

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

G. Thomas Cooper, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THEODORE MANNING,

APPELLANT

RECORD ON APPEAL

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*****THE FOLLOWING EXHIBITS WILL BE TRANSPORTED TO THE COURT OF
APPEALS: STATE'S EXHIBIT'S 2 (STATEMENT), 3 (STATEMENT), AND 133 (CD AND
TRANSCRIPT), 226 (PHOTO) AND 227 (PHOTO); DEFENDANT'S EXHIBIT'S 1
(SEARCH WARRANT) AND 2 (SEARCH WARRANT); COURT'S EXHIBITS 1
(MOTIONS LIST) AND 6 (DEFENDANT'S REQUEST TO CHARGE).**

1 A These are three more teeth where we're looking at
2 the same thing. We marked the fragmentary remains that
3 we had in the morgue showing similarities to the roots
4 in question here and the two molars from the other side
5 of the lower jaw.

6 Q And this?

7 A Okay. Here are two more teeth, anti-mortem again and
8 post mortem from her upper jaws. You can see
9 similarities here in the root structure, a unique feature
10 of the tooth root as well as the cavity that's inside the
11 molar tooth.

12 Q And please describe for the jury what's depicted
13 here.

14 A These are teeth that were badly burned and are in
15 fragments separated from the skull and the jaw.

16 Q Were comparisons able to be done using these items?

17 A These items were not used.

18 Q And why is that?

19 A We -- we had trouble lining them up with the x-rays
20 or placing them within the jaw.

21 Q And why would you have trouble doing that?

22 A Badly burned and broken.

23 Q Please describe to the jury what this is.

24 A This is an anti-mortem x-ray from the Veterans
25 Administration showing the full mouth of Nikki

001001

1 McPhatter.

2 Q The numbers that you have written on the bottom, please
3 describe for the jury or please tell the jury what that
4 is about, annotating.

5 A All 32 teeth are given a number, so we refer to them
6 by that number from one to 32. In the x-ray, we label
7 just for our comparative purposes the numbers of those
8 teeth to put them side by side.

9 These are another type of x-ray taken of
10 Ms. McPhatter by the V.A. by the dentist showing the
11 sides of her mouth. So these were taken in a different
12 way than that panorex view was taken.

13 That's showing the third set of x-rays we received
14 from the Veterans Administration.

15 Q Thank you. You can have a seat back.

16 A comparison was made between Ms. McPhatter's known
17 dental records and the dental remains that were found in
18 the trunk of the vehicle?

19 A That's correct.

20 Q And were you able to find all of the skeletal remains
21 of Ms. McPhatter in the vehicle?

22 A I estimate we found about 90 percent because it was
23 all contained within the trunk of the vehicle, and it was
24 badly burned. Sometimes bone is reduced to ashes, so we
25 recovered all of that material.

1 Q Why would certain bones burn and certain other bones
2 not burn?

3 A The extremities, hands, arms and legs that had less
4 skin covering, muscle tissue on them burn more
5 completely than do, say, the torso of the body.

6 Q Could the amount of fat surrounding the bone also
7 have something to do with that?

8 A Yes.

9 Q What would that -- how would that affect it?

10 A More protected parts of the body burn less than do
11 the arms and legs.

12 MS. McDUFFIE: Beg the Court's indulgence.

13 (Pause)

14 No further questions from this witness, Your Honor.

15 THE COURT: Cross-examination?

16 MR. SHEALEY: No questions.

17 THE COURT: You may come down.

18 May this witness be excused?

19 MR. SHEALEY: No objection.

20 THE COURT: No objection.

21 Next witness?

22 MR. GIESE: May it please the Court, Your Honor. The
23 State calls Dr. Bradley Marcus.

24 BRADLEY MARCUS,

25 after being duly sworn, testified as follows:

001003

1 THE CLERK: Thank you. Have a seat in the witness
2 stand, please. State your name for the record.

3 THE WITNESS: Bradley J. Marcus, M-A-R-C-U-S.

4 DIRECT EXAMINATION:

5 BY MR. GIESE:

6 Q Dr. Marcus, where are you employed?

7 A I'm employed for Professional Pathology Services
8 here in Columbia. I work out of Palmetto Health Richland
9 and Palmetto Health Baptist hospital.

10 Q And what's your role? What do you do?

11 A I'm a pathologist. I also do forensic pathology is
12 one of my subspecialties.

13 Q All right. Now, let's talk about pathology very
14 briefly and then forensic pathology. Then we'll go
15 into your background in both. What is pathology versus
16 forensic pathology?

17 A Pathology is the study of disease, natural disease,
18 to tissues and cells. Whereas, forensic pathology
19 involves, you know, autopsy service where you determine
20 the cause and manner of death of people that have a sudden
21 unexpected death.

22 Q And that's the forensic aspect of it --

23 A Yes.

24 Q -- that you would then bring it to the Court or
25 testify to that type of thing?

001004

1 A Yes.

2 Q All right. Now, what's your background and training
3 in both pathology and forensic pathology?

4 A I went to medical school, then from medical school,
5 I did my -- I did six years of residency at the Medical
6 University of South Carolina. That included two
7 fellowships. That was from 2002 through 2008.

8 Q What's a fellowship?

9 A A fellowship is a -- it's a year of training in a
10 particular area of pathology. I happened to do a
11 fellowship in forensic pathology.

12 Q Down at M.U.S.C.?

13 A Down at M.U.S.C., yes.

14 Q Are they pretty famous down there for their forensic
15 pathology unit?

16 A Yes. They have very, very heavy case loads, and I
17 worked there for approximately eight years -- excuse me,
18 six years doing forensic cases on the weekends and
19 moonlighting.

20 Q All right. So you went through med school, then
21 you did six years of residency in pathology or in
22 general?

23 A Overall, six years of residency and fellowship, and
24 in that four years of pathology, then two years of
25 subspecialty training, one year in forensic pathology,

001005

1 a second year in cytopathology.

2 Q So how many years have you been working in forensic
3 pathology?

4 A Eight years now.

5 Q All right. And if you would, tell the jury, is there
6 some designation? I mean, you can be a pathologist and
7 a forensic pathologist. Is there something called a
8 board certified forensic pathologist?

9 A Yes, there is.

10 Q What's that?

11 A After -- after you finish your training, you can
12 take some -- you can sit -- the American Board of
13 Pathology has several exams you can take. I sat for, and
14 passed, the anatomic pathology exam, the clinical
15 pathology exam, the cytopathology exam and also the
16 forensic pathology exam. So I have four board
17 certifications in my training.

18 Q So not only are you a pathologist, but you're a
19 board certified pathologist in those four areas?

20 A Yes.

21 Q All right. And that's a subspecialty?

22 A Yes.

23 Q Have you testified before in courts as an expert in
24 the field of forensic pathology?

25 A Yes.

001006

1 Q How many times?

2 A Five times.

3 MR. GIESE: We'd offer him at this time, Your Honor,
4 as an expert in the field of forensic pathology.

5 THE COURT: Any voir dire or objection?

6 MR. MAY: No voir dire at this time, Your Honor.

7 THE COURT: All right. You may proceed.

8 MR. GIESE: Thank you, Your Honor.

9 BY MR. GIESE:

10 Q Now, Dr. Marcus, you said earlier when you were
11 explaining forensic pathology and your background and
12 training in it, that is for situations where you are
13 trying to find out what caused someone's death?

14 A Correct.

15 Q And specifically, to do that, what do you use? What
16 do you do?

17 A Well, the first thing is we'll do an autopsy, an
18 autopsy. In South Carolina, the coroner is in charge of
19 investigating any sudden and unexpected deaths that
20 occur.

21 The coroner, my -- our company, Professional
22 Pathology, has a contract with the coroner where they send
23 us cases, and we are authorized to examine the remains
24 of those people who have a sudden and unexpected death.

25 Q In an autopsy, you follow a fairly set procedure as

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1 to how to do an autopsy?

2 A Yes.

3 Q Tell the jury what the first thing you do in an autopsy
4 is.

5 A Okay. Well, first thing in an autopsy is if we know
6 who the individual is, we've got to identify the
7 individual, okay.

8 Sometimes we have to do that after the autopsy is
9 over, and that's what we did in this case. But in general,
10 a generalized autopsy involves -- the body arrives, we
11 document the clothing that they wear. Then we examine
12 the external body.

13 If needed, we then x-ray the body to look for any,
14 you know, bullets or broken off knife pieces. Then from
15 there we then open the body and collect tissue samples
16 and toxicology, usually blood and an organ, a liver or
17 kidney that could be used and sent off to the toxicology
18 lab to test to see if toxicology contributed to anyone's
19 death. Then from that examination, we determine a cause
20 of death, which is the disease or injury that brings about
21 the person's death.

22 Q And that's in a normal autopsy?

23 A That's in a normal autopsy.

24 Q Now, I want to bring your attention to the autopsy
25 that you did on Nikki McPhatter on May 30th of 2009?

001008

1 A Yes.

2 Q Do you remember that?

3 A Yes.

4 Q All right. And tell the jury what your contact and
5 what you did first in that autopsy.

6 A Okay. On that day, I was notified of some skeletal
7 remains recovered in a car on May 29th by the deputy
8 coroner.

9 So what I did was I scheduled an autopsy on that,
10 on those remains the following morning, on Saturday
11 morning. I usually start around eight a.m. So that day,
12 I arrived, basically pulled out what remains were in the
13 body bag and put them on our autopsy table and spread out
14 what I could see.

15 What was there was a bunch of -- a lot of bones. Not
16 all the bones. The skull was there, vertebrae, some ribs.
17 These are called your humerus. You had these pieces
18 there, and we had parts of the femur and pelvis.

19 I examined them. The first thing I did was
20 everything in that bag was x-rayed, was x-rayed to look
21 for any -- what we call radio opaque projectiles or metal
22 parts or anything like that.

23 The first thing I do so I can see what I'm looking -- if
24 I could find any radio opaque projectiles. So what
25 happens is I'll call the x-ray people down to x-ray it.

001009

1 Then before I even start messing with the bone, I look
2 on the x-ray and see if I even see anything.

3 Q So in this case, you did the external examination.
4 I guess there's no internal examination?

5 A Correct.

6 Q But you did the external examination, and then you
7 did what you call a radiological?

8 A Radiologic study of the bones.

9 Q And once you get the radiological studies back, or
10 the x-rays back, I guess simply put, what did you do?

11 A I --

12 Q What did you see or what did you do?

13 A I -- in a radiologic study, I found that there was
14 a deformed -- several fragments of a deformed metal
15 projectile inside of Ms. McPhatter's skull, inside of her
16 head.

17 So then I went right away to the skull, and I looked
18 at it. I examined it closely, then as I -- as I examined
19 that, I noticed that there was a hole in the skull.

20 Q I hand you what's been marked State's Exhibit
21 Number 204. Can you identify that?

22 A Yes. This is the x-ray that the radiologist came
23 down and took.

24 Q Does that fairly and accurately depict what you saw
25 that day?

001010

1 A Yes.

2 MR. GIESE: All right. I'd offer it at this time,
3 Your Honor.

4 THE COURT: Any objection?

5 MR. MAY: Subject to prior objections, Your Honor.

6 BY MR. GIESE:

7 Q If you would, step down --

8 THE COURT REPORTER: I'm sorry, one moment, please.

9 MR. GIESE: I'm sorry.

10 THE COURT: Overruled.

11 (WHEREUPON, State's Exhibit No. 204 was admitted
12 into evidence.)

13 BY MR. GIESE:

14 Q Would you step down for just a second? I'm showing
15 you State's Exhibit Number 204. Could you show what you
16 saw and what's important in that picture?

17 A Okay. Can I?

18 Q Yeah, please?

19 A All right. So what we have here is I set up -- the
20 radiologist came down, and we set up the skull. This is
21 the skull right here.

22 Q Does that show the skull intact?

23 A The skull was intact in this picture. We have the
24 skull, and these are your upper maxillary teeth up
25 here, right here. You can see what's left of here, your

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1 ribs. Here is your cervical spine right there..

2 This is lateral radiographic mirrors. The x-ray
3 machine is set up right here. It's shot forward through
4 this way, and this is what that developed.

5 What led me to this was the radio opaque projectile
6 inside of the skull cavity. So right away then, I knew
7 I had to go investigate what that was.

8 Q And that's -- if I put my finger right next to it,
9 is that what you're talking about?

10 A That's what I'm talking about.

11 Q State's Exhibit 204, and then all of these around?

12 A Yeah, those are little pieces or fragments.

13 Q And that's what made you go immediately to --

14 A To the skull.

15 Q -- the skull?

16 A Yes, to examine it in closer detail.

17 Q Thank you. You can have a seat.

18 A (Complies.)

19 Q Now, when you saw this on State's Exhibit 204, you
20 said you went to the skull and examined it at that time.
21 Tell the jury what you found.

22 A Well, when I went and examined the skull, because I
23 knew where I had to focus my examination, I thoroughly
24 examined the skull, but in the back of the skull right
25 here, I found a defect that was approximately 0.8 by 0.65

1 inch right around this area.

2 That's not -- just less than an inch, a circular,
3 irregular circular defect present.

4 Q What did that tell you, if anything?

5 A I've done plenty of gunshot wound cases. That
6 defect to me looked like an entrance gunshot wound shot,
7 taking that into context with the radiograph and the
8 metal projectile I saw in her skull.

9 It looked like an entrance gunshot wound from what
10 I could tell.

11 Q And now, once you saw that, what did you do?

12 A What I did then was since the skull was intact, we
13 actually had to take a bone saw and cut the top of the
14 skull off, which is what we did. We cut the top of the
15 skull off so we could look in.

16 It's so small I could barely fit my finger in that
17 hole. I had to get that bullet out. I wanted to see what
18 that metal was in there, so I went, went in there and found
19 when I opened the skull cap, I saw a fragment of bullet,
20 of a bullet.

21 Q Now, when you found the bullet inside the brain
22 cavity, was there any brain in there at that time?

23 A No.

24 Q And why is that?

25 A The brain -- the brain basically went to mush and

001013

1 was -- due to the heat, and your brain is in a liquid.
2 It boils, and it just decomposed.

3 Q So when you opened the skull, and that's fairly
4 standard, to open the skull through the top like that --

5 A Yes.

6 Q -- in an autopsy?

7 A Standard.

8 Q And if you do that -- if you do an internal
9 examination --

10 A Yes.

11 Q Do you do that?

12 A On every case.

13 Q When you looked in there, you saw nothing but the
14 bullet?

15 A I saw nothing but the bullet and, you know,
16 some -- you know, decomposing tissue, just miniscule
17 amounts, minuscule amounts.

18 Q Now, in cases like this where you have a bullet
19 wound, say to -- in this case to the back of the head,
20 what, if anything, can you tell this jury about the
21 trajectory of that bullet?

22 A Okay. So what happens is in cases where the brain
23 is there, the bullet -- usually -- sometimes the bullet
24 goes through, enters and exits. In other cases, the
25 bullet enters and doesn't exit. So what I do then is I

1 try to find out where the bullet is in the skull, and I
2 get a trajectory of -- an approximate trajectory of the
3 bullet pathway into the -- into the organ.

4 Q And in this case, were you able to do that?

5 A I was able to do it approximate, approximate because
6 we had -- we didn't have any brain tissue left, so I
7 approximated what I believed the trajectory was.

8 Q And in doing that or not being in there was important
9 to your study of the trajectory why?

10 A Well, the brain matter not being there -- I cannot
11 say certainly it was this way. Like, let me explain
12 that. In this case I found the bullet, recovered it right
13 around this area under the skull, all right, so that tells
14 me that the bullet was going forward and going upward
15 and to the left.

16 It's possible the bullet went -- not so much to the
17 left because it could have moved, but what I do know is
18 that the bullet was going forward in this case.

19 Q I hand you State's Exhibit Number 208 and ask you to
20 identify it.

21 A Yes, this was taken by law enforcement at the
22 autopsy.

23 Q What is -- and does that fairly and accurately depict
24 the wound as you saw it?

25 A Yes.

1 Q We'd offer State's Exhibit 208 into evidence.

2 MR. MAY: Your Honor, we'd object under 403 as well
3 as all previous objections stated already.

4 THE COURT: All right. Overruled.

5 (WHEREUPON, State's Exhibit No. 208 was admitted into
6 evidence.)

7 BY MR. GIESE:

8 Q Can you step down again, please?

9 A Sure.

10 Q In State's Exhibit Number 208, I want you to just
11 tell us where that wound is on State's Exhibit
12 Number 208.

13 A Okay. On this picture, okay, the wound is
14 approximately right here on line A. Her ear was there.
15 It would be right around this area right here. This is
16 the wound we're talking about right there.

17 Q So that would be behind her right ear?

18 A Behind her right ear.

19 Q Okay. Now, show the jury, if you could, you say the
20 trajectory of it. Where exactly would you have found
21 that projectile?

22 A That projectile was found on the opposite side of the
23 head in an upward location, so in my opinion, the bullet
24 was going upwards this way.

25 Q All right. Now, I noticed around the wound that

1 there is no skin?

2 A Correct, no skin.

3 Q Now, you've mentioned that you can talk about the
4 trajectory of the projectile. Can you also tell the jury
5 where the gun that fired the shot would be located?

6 A Yes.

7 Q Where is that?

8 A In my opinion, in this case, the gun had to have been
9 behind her head.

10 Q At some point?

11 A At some point.

12 Q When this gun was fired?

13 A At some point when that gun was fired, it was behind
14 her head.

15 Q All right. Now, is it possible in normal -- if there
16 is such a thing -- forensic pathology gunshot wounds to
17 tell how far away the gun was at the time that the trigger
18 was pulled?

19 A Yes.

20 Q Can you explain that to the jury?

21 A Okay. In a normal case where you don't have a
22 burned, decomposing body, what we look for is soot. If
23 you have a contact gunshot wound, in general, when you
24 fire a weapon, unburned gunpowder and soot come out of
25 the barrel, all right.

001017

1 If it's a close contact wound, you can have soot,
2 which is a brown and black discoloration around the
3 wound. In addition to that, if the gun is pressed hard
4 against the skin, you can actually -- even get a muzzle
5 imprint, so if he fires the gun, the muzzle imprint can
6 be matched perfectly.

7 That would be for a contact range gunshot. A contact
8 range, then you can have an intermediate range
9 gunshot where it -- again, depending on the gun and the
10 type of ammunition used, generally six to eight inches,
11 maybe up to a foot, you've got to have to know exactly
12 where you can get stippling, which is unburned
13 gunpowder, comes out of the barrel of a weapon. It gives
14 you little small -- little small cuts and abrasions on
15 the skin around the wound.

16 Q And that's within how many feet?

17 A Again, again --

18 Q Depending on the firearm.

19 A Depending on the firearm and the ammunition used, six
20 to -- six inches to a foot in general, in general.

21 Q And that's if you find stippling?

22 A Stippling. That's the little stippling, what we also
23 call powder tooling. Then the third type of gunshot is
24 the -- if it's in range, gunshot where you don't have
25 soot, you don't have stippling.

1 You don't have any of that, so you assume it's at
2 a distant range. But a lot of times, I just call them
3 "indetermined" because I don't know.

4 Q All right. In a situation like that, if there's no
5 stippling or soot or whatever, you would say it's anywhere
6 from --

7 A Again, depending on the weapon, it could be a foot
8 away --

9 Q But could be --

10 A Could be, you know, 30 yards away.

11 Q But now, in State's Exhibit Number 208 and in this
12 case, were you able to do a determination like that?

13 A No, not on this piece due to the lack of skin and the
14 extensive charring around there, I was unable to
15 determine whether the soot was present or the soot was
16 not present. I can't tell because it was charred, and
17 stippling to the skin, you can't tell if there's any
18 intermediate range.

19 Q All right.

20 A So I'm unable to determine the distance and where the
21 gun was.

22 Q Thank you. You can have a seat.

23 Q Now, you said that after you took the top of Ms.
24 McPhatter's skull off, you looked in. You saw the bullet.

25 A Correct.

1 Q Tell the jury exactly what that was again, how many
2 fragments did you actually pull out?

3 A I believe I pulled out two fragments of bullet.
4 Little pieces I leave in there, but generally when I get
5 a bullet out, I've got to get the meat, the big chunks
6 out.

7 Q I hand you State's Exhibit 202 and 205. Can you
8 identify those?

9 A Yes. These are part of the bullets -- of the
10 bullet -- the bullet that I pulled out of her skull.

11 Q Do they fairly and accurately depict those two?

12 A Yes.

13 MS. GIESE: We'd offer them at this time, Your Honor.

14 THE COURT: Any objection?

15 MR. MAY: Subject to prior objection, Your Honor.

16 MS. GIESE: 202 and 205.

17 THE COURT: Overruled.

18 (WHEREUPON, State's Exhibits Nos. 202, 205 were
19 admitted into evidence.)

20 BY MR. GIESE:

21 Q Now, I'm going to hand you 202 first. You can stay
22 seated there.

23 A Okay.

24 Q What is that a picture of?

25 A Okay. So this here is a picture of the copper

001020

1 colored jacket that goes around a bullet. Generally,
2 bullets are led, which is a soft metal, and then this they
3 put a copper colored jacket around the bullet, it hardens
4 it up a little bit.

5 But a lot of times when bullets strike hard surfaces,
6 the jacket -- because it goes on after the bullet
7 is -- during the processing, it rips off. This is a case
8 of a deformed jacket that ripped off the bullet.

9 Q Off the lead?

10 A Off the lead, yes.

11 Q And State's 205 is what?

12 A This is the gray, gray metal lead that was also
13 recovered there, part of that bullet.

14 Q So you got the lead, and that jacket would have been
15 around the lead?

16 A Correct.

17 Q Except when it went in, it --

18 A It separated.

19 Q Now, Dr. Marcus, as part of being a forensic
20 pathologist, knowing the effects of certain
21 catastrophic wounds to a body --

22 A Yes.

23 Q -- is what their effects would be on the body?

24 A Yes.

25 Q And that's fairly standard for a forensic

1 pathologist?

2 A Yes.

3 Q Specifically, looking at what you had seen of Nikki
4 McPhatter's body with the -- as you testified on State's
5 Exhibit Number 208, the bullet wound to the back of her
6 head and then also on State's Exhibits 202 and 205, which
7 is the jacket and the lead, can you tell this jury what
8 effect a bullet striking someone in the back of the head
9 with that trajectory would have on that person?

10 A Sure. In my opinion, a bullet striking the back of
11 her head like that and entering the cranial cavity would
12 immediately render her unconscious, which
13 is -- eventually what happens then is then you're going
14 to start bleeding because you have tissue damage in the
15 brain.

16 You start bleeding, and it triggers the brain -- the
17 blood comes out of the wound. You start bleeding. Then
18 in general, about a minute -- or a minute later, your
19 heart will stop because of the effects of the pooling
20 around the brainstem will occur. And it's -- that type
21 of injury is incompatible with life.

22 Q Now, when is say it starts pooling around the
23 brainstem, explain that.

24 A Brainstem controls your respiration and your heart,
25 your heartbeats. When it does that, it triggers up the

1 neurons and they're going to -- they're not going to fire
2 any longer, and guess what, you'll -- you'll be considered
3 dead.

4 Q Now, would a person have had the ability after being
5 shot like that, in your opinion, to walk?

6 A No.

7 Q Talk?

8 A No.

9 Q Sit up?

10 A No.

11 Q For the record, I hand you what's been marked State's
12 Exhibit Number 136. Could you open that up, take a look
13 at it. Tell me what that is, if you can.

14 A This -- take it out?

15 Q Yeah, please do.

16 A This is the bullet. There are two factors. Here is
17 the jacket of the bullet that was deformed, and here is
18 the lead of the bullet that I recovered from the inside
19 of Ms. McPhatter's skull.

20 I placed it. I labeled it. I placed it into this
21 container during -- on May 30th.

22 Q And are they in substantially the same condition as
23 the day you took them from her head?

24 A Yes.

25 MS. GIESE: We'd offer them at this time, Your

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1 Honor.

2 MR. MAY: Subject to prior objection, Your Honor.

3 THE COURT: Overruled. Go ahead.

4 (WHEREUPON, State's Exhibit No. 136 was admitted into
5 evidence.)

6 BY MR. GIESE:

7 Q That's State's Exhibit Number 136.

8 Now, when you get something like State's Exhibit
9 Number 136, do you turn it over to someone?

10 A Yes. I transfer it over to the law enforcement
11 agency, law enforcement officer that's investigating the
12 case.

13 Q And why do you do that?

14 A Just to keep the chain of custody going.

15 Q In case it has any use?

16 A Yes, any use in a trial or something like this.

17 Q Now, two last -- two last things. You mentioned
18 earlier in your testimony that one of the first things
19 you do is -- or the first thing you do is identify who
20 the person -- who the body belong -- who the body is?

21 A Correct.

22 Q In this case, did you do that?

23 A We did that after we recovered the bullet. We
24 assisted through the remainder of the bones, and we had
25 no idea who this person was. We had an idea, but we had

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1 no idea, so we had to go through our scientific method
2 of going and identifying someone.

3 That's when we started looking at the jaws and
4 seeing what we could salvage from the jaws, and what we
5 had found was the back molar teeth were still intact in
6 the mandible.

7 The mandible is broken from the heat, but those
8 molar teeth were in -- in the jaw still, so we again -- we
9 x-rayed all of those. And basically -- also, from that
10 point on, I had to determine whether it was a male or a
11 female.

12 Q And it was --

13 A And what race they were, and I used my training to
14 determine that.

15 Q And in this case you did that?

16 A Yes.

17 Q Now, you talked about the comparison of the teeth and
18 all of that. Did you subsequently get x-rays and do the
19 test yourselves?

20 A Yes. Several days later Bill Stevens called me and
21 said that x-rays were available of who we thought this
22 person was. So we met down in the morgue with our x-rays,
23 and we compared the x-rays together.

24 We had to use the root structures, and we compared
25 them on -- I believe five or six teeth we compared the

1 root structures, and they were identical. So based on
2 what we -- we determined then, that these were the remains
3 of Nikki McPhatter.

4 Q Dr. Marcus, for the record, can you testify to a
5 reasonable degree of medical certainty as to what caused
6 Nikki McPhatter's death?

7 A Yes.

8 Q And what is that?

9 A A gunshot wound to the head.

10 MR. GIESE: Beg the Court's indulgence.

11 (Pause

12 That's all I have.

13 THE COURT: Cross-examination?

14 MR. MAY: I don't know, we ask for the C.V.

15 MR. GIESE: Excuse me?

16 MR. MAY: A C.V.

17 Do you have a C.V. with you, Dr. Marcus?

18 THE WITNESS: I gave it to Ms. McDuffie.

19 MR. GIESE: It's in Ms. McDuffie's office, Your
20 Honor.

21 MR. MAY: Your Honor, no questions.

22 THE COURT: You may come down.

23 MR. GIESE: We've got it.

24 THE COURT: Well...

25 (Pause)

1 MR. MAY: Beg the Court's indulgence for one second.

2 (Pause)

3 Your Honor, we have no questions.

4 THE COURT: You may come down, sir. Thank you very
5 much.

6 May this witness be excused?

7 MR. MAY: Without objection.

8 THE BAILIFF: Watch your step.

9 THE COURT: Next witness?

10 MS. CAMPBELL: May it please the Court. The State
11 calls Lieutenant Scott McDonald.

12 SCOTT MCDONALD,
13 after being duly sworn, testified as follows:

14 THE CLERK: State your name for the record.

15 THE COURT: Move that exhibit, please.

16 THE CLERK: Yes, sir.

17 THE WITNESS: Scott McDonald.

18 DIRECT EXAMINATION:

19 BY MS. CAMPBELL:

20 Q Lieutenant McDonald, where are you employed?

21 A At the Richland County Sheriff's Department.

22 Q What do you do there, sir?

23 A I'm a lieutenant in the Major Crimes section.

24 Q And as lieutenant in the Major Crimes section, what
25 do your duties include?

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1 A To investigate and supervise all crimes against
2 persons, assaults, armed robberies, carjackings,
3 homicides, suicides.

4 Q Can you tell us -- how long have you been in law
5 enforcement?

6 A Since March of 1988.

7 Q Can you tell us a little bit about your training
8 that you've gone, and then I'll go through some more
9 specialized training?

10 A I received a B.S. in criminal justice from the
11 University of South Carolina. From there, when I came
12 to work at the sheriff's department, I was sent to the
13 South Carolina Criminal Justice Academy.

14 I graduated from there in 1989. Since then I've
15 attended numerous seminars, training. We have yearly
16 training with the sheriff's department on all aspects of
17 law enforcement.

18 Q And over the years -- you've had some specialized
19 training, specifically as to investigation as to cell
20 phones?

21 A Yes, I have.

22 Q Can you tell this jury some of the training you've
23 had as far as cell phone investigations?

24 A I first began training in cell phone investigations
25 in November of 2001 while investigating a homicide here

1 in Richland County. While that was on-the-job training,
2 since then I have attended several seminars, several
3 classes dealing with the instruction on how to track
4 cell phones by towers and also the downloading of cell
5 phones that's useful in investigations.

6 Q And have you testified before as an expert in the
7 field of cell phone investigations as far as the
8 technology you just referred to?

9 A Yes, I have.

10 Q And have you been qualified as an expert in that area?

11 A I have, two times.

12 MS. CAMPBELL: Your Honor, did we'd qualify him as
13 an expert in cell phone investigations.

14 THE COURT: Any voir dire or objection?

15 MR. MAY: No voir dire at this time, Your Honor.

16 THE COURT: All right. You may have proceed.

17 BY MS. CAMPBELL:

18 Q Lieutenant McDonald, I believe it was on May 26th
19 that you actually were briefed about this case; is that
20 correct?

21 A That's correct.

22 Q And prior to May 26th of 2009, you had not had any
23 involvement; is that correct?

24 A That's correct.

25 Q On that date, did you have an opportunity to review

1 any video?

2 A Yes, I did. There was an A.T.M. video provided where
3 a subject was using an A.T.M. card that belonged to the
4 victim in this case, and I got a copy of that to take it
5 to my computer. Again, looking at it closer trying to
6 identify what kind of vehicle this was.

7 Q And just generally, what did that video show and what
8 location?

9 A It was a video from the Wachovia, and I believe it
10 was the 8800 block of Farrow Road. It showed a vehicle
11 pull up to the A.T.M., a subject get out of the vehicle,
12 walk up to the A.T.M. A little bit unusual. Normally in
13 a drive-thru, you would drive right up to it.

14 Q Yeah.

15 A A gentleman went up to the A.T.M., did some type of
16 transaction at the A.T.M., then got back into the
17 vehicle.

18 Q And, in fact, I think it shows him going up there more
19 than once; is that correct?

20 A Yes, yes, it does.

21 Q And specifically, what part of that video were you
22 focused on that day?

23 A He was focused on the actual vehicle. The way the
24 camera depicted the vehicle, you could not get a clear
25 shot of the tag number, which would have been wonderful.

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1 We were able -- we had to deal with basically what
2 we were given through this video. So I looked at tail
3 light patterns, hub cap patterns, things like that, side
4 moldings, details like that and try to come up, as best
5 I can, with what kind of car this may be..

6 Q Could you tell generally what color this car was?

7 A Yes, it was gold or tan in color.

8 Q And as far as when you looked at the car or the shape
9 of the car and all that you just testified about, were
10 you able to make a determination as to the type of car
11 this was?

12 A Yes. It appeared to be a Chevy Lumina, between a '92
13 and a 1994 model.

14 Q Once you had determined that, what, if anything, did
15 you request?

16 A I contacted the S.L.E.D. Fusion Center here in town
17 to do a run for me of all Chevy Laminas in Richland
18 County. Sometimes they're able to narrow it down by
19 colors, other times they're not, depending on the vehicle.
20 S.L.E.D. was able to provide me with a list of Luminas
21 between those 1992 and 1994 here in Richland County.

22 Q And those were the ones registered in Richland
23 County?

24 A That's correct.

25 Q And approximately -- you don't have to say exactly,

1 but approximately how many automobiles were listed in
2 that range?

3 A I don't recall exactly. Several, several computer
4 pages worth.

5 Q Well over 100?

6 A Could be, yes.

7 Q Did you receive that list later that day on the 26th?

8 A I did.

9 Q The next day on the 27th, did you make the attempt
10 to try to locate any of those that were listed?

11 A Yes, I did. Myself and several other investigators,
12 we kind of split this list up since it was so large, and
13 tried to make as many visits to locations where these
14 vehicles came back registered to, specifically focusing
15 around this area of the A.T.M., anything in that general
16 area.

17 Q And why were you actually trying to locate the actual
18 Chevy Lumina that was shown in the video?

19 A To try to develop further information in this case
20 as to the whereabouts of Ms. McPhatter.

21 Q On May 28th, the next day, were you briefed about
22 another agency's involvement and what they were going to
23 do?

24 A Yes. I learned that morning that Charlotte/
25 Mecklenburg was coming to do a search warrant at the

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1 apartment of Ms. Kendra Goodman here in Lexington County
2 actually where she lived.

3 Q In Lexington County?

4 A That's correct.

5 Q And did you and other officers from the Richland
6 County Sheriff's Department meet with them and then
7 ultimately go to that location?

8 A Yes, we did. Later that afternoon, we assembled
9 outside her residence. We waited the arrival of the
10 Lexington County sheriff's department.

11 Q And do you remember the actual address you went to
12 that day?

13 A I do.

14 Q Was it an apartment complex?

15 A It was an apartment complex on Berry Hill Road.

16 Q And who actually executed the search warrant that
17 day, what agency?

18 A Lexington County and Charlotte/Mecklenburg.

19 Q Were you aware that a vehicle of interest had been
20 located in that apartment complex parking lot?

21 A I learned earlier that day, I believe, Captain Smith
22 and Sergeant Isenhoward had been to the apartment to spot
23 it for the purpose of the search warrant and had seen a
24 gold in color Chevrolet Impala -- excuse me, Chevrolet
25 Lumina.

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1 Q Was that the day that the other officers in your
2 department made contact with Kendra Goodman's parents?

3 A Yes, they did.

4 Q And as a result of that contact, did you go somewhere?

5 A I went to the Lexington Dry Cleaners on Broad River
6 Road, Kennerly Road.

7 Q And what's the address of that dry cleaners?

8 A I believe it's 7320 Broad River Road.

9 Q And at that time it was called what?

10 A Lexington Dry Cleaners.

11 Q And that's at 7320 Broad River Road?

12 A That's correct.

13 Q When you were there, who did you make contact with?

14 A I made contact with Ms. Goodman. I spoke to her
15 briefly. I identified myself and asked if we could talk
16 to her.

17 Q And was she cooperative?

18 A Initially she was, and then she turned
19 uncooperative.

20 Q After that, did Captain Smith show up with someone?

21 A Yes. He showed up with her father.

22 Q Her father?

23 A That's correct.

24 Q And then did Captain Smith ultimately enter the
25 room?

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1 A That's correct.

2 Q The next day, May 29th of 2009, were you aware -- you
3 didn't actually start the interview, but were you aware
4 that Kendra Goodman came in for another interview?

5 A Yes, I was.

6 Q At some point, did Captain Smith make contact with
7 you?

8 A He did.

9 Q Did y'all have a conversation? Don't say what it
10 was. Did y'all have a conversation?

11 A Yes, we did.

12 Q As a result of that conversation, did you and other
13 investigators from the Richland County Sheriff's
14 Department proceed to the location --

15 MR. MAY: Objection, Your Honor. Leading.

16 THE COURT: Sustained.

17 BY MS. CAMPBELL:

18 Q As a result of that conversation, what did you do?

19 A Myself and other investigators got in our vehicles,
20 and we went to Peach Road in Fairfield County, just off
21 I-77.

22 Q And the roads on I-77, ultimately if you continue past
23 where Peach Road -- what city does that lead you to?

24 A That would be Ridgeview or Winnsboro.

25 Q Does it continue up into North Carolina?

1 A Yes. It does. That would be the route you'd take
2 if you're heading back to Charlotte.

3 Q To Charlotte. Peach Road is this exit?

4 A That's correct.

5 Q And what suburb of Columbia is it near?

6 A Suburb of Columbia, I guess Blythewood would be the
7 nearest.

8 Q Once you exited on to Peach Road, where did y'all
9 go?

10 A As we get off the exit, we went to our left, went
11 maybe a mile, mile-and-a-half down the road to a white
12 church. We all pulled up in the parking lot there.

13 Q Once at the white church, did Captain Smith have
14 some conversation with Ms. Goodman?

15 A Yes, he did.

16 Q Without saying what she said, as a result of those
17 conversations, what did you do?

18 A We then kind of fanned out to conduct a search to try
19 to locate possibly the vehicle in question. On the way
20 to the church, just prior to the church, I noticed some
21 kind of small trail or logging trail, something to that
22 effect within a couple hundreds yards of the church, and
23 that was my primary focus, to explore that trail to see
24 what might be up there.

25 Q And did this trail come directly up -- it's dirt?

- 1 A Dirt trail, yes.
- 2 Q Did it go off Peach Road near where that church was?
- 3 A Yes, I did.
- 4 Q And, in fact, if you were coming from Peach Road
- 5 driving down as you approached, the church would have
- 6 been on your right or your left?
- 7 A On my right.
- 8 Q And it would have been before or after you got to the
- 9 church?
- 10 A Before the church.
- 11 Q Did you proceed to go down that trail?
- 12 A Yes, I did.
- 13 Q And as you proceeded down the trail, what did you
- 14 observe?
- 15 A Approximately six to eight hundred yards down the
- 16 trail off to the left side of the trail, I encountered
- 17 a burned vehicle.
- 18 Q And what did you first notice before even seeing the
- 19 vehicle?
- 20 A Well, as I stepped out of my vehicle, upon seeing the
- 21 vehicle, the first thing I noticed was a strong stench,
- 22 foul odor in the air.
- 23 Q When you saw the vehicle, what was the condition?
- 24 A It was completely burned.
- 25 Q I show you what's been marked as State's Exhibit

1 Number 166 and 167. Do you recognize those photos?

2 A Yes. That's the vehicle I saw that day down the
3 logging trail.

4 Q And those were actually taken by crime scene, but does
5 that fairly and accurately depict the vehicle as it was
6 when you found it that day?

7 A That's correct.

8 MS. CAMPBELL: Your Honor, at this time I'd offer
9 them into evidence.

10 MR. MAY: May we approach, Your Honor?

11 (WHEREUPON, a bench conference was held in the
12 presence, but not within the hearing of the jury.)

13 MS. CAMPBELL: Your Honor, we'd offer State's
14 Exhibit 167 into evidence over the objection.

15 MR. MAY: Over our prior objection, Your Honor.

16 THE COURT: Okay. All right. Admitted.

17 (WHEREUPON, State's Exhibit No. 167 was admitted into
18 evidence.)

19 BY MS. CAMPBELL:

20 Q State's Exhibit Number 167, is that the condition of
21 the car when you found it?

22 A Yes, it is.

23 Q And was it actually on the trail itself?

24 A It was --

25 Q That you found it?

1 A It was just to the left off the trail.

2 Q Once you found the car, did you go and look in it
3 yourself?

4 A Yes, I did.

5 Q Did you touch anything?

6 A No. I did not.

7 Q And what areas were you looking at as far as this
8 car?

9 A I initially walked up to the passenger compartment.
10 I believe the rear door was opened, as you see in the
11 picture there. I walked up to the passenger compartment
12 to see if there was anything of evidentiary value or if
13 I could see anything in there at all, which I did not.

14 I then stepped back to the rear of the car, and
15 through the rear burned out tail light area, I saw what
16 appeared to be a human skull.

17 Q Do you remember which one it was?

18 A The right hand side.

19 Q Were you able to actually see -- the tail light itself,
20 was it still intact?

21 A No. It was missing.

22 Q And when you actually got closer -- if you look at
23 this picture, you were able to see inside?

24 A Yes, I was.

25 Q And what did you observe when you looked in that

1 vehicle?

2 A It appeared to be a human skull.

3 MS. CAMPBELL: Your Honor, permission to publish to
4 the jury?

5 THE COURT: Yes, ma'am.

6 BY MS. CAMPBELL:

7 Q Did you make any attempts to go inside the car or touch
8 the car in any way?

9 A No. I immediately notified Captain Smith of what I
10 had discovered. I backed my vehicle a good ways down the
11 road away from it so we could set up a crime scene, crime
12 scene tape.

13 Q And, in fact, did you -- how were you able to
14 participate with setting up the crime scene?

15 A Yes, myself and I believe Sergeant Ellis set up the
16 crime scene tape and notified the lab and awaited their
17 arrival.

18 Q And in this case, what did you do to secure the crime
19 scene?

20 A Put up the crime scene tape, with Sergeant Ellis
21 securing it to some trees, blocking the road, blocking
22 the general area so no one could enter.

23 Q And I show you what's been marked as State's
24 Exhibit 166. What does that show as far as the crime
25 scene tape?

1 A You can see the crime scene tape off to the right side
2 of the picture, which was down past the vehicle.

3 Q Were any other agencies -- departments within your
4 agency then called out to the scene?

5 A Yes. The lab was called to the scene, and I believe
6 the coroner was notified, as well.

7 Q And did they all respond while you were there?

8 A They did.

9 Q You didn't process the crime scene yourself, did you?

10 A No. I didn't.

11 Q After the crime scene units took control of the scene
12 and all that was done, did you then -- where did you go?

13 A I returned to headquarters, along with Captain Smith
14 and Sergeant Isenhoward. I believe they had Kendra with
15 her -- with them at the time. I made myself available
16 there for anything else needed.

17 Q Ultimately that evening, did you give someone a
18 ride?

19 A Yes. I returned Ms. Goodman to her residence after
20 she gave a statement.

21 Q In this case, as the investigation continued over
22 time, did you become aware that there were some phone
23 records that had been obtained?

24 A Yes, I did.

25 MS. CAMPBELL: Beg the Court's indulgence.

1 (Pause)

2 BY MS. CAMPBELL:

3 Q Specifically, what phone records were you able to
4 review?

5 A The cell phone records of Theodore Manning.

6 Q I show you what's been marked as State's Exhibit
7 Number 7. Do you recognize those?

8 A Yes, I do.

9 Q And what records are those?

10 A These are the records of Theodore Manning.

11 Q State's Exhibit Number 63, did you also review those
12 records?

13 A Yes, I did.

14 Q And what records are those?

15 A These are the records of the victim, Ms. McPhatter.

16 Q At a later date, did you also become aware that a cell
17 phone had become recovered?

18 A Yes, I did.

19 Q I show you what's been marked as State's Exhibit
20 Number 135. Do you recognize that?

21 A Yes, I do. This would be the phone belonging to
22 Mr. Manning.

23 Q And probably the charger?

24 A Right, as well as the charger.

25 MS. CAMPBELL: Your Honor, at this time we offer

1 State's Exhibit Number 135.

2 MR. MAY: I believe we have a matter of law we have
3 to take up.

4 THE COURT: Approach the bench.

5 MS. CAMPBELL: Thank you, Your Honor.

6 (WHEREUPON, a bench conference was held in the
7 presence, but not within the hearing of the jury.)

8 MR. MAY: Subject to prior objections, Your Honor.

9 THE COURT: Subject to objection, it's admitted.

10 (WHEREUPON, State's Exhibit No. 135 was admitted
11 into evidence.)

12 BY MS. CAMPBELL:

13 Q State's Exhibit Number 135, at your office, do you
14 have -- well, let me check the cell phone numbers first.
15 Did you do an examination of the defendant's cell phone
16 records in this case, on State's Exhibit 7?

17 A Yes, I did.

18 Q And as part of your training, what kind of information
19 can you get, just relate it to the jury, from cell phone
20 records?

21 A I can get the time the call was placed, who the call
22 was placed to or received from, the location of that
23 phone in general based on the cell phone tower location
24 and generally a sector on that cell phone tower.

25 Cell phone towers are broken up into three sides.

1 Each side is 120 degrees, compromising a circle, and
2 depending on the phone company, they do provide the
3 sector or the side of the phone that that phone was hitting
4 off during the time that call -- generally with an
5 originating tower and an ending tower, for that phone call.

6 Q And in this case, the defendant's cell phone records
7 were from what company?

8 A From Sprint.

9 Q And were you able to get the tower information from
10 Sprint, as well?

11 A Yes, I was.

12 Q And comparing the cell phone records from the
13 defendant that were provided by Sprint and the tower
14 information, were you able to determine certain things
15 about phone calls that occurred on May 6th of 2009?

16 A Yes, I was.

17 Q And what type of information were you able to garner
18 and review of the cell phone tower information and his
19 records?

20 A I was able to tell on May 6th that his first
21 conversation -- he had a conversation at 9:09 that
22 morning with Ms. McPhatter, and during that phone call,
23 it was hitting off a tower relatively close to his
24 residence on Bluff Road, at 234 Wolf Road, which is in
25 Gadsden.

1 It appears that he would remain in that general area
2 around his residence through most of the morning into the
3 early afternoon.

4 Q And later that afternoon, were you able to actually
5 track, approximately, by cell phone tower, where the
6 phone -- what towers it was hitting off of?

7 A Yes, I did.

8 Q Here in South Carolina?

9 A Yes, I did. About 15:42 hours, which was about
10 3:42 in the afternoon, there was a call placed to
11 Ms. Goodman from that phone, and he actually was hitting
12 off a separate tower from the one on Wolf Road. That one
13 was actually on Kinsey Street in Eastover, South
14 Carolina, which isn't too terribly far from his residence
15 either.

16 Q Later that afternoon, did you his cell phone start
17 hitting off different towers?

18 A Yes. Through about the next hour or so, the cell
19 phone, any calls made, were hitting off that -- what I
20 call his home tower, which is the tower closest to his
21 residence, there at 234 Wolf Road.

22 At 16:58 hours, which was 4:58, there was a movement
23 with the cell phone. It was hitting off a tower on Garners
24 Ferry Road, at 8253 Garners Ferry Road. That showed me
25 the phone was then in motion.

1 Q And did the phone remain in motion up until that
2 evening?

3 A Yes, it did, up until approximately 19:43 hours,
4 which would be 7:43 in the evening when it appeared to
5 return to the home tower in Gadsden.

6 Q Before we go any further, as far as phone numbers that
7 are involved in this case, is this number right here, does
8 that accurately reflect the phone records you're looking
9 at, the 479-2563?

10 A Actually it's 476-2563.

11 Q I wrote it down wrong. Were you also able to determine
12 what the victim's cell phone number was?

13 A Yes. Her phone number was (704) 577-8454.

14 Q And that would be Ms. McPhatter's?

15 A That's correct.

16 Q Were you also able to determine at that time what
17 Kendra Goodman, what cell phone she was using at that
18 time?

19 A At that time it was (803) 665-1348.

20 Q And just for the record, later were you able to
21 determine she was using a different phone?

22 A Yes. I located two other numbers for her, (803)
23 553-3251.

24 Q Were you able to determine what kind of phone these
25 are?

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1 A I -- yes, I am.

2 Q As far as cell or land line?

3 A Yes, I was.

4 Q Was that a cell or a land line?

5 A I believe that was a cell.

6 Q And finally, were you able to determine one more
7 number for her?

8 A Yeah. (803)732-6575.

9 Q And was that a cell or a land line?

10 A I believe that was a landline.

11 Q And when you say a landline, what does that mean?

12 A A residential phone, hardwired, usually in the
13 house.

14 Q Based on the information that was provided to you,
15 were you able to come up with a presentation involving
16 these cell phones and whether the phone actually traveled
17 that day?

18 A Yes, I was. Based on the training I've had, I've
19 learned how to track travels of a cell phone using
20 Microsoft Streets and Trips, which is a map program. It
21 allows you to place points on a map to illustrate such
22 things.

23 Q And in State's Exhibit Number 190, have you reviewed
24 that and does that reflect the information you were able
25 to develop in this case, one of the numbers you were able

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1 to develop?

2 A Yes.

3 MS. CAMPBELL: Your Honor, at this time we'd offer
4 State's Exhibit Number 190 into evidence.

5 MR. MAY: Your Honor, we'd like to approach.

6 (WHEREUPON, a bench conference was held in the
7 presence, but not within the hearing of the jury.)

8 THE COURT: All right. Ladies and gentlemen, let's
9 take a short break. I'll take this up with the attorneys,
10 and we'll call you in just a few minutes. Don't discuss
11 the case among yourselves while you're in the jury room.
12 Just relax.

13 THE BAILIFF: Everyone remain seated.

14 (WHEREUPON, the jury left open court at approximately
15 11:51 a.m.)

16 THE COURT: Show me what you're talking about here.
17 Is this something that he's going to put on the
18 screen?

19 MR. MAY: Yes, Your Honor. May I approach, Your
20 Honor?

21 (WHEREUPON, there was a bench conference.)

22 THE COURT: Mr. May, state your objection.

23 MR. MAY: Your Honor, I'd be objecting on several
24 grounds. One, this is clearly hearsay. It's an
25 out-of-court statement by Lieutenant McDonald

1 asserting the truth of the matter asserted.

2 It is cumulative to his testimony.

3 THE COURT: Now, wait a minute, let's -- let's start
4 with that one.

5 MR. MAY: Okay.

6 THE COURT: What's the out-of-court statement?

7 MR. MAY: This entire packet that he produced
8 before the trial is a statement that he is asserting for
9 the truth, and they're putting it up for the truth of the
10 matter.

11 THE COURT: You can cross-examine him about that,
12 can't you?

13 MR. MAY: Well, Your Honor, I can cross-examine him
14 about his testimony, but the actual -- this is impossible
15 to cross-examine if this comes into evidence.

16 I can attack it, but if they had the actual physical
17 form that's in evidence. It's cumulative in nature to
18 his testimony.

19 We believe that it would be appropriate in this Court
20 for him to be able to refer to this and even for them to
21 explain it to the jury as a teaching tool, but I don't
22 think that it's appropriate to be introduced into
23 evidence in their case in chief.

24 THE COURT: Ms. Campbell?

25 MS. CAMPBELL: Rule 1006, Your Honor, summary.

1 THE COURT: Summary. Where does it not come in under
2 1006?

3 MR. MAY: Okay, Your Honor.

4 THE COURT: Summary by the -- it says when it cannot
5 be conveniently examined in court, it may be presented
6 in the form of a chart.

7 MR. MAY: Yes, Your Honor. Some of the material that
8 they seek to introduce is not in the record. If what
9 Ms. Campbell -- when we were up at the bench, she said
10 that she went through just accepting the three pages
11 which argue the summary, if I could beg the Court's
12 indulgence for one second, I will --

13 THE COURT: What would you be calling a summary?

14 MR. MAY: Where it says for the trials of Theodore
15 Manning.

16 THE COURT: Okay.

17 MR. MAY: For those three pages. If I can just talk
18 to my co-counsel just one second.

19 THE COURT: Okay.

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

21 (Pause)

22 Your Honor, reading Rule 1006 that Ms. Campbell
23 just quoted, it doesn't speak of introducing evidence in
24 summary form. It says it may be presented in summary
25 form. Therefore, maybe for lack of a better term, boiled

1 down and taking out a lot of extraneous material so that
2 way it could be presented to the jury in a more efficient
3 way. But it doesn't say that you can -- that that summary
4 is then admissible, in my cursory reading of Rule 1006.

5 THE COURT: All right.

6 MS. CAMPBELL: Your Honor, under the section, if I
7 can just say, the admissibility of other evidence of
8 contents, and then it goes into public records,
9 summaries, testimony or admissions of a party. It's
10 talking about admissibility, and that's directly under
11 Rule 1004, going to 1005, 1006 and 1007, subsections as
12 far as...

13 THE COURT: All right. Mark it for identification.

14 MS. CAMPBELL: It's been marked as State's Exhibit
15 Number 190.

16 THE COURT: Let him testify to the document. I'll
17 look at the rule closely as far as even submitting it to
18 the jury.

19 MR. MAY: All right, Your Honor...

20 Your Honor, just if I may address Ms. Campbell's
21 point that 1000 -- the section involves dealing with
22 admissibility of evidence. It also has the function of
23 the court and the jury. I mean, it has not halted what
24 section 1,000 deals with.

25 MS. CAMPBELL: The rules go generally to the

1 admissibility, Your Honor.

2 THE COURT: Okay. Confine it to the testimony.

3 MR. MAY: Thank you, Your Honor.

4 THE COURT: I'll rule on its admissibility after
5 lunch.

6 MR. MAY: Thank you, Your Honor.

7 THE COURT: Bring the jury, please.

8 THE COURT: In a form?

9 MS. CAMPBELL: It's in a form, yes, Your Honor. It's
10 in a video form.

11 (WHEREUPON, the jury came into open court at
12 approximately 11:58 a.m.)

13 THE BAILIFF: All jurors are seated, Your Honor.

14 (Pause)

15 THE BAILIFF: All jurors?

16 (Pause)

17 THE JUROR: You're missing one, I'm sorry.

18 THE COURT: Counsel, approach for a second.

19 (WHEREUPON, a bench conference was held in the
20 presence, but not within the hearing of the jury.)

21 THE COURT: All right. Mr. Foreman, I have your
22 note about jury service on Saturday. The Court does not
23 plan to meet on Saturday or Sunday. Due to the length
24 of the trial, we're just -- we'll have to reconvene on
25 Monday.

1 You may proceed..

2 MS. CAMPBELL: Thank you, Your Honor.

3 BY MS. CAMPBELL:

4 Q Let me, there's one housekeeping matter missing.

5 I noticed over the break, as far as Nikki McPhatter's
6 phone number, I left off one number.

7 A 8454.

8 Q And State's Exhibit Number 190, is that basically a
9 summary of the information you've been talking about to
10 the jury?

11 A Yes, ma'am.

12 Q As far as the information you've been able to
13 determine about what happened on May 6th involving the
14 defendant's phone?

15 A Yes, it is.

16 MS. CAMPBELL: Your Honor, at this time permission
17 to publish?

18 THE COURT: Permission to publish the summary.

19 MS. CAMPBELL: Your Honor, may the witness step down?

20 THE COURT: Yes, ma'am.

21 BY MS. CAMPBELL:

22 Q Does this information that you were able to get about
23 the phone records from the phone, that you incorporated
24 into this presentation --

25 A That's correct.

1 Q What does this show?

2 A This basically shows how a cell phone works. Cell
3 phone (A) here calls cell phone (B) and the steps that
4 are involved in that phone call to be completed.

5 As you can see, cell phone (A) calls that phone. It
6 goes to the closest or strongest tower. From there it
7 switches to an N.T.S.O., which is an office or facility
8 to determine if that is a valid phone or a valid
9 subscriber.

10 It then begins to search for phone (B), try to locate
11 it and verify that it's a registered subscriber it's
12 calling, as well.

13 From there, it sends out a signal trying to locate
14 that phone, and the strongest cell phone tower completes
15 the calls, and the call then goes through to that call.

16 Q What does this show?

17 A These are actually the call detail records as I would
18 receive them. This is actually a sample one from this
19 case. As you can see, we have a number of columns here
20 with different bits of information on each column.

21 The first column here is the calling number. That
22 is the number that is being called. Sometimes, like in
23 this particular case, this is the defendant's phone
24 number. This is his number. He's calling to this number
25 here, 737-8351. Of course, the called numbers section

1 is here.

2 The next section you see is dialed digits. These are
3 the actual digits that are actually dialed from when the
4 phone is dialed by whoever is calling.

5 Sometimes it's blank, and that will be explained
6 over here basically, because those are going to be text
7 messages.

8 The M.R. number, that's giving you your inbound or
9 outbound calls. It tells which direction the call is
10 coming in. Inbound calls coming from someone else in to
11 a defendant, it's the phone number here.

12 Outbound one would be one where he's placed a call
13 or a text message outbound.

14 The next column is the start date. This is the date
15 the call was started, 5/3/09, 21:55 hours and 28 seconds.
16 This is the ends date, which is when the call was completed
17 or the text message was completed.

18 This is the duration of the call or the text message.
19 Well, obviously, on a text message or his no call actually
20 taking place, that's why you see all these zeros.

21 Right here where you see 230, that's 230 seconds.
22 That's how long that phone call was.

23 The next number, next section here is the repoll
24 number. These repoll numbers you see here are all
25 consistent with Sprint's transfer of text messages that

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1 you see these repoll numbers. 631 is the Columbia switch
2 or Columbia repoll area. That's not just Columbia, but
3 Columbia and surrounding areas, the region.

4 So we know that this call originated in the Columbia
5 region off the cell phone tower.

6 The next roll over is the first cell, and then you
7 see the last cell. This is the first or originating cell
8 tower when that call was placed. So right here you see
9 3296. The way Sprint breaks that down is the first
10 number, the number three, is the sector. I'll show you
11 in a minute what a sector is.

12 The last three numbers, 296, is the actual number
13 of the cell phone tower. They provide a sheet of cell
14 phone tower locations. That's how I'm able to determine
15 is where the location of that tower is.

16 Now in this case, the last cell and the first cell
17 are one in the same, meaning that phone stayed in that
18 same geographic area of that tower during that phone
19 call.

20 Sometimes you'll see, like this one, 194 and 159,
21 that tells me the phone was in motion, it was going from
22 one cell phone tower when the call started, and it went
23 over to another cell phone tower upon completion,
24 generally indicating that the cell phone was in motion
25 at the time of the call.

001056

1 Q So from these records, you're able to determine
2 whether a call is inbound or outbound?

3 A That's correct.

4 Q And the duration of the call, you mentioned about the
5 zeros. What does that indicate to you when there's a zero
6 and there's no cell tower indicated?

7 A Those are text messages occurring there on Sprint's
8 cheat sheet or guide sheet that they provide. All these
9 numbers, 291, 298, 295, are all repoll numbers that are
10 consistent with text messaging.

11 Q When a call is actually made and a call actually
12 occurs, then it's going to show up with a duration?

13 A With a duration -- the different repoll number to an
14 actual location, which 631 is the Columbia area, and you
15 have your tower information.

16 Q Is that -- from what you just pointed to, the 3296,
17 are those columns, the first and the last, that means they
18 stayed what -- where?

19 A In the same sector and the same geographical area,
20 the same side of that tower. The phone may have been in
21 motion, but it didn't leave that sector. We'll explain
22 that in one of the other slides, what a sector is.

23 Q And finally, in the column that's dialed digit,
24 which is the third from the left what does that indicate?

25 A That's the actual digits the caller enters into the

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1 key pad of the phone when a call is made.

2 Q And that's generally on an outbound line?

3 A Generally, yes.

4 Q Finally, I noticed you can barely see it, at the very
5 bottom, it says routed call.

6 A Routed call, often with that -- when you see that,
7 that's -- often you'll get a call. You're busy at the
8 time. You don't want to answer it. You'll hit the
9 ignore button. It goes directly to your voice mail. The
10 call was routed to your voice mail, or if you don't pick
11 up, it's forwarded to your voice mail.

12 Q You mentioned a minute ago that the repoll
13 number -- excuse me, the cell tower number, is that
14 actually located within the State's Exhibit Number 7?

15 A Yes, it is.

16 Q And those are the first several pages -- well, I'll
17 have to recover stuff -- of this is the cell phone tower
18 location?

19 A That's correct.

20 Q And is does it indicate the number of the cell tower?

21 A It says.

22 Q And what column is that in these records?

23 A In the very first column.

24 Q And then after that, you actually go to the next
25 part, the actual cell records for this?

1 A That's correct.

2 Q And this is just an example?

3 A This is just an example I pulled to demonstrate what
4 each one of these columns stand for that I'm able to
5 determine.

6 Q And the date of those calls was actually May 3rd?

7 A That's correct.

8 Q Okay.

9 A When we're talking about sectors, this is a
10 normal -- this is a cell phone tower, you've seen them,
11 I'm sure. Each tower is broken up into three sections.
12 Each one is 120 degrees.

13 On this particular technology that Sprint uses, it's
14 called Lucent. So Lucent technology begins with the
15 number two, then three, then four for the three sectors.

16 Now, as you can see, in this first sector here, it's
17 from 300 degrees to 60 degrees, which is basically a
18 northern side of the tower the phone is on at the time
19 of the call.

20 Likewise, here, Lucent number three, the third side
21 of the tower, it's going to be on a southeastern area of
22 the tower. That goes from 60 to 180 degrees.

23 Then finally, Lucent section four or sector four
24 goes from 180 to 300 degrees.

25 Q So in addition to telling the general range around

1 a tower, you're also able to tell within that range the
2 complete circle around it, the general -- what area it
3 comes from?

4 A The general area that the phone was in during the
5 phone call, that's correct.

6 Q And typically, when a person makes a phone call,
7 what towers would it go to?

8 A Generally, the closest or strongest tower. However,
9 there's a number of variations that can affect the
10 pattern: Terrain, highly, highly dense populated areas.

11 Times Square, if you made a call there, it may not
12 hit on the closest tower due to the volume of the calls
13 it may get bounced to a nearby one. Generally, it's the
14 strongest or nearest tower.

15 Q Okay. And in a rural area, that would be the general
16 area?

17 A Rural area, it generally goes to the closest tower,
18 strongest tower.

19 Q Specifically, when a person remains in a house making
20 a series of phone calls, it should go to the same tower?

21 A That's correct.

22 Q What is this?

23 A This is, and the following two pages, are actually
24 a listing of from May 6th, the date in question, phone
25 activity on Mr. Manning's phone.

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1 These are only phone calls. These aren't the text
2 messages.

3 Q So the records themselves have additional activity
4 in between say nine and nine -- 10:24, those weren't
5 actually phone calls?

6 A Right. I can't track those. I don't know where the
7 phone was on a text message because it doesn't provide
8 me the tower information. As we showed earlier, all those
9 zeros and no tower is listed, so I have no idea where the
10 phone was during those times.

11 Q And --

12 A However -- however, the phone call actually does
13 leave a trail.

14 Q And at 9:09:53, what information were you able to
15 develop from the records that were provided to you?

16 A There was a phone call between Mr. Manning and Ms.
17 McPhatter that morning at 9:09:53.

18 The location of Mr. Manning's phone was hitting off
19 that -- well, what I refer to as a home tower. Let me
20 explain that.

21 Down where Mr. Manning lives at 8047 Bluff Road, the
22 closest superior tower, the Sprint tower is the one at
23 234 Wolf Road in Gadsden.

24 So it appears from that phone call and the sector
25 that's in, he could have been at his residence when that

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1 call was made.

2 Q And the series of phone calls that you have tracked
3 from 9:09 all the way down to 15:41 -- we'll get back to
4 what those say -- do those all hit on that same tower?

5 A Yes, they do.

6 Q And is that the tower that his phones all were hit
7 off from?

8 A Yes.

9 Q And all those are consistent with that?

10 A That's correct.

11 Q You first phone call you mentioned was at 9:09:53?

12 A Right.

13 Q And was that a phone call to or from Nikki
14 McPhatter?

15 A That's a call that he placed outbound to Ms.
16 McPhatter's home.

17 Q So this is reflected on the phone record as the time
18 that phone call was placed?

19 A That's correct.

20 Q And the only other call that morning was that -- whose
21 phone was that?

22 A Nikki McPhatter's.

23 Q That --

24 A The 704 number, 577-8454.

25 Q And again, does it show where his phone was, not

1 where Nikki McPhatter's was?

2 A That's correct.

3 Q The next documented phone call that morning, was it
4 an incoming or outgoing?

5 A It was a routed call actually.

6 Q What does that indicate to you?

7 A Probably went right to voice mail.

8 Q Whose voice mail?

9 A Mr. Manning's.

10 Q So who would have been placing a call that morning
11 or attempting to place a call that morning that went to
12 his voice mail?

13 A (803)732-6575. I believe that's one of
14 Ms. Goodman's phone numbers.

15 Q And that was on the voice mail?

16 A That's what it appears to be.

17 Q And again, it would indicate where Mr. Manning's
18 phone was when that phone call was -- or that message was
19 left?

20 A That's correct.

21 Q At 11:05:12, were you able to determine?

22 A That was also a routed call coming from an 800 number.

23 Q Were you able to do research and determine what the
24 incoming number was?

25 A It was Sprint customer service.

001063

1 Q And that would have been going to Mr. Manning's voice
2 mail?

3 A That's what it appears to be, yes.

4 Q And so it hit off of what tower at that point?

5 A The same tower, 234 Wolf Road.

6 Q At 11:51:48?

7 A That was also a routed call.

8 Q That would have been to Mr. Manning's phone?

9 A That's correct.

10 Q And you were able to determine that was from the
11 phone of Kendra Goodman?

12 A That's correct.

13 Q Finally at 12 -- not finally. At 12:41:43?

14 A Another routed call. Again, it was to Manning's
15 phone.

16 Q What --

17 A 732-6575, which is Ms. Goodman's phone.

18 Q Then at 15:02:42?

19 A Also a routed call coming in from (803)647-3932,
20 which is Westinghouse.

21 Q And that would be the business, Westinghouse?

22 A Yes.

23 Q And then the call from 15:30 to 15:33 -- 1533, I
24 apologize.

25 A Say that again.

001064

- 1 Q The call is from 15:30:57, three calls in a row, that
2 you say it was the same person?
- 3 A Right. Ms. Renee Webb.
- 4 Q And were those incoming or outgoing or routed?
- 5 A The third one was a routed, and there were outbound
6 calls being placed from Mr. Manning's phone.
- 7 Q All these were outbound?
- 8 A Correct.
- 9 Q So he was making those calls?
- 10 A Yes.
- 11 Q Or whoever made those calls?
- 12 A That's correct.
- 13 Q And those were all to a number associated with Renee
14 Webb?
- 15 A That's correct.
- 16 Q 15:34:23 and 15:34:50?
- 17 A That comes to a Hurlburt -- I can't pronounce that,
18 Hurlburt Air Force Base.
- 19 Q Are those incoming or outgoing?
- 20 A Those are outbound calls.
- 21 Q And at the time those called were placed by the phone
22 of Mr. Manning, where was the phone located?
- 23 A Still heading out at 234 Wolf Road in Gadsden.
- 24 Q 15:41:16, is that an incoming or outgoing call?
- 25 A That was an outbound call.

001065

- 1 Q So it would have been placed from Mr. Manning's
2 phone?
- 3 A That's correct.
- 4 Q And it was to what business?
- 5 A Currently to the Breeze Dry Cleaners at 7320 Broad
6 River Road.
- 7 Q 7320 Broad River Road. You testified about going to
8 7320 Broad River Road earlier?
- 9 A In May of 2009, it was the Lexington Dry Cleaners.
- 10 Q And who worked there?
- 11 A Kendra Goodman.
- 12 Q Immediately after that, 15:42:11, was there
13 another call?
- 14 A Yes, there was.
- 15 Q And was that an incoming or outgoing call?
- 16 A That was an outbound call from Mr. Manning's phone
17 to Kendra Goodman's phone.
- 18 Q So Mr. Manning's phone made this phone call at
19 15:42:11?
- 20 A That's correct.
- 21 Q And at that point, what tower is it hitting off
22 of?
- 23 A A tower at 224 McKenzie Street in Eastover, which is
24 not going to be that tower that's closer to his. It's
25 going to be in Eastover.

001066

1 Q And would that indicate whether or not his phone had
2 moved during that time?

3 A It appears that that phone had to be moved from the
4 location where he was previously.

5 Q I'll get back to that. Finally, the next two calls
6 at 16:09:44 and 6:25:50, I believe?

7 A Uh-huh.

8 Q Were made by which phone? Was it incoming or
9 outgoing calls?

10 A Both of those were outbound calls.

11 Q So those would have been placed by Mr. Manning's
12 phone?

13 A That's correct.

14 Q What tower are they hitting off of again?

15 A The Wolf Road tower.

16 Q So the phone has been back to his residence, through
17 there, including his residence?

18 A That's correct.

19 Q And were those routed?

20 A Those were just outbound calls, completed calling.

21 Q Completed calls? Moving to the next page. A series
22 of phone calls, the first four, 16:33:29 to 16:48:36?

23 A Several of these are routed calls, the first three.

24 Q It indicated they went to Mr. Manning's voice
25 mail?

001067

- 1 A That's correct.
- 2 Q And then the one at 16:48:36?
- 3 A That's an outbound call from Mr. Manning's phone to
4 the 622 number.
- 5 Q Which is Renee Webb?
- 6 A Renee Webb.
- 7 Q And that would have been --
- 8 A Also the 234 Wolf Road address. Originally, this
9 was all on one page. To make it fit on the presentation,
10 I had to cut and paste.
- 11 Q 16:52:26, is there another phone call?
- 12 A Yes, there is. That's an outbound call from
13 Mr. Manning's phone to Ms. Goodman's cell phone.
- 14 Q At that point, is it still -- which tower is it
15 hitting on?
- 16 A Still hitting on the 234 Wolf Road tower.
- 17 Q Is that a completed call?
- 18 A Yes, it was.
- 19 Q And how many seconds did that last?
- 20 A Ten seconds.
- 21 Q Immediately after at 16:53:03, was there another
22 completed call?
- 23 A Yes. There was.
- 24 Q And who was that to?
- 25 A The same number as Ms. Goodman's.

001068

1 Q How many seconds did that call last?

2 A That was an eight-second call.

3 Q Eight seconds?

4 A Yes.

5 Q 16:58:32, going through -- did he place that call?

6 A Yes, he did.

7 Q And who was that to?

8 A That was to Kendra Goodman, once again.

9 Q At this point, it's hitting off a different tower
10 than the one where his residence would be located?

11 A It is. It's hitting off tower 8253 Garners Ferry
12 Road initially, and during that call, during that
13 conversation, it then transfers to another tower at
14 1220 Medlin Street in Columbia. In other words, we believe
15 at that point the phone was in motion starting at one
16 tower and ending at another tower.

17 Q And those were -- that was a call to Kendra Goodman?

18 A Yes, it was.

19 Q And then at 17:04:26, was there a call placed to a
20 different...

21 A That was a Laine Washington.

22 Q And again, was the phone in motion?

23 A Yes. It originated -- the first cell tower it was
24 hitting was at 2424 Bluff Road, and then it changed to
25 1220 Medlin Street upon the completion of the call.

001069

1 Q 17:07:36 and 17:08:19, were phone calls involved
2 (unintelligible) --

3 COURT REPORTER: I'm sorry, phone calls involving
4 what --

5 THE WITNESS: Yes, they were --

6 BY MS. CAMPBELL:

7 Q Vera Parker, I'm sorry.

8 A The phone appeared to be in motion once again,
9 hitting off a tower at 512 Percival Road and then ending
10 at a tower at 207 Pisgah Church Road.

11 Q Is that -- what type of call was that?

12 A Outbound call, 17:07.

13 Q And actually made contact with Ms. Parker's phone?

14 A That's correct.

15 Q 17:17:54 and 17:18:53, were there two more calls to
16 the same person?

17 A Two more calls to Ms. Goodman hitting -- the
18 17:17 call began at the tower at 207 Pisgah Church Road.
19 It then transferred by the end of the call to hitting off
20 the tower at 10810 Farrow Road in the Blythewood area.

21 The very next call at 17:18:53 began at a tower at
22 9102 Farrow Road and ended at a tower at 10810 Farrow Road
23 in the Blythewood area.

24 Q In the course of the call that hits on several
25 different towers, does that change, making it two calls

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1 or one?

2 A No. It's still the same call. It's just that the
3 phone is in motion or appears to be in motion. That's
4 why it's hitting off the additional towers.

5 Q Okay. 17:20:10, 17:27:37?

6 A 17:20 hits off of a tower at 10810 Farrow Road at the
7 initial part of the call. By the time the call ended,
8 it was hitting off of tower 251, Little Boney Road, which
9 I believe is just inside of Fairfield County.

10 Q 17:27:47?

11 A He's off a tower at Number One Crossbow Road in
12 Ridgeway, South Carolina, and it remains hitting off this
13 same tower during the entire time of the call.

14 Q And that would be to the same person?

15 A That was to a Laine Washington, yes.

16 Q 17:28:04?

17 A A call to Kendra Goodman. Once again, hitting off
18 that same tower at Crossbow Road, Ridgeway.

19 Q 17:31:53?

20 A Once again, same tower in Ridgeway, calling a Tara
21 Sutherland.

22 Q And I'll get back to how you determined that in a
23 minute.

24 18:28:59?

25 A It appeared to be a little bit of movement. The cell

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1 was then hitting off a tower 251, Little Boney Road in
2 Ridgeway.

3 Q And that was to whom?

4 A To Kendra Goodman.

5 Q And at 18:34:08?

6 A Once again, 251 Little Boney Road in Ridgeway. The
7 call was made to a Laine Washington.

8 Q At 18:57:41?

9 A The phone was hitting off a tower at 9102 Farrow Road.

10 Q Was that an incoming or outgoing?

11 A It's actually a routed call.

12 Q And that was sent to the voice mail?

13 A That's correct.

14 Q And that would have been where his phone was located
15 at that point?

16 A Yes.

17 Q 18:59:27?

18 A Hitting off the tower at 115 New Way Road in Columbia,
19 South Carolina.

20 Q And who was that call to?

21 A A LaKeisha Tamoney (phonetic).

22 Q Is that an incoming or outgoing call?

23 A It was a routed call, as well.

24 Q So that would have been a call to his voice mail?

25 A Correct.

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- 1 Q That's where his phone would have been, though, at
2 that point?
- 3 A Right.
- 4 Q Next page. Finally, two calls from that day.
- 5 A 19:03 hours hitting off a tower off Percival Road at
6 the beginning of the call. By the end of the call, it
7 was hitting off the tower at 2424 Bluff Road. That call
8 was to a Laine Washington.
- 9 Q 19:43:48?
- 10 A It entered that home area, or home tower area.
11 That's a call at 234 Wolf Road in Gadsden.
- 12 Q Is that an incoming or outgoing call?
- 13 A That was an inbound call.
- 14 Q And was that an actual completed call or --
- 15 A Actual completed call.
- 16 Q And that would have been from a phone number
17 associated with LaKeisha Tamoney (phonetic)?
- 18 A That is correct.
- 19 Q 19:59:07?
- 20 A Once again, hitting off the same tower on Wolf Road,
21 a call involving Laine Washington.
- 22 Q And then at 20:12:43 that same day?
- 23 A The same tower, 234 Wolf Road, Gadsden to a Tara
24 Sutherland.
- 25 Q 21:06:47.

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1 A Once again, the same tower on Wolf Road, a call
2 involving Candace Jackson.

3 Q Candace Jackson?

4 A Candace Jackson.

5 Q Is that an incoming or outgoing call?

6 A That was a routed call.

7 Q That would have gone to his voice mail?

8 A That's correct.

9 Q Finally, on that day as far as an actual phone call,
10 21:15:30?

11 A Once again, 234 Wolf Road, Laine Washington.
12 Well, there were other calls. Maybe that's when I quit
13 the tracking note. It appeared he left the residence,
14 went back to the Ridgeway area and then returned to his
15 residence.

16 Q And actually, did you prepare the -- stop the
17 tracking of his phone movement that day?

18 A Yes, I did.

19 Q What do these show?

20 A This is Mr. Manning's residence approximately right
21 here at 8047 Bluff Road in the Gadsden, South Carolina
22 area. This is that tower at 234 Wolf Road. This
23 is -- the longitude and latitude location of that
24 particular tower. This is the tower of 224 McKenzie
25 Street in Eastover.

1 Q And as far as -- you mentioned in your previous
2 testimony that there were a couple of routed calls, voice
3 mails left for Mr. Manning from Ms. Goodman that
4 morning. As far as the first completed call to Kendra
5 Goodman from Theodore Manning, what time was that?

6 A I believe that was at 15:42 hours.

7 Q What time is that again?

8 A 3:42 in the afternoon.

9 Q And where was his phone? What cell tower was it
10 hitting off of when he made that call?

11 A 224 McKenzie Street in Eastover.

12 Q Would that have been the cell tower closest to his
13 home?

14 A No, it wouldn't.

15 Q And as far as the number we went through, the calls
16 before that, would those have all been off --

17 A All have been off this tower right here.

18 Q And then the substance of the call up until he starts
19 moving was off of which tower?

20 A Same tower right here on Wolf Road.

21 Q And what would that indicate as far as the phone
22 call?

23 A He was in that geographical area, more than likely
24 at his residence.

25 Q During that time period. Was it hit off the Eastover?

1 Was it ever there?

2 A In my estimation, he would have been -- yeah, he would
3 have been moving away from the residence, closer to that
4 tower.

5 Q But that would have been immediately after he arrived
6 at his home?

7 A Right.

8 Q Next, what does this show?

9 A This shows what we just went through call by call,
10 the travels of that day. This is, once again, his
11 residence down here on Bluff Road. This is that 234 Wolf
12 Road tower right here.

13 When we first noticed the movement of the phone out
14 of that area is at 16:53 hours that afternoon, and
15 that's where he is hitting on this tower right here at
16 8253 Garners Ferry Road.

17 During that call, he's in motion, and then it
18 switches over to hit at the tower at 1220 Medlin Street
19 right there.

20 At 17:00 hours, he's hitting off the tower on Medlin
21 Street. He stays on that tower for that phone call. By
22 17:04, which is 5:04, he's then switched hitting off
23 tower 2424 Bluff Road, and it had transferred back to 1220
24 Medlin Street by the end of that conversation.

25 Q Next?

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1 A Here at 17:07 hours, as he's continuing his travels,
2 it appears that he may be going up 77 here. I base that
3 on not only the location of the towers, but the second
4 towers he's hitting off, the size of the tower. We'll
5 get to that a little bit if we need to.

6 It appears he may be traveling up I-77, so at 17:07
7 hours, he gets off of tower 512 Percival Road. By the
8 conclusion of that call, he's hitting off the tower right
9 here at Pisgah Church Road just adjacent to 77 here.

10 At 17:08, he hits off the same two towers, 512
11 Percival Road and 207 Pisgah church road.

12 At 17:17 hours, he hits off the Pisgah Church Road
13 tower, and then it jumps up. The next flap will show you.

14 It jumps up to 10810 Farrow Road. So it definitely
15 appears he's in motion at this point. The very next call
16 at 17:18:53, he's hitting off the tower at 9102 Farrow
17 Road right here. By the ends of it, he's hitting off the
18 tower up here another 10810 Farrow Road up in the
19 Blythewood area.

20 At 17:20 hours, right here, he's hitting off the tower
21 at 10810 Farrow Road.

22 Next slide. It continues. He's hitting off
23 251 -- I'm sorry, next slide. There's four. He's
24 hitting off the tower right there at 251 Little Boney
25 Road.

1 Q And is this shot you've actually moved up from -- what
2 area of town did he live in?

3 A He lived in the Gadsden -- lower part of Richland
4 County area off of Bluff Road.

5 Q Are you familiar with where he lives?

6 A Yes.

7 Q That's in Richland County?

8 A Yes.

9 Q And as far as his -- where his phone moved that day,
10 does it show that it started out down there and then
11 moved northward?

12 A That's correct.

13 Q And on this map, you actually see the Fairfield
14 County line?

15 A Yes. This would be the Fairfield County line going
16 right through here.

17 Q And continue.

18 A Number eight here, 17:20 hours, 10810 Farrow Road,
19 he continued on to Little Boney Road. The very next call
20 I have at 17:27 hours. He hits off the tower here. That's
21 Number One Crossbow Road in Ridgeway, which is a
22 significant -- right here, this is the 3400 block of Peach
23 Road. These coordinates are latitude and longitude.

24 This is the actual crime scene where the victim's
25 vehicle and body was found. So you can see it's in very

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1 close proximity to that cell phone tower.

2 Q The 3400 block of Peach Road is where the actual crime
3 scene was originally found?

4 A Just off Peach Road, yes.

5 Q Just off Peach Road?

6 A Right.

7 Q And the tower at Crossbow, Ridgeway, would that be
8 the closest tower to that spot?

9 A Yes. It appears so. If you go to the next slide,
10 to the distance locator here brought it out -- well,
11 actually two -- approximately 2.66 miles from that
12 tower.

13 Q Would that have been in that -- or should that have
14 been within that tower's range?

15 A Yeah. Generally the tower is anywhere from two to
16 five miles. Sometimes in the country, it may extend a
17 little further, especially if it's flatter terrain, at
18 least two to five miles.

19 Q And that would have been within that 2.66 miles?

20 A That's 2.66 miles.

21 Q There were a number of calls hitting off of that
22 tower; is that correct?

23 A Right. The one at 17:27, another at 17:28,
24 17:31 hours, several calls made during that timeframe
25 where he's hitting off that same tower.

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1 You go to the next slide, while he's hitting off that
2 particular tower, these are the two sectors that he's
3 hitting off. As we said earlier, this would be sector
4 two, sector three, sector four.

5 He was hitting off sector three and four during the
6 time he was hitting that tower. There's your crime scene
7 where the vehicle was found that places him in that
8 general area.

9 Q Next one?

10 A Next one. This is now the -- kind of what I call the
11 trip back after that area where he's up around that
12 particular tower at Crossbow Road in Ridgeway, 5/6,
13 May 6th, at 18:28 hours which is approximately 6:28, it
14 gives the trip back hitting off tower 251 Little Boney
15 Road, which is in Ridgeway right here.

16 Another call at 18:34, he's hitting off that same
17 tower. At 18:57, next slide, he's hitting off the tower
18 here at 9102 Farrow Road. It looks like he's coming back
19 down 77 at this point.

20 And next. At 18:59 hours, he's hitting off the tower
21 right here at 115 New Way. You'll see it on the next
22 slide. He's hitting off this tower right here.

23 At 19:03 hours, he hits off two towers. The first
24 tower is the one right there at Percival Road, 512 Percival
25 and ends at 2424 Bluff Road.

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1 Next. And then call 14 here at 19:43 hours, he's
2 back hitting off the tower down here on Bluff Road, so
3 it appears he may have returned to the residence at that
4 point.

5 Next. Basically in review, this is where he
6 originated from. This home tower down here, his
7 residence in that area, the travels during this
8 timeframe, it's a couple-hour timeframe. He goes up to
9 the Ridgeway area just across the Fairfield County line.
10 He's up there a period, and it appears he returns.

11 Q Does that map show where I-77 is?

12 A It does. This is I-77 right here.

13 Next. I highlighted this particular tower right
14 here. This is the one at 9102 Farrow Road. He hits off
15 sector three of this tower at 18:57 which is 6:57.

16 This will be his phone is leaving the area up close
17 to this Wachovia here at 8800 Farrow Road. This would
18 be where the A.T.M. transaction happened that day.

19 So we've got him in that same general timeframe in
20 that same general area. It appears he may be leaving
21 going back down I-77 which is right here shortly after
22 that transaction.

23 Q And what time would be the A.T.M. transaction?

24 A Approximately 18:45 hours.

25 Q And then this phone call bounced off of this tower

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1 at what time?

2 A 18:57 hours.

3 I think that was it.

4 Q Now, I want to determine who some of these phones,
5 beyond these people up here, were associated with and
6 the businesses. How do you associate these phone
7 numbers?

8 A Several different ways. When we downloaded
9 Mr. Manning's cell phone, there was a phone contact list
10 that was downloaded from the phone, which would be all
11 the people he had entered into his phone, their names,
12 their numbers, that type of thing.

13 There's mention about we also use a couple search
14 engines that we have access to at the sheriff's
15 department: Clear and Accurate, you can put in a phone
16 number. It will cross-reference and try to come back
17 with a subscriber for us.

18 Q I want to show you what's been marked as State's
19 Exhibit Number 355. Do you recognize that?

20 A Yes. This is the phone, phone book from Mr.
21 Manning's phone.

22 Q And was that something you actually downloaded from
23 his phone itself?

24 A Yes, I did.

25 Q And that was on State's Exhibit Number 135, this one

1 I showed you earlier?

2 A That's correct.

3 MS. CAMPBELL: Your Honor, at this time we'd offer
4 it into evidence, the directory.

5 MR. MAY: Beg the Court's indulgence.

6 (Pause)

7 MR. MAY: May we approach, Your Honor?

8 THE COURT: Yes.

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing of the jury.)

11 BY MS. CAMPBELL:

12 Q We're going to be restricted to the ones you
13 actually identified from that day, specifically -- you
14 can refer to this if you want to.

15 The information -- explain to this jury, when you
16 downloaded his directory, what do you mean by that?

17 A We have a couple of machines at the sheriff's
18 department. One is made by Cellabine (phonetic) Company
19 and another one by Sustine (phonetic).

20 In the last couple of years, technology has advanced
21 to the point where we can take a cell phone and download
22 it much like you can a computer, download the information
23 off it, phone contacts, pictures, text messages, videos,
24 things of that sort.

25 When I hooked Mr. Manning's phone up to these

1 machines, I was able to download this information. This
2 particular piece right here is the phone book or the
3 contacts from that cell phone that was downloaded by this
4 machine.

5 Q So say if I have a cell phone and I go in the cell
6 phone and I have my home number in it, is that part of
7 my directory, those phone numbers that are stored?

8 A Right.

9 Q Or anything --

10 A Anything you store on that phone it's possible for
11 us to download, it just depends on the phone, what we're
12 able to get from it.

13 Q And the information you were actually able to get
14 from State's Exhibit Number 135, you didn't
15 receive -- this phone wasn't taken into custody until the
16 end of May?

17 A That's correct.

18 Q And if he had additional information such as text
19 messages or anything recorded on the phone, if he deleted
20 that prior to you getting it, you can't retrieve it?

21 A It depends. Sometimes we're able to. Most of the
22 time not. Sometimes we are able to, though.

23 Q And in this case when you downloaded his directory
24 on the phone numbers we've just been through -- or the
25 number of calls that you were able to get the phone number

1 from his directory itself?

2 A That is correct.

3 Q And specifically, was Nikki McPhatter's phone
4 number a part of his directory?

5 A Yes, it was.

6 Q How was it listed?

7 A As "Nikki."

8 Q And what was the phone number?

9 A (704)577-8454.

10 Q You also mentioned Kendra Goodman. Was she listed
11 in his phone directory?

12 A Yes, she was. For some reason, her entry was under
13 the name of "Don," D-O-N.

14 Q Don?

15 A D-O-N.

16 Q And Nikki was under the name "Nikki"?

17 A That's correct.

18 Q And under the name "Don," the phone numbers that you
19 were able to associate with Kendra Goodman were what
20 numbers?

21 A The (803)665-1348 for mobile, (803)732-6575 for a
22 home number, and an additional number of (803)407-2212
23 on another type phone.

24 Q Of course, Sprint customer service, that was incoming
25 call not in his directory.

1 A I'm sorry?

2 Q Sprint customer service was not in his directory, was
3 it?

4 A He does have Sprint customer, number two and Sprint
5 O.P.E., which may be Sprint operations, I'm not sure, he
6 has in his phone, yes.

7 Q The next number that you were able to associate with
8 someone was a Kendra Goodman?

9 A Yes. That was -- I believe that was on Accurint or
10 Clear.

11 Q Providence Northeast Hospital?

12 A Accurint or Clear.

13 Q Westinghouse?

14 A Accurint or Clear.

15 Q And then a Renee Webb, there were a number calls from
16 her. Who were those?

17 A I first came across her number using Accurint or
18 Clear. When I searched for it on his phone book, I
19 actually did locate it. She was entered as "Webb" in his
20 directory.

21 Q W-E-B-B?

22 A That's correct.

23 Q And you were able to determine that was to a Renee
24 Webb?

25 A That's correct.

1 Q As far as the Air Force base number, that was --

2 A No, that was through Accurint or Clear.

3 Q The dry cleaner which is now Breeze Dry Cleaner. It
4 was turned into Breeze Dry Cleaner, how were you able to
5 get that number?

6 A That was also Accurint or Clear when you.

7 THE COURT REPORTER: I'm sorry, Accurate or Clear?

8 THE WITNESS: Accurint, A-C-C-U-R-I-N-T, or Clear.

9 THE COURT REPORTER: Thank you.

10 BY MS. CAMPBELL:

11 Q Back in May, specifically on May 6th of 2009, what
12 was the name of that dry cleaners?

13 A Lexington Dry Cleaners.

14 Q Where was that located?

15 A 7320 Broad River Road.

16 Q And who worked there?

17 A Kendra Goodman.

18 Q The very next phone call that's on McKenzie Street,
19 an Eastover tower, was to Kendra Goodman?

20 A That's correct.

21 Q Laine Washington?

22 A Laine Washington, I think I also did an Accurint or
23 Clear. It's also a person in his directory he'd saved
24 as Laine.

25 Q That would be under her first name?

1 A Right.

2 Q Then you also mentioned there was one phone call at
3 Crossbow, Ridgeway, to a Tara?

4 A To a Patara (phonetic), that was located within his
5 directory, as well. I could not find a cross-reference
6 through Accurint or Clear, which isn't totally unusual,
7 especially on a cell phone.

8 Q Then one at 6:59 that evening to a Lakeisha Tamoney.
9 Was she listed within his directory?

10 A I believe that was also a Accurint or Clear
11 subscriber information.

12 Q And there were a number of other ones that I'm
13 referring to that are duplicating but also a Candace
14 Jackson was one of the calls that evening?

15 A Candace Jackson, that's correct. That was Accurint
16 or Clear. When I looked in his phone contacts, she was
17 listed as Candace.

18 MS. CAMPBELL: Your Honor, again for the record,
19 we're offering just those phone numbers from the actual
20 dump.

21 THE COURT: All right.

22 (WHEREUPON, State's Exhibit No. 135 was admitted into
23 evidence.)

24 BY MS. CAMPBELL:

25 Q Did you also have an occasion to actually download

1 a number of his text messages that had been saved?

2 A Yes, I did.

3 Q And in those text messages again, were you able to
4 tell whether or not they were messages sent to him or
5 messages he sent?

6 A All right. When I do it, it lets me know if it's
7 outgoing or incoming.

8 Q And as part of the information you were able to
9 retrieve from his phone -- I'm going to limit it to this
10 that the point -- on State's Exhibit Number 357, is that
11 part of what you were able to get from his cell phone?

12 A Yes, it was.

13 Q And without going into the content of what's said
14 there, what are those text messages --

15 A Well --

16 Q Generally, who are they to or from?

17 A They're to Kendra Goodman.

18 Q And the dates on those?

19 A The dates are May 26th, 27th, 29th.

20 Q And those were to Kendra Goodman?

21 A Yes. They're all --

22 Q Do those also reflect what was stored in his phone?

23 A Yes.

24 MS. CAMPBELL: Your Honor, at this time I'd offer
25 State's Exhibit 357.

1 (There was no response).

2 BY MS. CAMPBELL:

3 Q There was testimony earlier that there was a second
4 cell phone number that you were able to associate with
5 Ms. Kendra Goodman; is that correct?

6 A That's correct.

7 Q 553 number. How did you verify that was her number?

8 A That was provided by her on one of her statements.

9 Q And --

10 MR. MAY: Objection, Your Honor. That would be
11 hearsay.

12 THE COURT: Overruled.

13 BY MS. CAMPBELL:

14 Q The number that you were able to track as hers
15 were the numbers used on May 6th when we just got
16 through all that information, which numbers were those
17 that the phone calls were from?

18 A 665-1348.

19 Q Were those the -- excuse me, the 665-1348, was that
20 the cell phone call that afternoon?

21 A That was a cell phone call.

22 Q A series of phone calls that afternoon?

23 A Right.

24 Q That morning, was another voice mail or another
25 phone associated with her?

1 A Yes, the (803)732-6575.

2 Q But later in the month when these phone calls we're
3 now referring to, her cell phone number was what?

4 A It's (803)553-3251.

5 Q And specifically, that's the number we're
6 referring to from May 26th through the 29th?

7 A That's correct.

8 MS. CAMPBELL: Your Honor, at this time I'd present
9 357.

10 THE COURT: Any objection?

11 MR. MAY: Your Honor, objection, hearsay, as well,
12 as objections of the previous objections.

13 THE COURT: Overruled. Go ahead.

14 (WHEREUPON, State's Exhibit No. 357 was admitted
15 into evidence.)

16 BY MS. CAMPBELL:

17 Q Specifically, again, explain to the jury, what does
18 this document show?

19 A These are text messages, all outgoing text
20 messages sent from Mr. Manning's phone to Ms. Goodman's
21 cell phone.

22 Q And does it start on May 26th?

23 A On May 26th --

24 Q And --

25 A And concluded on May 29th.

1 Q Are you aware when that first contact was made with
2 Kendra Goodman in regards to this case about law
3 enforcement?

4 A I believe it was the 27th or I know by the 28th I had
5 been notified that they had made contact with Ms.
6 Goodman.

7 Q And you don't know what contact Charlotte may have
8 already had with her?

9 A No, I don't.

10 Q All right. So on the 26th, was there a text message
11 to a cell phone number from the defendant's cell phone?

12 A Yes, there was. At 23:01 hours, which would be
13 about 11:01 p.m., there was a text message sent to Kendra
14 from Mr. Manning's phone.

15 Q And what does that text message say?

16 A It stated, "Just wanted to say sorry for putting your
17 name in this mess." Then, "Love is a joke."

18 Q And on each one of these text messages, were you able
19 to go through -- "Love is a joke", people
20 sometimes -- that's kind of a signature?

21 A Kind of a signature, digital signature, yes.

22 Q And that's going to be repeated in each one of those,
23 but that would be kind of a digital signature?

24 A That's correct.

25 Q The next text message to Mr. Manning's phone?

1 A That would be on May 27th at 10:08 in the morning,
2 a.m. That was sent from Mr. Manning's phone to her phone.
3 The contents of the message was, "Don't say anything else
4 to the police until you talk to Tony." Once again with
5 a digital signature, "Love is a joke."

6 Q That day, was there another digital text message to
7 Kendra Goodman's cell phone?

8 A There was, at 10:56 a.m. The content of that message
9 was, "What about another one that does free consulting
10 out of the phone book, just so you can get their opinion?"
11 then, "Love is a joke."

12 Q And again, that's on what date?

13 A That was on May 27th.

14 Q And then the next text message that was sent from his
15 phone to hers?

16 A That was May 29th at 1:10 in the afternoon. The
17 content of the message was, "What's going on." And "Love
18 is a joke."

19 Q And the next message on the same date of May 29th?

20 A It was at 1:24 in the afternoon. The content was,
21 "Where are you?" And then, "Love is a joke."

22 Q And were there any more text message on May 29th?

23 A There was one more -- actually, two more. One at
24 2:41. The content of the message was, "Now, you've got
25 me worried." Signed, "Love is a joke."

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1 One at 4:37: Content, "This isn't like you. What's
2 wrong." Signed, "Love is a joke."

3 Q Those are all on the afternoon of May 29th?

4 A May 29th.

5 Q And what afternoon was it -- or what date was it
6 that y'all talked to Kendra Goodman? What was the date
7 you talked to Kendra Goodman, and she ultimately led you
8 to the burned car and the body?

9 A On May 29th.

10 MS. CAMPBELL: Beg the Court's indulgence.

11 (Pause)

12 BY MS. CAMPBELL:

13 Q You made contact with Kendra Goodman on the 29th.
14 Were you present or were you aware that she talked to a
15 lawyer?

16 A I think previously when we kind of were at the dry
17 cleaners --

18 Q Previously.

19 A -- I think she called Mr. Dessasure.

20 Q That's what I was getting to. Mr. Dessasure, do
21 you know his first name?

22 A Tony.

23 MS. CAMPBELL: Thank you, Your Honor. I don't have
24 anything further at this time.

25 THE COURT: Cross-examination?

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1 MR. MAY: Beg the Court's indulgence.

2 CROSS-EXAMINATION:

3 BY MR. MAY:

4 Q Just real quick. The 553 number, 3251, you have no
5 independent knowledge -- you never spoke to Ms. Goodman
6 regarding that being her number, did you?

7 A No. I did not.

8 MR. MAY: Thank you.

9 THE COURT: Anything further?

10 MS. CAMPBELL: No, sir.

11 THE COURT: All right. You may come down.

12 May this witness be excused?

13 MR. MAY: Without objection.

14 THE COURT: Without objection.

15 All right, ladies and gentlemen, we'll take a lunch
16 break at this time. I'll ask you to be back in the jury
17 room at 2:15. Again, don't discuss the case when you
18 return with each other or with anybody else over the
19 lunch hour. We'll see you at 2:15.

20 Thank you.

21 (WHEREUPON, the jury left open court at approximately
22 one o'clock p.m.)

23 THE COURT: Yes?

24 MS. CAMPBELL: Your Honor, just one housekeeping
25 matter. I've got the detectives from Charlotte who are

1 still here.

2 One of them, I think they kept under subpoena.

3 Is it okay at this time for them to go back over the
4 weekend and, if any, which ones do you want back next
5 week?

6 Whoever way you like to do that.

7 MR. MAY: If we could do telephone standby, that
8 would be great.

9 MS. CAMPBELL: You would have to call. It would just
10 take a couple hours to get them?

11 MR. MAY: That would be fine.

12 Your Honor, at this time that would just apply to
13 the three detectives from Charlotte.

14 THE COURT: All right. Have a good trip.

15 Stand at ease until 2:15.

16 (WHEREUPON, a lunch break was taken.)

17 THE COURT: Scott McDonald's PowerPoint report,
18 summary, whatever you want to call it, is not
19 admissible.

20 MR. MAY: Thank you, Your Honor.

21 THE COURT: Anything else?

22 MR. MAY: Your Honor, we were just discussing,
23 Mr. Shealey and I were, with Mr. Giese and Ms. Campbell
24 and Ms. McDuffie that -- regarding certain pictures,
25 eventually we need to put on the record, that we were

1 moving exclude pictures of the hallway.

2 In the hallway, there are pictures of what appears
3 to be blood splatters that do not match anything in this
4 case that actually go to two unknown -- one or two unknown
5 males, just depends on how you read the D.N.A. report.

6 THE COURT: Hallway where?

7 MR. MAY: In the defendant's house.

8 THE COURT: Okay.

9 MR. MAY: But the actual -- when they swabbed it, the
10 D.N.A. that came back did not match the decedent, the
11 defendant, Ms. Goodman, or Brian Bookert, so it's
12 irrelevant to this case.

13 THE COURT: But they want to put in a picture of
14 it?

15 MR. MAY: They're agreeing to --

16 MS. CAMPBELL: Well, I just want to put on the record
17 the parameters of what the testimony is going to be so
18 there's not a mix up.

19 Basically, they went into the hall area where the
20 defendant says he shot the victim. Basically, there was
21 spatter, what appeared to be blood stains, on the door.
22 Those were swabbed and later were tested. They came back
23 to an unknown male. We would agree that they are not
24 relevant to this case. As far as anything, we will --

25 THE COURT: You mean you're not offering them?

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1 MS. CAMPBELL: We won't -- I just need to advise our
2 crime scene people, because they did a very thorough job
3 swabbing this area.

4 In addition to that, they also tested with phenol -- I
5 can't say that word, something, that tested positive for
6 blood, which is presumptive for blood, which later turned
7 out to be where the D.N.A. came from.

8 We aren't going to go into any testimony of anything
9 tested with phenol whatever.

10 MR. MAY: Your Honor --

11 MS. CAMPBELL: -- however, we still want to go into
12 the fact that they tested those areas with luminol,
13 because luminol was also presumptive for blood but can
14 also be active from cleaning supplies and other things.

15 THE COURT: What was the result of that test?

16 MS. CAMPBELL: Positive in certain spots, negative
17 in others.

18 MR. MAY: But there is no D.N.A. evidence.

19 THE COURT: That's --

20 MR. MAY: -- which relates to any of the four known
21 samples that were submitted in this case.

22 MS. CAMPBELL: Yes, but we just want -- we're going
23 to -- I just want to advise them we're not going to
24 mention the phenol testing. We're going to say they
25 luminoled the area, but that could be positive from many

1 different things, including blood, but also -- is that,
2 I believe...

3 (Pause)

4 MS. CAMPBELL: So that would also be consistent with
5 what was found.

6 THE COURT: Which doesn't prove anything either way,
7 other than --

8 MS. CAMPBELL: Other than the fact it could be blood
9 or bleach there.

10 THE COURT: Let's run a DNA test on the bleach.

11 (Pause)

12 MS. McDUFFIE: Your Honor, I believe that while the
13 jury -- I believe the defendant is objecting --

14 THE COURT: I can't hear you. Start again.

15 (Pause)

16 MS. McDUFFIE: I believe the defendant is going to
17 object to this set of pictures. If we may approach and
18 show Your Honor.

19 THE COURT: Is this the house?

20 MS. McDUFFIE: This is in the vehicle, Your Honor.

21 THE COURT: Vehicle?

22 MS. McDUFFIE: Vehicle.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: Is the State ready to proceed?

25 MS. CAMPBELL: The State ready.

1 THE COURT: Is the defense ready to proceed?

2 MR. SHEALEY: The defense is ready.

3 THE COURT: Bring the jury, please.

4 (WHEREUPON, the jury came into open court at
5 approximately 2:00 p.m.)

6 THE BAILIFF: All jurors are seated, Your Honor.

7 THE COURT: Thank you very much, ladies and
8 gentlemen. I hope you had a pleasant lunch. We're now
9 ready to proceed with the trial.

10 Solicitor, you may call your next witness.

11 MS. CAMPBELL: Thank you, Your Honor. May it please
12 the Court. The State calls Megan Hardy.

13 MEGAN HARDY,
14 after being duly sworn, testified as follows:

15 THE CLERK: Thank you. Have a seat in the stand,
16 please. State your name for the record.

17 THE WITNESS: Megan Hardy.

18 DIRECT EXAMINATION:

19 BY MS. CAMPBELL:

20 Q Ms. Hardy, where are you employed?

21 A Westinghouse Electric Company.

22 Q And how long have you work there, ma'am?

23 A Two-and-a-half years.

24 Q What do you do for Westinghouse?

25 A I work in Human Resources.

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1 Q In human resources?

2 A As an administrator, uh-huh.

3 Q And as part of your duties in human resources, do
4 y'all keep certain records in the normal course of business?

5 A Yes.

6 Q I want to show you a copy of one of those records that's
7 been marked as State's Exhibit Number 358.

8 (Pause)

9 COURT REPORTER: I don't have that one.

10 MS. CAMPBELL: Westinghouse records.

11 THE COURT REPORTER: Thank you.

12 (WHEREUPON, State's Exhibit No. 358, was marked for
13 identification only.)

14 BY MS. CAMPBELL:

15 Q Do you recognize that document?

16 A Yes.

17 Q And was that a document that was provided by
18 Westinghouse last year in reference to a Theodore
19 Manning?

20 A Yes.

21 Q And is that a normal you keep in the normal course
22 of business?

23 A Yes, ma'am.

24 Q And does it fairly and accurately represent the time
25 period in May of 2009?

1 A That is correct.

2 MS. CAMPBELL: Your Honor, at this time I'd offer the
3 document into evidence.

4 THE COURT: Any objection?

5 MR. SHEALEY: We aren't objecting, just subject to
6 any prior objections, Judge.

7 THE COURT REPORTER: I'm sorry, I didn't hear you.

8 MR. SHEALEY: No new objections, just subject to all
9 prior objections.

10 (WHEREUPON, State's Exhibit No. 358 was admitted
11 into evidence.)

12 BY MS. CAMPBELL:

13 Q If you would look at this document specifically,
14 does it have certain times where Theodore Manning went
15 to work on the week that actually May 6th falls on?

16 A Yes.

17 Q And had Mr. -- what shift did Mr. Manning work at
18 your factory?

19 A Third.

20 Q Third shift. What hours would third shift go into,
21 typically?

22 A Typically, anywhere from 11:00 to 7:00 or 7:30 in the
23 morning.

24 Q And on this, does it reflect the hours that he worked
25 on May 5th?

1 A Yes.

2 Q And what time did he actually -- I guess from May 5th
3 into the morning hours of May 6th, would that be correct?

4 A Yes.

5 Q And what time did he report to work on the evening
6 of May 5th?

7 A The evening of the fifth, at 11:24 time.

8 Q And what time did he get off on the morning of May 6th?

9 A 7:29.

10 Q That evening of May 6th, did he report to work?

11 A Yes.

12 Q And what time did he go to work the evening of
13 May 6th?

14 A 11:28.

15 Q And at that point, did he work the entire shift?

16 A Yes.

17 Q And what time did he get off the next morning on
18 May 7th?

19 A 7:30.

20 Q And did he report to work that evening also on
21 May 7th?

22 A He did.

23 Q And then he would have gotten off on the morning of
24 May 8th?

25 A Yes, at 7:31.

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1 Q And then he had a day or two off, I believe?

2 A That is correct.

3 Q But on the evening of May 6th, he reported to work
4 at what time?

5 A At 11:28.

6 Q And he was able to complete his shift?

7 A Yes.

8 MS. CAMPBELL: Thank you, ma'am. I don't have any
9 further questions.

10 THE COURT: Cross-examination?

11 MR. SHEALEY: No questions, Your Honor.

12 THE COURT: All right. You may come down, ma'am.
13 Thank you very much.

14 May this witness be excused?

15 MR. SHEALEY: No objection.

16 THE COURT: Without objection.

17 THE BAILIFF: Watch your step, sweetie.

18 THE COURT: Next witness.

19 MS. McDUFFIE: The State calls Investigator Trevor
20 Holt.

21 TREVOR HOLT,
22 after being duly sworn, testified as follows:

23 THE CLERK: Have a seat in the witness stand,
24 please.

25 THE BAILIFF: Watch your step, sir.

1 THE CLERK: State your name for the record.

2 THE WITNESS: Trevor Holt.

3 DIRECT EXAMINATION:

4 BY MS. McDUFFIE:

5 Q Investigator Holt, where are you currently
6 employed?

7 A Richland County Sheriff's Department.

8 Q And what are your duties with the Richland County
9 Sheriff's Department?

10 A I am a crime scene investigator assigned to the
11 Forensic Science Unit of the Richland County Sheriff's
12 Department.

13 Q And explain for the jury what you do as a crime scene
14 investigator for the Richland County Sheriff's
15 Department.

16 A I am tasked with the observation, collection,
17 preservation of physical evidence.

18 Q And explain to the jury how you like to approach a
19 crime scene? What's the first thing you like to do when
20 you arrive at a crime scene?

21 A The first thing, I want to make sure the scene has
22 been properly established, the crime scene log has been
23 initiated, if necessary.

24 At that point, I might do a walk through of the
25 scene to see exactly what I'm dealing with, what equipment

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1 I'm going to need, what personnel, I'm going to need.

2 Q And after you do that initial walk through, then what
3 do you do?

4 A Notify anyone else that needs to be notified, if any,
5 additional personnel is needed.

6 At that point, we begin preserving the scene through
7 photographs. Digitally, most of the time, and on major
8 scenes, we'll also use 35mm film.

9 Q And on May 29th of 2009, did you have the occasion
10 to respond to Peach Road in Fairfield County?

11 A Yes, ma'am.

12 Q And what was that in reference to?

13 A It was in reference to a burned vehicle found down
14 what's been describe as a logging road or what I would
15 describe it as like a hunt club kind of trail path.

16 Q And when you arrived on Peach Road, was the scene
17 secured?

18 A Yes, ma'am.

19 Q How was the scene secured?

20 A It was secured with evidence tape. I'm sorry, with
21 crime scene tape, and Sergeant Ellis had started the
22 crime scene log there also.

23 Q And why do you secure a scene with crime scene tape?

24 A Crime scene tape, it establishes the scene, first of
25 all, for an area that's going to be searched. A scene

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1 can be widened or it can be decreased, depending upon
2 what we find as we begin to search the scene, but it
3 also -- the tape is put up to keep people out. It's to
4 preserve whatever is in that scene that we want to
5 preserve.

6 Q And a crime scene log, what does that establish?
7 What's the purpose of that?

8 A It documents everyone that enters that scene and the
9 reason why they entered that scene once the scene was
10 established.

11 Q I show you what's been marked as State's Exhibit 187
12 and 189, ask if you recognize these, and if they are a
13 fair and accurate depiction of what they purport to
14 show?

15 A Yes, ma'am.

16 MS. McDUFFIE: Your Honor, at this time we'd offer
17 State's Exhibit 187, 189.

18 THE COURT: Any objection?

19 MR. SHEALEY: Only on the pretrial basis.

20 THE COURT: Overruled. Go ahead.

21 MS. McDUFFIE: Your Honor --

22 THE COURT REPORTER: I'm sorry, one moment, please.

23 (Pause)

24 (WHEREUPON, State's Exhibits Nos. 187, 189 were
25 admitted into evidence.)

1 MS. McDUFFIE: May he step down, Your Honor?

2 THE COURT: Sure.

3 BY MS. McDUFFIE:

4 Q Showing you State's 189, if you could describe for
5 the jury what's depicted in that exhibit, please.

6 A Yes, ma'am. This is Peach Road. This would be the
7 white church on Peach Road, and on this end of Peach Road
8 would be Interstate 77, north and south.

9 Q And when you get off of interstate 77, which direction
10 would you turn to get to that turn?

11 A You would turn left. You would be coming from this
12 direction.

13 Q And showing you what's in evidence as State's 187,
14 please describe to the jury what that depicts?

15 A An aerial view, again of Peach Road. Again, I-77
16 would be on this side. Right here would be the church,
17 and this would be the logging road or hunt club trail
18 just prior to the church on Peach Road.

19 Q While you're standing, let me show you what's been
20 marked as State's Exhibit 188 and ask if you recognize
21 that?

22 A Yes, ma'am.

23 MS. McDUFFIE: Your Honor, at this time we'd offer
24 state's Exhibit 188.

25 MR. SHEALEY: We only have pretrial objections,

1 Judge.

2 THE COURT: All right. Go ahead.

3 MS. McDUFFIE: When you arrived at --

4 THE COURT REPORTER: I'm sorry, one second, please.

5 (Pause)

6 (WHEREUPON, State's Exhibit No. 188 was received
7 into evidence.)

8 THE COURT REPORTER: Thank you.

9 BY MS. McDUFFIE:

10 Q When you arrived at the logging road on Peach Road --

11 A Yes, ma'am.

12 Q -- approximately how far did you travel before you
13 entered the crime scene?

14 A Measurements collected were approximately 1012
15 feet.

16 Q I show you what's been marked as State's 188.
17 Please describe for the jury what is depicted in that
18 photo.

19 A Again, Peach Road, the church, 77 would be this
20 direction, and this would be the logging trail.

21 Q And what does the yellow line depict?

22 A The approximately location from Peach Road, 1012
23 feet from Peach Road.

24 Q And if you would have a seat in the witness box.

25 A Thank you.

1 Q And who made the measurements that this was 1012
2 feet?

3 A I did.

4 Q How did you that?

5 A With a measuring wheel.

6 Q And what was the purpose of doing that?

7 A To establish approximately how far the vehicle had
8 been driven from the main road.

9 Q And showing you State's 186, is this a diagram you
10 drew?

11 A Yes, ma'am.

12 Q And is this of the scene on Peach Road?

13 A Yes, ma'am.

14 Q Is this to scale?

15 A No, ma'am.

16 MS. McDUFFIE: Your Honor, at this time we'd offer
17 State's Exhibit 186.

18 MR. SHEALEY: Subject to pretrial objections.

19 THE COURT: Admitted.

20 (WHEREUPON, State's Exhibit No. 186 was admitted
21 into evidence.)

22 BY MS. McDUFFIE:

23 Q If you could, just describe for the jury what's
24 depicted in State's 186?

25 A Yes, ma'am. Of course, down towards the bottom would

1 be Peach Road. To the right side would be interstate 77.
2 I have the church depicted to the left of the logging road,
3 and then it shows the vehicle location, approximately
4 1012 feet on the logging road from Peach Road.

5 Q And was the vehicle actually pulled off to the side
6 of the logging road?

7 A Yes, ma'am.

8 Q So it was not blocking the roadway?

9 A Correct.

10 Q What else did you do in processing this crime?

11 A I photographed the vehicle thoroughly. Also, I
12 could see that through the burned out tail lamps in the
13 vehicle appeared to be a human skull, remains of a human
14 skull, which later when the trunk was opened was
15 confirmed to be the remains of a human.

16 Q And did you participate in the collection and the
17 removal of the body from the trunk?

18 A Yes, ma'am, I was there and present when the deputy
19 coroner did collect the remains from the trunk.

20 Q And the entire time you were there, was the scene
21 secured?

22 A Yes, ma'am.

23 Q Did you all search the area surrounding the burned
24 car?

25 A Yes, ma'am.

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1 Q And what was that? What was the purpose of doing
2 that?

3 A Just to make sure that no evidence had been discarded
4 in the woods in an attempt to hide anything.

5 Q And did you find any evidence relevant to this case --

6 A No.

7 Q -- in your search of that area?

8 A No, ma'am.

9 Q I show you State's 157, 158, 162, 165, 180 and 183
10 and ask if you recognize those and if those fairly and
11 accurately depict what you observed on May 29th, 2009?

12 A Yes, ma'am.

13 MS. McDUFFIE: Your Honor, at this time we'd offer
14 State's 157, 158, 162, 165, 180 and 183.

15 MR. SHEALEY: These would be subject to our pretrial
16 objections.

17 THE COURT: All right. Overruled. Go ahead.

18 MS. McDUFFIE: Your Honor, if I could --

19 THE COURT REPORTER: Hold on one second, please.

20 (Pause)

21 (WHEREUPON, State's Exhibits Nos. 157, 158, 162, 165,
22 180 and 183 were admitted into evidence.)

23 MS. McDUFFIE: If the witness may please step down,
24 Your Honor?

25 THE COURT: Yes.

1 BY MS. McDUFFIE:

2 Q Please tell the jury what's depicted in State's
3 Exhibit 155.

4 A This would be the roadway coming from Peach Road.
5 Once you pulled up, this is marked off. The crime scene
6 is marked off with the crime scene tape.

7 Q Are you the one in this picture, State's 165?

8 A Yes, ma'am.

9 Q Can you please show the jury where the vehicle was
10 in this picture?

11 A It's pulled off the roadway in the photo.

12 MS. McDUFFIE: Your Honor, permission to publish to
13 the jury.

14 THE COURT: Yes, ma'am.

15 BY MS. McDUFFIE:

16 Q In State's 183, please describe for the jury what's
17 depicted in this photograph.

18 A Again, this would be the dirt road off of Peach Road
19 with the crime scene tape.

20 Q Is that shown from the opposite angle from the prior
21 photograph?

22 A Yes, ma'am.

23 Q State's 167, can you please describe for the jury
24 what's in this photograph?

25 A Yes, ma'am. That's the burned out small sedan type

1 vehicle that was located on the dirt road.

2 Q Is there a license plate on this vehicle?

3 A No.

4 Q State's 157, can you please describe for the jury
5 what's depicted in this photograph?

6 A This is the photograph of the trunk area where the
7 emblem would have been located on the trunk.

8 Q And were you able to determine what kind of vehicle
9 this was based on the evidence?

10 A I don't believe at the scene we were able to, but later
11 on we were able to.

12 Q And what did you determine the vehicle to be?

13 A I believe it was determined to be a Honda.

14 Q I'll showing you State's Exhibit 180. Would you
15 please describe for the jury what's in that photograph?

16 A Yes, ma'am. This is a side photograph of the burned
17 out vehicle that was on the dirt road on Peach Road. It's
18 a photograph of the gas cap that was open.

19 Q And was this opened when you arrived on the scene?

20 A Yes, ma'am.

21 Q In State's 158 and 162 can you please describe for
22 the jury what these depict?

23 A Again, these are the photographs of the burned out
24 sedan, small sedan located on the logging trail off of
25 Peach Road. These are the photographs of the interior

1 part of the compartment.

2 Q Other than the skeletal remains that were removed
3 from the trunk of this vehicle, were you able to gather
4 anything else of evidentiary value from the vehicle
5 itself?

6 A From the vehicle, no, ma'am. There was a shirt
7 collected from under the vehicle when the vehicle was
8 being loaded on to the tow truck.

9 Q But from the vehicle itself, were you able to collect
10 anything of evidentiary value?

11 A No, ma'am.

12 Q And why not?

13 A The fire -- there was nothing left of the vehicle other
14 than the shell.

15 Q Were there windows in the vehicle?

16 A No, ma'am, the glass was melted away.

17 Q Were there tires on the vehicle?

18 A No, ma'am, they were melted away.

19 Q Was there anything left of the interior of the
20 vehicle?

21 A No, ma'am. It was all melted away.

22 Q Was there paint on the exterior of the vehicle?

23 A No, ma'am.

24 Q Would you have been able to lift prints from this
25 vehicle?

1 A No, ma'am.

2 Q Why not?

3 A Due to the oxidation that occurs during the fire.

4 Q Would you have been able to get D.N.A. from this
5 vehicle?

6 A No, ma'am.

7 Q Why not?

8 A It had been destroyed during the heat of the fire.

9 Q After this scene was processed and the skeletal
10 remains were removed from the trunk of the vehicle, what
11 happened with the vehicle and what was done with the
12 vehicle?

13 A The vehicle was towed by Lonnie Roberts towing. I
14 followed the tow truck and vehicle back to the Richland
15 County Sheriff's Department compound on Powell Road
16 where it was secured with evidence tape inside a locked
17 compound and covered with a tarp.

18 Q And why was that done?

19 A Just to preserve anything else that may have been in
20 there. They removed the initial remains, what they could
21 find at the time, but they did specify -- the coroner's
22 office did specify that they wanted to come back after
23 autopsy in case anything else may need to be found in the
24 car.

25 Q The next day, May 30th of 2009, did you respond to

1 8047 Bluff Road?

2 A Yes, ma'am, I did.

3 Q And what was that in reference to?

4 A Execution of a search warrant.

5 Q And 8047 Bluff Road, is that in Richland County?

6 A Yes, ma'am.

7 Q Approximately what time did you arrive that day?

8 A On the 30th, I arrived at 10:00 a.m.

9 Q And were you processing this residence alone or were
10 there other investigators?

11 A Other investigators from the crime scene unit, also.

12 Q And who else was present with you at that residence?

13 A Myself, Sergeant Richards, Lieutenant Elsey.

14 Q And Lieutenant Elsey and Sergeant Richards would be
15 your supervisors in the crime scene unit?

16 A Yes, ma'am.

17 Q And when you arrived at that scene, tell the jury what
18 the first thing the three of y'all did.

19 A The first thing that was initially done, again, was
20 a walk through of the home. Once that's completed,
21 overall photographs of the interior and exterior of the
22 home were completed.

23 Q And after you took photos of the interior and exterior
24 of the home, did you then process it for evidence?

25 A Yes, ma'am. The interior of the home was certainly

1 processed. The alternative light sources --

2 Q Before you start that --

3 A Yes.

4 Q -- please explain what alternative light sources
5 are to the jury.

6 A Alternative -- the human eye can only see certain
7 wave lengths of light. By the use of alternative light
8 sources and colored filters, what can't be seen with the
9 naked eye can now be visible.

10 Q And what does the alternative light source do?

11 A It assists the eye in seeing higher nanometers of
12 light so that you can see what you couldn't see with the
13 naked eye.

14 Q And what does it allow you to see?

15 A It can allow you to see fibers, body fluids such as
16 semen, blood, that kind of thing.

17 Q And you processed the entire home with the
18 alternative light source?

19 A Yes, ma'am.

20 Q And did you time anything relevant to this case?

21 A No, ma'am.

22 Q And how did you photo process them?

23 A I also processed with luminol.

24 Q And please describe for the jury what luminol does
25 and what luminol is.

1 A Luminol is a presumptive test for blood. Luminol
2 reacts with hemoglobin found in the proteins of blood,
3 and the reaction is in a dark environment, it creates a
4 bluish white lumenating light.

5 Q Will other substances make luminol also test positive
6 other than blood?

7 A Yes, ma'am.

8 Q And what are those other substances?

9 A Some plant extracts, metals high in iron, cleaning
10 products, such as bleach.

11 Q And those can all test -- make something test positive
12 when you use the luminol?

13 A Yes, ma'am.

14 Q And did areas of 8047 Bluff Road test positive for
15 luminol?

16 A Yes, ma'am.

17 Q And were those areas then photo processed?

18 A Yes, ma'am.

19 Q I'm going to show you State's Exhibit 151 through 156
20 and ask if you recognize those photographs and if they
21 fairly and accurately depict what you observed?

22 A Yes, ma'am.

23 MS. McDUFFIE: Your Honor, at this time we'd offer
24 State's 151 through 156.

25 MR. SHEALEY: No -- no objection.

1 THE COURT: Subject to prior objection?

2 MR. SHEALEY: Subject to prior objection.

3 THE COURT: All right.

4 (WHEREUPON, State's Exhibits Nos. 151 - 156 were
5 admitted into evidence.)

6 BY MS. McDUFFIE:

7 Q Did a large portion of your search involve the upstairs
8 hallway in the home?

9 A Yes, ma'am.

10 Q Showing you State's 152, explain for the jury -- excuse
11 me, let me back up.

12 I'm showing you State's 155. Please explain for the
13 jury what's depicted in this photograph.

14 A That is a photograph of the linoleum floor located
15 in the upstairs hallway in front of the master bedroom
16 door.

17 Q And how did y'all process this area of the home?

18 A That year was processed with luminol.

19 Q And after you processed it with luminol, did you
20 remove the linoleum from the floor?

21 A Yes, ma'am.

22 Q And why was that done?

23 A Due to the positive reaction when luminol was applied
24 to the floor, the floor was collected.

25 Q I'm showing you State's Exhibit 152 and 153. Please

1 describe for the jury what's in these photos.

2 A Again, that's the hallway. That would be the
3 flooring after the linoleum had been removed in the upstairs
4 hallway in front of the master bedroom.

5 Q And you removed the linoleum for what purpose?

6 A Evidentiary collection for further testing, D.N.A.
7 analysis.

8 Q And during your search of the home, did you also
9 search through the objects in the home, the belongings
10 in the home?

11 A Yes, ma'am.

12 Q I'm going to show you what's been marked and has
13 been identified as State's Exhibit 138 and ask if you
14 recognize that.

15 A Yes, ma'am.

16 Q And is that an item of evidence you personally
17 collected from the home at 8047 Bluff Road?

18 A Yes, ma'am.

19 Q Was it maintained in your custody and control until
20 you turned it in to the evidence room at the sheriff's
21 department?

22 A Yes, ma'am.

23 Q Was it tampered with in any way while it was in your
24 custody and control?

25 A No, ma'am.

1 MS. McDUFFIE: Your Honor, at this time we'd offer
2 State's Exhibit 138.

3 MR. SHEALEY: Just subject to our prior objection
4 judge.

5 THE COURT: All right. Overruled. Go ahead.

6 (WHEREUPON, State's Exhibit No. 138 was admitted into
7 evidence.)

8 BY MS. McDUFFIE:

9 Q If you could, hold up State's Exhibit 138 and show
10 the jury what State's Exhibit 138 is.

11 A (Complies.)

12 Q And where was that item of evidence found?

13 A This was found in the master bedroom dresser drawer
14 in the bottom left-hand side.

15 Q And you collected that from the home?

16 A Yes, ma'am.

17 Q And further processing of the residence was done by
18 Lieutenant Elsey and Sergeant Richards?

19 A Yes, ma'am.

20 MS. McDUFFIE: Beg the Court's indulgence.

21 (Pause)

22 Nothing further from this witness, Your Honor.

23 THE COURT: Cross-examination?

24 MR. SHEALEY: I don't have any questions for this
25 witness.

1 THE COURT: All right. You may come down.

2 May this witness be excused?

3 MS. McDUFFIE: That's fine.

4 THE COURT: Without objection.

5 Next witness.

6 MR. GIESE: May it please the Court, Your Honor,
7 Lieutenant Anna Elsey.

8 ANNA ELSEY,

9 after being duly sworn, testified as follows:

10 THE CLERK: State your name for the record.

11 THE WITNESS: Anna Elsey, E-L-S-E-Y.

12 DIRECT EXAMINATION:

13 BY MR. GIESE:

14 Q Lieutenant Elsey, I assume you're a lieutenant in the
15 Richland County Sheriff's Department?

16 A I am.

17 Q And tell the jury what your position actually does
18 there?

19 A I'm a lieutenant of the Crime Scene Latent Print
20 section. The general duties of that particular position
21 are writing, implementing policies and procedures,
22 scheduling, ordering supplies and being available to
23 assist with calls, especially those of major scenes.

24 Q And how long have you worked with the Richland County
25 Sheriff's Department in that field?

1 A I started in the crime scene unit in October of 1998.

2 Q And so you progressed since 1998 to where you're the
3 head of it now?

4 A Yes, sir.

5 Q And how many actual crime scene -- I don't know the
6 right word -- techs, technicians or investigators do you
7 actually have working for you?

8 A We actually have 12 in the unit. Three of those are
9 dedicated to the latent print section, and then you have
10 a lieutenant and a sergeant. So that leaves seven that
11 actually respond to scenes.

12 Q All right. And they're on call 24 hours a day, or
13 how does that work?

14 A That's correct. We're on 24/7 for anything ranging
15 from a burglary to anything to respond to in Richland
16 County.

17 Q And as a supervisor -- or the supervisor for the crime
18 scene investigate unit major cases, you said like a
19 homicide or something to that effect, you would be called
20 out to those?

21 A Myself or Sergeant Richards would go to assist them
22 with something like that.

23 Q I mean, you'd have to supervise that. Is that really
24 pretty much the investigation?

25 A Yes, sir.

1 Q All right. And your background and training I guess
2 from 1998, you've gone to schools and that type of thing
3 also?

4 A Yes, sir.

5 Q Have you been found to be an expert in that area
6 before?

7 A Yes, sir, I have.

8 Q How many times?

9 A Twelve.

10 MR. GIESE: We'd offer her at this time as an expert
11 in crime investigations.

12 THE COURT: Any voir dire or objection?

13 MR. MAY: No voir dire at this time, Your Honor.

14 THE COURT: Thank you.

15 BY MR. GIESE:

16 Q Now, I want to specifically draw your attention to
17 May 29th of 2009. Did you have an opportunity that day
18 to proceed to a crime scene?

19 A Yes, sir, I was contacted by Sergeant Richards in
20 reference to a scene that was located in Fairfield County.

21 Q And Sergeant Richards is who?

22 A Stan Richards is also in the unit. He is the
23 sergeant for crime scene, latent prints.

24 Q So he works for you?

25 A Yes, sir.

1 Q He contacts you. What do you do?

2 A I responded out to the scene.

3 Q And where was that.

4 A It was up a dirt road off of Peach Road in Fairfield
5 County.

6 Q Had you ever been out there before?

7 A No, sir.

8 Q And when you got there, what exactly did you see?

9 A By the time I got on the scene, Sergeant Richards and
10 Investigator Holt were on the scene. The scene was
11 secured and they were processing the scene, taking
12 photographs from the scene, and completing the search.

13 Q And you discussed the actual search with them at that
14 time?

15 A Yes, sir.

16 Q What did you do after that?

17 A They proceeded to, again, complete the photographs
18 and search. The coroner's office responded and the body
19 was removed from the vehicle.

20 At that time, I actually left the scene to go
21 secure a tarp from another location and met Investigator
22 Holt at the compound to secure the vehicle in that secured
23 area and cover it.

24 Q And that's behind the sheriff's department?

25 A It is actually located off of Powell Road away from

1 the sheriff's department.

2 Q All right. Now, let me ask you this. You said that
3 you waited there until the coroner removed the remains
4 or the body. Is that -- they have to do that, correct?
5 Y'all can't touch a body like that, can you?

6 A Yeah. Specifically, when you refer to a crime
7 scene, the scene itself and the evidence involving the
8 crime scene, we're responsible for. When it actually
9 comes to the body itself, that's the coroner's office's
10 responsibility.

11 Q So they have -- they had to remove the body before
12 you could move the car?

13 A Correct.

14 Q So you went to the compound on Powell Road. Did you
15 actually put the tarp over it at that time?

16 A Myself and Investigator Holt did.

17 Q At that point, did you assign somebody to look at the
18 car? How does that work?

19 A The car was left that night, and then after the
20 autopsy, a period later, I believe Sergeant Richards and
21 someone from the coroner's office went and did an
22 additional search of the trunk area.

23 Q Now, I want to draw your attention to the next day,
24 May 30th of 2009, at 8047 Bluff Road. Did you have an
25 opportunity to do a search there?

1 A Yes, sir. Again, we were notified by Captain Smith
2 and Sergeant Isenhoward that a search warrant was obtained
3 for that particular location. A crime scene log was
4 secured. Security was secured on that location, and we
5 started processing the scene that morning.

6 Q You say a crime scene log was initiated. What's that?

7 A The crime scene log, I believe, it's been explained
8 earlier, but it's anybody who enters the scene has to be
9 entered into that particular log, so that we know whose
10 been in and out of the scene, the time period they were
11 in there.

12 There's actually an area they have to fill out about
13 what they're there for, if they were there for crime scene
14 processing, if they were there with the coroner's office.
15 It helps us keep track of who has been in and out of the
16 crime scene.

17 Additionally, it also has who was on the outside of
18 the crime scene, maintaining security when we weren't
19 there.

20 Q Now, in a situation like that, the search warrant
21 that you had, you initially searched the house; is that
22 right?

23 A The house and there was a vehicle in the backyard.

24 Q Right. But the first thing you looked at was the walk
25 through of the house?

1 A Yes.

2 Q Okay. You specifically did that yourself?

3 A Myself -- when I got on the scene, Sergeant Richards
4 and Investigator Holt were already on the scene. We all
5 did a walk through, and then the processing of the
6 upstairs of the residence started.

7 Q Now, I want to draw your attention to the search of
8 the vehicle that you talked about on the scene. What was
9 that?

10 A It was a Toyota Avalon, a white in color.

11 Q And that's standard operating procedure when there
12 is a car on the premises like that; is that correct?

13 A If we feel like it may have something to do with the
14 specific crime that we're investigating. In this
15 particular case, the investigators directed us that
16 they may need potential evidence in that particular
17 vehicle.

18 Q And tell the jury what you did to search that
19 vehicle?

20 A Myself, Sergeant Isenhoward and Investigate Wagner
21 searched the vehicle. I took initial photographs of the
22 vehicle, how we found it, and then as we proceeded through
23 the search, I took additional photographs of items that
24 we collected from the vehicle.

25 Q And specifically what did you collect from the

1 vehicle?

2 A I have collected a pair of black shoes from the trunk
3 area, a credit card from the center console, a phone from
4 the center console, and a ring from the change area near
5 the gear shift.

6 MR. GIESE: Beg the Court's indulgence.

7 (Pause)

8 BY MR. GIESE:

9 Q I'm specifically going to hand you State's Exhibit
10 Number 352. It's a photograph. Can you identify that?

11 A This is the credit card that was collected, with the
12 name of Kendra Goodman.

13 Q And that was found where?

14 A It was initially found in the --

15 Q I'm sorry. Does it look like it did that day? Is
16 that a picture of it?

17 A Yes, sir.

18 MR. GIESE: We'd like to move it into evidence at this
19 time, Your Honor, I apologize.

20 MR. MAY: Subject to prior objections, Your Honor.

21 MR. GIESE: That is 352.

22 (WHEREUPON, State's Exhibit No. 352 was admitted
23 into evidence.)

24 THE WITNESS: It was initially located in the center
25 console and I requested it to be collected by Sergeant

1 Isenhoward.

2 BY MR. GIESE:

3 Q So it was actually collected there?

4 A From the vehicle, yes.

5 Q From the vehicle, and this is the vehicle from the
6 console of the Avalon?

7 A Yes, sir.

8 MR. GIESE: May I publish this?

9 THE COURT: Yes, sir.

10 BY MR. GIESE:

11 Q Now, specifically, you also have said during that
12 search -- that during a search like that, you also look
13 for fluids and that type thing?

14 A Yes, sir. I just took a history there.

15 Q What, if anything, did you find?

16 A We did several difficult processes were completed.
17 We did have some positive reaction in certain areas.

18 Q I want to then draw your attention to May 31st, 2009,
19 at the same address. Tell the jury what you did at that
20 time?

21 A Again, we responded back out to the scene, through
22 a secure search warrant and completed an additional
23 search of the residence to include the lower portion of
24 the residence.

25 Q And tell the jury what exactly you found during that

1 search?

2 A I believe several items were collected by
3 Investigator Holt that day.

4 Q Just for the record, State's Exhibit Number 359, what
5 is that?

6 A That's a Visa credit card in the name of Kendra
7 Goodman.

8 Q This is the picture that we have that you already
9 looked at?

10 A It appears to be, yes, sir.

11 MR. GIESE: I'd like to offer it at this time for the
12 record. It's 359.

13 MR. MAY: Your Honor, subject to prior objections.
14 I would say it's cumulative.

15 THE COURT: Overruled. Go ahead.

16 (WHEREUPON, State's Exhibit No. 359 was marked for
17 identification and admitted into evidence.)

18 BY MR. GIESE:

19 Q And I believe that on May 31st, 2009, y'all used
20 the alternative light source like you did on the 30th of
21 2009, is that correct?

22 A That's correct.

23 Q And I -- I'm getting old, I think, but could you just
24 one more time explain to the jury what that alternative
25 light source is I don't understand the -- could you

1 explain, do you turn the lights off? What do you do?

2 A This particular light source, again, it
3 describes -- the naked eye sees only a certain amount of
4 things with the light, so we have -- actually, we have
5 the prime light.

6 It actually breaks down the light into two different
7 wavelengths. In addition to that, we use filters that
8 even break it down more. Those are things that we may
9 just see in the regular light. We might not be able to
10 see with these -- with the particular crime light with
11 a certain wave length and a filter on that, such as
12 fibers, blood, semen, urine.

13 Q What do you do? Shine a light on it, or do you wear
14 glasses or what?

15 A You can use goggles. In this particular case, the
16 goggles are not used, but you can use goggles, filters.
17 Then the light is on the flashlight that we use.

18 Q And you just -- you shine it?

19 A Yes.

20 Q Do you keep the lights on?

21 A Yes.

22 Q And by doing that, is that -- is that fairly new, or
23 has it been around for a while?

24 A No, alternative light source have been around for a
25 while.

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1 Q And you do it the same way?

2 A They have different --

3 Q With the lights --

4 A They have different light sources, but...

5 Q In this case, which did you use?

6 A We used a crime light, and we used it with the lights
7 on.

8 Q And you were there when that happened?

9 A Yes.

10 MR. GIESE: I don't have any further questions.

11 THE COURT: Cross-examination?

12 MR. MAY: No, Your Honor.

13 THE COURT: All right. You may come down. Thank you
14 very much.

15 May the witness be excused?

16 MR. MAY: Without objection, Your Honor.

17 THE COURT: Without objection.

18 THE BAILIFF: Watch your step.

19 THE COURT: Next witness?

20 MS. CAMPBELL: May it please the Court. The State
21 calls Sergeant Stan Richards.

22 STANLEY RICHARDS,

23 after being duly sworn, testified as follows:

24 THE CLERK: Thank you. Have a seat in the witness
25 stand, please. State your name for the record.

1 THE WITNESS: Stan Richards.

2 DIRECT EXAMINATION:

3 BY MS. CAMPBELL:

4 Q Sergeant Richards, where are you employed?

5 A The Richland County Sheriff's Department, crime
6 scene unit.

7 Q What do you do there?

8 A I am sergeant with the crime scene unit there, ma'am.

9 Q And how long have you been in law enforcement?

10 A I've been with the Richland County Sheriff's
11 Department since 1994. I've been with the crime scene
12 unit almost ten years.

13 Q And what did you do prior to joining the Richland
14 County Sheriff's Department?

15 A I was in the military, retired from the military 20
16 years.

17 Q Can you tell this jury a little bit about your
18 education and training in the field of crimes
19 investigation?

20 A While in the military, I received my education. I
21 attend Gainesville College in Gainesville, Georgia
22 studying history. I completed my degree, studied with
23 Saint Leo University out of Saint Leo, Florida in criminal
24 justice.

25 I also pursued some studies in sociology from

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1 Wayland Baptist University while in Fairbanks, Alaska.

2 While I was down at the Richland County Sheriff's
3 Department, I have graduated, of course, from the South
4 Carolina Criminal Justice Academy.

5 I've been trained in the areas of blood pattern
6 analysis, marijuana analysis, latent print processing,
7 crime scene photography, basic fingerprint
8 development, advanced palm print comparison, ridgology,
9 which is, again, some latent print comparisons, advanced
10 crime scene photography, latent verification and
11 examinations, shoe and tire track impressions, forensic
12 question document examinations, forensic shooting
13 reconstruction, crime scene reconstruction, comparison
14 examination of footwear, complex latent print
15 examination, advanced blood pattern analysis, forensic
16 anthropology and archaeology classes, shooting
17 incident documentation and reconstruction, advanced
18 crime scene reconstruction, as well as attending
19 seminars in anthropology and forensic pathology.

20 Q Have you testified before as an expert in crime
21 scene investigations, including some or all of the areas
22 you just covered?

23 A I have.

24 MS. CAMPBELL: Your Honor, at this time we'd offer
25 him as an expert in crime scene investigation.

1 THE COURT: Any voir dire or objection?

2 MR. MAY: No voir dire at this time, Your Honor.

3 THE COURT: All right. You may proceed.

4 BY MS. CAMPBELL:

5 Q Sir, I want to turn your attention to May 28th. That
6 was when you initially became involved in this case?

7 A It is.

8 Q And did you respond to the scene after being
9 notified by members of your investigating team?

10 A Yes. I had responded to 18 Berry Hill Road,
11 Apartment 4-D at the Stoneybrook Apartments in Lexington
12 County.

13 I responded there, along with other investigators
14 in my unit, which was Investigator Bouknight, Oates and
15 Woods, for a search of that residence in reference to a
16 missing person form from the Charlotte/Mecklenburg area.

17 The search was conducted per a search warrant and
18 per the investigators from Charlotte/Mecklenburg, they
19 asked us to look for possible signs or traces of blood.

20 Q And this is on, I believe, the afternoon of May 28th?

21 A Yes, it was around 2:20 in the afternoon.

22 Q And when you got there, there was a lawful search
23 warrant that allowed y'all to enter the residence; is
24 that correct?

25 A That's correct.

1 Q And initially, what, if anything, did y'all do?

2 A I divided up the team into four different areas. I
3 put one in the kitchen, one in the living room; myself,
4 I went to the bathroom and one in the single bedroom there,
5 and we conducted a search at that time.

6 Q And initially when entering a crime -- or a potential
7 crimes, do you photograph it?

8 A Always.

9 Q And I show you a series of photographs of the interior
10 of that apartment. First, I just ask if you recognize
11 those?

12 A These two are the outside areas of the apartment
13 itself. These photographs depict the bathroom, which I
14 conducted a search of. These depict the living room.
15 These depict the single bedroom, and these depict the
16 kitchen area.

17 Q And do those -- all that you reviewed, fairly and
18 accurately depict the exterior and the interior of the
19 apartment in Lexington County that you went to on
20 May 28th?

21 A They do.

22 Q I'm going to show you specifically -- you mentioned
23 the exterior of the photographs, State's Exhibit
24 Number 224 and 225. What area do those show?

25 A This is the front entrance and area of Stoneybrook

1 Apartments. It has the sign in the overhang stating that
2 it's Stony Creek. Then the outside of the entrance to
3 the apartment, which was 4-D, we entered and did the
4 processing.

5 Q I want to show you State's Exhibit's 222 through 224.

6 A This is photographs of the interior and exterior of
7 the breezeway at the said apartments when we arrived
8 there.

9 Q State's Exhibit's 220 and 221.

10 A These two photographs depict the area of the bathroom,
11 which I processed, and it shows -- 220 shows underneath
12 the vanity, which I found some bleach products there.

13 Q Okay. I'll get back to that. 218 and 219?

14 A 218 and 219 depict the living room area and how it
15 was photographed as found.

16 Q 215 through 217?

17 A These photographs again depict the single bedroom
18 and how it was found at the time of processing.

19 Q And finally 211 through 214.

20 A These four depict the kitchen area as found.

21 MS. CAMPBELL: Your Honor, at this time we'd offer
22 these into evidence.

23 MR. MAY: Prior objection, Your Honor.

24 THE COURT: All right. Prior objections which
25 overruled.

1 MS. CAMPBELL: Thank you.

2 THE COURT REPORTER: Could you repeat the numbers so
3 I can add them to the sheet?

4 MS. CAMPBELL: It's going to be, I believe, 211
5 through 225.

6 THE COURT REPORTER: Thank you.

7 (WHEREUPON, State's Exhibits Nos. 211 - 225 were
8 admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q 224 and 225, what do those show?

11 A That's the exterior of the part area itself.

12 Q And are you aware whose apartment you were
13 searching?

14 A Yes, I was.

15 Q Whose apartment was it?

16 A It was a Kendra Goodman.

17 Q You mentioned the rear area. I show you State's
18 Exhibits number 222 through 224.

19 A This is what I call the rear area, actually the
20 breezeway going into the apartment.

21 Q And that's how it appeared on the day you executed
22 the search warrant?

23 A It is, it is.

24 Q On State's Exhibit number 220, what area does that
25 show?

- 1 A That is the -- underneath the cabinet where the vanity
2 and the bathroom area that I processed.
- 3 Q And again, that's in the apartment?
- 4 A It is.
- 5 Q State's Exhibit Number 221 is another?
- 6 A Another photograph of the bathroom.
- 7 Q State's Exhibit 218 and 219, what do those show?
- 8 A That's the living room area.
- 9 Q And that's what appeared when you executed your
10 search warrant on the apartment?
- 11 A Yes.
- 12 Q State's Exhibit 215 and 216 and 217, what areas do
13 those show?
- 14 A That's the single bedroom of the apartment.
- 15 Q And that was the only bedroom in the apartment?
- 16 A It was.
- 17 Q State's Exhibit 211 through 214, what do those show?
- 18 A The kitchen area of the apartment.
- 19 Q And is that how it appeared on that day when y'all
20 executed the search warrant?
- 21 A Yes.
- 22 Q And finally, under the cabinet again?
- 23 A That's some products, cleaning products that was
24 under the cabinet in the kitchen.
- 25 Q And once the interior and exterior had been

1 photographed, what -- specifically, did you do some
2 processing specific as to your visual observation with
3 the alternative light source and luminol?

4 A Yes.

5 Q What's the purpose of doing that?

6 A Well, first you do one at a time. You look, and that
7 usually is accomplished from your walk through. If you
8 see anything that stands out, of course, that's what
9 they're going to process. Alternative light sources as
10 you testified to, what it does is enhances what you can't
11 already see. That's why we use it.

12 It also lets us go through those areas that we might
13 need to process. However, the luminol, now, is for
14 something that's for large areas, like cabinets, walls,
15 floors, those types of things where you can't -- you don't
16 know if some type of -- say possible blood was there. You
17 try to enhance that with luminol, which gives off some
18 lumen that you can see in the dark, and therefore, you
19 can continue to process those areas.

20 Q In a case involving a missing person, by this time
21 it's a homicide case, what type of evidence are you
22 looking for with your alternative light source with your
23 luminol?

24 A At this point in time when we were assisting this
25 agency on a missing person, we were asked to look for any

1 type of blood sources.

2 Q Any type of blood sources?

3 A Yes.

4 Q That would be consistent with foul play?

5 A Yes, ma'am.

6 Q And as far as the results from the use of -- what you
7 observed, as well as using the alternative light source
8 and the luminol, what were your results?

9 A Negative.

10 Q So there was no evidence of any possible blood or
11 anything of that sort?

12 A None found, no.

13 Q Did Charlotte/Mecklenburg request that you collect
14 certain items?

15 A They did. After we had finished and we were -- we
16 allowed investigators into the apartment, they looked
17 around. Along with some of our investigators, they
18 picked some items, and they asked that those be collected,
19 which Investigator Bouknight did.

20 Everything that was collected from that scene was
21 placed into evidence and transported to Charlotte/
22 Mecklenburg where the investigation pursued.

23 Q And actually, the only items they asked you to collect
24 were what?

25 A I don't have -- I don't have Investigator Bouknight's

1 notes as to what he has --

2 Q You referred to your notes. Was it bleach and a spray
3 bottle?

4 A That's what I -- that's what I collected from the
5 bathroom.

6 Q Okay.

7 A It was a big bottle of three -- a quart bottle of
8 bleach and a spray bottle that had a bleach water
9 mixture.

10 Q And as far as the results of your investigation that
11 day, they are at the apartment complex in Lexington
12 County. Was there any evidence of foul play in the
13 interior of that apartment?

14 A No, ma'am.

15 Q The next day, actually that morning, were you
16 requested to process an automobile?

17 A Yes. I was.

18 Q Where did that take place?

19 A In our garage at 5623 Two Notch Road at headquarters
20 on May 29th at about 8:30 in the morning. I processed
21 a Chevy Lumina, which had been secured in our garage
22 facility.

23 Q For the record, how would the Lumina have been
24 transported to your garage?

25 A It would have been towed to our garage by a tow

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1 service and received by us and secured at that time.

2 Q So no one would have gotten in the car and tampered
3 with any evidence or do anything like that?

4 A No. It would have been -- it would have been
5 escorted from whatever position that it was at until it
6 got to our facility, then it was secured.

7 Q And it was secured at the facility?

8 A Yes.

9 Q And as you testified before when executing a
10 search warrant, would you also photograph a car prior to
11 looking for any evidence?

12 A Yes, that's the first thing that's done.

13 Q I want to show you what's been marked as State's
14 Exhibit Number 38 through -- 238, excuse me, through 250.

15 A Yes, these photographs depict the vehicle that I
16 processed that morning.

17 Q And again, this is the morning of what?

18 A May 29th, 2009.

19 Q Okay. So to your knowledge, had anybody been found
20 at this point when you were processing this?

21 A No. I'm still carrying this as assisting another
22 agency as a missing person.

23 MS. CAMPBELL: Okay. Your Honor, at this time we'd
24 offer State's Exhibit Number 238 through 250.

25 THE COURT: Same objection?

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1 MR. MAY: Yes, Your Honor, renew, renew our
2 objections.

3 (WHEREUPON, State's Exhibits Nos. 238 - 250 were
4 admitted into evidence.)

5 BY MS. CAMPBELL:

6 Q I'm going to show you what's been marked as State's
7 Exhibit Number 238 and 240 first, these two.

8 A Yes.

9 Q What do those show?

10 A The front area.

11 Q Interior?

12 A Interior of the vehicle.

13 Q Interior? And for the record, which car is this?

14 A This is the Chevy Lumina, tan in color.

15 Q Tan in color. Again, exhibits 239 and 241, what do
16 those show?

17 A 239 is the exterior -- I mean, the rear area of the
18 interior of the vehicle, and 241 is the interior door.

19 Q And is this how it appeared when you were processing
20 it that day as it had been towed to your facility?

21 A Yes. That's the initial photograph.

22 Q I show you State's Exhibit Number 242. What does
23 that show?

24 A That is the headliner, interior of the vehicle. It
25 had some damage to it.

1 Q State's Exhibit Number 243, what is that a shot of?

2 A That's the trunk area of the vehicle.

3 Q And does that fairly and accurately represent what
4 was in the trunk and after it had been towed to your
5 facility?

6 A Yes.

7 Q 244, 45, 46, 47 through 50, does that show the exterior
8 of the car?

9 A That's all the exterior photographs of the vehicle.

10 Q And I would just note in State's Exhibit
11 Number -- including -- this is the license plate 248?

12 A Correct.

13 Q And 250, what does that show?

14 A That shows a -- it's like a plastic bag that had
15 been taped on the window, around the window because the
16 window wouldn't raise.

17 Q As far as any other significant damage to the
18 exterior, you always note that, and that's what you noted
19 in this case?

20 A Yes, ma'am.

21 Q Once you had photographed this vehicle that had
22 been towed to your compound the morning of -- or the day
23 before, but it was in your compound in the morning when
24 you were processing it. After you've photographed it,
25 did you use any kind of light source or luminol on it?

1 A Yes, when I finished a certain processing of the
2 vehicle, I did use luminol as requested on the interior
3 and the trunk area of the vehicle.

4 Q And was there anything significant indicating foul
5 play from your testing?

6 A No, it was negative results.

7 Q Did you also attempt to lift any possible prints from
8 an area of the vehicle?

9 A Yes, I processed both the interior and the exterior
10 for latent prints. I developed two cards, which were
11 latent print cards. I developed two latent prints. One
12 from the left front exterior door and one from the right
13 front exterior door.

14 Q And let me ask you this. So when you go to collect
15 a latent print, say from a steering wheel or car or
16 something like that, are you always going to be able to
17 get a print from whoever last touched it?

18 A No.

19 Q Why not?

20 A Well, it's a possibility that you can't. Number one,
21 a latent print is a very fragile thing. What happens is
22 the oils and liquids which come off of your finger which
23 come out of the ridges that everybody has on their
24 fingers, that's what makes a latent print. That's what's
25 developed.

1 When you put your hands down or your finger down on
2 a substrate, the liquid that remains there after you pick
3 it back up, that's a latent print, which means latent
4 because you can't see it.

5 We enhance it with powders or certain other
6 chemicals. We try to see it ourselves and then it is
7 lifted. However, that being said, liquids of that type
8 can evaporate. They can be smudged. They can be wiped
9 off. Anything can happen to them over time, so it's not
10 as easy to develop a latent print that one might think.

11 Q And it's unusual in this case you were able to get,
12 I believe, one usable print?

13 A I had two. I developed two.

14 Q Two prints. Is that unusual in processing the whole
15 car that you may only get one print or no print?

16 A Sometimes no print, no print.

17 Q And different surfaces come into play, weather,
18 things of that nature?

19 A Yes, yes.

20 Q And in this case, I believe, in State's Exhibit
21 Number 244, it shows where you actually put some black
22 powder on that car?

23 A Yes. That's marked there. That was on the right front
24 door. That's where one of the latents was developed and
25 lifted.

1 Q And in every case, D.N.A. evidence and/or latent print
2 evidence is especially significant if you don't know the
3 identity of the person who committed the crime?

4 A Yes.

5 Q After you had listed the latent prints from the
6 exterior, did you also swab any areas for D.N.A. evidence
7 that might be used in the future?

8 A Yes. We swabbed several areas, not knowing
9 specifically who or how many might have been in the
10 vehicle. We swabbed those areas where we think we might
11 possibly get some D.N.A. with various that are used
12 constantly, say the exterior, interior door handles, all
13 four of them on the vehicle. Those were swabbed.

14 We did the -- I did the gear shift, the steering
15 wheel and the interior radio buttons. Those are the sort
16 of various areas where people or individuals touch all
17 the time, so that's the most probability of getting D.N.A.

18 Q Okay. And you took the swabs in this case?

19 A I did.

20 Q From different areas on the interior and exterior?

21 A Yes.

22 Q Can you date D.N.A.?

23 A No.

24 Q Can you even date how long a fingerprint has been on
25 there?

1 A No.

2 Q And if a number of weeks passes after a crime is
3 committed, it may be useful -- it may not be as useful
4 as it would have around the time of the crime?

5 A Possibility.

6 Q Once you processed that car, I believe you finished
7 that up that afternoon?

8 A I did.

9 Q Around two o'clock?

10 A Yes.

11 Q Is that correct?

12 A Yes.

13 Q All right. Later that day, did you also get called
14 out to another crime scene?

15 A Yes, later the day on May 29th at about 4:30 in the
16 afternoon, I received a call from Captain Smith stating
17 that a vehicle had been found. It was approximately 3400
18 block of Peach Road, which was in Fairfield County. I
19 responded to that scene and met Investigator Holt there.

20 Q Once you met Investigator Holt there, what did you
21 observe?

22 A Once I got there, I observed the crime scene tape had
23 been placed around the area where there was a burned out
24 car down a dirt road from Peach Road and the crime scene
25 has been secured by Investigator Holt and Sergeant Ellis

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1 that was there on the scene.

2 Q And did you then assist Investigator Holt in
3 processing the car?

4 A I did. Well, processing the scene.

5 Q The crime scene, excuse me, not the car, I apologize.
6 I want to show you what's been marked as State's Exhibit
7 Number 188. Without saying -- that's a reference point,
8 the church, was this -- does this show approximately the
9 dirt road?

10 A Yes, it does.

11 Q And that yellow line that we've inserted on there,
12 there's one that's been added, too, does that show the
13 approximate distance y'all went back in the woods?

14 A Yes, ma'am.

15 Q And approximately how far back, do you recall?

16 A I don't recall. It was over 1,000 feet.

17 Q Did you and Investigator Holt then photograph the
18 scene?

19 A Yes, we did.

20 Q And what was the condition of the car that you
21 observed?

22 A It was totally burned.

23 Q When you say totality burned, was there any cloth
24 material or anything like that?

25 A There was no cloth material left. There was no

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1 tires. Anything that would burn was burned.

2 Q When you got there, was the trunk of the car closed?

3 A Yes, it was.

4 Q And you could tell that from the shell of the car?

5 A Yes.

6 Q Were you able to observe anything from looking at
7 the tail light?

8 A Yes, the right --

9 MR. MAY: Objection, Your Honor. This is -- I think
10 this is what, the sixth witness.

11 THE COURT: Move on.

12 BY MS. CAMPBELL:

13 Q What were you able to observe?

14 A Through the right rear tail light, I observed a
15 skeleton, skull.

16 MR. MAY: Objection, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: A skull.

19 BY MS. CAMPBELL:

20 Q Thank you.

21 While you were there -- well, first, prior to your
22 touching the car, did y'all attempt to get any
23 fingerprints or D.N.A., or was that possible in this
24 case?

25 A No, that was not possible.

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1 Q Why not?

2 A Because it was totally burn. You could not get a
3 fingerprint off of it. No D.N.A. -- all D.N.A. would have
4 been destroyed.

5 Q While you were there, did anyone gain access into the
6 trunk area?

7 A Yes.

8 Q And what happened?

9 A The coroner's office arrived on the scene. We made
10 entry into the trunk area in order to see what was there,
11 of course. We found the remains, skeletal remains, in
12 the trunk.

13 Q Okay. I'm going to show you what's been marked as
14 State's Exhibit Number 226 and 227. Do you recognize
15 those two photographs?

16 A Yes. That was the interior of the trunk after we had
17 made entry.

18 MS. CAMPBELL: Your Honor, at this time we'd offer
19 226 and 227 and evidence.

20 MR. MAY: Can we approach, Your Honor?

21 (WHEREUPON, a bench conference was held in the
22 presence, but not within the hearing of the jury.)

23 MS. CAMPBELL: Your Honor, at this time we would
24 offer State's Exhibit 226 into evidence.

25 MR. MAY: We would object, Your Honor. We'd ask to

1 have it placed on the record at the appropriate time.

2 THE COURT: All right. We'll allow one like this.

3 All right. I'll allow you to put your objection on the
4 record.

5 MS. CAMPBELL: Thank you, Your Honor.

6 (WHEREUPON, State's Exhibit No. 226 was admitted
7 into evidence.)

8 BY MS. CAMPBELL:

9 Q During the course of your investigation, did you also
10 take some photographs of the actual VIN -- let me back
11 up. While we're looking at this number, what is that number
12 that used for your investigation --

13 A It's VIN number.

14 Q A VIN number?

15 A Yeah.

16 Q And in this case, were you able to -- was the tag
17 number was there, the tag was not there on the car at that
18 time, no, ma'am.

19 Q And were you able to photograph the actual -- was
20 your office able to photograph the actual VIN number?

21 A Yes, at a later date after that vehicle had been pulled
22 to our compound.

23 Q Okay. And for the record, that would be the vehicle
24 that we're talking about in State's Exhibit Number 226?

25 A Yes, ma'am.

1 Q And I show you State's Exhibit Number 237. Once you
2 removed some of the debris, was that the actual photograph
3 of the VIN number?

4 A Yes, it is.

5 Q And whose car was that?

6 A I'm not sure.

7 (Pause)

8 MS. CAMPBELL: Your Honor, while he's looking, I'd
9 like to offer the photograph of the VIN number.

10 (Pause)

11 MR. MAY: Over previous objection.

12 THE COURT: Over previous objection.

13 (WHEREUPON, State's Exhibit No. 237 was admitted into
14 evidence.)

15 THE WITNESS: I did not -- I do not annotate. The
16 vehicle came back through this information. After I
17 gained it, the VIN number was annotated and photographed
18 at the compound from underneath the vehicle -- underneath
19 the hood of the vehicle, and the information was passed
20 along to investigators.

21 BY MS. CAMPBELL:

22 Q Okay. That would have been Sergeant Isenhoward?

23 A Yes.

24 Q And those people?

25 A Yes.

- 1 Q Okay. But this is actually the VIN number that
2 belongs to this car?
- 3 A Yes, it is.
- 4 Q And this State's Exhibit Number 226, what do you
5 actually see here on the top?
- 6 A That's the top one you're holding there?
- 7 Q Yes.
- 8 A Yes. That's the skeletal remains that we found after
9 we made entry into the trunk.
- 10 Q What is the -- were the skeletal remains removed from
11 the trunk while you were there?
- 12 A Yes. They were.
- 13 Q Who collected those?
- 14 A Lieutenant Elsey arrived on the scene, along with
15 at the time Coroner Gary Watts and Deputy Coroner Dozier
16 arrived on the scene. When the trunk was forced open,
17 we made entry and found the skeletal remains. The
18 coroner's office took charge of bagging and receiving the
19 body for removal to the morgue.
- 20 Q What happened to the actual shell of the car?
- 21 A The car was then towed by Lonnie Roberts Towing to
22 our compound. It was followed by Investigator Holt and
23 received at that time at the compound by Lieutenant
24 Elsey.
- 25 Q Did you all -- after that have an additional search --

1 A Yes.

2 Q -- of evidence that was significant in this
3 investigation?

4 A Yes.

5 Q And was any additional evidence found?

6 A Other than a piece of cloth that was found underneath
7 the vehicle by Investigator Holt after the car was being
8 towed away, no.

9 Q And does that conclude basically what you did?

10 A Yes. I released the scene of that.

11 Q I'd like to turn your attention to May 30th, 2009.
12 Did you -- again, were you notified to respond to a scene
13 out at Bluff Road?

14 A Yes. About -- on May 3rd, 2009, around 9:30 a.m.,
15 I responded to 8047 Bluff Road and assisted Lieutenant
16 Elsey and Investigator Holt in the processing of that
17 residence.

18 Q And again, as was the other search warrant and your
19 search of the Lumina, were you looking for basically the
20 same type of evidence?

21 A Yes.

22 Q Okay. I want to show you what's been marked. Were
23 you aware that there was a white Toyota Avalon on the
24 exterior of the house there?

25 A I was.

1 Q And I want to show you some photographs that were
2 taken. I believe it's going to be 345 through 351 and
3 then 353 and 354. I just ask if those fairly and
4 accurately represent the interior and exterior on that
5 day at the Bluff Road house?

6 A They seem to, even though I can say that the
7 exterior actually depicts the vehicle that was behind the
8 residence at that time, I did not take the photographs
9 of the interior.

10 MS. CAMPBELL: Your Honor, at this time I'd offer
11 these into evidence.

12 MR. MAY: Subject to our previous objections.

13 (WHEREUPON, State's Exhibits Nos. 345 - 351, 353,
14 354 were admitted into evidence.)

15 THE COURT: All right.

16 THE COURT REPORTER: One moment.

17 (Pause)

18 MS. CAMPBELL: Let me make sure I have the right
19 number. Beg the Court's indulgence.

20 (Pause)

21 BY MS. CAMPBELL:

22 Q I'm showing you State's Exhibit 345. Does that show
23 the exterior of that vehicle?

24 A Yes.

25 Q And the rest of the photographs we've referred to

1 show the interior of the white Avalon?

2 A That's correct.

3 Q And do those fairly and accurately depict how it
4 appeared that day in the yard?

5 A Yes, ma'am.

6 Q Did you also observe the exterior of the house
7 itself?

8 A Yes, ma'am.

9 Q I show you 334 through 344 and ask you just first -- do
10 you recognize those?

11 A Yes, ma'am. Those are the exterior photographs of
12 the residence.

13 Q And do those fairly and accurately depict the
14 exterior of the residence at -- what address was that?

15 A 8047 Bluff Road.

16 Q 8047 Bluff Road?

17 A Yes, ma'am.

18 MS. CAMPBELL: Your Honor, at this time I'd offer
19 State's Exhibit Number 334 through 344.

20 MR. MAY: Subject to prior objection, Your Honor.

21 THE COURT: It's received.

22 (WHEREUPON, State's Exhibits Nos. 334 - 344 were
23 admitted into evidence.)

24 BY MS. CAMPBELL:

25 Q I show you what's been marked as State's Exhibit 334.

1 Does that just show the mailbox with the number on it?

2 A The address number, yes, ma'am.

3 Q The address. All right.

4 In State's Exhibit Number 336, what part of the house
5 does that show?

6 A That is the right side of the house with the garage
7 entrance.

8 Q Okay. Does this actually reflect where the two cars
9 were located on the exterior of the residence?

10 A Yes, ma'am.

11 Q I show you State's Exhibit Number 344, is that a car
12 that was parked there right outside the garage?

13 A Yes, ma'am.

14 Q And that's shown in State's Exhibit Number 344; is
15 that correct?

16 A Yes, ma'am.

17 Q Once you photographed the exterior and the Toyota's
18 exterior, did you then -- was the interior of the house
19 photographed?

20 A (Nods in the affirmative.)

21 Q I'm going to show you what's been marked as 317
22 through 323. First, I'd ask if you recognize those?

23 A Yes, ma'am. This is the living room area, the
24 interior of the residence.

25 Q The living room area?

1 A Yes, ma'am.

2 Q And does that fairly and accurately depict the
3 living room that was secured on that day when you did the
4 search?

5 A Yes, ma'am.

6 MS. CAMPBELL: Your Honor, at this time we'd offer
7 this into evidence.

8 MR. MAY: Subject to prior objection, Your Honor.

9 THE COURT: All right, sir. It's received.

10 (WHEREUPON, State's Exhibits Nos. 317 - 323 were
11 admitted into evidence.)

12 BY MS. CAMPBELL:

13 Q Let me show you State's Exhibit 318 and 320. Does
14 that show the general area of the living room?

15 A Yes, it does.

16 Q And that's how it was at 8047 Bluff Road that day
17 when you went in?

18 A Yes, ma'am.

19 Q Pursuant to a lawful search warrant?

20 A Yes.

21 Q Next ones I'm going to talk about is -- do you
22 recognize these photographs?

23 A Yes. These are photographs of the master bedroom
24 which was upstairs in the residence and some items that
25 were looked at that were found in the master bedroom.

1 MS. CAMPBELL: Your Honor, at this time we'd offer
2 State's Exhibits 324 through 333.

3 THE COURT: Approach the bench.

4 (WHEREUPON, a bench conference was held in the
5 presence, but not within the hearing of the jury.)

6 THE COURT: All right, ladies and gentlemen. While
7 we look at those photographs, let's take a short
8 afternoon break, get a little fresh air maybe. The
9 bailiffs will let you walk up and down the hall, get a
10 little exercise or something. Just again, don't discuss
11 the case among yourselves while you're in the jury room.
12 Just relax for a few minutes. You can --

13 THE BAILIFF: Everyone else remain seated.

14 THE COURT: We can give you a tour of the fourth floor.
15 I'm sure that would be interesting.

16 Thank you very much.

17 (WHEREUPON, the jury left open court at approximately
18 3:38 p.m.)

19 THE COURT: Third floor.

20 That last batch of photographs, are there specific
21 objections?

22 MR. MAY: We'll have to put on the objection about
23 the one that we didn't know about.

24 THE COURT: The burning?

25 MR. MAY: Yes.

1 THE COURT: I know. I know. We'll do that when we
2 return.

3 (WHEREUPON, a short break was taken.)

4 MS. CAMPBELL: The rest of the remaining
5 photographs, we intend to offer with this witness. I
6 believe they have an objection to number 253.

7 THE COURT: To what?

8 MS. CAMPBELL: They have an objection to 253.

9 THE COURT: And?

10 MS. CAMPBELL: I withdraw it.

11 THE COURT: You withdraw it, thank you.

12 MR. SHEALEY: And I have one other objection.

13 I don't know that I talked Ms. Campbell about it,
14 but there's some news -- there's a news article on the
15 table for this case, and the objection that I would say
16 is --

17 THE COURT: How did that happen? Go ahead.

18 MR. SHEALEY: Well, I think the inference here,
19 Your Honor, could be that my client is sitting around
20 watching the newspaper coverage of the case and is
21 leisurely sitting in his house with this. You know, I
22 think it's extremely prejudicial, not really relevant or
23 proven.

24 There's a couple. This one and this one.

25 (WHEREUPON, there was a bench conference.)

1 THE COURT: You object to both of these?

2 MR. SHEALEY: Yes, sir.

3 THE COURT: All right. Okay. What's the probative
4 value?

5 MS. CAMPBELL: The probative value, Your Honor, is
6 it would show that the defendant was watching the
7 developments of that day, and I believe that is
8 significant.

9 THE COURT: What does it have to do with May 6th?

10 MS. CAMPBELL: It happened on May 6th.

11 THE COURT: I know that. What's it got to do with
12 it?

13 MS. CAMPBELL: Your Honor, we feel like he's
14 following the investigation, taking an active role in it.

15 THE COURT: What does that have to do with guilt or
16 innocence? It's not probative of anything. I mean, it's
17 a nice picture. It doesn't prove anything.

18 It may prove what you say, but that doesn't -- maybe
19 he was watching the news. It's not probative to the
20 case. It doesn't prove anything that is before the Court
21 in this matter.

22 Mr. May?

23 MR. MAY: Yes, sir. May it please the Court, Your
24 Honor?

25 THE COURT: Yes, sir.

1 MR. MAY: Yes, sir, I'd like to put on the record the
2 issue regarding State's Exhibit or State's Exhibit
3 Number 227 is the skeletal remains of this, the skull,
4 as well as the spinal column down to the pelvis of the
5 decedent.

6 Your Honor, prior to court coming to order and the
7 jury being brought in, we were attempting to go through
8 all the pictures to expedite the process.

9 Ms. Campbell said she had pictures of the house and
10 of Kendra Goodman's residence, Your Honor. In the middle
11 of the testimony of Stan Richards, she then pulls
12 out -- you can describe it as one of the most gruesome
13 crime scene pictures I've ever seen.

14 They are grotesque, and she sneaks them, after she
15 says the pictures that she was going to introduce that
16 she had and she wanted us to look at, were pictures of
17 Kendra Goodman's house and Theo Manning's house.

18 THE COURT: Did you see them pretrial?

19 MR. MAY: Pardon me?

20 THE COURT: Did you see them pretrial?

21 MR. MAY: We moved to make them a motion in pretrial,
22 which you said it was -- it was premature. You said we
23 needed to take it up as pieces, as the photographs were
24 coming in.

25 We made a motion, and you said it was premature at

1 the time.

2 THE COURT: But you saw the picture in pretrial. You
3 saw the picture.

4 MR. MAY: No, we didn't have a chance to go through
5 them pretrial. They were sent to us on a disk.

6 THE COURT: Okay.

7 MR. MAY: We have went through everything with what
8 we were -- imagining Ms. Campbell, she just gave us all
9 the pictures, and then she tried to sneak it?

10 THE COURT: Didn't you have the pictures pretrial?

11 MR. MAY: We had them on a C.D., yes, sir.

12 THE COURT: Okay.

13 MR. MAY: That was the reason why we were attempting
14 to get a ruling in pretrial to the gruesome and
15 grotesque pictures of the burnt body at the crime
16 scene. That's the specific reason why we moved pretrial
17 to address this prior to the jury coming in. We were
18 trying go through it to expedite everything, and
19 Ms. Campbell said she was going to be introducing pictures
20 of the house.

21 In the middle of Stan Richards' testimony, she brings
22 these up. Your Honor, I don't think we have had a
23 meaningful chance to challenge the pictures.

24 I cannot see their probative value whatsoever for
25 the crime of murder. It does not show a gunshot. It shows

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1 a grotesque skull and spinal column down to the pelvis.
2 It is in a trunk.

3 The defense, from its opening, has maintained that
4 the defendant shot the decedent. The defense from its
5 opening has maintained that he was a part of disposing
6 of the body.

7 He is not charged with that crime. There is no point
8 of that evidence coming in but for inflaming the passions
9 and prejudice of the jury.

10 Your Honor, that picture is completely inappropriate
11 in this -- in the trial of murder. Your Honor, if this
12 was a death penalty case, I would cite Gregg. I believe
13 this would be -- go not on the weight of guilt or
14 innocence, but this would be a penalty phase type of
15 picture.

16 It does not make it more or less likely that the
17 defendant shot Nikki McPhatter. It does not make it more
18 or less likely that it occurred with malice
19 aforethought.

20 This picture is taken 25 days after the shooting.
21 It is highly prejudicial, Your Honor. It -- if 403 is
22 not applicable to this, then the 14th Amendment sure is.

23 Your Honor, I don't believe we have a meaningful
24 chance to address it at trial. She has published to the
25 jury. At this time, the defense would make a motion for

1 a mistrial due to that.

2 THE COURT: All right. What's the State's position?

3 MS. CAMPBELL: Our position, Your Honor, is it is
4 probative to the issue of malice.

5 For the things -- the reason it wasn't shown, the
6 picture wasn't taken for 25 days is because the defendant
7 hid the car in the woods, which he admits to. We weren't
8 able to find it without his assistance, which we never
9 did get.

10 In addition, Your Honor, I offered a second picture.
11 You did rule that one out; that it would be not appropriate
12 to put in both pictures of the trunk area. We did remove
13 that.

14 In addition, Your Honor, the pictures that I showed
15 in the pretrial are all the same set of facts of the
16 pictures they just went back through again and are now
17 objecting to three more. So I don't know what he did look
18 at and what he didn't as far as us showing it to them.

19 We provided all of the photographs, Your Honor,
20 prior -- in discovery, prior to this trial happening. He
21 also had notice of Stan Richards and what he was going
22 to do and what he observed.

23 Specifically, Stan Richards, according to his
24 follow-up, is all dedicated to when he went to the scene
25 and the trunk was opened.

1 THE COURT: All right. I've already admitted the
2 picture.

3 MS. CAMPBELL: Thank you.

4 THE COURT: Are you ready for the jury?

5 MS. CAMPBELL: The State's ready.

6 MR. MAY: Your Honor, we would like to address one
7 issue.

8 THE COURT: Hold on one second. Your motion for a
9 mistrial is denied.

10 MR. MAY: Yes, sir.

11 Your Honor, we would like to address one more issue.
12 In a pretrial motion, we, the defense, asked if we could
13 obtain transcripts from the pretrial testimony, and we
14 were told that it would be an impossibility.

15 We have since learned that the State has obtained
16 the defendant's pretrial testimony from his Jackson V.
17 Denno hearing. Your Honor, I believe that this is an
18 unfair prejudice to the State. I'd ask that the State
19 not be allowed to use that transcript if -- because the
20 defendant was not provided similar opportunities for the
21 State's witnesses.

22 (His Honor indicates.)

23 THE COURT REPORTER: I provided him with an
24 opportunity, which is why I shared with them that it had
25 been requested by the State, just that one portion. I

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1 couldn't provide the entire 500 pages of pretrial.

2 THE COURT: She said she could not produce anything.

3 MR. MAY: Your Honor, I was referring to law
4 enforcement, to the State's witnesses, that they're
5 intending to impeach Mr. Manning with his pretrial
6 testimony from a transcript that done by a certified
7 court reporter from pretrial.

8 Your Honor, we were denied that opportunity for the
9 law enforcement officers that the State has called thus
10 far, and we were not able to -- for Detective Fitch, for
11 Detective Hopkins, for Detective Martin. When they put
12 them up, we did not have their pretrial transcript to
13 impeach them with.

14 Your Honor, I believe that this is --

15 THE COURT: All right.

16 MR. MAY: -- we're being denied an opportunity to
17 impeach their witnesses, yet they'll be given an
18 opportunity to impeach ours.

19 THE COURT: All right.

20 MR. MAY: Through a pretrial transcript.

21 THE COURT: I see what you mean. Well, we don't
22 even know if your client is going to take the stand yet.

23 MR. MAY: Uh-uhm, Your Honor, I believe that in my
24 opening, I testified, stated that he was going to take
25 the stand.

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1 THE COURT: I have know, but it's not the time.

2 MR. MAY: So, Your Honor, I believe that -- I would
3 ask that they not be able to -- allowed to impeach him
4 with transcripts, and in the alternative, we'd ask for
5 transcripts of Investigator Isenhoward and Investigator
6 -- or Sergeant Isenhoward and Sergeant McDaniels so
7 that we could impeach them with their own words.

8 THE COURT: I'll ask. I'll talk to the court
9 reporter, but I -- I'm not going to make her -- I'll talk
10 to the court reporter.

11 Ready for the jury?

12 MS. CAMPBELL: The State is ready.

13 THE COURT: Defense ready?

14 (There was no response.)

15 THE COURT: Is the defense ready?

16 MR. SHEALEY: Yes, sir, Your Honor.

17 THE COURT: Okay. Bring the jury.

18 (WHEREUPON, the jury came into open court at
19 approximately 3:00 p.m.)

20 THE BAILIFF: All jurors are present, Your Honor.

21 THE COURT: All right. Thank you very much.

22 You may continue, Solicitor.

23 MS. CAMPBELL: May it please the Court, Your Honor.

24 At this time, we'd offer State's Exhibit 324 through 333.

25 (WHEREUPON, State's Exhibits Nos. 324 - 333 were

1 admitted into evidence.)

2 MR. MAY: Subject to our prior objection, Your Honor.

3 THE COURT: All right. Subject to prior objections.

4 BY MS. CAMPBELL:

5 Q And then in general, State's Exhibit 324 and 325, does
6 this show generally the area and the master bedroom of
7 the house on Bluff Road?

8 A It does.

9 Q This other photograph, as well.

10 I want to show you what's been marked as State's
11 Exhibits 311 through 316. Do you recognize those?

12 A (There was no response).

13 Q Excuse me. Yeah, that's right.

14 A Yes, I do.

15 Q Were those photographs taken of the defendant's
16 house on the date y'all executed that search warrant?

17 A It is.

18 Q And does that fairly and accurately depict that area?

19 A Yes, ma'am.

20 MS. CAMPBELL: Your Honor, at this time we'd offer
21 State's Exhibits 311 through 316.

22 MR. MAY: Subject to our prior objection, Your Honor.

23 THE COURT: All right.

24 (WHEREUPON, State's Exhibits Nos. 311 - 316 were
25 admitted into evidence.)

1 BY MS. CAMPBELL:

2 Q Do these photographs show one of the interior rooms
3 to this house?

4 A It does.

5 Q And I'll get back to whether anything was significant
6 was found in that area.

7 Next I want to show you State's Exhibits 304 through
8 308. Do you recognize those?

9 A I recognize the kitchen area of the residence.

10 Q And does that fairly and accurately depict the kitchen
11 area as y'all saw it that day?

12 A It does.

13 MS. CAMPBELL: 304 through 308.

14 THE COURT: Same objection?

15 MR. MAY: Subject to prior objections, Your Honor.

16 (WHEREUPON, State's Exhibits Nos. 304 - 308 were
17 admitted into evidence.)

18 BY MS. CAMPBELL:

19 Q Again, does this show the general kitchen area of this
20 home?

21 A It does.

22 Q State's Exhibit 299 through 303, does that show
23 another room?

24 A Yes. It does.

25 Q And what room is that, sir?

1 A That would be one of the rooms in the upstairs area.

2 Q Does that fairly and accurately depict the appearance
3 of that room?

4 A It does.

5 MS. CAMPBELL: Your Honor, at this time we'd offer
6 State's Exhibit Number 299 through 303.

7 MR. MAY: Subject to prior objections, Your Honor.

8 (WHEREUPON, State's Exhibits Nos. 299 - 303 were
9 admitted into evidence.)

10 BY MS. CAMPBELL:

11 Q I show you State's Exhibits number 292 and 293. What
12 area does that show, sir?

13 A This is the hallway area in the upstairs of the
14 residence.

15 Q And was that significant in your investigation?

16 A It was.

17 MS. CAMPBELL: Your Honor, at this time we'd offer
18 those two into evidence.

19 MR. MAY: Prior objection, Your Honor.

20 THE COURT: Same objection.

21 (WHEREUPON, State's Exhibits Nos. 292, 293 were
22 admitted into evidence.)

23 BY MS. CAMPBELL:

24 Q And is this the hallway outside the bedroom including
25 the master bedroom?

1 A Yes.

2 Q I'll get back to those in a minute. I show you State's
3 Exhibits 294 through 298. Were those also of another
4 room?

5 A That's an additional room into the interior of the
6 residence in the upstairs.

7 Q And do those fairly and accurately depict the area
8 that you saw that day?

9 A They did.

10 MS. CAMPBELL: 294 through 298.

11 MR. MAY: Subject to prior objections.

12 (WHEREUPON, State's Exhibits Nos. 294 - 298 were
13 admitted into evidence.)

14 BY MS. CAMPBELL:

15 Q State's Exhibits number 278 through 290, do you
16 recognize those?

17 A Yes. This is the garage area of the residence, and
18 it also depicts -- I believe there were three small rooms
19 off the left side of the garage.

20 Q Small rooms off the garage?

21 A Yes.

22 MS. CAMPBELL: Your Honor, at this time we'd offer
23 State's Exhibits Number 278 through 290.

24 MR. MAY: Subject to prior objection, Your Honor.

25 THE COURT: Admitted.

1 (WHEREUPON, State's Exhibits Nos. 278 - 290 were
2 admitted into evidence.)

3 BY MS. CAMPBELL:

4 Q I show you State's Exhibits Number 273 through 277.

5 A That's one of the bathrooms.

6 Q And then 272 through 275?

7 A That's depicting the upstairs bathroom of the
8 residence.

9 Q Excuse me, I misstated those numbers, Your Honor,
10 it's 270 through 272.

11 Do those fairly and accurately represent the areas?

12 A They do.

13 MS. CAMPBELL: Numbers as State's Exhibits 270
14 through 277, the two bathrooms.

15 MR. MAY: Subject to prior objection, Your Honor.

16 THE COURT: All right. Admitted.

17 (WHEREUPON, State's Exhibits Nos. 270 - 277 were
18 admitted into evidence.)

19 BY MS. CAMPBELL:

20 Q Almost through. 263 through 269, is that another room
21 in the house?

22 A Yes, it is.

23 Q And is that one of the bedrooms, I believe?

24 A Yes, it is.

25 Q Does that fairly and accurately depict that room?

1 A It does.

2 MS. CAMPBELL: Your Honor, at this time we'd offer
3 270, 63 through 269.

4 MR. MAY: Subject to prior objections.

5 THE COURT: Same objection.

6 THE COURT REPORTER: Could you state the numbers
7 again?

8 MS. CAMPBELL: 263 through '69.

9 (WHEREUPON, State's Exhibits Nos. 263 - 269 were
10 admitted into evidence.)

11 THE COURT REPORTER: Thank you.

12 MS. CAMPBELL: Okay.

13 BY MS. CAMPBELL:

14 Q Finally, State's Exhibits 251 through 261.

15 A These photographs depict the inside lower level of
16 the residence as you come in and some items that were
17 photographed in those areas.

18 Q And do these fairly and accurately depict the area
19 as you saw it?

20 A Yes, they do.

21 MS. CAMPBELL: Finally, Your Honor, 251 through 262.

22 MR. MAY: Subject to prior objection, Your Honor.

23 THE COURT: Admitted over objection.

24 (WHEREUPON, State's Exhibits Nos. 251 - 262 were
25 admitted into evidence.)

1 BY MS. CAMPBELL:

2 Q Once the interior of the room was photographed, did
3 y'all do some testing with either an alternative light
4 source or luminol in this case?

5 A Yes, both.

6 Q And what were the results?

7 A Well, we went through the whole house predominantly
8 the first day upstairs using the alternative light source
9 and luminol, which is a presumptive test for blood.

10 Q Okay. And what were the results of the upstairs area?

11 A We found some positive results upstairs.

12 Q In what area?

13 A Basically the biggest result was on the linoleum of
14 the hallway.

15 Q The linoleum of the hallway?

16 A Yes, ma'am, outside the entrance to the master
17 bedroom.

18 Q Specifically 292 and 293, do they show some of that
19 area?

20 A Yes, 293 does. 292 is the other end of the hallway
21 next to -- going toward the bathroom.

22 Q So the area we're talking about is 293. When you
23 luminolled that area, what was the result?

24 A It was a positive reaction.

25 Q And luminol is a presumptive test for blood?

1 A Yes, it is.

2 Q Does it also react to other materials?

3 A It can.

4 Q And what materials do those include?

5 A That would have been materials such as metallic
6 materials that has a substance of iron mixed with it or
7 some plant materials, predominantly vegetable or
8 cleaning materials, predominantly bleach.

9 Q And I'll soon get to that. Bleach, what effect does
10 that have on your ability to collect blood evidence and
11 D.N.A. evidence?

12 A Well, bleach can clean up blood and just about
13 anything else, so if you had something there to begin
14 with, there's a possibility it's no longer there. It's
15 quite substantial.

16 Q But that area tested positive with the luminol?

17 A It would -- it had a positive reaction, yes, ma'am.

18 Q You also -- in the pictures that we put in, 283 and
19 282 shows what?

20 A It shows -- 282 shows a bucket with -- I guess, it
21 appears to be a mop inside it and mopping materials in
22 the other photographs also.

23 Q Okay. And those are found in the residence when you
24 executed the search warrant?

25 A Yes.

1 Q And where were those located?

2 A I believe those were found in the garage in one of
3 the small rooms off to the side.

4 Q I show you what's been marked as State's Exhibits 278
5 and 280. What does that represent?

6 A These are some of the rooms also -- that was also that
7 was off to the side in the garage.

8 Q Okay. And what's depicted in those -- what do you
9 see in those rooms?

10 A It looks like pieces -- some type of soft materials.

11 Q Is there also linoleum in there?

12 A Yes, there is.

13 Q And does that linoleum match the linoleum that was
14 in the upstairs hallway?

15 A It appears to.

16 Q Finally, in the garage, too, in 290 and 278, you can
17 see the back of it. Was there a vehicle in there?

18 A Yes. There was.

19 Q Did that vehicle have any wheels on it?

20 A Yes.

21 Q Rims?

22 A Rims, no tires.

23 Q Rims, no tires.

24 The next day, did you return back to -- that same
25 scene, 8047 Bluff Road?

1 A I did.

2 Q Did you do some additional testing?

3 A We did some additionally testing --

4 Q To the best of your knowledge.

5 A Yes, both alternative light source and luminol,
6 again, throughout the top second floor of the residence,
7 down through the first floor of the residence.

8 Q And what were the results from the first floor of the
9 residence?

10 A The second day was negative.

11 Q So the positive results could be from the hallway?

12 A That's correct.

13 Q Part of your investigation, were numerous swabs
14 taken from different areas including that hallway?

15 A Yes.

16 Q For possible D.N.A. testing on a later date?

17 A Yes.

18 Q Those were collected and stored properly, and
19 submitted into evidence?

20 A Yes. They were.

21 Q During the course of your investigation, I believe
22 you returned back to that same scene the next day on
23 the 1st?

24 A On the 1st at about 4:20 in the afternoon, I did
25 return with an additional search warrant to that

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1 residence.

2 Q And did Investigator Isenhoward participate in that
3 search of the residence at some point?

4 A At that time when I went back on the first, no, it
5 was only me.

6 Q Only you on the 1st.

7 A Yeah.

8 Q The other two, there were investigators present?

9 A Yes.

10 Q I want to show you State's Exhibits 194 and 195, were
11 those two items -- excuse me, 193. Were these items
12 collected for D.N.A.?

13 A I do not know.

14 Q And finally, the last time you went back, did you
15 collect what's been marked as State's Exhibit 191?

16 A I did.

17 Q And what's in this box?

18 A It's a gas can.

19 MS. CAMPBELL: Your Honor, at this time I'd offer the
20 State's Exhibit 191 into evidence.

21 MR. MAY: Subject to prior objection, Your Honor.

22 THE COURT: All right. Admitted.

23 (WHEREUPON, State's Exhibit No. 191 was admitted
24 into evidence.)

25 BY MS. CAMPBELL:

1 Q You're familiar with the interior of the house?

2 A I am.

3 Q Were you able to view a diagram that was prepared,
4 not to scale, but of the interior of the house?

5 A Yes.

6 Q And I want to show you what's been marked as
7 State's Exhibit 184 and 185. Does that fairly -- do
8 these two fairly and accurately depict -- not to scale,
9 the interior of the house?

10 A Yes, that's the downstairs area.

11 Q And --

12 A And the downstairs area.

13 MS. CAMPBELL: Your Honor, at this time we'd offer
14 State's Exhibits 184 and 185 into evidence.

15 MR. MAY: Subject to prior objection.

16 THE COURT: All right. Admitted.

17 (WHEREUPON, State's Exhibits Nos. 184, 185 were
18 admitted into evidence.)

19 BY MS. CAMPBELL:

20 Q State's Exhibit Number 184 just shows kind of a
21 layout of the lower part of this house, this house?

22 A Yes, ma'am.

23 Q Specifically, on State's Exhibit Number 185, there
24 appears to be a hallway down the center of this; is that
25 correct?

1 A That's correct.

2 Q What area was it that tested positive when you were
3 able to do your luminol that day?

4 A When you come up the steps on the lower right, take
5 a left, that first bedroom on the left -- the first
6 bedroom on the right -- left area, in the hallway.

7 Q In this hallway right here?

8 A That's correct.

9 Q And is that the area of this house that tested
10 positive?

11 A It is.

12 Q For that?

13 A Using luminol, yes, ma'am.

14 Q And this room here that leads into, what was
15 considered to be in this house?

16 A That room, that's the master bedroom.

17 Q The master bedroom?

18 A Yes.

19 MS. CAMPBELL: Thank you for your patience. I don't
20 have anything further.

21 THE COURT: Cross-examination?

22 MR. MAY: Beg the Court's indulgence.

23 (Pause)

24 MR. MAY: No further -- we don't have any questions
25 for this witness.

1 THE COURT: All right. You may come down.

2 May this witness be excused?

3 MR. MAY: Without objection, Your Honor.

4 THE COURT: Approach the bench, please.

5 (WHEREUPON, a bench conference was held in the
6 presence, but not within the hearing of the jury.)

7 MS. CAMPBELL: State calls Rachel Grant.

8 RACHEL GRANT,

9 after being duly sworn, testified as follows:

10 THE CLERK: Thank you. Have a seat in the witness
11 stand. State your name for the record.

12 THE WITNESS: Rachel Grant.

13 DIRECT EXAMINATION:

14 BY MS. CAMPBELL:

15 Q Okay. If you could speak up a little bit. It's a
16 little hard to hear.

17 Ms. Grant, where are you employed?

18 A At the Richland County Sheriff's Department.

19 Q And what do you do there, ma'am?

20 A I am a D.N.A. analyst.

21 Q And tell this jury what your duties include as a
22 D.N.A. analyst at the Richland County Sheriff's
23 Department.

24 A Primarily, my duties are I obtain evidence. I
25 process that evidence. I attempt to obtain D.N.A.

1 profiles from that evidence. Then from there, you
2 actually do a report on that evidence -- on the evidence.

3 Q When evidence is collected from a crime scene, you
4 said you attempted to collect D.N.A. evidence. Are you
5 always able to get D.N.A. evidence from a crime scene?

6 A No.

7 Q Why is that, ma'am?

8 A Several factors. How much D.N.A. is left, the
9 environment that it has been left in, whether or not it's
10 degraded, and it's just -- sometimes it's unsuccessful
11 to get a D.N.A. profile.

12 Q And do attempts to collect blood evidence or saliva
13 evidence -- things such as bleach and things of that
14 nature, does that prohibit your ability to get a result?

15 A Yes, it does.

16 Q Why is that?

17 A Bleach is a cleaning chemical, and it will actually
18 destroy cells and degrades D.N.A. that's there, so it makes
19 it unsuccessful in obtaining a D.N.A. profile.

20 Q Can you tell this jury a little bit about your
21 education, qualifications and training in the area of D.N.A.
22 analysis?

23 A I have a bachelor's degree in biology with a chemistry
24 minor from Winthrop University and am currently obtaining
25 my master's degree in forensic serology and D.N.A. from

1 the University of Florida.

2 Since I started my career at Richland County, I have
3 undergone training in the field of forensic serology and
4 D.N.A. training. I have attended C.O.D.I.S. training.
5 I have attended training by the manufacturer of
6 instrumentation that we use in our laboratory.

7 I have been trained by two court-certified D.N.A.
8 analysts and have successfully concluded competency set
9 forth by the F.B.I. and by the D.N.A. advisory board.

10 Q And is your laboratory at the Richland County
11 Sheriff's Department accredited in anyway?

12 A Yes, it is.

13 Q And who accredits your laboratory?

14 A A.S.C.L.D.

15 Q And that's a national accreditation?

16 A Yes.

17 MS. CAMPBELL: Your Honor, at this time I'd offer her
18 as an expert in the area of D.N.A. analysis.

19 THE COURT: Any objection or voir dire?

20 MR. SHEALEY: No voir dire.

21 THE COURT: All right. You may proceed.

22 BY MS. CAMPBELL:

23 Q And in this case, specific to this case, were there
24 certain buccal swabs or known standards that were
25 submitted to you?

1 A Yes.

2 Q And explain to the jury what a buccal swab is, how
3 it's obtained and why you have to have a minimum standard
4 to do any comparison down the road.

5 A In order to interpret any type of D.N.A. result, we
6 have to know what's called -- we have to have what is
7 called a known standard, which is a reference sample from
8 an individual.

9 How that's obtained is taking a sterile cotton
10 swab. It's taken from his mouth. That actually -- we can
11 develop that into that person's profile.

12 A D.N.A. profile that's developed can't tell us who
13 it is, who it belongs to, but by obtaining that person's
14 profile, we can use that for comparison purposes towards
15 other items of evidence.

16 Q And when all these buccal swabs were submitted to
17 you in this case, along with the other case, were they
18 packaged properly and submitted in a proper fashion?

19 A Yes. They were.

20 Q And who did you actually get the known standards or
21 buccal swabs from in this case?

22 A I received a buccal swab from Kendra Goodman, a
23 buccal swab from Theodore Manning, a buccal swab from
24 Candace Jackson, and a buccal swab from Brian Bookert.

25 Q Okay. So you got one from Kendra Goodman?

1 A Yes.

2 Q Theodore Manning?

3 A Yes.

4 Q A guy named Brian Bookert?

5 A Uh-huh.

6 Q And finally Candace Jackson?

7 A Yes.

8 Q Is it unusual for there to be submitted more than

9 one buccal swab?

10 A No.

11 Q In this case did you also receive, along with

12 Investigator Kevin Isenhoward, some underwear to be used

13 as a known standard for the victim?

14 A Correct.

15 Q And if the victim's body is in such a shape that they

16 can't get blood, is that unusual for them to get a known

17 sample from the victim's clothing and/or personal

18 items?

19 A No, ma'am. It's not. Sometimes if a victim's

20 standard is not available, we will actually use one of

21 their items, a personal item from them, to obtain their

22 profile from that item.

23 Q And is that something -- excuse me. Sergeant

24 Isenhoward actually are provided that for you in this

25 case?

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- 1 A Yes.
- 2 Q For Nikki McPhatter?
- 3 A Yes.
- 4 Q In addition to that, did you also receive various
5 pieces of clothing from this defendant?
- 6 A Yes.
- 7 Q Item number 50, which was a gray shirt.
- 8 A Yes.
- 9 Q Item 56, which is a pair of red work pants?
- 10 A Yes.
- 11 Q And then two pairs, I believe, a pair of Nikes?
- 12 A Yes.
- 13 Q I believe one was from the interior of the house. One
14 was from the trunk of the vehicle?
- 15 A Yes.
- 16 Q Also, did you receive in this case for possible
17 testing two mops?
- 18 A Yes, that's correct.
- 19 Q And an actual comforter and coverings from that
20 comforter?
- 21 A Yes.
- 22 Q In addition to that, did you also receive from the
23 interior around the master bedroom multiple swabs,
24 including, I believe, nine swabs from around the master
25 bedroom door?

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- 1 A That is correct.
- 2 Q And then I believe one from the ceiling.
- 3 A Yes.
- 4 Q And then finally, did you also receive a cut out piece
5 of linoleum which you actually swabbed yourself?
- 6 A Yes, that's correct.
- 7 Q And you collected those swabs into evidence, as well?
- 8 A Correct.
- 9 Q And once you get in evidence from a possible crime
10 scene -- let me back up for a minute. Can you date D.N.A.?
- 11 A No, you cannot.
- 12 Q Can you tell this jury, say, I cut myself and bleed
13 on a floor or something, how long will my D.N.A. stay there
14 from my body fluids?
- 15 A It depends on many factors, the environment it's
16 kept in. Essentially, no, you cannot date it.
- 17 Q Did you attempt to develop D.N.A. from any and all
18 of these items including swabs from the interior of the
19 house?
- 20 A That's correct.
- 21 Q As well as from the comforter, the clothing, whatever?
- 22 A Yes.
- 23 Q And were you able to successfully match any D.N.A.?
- 24 Number one, first, you weren't able to develop D.N.A. from
25 many of these items; is that correct?

1 A That's correct.

2 Q Is that unusual?

3 A No, it is not.

4 Q From the items that you were able to develop the D.N.A.
5 from, were you able to match it to any of the known
6 standards, five known standards that were submitted to
7 you?

8 A No, I wasn't.

9 Q And is that unusual even if it's at a person's
10 residence like Theodore Manning's?

11 A No. It's not unusual.

12 Q You're familiar with the use of bleach. Has bleach
13 been used in your laboratory?

14 A Not in my laboratory right now specifically, no.

15 Q Sometimes it's used in D.N.A. laboratories?

16 A Yes.

17 Q And what do you do -- what does bleach do to actually
18 make sure your D.N.A. laboratory remains sterile so
19 there's no contamination issue?

20 A Typically, labs will use a dilution of bleach and
21 water to decontaminate the benches and items in the
22 laboratory between usage, so it's actually a cleaning
23 product for us.

24 Q So it's actually used to sterilize so there can't be
25 any cross-contamination?

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1 A Correct.

2 Q And if someone mops the floor with a combination of
3 bleach and water, if there is any evidence there, what
4 will that do to it?

5 A It would destroy any cells and degrade any D.N.A. that
6 was there.

7 Q And you actually swabbed the flooring that was
8 provided to you, and you couldn't match it to the victim
9 or anyone else?

10 A Correct.

11 MS. CAMPBELL: Thank you.

12 MR. SHEALEY: Your Honor, I don't -- I don't have any
13 questions for this witness.

14 THE COURT: All right. You may come down, ma'am.
15 May this witness be excused?

16 MR. MAY: No objection.

17 THE COURT: All right. Ladies and gentlemen, that
18 concludes the testimony for today. I'm going to ask
19 you to be back in the jury room Monday morning at ten
20 o'clock.

21 There are a number of matters I have to take up Monday
22 morning prior to the ten o'clock start time.

23 I'll ask you to -- we'll see you back at ten o'clock
24 in your jury room. Now, again, I'm going to caution you
25 about -- and I haven't noticed the press in here today,

1 but again, I caution you about not only looking at
2 the -- or observing or reading anything about this trial,
3 watching anything about it on the television or doing
4 any independent researching about it, not that you would,
5 but I caution you that that would be highly improper
6 over the weekend.

7 I hope you have a pleasant weekend. I look forward
8 to seeing you Monday morning. Thank you very much.

9 All right. The clerk says -- asked you to wait just
10 a minute in the jury room because she has got some -- what
11 do you have?

12 THE CLERK: I have excuses for next week.

13 THE COURT: Oh, she has a pile of checks in her hand.

14 (WHEREUPON, the jury left open court at approximately
15 4:30 p.m.)

16 THE COURT: We'll stand at ease until ten o'clock
17 Monday morning.

18 MS. CAMPBELL: Thank you, Your Honor.

19 (WHEREUPON, Court's Exhibit No. 5 was marked for
20 identification only.)

21 (WHEREUPON, Court was adjourned for the weekend.)

22 THE COURT: Is the State ready for the jury?

23 MR. GIESE: Yes, sir, Your Honor.

24 THE COURT: Is the defense ready for the jury?

25 MR. SHEALEY: Yes, sir.

1 THE COURT: Bring the jury, please.

2 (WHEREUPON, the jury came into open court at
3 approximately 10:30 a.m.)

4 THE BAILIFF: The jury all present, Your Honor.

5 THE COURT: Thank you very much.

6 Good morning, ladies and gentlemen.

7 THE JUROR: Good morning.

8 THE COURT: I hope you had a pleasant weekend. We're
9 ready to continue with the trial.

10 Solicitor, call your next witness.

11 MS. CAMPBELL: May it please the Court. The State
12 calls David Collins.

13 DAVID COLLINS,
14 after being duly sworn, testified as follows:

15 THE CLERK: Thank you. Have a seat in the witness
16 stand, please.

17 State your name for the record.

18 THE WITNESS: David Jeffrey Collins.

19 DIRECT EXAMINATION:

20 BY MS. CAMPBELL:

21 Q Investigator Collins, where are you employed?

22 A I'm employed by the Richland County Sheriff's
23 Department.

24 Q What do you do there, sir?

25 A I work in the Forensic Services Laboratory, Forensic

1 Science Laboratory, as a firearms and tool marks
2 examiner.

3 Q What does a firearms and tool marks examiner do?

4 A A firearms and tool marks examiner examines any type
5 of firearms or firearm-related evidence or tool mark
6 related evidence that is submitted to the laboratory.

7 Our usual function is to compare fired bullets or
8 fired cartridge cases from an incident with test
9 specimens, we'll fire from a suspect firearm in order to
10 determine if those particular evidence items were fired
11 from that particular firearm.

12 In many cases, we receive bullets and cartridge
13 cases, and we do not receive a firearm. In those cases,
14 we will attempt to determine what type of firearm that
15 fired this projectile or cartridge cases and inform the
16 investigators of that information.

17 Additionally, we can perform muzzle target distance
18 determinations in some cases, serial number restorations,
19 or any other specialized type of firearms-related
20 examination.

21 Q Can you tell this jury a little bit about your
22 education, your training, in the field of firearms?

23 A I received a bachelor's degree from the Citadel in
24 1984. After I have become employed at the State Law
25 Enforcement Division or S.L.E.D. in 1990, I began an

1 intensive on-the-job type of firearms examination
2 training. There are no schools you can go to per se.

3 To learn how to be a firearms and tool marks
4 examiner, the training is essentially like an
5 apprenticeship. The training lasts for two-and-a-half
6 years.

7 After the completion of that course of training, I
8 was certified by S.L.E.D. as a firearms examiner and began
9 performing casework on my own.

10 Following that, I received continuing education and
11 training in my field in the form of firearms or parent
12 courses or arms courses that I have received from various
13 manufacturers to include Beretta, Highpoint, Holt, Sig,
14 and others.

15 I've also received continuing education in the form
16 of training seminars that are provided by our
17 professional association, which is the Association of
18 Firearms and Toolmarks Examiners or A.F.T.E.

19 Q Have you been qualified before as an expert in the
20 area of firearms?

21 A Yes. I have qualified as an expert in the area of
22 firearms examination in the states of North Carolina,
23 South Carolina and Georgia. I have testified in the
24 circuit court system of South Carolina as an expert in
25 excess of 200 times. I've also qualified as an expert

1 in the military system and in the federal court system.

2 MS. CAMPBELL: And, Your Honor, at this time we'd
3 offer him as an expert in firearms examination.

4 THE COURT: Any voir dire or objection?

5 MR. MAY: No voir dire at this time, Your Honor.

6 BY MS. CAMPBELL:

7 Q Investigator Collins, in this case specifically, I
8 want to show you what's been marked as State's Exhibit
9 No. 136. Is that the evidence that was provided to you
10 regarding this case?

11 A This is the evidence I have examined. The containers
12 bear my markings, and there are some markings on the
13 items themselves. This is a pair of bullet or projectile
14 fragments that I received.

15 Q And tell this jury generally when -- are there two
16 types of handguns that are generally used?

17 A We commonly see what are -- are commonly -- what are
18 referred to as semiautomatic pistols and revolvers.

19 Q And how do they work, and what's the difference
20 between the two?

21 A The primary difference between the two when it comes
22 to the investigation of a shooting incident is that a
23 semiautomatic pistol is going to eject the cartridge case
24 at the location, if it is performing as it should, if it's
25 functioning properly.

1 A revolver, when it is fired retains all the fired
2 cartridge cases within the firearm until they're manually
3 ejected by someone after the shooting incident. Or
4 after -- in other words, they could be taken somewhere
5 else and then ejected from the gun.

6 Q And you referred to the terms such as cartridge casings,
7 and I think we are used the term projectile?

8 A Correct.

9 Q Do those actually make up what I call, or you used
10 the correct terminology, a bullet?

11 A Many people refer to a single unit of unfired
12 ammunition as a bullet. The actual correct term would
13 be a cartridge.

14 A A cartridge would be consisting of a bullet, which
15 is loaded into a cartridge case, the cartridge case which
16 contains the powder, which is used to propel the bullet
17 from the cartridge case.

18 Q What is the propelled -- the part that actually exits
19 out the front and actually goes toward the intended
20 target. What is that called?

21 A That would be a bullet or a projectile.

22 Q Projectile. And in the cartridge cases, how is that
23 initially -- how are they initially bound together and
24 then what separates them?

25 A Initially, they're bound together by -- the bullet

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1 is actually inserted into the mouth of the cartridge case.
2 Inside this cartridge case is gunpowder.

3 When the firearm was fired, the firing pin of the
4 gun will impact the primer, which is in the cartridge case,
5 which then detonates and ignites the gunpowder within the
6 cartridge case itself.

7 As that cartridge -- excuse me, as that gunpowder
8 is burning, it expands, and those gases cause the bullet
9 to be forced from the cartridge case and down the barrel
10 of the firearm.

11 Q And I believe you've indicated earlier in a
12 semiautomatic handgun, that cartridge case will actually
13 come out of the gun?

14 A If the gun is functioning properly, a cartridge case
15 will be ejected from a semiautomatic handgun each time
16 it is fired.

17 Q And each gun, I assume, functions somewhat
18 differently, but as far as expelling the cartridge casing
19 in a semiautomatic, would that be expelled out a number
20 of feet, yards or can you say?

21 A It's hard to say without actually having the firearm
22 itself and the ammunition that was used available for
23 testing. You could change certain characteristics, even
24 the way the gun is held, the angle in which the gun is
25 held will affect how far and what direction the cartridge

1 case is ejected.

2 Q In this case, to your knowledge, was any cartridge
3 casing that would have been expelled as a semiautomatic
4 gun, from the gun, ever provided to you for your
5 examination?

6 A I never received fired cartridge casings.

7 Q And you aren't aware of whether the gun was recovered?

8 A To the best of my knowledge, no, ma'am, it wasn't.

9 Q And as far as an actual -- let me get back. When you
10 did your examination on the items of evidence that were
11 actually provided to you, tell this jury what, if
12 anything, you were able to determine from examining the
13 projectiles that were taken at the autopsy?

14 A The first thing that we do when we receive any type
15 of evidence like this is that we will physically and
16 visually examine it. We'll take measurements, and we'll
17 weigh it. We're trying to determine, in the case of a
18 fired projectile or fragments, if we can, what caliber
19 of firearm they're consistent with having come from.

20 What I initially discovered on my visual
21 examination of these items is that I had the fragment of
22 a bullet jacket and also a fragment of the bullet core.

23 Many projectiles that we see, or bullets that we see,
24 used in semiautomatic pistols or in revolvers are what
25 we call jacketed projectiles.

1 They have usually a copper-type alloy, metal
2 covering, over a lead core. It is not uncommon when those
3 types of projectiles strike something for them to become
4 separated, for the jacket to separate from the core. That
5 is what appears to have happened in this case.

6 By examination of the core of the projectile, I was
7 not able to determine much. The core does not come into
8 contact with the barrel of the firearm directly. Thus,
9 it's not marked by the gun in a way that can be used to
10 identify either what type of firearm was used or a
11 specific firearm.

12 The jacket, however, does come into contact with the
13 barrel of the firearm. From that you can sometimes
14 determine, if you don't have a gun, what type of gun was
15 involved.

16 I was able to measure the diameter of the
17 projectile. It was badly distorted. The measurement was
18 not precise, but there was enough information for me to
19 come to the conclusion that it was consistent with having
20 been fired from a .38 caliber category firearm.

21 .38 caliber firearms, as a class, will also
22 include things like nine millimeters. They use the same
23 approximate diameter projectile, so we include that on
24 that list.

25 Further identification -- excuse me, further

001203

1 examination of that bullet jacket revealed the presence
2 of nine rifling groove impressions.

3 When the firearm is manufactured, especially a
4 handgun of this type, spiraling grooves called rifling
5 are formed in the barrel of the firearm.

6 Now, these spiraling grooves are there to cause a
7 bullet to spin or twist as it leaves the firearm. This
8 spinning action is there to cause the bullet to be stable
9 in flight, much the same way -- about when a quarterback
10 catches or throws a spiraling pass, you try to get the
11 bullet to spin to stabilize it.

12 Different manufacturers will use different numbers
13 of rifling grooves in phases. Within the same number of
14 rifling grooves, there may be different dimensions,
15 widths.

16 What we can do in the laboratory is count the number
17 of rifling groove impressions on the bullet. We can then
18 take measurements of those impressions, look at the
19 direction that they twist, if it's to the right or to the
20 left, put all this information into a database, which
21 would then provide us with possible brands. It also tells
22 us the calibers of firearms that could have fired that
23 projectile.

24 Q And you mentioned that there were two parts of the
25 actual projectile or bullet that's expelled from the end

1 of the gun?

2 A Yes. When they come out of the gun, they're together,
3 they're one item. When it strikes an object, sometimes
4 it's separated into multiple objects or fragments.

5 The projectile may be moving at several hundred to
6 several thousand feet per second when it leaves the barrel
7 of the firearm.

8 So based on that, when it strikes any type of foreign
9 object, it could potentially come apart.

10 Q Such as bone?

11 A It could have, yes.

12 Q And you mentioned that there were two parts on this
13 and I'll point out. You mentioned the core?

14 A Core, yes.

15 Q And which part?

16 A This is the fragment core material. It is basically
17 a lead or lead alloy material, a very soft metal,
18 relatively. This is very mangled. That would be
19 consistent with striking a hard object.

20 Q And as far as identifying features, on this one, you
21 testified that it would not necessarily have the
22 characteristics from the gun?

23 A No. That would not have any markings that I could
24 use or identify to a specific firearm.

25 Q But this wasn't part of the projectile, the bullet

1 that would have entered, say, at that the point?

2 A That's correct.

3 Q The jacket that you're referring to, is this it?

4 A Yes. This is the jacket. Actually, this is a copper
5 alloy type material. It's hard to determine that
6 because it has been darkened from prolonged exposure to
7 body fluids and to heat.

8 Q And you were able to do an examination to determine
9 this had certain characteristics which were significant
10 for you?

11 A Yes.

12 Q I take it you do that with a microscope?

13 A Yes. Most of my work is done under a microscope. We
14 also do -- we use two types of microscopes. We use what
15 we call comparison microscope. Usually when we're doing
16 an actual comparison of one item to another where we can
17 examine two items microscopically at the same time.

18 We also use a stereoscope which provides a little
19 less magnification but allows us to -- to look at the
20 whole item perhaps a little easier.

21 Q And in this, you had mentioned that once you get the
22 information and the characteristics which you saw with
23 this copper jacket, you then have a database that can give
24 you -- and you did your measurements, I'm sorry. I forgot
25 about that.

1 You have a database that can give you've information
2 about what type of gun might have --

3 A Yes.

4 Q And in this case, again, for the record, you were never
5 actually provided with a .380 in this case?

6 A I didn't receive a .380 auto caliber firearm, no.

7 Q Okay. What type of firearms would include the
8 markings that are on that jacket?

9 A My examinations of this jacket revealed that it had
10 nine rifling groove impressions, and they all had a left
11 twist.

12 Based on that information, placing it into the
13 database, and all I asked the database to provide for me
14 was on the .38 caliber, nine millimeter caliber firearms
15 that could have fired that projectile.

16 I put that information. I received one particular
17 brand of firearm, a Highpoint made firearm and a Highpoint
18 brand firearm with nine millimeter Luger or a .380 auto
19 caliber projectile.

20 That -- the database is not intended to be all
21 inclusive. It could be there are other items out there
22 that had not yet been entered into the database.
23 However, for as long as I could remember, the nine lefts
24 projectiles that I had seen had all come from Highpoint
25 brand firearms.

001207

1 Q Okay. So was that definitely a Highpoint brand
2 firearm --

3 A It was --

4 Q -- that shot it?

5 A -- more consistent with having come from a Highpoint
6 brand firearm.

7 Q And because of the size, the measurements and
8 everything, it would have been subsequent with consistent
9 with a nine millimeter or a .380; is that correct?

10 A It could have been there a nine millimeter Luger or
11 a .380 auto caliber.

12 Q And that was information you developed just based on
13 your examination prior to even being shown any paperwork
14 in this case?

15 A Yes, that is correct.

16 Q At a later date, were you then shown what's been
17 marked as State's Exhibit Number 193, 194 and 195
18 concerning a .380 Highpoint?

19 A I believe I remember these receipts. I do
20 specifically remember seeing this paper.

21 Q Okay. We'll talk about that State's Exhibit
22 Number 195, I believe?

23 A That is correct.

24 Q And in -- what information on State's Exhibit 195
25 was significant to you?

1 A State's Exhibit 195 is a South Carolina Law
2 Enforcement law enforcement division pistol purchase
3 application record. This is a form that a pistol or handgun
4 purchaser would have to complete at the point of sale when
5 buying a firearm.

6 It reflects the...

7 THE COURT: It's for I.D.?

8 MS. CAMPBELL: It's just for I.D. at this point, Your
9 Honor.

10 THE COURT: Okay.

11 MS. CAMPBELL: Your Honor, at this time, the State
12 would offer State's Exhibits 193, 194, 195.

13 MR. MAY: Subject to our objection, Your Honor. I
14 believe that there are duplicate receipts. We'd just ask
15 that one be chosen.

16 MS. CAMPBELL: No.

17 (Counsel conferring.)

18 MS. CAMPBELL: Okay.

19 MS. CAMPBELL: Subject to prior objection.

20 THE COURT: All right. Admitted.

21 (WHEREUPON, State's Exhibits Nos. 193 - 195 were
22 admitted into evidence.)

23 BY MS. CAMPBELL:

24 Q Specifically, you were saying what type of
25 documents does that reflect?

1 A This is a South Carolina Law Enforcement Division or
2 S.L.E.D. pistol purchase application record, and it
3 reflects the purchase or sale from a Highpoint brand model
4 C.F. .380 comp. semiautomatic pistol in a .380 auto caliber.

5 The name on the document is Theodore Manning, IV.

6 Q And commonly, is that the document that's used when
7 applying to buy a pistol?

8 A Yes.

9 Q And it would have been filled out by whom?

10 A It would be filled out by the purchaser.

11 Q And the purchaser's name is indicated on that
12 document?

13 A Theodore Roosevelt Manning, IV.

14 Q And this would be a .380 Highpoint?

15 A Yes.

16 Q As far as once you were provided with this additional
17 documentation, did you do any further research to see if
18 it was consistent with the characteristics you found on
19 the bullet or projectile in Ms. McPhatter's --

20 A Yes, I did. I actually contacted the manufacturer
21 of Highpoint firearms and spoke to a technical adviser
22 that the Association of Firearms and Toolmarks Examiners
23 has on staff at that particular agency.

24 Actually, the technical adviser for Highpoint is the
25 president of the company. His name is Tom Dean. I

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1 provided him with the make, model, caliber of the firearm
2 and the serial number and asked for him to tell me, if
3 possible, what rifling characteristics that firearm
4 would have had when it left the factory.

5 He was able to do that and determine that the firearm
6 was made back in 2001, and it would have left the factory
7 with nine left like that.

8 Q Which is what you found in your examination of this
9 bullet?

10 A Yes.

11 Q And prior to ever being provided with this paperwork,
12 you had already developed this projectile?

13 A It had nine left, right, and it was most consistent
14 with having been fired from a Highpoint nine millimeter
15 or a .380 auto caliber firearm.

16 Q And without having the gun itself, the .380 itself,
17 you can say it was consistent with but without actually
18 having to go in, you can't make a conclusive determination?

19 A Without having the actual gun itself to do the test
20 fire and examine it to microscopically compare those
21 tests with this projectile, I cannot tell you if that
22 firearm fired that projectile.

23 Q So your findings were consistent with the
24 documentation from 195?

25 A Yes.

1 MS. CAMPBELL: Thank you, Your Honor.

2 THE COURT: Cross-examination?

3 MR. MAY: Yes, Your Honor, briefly.

4 CROSS-EXAMINATION:

5 BY MR. MAY:

6 Q How are you doing?

7 A Fine, sir.

8 Q Can you just tell me what the date of that receipt
9 is?

10 A The date of the receipt?

11 Q Yes, sir, what date -- when the background check was
12 done.

13 A Date of the sale was February 12th of 2002.

14 MR. MAY: All right. Thank you very much.

15 THE COURT: Anything further?

16 (Pause)

17 MS. CAMPBELL: No, Your Honor.

18 THE COURT: All right, sir. You may come down. May
19 the witness be excused?

20 MR. MAY: Without objection, Your Honor.

21 THE COURT: Without objection. Thank you very much.

22 Next witness.

23 MR. GIESE: May it please the Court, Your Honor. The
24 State calls Sergeant McDaniels.

25 MR. GIESE: May it please the Court, Your Honor. The

1 State calls Sergeant McDaniels.

2 SHAWN MCDANIELS,

3 after duly affirming, testified as follows:

4 THE CLERK: Please state your name for the record.

5 THE WITNESS: Walter Shawn McDaniels.

6 DIRECT EXAMINATION:

7 BY MR. GIESE:

8 Q Sergeant McDaniels, where are you employed?

9 A With the Richland County Sheriff's Department.

10 Q And how long have you been with the Richland County
11 Sheriff's Department?

12 A Eleven years and six months.

13 Q During those 11 years, what have your duties been?

14 A Initially, I was a uniformed deputy. I got promoted
15 to Investigations and to Major Crimes. Since 2001, I've
16 been in the C.I.D. Since 2005, I was promoted to sergeant,
17 and I'm currently a sergeant within the Major Crimes
18 Division.

19 Q How long were you just -- were you a line deputy?

20 A Two years, two years on that.

21 Q And then you were promoted to investigator?

22 A That is correct.

23 Q And then from there, where did you go?

24 A I went to Major Crimes Division. I worked within the
25 Major Crimes Division for approximately four,

1 four-and-a-half years.

2 I took the exam for the sergeant's test and made
3 sergeant in 2005. I was sergeant over Cold Case Homicide
4 for approximately two years and got placed into the Major
5 Crimes Division.

6 Q So you've been in major crimes for how long now?

7 A Since 2002.

8 Q And you're actually a supervisor there?

9 A That is correct.

10 Q Now, I want to draw your attention to this case, if
11 we could. Who was your first contact with?

12 A On May 29th of 2009, approximately 2:45,
13 three o'clock in the afternoon, I was contacted by Captain
14 Smith who asked me to assist in the search of the victim's
15 vehicle. Up until that time, I wasn't involved in it at
16 all.

17 Q Now, you say you were asked to assist. Did you drive
18 out to the area?

19 A I did. I knew everyone was going to Exit 34, I
20 believe. I then went out there with them. As soon as I
21 arrived, I got out of the car. Before I could really see
22 the car, Captain Smith walked back towards me, told me
23 that he saw the car and that he saw the -- what he believed
24 to be human remains in the trunk.

25 He instructed me to immediately return back to

1 Columbia to generate an arrest warrant.

2 Q And who was that arrest warrant for?

3 A That was for Theodore Roosevelt Manning, IV.

4 Q And did you do that?

5 A Yes, I did.

6 Q Now, when you do something like that, you have -- who
7 signs that?

8 A A magistrate judge. In this case, it was Judge
9 Edmonds who was the assigned bond court magistrate.

10 Q So you take the information that you have to a
11 magistrate. At that point, they issue a warrant or they
12 don't issue a warrant?

13 A That is correct. They take a look at the -- the
14 narrative on the affidavit to see whether or not we have
15 enough to establish probable cause to make an arrest.

16 Q Approximately what time was that when you got that
17 arrest warrant?

18 A I -- A little bit after six o'clock. Again, I went
19 and traveled back to Winnsboro, got back to headquarters,
20 got all the facts. Generated the -- what is called a
21 warrant worksheet. That warrant worksheet is the
22 actual -- has the narrative on there stating the facts.

23 I then had to get a -- had to locate a judge. In this
24 case, I had to go with the only judge that was available
25 at that time, since it was after hours, and that was Judge

1 Edmonds, again assigned to bond court, which has extended
2 hours.

3 Q That's not in the sheriff's department, is it?

4 A No, it's not.

5 Q So you had to travel somewhere to actually go meet
6 the magistrate?

7 A That is correct.

8 Q Now, after you got the arrest warrant, what, if
9 anything, did you do?

10 A I then took the arrest warrant, made contact with
11 Sergeant Robinson, Investigator Holly Wagner. We -- as
12 well as several other uniform deputies, we met at a location
13 just a little bit away -- a little bit away from
14 Mr. Manning's location to come up with a game plan, and
15 that's for safety reasons with respect to making contact
16 with the -- the defendant.

17 Q Now, that's fairly standard? You always do that?

18 A Yes, yes. We need to, you know, get our minds
19 together, come up with a plan. With respect to the
20 severity of the crime, you know, it being murder, we needed
21 to make sure that we're of one mind, all on the same page.

22 Q And after you had this meeting, did you proceed to
23 his residence?

24 A That is correct.

25 Q And tell this jury, if you would, what exactly

1 happened when you got there.

2 A Again, as I stated, around 6:30 I met with my team,
3 so to speak. We went out there to the house. I could tell
4 that -- that someone was inside of the house. We knocked
5 on the door, yelled "Sheriff's department." At that time,
6 no one answered the door.

7 I had a door ram, so I rammed the door. As soon as
8 I walked inside the living room, the foyer, I was met by
9 the defendant, Mr. Manning.

10 Q Is he in -- is he in the courtroom?

11 A He is, yes.

12 Q Would you point to him, please?

13 A He is the individual with the beige sweater in
14 between the female attorney with the white jacket and
15 Mr. May.

16 Q Okay. Now, so you go in, you see him. What, if
17 anything, do you do at that time?

18 A At that time, of course, because of the -- the type
19 of crime that we're looking into, I had my gun out when
20 I first walked in. And as soon as I saw him, he
21 immediately got on the ground. Of course, I --

22 Q Are you yelling for him to get on the ground?

23 A Oh yes. I'm yelling, typical entry, get down, get
24 down, get down. Again, after I said that, you know, he
25 immediately got on the ground.

1 I remember actually thinking how fast it was, even
2 in the midst of it. It's amazing what your mind does,
3 but he immediately got on the ground. I was assisted by
4 other individuals, who while I holstered my weapon,
5 he -- I then handcuffed him.

6 Q When you say you handcuffed him, tell the jury how
7 you did that.

8 A Again, I holstered my weapon and took the handcuffs
9 out. You know, we have what is called tactical handcuffing
10 where you try to kind of get it done in one sweep. That
11 was done. He complied, you know, and at that time was
12 cooperative.

13 As I stated earlier, it was probably the fastest,
14 I guess, get down, for lack of a better term. I remember
15 it distinctively standing out in my mind.

16 Q When he got down, he got down on his face?

17 A Yes, he did.

18 Q So you handcuffed him behind his back?

19 A That's correct.

20 Q Now, did you use regular handcuffs, or did you only
21 use the plastic kind? Or what kind do you use?

22 A I have the metal handcuffs, the traditional silver,
23 metal handcuffs.

24 Q Now, once he was handcuffed and -- did you lift him
25 up, or how did you get him up?

1 A There is a technique that we use to get them up. We
2 have been taught that through our training where we ask
3 them to pull one knee, pull one of your legs inward so
4 we can roll you over on your knee and you can kind of assist
5 us with getting up.

6 While he was down, I actually -- he kept stating,
7 "What did I do? What did I do?" I told him at that
8 particular point, "I'll explain that to you later."

9 Q Now, when he was saying, "What did I do? What did
10 I do?" was that when you were pulling him up or walking
11 him somewhere, or when was that exactly?

12 A That was, again, when we -- when he first got down
13 on the ground and throughout the entire process of
14 getting him up and walking him out the door.

15 At that point, we hadn't cleared the entire house
16 yet. Again, he met us in the front living room near the
17 foyer near the front door, and you know, for officer's
18 safety reasons, we needed to get him out of there and clear
19 the rest of the home.

20 Q And was that done?

21 A That was done.

22 Q Now, when he was saying, "What did I do? What did
23 I do?" was he inside the house or outside the house?

24 A He did it pretty much throughout the entire
25 transition. Again, that was fast because we needed to

1 get the rest of the house cleared. So he was getting up.

2 "What did I do? What did I do?"

3 "I will explain that to you later, okay." Meanwhile,
4 the rest of the team went through the house, and he was
5 escorted out of the house. So he continued all the way
6 out to the car.

7 At that time, I was still coordinating with the other
8 units that were on the scene, and that's pretty much where
9 it -- that continued.

10 Q But from the point of his arrest to your -- his
11 transition to the car, you were with him at that time?

12 A That is correct.

13 Q Now, once you got him to the car, whose car was it?

14 A That was my car.

15 Q All right. And what kind of car was that?

16 A That was a silver Trailblazer.

17 Q All right. Now, you've got him at the car. Tell the
18 jury what happened at that point.

19 A I was accompanied by Investigator Holly Wagner, as
20 well, who is also a member of the Major Crimes Division,
21 and she was right along with me. Again, on the -- when
22 he got to my car initially, we were outside the car.

23 I was still coordinating via Nextel. Holly Wagner
24 was still present. We then got inside the car. He was
25 advised of his Miranda rights.

- 1 Q Let me stop you there.
- 2 A Okay.
- 3 Q When you say you got him to the car, who got where?
- 4 A I placed Mr. Manning in the front seat.
- 5 Q Is that a bucket seat?
- 6 A I'm not sure what a bucket seat is.
- 7 Q Just a single seat.
- 8 A It's a single seat.
- 9 Q There's a console?
- 10 A That's correct.
- 11 Q And you had the driver's seat?
- 12 A That's correct.
- 13 Q So you had him in the passenger's seat?
- 14 A He was in the front passenger's seat.
- 15 Q Where was Holly Wagner at the time?
- 16 A Holly was sitting in the rear of my vehicle, and I
- 17 was in the driver's seat.
- 18 Q You're in the driver's seat. Tell the jury what
- 19 happened.
- 20 A I immediately advised him of his Miranda rights .
- 21 verbally and --
- 22 Q Now, let me stop you there.
- 23 A Sure.
- 24 Q I want you to verbally tell the jury exactly what you
- 25 told Mr. Manning when you were in the car.

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1 A I explained to him, "You have the right to remain
2 silent. Anything you say can and will be used against
3 you in a court of law. You have the right to an attorney.
4 If you cannot afford an attorney, one will be appointed
5 for you."

6 I explained to him -- I further explained to him,
7 "If you decide to stop answering questions without an
8 attorney, you still have the right to stop answering at
9 any time until you talk to an attorney."

10 At that point, I then asked him if he understood his
11 rights. He stated, "Yes" and also affirmed by shaking
12 his head yes at the same time.

13 Q So you read him his rights at that point. Did he
14 appear to understand his rights?

15 A Yes, he did.

16 Q Did he look alert to you?

17 A Yes, he was alert.

18 Q Did he seem to be under the influence of any drugs
19 or alcohol?

20 A Not at all, not at all. At that time, he was still
21 in the, "What did I do?" stage. At that time, he was -- you
22 know, he didn't, you know, say anything at that time after
23 I read his Miranda rights.

24 Q Now, once you have read his Miranda rights to him,
25 you told him he could stop any questioning at any time,

1 didn't you?

2 A That is correct.

3 Q Tell the jury what happened after you read him his
4 rights, and your testimony he appeared to waive those
5 rights. Tell the jury what happened.

6 A All right. After he confirmed that he understood what
7 I stated by stating, "Yes" and shaking his head in the
8 affirmative, I told him, I said, "I need to know the truth.
9 We found the car."

10 At that time, he put his head down into his hands
11 and he stated, "I was there. It was an accident. After
12 that, he stated that after he -- after it was an accident,
13 he grabbed the phone and immediately pushed the -- I'm
14 not sure what button he was talking about, but he
15 immediately pushed a button to call back the last call
16 that he made, which was Kendra Goodman.

17 Q Let me stop you there.

18 A Sure.

19 Q So after you told him that you had found the car --

20 A Uh-huh.

21 Q -- does his demeanor change at that point?

22 A Yes, yes.

23 Q And at that point, he tells you there was an
24 accident?

25 A That's correct.

001223

1 Q And that he was there?

2 A That's correct.

3 Q Now, was this while you were still sitting at the
4 house?

5 A Yes, sir.

6 Q So all of this took place within 25 yards, 50 yards
7 of his house?

8 A Yes.

9 Q All right. So after he says that he was there, tell
10 the jury what happened.

11 A After he stated that, "I was there. It was an
12 accident," he said -- he stated that the victim grabbed
13 the gun, and it accidentally went off.

14 Again, he admitted to calling Kendra afterwards and
15 said that he called her by pushing, I guess, the recent
16 call button or what have you. He said that Kendra told
17 him that she was on her way over and that she would take
18 care of it.

19 He further went on to explain on that -- mind you
20 during all of this, I'm still trying to handle the scene.
21 And, you know, I have people coming to my car asking me
22 questions, uniformed -- members of the uniformed division
23 asking me questions for further guidance. So it was
24 then -- it was pretty much interrupted, you know, not often
25 but often enough for it not to be steady.

1 Again, Investigator Wagner was also present for the
2 initial part of it where he admitted to being present,
3 and he also stated that it was an accident.

4 Q So another investigator was in the car when he claimed
5 it was an accident?

6 A That is correct.

7 Q All right. Now, proceed, if you would, with what
8 happened that night with him in the car --

9 A Okay.

10 Q -- and where you went.

11 A After taking care of some of the responsibilities on
12 the scene, we then drove, and after looking into my -- my
13 follow up, I realized that we -- Investigator Holly Wagner
14 was, in fact, with us, and that brought us back at the
15 rendezvous point, for lack of a better term, where we met
16 up initially and dropped her back off at her car.

17 Q So with this initial time that you're with the
18 defendant and this initial statement where he says it is
19 an accident, she is in the car with you?

20 A Right.

21 Q At some point, you drive her to pick her car up?

22 A That is correct.

23 Q And after you dropped her off there, tell the jury
24 what happened.

25 A We then kept driving, myself and the defendant,

1 Mr. Manning. We drove to headquarters, which was
2 approximately anywhere between 25 and 30 miles away
3 from headquarters -- from the rendezvous point to
4 headquarters.

5 During that time, again, Mr. Manning was still
6 talking to me about the incident, and he stated that they
7 decided to drive to Winnsboro and that while they were
8 driving to Winnsboro --

9 Q They being whom?

10 A Him and Kendall.

11 Q Kendra?

12 A Kendra, I'm sorry, and when they were driving past
13 a white church on Exit 34, they -- Kendra began to flash
14 her lights, trying to get him to stop. So they did stop,
15 and they went to -- they drove down the road to see if
16 they -- there was a place they could drop the car off.

17 At that time, they attempted to -- they attempted
18 to set the car on fire, but realized that they needed gas.
19 They went to the B.P. at the exit, one exit prior to where
20 they were at the location with the white church and they
21 purchased gas.

22 I believe he said he purchased two dollars worth of
23 gas initially. After that --

24 Q Now, let me stop you there. So this is a conversation
25 or a statement that's being made in your Trailblazer on

1 the way from dropping Holly Wagner off to the sheriff's
2 department?

3 A That is correct.

4 Q All right. So you're driving?

5 A I am.

6 Q And he's talking. Are you asking him questions, or
7 is he just relating all of this to you?

8 A He -- it's a combination of both. You know, he was
9 mainly talking -- based on my experience, you know, I know
10 sometimes you just need to let them talk. So, you know,
11 he's doing most of the talking.

12 Q Now, during this time, did you promise him anything
13 or threaten him in any way to make the statements?

14 A Not at all.

15 Q Did you coerce him at all? Did you -- did you use
16 any kind of horrible coercive questioning or tactics to
17 have him talk to you at that point?

18 A Not at all.

19 Q And, in fact, in your opinion, was he talking freely
20 and voluntarily?

21 A He was.

22 Q Did you understand what he was saying?

23 A Yes, I did.

24 Q Did he appear to us -- did he appear to understand
25 the questions or the conversation that you were having

1 with him?

2 A Yes, he did.

3 Q Now, during this whole ride, this 25 or 28-mile ride,
4 whatever it is, did he at any time say that it wasn't an
5 accident?

6 A No.

7 Q So he stayed with the story at that point that it was
8 an accident?

9 A That is correct.

10 Q And tell the jury again exactly how he said it
11 happened.

12 A Initially, he stated that -- if I can refer back to
13 my notes. He stated that Kendra -- I'm sorry, that the
14 victim grabbed the gun, and it accidentally went off.

15 Q Now, I think you stopped this narrative while you're
16 still in the car, or this conversation that you're having
17 with the defendant at the point where they bought gas at
18 a B.P. Station?

19 A That's correct.

20 Q Did he tell you what they did after they bought the
21 gas at the B.P. Station and what he specifically did?

22 A If I can refer back to my follow-up?

23 Q Yeah, please do.

24 A Thank you.

25 (Pause)

1 He didn't state -- at that time, he, after he told
2 me that he was attempting to buy gas, you know, in an effort
3 to burn the car. At that time, I had -- we got interrupted,
4 and I had to get Investigator Holly Wagner -- I was trying,
5 again, to find the judge who signed the arrest warrant
6 to get him to assist us in getting a search warrant for
7 the house.

8 So, when I was able to continue my conversation with
9 Mr. Manning, it was -- I asked him a question. I asked
10 him if -- you know, if -- if the victim came down to break
11 up with him -- and at that time, that was really the only
12 time during my interaction with Mr. Manning that his
13 demeanor changed.

14 He appeared to be upset as if I bothered him. I
15 remember noticing that his hands were shaking. So, again,
16 based on my experience, I know to back off of that.

17 I didn't know that much about the case to directly
18 question him about certain facts, but after I asked him
19 that question, I noticed the change in his demeanor.

20 Prior to that, he was very calm, you know, very
21 cooperative. You know, he appeared to have, you
22 know -- for lack of a better expression, a friendly face,
23 but when I asked him that question about the victim's
24 purpose for coming to Columbia, he became upset.

25 After that he then went on -- again, this is while

1 we were en route to headquarters, he went on to explain
2 that the last time that he saw the victim was in Charlotte.

3 He further stated that while he was in Charlotte,
4 the victim trusted him to the point where she gave him
5 keys to her house, two pieces of jewelry that she expected
6 or asked him to get fixed for her while she was at work.

7 While she was at work, he never got the jewelry fixed.
8 He left her house and went, came back to Columbia. When
9 confronted about why did he leave, he stated that he had
10 to get -- pains for back spasms. He told her that he was
11 going to return to Charlotte.

12 He didn't return to Charlotte, and so, according to
13 Mr. Manning, the next time that he saw the victim was on
14 the day in question, that morning.

15 Q And --

16 A So I noticed that he was uncomfortable with that.
17 Again, not being directly involved from the onset, I chose
18 not to go into that, so I left that alone.

19 Q So at that time what, if anything, did he say as to
20 whether or not there were any hard feelings between them?

21 A He stated that there were no hard feelings and they
22 had an understanding with respect to their relationship.

23 Q Now, did you also have an opportunity to ask him while
24 you're in the car during this oral questioning, about the
25 jewelry?

1 A Yes, I did. Again, I noticed that he would, you know,
2 get upset about that. The more I asked him, you know,
3 just getting him to explain in a little more detail about,
4 you know, the jewelry, her house keys, and you know, and
5 I want -- I was leading, trying to get if that was the
6 reason why she came down. So he -- I just backed off on
7 him.

8 Q Now, once you had driven him back to the sheriff's
9 department, did you stay with him at that point?

10 A Initially when we arrived at headquarters, I
11 immediately placed him in what we call the D Cell, which
12 is a cell at -- up within the criminal investigative
13 division towards the rear of the -- towards the rear of
14 headquarters.

15 Q All right. Let me stop you.

16 A Sure.

17 Q Up to this point, from the advice of rights to where
18 you put him in the D Cell, have you ever threatened him
19 in any way?

20 A No, sir.

21 Q Has he ever asked for an attorney?

22 A Never.

23 Q Has he ever looked at you and said, "I don't want to
24 talk to you about this"?

25 A Not at all, no, sir.

1 Q If he had asked for a lawyer, what would you have
2 done?

3 A I would have immediately ceased all questions.

4 Q If he would have said, "I don't want to talk to you
5 anymore," what would have happened?

6 A I have would have stopped questioning him.

7 Q And that's -- that's -- that's the law, that's
8 standard?

9 A That is correct.

10 Q Now, once you put him in the D Cell, what do you do?

11 A Because of a lot of what he told me in the car, I wanted
12 to make sure it was still fresh in my mind. I went and
13 I started typing a follow-up on a Word document with what
14 I remember him saying on the way, from the time I made
15 contact with him, to the time that he was placed into the
16 D Cell.

17 Q Now, for those of us that aren't as computer literate
18 as others, including myself, tell me what that means, when
19 you talked about a Word document and that type of thing.

20 A I began to type it up, basically, and memorialize it
21 in written form, everything that he stated from the time
22 I made contact with him up until the time he was
23 put -- placed into the D Cell.

24 Q Approximately how long does that take you?

25 A I want to say anywhere between 30, 35 minutes. You

1 know, again, I was still coordinating with the other units
2 on the scene and also being interrupted by Captain Smith.

3 Q Now, so you're at your computer typing in what you
4 remember of that incident that just happened.

5 A Right.

6 Q And, of course, you're dealing with other things.

7 A That's correct.

8 Q And you talked to Captain Smith at some point. He
9 is still in the room.

10 A Yes, a couple of things.

11 Q After you've had typed up your notes, what, if
12 anything, did you do?

13 A At that time, I got Manning back out, myself and
14 Investigator Holly Wagner. And, you know, just to cover
15 all bases, I went ahead and Mirandized him a second time,
16 but this time it was in written form.

17 Q Stop there. And is that pretty standard also?

18 A That is correct.

19 Q So the first time that you Mirandized him was orally,
20 and you specifically remember that?

21 A Yes.

22 Q And the second time that you Mirandized him was with
23 the form?

24 A Yes, sir.

25 Q I hand you what's been marked State's Exhibit number

1 1 and ask you if you can identify that.

2 A This is the original advice of rights form that I used
3 that day where Theodore Roosevelt Manning's name is at
4 the top, the location, and a couple signatures on it.

5 MR. GIESE: Your Honor, I'd like offer I was at this
6 time, Your Honor.

7 MR. SHEALEY: Subject to our prior objections, Judge.

8 THE COURT: It's admitted.

9 MR. GIESE: Thank you.

10 (WHEREUPON, State's Exhibit No. 1 was admitted into
11 evidence.)

12 BY MR. GIESE:

13 Q Now, if you would, Sergeant, take a look at that, and
14 I see that there's markings on it. There's handwriting
15 on it, State's Exhibit Number 1. There's also "x" marks
16 in certain boxes and some signatures.

17 A Yes, sir.

18 Q If you would explain to the jury what you did with
19 this and what those markings are and who made those
20 markings.

21 A This is a template that we use at the Richland County
22 Sheriff's Department. And, of course, you know, the above
23 information, the above section, rather, is used for
24 the -- identifying who -- all the parties are.

25 In this case, it says the name is Theodore Roosevelt

1 Manning. Up top -- excuse me, if you would, the Richland
2 County Sheriff's Department interrogation, Advice of
3 Rights template, basically. Name: Theodore
4 Roosevelt -- Roosevelt Manning. The place was Richland
5 County Sheriff's Department. I put H.Q. for headquarters
6 in parenthesis. The officer, of course, was myself,
7 Sergeant McDaniels, accompanied by Investigator Holly
8 Wagner. The date is May 29th, 2009. The time is 20:40.
9 You subtract 12 hours. That would be 8:40 p.m.

10 Q All right. Now, who wrote that? Who wrote the
11 wording on there?

12 A I wrote that.

13 Q Okay.

14 A The next section covers the -- the body of the rights.
15 As you can see, the rights are broken down into -- each
16 sentence is broken down with a check box next to it. That
17 is done primarily so that we can make sure the individual
18 understands their rights fully.

19 As you can see, I would actually check the, "Before
20 we ask you any questions, you must understand your rights."
21 I then would ask Mr. Manning -- I think from -- actually,
22 initially he shook his head yes.

23 For the purposes of fully advising him, I asked him,
24 "I need for you to say yes or no to each question, to each
25 sentence," and then I check the box next to it.

1 Q If he said yes.

2 A If he said yes. "Before we ask you any questions -- on
3 this statement, this is exactly how it was done: "Before
4 we ask you any questions, you must understand your
5 rights."

6 I said, "Do you understand that?" He took his head
7 yes. I said, "I'm going to need for you to say yes or
8 no indicating that you understand it. He said yes."

9 I went on and asked, and stated, "You have the right
10 to remain silent. You understand that?"

11 He shook his -- he stated yes, in the affirmative.
12 I then stated, "Anything you say can be used against you
13 in court. Do you understand that?" He stated yes.

14 "You have the right to talk to a lawyer for advice
15 before we ask you any questions and to have a lawyer with
16 you during any questioning. Do you understand that?" He
17 stated yes.

18 "If you cannot afford a lawyer, one will be appointed
19 for you before any questioning, if you wish. Do you
20 understand that?" He stated yes.

21 I have then asked, then stated, "If you decide to
22 answer questions now without a lawyer present, you still
23 have the right to stop answering at any time. You also
24 have the right to stop answering at any time until you'll
25 talk to a lawyer."

1 I asked him then, "Do you understand that?" And he
2 stated yes.

3 As you can see below that section, the midsection,
4 there are three signatures. One being Mr. Manning, the
5 second being myself and, it was witnessed by Investigator
6 Holly Wagner, as well.

7 Q Now, did you watch him? Did y'all sign your names
8 first, or does he sign his name first?

9 A He signs his name first.

10 Q And that's to say that he has been read these rights?

11 A That is correct.

12 Q All right. And then you witnessed him signing
13 that?

14 A Yes, sir.

15 Q That's his signature?

16 A Yes, sir.

17 Q What's this waiver of rights underneath it?

18 A The bottom section of this is a waiver of rights.
19 Again, it still has the box next to it to indicate that
20 they understood or didn't understand.

21 I have written -- it states, "I have read this
22 statement of my rights and understand what my rights are.
23 I am willing to talk and answer questions. I understand
24 and know what I am doing. No promises have been made to
25 me, and no pressure or coercion of any kind has been used

1 against me."

2 Now, it's important to note that it wasn't until I
3 became an investigator, if you would -- I found that a
4 lot of people have a problem with the word "coercion",
5 generally speaking.

6 So then I asked him if he understood what the word
7 coercion meant, and he indicated that he did. So I said,
8 "Without disrespecting you, can you define it for me?"
9 At that time, he defined it as being pressured or being
10 forced to do something.

11 So we went on. I said, "Do you understand what I
12 just read to you?" He stated yes. I checked the box, and
13 again, he signed for the second time on the same -- on
14 the same template, and it was witnessed by myself and
15 Investigator Holly Wagner.

16 Q Now, so during the waiver, this waiver of rights, he
17 says -- you said -- you told him -- or he's saying, "I'm
18 willing to talk and answer questions at this time"?

19 A Yes, sir.

20 Q At that time, after he signed the waiver of rights,
21 explain to the jury what you did and what you normally
22 do in taking a statement from somebody.

23 A Well, after he signed the rights, normally the
24 statement is taken in what is known as Q and A format.
25 Basically, I'll ask a question, and the answers will be

1 given by the person that's being questioned.

2 In this particular case, you know, we write down
3 exactly what they say, whether it's slang, improper
4 sentences, improper subject verb agreement, what have
5 you. We put it in their exact words in an effort to record
6 the facts as they know them at the time.

7 Q Let me ask you, when you gave him this advice of
8 rights, you say you're at headquarters. Where exactly
9 are you?

10 A I'm in my office located in the back of the C.I.D.
11 division.

12 Q And explain to the jury how large your office is,
13 anything about it.

14 A My office is approximately -- I want to say six by
15 ten, maybe.

16 Q So it's you -- were you sitting at a table?

17 A I was at my desk, and my desk is here right next to
18 my door. My computer is in front of me. My office is in
19 front of me. Off to the right is the seat where primarily
20 whoever I'm interviewing, whether witness, victim or
21 defendant, they're sitting to my right.

22 Right here to the right, to the right of me was
23 Investigator Wagner. Now, I usually have to pull out a
24 second chair, get her to sit or get anyone who is witnessing
25 the statement to sit right there.

1 In front of me, also, is my telephone, and my
2 monitor, again, is right there in front of me.

3 Q Now, at this point, have you promised him anything
4 or threatened him in any way to make a statement to you?

5 A Not at all.

6 Q Does he say he wants to talk to you?

7 A Yes. He was very cooperative at that time.

8 Q Does he appear to understand the questions that
9 you're asking?

10 A That is correct.

11 Q Did he appear to be under the influence at all?

12 A Not at all.

13 Q Did you coerce him in any way to do this?

14 A No, sir.

15 Q Now, tell the jury what happened when you first
16 started talking to him. Did you ask him a question? How
17 did it -- how did it proceed, and what did you do?

18 A Well, generally -- you have to understand, again,
19 mind you while interviewing like that, I kept getting
20 interrupted. Generally, when I start an interview, I ask
21 the person to tell me what happened in their own words,
22 basically explain to me what happened.

23 So I listened to him for a while. You know, at that
24 time, we're gathering the facts as they know at the time.
25 So I allowed him to tell the story initially to me first.

1 Q And he did that in this case?

2 A Yes, he did.

3 Q Now, this took a period of time?

4 A Yes.

5 Q Now, during this where he was making this
6 narrative, or this statement to you orally, are you
7 typing it or writing it down or are you just listening
8 to it at first?

9 A Initially, I listened to it. Then, you know, of
10 course, after he has collected his thoughts and
11 remembered the facts as he knew them to be on that day
12 at that time, I then began to memorialize it to a
13 written document.

14 Q So he has made an oral statement to you again about
15 what happened that night.

16 A Basically, he went through, you know, still stating
17 that it was an accident at that time.

18 Q And at which point, when he finished that oral
19 conversation with you, you started to memorialize it?

20 A That is correct.

21 Q And tell the jury what you do by -- in regards to
22 that.

23 A Again, it's in Q and A format. There is a third advice
24 of rights on top of the suspect statement form, and
25 again, we go over that, each section from date of birth,

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1 address, his name, to -- there's a Q and there's an A on
2 the top. Up top next to the Q is Sergeant McDaniels,
3 Investigator Holly Wagner. On the right side next to the
4 A, indicating answers, is Theodore Manning.

5 Q I'm going to hand you what's marked State's Exhibit
6 No. 2. Take a look at all the pages and tell me what that
7 is, if you know.

8 A Give me one moment.

9 Q All right.

10 (Pause)

11 A This is the exact -- this is the original statement
12 I took, and I actually got -- which is generally what I
13 do. I'll get the individual to sign in blue ink
14 indicating the original to me for my own filing
15 purposes. This is the original statement that I took
16 from him. This is an 11-page statement where he signed
17 a total of 22 times.

18 MR. GIESE: I'd like to offer it at this time, Your
19 Honor.

20 MR. SHEALEY: Your Honor, I'd renew all our prior
21 objections to this, but as to a new objection to this
22 particular piece of evidence, I would say it's
23 cumulative.

24 The Investigator is going to testify as to what
25 happened on that particular day is one thing, but to also

1 put the statement in evidence, I would feel is cumulative.

2 THE COURT: Overruled.

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

5 BY MR. GIESE:

6 Q Now, on State's Exhibit No. 2 you mentioned that you
7 had the person making the statement, who is Theodore R.
8 Manning, IV, sign each page?

9 A He actually signed it twice on each page.

10 Q Twice on each page?

11 A Yes, sir.

12 Q And the first place he signed it is after where it
13 says, "I have made the foregoing statement freely and
14 voluntarily without fear or threat, promise of reward or
15 hope of reward of any kind"?

16 A That is correct.

17 Q And then the second part is where he says a copy has
18 been given to him; is that correct?

19 A Yes; yes, sir.

20 Q So you have this initial oral statement from him at
21 the headquarters?

22 A Yes.

23 Q Then you -- I mean, how did that work? When you say,
24 "Well, do you want to make a written statement," or how
25 did it come about that you did a written statement?

1 A Well, after hearing it, you know, in his own words
2 verbally at that time, it's in the -- I didn't let him
3 actually go into much detail.

4 He gave me basically what he gave me in the car,
5 pretty much. So at that time, I said, "Well, we're going
6 to go and we're going to take a written statement."

7 I explained to him, I said, "I'm going to ask you
8 an open-ended question giving you the opportunity to
9 tell exactly what happened in your own words."

10 I said -- for purposes of my lack of typing skills,
11 I explained to him, I said, "When you're -- when you're
12 talking, I'm going to get you to say a few sentences. Stop.
13 Let me catch up and then continue." That's generally what
14 I say to everyone.

15 Q And that's how you've always done it?

16 A Right. I peck real fast.

17 Q Now, once -- once you have typed it up --

18 A Yes.

19 Q -- and before he signs it, what do you do with it?
20 Do you let him look at it? Do you read it to him? What
21 exactly is it that you do with it?

22 A Throughout the entire statement, and again, I
23 believe that's an 11-page statement. We go through it
24 multiple times, even while taking a statement,
25 oftentimes.

1 Q And why do you do that?

2 A Well, because we -- I want to make sure that I heard
3 them correctly. I want to make sure that I'm not -- you
4 know, typing something that they don't agree with. So
5 that's done throughout the entire statement. It's read,
6 you know -- oftentimes several questions are read, you
7 know, three and four times throughout this
8 statement.

9 After -- at the conclusion of the statement, I then
10 re-read it to them in its entirety. It is printed out,
11 and if you notice at -- well, if you notice at the -- one
12 of the -- one of the -- I believe it's the second to the
13 last question -- give me one moment.

14 I generally ask what I ask everyone: "Question, is
15 there anything that you would like to add to this
16 statement?"

17 Q And he gives an answer.

18 A And he gives an answer.

19 Q All right.

20 A And so after that, we get to the conclusion of it,
21 it's then given to him. After it's read to him in its
22 entirety, it's given to him. He -- I told him, I said -- I
23 generally joked again, "Make sure you read it before you
24 sign it," something I always say.

25 So he then read it. At that time, he stated

1 that -- you know, "I trust you. You've been nice to me,"
2 that type of -- kind of thing.

3 Q All right. Your Honor, at this time, the State would
4 like the sergeant to publish it to the jury, if he could.

5 THE COURT: Go ahead.

6 THE WITNESS: Sure. Again, up top is the
7 information that I had stated earlier: Name, address,
8 date, time. It states here 8:44 p.m., 20:44 military
9 time.

10 BY MR. GIESE:

11 Q That's when this written statement was started,
12 correct?

13 A That is when the written started, yes.

14 Q If you would, read the whole -- just read the
15 whole -- what you -- is in that statement.

16 A It states here, "I, Theodore R. Manning, IV,
17 understand that I have the right to remain silent.
18 Anything I say can be used against me in court.

19 "I have the right to talk to a lawyer for advice
20 before you ask me any questions and to have a lawyer with
21 me during any questioning.

22 "If I have cannot afford a lawyer, one will be
23 appointed for me before any questioning, if I wish. If
24 I decide to answer questions now without a lawyer
25 present, I still have the right to stop answering at any

1 time.

2 "I also have the right to stop answering at any time
3 until I talk to a lawyer do make the following statement."

4 Again, Q, next to Q is my name, Sergeant Shawn
5 McDaniels, and A next to the A is -- would be -- Theodore
6 R. Manning, IV.

7 "Question: What can you tell me about the incident
8 that took place at your residence, 8047 Bluff Road, on
9 May 6, 2009?"

10 "Answer: Nikki showed up to my house about 9:05 that
11 morning. She came in the house and grabbed my hand and
12 told me that her car was on E. I told her that I would
13 take care of that.

14 "She told me that her light had came on when she got
15 to the Fort Jackson Boulevard exit. She told me that she
16 thought she wasn't going to make it.

17 "She led me upstairs to the bedroom. She told me
18 that she liked what I had done with the place. We got
19 in bed and started having sex. After we finished, we got
20 up and she went downstairs and went to her car.

21 "She got her phone out of her car and started
22 checking some of her messages. She told me that Mike or
23 Mark that she was going to be with her grandmother all
24 day. Then she started making phone calls.

25 "She kept walking from the car to the end of the yard

1 by the mailbox. Then she came back to the car and got
2 her calendar and started talking about her schedule.
3 She was just talking to different coworkers about her
4 schedule and when she was going to work.

5 "Then I have heard she made some more calls, and I
6 heard her mention about gas again. I told her that I
7 got her.

8 "That is when she got off the phone. She came back
9 up to me, and we started talking about the relationship
10 or the relationship that we had.

11 "She told me that she wished it would have worked.
12 I told her that she had her mind set and I had my mind
13 set, and that's just what it was, a difference of an
14 opinion.

15 "She was like, 'I need gas.'

16 "I said, 'Let me get my wallet.'

17 "I went upstairs, got the wallet and came back
18 downstairs. She got in the passenger's side, and I got
19 in the driver's side.

20 "She said, 'Be careful because it might be out of
21 gas.'

22 "We went to Freedman's. I filled the car up. Then
23 she was like, 'Whatcha want to do?'

24 "I told her nothing, and we went back to the house.
25 She said, 'I'm kind of tired. Can I lay down for a few?'

1 "I said, 'Fine. You know where the bed is.'

2 "She said, 'Are you going to join me?' I told her
3 okay.

4 "We have went back upstairs, had sex again. We got
5 up. She started walking through the other bedrooms. She
6 told me that I needed to throw the boxes out of one of
7 them.

8 "Then she ever went in the other bedroom. She said,
9 'What are you going to do with this?' I told her
10 that I think I make (sic) it my daughter's room.

11 "She mentioned how she decorated her house again,
12 because that is one of her things that she do (sic) big.
13 She likes to decorate.

14 "I said, 'What would you do to this room?' She looked
15 around and said, 'Paint it, put some borders up.' Then
16 she saw my bag was open. The gun was sitting in the bag.
17 It was a .380 Highpoint.

18 "She picked it up. I told her to stop playing. I
19 grabbed the gun and took it away from her, and when I pulled
20 it back from her, she turned around, and it went off.

21 "I about shit myself. I didn't know what to do. I
22 got scared and I started shaking. I grabbed my phone.
23 I didn't know who to call, so I hit redial, and I called
24 Kendra.

25 "I told her that I didn't know what to do, and I needed

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1 her. She came to the house. She said that she was off
2 anyway. She wasn't feeling well.

3 "When she got to the house, she told me to pull the
4 car in the garage."

5 Question: "Which car?"

6 Answer: "The Honda, Nikki's car."

7 Question: "What happened after that?"

8 Answer: She went in the house, and she told me that
9 she would take care of it. I didn't know what to say.
10 I was like how, and she said, 'I'll take care of it.'

11 "She went downstairs, and she got a bucket. She had
12 bleach. She put a bunch of bleach in the bucket and a
13 little bit of water.

14 "She came upstairs, and she started mopping the
15 floor. She started mopping down the stairs. She mopped
16 the garage floor all around the car. Then she was like,
17 'It's such a pretty car. I want to keep it.' I was like,
18 huh, like surprised. I could not believe what she was
19 saying.

20 "She asked me was I going to strip the car, and if
21 there was anything that she could have. When she asked
22 me, I said, 'Strip the car? What do you mean?'

23 "She said, 'Is there anything in there that I can
24 use?' She said that she saw Nikki's purse on the seat.
25 It was tan and brown. She looked inside of it and said,

1 'I could keep this. It's a real Coach.'

2 "She was looking at Nikki's driver's license and her
3 credit cards. She had A.T.M. cards in there. Then that
4 is when Kendra said, 'Let's get rid of the car.'

5 "I asked her where. I did not know anywhere. First
6 she said Irmo, Lexington and then Aiken. She said that
7 she had family around there, and she knew the area. She
8 asked me about Winnsboro where my family was from.

9 "I told her I didn't know anywhere in Winnsboro. She
10 said, 'Well, I got a full tank of gas. Let's just get
11 on the interstate and ride until you find somewhere.

12 "After that, she said, 'Is there anything in the car
13 that I could use?' She asked me about the rims because
14 the car had rims. I told her that I didn't know.

15 "She said, 'Try to take them off. I took the rims
16 off, but they wouldn't fit her car because she had four
17 lugs, and the rims are universal five. She asked me if
18 I was sure of that.

19 "I said, 'They just won't fit your car.' So I put
20 them back on Nikki's car. After that, she said, 'Grab
21 the gas can.' It was in the garage by the corner.

22 "She asked if there was anything in it. There was
23 something in it, so I said, 'There's gas in it.' So we
24 went up and got on 77 and started riding towards Charlotte
25 like north.

1 "She told me to call her friends Leon -- Leona because
2 she could not call out from her cell phone. Her phone
3 was off. She could get incoming, but she couldn't make
4 outgoing calls. She called her because she wanted her
5 to pick up her kids because she wasn't going to make
6 it.

7 "I tried to do it on a three way at first, but it
8 kept disconnecting. So I called her and told her that
9 Kendra needed her to get the kids.

10 "She was like, 'Where is Kendra?' I told her that
11 she was behind me. She said that she would get the kids.
12 I called Kendra back and said that Leona said that she
13 was going to get the kids.

14 "She told me to tell Leona to call her. I called
15 her back and told her that Kendra wanted you to call her.
16 After that, I gave her a few minutes. I tried to call
17 Kendra back, but her phone wasn't picking up."

18 Q Let me stop you there for a second.

19 A Sure.

20 Q Up to this point, he's talking about making these
21 outgoing calls on a cell phone. In his statement,
22 State's Exhibit No. 2, he says that the first call that
23 he made after the victim was shot was a redial?

24 A Yes; yes, sir.

25 Q And that went -- just happened to go to Kendra?

1 A That is correct.

2 Q Now, if you would, pick up again where - pick up where
3 her phone wasn't picking up.

4 A "Tried to call Kendra back, but her phone wasn't
5 picking up. Kendra was driving her car, and she had me
6 driving the Honda.

7 "I kept calling, and it kept going to voice mail.
8 Then, finally, it went to her phone and she answered. She
9 told me that she just told Leona that he was she was doing
10 something with me, and she would get the kids later.

11 "After that, we kept driving, and we came up on an
12 exit and she said, 'Take this exit.' We got off on the
13 exit, and I asked if she knew this was" --

14 Q Let me stop you there.

15 A Sure.

16 Q This conversation that is taking place, he is
17 claiming is over the phone?

18 A Here in this part he's claiming it's over the
19 phone.

20 Q Because who was driving which car at that point?

21 A (There was no response).

22 Q Was she following him?

23 A Give me a second. He is following -- she is following
24 him, and according to him, she told him to take this exit.

25 Q And he's in the Honda, the victim's Honda?

1 A That is correct. Now, prior in his verbal, earlier,
2 he stated that she was flashing her lights.

3 Q All right. Proceed, if you would.

4 A Yes, sir.

5 "Then finally, went down. It went to her phone,
6 and she answered. She told me that she just told Leona
7 that she was doing something with me and she... (inaudible)

8 THE COURT REPORTER: I'm sorry, can you slow down,
9 please?

10 THE WITNESS: I'm sorry. I was, obviously,
11 catching up.

12 THE COURT REPORTER: Thank you.

13 THE WITNESS: All right. I apologize.

14 "After that, we kept riding, and we came up on an
15 exit. She said, 'Take this exit.'

16 "We got off on the exit, and I asked if she knew this
17 was the right exit.

18 "She said, 'Do you recognize anything out there?'
19 I told her no.

20 "She said, 'Let's ride it and see what's further
21 down.'

22 "We go further down the road, and it was like a little
23 dirt road. It was daytime. We saw the little dirt road,
24 and I kept going. She started flashing her lights and
25 blowing her horn.

1 "She was behind me, so I pulled into the church
2 parking lot. It is beige and white. That is all I
3 remember.

4 "I pulled in, and she asked me if I saw the dirt road.
5 She told me, 'Go down the dirt road and see what else is
6 down there.'

7 "I called her back and told her that I didn't see
8 anything. She asked him how far down was I. I told her
9 that I didn't know. I guessed a good ways.

10 "She got out of her car and came down the dirt road.
11 She had already put her stuff in Nikki's purse and had
12 it on her arm.

13 "When she got to the car, she saw that Nikki had
14 some knitting stuff in the car. So she took the crochet
15 needles. She saw that she had some shades, so she took
16 the shades. It was some tan-like big-faced shades.

17 "After that she said, 'Pour the gas.' I poured what
18 was in the gas tank on the car. She took a rag that was
19 out of the car, and she stuck it in the gas tank.

20 "She said, 'Make sure that it's wet.' So I poured
21 some of the gas -- I mean, some of the liquid that was
22 in the tank on the rag.

23 "She pulled out her lighter because I told her
24 that I didn't have anything on me. She tried to light
25 it. It wouldn't light. She gave it to me and told me to

1 try. It still wouldn't light.

2 "It was actually water in the tank, so when we
3 figured that it was water in the gas can, she said, 'Well,
4 we need to go and get gas.'

5 "We went back to the car. She gave me the keys and
6 said, 'You're going to drive.'

7 "We left the church and started going back toward
8 the interstate. A cop pulled up behind us and was
9 following us toward the interstate.

10 "I started getting really scared because I didn't
11 know what was going on. She said, 'You need to relax and
12 calm down like me.'

13 "She told me, 'Slow down. Watch your speed and put
14 your seatbelt on.' I slowed down, got back on the
15 interstate, and she had already sat back in the front
16 seat and put the shades on.' It was Nikki's shades.

17 "I got on the interstate. At the time that we got
18 on the onramp, the cop flew past us. I think it was a
19 State Trooper. We started going, and we got to the exit
20 that was right before and it said gas.

21 "It had" -- excuse me.

22 "It had the little gas sign that let us know which
23 direction. I asked her which gas station, because it was
24 like three of them. She said, 'This one, and that was
25 the B.P. that was on the right.'

1 "I got out. She gave me the gas can and said, "Get
2 some gas. Don't use your card. I'm going to -- I'm going
3 inside to pay. She paid for like \$2. I put the two
4 dollars in the can.

5 "She came out, and she looked at me and said, 'Do
6 you think that is enough?' I told her that I didn't know.
7 She went back in the store and paid for more gas.

8 "When she came out to the car, she had two of the
9 Miller Highlife 22-ounce cans. I was messing up the gas,
10 so she told me that you've got to put the handle up first
11 and give it a second and then start pumping it. I did
12 that, and she got a plastic bag that was in her car.

13 "She said, 'See, not cleaning out my car comes in
14 handy.' I put gas can down in the back floor of the car
15 behind the driver's seat. It was her car.

16 "When I got in the car, she said, 'You're going to
17 have to drink this.' She was trying to get me to drink
18 one of the beers. I told her that I didn't want it. She
19 said, 'You are the man, and you are all nervous, and I
20 am cool and calm.'

21 "We went and got back on the interstate and we got
22 back to where the dirt road was. She said, 'Park on the
23 upper side that was closer to the dirt road.'

24 "I did that, and she slid over. She said, 'I'm
25 going to keep the car running.' I told her that I didn't

1 have anything on me. I was talking about a lighter or
2 anything. She gave me her lighter.

3 "She took the paper bag that the beers was in and
4 twisted it up and gave it to me. She told me after I poured
5 the gas on the car to light the bag and drop it -- to light
6 the bag and drop it on the gasoline to start the fire.
7 I did that.

8 "When I came back up the dirt road" --

9 Q Let me stop you there.

10 A Sure.

11 Q So at this point, you have said that he went back up
12 the road by himself?

13 A That is correct.

14 Q But she stayed in her car while he went back up the
15 road to where the victim was in the trunk of her car?

16 A That is correct.

17 Q And at that point, in his words, he said that he
18 lit -- he was -- I did -- I did that, which was light the
19 bag and drop it on the gasoline to start the fire?

20 A That is correct.

21 Q So he told you that he set that car on fire?

22 A Yes, sir.

23 Q While Ms. Goodwin was up the road?

24 A He stated, "I poured the gas in the car to light the
25 bag and dropped it on the gasoline to start the fire,"

1 yes, sir.

2 Q All right. If you would, pick up again. "After I
3 did that, and I came back up the dirt road".

4 A Sure.

5 "I did that, and I came back up the dirt road. I got
6 to the church, and there was another car. There was
7 another car in the church, and she said, 'He just pulled
8 up. Hurry up.'

9 "We started driving off, and she had -- she had me
10 driving still. She was in the front seat, but she turned
11 and said, 'I'm trying to see the fire.'

12 "We got back on the interstate and started
13 driving. She was still looking back as if she was excited
14 or happy. Then she said, 'I see smoke.' It was like black
15 smoke going up from that area.

16 "She said, I think that's it. After that I told her
17 that I wanted to go home. She was still looking at the
18 bank cards. She said, 'Do you know the pin?' I told her
19 that I think I do.

20 "She said, 'Do you know the pin?' I said, yeah, but
21 she told me to go to the bank. We got some money on the
22 account, and so we drove around and she drove to the A.T.M.
23 again, and she told me to get some more out."

24 Q Let me stop you there.

25 A Sure.

1 Q So he's saying he -- when they're leaving -- when
2 they're leaving the area where they burned the victim's
3 car near the church, he is driving?

4 A That is correct.

5 Q All right. At some point, they get to a -- they go
6 to a bank, correct?

7 A Yes, sir.

8 Q And he's still driving?

9 A Yes, sir.

10 Q Now, and he claims, he says, "We got some money out
11 of the account, and so we drove around. She drove to the
12 A.T.M. again. She told me to get out some more money"?

13 A That's correct.

14 Q All right. If you'll proceed from there.

15 A Sure.

16 "This time she backed up all the way around the bank,
17 and we left. I asked why she did that, and she said, 'So
18 they won't get my plate.' She told me to go ahead and
19 drink.

20 She asked me about the other A.T.M. cards, and she
21 was like, 'What about using it to order something?' I
22 told her that I didn't know the pin" -- excuse me.

23 (Pause)

24 -- "for it. After that, she told me to call Leona
25 and tell her that she would be on her way. Then we went

1 to my house.

2 She told me, 'Don't worry about the bleach.' She
3 would get it later. While I was downstairs in the garage,
4 she said that she would take care of the rest. Then she
5 came back downstairs and told me that she would talk to
6 me later. She told me to go and get some rest."

7 Question: "Where is the gun that was used to shoot
8 Nikki?"

9 Answer: "Last time I saw it was upstairs. She
10 hasn't told me anything about the gun since. When I told
11 her that they took my gun, she asked me which one. I
12 told her that they took my nine millimeter Highpoint and
13 she said good."

14 MR. SHEALEY: Objection, Your Honor. We have a matter
15 of law.

16 THE COURT: Approach the bench.

17 (WHEREUPON, a bench conference was held in the
18 presence, but not within the hearing of the jury.)

19 THE COURT: All right. Ladies and gentlemen of the
20 jury, just go to your jury room for a minute. Let me talk
21 this out with the attorneys. I need to do it on the
22 record, so it would be a good time for a morning break.

23 Well, sort of.

24 Don't discuss the case among yourselves while you're
25 in the jury room. We'll call you in just a few minutes.

1 (WHEREUPON, the jury left open court at
2 approximately 11:48 a.m.)

3 THE COURT: All right. Madam court reporter, would
4 you read the last question and answer, please?

5 (Complies.)

6 Let me see the statements.

7 THE COURT: All right. Yes.

8 MR. SHEALEY: Your Honor, the reason why I objected
9 to this testimony coming out is because throughout
10 the course of this trial, we've had several motions
11 regarding the exclusion of reference being made to a
12 nine millimeter, which you granted, regarding it not
13 having any relevance in this case.

14 The State put up Mr. Collins, who, you know, tried
15 to attempt -- it didn't have relevance. You ruled it
16 didn't have relevance.

17 THE COURT: That's right.

18 MR. SHEALEY: And we had Charlotte playing their
19 audiotaped statements. They even had transcripts. That
20 was specifically -- we took great pains to redact it, to
21 not let the jury hear about the nine millimeter because
22 it's an unrelated gun.

23 We stipulated that the gun used to kill Nikki
24 McPhatter was a .380 and, therefore, didn't have any
25 bearing on the case.

1 At this point, the jury has already read about the
2 nine millimeter by Investigator McDaniels. It's in a
3 statement which has already been introduced into
4 evidence.

5 The thing of -- I objected to the statement coming
6 in on the grounds -- on several grounds, but, you know,
7 the State knows what's in this -- is being sought to being
8 read.

9 I would ask -- you know, I didn't catch the nine
10 millimeter was in there. I wasn't anticipating it being
11 read in front of the entire jury, but they knew it was
12 coming in and clearly referenced this nine
13 millimeter.

14 It wasn't previously redacted. It wasn't any -- you
15 know, the witness wasn't cautioned about making
16 reference to the nine millimeter in accordance with
17 previous rulings.

18 It was put into evidence that highly prejudicial
19 reference to a separate gun that Mr. Manning has multiple
20 guns; that he is a gun lover. That was the defense's fear.

21 It is out to the jury. All -- I don't know what to
22 do about this other than ask for a curative instruction,
23 although I don't think that it would be particularly
24 helpful.

25 You know, other than perhaps redacting this

1 statement that's already in evidence, I don't know
2 anything else we can do at this time. We have to ask for
3 a mistrial at this time, Judge.

4 THE COURT: All right.

5 MR. SHEALEY: And I would move to strike it, certainly,
6 from the record.

7 MR. GIESE: A couple of things, Your Honor, if I
8 could.

9 THE COURT: Let me just ask, counsel. As you say,
10 there is no motion to redact this portion; that's
11 correct.

12 Collins testified that the fragments could have come
13 from either a nine millimeter or a .380, if I recall. So
14 I'm not sure that in the jury's mind there is any
15 difference between the .380 and the nine millimeter, but
16 I'll hear from the Solicitor.

17 MR. GIESE: A couple of things. I mean, first off,
18 the fact that there is a nine millimeter, the fact that
19 he has a nine millimeter came in the statement that he
20 gave to the Charlotte Metro Police Department at 5/22/09.

21 THE COURT: It's --

22 MR. GIESE: Specifically, he says, "What do you have?"

23 "I have a nine millimeter."

24 "Okay. Where is that, of course?"

25 "I have that in my car."

1 "Okay. How long have you had that?"

2 "2001".

3 THE COURT: Did we not extract that?

4 MR. SHEALEY: We did.

5 MR. GIESE: We did not extract that nine millimeter
6 as it was testified to. You extracted the next page of
7 it, Your Honor, which brings me to my second point, which
8 is there was a motion to redact the mention of it in -- prior
9 to that statement.

10 There was no mention to redact this from the written
11 statement. I mean, I can't do their job for them. They've
12 had that statement now since the day that they were
13 appointed to the case because the defendant had a copy
14 of it.

15 You know, we had a motion to redact that one, but
16 yet, they don't make it in the written statement. I
17 can't -- I can't do their job for them.

18 THE COURT: This was read down to...

19 MR. GIESE: Oh, and by the way, I believe that this
20 part also -- it is relevant now because of Collins'
21 testimony.

22 THE COURT: Well, I might disagree with that.

23 MR. SHEALEY: Your Honor.

24 THE COURT: Yes.

25 MR. SHEALEY: Like I said, you have taken great

1 pains at our request because you found that it wasn't
2 relevant outside the presence of the jury.

3 We redacted a substantial portion of that Charlotte
4 audiotape and transcript. I'm not asking Mr. Giese to
5 do my job for me, but when he is seeking to introduce
6 something on the fly in how it's being read, he also has
7 a job to abide by court orders.

8 Your court order was that the nine millimeter was
9 not relevant, so I think that is also an obligation on
10 him, as an officer of this Court, so I do take offense
11 to that.

12 I think we all have tried to give him the evidence
13 the way it should be in accordance with your rulings.
14 This clearly comes as a surprise. It was sought to be
15 introduced through Mr. McDaniels and now the bell has
16 been rung. I have to ask for a mistrial. I mean, had
17 I had time to look at it --

18 THE COURT: All right. Look at it. Look at the
19 statement.

20 MR. SHEALEY: Yes, sir.

21 THE COURT: Do you see where the last word McDaniels
22 said was "good", correct? Wasn't that the last thing the
23 jury heard was the word "good".

24 MR. SHEALEY: I think. I'm not sure, but I'll take
25 your word for it.

1 THE COURT: All right.

2 Look at the next two sentences.

3 MR. SHEALEY: Yes, sir.

4 (Pause)

5 THE COURT: The next two sentences, to me, reinforce
6 the idea that he had a second gun.

7 MR. SHEALEY: Yes, sir, that is part of it --

8 THE COURT: Just hold on.

9 MR. SHEALEY: Oh, yes, sir.

10 THE COURT: Stop. If those two sentences -- and I'm
11 not going to ask you to withdraw your objection, but if
12 those next two sentences were withdrawn, in my opinion,
13 the jury hasn't necessarily been tainted the way you
14 say you believe they are.

15 In other words, because Collins said it could have
16 been a nine millimeter or a .380, if you redact those
17 next two sentences, it's -- I don't think it is
18 reversible error or grounds for a mistrial.

19 I'm not even sure it's objectionable, but it probably
20 is from your standpoint.

21 MR. SHEALEY: Yes, sir. I mean, our main objection
22 was the clear reference to the fact that he was a
23 multiple gun owner. That clearly gets established.

24 THE COURT: Well, I don't think that has been
25 presented to the jury, that he's a multiple gun owner.

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1 MR. SHEALEY: Well, it's been referenced that he has
2 a nine millimeter Highpoint --

3 THE COURT: Well, so the jury has heard Collins say
4 it could have been a nine millimeter.

5 MR. SHEALEY: Yes, sir, but when we tell them in
6 openings that he was shot with a .380, they're a smart
7 jury, Judge.

8 THE COURT: All right.

9 MR. GIESE: Your Honor, just for the record also, my
10 understanding from the defense is the defendant is
11 going to testify. I believe at that point I can ask him
12 on cross-examination about it.

13 THE COURT: Well, you may be able to. That's down
14 the road.

15 All right, Solicitor. I'm going to ask -- I'm going
16 to order -- that you delete the next two sentences, and
17 Mr. McDaniels, we can redact that from the statement
18 after he testifies, but I think the next two sentences,
19 "She asked me when the last time I shot it. I told her
20 it's been a few years." That certainly is an implication
21 that he had more than one firearm.

22 MR. SHEALEY: So those are the -- are the two
23 sentences you seek to have redacted?

24 THE COURT: No, I'm going to be redact them.

25 MR. SHEALEY: You're going to redact them based on

1 my motion, objection?

2 THE COURT: Do you understand?

3 THE WITNESS: Yes, sir, I do.

4 MR. GIESE: May I approach him? I'll show it to him.

5 THE COURT: It may not even solve your problem, in
6 my mind, at least.

7 (Pause)

8 After the word "good".

9 MR. GIESE: Yes, sir.

10 THE COURT: The two sentences after the word
11 "good"

12 MR. GIESE: And then you pick it up again.

13 THE COURT: The police something.

14 MR. SHEALEY: So as to the mistrial motion...

15 MR. GIESE: A few weeks went by?

16 THE COURT: Do you understand that?

17 THE WITNESS: Yes, sir, I do.

18 THE COURT: Mistrial is denied.

19 MR. SHEALEY: Are you planning on giving them a
20 curative instruction, Your Honor?

21 THE COURT: I'll let you think about that, if you want
22 one. I mean, there's another curative instruction
23 that's been requested by the defense, and I still don't
24 have any information whether you wish that curative
25 instruction to be given.

1 MR. SHEALEY: Just, I guess something generic, Your
2 Honor. The testimony has been stricken and just
3 generically advise them to disregard it. I mean, I don't
4 want to draw too much attention to it, obviously.

5 THE COURT: That's the problem, that's the double
6 edged sword with a curative instruction.

7 MR. SHEALEY: Yes, sir.

8 MR. GIESE: Your Honor, the State's position on the
9 curative instruction is it's not needed because it's
10 already been placed into evidence in another statement
11 where he says he has a nine millimeter.

12 THE COURT: All right. I deny it at this time.
13 Bring in the jury, please.

14 (WHEREUPON, the jury came into open court at
15 approximately 12:02 p.m.)

16 THE BAILIFF: The jury is all present.

17 THE COURT: All right. Solicitor, you may continue.

18 BY MR. GIESE:

19 Q Sergeant, if you would pick up at "a few weeks went
20 by".

21 A Sure.

22 "A few weeks went by, and I told her that the
23 police came and asked me questions about Nikki. She
24 wanted to know what I told them.

25 "I told her that I told them that she had showed up

1 at dawn something, and then she had -- and then she had
2 left at 1:30 with a full tank of gas.

3 "She told me, 'Good. You got just as much to lose
4 as I do.' It was like -- I was like what -- what that
5 mean? She said, 'We are in this until the end, till death
6 do us part.' That was how she worded it.

7 Then when they came, and I told her that they were
8 asking questions about her because of the bleach and the
9 carpet cleaning from the next day, she said, 'Don't worry
10 about it. I got my alibi. I got plenty of people that
11 would say that they were with me or that they saw me.'

12 "Then a couple more days went by. So I went by and
13 saw her. She said that she wanted to see me. She showed
14 me a newspaper article that she had saw. Then she said
15 that she saw the video surveillance from the bank.

16 "She said that, 'It's good thing that you had your
17 head down the whole time.' She said, 'In the other video,
18 you really couldn't tell that it was you. I saw it a couple
19 of times, and I really couldn't make it out.'

20 "She said that [REDACTED] saw it, and she didn't say
21 anything. Normally, if she who would see a picture or
22 anything of me, she would say 'Teddy Bear'. [REDACTED] is
23 Kendra's daughter.

24 "I asked her if I should start worrying. She told
25 me no. She said, 'You are fine. Just relax.' I told her

1 that it's kind of hard to relax. I've been stressed out
2 ever since.

3 "She told me about going out of town to Georgia or
4 North Carolina. She said if we go to Georgia or North
5 Carolina and use her cell phone, that might throw off the
6 police because they had sightings of her car in
7 Charlotte, and she was supposed to meet friends in
8 Georgia.

9 "She said, 'I don't know why they're still down
10 here,' meaning the Charlotte police. She said, 'Aiken
11 isn't far enough and Augusta is too close.' You don't
12 have to call nobody. Just send a text message. In the
13 text say something like, 'I know everybody is worried
14 about me. I just needed some time to clear my head. I'm
15 fine, and then throw away the phone after that.'

16 "Then that is when her place got searched. I got
17 woke up around eight o'clock at night with Detective
18 Hopkins. I missed her call, and so I called her right
19 back. She was asking questions about Kendra.

20 "At ten o'clock, Kendra called me, and when Kendra
21 called me, Detective Hopkins was already beeping into her
22 line. She asked me if that was a 704 number, and I told
23 her that it was; that it was her.

24 "I told her that she needed to call them back
25 because they needed to talk to her. I got off the phone

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1 with her, and I called Detective Hopkins, and I told her
2 that I spoke with Kendra and that she needed to call her
3 back.

4 "She asked me how did I speak to her. I told her that
5 she called me from a prepaid phone that she had.

6 "I talked to Kendra later on that night, and she
7 said that they were sitting in her parking lot waiting
8 on her when she got home with the kids.

9 "She told me that they searched her car and searched
10 her apartment, and they were asking questions about me.
11 And she said, 'Your phone must be tapped.' Then she said,
12 'But I told them the truth. I didn't know it was crime
13 buying bleach.'

14 "We got off the phone, and I called her back later.
15 She said that she was smoking a few cigarettes, and her
16 nerves was starting to calm down and that she was
17 fine.

18 "She called back around ten o'clock that morning,
19 and she was crying. She said that they went through her
20 mail, searched her car, and they went through everything.

21 "She said that they took pictures of her car and took
22 pictures of the engine. She said they took pictures of
23 her license plate. She also said that they took her bank
24 receipts, a chain that her sister had gave her, and some
25 work gloves that I had left in her car from when I had

1 worked on it.

2 "I told her what she had been telling me, 'Calm down.
3 You said that it would be okay.' She said, 'It's just
4 my nerves.' I told her that she needed to get with her
5 lawyer because that is what everyone was telling me that
6 I needed to do. That was it.

7 "She called me throughout the day off and on. All
8 day throughout the day she kept calling. I think it was
9 like on Wednesday."

10 Question: "How long have you known Kendra?"

11 Answer: "Off and on, about maybe three or four
12 years."

13 Question: "Do you know her by name and sight?"

14 Answer: "Yes. Kendra, I forgot her middle name.
15 She don't really use it, Goodman. She goes by D.J."

16 Question: "What type of relationship do you and
17 Kendra currently have?"

18 Answer: "We were friends."

19 Question: "Have you ever been intimate?"

20 Answer: "Yes."

21 Question: "When was the last time you and Kendra were
22 intimate?"

23 Answer: "Like the beginning of the month."

24 Question: "Would that be this month of May, in
25 2009?"

1 Answer: "Yes".

2 Question: "What were your wearing during the moment
3 you and Kendra decided to burn Nikki's car?"

4 Answer: "It was a real light gray T-shirt. It had
5 the word "STAFF" on the back, some gray work pants, black
6 Nike's. They are like Flites. They are in the bedroom.
7 They are real beat up."

8 Q Let me stop you there.

9 A Yes, sir.

10 Q You said he was wearing a gray T-shirt with "STAFF"
11 written on the back of it?

12 A The word "STAFF", yes, sir.

13 Q State's Exhibit Number 138, do you know what this
14 is?

15 A That is the first time I'm seeing it.

16 Q What's written on the back of this?

17 A The word "STAFF."

18 Q All right. Start back with the next question,
19 please.

20 A Sure.

21 Question: "Where did you get that shirt from and
22 where are the clothes right now?"

23 Answer: "I got it from when I worked at my mom's
24 Camp Sunshine. It is a camp that works with handicapped
25 kids. That was back when I was in high school. Kendra

1 asked me for that shirt. She said that she wanted to get
2 rid of it. She said that she saw it on the camera.

3 "She also asked me after they told her that they
4 searched my house, she asked me did they find that shirt.
5 I told her no. I told her that it was in the bottom of
6 the clothes basket in the closet. That is when she
7 said give it to her because she wanted to get rid of it.
8 I didn't. It is still in the clothes basket in the closet
9 in the master bedroom. It is a round basket sitting on
10 the floor."

11 Question: "What was Kendra wearing during the
12 time that you and her burned Nikki's car?"

13 Answer: "I don't remember. She had a skirt on, like
14 a jean skirt. I do not remember what kind of shirt she
15 had on. Kendra told me that she had made up a story in
16 her head about what had happened. She told me that Nikki
17 was fine and she ran off to Mexico."

18 Question: "Right before Nikki was shot, did you
19 actually grab the gun from her?"

20 Answer: "Yes".

21 Question: "So the gun was completely in your
22 hands?"

23 Answer: "The handle of it was in my hand. The front
24 end of the gun was like in her hand, but it was inside
25 of her jacket. Her jacket was big on her, so it was over

1 her hand. She went to turn around, and when she pulled
2 her hand, it was like the gun just went off."

3 Q Let me stop you there. So --

4 A Sure.

5 Q -- getting back to the actual shooting; is that
6 correct?

7 A Yes. We were getting back to that, yes, sir.

8 Q And he, at this point, is claiming that he had the
9 gun, the butt of the gun?

10 A That is correct.

11 Q And she had the barrel?

12 A Yes. She had the handle -- his exact words, "The
13 handle of it was in my hand. The front end of the gun
14 was like in her hand, but was like inside of her jacket.
15 Her jacket was big" --

16 Q Inside her jacket like this?

17 A In her jacket, that's how he described it, yes,
18 sir.

19 Q All right. If you would, start again where it says
20 "she went to turn around."

21 A "She went to turn around, and when she pulled her
22 hand, it was like the gun just went off."

23 Q Go ahead.

24 A Question: "Did you have your finger on the
25 trigger?"

1 Answer: "I do not think so, but I am not sure. All
2 I know is that I pulled it, and then it went off."

3 Question: "What did Nikki say?"

4 Answer: "She didn't say anything. She just fell.
5 There was no blood anywhere. I couldn't tell whether
6 she got hit or whether she just fainted. She just hit
7 the floor. It wasn't like she fell to the floor hard.
8 It was almost like she just sat down.

9 "I didn't see no blood. I tried to shake her to see
10 if she was going to wake up. She didn't move, and that
11 is when I got scared. I mean, really scared. I didn't
12 know who to call, and I just kept pressing the call
13 button, and I called Kendra."

14 Question: "Who went inside and bought the gas?"

15 Answer: "Kendra did."

16 Question: "Did you ever see where Nikki was shot
17 at?"

18 Answer: "She didn't have any blood. Later on, like
19 after we got her in the car, it was like a few drops on
20 her shirt."

21 Question: "Did you see Kendra mopping?"

22 Answer: She mopped the entrance to the bedroom.
23 She mopped the hallway from where the bedroom door is
24 all the way to -- from where the bedroom door is all the
25 way to the steps." Excuse me.

1 "She mopped down the steps, each step. She mopped
2 at the bottom of the steps, like a 90-degree angle from
3 the base of the steps all the way to the door.

4 "She mopped the steps going to the garage. She
5 mopped the floor from at the bottom of the steps all the
6 way around to Nikki's car, and when I moved the car, she
7 mopped that area again."

8 Question: "How did you know that Nikki was dead?"

9 Answer: "She didn't have a pulse."

10 Question: "What was Nikki wearing right before you
11 and Kendra placed her in the car?"

12 Answer: "Like a peach jumpsuit from New York &
13 Company. She had a white T-shirt on that said New York
14 & Company on the front and some white New Balance
15 sneakers."

16 Question: "Did Nikki have any jewelry or
17 tattoos?"

18 Answer: "She had a big red butterfly on her stomach
19 under her belly button. She had a belly ring."

20 Question: "How did you meet Nikki?"

21 Answer: "Online. It was tagged.com."

22 Question: "In retrospect, what, if anything, would
23 you do differently?"

24 Answer: "I would call somebody else for help. I
25 would have never let her touch the gun. I would not have

1 let it go this far."

2 Question: "Is there anything that you would like to
3 add to this statement?"

4 Answer: "I would like to apologize to Nikki, her
5 family and her friends. I never meant to hurt her. I
6 never would have did it intentionally. She deserved so
7 much more.

8 "She is just one of those people that you never
9 forget. Everybody has their faults, but even when you
10 knew she wasn't telling you the truth, there was still
11 something about her. I never felt so bad in my life
12 about doing anything.

13 "I want to apologize to my family and my friends for
14 putting them through this mess. I should have just told
15 them the truth from the beginning instead of just being
16 scared. I let everybody down. I let myself down. I just
17 wish that I could take it all back.

18 "I got so many different feelings, and the biggest
19 one is that I let everybody down."

20 Question: "Did you paint or make any --
21 anything, alterations, or removals after she was shot in
22 the house?"

23 Answer: "No."

24 Question: "How do you know her pin number?"

25 Answer: "She told me once while we were in

1 Charlotte, her pin number, because she wanted me to go
2 to the bank for her, but I didn't go. It was like 74 and
3 19 something. I do not know where she got the numbers
4 from. She told me like twice that day. That was
5 probably in March.

6 "It was like the first time that I went up there.
7 The first time she came down here back in March, she gave
8 me the keys to her house. She came down. She spent the
9 night. Actually, she came down right after she got off
10 work, and she spent the night."

11 Question: "Is this statement the whole truth?"

12 Answer: "Yes."

13 Q And that's end of the statement at that point?

14 A Yes, sir; yes, sir.

15 Q And once again, just for the record, each one of
16 those pages is signed by the defendant?

17 A Yes, sir. He signed it twice on each page, a total
18 of 22 times for the 11-page statement.

19 Q And the words that are on State's Exhibit No. 3 -- is
20 that two -- I'm sorry, two. Those are his words? That's
21 what he wanted?

22 A That is correct.

23 Q Approximately what time did that -- well, first, it
24 was an oral interview and then a written statement.

25 Approximately what time did you finish that?

1 A Right. Again, that oral interview was very, very
2 short. Initially after he was advised of his Miranda
3 rights. Again, as I told you, he went through basically
4 what he had told me in the car. That didn't last but a
5 few minutes.

6 From the time that we started memorializing it on
7 the statement up until the time of the interruptions in
8 between, we ended about one o'clock in the morning.

9 Q And at any time, did he ask for a lawyer?

10 A No, sir.

11 Q At any time, did he say he didn't want to talk to you
12 anymore?

13 A He never did.

14 Q Was he uncomfortable? Did he need to eat or drink
15 or anything like that?

16 A Not at all, all of that was provided for him. He was
17 allowed to use the restroom. Again, as I told you,
18 throughout the entire time there were several different
19 breaks, some caused by me being interrupted through my
20 Nextel.

21 I remember having to apologize to him often, just
22 letting him know like, "Excuse me for a moment," and also
23 allowed him to go to the restroom, receive water, to get
24 some water, and he was offered food.

25 Q In your opinion, was this statement given to you

1 freely and voluntarily?

2 A Completely.

3 Q After he had been advised of his Miranda rights?

4 A On three different occasions, yes, sir. He was
5 advised three times total.

6 Q Now, once that statement, State's Exhibit No. 2 was
7 signed and a copy was given to the defendant --

8 A Uh-huh.

9 Q -- what, if anything, did you do?

10 A At that time, I -- I didn't even know that -- and it's
11 just the way our cubicles are set up and where my
12 office is located, I didn't even know that Sergeant
13 Isenhoward had gotten back to headquarters yet. So when
14 I did walk out, after getting the statement off the
15 printer, I noticed that he was present.

16 Q And that's Sergeant Isenhoward, the gentleman in the
17 courtroom?

18 A That gentleman, yes.

19 Q Is he your counterpart?

20 A Counterpart?

21 Q I mean --

22 A He's my coworker.

23 Q He is a coworker.

24 A I got you.

25 Q Counterpart.

- 1 A He is definitely a coworker of mine, definitely.
- 2 Q But he's a sergeant, also, of major crimes?
- 3 A He is, yes.
- 4 Q And he was involved in the investigation of this case
- 5 also?
- 6 A Yes, he was involved from the onset.
- 7 Q So you had a conversation with him; is that right?
- 8 A Yes.
- 9 Q Because of that conversation, what, if anything, did
- 10 you do?
- 11 A At that time -- you know, again, I took the initial
- 12 written statement. You know, I went over the facts as
- 13 the defendant knew them at the time with Sergeant
- 14 Isenhoward, and I guess -- well, I know for a fact that
- 15 he told me about Sergeant Isenhoward had at the time
- 16 being involved in the case from the onset, you know, those
- 17 facts as the defendant knew them in the first statement
- 18 didn't sit well with Sergeant Isenhoward so -- at that
- 19 particular time, Sergeant Isenhoward and myself went
- 20 back to further interview the defendant.
- 21 Q Now, the further interview, where did that take
- 22 place?
- 23 A It also took place in the same location, in my office.
- 24 Q In your office?
- 25 A Yes, sir.

1 Q All right. So you and Sergeant Isenhoward went into
2 the office. Tell the jury what happened when you went
3 in there.

4 A We kind of like leapfrogged, basically, because
5 Sergeant Isenhoward was involved initially. He then took
6 lead on the interviewing and the questioning of
7 Mr. Manning. So I basically sat there as a witness --

8 Q So he --

9 A -- throughout the remaining interview.

10 Q So you went to kind of the Holly Wagner seat?

11 A Pretty much, pretty much.

12 Q And he got in your seat?

13 A He sure did.

14 Q And he started to -- asking questions, or tell the
15 jury what happened.

16 A Well, at that time, Sergeant Isenhoward confronted
17 the -- Mr. Manning on some of the inconsistencies with
18 respect to his first statement and what he knew at the
19 time.

20 Q What Sergeant Isenhoward knew?

21 A What Sergeant Isenhoward knew, and one of the
22 concerns that he was confronted on was the fact that the
23 victim -- where the victim was shot at, as opposed to where
24 he said the gun was her shirt. Forensically speaking,
25 it's just --

1 MR. SHEALEY: Objection, Your Honor. He's not
2 qualified as an expert in this.

3 THE COURT: Sustained.

4 BY MR. GIESE:

5 Q So there was an -- inconsistencies that Sergeant
6 Isenhoward confronted him with?

7 A That is correct.

8 Q And he's in the -- Sergeant Isenhoward and the
9 defendant and you are in this room?

10 A That is correct.

11 Q And specifically, what fact -- what specific fact was
12 Sergeant Isenhoward questioning him on in relation to
13 the victim's body?

14 A The inconsistency that was of a concern was -- was
15 a concern, was the position of the gun.

16 MR. SHEALEY: Objection, Your Honor. It's the same
17 objection. It's -- he's asking for information.

18 THE COURT: He's not offering -- he's not asking for
19 an opinion at this point.

20 BY MR. GIESE:

21 Q I'll clean it up.

22 Specifically, in regards to the wound on the body,
23 where was the wound on the body?

24 A Towards the back of the head, and according to his
25 written statement, he said that when the gun went off,

1 the gun was inside of her jacket.

2 Q So you asked him about that?

3 A Sergeant Isenhoward confronted him on that, yes,
4 sir.

5 Q At that point, did he orally say anything to you in
6 front of Sergeant Isenhoward? What, if anything, did he
7 say?

8 A At that point, once he was confronted with that, with
9 the inconsistency, he then stated that he pulled the gun
10 and that he fired the gun out of anger at the victim, towards
11 the victim, rather.

12 And that it was as if they -- just prior to the
13 shooting, they had been in an argument, in a heated -- that
14 was the first time he admitted that it was as a result
15 of an argument and that he fired the gun himself, and he
16 did it intentionally.

17 Q At that point, did Sergeant Isenhoward take a
18 written statement from him?

19 A Both of us -- both of us were present, yes, sir.

20 Q But he was the lead investigator on that aspect?

21 A At that particular point, yes, he was.

22 MR. GIESE: That's all we have at this point.

23 THE COURT: Cross-examination?

24 MR. SHEALEY: Thank you, Your Honor, may it please
25 the Court.

CROSS-EXAMINATION:

1
2 BY MR. SHEALEY:

3 Q All rightie.

4 You talked about being in law enforcement for 11
5 years, right?

6 A A total of 16 years, but with the Richland County
7 Sheriff's Department, it's been 11 years.

8 Q And you've undergone some significant training over
9 the course of that experience, right?

10 A Yes, sir.

11 Q You mentioned how you started off as a uniformed
12 deputy.

13 A At the Richland County Sheriff's Department, yes,
14 sir.

15 Q All right. And then you were promoted to Major
16 Crimes, right?

17 A That is correct.

18 Q And you mentioned taking a test, right?

19 A Took a test to become an investigator, and I took a
20 second test to become a sergeant within investigations.

21 Q You've taken two tests?

22 A Yes, sir.

23 Q Because I mean, you have to learn things to get to
24 this level, right? I mean, they're not going to let you
25 are go from uniform to getting your own murder/homicide

1 investigations, right?

2 A Yes, coupled with experience, yes, sir.

3 Q Experience, training you were receiving from the
4 department.

5 A That is correct.

6 Q And from the very beginning, you're going to learn
7 how to be proficient in numerous things like your weapon,
8 correct?

9 A That is correct.

10 Q Writing police reports, right?

11 A That is correct.

12 Q Everything has a meaning. Everything has a purpose.
13 Everything is meticulously documented in those reports?

14 A Yes, sir.

15 Q All right. There's code that only officers, like
16 yourself, know what that means, right?

17 A I couldn't tell you what everyone else knows or
18 don't know, but we do have certain terminology that is
19 commonly used within law enforcement, if that's your
20 question.

21 Q Yeah. That's your standard code. You have a police
22 report that says 1080 or some kind of code reference to
23 a call. You know what that means when an officer down
24 the line has written that in his report; is that correct?

25 A That's correct.

1 Q That's to help document the entire process, right?

2 A Yes, sir.

3 Q And so you, as superior, to somebody else in that
4 uniform, as investigator, you know what they've done in
5 their work. You don't have to actually be there, out
6 there, with them, right?

7 A No. Oftentimes, we have to go back and ask further
8 questions. A lot of times, there's so much going on --

9 Q I know but --

10 A -- initially on the scene -- let me answer your
11 question.

12 Q Sure. Go ahead.

13 A With respect to going over what the initial officer
14 wrote down, or the responding officer wrote down, we
15 have to oftentimes make contact with them again to gather
16 further information.

17 Q What I'm simply asking is this is not sign language.
18 Y'all -- y'all -- you have a report, and everything means
19 something, right? I mean, this is not a complicated
20 question. You understand what I'm saying?

21 A I don't really. I really don't know what you're
22 saying. You're saying -- I'm not sure what you're trying
23 to get at.

24 Q Well, I'm not trying to confuse you, so we'll move
25 along.

1 A Okay.

2 Q But you've learned a few things, right? As an
3 investigator, you've got training, correct? You've
4 answered that.

5 A Yes, sir.

6 Q As an investigator, particularly, you get special
7 training regarding interrogations, correct?

8 A Interviewing and interrogations, yes, sir.

9 Q Right. Okay. Because that's something that you're
10 more likely going to do than a uniformed officer who is
11 just starting out, right?

12 A As an investigator, we get the same training, but
13 responding officers, Uniform Division officers, are also
14 privy to that same training.

15 Q And the point of it is to -- when you question a
16 suspect, to have them talk to you, right, and to -- and
17 to figure out what's going on, right?

18 A The point of an interview or an interrogation is to
19 gather facts and to memorialize those facts and record
20 them in written form. That's the purpose of interviewing
21 someone.

22 Q To record things, right? You mentioned record.

23 A To record them in written form while memorializing
24 the fact as a defendant, the victim, or the witness knows
25 them at the time.

1 Q I'm not trying to bust you here. I'm just trying to
2 get to know you and talk about training. You have this
3 training, right?

4 A Right.

5 Q Okay. Now, let's talk about May 29th. You mentioned
6 to Mr. Giese that on May 29th you were involved in serving
7 an arrest warrant, right?

8 A That is correct.

9 Q And you told Mr. Giese that you weren't involved
10 quite as early on as Investigator Isenhoward, but you were
11 asked to do this specific task of serving the arrest
12 warrant on Mr. Manning.

13 A That is correct.

14 Q Okay. You talked about -- you got with several
15 officers, and you formulated a game plan, right?

16 A Pretty much, yes, sir.

17 Q Okay. And there were several officers there. You
18 mentioned a few. You mentioned Investigator Wagner,
19 right?

20 A Yes.

21 Q Yourself, you were there, Investigator Robinson,
22 correct?

23 A Sergeant Robinson.

24 Q Sergeant Robinson, a few uniformed officers you
25 mentioned.

1 A That is correct.

2 Q And the gentleman and the women from Charlotte were
3 assisting you, as well?

4 A That is correct.

5 Q Is it fair to say about seven, eight people at the
6 scene here?

7 A Anywhere between seven and eight, yes.

8 Q Okay. Now, I was curious. You're at the door, and
9 you've got this warrant. Today you told Mr. Giese that
10 you used some kind of a battering ram to knock down the
11 door, right?

12 A That is correct. It's the equivalent to kick the door
13 in, knock down the doors, general terms.

14 Q Now, is it the equivalent, because one is using a ram,
15 right?

16 A Right.

17 Q One is using your foot. Are those the same thing?

18 A In a technical sense, of course, it's not the same
19 thing, but in everyday practice in executing a search
20 warrant or an arrest warrant, when someone says that you
21 kicked the door in, you know, it's pretty much the same
22 thing.

23 Q Okay. And you're aware that before, previously, you
24 said you kicked the door.

25 A That is correct.

1 Q Okay. So that would not be what you said today
2 necessarily?

3 A Again, in general layman's terms, that's the same
4 thing, kick the door in. You know, it's forced entry,
5 nonetheless.

6 Q Right. But you know, it was a mistake in your memory,
7 I guess.

8 A It wasn't a mistake. It's semantics. It's
9 basically -- it's what we used. I kicked the door in.
10 How do you kick the door in? Whether I punch the door
11 in, push the door in, what have you, it's still a matter
12 of semantics, a play on words, but it -- a door ram was
13 used.

14 Q And you're aware here that the court reporter here
15 has the ability -- she listens to everything. It's all
16 taped, audiotaped.

17 A That's right.

18 Q And she makes a transcript out of that. That's how
19 I know that you said the door was kicked in, right?

20 A That's right, and if -- again, I didn't say I used
21 my leg to kick the door in. It's a play on words,
22 semantics.

23 Kicked the door in, meaning forced entry. That's all
24 it means. If you go back on the record, you will not hear
25 me say that I used my foot to kick the door in.

1 Q But because we have this audiotape, we know what was
2 said, right? That's how I'm -- that's why I'm confronting
3 you with this, right?

4 A I -- I can't assume why you're confronting me with
5 it. That's -- I'm just answering your questions.

6 Q Thank you. Now, you're there with your seven or eight
7 officers. You've kicked or knock the door in with a
8 battering ram, and you're there looking for Mr. Manning.
9 He's right there, right?

10 A Yes. He's right there near the foyer, near the front
11 living room.

12 Q You've got your -- your gun is drawn, correct?

13 A Upon entry, yes, sir.

14 Q Everybody has their guns drawn, all seven or eight
15 of them, right?

16 A I didn't see behind me. I can only say that I'm the
17 first one to confront Mr. Manning in the living room
18 next to the foyer near the front door.

19 Q He didn't try to fight you, did he?

20 A Not at all.

21 Q He didn't try to run.

22 A No, sir.

23 Q He was taken down to the ground, and he was arrested
24 without incident.

25 A Yes, sir.

1 Q Okay. Now, after securing the scene, he was then taken
2 outside.

3 A No. He was taken outside immediately, and the rest
4 of the officers were responsible for securing the scene.
5 He was actually escorted to the outside of my vehicle.

6 Q And there -- everybody came in various vehicles,
7 right?

8 A That is correct.

9 Q You don't --

10 A We try to minimize the number of vehicles. That's
11 the whole purpose of the rendezvous point any time we do
12 a search warrant or arrest warrant.

13 Q But you're not -- it's not just your vehicle. There's
14 a lot of people congregating, correct?

15 A As I stated earlier, seven or eight people.

16 Q And these are -- you know, law enforcement
17 vehicles, typically what we think of with Richland County,
18 right?

19 A Unfortunately, I believe we only had one marked
20 vehicle. We generally try to use a marked vehicle so that
21 presence is known upon entry.

22 Oftentimes, if you're driving an unmarked vehicle,
23 which I drive -- or at the time, I was driving a silver
24 unmarked Trailblazer, and you wouldn't know that it was
25 a police car.

1 So we generally try to minimize the number of
2 vehicles that we use in the execution of a search warrant
3 or an arrest warrant, but at least have at least one marked
4 vehicle present, which was the case in this instance, as
5 well.

6 Q All right. I was wondering what you're looking at.
7 I just asked you a simple question. You're going on over
8 there looking at the gentleman with the --

9 MR. GIESE: Your Honor, I object --

10 MR. SHEALEY: -- blue in the jury.

11 MR. GIESE: -- I object to that, to that
12 characterization. He was trying to answer his question.

13 MR. SHEALEY: I'm just trying to get through this.

14 MR. GIESE: Just ask questions --

15 THE COURT: All right, all right, all right.

16 Just -- Mr. Shealey.

17 MR. SHEALEY: Sir?

18 THE COURT: He's made an objection. Just ask the
19 question.

20 BY MR. SHEALEY:

21 Q Yes, sir.

22 I'm really trying to get through. There's more
23 than -- there's more than just your vehicle there, right?

24 A Yes.

25 Q Thank you. But law enforcement is present on the scene,

1 correct?

2 A That is correct.

3 Q Thank you. Thank you.

4 Now, but specifically you took him to your vehicle
5 at this point, right?

6 A That is correct.

7 Q And you've mentioned to Mr. Giese that this is your
8 unmarked Trailblazer, right? This is what you put him
9 in?

10 A That is correct.

11 Q Now, there's other law enforcement vehicles there,
12 and there's your vehicle there. Your vehicle, it doesn't
13 have any audio recording ability, does it?

14 A No, it does not.

15 Q It doesn't have any video recording ability, does it?

16 A No, it does not.

17 Q Okay. And you chose to put him in this vehicle,
18 correct?

19 A Yes, I did.

20 Q Now, he's handcuffed at this point, right? I kind
21 of skipped by that, but obviously, he's handcuffed, and
22 you talked to Mr. Giese about that?

23 A That is correct. He was handcuffed.

24 Q So it would be like this, right, behind his back?

25 A To be exact --

1 Q Well --

2 A -- it would have been as if like your hands were, as
3 if you're closing your hands this way.

4 (Indicating.)

5 Right, it would be like that.

6 Q But behind his back, correct?

7 A That's correct.

8 Q And he's placed in your vehicle this way, and you're
9 in the vehicle. I know you're making some phone calls.
10 You talked about that, right?

11 A That is correct.

12 Q And you start to talk to Mr. Manning a little bit
13 and --

14 A He was Mirandized. He was given his Miranda
15 warnings.

16 Q I don't disagree with that. You gave him Miranda,
17 and Investigator Wagner is there, as well?

18 A That is correct.

19 Q So he's sitting in this vehicle, I guess like this
20 (indicating) in the seat, right?

21 A Yes.

22 Q Okay. Now, I just couldn't help but notice, you
23 mentioned -- when you told Mr. Giese about his reaction
24 to how he put his head in his hands after you said, "We
25 know what's going on. It's all over," you explain to me

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1 how he's doing that --

2 A All right.

3 Q -- with his hands behind his back.

4 A Right. At the time, we were adjusting his clothing,
5 and he was unhandcuffed while he was in my car. I made
6 sure he stayed in the apex to the door, but we were
7 adjusting his clothing.

8 I believe we were getting him some shoes at this time.
9 He had shorts on. I'm not sure what kind of shorts they
10 were, but we had clearly interrupted him while relaxing
11 at the house.

12 He had a T-shirt on and some shorts. We were getting
13 him some shoes, so he was unhandcuffed for a period of
14 time while still outside of the car.

15 Q Because you testified earlier that when he made this
16 gesture, he was inside the car, but now he's outside the
17 car is what you actually remember?

18 A That is -- well, no, no, no. That's not what I said.
19 What I said was when we first got out to the truck, I was
20 still handling the crime scene.

21 Investigator Holly Wagner was there. He was outside
22 of my truck for awhile. At that time, we were still trying
23 to make sure the house was clear. We were also trying
24 to get him some shoes.

25 We were adjusting his clothing, and he was

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1 unhandcuffed. While he was on the outside of my car, he
2 was in the apex of my door. So when he sat inside my car,
3 at the time, he was not handcuffed.

4 Q Okay.

5 A But initially, he came out of the door handcuffed,
6 yes.

7 Q Okay. All right. And I suppose if you had video and
8 audio in your unmarked S.U.V., this would have been clear
9 from reviewing that audiotape, but you didn't have that,
10 right? That's y'all's policy?

11 A Right. That's our policy, yes, sir.

12 Q That's the policy of the Richland County Sheriff's
13 Department?

14 A To?

15 Q Basically to not record, you know, interrogations at
16 headquarters and the things leading up to it. That's the
17 general policy from Leon Lott, correct?

18 A That is the general policy. For every agency that
19 records, I'll show you -- I can show you two to three that
20 don't.

21 As a matter of fact, the leading investigating
22 agency of our nation, the F.B.I., they don't record either.
23 So that's our policy. It's not -- that's not abnormal.

24 Q Okay. You're aware that the guys from Charlotte
25 record everything. I mean, you sat through here. You knew

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1 what's going on.

2 A Again, as I stated, for every agency that records,
3 I can show you two or three that doesn't. Our job is to
4 get the facts as the defendant knows them at the time,
5 memorialize it according to their own recollection.

6 Q And you don't have a computer in this car, right?

7 A No, sir.

8 Q You don't have a laptop right there typing up as
9 you're driving what he's saying, right?

10 A No, sir.

11 Q And this was a 30 to 35-minute ride. You're making
12 phone calls, like you testified to. You're talking to
13 him, so you're trusting your memory.

14 A As I stated earlier, it was a 25 to 30-minute ride.
15 And again, you're right. I was trusting my memory while
16 still trying to record in some things with respect to the
17 crime scene.

18 Q And it's not really your decision. This is Richland
19 County policy, fair?

20 A Pretty much, yes, sir.

21 Q Okay. But you have recorded before, correct?

22 A Have I ever recorded before?

23 Q Yeah.

24 A I have never personally recorded before.

25 Q When your friend, Laton Lewis (phonetic) was

1 arrested for murder, you were --

2 MR. GIESE: Objection --

3 MR. SHEALEY: -- recording his --

4 MR. GIESE: -- Your Honor.

5 MR. SHEALEY: Did you not?

6 THE COURT: There was an objection.

7 MR. GIESE: Objection, Your Honor.

8 THE COURT: Sustained.

9 MR. SHEALEY: He just said he didn't record it, Your
10 Honor.

11 THE COURT: Sustained.

12 MR. SHEALEY: Okay. (Indicating).

13 BY MR. SHEALEY:

14 Q Now, okay. You didn't record here. You've never
15 recorded ever, have you, Shawn McDaniels?

16 A No, sir.

17 Q Sitting here under oath, putting your hand on the
18 Bible, you never recorded a statement from anybody that
19 would have traveled with you and been interrogated in
20 the car.

21 A That --

22 Q That's what you're saying, for the record.

23 A Well, traveled with me and interrogated in the car,
24 no, sir. I have never recorded anyone in my car, never
25 recorded anyone at the sheriff's department, at all, no.

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1 Q Never had any recorded conversations with any suspect
2 in a murder case in a car like this. That's what you're
3 saying for the record, so we're clear.

4 A As I stated, I never recorded anyone in my car or ever
5 at headquarters at all.

6 Q Never a murder suspect interrogated while you were
7 recording them, right, never? That's never happened with
8 you?

9 A I've recorded someone in the past with respect to a
10 friend of mine who basically was being sought after as
11 a possible witness in a -- in a home invasion at the time.

12 Q Oh. So you have recorded someone in the past.

13 A Yes, I have.

14 Q And they were a suspect of an investigation for
15 murder, right?

16 A Yeah. You have to understand that during that
17 particular time, a friend of mine, since -- if you opened
18 the door, a good friend of mine who I had went to church
19 with and who I had watched baptized, he became the subject
20 of an investigation.

21 At the time, the lead investigator could not -- pretty
22 much -- didn't have enough to really approach him. At
23 the time, I did not believe that my friend was involved
24 in it at all. I didn't want to believe that my friend
25 was involved in it. I went to my captain, Captain Smith,

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1 and asked him to let me talk to him.

2 With respect to the relationship, the personal
3 relationship, between me and Mr. Laton, Barron Laton
4 (phonetic), I offered to record that statement in the audio
5 out of good faith so that it wouldn't be as if
6 like -- it -- you know, it was tainted in any way.

7 That was the only time that I ever recorded anything
8 in audio, and that was with respect to the personal
9 relationship that I had with Mr. Laton, and that was the
10 only time that I ever done that, but I've never, ever
11 recorded anyone that I was not connected with during a
12 homicide investigation or any other investigation in my
13 car, in person, at headquarters. That has never, ever
14 been done.

15 That -- the circumstances surrounding that with
16 respect to the first relationship and to add, Mr. Laton
17 confessed, and he was locked up, by me, that night. He
18 was a good friend of mine, and so he went to jail that
19 night after he confessed.

20 The reason for the audio recording was because of
21 the personal relationship, and he has since been
22 sentenced to 17 years as a result of what I've done that
23 night.

24 Q I'm not denying that y'all are friends. I do
25 appreciate your explanation because for a second there,

1 I thought you were saying that you never recorded
2 anybody, and I was concerned for you, under oath.

3 But the point I'm making is you stated here, just
4 a few seconds ago, that Richland County's policy is not
5 to record, right?

6 A That's the policy, yes.

7 Q But when it's your friend, you're going to record him,
8 aren't you?

9 A As I stated, as a result of the conse--- the
10 circumstances --

11 Q You know that recordings protect --

12 A I would like to say --

13 Q -- suspects --

14 A Can I finish?

15 Q -- and isn't it true --

16 MR. GIESE: Objection, Your Honor.

17 MR. SHEALEY: -- that when your friend --

18 THE WITNESS: I would like to finish.

19 THE COURT REPORTER: I'm sorry, Your Honor.

20 MR. GIESE: Your Honor, objection.

21 MR. SHEALEY: -- is on the line --

22 THE COURT REPORTER: I cannot make a record.

23 (unintelligible talking over each other).

24 THE COURT: I know.

25 MR. GIESE: I'd like to approach.

1 MR. SHEALEY: I was trying to get the --

2 MR. GIESE: I would like to approach.

3 MR. SHEALEY: -- question out --

4 MR. GIESE: I would like to approach.

5 THE COURT: Approach the bench.

6 MR. GIESE: Sure.

7 THE JUROR: That guy is an asshole asking that
8 question.

9 (WHEREUPON, a bench conference was held in the
10 presence but not within the hearing of the jury.)

11 (Pause).

12 THE COURT: All right. Ladies and gentlemen, just
13 disregard that last exchange.

14 Mr. Shealey?

15 MR. SHEALEY: Yes, Your Honor.

16 THE COURT: Continue with your cross-examination.

17 MR. SHEALEY: Yes, sir. Beg the Court's indulgence.

18 (Pause).

19 THE COURT: When an objection is made, suspend your
20 question. Let the Court rule on it and stop. Do not go
21 any further.

22 MR. SHEALEY: Yes, sir; yes, sir.

23 BY MR. SHEALEY:

24 Q All right. Now, as you stated, nothing is being
25 recorded at this point, correct, in this case with

1 Mr. Theodore Manning?

2 A No, sir.

3 Q Okay. It's not your policy. You didn't choose to
4 do it that the point, right?

5 A That's correct.

6 Q Okay. Now, you're making phone calls back and forth.
7 You're talking to Mr. Manning. You're helping to
8 arrange some things. You just made an arrest, right?

9 A That's correct.

10 Q You had your Blackberry with you, correct?

11 A Yes, sir.

12 Q You have your Blackberry. You push a button. It can
13 record like any other modern-day phone, correct?

14 A I've never used it, but I'm assuming you can, yes.

15 Q You didn't do that at this point.

16 A No.

17 Q And you got, I guess, Investigator Wagner you with
18 the back for a little while. She is dropped off, but for
19 the majority of this 35-minute drive, it's just you and
20 Mr. Manning going to headquarters.

21 A Twenty-five to 30 minutes, yes, sir.

22 Q All right. Now, let's talk about when you get to
23 headquarters. I think you told Mr. Giese that when you
24 got there, you quickly wanted to put Mr. Manning in his
25 cell so you could then start typing it up and trying to

1 remember everything he told you that, right?

2 A That's correct.

3 Q Okay. Now, if you had a recording, you could have
4 just pressed play. Do you agree?

5 A I mean, of course, if I would have used a recording,
6 if it was the practice of us to do so, then I would use
7 that, but we don't use it.

8 Q But you don't have that.

9 A We didn't -- I didn't use it then, and so it was
10 important for me to make sure that I got down on paper
11 exactly what I remembered him stating on the way to
12 headquarters.

13 Q And you're relying from your memory.

14 A That is correct.

15 Q Okay. And let's just -- when he's in the car, you
16 told him it was all over. I'm going to backtrack a
17 little bit, right. You told him it was all over, you know,
18 you know what's going on. You just needed to come clean
19 with us, right?

20 A All right. Are you asking me or are you telling me
21 what I told him?

22 Q I'm asking you if that's the gist of what you told
23 him at first?

24 A I told him, "I need the truth. We found her car."

25 Q Right.

1 A That's what I told him.

2 Q And you also told him, because it's a common
3 interrogation technique, that you told him, "It's okay.
4 I understand if it was an accident. Just tell me it was
5 an accident. It's okay." You asked him that question.

6 A That is exactly what he said it was initially. If
7 you go in and you look -- if you read further into my follow
8 up, you see that he immediately admitted to being
9 present during the time of the shooting.

10 Q The reason why you asked him that, told him to say
11 it was an accident is because given your substantial
12 training on interrogating people, you know that if you
13 can get them to at least put himself on the scene, after
14 that -- I mean, they've coughed up substantial
15 information, right?

16 A Again, as I stated earlier, he immediately admitted
17 to being on the scene. I didn't -- I didn't give him an
18 out with respect to it being an accident. Once he said
19 he was on the scene, again, he showed up, put his head
20 in his hand. You know, said, "I was there," you know,
21 he made it seem as if it was an accident.

22 Q And he was remorseful. You testified before that he
23 was remorseful.

24 A He basically -- that might have been the wrong term.
25 He basically put his head -- it's better off if I

1 describe what he did. He put his head in his hand, and
2 he said, "I was there. Basically, it was an accident."

3 Q Okay. And he told you it was an accident at that
4 point, correct?

5 A Yes, he did. He brought up the word accident first.

6 Q Now, let's get back to the Richland County Sheriff's
7 Department. You're typing up what you were trying to
8 remember from the car ride, right?

9 A That is correct.

10 Q And, you know, we already covered the ground. You
11 don't have any audiotapes. You can't just listen to what
12 was said, but I know you -- you've actually made some
13 mistakes with names here today. You had to look at your
14 notes about the name of the defendant and the name of the
15 victim?

16 A Correct. This was over a year ago. I wasn't involved
17 with it from the onset. Not to minimize the effect on
18 the family or your client, you know, it's -- generally,
19 if you're a lead investigator on something, you remember
20 all the names and for this most part, most of the
21 details.

22 In this particular case, I did have to refer to my
23 notes to make sure I had his full name. He didn't have
24 a short name or -- he has very long name, and so I wanted
25 to make sure that I called him the correct name. I'm not

1 sure where you're going with this.

2 Q You're only human is where I'm going. Humans make
3 mistakes.

4 A For referring back to make sure I have the victim and
5 the defendant's name correct?

6 Q I'm just asking you a question, right? You're human,
7 I'm human. That's fair?

8 A Yes, sure.

9 Q You're not infallible, are you?

10 A Of course not.

11 Q You make mistakes. You'll agree with that.

12 A I believe we all do.

13 Q Now, Mr. Giese has walked you through, in
14 excruciating detail, through his first statement that
15 you typed.

16 MR. GIESE: Your Honor, I object to that.

17 THE COURT: Sustained.

18 BY MR. SHEALEY:

19 Q You've testified in detail to the 11-page statement
20 that you typed, right?

21 A That's correct.

22 Q Now, this is you typing at your computer in your
23 office, right?

24 A Yes, sir.

25 Q I mean, you're the author of the words that hit the

1 paper, right?

2 A I'm typing it, but the words are actually -- the
3 questions, again, are my words, but the words with
4 respect to the answers on the 11-page statement are the
5 words, are the specific words of the defendant,
6 Mr. Manning.

7 Q Let's talk about your office. You've stated before
8 it's a somewhat small office. You got your computer
9 there, right?

10 A Yes.

11 Q You got a table there where people can sit, right?

12 A Yes.

13 Q Some chairs, right?

14 A That is correct.

15 Q No audio equipment, right?

16 A No.

17 Q Nothing coming from the ceiling that's recording
18 everything we're saying, right?

19 A No.

20 Q No video equipment, correct?

21 A No.

22 Q Although, some of this equipment does exist at
23 Richland County, right, with Mr. Wright, the polygraph
24 room, audio and video.

25 A I'm sorry, Mister who?

1 Q Sergeant White, Jimmy White.

2 MR. GIESE: Your Honor --

3 THE WITNESS: I thought you said Wright, I apologize.

4 MR. GIESE: I object.

5 THE COURT: All right, sir. Grounds?

6 MR. GIESE: We need to approach.

7 THE COURT: All right.

8 (WHEREUPON, a bench conference was held in the
9 presence, but not within the hearing of the jury.)

10 BY MR. SHEALEY:

11 Q All right. I apologize.

12 You -- other places, you know, we've talked about
13 what other places in the building have capabilities for.
14 Again, in your office it's your policy to not record
15 anything with audio --

16 MR. GIESE: Objection, Your Honor, asked and
17 answered.

18 THE COURT: All right, move on.

19 BY MR. SHEALEY:

20 Q Okay. All right. So let's get to the statement that
21 we've gone through a good bit, and you're familiar with
22 it. You have it in front of you?

23 A No, I do not.

24 Q I think it's State's 2, I believe, if that helps you.

25 A Thank you.

1 Q Now, this is an 11-page statement, right?

2 A Yes, it is.

3 Q And you agree that, really, most of it -- I'd say
4 about ten pages of it are about that kind of aftermath,
5 if you will, of Kendra coming over and everything about
6 that, right?

7 A I mean, I wouldn't necessarily agree with that in its
8 totality --

9 Q Okay.

10 A But basically it's --

11 Q All right. Let's look at page one. All right. That
12 would be what he allegedly says about that morning with
13 Ms. McPhatter being there, right?

14 A "Nikki showed up to my house about nine o'clock that
15 morning," starts off with that.

16 Q Okay. If I can turn your attention to page two.
17 Starting from the bottom is where it talks about
18 calling Kendra, right?

19 A Page two? I'm sorry.

20 Q The bottom of the paragraph, "I got scared. I
21 started shaking. I grabbed my phone. I didn't know who
22 to call, so I hit redial, and I called Kendra." You see
23 that, right?

24 A Right but --

25 Q Okay. So all I'm asking you to do is note that.

1 That's when he starts talking about Kendra coming over.

2 You agree?

3 A Give me a moment.

4 (Pause).

5 Right. Up to about in between two and -- page two
6 and page seven is pretty much about the -- in reference
7 to after.

8 Q All right. So at page two, right where I pointed to,
9 you start --

10 A Post --

11 Q -- Kendra coming over, right?

12 A Yes, sir.

13 Q Then the rest of it is giving a lot of detail, you
14 agree, about what happens, right? I mean, you've read
15 the whole thing for us.

16 A I did read it.

17 Q From getting gas to mopping to, you know, what
18 Kendra told him, that's all in there for the rest of the
19 11-page statement, right?

20 A There are some other questions with respect to, you
21 know, the incident itself. All of it is not just catered
22 towards the aftermath.

23 Q You'd agree it's most of it, right?

24 A There are some evidentiary questions with respect to
25 the clothing, things of that nature, but for the most part,

1 yeah.

2 Q There's a lot of detail in there from Mr. Manning,
3 right?

4 A That's correct.

5 Q And you're saying these are his words to you that
6 you're typing, right?

7 A That is correct.

8 Q Now, you've referenced how -- the length of time and
9 everything that happens with this, but you know, he
10 told you Kendra's role. Basically, he is saying he's in
11 shock. He's in panic. He calls because she is the last
12 person -- you know, he hits redial. She comes over,
13 right?

14 A That is correct.

15 Q His words are that she said she would take care of
16 everything?

17 A Yes, sir. I believe that's what he told me.

18 Q All right, sir. And that goes on in great detail that
19 I don't want to go on again, but like we said, that's most
20 of the statement. But let's talk about the second
21 statement.

22 A Sure.

23 Q This is where where you talk about Investigator
24 Isenhoward coming. Toward the end of your statement, you
25 didn't really know he was there at first, right?

1 A That is correct.

2 Q You told him what you -- you know, about your first
3 statement, right?

4 A Yes.

5 Q Okay. And he told you -- and you knew he was on from
6 the beginning, right? You were only -- from the end when
7 you arrested him, right?

8 A That is correct.

9 Q So he learned about your -- this first statement, and
10 he said, "I don't like this. I've got some facts that
11 I think I ought to question him on," and you let him,
12 right?

13 A His exact words were "I don't buy this".

14 Q That's the gist. This is what you testified to.

15 A Right.

16 Q I'm not fighting you on this.

17 A Right, I understand.

18 Q You're still typing, but now he's doing the
19 questioning, right?

20 A He has taken the lead with respect to the questioning
21 but, yes, but I was present during the whole time.

22 Q Okay. And in this second statement. Do you have
23 that in front of you?

24 A No, I do not.

25 Q Let me help you out. This is what has been marked

1 State's No. 3. That's a substantially shorter statement,
2 three pages, correct?

3 A That is correct.

4 Q Now, in the first page, there's a whole paragraph on
5 his right to --

6 MR. GIESE: Your Honor, I hate to object again, but
7 I object. It's not in evidence at this time. I'm going
8 to put it in through Sergeant Isenhoward, but if you'd
9 like to put it -- if he wants to testify to it, he needs
10 to place it to evidence.

11 MR. SHEALEY: I haven't asked him to testify off of
12 it yet, but this is -- I don't know what the objection
13 is but...

14 MR. GIESE: He's asking questions --

15 THE COURT: Well, I understand what the objection is.
16 He's objecting to referring to the second statement
17 before it's introduced into evidence, that's all.

18 Are you going to talk to him about the third, last
19 statement, then you needed to offer it.

20 MR. SHEALEY: I was just making sure that he knew what
21 I was talking about. It was mostly to refresh his memory
22 in case he had a problem, but he hasn't said he had a
23 problem yet.

24 THE COURT: Go ahead.

25 BY MR. SHEALEY:

1 Q Thank you.

2 You've agree it's a three-page statement, right?

3 A It is, yes, sir.

4 Q Okay. Now, since we're -- I'll go ahead and assist
5 you, but you wrote that. You typed it? You typed that
6 statement up?

7 A Actually investigator -- Sergeant Isenhoward typed
8 this statement up.

9 Q So you're no longer typing in your own office?

10 A No. He is typing in my office. We use each other's
11 computers all the time.

12 Q Okay. Law enforcement is typing that statement up.

13 A That is correct.

14 Q Right. It's -- you recognize it as a statement from
15 that day?

16 A Yes, I do.

17 Q So sure, at this time, I would like to offer it as
18 evidence.

19 THE COURT: Any objection?

20 MR. GIESE: No, Your Honor.

21 MR. SHEALEY: Let me get this marked.

22 MR. GIESE: Defense exhibit, right?

23 THE COURT: What?

24 MR. GIESE: A defense exhibit, correct?

25 THE COURT: The court reporter will so mark it.

1 (WHEREUPON, Defendant's Exhibit No. 11 was admitted
2 into evidence.)
3 BY MR. SHEALEY:
4 Q I'm going to hand it back to you now.
5 A Thank you.
6 Q Now, you asked him if he wants to change his
7 statement, and he agrees he does. He's been confronted
8 with this evidence, right?
9 A That is correct.
10 Q Because he told you it was an accident originally
11 because that's what you wanted him to tell you. You told
12 him, "Just say it's an accident. It will be okay," right?
13 A Are you telling me that, sir, or that's what you're
14 asking me, I'm sorry?
15 Q That's what you said, right.
16 A That is not what I said, sir.
17 Q That's your testimony today, but as you go over this
18 next statement, he's confronted by Isenhoward, and he
19 wants to change it, right?
20 A Yes. The first question is, "Is it true that you would
21 like to change a part of your first statement?"
22 Q Okay.
23 A "Yes."
24 Q All right. In this three-page statement, he gives,
25 allegedly, everything that happened in that house that

1 day to Isenhoward, right? This is his version of the
2 actual altercation between himself and Ms. McPhatter?

3 A There are some questions with respect to Kendra.

4 Q Right. You asked, "Is there anything changed about
5 Kendra?" You said no -- he said, "No. What I told you
6 is what happened with Kendra," right?

7 A (Pause).

8 "Were you completely honest in your first statement
9 regarding actions of Kendra?"

10 Answer: "Yes".

11 Q So he doesn't really go on to change that whole
12 after-the-fact, you know, version of what he's -- what
13 Kendra -- he leaves that alone, right?

14 A He does. I mean, he just changed his own actions with
15 respect to firing the weapon, with respect to doing it
16 intentionally and with respect to it being as a result
17 of an argument. That's what he changed.

18 Q That's what I'm getting at.

19 A Sure.

20 Q This three-page statement focuses on that house,
21 correct?

22 A For the most part, yes, sir.

23 Q And he really doesn't talk about anything with
24 substance until the second page, right? You say, "What
25 would you like to add to your statement," correct?

1 A Right. The first page consists of a series of
2 questions when someone would like to add something or
3 take away from their statement, and again, the first
4 question: "Is it true that you would like to change a
5 part of your first statement?"

6 Answer: "Yes".

7 Question: "Are you doing this of your own free will
8 and accord?"

9 Answer: "Yes".

10 Q And I didn't ask you about that, but you're going
11 forward. So I'd ask you to stick with me here. We'll get
12 through this.

13 A I'm sorry. You -- you stated it was the second page
14 that had a lot of the substance and I was explaining why.

15 Q And I'm going to help do that, because I get to ask
16 the questions, and you get to answer them. That's why
17 you're a witness.

18 A Yes.

19 Q The first page, since you've gotten to it --

20 A Yes.

21 Q -- is mostly about his rights, correct?

22 A That is right.

23 Q And making sure he wanted to change his statement,
24 correct?

25 A That is correct.

1 Q So the second page would be the start of substance
2 regarding the fight, correct?

3 A The second page?

4 Q The second page.

5 A The first question on the second page.

6 Q Okay.

7 A "Were you fully honest when you gave your first
8 statement?"

9 Answer: "No".

10 Q You would agree that the second page is the start of
11 the substance of the fight, right?

12 MR. GIESE: Objection, Your Honor, just
13 characterization of it.

14 THE COURT: Well, I think just read it, so go ahead.

15 BY MR. SHEALEY:

16 Q You agree, right? And this is where --

17 A I'm sorry. What am I agreeing to? I apologize. I
18 have to kind of like slow you down a little bit.

19 Q I'm trying to --

20 A What am I agreeing to, I'm sorry?

21 Q I'll help you here. This is basic. I'm not trying
22 to trick you.

23 A You're trying to change my words up a little bit.
24 That's all right.

25 Q Look at the second page. Will you do that for me?

1 A I am looking at it.

2 Q Are you with me?

3 A I am definitely with you.

4 Q The second page is where he starts to talk about the
5 fight. That's all I'm asking. Just answer the
6 question.

7 A Question: "What would you like to change about" --

8 Q I'm not asking --

9 A -- "your statement?"

10 Q -- you to read it. I'm asking you to talk about --

11 A Well, I have to refer to the substance --

12 Q You can read it.

13 MR. GIESE: Your Honor, I object.

14 THE COURT: Yes, sir. I understand. Sustain the
15 objection. Let him read the --

16 MR. SHEALEY: Your Honor --

17 THE COURT: -- statement.

18 MR. SHEALEY: -- he --

19 THE COURT: You recharacterized the testimony, and
20 he cannot do that.

21 MR. SHEALEY: I'll rephrase the question, Judge.

22 THE COURT: It says what it says.

23 THE WITNESS: I'm sorry.

24 MR. SHEALEY: And I'm not asking him to read it at
25 this point. I will in a little bit.

1 BY MR. SHEALEY:

2 Q When he talks about what happened between himself
3 and Ms. McPhatter that day, you'll agree that starts on
4 the second page.

5 A All right. If you'll allow me, I'm not familiar with
6 the page like --

7 Q Take your --

8 A I'm not --

9 Q Take your time.

10 A Let me answer. I'm not as familiar with the second
11 page as you may think that I am, so I'm asking you if
12 you would give me a moment to read to it myself, then I
13 can answer that question accurately.

14 Q Yes, sir. Please do. Thank you.

15 (Pause)

16 A In answering your question, yes, that's where -- when
17 he basically talks about the interaction prior, during,
18 and after the shot.

19 Q All I'm saying is it starts on page two.

20 A After reading it, yes, sir, you're right.

21 Q Okay. It goes on to page three, and that's the end
22 of the statement, correct?

23 A Give me a moment.

24 (Pause)

25 On page three, she goes -- he goes on to further

1 describe Kendra's actions and also at the top of the page
2 with respect to the gun and Nikki.

3 Q Okay. So then you will agree that that one paragraph,
4 starting on page two, is where he discusses the fight?

5 A Yes.

6 MR. GIESE: Your Honor, I object again. He's used
7 it time after time. It's not what the statement says.
8 He used it to characterize --

9 THE COURT: The witness has used it to answer the
10 question. Let's move on.

11 MR. GIESE: It's at least the fourth time.

12 BY MR. SHEALEY:

13 Q That one paragraph is the entirety of what happened
14 in that house that's reduced to writing with y'all?

15 A That is incorrect. Again, on the third page if you
16 look at the first question --

17 Q Okay.

18 A It's clearly dealing with the same incident --

19 Q I'm sorry.

20 A -- during the same timeframe.

21 Q I apologize. There is one question there on the third
22 page, you're right. You did ask him that. So other
23 than that one paragraph, there's that question on the third
24 page. You point it out to me, right?

25 A There is another question on the second page at the

1 bottom of it --

2 Q Okay.

3 A -- earlier, after dealing with that the same -- so
4 to answer your question, sir, it's throughout the statement
5 that he was talking about the incident.

6 Q Now, I'm just trying to discuss what you just told
7 me. We got the paragraph. That's clearly about the
8 argument.

9 A That is correct.

10 Q You got the one question there where you asked him
11 about the firearm, correct?

12 A That is correct.

13 Q And in the follow-up, thoroughly, the top of the third
14 page, there is one more question, just so we're clear.

15 A That is correct.

16 Q All right. So that's fair. This paragraph and those
17 two questions?

18 A Yes, sir.

19 Q And that is what Isenhoward typed up what about he
20 told y'all?

21 A That is correct, the facts as the defendant knew them
22 at the time, yes, sir.

23 Q Okay. Now, he actually told a lot more than is reduced
24 to this page, isn't that true?

25 A I'm not sure what you're getting at, I'm sorry.

1 Q Regarding the fight, there's a lot more details that
2 kind of didn't make the actual statement, right?

3 A There were -- what was recorded in written form were
4 the facts as the defendant relayed them, as I stated
5 earlier.

6 Q Okay. So you want this jury to believe that earlier
7 we have a ten-page typed statement all about what
8 happened afterwards, ten pages, but what we have here
9 regarding the ultimate question of the fight, that's all
10 he said was that one paragraph and two questions, that's
11 all?

12 A There was an 11-page statement earlier, and with
13 respect to the questions that Sergeant Isenhoward had
14 more specifically catered towards the interaction, the
15 fight, the shooting, that's what it would -- his facts
16 are memorialized here, I'm sorry.

17 Q So again, ten to eleven pages predominantly as you
18 would agree with me --

19 A Right.

20 Q About the aftermath --

21 A Here --

22 MR. GIESE: Objection, asked and answered.

23 THE COURT: One more time.

24 BY MR. SHEALEY:

25 Q But here we have one paragraph, in two questions,

1 about the actual fight about what happened in that house
2 that day. That's all that makes it, and the rest is cutting
3 room floor?

4 A It's weird that you would use that analogy, but the
5 individual responsible for the facts given that day was
6 Mr. Manning. He was the producer. In using your analogy,
7 the director and the actor in that. With that said, what
8 he produced that day were the facts that he wanted to be
9 published.

10 Q But you didn't include everything that he's told you.
11 You would agree with that?

12 A We also talked about house music and me being from
13 New Jersey, but there was no need to put that in the
14 statement.

15 Q I'm talking about that fight. Not everything he said
16 is in that paragraph. It can't be. This is seven hours.

17 A Everything he said in reference to changing his
18 statement from the 11-page statement he gave initially
19 was recorded accurately, and the follow-up three-page
20 statement led by Sergeant Isenhoward and witnessed by
21 myself, and I believe Investigator Holly Wagner was
22 right outside the door, as well.

23 Q And if you had audiotaped this, I would know. We
24 would know but you didn't. You didn't, right?

25 A I mean, I see what you're telling me. I'm sorry. I

1 have a hard time understanding whether you're asking me
2 a question or whether you're telling me something.

3 Q You don't here. You know.

4 A I don't know. That's why I'm asking you, sir.

5 Q Because you made no audio or videotape of this,
6 Sergeant McDaniels.

7 A Uh-huh.

8 Q This jury does not know what happened, what he told
9 you about that argument other than that paragraph that
10 was boiled down, right?

11 A The paragraph and the two questions.

12 Q Oh, I forgot the two questions.

13 A Okay.

14 Q That's all that we know from you about this, that's
15 been reduced, recorded, memorialized, whatever you want
16 to call it, correct?

17 A That is correct.

18 Q Now, you recall me writing you a letter asking you
19 to listen to some jail phone calls, don't you?

20 MR. GIESE: Your Honor, I object.

21 THE WITNESS: I do not.

22 MR. GIESE: Object.

23 THE WITNESS: I don't recall it.

24 MR. GIESE: Object.

25 THE COURT: Approach the bench.

1 (WHEREUPON, a bench conference was held in the
2 presence, but not within the hearing of the jury.)

3 THE JUROR: That guy is a jackass.

4 (Pause).

5 BY MR. SHEALEY:

6 Q All right. I won't be much longer with you.

7 You just told us, you talked about the very links
8 in the statements and what they were about, but I want
9 to talk to you about that you admitted to being human to
10 me, right?

11 A Of course, sir, yes, sir. I would like to believe
12 so.

13 Q You've admitted to making mistakes before, right?

14 A As everyone has admitted here, yes, sir.

15 Q We all have.

16 A We all have.

17 Q And you admitted to making mistakes -- probably made
18 mistakes. I'll tell you'll this: It's fair to say you
19 made mistakes on this case, correct?

20 A I wouldn't know what you were referring to.

21 Q Because of the things you didn't include in that
22 one paragraph and two-lined statement, you made
23 mistakes not including the rest of it, right?

24 A That would be your interpretation. There were no
25 mistakes with respect to memorializing the statement.

1 Those were the facts that he gave that day. That was his
2 recollection of that -- that interaction of the incident,
3 and we memorialized it exactly the way he said it,
4 improper English and everything.

5 Q And you've made mistakes before when charging a man
6 with murder.

7 MR. GIESE: Objection, Your Honor.

8 THE COURT: Move on. I mean, we've been over this
9 numerous times. Move on with your cross-examination.

10 BY MR. SHEALEY:

11 Q Do you recall the case of Justin Mallory?

12 MR. GIESE: Objection, Your Honor.

13 THE COURT: Relevance?

14 MR. SHEALEY: Are you asking me, Judge?

15 THE COURT: No. I'm asking the Solicitor what his
16 objection is. I said "relevance", and he said "yes".

17 Sustained.

18 BY MR. SHEALEY:

19 Q Okay. All right. We won't talk about anything else
20 with your mistakes. We'll talk strictly here, strictly
21 here, okay.

22 Let's boil it down to what you boil it down to. Do
23 you have the second statement with you, again, in front
24 of you?

25 A I do, yes, sir.

1 Q Okay. Now, it's your opinion that this statement
2 amounts to murder. Otherwise, you wouldn't have -- you
3 know, we wouldn't be here, right?

4 A Well, that's your perception. The warrant was
5 already obtained based on evidence that was gathered
6 prior to the third statement, and again, I had nothing
7 to do with the initial aspect of the investigation, but
8 I was instructed by Captain Smith to obtain an arrest
9 warrant for the arrest of Mr. Manning for murder.

10 Q You think this is evidence of murder, the statements?

11 A Of course, it is.

12 Q All right. So let's go through that. Let's go
13 through the second statement.

14 Now, do you agree when he says that they got in an
15 argument about --

16 MR. GIESE: Your Honor.

17 MR. SHEALEY: -- a relationship?

18 MR. GIESE: Objection.

19 MR. SHEALEY: What?

20 THE COURT: What's the objection?

21 MR. GIESE: The objection is he's trying to -- he's
22 asking this investigator, it's my understanding, whether
23 or not this statement amounts to murder. That's the
24 jury's decision, first off.

25 This investigator took the statement, and he's

1 testifying to taking the statement. It's up to the jury
2 as to whether or not -- what it is.

3 MR. SHEALEY: I asked him if this was evidence of
4 murder, and he said yes. I was going to talk to him about
5 the statement.

6 THE COURT: Well, it's in evidence.

7 MR. SHEALEY: All I --

8 THE COURT: He said the warrant for murder was
9 obtained prior to the statement, so I -- I don't see how
10 you can cross-examine him about whether or not the
11 statement supports a murder allegation because it is the
12 province of the jury to determine that ultimate fact.

13 MR. SHEALEY: I agree with that, Your Honor, but he
14 agrees that what was given to him is evidence of murder.
15 He is the investigator.

16 THE COURT: Move on. I sustain the objection.

17 BY MR. SHEALEY:

18 Q So you'll agree that he told you they were friends
19 with benefits?

20 A Yes.

21 Q Okay. You'll agree that they told -- that he told
22 you that Nikki got upset about that?

23 A That is correct.

24 Q That's all in that paragraph in two questions,
25 right?

1 A That is correct.

2 Q You'll agree that he told you in this statement, that
3 is the final statement, that she pulled a gun out at him
4 because of this argument, correct?

5 A Give me a moment. Let me read it.

6 (Pause).

7 That is correct.

8 Q You'll agree that he asked, "What the hell are you
9 thinking?"

10 A That is correct, the next sentence.

11 Q He told you that in his own home he had to take the
12 gun away from her.

13 A I would rather read exactly what he said, but
14 that's -- I don't remember him saying "in my own home",
15 I'm sorry.

16 Q Was it his own home?

17 A I mean, you're asking me to tell you what he said here.
18 I'm --

19 Q We'll separate that.

20 A Okay.

21 Q A separate thought, was this his home?

22 A It was his home, yes, sir.

23 Q Okay. So you'll agree that in his own home, he told
24 her -- you know, he took the gun away from her was my
25 question, right?

- 1 A That's correct.
- 2 Q Okay. And as he is taking the gun, he says she is
3 crying the whole time, right?
- 4 A "I grabbed her hands and just took it from her. Then
5 I pointed it at her and asked her, 'Are you fucking
6 crazy?' I told her that you can't be mad at me because
7 when I came up to see you last" --
- 8 Q Now, I have to stop you right there.
- 9 A I'm sorry?
- 10 Q What I'm asking you is about the crime. If you'll
11 move up a couple of sentences, right there in that little
12 paragraph.
- 13 A You want me to skip some -- I'm sorry, skip how many
14 sentences?
- 15 Q Just right there, "The whole time she was crying."
16 He told you she was crying the whole time, right?
- 17 A "The whole time she was crying."
- 18 Q Okay.
- 19 A "Even when she was pointing the gun at me, she was
20 crying."
- 21 Q Okay. And you said it, but he tells you she -- he
22 asked her, "Are you" -- pardon my language, "fucking
23 crazy", right?
- 24 A Yes.
- 25 Q But she responds, "You're just like everybody else"?

1 A That is correct.

2 Q "You said you were going to be there for me, and you
3 hurt me just like everybody else," is what he says she
4 told you -- told him.

5 A That is correct.

6 Q He talks about how she motioned towards him?

7 A "She went to take a step like motioning towards me,
8 but she pivoted when she did it, and I pulled the trigger
9 to show her to stop playing."

10 Q That's what's been typed up by law enforcement,
11 right?

12 A Those were his exact words, sir.

13 Q And this is in his house, right?

14 A This incident took place, yes, sir, inside of his
15 home.

16 Q They had an argument about the relationship, right?

17 A According to him, yes, sir.

18 Q He told you it was -- he told her it was just friends
19 with benefits?

20 A Yes, sir.

21 Q She pulls a gun.

22 A "It was a disagreement between the two of us. I was
23 disregarding some of her questions when it came to the
24 relationship, which turned into an argument that got heated.
25 Nikki picked up the firearm and pointed it at me."

1 Q She pulled the gun?

2 A That is correct.

3 Q He says he's scared.

4 A I'm sorry, I don't remember. I'll definitely have
5 to read that. I apologize.

6 Q Well, you might not --

7 A I asked her, "What the hell was she thinking. She
8 asked me was I still serious, referring to whether or not
9 I wanted to have kids with her. I told her it was just
10 friends with benefits, which made her even madder. I
11 told her to stop playing and took the gun from her. I
12 grabbed her hands and just took it from her."

13 Q So --

14 A "Then I pointed it at her and asked her -- then I
15 pointed it at her and asked her, 'Are you fucking crazy?'"

16 Q So after he's in his house --

17 MR. GIESE: Your Honor --

18 MR. SHEALEY: -- in this relationship --

19 MR. GIESE: -- I objected to his prior question where
20 he used the word "scared". I'm not sure it's in that
21 statement.

22 THE WITNESS: It's not. I don't believe it is.

23 THE COURT: It's not.

24 BY MR. SHEALEY:

25 Q I'm sorry. He is in his house, you agreed. She

1 pointed a gun after an argument about the relationship --

2 MR. GIESE: Objection, asked and answered.

3 MR. SHEALEY: She took the gun --

4 THE COURT: Sir, I told you, this is an objection.

5 You're asking him about the statement, what the
6 statement says, correct?

7 MR. SHEALEY: Yes. That's all I'm trying to do,
8 Judge.

9 THE COURT: All right. Move on, please.

10 BY MR. SHEALEY:

11 Q In the end, she moved towards him, and he ends up
12 shooting her is what he tells you.

13 A "She went to take a step toward me, but she pivoted.
14 When she did it, I pulled the trigger to show her to stop
15 playing."

16 Q And that is the summation of that paragraph in two
17 questions about the argument, right?

18 A I'm sorry. I was reading on, trying...

19 Q And that's the end about the argument, that one
20 paragraph, two questions, on this page, right?

21 A No. Again, the final question, "When the firearm
22 was discharged, were you the only one in possession of
23 the gun?"

24 His answer was yes.

25 "Did Nikki in any way strike or hit the gun by

1 accident" --

2 Q I got --

3 A -- "causing the gun to discharge?"

4 The answer was no.

5 Q I forgot, at this point -- now, we've heard in
6 openings, and we've heard throughout, this is a
7 high-pressure case, right?

8 MR. GIESE: Objection, Your Honor.

9 THE WITNESS: I'm sorry?

10 THE COURT: Overruled. I mean, I'm sorry. Sustain
11 that.

12 THE WITNESS: I'm sorry.

13 THE COURT: Withdraw the question.

14 BY MR. SHEALEY:

15 Q She was missing for 23 days?

16 A I don't -- I wasn't a part of that. I don't know
17 exactly how many days she was missing.

18 Q You know that Charlotte was down here, correct?

19 A I did see Charlotte in and out of the office, I did.

20 Q Everybody was looking for her.

21 A I wasn't involved in the initial --

22 Q And the ultimate question that you want to know, so
23 that you can hammer this nail in his coffin --

24 MR. GIESE: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MR. SHEALEY:

2 Q You asked, "When the firearm was discharged, you" --

3 MR. GIESE: Your Honor, objection.

4 THE COURT: All right. I sustained it. The witness
5 need not answer it.

6 THE WITNESS: Yes, sir.

7 THE COURT: It's an improper question.

8 BY MR. SHEALEY:

9 Q You asked her (sic) about being the only one in
10 possession of the gun. That was something you wanted to
11 make clear.

12 A Where are you at on this statement? I apologize.

13 Q I'm at the only other question, other than that
14 paragraph, at the bottom of that page that you said
15 refers to anything about this argument. Right there at
16 the bottom.

17 (Pause).

18 Page two.

19 A I'm with you.

20 (Pause).

21 No, sir. There was -- the other question with
22 respect to the gun, as well, if you go to page three.

23 Q No. I'm looking right here at page two. You made
24 sure that at the time the gun was discharged, you want
25 to make sure he's the only one in possession, right?

1 A Right, and the --

2 Q That's the question you asked, or that Isenhoward
3 asked, that's what --

4 A If you will let me answer the question.

5 Q No. I'm asking the questions here. You're the
6 witness.

7 A I'm trying to answer your questions.

8 MR. GIESE: Your Honor, it's argumentative.

9 THE WITNESS: I'm trying to answer.

10 THE COURT: I agree.

11 MR. SHEALEY: And you have answered. I appreciate
12 it.

13 THE COURT: Sir, answer the questions.

14 THE WITNESS: Thank you, sir.

15 In reference to your initial question, you asked was
16 that the last question at the bottom of page two, was that
17 the only question in reference to the possession of the
18 gun, and my answer to you is no. There was a subsequent
19 question, which is on page three, which also deals with
20 the gun and whether or not it was an accident, whether
21 or not -- or who had the possession of it, and that
22 question reads, "Did Nikki in any way strike or hit the
23 gun by accident thus causing the gun to discharge?"

24 His answer to that, sir, was "no".

25 BY MR. SHEALEY:

1 Q And in that paragraph, he says he shot her. He
2 didn't say it was by accident in that paragraph, because
3 this is the statement we're on here, the second
4 statement, right?

5 A He stated, "I pulled the trigger to show her, stop
6 playing."

7 Q All right. Right there at the bottom -- what I'm
8 getting at --

9 A I'm not sure, I'm sorry.

10 Q I know, this is hard for you. But the focus of your
11 question is to make sure that he's the only one --

12 A I'm sorry.

13 Q -- with the gun, right?

14 A Go ahead. I'm...

15 What were you saying?

16 Q Is this funny to you?

17 A Your -- your comment was. It was --

18 Q The focus --

19 A Seemed to be uncalled for, but go ahead.

20 Q The focus of his question, of your question, is to
21 make sure that you put the gun, and only the gun, in his
22 hands at that point, right? You're cleaning that up.

23 A The focus of the question is to record the facts as
24 the defendant knew them at the time of his statement.

25 Q Okay.

1 A It is not my job to add nor subtract, or any one of
2 our jobs, to add, nor subtract, from the facts as the
3 defendant knew them on that day.

4 Q So what you've got here boiled down to this
5 paragraph and two questions -- you think that's evidence
6 of this crime, don't you?

7 A It is obvious evidence, yes.

8 Q That in his own home when he had a gun pulled on him
9 and he disarmed the assailant, you think that's
10 evidence of this crime, right?

11 A I thought I answered that. Yes, it's evidence, and
12 it's also damaging evidence with respect to, "I pulled
13 the trigger to make sure that she stopped playing."

14 Q Okay.

15 A Unfortunately, she sustained a bullet wound --

16 Q Okay.

17 A -- and she died as a result of that.

18 Q All right. No one is disputing that.

19 A All right. I'm sorry.

20 Q Beg the Court's indulgence.

21 (Pause)

22 I don't have much more here, but Shawn, have you ever
23 suggested accident to anybody, any interrogation ever as
24 part of your --

25 MR. GIESE: Objection, relevance.

1 THE COURT: Sustained.

2 BY MR. SHEALEY:

3 Q Okay.

4 Shawn, if you could receive one tool to help you
5 become a better law enforcement officer, would you take
6 it?

7 MR. GIESE: Objection, Your Honor.

8 THE COURT: Sustained.

9 MR. SHEALEY: What?

10 THE COURT: That's got nothing to do with this case.

11 MR. SHEALEY: (Indicating).

12 Okay. Well, I don't have anything further for you
13 at this time.

14 THE WITNESS: Thank you, Luke.

15 MR. SHEALEY: It's been a pleasure.

16 THE COURT: Any redirect?

17 MR. GIESE: Yes, sir, very briefly, hopefully.

18 REDIRECT EXAMINATION:

19 BY MR. GIESE:

20 Q We talked about the statement, Defense Exhibit number
21 11. Please read it and publish it to the jury --

22 A Yes, sir.

23 Q -- the whole statement, and before you do that, whose
24 words are those?

25 A The questions are generated by Sergeant Isenhoward,

1 and the answers were the exact words of the defendant on
2 that day in question.

3 Q He signed every one of those pages?

4 A Two times on each sheet a total of six times.

5 Q After you read it to him and said, "Is this your
6 statement?"

7 A That's correct.

8 Q His words, correct?

9 A His words, correct.

10 Q Please read it.

11 A Again, this is the template that we use, suspect
12 statement, information at top, date, time, the name of
13 the individual being interviewed, "I, Theodore
14 Roosevelt Manning IV, understand that I have the right
15 to remain silent. Anything I say can be used against me
16 in court. I have the right to talk to a lawyer for advice
17 before you ask me any questions and to have a lawyer with
18 me during any questioning.

19 "If I cannot afford a lawyer, one will be appointed
20 for me before any questioning, if I wish. If I decide
21 to answer questions now without a lawyer present, I still
22 have the right to stop answering at any time. I also have
23 the right to stop answering at any time until I talk to
24 a lawyer, do make the following statement."

25 Question: Sergeant Shawn McDaniels/Sergeant K.

1 Isenhoward; answers with the name of the individual
2 Theodore Roosevelt Manning IV.

3 Question: "Is it true that you would like to change
4 a part of your first statement?"

5 Answer: "Yes."

6 Question: "Are you doing this of your own free will
7 and accord?"

8 Answer: "Yes."

9 Question: "Have you been properly advised of your
10 Miranda rights?"

11 Answer: "Yes."

12 Question: "Were you fully honest when you gave your
13 first statement?"

14 Answer: "No."

15 Question: "What would you like to change or add to
16 your statement?"

17 Answer: "It was a disagreement between the two
18 of us. I was disregarding some of her questions when it
19 came to the relationship, which turned into an argument
20 that got heated.

21 "Nikki picked up the firearm, pointed it at me. I
22 asked her what the hell was she thinking. She asked me
23 was I still serious, referring to whether or not I wanted
24 to have kids with her.

25 "I told her that it was just friends with benefits,

1 which made her even madder. I told her to stop playing
2 and took the gun from her. I grabbed her hand and just
3 took it from her, then I pointed it at her and asked her,
4 'Are you fucking crazy?'"

5 Q Now, at this point, he says he has pointed the gun
6 at her. Does he say whether she was armed or not at that
7 point after he takes the gun from her?

8 A No, sir.

9 Q So she is unarmed, and he's got the gun pointed at
10 her; is that correct?

11 A That is correct.

12 Q Proceed.

13 A "I told her that, 'You can't be mad at me because when
14 I came up to see you last, you were asking me if I wanted
15 to be friends with benefits.'"

16 Q Gun still pointed, correct?

17 A That is correct.

18 "She was still talking about whether I was serious.
19 The whole time she was crying. Even when she was pointing
20 the gun at me, she was crying. She hit the gun, and I
21 asked her again, 'Are you fucking crazy?'"

22 Q It's still pointed at her?

23 A That is correct.

24 "She told me, 'You're just like everybody else. You
25 said that you were going to be there for me, and you hurt

1 me just like everybody else.'"

2 Q Still pointed at her?

3 A That is correct.

4 Q She is unarmed?

5 A That is correct.

6 "She went to take a step, like motioned toward me,
7 but she pivoted. When she did it, I pulled the trigger
8 to show her to stop playing. I didn't see where the bullet
9 went. I didn't see where she got hit anywhere. I
10 couldn't tell if she got hit anywhere. She just sat down.

11 "Her eyes were closed. She wasn't breathing. She
12 didn't have a pulse. I thought that she had just -- I
13 thought she just fainted. I kept pressing the call button,
14 and I called Kendra back."

15 Question: "Did you ever try to call 911?"

16 Answer: "No."

17 Question: "Why was Kendra the first person that you
18 called?"

19 Answer: "To be honest, I didn't know who to call.
20 She was just the last person that I had talked to."

21 Question: "When the firearm was discharged, were
22 you the only one in possession of the gun?"

23 Answer: "Yes."

24 Question: "Did Nikki in any way strike or hit the
25 gun by accident, thus causing the gun to discharge?"

1 Answer: "No."

2 Question: "Were you completely honest in your first
3 statement regarding the actions of Kendra?"

4 Answer: "Yes."

5 Question: "Is there anything that you would like to
6 change in reference to Kendra's actions on May 6th, 2009,
7 from your first statement?"

8 Answer: "No. She didn't get scared until they
9 searched her house and car. She said that they told her
10 something. I do not know what they -- what they told her.
11 It wasn't like she got scared that night. She got scared
12 that morning. She was pissed that they searched in front
13 of her daughter."

14 Question: "Explain to me why Kendra would feel the
15 need to help you get rid of a body."

16 Answer: "Maybe because she said that she would love
17 me to the end."

18 Question: "Is there anything else that you would
19 like to add to this statement?"

20 Answer: "No."

21 Question: "Is this statement the whole truth?"

22 Answer: "Yes."

23 Q The defendant's words, correct?

24 A All of his words, yes, sir.

25 Q In fact, the next to the last question, "Is there

1 anything else that you would like to add to this
2 statement?"

3 His answer was...

4 A "No."

5 MR. GIESE: That's all we have.

6 MR. SHEALEY: Beg the Court's indulgence.

7 THE COURT: Recross?

8 (Pause).

9 MR. SHEALEY: I don't have anything for Mr. McDaniels
10 right now.

11 THE COURT: All right, sir. You may come down.

12 This witness will probably be a part of this. He's
13 not excused at this time..

14 THE BAILIFF: Watch your step.

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to take our break at this time. I was going to say
17 a lunch break, but it's an early afternoon snack break.

18 I'm going to ask you to be back in the jury room
19 at -- let's try 2:45. It's now 1:45. That will give you
20 an hour for lunch.

21 Again, don't discuss the case among yourselves when
22 you return to the jury room or with anyone else over the
23 lunch hour. Have a pleasant lunch. We'll see you at
24 1:40 -- 2:45.

25 (WHEREUPON, the jury left open court at approximately

1 1:40.)

2 THE COURT: Stand at ease until 2:45.

3 (WHEREUPON, a lunch break was taken.)

4 THE COURT: I'm going to ask the court reporter to
5 bag the bullets.

6 MS. McDUFFIE: I'll bag it up.

7 (Pause)

8 THE COURT: Is the State ready for the jury?

9 MS. CAMPBELL: The State is ready.

10 THE COURT: Is the defense ready?

11 MS. PRINGLE: Your Honor, if it please the Court. We
12 were just wondering if we could proffer -- there was a
13 question that -- there were a few questions that we were
14 overruled on just for further support of our argument.

15 There was a question of Sergeant McDaniels from
16 Mr. Shealey which was, "Have you ever suggested accident
17 in an interrogation?"

18 The objection was to relevance, and it was sustained.
19 There wasn't further argument at that time.

20 I think that it -- our position would be that it is
21 relevant. It's relevant to impeachment of him because
22 he has used that tactic in the past, and that would be
23 relevant for which we wouldn't be able to really support
24 that unless we had the answers to the question. I was
25 just wondering if we could get the answer from him.

1 THE COURT: Have you ever suggested accident in --

2 MS. PRINGLE: In an interrogation.

3 He -- he claimed that in his testimony that he did
4 not suggest that to Mr. Manning. Obviously, that's
5 direct --

6 THE COURT: And that would be disputed by Mr. Manning
7 himself?

8 MS. PRINGLE: Yes, Your Honor.

9 THE COURT: Okay.

10 MS. PRINGLE: However, I think that if he had
11 answered in the affirmative, he has done that type thing
12 in the past, obviously that would be direct impeachment
13 of his testimony.

14 It would make it more probable than not that it's
15 possible he used that tactic in the interrogation.

16 I think the implication that we were left with was
17 that that's just not the tactics they use. We want to
18 be able to explore that.

19 I don't see him now, but I would ask if we would just
20 ask to proffer his answer when he's back in the
21 courtroom.

22 THE COURT: What's the State's position?

23 MR. GIESE: The State's position, Your Honor, is it's
24 not relevant, and how is that direct impeachment?

25 Your own words were -- your ruling was, "It's not

1 relevant," and her words were "Direct impeachment".

2 Well, if it's not relevant, it's not direct impeachment.

3 Thank you, Your Honor.

4 THE COURT: I assume she is saying that impeachment,
5 if it is, indeed, impeachment, it makes it relevant. I
6 say it's not relevant to this case. Is that my -- am I
7 misquoting you?

8 MS. PRINGLE: No, Your Honor. I think it's -- we're
9 not really trying to find out what he's done you know with
10 any specificity with other cases.

11 It's really -- the question is, is this a tactic or
12 approach that you've used or something you've used --

13 THE COURT: What if -- what if he says no?

14 MS. PRINGLE: Then I --

15 THE COURT: Are you prepared to impeach him on it?

16 MS. PRINGLE: Then I would have no further argument,
17 but if he says yes, I think we have a good issue. We would
18 need that answer in order to support that issue.

19 I can't imagine he would say no but maybe he would.

20 THE COURT: Well, it we'll make the proffer.

21 Sergeant McDaniels, you've been asked to answer a
22 question on the stand.

23 THE WITNESS: You want me to --

24 THE COURT: Yes.

25 THE WITNESS: Sure.

1 THE COURT: Out of the presence of the jury.

2 MS. PRINGLE: I'll let Mr. Shealey present it.

3 That's all I have to say.

4 THE COURT: I assume it's just --

5 MS. PRINGLE: Just the one question.

6 THE COURT: Just what?

7 MS. PRINGLE: Just the one question.

8 THE COURT: One question.

9 THE BAILIFF: Have a seat.

10 MR. SHEALEY: Have you ever, in any interrogation
11 that you've done, suggested "accident" to a potential
12 suspect?

13 THE WITNESS: When the facts that lead up to the
14 question, you know, leave room for it, yes, I have.

15 THE COURT: Thank you. You may come down.

16 Now, you want that in front of jury?

17 MS. PRINGLE: I'm sorry?

18 THE COURT: Withdraw the question.

19 You may come down.

20 THE WITNESS: Okay.

21 THE COURT: Ready for the jury?

22 MS. CAMPBELL: The State is ready.

23 THE COURT: Defense ready?

24 MR. SHEALEY: Yes, Your Honor.

25 THE COURT: Bring the jury.

1 THE BAILIFF: Yes, sir.

2 (WHEREUPON, the jury came into open court at
3 approximately 2:54 p.m.)

4 THE BAILIFF: The jury is all present, Your Honor.

5 THE COURT: Thank you, ladies and gentlemen. I hope
6 you had a pleasant lunch. We're ready to continue with
7 our trial.

8 Solicitor, continue with your next witness.

9 MS. CAMPBELL: May it please the Court. The State
10 calls Sergeant Kevin Isenhoward.

11 KEVIN ISENHOWARD,
12 after being duly sworn, testified as follows:

13 THE CLERK: Thank you. Have a seat in the witness
14 stand please state your name.

15 THE WITNESS: Kevin Isenhoward.

16 DIRECT EXAMINATION:

17 BY MS. CAMPBELL:

18 Q Sergeant Isenhoward, where are you employed?

19 A The Richland County --

20 MR. MAY: May we approach real quickly just for one
21 brief second?

22 (WHEREUPON, a bench conference was held in the
23 presence, but not within the hearing of the jury.)

24 BY MS. CAMPBELL:

25 Q Sergeant Isenhoward, where are you employed?

1 A The Richland County Sheriff's Department.

2 Q What do you do there, sir?

3 A I'll a sergeant in the Major Crimes Unit.

4 Specifically, I supervise robbery investigations and on
5 occasion homicides and deaths.

6 Q Back in May of 2009, what did your duties include?

7 A I was a sergeant in the Major Crimes Unit.

8 Q And specifically as to May 21st, 2009, did you become
9 involved in the investigation, the death, the homicide
10 or murder of Nikki McPhatter?

11 A Yes, ma'am. Both myself and Captain Smith were
12 requested to -- I'm not sure who in the Columbia Police
13 Department did, but it was the Columbia Police Department
14 and Charlotte/Mecklenburg Police.

15 Q Did you'll speak to the Columbia Police Department?

16 A Yes, ma'am, we did.

17 Q And there did you get briefed about the situation up
18 to the point you became involved on the 21st?

19 A Yes.

20 Q Specifically, while you were there, was there any
21 significant information developed, while you were there?

22 A Well, Charlotte, we had discussed the fact they
23 were trying to identify the person that -- the victim in
24 the case, Ms. McPhatter, had been coming to Columbia to
25 see.

1 Based on some information they were able to provide,
2 phone information, I believe, we did identify a person,
3 Theodore Manning, as the probable Teddy she spoke of to
4 friends.

5 Q Were you able to develop an address, one of many
6 addresses that were developed that day?

7 A Yes.

8 Q And what address ended up being significant in this
9 investigation as far as Theodore Manning was concerned?

10 A 8047 Bluff Road in Richland County.

11 Q And that evening, were you made aware the next day
12 that Charlotte had attempted or actually spoken to
13 Theodore Manning the night before?

14 A Yes, I was made aware the next day.

15 Q The morning of the 22nd, the day after you were
16 briefed, did you and Captain Smith make an attempt to
17 contact the defendant, Theodore Manning, yourself?

18 A The two of us went to 8047 Bluff Road and actually
19 spoke with Mr. Manning at his home.

20 Q Once you got there, what, if anything, did you do?

21 A We submitted -- obviously, we knocked on the door.
22 He let us. We just asked him about what he knew about
23 Ms. McPhatter, their relationship and what had been the
24 last time he had seen her.

25 He was cooperative, spoke with us.

1 Q Okay. I was getting ready to ask you, what was his
2 demeanor like?

3 A Very calm. Like I said, cooperative. I think it's
4 my understanding he had just come home from work. He was
5 relaxed. He was actually eating what I would assume to
6 be his dinner, even though it was in the morning, he ate
7 dinner while he was speaking to us.

8 Q And specifically, what, if any, information did
9 y'all first ask him and ultimately did he provide to you
10 on that day, on May 22nd?

11 A He did say that he spoke with Ms. McPhatter, I
12 believe May 6th. He actually said she called him, came
13 to his house; that the two had talked. They had sex on,
14 I believe, two occasions that day; that she -- you know,
15 there was some discussion about their relationship and
16 the status of it, what they were going to -- how they were
17 going to proceed with it.

18 She had some problems, I guess financial problems.
19 She didn't have any money to put gas in her car. He offered
20 to put gas in her car, and he drove her car to Freeman's
21 4-in-1, which is a little convenience store down the road
22 from his house.

23 He had used his All South debit card and put gas in
24 her tank, brought the card back. He returned home. He
25 put her on the -- put her in the car, and she was bound

1 for Charlotte as far as he knew. That was the last time
2 he had seen her.

3 Q Approximately what time of day did he indicate that
4 Nikki McPhatter left his residence and proceeded back
5 towards Charlotte?

6 A He told us around 1:30 in the afternoon.

7 Q What other information did he you give you that day?

8 A He told us that he felt like the relationship was sort
9 of a -- just kind of arrangement. It wasn't very serious;
10 that that was an understanding they had.

11 I think he referred to it specifically -- I have a
12 quote in my notes, friends with benefits. That's
13 something that he used over several times.

14 Q Did he indicate whether or not he had heard from her
15 since she left his house that day?

16 A He said he had not seen or heard from her since.

17 Q Specifically, did y'all ask him any questions about
18 a computer he may or may not have?

19 A We asked him how they communicated. He talked about
20 that they had used a computer to communicate. He said
21 recently though that he had gotten rid of that computer
22 and that he was now using, I believe his words, a Yahoo
23 messaging service, which is -- he accesses on his phone
24 to communicate with her.

25 It's a -- it's like an instant messaging service,

1 I guess, is what you would call it.

2 Q Okay. While you were there, did your interview get
3 interrupted?

4 A Yes, we were there 30 minutes, 25, 30 minutes.
5 Someone came to the door, and it was an alarm -- I guess
6 he arranged to have an alarm installed in his home, so
7 the technician was there to install it.

8 He spoke with him. We had a couple more questions,
9 but it was clear, you know, that he had something else
10 going on. So we took what he told us, and we told him
11 we would get in touch with him.

12 Q Specifically on the record -- for the record, on
13 May 22nd, the date that you first made contact with this
14 defendant and he gives you this story that you just
15 related to the jury, had Nikki McPhatter's body been
16 found?

17 A No.

18 Q Had her burned up car been found?

19 A No.

20 MR. MAY: Objection, Your Honor. Leading.

21 THE COURT: That was not a leading question.

22 Go ahead.

23 MS. CAMPBELL: Thank you, Your Honor.

24 BY MS. CAMPBELL:

25 Q You can answer it.

1 A No.

2 Q So basically, when you were questioning him on that
3 day, on May 22nd, what, if any, information did y'all
4 have?

5 A Well, we learned that he had made contact with her.
6 As far as we understood, he was the last person to see
7 her alive, and that's, obviously, a very importantly thing
8 when you're dealing with a missing person's investigation
9 or a death.

10 Q At that point when he said he left her off, did he
11 indicate whether she was dead or alive?

12 A He said she was alive and well.

13 Q After interviewing him at his residence on the
14 morning of May 22nd, did you then proceed to a nearby gas
15 station?

16 A We did. We went to the gas station he spoke of where
17 he said he filled up her gas tank, Freeman's 4-in-1. We
18 were actually looking for any kind of videos or records
19 of purchase that they could provide. They were unable
20 to provide us with anything.

21 Q Why was that, sir?

22 A They said that they didn't have video, and they
23 couldn't give us any kind of receipts for the cards. They
24 didn't have it on the site.

25 Q You actually were the lead investigator in this

1 case?

2 A Yes.

3 Q They didn't have anything they could provide you
4 from -- what type of grocery store is this?

5 A It's a very -- it's a rural convenience store. You
6 know, it's certainly not modernized in any way.

7 Q At a later time in the course of your investigation,
8 did you become aware that the Charlotte/Mecklenburg Police
9 Department had found a receipt at the defendant's home?

10 A I did.

11 Q I'm showing you what's been marked as State's
12 Exhibit Number 67 which is evidence. What is that that
13 was found?

14 A This is a credit card receipt for a Visa for Freeman's
15 Place, 7815 Bluff Road, in the amount of \$25 dated 5/6/09.

16 Q And what was the timestamp on that receipt?

17 A 12:06.

18 Q 12:06?

19 A Yes, ma'am.

20 Q After leaving Freeman's, did you also prepare a search
21 warrant that day?

22 A I did. I wrote a search warrant based on his
23 information for his All South Credit Union checking
24 account, debit account, I guess, to see if -- at that point,
25 like I said, I had not seen that receipt. I was trying

1 to get evidence that that transaction had actually taken
2 place from the bank itself.

3 Q Which is ultimately confirmed by the receipt itself?

4 A Yes.

5 Q Later that evening, did you also make arrangements
6 for a search warrant that was going to be executed in
7 Richland County?

8 A Yes, I did.

9 Q And for the record, is Mr. Manning's home here in
10 Richland County?

11 A Yes, it is.

12 Q And you didn't actually participate in that that
13 evening, did you?

14 A No. It was, obviously, the Charlotte police and
15 Sergeant Don Robinson participated in that search.

16 Q I want to turn your attention to May 26th, 2009. Did
17 you have an opportunity to review a video from an A.T.M.
18 from here in Richland County?

19 A Yes, I did.

20 Q Which bank was that on?

21 A It's a Wachovia, 8800 Farrow Road, I believe. I'm
22 not sure on the address, but the 8000 block of Farrow
23 Road, near Farrow and Rabon.

24 Q And what was the purpose of your reviewing that A.T.M.
25 video?

1 A That was video that had been produced to us from the
2 Charlotte Police Department. It was images of a black
3 male using the victim's card, obtained those from the
4 bank.

5 Q And have you had an opportunity since then, even, to
6 review State's Exhibit Number six, which is a video tape
7 from that A.T.M.?

8 A I've seen it several times, yes.

9 Q And was there any significant information on that
10 video?

11 A There's lots of things we were able to obtain from
12 the video. Obviously, the vehicle that was driven, the
13 color of that vehicle. More specifically, the person
14 using the card.

15 While it wasn't obvious -- you couldn't make an
16 obvious identification from the video, at least I couldn't.
17 You could tell what he was wearing, specifically a shirt,
18 T-shirt, and the word "STAFF" printed on the back in small
19 print. There was something in the front. You couldn't
20 even make that out.

21 Q Was that actually shown at one point on the video?

22 A Yes, it is.

23 MS. CAMPBELL: Your Honor, may the witness step down
24 and publish that one video?

25 MR. MAY: Your Honor, I would object. It's been seen.

1 It's -- this is cumulative --

2 MS. CAMPBELL: I --

3 MR. MAY: In fact, the entire testimony, so far,
4 appears to be cumulative.

5 THE COURT: Why is it not?

6 MS. CAMPBELL: That part hadn't been shown yet to the
7 jury, Your Honor.

8 THE COURT: All right. You may play it.

9 MS. CAMPBELL: Thank you.

10 (WHEREUPON, the video was shown to the jury.)

11 BY MS. CAMPBELL:

12 Q In this -- before we get any further, in this video,
13 do you actually see the car?

14 A Yes. This is the overhead drive-up A.T.M. image.
15 This is the vehicle in question.

16 MS. CAMPBELL: Your Honor, I object. This has been
17 seen.

18 THE COURT: Counsel said it has not. I don't know
19 whether it has been or not --

20 MS. CAMPBELL: We're --

21 THE COURT: But one says yes. One says no. I'm going
22 to allow it. Please be seated.

23 BY MS. CAMPBELL:

24 Q Without going through the whole thing again, does
25 that show the person exiting the driver's side?

1 A Yes.

2 Q Can you fast forward it to the part where it shows
3 the back of the shirt?

4 (Complies)

5 In your review of the video did you also download
6 some stills from this?

7 A Yes, we did.

8 Q And as far as what's on the back of the shirt, I'm
9 going to show you what's been marked State's Exhibit
10 Number 138. Is this an item you actually recovered in
11 this case?

12 A I did collect that at his home in a later search.

13 Q When you say his home, whose home?

14 A Theodore Manning's, 8047 Bluff Road.

15 Q But this was collected several days later after you
16 viewed this?

17 A Yes, yes.

18 Q And in this, can you actually see -- I won't make you
19 go through the whole thing again, but could you actually
20 see the back of the shirt where it says "STAFF"?

21 A You can. It's a little blurred in this display, but
22 you can read the word "STAFF" on the back of the shirt.

23 Q For the record, how many times do you actually see
24 the man in the video approach the A.T.M.?

25 A I believe it's three times, is it? I'm not -- I

1 believe it's three times.

2 Q Your Honor, may he take the stand?

3 (Complies.)

4 Was State's Exhibit Number 6, the video from the
5 A.T.M., significant in your investigation?

6 A Yes.

7 Q And why was that, sir?

8 A Obviously, it gave us some idea of what the person
9 was wearing. It also, more importantly, I would say, was
10 the vehicle that we later determined to be a Chevrolet
11 Lumina with gold colors, ultimately very important.

12 Q And at the time when you were viewing this video, had
13 you ever heard the codefendant's name before?

14 A No.

15 Q And did you have any idea who the Lumina belonged to?

16 A No, we did not.

17 Q In fact, other than having interviewed Mr. Manning,
18 you didn't know he had a shirt that had "STAFF" on it?

19 A No, I didn't.

20 Q Later that day, did you become aware of some digital
21 evidence that had been recovered from Theodore
22 Manning's home, a receipt?

23 A I did. I learned that they had also recovered a
24 receipt for a purchase of bleach dated May 7th, which was
25 a day after, you know, we determined that she had

1 disappeared, and any kind of purchase of any kind of
2 cleaning items, especially bleach, in our line of work
3 is important.

4 Q And I was getting ready to ask you that, why is it
5 significant when foul play is involved?

6 A Well, bleach is one solution that's pretty
7 successful at removing D.N.A. evidence, blood. It's a
8 very corrosive. It does a good job of cleaning. That's
9 what it's designed to do.

10 It's also very damaging for our attempts to get any
11 kind of D.N.A. evidence at later time. That information
12 has become more and more available on line.

13 Q Specifically, I'll show you what's been marked as
14 State's Exhibit Number 66. This is already in evidence.

15 Let me check the numbers.

16 A Yeah, this is the receipt.

17 Q And what's the date and the time of that receipt?

18 A 5/7/09, 1:15 p.m.

19 Q Did you also become aware that day whether or not
20 Charlotte/Mecklenburg had specifically asked Mr.
21 Manning in an interview they had done, where you weren't
22 present, about that receipt, and did it lead to anything
23 significant in this investigation?

24 A Yes. I would learn that during their interview with
25 him, he identified --

1 MR. MAY: Objection, this is hearsay, as well as it's
2 cumulative.

3 THE COURT: Overruled.

4 THE WITNESS: We learned the name, for the first time,
5 Kendra Goodman.

6 BY MS. CAMPBELL:

7 Q Kendra Goodman?

8 A Yes, ma'am.

9 Q Over the next two days, did you continue to follow-up
10 with the investigation in this case?

11 A Somewhat. Specifically, I think that as far as
12 we're concerned -- I say we. The Richland County Sheriff's
13 Department, we had done some work on the vehicle. I had
14 requested records from the Department of Motor Vehicles
15 and S.L.E.D. for vehicles that matched what we believed
16 that image to be.

17 Then subsequently, each one of us in the Major Crimes
18 Unit went out, tried to check these registered addresses
19 to see if these vehicles may be involved in this in any
20 way.

21 Q But on May 28th, did Charlotte/Mecklenburg again
22 make contact with y'all?

23 A They did. They called me and asked about obtaining
24 a search warrant for Ms. Goodman's apartment, and I
25 accommodated them.

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1 I actually got an apartment, I mean a search warrant.
2 That apartment is in Lexington County, so I went, both
3 myself and Investigator -- Detective Hopkins went to a
4 Lexington County magistrate and obtained a search warrant
5 for Ms. Goodman's residence.

6 Q And Lexington County actually assisted you with that?

7 A Yes.

8 Q And that's pursuant to law enforcement?

9 A Yes.

10 Q Did you actually go to the apartment complex
11 yourself?

12 A Yes. I was there.

13 Q Who were you with?

14 A I was there with Captain Smith, initially.

15 Q Was there anything significant that you observed as
16 you pulled into the parking lot?

17 A When we first pulled up, we saw a gold Lumina. At
18 that point we -- it was kind of a miscommunication with
19 Charlotte. We weren't -- they already had known that she
20 drove a Lumina. We did not, but nevertheless, we saw it
21 there. It, obviously, piqued our interest.

22 We backed off, and however, when we returned to
23 execute the search warrant, that vehicle was not hers.

24 Q So you saw it -- the first time you went there -- what
25 were you doing the first time you went there?

1 A We were in -- anytime you're going to do any kind of
2 search warrant or anything, you're going to investigate
3 the situation, the location, see what's going on first.

4 So we were what you would call spotting the
5 residence. He also required it on the warrant to put down
6 a description of the place you're going to search. If
7 I've never been there, it's hard for me -- I've got to
8 go ahead and see it first, see what it looks like.

9 Q So you went there first to spot it, and then you went
10 back there that day to execute it?

11 A Right.

12 Q Was Kendra Goodman home when you executed the search
13 warrant that day?

14 A Not when we executed the search warrant, no.

15 Q Was the car still in the parking lot that you observed
16 earlier that day?

17 A No.

18 Q And that would be the Lumina?

19 A Yes.

20 Q Did y'all make any attempts to try to find Kendra
21 Goodman that day?

22 A We did. Captain Smith basically took on that aspect.
23 We were searching the house. He decided he was going to
24 go try to locate her.

25 I think he went to her parent's house and then

1 ultimately to a business, a dry cleaners located there.

2 Q And did she -- were y'all able to locate her that
3 afternoon?

4 A He did. He located her, at the time it was Lexington
5 Dry Cleaners, I believe, Kennerly and Broad Shopping
6 Center, there at Kennerly and Broad River Road.

7 Q Were you able to locate the Chevy Lumina again?

8 A Yes, we did.

9 Q Where was that located?

10 A It was there with her.

11 Q And --

12 A That she had gone to work.

13 Q -- ultimately, did y'all do anything with the Chevy
14 Lumina that day?

15 A Yes, we did. We took the car. We turned
16 it -- obviously, at that point, I'm not real sure what
17 value it may be other than it might be the one in the
18 video.

19 We also had the warrant which included the car. We
20 had to do some changes legally, but we did ultimately
21 search that car and process it.

22 Q That day, did you, when you also made contact with
23 Ms. Goodman, you also obtained a buccal swab?

24 A Yes, we did.

25 Q And for what reasons did you do that?

1 A Any time, you know, if someone is involved in a case,
2 and these days we have -- when we take D.N.A. samples and
3 we process evidence, we need samples from each person.
4 Sometimes even the officers that responded to the scene,
5 so that we can separate D.N.A. samples. We all leave
6 samples in places.

7 So whether someone is involved or not, if they
8 possibly had access to the location, we would need their
9 samples to eliminate their D.N.A.

10 Q Either the car or the possible crimes?

11 A Right.

12 Q And in that same vein, did you also become aware of
13 Charlotte in your investigation -- as part of your
14 investigation, had gotten a buccal swab from, I believe,
15 a Brian Bookert?

16 MR. MAY: Your Honor, I object. This is leading.
17 She is testifying.

18 THE COURT: Sustained.

19 BY MS. CAMPBELL:

20 Q Who else, in relation to the car, had Charlotte, gotten
21 a buccal swab on?

22 A They had learned of a man named Brian Bookert
23 who -- ultimately, I think Ms. Goodman may have learned
24 that he had access to her car, and the same kind of
25 scenario. I'm not sure who was involved, but initially,

1 the thought was that maybe two black males were in that
2 car at the bank. That proved not to be true, but they
3 took a swab from Mr. Bookert to see whether or not he had
4 access to that car and whether or not he could be placed
5 in that car.

6 Q And during the course of your investigation, were
7 you able to determine whether or not Mr. Bookert was
8 involved?

9 A Yes, he was not involved.

10 Q The next morning, May 29th, 2009, as a part of your
11 investigation, did you make an attempt to determine Kendra
12 Goodman's whereabouts on May 6th?

13 A Yes, we did.

14 Q And what information did you learn?

15 A We learned that on May 6th she had actually gone to
16 work, but had left early that day. I think it was
17 around -- we learned that -- it was around 2:47 in the
18 afternoon when she left work, so obviously, we wanted to
19 talk to her again about this.

20 Q That day, did you make contact with her?

21 A Captain Smith -- again, Captain Smith spoke with
22 her. We had Charlotte -- I believe the Charlotte police
23 with us then. So, you know, we're talking five or six
24 officers. Basically when he made contact with her inside
25 the dry cleaners, I left one of the Charlotte officers

1 with him.

2 At this point, this was still a missing person's case
3 that the Charlotte Police Department was responsible for,
4 in their system, but we didn't want to overwhelm anybody.
5 There was no need to have six or seven officers standing
6 around somebody talking to them, so basically I didn't
7 hear what she said. I learned later, but I left and went
8 outside and waited for them outside.

9 Q Ultimately, was she transported to another location?

10 A Yes.

11 Q And where did she go?

12 A We went to the Richland County Sheriff's Department.

13 Q When you say we, who went with her?

14 A Captain Smith and I, and Charlotte followed, as
15 well.

16 Q And ultimately, you can't go into what all the she
17 said to you, but did she give you all additional
18 information that day?

19 A Give me the day again. Let me make sure.

20 Q May 29th.

21 A Yes. Okay. That day, we spoke with her at length.
22 Ultimately, she admitted --

23 Q You can't really go into what she said. That would
24 technically be hearsay.

25 Based on that information, did y'all get a group

1 together to go to another location there in Fairfield
2 County?

3 A We did. We went to a location just off of Peach Road.
4 It's in Fairfield County. It's the first exit in
5 Fairfield County on Interstate 77.

6 Q Who was driving with you that day?

7 A I was with Captain Smith and Kendra Goodman in the
8 car.

9 Q And who was directing where y'all went?

10 A Kendra.

11 Q Once you had gotten to Fairfield County, what highway
12 did you take to get there?

13 A Interstate 77 north past Blythewood. It's
14 actually -- if you're familiar with Blythewood, it's
15 next the exit past Blythewood, north on 77.

16 It's Peach Road. It's in -- just inside Fairfield
17 County.

18 Q Once you got to Peach Road, which direction did you
19 go?

20 A The exit would be to your, right. You cross back over
21 on Peach Road. You cross Interstate 77 continuing
22 towards Highway 321. It's a mile-and-a-half, maybe two
23 miles down there on the right. There's a dirt road and
24 a church that was significant.

25 Q Once you got there, what happened?

1 A She pointed out the church. That's where she waited.
2 She parked her car.

3 MR. MAY: Objection, Your Honor. This is hearsay,
4 as well as cumulative.

5 THE COURT: Sustained.

6 THE WITNESS: We learned the vehicle was there in the
7 woods.

8 BY MS. CAMPBELL:

9 Q And at whose direction were you able to find the
10 vehicle?

11 A With her information and other officers searching,
12 we ultimately found the vehicle.

13 Q For the record, she wasn't -- was she able to take
14 you directly to the vehicle or just in the general
15 vicinity?

16 A General vicinity. In her description, she led us
17 there. I mean, she was -- she was trying --

18 MR. MAY: Objection, Your Honor.

19 THE COURT: Overruled. Go ahead.

20 THE WITNESS: Then she gave -- she described it the
21 best she could, and we ultimately found it based on the
22 way she described it.

23 BY MS. CAMPBELL:

24 Q Did you actually observe the car itself?

25 A I didn't.

1 Q And were you there when Ms. Goodman was informed of
2 what had been found?

3 A Yes. I was standing right next to her.

4 Q What was her reaction? You can't say what she said.

5 A She -- she got sick. She vomited.

6 Q At that point, were any decisions made as far
7 as -- based on the information she gave you -- you can't
8 say what it was, coupled with the information you already
9 had, were any warrants drawn up?

10 A We got a warrant to arrest Theodore Manning for
11 murder, I believe -- or we -- it was a group decision,
12 those involved, and Captain Smith tasked Sergeant
13 McDaniels with ultimately --

14 MR. MAY: Objection, Your Honor. Hearsay.

15 THE WITNESS: That was --

16 THE COURT: You can't say what someone told you. What
17 did you do as a result of that conversation.

18 MS. CAMPBELL: And also, it's not offered for the truth
19 of the matter asserted.

20 THE COURT: It could be.

21 THE WITNESS: We got a warrant, and we arrested him.

22 BY MS. CAMPBELL:

23 Q Were you aware that Theodore Manning was arrested
24 that evening?

25 A Yes.

1 Q You didn't actually -- you weren't part of the actual
2 arrest, were you?

3 A No. I was with Kendra.

4 Q After the car was found, was the crime scene unit
5 brought in?

6 A We did, we contacted the Fairfield County sheriff's
7 office, the Fairfield County Coroner, the Richland County
8 Coroner and our crime scene.

9 Q Once the scene was secured, did you -- where did you
10 go?

11 A We returned to the Richland County Sheriff's
12 Department with Kendra.

13 Q With Kendra?

14 A Yes.

15 Q Once you're back with the sheriff's department, what
16 did you do?

17 A Well, I took a written statement from Kendra about
18 the events and the information she provided.

19 Q That evening, were you aware that Sergeant McDaniels
20 was interviewing the defendant in this case?

21 A I knew, I knew that he was. Basically, once I was
22 done with Kendra, I checked on him. It was Sergeant
23 McDaniels and Investigator Holly Wagner speaking with him
24 at that point.

25 I could hear. The door was opened. I could hear

1 their conversations. I didn't want to bother them. They
2 were in the middle of the interview, so I just stood by.
3 I was in a nearby office, and I sat and waited and listened
4 to see what he said. So I didn't disturb them at that
5 point.

6 Q I want to show you what's been marked as State's
7 Exhibit Number two.

8 Investigator Isenhoward, you've had an opportunity
9 to review that?

10 A Yes, I have.

11 Q Is that the information that Theodore Manning was
12 relating to Sergeant McDaniels on that day?

13 A This is what he told Sergeant McDaniels and
14 Investigator Wagner about that.

15 Q That you were able to hear?

16 A Yes.

17 Q Once the defendant had signed off acknowledging
18 that was the story he wanted to tell, did you and Sergeant
19 McDaniels meet?

20 A Yes.

21 Q About what time of night was this?

22 A It is one o'clock or so in the morning. One, 1:30 or
23 so, something like that.

24 Q And at that point, what were you brought?

25 A Well, he brought me -- he wanted to show me that -- he

1 was aware -- he may have heard me speaking on the phone,
2 but he somehow or another realized I was outside. Then
3 he wanted to show me this.

4 He was initially involved in this. We're trying to
5 keep everybody informed, but there's a lot of different
6 investigations going on. It's not just this one thing
7 going on at any given time.

8 He was doing other things, but ultimately, he did
9 have to assist us in this, and he wasn't armed with all
10 of the information that we had learned in the
11 investigation at that point.

12 So he wanted to show me this and allow me to, you
13 know, try to take a look at it to see whether or not it
14 matched what we knew.

15 Q And at that point, the coroner had responded?

16 A Yes.

17 Q And I believe the remains of the victim had been
18 removed from the car?

19 A Yes. At that point they had. What I understand,
20 kind of a preliminary foundation.

21 Q Had happened?

22 A Yes.

23 Q What information did you rely to Sergeant McDaniels
24 as far as any possible injuries to the skeleton?

25 A Well --

1 MR. MAY: Your Honor, I object. That's a question
2 that calls for hearsay.

3 THE COURT: Overruled.

4 THE WITNESS: I've learned that Ms. McPhatter had
5 been shot in the back of the head.

6 BY MS. CAMPBELL:

7 Q After reviewing the defendant's -- State's Exhibit
8 Number 2, that statement, did you and Sergeant McDaniels
9 decide to talk to him again?

10 A Yeah, there were several things about this
11 statement. I've noticed in analyzing the statement, he
12 spoke of the accident, is how he characterized it at this
13 point only very briefly.

14 Of course, at this point, he had learned that
15 Kendra had been instrumental in us figuring this out. He
16 spent the majority of the rest of his statement talking
17 about the bad things that Kendra did.

18 It shifted from him. It seemed to be shifting some
19 of the blame away from himself. That's something, in my
20 experience, that's done when people are hiding things.

21 MR. MAY: Objection, Your Honor. Speculation.

22 THE COURT: What?

23 MR. MAY: Your Honor, he's speculating as to why.

24 THE COURT: Well --

25 MR. MAY: He's not involved as an expert.

1 THE COURT: -- if it's within his experience. I'll
2 allow him to testify.

3 You can cross-examine him.

4 MR. MAY: Yes, sir.

5 THE WITNESS: So ultimately -- obviously, I wanted
6 to talk to him, and we need -- we needed to talk about
7 this is how we put it.

8 BY MS. CAMPBELL:

9 Q About the actual events and all?

10 A Right.

11 Q And the event itself?

12 A Right.

13 Q And how she was shot in the back of the head?

14 A Right.

15 Q At that point, did you then go in and start asking
16 Mr. Manning questions?

17 A I did.

18 Q And at this point, did you promise him anything to
19 make him talk to you?

20 A No.

21 Q Did you threaten him in any way?

22 A No.

23 Q At any point, did he ever tell you he wanted to talk
24 to a lawyer?

25 A No, he did not.

1 Q At any point, did he ever change his --

2 MR. MAY: Objection, Your Honor, leading.

3 THE COURT: She is just laying a foundation.

4 Go ahead.

5 BY MS. CAMPBELL:

6 Q Thank you. At any point, did he ever tell you he
7 didn't want to talk to you?

8 A No, he never said that.

9 Q Did you deprive him of any creature comforts?

10 A No, we did not.

11 Q Did you beat him?

12 A No.

13 Q Did he appear coherent?

14 A Oh yes.

15 Q And when you asked him questions, did he voluntarily
16 talk to you?

17 A Yes, he did.

18 Q Tell the jury what happened next when you were
19 talking to him?

20 A I believe in his -- in his initial statement, the
21 first statement, Sergeant McDaniels was very -- he was
22 just writing what Mr. Manning told him, everything as he
23 told it to him.

24 So at no point had he been challenged on any of the
25 details. So when I started talking to him, I basically

1 challenged, you know, his version of the events in this
2 first statement.

3 It was -- it didn't take long, and he changed what
4 his original statement was in regards to his actions that
5 day.

6 Q What specific evidence did you tell him about that
7 caused him to change his statement?

8 A His description of the way she was shot, in my
9 opinion --

10 MR. MAY: Objection, Your Honor.

11 THE WITNESS: In my experience --

12 THE COURT: Overruled.

13 THE WITNESS: In fact, and when I told him that, he
14 admitted it to me. He provided the second statement.

15 BY MS. CAMPBELL:

16 Q I'm going to show you what's been marked as Defense
17 Exhibit number -- I believe 11. Is that the actual -- I
18 mean, State's 3, Defendant's 11, is that the actual
19 statement that you followed up on that evening?

20 A Yes. This is -- he was with -- what he was willing
21 to tell me at that point.

22 Q What time did you actually start with these
23 statements?

24 A 1:38 in the morning on the 30th of May.

25 Q And in that, there's a question and answer format,

1 I believe?

2 A Yes.

3 Q And who posed the questions?

4 A I did.

5 Q And whose words are the answers?

6 A Theodore Manning.

7 Q That version, he wanted to tell you at that point,
8 is that what's on that piece of paper?

9 A Yes.

10 Q And prior to even putting his version down, did you
11 go back and remind him about his rights?

12 A Yes.

13 Q And what was the reason for that, sir?

14 A Any time -- it's our policy and our way of doing
15 things that any time someone is going to give us a
16 written statement, we advise them of their rights.

17 We may do that several times in one investigation
18 with the same person. It's just how we do things, so this
19 was another statement he was giving. He was
20 given -- excuse me, and he was advised of his rights.

21 Q At that point, what's significant -- this has been
22 published, but what was significant about what he changed
23 at that time?

24 A Well, he changed from an accident to an intentional
25 act in his description. He said, "I shot her."

1 And, you know, in his description, she was unarmed.
2 It was a quarrel that involved an argument, so it was
3 significant to the case.

4 Q Did he tell you in that statement why he shot her?

5 A I believe he says -- let me find the line.

6 (Pause)

7 "I pulled the trigger to show her to stop playing."

8 Q And did he indicate in that statement the only
9 person that had a weapon at the time he pulled the
10 trigger?

11 A Yes, he was the only person.

12 Q Did he indicate whose gun it was?

13 A Yes. It was his gun.

14 Q Did he sign off acknowledging that was the story,
15 his final version that day?

16 A Yes, ma'am, he signed it, was provided a copy, and
17 I notarized it.

18 Q The next day on May 30th, did -- was there another
19 search warrant executed at the defendant's home?

20 A Yes. We went right back down there the next day and
21 obtained another search warrant for 8047 Bluff Road,
22 obviously armed with the additional information and
23 the things he had told us, and we learned there were some
24 things we needed to be looking for. So we executed
25 another search warrant at the house.

1 Q And was crime scene brought in to collect any possible
2 D.N.A. evidence?

3 A Yes. Information from his statement kind of -- at
4 least in his words, placed the shooting in the home, so
5 we needed to, obviously, take a look at that location in
6 the home and look for any kind of evidence of the
7 murder.

8 Q During the course of your investigation,
9 specifically your interviews with Kendra Goodman and
10 Theodore Manning, were you aware -- were there any
11 attempts to possibly to clean up the area where the
12 shooting occurred?

13 A Yes. Those statements reference cleaning up and
14 cleaning up with bleach.

15 Q That C.S.I. was called in to try to get any possible
16 evidence?

17 A Yeah. You still are trying to do something.

18 Q In your experience, is it unusual with the passage
19 of time and with the clean up not to be able to get the
20 D.N.A. evidence?

21 A No. It's not unusual.

22 Q During the course of the search, did you actually
23 participate?

24 A Yes.

25 Q I'm going to show you what's been marked as State's

1 Exhibit Number 138, the shirt.

2 A Yes.

3 Q Who found that?

4 A I did.

5 Q And where did you find it?

6 A In his bedroom closet.

7 Q On the 30th?

8 A Yes.

9 Q State's Exhibit Number 195, 193 and 194, what are
10 those items?

11 A Number 195 is the law -- can South Carolina Law
12 Enforcement Division's pistol purchase application for
13 Mr. Manning's purchase of a .380 A.C.P. Highpoint.

14 Number 193 is a receipt, sales receipt, paid in full
15 for a .380 A.C.P. Highpoint with serial number and
16 credit card receipt it looks like.

17 And then I believe this is a -- 194 is a -- where
18 he reserved this firearm, basically put it on layaway at
19 Best Deal Gun and Pawn here in Columbia.

20 We also, by this point, had information of what type
21 of gun we were looking for, obviously, and it was
22 possibly a Highpoint .380, so that was significant.

23 I found those in -- it kind of looked like a den in
24 his home near the stairs that lead up to the second floor
25 which is where his bedroom is. There was a large

1 container, and those items, along with some other things,
2 were in the bottom of that container.

3 Q Was the gun ever recovered during the search?

4 A The gun was -- no. The gun was not.

5 Q And a Highpoint .380, would that be a semiautomatic
6 or a revolver?

7 A It's a semiautomatic pistol.

8 Q And when you're shooting a semiautomatic pistol,
9 what happens to the cartridge casings surrounding the
10 actual bullet itself?

11 A Well, if the gun is functioning properly, it's
12 going to eject the shell casing, so wherever you pull the
13 trigger, that shell casing comes out of it.

14 Q And if the bullet is fired at somebody's head, it
15 should be working properly?

16 A Yes.

17 Q In this case, did you ever recover a shell casing
18 there at the scene or anywhere?

19 A No.

20 Q The next day, June 1st and June 2nd, were additional
21 statements taken from Kendra Goodman?

22 A Yes.

23 Q And then on June 5th, I believe, did you obtain a copy
24 of the video from Wal-Mart?

25 A Yes. I personally -- I went personally into the

1 Wal-Mart and got that video. Yes, I did.

2 Q And that video, you reviewed that again?

3 A Yes, I did.

4 Q Is that the same video that was turned over to you?

5 A Yes.

6 Q Is that significant as far as -- let me get back to
7 that bank account, in this investigation?

8 A It was significant. In the video, you could
9 clearly see both Kendra Goodman and Theodore Manning
10 together with a buggy with bleach in it, which is this
11 transaction, and they were using a debit card at an A.T.M.
12 there.

13 Q Were you able to determine whose card was being used
14 by the person at the A.T.M.?

15 A Yes, we were.

16 Q Whose card was it?

17 A It was Nikki McPhatter's credit card.

18 Q And who was the person at the A.T.M. trying to use
19 it?

20 A That's Theodore Manning.

21 Q And that would have been on what date?

22 A That is on the 7th, the day after she disappeared,
23 May 7th of 2009.

24 Q There's been some testimony as far as crimes that
25 some fingerprints were recovered, I believe, from the

1 exterior of the Chevy Lumina?

2 A Yes.

3 Q Were those able to be matched to Mr. Manning or
4 anybody?

5 A Once we got the information of those fingerprints,
6 they were really insignificant in the investigation.
7 We already had the statements from Mr. Manning.

8 We knew he had access to the car. Matching the
9 fingerprints at that point would have shown nothing,
10 would have done nothing for the investigation.

11 Q The car that was discovered on Peach Road. Can you
12 describe for the jury what that area of Fairfield County
13 is like?

14 A It's a rural area. There's not many homes there.
15 There's an occasional residence, and usually there's a
16 lot of property associated with each residence.

17 Q And the church that y'all referred to, the white
18 church, is that actually even open during the week?

19 A No. No. It's a small church with just -- I believe
20 just Sunday services.

21 Q The dirt road that led into the woods where you
22 found this car, could this car even be seen up there from
23 the road itself?

24 A No. You couldn't see it from the road. Just the
25 wooded area was pretty thick. The road went back sort

1 of at an angle just slightly.

2 You can't -- you couldn't see directly down the road
3 from the main road.

4 Q Once you found the burned out car in the road, were
5 firefighters or anybody called out for a fire report?

6 A No. Obviously, the fire -- there was no fire at that
7 point. It had burned itself out. There was never a
8 response, to my knowledge, of the fire department, the
9 local fire department there.

10 As far as any kind of fire investigation, there was
11 no reason for us to test the vehicle for an accelerant
12 at that point.

13 Obviously, we later learned that gasoline was
14 involved, and quite frankly, all cars have gasoline in
15 them, so testing for gasoline would just -- would be on
16 obvious positive.

17 There was no need for any kind of examination as far
18 as fire itself or cause the fire. We, obviously, at this
19 point -- or that point later knew that it was
20 intentionally started with gasoline, so it would have
21 been no benefit to us.

22 Q Was the VIN number actually able to be recovered from
23 the car?

24 A Yes. It required some effort, but we did ultimately
25 locate the VIN number and identify it as Ms. McPhatter's

1 vehicle through N.C.I.C.'s record that we had available.

2 Q In addition to the autopsy, did you also take other
3 steps to make sure the identity of the victim was
4 addressed?

5 A Yes. We had, through the coroner's office -- we
6 checked, obtained some dental records and had those
7 compared. Those, in fact, were positively matched to
8 Ms. McPhatter.

9 Q There's also been some testimony in this case about
10 buying gas there at the Blythewood exit.

11 A Yes.

12 Q How far is that Peach Road exit on 77?

13 A It's the next exit north. It's two miles away. We
14 did look into that, the B.P. station there.

15 By the time we learned of this, the video had already
16 been recorded over, so we don't have video of them
17 actually purchasing the gasoline.

18 Q The video would have been -- what do gas stations do
19 with their videos?

20 A It depends on the station. I deal with this a lot.
21 Some stations keep theirs longer. Some use digital
22 recorders, so it just depends. It's kind of a shot in
23 the dark, but in this particular one, the video was only,
24 I believe, kept for a week or so, about a week.

25 Obviously, it had been longer than that by the time

1 I got there and looked for it. It had already been -- it
2 was gone.

3 Q What was the date, the first time you had
4 information about anything happening at the Blythewood
5 B.P. Station?

6 A That would have been the day I spoke with Kendra
7 Goodman, which was the 29th, I believe.

8 Q There's some questions about some house keys or car
9 keys belonging to the victim. Were those ever
10 recovered?

11 A We never recovered her keys at all.

12 Q There's also some question about Nikki McPhatter's
13 I.D. being in Kendra Goodman's car?

14 A We do have an expired driver's license. We did
15 recover an expired driver's license for Ms. McPhatter.
16 That was recovered by the Charlotte Police Department in
17 their initial search of her home.

18 Q Of Ms. McPhatter's home?

19 A Yes, Ms. McPhatter's home.

20 Q Not to deal with Kendra Goodman in any way?

21 A That's correct.

22 Q There's also some questions about - you're familiar
23 with -- the phone records were significant in this case?

24 A Yes.

25 Q And did y'all obtain copies of some of Theodore

1 Manning's phone records?

2 A Yes, we did.

3 Q As well as Nikki McPhatter's phone records?

4 A Yes.

5 Q And those were placed into evidence. Have you had
6 an opportunity to review those?

7 A Yes.

8 Q What was the time of the last outgoing call from
9 Nikki McPhatter's cell phone?

10 A Her last phone call at 11:44 a.m. that was the last
11 outgoing call. That was made to a woman that we spoke
12 with named Mekenda Bradley.

13 Q And you said at 11:44 on what day?

14 A On the 6th.

15 Q Was there any more activity, other than incoming,
16 as to voicemail on Nikki McPhatter's phone on either
17 the sixth, the seventh, eighth, ninth the tenth or any
18 time thereafter?

19 A We only have -- it's -- we don't know who checked it,
20 but the voicemail appears to have been checked around
21 3:00 p.m. on the sixth.

22 Q On the sixth?

23 A Yes, ma'am.

24 Q And after that nothing?

25 A Nothing after that. No activity whatsoever.

1 Q You're also aware, and you reviewed the statements
2 that Theodore Manning made to the Charlotte/
3 Mecklenburg Police Department?

4 A Yes.

5 Q In light of those, does he reference sending something
6 to someone at an Air Force base?

7 A Yes, he does. He talked about sending some cards to
8 a woman at an Air Force base in Florida.

9 Q And you've also reviewed the phone records in this
10 case?

11 A Yes.

12 Q Specifically the phone calls made by the defendant
13 on the afternoon of the sixth?

14 A Yes.

15 Q You can refer to State's Exhibit Number 356, which
16 is in I.D. only. Were there phone calls made to an Air
17 Force base?

18 A Yes, it was.

19 Q And where was that?

20 A Hurlburt Field Air Force base, which I learned is in
21 Florida.

22 Q In Florida?

23 A Yes.

24 Q And how many phone calls were made to that?

25 A We had two made to that number, 15:34:50 and

1 15:41:16 on the sixth.

2 Q As far as those numbers to -- Kendra's phone numbers
3 as far as her cell phone, did it change during the course
4 of this investigation?

5 A Yes. And I don't have her statement. She provided
6 us with, I believe, the 553-3251 number.

7 Q That was initially her statement on what day?

8 A That would have been, I believe, in the first statement
9 that we took on the 22nd.

10 Q That would have been her phone number at that time?

11 A Yes.

12 Q Prior to that, were you aware that she had a different
13 phone number?

14 A I'm sorry. Say it again.

15 Q Prior to that, were you aware that she had a different
16 cell phone number?

17 A I was, right, yes.

18 Q And would that be one of those numbers up there?

19 A Yes, the 665-1348 and the 732 number, 732-6575, that's
20 her home number.

21 Q On the day -- there's testimony about the phone
22 records, again from the defendant's phone on the day of
23 May 6th. Were there a number of different people that
24 called?

25 A There were a number of women that called.

1 Q And specifically, during the course of your
2 investigation, did you -- were you able to determine what
3 their relationship was?

4 A Yes. I would characterize them as girlfriends.

5 MR. MAY: Objection, Your Honor. This is hearsay.

6 THE COURT: I agree with you.

7 Sustained.

8 MS. CAMPBELL: Beg the court's indulgence.

9 (Pause)

10 BY MS. CAMPBELL:

11 Q The person that you talked to, at least on two
12 different occasions and gave you two different
13 statements, and you've heard the third one, do you see
14 him here in the courtroom?

15 A I do.

16 Q Can you point him out to the jury.

17 A Theodore Manning. He's sitting to my left. He's
18 in a tan sweater, a light skinned black male with a white
19 collared shirt.

20 Q Seated at the defense table?

21 A Yes.

22 MS. CAMPBELL: Your Honor, may the record reflect he
23 has identified the defendant.

24 THE COURT: The record so reflects the witness has
25 identified the defendant.

1 MS. CAMPBELL: Thank you.

2 THE COURT: Cross-examination?

3 MR. MAY: Yes, sir. May it please the Court, Your
4 Honor.

5 CROSS-EXAMINATION:

6 BY MR. MAY:

7 Q Hello.

8 A Hello, Mr. May.

9 Q Okay. So you're the lead detective on this case for
10 the Richland County Sheriff's Department. Is that fair
11 to say?

12 A Well, there's a lot of people involved in this case.
13 Obviously, it's not your typical case. The Charlotte
14 Police Department, several people with the Richland County
15 Sheriff's Department, but ultimately somebody has to
16 gather the paperwork, and that would have been me, so
17 yes.

18 Q Somebody has to have the title of lead investigator,
19 is that fair to say?

20 A Well, somebody has to be responsible for the
21 paperwork gathering all the evidence, and that was me.

22 Q Okay. Now, Charlotte comes down here on -- did you
23 testify it was May 21st?

24 A I believe so.

25 Q For a briefing at the Columbia Police Department?

1 A That's correct.

2 Q Okay. Because they learned that -- through their
3 investigation that Columbia had some relevance to the
4 disappearance of Nikki McPhatter?

5 A That's correct.

6 Q Now, the media started publishing stories.

7 MS. CAMPBELL: Objection, Your Honor. May we
8 approach?

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing of the jury.)

11 BY MR. MAY:

12 Q So throughout, since there was a missing woman
13 from Charlotte, the media started getting involved?

14 A Mainly in Charlotte, but yes.

15 Q Mainly in Charlotte, but there's also some newspaper
16 reports in South Carolina that she was being looked for
17 at least around Richland County?

18 A Yes.

19 Q And you're the lead investigator?

20 A Yes.

21 Q So you're briefed at the Columbia Police
22 Department, you, Captain Smith, Charlotte/Mecklenburg,
23 as well as the Columbia Police Department; is that
24 correct?

25 A That's correct.

1 Q And in this meeting, you're trying to figure out
2 where a person may be, and a telephone number comes up?

3 A Right.

4 Q A telephone that goes back to a Theodore Manning who
5 lives in Gaston, South Carolina?

6 A Right.

7 Q At that time -- Gaston is in Richland County.

8 A Gadsden, yes.

9 Q Gadsden, I apologize. I know I'm not pronouncing it
10 as clear as I need to.

11 Gadsden is in Richland County, so --

12 A Yes.

13 Q -- you and Captain Smith on the 22nd go out to try
14 to locate this person?

15 A Yes.

16 Q You get to his house. You knock on the door.

17 A We did.

18 Q It's answered?

19 A Yes.

20 Q By Mr. Manning?

21 A That's right.

22 Q Mr. Manning -- and, of course, y'all identified
23 yourself, didn't you?

24 A Certainly.

25 Q And he invites you in?

- 1 A He did.
- 2 Q He didn't try to run?
- 3 A No, sir.
- 4 Q He didn't try to fight you or anything?
- 5 A No, sir. We were just having a conversation.
- 6 Q So you talk to him for about 20 minutes?
- 7 A Maybe a little longer, 20 to 30, I think, is what I
- 8 said, somewhere along in there.
- 9 Q And then from there you go to Freeman's gas station?
- 10 A That's correct.
- 11 Q Now, in Charlotte/Mecklenburg's write-up, they
- 12 said they asked you to have the Richland County
- 13 Sheriff's Department helicopter fly over Mr. Manning's
- 14 house, and you had -- you did this. You reported back
- 15 that you found nothing within a six mile radius?
- 16 A Throughout the investigation, we did have the aerial
- 17 unit fly. I knew we flew around the area there. I don't
- 18 remember specifically who called them in, but me or
- 19 Captain Smith, one of us asked them to do that.
- 20 Q All right. But I mean, Richland County has an aerial
- 21 unit?
- 22 A Yes.
- 23 Q You have a helicopter and you even, also had an
- 24 airplane that you could use at your disposal; is that
- 25 correct?

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1 A That's correct.

2 Q Now, we have Memorial Day weekend, so not until 5/26 is
3 there the next entry into your log of activities. You
4 start -- you're trying to collect evidence. You're
5 trying to find a link. Is that fair to say?

6 A Yes.

7 Q Now, 5/27, you and Sergeant McDaniels are trying to
8 find a car that you go and you don't have any luck. You
9 eventually find out the next day that Kendra Goodman has
10 a car that's similar to the car you were looking for,
11 which was a gold G.M. product; is that correct?

12 A That's correct, Lumina to be exact.

13 Q Then Charlotte actually called you, and in your
14 notes, you say they e-mailed you a search warrant?

15 A That's correct.

16 Q So your having Charlotte kind of do your work for
17 you. I mean they email you a search warrant to search
18 Kendra's house.

19 A Yeah. I mean, they sent me the information based on
20 the investigation they conducted at the time.

21 Q So you and Captain Smith just ride out there, and
22 y'all notice the gold Lumina?

23 A Yes, we did.

24 Q You returned to Goodman's house to try to execute the
25 search warrant at some time later, and there is no gold

1 Lumina there when you're trying to execute the search
2 warrant?

3 A That's correct.

4 Q You find out that Captain Smith has located Kendra
5 Goodman at the Lexington cleaners?

6 A That's correct.

7 Q And in your words, she is giving him a hard time?

8 A She was not being very cooperative.

9 Q She was not being cooperative?

10 A I don't know that I would use the words "giving him
11 a hard time." It didn't sound like it.

12 Q Okay. So at the end of the day, I mean, nothing happens
13 that much besides Kendra kind of balks at helping
14 y'all, right?

15 A Well, lots of pleas on our part for the family and
16 for her to help us, yeah.

17 Q Okay. Then on the 29th, y'all enlisted the help of
18 her mother.

19 A Yes.

20 Q And her mother says all right, come out and get her.
21 She wants to talk to you now. So you and Captain Smith
22 drive out to go pick her up at the dry cleaners, correct?

23 A That's correct.

24 Q And you drive up to the Richland County Sheriff's
25 Department?

1 A Yes.

2 Q You start interrogating her, pretty much. You're
3 asking her questions, and she is kind of sitting on them,
4 correct?

5 A Yes.

6 Q Then she starts giving you a statement. At some point
7 during this statement, you asked her to -- if she will
8 speak with Lieutenant Jimmy White; is that correct?

9 A That's correct.

10 Q Now, after talking with Jimmy White, you and
11 Lieutenant White confront her that you know she is
12 lying?

13 A That's right.

14 Q And this is where he starts giving you more
15 information, more similar to the information that we've
16 heard on the stand?

17 A That's correct.

18 Q So from this point on, you get a little more
19 information, and you round up the troops and you head to
20 Fairfield County?

21 A Yes. We gave Fairfield County the information.

22 Q You get to Fairfield County. You have that airplane
23 fly over, but Lieutenant McDonald -- I don't know his exact
24 rank -- find the car, and everybody has testified the
25 first thing you do is make sure that evidence is preserved.

1 You put up crime scene tape around it, correct?

2 A That's correct.

3 Q Because preserving evidence is the key in any criminal
4 investigation?

5 A If possible, yes.

6 Q You don't want to taint evidence.

7 A Try not to.

8 Q You try not to taint evidence, so you and Captain
9 Smith returned to the headquarters after a while with
10 Ms. Goodman, and you obtained a statement from her?

11 A Yes, we did.

12 Q She goes home after that?

13 A Yes.

14 Q Now, as you're the lead investigator, you're finding
15 out that Sergeant McDaniels and Investigator Wagner
16 are interrogating Theo Manning inside?

17 A That's correct.

18 Q At some point, there's a break. It's starting to get
19 late in the night, isn't it?

20 A Yeah, it's getting late.

21 Q It's Friday it's late. I mean, about 12:30, 1:00?

22 A Yes.

23 Q I mean, 12:30, 1:00, I mean, the adrenaline -- I mean,
24 I know y'all had adrenaline driving up to Fairfield
25 County. I mean, everything -- I mean, you started to come

1 down. You're getting tired, and you want to go home?

2 A I'm tired. I don't know that a lot of -- at this point
3 in my career, there's not a whole lot of adrenaline.

4 Q Okay. But --

5 A But yes, it was getting late.

6 Q Getting late?

7 A That's true.

8 Q But I mean, you wanted to get something on paper so
9 that way you could tell your boss whose been active in
10 it, Captain Smith, hey, we got it, don't worry about it.
11 Hey, the lead investigator, job well done. So you want
12 to get something on paper. Is that fair to say?

13 A Well, I'll tell you that we -- our job is to get the
14 truth or at least what the person will tell us on paper,
15 and that's what I did.

16 Q Okay.

17 A That's what he told me.

18 Q Now, the questioning was done in Sergeant
19 McDaniels' office; is that correct?

20 A That is correct.

21 Q It's on the second floor at the end of the long
22 hallway. Kind of cubicles in the sheriff's department?

23 A That's correct.

24 Q Now, you didn't use one of these (indicating)?

25 A A recorder?

1 Q Yes, something very easy, you didn't interview him
2 with one of these (indicating), did you?

3 A No. It's not our policy to use one of these.

4 Q But you use one of these (indicating)?

5 A Actually a pen.

6 Q I know. Just give me a second. You used one of these.
7 Put it on the table and when something good was said or
8 something you agreed with, you rolled the pen, pencil,
9 forward, and when something that you disagreed with, you
10 rolled the pencil backwards.

11 It was kind of a way to direct Mr. Manning in the
12 way that you wanted it to go; isn't that correct?

13 A No, that's not correct.

14 Q You didn't use a pencil?

15 A No, I did not.

16 Q Now, we went down --

17 A I wasn't being mean --

18 (Talking over each other.)

19 Q Two doors down from --

20 MS. CAMPBELL: Objection, Your Honor. Can he
21 answer?

22 THE COURT: Let him answer the question.

23 THE WITNESS: I just want to make sure we're clear.

24 Are you saying that I rolled a pencil at him --

25 BY MR. MAY:

1 Q Yeah, you were rolling a pencil. You were trying to
2 get him -- when he said something that you liked, you'd
3 roll it towards him, and when you (sic) said something
4 he didn't like, you rolled it backwards. It was kind of
5 a way for you to direct the conversation. It was a way
6 for you say --

7 A I don't know if you would -- is that -- is that some
8 kind of demonstration, or are you really saying I really
9 rolled a pencil around?

10 Q I'm really saying you rolled a pencil.

11 A No.

12 Q A pencil.

13 A That doesn't make sense. I would never do that.

14 Q I hear it all the time with y'all's cases.

15 Now, two doors down from this office is a room, and
16 this room --

17 MS. CAMPBELL: Objection, Your Honor. May we
18 approach?

19 (WHEREUPON, a bench conference was held in the
20 presence, but not within the hearing of the jury.)

21 BY MR. MAY:

22 Q Now, a few doors down, there's a room. It has a
23 two-way glass, and there's a camera. When you enter the
24 room, the left-hand corner, this camera is turned on any
25 time the light is turned on. Are you familiar with

1 what I'm talking about?

2 A Yes.

3 Q And you could have done the interview in there,
4 couldn't you?

5 A Yes.

6 Q The video camera turns on any time you turn on the
7 light.

8 A Right.

9 Q All you do was walk in --

10 A I don't --

11 Q -- a few steps and you had something recorded?

12 A Well, that's not my office.

13 Q That --

14 A It's Jimmy White's office. I don't have access to
15 that office.

16 Q Okay.

17 A Unless he's present.

18 Q But now, Sergeant McDaniels just testified that
19 y'all always share everything, so it's no big deal.

20 A Oh there's a -- that's a different situation.

21 Q Okay.

22 A That I'm speaking of there. Obviously, our
23 offices, as major crime scene investigators, we use each
24 other's cubicles and offices. That's a totally
25 different situation.

1 Q Okay. Now, there's other recording devices in the
2 Richland County Sheriff's Department; isn't that
3 correct?

4 A There are all kinds of recording devices.

5 Q I mean, you had one in your pocket. You had one in
6 your pocket, your Blackberry. You have a Blackberry paid
7 for by us taxpayers?

8 A I do have a Blackberry.

9 Q And all --

10 A I --

11 Q -- all new ones have a record function, so you could
12 have pulled out your recording device paid for by us
13 and recorded this statement right there.

14 A For that matter, I could have -- I could have gone
15 to the technical room and got a recorder, but the policy
16 at the Richland County Sheriff's Department is to record
17 statements in written form.

18 Our reasons for doing that, I think it's been
19 testified to, that the police department is more
20 different than -- everyone -- up there it's different.

21 Our reasons are that when we talk to people,
22 sometimes they may say something that they want to
23 retract later.

24 We feel like it's fair to give them an opportunity
25 to talk to us, decide what they're going to tell us, be

1 advised of their rights and then make an official
2 document, a written document as to their statement.

3 That way, there's no misinterpretations of the way
4 they sound or, you know, if they get tongue tied. Nobody
5 can change around those things and say you meant this
6 thing, you meant another.

7 When it's in plain English and it's official, it's
8 notarized and it's a real document, and that's his
9 statement. He can change it at the last minute. If he
10 says, "You know, what, I don't like the way that sounds,
11 I want it to be worded this way," then we will do that.

12 They have the opportunity to change that
13 document any way they want to, and that's the way we
14 have been ordered to do it, and that's the best way, in
15 our opinion, to do the documentation of the statement.

16 Q Unless, of course, there's testimony that one of
17 y'all's friends is the subject, and then you want to
18 record it.

19 A I'm not -- I'm not --

20 THE COURT: Sir, ask your question. Don't be telling
21 a story. Ask a question, please.

22 MR. MAY: Yes, sir.

23 BY MR. MAY:

24 Q So, it's over in about 420 minutes. Mr. Manning was
25 the subject of an interrogation, that's about seven

1 hours.

2 A That's the duration of our -- our interaction, but
3 it was not a constant interview the entire time.

4 Q Okay. But he stayed -- for about seven hours, he
5 was in the sheriff's department, and the reason why he
6 was in the sheriff's department, you'll agree, was to
7 obtain the statement?

8 A He was under arrest.

9 Q Yes, I mean, the reason why you just didn't take
10 him right to the jail was because you wanted him to give
11 a statement, right?

12 A He wanted to give us a statement.

13 Q Okay. Now, there's a term, a phrase, that was
14 used. Heat of the moment. Heat of the moment. That was
15 y'all's words of the description of what occurred in
16 that house.

17 You told him hey, this is heat of the moment. We
18 understand; isn't that right?

19 A I don't remember using those words. You know, I'll
20 say this. When I speak with someone, it is my job to try
21 and make them feel comfortable enough to speak with me,
22 if they're willing to.

23 We do tell people, hey, listen, there's a -- you
24 know, you tell me what happened. I wasn't there. You
25 know, it could have been an accident. It could have been

1 this. I don't know. You've got to tell me. So when you
2 characterize it like that, you know, we do say things like
3 that to people to let them know that we've seen a lot of
4 different things. So if you tell us, we can understand
5 how it possibly could happen.

6 Q And heat of the moment, when some of y'all told
7 Mr. Manning in this --

8 A I don't know. I've never used that term, really, so
9 I -- that's something he gave me, I'm sure.

10 Q Something that a factory -- works on a factory
11 assembly line, that's police jargon. That's not jargon
12 from an assembly line person.

13 A Well, I don't believe --

14 THE COURT: Ask a question.

15 THE WITNESS: I don't use that.

16 THE COURT: You just made a statement.

17 MR. MAY: Yes.

18 THE COURT: I'm telling you to ask the witness a
19 question and not be answering them yourself. I mean, you
20 just made a statement something about a factory worker.

21 MR. MAY: Yes, sir.

22 THE COURT: Ask the witness.

23 BY MR. MAY:

24 Q The word heat of the moment, the term heat of the
25 moment isn't a jargon for a factory line person, is it?

1 A I think you're demeaning people. They -- people
2 are intelligent. I mean, there are a lot of
3 different -- people know things.

4 Q I didn't say --

5 A I think heat of passion is something that's used a
6 lot, especially in movies. It's not something that
7 people aren't familiar with, and that would be a term
8 possibly that I would use, heat of passion, but heat of
9 the moment --

10 Q Okay.

11 A -- that is not accurate.

12 Q I'm not demeaning anybody. I'm just saying that in
13 your line of work, you use a lot more legal terms than
14 other lines of work. Is that fair to say?

15 A I do use legal terms, yes.

16 Q So pretty much, for a span -- for seven hours, because
17 there was no recording, that was willfully done, isn't
18 it true that you come up with a maximum of how you count
19 up, of 13 pages?

20 A We could have come up with however many pages it
21 needs -- it requires, to document what he wanted to tell
22 us. That's the point is that -- whether it's two
23 sentences or 300 pages, it's what he wants to tell us.

24 We will type until he stops telling us.

25 Q But it's you typing?

- 1 A Yes.
- 2 Q It's you typing. You didn't say hey --
- 3 A It's the second statement. I typed the second
- 4 statement.
- 5 Q It's you or McDaniels --
- 6 A Correct.
- 7 Q -- typing. It's not, "Hey, do you want to make a
- 8 statement? Here is a pen and paper. Why don't you write
- 9 out what happened."
- 10 A No, we don't do that, because again, we deal with a
- 11 lot of different people. Some people are better than
- 12 others at articulating themselves in their own
- 13 writing.
- 14 Frequently, people aren't able to do it, really, so
- 15 we do it. We type it out. It's legible. People can read
- 16 it because it's on a computer, and people sign it. That's
- 17 what they told us.
- 18 If they didn't -- if it wasn't what they told us,
- 19 then they wouldn't sign it.
- 20 Q Well, we'll never know because it wasn't recorded.
- 21 We don't know what was said, do we?
- 22 A We do.
- 23 Q It's -- we have to rely on your assertion --
- 24 A No.
- 25 Q -- that everything was --

1 MS. CAMPBELL: Objection, Your Honor. I think he has
2 a right to finish his answer.

3 THE COURT: Let your witness answer the question.

4 THE WITNESS: We need to rely on the words that are
5 written down that are his words. That's what he says.

6 BY MR. MAY:

7 Q Now, we have Ms. Tracy here, and she has been
8 recording and typing everything that has been said,
9 because every word is important, correct?

10 A Yes, it is.

11 Q Every word is important.

12 A Yeah.

13 Q Not just a summary of what she thinks is important,
14 wouldn't that be fair to say?

15 A A different situation.

16 Q Okay. Now, a \$5.00 tape recorder would have cured
17 a lot of these problems, wouldn't it? There would be no
18 question what occurred.

19 A As far as I'm concerned, there are no problems. The
20 statement is what he wanted it to be.

21 Q So you have two police officers. Two police
22 officers would come into court, and it's their word
23 against somebody else's. Isn't that correct?

24 A I haven't disagreed with him in this. He's the one
25 that provided the statement. He said he shot her. I don't

1 disagree with that. In fact, I do agree with that.

2 Q All you had to do to know everything that occurred
3 in that room was record it. I mean, you made a willful
4 choice not to.

5 Now, the next day a search warrant was executed?

6 A Correct.

7 A Yes.

8 Q For the next three days, Kendra Goodman is
9 contacting you and Stan Smith regarding making further
10 statements, correct?

11 A Yes.

12 Q In fact, her last statement on June 2nd, she made
13 the statement to you, correct?

14 A Yes.

15 Q She makes a statement to you, and in that
16 statement, she provides details, details that are nowhere
17 found in any of her statements; is that correct?

18 A She does provide a statement.

19 Q Details about talking about her involvement with the
20 body itself?

21 A Yes.

22 Q A purse?

23 A Yes.

24 Q Other specific items. She gives you that statement,
25 and she signs her name, correct?

1 A That's correct.

2 Q And then immediately -- or actually, your words are
3 she suddenly recants?

4 A Yes.

5 Q So at that time, she gives you this entire statement
6 with a bunch of details.

7 A No. We've got that wrong, okay. And I'm sorry if
8 I agreed with you.

9 We went through it, and at the end, I asked her if
10 there is anything she wanted to change in the
11 statement, and before she signed it, she changed her
12 statement. So she actually changed her statement, and
13 I allowed her to do that, because that's what she wanted
14 to do.

15 Q All right.

16 A So she did that. We documented it. It's -- it
17 obviously changed what she had said before, but that's
18 what she wanted on her statement. Then she signed it.
19 Once -- I documented that, as well.

20 Q All right.

21 A Just like I'm saying happened with your client,
22 it's the same thing.

23 Q Do you have a copy of your statement?

24 A My follow-up?

25 Q Yeah.

1 A Yeah.

2 Q All right. I'm looking at June 2nd, 2009?

3 A Okay.

4 Q All right. The last three lines. All right. You
5 read along with me. "I sat down with her and wrote down
6 her statement."?

7 A Correct.

8 Q That happened, right?

9 A Right.

10 A Yeah.

11 Q At the culmination of the statement, Goodman
12 suddenly recanted many of the details provided.

13 A When I say culmination of the statement, it's
14 because it's the last question in the statement. When
15 I say, "Do you want -- do you want to make any changes
16 to your statement?" So that is the end of the statement
17 in my eyes, and she made changes, and then it was over
18 with. The statement was over with.

19 MR. MAY: Beg the Court's indulgence.

20 (Pause)

21 I apologize, Your Honor. I'll try to be brief.

22 BY MR. MAY:

23 Q You stated if they wanted 300 pages, then there
24 would be a 300 page statement. How many 300 page
25 statements have you taken?

1 A I've never taken a 300 page statement.

2 Q Now, enough said. The reason why you do -- the
3 reason why you type or one of your associates types it
4 is because people may not articulate themselves. So when
5 somebody can clearly, precisely articulate themselves,
6 you don't even give them a chance to put their own words
7 on paper?

8 A Well, one thing when you -- when you're working for
9 a law enforcement agency or you're deciding policy,
10 what has to happen is you have to be consistent because
11 if I change the way I do things, then people will wonder
12 why I changed it.

13 If we say we're going to do it this way, we're going
14 to do it this way for everybody.

15 Q Okay.

16 A We're not going to change it.

17 Q So you have no idea what time Nikki McPhatter was
18 killed that day, do you?

19 A I -- I don't know for sure. I wasn't there.

20 Q You don't know what occurred in that hallway, do
21 you?

22 A I know that your client said he killed her.

23 Q Correct. That's what we know.

24 A Yes.

25 Q And what the evidence that you base it on for the

1 charge of murder was a shot about two inches behind the
2 ear; is that correct?

3 A The charges were based on the entire investigation.

4 MR. MAY: I have no further questions at this time,
5 Your Honor.

6 THE COURT: Redirect?

7 MS. CAMPBELL: I don't have anything, Your Honor.

8 THE COURT: All right. You may come down.

9 THE WITNESS: Thank you.

10 THE COURT: Approach the bench counsel, please.

11 (WHEREUPON, a bench conference was held in the
12 presence, but not within the hearing of the jury.)

13 THE COURT: Next witness?

14 MS. CAMPBELL: Your Honor, at this time the State
15 would rest.

16 THE COURT: All right, ladies and gentlemen.
17 That's all the evidence you're going to hear from the
18 State.

19 Now, there are a number of legal matters that I
20 need to take up with the attorneys. As I told you, the
21 defense has the opportunity to present a defense, but
22 they may not do so. I need to go into that with the
23 attorneys.

24 It's almost 4:30. That process is going to take
25 probably a good hour or so. I think the most efficient

1 use of our time and not to impose too much on your time
2 would be to go ahead and excuse you now for the day. I'll
3 ask you to be back in the jury room at 9:30 in the
4 morning, at which time we'll continue with the trial.

5 Again, don't discuss the case among yourselves when
6 you return to the jury room or with anyone else over the
7 evening hours.

8 I caution you again about doing any independent
9 research or watching any news reports of this case.

10 I don't see any print media in here day, but the
11 television cameras were in here this morning. They
12 moved on. So I don't know if there's any television
13 coverage of what took place today. However, you're now
14 excused for the day. I'll see you at 9:30 in the morning.
15 Thank you very much.

16 (WHEREUPON, the jury left open court at approximately
17 4:19 p.m.)

18 THE COURT: All right, counsel, any motions?

19 MS. PRINGLE: Thank you, Your Honor may it please the
20 Court.

21 THE COURT: Yes, ma'am.

22 MS. PRINGLE: At this time, the defense would move
23 for a directed verdict. There are a number of bases,
24 Your Honor.

25 To begin with, I would renew all previous motions

1 and objections and incorporate all objections and
2 motions made pretrial and, of course, incorporate all
3 the objections and motions that were made throughout the
4 course of the trial.

5 I think that -- I'm going to start with the sort of
6 the heart of the matter here, Your Honor, and ask the
7 Court -- we'd be moving the Court to direct a verdict on
8 the issue as to self-defense. Self-defense is a matter
9 of right, Your Honor.

10 THE COURT: I have -- Ms. Pringle, I didn't hear what
11 you said.

12 MS. PRINGLE: I'm sorry, Your Honor. I'm going to
13 initially discuss -- asking the Court to direct a verdict
14 as to self-defense --

15 THE COURT: All right.

16 MS. PRINGLE: As a matter of right, Your Honor.

17 THE COURT: All right.

18 MS. PRINGLE: I'm also going to interweave with
19 that a request to submit this case to the jury only as
20 voluntary manslaughter in the alternative to a directed
21 verdict as to this offense, Your Honor.

22 As you are well aware, the Court is concerned with
23 the existence of evidence, not the weight of the
24 evidence.

25 You must consider the evidence and all the inferences

1 in the light most favorable to the State, Your Honor. I
2 do understand that, Your Honor, as I know you do.

3 There is -- as long as this trial has been, there
4 is just one single issue in this case, and that question
5 is -- does evidence exist that the victim was shot and
6 killed unlawfully and that at the time of the shooting,
7 did the defendant have malice aforethought?

8 That is what we have come to trial for, and that is
9 the single issue in this case.

10 We have stipulated that he committed this act.
11 His statements speak to him committing this act. There
12 is absolutely no question as to identity. This is a
13 single issue case. The question is what was his state
14 of mind at the time of the killing? You have a number
15 of items of evidence in front of you. I'll tell you what
16 you don't have. There is no evidence at the time of the
17 killing of malice whatsoever.

18 What we do know is that this was a boyfriend/
19 girlfriend situation of a very short nature; that they
20 met on the internet and had dated for a little while.

21 There has been some evidence that there was a
22 breakdown in the relationship, both from Mr. Manning's
23 statements and some inferences from other testimony from
24 the investigators from North Carolina.

25 There has been inferences, evidence, that

1 Mr. Manning had a number of girlfriends; that this was
2 not just his one long-term girlfriend, love that he had
3 been with for many, many years or months. This was a very
4 brief relationship.

5 So we have absolutely -- we have no motive, not that
6 they have to prove motive, but if we're getting to malice
7 and whether or not malice existed, I think you have to
8 look at everything and try to figure out what happened
9 here. We don't know. That's a fundamental problem for
10 the State. They don't know. No one is ever going to
11 know.

12 The fact that she was shot in the back of the head
13 alone is insufficient to show malice. Anyone could
14 be -- you could kill someone in self-defense. It's a
15 shooting to the back of the head or to the back. It
16 could be self-defense. It could be voluntary
17 manslaughter. That alone does not prove malice, Your
18 Honor.

19 So the question is what legal basis -- on what legal
20 bases, given what they have, has the state established
21 malice?

22 You have to, I think in making this analysis, keep
23 separate the actual shooting, what happened, how would
24 we know what happened in the house and the subsequent
25 cover-up.

1 That, of course, has been something that we've been,
2 you know, really battling and arguing about the entire
3 trial, but I think it comes down to this: The State
4 wants to argue that all of those post-crime acts are acts
5 that prove, I guess circumstantially, malice.

6 But what we're concerned with, of course, and the
7 jury would have to be concerned with -- but for right
8 now, what the Court is concerned with is what's the state
9 of mind of Mr. Manning at the time that he committed this
10 offense, and then what about that does subsequently tell
11 us about that state of mind? I think that's what they're
12 trying to say.

13 In order to, I think, embrace the notion that the
14 post crime acts are evidence of malice, you have to
15 argue that Mr. Manning knew and understood sort of the
16 subtle distinction in the law between voluntary
17 manslaughter and murder, for instance.

18 Your Honor, that he would understand that -- that
19 he committed this crime maliciously, and therefore, he
20 had to commit this cover up.

21 I don't know if I'm articulating this, but I think
22 this -- the argument assumes that he would be aware of
23 that distinction, and that he would, therefore, make a
24 reasoned decision to cover it up because he knows he
25 had malice in his heart or darkness in his heart, a

1 concept, which by the way, I'm not sure if any of us can
2 really even grasp.

3 It's difficult to understand, difficult to define,
4 determine, that the courts have wrestled with for many,
5 many years, but the evidence, Your Honor, that he
6 had -- that there was malice, the shooting can't be
7 proven by the fact that he did acts that may be described
8 as malicious type of acts later.

9 Those are -- the later doesn't prove the forma -- the
10 former. The acts that he committed later, maybe those
11 were dark and evil and bad acts, but those acts don't prove
12 what happened before.

13 I don't think there is any argument or basis that
14 there's any way you can get to malice with those
15 post-crime acts.

16 All we know about, and all we can ever know about
17 the actual killing, is in the statements of Theodore
18 Manning, in the omissions and in the statements. You have
19 one statement which says accident, and you have one
20 statement which says self-defense. You have -- in the
21 final statement, it says self-defense, arguably, I think,
22 a case for voluntary manslaughter.

23 I think certainly, even just based on that
24 statement, you get to voluntary manslaughter.

25 However, in none of those statements, and really

1 nowhere, and I would -- I don't know what the State's
2 basis is. I have not understood that, really, the entire
3 trial. But nowhere do you find malice in this case, but
4 if you direct for self-defense or you submit this is only
5 a voluntary manslaughter, I think that there is a basis
6 to do it. There is a reason it ought to be done.

7 Your Honor, just to run through to incorporate our
8 previous motions, we also move to suppress the statements
9 due to no recordings. We would also be requesting
10 cautionary instructions, should this case go to the
11 jury.

12 I think this is something that we all believe is going
13 to happen in our lifetime; that this will be mandated,
14 and it will be legislated.

15 It's important for us to preserve this. Should
16 Mr. Manning be convicted, we want that to be reviewed,
17 probably later down the line.

18 THE COURT: For what?

19 MS. PRINGLE: For failure to record.

20 THE COURT: Failure to record?

21 MS. PRINGLE: Yes, sir.

22 Third, Your Honor, we'd move for a full
23 evidentiary hearing per compliance with 16-11-450.

24 At the beginning of the trial, I know this is a sort
25 of -- the Castle Doctrine and Ryan has not been

1 around that long, but I think this is something that is
2 new. I think the courts have said that providing these
3 evidentiary hearings, I think the statute clearly
4 requires it, but I would move forth and rely on that. I
5 renew that objection, Your Honor.

6 We had a lengthy search warrant argument at the
7 beginning of the trial, Your Honor. We've been
8 objecting all during the trial about evidence that was
9 admitted over our objection. I think that is well
10 preserved.

11 This Court ruled that the search warrant was
12 valid; that there was probable cause; that there were no
13 jurisdictional problems or personal knowledge.

14 We would just renew all of the bases. I don't think
15 I need to go over all of that. I think we're very well
16 covered in that regard.

17 We had also moved to -- for a ruling as to the
18 viability of res gestae. I frankly don't know where we
19 stand on that, but I think that was the basis for some
20 of the State's position in getting some of this evidence
21 in.

22 I think to the extent that it was, that evidence
23 should have been excluded. We should have been operating
24 only within the rules of evidence.

25 There were hearsay objections throughout the

1 trial, and this has just been a real -- a real difficult
2 problem, Your Honor.

3 I hope that we've preserved the record as best we
4 can, but I would renew all the hearsay objections and
5 motions that we had made.

6 At one point, Your Honor, I had expressed that it
7 had been very difficult for us to make a record and to
8 obtain a ruling.

9 We did think -- place that on the record, both to
10 the court and to counsel.

11 Finally, there were -- beg the Court's indulgence.

12 (Pause)

13 The final thing is, Your Honor, we made three
14 motions for a mistrial.

15 Thank you for allowing me a moment to speak to
16 Mr. May. I couldn't remember off the top of my head, but
17 there were three.

18 I think this is really where the rubber meets the
19 road here for us. We've had a number of situations
20 where testimony was elicited that should not have been
21 admitted that was either ruled inadmissible or which
22 was elicited accidentally or deliberately, I don't know,
23 but it shouldn't have come up. It shouldn't have come
24 out.

25 I think one thing we have to think about in this

1 case is that everything, every mistake and error, there
2 isn't going to be harmless error in this case, because
3 this is going to be a case in which there are so many
4 decisions for the jury to make. And there's so much
5 information and so much evidence that they -- I believe
6 that there will be so many options.

7 So any -- any piece of evidence that comes in that's
8 prejudicial or inflammatory is especially so in a case
9 like this where -- it's not just overwhelming evidence
10 of, you know, guilty of murder. That's not going to be
11 the situation for him.

12 The three mistrial motions, Your Honor, one was the
13 pretrial motion in regards to sexual acts after the
14 crime and post crime. You ruled that was inadmissible.
15 Detective Fitch, Charlotte, testified to it. After
16 that, it was elicited by Ms. Joanna McDuffie. We
17 objected to that under 401, 403, 404. It was admitted.
18 There was no way --

19 THE COURT: It was not admitted.

20 MS. PRINGLE: I'm sorry?

21 THE COURT: It was not admitted.

22 MS. PRINGLE: His -- he testified to it.

23 THE COURT: Yes.

24 MS. PRINGLE: Yes.

25 THE COURT: He did and I instructed the jury to

1 strike it.

2 MS. PRINGLE: Yes, Your Honor.

3 THE COURT: To disregard it.

4 MS. PRINGLE: Yes, Your Honor.

5 THE COURT: I granted your motion.

6 MS. PRINGLE: Yes, Your Honor.

7 It's -- I think with all of these, the problem is
8 the unringing of the bell.

9 That was what I mean when I talk about how
10 important it is for every piece of evidence, each of these
11 very prejudicial pieces of evidence to have stayed
12 out.

13 Once that's out, you know, when I object to the
14 curative is because there is no way to fix that. You
15 just -- you can't do it. You can only make it worse.

16 The second event happened when --

17 THE COURT: There was no requested curative.

18 MS. PRINGLE: I'm sorry?

19 THE COURT: There was no request for a curative on
20 that issue.

21 MS. PRINGLE: Is there -- was there?

22 THE COURT: There wasn't. I said, is there now?

23 MS. PRINGLE: Only to the extent -- and this came up
24 towards the end on the third mistrial request.

25 I think if you want to do a generic curative, then

1 that would be -- we would request that. That would be
2 helpful.

3 THE COURT: What do you mean --

4 MS. PRINGLE: I think it's preserved.

5 THE COURT: What do you mean by that? What do you
6 mean --

7 MS. PRINGLE: To tell -- just to told the jury that
8 any evidence or testimony that was stricken from the
9 record, that you had specifically said, "Strike that from
10 the record" after sustaining an objection to theirs,
11 disregard, not consider, all of that language.

12 THE COURT: All right.

13 MS. PRINGLE: The second incident happened, Your
14 Honor, with the photograph. I think it's State's Exhibit
15 Number 16. I've never seen a photograph like that come
16 in during a homicide trial.

17 That is a photograph that would be fought over
18 strenuously in the sentencing phase of a capital case.
19 I've not seen anything like that. It -- the problem is
20 it came in really fast, and it was impossible to undo it.
21 I think it's a very legitimate basis for a mistrial.

22 So, Your Honor, the fact that it's up there and it's
23 going in, I think makes it very, very difficult for
24 Mr. Manning to mount any defense in this matter.

25 It is a terrifying, disturbing -- it's a terrible

1 photograph. I don't think that anybody could look at
2 that and not reach that level of being inflamed and
3 prejudiced, Your Honor.

4 The final -- and I'm finishing up, Your Honor. The
5 final mistrial motion occurred during the eliciting of
6 Solicitor Giese of the portion of the statement
7 regarding the gun, the additional nine millimeter.

8 I think there are a number of problems there. One
9 is, obviously, now -- and let's -- well, I think any -- I
10 think jurors can put together -- I mean, once they've
11 heard -- and they heard that there was a nine
12 millimeter, I think they can put them together that there
13 was more than one gun.

14 That is inadmissible. It was deemed inadmissible by
15 you. It was something that came in either by our fault -- or
16 we'll take the fault, but it's something that they
17 shouldn't have heard about. It's consistently been ruled
18 upon during the entire trial.

19 Beg the Court's indulgence.

20 (Pause)

21 Oh, and, Your Honor, finally, I would just state two
22 more things: Just renewing our objection with respect
23 to the taint of the jury, the judicial comment on the facts
24 that we litigated prior to even beginning the trial.

25 I think we sort of started out behind a step or two

1 as a result of that. I placed that on the record at the
2 time, Your Honor.

3 THE COURT: Say that again. State that again.
4 Before the trial?

5 MS. PRINGLE: Right. Our objection with respect to
6 the Court's wording of the voir dire as to self-defense
7 with the shot to the back of the head, that issue.

8 I think I actually asked -- I don't know if I asked
9 for a mistrial since they weren't sworn in. I asked that
10 you restrike the panel at that time.

11 Oh, I'm sorry, and Mr. May just corrected me. The
12 skeletal remains photograph was number 227. Oh, it was
13 motion number 16 on our motions list.

14 Finally, Your Honor, just to reiterate, I think that
15 the distinguishing case -- I think it's very punitive,
16 it gets sloughed off into the things that have to happen
17 afterwards, but if we focus on the single issue, this
18 case ought to go, at the minimum, to the jury on voluntary
19 manslaughter.

20 Thank you.

21 THE COURT: State's position?

22 MS. CAMPBELL: Your Honor, in the light most
23 favorable to the State, we feel like --

24 THE COURT: Address the issues of --

25 MS. CAMPBELL: Just --

1 THE COURT: -- raised by counsel.

2 MS. CAMPBELL: All of them?

3 THE COURT: Yes.

4 MS. CAMPBELL: Specifically, Your Honor, as far as
5 the rulings on the mistrial motions, you gave curative
6 instructions when requested. They were appropriate.

7 We don't feel like anything is tainted in this trial
8 in any manner that would affect the jury. Moving on as
9 far as for voluntary manslaughter, it should only be
10 submitted in that -- the testimony from -- and, Your
11 Honor, we aren't bound just by her client's statement
12 as far as what we are able to prove or not prove
13 circumstantially and/or otherwise.

14 In this case, we have the facts that are before the
15 jury -- combining his statement with what we know are
16 materially facts is that an unarmed woman was shot in the
17 back of the head by the defendant with his own gun. He
18 then later put her body into the trunk of a car, drove
19 it up the road halfway to Charlotte, set the car on fire
20 then took her credit cards and used them.

21 THE COURT: I'm familiar with -- I know what the
22 facts are.

23 MS. CAMPBELL: We feel like that is more than
24 sufficient to be presented to the jury, Your Honor. We
25 do not feel like there is any self-defense claim in this

1 case, period, based on even his own statements at this
2 point.

3 I understand that he's supposed to testify, and we
4 feel like we have proven malice in the light most
5 favorable to the State proving malice is there. It's
6 shown in all circumstances.

7 It's a clear inference that he killed her in order
8 to get her credit cards, in order to clean out her bank
9 account.

10 There are many other inferences that --

11 THE COURT: I don't think that's clear.

12 MS. CAMPBELL: It's a possible inference, Your
13 Honor, and as far as --

14 THE COURT: Well, there's a lot of possible
15 inferences. The question is are the post shooting
16 incidents -- could they -- can they be evidence of malice.

17 MS. CAMPBELL: And guilt, Your Honor.

18 THE COURT: They've admitted guilt in the
19 shooting.

20 MS. CAMPBELL: Your Honor, I mean, as far as we're
21 concerned, if he had acted in self-defense, as he so
22 claimed, it would not have been necessary for him to
23 cover-up, clean up, the crime scene, everything like that.

24 It goes to his guilt; that he committed a crime. Our
25 position would be that would be murder, Your Honor.

1 THE COURT: Address the issue of malice. I mean, you
2 just can't say the burning of the body -- it may be a
3 malicious act.

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: But is it malice --

6 MS. CAMPBELL: And I only --

7 THE COURT: -- pursuant to the definition of murder?

8 MS. CAMPBELL: Yes, sir. I know he's coupling that
9 with the actions that he shot her with his gun in the
10 back of the head, and she was unarmed at the time,
11 according to his latest statement.

12 THE COURT: Well, it's -- what malicious about
13 that?

14 MS. CAMPBELL: Shooting an unarmed woman in the
15 back of the head? It's -- I don't think -- it's an
16 execution style killing. It doesn't get any more
17 malicious, and that's clearly -- I think you have that
18 from the testimony before them right now.

19 We just feel like it's a jury issue, Your Honor. It
20 should be submitted to the jury on the charge of murder.

21 THE COURT: Well, I know that's your position.

22 MS. CAMPBELL: Your Honor, he lied to the police --

23 THE COURT: Do you have any --

24 MS. CAMPBELL: -- on multiple occasions. With the
25 evidence he changes the story. I mean, you know, all of

1 this coupled, reeks of malice.

2 THE COURT: That's a jury argument.

3 MS. CAMPBELL: I understand, Your Honor, but I
4 mean, I think I'm just trying to make a point; that if
5 you look at the bare facts of just what occurred as far
6 as the injury, coupled with the use of the gun, coupled
7 with the shot to the back of the head and the fact that,
8 you know -- not even going into the stuff after it, that
9 alone is more than sufficient for malice.

10 THE COURT: Hand me the second statement, please.

11 MS. CAMPBELL: The second written statement?

12 THE COURT: The second written statement.

13 MS. CAMPBELL: Your Honor, just for the record, in
14 that statement, he says something to the effect -- and
15 I don't want to misquote, that he shot her -- shot her
16 to show her he wasn't playing.

17 He then goes on to say he doesn't know where the
18 shot went, but, Your Honor, that would be a total
19 disregard for the lives and safety of others when you're
20 shooting people in the back of the head.

21 THE COURT: Ms. Pringle, I know you're not satisfied
22 with the manner in which this statement was taken, but
23 what does the Court do with the statement, "I pulled the
24 trigger to show her to stop playing"? In other words,
25 isn't that some -- again, you're right. It's not up to

1 me to gauge the weight of the evidence, but isn't that
2 some evidence of malice, "I pulled the trigger to show
3 her to stop playing?" To show her. Just that statement
4 alone...

5 MS. PRINGLE: I don't think so. If you read the
6 whole paragraph -- I mean, he is talking about this in
7 the context specifically of an argument.

8 He says that -- he says -- he says specifically it
9 turned into an argument that got heated. She then
10 picked up the firearm and pointed it at him. He's asking
11 her what in the hell was she thinking.

12 I think when you put that statement in the context
13 of that first part, and then he says she hit the gun and
14 asked me if I'm crazy. She told him, "You're just like
15 everybody else." She said, "You're say you're going to
16 be there for me and you hurt me like everybody else."

17 "She then takes a step, makes a motion toward me,
18 but when she pivots, when she did it, and I pulled the
19 trigger to show her to stop playing," and what he's
20 responding to is her coming at him.

21 They're in an argument that's heated. I think
22 that, at worst, is manslaughter.

23 THE COURT: Isn't that a jury argument? I mean, is
24 that...

25 MS. PRINGLE: I think if you think about the

1 definition of malice, which is a wicked heart bent on
2 doing evil, that's not -- that doesn't envision it in the
3 context of an argument.

4 This isn't an execution style killing. This is the
5 worst thing they have. If you just look at the statement
6 is that they are having a knock-down drag-out and a
7 lover's quarrel. That's the worst thing that you have.

8 THE COURT: Well, that may give you -- you're right.
9 It may give you a voluntary manslaughter argument and a
10 voluntary manslaughter verdict, but that's not -- I
11 can't make that -- I think that's invading the province
12 of the jury. I mean, it's evidence. It's there.

13 I mean, if in every domestic argument where a victim
14 dies, you can say, "Well, it was in the context of an
15 argument when he shot her." I mean, this is not -- in
16 my mind, not that much different than many, many other
17 domestic killings.

18 "I shot her to show her I wasn't playing." I mean,
19 that's a -- that's an aggressive statement. "I pulled
20 the trigger to show her to stop playing, to show her I'm
21 not playing." Bam, or you need to stop playing, bam.

22 I mean, I think there's -- that alone given -- even
23 if I accept your argument about post killing activities,
24 and I'm not sure that I do, but even if I did, I think
25 that's the scintilla of evidence that the Court needs to

1 pass this on to the jury.

2 I realize the context in which it was stated, but
3 there is some evidence in my mind that this could be a
4 murder, could be a murder, but that's the jury's
5 decision.

6 My threshold is a lot -- not as high as that of the
7 jury's. If there's evidence, I feel I must submit it to
8 the jury. So -- and I think you're right. You have
9 preserved the issue of the failure to record. You have
10 made a record of the Castle Doctrine argument. I have
11 ruled that that is inapplicable.

12 I don't think that I need to rule in or rule out the
13 issue of res gestae. That's why I didn't respond to your
14 or counsel's -- co-counsel's challenge to identify the
15 rule under which that evidence was allowed.

16 I think you've documented -- if you want me to
17 give a general curative instruction, I'll be glad to do
18 that. Anything that was -- they are not to consider
19 anything that was ordered stricken or ordered that they
20 disregard.

21 I'll reiterate that to the jury, if this case goes
22 to the jury. I'm not even sure it's going to the jury
23 yet.

24 So as to your motion for a directed verdict, I feel
25 the evidence goes beyond that of mere conjecture or

1 suspicion through the evidence, either direct or
2 circumstantial or some combination of both, which
3 reasonably tends to prove the guilt of the defendant or
4 from which that guilt might be logically and reasonably
5 deducted if that evidence is taken in the light most
6 favorable to the State. So I'm going to respectfully deny
7 your motion for a directed verdict.

8 Now, I'd like to advise your client of his fifth
9 amendment rights.

10 Mr. Manning, at this time, I'm going to explain
11 certain of your rights to you. If you do not understand
12 anything I say, please let me know. If you want me to
13 explain anything in more detail, please let me know. Do
14 you understand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: We have now reached the stage of the trial
17 where you may present your defense. You have the right
18 to claim the protections given to you by the Fifth
19 Amendment to the constitution of the United States.

20 This amendment states in part, "No person shall be
21 compelled in any criminal case to be a witness against
22 himself or herself." This means that you cannot be
23 required to testify in this case. You have the right to
24 testify on your own behalf. However, no one can make you
25 testify. This is a personal right, and no one can waive

1 this right except you.

2 If you decide to testify, you will be subject to the
3 same rules that govern other witnesses. You may be
4 examined and cross-examined on any relevant issue in
5 this case.

6 In addition, if you have any convictions involving
7 dishonesty or false statements, or for a crime
8 punishable -- crimes punishable by imprisonment of more
9 than one year and this Court determines that the
10 probative value of admitting this evidence outweighs the
11 prejudicial effect to you, the Solicitor will be able to
12 introduce your record to attack your credibility.

13 If you decide to testify, this decision on your part
14 must be freely, voluntarily, and intelligently made with
15 knowledge of the precautions, protections given to you
16 by the Fifth Amendment and the consequences of your
17 decision to testify.

18 If you decide not to testify, I will instruct the
19 jurors that they cannot give the fact that you did not
20 testify any consideration whatsoever, and that there
21 is to be absolutely no prejudice to you because you did
22 not testify.

23 It is left entirely up to you whether or not you
24 testify. You may talk with your attorney, your family,
25 and friends or anyone else. The final decision will be

1 left entirely up to you.

2 Do you understand what I am explaining to you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you have any questions about what I
5 have explained to you?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you have -- have you discussed with
8 your lawyer whether or not you should testify?

9 (There was no response.)

10 THE COURT: Have you discussed that with your
11 lawyer?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you wish to talk to your lawyer any
14 more about that at this time?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. We're going to adjourn for
17 the evening. We'll reconvene at 9:30 in the morning.
18 I'll expect your answer at that time, 9:30.

19 MS. PRINGLE: Thank you, Your Honor.

20 MR. SHEALEY: Thank you, Your Honor.

21 MR. MAY: Oh, real quickly, Your Honor, just so I
22 don't forget. I apologize to the Court.

23 Ms. McDuffie was going through a piece of evidence
24 that had been admitted, State's Exhibit 261, if I may
25 approach, Your Honor.

1 She has that it had not been admitted. There are
2 shotgun shells on those, the bottom right of the
3 picture. We would ask that it not be admitted. That was
4 her record of which piece of evidence were coming in.

5 Ms. Tracy has that it was admitted. If there is any
6 question, we would ask that it not be admitted seeing that
7 it does depict a -- a clip -- what appears to be a pistol
8 clip, as well as shotgun shells.

9 THE COURT: How about it, Ms. McDuffie?

10 MS. MCDUFFIE: Your Honor, I have had in my notes of
11 the evidence that we did not offer that into evidence as
12 a piece of evidence in front of jury.

13 THE COURT: All right.

14 MS. MCDUFFIE: That was -- we have marked that, but
15 it was not offered as evidence.

16 THE COURT: The jury didn't see it?

17 MS. MCDUFFIE: No, sir, Your Honor, not to my
18 knowledge.

19 THE COURT: All right. The State didn't offer it.
20 You object to it?

21 MR. MAY: Yes, sir.

22 THE COURT: All right.

23 MR. MAY: I just wanted to clear up anything, if
24 there was any question before we left today.

25 THE COURT: Unadmit it.

1 MR. MAY: Thank you, Your Honor.

2 THE COURT: Take it out.

3 I assume this is his apartment or his house?

4 Forget it.

5 9:30.

6 MR. MAY: Thank you, Your Honor.

7 (WHEREUPON, State's Exhibit 261 was unadmitted.)

8 THE COURT: Is the State ready to proceed?

9 MR. GIESE: The State is ready.

10 THE COURT: Is the defense ready to proceed?

11 MR. SHEALEY: We are. We do have a matter regarding

12 Mr. Manning.

13 THE COURT: What is it?

14 MR. SHEALEY: We anticipate him testifying next.

15 We have concerns about his shackles in terms of walking

16 up, as well. We might be calling on him to demonstrate

17 some things. I don't know what we need to do about the

18 shackles.

19 THE COURT: Remove them. Take them off.

20 Do we have enough security in here?

21 MR. SHEALEY: We have Mr. May right here.

22 MR. MAY: Could we please not film this?

23 THE COURT: Yes, just hold the cameras.

24 MR. GIESE: The State's position is if he's going to

25 be unshackled and he gets down off the stand, we would

1 like to have an officer at the -- near the jury box.

2 THE COURT: Somebody -- somebody sit where Mr. Dye
3 is sitting, please.

4 MR. SHEALEY: We just think that any police
5 presence --

6 THE COURT: Okay. I understand. I understand.
7 We're just going to have one seated in the back of the
8 jury box.

9 MR. SHEALEY: What about -- Your Honor, I know this
10 is your courtroom and your security, but would it
11 make a difference if someone is sitting right there?

12 I just think the jury is going to feel that something
13 is different about their jury area.

14 THE BAILIFF: No. The bailiffs have to sit down
15 there.

16 MR. SHEALEY: Now there's a sheriff's deputy next to
17 the bailiff, and all of the sudden Mr. Manning
18 testifies.

19 THE COURT: I understand.

20 Mr. Manning, do you plan to testify today?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Thank you very much.
23 Anything further?

24 MR. SHEALEY: No, Your Honor.

25 THE COURT: All right. Bring the jury, please.

1 (WHEREUPON, the jury came into open court at
2 approximately 9:49 a.m.)

3 THE BAILIFF: Jury is seated, Your Honor.

4 THE COURT: Thank you very much. Are you ready to
5 continue the trial, Mr. Shealey?

6 (There was no response).

7 Call your first witness.

8 MR. SHEALEY: Thank you, sir, Your Honor. May it
9 please the Court. At this time, we'd call Theodore
10 Manning.

11 THE COURT: Come around, Mr. Manning.

12 THEODORE MANNING,
13 after being duly sworn, testified as follows:

14 THE CLERK: Come on around to the witness stand.
15 State your name for the record.

16 THE WITNESS: My name is Theodore Manning.

17 DIRECT EXAMINATION:

18 BY MR. SHEALEY:

19 Q Good morning, Theo. I need to ask you something
20 right out: Did you murder Nikki McPhatter?

21 A No. I didn't murder her, but I -- I killed her.

22 Q What happened?

23 A We had an argument at my house. It got heated. She
24 pulled a gun on me.

25 THE COURT: Mr. May, just hold on.

1 The jurors are having a hard time hearing you.

2 BY MR. SHEALEY:

3 Q Try to speak into this microphone a little bit
4 better. I know you're soft spoken.

5 A All right.

6 Q Tell us what happened, Theo.

7 A We had an argument at my house. The argument
8 started to get heated. She -- she wanted more out of the
9 relationship than what I was willing to give.

10 She pulled a gun on me, and I mean, I'm looking at
11 a gun in my face, and I was scared. I was -- I was pissed.
12 Everything just like flashed in front of my eyes.

13 It -- it was like -- I just snapped. I -- I wrestled
14 the gun away from her. It was like my stomach was in my
15 throat. My -- my heart was beating real fast, and she
16 just kept coming at me.

17 It was like she was yelling at me. She was
18 screaming about how the relationship had to work. She
19 needed it to work, and she just kept swinging at the gun
20 and coming at me.

21 She was like, I'm just like everybody else. I hurt
22 her just like everybody else hurt her, and it was like
23 she just charged at me and flinched or pivoted, and I
24 pulled the trigger.

25 Q Theo, I -- we'll get -- we'll talk more about it later,

1 but did you have any intention of harming her when she
2 came to your house that day?

3 A No.

4 Q Theo, I want to ask you a few questions about yourself.
5 Can you tell the jury how old you are?

6 A I'm 31.

7 Q Where are you from?

8 A Columbia, South Carolina.

9 Q Was there any particular neighborhood where you grew
10 up?

11 A I grew up in Hollywood Hills.

12 Q And where is that in -- that's in Richland County?

13 A It's in Richland County.

14 Q Is that a good neighborhood?

15 A No.

16 Q When you were growing up there, was there a lot
17 of -- what was going on in that neighborhood?

18 A In the neighborhood, it's a lot of violence, drugs,
19 cops.

20 Q Was there a lot of police around in general?

21 A They would come through occasionally to -- I guess
22 to make presence.

23 Q Just on your experience growing up where you did, did
24 you -- based on your experiences, did you feel that the
25 police were there to help you in general or your

- 1 neighborhood?
- 2 A Not really.
- 3 Q Okay. Now, did you grow up in a single family home,
- 4 or did you have your mom and your dad or what?
- 5 A Well, growing up, it was me, my mom, my grandparents.
- 6 A couple of my uncles was still in high school.
- 7 Q Did you have your dad around?
- 8 A No.
- 9 Q What, was it mostly your mom that raised you?
- 10 A Uh-huh.
- 11 Q Tell us about your relationship with your mom. What
- 12 did she mean to you?
- 13 A She was my best friend.
- 14 Q Did you talk to her?
- 15 A Yeah.
- 16 Q Did you feel that you could confide in her?
- 17 A Yeah.
- 18 Q Where did go to high school?
- 19 A I went to W.J. Keenan.
- 20 Q Did you graduate?
- 21 A Yes, sir.
- 22 Q What did you do after high school? Anything happen
- 23 in your life?
- 24 A After high school, I went to the Air Force.
- 25 Q Okay. How long were you in the Air Force?

1 A About three years.

2 Q Tell us about the Air Force, what rank you might have
3 achieved, what you did there.

4 A When I was in the Air Force, I achieved Airman First
5 Class. I got out about maybe a month or two shy of putting
6 on Senior Airman, which would have been E-4.

7 Q Okay. Why did you want to go in the Air Force in the
8 military in general?

9 A Well, I wanted to serve my country. At the same
10 time, I was looking for more discipline.

11 Q Okay. You said you were there for three years.

12 A Yes, sir.

13 Q When you left, were you honorably discharged?

14 A Yes, sir.

15 Q Okay. Now, where were you located in the Air Force?

16 A I went through tech school in -- at Lackland Air
17 Force Base in San Antonio, Texas.

18 Q In Texas?

19 A And after tech school I got stationed in Del Rio,
20 Texas, at Laughlin Air Force Base.

21 Q After being honorably discharged, did you stay in
22 Texas?

23 A No. I came back home.

24 Q You came back home here in South Carolina?

25 A Yes, sir.

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1 Q Okay. Now, during this time, did you ever get
2 married?

3 A Yes. I got married shortly after my daughter was
4 born.

5 Q Okay. And how long were you married during this
6 time?

7 A I was married for about six years.

8 Q Okay. Did you get divorced?

9 A Yes.

10 Q How old were you when you first got married?

11 A Twenty-one.

12 Q Okay. And you mentioned having a daughter. How old
13 is she now?

14 A She is ten now.

15 Q And what's her name?

16 A [REDACTED] (phonetic).

17 Q But getting back to South Carolina, at some point,
18 you got divorced you told us.

19 Did you start to work? Well, tell us if you worked,
20 and if you did, the places you might have worked in South
21 Carolina.

22 A When I first got back, I got a job working at Bose.
23 I was working the assembly line. After -- during the
24 time I was at Bose, I also started working at Carquest
25 Distribution Center. I was doing night loading, loading

1 trucks, picking products.

2 At that time, I also started doing U.P.S. because
3 I let Bose go, and I was doing around the same thing at
4 night, loading mail on trucks. Then I got a better offer
5 to work at (inaudible).

6 Q Okay.

7 THE COURT REPORTER: I'm sorry, you worked where?

8 THE WITNESS: P.Y.A. Monarch.

9 It's known now as U.S. Food Service, but it's like
10 a food distribution warehouse where you have plant
11 selector. You pick the product. You state it for
12 delivery.

13 BY MR. SHEALEY:

14 Q Are there any of these jobs that you ever get injured?

15 A I didn't get injured until I started working at Cisco.

16 Q Okay.

17 A It's the same as U.S. Food Service.

18 Q Okay. Tell us about that a little bit.

19 A I got injured -- the first time I got injured, I
20 thought it was a muscle spasm in my back. I was out for
21 a few months doing basically light duty. I rushed back
22 to work, and I injured my back again. This time I found
23 out it was actually a bulging disc in my lower back.

24 Q Okay. Does that cause you pain at all?

25 A Yes, sir.

1 Q Okay. Tell us about, briefly again, where you've
2 been working and the last place you worked until about
3 May of last year.

4 A After Cisco, I ended up getting laid off because of
5 my back injury. I got a job at Westinghouse, which is
6 a nuclear fuel company.

7 Q Okay.

8 A I was working the line where you make the nuclear
9 fuel rods.

10 Q Is that where you were working around May of 2009?

11 A Yes, sir.

12 Q What kind of money were you making, if you don't mind
13 me asking?

14 A At that time, I was making about \$14 an hour. I was
15 about to get another raise, so it would have probably put
16 me up about \$15 something.

17 Q Okay. Around that time last year, did you feel that
18 you were hurting financially or were you okay?

19 A I was okay.

20 Q Okay. I didn't ask you this, but do you have any
21 brothers or sisters?

22 A I have one brother.

23 Q Where is your brother?

24 A He is in the Air Force now.

25 Q Where is he located?

1 A He is located in Florida.

2 Q Okay. Now, Theo, I want to start focusing your
3 attention a little bit on what we're here for. I want
4 to talk to you about your life and what's going on with
5 you in the Spring of last year.

6 Now, I don't want to embarrass you, but I've got to
7 ask you some personal questions. I know your family has
8 been here the whole time and we sent them out for this,
9 but I need you to tell me a little bit about your sexual
10 life.

11 Were you dating just one woman steadily at that time?

12 A No, sir.

13 Q Were you dating a lot of girls at that time?

14 A I was dating several.

15 Q All right. Let's just put a number on it. How many
16 women in the Spring of 2009 do you think that you were
17 dating and having sexual relationships with?

18 A Maybe six.

19 Q Just six?

20 A Sexually, maybe six.

21 Q Okay. Does that include Kendra?

22 A Yes, sir.

23 Q Okay. And were there -- there were others, right?

24 A I was talking to others, yes.

25 Q Now, I don't want to embarrass you again, but we're

1 here to hear from you. Did these women feel like they
2 were the only woman in your life?

3 A Yes, sir.

4 Q Why would they feel that way?

5 A I made them feel that way.

6 Q And why would you do that?

7 A I mean, it was -- it was kind of easier. It was like
8 I wanted my cake and eat it, too, I guess. If they
9 thought that I was being faithful to them -- well,
10 faithful to them, they were more likely to be faithful
11 to me.

12 Q Was one of your goals to make sure that --

13 THE COURT: Hold on. Excuse me.

14 Can y'all hear him on the back row?

15 MR. SHEALEY: Theo.

16 THE JUROR: I couldn't hear him.

17 THE JUROR: I can't hear.

18 BY MR. SHEALEY:

19 Q I'm going to have ask you to speak up a little bit.
20 You have a microphone right in front of you.

21 I'm going to ask you again, and it's a touchy subject,
22 but you're still going to have to talk to us about it.
23 In terms of sexually, these women, you said, thought that
24 they were the only women, right?

25 A Yes, sir.

1 Q But in truth, there were six or so, you said, other
2 women, right?

3 A Yes, sir.

4 Q Did these -- were these women sleeping with other
5 guys and doing their thing?

6 A No, sir.

7 Q They thought --

8 A Not that I know of.

9 Q Was it because they thought you were the guy?

10 A Yes, sir.

11 Q Okay. Now, you told us you had been married at 21.

12 A Yes, sir.

13 Q In May of last year, Spring of last year, how old were
14 you?

15 A Twenty-nine.

16 Q Okay. Did you have a different feeling about your
17 dating love life than when you were married? I mean, did
18 you want something different out of your love life?

19 A Well, I didn't want to be married again that soon.
20 I was more looking to just have fun.

21 Q Okay. All right. We'll touch more on it again
22 about that, but I just want to talk about it.

23 Now, let's just get right down to it. How did
24 you -- when did you meet and how did you meet Nikki
25 McPhatter?

1 A I met Nikki probably like the middle of February
2 off of tagged.com.

3 Q Okay. What is tagged.com?

4 A Tagged.com is like a social network. You basically
5 go on it when -- to meet people.

6 Q Okay. Is this like eHarmony looking for love and
7 lasting connections?

8 A No. This is like if you're looking for, I guess, sex
9 partners or partners to hang out with.

10 Q Okay. Is that why you were honestly on tagged.com?

11 A Yes, sir.

12 Q Okay. Tell us how you first began interacting with
13 Ms. McPhatter on tagged.com.

14 A Nikki sent me a message asking for me to add her. She
15 said that I looked cute. She want to get to know me more.

16 Q Okay. So that would be some kind of e-mail message
17 to you or online thing?

18 A It's a -- it's a -- it's like an instant message,
19 just be added as a friend.

20 Q Okay. So she sent that request to you?

21 A Yes, sir.

22 Q Did you add her as a friend?

23 A Yes, sir.

24 Q Okay. At this time, did y'all -- how was the
25 communication going? Would you all e-mail, call?

1 What was predominantly going on?

2 A At first, we was just e-mailing back and forth. Later
3 on, she said that she was making a trip down somewhere
4 near me, and she wanted my phone number.

5 Q Did you give her your phone number?

6 A I gave it to her. I didn't see any harm in it.

7 Q Okay. Now, at some point, do y'all actually meet
8 each other?

9 A Yes, sir.

10 Q Tell us about that.

11 A Initially, she wanted to meet in February. I told
12 her that I was in the process of moving and that I was
13 boxing everything up, so I was -- I didn't see any point
14 in meeting.

15 She said, "Well, after you move into your house and
16 you get settled, how about we meet then?"

17 I agreed to that, so after I moved into the house,
18 maybe about a week into the house, she wanted to come down
19 and see me.

20 Q Okay. How did that get arranged?

21 A She told me that she would just come down after she
22 got off work one night as long as I was -- had free time.
23 Would it be okay. I told her it would be fine.

24 Q Okay. So did she come down?

25 A She came down. On her way down, she got lost. She

1 got off on the wrong exit. She called me, and she was
2 hysterical on the phone. She was crying. I was trying
3 to get her to calm down.

4 I finally told her just be quiet, tell me what you
5 see around you. She was -- she told me some of the
6 stores that was around her, and I told her that she got
7 off two exits too soon.

8 Q Okay. Did you guide her in to where you lived?

9 A Yes, sir.

10 Q And this is on Bluff Road?

11 A Yes, sir.

12 Q And so she eventually got there?

13 A Yes, sir.

14 Q Let's talk about that first meeting when she came to
15 your house. Just from the moment she gets there, what
16 do y'all do? Tell me about your actions. What happens
17 first?

18 A Well, when she gets to my house, she rings the
19 doorbell. When I opened the door, the first thing she
20 did was give me a hug, a kiss, telling me that it's nice
21 to meet me.

22 Q Okay.

23 A After that, she -- she got a bag out of her car, and
24 she came in the house. We went up -- immediately, went
25 upstairs and we had sex.

- 1 Q Okay. She didn't want a tour of the house --
- 2 A No.
- 3 Q -- or anything else? Having sex was pretty much the
- 4 first thing y'all did?
- 5 A Yes.
- 6 Q And I guess meeting her on tagged.com and what
- 7 you've already told us about your purposes, how did that
- 8 suit you that you had sex?
- 9 A It was fine with me.
- 10 Q Okay. Now, after having sex, I mean, what was her
- 11 demeanor? Did you learn anything about her?
- 12 A After we had sex, we was laying around, and she
- 13 just -- she was -- she was very talkative. She started
- 14 telling me about how when she was growing up, she was
- 15 sexually abused. She told me about how her parents
- 16 were both verbally and physically abusive and that she
- 17 was seeing a psychiatrist.
- 18 Q Okay. Hold on. Did that seem strange to you that
- 19 she would be telling you all these things the first
- 20 time you met her?
- 21 A At first it was -- it struck me as weird, because I
- 22 mean, what she was telling me, I mean, that's something
- 23 you would probably tell like one of your best friends
- 24 because it's like real -- it's your deepest secrets.
- 25 Then afterwards, I started feeling bad for her because

1 of everything that she had went through.

2 Q But you didn't have any idea why she would be telling
3 you this at this time?

4 A No.

5 Q Okay. Now, that would be the first time y'all
6 actually met, but after that encounter, did y'all have
7 a chance to meet each other again a few times more?

8 A Yes.

9 Q Tell us -- tell us about that. When was the next time
10 you would have seen her?

11 A Well, we was texting and calling back and forth,
12 and she told me that she wanted to see me again. So we
13 made arrangements for when I got off work, I would just
14 go ahead and come up and see her.

15 A Okay. It was probably, maybe, a week later. I got
16 off work at 7:30 that morning. I left and went up to see
17 her. On the way up, I guess I kind of got the directions
18 wrong, but I called her and she told me a different route
19 to take that would lead me straight to her house.

20 Q Okay. And you got to her house?

21 A When I got to her house, she met me at the door. All
22 she had on was a T-shirt. She gave me a hug. I told her
23 it was a nice house from what I could see. She led me
24 upstairs, and we had sex again.

25 Q Okay. So kind of like the first time y'all met, is

1 this the first thing y'all did --

2 A Yes.

3 Q -- when you saw each other? How -- did that suit you
4 okay?

5 A It was fine with me.

6 Q Okay. All right. Did y'all talk at all while you
7 were there?

8 A Uh...

9 Q Did she tell you anything about her feelings or
10 anything like that?

11 A Well, after we have had sex, we hung out, watched a
12 movie. We basically just laid around. She told me that
13 she was -- she was looking for more in the relationship
14 or more out of the relationship, and that kind of got me
15 a strange sense. We was just meeting, really.

16 Q Did you want to get in an in-depth thing with that,
17 or did you try to skirt the issue at that point?

18 A At that point, I just avoided the issue. We hung out
19 for a little while longer, and I left to go back home.
20 She left to go back to work.

21 Q Okay. While there, did she ever tell you anything
22 about her tagged.com profile or anything like?

23 A She told me that she took it down.

24 Q What does that mean?

25 A Well --

1 Q I mean, what did that mean to you?

2 A Well, I guess that was to show that she was serious
3 about wanting more out of the relationship.

4 Q Okay. So she wouldn't have been wanting to meet
5 other men on tagged.com at this point?

6 A I guess so.

7 Q Okay. All right. Did you have a chance to see her
8 again a couple of times there -- tell us about the next
9 visit.

10 A Well, we talked later that night. We talked the next
11 day. Then she told me she wanted to see me again, so I
12 told her I would come up again.

13 Q Okay. And what happened when you got there that
14 time?

15 A Well, this time when I went up, she had sent me some
16 pictures the day before, and when I got up, I was going
17 to ask her about the pictures, but by the time I got to
18 the door, she gave me a big hug and a kiss and led me
19 upstairs again.

20 Q And what did y'all do upstairs?

21 A We had sex again.

22 Q Okay. Let me stop you here and ask you some
23 questions. You talked about sending you pictures. Did
24 she send those to you in the mail?

25 A No. She sent them as text messages.

1 Q Okay. Pictures of what?

2 A This time -- well, she sent me pictures of like
3 wedding rings.

4 Q Okay. What was she meaning by this?

5 A That's what I was going to ask her, and -- but later
6 on, we was just lounging around, and she mentioned
7 that -- about the pictures. I told her they was nice,
8 but what was they for.

9 She told me that we could get married. The rings were
10 cheap, and everything would be inexpensive. We should
11 just go ahead and go through with it.

12 Q And what was your response? Did you let her know
13 anything about how you felt about this?

14 A I told her that that that was nice and all, but I
15 wasn't really looking to get married at that time. I had
16 already done it. I was just looking to keep it as the
17 way we were, friends with benefits.

18 Q Okay. Did you start to kind of sense that y'all were
19 in different places?

20 A Yeah.

21 Q And let me ask you about your other six or so women.
22 While you're seeing Nikki and going up and having sex
23 with her, are you still involved with the other women?

24 A Yes, sir.

25 Q Are you still calling them?

1 A I'm still calling them, texting them, spending time
2 with them.

3 Q Okay. Now, after she told you that, you know, that
4 she wanted to be more serious, and you kind of told her,
5 like you said, you were in different places, how did she
6 take that? What was her reaction to that?

7 A Well, she was quiet at first. The situation seemed
8 kind of awkward, so I decided to leave. On my way back,
9 I got a phone call from her, and she was yelling at me
10 about how -- she was just yelling about how I don't treat
11 her like she should be treated.

12 She asked me whether she was good enough for me or
13 whether I was wanting anything more than just sex from
14 her, and I wasn't really trying to hear the conversation.
15 So I told her to calm down. She kept yelling. I was like,
16 "You know, you're really being childish about this."
17 She didn't like that so, she hung up on me.

18 Q So did you get the sense that she wasn't happy with
19 y'all's different positions in the dating world?

20 A Yes, sir.

21 Q All right. Did you see her again?

22 A She called me back later that night, and the next day
23 she was telling me that she wanted to see me again. I
24 told her I would be able to come on the next day, which
25 would have been like a Friday.

1 Q Okay. At any point, did she call you and talk about
2 cutting grass?

3 A She called me later Friday after I had left from up
4 there.

5 Q Okay. Tell us about the grass. We heard something
6 about it, but what was she wanting to do?

7 A She wanted --

8 Q Or have you do.

9 A She wanted me to come up and cut her grass on that
10 weekend.

11 Q And where were you?

12 A Well, at that time, I was at home with my daughter
13 and my mom. I was spending time with them.

14 Q Okay. And she -- what was she asking you to do?

15 A She wanted me to drive up and cut her grass.

16 Q Okay. And what did you tell her about that?

17 A I told her that's what -- that wasn't going to happen.

18 Q And why was it? Was it something you had promised
19 her to do, or something she wanted you to do?

20 A It was something she wanted me to do, but I told her
21 my back was hurting and I'm spending time with my mother
22 and my daughter.

23 Q Okay. And how did she take this?

24 A She got upset. She started yelling about, "Well,
25 well, how about if I get some other man to come up and

1 do it for me?"

2 Q Okay. And what did you think? Where did you think
3 she was going with this -- this type of comment?

4 A I mean, at this point, I thought she was just trying
5 to test me to see if I would actually come up and do it.

6 Q Did you think she was trying to see if you were
7 interested enough to come up?

8 A Yeah.

9 Q So you never came up, did you?

10 A No.

11 Q And how did she take that? Was she happy about you
12 not coming up?

13 A No. She started yelling again and screaming at me
14 about -- she was screaming about little things. One of
15 them was a comment, and I -- I just told her that it was
16 kind of mean.

17 Q Okay.

18 A The next thing she tells me is I'm always calling her
19 names.

20 Q All right.

21 A I call her mean. I call her childish, and she is like
22 she doesn't have to take this. She took it enough when
23 she was growing up.

24 Q Okay. At this point, do -- do you end the
25 conversation?

1 A At this point, I tell her I'm not coming. Like I told
2 you, my back is hurting, and I'm with my family.

3 Q Okay.

4 A And my child.

5 Q This conversation ending here, in your mind, how are
6 you feeling about Nikki, your relationship, whether it's
7 worth it to come up there anymore? What's going on at
8 this point?

9 A Well, at this point, I didn't really think it was
10 worth it.

11 Q And you had these other women around, as well,
12 right?

13 A Yeah.

14 Q So I guess if things don't work out with Nikki -- you
15 know, I mean, you already told us there's other women,
16 right?

17 A Yeah, I just...

18 Q Okay. But did you see her again?

19 A I ended up seeing her again like maybe the middle of
20 April.

21 Q Okay. Why? I mean, you just told us that there's
22 this nasty conversation; that you didn't want to cut the
23 grass. She wanted you to cut the grass. You were with
24 your daughter, and you had other women. So why would you
25 go see her again?

1 A Well, I mean, she was a beautiful woman, and I was
2 just -- I guess I was just thinking with the wrong head.
3 I mean, every time we met up, the only thing we really
4 did was jump -- was have sex.

5 Q Okay. Now, was that why you were on tagged.com?

6 A Yeah.

7 Q Okay. Did she call you or did you call her for your
8 next meeting?

9 A Well, she called me and told me when would be a good
10 time for me to come up.

11 Q Okay.

12 A And I told her that I would probably be off that day,
13 so I'll go ahead and come up.

14 Q Okay. And did you?

15 A I went up. When I went up, everything happened just
16 like the last times we met. She met me at the door. She
17 was wearing nothing but a T-shirt. She grabbed my hands
18 and led me upstairs. We started cuddling a little. We
19 had sex. I mean, that was about it. We relaxed, and she
20 put in a movie.

21 Later on that, day she -- she was about to go to
22 work, and I told her that I would go to the malls or do
23 something, but she wanted me to spend the night.

24 Q Okay. Was there any point when her mood drastically
25 changed during this visit? Did she ever go in the

1 bathroom or anything?

2 A She didn't go in the bathroom at this visit. She went
3 on the third visit that I went up.

4 Q Okay. Anything I left out or you want to tell me that
5 you think is important, tell me but...

6 A Well, the third visit that I went up, we had sex, and
7 after that, she didn't have any food in the house. So
8 I ordered some food, some pizza, stuff like that, and I
9 gave her like \$40 for groceries.

10 We ate, watched a little bit of T.V. It was like she
11 just flipped out. She jumped up, ran in the bathroom.
12 She was crying, and I couldn't tell why or what was going
13 on, so I was trying to find out what was wrong.

14 I kept asking her what was wrong, and it was like
15 she just started talking about how she knew this was
16 going to happen. All her relationships failed. It's
17 just like all the rest. Her psychiatrist told her that
18 she wasn't ready, and I'm like, "Your psychiatrist told
19 you what?"

20 Q I mean, what are you thinking at this point about this
21 relationship or this whatever it is? Did it freak you
22 out?

23 A It freaked me out. It scared me because I mean, we
24 was sitting down. Everything was fine. Then it was just
25 out of nowhere.

1 Q Okay. Let's get back to the visit you were talking
2 about. What happens towards the end of the visit? You
3 mentioned something about a mall.

4 A Well, she wanted me to spend the night. She gave me
5 keys to the house and --

6 Q Hold on a second. Had you ever spent the night there
7 before?

8 A No.

9 Q So that was something new that she wanting?

10 A It was something new. She gave me keys to her house.
11 She told me I could use them to get back in while she was
12 at work. She also gave me a broken gold chain and two
13 watches that, at the time, I guess the battery was dead
14 in them.

15 Q All right. What did she want you to do with this
16 stuff?

17 A She want me to take them and see how much it would
18 cost to get them fixed.

19 Q Okay. Did you?

20 A Well, on the way to the mall, she called me. She was
21 fussing at me about not listening to her.

22 Q What do you mean?

23 A Well, she wanted me to go to Concord Mall, which
24 would have been further up. I was -- I told her I was
25 stuck in traffic trying to go to one of the outlet malls.

1 Q Okay. So what does she want you to do then?

2 A Well, she wanted me to go ahead and go to Concord.

3 I told her that I wasn't going up to Concord.

4 Q Okay. Why didn't you want to go up to Concord?

5 A Well, I was kind of tired. I was stuck in traffic,
6 and my back was starting to hurt. I -- I wasn't trying
7 to drive extra.

8 Q Okay. So what happens next? What do you do? Does
9 she talk to you more?

10 A Well, she was telling me if I would just listen to
11 what she says, everything would be better. I guess she
12 had to go through a gate or something. She hung up. She
13 called me back maybe a few minutes later. I told her I
14 was still stuck in traffic. She was still yelling at me
15 about wanting me to spend the night.

16 Q Okay. Did you -- what did you tell her spending the
17 night?

18 A I told her I didn't know.

19 Q Okay. How does this end here?

20 A Well, she hung up again. Maybe five or ten minutes
21 later, she calls back, and she tells me that she has some
22 coworkers that wanted to spend the night, too. First,
23 she was like she has a female coworker and a male
24 coworker. Both wanted to spend the night, and we could
25 play cards or do something.

1 Q Okay. Were you interested in doing that?

2 A No. I didn't know where that was trying to lead to,
3 but at the time, I wasn't trying to stay up and play cards.

4 Q Okay. And you said your back is hurting, right?

5 A Yes.

6 Q From your disc issue?

7 A Yes, sir.

8 Q So what do you end up doing?

9 A Well, at that time, I just told her I'm going home,
10 so I went home. I took some pain medicine. I took a
11 muscle relaxer and a anti-inflammatory.

12 Q All right. So you never got the jewelry priced or
13 fixed in Charlotte?

14 A No.

15 Q Did she ever call you later and talk to you about that?

16 A She called me a couple of times while I was asleep.
17 I called her back, and I told her that I would just mail
18 the stuff back to her. I wasn't trying to drive back up
19 there.

20 Q Okay. What -- how was her demeanor? Was she happy
21 that you left and didn't get her stuff fixed or was --

22 A No. She was -- she wasn't too much worried about not
23 getting the stuff fixed. She was more upset about me
24 leaving instead of coming back to the house and staying
25 the night.

1 Q Okay. Is this a pleasant conversation that ends
2 well or what?

3 A It wasn't pleasant. It was more -- she -- it was more
4 along the lines of her still just telling me that I'm not
5 treating her like she wants. She wants it to be more than
6 what it is, and I'm like, I'm not trying to hear that right
7 now.

8 Q Okay. You told us you had that conversation before
9 with her, right?

10 A Yes.

11 Q So you're having this conversation with her. Do you
12 make some decision about the relationship in general at
13 this point?

14 A Well, at this point, I'm telling her I can be your
15 friend. I'm even willing to be friends with benefits,
16 but other than that, I'm not trying to go any further with
17 you.

18 Q Okay. And how did she take that?

19 A She just -- at that point, she just got quiet, and
20 I guess she hung up the phone on me.

21 Q Okay. At this point in your mind, do you feel like
22 y'all are essentially kind of over it or what?

23 A Yes, sir.

24 Q Not to embarrass you, but are you still having six
25 or so other women --

1 A Yes, sir.

2 Q -- that you've been having sex with?

3 A Yes, sir.

4 Q All right. But do you see her again?

5 A I end up seeing her again on May 6th.

6 Q All right. Tell us about -- I mean, if she contacted
7 you, if you contacted her, kind of how she got there.

8 A Well, we -- she had been texting me throughout the
9 period. I guess the last -- a few weeks before the 6th.
10 One of her text messages, she had texted me.

11 It was -- it was like -- I guess it was like her saying
12 she was sorry or whatever, but we ended up talking on the
13 phone. She was telling me -- she was asking me how was
14 I doing. I told her I was fine.

15 I asked her how she was doing. She was like, "A
16 couple more nights of crying myself to sleep and I'll be
17 okay." I was like, "Well, okay. I'm sorry to hear that."

18 Q Did she tell you that she wanted to see you again?

19 A She told -- she texted me later that night and told
20 me that she wanted to come down and see me.

21 Q Did you ask her why?

22 A I asked her why, and at first she was like, "Well,
23 if you don't want me to come down and see you, just say
24 so." I was like -- I just wanted to know why.

25 Q Okay. Because you thought that you were kind of on

1 the outs there?

2 A Yes, sir.

3 Q All right. Does she see you? Does she come down?

4 A She texted me again and said, "Well, I just really
5 want to see you, you know, one last time. I can pick up
6 my jewelry and we can just spend some time together."

7 Q I guess the prospect of her coming down even if -- for
8 one last time, in your mind then, does that seem all right
9 to you? I mean, what was going to happen?

10 A In my mind, I was kind of hesitant, but at the same
11 time I was like -- you know, one last time, I'll go for
12 it.

13 Q Well, what happened every other time y'all had met
14 each other?

15 A We had -- we had sex.

16 Q Did you think that you were probably going to have
17 sex again?

18 A Yes, sir.

19 Q All right, Theo. Tell us about when she came down
20 and what's going on with her.

21 A On May -- well, the -- I think it was the day before
22 the 5th, she texted me to let me know what time she would
23 be able to come. She told me she would be able to come
24 around ten.

25 I was like, "Well, why don't you just come about eight.

1 I'll be getting off work. I'll be home. You can get your
2 jewelry, and you can leave."

3 Q Did you work night shifts at Westinghouse?

4 A Yes, sir.

5 Q What -- so what time did you normally get off?

6 A I got off at 7:30 that morning.

7 Q Okay. Go ahead.

8 A She was like, "Well, I really want to spend some time
9 with you."

10 So she texted me back. She was like, "Well, I'll be
11 there at eight."

12 The next thing I know, she texted me on the 6th that
13 morning telling me that she about ran out of gas.

14 Q Okay. How did she sound talking about running out
15 of gas?

16 A Well, it was a text message.

17 Q Okay.

18 A So I mean, judging by the text message, she was okay.

19 Q Did you ever actually have a personal conversation
20 with her?

21 A I called her back, and when I called her back, I asked
22 her what did she mean she was running out of gas. She
23 was kind of hysterical at this point. She was just like,
24 "Well, I'm almost out of gas. My -- the E light had came
25 on."

1 I was like, "Well, how long has it been on?"

2 She was like, "It's been on since I passed Fort
3 Jackson exit."

4 Q Okay. Has she ever ran out of gas before or came with
5 no gas to see you?

6 A No.

7 Q Did this seem different to you?

8 A Yes, sir.

9 Q Did she seem kind of different to you?

10 A Yes, sir.

11 Q In what way?

12 A Well, I mean, if you're driving from Charlotte to
13 South Carolina, if you're driving anywhere that's a long
14 distance, you'll fill up before you leave, or you'll make
15 sure you have enough gas. In her case, she told me she
16 didn't have any money to get gas.

17 Q Okay. Does she get there?

18 A She showed up. When she got to my house, she rang
19 the doorbell, and it was like nothing had happened. She
20 was just happy, okay. She gave me a hug. She grabbed my
21 hand. We said a few words.

22 She said something about the relationship, about how
23 she wanted it to work or she wished it would have
24 worked, and we went upstairs. She told me she liked what
25 I did with the bedroom, and we have had sex again.

1 Q Okay. At this point, y'all are in your bedroom?

2 A Yes, sir.

3 Q All right. And this was pretty much par for the
4 course whenever y'all see each other?

5 A Yes, sir.

6 Q I guess you're in bed for a while. You're hanging
7 out?

8 A Yes, sir.

9 Q Is there any point when she leaves the bedroom and
10 goes outside or is checking her phone? Tell us about
11 that.

12 A After we had been in the bedroom for a little while,
13 we laid around. We go downstairs. She started checking
14 her phone, checking my phone.

15 She makes a few phone calls, starts -- she pulls out
16 like a calendar or something, starts checking it. Then
17 I hear her on the phone. She is talking to someone about
18 her being out of gas and needing money.

19 Q Okay. Now, you probably weren't thinking about this
20 at this time, but that the point when she is on the phone,
21 what time of day it is -- do you think it's like noon?

22 A Well, at the time, I didn't really pay too much
23 attention to the time. I guess it was after noon.

24 Q Okay. But it didn't seem important to you at the
25 time?

1 A No.

2 Q So what do you do? I mean, she's -- you hear her
3 talking about gas again. She has told you already. Did
4 you do anything?

5 A I told her I would help her with her gas, and she was
6 like, was I sure. I said, "Yeah, I'll help you with the
7 gas." I went upstairs. I got my wallet. I came back
8 downstairs.

9 Q Okay. Where did y'all go? What did you do?

10 A She got in the passenger's side. She opened the door
11 from the inside, told me to drive. We went up the road
12 to Freeman's gas station.

13 Q Okay.

14 A I went inside, swiped my card, came back out, filled
15 the car up. We went back to the house.

16 Q Okay. When you get to the house, I mean, what do you
17 think? Do you think she is going to leave? Did you plan
18 on her staying the night? What did you think was going
19 on at this time after you gassed her up?

20 A At this point, I kind of mentioned that, you know,
21 she should go ahead and probably leave, and she was
22 hesitant about it. She told me that she was kind of tired
23 and she wanted to lay down.

24 Q Okay. So what did you -- how did you respond?

25 A Well, I didn't want her to drive all the way back to

1 North Carolina and be tired, so I told her to go ahead
2 and lay down. She knew where the bedroom was.

3 Q Okay. And I guess you told us that you had gotten
4 off the night shift, as well. Were you tired?

5 A I was tired.

6 Q Okay. So what did y'all do? What happened? Did you
7 take a nap?

8 A Well, she starts going in the house. She yells back
9 she wants me to join her, so I'm like okay. I went. I
10 joined her. We laid down. We had sex for a little while.
11 I guess we watched T.V., fell asleep.

12 Q Okay. And I guess, you know, not probably thinking
13 about it too much back then, but do you have any idea how
14 long you were laying down and watching T.V., and having
15 sex?

16 A No, sir.

17 Q Okay. Now, just in general, if she is over and your
18 family is not in here, but if she is over, are you still
19 talking to other women? Are you still texting other
20 women?

21 A Yes, sir.

22 Q Was Nikki ever using her phone while she was in your
23 presence, as well?

24 A She had, but whether she did that day or not, I don't
25 know. I don't remember.

1 Q Okay. Now, did you have a friend, another woman, one
2 of these six or seven women that was in Florida?

3 A Yes, sir.

4 Q And what was her name?

5 A Tish.

6 Q Now, you probably don't remember from that day, but
7 would it be likely or unusual that you might have called
8 her that day, as well?

9 A Well, I called Tish pretty much every day. I used
10 to.

11 Q Okay. And did you have a sexual relationship with
12 her, as well?

13 A Yes, sir.

14 Q Okay. Now, Theo, at some point, was there something
15 that happens that you start to really remember from that
16 day?

17 A Well, I get up. I go in the bed -- well, I go in the
18 bathroom. I wash up. While I'm in the bathroom, Nikki
19 got -- when she got up, she started walking around the
20 house.

21 Q Okay. Now, y'all are -- the bedroom is where,
22 upstairs or downstairs?

23 A Upstairs.

24 Q And what else is upstairs in terms of the house?

25 A Upstairs is three bedrooms and one bath.

1 Q Okay. If I'm standing in the hallway or the doorway
2 to your bedroom, is there a hall in front of it?

3 A It's a hallway and it's like another bedroom, a
4 little caddy-corner to your left.

5 Q Like that way?

6 A Yes, sir. And next to that is another bedroom, and
7 then at the end of the hall there is another bathroom.

8 Q Okay. You mentioned you went to the bathroom, and
9 when you came out, Nikki was walking. Where did she go?

10 A Well, first she went -- she had mentioned something
11 about cleaning boxes out of one of my rooms upstairs, and
12 the other room she was -- I was using it as storage room.
13 She was in that room.

14 Q Okay. And now, I know you said this, and it's been
15 mentioned before, but you recently had moved into this
16 house?

17 A Yes, sir.

18 Q Was everything unpacked?

19 A No, sir.

20 Q This room with boxes, was that -- what was this room
21 at this point?

22 A At this point, it was just a storage room.

23 Q Okay.

24 A I was making plans to turn it into my daughter's
25 room later on.

- 1 Q Your ten year old's?
- 2 A Yes, sir.
- 3 Q Did Nikki know about those plans?
- 4 A Yes, sir.
- 5 Q Where did she go after this?
- 6 A She was in the room. She -- when I came in, she was
- 7 talking about -- she was basically talking about
- 8 decorating it, putting on borders, painting the room,
- 9 putting a feminine touch to it to make it better for my
- 10 daughter.
- 11 Q Okay. Now, at this point in your mind, knowing where
- 12 y'all have been about the discussions with the
- 13 relationship, how did that make you feel that she was
- 14 talking about doing these -- all of these things in the
- 15 future for your daughter?
- 16 A It seemed like she was trying to make herself more
- 17 part of my -- my life with my daughter.
- 18 Q And was this something y'all -- I mean, y'all
- 19 explained this situation about the different levels of
- 20 where you are in life?
- 21 A Yes, sir.
- 22 Q From talking about your daughter and the things she
- 23 could do to your daughter's future room, did she start
- 24 talking about anything else?
- 25 A She starts talking about the relationship again,

1 about how we could work it out. We could make things work.

2 Q Okay. And obviously, you've had this conversation
3 before, right?

4 A Yes, sir.

5 Q How do you feel at this point, and what do you do?

6 A Well, at this point, I'm not paying attention to her.
7 I mean, we've had this conversation, so I left the room.

8 Q Okay. I mean, you kind of ignore her and left the
9 room?

10 A Yes, sir.

11 Q Because I mean, she is talking about the relationship
12 again?

13 A While she was talking, I just walked off. I went in
14 the bed -- the master bedroom and got a T-shirt.

15 Q Okay. Is she still talking to you or talking at you?

16 A Now, she is yelling at me. I could tell she was upset.

17 Q Did she like the fact that you walked away from her?

18 A No, sir.

19 Q So what do you do? Do you come back?

20 A Well, when I come back, she is standing in the
21 doorway, and she has her hands behind her back.

22 Q Okay. Is she -- was she saying anything? Was she
23 still talking about it?

24 A She is still yelling at me about how we can make it
25 work and how it has to work. I'm like, "We're just friends

1 with benefits."

2 Q Okay.

3 A You know, we've talked about this.

4 Q So you told her again how you felt y'all were just
5 friends with benefits?

6 A Yes, sir.

7 Q What did she do?

8 A She pulled a -- pulled gun out from behind her back
9 and pointed it at me.

10 Q Okay. I know you're soft spoken, but -- so she had
11 the gun behind her back?

12 A Yes, sir.

13 Q Whose gun was it?

14 A It was mine.

15 Q Did you recognize it?

16 A Yes, sir.

17 Q What type of gun was it?

18 A It was a Highpoint .380.

19 Q Where would this gun have been?

20 A It was in the room.

21 Q In that storage room?

22 A Yes, sir.

23 Q Okay. Let's pause for a second. She pulled the gun
24 behind -- from behind her back and pointed it at you.

25 What is going on in your mind at this point?

1 A I mean, like I said, she is crying. She just pointed
2 the gun at me. I could see the gun is going up and down.
3 It's like -- I'm scared.

4 I'm just -- I'm actually -- I'm afraid for my life
5 because I mean, -- it's just -- I know the gun is loaded,
6 and it's like she is kind of hysterical right down. It's
7 going up and down in front of me.

8 Q What do you mean up and down? Like this (indicating)?

9 A Yes, sir.

10 Q Did she say anything?

11 A She is screaming how we can make it work.

12 Q She is telling you that we can make it work?

13 A Yes, sir.

14 Q While pointing a gun at you?

15 A Yes, sir.

16 Q What do you do at this point?

17 A I mean, I'm -- it's like everything just happened so
18 fast. It's like everything's just going in front of my
19 eyes, and I just snapped. I -- I grabbed the gun. I
20 wrestled it away from her.

21 Q Okay. At this point now you've the got the gun,
22 right?

23 A (Nods in the affirmative).

24 Q What hand was the gun in?

25 MR. GIESE: I'm sorry, Your Honor. Did he say yes,

1 he had the gun?

2 THE WITNESS: Yes, sir.

3 BY MR. SHEALEY:

4 Q Try to speak up as best you can, Theo. What gun is
5 the hand in (sic)?

6 A It's in my left hand.

7 Q Your left hand. How do you know that?

8 A Ever since military, I used my left hand when I
9 handle firearms.

10 Q Okay. And how far away is she from you?

11 A Probably, probably like 3 feet.

12 Q Do you tell her anything at this point?

13 A I asked her was she fucking crazy.

14 Q Are you mad?

15 A I'm pissed.

16 Q Why are you pissed?

17 A Because I never had a gun pointed at me before, let
18 alone my own gun.

19 Q And you said you knew it was loaded, right?

20 A Yes, sir.

21 Q Do you tell her anything else at this point? Do you
22 want her there?

23 A I screamed at her to get out. I told her to leave.

24 Q Did she leave?

25 A No. She started coming towards me, and she is

1 still screaming at me. She is still yelling at me. I'm
2 like just leave.

3 Q Are you --

4 A She is swinging at the gun, and I'm backing up. It's
5 like -- it's like she just charges at me and flinched or
6 she pivoted, and I pulled the trigger.

7 Q Okay. Let me stop you right there. Theo, I'd like
8 for you try to, if you can, try to demonstrate what we
9 are talking about here.

10 Your Honor, may the witness have permission to step
11 down from the jury box?

12 THE COURT: Yes, sir.

13 MR. SHEALEY: Mr. May?

14 BY MR. SHEALEY:

15 Q Can you just stand right down here, Theo?

16 A (Complies)

17 Q Is Mr. May about -- if I'm Ms. McPhatter, is Mr. May
18 about the same size proportionally as you to her?

19 A Yes.

20 Q Because you're how tall?

21 A I'm 6'1".

22 Q Okay. How tall do you think she was?

23 A Probably about (inaudible).

24 THE COURT REPORTER: I'm sorry, Your Honor. I'm
25 having difficulty hearing him.

1 THE COURT: You have to turn around.

2 MR. SHEALEY: Just stand --

3 THE COURT: Have him on the other side.

4 BY MR. SHEALEY:

5 Q Maybe stand right here so that the jury can hear you
6 and Karen Tracy can hear you.

7 You're how tall?

8 A I'm 6'1".

9 Q And how tall is she?

10 A About 5'5", 5'6".

11 Q Okay. Now, I'm Nikki and I'm standing in the
12 hallway, as you testified, with my hand behind my back.

13 MR. GIESE: And, Your Honor, I'm going to object at
14 this point to leading. If he'd like to show what
15 happened, that's fine, but that's a leading question.

16 THE COURT: All right. Don't lead your witness.

17 BY MR. SHEALEY:

18 Q Theo, will you put me and Mr. May with, for the
19 purposes of this as you, in proximity of where you first
20 see her in the hallway?

21 A She is standing there. You're about here, and she
22 is screaming at me about how it has to work. We can make
23 it work, and she just -- she pulled the gun out, and when
24 she pulled the gun out, I go with my hands up, back up
25 a little, and she is still screaming at me about how we

1 can make this work and how much she needs this to work.
2 Q Okay. You said something about her...
3 A The gun is going up and down like this (indicating).
4 Q Okay.
5 A It's like everything is just flashing in front of my
6 eyes. It's like I just snapped, and I grabbed the gun.
7 When I grabbed the gun --
8 Q Okay.
9 A -- I wrestled it away from her.
10 Q All right. So...
11 A So now her back is towards the steps --
12 Q Okay.
13 A -- back down.
14 Q The steps in your hallway?
15 A The stairs are back the other way.
16 Q Okay.
17 A And my back is towards the bathroom. I got the gun
18 pointed at her, and I'm telling her to leave. Well, at
19 first I said, "Are you fucking crazy?"
20 Q Right. And then --
21 A And then I'm telling her to leave.
22 Q Does she leave?
23 A No. She --
24 Q What does she do?
25 A She's crying. She -- I pulled it towards me, and I'm

1 moving back. And she is talking about how we need this
2 to work, and she's like -- you're just like everybody
3 else. You heard --

4 MR. GIESE: Your Honor, I object. The slapping, he
5 only said he slapped him one time. He slapped him three
6 times at this point.

7 MR. SHEALEY: Theo.

8 MR. GIESE: I know they probably rehearsed this,
9 but --

10 (Jurors laughing.)

11 MR. SHEALEY: And, Your Honor, I'd have to object to
12 Mr. Giese's characterization of this.

13 THE COURT: Have a seat back in the witness stand.

14 MS. PRINGLE: Your Honor, may we approach?

15 (WHEREUPON, a bench conference was held in the
16 presence, but not within the hearing of the jury.)

17 THE COURT: All right, ladies and gentlemen. It will
18 be a good time to take a morning break. Just let me talk
19 this out with the lawyers.

20 I ask you to go to the jury room. Don't discuss the
21 case among yourselves while you're in the jury room.
22 Just have a snack, a cup of coffee or something. We'll
23 resume in a few minutes.

24 (WHEREUPON, the jury left open court at approximately
25 10:50 a.m.)

1 THE COURT: All right. Mr. Shealey?

2 MR. SHEALEY: Your Honor, I have to object to
3 Mr. Giese's characterization about this being rehearsed
4 in front of the jury, just this outburst in court.

5 They all visibly reacted to it, the jury members did.
6 They laughed. You know, he's making the argument that
7 he's certainly entitled to question on whatever, if he
8 thinks it's rehearsed or not, but this is basically an
9 attack on his sixth amendment right to counsel and our
10 privilege, as well.

11 The attack was going on between privilege, you know,
12 attorney/client privilege in front of the jury. We
13 just -- for support, for fun, and it's inappropriate for
14 that.

15 You know, I can understand if he would object to me
16 not -- or Mr. -- me slapping the hand more than Mr. Manning
17 is testifying to, and Mr. Manning could talk more about
18 that, and we were going there, but for him to characterize
19 it that way, say this was rehearsed, for show, a stunt,
20 to that jury it's very objectionable.

21 It infringes on Mr. Manning's rights, and we have
22 to ask for a mistrial at this point.

23 THE COURT: What's the State's position?

24 MR. GIESE: All right. Clearly, the State has a
25 right to cross-examine the defendant on whether it's