

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Greenville County
G. Edward Welmaker, Circuit Court Judge

S.C. Supreme Court

Opinion No. 2014-UP-385 (S.C. Ct. App. filed 11/5/2014)
11-GS-23-7681

THE STATE,

RESPONDENT,

V.

RALPH B. HAYES,

PETITIONER

APPENDIX

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Ralph B. Hayes, Appellant.

Appellate Case No. 2012-213261

Appeal From Greenville County
G. Edward Welmaker, Circuit Court Judge

Unpublished Opinion No. 2014-UP-385
Heard September 11, 2014 – Filed November 5, 2014

AFFIRMED

Appellate Defender Susan Barber Hackett, of South
Carolina Commission on Indigent Defense, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Donald J. Zelenka, Assistant
Attorney General Kaycie S. Timmons, all of Columbia;
and Solicitor W. Walter Wilkins, III, of Greenville, for
Respondent.

PER CURIAM: Ralph B. Hayes appeals his convictions for murder and possession of a weapon during the commission of a violent crime, arguing he should have received a directed verdict of acquittal because the State failed to present sufficient evidence of his guilt. We affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities: *State v. Logan*, 405 S.C. 83, 97, 747 S.E.2d 444, 451 (2013) ("Unlike direct evidence, evaluation of circumstantial evidence requires jurors to find that the proponent of the evidence has connected collateral facts in order to prove the proposition propounded—a process not required when evaluating direct evidence."); *State v. Odems*, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011) ("[I]f there is any direct or *substantial* circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury."); *State v. Al-Amin*, 353 S.C. 405, 413, 578 S.E.2d 32, 36 (Ct. App. 2003) ("Flight from prosecution is admissible as evidence of guilt."); *State v. Caulder*, 287 S.C. 507, 516, 339 S.E.2d 876, 882 (Ct. App. 1986) ("By incriminating response we refer to any response—whether inculpatory or exculpatory—that the *prosecution* may seek to introduce at trial." (citation and internal quotation marks omitted)).

AFFIRMED.

FEW, C.J., and THOMAS and LOCKEMY, JJ., concur.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

RALPH B. HAYES,

APPELLANT

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

Opinion No. 2014-UP-385

Appellate Case No. 2012-213261

PETITION FOR REHEARING

On November 5, 2014, this Court affirmed Appellant's convictions and sentences in an unpublished opinion. State v. Hayes, 2014-UP-385 (filed Nov. 5, 2014). Pursuant to Rule 221(a), SCACR, Appellant asks this Court to rehear this matter in light of the significant points overlooked and/or misapprehended by this Court in rendering its opinion, which will be explained more fully below.

Appellant asked this Court to direct a verdict of acquittal in his favor due to the lack of any direct or substantial circumstantial evidence against him. In rendering its opinion, this Court cited State v. Al-Amin, 353 S.C. 405, 413, 578 S.E.2d 32, 36 (Ct. App. 2003) for the proposition

that “[f]light from prosecution is admissible as evidence of guilt.” Further, this Court cited State v. Caulder, 287 S.C. 507, 516, 339 S.E.2d 876, 882 (Ct. App. 1986) for the proposition that an “incriminating response” means “any response – whether inculpatory or exculpatory – that the prosecution may seek to introduce at trial.” Thus, it appears this Court determined the state met its burden of presenting any direct or substantial circumstantial evidence of guilt by presenting evidence of flight and of an alleged “incriminating response” by Appellant. However, a review of the record reveals the state’s evidence against Appellant failed to demonstrate anything other than a mere suspicion.

In fact, the prosecutor’s opening statement demonstrated the paucity of evidence against Appellant. Acknowledging that a jury would want evidence, such as “the defendant in possession of the murder weapon, the defendant confessing to law enforcement, her DNA on him; things of this nature,” in order to convict, the prosecutor candidly admitted she had none. Rather, the evidence she would offer would be “some fingerprint evidence important for where things were found,” “a little bit of DNA evidence only relating to [the deceased],” and a conversation between Appellant and a homeless man. R. 2, lines 6 – R. 4, line 4.

This Court’s opinion, and the state’s case, appears to rely solely upon the testimony of a homeless man whose credibility was attacked through his prior inconsistent statements. In June 2009, Larry White was living on the streets in Greenville. He chose to be homeless because he “like[d] to explore and go from state-to-state, seeing how other states [are] and then compare it to [his] state.” R. 24, lines 10 – 18. White claimed that he talked to Appellant on a particularly hot day in June as he sat on a shaded bench behind Able Body, a labor hall. He recalled it was a Sunday because Able Body was closed. He could not remember the date, but agreed with the

prosecutor who suggested it was June 9, 2009.¹ R. 24, lines 22 – 24. R. 25, lines 2-22. R. 27, lines 7 – 12. He saw a young man, whom he identified as Appellant, drinking a beer and crying. When White asked what was wrong, the man allegedly responded “I done fucked up bad, real bad.” R. 25, line 24 – R. 26, line 3. White claimed Appellant said, “It’s going to fuck my sister up when I tell her what I done.” Tr. 129, lines 15 – 17. In response to White’s questioning, Appellant explained “I went in the house and found my girl dead, man. The dope boys cut my girl all up, pulled her panties down to her ankles and put her in the bathtub.” R. 26, lines 18 – 20; R. 29, lines 12 – 14. Upon seeing the deceased, Appellant ran out the house. When White asked why he did not call the police, Appellant responded that the police would think he had committed the crime because it was his girlfriend. R. 26, lines 21 – 24; R. 28, lines 15 – 24.

Even on direct examination, White admitted that Appellant did not state that he had hurt the deceased or committed the crime. White related only that Appellant continued to cry during their conversation. R. 27, lines 1 – 12. The prosecutor continued to press White regarding what Appellant could have done that was so bad. R. 27, lines 13 – 14. White responded that Appellant “hesitated for a while,” then looked at White, “did like this on the table,” and said “but you ain’t never killed nobody.” R. 27, lines 15 – 18; R. 40, lines 12 – 16.

White further claimed that Appellant said he was going to Kentucky and had purchased a bus ticket for the trip. Although White was unable to see the location or the time on the ticket, he did observe a Greyhound bus ticket in Appellant’s possession. R. 28, lines 2 – 5; R. 70, lines 10 – 12; R. 70, lines 16 – 22.²

¹ June 9, 2009 was a Tuesday. R. 66, lines 7 – 13.

² An officer testified that in September 2010, he picked up Appellant from New York and returned him to Greenville, South Carolina. R. 5, line 5 – R. 6, line 16.

A couple of days later, White overheard other people discussing the murder of a young lady while at the labor hall. The people explained that she had been "cut up and stabbed real, real bad." R. 32, lines 17 – 22. Upon hearing that a woman had been stabbed, White thought of his alleged conversation with Appellant. R. 32, line 24 – R. 33, line 4. White was forced to admit that in addition to overhearing the conversation among other homeless individuals regarding the murder, he also saw police officers showing a photograph of an individual and asking for help to solve a crime. R. 40, line 17 – R. 41, line 10. White, however, denied ever seeing the photograph. R. 46, lines 1 – 4; R. 49, lines 1 – 7. Despite this assertion at trial, White was forced to admit that he told police he "did not really look at the picture at first" when the officers were displaying it. R. 50, lines 11 – 18; R. 56, lines 10 – 16. Additionally, White informed police that he told the employee of the labor hall that the man in the photograph shown by the police was the same man he had talked to a week earlier. R. 52, lines 10 – 15; R. 56, lines 17 – 24.

Sometime later in the month of June, White asked an employee of the labor hall to call the police. Although White was unable to recall when he actually spoke to the police or even when he decided to speak to the police, he agreed with the prosecutor that it was probably around June 18, 2009. White gave a formal statement at the conclusion of his two to four hour interview. R. 33, lines 4 – 9; R. 33, lines 12 – 23; R. 34, lines 18 – 20. White testified his formal statement provided a true and accurate account of his conversation with Appellant. R. 35, lines 9 – 22; R. 40, lines 5 – 10. White selected Appellant's photograph from a photographic lineup. R. 36, lines 5 – 8; R. 37, lines 10 – 21. Additionally, White identified Appellant in court. R. 38, lines 18 – 23. White claimed that he got involved in the case because he was "brought up in a church" and "brought up to do the right thing." R. 41, lines 21 – 22.

No physical evidence connected Appellant to the murder. Christopher Gray, a latent print examiner, testified that prints from the toilet in the bathroom where the deceased's body was found were identified as being made by Appellant. Specifically, Appellant's left palm print was recovered from the exterior top of the toilet lid in two areas and Appellant's right palm print was recovered from the exterior top of the bathtub. R. 132, line 13 – R. 134, line 2. On cross-examination, Gray clarified that the prints were found on toilet tank lid and none of the prints were in blood. R. 135, line 17 – R. 136, lines 10; R. 137, lines 1 – 3.

Jonathan Hamilton, a crime scene investigator, found a single droplet of blood at the entrance way on the floor and a single droplet of blood on the kitchen floor. R. 144, line 22 – R. 145, line 3.³ Hamilton testified that the deceased's body was wedged between the toilet and the tub. R. 169, lines 11 – 18. Hamilton found suspected blood on the toilet lid which indicated to him that at one point the lid had been up. R. 170, lines 3 – 17. Adrienne Hefney, a SLED DNA analyst, tested the swabs that were collected from the single droplet of blood on the floor of the entryway and from the kitchen floor. R. 193, lines 12 – 17. The profiles developed from the swabs indicated female DNA. R. 194, lines 7 – 11. Jagannadha Kandala, a DNA analyst with the Greenville County Department of Public Safety tested three areas of the deceased's shirt. R. 202, line 16 – R. 204, line 13. Dr. Kandala developed partial profiles from the shirt samples. R. 205, lines 3 – 10. Dr. Kandala compared the partial profiles developed from the shirt samples with the profiles developed by SLED from the entrance way and the kitchen floor. Dr. Kandala opined that the DNA from the shirt samples matched the DNA from the blood spots found on the floor. R. 205, line 11 – R. 206, line 3.

³ Christopher Miller, the lead investigator, testified that he did not even see the blood at the very bottom of the steps near the entryway when he entered. R. 215, lines 1-4.

At the close of the state's case, Appellant moved for a directed verdict of acquittal. R. 241, lines 6 - 8. Specifically, Appellant argued that the state had failed to present substantial circumstantial evidence reasonably tended to prove his guilt. Appellant argued that the evidence, at best, showed "mere suspicion." R. 242, lines 10 - 18. The state responded simply that "there [was] enough evidence - - from which the jury could rightfully convict" Appellant. R. 242, lines 21 - 25. The trial judge found there existed "sufficient evidence, taking it as a whole, direct and circumstantial, for the jury to make a decision on this." Thus, he denied Appellant's motion. R. 243, lines 1 - 6.

The prosecutor's closing argument reinforced the lack of evidence against Appellant. The prosecutor began by referring to the "tons of raw emotion" displayed by the deceased's family and the "horrific images" entered into evidence by the prosecution. R. 244, line 24 - R. 245, line 1. In referring to the evidence to indicate that Appellant was the actual perpetrator, the prosecutor noted that this was not a case where Appellant was found standing over the deceased's body with a bloody knife. Despite this lack of direct evidence, the prosecutor argued that evidence indicated Appellant was the perpetrator. R. 247, lines 3 - 11. The prosecutor argued that Murdaugh had seen the deceased on Sunday morning, June 7 at 10 a.m. and no one had seen her after that date. R. 247, lines 12 - 16. Thus, the last time she was seen alive was on June 7 and her body was found on June 13, meaning she died sometime between June 7 and June 10. The prosecutor then turned to the testimony of White. Allegedly, Appellant told White that his girlfriend was dead because she had been stabbed repeatedly by the dope man. Appellant allegedly said the deceased's mother had paid for her drug debts previously, but the deceased's mother blew this "out of the water" when she testified she had never paid off drug debts for the deceased. The prosecutor made the feeble argument that Appellant's alleged response to White's

question about what could he have done that was so bad, which was "you ain't never killed nobody," was an indication that Appellant had killed the deceased. R. 247, line 17 – R. 248, line 15; R. 249, lines 17 – 23. The prosecutor also relied upon the testimony of Wood, who claimed she saw Appellant at least twice around the time of the deceased death to place Appellant in the area. R. 249, line 24 – R. 250, line 18.

Concerning the physical evidence, the prosecutor referred to Appellant's palm print found on top of the toilet and on top of the tub and asked the jury why the prints would be there. R. 252, line 19 – R. 253, lines 6. The prosecutor, without any evidence to support her, argued that Appellant dropped blood belonging to the deceased at the bottom of the stairs and in the kitchen. R. 253, lines 7 – 14.

The prosecution concluded by noting the police had not been able "to come up with anybody that they can point the finger to, say, maybe this person did this." As a result, "[t]he only suspect was then, and is now, [Appellant]." R. 253, lines 14 – 24. The prosecutor was so desperate for a conviction in light of the lack of evidence against Appellant, she even showed the jury a photograph of the victim, which had not been admitted into evidence, during her closing argument. Again, the prosecutor was appealing to the emotions of the jury because she had no evidence against Appellant. R. 255, line 14 – R. 260, line 3.⁴

The jury expressed its confusion on being asked to determine Appellant's guilt based upon the paucity of evidence when it inquired whether Appellant was right-handed or left-handed and sought guidance regarding the level of murder with which Appellant was charged.

⁴ Appellant objected and moved for a mistrial based upon the prosecutor's misconduct. The judge sustained Appellant's objection and issued a curative instruction to the jury. R. 260, lines 8-20.

R. 277, lines 4-9; R. 284 (jury note). The judge responded that the jury had all of the evidence and re-instructed the jury concerning the elements of murder. R. 278, line 2 – R. 280, line 17.

After the jury returned guilty verdicts, Appellant renewed her previous motions. R. 282, lines 9-10. The judge responded: “Well, I think the jury has spoken on this case. As I said before, I think there is – certainly was sufficient direct evidence and substantial circumstantial evidence for a jury to make this determination, rather than I. I believe the jury has spoken. I will deny your motion, respectfully.” R. 282, lines 11-16.

A defendant is entitled to a directed verdict when the prosecution fails to provide evidence of the offense charged. State v. Brown, 103 S.C. 437, 88 S.E.2d 1916; State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. McHoney, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). “If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused,” the trial judge may deny the motion for directed verdict. State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001); State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000); State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000). When the prosecution relies exclusively on circumstantial evidence, the trial judge must direct a verdict in the defendant’s favor unless there is any substantial circumstantial evidence which reasonably tends to prove the guilt of the defendant or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011); State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000). Likewise, a directed verdict is appropriate when the evidence produced “merely raises a suspicion the accused is guilty.” Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Arnold, 361 S.C. 386, 389-390, 605 S.E.2d 529, 531 (2004); State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 451-452 (1984); State v. Muhammed, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999). Our courts define suspicion as “a belief or opinion as to guilt based upon facts or circumstances

which do not amount to proof.” Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Hyder, 242 S.C. 372, 131 S.E.2d 96 (1963).

In Mitchell, 341 S.C. at 409, 535 S.E.2d at 127, the South Carolina Supreme Court held the lower court erred in failing to direct a verdict where the only evidence presented against the defendant was his fingerprint at the scene of the burglary. Likewise, the Lollis Court directed a verdict of acquittal in the defendant’s favor where the state presented no direct evidence that Lollis was involved in setting fire to his home. The only circumstantial evidence against Lollis was that his wife admitted to the arson, he had placed valuables in storage prior to the fire, he possessed a key to the storage unit, and he allegedly had financial troubles. Our state supreme court found this evidence insufficient. Lollis, 343 S.C. at 584-585, 541 S.E.2d at 256-257.

In State v. Odems, 395 S.C. 582, 720 S.E.2d 48 (2012), the Court held the defendant was entitled to a directed verdict based upon a lack of substantial circumstantial evidence that the defendant was involved in the burglary. Although Odems was in a car with other individuals who admittedly burglarized a home, the state failed to provide substantial circumstantial evidence that Odems was present during the home invasion. The witness who saw individuals at the home claimed she saw two, not three as were found in the car. Fingerprints collected from the stolen goods did not match Odems, but matched the other individuals in the car. One of the individuals who admitted his involvement claimed Odems was picked up after the burglary at a gas station. Id. at 588, 720 S.E.2d at 51. As explained by the Odems Court, the language of the traditional circumstantial evidence jury charge is instructive in making a directed verdict determination. The traditional charge provided:

Every circumstance relied upon by the State be proven beyond a reasonable doubt; and ... all of the circumstances proven be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis.

Id. at 590, 720 S.E.2d at 52 (quoting State v. Hernandez, 382 S.C. 620, 626 n.2, 677 S.E.2d 603, 606 n.2 (2009)).

In one of the Supreme Court's most recent circumstantial evidence case, State v. Bostick, 392 S.C. 134, 141, 708 S.E.2d 774, 778 (2011), the Court held the prosecution failed to present substantial circumstantial evidence of Bostick's guilt. Rather, the state's evidence was capable of producing only a suspicion of Bostick's guilt. Id. Although the police found items belonging to the victim in a burn pile behind the home of Bostick's mother, the Court held no evidence linked Bostick to the evidence in the burn pile and the prosecution presented no testimony that Bostick had control over the burn pile. Id. at 137-141, 708 S.E.2d at 775-778. The only other evidence presented against Bostick was that he had a chemical pattern that matched gasoline on his shoes and gasoline was used to start the fire at the victim's home, and DNA from blood on Bostick's jeans excluded ninety-nine percent of the population, but the expert could not testify the DNA matched the victim. Id. at 142, 708 S.E.2d at 778.

The prosecution presented no direct evidence against Appellant and very little circumstantial evidence. It must be acknowledged that Appellant's alleged statements to White, the homeless individual, could only be called circumstantial evidence. See State v. Rogers, 405 S.C. 554, 748 S.E.2d 256 (Ct. App. 2013)(explaining that the statement "it's done" was circumstantial evidence because it required an inference as to the meaning of "it" and "done"). No physical evidence connected Appellant to the crime. The prosecution established only that a connection existed between the deceased and Appellant, but established no connection between Appellant and the deceased's death. Appellant and the deceased had been in a romantic relationship for five years around the time of the deceased's death. The two lived together in the apartment where the deceased's body was found. Not surprisingly, Appellant's prints were found in the apartment where

he lived. Not surprisingly, the deceased's family did not see Appellant after the deceased's death because Appellant and the deceased had argued, broken up, and Appellant had left the deceased's death. Not surprisingly, Appellant was seen at the apartment where he lived at the usual time and place where his neighbor saw him. The only evidence the prosecution presented that showed Appellant even had knowledge of the deceased's death was the testimony of White. However, even White's testimony only established that Appellant knew about the murder and did not report it, not that he had any involvement in the death. Importantly, Appellant did not admit guilt to White or confess to participation of any sort. Very telling of the prosecutor's weak case was the repeated resort to appeal to the "raw emotion" of the jury in her closing argument, including displaying a photograph of the deceased, which was not from the crime scene and was clearly inadmissible victim impact evidence, asking the jury for justice of the deceased who was a mother, daughter, and sister.

Appellant respectfully requests this Court rehear the matter and direct a verdict of acquittal in Appellant's favor concerning the charges of murder and possession of a weapon during the commission of a violent crime due to the lack of evidence against him.

Respectfully submitted,


Susan B. Hackett
Appellate Defender

This 20th day of November, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

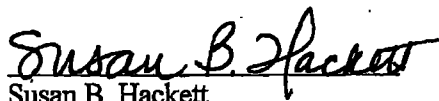
V.

RALPH B. HAYES,

APPELLANT

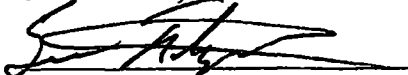
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Kaycie S. Timmons, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Ralph B. Hayes #320369, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 20th day of November, 2014.


Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 20th day
of November, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.

The South Carolina Court of Appeals

The State, Respondent,

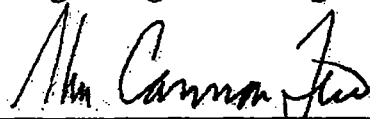
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Ralph B. Hayes, Appellant.

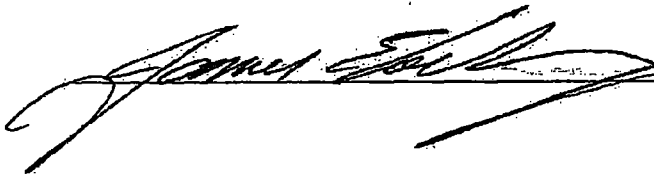
Appellate Case No. 2012-213261

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


C.J.


J.


J.

Columbia, South Carolina

cc:

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FILED

December 17, 2014

DEC 18 2014

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The Honorable G. Edward Welmaker

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RALPH B. HAYES,

APPELLANT

APPELLATE CASE NO. 2012-213261

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT # 52 (LATENT PRINTS COLLECTED FROM CRIME SCENE)
STATE'S EXHIBIT # 53 (LATENT PRINTS COLLECTED FROM CRIME SCENE)
STATE'S EXHIBIT # 54 (LATENT PRINTS COLLECTED FROM CRIME SCENE)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)

2011-GS-23-07681

PLAINTIFF,)

-VS-)

OCTOBER 15-17, 2012

RALPH HAYES,)

TRANSCRIPT OF RECORD

DEFENDANT.)

BEFORE:

THE HONORABLE G. EDWARD WELMAKER, JUDGE

APPEARANCES:

JUDY MUNSON, ESQUIRE
WANDA ADAMS, ESQUIRE
ATTORNEYS FOR THE STATE

CAROLINE HORLBECK, ESQUIRE
TEAL JOHNSON, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

1 THE COURT: Solicitor, you may address the jury
2 in your opening.

3 MS. MUNSON: May it please the Court, ladies.

4 **OPENING STATEMENT**

5 **BY MS. MUNSON:**

6 Ralph Hayes loved Jackie Alexander. Evidence in
7 this case will show that he loved her to death, that he
8 killed her by stabbing her and that he is guilty of
9 murder. He is guilty of killing her maliciously,
10 intentionally and with malice.

11 Back in June of 2009, it had been a while since
12 anybody had seen or heard from Jackie Alexander. So one
13 of Jackie's sisters, Barbara, went over to Jackie's place
14 just to check on her. She got over to Jackie's apartment
15 on Galphin Drive in Greenville County on a Saturday
16 evening, and she let herself into Jackie's apartment
17 through the open front door. And she found her sister in
18 the upstairs bathroom of her apartment dead.

19 Good things can happen to a human soul after death,
20 but nothing good happens to a human body. Because
21 Barbara found her sister in what the medical examiner
22 will tell you is a moderate state of decay. The
23 condition of her body was such that at the time and on
24 the scene, law enforcement and other personnel who got
25 there weren't really sure what had happened here.

1 An autopsy was performed on Jackie's body. And she
2 died as a result of being stabbed twenty-eight times in
3 her chest, in her abdomen and a lot in her back.

4 While Jackie's family was mourning her and burying
5 her, the Defendant was nowhere to be found. In fact, it
6 was September of 2010 that he was brought back to South
7 Carolina from New York to face these charges.

8 Now, as far as evidence goes in this case, what you
9 might want is the Defendant in possession of the murder
10 weapon, the Defendant confessing to law enforcement, her
11 DNA on him; things of this nature. We don't have that,
12 but what we do have is going to be sufficient to leave
13 each and every one of you firmly convinced that he's
14 guilty of murdering Jackie Alexander and possessing a
15 deadly weapon while he did it. You'll hear some
16 fingerprint evidence important for where these things
17 were found. You'll hear a little bit of DNA evidence
18 only relating to Jackie. And you will hear about a
19 conversation that the Defendant had with a homeless guy
20 after Jackie was dead, but before her body was found.

21 We introduced ourselves to you earlier. I'm Judy
22 Munson and this is Wanda Adams. We're the prosecutors in
23 this case. It's our duty and it's our great privilege to
24 represent the people of South Carolina in this matter, in
25 particular, the people of Greenville County. And at the

1 close of this case, after carefully considering the
2 evidence, we will ask you, without hesitation, to find
3 the Defendant guilty of murder and of possession of a
4 weapon during a violent crime. Thank you.

5 THE COURT: Ms. Horlbeck, you may address the
6 jury.

7 **OPENING STATEMENT**

8 **BY MS. HORLBECK:**

9 Good afternoon, ladies and gentlemen. My name is
10 Caroline Horlbeck. This is Teal Johnson. And it is our
11 great privilege to represent Ralph Hayes. He's an
12 innocent man and he's not guilty of these charges.

13 Now, when I was preparing for this case, I was doing
14 a little bit of surfing on the net to try to find a word
15 that I thought would best describe this case from the
16 defense point of view. And the word I found -- and y'all
17 have probably heard of it before, but I hadn't -- it was
18 panacea. Panacea is just a fancy word for snake oil.
19 And if you look at the ingredients of snake oil, it's
20 made up of mineral oil, red pepper, turpentine, something
21 known as camphor, and beef fat. And what they would do,
22 what the salesmen would do is they would take this snake
23 oil and they would sell it to the first Europeans that
24 came over here. And they would get these guys to buy
25 this stuff by saying that the -- mischaracterizing the

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1 **CHRISTOPHER MANLY,**

2 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

3 **DIRECT EXAMINATION**

4 **BY MS. MUNSON:**

5 Q. Who do you work for, sir?

6 A. Greenville County Sheriff's Office.

7 Q. What is your job title?

8 A. I'm a deputy sheriff in our warrant division.

9 Q. What are your duties?

10 A. Our duties include the location and apprehension of
11 people that have active warrants with this agency. We
12 also assist in extradition of people back to Greenville,
13 South Carolina.

14 Q. Okay. How long have you been with the sheriff's
15 office?

16 A. About six years.

17 Q. How long in the warrants?

18 A. A little over three.

19 Q. All right. Now, back in September of 2010, did you
20 perform your duties relative to this case?

21 A. Yes.

22 Q. Where did you go?

23 A. We went up to New York.

24 Q. And why were you going there?

1 A. To pick up the Defendant, Mr. Hayes.

2 Q. Okay. Did you go by yourself?

3 A. No, ma'am. I went with Master Deputy Ron Bishop.

4 Q. Okay. At anytime during this process were you
5 separated from Ron Bishop?

6 A. No.

7 Q. And where did you go in New York?

8 A. We went to the Bronx.

9 Q. Any particular location?

10 A. We picked up the Defendant from the Bronx Superior
11 Court.

12 Q. Okay. How long were you with the Defendant?

13 A. I would say that he was brought to the Superior
14 Court, handed over to our custody, probably early to mid-
15 afternoon. And we didn't return back to Greenville until
16 probably around nine o'clock that evening.

17 Q. All right. And he traveled with you?

18 A. Yes.

19 Q. How long were you with him altogether?

20 A. Altogether that day? Six hours, maybe.

21 Q. Okay. Do you think you would recognize him if you
22 saw him again?

23 A. Yes.

24 Q. Do you recognize him now?

1 A. I do.

2 Q. Could you please tell the jury where he is?

3 A. He's sitting at the Defense table in the blue shirt.

4 Q. Okay.

5 MS. MUNSON: I have nothing further, Your
6 Honor.

7 THE COURT: Any cross-examination.

8 MS. HORLBECK: Just briefly.

9 **CROSS-EXAMINATION**

10 **BY MS. HORLBECK:**

11 Q. Mr. Manly, were you at all connected in any way with
12 the investigation in this matter?

13 A. No, ma'am.

14 Q. Thank you.

15 MS. HORLBECK: That's all I have.

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

17 MS. MUNSON: Your Honor, may this witness be
18 excused?

19 THE COURT: Without objection, the witness may
20 be excused.

21 MS. ADAMS: Your Honor, the State now calls
22 Barbara McNeil.

23 THE CLERK: Ms. McNeil, if you would come
24 forward to be sworn in, please. Please place your left
25 hand on the bible and raise your right.

1 Do you swear or affirm that the testimony you're
2 about to give is the truth, the whole truth and nothing
3 but the truth, so help you God?

4 THE WITNESS: Yes, I do.

5 THE CLERK: Thank you. You may be seated.
6 Would you please state your name for the record.

7 THE WITNESS: Barbara McNeil.

8 THE CLERK: Thank you.

9 **BARBARA MCNEIL,**

10 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

11 **DIRECT EXAMINATION**

12 **BY MS. ADAMS:**

13 Q. Ms. McNeil, do you live in Greenville County?

14 A. Yes, ma'am.

15 Q. Are you related to the victim, Jacquelyn Alexander?

16 A. Yes, ma'am.

17 Q. What did you call her?

18 A. Jackie.

19 Q. And was she your sister?

20 A. Yes.

21 Q. We're going to get into some hard testimony.

22 A. Okay.

23 Q. I need for you to speak up so that the jury can hear
24 you and the court reporter, okay?

25 A. Okay.

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1 Q. Let's go back to June 13th. Did you go to Jackie's
2 apartment?

3 A. Yes, ma'am.

4 Q. Tell the Court and the jury why you went to her
5 apartment?

6 A. I went to Jackie's apartment because my dad called
7 me and told me to go check on her.

8 MS. HORLBECK: Your Honor, I object to hearsay.

9 THE COURT: I sustain the objection.

10 Q. Without getting into what your dad said, why did you
11 go to that apartment?

12 A. To check on Jackie.

13 Q. How long had it been since you had talked to her?

14 A. I talked to her that Thursday before I went to check
15 on her.

16 Q. So this was on a Saturday?

17 A. Yes, ma'am.

18 Q. Saturday evening?

19 A. Not the same week of that, the week before.

20 Q. And about what time was it when you got there?

21 A. It had to be about four o'clock, I believe.

22 Q. In the afternoon?

23 A. Yes, ma'am.

24 Q. And so when you get to the apartment, what do you
25 do?

1 A. Well, I knocked on the door and I didn't get an
2 answer. So something just say, twist the knob. And I
3 twisted the knob and the door was open and I went in.
4 When I went in, I called her name. She didn't answer.
5 But at the same time, I was dialing her phone because I
6 didn't get an answer on the phone, but the phone did not
7 ring at the house. So I walked on through the house.

8 Q. Take your time. What was the first thing you saw
9 when you got into the apartment?

10 A. Well, I went through her living room. I had gave
11 her a living room set, so I noticed, you know, everything
12 was still intact. I went through the kitchen. I was
13 just calling her name and I still didn't get an answer.
14 So I come back through to the front door and I went
15 upstairs. When I went upstairs, I looked to the left. I
16 didn't see her. I looked to the right. She was in the
17 bathroom, bathroom on the floor dead. I saw blood
18 everywhere.

19 Q. What did you do then?

20 A. I went back downstairs. I called my dad. And
21 evidently he couldn't understand me. He kept saying he
22 was coming. He was coming. And I tried to call the
23 police. I just -- I didn't know what I was saying, I
24 guess. They couldn't understand me. The girl next door
25 took the phone from me and she told them to come.

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1 Q. So you got upstairs and you see Jackie's body in the
2 bathroom?

3 A. Yes, ma'am.

4 Q. Did you immediately come, immediately come back
5 downstairs?

6 A. Well, actually, I had a seizure and fell down the
7 stairs. When I get real upset, I have seizures. I
8 remember calling my dad and I was looking around. I was
9 like -- when I saw my sister upstairs, my sister was --
10 she was my size and my sister wasn't that big. And I
11 started to say then, this can't be my sister, it just
12 can't be my sister.

13 Q. Did you touch anything in that apartment?

14 A. No, ma'am.

15 Q. Other than opening the door?

16 A. No more than opening the door.

17 Q. Now, let's get back to when you get into her
18 apartment and you start to walk around. You said that
19 you didn't see anything, well, disturbed?

20 A. No, ma'am.

21 Q. Was anything -- furniture turned over?

22 A. No, ma'am.

23 Q. Did you see anything that would indicate maybe a
24 burglary had occurred?

25 A. No, ma'am.

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1 Q. You also said that you called her, but the phone
2 didn't ring?

3 A. Yes, ma'am.

4 Q. To your knowledge, was the phone working?

5 A. I mean, it was sitting on the table, but it wasn't
6 ringing.

7 Q. So the ringer was off?

8 A. I guess so.

9 Q. And the door was unlocked?

10 A. Yes, ma'am.

11 Q. Then you come outside and the neighbor helps you
12 call 9-1-1?

13 A. Yes, ma'am.

14 Q. Let's talk about Jackie and Ralph, Ralph Hayes. Do
15 you see Ralph in the courtroom?

16 A. Yes.

17 Q. Will you point him out, please?

18 A. That's him.

19 Q. Barbara, how long were Jackie and Ralph in a
20 relationship?

21 A. I would say about five years.

22 Q. So you -- during those five years, you saw him many
23 times?

24 A. Yes. They would come to my house for dinner, for
25 Thanksgiving dinner, Christmas dinner.

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1 Q. Okay. So once your sister was found, you were
2 making funeral arrangements. Did you ever hear from
3 Ralph?

4 A. Never heard from him.

5 Q. Did Ralph come to the funeral?

6 A. No, ma'am.

7 Q. Did Ralph ever call you?

8 A. No, ma'am.

9 Q. So your family or you didn't hear from him?

10 A. No, ma'am.

11 Q. During the time you're making arrangements for the
12 funeral ---

13 A. Never heard from him.

14 Q. After the funeral?

15 A. No, ma'am.

16 Q. Anytime since then?

17 A. No, ma'am.

18 Q. Let's talk about Jackie a little bit. How would you
19 describe Jackie?

20 A. Jackie was a good person, a loving person. She
21 wasn't perfect. She made mistakes like we all do, but
22 she was a good person.

23 Q. So Jackie had some problems?

24 A. Yes.

25 Q. What kind of problems did she have shortly before

1 her death?

2 A. She was on drugs. Yes, ma'am.

3 Q. But did she have any enemies?

4 A. No, ma'am. Everybody loved Jackie, everybody.

5 Q. So would you say you had a good relationship with
6 her?

7 A. A wonderful relationship. She was my strength. She
8 was.

9 Q. So it's your testimony she was a kind person?

10 A. Yes, ma'am.

11 Q. You didn't know of any enemies?

12 A. No, ma'am.

13 Q. And, again, just for clarification, when you went
14 into that apartment -- how long would you say you were
15 there?

16 A. It seemed like forever to me. I don't know.

17 Q. Were valuables, Jackie's valuables, still in the
18 apartment?

19 A. Everything was there. Everything was still intact.
20 Everything. I mean, if, if it would have looked like a
21 burglary, I would have called the police right then. I
22 wouldn't have went upstairs. Everything was still
23 intact.

24 Q. Answer any questions from the Defense.

25 THE COURT: Ms. Horlbeck.

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CROSS-EXAMINATION2 **BY MS. HORLBECK:**

3 Q. Ms. McNeil, my name is Caroline Horlbeck. And I
4 have just a few questions for you.

5 A. Yes, ma'am.

6 Q. Now, Jackie lived at the condo, that's correct;
7 right?

8 A. Yes, ma'am.

9 Q. And Mr. Hayes stayed there some; didn't he?

10 A. He lived with her.

11 Q. And did any other family members live with Ms.
12 Alexander?

13 A. No, ma'am.

14 Q. And did she have any children?

15 A. She has a son.

16 Q. And was he high school age at the time?

17 A. No, ma'am.

18 Q. Is he grown?

19 A. He's a grown man, yes, ma'am.

20 Q. All right. At the time of her death in 2009, how
21 old was he?

22 A. He's twenty-six now. He was twenty-three.

23 Q. Okay. All right. And when you came to the scene do
24 you recall whether or not your sister's panties were down
25 around her thighs?

1 A. Yes, ma'am. She was laying like in a sitting
2 position.

3 Q. And were any -- you mentioned that a neighbor lady
4 helped you?

5 A. Yes, ma'am.

6 Q. Were any other neighbors around?

7 A. It could have been. I don't know.

8 Q. Do you recall the name of the neighbor that assisted
9 you in calling 9-1-1?

10 A. No, ma'am.

11 Q. And you mentioned that you called your father. Did
12 other family members come to Jackie's condo?

13 A. Yes, ma'am.

14 Q. What family members came?

15 A. My mom, my aunt, my sisters, my daddy's girlfriend,
16 everybody showed up, my son.

17 Q. And you mentioned that you had not talked to Jackie
18 in more than a week. Is that correct?

19 A. Yes.

20 Q. And you had not talked to her -- I'm going to strike
21 that. You mentioned that Ms. Alexander had some
22 problems, that she was on drugs?

23 A. Yes, ma'am.

24 Q. Was Ms. Alexander working at the time?

25 A. No, ma'am. She was on disability.

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1 Q. Did she -- did you find any letters? Was there
2 anything on the door when you appeared?

3 A. Yes, ma'am. It was ---

4 Q. What was there?

5 A. It was a note from whoever delivered her food. They
6 left a little note to let her know they came by.

7 Q. All right. And did Ms. Alexander, did your sister
8 have an EBT card or a food stamp card?

9 A. Yes, ma'am.

10 Q. Did she have her own vehicle?

11 A. No, ma'am.

12 Q. Is it fair to say she relied on other people for
13 transportation?

14 A. She walked mostly everywhere she went.

15 Q. Okay. Thank you, Ms. McNeil.

16 MS. HORLBECK: That's all I have.

17 THE COURT: Anything in redirect?

18 MS. ADAMS: Yes. Just one question.

19 **REDIRECT EXAMINATION**

20 **BY MS. ADAMS:**

21 Q. Now, Barbara, you talked about Mr. Hayes would often
22 come to your house, other relatives' homes, for dinners
23 and that kind of thing?

24 A. Yes, ma'am.

25 Q. So he and Jackie did live together?

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1 A. Yes, ma'am.

2 Q. And had lived together, say, for the last five
3 years?

4 A. Well, when we'd come up here -- I mean, they lived
5 in Atlanta together. Where, I don't know. But when she
6 moved home, we went and got her and she moved home, then
7 he moved up here with her.

8 Q. Okay. So they shared a household?

9 A. Yes, ma'am.

10 Q. And there was nobody else that lived with them?

11 A. No, ma'am.

12 Q. Okay. Thank you.

13 THE COURT: All right. Thank you, ma'am. You
14 may step down.

15 THE WITNESS: Thank you.

16 MS. ADAMS: The State now calls Janie Ashmore.

17 THE CLERK: Ms. Ashmore, if you would come
18 forward to be sworn in, please. Please place your left
19 hand on the bible and raise your right.

20 Do you swear or affirm that the testimony you're
21 about to give is the truth, the whole truth and nothing
22 but the truth, so help you God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you. You may be seated.

25 Would you please state your name for the record.

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1 THE WITNESS: Janie Ashmore.

2 THE CLERK: Thank you.

3 JANIE ASHMORE,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MS. ADAMS:

7 Q. Good afternoon, Ms. Ashmore.

8 A. Good afternoon.

9 Q. Now, you're the mother of the victim?

10 A. I am.

11 Q. And you also live here in Greenville County?

12 A. I do.

13 Q. Ms. Ashmore, you heard some of Barbara's testimony,
14 your daughter?

15 A. I did.

16 Q. Would you agree that Ralph and Jackie had this long
17 time, long term relationship?

18 A. I do.

19 Q. Did you see them often?

20 A. I did.

21 Q. You agree that they shared a household, they lived
22 together?

23 A. They did.

24 Q. Did you go over to the apartment the day Jackie's
25 body was found?

1 A. I did. After my daughter Barbara called me that
2 night, I went over.

3 Q. Now, after Jackie's death, did you have any
4 communication from Ralph?

5 A. None at all. None.

6 Q. Not during the funeral?

7 A. Nothing.

8 Q. Okay. How long had it been since you had talked to
9 Jackie or had had any contact ---

10 A. Two weeks before Jackie was killed, she called me
11 and said, Mama, I love you.

12 Q. Was that unusual for you to go a couple of weeks,
13 you know, and not talk to her?

14 A. Kind of. It was. But, you know, I still thought
15 she was all right. I had no idea that my child was dead.

16 Q. Let's talk a little bit about, about Jackie and
17 Jackie's personality.

18 A. She was so sweet.

19 Q. What was that?

20 A. She was such a sweet child. She was. She loved
21 everybody and everybody loved her, except Ralph.

22 Q. So as far as you know, Jackie didn't have any
23 enemies?

24 A. None. Everywhere she went people that knew her
25 loved everything about Jackie, you know. She made

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1 mistakes, like Barbara said. She was human. But she was
2 a lovable person.

3 Q. Now, Barbara testified that, you know, she had a
4 drug problem?

5 A. She did.

6 Q. Did you ever get involved with, you know, any issues
7 relating to her drug use?

8 A. No. No. No.

9 Q. You never had to bail her out of any situations?

10 A. No, never. Never.

11 Q. Have you ever dealt with any drug dealers or anybody
12 regarding Jackie?

13 A. Lord, no. Uh-uh (negative). No. Matter of fact,
14 Jackie never really come around me when she was doing
15 drugs.

16 Q. But before Jackie's death, you saw Ralph, would you
17 say, on a regular basis?

18 A. Well, yeah. Uh-huh (affirmative).

19 Q. But after her death ---

20 A. After, we didn't see Ralph at all.

21 Q. Never heard from him?

22 A. Never heard from him. He never called and said,
23 Jackie been hurt or anything. We didn't hear nothing.

24 Q. And to this day, have you heard from him?

25 A. No.

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Janie Ashmore - Cross Examination by Ms. Johnson

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1 Q. Answer any questions the Defense has.

2 MS. JOHNSON: May it please the Court?

3 THE COURT: Yes, ma'am.

4 **CROSS-EXAMINATION**

5 **BY MS. JOHNSON:**

6 Q. Ms. Ashmore, my name's Teal Johnson. And I just
7 have a couple of questions for you. You said that she
8 didn't really come around you when she was doing drugs?

9 A. Right.

10 Q. So it's safe to say that she wasn't always under
11 your thumb?

12 A. Well, of course not. I mean, she was a grown woman.
13 You know, she had her own house and everything.

14 Q. And she did her own thing?

15 A. Yeah.

16 Q. So you wouldn't know everything that was going on in
17 her life?

18 A. I knowed about her and Ralph. I knowed that much.

19 Q. Okay. But you wouldn't know about things that are
20 going on when you're not there, as far as, I guess her
21 night life and her drug activities?

22 A. Jackie, like I said, she was on drugs but no one
23 would hurt her but Ralph. He's the only one that hurt my
24 daughter. Nobody else because he has threatened her so
25 many times. So I know he did it, without a doubt.

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Larry Dell White - Direct Examination by Ms. Adams

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1 Q. Okay.

2 MS. JOHNSON: That's all I have.

3 THE COURT: Any redirect?

4 MS. ADAMS: Nothing else, sir.

5 THE COURT: All right. Thank you. You may
6 step down, ma'am.

7 MS. ADAMS: The State now calls Larry Dell
8 White.

9 THE CLERK: Mr. White, if you would come
10 forward to be sworn in, please. Please place your left
11 hand on the bible and raise your right.

12 Do you swear or affirm that the testimony you're
13 about to give is the truth, the whole truth and nothing
14 but the truth, so help you God?

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: Thank you. You may be seated.
17 Would you please state your name for the record.

18 THE WITNESS: Larry Dell White.

19 THE CLERK: Thank you.

20 LARRY DELL WHITE,

21 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MS. ADAMS:

24 Q. Mr. White, where do you live?

25 A. [REDACTED]

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1 Q. Is that East St. Louis?

2 A. Yes. But some people get them mixed up. It's still
3 East St. Louis, but it's Centreville, too, yeah.

4 Q. How long have you been there?

5 A. I got back home 2010, June the 2nd.

6 Q. So that's your home?

7 A. Yeah. For right now.

8 Q. That's where your family is?

9 A. Yes.

10 Q. Were you living in Greenville in June of 2009?

11 A. Yes.

12 Q. Tell the jury why you were living here?

13 A. I likes to explore and go from state-to-state,
14 seeing how other states is and then compare it to my
15 state, where I'm from. I was homeless, out on the
16 streets, that's my choosing, thing to do. You know, I
17 just like -- I love to travel because when I was coming
18 up, I wasn't able to travel. So I started traveling.

19 Q. So you were here as part of your travels, but you
20 were homeless?

21 A. Yes.

22 Q. So now let's go back to June. Did you ever meet
23 Ralph Hayes?

24 A. Only that time that I talked to him.

25 Q. Okay. Let's -- I want you to describe for the jury

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1 how you came to meet Mr. Hayes.

2 A. Okay. It was, it was hot that day. Maybe a

3 hundred, hundred and one degrees. And so I wanted to

4 find some shade. So I went in the back of Able Body.

5 It's a labor hall. They had a bench there with a thing

6 over your head, to get you out of the sun.

7 Q. Let me interrupt you, Mr. White. What kind of

8 business is labor -- Able Body?

9 A. It's a labor hall. You go work. They pay you every

10 day that you work. And it was closed that particular

11 day, they were closed on a Sunday.

12 Q. So you would go there to find work?

13 A. Yeah, Monday through Saturday. Mostly Monday

14 through Friday I would work.

15 Q. So what date are we talking about?

16 A. I couldn't remember the date, but I know it was on a

17 Sunday because that church, I went to that church to

18 feed. Yes.

19 Q. Okay. So, but this was in June?

20 A. Yes.

21 Q. Maybe June 9th, does that sound about right?

22 A. Yes.

23 Q. So go ahead.

24 A. And I get back there, I see a young man crying. I

25 mean, he's crying. He was drinking a Bud Ice, a Bud Ice

1 beer and I said, brother, what's wrong, brother? And
2 he's crying and he said, man, I done fucked up bad, real
3 bad.

4 Q. Is that the language he used?

5 A. Yes. I said, well, we all fuck up. I said, I fuck
6 up. I said, womens. I said, I fucked up. I stole my
7 brother's check. And then I said, man, I was so messed
8 up a whole month and I was depressed. But man, you ain't
9 fucked up like I done fucked up. Kept crying. I'm
10 trying to cheer him up. He said, I done messed up. Kept
11 crying. Kept crying.

12 Q. Mr. White, had you ever seen him before?

13 A. Never. Never in my life until then. And never seen
14 him, never on my travels nowhere until then. I kept
15 trying to cheer him up, he kept crying. And then he
16 started, saying, man, it's going to fuck my sister up
17 when I tell her what I done. I said, man. And he said,
18 I went in the house and found my girl dead, man. The
19 dope boys cut my girl all up, pulled her panties down to
20 her ankles and put her in the bathtub. I said, damn,
21 man. I said, what you do? He said he ran out the house.
22 I'm like, why didn't you go tell the police, man? He's
23 like, because they'll think I done it because that's my
24 girlfriend. And I'm like, wow. And so, instead of
25 trying to cheer him up, I said, man, man.

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1 Q. Let's back up a minute, Mr. White. Before he tells
2 you about finding his girlfriend, when he kept saying
3 he'd messed up so badly, I mean, did you ask him what had
4 he done that was so bad?

5 A. No. I didn't ask him that. He just kept saying, I
6 done fucked up. And I kept telling him I -- excuse my
7 language -- I done fucked up in my life. And he just
8 kept crying. He couldn't stop crying for nothing. He
9 just couldn't stop crying, you know. I have cried when
10 somebody in my family died, you know, cause that's my
11 loved one. But he just kept on crying. I couldn't stop
12 him from crying. I'm kind of trying to cheer him up.

13 Q. So did you ask him what could be so bad and did you
14 get a response from him?

15 A. He hesitated for a while, because like I said, I was
16 trying to cheer him up. And he looked at me and he did
17 like this on the table. But you ain't never killed
18 nobody. I said, no, thank God I haven't. And I raised
19 back, eased back like that, damn, man. So he kept on
20 talking. He kept on crying. Talked about an hour. But
21 them was some of the main things that he told me that I
22 remember. He kept saying, I fucked up. I fucked up bad.
23 Then he said, I'm going to kill myself. I said, now,
24 don't do that. I done fucked up bad, man, this time.

25 Q. So after he tells you this, what did he do? What

1 did he say?

2 A. He said he was going to Kentucky. He didn't show me
3 the -- he showed me the bus ticket, but he didn't show me
4 the city. You know, he didn't let me read it, but he
5 showed me he had the bus ticket. He showed it to me.

6 Q. So he told you he was going to Kentucky?

7 A. Going to Kentucky.

8 Q. For what?

9 A. He said he was going on to his sister house, to tell
10 his sister what he had done. Because he said, it's going
11 to fuck my sister up when I tell her what I have done.

12 Q. And why did he say he was leaving?

13 A. I don't know. I guess because he kept saying he
14 done fucked up so bad.

15 Q. Did he talk about why he didn't want -- did you ask
16 him to call the police?

17 A. I had ask him, I said, man, why you didn't call the
18 cops? And he said, because I was her boyfriend. And he
19 probably -- they probably figure that he did it.

20 Q. Did he say why he would think -- why he thought the
21 police ---

22 A. No.

23 Q. --- would think he did it?

24 A. No. Uh-uh (negative). He just kept crying.

25 Q. Okay. Did he talk about anything that had happened

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- 1 to them in the past?
- 2 A. No. No.
- 3 Q. Did he say he'd hurt her before?
- 4 A. No.
- 5 Q. So he tells you he's leaving for Kentucky?
- 6 A. Yes.
- 7 Q. Because of what he's done?
- 8 A. He said he fucked up.
- 9 Q. And he told you how her body ---
- 10 A. Yes.
- 11 Q. --- the state of her body?
- 12 A. He said, the dope man stabbed his girl up, cut her
- 13 all up, pulled her pants down to her ankles, put her in
- 14 the bathtub.
- 15 Q. He gave you all those details?
- 16 A. Yes, he did.
- 17 Q. And he said the dope man did it?
- 18 A. That's what he told me. Drug dealer, dope man, same
- 19 thing.
- 20 Q. Did he say anything about her mother?
- 21 A. No.
- 22 Q. About her mother paying the dope man?
- 23 A. No. Uh-uh (negative).
- 24 Q. How long were you with him?
- 25 A. About an hour. Because, like I say, I was waiting

1 on for the church to feed and it was hot.

2 Q. Uh-huh (affirmative).

3 A. And I wasn't going to like leave until the church --
4 so I can leave about four-thirty or something because
5 they start feeding at five o'clock.

6 Q. Okay. Now, when you were talking to him at this
7 Able Body, were y'all outside?

8 A. Outside.

9 Q. Okay. What time of day?

10 A. I say it had to be around at least about three
11 o'clock because I only had a couple of hours to wait for
12 the church to start feed.

13 Q. Okay. So it's broad daylight?

14 A. Yeah.

15 Q. And you're outside?

16 A. Yes.

17 Q. When you're talking to him, I mean, how close were
18 you to him?

19 A. Like to you from here.

20 Q. And you're face-to-face?

21 A. Face-to-face.

22 Q. So would you say you got a real good look at him?

23 A. Good look. I mean, I was leaning on the bench
24 trying to calm him down, saying, man, it's going to be
25 all right. Whatever you did, it's going to be all right.

1 I said, God forgives us for everything that we do. You
2 know, I said, because he is a forgiving God. And like I
3 kept telling him, I done messed up. I done fucked up,
4 man. We all have. But he kept saying, but you ain't
5 fucked up like me. I done really fucked up this time.
6 He kept saying -- he couldn't stop saying that, couldn't
7 stop. And kept crying, just kept crying.

8 Q. And this was a man you had never seen before?

9 A. Never.

10 Q. You had no relationship with him?

11 A. None.

12 Q. You had no gripe with him?

13 A. None.

14 Q. So after you talked with him on this day, on the
15 9th, do you ever see him again?

16 A. I saw him at the church.

17 Q. Was this the same day?

18 A. Same day. I left before he left and I saw him in
19 there. He was shaking a lot of people's hands. He was
20 showing them, the peoples that brought the food, his bus
21 ticket. And I saw them praying for him. They gave him
22 some food because he showed them the bus ticket. They
23 gave him a bag of food to take with him on his trip. He
24 went along laughing, talking, you know. I guess when
25 they prayed for him he was cheered up, I guess. I don't

1 know because I had stopped talking to him. I was talking
2 to some more people that I met since I been here. And
3 that was last time I saw him until a couple days after
4 whatever when ---

5 Q. Well, let's get to there.

6 A. Okay. Okay.

7 Q. So that's the last time you saw him?

8 A. Yes.

9 Q. Was on June 9th?

10 A. Yes.

11 Q. When you had that conversation with him?

12 A. Yes.

13 Q. So what happens after that? Do you talk to anybody
14 else about this?

15 A. No. No.

16 Q. So how did you get involved in this?

17 A. I'm at Able Body, you know, the labor hall,
18 everybody talking about this and that. And I heard some
19 of the guys who I met since I was living here about this
20 young lady who they know, that used to hang out at the
21 Shady Rest, had got killed and had got cut up and stabbed
22 real, real bad. And, you know, they was telling me about
23 some of the things that she used to do, but I'm
24 listening. And I'm like, damn. In the back of my head,
25 I'm like, damn, this guy was talking to me about this

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1 lady who got stabbed real, real bad, you know. I said,
2 damn. So a couple of days later I thought about what
3 they was -- what they had -- was talking about and what
4 this individual had told me. So I decided, well, I'm
5 going to tell this man to call the police and let them
6 know that I talked to this guy about this lady had got
7 killed like that. And they called the officer and he
8 came and got me and talked me. He took me down to the
9 office and talked to me for about three or four hours.

10 Q. Now, again, I know this has been three years ago.

11 A. Yeah.

12 Q. You know, can you remember about how many days it
13 was after you talked to Ralph and when you called or when
14 you decided to call the police?

15 A. No, I can't remember. I just can't remember.

16 Q. Was it about a week?

17 A. Maybe. I just can't remember.

18 Q. Okay.

19 A. But I just remember that after I heard everybody in
20 the labor hall talking about it, because they knew her.
21 I didn't know her.

22 Q. Does around the 18th sound about right?

23 A. Probably. But like I said ---

24 Q. About a week later?

25 A. --- I heard them talking about this individual had

1 got cut up and everything and I remember this individual
2 was telling me about this young lady.

3 Q. So when you hear these rumors or these people
4 talking about this woman being killed, then you called
5 the police?

6 A. Yes. I went to the labor hall, yes.

7 Q. You had somebody from the labor hall to call the
8 police?

9 A. Yeah. To call, yeah.

10 Q. Okay. So what happens then?

11 A. I told him, I said, man, look here, about this young
12 lady that got killed a couple of days ago, whatever, a
13 week ago. He said, yeah, man. I said, look here, call
14 the police man. He said, why? Because I talked to this
15 young man. And he said, well I'll call the police. And
16 he called this officer and I told him, I said, man, about
17 that lady that got cut all up and everything, man, I was
18 talking to this guy behind Able Body. So he interviewed
19 me about an hour or two then. This other officer talked
20 to me about an hour or two.

21 Q. So when you called the police, they come and get
22 you?

23 A. Yes.

24 Q. They come to Able Body and get you?

25 A. No. Labor Finders, the one that's --

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1 Q. Labor Finders.

2 A. Able Body's tore down now.

3 Q. I'm sorry. Okay.

4 A. Yeah.

5 Q. Labor Finders. Now, did you go to the police
6 station like right away or the next day?

7 A. They took me. When I told that man to call, they
8 came and got me and took me down there.

9 Q. Okay. All right. So what happens when you get
10 there, get to the police department?

11 A. I told him what this individual was telling me in
12 the back of Able Body. And that how he fucked up, fucked
13 up, fucked up. Going to kill his self. You know, he was
14 crying, couldn't stop crying. He was going to go to
15 Kentucky. It was going to mess his sister up when he
16 tell his sister what he had done. Because he really
17 fucked up this time real, real, real, real bad. You
18 know, I'm trying to remember all the things that he had
19 told me that particular day, you know. Because like I
20 said, I had problems of my own. I'm homeless. I'm going
21 to worry about where I'm going to lay at night and all
22 that.

23 Q. So you get to law enforcement and you meet with, was
24 it Detective Miller?

25 A. It was the black officer first. I forgot his name.

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1 He interviewed me first.

2 Q. Okay. So you tell Detective Miller what Mr. Hayes
3 has said to you?

4 A. Yes.

5 Q. So did you identify him, did you use a photo lineup?

6 A. When they asked me -- when they -- they said that
7 we're going to show you some pictures and we want you to
8 point out the guy who you talked to. I said, okay.

9 Q. Okay. Hold on just a minute.

10 MS. HORLBECK: At this point, Judge, I would
11 renew my prior objections.

12 THE COURT: All right. Your objection is
13 noted.

14 Q. Before I show you these pictures, now you're talking
15 with Detective Miller about, about this conversation?

16 A. Yes.

17 Q. So before he shows you these pictures, do y'all talk
18 about it? Does he explain the procedure to you?

19 A. He said, the guy who you talked to that day, I want
20 you to see do you see him in this -- on these -- in any
21 of these pictures. I say, okay.

22 Q. Did he suggest or try to direct you to any
23 particular picture?

24 A. No. No.

25 Q. Did he tell you that Ralph Hayes might or might not

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1 be in the pictures?

2 A. No.

3 Q. Mr. White, I'm referring you here to State's Exhibit

4 Number 1.

5 A. Uh-huh (affirmative).

6 Q. Can you see that pretty good?

7 A. Yes, I can see it..

8 Q. Do you recognize this, Mr. White?

9 A. Yes, I do.

10 Q. Tell the jury what you recognize?

11 A. Number five.

12 Q. Is this the same array of pictures that were shown

13 to you of ---

14 A. Yes.

15 Q. --- photos?

16 A. Yes.

17 Q. Why do you recognize these photos?

18 A. It took me three seconds to identify the person

19 because I talked to him for a whole hour; about three

20 seconds. I said, that's the guy right there. No ifs and

21 but about it.

22 Q. Now, again, you're talking to Detective Miller?

23 A. Yes.

24 Q. Again, did he ask you is this him or give you any

25 kind of influence?

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1 A. I looked over and I said, this is him. Right here.

2 That's the guy. About three seconds I pointed him out.

3 It was no minute. It was a couple of seconds, is all it
4 was.

5 Q. You had absolutely no reservations?

6 A. None.

7 Q. And you feel that you had had plenty of time to look
8 at Mr. Hayes?

9 A. Yes.

10 Q. Get a good look at his facial features?

11 A. A good look.

12 Q. And no one suggested that that ---

13 A. Nobody.

14 Q. --- might be the picture of him?

15 A. Nobody.

16 Q. And number five is the one you selected?

17 A. That's the man I talked to for a whole hour.

18 Q. Do you see him in the courtroom?

19 A. Yes, I do.

20 Q. Okay. Point him out, please.

21 A. That's him right there.

22 MS. ADAMS: Let the record reflect that the
23 witness has identified the Defendant.

24 Q. Let me show you one more document. This is State's
25 Exhibit Number 2. Do you recognize that?

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1 A. Yes, it's my handwriting.

2 Q. Okay. It's titled an Affidavit. Do you doing that
3 the day you identified Mr. Hayes in the photo lineup?

4 A. Yes. Uh-huh (affirmative).

5 Q. And, again, that is your signature?

6 A. Yeah. That's my handwriting.

7 Q. And what does that Affidavit say? Would you agree
8 that it indicates that you selected number five on the
9 lineup?

10 A. Yes. Yes. Yes, ma'am.

11 Q. At that time, Mr. White, and I'm going to refer you
12 now to Defendant's Exhibit Number 1. Did you give a
13 written statement?

14 A. I didn't write nothing down.

15 Q. Okay. But did you give a statement and -- I'm going
16 to show you, again, Defendant's Exhibit Number 1. Do you
17 recognize that?

18 A. Yes, I recognize this. I was under the influence of
19 no alcohol or nothing.

20 Q. Were you under the influence of any alcohol or any
21 drugs when you did this photo lineup?

22 A. Sober.

23 Q. Sober? What about when you made this statement?

24 A. Sober.

25 Q. Did anybody coerce you or force you into giving this

1 written statement?

2 A. Nobody.

3 Q. Is this statement an accurate and true statement of
4 the conversation that you had with Ralph Hayes?

5 A. True. Everything that this man told me, from the
6 bottom of my heart, I tried to remember everything he
7 said. And the key things that he said to e is on here,
8 what he kept saying over and over again, that I fucked up
9 this time badly. He couldn't stop saying that. He
10 couldn't stop crying for nothing. I tried to cheer him
11 up. I tried. I tried my best to cheer this brother up.

12 Q. And again, what did you say to you when you said,
13 what could be so bad?

14 A. But you ain't never killed nobody. He did like
15 this. But you ain't never killed nobody. I said, no,
16 thank God I haven't. The exact words he said to me.

17 Q. I want to clear something up. Before you went down
18 to talk to law enforcement ---

19 A. Uh-huh (affirmative).

20 Q. You talking about the police had been around asking
21 about this guy, asking about somebody?

22 A. Well, they did. Well, I was -- okay. I was in a
23 soup kitchen and I saw the sheriffs in there, police.
24 They didn't ask me nothing because I'm in line trying to
25 get me a plate. And so I ain't know what was wrong.

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1 Only I figured they was trying to find somebody that had
2 probably stole something or whatever. They ain't showed
3 me no pictures or nothing, because I'm not from here. I
4 don't know nobody. Even if they would have showed me,
5 but they didn't, I wouldn't have know who he was. I'm
6 not from here. I was trying to get me something to eat
7 before it's all gone. I remember officers coming down
8 there with green uniforms on. I remember that. But
9 didn't nobody show me no picture, no picture I can
10 remember. No picture at all, nobody.

11 Q. So you didn't look at any pictures ---

12 A. Any picture. I was trying to get something to eat
13 before it's all gone.

14 Q. So the only time you saw a picture of Ralph Hayes
15 was at the photo lineup?

16 A. The only time I saw this man, when I talked to him
17 and when they showed me this -- asked me did I -- was the
18 same guy that I talked to on there? I said, yes, number
19 five.

20 Q. Again, why did you get involved?

21 A. I was brought up in a church. I was brought up to
22 do the right thing. And when I heard these peoples
23 talking about how this girl got killed, then I thought
24 about what he had told me, how he found her. I start
25 thinking, I said, man, I ain't never been involved like

1 this with nothing in my life. And like I said, I grew up
2 in a church. So it had to been the good Lord, it had to
3 been. Go do this. Go and make a phone call. Because I
4 ain't had no cell phone. That's why I got involved
5 because they was talking about down at the labor halls
6 how she was killed. Then I thought about what he had
7 told me. That's why I got involved. It was the Godly
8 thing to do. Like I said, God had to put it on my heart
9 to do this and I done it. That's why I did it.

10 MS. ADAMS: Your Honor, the State would ...
11 Can I just have one second?

12 THE COURT: Yes, ma'am.

13 Q. One more question, Mr. White. Did you encourage him
14 to tell somebody about Jackie's body?

15 A. He said they would think that he done it.

16 Q. So you told him to call ---

17 A. Yes. If you go in the house and see your girlfriend
18 like that, and I'm not God, but if you see somebody, who
19 I guess is your girlfriend -- if it was my girlfriend,
20 I'm going to call. And say, I found my girlfriend dead.
21 How he said -- he told me that he went in there and found
22 her dead, then he left. That's what he told me now.

23 Q. And that was after he had said you ain't never
24 killed nobody?

25 A. No. That was the last, that was one of the last --

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1 mostly one of the last things he told me. Because I kept
2 trying to cheer him up. And I guess it had to have been
3 the work of the good Lord when he said, but you ain't
4 never killed nobody. And the expression on his face,
5 like, messed me up. I like, no, thank God, I haven't.
6 That's exactly what he told me that particular day.

7 Q. Answer any questions from the Defense.

8 **CROSS-EXAMINATION**

9 **BY MS. HORLBECK:**

10 Q. Mr. White, my name's Caroline Horlbeck and I've got
11 some questions for you. You testified on direct that you
12 got back home June 2nd, 2010?

13 A. Yes. Just left Minnesota.

14 Q. All right. And I was just going to ask you, where
15 were you coming from?

16 A. What you mean?

17 Q. When you got back home, where did you get back home
18 from?

19 A. Minnesota.

20 Q. All right. And before Minnesota, where did you
21 live?

22 A. Florida.

23 Q. And before Florida, where did you live?

24 A. South Carolina.

25 Q. All right. And when you lived in South Carolina, is

1 that all the way back to 2009 or is that another time you
2 lived in South Carolina?

3 A. When I first got to South Carolina, Greenville, back
4 in 1998.

5 Q. That's the first time you lived in South Carolina?

6 A. The first time I came down through, in my life, to
7 South Carolina.

8 Q. And then you came back in 2009, to South Carolina,
9 to Greenville?

10 A. No, I came back again. I caught a freight train.

11 Q. Okay. When was that? Was that 2005?

12 A. It was in the 2000s. I can't remember.

13 Q. Okay. And then you came back to Greenville again in
14 2009. Is that correct?

15 A. Yeah. 2009 because I liked Greenville. It was a
16 little small, little southern town and I liked it.

17 Q. Okay. So in your words, you like to travel?

18 A. Yes.

19 Q. And that's why you move place-to-place?

20 A. Yes.

21 Q. Okay. And you had actually moved to Greenville in
22 2009 from Atlanta. Is that true?

23 A. I got tired of Atlanta because Atlanta had too many
24 homeless people. I couldn't really get no help.

25 Q. Okay. And you were looking for some help; weren't

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1 you?

2 A. Yes. Because I used to stay at the Greenville,
3 Greenville Rescue Mission.

4 Q. Okay. You were looking for a better place to stay?

5 A. Yes. I could have went back home, but I didn't want
6 to go home.

7 Q. Okay. You were looking for some employment?

8 A. Yes. And it was a small little town to live in. I
9 said, I can get me -- I can come up here, you know, I'm
10 thinking.

11 Q. A stable job?

12 A. Yes.

13 Q. Okay. Hopefully, your own place to live so that you
14 don't have to stay at the shelter ---

15 A. Yes.

16 Q. --- and eat at the soup kitchen?

17 A. Yes.

18 Q. Okay. All right. And do you work now?

19 A. Yes, I do. I found a job a week before last, Friday
20 before last.

21 Q. Okay. Where you working?

22 A. St. Claire Square Mall in Fairview Heights,
23 Illinois.

24 Q. All right. What kind of work you doing at the mall?

25 A. Janitorial.

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1 Q. Okay. All right. All right. Mr. White, on direct
2 you testified that you'd never seen that picture before
3 the time that the officer showed it to you?

4 A. Never in my life.

5 Q. Okay. But you recall making your statement; don't
6 you?

7 A. Like I said I had never seen that picture in my life
8 until he showed me the picture.

9 Q. And that's not what I asked you. You recall making
10 this statement that's in Defendant's Exhibit 1; correct?

11 A. Well, I need some glasses. I need some glasses, I
12 can't ---

13 Q. Okay. Sure. Take all the time you need.

14 A. Like I said, they didn't show me no pictures. I
15 didn't see no pictures. When I saw him in the back of
16 the Able Body, the first time I ever seen that gentleman
17 sitting over there, first time in my life.

18 Q. But you're satisfied -- this is your statement;
19 correct?

20 A. I had never saw him. And I had never seen ---

21 Q. That's not what I'm asking you. Listen to my
22 question. You've reviewed the statement. This is your
23 statement; correct?

24 A. Yes. When he kept saying ---

25 Q. Okay.

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1 A. When he kept crying.

2 Q. Okay. Yes. Now, when you made this statement, the
3 police had picked you up from the temporary agency, ---

4 A. Yes.

5 Q. --- the Labor Ready, I think you said?

6 A. Yes.

7 Q. Okay. And they took you to the station; didn't
8 they?

9 A. Yes.

10 Q. And you talked to Investigator Miller?

11 A. Yes.

12 Q. And you wanted to help Investigator Miller?

13 A. Yes. I wanted to help, yes.

14 Q. All right. And you gave this statement. And in
15 your statement you try to be as accurate as possible?

16 A. Yes. I'm only human.

17 Q. You gave this statement when things were fresh on
18 your mind?

19 A. Yes.

20 Q. Okay. And you tried to give that -- Investigator
21 Miller as full and complete information as you could.
22 Isn't that correct?

23 A. Yes. Yes.

24 Q. Okay. And you've reviewed the statement. You even
25 initialed, initialed the paragraphs; didn't you?

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1 A. Yes.

2 Q. All right. And up at the top it says, I attended
3 high school at East St. Louis Senior High located in East
4 St. Louis, Illinois; correct?

5 A. Yes, yes.

6 Q. I completed high school up to twelfth grade, but I
7 did not graduate?

8 A. Yes.

9 Q. And it also says, I can read and write?

10 A. Yes.

11 Q. All right. And when you were done giving your
12 statement to the investigator, you signed it; didn't you?

13 A. Yes.

14 Q. Okay. And you just testified on direct examination
15 with Ms. Adams that everything in this statement was true
16 and correct and accurate?

17 A. Yes.

18 Q. Okay. Now, I'm going to direct your attention to
19 page two of your statement, line nineteen. And it
20 actually starts -- and I just want you to read it to
21 yourself. It's the second paragraph. I want you to read
22 that last paragraph to yourself.

23 A. Okay.

24 Q. Have you read it?

25 A. Uh-huh (affirmative).

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1 Q. Okay. And it says, then last night, Thursday, June
2 the 18th, 2009, around nine-thirty P.M. or so, the
3 sheriff's office deputies came around to where we sleep
4 and were showing pictures of the guy and were asking if
5 we knew the guy. Isn't that what your statement says?

6 A. No, but they didn't show me no pictures. I didn't
7 see no pictures. I didn't see no pictures.

8 Q. Is that what your statement says, sir?

9 A. Yeah, but I didn't see no pictures. I didn't.

10 Q. Okay. Is that what your statement says?

11 A. Yeah.

12 MS. ADAMS: Objection, Your Honor.

13 A. But I didn't see no pictures.

14 THE COURT: Wait, wait, wait just a minute.

15 Wait just a minute.

16 THE WITNESS: Yeah.

17 THE COURT: This court reporter can only take
18 one person talking at a time.

19 THE WITNESS: Okay.

20 THE COURT: When the Solicitor's talking, when
21 the lawyer's talking and when you're talking, it's
22 impossible for her to get everything down. She needs to
23 protect the record.

24 THE WITNESS: All right.

25 THE COURT: You let the lawyer ask the

1 question. You give the answer. Then let her ask the
2 question.

3 THE WITNESS: Okay.

4 THE COURT: And you give the answer.

5 THE WITNESS: Okay.

6 THE COURT: And she's going to do the same for
7 you. She's going to make sure you get to fully answer
8 your -- give your answer before she asks her next
9 question.

10 THE WITNESS: Okay.

11 Q. This statement says, sheriff deputies came around to
12 where we sleep and were showing pictures of the guy.
13 Isn't that what this statement says?

14 A. Yes.

15 Q. And then it also says, they didn't tell us what he
16 did so at first I didn't really look at the picture. It
17 says that too; doesn't it?

18 A. Yes.

19 Q. Okay. And then on down a few lines, that's when you
20 told the guy at Labor Finders the next day, that the guy
21 that the sheriff's office was looking for last night was
22 the same guy that I talked to last week. Isn't that what
23 your statement says?

24 A. No. Uh-uh (negative), no. No.

25 Q. Sir, all right. I'll hand it to you again. I want

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1 you to read that last paragraph to yourself.

2 A. Like I said, they didn't show me the pictures. I'm
3 not from here. They didn't show them to me.

4 Q. It says, your statement says, they showed us
5 pictures of the guy.

6 A. Yeah, us, but not me.

7 Q. Okay.

8 A. Not me.

9 Q. So what's in this statement is not true?

10 A. Yeah. No. They didn't show them to me.

11 Q. It says, sir, at first I didn't really look at the
12 pictures.

13 MS. ADAMS: Asked and answered, Your Honor.

14 THE COURT: What's your objection?

15 MS. ADAMS: I don't know how many ways he can
16 answer her question.

17 THE COURT: I'll allow her to cross-examine.

18 Q. It says in this statement, at first I didn't really
19 look at the picture; doesn't it?

20 A. Like I said, they didn't show them to me.

21 Q. I'm just asking you if this is what your statement
22 says?

23 A. Yeah. But they didn't show them to me.

24 Q. Okay. But it says in here, at first, I didn't
25 really look at the pictures. At first; doesn't it, sir?

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- 1 A. I never looked at the picture at all.
- 2 Q. I'm just asking you if your statement says what I
- 3 just said.
- 4 A. Okay.
- 5 Q. Does it?
- 6 A. Yes, it says that.
- 7 Q. Okay. All right. And you signed your statement;
- 8 didn't you?
- 9 A. Yeah, I signed it.
- 10 Q. Okay. And it also says that you told the guy at
- 11 Labor Finders that the same -- that the guy that they
- 12 were showing pictures of the night before, is the same
- 13 guy that you talked to a week prior. Doesn't your
- 14 statement say that?
- 15 A. Yes.
- 16 Q. All right. And you said that you talked to Mr.
- 17 Hayes on June the 9th?
- 18 A. Yeah. About an hour. Yes, I did.
- 19 Q. I missed that. Say that again?
- 20 A. About a whole hour I talked to him.
- 21 Q. Okay. And after your hour, you told him how to get
- 22 a sandwich?
- 23 A. I went to the church, yes.
- 24 Q. You told him how to get a sandwich?
- 25 A. Yeah, he -- I guess he already knew anyway.

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1 Q. And then ---

2 A. And I went up there. I went to the church and he
3 was there.

4 Q. Did you tell him to get a sandwich, yes or no?

5 A. I said, man, since, you know, you got a bus ticket,
6 they'll help you get some food.

7 Q. Okay. All right. And then you told him good luck;
8 didn't you?

9 A. Yeah. Good luck.

10 Q. All right.

11 A. On your trip.

12 Q. And you knew what time the bus left and everything
13 because you said ---

14 A. Well, he told me.

15 Q. Right.

16 A. Yes.

17 Q. According to you, he told you?

18 A. Yeah. Yeah. He told me.

19 Q. So you knew what time the man was leaving town.

20 Someone that confessed to murder to you, you knew he's
21 leaving town?

22 A. Well, like I said, he said, but you ain't never
23 killed nobody.

24 Q. No. I'm not talking about that. I'm just asking
25 you -- according to you, Mr. Hayes told you what time he

1 was leaving town?

2 A. He said -- I said, what time your bus leave? He
3 said, my bus leave at nine forty-five, somewhere around
4 that time.

5 Q. And you never called the police?

6 A. Never. Never.

7 Q. Never called the police that day?

8 A. No, no, I did not. I went on with my homeless life
9 what I was, you know, doing.

10 Q. And you had -- you could have gone -- let's see,
11 down in that area, you were right at the Labor Finders.
12 You could have used their phone, couldn't you?

13 A. Wasn't no Labor Finders open on Sunday. That was on
14 a Sunday.

15 Q. Could you have gone -- you're right down Main
16 Street. Could you have gone to -- there are a number of
17 shops down there, and made a phone call.

18 A. I didn't do that. I didn't do that.

19 Q. You didn't do that; did you?

20 A. I didn't. I didn't think of ---

21 Q. Did you go to the Museum?

22 A. No. No.

23 Q. Did you go to the Triune Mercy Center?

24 A. I went and ate because I was hungry that day.

25 Q. A man confesses murder to you, allegedly, according

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- 1 to you, and you're concerned about eating?
- 2 A. Yes. I'm homeless. Tired.
- 3 Q. And finding a place to stay?
- 4 A. I want to find somewhere to lay my head that night.
- 5 Q. Okay. And then when the police came to your shelter
- 6 nine days later on the 18th ---
- 7 A. They didn't come to my shelter.
- 8 Q. --- showing you pictures.
- 9 A. They didn't come to my shelter. I laid outside.
- 10 Q. Okay. I'm going to hand you your statement again.
- 11 We're going to review the same paragraph, second
- 12 paragraph. Read that to yourself, please, silently.
- 13 A. What, the bottom line or what?
- 14 Q. The last paragraph?
- 15 A. Oh, okay. Okay. Yeah, I signed it.
- 16 Q. It says they came to your shelter?
- 17 A. No, no, uh-uh (negative). I slept outside. So if
- 18 you want to call it a shelter, it's a shelter then.
- 19 Q. All right. So they came to where you sleep?
- 20 A. Yes.
- 21 Q. All right. Okay. And they asked you questions?
- 22 Asked you if you'd seen anybody?
- 23 A. Well, they talked to most the guys, you know, we was
- 24 all -- we was laying down there by the Salvation Army, I
- 25 remember.

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1 Q. They were asking for information?

2 A. The Salvation Army. And we thought they was going
3 to come tell us to move. And they start showing
4 pictures. I'm not from here. They didn't showed me
5 nothing. They didn't show me no picture. I don't know
6 nobody here. They didn't show me ---

7 Q. And you didn't tell them anything; did you?

8 A. No, they didn't show me no pictures. They didn't
9 show me no picture at all.

10 Q. But it says here in your statement that at first you
11 didn't look at a picture. That's what it says?

12 A. They didn't show me no pictures. They didn't show
13 me no pictures.

14 Q. But it says in your statement, at first, you didn't
15 look at the pictures?

16 A. Well, they ain't showed me no picture.

17 Q. And then it says that you told the guy at Labor
18 Finders that the guy the sheriff's office was looking for
19 last night when the cops came to where we sleep was the
20 same guy that I talked to last week?

21 A. They didn't show me no pictures.

22 Q. But you would agree that your statement says, at
23 first?

24 A. Like I said, ma'am, ---

25 Q. At first, I didn't look at the picture?

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1 A. --- they didn't show me no picture.

2 Q. And you didn't tell the police anything either?

3 A. What you mean?

4 Q. On the 18th. You didn't tell them anything?

5 A. What you talking about?

6 Q. When the police came to where you were sleeping, you
7 didn't tell them anything?

8 A. No.

9 Q. That was your second chance to tell the police about
10 what somebody -- some confession somebody had given you
11 the week before?

12 A. Well, like I said earlier, peoples was talking about
13 it at the labor hall, at the labor hall. And they was
14 telling me how this young lady got killed, then I
15 remember me talking to him. So that's when I decided to
16 go and tell somebody to call. That's when.

17 Q. Didn't say anything to the police on the 9th?

18 A. No, I ain't -- no.

19 Q. Didn't say anything to the police when they came ---

20 A. No.

21 Q. --- to where you sleep?

22 A. No. No, because I hadn't talked to him.

23 Q. And you said that June the 9th when you first had
24 this conversation with Mr. Hayes was a Sunday. Look at
25 the first line on your statement. What day does that

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1 say?

2 A. Well, that's when they feed. They feed sometime on
3 Saturday and Sunday. Listen, ---

4 Q. What day does it say? That's my question. It
5 doesn't say Sunday; does it?

6 A. The date, on the 19th. Right there.

7 Q. No. I'm sorry. Right there. That first line right
8 there. The line with your initials by it.

9 A. June the 9th. June the 9th.

10 Q. That you initialed?

11 A. June the 9th.

12 Q. What day? Was it Sunday?

13 A. Tuesday.

14 Q. Thank you. So, again, you didn't talk -- you heard
15 this confession. You don't tell anybody at Labor Finders
16 to call the police for you; do you, ---

17 A. No.

18 Q. --- not on the 9th? Okay. Now, after the police
19 came to where you sleep, there was a lot of talk about
20 the case; wasn't there?

21 A. What you mean?

22 Q. You heard rumors?

23 A. Yes. Yes.

24 Q. Okay. Everybody's talking about the case?

25 A. The ones that's from here, yeah.

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1 Q. And the next day, everybody's still talking about
2 the case; aren't they?

3 A. Talking about it, because they knew her. I didn't
4 know her.

5 Q. They were talking about who she was, her name?

6 A. Yes.

7 Q. Where it happened?

8 A. No, they didn't say where it happened. They just
9 said that -- how she got killed and they knew her.

10 Q. What happened?

11 A. Yeah.

12 Q. Okay. And after you talk about the case, that's
13 when you call Labor Finders, ten days later?

14 A. Well, like I said, that's when I heard all them
15 talking about they knew her and how nice she was. And
16 then I start -- then I remembered me talking to him and
17 what he told me. And I put two and two -- I said, you
18 know, what, I've got to do something about this because
19 I talked to this guy and he used to go with her, he said.
20 So I decided to tell this man to call the police for me.

21 Q. And after all this talk, that's when you called the
22 police?

23 A. Well, he called. I didn't call. He called them for
24 me.

25 Q. He called them because you asked him to?

1 A. Yes.

2 Q. And the police showed you the lineup?

3 A. After we got through talking for a while, yes.

4 Q. And you saw the same picture that you'd seen the
5 night before?

6 A. The same -- no. No. I saw the same guy who I saw
7 in the back of Able Body.

8 Q. You and I agree your statement says something
9 different; doesn't it?

10 A. Well, like I said, when they showed me the pictures,
11 I remember him when I'm talking to him in the back of
12 Able Body. That's when the second time I saw him.

13 MS. ADAMS: Your Honor, again, I renew my
14 objection. This question has been answered ---

15 THE COURT: Overruled.

16 MS. ADAMS: --- twenty times, at least.

17 THE COURT: Overruled. I'll allow her to
18 cross-examine the witness.

19 Q. So the part in your statement that says you didn't
20 look at the picture at first when the police came to
21 where you sleep, that's not true?

22 A. Like I said ---

23 Q. Just yes or no, sir?

24 A. Well, like I said, the only time I saw a picture
25 when I went down to the office, and they showed me these

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1 pictures and I pointed him out. That's the guy who I
2 talked to who said, I fucked up and you ain't never
3 killed nobody.

4 Q. Once again, the part in your statement that says, at
5 first I didn't look at this picture. That's incorrect?

6 A. Once again, I didn't look at no pictures that night.

7 Q. Now, when you had the man at Labor Finders call the
8 police for you, did you expect any kind of reward from
9 the police?

10 A. No. No. I'm doing the Godly thing to do. That's a
11 Godly thing to do, because like I was saying, when people
12 was telling me how she got killed and he said that how he
13 found her, it was a Godly thing to do.

14 Q. They paid for your transportation down here?

15 A. Yes, they did.

16 Q. And they paid for you to have a place to stay while
17 you're here?

18 A. Yes.

19 Q. And your meals?

20 A. Yes.

21 Q. Okay. And all that moving around that you did, all
22 the traveling that you say you did, does that have
23 anything to do with the times where you smoked up your
24 check that you say you talked to Mr. Hayes about?

25 A. Yes. Like I said, I said, yeah, I'm fucked up, too.

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1 Q. And that includes smoking up your check?

2 A. Yes. Yes.

3 Q. So you ---

4 A. Yeah. I ain't going to lie about it. Yeah, yeah.

5 I'm not perfect.

6 Q. You've done some drugs in the past?

7 A. Yes. Yes.

8 Q. Okay. All right. And while you were having

9 problems smoking up your check is when you actually stole
10 your own brother's check?

11 A. Yes.

12 Q. Put your name on the back of it or signed his name
13 on the back of it?

14 A. But what does it have to do with this?

15 Q. I'm ---

16 A. My brother's dead now. So don't do that.

17 Q. I'm just asking. You brought it up on direct ---

18 A. Yeah.

19 Q. --- so I'm asking you questions about it.

20 A. Yeah. I brought it up to him when I was talking to
21 him that day.

22 Q. Signed his name on the back of the check?

23 A. Yes.

24 Q. Took it to the bank?

25 A. I got it cashed.

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1 Q. Lied about who you were?

2 A. Well, that's -- you know, this ain't got nothing to
3 do with this case right here.

4 Q. But you're here -- you say you were brought up to do
5 the right thing?

6 A. Yes. I make mistakes.

7 Q. And you say it took you three seconds ---

8 A. Three seconds.

9 Q. --- to look at this? But ten days to call the
10 police?

11 A. Well ---

12 Q. Isn't that right, sir?

13 A. Well, like I said, like I said, everybody was
14 talking about it, and they knew her, and how nice she
15 was. So, you know, the good Lord touched my heart and
16 said go do this and I did it.

17 MS. HORLBECK: I've got nothing else for this
18 witness.

19 **REDIRECT EXAMINATION**

20 **BY MS. ADAMS:**

21 Q. Mr. White, just a few questions.

22 A. Okay.

23 Q. I'm not going to keep asking you about seeing that
24 picture.

25 A. Okay.

1 Q. Can you explain why it would have been put in the
2 statement that you -- at first, I didn't really look at
3 the picture? What did you mean by that?

4 A. I, look, I really don't know. Because, like I said,
5 my -- I had a bad situation, too. Homeless, away from
6 home, thinking about going home and everything. Then I
7 have never done anything like this, never in my life, to
8 go make a statement about nobody getting killed.

9 Q. Okay. But were you saying that you looked at the
10 picture or half-way looked at the picture or anything
11 like that?

12 A. I didn't look -- they didn't show them to me.

13 Q. Okay.

14 A. Because like I say, I'm not from here.

15 Q. Okay.

16 A. If they would have showed -- I don't know him.

17 Q. All right. She talked to you, she asked you about
18 stealing or using your brother's check. You felt bad
19 about that?

20 A. Oh, Lord. You know what, the good Lord punished me.
21 I could have died. I got stabbed twice. But God work in
22 mysterious ways and I guess that was part of my
23 punishment for what I had done to my brother. I never
24 got a chance to even to tell my brother I was sorry
25 because he died. He was on dialysis. And I called them,

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1 I said, tell my brother Lewis, I'm sorry what I did. I'm
2 sorry. So I never got a chance to tell him that one day
3 I'm going to come back home and give him all that money
4 back, what I stole from him. I never got the chance.

5 Q. And because you felt so bad about it, is that why
6 you shared that with Ralph Hayes?

7 A. Yes. I told him. I said, we all -- I fucked up
8 bad, man. I stole my brother's check and cashed it.

9 Q. Have you lied about anything that you've said ---

10 A. Nothing.

11 Q. --- in this courtroom today?

12 A. Nothing. Nothing. Nothing.

13 Q. Okay.

14 A. The words he told me that day, I'll never forget as
15 long as I live. And my hand on this Bible, they did not
16 show me no pictures. I didn't see them, not me. I
17 didn't see no pictures. Until I saw him that day and I
18 talked to him and when the officer showed me them
19 pictures, when they told me to look it and see if this is
20 the same who talked to you that day, that's the only time
21 I saw a picture. And I put my hand on this Bible right
22 here.

23 Q. She asked you about benefits. Prior to your trip
24 here, has anybody paid you to testify?

25 A. No, no.

1 Q. Have you received any other kind of benefits,
2 financial or otherwise?

3 A. None, none.

4 Q. For getting involved in this?

5 A. None.

6 MS. ADAMS: Your Honor, the State would move
7 for this statement, which is Defendant's Exhibit Number
8 1, to be admitted into evidence. It's been relied upon
9 so greatly by the Defense.

10 THE COURT: Any objection?

11 MS. HORLBECK: Your Honor, I would object under
12 the best evidence rule.

13 THE COURT: All right. I sustain the
14 objection.

15 Q. And you've told the absolute truth?

16 A. On my two brothers, on my two dead brothers' grave.

17 Q. I'm going to have you read this statement.

18 A. And the Bible.

19 Q. I don't want any -- anything out of context. I want
20 you to read it from the beginning to the end.

21 THE COURT: Let's take a short break, ladies
22 and gentlemen. I think you might want a break before we
23 have this read into the record. Don't discuss the case
24 while you're back. We'll be able to finish up in a
25 little bit. Let's take a short break. Go back to your

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1 MS. ADAMS: No. I misunderstood. I thought
2 you were saying that was still going to be a problem,
3 even with the original.

4 THE COURT: No. I don't think there's -- is
5 there an objection made to the fact that he's reading the
6 copy? I know there was an objection made that they're
7 going to be -- I'm going to allow them to ask questions
8 about the statement in redirect, such as you asked on
9 cross-examination.

10 MS. HORLBECK: Is he reading it in?

11 MS. ADAMS: Your Honor, we can bring the jury
12 in.

13 THE COURT: Okay. Let's have our jury come
14 back if they're ready.

15 MS. ADAMS: I'll try to speed it up a little
16 bit.

17 (WHEREUPON, the jury entered the open court at
18 approximately 5:00 P.M.)

19 THE COURT: All right. Ms. Adams, you may
20 continue your redirect.

21 MS. ADAMS: Thank you, Your Honor.

22 **REDIRECT EXAMINATION CONTINUED**

23 **BY MS. ADAMS:**

24 Q. Okay. Mr. White, we're going to go over your
25 statement in its entirety. I'm going to read the

1 statement and ask you if it's true. And this is a
2 statement that was give on June 19th of 2009.

3 A. Okay.

4 Q. I am fifty-one years of age and reside at so and so.
5 I'm not under the influence of drugs or alcohol. I know
6 what I'm doing and saying. I attended high school at
7 East St. Louis High, completed high school up until
8 twelfth grade, 1976, but did not graduate. I can read
9 and write. I am allowing Deputy Mitchell to type my
10 statement for me. Is that true?

11 A. Yes.

12 Q. I have been living in Greenville, South Carolina for
13 about a month and four days. I came up here on a
14 Greyhound Bus from Atlanta, Georgia, because there was
15 too many homeless people down there. I also used to live
16 here, back in 2005 for a while. Since I have been back,
17 I've been trying to find work at either Labor Finders,
18 Able Body Labor, or Labor Ready, over near Washington
19 Street.

20 A. Uh-huh (affirmative).

21 Q. Is that true?

22 A. Yes.

23 Q. Last Tuesday, June 9th, 2009, some time after two
24 o'clock P.M., I was at the Able Body Labor at 47 Pete
25 Hollis Boulevard in Greenville, South Carolina, phone

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1 number 864-233-2661. That's when I noticed this black
2 guy. He said he was fifty-one years of age. He had a
3 bald head, but he had a little hair on the sides, which
4 was greyish. He had a little hair on his chin that was
5 greyish, too, kind of like he hadn't shaved in a while.
6 He was wearing long pants, I think. The bag -- they were
7 light brown in color. I don't remember his shirt color,
8 but he was wearing a dark blue ball cap. He was carrying
9 a small green bag. The bag was cloth and kind of light
10 green color with two handles. And I think that it had
11 white letters on the outside. I don't know what was
12 inside of the bag. He didn't tell me his name, but he
13 was sitting down and crying. I asked him, why you crying
14 like that? He said, man, I done fucked up. I fucked up,
15 man. Is that true?

16 A. Yes.

17 Q. He said it about four or five times. He also said,
18 I done fucked up so bad, that God won't forgive me for
19 what I've done. I'm going to kill myself. I told him,
20 don't kill himself, that it couldn't be so bad that God
21 couldn't work it out for you. I said, what did you do?
22 Did you smoke your check up? Did you smoke your money
23 up? I told him that we've all smoked our money away,
24 man. He said, I've done something worse than that, man.
25 I fucked up worse than that. I told him that I ..

1 understood why he was crying because I had cashed my
2 brother's check before, and I cried for a month after
3 that. That's when he said, yeah, but you ain't never
4 killed anybody.

5 A. Uh-huh (affirmative).

6 Q. Is that true, Mr. White?

7 A. Yes. Yes.

8 Q. I said, yeah, but I have fucked up in life. I asked
9 him what he was going to do? And he said that he was
10 leaving town. I asked him where he was going to go and
11 he told me he was going to his sister's house in
12 Kentucky. I asked him where in Kentucky he was going to
13 and he got mad and told me he wasn't going to tell me.
14 Is that true, Mr. White?

15 A. Yes.

16 Q. He told me he was leaving on a Greyhound bus that
17 night, Tuesday, at nine forty-five P.M. And he showed me
18 the tickets, but I couldn't see the destination or time.
19 But I definitely saw the Greyhound symbol. It was
20 definitely a bus ticket. He said that he was going to
21 tell his sister in Kentucky what he had done, and that he
22 had fucked up real bad.

23 MS. HORLBECK: Objection.

24 Q. Is that true, Mr. White?

25 THE COURT: Wait. Hang on just a minute.

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1 MS. HORLBECK: I'm sorry. I think I just have
2 a matter that we need to -- it's not on this page. It's
3 about something that's to come, and I thought -- if I
4 need to bring this to the Court's attention it would be
5 better to do it now.

6 THE COURT: All right. Why don't y'all come
7 here, if you could, and let's see if we can do it on a
8 bench conference.

9 (WHEREUPON, Ms. Adams and Ms. Horlbeck approached
10 the bar.)

11 THE COURT: Ladies and gentlemen, I believe
12 we're almost completed with this witness. There's one
13 matter of law I need to take care of briefly. I
14 understand the time restraints that some of us have.
15 We'll be out of here soon. I'm going to ask you to go
16 back to your jury room just briefly. Don't discuss the
17 case while we resolve this brief legal issue. We'll call
18 you right back.

19 (WHEREUPON, the jury exited the open court at
20 approximately 5:07 P.M.)

21 THE COURT: All right. Ms. Horlbeck.

22 MS. HORLBECK: Judge, my objection is that on
23 page two of the -- Mr. White's statement, there is a line
24 that talks about information of a past beating on Ms.
25 Alexander. And in accordance with the Court's ruling, I

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1 would ask that that not be read.

2 Now, I'm sure the State's going to claim that we
3 opened the door. My recollection of Ms. Johnson's
4 questioning of Ms. Ashmore -- is that her name? --- was,
5 I believe she asked her about prior -- knowledge of Ms.
6 Alexander's prior drug activity. And then I think Ms.
7 Ashmore blurted out some responses that were not
8 solicited. So our position is we've not opened the door
9 to any prior bad act evidence and we would ask that that
10 line -- and it's actually on page two, line -- if Your
11 Honor will just give me a second to count -- line twelve
12 through thirteen on page two of Mr. White's statement.

13 THE COURT: All right. What's the State's
14 position, Ms. Adams?

15 MS. ADAMS: Your Honor, the statement to which
16 Ms. Horlbeck is referring to, yes, he says that the
17 girlfriend had accused him in the past of beating her.
18 He doesn't make -- this is not an admission or anything
19 like that. He just stated that he'd been accused of this
20 at one time. He didn't -- he does not admit to beating
21 her, so it's harmless.

22 MS. HORLBECK: Well, Judge, certainly if a
23 prior conviction can't come in, then I would say that
24 something less than that, which is an accusation, should
25 not come in at all, Judge. And there we have the whole

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1 clear and convincing standard that has to be met.

2 THE COURT: Is that one sentence that ---

3 MS. HORLBECK: Yes, sir.

4 MS. ADAMS: It's one sentence.

5 THE COURT: --- beating her and then he was
6 arrested on his job or something?

7 MS. HORLBECK: Yes, sir.

8 THE COURT: That's all in one sentence?

9 MS. HORLBECK: Yes, sir.

10 THE COURT: All right.

11 MS. ADAMS: And, Your Honor, the way we look at
12 it, I mean, this was his explanation for why he was
13 leaving town.

14 THE COURT: I'll grant your motion to redact
15 that sentence, Ms. Horlbeck.

16 MS. HORLBECK: Thank you.

17 THE COURT: If you'll just not read that
18 portion when you go through the narration, Ms. Adams. I
19 think the prejudicial effect would outweigh the probative
20 value there and could cause confusion of the jury based
21 on the testimony of Ms. Ashmore.

22 All right. Let's have our jury come back if they're
23 ready.

24 (WHEREUPON, the jury entered the open court at
25 approximately 5:12 P.M.)

1 THE COURT: All right. You may continue.

2 MS. ADAMS: Thank you, Your Honor.

3 REDIRECT EXAMINATION CONTINUED

4 BY MS. ADAMS:

5 Q. And I'm picking up where I left off. After he told
6 me he was going to tell his sister about what he had
7 done, he kept on crying. He said that he went home to
8 his apartment and found his girlfriend stabbed a lot of
9 times, and that her panties were down. I said, who do
10 you think did it, man? He said, the dope boy done it. I
11 asked him how he knew the dope boy done it. He said that
12 she owed the dope boy money and that her mama or her
13 mother had bailed her out before. Is that true, Mr.
14 White?

15 A. Yes.

16 Q. He said that he told her before to stop getting dope
17 on credit from the dope boy. He said that she ran out of
18 -- that he ran out of the house after he found her. I
19 asked him why did he run out of the house. And he said
20 that they're going to think I did it. I asked him why
21 did he leave her there if he loved her? He said, I done
22 fucked up. Is that true, Mr. White?

23 A. Yes.

24 Q. I asked him how long did he think she had been
25 there? And he said maybe a couple of days. I said, man,

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1 you better tell somebody because she's going to be
2 stinking, man. I told him that he needed to tell someone
3 because it would hurt her mama if she found her daughter
4 like that. True?

5 A. Yes.

6 Q. Then he said, I fucked up man, and I got to go.
7 That's when he went down to the ABC store and got a beer,
8 I think. I went over to the church down the street, it's
9 called Triune, I think. He came back to the church and I
10 told him that if he showed his bus ticket to the church
11 people, that they would give him some food to ride with.
12 And I told him good luck. At some point during the
13 conversation, he told me he was from Newark, New Jersey
14 and that he had been in Greenville for a couple of years.
15 The whole time I was talking to him, I could tell that he
16 was hurting inside, emotionally. And I thought it was
17 strange that he was crying so hard because he was a grown
18 man. Before he left I told him good luck. And then he
19 said for me not to tell anyone about what we had talked
20 about and where he said he was going. Then last night,
21 Thursday, June the 28th, 2009, around nine-thirty P.M. or
22 so, the sheriff's office deputies came around to where we
23 sleep at and was showing pictures of the guy and were
24 asking if we knew the guy. Is that true?

25 A. Yes.

1 Q. They didn't tell us what he did, so at first, I
2 didn't really look at the picture. There was some rumors
3 that the guy had just stole some checks but nobody knew
4 for sure. Then this morning, they were telling me that
5 the guy had stabbed his girlfriend a bunch of times. And
6 that's when I told the guy at Labor Finders that the guy
7 that the sheriff's office was looking for last night was
8 the same guy that last week had told me about his
9 girlfriend being dead, and that he had fucked up. Then
10 an investigator had come and picked me up, picked me up
11 to take me to the sheriff's office so I could give this
12 statement. The guy that told me about finding his
13 girlfriend stabbed to death and that he had fucked up, is
14 the same guy I picked out of the photo lineup that
15 Investigator Miller showed me. This statement is true
16 and I allowed Deputy Mitchell to type this for me, the
17 statement. Is all of that true?

18 A. Yes.

19 MS. ADAMS: That's all from this witness, Your
20 Honor.

21 THE COURT: All right. Thank you. Mr. White,
22 you may step down.

23 Ladies and gentlemen, we've reached a good time to
24 break for the day. I remind you again not to discuss the
25 case with anyone tonight while you're out and about with

1 **ASHLEIGH SWANSON,**

2 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

3 **DIRECT EXAMINATION**

4 **BY MS. MUNSON:**

5 Q. Who do you work for, ma'am?

6 A. Greenville County Sheriff's Office.

7 Q. How long have you been with the sheriff's office?

8 A. Just under four years.

9 Q. What is your job title?

10 A. I'm a Deputy II.

11 Q. And what are your duties?

12 A. I answer 9-1-1 calls, calls for service.

13 Q. All right. Were you with the sheriff's office in
14 June of 2009?

15 A. Yes, ma'am.

16 Q. And did you get a call in reference to this case?

17 A. Yes, ma'am.

18 Q. About what time did you get the call?

19 A. I arrived on scene just after nine P.M.

20 Q. Okay. And where did you go?

21 A. I responded to [REDACTED] [REDACTED] which
22 is in Greenville County, South Carolina.

23 Q. Okay. Is this area, is it homes, is it apartments?

24 What kind of area is it?

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1 A. They're two-story apartments. They're like town
2 homes, yes, ma'am.

3 Q. Okay. When you got to the scene, were you in
4 uniform, marked car?

5 A. Yes, ma'am. I looked like this, except I had on
6 short sleeves on.

7 Q. Okay. Was anybody with you?

8 A. Yes, sir. Or yes, ma'am. I was in training at the
9 time. My training officer was there and several other
10 deputies responded.

11 Q. Okay. When you first got to the scene, were there
12 any other emergency personnel there?

13 A. Yes, ma'am. The fire department was already there.

14 Q. Okay. Had anyone gone -- any of the emergency
15 personnel gone in?

16 A. The fire department did, EMS did not.

17 Q. All right. Were there any other law enforcement
18 officers there when you got there?

19 A. No, ma'am.

20 Q. Okay. Now, you say you were in training. What was
21 the purpose of having the other officer with you?

22 A. To supervise, to prevent destruction of evidence, to
23 teach me, so I could respond to other situations like
24 this.

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1 Q. Okay. And when you went into the apartment, what
2 did you find?

3 A. I found the victim deceased, upstairs in her
4 bathroom.

5 Q. Okay. And what condition was she?

6 A. She was deceased. She -- her clothing had been
7 pulled down below her waist, so she was partially naked.
8 There was blood and a strong odor coming from the area.

9 Q. Okay. When did you notice the odor?

10 A. Immediately before, I believe, I walked in the front
11 door, a very distinguishable smell. I won't ever forget
12 that smell.

13 Q. Okay. What were your duties on scene?

14 A. To preserve the crime scene, to speak with the
15 initial witnesses, the people that had already responded,
16 and to figure out what their duties were and what they
17 had already done at the scene.

18 Q. Okay. Did you collect any evidence?

19 A. No, ma'am.

20 Q. How long were you on the scene?

21 A. I was on scene from nine-oh-three P.M. to one forty-
22 five A.M.

23 Q. Okay. Deputy Swanson, I'm showing you State's
24 Exhibit Number 56. If you could take a look at that. Do

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1 you recognize it?

2 A. Yes, ma'am. These are the apartments where I
3 responded to.

4 Q. Okay. Is that a true and accurate depiction of
5 where you responded on that date?

6 A. Yes, ma'am.

7 Q. All right.

8 MS. MUNSON: Your Honor, at this time, I move
9 State's 56 into evidence.

10 THE COURT: Any objection?

11 MS. JOHNSON: No, Your Honor.

12 THE COURT: Without objection, Exhibit 56 is
13 into evidence and may be published.

14 (WHEREUPON, State Exhibit Number 56 was admitted
15 into evidence.)

16 Q. All right. Deputy Swanson, if you could just take a
17 look at State's Exhibit Number 56. What does this show?

18 A. This is an overhead view of the apartments and the
19 victim's apartment is in this area right here.

20 MS. MUNSON: Madam Bailiff, maybe we could have
21 the lights ---

22 MADAM BAILIFF: You want me to put one of them
23 back on?

24 MS. MUNSON: Yes, ma'am. Thank you. There we
25 go. Okay.

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1 Q. Now, the victim's apartment is in what area?

2 A. This area right here.

3 Q. What is the closest main road to what's depicted on
4 State's 56? Do you remember?

5 A. I don't remember the exact road. I know it's near
6 the intersection of Rutherford and North Pleasantburg.

7 Q. Okay.

8 MS. MUNSON: I have nothing further, Your
9 Honor.

10 MS. JOHNSON: May it please the Court?

11 THE COURT: Yes, ma'am.

12 **CROSS-EXAMINATION**

13 **BY MS. JOHNSON:**

14 Q. Officer Swanson, you first responded to the scene?

15 A. Yes, ma'am.

16 Q. Okay. You were the first one there?

17 A. Yes, ma'am.

18 Q. Okay. And Wade Hampton Fire Department came?

19 A. Yes, ma'am. They were the first -- I was first from
20 the sheriff's office, but they were there before me.

21 Q. Okay. EMS was also there?

22 A. Yes, they did not enter the residence though.

23 Q. Okay. And the coroner was also there?

24 A. Yes, ma'am. He came after I arrived.

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1 Q. And how many deputies were there?

2 A. It was myself, my training officer, my sergeant,
3 another deputy and, of course, the CID investigator?

4 Q. So is that a total of five deputies or five
5 officers?

6 A. Yes, ma'am.

7 Q. Okay. All right. And so you talked to the
8 witnesses?

9 A. Yes, ma'am.

10 Q. You talked to the family?

11 A. A little bit, yes, ma'am.

12 Q. Okay. And the family told you they hadn't heard
13 from Jackie in a while?

14 A. That's correct.

15 Q. And so you entered the house?

16 A. Yes. To do a welfare check.

17 Q. Okay. And you didn't see any signs of a struggle
18 when you entered?

19 A. No, ma'am.

20 Q. Okay. And it was a relatively clean crime scene,
21 blood wasn't all over the place?

22 A. I don't remember seeing much blood outside the
23 bathroom.

24 Q. Okay. And so you were the first to arrive?

25 A. Yes.

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1 Q. And the last one to leave?

2 A. I believe so.

3 Q. And you secured the scene?

4 A. Yes, ma'am.

5 Q. Okay.

6 MS. JOHNSON: That's all I have.

7 THE COURT: Any redirect?

8 MS. MUNSON: Nothing further, Your Honor. I
9 apologize. Nothing further.

10 THE COURT: Okay. Thank you. You may step
11 down.

12 MS. MUNSON: We'd ask that this witness be
13 excused.

14 THE COURT: Without objection?

15 MS. HORLBECK: Without objection, Your Honor.

16 THE COURT: The witness is excused.

17 MS. MUNSON: Your Honor, the State calls Dr.
18 Michael Ward.

19 THE CLERK: Dr. Ward, if you would come forward
20 to be sworn in, please. Please place your left hand on
21 the bible and raise your right.

22 Do you swear or affirm that the testimony you're
23 about to give is the truth, the whole truth and nothing
24 but the truth, so help you God?

25 THE WITNESS: I do.

1 THE CLERK: Thank you. You may be seated.

2 Would you please state your name for the record.

3 THE WITNESS: Michael Eugene Ward.

4 THE CLERK: Thank you.

5 MICHAEL WARD, M.D.,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MS. MUNSON:

9 Q. Who do you work for, sir?

10 A. I'm employed by Pathology Associates of Greenville
11 and also by Greenville County as the Chief Medical
12 Examiner.

13 Q. All right. How long have you been the Chief Medical
14 Examiner for Greenville County?

15 A. Approximately seventeen years.

16 Q. What are your duties as the chief medical examiner?

17 A. My job is to investigate deaths that occur in
18 Greenville County to determine cause and manner of death.

19 Q. All right. What is your educational background?

20 A. I have a Bachelor's Degree in Biology from the
21 University of Alabama. I received my Master's Degree in
22 Forensic Science from the University of Alabama in
23 Birmingham. My Medical Degree is from the University of
24 South Alabama, which is in Mobile. I did a four-year

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1 Anatomic Pathology Residency at the Medical University of
2 South Carolina in Charleston and a one-year Forensic
3 Fellowship at the University of New Mexico in
4 Albuquerque. I'm Board Certified by the American Board
5 of Pathology in both Anatomic and Forensic Pathology.

6 Q. What is forensic pathology?

7 A. Well, pathology is the study of disease and disease
8 processes and how they affect man. Forensics pathology
9 takes that one step further with disease, but also trauma
10 injuries, interpretation of those injury patterns to
11 determine cause and manner of death. And then to present
12 that information in the judicial process, as we are
13 today.

14 Q. And are you licensed to practice medicine in South
15 Carolina?

16 A. I am.

17 Q. Okay. About how many -- well, first of all, let me
18 back up a little bit. In determining cause and manner of
19 death, what is one of the main tools that you use?

20 A. The most frequently used tool that we use is the
21 autopsy. An autopsy is a detailed physical examination
22 performed on a person after they have died, which entails
23 an external examination as well as an internal
24 examination, looking at injury, injury patterns on the
25 outside, their extension to the inside, as well as a

1 microscopic examination and a toxicological examination
2 of body fluids.

3 Q. All right. How many autopsies would you say you
4 have performed, Dr. Ward?

5 A. Several thousand.

6 Q. All right. Have you ever been qualified as an
7 expert in the field of Forensic Pathology in the courts
8 of South Carolina?

9 A. Yes, I have.

10 Q. Approximately how many times?

11 A. Well over a hundred times.

12 MS. MUNSON: Your Honor, at this time, I offer
13 Dr. Ward as an expert in the field of Forensic Pathology.

14 THE COURT: Any voir dire or any objection?

15 MS. HORLBECK: No objection and no voir dire.

16 THE COURT: All right. Ladies an gentlemen,
17 let me just briefly explain to you about an expert
18 witness. Normally, a person who's called to testify
19 can't give an opinion. They can testify to what they saw
20 or heard or sensed in some way. But there is an
21 exception when someone is qualified because of education
22 or experience. They're permitted to give an opinion in
23 certain areas that they're qualified in and give a basis
24 for that opinion. This expert is qualified in the -- has
25 been qualified in the Science of Forensic Pathology.

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1 Therefore, he will be able to give opinions and the basis
2 thereof. That doesn't mean you must accept the opinion.
3 It's evidence, as all other evidence; you use it any way
4 you see fit.

5 Solicitor, you may continue your examination.

6 MS. MUNSON: Thank you, Your Honor.

7 Q. Now, Dr. Ward, did you perform an autopsy in this
8 case?

9 A. Yes, I did.

10 Q. On what date?

11 A. The autopsy was performed on June 15th, 2009.

12 Q. Now, if a body was located on the 13th of June and
13 autopsied on the 15th, would that two-day delay have any
14 impact at all on your findings?

15 A. It would not. What happened is my interpretation of
16 this is that she was found on a Saturday. We do not
17 perform autopsies on Sunday. So she was held until
18 Monday. Bodies are transported from the scene to the
19 morgue facility, which is at Greenville Memorial
20 Hospital, and placed in a cooler where the bodies are
21 maintained until the next autopsy day, which in this case
22 would have been Monday. She would have been in
23 essentially the same state on Saturday as she was on --
24 Saturday evening as she was Monday morning.

25 Q. Thank you, Doctor. Now, what did you first notice

1 about this body that you performed the autopsy on, on
2 June 15th?

3 A. Well, the -- immediately the first thing you notice
4 is there's a state of decomposition. In that, that Ms.
5 Alexander had begun to autolyze or her tissues had begun
6 to break down. This is evident in the scene photos, the
7 description of the scene with the foul odor, and it was
8 obvious at the autopsy.

9 Q. All right. After examining, just looking at Ms.
10 Alexander's body, what was the next thing you did?

11 A. We documented the clothing that she was wearing, the
12 position of that clothing, then examined the external
13 surface of the body and documented the injuries that were
14 present.

15 Q. All right. What did you find or did you find
16 anything as far as injuries on the outside of Ms.
17 Alexander's body?

18 A. Yes. There were a total of twenty-eight separate
19 and distinct stab wounds to the body; one to the left
20 neck, four to the stomach region, and twenty-three to the
21 left upper and left mid back.

22 Q. All right. Dr. Ward, what is a defensive wound?

23 A. A defensive wound is a wound that's characterized by
24 its location, generally on the hands, sometimes on the
25 forearms or maybe even on the legs or feet, where it

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1 appears that the victim was trying to block a stab wound
2 or ward off a blow, either from a blunt object or in this
3 case from a stab wound. So they receive cuts to the
4 hands, cuts to the back of the hands, to the wrist or
5 sometimes to the feet and legs.

6 Q. All right. With the condition that Ms. Alexander's
7 body was in, would you be able to see if there were any
8 defensive wounds on her?

9 A. Yes, we would.

10 Q. And did you notice any on her?

11 A. There were no defensive type wounds on Ms.
12 Alexander's body.

13 Q. Okay. After the external examination of the body,
14 what was the next thing you did?

15 A. Following external examination, there's an internal
16 examination. So we dissect the body in such a way as to
17 be able to visualize the underlying internal organs,
18 looking for trauma. We're able to dissect the stab wound
19 tracks to see where they go, to estimate their depth and
20 their direction, and to continue the examination to
21 determine cause of death.

22 Q. Do you generally, in an autopsy, perform a sexual
23 assault examination?

24 A. Not in every autopsy, no.

25 Q. Okay. Is this one where you would have performed

1 one?

2 A. I do not recall. I'm sorry. I do not recall.

3 Q. Would the condition of her body have determination
4 on whether or not you would have performed a sexual
5 assault exam?

6 A. We have, on occasion, performed sexual assault exams
7 on bodies that are undergoing early autolysis. Ms.
8 Alexander was in a -- what I would I would consider to be
9 a moderate state of autolysis and a sexual assault
10 examination, in my opinion, would likely have been
11 fruitless.

12 Q. Okay. Now, as far as the internal examination, what
13 did you find of note that's relative to your opinion
14 today?

15 A. That there were stab wounds to the abdomen, which
16 traumatized the left hemidiaphragm, which is the muscle
17 that we use to breathe. And the stomach. There was
18 trauma to the right hemidiaphragm, which, again, is the
19 muscle that we use to breathe on the right side, and the
20 lower lobe of the right lung. There was also a
21 penetrating stab wound to the large intestine.
22 Examination of the back revealed most of the stab wounds,
23 most of the twenty-three stab wounds to the back to be
24 superficial, in that they did not penetrate into the
25 chest cavity. However, seven stab wounds did. Each of

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1 these seven stab wounds penetrated into the back part of
2 the left lung causing trauma to that lung. So she had
3 traumatic injuries to the left lung, seven; the lower
4 lobe of the right lung, one; her stomach, the muscles
5 that she used to breathe; and her large intestine.

6 Q. So how would her body be reacting with trauma to the
7 hemidiaphragm and the lung?

8 A. Stab wounds that traumatize the diaphragm make it
9 difficult for that muscle to contract and so she's not
10 able to create the vacuum that allows us to inhale.
11 Also, anytime a wound penetrates into the pleural cavity
12 or into the cavity where our lungs are, that essentially
13 breaks a vacuum-type seal. And so instead of being able
14 -- when her diaphragm did contract, instead of air coming
15 in through her oral cavity or her mouth, it would suck in
16 through the wounds on her chest. So effectively, Ms.
17 Alexander would have extreme difficulty breathing and she
18 would also be extensively bleeding, primarily on the
19 inside into her pleural cavities.

20 Q. Okay. And what would be the effect of bleeding
21 extensively into her pleural cavities?

22 A. She would be unable to expand her lungs and she
23 would basically die from that.

24 Q. Okay. Did you also perform toxicology?

25 A. We did.

1 Q. And what was the result of that?

2 A. Toxicological examination was performed on Ms.
3 Alexander's liver and the breakdown product of cocaine
4 called benzoylecgonine was identified. And there was
5 also a small amount of ethanol. But the ethanol in this
6 case is most likely as a result of decompositional change
7 as the bacteria break down the glucose, which is in the
8 bloodstream, they also produce a small amount of ethanol.
9 So there was a small amount of ethanol found and the
10 breakdown product of cocaine.

11 Q. All right. Dr. Ward, I'm showing you State's
12 Exhibit Number 3. If you can take a look at that?

13 A. Yes, ma'am.

14 Q. Did you create State's Exhibit Number 3?

15 A. I did.

16 Q. And what was the purpose of that?

17 A. The purpose of State's Exhibit 3 is a demonstrative
18 for the courtroom today. It is a copy of the wounds,
19 which were documented at the time of autopsy on a
20 separate diagram like this.

21 Q. Okay. And does State's Number 3 accurately depict
22 where the stab wounds were on Ms. Alexander's body?

23 A. Yes, they do.

24 Q. Now, Dr. Ward, did -- were also photographs taken of
25 these things?

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1 A. Yes, there were.

2 Q. All right. And how would you characterize those
3 photographs?

4 A. Gory.

5 Q. And will State's Number 3 be helpful to you in your
6 explanation to the jury?

7 A. Absolutely.

8 Q. Okay.

9 MS. MUNSON: Your Honor, at this time, I offer
10 State's 3 into evidence.

11 THE COURT: Any objection?

12 MS. HORLBECK: No objection.

13 THE COURT: Without objection, Exhibit 3 is
14 admitted and may be published.

15 (WHEREUPON, State Exhibit Number 3 was admitted into
16 evidence.)

17 Q. All right. Dr. Ward, here's a laser pointer. That
18 might be a little more helpful. Now, let's talk first on
19 State's Exhibit 3 about the first -- wound number one.

20 A. First of all, I would have to say that the stab
21 wounds are, what we call, arbitrarily numbered. So
22 they're not numbered to indicate the order in which I
23 think they occurred. They are numbered for convenience.
24 So basically, they start in the front and work their way
25 down. And then start in the back and work their way down

1 in their numbering system. So stab wound number one is
2 here, which is in the left anterior neck, or the left
3 front part of the neck. It's a fairly superficial wound
4 in that it only goes into the subcutaneous tissues
5 beneath the skin. It does not traumatize any of the
6 great vessels of the neck. It does not penetrate into
7 the trachea. So this would be a fairly superficial
8 wound. It had a depth of about an inch and a half. And
9 in my opinion, this would be a non-fatal stab wound.

10 Q. All right.

11 A. Stab wound number 2 is present here in the left
12 upper quadrant. So we divide the abdomen into four
13 quadrants based on the belly button here. So this is in
14 the left upper quadrant. This wound penetrates through
15 the skin and the region of the ninth rib, which underlies
16 there, traumatizes the muscular fibers of the left
17 hemidiaphragm and penetrates into the underlying stomach.
18 So it perforates the stomach. It has a depth of
19 approximately four inches.

20 Q. Dr. Ward, I'm sorry. In what direction is that
21 wound, up or down or straight back?

22 A. This stab wound goes from Ms. Alexander's front to
23 her back and very slightly from her left towards the
24 right. So from the outside slightly towards the midline
25 like this.

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1 Q. Okay.

2 A. Stab wound number three is in this region here.

3 This wound penetrates into the underlying abdominal

4 cavity, perforates or goes through the right

5 hemidiaphragm, traumatizes the underlying lobe of the

6 right lung, and penetrates for approximately six inches

7 into the body. It goes from Ms. Alexander's front to her

8 back and very slightly from her left to her right. So

9 very much in this direction here. So this wound is a

10 potentially fatal wound. This wound is a potentially

11 fatal wound. Stab wound number four, in the -- again, in

12 the lower portion of the left upper quadrant of the

13 abdomen, is a stab wound which only perforates or extends

14 into the subcutaneous tissue. So it goes into the skin,

15 into the soft tissue beneath the skin, but does not

16 penetrate into the underlying abdominal cavity. So this

17 would be a non-fatal superficial wound. But it also goes

18 from Ms. Alexander's front to her back and very slightly

19 from her left to her right, but only within the

20 subcutaneous tissues. Stab wound number five in the

21 right lower quadrant of the abdomen is a penetrating stab

22 wound, which goes into the abdominal cavity and

23 traumatizes the underlying large intestine. So it

24 perforated the large intestine, partially spilling

25 intestinal contents into the abdominal cavity. This

1 wound was approximately three and a half inches deep and
2 extended from front to back. And this one went very
3 slightly from right to left, so more towards the midline.
4 So slightly this direction. Those were the stab wounds
5 to the front portion of Ms. Alexander.

6 Q. Now, Dr. Ward, can I ask you a question about the
7 front ones?

8 A. Yes, ma'am.

9 Q. As far as -- how would she be bleeding, would you
10 expect, with these five wounds?

11 A. From each of these stab wounds there's going to be
12 two types of bleeding. There will be bleeding from the
13 skin and from the vessels in the skin. So when you've
14 cut your hand, you know that even though it's not a very
15 deep wound, there is some blood that comes from the skin
16 surface. So it's a trickle type blood. These are a
17 little bit deeper so they may be more than a trickle, but
18 it's not going to be spurting arterial blood. There is
19 no -- there have been no great vessels traumatized. So
20 the stab wound to the neck is not going to spurting
21 arterial blood. But there will be blood oozing from the
22 skin's surface, especially from here. But also from the
23 skin of these stab wounds as well. But most of the
24 hemorrhage or bleeding that occurs from these wounds is
25 going to be inside the body. So there will be blood

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1 accumulating in the right pleural cavity. There will be
2 blood accumulating into the peritoneal cavity from these
3 stab wounds.

4 Q. Okay. Thank you.

5 A. We move to the back. Stab wounds number six through
6 eighteen are all -- are fairly grouped together and are
7 all superficial in their nature, in that they do not
8 penetrate into the underlying pleural cavity. They do
9 not traumatize the spinal cord and they do not sever any
10 great arteries underlying. So they're hitting bone.
11 They're hitting the vertebral column. They're hitting
12 ribs. But they're not penetrating into the chest cavity.
13 Stab wounds numbers nineteen through twenty-eight are
14 slightly lower on the back. And seven of these wounds,
15 so seven out of ten of these wounds, penetrate into the
16 left chest and traumatize the underlying left lung. So,
17 again, making it very difficult for her to create the
18 vacuum that she needs to breathe, as well as allowing
19 blood to accumulate in the left pleural cavity; again,
20 making it extremely difficult for her to expand her lung.
21 So she's bleeding and she's having difficulty breathing,
22 resulting in her death.

23 Q. The wounds up higher on her neck, would any of those
24 be bleeding significantly?

25 A. Oh, certainly. Each one of these wounds is going to

1 bleed from the skin surface. Each and every individual
2 wound is going to bleed just like any other cut that you
3 have to your skin. So each of these wounds is going to
4 bleed and allow external blood. So it will soak her
5 shirt. It will drip onto the floor. The stab wounds to
6 her abdomen very likely got blood on her hands. So if
7 her hands touched something else, she would transfer
8 blood to other objects.

9 Q. Okay. Now, as far as -- you know, with what we see
10 on TV of medical examiners telling the exact hour, minute
11 and second of the time of death, how does it really
12 work?

13 A. It really works in that we know when she was last
14 known to be alive. We know when she was found, and we
15 try to estimate a time of death in between those two
16 points of certainty.

17 Q. And what adds into that estimate? What kind of
18 conditions?

19 A. Well, the longer the period of death before she's
20 found and the more decomposition that we have, the less
21 accurate we become in our estimate of time of death.

22 Q. And with her being in a moderate state of
23 decomposition, how accurate, in your opinion, can someone
24 be about saying exactly when she died?

25 A. About saying exactly when she died would be a

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1 fallacy if you even though you could do that.

2 Q. Okay. Well, let me ask you this. With the
3 condition that you saw her body in, is it consistent with
4 having been killed, say, five or six days earlier?

5 A. Again, the scenario still fits as to when she's last
6 known to be alive.

7 Q. Okay.

8 A. So if you wanted to give me those -- that scenario,
9 I would try to work an estimated time of death.

10 Q. Okay. And the scenario is the body is found
11 upstairs apartment, not outside.

12 A. Uh-huh (affirmative).

13 Q. Approximately eighty degrees in the apartment. No
14 windows open, no way for nature to take its course with
15 insects and such.

16 A. Uh-huh (affirmative).

17 Q. With -- given that information, can you say that the
18 condition of her body is consistent with being killed
19 five or six days earlier?

20 A. I think that Ms. Alexander has been dead for days,
21 not four days, but for days. And if -- a reasonable
22 estimate would be anywhere from three to five days, yes.

23 Q. Okay.

24 MS. MUNSON: I have nothing further at this
25 time, Your Honor.

1 THE COURT: You may cross-examine the witness.

2 CROSS-EXAMINATION

3 BY MS. HORLBECK:

4 Q. Dr. Ward, my name is Caroline Horlbeck and I've just
5 got a few questions for you about this case. To be
6 absolutely fair about the time of death, is it possible
7 it could have been six days?

8 A. It's possible but unlikely at eighty degrees in a
9 room. She was not that decomposed.

10 Q. Okay.

11 A. But to be fair, it's possible.

12 Q. Okay. All right. But it could be as short as three
13 days, too?

14 A. Yes.

15 Q. All right. And you testified on direct examination
16 that part of an autopsy includes the performance of a
17 toxicological screen?

18 A. Yes, ma'am.

19 Q. And a toxicological screen was performed on Ms.
20 Alexander; correct?

21 A. That is correct.

22 Q. And the results of that were the product of the
23 breakdown cocaine?

24 A. Yes.

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1 Q. Okay. And were you asked to look at any of the
2 knives collected in this case?

3 A. I was not.

4 Q. Were you asked to compare those to Ms. Alexander's
5 wounds?

6 A. I was not.

7 Q. Okay. And you said on direct examination that you
8 can perform a sexual assault, I guess, screening on a
9 person who's deceased?

10 A. (Affirmative nod.)

11 Q. And I understand none -- I'm sorry. You've got to
12 say out loud. I'm talking too much.

13 A. Yes. We can.

14 Q. Okay. All right. And I understand that none was
15 done in this case?

16 A. That is correct.

17 Q. All right. And since no sexual assault screening
18 was done on Ms. Alexander, there is obviously nothing
19 that can be tested; right?

20 A. That is correct.

21 Q. Were you asked to look at any of the pictures in
22 this case?

23 A. I was provided photographs of the scene, yes.

24 Q. Okay. And did you see any knife spatter? Was there
25 any blood droplets that you thought were consistent with

1 being spattered off the knife?

2 A. There is spatter type blood present on a portion of
3 the tub, which could be droplets from -- dropping off of
4 either Ms. Alexander before she collapses, or off of the
5 assailant's hands. They do not particularly look like
6 what I would consider to be cast-off, which is, once the
7 stab -- once the knife becomes bloody and it's drawn back
8 up, when it reaches an arc, at the top of the arc, then
9 blood goes up and off. I did not see any of that. But
10 there is drop- type pattern present on the tub.

11 MS. HORLBECK: That's all I have. Thank you
12 very much.

13 THE COURT: Any redirect?

14 MS. MUNSON: Yes, sir.

15 **REDIRECT EXAMINATION**

16 **BY MS. MUNSON:**

17 Q. First, Dr. Ward, let's talk about the comparing a
18 knife to a wound. Would that even have been doable in
19 this case?

20 A. Even in the most pristine of conditions, comparison
21 of the very elastic skin and a stab wound to a knife is
22 difficult. We generally can, in a pristine situation or
23 a non-decomposed, determine if the knife had one cutting
24 side or two cutting sides. How wide the width of the

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1 knife might have been and that's the best we can do. And
2 so that -- it narrows it down very little between knives.
3 In this decomposed state where the skin is now starting
4 to become soft, there's gas production. So the shape of
5 these stab wounds is now completely changed due to this
6 natural decompositional process. Comparison of any of
7 these wounds to any type of wounding object would not
8 have been possible.

9 Q. I'm also going to show you State's Exhibit Number
10 48. Take a look at that.

11 A. Yes, ma'am.

12 Q. Do you recognize that?

13 A. I do.

14 Q. And is this accurately depicting what you were just
15 talking about on cross-examination?

16 A. No, ma'am. This is obviously transfer blood and
17 blood which has run down into the bathtub from Ms.
18 Alexander. But between -- not shown in this view are
19 some droplets of blood that are immediately adjacent to
20 the curtain.

21 Q. All right. Look then at State's Exhibit Number 43.

22 A. Yes, ma'am.

23 Q. All right.

24 A. I'll take this one.

25 Q. Okay.

1 A. State's Exhibit 43 shows droplets of blood on the
2 edge of the tub and on the adjacent wall, but these do
3 not appear to be cast-off from the knife.

4 Q. Okay.

5 THE COURT: Your Honor, at this time, I move
6 State's 43 into evidence.

7 MS. HORLBECK: Without objection.

8 THE COURT: Without objection it's admitted
9 into evidence and may be published.

10 (WHEREUPON, State Exhibit Number 43 was admitted
11 into evidence.)

12 Q. If you can, Dr. Ward, point out on State's Exhibit
13 Number 43 here what you're talking about that is not
14 cast-off, but is droplets.

15 A. Okay. For orientation, this is the edge of the tub
16 and it joins here with the wall. So this tile wall goes
17 up this way, the tub goes -- the edge of the tub goes out
18 this way. This is the shower curtain. These are
19 droplets of blood, which as you can see, they're
20 predominately round, which means they're falling and
21 hitting -- falling straight down and hitting the edge of
22 the tub without any directionality to them. This droplet
23 hits straight down on the wall and runs down this way.
24 Blood that would be cast off, one, would not be
25 immediately flat in this particular are, but would be

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1 going upward and then arcing away from the knife as it
2 reached its apex. So, one, I would not expect it to be
3 in this area. And, two, I would not expect it to be
4 round, such that it's striking perpendicular to this flat
5 surface.

6 Q. Okay.

7 MS. MUNSON: I have nothing further, Your
8 Honor.

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

11 MS. ADAMS: Your Honor, the State ---

12 THE COURT: You may call your next witness.

13 MS. ADAMS: The State now calls Anthony
14 Murdaugh.

15 THE CLERK: Mr. Murdaugh, if you would come
16 forward to be sworn in, please. Please place your left
17 hand on the bible and raise your right.

18 Do you swear or affirm that the testimony you're
19 about to give is the truth, the whole truth and nothing
20 but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you. You may be seated.
23 Would you please state your name for the record.

24 THE WITNESS: Anthony Durrell Murdaugh.

25 THE CLERK: Thank you.

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1 **ANTHONY MURDAUGH,**

2 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

3 **DIRECT EXAMINATION**

4 **BY MS. ADAMS:**

5 Q. Good morning, Mr. Murdaugh?

6 A. Good morning.

7 Q. I'm going to have you spell your last name for the
8 record, please.

9 A. Okay. M-U-R-D-A-U-G-H.

10 Q. Thank you. Mr. Murdaugh, where do you live now?

11 A. I live in Hampton, South Carolina.

12 Q. And were you living in Greenville County in June of
13 2009?

14 A. I was.

15 Q. Where were you living?

16 A. I lived at [REDACTED] [REDACTED].

17 Q. Is this the same apartment and town home complex
18 that Jackie Alexander lived?

19 A. Yes, ma'am.

20 Q. Did you know Jackie Alexander?

21 A. I met Jackie once. Well, I knew her a little bit,
22 but I really just talked to her really good one time.

23 After I found out that she was a sister of a good friend
24 of mine, you know, her sister's name is Barbara. And

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1 after I found that out, but, you know, I used to see her
2 to speak to her, but as far as talking not that much.

3 No, ma'am.

4 Q. Okay. Now, what apartment number did you live in?

5 A. I lived in number 6.

6 Q. And what apartment did she live in?

7 A. I think it was 18. Yes, ma'am, which was across the
8 way from us. You know, it's two different buildings, it
9 was.

10 Q. So how often do you say -- would you say you would
11 see her?

12 A. I used to see her -- after she moved in, I would
13 just see her every now and then. You know, in her
14 comings and goings, you know, I would see her coming in
15 and out. I used to see her walking to the store and
16 stuff like that. Yes, ma'am.

17 Q. What about Ralph Hayes, did you know him?

18 A. I met Ralph one time. Matter of fact, I met Ralph
19 the first time -- after I found out that that was
20 Barbara's sister, I was over there when Ralph came over
21 there. I was over there talking to her and I met Ralph
22 that same day. I did.

23 Q. Do you see Mr. Hayes in the courtroom?

24 A. Yes, ma'am, I do.

25 Q. Now, Mr. Murdaugh, let's go back to the week of June

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1 the 7th, 2009. Is there anything in particular that you
2 remember about that week?

3 A. In recalling that time, I think that was the day
4 that she had gotten locked out of her apartment. And I
5 had came outside. And I think she was trying to get in
6 touch with the landlord. So I don't know, I really don't
7 remember how we did it, got in touch with the landlord.
8 Because the landlord's normally in the complex. I might
9 have just say, he'll be back in a few minutes, because
10 he's always there.

11 Q. Now, do you remember what day of the week this was
12 that she was locked out?

13 A. Oh, gosh. I honestly can't remember that right at
14 this moment. I'm sorry.

15 Q. Does around Sunday the 7th sound familiar?

16 A. It does. Sunday would probably be the day. That
17 would probably have been the day. Yes, ma'am.

18 Q. Around what time?

19 A. It was early. It was early that day. I know it was
20 still daylight of course, it was. But the exact time, I
21 can't give you that.

22 Q. And she came to your apartment?

23 A. She came over. I had stepped outside. I live in a
24 place where -- my wife does not allow me to smoke inside
25 my house so I had to step outside, you know.

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1 Q. So this was Sunday morning?

2 A. Yes.

3 Q. The 7th?

4 A. Right.

5 Q. And do you recall this as the same week her body was
6 found?

7 A. I know after that day I did not see her for a while.

8 You know, my assumption was that maybe she was visiting
9 family or something like that. Because normally, I know
10 it was still warm, so normally she kept her door open.

11 We had storm doors. And normally, her doors would be
12 open. When I was like going and coming and coming back
13 home from work and stuff like that in the afternoons.

14 But I did not see her for a while. So my assumption is
15 that maybe she's visiting her family. I know, you know,
16 she has a family in the area. So, you know, that was --
17 and she was, you know, a single lady by herself there.

18 So, you know, that was the only assumption I placed on
19 it.

20 Q. Okay. So you never saw her again after that?

21 A. I never saw her again after that.

22 Q. Now, you mentioned her being a single lady. Did you
23 see Ralph Hayes at her apartment a lot?

24 A. I used to see -- like, I say, like I say, I'm always
25 outside and there's a dumpster at the end of the complex

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1 where everybody put their trash at, of course. But,
2 still, we could cut through the dumpster and there was a
3 Citgo Gas Station on the hill. So that was my little
4 shortcut to go to the store when I want to go to the
5 store. And I could see Ralph -- we used to pass each
6 other from time-to-time. There's a business there and,
7 you know, he's maybe cutting through like that. And he
8 would always come through that way, then go around to the
9 back of the building to go in, which was at her backdoor,
10 I'm assuming. And, you know, other than that, you know,
11 we spoke very little because to me he was a very
12 unapproachable person.

13 Q. All right. Answer any questions from the Defense.

14 **CROSS-EXAMINATION**

15 **BY MS. HORLBECK:**

16 Q. Good morning, Mr. Murdaugh. My name's Caroline
17 Horlbeck and I just have a few questions for you.

18 A. Yes, ma'am.

19 Q. Now, you indicated you saw Jackie on a Sunday
20 morning?

21 A. Yes, ma'am.

22 Q. And it was early?

23 A. It was. It was early. It was.

24 Q. All right. And do you know where she was the night
25 of -- the night before?

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1 A. No, ma'am.

2 Q. You don't ---

3 A. No way I could tell that..

4 Q. I'm sorry. I didn't mean to interrupt you.

5 A. Oh, no, ma'am. Just no way I could tell where she
6 was the night before.

7 Q. Okay. And you don't know what time she came in the
8 night before; do you?

9 A. No, ma'am. I don't.

10 Q. And she didn't have her key?

11 A. I'm assuming. You know what, because it was early
12 morning. I don't know if she could have left out that
13 morning and forgot her key, but not saying that she came
14 home late that night, no, I couldn't tell you.

15 Q. But you had to call the landlord?

16 A. The landlord always is on the complex normally or
17 either his son. He had two -- he had a son that lived
18 out there, as a matter of fact, at the time that this
19 happened. His son was also the one that did the
20 maintenance in the apartment complex. And his son lived
21 in the end apartment in the same building that she lived
22 in.

23 Q. And you had to call the landlord about the key?

24 A. No. I don't think I called the landlord. All I'm
25 saying that I knew that he would be back in a few

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1 minutes. You know, because like I said, his son was
2 there. His son had all the keys and his son did all the
3 maintenance in the complex.

4 Q. Okay. And after you saw her that Sunday, you don't
5 know where she went after you saw her?

6 A. No, ma'am. I don't know.

7 Q. You don't know who she was with after you saw her
8 that Sunday?

9 A. After I saw her, no.

10 Q. And you don't know what time she came home that
11 Sunday?

12 A. I have no idea.

13 Q. And you've stated that you'd seen Jackie in passing?

14 A. Yes, ma'am. Going to the store and stuff like that.
15 I've seen her at the Citgo Gas Station up above the hill.

16 Q. And you also know Ms. Alexander's family or her
17 sister?

18 A. I know her sister. We worked together.

19 Q. Okay. All right. That's all I have, Mr. Murdaugh.
20 Thank you.

21 THE COURT: Anything else?

22 MS. ADAMS: Not at this time, no.

23 THE COURT: All right. Thank you. You may
24 step down. You may call your next witness.

25 MS. ADAMS: The state now calls Jo Lynn Wood.

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1 THE CLERK: Ms. Wood, if you would come forward
2 to be sworn in, please. Please place your left hand on
3 the bible and raise your right.

4 Do you swear or affirm that the testimony you're
5 about to give is the truth, the whole truth and nothing
6 but the truth, so help you God?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Thank you. You may be seated.
9 Would you please state your name for the record.

10 THE WITNESS: Jo Lynn Wood.

11 THE CLERK: Thank you.

12 JO LYNN WOOD,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MS. ADAMS:

16 Q. Good morning, Ms. Wood?

17 A. Good morning.

18 Q. Do you have a nickname?

19 A. JoJo.

20 Q. Is that what you'd like for me to call you?

21 A. Yes, ma'am.

22 Q. Just a few questions, JoJo. Where do you live now?

23 A. I live in Loris, South Carolina.

24 Q. And is that near Myrtle Beach?

25 A. Yes, ma'am.

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1 Q. What are you doing there?

2 A. I have three jobs and I just finished cosmetology
3 school.

4 Q. How old are you?

5 A. Twenty years old.

6 Q. In June of 2009, were you living in Greenville?

7 A. Yes, ma'am.

8 Q. Where were you living?

9 A. I was living at the apartment complex, the Town Home
10 Apartments.

11 Q. The Town Home Apartments?

12 A. Yeah. Uh-huh (affirmative).

13 Q. Is that on [REDACTED]?

14 A. Yes, ma'am.

15 Q. What apartment number were you living in?

16 A. [REDACTED].

17 Q. Were you living alone there?

18 A. No, ma'am. I was living with my mother.

19 Q. So you would have been, what, about seventeen then?

20 A. Yes, ma'am.

21 Q. Still in high school?

22 A. Yes, ma'am. I'd just finished my junior year of
23 high school.

24 Q. Do you recall the week of June 13th, 2009?

25 A. Around about. I was going to the beach during that

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1 week.

2 Q. Let's back up a little bit. Had school already let
3 out for the term?

4 A. Yes, ma'am.

5 Q. So were you at home during the day?

6 A. Uh-huh (affirmative).

7 Q. I need for you to say yes or no?

8 A. Yes, ma'am. Sorry.

9 Q. Now, did you know Jackie Alexander?

10 A. I had seen her around, like around the apartment
11 complex.

12 Q. And do you recall what apartment number she lived
13 in?

14 A. Yes, ma'am. Number 18.

15 Q. So you would see her around the apartment complex?

16 A. (Affirmative nod.)

17 Q. Do you remember seeing her the week her body was
18 found?

19 A. No, ma'am. I remember seeing her about a week and a
20 half before her body was found. She'd come up to my
21 apartment around one-thirty, two A.M. in the morning.
22 And I was up watching TV. And she was trying to sell me
23 some shampoo.

24 Q. What about Ralph Hayes, did you ever see him around
25 the apartment complex?

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1 A. Yes, ma'am.

2 Q. Okay. Do you see Mr. Hayes in the courtroom?

3 A. Yes, ma'am.

4 Q. Now, did you ever have any conversations with him or

5 ---

6 A. He asked for me -- he asked me for a cigarette once
7 or twice.

8 Q. So you've had an opportunity to get a really good
9 look at him?

10 A. Yes, ma'am.

11 Q. And how long did you live at these apartments?

12 A. For about a year and a half, I want to say.

13 Q. Now, did you have an opportunity to talk with the
14 police about Jackie Alexander?

15 A. They came up to me as I was putting my baggage in my
16 car to go to Myrtle Beach for summer vacation. And I
17 told them what I'd seen and I gave them my mom's number
18 and I didn't hear anything else.

19 Q. When was this?

20 A. This was June of 2009.

21 Q. Was this before or after her body was found?

22 A. After.

23 Q. How long after?

24 A. A couple of days.

25 Q. I know this was a long time ago.

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1 A. I would say a couple of days. Yes, ma'am.

2 Q. A couple of days. So were you approached by the
3 police?

4 A. Yes, ma'am.

5 Q. And what did you tell them?

6 A. I told them that I'd seem him coming in and out of
7 the apartments that last week once or twice, twice.
8 Twice at night. And that was it. And if they needed to
9 contact me, I gave them my mom's number.

10 Q. And did anyone take a statement from you?

11 A. I remember them writing something on a little pad.
12 That was it.

13 Q. And you provided contact information?

14 A. Yes, ma'am.

15 Q. Did anyone ever contact you?

16 A. No, ma'am.

17 Q. Now, you know, this was three years ago, JoJo. And
18 are you absolutely sure you saw Ralph Hayes ---

19 A. Yes, ma'am.

20 Q. --- coming from that apartment?

21 A. (Affirmative nod.)

22 Q. And this was the week that her body was found?

23 A. Yes, ma'am.

24 Q. Now, describe how you saw him. And you said it was
25 at least twice?

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1 A. Uh-huh (affirmative).

2 Q. Is that your testimony?

3 A. Yes, ma'am.

4 Q. Describe how you would see him coming from that
5 apartment?

6 A. With his head down. He would come out the door and
7 then go across the parking lot, right beside the garbage
8 can, and go up the little alleyway.

9 Q. I'm going to refer you to what's been marked as
10 State's Exhibit Number 56. Can you point to where your
11 apartment is?

12 A. Where the red car is.

13 Q. Have you got the ---

14 A. Right there.

15 Q. Okay. And where did Jackie Alexander live?

16 A. Right there.

17 Q. And you said you saw him twice that week, late at
18 night?

19 A. Yes, ma'am.

20 Q. Why would you -- were you outside?

21 A. Yes, ma'am. I would be outside on the phone talking
22 to my friends.

23 Q. So how would he pass you?

24 A. He would come out, like, with his head down and then
25 walk through the parking lot and go up to the little

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1 alleyway that's right beside the dumpster and then ---

2 Q. Point out the dumpsters?

3 A. Huh?

4 Q. Point out the dumpsters, please?

5 A. Right there. And there's a little walkway right
6 through there that people in the apartments made.

7 Q. And you're absolutely sure it was him?

8 A. Yes, ma'am.

9 Q. And when he would proceed up the parking lot, he
10 would have to pass your apartment?

11 A. Yes, ma'am.

12 Q. Is that your testimony?

13 A. Yes, ma'am.

14 Q. Did you speak to him when he passed you?

15 A. I waved, but I never -- he never waved back or
16 anything.

17 Q. Can you recall if this was early in the week or
18 later in the week?

19 A. No, ma'am. I' can't. I apologize.

20 Q. But you're absolutely sure it was that same man?

21 A. (Affirmative nod.)

22 Q. And this is what you told the police?

23 A. Yes, ma'am.

24 Q. Okay. Answer any questions from the Defense.

25

CROSS-EXAMINATION

1 BY MS. HORLBECK:

2 Q. Ms. Wood, my name is Caroline Horlbeck and I just
3 have a few questions for you about your testimony. Now,
4 you testified that she lived -- that your apartment is on
5 the same side or was on the same side as Ms. Alexander's?

6 A. Yes, ma'am.

7 Q. Okay. So your apartment is just on down the
8 complex?

9 A. Yes, ma'am.

10 Q. All right. So your apartment is several -- is it
11 fair to say your apartment is several doors down?

12 A. About five doors down, five or six.

13 Q. All right. I believe you testified that you would
14 be outside on the phone talking?

15 A. (Affirmative nod.)

16 Q. Okay. And when you -- was it a cell phone you were
17 on or like a house phone or ---

18 A. It was my mom's cell phone.

19 Q. All right. Now, were you trying to be quiet when
20 you were talking out there or just talking normally?

21 A. Just talking normally.

22 Q. Okay. Were you hiding yourself or just kind of out
23 in the open talking naturally?

24 A. I was out in the open talking naturally.

25 Q. Okay. All right. And in this complex, how many

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1 condos do you think are on each side, maybe six or seven?

2 A. I know there's two -- on the aerial view, there's

3 two apartments for each sidewalk that you see. So ---

4 Q. Okay. How many -- do you remember how many

5 sidewalks there were?

6 A. No, ma'am.

7 Q. Okay. So do you think maybe between five, six and

8 seven apartments; do you think?

9 A. Around about, yes, ma'am.

10 Q. Maybe more?

11 A. Maybe six or eight, I think.

12 Q. All right. And there's plenty of traffic in and out

13 of those houses and doors?

14 A. Not a lot, just the people who live there. I mean,

15 there wasn't really a lot of people who lived in the

16 apartments, not every apartment building was full.

17 Q. Okay. Okay. But the people that did live there,

18 certainly they were coming and going; correct?

19 A. Yes, ma'am.

20 Q. All right. And when you say that you saw Mr. Hayes,

21 you didn't know that there was any kind of investigation

22 going on?

23 A. No, ma'am.

24 Q. And you didn't know that someone in the complex had

25 passed away potentially?

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1 A. No, ma'am.

2 Q. Okay. Yet you say that this just stood out in your
3 mind?

4 A. Yes, ma'am. Because I was told to stay away from
5 him.

6 Q. Okay. And did you -- do you remember who else you
7 saw that day, that particular day?

8 A. No, ma'am.

9 Q. And you were packing to go the beach; correct?

10 A. Yes, ma'am.

11 Q. And you're not exactly sure what day during that
12 week that you may have seen Mr. Hayes?

13 A. No, ma'am. It was three years ago.

14 Q. I understand. I know it was three years ago. And
15 you were -- you also did not write a written statement?

16 A. No, ma'am. I was not asked to.

17 Q. I understand. So your testimony is based entirely
18 off your memory that was three years ago, or of what
19 happened three years ago?

20 A. Yes, ma'am.

21 Q. And to be fair, could it have been even longer that
22 you saw Mr. Hayes? You're saying you saw Mr. Hayes
23 during that week.

24 A. Yes, ma'am.

25 Q. And you also testified that your memory is from

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1 three years ago?

2 A. Yes, ma'am.

3 Q. And you have no written statement?

4 A. Yes, ma'am.

5 Q. And to be fair, could it have even been longer than
6 that?

7 A. I would not think so, no, ma'am.

8 Q. Okay. When was -- do you recall what the time was
9 that you saw Mr. Hayes before that?

10 A. It would always be at dusk or at night. Because I
11 was always on the phone at night, outside.

12 Q. Okay. So when you saw -- the time that you're
13 saying you saw him was the normal time that you always
14 saw him?

15 A. Yes, ma'am.

16 Q. Okay.

17 A. I didn't think anything of it, seeing him.

18 Q. Uh-huh (affirmative). Okay. Now, we've got the
19 time that you say you saw him.

20 A. Uh-huh (affirmative).

21 Q. How about the time before that. Do you recall the
22 time before that, that you saw him?

23 A. I would see him on a weekly basis. I mean ---

24 Q. Okay. But you don't recall the exact date or the
25 time before that that you saw him?

1 A. No, ma'am. I cannot give you an exact date.

2 Q. Okay. All right. And that day, you were packing
3 for the beach?

4 A. When the cops came up to me, the police officers
5 came up to me and asked me.

6 Q. Okay. Were you shown a photo lineup?

7 A. Not that day.

8 Q. But you have been shown a photo lineup since of six
9 pictures?

10 A. Yes, ma'am.

11 Q. Okay. And you said that you saw Mr. Hayes just a
12 couple of times when he asked to borrow -- asked for a
13 cigarette from you?

14 A. Yes, ma'am.

15 Q. That's all I have. Thank you.

16 A. Thank you.

17 THE COURT: Any redirect?

18 MS. ADAMS: Nothing else, Judge.

19 THE COURT: All right. Thank you. You may
20 step down, Ms. Wood.

21 MS. MUNSON: May it please the Court, Your
22 Honor ---

23 MS. ADAMS: May this witness be excused?

24 THE COURT: Any objection to this witness being
25 excused?

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1 Do you swear or affirm that the testimony you're
2 about to give is the truth, the whole truth and nothing
3 but the truth, so help you God?

4 THE WITNESS: Yes, I do.

5 THE CLERK: Thank you. You may be seated.
6 Would you please state your name for the record.

7 THE WITNESS: It's Christopher Adam Gary.

8 THE CLERK: Thank you.

9 THE WITNESS: And the spelling of the last name
10 is G-A-R-Y.

11 CHRISTOPHER GARY,

12 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MS. MUNSON:

15 Q. Who do you work for, sir?

16 A. I work for the Greenville County Department of
17 Public Safety in the Forensic Division.

18 Q. What is your job title?

19 A. I'm a latent print examiner.

20 Q. And what are your duties?

21 A. I receive fingerprint evidence from the crime scene
22 section, and I analyze it for detail and any evidentiary
23 value that it may have. I also receive tire track
24 impression evidence, as well as footwear impression
25 evidence from that section.

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1 Q. All right. How long have you been with the
2 department of public safety?

3 A. I've been with the DPS for approximately -- well,
4 actually over three years now, full-time. But prior to
5 that, I actually had the opportunity to work in an
6 apprentice style training program as an intern for about
7 three years with them, as well. So about over six years
8 total.

9 Q. What's your educational background?

10 A. I have a Bachelor's Degree from the College of
11 Charleston in Biology.

12 Q. Do you have any specialized training in the field of
13 latent fingerprint examination?

14 A. Yes. In 2009, I was selected with fourteen other
15 individuals from around the country to be sent to the
16 National Institute of Justice's sponsored training that
17 was held in Largo, Florida. At this training, it was
18 four hundred hours, which is over a ten-week span, where
19 we did everything from comparison exercises to discussing
20 the foundation for fingerprints and learning anything we
21 needed in order to conduct and to be proficient latent
22 fingerprint examiners. In 2010, I was selected by
23 Marshall University, that was sponsored training by the
24 FBI, to attend an impression evidence seminar there that
25 was forty hours, as well.

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1 Q. Okay. Over the time that you've been with DPS,
2 about how many latent fingerprint examinations have you
3 conducted by yourself?

4 A. I've conducted tens of thousands of examinations.

5 Q. Okay. Have you ever testified in court as to latent
6 examinations?

7 A. Yes, I have. Multiple times.

8 Q. Have you ever been qualified as an expert in the
9 field of latent print examination?

10 A. Yes, I have.

11 Q. How many times?

12 A. No fewer than five times.

13 Q. All right.

14 MS. MUNSON: Your Honor, at this time, I'd
15 offer Mr. Gary as an expert in the field of latent print
16 examination.

17 THE COURT: Any voir dire or any objection?

18 MS. HORLBECK: Neither, Judge.

19 THE COURT: All right. Thank you. He may
20 testify.

21 Q. All right. Mr. Gary, what is a latent fingerprint?

22 A. Well, a latent fingerprint, the term latent means
23 hidden. And that's because it refers to prints that we
24 recover from crime scenes. If you look at the surface on
25 the bottom of your hand, you have little raised ridges.

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1 And these raised ridges act just like rubber stamps that
2 you may have used as kid or may use now, depending on
3 what your occupation may be. Well, like any stamp, a
4 stamp is no good unless it has ink on it. Well, that's
5 where the sweat comes in. On each one of those ridges,
6 you have thousands of little sweat pores that exudes
7 sweat. You also, when you touch your face, you're
8 getting oils on your hand. If you, you know, were to
9 have blood or makeup or any other thing like that, when
10 you come in contact with an object, you're leaving behind
11 that replication of skin. And that is what is know as a
12 latent fingerprint.

13 Q. What factors determine whether or not, when you
14 touch a surface, you're going to leave a latent print
15 behind?

16 A. Well, like I said, a stamp is not good unless it has
17 ink on it, so to speak. Well, say, your hands aren't
18 sweaty or you have gloves covering your hand, or maybe
19 the condition of the surface, maybe the condition is very
20 dimpled or it's very dirty. Instead of leaving a print,
21 sometimes you may actually take the dust with you or the
22 dirt and grime with you and not actually leave a
23 fingerprint. So there are several factors that go into
24 it. Also, the condition of the skin is one factor.
25 Someone with very, you know, poor skin or maybe they have

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1 -- maybe take a brick mason, for example, who's
2 oftentimes lifting and moving heavy objects that are
3 rough, you're actually scratching and damaging your skin.
4 So the condition of the skin actually plays a key factor
5 in that, as well.

6 Q. Okay. Is there any way of dating a fingerprint or
7 telling how long it's been where you find it?

8 A. No. Unlike television shows that try to portray it
9 that we can date fingerprints and different things like
10 that, there is actually no scientific background for it
11 and you cannot date a fingerprint. It is impossible.

12 Q. What is the forensic value of a fingerprint?

13 A. Well, fingerprints are unique and identifiable to
14 every individual. Every person has a unique set of
15 fingerprints. All ten fingers are actually different, as
16 well. Twins actually share the same DNA, but twins do
17 not even share the same fingerprints. Fingerprints are
18 unique to every single person.

19 Q. All right. Were you asked to do a comparison in
20 reference to this case?

21 A. Yes, I was.

22 Q. And why were you specifically asked to do it?

23 A. Well, originally, the case was given to another
24 examiner, Sergeant Renee Sherbert. Sergeant Renee
25 Sherbert has since retired and the verifier for that

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1 case, Captain Kellett, is out of town on training
2 exercises. So I was asked to re-examine the case from
3 scratch and issue a new report.

4 Q. Okay. And did you do that?

5 A. Yes, I did.

6 Q. All right. I show you what's been marked as State's
7 Exhibits 52, 53, 54 and 55. If you could just take a
8 look at those. Do you recognize those Exhibits?

9 A. Yes, I do.

10 Q. Okay. And how did they get here today?

11 A. At the crime scene office when an evidence
12 technician processes a crime scene, they put all of the
13 information for that case, the case number, where the
14 event occurred, on the opposite side of where they would
15 actually lift that latent fingerprint. Once they do
16 that, they put it all in an envelope with the same case
17 information, the case number, the date, the offense
18 location, and it's dropped into a secure locked drop box.
19 Only myself and three other examiners have the key to
20 that box. Every morning, those prints are picked up and
21 brought over and that's where they remain, in my custody,
22 until today.

23 Q. Okay.

24 MS. MUNSON: Your Honor, at this time, I'd move
25 State's 52, 53, 54 and 55 into evidence.

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1 THE COURT: Any objection?

2 MS. HORLBECK: None, Your Honor.

3 THE COURT: Without object. It may be entered
4 and published to the jury.

5 (WHEREUPON, State Exhibit Numbers 52, 53, 54 and 55
6 were admitted into evidence.)

7 Q. I'll just let you hang on to those. Now, Mr. Gary,
8 when you're comparing a latent print -- well, first of
9 all, how do you go about making an identification?

10 A. Well, like I said, real forensics is unlike
11 television forensics in a lot of ways, and this is a key
12 example. When we receive a fingerprint, we can't just
13 put it on the computer and it comes back and it says,
14 this is who it is. This is what they're doing. This is
15 what they had for dinner last night. It doesn't work
16 like that. When I receive a latent fingerprint from the
17 crime scene section, I have to analyze that fingerprint.
18 I look at ridge structure. I look at -- like on that
19 rubber stamp I was talking about, those ridges don't just
20 continue around. They actually stop, they divide.
21 There's dots, there's numerous different ridge structure
22 patterns that make a fingerprint unique. So whenever I
23 look at the latent first from the crime scene, and then I
24 compare it to whatever knowns I have. Using all of those
25 points of identification, I render if this print was made

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1 by the person that I'm comparing it to, or this
2 fingerprint was not made by the person I'm comparing it
3 to.

4 Q. Okay. And in this case were you specifically asked
5 to compare the latent prints to known prints?

6 A. Yes, I was.

7 Q. And who were the known prints to whom you were asked
8 to compare State's Exhibits 52, 53, 54 and 55?

9 A. I was requested to examine those to a Ralph Beverly
10 Hayes, Sr.

11 Q. Okay. And did you make that comparison?

12 A. Yes, I did.

13 Q. And do you have an opinion about whether the
14 Exhibits that you have, the State's 52, 53, 54 and 55,
15 whether or not they match Ralph Beverly Hayes?

16 A. Yes, I do.

17 Q. And what is that opinion?

18 A. Latent lift number eight, which was from the
19 exterior top of the upstairs toilet lid, was identified
20 as being made by the left palm of Ralph Hayes.

21 Q. Is there a particular part of his left palm?

22 A. Yes. The palm is actually, in terms for examiners,
23 we divide the palm up, to kind of break it down just a
24 little bit, to different areas. You have three main
25 areas of the palm. The top part is called the

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1 interdigital. The thumb side is called the thenar. And
2 kind of the writer's palm that you'd put down, the fatty
3 part of the palm is called the hypothenar. And State's
4 Exhibit 52 was made by the left palm, hypothenar, so this
5 portion of the palm.

6 Q. And it was recovered from where?

7 A. That Exhibit, State's Exhibit 52, was recovered from
8 the exterior top of the upstairs toilet lid.

9 Q. Okay. And just go ahead with the next one, State's
10 ...

11 A. Okay. State's Exhibit 54, which was recovered from
12 the exterior top of the upstairs toilet lid, was
13 identified as being made by the left palm thenar, the
14 thumb side, of Ralph Hayes, Sr.

15 Q. Okay.

16 A. State's Exhibit 53, from the exterior top of the
17 upstairs toilet lid, was identified as being made by the
18 number seven, which is the left index finger, of Ralph
19 Hayes, Sr.

20 Q. Was there another print on State's Exhibit 54 that
21 you identified?

22 A. Yes. I also identified the left palm, which is the
23 interdigital region, of the victim, Jacquelyn Alexander.

24 Q. Okay. And then State's 55?

25 A. State's Exhibit 55, this was from the exterior top

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1 of the upstairs bathtub. It was identified as being made
2 by the right palm, the hypothenar, of Ralph Hayes, Sr.

3 MS. MUNSON: I have nothing further at this
4 time, Your Honor.

5 THE COURT: Ms. Horlbeck.

6 **CROSS-EXAMINATION**

7 **BY MS. HORLBECK:**

8 Q. All right, Mr. Gary, my name is Caroline Horlbeck.
9 I just have a few questions for you about your testimony.
10 Were you asked to analyze any knives in this case?

11 A. No, I was not.

12 Q. So there were no print -- you were not asked to
13 analyze any knives because no prints were lifted from any
14 of the knives the police collected in this case?

15 A. I did not examine any fingerprints from knives or
16 any knives in this case.

17 Q. Okay.

18 MS. HORLBECK: Your Honor, at this time I would
19 like to have this marked for identification only.

20 (WHEREUPON, Defendant Exhibit Number 2 was marked
21 for identification.)

22 Q. Mr. Gary, I'm handing you Defense 2, what's marked
23 as Defense 2 for identification purposes only. And I'm
24 asking you to take a look at that.

25 A. Uh-huh (affirmative).

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1 Q. And when you state that Mr. Hayes' prints were found
2 on the toilet -- well, let me back up a little bit. What
3 is that a picture of?

4 A. It appears to be a toilet.

5 Q. Okay. All right. And it's a picture of the whole
6 toilet or what parts of the toilet does that photograph
7 show in Defense 2?

8 A. It appears to be the top that you would lift up, the
9 toilet tank lid, as well as the toilet tank, with a
10 handle on the tank.

11 Q. Okay. And when you state that you found Mr. Hayes'
12 prints on the lid, are you talking about the lid that you
13 would lift up when you use the bathroom or are you
14 talking about the lid on the tank?

15 A. I wasn't at the scene that day. I would have to
16 refer back to the State's Exhibits 52 through 55.

17 Q. All right. I'm handing you State's Exhibits 52
18 through 55. Could you tell us where you found or where
19 those prints were? Were they on the lid that you would
20 lift up or on the tank lid?

21 A. Okay. State's Exhibit 52 was on the top -- if I'm
22 facing a toilet, the handle is here. It's on the top
23 left side of the toilet tank lid, where you'd lift the
24 top off of the lid.

25 Q. So the print -- and go ahead through all the

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1 Exhibits, except the tub. I'm just talking -- I'm
2 focusing on the toilet.

3 A. State's Exhibit 54 was from the more right portion
4 of the toilet tank lid that you would lift off. And
5 State's Exhibit 53 was from the more right side of the
6 toilet tank lid from the upstairs toilet.

7 Q. And when you say the toilet tank lid, this is the
8 part of the tank that you would lift off if you were
9 going to try to fix something inside the tank?

10 A. Yes, that is correct.

11 Q. Thank you. Now, you testified on direct examination
12 that our fingers have raised ridges on them?

13 A. That is correct.

14 Q. And the raised ridges on our fingers act like a
15 stamp?

16 A. That is correct.

17 Q. And that the sweat and the oils on the hand are
18 actually what leave the print?

19 A. That and other contaminants. It's not just limited
20 to sweat and oil, but that is correct.

21 Q. But those are two of the things on your hands that
22 cause a print to be left?

23 A. That is correct.

24 Q. Okay. And you also mentioned blood, as well?

25 A. That is correct.

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1 Q. But the prints that you analyzed, these are not
2 bloody prints; correct?

3 A. That is correct. They are not.

4 Q. All right. And we leave finger -- we have the
5 possibility of leaving fingerprints wherever we go;
6 correct?

7 A. There is that possibility. That is correct.

8 Q. All right. So if I maybe leaned on this table, I
9 could have left a fingerprint; correct?

10 A. That is possible.

11 Q. All right. And then if someone, God forbid, came in
12 here and was killed tonight after this place is closed
13 and they left the weapon right here and my fingerprints
14 were lifted, then I could, I could be in trouble;
15 correct?

16 A. You would have to ask an investigator. But I assume
17 that would be correct.

18 Q. But my prints could be lifted near this blood or
19 weapon or whatever; correct?

20 A. That is possible.

21 Q. And I don't even live in this courtroom. I feel
22 like I do sometimes, but I don't ---

23 MS. MUNSON: Objection, Your Honor. Defense is
24 testifying.

25 Q. I'm sorry. No one lives in this courtroom. This is

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1 not a residence; correct?

2 MS. MUNSON: Objection, Your Honor. There's no
3 foundation for what he knows about who lives where.

4 THE COURT: Okay. Rephrase your question, Ms.
5 Horlbeck, if you would.

6 Q. The possibility of leaving prints, you can also
7 leave prints in the place where you live; correct?

8 A. That is correct.

9 Q. All right. And a place that you stay as well;
10 correct?

11 A. That is correct.

12 Q. And you also found Ms. Alexander's fingerprints;
13 correct?

14 A. Yes, that is correct.

15 Q. And you were asked to -- were you asked to analyze
16 latents that were lifted from the doors?

17 A. Yes, I believe I was. I would have to refer to my
18 notes.

19 Q. Do you have your notes?

20 A. Yes, I do.

21 Q. Okay. Would you please refer to your notes, if you
22 need to?

23 A. Yes, there were also latent fingerprints lifted from
24 a storm door.

25 Q. Whose prints were those?

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1 A. There were a total of eight latent lifts from the
2 front storm glass door. And I identified four of those
3 as being Jacquelyn Alexander.

4 Q. All right. And are you aware that these prints came
5 from where she lived?

6 A. I'm not aware of that. I just know the address [REDACTED]
[REDACTED].

8 Q. Okay. And it's not unusual -- is it usual or
9 unusual to find prints at a place where someone resides?

10 A. It would be common.

11 Q. All right. And you stated on direct examination
12 that there's no scientific background that allows you to
13 put a date on a fingerprint?

14 A. That is correct.

15 Q. That it's impossible to determine when a fingerprint
16 was left?

17 A. That is correct.

18 MS. HORLBECK: That's all I have. Thank you.

19 THE COURT: Anything in redirect?

20 MS. MUNSON: Briefly, Your Honor.

21 **REDIRECT EXAMINATION**

22 **BY MS. MUNSON:**

23 Q. Is a fingerprint such as the one that you examined,
24 the ones that matched the victim and the ones that
25 matched the Defendant, are these -- is a latent print

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1 something that's fragile or if it's down there's nothing
2 you can do to wipe it away?

3 A. Well, in nature, latent fingerprints are fragile
4 because they are made out of sweat, oil, things that can
5 be easily wiped away or removed. So by the definition of
6 the word latent fingerprints, yes, they are fragile.

7 MS. MUNSON: I have nothing further, Your
8 Honor.

9 MS. HORLBECK: Nothing further.

10 THE COURT: Thank you. You may step down.

11 MS. MUNSON: May this witness be excused, Your
12 Honor?

13 MS. HORLBECK: No objection.

14 THE COURT: Without objection. He may be
15 excused. You may call your next witness.

16 MS. MUNSON: The State calls Jonathan Hamilton.

17 THE CLERK: Mr. Hamilton, if you would come
18 forward to be sworn in, please.

19 Do you swear or affirm that the testimony you're
20 about to give is the truth, the whole truth and nothing
21 but the truth, so help you God?

22 THE WITNESS: Yes, ma'am. I do.

23 THE CLERK: Thank you. You may be seated.

24 Would you please state your name for the record.

25 THE WITNESS: Officer Jonathan F. Hamilton.

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1 THE CLERK: Thank you.

2 JONATHAN HAMILTON,

3 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY MS. MUNSON:

6 Q. Who do you work for, sir?

7 A. Greenville County Forensics, in the Department of
8 Public Safety.

9 Q. How long have you been with them?

10 A. Going on six years now.

11 Q. Okay. What are your duties?

12 A. I respond to crimes. Crimes could be anything from
13 small misdemeanor crimes to the major, more public
14 crimes.

15 Q. Okay. And when you get to these crimes, what is
16 your responsibility?

17 A. Processing the scene for any kind of evidence,
18 whether it be DNA, fingerprint evidence, anything left
19 behind. I photograph, process the scene for prints, that
20 kind of thing.

21 Q. Okay. How does one process a scene? What ---

22 A. Processing a scene is actually a broad term. I
23 mean, processing the scene could be me taking
24 photographs. But it also could mean, you know,
25 processing it for latent prints, applying something to

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1 retrieve those prints. Or it could be from collecting
2 trace evidence like hairs and fibers or DNA evidence.

3 Q. Okay. What sort of training have you had in the
4 field of forensics?

5 A. We have our own internal training that we all go
6 through, but I've also been to Florida. In the past, I
7 think the past year and a half, I've been there three
8 times for forensics processing, basic and for
9 intermediate, as well as DNA, chemical detection for DNA.
10 Using chemicals to be able to know that that's blood or
11 that's semen or body fluid.

12 Q. Okay. And how many crime scenes would you say that
13 you have processed over your time with the Department of
14 Public Safety?

15 A. If I'm not mistaken, I believe the last time I
16 checked, I was pushing about three thousand crime scenes.

17 Q. Okay. And did you get a call to process the scene
18 regarding this case?

19 A. Yes, ma'am, I did.

20 Q. On what date, do you remember?

21 A. Yes, ma'am.

22 Q. What was the date?

23 A. I'll have to check my report just to verify. It was
24 on June 13th of 2009.

25 Q. And where did you go?

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1 A. I went [REDACTED] [REDACTED], in
2 Greenville.

3 Q. And what type of residence was that?

4 A. It was a town home kind of establishment. Had many
5 different addresses and buildings.

6 Q. Okay. Were you on duty at the time?

7 A. Yes, ma'am, I was.

8 Q. Did anyone -- any other forensic person go over
9 there with you?

10 A. As per our protocol -- this was at nighttime. And
11 as our protocol, whenever we have a deceased person, we
12 normally contact an on-call supervisor so we can advise
13 them what's going on and they can make a decision whether
14 more manpower's needed or less manpower's needed. So I
15 was by myself going to the call, but I did make a phone
16 call to my supervisor.

17 Q. When you got to the scene?

18 A. On the way to the scene, I advised him what I had
19 until I got there and got further information.

20 Q. So when you first got to the scene, what did you do?

21 A. The first thing I do is I always get with the
22 officers, investigators, whoever's on the scene that was
23 there so they can advise me of -- a brief synopsis of
24 what may have occurred or what has been seen, so I know
25 what I'm looking at and how to handle it.

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1 Q. Okay. And did you do that in this case?

2 A. Yes, I did.

3 Q. And after you spoke with law enforcement on the
4 scene and got what information you needed, what did you
5 do next?

6 A. We do what we call a walk-through. What we do is I
7 and the investigating officer, we walk through both the
8 exterior and the interior of the home to ensure that we
9 see the house as is before anything is done. And we can
10 make a decision on whether this piece of evidence may be
11 pertinent to the case or this may not.

12 Q. Okay. And when you first walked through this scene,
13 what was your initial impression?

14 A. Initially, it looked like it was not a crime for
15 larceny of theft. There was no forced entries to the
16 home or no broken windows. Things weren't thrown all
17 over the living room like you would expect.

18 Q. Okay. And what about the body in this situation?

19 A. Unfortunately, it was in a decomposition state,
20 which means that there was an odor in the air and the
21 body was in a decomposition state.

22 Q. Did you notice anything, any blood or anything that
23 you thought was of value, other than in the bathroom with
24 the body?

25 A. Yeah. I did. Actually, I saw some blood at the

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1 entranceway on the floor. There's some time before the
2 stairway. I saw a little droplet of blood there. I also
3 saw another droplet of blood in the kitchen floor. And
4 then there was some -- we call suspected blood spatter.
5 It's where a directional blood droplet falls down and it
6 spatters outward in the bathroom, which is connected to
7 the kitchen on the downstairs.

8 Q. Okay. And the bathroom on the downstairs ---

9 A. Uh-huh (affirmative).

10 Q. --- after walking through, do you know what was
11 directly above the bathroom on the downstairs?

12 A. Uh-huh (affirmative). The blood spatter or the body
13 fluids I should say, was coming from the exhaust fan at
14 the ceiling of the bathroom, down near the kitchen. And
15 the blood and bodily fluids were coming through the
16 exhaust fan, dripping down onto the floor.

17 Q. Okay. So you got to the scene and photographed?

18 A. Uh-huh (affirmative).

19 Q. And after you did your photographing, what was the
20 next thing you did?

21 A. Next up -- well, of course, after photographing we
22 want to make sure we collect any evidence so that way
23 it's not contaminated. It is not, you know, destroyed by
24 anybody coming through the home. So what I did was I
25 initially took the photographs of the blood. I measured

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1 them with a scale and I also did a phenol -- it's called
2 a phenolphthalein presumptive blood test on those
3 droplets of blood.

4 Q. How did you do that?

5 A. What we do is we take a swab, put some distilled
6 water on it and we swab just a little area of that
7 suspected blood. Then I add alcohol and then a
8 phenolphthalein fluid. It's a fluid that reacts to the
9 blood. And then after that some hydrogen peroxide.
10 Basically, what this does, it mixes altogether on this Q-
11 tip and it turns it this big pink color. It turns pink,
12 so that way it gives me an affirmative test that this is
13 blood.

14 Q. Okay. And then you did that on the scene?

15 A. Every place that I collect a swab of bodily fluids
16 or suspected blood, I always do testing on it.

17 Q. Okay did you use the phenolphthalein on anything
18 else in the apartment?

19 A. phenolphthalein was also used on some knives that
20 were discovered later on.

21 Q. Where were the knives found?

22 A. They were in the kitchen. One was on a dish
23 drainer. I believe the other one was on the counter top,
24 and the other one was in a drawer next to the stove in
25 the kitchen.

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1 Q. And what was the result of the phenolphthalein test
2 on the knives that you found in the kitchen?

3 A. Those were going to be negative, negative results.
4 They did not turn that pink color that I was telling you
5 about.

6 Q. Okay. So what did you do with them?

7 A. The knives?

8 Q. Uh-huh (affirmative).

9 A. They were collected if I'm not mistaken. No, they
10 were left behind because there was no evidentiary value.

11 Q. Okay.

12 A. Sorry.

13 Q. All right. Now, did you also process for
14 fingerprints?

15 A. Yes, ma'am. What we do is, once the scene -- any
16 DNA evidence is collected, any physical evidence is
17 collected, then we process it for fingerprints. The
18 body's removed. Normally, it's the last thing that we do
19 in a major crime like this. So that way we can process
20 it for prints and see if we have any latent prints.

21 Q. How do you decide -- I mean, this is a, I guess,
22 small apartment, but how do you decide where in this
23 whole house you're going to look for latent prints?

24 A. Just like, I mean, people use doors to come in and
25 out of the home. People -- you know, if the body is in

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1 the bathroom, well, obviously, we're going to want to
2 process where the body is, around the area in which the
3 body was. Anywhere that could be affected and touched by
4 anyone that could be involved with the crime.

5 Q. Okay. So what areas did you decide that you should
6 process for latents in this case?

7 A. Okay. I processed the exterior and interior of the
8 front storm door. The exterior and interior of the front
9 door. I did, as well, the back door, exterior and
10 interior. I processed the toilet tank lid, the toilet
11 tank upstairs, the toilet seat, the bathtub, anywhere in
12 the bathroom.

13 Q. That was around the body?

14 A. Yes, ma'am.

15 Q. All right. And just briefly, how do you -- if you
16 see an area that you want to process for latents, how do
17 you go about doing that?

18 A. Okay. Latent prints is sweat and oils left behind
19 by the human hand or palm. And when it's left there, we
20 use a powder and a brush to bring that latent print up to
21 where we can see it. Once we see that print, we place a
22 tape over the top of it, make sure it's sealed down
23 securely, peel it off and put it on a white card. So
24 that way the contrast between the white card and the dark
25 powder that we use, it brings that print out. So that

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1 way a latent examiner can take a look at that and he can
2 try to determine whether or not that fingerprint belonged
3 to this person or that one.

4 Q. How do you determine whether or not a latent print
5 is going to be good enough for comparison?

6 A. Greenville County Forensics, we're really tight with
7 our latent print examiners. They advise us what we need
8 to look for so they can make a -- we have to work
9 together so they can make a match. Well, we have --
10 there are different areas, there's different points where
11 a little ridge on your finger will stop, whether it's a
12 short one, or a long one or where they meet together,
13 kind of like a river coming together from two rivers into
14 one. We look for points so they can use that to make an
15 identification.

16 Q. Okay. Let me show you what's already in evidence as
17 State's Exhibits 52, 53, 54 and 55. If you could just
18 quickly take a look at those.

19 A. Yes, ma'am.

20 Q. Do you recognize those?

21 A. I can distinguish that handwriting from anywhere,
22 yes, ma'am.

23 Q. Okay. And whose handwriting is it?

24 A. That would be mine.

25 Q. Okay. And these are the prints that you lifted?

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1 A. Yes, ma'am.

2 Q. Now, Officer Hamilton, did you, in preparing for
3 your testimony today, did you prepare -- well, let me go
4 back first and let's just go through this. I'm showing
5 you what has been marked as State's Exhibits 4 through 9.
6 You can take a look at those.

7 A. Yes, ma'am. Yes, ma'am.

8 Q. Do you recognize these?

9 A. Yes, ma'am. This is 1 through 5.

10 Q. The red sticker?

11 A. Oh, those. Yes. Then, yes, ma'am. These are all
12 the ones -- photographs I took from the outside of the
13 home at that location.

14 Q. Okay. And are these true and accurate depictions of
15 the outside of the town houses when you got there?

16 A. Yes, ma'am.

17 MS. JOHNSON: Without objection, Your Honor.

18 MS. MUNSON: Then I'll offer them into
19 evidence.

20 THE COURT: All right. Without objection,
21 Exhibits 4 through 8 are admitted into evidence and may
22 be published.

23 (WHEREUPON, State Exhibit Numbers 4 through 8 were
24 admitted into evidence.)

25 Q. All right. Next I'm going to show you Exhibits 9

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1 through 23.

2 A. Okay.

3 Q. Take your time.

4 A. Yes, ma'am.

5 Q. All right. Do you recognize those Exhibits?

6 A. Yes, ma'am.

7 Q. And what do you recognize them as?

8 A. Those are the interior downstairs of the town house,
9 number 16. Number 18, excuse me.

10 MS. MUNSON: Your Honor, we offer State's 9
11 through 23 into evidence.

12 MS. JOHNSON: No objection.

13 THE COURT: Without objection. They may be
14 published to the jury.

15 (WHEREUPON, State Exhibit Numbers 9 through 23 were
16 admitted into evidence.)

17 Q. All right. Officer Hamilton, now we're looking at
18 24 through 28.

19 A. Yes, ma'am. Yes, ma'am.

20 Q. Do you recognize these?

21 A. Yes, ma'am.

22 Q. And what do they depict?

23 A. They depict the downstairs kitchen and bathroom area
24 of the town house.

25 Q. Okay. Now, let me ask you, Officer Hamilton, why

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1 would you need to take so many different photographs from
2 different angles?

3 A. So that way it shows the whole scene. So that way
4 that we can go back later and look at the entire scene as
5 it was from every angle that is possible.

6 Q. And these Exhibits that you have before you right
7 now, will they be helpful in your testimony to the jury?

8 A. Yes, ma'am.

9 MS. MUNSON: Your Honor, I offer State's 25
10 through 28 into evidence.

11 MS. JOHNSON: Judge, at this time I'm going to
12 object to 24 and 25 being cumulative, as well as 27 and
13 28.

14 THE COURT: I think she said 25. Did you mean
15 to say 24?

16 MS. MUNSON: 24. I apologize, Your Honor. 24
17 through 28.

18 THE COURT: Okay. All right. And you're
19 objecting to 24, 25 and 26, 27 or 27, 28?

20 MS. JOHNSON: 27 and 28, Your Honor.

21 THE COURT: All right. Let me look at the
22 pictures if I could. All right. Your objection is
23 noted. Overruled.

24 MS. JOHNSON: Thank you, Your Honor.

25 (WHEREUPON, State Exhibit Numbers 24 through 28 were

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1 admitted into evidence.)

2 Q. All right. Now I'm showing you State's 29 through

3 36. Take a look at those.

4 A. Okay.

5 Q. Do you recognize those?

6 A. Yes, ma'am.

7 Q. What do they depict?

8 A. They depict the downstairs area, again, and evidence
9 that was observed in the downstairs area.

10 Q. And evidence in the form of what?

11 A. Suspected blood and there was a sheet of paper, as
12 well.

13 Q. Okay.

14 MS. MUNSON: Your Honor, I'd offer State's 29
15 through 36 into evidence.

16 THE COURT: Any objection?

17 MS. JOHNSON: No, Your Honor.

18 THE COURT: Without objection, Exhibits 29 to
19 36 are admitted.

20 (WHEREUPON, State Exhibit Numbers 29 through 36 were
21 admitted into evidence.)

22 Q. Next, Officer Hamilton, Exhibits 37 through 40.

23 A. Okay. Yes, ma'am.

24 Q. Do you recognize these Exhibits?

25 A. Yes, ma'am, I do.

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1 Q. And what do they show?

2 A. They show the stairway and the upstairs area
3 including the front, back bedrooms and the hallway area.

4 Q. Okay. The layout of the second floor?

5 A. Yes, ma'am.

6 Q. Okay.

7 MS. MUNSON: Your Honor, I offer State's 37
8 through 40 into evidence.

9 THE COURT: Any objection?

10 MS. JOHNSON: No, Your Honor.

11 THE COURT: Without objection. They will be
12 admitted and published.

13 (WHEREUPON, State Exhibit Numbers 37 through 40 were
14 admitted into evidence.)

15 Q. All right. Officer Hamilton, we've got State's
16 Exhibit 41, 42 and 44. Take a look at those.

17 A. Okay. Yes, ma'am.

18 Q. And what do they show?

19 A. That's going to be the bathroom area of the upstairs
20 hallway.

21 Q. Okay.

22 MS. MUNSON: Your Honor, I'd offer State's 41,
23 42 and 44 into evidence.

24 MS. JOHNSON: No objection.

25 THE COURT: Without objection, 41, 42 and 44

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1 are admitted.

2 (WHEREUPON, State Exhibit Numbers 41, 42 and 44 were
3 admitted into evidence.)

4 Q. And finally, finally, Officer Hamilton ---

5 A. Yes, ma'am.

6 Q. --- I'm showing you 45 through 49.

7 A. Yes, ma'am.

8 Q. Do you recognize them?

9 A. Yes, ma'am. I do.

10 Q. And what do they depict?

11 A. The bathroom area and the victim.

12 Q. Okay. And what is the difference in the different
13 Exhibits? Why is that necessary to aid you in your
14 testimony?

15 A. To show what I observed when I came onto scene, as
16 well as to preserve and seal the evidence in paper
17 documentation for the investigators, so when they go
18 back, they can look at it, as well.

19 Q. Thank you.

20 MS. MUNSON: Your Honor, I'd offer State's 45,
21 46, 47, 48 and 49 into evidence.

22 THE COURT: Any objection?

23 MS. JOHNSON: Your Honor, at this time, I would
24 object to 45, 46 and 47 as being cumulative and
25 duplicative.

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1 THE COURT: Let me look at those pictures.

2 MS. MUNSON: And it's the State's position,
3 Your Honor, that the officer has testified that they're
4 necessary for him to explain to the jury what he found.

5 THE COURT: All right. Subject to the
6 officer's testimony relating to the evidence in each
7 picture, I will admit them.

8 MS. JOHNSON: Thank you, Your Honor.

9 (WHEREUPON, State Exhibit Numbers 45, 46, 47, 48 and
10 49 was admitted into evidence.)

11 Q. All right. Now, Officer Hamilton in preparation for
12 your testimony, did you put together a Power Point?

13 A. Yes, ma'am, I did.

14 Q. And the images that are shown on it ---

15 A. Yes, ma'am.

16 Q. --- from where did you get those images?

17 A. Our secured digital photograph database that we have
18 at the office.

19 Q. Well, how do they relate to the images that we just
20 got into evidence?

21 A. I don't understand.

22 Q. The pictures on the Power Point, are they the same
23 as what's in evidence?

24 A. Oh. Yes, ma'am. Yes, ma'am. The Power Point
25 pictures are exactly what the Exhibits are that you just

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1 admitted.

2 Q. Okay. And do you have your copy of it?

3 A. Of the CD, yes, ma'am, I do. The Power Point.

4 MS. MUNSON: Your Honor, at this time, I'd
5 request permission to allow us to show the Power Point.

6 THE COURT: All right. You may publish it to
7 the jury.

8 MS. MUNSON: I apologize, Your Honor, but can
9 we have just a minute.

10 THE COURT: All right. Let's take a short
11 break. Just go back and stretch. Ladies and gentlemen,
12 when you go back to your jury room, what I'd like for you
13 to do is to -- of the first twelve of you selected, and,
14 again, the alternate will remain in her position, but I
15 need you to select a foreperson from among the first
16 twelve selected. What the foreperson does, sometimes
17 when you're back there, you may have already discovered
18 that you may have a question or an inquiry that you need
19 to have the temperature adjusted or a cup of coffee or
20 whatever you may need. You will have a person to be your
21 spokesperson, so to speak, to talk with -- call the
22 bailiff if somebody needs to make a phone call. And that
23 person can be the liaison with the court and with the
24 clerk's office, sort of the presiding officer, if you
25 will. Ultimately, what the foreperson will be doing is

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1 have them come in.

2 (WHEREUPON, the jury entered the open court at
3 approximately 11:40 A.M.)

4 THE COURT: Solicitor, you may continue your
5 examination of the witness.

6 MS. MUNSON: Thank you, Your Honor. I
7 apologize to the Court and the Defense for the problem.

8 Your Honor, may be the witness come down here?

9 THE COURT: Yes, sir. You make sure that you
10 project your voice so that the court reporter and the
11 jury can hear what you have to say.

12 THE WITNESS: Yes, sir.

13 THE COURT: Make sure you speak to them. And
14 the court reporter needs to hear you, as well.

15 THE WITNESS: Yes, sir.

16 **DIRECT EXAMINATION CONTINUED**

17 **BY MS. MUNSON:**

18 Q. All right. Officer Hamilton, if you will just --
19 let's get these lights so the jury can see these better.
20 And what is the point of this slide right here?

21 A. This slides shows the case number, the address, and
22 what the investigation was, that we're looking.

23 Q. Okay. And this is State's Exhibit Number 4. What
24 does this show?

25 A. This shows the front of the town home with 18 being

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1 the one that I responded to, and the one that's next door
2 to the -- the next door neighbor.

3 Q. Okay. And where is 18 on this, which is State's
4 Exhibit number 5?

5 A. 18 is right there.

6 Q. Okay. And where are you going with State's Exhibit
7 Number 5?

8 A. Whenever we take digital photographs of the scene, a
9 home, apartment complex, whatever the case may be, we
10 always want to get the front and rear, photographs from
11 both sides, from all sides actually. So this is just
12 showing which direction I was going. I was going -- if
13 you're staring at the town home, I'm going to the right
14 and going around the back.

15 Q. Now, this is State's Exhibit Number 6. What does
16 this show?

17 A. This shows the end of the building. If you're
18 staring at number 18, it's the very far right side, at
19 the very end.

20 Q. Okay. Now, State's Exhibit Number 7?

21 A. It's another shot of the right side as I'm going
22 around to the rear of the building.

23 Q. Did you find anything unusual or of evidentiary
24 value so far, as you're going around the building?

25 A. Not at that time, no, ma'am.

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1 Q. Okay. And this is State's Exhibit Number 8?

2 A. Now, this is actually going to be the rear of the
3 building, or the rear of the number 18. This is going to
4 be a kitchen window, also another kitchen next to the
5 back door.

6 Q. And what is noticeable to you as far as processing
7 the scene in State's Exhibit Number 8?

8 A. What we look for is any kind of forced entry into
9 the home, broken glass, screens removed, doors open, any
10 significant damage to show us that there was actually
11 forced entry into the home. And as you can tell, there
12 are none that are visible.

13 Q. Okay. Now, this is State's Exhibit Number 9,
14 Officer Hamilton. What does this show?

15 A. This is actually the front of number 18. This is
16 the front door being opened, and you're actually looking
17 at the stairway going upstairs. And right here is going
18 to be your living room to the right, as you enter the
19 home.

20 Q. Okay. As you go into this home, was there any room
21 at all to the left of the door?

22 A. No, ma'am. There's a wall, just a sheer wall going
23 straight, all the way to the end of the town house.

24 Q. Okay. Now, this is State's Exhibit Number 23. From
25 where did you take this photograph?

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1 A. This is actually me standing on the outside of the
2 home and me taking a picture of the frame of the front
3 door. And as you can tell -- normally, whenever we have
4 forced entries into the door, it's going to damage,
5 break, shatter the frame or the molding on the inside of
6 the home at the door. And as you can tell right here,
7 there was no signs of any kind of tool marks or any kind
8 of damage to the frame or the molding.

9 Q. Okay. Now, this is State's Exhibit Number 10.
10 Where is this photograph taken?

11 A. As you enter the home, this is going to be your
12 living. It's going to be on the right side, stairway
13 being right here. You can see a little piece of step,
14 with the front being on this side of the picture, the
15 front of the home.

16 Q. Okay. And State's Exhibit Number 11?

17 A. This is, again, another picture of the living room.
18 As I just stated, these are the front windows and the
19 front of the home.

20 Q. Did you find anything in or around the windows that
21 would indicate any kind of forced entry?

22 A. None. And as you can tell, the slats on the blinds,
23 they're not disheveled. They're -- you know how you have
24 one blind up, one blind down when someone messes with it,
25 you see nothing of that on the front window there. You

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1 also see the electrical cords. That doesn't appear that
2 anybody's unplugged anything as they were getting in or
3 anything's knocked over to the floor.

4 Q. Okay. Now, this is State's Exhibit Number 14. What
5 -- I'm sorry -- 14. Where were you standing when you
6 took this photograph?

7 A. This is at the corner of the room. So the picture
8 before was me coming into the home, looking to the right
9 and into the living room. This is a picture from that
10 corner near the front, looking back towards the front
11 door, this being the front door.

12 Q. Okay. Now, here we have State's Exhibit Number 13.
13 What does this depict?

14 A. This is a shot going left to right, going from the
15 living room on the front, going back towards the rear of
16 the living room.

17 Q. Okay. And this is State's Number 12?

18 A. Again, this is another shot of the living room,
19 looking back towards the kitchen, the kitchen being right
20 here.

21 Q. Okay. Now, this is State's Number 21.

22 A. This is going to be the love seat as you saw in the
23 previous picture. And it's going to be the thermostat.

24 One of the main things that we do whenever we have a
25 death investigation, we like to see the temperature and

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1 document it, document the temperature in the home for
2 doctors and pathologists to be able to make a
3 determination on the body and what evidence they find.

4 Q. Okay. Now, State's Number 22.

5 A. As you can see here, it's going to be the
6 temperature that it was currently in the home. Now,
7 again, this is in June, so you're getting close to eighty
8 degrees. This is the temperature that, of course, was
9 set on the thermostat. And it's set on auto and that is
10 the off for the system, and it was put in the off
11 position.

12 Q. All right. Now, we're back to the doorway here.
13 What is shown there?

14 A. Okay. This is going to be, of course, that shot
15 that y'all saw previously, with the stairway and the
16 living room. And right there where the circle is, is the
17 little area of suspected blood that I saw when I first
18 entered the home, which was right there.

19 Q. That ---

20 A. That's no problem.

21 Q. Okay.

22 A. Which that is all I saw of suspected blood, is that
23 little drop.

24 Q. And that is State's Exhibit Number 30. So this is
25 State's Exhibit Number 31. What does this depict?

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1 A. Oh, yeah. Once I take a photograph of orientation,
2 where the suspected blood was, and I take a up close
3 picture of that suspected blood, I put this scale tape
4 next to it. And what this does is just so that someone
5 who is blood spatter certified or someone who wants to
6 look at it, will know how big that droplet was when I was
7 on scene. And that right there is JFH-8-A, which I
8 apologize. My handwriting is not the best in the world.
9 But I always like to put that on any kind of tape or
10 measurement whenever I'm going to collect something like
11 a swab of blood or so on and so forth.

12 Q. Now, this is State's Exhibit Number 32. What does
13 this depict?

14 A. This is a picture of me holding the Q-tip. As I
15 stated earlier with phenolphthalein, that big pink on the
16 end of the Q-tip. This is me showing what the result was
17 from that test. And as you can see, you can see the pink
18 here. And then sometimes it's a shade darker and a shade
19 lighter, but as long as you get a pink, you know that you
20 have suspected blood there.

21 Q. Okay. Now, this is State's Exhibit Number 16,
22 Officer Hamilton. What is this view?

23 A. This is the kitchen with the living room being to
24 your back. You're facing the kitchen towards the rear of
25 the home.

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1 Q. And Exhibit 17?

2 A. This is another picture, just more closeup. Me
3 stepping a little bit further into the kitchen.

4 Q. State's 15?

5 A. This is the shot of the rear of the home or the rear
6 of the kitchen. And as I stated earlier with the blinds,
7 you see the slats are all nice and neat. You see no wood
8 on the floor, which normally, if there's a forcible entry
9 into a door, you're going to have -- the molding right
10 here is going to be on the ground. You're going to have
11 debris to show that there's been a forced entry.

12 Q. Okay.

13 A. This is a shot to the right of the sink in the
14 kitchen.

15 Q. All right. And what is this? This is State's
16 Exhibit Number 33?

17 A. This is a little droplet of suspected blood that I
18 saw when I came into the kitchen. And it's just in the
19 middle of nothing. There's nothing else around it. And
20 it's just suspected blood droplet that we found. This is
21 a little bit closer picture of it.

22 Q. Now, this is State's Exhibit Number 34?

23 A. Okay. This is a picture of that suspected blood
24 droplet that I found.

25 Q. And State's 35?

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- 1 A. And, again, this is where we put the measurement
2 tape to show the suspected blood droplet, how big it is.
3 And there's my nice, neat handwriting.
- 4 Q. This is State's 36?
- 5 A. Okay. This is going to be Q-tip again with the
6 phenolphthalein showing the positive/negative result that
7 I got. And, actually, it's -- the light's probably going
8 to make it a little bit hard, but if you look right here,
9 there's some pink in the phenolphthalein.
- 10 Q. And from where did you get that spot?
- 11 A. That came from the blood that you just saw on the
12 floor in the kitchen.
- 13 Q. Okay. Now, this is State's 36?
- 14 A. Okay. It's going to be a picture of your kitchen.
15 It's going to be in a different section. The back door
16 is to my left shoulder at this picture. You're looking -
17 - this is going into the living room. This is the
18 bathroom, which I stated earlier.
- 19 Q. Okay. Now we have State's Exhibit Number 20.
- 20 A. Okay. This is another picture of that wall that --
21 at this point in time again, my back -- the back door is
22 going to be to my left shoulder. The living entryway is
23 going to be to my right. And I'm looking at the back
24 wall with the downstairs bathroom being right there.
- 25 Q. State's Exhibit Number 20?

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1 A. Okay. This is going to be the bodily fluids, the
2 suspected blood that I saw, the droplets that had hit the
3 ground in the bathroom there.

4 Q. Okay. And this is State's Exhibit Number 19. What
5 does this depict?

6 A. All right. This depicts the blood spatter when it
7 drops down and it has fluid on the ground, it drops and
8 then splatters back out. And that's just showing the
9 blood ---

10 Q. Okay. State's -- go ahead.

11 A. This is just showing the blood spatter which got up
12 on the side of the toilet, as well.

13 Q. Okay. Now we have State's 24.

14 A. Okay. This is the, as I stated earlier, the exhaust
15 fan that I saw the bodily fluids coming from. It's
16 actually right here, which you'll see.

17 Q. Okay. This is State's 25?

18 A. And that is the only little droplet that I saw
19 coming from the ceiling. Now, directly above this is
20 going to be the bathroom.

21 Q. Okay. Now, we're back to State's Exhibit Number 9.

22 A. This is another shot of the front, front door
23 looking up the stairway. This is a letter that the
24 investigator wanted me to document for his purposes,
25 which I believe is in another shot you're going to have

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1 here.

2 Q. Okay. State's 29.

3 A. This is going to be where they delivered the frozen
4 meals to this resident. It's got name, time and the
5 date. Which, I believe that is the 12th, if I'm not
6 mistaken.

7 Q. All right. Now we have State's 37?

8 A. Okay. Now, this is -- we're starting to go up into
9 the second floor of the home. This is from me standing
10 at the base of the home, looking up to the upstairs.

11 Q. Okay. This is State's Exhibit Number 40. Where are
12 you when you take this photograph?

13 A. As I stepped up to the top of the stairs, this is me
14 taking a picture of the -- this is the back bedroom, the
15 bathroom, and then the front bedroom is going to be on
16 over to my right.

17 Q. Okay. State's Exhibit Number 39. What does this
18 depict?

19 A. This is me standing in the back rear bedroom with my
20 back to the back wall. Okay. So I'm looking at the
21 stairway, which is here. And then the upstairs bathroom
22 is going to be right there on the left.

23 Q. Okay. This is State's Exhibit Number 38.

24 A. Okay. This is going to be upstairs bedroom, totally
25 on the opposite side of where you just saw me. My back

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1 is to the front wall and I'm looking towards the -- where
2 the stairway and the bathroom is. And that's the back
3 bedroom.

4 Q. Now, we're back to State's Number 40.

5 A. Again, this is going to be another shot of me at the
6 stairway looking at the back bedroom and the bathroom.
7 And the -- there's a flipflop, you see the bodily fluids
8 here, a knocked over trash can right there.

9 Q. Now, this is State's Exhibit Number 45.

10 A. Yes, ma'am.

11 Q. What does this depict?

12 A. This depicts us walking in and seeing the victim.
13 The victim is laying on her right side. In between --
14 she is located in between the toilet and the bathtub. We
15 also see, of course, bodily fluids. Unfortunately,
16 during this state, bodily fluids are going to be on the
17 floor and we try to make sure that we document all of
18 that.

19 Q. Okay. Now, State's Number 41.

20 A. I took this picture -- of course, as stated before,
21 we take as much photographs as we can so that way we can
22 show everyone the state of the area that we're taking
23 photos. This is showing that there's toothbrush --
24 you've got the mouth rinse. Everything is in order on
25 the top of the sink and there's no blood or anything

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1 visible in the sink itself.

2 Q. Okay. State's 46?

3 A. Okay. Again, this is another shot of the victim
4 laying on her right side. And I'm going on into the
5 bathroom at this point in time. And this is when I start
6 noticing the suspected blood on the toilet lid, on the
7 side of the bathtub, and different areas. As well as,
8 like I said before, the trash can. This right here is
9 one of those toilet clean brush holders. It's flipped
10 over on it's top, sitting right next to the victim.

11 Q. And what do we have in 49?

12 A. Okay. Now, this is going to depict on here -- if
13 you see the suspected blood, you have suspected blood on
14 top of the toilet lid, which means that at one point in
15 time the lid was up. The seat was down. The blood got
16 on it from that point. And the victim here, showing her,
17 that she is wedged in between the toilet and the bathtub.

18 Q. All right. And what do you we have on State's 42?

19 A. All right. This is the shot of the toilet. I just
20 wanted to make sure we documented the suspected blood
21 droplets and the markings that are on the toilet lid.

22 Q. Now, this is State's 47. And when you got to the
23 scene, what is it about the circled area on State's 47
24 that drew your attention?

25 A. In my years of experience going to different scenes,

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1 seeing different rates of decomposition, that kind of
2 thing, the body does different things when it does ...
3 decomp. Unfortunately, sometimes there are blistering
4 and that kind of thing. I noticed that there was an
5 area, that is circled, and it just appeared to be
6 different. It appeared to be there's more secretion
7 coming out of it and there's nothing else on top of the
8 body here. Nothing busted, nothing's -- I hate to say it
9 -- leaking on top of her, except for that one area.

10 Q. So what did that appear to be to you?

11 A. It just seemed odd at that point in time.

12 Q. Okay.

13 A. To me it seemed something that, something that's not
14 supposed to be there at that point.

15 Q. Okay. Now we're at State's 47. What was
16 significant in this photograph?

17 A. Again, I'm -- when I first walked in here and I
18 looked above, this is going to be above where the victim
19 is. The victim is down here, at the side of the bathtub.
20 And the shower curtain -- if you look up at the shower
21 curtain here, I saw suspected blood a pretty significant
22 far distance up from where the victim was lying, along
23 with other, you know, blood droplets and whatnot, in the
24 bathtub, on the shower curtain and on the wall.

25 Q. Okay. And now this is State's 43.

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1 A. This is a shot of me taking the photograph as I'm
2 looking down with the victim being at the very lower part
3 of the photograph. The side of the tub and the interior
4 of the tub, with suspected blood.

5 Q. And that is 48.

6 A. Okay.

7 Q. Oh, I'm sorry. That was State's 44. Now, this --
8 for the record, please read out loud what the jury is
9 looking at right now.

10 A. All right. This is the case number and this is also
11 the latent print matches. So this is -- when I pulled
12 those cards that I spoke of earlier, the white cards,
13 this is the matches that I got.

14 Q. Okay. Now, this is State's Exhibit Number 52, being
15 eight of thirteen. Now, can you explain to the jury from
16 where you got this Exhibit?

17 A. Okay. First off this is the front of the card and
18 the rear of the same card. This right here is a picture,
19 of course, crude as it may be, shows the top of that
20 toilet tank lid that I took the photograph of. And it's
21 going to be -- the "X" is actually going to be where I
22 retrieved that latent print that we discussed earlier.

23 Q. Okay. So this is State's Exhibit Number 42?

24 A. Uh-huh (affirmative).

25 Q. And what is the -- please read out loud the bubble

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1 for the record?

2 A. Latent print prints collected from tank lid behind
3 the toilet lid. So you have the top of the toilet tank
4 lid, then you have the lid to the toilet, and it's behind
5 there, is where I retrieved that print.

6 Q. Okay. Now, these are State's Exhibits in evidence,
7 53 and 54.

8 A. Okay. There again, this is going to be the front
9 and back of the cards with the latent prints being here.
10 And as you can see, this is an "X" on the right side of
11 that same toilet tank, extreme right side, and top. And
12 then the bottom one is going to have, behind the same lid
13 that's lifted up, it's on top of the toilet tank lid
14 there.

15 Q. Now we're back to State's Exhibit Number 42.

16 A. This is showing in the general vicinity of where I
17 received those prints, which is on the right side of the
18 tank lid. And it's behind the lid itself.

19 Q. And if you could, for the record, read what the
20 jury's looking at?

21 A. Yes, ma'am. It's a latent print. The print was
22 collected from the tank lid behind the toilet.

23 Q. Okay. Now, this is State's Exhibit Number 55,
24 another print card that's already in evidence. And this
25 is State's Exhibit Number 48. And what does the yellow

1 box indicate?

2 A. The yellow box indicates where I retrieved a latent
3 print. I dusted the bathtub and retrieved a latent print
4 off of the section that's in the general area where that
5 box is.

6 Q. Okay. Now, this is back to State's Exhibit Number
7 18. What does this circle show?

8 A. This shows where the knives down in the kitchen that
9 we observed were located. One being in the dish drainer,
10 one right there on the counter top, and one in the
11 drawer. These are the ones that Sergeant Shaw tested for
12 blood and got negative results.

13 Q. Well, when he tested those, where were you?

14 A. I was right there with him.

15 Q. And did he do it the same way that you did your
16 swabs?

17 A. The exact same way. I trained him, so ...

18 Q. Okay. Now, did you prepare a diagram?

19 A. Uh-huh (affirmative).

20 Q. Would that be helpful to show the jury about
21 measurements?

22 A. Sure. Diagraming, we also collect measurements
23 while we're on scene and we take them back to the office
24 so we can do a crime scene diagram on the computer. And
25 this is the diagram. This is the snippet of the diagram

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1 that's in my report showing, as I said before, the front
2 door of the bathroom, the sink area, toilet, the victim
3 in the bathtub.

4 Q. Okay.

5 MS. MUNSON: I have nothing further at this
6 time, Your Honor.

7 THE COURT: Ms. Johnson, you may cross-examine
8 the witness.

9 MS. JOHNSON: May it please the Court.

10 **CROSS-EXAMINATION**

11 **BY MS. JOHNSON:**

12 Q. Officer Hamilton, did you collect the knives that
13 night?

14 A. No, ma'am.

15 Q. And you didn't lift fingerprints from the knives?

16 A. No, ma'am.

17 Q. And, obviously, Ms. Alexander was found with her
18 underwear down below her knees?

19 A. Mid-thigh, yes, ma'am.

20 Q. Okay. And y'all didn't -- or you didn't swab her
21 vaginal area?

22 A. No, ma'am. That's not on-scene what we do.

23 Q. Okay. Y'all didn't test for sexual assault?

24 A. No, ma'am.

25 Q. You collected blood in two spots? But there was

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- 1 blood in the downstairs bathroom?
- 2 A. Body fluids, yes, ma'am.
- 3 Q. You never tested blood there?
- 4 A. No, ma'am.
- 5 Q. Okay. And you didn't receive a directive to test
- 6 for blood there?
- 7 A. No, ma'am.
- 8 Q. And the kitchen, y'all found blood there?
- 9 A. In the middle of the kitchen floor, yes, ma'am.
- 10 Q. Did you receive a directive to test there?
- 11 A. No, ma'am. That's just what I did.
- 12 Q. Okay. And the upstairs bathroom where Ms. Alexander
- 13 was found, there was blood on the tile?
- 14 A. Uh-huh (affirmative).
- 15 Q. Yes?
- 16 A. Bodily fluids, blood, yes, ma'am.
- 17 Q. Okay. You didn't test that tile?
- 18 A. No, ma'am.
- 19 Q. There was blood on the toilet?
- 20 A. Uh-huh (affirmative).
- 21 Q. You didn't test the blood on the toilet ---
- 22 A. No, ma'am.
- 23 Q. --- or around the toilet?
- 24 A. No, ma'am.
- 25 Q. And there was blood on the bathtub?

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- 1 A. Yes, ma'am.
- 2 Q. You didn't test around the bathtub?
- 3 A. No, ma'am.
- 4 Q. And there was blood on the shower curtain?
- 5 A. Uh-huh (affirmative).
- 6 Q. You didn't test around the shower curtains?
- 7 A. No.
- 8 Q. Or test the blood?
- 9 A. No, ma'am.
- 10 Q. There was a trash can that was recovered and flip
- 11 flops, or may be not recovered but found on the scene?
- 12 A. Yes, ma'am.
- 13 Q. Y'all didn't test those?
- 14 A. No, ma'am.
- 15 Q. You didn't photograph the back door?
- 16 A. Yeah. I did photograph the back door.
- 17 Q. Well, the -- I guess the lock?
- 18 A. The locking mechanism?
- 19 Q. Right?
- 20 A. I don't know believe -- I don't know if I've got
- 21 those in the other photographs that are not in the
- 22 Exhibits right now.
- 23 Q. Okay. You made a point to photograph the front door
- 24 real up close ---
- 25 A. Uh-huh (affirmative).

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1 Q. --- but not the back door?

2 A. There, again, the ones that we have in the Exhibits,
3 yes, ma'am, because that is the direction in which I
4 entered the room, I entered the home. I made sure I
5 photographed the frame.

6 Q. Okay.

7 MS. JOHNSON: Beg the Court's indulgence.

8 THE COURT: Yes, ma'am.

9 Q. And you only tested these two drops of blood?

10 A. Yes, ma'am. The ones that I collected.

11 Q. That's all you tested?

12 A. Yes, ma'am.

13 Q. Thank you.

14 A. Uh-huh (affirmative).

15 THE COURT: Any redirect?

16 **REDIRECT EXAMINATION**

17 **BY MS. MUNSON:**

18 Q. Why is that, Officer Hamilton?

19 A. Which one, ma'am?

20 Q. Why didn't you collect the fluids that was
21 underneath the decomposing body?

22 A. Well, a number of reasons. I mean, you've got blood
23 -- suspected blood and bodily fluids can be transferred
24 by insects if insects are present. Or it could be, you
25 know, it could be from, you know, the body sitting there.

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1 I, you know, suspected blood -- if the suspect or the
2 person involved, I mean, if it's that much blood the
3 body's going to tell more story than that.

4 Q. Okay. Now, the two spots, why did they stand out to
5 you, apparently, more than the blood around the body?

6 A. Because it was one droplet. One droplet at the base
7 of the stairs. One droplet in the middle of the kitchen.
8 I mean, it's just -- why is there just one droplet in
9 those two areas.

10 Q. Okay. And those two little droplets that you
11 swabbed and took photographs of, what did you do with
12 those little swabs?

13 A. The actual swabs that I collected the suspected
14 blood on, I put those into the property and evidence
15 section at the law enforcement center.

16 Q. Before you put them in there, did you do anything
17 with them?

18 A. Just made sure I sealed them and put them in.

19 Q. Okay. Does the forensic unit for the Department of
20 Public Safety ever do sexual assault test?

21 A. No, ma'am.

22 Q. Thank you.

23 MS. MUNSON: I have nothing further, Your
24 Honor.

25 MS. JOHNSON: Judge, may I recross him?

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1 THE COURT: Yes, ma'am. Briefly.

2 **RECROSS EXAMINATION**

3 **BY MS. JOHNSON:**

4 Q. You don't know whose blood that was on the bathroom?

5 A. No, ma'am.

6 MS. JOHNSON: That's all I have, Judge.

7 THE COURT: All right. Thank you. You may
8 step down.

9 MS. MUNSON: Your Honor, may this witness be
10 excused?

11 THE COURT: Any objection?

12 MS. JOHNSON: Without objection.

13 THE COURT: All right. Without objection, you
14 may be excused. Thank you. The State may call its next
15 witness.

16 MS. MUNSON: May we approach, Your Honor?

17 THE COURT: Yes, ma'am.

18 (WHEREUPON, Ms. Munson, Ms. Adams, Ms. Horlbeck and
19 Ms. Johnson approached the bar.)

20 THE COURT: Before the next witness is called,
21 ladies and gentlemen, there are some things we need to
22 take care and we're just going to take an earlier lunch
23 today than we normally would. We'll break for lunch now.
24 If you'll be back at one-thirty, we'll be ready to
25 proceed at that time with more testimony in the case.

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Tyler Bucholtz - Direct Examination by Ms. Munson

1 MS. MUNSON: Thank you, Your Honor. May it
2 please the Court. The State calls Tyler Bucholtz.

3 THE CLERK: Mr. Bucholtz, if you would come
4 forward to be sworn in, please. Please place your left
5 hand on the bible and raise your right.

6 Do you swear or affirm that the testimony you're
7 about to give is the truth, the whole truth and nothing
8 but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. You may be seated.
11 Would you please state your name for the record.

12 THE WITNESS: Tyler Bucholtz.

13 THE CLERK: Thank you.

14 TYLER BUCHOLTZ,

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MS. MUNSON:

18 Q. Who do you work for, sir?

19 A. Greenville County Forensic Division.

20 Q. What are your duties?

21 A. I currently am with the latent print division where
22 I analyze fingerprints that come up from crime scenes.
23 Since January of 2009, I've also worked the crime scenes.

24 Q. Okay. And so in June of 2009, where were you
25 assigned?

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1 A. I was at the crime scene unit.

2 Q. Okay. And did you get a call to go out to the crime
3 scene involving this case?

4 A. Yes.

5 Q. And what date did you go out there?

6 A. That was June 16th, 2009.

7 Q. Okay. And was it day or night when you went out
8 there?

9 A. It was in the daytime.

10 Q. And what was the purpose of you going back to the
11 scene?

12 A. We were requested by -- when we got on scene,
13 Investigator Whaley advised that he had a search warrant
14 and he would like for us to process for the presence of
15 blood, as well as collect knives that were on a counter.

16 Q. Okay. Who went out there with you?

17 A. Sergeant Lendway with the crime scene unit.

18 Q. And I need to back up a second, Officer Bucholtz.
19 Did you say where you went?

20 A. It was [REDACTED].

21 Q. Okay. And what sort of area was this?

22 A. It's an apartment off of Pleasantburg and
23 Rutherford.

24 Q. Now, when you got to the scene, just quickly run
25 down what you did?

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1 A. After investigator Whaley requested what he did, we
2 went inside and observed the knives that he was talking
3 about. There were four knives on the kitchen counter.
4 He also requested that we collect the drain traps from
5 the kitchen sink in the downstairs and the drain trap
6 from the bathroom sink upstairs. So we located those,
7 observed them and then when I walked back out the front
8 door, down to my left, I noticed there was a knife laying
9 in the pine straw, just outside the door.

10 Q. Outside the apartment?

11 A. Yes.

12 Q. I'm showing you State's Exhibits 57 and 58. Can you
13 take a look at these?

14 A. Okay.

15 Q. Do you recognize those?

16 A. Yes.

17 Q. Who took those photographs?

18 A. I did.

19 Q. Are they accurate depictions of where you found the
20 knife that you were just talking about?

21 A. Yes, they are.

22 Q. Okay. Thank you.

23 MS. MUNSON: Your Honor, at this time, we'd
24 move State's 57 and 58 into evidence.

25 THE COURT: Any objection?

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1 MS. HORLBECK: Without objection.

2 THE COURT: Exhibit 57 and 58 are admitted into
3 evidence.

4 (WHEREUPON, State Exhibit Numbers 57 and 58 were
5 admitted into evidence.)

6 Q. Now, Officer Bucholtz, what did you do? Did you do
7 anything in the upstairs bathroom where the body was
8 found?

9 A. Yes. We mixed some LCV, Leuco Crystal Violet, which
10 is a presumptive test for the presence of blood, and that
11 was sprayed on the bathroom sink and counter top and the
12 bathroom walls, the door jamb entryway, as well as the
13 front and rear doors downstairs.

14 Q. Okay. And this LCV, how does that work?

15 A. When it contacts the surface where blood has been,
16 it turns a purplish, violent color immediately.

17 Q. Okay. Does that mean for sure that there's blood?

18 A. No. It's a presumptive test, which means it's the
19 possibility for blood, and that gives me reason to swab
20 that area.

21 Q. Okay. Now, I'm showing you State's Exhibits 59 and
22 60.

23 A. Okay.

24 Q. Do you recognize those?

25 A. Yes.

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1 Q. Okay.

2 A. That's the left side of the bathroom sink upstairs
3 and the right side of the bathroom sink.

4 Q. Okay. And are these accurate depictions of after
5 you sprayed with the LCV?

6 A. Yes.

7 MS. MUNSON: Your Honor, we'd move State's 59
8 and 60 into evidence.

9 MS. HORLBECK: Without objection.

10 THE COURT: Without objection.

11 (WHEREUPON, State Exhibit Numbers 59 and 60 were
12 admitted into evidence.)

13 Q. Now, Officer Bucholtz, if you wouldn't mind coming
14 down in front of the jury. And if you would just take
15 State's Exhibit 57 and kind of show the jury what that
16 is.

17 A. This is the door jamb for the entryway into the
18 apartment. This is just a window at the front of the
19 apartment. And below the window, right there is where
20 the knife was. And then I zoomed in the lens and took
21 another photo. And that's the blade. Both the handle
22 and the blade is in the pine straw.

23 Q. Okay. Now, let's look at State's Exhibits 59 and
24 60. If you could just explain to the jury?

25 A. Okay. When you walk into the bathroom, the sink is

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1 on the left and this is the left side of the sink. This
2 is the soap. The purple area is where we sprayed the
3 LCV; and it reacted. And then this is the right side of
4 the sink. The purple area is where the LCV reacted,
5 positive presumptive reaction.

6 Q. Okay. Now, that knife that you collected from
7 outside the house, in what condition was it?

8 A. I don't recall at this time.

9 Q. Okay. That's fine. Did you do anything with that
10 knife?

11 A. I collected it and placed it into property and
12 evidence.

13 Q. Did you attempt to collect any evidence from the
14 blade or the handle?

15 A. Yes. When I returned to the crime scene unit
16 office, I swabbed the handle and I also swabbed the
17 blade.

18 Q. And when you say swabbed it, ---

19 A. Uh-huh (affirmative).

20 Q. --- how did you do that?

21 A. I took a sterile swab that comes in a container,
22 opened it and swabbed the whole area of the blade and
23 closed it and sealed that up. And then I also did the
24 same thing with the handle.

25 Q. Okay. And what did you do with those swabs once you

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Tyler Bucholtz - Cross Examination by Ms. Horlbeck

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1 sealed them up?

2 A. They were placed into property and evidence.

3 MS. MUNSON: I have nothing further at this
4 time, Your Honor.

5 **CROSS-EXAMINATION**

6 **BY MS. HORLBECK:**

7 Q. I just want to make sure I'm pronouncing your last
8 name correctly. Is it Bucholtz?

9 A. Bucholtz, yes.

10 Q. Bucholtz. Okay. All right. Officer Bucholtz, you
11 went to the apartment on June 16th, 2009. Is that
12 correct?

13 A. Yes.

14 Q. And when you returned to the apartment on that day,
15 that's the first time you discovered the knife under the
16 window?

17 A. Yes. That was the first time I had been to the
18 apartment and it was during the daytime.

19 Q. All right.

20 A. I believe the night before it was dark when they had
21 responded to the scene.

22 Q. All right. So to your knowledge when you went to
23 the apartment on the 16th, that was the first time anyone
24 had discovered the knife under the window?

25 A. I believe so.

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1 Q. And you performed, you performed swabs of the blade
2 of that knife?

3 A. Yes. The blade and the handle.

4 Q. Okay. And then you packaged up the knife and put it
5 in property and evidence?

6 A. Yes.

7 Q. And the swabs also were placed in property and
8 evidence?

9 A. Yes.

10 Q. And the four knives from the kitchen, those were
11 also placed into property and evidence; correct?

12 A. Yes.

13 Q. And then you collected the trap from the upstairs
14 sink and also the kitchen?

15 A. Yes.

16 Q. And did you package those up and put those in
17 property and evidence?

18 A. I did.

19 Q. Did you observe any footprints?

20 A. No.

21 Q. And did you take any photographs of any footprints?

22 A. No. If there was anything like that, they would
23 have most likely done that the day before when they
24 processed the scene. We were specifically asked to
25 collect these items. And so ...

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1 Q. And that was not something -- no footprint was
2 photographed by you?

3 A. By me, no.

4 Q. And was there a swab done of Ms. Alexander's vaginal
5 area inside and outside?

6 A. That, I don't know. This is the only involvement I
7 had in this case and it was the day after.

8 Q. You had no contact with Ms. Alexander?

9 A. Correct.

10 Q. All right.

11 MS. HORLBECK: That's all I have. Thank you.

12 THE WITNESS: Okay.

13 MS. MUNSON: Nothing further, Your Honor.

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

15 Call your next ---

16 MS. MUNSON: Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 MS. MUNSON: Your Honor, I apologize, but my
19 next witness from Columbia is not here yet. She was
20 asked to be here at two. Dr. Kandala is on his way, as
21 well.

22 THE COURT: Okay. All right.

23 MS. MUNSON: I'm really sorry.

24 THE COURT: Okay. Let's just take a short
25 break. Go back to your jury room. We'll let you stretch

State of South Carolina -vs- Ralph Hayes (2011-GS-23-07681)
Adrienne Hefney - Direct Examination by Ms. Munson

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1 **DIRECT EXAMINATION**

2 **BY MS. MUNSON:**

3 Q. Who do you work for, ma'am?

4 A. I work for the South Carolina Law Enforcement
5 Division, more commonly known as SLED.

6 Q. What do you do with SLED?

7 A. I'm a forensic DNA analyst.

8 Q. And what does that entail?

9 A. Forensic DNA analyst, as a forensic DNA analyst, I
10 analyze biological specimens that were left behind at a
11 crime scene and make comparisons to known specimens,
12 which are known standards that we receive from the victim
13 and/or suspect in a case.

14 Q. Okay. What is your educational background?

15 A. I have a Bachelor of Science degree in Biology from
16 the University of South Carolina. I have a Master's of
17 Business Administration or MBA Degree from Winthrop
18 University. Since joining SLED, I was trained under a
19 court-qualified analyst. And I've also taken continuous
20 education courses in post -- like the field of molecular
21 biology, genetics and statistical population studies.

22 Q. Okay. How often would you say that you have
23 performed a DNA analysis?

24 A. Thousands of cases.

25 Q. Okay. Have you ever been qualified as an expert in

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1 the field of forensic DNA analysis?

2 A. Yes, ma'am, I have.

3 Q. How many times?

4 A. About sixty times, at least.

5 Q. Okay. And how long have you been with SLED?

6 A. Since November of 1997, so a little shy of fifteen
7 years.

8 Q. Okay.

9 MS. MUNSON: Your Honor, at this time I offer
10 Ms. Hefney as an expert in the field of forensic DNA
11 analysis.

12 THE COURT: Any voir dire or any objection?

13 MS. HORLBECK: No, Your Honor.

14 THE COURT: You may proceed.

15 Q. Ms. Hefney, what is DNA?

16 A. Okay. DNA stands for Deoxyribonucleic acid. And
17 what that is is a chemical substance that's found in all
18 nucleated cells of our bodies. It makes us who we are.
19 A lot of our DNA is the same. The DNA that codes for us
20 to be human, gives us two eyes and two legs, two arms,
21 and a nose. But if we look around this courtroom, we
22 notice that we all look different. So our DNA is
23 different from person-to-person. No two people will have
24 the same DNA, with the exception of identical twins. How
25 we use that fact in forensics is we make comparisons. We

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1 make comparisons between unknowns, which will be evidence
2 left behind at a crime scene, such as blood, semen,
3 saliva, hair, tissue, so on and so forth. And make
4 comparisons to known standards, which is like a blood
5 standard or a buccal swab standard, which is from the
6 inside of your cheek of the known person, so we know the
7 origin of it and where it comes from. And that's from
8 the victim and/or the suspect in each case.

9 Q. And what do you do in a situation where you're just
10 asked to examine an unknown sample, such as a blood drop?

11 A. Okay. If we're asked to examine, we will do an
12 examination of it. And if we don't have any standards to
13 compare it to, we'll request a standard at that time to
14 make the comparison.

15 Q. But do you do anything with the sample once you get
16 it?

17 A. We develop a DNA profile from the items or the
18 sample.

19 Q. Okay. Let me show you State's Exhibit Number 61.
20 Do you recognize that?

21 A. Yes. It's a package, what typical swabs come in and
22 it has my initials on the envelope, as well as on the
23 heat seal pouch.

24 Q. And the initials AR there; correct?

25 A. Yes, that was my maiden name. Yes.

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1 Q. Okay. And since then you've been married?

2 A. Yes, ma'am.

3 Q. Okay. Now, when you received State's Exhibit Number
4 61, in what condition was it?

5 A. It was sealed. If it was not sealed we make notes
6 of it. But as we receive most of our evidence, it's
7 sealed and ready for analysis. And I am usually the
8 first one to open the package that I'm going to analyze.

9 Q. And is that the case with State's 61, you were the
10 first one to open it?

11 A. Yes, ma'am.

12 Q. Okay. And what did you analyze?

13 A. I analyzed two swabs from the scene that were
14 contained in that pouch. And I'll read directly from my
15 report. The two swabs, one was collected from tile at
16 the front door. And the other one was collected from the
17 kitchen floor.

18 Q. Okay. And what did you do with those swabs?

19 A. First, I did serology testing which is the body
20 identification, body fluid identification. And I
21 identified or tested for blood and there was blood
22 indicated on these swabs. Once blood was indicated, we
23 moved on to DNA analysis and I developed a DNA profile
24 from both of these swabs.

25 Q. And that was all you had in this case; correct?

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1 A. Yes, ma'am.

2 Q. You didn't have a -- something to compare the DNA
3 to?

4 A. I did not receive a known standard.

5 Q. Okay. From your analysis, what can you tell about
6 the two separate drops?

7 A. Okay. Again, reading directly from my report, the
8 DNA profile developed from items one and two -- and items
9 one and two were the -- one is the tile at the front door
10 and two is the swab at the kitchen floor -- is from an
11 unidentified female individual.

12 Q. Okay.

13 MS. MUNSON: I have nothing further at this
14 time, Your Honor.

15 **CROSS-EXAMINATION**

16 **BY MS. HORLBECK:**

17 Q. Ms. Hefney, you just testified that you didn't
18 receive a known standard. Is that correct?

19 A. That is correct.

20 Q. Do you know why you didn't receive a known standard?

21 A. At the time, I did not know why I didn't. I
22 requested on the report to please admit a known standard
23 from the victim for comparison.

24 Q. And your analysis was actually done in October 2009;
25 correct?

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Adrienne Hefney - Cross Examination by Ms. Horlbeck

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- 1 A. That is correct.
- 2 Q. Okay. Earlier you stated that only identical twins
- 3 have identical DNA patterns?
- 4 A. That is correct.
- 5 Q. And that's true when a hundred percent of the DNA is
- 6 analyzed; correct?
- 7 A. That is correct.
- 8 Q. And in a forensics situation, only fifteen locyte
- 9 and the amelogenin are analyzed. Is that correct?
- 10 A. Fifteen locyte and amelogenin, which is our sex
- 11 typing chromosome.
- 12 Q. And those things that you analyzed, they represent
- 13 less than one percent of the total amount of cellular
- 14 DNA?
- 15 A. Yes. But they're the DNA that doesn't code for
- 16 anything, that makes us unique individual-to-individual.
- 17 Q. Okay. The one percent still leaves millions of base
- 18 pairs of DNA where we are unique?
- 19 A. I'm sorry.
- 20 Q. Is that correct?
- 21 A. Can you ask that again?
- 22 Q. What you said, you said that part of it doesn't code
- 23 for anything in particular. Is that correct?
- 24 A. Meaning coding from what makes us human, like the
- 25 two arms and two legs, is what's unique from person-to-

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1 person. That's what we look at in forensics.

2 Q. Okay. So unless a hundred percent of the DNA is
3 analyzed, you could never be a hundred percent sure that
4 the evidential DNA you have is actually left by the
5 person that you say left it?

6 Q. After we make a comparison and, say, I had a
7 standard in this case and I made a comparison to the
8 unknowns, we apply statistical weight to it. The
9 statistical weight will say whether we expect to see this
10 DNA profile again in one and, say, a quadrillion people.
11 And that's done once we make a match to the standard.

12 Q. And are you talking about molecular and population
13 genetics? Is that the distinction you're making?

14 A. That's correct.

15 Q. Okay. And molecular genetics actually involves the
16 actual lab work; right?

17 A. Molecular genetics is, I guess you could say,
18 involves the actual lab work. It is what the lab work
19 is.

20 Q. Okay. And once there's a match between somebody's
21 profile and the evidential DNA profile, then a
22 statistical analysis is done?

23 A. A statistical weight is given to it, yes, ma'am.

24 Q. And that weight is given it to determine how many
25 other people in the world might match that profile?

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1 A. Or how many people in the world -- if you look at
2 that many people in the world should you expect to see
3 that profile again.

4 Q. Okay.

5 A. And usually it will be in the quadrillions or even
6 more, which is more than the world's population, a
7 million times more than the world's population.

8 Q. And the need for population genetics demonstrates
9 why, unless you analyze a hundred percent of the DNA, you
10 could never be a hundred percent sure that a particular
11 individual matches a sample; correct?

12 A. Well, you can pretty much be sure if you look at
13 these fifteen core loci that everyone looks at, because
14 the human genome is massive. So you would probably never
15 look at all to compare it to. But a representative
16 sample, adding the statistical weight to it, will say
17 pretty much whether this is -- a DNA profile came from
18 this person or not.

19 Q. And you didn't look at the whole thing. You only
20 looked at part of it; correct?

21 A. I looked at the 15 core loci that we look at.

22 Q. And that's only part of it; correct?

23 A. That's part of it. The part that's unique from
24 human-to-human.

25 Q. Okay. And the technology used is actually called

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1 polymerase chain reaction or PCR.

2 A. PCR. And PCR is where you can have theoretically a
3 pin-head size of stain and be able to get a DNA profile
4 from it. Whereas before, when I first joined SLED, we
5 were doing what's known as RFLP, Restriction Fragment
6 Length Polymorphism. That's where you had to have a
7 large stain, maybe like the size of a quarter to even be
8 able to get a DNA profile from it.

9 Q. And you wear gloves when you do this work in the
10 lab?

11 A. Yes, ma'am.

12 Q. And you wear the gloves because if you were to touch
13 an item with you bare hand, it's possible to leave your
14 own DNA?

15 A. It's possible, as well as you were gloves -- it's
16 just a precaution because you're dealing with blood from
17 unknown sources.

18 Q. And you change your gloves frequently during your
19 work?

20 A. Yes, ma'am.

21 Q. And at the end of all of this nothing matches Mr.
22 Hayes; correct?

23 A. No. This is from an unidentified female individual,
24 what I have from these two swabs.

25 Q. Thank you.

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1 A. Uh-huh (affirmative).

2 MS. MUNSON: Nothing further, Your Honor.

3 THE COURT: All right. Thank you. You may
4 step down.

5 MS. MUNSON: Your Honor, may this witness be
6 excused?

7 MS. HORLBECK: Without objection.

8 THE COURT: Without objection.

9 MS. MUNSON: Along with Ms. Perry?

10 THE COURT: Certainly.

11 MS. HORLBECK: That's without objection.

12 THE COURT: Certainly, Ms. Hughes.

13 MS. MUNSON: Your Honor, the State calls Dr.
14 Kandala.

15 THE CLERK: Dr. Kandala, if you would come
16 forward to be sworn in, please. Please place your left
17 hand on the bible and raise your right.

18 Do you swear or affirm that the testimony you're
19 about to give is the truth, the whole truth and nothing
20 but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you. You may be seated.

23 Would you please state your name for the record.

24 THE WITNESS: Jagannadaha Kandala.

25 THE CLERK: Thank you.

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Jagannadha Kandala, Ph.D. - Direct Examination by Ms. Munson

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1 JAGANNADHA KANDALA, Ph.D.

2 BEING FIRST DULY SWORN TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MS. MUNSON:

5 Q. Dr. Kandala, who do you work for?

6 A. I work for the Greenville County Department of
7 Public Safety?

8 Q. In what area?

9 A. In DNA.

10 Q. All right. What are your duties?

11 A. My duties are getting the evidence, analyzing it and
12 then writing a report and coming to the court if
13 necessary.

14 Q. Okay.

15 A. And I'm also the DNA technical leader so I take care
16 of the lab.

17 Q. Okay. So you're a DNA -- I'm sorry. I didn't hear
18 that last part.

19 A. Technical leader.

20 Q. Technical leader. What does that mean?

21 A. I establish the lab rules and the technicalities of
22 the lab.

23 Q. Okay.

24 A. And take care of everything.

25 Q. All right. What is your educational background?

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1 A. I have a B.S. in Biology and Chemistry. And I have
2 a Masters in Chemistry, a Masters in Microbiology, and a
3 Ph.D. in biochemistry.

4 Q. All right. Do you have any specialized training in
5 the area of DNA analysis?

6 A. Yes. I first joined the St. Louis Metropolitan
7 Police Department and I had training there in the DNA
8 department, an analyst. And I worked there for about
9 seven years.

10 Q. Okay.

11 A. And I worked at San Bernardino Sheriff's DNA lab for
12 about three years. And I move here. And for the last
13 four years, I'm working here.

14 Q. All right. How many times would you say that you
15 have performed a DNA analysis?

16 A. I must have done about five hundred to six hundred
17 cases.

18 Q. Okay. Since you've been here or altogether?

19 A. Altogether.

20 Q. All right. Have you ever been qualified as an
21 expert in the field of DNA analysis?

22 A. Yes.

23 Q. Approximately how many times?

24 A. Probably ten times.

25 Q. Okay.

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Jagannadha Kandala, Ph.D. - Direct Examination by Ms. Munson

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1 MS. MUNSON: Your Honor, at this time, I'd
2 offer Dr. Kandala as an expert in the field of DNA
3 analysis.

4 THE COURT: Any voir dire or any objection?

5 MS. HORLBECK: None, Your Honor.

6 THE COURT: Without objection.

7 Q. All right. Now, Dr. Kandala, were you asked to
8 perform two separate analyses from this case?

9 A. Yes.

10 Q. Let's talk about the first one. I'm going to show
11 you State's Exhibits 50 and 51. If you could take a look
12 at those.

13 A. Yes. This was the second analysis I have done.

14 Q. Okay. That was the second one?

15 A. Yeah.

16 Q. Okay. Well, do you recognize State's Exhibits 50
17 and 51?

18 A. Yes, I do.

19 Q. And what are they?

20 A. This is the shirt or gown one, probably. I
21 inspected the evidence I got from the victim's shirt.

22 Q. Okay. Are State's Exhibits 50 and 51, are these
23 accurate depictions of the shirt that you analyzed?

24 A. Yes.

25 MS. MUNSON: Your Honor, at this time, I'd

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Jagannadha Kandala, Ph.D. - Direct Examination by Ms. Munson

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1 offer State's Exhibits 50 and 51 into evidence.

2 MS. HORLBECK: No objection.

3 THE COURT: Without objection. It will be
4 entered and published.

5 (WHEREUPON, State Exhibit Numbers 50 and 51 were
6 admitted into evidence.)

7 Q. Now, Dr. Kandala, when you went to do an analysis on
8 the shirt in the State's Exhibits, from where did you get
9 it?

10 A. From the property and evidence.

11 Q. Okay. And when you got the shirt back to your lab,
12 what did you do?

13 A. I stored it in the minus twenty freezer. Then when
14 I start analyzing, I take it and then analyze it. Once I
15 analyze the shirt, look at it, and take the samples, I
16 put it back in the freezer.

17 Q. Okay. From where did you take samples from that
18 shirt?

19 A. From the inside of the shirt, wherever there is some
20 bodily material is stuck to the gown, those areas where I
21 picked up.

22 Q. Okay. And how did you get that material separated
23 from the shirt?

24 A. I slowly cut it out with a scissors, which is a
25 sterilized instrument at that point.

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1 Q. Okay. Now, after you got the material from the
2 shirt, what was the next thing you did with it, with the
3 material?

4 A. I check for any blood, a presumptive test to see if
5 there is blood in it. And then later take the material
6 and extract DNA from it.

7 Q. Okay. How many parts on the shirt did you get
8 samples from?

9 A. I took three areas from the shirt.

10 Q. And what particular of the three areas?

11 A. I cannot recall unless I look at my notes.

12 Q. Feel free.

13 A. I took the areas from the bottom inside of the gown.

14 Q. Okay. And when you got this material from the gown,
15 you then analyzed what you had?

16 A. Yes. I extract the DNA and I quantify the DNA and
17 then I do the PCR on it. And then I do the actual
18 genetic analysis.

19 Q. Okay. Now, extracting DNA, what does that mean?

20 A. Extracting DNA -- because the material is bodily
21 skin and other kinds of material that get stuck, when you
22 take any material you have to separate DNA from the cell
23 parts that is present. So what we do is we put it
24 through a process called extraction using buffers and
25 enzymes. And then what it does, it takes care of

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1 breaking the cell and separating the DNA from the other
2 material and then we get pure DNA out of it.

3 Q. And were you able to get a DNA profile from the
4 shirt that's depicted in State's Exhibit 50 and 51?

5 A. Yes, I did get a profile. But what we do is, when
6 we do this profiling, we look at fifteen areas on the
7 DNA.

8 Q. Okay.

9 A. But here I could not get all the areas, so I got
10 only a partial profile.

11 Q. Okay. And the partial profile that you got from the
12 material on that shirt, was there enough of a profile for
13 you to offer an opinion -- well, let me back up. I'm
14 sorry, Doctor. What were you asked to compare -- the
15 profile that you extracted, were you asked to compare
16 that to anything?

17 A. It seems there were two blood spots recovered and
18 then analyzed by the South Carolina Department of Law
19 Enforcement. And that they found a female from that two
20 blood spots. And so they wanted to compare to see
21 whether the profile obtained from those blood spots,
22 whether it matches this DNA from this gown.

23 Q. Okay. Now, even though you found a partial profile,
24 do you have an opinion as to whether or not the profile
25 developed from SLED matches the DNA on that shirt?

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1 A. Yes. It has -- the results show that whatever areas
2 it has shown, that all those match the DNA obtained from
3 the blood spots.

4 Q. Okay. Thank you.

5 MS. MUNSON: Nothing further at this time.

6 (WHEREUPON, State Exhibit Numbers 61, 62 and 63 were
7 marked for identification.)

8 Q. Oh, I'm sorry. That was your first analysis. You
9 did another analysis. Actually you did a ---

10 A. No. This was the second analysis.

11 Q. Okay. But you did an analysis first?

12 A. Yes.

13 Q. Before you did the shirt?

14 A. Correct.

15 Q. All right. Let's look at State's Exhibits Number 62
16 and 63.

17 A. Yes.

18 Q. Do you recognize these items?

19 A. Yes, I do.

20 Q. And from where did you get these?

21 A. I also got them from property and evidence.

22 Q. Okay. And when you got them from property and
23 evidence, now in what condition was the seal on them?

24 A. They were sealed.

25 Q. Okay. Any tampering?

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1 A. No.

2 Q. Do you look for that?

3 A. I do.

4

5 Q. Okay. Now, State's Exhibit 62 and 63, what were you
6 asked to analyze as far as these Exhibits?

7 A. I was asked to analyze the DNA and see if I can get
8 a comparison with the suspect's DNA.

9 Q. Okay. Now, what are the -- specifically, what items
10 were you asked to compare?

11 A. Let me look at my notes, please. Item one is a swab
12 from the handle of the knife. And the second one is a
13 swab from the blade of knife.

14 Q. Okay.

15 A. And the third one is a swab from the left side of
16 the sink and a swab from the right side of the sink is
17 the number four item.

18 Q. All right. And were you able to develop even a
19 profile from any of those items in State's 62 and 63?

20 A. No, I could not because three of the samples did not
21 have any DNA and one sample had some DNA but not enough
22 for analysis.

23 Q. Okay. Thank you.

24 MS. MUNSON: I have nothing further.

25

CROSS-EXAMINATION

1 **BY MS. HORLBECK:**

2 Q. Dr. Kandala, my name is Caroline Horlbeck and I just
3 have a few questions for you about your testimony?

4 A. Yes, please.

5 Q. Now, you wear gloves in the lab; correct?

6 A. Yes.

7 Q. And you wear gloves because if you touch an item
8 with your bare hands it's possible to leave your cells
9 and your DNA; correct?

10 A. Yes.

11 Q. And you don't want to leave any of that on the
12 sample while you're touching it?

13 A. Yes.

14 Q. Do you change your gloves frequently?

15 A. Yes.

16 Q. Now, the first analysis in this case was performed
17 by the SLED Lab?

18 A. Yes. I got a report from them at that point, when I
19 was asked to work on this case.

20 Q. Okay. And the results obtained from their samples
21 were that the blood matched an unknown female; correct?

22 A. Yes.

23 Q. And you performed an analysis ---

24 A. You don't call it as matching. It is -- from the
25 profile you can say it is a female.

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1 Q. Okay. And then you -- in your opinion, the samples
2 that you took from the shirt match Ms. Alexander?

3 A. Yeah, whatever.

4 Q. Right.

5 A. Yes.

6 Q. Okay. And there's nothing on that shirt that
7 matches Mr. Hayes; correct?

8 A. Yes.

9 Q. That's correct? There's nothing on the shirt;
10 correct?

11 A. Right.

12 Q. And you also analyzed or tried to analyze the swabs
13 from the knife?

14 A. Yes.

15 Q. And that would include the handle of the knife and
16 also the blade of the knife?

17 A. Yes.

18 Q. And those were -- you could not -- there was not
19 enough. Or you couldn't develop enough of anything to
20 really come to an opinion of what that was; correct?

21 A. Right. Because the quantification did not give
22 enough DNA for the analysis.

23 Q. Okay. Again, there was no match to Mr. Hayes;
24 correct?

25 A. There's no question there because there was no DNA

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1 to match at all.

2 Q. Okay. So, again, is it correct that there was no
3 match to Mr. Hayes?

4 A. That's beyond the point now. Because there was no
5 DNA to even to analyze.

6 Q. Okay.

7 A. Yes.

8 Q. Thank you very much.

9 MS. MUNSON: Nothing further, Your Honor.

10 THE COURT: All right. Thank you, Doctor. You
11 may step down.

12 THE WITNESS: Thank you.

13 THE COURT: Your Honor, may this witness be
14 excused?

15 MS. HORLBECK: Without objection.

16 THE COURT: Without objection. Thank you. He
17 may be excused.

18 MS. MUNSON: Your Honor, at this time, the
19 State moves Exhibits 63, 62 and 61 into evidence.

20 MS. HORLBECK: Without objection.

21 THE COURT: Without objection, 61, 62 and 63
22 are in evidence.

23 (WHEREUPON, State Exhibit Numbers 61, 62 and 63 were
24 admitted into evidence.)

25 MS. MUNSON: Your Honor, the next witness will

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1 probably be my last and could be kind of lengthy. I just
2 tell you that so you know.

3 THE COURT: All right. Let's go ahead and get
4 started with him and then we'll take a break when we need
5 to.

6 MS. MUNSON: Okay. The State calls Detective
7 Chris Miller.

8 THE CLERK: Detective Miller, if you would come
9 forward to be sworn in, please. Please place your left
10 hand on the bible and raise your right.

11 Do you swear or affirm that the testimony you're
12 about to give is the truth, the whole truth and nothing
13 but the truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Thank you. You may be seated.
16 Would you please state your name for the record.

17 THE WITNESS: Christopher Miller.

18 THE CLERK: Thank you.

19 **CHRISTOPHER MILLER,**

20 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

21 **DIRECT EXAMINATION**

22 **BY MS. MUNSON:**

23 Q. Who do you work for, sir?

24 A. The Greenville County Sheriff's Office in the
25 Homicide Division.

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1 Q. What is your job title?

2 A. My job title is -- I'm a master deputy in the
3 homicide unit. And my job duties are to investigate
4 deaths to determine whether the death was criminal or not
5 -- or the manner of death, the cause of death, and
6 whether it was criminal or not.

7 Q. Okay. How long have you been with the sheriff's
8 office altogether?

9 A. The sheriff's office, I've been there since 1999. I
10 have been a law enforcement officer since 1994.

11 Q. How long have you been in the homicide unit?

12 A. Five and a half years.

13 Q. As part of your duties in the homicide unit, have
14 you received any special training in investigating
15 homicides?

16 A. Yes. I've been to the University of Louisville to
17 homicide school there. I've also been to the University
18 of Tennessee for DNA identification and analysis. I've
19 been to the FBI Profiler, Criminal Profiling Schools.
20 Numerous schools at different places in the country for
21 homicide.

22 Q. All right. How many homicide scenes would you say
23 that you have investigated?

24 A. Just working in homicide, I've probably investigated
25 forty murders myself.

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1 Q. Okay. And did you get a call in reference to this
2 case?

3 A. I did. I was the on-call investigator that night.

4 Q. Okay. So you weren't on duty. You were just on
5 call?

6 A. That's correct.

7 Q. And you went out to the scene?

8 A. Yes.

9 Q. Now, when you first got to the scene, what was your
10 role? What were you doing out there?

11 A. My role was to oversee the crime scene. Once I
12 arrive, the uniform patrol supervisors are relieved, and
13 I become in control of the scene. And my job is to make
14 sure that evidence is preserved and collected and just
15 direct everybody on what to do, to canvass the
16 neighborhood, to see if any witnesses can be found, which
17 it was late at night, so it was kind of hard to find
18 witnesses at that time. But that's my normal procedure.

19 Q. Okay. Did you actually go into the apartment?

20 A. I did.

21 Q. When you first went in, what was the purpose of
22 that, just initially?

23 A. Initially, just to see what was there.

24 Q. And where did you look before you made like an
25 initial assessment?

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1 A. Well, I first, when I went in downstairs, I looked
2 around downstairs to see if there was any evidence of a
3 burglary, if anything had been disturbed, if there were
4 any other victims, possibly, that had not been located by
5 the patrol officers. And then I made my way upstairs.

6 Q. And you found Ms. Alexander there?

7 A. Yes.

8 Q. Okay. After you initially went through the scene,
9 what did you think that you had?

10 A. It was impossible to tell because of the state of
11 decomposition. We weren't sure if there was an upper GI
12 bleed, or you know, some type of natural disease or if it
13 was a suicide or a murder. We just didn't know because
14 you couldn't see any injuries or anything due to the
15 state of decomposition.

16 Q. And did you see anything else in the apartment that
17 might have given you a clue about what had happened to
18 Ms. Alexander?

19 A. No, and that was just the thing is, there was
20 nothing disturbed whatsoever in the apartment, not
21 upstairs, downstairs, anywhere, which it was puzzling,
22 you know, just -- so that's why we had no idea what it
23 ended up being.

24 Q. At some point, though, your mind changed? And when
25 was that? What changed your focus?

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1 A. Forensics Officer Hamilton, who testified earlier,
2 brought to my attention that there were a couple of drops
3 of blood. One at the very bottom of the steps, which I
4 missed when I walked in. And one in the kitchen. And we
5 knew those two blood spots couldn't have got there by the
6 victim because the victim was upstairs in the bathroom
7 and these blood spots were -- someone else put those
8 blood spots there. They came off of something.

9 Q. Okay. And at that point, what was your decision?

10 A. My decision at that point was to treat this as a
11 homicide.

12 Q. Okay. How long did you stay on the scene?

13 A. I got there at, I believe ten or ten-thirty,
14 somewhere in that area. And I was there until probably
15 five A.M.

16 Q. And who all did you talk to on scene?

17 A. On the scene, just the officers and the forensic
18 technicians that were there. I didn't talk to any
19 witnesses.

20 Q. Okay. All right. So after you left the scene, what
21 was the next stage in the investigation that you were
22 waiting on?

23 A. Was the autopsy, because then, as Dr. Ward said
24 earlier, this was Sunday morning once I left. They don't
25 perform autopsies on Sunday morning, so we had to wait

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1 until Monday morning.

2 Q. Okay. Did you attend the autopsy?

3 A. I did not because being on call for homicide, I had
4 other calls and I actually had another murder that week.
5 So I was working two murders at the same time and that is
6 very hard to do.

7 Q. Okay. So the results of the autopsy were provided
8 to you; correct?

9 A. Yes. I was called immediately once -- Coroner
10 Ramsey called me immediately and told me that they had
11 found the stab wounds.

12 Q. Okay. Now, at that point, did you have any
13 particular suspect in mind based on the evidence that you
14 got from the scene?

15 A. The way we are taught to work homicide
16 investigations are you work them from the inside out. So
17 you take the -- you find out who was the closest person
18 to the victim, family, if they have husband, boyfriend.
19 And in this case we knew that Ms. Alexander had a
20 boyfriend and he had not been seen for a while.

21 Q. Okay. So ---

22 A. So he became a focus at that point to try to find
23 out where he was at.

24 Q. Okay. And how did you go about trying to locate
25 him?

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1 A. Well, we canvassed the neighborhood that Monday
2 afternoon when we knew people would be home, talked to
3 them to see if they had seen Mr. Hayes. And no one had
4 seen him. We also got with our directive patrol
5 division, who works primarily at nights. And we knew
6 that Mr. Hayes was -- had been homeless in the past, and
7 near where this address is, there's a lot of homeless
8 shelters and food, soup kitchens and so forth. So we
9 sent deputies there in those areas to try to find Mr.
10 Hayes.

11 Q. Okay. Now, at some point did you speak with someone
12 who gave you information about Mr. Hayes?

13 A. Yes. I was contacted on a Friday morning by
14 Investigator Bailey and he said that here was a ---

15 MS. HORLBECK: Your Honor, I object to hearsay.

16 THE COURT: Sustained.

17 Q. Did you speak with someone who gave you information,
18 not Detective Bailey?

19 A. Yes. I did. I went to the office and spoke with
20 Larry White.

21 Q. Okay. And where did you speak with him?

22 A. In my office.

23 Q. All right. What did you know -- well, let's just
24 leave that out. When you met up with him, what was your
25 conversation about? How did you talk with him?

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1 A. He told me that ---

2 MS. HORLBECK: And, again, I object on the
3 basis of hearsay.

4 MS. MUNSON: It's already in evidence, Your
5 Honor.

6 THE COURT: I overrule your objection as to the
7 conversation with Mr. White. Overruled.

8 Q. Before we ask you that. During the course of your
9 investigation into Jackie Alexander's death, did the
10 sheriff's office put out a reward?

11 A. No.

12 Q. Okay. And when Mr. White, when you got up with him,
13 what did he ask you for?

14 A. He didn't ask me for anything.

15 Q. Okay. What did you give him?

16 A. I gave him some coffee. That's the only thing.

17 Q. What connection were you able to establish between
18 Larry White and this Defendant?

19 A. Ask again? I'm sorry.

20 Q. What connection were you able to establish between
21 Larry White and this Defendant? Did they have any past?

22 A. They didn't have any past. It was a one-time
23 encounter.

24 Q. Okay. So during the course of this written
25 statement, how did that -- how did you take a written

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1 statement from Mr. White?

2 A. I first asked him where he was from. Made sure that
3 he could read and write, make sure that he was not
4 intoxicated and that he was of clear mind. And let him
5 tell me his story of what he, of what he had encountered
6 when he spoke with the individual who he later identified
7 as Mr. Hayes. And then I typed it as he was telling it
8 to me.

9 Q. Okay. And after it was typed, did you let him look
10 at it?

11 A. What I do is I give the typed copy to -- a hard copy
12 to the person giving the statement, and I give them a red
13 pen. And if they have anything that they don't agree
14 with, that I didn't say that or whatever, I let them
15 circle it and then we will retype it or just let them
16 initial. But he -- but the final copy he initialed each
17 paragraph and then signed it.

18 Q. All right. During the course of the statement, what
19 information did you give him about the crime or the scene
20 or anything else?

21 A. I didn't give him any information.

22 Q. And when you had the directed patrol officers going
23 out trying to locate Mr. Hayes, what information were the
24 directed patrol officers asked to give about the crime
25 scene?

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1 A. They were asked to give none.

2 Q. Okay. Was any information put out to the public?

3 A. No.

4 Q. And why do you do that?

5 A. In order to preserve the evidence that we have.

6 Q. And you did something else with Mr. White; didn't
7 you?

8 A. Oh, yes. Also, I provided a six-person photo
9 lineup.

10 Q. Okay. I'm showing you State's Exhibits Number 1 and
11 2. If you can just take a look at those. Do you
12 recognize those?

13 A. I do.

14 Q. And what are those -- what are State's Exhibits
15 Number 1 and 2?

16 A. Number 1 is a six-person photo lineup, which are
17 obtained through a data base. And they're numbered one
18 through six.

19 Q. All right. And in State's Exhibit Number 1, which
20 one is the Defendant?

21 A. He is number five.

22 Q. Okay. And what is State's Exhibit Number 2?

23 A. That is an affidavit of photograph identification.
24 It's a standard Greenville County Sheriff's Office form.

25 Q. And how soon after a person --let's just stay with

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1 Mr. White. How soon after you showed Mr. White the
2 lineup did you have him execute that affidavit?

3 A. Immediately afterwards.

4 Q. Okay. And those two Exhibits, State's Exhibits
5 Number 1 and 2, where have they been this whole time?

6 A. In my possession.

7 MS. MUNSON: Your Honor, I move State's
8 Exhibits Number 1 and 2 into evidence.

9 THE COURT: Any objection?

10 MS. HORLBECK: Without objection.

11 Q. Now, ---

12 THE COURT: They may be published.

13 MS. MUNSON: I'm sorry. Your Honor.

14 (WHEREUPON, State Exhibit Numbers 1 and 2 were
15 admitted into evidence.)

16 Q. Investigator Miller, tell the jury how you presented
17 this lineup to Mr. White?

18 A. I advised Mr. White that I was going to show him six
19 photos of different individuals and that the person of
20 interest may or may not be in this series of photos. And
21 I wanted him -- and I'll instruct him to look at the
22 photos very carefully and study them and only -- do not
23 just say, well, I think this might be. You have to be a
24 hundred percent sure. If you're a hundred percent sure
25 you see the person in the photo lineup that you spoke

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1 with, then I want you to identify him. And if you can't,
2 then I need you to also advise me of that. But you have
3 to be a hundred percent sure.

4 Q. And when you show it to him, this might sound silly
5 but, like, where were your hands? Were you pointing at
6 anything, Detective?

7 A. No. He -- I actually gave it to him and let him sit
8 there and hold and study it himself.

9 Q. Okay. And when he identified number five, when he
10 identified the Defendant, how quickly did that happen?

11 A. He took the piece of paper, laid it on my desk and
12 said, that's him right there.

13 Q. All right. And then you had him do the affidavit?

14 A. Yes.

15 Q. After you were done with Mr. Hayes, about how long
16 was he -- I'm sorry -- Mr. White, how long was he with
17 you?

18 A. Probably about thirty more minutes. We had to get
19 him a ride back to where we had found him at.

20 Q. Okay. You gave him a ride back to where you found
21 him?

22 A. Back over to Rutherford Street.

23 Q. Okay.

24 MS. MUNSON: I beg the Court's indulgence.

25 Q. Was there anybody else on the lineup that he sort of

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1 looked at?

2 A. No.

3 Q. Now, as part of your investigation when you're
4 trying to figure out what happened, does it matter, as
5 part of your process, how a victim died?

6 A. Yes.

7 Q. Okay. And what in this case was important to the
8 focus of your investigation?

9 A. The number of stab wounds.

10 Q. And why does that matter?

11 A. Well, because the twenty-eight stab wounds indicates
12 there was rage, anger when that act was committed. This
13 was not just a, you know, stab them once or twice and
14 then, you know, incapacitate someone, and then go through
15 the house and look for goods. This was focused, twenty-
16 eight times, and you sit and count twenty-eight stab
17 wounds, that takes a long time to do. And that is a lot
18 of anger and a lot of rage, which makes -- focuses more
19 on an intimate level.

20 Q. Okay.

21 MS. MUNSON: I have nothing further at this
22 time, Your Honor.

23

CROSS-EXAMINATION

24 BY MS. HORLBECK:

25 Q. Investigator Miller, I just have a few questions for

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1 you. You stated on direct examination that you worked
2 the case inside out?

3 A. Yes.

4 Q. From the inside out?

5 A. Yes, yes.

6 Q. Okay. Sorry. I don't -- it's getting late, so. I
7 meant to say you work the case from the inside on out?

8 A. Right. From the victim's closest family, husband,
9 whatever.

10 Q. Okay. And you learned that she had someone that she
11 was seeing?

12 A. That -- actually, I was told that they had been
13 together for quite a while.

14 Q. Okay. All right. And that that person, Mr. Hayes,
15 had not been seen in a while?

16 A. That's correct.

17 Q. All right. And your investigation focused on Mr.
18 Hayes?

19 A. Yes.

20 Q. And Ms. Alexander's family had not talked to her in
21 a while?

22 A. That's -- yeah. That's correct.

23 Q. All right. Were you provided any information about
24 whether Mr. Hayes and Ms. Alexander had broken up?

25 A. I was told that there had been an argument and that

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1 he had left.

2 Q. All right. And the tox screen on Ms. Alexander's
3 autopsy came up positive for cocaine metabolite; correct?

4 A. Yes, ma'am.

5 Q. And you learned that she was a daily user of drugs
6 and alcohol?

7 A. I wasn't told daily, but an avid user, yes.

8 Q. Okay. And Ms. Alexander wasn't working at the time;
9 correct?

10 A. That's correct.

11 Q. Now, were you able to interview anyone, family,
12 friends, about the identity of someone who might be
13 providing the drugs to Ms. Alexander, like a drug dealer?

14 A. No. We tried to obtain that information and weren't
15 able to. But we spoke with the family several times
16 during this investigation.

17 Q. All right. And you were not able to interview the
18 person that was selling the drugs to Ms. Alexander?

19 A. No, ma'am.

20 Q. And none of those photos of a drug dealer were
21 placed in your photo lineup?

22 A. No.

23 Q. And certainly none of the photos of a drug dealer
24 were shown at the soup kitchens or the shelters; correct?

25 A. That's correct.

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1 Q. And when you arrived you found a letter from Senior
2 Solutions?

3 A. That was found by the responding officers.

4 Q. And when you -- when Ms. Alexander was found, her
5 panties were actually mid-thigh?

6 A. Yes.

7 Q. All right. And no forensic testing was done around
8 her vaginal area or inside her vaginal area; correct?

9 A. That's correct.

10 Q. Okay. And through your investigation, you learned
11 that a person named Sammy Thompson had previously been
12 romantically involved with Ms. Alexander?

13 A. I remember Sammy Thompson's name coming up, but I do
14 not remember that without going back and looking at the -
15 --

16 Q. Do you have that with you?

17 A. Let me see.

18 Q. In your notes?

19 A. Yes. I was advised of a Sammy Lee Thompson. We
20 have debriefing forms that the sheriff's office and the
21 Greenville City Police Department have that are at the
22 detention center.

23 Q. Okay.

24 A. And once someone's arrested they're asked whether
25 they know anything about a murder or drug deals or any

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1 crimes that they may want to, you know, talk to us about.

2 So this Sammy Thompson told a Greenville City Officer
3 that he knew something about a homicide. And that's when
4 I made contact with Mr. Thompson, was after that.

5 Q. And he had been previously romantically involved
6 with Ms. Alexander; correct?

7 A. I'm looking for that, to see if I noted that.

8 Q. Or he'd seen her a couple of times, dated her some
9 in the past?

10 A. I don't see that I notated that on my report, that
11 they were previously ---

12 Q. Did you take a statement from Mr. Thompson?

13 A. I did. I do not have that in front of me.

14 Q. And your notes don't say anything about him dating
15 her a few times?

16 A. No. If it's in the statement, it may be. I just
17 don't have it notated in my notes.

18 Q. All right. Okay. And nevertheless, did you take
19 any sort of DNA sample from Mr. Thompson?

20 A. No, I did not.

21 Q. Did you ask him about the last time that he'd seen
22 Jackie?

23 A. I'm -- if I did, it's not in my notes. I may have.
24 I don't know.

25 Q. Okay. And if it's not in your -- you did not ask

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1 him that then? There's nothing your notes about asking

2 him that; correct?

3 A. It's not in my notes.

4 Q. Okay. And in cases of potential sexual assault,

5 it's important to preserve evidence; correct?

6 A. It is.

7 Q. And that was -- there was no attempt made to take a

8 sample from Ms. Alexander; correct? From her vaginal

9 area?

10 A. That was a decision that was made by Dr. Ward. Him

11 being the expert, he says -- he said that due to the

12 state of decomposition, it would have been fruitless.

13 Q. Did you request that a sample be taken?

14 A. Yes, I did.

15 Q. Okay. And did your -- did Investigator Bucholtz or

16 Hamilton take a sample from her vaginal area?

17 A. No. Those would be done at the morgue, at the time

18 of the autopsy.

19 Q. Okay. Is that -- but the morgue's not the only

20 place a sample can be taken; correct?

21 A. That's correct. It's normally done in the hospital,

22 but that's when the victim is alive. But when they are

23 deceased, it's done at the morgue.

24 Q. All right. And neither of your two investigators

25 took that kind of sample; correct?

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1 A. No. They wouldn't be the ones to do that. It would
2 have been Dr. Ward.

3 Q. Okay. And when -- now, at the time you -- well, at
4 the time that you were dealing with the body, you're not
5 an expert in decomposition; correct?

6 A. No.

7 Q. And you didn't know at that point what the time of
8 death was?

9 A. No, I did not. I knew it had been a few days, just
10 through my experience in working deaths.

11 Q. All right. And do you know how long the sperm can
12 live in the vaginal area?

13 A. No, I do not.

14 Q. All right. Would it surprise you if sperm can live
15 in the vaginal area ---

16 MS. MUNSON: Objection, Your Honor.

17 THE COURT: I sustain the objection. He's
18 answered the question.

19 Q. And you also interviewed Mr. White?

20 A. Yes, ma'am.

21 Q. All right. And you testified on direct examination
22 that you took a statement from Mr. White?

23 A. Yes.

24 Q. And in your training, you're trained to write down
25 what the person says; correct?

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1 A. Correct.

2 Q. You don't add in things that aren't said; correct?

3 A. Right.

4 Q. All right. And you had Mr. White initial the
5 paragraphs, each paragraph in his statement?

6 A. Yes.

7 Q. And after you were done taking the statement, you
8 handed the statement to Mr. White to review?

9 A. Yes.

10 Q. And you also gave him a red pen?

11 A. Just in case there's any, like, grammatical errors
12 or anything like that that they may find.

13 Q. Okay. Did he have any changes?

14 A. No.

15 Q. All right. And did Mr. White sign the statement?

16 A. He did.

17 Q. Okay. Did you hand Mr. White a copy for him to take
18 with him?

19 A. Yes. I always provide a copy.

20 Q. And did you get any calls from him later on saying
21 I've reviewed it again and something's wrong?

22 A. No.

23 Q. Okay. And you made sure that Mr. White could read
24 and write before you took his statement?

25 A. That's correct.

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1 Q. And there's no evidence that Mr. White contacted the
2 police or anybody on June the 9th; correct?

3 A. That's correct.

4 Q. And to your knowledge, Mr. White -- well, Mr. White
5 states a conversation between him and Mr. Hayes happened
6 at the Labor Finders?

7 A. Yes. At one of the day labor places.

8 Q. Okay. And is that he day labor place around the
9 Rutherford Road, the Pete Hollis area?

10 A. There's -- yes, it's around there. And then there's
11 some right here at -- near Channel 4 on Rutherford
12 Street.

13 Q. And that's near the Tommy's Ham House?

14 A. Yes.

15 Q. And near the Hardee's? There's a Hardee's right
16 there?

17 A. Yes.

18 Q. And a McDonald's?

19 A. Yes.

20 Q. Is the library nearby, as well?

21 A. Yeah. If you turn the corner back onto ---

22 Q. And, also, I think the Upstate Children's Museum?

23 A. Yes.

24 Q. And then Main Street, is that a couple of blocks
25 away?

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1 A. That's correct.

2 Q. All right. But, again, there's no evidence of any
3 report filed by Mr. White on June the 9th?

4 A. No, ma'am.

5 Q. Okay. Now, did you -- after talking to Mr. White,
6 did you go to the temp agency where he said this
7 conversation took place?

8 A. No, I did not.

9 Q. Did you ask anyone at the temp agency whether they'd
10 seen a crying man, crying his eyes out?

11 A. We did go back, not that day. We did go back, but
12 first when we were told that he had maybe gone out of
13 town, the first thing we did was went to the Greyhound
14 Station to see if we could find anything there.

15 Q. Well, I'm asking about the Labor Finders, where Mr.
16 White says that he saw Mr. Hayes on June the 9th?

17 A. No.

18 Q. Did you go there?

19 A. Not immediately, no.

20 Q. Okay. Did you go there at all?

21 A. Yes.

22 Q. All right. And had anyone -- did you ask anyone
23 there if they'd seen a crying man?

24 A. Not if they'd seen a crying man. We asked if they'd
25 seen Mr. Hayes.

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1 Q. And had they?

2 A. No.

3 Q. And you've indicated you'd gone to the bus station
4 as well?

5 A. Yes.

6 Q. And were you able to obtain evidence of a date that
7 Mr. Hayes left town?

8 A. Well, there was a bus that left, I believe it was
9 the Tuesday after -- which I guess would have been the
10 11th or 12th -- whatever that Tuesday was before the body
11 was found, there was a bus that went -- left Greenville,
12 went to Charlotte. We had been told that Mr. Hayes had a
13 sister in Danville, Virginia. The bus went to Danville,
14 Virginia. And from there went to Newark, New Jersey,
15 where we knew Mr. Hayes was from.

16 Q. Okay. You could not confirm that Mr. Hayes was on
17 that bus; could you?

18 A. No. And the guy at the bus station said that if
19 they paid by cash, there's no record.

20 Q. And, again, you were not able to verify that Mr.
21 Hayes was on that bus or any bus leaving town?

22 A. No.

23 Q. And on the 18th of June, your directive patrol unit
24 took a photograph of Mr. Hayes to one of the shelter
25 areas? I'm not sure if it was a shelter or an area where

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1 some people were sleeping.

2 A. Yes. Yes, they did.

3 Q. Okay. And to your knowledge no report was filed
4 that anyone identified the man in that picture; correct?

5 A. That's correct.

6 Q. And no one -- when the directive patrol showed the
7 picture to the -- whoever they showed it to, Mr. White
8 included, no information was given by Mr. White; correct,
9 on the 18th?

10 A. I didn't receive any -- anything.

11 Q. Okay. And the picture that was shown by the
12 directive patrol unit is the same picture that you showed
13 Mr. White the next day?

14 A. It was the same picture, but he was cropped, which
15 means that all the background was taken out, just the
16 facial features.

17 Q. So it's the same face?

18 A. Yes.

19 Q. Okay. And after seeing that picture on the 18th, it
20 was the 19th before Mr. White contacted the police?

21 A. Yes.

22 Q. Did you determine whether or not Mr. Hayes had a
23 sister in Kentucky?

24 A. No. We determined that he has one in Danville,
25 Virginia.

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1 Q. I see. Okay. And the search warrant in this case
2 was executed three days after Ms. Alexander's body was
3 found?

4 A. There was two separate search warrants.

5 Q. Okay.

6 A. There was a search warrant for the night of the
7 initial investigation. And then one was obtained again
8 to go back and get further evidence.

9 Q. Okay. And the one that was executed three days
10 later, that was the search warrant that was for the
11 knives in the case?

12 A. That's correct.

13 MS. HORLBECK: That's all I have. Thank you.

14 MS. MUNSON: I have some redirect, Your Honor.

15 THE COURT: Yes, ma'am.

16 **REDIRECT EXAMINATION**

17 **BY MS. MUNSON:**

18 Q. All right. Investigator Miller, do you have a lot
19 of experience in your years of law enforcement with these
20 day labor type places?

21 A. Yes.

22 Q. How often do you find the same people there on one
23 day that you find the other?

24 A. Seldom.

25 Q. Okay. Has Jackie Alexander's family been

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1 cooperative with you?

2 A. They -- I've stayed in touch with them throughout
3 these last three years.

4 Q. All right. On cross-examination Ms. Horlbeck
5 brought out that you got information from the family that
6 there was an argument and he left. Do you remember
7 answering that question?

8 A. Yes.

9 Q. And give us the time frame on that. Let's explore
10 that a little bit.

11 A. This argument took place just a few days before they
12 last heard, I guess -- when the argument -- when they
13 last heard from her was around the time of the argument.

14 Q. Okay. When they last heard from Jackie?

15 A. Yes.

16 Q. All right. What did they tell you about the
17 argument?

18 A. Not a whole lot. Just that Mr. Hayes had been asked
19 to leave.

20 Q. Okay. All right. Did you ever find out who Jackie
21 got her drugs from?

22 A. No.

23 Q. And if you had found out, what would you have done
24 with that information?

25 A. I would have investigated it and tried to either

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1 include them or rule them out as a suspect.

2 Q. All right. And when you're doing these lineups, how
3 do you decide which people will be in the lineup besides
4 the person you're trying to have your witness pick out?
5 How do you decide who the other five guys are going to
6 be?

7 A. Similar characteristics, whether they're bald or
8 they have blonde hair or brown hair, brown eyes, blue
9 eyes, beards.

10 Q. So if the drug dealer was a white guy, would you put
11 him in the lineup?

12 A. No.

13 Q. Ms. Horlbeck was asking you about Sandy Thompson's
14 statement that you took. Do you want to look at a copy
15 of it?

16 A. Yes.

17 Q. Now, after looking at that, is your memory refreshed
18 on what Mr. Thompson told you?

19 A. Yes.

20 Q. Okay. And how did you come in contact with him?

21 A. Through the Greenville City Police Department
22 Debriefing Form.

23 Q. Okay. So he got arrested and then said, hey, I know
24 something?

25 A. Yes.

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1 Q. Okay. Did he provide you any information about who
2 killed Jackie Alexander?

3 A. No.

4 Q. What kind of information did he give you?

5 A. Just the fact that she had a boyfriend who he knew
6 as Red, but was Mr. Hayes. And that he possibly was
7 living with a subject named Aunt Davis.

8 MS. HORLBECK: Okay. I'm going to object to
9 all this. It's hearsay.

10 THE COURT: Well, are there any other questions
11 you have about the statement?

12 MS. MUNSON: Well, I'm just following up on her
13 cross, Your Honor.

14 MS. HORLBECK: I didn't ask all that.

15 THE COURT: Well, I'm going to allow the
16 question. Limited.

17 Q. But the point is, based on the information you got,
18 why was Sandy Thompson coming to you?

19 A. To tell me to -- that I needed to check into her
20 boyfriend.

21 MS. MUNSON: I have nothing further, Your
22 Honor.

23 THE COURT: Thank you.

24 MS. HORLBECK: I've just got -- just briefly,
25 Judge.

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1 THE COURT: Briefly.

2 RECROSS EXAMINATION

3 BY MS. HORLBECK:

4 Q. Do you know why Mr. Thompson was incarcerated?

5 A. I can't recall.

6 Q. Okay. And after reviewing the statement, do you see
7 on line two where he says he dated her a few times ---

8 A. Yeah. I just -- I did put it in there.

9 Q. And you indicated that the same people were not at
10 these day labor places; correct?

11 A. That's correct.

12 Q. But the employees might be the same; correct?

13 A. The people who run the operation, yes.

14 Q. And did you talk to them?

15 A. Yes.

16 Q. Okay. And they hadn't seen anybody crying?

17 A. No.

18 Q. And did you show them pictures of Mr. Hayes? Had
19 they seen him?

20 A. Yes, I showed them pictures and they didn't
21 recollect him.

22 Q. They had not seen Mr. Hayes?

23 A. No.

24 Q. Okay. And drug dealers can be white and black;
25 correct?

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1 A. Yes.

2 MS. HORLBECK: That's all I have. Thank you.

3 MS. MUNSON: Nothing further, Your Honor.

4 THE COURT: Thank you. You may step down.

5 Ladies and gentlemen, we're going to take a short break
6 at this time. I'll ask you to go back to your jury room.
7 Don't discuss the case. We'll call you back in just a
8 few moments after a short break.

9 (WHEREUPON, the jury exited the open court at
10 approximately 3:10 P.M.)

11 THE COURT: Does the State have any more
12 witnesses?

13 MS. MUNSON: No, sir, Your Honor.

14 THE COURT: I guess with the number of Exhibits
15 we need to make sure during the break that all the
16 Exhibits that are supposed to be introduced are
17 introduced and make sure that's clarified.

18 Obviously, I'll let you rest on the record in front
19 of the jury in just a few moments. So subject to all the
20 Exhibits that have been marked being admitted, is the
21 State resting at this time, Ms. Munson?

22 MS. MUNSON: Yes, Your Honor.

23 THE COURT: And, again, I'll let you rest
24 before the jury later. I just wanted to take care of any
25 matters that we have. You're resting, subject to all the

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1 MS. HORLBECK: We're not. We're resting.

2 We'll rest on the record.

3 THE COURT: You're going to rest, as well.

4 Okay. All right. Let's have our jury come in if they're
5 ready.

6 MS. HORLBECK: And, Judge, of course, I'll be
7 making my motion for a directed verdict. I just know
8 that's not going to be in the jury's presence.

9 THE COURT: Right. I have a note of that and
10 we'll just cover that after we send them out.

11 MS. HORLBECK: All right. Thank you.

12 THE COURT: We'll rule afterwards, but you're
13 protected on that, after you rest.

14 (WHEREUPON, the jury entered the open court at
15 approximately 3:32 P.M.)

16 THE COURT: All right. Madam Solicitor, you
17 may call your next witness.

18 MS. MUNSON: May it please the Court, Your
19 Honor. That is the State's case.

20 THE COURT: All right. The Defense may call
21 its first witness?

22 MS. HORLBECK: Your Honor, the Defense rests.

23 THE COURT: Ladies and gentlemen, I told you at
24 the beginning there's certain stages in the trial that we
25 have. And the stage that you'll next be involved in is

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1 at nine o'clock in the morning. You may be excused at
2 this time.

3 Everyone else, please remain seated.

4 (WHEREUPON, the jury exited the open court at
5 approximately 3:35 P.M.)

6 THE COURT: All right. Ms. Horlbeck, you may -
7 - you indicated you wanted to make your motions and I put
8 you off to let the jury be excused for the day. I'll be
9 glad to hear from you.

10 MS. HORLBECK: Yes, sir. We have a motion for
11 a directed verdict. Our position is that the State's
12 case against Mr. Hayes consists only of circumstantial
13 evidence. And the requirement is that there must be
14 substantial circumstantial evidence that reasonably tends
15 to prove Mr. Hayes' guilt. The evidence produced today
16 just shows a mere suspicion of Mr. Hayes' guilt. We
17 would ask that the court grant a directed verdict. Also,
18 at this time, we would renew all of our prior motions.

19 THE COURT: All right. Would the State like to
20 be heard on that?

21 MS. MUNSON: Taking the evidence in the light
22 most favorable to the State, Your Honor, we believe that
23 there is enough for the jury -- from which the jury could
24 rightfully convict the Defendant. We would ask you to
25 deny that motion.

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1 THE COURT: Well, as you both know, I must view
2 all the evidence in the light most favorable to the non-
3 moving party and I find there is sufficient evidence,
4 taking it as a whole, direct and circumstantial, for the
5 jury to make a decision on this. I respectfully deny
6 your motion, Ms. Horlbeck.

7 Are there any specific requests for charge, other
8 than -- obviously, I'll charge the normal charge that
9 y'all have heard me charge before about presumption of
10 innocence, and right to remain silent, intent, murder,
11 malice, weapons, expert witnesses, credibility, all those
12 things you'd expect. Identity, I'll be glad to charge
13 identity. That seems to be an issue here. Any other
14 particular charges that either of you feel would be
15 appropriate or do you have any requests for charge?

16 MS. MUNSON: I'm just asking Your Honor if
17 you're going to charge circumstantial evidence as well?

18 THE COURT: I'll charge direct and
19 circumstantial.

20 MS. MUNSON: The State has nothing further.

21 MS. JOHNSON: I do have some requested charges
22 that I would like to share with you.

23 THE COURT: Okay.

24 MS. MUNSON: Your Honor, let's see, we've got
25 one, two -- I have a request to charge one.

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1 approximately 9:05 A.M.)

2 THE COURT: Good morning, Mr. Foreman, ladies
3 and gentlemen. We're now ready to proceed with the
4 closing statements of the attorneys. I've told you
5 before that what they have to say to you is not evidence.
6 I urge you to listen carefully as each of them wrap up
7 their view, at least, of the evidence. And I'm confident
8 that they can give you some valuable insights and perhaps
9 help you in your deliberations to take place soon. After
10 they've addressed you, I'll instruct you on the law and
11 then the case will be yours to decide. Solicitor, you
12 may address the jury in your closing.

13 MS. ADAMS: Thank you, Your Honor.

14 **CLOSING STATEMENT**

15 **BY MS. ADAMS:**

16 Good morning. Just to remind you, I'm Wanda Adams.
17 I'm one of the Solicitors in the Thirteenth Circuit. I
18 just want to speak to you a little bit this morning.
19 We're here at the close of this case. This was a tough
20 case. It's been a tough case for everyone involved.
21 But, you know, despite the toughness, you have given it
22 your undivided attention, and for that we both thank you.

23

24 Now, you heard just tons of raw emotion from this
25 family. You've seen some pretty horrific images during

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1 this trial. And there was no way for us to really
2 prepare you for some of the things you were going to hear
3 and see. But despite all of that, it was obvious that
4 you took the oath that was administered to you early on,
5 to consider all the evidence and to give it -- give this
6 trial your undivided attention. And we do appreciate
7 that. Every participant in this trial appreciates that.

8 You know, you're going to have to make a tough
9 decision. Tough trial, tough decision. Now, Judge
10 Welmaker is going to instruct you a little later on, on
11 what the law is that you will use to apply to the facts
12 as you determine them. And again, you're going to
13 determine what the facts are. You're going to determine
14 what happened to Jacquelyn Alexander. That's your
15 decision to make. You know, ladies and gentlemen, we
16 make, we make hard decisions all the time. It's just
17 necessary. That's just part of life. And that's what
18 we'll be asking you to do today. But you're here because
19 of your problem-solving skills. You're here because
20 you're trusted, because you're trusted.

21 Now, for the last couple of days when you had to sit
22 through what might seem sometimes like an endless list of
23 witnesses; we recognize that. But it was necessary.

24 Now, Ms. Horlbeck in her opening a couple of days
25 ago, she compared this trial to -- the term she used was

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1 a panacea. But the State, we don't sell snake oil. We
2 gave you everything that we felt you needed to know in
3 order to make an informed decision. So all these
4 witnesses, all this evidence, it was just absolutely
5 necessary. And I always say, you know, in a trial I
6 compare it to -- when you go to the grocery store you buy
7 a package of strawberries. You don't look just at the
8 ones on the top. You've got to turn that package over.
9 You've got to look for the rotten ones. And that's what
10 we're asking you to do. So, because, again, we're not
11 snakes -- snake oil sellers.

12 Let's review some of this evidence. Now, ladies and
13 gentlemen, I'm old school. I apologize for that. I was
14 not going to embarrass myself by trying to deal with some
15 type of Power Point. We're going to write it down. The
16 State has the burden of proving beyond a reasonable doubt
17 that Ralph Hayes who sits here at this table,
18 intentionally and maliciously killed Jackie Alexander. I
19 think that was pretty easy to prove. We had a woman that
20 was killed and maliciously. And that's evident by the
21 fact that she was stabbed twenty-eight times.

22 Now, he's also been charged with possessing a weapon
23 during the commission of a violent crime. I think we
24 also -- there was a pretty easy way to prove that. I
25 mean, obviously, twenty-eight stab wounds with a knife or

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1 some kind of sharp-edged weapon or object. And, of
2 course, the violent crime was the murder. Proven.

3 Now, we get to the evidence that points to Ralph
4 Hayes as the perpetrator. You know, you watch all these
5 Law and Order shows, and I think somebody alluded to CSI
6 and CSI type shows, that we watch in our everyday life.
7 Well, this is not a case where Ralph Hayes was found
8 standing over her body with a bloody knife. That wasn't
9 the case here. But there was a whole lot of evidence
10 that was presented to you during this trial that proves
11 he was indeed the perpetrator.

12 So let's look at that. Let's review that. Let me
13 remind you of the testimony of Anthony Murdaugh, the
14 neighbor. He testified that he saw her on Sunday
15 morning, June 7th, about ten o'clock when she was locked
16 out of her apartment. She was never seen alive again.
17 Then we had the lively testimony of Larry White. Larry
18 White was the homeless guy who now lives in St. Louis,
19 who met Ralph Hayes at the Able Body Labor Finders, one
20 of those day labor businesses. He met him on Tuesday,
21 June 9th. Broad daylight, business had closed. He sees
22 this distraught man sitting outside on the bench,
23 distraught, almost hysterical, crying. He approaches
24 him, hey, man, what is going on. Why are you so upset?
25 Again, this was a stranger, somebody he had never met in

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1 his life. Ralph Hayes starts to pour his heart out to
2 Larry White. He tells him my girlfriend's dead. She was
3 stabbed repeatedly. Her panties were down. The police
4 didn't realize until days later that she had been
5 stabbed, but he was able to give all these details. Told
6 Larry White she was stabbed. Yeah, this is a stranger.
7 Then he goes on to tell him that, I think the dope man
8 did it. And that her mama has paid for her drug debts
9 before. He talks about how he has done something so
10 horrible that even God won't forgive him. That God won't
11 even forgive him. And when Larry White asked him, what
12 could be so bad, his response was, you ain't never killed
13 nobody. Then he goes on to tell him, I'm leaving town.
14 Showed him some bus tickets. I can't hang around because
15 they're going to think I did it. And he leaves.

16 Larry also talked about seeking out the police. He
17 hears these rumors about this woman being killed. Now,
18 ladies and gentlemen, I want you to think about this.
19 This is a homeless man. He admitted he had stolen his
20 dead brother's check. Homeless people tend to avoid the
21 police, but -- and these were the words he used -- he
22 felt it was the Godly thing to do, to seek the police out
23 and tell them what he had heard. So, you know, again,
24 this is a man who admitted he stole his dead brother's
25 check. There was a lot of testimony about whether he'd

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1 seen a photo at the shelter before he went down to the
2 police department to identify Ralph Hayes in a photo
3 lineup. If he would admit doing something that, it was
4 obvious it still hurt him to describe what he'd done to
5 his brother, why wouldn't he admit he'd seen a picture?
6 But he was adamant. He never wavered. He goes down to
7 the police department, clear, within seconds he
8 identified him out of an array of six photos. All these
9 men look alike. He had no doubts about who he had talked
10 to. He said that nobody influenced him. He was
11 absolutely sure it was Ralph Hayes he had spoken to for
12 over an hour. One hour, he talked to this man face-to-
13 face. So we're not talking about mistaken identification
14 here. He was clear. He had nothing to gain but a cup of
15 coffee. He had a cup of coffee. There was no reward.
16 He wasn't paid. Nothing at all to gain.

17 So, Ralph talks about the dope man did it. She owed
18 the dope man money. But then you heard the testimony
19 from the mother of Jackie Alexander. She totally blew
20 that out of the water. That was Janie Ashmore. She was
21 honest about the problems her daughter had. But she had
22 no enemies. And she also swore she had never paid any
23 drug dealers for debts of her daughter.

24 Then you heard from Jo Lynn Wood. Remember, she was
25 seventeen at the time, high school student. Lived in the

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1 same apartments with her mother. Now in school,
2 advancing her education. She had seen Ralph Hayes. She
3 had seen Jackie Alexander many times. They lived in the
4 apartments up from her. But when the police came to her
5 a couple of days after Jackie's body was found -- now,
6 granted, this was three years ago. But when they came to
7 her asking questions she told them then, wow, I've seen
8 him this week at least twice coming out of that apartment
9 late at night. Now, the defense, you know, they asked
10 her, well, how could you remember from three years ago
11 who you saw? Well, I think that you -- if somebody comes
12 to you and says, we just found a body. A few days
13 before, I think you would remember what you had seen and
14 what you had heard. And she did. He had to pass her.
15 She showed you where she lived in relation to Jackie's
16 apartment. He had to pass her. She knew who he was.
17 And she would wave at him. Again, no mistaken
18 identification.

19 Then you heard from one of the first witnesses,
20 Barbara McNeil, the sister of the victim. Very emotional
21 testimony. It's been tough for all of this family, but
22 particularly for her because she found her sister in that
23 state. She testified she gets there, the door is
24 unlocked. She goes in, there's nothing out of place.
25 Nothing. All her valuables are still there. No signs of

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1 a burglary. Something else interesting she said, she's
2 calling the phone and the ringer is off. The phone
3 works, but the ringer is off. And she described her
4 sister as having some problems, but no known enemies.

5 Then, let me remind you of the testimony from
6 Detective Hamilton. He responds to a call of a death.
7 Initially, because again of the state of the body, he
8 didn't even know the cause of death. This is where you
9 saw the gruesome pictures. And he made a note to mention
10 also, no signs of a burglary. The body moderately
11 decomposed, drops of blood; a drop of blood at the bottom
12 of the stairs and in the kitchen. There was also some
13 testimony about some fluids found underneath the vent
14 that was directly beneath the bathroom where the body was
15 found. Obviously, bodily fluids from Jackie Alexander.
16 He was also asked if a sexual assault assessment or kit
17 was done. And I think that was probably an important
18 question because her panties were down. Detective
19 Hamilton explained to you that because she was deceased,
20 that was a role for the medical examiner.

21 Then we get to Dr. Ward, the medical examiner.
22 Obviously a very experienced man, a wide-range of
23 credentials, years of experience. And he also addressed
24 the issue of a sexual assault kit. Because of the
25 condition of the body, it would have been useless. He

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1 was also asked about comparing any knives to the stab
2 wounds, the twenty-eight stab wounds, five to the front
3 of her body, twenty-three to her back. Dr. Ward also
4 testified that there was no way to say exactly what date
5 and time she died. But what he was able to do, that I
6 think was very helpful, he said that his estimate was
7 that she had been dead three to five days.

8 So let me take you back to the time line. Last seen
9 on June the 7th, that Sunday. She was found on June
10 13th. If you go back three to five days, between the 8th
11 and the 10th. Remember, Ralph Hayes was almost
12 hysterical, distraught when he talked to Larry Hayes --
13 talked to Larry White on the 9th. He talked to him on
14 the 9th. That would have put her dead within that five
15 days. Dr. Ward also testified to something very
16 interesting. She didn't have any -- no defensive wounds.
17 Twenty-eight stab wounds. She had no defensive wounds.
18 She didn't have a chance to fight.

19 You heard some forensic testimony, DNA analysis.
20 There was the forensics guy, Chris Gary. He talked about
21 the fingerprint analysis here, the palm prints. Again, a
22 lot of this stuff, you'll have back there in the room
23 with you. You don't just have to take my word for it.
24 But it's here. He talked about a palm print of Ralph
25 Hayes found on the top of the toilet, the toilet to the

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1 left of the body. His palm print was also found on the
2 top of the tub. Why would your palm prints be on the top
3 of the toilet or the top of the tub like that? And she
4 was found wedged between the toilet and the tub. That's
5 in the photos. No, there was no knife found because it's
6 not there because he took it with him.

7 Then we've got Dr. Kandala. Dr. Kandala, who did
8 some DNA analysis, testified that he was able to
9 establish a DNA profile from Jackie Alexander's piece of
10 clothing, which he was able to match up to the blood that
11 was found at the bottom of the stairs and in the kitchen.
12 It was her blood. This killing happened in the bathroom.
13 So when Ralph Hayes left that bathroom he dropped blood
14 downstairs. Her blood. And then, what I thought
15 was something most compelling about this, was from
16 Detective Chris Miller, a seasoned detective, testified
17 to his many years of experience. He testified that they
18 identified no other suspects. You heard all his
19 testimony about the drug dealers. They were never able
20 to come up with anybody that they could point the finger
21 to, to say, maybe this person did this. He talked to her
22 family extensively. He talked to other people. He
23 talked to her friends. The only suspect was then and is
24 now, Ralph Hayes. He spoke about an argument Jackie
25 Alexander and Ralph Hayes had shortly before she was

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1 never to be seen alive again. He spoke about the
2 significance of twenty-eight stab wounds. Again, this is
3 a seasoned detective. And his testimony was that twenty-
4 eight stab wounds was an indication of rage. Something
5 personal. And in his experience a drug -- if this was a
6 drug deal gone bad, usually what would happen is somebody
7 would go in, do whatever they feel necessary to
8 incapacitate the victim, and if you're owed money, you
9 wouldn't walk out the door and not take anything. It
10 makes no sense. Nothing taken. Twenty-eight wounds, an
11 indication of rage, personal. He also clarified what he
12 did with Larry White with the photo lineup. He confirmed
13 Larry was clear. He had no questions. He chose nobody
14 else but Ralph Hayes as the person he had a one-hour
15 conversation with that told him, God won't forgive me.
16 And when responded when asked what could be so bad, you
17 ain't never killed nobody. And told you he got a cup of
18 coffee. That's the only thing Larry White got from this.
19 He checked with Greyhound Bus. They told him if he paid
20 in cash, no records. But we do know he left town.
21 Because Officer Manly testified that well over a year
22 later Ralph Hayes was located in New York in July 2010
23 and returned to Greenville.

24 You know, you'll go back there and you'll take all
25 these life experiences back in the jury room with you.

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1 But your role as jurors in this case, you've got to make
2 a decision. You've got to come together as one. And
3 when you took that oath, you did not take an oath to
4 leave your commonsense outside this courthouse. You
5 determine what the facts are. And like I said, the State
6 is not selling you snake oil.

7 Ralph Hayes, this man sitting right here, he
8 surprised that woman in the bathroom. He didn't even
9 give her time to pull her panties up. He didn't even
10 give her time to try to defend herself. And he thrust a
11 knife or some sharp-edged object into her body twenty-
12 eight times. Twenty-eight times. She didn't have a
13 chance. He did this. So what I ask you to do, ladies
14 and gentlemen, is this. This is Jackie Alexander.

15 MS. HORLBECK: And, Judge, I hate to object
16 during someone's closing, but at this point I would say
17 that this is objectionable and I would ask the Court to
18 have the State not use this in their closing.

19 MS. ADAMS: Your Honor, again, this is just a
20 picture of the victim.

21 THE COURT: Just move on with the case.

22 BY MS. ADAMS: Jackie Alexander, mother,
23 daughter, sister, paid the ultimate price with her life
24 at the hands of Ralph Hayes who brutally, with intent to
25 kill, who maliciously took her life while possessing a

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1 knife or some kind of sharp-edged weapon. And we ask you
2 to speak the truth. Just speak the truth.

3 Thank you again for your attention and for allowing
4 me to come speak to you.

5 MS. HORLBECK: Judge, at this point, we would
6 have just a brief matter to take up with the Court.

7 THE COURT: All right. Ladies and gentlemen,
8 I'm going to ask you to go back to your jury room just
9 for a moment. After that, we'll call you back. Please
10 don't discuss the case.

11 (WHEREUPON, the jury exited the open court at
12 approximately 9:48 A.M.)

13 THE COURT: All right. Ms. Horlbeck.

14 MS. HORLBECK: Judge, the State, during their
15 closing argument, used a picture of Ms. Alexander and
16 that's just highly objectionable. It's not introduced
17 into evidence. And I believe -- and I'd probably have to
18 do a little bit of research to just be definite. But I
19 believe case law states that mitigation evidence -- and I
20 don't believe it's to be used in just a regular murder
21 case. I thought that that was only supposed to be used
22 in the mitigation portion of a death penalty case. It's
23 been used in this case. It's objectionable. And I hate
24 to do this, but I just think at this point we're going to
25 have to ask for a mistrial.

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1 THE COURT: All right. Solicitor, I'll be glad
2 to hear from you on that.

3 MS. ADAMS: Your Honor, in response to the
4 comments from Ms. Horlbeck, it's not like this woman's
5 body has not been seen during the course of this trial.
6 This picture is just a picture of her in a different
7 form. And it is our position that it's not inflammatory,
8 it wasn't prejudicial to this Defendant. Again, she has
9 been introduced, her body has been shown. Again, it's
10 just in a slightly different form. And therefore, we
11 don't feel it's a basis for a mistrial.

12 THE COURT: While the jury's out taking a
13 break, let's just take a short break and we'll reassemble
14 in about ten minutes.

15 (WHEREUPON, the court stood at recess for a short
16 break.)

17 THE COURT: All right. Anything else from
18 either of you on the issue?

19 MS. HORLBECK: Judge, just that the State
20 introduced a photo that's not into evidence. At this
21 point, we're not even sure who was in the photo. We
22 don't know if Ms. Alexander was in the photo or if that's
23 truly her family. There's no testimony to corroborate
24 the identity of the people in the photo. And it's our
25 position that the State introduced that photo for the

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1 sole purpose of playing to the jury's emotions.

2 MS. ADAMS: Your Honor, the State denies that.
3 The State's position is that a mistrial should only be
4 used here in the case where irreparable harm has been
5 done. And we certainly do not feel that that is the case
6 here. That can be corrected if the Court feels it needs
7 to do so by a curative charge to the jury. But we
8 certainly do not feel that this picture -- it was pointed
9 out that she was in the picture and she was pointed to.
10 It wasn't something just arbitrarily presented. And, as
11 I stated earlier, it's not like this woman's body hasn't
12 been shown during the course of this trial. Again, this
13 was just a picture of that body.

14 THE COURT: All right. Thank you, Ms. Adams.

15 Well, the record is not -- the Appellate Court, I'm
16 sure, struggles with what a record shows. I was
17 observing and the Defense very timely made its objection
18 to the photograph at the very end of the closing. I
19 ruled promptly and told the Solicitor to move on, which I
20 believe that she did, without the photograph. I believe
21 the photograph could not have been displayed to the jury
22 more than fifteen seconds, if that long. Observing just
23 slightly the photograph as I did, it had several people,
24 I assume, family members in it. I'm really not sure that
25 all the jurors even saw the picture. And if they did,

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1 whether they had time to decipher which one was the

2 Defendant -- or the victim. Excuse me.

3 I don't believe that showing the picture was of such
4 a prejudicial effect that would require a mistrial. I
5 believe that due process to the Defendant can be
6 maintained. I'll be glad, Ms. Horlbeck, to give a
7 curative instruction if you desire one. I know that's a
8 decision that attorneys often have to decide as to
9 whether or not it creates more emphasis. And whether you
10 desire that, I'll be glad to give the jury a curative
11 instruction.

12 And, also, I guess the -- obviously, the picture's
13 not into evidence. It was only used for demonstrative
14 effect in the closing argument of the Solicitor.

15 Do you wish me to give a curative instruction?

16 MS. HORLBECK: Well, Judge, just for the
17 record, I need to say that I don't believe that a
18 curative instruction will cure the problem. But I don't
19 think I can refuse the curative instruction either in
20 order to preserve my objection. But I do just want to --
21 I want the record to reflect that ---

22 THE COURT: Do you want a curative instruction?

23 MS. HORLBECK: Yes, sir.

24 THE COURT: All right.

25 MS. HORLBECK: But I need the record to reflect

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1 that I don't believe it will -- it's sort of like telling
2 the jury to ignore the pink elephant. And that's all I
3 have. Thank you, Judge.

4 THE COURT: All right. Let's have our jury
5 come in if they're ready.

6 (WHEREUPON, the jury entered the open court at
7 approximately 10:22 A.M.)

8 THE COURT: Thank you, ladies and gentlemen.
9 We're now ready to continue with the closing statements
10 of the attorneys. Let me remind you that what the
11 attorneys say to you, demonstrative aids that are used
12 that are not part of the evidence, are not to be
13 considered by you in any way whatsoever. I'm going to
14 give you instruction on the law later as to what you are
15 to consider. But as I said before, and as I say now, and
16 have said even the days before, what the attorneys have
17 to say to you is not evidence. And any aids they use for
18 demonstrative purposes is not evidence either for you to
19 consider. I'll instruct you further on the law after the
20 closing statement of the defense attorney. Ms. Horlbeck.

21 MS. HORLBECK: May it please the Court.

22 **CLOSING STATEMENT**

23 **BY MS. HORLBECK:**

24 Good morning, ladies and gentlemen. Back when snake
25 oil was a problem in this country, there was no federal -

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1 - or Food and Drug Administration. There was no
2 governmental body to try to test the oil and figure out
3 what the ingredients were, figure out whether it was
4 turpentine or mineral oil and something known as camphor
5 and pepper, you know, red pepper and stuff like that.
6 There was no body like that to do that testing. Once the
7 FDA was formulated, then they could test for oils and
8 they could find out what the ingredients were in the
9 oils. And they could say, okay, these oils and these
10 ingredients, they're not doing what these salesmen are
11 saying that they're supposed to do, they don't cure
12 anything. And they could go after the salesmen.

13 Your role here today is just like the FDA. Your
14 role here today is to analyze and look at the witnesses
15 and the evidence the State has brought you today. And
16 you have tools that you're going to use to do that
17 analysis. The first one you're going to use is the
18 burden of proof. The government has the burden of proof
19 in this case. Mr. Hayes does not have the burden to
20 testify. He does not have the burden of bringing any
21 witnesses into this courtroom. It's all on the
22 government. And the question you need to ask today is,
23 has the government met their burden of proof. The second
24 question you need to ask is, have they overcome the
25 presumption of innocence. The presumption of innocence

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1 is a robe of righteousness. We learn that in law school.
2 And it covers everyone who takes the stand or stands on a
3 trail. That's what I was trying to say. It covers
4 everyone who is on trial. And it covers Mr. Hayes. The
5 only thing that removes that robe of righteousness is
6 proof of guilt beyond a reasonable doubt.

7 Proof of guilt beyond a reasonable doubt is proof
8 that leaves you firmly convinced. If you're wondering
9 why there's no murder weapon, that's a reason to doubt.
10 If you're wondering why Mr. Hayes' prints aren't on a
11 weapon, that's a reasonable doubt. If you're wondering
12 why no one call tell you why Mr. Hayes -- well, when Mr.
13 Hayes' prints were left in the bathroom, that's a
14 reasonable doubt. A reasonable doubt is a doubt based on
15 a rational, commonsense reason. This case is chocked
16 full of reasonable doubt and we need to go through some
17 of that today.

18 The government, one of the first things they said in
19 their closing was that they're not snake oil salesmen.
20 Yet they tell you that their theory is, is that Mr. Hayes
21 must have taken the weapon with him. Where is the
22 evidence of that? No one testified to that. There's no
23 evidence of any fingerprints on a weapon. There's no
24 evidence that they even have a murder weapon in this
25 case. There's no evidence of any weapon whatsoever that

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1 can be linked to Mr. Hayes. And they want to say they're
2 not snake oil salesmen? What is that argument but a
3 band-aid to cover up and try to cure and fix the fact
4 that they don't have a murder weapon. That's all that
5 argument is. And, yes, that is a panacea. And, yes,
6 that is snake oil. And, yes, your government is trying
7 to sell that to you today. That's their -- that's one
8 argument that they have made. That's not proof beyond a
9 reasonable doubt. That's not proof that leaves you
10 firmly convinced, and you must reject it.

11 They talked about Larry White. The State told you
12 that when you've got a pack of strawberries, you've got
13 to look on the top of the pack of strawberries and on the
14 bottom of the strawberries and look for the bad one and
15 pick it out. Well, that was a bad one and he sure took
16 the stand and testified before you today. Why did he
17 come to Greenville? He came to Greenville for a better
18 life. He came to Greenville to find a job. He came to
19 Greenville to try to make some money and hopefully get
20 his own place to live.

21 What's the reality of Mr. White coming to
22 Greenville? Living in a homeless shelter, not being able
23 to find a job, more soup kitchens. That was the reality
24 of his move to Greenville. He testifies that he heard a
25 confession from Mr. Hayes? Ladies and gentlemen, you

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1 don't leave your commonsense outside that courtroom door
2 when you walk in here. Mr. White didn't do any of the
3 things a normal person would do if they heard a
4 confession. He didn't go to the police. And we know
5 that this alleged conversation happened in a place that's
6 close to a McDonald's, a Hardee's, Tommy's Ham House.
7 It's a couple of blocks from Main Street. The museum is
8 nearby and so is the library. And he tried to argue with
9 me and he made excuses and he said, well, I couldn't have
10 made a phone call. It was on a Sunday. Yet we go back
11 to his own written statement, we realize it's a Tuesday.
12 Everything was open. He could easily have made a phone
13 call to the police. What does he do? He sits there for
14 an hour, according to him, according to his story, sits
15 there for an hour and listens to a confession, helps him
16 get a sandwich. Good luck. Never calls the police.
17 That's not something you do if you heard this type of
18 confession that Mr. White's trying to sell you.

19 The second thing we need to look at is that nine
20 days later, he had the chance, he had the opportunity to
21 talk to police. How do we know that? The police came to
22 him on the 18th. They came to him, ladies and gentlemen.
23 They came to his shelter. They had a picture, they
24 showed the picture to him and everybody else, or wherever
25 he was sleeping. I'm not sure if it was a shelter or

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1 just where -- was somewhere he was sleeping. They
2 showed the picture to him. No evidence that he made a
3 report. No evidence that he said, hey, I talked to him a
4 week ago. No evidence that he identified the photograph.
5 And he made a big deal of saying, well, I never saw the
6 photograph. He had to have seen the photograph. How
7 else would he have known that the man the police came by
8 looking for on the 18th was the same man he talked to the
9 week before? How else would he be able to say that? He
10 had to have seen the photograph.

11 The story that he gave to the police originally on
12 the 9th, none of it can be corroborated. The police went
13 to Labor Finders. They took Mr. Hayes' picture. They
14 asked the regular employees, the stable employees of
15 Labor Finders, have you seen Mr. Hayes? Did you see a
16 man out there crying his eyes out and confessing? No.
17 No one's seen him. They went to the bus station. Has
18 anybody left with -- has anybody of this -- looking like
19 this left? No. Nobody's left. Nobody's left with this
20 description. They can't corroborate the story he told
21 the police because it never happened. The only place
22 that happened was in Mr. White's dreams. That's the only
23 place it happened.

24 After the police come by his shelter on the 18th, he
25 talks about the case. He talks about it with other

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1 people, other homeless people. News travels fast on the
2 street. He talks about it the next morning at the soup
3 kitchen. Talks about it with the people at the Labor
4 Finders, at the day labor place. Then, after he gets all
5 of his information, that's when Mr. White talks to the
6 police and makes a statement. Dates are hard to
7 remember. The State had to read Mr. White's statement
8 into the record. You've got it. We can hear it again.
9 Ten days, ladies and gentlemen. This is when he says he
10 talked to Mr. Hayes. None of that conversation can be
11 corroborated. Couldn't corroborate that Mr. Hayes had a
12 sister in Kentucky. Ten days. Has a second chance,
13 blows it off, gets more information, finally contacts
14 police. And conveniently, the police show him the same
15 picture that he's already seen the night before at the
16 shelter. He seemed happy that he only took three seconds
17 to pick it out. Of course, it only took him three
18 seconds. He saw a single photo of Mr. Hayes the very
19 night before. It doesn't take a rocket science to pick
20 that out.

21 Another thing, if you doubt at all -- another thing
22 that you need to know is that Mr. White's description of
23 the man he saw, that's in his statement too, which is in
24 the record. It was read into the record by the
25 government. Everything he described can be seen right on

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1 this picture. He describes a bald head, a little bit of
2 gray hair on the sides, a little bit of a gray beard.
3 Nothing about height, no description about weight, no
4 description about light-skinned, dark-skinned. No
5 description about eye color, no description about the
6 fullness or the thinness of the lips, nothing like that.
7 No, everything that Mr. White described can be seen right
8 from this picture, everything he described. He doesn't
9 need the person in front of him. It can all be gotten
10 from that picture.

11 You heard some talk about a reward. Mr. White sure
12 came to court all slicked up and ready to be part of his
13 fifteen minutes, you know. Maybe there was no money
14 reward, who knows? Maybe he just wanted to be part of
15 something that was bigger than himself. Maybe that's all
16 the reward he needed. The reality is, is that Mr. White
17 is the type of person who's going to cash his own
18 brother's check. Got his brother's check, signed his
19 name on it, took it to the bank, lied, got money.
20 Stealing from the bank and his brother. This is not a
21 person who cares about the Godly thing to do. This is a
22 person who cares about number one, himself. Don't let
23 him con you into believing that he had a conversation
24 with Mr. Hayes on the 9th. Don't let him con you into
25 believing that conversation really happened. And don't

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1 let him con you into believing that his testimony passes
2 for proof beyond a reasonable doubt, because it doesn't.

3 And that brings us to our next point, and that's Jo
4 Lynn Wood. She's the uncertain witness. And that's not
5 a criticism. Jo Lynn's just like the -- Jo Lynn or JoJo,
6 as the State called her, is just like everybody else,
7 just like the rest of us. You see your neighbors in
8 passing. Sometimes you say hello. Jo Lynn's not certain
9 about what day she saw Mr. Hayes. All she knows is that
10 she saw him at night, which is the same time she always
11 sees Mr. Hayes. And all she knows is that she saw him
12 taking the same path that he's always taken when she's
13 seen him in the past. That's all she knows. And that's
14 important.

15 We heard the medical examiner testify, the 13th was
16 the day that the body was found. And the medical
17 examiner testified that she passed away between three and
18 six days. On cross-examination, he actually said six
19 days. All right. It's very hot inside that apartment.
20 It's June. You all have a picture of the thermometer --
21 not thermometer, the thermostat. And the temperature was
22 up near eighty degrees, very hot. The medical examiner
23 testified she could have died three days prior to her
24 being found, which would put her death on the 10th. Ms.
25 Jo Lynn, she doesn't know when she saw Mr. Hayes during

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1 this week. If she saw him on the 8th, well, then that's
2 not proof that he's in and out of that apartment in the
3 days between the death and the finding of the body.
4 That's not proof beyond a reasonable doubt. And that's
5 not proof that leaves you firmly convinced. If JoJo is
6 not a hundred percent sure of when she saw Mr. Hayes, how
7 can you be firmly convinced that she saw him in and out
8 of this apartment, that he could be put in and out of
9 this apartment in the days between the death and the
10 finding of the body? You can't. You can't be firmly
11 convinced. And you must reject the State's argument that
12 Jo Lynn can put Mr. Hayes in that apartment during that
13 time.

14 And that brings us to the matter of the
15 fingerprints. Now, we heard the medical examiner testify
16 that these -- that he noticed some transfer blood to the
17 side of the shower curtain, and that the assailant, that
18 transfer blood may have come from blood on the
19 assailant's hands. Yet, we also heard from the
20 fingerprint expert and he said that he found Mr. Hayes'
21 fingerprints on the top of the toilet tank and on the
22 side of the tub, but that they were just regular old
23 fingerprints, there was no blood on them, no nothing.
24 Just plain old fingerprints. And we also heard that,
25 from the fingerprint examiner or the expert, that no age

State of South Carolina -vs- Ralph Hayes (2011-GS-23-07681)
Closing Statement by Ms. Horlbeck

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1 can be placed on a fingerprint. And the reasonable
2 inference from that is that they can't tell you when that
3 fingerprint was placed there. It could have been put
4 there anytime before this poor woman was attacked.
5 Anytime. Think about where your fingerprints are. Think
6 about your fingerprints. They could be at work. They
7 could be in the car. They could be at your home. It's
8 reasonable and natural and normal for your fingerprints
9 to be left in the place that you -- in the living place
10 that you reside at or that you share with somebody else.
11 There's nothing criminal about that. They cannot put an
12 age on that print. And that's not proof beyond a
13 reasonable doubt that puts Mr. Hayes in that bathroom at
14 the time of Ms. Alexander's death. And if they can't use
15 that print to show you one hundred percent that he was in
16 that bathroom at the time that she died, and that's when
17 those prints were left, how can you be firmly convinced
18 of guilt? You can't be. And you must reject that
19 theory.

20 Now, the State also wants us to believe that she
21 must have been -- Ms. Alexander must have been attacked
22 and killed by somebody that she knew. But that's not
23 necessarily true. And we go to Mr. Murdaugh's testimony.
24 Remember, he testified that Ms. Alexander left her door
25 open. She frequently -- she didn't shut that door. She

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Closing Statement by Ms. Horlbeck

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1 keeps the door open. The only thing between Ms.
2 Alexander and the rest of the world is that storm door.
3 Anybody could have opened it. Anybody could have gone in
4 there. And strangely enough, you don't find Mr. Hayes'
5 prints on that door. They dusted it down. You don't see
6 his prints on the door at all. Anybody could have gone
7 in there. And, you know, we had -- there's some other
8 people that could definitely, easily have gone in and
9 done this crime. We asked the police about whether
10 there was any evidence of drug dealers, and whether they
11 were able to get those names, and show those pictures
12 around the community and the neighborhood. They weren't
13 able to do that. They weren't able to ask anybody on the
14 street, find out that information and use that
15 information to find out -- you know, show the pictures
16 and say, has this person been around your neighborhood?
17 They weren't able to find that. And we've heard
18 testimony that they weren't able to test the vaginal area
19 because of decomposition. Okay. Well, there were the
20 panties. Those were decomposed. Yet no testing was done
21 on those.

22 There's also a matter of Mr. Sammy Thompson. You'll
23 recall that he was in the jail and he filled out a
24 questionnaire. We don't know why he was in the jail, but
25 while he was there he filled out a questionnaire saying

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Closing Statement by Ms. Horlbeck

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1 he had information about this case. Now, most of what he
2 told police was just designed to shift the blame to
3 somebody else. But he also said that he had dated Jackie
4 a few times in the past. No one asked him, when was the
5 last time you saw her? When was the last time you went
6 to her apartment? No one took his picture to the
7 neighbors and said, has this person been around the
8 apartment? No one took his picture to the soup kitchens.
9 Uh-uh. The focus was solely on Mr. Hayes right from the
10 beginning.

11 Now, the police are just people. I mean, they make
12 mistakes and do stuff that -- they do things too. But
13 the point is, you have the right to just ask and say, I
14 wish a little bit more had been done. I wish the
15 government had asked this witness or I wish the
16 government had shown this picture to the community or the
17 people with the soup kitchen or the neighbors. I just
18 wish they'd done it. You have that right to ask for
19 that.

20 And the State's led you to believe that this
21 relationship is a lot more serious than it was. They
22 want you to believe this is a five-year committed,
23 marriage-like relationship. How could he possibly leave
24 on the spur of the moment? How could he possibly leave
25 and not attend her funeral. Well, again, we turn to Mr.

State of South Carolina -vs- Ralph Hayes (2011-GS-23-07681)
Closing Statement by Ms. Horlbeck

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1 Murdaugh's testimony. He described Ms. Alexander as a
2 single lady living alone. He didn't describe her as
3 Jackie who has a serious five-year, long-term boyfriend.
4 He didn't describe her as Mr. Hayes' girlfriend. He said
5 she was a single lady living alone. And he said that
6 because of the way she lived her life. Her own family
7 said, she's got a drug problem. This is not a lady who
8 works. This is not a lady who has employment. She's not
9 able to afford a drug habit.

10 We heard testimony from JoJo that Ms. Alexander is
11 selling shampoo at one-thirty or two A.M. in the morning.
12 And the natural inference of that is that she's selling
13 the shampoo to get money to support her drug habit. Now,
14 you know, in relationships people have hobbies and things
15 in common with the one they are with. There's no
16 evidence that Mr. Hayes shared her drug habit or that he
17 participated in her drug habit. And we've heard some
18 testimony that maybe there was an argument ten days or
19 two weeks before she was found. Well, you know, it's
20 funny -- interesting that the family didn't mention that.
21 But, okay, maybe there was an argument. And as men and
22 women do when they argue, maybe there was a breakup. And
23 when men and women breakup, life goes on. Your paths
24 separate. You don't contact your ex. You don't contact
25 your ex's family. You don't come home for their wedding.

State of South Carolina -vs- Ralph Hayes (2011-GS-23-07681)
Closing Statement by Ms. Horlbeck

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1 You don't come home for their children's christening.
2 And, yes, you are going to miss their funeral. That is a
3 natural, normal consequence when couples argue and
4 there's a breakup. It doesn't mean that you're a
5 murderer. Just because you argue and you break up and
6 move on doesn't mean you are a murderer.

7 Ladies and gentlemen, there's very few things in
8 this world that we know for certainty. But we know for
9 certainty that there's absolutely none of Mr. Hayes' DNA
10 in that bathroom. And there's absolutely none of Mr.
11 Hayes' DNA on Ms. Alexander or her shirt or gown, as Dr.
12 Kandala likes to call it. We know for certainty how easy
13 it is to leave DNA. That's why these techs have to wear
14 these gloves and change their gloves, so that they don't
15 contaminate the samples that they're working on. We also
16 know for certainty that there's no murder weapon. And we
17 know for certainty that Mr. Hayes' prints are not on any
18 knives collected. We know for sure that the prints in
19 the bathroom, there's no connection to the day this lady
20 died. The State made a reference to CSI. This isn't
21 television. This is serious. And the defense takes this
22 case seriously because it matters to us and it matters to
23 Mr. Hayes and it sure matters to this lady's family.
24 There's no credible evidence to connect Mr. Hayes to Ms.
25 Alexander's death. There's no evidence putting a weapon

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Charge

1 upon the verdict. Your verdict can't be based upon
2 sympathy or passion or prejudice or emotion or any other
3 consideration not in evidence in the case. When you have
4 reached a unanimous verdict, you can let the bailiffs
5 know by the appropriate signal that is provided for you
6 and we will receive your verdict back here.

7 I'm going to ask if you would now, ladies and
8 gentlemen, to go back to your jury room. Don't start
9 your discussions just yet. There's a final matter of law
10 that I need to discuss with the attorneys, after which,
11 hopefully, we can send the Exhibits back with the verdict
12 form, with instructions then to begin your deliberations.
13 But for right now, don't start your deliberations just
14 yet. You may retire to your jury room.

15 (WHEREUPON, the jury exited the open court at
16 approximately 11:06 A.M.)

17 THE COURT: Any exception to the charge, from
18 the State?

19 MS. MUNSON: No, sir, Your Honor.

20 THE COURT: From the Defense?

21 MS. HORLBECK: No, Your Honor.

22 THE COURT: All right. If y'all will make sure
23 all the Exhibits are assembled. I was looking over my
24 notes. I'd made some notes when we had taken a break on
25 the mistrial motion and I don't remember what I said, but

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Charge

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1 reading my notes, I had five seconds at the most. I
2 might have said fifteen because I had a line I couldn't
3 read. So looking at the Copeland case and all that. The
4 record needs to reflect a five second, at most, display
5 of the photograph.

6 All right. The verdict form has been reviewed and
7 Exhibits. Then you can have the alternate come out.

8 THE BAILIFF: Yes, sir.

9 MS. MUNSON: If it please the Court, Your
10 Honor, I'd like to put something on the record?

11 THE COURT: Yes, ma'am.

12 MS. MUNSON: I had a conversation with the
13 court reporter yesterday that I completely
14 misinterpreted. She warned me that I had not introduced
15 the sketch into evidence. What she was referring to
16 properly was State's Exhibit Number 3, which is what Dr.
17 Ward testified from, that was projected on the, on the
18 presenter that the jury saw, the wounds. What I thought
19 in my mind was the sketch that it was at the end of the
20 Power Point. And I said to the court reporter, oh, I'm
21 not worried about that. I don't intend to put that in.
22 I absolutely did intend to put that in. So it's
23 completely within the Court's discretion. I think
24 there's no prejudice to the Defense. I would ask the
25 Court to allow me to reopen my case for the purpose of

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Charge

1 THE COURT: Okay. We've received a note from
2 the jury, which I'll have marked as Court Exhibit Number
3 2. I believe that's right.

4 (WHEREUPON, Court Exhibit Number 2 was marked for
5 identification.)

6 THE COURT: Their questions, Your Honor, number
7 one, was Mr. Hayes right-handed or left-handed? Question
8 number two, what level of murder is the Defendant being
9 charged? I didn't have a chance to share this with the
10 attorneys. If y'all need a little time to mull that
11 over. What I'm proposing to do is have the jury come
12 back out. Tell them that they have all the evidence, and
13 that every bit of evidence is before them in the record
14 as to the first one. And as to the second one that all
15 the law relating to the crime of murder in South Carolina
16 has been presented to them. And I'll be glad to review
17 the charge I gave them on murder. After that, to
18 continue their deliberations. Do either of you have any
19 input otherwise on that response?

20 MS. MUNSON: That's satisfactory to the State,
21 Your Honor.

22 MS. HORLBECK: That's fine, Judge.

23 THE COURT: Okay. All right. Let's have our
24 jury come out if they're ready.

25 (WHEREUPON, the jury entered the open court at

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Charge

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1 approximately 1:01 P.M.)

2 THE COURT: Mr. Foreman, ladies and gentlemen,
3 you've made an inquiry as to a couple of matters. First
4 of all, you asked was Mr. Hayes right-handed or left-
5 handed. In response to that, that's a piece of evidence.
6 The evidence is before you, all the evidence is in the
7 case and that's the evidence that you will need to use to
8 decide what the facts are based on what the record is.
9 We can certainly play back any testimony that you need to
10 hear. But everything that's been presented is before you
11 now in the Exhibits and whatever testimony you have.

12 Also, you ask secondly what level of murder is the
13 Defendant being charged. I've give you the law of murder
14 in South Carolina, all the law that's applicable to this
15 case. I'll certainly be glad to re-instruct you on that
16 law as to the offense of murder. I'll be glad to do it
17 now. If you want to talk about it further and need us to
18 come back out, I'll certainly give you that charge. I'll
19 be glad to do that at any time.

20 Short of that, I'll just need you to continue your
21 deliberations. We've ordered lunch for you at your
22 request and we'll have that here before too long.

23 Mr. Foreman, do you feel like at this stage or if
24 you want to go back and have the jury talk more, I'll
25 certainly be glad to re-instruct you on murder if at any

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Charge

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1 time you need that, now or later in your deliberation.

2 MR. FOREMAN: Yes, Your Honor, would you do
3 that.

4 THE COURT: All right. This is what I charged
5 you earlier and I'll be glad to explain it to you again.
6 For the offense of murder, the State must prove beyond a
7 reasonable doubt that the Defendant killed another person
8 with malice aforethought. I explained to you malice is
9 defined as hatred or ill-will or hostility toward another
10 person. It's the intentional doing of a wrongful act
11 without just cause or excuse and with an intent to
12 inflict an injury, or under circumstances that the law
13 will infer an evil intent. Malice aforethought does not
14 require that malice exist for any particular time before
15 the act is committed. But malice must exist in the mind
16 of the Defendant just before and at the time the act is
17 committed. Therefore, there must be a combination of
18 previous evil intent and the act.

19 And I also explained to you, ladies and gentlemen,
20 that malice aforethought can be either expressed or
21 inferred. And by using those terms it doesn't mean there
22 are different kinds of malice, but merely the manner in
23 which malice may be shown to exist. That can be either
24 by direct evidence or by inference from the facts and
25 circumstances which are proved. Express malice is shown

State of South Carolina -vs- Ralph Hayes (2011-GS-23-07681)

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Charge

1 when a person speaks words which are expressing hatred or
2 ill-will for another or when that person prepares
3 beforehand, such as I mentioned, as lying in wait to do
4 the act, which was later accomplished.

5 On the other hand, inferred malice, that can take
6 place from conduct, showing a total disregard for human
7 life. Inferred malice may also arise when the deed is
8 done with a deadly weapon, which I explained to you some
9 examples of deadly weapons would be handguns, rifles,
10 knives, razors, gasoline, lighter fluid, metal knuckles.
11 Those are examples of deadly weapons. Whether an
12 instrument has been used as a deadly weapon depends on
13 the facts and circumstances of each case.

14 I hope this definition of murder will assist you.
15 I'll ask now, that if you will, continue your
16 deliberations. If you will, go back to your jury room.
17 Thank you. You may retire at this time.

18 MR. FOREMAN: Thank you, Your Honor.

19 (WHEREUPON, the jury exited the open court at
20 approximately 1:07 P.M.)

21 THE COURT: Any exception to the charge, from
22 the State?

23 MS. MUNSON: Nothing from the State, Your
24 Honor.

25 THE COURT: From the Defense?

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Charge

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1 THE COURT: Is it a unanimous verdict?

2 MR. FOREMAN: Yes, Your Honor.

3 THE COURT: If you would, please, hand the
4 verdict form to the bailiff.

5 All right. Madam Clerk, you may publish the
6 verdict.

7 THE CLERK: Your Honor, this is case number
8 2011-GS-23-7681, the State of South Carolina versus Ralph
9 Beverly Hayes, Sr. We, the jury, unanimously find the
10 Defendant, Ralph Beverly Hayes, Sr., as to the charge of
11 murder, guilty. As to the charge of possession of a
12 weapon during the commission of a violent crime, guilty.
13 Signed Todd Adcock. If this is your verdict so say you
14 all, please signify by raising your right hand. Thank
15 you.

16 (WHEREUPON, all jurors' right hands were raised.)

17 THE COURT: Thank you. Are there any other
18 matters that we need to take care of with this jury
19 before they're discharged in this case? Anything from
20 the State?

21 MS. MUNSON: No, sir.

22 THE COURT: From the Defense?

23 MS. HORLBECK: No, sir.

24 THE COURT: Ladies and gentlemen, thank you
25 very much for your service this week. We won't need your

Charge

1 before sentence is imposed? Anything?

2 MS. MUNSON: Yes, Your Honor. I would ask you
3 to deny all the motions they're about to make, to renew
4 their previous motions.

5 THE COURT: Well, I'll ---

6 MS. HORLBECK: And that was going to be my next
7 step, Judge.

8 THE COURT: Okay.

9 MS. HORLBECK: I was going to renew all of my
10 previous motions.

11 THE COURT: All right. Well, I think the jury
12 has spoken on this case. As I said before, I think there
13 is -- certainly was sufficient direct evidence and
14 substantial circumstantial evidence for a jury to make
15 this determination, rather than I. I believe the jury
16 has spoken. I will deny your motion respectfully, Ms.
17 Horlbeck. Both lawyers, or all four lawyers, did an
18 excellent job presenting their cases for their respective
19 clients. And I appreciate having the opportunity to work
20 with you. The jury has spoken and I believe that legally
21 it's a sound verdict.

22 All right. Are you ready for the sentencing?

23 (WHEREUPON, Ms. Munson, Ms. Horlbeck and the
24 Defendant approached the bar.)

25 MS. MUNSON: At whatever time the Court deems

State of South Carolina -vs- Ralph Hayes (2011-GS-23-07681)
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1 as you've lived, you've realized, even as many of us
2 have, sometimes we live in prisons of our own making that
3 aren't there with cell blocks. I don't know all of your
4 background and whether you've been in a self-imposed
5 prison for much of your life. So many folks find that.
6 But I hope that with the sentence imposed that you'll
7 find that there is a hope for freedom that, while you
8 might not be free to walk the streets, but I hope that
9 you can find the freedom we all need from a spiritual
10 nature.

11 This is case 2011-GS-23-7681. The sentence of the
12 Court is the Defendant be committed to the State
13 Department of Corrections for the term of his natural
14 life.

15 Case 2011-7681, the companion case with the
16 indictment, a five year sentence for possession of a
17 weapon.

18 Our condolences are certainly to the family. I
19 trust they'll be able to find some relief as well.

20 All right. Court's adjourned.

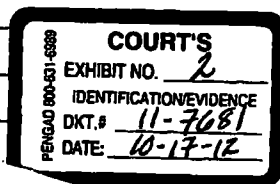
21

22 [END OF REQUESTED TRANSCRIPT OF RECORD]

YOUR HONOR,

1. WAS MR. HAYES
RIGHT HANDED OR LEFT
HANDED.

2. WHAT LEVEL OF MURDER
IS THE DEFENDANT BEING
CHARGED.



Greenville County Sheriff's Office

4 McGee St.
Greenville, South Carolina 29601

LARRY Dell White

VICTIM/WITNESS STATEMENT

Case Number 01-09-094606Date 6/19/09 - 10:35am LWLW

I, Larry Dell White, do hereby give freely and voluntarily this statement to
Inv. C.T. Miller * 545 / 614 and Deputy N. Mitchell * 1040 who have identified themselves to
me to be Deputies of the Greenville County Sheriffs Office, Greenville, South Carolina.

I am 51 years old and I reside at [REDACTED]

I am not under the influence of drugs or alcohol. I know what I am doing and saying. I attended high school at East St. Louis Sr. High located in East St. Louis, Illinois. I completed high school up until 12th grade (1976) but I did not graduate. I can read and write. I am allowing Deputy Mitchell to type my statement for me. LW

I have been living in Greenville, SC for about a month and four days. I came up here on a Greyhound bus from Atlanta, GA. cause there was to many homeless people down there. I also used to live here back in 2005 for a while. Since I have been back I have been trying to find work at either Labor Finders, Able Body Labor or Labor Ready over near Washington St. I think. LW

LW Last Tuesday, June 9th, 2009 sometime after 2:00pm I was at the Able Body Labor (47 Pete Hollis Blvd., Greenville, SC (864) 233-2661). That's when I noticed this black guy, he said he was 51 y/o, he had a bald head but he had a little hair on the sides which was greyish. He had a little hair on his chin that was greyish too, kinda like he hadn't shaved in a while. He was wearing long pants, I think they were light brown color. I don't remember his shirt color but he was wearing a dark blue ball cap he was carrying a small green bag. The bag was cloth and kind of light green color with two handles and I think that it had white letters on the outside. I don't know what was inside of the bag. He didn't tell me his name but he was sitting down and crying. I asked him "why you crying like that?". He said "man, I done fucked up, I fucked up man!". He said it about four or five times. He also said "I done fucked up so bad that God won't forgive me for what I done, I'm gonna kill myself!". I told him don't kill himself that it couldn't be so bad that God couldn't work it out for you. I said what did you do, did you smoke your check up, did you smoke your money up. I told him that we've all smoked our money away, man. He said "I done something worse than that man, I fucked up worse than that". I told him that I understood why he was crying cause I had cashed my Brother's check before and I cried for a month after that. That's when he said "Yeah but you ain't never killed anybody!". I said "yeah but I have fucked up in life". I asked him what he was going to do and he said that he was leaving town. I asked him where he was going to go and he told me he was going to his Sister's house in Kentucky. I asked him where in Kentucky he was going to and he got mad and told me he wasn't going to tell me. He told me he was leaving on a Greyhound bus that night (Tuesday) at 9:45 pm and he showed me the tickets but I couldn't see the destination or time but I definitely saw the Greyhound symbol. It was definitely a bus ticket. He said that he was going to tell his Sister in Kentucky what he had done and that he had fucked up real bad. *****Statement Continued on Next Page*****

I have read the above statement of 1 of 2 pages and it is true and correct as best as I recall. LW

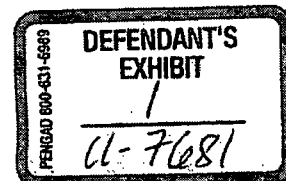
WITNESS:

LARRY Dell White
I have received a copy of this statement.

Inv. C.T. Miller * 545 / 614
N. Mitchell * 1040

Larry White 6-19-09
12:49 PM

Sworn before me this 19 day of June, 2009
David Hunter
NOTARY PUBLIC FOR SOUTH CAROLINA June 16, 2018



Greenville County Sheriff's Office

4 McGee St.
Greenville, South Carolina 29601

LARRY Dell White

VICTIM/WITNESS STATEMENT

Case Number 01-09-094606Date 6/19/09 LWLW

I, Larry Dell White, do hereby give freely and voluntarily this statement to
Inv. C.T. Miller * 545 / 614 and Deputy N. Mitchell * 1040 who have identified themselves to
me to be Deputies of the Greenville County Sheriffs Office, Greenville, South Carolina. LW

I am 51 years old and I reside at [REDACTED] LW

*****statement continued from page one *****

LW After he told me he was going to tell his sister about what he had done, he kept on crying. He said that he went home to his apartment and found his girlfriend stabbed alot of times and that her panties were down. I said "who do you think did it man". He said "the dope boy done it". I asked him how he knew the dope boy done it and he said that she had owed the dope boy money before and that her Mother had bailed her out before. He said that he told her before to stop getting dope on credit from the dope boy. He said that he ran out of the house after he found her. I asked him why did he run out the house and he said that "they are gonna think I did it". I asked him why did he leave her there if he loved her. He said "I done fucked up". I asked him how long did he think she had been there and said "maybe a couple of days". I said "Man, you better tell somebody cause she's gonna be stinkin man". I told him that he needed to tell someone because it would hurt her Momma if she found her daughter like that. Then he said "I fucked up man and I got to go". That's when he went down to the ABC store and got a beer I think. I went over to the church down the street, it's called Tryon I think. He came back to the church and I told him that if he showed his bus ticket to the Church people that they would give him some food to ride with and I told him good luck. At some point during the conversation he told me he was from Newark, New Jersey and that he had been in Greenville for a couple years. ~~He also said that his girlfriend had accused him in the past of beating on her and that the police had come to the house one time and picked him up for beating on her.~~ The whole time I was talking to him I could tell that he was hurting inside emotionally and I thought it was strange that he was crying so hard cause he was a grown man. Before he left I told him good luck and then he said for me not tell anyone about what we had talked about and where he said that he was going.

Then last night, Thursday, June, 18th 2009 around 9:30 pm or so the Sheriff's office deputy's came around to where we sleep at and was showing pictures of the guy and were asking if we knew the guy. They didn't tell us what he had did so at first I didn't really look at the picture. There was some rumors that the guy had just stole some checks but nobody knew for sure. Then this morning they were telling me that the guy had stabbed his girlfriend a bunch of times and that's when I told the guy at the Labor Finder's that the guy that the Sheriff's office was looking for last night was the same guy that last week had told me about his girlfriend being dead and that he had "fucked up". Then an Investigator had come and picked me to take me to the Sheriff's Office so I could give this statement. The guy that told me about finding his girlfriend stabbed to death and that he had "fucked up" is the same guy that I picked out of the photo line up that Investigator Miller showed me. This statement is true and I allowed Deputy Mitchell to type this for me. End Statement. LW

I have read the above statement of 2 of 2 pages and it is true and correct as best as I recall.

WITNESS:

Inv. C.T. Miller * 545 / 614
P.A. Mitchell * 281 / 1040

LARRY Dell White
I have received a copy of this statement.

Larry White 6-19-09
12:49-PM

Sworn before me this 19 day of June, 2009

Daniel Hanks June 16, 2018
NOTARY PUBLIC FOR SOUTH CAROLINA

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WITNESSES

C.T. Miller

CM

Greenville County Sheriffs Office

9/22/2010

ARREST WARRANT NUMBER

1478480

1478481

ACTION OF GRAND JURY

TRUE BILL

Bobby Dacus

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

GUILTY

Foreperson of Petit Jury

Date: 10-17-12

DOCKET NO. 2011-GS-23-
JMM 007681

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

October

TERM 2011

THE STATE

vs.

CM

RALPH BEVERLY HAYES SR

Indictment for

0116

0549

MURDER

VIOLATION § 16-03-0010

POSSESSION OF A WEAPON DURING THE

COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-23-0490

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF GREENVILLE)

COUNT ONE - MURDER

COUNT TWO - POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on

OCT 04 2011

the Grand Jurors of Greenville

County present upon their oath:

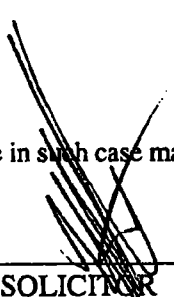
COUNT ONE - MURDER

That RALPH BEVERLY HAYES SR did in Greenville County, on or about the 7th day of June, 2009, unlawfully and with malice aforethought kill JACQUELINE DORETHA ALEXANDER by means of stabbing her, and that JACQUELINE DORETHA ALEXANDER died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
CRIME

That RALPH BEVERLY HAYES SR did in Greenville County, on or about the 7th day of June, 2009, possess or visibly display a knife or sharp edged object during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

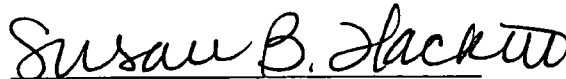
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 23rd, 2013



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RALPH B. HAYES,

APPELLANT

Appellate Case No. 2012-213261

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in failing to grant Appellant's motion for directed verdict where the only evidence presented by the prosecution was that Appellant allegedly confided in a stranger that he was distraught because he saw the deceased had been murdered in their apartment, but took no action to report the murder to the police.

STATEMENT OF THE CASE

During its October 2011 term, a Greenville County grand jury indicted Appellant for murder and possession of a weapon during the commission of a violent crime in a single indictment (2011-GS-23-7681). R.287 (Indictment). The matter proceeded to trial before the Honorable G. Edward Welmaker and a jury on October 15, 2012. Judy Munson and Wanda Adams represented the state, Caroline Horlbeck and Teal Johnson represented Appellant. R. 1. The jury convicted Appellant of both charges. R. 281, lines 7 – 15. Judge Welmaker sentenced Appellant to life imprisonment for the murder charge and to five years' imprisonment for the weapons charge. R. 283, lines 11 – 17.

Appellant filed a timely notice of appeal. This brief follows.

STATEMENT OF FACTS

The prosecutor's opening statement demonstrated the paucity of evidence against Appellant. Acknowledging that a jury would want evidence, such as "the defendant in possession of the murder weapon, the defendant confessing to law enforcement, her DNA on him; things of this nature," in order to convict, the prosecutor candidly admitted she had none. Rather, the evidence she would offer would be "some fingerprint evidence important for where things were found," "a little bit of DNA evidence only relating to [the deceased]," and a conversation between Appellant and a homeless man. R. 2, lines 6 – R. 4, line 4.

On June 13, 2009, Barbara McNeil went to the apartment of the deceased, her sister, because she had not spoken to the deceased in over a week. R. 8, line 15 – R. 9, line 23. Importantly, McNeil found the door closed, but unlocked. R. 10, lines 1 – 3. On the door, McNeil found a note left for the deceased from the person who delivered her food. R. 17, lines 1 – 6. McNeil entered the apartment and found the deceased's body in an upstairs bathroom. R. 10, lines 15 – 18.

McNeil and Janie Ashmore, the deceased's mother, testified that although Appellant and the deceased had been in a romantic relationship for approximately five years and lived together, they did not hear from Appellant after the deceased's death. R. 12, lines 14 – 21; R. 15, lines 6 – 10; R. 17, line 25 – R. 18, line 9; R. 13, lines 9 – 17; R. 19, lines 9-10; R. 19, lines 16-23; R. 20, lines 3-5. Additionally, McNeil and Ashmore admitted that the deceased had a drug problem. R. 13, line 20 – R. 14, line 2; R. 16, lines 20 – 23; R. 21, lines 3-5. Ashmore testified that she never got involved with any of the

deceased's issues relating to her drug use and "never had to bail her out of any situations." R. 21, lines 6-10.¹

Officer Ashleigh Swanson was the first police officer on the scene in response to the 911 call. R. 77, lines 13 – 22; R. 78, lines 17 – 19. However, the fire department personnel had already entered the residence prior to her arrival. R. 78, lines 11 – 16. R. 81, lines 16 – 20. Swanson found the deceased upstairs in a bathroom partially naked. Although Swanson saw blood in the bathroom, she saw no blood outside the bathroom. R. 79, lines 1 – 8. R. 82, lines 15 – 16; R. 82, lines 20 – 23.

The pathologist testified that the deceased was stabbed twenty-eight times. R. 88, lines 15 – 21. Most of the wounds were superficial. R. 90, lines 22 – 25. However, several stab wounds traumatized the diaphragm and the pleural cavity, which resulted in the deceased being unable to expand her lungs. R. 91, lines 6 – 23. The toxicology results revealed that the deceased had ingested cocaine. R. 92, lines 1 – 10. R. 100, lines 15 – 24. The pathologist opined that the deceased had been dead for days, and a reasonable estimate would be anywhere from three to five days. R. 99, lines 20 – 22. On cross-examination, he testified that it was possible that she had died six days prior, but that it was unlikely due to the state of decomposition. R. 100, lines 4 – 9.²

Anthony Murdaugh, who lived near the deceased in June of 2009, recalled seeing the deceased during the week of June 7, 2009. The deceased's locked herself out of her

¹ Christopher Miller, the lead investigator, testified that he learned from the family of the deceased that Appellant and the deceased had an argument and Appellant had left. R. 224, line 20 – R. 225, line 1.

² The deceased's body was found on June 13, 2009, and the autopsy was performed on June 15, 2009. Based on the pathologist's estimate, the death occurred between June 7, 2009 and June 10, 2009.

apartment and went to Murdaugh's house for help. Murdaugh assured the deceased that the landlord would return to the complex soon. R. 106, lines 12 – 19; R. 107, line 25 – R. 108, line 10. Murdaugh did not recall the actual date or even the day that this event occurred, but upon prompting from the prosecutor agreed that it may have been Sunday, June 7, 2009. Also, he was unsure of what time of day this occurred, but testified that it was early in the day. R. 108, lines 11 – 21. Murdaugh never saw the deceased again. R. 109, lines 20 – 21. Thus, the last time anyone saw the deceased alive was on June 7, 2009, and her body was found on June 13, 2009.

Jo Lynn Wood also lived in the apartments near the deceased in June 2009. R. 114, lines 6 – 16; R. 115, lines 9 – 14. Wood recalled seeing the deceased approximately a week and a half before her body was found when during the early morning hours, the deceased had gone to Wood's apartment trying to sell her shampoo. R. 115, lines 17 – 23. After the deceased body was found, Wood informed the police that she had seen Appellant going in and out of the apartment twice at night during the previous week. R. 117, lines 2 – 4; R. 117, lines 5 – 9; R. 117, lines 17 – 23. On cross-examination, Wood clarified that it was not unusual for her to see Appellant at the apartment at night. In fact, she saw him on a weekly basis around the same time. R. 123, lines 8 – 11; R. 123, lines 23.

In June 2009, Larry White was living on the streets in Greenville. He chose to be homeless because he "like[d] to explore and go from state-to-state, seeing how other states [are] and then compare it to [his] state." R. 24, lines 10 – 18. White claimed that he talked to Appellant on a particularly hot day in June as he sat on a shaded bench behind Able Body, a labor hall. He recalled it was a Sunday because Able Body was

closed. He could not remember the date, but agreed with the prosecutor who suggested it was June 9, 2009.³ R. 24, lines 22 – 24. R. 25, lines 2-22. R. 27, lines 7 – 12. He saw a young man, whom he identified as Appellant, drinking a beer and crying. When White asked what was wrong, the man allegedly responded “I done fucked up bad, real bad.” R. 25, line 24 – R. 26, line 3. White claimed Appellant said, “It’s going to fuck my sister up when I tell her what I done.” Tr. 129, lines 15 – 17. In response to White’s questioning, Appellant explained “I went in the house and found my girl dead, man. The dope boys cut my girl all up, pulled her panties down to her ankles and put her in the bathtub.” R. 26, lines 18 – 20; R. 29, lines 12 – 14. Upon seeing the deceased, Appellant ran out the house. When White asked why he did not call the police, Appellant responded that the police would think he had committed the crime because it was his girlfriend. R. 26, lines 21 – 24; R. 28, lines 15 – 24.

Even on direct examination, White admitted that Appellant did not state that he had hurt the deceased or committed the crime. White related only that Appellant continued to cry during their conversation. R. 27, lines 1 – 12. The prosecutor continued to press White regarding what Appellant could have done that was so bad. R. 27, lines 13 – 14. White responded that Appellant “hesitated for a while,” then looked at White, “did like this on the table,” and said “but you ain’t never killed nobody.” R. 27, lines 15 – 18; R. 40, lines 12 – 16.

White further claimed that Appellant said he was going to Kentucky and had purchased a bus ticket for the trip. Although White was unable to see the location or the

³ June 9, 2009 was a Tuesday. R. 66, lines 7 – 13.

time on the ticket, he did observe a Greyhound bus ticket in Appellant's possession. R. 28, lines 2 – 5; R. 70, lines 10 – 12; R. 70, lines 16 – 22.⁴

A couple of days later, White overheard other people discussing the murder of a young lady while at the labor hall. The people explained that she had been “cut up and stabbed real, real bad.” R. 32, lines 17 – 22. Upon hearing that a woman had been stabbed, White thought of his alleged conversation with Appellant. R. 32, line 24 – R. 33, line 4. White was forced to admit that in addition to overhearing the conversation among other homeless individuals regarding the murder, he also saw police officers showing a photograph of an individual and asking for help to solve a crime. R. 40, line 17 – R. 41, line 10. White, however, denied ever seeing the photograph. R. 46, lines 1 – 4; R. 49, lines 1 – 7. Despite this assertion at trial, White was forced to admit that he told police he “did not really look at the picture at first” when the officers were displaying it. R. 50, lines 11 – 18; R. 56, lines 10 – 16. Additionally, White informed police that he told the employee of the labor hall that the man in the photograph shown by the police was the same man he had talked to a week earlier. R. 52, lines 10 – 15; R. 56, lines 17 – 24.

Sometime later in the month of June, White asked an employee of the labor hall to call the police. Although White was unable to recall when he actually spoke to the police or even when he decided to speak to the police, he agreed with the prosecutor that it was probably around June 18, 2009. White gave a formal statement at the conclusion of his two to four hour interview. R. 33, lines 4 – 9; R. 33, lines 12 – 23; R. 34, lines 18 – 20.

⁴ An officer testified that in September 2010, he picked up Appellant from New York and returned him to Greenville, South Carolina. R. 5, line 5 – R. 6, line 16.

White testified his formal statement provided a true and accurate account of his conversation with Appellant. R. 35, lines 9 – 22; R. 40, lines 5 – 10. White selected Appellant's photograph from a photographic lineup. R. 36, lines 5 – 8; R. 37, lines 10 – 21. Additionally, White identified Appellant in court. R. 38, lines 18 – 23. White claimed that he got involved in the case because he was "brought up in a church" and "brought up to do the right thing." R. 41, lines 21 – 22.

No physical evidence connected Appellant to the murder. Christopher Gray, a latent print examiner, testified that prints from the toilet in the bathroom where the deceased's body was found were identified as being made by Appellant. Specifically, Appellant's left palm print was recovered from the exterior top of the toilet lid in two areas and Appellant's right palm print was recovered from the exterior top of the bathtub. R. 132, line 13 – R. 134, line 2. On cross-examination, Gray clarified that the prints were found on toilet tank lid and none of the prints were in blood. R. 135, line 17 – R. 136, lines 10; R. 137, lines 1 – 3.

Jonathan Hamilton, a crime scene investigator, found a single droplet of blood at the entrance way on the floor and a single droplet of blood on the kitchen floor. R. 144, line 22 – R. 145, line 3.⁵ Hamilton testified that the deceased's body was wedged between the toilet and the tub. R. 169, lines 11 – 18. Hamilton found suspected blood on the toilet lid which indicated to him that at one point the lid had been up. R. 170, lines 3 – 17. Adrienne Hefney, a SLED DNA analyst, tested the swabs that were collected from the single droplet of blood on the floor of the entryway and from the kitchen floor. R.

⁵ Christopher Miller, the lead investigator, testified that he did not even see the blood at the very bottom of the steps near the entryway when he entered. R. 215, lines 1-4.

193, lines 12 – 17. The profiles developed from the swabs indicated female DNA. R. 194, lines 7 – 11. Jagannadha Kandala, a DNA analyst with the Greenville County Department of Public Safety tested three areas of the deceased's shirt. R. 202, line 16 – R. 204, line 13. Dr. Kandala developed partial profiles from the shirt samples. R. 205, lines 3 – 10. Dr. Kandala compared the partial profiles developed from the shirt samples with the profiles developed by SLED from the entrance way and the kitchen floor. Dr. Kandala opined that the DNA from the shirt samples matched the DNA from the blood spots found on the floor. R. 205, line 11 – R. 206, line 3.

At the close of the state's case, Appellant moved for a directed verdict of acquittal. R. 241, lines 6 – 8. Specifically, Appellant argued that the state had failed to present substantial circumstantial evidence reasonably tended to prove his guilt. Appellant argued that the evidence, at best, showed "mere suspicion." R. 242, lines 10 – 18. The state responded simply that "there [was] enough evidence - - from which the jury could rightfully convict" Appellant. R. 242, lines 21 – 25. The trial judge found there existed "sufficient evidence, taking it as a whole, direct and circumstantial, for the jury to make a decision on this." Thus, he denied Appellant's motion. R. 243, lines 1 – 6.

The prosecutor's closing argument reinforced the lack of evidence against Appellant. The prosecutor began by referring to the "tons of raw emotion" displayed by the deceased's family and the "horrific images" entered into evidence by the prosecution. R. 244, line 24 – R. 245, line 1. In referring to the evidence to indicate that Appellant was the actual perpetrator, the prosecutor noted that this was not a case where Appellant was found standing over the deceased's body with a bloody knife. Despite this lack of direct evidence, the prosecutor argued that evidence indicated Appellant was the

perpetrator. R. 247, lines 3 – 11. The prosecutor argued that Murdaugh had seen the deceased on Sunday morning, June 7 at 10 a.m. and no one had seen her after that date. R. 247, lines 12 – 16. Thus, the last time she was seen alive was on June 7 and her body was found on June 13, meaning she died sometime between June 7 and June 10. The prosecutor then turned to the testimony of White. Allegedly, Appellant told White that his girlfriend was dead because she had been stabbed repeatedly by the dope man. Appellant allegedly said the deceased's mother had paid for her drug debts previously, but the deceased's mother blew this "out of the water" when she testified she had never paid off drug debts for the deceased. The prosecutor made the feeble argument that Appellant's alleged response to White's question about what could he have done that was so bad, which was "you ain't never killed nobody," was an indication that Appellant had killed the deceased. R. 247, line 17 – R. 248, line 15; R. 249, lines 17 – 23. The prosecutor also relied upon the testimony of Wood, who claimed she saw Appellant at least twice around the time of the deceased death to place Appellant in the area. R. 249, line 24 – R. 250, line 18.

Concerning the physical evidence, the prosecutor referred to Appellant's palm print found on top of the toilet and on top of the tub and asked the jury why the prints would be there. R. 252, line 19 – R. 253, lines 6. The prosecutor, without any evidence to support her, argued that Appellant dropped blood belonging to the deceased at the bottom of the stairs and in the kitchen. R. 253, lines 7 – 14.

The prosecution concluded by noting the police had not been able "to come up with anybody that they can point the finger to, say, maybe this person did this." As a result, "[t]he only suspect was in, and is now, [Appellant]." R. 253, lines 14 – 24. The

prosecutor was so desperate for a conviction in light of the lack of evidence against Appellant, she even showed the jury a photograph of the victim, which had not been admitted into evidence, during her closing argument. Again, the prosecutor was appealing to the emotions of the jury because she had no evidence against Appellant. R. 255, line 14 – R. 260, line 3.⁶

The jury expressed its confusion on being asked to determine Appellant's guilt based upon the paucity of evidence when it inquired whether Appellant was right-handed or left-handed and sought guidance regarding the level of murder with which Appellant was charged. R. 277, lines 4-9; R. 284 (jury note). The judge responded that the jury had all of the evidence and re-instructed the jury concerning the elements of murder. R. 278, line 2 – R. 280, line 17.

After the jury returned guilty verdicts, Appellant renewed her previous motions. R. 282, lines 9-10. The judge responded: "Well, I think the jury has spoken on this case. As I said before, I think there is – certainly was sufficient direct evidence and substantial circumstantial evidence for a jury to make this determination, rather than I. I believe the jury has spoken. I will deny your motion, respectfully." R. 282, lines 11-16.

⁶ Appellant objected and moved for a mistrial based upon the prosecutor's misconduct. The judge sustained Appellant's objection and issued a curative instruction to the jury. R. 260, lines 8-20.

ARGUMENT

The trial judge erred in failing to grant Appellant's motion for directed verdict where the only evidence presented by the prosecution was that Appellant allegedly confided in a stranger that he was distraught because he saw the deceased had been murdered in their apartment, but took no action to report the murder to the police.

A defendant is entitled to a directed verdict when the prosecution fails to provide evidence of the offense charged. State v. Brown, 103S.C. 437, 88 S.E.2d 1 (1916); State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. McHoney, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). "If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused," the trial judge may deny the motion for directed verdict. State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001); State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000); State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000). When the prosecution relies exclusively on circumstantial evidence, the trial judge must direct a verdict in the defendant's favor unless there is any substantial circumstantial evidence which reasonably tends to prove the guilt of the defendant or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011); State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000). Likewise, a directed verdict is appropriate when the evidence produced "merely raises a suspicion the accused is guilty." Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Arnold, 361 S.C. 386, 389-390, 605 S.E.2d 529, 531 (2004); State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 451-452 (1984); State v. Muhammed, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999). Our courts define suspicion as "a belief or opinion as to guilt based upon

facts or circumstances which do not amount to proof.” Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Hyder, 242 S.C. 372, 131 S.E.2d 96 (1963).

In Mitchell, 341 S.C. at 409, 535 S.E.2d at 127, the South Carolina Supreme Court held the lower court erred in failing to direct a verdict where the only evidence presented against the defendant was his fingerprint at the scene of the burglary. Likewise, the Lollis Court directed a verdict of acquittal in the defendant’s favor where the state presented no direct evidence that Lollis was involved in setting fire to his home. The only circumstantial evidence against Lollis was that his wife admitted to the arson, he had placed valuables in storage prior to the fire, he possessed a key to the storage unit, and he allegedly had financial troubles. Our state supreme court found this evidence insufficient. Lollis, 343 S.C. at 584-585, 541 S.E.2d at 256-257.

In State v. Odems, 395 S.C 582, 720 S.E.2d 48 (2012), the Court held the defendant was entitled to a directed verdict based upon a lack of substantial circumstantial evidence that the defendant was involved in the burglary. Although Odems was in a car with other individuals who admittedly burglarized a home, the state failed to provide substantial circumstantial evidence that Odems was present during the home invasion. The witness who saw individuals at the home claimed she saw two, not three as were found in the car. Fingerprints collected from the stolen goods did not match Odems, but matched the other individuals in the car. One of the individuals who admitted his involvement claimed Odems was picked up after the burglary at a gas station. Id. at 588, 720 S.E.2d at 51. As explained by the Odems Court, although our courts have abandoned the traditional circumstantial evidence jury charge, the language of the charge is instructive in making a directed verdict determination. The traditional charge provided:

Every circumstance relied upon by the State be proven beyond a reasonable doubt; and ... all of the circumstances proven be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis.

Id. at 590, 720 S.E.2d at 52 (quoting State v. Hernandez, 382 S.C. 620, 626 n.2, 677 S.E.2d 603, 606 n.2 (2009)).

In one of the Supreme Court's most recent circumstantial evidence case, State v. Bostick, 392 S.C. 134, 141, 708 S.E.2d 774, 778 (2011), the Court held the prosecution failed to present substantial circumstantial evidence of Bostick's guilt. Rather, the state's evidence was capable of producing only a suspicion of Bostick's guilt. Id. Although the police found items belonging to the victim in a burn pile behind the home of Bostick's mother, the Court held no evidence linked Bostick to the evidence in the burn pile and the prosecution presented no testimony that Bostick had control over the burn pile. Id. at 137-141, 708 S.E.2d at 775-778. The only other evidence presented against Bostick was that he had a chemical pattern that matched gasoline on his shoes and gasoline was used to start the fire at the victim's home, and DNA from blood on Bostick's jeans excluded ninety-nine percent of the population, but the expert could not testify the DNA matched the victim. Id. at 142, 708 S.E.2d at 778.

The prosecution presented no direct evidence against Appellant and very little circumstantial evidence. No physical evidence connected Appellant to the crime. The prosecution established only that a connection existed between the deceased and Appellant, but established no connection between Appellant and the deceased's death. Appellant and the deceased had been in a romantic relationship for five years around the time of the deceased's death. The two lived together in the apartment where the deceased's body was found. Not surprisingly, Appellant's prints were found in the apartment where he lived.

Not surprisingly, the deceased's family did not see Appellant after the deceased's death because Appellant and the deceased had argued, broken up, and Appellant had left the deceased's death. Not surprisingly, Appellant was seen at the apartment where he lived at the usual time and place where his neighbor saw him. The only evidence the prosecution presented that showed Appellant even had knowledge of the deceased's death was the testimony of White. However, even White's testimony only established that Appellant knew about the murder and did not report it, not that he had any involvement in the death. Importantly, Appellant did not admit guilt to White or confess to participation of any sort. Very telling of the prosecutor's weak case was the repeated resort to appeal to the "raw emotion" of the jury in her closing argument, including displaying a photograph of the deceased, which was not from the crime scene and was clearly inadmissible victim impact evidence, asking the jury for justice of the deceased who was a mother, daughter, and sister.

CONCLUSION

Appellant respectfully requests this Court direct a verdict of acquittal in Appellant's favor concerning the charges of murder and possession of a weapon during the commission of a violent crime due to the lack of evidence against Appellant.

Respectfully submitted,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

This 12th day of November, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RALPH B. HAYES,

APPELLANT

Appellate Case No. 2012-213261

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Kaycie S. Timmons, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of November, 2013.

Susan B. Hackett
Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 12th day of November, 2013.

[Signature] (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.

STATE OF SOUTH CAROLINA
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Appeal from Greenville County

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THE STATE,

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RALPH B. HAYES,

APPELLANT,

Appellate Case No. 2012-213261.

FINAL BRIEF OF RESPONDENT

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The trial court, viewing the facts and all reasonable inferences in the light most favorable to the State, did not err in denying Appellant’s motion for directed verdict where substantial circumstantial evidence existed tending to prove the guilt of Appellant, including testimony that when Appellant was asked what was so bad, he responded, “[B]ut you ain’t never killed nobody.”	13
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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

The trial judge erred in failing to grant Appellant's motion for directed verdict where the only evidence presented by the prosecution was that Appellant allegedly confided in a stranger that he was distraught because he saw the deceased had been murdered in their apartment, but took no action to report the murder to the police.

RESPONDENT'S COUNTER STATEMENT OF ISSUE ON APPEAL

Whether the trial court, viewing the facts and all reasonable inferences in the light most favorable to the State, erred in denying Appellant's motion for directed verdict where substantial circumstantial evidence existed tending to prove the guilt of Appellant, including testimony that when Appellant was asked what was so bad, he responded, "[B]ut you ain't never killed nobody."

RESPONDENT'S STATEMENT OF THE CASE

A Greenville County Grand Jury indicted Appellant, Ralph Hayes, in October 2011 for the murder of Jacquelyn Alexander and for the possession of a weapon during the commission of a violent crime. Indictment Number 2011-GS-23-7681. On October 15, 2012, Appellant's case was called to trial before the Honorable G. Edward Welmaker. Transcript 1. Appellant was represented by Caroline Horlbeck and Teal Johnson during the three-day trial. R. 1. Assistant Solicitors Judy Munson and Wanda Adams represented the State. R. 1. On October 17, 2012, the jury returned a verdict of guilty on both counts. R. 281, ll. 1 – 23. Judge Welmaker sentenced Appellant to life imprisonment for murder and to five years for possession of a weapon. R. 283, ll. 11 – 17. Thereafter, on October 29, 2012, Appellant filed a timely Notice of Appeal.

RESPONDENT'S STATEMENT OF FACTS

Discovery of Victim's Body

On Saturday, June 13, 2009, Barbara McNeil went to check on her sister, Jacquelyn Alexander (Victim), at the apartment where Victim lived in Greenville, South Carolina. R. 9, ll. 1 – 17. McNeil had last spoken to Victim on Thursday, June 4, 2009. R. 9, ll. 13 – 19. McNeil arrived at the apartment around 4 o'clock in the afternoon. R. 9, ll. 20 – 23. McNeil knocked on the door, but she did not get an answer. R. 9, l. 24 – 10, l. 2. She tried the knob and found that the door was open, so she walked in. R. 10, ll. 2 – 3. Inside the apartment, McNeil called for her sister but received no answer. R. 10, l. 4. McNeil also tried calling Victim's phone, and though the phone was sitting on the table, it did not ring. R. 10, ll. 5 – 7; 12, ll. 1 – 8. McNeil began to walk through the apartment. R. 10, l. 7.

As McNeil walked through the living room and the kitchen on the first floor of the apartment, she noticed that the living room set she had given her sister was intact. R. 10, ll. 8 – 12. McNeil also noticed that nothing in the apartment seemed disturbed. R. 11, ll. 17 – 25. All the while, McNeil continued calling for her sister, but no one answered. R. 10, ll. 12 – 13. McNeil then went upstairs to continue looking for Victim. R. 10, ll. 14 – 15. When McNeil got upstairs, she saw Victim in the "bathroom on the floor dead. [She] saw blood everywhere." R. 10, 15 – 18.

McNeil was so upset by what she saw that she had a seizure and fell down the stairs. R. 11, ll. 4 – 7. She then called her father, who had trouble understanding what McNeil was trying to tell him but told her that he was coming over. R. 10, ll. 19 – 22. McNeil also tried to call the police, but they, too, had trouble understanding her, and a neighbor had to take the phone from McNeil to tell the police to come to the apartment. R. 10, ll. 19 – 25.

Deputy Ashleigh Swanson with the Greenville County Sheriff's Office (GCSO) responded to apartment number 18 at ***** in Greenville County, South Carolina the night of June 13, 2009. R. 77, ll. 5 – 22. Swanson arrived on the scene just after 9 p.m. R. 77, ll. 18 – 19. Swanson was the first law enforcement officer on the scene, but she discovered that the fire department had already arrived and had gone inside the apartment. R. 78, ll. 7 – 19. EMS, who had also arrived, had not gone into the apartment. R. 78, ll. 14 – 16. When Swanson surveyed the scene, she did not see any signs of struggle. R. 82, ll. 15 – 19. Swanson went into the apartment and found Victim in the upstairs bathroom. R. 79, ll. 1 – 4. Victim was deceased. R. 79, ll. 5 – 6. Victim's clothing had been pulled down below her waist, such that she was partially naked. R. 79, ll. 5 – 7. Swanson noticed that there was blood on the ground and a strong, distinguishable odor coming from the area where Victim was found. R. 79, ll. 8 – 12. However, there was not much blood outside of the bathroom according to Swanson. R. 82, ll. 20 – 23.

Detective Christopher Miller with the homicide unit of the GCSO was the on-call investigator the night of June 13, 2009. R. 211, l. 6 – 213, l. 6. He went to Victim's apartment to oversee the scene that night. R. 213, ll. 7 – 23. When Miller initially assessed the scene, he was unable to tell if a crime had even been committed. R. 213, l. 24 – 214, l. 23. According to Miller, due to the state of decomposition of Victim's body, investigators could not tell if Victim had died from natural causes, from suicide, or from homicide. R. 214, ll. 8 – 15. As to the apartment, nothing was disturbed either upstairs or downstairs. R. 214, ll. 16 – 23. Miller found the scene "puzzling." R. 214, ll. 16 – 23.

Miller changed his mind about what had happened at the apartment after Forensics Officer Jonathan Hamilton discovered one drop of suspected blood at the bottom of the stairs and

one drop of suspected blood in the kitchen. R. 214, l. 24 – 215, l. 4. Hamilton tested the droplets and determined that both droplets were blood.¹ R. 145, l. 19 – 146, l. 16; 163, l. – 164, l. 20; 165, l. 15 – 166, l. 12. Miller knew that those drops of blood could not have gotten to those locations by Victim because she was upstairs in the bathroom. R. 215, ll. 4 – 8. At that point, Miller decided to treat Victim's death as a homicide. R. 2151, ll. 9 – 11.

Hamilton discovered blood spatter in the downstairs bathroom attached to the kitchen. R. 144, l. 22 – 145, l. 16. The downstairs bathroom was directly under the upstairs bathroom where Victim's body was found. R. 145, ll. 8 – 12. The spatter found in the downstairs bathroom resulted from bodily fluids seeping through the exhaust fan on the ceiling of the downstairs bathroom and dripping onto the floor. R. 145, ll. 8 – 16.

In the upstairs bathroom, Hamilton photographed Victim, who was found laying on her right side between the toilet and the bathtub. R. 169, ll. 9 – 14. Hamilton observed bodily fluids on the bathroom floor. R. 169, ll. 15 – 18. Hamilton found suspected blood on the toilet lid, on the side of the bathtub, and in different areas of the bathroom. R. 170, ll. 2 – 21. However, there was no blood visible in the sink area, and everything seemed in order on top of the sink. R. 169, l. 19 – 170, l. 1.

In an attempt to collect evidence from “[a]nywhere that could be affected and touched by anyone that could be involved with the crime . . . [,]” Hamilton collected latent print evidence from the doors of the house, including the exterior and interior of the front storm door, the exterior and interior of the front door, and the exterior and interior of the back door. R. 147, l. 21 – 148, l. 10. Of the prints lifted from doors, only Victim's prints were identified. R. 138, l. 23 – 139, l. 3. Hamilton also processed the toilet tank lid, the toilet tank, the toilet seat, the bathtub,

¹ Both blood droplets were eventually found to match the female DNA taken from the shirt Victim was wearing when her body was discovered. R. 202, l. 16 – 206, l. 3.

and other areas in the upstairs bathroom for latent prints. R. 148, ll. 5 – 14. Christopher Gary, a latent print examiner with the Greenville County Department of Public Safety in the Forensic Division, was able to identify the following prints from Appellant on the exterior top of the upstairs toilet tank lid:² a left palm hypothenar³ print (State's Ex. 52), a left palm thenar print (State's Ex. 54), and a left index finger print (State's Ex. 53). R. 125, ll. 11 – 19; R. 132, l. 13 – 133, l. 19. Gary also identified a left palm interdigital print from Victim on the toilet tank lid. R. 133, ll. 20 – 23. Gary identified a print found on the exterior top of the upstairs bathtub as a right palm hypothenar print of Appellant. R. 133, l. 24 – 134, l. 2. None of the latent prints that Gary analyzed were made in blood. R. 137, ll. 1 – 3. Though Gary testified that there is no way to date a fingerprint, R. 129, ll. 6 – 11, he also testified that latent fingerprints are fragile and “can be easily wiped away or removed[,]” R. 139, l. 23 – 140, l. 6.

Dr. Michael Ward, the Chief Medical Examiner for Greenville County and an expert in the field of forensic pathology, conducted an autopsy of Victim on June 15, 2009. R. 84, l. 9 – 87, l. 11. During the external examination of the body, Dr. Ward found a total of twenty-eight separate and distinct stab wounds to Victim's body. R. 88, ll. 15 – 19. Those stab wounds included one to the left neck, four to the stomach region, and twenty-three to the left upper and left mid-back. R. 88, ll. 19 – 21. Dr. Ward did not find any defensive wounds on Victim's body.

² Though Gary initially testified that the prints were found on the toilet lid, he realized on cross-examination that the prints were taken from the toilet tank lid—specifically, State's Exhibit 52 was taken from the top left side of the toilet tank lid, and State's Exhibits 53 and 54 were taken from the more right portion of the toilet tank lid. R. 135, l. 1 – 136, l. 10.

³ As explained by Gary, latent print examiners

divide the palm up, to kind of break it down just a little bit, to different areas. You have three main areas of the palm. The top part is called the interdigital. The thumb side is called the thenar. And kind of the writer's palm that you'd put down, the fatty part of the palm is called the hypothenar.

R. 132, l. 21 – 133, l. 3.

R. 88, l. 22 – 89, l. 12. During the internal examination of the body, Dr. Ward found the following:

That there were stab wounds to the abdomen, which traumatized the left hemidiaphragm, which is the muscle that we use to breathe. And the stomach. There was trauma to the right hemidiaphragm, which, again, is the muscle that we use to breathe on the right side, and the lower lobe of the right lung. There was also a penetrating stab wound to the large intestine. Examination of the back revealed most of the stab wounds, most of the twenty-three stab wounds to the back to be superficial, in that they did not penetrate into the chest cavity. However, seven stab wounds did. Each of these seven stab wounds penetrated into the back part of the left lung causing trauma to that lung. So she had traumatic injuries to the left lung, seven; the lower lobe of the right lung, one; her stomach[;] the muscles that she used to breathe; and her large intestine.

R. 90, l. 12 – 91, l. 5. Dr. Ward opined that those injuries would have made it extremely difficult for Victim to breathe. R. 91, ll. 6 – 19. Additionally, blood would have been oozing from Victim's stab wounds, and she would also have had extensive internal bleeding into her pleural cavities. R. 91, ll. 16 – 23; R. 96, ll. 9 – 97, l. 3. In Dr. Ward's opinion, the difficulty breathing and the extensive internal bleeding led to Victim's death. R. 91, ll. 16 – 23. A toxicological examination was performed on Victim's liver, and the breakdown product of cocaine was identified. R. 91, l. 24 – 92, l. 10. Dr. Ward did not perform any type of sexual assault examination on Victim because the moderate state of decomposition of Victim's body led Dr. Ward to believe that such an examination would likely have been fruitless. R. 89, l. 22 – 90, l. 11. Given the conditions in which Victim's body was found and the level of decomposition present, Dr. Ward testified that, in his opinion, Victim had been dead for three to five days. R. 98, l. 9 – 99, l. 22.

After learning that Victim had been stabbed, Miller sent Tyler Bucholtz, who worked with the crime scene unit, back to the crime scene to collect additional evidence. R. 181, l. 24 –

182, l. 15. Bucholtz collected knives from the kitchen.⁴ R. 182, l. 10 – 183, l. 9; 188, ll. 10 – 12. Bucholtz also discovered a knife laying on the pine straw just outside the front door. R. 183, ll. 1 – 22; 185, ll. 13 – 22. Bucholtz swabbed the handle and blade of that knife to be tested for forensic evidence. R. 186, l. 6 – 187, l. 2. Bucholtz also performed a presumptive test for bodily fluids in the upstairs bathroom of the apartment. R. 184, l. 6 – 186, l. 5. That test was positive for blood. R. 185, l. 23 – 186, l. 5. Of the swabs taken from the handle and blade of the knife and from the left and right side of the sink, three of the samples did not have any DNA, and one of the samples had some DNA but not enough for analysis. R. 206, l. 18 – 207, l. 22.

Investigation

In accordance with his training, Miller decided to work Victim's homicide investigation "from the inside out," meaning that Miller began his investigation with the people who were closest to Victim. R. 216, ll. 12 – 16. Victim and Appellant had been in a relationship for about five years before her death. R. 12, ll. 19 – 21. The two had lived together in Atlanta, but then Victim moved to Greenville, and Appellant moved in with her. R. 18, ll. 2 – 11. Miller learned of the relationship but also learned that Appellant had not been seen in a while. R. 216, l. 12 – 217, l. 4. Victim's family told Miller that Victim and Appellant had an argument around the time Victim's family last heard from her and that Appellant had been asked to leave as a result of that argument. R. 236, ll. 4 – 19.

As part of the investigation, police officers spoke to Victim's neighbors about what they had seen in the weeks before Victim's body was discovered. R. 116, ll. 13 – 18. One of

⁴ Hamilton tested the knives from the kitchen for blood when he processed the crime scene on the night of June 13, 2009, but the test was negative. R. 146, l. 17 – 147, l. 10. Hamilton left the knives in the kitchen because there was no evidentiary value. R. 147, ll. 6 – 10.

Victim's neighbors, a woman named Jo Lynn Wood, told police that she had seen Appellant coming in and out of Victim's apartment during the week that Victim's body was discovered. R. 116, l. 13 – 117, l. 23. The two times that Wood saw Appellant, she was outside of her own apartment at dusk or at night talking on the phone. R. 118, ll. 17 – 22; 123, ll. 8 – 15. Wood testified that she saw Appellant exit Victim's apartment and proceed up the parking lot, past Wood's apartment. R. 118, l. 20 – 119, l. 13. Though Wood could not remember the exact days that she had seen him, Wood was sure that the man she had seen was Appellant. R. 119, ll. 17 – 23.

Wood also testified that she had last seen Victim at the apartment complex about a week and a half before Victim's body was found. R. 115, ll. 17 – 20. Wood recalled that Victim came to Wood's apartment at around 1:30 or 2 o'clock one morning and tried to sell Wood shampoo. R. 115, ll. 20 – 23. Another of Victim's neighbors, Anthony Murdaugh saw Victim in the early morning of Sunday, June 7, 2009. R. 107, l. 25 – 109, l. 21. That morning, when Murdaugh stepped outside to smoke, he saw that Victim was locked out of her apartment. R. 108, ll. 3 – 25. He never saw her again after that. R. 109, ll. 20 – 21.

Law enforcement officers canvassed Victim's neighborhood the Monday afternoon after her body was discovered and tried to find out if anyone knew of Appellant's whereabouts. R. 216, l. 24 – 217, l. 3. No one had seen him. R. 217, ll. 3 – 4. Because Miller knew that Appellant had been homeless in the past, he had officers go to homeless shelters and soup kitchens to try and find Appellant. R. 217, ll. 4 – 10.

On Thursday, June 18, 2009, officers went to an area where a homeless man named Larry Dell White was going to sleep that night. R. 55, ll. 5 – 25. The officers showed Appellant's picture to some of the men in the area and asked if anyone had information about Appellant. R.

56, ll. 1 – 6. Because White was not from the area, he did not look at the picture.⁵ R. 56, l. 1 – 57, l. 8. However, the next day White overheard some men at a labor hall talking about a woman they knew who had been stabbed. R. 33, l. 19 – 34, l. 2; 58, l. 18 – 59, l. 11. White realized that he had recently spoken to a man who had been dating that woman, and White decided to tell the police what he knew. R. 33, l. 25 – 34, l. 2; 59, ll. 12 – 20. White asked an employee at the labor hall to call the police. R. 59, l. 21 – 60, l. 1. An officer responded to the call and took White to the police department. R. 137, ll. 3 – 35, l. 8.

Once White got to the police department, he told Miller about a conversation he had had with a man about the woman's murder. R. 35, l. 9 – 36, l. 4. White told Miller that on the afternoon of June 9, 2009,⁶ he had gone behind a labor hall to get out of the sun. R. 25, ll. 2 – 22. There, he saw a young man drinking a beer and crying. R. 25, l. 24 – 26, l. 3. The two began a conversation that lasted for about an hour. R. 27, ll. 13 – 24. The man told White that he had "fucked up bad, real bad." R. 26, ll. 1 – 3. In an attempt to cheer the man up, White told the man that everyone makes mistakes in their life—White admitted to the man that he had stolen his brother's check in the past. R. 26, ll. 4 – 8. White continued trying to console the man, but the man would not stop crying. R. 26, ll. 12 – 15. The man told White, "man, it's going to fuck my sister up when I tell her what I done I went in the house and found my girl dead, man. The dope boys cut my girl all up, pulled her panties down to her ankles and put her in the bathtub." R. 26, ll. 15 – 20. White asked the man what he had done after that, and the

⁵ White was cross-examined at length about parts of a statement that he gave to police that make it sound like White saw Appellant's picture before he spoke with the police on June 19, 2009, but White was adamant at trial that he never saw Appellant's picture before it was presented to him in a photo lineup. R. 46, l. 1 – 52, l. 15.

⁶ White first testified that he had spoken to the man on a Sunday, but then he agreed that it could have been a Tuesday. R. 25, ll. 10 – 22. In the statement White gave to police on June 19, 2009, he stated that the conversation occurred on Tuesday, June 9, 2009. R. 68, l. 1 – 69, l. 2.

man told White that he had run out of the house. R. 26, ll. 20 – 21. White asked why the man had not called the police. R. 26, l. 22. The man responded that police would think he did it because she was his girlfriend. R. 26, ll. 22 – 24.

White and the man sat outside, in broad daylight, face-to-face during the conversation. R. 30, ll. 6 – 21. According to White's testimony, the main things that he remembered from the conversation were that the man kept saying that he had fucked up badly and that the man could not stop crying. R. 40, ll. 6 – 10. "He kept saying, ['I fucked up. I fucked up bad.']" Then he said[, 'I'm going to kill myself.[']" R. 27, ll. 22 – 23. White told him not to do that. R. 27, ll. 23 – 24. The man informed White that he had bought a bus ticket⁷ and was leaving that night to go see his sister in Kentucky⁸ and to tell her what he had done. R. 28, ll. 2 – 14. Near the end of the conversation, White asked the man what could be so bad, and the man responded, "[']But you ain't never killed nobody.[']" R. 40, ll. 12 – 16; 42, l. 23 – 43, l. 1. According to White, when the man said that, "the expression on his face, like, messed me up." R. 43, ll. 2 – 5. White responded, "[N]o, thank God, I haven't." R. 43, l. 5.

White saw the man later that day at a church where he went to get food. R. 31, ll. 14 – 18. White watched the man show the people at the church his bus ticket, and he saw them give the man a bag of food for his trip. R. 31, ll. 19 – 23. White also saw the people at the church pray for the man. R. 31, l. 21.

White did not immediately report to police about what the man had told him. R. 54, ll. 5 – 9. White explained at trial that, as a homeless man, he had problems of his own—like where he would sleep. R. 35, ll. 19 – 22. But when White heard the men at the labor hall talking about

⁷ White saw the man's bus ticket but did not see the details on the ticket. R. 27, l. 25 – 28, l. 7.

⁸ The man also mentioned during the conversation that he was from Newark, New Jersey. R. 75, ll. 12 – 14. Miller testified at trial that Appellant had a sister who lived in Danville, Virginia and that Appellant was from Newark, New Jersey. R. 233, ll. 12 – 15.

the woman who had been stabbed, he recalled the conversation, and he decided to contact the police because God “put it on [his] heart to do this” R. 41, l. 20 – 42, l. 9.

After White gave his statement to police,⁹ Miller gave White a photo lineup and asked him to identify the man he had talked to that day behind the labor hall. R. 220, l. 6 – 222, l. 8. Appellant’s picture was one of the pictures in the photo lineup. R. 220, ll. 14 – 21. Almost immediately White identified Appellant as the man he had spoken to. R. 222, ll. 9 – 12. White testified that he did not expect any sort of reward for his testimony—he talked to the police because “it was a Godly thing to do.” R. 61, ll. 7 – 13.

After taking White’s statement, the police followed up by canvassing some of the areas where White had seen Appellant and where police believed Appellant had been. R. 232, l. 5 – 233, l. 22. People at the labor hall could not remember seeing Appellant. R. 232, l. 15 – 233, l. 2. Police learned that a bus had left from Greenville the Tuesday before Victim’s body was found. R. 233, ll. 3 – 15. Though they could not confirm that Appellant had been on that bus, Miller noted that the bus had travelled from Greenville to Charlotte, then to Danville, Virginia, and then to Newark, New Jersey. R. 233, ll. 8 – 19. Police knew that Appellant had a sister in Danville, Virginia. R. 233, ll. 12 – 15.

Though Victim’s family saw Appellant periodically during the five years that Victim and Appellant were in a relationship, they did not hear from him after her death. R. 12, l. 22 – 13, l. 17; 21, ll. 16 – 25. In September 2010, police picked Appellant up from New York and brought him to South Carolina. R. 5, l. 19 – 7, l. 3.

⁹ White’s statement was read into the record during trial. R. 67, l. 24 – 76, l. 18. It substantially corresponds to the testimony he gave at trial about his conversation with Appellant. R. 67, l. 24 – 76, l. 18.

ARGUMENT

The trial court, viewing the facts and all reasonable inferences in the light most favorable to the State, did not err in denying Appellant's motion for directed verdict where substantial circumstantial evidence existed tending to prove the guilt of Appellant, including testimony that when Appellant was asked what was so bad, he responded, "[B]ut you ain't never killed nobody."

Introduction

At Appellant's trial the State was able to show that Victim died sometime between Monday, June 8, 2009 and Wednesday, June 10, 2009. The State presented an expert who testified that Victim's injuries included twenty-eight stab wounds to her upper body and neck and that Victim died as a result of those wounds. Respondent submits that the following evidence, which was presented to the jury, constitutes substantial circumstantial evidence that Appellant is guilty of murdering Victim and of possessing a weapon during the commission of that violent crime:

- Victim and Appellant were in a five-year relationship and lived together, but Appellant had been asked to leave after the couple had an argument less than a week before Victim was murdered;
- the door to Victim's apartment was unlocked, and there were no signs of forced entry, and Victim's apartment was not disturbed;
- Victim was stabbed twenty-eight times;
- Victim's body was found wedged between the toilet and the bathtub, and Appellant's palm prints were found in that bathroom on both the toilet tank lid and the bathtub;
- Appellant was seen leaving Victim's apartment twice during the week before Victim's body was discovered;

- when Appellant spoke to Larry Dell White about Victim's death, he was inconsolable and said that he had "fucked up bad, real bad" and that he wanted to kill himself;
- when asked by White what could be so bad, Appellant responded, "But you ain't never killed nobody[:]"
- rather than reporting what he had seen to the police, Appellant left town after he allegedly discovered Victim's body;
- Appellant never contacted Victim's family before or after her funeral.

Viewing the facts and all reasonable inferences in the light most favorable to the State, the State has done more than "raise[] a suspicion that the accused is guilty." *State v. Odems*, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011).

Standard of Review

In reviewing a motion for a directed verdict, the trial judge is concerned with the existence of evidence, not with its weight. *State v. Curtis*, 356 S.C. 622, 633, 591 S.E.2d 600, 605 (2004) (citing *State v. Mitchell*, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000)). In an appeal from the denial of a directed verdict motion, the appellate court must view the evidence in the light most favorable to the State. *Id.* (citing *State v. Burdette*, 335 S.C. 34, 46, 515 S.E.2d 525, 531 (1999)). "If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury." *Id.* (citing *State v. Pinckney*, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000)). "Unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct a verdict of acquittal is not error." *State v. Arnold*, 361 S.C. 386, 389, 605 S.E.2d 529, 531 (2004).

How the Issue Was Raised at Trial

At the close of the State's case, defense counsel made the following motion:

We have a motion for a directed verdict. Our position is that the State's case against Mr. Hayes consists only of circumstantial evidence. And the requirement is that there must be substantial circumstantial evidence that reasonably tends to prove Mr. Hayes' guilt. The evidence produced today just shows a mere suspicion of Mr. Hayes' guilt. We would ask that the court grant a directed verdict.

R. 242, ll. 10 – 17. In response, the State asserted that it had presented enough evidence from which the jury could convict Appellant, and the State asked the court to deny the motion. R. 242, ll. 19 – 25. The court denied defense counsel's motion, stating, "I must view all the evidence in the light most favorable to the non-moving party, and I find there is sufficient evidence, taking it as a whole, direct and circumstantial, for the jury to make a decision on this. I respectfully deny your motion" R. 243, ll. 1 – 6.

After the jury returned a verdict of guilty on both counts, defense counsel renewed their motion, and the court again denied the motion. R. 282, ll. 9 – 21.

Analysis

In his brief, Appellant cites a number of South Carolina Supreme Court cases where the court found directed verdicts warranted based on the evidence that had been presented by the State. See *State v. Mitchell*, 341 S.C. 406, 535 S.E.2d 126 (2000); *State v. Lollis*, 343 S.C. 580, 541 S.E.2d 254 (2001); *State v. Bostick*, 392 S.C. 134, 708 S.E.2d 774 (2011); *State v. Odems*, 395 S.C. 582, 720 S.E.2d 48 (2011). For example, in *State v. Odems*, the court found that "[t]he circumstantial evidence presented by the State proves only that: (1) when stopped by the sheriff's deputy, Petitioner was in the vehicle used by [his co-defendants] to leave the scene of the robbery; and that (2) following the stop, Petitioner fled along with [his co-defendants]." 395

S.C. at 591, 720 S.E.2d at 53. The court found that evidence insufficient to support Odems's convictions for first degree burglary, grand larceny, criminal conspiracy, and malicious injury. *Id.* at 592, 720 S.E.2d at 53. In *State v. Bostick*, the victim was found bludgeoned in her house, which had been set ablaze. 392 S.C. at 136, 708 S.E.2d at 775. The court recited the following evidence that had been presented against Bostick:

(1) [victim's] car keys, calculator, and other items from her home were found in the Bostick family's burn pile; (2) the fire in the burn pile was accelerated with either kerosene or diesel fuel, and Bostick's mother did not use those accelerants when she burned things in the pile; (3) Bostick had a pattern that matched gasoline on his shoes and gasoline was the accelerant use for the house fire; and (4) while the DNA from the blood on Bostick's jeans excluded about ninety-nine percent of the population, the blood could not be matched to [victim's] DNA.

392 S.C. at 142, 708 S.E.2d 774, 778. In finding that a directed verdict was appropriate, the court noted there was no evidence linking Bostick to the crime scene or to the items found in the burn pile, nor was the weapon used to beat the victim ever introduced. *Id.* at 141, 708 S.E.2d at 778. Finally, though the State had theorized that the victim, who was treasurer for her church, was killed for the money she had at her home, the court pointed out that "no evidence was introduced concerning Bostick's knowledge that [the victim] may have had money in the briefcase or if indeed any money was in the briefcase on that particular Sunday." *Id.* at 142, 708 S.E.2d at 778. Respondent submits that the evidence presented by the State in the instant case exceeds that presented in the cases referenced by Appellant in his brief.

Appellant argues that "[n]o physical evidence connected Appellant to the crime. The prosecution established only that a connection existed between the deceased and Appellant, but established no connection between Appellant and the deceased's death." Initial Br. of Appellant p. 16. Respondent disagrees with Appellant's contention and asserts that Appellant's own words and actions after the murder, combined with other circumstantial evidence, established a connection between Appellant and Victim's murder.

As to the connection between Appellant and Victim's murder, the State established such a connection through evidence of Appellant's own words and actions after the murder, which the State presented through the testimony of Larry Dell White. Though Appellant told White that he found his girlfriend's body and that she had been stabbed by a drug dealer, Appellant's later statements to White indicated that he was more culpable than his story suggested. In particular, when White asked Appellant what could be so bad, Appellant responded, "[B]ut you ain't never killed nobody." White testified to the jury that those were Appellant's "exact words. . . ." R. 40, ll. 12 – 16. In his brief, Appellant argues that he "did not admit guilt to White or confess participation of any sort." IBOA p. 17. Respondent agrees that Appellant did not expressly confess to the murder; however, his statement "but you ain't never killed nobody" conflicts with the story he told White, and that statement could be construed as an inadvertent admission of guilt. If Appellant had been telling the truth about finding his girlfriend "cut up" by the "dope man," then the appropriate response to White's question, "what could be so bad?" should have indicated that Appellant had left Victim's body and had failed to call the police. The statement "but you ain't never killed nobody" implied that Appellant committed the murder and did not merely witness the aftermath.

White's testimony about Appellant's demeanor during their conversation is further circumstantial evidence that Appellant committed the murder. White testified that Appellant was inconsolable throughout their conversation and also that Appellant told White that when he told his sister what he had done it would "fuck his sister up." R. 28, ll. 10 – 11. Appellant also expressed during the conversation that he wanted to kill himself.¹⁰ The jury could have inferred

¹⁰ The South Carolina Court of Appeals has only recently addressed whether evidence of attempted suicide is probative of the accused's guilt. *State v. Orozco*, 392 S.C. 212, 218, 708 S.E.2d 227, 230 (2011) (recognizing the issue as one of first impression in South Carolina and

Appellant's culpability from White's testimony about Appellant's intense emotional response to his girlfriend's death. The State also presented evidence that Appellant fled Greenville following the murder. In South Carolina, "[e]vidence of flight has been held to constitute evidence of defendant's guilty knowledge and intent." *State v. Crawford*, 362 S.C. 627, 635, 608 S.E.2d 886, 890 (Ct. App. 2005). Furthermore, though Appellant had spent time with Victim's family during the five years that he and Victim were in a relationship, he failed to contact Victim's family after her death or to attend her funeral. Respondent submits that Appellant's actions after the murder are further circumstantial evidence of guilt.

In addition to the evidence of Appellant's words and actions following the murder, the State also presented evidence connecting Appellant to the scene of the crime. The State presented latent print evidence establishing that Appellant was in the bathroom where Victim's body was found. Indeed, Appellant's palm prints were found on the bathtub and the toilet tank lid—the very fixtures between which Victim's decomposing body was wedged. The State also offered eyewitness testimony that Appellant was at Victim's apartment twice during the week Victim was killed. Though Appellant characterizes his presence at the apartment as not surprising because he lived there, at trial, the State presented evidence that Appellant had been asked to leave that apartment days before Victim's murder.

The nature of Victim's injuries suggested that Victim may have had an intimate connection with her murderer. The jury heard testimony from Miller that

concluding "that evidence of a suicide attempt is probative of a defendant's consciousness of guilt and is generally admissible for whatever value the jury decides to give it"), *cert. granted* (Oct. 17, 2012). Other courts have admitted threats to commit suicide as evidence of guilt. *E.g.*, *Commonwealth v. Sanchez*, 610 A.2d 1020, 1028 (Pa. 1992) ("Evidence of actual attempts to commit suicide are uniformly admitted as evidence tending to show consciousness of guilt on the part of the defendant, and a similar inference can be drawn from a threat to commit suicide."); *People v. O'Neil*, 165 N.E.2d 319, 321 (Ill. 1960) ("[T]he threat of suicide, as does flight, tends to show a consciousness of guilt.").

twenty-eight stab wounds indicates that there was rage, anger when that act was committed. This was not just a, you know, stab them once or twice and then, you know, incapacitate someone, and then go through the house and look for goods. This was focused, twenty-eight times, and you sit and count twenty-eight stab wounds, that takes a long time to do. And that is a lot of anger and a lot of rage, which makes—focuses more on an intimate level.

R. 223, ll. 11 – 19. The state of Victim’s apartment—the fact that there was no forced entry and the fact that nothing in the apartment had been disturbed—is also inconsistent with the murder resulting from a home invasion.

According to Appellant, the State’s closing argument, which included a reference to the “raw emotion” shown by Victim’s sister and mother during their testimony and the display of Victim’s photograph,¹¹ was “[v]ery telling of the . . . weak case” presented to the jury. IBOA p. 17. Respondent disagrees. During closing argument, the State recounted the important evidence that had been presented through the testimony of the State’s witnesses. While the State acknowledged the emotion the jury had witnessed from Victim’s sister, who found Victim’s decomposing body, and from Victim’s mother, the breadth of the State’s closing argument covered the evidence that connected Appellant to Victim’s murder. *See* R. 244, l. 16 – 256, l. 4.

Evidence of Appellant’s words and actions after the murder, combined with the physical evidence and eyewitness testimony connecting Appellant to the scene of the crime, raises more than a suspicion that Appellant is guilty. As such, Respondent asks that this Court affirm the trial court’s denial of the motion for directed verdict.

¹¹ The only issue pending in this appeal is the issue of directed verdict. Appellant has not challenged the display of Victim’s photograph to the jury during closing argument. At trial, defense counsel objected to the photograph being shown to the jury and moved for a mistrial. R. 255, l. 7 – 260, l. 5. The court denied the motion for a mistrial, offered to give a curative instruction regarding the photo, and then gave the curative instruction. R. 258, l. 14 – 260, l. 20; 275, l. 23 – 276, l. 5.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment, conviction, and sentence of the trial court should be affirmed.

Respectfully submitted,

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November 7, 2013
Columbia, South Carolina

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

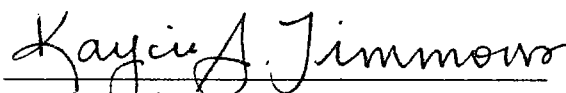
RALPH B. HAYES,

APPELLANT,

Appellate Case No. 2012-213261.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007 Order of the South Carolina Supreme Court, "Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."



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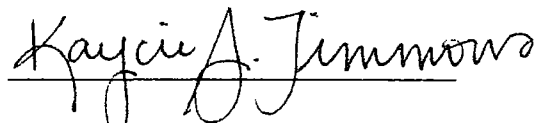
PROOF OF SERVICE

I, Kaycie S. Timmons, counsel for the Respondent, certify that I have served the within Final Brief of Respondent and Certificate of Compliance on Appellant by depositing two (2) copies of the same in the United States mail, first class, postage prepaid, addressed to his attorney of record Susan B. Hackett at:

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I further certify that all parties required by Rule to be served have been served.

This seventh day of November, 2013.



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