRON: Your Honor, same objection calls

1 for speculation.

2 THE COURT: I'll allow him to answer the
3 question. Objection so noted, overruled.

4 BY MR. OZMENT:

5 Q Mr. Merrill, you can answer the question?

6 A Yes.

7 Q Okay. Before the assault, had you and Randy ever had
8 conversations about Brenda?

9 A In what -- concerning what?

10 Q I guess what I'm asking did you ever give Randy your
11 opinion on Brenda?

12 A I never bothered him, that's one thing. We got along
13 while we got along. If he didn't want to talk about
14 something, we didn't talk about it. If he ask me and he
15 wanted my honest opinion about something, I give it to him
16 straight up. But, you know, he never -- but he never but
17 one time, you know, but that was later on.

18 Q Okay. What was that ---

19 A But as far as volunteering, no.

20 Q What was that one time?

21 MR. HERRON: I object to the hearsay, violates
22 my client's Sixth Amendment Right. We have no way of
23 cross-examining Mr. Bratschi.

24 THE COURT: Can the lawyers approach please?

25

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

4 THE COURT: Rephrase your question, Mr. Ozment,
5 make it more clear.

6 BY MR. OZMENT:

7 Q All right, Mr. Merrill, to be clear that one time
8 that you and Randy had a conversation about Brenda what
9 did you tell him then?

10 A Randy asked me what I thought.

11 MR. HERRON: Your Honor, objection about ---

12 THE COURT: Answer Mr. Ozment's question, Mr.
13 Merrill.

14 BY MR. OZMENT:

15 Q Just tell me what you told Randy?

16 A I told him that I didn't like her. I thought she was
17 sticky. And that she was after -- she was a gold digger
18 wasn't looking for nothing but a paycheck and all he cared
19 about was working. He never really -- I mean, just like
20 me mostly money is the tool. A lot of people after it to
21 horde it, but it's just a tool like it was with him. And
22 that's basically what it was. And I told him I didn't
23 like her. I thought she was after a dollar. She's after
24 a paycheck, an easy ride and easy way to go.

25 Q When did you have that conversation?

1 A This was about I say this is after the beating?

2 Q Okay.

3 A It was another time we had an issue, had a tree cut
4 down. Is it okay?

5 Q Just don't tell me anything that Randy said. You can
6 tell me you had a conversation and you can tell me what
7 you said.

8 A All right. He borrowed a chain saw and he used it.
9 Well, the chain saw had this thing where it gets away from
10 you it will cut off, you know, kick back or something.
11 Well, I was having problems, it wasn't working properly.
12 I'm not crazy about people using motors things like
13 cameras, motors or whatever, but he used it. And I was
14 scared that it would get away from him and he ask me, you
15 know, could he use it. I said, well, I'm not really sure
16 about that. But any way if I was you, you know, I think,
17 you know, let me see if I can find you another one. Then
18 he took that as a slur, slap in the face and he got kind
19 of mad. We didn't talk for a certain period of time at
20 work. You know, but we made up after a while.

21 Q How many -- you said it was a long time before how
22 long before?

23 A I don't probably -- it was months, you know, prior to
24 that issue or prior to the beating.

25 Q Okay. Have y'all made up by time the beating

1 happened?

2 A Yeah.

3 Q Between when the beating and then when Randy went
4 missing, did you and Randy hang out during that period
5 some?

6 A Yeah.

7 Q How often roughly?

8 A About every week.

9 Q What sorts of things were y'all doing then?

10 A Just sitting around cooking, you know, just we go
11 down the hunting club and shoot a little bit. We got a
12 little target area, no big deal.

13 Q All right.. Did Brenda ever hang out with y'all
14 during that period?

15 A Yeah, most of the time when they come over together
16 they were -- is this after the beating?

17 Q Yes, sir, sorry, and I was talking about after the
18 beating was Brenda hanging out?

19 A No, no. No, none whatsoever.

20 Q Did you see her at all after?

21 A She come over.

22 Q When was that?

23 A That was shortly after -- as far as I say maybe two
24 weeks, three weeks something like that. I think he been
25 back to work. She come over parked in the road, come in

1 the shop. And we had a jeep, we had a white jeep. She
2 was laying up against the jeep. She brought a bottle of
3 liquor in there. And she was talking about -- I think
4 Sue, Kathy and I was in there. And I didn't want to get
5 involved in none of it. You know, what two people that's
6 their business. She was asking questions and stuff. I
7 was getting a little uncomfortable. I put up with it
8 anyway. And she said I get really mean when I drink
9 vodka. Well, she drank the whole -- I mean, she just
10 sitting there leaning up against the jeep. She had on
11 blue jeans on everything was cool, but she drank -- I
12 mean, she kill the thing of vodka. And then we had to
13 talk. I don't think she got what she needed as far as
14 answers from the women and everybody and she left.

15 Q What sort of questions was she questioning?

16 A Sue this and sue that whatever, you know, that she
17 didn't see anything why figure out, you know, this and
18 that. Basically, I was trying to stay out of it. And I
19 go in and out of the shop.

20 Q I understand. Now, the week of Thanksgiving of that
21 year 2004, were you planning on going to a turkey shoot
22 that Friday night?

23 A Yeah.

24 Q Tell me who all was kind of planning on going to that
25 turkey shoot?

1 A A friend Steve Evans. He works at the paper mill in
2 the lab. We been friends 30 whatever. Me, young lady
3 Stacy -- not Stacy. Sue, Kathy, Sue's mother and father
4 was down from the beach. They went in another vehicle and
5 we were going to turkey shoot. You know, go down there.
6 People think about turkey shoot, you know, be like a red
7 neck time, but it's a lot of fun. Plus, you raise money
8 for the Shriners, you know, are real big in it and you
9 help out.

10 Q Right. Was Randy planning on going to the turkey
11 shoot with you?

12 A Yeap.

13 Q What was the kind of plan with Randy that night?

14 A We was gone stop by and pick him up and take off and
15 go down to the place and shoot the targets.

16 Q Tell me about -- what happened when you went over to
17 Randy's house.

18 A Went over to the house. We were the first in Steve
19 and I. And Kathy pulled in and got out the Jeep. They're
20 kind of aggravating to get out of when you go to step up.
21 We got a little -- It was a CJ 7, I believe. And went to
22 the back door, knocked on the door lights were on, nothing
23 happen. We had a little deal there had a string like a
24 goldberg type contraption and that pot. Then another pot,
25 then another pot and this thing here go vroom, flip up, you

1 know, make a racket if somebody was opening the back door
2 or jimmying the back door. And it wake the dead, you
3 know, when it got through rattling and all. But it wasn't
4 on the -- he had it right there on his dryer. And then he
5 had the piece of butcher's twine, which is, you know, what
6 they wrap meat when you cook them, that's what he used
7 tied to the knob.

8 Q So explain to me, I think, I got you, but what was
9 that for like what did it do exactly?

10 A What's that?

11 Q The pot contraption?

12 A When you open the back door, it's like me tying a
13 string to you. And then when you open the door, it pull
14 it, you know, like people would pull teeth, you know, back
15 in the old days they slam the door pull the child's tooth
16 with the string same thing. It triggered the pots and
17 then fall down and make a noise.

18 Q All right. I understand. Did Randy have a dog?

19 A Yeah.

20 Q Tell me about Randy's dog?

21 A What now?

22 Q Tell me about Randy's dog?

23 A Name was Bud. He was a very intelligent dog. When I
24 went at the diamond right there where he could look
25 through the door, I was looking at the door and Bud come

1 there and look up at me and then go back this way. Then
2 come back and then he look up at me. The pot thing was
3 out of place. Well, not really because he was expecting
4 us, but there was a pile of dog, you know, right in front
5 of the refrigerator. And he was a real clean person and I
6 thought that was out of place, you know. And he go back
7 that way and he come back about two or three times.

8 Q Had you ever -- and you said it was out of place,
9 but, I mean, did Randy normally keep, I guess, dog mess
10 and that kind of stuff cleaned up out of the house?

11 A Well, I mean, you know, right there -- you know, dogs
12 will sneak around every now and then if you got them in
13 the house, you know. But that was out of place I thought.
14 And then the pot thing wasn't trigger.

15 Q I understand. Did -- so did Randy come to the door?

16 A No.

17 Q Did you ever see Randy again?

18 A No.

19 Q That night when you were standing there and you saw
20 the dog mess and the pot alarm and all that, where did
21 think Randy was?

22 A I thought he might have been in there, might have
23 been asleep. You know, he might have took off with
24 somebody else to the turkey shoot. Then I decided to went
25 back and told Steve what was going on mention something to

1 the women and then I went back and knocked on the door
2 again and the same scenario, so I left.

3 Q Okay. Did you go to the turkey shoot?

4 A Yes.

5 Q How was the turkey shoot?

6 A It was great. We had a big time.

7 Q What about -- now, that was Friday. What about on
8 Saturday the next day, were you expecting to see Randy
9 that day?

10 A Yeah, we had oysters and we were going to -- went
11 over to Timmons ville went to Saulders. He was close down.
12 I bought two sacks, had them in there chillin. And we
13 were gone do oysters and he never missed oysters. He
14 never missed one of them.

15 Q Did he ever come Saturday?

16 A No.

17 Q At what point over the weekend did you start to
18 wonder where Randy was?

19 A That Friday night driving home.

20 Q Okay. Did you eventually contact anybody kind of
21 looking for Randy?

22 A Well, not Friday because we all got in late. Sue's
23 father he wanted to shoot some pool and we went and shot
24 pool. First time he's done it since he been in the
25 service. We had a good time. Then went home and went to

1 bed. Saturday we got up and called and nobody answered
2 nothing, you know. Then later Sue called. There was no
3 answer no way. And then I think Brenda called. Frankie
4 called.

5 Q Called who?

6 A Our house, you know, wanting to know had we seen
7 Randy and then I told them no. It was either me talking
8 to one of them. Kathy might have talked to Brenda about
9 that. They were trying to get and find out where he was
10 at. And then Sunday that's when everything really didn't
11 seem right. It just never been like that in 15 years.

12 Q So did you ever contact Investigator Streett?

13 A Yes, sir.

14 Q When did you contact her?

15 A That was on Sunday believe. I told her I felt
16 something wasn't right.

17 Q Okay. Did you go to work on Monday?

18 A Yeah.

19 Q Did you -- do you know how people at work find out
20 Randy was missing?

21 A It wasn't right then. I think they found a vehicle
22 on Tuesday.

23 Q Hold on. What I'm asking you is how did
24 Smurfit-Stone find out Randy was missing if you know?

25 A Well, after three days, when -- if don't call in, you

1 know, you're automatically terminated. You know other
2 than being sick or something and then you're automatically
3 then terminated.

4 Q Was it like Randy just to, you know, not going to
5 work for three days?

6 A No.

7 Q Had you ever known Randy to plan to do things
8 socially like turkey shoot and then not show up?

9 A No.

10 Q Mr. Merrill, I meant to ask you this a minute ago and
11 I was asking you about the pot alarm. The pots on a
12 string, did they -- why did Randy have those in the house,
13 if you know?

14 A Well, I'm not suppose to say nothing.

15 Q Don't tell me anything Randy told you. But I'm just
16 asking if you know why?

17 A He was scared.

18 Q What was he scared of?

19 A Brenda.

20 Q Did he start using those after the assault? You got
21 to tell me yes or no out loud cause she has to write it
22 down.

23 A Yes, sir.

24 Q All right.

25 MR. OZMENT: Beg the Court's indulgence just one

1 moment.

2 (WHEREUPON, a pause in the proceedings.)

3 MR. OZMENT: We have no further questions for
4 Mr. Merrill, Your Honor.

5 THE COURT: Cross-examination, Mr. Herron.

6 CROSS-EXAMINATION

7 BY MR. HERRON:

8 Q How you doing, Mr. Merrill?

9 A Hey.

10 Q You said you known Randy 15 years?

11 A 15.

12 Q Isn't it true he was in law enforcement at one point
13 in time?

14 A He was in -- he had been at a lot of jobs.

15 Q Was he in law enforcement?

16 A He was an EMT, but as far as being actual law
17 enforcement, I think he mention that he had been in law
18 enforcement just down in Florida.

19 Q He mention he was a cop, F.B.I. agent because what
20 kind of law enforcement was he? Was he patrolling the
21 streets with a gun?

22 A Probably.

23 Q Now, you say you met Brenda through Randy. Let me
24 ask you this had Brenda -- had you ever seen Brenda raise
25 her voice at Randy and yell and fuss at him when y'all

1 were hanging out?

2 A One time they come to the shop and got a call and
3 something was going on Frankie was having problems. It
4 was right after he arrived and I think Randy wanted to
5 stay and cook and everything. And Brenda wanted to get
6 back and check on Frankie. And they got into a little --
7 it wasn't no big deal.

8 Q What do you remember being said?

9 A Well, I went out the door, you know what I'm saying.
10 I let people take care their own affairs, their own
11 business.

12 Q So they fight you saw them get into was ---

13 A No, it really wasn't a fight now. It was just a
14 verbal altercation, okay.

15 Q Okay. The fussing, you agree it was fussing. The
16 fussing was that about Frankie, right?

17 A Well, I think Brenda wanted to leave and go check on
18 something that was going on with Frankie.

19 Q And isn't it true that Randy wanted Frankie out of
20 the house?

21 A Not that I know of.

22 Q You never heard Brenda and Randy get in an argument
23 about Frankie staying at the house when he was past 18?

24 A No, not one time.

25 Q Okay. Now, you said the boots, had you ever seen

1 Randy with those steal toe boots on, the work boots
2 somewhere outside of work?

3 A Oh, yeah.

4 Q So he wore them a lot?

5 A No, but I have seen him like go get gas and come
6 back. Mostly, he love those L.L. Bean deals. He had them
7 redone he wore them so much.

8 Q Those steel toe boots are pretty warm, right?

9 A Yeah, but I wear mine in the summertime with heavy
10 socks.

11 Q Okay. When all this turkey shooting and all this
12 stuff is going on this is in -- around Thanksgiving and
13 November, right?

14 A Right.

15 Q All right. Now, how many times had Randy's place
16 been broken into?

17 A Probably when he was in Charleston and sick, in the
18 hospital I say twice. And they -- he was building on --
19 Brenda and him was building on a partition on the front of
20 the trailer and it was going to look really nice. The old
21 timey lab siding quarter type.

22 Q Yes, sir, I have seen pictures of it.

23 A They broke in twice through the window stole the
24 computer and few other things when he was in the hospital
25 and stuff. And you can't stay there 24/7. So I got the

1 boys around the hood down there like Norman and Carroll.
2 He wasn't shot then. Carroll Filyaw somebody shot him in
3 back later on, but Carroll would drive by and check on it.
4 And we got a couple guys one of them is a friend of mine,
5 he's out there. He go by and check and everybody --
6 Mr. Whimp that run -- that's how tight knit the people
7 were down there.

8 Q I understand?

9 A He would actually go mow the grass for Mr. Whimp that
10 had the store at the end of the little road there where
11 you go and hit 378. Mr. Whimp would go mow his grass for
12 him and stuff or have somebody mow it. But everybody real
13 real tight knit down there.

14 Q Would you call Brenda as far as being this tight knit
15 group when she was with Randy?

16 A No.

17 Q Why not?

18 A No, she was pretty well much a loaner. You know
19 about like Randy. I mean, Randy was a loaner, you know,
20 until he got hooked up, see he moved in, stayed with his
21 brother, went to work. And then we started seeing one
22 another and about time he got -- he go down to
23 Mr. George's down there. Mr. George he's an icon in this
24 part of the -- he's actually had Percy Sledge down there
25 before, had this joint. I mean, you hear like redneck

1 beer joint. I mean, this was the epitome of a redneck
2 beer joint.

3 Q I got you.

4 A And they had a big time.

5 Q Ain't nothing wrong with a redneck beer joint.

6 A Well, this was the -- and he got in with them and he
7 was good to go. He ended up marrying her niece Lisa.

8 Q All right. Was Randy a hard person to get to know?

9 A He was a very hard person to get to know. He was
10 very intelligent.

11 Q You said he was a loaner?

12 A Well, I'm a loaner.

13 Q Well, you been married for 30 years though, right?

14 A Thirty-eight years.

15 Q I'm going to come back to that in a minute. Let me
16 ask you some more questions about Randy. Did Randy have a
17 drinking problem?

18 A Randy -- when you talking about a problem, I mean now
19 what's a problem?

20 Q Getting up in the morning first thing you do is go to
21 the refrigerator and get a Bud Light?

22 A Well, what he done with him and Brenda down there,
23 him and his wives I have no idea. All I can tell you is
24 when I'm around him. No, I mean, I never seen him just
25 get up instead of milk drink a beer. I've seen him -- we

1 been out fish early in the morning, but no.

2 Q You got to drink when you go fishing though, right?

3 A No, you don't do that.

4 Q Now, did you ever see Randy have a six pack or cooler
5 in his truck at work?

6 A That's 98 percent of everybody got coolers in the
7 trucks out there.

8 Q Did you ever see that he had beer in his cooler at
9 work to drink?

10 A Ninety-eight of them that's out there got the stuff,
11 they got Pepsi's and they keep Pepsi's, bottled water
12 everything beer too.

13 Q Beer too?

14 A Uh-huh.

15 Q So you say Randy had some beer in his cooler at work;
16 is that right?

17 A Yeah.

18 Q Okay. Did you know he drank a few on the way to work
19 and a few back from work and he drink the rest of the
20 night?

21 A No. I mean, as far as drinking, you know, I didn't
22 never really see him drink none when he was leaving mostly
23 he was just wanting to get home.

24 Q Yes, sir. When y'all hung out when y'all were
25 drinking, did you see a change in his demeanor?

1 A What you mean like when we was drinking, say we be
2 around the shop or we just be doing anything?

3 Q Either around the shop or at the redneck beer ---

4 A No, he actually smooth out.

5 Q He smooth out?

6 A Uh-huh.

7 Q Did you ever see him get upset?

8 A I tell you the truth, no.

9 Q Okay. He got upset with you and didn't talk to you
10 for a period of three or four months?

11 A That was because of what I told him about the -- it
12 was a mixture of two things, that was because he ask me
13 about Brenda.

14 Q And the chain saw?

15 A Then the chain saw. I didn't want nobody getting
16 hurt with the chain saw. And I actually had a steal that
17 I was gone let him use, but then we -- you know, he got
18 mad.

19 Q Okay.

20 A I think -- well, I don't know how to -- but I was
21 actually looking out for him, you know. I mean, he was
22 smart enough to take it. He could have probably fixed it.

23 Q Okay. Now, the chain saw incident you known him for
24 15 years, you didn't let him borrow a chain saw and he
25 didn't talk to you for about three months?

1 A No, he borrowed the chain saw and actually cut a tree
2 down with it.

3 Q Okay. But y'all got in an argument or ---

4 A Well, I didn't get in no argument. All I did was
5 just told him no and then he kind of hung up before I
6 could tell him what the issue was.

7 Q And then he didn't talk to you for about three or
8 four months after that?

9 A Well, no it wasn't -- the three or four month deal
10 was with Brenda.

11 Q Okay.

12 A When he ask me what I thought about Brenda.

13 Q Okay. Now, you talked to Kathleen Streett; didn't
14 you? Investigator Kathleen Streett the lady that sitting
15 back here with the pearl necklace on?

16 A Oh, yeah. I mean, about what?

17 Q That's what I'm gone ask you about. When you talk to
18 Investigator Streett, you never told her this incident
19 about the vodka and Brenda getting real mad about after
20 she said she drinks vodka or got real mean or I forget
21 exactly what you said. But you said something about when
22 Brenda drinks vodka she said she got real mean.

23 A Well, after eight years, you know, and being 60 years
24 old, you know, sometimes it's hard to even figure out how
25 to get home from work. I mean, you just forget things.

1 Q Okay. But you forgot to mention that to Kathleen
2 Streett back in -- I don't know when she spoke with you,
3 but you agree that you spoke with Kathleen Streett before
4 now; is that right?

5 A Yeah, numerous times.

6 Q So you didn't tell Kathleen Streett about Brenda
7 drinking vodka when you talk to her, but you just all of a
8 sudden your memory kicked in and you remember ---

9 A Well, just all of a sudden I didn't think it was
10 important, you know. I didn't see where it was necessary
11 at all.

12 Q If a woman's accused of killing her husband, she
13 tells you she gets real mean when she drinks vodka you
14 don't think that's important to tell investigators asking
15 you questions?

16 A Well, that right there is not -- I mean, if somebody
17 wants to take a drink, that's their business.

18 Q Just so we clear, you never told Investigator Streett
19 that vodka story?

20 A No.

21 Q Okay. Now, isn't it true that Randy Bratschi did not
22 want Brenda Bratschi to work?

23 A I've never heard that.

24 Q Okay. Let me ask you another question, isn't it true
25 that Randy Bratschi got mad when Brenda Bratschi got a

1 part-time job and Randy Bratschi wanted Brenda home at a
2 certain time; isn't that true?

3 A I have never heard nothing about that.

4 Q Never heard that?

5 A No.

6 Q But you think she's a gold digger?

7 A Yeah.

8 Q If I told you that and that was a fact that she tried
9 to work and Randy wouldn't let her, would you still think
10 she was a gold digger?

11 A Yeah.

12 Q Okay. Now, this -- during the robberies -- going
13 back to the robberies. Randy had numerous amounts of guns
14 in his house; isn't that true?

15 A He had a few guns, weapons.

16 Q Few more than five?

17 A I say he had a few more than five, yeah.

18 Q Did you ever see Randy with a .9 millimeter on a
19 holster?

20 A Yeah.

21 Q Did you ever see him walking around with his .9
22 millimeter strap to his hip?

23 A Yeah.

24 Q Okay. When did he do that?

25 A When we was fishing and when we was out and we was

1 out shooting.

2 Q Okay.

3 A And when he was -- he had it in the glove box when he
4 was riding.

5 Q Okay. So Randy ---

6 A But he didn't start carrying it until the incident
7 as far as carrying the weapon.

8 Q But you'd seen him out there fishing. Mr. Merrill,
9 he did carry it before the incident because you just said
10 that sometime when y'all went out fishing and hunting this
11 and that?

12 A Well, he had one gun, but I carry two.

13 Q I got you.

14 A One of them got a steak shot in it and the other one
15 got the other stuff in it.

16 Q But I want to make it clear for this jury that Randy
17 Bratschi had carried a gun before this fussing and
18 fighting with Brenda; isn't that true?

19 A Well, as far as carrying a gun with it being covered
20 up, I couldn't tell you when he had one on. But now, I
21 mean, as far as him just acting like a gun slanger hanging
22 around the house or, you know, going somewhere, no.

23 Q Let me ask it a different way. Had y'all been
24 fishing and you saw Randy with his gun on his holster
25 before the incident the fussing -- the big argument that

1 they had? Did you ever see Randy carry that gun?

2 A No.

3 Q Okay. So y'all just started going fishing and he
4 just started carrying the gun after the argument?

5 A Yeah, mostly because he was scared, yeah.

6 Q And that's your opinion he was scared?

7 A I know he was scared.

8 Q Okay. Now, did -- were you aware of the incident
9 where Randy Bratschi was caught at Sue Hill's house?

10 A No, not at the time.

11 Q And how many times had Randy been married before?

12 A Twice.

13 Q Been married twice.

14 A That I know of.

15 Q Did you know his previous wives?

16 A I knew one of them. That was George -- Mr. George
17 we're talking about that his niece name Lisa.

18 Q Do you know why those marriages ended?

19 A I think incompatibility. Like I say, I try not to
20 get into people's business, but, you know, he just -- they
21 just -- I suppose incompatibility.

22 Q Now, you knew his previous two wives, right?

23 A No, just one -- well, counting Brenda.

24 Q Who's that?

25 A Brenda and Lisa, but the other one, no.

1 Q Okay. Did you ever see Randy and Lisa fussing and
2 fighting?

3 A No.

4 Q You sure about that?

5 A Yeah.

6 Q And y'all a remember of a hunting club?

7 A No, I am.

8 Q Okay. Did Randy go out there and shoot with you?

9 A A time or two. He wasn't really into that. And
10 really he wasn't really into the fishing thing. He was
11 scared of water, only reason he wanted to get into the
12 fishing issue is because he actually thought Brenda
13 enjoyed it and that's why he done it. He actually went
14 and he bought the boat. And he done all that even though
15 what do you call when you scared of water hydromaniac or
16 something.

17 Q I don't know.

18 A I don't either, but anyway that's the reason why is
19 that woman right over there. He went down there one time.
20 I had a net, I needed to patch it. All he had to do was
21 stand on a ladder. He had 18 life jackets on. I mean, he
22 just had them all over the place and all he had to do was
23 just stand there. All he had to do was hand me a thing
24 it's called a fid with needle got thread twine on it. I
25 was fixing boat net that's something we do. I bet -- he

1 was about shaking like a leaf. He was actually scared of
2 water, but he got into it, you know, and he was terrified
3 of falling in. I don't know whether he could swim or not
4 to tell you the truth.

5 Q Okay. Now, when Randy was caught by Brenda at Sue
6 Hill's house isn't it true y'all were kind of covering for
7 Randy; weren't you?

8 A No, I don't cover for nobody.

9 Q Well, let me ask it a different way. Did you know
10 that Randy had been talking to Sue Hill?

11 A Yeah.

12 Q Okay.

13 A And he been talking. I mean, he's a man why should
14 she have the luxury of going about her business and him
15 not being able to go about his business, if that's his
16 choice. But it's not my call, you know, to taking judge,
17 you know, what he does or what Brenda does.

18 Q But when Brenda asked you and your wife, Kathy, if
19 y'all knew anything about Sue, y'all acted like you didn't
20 know anything, right?

21 A Well, it's none of my business. I told her, you
22 know, and I didn't want nothing to do with it.

23 Q But you didn't tell her that you knew that Randy was
24 talking to Sue?

25 A Well, Randy talking to Sue -- I mean, he been talking

1 to Sue for years and talking to hundreds of other people
2 too.

3 Q Now, you said on direct examination that Randy
4 started acting scared after this fight that him and Brenda
5 had?

6 A After the fight?

7 Q Yes, sir.

8 A No, it was -- I don't think -- I was not there. I
9 wouldn't call this a fight. I would call this a
10 premeditated C.I.A. type -- I mean, let's just kill him
11 and get it out of the way.

12 Q Get him out of the way.

13 A If you would have seen this man in -- all the shots
14 were head shots just about. I mean, whoever done it and I
15 assume it was her, they knew exactly what they were doing
16 and what they were going after.

17 Q Okay. Let's talk about that since you brought it up.
18 Randy had seven guns in the house; isn't that true?

19 A I don't know how many guns he had.

20 Q At least five?

21 A Yeah, five of them.

22 Q Now, isn't it a lot easier for a woman to kill a man
23 by going to grab one of five guns, then to try to beat him
24 half to death with a bat?

25 A I have no idea.

1 Q Mr. Merrill, you been around ---

2 A Brenda could fight a like man and shoot like a man.
3 She kill deer and everything else.

4 Q Okay, that's my point.

5 A All right, so what you want -- all right, you want to
6 make an issue let's see, it's been easier for her to went
7 and shot him then try to beat him the death.

8 Q Yes, sir, you agree with that.

9 A Well, it would have took longer to go in a house to
10 get the gun than to go get that particular article that
11 she got and maybe load it up.

12 Q I'll move on. Now, that night that y'all went over
13 to pick Randy up for the turkey shoot, did you see
14 anything out of the ordinary?

15 A No.

16 Q And that was on a Friday night?

17 A Right outside.

18 Q And what about the pot alarm, did you go up to the
19 door?

20 A Yeah.

21 Q You went up to the door. You couldn't go in the
22 front door because he was building on it, right?

23 A Well, he always went in the back door. It was just
24 too much stuff at the front door.

25 Q Okay. When you went in the back door, that pot alarm

1 thing ---

2 A And then the front door was wired, you know, tied up
3 to too.

4 Q When you went around back and the pot alarm, did you
5 say that had gone off or when say gone off ---

6 A No, I didn't say it had done nothing. I said it
7 wasn't there.

8 Q It wasn't there.

9 A And if it would have been there, you know, then he
10 would have been in there and probably try to get some rest
11 and that way feel safer if he did get some rest, but it
12 wasn't there, which means that he was probably expecting
13 for us to go there and pick him up and go to the turkey
14 shoot.

15 Q Okay. So it wasn't rigged up when you got there?

16 A That's correct.

17 Q Was the pots there around and he just didn't have the
18 string connected? I'm just trying to get an idea, so the
19 jury can have an idea?

20 A No, it wasn't there.

21 Q Well, it just wasn't there at all?

22 A Well, from what I seen clothes all over the place,
23 the clothes might have been on top of the pots.

24 Q So the pot and pans, he been robbed at least twice
25 before, right?

1 A Well, yeah, that was when he was sick with the
2 pancreas issue, but the people knew that he wasn't there.
3 And, you know, he live in a hole back there. And it would
4 have been really easy, you know, for people to break in.
5 All you have to do is get a bicycle which they did. And
6 that's why I got Norman to go check and he got by every
7 day.

8 Q Your friend is it George Calloway?

9 A George Calloway.

10 Q The one that got shot what was his name? Carroway,
11 Mr. Carroway. I think you said earlier a Mr. Carroway
12 that you knew got shot?

13 A George Carroway, I don't know no George Carroway.

14 Q Mr. Carroway?

15 A I don't know no Mr. Carroway.

16 Q The one that you testified earlier about a guy that
17 got shot?

18 A I don't -- you know -- I mean lost me here.

19 Q How many people you know been shot?

20 A How many people I know been shot?

21 Q Yes, sir.

22 A I mean concerning what.

23 Q Shot, somebody like pulling out a gun and shot them?

24 A You mean shot with this case here that we're trying
25 ---

1 Q I'm not trying to trip you to, Mr. Merrill.

2 A Well, you not tripping me up, but I don't know no
3 George Carroway.

4 Q Forget about George Carroway. Who was the guy that
5 you testified earlier that had been shot? One of y'all
6 friends what was his name?

7 A Paul Clark but this has been -- but that doesn't, you
8 know -- I hadn't bought that up in years. You know, that
9 don't have nothing to do with this.

10 Q Who is Paul Clark?

11 A Paul Clark was a friend of mine. This has been about
12 15 or 20 years ago. He was shot over there in front of
13 where the highway department's at. His daddy was the tax
14 guy in Marion, South Carolina. Paul worked at the paper
15 mill and went over there -- well, he went with the wrong
16 individual and they went to go get the tires for this
17 other guy's car and he went over there to help him and he
18 got shot.

19 Q Anybody else that you know friends of you and Randy
20 been shot?

21 A No.

22 Q Now, when you show up that Friday, was it you that
23 went up to the back door?

24 A Yeah.

25 Q Okay. The pots just weren't there, right?

1 A Well, I'm not saying that it wasn't there, but it
2 wasn't hooked up. I mean, it was clothes there about this
3 deep everywhere.

4 Q Did you see any blood anywhere?

5 A No, all I seen was the dog going back and forth and
6 the pile of stuff right there in front of the
7 refrigerator?

8 Q Oh, so you looked in the house through the window?

9 A Yeah. Well, it's not a window, it's a little
10 diamond.

11 Q Yes, sir, on the door?

12 A Yeah.

13 Q I guess, you had to -- so you look through, but did
14 you see anything out of place either outside or inside
15 that Friday night?

16 A No except for the pile of dog stuff and Bud going
17 back and forth. Normally, he bark, you know, see that's
18 what's so odd too. You know, he didn't bark. But he
19 would stand there and he would look at me and he kept
20 looking back toward the living room.

21 Q Now, you known Randy for 15 years; isn't that right?

22 A That's correct.

23 Q You and him good buddies, best friends?

24 A That's correct.

25 Q Okay. Isn't it true that you didn't report Randy

1 missing, it was actually Brenda Bratschi that went to the
2 Florence Sheriff Department and reported him missing;
3 isn't that true?

4 A Well, I have no idea about that. But I called that
5 Sunday evening when things didn't seem right to me.

6 Q Okay. But you a 15 year acquaintance, friend and you
7 testify on direct examination according to you that Randy
8 was quote scared of Brenda?

9 A Very scared of Brenda.

10 Q Very scared. Show up and y'all suppose to meet up
11 and he ain't there. You so concerned?

12 A Well, I'm not saying that he wasn't there.

13 Q Okay. He wasn't there, but yet your friend of 15
14 years that according to you very scared of Brenda y'all --
15 he don't come out and y'all are so concerned that y'all go
16 to the turkey shoot do what you're going to do; isn't that
17 true?

18 A Yeah.

19 Q The next day you made some calls, but you never went
20 to the sheriff's department out of concern for your 15
21 year old -- 15 year best friend and reported him missing,
22 did you?

23 A Well, he would have been -- I took it I called
24 Mrs. Streett when I thought it needed to be done. I mean,
25 maybe he been off, you know, maybe he been off with some

1 of the other guys. But I mean, I didn't have a G.P.S. on
2 him, you now, where I would keep up with him.

3 Q Yes, sir.

4 A But as far as this 15 year thing and all, you know, I
5 think I know him pretty well, you know, that he would. He
6 had -- a lot of times he had things like if he wanted to
7 go to the turkey shoot. And, you know, I said, well,
8 maybe he caught a ride with somebody else, you know.

9 Q Isn't it true that Randy would sometimes to clear his
10 head he want to go down to the Bluff Landing and just sit
11 there and, you know, get away from it all?

12 A Not that I know of.

13 Q And you talk to -- now, the Saturday isn't it true
14 that Brenda Bratschi called your house -- well, excuse me
15 and let me back up. Did you call Frankie Miles?

16 A No.

17 Q Okay. Did Frankie Miles call you?

18 A There was two calls that day I think Brenda call one
19 time and Frankie call one time and then I was calling
20 other people. I called the plant to see if he went into
21 work. And then -- but, you know, we had things to do.
22 Then I started doing what I was going to do for that
23 afternoon with the oyster stuff.

24 Q After the Saturday and Sunday went by, isn't it true
25 that Brenda was calling not only Randy's house, but was

1 calling around trying to find out where Randy was; isn't
2 that true?

3 A I assume so. All I can tell you is she suppose to
4 have called our house one time.

5 Q Did she call your house one time?

6 A Well, I don't know whether I talk with her or
7 Frankie. I mean, being eight years. I think, it was
8 Frankie.

9 Q Okay. And you testified earlier on direct
10 examination that Brenda talk to you and Kathy about Sue
11 Hill is that true or ask you questions about Sue Hill?

12 A When? Is this with the jeep deal, you know, when she
13 come to the house and she come in with the bottle of
14 vodka?

15 Q No, sir. When -- I think you testified that when she
16 find out that -- let me back up ask you another question.
17 Isn't it true that Brenda Bratschi did she leave a message
18 on your answering machine saying you'll never guess who
19 Randy's seeing?

20 A I have no idea. I don't ever mess with the answering
21 machine.

22 Q And you been married to your wife for 30 years?

23 A Plus.

24 Q Plus?

25 A Uh-huh.

1 Q What do you think your wife would do if she caught
2 you red handed going into another woman's house 11 o'clock
3 at night?

4 A Well, to start with, she wouldn't have to worry about
5 it. And the other thing is that as far as I look at
6 that's their business. And they have a restraining order
7 and she's got one way to go and whether people are morally
8 correct doing that, that's not my call.

9 Q I just want to ask you about your wife. Your
10 experience with your wife. If your wife caught you late
11 at night going into a woman's house that you cheating on
12 her with and she catches you red handed, would you expect
13 your wife to be angry and upset and start hollering and
14 yelling?

15 A Well, to start with I wouldn't do that and I don't.

16 THE COURT: Mr. Merrill, answer the question
17 please, sir.

18 BY MR. OZMENT:

19 Q Will you please just answer my question?

20 A Yes, yes.

21 Q She be upset, she be angry?

22 A Yeah.

23 Q You think she would hit you?

24 A No.

25 Q She want to hit you though, right?

1 A Probably.

2 MR. HERRON: Your Honor, may I have one moment?

3 THE COURT: Yes, sir.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MR. HERRON:

6 Q Mr. Merrill, I don't think we made something clear,
7 Frankie Miles is Brenda Bratschi son; is that true?

8 A I think so.

9 Q Okay. And Frankie was living with Randy and Brenda
10 ever since her and -- him and Brenda had been together; is
11 that true?

12 A I don't know. I know Randy had some other lady
13 staying there when him and Brenda got hooked up. I don't
14 know how long it took for Brenda to get them out of the
15 trailer, but I think there was maybe one or two down
16 there, you know, that had been staying there. And then it
17 took a while for Brenda Bratschi to take them and get them
18 out.

19 Q You known Randy for 15 years. Have ever known him
20 when he was having problems or fussing with his -- whoever
21 he was seeing sometimes he would just want to get away and
22 he stay gone for three or four days and nobody knew where
23 he was?

24 A Well, if he done that, he didn't tell me where he was
25 going or nothing.

1 Q I didn't mean cut you off, I apologize. But he
2 would -- you known the man 15 years probably the best
3 person in here to testify to this, had you known him in
4 the past to all of sudden leave when for whatever reason
5 and nobody knew where he was at for three or four days?

6 A Well, if he was on -- he gets a long break once a
7 month, that's for shift people and everything. Now, it's
8 been sometimes where we didn't get hooked up or caught up.
9 Now, every day we didn't get together every day. I mean,
10 it sound like to me you like with this 15 year thing, that
11 we were just about married or something. It didn't work
12 like that.

13 Q I understand.

14 A But I mean, you know, he go his way and then I be
15 going my way. It would be six or seven day thing and we
16 get back together and then everything be good. But what
17 he did all the time, you know, I'm not his momma.

18 Q I understand, but I still don't think you answered my
19 question. I'm going to ask it one more time. In the 15
20 years that you knew Randy, had there been any point in
21 time either with his two previous marriages where people
22 did not know -- they were worried about where he was at
23 and they call around, but they did not know where Randy
24 Bratschi was for a period of days?

25 A No.

1 Q You telling this jury that didn't happen?

2 A Well, as far as I know, no.

3 Q As far as you know?

4 A Yeah.

5 MR. HERRON: I don't have any other questions,

6 Your Honor.

7 THE COURT: Mr. Ozment, redirect.

8 REDIRECT EXAMINATION

9 BY MR. OZMENT:

10 Q Mr. Herron just asked you about every time he went
11 missing for a few days, prior to 2004 was there ever a
12 time that Randy went missing for five years and people
13 didn't know where he was?

14 A No, I mean, not less -- I'm not his mom.

15 Q I understand.

16 A But if he did -- if he had an issue that he needed to
17 resolve and if he wanted to tell somebody, you know, in
18 case he needed something done, yeah, he would notify me.

19 Q Okay. I want to talk about that Friday that you --
20 Friday of the turkey shoot and Randy went missing, do you
21 know what Randy's work schedule was that day?

22 A He was -- let's see Randy volunteered probably more
23 than anybody for his off days. I don't see how he done
24 it, but he done it especially after that wound he got
25 over. I mean, there wasn't too many human beings that

1 would be walking. The doctors at M.U.S.C. hadn't got hold
2 to him, these doctors here in Florence would have killed
3 him. After six to eight months and they took him down
4 there and the doctors took them two weeks to get him
5 squared away, that ought to tell you something.

6 Q That's the surgery he had years ago?

7 A Right. And he was back to work within I say three
8 weeks, four weeks. And then they made him leave because
9 he didn't have the proper doctor's excuse to come back to
10 work. So he left and then he got his excuse and then he
11 come back to work where most people would have been laid
12 up in the bed.

13 Q Okay. That Friday of the turkey shoot ---

14 A Oh, Thursday working, Friday off. Saturday he
15 volunteered. Sunday he volunteered. This was for
16 Thanksgiving stuff. I mean, he just worked all the time.

17 Q Do you know -- you said he worked Thursday, do you
18 know what shift that was day shift?

19 A I think it was -- the way the boys were talking about
20 I think it was nights.

21 Q Okay. And did you work a night shift at the plant,
22 what time do you get?

23 A Seven to seven.

24 Q So seven at night on Thursday ---

25 A Yes, sir, you take a punch in 6:45 and then you do it

1 for 12 hours and then you punch out at 6:45.

2 Q In the morning?

3 A In the morning.

4 Q And then -- have you worked on that Friday?

5 A No, I was off.

6 Q What time did you -- I'm sorry I didn't mean to
7 interrupt you.

8 A I work day shift.

9 Q Okay. What time did you go over to Randy's to pick
10 him up for the turkey shoot? And I realize it's a long
11 time ago.

12 A 6:30 around in there, six, 6:30 around in that
13 particular time frame.

14 Q Okay. Do you recall if it was like dark, getting
15 dark?

16 A It was kind of in between, you know.

17 Q Okay.

18 MR. OZMENT: No further questions, Your Honor.

19 MR. HERRON: Briefly.

20 THE COURT: Yes, sir.

21 RE CROSS-EXAMINATION

22 BY MR. HERRON:

23 Q Mr. Merrill, isn't it true on that Friday when you
24 went there, you saw the Rodeo parked at the house?

25 A No, the Rodeo wasn't there -- yeah, hold on a minute.

1 Truck was missing, boat was gone. Frankie was suppose to
2 have been fishing, I think. From what I heard, he suppose
3 been at Santee, but that wasn't the issue. He was down --
4 he put in somewhere down and come up river in Pee Dee.

5 Q But you sure that Rodeo was there Friday night,
6 right?

7 A I believe -- I'm most positive it was.

8 MR. HERRON: One moment, Your Honor.

9 BY MR. HERRON:

10 Q Now, on -- when you answering Mr. Ozment's questions,
11 you knew when he worked all the hours, knew when he
12 volunteered; is that true?

13 A I didn't keep up with all of his goings on out there.
14 He work shift. I work straight days. You know and you
15 rotate. But we pretty well had it down for that weekend.
16 You know, what to do or what we plan on doing before they
17 got disrupted.

18 Q Did you ever call law enforcement after that Friday
19 and file any kind of report whatsoever either against
20 Brenda Bratschi or for Randy Bratschi, before Brenda
21 Bratschi filed a missing person's report?

22 A No, I called, no.

23 MR. HERRON: Thank you.

24 THE COURT: All right. Mr. Merrill, you may
25 step down. Thank you.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: Can the lawyers approach?

4 MR. OZMENT: Can he be release from his
5 subpoena?

6 MR. HERRON: No objection.

7 THE COURT: Sir, you are released from any
8 further obligations with regards to your subpoena, you
9 free to leave thank you for being here.

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury.)

13 THE COURT: Call your next witness please.

14 MR. WELLS: Bradley Bazen will be the next
15 witness the State would call.

16 MR. OZMENT: May we approach?

17 THE COURT: Yes, sir.

18 (WHEREUPON, a bench conference was held in the
19 presence of the jury, but out of the hearing of the
20 jury.)

21 THE CLERK: If you will, sir, go to the Bible.
22 Place your left hand on the Bible and raise your right
23 hand. Do you swear to tell the truth, the whole truth and
24 nothing but the truth so help you God?

25 THE WITNESS: I do.

1 THE CLERK: Please be seated and state your full
2 name for the record?

3 THE WITNESS: Brad Bazen.
4 WHEREUPON,

5 Brad Bazen,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. WELLS:

9 Q And, Deputy Bazen, with whom are you employed?

10 A Florence County Sheriff's Office.

11 Q And how long have you been employed in law
12 enforcement?

13 A I started with the sheriff's office in 2001.

14 Q All right. So back in 2004 were you working with the
15 sheriff's defendant at that time?

16 A I was.

17 Q As far as this case concern, I call your attention
18 back to December 1st 2004, which be the Wednesday I
19 believe after Thanksgiving. Now, did you have occasion to
20 find a car parked in which you check out?

21 A Yes, sir.

22 Q And what kind of car was that?

23 A It was a Rodeo.

24 Q All right. That be Isuzu Rodeo and where was it
25 parked?

1 A The -- it's a public boat landing Dewitt's Bluff
2 located in Pamlico.

3 Q All right. Is that where the Pee Dee River is?

4 A Yes, sir.

5 Q All right. And did you check out the license tag or
6 run the car through NCIC?

7 A Yes, sir.

8 Q And what did you find as far as the owner of the
9 vehicle?

10 A When I ran the tag through, our communication office
11 they notified me that it was a missing person came back to
12 a Randy Bratschi.

13 Q All right. And did you find that that had been put
14 in NCIC just a day before on Tuesday?

15 A Correct.

16 Q And as a result of finding that it belong to a
17 missing person, what did you then do?

18 A I pretty much secured the scene, wouldn't allow
19 anyone into the landing.

20 Q All right. And did you then turn it over to
21 forensics officers?

22 A Correct.

23 Q And were you involved with it any more after that?

24 A No.

25 Q If you will come down and look at this map. Can you

1 just look at this map and see where that landing would be
2 located on this map?

3 A Yes, sir, right here.

4 Q Come over and just point it out? Can you come over
5 and mark it on the map?

6 MR. WELLS: Answer any questions Mr. Herron has.

7 THE COURT: Mr. Herron.

8 MR. HERRON: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. HERRON:

11 Q Hey, Deputy, is it Brazen?

12 A Bazen.

13 Q I just have a couple quick questions for you. When
14 you found it was a Rodeo?

15 A Yes.

16 Q Did you look inside the Rodeo?

17 A From standing outside, yeah.

18 Q Did you see any blood?

19 A No, I didn't.

20 Q You see any excessive dirt?

21 A Not that I recall, no.

22 Q Seen any pull hair?

23 A No, sir.

24 Q Did you see the money that was actually found in
25 there later?

1 A No.

2 Q Okay. Now, this area -- I know they showed you this
3 earlier, but what's this -- what would you call this area
4 where it was found was it Pamplico?

5 A Yes, sir.

6 Q Okay. You familiar with Pamplico?

7 A Yes, sir.

8 Q And Coward?

9 A Not too familiar with Coward, but Pamplico.

10 Q Going to the landing is there a bunch of open fields
11 and open fields where people do a lot of farming around
12 that area?

13 A True.

14 Q A lot?

15 A Yeah.

16 Q Okay. My momma say it's out in the boondocks, would
17 you say it's in the boondocks?

18 A That be correct.

19 Q That's a legal term too. But you never -- nothing
20 out of the ordinary on the radio?

21 A Not that I recall.

22 Q Broken windows, dings, dents.

23 A No.

24 MR. HERRON: Thank you. I appreciate it.

25 MR. WELLS: Nothing further. Any objection he

1 be released from his subpoena.

2 MR. HERRON: No, Your Honor.

3 THE COURT: All right. You may step down you
4 are free to go. You release from any further
5 responsibilities under the subpoena. Thank you for being
6 here.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: Okay. All right. Ladies and
10 gentlemen of the jury, we going to take a break at this
11 time. I'm going to ask that you step to your jury room,
12 but do not discuss the case. Do not discuss the case.
13 I'll get you back out here as quickly as possible.

14 (WHEREUPON, the jury retire to the jury room.)

15 THE COURT: Okay. We will stand at ease for a
16 few minutes.

17 (WHEREUPON, a break was taken.)

18 MR. WELLS: I have three photographs that show
19 where the vehicle was found and a brief diagram he
20 prepared. I have shown them to Mr. Herron. He said he
21 had no objection. You want me to go ahead and mark them
22 before the jury comes out?

23 THE COURT: Yeah, that will be fine.

24 (WHEREUPON, State's Exhibits Nos. 31-34 were
25 marked for identification.)

1 THE COURT: All right. Anything else before we
2 bring the jury back in from the State?

3 MR. WELLS: No, Your Honor.

4 THE COURT: Anything from the defense?

5 MR. HERRON: No, Your Honor.

6 THE COURT: Bring the jury in please, ma'am.

7 (WHEREUPON, the jury comes into open court.)

8 THE COURT: Call your next witness please.

9 MR. WELLS: I call Lieutenant Keith Von Lutcken
10 to the stand.

11 THE CLERK: Do you swear to tell the truth, the
12 whole truth, and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seated, state your name
15 for the record.

16 THE WITNESS: Name is Keith Von Lutcken.

17 WHEREUPON,

18 Keith Von Lutcken,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. WELLS:

22 Q Lieutenant Lutcken, with whom are you employed?

23 A I'm employed with the Florence County Sheriff's
24 Office.

25 Q And how long you been employed with them?

1 A I been employed with them for 26 years.

2 Q And in that regard what are your main duties at this
3 time?

4 A At this time I oversee the forensic and crime scene
5 unit. I been in that position for the last 23 years.

6 Q And you have considerable training in that particular
7 field?

8 A Yes, sir, I have.

9 Q All right. Let me first call your attention back to
10 Wednesday, December 1, 2004, on that occasion did you
11 receive a call that a vehicle had been found that belong
12 to a missing person Randy Bratschi that y'all were looking
13 for?

14 A I did. It was approximately eight o'clock a.m. that
15 morning.

16 Q All right. As a result of that, what did you then
17 do?

18 A At that time when I was notified of a vehicle being
19 found at the Bluff Landing, which is on the big Pee Dee
20 River off of Old River Road near Pamplico and I proceeded
21 to that area at that time to secure the vehicle.

22 Q All right. And after you arrived, did you take
23 pictures where the vehicle was located?

24 A Yes, sir, I did.

25 Q Now, these pictures that have been marked State's 31

1 through 33 would you look at those and see if you can
2 identify them?

3 A Yes, sir, exhibits 31 through 33 are photographs of
4 the Rodeo at the landing that I took.

5 Q All right. If you would just come around we would
6 just briefly hold these up. Was this where the vehicle
7 was located when you arrived?

8 A Yes, sir, State's Exhibit Number 31 this is a
9 photograph of the vehicle as you coming down the road
10 leading to the landing, it's how the vehicle was. It is
11 parked at the edge of the landing closest to the river.
12 So what you see is the tail end of the vehicle as you
13 coming down.

14 Q State's Exhibit 32?

15 A State's Exhibit Number 32 is kind of identical to 31,
16 it's just a further shot of the vehicle when you are
17 coming down the road?

18 Q And State's Exhibit 33?

19 A State's Exhibit Number 33 is just a closer shot of
20 the passenger side of the vehicle and the vehicle was not
21 ever moved at that time. We photographed in the original
22 position when taking a series of original photographs.

23 Q And is State's Exhibit 34 just a brief diagram you
24 did not to scale, just your personal diagram of where
25 everything was located.

1 A State's Exhibit 34 it's what we do as a rough sketch
2 when we're at these scenes. And basically, we take some
3 measurements and we do what we call claim delay the
4 vehicle, that way we can place the vehicle back in the
5 same position at a later time. This is just a rough
6 sketch and it's not to scale.

7 Q All right.

8 MR. WELLS: Your Honor, at this time I move to
9 admit into evidence State's Exhibits 31 through 34.

10 MR. HERRON: No objection, Your Honor.

11 THE COURT: State's Exhibits 31 through 34
12 admitted without objection.

13 (WHEREUPON, State's Exhibits Nos. 31-34 were
14 admitted into evidence.)

15 BY MR. WELLS:

16 Q Now, Lieutenant Lutcken, did you check the interior
17 of the vehicle?

18 A Yes, sir, I did.

19 Q First was there any evidence that the vehicle had
20 been hot wired or driven other than with a key?

21 A No, sir, it was not.

22 Q All right. So did it appear that it had been driven
23 with a key the last time it had been driven?

24 A It had been driven to the landing, yes.

25 Q Now, was there anything you saw in the vehicle which

1 you then seized?

2 A There was \$900. There was \$100 denominations in cash
3 that was laying in the driver's seat that was collected at
4 that time. Of course, we have had this vehicle towed to
5 our impound lot where we can process them under our
6 controlled environment. So the money was taken and
7 photographed, taken from the vehicle for security
8 purposes.

9 Q All right. And then the vehicle was moved to the
10 impound lot?

11 A Yes, sir, that is at that particular point in time it
12 was transported, yes.

13 Q All right. Now, did you observe in the vehicle
14 anything at least looked like blood?

15 A Yes, sir, I did.

16 Q And where was that located?

17 A There was some areas of interest that were on the
18 steering wheel, the steering wheel column and also the
19 dashboard in the gear shift?

20 Q All right. Now, did this appear to be relatively
21 fresh or something that was fairly old?

22 A It was something had not happen precisely during that
23 morning or that night. This was something that was
24 probably several days old?

25 Q Now, did you observe anything that look like blood in

1 any part of the back where somebody could be transported?

2 A Yes, sir. Of course, when I found what appeared to
3 be blood in front of the vehicle, the search continued
4 throughout the vehicle until the rear passenger
5 compartment and into the cargo compartment and there was
6 nothing else located.

7 Q All right. Did the vehicle inside appear to be
8 relatively neat?

9 A Yes, sir, it was very clean.

10 Q All right. So did it appear to you that there was
11 likely any person was transported in the back of the
12 vehicle?

13 A It didn't appear so, no.

14 Q Now, when the vehicle was taken to impound, did y'all
15 also have the vehicle fingerprinted?

16 A I did, yes.

17 Q Was there any useable prints found?

18 A There were no fingerprints located that were
19 identifiable?

20 Q Now, as a result of the vehicle being found near this
21 landing near the Pee Dee River, on the landing at the Pee
22 Dee River, was that area more concentrated on in looking
23 for the victim?

24 A We did. As stated earlier this was on Wednesday
25 morning that the vehicle was located. The entire day

1 Wednesday, the remainder of that day Thursday and Friday,
2 we spent time. We had several boots on the river looking.
3 We also had several teams with dogs that were covering the
4 swamp and also covering the wooded areas and also the
5 outlying fields. This is an agriculture area, so we had a
6 lot of manpower on the ground looking.

7 Q Did you find any evidence of the victim in any of
8 that area?

9 A No, sir, we did not.

10 Q Now, let me also now call your attention back to 2009
11 about five years later when the skeletal remains of Randy
12 Bratschi were found under the trailer where he had lived,
13 did you have occasion then to go to the scene?

14 A I did, yes.

15 Q What was your purpose of going to the scene there?

16 A The purpose of going to the scene as I said oversee
17 and manage the crime scene forensics unit, the main
18 purpose for me going. I had my team in route to the
19 location. The -- my on-call person had given me a brief
20 description by phone, you know, of what we had. And
21 usually of excavations of this type, it takes quite a bit
22 of time, it's very tedious. I proceeded to the scene, you
23 know, where I assessed everything, you know, started
24 getting things in motion at that time not the actual
25 excavation, but actually safety precautions that we put in

1 place before we do this. Once again, you know, my main
2 purpose was to oversee the actual excavation of the
3 remains.

4 Q So was any excavation done until you arrived?

5 A No, it was not.

6 Q All right. And what did you told them to do as far
7 as the trailer itself where was it located when you
8 arrived?

9 A The trailer that had the trailer on it. There's a
10 trailer that that had the trailer on it. The trailer was
11 being moved to a different location. And this trailer was
12 located several miles down the road upon my arrival.

13 Q Did you have it stopped?

14 A I had it stopped and had it secured at that time
15 because this was also going to be an area of interest that
16 we wanted to look inside.

17 Q All right. Now, based on your observations as to how
18 the skeletal remains become uncovered, how did it appear
19 from your observations that the likelihood of how the
20 skeleton remains became uncovered on that particular day?

21 A The -- if you've ever seen a mobile home being moved,
22 the mobile home actually sits on steel beams when they go
23 to move it. When they get it up on it, it sits on steel
24 beams. And from my observations what had taken place that
25 afternoon is they went to move the trailer, got it loaded.

1 When you talking about semi-soft soil anyway, so when they
2 went to move the trailer, the tractor that was actually
3 pulling it had to make a hard right turn in order to make
4 it, but if you can imagine -- can I stand up?

5 Q Yes.

6 A If you can imagine the trailer sitting behind the
7 tractor, it's sitting level if it's pointing forward. And
8 the tractor goes to make a wide turn or a sharp turn. In
9 this case, it was an acute right turn. When it went to
10 make that turn, of course, the weight of that trailer is
11 gone shift forward and to the right. The tractor's
12 turning right, so the trailer is going to shift to the
13 right. What happened is he's making that turn, that steel
14 beam on the right side or the front dug into the ground.
15 Of course, the driver in the tractor he doesn't have any
16 idea what's going on. He's just pulling the trailer.
17 He's got other guys outside, you know, supervising as it's
18 moving along. And as it's moving along, it's pulling or
19 actually plowing, it's plowing a ditch through the dirt
20 where the trailer was located. And at that time, you
21 know, the guys that were standing outside got in
22 everything saw the burial remains coming up and they
23 stopped him at that time.

24 Q Except for the trailer being moved, would it be
25 likely that those remains would have been uncovered?

1 A Having been for that, no. They wouldn't have been
2 found, no.

3 MR. WELLS: One moment.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MR. WELLS:

6 Q Okay. All right. After you arrived so far as the
7 skeletal remains what could you actually see at that point
8 that had been in the dirt?

9 A Well, that particular moment, of course, the skull
10 was visible. There numerous other bones that were
11 visible. And at the end of the trench as I call it, it's
12 more in the shape of a J hook. You know, several people
13 describe it as a U or J, but it's more of a J hook. And
14 at the end of the trench where they actually stop the guy
15 from pulling the trailer any further was a blue tarp and
16 within that blue tarp you could also see remains.

17 Q So it appeared that the blue tarp was over the body
18 or the body was in the tarp?

19 A It appeared that the body was in the tarp.

20 Q All right. And could you see any of the boot at that
21 point?

22 A I'm sorry.

23 Q Could you see any of the boots the person was
24 wearing?

25 A Yes, sir, you could, you could.

1 Q And that had been partially uncovered?

2 A That had been partially uncovered, yes, sir.

3 Q What steps did you take -- was the weather good that
4 day or not?

5 A No. Of course, the weather very hot, very humid. We
6 had a period of storms move through that week. Of course,
7 on that afternoon, we were doing excavation it starts
8 pouring the rain. So this is one of the things that I was
9 talking about earlier with the safety precautions. We
10 have to take safety into account. And also, of course,
11 the scene integrity, you know, that's one of the most
12 important things is we don't want to lose any of the
13 evidence. So with it being hot and humid, I had to get
14 certain things in place, you know, water for my guys,
15 tents because it had started raining upon my arrival it
16 had started raining pretty hard. We just pick up even
17 more the longer we were there.

18 Q All right. So you then had your people under your
19 supervision and then slowly excavate the scene to remove
20 the bones; is that correct?

21 A Yes, sir. After everything was put in place the
22 safety precautions, then we actually begin a series of
23 photographs, measurements. And after that, set up a grid
24 pattern running a metal detector over there for any
25 evidence and then we start the actual excavation.

1 MR. WELLS: Answer any questions Mr. Herron has.

2 THE COURT: Cross-examination.

3 MR. HERRON: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. HERRON:

6 Q How you doing, Lieutenant Lutcken?

7 A Mr. Herron.

8 Q Now, when you went out there to the landing where the
9 Rodeo was at, I think you told the jury that y'all
10 conducted a search?

11 A Yes, sir.

12 Q And nothing was found?

13 A Correct.

14 Q No guns, no knives, no nothing, no body?

15 A No body.

16 Q Now, it was also blood found in the Rodeo; is that
17 correct?

18 A Yes, sir, that's correct.

19 Q Did it appear to be a small amount of blood, large
20 pools of blood?

21 A No, it was a small amount.

22 Q Small amount. If a person been in an altercation cut
23 her thumb -- had a nick on the thumb, did it appear like
24 that could possibly be where the blood came from?

25 A Yes, sir.

1 Q Okay, thank you. Did y'all ever do any test on that
2 blood to determine whose blood it was?

3 A Yes, sir, we did.

4 Q Whose blood was it?

5 A Come back to Ms. Bratschi.

6 Q And as you are aware, she was in an altercation with
7 Randy Bratschi weeks before and she claims her thumb was
8 cut?

9 A Yes, sir, I'm aware of that.

10 Q Okay. But so we're clear for the jury, there was no
11 other blood found, it was a small amount of blood that
12 could -- on the steering wheel and a little bit on gear
13 shift?

14 A Gear shift and dashboard, yes, sir.

15 Q Now, did you also -- I know you search the landing.
16 Did y'all drag the river do anything like that?

17 A Well, in this particular case dragging the river is
18 almost impossible. You talking about depth of the river.
19 At that time of the year, the depth runs from ten feet to
20 somewhere around 50, 60 feet. We actually dove that
21 river, that river is pretty treacherous for the stuff
22 that's inside of it. So dragging that is really not an
23 option.

24 Q Would it be treacherous to try to find something in
25 the river?

1 A Oh, yes.

2 Q If I wanted to hid something, would the river be a
3 good place for me to put it?

4 A Yes, sir.

5 Q Thank you. Now, there was \$900 found in car, right?

6 A Yes, sir, that's correct.

7 Q In what denominations when we talking about a wad of
8 money 20's?

9 A No, it was in an envelope was like I said is in \$100
10 denominations, so, you know, a very thin stack of money.

11 Q Okay. Now, and just so we clear in the back, there
12 was no blood, no anything, no dirt?

13 A No, sir, like I said search the entire vehicle in the
14 very back of the vehicle was a bag of feed, road atlas, a
15 little bit of garbage behind the driver's seat in the
16 floorboard was a camera bag that had a camera in it.

17 Q Other than the blood that was later attributed to
18 Ms. Bratschi, was there anything in that Rodeo that lead
19 you to believe there'd been foul play or an altercation or
20 anything?

21 A No, there was not.

22 Q Now, did you also go -- were you part of the team
23 that went out and searched the Bratschi residence back in
24 2004?

25 A Yes.

1 Q What was your role in that search and could you tell
2 the, ladies and gentlemen of the jury, what you did when
3 you searched the Bratschi residence?

4 A We organize coordinated search with great effort
5 searching the property. And my job was to oversee and
6 place people where they needed to be. Also, my job was to
7 secure any evidence during this search if we located any
8 evidence. The actual search itself stopped immediately at
9 that point or where the evidence or potential evidence
10 could be flagged, photograph and collected.

11 Q When y'all are doing those kinds of searches, are you
12 searching not only for the person, but is it your purpose
13 to search for what could possibly be the person remains
14 because they maybe dead?

15 A Yes.

16 Q That's part of your purpose when you searching for a
17 person?

18 A Right.

19 Q Who looked up underneath the trailer?

20 A That I wasn't present for. I was not present for
21 that.

22 Q Okay. But you do know that somebody did look up
23 underneath the trailer?

24 A I don't know that for a fact. I understand that the
25 trailer was looked under and nothing was seen.

1 Q Okay. All right. Now, let's fast forward if you
2 will back to 2009 when you went back out to the Bratschi
3 residence after the tongue dug it up. And what you saw
4 how deep -- because I think some of the investigators said
5 some of the shallows were couple inches, some were
6 eight inches. I'm trying to give the jury an idea of how
7 much dirt was put on top of the body. Was it kind of
8 shallow, was it six feet deep? I'm just trying to get an
9 idea of how deep it was.

10 A It's what we refer to as a shallow grave. It wasn't
11 deep at all.

12 Q Could it be eight inches at the shallow point?

13 A Some of it was eight, nine inches and some of it
14 would have been a little deeper than that.

15 Q I hadn't measured this, but, I think, me and you
16 agree most pieces of paper eight and a half by 11?

17 A Correct.

18 Q So if we looking at a piece of paper like this just
19 get a general idea, we're talking about eight and a half
20 inches?

21 A That's right.

22 MR. HERRON: Your Honor, can I have the
23 investigator step down.

24 THE COURT: Yes, sir. You can step down.

25

1 BY MR. HERRON:

2 Q Now, I just want to give the jury an idea of how the
3 body was found in 2009. Was the body face up, was it face
4 down, was it on its side, how were the remains in the
5 ground?

6 A The remains itself would have been face down looking
7 at the scene examining the remains and everything, the
8 body was actually face down in the grave.

9 Q Were the arms out, were there arms behind the back?
10 I mean, where were the arms at?

11 A The remains like I said earlier were wrapped in a
12 blue tarp. And the blue tarp was actually bound at
13 several points, so the body itself the arms would have
14 been flat against the body and it was wrapped inside the
15 tarp.

16 Q Okay. And so the body in the tarp would have been
17 about eight and a half inches at a shallow point
18 underneath the ground?

19 A That's right.

20 Q I want to lay on the ground and I just want to give
21 the jury an idea of how -- what we're talking about. And
22 you tell me if I'm wrong. Now, if I'm the body and I'm on
23 the ground this is pretty much. I don't want to talk to
24 the ground, try to talk to the jury.

25 THE COURT: Those on the back row of the jury

1 can stand up, if you so desire.

2 BY MR. HERRON:

3 Q This piece of paper is eight and a half inches. Are
4 we talking about -- we agree that's a real shallow grave
5 if I'm a body with a tarp around it?

6 A That's correct.

7 Q Real shallow?

8 A That's about eight and a half inches. You can see
9 the way he is right now, the paper is about eight and a
10 half inches wide. He would have been barely covered,
11 right. You agree.

12 Q Thank you. Now, Lieutenant Lutcken, did y'all have
13 cadaver dogs out there in 2004 during the search as part
14 of your search?

15 A Yes, sir, there were cadaver dogs at some points.

16 Q Tell the jury about how cadaver dogs work. I mean, I
17 know I seen them on TV, but I know their name says it.
18 But how do cadaver dogs do their job in discovering
19 cadavers?

20 A It's basically based off of scent molecules, that's
21 secreted from within the water within the soil, you know,
22 where a person may be.

23 Q And those dogs are pretty good?

24 A They're very good. Yes, they are.

25 Q When do you start -- I guess, when somebody is

1 killed, when do they start decomposing enough that a dog
2 can pick up the scent?

3 A Immediately.

4 Q Immediately. As soon as I die, I start releasing
5 these molecules that a dog can pick up?

6 A Yes.

7 MR. HERRON: Your Honor, can I have one moment
8 please?

9 THE COURT: Yes, sir.

10 (WHEREUPON, a pause in the proceedings.)

11 BY MR. HERRON:

12 Q And, Lieutenant Lutcken, you been part of this
13 investigation not only -- since 2004; is that correct?

14 A Pretty much, yes.

15 Q And did you testify on direct that you were pretty
16 much the chief guy running for forensics part of it?

17 A Right. Now, my participation as far as the initial
18 assault, I didn't participate.

19 Q But as far as the investigation of the murder of one
20 Randy Bratschi, you were pretty much the head guy or a
21 head guy?

22 A A head guy, yes, sir.

23 Q Now, are you aware of any evidence that tells us how
24 Randy Bratschi died?

25 A No.

1 Q Are you aware of any evidence that tells the jury
2 where Randy Bratschi was killed?

3 A No.

4 Q Are you aware of any evidence that tells the jury
5 when Randy Bratschi was killed?

6 A No, sir.

7 Q Are you aware of any evidence whatsoever that would
8 tell this jury who killed Randy Bratschi?

9 A No, sir.

10 MR. HERRON: Thank you for being here.

11 THE COURT: Any redirect?

12 MR. WELLS: Just a few questions.

13 REDIRECT EXAMINATION

14 BY MR. WELLS:

15 Q Lieutenant Lutcken, first was there any blood at all
16 found in the vehicle that belong to the victim, Randy
17 Bratschi?

18 A No, sir, there wasn't.

19 Q So all the blood found around the steering wheel gear
20 shift that is what belong to the defendant?

21 A That is correct, yes, sir.

22 Q Just in your observation of the blood, did it appear
23 to be five or six weeks old or did it appear to you to be
24 more recent?

25 A It appeared to be more recent.

1 Q About how recent would you estimate?

2 A I say days to a week.

3 Q All right. Now, going back to the later time. Now,
4 if the body was wrapped in a tarp, would it make it more
5 difficult for the dogs to detect the body?

6 A It would, yes.

7 Q Would you also agree that it would be difficult if
8 the victim had killed himself, for him then to bury
9 himself and wrap himself in a tarp?

10 MR. HERRON: Your Honor, defense would stipulate
11 that's not what happened, that will save him some time.

12 THE COURT: Go ahead and answer the question
13 please.

14 A That's a safe assumption, yes, sir.

15 MR. WELLS: That's all, Your Honor.

16 THE COURT: Mr. Herron.

17 MR. HERRON: No further questions.

18 THE COURT: Sir, you may step down. Thank you.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 MR. WELLS: Any objection if Lieutenant Lutcken
22 be excused?

23 THE COURT: Any objection.

24 MR. HERRON: No, Your Honor.

25 THE COURT: Sir, you're excused from any further

1 obligation with regards to your subpoena. Thank you for
2 being here.

3 Call your next witness.

4 MR. OZMENT: Your Honor, the State calls Jerome
5 Eaddy to the stand.

6 THE CLERK: If you will, sir, come to the
7 witness stand, place your left hand on the Bible and raise
8 your right hand. Do you swear to tell the truth, the
9 whole truth, and nothing but the truth so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Please be seated and state your full
12 name for the record.

13 THE WITNESS: My name is Jerome Eaddy.

14 WHEREUPON,

15 Jerome Eaddy,
16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. OZMENT:

19 Q How are you today, Mr. Eaddy?

20 A Doing fine, sir.

21 Q Where do you live?

22 A I live in Pamplico.

23 Q All right. Do you work?

24 A Yes, I do.

25 Q Where do you work?

1 A I work at Hannah Residential, Maner House.

2 Q Okay. Back in around Thanksgiving of 2004, where did
3 you live at that time?

4 A I live on [REDACTED] Pamplico.

5 Q Is that near Dewitt's Landing?

6 A Say it again now?

7 Q Is that near Dewitt's Bluff Landing, the boat
8 landing?

9 A Yes.

10 Q On the Friday after the Thanksgiving, did you work
11 that day?

12 A I was on night shift.

13 Q Okay. Tell me what that means as far as what hours
14 you had been working?

15 A Three until 11.

16 Q Start at three in the afternoon or three in the
17 morning?

18 A Three in the afternoon until 11 o'clock at night.

19 Q Okay. And that evening on your way home from work,
20 did you see anyone walking around near in the vicinity of
21 where you live?

22 A Well, when I was coming home and as I was coming home
23 getting ready to turn in my lane on the road, I notice
24 somebody was walking on the road. It look like a man. I
25 thought it was a man, but like I said when I turn into my

1 lane, the person that look like a man came behind me but
2 went to my next door neighbor house at that given time.

3 Q What were they wearing?

4 A Something like a camouflage Army outfit.

5 Q Okay. Did they have a hood or a hat or anything on?

6 A I think she had like a hood on her head.

7 Q Okay. And you say you were pulling in when they went
8 to your neighbor's house?

9 A Next door neighbor house.

10 Q Okay. Did they ever come over to your house or
11 approach you?

12 A Not at that time.

13 Q Okay. Did they later?

14 A Well, after they went to my next door neighbor house
15 and spoke to my next door neighbor house and was talking
16 to my next door neighbor house -- next door neighbor about
17 a ride home because my next door neighbor was of age, they
18 weren't able to drive to take her home. She had a
19 daughter from North Carolina home, but she didn't know the
20 area. So my next door neighbor told her to come to my
21 house and ask me to take her home, which me and my mother
22 took her home at the given time.

23 Q Okay. Now, originally you said you thought it was a
24 man walking down the street?

25 A Yes, yes.

1 Q When did you realize it wasn't a man?

2 A Until she approach me on my porch.

3 Q Okay. Did you get a good look at her?

4 A Well, at that time when she came on my porch that's
5 when I did get a good look at her at that time, but the
6 first time I didn't.

7 Q Okay. Did she ever uncover her head?

8 A The first time when she came to my house on my porch.

9 Q Okay. What did she ask you for when she came over to
10 your porch?

11 A Well, basically she ask me she need a ride home.

12 Q Okay. What did she -- did she give you any
13 explanation like why she was in that area or anything like
14 that?

15 A She didn't.

16 Q Okay. Where did she ask to go?

17 A To Coward where she live.

18 Q Okay. Do you remember where you dropped her off?

19 A Yes, I do.

20 Q Okay. Did anybody go with you to take her?

21 A My mother went with me.

22 MR. OZMENT: May the witness step down, Your
23 Honor?

24 THE COURT: Yes, sir.
25

1 BY MR. OZMENT:

2 Q Please step down here for a minute with me,
3 Mr. Eaddy. Mr. Eaddy, looking at this map -- you may need
4 to help me hold it.

5 MR. WELLS: Here I'll hold it.

6 Q Make sure you talk loud cause that lady over there
7 have to hear everything you say. Do you see your house on
8 this map -- excuse me not your house, but where you live
9 at the time on this map?

10 A Right here.

11 Q You mind marking that however you want to mark it.

12 THE COURT: I need you to stand aside after you
13 make your mark, so the entire jury can see, okay. Come
14 back toward me, sir. Thank you.

15 BY MR. OZMENT:

16 Q The mark you made is this kind of line on the road
17 right next door to River Road?

18 A Yes, sir.

19 Q Okay. On this map, do you see the landing, the boat
20 landing Dewitt's Bluff?

21 A Bluff Road is right here.

22 Q Okay. And where is the actual landing?

23 A I don't understand.

24 Q Like so here's the Bluff Road, but I'm asking where
25 is the actual landing that's on the river?

1 A I don't know, sir, but I know that's the Bluff Road
2 right there.

3 Q Okay. You can sit down. I got one more. Mr. Eaddy,
4 this is a zoomed out map of what we saw earlier just for
5 reference here's River Road where you say your house was.
6 You remember approximately where you took her from your
7 house over here?

8 A Are you saying consider taking her home from the
9 River Road?

10 Q Right, right. I guess, maybe easier to do this way.
11 Do you remember like the road names and the area that you
12 dropped her off?

13 A The road was Friendfield.

14 Q Okay. And where on Friendfield was it?

15 A It's like the backside of going to Effingham
16 jailhouse at the four-way stop, that's the Friendfield
17 Road. That's the best I can say on that as far as the
18 location. If you take the Friendfield Road on that end,
19 that will take you to the backside of Coward, which is the
20 country side of Coward. Here's Friendfield right here
21 which is Hyman will take you to Friendfield in this area
22 here.

23 Q Okay. And so this is Friendfield I see here?

24 A Yes, yes, sir.

25 Q Okay. Okay.

1 THE COURT: Can everybody on the jury see? I
2 need you to step back. Thank you.

3 A Hyman would run you into Friendfield, go through
4 Hyman.

5 Q Okay. So if you step back. So Hyman and then here's
6 Friendfield?

7 A Yes.

8 Q Was -- do you remember if it was past Francis Marion
9 Road where that comes at?

10 A No.

11 Q Thank you, sir. You can step back to the stand. The
12 place you dropped her off do you remember anything about
13 like the actual place, like was it -- do you remember if
14 it was a house, was there a trailer? You know anything
15 about that area?

16 A Well, to my view, it's like a house -- trailer house
17 development at that given time. And we took her to that
18 place, but she was saying that the road was too rough, not
19 to go on the road just drop her off by the bridge, that's
20 what we done.

21 Q So you didn't take her like to the front of a house?

22 A No.

23 Q All right. Do you -- have you ever seen that lady
24 before that night?

25 A Never in my life.

1 Q Did you ever see her again after that?.

2 A Never in my life.

3 Q Do you know who Brenda Bratschi is?

4 A Not at that time I didn't.

5 Q All right. Do you know who Randy Bratschi is?

6 A No, I don't.

7 Q Okay. After this happened, were you ever contacted
8 by any investigators from the sheriff's office?

9 A Yes, I have.

10 Q Do you remember speaking to a gentleman name
11 Investigator Phil Hanna?

12 A I don't know by name, but someone came by.

13 Q Okay.

14 MR. OZMENT: May I approach the witness, Your
15 Honor?

16 THE COURT: Yes, sir.

17 BY MR. OZMENT:

18 Q Mr. Eaddy, I'm handing you what's been marked as
19 State's Exhibit 35. Do you see your signature anywhere on
20 that top sheet of paper I'm looking at?

21 A Yes, sir, I do.

22 Q Could you just read like the top two lines of that
23 and tell me what it says it is?

24 A Right here.

25 Q Yes.

1 A Florence County Sheriff's Office photo lineup.

2 Q Okay. Do you remember when the investigators talk to
3 you, did they show you a photo lineup?

4 A Well, when I went to the sheriff department, they
5 did.

6 Q Okay. At that time before they showed you the
7 picture, had you described to them the person that you had
8 given a ride to that night? Had you already told them who
9 ---

10 A Not at the time, not at that time.

11 Q And did they show you a series of photos?

12 A Yes, they did.

13 Q Looking at that series of photos, were you able to
14 pick out the person?

15 A Yes, sir.

16 Q And now did they just show you one and say is this
17 her or did they show you several?

18 A Several, several.

19 Q Okay. And did -- is this the sheet of paper you
20 filled out when you picked out that photo?

21 A As far as I know, sir.

22 Q Okay. Which photo did it say that you indicated you
23 had picked out that day?

24 A On the paper it say photo two.

25 Q Okay. And if you would look for me, tell me if you

1 see the picture in there that you had picked out?

2 A Right here.

3 Q And do -- look at that real quick for me, do you see
4 your signature on that?

5 A Yes, sir.

6 Q Okay.

7 MR. OZMENT: Your Honor, at this time we would
8 move State's Exhibit 35 into evidence.

9 MR. HERRON: Your Honor, may I have just moment
10 to review that briefly.

11 THE COURT: Yes.

12 (WHEREUPON, a pause in the proceedings.)

13 MR. HERRON: No objection, Your Honor.

14 THE COURT: Without objection State's Exhibit
15 35; is that correct?

16 COURT REPORTER: Yes.

17 (WHEREUPON, State's Exhibit No. 35 was admitted
18 into evidence.)

19 MR. OZMENT: Your Honor, permission to publish
20 this to the jury?

21 THE COURT: So granted.

22 BY MR. OZMENT:

23 Q And so you -- did you say it was photo number two
24 that you picked out?

25 A Yes, sir.

1 Q All right. And just to reconfirm, your signature is
2 on photo number two?

3 A Yes, sir.

4 Q Could you please hold up for the jury the photo you
5 picked out of the person you picked out that night? Thank
6 you, Mr. Eaddy.

7 MR. OZMENT: No further questions, Your Honor.

8 THE COURT: Mr. Herron.

9 MR. HERRON: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. HERRON:

12 Q How you doing, Mr. Eaddy?

13 A Doing fine, sir.

14 Q How long have you lived in Coward?

15 A I don't live in Coward.

16 Q Or Bluff Landing ---

17 A Pamplico.

18 Q Pamplico, I'm sorry about that. How long you lived
19 in Pamplico?

20 A Mostly all my life.

21 Q Pretty small town?

22 A Yes, sir.

23 Q Now, when all this stuff came about where a man went
24 missing, was that on the news?

25 A I have no idea about that, sir.

1 Q You don't remember seeing it on the news?

2 A I haven't.

3 Q Okay. Have you ever seen that woman that you pointed
4 to had you ever seen her on the news before?

5 A No, sir.

6 Q Okay. Now, isn't it true did you tell us on direct
7 examination that it was like 11 o'clock whenever you gave
8 her a ride?

9 A No, sir, I was at work. I get off at 11, but I don't
10 get home exactly 11 o'clock because we have to do other
11 things before I clock out. Most of the time I get home
12 around about 11:30 or maybe quarter till give or take all
13 depending on the job itself.

14 Q Well, do you remember telling Investigator Streett
15 that it was eight to 8:30 whenever you got home from work
16 that night?

17 A I don't remember that, sir.

18 Q You don't remember telling her that?

19 A No, sir.

20 Q Okay. Now, the person that you picked up she seem
21 nervous?

22 A Not to me.

23 Q She seem angry?

24 A Not to me?

25 Q Was she crying?

1 A Not to me.

2 Q Matter of fact, I think you said looking at her she
3 seem calm at the time?

4 A Yes, sir.

5 Q Okay. She bleeding?

6 A I didn't see any.

7 Q Did you see any blood in your car after she got out?

8 A No, sir.

9 Q Now, this very important, Mr. Eaddy, are you sure,
10 one hundred percent sure that the person that you saw that
11 was on a Friday night?

12 A I'm not sure about that, sir.

13 Q Could -- well, let me ask you this, Thanksgiving was
14 on a Thursday. I think you told Investigator Streett that
15 it was Friday that you saw the person that you gave a ride
16 to, you gave somebody a ride on Friday? You remember
17 telling her that?

18 A I'm not sure.

19 Q Okay.

20 A I'm not sure about that.

21 Q If she has that in her report, would you have any
22 reason to disagree that you told her Friday?

23 A I'm not sure.

24 MR. HERRON: One moment, Your Honor.

25 (WHEREUPON, a pause in the proceedings.)

1 BY MR. HERRON:

2 Q Have you ever given anybody else a ride for having
3 broke down or anything like that?

4 A No, sir.

5 MR. HERRON: I don't have any other questions
6 thanks.

7 THE COURT: Any redirect?

8 MR. OZMENT: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. OZMENT:

11 Q Mr. Herron was asking you could it have been eight
12 o'clock, 11 o'clock, it was dark when this happened?

13 A Yes, sir.

14 MR. OZMENT: All right. No further questions,
15 Your Honor.

16 MR. HERRON: Nothing further, Your Honor.

17 THE COURT: Sir, you may step down. Thank you.

18 MR. OZMENT: May Mr. Eaddy be released from his
19 subpoena, Your Honor?

20 THE COURT: Any objection?

21 MR. HERRON: No, Your Honor.

22 THE COURT: All right, sir. You may step down
23 and you are excused from court. You have no further
24 obligations with regards to your subpoena. You free to
25 leave. Thank you for being here.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: Next witness.

4 MR. OZMENT: Your Honor, the State calls Phil
5 Hanna to the stand.

6 THE CLERK: Do you swear to tell the truth, the
7 whole truth, and nothing but the truth so help you God?

8 THE WITNESS: Yes, I do.

9 THE CLERK: Please be seated and state your full
10 name for the record?

11 THE WITNESS: It's Phillip Hanna.

12 WHEREUPON,

13 Phillip Hanna,

14 after first having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. OZMENT:

17 Q How are you today, Investigator Hanna?

18 A Fine, sir.

19 Q What do you do for a living these days?

20 A I'm currently an investigator for the Georgetown
21 County Sheriff's Office.

22 Q All right. How long have you been in law
23 enforcement?

24 A Approximately 22 years.

25 Q Were you in Florence for part of that?

1 A Yes.

2 Q How long were you in Florence?

3 A Eighteen and a half years.

4 Q Which agency was that with?

5 A Florence County Sheriff's Office.

6 Q All right. Were you ever an investigator when you
7 were with them?

8 A Yes.

9 Q How long were you an investigator with the Florence
10 County Sheriff's Office?

11 A For probably 16 years of the 18 and a half.

12 Q Okay. When did you leave Florence County Sheriff's
13 Office and head to Georgetown?

14 A November of 2008.

15 Q All right. Were you an investigator back in 2004 in
16 November and December?

17 A Yes.

18 Q Okay. Did you have an occasion to work on the
19 disappearance of Randy Bratschi at that time?

20 A Yes, I assisted Investigator Kathleen Streett with
21 the disappearance of Mr. Bratschi.

22 Q All right. During your investigation, did you ever
23 speak to an individual by the name of Jerome Eaddy?

24 A Yes, I did.

25 Q What did you speak to Mr. Eaddy concerning?

1 A During the investigation, it was revealed that
2 Mr. Eaddy had came in contact with a white female who was
3 asking for a ride back from his house to a residence in
4 Coward.

5 Q Okay. When you -- did anyone else report a similar
6 type -- anything that would have corroborated what
7 Mr. Eaddy said?

8 A There was a neighbor also that -- it actually all
9 started with the neighbor from Mr. Eaddy. She's -- her
10 name leaves me, but she is the one instructed us that we
11 needed to go talk to Mr. Eaddy.

12 MR. HERRON: Your Honor, I object to the
13 hearsay. If they wanted to subpoena the neighbor, they
14 obviously had the right to do that. Mr. Eaddy was here.
15 They could have subpoenaed her. So I would object to any
16 hearsay.

17 MR. OZMENT: I can rephrase.

18 THE COURT: Rephrase your question, Mr. Ozment.

19 BY MR. OZMENT:

20 Q Okay. Did you speak with the neighbor?

21 A Yes.

22 Q After speaking with the neighbor, then what did you
23 feel like you needed to do?

24 A After speaking with the neighbor, then we went and
25 talk with Mr. Eaddy.

1 Q All right. Did you show Mr. Eaddy a photo lineup?

2 A Yes, I did.

3 Q Explain to me how as an investigator how do you
4 create a photo lineup and what's kind of your process?

5 A You get six pictures and similar characteristics not
6 perfect, not exactly like -- you want your suspect's
7 picture. And you want five other similar pictures, not
8 exactly just enough, so like a white female you don't
9 want a black female. You want it to be similar in nature.
10 And that was put together and presented to Mr. Eaddy for
11 him to pick out to see if he could recognize the person
12 that he gave a ride to.

13 Q To your recollection was he able to do that?

14 A Yes, he immediately picked out the defendant, Ms.
15 Bratschi.

16 Q When you say immediately, how quickly did he?

17 A When I -- I had a piece paper or with the pictures
18 and showed him the pictures and time as he saw
19 Ms. Bratschi's picture, he immediately said that's her.

20 Q Okay.

21 MR. OZMENT: May I approach, Your Honor?

22 THE COURT: Yes, sir.

23 BY MR. OZMENT:

24 Q Mr. Hanna, I'm handing you what's in evidence as
25 State's Exhibit 35. Do you see your signature on that

1 document?

2 A Yes.

3 Q Where is your signature?

4 A Conducted by at the very bottom.

5 Q All right. Were you there when that sheet of paper
6 that Mr. Eaddy sign?

7 A Yes.

8 Q Do you recall which or look at those photos make sure
9 is that the photo lineup he saw?

10 A Yes, this is.

11 Q Okay. And which photo to your recollection is the
12 one that he picked out?

13 A Obviously, he picked out picture number two, which is
14 listed at the top and asked him to sign his name and put
15 the date and also ask him to fill out the form. He fills
16 out the top part, signs it and puts his name and
17 information and then obviously it was witnessed by
18 Investigator Kathleen Streett also.

19 Q Okay. Thank you, Investigator Hanna. Was Mr. Eaddy
20 able to articulate to you where he had dropped off Ms.
21 Bratschi that evening?

22 A Yes, and he even went so far as to ride with me to
23 show me exactly where he dropped her off.

24 Q Okay. Do you remember the road name exactly where it
25 was?

1 A It was probably -- it was right there at Mr. Randy
2 Bratschi's residence. It was just passed it maybe quarter
3 of a mile maybe pass Mr. Bratschi's house.

4 Q Okay. Did -- and when you say Mr. Eaddy rode with
5 you, did you go to Mr. Eaddy's house with him to show
6 where Mr. Eaddy lived?

7 A Actually, we left his house because I wanted him to
8 show me the route he took and he rode with me and showed
9 me the way that he went that he took her.

10 Q Okay. If I show you a map, could you show me exactly
11 where you and Mr. Eaddy went that day?

12 A Yes, the entire travel?

13 Q Yeah.

14 A Yes.

15 Q All right.

16 MR. OZMENT: Your Honor, may the witness step
17 down?

18 THE COURT: Yes, sir.

19 BY MR. OZMENT:

20 Q Here's the big Pee Dee River right here.

21 A Bear with me one second. This is the river. If I'm
22 reading it correctly, this place is the place right here
23 where Mr. Eaddy stayed. I might have been here. We took
24 -- went into Pamplico, get my bearings here. Let me back
25 back up to where Mr. Bratschi's house is back track.

1 Obviously left his house coming in Pamplico, went on
2 around and got on what's called Black Street Road, comes
3 into Friendfield, go to Friendfield Cross Roads took a
4 left, come on down here and he passed -- I'm sorry passed
5 the victim's residence. The victim's residence would have
6 been right here, just pass there is a mobile home right
7 here in this area, that's where he dropped her off right
8 here and the victim's house is right here.

9 Q Okay. And if you may be could -- Mr. Wells has a
10 pen. Could you mark where the victim's residence is and
11 where you -- where Mr. Eaddy took you that day?

12 A The victim's house is right here, that's the victim.
13 I dropped him off right here.

14 Q Okay. And this location here looks like it's Durango
15 Road and Bushlin?

16 A Uh-huh.

17 Q What is there?

18 A That's a mobile home, several mobile homes in there.

19 Q Okay. You can take the stand back. A side from
20 speaking with Mr. Eaddy, did you have other involvements
21 in this investigation?

22 A I went on numerous searches with Kathleen Streett and
23 other investigators, any tips that come in lead us to
24 places to search participate in those.

25 Q Of those searches -- did you ever help search the

1 property?

2 A Yes.

3 Q Did you ever help search other areas around that were
4 not the Bratschi property?

5 A Yeah, we searched several different locations.

6 Q Okay. Of the ones that were not the Bratschi
7 property was anything useful ever found?

8 A Nothing was found.

9 Q Okay. Going back to Bratschi property, how many
10 times did you help search that?

11 A At least three or more times.

12 Q Okay. Did you ever find anything that you thought
13 was relevant or suspicious on the Bratschi property?

14 A I did not.

15 Q Okay. Did you ever interview any individuals in
16 reference to this case?

17 A Yes.

18 Q Okay. Who were some of those individuals?

19 A They were some children that was on a hunting trip on
20 the same night that he disappeared. I talked with them to
21 establish location for someone to see where they were at.

22 Q Who was that -- were you looking to see where Brenda
23 Bratschi was?

24 A I was checking to see where her son, Frankie, was at.

25 Q Okay.

1 A And confirmed where he was the night that Mr. Randy
2 disappeared.

3 Q Okay. From your investigation of the -- I think you
4 said hunting trip or camping trip, did it appear that
5 Frankie had been with those children that night?

6 A Frankie was accounted for the attire night. He was
7 on a hunting trip several miles away, not possibly back in
8 Coward.

9 Q Okay.

10 MR. OZMENT: Beg the Court's indulgence just one
11 moment.

12 (WHEREUPON, a pause in the proceedings.)

13 BY MR. OZMENT:

14 Q Investigator Hanna, when you were searching the
15 Bratschi property, did you ever come across any deer
16 stands?

17 A Yes.

18 Q Do you recall how many deer stands?

19 A There was a deer blind, which is a blind that's on
20 the ground in the wooded area behind the houses. There
21 was also several deer stands right behind the residence
22 was a deer stand called a Cadillac deer stand. It was
23 right behind the house and it was several more in the
24 woods.

25 Q All right. Did you ever find any place that the

1 earth had been disturb around the deer stands?

2 A On the property? Are you referring to on the
3 Bratschi property or somewhere else?

4 Q On the property or within the vicinity of the
5 Bratschi property?

6 A Yeah, back to where Mr. Eaddy where he showed me
7 where he had dropped Ms. Bratschi off, we had search some
8 property in that area right there also and found, a lack
9 of a better term, it was a long rectangle shape hole dug
10 out for the size of someone could fit in it and that was
11 right up under a deer stand.

12 Q Was it -- and you found this after Mr. Bratschi went
13 missing?

14 A Yes.

15 Q So it was on the Bratschi property, if you will?

16 A No, it was not on Mr. Randy's property. It was on an
17 adjacent piece of property. I think may be it was -- my
18 understanding it was leased by Ms. Brenda Bratschi's
19 brother-in-law who farms the property. My understanding
20 is he lease the property for the farming rights.

21 Q Okay. How close to the house is it? To the Bratschi
22 residence when I say the house?

23 A And that's back to probably less -- around a quarter
24 of a mile or less.

25 Q Could you walk it?

1 A Oh, easily.

2 Q Okay. How deep was the -- whatever you would call
3 it?

4 A The hole rectangle shaped hole was at least almost to
5 my knees, so that would have been at least 2 foot or more.

6 Q And how long was it?

7 A It was rectangle shape. It wasn't long enough for me
8 to fit in it, but I say maybe five foot. I'm not exactly
9 sure, but maybe about five foot long.

10 Q How wide was it?

11 A And again, it probably been a good two and a half
12 foot wide.

13 Q Okay. Did it appear that it had been there for a
14 while like stuff growing in it or how...

15 A It had been dug fairly recently because there was
16 nothing growing. It was fresh dirt and I don't...

17 Q From your investigation past that point, you ever --
18 did you investigate why this might be there?

19 A Yeah, I actually talk to some of the neighbors who
20 live around in the area. After talking with them, I could
21 not establish anybody, any reason for it to be dug like
22 children playing nothing like that. I could not after
23 speaking with the neighbors and everybody we talk with no
24 one could explain why that hole was there.

25 Q Okay.

1 MR. OZMENT: No further questions at this time,
2 Your Honor.

3 THE COURT: Cross-examination.

4 MR. HERRON: Your Honor, can I have one moment
5 please?

6 THE COURT: Yes, sir.

7 (WHEREUPON, a pause in the proceedings.)

8 CROSS-EXAMINATION

9 BY MR. HERRON:

10 Q Now, you've known Brenda Bratschi for a number of
11 years; is that correct?

12 A Yes, sir.

13 Q You know her family?

14 A Yes, sir.

15 Q Her family farms, right?

16 A Yes, sir.

17 Q They farm approximately four thousands in Coward
18 Pamplico area?

19 A Her brother-in-law is a big farmer.

20 Q When we talk about four thousand acres just give the
21 jury how much territory are we talking? If I stood in
22 this courtroom and said four thousand acres, we talking --
23 their farm we talking a radius of maybe 20 miles, 15, 20
24 miles?

25 A I don't know, but he's a big farmer.

1 Q It's a big area?

2 A It's a big area.

3 Q Four thousand good places to put a body if you wanted
4 to?

5 A Yes.

6 Q Okay. Now, the route that you took with Mr. Eaddy
7 and I don't want to put words in your mouth, I really
8 don't. But did you tell the jury that it was a quarter of
9 a mile past where Randy Bratschi live?

10 A Yes, just past his house and it might not be a
11 quarter of a mile. It may be more than an eighth of a
12 mile. It's not that far.

13 Q But is there a number of mobile homes or houses in
14 that area?

15 A Yes.

16 Q So somebody that supposedly -- I'm confused. So
17 you're saying that Mr. Eaddy said that the person he
18 picked up got dropped off in an area where there were a
19 number of houses and mobile homes?

20 A Just past it and the map -- it's not zoomed in close
21 enough to see it. It's just past the mobile homes is a
22 very dark area and at that exact location where he dropped
23 her off, there was only one mobile home and it was down a
24 lane.

25 Q But there were other mobile homes and houses in that

1 area?

2 A Yes.

3 Q Okay. So somebody -- let me ask you this in your
4 opinion based on where she was dropped off at and, you
5 know, how like in your neighborhood you hear a car door or
6 especially at nighttime you see the car lights if you peek
7 out your window, could somebody in any one of those houses
8 just peeked out the window and see a car dropping somebody
9 off?

10 A From the way he told me he did it, I don't know if
11 they could or not. He didn't pull in the driveway, so the
12 lights could be shining on the house. It was kind of just
13 pulled over on the side road and she got out, he left.

14 Q But being in the road that would mean that more
15 people could see you cause it's right there in the middle
16 of the road, right?

17 A Now, this is at night now.

18 Q Right, see the car lights.

19 A I guess, if they were looking outside they could see
20 them, but if you were inside no longer than it took and
21 the distance, no.

22 Q I'm just saying it's a pretty stupid place to be
23 dropped off if you trying to get away with a murder; isn't
24 it?

25 A No, sir.

1 Q It's not?

2 A No, sir.

3 Q In front of a neighborhood?

4 A She wasn't dropped off in front of a neighborhood.

5 It was toward the end. There was only one mobile home
6 down a driveway.

7 Q Okay, okay. Now, let's talk about where the body was
8 in 2004 when Randy Bratschi went missing. Would you agree
9 there was a lot of news coverage on the local news and the
10 paper about Randy Bratschi and Brenda Bratschi?

11 A Yes.

12 Q Pamplico and Coward is a small town?

13 A Yes.

14 Q A lot of talking going on you agree?

15 A Yes, sir.

16 Q And you remember seeing Brenda's picture on the news
17 or in the paper back in 2004 you remember that, right?

18 A Yes.

19 Q Okay. Now, let's first talk about the -- well, let's
20 talk about Mr. Eaddy. Isn't it true based on your
21 investigation who you talk with because you also said you
22 talk to a neighbor, isn't it true based on your
23 investigation that you know Jerome Eaddy gave Brenda
24 Bratschi or Mr. Eaddy has alleged that he's given Brenda
25 Bratschi a ride and that ride was on a Friday night?

1 Based on your investigation who you talk to, isn't it true
2 that that ride was given on a Friday night?

3 A Yes.

4 Q Okay. Mr. Eaddy picks up somebody on a Friday night
5 we sure about that based on your investigation?

6 A Yes.

7 Q Okay. All right. Now, who reported Brenda -- isn't
8 it true that Brenda Bratschi reported Randy Bratschi
9 missing?

10 A I think it was -- yes, she did kind of done
11 simultaneously with I think Investigator Streett was doing
12 it also at the same time.

13 Q Okay. All right. That's smart thing to do if you
14 trying to get away with murder or a dumb thing?

15 A Cast off blame.

16 Q If Brenda Bratschi was a woman that's worried about
17 her husband, would you expect a woman that is worried
18 about her husband to call the police and report him
19 missing. Would you expect an innocent person that's
20 wondering about her husband is that something they would
21 normally do?

22 A Yes.

23 Q Okay. Now, when you say you were involved in the
24 search of the Bratschi residence in 2004, I'm going to try
25 and try separate it. So in 2004, what do you remember

1 seeing as far as how deep down the body was up underneath
2 the trailer?

3 A I never saw the body.

4 Q Did you see the tarp?

5 A I just saw photographs.

6 Q Okay. Were you out there when they were -- I got
7 ahead of myself. I'm talking about 2009, I need to stick
8 with 2004. All right. Now, in 2004 when y'all did a
9 search, what did you do as far as your search goes of the
10 Bratschi residence?

11 A I participated with the search walking through the
12 woods looking for everywhere on the property.

13 Q Okay. Did you go in the house?

14 A At one occasion I did go in the house.

15 Q Any signs of struggle in the house?

16 A Not that I recollect, no.

17 Q Lamps knocked over, kitchen table broken, things
18 thrown about anything like that that struck you that come
19 to your mind?

20 A Nothing I don't remember anything unusual.

21 Q That be important thing you probably remember if you
22 looking for someone is that true?

23 A Yes, but to keep in mind, I wasn't there with the
24 initial -- the first search. I mean, I was there later
25 on, so I don't know if something had been cleaned up or it

1 could have happen after.

2 Q Okay, I understand. How long was it -- you say you
3 weren't there for the initial search. When did you start
4 -- when did you become part of the search of the Bratschi
5 residence?

6 A I don't remember exactly, but it was on into it. I
7 think Investigator Street and Bert Turner, Investigator
8 Turner were pretty much taking the lead on it. And it
9 wasn't until later that I became involved in it.

10 Q If there -- if Investigator Turner had testified that
11 there was no -- didn't appear to be anything out of place,
12 you wouldn't have any reason to disagree with that, right?

13 A If Investigator Turner said that, I would not.

14 Q Now, you didn't see a body in the tarp; is that
15 correct?

16 A That's correct.

17 Q Okay. But you saw photographs?

18 A Yes.

19 Q And in your looking at the photographs, isn't it true
20 that the body was up underneath the trailer in a pretty
21 shallow grave?

22 A I can't tell you because all I saw was the
23 photographs after it was taken out. I can't give you...

24 Q Now, Frankie is Brenda's son; is that correct?

25 A Yes.

1 Q And you known that family for a long time?

2 A Yes.

3 Q Did you know Frankie and Brenda were living with
4 Randy?

5 A Yes.

6 Q Did you know that Randy when they start having this
7 trouble wanted to get Frankie out of the house?

8 A I wasn't aware of that, no.

9 Q Now, Frankie -- you said on the fishing trip he's
10 accounted for, but isn't it true that that fishing trip
11 took place on the Pee Dee River?

12 A Yes.

13 Q And isn't it true based on your investigation, there
14 was a time there where Frankie wasn't with the group?

15 A He was together with them at Alison's Boat Landing In
16 Johnsonville. And they were upstream a good distance and
17 he was accounted for the entire time according to the
18 people that I talk to that were with him.

19 Q Well, isn't it true that him and another guy left the
20 group and went back up the river by themselves, you
21 remember talking to people and making that part of your
22 understanding of what happened?

23 A They could have left for a period of time, but it
24 would have been no where near enough time for him to
25 leave, get back to Pamplico and then get back to

1 Johnsonville, so that wouldn't be possible.

2 Q Okay. Now, deer stands and anything unusual about a
3 deer stand in Coward, Pamlico or out in the country
4 itself?

5 A No.

6 Q Okay. And then what is the significance, if any, of
7 the -- I think Mr. Ozment was talking about a hole. In
8 your opinion, based on the investigation what's the
9 significance of a hole that's the first time we heard of.
10 What's the significance of that?

11 A Because it look like a grave. It look like somebody
12 had ---

13 Q Now, where was the deer stand ---

14 A You want me to finishing answering it?

15 Q Oh, I'm sorry, I didn't mean to cut you off.

16 A The hole was near a -- what's significant about it is
17 the hole was near a tree stand that from my understanding
18 that they used -- the Bratschi's used to deer hunt. This
19 hole appeared to be a dug grave. Now, that's why it was
20 so significant to us and it was fresh.

21 Q Okay. How far away from the house was the deer
22 stand?

23 A The deer stand from the house is again it's gone be
24 right there close to that quarter of a mile because the
25 deer stand is right there where -- in the same

1 approximately of where she was dropped off by Mr. Eaddy.

2 Q Okay. Now, Investigator Hanna, I'm getting a little
3 confused. Now, I want to be perfectly clear for the jury.
4 You labeled it a shallow grave. Would you mind standing
5 up for the jury? Can I get you to stand up? Now, you not
6 suppose to ask a woman her age or her weight, so I'm --
7 but how much do you weigh?

8 A Probably about 280.

9 Q 280 right now. Okay, thanks. You can sit down thank
10 you. Randy Bratschi weight around 190, right?

11 A I guess so, I don't know.

12 Q Okay. Now, are you telling this jury that if you
13 wanted to get rid of a body -- let me ask your opinion.
14 Now, is this deer stand in the woods?

15 A It's on the wood line, it's on the edge of the woods
16 next to the field.

17 Q Okay. If you had to hide a body and you knew the
18 person was going to be reported missing, in your opinion
19 having been sworn under oath right here in front of this
20 jury, isn't it true that you would have put that body in
21 that supposed shallow grave a quarter of a mile away from
22 the house especially when you knew the man was going to be
23 reported missing; isn't that true? Wouldn't that have
24 been a better place to put a body?

25 A I can't answer that honestly because I don't know

1 what she's thinking at the time.

2 MR. HERRON: Object to the speculation of what
3 she was thinking at the time, that's his opinion. He has
4 no basis for that opinion.

5 THE COURT: Can y'all approach please?

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)

9 THE COURT: Rephrase your question please.

10 BY MR. HERRON:

11 Q Investigator Hanna, if it were you that had just
12 murdered someone -- I hate to make it like this, but let's
13 imagine it was your wife. And you knew people were going
14 to be looking for your wife, it was you, Investigator
15 Hanna, wouldn't you have put your wife's body a quarter of
16 mile in a wood line versus sticking your wife up
17 underneath the house that both of y'all lived in. Isn't
18 it true that it would be a better place to put a body?

19 A I would not kill my wife.

20 Q I understand that, Investigator Hanna. I would
21 stipulate to the jury that you wouldn't either. But
22 please answer my question this is an important matter for
23 Brenda Bratschi. She's on trial for murder.

24 A Yes, she is.

25 Q Let's don't play games, let's answer the question.

1 The question I'm going to repeat it to you again ---

2 MR. OZMENT: Your Honor, I would object, this is
3 argumentative.

4 MR. HERRON: I'm just trying to get him to
5 answer my question.

6 THE COURT: Answer the question.

7 BY MR. HERRON:

8 Q Please answer the question.

9 A You're asking me to make a comment for something that
10 I cannot do because I can't rationalize killing my wife
11 and putting her anywhere. Now, you asking me to make up
12 something that I can't do.

13 Q I'm giving you a hypothetical. And it was your
14 opinion that this was a shallow grave. So I want to know
15 and the jury has no way of going out there. I'm trying to
16 give the jury an idea of where this shallow gave
17 supposedly was in the woods and where Randy Bratschi was
18 found. Now, my question to you if -- nobody said you were
19 gone kill your wife, I understand. If you had killed
20 someone, killed your wife, knowing where that grave was
21 ---

22 MR. OZMENT: Your Honor, I would object to this
23 question. He said he cannot answer this question any
24 better than he has.

25 MR. HERRON: He want answer the question.

1 MR. WELLS: Your Honor, it's a jury argument ---

2 THE COURT: Hold on minute. Can the lawyers
3 approach please.

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury, but out of the hearing of the
6 jury.)

7 MR. HERRON: Investigator Hanna, I think I made
8 my point, I think I'm going to move on.

9 THE COURT: Objection sustain. Continue move on
10 to your next question, Mr. Herron.

11 BY MR. HERRON:

12 Q There was also a search conducted all around Coward,
13 Pamplico; is that correct?

14 A Yes, sir.

15 Q Y'all were searching every field, every deer stand
16 all around Pamplico and Coward; is that correct?

17 A Yes, sir.

18 Q And the reason you were searching all that was
19 because you knew Brenda Bratschi's family had farm
20 basically four thousand acres around that area?

21 A Yes, sir.

22 Q Okay. Now, let's get back to Frankie. Isn't it true
23 based on your investigation that Frankie had Randy
24 Bratschi's boat that weekend?

25 A Yes.

1 Q Okay. Isn't it also true that you believe based on
2 your investigation that Frankie was one of the last people
3 to see Randy Bratschi alive?

4 A As far as I know, yes.

5 Q According to your investigation?

6 A Yes.

7 Q Okay. Now, did you find a note in Randy Bratschi's
8 home from Frankie Miles?

9 A No, sir, I did not.

10 Q Do you know whether or not any of the investigative
11 team found a note from Frankie Miles inside of Randy
12 Bratschi's home were you aware of that?

13 A Yes, I do recall reading that somewhere maybe in the
14 reports or somewhere, yes.

15 Q Do you remember what the notes said?

16 A No, sir.

17 Q Okay. Now, as part of your investigation, did you
18 speak to Frankie Miles?

19 A Yes.

20 Q Okay. And isn't it true that Brenda Bratschi gave
21 Florence County Sheriff Defendant gave you, Kathleen
22 Streett at least two voluntary statements without the
23 presence -- without the assistance of a lawyer? She gave
24 you -- she came in and talked to y'all at least two
25 occasions; isn't that correct?

1 A She may have spoken to the other investigators. I
2 wasn't present during any of those.

3 Q Okay. But she did -- based on your investigation and
4 based on what you saw, she did come in and talk to
5 investigators on two occasions?

6 A My understanding was that she did come in and talk
7 with the investigators at some point during the
8 investigation.

9 Q And this was voluntary?

10 A From my understanding, yes.

11 Q And Brenda Bratschi according to the investigation
12 has always maintained she did not know what happened to
13 Randy Bratschi; isn't that correct?

14 MR. OZMENT: Your Honor, may we approach?

15 MR. HERRON: Your Honor, I'll move on. I will
16 withdraw the question.

17 THE COURT: No, approach.

18 (WHEREUPON, a bench conference was held in the
19 presence of the jury, but out of the hearing of the
20 jury.)

21 THE COURT: Ladies and gentlemen of the jury,
22 the last question ask by defense counsel is withdrawn.

23 MR. HERRON: Your Honor, can I have one moment.

24 THE COURT: Yes.

25 (WHEREUPON, a pause in the proceedings.)

1 BY MR. HERRON:

2 Q Investigator Hanna, you been working this case since
3 2004; is that right?

4 A Yes, sir.

5 Q Now, did they do any test of that what you would call
6 a shallow grave by the deer stand? They do any test to
7 see whether or not a body been in there?

8 A I know it was examined. And the best I can determine
9 they found that nothing had been in there.

10 Q Okay.

11 A There was no evidence of anything had been in it.

12 Q Okay. And that was at least a quarter of a mile from
13 the Bratschi residence?

14 A Give or take somewhat, yes.

15 Q Okay. But it was just so we clear, it was Friday
16 night that Jerome Eaddy gave a ride to that person?

17 A Yes.

18 MR. HERRON: Okay, thank you. No other
19 questions.

20 THE COURT: Any redirect?

21 MR. OZMENT: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. OZMENT:

24 Q Mr. Herron, asked you about some property that's
25 leased by one of Ms. Bratschi's relatives that farms;

1 correct?

2 A Yes.

3 Q We agree that's I think that was a large piece of
4 property?

5 A Yes, it is.

6 Q The same relatives that's the one who leases the
7 property that the shallow grave was found on?

8 A Yes.

9 Q Okay. So on that four thousand acres or however big
10 it is. It's a portion of that that this -- what we're
11 calling a grave was found; correct?

12 A Yes, that's correct?

13 Q Of the property that that individual farms, how much
14 of it is close to the Bratschi residence?

15 A That would probably be the closest spot.

16 Q All right. Mr. Herron also asked you about if you
17 thought it was logical for a woman to worry about the
18 whereabouts of her husband to report him missing. Would a
19 person worried about her husband, would you expect that
20 person also to beat their husband?

21 A No.

22 Q Mr. Herron asked you about where Frankie was and you
23 said he was on the river. Where on the river was he that
24 weekend?

25 A They had to get there by boat. Like I said, it's at

1 Alison's Landing in Johnsonville. It is a very isolated
2 place. And they got in the boats and went upstream and
3 the only way to get there is by boat.

4 Q So how long would it take -- and you can take me
5 through each step. How long would it take to get from
6 where they were to say Dewitt's Bluff Landing roughly?

7 A To get from where they were at to get to Dewitt's
8 Bluff, you talking probably a good hour and a half to two
9 hours.

10 Q Okay.

11 A And also you got to keep in mind this was at night,
12 so they would be traveling on the river at night which is
13 slower to get back to the landing -- and it's kind of --
14 it's tough.

15 Q And that hour and a half is that one way?

16 A That's just one way.

17 MR. OZMENT: No further questions for this
18 witness, Your Honor.

19 MR. HERRON: Briefly, Your Honor.

20 RE CROSS-EXAMINATION

21 BY MR. HERRON:

22 Q You would be the assistant chief investigator of this
23 case?

24 A I would just be assistant to Kathleen Streett, yes.

25 Q And Kathleen Streett's the head investigator?

1 A Yes.

2 Q So I'm going to ask you do you have any evidence to
3 tell this jury of how Randy Bratschi died?

4 MR. OZMENT: Your Honor, may we approach?

5 THE COURT: Yeah.

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)

9 MR. HERRON: I don't have any other questions,
10 Your Honor.

11 THE COURT: All right.

12 All right, sir, you may step down.

13 (WHEREUPON, the witness leaves the witness
14 stand.)

15 THE COURT: Can the lawyers approach again
16 please.

17 (WHEREUPON, a bench conference was held in the
18 presence of the jury, but out of the hearing of the
19 jury.)

20 THE COURT: Ladies and gentlemen, what we are
21 going to do now is we're going to stop for lunch. I'm
22 going to ask that you be back in your jury room at 1:30.
23 And we'll resume the trial of this case at that time.
24 It's about 12:15, 12:10 right now. I will remind you
25 while you're on your lunch break do not discuss this case

1 truth so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Please be seated in the witness
4 chair. And state your full name for the record.

5 THE WITNESS: William L. Rauch.

6 WHEREUPON,

7 William L. Rauch,

8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. OZMENT:

11 Q How are you today, Mr. Rauch?

12 A I'm fine.

13 Q Where do you live?

14 A Friendfield.

15 Q All right. How long have you lived down in that
16 area?

17 A Thirty years.

18 Q All right. What do you do for a living?

19 A I'm an upholster.

20 Q Okay. What kind?

21 A Furniture.

22 Q Okay. Do you know Brenda Bratschi?

23 A I do.

24 Q How long have you known Ms. Bratschi?

25 A Probably all her life.

1 Q Okay. Did you know Randy Bratschi?

2 A I did.

3 Q How long did you know Mr. Bratschi?

4 A I met Randy back probably in the 90's.

5 Q Okay. Were y'all friends?

6 A Yes, we were.

7 Q Okay. What kind of stuff would y'all do together?

8 A Shoot pool, barbecue. I went to Tennessee with him
9 one time to his hometown stuff like that.

10 Q Okay. Back in October of 2004, were you aware of an
11 attack were Brenda had attacked Randy?

12 A I was.

13 Q Okay. How did you find out about that?

14 A We were cooking a hog on the river and Randy came
15 down there and -- to the neighborhood and he was telling
16 us.

17 Q Okay. How long after the attack was that?

18 A I say like a week maybe after he was out the
19 hospital.

20 Q All right. Do you know if Randy was scared of Brenda
21 at that time?

22 A I took him to be.

23 Q Okay. Do you know if Randy ever got a restraining
24 order with family court?

25 A I do, yes.

1 Q Okay. Do you know if Brenda was allowed to be around
2 Randy during that time?

3 A My understanding she wasn't to be

4 Q Okay. What about their house at the corner of Old
5 North Georgetown Road and Friendfield? Do you know if she
6 was allowed to be there?

7 A My understanding is she wasn't.

8 Q Okay. Now, looking at the week of Thanksgiving, the
9 Saturday after the Thanksgiving, did you see Brenda
10 Bratschi that day?

11 A I was coming from my momma's and I don't remember
12 exactly what day it was, but it was probably Friday or
13 Saturday. And I come up to the stop sign. As I was
14 coming up, I seen the car she normally drives which other
15 people did drive to, but I seen it coming out of there.

16 Q Which just to clarify when you say the stop sign,
17 what intersection are you talking about?

18 A Coward Cross Roads.

19 Q Okay.

20 A And that's adjacent to Randy's lot.

21 Q Is that where Friendfield and Old Georgetown cross?

22 A That's correct, yes, sir. So when I seen the car, I
23 just normally just stop where I had to stop at the stop
24 sign any way. So I waited a few extra seconds for her to
25 come out, so I could see who it was and that's when I saw

1 her.

2 Q Okay. Did you get a look at her face?

3 A I did.

4 Q Are you sure it was her?

5 A I am.

6 Q Okay. And so just make sure I'm clear, were y'all --
7 were you facing each other at the stop sign or you
8 catercorner like how were you? You see what I'm saying?

9 A We eventually was facing one another.

10 Q Was it daylight when this happened?

11 A Yes, it was daylight.

12 Q Okay. And what generally -- just if you know the
13 type, that's good. Just generally describe the vehicle
14 she was in?

15 A Like it was a little brown tannish car. And to be
16 honest, I don't know what make or model.

17 Q Okay. When you saw that it was her pulling out, did
18 that in any way alarm you?

19 A It did because I talk with Randy just a few days
20 prior when he said -- he the one that told me she wasn't
21 allowed down there.

22 Q Okay. Did you ever tell law enforcement about this
23 incident?

24 A I did.

25 Q Okay. About how long after did you tell them?

1 A One day we had came up to the shop, which live side
2 of Bert Turner which is a friend of mine and he was a
3 detective. And I think he's the first one that I said
4 something to about it.

5 Q Okay. Did you eventually talk with Kathleen Streett
6 about it?

7 A I did.

8 Q When you were parked at the stop sign with
9 Ms. Bratschi on the other side, could you see any sort of
10 expression on her face anything like that?

11 A She did have an expression on her face, I don't know
12 what to call it, but, yes, there was.

13 Q And you got a good enough look at her face that you
14 could not only recognize, you could read her face?

15 A I recon you could say that, yes.

16 MR. OZMENT: No further questions for this
17 witness, Your Honor.

18 THE COURT: Mr. Herron.

19 MR. HERRON: Can I have one moment, Your Honor.

20 THE COURT: Yes, sir.

21 (WHEREUPON, a pause in the proceedings.)

22 CROSS-EXAMINATION

23 BY MR. HERRON:

24 Q How you doing, Mr. Rauch?

25 A I'm doing fine.

1 Q Now, you known both Randy Bratschi and Brenda
2 Bratschi for most of your life?

3 A Yes..

4 Q You ever seen Brenda Bratschi be violent against
5 Randy Bratschi?

6 A No.

7 Q You ever seen her raise her voice, cuss and raise a
8 fuss?

9 A I can't say I have.

10 Q Okay. Now, how close friends were you and Randy?

11 A We were close enough that like I say I went to
12 Tennessee with him for about a week to his hometown and we
13 mess around together.

14 Q Did Randy have a drinking problem?

15 A No, I wouldn't call it a drinking problem. I mean

16 ---

17 Q Let me ask you this ---

18 A We would take a drink.

19 Q I'm sorry I didn't mean to cut you off. Did you ever
20 see Randy get up in the morning first thing he would go to
21 do is grab a Bud Light out of the refrigerator? You ever
22 see that when y'all were on your trip to Tennessee?

23 A No, sir.

24 Q You ever seen him drink on the way to work?

25 A No, sir.

- 1 Q You ever see him drink on the way back from work?
- 2 A Didn't work with him, didn't ride with him.
- 3 Q All right. Now, when you saw Brenda that day are you
- 4 sure it was Saturday?
- 5 A No, sir, I'm not sure it was a Saturday.
- 6 Q Could it have been earlier than a Saturday?
- 7 A Could have been a Friday.
- 8 Q Okay. Would it have been later than Saturday?
- 9 A No.
- 10 Q So it wasn't later than Saturday?
- 11 A Uh-uh.
- 12 Q And I'm not trying to put words in your mouth?
- 13 A Thanksgiving day, whatever day Thanksgiving came on
- 14 or the day after.
- 15 Q Okay. So if Thanksgiving came on a Thursday, you're
- 16 pretty sure that you had saw Brenda on that Friday or that
- 17 Saturday; is that correct?
- 18 A Yes, sir.
- 19 Q Let me ask you another important question, did you
- 20 see Randy Bratschi that Saturday?
- 21 A No.
- 22 Q Did you see Randy Bratschi that Sunday?
- 23 A No, sir.
- 24 Q When you saw Brenda Bratschi coming out from the
- 25 residence, you just assume they were just trying to get

1 back together, right?

2 A That popped in my mind, yeah.

3 Q You didn't take it -- you weren't worried enough
4 about it to call law enforcement, right?

5 A Uh-uh.

6 MR. HERRON: Can I have one moment, Your Honor?

7 THE COURT: Yes, sir.

8 (WHEREUPON, a pause in the proceedings.)

9 MR. HERRON: Thank you, Mr. Rauch. Thank you
10 for being here.

11 THE COURT: Anything further?

12 MR. OZMENT: One question.

13 REDIRECT EXAMINATION

14 BY MR. OZMENT:

15 Q I just want to make sure I made this clear, Mr.
16 Rauch. When you first saw the vehicle that Ms. Bratschi
17 was in, was it still on the property?

18 A Yes, sir.

19 MR. OZMENT: No further questions, Your Honor.

20 THE COURT: Mr. Herron.

21 MR. HERRON: Nothing, Your Honor.

22 THE COURT: Sir, you may step down. Thank you.

23 MR. OZMENT: May Mr. Rauch be released from his
24 subpoena to go back to work?

25 MR. HERRON: No objection.

1 THE COURT: All right. Sir, you are released
2 from any further obligations with regards to your
3 subpoena. You free leave. Thank you for being here.

4 (WHEREUPON, the witness leaves the witness
5 stand.)

6 THE COURT: Call your next witness?

7 MR. OZMENT: Your Honor, at this time the State
8 calls Mark Ingraham to the stand.

9 May we approach, Your Honor.

10 THE COURT: Yes.

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury, but out of the hearing of the
13 jury.)

14 THE CLERK: If you will, sir, place your left
15 hand on the Bible and raise your right hand. Do you swear
16 to tell the truth, the whole truth, and nothing but the
17 truth so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Please be seated in the witness
20 chair and state your name for the record?

21 THE WITNESS: Mark Ingraham.

22 WHEREUPON,

23 Mark Ingraham,
24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. OZMENT:

2 Q How are you today, Mr. Ingraham?

3 A Great thanks.

4 Q What do you do for a living?

5 A I am a forensic anthropologist at the center for
6 Human Identification based out of the University of North
7 Texas.

8 Q Where is the University of North Texas?

9 A They are in two locations Fort Worth and Denton,
10 Texas.

11 Q Okay. What schooling did you have to go to become a
12 forensic anthropologist?

13 A I have an under graduate degree in biology and a
14 masters of science degree in biology with an emphasis in
15 skeleton biology and forensic anthropology.

16 Q Okay. And what work experiences have you had in this
17 field since you got those degrees?

18 A Since 2004, I have been employed as a full-time
19 forensic anthropologist with the Center for Human
20 Identification.

21 Q All right. Are you a member of any professional
22 organizations or attend any conferences?

23 A Sure. I'm a member of the American Academy of
24 Forensic Sciences, Homicide Investigators of Texas and the
25 Society of Forensic Anthropologist.

1 Q All right. Have you ever published any papers or
2 made any presentations at scientific conferences in your
3 field?

4 A Yes.

5 Q In your time at the University of North Texas
6 approximately how many cases have you worked on?

7 A Since 2004 as of a few weeks ago over 700 cases with
8 over 500 being forensically significant.

9 MR. OZMENT: Your Honor, at this time we would
10 move Mr. Ingraham an expert in the field of forensic
11 anthropology.

12 MR. HERRON: No objection from the defense, Your
13 Honor.

14 THE COURT: All right. Ladies and gentlemen, as
15 I have previously instructed you with regards to expert
16 testimony. Normally, a person when they testify they must
17 testify as to what they either saw, heard or sense by
18 smell or something of that nature. However, there is an
19 exception when someone is qualified because of education
20 or experience. They are permitted, they are permitted to
21 give their opinion in certain areas if the court qualifies
22 them that way. This witness is being qualified as an
23 expert in the field of forensic anthropology to give
24 opinion testimony in that area. That does not mean that
25 you must accept the opinion, but it is evidence for you to

1 use in any way that you see fit and give it the weight and
2 credibility that you believe is appropriate.

3 Mr. Ozment.

4 MR. OZMENT: Thank you, Your Honor.

5 BY MR. OZMENT:

6 Q Mr. Ingraham, we start out what is forensic
7 anthropology?

8 A Forensic anthropology involves the applications of
9 the sciences developed in physical anthropology and
10 skeletal biology to matters of legal interest.

11 Q Okay. So give me example saying this case somebody
12 finds skeleton, what are just -- what are some of the
13 sorts of things that you can do with it what kind of
14 information does that produce?

15 A Sure. It falls into two broad categories. One
16 involves who that individual might be, what we term the
17 biological profile, ancestry, sex, stature, physique,
18 unique identifiers in the skeletal that may help identify
19 that body. And then investigations regarding potential
20 cause or manner of death, what happened to that
21 individual, is there any evidence of traumatic injury to
22 hard tissue of the body.

23 Q Okay. In the case we are here about today, which is
24 an individual is Mr. Randy Bratschi, did you have an
25 opportunity to examine his remains?

1 A Yes, we did.

2 Q How did you receive his remains I guess?

3 A The remains were transported to the Center for Human
4 Identification by the Florence County Sheriff's Office.
5 And then transported to our laboratory from evidence
6 control by myself.

7 Q Okay. And then what sort of -- when you accept
8 remains is there anything else that you ask law
9 enforcement to submit with them?

10 A Sure since we are not typically involved in the
11 recovery of the remains, we ask for copies of the scene,
12 photographs, copies of the scene report and any related
13 items. In this case, they provided a copy of a scene
14 report. A copy of the scene photographs and images of the
15 propose victim.

16 Q Okay. Did any of those images of the propose victim
17 catch your eye for any reason?

18 A Sure. The images provided of Mr. Bratschi were from
19 emergency department here in South Carolina.

20 Q You mean like a hospital?

21 A Correct. Along with their report from that incident.
22 Many times agencies aren't familiar with what forensic
23 anthropologist can do in terms of an identification of the
24 remains. I called the sheriff's department to ask if they
25 would inquire regarding medical imaging.

1 Q Okay.

2 A X-ray's, CT's.

3 Q Were you able to obtain some x-rays or CT's in this
4 case?

5 A Yes, they were CT's of the chest. CT of the skull
6 looking at potential brain injuries and a facial CT.

7 Q All right. And just briefly for me what is a CT
8 scan, tell me what can it tell me?

9 A For us something very different than it tells the
10 radiologist. A CT scan provides a three dimensional look
11 at all of the hard tissue anatomy in the view under study.
12 In this case, the facial CT which was taken to rule out
13 fractures of the frontal sinus have a wealth of
14 information regarding the dental anatomy in this case.

15 MR. OZMENT: Your Honor, may I approach the
16 witness?

17 THE COURT: Yes, sir.

18 BY MR. OZMENT:

19 Q Mr. Ingraham, I'm handing you what's been marked as
20 State's Exhibit 30 -- these are not in evidence, but they
21 are a Court's Exhibit. Can you just open that and look in
22 there and tell me if that's the CT scan that you can tell
23 by looking at you examine Mr. Bratschi?

24 A Yes.

25 Q Now, after your examination of the remains, did you

1 formulate what I would call a presentation in this case?

2 A Yes, in addition to our reports when our findings are
3 based on interpretations of graphical data. We provide
4 the submitting agency with annotated images.

5 Q Okay. And you're saying annotated images could it be
6 described as like a power point?

7 A Yes.

8 MR. OZMENT: Your Honor, at this time Mr.
9 Ingraham would be allowed to go through his annotated
10 images for the jury.

11 MR. HERRON: Your Honor, can we approach for one
12 moment please?

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held in the
15 presence of the jury, but out of the hearing of the
16 jury.)

17 MR. OZMENT: Your Honor, we would ask that
18 Mr. Ingraham be allowed to go through his prepared report?

19 MR. HERRON: No objection, Your Honor.

20 THE COURT: Without objection.

21 MR. OZMENT: If the witness could step down.

22 THE COURT: Dr. Ingraham, is that right?

23 DR. INGRAHAM: Yes, sir.

24 THE COURT: Could you stand on the other side.

25 And, Mr. Ozment, could you all slide that back

1 just a little bit. I want to make sure that my court
2 reporter can hear everything that you're saying as oppose
3 to your back being turned to her. I want you facing her
4 as you speak.

5 If you will go to the other side, Mr. Ingraham.
6 Just make sure as you speak that you speak loud and clear.
7 And do not block the view of those jurors that are
8 immediately to your left, okay. Thank you.

9 Yes, sir.

10 MR. HERRON: Your Honor, I don't think the
11 alternate juror can see.

12 THE COURT: Can you not see? Can everybody on
13 my left see? Record reflects that everybody on the jury
14 can see the television.

15 Go ahead.

16 BY MR. OZMENT:

17 Q Dr. Ingraham, what are we looking at on this here?

18 A These series of slides are essentially an
19 identification of the victim. The previous slid was
20 background information regarding Mr. Bratschi where the
21 records came from and where the remains were located.
22 Here we are looking at the upper jaw as it was recovered.
23 You can see that it's not attached to the facial skeleton.
24 This is your upper jaw up to about the base of your nose.
25 Again, here's the mandible of the unidentified remains as

1 as they were recovered in the field. This was the image
2 provided to us that led to the request of the sheriff's
3 office to investigate the possibility of antemortem
4 records. Next two slides are simply a list of the points
5 of comparison made. They will be visible in the next
6 couple slides. We are looking at a CT scan where
7 essentially looking at slices through the body. We're
8 looking here at the mandible about half way between the
9 chin and the teeth. And we're going to be moving upward
10 through the lower teeth through upper teeth up to about
11 orbits or the eyes.

12 Q So is this like essentially a cross section just like
13 slice the skull up in a bunch of pieces and then look at
14 them?

15 A Correct. And I have limited it to the most
16 informative slices. We're moving further up just as a
17 point of reference here is the spine, here is the
18 esophagus and this is the mandible. Here we start seeing
19 some unique identifying features. This black air space
20 around that tooth root represents that abscess. This
21 tooth was lost at some point earlier in life and the bone
22 of the mandible begins to absorb. Moving a little bit
23 further up, we see what are called mandibular toride.
24 These ridges of the bone inside the mandible are fairly
25 unique in occurrence. They're even more unique when you

1 look at the actual shape. In this case, you can see that
2 it is bilobate on the left, bilobate here on the left,
3 trilobate on the other side, same form there. Here is the
4 advanced absorption of the mandible. These teeth were
5 missing postmortem. They were not recovered from the
6 scene. And these empty sockets that are represented by
7 teeth and the E.R. exam. Here we have a right third molar
8 that is uninterrupted.

9 Q Is that called a wisdom tooth?

10 A The wisdom tooth, yes. Moving up a little bit more
11 the second molar has a large carious lesion. What
12 commonly is called tooth decay, very advanced tooth decay.
13 We use the term carries. So that was the entire crown of
14 this second molar is gone. You could see the missing
15 portion there on the CT. You can see the crown of the
16 uninterrupted third molar. Here on the canine your
17 eyetooth, you can see a very tiny lesion on the side of
18 the tooth and you can see it here in the CT. This tooth
19 was lost prior to death here in the living patient it's
20 missing. On the other side of the mouth on the left side,
21 we have an impacted third molar or it came forward and hit
22 the other tooth. Here you can see it in the remains as
23 well as an antemortem lost or tooth lost before death.
24 Again, a small lesion on the anterior tooth. You can see
25 right there. If we look at the configuration of the

1 anterior teeth, this individual had rotated canines, which
2 they run up and down rather than across along the tooth
3 row and substantial crowding of the incisors.

4 Q Can you tell if he needed braces from that picture?

5 A He need braces and some other care long before this
6 time. A lot of people have crowded teeth especially Anglo
7 Caucasian. My teeth on the bottom are more crowded than
8 this. The pattern of the angulation and the crowding can
9 be transferred over and is essentially a bite mark
10 comparison, it's identical. Another carious lesion this
11 time on the upper teeth. We're looking at right first
12 molar see it right there, recent tooth lost in the
13 remains. You see fragment of a root at the antemortem CT.
14 This tooth was reportedly removed by the medical examiner
15 for DNA testing. Here we have the only restoration seen
16 in the teeth, here's a small silver amalgam filling and in
17 that same tooth, you can see the scattering from the
18 x-rays from the CT. On the right side, two very large
19 carious lesions. These teeth are essentially gone. You
20 can see that lesion right there, small one on the left
21 central incisor again there. A vicarious lesion here on
22 the first three molar seen there. Moving further up
23 antemortem tooth lost of the first and the third molar
24 also seen in Mr. Bratschi.

25 Q When you say antemortem, what does that mean?

1 A Before death. So if we're looking at the CT taking
2 of Mr. Bratschi, some time prior to this CT these teeth
3 had been lost. And we see fairly recent lost of those
4 teeth here in the remains. Finally, looking at the third
5 molar or wisdom tooth on the right side, it is angled
6 laterally. You can see the crown here coming out the side
7 of the maxilla. It's incredibly rare and here we can see
8 it coming out laterally in the CT. If we can take an
9 x-ray here not only is it oriented laterally, it's the
10 same configuration and shape. Here we see that same
11 lateral tooth encroaching upon maxillary sinus. We're
12 above the level of the teeth now. This is the reason they
13 took a CT. We can see a fracture of the left maxilla
14 other words the left cheek. The dark portion you see here
15 on the right maxilla is air. That's what you expect to
16 see in a sinus, this sinus is filled with blood. And here
17 we see the fracture that is seen right here in the
18 maxilla. This fracture is right there and we don't have
19 this portion to connect to it. It was not recovered at
20 the scene. If we move up further, we're now looking at
21 the base of the orbit. This has been flipped so that we
22 can see it from above, here's the fracture we just looked
23 at and here it is moving into the left orbit, the floor of
24 the orbit. So we're just below the eye. Here we can see
25 it coming across the floor of the orbit in the CT taken at

1 the hospital. The radiologist also noted in his words
2 generalize degeneration of the spine. If we look at it
3 closer in the remains, we have what's called dish or
4 diffuse idiopathic skeleton hyperostosis.

5 Q What does that mean?

6 A It's this unilateral fusion of the vertebra in the
7 thoracic region more common in males. It's usually in the
8 incidental finding on an x-ray, but it's consistent with
9 the description given by the radiologist. Those points of
10 comparison taken as a whole are incredibly unique. And my
11 opinion would rise to the level that would be sufficient
12 to renounce a positive identification.

13 Q Retake the stand. Thank you. So can you say with a
14 degree of scientific certainty that the remains that you
15 looked at are Randy Bratschi's?

16 A Yes.

17 Q Okay. Now, after you identified him as Randy
18 Bratschi, what else did you do with these remains?

19 A We looked at the remains for any indications of
20 skeletal trauma.

21 Q Okay. Were the remains complete?

22 A Not quite.

23 Q Okay.

24 A The condition was somewhat what we call fryable.
25 They were very fragile from their environmental exposure.

1 Q Okay. And like a minute ago we saw a picture of the
2 spine and I notice it look like a -- spaces like bones
3 were missing?

4 A Correct.

5 Q Were those -- they not in the picture because they
6 were never recovered?

7 A Correct.

8 Q Okay. Looking at the skeletal that we were
9 examining, were you able to determine how big
10 Mr. Bratschi was?

11 A Broadly. The work that we do is based upon variation
12 within the population in terms of stature and features.
13 The biological profile was consistent with Mr. Bratschi in
14 terms of stature, very broad estimate of physique.

15 Q Okay. And now, when you -- I think you said you were
16 looking for different types of trauma, what are the kinds
17 of categories that trauma you be looking for on bones?

18 A Typically, we look for three categories of trauma
19 antemortem trauma or things that happen before an
20 individual dies. And these things maybe useful in
21 assisting an identification a healed broken arm. In this
22 case, an unhealed maxillary zygomatic fracture.
23 Perimortem trauma, which is trauma that occurs at or
24 around the time of death. And then the final category of
25 postmortem trauma. Trauma that happens well after

1 somebody has died either due to scavenging or the recovery
2 or the discovery of the remains.

3 Q All right. In this case, do you find any antemortem
4 trauma in other words they happen before he died?

5 A Yes. We identified the fracture of the maxilla and
6 the zygomatic that were identified on the CT.

7 Q So those are things he was in the hospital for?

8 A Correct.

9 Q Five weeks before?

10 A Correct. There also appears to be two old well
11 healed rib fractures from some point much earlier.

12 Q All right. And you can go through it briefly, but
13 did you find any postmortem problem? In other words,
14 things broken after he died?

15 A Yes, there were a number of clear postmortem
16 fractures that likely occurred during the recovery or
17 discovery of the remains?

18 Q Are you familiar with at least generally familiar
19 with how these remains were found with a trailer being
20 moved?

21 A Yes.

22 Q Could the way that the trailer moved drug through the
23 scene could that be kind of what caused these?

24 A Sure.

25 Q Okay. But you can say that these injuries were not

1 around the time of death?

2 A Correct.

3 Q Okay. In this case -- now, we covered the before and
4 after, are there any injuries that you can attribute to
5 happening around the time of death?

6 A Nothing definitively.

7 Q Go ahead, sorry.

8 A There are problems in assessing perimortem trauma in
9 this case especially when we look at the facial skeleton.
10 There was enough damage and fragmentation and missing
11 pieces that the facial skeleton could not be
12 re-approximated or put back together.

13 Q Okay. So if we imagine the skeleton as a puzzle,
14 what are you kind of telling me I'm missing?

15 A There aren't enough pieces related to the facial
16 skeleton to see the whole picture.

17 Q Okay. So that being said in this case, can you tell
18 us how Randy Bratschi died?

19 A No.

20 Q Could you tell us if he was shot?

21 A No.

22 Q Can you tell us if he was not shot?

23 A No.

24 Q Can you tell us he was stabbed?

25 A No.

1 Q Can you tell us he was not stabbed?

2 A No.

3 Q Can you tell us he was strangled?

4 A No.

5 Q Can you tell us he was not strangled?

6 A No.

7 Q Okay. If you had received this body a week after it
8 happened, would there be a greater likelihood, you could
9 have determine the cause of death?

10 A If it was present -- in other words, if the trauma
11 was sufficient to damage bone and we had it much earlier,
12 yes.

13 Q Okay. So your findings of basically not being able
14 to tell anything is due to the completion of skeleton and
15 age of the fragility of the skeleton is that -- am I
16 stating that correctly?

17 A Yes.

18 Q Okay.

19 MR. OZMENT: No further questions, Mr. Ingraham.

20 THE COURT: Mr. Herron, cross-examination.

21 CROSS-EXAMINATION

22 BY MR. HERRON:

23 Q How you doing, Dr. Ingraham?

24 A No, please Mister.

25 Q Oh, I'm sorry, Mister. We talking about the -- I'm

1 bad with words is it we talking about periummortem (sic)

2 A Peri, P-E-R-I-M-O-R-T-E-M.

3 Q And that's the injuries that happen at the time of
4 death; is that correct?

5 A Correct.

6 Q Let's just give the jury an idea some of the injuries
7 that you could look for if someone was struck by a blunt
8 object in the cranium, have you seen in the past fractured
9 cranium, cracks in the cranium that you can attribute to a
10 blunt object injury?

11 A Yes.

12 Q Did you see any in this case?

13 A No.

14 Q If it was a stabbing or someone was stabbed -- now,
15 Mr. Ingraham I call you, there are a lot of bones in the
16 human body; correct?

17 A Correct.

18 Q If someone had been stabbed either in the sternum or
19 in the face or in the neck, have you seen in the past
20 where the knife has actually made an indentation into the
21 bone and you can match up the -- lack of a better term the
22 cut mark or the chip mark and match it up to a knife, have
23 you done that? Can you do that?

24 A It's possible at times. It is more likely to say
25 that it is consistent with a suspect weapon.

1 Q I got you. But we don't have any suspect weapon in
2 this case; is that correct?

3 A Correct.

4 Q Okay, no knife. Now, as far as a gunshot obviously
5 somebody shot in the head with any kind of gun, there is
6 the potential, a likelihood that the bullet would make a
7 hole in the cranium; correct?

8 A Yes.

9 Q Did we have any in this case?

10 A Not in the material that was examined?

11 Q Any bullet hole in the sternum according to your
12 findings?

13 A Not in the sternum, no.

14 Q Any fracture of the spinal cord?

15 A Not in the remains present.

16 Q Okay. So I think we made this clear through
17 Mr. Ozment. We don't have any evidence of how Randy
18 Bratschi died?

19 A Not directly, no.

20 Q Okay. We don't have any evidence of when Randy
21 Bratschi died?

22 A No.

23 Q We don't have any evidence of where he was killed at
24 do we?

25 A No, just the recovery.

1 Q Okay. You're not -- you can't possibly say who
2 killed Randy Bratschi; is that correct?

3 A Correct.

4 MR. HERRON: I don't have any other questions
5 Mr. Ingraham.

6 MR. OZMENT: Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q Have you also seen cases say where someone was say
10 someone was shot and there was no evidence on his
11 skeletal?

12 A Sure, the potential for a fatal injury does not
13 damage bone is always present.

14 Q Okay. Now, what about say if it was stabbed in the
15 neck and it went right there in my artery, would that
16 necessarily leave any mark on my bone?

17 A No.

18 Q If you had 100 percent of the skeletal of every bone,
19 would that have been to able -- would you have been able
20 to make more conclusive statements as to injuries?

21 A Possibly.

22 Q Okay.

23 A We would have been able to clarify whether the facial
24 skeleton had been damaged or not at the time of death.

25 MR. OZMENT: No further questions.

1 MR. HERRON: One brief.

2 RE CROSS-EXAMINATION

3 BY MR. HERRON:

4 Q Mr. Ozment talked about the shooting in the --
5 someone shot and it strikes a bone or what have you. I
6 understand the bone may have disintegrated, but the
7 fragments of the bullet would you expect them to still be
8 there after -- I mean, it's metal would you expect them to
9 still be in the remains in a period of five years if it's
10 metal?

11 A Not necessarily when you're looking at skeletal
12 remains only depending on the decomposition of the ground
13 and the decomposition of the body.

14 Q Does metal decompose quicker or slower than bone?

15 A Slower.

16 MR. HERRON: Thank you, appreciate it.

17 THE COURT: All right, sir, you may step down.
18 Thank you.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 MR. OZMENT: We ask that Mr. Ingraham be
22 released from his subpoena?

23 MR. HERRON: No objection.

24 THE COURT: Sir, you are released from any
25 further obligations with regards to your subpoena. You

1 free to leave. Thank you for being here.

2 Call your next witness.

3 MR. HERRON: The State calls Kathleen Street.

4 THE CLERK: Do you swear to tell the truth, the
5 whole truth, and nothing but the truth so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Please be seated and state your full
8 name for the record.

9 THE WITNESS: Kathleen Vargovchik Streett.

10 THE COURT: Spell your last name.

11 THE WITNESS: V as in victory, A-R-G-O v as in
12 victory C-H-I-K.

13 THE COURT: Is that microphone on, Investigator
14 Streett?

15 THE WITNESS: Yes.

16 THE COURT: Mr. Ozment.

17 WHEREUPON,

18 Kathleen V. Streett,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. OZMENT:

22 Q How are you, Investigator Streett?

23 A Fine. How are you?

24 Q How long have you been in law enforcement?

25 A Since 1994.

1 Q All right. What did you start out as?

2 A Patrol deputy.

3 Q Where was that?

4 A Georgetown County Sheriff's Office.

5 Q Did you make it to Florence?

6 A I did.

7 Q When was that?

8 A In 1997.

9 Q Okay. What do you do now?

10 A I am a major crimes investigator?

11 Q How long have you been an investigator?

12 A Since 2000.

13 Q All right. Do you have any specialized training in
14 criminal domestic violence?

15 A I do. I was certified through the federal law
16 enforcement training center at Glenco at their training
17 academy as a domestic violence protocol instructor.

18 Q Do you do any sort of other training or updates or
19 anything in regards to that?

20 A We do at our office. We do in-house CDV in services
21 every six to nine months. And then plus there's also
22 yearly CDV updates on the law and different things that
23 you have to go through?

24 Q And what is CDV stand for?

25 A Criminal domestic violence.

1 Q Okay. Were you involved in the Randy Bratschi case?

2 A Yes, I was.

3 Q When did you first become involved with Mr. Bratschi?

4 A In October of 2004.

5 Q What was that in reference to?

6 A I was advised that the patrol deputies had answered a
7 1082, which is radio lingo for a domestic violence
8 dispute. And that they were at the Lake City Hospital
9 with both a male and female suspect.

10 Q All right. Did you go out to Lake City Hospital on
11 that day?

12 A I did.

13 Q When you got there, what did you do first?

14 A There were actually two different people. There was
15 Ms. Bratschi that was there and there was Mr. Bratschi.
16 Mr. Bratschi had been taken into a treatment room and
17 Ms. Bratschi was in the waiting room. And I went to speak
18 with Mr. Bratschi.

19 Q All right. When you spoke to Mr. Bratschi was he in
20 a hospital bed?

21 A He was.

22 Q Okay. What did he look like?

23 A He was all beat up.

24 Q Okay.

25 MR. OZMENT: May I approach, Your Honor?

1 THE COURT: Yes, sir.

2 BY MR. OZMENT:

3 Q The picture that we've looked at before of Mr.

4 Bratschi is that how he looked when you saw him?

5 A That's correct.

6 Q Okay. What about Mrs. Bratschi, did you see her at
7 the hospital?

8 A I did.

9 Q Where did you see her in the hospital?

10 A She was in the waiting room.

11 Q All right. Is that where these pictures that we've
12 already seen -- I'm looking at State's Exhibit 2C and 2A.
13 Is that when these were taken?

14 A Those are off in a little inner room off of the
15 waiting area.

16 Q These were at the hospital?

17 A Correct, yes.

18 Q When you spoke to Ms. Bratschi, what did she tell you
19 her injuries were?

20 A She told me that she had a cut on her finger and also
21 that she had a knot on her head.

22 Q All right. Did you the see cut on her finger?

23 A I did.

24 Q Did you look for that on her head?

25 A I looked at her head, but didn't touch her.

1 Q Was it bleeding?

2 A No.

3 Q Okay. To your knowledge, did Ms. Bratschi get
4 treatment at the hospital that day?

5 A I don't think that she did.

6 Q Were you able to locate medical records at the
7 hospital where she was treated that day?

8 A No.

9 Q Okay. What about Mr. Bratschi, do you know if he was
10 treated at the hospital that day?

11 A He was treated there and the they advised me that
12 they were admitting him there and probably transferring
13 him to another facility, but they weren't exactly sure at
14 the time whether they were going to transfer or not.

15 Q Do you remember how long he stayed in the hospital?

16 A He was in the hospital for several days.

17 Q Okay. Do you know if he was referred to any
18 specialist anything like that?

19 A He was. I know he went to see a -- I believe it was
20 a, ear, nose and throat specialist here in Florence.

21 Q All right. What did Ms. Bratschi tell you she had
22 injured herself?

23 A How she had ---

24 Q How she had received her injuries?

25 A That she had been hit with a garden hoe.

1 Q Okay. After you investigated and spoke to both
2 parties, what was your understanding of any possible
3 weapons, you know, a hoe is a hoe, but what sort of items
4 might have been involved as weapons?

5 A Garden hoe and then what I was advised was called an
6 Ozark tire thumper.

7 Q And is that the tire thumper that we talked about
8 that is in evidence?

9 A It is.

10 Q Okay. Did you in your conversation with Mr. Bratschi
11 were you able to determine on his side of the story if he
12 ever hit her with a hoe?

13 A He said in his -- he said he didn't hit her with the
14 hoe, that he had gotten the hoe when he was trying to get
15 away from her and had -- was using the hoe to get back
16 towards the house and to break the window out of the back
17 door of the house, so that he could get in.

18 Q And Ms. Bratschi I think you already said this, how
19 did she say she got her cut?

20 A She said that Mr. Bratschi had come up behind her and
21 had raise the hoe up and was going to hit her in the head
22 with that.

23 Q Did you do any subsequent investigation into how that
24 injury might have occurred?

25 A Yes, I did.

1 Q What did you do?

2 A Well, I didn't number one know what an Ozark tire
3 thumper was. And I was told that that was something that
4 truck drivers use to check the air pressure in tires when
5 they're hauling different size loads to make sure that
6 they the tire pressure correct, had something to do with
7 tire pressure. And it was very similar to a small
8 baseball bat. And that sometimes they had lead shot in
9 them and sometimes they didn't. It all depended on the
10 type of tire thumper that you got. I talk to several
11 different people about that.

12 Q All right. In your investigation about what a tire
13 thumper is, do they often break; do you know?

14 A At sometimes. I spoke to several people that said
15 they had had them break on them also.

16 Q All right. What happens when a tire thumper breaks?

17 A Usually, they'll come a part in a couple of pieces.
18 I had one instance of one breaking where it flew up and
19 hit somebody in the head the piece that flew off that they
20 been cut on the arm, had been cut on, you know, the hand
21 area, the chest area all different types of ways.

22 Q After your full investigation, did the injury you saw
23 on Ms. Bratschi that day, were you convinced that it
24 happen with a hoe or with the tire thumper breaking?

25 A Could actually have happened with either one, but it

1 was more probable to me in the way that the scene looked
2 and the injuries on both parties that it was probably
3 something that happen when the tire thumper split.

4 Q After Mr. Bratschi was released from the hospital,
5 did you talk to him again after that?

6 A I did.

7 Q All right. Did he come to the sheriff's office?

8 A He did.

9 Q Approximately how many days later after -- let's say
10 from the time he was injured, I know he was in the
11 hospital, but how long was it before he came to the
12 sheriff's office.

13 A Probably five days or so.

14 Q Okay. When he came to the sheriff's office, could
15 you still tell by looking at him that he had been injured?

16 A Oh, yes, he still had his facial injuries and he was
17 still very very bruised up on his upper body.

18 Q Okay. And did you look at those injuries?

19 A I did and we photographed them.

20 MR. OZMENT: May I approach, Your Honor.

21 THE COURT: Yes, sir.

22 BY MR. OZMENT:

23 Q I'm handing you State's Exhibits 5A, 5B, 5D, 5E, and
24 5G. Can you look at those and tell me what you see?

25 A These are the photos of Mr. Bratschi from that second

1 meeting with him.

2 Q Do those accurately represent what you remember him
3 looking like that day at the sheriff's office?

4 A They do.

5 MR. OZMENT: All right. Your Honor, at this
6 time the State would move those photographs into evidence.

7 MR. HERRON: No objection, Your Honor.

8 THE COURT: Admitted without objection.

9 (WHEREUPON, State's Exhibits Nos. 5A, 5B, 5D and
10 5E were admitted into evidence.)

11 MR. OZMENT: Thank you, Your Honor.

12 BY MR. OZMENT:

13 Q Mrs. Streett, when Mr. Bratschi came back, did you
14 give him any advice or did you tell him anything he think
15 about doing at this stage?

16 A Yes, I -- in most our domestic violence cases where
17 there's been an assault or there are circumstances that
18 warrant it, we have two victims' advocates that work with
19 us at the sheriff's office there that handle things like
20 SOVO benefits, reimbursement for medical fees, alternate
21 living arrangements, you know, different things like that.
22 And they also help people that are in need of a possible
23 restraining order through family court. And I had him
24 speak with Rita Davis at the time who was one of the
25 victim's advocates there, one of the victim advocates and

1 complete an order of petition for an order of protection.

2 Q Okay. Did you ask Mr. Bratschi to obtain any sort of
3 records for you?

4 A I did.

5 Q What records would those be?

6 A I had him sign a medical records release for his
7 medical records from the hospital visits and also some
8 banking information.

9 Q All right. What banking information did you request
10 that he get for you?

11 A Anything that had to do with his checking accounts
12 and other accounts that he had at credit unions and banks.

13 Q Did you eventually receive those banking records and
14 information that you requested?

15 A I did.

16 Q Did you have a chance to examine those as part of
17 your investigation?

18 A I did.

19 Q All right. Looking at those banking records were you
20 able to see if the account had been overdrawn at the time
21 of the assault?

22 A I did.

23 Q Was it overdrawn?

24 A It was.

25 Q Okay. Looking at the transactions that had occurred

1 before the assault, were you able to ascertain what any of
2 those transactions were?

3 A They were cash withdrawals or checks written as cash.

4 Q Okay. And from your examining banking records, were
5 you able to tell who was getting those cash withdrawals or
6 who the checks written out to cash were written by?

7 A Yes.

8 Q Who was that?

9 A Mrs. Bratschi.

10 Q All right. Had Mr. Bratschi done any of these cash
11 withdraws or checks written to cash?

12 A Not to my knowledge.

13 Q Okay. Also looking at the bank records were you able
14 to determine if at anytime any one had checked the balance
15 in banking -- of the account we're talking about?

16 A Yes.

17 Q When was that date?

18 A That was on the day of the assault.

19 Q Were you able to determine who it was that checked,
20 the account balance that day?

21 A I was.

22 Q Who was that?

23 A Mr. Bratschi told me it was him.

24 Q Also, as part of your investigation, did you acquire
25 credit reports for Mr. and Mrs. Bratschi?

1 A I did.

2 Q Okay. Did you have a chance to examine
3 Mr. Bratschi's credit report?

4 A Yes.

5 Q Do you know how far about a credit report goes back?

6 A I'm not exactly sure, I know it goes back several
7 years.

8 Q Okay. In this case, did it go back before the
9 Bratschis were married?

10 A It did.

11 Q Okay. If you go back to when things reported before
12 the Bratschis were married, was anything past due?

13 A There were some medical collection accounts?

14 Q What about credit cards?

15 A There was one credit card.

16 Q There was one credit card or one that was past due?

17 A One that was past due.

18 Q How about credit cards that were paid up?

19 A There was a number of them in installment accounts
20 that were also paid as agreed.

21 Q Do you remember how many?

22 A Not the exact amount, but it's probably about four or
23 five.

24 Q Okay. Now, after Mr. and Mrs. Bratschi got married,
25 were you able to look at that and see if any credit cards

1 were past due?

2 A I did.

3 Q How many were past due at that time?

4 A There were several.

5 Q When you say several ---

6 A At least two.

7 Q At least two. Can you recall the amounts going back
8 before they were married, can you recall the amounts that
9 were past due on the ones before the marriage started?

10 A No, I'm sorry I can't.

11 Q Was it less than a thousand?

12 A Yes, sir.

13 Q Okay. After they got married on the several credit
14 cards what were past due, what were the amounts on those
15 credit cards?

16 A The balances were higher, I don't know what the exact
17 amounts are, but the balances were higher.

18 Q Over a thousand?

19 A Yes.

20 Q Over 5,000?

21 A I don't know.

22 Q Okay. After you -- did you ever respond out to the
23 scene where the assault and battery with intent to kill
24 happened?

25 A I did.

1 Q Okay. What sort of things did you do at the house
2 that day?

3 A I walked around and looked. Our forensics officers
4 had been in and photographed what they had seen and what
5 the reporting deputies and the responding deputies that
6 got there first, also what they had seen and pointed out
7 to them.

8 Q Okay. Did you see any -- did you see any blood on
9 the property?

10 A There was blood out in the yard. There was blood on
11 the four wheeler. There was actually a blood trail from
12 where the incident occurred back over to the shed around
13 the back of the four wheeler. And then up the back steps
14 to the back door and there was a large amount of blood
15 there and then also in the house?

16 Q Okay. Did you see a telephone while you were there?

17 A I did.

18 Q Did it have blood on it?

19 A It did.

20 Q What other -- did you make any other investigations
21 as to the assault and battery with intent to kill during
22 this time period?

23 A There was also an area in the yard that was very
24 consistent with what Mr. Bratschi had told me had
25 happened. His recollection of it and that was an area

1 where you could actually see scratch marks where it
2 appeared that somebody had been scratching in the dirt.
3 And you could tell that it was not an animal that it was
4 -- it look just exactly line fingers clawing, trying to
5 claw in the dirt.

6 Q All right. Did Mr. Bratschi -- did you get the
7 impression Mr. Bratschi was scared of Ms. Bratschi
8 afterwards?

9 A Terrified is a better word.

10 Q Do you know if that's why he got -- requested a
11 family court order against her?

12 A He had ask me what he could do as far as restraining
13 order and, you know, what other measures he could take as
14 far as personal safety and that was the first thing I
15 advised him to do.

16 Q Did you go to the family court hearing?

17 A I did not.

18 Q Okay. Do you know if a restraining order was
19 granted?

20 A It was.

21 Q Okay. Did you take out a warrant for the assault and
22 battery with intent to kill?

23 A I did.

24 Q What was that warrant for? I mean, what was the
25 charge on it?

1 A Assault and battery with intent to kill.

2 Q Okay. Did you have any discussion of charging
3 Ms. Bratschi with anything other than that?

4 A I did.

5 Q All right. What was kind of the alternative, I
6 guess, to assault and battery with intent to kill?

7 A In the State of South Carolina, you have basically
8 two different degrees sort of say of assault that are
9 domestically related your misdemeanor assault, which is
10 similar to a simple assault which is tried in magistrate's
11 court. And then you have what we call criminal domestic
12 violence of a high and aggravated nature. And when you
13 have certain aggravating factors in an incident, then you
14 can charge what some people commonly refer to as felony
15 CDV. And it was one step above that in some cases
16 depending on the extent of the injuries and the
17 circumstances there with the totality of the entire
18 circumstance in the incident. Sometimes you can charge
19 assault and battery with intent to kill or attempted
20 murder, which is basically the same thing or your CDV high
21 and aggravated and that's what -- when we prepare our
22 cases, we basically will draft a warrant request, take it
23 to the judge, discuss the instances and the probable cause
24 that you have in your affidavit. Let them figure -- kind
25 of figure out, you know, these are the two charges that

1 I'm thinking about charging. And you decide at that time
2 whether you're going to be issued a warrant for one or the
3 other.

4 Q All right.

5 MR. OZMENT: Your Honor, may I approach?

6 THE COURT: Yes, sir.

7 BY MR. OZMENT:

8 Q Investigator Streett, I'm handing you what's been --
9 it's not in evidence, but it's labeled State's Exhibit 9.
10 Can you look at that document for me?

11 A Yes, sir.

12 Q What is that?

13 A That's a copy of the warrant that was issued for
14 assault and battery with intent to kill.

15 Q Okay. Who does say it say the victim is in that?

16 A Randy Bratschi.

17 Q All right. Was that issue sign by the judge and made
18 an active warrant?

19 A It was.

20 Q All right. You can set it aside. In your
21 investigation of the assault and battery with intent to
22 kill -- and honestly, you're interested in financial
23 history of the Bratschi's, were you able to determine if
24 prior to this immediate time before this attack was --
25 were there any financial difficulties within the Bratschi

1 household?

2 A Yes. Shortly after they were married, there was an
3 instance Mr. Bratschi had let Mrs. Bratschi take care of
4 all the household bills, write checks out of his checking
5 account and sign his name to the checks. And he had gone
6 to make purchase one day and his account was overdrawn by
7 \$2,000, approximately \$2,000.

8 Q All right. Approximately how long before the assault
9 did that occur?

10 A It was about six months after they got married and
11 they would have been married two years, so it was probably
12 a year and a half prior, a year prior.

13 Q Now, did you have any contact with Mr. Bratschi other
14 than talk about the sheriff's office and helping him get
15 the restraining order between the assault and when he went
16 missing?

17 A No.

18 Q Okay. How did you find out Mr. Bratschi had gone
19 missing?

20 A Mr. Merrill contacted me.

21 Q Do you remember when Mr. Merrill contacted you?

22 A It was Thanksgiving weekend that Sunday.

23 Q Okay. When Mr. Merrill contacted you, what did you
24 tell Mr. Merrill in response?

25 A I asked him basically what was going on. He told me

1 that he was concern ---

2 MR. HERRON: Your Honor, I object to the
3 hearsay. Mr. Merrill has already been here to testify.

4 MR. OZMENT: That's fine, Your Honor. I will
5 rephrase.

6 BY MR. OZMENT:

7 Q And so what did you tell him you would do at that
8 point?

9 A Tell him I would go to the house and see if I could
10 locate Randy and also that I would call him.

11 Q Did you go to the house?

12 A I did.

13 Q What did you do when you were at Mr. Bratschi's house
14 that Sunday?

15 A I walked around the house, look for vehicles, looked
16 to see if the doors were secured, looked to see if there
17 any signs of force entry or any signs of anybody being
18 inside the house. You know, around the house or anything
19 like that and there was none. I think I left a note or
20 business card on the door asking, you know, for you to
21 please call me whenever you get in. And I believe I
22 called the house that night too a couple times and left
23 messages.

24 Q Was the radio at the house on at that time?

25 A No.

1 Q Okay. Did Mr. Bratschi ever call you?

2 A He did not.

3 Q At what point was the missing person put into the
4 national data base of missing persons?

5 A I believe it was on that Tuesday.

6 Q Okay. Why did you wait until Tuesday to do that?

7 A Wanted to see when -- it was Thanksgiving weekend to
8 begin with, so there's no office staff there at
9 Smurfit-Stone, wanted to make sure when he had last work
10 and when he was scheduled to work or if he was going to
11 work Monday morning because I was kind of unsure what his
12 schedule was like. I know he was working an outage in
13 addition to his regular shift, that and it was basically a
14 holiday weekend I couldn't get ahold of anybody to get any
15 information.

16 Q All right. So when you had contacted Smurfit-Stone,
17 were you able to determine the last time he had been at
18 work?

19 A Yes.

20 Q When was that?

21 A Friday morning he left and clocked out right before
22 seven o'clock on Friday morning.

23 Q All right. Now, the Rodeo when did you become
24 suspicious that the Rodeo was not at the residence?

25 A When I began trying to find out where his vehicles

1 were.

2 Q Okay. Now, when you're looking for a vehicle in a
3 case like this when a person is gone missing, what tools
4 does law enforcement have?

5 A Well, we have NCIC and then we also have the
6 department of motor vehicles data base where we can go in
7 and find out which vehicle's are registered to who and
8 which tags are registered to which vehicles.

9 Q Okay. When you say NCIC what is that?

10 A National crime information computer.

11 Q All right. What happens when you put a vehicle in
12 NCIC?

13 A You can put a vehicle in NCIC for various reasons if
14 you're looking for it. If it's associated with somebody
15 that you're looking for such as a missing person or
16 somebody that's wanted. And that way if that tag number
17 or vin number on that particular vehicle is run for any
18 other purpose, you're going to get what they call a hit on
19 it. And it's going to basically tell you where that
20 vehicle is at that one particular time.

21 Q All right. When was the Isuzu put into the NCIC data
22 base?

23 A I believe it was Tuesday morning, the day that I
24 filed the report.

25 Q Okay. Do you know if it was ever hit on?

1 A It was.

2 Q Okay. Where was it recovered?

3 A At Dewitt Bluff's Landing in Pamplico off of Old
4 River Road.

5 Q All right. At any time did you get a search warrant
6 to go into Mr. Bratschi's trailer?

7 A Several times.

8 Q All right. When was the first time?

9 A The first time was on the 30th of November.

10 Q All right. And why did you want to search
11 Mr. Bratschi's trailer?

12 A We was looking for anything that would indicate where
13 he was, his whereabouts, what he was doing, who he was
14 with, contact information for family and friends.
15 Mr. Merrill had provided several names and numbers, but I
16 knew he had some family members and I was trying to find
17 contact information. There various things that you look
18 for medications, clothing, suit cases different things
19 like that, so that's what we were looking for.

20 Q All right. Do you know if Mr. Bratschi had any
21 medical conditions?

22 A He did. He had diabetes and he had some problems
23 with his pancreas from what I understood.

24 Q On the -- when you obtained that search warrant, did
25 you find his diabetes monitor anywhere?

1 A I did.

2 Q When you found it, were you able to check the last
3 time he used his blood glucose monitor?

4 A Yes.

5 Q When was that?

6 A Can I refer to my -- 11-25-04 at 5:47 pm is what was
7 displayed on the glucose monitor?

8 Q And you have to refresh my memory 11-25-04 what day
9 of the week was that?

10 A That's a good question. I believe that was Friday.

11 Q If I told you it was Thursday would that ---

12 A That would be Thursday if Tuesday was the 30th and
13 the 25th would have been Thursday that is correct.

14 Q Okay. At what time of day was it?

15 A 5:47 p.m.

16 Q You know what time Mr. Bratschi had to be at work
17 that Thursday night?

18 A Thursday night he had to go in at seven, so they
19 usually reported about 15 minutes earlier so between 6:45
20 and seven.

21 Q All right. Also when you were in the house, did you
22 find a contraption of a string attached to a bunch of pots
23 and utensils and things?

24 A Yes.

25 Q Can you describe that for me?

1 A It was bailing twin that was attach to several
2 aluminum and metal pots that were sat in front of the door
3 and attached to the doorknob.

4 Q Okay. Do you know why Randy had those?

5 A During the investigation, we uncovered that Randy
6 had fashioned pot alarms so that if anyone tried to come
7 into the house while he was asleep or in the shower or
8 anything like that that they would make a noise and he
9 would be able to tell that somebody was opening the door.

10 Q Okay. Also during your search of the house, did you
11 ever find any evidence that Ms. Bratschi like to hunt?

12 A Yes.

13 Q What did you find?

14 A There were several pictures of Ms. Bratschi one of
15 her walking around a corn pile where you put out corn for
16 deer. There was one with a nice eight-point buck that she
17 had killed showing the rack.

18 Q Okay. Following your searches of the trailer, what
19 were the next things you felt like you needed to do in
20 your investigation?

21 A Started calling family members and anybody else that
22 we could derive any information that he may have had some
23 contact with to see if they had any contact with Randy or
24 seen him.

25 Q Okay. Did you speak to Russell Merrill?

1 A I did.

2 Q How often did you speak to Mr. Merrill during this
3 stage of the investigation?

4 A Very very often.

5 Q Okay. Did you meet with Brenda Bratschi around this
6 time?

7 A I did.

8 Q Did you meet with Frankie Miles, her son, during this
9 time?

10 A I did.

11 Q Okay. When the vehicle was recovered, did you search
12 that area? By that I mean not just the vehicle but that
13 area?

14 A We did.

15 Q Okay. Tell me about that search?

16 A We search the river by boat and we also did what we
17 call a gate search of the area, which is basically a
18 walking search. We went into the wooded area in both
19 directions behind the pavilion, up on top of the bluff,
20 the roadway leading in and out in a certain amount of feet
21 and in both directions up stream and down stream in the
22 river.

23 Q Did that -- did you find any relevant evidence in
24 that search?

25 A No.

1 Q There was some testimony earlier from Investigator
2 Hanna about some relatives that own some property of
3 Mrs. Bratschi, did you have a chance to search that
4 property?

5 A We did.

6 Q Portions of that property. What did you search over
7 there?

8 A We actually search the farming operation and the land
9 surrounding the residence of Wanda and Dennis Matthews,
10 which is where Frankie and Brenda Miles were staying after
11 they left the residence there on Old North Georgetown
12 Road. And then there was another area down in the same
13 general area of Randy's property that was also leased and
14 hunted by Brenda and Frankie. And I believe it was lease
15 by Mr. Matthews.

16 Q Did you find any places of the earth had been
17 overturned on that lease?

18 A We did.

19 Q What was that?

20 A That was a large area that was in very close
21 approximately to the deer stand that we were told that
22 Frankie hunted and that his mother also hunted from
23 occasionally. It was on the edge of a wood line and it
24 appeared to have been dug not by a machine and not by hand
25 but by some sort of implement.

1 Q Okay. And describe to me what the hole look like?

2 A It was a rectangular hole. I actually got it.

3 Q Could you lay down?

4 A I could, yeah, if I bent my knees. You know, bent my
5 legs I could lay down in it easily.

6 Q About how deep was it?

7 A It came up right over -- about to my knees, so a
8 couple feet.

9 Q Okay. Could you walk from there to Randy's house?

10 A Yes.

11 Q How far was it about roughly?

12 A If you follow the road way probably may be between an
13 eighth and a quarter of a mile.

14 Q Okay. Closer by the way the crow flies?

15 A Correct.

16 Q Did you ever meet with Sue Hill in your
17 investigation?

18 A Yes, I did.

19 Q How many times did you meet with Ms. Hill?

20 A Several times.

21 Q Okay. We talked about diabetes monitor. We talked
22 about that Randy had diabetes. Did you ever inquire into
23 his medication?

24 A I did.

25 Q What did you do with that?

1 A Most of the prescriptions that I was able to find
2 anything out about had been -- he use CVS to fill his
3 prescriptions. And I also called CVS and they advise me
4 that the last time that Mr. Bratschi had been in to fill
5 anything was on October 28th of 2004. I asked them about
6 his insulin and they told me that it had been last
7 refilled on October the 6th of 2004.

8 Q Okay. Did you ever meet with Bill Rauch in this
9 case?

10 A I did.

11 Q Did you ever meet with Jerome Eaddy in this case?

12 A I did.

13 Q What about a neighbor of Mr. Eaddy did you ever meet
14 with a neighbor of Mr. Eaddy?

15 A Ms. Rosie Seay, S-E-A-Y.

16 Q What age was Ms. Seay when you met with her?

17 A Oh, Lord. In 2004, she was in her late to mid 70's
18 at that time.

19 Q All right. Do you know if she's still a live?

20 A She is.

21 Q Do you know if she's of sound mind?

22 A She's not.

23 Q Did you ever meet with Ed Jeffcoat in your
24 investigation?

25 A Yes.

1 Q Mr. Herron brought up about in his opening a psychic.
2 Did you ever meet with a psychic in this case?

3 A We did.

4 Q Tell me why you met with a psychic?

5 A Randy's family members had -- I don't know if they
6 were contacted by or if they contacted her. And she was
7 actually on -- she was nationally renowned. She had been
8 on psychic detectives and she had been involved in the
9 investigation of several high profile criminal cases
10 around the country. And they suggested that we talk to
11 her and we did.

12 Q All right. Do you regularly visit psychics?

13 A That was the first time.

14 Q Have you been to a psychic since?

15 A No.

16 Q Okay. Did she provide any useful information?

17 A No, she didn't.

18 Q Okay. Now, were there other searches that were
19 conducted of various areas of Florence County in this
20 case?

21 A Yes.

22 Q Why were those searches conducted?

23 A We would get tips periodically. Sometimes we would
24 get, you know, several over the course of a short period
25 of time. Then we go months without getting any tips at

1 all. And each one of those tips were run down and
2 occasionally they would provide us with information or
3 even an unanimous tip that would say you need to look
4 here. And we would go look there, so that we could either
5 see if there was anything to the tip or we could eliminate
6 that particular area.

7 Q Did any of those tips prove to be fruitful?

8 A No.

9 Q Any of the searches did you find anything of worth?

10 A Nothing of evidentiary value, no.

11 Q Okay. So how long a period of time between Randy's
12 disappearance and the body being found?

13 A From Thanksgiving weekend in 2004 to July of 2009.

14 Q All right. At any point during that time had you
15 given up on this case?

16 A No.

17 Q Were you still -- was it still like an active case in
18 your mind during that time period?

19 A Yes, some places in our office has a cold case unit
20 or we have several investigators that look into cold
21 cases. As long we have tips coming in, then we don't
22 consider a case cold and we don't close any cases. All of
23 our cases remain open.

24 Q Okay. When did you hear the remains had been found
25 under -- that somebody's remains had been found under a

1 trailer in July of 2009?

2 A The exact date July 16th of 2009.

3 Q Was that the day the body was found?

4 A That's correct.

5 Q Okay. How did you find out?

6 A My lieutenant called me on my cell phone and told me
7 that I needed to go to [REDACTED] Georgetown Road in
8 Coward because they had discovered human remains.

9 Q Are you familiar with that address?

10 A Very much so.

11 Q Why were you familiar with that address?

12 A Because that is the address of Mr. Randy Bratschi and
13 where the incident had occurred that day in 2004.

14 Q And what county is that?

15 A That's in Florence County.

16 Q What was your first thought when you heard the
17 remains had -- that someone's remains had been found under
18 where the trailer had been?

19 A Well, after I recovered from running off the road and
20 almost crashing, I got there quickly as I could.

21 Q Were you at the scene when the body was recovered?

22 A They had already strung the crime scene tape by the
23 time I got there and the forensics personnel were
24 beginning to arrive.

25 Q Okay. Did you stay there the whole time the body was

1 being recovered?

2 A I did.

3 Q Now, when you -- when the bones were found under the
4 trailer, did you -- what was the first steps you took to
5 figure out exactly who these bones were?

6 A The first steps that I took?

7 Q Yeah.

8 A I deferred all of that to forensics.

9 Q Okay. Do you know what the first steps were to try
10 to identify the body?

11 A After the recovery, I was advised that they were
12 taking samples or taking the remains to MUSC for an
13 autopsy and that they were also taking some of the items
14 to SLED for processing also for identification.

15 Q Okay. And do you know just from you being the lead
16 investigator was MUSC or SLED able to identify who these
17 bones belong to?

18 A No, I was advised that they could not.

19 Q All right. After you found out that the two
20 scientific labs in South Carolina couldn't identify the
21 bones, what was kind of your next thought?

22 A We had decided to meet and try and figure out who
23 else we could go to whether it was a federal agency. And
24 Lieutenant Keith Lutcken of our forensics division he's
25 sort of expert in that issue, so he said that he was

1 going to do some research and he would find out where we
2 could possibly go.

3 Q Where did you eventually send him?

4 A To the University of North Texas.

5 Q Did you go on that trip to Texas?

6 A I did with several other investigators.

7 Q Okay. Why did you decide to send them to the
8 University of North Texas?

9 A Because they had advised Lieutenant Lutcken that they
10 thought that they could identify the remains that was
11 their business that's what they do.

12 Q Okay. Once they were shipped out there, how long did
13 it take to get the results?

14 A Several weeks.

15 Q Okay. The bones were discovered in July. You send
16 them to SLED, send them to MUSC. What month are we
17 talking about at this point?

18 A We are in September.

19 Q Okay. Was it in September that finally we found out
20 who the bones belong to?

21 A That's correct.

22 Q Who did they come back as?

23 A Randy Bratschi.

24 Q Okay. Now, what was the other investigation were you
25 doing that fall in regards to this case?

1 A In regards to this case? We needed to wait for the
2 identification. I needed to make sure that the body was
3 actually that of Randy Bratschi.

4 Q Okay. And on a big case like this one a murder case
5 is it common that you meet with the Solicitor's office
6 before you get warrants for someone?

7 A Yes.

8 Q Why is that?

9 A Because the Solicitor's office usually prosecutes our
10 cases and we like to work in conjunction with them.

11 Q Who did you meet with?

12 A Fitzlee McEachin and Solicitor Clements.

13 Q When you had that meeting, did you wait until after
14 the body was identified before you had that meeting?

15 A I believe so, yes.

16 Q Okay. When did you eventually decide what you were
17 going to get warrants for for Ms. Bratschi?

18 A It was around Thanksgiving.

19 Q Okay. What did you get a warrant for for Ms.
20 Bratschi?

21 A Murder.

22 Q Okay. Was Ms. Bratschi arrested?

23 A She was.

24 Q When approximately was she arrested if you recall?

25 A On the seventh of December 2009.

1 Q And why would you decided around Thanksgiving, why
2 was the delay there to get her arrested?

3 A I had gone out of town. The other two investigators
4 that had been involved in the case were no longer working
5 with the sheriff's office. It was also the Thanksgiving
6 holiday. A lot of people including some of our judges
7 take vacation around that time.

8 Q Was it easy to find a judge to sign a warrant?

9 A No.

10 Q Was that because you just couldn't located one?

11 A No, there were some, but we went to Marion and had
12 the warrant signed over there.

13 Q Why did you go over there?

14 A Because the ones that were here they weren't
15 available at the time that I went to get the warrant.
16 They were working but unavailable. So I went to another
17 judge.

18 Q Okay. When you got the warrant on Ms. Bratschi, did
19 you get a warrant on anyone else?

20 A I did.

21 Q Who was that?

22 A Frankie Miles.

23 Q What was Frankie Miles warrant for?

24 A Misprision of a felony.

25 Q Explain to me what the charge misprision of a felony

1 is essentially?

2 A Basically giving deceptive and false information in
3 an investigation.

4 Q And the crime has to be a felony?

5 A That's correct.

6 Q Okay. Was he charged with murder?

7 A No.

8 Q Okay. From your investigation, did he have any
9 active involvement in any of this?

10 A No.

11 MR. OZMENT: No further questions at this time.

12 MR. HERRON: Your Honor, may we approach?

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury, but out of the hearing of the
15 jury.)

16 THE COURT: Ladies and gentlemen, I'm going to
17 ask that you step to the jury room for just a minute. We
18 been going about an hour and 40 minutes. I'll give you a
19 break before we resume cross-examination or start
20 cross-examination with regards to Mrs. Streett. Do not
21 discuss the case. Do not discuss the case and I'll get
22 you back out here as quickly as possible.

23 (WHEREUPON, the jury retire to the jury room.)

24 THE COURT: Investigator Streett, you may step
25 down. You are not allowed to discuss your testimony at

1 all.

2 We will stand at ease for about ten minutes.

3 (WHEREUPON, a break was taken.)

4 THE COURT: State ready to proceed?

5 MR. OZMENT: Yes, Your Honor.

6 THE COURT: Defense counsel ready to proceed?

7 MR. HERRON: Yes, Your Honor.

8 THE COURT: Where is Investigator Streett?

9 THE WITNESS: I'm right here.

10 THE COURT: Want to make sure you're back in
11 your seat.

12 Bring us the jury please, ma'am.

13 MR. HERRON: Your Honor, can we approach?

14 (WHEREUPON, a bench conference was held in the
15 presence of the jury, but out of the hearing of the
16 jury.)

17 (WHEREUPON, the jury came into open court.)

18 THE COURT: Mr. Herron, sir, you recognize for
19 cross-examination.

20 MR. HERRON: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. HERRON:

23 Q How you doing, Investigator Streett?

24 A Good.

25 Q Now, just so -- say this for the jury you are the

1 head investigator on the murder charges that been brought
2 against Ms. Bratschi; is that true?

3 A Our cases are assign to different investigators and
4 this case was assign to me for follow-up investigation,
5 yes.

6 Q Okay. Is it fair to say that as far as law
7 enforcement goes you know more about this case than
8 anybody else right now?

9 A The other investigators know pretty much about what I
10 know.

11 Q Okay. And you been associated with this case since
12 from 2004 when Randy Bratschi went missing?

13 A That's correct.

14 Q Okay. Now, I want to make this clear for the jury.
15 Now, we spent a lot of time talking about this -- I think
16 you classified as attempted murder; is that correct?

17 A Yes.

18 Q Now, that attempted murder charge supposedly stems
19 from an incident back in 2004; isn't that correct?

20 A Yes.

21 Q Okay. Now, it's 2012 right now. Has Brenda Bratschi
22 been brought to trial for that attempted murder charge in
23 eight years?

24 A No.

25 Q But we're here today in 2012 talking about -- spent

1 days on an attempted charge fight; is that correct?

2 A That is correct.

3 Q Okay. Now, Randy Bratschi's body was found in 2009;
4 isn't that correct?

5 A That's correct.

6 Q I really don't want to talk about the fight. I think
7 we spent enough time on the fight. I want to talk about
8 your investigation as far as Randy Bratschi goes. Now, in
9 2004, you were part of the investigative team that search
10 the area around Randy Bratschi's home; is that correct?

11 A Yes.

12 Q Okay. And isn't it true that you went personally
13 went up underneath the trailer in 2004 when Randy Bratschi
14 supposedly went missing; isn't that true?

15 A Yes.

16 Q Okay. Tell the jury what you saw in 2004 when you
17 went up underneath the trailer looking for Randy
18 Bratschi's body?

19 A The underneath of a trailer, dirt, cinder blocks,
20 pieces of wood, various building materials, five gallon
21 buckets, bunch of like building debris, I guess, you can
22 call it.

23 Q Did you physically crawl underneath the trailer or
24 did you just bend down and take a look?

25 A A little bit further than what you just did the

1 second time pull the underpinning back. It was actually
2 ajar and there was another officer at the other end of the
3 trailer. And I was at the -- if you're looking at the
4 front door to the right he was to the left, I was to the
5 right. I could see him, he could see me.

6 Q Did you see a shallow grave?

7 A No, I didn't.

8 Q Okay. You don't believe Randy Bratschi was
9 underneath that trailer when you looked that day, do you?

10 A Do I believe he was under there?

11 Q Yes, ma'am.

12 A That's where he was eventually found.

13 Q I understand. And me and you talked about this case
14 before, but my question to you Investigator Streett is do
15 you personally believe based on what you saw that day that
16 Randy Bratschi was underneath the trailer when you went to
17 search back in 2004? Do you believe that when you
18 physically went underneath the house to look; isn't it
19 true that you believe that he was not there?

20 A If he was there, I missed him.

21 Q Okay. Now, let's talk about the money issue because
22 I think you indicated on direct examination that Randy
23 Bratschi he did have money problems before Brenda Bratschi
24 came into the picture; is that correct?

25 A I wouldn't call them money problems.

1 Q But he was in collections with some credit cards?

2 A Medical accounts mostly.

3 Q He didn't pay medical accounts. Did he have some
4 credit cards that were overdrawn or behind on payments?

5 A Yes.

6 Q Okay. He had money problems; is that true?

7 A He had collections on his credit report, yes.

8 Q Now, Brenda Bratschi comes into the picture and she's
9 staying with Randy and who else is staying with Randy?

10 A Frankie.

11 Q Frankie Miles?

12 A Correct.

13 Q And that's Brenda's son?

14 A That's correct.

15 Q Now, how old was Frankie at the time in 2004?

16 A Seventeen, I believe.

17 Q Seventeen years old. Okay. Do you know if Frankie
18 contributed to the payment of any bills?

19 A That I'm not sure of.

20 Q Okay. Now, we spent a lot of time on direct between
21 you and Mr. Ozment about the bank account records and
22 everything. Isn't it reasonable to say that when there's
23 two more mouths to feed that money is going -- you gone
24 have less money to spend on yourself if you got two other
25 mouths to feed in the household Brenda and Frankie?

1 A I would say so.

2 Q So if money was already tight before Brenda and
3 Frankie moved in, isn't it reasonable to assume that
4 money's gone be even tighter when you got more mouths to
5 feed?

6 A Yes.

7 Q Okay. And isn't it true that Randy Bratschi had a
8 new boat?

9 A He did.

10 Q So he bought a new boat and was this before or after
11 Brenda came into the picture?

12 A To my recollection, it was after.

13 Q So he had some collection issues before Brenda came
14 in the picture. Brenda comes in the picture with Frankie
15 two more mouths to feed. He buys a new boat; is that
16 correct?

17 A That's correct.

18 Q Did he have a new car?

19 A He brought Brenda a car, yes.

20 Q He bought Brenda a car. Brenda didn't steal money
21 out of his account and went and bought a car herself; did
22 she?

23 A No, Randy had the arrange for the credit union to
24 take those payments out of his check, his pay check. He
25 didn't actually pay those payments. They were payroll

1 deducted from his check.

2 Q Okay. And I saw pictures of a four wheeler. Did he
3 also have a foul wheeler?

4 A Yes.

5 Q So we got a new car, a new boat and we got a four
6 wheeler and we got two more mouths in the house; is that
7 correct?

8 A That's correct.

9 Q Now, you stated on direct examination that Randy was
10 quote terrified of Brenda; was that your testimony?

11 A He was.

12 Q Okay. Now, let's talk about Sue Hill for a little
13 bit. Isn't it true that Brenda Bratschi caught Randy
14 Bratschi -- I been saying red handed. She caught Randy
15 Bratschi getting ready to go in Sue Hill's house late at
16 night; isn't that true?

17 A That was the testimony, yes.

18 Q Okay. Do you have any reason to dispute that
19 testimony?

20 A No.

21 Q Okay. And isn't it true that as Randy Bratschi went
22 in Brenda Bratschi came up behind him with a flashlight
23 and says -- shines it on him says, Hey, I wonder how long
24 this has been going on and walks away; isn't that true?

25 A The way it came about in my investigation the way I

1 was told that it happened was that Brenda was in the road
2 way and Randy was at the back door on the porch. So there
3 was a good deal of distance between them.

4 Q Okay. But my question is isn't it true that it
5 happened exactly the way I just described it to the jury?
6 I wonder how long this has been going on and Brenda
7 Bratschi walks away?

8 A That's correct.

9 Q And isn't it true that Randy Bratschi was so
10 terrified of Brenda that Randy Bratschi then went drinking
11 with Sue Hill at Shingles Nightclub on National Cemetery?
12 That's -- we've had testimony about that; is that correct?

13 A That's correct. And when I said that Randy Bratschi
14 was terrified that was after his release when he was doing
15 the petition for the order of protection, that was about a
16 month before the incident that happened or not quite
17 probably three weeks before.

18 Q Okay. Was he terrified because he believed Brenda
19 tried to kill him?

20 A Yes.

21 Q Okay. So are you telling this jury there was a point
22 where he stopped caring about that?

23 A Well, he had an order of protection in effect. He
24 had put some other safety measures into effect too and
25 time had elapsed. You know, I'm sure that his fear as the

1 days went on lessened and lessened and lessened.

2 Q When Randy was at Sue Hill's house, did Randy have a
3 protective order telling Brenda Bratschi to stay away?

4 A Yes, he did.

5 Q Okay. So it is safe me and you would agree that by
6 being there Brenda Bratschi violated a court order?

7 A She most certainly did.

8 Q And this man who's so terrified that he has to go get
9 a court order his wife's there against the Court's wishes,
10 he's so terrified that he comes in the house, closes the
11 door and then him and his girlfriend go drinking; isn't
12 that true?

13 A I can't tell you what his state of mind that night.

14 Q Okay. But you testified earlier that he was quote
15 terrified of Brenda Bratschi?

16 A When I spoke with him and had Ms. Davis complete the
17 family court order of protection for the petition or the
18 petition for the order of protection, he was extremely
19 fearful of her then.

20 Q Extremely fearful, okay. Was Randy Bratschi -- did
21 he have some law enforcement history? Did he use to work
22 for law enforcement?

23 A Yes, him and one of his brothers I believe.

24 Q What did they do in the law enforcement capacity.

25 A I believe he was a police officer.

1 Q Okay, he was a police officer. And let's talk about
2 protective court orders. In your experience -- and if you
3 have CDV experience; is that correct I think I heard you
4 say something on direct examination that you're familiar
5 you have specialized training in criminal domestic
6 violence cases?

7 A Yes.

8 Q Okay. Let's talk about that for a second. If I go
9 to a judge or I go to family court and says my wife hit me
10 in the face, I'm scared of her. Would that be fairly easy
11 or would it be hard to get a judge to issue a protective
12 order against my wife in your experience?

13 A It all depends on the individual circumstance.

14 Q Okay. But we can agree that it would be fairly easy?

15 A It all depends on the individual circumstance and the
16 individual case.

17 Q Okay. Now, let's talk about this hole in a deer
18 stand, by the deer stand. I think you testified on direct
19 that hole was -- I don't want to put words in your mouth
20 Investigator Streett, it was knee high to you. You stood
21 in the hole?

22 A Yes.

23 MR. HERRON: Your Honor, could I have the
24 witness step down please?

25 THE COURT: Yes.

1 MR. HERRON: Thank you.

2 BY MR. HERRON:

3 Q You wearing heals?

4 A I am.

5 Q Were you wearing heals when you got in?

6 A No, I was wearing boots.

7 Q Wearing heals. But heals ain't tall.

8 A I'm 5'8.

9 Q I got you. Now, this piece of paper we can agree is
10 about eight and half by 11 inches? Now, there's been
11 testimony that Randy's body was found in a shallow grave
12 up underneath the trailer. You would agree that hole by
13 the deer stand was quite, was a lot deeper than the way
14 the body was found up underneath the trailer

15 A Much deeper.

16 Q Much deeper. Okay. Let's give the jury -- if you'll
17 slid over there. I just want to give the jury an idea
18 because I done it before how deep it was. I'm gone lay on
19 the ground, the way the body was found. I want to make
20 sure everybody -- so the way the body was ---

21 THE COURT: Hold up.

22 If you to need stand up on the back row, you can
23 stand up.

24 BY MR. HERRON:

25 Q The way the body was found was found it was eight and

1 a half inches in a shallow grave up underneath the
2 trailer; is that correct?

3 A That was the testimony, yes, sir.

4 Q And the hole that y'all say is a shallow grave, it
5 was much deeper than this?

6 A It was at least double the size, yes.

7 Q At least double the size?

8 A Yes.

9 Q Okay, thank you. You can have a seat. Thank you.
10 Now, that shallow grave as y'all described it was twice
11 the size of the hole up underneath the trailer; is that
12 correct?

13 A That's correct.

14 Q And it was at least a quarter of a mile away from the
15 trailer; is that correct?

16 A Between an eighth and a quarter.

17 Q Okay. It was in the middle getting ready to be a
18 wooded area on -- I think y'all described it as the
19 beginning of a wooded area?

20 A When you leave off of Friendfield Road, there's an
21 area we call it a hedge road lightly wooded not heavily
22 wooded. You can see through it. You can walk through it.
23 There's a short path through from the roadway. And also I
24 guess you can probably get an ATV -- actually farming
25 equipment probably it's a pretty good not a road, but a

1 trail through there. And you could actually see the tree
2 stand from the road. And it was probably maybe 20 yards
3 off the roadway. And then you break tree line into the
4 field that was plowed and it was right at the edge of the
5 field that was plowed in the plowed area.

6 Q Okay. Did y'all do any testing of that shallow
7 grave?

8 A We did.

9 Q Anything out of the ordinary other than it being --
10 what y'all would classify as a quote a shallow grave?

11 A Say that again, I'm sorry.

12 Q That probably was a bad question. Was there any
13 clothing fabric found in the grave?

14 A No.

15 Q Any blood found in the grave?

16 A No.

17 Q Was there any hair found in the grave?

18 A No.

19 Q Any fingernails found in the grave?

20 A No.

21 Q Any hats found in the grave?

22 A There was nothing found in the grave.

23 Q How about boot marks around the grave?

24 A Tire tracks.

25 Q Tire tracks.

1 MR. HERRON: Your Honor, may I approach the
2 witness?

3 THE COURT: Yes.

4 BY MR. HERRON:

5 Q Before I get to that, let's give the jury an idea of
6 the time line that you have -- and you're the lead
7 investigator and you know more about this case than
8 anybody. When do you believe based on your investigation
9 that Randy Bratschi was either killed or first went
10 missing?

11 A Friday.

12 Q Friday. How sure are you about Friday?

13 A He was last seen alive leaving Smurfit Stone at 6:45
14 he clocked out that morning. He made it home because his
15 glucose monitor was there. And also his -- the usual
16 clothes that he wears was also there in the house. And
17 also his lunch pail he always use to carry his dinner to
18 work in a rubber made container inside of a bag and his
19 utensils all of that was there from the previous night, so
20 I'm pretty positive that he made it home.

21 Q Okay. Could it have been Saturday when he
22 disappeared and or was killed?

23 A Saturday?

24 Q Yes, ma'am.

25 A I guess, it could be.

1 Q Do you believe it was Saturday?

2 A No, I think it was Friday.

3 Q Okay. How about Sunday could it have been Sunday?

4 A I don't think so.

5 Q Okay. Now, I'm going to hand you what's been -- it's
6 not been marked yet. I just want to tell the jury if you
7 can identify that document for me?

8 A This is the warrant that was obtained from
9 Ms. Bratschi.

10 MR. HERRON: Okay. Your Honor, at this time I
11 like to mark that as Defense Exhibit 2 and move into
12 evidence please.

13 THE COURT: What is it?

14 MR. HERRON: It's the affidavit for the murder
15 -- the warrant itself.

16 THE COURT: Any objection?

17 MR. OZMENT: No objection, Your Honor.

18 THE COURT: Without objection, hold on a minute
19 let it be marked.

20 (WHEREUPON, Defendant's Exhibit No. 2 was
21 admitted into evidence.)

22 BY MR. HERRON:

23 Q Now, Investigator Streett, do you have what's been
24 marked as Defendant's Exhibit 2 in front of you and I just
25 want to go through it. First of all, how do you take --

1 if I was to walk over here and punch Mr. Ozment in the
2 face and you saw it, take us through the process of how
3 you would charge me, what exactly would that process be,
4 can you just give the jury an idea of that?

5 A How I would charge you?

6 Q Yes, ma'am.

7 A Depending first of all I would ascertain what type of
8 injuries Mr. Ozment had if they were superficial injuries
9 or something that didn't need medical treatment that would
10 be considered an assault third degree. You have third,
11 second, first degree assaults now. And I would probably
12 take Mr. Herron to jail and write him a blue ticket for a
13 misdemeanor assault.

14 Q Okay. Would you sign an affidavit for a warrant for
15 my -- an arrest warrant for my arrest?

16 A No.

17 Q You wouldn't?

18 A No.

19 Q Why wouldn't you do that in that?

20 A Because the crime was committed in my presence and
21 it's a misdemeanor magistrate's level offense, so it can
22 be written on a blue ticket, what we call a blue ticket.

23 Q If it was a more serious crime like murder, how do
24 you take your belief that someone killed somebody and how
25 do you make that into a case where they get arrested and

1 charge, take us through that process?

2 A How do we make it into a case?

3 Q Yes, ma'am.

4 A Are you saying how do we obtain a warrant from a
5 judge or how do we do a criminal investigation from start
6 to finish?

7 Q Tell us about that from start to finish and I think
8 that will include this part of it?

9 A Okay. From am I seeing this happen?

10 Q No, ma'am. I tell you what just use this as an
11 example. How did you take this to the judge and take --
12 I'm trying to get an idea of how you approached this
13 affidavit and what information you relied on and things of
14 that nature. I just want the jury to get an idea of how
15 that came about?

16 A Okay. Basically, this probable cause was developed
17 stating that based on the information that I had compiled
18 file from October of 2004 up until the date that the
19 warrant was signed that I believe that there was probable
20 cause that the person that I was requesting that the
21 warrant be signed on for the particular offense committed
22 the actual offense.

23 Q Okay. Now, probable cause is not proof beyond a
24 reasonable doubt; is that correct?

25 A That is correct.

1 Q Okay. That's for the jury to determine; is that
2 correct?

3 A That's correct.

4 Q Okay. Simply because somebody is arrested doesn't
5 mean they're guilty?

6 A That's right.

7 Q Now, on this affidavit that you obtained for the
8 arrest Brenda Bratschi for murder, on that affidavit I'm
9 just going to read it and you tell me if I'm getting it
10 right. You say I further state that there's probable
11 cause to believe that the defendant named above did commit
12 the crime set forth probable cause based on the following
13 facts: That on or about November 26 through 27th Brenda
14 Bratschi murdered Randy Bratschi. I find and believe this
15 based on the following Randy Bratschi was reported missing
16 on or about November 30th 2004. He was last seen alive
17 the morning of November 26, 2004. Defendant was out on
18 bond at the time for attempting to kill Randy Bratschi in
19 October of 2004. Affiant has witnesses that observe the
20 defendant leaving the victim's property during this time
21 in violation of an order of protection, which prohibits
22 the defendant from contacting the victim or being on his
23 property. The same location where human remains were
24 located on July of 2009 [REDACTED] Georgetown Road
25 Coward, Florence County, said body was forensically

1 identified as the remains of Randy Bratschi. Affiant and
2 witnesses are prepared to provide evidence, testimony to
3 the scene. Is that a fair reading of your affidavit?

4 A That's it.

5 Q You still stand by the affidavit today?

6 A Yes, sir.

7 Q Now, in your affidavit that you obtained for the
8 arrest of Brenda Bratschi, it says that you believe on or
9 about November 26 or 27 and the 26 would have been a
10 Friday; is that correct?

11 A I believe so.

12 Q And the 27th would have been the next day. If Randy
13 Bratschi was seen alive that Saturday afternoon, would you
14 change your belief that Brenda Bratschi murdered him?

15 A No.

16 Q Why not?

17 A If he was seen alive on Saturday?

18 Q Uh-huh.

19 A Then it's still within the range of the dates here.

20 Q Okay. How about if he was seen alive on Sunday,
21 would that change your opinion as to the facts of how you
22 had Brenda Bratschi arrested for murder if he was seen
23 alive on Sunday?

24 A I could not find anyone -- we had no evidence after
25 he left Smurfit-Stone Container the morning of Friday at

1 6:45.

2 Q And we gone get to that. But my question
3 specifically is if Randy Bratschi was seen alive on
4 Sunday, would you give pause and make you question your
5 belief that Randy Bratschi was killed on Friday or
6 Saturday?

7 A Most definitely if he was seen alive on Sunday.

8 Q Absolutely. All right. Now, did you talk to Heath
9 Matthews?

10 A No.

11 Q Did you talk to Frankie Miles?

12 A I did.

13 Q Okay. Based on your investigation, there are
14 witnesses that did see and hear or heard from Randy
15 Bratschi on Saturday, you would agree with that, right?

16 A I have some witnesses or a person that told me that
17 he talk to Randy on Saturday morning, yes.

18 Q Who was that?

19 A Frankie Miles.

20 Q Okay. But you didn't talk to Heath Matthews?

21 A No, I did not.

22 Q Did you talk to Dean Matthews?

23 A I talk to Dennis Matthews. I did not speak to Denny.

24 Q Are Dennis and Denny different people?

25 A Father and son.