

VOLUME FOUR OF SIX

STATE OF SOUTH CAROLINA **RECEIVED**

IN THE SUPREME COURT

JUL 2 2014

Appeal from Richland County **S.C. Supreme Court**

R. Knox McMahon, Circuit Court Judge

STANLEY OLIVER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002211

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MEGAN HARRIGAN
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT (dated December 3-7, 10-14, 17-18, 2007)	1
INDICTMENTS AND SENTENCE SHEETS	2355
APPLICATION FOR POST-CONVICTION RELIEF	2373
RETURN	2379
APPLICANT'S TRIAL BRIEF	2386
POST-CONVICTION RELIEF HEARING TRANSCRIPT (dated August 13, 2012)	2389
ORDER OF DISMISSAL	2506

1 frequency.

2 Q Right. And there is an equation that is used to
3 compute what the final frequency is when you have a
4 number of loci with individual frequencies, correct?

5 A That's correct.

6 Q In that equation, conjecture or science?

7 A It's science, based upon scientific testing to
8 determine the frequencies of these alleles and how
9 often they occur. So it's like a dice. You know,
10 that the six occurs one in six times when you role
11 it. So that's a known frequency. So the frequency
12 of these alleles is the same type of thing. You test
13 it over and over and see how often they occur.

14 Q And you apply known methods to assure that the
15 results you get as far as the frequency of the
16 occurrence is correct and reliable, correct?

17 A Yes, sir.

18 Q I mean, there are statistical tools that are used in
19 conducting these kind of evaluations and arriving at
20 the reliability of these frequencies. I don't know
21 whether they do multiple regression analysis on it or
22 things like that. But they use known scientific
23 methods to assure ourselves that the frequencies that
24 you use are reliable, correct?

25 A That's correct.

1 Q Okay.

2 A We even use methods to make sure that the estimate is
3 very conservative. So we don't use a very extreme
4 number. We use the most conservative number.

5 Q Okay. And that's because when you get a match across
6 multiple loci, the numbers you come up with are
7 extremely small, correct?

8 A Yeah. I mean, you can look at it as large or small,
9 whether it varies. Yeah. Numbers you don't normally
10 encounter in your everyday life.

11 Q Can you give us an example of such a number?

12 A Quadrillion.

13 Q Quadrillion?

14 A Mm-hmm (affirmative). That's 1 followed by 15
15 zeroes.

16 Q And the chance of finding someone at random that
17 matches that is 1 in a quadrillion or something like
18 that?

19 A That's it.

20 Q Which is not --

21 A Usually a number of a complete profile is in the
22 quadrillions, sometimes quintillions which is 18
23 zeroes. I've even seen sextillions which is 21
24 zeroes. That just means that that profile is an even
25 rarer profile.

1 Q Which of course is not to say that that person is
2 that person. It just says it's pretty; very, very,
3 very, very, very, very, 16 zeroes worth of very
4 remote possibility that anyone else could be that
5 person supposedly, right?

6 A That's true. It would be an opinion of DNA science
7 that that was an identity, that DNA belonged to that
8 person.

9 Q Okay. And all of that, all these numbers and
10 everything, that's part of an area of science known
11 as population genetics, right?

12 A That is a very small portion of population genetics,
13 yes.

14 Q And it intersects with an area of science known as
15 statistics, right?

16 A Right. It's a specific application of statistics.

17 Q And none of this stuff is someone's theory, right?

18 A Well, it was a theory, but it has been developed --

19 Q It has been developed?

20 A -- and has been proven. And that's why it's used in
21 courts of law.

22 Q Mr. Barron, thank you very much. That's all I have.

23 MR. MILLING: No questions, Your Honor.

24 CROSS EXAMINATION

25 BY MR. DELGADO

1 Q Mr. Barron, sir, what you have been exposed to over
2 your years, and I'm trying to figure it out, 28,
3 something like that, years?

4 A Correct.

5 Q You've done a whole plethora of things for either the
6 State Law Enforcement Division and now through your
7 employment with the Richland County Sheriff's
8 Department. Would that be fair?

9 A That's true.

10 Q All right, sir. One of the things that forensic
11 evidence encompasses, or some of the things that
12 you're talking about here today; that is, blood,
13 correct, sir?

14 A Correct.

15 Q You also analyze -- and you, I'm talking about the
16 forensic law enforcement community -- you also
17 analyze semen?

18 A Yes.

19 Q Correct, sir? Analyze hair?

20 A Yes.

21 Q Analyze tool marks?

22 A Yes. I haven't been involved in tool marks. But it
23 is done.

24 Q Yes, sir. Exactly. Voice prints, fingerprints,
25 footprints. Would that be fair?

1 **A** Yes..

2 **Q** Just for my own edification, a quadrillion is a 1
3 with 15 zeroes after that?

4 **A** That's correct.

5 **Q** Law enforcement either through the Richland County
6 Sheriff's Department or State Law Enforcement or the
7 FBI can be that precise and that specific?

8 **A** Yes. Because the frequencies of these alleles, it
9 can be determined.

10 **Q** Absolutely.

11 **A** Right.

12 **Q** Thank you, sir, very much. That's all, Your Honor.
13 Thank you.

14 **THE COURT:** Redirect?

15 **MR. ROSS:** No, Your Honor.

16 **THE COURT:** All right. You may come down, sir.
17 Thank you very much.

18 **MR. STRICKLER:** Your Honor, may we approach?

19 **THE COURT:** Sure.

20 (Whereupon, a bench conference is had)

21 (WHEREUPON, State's Exhibit No. 200 is marked
22 for identification.)

23 (WHEREUPON, State's Exhibit No. 201 is marked
24 for identification.)

25 **MR. ROSS:** Ken Bogan.

1 KENNETH L. BOGAN, after being duly sworn,
2 testifies as follows:

3 **THE CLERK:** Thank you. Please have a seat in
4 the witness stand and state your full name for the
5 record. And if you would please spell your last
6 name.

7 **THE WITNESS:** My name is Kenneth L. Bogan. My
8 last name is spelled B-O-G-A-N.

9 DIRECT EXAMINATION

10 **BY MR. ROSS**

11 **Q** Where are you employed?

12 **A** I'm employed with the South Carolina Law Enforcement
13 Division.

14 **Q** And how long have you been employed there?

15 **A** It's almost 24 years.

16 **Q** What have you done for SLED during the past 24 years?

17 **A** I began as a forensic serologist in 1984. I worked
18 as a forensic serologist until approximately 1992. I
19 began DNA training in forensic DNA analysis in 1990.
20 I attended the Federal Bureau of Investigation's DNA
21 typing school, was also trained at SLED. And since
22 1992 I've performed case work analysis on using DNA
23 analysis techniques.

24 **MR. STRICKLER:** Your Honor, I would not want to
25 interrupt his qualifications, but I'll stipulate to

1 his qualifications as a DNA analyst.

2 **MR. MILLING:** As will we, Your Honor.

3 **MR. DELGADO:** The same for Mr. Joy.

4 **THE COURT:** You may precede as you so choose.

5 **MR. ROSS:** We'd offer him as an expert in DNA
6 analysis.

7 **THE COURT:** Yes, sir. So qualified.

8 **Q** Did you have occasion to examine certain items
9 related to this case? These are items from the crime
10 scene of Mildred Avenue in the City of Columbia. Ms.
11 Ruff testified previously to you and testified about
12 the items. Those are the SLED item numbers that she
13 testified about. Did you have an occasion to examine
14 those items for DNA?

15 **A** Yes. I examined some cuttings that Patti Ruff, Ms.
16 Ruff, supplied to me and some swabs from the beer
17 can. I didn't examine the beer can itself, but I
18 examined the swabs from it.

19 **Q** And John Barron testified previous to you, and he
20 explained what DNA was and how it's used. And I
21 don't think we need to go through all that. So I'm
22 just going to stick with what you did, the analysis
23 you did and what your results were.

24 **MR. ROSS:** Your Honor, Exhibits 200 and 201,
25 these are the DNA cards. 201 would be the DNA card

1 from I believe Kevin Miller, and 200 would be the DNA
2 card from George Batie. That would be SLED items 46
3 and 47.

4 **THE COURT:** Are you offering them at this time?

5 **MR. ROSS:** I offer them without objection.

6 **MR. STRICKLER:** That's correct, sir.

7 **MR. MILLING:** No objection.

8 **MR. DELGADO:** No objection.

9 (WHEREUPON, State's Exhibit No. 200 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 201 is admitted
12 into evidence.)

13 **Q** Looking at those items, 46 and 47, do you recognize
14 those items?

15 **A** Yes, I do. State's Exhibit 200, 201 is a heat-sealed
16 pouch. It has my initials here, my case number here.
17 It also has my initials here where I sealed it. It
18 has SLED's item number 46 which is a known blood
19 standard from Kevin Miller. State's Exhibit 200,
20 also a heat-sealed pouch, it has my initials here.
21 It has my case number at the top. It contains that
22 dried blood standard from George Batie.

23 **Q** So when you talk about SLED items 46 and 47, known
24 standards, 46, that would be -- when you extract DNA
25 from that, that would be the DNA for Kevin Miller?

1 A That's correct.

2 Q Because you know that whatever produced that DNA came
3 from the person of Kevin Miller?

4 A It was reported to me as being taken from Kevin
5 Miller. Yes, sir.

6 Q And then the same would be true for item 47, George
7 Batie?

8 A That's correct.

9 Q All right. And were you able to extract DNA from
10 those items?

11 A Yes, I was.

12 Q Okay. And you came up with a profile for those
13 items?

14 A Yes.

15 Q All right. And then items 41, 42, 43, there were
16 various cuttings made. Were you able to extract DNA
17 from those samples that were given to you?

18 A I was able to get some DNA from some of those items.
19 More specifically, I'll give you the item number. I
20 was able to develop the DNA profile from item 42.2,
21 43.2 and 43.3. I was not able to develop a DNA
22 profile from 41.1. No. 41.1.

23 Q Oh, I'm sorry.

24 A 42.1 or 43.1.

25 Q Did you get a partial profile or --

1 A No. I was not able to get a DNA profile at all.

2 Q Okay.

3 A On item 42.3, I got no STR DNA profile. I was able
4 to identify the presence of one chromosome which is
5 the X chromosome consistent with a female, but no STR
6 profile was developed.

7 Q That was on 42.3?

8 A That was, yes, 42.3.

9 Q Would you describe that as a partial DNA?

10 A It's not a DNA profile. It's not an STR locus, a
11 short tandem repeat locus. But it is considered a
12 partial profile.

13 Q Okay. And then 43.1?

14 A No DNA profile was developed from 43.1.

15 Q And then 44.1?

16 A I attempted to extract DNA from that and I got an
17 insufficient amount of DNA off of the swab for STR
18 PCR DNA analysis. So there was just an insufficient
19 amount present there.

20 Q And 45.1?

21 A It also was an insufficient amount of DNA.

22 Q So 44.1 and 45.1, there is not enough material there,
23 not enough there for you to be able to develop a
24 profile at all?

25 A That's correct.

1 Q Okay. I'm confusing myself with all this. So there
2 is a partial profile with 42.3 but not enough to be
3 able to determine who it was?

4 A That's correct. I could not make a comparison with
5 the results that I got with any individuals. The
6 only thing that I developed was an area which we call
7 imogen which would indicate what gender the DNA came
8 from, what gender or sex the individual was. It was
9 consistent with coming from a female.

10 Q And 43.2 and .3, you did develop a -- well, let's
11 back up. How can you tell whether -- just from DNA
12 how somebody -- if it's a male or a female?

13 A Well, again, at the site of DNA, it's called imogen,
14 if I get or detect the presence of X or Y
15 chromosomes, then that would be from a male. If I
16 detect only an X, that's consistent with being from a
17 female.

18 Q 43.2 and .3, you were able to develop a profile?

19 A Yes.

20 Q All right. And was that also a female profile?

21 A I'm not sure you've got --

22 Q 43.2 and .3?

23 A Yes. Those were consistent with coming from a female
24 individual.

25 Q And 42.2?

1 A Also coming from the same unidentified female victim.

2 Q And 42.2, 43.2 and 43.3, are those the same profile
3 as each other?

4 A Yes.

5 Q All right. And 43.3, can you tell, is that profile
6 consistent with these other profiles, or is there not
7 enough to know? In other words, is 42.2 and .3, is
8 .3 consistent with .2?

9 A I could not make any comparison as to whether or not
10 that came from the same individual. The only thing
11 from item 42.3 that I can tell is that it came or is
12 consistent with coming from a female individual.

13 Q Okay. And did you have a standard, a known standard,
14 you yourself have a known standard to compare the
15 profile you developed from the tissue that you did
16 extract DNA on? Did you have a known standard to
17 compare that to, a female standard?

18 A I did not have a standard from any females in this
19 case. The only standards I had were from Kevin
20 Miller and George Batie.

21 Q Okay. And it's been introduced that Richland County
22 DNA lab did have a standard, did have a known
23 standard from a female, and that report has been
24 introduced into evidence. And I'm going to show that
25 to you. That's State's Exhibit 199. Have you looked

1 at that report prior to today?

2 A Yes, I have.

3 Q Okay. And is there a profile that was developed by
4 the Richland County lab contained in that report?

5 A Yes. There is a DNA profile. There are several DNA
6 profiles, but --

7 Q Specifically number 4, their number 4, which is the
8 known standard.

9 A It's -- yes. It is DNA profile present.

10 Q Is that known profile that Richland County developed,
11 is that the same profiles as you developed from the
12 tissues?

13 A Yes.

14 Q Okay. And Mr. Strickler asked John Barron earlier
15 about a statistical number that's associated with
16 that. Did you do a calculation of finding that DNA
17 profile randomly in the population?

18 A Yes, I did.

19 Q And what was the statistic that you came up with?

20 A The probability of selecting someone at random, an
21 unrelated individual at random, having that same DNA
22 profile is approximately 1 in 240 quadrillion.

23 Q Do you consider that a match, that that's the same
24 person?

25 A Yes.

1 Q So the DNA from the tissue is Desiree Felder because
2 it matches the known standard which was number 4 in
3 the Richland County case?

4 A Yes. The DNA profile that I developed from item
5 42.2, 43.2 and 43.3 matches the DNA profile that was
6 developed by Mr. Barron on the known standard of
7 Desiree Tankee.

8 Q Desiree Tankee Felder. Yes, sir.

9 A Okay.

10 Q And you also did an analysis, your items 11, 12, 13
11 and 14, SLED items, which were some swabs, blood
12 swabs collected?

13 A Yes, I did.

14 Q Were you able to develop a profile on those items?

15 A Yes.

16 Q Did you compare the profile you developed from those
17 items with the known standards that were submitted in
18 this case, the Kevin Miller and the George Batie
19 standards?

20 A Yes, I did.

21 Q What was the result of comparing those?

22 A The DNA profile developed from those items matches
23 the DNA profile I developed from George Batie.

24 Q And did you do a statistical analysis of that --

25 A Yes, I did.

1 Q -- as well? And what was that number?

2 A Okay. The probability of randomly selecting an
3 unrelated individual having the same DNA profile as
4 what I developed on those swabs is approximately 1 in
5 32 quadrillion.

6 Q And you would consider that a match as well?

7 A Yes.

8 Q Why is there a difference in the numbers between the
9 Batie match and the Desiree Felder match, just in
10 simple terms?

11 A Each of the areas in which I observed a DNA profile,
12 I'd look at genotypes of that individual. Those
13 genotypes occur in the population with a certain
14 frequency of occurrence and some of them are more
15 common than others. And so that each individual in
16 which I did a DNA profile would likely come out with
17 a different frequency of occurrence.

18 It's similar to ABO blood typing. If you're
19 familiar or know what your blood type is; for
20 example, type O blood occurs with a frequency of
21 about 50 percent. Type B on the other hand is a
22 little more rare and occurs with approximately
23 11 percent of the population.

24 So the same thing happens with DNA, that the
25 frequency of the occurrence of some of the areas that

1 I look at occur with different regularity. And so
2 the frequencies of occurrence come out different.
3 And so the probability of the profile from George
4 Batie is different than that from Desiree Felder.

5 Q That's all the questions I have. Thank you.

6 MR. STRICKLER: A couple of things.

7 CROSS EXAMINATION

8 BY MR. STRICKLER

9 Q These weren't all what you testified to, not all that
10 you conducted testing on, correct?

11 A That's correct.

12 Q You had an item 20 submitted to you that were --

13 MR. ROSS: Your Honor, I'm going to object to
14 asking about other items that are not in evidence.
15 If he wants to put them in evidence, that's fine.

16 THE COURT: Well, he's only asked if there were
17 other items at this point.

18 Q Yes, sir. You had an item 20 submitted to you?

19 A Yes, I did.

20 Q Which was identified as fingernail scrapings?

21 A Yes.

22 Q I'm just asking. Nothing beyond fingernail
23 scrapings, correct?

24 A Yes.

25 Q Okay. You had a number of other items. But

1 that's -- what you've testified to, the blood swabs,
2 et cetera, all are matches with George Batie?

3 **A** From the swabs, yes. All the DNA matched George
4 Batie.

5 **Q** Okay. And the other matches you've testified to have
6 been to this tissue paper, which your testing in
7 combination with that conducted by Mr. Barron leaves
8 you to be able to say it's a match with Ms. Felder,
9 correct?

10 **A** That's correct. The DNA profile that I developed
11 from those tissue papers matched the DNA profile that
12 John Barron developed.

13 **Q** All right. Thank you very much, sir.

14 **A** Yes, sir.

15 **MR. MILLING:** No questions, Your Honor.

16 CROSS EXAMINATION

17 **BY MR. DELGADO**

18 **Q** Good morning, sir.

19 **A** Good morning.

20 **MR. ROSS:** Your Honor, may we approach before he
21 starts asking questions?

22 **THE COURT:** Well, he hasn't even asked a
23 question yet.

24 **MR. ROSS:** Well, I know. But I can see what's
25 on his board. Before he shows it to the jury, which

1 he's fixing to do.

2 **MR. DELGADO:** No. I was going to turn it over.

3 **THE COURT:** Let him conduct his own cross
4 examination.

5 **Q** Mr. Bogan, these numbers are for this lawyer almost
6 astronomically -- I can only see it if I write it
7 down. For Ms. Desiree Tankee, that was randomly
8 trying to find this in the population in the world.
9 Do we even have 240 quadrillion people in the whole
10 world?

11 **A** No, we don't.

12 **Q** But that would be 1 in 240 followed by 15 zeroes?

13 **A** That's correct.

14 **Q** One, two, three, four, five, six, seven, eight nine,
15 ten, eleven, twelve, thirteen, fourteen, fifteen.
16 Correct, sir?

17 **A** That's correct.

18 **Q** Mr. George Batie was 1 in 32 quadrillion?

19 **A** That's correct.

20 **Q** One, two, three, four, five, six, seven, eight, nine,
21 ten, eleven, twelve, thirteen, fourteen, fifteen.
22 The scientific community, you with SLED, FBI, are
23 able to give an opinion to this jury to that
24 precision. Is that correct, sir?

25 **A** It's an approximation, yes.

1 Q All right, sir. But that's what you can testify to
2 based on the scientific method that you employ in
3 your expert area. Would that be fair?

4 A Yes.

5 Q That's all the questions I have. Thank you.

6 THE COURT: Redirect?

7 MR. ROSS: No, Your Honor.

8 THE COURT: All right. You may come down, sir.
9 Thank you very much. May this witness be excused?

10 MR. STRICKLER: Without objection, sir.

11 MR. MILLING: No objection.

12 MR. DELGADO: Without objection.

13 THE COURT: All right. All right, ladies and
14 gentlemen. Let's take our morning short break.
15 Well, our morning break. I keep saying short. It
16 never is real short. But again, don't discuss the
17 case among yourselves while you're in the jury room
18 or with anyone. We'll call you when we're ready.
19 Thank you.

20 (Jury out at 11:39 a.m.)

21 THE COURT: We'll stand at ease for about ten
22 minutes.

23 (Whereupon, a break is taken)

24 THE COURT: The State ready to proceed?

25 MR. ROSS: Yes, Your Honor.

1 **THE COURT:** Defense ready?

2 **MR. STRICKLER:** Yes, Your Honor.

3 **MR. MILLING:** Yes, Your Honor.

4 **MR. DELGADO:** Yes, sir.

5 **THE COURT:** Bring the jury please, Mr. Martin.

6 **MR. DELGADO:** Your Honor, I can say before the
7 jury comes in, I've talked to the solicitor. It
8 would be easier for by recordkeeping purposes if I
9 could ask the court reporter to Xerox two pages of
10 one exhibit, some phone records that I'd like to be
11 able to -- I'll pay for it. I don't want to have to
12 touch it, but I'd like to have it --

13 **THE COURT:** Can you identify what you want?
14 We'll do it.

15 **MR. DELGADO:** Yes, sir.

16 (Jury in at 12:00 p.m.)

17 **THE BAILIFF:** All the jury is present, Your
18 Honor.

19 **THE COURT:** All right, Solicitor. Call your
20 next witness.

21 **MR. ROSS:** Thank you, Your Honor. Your Honor,
22 the State calls Dr. Ross.

23 DR. JANICE E. ROSS, after being duly sworn,
24 testifies as follows:

25 **THE CLERK:** Thank you. Please have a seat in

1 the witness stand and state your full name for the
2 record.

3 **THE WITNESS:** Janice Edwards Ross.

4 DIRECT EXAMINATION

5 **BY MR. ROSS**

6 **Q** Dr. Ross, where are you employed?

7 **A** In Newberry Pathology Associates in Newberry, South
8 Carolina.

9 **Q** And what do you do for them?

10 **A** Dr. Sexton and I do autopsies for coroners and we
11 also handle pathology for the Newberry Hospital.

12 **Q** Okay. And you're a medical doctor?

13 **A** Yes.

14 **Q** And what type of medical doctor are you?

15 **A** A forensic pathologist.

16 **Q** If you could, are we related at all? We have the
17 same last name.

18 **A** No, sir. No, sir.

19 **Q** Any relatives in common that you know of?

20 **A** No, sir.

21 **Q** Okay. Give the ladies and gentlemen your educational
22 background and qualifications and training towards
23 forensic pathology?

24 **A** Yes. I received a bachelor's degree from the
25 University of South Carolina, and then I received my

1 M. D. at Upstate Medical Center in Syracuse, New
2 York. I did further training in pathology at that
3 same place in Syracuse, New York, and have been board
4 certified in three areas of pathology. The word
5 "pathology" means study of disease. So a pathologist
6 is a doctor who learns how to identify cancers and
7 leukemias through looking at tissue under a
8 microscope and using blood work in the laboratory.
9 We are further trained to do autopsies. And a
10 forensic pathologist is further trained to do
11 autopsies for legal purposes. The word "forensic"
12 means legal. Forensic involving things like
13 homicides, accidents, suicides, rape cases and that
14 kind of thing.

15 Q Approximately how many autopsies have you conducted?

16 A Over 5,000.

17 Q And have you been qualified and testified as an
18 expert in forensic pathology in Circuit Courts?

19 A Yes.

20 Q Approximately how many times?

21 A Over 50 times.

22 MR. ROSS: Your Honor, we'd offer Dr. Ross as an
23 expert in the area of forensic pathology.

24 THE COURT: Any Voir Dire or objection?

25 MR. STRICKLER: No, sir.

1 **MR. MILLING:** None, Your Honor.

2 **MR. DELGADO:** No, Your Honor. Thank you.

3 **THE COURT:** You may proceed. She's qualified as
4 an expert.

5 **Q** Dr. Ross, did you conduct an autopsy of Desiree
6 Tankee Felder September 8th, 2005?

7 **A** Yes, I did.

8 **Q** And what was the condition of the body when you
9 started the autopsy?

10 **A** When we received her, she was clothed in a sleeveless
11 type dress and a pair of underwear. And she had some
12 evidence of decomposition, more so around the head
13 area than the rest of the body.

14 **Q** Did you have a -- or do you have a date of birth for
15 Ms. Felder?

16 **A** We were given a date of birth of .

17 **Q** And Ms. Felder, what type of clothing did she have
18 on?

19 **A** A sleeveless denim type of dress, shift type dress,
20 and a pair of underwear.

21 **Q** Have any shoes on?

22 **A** No. Let me look at my -- no shoes. She had a pair
23 of earrings on also.

24 **Q** Okay. And when you conduct an autopsy, describe
25 exactly what you're doing and what you're looking for

1 in the course of an autopsy?

2 A We look for, on the outside of the body for any
3 evidence or pattern of injuries or natural diseases.
4 And then we do a thorough internal investigation,
5 examination of each organ. So we look for further
6 injuries or natural disease.

7 Q And did you find any evidence of injuries on Ms.
8 Felder?

9 A Yes, I did.

10 Q What type of injuries were those?

11 A There were multiple fractures of the skull and
12 causing a big open wound in the skull mostly on the
13 left side. And when we put that together, we could
14 find a bullet wound, an entrance wound and an exit
15 wound.

16 Q All right. And which side of the head was the
17 entrance wound on?

18 A Left.

19 Q And where was the exit wound?

20 A On the right.

21 Q If you could point on yourself where you're talking
22 about as far as the --

23 A Right here, sort of above and behind the ear on each
24 side.

25 Q Entrance on the left?

- 1 **A** Entrance on the left, exit on the right.
- 2 **Q** Okay. Any other evidence of injuries on Ms. Felder?
- 3 **A** No.
- 4 **Q** Did you find any evidence of any kind of defensive
- 5 wounds on Ms. Felder?
- 6 **A** No, I did not.
- 7 **Q** Okay. So the path of the bullet went straight
- 8 through the head just from one side of the other?
- 9 **A** Pretty much, yes.
- 10 **Q** Was the projectile still inside the head?
- 11 **A** The projectile was just through the bone on the right
- 12 side and in the soft tissue on top of the bone.
- 13 **Q** And did you do any x-rays?
- 14 **A** Yes.
- 15 **Q** All right. And showing you State's Exhibit -- let's
- 16 just do them one-by-one. State's Exhibit No. 117, do
- 17 you recognize that?
- 18 **A** Yes. That's the --
- 19 **Q** Let me stop you right there. Would that photo help
- 20 explain what you are testifying to to the jury?
- 21 **A** Yes, it would.
- 22 **Q** Okay. And what is that photo showing?
- 23 **A** This photo shows the right side of the head with some
- 24 of the skin of the head taken back to show the
- 25 bullet. The number is placed under the bullet so

1 that the top of the head is above the number. And
2 the bullet is visible just above the number.

3 **MR. ROSS:** Your Honor, we'd offer State's
4 Exhibit No. 117 into evidence.

5 **THE COURT:** Any objection?

6 **MR. STRICKLER:** Yes, sir. I mean, we previously
7 discussed objections to this in camera. There is an
8 additional photograph there which I believe he's
9 going to get to which relates to an x-ray
10 demonstrating the same location of this, and I would
11 submit that I've already told Mr. Ross I have no
12 objection to that. I would just renew our previously
13 stated objections as to this photograph. And in
14 addition, if it was not made, it does not depict the
15 body as it was in situ. It depicts it during the
16 course of an autopsy.

17 **MR. MILLING:** The same objection, Your Honor.

18 **MR. DELGADO:** The same objection for Mr. Joy.

19 **THE COURT:** I think it's relevant to her
20 testimony and I'll admit it over the objection of the
21 defendants.

22 (WHEREUPON, State's Exhibit No. 117 is admitted
23 into evidence.)

24 **Q** Dr. Ross, also looking at State's Exhibit 118, would
25 that also be helpful in your testimony in describing

1 the injury?

2 **A** Yes. It's a little difficult to see. It's the left
3 side of the head with the entrance wound present
4 above the ear.

5 **MR. ROSS:** Your Honor, I'd offer State's Exhibit
6 No. 118.

7 **MR. STRICKLER:** Your Honor, subject to our
8 previously stated objections in camera and the just
9 stated objection as to 117, the same grounds.

10 **MR. MILLING:** The same objection.

11 **MR. DELGADO:** As to Ken Joy as well, Your Honor.

12 **THE COURT:** All right. Over the objection of
13 the defendants, the photograph is admitted. It's
14 relevant to the doctor's testimony.

15 (WHEREUPON, State's Exhibit No. 118 is admitted
16 into evidence.)

17 **Q** State's Exhibit 119, the same question, would that
18 help in your testimony describing the injuries to Ms.
19 Felder?

20 **A** Yes. I believe so.

21 **Q** And what does that picture show?

22 **A** Again, it shows the entrance wound of the skull.

23 **MR. STRICKLER:** Your Honor, subject to
24 previously stated objections in camera, subject to
25 the same objection that we lodged against 117 and

1 118. In addition, it's cumulative as to the
2 photograph in 118.

3 **MR. MILLING:** The same objection, Your Honor.

4 **MR. DELGADO:** The same objection for Mr. Joy.

5 **THE COURT:** Ask her to explain the difference
6 between 118 and 119. They appear to be duplicative.

7 **Q** Looking at 118 which is in evidence and 119, what are
8 the differences in the two pictures? What's shown in
9 119 that's not shown in 118?

10 **A** They're different sides of the bone. 118 is the
11 outside of the skull and 119 shows the inner side of
12 the skull.

13 **MR. ROSS:** Your Honor, we'd offer State's 119.

14 **THE COURT:** I'm going to sustain the defendant's
15 objection. It doesn't seem that that's a substantive
16 difference in terms of cause of death. I mean,
17 that's what the doctor is here to testify about, not
18 the -- go ahead.

19 **Q** State's Exhibit 120, what is that?

20 **A** That's the x-ray of the skull at the time of autopsy.

21 **MR. ROSS:** I offer State's Exhibit number 120.

22 **MR. STRICKLER:** As previously stated, Your
23 Honor, I have no objection to that.

24 **MR. MILLING:** No objection.

25 **MR. DELGADO:** No objection.

1 **THE COURT:** Without objection.

2 (WHEREUPON, State's Exhibit No. 120 is admitted
3 into evidence.)

4 **MR. ROSS:** If I can have the doctor step down,
5 Your Honor.

6 **THE COURT:** Certainly.

7 **MR. ROSS:** Or I tell you what. I'll just stand
8 right here and she can remain seated.

9 **Q** State's Exhibit 120, what is that showing?

10 **A** It's an x-ray of the skull from the autopsy.

11 **Q** Okay. And what's being shown? On the right side of
12 the photograph you see an object?

13 **A** It's just as if the victim were facing you. So this
14 is the left side of the head and this is the right
15 side of the head. The x-ray of course picks up metal
16 and you can see where the earrings are. And this
17 right here is the bullet itself on the right side of
18 the skull.

19 **Q** And that's what you testified to previously. That's
20 the exit side of the skull?

21 **A** Yes.

22 **Q** State's 118, what's shown in this photograph?

23 **A** That the left side of the skull showing the entrance
24 wound right here.

25 **Q** And where is the ear located in this photograph?

1 **A** The ear is right here. There's a lot of
2 decomposition that discolors the skin.

3 **Q** And State's Exhibit 117?

4 **A** That's from the right side of the head showing the
5 bullet in place.

6 **Q** And that is the bullet that we just saw on x-ray a
7 minute ago?

8 **A** Yes.

9 **Q** What type of injuries to Ms. Felder did this bullet
10 cause?

11 **A** It would cause laceration of the brain as it went
12 through.

13 **Q** Okay. One moment. Doctor, could you place on this
14 styrofoam head just the approximate location of the
15 entrance wound and mark that as the entrance wound
16 and then also the exit wound and mark that as the
17 exit wound?

18 **A** Okay. The entrance wound was four inches below the
19 top of the head and five inches to the left of
20 mid-line. So four inches from the top of the head
21 and five inches from the mid-line, it would be about
22 so. I'm sorry. This is the right side. To the left
23 of the mid-line would be here.

24 **Q** Okay. So, entrance wound -- just to be clear,
25 entrance wound on this side?

1 **A** Correct.

2 **Q** Could you put an entrance above that just so we can
3 remember where that is?

4 **A** Okay.

5 **Q** And then exit on the other side?

6 **A** Exit was three inches below the top of the head and
7 three and a half inches to the right of mid-line. So
8 it would be approximately there. So the bullet is
9 going slightly upward and slightly towards the front.

10 **Q** So it's --

11 **A** It's going left to right, slightly upward and
12 slightly towards the front.

13 **Q** So the plane is just a little bit higher when it
14 comes out on the right side than when it entered on
15 the left?

16 **A** Yes.

17 (WHEREUPON, State's Exhibit No. 202 is marked
18 for identification.)

19 **MR. ROSS:** Your Honor, it's marked State's
20 Exhibit No. 201. We'd offer it into evidence.

21 **MR. STRICKLER:** Without objection, sir.

22 **MR. MILLING:** No objection, Your Honor.

23 **MR. DELGADO:** No objection.

24 (WHEREUPON, State's Exhibit No. 202 is admitted
25 into evidence.)

1 Q Doctor, can you say to a reasonable degree of medical
2 certainty what the cause of death was in this case?

3 A Yes.

4 Q What was that?

5 A Laceration to the brain due to the gunshot wound to
6 the head.

7 Q That's all the questions I have, Doctor.

8 **THE COURT:** Cross examination.

9 **MR. STRICKLER:** May it please the Court, sir.

10 CROSS EXAMINATION

11 **BY MR. STRICKLER**

12 Q Good afternoon, Dr. Ross.

13 A Good afternoon.

14 Q My name is Doug Strickler. I'm here representing --
15 one of the attorneys representing one of the
16 defendants. You've got a copy of the report of the
17 autopsy conducted?

18 A Yes.

19 Q May I take a quick look at that, please? I'll give
20 it right back. Thank you, ma'am. You indicated that
21 you were board certified in three areas, correct?

22 A Yes.

23 Q And you've been qualified in the area of forensic
24 pathology, correct?

25 A Yes.

1 Q I -- excuse me. The other two areas of your
2 certification also relate to areas of pathology,
3 correct?

4 A Yes.

5 Q That would be anatomical pathology and clinical
6 pathology?

7 A Yes.

8 Q Okay. Now, you testified shortly after you took the
9 stand that there was a left side entrance wound and a
10 right side entrance (sic) wound above and behind the
11 ear on each side. You demonstrated that as you sat
12 in the box using yourself as a model, correct?

13 A Yes.

14 Q And that the projectile was recovered, went through
15 the bone on the left side and was lodged in the soft
16 tissue outside the right side, correct?

17 A Correct. Yes.

18 Q Was it lodged in its sub-galeal at that point?

19 A Basically, yes.

20 Q And the galea, sub-galeal is tissue under the scalp
21 between that covers the cranium, the brain, correct?

22 A That's right. It's a thick membrane.

23 Q It's not inside the skull cap itself or the bone
24 itself. It's the tissue that is outside of the bone,
25 correct?

1 A Yes.

2 Q Okay. You recovered something from there that's in
3 the sub-galeal area. Now, you've shown these
4 pictures to the jury. Does anything in those
5 pictures indicate the bullet was located any other
6 place than what you described to the jury when you
7 first took the stand?

8 A No, sir.

9 Q You've introduced State's 202 which is that styrofoam
10 head. Does anything about what's on that head differ
11 at all from what you first testified to when you took
12 the stand?

13 A No, sir.

14 Q Okay. In your report you do indicate that the
15 entrance wound shows inward beveling. This is on
16 page 2 of your report, correct?

17 A Right. Yes.

18 Q I guess that assists though. Where you found the
19 bullet on the left side, or on the right side, is
20 pretty much where the bullet ends gives you a good
21 idea of the trajectory. But if you needed additional
22 help on it, the inward beveling on the wound to the
23 left side of the head would indicate or assist in
24 indicating that that was the entrance side, correct?

25 A Yes.

1 Q So that's significant in that regard. Thank you very
2 much, ma'am.

3 MR. MILLING: Thank you, Your Honor. May it
4 please the Court. Very briefly.

5 CROSS EXAMINATION

6 BY MR. MILLING

7 Q Good afternoon, Dr. Ross. My name is Jonathan
8 Milling. I represent Mr. Dominic Gallman in this
9 case. You indicated that when Ms. Felder's body was
10 brought to Newberry where you performed the autopsy
11 that she was fully clothed?

12 A Yes.

13 Q The only sign of trauma was the single gunshot wound
14 to the head?

15 A Yes. The whole head was in fractures and decomposed.

16 Q But that appeared to be as a result of the gunshot
17 wound?

18 A Yes.

19 Q And it was in a decomposed state?

20 A Yes.

21 Q Okay. But the decomposition and the gunshot wound
22 were the only signs of trauma, correct?

23 A Decomposition is not trauma. But it occurs faster in
24 traumatic areas, yes.

25 Q Okay. Thank you. Nothing further.

1 **MR. DELGADO:** I have no questions for Dr. Ross.
2 Thank you, ma'am.

3 **THE COURT:** Any redirect?

4 **MR. ROSS:** No, Your Honor.

5 **THE COURT:** All right. You may come down,
6 ma'am. Thank you very much.

7 **THE WITNESS:** Thank you.

8 **THE COURT:** May the witness be excused?

9 **MR. STRICKLER:** Without objection.

10 **MR. MILLING:** No objection.

11 **MR. DELGADO:** Without objection.

12 **THE COURT:** Next witness.

13 **MR. MEADORS:** Joe Powell.

14 JOSEPH D. POWELL, after being duly sworn,
15 testifies as follows:

16 **THE CLERK:** Thank you. Please have a seat in
17 the witness stand and state your full name for the
18 record.

19 **THE WITNESS:** Thank you. My name is Joseph D.
20 Powell, P-O-W-E-L-L.

21 DIRECT EXAMINATION

22 **BY MR. MEADORS**

23 **Q** Good afternoon, Agent Powell.

24 **A** Good afternoon, sir.

25 **Q** Would you please relate to this jury, tell them about

1 your background, specifically not only where you're
2 from, but your educational background and your
3 training and in particular your training in the
4 particular field of expertise we've called you to
5 testify about here today?

6 A Yes, sir. I originally received my degree in
7 chemistry from the University of Southern
8 Mississippi. After receiving my degree in chemistry
9 I came to South Carolina and became employed at SLED
10 in the area at that time which was called drug
11 evidence. Drug evidence, there were both drugs as
12 well as trace evidence.

13 Once I completed that I went through an
14 extensive in-house training program where I learned
15 the various aspects of both drugs as well as trace
16 evidence. After completing that I received cases
17 from around the state for both drugs and trace for
18 about seven years. Then SLED decided to pull trace
19 out of the drug department and form its own unit.
20 And I went with the trace department.

21 Then three years later I became supervisor of
22 that department and am still the supervisor today. I
23 have attended many different symposiums throughout my
24 career in the area of trace evidence. I have helped
25 teach classes in the area of trace evidence.

1 Let me define trace evidence a little bit.
2 Trace evidence is a science where we look at things
3 such as gunshot residue. This is the material that
4 comes out of a gun when you shoot it. It gets on
5 your hands or your clothing. Distance determination,
6 how far away somebody was from the gun when it was
7 shot. Paint analysis. This would be where an
8 automobile would strike another automobile and we
9 look at paint transfer either from automobile to
10 automobile or automobile to person.

11 Explosives. We actually analyze various
12 explosive components, see what they are, rebuild
13 those components to see if we can remake the bomb.
14 Accelerants. This is for people interested in
15 burning their home down or burning some object down;
16 we will test for those materials.

17 All these areas are all encompassed within
18 what's called trace evidence. I have been performing
19 trace analysis for 25 years and I still continue to
20 receive cases as of today.

21 Q Can you put a number on how many, let's just say,
22 gunshot residue kits you've received and examined and
23 come into court and testified about?

24 A I have received as far as gunshot residue cases
25 thousands of them during my career. As far as

1 testimony, I have testified approximately 270 times
2 in the area of gunshot residue.

3 **Q** Have you ever been offered as an expert in courts of
4 records in this state and not been accepted as an
5 expert?

6 **A** I have always been accepted as an expert in either
7 both federal, state or local jurisdictions.

8 **MR. MEADORS:** Your Honor, we would offer Agent
9 Powell as an expert in the field of trace evidence,
10 and in particular today the area of gunshot residue.

11 **THE COURT:** Any Voir Dire or objection?

12 **MR. STRICKLER:** I have no Voir Dire or
13 objection.

14 **MR. MILLING:** No objection, Your Honor.

15 **MR. DELGADO:** No objection.

16 **Q** You started to tell us, but be a little more specific
17 now about gunshot residue.

18 **A** Yes, sir. When a weapon is discharged, the hammer of
19 that weapon will come and strike the back portion of
20 the cartridge case. And you will find either a
21 little small shiny portion in the middle of the shell
22 or it may be like a .22, just a rim fire. But the
23 impact of the hammer striking the back of the
24 cartridge case will cause a small explosion.

25 The materials inside that cartridge case are

1 what's called gun primer and they're shot sensitive.
2 This small explosion will then in turn ignite the gun
3 powder that's found within the cartridge case causing
4 a much larger explosion. These two in combination
5 will force the bullet apart down the barrel and
6 towards the target.

7 The material as it's coming out of the weapon
8 you have being projected in front of it is gun
9 powder. This is going to be large particles that
10 will travel with the bullet. But coming out from
11 around that is going to be smoke, soot and what we
12 call gunshot residue.

13 Gunshot residue is a mixture of the primer which
14 explodes first and bullets and other debris that may
15 be coming out from that weapon. It will come out as
16 a bluish/gray cloud that will come out and envelope
17 itself around your hands, your clothing and your
18 face. When you smell a gun being discharged, that's
19 what you're smelling, is gunshot residue.

20 We have tests in our laboratory which allows us
21 to collect this material. We take the kit, as it's
22 called gunshot residue collection kit. It has within
23 it two components. The first component is a
24 flattened piece of aluminum with sticky adhesive on
25 it, much like adhesive tape. And you actually go

1 over the surface of the hand with that particle lift
2 it is called. It will pick up any particles that are
3 found around the surface of the skin, on top of it.
4 We will then follow up with a wet cotton swab; it's
5 wetted with a weak acid solution, and mop up any
6 material that is found that did not get picked up by
7 the lift.

8 We repeat that twice on the hand. We have four
9 regions we look at: The right palm, right back, left
10 palm, and left back. Each one of those are sampled
11 in separate containers. They are put into the kit,
12 sealed and sent to our laboratory.

13 When we receive the kit, we examine the kit
14 first to see if it's sealed. If the seal is not
15 intact, we will stop immediately. We will go no
16 further in our analysis until we determined what's
17 happened to that seal. If it's a failure of the seal
18 where just something happened and we can show that,
19 we can continue on and document the issue. If it's
20 tampering, we go no further and we deal with whoever
21 tampered with it as far as legal issues.

22 If the kit is valid, we will then open it up and
23 we will run several types of examinations on that
24 kit. Based upon those examinations we're able to
25 determine how much material is on someone's hands,

1 and based upon those levels we can draw conclusions
2 as to whether they either fired a weapon, handled a
3 weapon or been in front of a weapon.

4 If you're holding a weapon, the palms of your
5 hands will get contaminated. So if you just touch
6 the weapon, let go of it, just where you touched the
7 weapon will have gunshot residue on it. If you
8 discharge the weapon, where you touched the weapon as
9 well as on the back of your hands will have material.
10 If you're in front of the weapon, the material coming
11 out of the weapon can be projected upon you. And
12 that may be on palms or backs depending upon the way
13 your hands are turned at the time of being shot at.

14 Now, these are general rules. Once the material
15 gets on your hands you can remove it by washing of
16 your hands. There are things that can happen to that
17 material. But we draw conclusions based upon the
18 levels as to what someone may be doing with their
19 hands at the moment the gun was discharged.

20 Q And in drawing your conclusions, are there three
21 different elements you're looking for?

22 A Yes, sir. Principally what we're looking for are the
23 three primary materials that are used in primer. And
24 they're basically called barium, antimony and lead.
25 And these three materials, we look at the

1 concentrations of them. If it is sufficient, we can
2 then say we have levels of metals that are there.
3 And if need be, we can even take it to another test
4 where we're actually looking for the round molten
5 particles of smoke that will actually deposit itself
6 on your skin to confirm that it is gunshot residue.

7 Q Now, before we get into this specific case, how far
8 will that gunshot residue go? What factors could
9 affect it?

10 A It depends. If you're holding the weapon and you
11 discharge it, the material will tend to come out six
12 to eight inches and then come back about that same
13 distance. If you're standing in front of the weapon,
14 the weapon will project that material. A .22 is
15 fairly a short distance, maybe two, three feet. A
16 .45 Magnum may project it out, maybe out to five
17 feet. A shotgun can project it out to 15 to 25 feet.

18 So it depends upon the caliber weapon how far it
19 can project it out. But if you're holding it, it
20 pretty much stays within that six to eight-inch area.
21 Now, obviously if you have a revolver, you've got
22 those ports on the side, that may project it out
23 further because of the images there. But the
24 standard gun is just six to eight inches just holding
25 it.

1 Q I'm going to show you what's been entered as State's
2 147. I think you testified earlier you will look to
3 make sure that everything is properly sealed,
4 correct?

5 A Yes, sir. We do not do any further analysis unless
6 it is properly sealed.

7 Q Did you receive three gunshot residue kits involved
8 in this case?

9 A Yes, sir. What is listed as State's Exhibit 147, I
10 see no other label on it other than State's Exhibit
11 147. So I assume they're stapled as one unit.

12 Q That's correct.

13 A What's in State's Exhibit 147 is three evidence
14 containers that were submitted to the laboratory.
15 And in those are going to be the remnants of the kits
16 that were used to collect these samples.

17 Q And that is what you used to come to your conclusions
18 and prepare yourself to testify today, correct?

19 A Well, these were the packaging that was around the
20 actual samples.

21 Q Now, you didn't take these samples from these
22 individuals, correct?

23 A No, sir, I did not.

24 Q How do these kits -- I mean, are kits provided to
25 like the local police agencies for them to use?

1 **A** Yes, sir. We actually provide the kits free of
2 charge if someone needs them, or we'll tell them
3 where to order them from if they'd like to order
4 their own. We teach people how to collect the kits
5 because it's very easy to collect. Actually my
6 description to, I've pretty much taught you how to
7 collect a kit. And so we teach both local agencies
8 as well as our own officers how to collect these. If
9 need be, we'll go to the scene and collect them
10 ourselves. But anyone can collect these kits.

11 **Q** Is there a certain timeframe under certain
12 circumstances where you like to collect, have these
13 kits and collect on a body? And is there a
14 difference between a living body and a deceased?

15 **A** Yes, sir. The material, once you have discharged a
16 weapon or handled a weapon, any activity that you're
17 doing from that point on tends to diminish it. You
18 wipe your hands on your garment, well, that will wipe
19 a lot of the materials off the palms of your hands.
20 Or washing your hands can remove it from both palms
21 and backs.

22 What we've discovered is that the hands do not
23 retain any amount of gunshot residue after a window
24 of six hours. In other words, after six hours is the
25 most you can expect the materials to be there. Now,

1 if you have a .22, a .22 will give off a very small
2 amount of material. So it will not be six hours. It
3 may be three hours and it's gone, where a large
4 caliber weapon can go up to six.

5 So it depends upon the weapon. And then what
6 are you doing with our your hands? If you are doing
7 activities where your hands are getting wet and
8 you're wiping them on towels, you'll move it off very
9 quickly; whereas, if you're doing something and not
10 wiping your hands, it may last four to six hours. So
11 it all depends upon what you're doing with your hands
12 at the time.

13 If you're deceased, if your heart has stopped
14 beating, at that moment all the materials on your
15 hands now become stopped as far as being lost.
16 You're not moving your hands, nothing is happening
17 with your hands, and the material that's on your
18 hands will remain there until someone physically
19 removes it. So there is no window for someone who is
20 deceased up to the point or meaning that once their
21 heart stops, the time, the clock stops.

22 Q As an examiner of gunshot residue kits, is it your
23 preference to have the hands bagged as soon as
24 possible on deceased individuals?

25 A Yes, sir. The bagging of the hands is a mechanism we

1 do to try to be able to try to prevent any accidental
2 loss; such as, if the person is being moved, keeping
3 their hands from being wetted by something at the
4 scene or something like that. So you put the plastic
5 bags over the hands to protect the hands so that when
6 we are ready to collect the evidence from it, we can
7 take the bag off and collect it from the hands.

8 Q And did you have an occasion to examine the contents
9 of State's 147 and submit a report on your findings
10 in this case?

11 A Yes, sir, I did.

12 Q Can we start off with the gunshot residue kit from
13 Zondria McKie?

14 A Yes, sir.

15 Q Could you please explain to the jury what you did in
16 determining whether or not gunshot residue was on the
17 hands of Ms. Zondria McKie and what your conclusions
18 were?

19 A We received a kit labeled Zondria McKie. We ran a
20 test of the contents and we found that the materials
21 that was in the kit was not sufficient to indicate
22 the presence of gunshot residue on any of the four
23 areas that I've described. So, thus, there is no
24 indication that that is a person who has any gunshot
25 residue on their hands.

1 Q And you stated earlier, if I just handled a gun and
2 then put it down, I could get some evidence from just
3 handling the gun?

4 A Yes, sir. When you handle that weapon, that black
5 type material you pick up from a weapon, that's the
6 gunshot residue. And, yes, it will get on your
7 hands.

8 Q So would your findings as far as Ms. Zondria McKie be
9 consistent with her not having a firearm or not
10 handling a firearm?

11 A I have no evidence that she has fired or handled a
12 weapon. If she has handled or fired a weapon, the
13 material on her hands was removed by some activity
14 before the kit was administered.

15 Q Let's go to gunshot residue kit number two that was
16 taken, I believe it's referred to, from the body of
17 Jim Batie?

18 A Yes, sir.

19 Q Did you have an occasion to examine that kit and come
20 up with an opinion as to whether or not there was the
21 presence of gunshot residue on Mr. Batie's hands?

22 A Yes, sir. Again we received a kit labeled from
23 Mr. George Lee Batie. We ran this kit. And again we
24 found the same, that there was no indication there
25 was any gunshot residue on his hands.

1 Q Would your findings be consistent that Mr. Batie had
2 not handled a firearm?

3 A At the time of the collection of this kit there was
4 nothing on his hands, meaning that if he did handle a
5 weapon or fire a weapon, something has happened to it
6 before the kit was collected.

7 Q And the final kit I believe that was submitted to you
8 and that you examined and came up with a conclusion
9 and are prepared to give your opinion, that was on
10 one Kevin Miller. Is that correct?

11 A That is correct, sir.

12 Q And can you please tell the ladies and gentlemen
13 what, if any, your examination revealed concerning
14 Mr. Miller's hands?

15 A I found --

16 Q If anything? Excuse me.

17 A -- on the kit that was sent to our laboratory labeled
18 Kevin Lee Miller, I found metals consistent with
19 gunshot residue on the back of the left hand. So on
20 the back of his left hand I found materials which
21 were consistent with gunshot residue.

22 Q On his right palm and left palm, did you find
23 anything?

24 A No, sir.

25 Q On his back of his right hand, did you find anything?

1 **A** Well, I found some materials but it wasn't sufficient
2 for me to be able to call it gunshot residue. So I
3 did not call it as such.

4 **Q** And so that means there were some of these materials
5 but it wasn't to a level that you could come in here
6 in court and say this is gunshot residue, correct?

7 **A** That is correct.

8 **Q** Now, going of the left hand, specifically, what did
9 you find there?

10 **A** Again on --

11 **Q** Back of the left hand?

12 **A** -- the back of the left hand I found metals
13 consistent with gunshot residue. This would mean
14 either, A, that he had fired a weapon and removed the
15 materials from the palms of his hands so all that was
16 left was on the back of his hands; or, B, he had been
17 shot at and received contamination from being shot at
18 and it got on the back of his left hand.

19 **Q** If I fire a gun right here, the gunshot residue could
20 go out this way?

21 **A** Yes, sir. When it comes out, it actually comes
22 out -- you can think of it like a cone. As it comes
23 out, it spreads out as it continues to go forward
24 until it finally stops in the air, and then it will
25 just drift down to the ground.

1 Q If you were to fire a gun right there and I was like
2 this and the gun was fired into my head and my hand
3 were like this, would your findings be consistent, if
4 I am Kevin Miller's body, with being on the back of
5 the left hand?

6 A If the weapon is not placed against the head, the
7 back, let's say a foot, foot and a half; yes, sir.
8 The cone of materials will be able to come out and
9 will contaminate both backs of the hands if I'm
10 shooting the weapon directly in the center of the
11 head. If I drift to what would be my left side, then
12 that material will get on the left side and not
13 necessarily on the right side. So depending where
14 that weapon is at will dictate whether it gets on
15 both hands or just on one hand.

16 Q Your Honor, if the agent will please come down?

17 **THE COURT:** Yes, sir.

18 Q Agent, take these facts in evidence, that I am on the
19 ground --

20 A Yes, sir.

21 Q -- and with my hands out. And if a bullet is fired
22 into the back of my head this way, would your
23 findings be consistent with gunshot residue on the
24 left hand of Kevin Miller?

25 A Yes, sir. What you're describing here is very easy

1 to explain by someone shooting a weapon and the
2 material coming out of the weapon and getting onto
3 the back of the hand. So this is a very normal
4 height for someone to get what we would consider a
5 positive on someone's hands.

6 Q And looking at State's Exhibit 8?

7 A Yes, sir.

8 Q Would that body be consistent and that hand with the
9 gunshot residue on the back of the left as you found
10 it?

11 A Yes, sir.

12 Q From a shot in the back of the head?

13 A Yes, sir. What you're describing here, the back of
14 the hand is, if this person was shot while being on
15 the floor and the hands were in an upward position
16 like this, this would portray the position someone
17 needs to be in to be able to get what I found on the
18 back of his left hand.

19 Q Thank you. Beg the Court's indulgence. Thank you.

20 A Thank you, sir.

21 MR. STRICKLER: May it please the Court, sir?

22 THE COURT: Yes, sir.

23 CROSS EXAMINATION

24 BY MR. STRICKLER

25 Q Good afternoon, Mr. Powell.

- 1 **A** Good afternoon, sir.
- 2 **Q** Just a couple of questions, if I could, please, sir.
- 3 You used in describing your findings as to Mr.
- 4 Miller, the last person that you were -- the last kit
- 5 that you were talking about, that the back of the
- 6 left hand as you've been discussing with Mr. Meadors
- 7 was consistent with gunshot residue?
- 8 **A** Yes, sir. That's correct.
- 9 **Q** And I take it that the term "consistent with" is a
- 10 term of art employed by you, correct?
- 11 **A** That is correct. The phrase "consistent with" means
- 12 it meets all the criteria that we're looking at to be
- 13 able to state that it is which is going to be looking
- 14 at the actual particles themselves.
- 15 **Q** And you have a protocol that sets forth what those
- 16 criteria are, correct?
- 17 **A** Yes, sir. That is correct.
- 18 **Q** And what other findings are you allowed to make under
- 19 your protocol? You've got "consistent with"?
- 20 **A** Yes, sir. Well, we'll start with the most definitive
- 21 which is "gunshot residue found". This would be
- 22 where I have taken it to a microscope and actually
- 23 looked at the particles. And once I have found those
- 24 particles, I have "gunshot residue found".
- 25 The next level below that would be "metals"

1 consistent with", meaning that we have levels of
2 materials but I haven't taken it to the final step.

3 Then we have "lead found", because a lot of
4 times we will find just lead. The other materials
5 may be lost over time.

6 And then the last results would be -- or excuse
7 me. The next to last would be "inconclusive". This
8 would be where one kit is telling me that I found
9 materials on one instrument, and then when I take it
10 to another instrument it's not found. And so that
11 would be "inconclusive".

12 The final would be a "negative", we did not find
13 anything or the level is not sufficient to indicate
14 something was there.

15 Q Okay. And these are all -- these findings, these are
16 set forth in the protocol that you use, right?

17 A Yes, sir. That is correct.

18 Q And the protocol sets forth what you need to have in
19 order to render each of these different conclusions,
20 correct?

21 A Yes, sir. That is correct.

22 Q The highest one being you have actually visualized
23 the presence of gunshot residue, correct; the GSR
24 found being that? You visually identified it,
25 correct?

1 **A** Yes, sir. That's correct.

2 **Q** Now, you have indicated also that as to Mr. Miller:
3 Right palm, left palm, nothing. I don't have the raw
4 data in this case. But part of the protocol you have
5 is the fact that we have background levels for some
6 of the stuff that you're looking for, right?

7 **A** Yes, sir. What you're describing, we like, for
8 example, make ups, how one of the components which is
9 called barium. Now, it's not explosive. It won't
10 blow up on you, but it is a form of material that you
11 can use to be able to use in make ups. Antimony, it
12 can be used as an anti-flammable component on leather
13 goods. So certain other goods may actually have some
14 antimony.

15 Lead has actually been removed from most
16 products that are out there. But we still see it
17 from products coming from China. We also, you still
18 have some lead sources at home such as wheel well,
19 weights, and also fishing weights can have lead. So
20 we have to what's called subtract out what's called
21 your background or control.

22 On our sampling kit we actually take a sample, a
23 swab on your body some place away from the exposed
24 skin. If you have long sleeves, behind the elbow; if
25 you have short sleeves, maybe behind the kneecap,

1 some place that we can take this away from explosion
2 from the blast of a weapon. And we'll capture that
3 information and we'll subtract it from our data
4 before we make any conclusion. That way we are
5 trying to remove from the data any environmental
6 sources you may have run into. That's being
7 subtracted out even before we make any calculations
8 at all.

9 Q Okay. So when you say nothing is found does not
10 necessarily indicate that there was not the presence
11 of barium, lead or antimony on the right palm or the
12 left palm. It means that after accounting for the
13 environment, there is nothing, correct?

14 A That is correct. The environment has been subtracted
15 out of all this data before we even make any
16 conclusions.

17 Q Okay. And the same as far as the back and the right
18 hand. We've said something was indicated but not
19 enough to go ahead and call it consistent with
20 gunshot residue, right?

21 A Yes, sir. That is correct.

22 Q All right. And I take it that as to both Ms. McKie
23 and Mr. Batie, when you indicate there is no
24 indication of gunshot residue, not sufficient to
25 indicate gunshot residue; again, that does not mean

1 that the samples you had were not positive for the
2 presence of barium, lead or antimony. They were
3 consistent, simply not sufficient levels present
4 after dealing with the environmental variable to go
5 ahead and say that there was gunshot residue.

6 Correct?

7 **A** Yes, sir. That is correct. All of our samples that
8 we receive in the laboratory always have a small
9 amount of what we call environment levels of these
10 materials. So we have to subtract that out before we
11 draw any conclusions.

12 **Q** Thank you very much, Mr. Powell.

13 **A** Thank you, sir.

14 **Q** Lieutenant Powell. Pardon me.

15 **MR. MILLING:** Thank you, Your Honor. May it
16 please the Court.

17 **THE COURT:** Yes, sir.

18 CROSS EXAMINATION

19 **BY MR. MILLING**

20 **Q** Good afternoon. My name is Jonathan Milling. I
21 represent Mr. Dominic Gallman in this case. I
22 believe you testified on direct that you didn't
23 actually go out and take these samples. Correct?

24 **A** That's correct. I did not.

25 **Q** You're relying on samples which have been provided to

1 you by other law enforcement agencies, correct?

2 **A** That's correct.

3 **Q** In this case, Columbia Police Department?

4 **A** Yes, sir. That's correct.

5 **Q** And while it's your protocol to test the hands from
6 the back of each hand, you're not limited as far as
7 what you can test, correct?

8 **A** That's correct. There are other items that we can
9 look at. Not only is it the hands contaminated, can
10 be contaminated, but your clothing can also be
11 contaminated, as well as your face. So we can
12 actually go through and sample the clothing and also
13 sample the face.

14 **Q** But none of those samples were provided to you?

15 **A** No, sir, they were not.

16 **MR. MILLING:** Okay. Nothing further.

17 **MR. DELGADO:** I have no questions for
18 Mr. Powell. Thank you.

19 **THE COURT:** All right. Any redirect?

20 **MR. MEADORS:** No, sir. Thank you.

21 **THE WITNESS:** Thank you, sir.

22 **THE COURT:** You may come down, sir. Thank you
23 very much.

24 **MR. STRICKLER:** Without objection.

25 **MR. MILLING:** No objection.

1 **MR. DELGADO:** Your Honor, without objection.

2 **THE COURT:** All right, ladies and gentlemen.

3 Let's take our lunch break at this time. I'm going
4 to -- it's ten minutes to 1. I'll ask you to be back
5 in the jury room at 2:00, at which time we'll
6 continue with the trial. Again, don't discuss the
7 case among yourselves while you return to the jury
8 room or with anyone else over the lunch hour. I hope
9 you have a pleasant lunch. We'll continue the trial
10 at 2:00.

11 (Jury out at 12:51 p.m.)

12 **THE COURT:** All right. For scheduling purposes.

13 **MR. MEADORS:** Obviously I was wrong yesterday.
14 I apologize.

15 **THE COURT:** No, no, no. I haven't said you were
16 wrong yet.

17 **MR. MEADORS:** I said lunch yesterday, and I
18 apologize. I was wrong.

19 **THE COURT:** Oh, no. You said eight. We've done
20 five. So I just wondered.

21 **MR. MEADORS:** We'll definitely finish today,
22 Your Honor. I think we have three at the most and a
23 small four, just a witness. So I think we'll finish
24 today.

25 **THE COURT:** All right. Any other --

1 **MR. MEADORS:** No, sir.

2 **THE COURT:** -- matters of a legal interest?

3 **MR. MEADORS:** Well, actually, yes, sir. We
4 remember back from pre-trial Ms. Gertrude Burns was
5 not here. But I guess we do need to take up that. I
6 assume there'll be an objection from Mr. -- just an
7 oral statement from Kenneth Joy I would presume we
8 need to go through in camera. And then other than
9 that, then I think there's a photo lineup, also an
10 issue with that that we can take up at that time if
11 we need to. I'm wrong on that. It's just a
12 statement. I apologize.

13 **THE COURT:** Is that correct, Mr. Delgado?

14 **MR. DELGADO:** Yes, Your Honor. I believe that's
15 correct. Yes, sir.

16 **THE COURT:** All right. How about 184,
17 Solicitor?

18 **MR. MEADORS:** Yes, sir. Mitch Wilkerson will be
19 here to testify for that, too, would be an officer
20 after that. Your Honor, as well I didn't --

21 **MR. DELGADO:** Is that Mr. Gallman's redacted
22 statement? Is that correct?

23 **THE COURT:** This is Tatanisha Robinson.

24 **MR. MEADORS:** He is also going to be here. I
25 was kind of right. There is a photo lineup that

1 Investigator Burns showed Mr. Joy, and he said he was
2 not able to pick out Mr. Gallman. We aren't going to
3 offer that in. And I don't know if we need a hearing
4 on that. But that's what I was talking about when I
5 said that there is a photo line-up involved in her
6 testimony.

7 **THE COURT:** He could not identify anybody?

8 **MR. MEADORS:** He could not.

9 **THE COURT:** And that's as to Mr. Gallman?

10 **MR. MEADORS:** That's correct.

11 **THE COURT:** Is there any need for a Neil v.
12 Biggers from any defendant if he couldn't identify
13 anything?

14 **MR. MEADORS:** He was shown a line-up of Dominic
15 Gallman and could not identify him. That's coming
16 through her testimony. So I guess we don't need a
17 Neil v. Biggers.

18 **THE COURT:** That's what I'm trying to find out.

19 **MR. DELGADO:** I would imagine, Your Honor, in
20 the statement aspect of that, that is somewhere that
21 surfaced. Would that be fair to say? Two different
22 times, two locations.

23 **MR. MEADORS:** There's a typed and then her
24 notes, too, said the line-up was shown to Mr. Joy and
25 he could not pick out Mr. Gallman.

1 **MR. DELGADO:** That's fine.

2 **MR. MEADORS:** Yeah.

3 **THE COURT:** You're saying --

4 **MR. DELGADO:** There's no need for a Neil v.
5 Biggers.

6 **THE COURT:** Okay. That's what I -- and as to
7 the 184, Mr. Solicitor, I assume that other than the
8 redaction for Lyle purposes there may be other issues
9 in that statement; namely, Crawford issues, that will
10 take a while to either discuss on the record, or
11 unless the redaction handles all of that.

12 **MR. MEADORS:** Ms. McDuffie will have that.

13 **THE COURT:** I would think there would be a
14 substantial amount of redaction based on what I
15 anticipate the defendants will -- the objections that
16 the defendants will raise.

17 **MR. MEADORS:** Yes, sir. I think just the exact
18 words I have read, and I was very careful when I read
19 it, should come in. So we will certainly try to do
20 that and offer it to them for their perusal.

21 **THE COURT:** All right. 2:00.

22 (Whereupon, a lunch break is taken)

23 **MR. DELGADO:** Your Honor, maybe Ms. McDuffie can
24 continue with their case?

25 **MS. MCDUFFIE:** We also need the other two --

1 **MR. DELGADO:** We'll waive their presence.

2 **MS. MCDUFFIE:** All right. I'm ready.

3 (Pause)

4 **THE COURT:** Is the State ready to proceed?

5 **MS. MCDUFFIE:** If you'd give me one minute.

6 **THE COURT:** Is the defense ready to proceed?

7 **MR. STRICKLER:** Mr. Oliver, yes, sir.

8 **MR. MILLING:** Mr. Gallman, yes, sir.

9 **MR. DELGADO:** Ready.

10 **THE COURT:** All right. Ms. McDuffie, it looks
11 like you're it. Anything before we bring the jury?

12 **MS. MCDUFFIE:** I think that we might outside of
13 the presence of the jury want to go over the
14 redaction of Ms. Robinson's statement so we don't
15 have to do that later. I provided copies to all
16 three defense counsel.

17 **THE COURT:** In its redacted state, are there any
18 objections?

19 **MR. STRICKLER:** Beg the Court's indulgence one
20 moment.

21 **THE COURT:** Yes, sir.

22 **MR. STRICKLER:** I'm sure there are.

23 **THE COURT:** Well, identify them.

24 **MR. STRICKLER:** Yes, sir.

25 **THE COURT:** Are you ready, Mr. Strickler?

1 **MR. STRICKLER:** Yes, sir. Does Your Honor have
2 a copy of the proposed redactions?

3 **THE COURT:** I do.

4 **MR. STRICKLER:** Very well then, Your Honor. As
5 to --

6 **THE COURT:** Page 1.

7 **MR. STRICKLER:** I'm going beyond page 1. I'm to
8 page 3 I believe.

9 **THE COURT:** All right. Go ahead.

10 **MR. STRICKLER:** Page 3, as to the final question
11 on the page, the answer --

12 **THE COURT:** "During this time period"?

13 **MR. STRICKLER:** Right. "Did you have any
14 conversation with Dominic or K?" Answer: "Well, at
15 first, right after the murders, Dominic was bragging
16 about the murders and the lick they did." I would
17 submit that that is a Crawford, Bruton issue.

18 **THE COURT:** All right.

19 **MR. STRICKLER:** As to page 4 --

20 **THE COURT:** Let me make a note of that.

21 **MR. STRICKLER:** Yes, sir.

22 **THE COURT:** Your objection is to the words, "the
23 lick they did"?

24 **MR. STRICKLER:** My objection under Crawford is
25 that it calls for -- well, just a second. I'm sorry.

1 Is that it's an out-of-court statement alleged to
2 have been made by Dominic whom I can't cross examine.
3 My objection under Bruton is that it says: "The lick
4 they did." So I get the -- it's two-fold. I mean,
5 I've been doing some more thinking through the
6 Crawford and actually did the diagram this morning.

7 **THE COURT:** I wish I could see it. But go
8 ahead.

9 **MR. STRICKLER:** Well, they overlap. This is the
10 areas. So that's it as to page 3, Your Honor. Okay?

11 **THE COURT:** All right. Well, let me just be
12 specific. The words to which you object --

13 **MR. STRICKLER:** First of all, of course under
14 Crawford, I object to the whole thing. Okay.
15 Because it's a statement, out-of-court statement by
16 someone I can't -- testimonial -- well, just a
17 second. Let me strike that.

18 **THE COURT:** Yeah.

19 **MR. STRICKLER:** It's a Bruton objection. "The
20 lick they did."

21 **THE COURT:** All right. And to follow that,
22 "they must have gotten", the next sentence.

23 **MR. STRICKLER:** Yes, sir. "They must have
24 gotten a lot of money because Freaky was".

25 **THE COURT:** All right. Go ahead.

1 **MR. STRICKLER:** These are all going to be Bruton
2 issues then. "Did Dominic speak about any" -- page
3 4, the first question. "Did Dominic speak about any
4 specific details?"

5 **THE COURT:** Wait a minute.

6 **MR. STRICKLER:** Just a second. No. Strike
7 that. I don't have an objection there.

8 **THE COURT:** Where are you?

9 **MR. STRICKLER:** I am now turning to page 5, Your
10 Honor.

11 **THE COURT:** 5. Okay.

12 **MR. STRICKLER:** Yes, sir.

13 **THE COURT:** Jump over to 5. I'm just trying to
14 incorporate my reasoning that I arrived at earlier
15 this morning in the previously stated objections.
16 Yeah. Page 5, first question, the response, the
17 response is: "He learned about the fingerprints
18 being found at the victim's house. He said they
19 couldn't convict them on the fingerprints being there
20 because the neighbors and everyone had been in that
21 house." So he refers to them as opposed to himself.
22 So I'd submit that's a Bruton problem. All right.

23 **MR. STRICKLER:** Then the last sentence in that
24 same response: "He said if everyone just kept quiet
25 about it, no way they could convict them." That,

1 too, is a Bruton problem.

2 **THE COURT:** Okay.

3 **MR. STRICKLER:** And just one second, Your Honor.
4 Okay. And I turn now to page 6, Judge. The answer
5 to the question begins on page 5, but it's the last
6 three lines in the answer. "He said the cops would
7 never find the watch and wallet because they had
8 destroyed them. He didn't say how they destroyed
9 them." That would be a Bruton problem.

10 **THE COURT:** On page 5.

11 **MR. STRICKLER:** I'm sorry. This is on 6. The
12 answer to the question begins on page 5 but I'm
13 referencing the last three lines on page 6, Judge.

14 **THE COURT:** He kept the whole -- "he said the
15 cops". Okay.

16 **MR. STRICKLER:** Right. From there on.

17 **THE COURT:** "Would never find the watch and the
18 wallet" --

19 **MR. STRICKLER:** "Because they had destroyed
20 them. He didn't say how they destroyed them." And
21 then at the bottom of page, 6 response to the last
22 question: "He said they gave the drugs in the
23 robbery to a dealer named Blue."

24 **THE COURT:** They -- all right.

25 **MR. STRICKLER:** And further down: "Blue was

1 going to pay Solo every week with what he got for the
2 cocaine they gave him." I would submit that those
3 two parts of that question are a Bruton problem.

4 **THE COURT:** That is the -- who is this talking?
5 Oh, this is K?

6 **MR. STRICKLER:** Yes, sir.

7 **THE COURT:** Saying Blue was going to pay Solo?

8 **MR. STRICKLER:** Yes, sir.

9 **THE COURT:** All right.

10 **MR. STRICKLER:** Those are the objections I have
11 to it as to redactions.

12 **THE COURT:** From Mr. Gallman.

13 **MR. MILLING:** Thank you, Your Honor. May it
14 please the Court. As an initial matter I would
15 object to the introduction of this statement in its
16 entirety. I understand the Solicitor's Office wants
17 to try and put it in under Rule 16, subsection B.
18 Subsection B however says that the only time
19 extrinsic evidence can come in is if the witness
20 doesn't admit that he made the prior inconsistent
21 statement.

22 Ms. Robinson did say, she acknowledged this was
23 her signature, that this was her statement, that she
24 signed the bottom.

25 **THE COURT:** That's all she acknowledges.

1 **MR. MILLING:** She also acknowledged that she
2 didn't read it.

3 **THE COURT:** Then she said it's not hers. Then
4 she said it's not hers.

5 **MR. MILLING:** Well, she says it's not true. She
6 says that it was a situation where law enforcement
7 placed words in her mouth. So I would object that it
8 doesn't fall within 613.

9 Your Honor, I would also join in the objections
10 that Mr. Oliver has raised as to those portions of
11 this statement relating to what Mr. Joy allegedly
12 said. I've gone through it again since we received
13 the redactions after lunch, and I don't see any
14 statements where Mr. Oliver allegedly said "they did
15 it". So I'm going to go back through it one more
16 time, but I would join in the objection --

17 **THE COURT:** I don't know. I think he's hit all
18 the "they's". But I'm not sure he's hit all the
19 "they's" or "them's", plural.

20 **MR. MILLING:** Yes, sir.

21 **THE COURT:** Mr. Delgado.

22 **MR. DELGADO:** Yes, sir. I concur specifically
23 with the objection of Mr. Milling relating to 613(b).
24 I was going to raise that. Your Honor, the key is:
25 She said it but then she says it's not true. She

1 must have said it about a half dozen or a dozen
2 times. "If it's in there, I said it. Those are the
3 words you put in my mouth. It's not the truth. I
4 told the truth later in my notarized statement." I
5 think --

6 **THE COURT:** Well, why is this not a prior
7 inconsistent statement?

8 **MR. DELGADO:** Under what rule, sir? 613(b)?

9 **THE COURT:** Well, A, it's not hearsay.

10 **MR. DELGADO:** Yeah. But the only way it can be
11 admitted as extrinsic evidence. Isn't that correct?
12 I mean, --

13 **THE COURT:** Either for impeachment or for
14 subsequent --

15 **MR. DELGADO:** Either way, all I'm saying, Your
16 Honor, is that this doesn't come in. They've asked
17 her everything about this.

18 **THE COURT:** And she's denied it.

19 **MR. DELGADO:** No, sir. She said she said it but
20 it's not true.

21 **THE COURT:** I'm not even sure she said that she
22 said it.

23 **MR. DELGADO:** No, sir.

24 **THE COURT:** I mean, she --

25 **MR. DELGADO:** Yes, sir. She said things --

1 **THE COURT:** Don't take this offensively, but she
2 was playing with the court. And that's --

3 **MR. DELGADO:** I understand how you say that,
4 Your Honor.

5 **THE COURT:** Yes, sir. I say it. I say it
6 advisedly. But --

7 **MR. DELGADO:** She said, Your Honor, things like,
8 "I can't remember but I did not write this statement
9 and they put it in the statement. I guess, yes,
10 that's in the statement." Those are her words
11 exactly. "I'm reading what's in the statement. It's
12 in there, but how would I know that?" In other
13 words, Your Honor, they have already impeached her.
14 Under 613(b), what is the probative value of this
15 under that rule?

16 **THE COURT:** Well, I guess I just sort of
17 explained that what their opinion of that is. But
18 past 613(b) --

19 **MR. DELGADO:** All right. 613, any relation to,
20 any mention or reference or indication of K or
21 Kenneth or Ken Joy in any way. There are references
22 to him on pages 2, 3, 4, 5 and 6.

23 **THE COURT:** Well, she said she has a
24 conversation with the defendant. "Did you have any
25 conversation with Kenneth Joy?" She says, "Yes."

1 **MR. DELGADO:** No, sir. Actually she didn't
2 answer that.

3 **THE COURT:** I'm looking at page 5.

4 **MR. DELGADO:** That's not true. Page 4 she says
5 that. No. Actually, Your Honor, if you look at page
6 3, they asked her: "During this time period did you
7 have any conversations with Dominic or K?" At the
8 bottom of 3 and into 4, it doesn't mention K, as her
9 having a conversation with him.

10 **THE COURT:** Well, then she says on page 5 that
11 she did. "Came by Tremain Street after Solo had gone
12 to jail."

13 **MR. DELGADO:** Yes, sir.

14 **THE COURT:** In other words, well, I think all of
15 the references to K are direct statements from him,
16 relate directly to her conversation with him. And I
17 can I understand -- I mean, I don't see those as
18 inadmissible statements aside from 613.

19 **MR. DELGADO:** Yes, sir. I understand. Your
20 Honor, page 4 at the very bottom relating to the
21 questions pertaining to her a third of the way up:
22 Have you seen Solo, Dominic or K with guns before?"
23 The redacted statement has among other things: "K
24 has had an old .38. K also has a 9-millimeter. Solo
25 also has a .12 gauge pump. Guns are nothing for

1 them."

2 **THE COURT:** All right.

3 **MR. DELGADO:** First of all, I don't believe that
4 that was asked by the solicitor to then impeach
5 Ms. Robinson. And it has the overtures of some areas
6 of this case that the solicitor has skirted
7 concerning gangs or that sort of subject. I submit
8 to the Court that that's too close for government
9 work. I would submit that that at least needs to be
10 redacted.

11 **MR. MEADORS:** Too close for what?

12 **THE COURT:** Government work. That's an old
13 phrase.

14 **MR. DELGADO:** I'm sorry. That's an old phrase.

15 **THE COURT:** All right.

16 **MR. STRICKLER:** If I could, please, sir. I only
17 addressed the Bruton, Crawford issues in the
18 redaction. So I would of course at this time jump on
19 board as being in complete agreement with the
20 arguments expressed by both Mr. Milling and Mr.
21 Delgado regarding whether or not this is even
22 admissible under 613.

23 **THE COURT:** Okay. All right. From the State
24 now.

25 **MS. MCDUFFIE:** In terms of the redaction, the

1 first part that the defense had an objection to was
2 on I believe page 3.

3 **THE COURT:** That's correct.

4 **MS. MCDUFFIE:** Bragging after the murders about
5 the lick they did.

6 **THE COURT:** Yes.

7 **MS. MCDUFFIE:** We would submit that that's not a
8 Bruton problem. He was does not identify any of the
9 other co-defendants. It's a general term that I
10 believe would be consistent with the Court's prior
11 ruling allowing the date and then another person's
12 being substituted there. And that would just be a
13 general term that would satisfy Bruton.

14 **THE COURT:** Well, maybe; except the question
15 deals directly with Dominic and K. In other words,
16 it's not in isolation. It's in the context of a
17 conversation with Dominic or K. And even if you --

18 **MS. MCDUFFIE:** If we removed the question
19 part --

20 **THE COURT:** Even if you took Solo out of it,
21 even if you took Solo out of it, it's still Crawford
22 with regard to Dominic and K. Go ahead.

23 **MS. MCDUFFIE:** I don't think it would be
24 Crawford because they have had the opportunity to
25 cross examine the witness concerning the statement

1 that she made, this statement, and that would satisfy
2 Crawford.

3 In terms of Bruton, that could be solved by
4 taking out the part of the question that says "for K"
5 since she only makes reference to a conversation she
6 had with Mr. Gallman in that paragraph or that answer
7 to that he question. Therefore, if you remove the
8 reference to K from the question, it would delete
9 inferences that could not be drawn from that.

10 **THE COURT:** Well, if you also put period after
11 the word "murders" you'd solve -- take the reference
12 to K out, put a period after the word "murders", and
13 you'd solve everything except 613.

14 **MR. MEADORS:** But at that point there'd be no
15 specific reference to anybody else, even if you did
16 about the murder, the lick, he and another person did
17 which would be consistent with the rest of them. But
18 "they" in and of itself does not point to anybody
19 else. So ...

20 **THE COURT:** Well, it just seems to me that the
21 only way this is going to come in is if you put a
22 period after "murders" and redact the rest of that
23 sentence.

24 **MR. MEADORS:** It shall be done. Yes, sir.
25 She's marking it.

1 **THE COURT:** And strike the words "or K". Well,
2 that's just if you had a conversation with K. I
3 don't see that's offensive once you strike the
4 offending language: The lick they did, they must
5 have got a lot of money because Freaky was excited.
6 Dominic was bragging about the murders." Anything?

7 **MS. MCDUFFIE:** Just to be clear on that
8 paragraph, we're going to leave the words "or K" and
9 the question and then put a period after "murders"
10 and delete "the lick that they did".

11 **THE COURT:** The next sentence also.

12 **MS. MCDUFFIE:** Would it be acceptable to have
13 that redacted to "he", take the T and the Y out and
14 leave "he was" --

15 **THE COURT:** Then you're changing it. I don't
16 know if you can change the --

17 **MR. MILLING:** I think that changes the context
18 of everything in this.

19 **THE COURT:** Yeah. I mean, I don't think you can
20 accuse him --

21 **MS. MCDUFFIE:** Taking out the entire sentence
22 that "they must have gotten lots of money."

23 **THE COURT:** You can leave in "Freaky was paying
24 Julian's laundry."

25 **MS. MCDUFFIE:** Okay. On page 4 --

1 **MR. MEADORS:** Your Honor, before we move, just
2 if we even took out "they just must have been excited
3 because Freaky was excited", you wouldn't entertain
4 that, would you? If not, I'll say no more.

5 **THE COURT:** I think it's best just to delete the
6 whole sentence.

7 **MR. MEADORS:** All right. Yes, sir.

8 **MS. MCDUFFIE:** On page 4 of Mr. Delgado's
9 objections to the statements about "K had an old .38.
10 He also has a nine millimeter" --

11 **THE COURT:** No, he doesn't object to that. He
12 objects, as I understand it, to the last sentence:
13 "Guns are nothing for them."

14 **MR. DELGADO:** Well, no. I'm objecting to all of
15 those three things, Your Honor, at the bottom of page
16 4. Yes, sir.

17 **MS. MCDUFFIE:** We would submit that that's not a
18 Bruton or Crawford problem. That was testified to.

19 **THE COURT:** "Guns are nothing for them"?

20 **MS. MCDUFFIE:** Well, I'm sorry. I'm speaking to
21 the first two statements: The old .38 and the
22 9-millimeter.

23 **MR. DELGADO:** I'll reach a compromise.

24 **THE COURT:** I would rule that that's not a
25 Bruton or Crawford, but that "guns are nothing for

1 them" --

2 **MR. DELGADO:** Yes, sir.

3 **THE COURT:** -- is more a Lyle issue and Bruton
4 and Crawford.

5 **MR. MEADORS:** There was a follow-up that she's
6 talking about what guns they had and guns are nothing
7 to them. She was available for cross and they could
8 have asked her anything about that. So she has been
9 subject to cross on that, and it just follows up to a
10 comment they had guns.

11 **MR. DELGADO:** Well, that's the reason --

12 **THE COURT:** I know. That's why we're going
13 through this. Now page 5. Several references to
14 "they" and "them".

15 **MS. MCDUFFIE:** The first objection that Mr.
16 Strickler had was: "He said that they could not
17 convict them." I believe that first "they" he's
18 referring to the State there and that wouldn't be a
19 Bruton problem.

20 **THE COURT:** That's correct. That is referring
21 to the State.

22 **MR. STRICKLER:** The first -- yeah. That's true.

23 **MS. MCDUFFIE:** The second: "He could not
24 convict them on the fingerprints."

25 **THE COURT:** "Convict them"?

1 **MS. MCDUFFIE:** Once again, we would argue that
2 that satisfies Bruton because it does not
3 specifically implicate either of the other -- it does
4 not specifically implicate anyone in that statement.
5 Subsequently in the same paragraph --

6 **THE COURT:** Well, if you change that -- I don't
7 want to change the words. I'd rather just deal with
8 deletions. But the impersonal noun, "anyone", is
9 that an impersonal noun?

10 **MR. STRICKLER:** That is an impersonal noun; yes,
11 sir.

12 **MR. MILLING:** Your Honor, it might even be just
13 remove "them." "He was said they couldn't convict on
14 the fingerprints being there because the neighbors
15 and everybody had been" --

16 **THE COURT:** I think that's a better solution,
17 just take out the two "them's" on line 2 and line 8.

18 **MR. STRICKLER:** Just the word "them"?

19 **THE COURT:** Mm-hmm (affirmative). And then
20 "they", referring to the State.

21 **MS. MCDUFFIE:** We'll redact the two "them's" on
22 line 2 and line 8.

23 **MR. MILLING:** And, Your Honor, if I may?

24 **THE COURT:** Sure.

25 **MR. MILLING:** Looking down further in that

1 paragraph, I think it's the next sentence. It said:
2 "He wasn't worried about his fingerprint being found
3 there."

4 **THE COURT:** Right.

5 **MR. MILLING:** I would submit that that was
6 referring to Mr. Oliver's fingerprint being found
7 there because that's the only reference to anybody's
8 fingerprint being at the scene. And if it remains in
9 there, his in response to something of my client, I
10 think that mischaracterizes what the statement was
11 unless it says: "The fingerprint being found there."

12 **THE COURT:** Well, I take exception to that. I
13 think he wasn't a bit worried about his, Gallman's,
14 fingerprint being found there. That's what he says.
15 I don't see how that refers to anybody else. Mr.
16 Oliver's name is not mentioned.

17 **MR. MILLING:** Well, but the only fingerprint
18 that was found in the house was Mr. Oliver's.

19 **THE COURT:** Well, then Mr. Gallman was exactly
20 right. His fingerprint wouldn't be found there.
21 Overruled.. 6.

22 **MS. MCDUFFIE:** On page 6, the last question:
23 "Did K say anything else?" We agree that the word
24 "Solo" needs to be removed and would submit that it
25 would be a proper redaction to say: "Blue is going

1 to pay every week."

2 **THE COURT:** Hold. Let's go back to the first
3 paragraph. He objects after the words "watch" and
4 "wallet". And I would suggest a period there. But
5 he, one or the other, and I believe that Mr.
6 Strickler objected; "because they had destroyed them
7 he didn't say how they destroyed them."

8 Again, although it is not designating the "they"
9 and the "them", it's pretty obvious. And I think
10 it's close to a Crawford issue. But if you stop the
11 sentence after "they will never find the watch and
12 the wallet", you solve those problems.

13 **MS. MCDUFFIE:** We will redact "the watch and
14 wallet".

15 **THE COURT:** Let's go down. "Did K say anything
16 else".

17 **MS. MCDUFFIE:** Then I believe the objection was
18 in reference to Solo. And we'd redact the word
19 "Solo". And i think the sentence is still
20 understandable with that redaction.

21 **THE COURT:** Well, he had a couple of days in
22 there. "Did K say anything else?" "He said they
23 gave the drugs in the robbery to a dealer named Blue
24 and then he got every week with what he got the
25 cocaine they gave him."

1 **MS. MCDUFFIE:** Once again we would submit that
2 those are general terms and do not implicate anyone
3 specifically in that sentence.

4 **THE COURT:** How about the line: "Blue knows K,
5 Solo and Dominic real good"?

6 **MR. MEADORS:** Your Honor, they could have
7 crossed her on that.

8 **THE COURT:** Huh?

9 **MR. MEADORS:** That's her saying that. They
10 could have crossed her on that. That's her.
11 No objection to it. She testified to it.

12 **THE COURT:** All right. I suggest you strike the
13 "they's" and "was going to pay Solo".

14 **MS. MCDUFFIE:** We agree to removing Solo's name
15 from there.

16 **THE COURT:** Okay. Just the word "Solo".

17 **MS. MCDUFFIE:** Yes, sir.

18 **THE COURT:** And the two "they's"? I'm
19 overruling your -- I'm granting the defendant's
20 motion with regard to the "they's".

21 **MS. MCDUFFIE:** "He said" -- and just delete that
22 -- "gave the drugs"?

23 **THE COURT:** Yeah. I can't create words, put
24 words in there.

25 **MS. MCDUFFIE:** And then also --

1 **THE COURT:** About all I can do is redact.

2 **MS. MCDUFFIE:** And then also we'll redact the
3 "they" on line 3.

4 **THE COURT:** The "they" on line 3. That's
5 correct. Now, what's your position with regard to
6 613 and whether this statement ought to be admissible
7 at all?

8 **MS. MCDUFFIE:** We would agree with Your Honor's
9 earlier statements that she --

10 **THE COURT:** There has been no ruling.

11 **MS. MCDUFFIE:** I understand that.

12 **THE COURT:** There were statements.

13 **MS. MCDUFFIE:** The statements that she
14 completely denies making the statement, Mr. Meadors
15 asked her multiple times on direct and also on
16 redirect whether or not it was her statement. She
17 said it was not her statement, that she did not make
18 that statement, that only the second statement was
19 her statement and she does not admit to making any
20 part of that statement, of this statement.

21 **MR. MEADORS:** She denied those words were her
22 words.

23 **THE COURT:** Therefore, what?

24 **MR. MEADORS:** She denied that statement, that it
25 was not her statement.

1 **MS. MCDUFFIE:** Therefore, under 613(b), she did
2 not admit that she made the prior inconsistent
3 statement; and, therefore, extrinsic evidence of it
4 is admissible.

5 **THE COURT:** I agree.

6 **MR. MILLING:** Your Honor, if I may. Just one
7 other --

8 **THE COURT:** Yes, sir.

9 **MR. MILLING:** -- very brief point. In looking
10 through these redactions and the impact that it has
11 on this earlier statement as a whole, I think that it
12 unfortunately causes everything to be misconstrued
13 and be taken out of context. So I think that's an
14 additional objection that I would make and renew my
15 earlier objection as to 613.

16 I think that her signature on here is an
17 adoption of this and she has since recanted. And so
18 from that standpoint, I don't think that this
19 properly falls within 613. And, additionally, the
20 probative value of this coming in now that it has
21 been redacted is just too prejudicial because it's
22 not an accurate reflection of what she allegedly said
23 the first time.

24 **THE COURT:** Well, she not only recanted, but she
25 denied it and recanted it, both. The objection is

1 overruled. I'm going to allow it subject to, as I
2 indicated earlier in the week, authenticity. You
3 have to authenticate it before you can offer it.

4 **MR. MEADORS:** Can we have a few moments to make
5 those final redactions before we start? I'd just
6 like to make sure they're in place so everybody can
7 be reviewing it.

8 **THE COURT:** Well, do you have another witness
9 you can call?

10 **MR. MEADORS:** I guess we do. A short one. Yes,
11 sir.

12 **THE COURT:** The jury has been sitting here for
13 45 minutes. And that's not --

14 **MR. MEADORS:** Yes, sir.

15 **THE COURT:** I'd just like to move ahead.

16 **MR. MEADORS:** The State's ready.

17 **THE COURT:** Defense ready?

18 **MR. STRICKLER:** Yes, sir.

19 **MR. MILLING:** Yes, Your Honor.

20 **MR. DELGADO:** Yes, sir.

21 **THE COURT:** Bring the jury.

22 (Jury in at 2:42 p.m.)

23 **THE BAILIFF:** All the jury is present, Your
24 Honor.

25 **THE COURT:** All right, Solicitor. Call your

1 next witness.

2 **MR. ROSS:** The State calls Ms. Linda Dupree.

3 LINDA DUPREE, after being duly sworn, testifies
4 as follows:

5 **THE CLERK:** Thank you. Take a seat in the
6 witness stand and state your full name for the
7 record.

8 **THE WITNESS:** Linda Dupree.

9 DIRECT EXAMINATION

10 **BY MR. ROSS**

11 **Q** Good afternoon, Ms. Dupree.

12 **A** Good afternoon.

13 **Q** I've just got a few questions for you. Okay?

14 **A** (Nods head affirmatively).

15 **Q** Were you the mother of the victim in this case, Kevin
16 Miller?

17 **A** Yes, I am.

18 **Q** Do you know if Kevin had a watch?

19 **A** Yes.

20 **Q** And do you know what type of watch that was?

21 **A** It was a Tag Pure watch.

22 **Q** And when did he -- or if you know, when did he get
23 that watch?

24 **A** His stepfather and I bought it for him for Christmas
25 2003.

1 Q And do you know if he regularly wore that watch?

2 A All the time. Every time I saw him he had it on.

3 Q And approximately how much was that watch worth,
4 ma'am?

5 A I think the sticker price was like 2100 and we got it
6 for 1800 at Reed's Jewelers in Columbiana Center.

7 Q And do you know if Kevin had a wallet?

8 A Yes.

9 Q And do you know if he regularly kept his wallet on
10 him?

11 A Yes. It was a bi-fold brown wallet.

12 Q And did he keep anything in particular in that
13 wallet?

14 A He kept money and he kept his driver's license. And
15 when we bought the Tag watch, it came with a little,
16 it looks like a credit card with a serial number on
17 it, and he kept that in his wallet.

18 Q And when was the last time you had seen Kevin before
19 September the 4th?

20 A Thursday afternoon before that Sunday.

21 Q And do you remember if he had had the -- was he
22 wearing the watch?

23 A Yes.

24 Q And was that a Tag watch that you just talked about?

25 A Yes.

1 Q Did you have after he was -- after he passed away,
2 did you have the opportunity to go through his
3 belongings at his home and that type of thing? Not
4 what the officers collected, but his own personal
5 belongings?

6 A Yes.

7 Q Did you find the Tag watch?

8 A No.

9 Q Did you find his wallet?

10 A No.

11 Q Did you find the card that had the serial number to
12 the watch?

13 A No. We found the box that the watch came in that he
14 kept it in his nightstand, but no wallet, no card.

15 Q Did you find his driver's license?

16 A No.

17 Q That's all the questions I have. Thank you.

18 THE COURT: Cross examination.

19 MS. LAFAVE: Your Honor, I have no questions for
20 this witness.

21 MR. MILLING: Thank you, Your Honor. May it
22 please the Court.

23 CROSS EXAMINATION

24 BY MR. MILLING

25 Q Good afternoon. My name is Jonathan Milling. I

1 represent Mr. Dominic Gallman in this case. What was
2 Kevin doing to earn money?

3 A To earn money?

4 Q Yes, ma'am.

5 A He would have worked at Bennett Construction Company.

6 Q Was that year round or just during the summer or --

7 A No. It was pretty much year round.

8 Q Pretty much year round?

9 A (Witness nods head affirmatively).

10 Q Do you know when his last day working there was?

11 A No, I don't.

12 Q Have you seen any of his pay stubs?

13 A There were some in his house when we looked through
14 his belongings.

15 Q Do you recall the date that those last reflected?

16 A It seems like they were late summer.

17 Q Late summer sometime?

18 A Right.

19 Q But you don't recall a specific date?

20 A No, I don't.

21 Q And you indicated that the last time you saw the
22 watch was that Thursday beforehand?

23 A Right.

24 Q Okay. But you don't know what might have happened
25 thereafter?

1 **A** To what?

2 **Q** The watch.

3 **A** Oh, the watch?

4 **Q** Yes, ma'am.

5 **A** No. I -- I don't.

6 **Q** Nothing further.

7 **MR. DELGADO:** I don't have any questions.

8 **THE COURT:** Redirect?

9 **MR. ROSS:** No, Your Honor.

10 **THE COURT:** Thank you very much, ma'am. You may
11 come down.

12 **THE WITNESS:** Thank you.

13 **THE COURT:** May the witness be excused?

14 **MR. DELGADO:** Without objection.

15 **MR. MILLING:** No objection.

16 **THE COURT:** Next witness.

17 **MR. MEADORS:** Mitch Wilkerson.

18 MITCH WILKERSON, after being duly sworn,

19 testifies as follows:

20 **THE CLERK:** Thank you. Please have a seat in
21 the witness stand and state your full name for the
22 record.

23 **THE WITNESS:** It's Mitch Wilkerson. You'll have
24 to excuse me. I'm losing my voice.

25 DIRECT EXAMINATION

1 **BY MR. MEADORS**

2 **Q** I called you investigator before; but you're now
3 Mr. Wilkerson, correct?

4 **A** That's correct.

5 **Q** And you're suffering from a cold?

6 **A** A little bit.

7 **Q** As you know, if you'd just please speak up so these
8 ladies and gentlemen and the court reporter can hear
9 you. Mr. Wilkerson, very briefly, where are you
10 from?

11 **A** I guess from Columbia the last 25 years. But my
12 father was in the military so we traveled around a
13 lot and moved around some.

14 **Q** Can you tell these folks about your experience in law
15 enforcement, your career, how long it lasted and the
16 different training you received and the different
17 positions you've held?

18 **A** Yes. My career lasted 25 years. I retired in the
19 first part of 2006. And during that time I went to
20 the Criminal Justice Academy when I first started
21 out. And I positions with the patrol for a couple of
22 years and then I went into major detective school. I
23 worked there about four to five years, and then I
24 supervised the major crime squad for the remainder.
25 At the end of my career I was also in charge of the

1 major crimes and also in charge of all criminal
2 activity, criminal law in both the west and north
3 regions, all cases involving them.

4 Q So your file or rank when you left was what?

5 A A sergeant.

6 Q Sergeant?

7 A Yes, sir.

8 Q And as sergeant, were you aware of the different
9 cases that were going on underneath your command, so
10 to speak, or the murders that were --

11 A Yes.

12 Q Major cases that happened in Richland County,
13 specifically the City of Columbia?

14 A Yes, I was.

15 Q And is it fair to say you're involved to an extent
16 with all of them?

17 A Yes.

18 Q And I initially want to draw your attention to
19 September 13th of -- and again, you retired when?

20 A The first part of 2006.

21 Q I call your attention to what's marked State's 67,
22 ask just if you'd let these ladies and gentlemen know
23 whether you recognize that?

24 A Yeah. It is a standard advice of rights form that we
25 used at the Columbia Police Department, and this one

1 was involving Stanley Oliver.

2 Q So the next question is, did you have an occasion to
3 see Stanley Oliver on September 13th of 2005?

4 A Yes, I did. I met with him at one of our interview
5 rooms, the second floor of headquarters in the
6 investigative division.

7 Q And do you know what time this was that you
8 interviewed him?

9 A Yes. By the form, it says 2:45 p.m. on the 13th of
10 September 2005.

11 Q And again, you said you were at the interview room on
12 the second floor?

13 A Yes. We have a number of interview rooms. This was
14 an interview room right across -- it's about five
15 feet from where the clerks sit. We used the
16 interview room for a variety of both victims,
17 witnesses, suspects and different things.

18 Q And describe the room to these ladies and gentlemen?

19 A It's a room with a couple of chairs and a desk in
20 there. We even have a file cabinet where we kept
21 just everyday forms that we used.

22 Q And at this time did you have an occasion to read
23 what we all know as Miranda rights to Stanley Oliver?

24 A Yes, we did.

25 Q Could you please -- and before I get to that, if I

1 can approach, Your Honor. At the top it's got advice
2 of rights. What's it say there at place?

3 A Columbia P.D.

4 Q Date?

5 A 9-13-05.

6 Q And time?

7 A 2:45 p.m.

8 Q Can you read the rights now as you did to Stanley
9 Oliver on September 15th, 2005?

10 A Sure. "Before we ask you any questions you must
11 understand your rights. You have the right to remain
12 silent. Anything you say can be used against you in
13 court. You have the right to talk to a lawyer for
14 advice before we ask you any questions and have him
15 with you during questioning. If you cannot afford a
16 lawyer, one will be appointed for you before any
17 questioning if you wish. If you decide to answer
18 questions now without a lawyer present, you will
19 still have the right to stop answering at any time,
20 and you also have the right to stop answering at any
21 time until you talk to a lawyer."

22 Q Let me stop you there.

23 A Okay.

24 Q As you were reading those rights to Stanley Oliver,
25 did he appear to you, based on your training, your

1 experience in law enforcement plus your everyday just
2 common sense, to understand what you were reading?

3 A Yes, he did.

4 Q And did he respond -- like when you said the first
5 one: "Before I ask you questions you must understand
6 your rights; you have the right to remain silent",
7 did he indicate to you whether or not he understood
8 that?

9 A Yes, he did. He would nod. What I commonly did is I
10 sit down and we both looked the form over and we'd go
11 through each sentence together. And that was the
12 thing I did for 25 years.

13 Q And did he tell you that he understood that right?

14 A That's correct.

15 Q And was it a timely response?

16 A Yes.

17 Q I mean, "You have the right to remain silent", did he
18 respond shortly after that?

19 A He would nod as we'd go through; yes, sir.

20 Q He indicated he understood them?

21 A Yes.

22 Q Could you understand his answers to you, either
23 orally or verbally or emotions he was making? Could
24 you understand what he was saying to you?

25 A Yes. I could.

1 Q And after each one of these rights, did he indicate
2 to you whether or not he understood them?

3 A Yes, sir.

4 Q "Anything you say can be used against you in court",
5 did he indicate to you that he understood that?

6 A Yes.

7 Q "You have the right to talk to a lawyer for advice
8 before we ask you any questions and the right to have
9 him with you during questioning"?

10 A Yes.

11 Q Did he appear to you to understand that?

12 A He appeared to understand.

13 Q Did he indicate to you that he understood that?

14 A Yes. And I noted that in my notes.

15 Q You actually noted it in your notes?

16 A That's correct.

17 Q And, finally, "If you cannot afford a lawyer, one
18 will be appointed for you before any questioning if
19 you wish", correct?

20 A That's correct.

21 Q Now, did he appear during this period to be under the
22 influence of any alcohol, drug or any other
23 intoxicant?

24 A No, he did not; and I also noted that in my notes.

25 Q Did you read after that, and did I interrupt you

1 before then?

2 **A** No. The second page of this is waiver of rights.

3 **Q** No. But before that. "If you decide to answer
4 questions now without a lawyer present, you will
5 still have the right to stop answering at any time.
6 You also have the right to stop answering at any time
7 until you talk to a lawyer"?

8 **A** That's correct.

9 **Q** Did he appear to you to understand that?

10 **A** That's correct. He did.

11 **Q** Did he indicate to you he understood that?

12 **A** Yes, he did.

13 **Q** What do you do next? What did you do next on this
14 form?

15 **A** I read a phase of the form. It's the waiver of
16 rights. It's states that "I have read this statement
17 of my rights and understand what my rights are. I am
18 willing to make a statement and answer questions. I
19 do not want a lawyer at this time. I understand and
20 know what I am doing. No promises or threats have
21 been made to me. No pressure or coercion of any kind
22 has been used against me."

23 **Q** And did you go over those waiver of the rights with
24 Mr. Stanley Oliver?

25 **A** Yes, I did.

- 1 Q Did he appear to understand those?
- 2 A Yes, he did.
- 3 Q Did he indicate to you he understood those?
- 4 A He sure did.
- 5 Q At any time during the reading of the rights and
- 6 going over the waiver of the rights, did Stanley
- 7 Oliver say, mitch Wilkerson, I don't want to talk to
- 8 you?
- 9 A No, he did not.
- 10 Q Did he say, get me a lawyer?
- 11 A No, he did not.
- 12 Q If he had, what would you have done?
- 13 A I would have ceased the conversation immediately.
- 14 Q And did you threaten or force him to give this
- 15 statement or hold out any hope or reward or promise
- 16 in exchange for this statement?
- 17 A None whatsoever.
- 18 Q Investigator, Mr. Wilkerson, after underneath the
- 19 advice of rights, is there a place for in this case
- 20 the individual who the rights are read, Stanley
- 21 Oliver, to sign?
- 22 A Yes, there is.
- 23 Q And did he sign that?
- 24 A Yes, he did.
- 25 Q And to the left there is a place for a witness.

1 Whose signature is that?

2 A That's my signature.

3 Q And underneath that, there's a time?

4 A It's the time of 2:55 p.m. which is when the advice
5 of rights form was completed.

6 Q So from 2:45 to 2:55 you read him his rights, went
7 over this, and he signed it indicating that he
8 understood them?

9 A That's correct.

10 Q And that he waived them?

11 A That's correct. He did.

12 Q Now, did you smell anything on him like alcohol?

13 A No, not at all.

14 Q And did he indicate to you how -- did you try to
15 determine how far he had gone in school and whether
16 he had an educational background?

17 A Yes, I did. I noted that he had gone to the tenth
18 grade. I noted that on the form also.

19 Q And did you try to make or determine whether he
20 demonstrated ability to read or write?

21 A Again, that's a common thing I do through my 25 years
22 of interviewing people. I indicated here that he
23 demonstrated an ability to read and write. And one
24 of the reasons, one of the ways that I do the
25 demonstrating the ability to read is I would have him

1 read a section of the form to show me that he could
2 read. And he did that.

3 Q Was he alert?

4 A Yes, he was.

5 MR. MEADORS: Your Honor, at this time we'd
6 offer State's 67, I believe without objection.

7 MR. STRICKLER: That's correct, sir.

8 MR. MILLING: No objection.

9 MR. DELGADO: No objection.

10 (WHEREUPON, State's Exhibit No. 67 is admitted
11 into evidence.)

12 Q During this process I'm going to be asking you about,
13 was the bathroom or food denied to the defendant?

14 A No. There was a water fountain right outside the
15 door and a bathroom is right down the hallway,
16 probably ten feet away.

17 Q After you read these rights, I believe State's 67,
18 did you have an occasion to talk to Stanley Oliver?

19 A Yes, I did.

20 Q And what, if anything, did he tell you regarding
21 whether he talked to Investigator Burns? Or what did
22 he tell you?

23 A Well, he had indicated to me that he had telephoned
24 Investigator Burns earlier from a woman's house he
25 knew as Quitta. He indicated that she lived way up

1 North Main Street and --

2 Q If you'd slow down a little bit, please, sir?

3 A Okay. That Quitta lived way up on North Main Street.

4 MR. STRICKLER: Your Honor, at this point, of
5 course all of the statements regarding anything he
6 told him is subject to my previously stated
7 objections.

8 THE COURT: Yes, sir. I understand. And I will
9 be --

10 Q Investigator, if you'd slow -- you said that he
11 telephoned Investigator Burns?

12 A Yes. Earlier from a woman's house known as Quitta.

13 Q Okay. And did he identify where that person lived?

14 A That she lived way up North Main Street, is what he
15 said.

16 Q Who is Investigator Burns?

17 A Investigator Gertrude Burns, she was one of the
18 investigators on this case.

19 Q Identified her as Quitta. What did he say after
20 that?

21 A That he had no further information about her or the
22 relationship.

23 Q Did he indicate what kind of car she drove?

24 A That she drove a champagne colored car.

25 Q Did you ask her whether or not he had spoken with a

1 Renata Williams?

2 A Yes. He said he had spoke to his girlfriend, Renata
3 Williams, about her earlier interview with police and
4 that he assumed he was being sought by police for
5 questioning.

6 Q Did he indicate to you whether or not he had seen on
7 the news anything about Jim?

8 A Yeah. He had seen the case on the news and was
9 acquainted with the victim, a George Jim Batie. And
10 that's the name, George Jim Batie is what we put as
11 the press release in the case. He and another person
12 had met Mr. Batie at a bootlegger's house he said
13 about two months prior to the murders.

14 Q Go ahead.

15 A He had -- Mr. Batie had invited them to his house,
16 and they visited there once during the daytime. He
17 also --

18 Q Did you question him further about Mr. Batie or
19 anything else?

20 A He said that they only stayed in the house a few
21 minutes and never went to the back portion of the
22 house, and that was to include the bedrooms or the
23 hallway area.

24 Q This is him telling you that he and another person
25 had been there, correct?

1 **A** That's correct.

2 **Q** But had never been to the back portion of the
3 house --

4 **MR. STRICKLER:** Object to the leading.

5 **THE COURT:** Yes, sir. Sustained.

6 **Q** If you'd just slow down a little bit. And I
7 apologize.

8 **A** That he had never been to the back portion of the
9 house, and that included the hallway area or the
10 bedrooms.

11 **Q** Did you ask him or did he indicate whether or not
12 he'd spent the night there?

13 **A** He said he had never spent the night there and he had
14 never returned after his initial visit.

15 **Q** Did he indicate to you whether or not he knew his
16 last name?

17 **A** No. I noted also that he did not know Mr. Batie's
18 last name. He didn't know whether he was married,
19 didn't know whether he had any children. He didn't
20 know if anyone lived with him. He didn't know his
21 phone number. And he didn't know how long Mr. Batie
22 had lived at the house.

23 **Q** Now, you're the sergeant at this time over a major
24 case squad or investigations, correct?

25 **A** Yes.

1 Q And did you, I mean what police do, did you ask him
2 his whereabouts? And what, if anything, did he tell
3 you?

4 A Yes, I did. He said at the time of the murders he
5 was either at his girlfriend, Renata Williams',
6 house, her apartment at Palmetto Terrace Apartments,
7 or he was visiting a friend named William Gedson on
8 Tremain Street. When I told him that both of those
9 individuals had already been interviewed and they
10 told investigators he was not with either of them,
11 Mr. Oliver smiled and just sat back in his chair. He
12 said he guessed he didn't have an answer then. He
13 then --

14 Q Beg the Court's indulgence. Let me ask you this.
15 Did he indicate whether or not he had met Dominic
16 Gallman? And just --

17 A Yes, he did.

18 Q Fine.

19 A He indicated that he knew Mr. Gallman --

20 Q Wait. Wait. Okay. He indicated he knew Mr.
21 Gallman. Did he confirm whether or not he knew his
22 nickname?

23 A Yes, he did.

24 Q And what was that?

25 A Freaky.

1 Q Did he indicate whether or not he knew where Mr.
2 Gallman lived?

3 A He said he didn't know but he thought perhaps the Two
4 Notch Road area.

5 Q What, if anything, did you ask him about whether or
6 not Renata had told him anything?

7 A I asked him whether his girlfriend, Renata Williams,
8 had told him about his fingerprint being discovered
9 at the scene and was that why he was saying he had
10 been to Mr. Batie's residence before. And he again
11 smiled. He didn't want to ask answer that question.
12 He also in this conversation told me that his great
13 aunt Dorothy McWhirter lived at 419 Pine Needle Road.
14 He often uses the residence as his address and that
15 he had lived there on occasion and knows the area
16 rather well.

17 Q 419 Pine Needle?

18 A Yes.

19 Q Is that in Richland County?

20 A Yes. It's very, very close to Mr. Batie's house. He
21 also --

22 Q Very carefully, what, if anything, did he tell you
23 next?

24 A He said that he normally drives whatever cars he can
25 get his hands on, usually cars of friends and

1 acquaintances.

2 Q Okay.

3 A And --

4 Q What -- did you ask him about his finances?

5 A Yes. I asked him how he had suddenly seemed to come
6 into a lot of money with no job or other means of
7 income. And he replied to me that he had to do what
8 he had to do out on the street but wouldn't elaborate
9 further.

10 Q And did you specifically go over with him any things
11 that he may or may not have purchased?

12 A Yes, I did. I went through several items.

13 Q What were those?

14 A I indicated that he had gotten new clothes, earrings,
15 a pair of Timberland boots with a \$100 bill, a motel
16 room, dinner for himself and his girlfriend, Renata,
17 several DVD's.

18 Q And after that, did you ask him how did he come into
19 that?

20 A Yes.

21 Q Or how did he afford that?

22 A That's correct.

23 Q What was his response?

24 A He said that he had to do whatever he had to do out
25 on the street but he wouldn't elaborate further.

1 Q Beg the Court's indulgence. During the -- would this
2 be what's referred to as a written or an oral
3 statement?

4 A It would be an oral statement.

5 Q And were you taking notes of this as he was telling
6 you this?

7 A No. There was a desk in the room, some chairs. I
8 pulled up a chair in front of him because this was an
9 individual, like I said, that we had arrested for
10 killing three people. So I wanted to not only see
11 how he answered questions but how he reacted to those
12 answers. So this was an initial stage in the
13 interview. So I was asking him these questions.

14 And I might say also that on September 13th when
15 this statement was taken, I knew this case very, very
16 well. I'd been on it nine days. And although I've
17 been two years removed from the case, I'm not as --
18 maybe not as up on it now as I was then, but I knew
19 every part of this case. And I had questions, all
20 the investigators had questions they wanted to ask
21 him. And like I said, I not only wanted to ask him
22 the questions but see how he reacted to those
23 questions.

24 Q Observe his body language?

25 A That's correct.

1 Q And A minute ago you testified he pushed back from
2 the chair and smiled. Is that what you're referring
3 to?

4 A That's correct.

5 Q And did you contemporaneously with this conversation
6 make these notes?

7 A As soon as -- my office is an adjoining wall with
8 this interview room. And as soon as the interview
9 was over, I went right around and typed up the notes.

10 Q And the information about the boots and the DVD's,
11 how would that have been gathered?

12 A From statements that we had taken since then, since
13 the beginning of the case.

14 Q And did you know his aunt, Dorothy McWhirter, prior
15 to interviewing him?

16 A No, I didn't.

17 Q Did you know her address?

18 A We ended up doing a search warrant on the house
19 because of the --

20 Q Right.

21 A Other than that, no, I did not.

22 Q I understand that. Prior to interviewing him, if you
23 didn't know her, would you have known where she
24 lived?

25 A I never met her, did not know her. No.

1 Q Okay. At any time when he -- "he" being Mr. Stanley
2 Oliver -- was telling you this information, did he
3 say, I don't want to talk to you? During this part
4 that you've just told us about?

5 A No. Not during this part. No.

6 Q Did he appear to understand your questions?

7 A Yes, he did.

8 Q Could you just based on being there and common sense
9 and your experience, could you understand him with
10 your ears?

11 A Yes.

12 Q Were his answers to your questions timely?

13 A Yes, they were..

14 Q I mean, were they appropriate? Like, what did you do
15 this day, would he give an appropriate answer --

16 A That's correct.

17 Q -- based on your question?

18 A Yes, he would.

19 (WHEREUPON, State's Exhibit No. 203 is marked
20 for identification.)

21 Q I'm going to show you what's marked State's 203. If
22 you'd just look at that for a second. Tell me if you
23 recognize it, and does it relate to this the case or
24 anything you may have done in this case?

25 A Yes. This --

1 Q Just yes or no at this point.

2 A Yes.

3 MR. MEADORS: Beg the Court's indulgence for a
4 second.

5 THE COURT: You got an extra copy of that?

6 MR. MEADORS: I apologize, Judge.

7 Q Investigator, when you said you recognized State's --
8 what number is it -- 203, what date is at the top?

9 A September 21st, 2005.

10 Q All right. Does it say what time that was taken?

11 A 12:05 p.m.

12 Q And does it say where that was taken?

13 A Columbia P.D.

14 Q And who is this a statement from?

15 A That is a statement from Tatanisha Robinson.

16 Q Did you in fact interview, get a statement from
17 Tatanisha Robinson?

18 A I sure did.

19 Q Did she give you her address?

20 A 1700 Tremain Street, Apartment D.

21 Q And is that on there?

22 A Yes, it is.

23 Q And what were you asking her about, if anything?

24 A Statements, a statement concerning the murder and
25 robbery that is in question here.

1 Q And underneath there it says, statement concerning
2 murder and robbery to M. Wilkerson. Who is that?

3 A That's me. That's Mitch Wilkerson. I identified
4 myself as Sergeant, Columbia P.D.

5 Q Where did you talk to Ms. Tatanisha Robinson?

6 A Just the second floor. It was at a meeting room
7 across from the other interview room that I
8 interviewed Mr. Oliver from. It contains a coffee
9 machine, a lot of large tables, several chairs.
10 Staff meetings are held there in the mornings.

11 Q Did you ask her if she had any information about
12 these murders?

13 A Yes, I did.

14 Q And did she tell you what she knew about these
15 murders?

16 A Yes, sir, she did.

17 Q And specifically, on page 1 when you asked her, "Did
18 you know anything about the September 4th, 2005
19 murders on Mildred Avenue", what was her response?

20 A "Yes, I do."

21 Q And how was this statement taken, Mitch?

22 A Generally, when I'm taking a written statement, I
23 give the individual that I'm taking the statement
24 from the opportunity to either -- either I write it
25 or they write it. She chose that I wrote it. So I

1 wrote it in this particular case.

2 Q And as far as timeliness, she is telling you this
3 stuff, when were you putting it down?

4 A Immediately. And this is verbatim. I would have to
5 slow her down and make sure that I'm getting it
6 verbatim, word-for-word.

7 Q Like I had to slow you down a minute ago?

8 A That's correct.

9 Q "Yes, I do", were those her words or your words?

10 A That's her words.

11 Q And as we go through page 1, were all the words that
12 are after "do you have any information about the
13 murders on Mildred Avenue"; answer, "yes"; all those
14 words down through page 1 were who?

15 A That's Ms. Robinson's words.

16 Q And you were taking them down as she was saying them?

17 A That's correct.

18 Q Did you put those words in her mouth?

19 A Not at all, no. No. I had no idea what she was
20 going to say, if anything.

21 Q At the bottom of page 1 it says: "In the plastic
22 bag, it had about three or four ounces of cocaine",
23 did you tell her to say that?

24 A No, I did not.

25 Q At the bottom of that page, Investigator, it's got

1 the date and the time. And to the left -- and I
2 can't -- I'm sorry I keep walking around. But at the
3 bottom, who has it got that says: "Received a copy
4 of this statement"?

5 A Ms. Robinson. She signed it, the statement, and
6 signed for a copy of that statement. She received a
7 copy.

8 Q And is that your practice to do that?

9 A Yes. That's common.

10 Q And does it say she received it from whom?

11 A Myself.

12 Q How many times is Ms. Tatanisha Robinson's name on
13 this first page?

14 A Twice.

15 Q And that indicates what, her signature being on here;
16 the first one and then the second one?

17 A Well, the first signature is signing the statement
18 that those are her words.

19 Q The second?

20 A The second signature is that she is receiving a copy
21 of that page.

22 Q And turning over to page 2, is that a continuation of
23 her answer?

24 A That's correct.

25 Q And just it says: "While at Tremain, Solo" and then

1 "got K, came by in a gray Taurus." Did you know what
2 kind of car K drove?

3 A No. I had no idea.

4 Q Who told you those words?

5 A Ms. Robinson.

6 Q Did you know a Julia, Juliana Hamilton?

7 A No. I'd never heard of her before.

8 Q And who told you that the friend she went to visit of
9 Freaky's was Julian Hamilton?

10 A Ms. Robinson did.

11 Q Did Ms. Robinson give you Juliana Hamilton's address?

12 A Yes. She gave me the exact address on Hughes Street.

13 Q Did you know that address?

14 A No. I had no idea.

15 Q And at the bottom there on page 2, did she say they
16 went to a motel?

17 A Yes.

18 Q And did she say, "He kept saying he got himself into
19 something and it could give him life"? Did you tell
20 her to say that?

21 A No. These are all her words. I'm just copying them
22 down verbatim. Not only do I copy them down, but as
23 we're going through the statement, I make sure that
24 this is what she agrees with. And that is
25 commonplace in every statement we take.

- 1 Q On the bottom of page 2, how many times is Ms.
2 Robinson's signature there?
3 A She again signs twice.
4 Q And is your name on there?
5 A Yes, it is.
6 Q Did you make her say this or tell her what to say on
7 page 2?
8 A Not at all. It was done freely and voluntarily.
9 Q On page 3. And is this a continuation?
10 A Yes.
11 Q She's still telling you what happened?
12 A That's correct.
13 Q On line one, two, three: "Me and Solo stayed on
14 Tremain Street. Solo got some sleep there." Did you
15 tell her to say that?
16 A I did not.
17 Q Did you know if he had gotten sleep anywhere?
18 A I had no idea.
19 Q On the bottom of page 3, again, how many times does
20 Ms. Tatanisha Robinson's signature appear?
21 A Twice.
22 Q And is your name on there also?
23 A That's correct.
24 Q Did you tell her what to say on page 3?
25 A I did not.

1 Q Did you cheat?

2 A No.

3 Q Did you intimidate her?

4 A No, I did not.

5 Q Did you threaten her?

6 A No, I did not.

7 Q Did you threaten to throw her in jail?

8 A No, I did not.

9 Q Page 4, from the bottom of page 3 to page 4: "Freaky
10 was paying Juliana's laundry bill and just gave her
11 \$50 to do her laundry." Did you tell her to put that
12 in there?

13 A No, I did not. I had no idea.

14 Q Did you know she needed her laundry done?

15 A No.

16 Q When you asked her whether or not whether Dominic
17 spoke about it, "He said he was proud of it at
18 first." Did you tell her to put that in there?

19 A No, I did not.

20 Q On page 4, the words that are on there, are those
21 your words or Tatanisha Robinson's words?

22 A Those are her words.

23 Q And at the bottom did she sign there indicating she
24 had made this statement and gotten a copy of it?

25 A That's correct.

- 1 Q How many times?
- 2 A Twice.
- 3 Q Is your name on there?
- 4 A Yes, it is.
- 5 Q And page 5, all through page 5, whose words are
- 6 these?
- 7 A They are questions that I am asking and they are
- 8 noted by Q for the question and then the answer part
- 9 is noted by A. And those are her words.
- 10 Q The questions are yours?
- 11 A That's correct.
- 12 Q The answers are hers?
- 13 A That's correct.
- 14 Q Toward the bottom: "Did you have any conversation
- 15 with K" -- Kenneth Joy -- "about the murders?" "He
- 16 came by Tremain Street after Solo had gone to jail."
- 17 Did you tell her to put that in there?
- 18 A No, I did not.
- 19 Q How many times did she sign on page 5?
- 20 A Twice.
- 21 Q And your name on there also?
- 22 A Yes.
- 23 Q And does that indicate this was her statement and she
- 24 got a copy of it?
- 25 A It is.

1 Q And finally on page 6, and a continuation of the
2 response from -- she said Mr. K told her that he
3 didn't want to pay the lawyer with just his share.
4 Is that in here? The top of page 6?

5 A Yes. I see it. Yes.

6 Q Did you tell her to say that?

7 A No, I did not.

8 Q Did you tell her to say that "K said the cops would
9 never find the watch and the wallet"?

10 A No. I did not tell her. No.

11 Q And "did K say anything else" when she said, "they
12 gave the drugs from the robbery to a dealer named
13 Blue", were those her words or yours?

14 A Those are her words.

15 Q And the bottom of page 6, Investigator, whose name
16 appears twice?

17 A Her name, Ms. Robinson, appears twice, and I appear
18 once signing it.

19 Q So these indicate that that's her statement and that
20 you gave her a copy?

21 A Yes, it does.

22 Q Were you writing down what she told you?

23 A Yes, I was. Verbatim. And like I said, we went over
24 each page together, made sure that those were her
25 words, how she wanted to say it. If she wanted to

Mitch Wilkerson - Direct by Mr. Meadors

1619

1 make any changes, I would be willing to make any
2 changes to that statement. This is all common and
3 routine when you're taking this.

4 **Q** Did you receive another statement from her ever?

5 **A** No, I didn't.

6 **MR. MEADORS:** Your Honor, at this time we'd
7 offer State's 203.

8 **THE COURT:** Subject to the previous objections.

9 **MR. STRICKLER:** Your Honor, that depends on what
10 he means by offer, Your Honor. Subject to my
11 objection as to publishing it, yes. As to entering
12 the document itself, I have a separate objection as
13 to that.

14 **MR. MILLING:** As so do I, Your Honor.

15 **MR. MEADORS:** And we're offering 203. I didn't
16 publish the whole document. We're certainly offering
17 it, the item, State's 203.

18 **THE COURT:** All right.

19 **MR. STRICKLER:** I have an objection to entering
20 that into evidence, independent of anything we've
21 discussed before.

22 **THE COURT:** Independent?

23 **MR. STRICKLER:** Independent of any discussions
24 we've had before or in addition to any discussions
25 we've had before.

1 **THE COURT:** All right. I'll reserve ruling on
2 it at the present time until I hear the objection.

3 **MR. STRICKLER:** Thank you, sir.

4 **MR. MEADORS:** Should we take a break at this
5 time then?

6 **THE COURT:** Well, continue with your direct
7 examination.

8 **MR. MEADORS:** Judge, I can't proceed unless I
9 know how you're going to rule.

10 **THE COURT:** All right. Approach the bench then.
11 (Whereupon, a bench conference is had)

12 **THE COURT:** We'll make that clear on the record.

13 **MR. STRICKLER:** Thank you.

14 **MR. MEADORS:** State's 203, Your Honor.

15 **THE COURT:** Yes, sir. Admitted over the
16 objection of the defendants.

17 **MR. MEADORS:** Beg the Court's indulgence.

18 (WHEREUPON, State's Exhibit No. 203 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 204 is marked
21 for identification.)

22 **Q** Investigator, I show you what's marked State's --
23 what's that say? 204?

24 **A** 204.

25 **Q** All right. Do you recognize it?

1 **A** Yes. It's the area from Wilson Boulevard. It's
2 where the body of Ms. Felder was found.

3 **Q** Okay. And her body was found where?

4 **A** Nina Lee and Donald Street there towards the
5 intersection.

6 **MR. MEADORS:** Your Honor, we now offer State's
7 204, I believe without objection.

8 **MR. STRICKLER:** Without objection, sir.

9 **MR. MILLING:** I have no objection.

10 **MR. DELGADO:** Without objection.

11 **THE COURT:** Without objection.

12 (WHEREUPON, State's Exhibit No. 204 is admitted
13 into evidence.)

14 **Q** I believe you said earlier that Mr. Oliver told you
15 earlier when you were talking to him that his aunt
16 lived at Pine Needle?

17 **A** Yes. I think it's his great grandmother or
18 something. I'm sorry. Great aunt.

19 **Q** Beg the Court's indulgence.

20 **A** His great aunt, Dorothy McWhirter.

21 **Q** Does Shequitta Evans live at 4109 Wilson Boulevard?

22 **A** Yes, she does.

23 **Q** Thank you for that. Do you know how far that is from
24 where the body of Desiree Felder was found?

25 **A** I believe it's 1.3 miles.

1 Q Thank you.

2 THE COURT: Cross examination.

3 MR. STRICKLER: Yes, sir. Thank you.

4 CROSS EXAMINATION

5 BY MR. STRICKLER

6 Q Good afternoon, Mr. Wilkerson.

7 A Good afternoon, Mr. Strickler.

8 Q How are you sir?

9 A Good.

10 Q Could be better I guess. But good. Retired early
11 2006?

12 A Yes.

13 Q Very good. Prior to your requirement, at the time of
14 this incident that you testified about, you were in
15 charge of the major crimes unit for the City of
16 Columbia Police Department, if I understand your
17 testimony. Is that correct?

18 A Well, I was major crimes, and in addition I worked
19 the north and west criminal cases in the north and
20 the west regions.

21 Q So you were wearing two hats at that point in time?

22 A Basically.

23 Q Good enough. In your capacity, I guess in both
24 capacities, you got involved in this case, correct?

25 A Yes.

- 1 Q Head of major crimes, you'd be keeping an eye over
2 major crimes anywhere within the City of Columbia,
3 right?
- 4 A That's correct.
- 5 Q And then the Northeast region?
- 6 A Northwest region, north and west regions.
- 7 Q That encompassed where the incident occurred on
8 Mildred Avenue or not?
- 9 A Yes. That's correct.
- 10 Q So you would have an additional reason to keep an eye
11 on the situation there, correct?
- 12 A That's correct.
- 13 Q Now, major crimes are just that, major crimes? I
14 mean, it's not hard to define them. Murder is
15 certainly one of them. Armed robbery is one of them,
16 correct?
- 17 A Right.
- 18 Q And you have a specific unit set up to deal with
19 those, correct?
- 20 A Yes.
- 21 Q Specific people allocated to handle those type of
22 crimes, right?
- 23 A That's correct.
- 24 Q All right. You have other units set up for other
25 types of crime. But you specifically have a unit set

1 up to handle major crimes. And I say have. I assume
2 still have. Certainly did at that point in time,
3 right?

4 **A** Yes.

5 **Q** Okay. And when an incident such as the incident on
6 Mildred Avenue occurs, obviously it attracts a great
7 deal of attention from the police, correct?

8 **A** That's correct.

9 **Q** As well it should. You allocate whatever resources
10 you can to go ahead and address that situation,
11 correct?

12 **A** Yes.

13 **Q** And typically in an incident like this, when you
14 allocate resources, you allocate investigators to it,
15 correct?

16 **A** Yes.

17 **Q** And you'll allocate forensic technicians, CSI
18 individuals to it, correct?

19 **A** Yes.

20 **Q** And typically you'll have an investigator who is
21 designated as the chief investigator in a case such
22 as this, correct?

23 **A** That's correct.

24 **Q** And that individual would certainly be responsible
25 for conducting aspects of the investigation, his or

1 herself, right?

2 **A** Yeah. He would be the primary investigator. He or
3 she would be the primary investigator.

4 **Q** And would have the additional responsibility of
5 coordinating the investigation, any aspects of the
6 investigation that were being conducted by other
7 individuals, correct?

8 **A** That's correct.

9 **Q** So that if there is more than one person involved in
10 it, the chief investigator would act as a clearing
11 house for the information that was being generated by
12 other folks?

13 **A** That's correct.

14 **Q** If I may, right?

15 **A** Yes.

16 **Q** So that not only does that person conduct aspects of
17 the investigation, but that person has, if you will,
18 the big picture or view of what's going on, correct?

19 **A** Well, they are the primary investigator on the case
20 responsible for working the case. Yes, sir.

21 **Q** Okay.

22 **A** All other investigators on the case are assisting
23 him.

24 **Q** And who was the chief investigator assigned to the
25 case that we're here on?

1 **A** Investigator Paul Mead.

2 **Q** All right. Now, while you testified that in 2005 you
3 personally knew what was going on in fair detail as
4 far as the investigation in this case, --

5 **A** Yes.

6 **Q** -- you were not actively involved in conducting the
7 investigation in this case yourself, correct?

8 **A** No. That's not true. I was. I mean, that would be
9 the normal thing. If it's a homicide case, yes, I
10 would be. I would be getting briefed by the primary
11 investigator consistently through the case and
12 actually taking part in certain aspects of the case
13 whenever I can break free and do so.

14 **Q** Well, how often were you -- well, what you've come to
15 testify here about involves the interview that you
16 conducted with Mr. Oliver on September 13th, correct?

17 **A** That's correct.

18 **Q** And you made reference to your notes in that regard
19 during the course of your testimony, correct?

20 **A** Yes, I have.

21 **Q** To refresh your recollection of events that are over
22 two years old --

23 **A** That's correct.

24 **Q** -- at this point in time? Now, I believe the advice
25 of rights form indicates that 2:45 in the afternoon

1 was when that interview or actually when the advice
2 of rights began, correct?

3 **A** That's correct.

4 **Q** So you went through the procedure that you described
5 for the jury here as far as informing Mr. Oliver of
6 his rights, what's reflected here on State's 67?

7 **A** That's correct.

8 **Q** Reviewing those rights with him, making sure of his
9 ability to understand those rights, all that, and
10 having him execute what's entitled the waiver of
11 rights?

12 **A** That's correct.

13 **Q** So you went through that --

14 **A** And that would be the same procedure that I've used
15 hundreds of thousands of times before.

16 **Q** During the course of some 25 years?

17 **A** That's correct.

18 **Q** You did that a lot?

19 **A** Yes.

20 **Q** I understand. And then, well, you testified you
21 weren't taking notes contemporaneous with the
22 conversation you had with him. Your testimony, as
23 soon as the conversation you had with him ended, you
24 went immediately adjacent to the office immediately
25 adjacent and typed up your memory of what was said

1 during that?

2 **A** Yes. As a matter of fact, my office wall joins the
3 interview room. All I had to do was walk around
4 probably five or six feet and immediately start
5 typing the notes.

6 **Q** And the interview ceased at 3:52 p.m. Is that right?

7 **A** Yes. That's what my notes indicate.

8 **Q** So the advice of rights began at 2:45 and the
9 interview ceased at 3:52. So the time you and
10 Stanley Oliver were together in your office was like
11 an hour and seven minutes?

12 **A** From the time the initial rights were read until the
13 time the interview ceased, yes. I believe so.

14 **Q** Now, I said your office. In the conference room
15 where you did the interview. I'm sorry. Now, you
16 described that room as having a desk and a couple of
17 chairs in it and a file cabinet?

18 **A** I believe it had a file cabinet.

19 **Q** Door to the room?

20 **A** Yes.

21 **Q** Door open or shut?

22 **A** The door shut.

23 **Q** The door shut?

24 **A** The reason it's shut is there's secretaries answering
25 the phones right outside the door. So ...

1 Q Okay. You testified Mr. Oliver is under arrest for
2 three counts of homicide?

3 A Yes. And he was not handcuffed. I was not wearing a
4 weapon or anything like that. So it was just to make
5 it as informal as possible.

6 Q Your testimony is that you had an individual in the
7 room with you charged with three counts of homicide
8 and additional charges associated with them but
9 you -- three counts of homicide?

10 A That's correct.

11 Q And he was not handcuffed?

12 A That's correct. That would be normal in my -- I've
13 done it hundreds of times before.

14 Q Okay. For this period of an hour and seven minutes,
15 you didn't videotape the process between you and Mr.
16 Oliver, correct?

17 A No, I didn't.

18 Q And you did not audiotape the process between you and
19 Mr. Oliver, correct?

20 A No, I did not.

21 Q I mean, you have described for the jury here I
22 guess -- what was it -- Mr. Oliver smiling and
23 sitting back in his chair, correct?

24 A That's correct.

25 Q And I guess again you described further on he again

1 just smiled, correct?

2 A That's correct.

3 Q Okay. Now, a smile is a -- it's an expression on a
4 face and it's susceptible to many possible
5 interpretations. Wouldn't you agree with that?

6 A Yes. But the context of questions also takes part in
7 that, too.

8 Q Yes, sir. And you're not sitting there purporting to
9 tell this court that you knew what the thought
10 process was inside Mr. Oliver's mind that caused him
11 to smile at that point in time?

12 A No. My notes only reflect what I saw.

13 Q What thought process he might have that might cause
14 him to lean back --

15 A I mean --

16 Q -- I mean, he could be truthfully smiling that the
17 police were trying to hook him into something?

18 A I made no interpretation. I just documented the
19 fact.

20 Q All right. And to the extent that if one wanting to
21 try to judge the significance of those actions, had
22 they been videotaped, they'd be available for review
23 at this point in time. Correct?

24 A That's possible, yes.

25 Q And --

1 **A** But I followed the same manner I did in all
2 interviews for 25 years.

3 **Q** Yes, sir.

4 **A** So there's nothing out of the ordinary in this
5 interview that I do. It's my same procedures that
6 I've done for 25 years.

7 **Q** I don't mean to imply anything different with that.
8 In fact, I'm going to talk with you in a minute about
9 that. It's not only your standard procedure, it's
10 the City of Columbia's procedure, right? Well as far
11 as not audio taping or videotaping interrogations?

12 **A** There is no requirement to do so. No.

13 **Q** In your experience of 25 years you've never done that
14 yourself, correct?

15 **A** I don't recall that I have, no.

16 **Q** And in your conversations with fellow investigators,
17 fellow investigators talk around the water cooler,
18 whatever; you're not aware of other investigators,
19 other officers conducting interrogations of criminal
20 suspects that audiotape them or videotape them, are
21 you?

22 **A** I'm not, no.

23 **Q** No. So are you aware of whether -- well, CPD doesn't
24 have an established procedure in that regard,
25 correct?

1 A As I say, there is no requirement of that, no.

2 Q But the de facto procedure is it's not done. To your
3 knowledge, it's never been done?

4 A There is no requirement that I'm aware of.

5 Q Similarly, if we can turn away from Mr. Oliver for a
6 moment, you testified about what's marked as State's
7 203?

8 A Yes.

9 Q An interview conducted on the 21st of 2005,
10 September 21st with Tatanisha Robinson. That was not
11 audio taped or videotaped, right?

12 A No. The statement was taken in a media room just
13 adjacent to the other interview room.

14 Q And consistent with your practices that you've
15 testified to?

16 A That's correct.

17 Q You neither audio taped it nor videotaped it,
18 correct?

19 A That's correct.

20 Q And if there is some contention as to whether you
21 were, as you've testified, writing down her words as
22 they were spoken, having to slow her down at times,
23 if there is an issue as to whether that was going on
24 or not, then a videotape would make very clear for
25 all involved whether indeed that practice was being

1 followed, correct?

2 A Correct. Yes.

3 Q And, indeed, an audiotape in that situation would
4 reflect perhaps words to the effect from you, hold on
5 just a minute, Ms. Robinson; I've got to catch up
6 with you, or words to that effect?

7 A Correct. And I'm one who can't write as fast as
8 other people talk myself. Okay.

9 Q But neither audio nor video exists, as you've
10 testified, of that proceeding either, right?

11 A That's correct.

12 Q Now, in your conversation with Stanley, he did
13 indicate that he had been to the Mildred Avenue
14 location before, correct? This is going to be --

15 A Yes, he did.

16 Q Okay. He had visited once before there during the
17 daytime, correct?

18 A Yes.

19 Q And he had only been in the house for a few minutes?
20 He never went into the back portion of the house to
21 include the bedrooms or the hallway area, correct?

22 A That's correct.

23 Q He also said he never spent the night there or
24 returned after his initial visit. So he told you
25 he'd been there before?

1 **A** Yes.

2 **Q** But had not gone beyond the front area of the house?

3 **A** That's correct.

4 **Q** You have no knowledge, if he had been there before,
5 of what items he came in contact with at that house,
6 correct?

7 **A** No. Just what he told me.

8 **Q** Okay. You have no knowledge of where, if anywhere, a
9 shoebox may have been in that house at the time
10 Stanley Oliver claims to have visited there before,
11 correct?

12 **A** No. I don't.

13 **Q** Okay. You don't even know whether it was in the
14 house at that point in time?

15 **A** That's correct.

16 **Q** Okay.

17 **A** That's correct.

18 **Q** So you can't testify based on your conversations with
19 Mr. Oliver as to anything other than what he told
20 you?

21 **A** What I documented in the notes; yes, sir, what he
22 said.

23 **Q** And what he told you about being in the house one
24 time before, correct?

25 **A** That's correct.

1 Q Had not gone beyond the front area of the house. And
2 that was it?

3 A Yes, sir.

4 Q Now, Stanley also told you when you talked with him
5 about where he might have been when this incident
6 occurred, it's the next paragraph down, Mr. Wilkerson
7 or Sergeant Wilkerson; he indicated he was either
8 with his girlfriend or visiting a friend, William
9 Gedson, on Tremain Street?

10 A That's correct.

11 Q Correct? And this is at the point you told him they
12 had both been interviewed about his whereabouts and
13 they denied being with him and he just smiled and sat
14 back. Now, at that point in time, had Ms. Williams
15 been interviewed and denied having been with him?

16 A Well, we had that information; yes, sir. I'd have to
17 check the date of her statement. Yes. We took a
18 statement from Ms. Williams initially at 12:30 p.m.
19 on that same day.

20 Q Okay. And Mr. Gedson on Tremain Street?

21 A Yes. And I had received this information from the
22 investigators on the case, yes, that --

23 Q Okay.

24 A I knew that information going into the interview.

25 Q And again, you can't tell us why he smiled and sat

1 back at that point in time, just that's what happened
2 or you recorded that as happening?

3 A Well, he smiled, sat back in his chair and said I
4 guess he didn't have an answer then. I didn't know
5 why he didn't. No. I just documented it.

6 Q Now, during this interview, an hour and seven
7 minutes, the door is closed. Was anyone else -- I
8 mean, occasionally you get additional investigators
9 in a room when someone is being questioned. Was
10 anyone else in the room during the course of the
11 interrogation?

12 A No, there wasn't. Just myself and Mr. Oliver.

13 Q No one was in and out and like that?

14 A No. No.

15 Q So that there is no other witness to this other than
16 you and Stanley Oliver, correct?

17 A Just myself and Mr. Oliver. Yes, sir.

18 Q Okay. And no independent video or audio
19 documentation of what occurred in the room?

20 A No. But, Mr. Strickler, one of the things I'm
21 proudest of in my 25 years, I've always been honest
22 and impartial. And I couldn't live with myself any
23 other way. I wouldn't tolerate any other
24 investigator doing anything less than that. So ...

25 Q Yes, sir, Mr. Wilkerson. I understand. Nothing

1 further.

2 **MR. MILLING:** Your Honor, may it please the
3 Court.

4 **THE COURT:** Yes, sir.

5 CROSS EXAMINATION

6 **BY MR. MILLING**

7 **Q** Good afternoon, Sergeant. My name is Jonathan
8 Milling. I represent Mr. Dominic Gallman in this
9 case.

10 **A** Yes, sir.

11 **Q** Do you have records of what time you started Ms.
12 Robinson's interview?

13 **A** Well, the statement indicates at 12:05 p.m.

14 **Q** Do you have any indication as to when it was
15 finished?

16 **A** No, I do not.

17 **Q** Do you have any idea how long you talked to her prior
18 to starting the official statement?

19 **A** Nothing other than just introductions.

20 **Q** Okay.

21 **A** And I had no idea what she was going to say, if
22 anything, and sat down. And she said she would give
23 a statement. And we did so.

24 **Q** You all were sitting in a conference room?

25 **A** That's correct.

1 Q Were you the only one there?

2 A Yes.

3 Q Okay. Let me ask you, is there a TV in the
4 conference room?

5 A I think there is a TV. But of course it was not on.
6 There was no reason to do that.

7 Q But there is a TV in there?

8 A Yes. And the only reason we use the conference room,
9 because you have to use whatever room is available.
10 I mean, you understand investigators are working
11 throughout that second floor. So you use the rooms
12 you can.

13 Q How is it that she came to come in and talk to you?
14 Did you call her?

15 A I'm not sure. One of the investigators made contact
16 with her. If she came -- I'm not sure if she came in
17 on her own or if she had called somebody and they
18 came to pick her.

19 Q Somehow she ended up down there?

20 A That's right. And I just interviewed her. I don't
21 know how she got there, no.

22 Q You talked earlier about Mr. Oliver signing an advice
23 of rights form. Did Ms. Robinson?

24 A No. She was not under arrest, not in custody and not
25 a suspect in anything.

1 Q Di you tell her she didn't have to talk to you?

2 A She gave her statement freely and voluntarily. I
3 asked her if she would like to make a statement and
4 she did so. That would be normal with any person you
5 talk to.

6 Q She indicated that she was pregnant, correct?

7 A Yes, sir.

8 Q Do you recall if she took any restroom breaks during
9 the interview?

10 A The restroom was probably five or ten feet away. I'm
11 not sure if she did or not. But if she -- she
12 knew -- the whole interview was very informal. It
13 was in a very, you know, informal atmosphere,
14 easy-going atmosphere. She was --

15 Q Is the restroom physically within the conference room
16 or outside of the conference room?

17 A Just outside the conference room. And there's a
18 water fountain there. She may have had something to
19 drink. I don't know.

20 Q But you don't know?

21 A There's a coffee machine in there. I may have made
22 coffee for her.

23 Q Okay. But you don't know at this point in time?

24 A I don't recall. But that wouldn't be out of the
25 ordinary, no.

1 Q But she had indicated to you that she was pregnant?

2 A Yes.

3 Q And you understood that Mr. Oliver was also in a
4 relationship with other women, correct?

5 A Yes.

6 Q Okay. One of those other women being Renata
7 Williams?

8 A Yes.

9 Q You interviewed Ms. Williams as well, correct?

10 A Yes.

11 Q Did you also interview Ms., I think it's Shequitta
12 Evans?

13 A I did not.

14 Q You did not?

15 A I did not.

16 Q Were you present for her interview?

17 A No, I was not.

18 Q Okay. Beg the Court's indulgence for one moment.

19 Now, the statements that are allegedly attributed to
20 the three defendants in this case, you don't have any
21 personal knowledge as to the truth of those
22 statements, do you?

23 A I simply copied down verbatim what she told me.

24 Q So you've got no idea if they're accurate or not?

25 A Those are words from Ms. Robinson.

Mitch Wilkerson - Cross by Mr. Milling

1641

1 Q Again, you have no idea if they're accurate or not?

2 A I do not personally. I'm taking her word for it.

3 Q Okay. You're aware that Ms. Renata Williams was
4 arrested shortly after her statement, correct?

5 A Yes. After her initial statement, yes.

6 Q Nothing further.

7 THE COURT: Mr. Delgado.

8 MR. DELGADO: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. DELGADO

11 Q Mr. Wilkerson, "I have always been honestly impartial
12 in my 25 years", as you said to Mr. Strickler.

13 A Honest and impartial. Yes.

14 Q And impersonal?

15 A Just follow the leads wherever they take you.

16 Q I'm sorry, sir?

17 A Just try to follow the leads wherever they take you,
18 the evidence wherever it takes you.

19 Q Absolutely. And as a result of that, because
20 there -- as a result of that, because there's no one
21 to really audit what goes on in an interrogation room
22 or an interview room, we're forced to believe what
23 you say? And I say that to you with all due personal
24 respect. Correct, sir?

25 A Yes. That's the case. Yes, sir.

1 Q Right now this lady to your left where my finger is
2 pointing is taking down everything that I'm saying
3 and everything that you are saying. Correct, sir?

4 A Yes.

5 Q So that's memorialized, preserved forever?

6 A Yes.

7 Q Would you know, Mr. Wilkerson, whether or not the
8 City of Columbia city council meetings are tape
9 recorded?

10 A They probably are. I'm not sure.

11 Q Maybe even videotaped, too. Correct?

12 A Yes.

13 Q Well, do you know, sir, whether or not the South
14 Carolina General Assembly, their meetings either in
15 the Senate or in the House or in their conference
16 rooms are tape recorded?

17 A Yes. Since you're asking me that, yeah, they are.

18 Q All right, sir. As a matter of fact, the South
19 Carolina Highway Patrol when -- as a matter of fact,
20 probably even the City of Columbia Police Department,
21 your uniformed cars may or may not have mounted video
22 cams. Correct, sir?

23 A Yes, sir.

24 Q And that is to preserve forever what your officer or
25 the Highway Patrol Trooper sees and documents,

1 correct?

2 A That's correct.

3 Q So it can be reviewed by someone else, right?

4 A Yes, sir.

5 Q All right, sir. And again, sir, with all due respect
6 to you personally, it's been your practice, the
7 practice of the City of Columbia Police Department,
8 not to have oversight about what goes on in a
9 statement. Would that be fair?

10 A I'm saying it's not required to --

11 Q Sure.

12 A -- audio and videotape.

13 Q I understand. Well, A lot of things are not
14 required, but the better practice, so that we just
15 don't have to believe you, with all due respect --

16 A Right. I follow the same routine I did for 25 years.
17 That's all I can tell you.

18 Q Mr. Wilkerson, I say to you again, 25 years ago when
19 you and I first started in this business, if that
20 practice had been done then, that would have been the
21 way it would have been, correct?

22 A (Witness nods head affirmatively).

23 Q Just because it's not done doesn't mean that's the
24 best practice. Is that correct, sir?

25 A I would say that. Yes, sir.

1 Q Sir, to show an example of something that's occurring
2 in our national consciousness right now; however, you
3 decide it, however you feel about it, the CIA with
4 some tape recordings is --

5 MR. MEADORS: Objection, Your Honor.

6 THE COURT: Overruled.

7 MR. MEADORS: It's irrelevant.

8 THE COURT: Overruled. Go ahead.

9 Q Right now again, sir, however you feel about it; and
10 I saw how you grimaced about that, the point is,
11 sir --

12 A Excuse me. I didn't grimace.

13 Q Yes, sir. I saw a grimace. See, that's the point
14 right now. See, if I say it and you say it didn't
15 happen, then there's no way to be able to verify it,
16 right?

17 A Right.

18 Q Ms. Tatanisha Robinson when she comes in, sir, she
19 gives you her address as 1700 Tremain Street,
20 Apartment D, correct?

21 A That's correct.

22 Q Is that in the City of Columbia, sir, or is that in
23 Richland County?

24 A That's in the City of Columbia, sir.

25 Q That would be within the jurisdiction of the City of

1 Columbia Police Department for whom you worked?

2 A Yes.

3 Q All right, sir. Sergeant Wilkerson. Excuse me.

4 Former Sergeant Wilkerson, did you or any other
5 members of the City of Columbia investigation
6 division go out to Tremain Street to see whether or
7 not there was a business operating at 1700 Tremain
8 Street?

9 A Investigators did go to 1700 Tremain Street; yes,
10 sir.

11 Q And did they report to you as the sergeant in charge
12 of this division there was an organization -- excuse
13 me -- a business called Advantage Building Systems?
14 Do you recall that, sir?

15 A I don't recall.

16 Q You don't know?

17 A I don't recall right now. I've been away from the
18 case for two years.

19 Q Oh, I understand. I understand. See, and that's the
20 point. The point is, if we memorialize it, we have
21 it there forever, correct?

22 A Well, we did memorialize it.

23 Q Yes, sir. Because our memories fade. Our memories,
24 not change, but we can't recall them. Right?

25 A Right. And that's why I took a written statement

1 from him.

2 Q Yes, sir. Sir, and you wrote this written
3 statement -- excuse me. That is the State's
4 Exhibit -- I'm sorry, Mr. Wilkerson. What number is
5 it? It may be on the back.

6 A This is just a copy of it.

7 Q I'm sorry. Solicitor, what number is this? If I say
8 to you, sir, that State's Exhibit 203 is the six-page
9 statement of Ms. Tatanisha Robinson, that is written
10 verbatim as she said it?

11 A That's correct.

12 Q So, in other words, you have a printed form.
13 Correct, sir?

14 A I'm sorry?

15 Q You have this printed. Some of this is printed; in
16 other words, copied and you fill in certain things?

17 A Yes. The top section you're referring to, the box?

18 Q Yes, sir.

19 A Yes, sir.

20 Q All right. So because other members of your
21 department would fill in, if they were interviewing
22 somebody, they'd put in their name, correct?

23 A It's a statement form that we use, yes.

24 Q Speaking of that, I think you said Mr. Mead here was
25 your chief investigating officer?

- 1 **A** On this case; yes, sir.
- 2 **Q** This gentleman right here?
- 3 **A** Yes, sir.
- 4 **Q** When you were working back for the Columbia Police
5 Department, he was working under your command?
- 6 **A** Yes. At that time.
- 7 **Q** Under your authority?
- 8 **A** Yes.
- 9 **Q** All right, sir. When he would or any other member of
10 the City of Columbia Police Department investigation
11 division would have filled in, if they're taking the
12 statement, they would have filled in where you filled
13 in your name. Correct, sir?
- 14 **A** If they were taking a statement of something, yes.
- 15 **Q** Exactly.
- 16 **A** Yes.
- 17 **Q** Sir, it started 9-21-05. Correct, sir?
- 18 **A** Yes.
- 19 **Q** And the time there is 12:05 p.m.?
- 20 **A** That's correct, sir.
- 21 **Q** Do you have any notes that indicate when that ended,
22 sir?
- 23 **A** When the statement ended?
- 24 **Q** Yes, sir.
- 25 **A** No, I do not.

1 Q When did she arrive at the Columbia Police
2 Department?

3 A All I know is that I took the statement. I began the
4 statement with her at 12:05. That was my contact
5 with her.

6 Q And you wrote out verbatim what she said to you that
7 day?

8 A That is correct.

9 Q Sir, how long -- if you just started just to write
10 this statement itself, all six pages in handwriting
11 right now, how long do you imagine that -- from start
12 to finish without even asking the questions, how long
13 would that take?

14 A Oh, I wouldn't know.

15 Q 20 minutes? Half an hour? Somewhere in there?

16 A Possibly. Yes, sir.

17 Q All right. This is your handwriting?

18 A Yes. Correct.

19 Q And it's -- as a matter of fact, Ms. Robinson's
20 signature or name at the bottom is very unique and
21 specific. Would that be fair to say?

22 A That's correct. She signed twice on each page. Yes,
23 sir.

24 Q Yes, sir. I understand. As a matter of fact, there
25 is a big -- police officers can do things one of

1 several ways. You can ask a question and that can be
2 answered. Correct?

3 **A** Yes. That's correct.

4 **Q** Or you can ask them: Do you have any information
5 about September 4th, 2005 murders on Mildred Avenue?

6 **A** That's correct.

7 **Q** And she goes on with a narrative without any change
8 until the third page. Correct, sir?

9 **A** That's the next question I asked her on that page at
10 that point.

11 **Q** So she just starts from here and just goes
12 specifically all the way down to page 3 without any
13 other questions by yourself?

14 **A** Yes. As you notice, the first question I asked her,
15 she says, "Yes, I do", and then she proceeds from
16 there.

17 **Q** I understand. Relating to the smiles of supposedly
18 Mr. Stanley Oliver, I think your phrase to Mr.
19 Strickler was: "I just documented the fact about the
20 smile." Correct, sir?

21 **A** I just documented what I saw.

22 **Q** Yes, sir. Sure I understand. But again, sir, with
23 all respect, there's no way for us to evaluate or
24 judge that. We have to believe what you say he
25 showed on his face?

1 A That's correct.

2 Q All right, sir. Would it be fair to say, sir, that
3 Ms. Tatanisha Robinson's statement, six-page
4 statement, was considerably longer than the
5 statements that Mr. Oliver supposedly gave to you
6 after you advised him of his rights?

7 A Probably. Yes, sir.

8 Q If his was an hour and seven minutes, Ms. Tatanisha
9 Robinson's would have been significantly longer than
10 that. Correct, sir?

11 A Possibly.

12 Q Two to three hours?

13 A Oh, I don't think it was that long. No.

14 Q But again, sir, we don't have any way to be able to
15 know that, do we?

16 A Right.

17 Q I think your phrase was, when you do these
18 statements, this is just, quote, kind of routine. Is
19 that a reflection of what you said?

20 A Well, I followed the same routine on each statement.
21 I tried to keep it uniform.

22 Q Sure. I understand. And again, this kind of routine
23 procedure has no assurance as to exactly what was
24 said, the tonal inflections, the facial inflections,
25 the pauses, the hesitations; none of that, except

1 with your handwriting. Correct, sir?

2 A That's correct.

3 Q All right. Mr. Meadors asked you how was the
4 statement taken? And you said, "I was taking it down
5 as she said it." Correct, sir?

6 A Yes. Verbatim. Her words.

7 Q Verbatim?

8 A That's correct. And we'd go over it and make sure it
9 was her words. If she wanted to make any changes,
10 she had that option to do that.

11 Q I understand.

12 A And that's what you do in each statement, every
13 statement. That's not just this statement.

14 Q Sir, and that's been routine, custom and habit of the
15 City of Columbia Police Department for more than 25
16 years, hasn't it?

17 A That's correct.

18 Q Once we start the practice, habit, custom, tradition,
19 we're not going to change it, right?

20 A I don't know about that. I'm just speaking for this
21 particular statement at this particular time, sir.

22 Q Well, no. You're speaking about the whole way it's
23 always been done, correct?

24 A Well I'm saying that, yes.

25 Q Always been done by every member of the City of

1 Columbia Police Department, correct?

2 A Follow the same rules; yes, sir.

3 Q Absolutely. Ms. Gertrude Burns is one of the
4 investigators that was involved in this case.

5 A Yes, she is.

6 Q Is that correct, sir? You knew Mr. Batie as George
7 Batie. That was the name on his driver's license,
8 Mr. George Lee Batie. Is that correct, sir?

9 A That's correct.

10 Q The first time the name Ken -- well, excuse me. Let
11 me just back up for one second. State's Exhibit 132,
12 that is a CD. Correct, sir? Compact disk?

13 A Yes.

14 Q All right, sir. If I said to you that State's
15 Exhibit 132 is a comp -- no, not a compilation. It's
16 a recording from the answering machine of Mr. George
17 Lee Batie from his home at Mildred Avenue, how would
18 that have been processed? Who would have done that?

19 A Are you saying record from that?

20 Q Yes, sir.

21 A Probably our I.D. section.

22 Q I'm sorry?

23 A Probably one of our I.D. sections.

24 Q That is, the City of Columbia Police Department
25 investigation I.D. section?

- 1 **A** Yes. If that was possible.
- 2 **Q** Yes, sir. My recollection of it was the solicitor --
- 3 **A** Or one of the investigators on the case.
- 4 **Q** I understand.
- 5 **A** It depends what was available at the time.
- 6 **Q** And if I said to you, sir, that that was -- oh, gosh.
- 7 I think it was about 22 phone calls on this from
- 8 about 9:00 or so in the morning to a little after
- 9 4:00 in the afternoon, 22 phone calls to this
- 10 answering machine, that was obtained by the City of
- 11 Columbia Police Department, that answering machine.
- 12 Correct?
- 13 **A** Yes.
- 14 **Q** Put on a CD, correct?
- 15 **A** Yes.
- 16 **Q** For use in perpetuity, to memorialize it forever,
- 17 correct?
- 18 **A** That's correct.
- 19 **Q** Sir, I want to ask if you would turn -- and I believe
- 20 sir, again, I may have gotten this --
- 21 **MR. MEADORS:** Could he speak up? I can't hear
- 22 him.
- 23 **MR. DELGADO:** Yes, sir. I'm sorry.
- 24 **Q** State's Exhibit No. 203, that is the statement of
- 25 Ms. Tatanisha Robinson?

- 1 **A** Yes, sir.
- 2 **Q** Sir, why don't you turn to the bottom of the fifth
- 3 page and the top of the sixth.
- 4 **A** I --
- 5 **Q** I understand.
- 6 **A** Okay.
- 7 **Q** Ms. Tatanisha Robinson said to you that Ken Joy came
- 8 by Tremain Street after Solo had gone to jail,
- 9 correct?
- 10 **A** That's what she says.
- 11 **Q** Well, the reason he may have come by Tremain Street
- 12 is because that's where his business was located.
- 13 Wouldn't that be fair to say?
- 14 **A** I don't know. I just copied down what she said.
- 15 **Q** All right. "He was keeping us informed about Solo
- 16 and his charges." Correct?
- 17 **A** Yes.
- 18 **Q** "He was arranging for a lawyer for Solo." Correct?
- 19 **A** Yes.
- 20 **Q** "He said he came up with some money for Solo's lawyer
- 21 from his money but he wanted to find out from Solo
- 22 where his share of the" -- and the next word is
- 23 "robbery money was." Correct?
- 24 **A** Yes.
- 25 **Q** If we deleted the word "robbery money" at the top of

1 page 6, it would say: "Find out from Solo where his
2 share of the money was", he could pay the lawyer
3 \$15,000. Correct, sir?

4 **A** If you did that?

5 **Q** Yes.

6 **A** Yeah. That's how it would read.

7 **Q** So the point again, sir, is we have no independent
8 way to be able to verify it. With all respect, we
9 have no way to be able to verify that except what you
10 recall over two years ago, correct?

11 **A** That's correct.

12 **Q** All right, sir.

13 **A** That's the verbatim what she said on that date. Yes,
14 sir.

15 **Q** I understand. And again, sir -- I won't ask that.
16 Strike it. "He said the cops would never find the
17 watch and the wallet." That's on the middle of page
18 6. That is "he" being Ken Joy. Correct, sir?

19 **A** I'm sorry. Where do you see that?

20 **Q** Yes, sir. Right in here, this general area right
21 here.

22 **A** Page 6?

23 **Q** Yes, sir. Page 6.

24 **A** I see it now. Yes, sir.

25 **Q** All right. Sir, do you know an individual by the

1 name of Omekas or Omeksa (phonetic) Moaney,

2 M-O-A-N-E-Y, also known as Blue?

3 A I'm familiar with him. I've never met him.

4 Q All right, sir. Were you present in this courtroom
5 when Blue Moaney testified, sir?

6 A No, I wasn't.

7 Q All right, sir. If Blue said he got the drugs from
8 somebody else other than Ken, you wouldn't know that
9 to be true or not true, correct?

10 A I don't know.

11 Q All right. Sir, the statement that Ms. Tatanisha
12 Robinson gives; that is, the statement I have just
13 handed to you, I think it's number 203, State's
14 Exhibit 203, --

15 A Yes, sir.

16 Q -- the date on that is when, sir?

17 A The 21st of September.

18 Q Do you know when Mr. Ken Joy turned himself into the
19 Richland County Sheriff's Department?

20 A Not right offhand, sir.

21 Q If I told you it was two days later through my
22 office, would that be fair?

23 A That seems right.

24 Q Would it be fair to say, sir, that as of the 21st of
25 September 2005, before Ms. Tatanisha Robinson gave

1 you that statement, there wasn't enough evidence to
2 even charge Mr. Joy? Wouldn't that be fair?

3 **A** This was helpful. Yes.

4 **Q** It was helpful. And then putting his name and his
5 face on TV, correct?

6 **A** I don't understand your question.

7 **Q** Sure. As a result of this statement on September the
8 21st, the City of Columbia Police Department issued a
9 wanted poster. I don't know exactly what you all
10 call it. You wanted information on Mr. Ken Joy, his
11 whereabouts, correct?

12 **A** Yes, sir.

13 **Q** As a result of that, his name was on the local media
14 all over; that is, print, TV, possibly even radio,
15 correct?

16 **A** Yes.

17 **Q** That's a standard practice. That's how police
18 departments get information out and in effect either
19 get people to come in or have somebody give
20 information about where they are, correct?

21 **A** Yes, sir. That's correct.

22 **Q** Sir, do you know what Mr. Joy was originally charged
23 with, what he was originally indicted for?

24 **A** I believe it's murder.

25 **Q** How many counts of murder?

- 1 **A** Three.
- 2 **Q** How many counts of armed robbery?
- 3 **A** Three.
- 4 **Q** How many counts of kidnapping?
- 5 **A** One.
- 6 **Q** How many counts of burglary?
- 7 **A** One.
- 8 **Q** Do you know what he is charged with here today in
- 9 this courtroom before this jury?
- 10 **A** Yes.
- 11 **Q** And what is that, sir?
- 12 **A** Both accessory before and after the fact of murders.
- 13 **Q** Something changed --
- 14 **A** Robbery, kidnapping and burglary first.
- 15 **Q** Yes, sir. 16 different counts in all, correct?
- 16 **A** Yes, sir.
- 17 **Q** The eight that we call substantive counts as relates
- 18 to the other defendants, he is not charged with that
- 19 any more, is he?
- 20 **A** The original?
- 21 **Q** Yes, sir.
- 22 **A** No, sir.
- 23 **Q** Would it be fair to say, sir, that something changed
- 24 between September of 2005 and November the 14th, 2007
- 25 when these new indictments came out?

1 **A** I would say that that's up to the Solicitor's Office
2 what they were charging him with. We just, like I
3 said, follow the evidence, submit it to the
4 Solicitor's Office, and they make the charges.

5 **Q** Let's explain this to our jury. The only way an
6 individual is brought to trial in state courts in
7 South Carolina is through the presentation of an
8 indictment. Correct, sir?

9 **A** That's correct.

10 **Q** An indictment is returned by something called a Grand
11 Jury. Correct, sir?

12 **A** That's correct.

13 **Q** A Grand Jury has 18 people in it. Correct, sir?

14 **A** Yes, sir.

15 **Q** As opposed to 12 people?

16 **A** That's correct.

17 **Q** A grand jury has no opportunity for a defendant to
18 appear through his lawyer, does he?

19 **A** No.

20 **Q** He doesn't have any right to cross examine the
21 witnesses against him, does he, sir?

22 **A** No.

23 **Q** We don't have a right to ask you questions if you
24 were to appear before a Grand Jury?

25 **A** No, sir.

1 Q Do you know, sir -- Mr. Mead, will you stand for a
2 second. Do you know whether Mr. Mead was the
3 individual who appeared before the Richland County
4 Grand Jury less than a month ago for these
5 indictments?

6 A I believe so. But I've been retired for two years.
7 You may be asking the wrong person that.

8 Q I understand. I think that's all. Thank you,
9 Mr. Wilkerson.

10 A All right.

11 MR. MEADORS: Very briefly.

12 REDIRECT EXAMINATION

13 BY MR. MEADORS

14 Q State's 203, Investigator, what was that last page he
15 was asking you about?

16 A Page 6.

17 Q Where he alleged you put in the word "robbery money"
18 yourself, what page was that on?

19 A The top of page 6. It starts on page 5 and goes on
20 to page 6.

21 Q "He wanted to find out from Solo where his share of
22 the robbery money was"?

23 A Yes.

24 Q As you were writing that, who gave you that
25 information?

1 A Ms. Robinson.

2 Q As you were writing that, turn and look to these
3 ladies and gentlemen, look at them; did you add the
4 word "robbery" in Tatanisha's statement?

5 A I did not.

6 Q Would you do that?

7 A No. I could not live with myself doing something
8 like that. So ...

9 Q Whose words were those, when you said that Stanley
10 Oliver told you, gave you this oral statement, were
11 those Stanley Oliver's words or your words?

12 A Stanley Oliver's.

13 Q That's all.

14 MR. STRICKLER: Nothing further.

15 THE COURT: Anything further?

16 MR. MILLING: Nothing further, Your Honor.

17 RE CROSS EXAMINATION

18 BY MR. DELGADO

19 Q Mr. Wilkerson, how long have you been here in
20 Richland County with the City of Columbia?

21 A How long have I lived here?

22 Q Yes, sir.

23 A About 26 years I guess.

24 Q What do you call that hospital down off of Beltline
25 or the Harden Street extension?

1 **MR. MEADORS:** That's not proper recross.

2 **THE COURT:** Go ahead. Go ahead.

3 **Q** What do you call that hospital off of Harden Street
4 extension and the City of Columbia?

5 **A** It's Palmetto Health Richland.

6 **Q** And how were you present -- excuse me. Ms. Tatanisha
7 Robinson called it Richland Memorial. Is that right?

8 **A** That's correct.

9 **Q** Thank you, sir.

10 **A** Mm-hmm (affirmative).

11 **THE COURT:** All right. You may come down.
12 Thank you very much.

13 **THE WITNESS:** Thank you, sir.

14 **MR. MILLING:** Your Honor, may we approach very
15 briefly?

16 **THE COURT:** Wait a minute. May the witness be
17 excused?

18 **MR. STRICKLER:** Without objection.

19 **MR. DELGADO:** No objection.

20 **MR. MILLING:** Without objection.

21 **THE COURT:** All right, ladies and gentlemen.

22 Let's take short afternoon break. And we'll continue
23 the trial in about ten, fifteen minutes. Don't
24 discuss the case among yourselves while you're in the
25 jury room.

1 (Jury out at 4:19 p.m.)

2 **THE COURT:** All right. I know who's on first.
3 I know Mr. Strickler has objections for the record
4 and Mr. Milling is anxious to also add something to
5 the record.

6 **MR. MILLING:** I am, Your Honor. But I think my
7 client is in dire straits right now in need of a
8 restroom break.

9 **THE COURT:** You need not put that on the record.
10 We're in a break. However, Mr. Strickler is going to
11 be allowed to put his objections on the record.

12 **MR. STRICKLER:** Yes, Your Honor. Just as to,
13 the record should reflect that I objected to the
14 introduction of the physical statement as opposed to
15 the publication of the statement of Ms. Robinson in
16 addition to the bases that we'd already discussed in
17 camera.

18 And the basis for my additional objection was
19 two-fold; one, that the physical appearance of the
20 document, you could see the portions that had been
21 stricken out, not that you could read what was
22 stricken out but you could see that document is
23 replete with deletions. And I objected to the
24 appearance that that provided to the jury.

25 And the second basis was I objected to the

1 providing of the document to the jury. I relied on
2 State v. Gullledge, 277 SC 268, 387 s.e.2d 488, a case
3 from 1982, the ultimate holding of which involved the
4 audiotapes which had been played for the jury and
5 which the jury had had the transcripts of in the
6 courtroom which were permitted to go back to the jury
7 room.

8 And the court's ultimate holding was: "However,
9 we hold the judge abused his discretion in allowing
10 the jury to take a transcript of the tape into the
11 jury room because it unduly emphasized the evidence."

12 And that's what I'm submitting happens here.
13 Rather than publishing it to the jury so that it has
14 the same weight as all the other testimonial
15 evidence, it's going back to the jury room.

16 I also asked Your Honor to consider by way of
17 analogy in that regard the recent case -- and that's
18 what I was fumbling around for and I can't find -- in
19 which the Circuit Court was reversed for sending a
20 portion of the jury instructions into the jury room.
21 It was a lengthy opinion I believe Judge Anderson
22 wrote. But a portion of the instructions were sent
23 into the jury room.

24 And to me, the note in the opinion was the same
25 thing: Undue emphasis on the portion that went back

1 to the jury room as opposed to the instructions as
2 whole. So just by way of analogy I throw that out,
3 that Gullledge was completely on point. And, Your
4 Honor, thank you for allowing me to make those
5 objections.

6 **THE COURT:** Mr. Milling, I point out with regard
7 to the most recent case -- and I can't remember the
8 name of it either, but it was a lengthy opinion by
9 Judge Anderson -- but he also ruled that the
10 presentation of the entire drug statute, submission
11 of the entire drug statute to the jury was error and
12 was also grounds for reversal.

13 Anything else? All right. As to Mr.
14 Strickler's motions, I respectfully deny your
15 motions.

16 **MR. STRICKLER:** Thank you, sir.

17 **MR. MILLING:** Your Honor, if I could, I think
18 when we were at side bar I also joined in those
19 motions and would also put on the record that I think
20 the introduction of the physical statement at this
21 point in time is duplicative as the entire statement
22 has already been read into evidence at least one time
23 with multiple portions being read into the record on
24 two separate occasions now. I think 613 allows for
25 the introduction of extrinsic evidence which has

1 already been accomplished through the reading of this
2 document into the record.

3 **THE COURT:** All right.

4 **MR. DELGADO:** Your Honor.

5 **THE COURT:** Mr. Gallman's motions are
6 respectfully denied.

7 **MR. DELGADO:** Likewise, Your Honor, I join in
8 those motions by Mr. Strickler and Mr. Milling
9 relating to not just the statement coming in again
10 but the form in which that statement is coming in;
11 that is, through the --

12 **THE COURT:** Redacted version.

13 **MR. DELGADO:** -- second redacted version. That
14 is correct, Your Honor.

15 **THE COURT:** Respectfully denied. Let's take ten
16 minutes.

17 (Whereupon, a break is taken)

18 **THE COURT:** The State ready to proceed?

19 **MS. MCDUFFIE:** One moment, Your Honor. They are
20 coming.

21 **THE COURT:** Well, everybody is here except the
22 solicitors. The jury is ready. The Court's ready.
23 Bring the jury, please.

24 **MR. MEADORS:** Judge, we will not be finished
25 today.

1 **THE COURT:** I've got a 5:30 -- I've got to be at
2 the State Grand Jury at 5:30 or at least leave here
3 by 5:30.

4 **MR. MEADORS:** Judge, can we approach?
5 (Whereupon, a bench conference is had)
6 (Jury in at 4:37 p.m.)

7 **THE BAILIFF:** All the jury is present, Your
8 Honor.

9 **THE COURT:** All right, ladies and gentlemen.
10 I'm not going to hold the State to it. The State has
11 indicated there are two more witnesses.

12 **MR. MEADORS:** Yes, sir.

13 **THE COURT:** That's the plan right now, one of
14 which --

15 **MR. MEADORS:** Maybe three. Two or more
16 witnesses. No more than three. Maybe more than two.

17 **THE COURT:** It's two a minute ago.

18 **MR. MEADORS:** No, sir.

19 **THE COURT:** Now it's two or more. In any event,
20 one of those witnesses is a doctor, another
21 pathologist who is not available now. At least the
22 other one that I've been made aware of is another
23 investigator or officer whose testimony will be
24 rather lengthy in the sense that starting it at 5:00,
25 it may run -- I don't know -- based on cross

1 examination, that sort of thing, I don't mean to
2 be -- when I say lengthy, I don't mean it's a half a
3 day or an all day thing, but it would last more than
4 30 to 45 minutes in all probability.

5 I will confess to you that I have to have a
6 meeting with the State Grand Jury at 5:30 which is in
7 another building down at the State House. Given all
8 of those factors and the assurance at least by the
9 State that this case, they can wind up their case in
10 the morning, I think the best and most efficient use
11 of our time would be to go ahead -- and we probably
12 could have done this before we took the break -- to
13 go ahead and adjourn now for the evening.

14 We seem to be on schedule for finishing this
15 week, but I'm still not -- I can't assure you of
16 that. But that's the way it appears at this point.
17 We'll start again at 9:30 in the morning.

18 There also are a couple of matters that I need
19 to take up with the attorneys out of the presence of
20 the jury on the record. We will continue to do that.
21 There is no sense obviously in you staying around if
22 we're not going to get to any of these witnesses this
23 afternoon.

24 So at this time I'm going to release you until
25 9:30 in the morning. Again, do not discuss the case

1 among yourselves when you return to the jury room or
2 with anyone else over the evening hours. Again, I
3 don't know if the press has been here. I don't see
4 them but sometimes I don't know whether the press may
5 have bugged this place or something. No. Seriously,
6 I don't anticipate any press reports; but if there
7 were, I'd ask you not to avail yourselves of those
8 prior to tomorrow morning. Thank you very much, and
9 we'll see you tomorrow at 9:30.

10 (Jury out at 4:42 p.m.)

11 **THE COURT:** All right, Solicitor. As to
12 Investigator Burns.

13 **MR. MEADORS:** Gertrude Burns.

14 **THE COURT:** This is a statement?

15 **MR. MEADORS:** Yes, sir.

16 GERTRUDE BURNS, after being duly sworn,
17 testifies as follows:

18 **THE CLERK:** Thank you. Please have a seat in
19 the witness stand and state your full name for the
20 record.

21 **THE WITNESS:** Gertrude Burns.

22 DIRECT EXAMINATION

23 **BY MR. MEADORS**

24 **Q** Gertrude, first of all, I want to apologize to you
25 for not getting to you until this afternoon.

1 **A** Thank you for that.

2 **Q** I'm going to ask you now an occasion you had, if any,
3 to talk with one Kenneth Joy at Columbia Police's
4 headquarters on 9-9-05. This hearing is going to be
5 exclusively related to that. Do you understand?

6 **A** Yes.

7 **Q** Did you have an occasion to talk to Kenneth Joy at
8 headquarters?

9 **A** Yes, I did.

10 **Q** And could you tell the judge -- and that was what
11 day?

12 **A** On September the 9th of 2005.

13 **Q** And at this point was he in custody?

14 **A** No, he was not.

15 **Q** Was he free to leave?

16 **A** Yes, he was.

17 **Q** And at this point did you ask him just some questions
18 about himself and/or whether he knew some of the
19 individuals involved in this case?

20 **A** Yes.

21 **Q** Can you tell the judge what he told you?

22 **A** I located Kenny Joy through some paperwork on Stanley
23 Oliver, and it showed that he did some work for him.
24 We called Kenneth Joy. I had him come into the
25 police department because we was trying to locate

Gertrude Burns - Direct by Mr. Meadors (In Camera)

1671

1 Stanley Oliver. And he came in and I asked him about
2 Stanley. He said Stanley did do some work for him
3 occasionally, that he did not know him that well and
4 said he'd sometimes seen Stanley hanging around on
5 Tremain Street. He said Stanley had did some odd
6 jobs for him. He said he didn't trust him, said he
7 also did some work at the post office, said he didn't
8 trust Stanley to take him over there and called him a
9 jitterbug.

10 **THE COURT:** Called him what?

11 **A** A jitterbug.

12 **THE COURT:** Called Stanley a jitterbug?

13 **A** Yes, sir.

14 **Q** Kenneth Joy called Stanley Oliver a jitterbug, and
15 that's why he wouldn't take him to the post office?

16 **A** Right. He said he didn't trust him.

17 **Q** All right. Okay.

18 **A** And Joy related that his business wasn't very large
19 and he did not make a lot of money. He stated at one
20 time that he paid \$200 in cash at the Golden Chance
21 bond company for Oliver. He said he knew Oliver's
22 girlfriend named Renata. She called him and asked
23 him to give her \$200 to help get Stanley Oliver out
24 of jail.

25 I also asked him did he know Dominic Gallman.

1 He stated at that time he did not know him. But the
2 paperwork, it's a misprint, said he did know him.
3 But he stated he did not know him. And at that time
4 myself and Investigator Mead showed him a six-picture
5 photo line-up of Dominic Gallman. He did not pick
6 him out of the line-up.

7 Q Now, let me just go back for these purposes now.
8 You're retired now, right?

9 A That's correct.

10 Q And just looking back on this, this was an oral
11 statement, non-custodial statement you took from Ken
12 Joy?

13 A That's correct.

14 Q For time purposes, Your Honor, he said he was
15 familiar with Stanley Oliver through his work?

16 A Yes.

17 Q Correct? Occasionally gave him work but didn't use
18 him often?

19 A Correct.

20 Q He said he does not know him very well, doesn't
21 associate with him?

22 A Correct.

23 Q Sometimes sees him, being Oliver, around the
24 apartments on Tremain Street across from Davis
25 Garage?

Gertrude Burns - Direct by Mr. Meadors (In Camera)

1673

- 1 **A** Yes.
- 2 **Q** He said Joy said he goes there after work sometimes
- 3 to have a beer and talk to a couple of older guys
- 4 that live around there?
- 5 **A** Yes.
- 6 **Q** Denied knowing Dominic Gallman?
- 7 **A** Correct.
- 8 **Q** And could not identify him out of a photo line-up?
- 9 **A** Yes.
- 10 **Q** And did you --
- 11 **A** He did not identify him out of a line-up.
- 12 (WHEREUPON, State's Exhibit No. 205 is marked
- 13 for identification.)
- 14 **Q** This is 205 for ID. Do you recognize this?
- 15 **A** Yes.
- 16 **Q** And was Kenneth Joy able to pick Dominic Gallman out
- 17 of a line-up?
- 18 **A** No.
- 19 **Q** Is that Dominic down there at the bottom?
- 20 **A** Yes.
- 21 **Q** Did Joy tell you that his business wasn't very large
- 22 and he didn't make a lot of money?
- 23 **A** That's correct.
- 24 **Q** Just enough to get he and his family by?
- 25 **A** Yes.

1 Q Did you ask him then why would he pay \$200 in cash at
2 The Golden Chance bonding company for Oliver's bond?

3 A Yes, I did.

4 Q Did he have an answer for that?

5 A No, he didn't.

6 Q And then did he tell you, he said Oliver's
7 girlfriend, Renata, asked him to help out?

8 A Yes.

9 Q And that's why he had done it?

10 A Yes.

11 Q Did he say he remembered a woman at the bonding
12 company but didn't know her name?

13 A That's correct.

14 Q Did he say after that if he had seen Oliver and
15 Renata before around the Tremain Street apartments?

16 A Yes, he did.

17 Q He said he'd just seen him?

18 A Yes.

19 Q Then the other thing about not associating with him
20 because he just hustled?

21 A Yes. He did not associate with him because he's just
22 a hustler on the street.

23 Q Oliver, referred to him as the criminal type?

24 A Right.

25 Q Referred to him as that word you said a minute ago?

Gertrude Burns - Direct by Mr. Meadors (In Camera)

1675

1 **A** Right.

2 **THE COURT:** Wait.

3 **MR. MEADORS:** Referred to him as a jitterbug.

4 **THE COURT:** Who said criminal type?

5 **MR. MEADORS:** He thought Oliver was a criminal
6 type, referring to him as a jitterbug.

7 **THE COURT:** Go ahead.

8 **MR. MEADORS:** Yes, sir.

9 **A** Yes. He said he did not associate with Oliver
10 because Oliver just hustled on the street. He
11 thought Oliver was a criminal type, referred to him
12 as a jitterbug.

13 **Q** And after that did he say he didn't like to take him
14 on jobs, like the post office?

15 **A** That's correct.

16 **Q** Because he didn't trust him?

17 **A** Correct.

18 **Q** He thought Oliver might steal from the place?

19 **A** Yes.

20 **Q** Did you ask him whether or not he used drugs?

21 **A** Right. He said no, he did not use drugs.

22 **Q** And did he say whether or not he let Oliver come to
23 his house?

24 **A** He said he never let Oliver come to his house.

25 **Q** Did he say whether or not he knew where --

1 **A** According to Joy, he did not know where Oliver lived.
2 He stated he usually stays with his girlfriend on
3 Percival Road.

4 **Q** And all that -- Your Honor, we may not have needed to
5 have this hearing because it's non-custodial; I guess
6 we're also tired, or I am anyway -- is the person who
7 gave you that statement in the courtroom?

8 **A** Yes, he is.

9 **Q** And if you need to stand up. Or can you stand up?
10 I'm sorry. Or if Mr. Joy wouldn't mind.

11 **A** With the white shirt on.

12 **THE COURT:** All right. Let the record reflect
13 that the witness identified the defendant, Joy.

14 **Q** Beg the Court's indulgence. And not only was it
15 non-custodial, he was free leave; did he leave that
16 day?

17 **A** Yes, he did.

18 **Q** And he was not arrested?

19 **A** That's correct.

20 **MR. MEADORS:** Your Honor, as far as this issue
21 on this, that's all we have.

22 **THE COURT:** Cross examination by any of the
23 defendants?

24 **MR. STRICKLER:** Sir, I move to exclude it as to
25 Stanley Oliver. It is all Crawford. Not Bruton but

1 Crawford. Okay? The issue of custodial or not is
2 irrelevant. It is clearly being taken during the
3 course of an investigation; it is clearly testimonial
4 in nature, and he's clearly unavailable. I have no
5 questions. But just ab initio, right out of the
6 block, that's my objection.

7 MR. MEADORS: And that's the other reason we
8 wanted do it in camera so she could testify.

9 THE COURT: From Mr. --

10 MR. MILLING: No questions, Your Honor.

11 THE COURT: Mr. Delgado.

12 MR. DELGADO: Thank you.

13 CROSS EXAMINATION

14 BY MR. DELGADO

15 Q Ms. Burns.

16 A Yes, sir.

17 Q The identification that you -- the photographic
18 line-up that you gave to Ken Joy?

19 A Yes, sir.

20 Q That is what the solicitor marked. Do you have that
21 with you?

22 A I don't.

23 MR. MEADORS: It's right there.

24 Q I'm sorry. This is State's Exhibit, Ms. Court
25 Reporter, 205. Is that what you created on September

- 1 the 9th, 2005?
- 2 **A** Yes, sir.
- 3 **Q** You showed that to Mr. Ken Joy?
- 4 **A** Yes.
- 5 **Q** He did or he did not pick out any individual in that
- 6 line-up?
- 7 **A** He did not pick out anyone.
- 8 **Q** Okay. You say now that, first of all, ma'am, your
- 9 recollection of what was said and done with Ken Joy
- 10 on the 9th of September is, do you have anything
- 11 independent of the discovery that is typed out that
- 12 we have relating to what occurred on September the
- 13 9th?
- 14 **A** In reference to Kenneth Joy, no.
- 15 **Q** So, if I may?
- 16 **A** That document?
- 17 **Q** Yes, ma'am. That's what I have, too.
- 18 **A** Right.
- 19 **Q** That is about two-thirds of a page and then continues
- 20 on the next page maybe two lines?
- 21 **A** Correct.
- 22 **Q** All right. Ms. Burns, when did that conversation
- 23 with Ken Joy begin?
- 24 **A** The time?
- 25 **Q** Yes, ma'am.

Gertrude Burns - Cross by Mr. Delgado (In Camera)

1679

1 **A** I don't recall the time, but it was on September the
2 9th, sometime that afternoon.

3 **Q** All right.

4 **A** That was after he got off work. So it was probably
5 about somewhere between 5:30 and 6:30. It was after
6 work for him.

7 **Q** All right. You called him at a phone number?

8 **A** Yes, sir.

9 **Q** And you had obtained that phone number from whom, if
10 you recall?

11 **A** I think it was off of either from Stanley's
12 girlfriend or off some paperwork that we had.

13 **Q** All right. You called him. He came down to the City
14 of Columbia Police Department. That would be at the
15 main police department now called Justice Square?

16 **A** That's correct.

17 **Q** It may have been called that in January of -- excuse
18 me -- September of 2005. Was there anybody else
19 present in this conversation between yourself and Mr.
20 Joy?

21 **A** Yes. Investigator Mead was in there, but he was in
22 and out during the conversation.

23 **Q** How --

24 **A** He was with me when I showed the line-up.

25 **Q** All right. An hour as opposed to two hours Mr. Joy

1 was there? Three hours? 15 minutes? How long?

2 **A** It wasn't that long. It probably was about 20 to 30
3 minutes.

4 **Q** All right.

5 **A** Like I said, he wasn't -- the only interest we had of
6 him at that time was stuff that we could obtain about
7 Stanley. We didn't have anything to hold Joy there,
8 you know, just basic questions about how we can find
9 Stanley Oliver.

10 **Q** Yes, ma'am. Kenneth Joy's name had not surfaced --

11 **A** No.

12 **Q** -- as a suspect, a person of interest by September
13 the 9th, 2005?

14 **A** No, sir.

15 **Q** That was at 5:30 or so in the afternoon?

16 **A** No, sir.

17 **Q** That's all. Thank you very much.

18 **A** You're welcome.

19 **MR. DELGADO:** That's all, Your Honor.

20 REDIRECT EXAMINATION

21 **BY MR. MEADORS**

22 **Q** Just one quick. When he asked you do you have any
23 independent memory, you have notes from this
24 incident? Typed and written notes, correct?

25 **A** Yeah. My rough draft. I don't recall if I had it

1 particularly on Joy. I may have. I didn't go
2 through my notes as to --

3 Q Well, showing you this document, does that say case
4 notes of Ken Joy?

5 A Yes, it does.

6 Q Is it reflected on there that he did not pick out
7 Dominic Gallman in the line-up?

8 A Right.

9 Q "Didn't" it actually says?

10 A He didn't.

11 Q So you have those notes referenced to the line-up
12 that you showed to Ken Joy?

13 A Yes.

14 Q And I think you said in your typed thing, does it say
15 in here Joy said he did know Dominic but could not
16 identify him in the photo line-up? Is that a --

17 A That's a typo.

18 Q And does it reflect --

19 A It said Joy said he did know Dominic Gallman, but it
20 should have said he didn't know Dominic.

21 Q And is the "didn't" consistent with the rest of the
22 sentence, "and couldn't pick him out"?

23 A "And couldn't pick him out of a photo line-up."

24 Q In your case notes do you have in your handwriting
25 that he didn't pick him out?

1 **A** That's correct.

2 **MR. MILLING:** Your Honor, if I could ask a
3 question briefly in response to --

4 **MR. MEADORS:** Wait a minute.

5 **MR. MILLING:** I'm sorry.

6 **MR. MEADORS:** Please. That's all. Thank you.

7 CROSS EXAMINATION

8 **BY MR. MILLING**

9 **Q** Ms. Burns, you indicated on the 9th you asked Mr. Joy
10 about Dominic Gallman. How is it that Mr. Gallman's
11 name came up?

12 **A** During my investigation I talked to Renata. And then
13 also doing some paperwork that we have at the police
14 department shows a connection between --

15 **Q** What paperwork is that?

16 **A** Computer work in the office.

17 **Q** Do you have that with you?

18 **A** No.

19 **Q** Have you provided that to the Solicitor's Office?

20 **A** No.

21 **Q** Why have you not provided that to the Solicitor's
22 Office?

23 **A** I didn't see the relevance in it.

24 **Q** You don't see the relevance in linking up Stanley
25 Oliver to Dominic Gallman?

Gertrude Burns - Cross by Mr. Milling (In Camera)

1683

1 **A** It may not have been that way. It could have been
2 through his girlfriend when we talked to her or it
3 could have been after I talked to Stanley's brother.

4 **Q** Do you know when you talked with any of them?

5 **A** Yes.

6 **Q** Okay. When did you speak with Renata?

7 **A** Renata would have been before we talked to Michael
8 Allen. I don't have that paperwork up here with me.

9 **Q** Okay. And you --

10 **MR. MEADORS:** Your Honor, this is going to the
11 statement of Kenneth Joy and nothing else. And we'd
12 object to anything else besides Kenneth Joy's
13 statement. This isn't a fishing expedition for
14 anything else in the case. This is going to his
15 statement and the photo I.D. and that was it.

16 **THE COURT:** He's got a right to ask how she knew
17 about Gallman.

18 **A** Through Renata, his girlfriend, Renata.

19 **Q** Okay. When was that statement given?

20 **A** On the -- her statement or his?

21 **Q** Hers.

22 **A** I don't have a copy when we talked to her. We talked
23 to her probably three or four times.

24 **Q** Okay. Now, are you now saying that there is no
25 Columbia Police Department paperwork linking Stanley

1 Oliver and Dominic Gallman?

2 **A** I may have misspoke on that. I'm thinking either
3 Renata or Michael Allen, Stanley's brother gave it,
4 told us about it.

5 **Q** Well, it was a pretty specific statement that you
6 made, --

7 **A** Yes.

8 **Q** -- there is a document linking these two? Either
9 there is or there isn't.

10 **A** I don't have it. So I'm saying it has to be Renata
11 or either have to be his brother.

12 **Q** Ma'am, I'm not asking you whether you have it. I'm
13 asking whether it's in existence.

14 **A** No.

15 **MR. MILLING:** Nothing further.

16 **MR. DELGADO:** Your Honor, this may be very
17 short. I may just look at Ms. Burns' notes. I may
18 not have any questions.

19 **THE COURT:** All right.

20 **MR. DELGADO:** That is, the records that Mr.
21 Meadors talked about.

22 **MR. MEADORS:** Your Honor, for the record, they
23 have all these records.

24 **MR. DELGADO:** That may be.

25 RE CROSS EXAMINATION

Gertrude Burns - Recross by Mr. Delgado (In Camera)

1685

1 Q Ms. Burns, could you read that handwriting? I'm
2 sorry. My handwriting is bad, too.

3 A Lived on Percival Road with his girlfriend. Never
4 let him over to his house.

5 Q He never let him over to his house?

6 A That's right.

7 MR. DELGADO: That's fine. Thank you, Your
8 Honor. That's all the questions I have.

9 REDIRECT EXAMINATION

10 BY MR. MEADORS

11 Q Gertrude, when did you retire?

12 A 2005, November.

13 Q Have you been immersed in this case file since then?

14 A No.

15 Q Thank you.

16 THE COURT: All right. You can come down,
17 ma'am.

18 MR. MEADORS: Your Honor, my preparation as far
19 as telling the witness what she can or cannot say
20 tomorrow as far as the oral statement, can we go
21 through that now if you have time?

22 THE COURT: Yes, sir. I think it -- I've heard
23 no objection at this point other than Mr.
24 Strickler's. That was not as to voluntariness, but
25 his objection to any testimony about Mr. Oliver other

1 than the fact that Joy said he knew him. I'm not
2 putting words in Mr. Strickler's mouth, but I think
3 that's the substance of his objection. It's all
4 Crawford, including jitterbug.

5 **MR. STRICKLER:** Yes, sir.

6 **MR. MEADORS:** He was a jitterbug.

7 **MR. STRICKLER:** There may be some -- are some
8 other objections as far as that goes. But we can
9 dealt with it as far as Crawford goes.

10 **THE COURT:** Well, I think Crawford solves the
11 problem.

12 **MR. STRICKLER:** Yes, sir.

13 **THE COURT:** That's Mr. Strickler's objection on
14 behalf of Stanley Oliver.

15 **MR. MEADORS:** Just so I can be specific.

16 **THE COURT:** Well, I don't have it in front of
17 me. I'm just concurring. I don't need it in front
18 of me I don't think. I wrote down \$200 bond for
19 Oliver, criminal type, jitterbug, Mike Steel (sic), I
20 don't want him in my house. Probably two-thirds of
21 the statement. Any objection as to Mr. Gallman?

22 **MR. MILLING:** Your Honor, I think as long as
23 it's limited to "he doesn't know him" and "wasn't
24 able to pick him out of a line-up", if she gets into
25 some story about a Columbia Police Department

1 document which --

2 **THE COURT:** Well, that was in response to your
3 question. She never testified to that except in
4 response to your question.

5 **MR. MILLING:** And I just want to make sure that
6 there's not one in existence that may come up
7 tomorrow.

8 **THE COURT:** Well, I don't know whether there is
9 not.

10 **MR. MEADORS:** Your Honor, that's ludicrous.
11 They've got everything from the witnesses who have
12 already testified.

13 **THE COURT:** Mr. Delgado.

14 **MR. DELGADO:** I have nothing further.

15 **THE COURT:** Nothing further. All right. So
16 instruct your witness. Mr. Meadors, you understand.
17 We've been doing this for two weeks.

18 **MR. MEADORS:** I think; yes, sir, this is a
19 little -- I've just got one question, but I'll
20 resolve it with Mr. Strickler. Thank you.

21 **THE COURT:** All right. And I'm anxiously
22 awaiting the name of the third witness that will be
23 here tomorrow. Let's stand at ease until 9:30.

24 (Whereupon, the proceedings are concluded for
25 the day, to be reconvened tomorrow morning)

1 Thursday, December 13, 2007

2 **THE COURT:** The State ready to proceed?

3 **MR. MEADORS:** Just 30 seconds, please.

4 **THE COURT:** Well, then I'll move on. Defense
5 ready to proceed?

6 **MR. STRICKLER:** Yes, sir.

7 **MR. MILLING:** Yes, Your Honor.

8 **MR. DELGADO:** Yes, sir.

9 **THE COURT:** All right.

10 **MR. MEADORS:** The State's ready.

11 **THE COURT:** Bring the jury, please. Bring the
12 jury, please.

13 (Jury in at 9:36 a.m.)

14 **THE BAILIFF:** Your Honor, the jury is present.

15 **THE COURT:** Thank you very much. Good morning,
16 ladies and gentlemen. We're ready to continue with
17 the trial. Solicitor, call your next witness.

18 **MR. MEADORS:** If it pleases the Court, the State
19 would call Dr. Clay Nichols.

20 DR. CLAY A. NICHOLS, after being duly sworn,
21 testifies as follows:

22 **THE CLERK:** Thank you. Please have a seat in
23 the witness stand and state your full name for the
24 record.

25 **THE WITNESS:** Clay Allen Nichols, N-I-C-H-O-L-S.

DIRECT EXAMINATION**BY MR. MEADORS****Q** Good morning, Dr. Nichols.**A** Good morning.**Q** Would you please tell the jury about yourself, specifically where you're from, your background, your training, your education; and in particular your education and training in the field of expertise we're offering you today, please, Doctor?**A** Well, originally I was from Los Angeles. I live here in Columbia now. I started my education at the University of Oklahoma where I received my bachelor of science degree in 1991. After that I received my M. D. degree also from the University of Oklahoma in 1985.

After that I performed a residency in both anatomic and forensic pathology at MUSC, completing that in 1990. Then for ten years I was on the faculty at MUSC where I taught pathology to medical students, residents and fellows.

In 2000 I entered private practice here in the Columbia area. And currently I'm a board certified forensic pathologist at Richland Memorial Hospital. I'm also the chief medical examiner for Richland County. I am board certified in both anatomic and

1 forensic pathology, and I have unrestricted license
2 to practice medicine and surgery in the state of
3 South Carolina.

4 **Q** Are you the doctor on the State Child Fatality Review
5 Board, too?

6 **A** Yes, sir.

7 **Q** How many autopsies have you performed?

8 **A** 5,000.

9 **MR. MEADORS:** Your Honor, at this time we'd
10 offer Dr. Clay Nichols as an expert in the field of
11 forensic pathology.

12 **THE COURT:** Voir dire or examination?

13 **MR. STRICKLER:** Without objection.

14 **MR. MILLING:** No objection, Your Honor.

15 **MR. DELGADO:** Without objection.

16 **Q** Dr. Nichols, please tell the ladies and gentlemen of
17 the jury the difference between pathology and
18 forensic pathology, please?

19 **A** Pathology is a branch of medicine that deals with the
20 laboratory diagnosis of disease. Rather than seeing
21 patients, we see actually parts of patients. Any
22 time surgery is performed, tissue is removed, it's
23 sent to the pathologist where it's looked at
24 underneath a microscope looking for the presence or
25 absence of disease, things like moles or appendices,

1 tonsils, larger items are all looked at by a
2 pathologist.

3 Another area that a pathologist performs is
4 autopsies, and that's the dissection of a person in
5 order to determine the cause of death. There are two
6 basic types of pathology, or autopsy pathology. One
7 is what's known as a hospital autopsy where a person
8 has a natural disease process, they're in the
9 hospital, they pass away, and the family agrees to
10 have an autopsy performed looking for information
11 about the disease for various purposes. A forensic
12 pathologist performs an autopsy on people who die
13 suspicious and unnatural deaths.

14 Q And again, your office, so to speak, or where you do
15 these is in the morgue?

16 A At Richland Memorial Hospital. Correct.

17 Q Doctor, did you have an occasion to perform an
18 autopsy on the body of one Kevin Miller?

19 A Yes, I did.

20 Q And just for the record, I want to show you State's
21 8, 10. Is that the body of Kevin Miller?

22 A Yes.

23 Q When did you perform the autopsy, Doctor?

24 A On Kevin Miller, it was September 5th, 2005 at 8:00.

25 Q Doctor, tell these folks, when you are performing an

1 autopsy, would you like the body to be -- what
2 condition would you like it to be in? Obviously it's
3 a deceased person. But what condition would you like
4 the body to be in when they're brought to you before
5 you look at it?

6 **A** When the body was brought to our morgue we like the
7 body just to be picked up at the scene, placed in a
8 body bag, the body bag secured. And when we open it
9 we like it to be pretty much as close as possible to
10 the way it looked at the scene.

11 **Q** And what is the first thing you do, and what's the
12 first thing you did in this case, when you were
13 looking at the body of Kevin Miller?

14 **A** Well, you do an external examination of the body,
15 looking at the outside looking for any sort of
16 pertinent findings and any clues as far as the cause
17 of death.

18 **Q** Did you -- first of all, do you weigh or measure the
19 body?

20 **A** Yes, I do.

21 **Q** Can you tell us what Kevin Miller weighs?

22 **A** Kevin Miller was 68 inches in height which is
23 five-foot-eight. And he weighed an estimated 170,
24 180 pounds.

25 **Q** Did you get, gather any items off of his clothing to

1 start with? Or out of his clothing?

2 **A** Yes.

3 **Q** What did you get?

4 **A** Well, his clothing consisted of a pair of shorts
5 which were tan with a belt, a pair of boxer shorts
6 which were blue, a t-shirt, a ball cap, a pair of
7 flip-flops. There was a Marlboro cigarette from the
8 lower left pocket. There was \$79 in cash from upper
9 left pocket comprised of three \$20 bills, three \$5
10 bills and four \$1 bills.

11 **Q** And looking at State's 62, do you recognize that; and
12 does that relate to what you were talking about?

13 **A** Marlboro cigarette. Yes, sir.

14 **MR. MEADORS:** Your Honor, we'd offer State's 62,
15 I think without objection.

16 **MR. STRICKLER:** If it hasn't already been
17 introduced, no objection.

18 **MR. MILLING:** No objection.

19 **MR. DELGADO:** No objection.

20 (WHEREUPON, State's Exhibit No. 62 is admitted
21 into evidence.)

22 **Q** And you testified that there was also some money,
23 correct?

24 **A** That's correct.

25 **Q** And I show you what's marked State's 60 and State's

1 59. I do not believe these have been entered yet.
2 Do you recognize these, and does that relate to what
3 you're talking about?

4 **A** Yes, sir.

5 **MR. MEADORS:** Your Honor, we'd offer State's 59
6 and 60.

7 **THE COURT:** You did offer them. They're in.
8 They're already in.

9 **MR. MEADORS:** Ms. Joanna said they were not. I
10 apologize.

11 **COURT REPORTER:** I don't have them in evidence.
12 59 and 60 I don't have in evidence.

13 **MR. MEADORS:** We would not move them in.

14 **MR. STRICKLER:** Without objection.

15 **MR. MILLING:** No objection, Your Honor.

16 **MR. JOY:** No objection.

17 **THE COURT:** 59 and 60 and 62. Go ahead.

18 (WHEREUPON, State's Exhibit No. 59 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 60 is admitted
21 into evidence.)

22 **Q** You gathered those items, photographed them, turned
23 them over. They were taken to law enforcement,
24 correct?

25 **A** That's correct. Actually law enforcement

1 photographed them. I did not.

2 **Q** Let's get back to Kevin's body. What did you observe
3 once you had his clothes off?

4 **A** Specifically, there was a gunshot wound to the back
5 of the head and a partial exit on his left forehead.

6 **Q** Could you describe specifically that injury?

7 **A** It was a distant penetrating gunshot wound to the
8 back of the left head. It was located a distance of
9 5 inches from the top of the head and 1.5 inches to
10 the left of mid-line. The wound is elliptical
11 measuring 0.3 by 0.4 inch in raised diameter. A
12 roughly circular 0.10-inch abrasion border is present
13 around the wound. No soot or powder stippling is
14 identified.

15 The bullets are found in the inner skull at the
16 site traveling upwards approximately 45 degrees and
17 forward 45 degrees. The bullet -- excuse me -- along
18 its course there is significant cerebral laceration
19 as well as associated skull fractures. The bullet
20 exits the forehead and is entrapped beneath the skin
21 of the forehead.

22 The entrapped bullet is located 2.5 inches from
23 the top of the head and 2.5 inches to the left of
24 mid-line. The exit wound is elliptical and
25 irregular, measuring 0.6 by 0.4 inch. The recovered

1 bullet is a copper jacketed projectile. The number
2 217 is inscribed on the base of the bullet by myself.

3 Q Do you photograph the outside of the body first
4 before you start looking inside?

5 A Yes. Usually law enforcement photographs the body.

6 Q I show you State's 61 and State's 65. Would this aid
7 in your explanation of what you just summarized for
8 the injuries of Kevin Miller?

9 A Yes, it will.

10 Q In addition, also State's 122?

11 A Yes.

12 **THE COURT:** What numbers are those?

13 **MR. MEADORS:** Your Honor, these are 61, 65 and
14 122. Your Honor, for the record, 65 is withdrawn.
15 61, 63 and 122, I believe without objection.

16 **MR. STRICKLER:** Well, 61 and 63 are subject to
17 previously stated objections we dealt with in camera.
18 122 is the x-ray, and that's without objection.

19 **THE COURT:** X-ray as to which?

20 **MR. STRICKLER:** This is --

21 **MR. MEADORS:** Kevin Miller.

22 **MR. STRICKLER:** -- Kevin Miller, an x-ray of his
23 skull. That's without objection, Your Honor.

24 **MR. DELGADO:** The same as to Joy.

25 **MR. MILLING:** The same objection.

1 **THE COURT:** Those are subject to the defendant's
2 previous objection. I'll admit them if they're
3 relevant to the doctor's testimony.

4 (WHEREUPON, State's Exhibit No. 61 is admitted
5 into evidence.)

6 (WHEREUPON, State's Exhibit No. 63 is admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit No. 122 is admitted
9 into evidence.)

10 **Q** Doctor, let's move on. I'm going to show you what's
11 marked State's 61. Can you explain to the jury what
12 this is?

13 **A** This is the back of Kevin Miller's head,
14 approximately in this area here. It shows the
15 gunshot entrance wound. It also shows the dark mark
16 around the gunshot entrance wound which is the
17 abrasion border I mentioned previously.

18 **Q** You said in your report earlier it's a distant shot.
19 What do you mean by that, Doctor?

20 **A** What I mean is that there was no evidence of gun
21 powder or soot stippling around the wound which means
22 that the muzzle of the gun was approximately,
23 depending on the gun and the ammunition,
24 approximately 6 inches away to up to 18 inches away
25 or further when the trigger was pulled.

1 Q Showing you what's State's 63, Doctor. Do you
2 recognize that? Does that aid you in your testimony?

3 A Yes, it does.

4 Q Please tell the jury what this is?

5 A This shows a partial exit wound to Kevin Miller's
6 left forehead. You can see that there's an injury
7 there right above his eyebrow. And the gold/brown
8 object is the bullet poking out of the exit wound
9 which makes it the partial exit.

10 Q And State's 122?

11 A This is a lateral x-ray of Kevin Miller's head, and
12 it demonstrates the presence of the projectile within
13 his forehead.

14 Q What, if anything, did you do with -- or did you
15 recover that projectile?

16 A Yes, I did.

17 (WHEREUPON, State's Exhibit No. 206 is marked
18 for identification.)

19 (WHEREUPON, State's Exhibit No. 207 is marked
20 for identification.)

21 (WHEREUPON, State's Exhibit No. 208 is marked
22 for identification.)

23 (WHEREUPON, State's Exhibit No. 209 is marked
24 for identification.)

25

1 (WHEREUPON, State's Exhibit No. 210 is marked
2 for identification.)

3 Q Doctor, this is 149C, as in cat. Could you look at
4 that and tell me if you recognize it, and does it
5 relate to your testimony?

6 A This is a bullet recovered from Kevin Miller's head.

7 Q You recovered it?

8 A Yes, I did.

9 Q After you recovered it, what do you do with it,
10 Doctor?

11 A It's transferred over to law enforcement. I believe
12 Officer Glenn Ross of Columbia who is now I believe
13 in the Lexington area.

14 Q 149C, it's already in evidence, Your Honor. Before
15 we move on to Mr. Batie's, one more question. Can
16 you step down here one second. This is 209. Just
17 stand over here just so Madam Reporter can hear you.
18 Can you show to the jury on this mannequin, head
19 mannequin, where Kevin Miller got the gunshot to his
20 head?

21 A The entrance wound is approximately here. The exit
22 wound is approximately here.

23 Q Would you put an E there. Put EX there, please.

24 (Witness complies)

25 Q Doctor, finally, did you -- Doctor, 208 -- now, Your

1 Honor, at this time we'd offer 208 and 209, without
2 objection.

3 **COURT REPORTER:** What is 208? I'm sorry.

4 **MR. STRICKLER:** No objection.

5 **MR. MEADORS:** 208 is the diagram, body diagram,
6 and 209 is the head.

7 (WHEREUPON, State's Exhibit No. 208 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 209 is admitted
10 into evidence.)

11 **Q** Did you prepare this to show the jury also the
12 injuries to Kevin Miller?

13 **A** Yes, I did. It shows the entrance to the back of the
14 left head as well as the partial exit on the left
15 forehead showing the angles of trajectory.

16 **Q** Have a seat back please, Doctor.

17 **MR. MEADORS:** Your Honor, I guess 61 and 63 are
18 now in evidence. We'd so move. Your Honor said --

19 **THE COURT:** Yes, sir.

20 **MR. MEADORS:** Okay.

21 **Q** Look at State's 66, Doctor. 66, Doctor. And you
22 said you examined the body of Kevin Miller. Would
23 that aid you in your testimony as to what, if
24 anything, was found on the exterior?

25 **A** Yes, sir.

1 Q What is State's 66?

2 A It's a picture of Kevin Miller's left hand.

3 Q What, if anything, of potential evidentiary value was
4 contained on that hand?

5 A There was a phone number identified on the palm of
6 the hand.

7 Q And did you make a notation of that number?

8 A No, I did not; but law enforcement did.

9 MR. MEADORS: Your Honor, State's 66, I believe
10 without objection.

11 THE COURT: Any objection?

12 MR. STRICKLER: None other than furthering our
13 earlier noted objections.

14 MR. MILLING: The same objection, Your Honor.

15 MR. DELGADO: The same objection.

16 THE COURT: All right. Thank you. It's
17 admitted.

18 (WHEREUPON, State's Exhibit No. 66 is admitted
19 into evidence.)

20 Q And, Doctor, State's 72, is that a photograph of the
21 bullet you took out of his head?

22 A Yes, it is.

23 MR. MEADORS: Your Honor, we'd offer State's 72.

24 THE COURT: Any objection?

25 MR. STRICKLER: No, sir.

1 **MR. MILLING:** No objection.

2 **THE COURT:** Without objection. Hearing none.

3 (WHEREUPON, State's Exhibit No. 72 is admitted
4 into evidence.)

5 **Q** Doctor, how long, based on your training and
6 experience, would Kevin Miller have lived after he
7 received that gunshot wound to the head?

8 **A** Seconds to minutes. It's quite possible his heart
9 could beat for a period of time after this gunshot
10 wound. Whether or not he was conscious, I can't say.
11 But it would be a relatively brief period of time.

12 **Q** For the record, do you have an opinion to a
13 reasonable degree of medical certainty of the
14 proximate cause of death of Kevin Miller?

15 **A** Yes, I do.

16 **Q** Would you please tell the ladies and gentlemen of the
17 jury?

18 **A** Kevin Miller died as a result of a cerebral
19 laceration secondary to a penetrating gunshot wound
20 to his head.

21 **Q** Did you do George Batie the same day?

22 **A** Yes, I did.

23 **Q** And please tell the jury what you did with Mr. Batie,
24 specifically starting with the external exam?

25 **A** Well, once again, an external exam was performed

1 looking once again for any sort of injury or other
2 clue as far as the cause of death.

3 Q And you can you describe Mr. George Batie to these
4 folks?

5 A Mr. Batie had a height of 72 inches which is six feet
6 and a weight of approximately 220 pounds.

7 Q Can you describe injuries that were on Mr. Batie's
8 body?

9 A Yes. There were three gunshot wounds identified to
10 Mr. Batie's body. Gunshot number one, this is a
11 distant perforating gunshot wound to the left
12 forehead at a distance of 2 inches from the top of
13 the head and 2.5 inches to the left of mid-line. The
14 wound is circular with a 0.3 inch diameter. No soot
15 or powder stippling is identified. There is a
16 0.35-inch abrasion border at the 1 o'clock position.

17 The bullet is found to enter the skull at this
18 site, taking a downward and slightly left tangential
19 track through the skull, ultimately exiting out of
20 the base of the skull behind the left ear. The exit
21 wound is a gutter type wound measuring 1.5 by 0.3
22 inch in greatest diameters. It's located 5.5 inches
23 from the top of the head and 3.5 inches to the left
24 of mid-line.

25 The bullet then reenters the top of the left

1 shoulder at a distance of 9 inches from the top of
2 the head and 4 inches to the left of mid-line. The
3 wound is elliptical measuring 0.3 by 0.4 inch in
4 raised diameters. A roughly 01-inch circular
5 abrasion borders around the wound.

6 The bullet travels essentially straight down
7 through the left chest cavity lacerating the left
8 lower lung lobe, perforating the diaphragm and
9 perforating the stomach, ultimately coming to rest in
10 the muscles of the lower anterior abdomen.

11 There is an associated left hemothorax and hemo
12 peritoneal. The recovered bullet is a jacketed
13 projectile. The numbers 281 and 1 are inscribed on
14 the base of the bullet by myself.

15 Q Doctor, there are a lot of words I didn't understand
16 in that.

17 A Yeah.

18 Q But can you tell me a hemothorax mean?

19 A Hemothorax means there's blood in the chest cavity.
20 With the bullet going through and lacerating the left
21 lung lobe, that would cause bleeding into the left
22 chest cavity. That's a hemothorax. A similar term
23 is a hemoperitoneum. This means there's blood in the
24 abdominal cavity which was caused by the bullet going
25 through the stomach.

1 Q That would be gunshot number one?

2 A That's correct.

3 Q Did you find another gunshot?

4 A Yes, I did.

5 Q Will you tell them about that?

6 A Gunshot wound number two is to the left hip at a
7 distance of 42 inches from the top of the head. The
8 wound is rather circular with a 0.3-inch diameter.
9 No distinct abrasion border is identified. No soot
10 or powder stippling is identified.

11 The bullet travels approximately 45 degrees
12 downward and 45 degrees to the right, splintering the
13 left femur. The recovered projectile is a severely
14 fractured bullet. A copper jacket is apparent. The
15 numbers 218 and 2 are inscribed on the base of the
16 jacket by myself.

17 Q And could you show me that in a minute?

18 A Okay.

19 Q But then is there another gunshot number three?

20 A Yes, sir. Gunshot wound number three is a distant
21 perforating distant gunshot wound to the left
22 anterior thigh at a distance from 47 inches from the
23 top of the head. The wound is circular, measuring
24 0.35 inch in diameter. No soot or powder stippling
25 is identified. No distinctive abrasion border is

1 present.

2 The bullet travels approximately 60 degrees to
3 the right and 30 degrees downward, exiting the left
4 medial thigh at a distance of 48 inches from the top
5 of the head. The exit wound is 0.4 by 0.1 inch in
6 raised diameter. The bullet then reenters the right
7 medial thigh at a distance of 46.5 inches from the
8 top of the head.

9 The reentrance wound is circular with a 0.5-inch
10 diameter. It is surrounded by approximately 2.5-inch
11 contusion. The bullet continues along this track
12 where it comes to rest behind the right knee. The
13 recovered bullet is a copper jacketed projectile.
14 The numbers 218 and 3 are inscribed on the base of
15 the bullet by myself.

16 Q Doctor, just look at these yourself. This is State's
17 110, State's 109. Do these relate to your testimony,
18 and will they help you explain the injuries to the
19 jury?

20 A Yes, it would.

21 Q And while I'm going through this, State's 115 and
22 116, would these also help you explain the injuries
23 to Mr. Batie?

24 A Yes, sir.

25 Q State's 114, State's 111?

1 **A** Yes.

2 **Q** State's 112?

3 **A** Yes, sir.

4 **Q** And State's 113?

5 **A** Yes, sir.

6 **MR. STRICKLER:** As to Mr. Oliver, 111, 112, 113
7 and 114, Your Honor, I have no objection. Those are
8 x-rays. The others are subject to the previously
9 stated objections.

10 **THE COURT:** Thank you.

11 **MR. MILLING:** Your Honor, we would have the same
12 objections as voiced by Mr. Oliver.

13 **MR. DELGADO:** The same objections for Mr. Joy.

14 **THE COURT:** All right.

15 **Q** Doctor, let's start --

16 **COURT REPORTER:** Wait a minute. Are they in?

17 **THE COURT:** In evidence.

18 (WHEREUPON, State's Exhibit No. 109 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 110 is admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 111 is admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit No. 112 is admitted
25 into evidence.)

1 (WHEREUPON, State's Exhibit No. 113 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 114 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 115 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 116 is admitted
8 into evidence.)

9 Q 111, 114, 112, 113, 109, 110, 115 and 116. Doctor,
10 do you mind getting down one more time?

11 A Certainly.

12 Q With the Court's permission. If you would stand over
13 there, please, facing Madam Court Reporter. Doctor,
14 I want to show you State's 115 and 116 at this point.

15 A Show this to the jury?

16 Q Please. Yes, sir. They're in evidence. Call the
17 number out, please.

18 A No. 116 shows the entrance wound and the exit wound
19 to the left thigh. This would be approximately here
20 coming out here. And then 115 is the reentrance to
21 the right thigh here. And that bullet actually
22 causes very little damage. It's all soft tissue.
23 The bullet here: In, out here, reentered here and
24 comes to rest behind the right knee.

25 Q When Mr. Batie got that shot --

1 **A** Yes, sir.

2 **Q** -- and you don't know what order these came in. You
3 can't sit here and tell this jury one, two, three?

4 **MR. STRICKLER:** Objection to the leading.

5 **THE COURT:** Yes, sir. That's leading.

6 **Q** Can you tell the jury what order these came in?

7 **A** No, I cannot. The number of sequence is the number
8 of sequence I assigned during the autopsy. It does
9 not indicate the firing sequence.

10 **Q** Assume these facts, that that was the first shot that
11 Mr. Batie got, would he have been able to talk after
12 that?

13 **A** Sure.

14 **Q** Move some?

15 **A** Sure.

16 **Q** So would this shot have been -- have killed him?

17 **A** No.

18 **Q** And on your summary, that would be gunshot what?

19 **A** Number three.

20 **Q** Number three. Okay. So let's go to gunshot two.
21 Okay? I'll hand these to you. If you'll read the
22 number out.

23 **A** This is actually a continuation of number three. 111
24 is an x-ray showing the bullet there behind the right
25 knee. 114 is a picture of the fractured femur. This

1 is the pelvic bone here. This is your thigh bone,
2 the femur coming down here. And this area here is
3 shattered. And the denser areas around here that you
4 see is a fragmented bullet.

5 This shows the same thing. Although the x-ray
6 was flipped around when this picture was taken, this
7 is really on the left side. You can see the bullet
8 fragments more clearly here. And this is looking at
9 a side view of the same area, once again
10 demonstrating the bullet fragments.

11 Q And if you'll just stay up there, Doctor.

12 MR. MEADORS: Your Honor, State's 207, I believe
13 without objection.

14 COURT REPORTER: Diagram?

15 MR. MEADORS: Diagram of George Batie.

16 (WHEREUPON, State's Exhibit No. 207 is admitted
17 into evidence.)

18 Q Just show on here, Doctor, number three is where?

19 A Number three, the left thigh here, exits here,
20 reenters here, comes to rest behind the right knee.

21 Q Arbitrarily designated as number three?

22 A That's correct.

23 Q Gunshot wound number two?

24 A Left hip up in this area travels down, fractures the
25 thigh bone on the left side or the left femur.

1 Q Would George Batie have been able to talk after that?

2 A Yes.

3 Q Move?

4 A With some difficulty.

5 Q Could he have moved his hands after that?

6 A Yes.

7 Q Would that gunshot number two kill him? Would that
8 have killed him?

9 A Not immediately.

10 Q Finally, State's 206 is a diagram of Mr. Batie's
11 head, I believe without objection.

12 MR. STRICKLER: Correct, sir.

13 MR. MILLING: No objection.

14 THE COURT: Hearing none.

15 (WHEREUPON, State's Exhibit No. 206 is admitted
16 into evidence.)

17 A This is gunshot wound number one. It shows an
18 entrance here, coming across, exiting the left behind
19 the ear, having a gutter injury which means very
20 long, elliptical and shallow; exits here, then
21 reenters the top of the left shoulder.

22 Now, what this shows apparently on this diagram
23 is that the bullet makes an angle turn. It doesn't
24 do that. These diagrams are prepared in what's known
25 as the anatomic position which by definition shows a

1 person like this, palms forward, feet flat on the
2 ground, face forward. What this would have to do to
3 re-approximate these is actually tilt his head
4 upward, pass a probe from entrance to the exit to the
5 reentrance wound, and that will demonstrate a
6 straight line.

7 Q And, in fact, do you have a picture showing that?

8 A Yes, I do.

9 Q And looking at State's 109, tell the jury about that?

10 A 109, this demonstrates the entrance wound to the
11 forehead, the exit wound behind the ear and the
12 reentrance to the top of the shoulder.

13 Q And again, you said distance on this?

14 A That's correct. There is no soot or powder
15 stippling. Once again, an approximate makes is at
16 least 6 to 18 inches away or further when the gun was
17 fired.

18 Q What about gunshot two and three?

19 A The same situation.

20 Q And you mentioned earlier saying this was kind of
21 hard to show on this. Can you better show the
22 position with 110; and if you can, explain it to this
23 jury?

24 A Yes, I can. This shows a probing passed through the
25 entrance wound, the exit wound behind the ear, then

1 the reentrance to the top of the shoulder. Once
2 again, you can see where the chin has to be cocked up
3 making a straight line for the bullet.

4 Q And the reason you do -- why do you do that? What is
5 that able to show you? What does that tell the jury?

6 A It shows the actual trajectory of the bullet.

7 Q Now, Doctor, just one or two final things. To be
8 consistent, on State's 210, marked Batie, just mark
9 on there entrance, please.

10 (Witness complies)

11 A The entrance wound is here, and the exit wound is
12 elliptical and behind the left ear with the
13 reentrance right here.

14 Q Now, Doctor, based on your experience and your
15 examination of George Batie's body, showing this
16 jury, would that shot be consistent with Mr. Batie
17 being down? Could you come show them here?

18 A In order for that to line up, the gun would have to
19 be approximately in this position.

20 Q After gunshot two and three, would I have been able
21 to -- would George Batie in your opinion have been
22 able to move his hand?

23 A Yes.

24 Q Would he have been unable to do a safe?

25 A With two and three?

1 Q Yes, sir.

2 A Yes, sir.

3 Q After gunshot number one, would George Batie have
4 been unable to do a safe?

5 A I doubt that. Because when the bullet went through
6 the left side of the head, that controls the right
7 side of the body. So all the motor functions to the
8 right side of the body are completely gone. Within a
9 short period of time he would have also lost motion
10 and coordination in his left side of his body.

11 Q You can have a seat back.

12 MR. MEADORS: We'd now move that into evidence.
13 State's 210.

14 MR. STRICKLER: Without objection.

15 MR. MILLING: No objection, Your Honor.

16 MR. DELGADO: Without objection.

17 (WHEREUPON, State's Exhibit No. 210 is admitted
18 into evidence.)

19 Q What happened to the projectiles in George Batie's
20 body?

21 A Those were recovered and transferred over to law
22 enforcement, once again Glenn Ross.

23 Q Would you look at those and tell me if that is them?

24 A Yes. The bullet number 1 and number 3 are intact
25 bullets. The number 2 is the fragmented bullet from

1 the left femur.

2 **Q** Thank you, Doctor. And for the record again, it's
3 State's 149A, I believe already in evidence. And did
4 you take a picture of those projectiles as they were
5 when you took them out? And, if so, is that
6 contained in State's 74?

7 **A** Law enforcement took the bullets, yes.

8 **Q** And are those are the bullets you took out?

9 **A** Yes.

10 **MR. MEADORS:** We'd offer State's 74, Your Honor.

11 **THE COURT:** Any objection?

12 **MR. STRICKLER:** No, Your Honor.

13 **MR. MILLING:** No, Your Honor.

14 **MR. DELGADO:** No, Your Honor.

15 (WHEREUPON, State's Exhibit No. 74 is admitted
16 into evidence.)

17 **Q** Beg the Court's indulgence. As a part of conducting
18 autopsies, do you all get fluids from the bodies,
19 too?

20 **A** Yes, we do.

21 **Q** And had Mr. Batie had -- can you tell from that if he
22 had been drinking, that he had consumed alcohol that
23 night?

24 **A** He had a blood ethanol level of 0.252 percent.

25 **Q** He had had a few?

1 **A** Yeah.

2 **Q** Based on your examination of George Batie's body; and
3 for the record, that is the body you examined, number
4 110, correct?

5 **A** Yes, sir.

6 **Q** Do you have an opinion based on that examination to a
7 reasonable degree of medical certainty, Doctor, as to
8 the proximate or the cause of death of George Batie;
9 and, if so, please tell these ladies and gentlemen?

10 **A** Mr. Batie died as a result of cerebral laceration due
11 to a gunshot wound to his head.

12 **Q** As to gunshot number three, how long would he have --
13 could he have lived?

14 **A** A long time.

15 **Q** Number two?

16 **A** A long time.

17 **Q** Number one?

18 **A** Seconds to minutes.

19 **Q** As always, thank you, Doctor.

20 **THE COURT:** Cross examination.

21 **MR. STRICKLER:** May it please the Court, sir.

22 CROSS EXAMINATION

23 **BY MR. STRICKLER**

24 **Q** Good morning, Doctor.

25 **A** Good morning, Mr. Strickler.

1 Q I'd just like to follow up with a few things, if I
2 could, please. And I'll take it in the order of
3 sequence that Mr. Meadors did, starting with Mr.
4 Miller. You've described the procedure that you
5 conduct in doing an autopsy both generally and in
6 this case. It is a procedure that you follow, I take
7 it, in every case. You examine the body externally;
8 clothed first, correct?

9 A Yes, sir.

10 Q Okay. And then unclothed externally and then proceed
11 with the other examinations you've talked about,
12 correct?

13 A That's right.

14 Q All right. And you note and record your findings as
15 this process is unfolding, correct?

16 A Yes.

17 Q With particular emphasis on noting any evidence of
18 trauma, correct?

19 A That's correct.

20 Q After all, that's usually what we're looking for in
21 this kind of situation, correct?

22 A Yes, sir. That's correct.

23 Q And there a number of varieties of trauma. You've
24 spoken here today about gunshot wound trauma,
25 correct?

- 1 **A** That's correct.
- 2 **Q** But there are other varieties of trauma. I mean, sad
- 3 but true, trauma associated with strangulation, for
- 4 example?
- 5 **A** Yes, sir.
- 6 **Q** Both manual strangulation and what's termed ligature
- 7 strangulation?
- 8 **A** That's correct.
- 9 **Q** There is trauma termed a blunt force trauma?
- 10 **A** Yes, sir.
- 11 **Q** Okay. And while you've described the trauma in this
- 12 case in terms of gunshot wounds because that's what
- 13 was here, had you noted trauma of some other nature
- 14 in this case, you would have recorded it, correct?
- 15 **A** If I felt it was significant.
- 16 **Q** Okay. Can you describe, please, trauma that one
- 17 would expect to find associated with what's commonly
- 18 referred to as a pistol whipping?
- 19 **A** Pistol whipping is where someone is hit with the side
- 20 or the butt of a pistol causing deep lacerations or
- 21 bruising to that effected area.
- 22 **Q** Okay. Specifically pistol whipping to the head?
- 23 **A** That's correct.
- 24 **Q** You would expect to find -- that would be a blunt
- 25 object, as broadly construed, correct?

- 1 **A** Yes, sir.
- 2 **Q** And you would expect to find indications that some
- 3 such assault had taken place, correct?
- 4 **A** That's correct.
- 5 **Q** And you termed that deep lacerations and what?
- 6 **A** Contusions or bruises.
- 7 **Q** Bruises. Okay. The contusions would be associated
- 8 with the lacerations or tears?
- 9 **A** Often. Yes, sir.
- 10 **Q** Now, specifically as to Mr. Miller, did you find any
- 11 indications of pistol whipping associated with his
- 12 head?
- 13 **A** No, I did not.
- 14 **Q** Had you found those, you certainly would have noted
- 15 them, correct?
- 16 **A** Yes.
- 17 **Q** Okay. If you can, do you have your reports with you?
- 18 **A** Yes, I do.
- 19 **Q** Because I need to bounce to the other one. As to Mr.
- 20 Batie, specifically the same question?
- 21 **A** The same answer.
- 22 **Q** No evidence of --
- 23 **A** No evidence of pistol whipping.
- 24 **Q** And you certainly again would have noted that had it
- 25 been present, correct?

1 **A** That's correct.

2 **Q** I mean, you're there to determine cause of death.

3 All right. You're there also to go ahead and develop
4 all the facts and circumstances you can from your
5 position regarding anything associated with the body
6 and the case, right?

7 **A** That's correct.

8 **Q** And, you know, where it leads is where it leads. But
9 you're here partially to gather evidence and then to
10 render opinion as to cause of death, right?

11 **A** That's correct.

12 **Q** Okay. So, had those been present, you would have
13 noted them?

14 **A** That's correct.

15 **Q** I mean, you would have noted them. You would have
16 documented them as to their location, as you've done
17 in your description of the various wounds here?

18 **A** Yes.

19 **Q** You would have seen that they were photographed to go
20 ahead and document them, as was done with the various
21 wounds here, correct?

22 **A** That's right.

23 **Q** And probably go ahead and diagram them just generally
24 as to their location, as you have with the various
25 wounds that you've described here?

- 1 **A** That's correct.
- 2 **Q** Okay. That's just pretty much the procedure that you
- 3 go through, right?
- 4 **A** Yes, it is.
- 5 **Q** Okay. Now, really just a couple of other things.
- 6 **A** Yes.
- 7 **Q** I mean, I'm certainly not going to stand up here and
- 8 have any question at all about the cause of death
- 9 because a gunshot wound through the brain is usually
- 10 terminal in nature?
- 11 **A** Usually. Yes, sir.
- 12 **Q** Yes, sir. As to Mr. Batie, you've indicated as to
- 13 the numbering that you applied, and you say this in
- 14 your report, arbitrarily assigned numbers 1, 2 and 3
- 15 to the gun shots?
- 16 **A** That's correct.
- 17 **Q** You have got to call something 1, something 2 and
- 18 something 3. It does not indicate any conclusions on
- 19 your part as to the sequence of the shots?
- 20 **A** That's correct.
- 21 **Q** That's what you testified to. That's fine. You
- 22 testified to one wound that was a soft tissue wound
- 23 traveling through one leg and lodging I believe in
- 24 the other leg; and then a second wound to the leg
- 25 that ended up shattering -- I don't want to put words

1 in your mouth -- but breaking the femur on that leg?

2 A Correct.

3 Q The femur is the thigh bone?

4 A That's correct.

5 Q That is, if not the largest bone in the body,
6 certainly one of the largest bones in the body,
7 correct?

8 A That's correct.

9 Q A very debilitating injury?

10 A Yes, it would.

11 Q Is someone able to get up and walk around with a
12 shattered femur?

13 A Only on one leg. The other one should be dragging.
14 Yes, sir.

15 Q Shattering of the femur is such that it is so
16 traumatic that the leg can go into muscle spasms as a
17 result of it, correct?

18 A That's possible. But I have no evidence of that.

19 Q Indeed. I'm just trying to explore the significance
20 of that injury. But the individual would after that
21 injury, per the question from Mr. Meadors, have been
22 able to get up on his knees and stand?

23 A With the weight bearing on the other --

24 Q All on the other leg?

25 A That's correct.

1 Q Because certainly were weight bearing -- I mean, we
2 have the femur shattered. It's two parts?

3 A Oh, at least.

4 Q At least. It's shattered. It's more than two parts
5 probably?

6 A Mm-hmm (affirmative).

7 Q And if the weight is on that leg at all, the pieces
8 either aren't going together or they're grinding
9 together?

10 A That's correct.

11 Q Which to term that uncomfortable would be a gross
12 understatement, correct?

13 A That's correct.

14 Q So no way he could have been on that leg if indeed he
15 were on his knees as you discussed with Mr. Meadors,
16 correct?

17 A With the weight being beared (sic) by the right leg,
18 yes.

19 Q And I don't take it that you've expressed an opinion
20 that that is how the position he was in at the time
21 the shot to his head occurs?

22 A That's correct. It was in answer to Mr. Meadors'
23 question.

24 Q We can theorize all sorts of things as far as the
25 position goes. He asked you a question; you answered

1 it, right?

2 A That's correct.

3 Q Okay. You testified -- and this is lastly, actually.
4 Lastly, you testified regarding a blood alcohol on
5 Mr. Batie. You also take samples of a number of
6 things. And you take samples to be used to determine
7 levels of drugs, various drugs in the system?

8 A That's correct.

9 Q You all don't do that testing yourself?

10 A No, I do not.

11 Q That's sent somewhere else to do?

12 A Correct.

13 Q Doctor, thank you very much.

14 A Mr. Strickler, a pleasure.

15 **THE COURT:** Cross.

16 CROSS EXAMINATION

17 **BY MR. MILLING**

18 Q Dr. Nichols, good morning.

19 A Good morning. How are you?

20 Q My name is Jonathan Milling. I represent Mr. Dominic
21 Gallman in this case. As a part of your examination
22 of the body, you tried to do as thorough a job as you
23 could, correct?

24 A That's correct.

25 Q And that's what you documented in your report?

1 A That's correct.

2 Q Did you also talk to law enforcement as a part of
3 performing the autopsy?

4 A Law enforcement was there during the autopsy.

5 Q Okay. As a result solely of looking and examining
6 the body, not as a result of any conversations you
7 may have had with law enforcement, solely from
8 looking and examining the body, were you able to
9 determine a time of death?

10 A I was not asked to do that. The Coroner's office
11 does that.

12 Q Okay.

13 A They do the scene investigation which means they go
14 out to the scene where the person has died. That is
15 the best place to determine time of death. I was not
16 asked to do determine a death of death. The
17 Coroner's Office did that.

18 Q Are you aware of whether or not they did that?

19 A I'm sure they did.

20 Q Okay. Thank you. Nothing further, Your Honor.

21 CROSS EXAMINATION

22 **BY MR. DELGADO**

23 Q Good morning, sir.

24 A Good morning, Mr. Delgado.

25 Q How are you?

1 **A** Fine, thank you. Yourself?

2 **Q** Fine, thank you. Doctor, just two maybe general
3 areas, if I may. I heard you, but I'm sorry, I
4 didn't register it. Doctor, you've been employed as
5 a forensic pathologist -- let me rephrase that. How
6 many forensic pathologies, I mean, autopsies have you
7 done in your career?

8 **A** About 5,000.

9 **Q** 5,000?

10 **A** Yeah.

11 **Q** You have been here in Columbia for how long a period
12 of time, sir?

13 **A** Going on seven years.

14 **Q** Seven years?

15 **A** Yeah. Past seven years.

16 **Q** Your -- I don't want to say operating room, but where
17 you physically do the work that you've described is
18 here in Columbia?

19 **A** It's at Richland Memorial Hospital in the basement.

20 **Q** Right, sir in where? I'm sorry.

21 **A** In the basement at Richland Memorial.

22 **Q** In the basement. All right, sir. Doctor, the reason
23 you call it Richland Memorial Hospital, that's the
24 old name?

25 **A** That's correct.

- 1 Q The reason you would call it that is because that's
2 the name that you came to know it as when you first
3 started there?
- 4 A That's correct.
- 5 Q All right, sir. The name now as a result of the
6 takeover is ...?
- 7 A Palmetto Health Richland.
- 8 Q Palmetto Health Richland. All right, sir. Doctor,
9 when you do your autopsies, who is present with you?
- 10 A Myself.
- 11 Q Yes, sir.
- 12 A I have an assistant known as a deaner.
- 13 Q Who?
- 14 A Who does most of the dissecting work and helps with
15 the cleanup. There is usually a person from the
16 Coroner's Office. And for cases of homicide, a law
17 enforcement usually shows up, somebody from crime
18 scene.
- 19 Q What was the phrase you used? I'm sorry. The
20 deaner?
- 21 A A deaner, yes.
- 22 Q All right.
- 23 A Okay.
- 24 Q That's someone to assist you --
- 25 A That's correct.

1 Q -- who is employed with your office or with the
2 hospital?

3 A That's correct.

4 Q All right, sir. Doctor, when you -- during these
5 5,000 autopsies, you have to make clear what you saw,
6 when you saw it, how you saw it, all of that.
7 Correct, sir?

8 A Yes.

9 Q How are those notes made?

10 A I have my notes right here.

11 Q What I'm saying is, you make those notes?

12 A That's correct.

13 Q So contemporaneous with what you're observing you're
14 writing things down?

15 A That's correct.

16 Q When you do that there is three other people or so in
17 the room with you?

18 A That's correct sir.

19 Q All right, sir. To make certain that they are there
20 to -- not to overlook what you're saying or doing but
21 to assist you in making certain that your report is
22 accurate and thorough and complete?

23 A As best as possible; yes, sir.

24 Q Well, absolutely. I'm not trying to say it's
25 perfection.

1 **A** Okay.

2 **Q** I understand. That's what you do for everything
3 every time?

4 **A** Yes, sir.

5 **Q** Those notes are then typed up. Is that correct, sir?

6 **A** A transcription -- a dictation is made and the
7 dictation is transcribed and a final report is
8 issued.

9 **Q** That transcription or that dictation is done by you,
10 sir?

11 **A** No. We have transcriptionists.

12 **Q** Oh?

13 **A** I dictate it. We have secretary-like, administrative
14 people who do the typing.

15 **Q** I understand. So you use a dictating machine from
16 your notes to record?

17 **A** That's correct.

18 **Q** All right, sir. You don't write that down yourself.
19 That's dictated and then transcribed?

20 **A** That's correct, sir.

21 **Q** Thank you, Doctor. Notice to see you. Thank you.
22 That's all.

23 **THE COURT:** Anything further?

24 **MR. MEADORS:** No, sir.

25 **THE COURT:** All right.

1 **MR. STRICKLER:** Your Honor, if I could, please,
2 based on their cross?

3 **THE COURT:** I'm sorry?

4 **MR. STRICKLER:** Based on their cross, I have
5 some other questions.

6 **THE COURT:** All right. Go ahead.

7 **MR. STRICKLER:** Thank you.

8 RECROSS EXAMINATION

9 **BY MR. STRICKLER**

10 **Q** Just briefly. I mean, as far as time of death goes,
11 there's a lot of misconceptions about that, aren't
12 there, Doctor?

13 **A** Yes, sir.

14 **Q** And in realty, as opposed to the movies and TV, --

15 **A** Mm-hmm (affirmative).

16 **Q** -- generally the best way you can arrive at an
17 estimate as to time of death is from the facts and
18 circumstances surrounding the incident, right?

19 **A** That's correct.

20 **Q** The last time the person is seen alive, the first
21 time they're discovered deceased gets your time
22 range?

23 **A** That's correct.

24 **Q** People talk about rigor mortis or livor mortis and
25 this and that. There are enough variables to cover

1 that or those things that it's just a broad range of
2 time that you're able to arrive at them all but in
3 the most unusual case. Correct?

4 **A** Depending on the situation. Sometimes we get closer
5 than others. But it is an estimated time of death.

6 **Q** And the best way generally would be, just as we
7 described, when can we last place them alive and when
8 do they we first find them deceased, and they died
9 somewhere in that timeframe, right?

10 **A** That's correct.

11 **Q** All right. Thank you very much.

12 **THE COURT:** Anything else from the doctor?

13 **MR. MEADORS:** No, sir.

14 **THE COURT:** Thank you very much, Doctor. You
15 may come down.

16 **THE WITNESS:** Thank you, Judge Cooper.

17 **THE COURT:** May he be excused?

18 **MR. STRICKLER:** Without objection.

19 **MR. MEADORS:** No objection.

20 **MR. MILLING:** No objection.

21 **MR. DELGADO:** No objection.

22 **THE COURT:** Without objection. Next witness.

23 **MR. ROSS:** Your Honor, may we approach?

24 **THE COURT:** Certainly.

25 (Whereupon, a bench conference is had)

1 **THE COURT:** All right, ladies and gentlemen.
2 There is a matter of law I need to take up with the
3 attorneys. It won't take long. We're moving right
4 along. So I'll ask you to go to the jury room, not
5 discuss the case among yourselves while you're in the
6 jury room. You got a cup of coffee or something in
7 there, Mr. Broome?

8 **THE BAILIFF:** Yes, sir.

9 **THE COURT:** All right. Good.

10 (Jury out at 10:36 a.m.)

11 **THE COURT:** All right. Is this something that
12 you just wish for attorneys to examine? Well, why
13 you don't you go ahead and proffer it. Where is your
14 witness?

15 (Pause)

16 **MR. DELGADO:** Your Honor.

17 **THE COURT:** Yes.

18 (Pause)

19 **MR. DELGADO:** Your Honor, we've just been handed
20 from the solicitor 21 pages of telephone records that
21 may or may not be accurate summations under rule
22 1006.

23 **THE COURT:** Are they summations?

24 **MR. DELGADO:** Well, it looks like it.

25 **MS. MCDUFFIE:** No, sir, Your Honor. This is a

1 summary of things already in evidence.

2 **THE COURT:** Let's let the solicitor put on the
3 record what the evidence purports to be, and I'll ...

4 **MS. MCDUFFIE:** Your Honor, these are a summary
5 of the phone records that are already in evidence
6 through the phone record custodians. And they show
7 calls made to and from those phone numbers which are
8 listed in the records already in evidence.

9 **THE COURT:** And those are taken from --

10 **MS. MCDUFFIE:** From the four sets of phone
11 records already entered into evidence.

12 **THE COURT:** And someone transcribed certain of
13 the records that are in evidence and created a
14 summary to show calls to and from --

15 **MS. MCDUFFIE:** To and from the phone numbers
16 testified by Omekas Moaney or Blue; the phone number
17 testified to by Mike Allen; the cellphone registered
18 to Ms. Leticia Jones, which she testified to that
19 number and the home phone number; the phone number
20 testified to as the cellphone number used by Stanley
21 Oliver. The records are admitted and then Mike Allen
22 testified to that number. The home phone of Renata
23 Williams to which she testified to the number and
24 also the records custodian; and the cellphone that
25 was registered to Virginia Deas which was entered

1 into evidence through the records custodian. And I
2 believe Mr. Delgado in his objection said that his
3 client had access to that number.

4 **MR. DELGADO:** No, sir. I don't believe I did
5 about that. I don't think I ever said -- the
6 solicitor can correct me. Virginia Deas, the way
7 this is structured is, 463-2210 was also changed to
8 238-7294. The way the solicitor wants to phrase this
9 is: Cellphone registered to Virginia Deas, comma,
10 used by Kenneth Joy.

11 The record will reflect what I said or what I
12 didn't say or what I did or what I went didn't do.
13 But I don't think I asked him -- I asked him about
14 Virginia Deas. I don't think I asked him about any
15 connection to Kenneth Joy.

16 I did ask Ms. Tatanisha Robinson about the use
17 of a telephone number that Ken used through his work.
18 She talked about -- the solicitor asked her how many
19 phone calls or who else would have used that
20 telephone? She said, well, I don't have all day to
21 be able to tell you all the people who would have
22 used that phone.

23 But the solicitor can correct me, and I'll stand
24 by whatever is in the record. I don't think there is
25 a connection between Virginia Deas and Ken Joy.

1 **MS. MCDUFFIE:** Your Honor, Mike Allen also
2 testified that that was a phone that he would use to
3 contact Mr. Joy, and I believe that Omekas Moaney did
4 as well.

5 **MR. DELGADO:** I can't recall that.

6 **THE COURT:** You know, I can't pick out one call
7 and say --

8 **MR. DELGADO:** Certainly.

9 **THE COURT:** It either is not in those records.
10 That's subject to cross examination. If they are
11 presented in some form or fashion that you feel is
12 prejudicial, then you need to make that objection on
13 the record.

14 It appears to the Court that the rule -- but
15 again, I haven't even looked at it; I don't think I
16 want to see -- they appear to be summaries of
17 documents that are already in evidence. Now, how it
18 was compiled is again the subject of cross
19 examination for the witness as to how she did that.
20 So --

21 **MR. STRICKLER:** In order to prepare to cross
22 examine the witness, I have to sit down and take a
23 look at each of these entries and make sure that the
24 time and the date has been done correctly. And in
25 all probability, if I'm reading things right, I'm

1 going to have to cross reference between one record,
2 one set of records and another set of records. That
3 may very well be necessary. And that will take for
4 someone like me some period of time. I mean, I --

5 **THE COURT:** I'm not insensitive to the burden
6 that puts on the defendants. Why don't we do this.
7 Who is going to -- are you doing it?

8 **MS. MCDUFFIE:** Yes, sir.

9 **THE COURT:** Let's proffer this witness, find out
10 her method. And it may simplify things. I don't
11 know.

12 **MS. MCDUFFIE:** The State would call Dana Outen.

13 DANA OUTEN, after being duly sworn, testifies as
14 follows:

15 **THE CLERK:** Thank you. Please have a seat in
16 the witness stand and state your full name for the
17 record.

18 **THE WITNESS:** Dana Outen.

19 DIRECT EXAMINATION

20 **BY MS. MCDUFFIE**

21 **Q** Ms. Outen, did you have a chance to examine the phone
22 records, the four sets of phone records admitted into
23 evidence in this case?

24 **A** Yes, ma'am.

25 **Q** And did you have a chance to compile those records

Dana Outen - Direct by Ms. McDuffie (In Camera)

1737

1 into a summary of phone calls?

2 A Yes.

3 Q And which numbers did you use to create the summary?

4 A The numbers for the cellphones of Leticia Jones that
5 Dominic had access to is the , ; and
6 also Stanley Oliver, ; and the home phone
7 number of Renata Williams which is registered that
8 Stanley had access to, ; and a cellphone by
9 the number of .

10 Q Those are the four sets of records that were used?

11 A Yes.

12 Q And what method did you use to compile them?

13 A I just took -- I took the four sets of the calls, the
14 records that we've got from the different
15 subscribers, and I went through each day from
16 September the 2nd through September the 20th of 2005.
17 And I just took the numbers that was used to call
18 each of the numbers that were related to each of
19 these four people.

20 Q And if a call showed up, hypothetically, from
21 Renata's phone records to Stanley's phone records
22 where Renata would be calling Stanley and then it
23 also showed up on his phone number where he received
24 that call, how would you --

25 A The two -- I just took the two phone records and

1 looked at them and just because they were on the same
2 day and the same time and just the times, the time
3 would just be off a little differently because of the
4 incoming and the outgoing calls.

5 Q So you would only put it down once?

6 A Yes.

7 Q You would not list it twice?

8 A Mm-hmm (affirmative).

9 Q And to the best of your knowledge, is this a fair and
10 accurate summary of what was contained in the four
11 sets of phone records entered into evidence?

12 A To the best of my knowledge, yes.

13 MS. MCDUFFIE: Nothing further at this time.

14 CROSS EXAMINATION

15 BY MR. STRICKLER

16 Q As to -- good morning, ma'am.

17 A Good morning.

18 Q As to phone number , okay, you have cellphone
19 Stanley Oliver got on 9-8-05?

20 A Yes, sir.

21 Q The date of acquisition on the part of Mr. Oliver on
22 the what?

23 A Is based on what? I'm sorry?

24 Q Where did you get the information as to when he got
25 the phone?

Dana Outen - Cross by Mr. Strickler (In Camera)

1739

- 1 **A** That was just information that we had from the
2 subscriber.
3 **Q** I'm sorry?
4 **A** From the subscriber.
5 **Q** We have no subscriber information on that phone.
6 Okay. But that's where you got it?
7 **A** Yes, sir.
8 **Q** Okay. All right. That's fine. Thank you.

9 CROSS EXAMINATION

10 **BY MR. MILLING**

- 11 **Q** Ms. Outen, did you send a subpoena to BellSouth for
12 Leticia Jones' records?
13 **A** Those records were subpoenaed by the police
14 department, Investigator Mead.
15 **Q** Okay. To your knowledge -- and you've been here in
16 the courtroom in and out most of the trial, correct?
17 **A** Yes.
18 **Q** To your knowledge, are those records in evidence?
19 **A** From ...?
20 **Q** BellSouth --
21 **A** Yes, sir.
22 **Q** -- regarding Leticia Jones' home number.
23 **A** Yes, sir.
24 **Q** That's your belief?
25 **A** Yes, sir. I am pretty sure they are.

1 Q And that's something that you used to form the basis,
2 at least in part, of forming the summary?

3 A Yes.

4 MR. MILLING: Nothing further, Your Honor.

5 CROSS EXAMINATION

6 BY MR. DELGADO

7 Q Ms. Outen. Excuse me. I'm sorry. Ms. Outen, if you
8 would turn to page 4. First of all, ma'am, let me
9 just ask this. Your summary here under Rule 1006
10 juxtaposed against State's Exhibit 132 which is the
11 answering machine from Mr. Batie's home number, --

12 A Mm-hmm (affirmative).

13 Q -- none of the things that are purported to be on
14 this; that is, State's Exhibit 132, are on this; that
15 is, the 1006 proffered testimony?

16 A No, sir.

17 Q Proffered Exhibit. All right. Is there anything on
18 State's Exhibit 132 that relates to Ken Joy?

19 A Not that I'm aware of.

20 Q All right. Ma'am, if you would turn with me to page
21 4 starting at 8:53 p.m., there are four phone calls
22 from 8:53 to 9:58 that same day?

23 A Yes.

24 Q The second one down at 9:02 has a duration of .05
25 minutes. Is that correct?

1 A Yes.

2 Q How much is .05 minutes?

3 A That's -- if I remember correctly, that's just one
4 that probably didn't pick up.

5 Q Probably did not pick up. What does that mean,
6 ma'am?

7 A That he dialed it --

8 MS. MCDUFFIE: Objection, Your Honor. He's
9 asking the witness to speculate.

10 THE COURT: Overruled.

11 Q What does that mean, ma'am? In other words, that
12 supposedly the caller called from Joy at 463-2210 to
13 Dominic at 599-0434. If my math is correct, that's
14 three seconds. Is there a connection for three
15 seconds?

16 A I can't answer. That's what's on the -- that's what
17 I went by on the records.

18 Q It's your understanding that that would be a hang up.
19 Is that correct? Is that how you envision it?

20 A I -- I -- I guess. I don't know.

21 Q Ma'am, have you through the Solicitor's Office or any
22 law enforcement attempted to contact, find out, meet
23 with or otherwise confer with someone by the name of
24 Virginia Deas?

25 A No, sir. I haven't.

1 Q You being, you work for the Solicitor's Office?

2 A Yes.

3 Q You work hand-in-hand with law enforcement through
4 the Solicitor's Office?

5 A Yes.

6 Q Did anyone attempt to find Ms. Virginia Deas?

7 A Not that I'm aware of.

8 Q Do you even know what address you have for subscriber
9 information for Virginia Deas?

10 A No, sir.

11 Q All the records from the young gentleman that
12 testified -- I don't know -- maybe Monday or Tuesday
13 afternoon was that that phone number was registered
14 to someone named Virginia Deas?

15 A Yes.

16 Q Correct, ma'am? And there is no proof that that
17 is -- that Ken Joy paid that bill, Ken Joy had any
18 relations with or even knows an individual by the
19 name of Virginia Deas. Would that be fair?

20 A I wouldn't know who he knows.

21 Q Well, but you know he doesn't -- there's no
22 testimony, no proof, as to him knowing Virginia Deas.
23 Wouldn't that be fair?

24 A That's fair.

25 Q Thank you.

REDIRECT EXAMINATION**BY MS. MCDUFFIE**

Q Ms. Outen, in the column that says duration of the phone calls, where did that data come from?

A From the phone records.

Q From the records that were admitted into evidence?

A Yes.

Q You have no personal knowledge of any of these times or calls. All you have is what was in the phone records?

A Yes.

Q And what was compiled from them?

A Yes.

Q Mr. Strickler asked you earlier about Stanley Oliver's cellphone records and how we found out or how it was found out that they started on September the 8th. Can you please in the subscriber information that's been admitted into evidence tell the Court what days those phone records were requested for?

A From September 2nd through September the 14th.

Q And then what is the first day of actual phone records that are contained there?

A It was September the 8th.

Q There were no records provided from the phone company

1 for any day before that?

2 A No.

3 Q On the subscriber information that Mr. Milling was
4 asking you about for phone number of , did
5 you have a copy of that in your file?

6 A No.

7 Q Would that be subscriber information that was
8 admitted into evidence?

9 A Yes. The address?

10 Q No. Can you say the name that that was?

11 A Victoria Deas.

12 Q So would that be a typo on the first page where it
13 actually says Virginia?

14 A Virginia. Yes.

15 Q And finally, you testified earlier that the four
16 numbers that you used to compile the records were
17 from the four introduced into evidence?

18 A Yes.

19 Q And you said that was the cellphone registered to
20 Leticia Jones?

21 A Yes.

22 Q The cellphone of associated with Mr. Oliver?

23 A Yes.

24 Q to Renata Williams?

25 A Yes.

Dana Outen - Redirect by Ms. McDuffie (In Camera)

1745

1 Q And registered to Ms. Deas?

2 A Yes.

3 Q But you did not have phone records from BellSouth
4 from Leticia Jones' home phone?

5 A No.

6 Q So only four records are the ones in evidence that
7 these were compiled from?

8 A Yes.

9 Q No further questions.

10 MR. STRICKLER: If I could, please.

11 RE CROSS EXAMINATION

12 BY MR. STRICKLER

13 Q Ms. Outen, referring to the record on the cellphone
14 that you have related as being Stanley Oliver's you
15 were just talking with her about, --

16 A Mm-hmm (affirmative).

17 Q -- what is the subscriber information on that?

18 A For Stanley?

19 Q Yeah. I'll give you the 8th as the activation date,
20 the first date.

21 THE COURT: Is that on the documents?

22 MR. STRICKLER: I'm sorry?

23 THE COURT: Is the information you're seeking on
24 the documents?

25 MR. STRICKLER: Well, it's not because the

1 person who supplied the documents supplied the
2 records because he didn't have any subscriber
3 information. He just supplied the call details.

4 **THE COURT:** Well, I don't know how she can
5 answer a question of something that she didn't have.

6 **Q** Do you find any subscriber information on that
7 document?

8 **A** No.

9 **MR. STRICKLER:** So there is no subscriber
10 information on the document that she's attributing
11 phone calls to Stanley Oliver based on.

12 **THE COURT:** She said they came from Stanley
13 Oliver's number I think. Is that not --

14 **THE WITNESS:** Yes, sir.

15 **THE COURT:** -- what she said? In other words, I
16 don't see this testimony -- let me just tell you what
17 I'm perceiving.

18 **MR. STRICKLER:** Yes, sir.

19 **THE COURT:** That the testimony is not based on
20 who called who when, but the activity of the phones
21 themselves as registered on the phone company
22 records. And --

23 **MR. STRICKLER:** Well, it's two-fold actually.

24 **THE COURT:** So that doesn't make it inadmissible
25 under 1006. That's what I'm sort of driving at.

1 **MR. STRICKLER:** Right. But what does make it
2 inadmissible is failure to go ahead and establish
3 that that phone is Stanley Oliver's or one that he
4 was using or had any significance as far as he's
5 concerned.

6 **THE COURT:** But I agree. And I might agree not
7 that it makes it inadmissible. The documents are in
8 evidence.

9 **MR. STRICKLER:** Yes, sir.

10 **THE COURT:** This is -- as I understand it, this
11 is no more than taking those four sets of documents
12 and somehow merging them into a, quote, summary.

13 **MR. STRICKLER:** Yes, sir. And I would agree.
14 And that's as to date and time and duration of the
15 calls. I agree completely with that.

16 **THE COURT:** From phone to phone.

17 **MR. STRICKLER:** From phone to phone.

18 **THE COURT:** Right.

19 **MR. STRICKLER:** Okay? Now, --

20 **THE COURT:** And that's all she's doing.

21 **MR. STRICKLER:** Yes, sir. But the first page of
22 this says , cellphone Stanley Oliver got on
23 9-8-05.

24 **THE COURT:** Right. I understand that objection.

25 **MR. STRICKLER:** Okay. Well, that's all I'm

1 establishing. And some of those records may be able
2 to go ahead and link other phones with other people.
3 I mean, there's no question about a home phone
4 registered to Renata Williams and testimony that, you
5 know, Stanley had access to that. I'm not talking
6 about that. I'm talking about phone number and the
7 indication --

8 **THE COURT:** Well, there shouldn't be any
9 editorial, if that's what you're -- well,
10 characterizing it as editorial comment on there, that
11 it belongs to and was used by Stanley Oliver.

12 **MR. STRICKLER:** Well, yes, sir. And -- yes,
13 sir. That's what I'm saying.

14 **THE COURT:** Yes, sir.

15 **MR. MILLING:** Your Honor, I guess I've got
16 several different objections at least at this point
17 in time, not having yet had an opportunity to review
18 the actual records. First off, --

19 **THE COURT:** They've been here at all week. I
20 will just say that.

21 **MR. MILLING:** -- as comparing them to the
22 summary, Ms. Outen testified when I asked her that
23 she had the BellSouth records related to Ms. Leticia
24 Jones. When Ms. McDuffie asked her, she said no, she
25 didn't.

1 **THE COURT:** Okay. That's the purpose of cross
2 examination.

3 **MR. MILLING:** Well, and if she doesn't, I don't
4 think that this summary is appropriate because it
5 lists that as one of the potential numbers. We don't
6 have a cross reference between two different numbers
7 to determine whether or not it is reflected on both
8 records to make sure that that call with the advent
9 of three-way calls and things like that unless --

10 **THE COURT:** Well, what does this show? With
11 regard to what you're referring to, what does this
12 summary show?

13 **MR. MILLING:** With regard to what I'm talking
14 about, we've got listed on here the number 234-2621,
15 similar to Mr. Strickler's objection, she's got an
16 editorial comment, home residence of Dominic and
17 Latesha. Similarly with 599-0434, that phone not
18 only had access, but in the actual --

19 **THE COURT:** Access to the name.

20 **MR. MILLING:** It says that on the first page.
21 But in the actual summary it just lists Dominic's
22 name. Your Honor, I guess my objection as to the
23 BellSouth records for the home number, the 234 --

24 **THE COURT:** The BellSouth records in this.

25 **MR. MILLING:** They're not introduced.

1 **THE COURT:** Okay.

2 **MR. MILLING:** They're not in evidence.

3 **THE COURT:** Then she didn't use them.

4 **MR. MILLING:** She said she used them.

5 **THE COURT:** I don't know how she could use
6 something she didn't have.

7 **MR. MILLING:** She said on questioning by me --

8 **THE COURT:** Well, ask her again.

9 RE CROSS EXAMINATION

10 **BY MR. MILLING**

11 **Q** Ms. Outen, do you have the BellSouth records for the
12 phone, ?

13 **THE COURT:** I mean, are they in evidence?

14 **MR. MILLING:** No, sir; they're not in evidence.

15 **THE COURT:** Well, then they can't be used. I
16 mean, they can't be part of a summary if they're not
17 in evidence. I don't know what's on that summary.
18 You're telling me there are BellSouth records on that
19 summary?

20 **MR. MILLING:** There are references to phone
21 calls placed to and received from the phone number

22

23 **THE COURT:** What is that?

24 **MR. MILLING:** That is the alleged home number
25 for Leticia Jones and --

1 **THE COURT:** Is it BellSouth?

2 **MR. MILLING:** It should be BellSouth home
3 number.

4 **THE COURT:** You say it should be.

5 **MR. MILLING:** Either a BellSouth or Time Warner.

6 **MS. MCDUFFIE:** Your Honor, Mr. Milling is
7 mischaracterizing this. Those phone records were
8 taken from the cellphone records or phone records of
9 the four that Ms. Outen discussed and where that
10 number appears on those phone records. We do not
11 have -- Ms. Outen did not testify that there are
12 outgoing calls from that number. There are incoming
13 calls to that number on the phone numbers is what is
14 reflected on the four phone records that are in
15 evidence.

16 **THE COURT:** All right.

17 **MR. MILLING:** And, Your Honor, I would submit I
18 have not had a chance to go through and verify that
19 with these records yet. But I still don't think it's
20 appropriate because we don't have a comparison with
21 the BellSouth records. Therefore, it wouldn't be a
22 summary.

23 **MS. MCDUFFIE:** Your Honor, it's a summary of
24 what has been entered into evidence.

25 **THE COURT:** I understand that. Mr. Delgado.

1 **MR. DELGADO:** Your Honor, may I ask Ms. Outen?

2 **THE COURT:** Sure.

3 **MR. DELGADO:** I'm sorry.

4 RECROSS EXAMINATION

5 **BY MR. DELGADO**

6 **Q** Ms. Outen, you subpoenaed records from the 2nd of
7 September through the end of date of what, ma'am?
8 I'm sorry.

9 **A** On which ones?

10 **Q** I'm sorry?

11 **A** On Dominic Joy?

12 **Q** Any of these individuals.

13 **A** It's the 2nd through the 20th.

14 **Q** Through the 20th?

15 **A** And those were subpoenaed by the City of Columbia.

16 **Q** I'm sorry, ma'am. I didn't hear you.

17 **A** They were subpoenaed by the City of Columbia.

18 **Q** Why is there a gap from September the 15th on page
19 20? There are no phone records for the 16th, 17th,
20 18th or 19th. Is that correct?

21 **A** I'm sorry. What page are you on?

22 **Q** Sure. Look at page 20 in your purported summary, the
23 last phone calls or the phone calls on that date are
24 September the 15th. Correct, ma'am?

25 **A** Yes.

- 1 Q We switch to the next page, page 21, and those phone
2 calls are all dated September the 20th, correct?
- 3 A Yes, sir.
- 4 Q Where is September the 16th? Where is September
5 17th? Where is September 18th? Where is
6 September 19th?
- 7 A Well, apparently out of -- if I didn't include those
8 pages, those dates, there weren't any calls that came
9 in that were relevant or went out or ...
- 10 Q Ma'am, with all due respect, you know enough for
11 September the 2nd through September the 15th. I'm
12 just asking where are any records that you then
13 summarized, and why is there a gap in time for four
14 complete days?
- 15 A Again, there must have been nothing relevant to put
16 into those for those dates.
- 17 Q Okay. So that means that on the 16th, the 17th, the
18 18th and 19th there is nothing relevant for Mr. Joy
19 as relates to making -- if, in fact, that is the
20 phone call or a phone that he had access to, there's
21 nothing relevant for four entire complete days. Is
22 that your testimony?
- 23 A Yes, sir.
- 24 Q That's all, Your Honor. Oh, one other thing, ma'am.
25 Mr. David Ide was from Suncom. He was the records

1 custodian, young fellow who testified Tuesday
2 afternoon.

3 **A** Mm-hmm (affirmative).

4 **Q** The name for that telephone call or for that the
5 telephone subscriber information, the last four
6 numbers of which are 2210, that's either to Victoria
7 -- did I take it down wrong? Or that was what was on
8 his subscriber information?

9 **A** Yes, sir.

10 **Q** It said Victoria Deas?

11 **A** Yes.

12 **Q** Now it's Virginia Deas?

13 **A** It's just a typo, sir.

14 **Q** I'm sorry?

15 **A** A typo.

16 **Q** But a typo from him, right?

17 **A** No. It's on his records. It's a typo from me.

18 **Q** From you?

19 **A** Yes, sir.

20 **Q** All right. Thank you.

21 **MR. STRICKLER:** Excuse me, sir. I'm just
22 turning the pages of phone records at this point.

23 **THE COURT:** What objections are there, if any,
24 to the testimony and introduction of the summary from
25 Mr. Oliver?

1 **MR. STRICKLER:** As to the number which
2 is listed on the cover sheet as cellphone Stanley
3 Oliver got on 9-8-05, there is no subscriber
4 information in the record that this is Stanley
5 Oliver's phone.

6 **THE COURT:** All right.

7 **MR. STRICKLER:** I object to the phone being
8 attributed to Mr. Oliver.

9 **THE COURT:** All right. What's the State's
10 position on that?

11 **MS. MCDUFFIE:** Your Honor, there has been
12 testimony from multiple witnesses on the stand that
13 that was the number that was used by him. Further,
14 there was testimony from Mike Allen that when Stanley
15 turned himself in on the 13th that he then took the
16 phone from Stanley and further personally used that
17 phone himself after Stanley was in jail. And that
18 was the number connected with that phone.

19 **THE COURT:** All right.

20 **MR. STRICKLER:** My memory is that one witness
21 testified that he didn't know what phone number
22 Stanley had. Then she testified as to this number.
23 Another witness, that would be Shequitta Evans,
24 demonstrated inconsistent testimony as to the number.
25 Another witness, Omekas Moaney, testified that

1 Stanley didn't have a cellphone.

2 And that's the extent of the testimony regarding
3 this number that I am aware of. I'm wrong always,
4 but that's all I'm aware of. Oh. And Mike Allen
5 didn't testify as to what phone number Stanley had.
6 So those are the objections I have as to that number.
7 I have another objection to another number if you'd
8 like to hear.

9 **THE COURT:** Go ahead.

10 **MR. STRICKLER:** That's the number. And
11 that's been testified to as her phone number by
12 Renata Williams. I have no dispute with that. So my
13 objection is as far as the cover page on the summary
14 as to which Stanley Oliver had access. Well, the
15 jury can decide whatever they want to decide as far
16 as the significance of that number. That's her
17 number.

18 **THE COURT:** All right.

19 **MR. STRICKLER:** For all I know, they won't even
20 remember who she is.

21 **THE COURT:** All right. For Mr. Gallman.

22 **MR. MILLING:** Thank you, Your Honor. May it
23 please the Court. I would also object to the
24 characterization on the first page of the summary as
25 to the home number, the 234-2621. I don't think it's

1 appropriate to place calls reflecting that number in
2 this summary because that number, the records have
3 not been introduced. I know that Ms. McDuffie
4 indicated that there are no calls in this summary
5 which were placed from that number; but,
6 unfortunately, she missed one. There is a reference
7 on page 16, September 12th, 2005 at 11:12 a.m. from
8 that number. There are additional references, and I
9 have not had a chance to go back through it again, to
10 calls placed from --

11 **THE COURT:** Wait a minute. Ms. McDuffie, do you
12 see what he's talking about?

13 **MS. MCDUFFIE:** I'm sorry. Tell me the page
14 again?

15 **THE COURT:** Page 16.

16 **MR. STRICKLER:** 16. It's the fourth entry down
17 from that home number.

18 **MS. MCDUFFIE:** And I think if the Court would
19 look at the phone records from Stanley Oliver on that
20 day, it will show an incoming call from that phone
21 number received by the phone number of .

22 **MR. STRICKLER:** And I object to the
23 characterization of that as being the phone records
24 of Stanley Oliver. There are no phone records of
25 Stanley Oliver in evidence here.

1 **MS. MCDUFFIE:** Well, I'll rephrase that. If the
2 Court would look at the phone records from the number
3 of , you will see an incoming call to that
4 number from the phone number of .

5 **THE COURT:** All right. Go ahead.

6 **MR. MILLING:** Your Honor, additionally, my
7 recollection of the testimony from Ms. Leticia Jones
8 was that Mr. Gallman really wasn't living at that
9 address after, I believe it was September the 1st or
10 2nd, that Friday.

11 **THE COURT:** Well, that's not -- that doesn't
12 have anything to do with this, in my opinion, with
13 this summary. Where he was living, what he did, what
14 calls he made, what testimony there was is outside
15 the scope of what is purported to be in these
16 records.

17 **MR. MILLING:** Well, Your Honor, with all due
18 respect, I do think that it is relevant to this
19 situation when the summary or the first page here
20 reflects that that's the number that was attributed
21 to Dominic Gallman.

22 **THE COURT:** Well, it sounds like the cover page
23 has got problems. But go ahead.

24 **MR. MILLING:** Yes, sir. That same problem would
25 go throughout the actual summary when the way that

1 it's set up, it just has an individual's name and
2 then a phone number.

3 **THE COURT:** Well, I mean, that's --

4 **MR. MILLING:** The entries to that --

5 **THE COURT:** Go ahead.

6 **MR. MILLING:** The entries to that number,
7 , have Dominic's name. It doesn't have
8 Latesha's name. There are several entries or
9 reflections of Renata which is the other number where
10 it was actually registered in Renata's name. We
11 think it's more appropriate to have it in Leticia's
12 name because that's whose name the phone was in.

13 Your Honor, there are also two entries on here
14 which appear to be incomplete. On page 9, the last
15 entry for September 7th of 2005, it's got my client's
16 name, parentheses, (C), I would assume for cell,
17 parentheses, 559 dash and it's incomplete.

18 **MS. MCDUFFIE:** If Mr. Milling would flip the
19 page, the table just split onto to two pages. So the
20 rest of that entry would be on the preceding page.

21 **MR. MILLING:** Well, I still don't -- I think
22 that it needs to be on the same entry so that there's
23 no confusion. If you go back to or go over to page
24 11, the first entry for September the 8th is a call
25 to Dominic, paren C, end paren. There is no phone

1 number listed there.

2 **MS. MCDUFFIE:** That was obviously an error and
3 that can be corrected.

4 **MR. MILLING:** Thank you, Your Honor.

5 **THE COURT:** Sure. Mr. Delgado.

6 **MR. DELGADO:** Your Honor, this lawyer always
7 gets stuck on the first prong of Rule 403. And in
8 its conjunctive -- well, it's phrased conjunctively,
9 but the rule reads: "Although relevant evidence may
10 be excluded, its probative value is substantially
11 outweighed by the danger of" -- and I'd like to skip
12 over -- "unfair prejudice, confusion of issues or
13 misleading the jury; or by considerations of undue
14 delay, waste of time or needless presentation of
15 cumulative evidence."

16 I've been trying to train myself to look more
17 insightfully into 403 because I always get stuck at
18 that first hurdle.

19 **THE COURT:** Never get past it.

20 **MR. DELGADO:** Well, that's exactly right. But
21 that's not what the rule says if you look at --

22 **THE COURT:** I understand.

23 **MR. DELGADO:** Your Honor, I specifically agree
24 about the cover sheet. It's either Virginia or now
25 it's Victoria Deas. But, more importantly, there is

1 nothing to connect Ken Joy with that telephone in the
2 way of, I guess what they put in the cover sheet is
3 cellphone registered to Virginia Deas. So I base it
4 on those motions. Thank you.

5 **THE COURT:** All right. Ms. McDuffie, it appears
6 that all three of the defendants have problems with
7 what appears to be editorial comment to some degree
8 on the cover sheet. Now, I don't even know if the
9 cover sheet is necessary for the summary. It's nice
10 to have a cover sheet and tell everybody what you're
11 about to read. But it may not even be, A, relevant;
12 or, B, necessary to what you're trying to prove with
13 this summary. So, in other words, describing what
14 the summary is gets you probably in more trouble than
15 the summary itself. So I would suggest you look at
16 modifying the summary sheet during the next
17 ten-minute break.

18 **MS. MCDUFFIE:** Yes, sir. Thank you, Your Honor.

19 **THE COURT:** And correcting that other error that
20 Mr. Milling called your attention to.

21 (Whereupon, a break is taken)

22 **THE COURT:** Mr. Strickler, it's my understanding
23 the State is removing the cover page.

24 **MR. STRICKLER:** Yes, sir.

25 **THE COURT:** They intend to offer the balance of

1 the exhibit. All right. The State ready to proceed?

2 **MR. MILLING:** Your Honor, if I may?

3 **THE COURT:** I asked the State if they were ready
4 to proceed.

5 **MS. MCDUFFIE:** We are, Your Honor.

6 **THE COURT:** Defense ready to proceed?

7 **MR. STRICKLER:** Beg the Court's indulgence one
8 moment, sir, if you would, please.

9 **THE COURT:** Certainly.

10 (Pause)

11 **MR. STRICKLER:** Your Honor, I would object to
12 the introduction of this because I submit it's a Rule
13 5 violation.

14 **THE COURT:** It's what?

15 **MR. STRICKLER:** Rule 5 violation, Judge.

16 **THE COURT:** All right.

17 **MR. STRICKLER:** Specifically Rule 5(a)(1)(c),
18 documents and tangible objects. I would submit that
19 this is a document. I think that's beyond
20 contention. "Upon request by the defendant" -- the
21 record should reflect on behalf of my papers that we
22 filed a discovery motion over two years ago I think
23 -- "the prosecution shall permit the defendant to
24 inspect and copy books, papers" -- these are
25 certainly papers -- "documents, photographs, et

1 cetera, which are within the possession, custody or
2 control of the prosecution and which are material to
3 the preparation of the defense."

4 Now, Your Honor, I don't want anyone to take
5 anything I say as indicating that we were not
6 supplied with the raw phone records. We were. So
7 just so we don't have to argue about that.

8 **THE COURT:** Just --

9 **MR. STRICKLER:** I'm sorry.

10 **THE COURT:** The records that have been
11 introduced into evidence?

12 **MR. STRICKLER:** Yes, sir. We've been supplied
13 with those. We're not arguing about that. We're
14 talking about what we intend to get in. "Which are
15 material in the preparation of the defense or are
16 intended for use by the prosecution as evidence in
17 chief at the trial", which this certainly is. Okay.

18 Now, item two, that being Rule 5(a)(1), (a)(2),
19 information not subject to disclosure; well, there is
20 his argument. "Does not authorize discovery of
21 reports, memoranda or internal prosecution
22 documents." This is not an internal prosecution
23 document. This is something they intend to offer as
24 evidence in chief in a trial.

25 **THE COURT:** Mr. Milling.

1 **MR. MILLING:** Thank you, Your Honor. May it
2 please the Court. I would join in that objection. I
3 am also -- because of the timing in which we were
4 provided with a copy of this summary, I am in the
5 process of verifying or attempting to verify the
6 accuracy of the summary. I have since the break
7 caught two errors. I've pointed one out to
8 Ms. McDuffie. I found another one. I'm up through
9 page 7. I would request the opportunity to continue
10 to go through to verify the accuracy of all calls
11 from the phone number, , which is the phone
12 number that this summary purports to attribute to my
13 client, Dominic Gallman.

14 **THE COURT:** Mr. Delgado.

15 **MR. DELGADO:** Your Honor, the records are
16 confusing to the jury. Just as an example -- do you
17 have a copy of the latest one?

18 **THE COURT:** No. But I probably should. Take
19 the cover sheet off.

20 **MR. STRICKLER:** Here's a copy as we it have now.

21 **MR. DELGADO:** Your Honor, if you look, it is in
22 the first version of this, page 5. It relates to the
23 date of September the 5th. Just as an example,
24 September the 5th, at 1:44 p.m. the Joy-designated
25 called comes from 463-2210 to Blue at 665-2996 or

1 . You see? And that's replicated by four
2 additional phone calls supposedly to Blue at one
3 number or the other number. That goes on. I have
4 noted probably half a dozen or more. And that's just
5 with Mr. Joy.

6 I guess what I'm saying, Your Honor, is, this
7 can't be admitted at least in this fashion without
8 some more redacting or some clarification or at least
9 explanation.

10 **THE COURT:** What if this document took out all
11 of the names? Would you still have the same
12 objection?

13 **MR. DELGADO:** Can I think about that for just
14 one second?

15 **THE COURT:** Well, you just had a second.

16 **MR. DELGADO:** What's that, sir? I think that
17 may be something I'd want to discuss with my
18 colleagues. That might be reasonable.

19 **MS. MCDUFFIE:** Your Honor, in response to Mr.
20 Strickler's first argument, we do not believe this is
21 a Rule 5 violation. All phone records were turned
22 over to them. This is a document that I would
23 characterize as work product that was recreated after
24 the phone records and testimony of witnesses
25 testifying to phone numbers had been heard by the

1 Solicitor's Office and was turned over to them upon
2 completion of that.

3 In response to Mr. Milling's arguments about or
4 statements about the typos, we would be happy to fix
5 whatever typos Mr. Milling finds in this document.

6 **THE COURT:** Well, if I am a juror and I look at
7 this; and I just pick any page; page 12, September
8 the 9th, 1:04 a.m., I would read this as Stanley
9 called Renata. I don't know if that's what you're
10 trying to imply, that Stanley called Renata.

11 **MS. MCDUFFIE:** No, sir. That's not what we're
12 trying to imply.

13 **THE COURT:** What?

14 **MS. MCDUFFIE:** That is not what we're trying to
15 imply.

16 **THE COURT:** That's what it says.

17 **MS. MCDUFFIE:** We're trying to show that the
18 phone number that was most utilized by him was
19 calling the phone number that was registered to her.

20 **THE COURT:** Well, that's not what it says.

21 **MS. MCDUFFIE:** And I believe in --

22 **THE COURT:** It doesn't say the phone most used
23 by Stanley called the phone most used by Renata.

24 **MS. MCDUFFIE:** That was where the cover page was
25 supposed to come in to try and help explain.

1 **THE COURT:** Well, you see what I'm -- I guess
2 before I looked at it, I assumed it was number to
3 number. Now I see it's person to person. I think
4 you have to go back and tell the jury even if this is
5 in their hands that, ladies and gentlemen of the
6 jury, that doesn't mean that Stanley called Renata.
7 It just means that Stanley's phone was used to call
8 Renata's phone.

9 And maybe Mr. Delgado has a point there about
10 the second half of Rule 403. I'm not sure I'm quite
11 on board with Mr. Strickler on the Rule 5 objection.
12 But it does seem to me that the way this document is
13 prepared; if I'm the jury, I'm a juror; I mean,
14 certainly I'm not; but if you hand this to them, it's
15 almost conclusive as to page 12 that Stanley was on
16 the phone a lot.

17 On the 9th Stanley was on the phone one, two,
18 three, now, four, five, six, seven, eight, nine, ten,
19 eleven, twelve, thirteen, fourteen, fifteen, sixteen,
20 seventeen, eighteen, nineteen, twenty, twenty-one,
21 twenty-two, twenty-three, twenty-four, twenty-five,
22 twenty-six, twenty-seven, twenty-eight. I'm sorry.
23 That's down to twenty-six, twenty-seven,
24 twenty-eight, twenty-nine, thirty, thirty-one,
25 thirty-two, thirty-three, thirty-four, thirty-five,

1 thirty-six times between 12 a.m. and 11:53 p.m.
2 That's what it says to me.

3 And I think that's misleading to the jury
4 because that's not what you're -- the evidence. The
5 evidence is that a call was made from to
6 various other numbers throughout those 36 or 38 phone
7 calls. That's the truth. That's the evidence. I
8 don't think this document depicts that evidence.

9 And as I said, if you take the names off of it,
10 I don't know the defendants can have an objection.
11 I'm sure they probably do have an objection. But I
12 don't find it objectionable as much as the misleading
13 nature of the exhibit. So --

14 **MS. MCDUFFIE:** Your Honor, the State would be
15 willing to redact it to remove the names and just to
16 leave the phone numbers in the document.

17 **THE COURT:** When?

18 **MS. MCDUFFIE:** At the next break.

19 **THE COURT:** Well, what are we going to do right
20 now?

21 **MR. MEADORS:** Judge, we could go ahead and take
22 this testimony without -- and offer it subject to
23 that redaction. And then just say if the State --
24 whatever happens, we can move on. This can be done
25 during the motions or whatever.

1 **THE COURT:** All right. Well, let's explore
2 that. The witness will testify that she made a
3 summary of phone connections between various phones
4 and various times, correct? That's what she'd
5 testify?

6 **MS. MCDUFFIE:** Yes, Your Honor.

7 **THE COURT:** All right. Now, any objection to
8 that procedure? Or will you simply maintain your
9 previous objection?

10 **MR. STRICKLER:** I beg the Court's indulgence one
11 moment, sir. I'm sorry. Your Honor, I think that
12 addresses, especially with the removal of the cover
13 sheet, addresses a substantial portion of my concern.
14 My only other concern of course is -- and I didn't
15 raise this earlier -- Mr. Milling has been far more
16 diligent than I in actually sitting down and
17 reviewing these for accuracy. I would confess to not
18 having done that at all.

19 **THE COURT:** Nor have I.

20 **MR. STRICKLER:** Yes, sir.

21 **THE COURT:** Also subject to accuracy
22 corrections, is there any further, any other
23 objections to the procedures outlined by the Court?
24 Mr. Milling.

25 **MR. MILLING:** None other than those objections

1 which have already been raised, Your Honor.

2 **THE COURT:** Mr. Delgado.

3 **MR. DELGADO:** No, Your Honor.

4 **THE COURT:** All right. All right. Let's -- you
5 ready for the jury? You might instruct the witness
6 as to how she can testify about this summary. She is
7 not to make any assumptions or presumptions about who
8 called who. Bring the jury, please.

9 **THE BAILIFF:** Yes, sir.

10 (WHEREUPON, State's Exhibit No. 211 is marked
11 for identification.)

12 (WHEREUPON, State's Exhibit No. 212 is marked
13 for identification.)

14 (Jury in at 11:47 a.m.)

15 **THE BAILIFF:** Your Honor, the jury is present.

16 **THE COURT:** All right. Thank you, ladies and
17 gentlemen. Solicitor, call your next witness.

18 **MS. MCDUFFIE:** Your Honor, the State calls Dana
19 Outen.

20 DANA OUTEN, after being duly sworn, testifies as
21 follows:

22 **THE CLERK:** Thank you. Please have a seat in
23 the witness stand and state your full name for the
24 record.

25 **THE WITNESS:** My name is Dana Outen.

Dana Outen - Direct by Ms. McDuffie

1771

DIRECT EXAMINATION**BY MS. MCDUFFIE****Q** Good afternoon, Ms. Outen.**A** Hello.**Q** Where are you employed?**A** Fifth Circuit Solicitor's Office.**Q** Ms. Outen, did you have the opportunity to look at the four sets of phone records that were entered in evidence in this case?**A** Yes.**Q** And can you please tell the phone numbers for those records?**A** , , and**Q** And did you have a chance to compile a summary of those phone records?**A** Yes.**Q** Showing calls from those phone records?**A** Yes.**Q** I show you what's been marked as State's Exhibit 212. Is that the summary you prepared in connection with those phone records?**A** Yes.**JUROR:** Excuse me. I can't hear her.**THE COURT:** She can't hear her. Move those microphones. No. Move them closer. They can't hear

1 you.

2 **Q** Is that the summary you prepared based on the phone
3 records?

4 **A** Yes.

5 **Q** And to the best of your knowledge, is that a fair and
6 accurate representation of those phone records?

7 **A** To the best of my knowledge, yes.

8 **MR. STRICKLER:** Subject to our previously
9 discussed redaction, Your Honor.

10 **THE COURT:** All right.

11 **MR. MILLING:** The same objections, Your Honor.

12 **MR. DELGADO:** The same objections.

13 **MS. MCDUFFIE:** The State would offer 212 subject
14 to redaction.

15 **THE COURT:** 212 subject to redaction.

16 (WHEREUPON, State's Exhibit No. 212 is admitted
17 into evidence.)

18 **Q** Ms. Outen, do you have a copy of those phone records
19 in front of you?

20 **A** I do.

21 **Q** Can you look on the phone records for phone number
22 ?

23 **A** Mm-hmm (affirmative).

24 **Q** And can you look at those phone records for the day
25 of September the 13th?

1 **A** September 13th?

2 **Q** Yes, ma'am.

3 **A** Okay. I have it.

4 **Q** While you were looking at these phone records, did
5 you have the occasion to see any other numbers that
6 you had personal knowledge of other than what we have
7 previously discussed?

8 **A** Yes.

9 **Q** What number would that be?

10 **A** It's

11 **Q** And from your personal knowledge, who do you know
12 that that phone number belongs to?

13 **A** Mr. Rogers.

14 **Q** And who is that?

15 **A** Attorney Jimmy Rogers.

16 **COURT REPORTER:** I'm sorry. I didn't hear.

17 **A** Attorney Jimmy Rogers.

18 **Q** Thank you. No further questions.

19 CROSS EXAMINATION

20 **BY MR. STRICKLER**

21 **Q** Good morning, Ms. Outen.

22 **A** Good morning, Mr. Strickler.

23 **Q** How are you?

24 **A** I'm okay.

25 **Q** Good. As am I. Ms. Outen, you've testified about

1 four sets of phone records that have been entered
2 into evidence here?

3 **A** Yes.

4 **Q** Are you aware that the phone records for George
5 Batie's phone, home phone, were subpoenaed in this
6 case?

7 **A** Phone records for George Batie? I am not aware.

8 **Q** Are you aware that the phone records for George
9 Batie's cellphone were subpoenaed in this case?

10 **A** I am not aware.

11 **Q** Are you aware that the phone records for Desiree
12 Felder's phone were subpoenaed in this case?

13 **A** I am not aware of that.

14 **MR. STRICKLER:** Your Honor, beg the Court's
15 indulgence. I don't have any further questions.
16 Thank you very much, Your Honor.

17 **THE COURT:** Mr. Milling.

18 **MR. MILLING:** No questions, Your Honor.

19 **THE COURT:** Mr. Delgado.

20 CROSS EXAMINATION

21 **BY MR. DELGADO**

22 **Q** Well, it's still good morning.

23 **A** Good morning, Mr. Delgado.

24 **Q** Ms. Outen, these records that were subpoenaed that
25 you have used to compile this State's Exhibit 212

1 start and end when, ma'am?

2 A I'm sorry?

3 Q When does the compilation start and when does it end?

4 A September 2nd through September the 20th.

5 Q September the 2nd through the 20th. So 18 days
6 later?

7 A Yes.

8 Q All right. You have no records for the 16th, the
9 17th, the 18th or the 19th included in there, do you,
10 ma'am, in your compilation which is State's Exhibit
11 212?

12 A There aren't any. No, sir.

13 Q All right. And the reason for that would be that
14 there's nothing relating to Ken Joy that's of any
15 value for you to put in your compilation identified
16 as State's Exhibit 212?

17 A Yes.

18 Q All right. Thank you, ma'am. That's all.

19 **THE COURT:** Anything further?

20 **MS. MCDUFFIE:** No, Your Honor.

21 **THE COURT:** All right. You may come down.
22 Thank you very much, ma'am.

23 **MR. ROSS:** Your Honor, there is one piece of
24 evidence I know I need to move in, State's Exhibit
25 149E which is just the envelope that contained 168.

1 **THE COURT:** What is that? What is it?

2 **MR. ROSS:** 168 is a shell casing. It's in but
3 it got taken out of the envelope. But the
4 envelope --

5 **THE COURT:** Any objection?

6 **MR. STRICKLER:** No, sir.

7 **THE COURT:** Any objection from the --

8 **MR. MILLING:** Not as to that, Your Honor. But I
9 do have one other objection as to the last witness
10 when we have a moment.

11 **THE COURT:** All right. Mr. Delgado, any
12 objection?

13 **MR. DELGADO:** No. No objection.

14 (WHEREUPON, State's Exhibit No. 149E is admitted
15 into evidence.)

16 **MR. MEADORS:** Your Honor, at this time we'd
17 offer 211 which is a September 2005 calendar. It
18 just has Sunday at the beginning.

19 **MR. STRICKLER:** You moved Sunday to the location
20 it's usually found in. That's without objection.

21 **MR. MILLING:** No objection.

22 **MR. MEADORS:** Thank you. Appreciate that.

23 (WHEREUPON, State's Exhibit No. 211 is admitted
24 into evidence.)

25 **MR. ROSS:** May we approach, Your Honor?

1 (Whereupon, a bench conference is had)

2 **THE COURT:** Next witness.

3 **MS. MCDUFFIE:** Your Honor, the State of South
4 Carolina rests.

5 **THE COURT:** All right, ladies and gentlemen.
6 That will conclude the testimony and evidence, the
7 presentation on behalf of the State of South Carolina
8 in this case. There are a number of legal matters I
9 need to take up with the attorneys prior to the
10 presentation of the defense and that will take some
11 time. No sense in you sitting here while I do that.

12 I'm going to give you a -- because I need the
13 time here, until 2:30. When do you think? Let me
14 just contemplate this is a minute. Let's try to --
15 I'll try to have all that completed by 2:00. So I'll
16 ask you to be back in the jury room at 2:00. It may
17 run a little over, but that will not surprise you at
18 the rate we're going. In any event, I'm going to ask
19 you to be back in the jury room at 2:00. Again,
20 don't discuss the case among yourselves or with
21 anyone else over the lunch hour. We'll see you at
22 2:00. Thank you very much.

23 (Jury out at 12:02 p.m.)

24 **THE COURT:** Mr. Milling.

25 **MR. MILLING:** Your Honor, if I may, as it

1 relates to the last witness and the summary which was
2 introduced but is being redacted, based upon the
3 foundation which was laid by the State, I think a
4 further redaction is required. The State
5 specifically elicited testimony that this summary
6 which they intend to introduce into evidence is a
7 comparison of the numbers and the calls made between
8 the four numbers, the four accounts that are in
9 evidence.

10 This purported summary goes beyond that. It
11 purports to add in now two different numbers that
12 they would attribute to Mr. Moaney, a number that
13 they would attribute to Mr. Allen, and a number which
14 they would seek to attribute to 117A Springwood Lake
15 which is registered in the account of Leticia Jones.
16 A foundation was not laid for that and, therefore, is
17 not properly included in this summary.

18 **MS. MCDUFFIE:** Your Honor, I believe the
19 foundation was laid that these phone records are a
20 summary of what has been introduced into evidence,
21 the contents of those phone records that are from
22 those four numbers and not exclusive to those four
23 numbers, but they are based on the contents of the
24 records of those four numbers.

25 **THE COURT:** All right. Your motion is

1 overruled. Now, counsel, at this point in the trial
2 I would normally ask if there are any motions. Are
3 you prepared to go forward with your motions at this
4 time, given the fact that I recalled the jury at
5 2:00?

6 **MR. STRICKLER:** If I may for Mr. Oliver, sir,
7 with all due respect, sir, I think you were
8 optimistic --

9 **THE COURT:** I figured that.

10 **MR. STRICKLER:** -- in that estimation. Frankly,
11 I thought you were optimistic at 2:30. I thought 3
12 would be more reason. Not necessarily that the
13 motions will take that long; but not only does the
14 jury need to eat, I've been here since quarter 'til 4
15 this morning; I need to eat.

16 **THE COURT:** I'm aware of that.

17 **MR. STRICKLER:** I last ate 24 hours ago.

18 **THE COURT:** As a matter of fact, I observed that
19 you probably haven't missed many meals. And I don't
20 intend to --

21 **MR. STRICKLER:** Yes, sir.

22 **THE COURT:** -- have anything to do with you
23 missing meals, Mr. Strickler.

24 **MR. STRICKLER:** Thank you very much, sir.
25 Secondly, the motions will probably take some time.

1 Thirdly, prior to being ready to proceed with the
2 defense, I need to sit down with Mr. Oliver and have
3 a serious conversation in the event of anything else
4 we need to do.

5 **THE COURT:** I understand. And I need to advise
6 each of your clients, of the defendants, of their
7 rights at this stage of the proceedings. I
8 understand that. Perhaps I could do that.

9 **MR. STRICKLER:** So given all of that, I think
10 we're ready to go ahead and proceed with motions
11 within that just with that as a background as far as
12 proceeding with the motions. Because she is going to
13 do them.

14 **THE COURT:** Mr. Milling.

15 **MR. MILLING:** Your Honor, if I may, I am still
16 in the process, I'm almost through with page 12. I
17 would request that we be allowed to take care of this
18 redaction before we do the motions.

19 **THE COURT:** You're going to have plenty of time
20 to look at the redactions. I want to move along
21 substantively if we can within the timeframe I've
22 allotted. And we may not get it done. But, Mr.
23 Delgado.

24 **MR. DELGADO:** Your Honor, just because I'll
25 forget it at 2 or 2:30 or whenever you do this, I

1 would appreciate the opportunity to be able to make
2 motions later. But I simply need to be able to now
3 that the State has formerly rested renew the
4 objection at relates to the order of the last closing
5 argument so just I don't forget it this afternoon.

6 **THE COURT:** Go ahead on the record now.

7 **MR. DELGADO:** On the bases previously argued to
8 the Court. I believe it was yesterday. Thank you.

9 **THE COURT:** You want to reiterate that?

10 **MR. DELGADO:** No, sir. I'm just renewing that
11 motion again.

12 **THE COURT:** All right.

13 **MR. DELGADO:** Just to preserve it.

14 **THE COURT:** It's respectfully overruled. Let's
15 proceed with any motions on behalf of the defense.

16 **MS. LAFAVE:** Your Honor, I have the -- pardon me
17 while I do this. If it pleases the Court, Your
18 Honor. At this time, Your Honor, on behalf of Mr.
19 Oliver I'd like to renew all objections and motions
20 previously made; that is, including but not limited
21 to, the admission of Ms. Tatanisha Robinson's
22 statement which was presented to the jury under State
23 v. Gullledge, as Mr. Strickler so quoted.

24 Additionally, Your Honor --

25 **THE COURT:** Let me just -- I don't mean to

1 interrupt you.

2 **MS. LAFAVE:** Yes, sir.

3 **THE COURT:** But I meant to perhaps put on the
4 record this morning, which I regret I neglected to
5 do, that as to the statement of Tatanisha Robinson,
6 an additional grounds for admitting that document and
7 allowing it to go to the jury in my opinion is
8 because that testimony was so -- confusing is not the
9 proper word, but that it was conflicted, I guess is
10 the word I want to use.

11 First she said she did, then she said she
12 didn't, then she said she did; in and out of this
13 statement. And I felt and still feel that in order
14 for the jury to consider her credibility as a
15 witness, since she allegedly recanted this statement,
16 I felt or feel, still feel, the Court feels that
17 because her testimony was so conflicted that a clear
18 perhaps picture of her credibility can only be made
19 by the submission of the final redacted statement
20 version to the jury. And I understand your
21 objection. I just need to put that on the record.
22 Go ahead.

23 **MS. LAFAVE:** Thank you, Your Honor.
24 Additionally, Your Honor, with regard to motions,
25 again, including but not limited to, the mistrial

1 motion that was made and joined on behalf of Mr.
2 Oliver due to the fire alarm.

3 Additionally, the mistrial motion that was made
4 because of the connections that not one but two
5 jurors had been either a witness in a case or an
6 attorney in this matter.

7 Also, Your Honor, the several mistrial motions
8 made by Mr. Strickler for ineffective assistance of
9 counsel in spotting the numerous Bruton/Crawford
10 problems that have been brought before the Court.

11 Also, Your Honor, I would like to renew the
12 motion for Mr. Oliver to retain his last closing at
13 this time.

14 **MR. STRICKLER:** Those are the motions of
15 independent of our directed verdict motions, Your
16 Honor.

17 **MS. LAFAVE:** Thank you.

18 **THE COURT:** As previously ruled, I respectfully
19 deny your motions, those motions, and confirm hereby
20 my previous rulings on all of those issues.

21 Now as to the charges and the directed verdict
22 motions.

23 **MS. LAFAVE:** Yes, Your Honor. Thank you. Of
24 course, Your Honor, there is a numerous number of
25 charges Mr. Oliver is being put on trial for. And so

1 as to be more efficient, I intend to break this down
2 by victim and then by charge, Your Honor, so that the
3 Court can better understand where I'm coming from.

4 I do understand that all of the evidence must be
5 viewed in the light most favorable to the State.
6 Your Honor, it is my assertion that there is no
7 competent evidence to sustain the charge being
8 presented to the jury and I am as such seeking a
9 directed verdict on the following charges, Your
10 Honor.

11 First, as with respect to Desiree Felder and the
12 armed robbery charge, there was testimony by the
13 forensic person whose name escapes me at this time
14 that processed the Desiree Felder crime scene. He
15 noted in his report and testified as such that there
16 was no evidence of robbery at that crime scene, Your
17 Honor.

18 Additionally, there were two things specifically
19 of value found with Ms. Felder. One would be the
20 pair of earrings. Second to that, Your Honor, would
21 be the cocaine that was found in her hand. And as
22 Your Honor well knows, armed robbery is the unlawful
23 taking of goods or other personal property of any
24 value from the person of another. Your Honor, I
25 would submit that it has not been proven that any

1 property was taken with respect to Ms. Felder at the
2 Nina Lee Drive location.

3 Also, Your Honor, in anticipation of the State's
4 argument that Ms. Felder was arm robbed, that she was
5 present at the house at the time of the alleged
6 robbery, Your Honor, there was testimony that Ms.
7 Felder did not live at that location, had a separate
8 residence in which she resided, and this was someone
9 else's property, Your Honor. With regard to the
10 armed robbery charge, Your Honor, I would submit that
11 there's no competent evidence to sustain that charge.

12 As to the kidnapping charge, your Honor, there
13 was a purse found in the woods. There was testimony
14 that it may not be related to this case. I submit to
15 the Court that it is related to this case, that it
16 was Ms. Felder's purse. Many women have different
17 purses. There was a purse that was found at the
18 Mildred Avenue house.

19 However, Your Honor, there is no evidence of a
20 kidnapping at this point. There were no scratches
21 found on her feet. I know there was testimony that
22 there were no shoes on. But there were no scratches
23 found on her feet. That was testified to by both the
24 forensic pathologist and the police officers that
25 were at that scene, leading the Court to believe that

1 she was not walking through the woods and scratching
2 her feet, that shoes were on her feet at the time of
3 her death. My apologies, Your Honor.

4 Also, Your Honor, there has been some testimony
5 that Ms. Felder was a potential active participant in
6 this crime. I failed to mention that as with respect
7 to the armed robbery charge, but I would submit that
8 that also is included in the armed robbery charge at
9 this time, Your Honor.

10 But what I mean by active participant, Your
11 Honor, would be that the testimony said that Ms.
12 Felder was involved in this crime such that she had
13 no idea that this was coming basically. Your Honor
14 well knows that kidnapping is somewhat of a general
15 statute. It's the carrying away of the person, even
16 if it is for an instant. But, Your Honor, she was
17 involved in this crime. I submit that she did not
18 know, did not see this coming.

19 And even evidence to that would be in the injury
20 that she was sustained where she was shot out of her
21 vision through the left or right side of her head. I
22 can't remember exactly which one. But she did not
23 see that the injury was happening, was about to
24 happen.

25 Also, Your Honor, I think that the crack in her

1 hand is a very perplexing piece of evidence in this
2 case and that that shows that the sudden occurrence
3 of this injury is such that she was not even able to
4 drop something that she was carrying in her hand.
5 There are also no defensive wounds on her, Your
6 Honor, thus reiterating the lack of predictability.

7 Your Honor, as to the murder charge of
8 Ms. Desiree Felder, there is no question that she was
9 killed in this case. But it is not -- there is no
10 competent evidence that Mr. Stanley Oliver had
11 anything to do with her being shot.

12 Now, there have been a couple of jailhouse
13 snitches, a.k.a. concerned citizens, that have
14 testified that Mr. Oliver said X about whatever
15 happened. Their testimony has been that Mr. Oliver
16 had nothing to do with Ms. Felder's death, aside from
17 the fact that there is no physical evidence as far as
18 putting Mr. Oliver at the scene in connection with
19 this crime.

20 I think I will move on to Mr. George Batie at
21 this time, Your Honor.

22 **MR. ROSS:** Could we stop right there so I can
23 address these before we move on to the next?

24 **MS. LAFAVE:** Sure. Absolutely.

25 **THE COURT:** Well, if she agrees to it.

1 **MR. ROSS:** She can go ahead through the whole
2 thing. That's fine.

3 **THE COURT:** It's up to her. I mean, it's her
4 motion at this point.

5 **MS. LAFAVE:** Your Honor, with respect to
6 Mr. George Batie and the armed robbery charge against
7 Mr. Batie, there has been no evidence that any
8 property of value was taken from the home. It's pure
9 speculation that Mr. Oliver had drugs and money and
10 that that drugs and money came from the house. There
11 is no evidence linking the two.

12 There has been testimony that Mr. Oliver is a
13 drug dealer. Drug dealers have drugs and money.
14 There is no competent evidence that links those drugs
15 and that money to Mr. Batie's house, Your Honor. No
16 property has been found of the victims on my client
17 that has been put into evidence.

18 Additionally, Your Honor, the State's argument
19 that there was a robbery because a safe was opened
20 and shoeboxes broken lacks any competent evidence to
21 show that there was anything ever in the boxes or in
22 the safe. There has been no drug testing inside
23 either one of those to see if that's where the drugs
24 came from. We just don't know. There's no
25 specificity as to what was taken or where it was

1 taken from, Your Honor.

2 With respect to the murder charge of Mr. Batie,
3 Your Honor, I submit that the fingerprint that was
4 found is the only evidence linking my client to that
5 crime scene in general. There is no testimony that
6 that fingerprint was put there on the night in
7 question. Thus, Your Honor, there is no competent
8 evidence that Mr. Oliver shot or was present when Mr.
9 Batie was killed.

10 With respect to Kevin Miller, Your Honor, the
11 armed robbery charge, Mr. Meadors' mom testified that
12 Mr. Miller was in possession of a Tag watch. And
13 that is the only piece of property that has been
14 testified to of value that was taken. Aside from the
15 wallet. Excuse me. The wallet and the watch are the
16 two things that have been testified to that Kevin
17 Miller kept on him regularly and that were not found
18 after his death.

19 But, Your Honor, no one -- no evidence has been
20 submitted that Kevin Miller was wearing that watch at
21 the time of his death. There has been evidence that
22 Mr. Miller, with all due respect, Your Honor, to the
23 victims in this case, that he was a cocaine user and
24 a drug addict. And I believe Mr. Joy asked his
25 mother the question of whether he had a job at the

1 time that this happened. There was no evidence to
2 show that he was receiving a paycheck or anything of
3 the sort. There is no way to link that watch to Mr.
4 Miller on the night in question, or his wallet for
5 that matter, Your Honor. The only things that were
6 taken from that man that have been testified to were
7 by his friend, Chris Cochran, and it was his car keys
8 and a credit card receipt.

9 Additionally, Your Honor, there was \$79 in cash
10 found on Mr. Miller at the time of his autopsy; thus,
11 showing that if he was robbed, they didn't take the
12 money. Which I think that in and of itself, Your
13 Honor, shows the lack of competent evidence to
14 support this charge. There was cash money found on
15 this individual. And it is pure speculation as to
16 other property that may or may not have been there
17 three or four days earlier.

18 Additionally, Your Honor, as to the murder
19 charge, I would reiterate my argument with respect to
20 Mr. Batie since they were at the same crime scene. A
21 fingerprint was found in the house. It was in a back
22 bedroom. Mr. Miller's body was found in the living
23 room. There has been no evidence to show that Mr.
24 Oliver was present on the night in question or that
25 he was present when Mr. Miller was shot or was the

1 person that shot him.

2 Finally, Your Honor, with respect to the
3 burglary charge, there has been testimony that
4 Desiree Felder was involved in this crime, Your
5 Honor. And it would be my argument to the Court
6 there has been no evidence of forced entry. There
7 has been no evidence that whoever entered that house
8 on that night didn't have consent and the plan was
9 hatched on the inside, Your Honor. There is no
10 evidence to show that there was the requisite intent
11 upon entering the house to commit this crime.

12 No identity has also been established, Your
13 Honor. There has been no one to identify my client
14 as going into this house at any point in time, save
15 the concerned citizens' testimony, Your Honor, which
16 I submit to the Court is not competent.

17 Your Honor, for the aforementioned reasons, I am
18 requesting that the Court grant a directed verdict as
19 to my client that there is not evidence to sustain
20 the charges against him to present it to the jury.
21 Thank you.

22 **THE COURT:** The State's position as to Stanley
23 Oliver.

24 **MR. ROSS:** Your Honor, we feel that there is
25 sufficient evidence in the record to support all the

1 indictments against Mr. Oliver. As the Court is
2 aware, it's not the weight of the evidence, it's
3 existence or nonexistence of the evidence that's in
4 the record.

5 As to Ms. Felder, she -- there is testimony in
6 the record that she participated with Mr. Batie in
7 selling drugs and that's why they had the money in
8 the house. She did stay at the house. She might
9 have had another residence but she also stayed there
10 with Mr. Batie at that house and had personal items
11 in the house. There is plenty of evidence that drugs
12 and cash were taken from the house. You've got the
13 safe open. The house is ransacked. I think both she
14 and Mr. Batie were definitely robbed.

15 As far as to the kidnapping, I mean, she's out
16 in the woods with no car. She obviously didn't take
17 herself out in the woods. She has no shoes. I think
18 there is plenty in the record that she was kidnapped
19 from the defendants' own statements through various
20 folks, girlfriends, and concerned citizens.

21 As to Ms. Felder about the crack cocaine and the
22 earrings, the crack cocaine could have been placed in
23 her hand by the defendants. Mr. Batie, it definitely
24 is a burglary when you go into a somebody's house
25 with guns with the intention of robbing them. There

1 has been testimony about them rushing Mr. Miller as
2 he was approaching the door. But no matter how they
3 got in the house, they went in there with the intent
4 to commit a crime and commit a robbery. They
5 certainly didn't enter with consent.

6 As to the murders, there is sufficient evidence
7 in the record for the murders of all three victims
8 from statements from all three defendants one way or
9 another that connect them to the murders.

10 As to Mr. Miller, the robbery, the watch and the
11 wallet, Your Honor, there was testimony that he did
12 have the watch and the wallet, that he kept them on
13 his person. The watch was never found. The wallet
14 was never found. The teller machine card that he had
15 at the teller machine was never found in his items or
16 at the scene. There were statements by Mr. Joy that
17 the watch and the wallet were destroyed.

18 Your Honor, the State would just reiterate that
19 there is sufficient evidence in the record for all
20 eight indictments against Mr. Oliver.

21 **THE COURT:** All right. Anything further?

22 **MS. LAFAVE:** No, Your Honor. Thank you.

23 **THE COURT:** All right. As to Mr. Stanley
24 Oliver, the directed verdict motion as to indictment
25 number 2005-GS-40-11413, that being an indictment for

1 armed robbery of Desiree Felder, the motion for
2 directed verdict is granted. As to all other motions
3 for directed verdict, I feel the evidence goes beyond
4 that of mere conjecture or suspicion, that there is
5 evidence, either direct or circumstantial or some
6 combination of both, which reasonably tends to prove
7 the guilt of the defendant or from which the guilt of
8 the defendant might be logically and reasonably
9 deduced if that evidence is taken in a light most
10 favorable to the State. So I must respectfully deny
11 the directed verdict motions as to all other charges
12 as to Mr. Stanley Oliver.

13 **MS. LAFAVE:** Thank you, Your Honor.

14 **THE COURT:** Mr. Gallman. Or Mr. Meadors. Mr.
15 Milling on behalf of Mr. Gallman.

16 **MR. MILLING:** Thank you, Your Honor. May it
17 please the Court. In light of the Court's ruling as
18 to the armed robbery of Ms. Felder, maybe to expedite
19 things, I would move the Court direct a verdict as to
20 that as well for the same reasons that were outlined
21 by Ms. Lafave's case. I would take it by the Court's
22 ruling that the Court has determined as a matter of
23 law that there is insufficient evidence to support --

24 **THE COURT:** That is as to Stanley Oliver.

25 **MR. MILLING:** As to Stanley Oliver. Your Honor,

1 I would also assert this. There is insufficient
2 evidence as to any defendant to suggest that there
3 was a robbery of Ms. Felder. As Ms. LaFave has
4 indicated, there is testimony and evidence in the
5 record that her purse and her cellphone were at
6 Mildred Avenue. There is evidence in the record that
7 as to the lack of evidence at the Nina Lee and Donald
8 Street address as to any evidence of any type of a
9 robbery. There has been nothing presented by the
10 State to support any allegation of an armed robbery
11 of Ms. Felder by anyone.

12 And I'm sticking with Ms. Felder. Similar to
13 the argument that Ms. LaFave made as to the
14 kidnapping, the only testimony in the record as to
15 whether or how Ms. Miller -- or not Ms. Miller -- Ms.
16 Felder might have been at the Mildred Street address
17 is through her alleged involvement in this robbery.

18 The allegation, I think the testimony from
19 Mr. Brown was that he understood that Ms. Felder was
20 involved, that she was at the residence, that she
21 left the residence during the crime of her own free
22 will and own volition, that she was an active
23 participant; and as such, she was not taken against
24 her will anywhere.

25 I think Ms. LaFave said the injuries she

1 sustained to her head, the presence of a paper and
2 drugs clutched in her hand all support that this was
3 a sudden, unexpected event. We would submit that
4 there is insufficient evidence for those reasons and
5 for the reasons enunciated by Ms. LaFave to support
6 that she was kidnapped.

7 As to her murder, the only evidence linking my
8 client to Ms. Felder at all, and specifically to the
9 murder, is the testimony of Leticia Jones, if she is
10 to be believed, somebody who repeatedly in letters
11 acknowledged his innocence, the lies by the State,
12 gave statements right after this occurred.

13 **THE COURT:** You know, I'm not supposed to weigh
14 the evidence.

15 **MR. MILLING:** Yes, sir.

16 **THE COURT:** It's a question of whether there is
17 evidence or not evidence.

18 **MR. MILLING:** Yes, sir.

19 **THE COURT:** So I don't think you need to argue
20 the weight of the evidence or the believability of
21 the witness.

22 **MR. MILLING:** Yes, sir. But I would like to put
23 just on the record that there is a lack of credible
24 evidence as to that. But even if she is to be
25 believed, Your Honor, murder is the intentional

1 killing of another. The only testimony is that a gun
2 was placed to Mr. Gallman's head and he was informed
3 that if he did not shoot her he himself would be
4 killed. And I would submit that that cannot be an
5 intentional killing of another person because he had
6 no free will. There was complete lack and absence of
7 free will in Ms. Jones' --

8 **THE COURT:** There's no evidence of that.
9 There's no evidence of that. If your client were to
10 testify to that, there might be evidence of that.

11 **MR. MILLING:** Your Honor, I believe that's what
12 Ms. Jones testified to.

13 **THE COURT:** Go ahead.

14 **MR. MILLING:** We would submit that there is no
15 physical evidence linking my client to the crime
16 which occurred at Nina Lee and Donald Street as it
17 relates to Ms. Felder.

18 Going to the Mildred Avenue location, there is
19 no physical evidence, no evidence whatsoever
20 indicating that my client ever entered the address at
21 Mildred Avenue. Certainly no physical evidence. The
22 forensics examiners all testified that there is
23 nothing linking my client to the scene, no
24 fingerprints, no hair samples, no DNA, nothing.

25 The testimony of Mr. Allen, he stated as I

1 recall that the admission my client allegedly made
2 was that the way -- I think it was actually two
3 statements: One, that you know how Stanley is when
4 he's on cocaine; you can't stop him. And the other
5 was that the way that entry was gained to the house
6 was, I think he said they got a drop on the white
7 guy. Nothing suggests that my client entered the
8 house whatsoever.

9 There was testimony from Mr. Brown that my
10 client was not in the house, that he while there was
11 outside at the time that Mr. Batie and Mr. Miller
12 were shot. There is no one who puts a gun in my
13 client's hand inside the residence, pointing it or
14 firing it.

15 There is no evidence that my client was seen
16 with any money. Ms. Jones testified that she saw him
17 the morning after these events occurred, didn't say
18 that he had anything with him. In fact, the only
19 person who was seen with a large amount, or allegedly
20 seen with a large amount of cocaine, guns or drugs
21 was Mr. Oliver.

22 Mr. Moaney who the U.S. Attorney's Office even
23 doesn't believe indicated well after his initial
24 statement that my client arrived at the scene or at
25 his address and was there when Mr. Oliver brought

1 some drugs. It doesn't put that in my client's
2 hands.

3 There is no evidence that my client shot either
4 of those individuals, was present in the residence.
5 And to the extent that Mr. Allen's statement might
6 suggest that my client was present when, I think he
7 said they jumped on the white guy, the testimony of
8 Mr. Brown is that he left before anything happened.
9 He and Ms. Felder were sitting in the car, which
10 again shows that she was not -- that my client was
11 not present for this.

12 And I'm sure that the government is going to try
13 to argue the hand of one is the hand of all. But as
14 it relates to Mildred Avenue, my client certainly had
15 the ability to cease any activity he might have acted
16 in concert with someone else. And I would submit
17 that's the only evidence that is present, that
18 Mr. Brown testified that he left, he wasn't involved
19 any more, that he ended this engagement.

20 Your Honor, as to the armed robbery specifically
21 of Mr. Miller, as Ms. LaFave stated, the only
22 testimony that Mr. Miller had a watch came from his
23 mother yesterday. She acknowledged on cross
24 examination that she didn't know what might have
25 happened between the Thursday before and that

1 Saturday night.

2 This is somebody who didn't have any money, took
3 Mr. Cochran's ATM card to get \$80 out. Your Honor, I
4 would submit first off that there is a lack of direct
5 evidence showing that he even had the wallet, or
6 either the wallet or the watch, and that there
7 certainly is not substantial circumstantial evidence
8 which is what's required for the government to be
9 able to overcome a directed verdict motion.

10 Further, Your Honor, from the testimony of the
11 coroner and other forensics experts and the location
12 of Mr. Miller in the residence and the fact that he
13 had money in his pocket, \$79 of the \$80 he just
14 withdrew from the ATM machine, if there is evidence
15 of any armed robbery, there is no evidence that
16 anything was taken from the person of Mr. Miller
17 while he was alive.

18 An armed robbery has to be taken from the person
19 of another. And I would submit, Your Honor, that if
20 an individual has property taken from him after he is
21 dead that that is not an armed robbery because it's
22 not from the person of another.

23 Your Honor, there is no evidence that my client
24 took anything from the house, received anything from
25 the house or was otherwise involved in a robbery of

1 Mr. Batie. There is no evidence that my client fired
2 a shot into Mr. Batie or Mr. Miller. There was no
3 sign of forcible entry, and there is testimony that
4 Ms. Felder allowed the perpetrators into the home.
5 Beg the Court's indulgence.

6 Your Honor, for the reasons that I have outlined
7 here as well as the same reasons that Ms. LaFave
8 outlined in her motions, in the interest of judicial
9 economy, sir; and not to go over those again, we
10 would move for a directed verdict on all indictments
11 as to Mr. Gallman; the indictment relating to the
12 allegations that he murdered Mr. Batie, the
13 allegations that he murdered Mr. Miller, the
14 allegations that he murdered Ms. Felder, the
15 allegations that he robbed Mr. Batie, the allegations
16 that he robbed Mr. Miller, the allegations that he
17 robbed Ms. Felder, the allegations that he unlawfully
18 entered the Mildred Avenue residence, the burglary
19 allegation, and the allegation of kidnapping. We
20 would move for a directed verdict on all grounds.

21 **THE COURT:** The State's position.

22 **MR. ROSS:** Your Honor, I'd argue this is just a
23 clear example of hand of one, hand of all. And Mr.
24 Gallman and Mr. Oliver are tied together. One can't
25 get away from the other. You've got two different

1 handguns used. They were both involved in the
2 robbery. All this led from the robbery.

3 The motion, with all due respect, the motion of
4 what Mr. Milling said has to do with the weight of
5 the evidence, not whether there is existence of
6 evidence. He is attacking whether it's credible
7 evidence or not. That's for the jury to decide.

8 There is sufficient evidence in the record
9 certainly of Mr. Gallman's involvement through
10 Leticia Jones that he was involved in the robbery,
11 that he was with someone else when the murders
12 occurred at Mildred Avenue, that he was present when
13 Ms. Felder was kidnapped and that he actually fired
14 the fatal shot and killed Ms. Felder.

15 **THE COURT:** Anything further?

16 **MR. MILLING:** Your Honor, if may briefly.

17 **MR. ROSS:** Oh, one other thing. I'm sorry. On
18 the duress, there's State v. Robinson and State v.
19 Roachville. Both say duress is not a defense to
20 murder. And also that's an incorrect statement of
21 law. If you kill somebody and immediately take
22 something from their person, that is armed robbery.

23 **MR. MILLING:** Your Honor, responding briefly, as
24 to an armed robbery of someone who has just died, I
25 would submit that under certain circumstances it

1 could be an armed robbery if it's all one continuous
2 event. But there has been no testimony that my
3 client was involved in the taking of anything. The
4 only testimony is that he was outside when these
5 people were shot. There is no testimony that
6 anything was taken while my client was in there.

7 **MR. ROSS:** I don't know what he's talking about,
8 testimony outside when they were shot, I mean. But,
9 I mean, that's his version, but that's not the total
10 testimony in the record.

11 **THE COURT:** All right. I understand.

12 **MR. MILLING:** Your Honor, also briefly
13 responding, as to Ms. Jones' statement, while she
14 gave a statement as to my client coming in upset and
15 saying something to the effect of: "You were right,
16 I can't believe what my friends have done", I don't
17 recall hearing testimony that he told her that he was
18 involved in this crime. And I would submit, Your
19 Honor, that it's not an admission, it's insufficient
20 to show he was involved in this crime, that there's
21 not evidence linking him up to this crime. He may
22 have been admitting to something else unrelated to
23 this particular event. Thank you, Your Honor.

24 **THE COURT:** All right. As to Mr. Dominic
25 Gallman, as to indictment number 2005-GS-40-9698

1 charging Mr. Dominic Gallman with the armed robbery
2 of Desiree Felder, the motion for the directed
3 verdict is granted. As to all other indictments
4 against Mr. Gallman, I feel the evidence goes beyond
5 that of mere conjecture or suspicion, that there is
6 evidence, either direct or circumstantial or some
7 combination of both, which reasonably tends to prove
8 the guilt of the defendant or from which that guilt
9 might be logically and reasonably deduced if that
10 evidence is taken in a light most favorable to the
11 State. So I must respectfully deny all other motions
12 for directed verdict as to Mr. Dominic Gallman.

13 As to Mr. Kenneth Joy.

14 **MR. DELGADO:** Thank you. Your Honor, Mr. Joy is
15 indicted in a series of 16 different counts, either
16 accessory before the fact of each of the eight counts
17 or accessory after the fact.

18 I would like to be able to renew motions,
19 registered prior to trial and during trial and renew
20 them for the reasons on the record.

21 Secondly, Your Honor, in reviewing the
22 indictments, I must say to Your Honor that it may
23 very well be, notwithstanding Gentry, that this
24 counsel may have afforded Mr. Joy the ineffective
25 assistance of counsel under the Sixth Amendment.

1 If this Court looks at the indictments, there is
2 a requirement, I believe the last disposition of that
3 was in the Bixby decision by the Supreme Court from
4 Green -- no, Abbeville County -- where they require
5 for accessory -- I'm just going to speak about
6 accessory before the fact now. Bixby requires, Your
7 Honor, I'm quoting. I think this may be the
8 headnote, but I believe it is in the body of the
9 opinion as well, sir.

10 "The elements must concur to justify the
11 conviction of one as the accessory before the fact
12 are: One, the defendant advised and agreed or
13 furnished the parties in some way, aided them to
14 commit the offense; two, that the defendant was not
15 present when the offense was committed; and, three,
16 that the principal committed the crime."

17 The indictment, Your Honor, does not allege
18 that. The indictments for each count of the
19 before -- accessory before the fact of murder are
20 identical save as to the victims and to they do not
21 specify his being absent from the scene of the crime.

22 Based on that, and notwithstanding Gentry, I
23 submit to the Court that subject matter jurisdiction
24 needs to have been raised and should have been raised
25 by counsel in a motion to quash those eight

1 indictments. Knowing the State of law, I understand
2 that Gentry may very well control that.

3 Your Honor, I'm simply placing in for the record
4 the motion made during the trial relating to the
5 redacted testimony of Ms. Tatanisha Robinson pursuant
6 to South Carolina rules of evidence 613(b) and the
7 Court's ruling relating to the bifurcation of the
8 last closing pursuant to Crowe that counsel for Mr.
9 Joy argued yesterday.

10 Your Honor, relating to each of the accessory
11 before the facts, each of those -- and I am certain
12 my friend from the Solicitor's Office will argue
13 differently -- the only testimony, I believe the only
14 evidence relating to accessory, there is none as far
15 as I can recall from my recollection of some, I don't
16 remember how many days we've been in trial now; seven
17 days or so; relating to accessory before the fact.

18 It may very well be, Your Honor, that the only
19 testimony came from Mr. Ulicen Allen. I should be
20 very candid. I believe that the statement; that is,
21 the written report, the letter Mr. Allen wrote to Ken
22 Joy that we impeached him on, and I was very specific
23 to be able to say that that was impeaching, it was
24 not substantive evidence; in his direct testimony,
25 Your Honor, he never said anything about Ken Joy

1 knowing about, participating in, being absent from
2 the scene of, aiding or abetting.

3 It was only when, Your Honor, Mr. Joy's --
4 excuse me. And I believe I am correct. When the
5 solicitor placed Mr. Allen's letter into evidence on
6 redirect, it may very well be, Your Honor, that Rule
7 19(a) relating to a motion for directed verdict at
8 this stage requires the Court to grant a motion, a
9 directed verdict motion on each of those counts if
10 there is a failure of competent evidence tending to
11 prove the charge in the indictment.

12 This was not raised. It may have been raised in
13 redirect, but it was never published to the jury. Is
14 it competent evidence, Your Honor, to have this
15 letter in evidence but never have been published to
16 the jury relating to -- Your Honor, I just must say
17 to you there is a statement in Mr. Allen's -- the
18 only thing: "I have no plan on taking the stand and
19 lying to anyone for any reason. Some of you will say
20 I didn't shoot any of those people, and I would
21 agree. But you did set up the robbery and whisper
22 into Solo and Dominic's solo plan and then reap the
23 spoils of their sins. You were the coach and they
24 were your players, but like any coach knows, when the
25 team wins, the coach wins; and when the team loses,

1 the coach loses."

2 That in my recollection was not published to the
3 jury. While this is in evidence, is that the
4 competent evidence? Is that what 19(a) countenances
5 concerning, I'm sorry to say, your role at this very
6 unique and special time?

7 I ask the Court to most especially relating to
8 the accessory before the fact of kidnapping of
9 Ms. Desiree Felder, it would seem to this advocate
10 that that may have been something spontaneous and
11 unknown except to the actual actors who may or may
12 not have been present at the Mildred Street
13 residence.

14 There is the failure of absolute competent
15 evidence relating to the kidnapping of Ms. -- or
16 accessory before the fact of kidnapping as it relates
17 to Ms. Desiree Felder as it relates to Mr. Ken Joy.

18 For all those reasons, Your Honor, I submit to
19 the Court that at least the motion for directed
20 verdict as relates to accessory before the fact on
21 each of the eight counts gets us a directed verdict
22 as to Mr. Joy.

23 **THE COURT:** How about the after the fact
24 indictments?

25 **MR. DELGADO:** Your Honor, I would simply rely on

1 the record. I submit to the Court for the purposes
2 of any appellate court process if necessary, there
3 certainly is less than insufficient proof relating to
4 any of those.

5 **THE COURT:** How about Desiree Felder?

6 **MR. DELGADO:** On the accessory after the fact?
7 The same basis, Your Honor. In other words, if there
8 was nothing before the fact, there couldn't have been
9 anything after the fact. That was such a spontaneous
10 act by whoever did or did not accomplish that.

11 **THE COURT:** All right. What's the State's
12 position?

13 **MR. ROSS:** Your Honor, first off, the
14 indictments on the accessory before the fact, I think
15 the indictments are sufficient to put the defendant
16 on notice of what he's charged with. It
17 substantially tracks the language of the common law.

18 And I think Mr. Delgado, if he plainly saw that
19 the indictment was lacking should have made a motion
20 to quash at the beginning of the trial before the
21 jury was sworn, and I think it's too late to bring
22 that up now. But be that as it may, I think the
23 indictment sufficiently puts Mr. Gallman (sic) on
24 notice for accessory before the fact. The State's
25 theory of the case is not that he was present. It

1 was that he was not present.

2 Moving on to Mr. Allen's, Mike Allen's letter,
3 Your Honor, it is in evidence. The jury can read it.
4 That does not have to be published in the trial. Mr.
5 Delgado read part of it but he didn't read the rest
6 of it. It goes on to say: "Put your foot in your
7 own mouth when he said to me at my house, 'Mike,
8 don't worry about your brother. They will never be
9 able to convict him without the murder weapon. I got
10 rid of the clothes and the guns so no one will ever
11 find them."

12 If you put that in the context with the entire
13 couple of sentences where he's talking about Kenneth
14 Joy's role in planning the robbery, Your Honor, we
15 think that is sufficient for accessory before the
16 fact, that he did counsel, aid, encouraged in any
17 way.

18 And, Your Honor, as far as the kidnapping, I'm
19 looking at McInish, page 525, "Responsibility for
20 natural consequences of principals for an act both as
21 an accessory before the fact and a principal second
22 are guilty of a felony if they aided or encouraged
23 the principal first to commit, provided the course
24 for the principal first who actually committed the
25 offense. If, however, the principal first commits a

1 different crime than the one which had been
2 encouraged, liability of the accessory or principal
3 second depends on how probable or remote the crime
4 committed was from the one encouraged."

5 And it goes on to say: "The principal varies
6 totally or substantially from the solicitation and
7 commits an entirely different crime, one which did
8 not and could not probably or naturally resulted from
9 the efforts to commit the crime incited, the person
10 who incited would not be an accessory to the crime
11 committed. But whereas in this case the principal
12 had attempted to commit the crime of which he was
13 incited by the action or design" -- it's talking
14 about a shooting case -- "action or design commits
15 another crime, the person inciting is an accessory to
16 the crime actually committed."

17 Your Honor, I think it's a natural foreseeable
18 consequence that when you council, aid or abet armed
19 robbery of a drug dealer that murder is going to
20 occur and that you're also going to eliminate
21 witnesses and that kidnapping may occur. I think
22 that is not so far removed from the actual crime that
23 kidnapping should not be included.

24 **MR. DELGADO:** Your Honor, if I may also add
25 this. I'm sorry. I was sordid in trying to make my

1 presentation to you very specific. My friend, Mr.
2 Milling, indicated to me that the Court has granted a
3 motion, a directed verdict motion relating to the
4 armed robbery of Ms. Felder. Is that correct, sir?
5 If that in fact --

6 **THE COURT:** As to Oliver and Gallman, yes.

7 **MR. DELGADO:** Yes, sir. Well, then I renew --

8 **THE COURT:** I asked you about that.

9 **MR. DELGADO:** I'm sorry, sir. I did not
10 understand. I apologize. I'm --

11 **THE COURT:** I asked you about that at the end of
12 your presentation.

13 **MR. DELGADO:** You did.

14 **THE COURT:** I wanted you to address that issue.

15 **MR. DELGADO:** And because I did not hear, I was
16 trying to organize myself, I did not hear the Court
17 indicate that. We renew that motion on the same
18 basis.

19 **THE COURT:** I'm thoroughly convinced that
20 throughout this trial that has been a problem.

21 **MR. DELGADO:** Hopefully not as much by me.

22 **THE COURT:** All right. As to -- I'm sorry.

23 **MR. DELGADO:** That's all.

24 **THE COURT:** Oh, that's all? All right. As to
25 Mr. Kenneth Joy, in looking at the indictments, I

1 will -- I mean, it's not in front of me at this time.
2 But had any subject matter jurisdiction issue been
3 raised as to the form and content of the indictments,
4 I believe I would have denied that under Gentry.

5 Gentry, in my recalling of the rulings, states
6 clearly that an indictment is a notice document. And
7 I feel that these indictments are adequate to give
8 notice to Mr. Kenneth Joy as to the charges leveled
9 against him by the State.

10 Now, as to your directed verdict motion as to
11 indictment number 11480, accessory before the fact of
12 armed robbery of Desiree Felder; indictment number
13 11481, accessory before the fact of armed robbery of
14 Kevin Miller; indictment number 11482, accessory
15 before the fact of robbery of George Batie;
16 indictment number 11483, accessory before the fact of
17 burglary in the first degree; indictment number
18 11469, accessory before the fact of murder of Kevin
19 Miller; indictment number 11470, accessory before the
20 fact of murder of George Batie; indictment number
21 11471, indictment for accessory before the fact of
22 murder of Desiree Felder; indictment number 11473,
23 accessory before the fact of kidnapping of Desiree
24 Felder; and indictment number 11489, accessory after
25 the fact of armed robbery of Desiree Felder, all

1 directed verdict motions as to those indictments are
2 granted.

3 As to the remaining indictments against
4 Mr. Kenneth Joy, I feel that the evidence goes beyond
5 that of mere conjecture or speculation or suspicion,
6 that there is evidence, either direct or
7 circumstantial or some combination of both, which
8 reasonably tends to prove the guilt of the defendant
9 or from which the guilt of the defendant might be
10 logically and reasonably deduced if that evidence is
11 taken in the light most favorable to the State. So I
12 must respectfully deny your remaining motions as to
13 directed verdict on behalf of Kenneth Joy.

14 **MR. MEADORS:** On behalf of the State we'd like
15 the record to reflect our strong exception to Your
16 Honor's ruling, citing State's Exhibit 180 which
17 clearly says that -- the testimony the jury would
18 consider -- that he was the leader who planned all
19 this. And we take exception to your ruling.

20 **THE COURT:** All right.

21 **MR. MEADORS:** And that's in the record and for
22 the jury to decide when they get it.

23 **THE COURT:** All right, sir.

24 **MR. MILLING:** Your Honor, may it please the
25 Court? I think I earlier addressed my motions for

1 directed verdicts. The other counsel for the
2 co-defendants in this case also earlier addressed
3 their renewed motions. At this time I'd like also to
4 renew my motions, earlier motions for a mistrial,
5 motions to exclude the statement of Tatanisha
6 Robinson for the grounds that I previously set forth
7 on the record.

8 **THE COURT:** All right. The motion is denied,
9 respectfully denied.

10 Now, counsel, I guess we'll take our lunch
11 break. We'll stand at ease until 2:00.

12 (Whereupon, a lunch break is taken)

13 **THE COURT:** Is the State ready to proceed?

14 **MS. MCDUFFIE:** Your Honor, I've handed the
15 defense a copy of the original phone records from
16 BellSouth for Renata Williams which were admitted
17 subject to redaction. Law enforcement had written
18 some names out on the side. Ms. Outen has
19 painstakingly whited out those underlines. And I've
20 given copies to the defense of that. And I've also
21 given copies of the summary of the phone records,
22 removing all names for their review.

23 **THE COURT:** All right. Mr. Ross, are you
24 satisfied that the State has properly identified and
25 entered those exhibits which were testified to during

1 the trial?

2 **MR. ROSS:** Yes, sir.

3 **THE COURT:** All right. So at this point the
4 State rests?

5 **MR. ROSS:** Yes, sir.

6 **THE COURT:** Without reservation?

7 **MR. ROSS:** Yes, sir.

8 **THE COURT:** Is the defense ready to proceed?

9 **MR. STRICKLER:** If I may have just one moment,
10 please, sir.

11 (Pause)

12 **MS. MCDUFFIE:** Mr. Strickler, and if you're
13 looking for the 463 phone record, Ms. Outen is still
14 redacting that set of phone numbers.

15 **MR. STRICKLER:** Thank you. At this point, Your
16 Honor, I had raised an objection earlier regarding
17 State's Exhibit 188 and whatever the one that's still
18 out being redacted. And I forget the number. These
19 are the original phone records, my objection being
20 that they had been marked up. There are certain
21 numbers that have been underlined during the course
22 of whoever got them. They were not clean copies of
23 the records. Certain numbers had been highlighted,
24 and these were --

25 **THE COURT:** They highlighted them.

1 **MR. STRICKLER:** Well, they highlighted them.
2 Underlined. Emphasized. I'm sorry. That might be
3 the proper term. My understanding was that they were
4 to be redacted. And I'm looking at 188 which I
5 understand has been redacted. I'll just -- if I may
6 just approach, Your Honor?

7 **THE COURT:** Sure.

8 **MR. STRICKLER:** Just that page right there, if
9 that reflects what I'm talking about.

10 **MS. MCDUFFIE:** That's not been redacted. I
11 think that's the original version that you are
12 looking at. I handed copies of our redaction of it
13 to your co-counsel. I think that's the original that
14 still has an evidence sticker on it.

15 **MR. STRICKLER:** All right then. This is the
16 proposed redaction, and you can still see the
17 highlighted or the underlined numbers.

18 **THE COURT:** All right.

19 **MR. STRICKLER:** So my objection still stands in
20 that regard.

21 **THE COURT:** Okay. Well, I don't think -- the
22 markings which are faint that appear on this document
23 don't seem to have any significance to me, but they
24 may have some significance to somebody else. But
25 they are -- page 5 of 15 appears to have just some

1 faint markings. One could take the position that
2 (803)779-6080 was attempted to be stricken. But I
3 don't know that. I can still read it. Overruled.
4 I'm going to allow it to stay in, to go in in the
5 redacted form. I may be wrong.

6 **MR. STRICKLER:** That was as to 188. And we have
7 yet to get the redacted version of the others. And
8 I'll try to find the reference to the exhibit number
9 on that.

10 **MS. MCDUFFIE:** I believe that the other
11 objection was to 186 which Ms. Outen is currently
12 working on, and I don't believe there were objections
13 to those.

14 **THE COURT:** It's going to be a while before the
15 jury even has a chance to look at this. So we've
16 still got -- now, other than that, Mr. Strickler, are
17 you ready to proceed? I need to advise your client
18 of his rights under the Fifth Amendment. I am
19 prepared to do that.

20 **MR. STRICKLER:** Yes, sir. I understand. Yes,
21 sir. And certainly I'm prepared to go ahead and
22 proceed in that regard, sir.

23 **THE COURT:** All right. Mr. Oliver, if you'll
24 stand, please. I need to discuss a matter with you.
25 I am going to explain to you certain of your rights.

1 If you do not understand anything, please let me
2 know. If you want me to explain anything in further
3 detail, please let me know. Do you understand?

4 (No response)

5 **THE COURT:** We've reached the stage of the trial
6 where you may present your defense. And in the
7 course of your defense you have a right to testify on
8 your own behalf. However, no one can make you
9 testify. I advise you now that you have the right to
10 invoke the provisions given to you by the Fifth
11 Amendment to the Constitution of the United States
12 and a similar counterpart provision of the
13 Constitution of the state of South Carolina.

14 The Fifth Amendment to the Constitution of the
15 United States provides in part, "No person shall be
16 compelled in any criminal case to be a witness
17 against himself."

18 This provision of Constitutional law means that
19 you cannot be compelled or required to testify in
20 this case. That is a right and a privilege which the
21 law extends to you. This is a personal privilege,
22 and no one can waive this right except you.

23 You have the right not to testify, but you also
24 have the right to testify. The Court will grant you
25 the right to consult with your attorney before you

1 make this decision. If you elect not to testify,
2 your failure to testify cannot be used by the State
3 as any inference of guilt, and your failure to
4 testify cannot be considered by the jury in its
5 deliberations.

6 If you elect to testify and waive the privilege
7 extended to you by the Fifth Amendment to the
8 Constitution of the United States, I advise you now
9 that you will then assume the role of any other
10 witness in this case and you will then give up or
11 waive your Constitutional privilege against
12 self-incrimination.

13 This means that if you voluntarily take the
14 witness stand and testify, you will then subject
15 yourself to the same rules that govern any other
16 witnesses. You may be examined and cross examined on
17 any relevant issue in this case. You may be
18 impeached with your record if you have one or with
19 any other matters that come to the Court to the same
20 extent as any other witness in this case, all of
21 which, however, are subject to the rules of evidence
22 of the courts of the state of South Carolina.

23 I further advise you that if you elect to take
24 the witness stand and testify, this decision on your
25 part must be freely, voluntarily, intelligently and

1 with knowledge of the protections given to you by the
2 Fifth Amendment to the Constitution of the United
3 States and with knowledge of the consequences of your
4 election to testify.

5 Have you consulted with your attorneys in this
6 regard?

7 **MR. OLIVER:** Yeah. Briefly, I don't want to
8 hold this process up because I want this to be over
9 with worse than anybody. But I don't have a -- I
10 can't say for sure. Honestly, I can't. I mean, I
11 understand everything behind me testifying if I was
12 to testify, but I'm not sure if I want to testify or
13 not.

14 **THE COURT:** Well, have you discussed with your
15 lawyer whether you should or should not testify?

16 **MR. OLIVER:** Yeah, I have. I have one more
17 thing to say to my lawyer and them regarding it, and
18 then I can give you an answer definite.

19 **THE COURT:** Let me ask you one other -- do you
20 understand what I have explained to you?

21 **MR. OLIVER:** Yeah. I understand exactly what
22 you explained to me.

23 **THE COURT:** Do you have any questions to me
24 about what your rights are?

25 **MR. OLIVER:** Well, can I have the right to

1 parlay that for one more second to talk to my
2 attorney?

3 **THE COURT:** Sure. Yes, sir.

4 **MR. STRICKLER:** Beg the Court's indulgence.

5 (Pause)

6 **MR. MILLING:** Your Honor, while they are
7 discussing it, may I step outside to return a phone
8 call real quick which may deal with my client's case?
9 I will just be right in the outside area.

10 **THE COURT:** Your client will be examined next.

11 **MR. MILLING:** Yes, sir, Your Honor.

12 **THE COURT:** You understand that.

13 (Pause)

14 **MR. STRICKLER:** Thank you, Your Honor.

15 **THE COURT:** Yes, sir. Mr. Oliver, let me ask
16 you this. You've now discussed it with your
17 attorneys. I feel certain you discussed it with the
18 attorneys before right now, I mean, before this
19 minute. I've got to ask you at this point in time in
20 this trial, do you wish to testify?

21 **MR. OLIVER:** No. I'm not.

22 **THE COURT:** All right. Thank you very much. Go
23 get him.

24 (Pause)

25 **THE COURT:** Mr. Gallman, will you stand, please.

1 At this point in the trial I am going to explain to
2 you certain of your rights. If you do not understand
3 anything I say, please let me know. If you want me
4 to explain anything in further detail, please let me
5 know. Do you understand?

6 **MR. GALLMAN:** Yes, sir.

7 **THE COURT:** We have now reached the stage of the
8 trial where you may present your defense. You have
9 the right to testify in your own defense. However,
10 no one can make you testify in this case. I advise
11 you now that you have the right to invoke the
12 protections given to you by the Fifth Amendment to
13 the Constitution of the United States and a similar
14 counterpart provision of the Constitution of the
15 state of South Carolina.

16 The Fifth Amendment to the Constitution of the
17 United States provides in part: "No person shall be
18 compelled in any criminal case to be a witness
19 against himself or herself."

20 This provision of Constitutional law means that
21 you cannot be compelled or required to testify in
22 this case. This is a right and privilege which the
23 law extends to you. This is a personal privilege.
24 No one can waive this right except you.

25 You have the right not to testify, but you also

1 have the right to testify. The Court will grant you
2 the right to consult with your attorney before you
3 make this decision. If you elect not to testify,
4 your failure to testify cannot be used by the State
5 as any inference of guilt, and your failure to
6 testify cannot be considered by the jury in its
7 deliberations.

8 If you elect to testify and waive the privilege
9 extended to you by the Fifth Amendment to the
10 Constitution of the United States, I advise you now
11 that you will then assume the role of any other
12 witness in this case and you will then waive or give
13 up your Constitutional privilege against
14 self-incrimination.

15 This means that if you voluntarily take the
16 witness stand and testify, you will then subject
17 yourself to the same rules that govern other
18 witnesses. You may be examined and cross examined on
19 any relevant issue in this case. You may be
20 impeached to the same extent as any other witness.
21 That would be including questions about your prior
22 record, if you have one, all of which, however, are
23 subject to the rules of evidence of the courts of the
24 state of South Carolina.

25 I further advise you that if you elect to take

1 the witness stand and testify, this decision on your
2 part must be freely, voluntarily, intelligently and
3 with knowledge of the protections given to you by the
4 Fifth Amendment to the Constitution of the United
5 States and with knowledge of the consequences of your
6 election to testify.

7 Do you wish to consult further with your
8 attorney on this matter?

9 **MR. GALLMAN:** No, sir.

10 **THE COURT:** Have you discussed with your
11 attorney whether you should testify or should not
12 testify?

13 **MR. GALLMAN:** Yes, I have.

14 **THE COURT:** Do you understand what I have
15 explained to you?

16 **MR. GALLMAN:** Yes, sir.

17 **THE COURT:** Do you have any questions about what
18 I have explained to you?

19 **MR. GALLMAN:** No, sir.

20 **THE COURT:** Do you wish to testify?

21 **MR. GALLMAN:** No, sir.

22 **THE COURT:** All right. Thank you very much,
23 sir. Mr. Joy.

24 **MR. JOY:** Yes, sir, Your Honor.

25 **THE COURT:** At this time I am going to explain

1 to you also certain of your rights. If you do not
2 understand anything I say, please let me know. If
3 you want me to explain anything in further detail,
4 please let me know. Do you understand?

5 **MR. JOY:** Yes, sir, Your Honor.

6 **THE COURT:** We've now reached the stage of the
7 trial where you pay present your defense. You have a
8 right to testify in this case. You also have the
9 right not to testify. No one can make you testify in
10 this case. I advise you now that you have the right
11 to invoke the protections given to you by the Fifth
12 Amendment to the Constitution of the United States
13 and a similar counterpart provision of the
14 Constitution of the state of South Carolina.

15 The Fifth Amendment to the Constitution of the
16 United States provides in part: "No person shall be
17 compelled in any criminal case to be a witness
18 against himself." This provision of Constitutional
19 law means that you cannot be compelled or required to
20 testify in this case.

21 This is a right and a privilege which the law
22 extends to you. This is a personal privilege. No
23 one can waive this right except you. You have the
24 right not to testify, but you also have the right to
25 testify. The Court will grant you the right to

1 consult with your attorney before you make this
2 decision.

3 If you elect not to testify, your failure to
4 testify cannot be used by the State as any inference
5 of guilt, and your failure to testify cannot be
6 considered by the jury in its deliberations.

7 If you elect to testify and waive the privilege
8 extended to you by the Fifth Amendment to the
9 Constitution of the United States, I advise you now
10 that you will then assume the role of any other
11 witness in this case and you will then give up or
12 waive your Constitutional privilege against
13 self-incrimination.

14 This means that if you voluntarily take the
15 witness stand and testify, you will then subject
16 yourself to the same rules that govern other
17 witnesses, and you may be examined or cross examined
18 on any relevant issue in this case and you may be
19 impeached; that is, your record may -- you may be
20 impeached with your record, if you have one, to the
21 same extent as any other witness in this case; all of
22 which, however, are subject to the rules of evidence
23 of the courts of the state of South Carolina.

24 I further advise you that if you elect to take
25 the witness stand and testify, this decision on your

1 part must be freely, voluntarily and with knowledge
2 of the protections given to you by the Fifth
3 Amendment to the Constitution of the United States
4 and with knowledge of the consequences of your
5 election to testify.

6 Do you wish to consult further with your
7 attorney on this matter?

8 **MR. JOY:** No, sir, Your Honor.

9 **THE COURT:** Have you discussed with your
10 attorney whether you should testify or not testify?

11 **MR. JOY:** Yes, sir. We have discussed that.

12 **THE COURT:** Do you understand what I have
13 explained to you?

14 **MR. JOY:** Yes, sir.

15 **THE COURT:** Do you have any questions about what
16 I have explained to you?

17 **MR. JOY:** No, sir, I do not.

18 **THE COURT:** Do you wish to testify?

19 **MR. JOY:** As of right now, Your Honor, I would
20 like to leave open the option to testify.

21 **THE COURT:** Well, I will tell you that if you're
22 saying you're going to testify or wish to leave open
23 the option to testify, you are going to be called to
24 testify, or your case is going to be called very
25 shortly; I mean, within a matter of maybe minutes,

1 maybe an hour. In other words, your case -- you are
2 going to have to make that decision.

3 **MR. JOY:** Yes, sir, Your Honor. I will testify.

4 **THE COURT:** All right. Thank you very much.
5 Now, as to Mr. Oliver, does Mr. Oliver, aside from
6 his testimony or deciding not to testify, will he
7 present a defense?

8 **MR. DELGADO:** Yes, sir.

9 **THE COURT:** Mr. Milling, as to Mr. Gallman, will
10 Mr. Gallman present a defense?

11 **MR. MILLING:** Your Honor, he very well may.
12 That's why I'm attempting to get in touch with a
13 potential witness at this time.

14 **THE COURT:** All right. And, Mr. Delgado?

15 **MR. DELGADO:** Yes, he would, Your Honor.

16 **THE COURT:** All right. Is the State ready to
17 proceed?

18 **MR. MEADORS:** The State's ready.

19 **THE COURT:** Is the defense ready to proceed?

20 **MR. STRICKLER:** One moment, Your Honor.

21 **THE COURT:** All right.

22 **MR. MILLING:** Your Honor, I unfortunately during
23 our break because of meeting with my client did not
24 have the opportunity to step to the restroom. If I
25 might be able to do that real quickly, I would

1 appreciate it.

2 **THE COURT:** Do it.

3 **MR. MILLING:** Thank you.

4 (Pause)

5 **MS. LAFAVE:** Your Honor, if I may just very
6 briefly. The phone call summary --

7 **THE COURT:** It won't go away, will it?

8 **MS. LAFAVE:** It will not go away, Your Honor.

9 **THE COURT:** Yes, ma'am.

10 **MS. LAFAVE:** Forever etched in our memory as
11 Exhibit 212.

12 **THE COURT:** I'm sorry?

13 **MS. LAFAVE:** State's Exhibit 212.

14 **THE COURT:** Is that this?

15 **MS. LAFAVE:** Yes, Your Honor.

16 **THE COURT:** This is where the names have come
17 off?

18 **MS. LAFAVE:** Yes, Your Honor. The names have
19 come off which was subject to our prior objection.
20 At this time, Your Honor, the only contention that we
21 have with this is that there are places on here where
22 there is a number and then another number. We've
23 reviewed our records, Your Honor. And although the
24 first number can be found to be reflected in phone
25 records that we have received in these with respect

1 to these particular numbers, the other one we cannot
2 verify; such as, on the first page, September 2nd,
3 2005 at 3:58 p.m., 779-6080 calls a 665 number or a
4 237 number. The 237 number is the one that we're
5 unable to locate or find anywhere. We can't show
6 that --

7 **THE COURT:** Have you asked Ms. McDuffie?

8 **MS. LAFAVE:** No, Your Honor.

9 **THE COURT:** Why don't you just ask her? I can't
10 answer your question.

11 **MS. MCDUFFIE:** We'll be happy to explain it and
12 fix it.

13 **THE COURT:** Say what?

14 **MS. MCDUFFIE:** We can take care of that so
15 that --

16 **THE COURT:** Ms. LaFave, just walk over there.

17 **MS. LAFAVE:** Thank you, Your Honor.

18 **THE COURT:** It's very difficult in getting
19 lawyers to talk to each other. Okay? Still not
20 satisfied?

21 **MS. LAFAVE:** Your Honor, the State indicates
22 that those were two separate phone calls put on one
23 line and that they are now going to break them down.

24 **THE COURT:** Well, you know, each -- let me
25 remind you of something. Each side at least at this

1 point in time has two hours to argue to this jury.
2 And I think a good hour could be consumed just going
3 through this call list. I doubt that's going to
4 happen. But I don't know. I don't want anything to
5 prejudice your case. If they say they're willing to
6 put them on separate lines, put them on separate
7 lines.

8 **MS. LAFAVE:** Thank you, Your Honor.

9 **THE COURT:** I wondered why some are 1.15 minutes
10 and 344 seconds. But, you know, --

11 **MS. MCDUFFIE:** To answer that, Your Honor, --

12 **THE COURT:** -- I don't really need to know.

13 **MS. MCDUFFIE:** -- different phone companies do
14 it different ways.

15 **THE COURT:** I don't really need to know. Ready
16 to proceed? Are you ready for the jury? Oh, I'm
17 sorry. We need Mr. Milling.

18 (Pause)

19 **THE COURT:** Are you ready to proceed, Mr.
20 Milling?

21 **MR. MILLING:** Thank you, Your Honor.

22 **THE COURT:** All right. Bring the jury, please.

23 **THE BAILIFF:** Yes, sir.

24 (Jury in at 3:00 p.m.)

25 **THE BAILIFF:** Your Honor, the jury is present.

1 **THE COURT:** All right. Thank you very much.
2 All right, ladies and gentlemen. The defense will
3 now present their case. Mr. Strickler.

4 **MR. STRICKLER:** Thank you, Your Honor. May it
5 please the Court. The defense first of all would
6 move at this point in time to introduce what's been
7 marked as Defendant's Exhibit 2 for I.D. which is the
8 PCR application that Jason Brown identified as being
9 his and is filed in this courthouse.

10 **MR. MEADORS:** May I review it? Your Honor, if
11 he would continue, I'd like to review this. I
12 haven't fully read through it. So if he could go
13 ahead, I'll do this while he's ...

14 **THE COURT:** Well, --

15 **MR. MEADORS:** I just need a minute to read
16 through this.

17 **MR. STRICKLER:** Fine, Your Honor. In the
18 interest of not delaying things, I'm be happy to
19 proceed. The defense calls Investigator Paul Mead.

20 PAUL J. MEAD, after being duly sworn, testifies
21 as follows:

22 **THE CLERK:** Thank you. Please have a seat in
23 the witness stand and state your full name for the
24 record. And please spell your last name.

25 **THE WITNESS:** Paul James Mead, M-E-A-D.

1

DIRECT EXAMINATION

2

BY MR. STRICKLER

3

Q Good afternoon, Mr. Mead.

4

A Good afternoon.

5

Q You are employed by the City of Columbia Police
Department, correct?

6

7

A Yes, sir.

8

Q And you are employed in the capacity of an
investigator?

9

10

A I am.

11

Q Okay. Any particular area of investigation that
you're employed in?

12

13

A I was in the major crimes unit.

14

Q Yes, sir.

15

A But I'm now in the property crime unit.

16

Q Property crime. I think they discussed with
Mr. Wilkerson yesterday about major crimes
investigations. And there are other units also?

17

18

A Yes, sir.

19

Q And property crimes would be one of them, correct?

20

A Yes.

21

Q Okay. In September 2005, were you in the major
crimes unit at that point in time?

22

23

A Yes, sir, I was.

24

Q And you were here yesterday. You've been in court

25

1 for the past better part of two weeks, correct?

2 **A** Yes, sir.

3 **Q** So you heard Mr. Wilkerson testify that you were the
4 chief investigating officer on the case that we're in
5 court here for today, correct?

6 **A** I heard him testify.

7 **Q** Is that indeed correct?

8 **A** For the most part; yes, sir.

9 **Q** Okay. Could you elaborate on that, please?

10 **A** Myself and Investigator Burns were both assigned to
11 this case. Originally she was the chief
12 investigator. Due to the circumstances of her
13 retirement, I took over as the lead investigator in
14 the case.

15 **Q** Okay. So initially that would be Gertrude Burns,
16 correct?

17 **A** That's correct, sir.

18 **Q** She was initially the chief investigator. And at
19 what point in time did you take over as chief
20 investigator?

21 **A** Sometime during the investigation. I don't have the
22 exact date, sir.

23 **Q** As chief investigator I take it that you would agree
24 with the conversation I had with Mr. Wilkerson
25 yesterday that the chief investigator not only takes

1 part in the investigation but also serves, if you
2 will, as a clearing house for information and helps
3 coordinate the efforts of other people involved in
4 the investigation. Correct?

5 A That's correct, sir.

6 Q So you were taking an active role in looking into
7 aspect of the case and you were also receiving
8 information from other people involved in the
9 investigation of this case?

10 A That's correct.

11 Q And coordinating their efforts. As such, you were
12 aware of actions taken during the course of this
13 investigation, correct?

14 A A lot of them. Yes, sir.

15 Q Now, we've got four sets of phone records that have
16 been introduced into evidence here. You're aware
17 that the phone records for George Batie's home phone
18 were subpoenaed, correct?

19 A I do know that; yes, sir.

20 Q And that the phone records for his cellphone were
21 subpoenaed, correct?

22 A I believe that's true, sir.

23 Q And that the cellphone records for Ms. Felder's
24 cellphone were subpoenaed also, correct?

25 A Yes, they were, sir.

1 Q Those I think are all probably all done by Ms. Burns
2 like on the 4th, early on in the investigation?

3 A Yes, sir.

4 Q Okay. And those indeed are in your possession at
5 this point in time or the possession of the
6 prosecution at this point in time, correct?

7 A Yes, sir.

8 Q And you're aware that -- well, among the things that
9 you did do during the course of the investigation is
10 look into a lot of the phone numbers that turned up
11 on these records, correct?

12 A We did.

13 Q Okay. And you were here earlier when Pete Currie
14 with your department testified about recovering what
15 he has identified as Mr. Oliver's fingerprint from
16 the scene and also a fingerprint of one Rasheed
17 Rucker from Mr. -- well, from the 300-Z, right?

18 A Yes, sir.

19 Q Okay. Parked at the scene, right?

20 A Yes, sir, it was.

21 Q Okay. Mr. Batie's car, right?

22 A It was.

23 Q Okay. And you indeed determined phone numbers
24 associated with Mr. Rucker, didn't you?

25 **MR. MEADORS:** Your Honor, I'm going to object to

1 leading at this point.

2 **THE COURT:** I think he's a hostile witness. I
3 think he's entitled under 611 to lead him.

4 **MR. MEADORS:** Your Honor, I didn't say he's a
5 hostile witness. We object to that.

6 **THE COURT:** Well, that's the rule.

7 **MR. STRICKLER:** Thank you, sir.

8 **Q** You determined what Mr. Rucker's phone number was,
9 didn't you?

10 **A** I believe it was in one of the cellphones.

11 **Q** Went through and recovered the stored numbers in the
12 cellphones?

13 **A** That's correct sir.

14 **Q** And retrieved that. Determined that that was his
15 number and indeed determined that Rasheed Rucker had
16 called Mr. Batie sometime after 11:00 the evening of
17 the 3rd?

18 **A** I don't know the exact time, but I do know that he
19 did call him that day.

20 **Q** And that Mr. Batie called him back?

21 **A** I'm not sure of that, sir.

22 **Q** And indeed a search warrant was served for
23 area code , by Mitch Wilkerson with your
24 office on September 7th of that year, that being
25 Rasheed Rucker's phone number?

1 **A** I am not sure. I can't -- I can't say, sir.

2 **Q** Now, I'm sorry, sir. Do you have your notes up there
3 with you?

4 **A** I have my case notes.

5 **Q** Your case notes. Okay. I've been referring to them
6 myself. I just want to make sure if there's any
7 problems with any questions that we can figure out
8 where we are. By September 6th you were actively
9 involved in the case, correct?

10 **A** Yes, sir.

11 **Q** Okay. And indeed by 6:30 in the evening, 18:30 in
12 the evening which would be 6:30 at night, you had
13 located Rucker on the cellphone list on Mr. Batie's
14 phone?

15 **A** That's correct.

16 **Q** And the search warrant was drawn at that point in
17 time to search for his cellphone records, correct?

18 ?

19 **A** Yes, sir.

20 **Q** Now, you're not the only person working on the case
21 at this point obviously. There's a lot going on.
22 Leads are being developed. Among them is the fact
23 that the uncle of Stanley Oliver was one individual
24 named Gedson, correct?

25 **A** Yes, sir. William Gedson.

1 Q William Gedson. In fact, if you were here in court
2 when Mr. Wilkerson testified, I believe he says that
3 Stanley said he was either with Renata or over at Mr.
4 Gedson's house during the time. It's a little later
5 in time when he interrogated him, correct?

6 A Yes, sir.

7 Q Now, when did you first have contact with Mr.
8 Gallman?

9 A I don't know the exact date, sir. But myself and
10 Investigator Burns contacted him on Tremain Street,
11 talked with him briefly.

12 Q Can you take a look at your notes and tell me when
13 you indicated that you tracked down this person of
14 interest?

15 A It's not in my notes, sir.

16 Q You're familiar with a document that police
17 departments use. I don't think it's unique to the
18 City of Columbia Police Department. That's referred
19 to by the acronym of a BOLO?

20 A Yes, sir.

21 Q Be-on-the-lookout? It's a document, informational
22 document, sent out to the various agencies, officers
23 and the agencies informing them that they need to go
24 ahead and look out for a particular individual,
25 right?

1 **A** Yes, sir.

2 **Q** It may contain information about the individual, a
3 photograph of the individual, et cetera, correct?

4 **A** It does.

5 (WHEREUPON, Defendant Oliver's Exhibit No. 3 is
6 marked for identification.)

7 **Q** I present you, sir, what's been marked as Defendant's
8 Exhibit 3 at this point for identification, ask if
9 you can identify that?

10 **A** It's a BOLO issued by the City of Columbia Police
11 Department.

12 **Q** For what individual?

13 **A** William Gedson.

14 **Q** Okay. And can you tell me what the date is on that
15 BOLO?

16 **A** October 10th of 2005.

17 **MR. STRICKLER:** Okay. Your Honor, at this point
18 in time I'd move this into evidence.

19 **THE COURT:** Any objection?

20 **MR. MEADORS:** I can't hear him. I'm sorry.

21 **THE COURT:** Moved in evidence.

22 **MR. STRICKLER:** I wish to introduce this. I'm
23 sorry.

24 **THE COURT:** Without objection.

25

1 (WHEREUPON, Defendant Oliver's Exhibit No. 3 is
2 admitted into evidence.)

3 **MR. STRICKLER:** Thank you, sir.

4 **Q** Now, on September 8th of 2005 you had occasion to
5 come in contact with Ms. Williams, correct?

6 **A** Yes, sir.

7 **Q** Okay. At her residence, correct?

8 **A** Yes.

9 **Q** And did you have any paperwork with you at that point
10 in time?

11 **A** What kind of paperwork, sir?

12 **Q** Any at all.

13 **A** I'm sure I had a notebook with me or something.

14 **Q** Okay. Nothing more than that?

15 **A** Not that I'm aware of.

16 **Q** All right, sir. What was the location of her
17 residence, sir?

18 **A** It's Palmetto Terrace. I think it's 3020 Palmetto
19 Terrace.

20 **Q** ?

21 **A** Howell Avenue.

22 **Q** Palmetto Terrace. Let me present you
23 with this document and see if perhaps it refreshes
24 your mind as far as whether you had any paperwork
25 when you went there?

1 **A** Sir, when we went there the first time we did not
2 have a search warrant. This was done the second time
3 when we returned back to her residence.

4 **Q** The second time when you returned. Very well, sir.
5 So you went and saw Ms. Williams?

6 **A** We did.

7 **Q** And then you did return. The search warrant is sworn
8 out by Ms. Burns. But you returned with her during
9 the execution of that search warrant, correct?

10 **A** I did, sir.

11 **Q** So you returned to search her place, right?

12 **A** We did.

13 **Q** And at that point in time did she go down to the city
14 police department with you all?

15 **A** She went down the first time, sir.

16 **Q** All right. Did she provide you with a statement that
17 first time?

18 **A** No. We interviewed, or I interviewed Ms. Williams at
19 the police department. Then we brought her back to
20 her residence and executed the search warrant.

21 **Q** Okay. So you interviewed her on September 8th down
22 at the city police department, correct?

23 **A** I did, sir.

24 **Q** That interview was not reduced to writing, sir, as
25 far as her signing a statement, correct?

- 1 **A** That's correct, sir.
- 2 **Q** I mean, you took notes on it or made your own notes
- 3 on what was said, right?
- 4 **A** I did, sir.
- 5 **Q** Okay. And I take it in keeping with what
- 6 Mr. Wilkerson has told us earlier that that interview
- 7 was not video recorded, correct?
- 8 **A** No, it was not.
- 9 **Q** It was not audio recorded, correct?
- 10 **A** No, it was not, sir.
- 11 **Q** Okay. Where in Justice Square did that interview
- 12 take place?
- 13 **A** In an interview room right off from the main area of
- 14 investigations on the second floor.
- 15 **Q** All right, sir. Can you tell us roughly, what sized
- 16 room is that?
- 17 **A** Maybe ten-by-ten I would guess, sir. I don't know.
- 18 **Q** And furnished with a table and some chairs or what?
- 19 **A** Table and some chairs. Yes, sir.
- 20 **Q** Present in that room were you and her?
- 21 **A** Yes, sir.
- 22 **Q** Just the two of you?
- 23 **A** Yes, sir.
- 24 **Q** The door was open or shut?
- 25 **A** Shut I believe.

- 1 Q And for how long did you interview her on
2 September 8th?
- 3 A I don't have an exact time. She stayed there until
4 she went back to execute the search warrant with us,
5 giving her a ride there to the police department.
- 6 Q If you'll refer to page 5 of your notes?
- 7 A Yes, sir.
- 8 Q I see an indication that it's 1200 hours. I would
9 assume that's noon?
- 10 A Yes, sir.
- 11 Q Locate Renata Williams at her residence, correct?
- 12 A Right.
- 13 Q The next page, page 6, close to half way down. 16:15
14 hours a search warrant is executed?
- 15 A That's correct.
- 16 Q And that's the one we've been talking about, right?
- 17 A Yes, sir.
- 18 Q So Ms. Williams was with you from noon to 16:15 or
19 4:50 in the afternoon?
- 20 A Yes, sir. That includes going to her residence,
21 speaking to her, driving her back to headquarters,
22 interviewing her, drawing the search warrant and then
23 driving her back to her residence and executing the
24 search warrant.
- 25 Q And however long the interview took during that four

1 hours and 15 minutes, at that point in time she did
2 not indicate to you that she had information
3 regarding Stanley Oliver's involvement in the
4 homicides that we're here about, correct?

5 **A** No, she did not.

6 **Q** Now, that was on September 8th. Move forward to
7 September 13th at which point in time you are aware
8 as chief investigator that Stanley Oliver came to the
9 police department with a Ulicen Allen, slash, Mike
10 Allen and was interviewed, correct?

11 **A** Yes. He came on the 13th.

12 **Q** And he was interviewed by Investigators Wilkerson and
13 Burns, correct?

14 **A** Yes, sir.

15 **Q** Now, at that point in time, I'm just trying --

16 **MR. MEADORS:** Your Honor, could we approach a
17 minute?

18 (Whereupon, a bench conference is had)

19 **MR. STRICKLER:** May it please the Court, sir?

20 **THE COURT:** Yes, sir.

21 **Q** Now, that was September 13th. Now, at that point in
22 time, as chief investigator in this case, subsequent
23 to taking that statement or subsequent -- not written
24 statement, oral statement that Mr. Wilkerson
25 testified to -- Mr. Oliver was arrested, correct?

1 **A** Correct.

2 **Q** Okay. That would be -- I forget what his testimony
3 yesterday was -- 3:52 maybe when the statement ended
4 on the afternoon of the 14th. Excuse me. Afternoon
5 of the 13th. At that point in time Mr. Oliver is
6 arrested. Right?

7 **A** Yes, sir.

8 **Q** Okay. Now, you had contact with one Mike Allen who
9 testified here sometime earlier during this trial,
10 correct?

11 **A** I did, sir.

12 **Q** And your contact with Mr. Allen was on -- I'm not
13 saying your sole contact with him. Initial contact
14 with him, September 14th at 9:15 in the morning
15 roughly?

16 **A** That's when he called me. Yes, sir.

17 **Q** He contacted you. So Stanley is arrested on the
18 13th. Mike Allen contacts you on the 14th. Now,
19 subsequent to that you again contact Renata Williams,
20 correct?

21 **A** I did.

22 **Q** Okay. And at this point in time, do you take a
23 statement from her?

24 **A** I do.

25 **Q** Okay. And at this point in time, by this point in

1 time about 12:30 on the 14th, something like that,
2 shortly after noon?

3 **A** I believe so.

4 **Q** At this point in time you advised her of her rights,
5 correct?

6 **A** I believe I did, sir.

7 **Q** And did you take a statement from her at that point
8 in time?

9 **A** I did.

10 **Q** A written statement?

11 **A** I did.

12 **Q** Now, and at this point in time you discussed where
13 she'd been with Stanley, correct?

14 **A** I did.

15 **Q** She still did not indicate to you any knowledge of
16 his participation in the murders, correct, at that
17 point in time?

18 **A** No, sir.

19 **Q** That would be roughly 12:30 on the 14th, right?

20 **A** That's correct.

21 **Q** Am I correct that those are -- you had contact with
22 her, I believe your testimony was, on the 9th. Or on
23 the 8th. Okay. The police department and back, you
24 call that whole process one contact with her. This
25 would be your second personal contact with her. Is

1 that correct?

2 **A** Yes, sir. I believe so.

3 **Q** Okay. Then what was your next contact with Ms.
4 Williams, please?

5 **A** On the -- I believe on the 15th.

6 **Q** Yes, sir. About what time was that?

7 **A** About 1:20 in the afternoon.

8 **Q** And what was the purpose of that contact with her?

9 **A** Ms. Williams was arrested at that time.

10 **Q** At her residence, correct?

11 **A** That's correct.

12 **Q** Now, how many police officers went to arrest Ms.
13 Williams?

14 **A** I'm not sure. I believe it was at least the three of
15 us.

16 **Q** The three of you being whom?

17 **A** Sergeant Wilkerson, Investigator Burns and myself.

18 **Q** At least could you have had a uniform at that time
19 with you, uniformed officers?

20 **A** We may have had a uniformed car. I can't remember,
21 sir.

22 **Q** And at that point in time, at the time of her arrest,
23 she didn't provide you with any further information
24 about the homicides, correct?

25 **A** That is correct, sir.

1 Q She was charged with misprisonment of a felony,
2 correct?

3 A That's correct, sir.

4 Q Now, what was her emotional state at the time you
5 arrested her?

6 A During the entire time that I had contact with her,
7 she was extremely calm and she never really got
8 upset.

9 Q This is Renata Williams you're referring to?

10 A Yes, sir.

11 Q Now, when she's arrested, a bond is set on her, she's
12 taken to jail. Correct?

13 A That's my understanding. Yes, sir.

14 Q Prior to -- how did the additional contact with her
15 come about?

16 A Which one is that, sir?

17 Q Well, we've heard about contact on the 8th. We've
18 heard about contact on the 13th. And then we've
19 heard about those from you that day.

20 A Yes, sir.

21 Q Earlier in this trial we have heard about contact
22 between the police and her on September 19th. She
23 was still in jail on September 19th, correct?

24 A I believe so. Yes, sir.

25 Q On the charge which you all -- that you had brought

1 against her for misprisonment of a felony, right?

2 **A** Yes, sir.

3 **Q** You weren't present at this interview with her at
4 that point in time, were you?

5 **A** No, sir, I wasn't.

6 **Q** And that interview was conducted by Mr. Wilkerson?

7 **A** It was, sir.

8 **Q** So you can't tell us anything about the length of
9 time of your interview of your own knowledge,
10 correct?

11 **A** No, sir. I would need the statement to tell you the
12 time the statement was taken.

13 **Q** Ms. Williams' emotional state at that point in time
14 on the 19th after spending the better part of a week
15 in the Alvin S. Glenn Detention Center?

16 **A** No, sir. I wasn't there.

17 **Q** What was said to her by Mr. Wilkerson? No?

18 **A** No, sir.

19 **Q** Okay. How she responded both verbally and
20 non-verbally to whatever was said to her by
21 Mr. Wilkerson, right?

22 **A** No, sir. I wasn't there.

23 **Q** You weren't there. All right. Isn't the association
24 of phone calls to the victim and from the victim by
25 Rasheed Rucker and his print being found on the

1 victim's car, aren't those facts of interest to the
2 City of Columbia Police Department in doing a
3 thorough investigation into this offense?

4 A Yes, sir.

5 Q What steps were taken to follow up with Mr. Rucker
6 regarding any participation, if any, any information
7 he might have in this regard?

8 A I attempted to contact Mr. Rucker at his residence.
9 At that point he did not want to talk to me, add any
10 information. I then tried to contact him at his
11 work, asked him to come and talk with me. Again he
12 did not. During this time period there was no
13 evidence that was developed that linked Mr. Rucker
14 other than possibly touching Mr. Batie's car to the
15 incident at hand.

16 Q All right. So you followed up the point of trying to
17 contact him. Both times he wouldn't talk with you,
18 right?

19 A He didn't want to talk with me. No, sir.

20 Q The pistol -- my understanding is that the testimony
21 is that there are two weapons that have been
22 identified in this case as being involved in the
23 deaths of these three individuals; one being a .40
24 caliber semi-automatic handgun, correct?

25 A That's correct, sir.

1 Q Okay. The other being a handgun that's consistent
2 with, most consistent with a .38 or a .357, correct?

3 A That's correct.

4 Q Okay. You know, neither of these guns have been
5 recovered is my understanding. Correct?

6 A That's correct, sir.

7 Q And wouldn't the arrest of Mr. Rucker for the
8 possession of the .38 on the 14th of October, 2005 be
9 of interest?

10 A Yes, sir.

11 Q He was fairly closely associated with this scene?

12 A (Shakes head negatively).

13 Q But by that point in time you'd already gone down the
14 line as far as Stanley goes. You didn't know
15 anything about that arrest. You'd made your arrest.
16 And Columbia being what Columbia is, I'm sure you
17 were involved in other investigations by that point
18 in time. Is that correct?

19 A I was involved in other investigations. And at that
20 time, yes, all the evidence did point to Mr. Oliver
21 and Mr. Gallman and Mr. Joy.

22 Q All right, sir. Just to a couple of other things, if
23 I could, please. Beg the Court's indulgence one
24 moment. All right, sir. Thank you.

25 **THE COURT:** Cross examination.

1 **MR. MILLING:** Thank you, Your Honor. If it
2 pleases the Court.

3 CROSS EXAMINATION

4 **BY MR. MILLING**

5 **Q** Good afternoon, Investigator Mead.

6 **A** How you doing, sir?

7 **Q** As I'm sure you've heard sitting here in the
8 courtroom, good afternoon. My name is Jonathan
9 Milling. I represent Mr. Dominic Gallman in this
10 case. Now, to make sure I understand, you are -- you
11 were not the first chief investigator on this case on
12 behalf of the City, correct?

13 **A** Yes, sir.

14 **Q** That was Gertrude Burns, correct?

15 **A** Yes, sir.

16 **Q** When was it that you got on board with this?

17 **A** I was there from the beginning of the investigation.

18 **Q** Okay.

19 **A** But she was the lead investigator and as that took a
20 lead role in many of the things that were done.

21 **Q** But you were aware of things that she had done,
22 correct?

23 **A** Yes, I was.

24 **Q** Now, we've also got the Richland County Sheriff's
25 Department involved in the case, correct?

1 **A** We do.

2 **Q** Okay. Who was the lead investigator on that case?

3 **A** I believe it was Investigator Holdorf.

4 **Q** The gentleman sitting right here?

5 **A** That's correct, sir.

6 **Q** Now, because in your mind you had two different crime
7 scenes, locations, did you all have occasion to talk
8 about the case?

9 **A** We did.

10 **Q** Did you all have occasion to share notes and
11 thoughts?

12 **A** Yes, sir.

13 **Q** Were you all generally aware of what the other was
14 doing in the case?

15 **A** In a very general sense; yes, sir.

16 **Q** Okay. You were aware, were you not, that the
17 Sheriff's Department obtained a search warrant for
18 Mr. Gallman's residence, weren't you?

19 **A** I can't say whether I knew that or not, sir.

20 **Q** You can't say whether you knew that or not?

21 **A** No, sir.

22 **Q** Do you think you would have known had they found
23 anything of interest at my client's residence?

24 **A** I'm sure they would have told us; yes, sir.

25 **Q** Okay. So it is, therefore, your understanding then

1 that they didn't find anything at my client's
2 residence if they did execute a search warrant?

3 **A** I don't know, sir.

4 **Q** Okay. But they would have told you had they?

5 **A** I would think they would, but I can't -- I mean, I
6 can't speak for them.

7 **Q** Okay. Now, shifting back to what the City did, Mr.
8 Strickler asked you about a gentleman by the name of
9 Rasheed Rucker?

10 **A** Yes, sir.

11 **Q** And if I heard you and the earlier testimony
12 correctly, this is a gentleman whose fingerprint was
13 found at the incident location?

14 **A** On Mr. Batie's vehicle, on the outside of his
15 vehicle.

16 **Q** Okay.

17 **A** Yes, sir.

18 **Q** And that was one of three identifiable or three
19 prints that were identified to persons at that
20 location, correct?

21 **A** Yes, sir.

22 **Q** None of those three was Mr. Gallman, was it?

23 **A** No, it was not.

24 **Q** Okay. Now, you also indicated that you all had
25 obtained phone records from Mr. Rucker's phone,

1 correct?

2 A Yes, we did.

3 Q Okay. And that those phone records linked up a
4 telephone call from Mr. Rucker to Mr. Batie on the
5 night of the murder?

6 A Yes. There was a call.

7 Q Okay. So we've got Mr. Rucker present at the scene
8 at least sometime, correct?

9 A Not at that scene. I mean, he could have put that
10 print on the car at any time.

11 Q Any time?

12 A Grocery store. I mean anywhere, sir.

13 Q Okay. But at least his fingerprint was present
14 there?

15 A His fingerprint was on the vehicle, outside the
16 vehicle, yes.

17 Q And he had a phone call to that residence?

18 A He did. Or to Mr. Batie, yes.

19 Q And you indicated that you tried to talk to him on
20 two occasions, correct?

21 A I did.

22 Q What were those dates?

23 A The first time I believe was on the 19th of October.
24 I'm not absolutely sure of the date that I went by
25 his place of employment.

- 1 Q The 19th of October?
- 2 A Yes.
- 3 Q Okay. So that was the first time you decided to talk
4 to him?
- 5 A Yes, sir.
- 6 Q When was the second time that you tried to talk to
7 her?
- 8 A It was sometime thereafter.
- 9 Q Sometime after the 19th of October?
- 10 A That's correct, sir.
- 11 Q Okay. And when he wouldn't talk to you, you left it
12 at that?
- 13 A At that particular point, yes. Because during the
14 investigation up to that point, again no evidence
15 pointed to Mr. Rucker being involved in this.
- 16 Q Other than the fingerprint being there?
- 17 A The fingerprint could have come from anywhere, sir.
- 18 Q Other than him calling Mr. Batie that night?
- 19 A He and a lot of other people called Mr. Batie. Yes,
20 sir.
- 21 Q Now, as a part of the City's investigation, you came
22 into contact with an ATM receipt, correct?
- 23 A We did.
- 24 Q One that apparently Mr. Miller had obtained the night
25 of the murders, correct?

1 **A** Yes, sir.

2 **Q** 2:20 a.m. if I remember correctly?

3 **A** 2:40 I believe, sir.

4 **Q** 2:40. Did you have an occasion to somehow find out
5 whether or not there was a video showing who would
6 have been with Mr. Miller that night?

7 **A** We did.

8 **Q** And were you able to locate Mr. Miller on that video?

9 **A** We did.

10 **Q** Okay. Was he alone?

11 **A** Yes, he was.

12 **Q** Okay. Beg the Court's indulgence for one moment.

13 (Pause)

14 **Q** Now, having looked at the video, does it just show
15 his head, or how far down my body would it have
16 shown?

17 **A** I believe the video shows above the waist.

18 **Q** So waist up?

19 **A** I believe so.

20 **Q** I'm assuming it would have shown him insert a card?

21 **A** I think because the way the video worked, there
22 was -- it shows a frame and then there is segments.
23 It goes to other locations and then there's another
24 segment. I don't remember if it actually shows him
25 putting the card in or not.

- 1 Q Okay. Do you know -- but you do say that it shows
2 from the waist up on Mr. Miller?
- 3 A I know you can at least see from the chest up.
- 4 Q From the chest up?
- 5 A Yes, sir.
- 6 Q Does it show him making any motions with his hands as
7 if to receive the money or anything like that?
- 8 A There is some motion with his hands.
- 9 Q Okay. And now, as the chief investigator in the
10 case, you've got knowledge about physical evidence
11 obtained by the City police, correct?
- 12 A I do.
- 13 Q Evidence that was obtained from the Mildred Avenue
14 residence, correct?
- 15 A I do.
- 16 Q Fingerprints obtained from that residence?
- 17 A Yeah.
- 18 Q Any DNA samples that would have been taken from
19 there?
- 20 A I know that there was.
- 21 Q Hair samples?
- 22 A I don't know if they took hair samples or not, sir.
- 23 Q Were you there that night?
- 24 A I was there for part of the evening; yes, sir.
- 25 Q Part of the evening? But you weren't the one

1 responsible for physically obtaining this evidence?

2 **A** No, sir. We have crime scene people who collect the
3 evidence and photograph.

4 **Q** But as the chief investigator, you would be aware of
5 what all had been gathered?

6 **A** Yes, sir. They would give a report with that
7 information.

8 **Q** And you would be aware of comparisons that had been
9 made?

10 **A** I believe so. Yes, sir.

11 **Q** And you're aware that not a single piece of evidence
12 links, physical evidence links my client, Dominic
13 Gallman, to the Mildred Avenue residence, correct?

14 **A** Not physical evidence. No, sir.

15 **Q** Nothing further.

16 **THE COURT:** Mr. Delgado.

17 CROSS EXAMINATION

18 **BY MR. DELGADO**

19 **Q** Mr. Mead, you are an experienced and well trained
20 police officer?

21 **A** I hope so.

22 **Q** Yes, sir.

23 **A** Yes, sir.

24 **Q** Part of your training, part of your experience makes
25 you -- as a good criminal investigator makes you

1 suspicious. Would that be fair?

2 A Yes, sir.

3 Q When somebody tells you something, first you're going
4 to check that out. Because as an experienced and
5 well trained investigator, you just don't want to
6 take the first thing somebody says, correct?

7 A It just depends on what the information is that's
8 given to us.

9 Q Certainly. I understand. Rasheed, R-A-S-H-E-E-D?

10 A Yes, sir.

11 Q Mr. Mead, there is a fingerprint of this individual,
12 Rasheed Rucker, found on the Jaguar parked at the
13 residence on Mildred Street. Correct, sir?

14 A No, sir. It was found on the Nissan 350 belonging to
15 Mr. Batie.

16 Q Oh, I'm sorry. That's Mr. Batie's Nissan?

17 A Yes, sir.

18 Q That's right. I'm so sorry. That's right. Ms.
19 Felder had the other car?

20 A Yes, sir.

21 Q I'm sorry. Fingerprint. Now, there's no way of
22 being able to tell when that occurred. Correct, sir?

23 A That's correct.

24 Q But what you also found out, as an experienced and
25 well trained criminal investigator, you found out

- 1 there was a phone call to Mr. Batie from Rasheed
2 Rucker. Correct, sir?
- 3 **A** Yes, sir.
- 4 **Q** And a phone call back from George Batie to Rasheed
5 Rucker. Right, sir?
- 6 **A** I believe so. Yes, sir.
- 7 **Q** And, sir, if I spelled Batie wrong, is that close? I
8 mean, is it B-E-A-T-T-Y?
- 9 **A** B-A-T-I-E.
- 10 **Q** Well, then I'm sorry. I apologize. A call from
11 Mr. Rucker to Batie occurred on the evening of
12 Saturday night, the 3rd of September. Correct, sir?
- 13 **A** Yes, sir.
- 14 **Q** Just before the morning of September the 4th,
15 correct?
- 16 **A** Yes, sir.
- 17 **Q** Do you recall for our jury what time that phone call
18 from Mr. Rucker to Mr. Batie occurred?
- 19 **A** I don't know the time, sir. No.
- 20 **Q** Before midnight in any event?
- 21 **A** Yes, sir. I believe it was well before.
- 22 **Q** Shortly thereafter, sometime Mr. Batie called
23 Mr. Rucker back, right?
- 24 **A** I believe so. Yes, sir.
- 25 **Q** September 3rd, 2005. And obviously we know what

1 happened on the early morning hours of September the
2 4th, correct?

3 **A** That's correct.

4 **Q** Now, being a good criminal investigator, one other
5 fact considered in this matter involving this fellow,
6 Rasheed Rucker, he was found -- I'm sorry, sir. He
7 was found with a .38 revolver. Is that correct, sir?

8 **A** I didn't know that, sir.

9 **Q** Do you know that now, sir?

10 **A** Just from what Mr. Strickler told me.

11 **Q** And it was found through the City -- hold on a
12 second. This individual sometime in October is found
13 with a .38. Is that correct, sir?

14 **A** Hold on.

15 **Q** Would you know, sir, on or about October 14th, 2005
16 if this individual, Rasheed Rucker, is arrested by
17 your colleagues at the Richland County Sheriff's
18 Department for a gun violation, a .38? Did you know
19 that, sir?

20 **A** No, sir.

21 **Q** Do you know that now?

22 **A** If you tell me that's the facts, sir.

23 **Q** I'm not going to misstate it. That's exactly what
24 happened.

25 **MR. MEADORS:** What was that last thing you said?

1 **MR. DELGADO:** I'm not going to misstate what
2 those records show that you all gave me.

3 **MR. MEADORS:** What records is he referring to?

4 **MR. DELGADO:** You'll have to ask Mr. Strickler
5 that. I'm sorry.

6 **Q** Each of these things, when you went to see Mr.
7 Rucker, he said, I'm not going to talk to you. And
8 you said, fair enough. And that wasn't even until
9 October -- what was that date again, sir?

10 **A** 19th, sir.

11 **Q** But by that time Ken Joy and everybody else in this
12 case had already been arrested almost a month by
13 October the 18th, 2005. Isn't that right?

14 **A** Yes, sir. All the evidence pointed to those
15 individuals. That's what we were following up.

16 **Q** I understand. Just hold on one second.

17 **THE COURT:** Excuse me. Please confiscate that
18 phone.

19 **THE BAILIFF:** We've got it, Your Honor.

20 **THE COURT:** Go ahead, Mr. Delgado.

21 **MR. DELGADO:** Thank you.

22 **Q** All these things still kind of kept you suspicious
23 about him even on October the 19th. Correct, sir?

24 **A** I wanted to follow up with it. Yes. It was
25 something I wanted to check on.

- 1 Q Sure.
- 2 A Being a print that could come from anywhere at any
3 time, I knew there was tons of phone calls to Mr.
4 Batie's residence during that time.
- 5 Q Yes, sir.
- 6 A But, yes. I did want to check on that, get an
7 explanation if he provided one.
- 8 Q So with all this, it's not enough to get somebody
9 arrested. Correct? Right?
- 10 A No, sir.
- 11 Q Ken Joy was arrested back on September 23rd, wasn't
12 he?
- 13 A I believe so.
- 14 Q You got any fingerprints on anything involving Ken
15 Joy?
- 16 A No, sir.
- 17 Q Do you have any phone calls from Ken Joy to anybody
18 else involved in this business, involving Mr. Batie
19 or Ms. Felder?
- 20 A To them?
- 21 Q Yes, sir.
- 22 A Not that I'm aware of, sir.
- 23 Q Anything about finding a gun on him that matched
24 anything?
- 25 A A gun that matched what, sir?

1 Q Anything. These shots, sir. That's why this is put
2 in, Mr. Mead. That's the reason these pictures of
3 these folks are placed in here, sir. Absolutely
4 nothing to link him. But here's what you've got with
5 this fellow, Rasheed Rucker. Do you know where
6 Mr. Rasheed Rucker may be today, sir?

7 A I believe he's in the Department of Corrections.

8 Q South Carolina Department of Corrections?

9 A Yes, sir.

10 Q And I understand. How long have you been with the
11 Columbia Police Department, Mr. Mead?

12 A 22 years, sir.

13 Q I would imagine that not only is the procedure
14 employed by the City of Columbia Police Department as
15 well as you personally as a criminal investigator
16 that there is no tape recording done of individuals'
17 statements. Would that be fair?

18 A To the best of my knowledge, that's not done.

19 Q It's not done. Preceding your time with the City of
20 Columbia Police Department that wasn't done. It's
21 not done to this day. Correct, sir?

22 A As far as I know, it's not done today. No, sir.

23 Q All right. Sir, in the conference room or the
24 interview room; and I know where you're talking about
25 at 1 Justice Square which is the new police

1 department here in Columbia, that is where
2 Ms. Tatanisha Robinson is talked to by members of the
3 City of Columbia Police Department. Correct, sir?
4 A That's correct, sir.
5 Q Mr. Wilkerson would be your superior in the chain of
6 command?
7 A He was.
8 Q Mr. Wilkerson interviewed Tatanisha Robinson as we
9 now know. Correct, sir?
10 A Yes, sir.
11 Q You and/or Ms. Gertrude Burns were in and out of that
12 interview. Would that be fair?
13 A I don't think I was there. Ms. Burns may or may not
14 have been there. I'm not sure.
15 Q Well, were there other investigators, other
16 detectives in and out of that room?
17 A I doubt that they came in there during the interview.
18 Q All right, sir. Before Ms. Tatanisha Robinson is
19 interviewed, can you state for our jury whether
20 Ms. Renata Williams had been arrested by your agency?
21 A I don't know the date of the interview with Ms.
22 Robinson.
23 Q All right. Ms. Robinson, do you know whether or not
24 Renata Williams had been arrested by that time? If
25 you know, fine. If you don't, that's fine, too.

1 **A** I don't know.

2 **Q** Is it your testimony, sir, that if Ms. Renata
3 Williams said that she was threatened with a murder
4 charge, would that be true or not true as far as you
5 know, sir?

6 **A** Not true as far as I know.

7 **Q** If she said that she was shown pictures of these
8 victims, is that true or is that not true, sir?

9 **A** To my knowledge that is not true.

10 **Q** This is the woman who was a nurse's aid, had an
11 automobile accident and she lost a job. Do you
12 remember her? Very early in this case, maybe
13 Thursday or so of last week?

14 **A** Ms. Williams?

15 **Q** Yes, sir.

16 **A** Yes, sir. I remember her.

17 **Q** Mr. Mead, four weeks ago yesterday, four weeks ago
18 yesterday you testified before the Richland County
19 Grand Jury, did you not, sir?

20 **A** I did, sir.

21 **Q** The Richland County Grand Jury meets in this
22 building. Correct sir?

23 **A** Yes.

24 **Q** In fact, I think it's right down this hall if I'm not
25 mistaken?

1 **A** Yes.

2 **Q** The Richland County Grand Jury is called "grand"
3 because it has more than what we call here a petit
4 jury, more than 12 individuals. It has 18. Correct?

5 **A** That's correct.

6 **Q** Before anybody can ever be brought to trial in
7 Richland County or in any county in this state, there
8 has to be an indictment returned. Correct, sir?

9 **A** That's correct.

10 **Q** You testified --

11 **MR. MEADORS:** Your Honor, objection. He can't
12 go into what's said in the Grand Jury.

13 **MR. DELGADO:** I didn't say that.

14 **THE COURT:** Don't ask him what he testified
15 about.

16 **Q** No. I'm not going to ask him about that. I'm just
17 going to say, did you testify before the Richland
18 County Grand Jury?

19 **A** I did, sir.

20 **Q** You testified; and as a result of that, the Richland
21 County Grand Jury --

22 **MR. MEADORS:** Your Honor, objection. This is
23 highly improper. He's trying to compare two
24 different parts of the government. I object.

25 **THE COURT:** Overruled.

1 Q On November the 14th, 2007, you testified before the
2 Richland County Grand Jury; and as a result, the
3 Richland County Grand Jury returned, rather than the
4 eight counts against Ken, returned 16 counts against
5 Ken. Correct, sir?

6 A That's correct, sir.

7 Q Just before November the 14th, 2007, did you or any
8 other member of your agency or with the Solicitor's
9 Office go see a fellow by the name of Mike Allen at
10 the Lexington County Detention Center?

11 A I did not. I don't know if anybody else did, sir.

12 Q I'm sorry, sir?

13 A I don't know if anyone else did.

14 Q For whatever reason, you testified differently than
15 the original indictments returned against Ken Joy,
16 did you not?

17 A Slightly. Yes, sir.

18 Q Slightly and significantly. Would that be fair?

19 MR. MEADORS: What was the question?

20 Q Slightly and significantly different. Would that be
21 fair, sir?

22 A I don't know about significantly, but there was a
23 slight difference. Yes, sir.

24 Q So all the time between September the 23rd of 2005 to
25 this day, Ken Joy is held in jail on one series of

1 indictments; and then on November 24th other
2 indictments are returned. Would that be fair?

3 **A** That's correct, sir.

4 **Q** Just one second. Your Honor, I think that's all the
5 questions I have. Thank you. Thank you, sir.

6 **THE COURT:** Mr. Meadors.

7 CROSS EXAMINATION

8 **BY MR. MEADORS**

9 **Q** And that happens all the time, doesn't it? You take
10 additional charges back to this Grand Jury all the
11 time, don't you?

12 **A** Yes, sir, I do.

13 **Q** I'm not going to be that long. On September 6th of
14 2005 there was a murder at Mildred Avenue, wasn't
15 there? On or about the 4th?

16 **A** Yes, sir.

17 **Q** I started on the wrong page here. You were one of
18 the chief investigating officers of that, those two
19 murders, correct?

20 **A** I was, sir.

21 **Q** And Pete Currie responds to the scene along with
22 Rose, correct?

23 **A** That's correct, sir.

24 **Q** And a fellow had come by there earlier named Kenny
25 Parker, K. P., hadn't he?

- 1 **A** Yes, he did.
- 2 **Q** And K. P. had been identified as a customer, hadn't
- 3 he, of Jim Batie? Excuse me. A friend of Jim Batie?
- 4 **A** A friend.
- 5 **Q** Phone calls on there right?
- 6 **A** Yes, there were.
- 7 **Q** I think there was even some phone calls on his
- 8 answering machine that had K. P. on there. We heard
- 9 them. You were in here, correct?
- 10 **A** Yes, sir.
- 11 **Q** Identified on that cellphone as K. P., correct?
- 12 **A** Yes, he was.
- 13 **Q** And there was also a Rasheed Rucker, also was on
- 14 Batie's number, was on his cellphone, wasn't it?
- 15 **A** Yes, it was.
- 16 **Q** Also identified in some phone book of Jim Batie's,
- 17 wasn't it?
- 18 **A** It was.
- 19 **Q** That was Rasheed Rucker, right?
- 20 **A** Yes, sir.
- 21 **Q** Dominic Gallman's name in any of Jim Batie's books at
- 22 his home, coincidence?
- 23 **A** No, sir.
- 24 **Q** Find that in there?
- 25 **A** No, sir.

- 1 Q Stanley Oliver, did you find that in there?
- 2 A No, we did not, sir.
- 3 Q Find Ken Joy in there?
- 4 A No, sir.
- 5 Q Not in his phone book at home, none of those names in
- 6 Mr. Batie's?
- 7 A No, sir.
- 8 Q None of those phone messages to Mr. Batie on there
- 9 either that morning or Mr. Batie's phone, were there?
- 10 A No, there wasn't, sir.
- 11 Q Go ahead and tell the -- they said investigation.
- 12 You went out looking for Rasheed Rucker, right?
- 13 A I did.
- 14 Q And initially you couldn't find him or you talked to
- 15 him and you couldn't get any cooperation. Whatever.
- 16 Correct?
- 17 A That's correct.
- 18 Q Did you eventually talk to him?
- 19 A Yes, I did.
- 20 Q What did he tell you that he was, if anything, of Mr.
- 21 Batie?
- 22 A He was a client of Mr. Batie's, that he bought drugs
- 23 from Mr. Batie.
- 24 Q A client. A customer?
- 25 A A customer.

- 1 Q Name was in his book at home?
- 2 A Yes, it was.
- 3 Q Had he said whether or not he got any drugs from Mr.
- 4 Batie on or about September 4th? Or September 3rd.
- 5 Excuse me.
- 6 A Yes, sir. He said he made a phone call to Mr. Batie
- 7 for him to bring cocaine to him. Mr. Batie then
- 8 called him and went to his work. The transaction was
- 9 made there where he obtained three ounces of cocaine.
- 10 Q Rasheed Rucker obtained three ounces of cocaine from
- 11 Jim Batie. And where did Rasheed Rucker work?
- 12 A The Oyster Bar down in Five Points.
- 13 Q Two miles from here?
- 14 A That's correct, sir.
- 15 Q And Mr. Batie delivered it to him?
- 16 A He did.
- 17 Q And did I ask you to go interview Rasheed Rucker in
- 18 preparation for this testimony and their cross?
- 19 A Yes, you did, sir.
- 20 Q And did you do it?
- 21 A I did.
- 22 Q Tell them when you did it.
- 23 A Monday of this week.
- 24 Q Monday of this week?
- 25 A Yes, sir.

1 Q You went and talked to him and he said he was a
2 customer. Tell these ladies and gentlemen of the
3 jury, besides that print of Rasheed Rucker -- on what
4 car was it?

5 A A Nissan 350.

6 Q Beside that print of Rasheed Rucker who is listed in
7 the phone book of Jim Batie and is on the cellphone
8 trying to get in touch with Jim Batie, are you trying
9 to hide something? If you're trying to call
10 somebody's cellphone, are you trying to hide your
11 identity?

12 A I would think not, sir.

13 Q How much other evidence linking Rasheed Rucker, if
14 any, to these two murders on Mildred and the murder
15 on Nina and Donald Street is there?

16 A Absolutely none.

17 Q Zero?

18 A None.

19 Q Name ever been brought up by anybody in the death of
20 Jim Batie, Desiree Felder, or Kevin Miller?

21 A No, sir. Never.

22 Q As a matter of fact, if he's a customer, he'd want
23 Jim Batie alive, wouldn't he?

24 A Yes, sir.

25 Q Now, very briefly. Ms. Renata Williams gave several

1 statements, correct?

2 A She did, sir.

3 Q First statement, didn't want to say anything?

4 A Correct.

5 Q Then she gave a statement I think September 8th where

6 she admitted that he, being Stanley Oliver, bought

7 some DVD's, right?

8 A Correct.

9 Q Spent some money on her, correct?

10 A He did.

11 Q Stayed in a motel, correct?

12 A They did.

13 Q The testimony, I believe she answered what she was

14 asked, correct?

15 A She did.

16 Q Subsequently, on the 19th, did she tell the

17 investigator that -- well, who interviewed her on the

18 19th?

19 A Mitch Wilkerson.

20 Q And did she tell Mitch Wilkerson about the statement

21 in the motel room that he said, I'm scared; I might

22 do 25 to life?

23 A Yes, she did.

24 Q Talked again about the DVD's and the CD's and how

25 much money he spent and what denomination of bills?

1 **A** Yes, sir.

2 **Q** And did she tell Mitch Wilkerson on the 19th that I
3 was scared for my life, that's why I didn't cooperate
4 with you all to start with? Isn't that in the
5 investigative file?

6 **MR. STRICKLER:** Your Honor, I object.

7 **MR. DELGADO:** Yes, Your Honor. I object, too.
8 May we approach the bench, please?

9 **Q** You are the chief investigating officer?

10 **A** I am, sir.

11 (Whereupon, a bench conference is had)

12 **Q** Mr. Strickler was going through your notes. On
13 September 13th, approximately 2:00, Stanley Oliver
14 came to the Columbia Police Department, correct?

15 **A** Yes, he did, sir.

16 **Q** And he was accompanied by his brother, Michael Allen,
17 correct?

18 **A** He was.

19 **Q** Michael Allen walked in there with him. Correct?

20 **A** Yes, he did.

21 **Q** I think Mr. Strickler asked you or you responded to
22 his questions, on September 14th there was a phone
23 call, wasn't there?

24 **A** Yes, there was.

25 **Q** Mike Allen called you, didn't he?

- 1 **A** He did.
- 2 **Q** You didn't call Mike Allen?
- 3 **A** No, sir.
- 4 **Q** Mike Allen called you on the 14th, September the
- 5 14th?
- 6 **A** That's correct.
- 7 **Q** And at that point Mike Allen gave a statement that
- 8 the night after he turned in, I believe brought in
- 9 Stanley Oliver, he went to see Kenneth Joy, didn't
- 10 he?
- 11 **A** He did.
- 12 **Q** And he went to see Kenneth Joy -- or excuse me.
- 13 Kenneth Joy came to his house, correct?
- 14 **A** He went to his house. Yes, sir.
- 15 **Q** And a guy named Pancho came to his house, didn't he,
- 16 with Kenneth Joy?
- 17 **A** That's correct.
- 18 **Q** And Pancho is related to Kenneth Joy, isn't he?
- 19 **A** That's the indication. His cousin or something.
- 20 **Q** Didn't he say that K didn't want to talk on the phone
- 21 because he was worried about it being bugged?
- 22 **A** That's correct.
- 23 **Q** That's why he wanted to come talk to him, correct?
- 24 **A** Correct.
- 25 **Q** And did he tell him that -- did Ken Joy tell you that

1 Joy told him not to worry about his brother? Joy
2 told Mike Allen, don't worry about your brother?
3 A That's correct, sir.
4 Q That Ken Joy, I disposed of the weapons?
5 A That's what he told me.
6 Q Disposed of the clothes?
7 A Yes, sir.
8 Q And that you, the police, would never find the car
9 because I got rid of it?
10 A That's what Ken Joy told Mike Allen. And he relayed
11 that to me.
12 Q The next day Mike Allen tells you, right after he's
13 talked to Ken Joy, correct?
14 A That's correct.
15 Q He told you he's going to get Stanley an attorney?
16 A He did.
17 Q That the week prior to this murder Stanley didn't
18 have a dime and now he's got all this money.
19 Correct?
20 A That's correct.
21 Q Did he tell you about getting off work at Smokey
22 Bones earlier and going over there and getting a call
23 from Stanley Oliver and going over to Renata's house
24 at Palmetto Terrace and walking in and seeing the
25 money and the drugs, correct?

1 **A** That's what he told me; yes, sir.

2 **Q** Renata verified that later, didn't she?

3 **A** She did.

4 **Q** And he told you all early on in a statement that when
5 he touched that money he felt something wrong, didn't
6 he?

7 **A** Yes. He told that to us.

8 **Q** That wasn't something he said in here last week, was
9 it, for the first time?

10 **A** No, sir.

11 **MR. DELGADO:** Objection, Your Honor. Pitting,
12 please.

13 **THE COURT:** Yes, sir.

14 **MR. MEADORS:** Pitting? It's the same witness.

15 **MR. DELGADO:** No, sir. You were talking about a
16 whole other witness. He's pitting that witness
17 against him.

18 **THE COURT:** Sustained.

19 **Q** He told you all that that day, correct?

20 **A** He did.

21 **Q** And after that Mike Allen went and got the address of
22 Dominic Gallman and gave it to you all, didn't he?

23 **A** Yes, he did.

24 **Q** And he told you that he talked to Dominic and said,
25 why did you let my brother not wear gloves? He said,

1 I told him to but you know how he is and then he just
2 lost it?

3 A He told us.

4 Q Mike Allen came back and told you all that?

5 A He did.

6 Q Gave you the address of Dominic Gallman?

7 A Yes, sir.

8 Q Back in September of 2005 he told you that, didn't
9 he?

10 A September 14th. Yes, sir.

11 Q And then later came back with Dominic the 16th,
12 correct?

13 A The 16th of September, yes.

14 Q As a matter of fact, in the course of the
15 investigation, didn't a Ms. Aretha Perry tell you
16 that K's younger brother was Pancho and they tried to
17 get fixed up with her?

18 MR. DELGADO: Objection, Your Honor. That's
19 hearsay. Jeez. Objection.

20 THE COURT: Sustained.

21 Q Mr. Delgado mentioned to you about a telephone toll
22 of Rasheed and why didn't you go arrest him and what
23 other evidence. And he said that Ken Joy was
24 arrested on 9-23 and you didn't have any evidence.
25 Well, you had Tatanisha Robinson's statement, didn't

1 you?

2 **A** I believe that was before he was arrested. Yes, sir.

3 **Q** Well, look at it and see. State's 203. See what

4 that is.

5 **A** Yes, sir.

6 **Q** And she told you all what kind of car Ken drove,

7 didn't she?

8 **A** She did.

9 **Q** And she told you, law enforcement, that K came up

10 with some money for Solo's lawyer but he wouldn't

11 want to use all of his part. He wanted to know where

12 Oliver's share is so he could help, right?

13 **A** She did.

14 **Q** And she said K said they took the drugs to Blue?

15 **A** Yes, she did.

16 **Q** You had Michael Allen's statement against him?

17 **A** Yes, sir.

18 **Q** Renata Williams?

19 **A** We did.

20 **Q** Tatanisha Robinson?

21 **A** We did.

22 **Q** Are there phone calls linking from a number that's

23 known to be used by him to Dominic Gallman and Renata

24 Williams and Stanley Oliver in this case?

25 **A** There are, sir.

1 Q Did Rasheed Rucker call any of these folks? Any
2 phone number connected to Rasheed Rucker at all?

3 A Not that I'm aware of; no, sir.

4 Q Any of these three?

5 A Not that I'm aware of; no, sir.

6 Q Now, finally, and I beg the Court's indulgence. Now,
7 Mr. Strickler and then Mr. Delgado relying on Mr.
8 Strickler asked you about some weapons that Rasheed
9 Rucker was arrested with on October of 2006. Do you
10 remember that?

11 A Yes, sir.

12 Q Looking at this document, is Rasheed Rucker's name on
13 there?

14 A Yes, sir, it is.

15 Q What type guns was he arrested with?

16 A A .380 Beretta and a .22 caliber.

17 Q A .380 Beretta and a .22 caliber. That's not a .38,
18 is it?

19 A No, sir.

20 Q Nowhere near a .38, is it?

21 A No, it's not.

22 Q This was a triple homicide, wasn't it?

23 A Yes, it was, sir.

24 Q Were you all early on in the investigation able to
25 link the two scenes together ballistically?

1 **A** Yes, we were.

2 **Q** And is that when you started working with the county?

3 **A** That's correct.

4 **Q** Thank you.

5 **A** Yes, sir.

6 **THE COURT:** Redirect?

7 **MR. STRICKLER:** Three questions, please.

8 REDIRECT EXAMINATION

9 **BY MR. STRICKLER**

10 **Q** You went and spoke with Rasheed Rucker, correct?

11 **A** I did, sir.

12 **Q** And your testimony is that you interviewed him at the
13 request of Mr. Meadors on Monday of this week. Is
14 that correct?

15 **A** That's correct, sir.

16 **Q** This is the 13th. No. Yeah. 10th. 12-10-07. And
17 Mr. Milling asked you about this video of Mr. Miller
18 making the withdrawal from the ATM machine?

19 **A** Yes, sir.

20 **Q** Whether it's a video series of -- sometimes I'm not
21 sure how those cameras work. But he's shown you
22 believe from the waist up, correct?

23 **A** I can definitely see the chest area and above.

24 **Q** Okay. So you've reviewed it yourself, right?

25 **A** I have seen the video; yes, sir.

1 Q And that's been supplied to the prosecution, correct?

2 A Yes, sir.

3 Q So that if we wanted to see his appearance as he was
4 making the withdrawal, reaching up, getting the
5 receipt, getting the money, this and that, we'd be
6 able to see that, correct?

7 A You'd be able to see him on the video; yes, sir.
8 It's not a real good one, but it's --

9 Q Yes, sir. Thank you.

10 MR. MILLING: Thank you, Your Honor. Briefly.

11 RE CROSS EXAMINATION

12 BY MR. MILLING

13 Q Now, Investigator, Mr. Meadors asked you whether or
14 not you'd ever considered Mr. Rucker to be of
15 personal interest in the case, correct?

16 A I believe so.

17 Q Okay. And you also testified earlier that you and
18 other members of the Richland -- or you and members
19 of the Richland County Sheriff's Department had
20 conversations about the case, correct?

21 A We did have some; yes, sir.

22 Q Okay. Did they ever mention to you having received
23 information about other suspects?

24 A Not that I'm aware of. No, sir.

25 Q So you don't think they ever told you about other

1 suspects they may have received?

2 **A** The only suspects that I know of in this case is Mr.
3 Gallman, Mr. Joy, and Mr. Oliver.

4 **Q** But you were never told about another person who
5 admitted to have done anything in this case?

6 **A** No, sir. Not that I'm aware of.

7 **Q** All right.

8 **THE COURT:** Mr. Delgado.

9 **MR. DELGADO:** Thank you.

10 RECROSS EXAMINATION

11 **BY MR. DELGADO**

12 **Q** Mr. Mead, in your business you have to run across a
13 lot, as my mama called them, rough customers. Would
14 that be fair?

15 **A** Sometimes.

16 **Q** Do you ever meet folks that are manipulative
17 geniuses? Do you understand what I mean by that?
18 Well, not a genius. A manipulative personality?

19 **A** I'm sure I have, sir.

20 **Q** Somebody that can turn it on and turn it off to suit
21 his or her fancy?

22 **A** Yes, sir.

23 **Q** They can say one thing, maybe act another, right?

24 **A** There are people like that; yes, sir.

25 **Q** Look one way and act another, correct?

- 1 **A** It could.
- 2 **Q** Ever cross your mind maybe that might have been Mike
3 Allen?
- 4 **A** Did I believe that? No, sir. Not at all.
- 5 **Q** He's trustworthy, right?
- 6 **A** I believed the information that he provided.
- 7 **Q** So my question to you is, he's trustworthy?
- 8 **A** I don't know Mr. Allen that -- you know, his personal
9 life and stuff like that. I don't know. I know the
10 information that he provided and what he said to me
11 and the way he talked to me, I believed him.
- 12 **Q** Right. So the answer to my question is, you believed
13 him, correct?
- 14 **A** Yes, sir. I do believe him.
- 15 **Q** And if he were to say that he envisioned himself to
16 be the State's key witness, that would reveal
17 something about his personality, wouldn't it, sir?
- 18 **A** It could.
- 19 **Q** Less than 72 hours ago on Monday, December the 12th,
20 you, sir, met with Mr. Rasheed Rucker. Correct, sir?
- 21 **A** I did, sir.
- 22 **Q** That was the second time that you'd attempted to see
23 him and you finally were able to see him?
- 24 **A** Third time, sir.
- 25 **Q** Monday, December 12th, 2007, correct?

1 **A** I believe it's the 10th, sir.

2 **THE COURT:** 10th. 10th. Today is the 13th.

3 **MR. DELGADO:** Your Honor, I'm tired. I
4 apologize.

5 **Q** The 10th, 2007, correct, sir?

6 **A** Yes, sir.

7 **Q** And I would imagine that he told you, just like that
8 big zero up there, he told you he didn't know
9 anything about it, right?

10 **A** That's correct, sir.

11 **Q** And I'm certain -- well, that's what you believed
12 because that's just what he told you. Right, sir?

13 **A** That's what he told me. Yes, sir.

14 **MR. DELGADO:** Okay. Your Honor, that's all the
15 questions I have, sir.

16 **THE COURT:** Mr. Meadors, anything further?

17 **MR. MEADORS:** No, sir.

18 **THE COURT:** All right. You may come down, sir.
19 Thank you very much. Next witness.

20 **MR. STRICKLER:** Beg the Court's indulgence. As
21 for Mr. Oliver, the defense rests and I ask to
22 approach the bench, please, sir.

23 **THE COURT:** Yes, sir.

24 (Whereupon, a bench conference is had)

25 **THE COURT:** All right, ladies and gentlemen.

1 The defense on behalf of Mr. Oliver has rested. The
2 remaining two defendants have the right to call
3 witnesses and put their defense on the record. It's
4 Thursday afternoon. It looks like we're going to run
5 into Monday. That's why I'm hesitant to bring this
6 up, but I think I need to bring it up to be fair to
7 you at this point.

8 Following the presentation of evidence on behalf
9 of the three defendants, I don't know if there will
10 be anything in reply from the State, but they have
11 the right to do that; following which there will be
12 the final arguments of counsel and my charge to you
13 on the law of the state as it applies to this case.

14 All of those procedures are somewhat lengthy.
15 If we try to compact it into tomorrow, you will have
16 21 indictments to consider as to each, seven as to
17 each of the three defendants. There has been a
18 slight change in the make-up of the charges. And
19 I'll explain that to you later. But basically you'd
20 be looking at 21 separate indictments against the
21 three defendants and having -- and I will instruct
22 you that you'll have to consider each one.

23 Now, you may be in a position to do that
24 quickly. You may be in a -- I would not advise that
25 you do it quickly because each of the defendants

1 deserves, is entitled to a fair deliberation on your
2 part. What I want to -- Mr. Foreman, I'd like for
3 you to take the jury to the jury room and discuss
4 scheduling. I know some of you are away -- I mean,
5 all of you are away from your jobs; you're away from
6 your family. I don't want to impose on you any more
7 than we have to. But this matter does have to be
8 concluded fairly to all parties.

9 I can give you the options obviously if you
10 choose to do so. Well, maybe several options. One
11 is working on Saturday instead of coming back Monday.
12 If we are going to come back Monday, if that's your
13 decision, we will -- I anticipate we would adjourn
14 early tomorrow rather than trying to run into the
15 evening or evening hours.

16 But I anticipate based on what the attorneys
17 have just told me that if we come back Monday we
18 could probably wind up the testimony tomorrow in the
19 morning. And again, I anticipate that. If we press
20 through Saturday, it is -- you would probably have
21 the case sometime Saturday and start your
22 deliberations sometime Saturday.

23 I'll be here. I'm not going anywhere. These
24 lawyers will be here. We are all concerned about
25 your family obligations, what you're giving up to be

1 here and your ability to stay with us until this case
2 is over. I mean, I don't know anything about your
3 personal lives. All I know is that it's getting
4 close to Christmas and people have things to do with
5 their families and for their families. We want to be
6 sensitive to that.

7 So I'm going to ask you, Mr. Foreman, if
8 you'll -- let's take a short break. We're probably
9 going to wind up for today now anyway. But discuss
10 among yourselves how we can complete this with the
11 least amount of inconvenience to all members of the
12 jury. Some of you may not have time constraints or
13 serious time constraints. Others may have difficulty
14 coming back next week.

15 In other words, I think we are probably a day to
16 a day and a half from sort of wrapping this up. All
17 right. I'm going to ask you to return to the jury
18 room. And, Mr. Foreman, if you'll discuss that. And
19 let -- just you can come back and let me know. And
20 after that with the jury will be excused for the
21 evening. Let me know how you wish to proceed.

22 (Jury out at 4:47 p.m.)

23 **THE COURT:** Anything, objection to that
24 procedure?

25 **MR. MEADORS:** None.

1 **MR. STRICKLER:** No, sir.

2 **MR. MILLING:** Nothing, Your Honor.

3 **MR. DELGADO:** No, Your Honor.

4 **THE COURT:** All right. We'll await the word of
5 the jury.

6 **MR. STRICKLER:** While the jury is out now, the
7 State has now of course after I've rested brought me
8 Defendant's Exhibit 2 and say they have an objection.

9 **THE COURT:** Let's find out what it is.

10 **MR. ROSS:** I don't have any problem with them
11 resting. I mean, I wouldn't wait until they rested.
12 We just object to it.

13 **THE COURT:** To what? On what grounds?

14 **MR. ROSS:** There's all types of -- well, I don't
15 know what it all is exactly. But there's all types
16 of information in there about the crime that this
17 individual was charged with and all the facts of
18 these robberies and all this stuff about ineffective
19 assistance of counsel and all this stuff about
20 co-defendants' statements. It's got nothing to do
21 with anything.

22 I think Mr. Strickler is offering it because it
23 talks about that he was potentially looking at life
24 without parole. But he wasn't served with life
25 without parole. It doesn't say that in there. It

1 says he was faced with it.

2 **MR. STRICKLER:** The Solicitor --

3 **MR. ROSS:** And if it was served, he could go to
4 the clerk's office and get that document out of the
5 clerk's office file.

6 **MR. STRICKLER:** He alleges and I asked him
7 about --

8 **THE COURT:** I recall that.

9 **MR. STRICKLER:** -- was he served --

10 **MR. ROSS:** He didn't write that.

11 **THE COURT:** It's his --

12 **MR. MEADORS:** Your Honor, we'd like to redact,
13 since we're into redacting, if that's going to go in,
14 there's a bunch of stuff in there that's just
15 irrelevant, Judge. We'd like to look at it --

16 **MR. ROSS:** It's page after page of irrelevant
17 stuff.

18 **THE COURT:** Well, I guess you start with --

19 **MR. ROSS:** And even the no parole thing is
20 irrelevant. He wasn't served with no parole.

21 **THE COURT:** Well, I'm not going to get into the
22 factual basis of his allegations for a PCR. The
23 question is if he's opened the door. What's your
24 position, Mr. Strickler?

25 **MR. STRICKLER:** My position is that I examined

1 him about it, specifically about life without parole.
2 He admitted it was a document he prepared. He
3 admitted it was a document he signed. He attested
4 it's his document. I provided them with a copy of it
5 at the time I examined him. They had plenty of time
6 to look at it, come up with any problems they had
7 with it. When I moved to go ahead and introduce it,
8 then we get delayed for, you know, however long it
9 is, two hours, and now I'm told --

10 **MR. ROSS:** I --

11 **MR. STRICKLER:** If I could finish speaking.

12 **MR. ROSS:** I thought you were done. I'm not
13 trying to interrupt you.

14 **MR. STRICKLER:** No. I'm finished speaking, Your
15 Honor.

16 **THE COURT:** Now you can stand up again.

17 **MR. ROSS:** Your Honor, he admitted to being --
18 to pleading guilty. He talked all about that. I
19 don't know what that document goes to.

20 **THE COURT:** Well, what's the objection?

21 **MR. ROSS:** It's irrelevant.

22 **THE COURT:** You're objecting to the contents of
23 it.

24 **MR. ROSS:** It's irrelevant. Everything in it is
25 irrelevant.

1 **MR. MEADORS:** He already admitted to the --

2 **THE COURT:** Could I ask a question?

3 **MR. MEADORS:** I'm sorry.

4 **THE COURT:** Is it hearsay?

5 **MR. ROSS:** Yes, it's hearsay. It's extrinsic
6 evidence. He testified to everything that he needed
7 him to testify to, and they're trying to put in some
8 document in addition to his testimony.

9 **THE COURT:** Well, it's a PCR application.
10 That's what it is. Do either of the other two
11 defendants have a position on this issue?

12 **MR. MILLING:** Your Honor, on behalf of Mr.
13 Gallman, if we need to lay a foundation, I've got no
14 problem. I may have to add to three witnesses. But
15 I'll call somebody from the clerk's office if I need
16 to. I think that it's something that's appropriately
17 entered. I think that it's a court document that is
18 properly being used to impeach the witness and show
19 his motive in testifying here falsely.

20 **MR. DELGADO:** I concur and agree, Your Honor. I
21 believe that 608(c) relates to any evidence, bias or
22 prejudice or any motive to misrepresent that was
23 shown against Mr. Brown.

24 **THE COURT:** Anything else?

25 **MR. ROSS:** I don't know how it could possibly be

1 impeachment. He admitted -- Mr. Strickler said he
2 admitted to all this on the stand. How is it
3 impeachment?

4 **THE COURT:** Well, this whole issue of life
5 without parole -- and I don't know what the relevance
6 of it is to start with other than that he said one
7 thing and that -- he says he said one thing and his
8 application says another. I assume that was the
9 grounds for impeachment or the basis for the
10 impeachment.

11 **MR. ROSS:** But he admitted he was facing life
12 without parole because of his record. And that's
13 what the document says. He didn't deny that.

14 **THE COURT:** All right. Why don't I look at it?

15 **MR. STRICKLER:** And I'm going to have to ask --
16 he specifically said, as I specifically asked him:
17 "Isn't it true that the solicitor served you with
18 notice to seek life without parole based on your
19 prior conviction?" "No. I deny it." I pointed the
20 page and the line. "Yes, it's there. I deny it."
21 It went on and on and on. So, I mean, he admitted
22 it? I think not.

23 **THE COURT:** How about the rest of the document?

24 **MR. STRICKLER:** The rest of the document? The
25 rest of the document is about as relevant as could be

1 as to the character of Jason Brown.

2 **MR. ROSS:** Your Honor, that's no different than
3 asking him about facts of prior convictions. That's
4 what's in there.

5 **THE COURT:** His record is a matter of public
6 record in this case, is it not?

7 **MR. STRICKLER:** Yes, sir.

8 **MR. MEADORS:** I went over his whole record.
9 Even stuff that wasn't admissible, I brought it all
10 in. I told him to tell it all. And that just
11 expounds on it which would be objectionable.

12 **THE COURT:** Let me consider it and I'll let you
13 know when we reconvene.

14 **MR. MEADORS:** Well, could we have a follow-up
15 argument before Your Honor rules when we get back?

16 **THE COURT:** On what?

17 **MR. MEADORS:** I wasn't quite through yet.

18 **THE COURT:** Now?

19 **MR. MEADORS:** Yes, sir.

20 **THE COURT:** Say it now.

21 **MR. MEADORS:** Okay. I think his testimony was
22 "I wasn't served", is what I remember. And I don't
23 know if anything is filed in the clerk's office or
24 not. That's something else, a document. I don't
25 know if he prepared it or somebody in jail did. But

1 he specifically didn't deny that. "I was facing it",
2 he said, but he didn't deny it.

3 And in addition to that, everything else in
4 there is explaining his defenses, like PCR's do,
5 Judge, why he shouldn't be convicted of this, why he
6 wasn't he involved in that. He was actually, if I
7 remember, because I represented the victim in that
8 case, initially he was saying that he wasn't involved
9 in it. None of that's relevant. What's relevant is
10 his prior convictions. He's admitted to it. And
11 they're not allowed go into the specific facts, which
12 is what that does.

13 **MR. STRICKLER:** And what I would say is
14 relevant, in addition to the fact that he tries to
15 deny as far as life without parole -- and life
16 without parole is relevant because -- and in
17 addition, Judge, this is not details of the crimes.
18 Counsel was ineffective for failing to file notice of
19 appeal.

20 **THE COURT:** There is no way that I can judge
21 that without looking at it.

22 **MR. STRICKLER:** Yes, sir. All I'm saying is the
23 titles to his various allegations demonstrate that
24 what he's looking to do is shift blame to anyone but
25 himself so that he can benefit himself. That's the

1 whole deal. Here is Defendant's --

2 **THE COURT:** All right. Thank you very much.

3 **MR. STRICKLER:** Yes, sir.

4 **THE COURT:** Now I've got a dilemma.

5 **MR. MEADORS:** A split vote.

6 **THE COURT:** The jury says: "The jury has
7 decided to return on Monday, the 17th of December."
8 I take it from that they want Friday off.

9 **MR. MEADORS:** And again, I don't think -- I
10 think they mean after -- of course I think they mean
11 after we finish tomorrow, Judge. I would think that
12 based on your instructions.

13 **THE COURT:** I'm just reading what's called plain
14 English.

15 **MR. MEADORS:** And that means I can do tonight
16 what I want to. That's fine with me.

17 **THE COURT:** Bring the foreman.

18 **THE BAILIFF:** The foreman?

19 **THE COURT:** Number 229.

20 (Whereupon, the foreman enters the courtroom)

21 **THE COURT:** Mr. Foreman, I have your note. And
22 I could interpret this two ways. The note says:
23 "The jury has decided to return on Monday, the 17th."
24 Does that mean that the jury would like to work on
25 Friday and then return?

1 **FOREPERSON:** Yes.

2 **THE COURT:** Or that they want Friday off?

3 **FOREPERSON:** No. Work Friday.

4 **THE COURT:** Okay. I could read it to mean that
5 the jury has asked to have Friday off; which if
6 that's your pleasure, that's what we'll do.

7 **FOREPERSON:** No, sir.

8 **THE COURT:** All right. We'll work Friday 'til,
9 as I said, approximately midday. And then we'll
10 reconvene on Monday. That's the sentiment of the
11 jury?

12 **FOREPERSON:** Yes, sir.

13 **THE COURT:** All right. Well, I need to -- all
14 right. Just stay here. I just need to bring the
15 jury in and make sure they don't talk about the case
16 over the weekend, as I always do. Bring the jury,
17 please. And I'm going to tell them you said they
18 don't want Friday off. Mr. Meadors, do you pay your
19 witnesses?

20 **MR. MEADORS:** I'm sorry, sir?

21 **THE COURT:** Never mind.

22 (Jury in at 4:57 p.m.)

23 **THE BAILIFF:** Your Honor, the jury is present.

24 **THE COURT:** All right. Thank you very much.

25 All right, Ladies and Gentlemen. I appreciate your

1 willingness to work on Monday. Tomorrow, as I say, I
2 anticipate we'll be about a half a day and then we'll
3 adjourn tomorrow, reconvene on Monday, the 17th. I'm
4 going to dismiss you now for the day. Thank you very
5 much.

6 Again, I'm going to caution you not to discuss
7 the case with anyone else over the evening hours or
8 among yourselves when you return to the jury room in
9 the morning. And I again don't see any members of
10 the press present. But again I'll caution you again
11 about observing or reading any press reports of this
12 trial. Have a pleasant evening. We'll see you
13 tomorrow morning at 9:30. 9:30. Okay. Yes, ma'am.

14 **JUROR:** That's what I wanted to know.

15 **THE COURT:** Okay.

16 (Jury out at 4:59 p.m.)

17 **THE COURT:** We'll stand at ease until 9:30.

18 **MR. MEADORS:** Your Honor, Your Honor just
19 shortly before, you asked me a question, and I don't
20 know what that was related to, and I don't --

21 **THE COURT:** Well, I forgot the Foreman was
22 sitting there.

23 **THE BAILIFF:** Quiet, please.

24 **THE COURT:** That's all right. It's not on the
25 record. Go ahead.

1 **MR. MEADORS:** I just didn't know -- I don't
2 think any curative instruction. And I know Your
3 Honor didn't mean anything by that. But I know the
4 foreperson was in here when you said that. And I
5 didn't -- I don't know.

6 **THE COURT:** Thank you. I was referring to
7 Ms. Outen.

8 **MR. MEADORS:** I know.

9 **THE COURT:** That was just a joke. And I stopped
10 the minute I realized he was in here.

11 (Whereupon, the proceedings are concluded for
12 the day, to be reconvened tomorrow morning)

13
14
15
16
17
18
19
20
21
22
23
24
25

1 Friday, December 14, 2007

2 **THE COURT:** The State ready to proceed?

3 **MS. MCDUFFIE:** We are, Your Honor.

4 **THE COURT:** Defense ready to proceed?

5 **MR. STRICKLER:** Yes, sir. Though I do need a
6 ruling from Your Honor as far as Defendant's Exhibit
7 2, Defendant Oliver's Exhibit 2.

8 **THE COURT:** Let me make sure everybody is ready
9 to go.

10 **MR. MILLING:** On behalf of Mr. Gallman, yes,
11 Your Honor.

12 **MR. DELGADO:** I'm sorry, Your Honor. I did not
13 hear what Mr. Strickler said. I apologize.

14 **THE COURT:** He wants a ruling on Defendant's
15 Exhibit No. 2. Other than that, he's prepared to go
16 forward.

17 **MR. DELGADO:** Yes, sir. So are we.

18 **THE COURT:** All right. As to Defendant's
19 Exhibit No. 2, I'm going to grant the State's motion.
20 I've read over it. I don't clearly see the
21 relevance. It may be an impeachable document. It's
22 hearsay in the sense that it's an out-of-court
23 statement. It's got a lot of other hearsay in it. I
24 don't think it -- it just doesn't meet the test as
25 far as I'm concerned. But I'll hear you.

1 **MR. STRICKLER:** I appreciate your ruling, Your
2 Honor. I would move to go ahead and redact it to
3 include the sentence that he denied being in there
4 which I cross examined him on.

5 **THE COURT:** Well, I might consider that. Now,
6 can you show me that?

7 **MR. STRICKLER:** Yes, sir. I believe it's -- if
8 I could approach, Your Honor.

9 **MR. MEADORS:** Your Honor, we've checked. It was
10 never filed. I've talked to the solicitor that had
11 it. He was never served with life. So his answer
12 was correct: "I was never served." So it's not on
13 file. I think Mr. Strickler would have it from the
14 clerk's office if it was. So, he did not lie.

15 **THE COURT:** It says what it says.

16 **MR. MEADORS:** And he told the truth.

17 **THE COURT:** Let me see what it says.

18 **MR. STRICKLER:** The statement begins with the
19 last word on page 3-C and ends the first -- finishes
20 on 3-D.

21 **THE COURT:** He says the solicitor served the
22 Applicant with its notice to seek life without parole
23 based on a prior conviction for car jacketing.
24 That's what it says. Now, what is your objection to
25 that? That's what he says in a sworn statement.

1 **MR. MEADORS:** Well, that's what it said in
2 there. It was never served. His testimony said they
3 talked to him about it but they never served it on
4 him. And it is not filed. We didn't serve it on
5 him. The office did not. So he answered correctly.

6 **THE COURT:** Well, that's going to the truth of
7 the matter. But perhaps it doesn't --

8 **MR. MEADORS:** Well, he told the truth. And I
9 don't know who wrote this for him.

10 **THE COURT:** Well, what's your objection?

11 **MR. MEADORS:** That it's not impeachment. He
12 said, "I wasn't served", and he wasn't served.

13 **THE COURT:** Well, I don't know why the -- that
14 doesn't mean the defense can't offer it for some
15 purpose.

16 **MR. MEADORS:** Some relevant purpose or
17 impeachable purpose, which it's not. Because he
18 never was served and he testified he wasn't.

19 **THE COURT:** There was some confusion about his
20 testimony. I'm going to allow it. Now, I don't know
21 how you're going to redact it to that point.

22 **MR. STRICKLER:** Your Honor, what I would propose
23 is that rather than submit the whole thing. If I
24 could just reference it, sir?

25 **THE COURT:** Sure.

1 **MR. MEADORS:** Your Honor, we will be calling a
2 reply witness, Ms. Scott, to say that there never was
3 a notice given.

4 **THE COURT:** That's fine. We've got all day and
5 all next week. Call as many witnesses as you want.

6 **MR. STRICKLER:** I would propose to just -- the
7 first page, that it's just the cover sheet reflecting
8 the fact that it's a document and --

9 **THE COURT:** Can your office do that?

10 **MR. STRICKLER:** Yes, sir. Because of what I'm
11 proposing is to go ahead and just have that page --

12 **THE COURT:** You figure out a way to do it.

13 **MR. STRICKLER:** I would just -- and then per
14 your ruling, I would just go ahead and submit that
15 sentence from 3-D.

16 **THE COURT:** That's fine.

17 **MR. STRICKLER:** And do that. And I'll go ahead
18 and see about getting that done, Your Honor. If I
19 may remove this from the courtroom to have that done?
20 Actually I have a copy of it, Your Honor.

21 **THE COURT:** I think something -- oh, that's
22 fine.

23 **MR. STRICKLER:** All right, sir.

24 **THE COURT:** I'm not sure some of these things
25 haven't been in and out of the courtroom. Now, I'll

1 ask again because I was a little uncertain yesterday;
2 does Mr. Gallman plan to present a defense?

3 **MR. MILLING:** Yes, Your Honor.

4 **THE COURT:** You ready for the jury?

5 **MR. MILLING:** Yes, sir.

6 **THE COURT:** Ready for the jury? The State ready
7 for the jury?

8 **MR. ROSS:** Yes, Your Honor.

9 **THE COURT:** All right. Bring the jury, please.
10 (Jury in at 9:48 a.m.)

11 **THE BAILIFF:** Your Honor, the jury is present.

12 **THE COURT:** Thank you very much. Good morning,
13 ladies and gentlemen. We're now ready to continue
14 with the trial. Mr. Milling, you may call your first
15 witness.

16 **MR. MILLING:** Thank you, Your Honor. May it
17 please the Court. On behalf of Mr. Gallman we would
18 call Lee Connelly.

19 LEE CONNELLY, after being duly sworn, testifies
20 as follows:

21 **THE CLERK:** Thank you. Please have a seat in
22 the witness stand and state your full name for the
23 record.

24 **THE WITNESS:** My name is Lee Connelly.

25 DIRECT EXAMINATION

1 **BY MR. MILLING**

2 **Q** Good morning, Ms. Connelly. Would you please tell us
3 what you do for a living?

4 **A** I'm a private investigator.

5 **Q** Do you work for the state or for the defense?

6 **A** Defense.

7 **Q** How long have you been doing that?

8 **A** Since 1999.

9 **Q** Could you tell us a little bit about your background?

10 **A** I graduated from Meredith College with a bachelor's
11 degree in 1992. Then I moved back here to Columbia
12 where I had gone to high school and received my
13 paralegal certification from Midlands Tech. Then I
14 worked at the Public Defender's Office in Lexington
15 as an investigator.

16 **Q** Okay. And do you still work for the Public
17 Defender's Office in Lexington?

18 **A** No.

19 **Q** Who do you work with?

20 **A** Myself. I'm in business for myself.

21 **Q** What's the name of that business?

22 **A** Infobique (phonetic).

23 **Q** Have you had an opportunity to work with me in this
24 case?

25 **A** On this case, yes.

1 Q How many times have we worked together in the past?

2 A None.

3 Q Now, as a part of your work with me in this case, did
4 you have an opportunity to speak with a young woman
5 by the name of Leticia Jones?

6 A Yes, I did.

7 Q When did you first speak with Ms. Jones?

8 A I began working on the case December 2nd of 2005. I
9 first spoke with Ms. Jones who is -- was the
10 girlfriend of Mr. Gallman December 8th of 2005. I
11 spoke with her again December 12th of 2005; again
12 December 22nd, 2005; again January 3rd of 2006; and
13 then I actually met with her on January 17th of 2006.

14 Q So you spoke with her over a series of times?

15 A Yes.

16 Q And then you actually sat down and met with her?

17 A Yes. I went to her apartment.

18 Q During any of those conversations, did she indicate
19 that she had any knowledge about the murders at
20 Mildred Avenue or Donald and Nina Lee Drive?

21 A No.

22 Q What, if anything, did she indicate that she knew
23 occurred during Labor Day weekend of 2005?

24 A When I met with her she informed me that she has
25 Chrone's disease. And the week before the incidents,

1 obviously by that time Dominic had been arrested. So
2 that's what we were discussing. She indicated she
3 had Chron's disease and she had had a kidney
4 infection the week prior to the incidents.

5 Q Okay.

6 A She said that on Wednesday she and Dominic had gotten
7 into an argument --

8 MR. MEADORS: Objection, hearsay.

9 THE COURT: Sustained.

10 A That they had gotten into an argument.

11 MR. MEADORS: Objection.

12 THE COURT: Ma'am.

13 A Oh. I'm sorry.

14 THE COURT: You can't testify to what somebody
15 else told you.

16 Q Well, did she indicate to you that she saw Dominic
17 over the weekend of Labor Day 2005?

18 A She did not see him from Friday until Monday.

19 Q Friday was the last time she saw him over that
20 weekend?

21 A Yes.

22 Q And then the next time was when?

23 A Monday.

24 Q Did she indicate whether she --

25 MR. MEADORS: Your Honor, he's getting hearsay

1 in the back door. Objection.

2 **THE COURT:** Yes, sir. It's all hearsay.

3 **MR. MILLING:** Your Honor, but it is a prior
4 inconsistent statement. Ms. Jones took the stand.

5 **THE COURT:** Not hers.

6 **MR. MILLING:** It's Ms. Jones' prior inconsistent
7 statement.

8 **THE COURT:** How can she testify to hearsay?

9 **MR. MILLING:** Your Honor, may we approach?

10 **THE COURT:** Yes. Tell me why that's not hearsay
11 to start with. A prior inconsistent statement is not
12 hearsay.

13 (Whereupon, a bench conference is had)

14 **Q** Ms. Connelly, during your conversations with
15 Ms. Jones, what was her demeanor like?

16 **A** She was supporting her boyfriend.

17 **Q** Okay. Did you have an opportunity to determine if
18 anything happened to Ms. Jones within the last 45
19 days?

20 **A** She was arrested October 30th of this year for a
21 driving under suspension which is still pending. She
22 is out on bond.

23 **Q** Beg the Court's indulgence. And she never indicated
24 any knowledge about this case?

25 **A** No.

1 Q Nothing further, Your Honor. Please answer any
2 questions further counsel may have.

3 THE COURT: From the State?

4 MR. MEADORS: Well, I think it's --

5 MR. DELGADO: I don't have any questions. Thank
6 you.

7 MR. MEADORS: I'm sorry. No questions.

8 MR. STRICKLER: No, sir. Thank you.

9 THE COURT: All right. Thank you, ma'am. You
10 may come down. May the witness be excused?

11 MR. STRICKLER: Without objection, sir.

12 THE COURT: Without objection.

13 MR. MILLING: Your Honor, on behalf of Mr.
14 Gallman, we would rest.

15 THE COURT: All right. Mr. Delgado.

16 MR. DELGADO: Your Honor, may we just take just
17 a short break just for one second?

18 THE COURT: All right, ladies and gentlemen.
19 That will conclude the defense on behalf of Mr.
20 Gallman. Mr. Delgado has asked for a short break
21 with regard to presenting the defense for Mr. Joy. I
22 am going to grant that request. So just I'm going to
23 ask you to go to the jury room for just a minute or
24 just a few minutes. We need to probably get his
25 witnesses lined up. So again don't discuss the case

1 while you're in the jury room. We'll be with you in
2 just a minute.

3 (Jury out at 9:58 a.m.)

4 **THE COURT:** All right.

5 (WHEREUPON, Court's Exhibit No. 14 is marked for
6 identification.)

7 (WHEREUPON, Defendant Joy's Exhibit No. 1 is
8 marked for identification.)

9 (WHEREUPON, Defendant Joy's Exhibit No. 2 is
10 marked for identification.)

11 (WHEREUPON, Defendant Joy's Exhibit No. 3 is
12 marked for identification.)

13 (WHEREUPON, Defendant Joy's Exhibit No. 4 is
14 marked for identification.)

15 (WHEREUPON, Defendant Joy's Exhibit No. 5 is
16 marked for identification.)

17 **MR. STRICKLER:** Your Honor, we're going to get
18 our reciprocal discovery now. We didn't anticipate
19 this or we'd have had it here.

20 **MR. DELGADO:** Your Honor, in the meantime ...

21 **THE COURT:** That's fine.

22 (Pause)

23 **THE COURT:** Come to order, please. Mr. Delgado.

24 **MR. DELGADO:** Your Honor, the solicitor has
25 raised the question of whether or not his Rule 5

1 reciprocal request after I filed the initial
2 discovery in criminal cases, requested a motion under
3 Rule 5 of the South Carolina Rules of Criminal
4 Procedure. The solicitor is saying that I have not
5 identified --

6 **THE COURT:** Well, what is the subject of this
7 discussion, just for the record?

8 **MR. DELGADO:** The subject of the discussion,
9 Your Honor, is whether or not Mr. Brown -- excuse
10 me -- Mr. Joy can testify as to his whereabouts,
11 location on let's say Saturday, the 3rd of
12 September 2005 through Monday, September the 5th,
13 2005.

14 **THE COURT:** All right. He's charged in the
15 indictments with being an accessory after the fact of
16 various crimes on or between September 4th and
17 September 14th.

18 **MR. DELGADO:** Yes, sir.

19 **THE COURT:** That's the timeframe. So with that
20 as a background, go ahead.

21 **MR. DELGADO:** Your Honor, I have no other
22 witness save Mr. Joy to testify as to where he was
23 during the period between the 4th and the 14th. To
24 disallow the defendant to be able to testify in his
25 own behalf as to that relevant period simply because

1 that may or may not be; and I will submit to the
2 Court it is not an alibi, is, unconstitutional,
3 deprives him of the right to a fair trial and the
4 right to present evidence.

5 I would submit to the Court that the term
6 "alibi" means justification of some place else by a
7 witness other than the defendant who always has a
8 right to take the stand. I submit to the Court that
9 the reason we're doing this now out of the presence
10 of the jury is simply to be able to streamline this
11 matter so that when Mr. Joy takes the stand we don't
12 have to have any more interruptions.

13 **THE COURT:** Well, --

14 **MR. MEADORS:** Your Honor, for the record, we
15 have filed December 21st of 2005 a reciprocal Rule 5
16 for discovery and disclosure of evidence specifically
17 stating that the prosecution would request written
18 notice of defendant's intention to offer an alibi
19 defense, stating a specific place or places at which
20 the defendant claims to have been at the time of the
21 offense and the names and the addresses upon whom he
22 intends to rely to establish such alibi.

23 Judge, I wish he'd just given us, like the rule
24 says -- I mean, that's why we have the rule -- given
25 us the addresses and not at the last minute right

1 before he goes up. That's what the rules require and
2 we're supposed to follow the rule. And here it is;
3 we're getting it right before they put it up.
4 There's another witness. I don't know if he's going
5 to try to claim that's an alibi, too.

6 MR. DELGADO: No, sir. I didn't say that.

7 MR. MEADORS: I said I didn't know.

8 MR. DELGADO: I said that is a character
9 witness.

10 MR. MEADORS: Okay. I did not say --

11 MR. DELGADO: Yes, sir.

12 MR. MEADORS: Other than that, we say not. We
13 don't think they served it, and they shouldn't be
14 allowed to offer it. But ...

15 MR. DELGADO: Your Honor, it's wonderful to have
16 co-counsel. If there is a new indictment relative to
17 Mr. Joy, I believe that the Court, then the solicitor
18 then needs to re-file with me new reciprocal
19 discovery. This is a different indictment charging
20 different cases.

21 MR. MEADORS: I don't think he would have told
22 me anyway if we'd done that in this case. So thank
23 Mr. Strickler for his help there. But, Judge, in
24 addition to that, the other witness, and I haven't
25 had a chance to talk with Mr. Delgado and I don't

1 know if he was on the witness list.

2 **MR. DELGADO:** I've spoken to your colleague.
3 I've told them that. Yes, sir. His name is Godfrey
4 Brown. I've given them the date of birth and social
5 security numbers. And you can check out a prior
6 record that he may have that I will take under Rule
7 609 when he testifies.

8 **MR. MEADORS:** Other than that, we would object.
9 But whatever Your Honor rules, we're ready to go.
10 This is State 213 for I.D.

11 **MR. DELGADO:** Your Honor, as I expected, these
12 relate to the previously filed warrants. Excuse me.
13 Indictments. Excuse me. Warrants signed by
14 Ms. Outen for Mr. Meadors December 21st, 2005. So,
15 I'm reading from State's Exhibit 213. I believe
16 that's for identification rather than evidence.

17 **THE COURT:** It is.

18 **MR. DELGADO:** Yes, sir. Additionally, Your
19 Honor, under Rule --

20 **THE COURT:** So those are for --

21 **MR. DELGADO:** I'm sorry, sir?

22 **THE COURT:** Before you leave that point, what
23 are those warrants for?

24 **MR. DELGADO:** Those are for the original eight
25 charges.

1 **THE COURT:** Those are the murder charges.

2 **MR. DELGADO:** Exactly. As a principal.

3 Exactly. Which are not --

4 **THE COURT:** Now he's charged with something
5 else.

6 **MR. DELGADO:** Exactly.

7 **THE COURT:** All right. I wanted to make that
8 clear on the record.

9 **MR. DELGADO:** Additionally, Your Honor, there is
10 subsection 4 of Rule 5(d), failure to disclose: "If
11 either party fails to comply with or follow the
12 rules, the court may exclude the testimony of any
13 undisclosed witness offered by any party." The
14 defendant always has the right to take the stand.
15 This obviously is not disclosed. Thank you.

16 **THE COURT:** All right.

17 **MR. DELGADO:** Your Honor, if could we just mark
18 this for identification. Or is it possible a Court
19 Exhibit rather than --

20 **MR. MEADORS:** That's fine. I don't mind
21 switching that. We'd withdraw 213 for I.D. and it's
22 now Court's ...?

23 **COURT REPORTER:** 15.

24 **MR. MEADORS:** 15. Thank you.

25

1 (WHEREUPON, Court's Exhibit No. 15 is marked for
2 identification.)

3 **THE COURT:** Are you ready to proceed, Mr.
4 Delgado?

5 **MR. DELGADO:** Yes, sir, I am.

6 **THE COURT:** All right. I'm going to overrule
7 the objection. I'm going to allow the defendant to
8 testify to that. Anything further?

9 **MR. DELGADO:** Your Honor, I'm sorry. I wound up
10 with an exhibit that I believe Ms. McDuffie handed to
11 me, State's Exhibit 186. Is that in evidence?

12 **MS. MCDUFFIE:** That was in evidence subject to
13 redaction, and it's been redacted.

14 **MR. DELGADO:** Thank you. Your Honor, Ken Joy is
15 ready to present himself.

16 (Jury in at 10:25 a.m.)

17 **THE BAILIFF:** Your Honor, the jury is present.

18 **THE COURT:** All right. Thank you very much.
19 All right. Mr. Delgado, you may present your
20 defendant.

21 **MR. DELGADO:** Thank you, Your Honor. For the
22 defense, the defendant, Kenneth Joy, is called to the
23 stand.

24 **THE COURT:** Come around, Mr. Joy.

25 KENNETH JOY, after being duly sworn, testifies

1 as follows:

2 **THE CLERK:** Thank you. Please have a seat in
3 the witness stand and state your full name for the
4 record.

5 **THE WITNESS:** My name is Kenneth Joy. That's
6 J-O-Y.

7 DIRECT EXAMINATION

8 **BY MR. DELGADO**

9 **Q** Mr. Joy, I want you to turn to your jury and I want
10 you to tell them whether or not after, during
11 September the 4th, or any time afterward, you aided
12 or abetted, assisted, helped anybody else in avoiding
13 detection or arrest for all these charges?

14 **MR. MEADORS:** Objection to leading.

15 **A** No, sir, I did not.

16 **THE COURT:** Overruled.

17 **Q** Did you take money as a result of this robbery?

18 **A** No, sir, I did not.

19 **MR. MEADORS:** Object to leading.

20 **THE COURT:** Overruled.

21 **Q** Did you take a car, dispose of the car that was
22 supposedly involved in this crime?

23 **A** No, sir. I did not dispose of a car.

24 **Q** Did you take any guns and dispose of guns that were
25 supposedly used in this event?

1 **A** No, sir. I did not dispose of any guns.

2 **Q** Did you take a wallet, did you take a watch that was
3 seized in this or used -- I'm sorry -- taken in this
4 robbery of the young man, Mr. Miller?

5 **A** No, sir. I did not take the watch or wallet or any
6 other item and dispose of it for anybody.

7 **Q** Tell these folks who you are, where you're from, your
8 background. Tell them.

9 **A** I'm originally from Memphis, Tennessee. I have been
10 here in Columbia since 1995. You have to excuse me.
11 I'm kind of nervous. I've been here since 1995. I
12 left Memphis at 17 in 1985, and I went to Oklahoma,
13 to a small University out there called Langston
14 University to play football and go to college. I was
15 there three years and I ended up flunking out
16 basically. So after three years I went home and
17 joined the Army. In 1989 I signed up for the Army,
18 and I served in the army from 1989 to 1995 as a food
19 inspector.

20 **Q** Is there something called an M.O.S.? Do you know
21 what that means?

22 **A** Right. What an M.O.S. is, your job title for the
23 Army.

24 **Q** What is your -- what was your M.O.S. for the United
25 States Army food inspector?

1 **A** 91 Romeo.

2 **Q** How long were you in the United States Army? And
3 what postings did you have as a result of that
4 enlistment?

5 **A** I was there from November 1989 to July of 1995. My
6 first duties, I went to basic training in Fort Knox,
7 Kentucky. I went to A.I.T. which is like your job
8 training course. I went there in 1990 in San
9 Antonio, Texas. After that my first duty station was
10 Camp Pendleton, California, a Marine Corps base. I
11 was stationed on the Marine Corps base because
12 Marines don't have food inspectors. Navy personnel
13 don't have food inspectors. So we borrowed the Army
14 food inspectors. So I was stationed there for two
15 years and then I was sent to Germany. They were
16 pre-staging because it was during the first Gulf War.
17 So a lot of pre-staging was done in Europe. So I was
18 assigned to Kaiserslautern, Germany.

19 **Q** Spell that. Slow down. Pronounce that again.

20 **A** Kaiserslautern.

21 **Q** Can you spell it?

22 **A** No. I can attempt to, but --

23 **Q** It starts with the letter K?

24 **A** Yes.

25 **Q** All right, sir. Go ahead.

1 **A** From there I was stationed in Neuremberg, Neuremberg,
2 Germany. They were downsizing and reorganizing a lot
3 in Europe during this time. So I had three duty
4 cites. I moved from Kaiserslautern to Neuremberg to
5 Würzburg and from there I came back to the United
6 States to here because I was married also. My wife
7 was in the military.

8 **Q** When you say here, you mean Columbia or to the
9 States?

10 **A** Columbia.

11 **Q** Why? Why Columbia? Why that posting?

12 **A** Well, my wife, it was hard for her to get certain
13 duty sites because of her rank. She was an E-8 at
14 the time. So --

15 **Q** What were you?

16 **A** An E-4.

17 **Q** When did you come back to the United States or to
18 Columbia as a result of your military experience?

19 **A** 1995.

20 **Q** In 1995 did you phase out of the United States Army?

21 **A** Yes, I did; with an honorable discharge.

22 **Q** During that whole entire time you were a food
23 inspector?

24 **A** Yes, I was.

25 **Q** You and your wife were married when, sir?

1 **A** In March of 1992.

2 **Q** Are you now divorced?

3 **A** I am legally divorced.

4 **Q** From that wife. And when was that? This isn't a
5 test, Ken. Just, was it before 2000?

6 **A** Yeah. It was -- no. No. We separated in '98, but
7 the divorce became final in like 2001, something like
8 that.

9 **Q** All right, sir. You come back to South Carolina.
10 And you're here in Columbia in 1995?

11 **A** Yes, sir.

12 **Q** Tell these folks what you did for a living, how you
13 supported yourself, what you did vocationally from
14 1995 up through September of 2005?

15 **A** Well, to backtrack just a little bit, when I was in
16 the military I did go back to college.

17 **Q** Oh, yes. I'm sorry. Tell them about that.

18 **A** Well, I did go back to college because I felt bad
19 about flunking out. My family had supported me a
20 lot. So I felt bad about disappointing them. So I
21 finished my associate's at Park College in '92, and I
22 finished my bachelor's at the University of Maryland
23 in 1994.

24 **Q** Now, let me ask you this. Explain to the jury how
25 you can obtain a bachelor's degree and be in the

1 United States Army. Explain that to them.

2 A By going to school at night, at nighttime. What they
3 do is they have satellite campuses where they take
4 teachers on loan and they'll set up a campus right
5 there on the post and you can go at nighttime.

6 Q And that's how you got your bachelor's degree from
7 the University of Maryland?

8 A Yes, sir.

9 Q In what, sir?

10 A Management studies.

11 Q When you then relocated or settled here in Columbia
12 in 1995, and you have a bachelor's degree, --

13 A Right.

14 Q -- tell these folks what you did from 1995 forward?

15 A '95 I came here. I was looking for a job after I
16 left the Army. But because I had gone ahead and
17 finished my college degrees, I had a certain amount
18 of money in my mind that I wanted to make. And I'd
19 also enrolled in graduate school and finished all the
20 course work except for, except for my internship.
21 And so I felt that I should make a certain amount of
22 money.

23 But when I got to Columbia, they just wasn't
24 paying. They weren't paying close to what I was
25 expecting I should get. So after six months of

1 looking, I finally took a job at Wendy's as a manager ,
2 trainee. And I was there for about a year. And I
3 moved from Wendy's to City Financial; it was
4 Commercial Credit at that time, as a loan officer.
5 And from there I moved from there to Mercury Finance,
6 and from there I started my own business.

7 Q What was the name of that business? When did you
8 start doing that? How did you come to that
9 employment?

10 A I decided that because I just wasn't getting paid
11 what I felt I should be getting paid. So we took
12 some savings that we had from investments --

13 Q When you say "we", who is "we"?

14 A My wife and I.

15 Q What is her name, just so we get that on the record?

16 A Felita.

17 Q Felita?

18 A Yes, sir.

19 Q All right. You took savings and did what with the
20 savings?

21 A We bought a commercial cleaning franchise.

22 Q From whom did you buy that?

23 A It's called Jani-King.

24 Q Jani?

25 A J-A-N-I, dash, King, K-I-N-G.

1 Q Jani-King?

2 A Yes.

3 Q How did you come to know about that, and how did you
4 begin your employment as a Jani-King franchisee?

5 A There is a magazine called Entrepreneur Magazine that
6 I was following their progress in. And they're in
7 like the top ten as far as franchise ranking every
8 year. They're somewhere in the top ten every year.

9 Q You say "they". Who are you speaking of?

10 A Jani-King.

11 Q All right, sir.

12 A And it was really one of the only ones I could
13 afford. The others were like McDonald's and KFC and
14 Burger King, 7/11. So that was one of the only ones
15 I could afford. So I just got it. It really wasn't
16 a hard choice. And I think I paid 3,000 to get
17 started. And I was one of the first ones here in
18 Columbia to do that.

19 Q As a result of getting that franchise, what type of
20 work did you do and where did you do it?

21 A Janitorial work.

22 Q Where?

23 A Richland Memorial, Medical Park 9.

24 Q Medical Park 9?

25 A Right.

1 Q Where is that?

2 A The big hospital is right on Sunset I guess. Excuse
3 me. And they have small medical parks where doctors
4 rent office space. And Medical Park 9 is one of the
5 biggest ones over there right behind the big
6 hospital.

7 Q How would you go about getting these contracts?

8 A They had people in-house that would actually go out
9 and get the contracts for them. But we went through
10 training to actually learn how to go out and procure
11 our own contracts.

12 Q Ken, let me just back up. To this day do you have
13 any criminal record?

14 A I was arrested in Oklahoma for expired tags in 1987 I
15 think it was.

16 Q You were in school?

17 A Yes, sir. It was either pay the tags or not eat.
18 And so ...

19 Q Jani-King has contracts at a hospital and at Medical
20 Park. Where else?

21 A Well, I had --

22 Q These are your contracts?

23 A Right.

24 Q Did you have a corporate name or a business name or
25 an entity name?

1 **A** Well, my entity name was Kenneth Joy doing business
2 as Jani-King. But it could have been anything that
3 you named it. But I just wanted my name on it.

4 **Q** Yes, sir.

5 **A** So mine was Kenneth Joy doing business as Jani-King.

6 **Q** What other contracts, what other places did you do,
7 and what does janitorial maintenance consist of?

8 **A** Well, a couple of other contracts we had were Time
9 Warner Cable. That was before they moved into the
10 big building on Greystone. They had three satellite
11 buildings around the town. So I did that. We had
12 WOLO TV station, Safe Federal Credit Union, and the
13 United States Post Office, two of those.

14 **Q** United States Post Office. What post offices
15 specifically?

16 **A** The one on Leesburg Road and one on Duke Avenue.

17 **Q** Where was your business physically located? Did you
18 work out of a location?

19 **A** My home.

20 **Q** All right, sir. Did there ever come a time that you
21 started another business?

22 **A** Yes, sir.

23 **Q** Tell these folks.

24 **A** I started a carpet cleaning business that kind of
25 branched out from the janitorial service. As I went

1 into places, the banks especially, I noticed that the
2 carpets were dirty. So I asked if I could clean the
3 carpets. I started noticing that it was easy to pick
4 up carpet jobs. So we started a carpet cleaning
5 business on the side.

6 **Q** On the side. Was there a name for that side
7 business?

8 **A** Not really. Not really. It was just all under the
9 one umbrella.

10 **Q** Did there come a time when you left Jani-King as a
11 franchisee and started your own business in that same
12 field?

13 **A** Yes, sir, I did.

14 **Q** Tell these folks about that?

15 **A** I left in, I think it was '99. No. '98. I left in
16 '98. Because they were taking 20 percent of the
17 gross receipts. Because they go out and find you
18 business, they do take a lot of the money. So after
19 I learned how to go out and sell my own contracts, I
20 cut my ties with them. I'd paid for my franchise
21 outright by that point, so I didn't have an
22 obligation to them any more. So I just cut my ties
23 with them.

24 **Q** Did you start a business?

25 **A** Yes, sir, I did.

1 Q Tell these folks, what was the name of the business,
2 and where were you located?
3 A Well, it's Advantage Building Services now. It
4 was --
5 Q Slow down. Say it again slowly.
6 A Advantage Building Services.
7 Q Where were you located?
8 A .
9 Q How do you spell Tremain?
10 A T-R-E-M-A-I-N.
11 Q Is that here in the City of Columbia?
12 A Yes, sir.
13 Q Street?
14 A Apartments D and C.
15 Q Why that location, and how did you come to rent
16 there?
17 A In the course of cleaning carpets we started
18 installing carpets also.
19 Q Wait a minute. Let's back up a second. When you say
20 "we", who is "we"?
21 A Another guy that I came across that was like-minded.
22 So he told me that he know how to install carpets.
23 So I started looking for carpet installation jobs.
24 Q How did you then come to rent or have access to
25 .?

1 **A** I did work for the owner of Tremain Street. It was a
2 couple of owners. The corporate name was By/Wa.

3 **Q** Slow down. Spell that.

4 **A** B-Y, slash, W-A.

5 **Q** Who owns or incorporated By/Wa?

6 **A** David Byrd, the former chief of police in Irmo; and
7 Gary Watts, the county corner.

8 **Q** From Richland County?

9 **A** Yes, sir.

10 **Q** You did work for which of those two gentlemen?

11 **A** Mainly David Byrd. I only met Mr. Watts once to pick
12 up a check when Mr. Byrd couldn't come out. But it
13 was -- my point of contact with the company was Mr.
14 Byrd at first and then a lady named Jody.

15 **Q** All right. You cleaned what for Mr. Byrd?

16 **A** What we did mainly for them was install carpet and
17 cleaned carpets off Faraway Drive. They owned quite
18 a few small apartment complexes, with Tremain Street
19 being one of them. The apartments, the Evergreen off
20 Two Notch, they own those, too. They own a few more,
21 some over in in Batie Downs. And to back up a little
22 bit, because I got the apartments later from them, I
23 saw that they were buying --

24 **Q** You got the apartments later from whom?

25 **A** Mr. Byrd.

1 Q All right.

2 A I started noticing that they had a lot of properties.
3 And I made a deal with him that if he'd teach me how
4 to buy the properties, the houses and small apartment
5 complexes I'd work for him for a year. I'd do his
6 work for a year, and all he had to buy was the
7 supplies. I'd provide --

8 Q You say "him", who is "him"?

9 A Mr. Byrd.

10 Q For his rentals?

11 A Exactly.

12 Q Did you work for him for a year free of charge?

13 A Yes, sir. Well, I put in the invoices but I didn't
14 expect payment on it, just to let him know the bills
15 that were running up.

16 Q As a result of that, how did you come to use 1700
17 Tremain Street, Apartments C and D?

18 A Well, at the end of a year, we for some reason could
19 never get our schedules together, you know. So I
20 ended up not learning how to buy and sell, I mean,
21 buy houses and apartments. And it's going into three
22 months into the next year now. So I told him just --
23 the money, I think it was like seven or \$8,000. So I
24 told him for that money just give me a couple of
25 apartments over here and I'll make do with that;

1 we'll call it even.

2 Q , Apartments C and D?

3 A Yes, sir.

4 Q Advantage Building Systems was operating from or out
5 of. Is that correct?

6 A Right.

7 Q Why would you need two places?

8 A Well, one I used for storage because we started
9 painting also. And we had extra paint sprayers,
10 ladders. We started doing remodeling on homes. So I
11 had all type of stuff that my guys worked with. And
12 the next apartment over, I had guys living in there
13 that actually worked for me.

14 Q All right. How many guys worked for Advantage
15 Building Systems at any one time?

16 A I had about six regular guys, but we would pick up
17 work. Work would go up and down. So we had a lot of
18 guys that I could just go grab and say, okay, let's
19 go. Because I hooked up with another guy that owned
20 a lot of properties that was showing me how to buy
21 property. And sometimes he'd have to do an eviction
22 or something like that. So if I needed to go on an
23 eviction, I'd just grab some guys that could tote
24 something and have them move all the stuff out the
25 house because my painters and my carpet installers,

1 they don't want to do manual labor. They want to
2 install carpet or they want to paint.

3 **Q** Let's talk about, list very quickly the names of the
4 apartment complexes that you had contracts for, let's
5 say in 1995?

6 **A** Well, '95, that's when I was with Jani-King.

7 **Q** Why don't you back up just a second. Pull this a
8 little. A little loud.

9 **A** In '95 I was still with Jani-King and I had mainly
10 commercial contracts: Like I said, WOLO and Time
11 Warner Cable, the Palmetto Richland Memorial. I
12 called it the Richland Hospital at the time.

13 **Q** What apartment complexes; that is, rental apartment
14 complexes?

15 **A** That came later on.

16 **Q** All right, sir. Tell us about that.

17 **A** We had The Pines off Percival Road. But they changed
18 it to I think Hunter's Place. Austin Woods Apartment
19 Complex, USC. Whaley Mills, we had that one.
20 Crescent Manor, we had that one.

21 **Q** What type of things would you do at these various
22 apartment complexes?

23 **A** Well, we started out cleaning carpet and then it
24 evolved into a complete job. You give us the key and
25 when we hand you the key back everything that needed

1 to be done in that apartment is done, is ready for
2 move in.

3 Q Explain what types of things you would do?

4 A We would paint, clean carpets, install carpet if it
5 needed to be installed. We would also do general
6 cleanings of the apartments. We would do trash
7 out's, meaning if somebody got evicted and they just
8 left in the middle of the night or they left a lot of
9 stuff, we'd do trash out's. We'd do drywall repair.
10 Anything that needed to be done in there, period,
11 we'd do.

12 Q Did you do plumbing?

13 A We did light plumbing and light roofing.

14 Q How did you -- what was your role in the way of
15 managing, organizing your employees, your workers
16 with Advantage Building Systems?

17 A It was basically that, the management portion of it.
18 Because I didn't know how to paint and I didn't know
19 how to do plumbing. I took what I learned from
20 Jani-King as far as learning how to sell contracts,
21 and I would find people that actually knew how to do
22 the work, and then I would go and sell the contract.
23 If you tell me you know how to install carpets, I'll
24 go find some carpet jobs. If you tell me you know
25 how to do drywall, I'd go find drywall jobs. And

1 then I'd ask you what do you want off the job and
2 then I'd charge higher than that.

3 **Q** The people that you employed with Advantage Building
4 Systems, give a profile of what type of folks that
5 you hired either full time, part time, pick up time?

6 **A** They're not guys that you're going to find in
7 corporate America. A lot of these guys didn't have
8 high school diplomas. A lot of them weren't working
9 regularly, you know. And mainly your average
10 painters. I mean, most painters drink. And most of
11 your construction people that remodel houses and
12 stuff like that, I mean, they're not college
13 graduates.

14 **Q** Do they sometimes come with criminal records?

15 **A** The majority of them.

16 **Q** When you would employ them, how would you make
17 certain that they got to jobs? How would you make
18 certain that they were on time? How would you make
19 certain that your contracts were complied with?

20 **A** I have three vans.

21 **Q** I'm sorry. Say that again?

22 **A** I had vans. I had company vans myself.

23 **Q** Who would employ those? Who would use those?

24 **A** Well, my guys would use them, but they were mine.

25 **Q** In September of 2005, if I say to you, Ken, that

1 Monday, September 5th, was Labor Day -- Ms. Court
2 Reporter, this is State's Exhibit 178. Ken, this
3 is -- they didn't start it on Sunday. They start the
4 days at Monday. If I say to you that Monday,
5 September the 5th, was Labor Day; I want you to tell
6 this jury where you were on the 1st, the 2nd, the
7 3rd, the 4th, the 5th, the 6th, up through the 14th
8 of September, 2005?

9 A Starting at Thursday, working. Working. That
10 Sunday, the 4th, was my oldest daughter's 16th
11 birthday.

12 Q Stop one second. You lived where on the 1st of
13 September, the 2nd, the 3rd, the 4th, the 5th, the
14 6th; up to your arrest on the 23rd, where were you
15 living?

16 A On Polo Road.

17 Q Who were you living there with?

18 A Janet Sames.

19 Q Were you married to Janet Samuels?

20 A No, I was not.

21 Q How did you first come to meet Janet Samuels?

22 A In college in Oklahoma in 1985.

23 Q After you were divorced, you and Ms. Samuels got
24 together again?

25 A Yes.

1 Q Here in South Carolina?

2 A Yes.

3 Q You were living -- what was the name of the

4 apartment?

5 A The Commons, I think it was. She picked it out. I

6 can't remember. I just know it was picked, you know,

7 where we were going to go.

8 Q Since this date, since September 23rd, 2005, tell

9 these folks where you have been?

10 A Alvin S. Glenn Detention Center.

11 Q How did you come to be arrested on the 23rd of

12 September, 2005?

13 A I called you and turned myself into, I think it was

14 Captain Stan Smith.

15 Q Which police agency?

16 A Richland County.

17 Q Let's go back up here. The 1st, the 2nd, the 3rd,

18 let's just -- noon on Saturday, September the 3rd,

19 where were you?

20 A At noontime?

21 Q Yes, sir.

22 A Working.

23 Q Working where? Do you recall?

24 A Maybe Austin Woods. One of the apartment complexes.

25 Either Austin woods or Whaley Mills.

1 Q Let's stop here for one second. Tell these folks
2 whether or not you know a fellow by the name of Ken
3 Davis?

4 A Yes, sir, I do.

5 Q Had you ever spoken to Ken Davis? Had you ever
6 interrelated with Ken Davis as a result of his being
7 the maintenance manager for Austin Woods Apartments?

8 A Yes. He would hand me the keys to paint the
9 apartments.

10 Q How long have you had contracts with Austin Woods?

11 A About four, four and a half years, something like
12 that.

13 Q Let's go into this right now just so I won't forget.
14 On or about September the 20th, 21st, 22nd, 23rd,
15 were you due monies for your work at Austin Woods?

16 A Yes, sir.

17 Q Did you call Ken Davis?

18 A Yes, sir, I did.

19 Q During that period of time?

20 A Yes, sir, I did.

21 Q And what did you say to Ken Davis?

22 A Well, the conversation with Ken Davis was after
23 another conversation I had. Victoria, one of the
24 managers there, I would turn in my invoices. And I
25 was due about a month and a half to two months worth

1 of invoices.

2 Q At Austin Woods?

3 A At Austin Woods. And I am asking her, you know,
4 what's up with the money.

5 Q Hold on one second. Can you see this from here?

6 A Yes.

7 Q On either the 20th, 21st, 22nd, 23rd, those three
8 days, --

9 A Yeah.

10 Q -- did you know that you were wanted by law
11 enforcement?

12 A Yes, I did.

13 Q How did you come to know that?

14 A A friend called me and told me that she had seen me
15 on TV.

16 Q How was your picture? Did you ever see that on TV?

17 A I saw it later on that night. But I was -- I had
18 come in. I was getting undressed, changing out of my
19 work clothes. And she said, "Tell me I just didn't
20 see you on TV for murder."

21 Q Well, let's stop for one second. The person that
22 you're talking about who told you that is not Janet
23 Samuels, correct?

24 A No.

25 Q Would it be fair to say that you had a full-time

1 relationship with Janet Samuels on Polo Road in the
2 apartments The Commons and had a child by her, too.

3 Is that correct?

4 A Right. I had one child that was ours biologically
5 and another child that was -- she is mine, too, but,
6 I mean, she has a different father.

7 Q Through Janet?

8 A Right.

9 Q You had a relationship with a whole other person as
10 well?

11 A Right.

12 Q That person told you that you were wanted. Correct?

13 A Yes, sir.

14 Q Do you remember what day that was?

15 A I'm assuming it was around the 21st, the 20th or the
16 21st, something like that.

17 Q You were charged. You were arrested on the 23rd?

18 A Yes, sir.

19 Q What were you charged with then?

20 A Three counts of murder, one count of kidnapping,
21 three counts of armed robbery and first degree
22 burglary.

23 Q Supposed to have occurred when, sir?

24 A On September 4th.

25 Q On September the 3rd you were at work at noon. Where

1 were you at 6:00 that night?

2 **A** We may have been just cutting off on Tremain Street
3 at 6. That was around the time that we cut off.

4 **Q** Where did you go Saturday night, the 3rd?

5 **A** Home.

6 **Q** Why is Sunday, the 4th of September, an important day
7 in your life?

8 **A** It was my oldest daughter's 16th birthday.

9 **Q** This is the daughter that you have with Janet?

10 **A** Yes.

11 **Q** What is her name?

12 **A** Daphne.

13 **Q** Daphne?

14 **A** Yes, sir.

15 **Q** Midnight September the 3rd to the morning of
16 September the 4th, where were you?

17 **A** At home.

18 **Q** Did you work on Sunday, the 4th of September?

19 **A** Yes, sir, I did.

20 **Q** Do you know where you worked?

21 **A** Austin Woods.

22 **Q** What time did you get off and why?

23 **A** I cut off early that day because we had a dinner
24 party at Ruby Tuesdays on Garners Ferry for my
25 daughter for her 16th birthday.

1 Q What time was that birthday party?

2 A I want to say about 3:00.

3 Q Birthday. Is that right?

4 A Right. They -- they done some things earlier in the
5 day, some girl stuff. Because I had her and my two
6 daughters. So I was the only guy in the house. So
7 they do a lot of stuff together. And I just went to
8 work that morning. And at 3 -- we had out-of-town
9 company also. And later on that afternoon we went to
10 a -- we had dinner at Ruby Tuesdays.

11 Q Tell these folks what you knew at 3:00 on Sunday
12 afternoon, the 4th of September, about Mr. George
13 Batie, Mr. Kevin Miller and Ms. Desiree Felder?

14 A I didn't know anything at that time about it at that
15 time. Nothing.

16 Q Nothing. Ken Joy, I hand you State's Exhibit No. 1
17 which is the scene of the murder of George Batie and
18 Kevin Miller. Have you ever been to that house
19 before?

20 A Never. Never. Never.

21 Q State's Exhibit No. 7, can you recognize that? Do
22 you know what that is?

23 A A car. It looks like a Mustang? Is it?

24 Q What is the house in the back?

25 A No, I don't. I've never been there.

1 Q Have you ever seen this car before, the Nissan?

2 A No.

3 Q State's Exhibit No. 2. State's Exhibit No. 6, have
4 you ever seen that scene before?

5 A Never.

6 Q State's Exhibit No. 63, Ken, have you ever seen that
7 before?

8 A Never.

9 MR. MEADORS: Mr. Delgado, could you come over
10 this way a little bit?

11 Q How does that make you feel, sir?

12 A That's sad. I mean, that's sad. I mean, I'm sorry
13 for his parents. I'm sorry for him. But, I mean,
14 that's sad.

15 Q State's Exhibit No. 122, I believe that to be an
16 x-ray of Mr. Miller showing a hole in his skull. Did
17 you have anything to do with that?

18 A No, sir, I did not.

19 Q Did you do anything to cover that up?

20 A No, sir, I did not.

21 Q Get rid of the gun?

22 A No, sir, I did not.

23 Q Did you take any of the money?

24 A No.

25 Q Did you take the drugs?

1 **A** No.

2 **Q** Did you sell any drugs?

3 **A** No, I did not.

4 **Q** Try you help to cover this up?

5 **A** No, I did not.

6 **Q** State's Exhibit No. 66, I say to you that's the hand
7 of Kevin Miller as found at the Mildred Street site.
8 Did you have anything to do with that?

9 **A** No, sir, I did not.

10 **Q** This is George Batie. Excuse me. One more. This is
11 Mr. Kevin Miller as he was found by law enforcement,
12 State's Exhibit No. 8. Did you have anything to do
13 with that?

14 **A** No, I did not.

15 **Q** Cover that up?

16 **A** No, sir, I did not.

17 **Q** Did you take the gun and hide a gun, make a car
18 disappear? Did you do anything relative to this?

19 **A** No, I did not.

20 **Q** This is Mr. George Batie. Had you ever seen George
21 Batie before that you know of?

22 **A** No. No.

23 **Q** This is Mr. Batie. This is now State's Exhibit
24 No. 35. Have you ever seen that scene, Mr. Batie as
25 he was found by law enforcement?

1 **A** No.

2 **Q** This is Mr. George Batie. And I believe this,
3 Ms. Court Reporter, is State's Exhibit 110. Did you
4 have anything to do with that?

5 **A** No, I did not.

6 **Q** Cover that up?

7 **A** No.

8 **Q** Take money?

9 **A** No.

10 **Q** Take a gun?

11 **A** No.

12 **Q** Dispose of a car?

13 **A** No.

14 **Q** State's Exhibit 22, another scene of Mr. Batie. Did
15 you have anything to do with that?

16 **A** No, sir, I did not.

17 **Q** Mr. Batie was shot in the hip. Did you have anything
18 to do with that?

19 **A** No.

20 **Q** Before, after, during?

21 **A** Not at any point.

22 **Q** This is a slug, State's Exhibit No. 72, that I
23 believe was taken from Mr. Batie, one of the three
24 victims in this matter. Did you have anything to do
25 with this?

1 **A** No.

2 **Q** Mr. Joy, this is State's Exhibit 118. It's
3 Ms. Desiree Felder. Did you have anything to do with
4 killing Ms. Desiree Felder?

5 **A** No, I did not.

6 **Q** Did you have anything to do with getting rid of a gun
7 that killed Ms. Desiree Felder?

8 **A** No, I did not.

9 **Q** Or in any way participating in her kidnapping?

10 **A** No. I did not.

11 **Q** Before, during or after?

12 **A** Not at any point.

13 **Q** Ken, have you seen these two photographs?

14 **A** This is my first time seeing them.

15 **Q** Look at those photographs. That's Desiree Felder.
16 That's how her body was found. How does that make
17 you feel?

18 **A** It's not a good thing. It's not.

19 **Q** Do you know an individual by the name of Blue? His
20 name is -- I always mispronounce it. His last name
21 is Moaney, M-O-A-N-E-Y. Tell these folks, have you
22 ever met him?

23 **A** I met him once.

24 **Q** Ken, I'm going to hand you five photographs. See if
25 you can identify those for me. Your Honor, those --

1 just one second, Ken. Your Honor, I'm handing Mr.
2 Joy Defendant's Exhibits 1 through 5, please.

3 A This is the side of Blue's apartment. This is the
4 house nextdoor that his mother lives in.

5 Q What's the identifying number on that?

6 A 2. This is the front of the apartment where they sat
7 in the yard nextdoor to his mother's house.

8 Q When you say "they", who is "they"?

9 A A bunch of fellows that I know. I didn't know any of
10 them personally. This is the same photo showing the
11 stairwell as you go up.

12 Q What's the number?

13 A Number 4.

14 Q I want you to stand just a second. Stand. Show
15 these folks without leaving the witness stand what
16 State's Exhibit -- excuse me -- Defendant's Exhibit
17 No. 5 shows?

18 A It shows a side shot of --

19 Q Show them the photograph.

20 A It shows a side shot of the apartment that Blue used
21 to sell drugs out of.

22 Q Where is that located?

23 A On McDuffie street, the corner of McDuffie. And I'm
24 not sure what the other street is. It was in
25 Gonzales Gardens.

1 Q That's here in the City of Columbia?

2 A Yes.

3 Q State's (sic) Exhibits 1, 2, 3 and 4, you have been

4 by there. Correct, sir?

5 A Yes, sir.

6 Q Tell these folks why you have been there and with

7 whom you've been and the purpose for your being

8 there?

9 A I went to this apartment for probably a year and

10 three or four months straight, maybe once a week to

11 buy marijuana.

12 Q From whom would the marijuana be purchased?

13 A From Blue.

14 Q Who would purchase it?

15 A Stanley Oliver.

16 Q Why did Stanley Oliver purchase it and not you?

17 A Because Blue knew him.

18 Q Did Blue know you?

19 A No, he did not know me.

20 Q State's (sic) Exhibit No. 1 shows a close-up of what

21 area?

22 A That's the stairs you go up to get the weed from, or

23 whatever you're going to get.

24 Q Tell these folks right now, have you ever bought any

25 drugs from Blue other than marijuana?

1 **A** No.

2 **Q** Have a seat. Did you at any time up and through the

3 20th of September ever purchase marijuana yourself

4 from Blue?

5 **A** On the 20th.

6 **Q** Up until the 20th?

7 **A** No. No.

8 **Q** On the 20th where did you go, what did you do, and

9 why?

10 **A** I --

11 **Q** Relating to these photographs and these exhibits?

12 **A** I went up those stairs and purchased a half ounce of

13 weed.

14 **Q** From ...?

15 **A** From Blue.

16 **Q** On the 20th?

17 **A** Right.

18 **Q** Why was this time different?

19 **A** Because the person that normally got it for me was

20 locked up now.

21 **Q** Who was that person?

22 **A** Stanley Oliver.

23 **Q** Tell these folks how you'd come to know Stanley

24 Oliver. Just tell it straight.

25 **A** Well, he was part of a group of guys that hung out

1 over in the Tremain Street area. And when I moved my
2 office to Tremain Street they were there. And I had
3 guys working for me that lived in the apartment.

4 Q Now, let's back up one second. Let's tell them about
5 C and D again. You had two apartments that were
6 given to you rent free?

7 A Right. Well, they knocked it off the bill that they
8 owed me.

9 Q That's correct. I'm sorry.

10 A Okay.

11 Q What individuals in your employ stayed at Tremain
12 Street?

13 A William Gedson, another fellow named Isaac, and a
14 fellow named Gene.

15 Q Those were employees of whom?

16 A Mine.

17 Q Why would they stay there?

18 A It was better for me to be able to offer housing with
19 the job because I didn't pay a lot. So that kind of
20 added an incentive, to be able to offer housing, too.

21 Q You came to meet and/or know Stanley Oliver
22 approximately when?

23 A I would say like about 2002, somewhere up in there.

24 Q Do you know where Stanley Oliver lived?

25 A Yeah. I eventually found out where he lived. But I

1 met him on Tremain Street.

2 Q Where did he live?

3 A Palmetto Terrace.

4 Q Do you know with whom?

5 A But this was sometime later I found out about that.

6 Q Do you know with whom he lived at Palmetto Terrace?

7 A His girlfriend, Renata Williams.

8 Q Sir, was there at any time -- first of all, explain

9 Advantage Building Systems. What would you do for

10 your workers in the sense of transportation to and

11 from job sites, to and from the store, to and from

12 any place else? Tell this jury.

13 A Make sure they got there. They used my vehicles

14 basically because they didn't have vehicles. So they

15 would use my vehicles to get back and forth to work

16 or anywhere else they needed to go.

17 Q Did you drive or did you drive?

18 A No. They drove.

19 Q Did you ever drive?

20 A Every now and then I would drive them. But I had my

21 own work van that I'd use, that I preferred rather.

22 Q Tell us about your phone. Did you have a cellphone?

23 A Yes.

24 Q Tell this jury what the number for that phone was?

25 A .

1 Q Area code what?

2 A (803).

3 Q (803), say it again?

4 A 463.

5 Q Yes, sir.

6 A 2210.

7 Q 2210. Was that registered in your name?

8 A No.

9 Q Whose was it registered in?

10 A Victoria Deas.

11 Q Ms. Victoria Deas was who?

12 A A friend of mine.

13 Q You had a relationship with her?

14 A No. Not that type of relationship.

15 Q Why did you get a phone in her name?

16 A Because when we first got it, Suncom sells prepaid

17 plans now, but when we first got this phone they did

18 not have prepaid plans. And if your credit was bad

19 you had to put up I think anywhere from 250 to \$500

20 as a deposit. Now, my credit was bad. Hers was not

21 as bad. So I told her if she'd get -- you know, if

22 she'd go and get the phones, I'd pay for both of

23 them. And that's what she did.

24 Q More than one phone, physical phone?

25 A It was about three of them.

1 Q All at that same number?

2 A No. There were different numbers.

3 Q Did there come -- let's talk to the jury about who
4 would use that phone and that number. Who?

5 A I used it mainly when I was away from Tremain. But
6 when I went to Tremain -- and Tremain wasn't the only
7 apartments that I had. I had three others also. But
8 when I went there, because there wasn't a phone
9 there, people would use the phone.

10 Q People like whom?

11 A My employees, anybody around.

12 Q Do you know a woman named Tatanisha Robinson?

13 A Yes.

14 Q How did you come to meet and/or know her?

15 A She -- she popped up on Tremain. One day I just
16 started noticing her around. And the reason I
17 noticed her was because she was kind of young. And
18 she was dating one of the younger fellows that was
19 out there, and she ended up leaving him alone,
20 started dating another fellow that was out there and
21 it kind of caused some problems.

22 Q Did that cause problems for you business wise?

23 A Well, it cost me money right off because he ended up
24 shooting up the house nextdoor, the apartment
25 nextdoor and shot the old man. And he ended up

1 shooting one of our windows out, too.

2 Q Somebody was arrested?

3 A Yeah. He was.

4 Q Somebody went to jail?

5 A Yes.

6 Q Tatanisha Robinson eventually started to have a

7 relationship with whom?

8 A Stanley Oliver.

9 Q And did you introduce her to Stanley Oliver?

10 A No.

11 Q Has there ever come time when you would have taken

12 Stanley Oliver and any other lady or woman to a

13 motel, hotel, any other place?

14 A Yes, I did.

15 Q Tell these folks.

16 A I took Stanley and Tatanisha to the Red Roof Inn.

17 And it's on Two Notch on my way home. So ...

18 Q Did you ever go by Red Roof Inn again and pick them

19 up?

20 A Yeah. The next morning when I was leaving back out

21 for work, I picked them up, took them back to

22 Tremain.

23 Q Can you tell this jury what day that may have been?

24 A It was somewhere around the 4th, maybe that Monday,

25 the 5th.

1 Q If it was, you don't deny that you did that?

2 A No. I don't deny it.

3 Q What did you know then about the events at Mildred
4 Street or Nina Lee Drive?

5 A Nothing.

6 Q What had you done to cover up that crime?

7 A Nothing.

8 Q What had you done to participate in that crime?

9 A Nothing.

10 Q Who would use your phone from time to time?

11 A Everybody. I mean, anybody that was close to me.
12 Because most people had prepaid cellphones. And
13 because I had a plan that had unlimited minutes,
14 people would use it.

15 Q Were there times when that phone was always in your
16 possession, or were there times when you didn't even
17 know where it was?

18 A No. Because a lot of the times I played chess on
19 Tremain Street, played chess or drank a beer or two
20 and wind down with the fellows after work. And
21 anybody that was there would use it. Which I didn't
22 have a problem with.

23 Q Let me ask you this. Have you ever used that
24 cellphone to call Stanley Oliver?

25 A Yes.

1 Q If there are dozens of telephone calls between your
2 cellphone number and Stanley Oliver, did you call him
3 dozens of times?

4 A I may have, or it could have been her.

5 Q "Her" being who?

6 A Tatanisha.

7 Q Why?

8 A Trying to reach him or trying to find out where he
9 is.

10 Q How would she have access to the phone?

11 A She stayed -- she was on Tremain Street, too.

12 Q Would she ever use your phone?

13 A Yes.

14 Q Did she ever ask you to use your phone?

15 A Yes.

16 Q Have you ever called Mr. Dominic Gallman? Let's just
17 tell the jury this. Do you know an individual by the
18 name of Dominic Gallman?

19 A I do now, yes.

20 Q Did you know him in September of 2005?

21 A I knew of him. I did not know him.

22 Q How did you know of him?

23 A From Stanley Oliver.

24 Q Was he a friend or associate of yours especially as
25 opposed to Mr. Oliver's?

1 **A** No, sir. No. He was a friend of Mr. Oliver's.

2 **Q** As was Tatanisha Robinson?

3 **A** Yes.

4 **Q** As was Renata Williams?

5 **A** Yes.

6 **Q** Did you on the 4th -- excuse me -- the 5th, the 6th,
7 the 7th, 8th, 9th, 10th, all the way up to the 11th,
8 from the 12th through the 13th, up through the 14th,
9 let's end it that day; did you ever go to Mr.
10 Moaney's apartment noted in Defense Exhibits 1
11 through 5 and give to him any money?

12 **A** I never gave it to him. He didn't want to meet me.
13 I always gave it to Stanley and he would go and get
14 the drugs.

15 **Q** Tell these folks how much you would give to Stanley
16 to give to Blue?

17 **A** It would be 60 for Blue but another 15 I would throw
18 in for Stanley's time, you know.

19 **Q** How would you get there?

20 **A** I'd drive over there.

21 **Q** With whom?

22 **A** Stanley Oliver.

23 **Q** Where would you go?

24 **A** To right on that corner. Sometimes I let him out.
25 At first I'd have to let him out and make the block,

1 come back around and catch him walking. But after a
2 while I could park there.

3 Q Why would you do that?

4 A Just to keep from being too suspicious.

5 Q Because you were doing something legal or illegal?

6 A It was illegal.

7 Q On the 20th of September, that's a Tuesday, the 20th
8 of September, tell this jury whether or not you
9 called Blue?

10 A No. Blue called me.

11 Q He called you why?

12 A To let me know it was okay to be able to buy weed
13 from him.

14 Q Why would he do that?

15 A I had seen Renata before then. And I asked her if
16 she'd seen Blue. I told her, "If you see Blue, let
17 him know I'm out of weed, I need some weed."

18 Q Let's talk about Renata Williams for one second. Did
19 you ever say to Renata Williams that you had burned
20 any clothes relating to this occurrence?

21 A No. No.

22 Q Did you burn any clothes?

23 A No.

24 Q Did you get rid of a gun?

25 A No.

1 Q Did you tell Renata that?

2 A No.

3 Q Did you get rid of a car?

4 A No.

5 Q Did you tell Renata you got rid of a car?

6 A No. I did not.

7 Q Did you ever tell them nobody would be able to find

8 out about this crime?

9 A No.

10 Q Why?

11 A I didn't know about it at the time. I mean, I

12 didn't -- around that time she said that, I didn't

13 know about that.

14 Q Tell these folks whether or not in the past as a

15 result of your employment there have been occurrences

16 with your employees where you've had to either bond

17 them out of jail or to get an attorney for them?

18 A Yeah. I have a relationship with an attorney and

19 with a bondsman.

20 Q Tell them.

21 A A Golden Chance, if I call down there --

22 Q Call down where?

23 A To A Golden Chance. That's the name of it.

24 Q Tell these folks what that is?

25 A It's a bonding agency on Beltline.

1 Q Do you think it's still there?

2 A Yeah, it's still there. It's still there.

3 Q How did you come to meet or know Golden Chance?

4 A Just from really trying bail bondsmen. And after a

5 while, going in there, I built a relationship with

6 the receptionist.

7 Q Who were you going in there for?

8 A Different people that worked for me.

9 Q Were you going in for yourself?

10 A Nah, not for me.

11 Q Why? What problem would you have?

12 A I never got locked up. I didn't get locked up.

13 Q Why would you go to Golden Chance?

14 A They were giving me better deals. After I kept using

15 them, they would give me better deals.

16 Q Before September the 4th, had you ever gone to Golden

17 Chance to help out an employee?

18 A Yes.

19 Q Had you ever paid a bail bond or a portion of a bail

20 bond for any of your employees?

21 A Yes.

22 Q Tell these folks about that.

23 A We got fellows getting locked up all the time.

24 Sometimes they didn't have driver's license or they

25 had warrants, and if they get stopped, yeah, they're

1 going to jail. And I would go and bond them out or
2 give money to have them bonded out.

3 **Q** Why?

4 **A** So they could be at work the next week.

5 **Q** Besides your work at Advantage Building Systems, what
6 did you do for other members of the community
7 relating to entrepreneurial activities?

8 **A** Well, I met a lady named Regina Doster a while back
9 that works at Benedict, and we had some like ideas.
10 And I was telling her about what I was doing with
11 Jani-King. And I talked to her about wanting to be
12 able to share that information with people. And she
13 actually wrote a grant for me to be able to teach
14 that at the -- through Benedict College at the Cecil
15 Teller Center. And I would go in maybe like three
16 times a month and do entrepreneurial training skills.
17 What we'd do is we'd teach about starting businesses
18 from the ground up. We'd teach about job skills and
19 every aspect of the janitorial business, from going
20 in to get a job or starting a business.

21 **Q** Did you share that expertise or that experience with
22 other members of the community?

23 **A** Everybody I knew. With anybody that would come into
24 contact with me, I'd talk to them about making money
25 and working together.

1 Q Let's talk about this for just one second. Did that
2 number, (803)463-2210 -- let me make certain I get
3 this right -- 2210, did that number ever change?

4 A Yes.

5 Q Why?

6 A In the span of two weeks, one week I had a police
7 officer call me about a triple homicide. And I went
8 in to talk to him. I talked to Investigator Mead.
9 The next week I had an Agent Coronet call me about
10 \$15,000 in checks and \$8,000 in credit cards that a
11 guy that used to work for me named Gene had run up
12 and left my phone number somewhere as a contact for
13 him. And the guy asked me if I knew him. Yeah, I
14 know him. He works for me. Well, he used to work
15 for me. Well, do you know where he is now? No, I do
16 not. But if I come across him, I'll let him know;
17 just leave me your number. And he started talking
18 about, you know, shutting down my business and having
19 the tax people at my door the next day and all of
20 that. So I hung up on him and I changed the number.

21 Q When was that?

22 A I want to say the 16th, the 16th of September.

23 Q To what number?

24 A I think it was 237 -- don't quote me. Don't quote
25 me.

1 Q All right. To another number?

2 A Yeah. 7294. Something like that. 237-7294.

3 Q I'll put a question mark. Area code (803)?

4 A Mm-hmm (affirmative)

5 Q What was it again you think?

6 A 237-7294.

7 Q Ken, I want you tell these folks, do you know an

8 individual by the name of Mike Allen?

9 A I met him. I did not know him personally.

10 Q When did you first come to know him and how did you

11 come to know him?

12 A Stanley Oliver introduced him to me on Tremain Street

13 as his brother, maybe like in July I think.

14 Q Of what year?

15 A 2005.

16 Q Did Mike Allen ever work for you or Advantage

17 Building Systems?

18 A No.

19 Q Did Stanley ever work for you?

20 A Yes. He did from time to time.

21 Q When you would need employees --

22 A Yeah.

23 Q -- or day workers?

24 A Yeah.

25 Q After Labor Day, September the 5th, 2005, tell your

1 jury; when is the first time you heard from Mike
2 Allen, and under what circumstances?

3 A On September 13th. And he called screaming. He was
4 hysterical.

5 Q Hold up a minute. Who called who?

6 A He called me.

7 Q Did he call you as a result of your calling him?

8 A No. He called me.

9 Q What did he say to you?

10 A That they're going to kill Stanley.

11 Q They are going to kill Stanley?

12 A Yeah.

13 Q Who is "they"?

14 A I didn't know who "they" was at the time, because he
15 just kept screaming, "They're going to kill my
16 brother. They're going to kill my brother." And he
17 is yelling and screaming. And I knew at that time
18 that Stanley was wanted for murder because I had
19 actually gone in, like I said, talked to the
20 investigator. So I thought maybe --

21 Q Let's back up one second. When did you go talk to
22 the investigators?

23 A On the 9th. They came to my office on the 8th and
24 left a card. They were looking for Stanley. And
25 they left a card. And I called the night of the 8th

1 and told them that I couldn't come in that day but I
2 could come in the next day. I could rearrange some
3 things.

4 **Q** And you went in where?

5 **A** To Justice Square.

6 **Q** Is that the City of Columbia Police Department?

7 **A** City.

8 **Q** I'm going to put down CPD. That's where you went?

9 **A** Right.

10 **Q** On the 9th?

11 **A** Right.

12 **Q** When you left on the 9th, on the 9th you knew at that
13 time what?

14 **A** That three people were killed and had been -- they
15 had been killed, that it was connected. Because at
16 one point it was two murders and then one. But it
17 had been connected and they wanted Stanley Oliver for
18 it.

19 **Q** As a result of that, did you hear from or did you
20 contact Stanley Oliver?

21 **A** Yes. After that. Not that night but maybe after
22 that I think.

23 **Q** What did you do as a result of that? Where did you
24 go? What did you do?

25 **A** I told him, I told him, you know, that the police

1 have talked to me about you.

2 Q Yes.

3 A They asked me what I knew about you and I told them.

4 And I asked him if he had something to do with it.

5 And he told me no. So I told him, you know, turn

6 himself in; I'll help you get a lawyer.

7 Q Did you go to a lawyer's office in an attempt to
8 facilitate hiring an attorney or getting an attorney?

9 A Yes. Not right then. I did after I talked to Mike.
10 I told Stanley I was going to do it, but I called and
11 I hadn't gotten around to it because I was busy. But
12 after I talked to Mike and he was, you know, losing
13 his mind, I said, okay, I'll go in tomorrow and talk
14 to Jimmy.

15 Q Tell this jury, what was the state of -- what was the
16 tone, the emotional tone of Mike Allen when he talked
17 to you on the 13th, Tuesday the 13th of September?

18 A He was hysterical. He was hysterical. He was
19 crying. I mean, crying. I mean, he was
20 inconsolable. We had to actually slow him down and
21 calm him down to find out actually what was going on.

22 Q Where did Mike Allen live?

23 A He lived off St. Andrews Road.

24 Q Had you ever been to his home?

25 A No.

1 Q What did you do as a result of his phone call to you?

2 A I was close to Renata's house anyway because Palmetto
3 Terrace is right around the corner from Tremain
4 Street. And I was headed that direction anyways.
5 And I told her, "Tell Mike to calm down." I said,
6 "Man, I hope you're not driving. And I'm going by
7 Renata's house, and then I'll go and pick up Pancho
8 and come to your house." And that's what I did.

9 Q Who is Pancho?

10 A Mike Allen's nephew.

11 Q How did you know that?

12 A Because he is Stanley's nephew.

13 Q Do you know Pancho's real name?

14 A Mike is all I know.

15 Q So there's a Mike Allen and somebody else named Mike
16 also known as Pancho?

17 A Right.

18 Q Why did you pick up Pancho? Why did you go to see
19 him?

20 A So he could show me where Mike lived.

21 Q That was on the 13th?

22 A Yes.

23 Q You went to Mike's, Mike Allen's that is?

24 A Yes.

25 Q Tell the jury whether or not you ever said anything

1 to Mike Allen: Everything is going to be all right,
2 you're never going to find clothes, never going to
3 find a gun, never going to find the car, I got rid of
4 all that?

5 A No. No. I never said anything like that to Mike. I
6 told Mike it was going to be all right. I told him
7 to calm down, I would go and get an attorney. But I
8 didn't tell him, you know, we got rid of all this
9 stuff.

10 Q Did you in fact -- how long were you in the presence
11 of Mike Allen?

12 A Maybe 15 minutes. I mean, 15 minutes at the most.

13 Q When you left, did Pancho leave with you?

14 A Yeah. He did.

15 Q And you took him back home?

16 A Yeah.

17 Q On the 14th, Wednesday, the 14th of September, what
18 did you do to facilitate, help Stanley Oliver get an
19 attorney?

20 A I went to talk to Jimmy Rogers.

21 Q Tell these folks who Mr. Jimmy Rogers is?

22 A He is a lawyer that I met. I was paying a ticket in
23 Forest Acres. And a fellow that was with me knew
24 him. And I asked him if he was a good attorney. He
25 said, yeah, he's a good attorney. So everybody that

1 needed a lawyer from that point on that I knew of I
2 would send to Jimmy.

3 Q On the 14th, Wednesday, the 14th, did you meet with
4 Mr. Jimmy Rogers?

5 A Yes.

6 Q Who did you meet Mr. Rogers with?

7 A Myself. I was alone.

8 Q Not Stanley Oliver?

9 A No.

10 Q When you met with Mr. Rogers, did you give him any
11 money?

12 A No.

13 Q What did you find out with Mr. Rogers?

14 A That he would charge 30,000 for the case.

15 Q What did you do as a result of that?

16 A I talked with Mike and Renata and told them.

17 Q You talk to Mike Allen?

18 A Yes.

19 Q On what day?

20 A I want to say the very next day. I want to say the
21 very next day.

22 Q Did you call the City of Columbia Police Department
23 on the 14th?

24 A No.

25 Q You called whom and met with whom?

1 **A** Jimmy Rogers.

2 **Q** Why would you do that for Stanley Oliver?

3 **A** Because I -- I told him I would.

4 **Q** And as a result of whose entreaty, overture to you,
5 who were you doing that on behalf of as well?

6 **A** Mike Allen.

7 **Q** Why?

8 **A** I mean, he was -- he was -- I mean, when I went to
9 his house, he was crying. "They're going to kill my
10 brother. They're going to kill my brother." And he
11 was just inconsolable. And I was letting him know I
12 had already promised Stanley that I would talk to
13 Jimmy. I am calling Jimmy, but he hadn't called me
14 back yet. So after I talked to Mike, and he had a
15 picture of Stanley pulled up on the computer and it
16 had the charges on there in his bedroom, and it had
17 the charges on there. So I said, "Man, all right.
18 I'll take time out tomorrow and go and talk to Jimmy
19 for sure. I'll get you an answer on, you know, what
20 we need to do." After that I called Mike back and
21 let him know that, you know, he wants \$30,000. I can
22 help you out a little bit, but that's it, you know.
23 I've got you a lawyer. You're going to have to get
24 your family involved in this.

25 **Q** Did you give any money to Mr. Jimmy Rogers?

1 **A** No.

2 **Q** Did you give any money to anybody else on behalf of

3 Stanley Rogers (sic)? Stanley Oliver. I'm sorry.

4 **A** Well, let me qualify that.

5 **Q** Tell them.

6 **A** I did give Renata \$400 a month before to bond him out

7 of jail.

8 **Q** This is a month --

9 **A** Yeah.

10 **Q** This is in October -- excuse me. August of 2005?

11 **A** Yeah.

12 **Q** Why?

13 **A** She came and told me he'd gotten locked up and she

14 needed \$400. She had some money but she needed 400

15 more to get him out.

16 **Q** Ken, why in the love of God do you do this for

17 people? Why do you do that?

18 **A** To help out. But it's not totally helping them. I

19 know if he doesn't have the money I can put him to

20 work. And if he works off \$400, I have made anywhere

21 from 8 to 1600. So it's still an investment for me.

22 Now, I do help and I did help him, but I knew I would

23 be able to get my money back.

24 **Q** Who did you give \$400 to in August of 2005 on behalf

25 of Stanley Oliver?

1 **A** Renata.

2 **Q** What did she do with it?

3 **A** She took it to A Golden Chance.

4 **Q** And Stanley got out of jail?

5 **A** Yeah.

6 **Q** And after the 14th of September, Wednesday, the 14th

7 of September of 2005, when did you next hear about,

8 be involved with anything involved in this case?

9 Well, I mean, on the 20th, what did you do? Relating

10 to Blue, what did you do?

11 **A** Went and bought weed, went and bought a half ounce of

12 weed.

13 **Q** For whose use?

14 **A** Mine.

15 **Q** When did your picture hit the newspaper or the TV,

16 the media, whatever?

17 **A** It was either the night of the 20th or the 21st.

18 **Q** Why did you call Ken Davis to ask him about your

19 accounts receivable?

20 **A** Because my girlfriend at the time, she wasn't

21 working.

22 **Q** And your girlfriend is whom?

23 **A** Janet Samuels.

24 **Q** The lady you're living with?

25 **A** Right.

1 **Q** That's the woman that you have a child with?

2 **A** Two kids.

3 **Q** All right, sir. The woman you were living with what?

4 **A** She wasn't working and I had money. I had planned to
5 turn myself in. But I had money out that was due to
6 me that I wanted to make sure got to my family.
7 Because she wasn't working, my ex wife in North
8 Carolina wasn't working either. So I need all the
9 money that's due to me to be paid to me so my family
10 can keep living the way they're living until I
11 straighten this out. I thought it would take two
12 months max.

13 **MR. DELGADO:** Your Honor, I believe I am just
14 about through. But may we see if we could take a
15 break? Because I might be able to refine this in
16 such a way as to possibly conclude it, maybe even
17 right now. If that pleases the Court. If not,
18 that's --

19 **THE COURT:** I think you'd better go ahead and
20 complete your --

21 **MR. DELGADO:** All right, sir. Sure.

22 **THE COURT:** Take a moment to review your notes.

23 **MR. DELGADO:** Thank you.

24 **Q** Did you ever tell Tatanisha Robinson that everything
25 was going to be okay, that you'd gotten rid of all

1 the items?

2 A No. No, I did not.

3 Q I am going to hand you State's Exhibit 203. That's a
4 statement of Ms. Tatanisha Robinson?

5 A Yes, sir.

6 Q Tell these folks whether or not you've ever had a
7 weapon, a handgun, a firearm?

8 A Yeah. I've had handguns myself, but I don't take
9 them out. I was in the military before.

10 Q What does that mean?

11 A I mean, we used handguns; I mean, qualified with them
12 and all that. But walking around with weapons, no.

13 Q When you returned to civilian life, did you have a
14 handgun?

15 A Yes. I had a gun.

16 Q Where was that handgun kept, stored?

17 A In my home.

18 Q Where is that?

19 A Polo Road.

20 Q Did you ever have a handgun at Tremain Street at your
21 office, apartments?

22 A No.

23 Q Did you ever have an old .38?

24 A No. I have never owned a revolver.

25 Q Have you ever had a 9-millimeter?

1 **A** Yes.

2 **Q** Did you in September in 2005 ever have a
3 9-millimeter?

4 **A** Yes.

5 **Q** Where is that 9-millimeter now?

6 **A** In my home. Well, it was in my home. My girlfriend
7 left with it.

8 **Q** Did you ever have any conversations with Tatanisha
9 Robinson about the murders where you said to her that
10 you wanted to find out from Solo where his share of
11 the robbery money was so he could pay the lawyer
12 \$15,000?

13 **A** No. No. I never said that. I never -- that whole
14 statement don't make sense. Right before that she
15 said that I was keeping her abreast of what was going
16 on with Stanley. Then she said I need for her to
17 find out where the robbery money was. No. I never
18 said that. Never, ever.

19 **Q** Did you ever talk to her about the evidence in the
20 case and tell her that you had seen the article in
21 the newspaper about the stolen watch and the wallet?

22 **A** No.

23 **Q** Did you ever say to her the cops would never find the
24 watch and the wallet?

25 **A** No. No. I didn't know about a watch and a wallet.

1 Q Did you ever say to Tatanisha that you gave Blue the
2 drugs in the robbery?

3 A No.

4 Q The drugs from the robbery to a dealer named Blue?

5 A No. I never said that.

6 Q Did you ever give Blue anything?

7 A Money for weed.

8 Q Did he ever give you anything other than weed?

9 A No.

10 Q Weed being marijuana?

11 A No. Nothing.

12 Q Did he ever give you money?

13 A No. He never gave me money.

14 Q I hand you State's Exhibit No. 180. Can you identify
15 that, sir?

16 A That's a letter that was sent to me around
17 November 19th. It's the 17th on here, but I got it
18 around the 19th from Mike Allen.

19 Q You got it addressed where?

20 A To me at Alvin S. Glenn Detention Center.

21 Q Is that where were you on September 17th through the
22 19th?

23 A Yeah. That's where I am now.

24 Q You got that letter. Was that the first letter you'd
25 ever gotten from him?

1 **A** The first letter ever, yeah.

2 **Q** Had you ever written him?

3 **A** No.

4 **Q** Did you even know where he was located?

5 **A** No.

6 **Q** Did you respond to him as a result of that letter?

7 **A** No, I did not.

8 **Q** Are the allegations in that letter true or --

9 **A** No, they are not. No. No.

10 **Q** Did you ever say to Mr. Ulicen Allen that you set up

11 this robbery?

12 **A** No. I didn't know these victims. I never told him I

13 set this up. I didn't know these people.

14 **Q** You turned this letter over to whom, sir?

15 **A** My lawyer. You.

16 **Q** Did you ever say to him, quote, Mike, don't worry

17 about your brother; they will never be able to

18 convict them without the murder weapon, and I got rid

19 of the guns and the clothes so no one will ever find

20 them, end quote?

21 **A** No. I never said that to Mike Allen.

22 **Q** Did you ever say that to anybody?

23 **A** I never said that to anybody.

24 **Q** Are you guilty of these charges?

25 **A** No. I am not.

1 Q Are you innocent of these charges?

2 A Yes, I am. Yes, I am.

3 Q Answer anything the solicitor has. Oh, Your Honor,
4 let me back up just one second.

5 THE COURT: Sure.

6 Q The indictments in this case, tell these folks about
7 when you learned about the new indictments in this
8 matter?

9 A Around the 19th of last month.

10 Q How did you come to learn about these indictments?

11 A You came to the detention center where I'm
12 incarcerated now and have been for 27 months and told
13 me.

14 Q Is it common or uncommon -- the fellows that you're
15 with in the -- you're in J Dormitory?

16 A Right.

17 Q Jeep Dormitory?

18 A Juliette.

19 Q Juliette.

20 A Juliette. Right.

21 Q How many fellows in Juliette with you?

22 A 111.

23 Q Common, is it, for indictments to be changed and
24 dismissed and re-indicted on certain things, is it?

25 A Not common to my knowledge. And I do the law work in

1 there.

2 **Q** You do the law work?

3 **A** Yeah. I do the law work. For a lot of the fellows
4 that can't read, I write their letters for them and
5 deal with their lawyers.

6 **Q** You do that?

7 **A** Yes. I know how to file motions and all that.

8 **Q** Mr. Joy, answer anything the solicitor has for you.

9 **THE COURT:** Mr. Delgado, move the board, please.

10 **MR. DELGADO:** Yes, sir. I'm sorry.

11 **THE COURT:** That's all right. All right, ladies
12 and gentlemen. We're going to take a short break at
13 this time. I'll ask you to just go to the jury room,
14 relax for a few minutes, and we'll conclude this
15 testimony after that. Again, don't discuss the case
16 among yourselves while you're in the jury room. Just
17 relax for a few minutes.

18 (Jury out at 11:45 a.m.)

19 **THE COURT:** All right. Let's stand at ease for;
20 about ten minutes.

21 (Whereupon, a break is taken)

22 **THE COURT:** The State ready to proceed?

23 **MR. MEADORS:** The State is ready.

24 **THE COURT:** Defense ready?

25 **MR. DELGADO:** Yes, sir.

1 **THE COURT:** All right. Bring the jury, please.

2 **MR. MEADORS:** Judge, am I going next or Mr.

3 Strickler?

4 **THE COURT:** You are. Since we're going around
5 the room it appears counterclockwise..

6 (Jury in at 12:00 p.m.)

7 **THE BAILIFF:** Your Honor, the jury is present.

8 **THE COURT:** Cross examination from the State.

9 **MR. MEADORS:** If it pleases Your Honor.

10 CROSS EXAMINATION

11 **BY MR. MEADORS**

12 **Q** Good afternoon, Mr. Joy.

13 **A** How you doing today, sir?

14 **Q** Fine. Thank you. What's a lick?

15 **A** I came to learn that term after I was arrested. It's
16 a robbery.

17 **Q** If you wouldn't mind, if you would; I know you're
18 speaking up, just so everybody can hear you.

19 **A** A robbery.

20 **Q** When did you learn that term?

21 **A** After I was arrested.

22 **Q** And Mr. Oliver a good employee of yours? I mean, you
23 use him in a lot of businesses?

24 **A** An occasional employee.

25 **Q** Was he a good employee?

1 **A** He did what I asked him to. Yeah.

2 **Q** Did you count on him?

3 **A** In what regard, sir? I mean, he did what I asked him
4 to.

5 **Q** Did he do a good job at work?

6 **A** Yeah. I mean, I didn't use him regularly.

7 **Q** How often would you use him?

8 **A** Maybe once or twice a month at the most.

9 **Q** Once or twice a month?

10 **A** Yeah. I would use day labor for evictions or trash
11 out's. If we've got a house that we were going to
12 remodel and it has to be trashed out and the yard
13 needed to be done, I would get some hands in.

14 **Q** So without talking to him about -- if you weren't
15 using him but once or twice a month, that's all you'd
16 really be talking to him about; I mean, just when he
17 was working?

18 **A** No. I talked to him about other things, too.

19 **Q** Well, did you socialize with him, too?

20 **A** Not really socialized with him, but he would talk
21 about different things, politics, business, the state
22 of the black community.

23 **Q** So if you just -- if he worked for you once or twice
24 a month, how often were you seeing him during January
25 to September?

1 **A** Daily.

2 **Q** Daily?

3 **A** Mm-hmm (affirmative).

4 **Q** And where would you see him?

5 **A** On Tremain Street.

6 **Q** And if he wasn't working for you, where was he

7 working?

8 **A** I'm assuming that he was selling drugs.

9 **Q** And he was your supplier through Blue?

10 **A** No. He would go and get weed for me from Blue.

11 **Q** Right. So, I mean, you were actually getting it from

12 Stanley who was getting it from Blue?

13 **A** Yeah.

14 **Q** And Mr. Delgado asked you, and I want to ...

15 (WHEREUPON, State's Exhibit No. 214 is marked

16 for identification.)

17 **Q** This last business you were in is Advantage Building

18 Systems?

19 **A** Yes, sir.

20 **Q** Do you mind if I come up?

21 **A** Nah. Come on.

22 **Q** This is your stationery, isn't it?

23 **A** Yes, sir.

24 **Q** Advantage Building. And up there it's got phone

25 number , correct?

- 1 **A** Right.
- 2 **Q** And that's your cellphone, isn't it?
- 3 **A** Right.
- 4 **Q** And underneath that it's 7?
- 5 **A** Right.
- 6 **Q** And that's your land line?
- 7 **A** Right.
- 8 **Q** Right? And that's your land line. What return
9 address up there does it have for your business?
- 10 **A** 811 Polo Road.
- 11 **Q** 811 Polo Road?
- 12 **A** Yeah.
- 13 **Q** So that's where the address return on your business
14 was?
- 15 **A** Right.
- 16 **Q** Did you run your business out of there?
- 17 **A** No, sir. May I explain that?
- 18 **Q** Sure.
- 19 **A** This was given to customers. The 811 Polo Road was
20 my home. So I wanted checks to come to my home. But
21 as far as operating the business, I would store
22 equipment and operate off of Tremain Street.
- 23 **Q** And I guess my main question is, that's a land line
24 though, that last one?
- 25 **A** Yeah.

1 Q I mean a hard line that comes in, not a cellphone?

2 A Yes, sir. See, that number is to the house. My
3 girlfriend didn't work. Her only responsibilities
4 were the kids and answering the phone when I passed
5 out business cards.

6 Q And the only person that would have access to that
7 phone would be you and your girlfriend?

8 A Right. Or my kids.

9 Q Okay. And how old are your kids?

10 A 16 and 14. At that time 16 and 14.

11 Q And they didn't associate or know Stanley or Dominic
12 Gallman, did they? Your kids?

13 A No. No.

14 Q So they wouldn't have had an opportunity to call him?

15 A Never even met him.

16 Q And Stanley has never been to your house, correct?

17 A Never, ever.

18 Q And at the bottom of that is your signature; Ken Joy,
19 correct?

20 A Correct.

21 MR. MEADORS: Your Honor, we'd offer State's
22 214.

23 MR. DELGADO: Yes, sir.

24 MR. MEADORS: Without objection.

25 MR. STRICKLER: Excuse me.

1 **MR. DELGADO:** Oh, I'm sorry. I'm sorry. I
2 apologize.

3 **MR. STRICKLER:** And that's without objection as
4 to Mr. Oliver, too, sir.

5 **MR. MILLING:** No objection, Your Honor.

6 **MR. MEADORS:** And to Mr. Gallman. Thank you,
7 gentlemen.

8 (WHEREUPON, State's Exhibit No. 214 is admitted
9 into evidence.)

10 **Q** You've got a friend that lives near Richland Memorial
11 Hospital, don't you?

12 **A** I knew people over in that area.

13 **Q** And you refer to it as Richland Memorial?

14 **A** Yeah.

15 **Q** I think you said?

16 **A** Yeah.

17 **Q** I do, too. And did you go with -- you and Tata, you
18 and Tata went over there with Stanley to see somebody
19 shortly before he got arrested near Richland Memorial
20 Hospital?

21 **A** No. I took them to the Red Roof Inn.

22 **Q** I'm going to get to that in a minute. But you also
23 took him over to see somebody before he got arrested,
24 didn't you?

25 **A** No.

1 Q You didn't?

2 A No.

3 Q Do you have somebody you know? I mean, who do you
4 know over there?

5 A A former girlfriend.

6 Q Okay. Who is that?

7 A Selina English.

8 COURT REPORTER: I'm sorry. Who?

9 A Selina English.

10 COURT REPORTER: Thank you.

11 Q And did you see her the day or two before Stanley was
12 arrested?

13 A I saw her daily.

14 Q Now, that cellphone that you had, , this was
15 the lifeline to your business, correct?

16 A Right. Right.

17 Q I mean, that's how you got business?

18 A Right.

19 Q If you didn't have that, if you weren't at home and
20 if you wanted to get business, you needed to have
21 that cellphone, correct?

22 A Right.

23 Q And that's what a good businessman does. You want to
24 have someone with your phone who can take the calls,
25 get the order, go do it, correct?

1 **A** Right.

2 **Q** So the majority of the time it's with you, correct?

3 **A** Right.

4 **Q** I mean, there's no question about that, right?

5 **A** No.

6 **Q** And when you say other people would use it, when

7 would other people use it?

8 **A** On Tremain Street or at my other places that I had.

9 **Q** But that would be during the daytime when you're over

10 there working, right?

11 **A** Yeah. But I worked constantly. I mean, sometimes I

12 didn't cut off 'til 8, 9:00.

13 **Q** Whenever you quit working though, nobody else would

14 be using that phone except you?

15 **A** Basically, yeah.

16 **Q** Yeah. You wouldn't leave the phone there at Tremain

17 Street and just walk off where anybody could use it.

18 It wasn't a pay phone, was it?

19 **A** A pay phone? What do you mean?

20 **Q** The point is, after you got off work, you used that

21 cellphone, correct?

22 **A** Correct.

23 **Q** And any call that's made after a working hour from

24 that cellphone is going to be made by you or to you,

25 correct?

- 1 **A** What do you define as a working hour, sir?
- 2 **Q** Well, you just said sometimes you get off at 8?
- 3 **A** Yeah. But, I mean, a working hour for me is
- 4 different from the working hours of others. It's not
- 5 9 to 5.
- 6 **Q** Mine isn't either.
- 7 **A** I know that's right.
- 8 **Q** But whenever you get off, whenever it is, you don't
- 9 leave your phone there. You take your phone with you
- 10 home? Let's just say it that way.
- 11 **A** Yeah. I take it home with me.
- 12 **Q** I'm not sure if Mr. Delgado asked you or not. But on
- 13 9-9 you said you went down to police headquarters,
- 14 correct?
- 15 **A** Right.
- 16 **Q** September 9th?
- 17 **A** They came by the office on 9-8, and Mr. Mead left a
- 18 card. And I called him.
- 19 **Q** Paul over here? Paul Mead, right?
- 20 **A** Yes, sir.
- 21 **Q** All right. And you went down there and talked to him
- 22 that day, didn't you?
- 23 **A** Yes, sir.
- 24 **Q** And do you remember you told him that you operated a
- 25 painting and repair contracting business, didn't you?

1 **A** I did tell him that.

2 **Q** You normally serve apartment complexes. You told him
3 that, didn't you?

4 **A** Yes, sir, I told him that. That's what we put
5 emphasis on.

6 **Q** What you put emphasis on?

7 **A** Yes, sir.

8 **Q** The complexes. But, I mean, you told them that down
9 there that day? The police?

10 **A** Yeah, I told them that.

11 **Q** You didn't have any problem talking to him?

12 **A** No, I didn't; at first.

13 **Q** Well, okay. That's this first time. That's what I'm
14 talking about. You're talking to them?

15 **A** No. I mean, at first during the interview.

16 **Q** Well, you tell me when you started having a problem.

17 **A** Okay.

18 **Q** You said you were familiar with Stanley Oliver
19 through your work, right?

20 **A** Right.

21 **Q** Okay. You said you occasionally gave him work but
22 didn't use him very often?

23 **A** I said that.

24 **Q** So, so far in the interview everything is fine?

25 **A** Right.

1 Q They're not mad at you; you're not mad at them?

2 A Right.

3 Q Sometime you will see Oliver around the apartments on
4 Tremain Street across from Davis' Garage?

5 A I said that.

6 Q Everything is fine still in the interview, correct?

7 A Yes, sir.

8 Q You say you go there after work sometimes to have a
9 beer. I call it a pop. But you go there and have a
10 beer sometimes and talk to a couple of the older guys
11 that live around there, right?

12 A I said I'd be over there, yeah.

13 Q You told them you did not know Dominic Gallman. And
14 actually you said you didn't know him. A minute ago
15 I think you said --

16 A I said that --

17 Q -- I've heard of him. But you told them --

18 A No. I said I knew of him. But the context of what
19 it was, they showed me a photo line-up. But the
20 backdrop is three dead people.

21 Q Did you tell them that you did not know him and you
22 couldn't -- and they showed you a line-up. You
23 couldn't even pick him out, right?

24 A I could not identify him. He was a voice on the
25 phone to me.

1 Q What does that mean? Had he called you prior to
2 this?

3 A No. He didn't call me. If I'm on Tremain and
4 Stanley calls from there, caller ID, if you call
5 somebody and they're not available, sometimes they'll
6 go back through their phone and see who called them,
7 then call back. And somebody, may I speak to Solo?
8 No, I'm not around him right now. Do you want to
9 leave a message? Yeah, this is Dominic. All right.
10 I'll tell him you called. Bye.

11 Q So prior to 9-9, your testimony is you didn't know
12 Dominic Gallman?

13 A Right.

14 Q You couldn't pick him out of a photo line-up?

15 A Right.

16 Q So if there are phone calls -- and you've looked at
17 these phone calls. You looked at them yesterday and
18 today, didn't you; in preparation for your testimony?

19 A I glanced over it. I did not prepare for my
20 testimony. I glanced over it.

21 Q You did not prepare for your testimony?

22 A No.

23 Q And are there any calls from your number,
24 to Dominic's cellphone on 9-4?

25 A There might be.

1 Q How about four in a row from 8:53, 9:02, 9:05 to
2 9:58?

3 A What were the duration of those calls though?

4 Q Well, would you remember those calls?

5 A No, I don't remember those. No. I worked on the
6 4th. So there could be -- any time I'm working,
7 there could be calls to him because I'm out. I'm on
8 Tremain Street.

9 Q Well, this is 8:53 p.m.?

10 A I work late. Sometimes we go get off, I wind down.
11 I had an office there.

12 Q Did you know Dominic's home number?

13 A No.

14 Q Oh, you didn't know?

15 A I didn't know any of his numbers.

16 Q September 5th there's a call from your cellphone to
17 Dominic, what's been identified as Dominic's home
18 number. That was on your phone.

19 A I'll take your word for it.

20 Q No. I'll show it to you if you want.

21 A Okay.

22 Q That was the 5th. What were you doing on the 5th?

23 A Working.

24 Q Where?

25 A Probably Austin Woods or either one of the other

1 complexes.

2 Q Who was working with you?

3 A Willie and maybe Bill, Bill Gedson. I had different
4 crews.

5 Q Okay. But Stanley wasn't working there?

6 A No.

7 Q So who used the cellphone to call Dominic four days
8 before you told the police you didn't even know him?

9 A If you go back --

10 MR. DELGADO: Excuse me, Your Honor.

11 A -- earlier than that, there are --

12 MR. DELGADO: Judge, that's misstating the
13 witness's testimony. He said he didn't know of him.

14 MR. MEADORS: No, sir. That's not what he said
15 back at this time period.

16 MR. DELGADO: He said he did know of him, he
17 didn't know him. Misstating the witness, please.

18 MR. MEADORS: Your Honor, that is not true. I
19 asked him what he said to the police, and he told the
20 police he did not know him. He told him earlier he
21 knew of him. I asked him that. I am not misstating.

22 THE COURT: Go ahead.

23 Q You told the police on 9-9 you did not know him,
24 correct?

25 A I did not know him.

1 Q That's what I meant. You knew what I was asking you.

2 A Well, can I explain? Can I explain?

3 COURT REPORTER: I can't take two at once.

4 THE COURT: All right. Mr. Meadors, let him
5 answer the question. The court reporter can't take
6 two at once. And the jury can't hear two people talk
7 at the same time. Neither can I.

8 A Yes, sir. I -- I had calls a lot of times. If I'm
9 at home and my girlfriend answers the phone, they may
10 know that's my girlfriend but they don't know her.
11 They can't identify her. They can't pick her out of
12 a line-up. It's the same with him. If he calls back
13 and asks for him, I don't know him. I couldn't
14 identify him, especially with the backdrop of three
15 people dead.

16 Q Sir, you said on 9-5, I asked you if there's a phone
17 call from your number, , and you said you
18 were working at one or two apartment complexes,
19 correct?

20 A That's where we work. I -- I move around. I stated
21 to Mr. Delgado earlier, I did a lot of the managing
22 of it.

23 Q And going back to the 3rd real quick -- on the 5th --

24 A Mm-hmm (affirmative).

25 Q -- Stanley Oliver was not working with you at that

1 job, correct?

2 **A** No.

3 **Q** And if there's a call from to a number
4 that's been identified, , as Dominic
5 Gallman's home number from your cellphone, Stanley
6 Oliver couldn't have made it because he wasn't there,
7 correct?

8 **A** That's not true. My office is on Tremain Street.
9 That's where he hangs out at. I saw him on the 5th
10 anyway.

11 **Q** But would you leave your phone there if you went
12 somewhere?

13 **A** No.

14 **Q** So the phone should be with you?

15 **A** Yes, sir.

16 **Q** Now, you said your daughter's birthday was on what
17 day?

18 **A** September 4th.

19 **Q** You said you quit working on September 4th at what?

20 **A** About 3:00. I think that was a Sunday.

21 **Q** So September 4th you weren't working after 3:00.

22 Correct? I mean, you quit working after 3 to go to
23 your daughter's birthday?

24 **A** Right. We went to a dinner party.

25 **Q** And you had your phone with you?

1 **A** Right.

2 **Q** It had to be with you if you weren't working?

3 **A** Right.

4 **Q** And a phone call that's been through evidence,
5 cellphone is Dominic's cell, called your
6 cellphone at 9-4-05 at 8:46 p.m.?

7 **A** That's not 3:00. That's after -- that's after the
8 party.

9 **Q** Yes, sir.

10 **A** That's after the party.

11 **Q** Okay. But that's Dominic's cellphone calling your
12 number?

13 **A** Yeah. But that's hours later.

14 **Q** Well, you said earlier you took the day off, didn't
15 you?

16 **A** No. I said I stopped working at 3:00. I did cut off
17 at 3:00.

18 **Q** So after that you weren't working. And there's a
19 call from Dominic --

20 **A** I work constantly, sir, from 7 in the morning to 7 at
21 night. And when you work for yourself, 6 to 10 at
22 night is not off. That's planning for the next day.

23 **Q** Okay. So at 8:53, 9:02, 9:05 and 9:58 p.m. on 9-4
24 you're calling Dominic Gallman's cellphone?

25 **A** I may have been on Tremain Street.

1 Q Calling him?

2 A Not me calling him. I didn't call him.

3 Q Now, you were at Ruby Tuesdays?

4 A Right. I mix it up. With Ruby Tuesdays or TGI
5 Friday's, I get those mixed up. It was on Garners
6 Ferry.

7 Q That's fine. I'm not trying to mix you up on that.
8 Your family is there celebrating your daughter's
9 birthday?

10 A Right.

11 Q Everybody is there?

12 A Right.

13 Q No question about that?

14 A Right.

15 Q It's like birthdays, the family comes to birthdays;
16 the brothers, sisters, mamas? Right?

17 A Right. We didn't have any family here.

18 Q Who was there?

19 A We had family fly in. And that was it. But nobody
20 was from here. From 3 to maybe 6:00.

21 Q So, who would have called you from your land line to
22 your cellphone?

23 A What do you mean?

24 Q Well, if everybody is at Ruby Tuesdays like you've
25 said and the nobody is at the house because everybody