VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Fairfield County

William Jeffrey Young, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

WILLIE J. ADAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002165

APPENDIX

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INDEX

INDEX i

TRIAL TRANSCRIPT 1

INDICTMENT AND SENTENCING SHEET 957

APPLICATION FOR POST-CONVICTION RELIEF 960

RETURN 968

POST-CONVICTION RELIEF HEARING TRANSCRIPT 974

ORDER OF DISMISSAL 1003

ORIGINAL

STATE OF SOUTH CAROLINA COUNTY OF FAIRFIELD	)	COURT OF GENERAL SESSIONS 2008-GS-20-270
State of South Carolina vs. Willie James Adams, Jr., Defendant.	)	TRANSCRIPT OF RECORD (Trial)

December 7 - 10, 2009
Winnsboro, South Carolina

BEFORE:

THE HONORABLE HOWARD P. KING, JUDGE

APPEARANCES:

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RILEY MAXWELL, ASSISTANT SOLICITOR
Attorneys for the State

WILLIAM P. FRICK, DEPUTY PUBLIC DEFENDER
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INDEX OF WITNESSES

MARY ANN P. TALBERT

Direct By Mr. Barfield 65

Cross By Mr. Frick 80

GREG BONEY

Direct Mr. Barfield 87

Cross By Mr. Frick 92

MARGARET LAWHORNE

Direct By Mr. Maxwell 134

Cross By Mr. Frick 143

JOSHUA FABEL

Direct By Mr. Maxwell 152

Cross By Mr. Frick 160

CHRIS HILL

Direct By Mr. Maxwell 164

Cross By Mr. Frick 167

NEAL ROBINSON

Direct By Mr. Maxwell 168

Cross By Mr. Frick 171

EDDIE WHITE

Direct By Mr. Maxwell 174

Cross By Mr. Frick 177

Redirect By Mr. Maxwell 180

GREG BONEY

Direct By Mr. Barfield 181

Cross By Mr. Frick 190

JEFF TALBERT

Direct By Mr. Barfield 193

Cross By Mr. Frick 195

BRAD DOUGLAS

Direct By Mr. Barfield 198

Cross By Mr. Frick 205

MICHAEL GREENE

Direct By Mr. Barfield 209

Cross By Mr. Frick 217

BARKLEY RAMSEY

Direct By Mr. Barfield 236

Cross By Mr. Frick 240

DR. JOEL S. SEXTON

Direct By Mr. Barfield 241

Cross By Mr. Frick 263

Redirect By Mr. Barfield 273

Recross By Mr. Frick 274

AMY STEPHENS

Direct By Mr. Barfield 276

Cross By Mr. Frick 286

KIM DINH

Direct By Mr. Barfield 290

Cross By Mr. Frick 341

KIMBERLY MCGILL

Direct By Mr. Barfield 349

Cross By Mr. Frick 360

Redirect By Mr. Barfield 361

ILA SIMMONS

Direct By Mr. Barfield 363

Cross By Mr. Frick 371

GREG BONEY

Direct By Mr. Barfield 379

Cross By Mr. Frick 380

FRANK D. DEFREESE

Direct By Mr. Barfield 382

Cross By Mr. Frick 408

Redirect By Mr. Barfield 416

Recross By Mr. Frick 417

TRAVIS PETERSEN

Direct By Mr. Maxwell 419

Cross By Mr. Frick 429

Redirect By Mr. Barfield 433

JEREMY ASHFORD

Direct By Mr. Maxwell 435

Cross By Mr. Frick 440

ANGIL LANDRUM

Direct By Mr. Maxwell 441

Cross By Mr. Frick 451

MARY ANN P. TALBERT

Direct By Mr. Barfield 464

Cross By Mr. Frick 468

REGINALD GIBSON

Direct By Mr. Barfield 469

Cross By Mr. Frick 487

KIMBERLY LAWSON

Direct By Mr. Maxwell 490

Cross By Mr. Frick 499

VICKIE SMITH

Direct By Mr. Barfield 501

Cross By Mr. Frick 515

CHRISTEL CHAMBERS

Direct By Mr. Maxwell 520

Cross By Mr. Frick 531

LEVARN M. JACKSON, JR.

Direct By Mr. Barfield 537

Cross By Mr. Frick 550

ALICIA L. GIBSON

Direct By Mr. Maxwell - .- .- .- .- .- 577

MARY ANN P. TALBERT

Direct By Mr. Barfield 582

Cross By Mr. Frick 613

Redirect By Mr. Barfield 616

Recross By Mr. Frick 616

REGINALD GIBSON

Direct By Mr. Barfield 617

Cross By Mr. Frick 648

KIMBERLY LAWSON

Direct By Mr. Maxwell 665

Cross By Mr. Frick 678

VICKIE SMITH

Direct By Mr. Barfield 689

Cross By Mr. Frick 715

CHRISTEL CHAMBERS

Direct By Mr. Maxwell 727

Cross By Mr. Frick 747

LEVARN M. JACKSON, JR.

Direct By Mr. Barfield 762

Cross By Mr. Frick 793

Redirect By Mr. Barfield 814

GREG BONEY

Direct By Mr. Barfield 815

BRYAN LAWHORN

Direct By Mr. Frick 822

Cross By Mr. Barfield 836

Redirect By Mr. Frick 857

Recross By Mr. Barfield 859

STATE'S EXHIBITS

NO.	DESCRIPTION	ID	EV
1	Photograph	61	103
2	Photograph	61	103
3	Photograph	61	103
4	Photograph	61	103
5	Photograph	61	104
6	Photograph	61	
7	Photograph	61	158
8	Photograph	61	
9	Photograph	61	104
10	Photograph	61	104
11	Photograph	62	104
12	Photograph	62	104
13	Photograph	62	104
14	Photograph	62	104
15	Photograph	62	104
16	Photograph	62	104
17	Photograph	62	104
18	Photograph	62	104
19	Photograph	62	104
20	Photograph	62	105
21	Photograph	62	105
22	Photograph	62	105
23	Photograph	63	105

24	Photograph	63	105
25	Photograph	63	105
26	Photograph	63	105
27	Photograph	63	105
28	Photograph	63	105
29	Photograph	63	105
30	Photograph	63	105
31	Photograph	63	
32	Photograph	63	106
33	Photograph	63	106
34	Photograph	63	106
35	Photograph	64	106
36	Photograph	64	106
37	Photograph	64	106
38	Photograph	64	106
39	Photograph	64	106
40	Photograph	64	106
41	Rights and Statement	71	599
42	Search Warrant	189	189
43	Search Warrant	195	195
44	Cameras & Receiver	204	204
45	Thermos	216	224
46	Diagram	253	253
47	Toxicology Report	259	259
48	Shirt	262	

49	Chain of Custody	281	281
50	GSR kit	306	378
51	Cartridge Case	319	407
52	Cartridge Case	319	407
53	Cartridge Case	319	398
54	Cartridge Case	319	407
55	Unfired Bullet	319	398
56	Pistol w/magazine	319	398
56-A	Three Bullets	377	398
57	Unfired Bullet	330	398
58	Unfired Bullet	330	398
59	Cartridge Case	330	398
60	Box of Bullets	330	399
61	Bag of Bullets	330	399
62	Red Pipe	330	378
63	ID Card	330	379
64	DNA Swab	339	358
65	DNA Swab	339	358
66	Sketch	341	341
67	SLED Report	341	341
68	SLED Report	360	360
69	SLED Report	371	371
70	SLED Report	408	408
71	SLED Report	448	
72	Powder Cocaine	448	

73	SLED Report	450
	(Withdrawn)	556
74	Crack Cocaine	450
	(Withdrawn)	556

COURT'S EXHIBITS

NO.	DESCRIPTION	ID
1	Rights and Statement	95
	(Re-marked State's Exhibit)	

11

Monday, December 7, 2009

THE COURT: We are now prepared to go forward. Mr. Solicitor. Just a moment. Counsel, come up.

(Whereupon, a bench conference is had)

THE COURT: All right, Mr. Barfield.

MR. BARFIELD: Your Honor, this is case number 2008-GS-20-245, The State vs. Willie James Adams. As a preliminary matter, I believe Mr. Adams is actually a Jr. I'll ask Mr. Frick to confirm that.

MR. FRICK: That's correct, Your Honor.

MR. BARFIELD: I move would to amend the indictment to allege Willie James Adams, Jr. The indictment is for the offense of murder. He is represented by William Frick. It's a case for trial. The State is ready to proceed. Assistant Solicitor Riley Maxwell and myself will be prosecuting for the State.

THE COURT: Any objection to the amendment to add Jr. to Mr. Adams's name, Mr. Frick?

MR. FRICK: No objection, Your Honor.

THE COURT: All right. The Court will amend the indictment to reflect the defendant's name is Willie James Adams, Jr. And I believe under State v. Gentry that the matter is not jurisdictional. That is a notice requirement. And there is no objection on

behalf of the State; I mean, on behalf of the defendant. The Court will amend the indictment to reflect the defendant's name is Willie James Adams, Jr.

All right. Ladies and gentlemen of the jury, if you'll give me your attention. What I'm going to tell you now is not evidence in this case. It is simply the allegations of the indictment. And it is to tell you what the case is generally about so that you can determine if you know anything about the case or anything that would prevent you as a juror from serving in this case. But this is not evidence in this case. You're going to decide the case based on the evidence that you hear from the witness stand and from any exhibits that are introduced.

But in the indictment the State alleges that Willie James Adams, Jr. did in Fairfield County on or about April the 5th of 2008, feloniously, willfully and with malice aforethought kill and murder Alphara, A-L-P-H-A-R-A, Miller, by a gunshot wound, and the victim did die as a proximate cause thereof, in violation of the South Carolina law. And the charge is for one of murder.

The defendant, Mr. Miller [sic], is represented by Mr. Frick. Mr. Frick, would you stand and

introduce yourself to the jury, please, and have your client stand and face the jury.

MR. FRICK: Thank you, Your Honor. My name is William Frick, an attorney with the Public Defender's Office. I represent Mr. Willie James Adams, Jr. Turn around and face the jury panel.

THE COURT: Thank you. You may be seated. The State of South Carolina is represented by Solicitor Barfield. Mr. Barfield, if you would stand and introduce yourself to the jury and introduce Mr. Riley as well.

MR. BARFIELD: Doug Barfield, Solicitor for the Sixth Circuit; and Riley Maxwell, my Assistant Solicitor, here in Fairfield County.

THE COURT: Thank you. Is any member of this jury panel related by blood or connected by marriage to the defendant in this case, Willie James Adams, Jr.? If so, please stand.

JUROR: Me.

THE COURT: All right. Yes, sir. Your name.

JUROR: Thadeus McKinstry.

THE COURT: Kinsey?

JUROR: McKinstry.

THE COURT: Okay.

THE CLERK: 106.

THE COURT: 106. All right. Mr. McKinstry, you are related to the defendant in this case?

JUROR: By marriage. I mean, his sister married my uncle.

THE COURT: All right. So his sister married your uncle?

JUROR: Yes, sir.

THE COURT: So you are related by marriage. Mr. McKinstry, do you -- because of that family relationship, do y'all get together on family occasions when you would see him and things of that nature?

JUROR: In the past, yeah.

THE COURT: In the past you have? And over the years has this been a family situation? Some people don't even know they're brothers-in-law. So that's what I'm trying to get at. Do you have any ongoing relationship with him?

JUROR: No. Not really.

THE COURT: Sir?

JUROR: Not really. I just know him.

THE COURT: Okay. All right. Would the fact that you know him, would that prevent you from giving to both the State and the defendant a fair and impartial trial?

JUROR: Yeah.

THE COURT: It would?

JUROR: Yeah.

THE COURT: Okay. Thank you, sir. All right. The following individuals may appear as witnesses in this case. And the witness list is rather extensive, ladies and gentlemen. And I would ask that you give your attention to these names. And if any of the witnesses are present, I would ask that you stand when your name is called so that the -- and turn around and face the jury so that the jury can identify with any of the witness's names.

Jeremy Ashford of the Fairfield County Sheriff's Office. Greg Boney formerly of the Fairfield County Sheriff's Office. Brad Douglas, the Fairfield County Sheriff's Office. Josh Fabel, formerly of the Fairfield County Sheriff's Office. Eric Gill, formerly of the Fairfield County Sheriff's Office. Chris Hill, Fairfield County Sheriff's Office.

Keith Lewis, Fairfield County Sheriff's Office. Jimmy McDonald, Fairfield County Sheriff's Office. Travis Peterson, formerly with the Fairfield County Sheriff's Office. Mary Ann Phillips, formerly the Fairfield County Sheriff's Office.

Neal Robinson, County Sheriff's Office. Mike

16

Roseboro, Fairfield County Sheriff's Office. Jeff Talbert, the Fairfield County Sheriff's Office. Eddie White, formerly of the Fairfield County Sheriff's Office.

John Bishop of the State Law Enforcement Division, commonly referred to as SLED. Lee Blackmon from SLED. Dan DeFreese from SLED. Kim Dinh, D-I-N-H, of SLED. Michael Greene of SLED. Angil Landrum of SLED. Kimberly McGill of SLED, Ila Simons or Simmons, S-I-M-M-O-N-S, of SLED. Melissa Skipper from SLED. Amy Stephens from SLED. Alex Underwood from SLED.

Barkley Ramsey, the coroner. Joe Sylvia, formerly the coroner. Joel Sexton, MD, from Newberry Pathological Associates.

Christel Chambers, Alicia Leslie Gibson, Reginald O. Gibson, Eva Glasgow, Levarn Marcellus Jackson, Jr., Bryan Lamont Lawhorn, Margaret Lawhorn, Kimberly Pinckney Lawson, Vickie Smith also known as Vickie Cooper.

Is any member of the jury panel related by blood or connected by marriage to any of the proposed witnesses? If so, please stand. All right. Yes, ma'am. Your name?

JUROR: Paetra Caldwell.

17

THE COURT: Ms. Caldwell.

THE CLERK: Number 18.

THE COURT: Number 18. All right, Ms. Caldwell. Tell me who you know.

JUROR: Jeremy Ashford is my cousin.

THE COURT: All right. Would the fact that Mr. Ashford may be a witness in this case prevent you from giving to both the State and the defendant a fair and impartial trial based on the evidence?

JUROR: No, sir.

THE COURT: Would you be able to put that aside and decide this case based on what you hear in this courtroom?

JUROR: Yes.

THE COURT: Would you do that? Would do you that?

JUROR: Yes.

THE COURT: All right. Thank you, ma'am.

THE CLERK: Your Honor, we have another one.

THE COURT: All right. Yes, sir.

JUROR: Investigator Boney.

THE COURT: Let me get your name first of all.

JUROR: Steve Keys.

THE COURT: Sir?

JUROR: Steve Keys.

18

THE COURT: Do you recall your number?

JUROR: 80.

THE COURT: 80. All right, Mr. Keys. What's your situation?

JUROR: He's a family friend.

THE COURT: Who is?

JUROR: Mr. Boney.

THE COURT: All right.

JUROR: He also investigated a robbery at the house.

THE COURT: Okay. So he is a family friend that you have known over the years. Is that correct?

JUROR: Since I was a child.

THE COURT: All right. Would the fact that Mr. Boney is or may be a witness in this case prevent you from giving to both the State and the defendant a fair and impartial trial based on the evidence?

JUROR: No, sir.

THE COURT: Would you be able to put that aside and decide this case based on the evidence you hear in this courtroom?

JUROR: Yes, sir.

THE COURT: And would you do that?

JUROR: Yes, sir.

THE COURT: Thank you. Is any member of the

19

jury panel close personal friends of any of the parties, their lawyers or any of the witnesses whom I have read off to you? If so, please stand. All right. Yes, ma'am.. Your name?

JUROR: Mary Jo Wilson.

THE COURT: Ms. Wilson. Okay.

THE CLERK: Number 147.

THE COURT: All right, Ms. Wilson. Tell me what your situation is.

JUROR: I am a personal friend of Keith Lewis.

THE COURT: All right. The fact that Mr. Lewis may be a witness in this case, would that prevent from you giving to both the State and the defendant a fair and impartial trial based on the evidence? It would?

JUROR: No.

THE COURT: It would not. Okay. Would the fact of your friendship there, would you be able to put that aside and decide this case based upon the evidence that you hear in this courtroom, and would you be able to judge his testimony the same as you would any other witness in this case?

JUROR: Yes.

THE COURT: And would you do that?

JUROR: Yes, sir.

THE COURT: Thank you, ma'am. Yes, ma'am.

JUROR: My name is Teresa Youngblood, number 9. Mr. Adams was my --

THE COURT: Number 9? Okay. Just a moment. Ms. Youngblood?

JUROR: Yes, sir.

THE COURT: All right. What's your situation, Ms. Youngblood?

JUROR: Mr. Adams was my niece's father.

THE COURT: Mr. Allen [sic] was what?

JUROR: My niece's father.

THE COURT: Your niece's father. Okay. Who is it that you're saying?

JUROR: Mr. Adams.

THE COURT: The defendant?

JUROR: Yes, sir.

THE COURT: And he is your niece's father?

JUROR: Yes, sir.

THE COURT: Okay.

(Pause)

THE COURT: Okay. Thank you, ma'am.

MR. FRICK: Could I ask the Court to inquire what the child's parent's name is that she's referring to, the child's mother?

THE COURT: Yeah. Counsel come up just a

21

minute.

(Whereupon, a bench conference is had)

THE COURT: Does any member of this jury panel know anything about the facts of this case as I have briefly recited them to you? If so, please stand.

Has any member of the jury panel or a member of your immediate family -- and I define immediate family as spouse, parent, brother, sister or child -- has any member of this jury panel or a member of your immediate family been the victim of a crime against you or his or her person or against you or his or her home or business?

And the reason I define it that way is I'm not talking about bad checks and things of that nature. But any member of the jury panel or member of your immediate family been the victim of a crime of violence, although it did not have to involve any violence, but be it a crime against you or his or her person or home or business. If so, please stand. All right. Let's start with the gentleman in the coat back here. Your name again?

JUROR: My name is Steve Keys. My brother was murdered in 1981.

THE COURT: All right. All right, Mr. Keys. I'm going to ask you to come down just a minute,

22

please. And while he's coming, let me go ahead and address the other gentleman. Yes, sir.

JUROR: Juror number 35, Robert Dent.

THE COURT: All right. Mr. Accident.

(Whereupon, a side bar conference is had).

THE COURT: All right. We'll ask you to come forward in just a minute. Just come on out and we'll get to you in just a minute. All right. Yes, sir. Your name?

JUROR: Dale Branham, Judge. I think I'm number 12.

THE COURT: All right. And what's your situation, Mr. Branham?

JUROR: Roughly 15 years ago in Lexington County my house was broken into.

THE COURT: All right. Let me ask you to come down as well. All right. Yes, ma'am, Ms. Wilson.

JUROR: My mother and brother were robbed.

THE COURT: All right. You can come down as well, too. Yes, sir.

JUROR: Kasey Kidwell, number 89. I was injured by a gunshot wound in 1996.

THE COURT: All right. I'd ask you to come down, too, please, sir. Yes, ma'am.

JUROR: My son --

23

THE COURT: Give me your name first.

JUROR: Herndon.

THE COURT: Ms. Herndon.

JUROR: And my son --

THE COURT: Wait just a moment. 68. All right. Yes, ma'am.

JUROR: My son killed someone in an accident.

THE COURT: I'm sorry. Your son what?

JUROR: Killed someone in an accident.

THE COURT: Okay. Was he charged with a criminal case?

JUROR: Mm-hmm (affirmative).

THE COURT: Was he charged --

JUROR: Yeah. He's incarcerated now.

THE COURT: Okay. Come on down, please. Yes, sir.

JUROR: Jessie Gaston. My home was broken into three times in the past.

THE COURT: All right. Wait just a minute, Mr. Jackson [sic].

JUROR: Gaston.

THE CLERK: Gaston.

THE COURT: What number?

THE CLERK: 51.

THE COURT: Gaston. What did you say,

Mr. Gaston?

JUROR: My home was broken into --

THE COURT: All right. I'm going to ask you to come down, too.

JUROR: Yes, sir.

THE COURT: Come on down. All right, counsel. (Whereupon, the following side bar conferences are had).

THE COURT: All right. Mr. Keys, I believe you said your brother was murdered?

JUROR: He was stabbed to death in 1981.

THE COURT: Okay.

JUROR: Miles.

THE COURT: All right. And of course this is a murder case as well. Would that fact prevent you from giving both the State and the defense a fair and impartial trial based on the evidence in this matter?

JUROR: I'd like to say no, but, I mean, I believe I could.

THE COURT: Could you be objective?

JUROR: I believe I could.

THE COURT: Okay. Belief is not good enough. I've got to know. Could you put that aside and decide this case based upon what you hear in this courtroom?

JUROR: Yes, sir.

THE COURT: And would you be able -- would you do that?

JUROR: Yes, sir.

THE COURT: All right. Thank you, sir. Okay. You're Mr. Dent?

JUROR: Yes, sir.

THE COURT: Okay. You were going to say, Mr. Dent, that you were a victim. Tell me about it.

JUROR: Just an armed robbery. Basically I was jumped or was held by gun and that was it.

THE COURT: Okay. How long ago was that?

JUROR: January of '09.

THE COURT: Was it here in Fairfield County?

JUROR: Yes, sir. Yes, sir.

THE COURT: Would that fact prevent you from giving both sides in this case a fair and impartial trial based on the evidence?

JUROR: No.

THE COURT: Would you be able to put that aside and decide this case --

JUROR: Sure.

THE COURT: -- based on what you hear in this courtroom?

JUROR: Yes, sir.

26

THE COURT: And would you do that?

JUROR: Yes.

THE COURT: Thank you. Mr. Branham?

JUROR: Branham. Yes, sir.

THE COURT: Okay. Tell us about your situation.

JUROR: I said 15, but it may have been 20 years ago, my house in Lexington County was broke into.

THE COURT: Okay. Would that fact prevent from you giving both the State and the defense a fair and impartial trial in this case?

JUROR: No, sir.

THE COURT: Would you be able to put that aside and decide this case based upon what you hear in this courtroom?

JUROR: Yes, sir.

THE COURT: And would you do that?

JUROR: Yes, sir.

THE COURT: Okay. Thank you, sir. Ms. Wilson. All right, Ms. Wilson. I believe you said you had your house broken into?

JUROR: Mm-hmm (affirmative).

THE COURT: How long ago was that?

JUROR: It's probably about 15 years ago, 10 or 15 years ago.

THE COURT: Okay. Would that fact prevent you

from giving both the State and the defense a fair and impartial trial in this case?

JUROR: Maybe. Maybe.

THE COURT: Maybe? I've got to know exactly. Could you put it aside, or would it interfere with your ability to be objective?

JUROR: It would interfere.

THE COURT: Okay. Thank you, ma'am.

JUROR: Mm-hmm (affirmative).

THE COURT: Mr. Tidwell [sic]? What's your name?

JUROR: Kidwell. 89.

THE COURT: All right. Yes, sir. Tell me your situation, Mr. Kidwell.

JUROR: I was shot in '96 by the employee of a county commissioner, a commissioner who went unpunished.

THE COURT: Was that here?

JUROR: Ohio.

THE COURT: Ohio?

JUROR: Mm-hmm (affirmative).

THE COURT: Okay. Would that fact prevent you from giving to both the State and the defense a fair and impartial trial in this case?

JUROR: Probably not.

28

THE COURT: It wouldn't? I can't have probably. I've got to -- would you be able to put that aside and decide this case based upon the evidence you hear in this courtroom?

JUROR: I think so.

THE COURT: I can't have any. I've got to know whether you would be able to put that aside and decide the case without the influence of this other factor.

JUROR: I believe so.

THE COURT: Okay. And would you do that?

JUROR: Yes.

THE COURT: Okay. All right. Thank you, sir.

JUROR: Mm-hmm (affirmative).

THE COURT: Ms. Herndon?

JUROR: Mm-hmm (affirmative).

THE COURT: Okay. Tell me about your situation, Ms. Herndon.

JUROR: Well, --

THE COURT: You tell me about it.

JUROR: Okay. My son stole my truck and killed somebody, a lady. And he were [sic] tired of being in Sumter, you know.

THE COURT: Okay. So he was prosecuted for that?

29

JUROR: Yes.

THE COURT: Incarcerated now?

JUROR: Yes. Yes.

THE COURT: Would that prevent you from giving to both the parties in this case a fair trial?

JUROR: I just -- I can't do it.

THE COURT: You couldn't do it?

JUROR: I couldn't do it. I can't do it. I haven't got over that yet.

THE COURT: Okay. Thank you, ma'am. You are number 51, Mr. Gaston. Is that right?

JUROR: Yes, sir.

THE COURT: All right. Mr. Gaston, I believe you said your home was broken into?

JUROR: It was broken into three times in the past.

THE COURT: How long ago was that?

JUROR: Well, I was broken into the last time this year.

THE COURT: This year?

JUROR: Yes, sir.

THE COURT: Is that here in Lancaster [sic] County?

JUROR: No. Fairfield.

THE COURT: Fairfield County?

JUROR: Yes, sir.

THE COURT: Okay. Would that fact prevent you from giving the State and the defense a fair and impartial trial in this case?

JUROR: Yes, sir.

THE COURT: It would?

JUROR: Yes, sir.

THE COURT: Okay. All right. Thank you, sir. (Whereupon, the side bar conferences are concluded).

THE COURT: All right. Has any member of the jury panel or a member of your immediate family as I have defined that term ever been accused of committing a crime against a person or a home invasion? Any member of the jury panel or a member of the immediate family as I have defined that term been accused of committing a violent crime against a person or a home invasion? If so, please stand. All right. Yes, ma'am. Your name?

JUROR: Eloise Belk.

THE CLERK: Number 6.

THE COURT: Number 6. All right. Ms. Belk, tell me who it was.

JUROR: My brother.

THE COURT: Your brother?

JUROR: Yes, sir.

31

THE COURT: And what was the accusation?

JUROR: Criminal domestic violence.

THE COURT: Criminal domestic violence. All right. How long ago was that?

JUROR: This year.

THE COURT: This year? All right. This year?

JUROR: Mm-hmm (affirmative).

THE COURT: Would that fact prevent you from giving both the State and the defendant a fair and impartial trial in this case?

JUROR: No, sir.

THE COURT: Would you be able to put that aside and decide this case based on the evidence you hear in this courtroom?

JUROR: Yes, sir.

THE COURT: Would you do that?

JUROR: Yes, sir.

THE COURT: All right. Thank you. Has any member of the jury panel had a family member -- other than what has already been disclosed to me, has any member of the jury panel had a family member murdered or killed by another person? If so, please stand. If you've already disclosed it, you don't need to disclose it again. Anyone else? All right. You're Mr. Gaston?

32

JUROR: Yes, sir.

THE COURT: Mr. Gaston, a member of your family was killed?

JUROR: Yes, sir. A nephew.

THE COURT: Nephew?

JUROR: Yes, sir.

THE COURT: All right. Where did that happen?

JUROR: Here.

THE COURT: In Fairfield County?

JUROR: Yes.

THE COURT: How long ago?

JUROR: Six or seven years ago.

THE COURT: Was anyone prosecuted for that?

JUROR: Yes, sir.

THE COURT: All right. Would that fact prevent from you giving to both the State and the defendant a fair -- well, okay, Mr. Gaston. That's fine. I don't believe I need to go any further with you in connection with that. Thank you.

Is any member of the jury panel a member of or served as an officer or Board of Directors of any organization advocating victims' rights or in support of law enforcement, such as the South Carolina Victims Assistance Network, Mothers Against Drunk Driving, South Carolina Law Enforcement Officers

33

Association, or Fraternal Order of Police? Any member of the jury panel that is a member of or served on the Board of Directors of any such organization? If so, please stand. All right. Yes, sir. You are Mr. --

JUROR: Steven Keys, 88.

THE COURT: All right. Yes, sir. Mr. Keys, would that fact prevent from you giving to both the State and the defendant a fair and impartial trial based on the evidence?

JUROR: No, sir.

THE COURT: Would you be able to put that aside and decide the case based on what you hear in this courtroom?

JUROR: Yes, sir.

THE COURT: And would you do that?

JUROR: Yes, sir.

THE COURT: Thank you, Mr. Keys. Does any member of the jury panel work for, serve as a volunteer or as a member of the Board of Directors or any other capacity with an organization advocating defendants' or prisoners' rights? If so, please stand.

Has any member of the jury panel ever received the services from a victims advocate program such as

34

at the Palmetto Citizens Against Sexual Assault, Sister Care, the State's Office of Victims' Assistance, anything like that? If so, please stand. All right. Mr. --

THE CLERK: Mr. Keys.

THE COURT: Mr. Keys, would that fact prevent from you giving to both the State and the defendant a fair and impartial trial?

JUROR: No.

THE COURT: Would you be able to put that fact aside and decide this case based upon what you hear in this courtroom?

JUROR: Yes, sir.

THE COURT: Thank you, sir. Has any member of the jury panel previously served on a jury in a General Sessions case; that is, up here in this courtroom or in the federal court of a homicide or other felony where that case went to trial? Not just on the panel, but actually served on the jury either in the Court of General Sessions or in the federal court of a homicide or other serious felony. If so, please stand. A case that went to trial and you were selected on the jury. All right. Yes, sir.

JUROR: Would that include a land dispute between the State and another individual?

35

THE COURT: No, sir. No, sir. It doesn't include a land dispute. That would be a civil case. I'm talking about a criminal case where the charge was homicide or another serious felony and where you were actually selected and served on the jury. Thank you.

Has any member of the jury panel ever been called as a witness in a criminal case like I have just described, a homicide or other serious felony, here in the court of General Sessions or in federal court? I'm not talking about in a Magistrate's court but in a serious felony case or a homicide case in General Sessions or federal court, served as a witness and actually testified as a witness in such a case. If so, please stand. Thank you.

Has any member of the jury panel or a member of your immediate family as I have defined that term served or been employed in law enforcement within the last ten years? That would be as a Sheriff's Deputy, Trooper, constable, military police, any other type of law enforcement agency. Any member of the jury panel been employed by, or a member of your immediate family been employed by a law enforcement agency within the last ten years? If so, please stand. All right. Yes, sir. Your name?

be required to follow the law as the Court instructs it to you whether you agree with the law or not. Is there any member of the jury panel who would not be able to follow the instructions of the Court even though you may not agree with the law which the Court gives to you? If you could not follow the Court's instructions, please stand.

Has any member of the jury panel formed or expressed an opinion as to the guilt or innocence of the defendant in this case? If so, please stand.

Other than what has already been disclosed to me, is any member of the jury panel aware of any interest, any bias or any prejudice for or against the defendant, Willie James Adams, Jr.? If so, please stand.

Can each member of the jury panel give the State and the defendant -- except for what has already been disclosed to me; if you've already disclosed, then you don't need to do so again -- but can each member of the jury panel give the State and the defendant, Willie James Adams, Jr., a fair and impartial trial? If not, please stand.

Again, other than what has already been disclosed to me, does any member of the jury panel know of any reason whatsoever why he or she should

not serve as a juror in this case? If so, please stand. All right. Thank you. Just a moment.

(Pause)

JUROR: Your Honor.

THE COURT: All right. Come up. I'll be with you in just a minute.

JUROR: All right.

(Whereupon, the following side bar conference is had)

THE COURT: I didn't bring my list. Have you got yours? What's your name?

JUROR: Burns.

THE COURT: Mr. Burns?

JUROR: Mm-hmm (affirmative).

THE CLERK: Number 14.

THE COURT: All right. What's your situation, Mr. Burns?

JUROR: I am close friends with the defendant's family. I was raised up with them.

THE COURT: Oh, you were?

JUROR: Uh-huh (affirmative).

THE COURT: Would that fact prevent you from giving a fair and impartial trial to both sides?

JUROR: Yes, sir.

THE COURT: All right. Okay. Thank you, ma'am.

JUROR: Roger Haney.

THE COURT: Do you recall your number?

JUROR: 62.

THE COURT: All right. And tell me who it is in your family.

JUROR: My son.

THE COURT: Son? And how is he employed?

JUROR: He was a deputy in the Fairfield County Sheriff's Department.

THE COURT: Is he currently a deputy with the Fairfield County Sheriff's Office?

JUROR: No longer.

THE COURT: Okay. All right. Thank you, Mr. Haney. I'm not going to ask you anything else at this time. Thank you.

Has any member of the jury panel ever worked for, or let's say in the last ten years, worked for or had some employment with the Sixth Circuit Solicitor's Office? If so, please stand.

Has any member of the jury panel worked in the last ten years as a security guard or in the field of private security? If so, please stand.

Has any member of the jury panel ever received any law enforcement or legal training? If so, please stand.

Is any member of the jury panel employed now or been employed in the last ten years by an attorney or in the legal field? If so, please stand. Yes, ma'am. Your name?

JUROR: Susan Strausbaugh.

THE COURT: All right. And I believe that you indicated you worked for the victims or actually for the Second Injury Fund. Is that correct?

JUROR: Yes, sir.

THE COURT: All right. Would that fact prevent you from giving both the State and the defense a fair and impartial trial based on the evidence in this case?

JUROR: (Shakes head negatively).

THE COURT: All right. Thank you, ma'am. Is there any member of the jury panel who would be unable to weigh the testimony of a police officer as you would any other officer, or any other witness; and is there any member of the jury panel who would give greater or lesser weight to the testimony of a police officer merely because of his or her status as a police officer? If so, please stand.

The Court will instruct you from time to time throughout this trial and especially at the end of the trial of a number of legal principles. You will

40

Raised up with the family. Let me talk to you, counsel, while we've got you here.

THE CLERK: We've got another lady, Judge.

THE COURT: Oh, okay. All right. Yes, ma'am. Your name?

JUROR: Yes. I --

THE COURT: Wait. Tell me your name first.

JUROR: Linda R. Strohman.

THE COURT: What number are you? Do you recall your number?

JUROR: It's 100 and something. I don't know. Somewhere at the end.

MR. FRICK: 136.

THE COURT: 136?

JUROR: Yes.

THE COURT: Ms. Strohman, all right. What's your situation?

JUROR: Well, I know the Adams's whole family. I know their whole family. But not only that. I don't sit in judgment because I go by what the Bible says: Don't judge or be judged. And I don't like judging people.

THE COURT: All right. So is it a religious belief?

JUROR: Yes.

41

THE COURT: Okay. All right. I will tell you that I will not put you in a situation that would cause you to compromise your religious beliefs.

JUROR: Uh-huh (affirmative).

THE COURT: Now, tell me what your relationship with the family is.

JUROR: I've known them for a long time. I've been knowing them for --

THE COURT: This is the defendant's family?

JUROR: Yes.

THE COURT: Do you have an ongoing relationship with them? Do you see them from time to time?

JUROR: Yes.

THE COURT: Okay. Would that fact prevent you from giving both the State and the defense a fair and impartial trial?

JUROR: Yes. Because I don't know what happened and I don't want to judge neither way.

THE COURT: Thank you. Okay. Thank you, ma'am. All right, counsel.

THE CLERK: Another one, Judge.

THE COURT: All right. What's your name, ma'am?

JUROR: Deborah Kyzer.

THE COURT: Spell your last name.

JUROR: K-Y-Z-E-R. 93.

42

THE CLERK: She's number 93.

THE COURT: Yes, ma'am. What's your situation?

JUROR: I was just going -- I was going to be out of town from Thursday through the weekend on vacation. I had planned ahead of time for it. I didn't know if I was supposed to say or not.

THE COURT: That's all right. You need to be excused?

JUROR: Yes, sir.

THE COURT: Including all day Thursday or after court Thursday?

JUROR: After court Thursday.

THE COURT: In other words, if we finish in a reasonable time on Thursday afternoon, you need to be off Friday.

JUROR: Right.

THE COURT: We can take care of that. Thank you.

JUROR: All right.

THE COURT: All right. Before we begin the jury selection, let me just talk with y'all about something.

MR. FRICK: Yes, sir. I have no questions with the questions that you asked or did not ask.

THE COURT: That's fine. All right. So I'll

43

ask you on the record if there are any further records. This is what I have, counsel. 106, the sister was married to the uncle, Mr. McKinstry. So I think 106 ought to be excused. 147 is Ms. Wilson. She said the home burglary could influence her. So I think she ought to be excused.

Number 9, Ms. Youngblood, the defendant is her niece's father. I just think that relationship is too close. And if there's no objection, I'd like to excuse number 9.

68, the son was killed. That's the lady whose son killed somebody in an automobile accident. So I think -- and she said she couldn't be objective. She said her son is in prison. So I would excuse her.

51, Mr. Gaston, he said his home was broken into. And he also stood up and said something else. And I didn't go into it because I'd already decided, he said he couldn't be fair and objective. So 51.

And then 14 is close friends of the defendant's family. I think she should be excused. And 136, she says she is religiously opposed, plus the fact that she was raised up with the family.

And the other thing is, I didn't ask -- did anybody have any objection to anyone else being excused? The only one that I had not addressed or

44

did ask the questions is Mr. Haney whose son is a deputy. And since this is a Sheriff's case, I really think that he'd have to be looking at that. I really think that he ought to be excused as well. Do you have any trouble with that, Mr. Barfield?

MR. BARFIELD: No, sir.

THE COURT: So let's take Mr. Haney off, 62. So the way I see it is, if you want to write these down; Madam Clerk, take these numbers down. 106, 147, 9, 68, 51 -- what was 6?

THE CLERK: 62.

THE COURT: What was 6?

THE CLERK: Oh. I'm sorry. Her brother was charged with a CDV.

THE COURT: Oh, yeah. That's right. 62.

THE CLERK: Not 6.

THE COURT: No. 6. Okay. 62. 14 and 136, Ms. Strohman. Is there a chance this is going into Friday?

MR. BARFIELD: I wouldn't think so. I wouldn't think so.

THE COURT: So you think we'll be all right taking 93, that last juror who came up? Would that be any problem?

MR. BARFIELD: No, sir.

45

THE COURT: Let's see. 106, 147, 9, 68, 51, 62, 14 and 136.

THE CLERK: Take them out?

THE COURT: Yes.

MR. FRICK: Judge, I'll just put on the record I've already talked to the solicitor about this, but she indicated that she was a secretary for Behavioral Health Services. I'm on the board of the Fairfield Behavioral Health Services. I've made that known to the solicitor. But she didn't say anything out there, but just to clarify.

THE CLERK: This gentleman here, he was the one that left real quick to go to the bathroom. And he was real, real late getting back in. He missed a lot of the first series of questions. And I was just going to go ahead and take him out. Of course it's up to you.

THE COURT: Yeah. I think we'll have to. That's number 78.

THE CLERK: 78.

THE COURT: He missed a lot of the first questions, and I think that we'll have to take him out.

THE CLERK: He had to go change clothes.

THE COURT: 78, take him out as well. Okay.

46

That would be one, two, three, four, five, six, seven, eight, nine. Number 51.

THE CLERK: Nine is what I've got.

THE COURT: So that would be --

THE CLERK: 42.

THE COURT: -- 42. All right. Five and ten. And it depends on how many strikes, but we'll see how it works out. Okay. Thank you.

(Whereupon, the side bar conference is concluded).

THE COURT: Are there additional questions on behalf of the State, Mr. Barfield?

MR. BARFIELD: None from the State.

THE COURT: On behalf of the defense?

MR. FRICK: None from the defense.

THE COURT: All right. Madam Clerk, if you'll give us the jury. Ladies and gentlemen, the procedure will be, as I outlined, as your names are called, you've all been qualified as jurors, you'll be put into the computer. The computer will select you randomly.

When your name is called, please come through the swinging doors to the front, turn around with your back toward me and face the back of the courtroom. The State will indicate present the

47

juror. If you're acceptable to the defense, the defense will maybe say, seat the juror, and you will have a seat to the jury box to my left. If either side excuses you, you will have a seat back out with the remainder of the jury panel. Thank you.

(Pause)

THE COURT: All right, Madam Clerk. If you will give us the jury, please.

THE CLERK: Okay. As I call your name.

THE COURT: Wait a minute. Okay. Thank you.

THE CLERK: As I call your name, please come forward. Stand in front of the bar. Turn around and face the audience until I tell you what to do. Okay? Sylvia Norton, number 1.

MR. FRICK: The last name again?

THE CLERK: Norton. Juror number 116. I'm sorry.

MR. FRICK: Thank you.

THE CLERK: Turn around and face the clerk.

(White female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Please have a seat in the jury box.

48

Number 141, Priscilla Wadsworth.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Wadsworth.

THE BAILIFF: This way.

THE CLERK: Y'all please bring your purses or whatever you might have with you as you come down. Number 4, Stanley Alston.

(Black male)

THE CLERK: What says the State?

MR. BARFIELD: Please excuse the juror from this trial.

THE CLERK: You're excused on this trial. Mr. Alston, you may come back to your seat. Number 125, Margaret Robinson.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box,

49

Ms. Robinson. Number 71, Paul VanHouse.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused in this case, Mr. VanHouse. Please go back to your seat. Number 44, Shirley Evans.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, please. Number 88, Steven Keys.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

MR. FRICK: Please excuse the juror.

THE CLERK: Number 99, Gladys Lymburner.

(White female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

50

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused in this case, Ms. Lymburner. Number 149, Alicia Young.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Young. Number 41, Mattie English.

(Black female)

THE CLERK: Come on up here, Ms. English. What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. English. Number 19 Cheri Cammon.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Cammon. Number 127, Synephiny Roseborough.

51

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Roseborough. Number 134, Sherry Stockman.

(White female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused on this case, Ms. Stockman. Number 21, Nalani Chamberlain.

(White female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Chamberlain. Number 142, Ernest Walker, Jr.

(Black male)

THE CLERK: What says the State?

MR. BARFIELD: Beg the Court's indulgence one moment.

52

THE COURT: All right.

MR. BARFIELD: May we approach briefly?

THE COURT: Yes.

(Whereupon, a side bar conference is had as follows)

THE COURT: All right. You're Mr. Walker. Is that right?

JUROR: Yes.

THE COURT: Mr. Walker, are you related to the victim in this case?

JUROR: (Nods head affirmatively).

THE COURT: All right. What's the relationship?

JUROR: Hmm?

THE COURT: What's the relationship?

JUROR: My daddy's -- my daddy's brother is related to him.

THE COURT: All right. Thank you. Stand right back over there.

(Whereupon, the juror moves away from the side bar conference, and it continues with the attorneys as follows).

THE COURT: What's your position on it?

MR. BARFIELD: I don't think it disqualifies him to be a juror. Being cautious --

THE COURT: Let's be cautious. I'll excuse him.

53

It will be a Court's strike.

(Whereupon, the side bar conference is concluded).

THE COURT: All right. Have a seat back out with the remainder of the jury panel.

THE CLERK: Number 74, James Hudson, Jr.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused on this case, Mr. Hudson. You can go back to your seat. Number 36, Timothy Dewese.

(Black male)

THE CLERK: What says the State?

MR. BARFIELD: Please excuse the juror from this trial.

THE COURT: You have been excused from this case, Mr. Dewese. You may go back to your seat. Number 89, Cayce Kidwell.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

54

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused on this case, Mr. Kidwell. Number 66, Beverly Henderson.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Henderson. Number 119, Gordon Pierce.

(Black male)

THE CLERK: What says the State?

MR. BARFIELD: Please excuse the juror from this trial.

THE CLERK: You're excused on this case, Mr. Pierce. Number 5, Ashley Ashford.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please excuse the juror from this trial.

THE CLERK: You're excused on this case, Ms. Ashford.

MR. BARFIELD: That's four, Madam Clerk, I believe?

THE CLERK: Yes. Number 17, Chassidy Cail.

55

(White female)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Cail. Number 133, Quantoris Stevenson.

(Black male)

THE CLERK: What says the State?

MR. BARFIELD: Please excuse the juror from this trial.

THE CLERK: You're excused on this trial, Mr. Stevenson. That's five, Mr. Barfield.

MR. BARFIELD: Thank you, ma'am.

THE CLERK: Number 85, Reginald Kelly.

(Black male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused on this case, Mr. Kelly. Number 12, Dale Branham.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

56

THE CLERK: What says defense?

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused on this case, Mr. Branham. Number 135, Susan Strausbaugh.

(White female)

THE CLERK: Any challenge by the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Ms. Strausbaugh.

THE COURT: All right, alternates, counsel, one and two.

THE CLERK: This will be for the first alternate. Number 49, James Gaddy, III.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please seat the juror.

THE CLERK: Have a seat in the jury box, Mr. Gaddy. You're alternate number one. Number 93, Deborah Kyzer.

(White female)

THE CLERK: What says the State?

57

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused in this case, Ms. Kyzer. Number 87, Thomas Kersey.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: What says defense?

MR. FRICK: Please excuse the juror.

THE CLERK: You're excused on this case, Mr. Kersey. Number 26, Brittany Cramer.

(Black female)

THE CLERK: What says the State?

MR. BARFIELD: Please excuse the juror from this trial.

THE CLERK: You're excused on this case, Ms. Cramer. Number 35, Todd Dent.

(White male)

THE CLERK: What says the State?

MR. BARFIELD: Please present the juror.

THE CLERK: Any challenge by the defendant?

MR. FRICK: No challenge.

THE CLERK: Have a seat in the jury box, Mr. Dent. You're our second alternate.

58

THE COURT: Anything in regards to striking the jury on behalf of the State, Mr. Barfield?

MR. BARFIELD: Nothing from the State.

THE COURT: On behalf of the defense, Mr. Frick?

MR. FRICK: Nothing from defense, Your Honor.

THE COURT: All right. Counsel, approach just a moment, please, for scheduling.

(Whereupon, a bench conference is had)

THE COURT: Ladies and gentlemen selected on the jury in this case, it is the lunch hour and we are going to recess at this time. But what I was conferring with counsel about is what time we would resume this afternoon. And I have been advised that we have got some matters that require the Court's attention that I have to hear on the record and outside of your presence.

So I'm going to excuse you and allow you to go get your lunch and ask you to be back in your jury room at 3:00. The bailiff will show you where the jury room is and how to get back into the courthouse. Do not come into the courtroom but come into the jury room. And please plan to be back at 3:00 after you have had your lunch.

Just two or three things before I excuse you for lunch. First of all, I know that you have not heard

59

any of the evidence in this case and all you know is basically what I told you the case, the allegations of the indictment were. But it would be improper for you to discuss this case with anyone while you're a way from the courthouse. It would be improper for anyone to attempt to discuss it with you, to either approach you or talk to you about it in any manner whatsoever.

And it would be improper for you to begin any discussions of this case among yourselves when you are reassembling in the jury room. In fact, these admonitions will apply throughout the trial of this case. Any time that we take a break or you're away from the courthouse, do not talk about the case with anyone, your family, your friends or anyone else. You can tell them that you're serving as a jurors, but you can't talk about the case.

And the reason for that is pretty apparent. You've got to decide this case based upon what you hear in this courtroom and not on the basis of what anyone else might say.

Similarly, do not allow anyone to discuss it with you. If anyone should approach you at any time throughout the trial of this case and try to talk to you about this matter, get their name and their

60

description and report it to the Court and I will deal with them. And do not begin any deliberations or discussion of the case while you're there in the jury room until you have heard all the testimony and the arguments of counsel and the instructions on the law by the Court.

So I am going to allow you now to go and get your lunch, please, and to let the bailiff show you where the jury room is and how to get back into the building after lunch. And you would be back in the jury room promptly at 3:00, and we'll try to be ready to start at that time. Have a pleasant lunch and I'll see you this afternoon.

(Jury out at 1:12 p.m.)

(Whereupon, the jurors not selected for the trial are dismissed by the Court).

THE COURT: What I propose, Mr. Barfield, is to be in recess until 2:15 and the court personnel will be back to take up those matters between 2:15 and 3, anything we need to take up. And then we can be ready to go forward at that time. Any objection to that schedule?

MR. BARFIELD: None.

THE COURT: All right. Is that all right with you, Mr. Frick?

61

MR. FRICK: That will be fine, Your Honor.

THE COURT: We'll be in recess then until 2:15.

(Whereupon, a lunch break is taken).

(WHEREUPON, State's Exhibit No. 1 is marked for identification.)

(WHEREUPON, State's Exhibit No. 2 is marked for identification.)

(WHEREUPON, State's Exhibit No. 3 is marked for identification.)

(WHEREUPON, State's Exhibit No. 4 is marked for identification.)

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63

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(WHEREUPON, State's Exhibit No. 26 is marked for identification.)

(WHEREUPON, State's Exhibit No. 27 is marked for identification.)

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64

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THE COURT: This is the matter of the State vs. Willie James Adams, Jr. The defendant is present with his counsel, Mr. Frick. The State is also present and represented by the solicitor and assistant solicitor. I understand one of the matters that we need to resolve next is this matter prior to the jury being here, Mr. Barfield, is a Jackson v. Denno matter with regard to a statement.

MR. BARFIELD: That's correct. The State is ready to go forward. We call Mary Ann Phillips.

THE COURT: All right. Come forward, please, ma'am.

MR. BARFIELD: Somebody is going to need to swear her.

THE COURT: I will. If you'll raise your right

65

hand. Where is the Bible?

MARY ANN P. TALBERT, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. BARFIELD

Q State your name, please, ma'am?

A Mary Ann Phillips Talbert.

Q I'm sorry. I apologize for stating your name wrong. I'm sorry.

A That's okay.

Q Ms. Talbert, by whom are you currently employed?

A G4S Wackenhut at V. C. Summer Nuclear Station.

Q Working security?

A As an armed security officer.

Q And prior -- well, in April of 2008 by whom were you employed?

A Fairfield County Sheriff's Office.

Q And what was your job with the Fairfield County Sheriff's Office in April of '08?

A Lieutenant of investigations.

Q Did you get assigned along with many other officers from the Fairfield County Sheriff's Office to investigate the death of Alpha Lee Miller down in Ridgeway on Flint Hill Road which we believe occurred on April 5th of 2008?

A Yes, sir.
Q In connection with that investigation?
A Yes, sir.
Q In connection with that investigation, did Willie James Adams, Jr., the defendant in this case, become a suspect?
A Yes, sir.
Q Was part of your responsibility to try to find Willie James Adams, Jr.?
A Yes, sir.
Q I'm going to ask you this now to kind of get it behind us. Does he have a nickname? Does he go by Bud?
A Bud.
Q Did you find Adams?
A Yes, sir.
Q Where did you find Adams?
A At his sister's house.
Q And about what time of day did the killing occur on April 5th?
A Somewhere around 3, maybe 3:30.
Q In the afternoon?
A In the afternoon.
Q And you need to talk a little bit louder.
A I'm sorry.

Q When was Adams -- when you found Adams, was he arrested and taken into custody?
A Yes, sir. He was arrested a couple of days later at his sister's house and taken into custody.
Q Okay. So he --
A He was arrested a couple of days later and taken into custody at his sister's house.
Q Was he arrested pursuant to an arrest warrant that had been issued sometime between the killing and when he was taken into custody?
A Yes, sir.
Q Where did you -- did you transport him?
A He was transported I believe by Lisa Highler.
Q Also a sheriff's deputy?
A Yes, sir.
Q And where was Adams transported?
A The Sheriff's Office.
Q Did you meet with Adams at the Sheriff's Office?
A Yes, sir.
Q Was any other investigator or officer participating with you in your meeting with Adams at the Sheriff's Office?
A Initially I took the -- did the consent form.
Q Okay.
A Read him his rights, the Miranda warning form. No

other investigator was there when I did that, but two officers were there and present.

Q Okay.

A Lisa Highler and Larry Watkins.

Q All right.

A Greg Boney, then an investigator that was assigned the case, he showed up shortly after I did the Miranda warnings.

Q Now, what time of day or night was it when you were dealing with Adams a couple of days after the incident occurred?

A Daytime.

Q Where were you with him? We're going to talk about the Miranda warnings and then we're going to talk about the statement. Where was Adams taken at the Sheriff's Office?

A We had an interrogation in the interview room.

Q Okay.

A He was in that room which has a glass that you can see from the outside and also equipment where you could hear the conversation outside of that room.

Q We'll jump ahead. Was any of this--- did he eventually give a statement?

A Yes, sir.

Q Was the statement either audio or video recorded,

either or both?

A I'm not sure.

Q Okay. Did you do anything to record a statement?

A I'm not sure.

Q Okay.

A I did a written statement. I'm not sure if we were able to do the A/V. Sometime during that period our machine had been broken. So I'm not sure if that one was or not at that time.

Q Okay. Did you read him his Miranda warnings?

A Yes, sir.

Q And were other officers present when that occurred?

A They were right there in the same area.

Q Well, let me ask you this. When you did the Miranda, was anyone else in the actual interview room?

A No, sir.

Q Other than you and Adams?

A Yes, sir.

Q That's all?

A That's all.

Q All right. You were in plain clothes back then?

A Yes, sir.

Q Did you have a gun and a badge with you?

A Yes, sir.

Q Do you recall whether Adams was restrained in any

fashion when he was in the interview room?
A He had on handcuffs.
Q Do you recall --
A I put them back to the front.
Q Hands were in front of him?
A Yes, sir.
Q Was he in any leg shackles?
A No, sir.
Q Was there any resistance to his arrest by Adams?
A No, sir.
Q Was there any struggle or fight with law enforcement that would have caused him to have any injuries?
A No, sir. The only thing, we put him on the ground to put the handcuffs on him. That's all.
Q Now, did you read Mr. Adams his Miranda warnings?
A Yes, sir.
Q Did you do that from a written document?
A Yes, sir.
Q I'm going to hand you what's been stapled together two pieces of paper. Take a minute to look at that and tell me if you recognize what it is first?
A It's the Sheriff's Office waiver of rights form.
Q Is that for Mr. Adams and the statement that you're about to tell us about?
A Yes, sir.

Q And what is the second page of that document?
A The second page is a one-page statement given by Willie Adams that was transcribed by me and signed and initialed by Mr. Adams.
Q Those are the originals of those two documents?
A Yes, sir.

MR. BARFIELD: Your Honor, at this time I'd ask these documents be marked State's for identification probably No. 41 and -- well, I'm going to do them as one.

THE COURT: State's 41.

MR. BARFIELD: State's No. 41 for identification.

THE COURT: All right. State's No. 41 for identification being the two-page document consisting of the Miranda warnings and a written statement.

(WHEREUPON, State's Exhibit No. 41 is marked for identification.)

Q Now, Ms. Talbert, I'm going to hand you this State's Exhibit No. 41 for identification back. And if you would, read into the record exactly what you read Willie Adams when you gave him his Miranda warnings?
A It says: I Willie James Adams, Jr. am 32 years old. My address is [redacted], Newberry. I finished the eleventh grade in school, and it says

and can/cannot read. I didn't circle that. I have been told by M. A. Phillips who I understand is a law enforcement officer that he or she would like to question me concerning the crime of murder.

This officer has explained to me, and I understand that, one, I have the right to remain silent. That means I do not have to say anything or answer any questions, initialed by W. A.

Two, anything I say can be used against me in a court of law, initialed W. A.

Three, I have the right to talk to a lawyer and to have a lawyer here with me now to advise and help me before and during questioning, initialed W. A.

Four, if I want to have a lawyer with me before and during questioning but cannot afford to pay a lawyer, one will be provided to me at no cost before and while I am questioned, initialed W. A.

Five, if I decide to answer questions now without a lawyer here, I still have the right to stop questions whenever I want, initialed W. A.

Six, I also have the right to stop answering questions until I have talked to a lawyer, initialed W. A.

I understand my rights as explained to me by Officer M. A. Phillips. I now state that I do wish

to answer questions at this time and I do not wish to have a lawyer here before or during questioning. My decision to answer questions now without a lawyer is made freely and is my own choice. No one has threatened or coerced me in any way or promised me special treatment. To show my decision, I am signing my name in a space below. Signed: Willie Adams, date: 4-8-08 at 7:26 p.m. and witnessed by M. A. Phillips.

Q Now, is all the handwriting on there except for the W. A's that you have described as initials, first of all, are the W. A.'s that you described as initials, were they put there by Willie Adams?

A Yes, sir.

Q Was the signature next to the X, next to "signed", the signature that purports to be Willie Adams, is that his hand and his signature?

A Yes, sir.

Q Okay. Now, did you know Willie Adams prior to taking him into custody on the couple of days after April 5th of 2008?

A We went to school together.

Q Okay. And other than just -- I mean, did you know him? Was it somebody that you recognized when you saw him?

A I did.
Q Did you recognize the name when he became a suspect in this case?
A Yes, sir.
Q Okay. Did he at any time tell you he did not understand anything on the waiver of rights form that you just published for the record?
A No, sir.
Q Did you have any difficulty understanding words and phrases he was using to you to express thoughts?
A No, sir.
Q Did he appear to have any difficulty understanding words and phrases you were using with him to express thoughts?
A No, sir.
Q Did he at any time ask any questions about his Miranda rights, his Constitutional and Miranda rights?
A No, sir.
Q Did he at any time say or do anything to lead you to believe that he did not understand what his Constitutional rights, Constitutional or Miranda rights were?
A No, sir.
Q Did he waive his rights and give a statement

ultimately?

A Yes, sir.

Q About how long, if you can recall -- I presume since he signed it since you dated the waiver 7:26 p.m., the statement followed that sometime after that?

A It was directly after.

Q About how long was the process from him first going into the interview room to the interview being concluded? About how long were y'all together?

A Maybe an hour.

Q All right. Now, you said that nobody else was in the room, in the interview room while you read the Miranda rights?

A Yes, sir.

Q You said that the other two officers were present nearby. Does that mean they were on the other side of the window and they could see in?

A Other side of the wall; yes, sir.

Q Now, when you said Investigator Boney came, did he actually come into the interview room?

A He observed from the outside of the room also.

Q So nobody was ever in the room with you and Willie Adams?

A No, sir. Until Investigator Boney signed -- he actually witnessed the signature.

Q All right. Other than his hands being cuffed in front of him, were there any other restraints placed upon Willie Adams during this interview process?
A No, sir.
Q Did anybody at any time produce a weapon or use any law enforcement equipment in any sort of an offensive or threatening manner to Willie Adams?
A No, sir.
Q Did Willie Adams at any time ask, number one, did he ever say, I don't want to talk to you?
A No, sir.
Q Did he ever start talking to you and later on say, I want to stop talking to you?
A No, sir.
Q Did he at any time ever say, I want to call or talk to or have a lawyer before I talk to you?
A No, sir.
Q Did he ever ask to use the telephone to make a call?
A I think he may have called his sister after we had finished the process to let her know what was going on.
Q During the interview did he ask to stop, use the telephone, contact anybody else on the outside?
A No, sir.
Q Did he ask for anything like bathroom break, smoke

break, Coca-Cola break? Did he ask for any creature comforts?

A Not that I can recall.

Q Did he appear to be in any kind of distress, physical or mental or emotional while he was in your presence?

A No, sir.

Q Was there anything out of the ordinary at all about the conversation other than the subject matter of the conversation?

A No, sir.

Q Was he crying or being emotional or anything like that?

A Towards the end he was emotional.

Q Was he initially?

A No, sir.

Q At any time did you or anybody else in your presence promise Willie Adams anything to get him to talk about this case?

A No, sir.

Q At any time did you or anybody in your presence make any threats or use any coercion on Willie Adams or any physical force on Willie Adams to get him to talk about this case?

A No, sir.

Q Was he cooperative in answering your questions?

A Yes, sir.
Q Now, it's a one-page statement. Is that correct?
A Yes, sir.
Q Is the statement written out in your handwriting?
A Yes, sir.
Q Explain to the Court how the process resulted in a one-page statement that's in your handwriting? Did you find out what he was going to say before you started writing it down?
A We went over it, what he had to say. I took notes.
Q Okay.
A Which typically I just kind of jot down, you know, specific facts and things that might trigger me later on. But then once we did that, I made him tell me exactly what he wanted me to put in the statement. And that's what this is a product of.
Q And did you write down what he said he wanted his statement to say?
A Yes, sir.
Q And is the second page of State's No. 41 for identification what Willie Adams told you he had to say about this matter?
A Yes, sir.
Q Did he sign that statement?
A Yes, sir.

Q And was it in the presence of you and Greg Boney with the Sheriff's Office?
A Yes, sir.
Q Did both of y'all sign as witnesses to the statement?
A Yes, sir.
Q Did you reduce the statement to writing during the process that we're talking about, or did you do this a couple of days later and then take it to him? Did this all happen at the same time?
A Oh, everything at the same time.
Q And when you presented this statement to Willie Adams after you had written it out, did he read it?
A He read it.
Q Did he appear to be reading it to you?
A Yes, sir.
Q Did he struggle over any of the words or say, what's that or what do you mean by that?
A No, sir.
Q Or did he do anything to indicate that he didn't understand what the words were on this paper?
A No, sir.
Q Did he tell you that you needed to change anything?
A No, sir.
Q Did he tell you anything that you had written down was wrong?

A No, sir.
Q Did he tell you that you needed to take out anything?
A No, sir.
Q Did he tell you that you needed to add anything?
A No, sir.
Q Did he sign the statement and adopt it as his statement?
A Yes, sir.
Q Thank you, ma'am. Answer anything Mr. Frick has or the judge?

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Now, the time and date on the waiver form, that's when y'all went over this?
A Yes, sir. The other was directly after.
Q Directly afterwards? And I'm slightly familiar with the interview technique. Did y'all talk about the situation for a while?
A The way I usually handle most of mine is just ask them, tell me what you know, tell me what your side of everything is. And I may make -- you know, jot down a couple of notes. Once we get to the bottom, I may ask a couple of questions to clarify. Or if I

know something may not be right I may ask a different question to try to see what the response is. This pretty much in this case was pretty much simply, tell me what happened.

Q Had there been any other statements already given in this case?

A Yeah. He actually was the last one that gave statements.

Q So you'd already gotten them from that co-defendant? Or I guess there were co-defendants at the time or at least suspects. Lawhorn and Jackson?

A Right.

Q What about the other people that were listed later as accessories? Had you already talked to them?

A Yes, sir.

Q Or somebody had talked to them?

A Kimberly Lawson. I didn't take a statement from Reggie Gibson, but I did from Kimberly Lawson.

Q Okay. Any particular reason why Mr. Adams was the last one y'all talked to?

A He was the hardest one to find.

Q Okay. When did y'all catch up with him relative to the --

A Three days later.

Q Three days later?

A I believe we arrested the other two the day before.
Q Okay. Do you recall if Mr. Adams was already in custody -- I know he was in handcuffs. But he already been out of the jail?
A No, sir. I took him straight to the Sheriff's Office.
Q Okay. All right. And it was you that transported him or do you recall?
A I'm not sure if it was me or if it was officer Highler.
Q Okay?
A He was very kind of distraught when we locked him up. And it was sensitive. So I'm not sure if she actually transported him or I did. It was one of the two.
Q Any indication to you that he talked to anybody in the ride over there?
A No.
Q Had he already been given his rights when he was being arrested?
A No. Didn't talk to him after you know after we got to the Sheriff's Office.
Q All right. Now, on the form it's got the part you went over it where it says it's an either/or, can or cannot read, and you indicated you didn't circle

either one of them?

A And I didn't.

Q Were you able to determine whether he could read or not?

A He read it out. Not that. But he was actually reading the statement.

Q Okay.

A That's the only thing that I know.

Q And I --

A So I should have circled can but.

Q I understand. I understand I was just trying to determine whether you could make a determination?

A Right.

Q And you're saying you did?

A I did.

Q Okay. In fact, he -- you write out the statement, hand it to him for his review?

A For him to read.

Q Okay.

A Most people actually read it kind of semi out loud when they read it.

Q All right. Did he?

A He did.

Q He did? Okay.

A I'm not saying he read every word out but he read

most.

Q I understand. Okay. And this is basically a summation of what y'all discussed before the writing began?

A Right.

Q Okay. And when I note at the very beginning of his statement there is a little W. A.?

A Where he initialed.

Q And at the end --

A And after we finished there --

Q Right.

A -- I'll tell you what happened. I wanted to clarify if he actually knew where the gun was --

Q Right.

A -- for the purpose that I had one saying that they were the last person with the gun and the other saying the other was. So I wanted to know if he knew where the gun was put. And that's why I asked that question.

Q Okay. The interview took place in y'all's --

A In the interview room.

Q In the county's interview room?

A Yes, sir.

Q And I know you said it, and I apologize. I drifted off. But there is a little one-way glass?

A Right.
Q Investigator Boney was on the other side of that glass?
A Right.
Q Was anybody else to your knowledge?
A Lisa and Larry were positioned either outside the door in the hallway right outside that door roving kind of back and forth.
Q Okay. And nothing audio or videotaped to your knowledge?
A Not that I know.
Q Okay. Was it -- y'all do a camera in there, don't you?
A Yeah. It's been about a year and a half or so ago. And I know we were having some difficulty with the tapes. And I'm not sure if that was during that time or not.
Q Okay. Now, I know the date -- I mean, a time when we started this. Do you know approximately how long this interview lasted?
A Maybe an hour. It wasn't very long at all.
Q Okay. I'm going to ask you -- I maybe will do this later -- but you told the solicitor that Mr. Adams had gotten emotional towards the end?
A After he had given the statement and everything I

think things were like sinking in and he had understood the weight of, you know, the whole situation.

Q So your belief was he was getting emotional basically --

A Right.

Q -- because of what the charge is?

A It was overwhelming. Yeah.

Q Okay. And at any time did he ask to stop the interview?

A No, sir.

Q He was very cooperative and forthcoming?

A Yes, sir.

Q Okay.

A Very cooperative.

Q Any pauses at all where he stops and goes out of the room or you stop to go out of the room?

A No.

Q I'm going to ask briefly only this, and that will be it. Do you go one by -- on this list of --

A I read out.

Q Uh-huh (affirmative).

A Each line.

Q Do you initial with each one?

A As each line, yes. As each line is read.

Q Okay. All right. So you go over what every one says?

A Do you understand, initial.

Q Again if they do, they initial?

A Right. If not, I explain it. But I didn't have any problems with that.

Q Okay. All right. That's all the questions I've got. Thank you?

THE COURT: Anything else?

MR. BARFIELD: Nothing else from this witness. We call Greg Boney briefly.

THE COURT: All right. You may step down. All right, sir. If you would place your left hand on the Bible, raise your right hand, please, sir.

GREG BONEY, after being duly sworn, testifies as follows:

THE COURT: Have a seat, please.

DIRECT EXAMINATION

MR. BARFIELD: State your name, please, sir.

A Greg Boney.

Q Mr. Boney, you are a retired detective or investigator with; the Fairfield County Sheriff's Office?

A Correct.

Q Were you the lead investigator on the case of the

death of Alphara Miller in Ridgeway on April 5th of '08?

A Yes, sir, I was.

Q Did you become aware that Willie James Adams, Jr. was arrested it appears on April 8th of 2008?

A Yes, I did.

Q Were you present and did you participate in his being taken into custody?

A No, I did not. I was on the way home. I received a call from Mary Ann Phillips stating they had him in custody, and I turned around and came back to the office.

Q Were you present when his Miranda rights were read and explained to him? The first page of State's Exhibit No. 41 for identification, were you present when any of that occurred?

A No, I was not.

Q Were you present when the statement of Willie James Adams, Jr. was reduced to writing which is the second page of State's Exhibit No. 41 for identification?

A Yes, I was.

Q Were you a witness to the written statement eventually?

A Yes.

Q And does your name appear as a witness, actually the

last signature on paper?

A Yes, it does.

Q Do you have any -- well, let me just ask you a couple of just general questions, some of the same things I asked Ms. Phillips, Ms. Talbert. First of all, did you know Willie James Adams, Jr. before this occurred?

A No, I did not.

Q Did you have any difficulty -- could you hear him from your vantage point?

A Yes, I could.

Q Were you on the outside of the one-way mirror, one-way glass?

A Yes. I was in our office and I could hear -- I had audio and I could see through the mirror.

Q When you say audio, kind of like a baby monitor type audio? Is that what you're talking about?

A Correct. We were having trouble with our system at the time, but it had audio that could be in our office. And I could hear it and I could see through the mirror.

Q Like intercom?

A Right.

Q Was there a recording, either video or audio, made of the interview of Willie James Adams on April 8th of

2008?

A No, there wasn't.

Q Now, did you have any difficulty understanding the words and phrases Adams was using?

A No, sir.

Q Did he appear to have any difficulty understanding the words and phrases that Ms. Talbert was using?

A No, sir.

Q Did he appear to be in any physical distress or discomfort?

A No, sir.

Q Did he ask for anything that was denied him, like a drink of water, a bathroom break, a smoke? Anything?

A No, sir.

Q Did he ask any questions during the interview about what his rights were or about anything that you recall?

A No, sir.

Q Did he say or do anything to lead you to believe that he didn't understand what was going on during that interview process?

A No, he did not.

Q Did you hear him discussing the facts of this homicide investigation with Ms. Talbert?

A Yes.

Q Were his words and phrases clear to you?
A Yes, sir.
Q Did you recall whether he was handcuffed? What is your recollection about any restraints on him?
A Handcuffed in the front.
Q Okay. Do you have any recollection of anybody other than Ms. Talbert being in the room, the actual interview room with Mr. Adams?
A No, sir.
Q Did anybody promise him anything to get him to talk?
A Not to my knowledge.
Q Did anybody coerce him or make any threats or use any physical force at all of any kind to get him to talk?
A No.
Q Did he talk?
A Yes.
Q Did Ms. Talbert reduce his statement to writing?
A Yes, she did.
Q Did you watch the interaction between the two of them when it got put down on paper and it was time for him to review it?
A Yes, I did.
Q Did he have any questions or corrections or additions or deletions to what had originally been written on the paper?

A No.
Q Did he appear to read it?
A Yes, he did.
Q Do you know whether he read it? Was he reading it out loud? Do you have any recollection about that?
A I don't recall. It appeared he would be reading. But I don't recall if he actually did.
Q Did he sign his name to it?
A Yes, he did.
Q Thank you. Answer anything Mr. Frick has.

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Investigator Boney, were you sitting immediately outside the window?
A Yeah. Yes, sir.
Q Okay. I mean, you moved a chair over there?
A Correct.
Q I mean, I know your desk used to be kind of close over there. But you weren't sitting at your desk. You were sitting right in front of the window?
A Correct.
Q Okay. And there was some type of audio connection?
A Yes. I could hear them very well.

Q Was it y'all's normal audio connection, I guess audio/video part, except the video part wasn't working?

A Correct.

Q Okay. And you were there for the entire interview but for the Miranda statement?

A Correct.

Q Okay. Do you recall about how long this interview occurred?

A It was not very long. Probably less than an hour. Because -- it was less than an hour.

Q Okay. Now, the statement we've got is not a verbatim statement. Is that correct?

A It was pretty much that. Lieutenant Phillips took the statement. She asked him to go over it again and, you know, when he would say something she would write it down pretty much.

Q But there was some discussion in the drafting of the statement --

A That's correct.

Q -- reviewing the statement and then signing the statement?

A Correct.

Q It wasn't contemporaneous. When a question was asked the statement wasn't written, except maybe one at the

very end?

A Correct.

Q Okay. And you had a clear view?

A Yes, sir.

Q All right. Do you recall who was sitting where?

A I'm pretty sure if you're facing into the room through the mirror Mr. Adams was on the right, would have been on the right-hand side of the desk, which would be closest to the wall. Lieutenant Phillips was sitting with her back to the doors.

Q Where y'all have got the two doors there?

A Correct.

Q That's all the questions I have. Thank you, sir?

THE COURT: Redirect?

MR. BARFIELD: No redirect. Nothing else on this issue from this witness or any other witness other than to now offer the statement as State's Exhibit No. 41.

THE COURT: Let's make it Court's Exhibit No. 1. I think that's probably the way to do it so it won't get mixed up with exhibits as going to the jury at this time. So Court's Exhibit No. 1 will be admitted into evidence as Court's Exhibit No. 1. Thank you, sir. You may step down.

95

(WHEREUPON, Court's Exhibit No. 1 is marked for identification.)

THE COURT: Mr. Frick, under our law and on this issue of the voluntariness of the statement, your client has the right to testify without giving up his Fifth Amendment rights or present any other evidence that he wishes to present with regard to the Fifth Amendment issue, I mean, to the voluntariness issue.

MR. FRICK: Your Honor, I don't believe we're going to offer anything. My client doesn't wish to testify at this time.

THE COURT: All right. Then there would be no further testimony on this issue. Mr. Frick, I'll be glad to hear from you with regard to your position.

MR. FRICK: Your Honor, I would just comply with whatever the Court's order was in this matter.

THE COURT: Okay. All right. In a criminal case a defendant is entitled to an independent evidentiary hearing to determine the voluntariness of the statement made prior to the submission of such a statement to the jury.

Generally, where there's conflicting evidence about the statement, the Court must first make a finding as to the validity of the statement and then if found to be valid, it should be submitted to the

96

jury.

The test of the trial judge is to examine the totality of the circumstances, including the background, experience and conduct of the accused surrounding the utterance to determine whether the State has met its burden of proof so as to warrant the admission of the confession.

The test of admissibility of a statement is whether it was knowingly, intelligently and voluntarily given. A confession may not be extracted by any sort of threats of violence or obtained by any direct or implied promises, however slight, or by the exertion of improper influence.

Part of the State's burden in this hearing is to prove by a preponderance of the evidence that the statement was voluntarily made and taken in compliance with the precepts of Miranda v. Arizona. The State bears its burden of proof even where the defendant has signed a waiver of rights form.

Although custody is a factor to be considered in determining voluntariness, it need not be shown he was in custody at the time of the statement in order to make a request for a Jackson vs. Denno hearing on the voluntariness issue.

The Court in this case has heard the testimony

97

of the State. With regard to the status of the defendant, there is no question in my mind that he was in custody, that his freedom of movement was restricted. So the State was required to give him Miranda warnings.

However, it would be my finding that the statement was knowingly, intelligently and voluntarily made; and even though the defendant was in custody, that the statement was given -- he was in custody at the time the statement was given. It was in compliance with the Miranda warnings and those warnings were given to him.

The Court will therefore rule that the statement is valid and admissible into evidence. All right. Now, what else you got, Mr. Barfield?

MR. BARFIELD: Two other issues, Your Honor. I think we can probably get them knocked out pretty quickly. In a minute I'm going to hand Mr. Frick a bunch of photographs which he has seen I had marked for identification. I'm going to just see if we can agree on the bulk of these being exhibits to save us some time as we're proceeding. But I'll do that after we get the next issue addressed.

THE COURT: See if you can agree on those, and the ones that you can't agree on have the court

98

reporter take the individual marking off of. They will be in evidence without further identification. If he cannot agree to the others, the others, they can be offered on an individual basis at the time the witness is on the stand.

MR. HARFIELD: And then, Your Honor, the other issue is this. To give you a little bit of factual background of the State's theory of this case, I have to do that so you'll understand what this issue is. Miller is the victim. Adams, Jackson and Lawhorn are defendants charged with murder in the case. This happened in Lawhorn's house. The State is going to offer some evidence or intends to offer some evidence from witnesses that the night before this the victim stole some dope and the gun that was used to kill the victim from the premises where the incident occurred the next day.

Witnesses are also going to testify there were several people there when it happened. Those witnesses are going to testify that they and the defendants, including Mr. Adams, I think were using drugs during the time these events occurred, before and during.

There is also going to be testimony from a law enforcement officer that a search warrant was

99

obtained for the property after the crime scene was sealed off. During the search, pursuant to that search warrant, some drugs were found on the porch of the house which led law enforcement agents to obtain an additional search warrant to search for drugs in the house, around the house, behind the house. And the evidence is also going to show that a substantial quantity of crack cocaine and powder cocaine was found on the premises during the service or execution of that second search warrant.

So the idea is, our theory is, or some witnesses are going to advance the theory that Mr. Miller, the victim, was basically sought after and sent for to come up to the house to be confronted about stealing the drugs and the gun, and as a result of all of that he ended up getting shot to death.

Necessarily I think from my perspective and the presentation of my case I've got to have evidence of this whole drug scenario before the jury. That's part of the res gestae of this whole event. That's what it's all about. It provides a motive and it also is part of ongoing events that led to Mr. Miller's death.

So I just want the Court to be aware that that's where I intend to go. And of course I probably need

100

to know whether there is going to be any limitation on that before we do opening statements, because it's something that I intend to comment upon briefly in opening statements.

THE COURT: Mr. Frick.

MR. FRICK: This would obviously fall under 404(b) and Lyle. Obviously we're here about a murder case. There can be a presentation to the jury that there was an argument. There can be a presentation there was an argument maybe about stuff. But I don't know that we need to go into the details of any drugs. I think that could be more prejudicial than probative to my client.

Also I think there is probably some debate over whose drugs they were. I think there may be conflicting statements on that as to whether they actually were Mr. Lawhorn's, my client's or maybe even Mr. Jackson's.

So I think the State to use it against my client would have to show by clear and convincing evidence that the drugs involved are actually my client's and that's what they were fighting over. So I would object based on that as it being more prejudicial than probative under 404(b) and Lyle.

THE COURT: Well, 404(b) is not the

101

prejudicial/probative test. That's 403. 404(b) is the evidence of other crimes, wrongs or acts. And I believe what I hear Mr. Barfield saying is that while evidence of other crimes, wrongs or acts is not admissible to prove the character of the person in order to show action and conformity therewith, it may however be admissible to show motive, identity, the existence of a common plan or a scheme or the absence of mistake or accident or intent.

And I think that's what Mr. Barfield is offering it under to show motive for one thing, the existence of a common scheme or a plan.

MR. BARFIELD: Absolutely.

THE COURT: And the absence of mistake or accident and intent. Those would be things that they're offering it for.

MR. FRICK: I understand. And of course, number one, I still maintain that we don't know whose drugs they were. While it can be used to show motive, obviously the State doesn't have to prove motive to prove their case. So in that vein, I do understand it's a 403 analysis. I would think that it would be more probative. It's not so inextricably intertwined with the case that the State can't have a clear presentation of the facts of the case without talking

102

about drugs.

THE COURT: And if I understand it, Mr. Barfield and Mr. Frick, these instances that you're referring to that you want to prove are the night before the homicide?

MR. BARFIELD: The allegation is that the night before the homicide the victim stole dope and a pistol from the premises. The next day after lunch he's back at the premises. The confrontation occurs about -- he's confronted about stealing dope. He's confronted about stealing the pistol. And one thing leads to another. And the pistol, the pistol we're talking about, he produced it. It's turned over to Mr. Adams and eventually is shot to death with it. And the dope is found in the woods when law enforcement gets there and executes the search warrant.

THE COURT: All right. Okay. Anything else, Mr. Frick?

MR. FRICK: Well, Your Honor, I'd point out all of the stuff that the State is trying to get to could be discussed in the presentation of simply the gun and not dope. The gun was an item that was one of the things that was missing. Yes, it was one of the things that they allege that this fight was over. It

103

clearly is the weapon that's involved in this case. The dope is quite simply superfluous. We don't need that.

THE COURT: All right. Thank you.

(Pause)

MR. BARFIELD: May I have just a moment, Your Honor?

THE COURT: Yes, sir.

MR. BARFIELD: Mr. Frick and I have agreed on this whole stack of pictures which have already got identification stickers on them. If we could let the court reporter convert them to exhibits.

THE COURT: All right. Mark them as evidence.

MR. BARFIELD: It's everything you put numbers on except 6, 7 and 8.

(WHEREUPON, State's Exhibit No. 1 is admitted into evidence.)

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

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

(WHEREUPON, State's Exhibit No. 4 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 5 is admitted into evidence.)

104

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

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

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

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

(WHEREUPON, State's Exhibit No. 13 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 14 is admitted into evidence.)

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

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

(WHEREUPON, State's Exhibit No. 17 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 18 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 19 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 20 is admitted into evidence.)

105

(WHEREUPON, State's Exhibit No. 21 is admitted into evidence.)

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

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

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

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

(WHEREUPON, State's Exhibit No. 26 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 27 is admitted into evidence.)

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(WHEREUPON, State's Exhibit No. 35 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 36 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 37 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 38 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 39 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 40 is admitted into evidence.)

THE COURT: 1 through 5 and 10 [sic] through 40 have been admitted without objection and would be referred to without further authentication. Any others that are ID numbered only can be handled at the time that they're offered.

All right. With regard to the preliminary matter with regard to the admissibility of the evidence which the State plans to offer and has proffered to the Court to get a ruling on to

107

determine whether or not they can go into this, and the objection of the defense to the admission of the testimony concerning the drug transaction or drug activity a better way to put it, as well as the weapon on the night before, the State -- the defense objects to that testimony on the grounds of State v. Lyle and also 402(b) as well as 403.

The Court's ruling would be, and of course the law is that under 404(b), evidence of other crimes, wrongs or acts is not admissible to prove the charge of the person nor to show admission in conformity therewith, to show action in conformity therewith. It may however be admissible to show motive, identity, the existence of common scheme or plan, the absence of mistake or accident or intent.

In my view of the evidence as it has been presented to the Court, it is essential to this case that the State be allowed to present this evidence under 404 to show motive, identity, the existence of common scheme or plan in the absence of mistake or accident or intent.

However, the Court's inquiry does not end there. I think that under 404 P. and Lyle, it is admissible. But the Court then needs to look at it under 403. The evidence is relevant. I said admissible.

108

Probably the better word to have used would have been it is relevant under 404(b).

Then the next question becomes, even if relevant, evidence may be excluded if the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury or by considerations of undue delay and waste of time or needless presentation of cumulative evidence.

In analyzing this in the context of the entire transaction of what happened, it was the night before and when the initial matter took place and then the later confrontation that led to this homicide, I think the evidence is definitely relevant. I also think that the probative value is not substantially outweighed by the danger of unfair prejudice producing the issues like this given to the jury, and that the evidence is therefore admissible after the balancing test under 403, and the Court would rule the evidence to be admissible.

MR. BARFIELD: Thank you, Judge.

THE COURT: Okay.

MR. FRICK: Your Honor, not to belabor that point, but under the 404(b) analysis, I think you have to specifically rule which exception it is. And

109

I would just ask if the solicitor was -- if he is handing over a certain one or if the Court is --

THE COURT: All right. Which ones do you think that it is, solicitor?

MR. BARFIELD: Your Honor, I think the bulk of it, I will tell you this. I think it shows it has a -- I think it's relevant as to motive, as to identity of the defendant, as to common scheme or plan, as to the absence of mistake. I think it's relevant to all of the provisions in the rules.

THE COURT: All right. So you feel like that it's relevant from the standpoint of motive, identity, the existence of common scheme or plan, the absence of mistake or accident or intent. In my view, it is -- I'm not going to rule on the motive issue because the State doesn't have to prove motive. But I do think that it is relevant from the standpoint of identity and also is relevant from the standpoint of the existence of a common scheme or plan. And I think it's also relevant from the standpoint of the absence of mistake or accident. The Court is not making any finding with regard to the identity issue or the intent issue.

MR. FRICK: Your Honor, and I apologize.

THE COURT: I'm sorry. The motive issue or the

110

intent issue.

MR. FRICK: I guess my concern is, how is it relative to common scheme or plan and if I've got drugs and murder, how are they common scheme and plan?

MR. BARFIELD: The plan, that's the whole deal. The evidence might convince the jury that the plan was to get the victim up there because he stole the dope and that's why he ended up dead.

THE COURT: I think the way I viewed it, and of course I haven't heard the testimony at this point, so I can't really say. But it seems like to me that when you've got more than one defendant involved, that's where the common scheme or plan comes in. If it's just one defendant, I couldn't say that there was a common scheme or plan. But when you've got more than one defendant there is a common scheme or plan. I think that's where the common scheme or plan is.

MR. FRICK: Thank you.

THE COURT: Yes, sir. All right. It about ten after. Do we have all the jurors?

THE CLERK: Yes. Yes.

THE COURT: We do? Okay. Do you want to take a break for five minutes before we start it, or are you

111

ready to go, Mr. Barfield?

MR. BARFIELD: It makes no difference to me. I am fine either way.

THE COURT: You're all right? All right. Let's go. Bring the jury in.

MR. BARFIELD: Do you make any preliminary hearing comments to them?

THE COURT: Oh, yeah. One other thing before you bring the jury in. Let me ask you, Mr. Frick. With regard to that last issue, do you want any kind of a cautionary instruction to the jury that considering this evidence along the lines of 404(b)? In other words, that I would tell them that evidence of any other crimes, wrongs or acts is not admissible to prove the character of the person in order to show action in conformity therewith but I have ruled that the State may use it for purposes of showing motive, identity or the existence of a common scheme or plan.

MR. FRICK: Yes, sir, I would.

THE COURT: All right. Anything further? Anything beyond that.

MR. FRICK: I think that's it at this time, Your Honor.

THE COURT: All right. I will do that. But I won't do that until after -- until we get to that

part of the testimony. All right. Anything before we bring the jury in, Mr. Barfield?

MR. BARFIELD: Nothing from the State.

THE COURT: Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: All right. Bring the jury in, please. Yeah. I have some preliminary hearing remarks that I'll give to them.

MR. BARFIELD: All right. Thank you.

(Jury in at 3:12 p.m.)

THE COURT: It doesn't matter. I didn't tell you before you left about the seats, but I'll tell you that in just a moment. All right, ladies and gentlemen. Thank you for your promptness in being back here. I apologize for keeping you waiting for a few minutes, but we did have some legal matters that we had to take care of. And we have been here working since about 2:15 and now have those matters taken care of. And we are ready to begin the trial of this matter. Madam Clerk, you may swear the jury.

THE CLERK: Ladies and gentlemen, please stand and raise your right hand to be sworn. You shall well and truly try, and true deliverance make, between the state of South Carolina and the prisoner at the bar, and a true verdict give according to the

113

law and the evidence, so help you God. If you'll answer I will. Thank you, please be seated.

THE COURT: All right. Before we begin the actual trial of this case I thought it might be helpful if I explain to you basically how a trial proceeds. I know all of you have probably seen trials on television or maybe even in person, but I think you will find that it's a great deal different in real life than it is on television.

First of all, the State will make an opening statement. An opening statement is not evidence. It is simply an outline to help you understand what the State expects the evidence will show. The defendant may if he wishes to make an opening statement but he doesn't have to for reasons that I will explain later.

Following the opening statements you will hear the testimony and evidence in this case. This will consist of testimony from the State's witnesses as well as any physical Exhibits which may be introduced into evidence. And I will tell you now that I note already that there are going to be some physical exhibits introduced into evidence, and it may be that during the course of the trial the lawyers will ask the Court, ask me for permission to publish those

114

exhibits to you. That simply means show those exhibits to the jury. And I will more than likely grant that permission, and they will pass those exhibits around to you while you're sitting there in the jury box.

Do not be concerned if you do not have as long to look at an exhibit as you would like to while you're sitting there in the jury box. Anything that is admitted into evidence will go with you to the jury room when you retire to deliberate your verdict.

Following the completion of the testimony the attorneys will again have an opportunity to make what is called a closing statement or summation to you. This is an opportunity for the attorneys to summarize the case from their respective points of view. Again, these arguments are not evidence. Following the closing statements by the attorneys I will instruct you on the law of South Carolina as it pertains to the issues that have arisen in this case. And when I have completed my instructions to you, you will be permitted to begin your deliberations in order to reach your verdict.

Now, ladies and gentlemen, you're now the jury in this case. And I want to take just a few minutes to tell you something about your duty as jurors and

115

to give you some preliminary instructions. At the end of this trial I will give you more detailed instructions and those instructions will control your deliberations.

It would be your duty to decide from the evidence what the facts are. You and you alone are the judges of the facts. You will hear the evidence, decide what the facts are and then apply those facts to the law which I will give to you. That is how you reach a decision.

In doing so, you must follow the law whether you agree with it or not. The evidence will consist of testimony of witnesses, documents and other things received into evidence as exhibits and any facts on which the lawyers agree or which I may instruct you to accept.

Now, you do not take anything that I may say or do during this trial as indicating what I think of the evidence or what your verdict should be. That is a matter for you to determine. The same law that makes you the judge of the facts makes me the judge of the law. You must take the law as I give it to you regardless of what you think the law is or what the law ought to be.

If I am wrong on the law there is another time

116

and place for that error to be corrected, but for this case you must accept the law as I charge it to you.

Now, this is a criminal case brought by the state of South Carolina. The State charges the defendant, Mr. Willie James Adams, Jr., with the crime known in the law as murder. The charge against the defendant is contained in the indictment which I hold in my hand. The indictment is not evidence of anything. It is simply the description of the charge made by the State against the defendant.

The defendant has pled not guilty to the charge and is presumed innocent unless and until proven guilty beyond a reasonable doubt. A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. A defendant has the right not to testify and never has to prove innocence or present any evidence. The burden of proof is always on the State of South Carolina.

Now, there are certain things that are not evidence, and you must not consider them as evidence in deciding the facts of this case. Statement and arguments of the attorneys are not evidence. Questions and objections of the attorneys are not evidence. And testimony that I instruct you to

117

disregard is not evidence.

Evidence may be direct or circumstantial. Direct evidence is testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence. The law permits you to give equal weighing to both but it is for you to decide how much weight to give to any of the evidence.

There are rules of evidence which control what can be received in the court. When a lawyer asks a question or offers an Exhibit into evidence and a lawyer on the other side thinks that it is not permitted by the rules, that lawyer may object. If I overrule the objection the question may be answered or the exhibit may be received. If I sustain the objection, the question cannot be answered or the exhibit cannot be received.

Whenever I sustain an objection to the introduction of an exhibit or to a particular question, you must ignore the question or the existence of the exhibit and you must not guess what the answer would have been or what the exhibit would have shown.

Sometimes it may be necessary for me to request that you leave the courtroom while I discuss with the

118

attorneys legal questions that come up during the course of a trial. If this occurs you should not speculate on our discussions nor the reasons that you were asked to leave the courtroom.

This is simply a procedure that the law requires when certain legal issues arise. It also may be occasions when I ask the attorneys to approach the bench so that I can discuss a legal issue with them in private. I will do this as often as possible so that you will not be required to leave the courtroom more than is absolutely necessary.

Again, if I ask the attorneys to step up to the bench or if I ask you to leave the courtroom, please don't think that anybody is trying to hide anything from you or keep any evidence from you. This is simply a procedure used by all lawyers and for all courts to determine and decide legal questions.

Know, in deciding the facts of this case, you may have to decide which witnesses to believe and which witnesses not to believe. This is called credibility. You may believe everything a witness says or only part of it or none of it. In deciding what to believe you may consider a number of factors, including the witness's ability to see or hear or know the things the witness testified to, the quality

119

of the witness's memory, the witness's manner while testifying, whether the witness has any interest in the outcome of the case or any motive, bias or prejudice, whether the witness is contradicted by anything the witness said or wrote before the trial or by any other evidence, and how reasonable was the witness's testimony when considered in the light of other testimony which you do believe.

Now, just a few words to you about your conduct as jurors. I have already mentioned some of these things but they're important enough that they bear repeating. Do not talk to each other about this case until the end of the case when you go to your jury room to decide on your verdict. Do not talk with anyone else about the case until the trial has ended involving your verdict and you have been discharged by me.

This means do not discuss the case with members of your family or friends or with anyone else. As I said, the reasons for that are pretty apparent. You have to decide this case based upon what you have heard in this courtroom and not on the basis of what anyone else might say. You may tell them that you are a juror, but don't tell them anything about the case until you have been discharged by me.

120

Do not let anyone talk to you about the case. If anyone should try to talk to you about it or approach you about it, get their name or their description and report it to the bailiffs. They will report it to me and I will deal with them.

Do not read any news stories or articles or newspaper articles or listen to any radio or television reports about the case. You are not to consider as evidence anything that you may see or hear when court is not in session. Do not do any research, such as consulting dictionaries or other materials or the Internet. And do not make any investigation on the case on your own.

And finally and probably most important, do not make up your mind about what your verdict should be until you have heard all of the evidence in this case and the arguments of counsel and the instructions on the law by the Court. You will be instructed when to begin your deliberations by either me or the bailiff.

Now, just a couple of other things that I didn't mention to you. At some point in this trial later on one member of the present jury of the 12 of you will be selected either by you or by me to serve as the foreperson of the jury. When I do that the foreperson should always sit in this seat right up

121

here in the front where the lady in the red sweater is. The two alternate should always sit in the seats where they are seated. The rest of the seats in the jury box are not reserved and it does not matter what order you come and go from the courtroom.

I would simply ask that you go all the way down so it wouldn't be a situation of crawling over one another, researching the first seat on the front row, actually the second seat on the front row for the foreperson and when the other two seats for the alternates as we go through the trial in this case.

Are there any objections to my initial remarks on behalf of the State, Mr. Barfield?

MR. BARFIELD: None from the State.

THE COURT: On behalf of the defense, Mr. Frick.

MR. FRICK: None from the defense.

THE COURT: All right. The first order of business or the first thing we do, ladies and gentlemen, is a matter of opening statements and for that purpose I'll recognize the State and the solicitor, Mr. Barfield.

MR. BARFIELD: May it please the Court, ladies and gentlemen. Alpha Lee Miller got shot to death over a little bit of dope and a pistol. In just a little bit we're going to start throwing information

122

at you. We're going to start calling witnesses who are going to tell you what happened to them on Flint Hill Road in Ridgeway mid-afternoon on April 5th of 2008.

You are at great disadvantage. The law requires you to be at a disadvantage. The law says you're not supposed to know about this case when you first come in here and get selected to sit on this jury. So you are at a great disadvantage. You don't know a whole lot about it. We, the side of the courtroom, Plaintiff's side of the courtroom, we're at a great advantage because we've been studying on this thing and we've got papers and files and pictures and all kinds of stuff we're supposed to know. We've got to teach you all of that in the next two or three days.

So what I'm asking you to do, a couple of things I'm asking you to do is, pay attention to us, because you're going to need to kind of keep things straight in your head. You're going to hear a lot of people get on the witness stand. You're going to hear a lot of names, a lot of nicknames. You're going to hear a lot of events that occurred. So pay attention to us and be patient with us.

We will ask very detailed questions of each witness because again, you don't know what that

123

witness knows unless we ask the witness the question and he gives you the answer. So it will be kind of tedious. Hang in there with us.

What I'm saying right now is not evidence. The judge has already told you that. But it's my job at this point to tell you a little bit about what this case is about. It's kind of like the introductory paragraph to a news story: The who, what, the when, where and the why. This is what this case is about.

April 5th, 2008, I think it's [redacted] Road down in Ridgeway, at the home of Bryan Lamont Lawhorn; you'll see pictures of it later on. Mid-afternoon a young man by the name of Alpha Lee Miller comes there with three other people in a car. All these people know each other. You're going to hear about Reggie Gibson. You're going to hear about Ken Lawson. You're going to hear about Vickie Smith also known as Vickie Cooper. Those four came there in that car that afternoon.

At the house were Mr. Lawhorn, the guy who lived there, and Mr. Adams, Willie James Adams, and Levarn Marcellus Jackson, Jr. and some other people. You'll hear about all this after a while.

Basically what happened in this case is, we contend, the State contends that the night before,

124

Friday night, Alpha Lee Miller took some drugs and took a pistol that belonged to somebody there on that property. And that stuff got missing by those folks there at that property and Mr. Miller ended up back up there Saturday afternoon and got confronted about the dope and the gun.

He knew where the gun was. It was hidden down in the woods. So he goes down in the woods and produces the gun, comes out of the woods and produces the gun. And at that point he is in a confrontation with Mr. Adams and Mr. Jackson, and Mr. Lawhorn gets involved in it later on.

You're going to hear from a lot of witnesses. And they ain't all going to tell you the same thing. I'll tell you that up front. Their perspectives and their versions of what occurred are not going to be 100 percent consistent. The State's witnesses are not all going to tell you word-for-word, step-by-step exactly the same thing. Wouldn't expect them to. But they're not going to tell you the same thing.

I will tell you that. The first witness you're going to hear from is a young lady who lived nextdoor who hears the commotion, hears gunshots, looks out her window, sees things going on, and she calls 911. And that gets law enforcement there pretty quickly.

125

And when law enforcement gets there they find Alpha Lee Miller dead in the woods.

Now, all of these people have got nicknames. Let me go ahead and tell you that because you'll hear this throughout. Alpha Lee Miller, some people call him Alpha Lee. His short nickname is Amp, I guess like stereo amp. Amp is the victim. Willie James Adams, Jr. Bud is his nickname. Levarn Marcellus Jackson, Jr., also charged with murder in this case, his name is Boo or Boo Man. You're going to hear nicknames. That's stuff that's going to be kind of hard to keep up with.

I will tell you this. Amp died of a single gunshot wound which went into his back and came out, a through-and-through gunshot wound, went in his left side of his back, came out his body. One shot killed him. We don't have the bullet that killed him because it didn't stay in him. You will hear about an autopsy. You'll hear a description of the wound. There was no bullet recovered from his body, so I don't have that.

What we do have though is the pistol we contend was used to kill him and some fired cartridge cases which were matched up to that gun and some other ammunition that was found in various places on that

126

property which is consistent with ammunition that could be fired through that gun.

And I tell you right now that three people not charged with murder in this case: Adams and Jackson and Lawhorn. All three got charged with murder. Adams and Jackson witnesses are going to tell you had their hands on the gun. What I'm telling you right now though is this. I can't tell you which one fired the fatal shot. You might say, well, why are we here? I can't tell you who shot Amp. But I can tell you it was one of the two, either Adams or Jackson. And I can further tell that you the law says that when two or more people are present and participating and acting together with a common plan to commit a criminal act, the hand of one is the hand of all, the act of one is the act of all.

What I'm telling you right now is this. You might walk away when this case is over still not sure whether Adams or Jackson shot Amp. But it doesn't matter. Because they're both there acting together present and participating and the act of one is the act of both of them. That is certainly the State's argument in this case and will be my argument when we get to the end of this case and I make my closing statements.

127

Now, you've been patient today. We're just getting started. It's going to take us a couple of days to get this case done. But it will move pretty fast. So hang in there with us.

When all of the evidence and testimony is in, when the lawyers get to get back up here and make arguments to you, make more statements to you, when the judge tells you what the law is, then that's the first time, after all of that is the first time you can really start thinking about this case and trying to decide what you're going to do. And that won't occur until all the evidence is in, the judge has given you the law and he's sent you back to the jury room to start discussing it and thinking about what your verdict will be.

I tell you now that the State contends the evidence is going to show that Willie James Adams, Jr. is guilty of murder. And I'm certainly going to get up here at the end of this case and encourage you to return a verdict for guilty of murder. Thank you very much.

THE COURT: Mr. Frick, you may begin.

MR. FRICK: Thank you, Your Honor. Mr. Solicitor, ladies and gentlemen of the jury, there is old adage in the law that says: A guilty

128

man asks for mercy; an innocent man asks for justice. Willie Adams, Willie Adams is not asking for your mercy; he's asking for justice, ladies and gentlemen. He is innocent.

The solicitor just stood up here and told you that he can't tell you who fired the fatal shot. Now, as you'll hear at the end of the case, what you've got to prove, what the State has got to prove is beyond a reasonable doubt, that Mr. Adams killed Alphara Miller. The solicitor just told you he can't do it. He just in opening statement told you he can't do it.

Ladies and gentlemen, the entire burden is on this side right here. Mr. Adams doesn't have to say anything, doesn't have to prove anything. He started before you innocent of this charge until the State shows you enough evidence to convince you beyond a reasonable doubt. And what does that mean? Well, there are varying definitions. The judge is going to give you them at the end of the case. I'm going to give you a pretty good idea, my idea right now.

A reasonable doubt is, as the solicitor suggests, you can look at a case and go, well, I'm not exactly sure who did that, but it looks like he might have done that. That's not enough. He

129

probably did that. Maybe he fired the gun. It looks like he fired the gun. That's not enough, ladies and gentlemen.

Even under the hand of one is the hand of all, this is the law in the State of South Carolina, you've got to prove beyond a reasonable doubt that Mr. Adams was involved in an activity, that Mr. Adams knew what was going on, knew that a shot was going to get fired and was involved in the fire of that shot.

Now, I'll tell you exactly why Mr. Adams is sitting right over here. He was there. He was there when it happened. The gun was not in his hand. You are very likely going to hear testimony that at some point the gun was in his hand. You are even going to hear testimony that he shot at the victim.

What you will also hear is that Mr. Miller died from a single gunshot wound in the back. Any conversation Mr. Adams had with Mr. Miller was face-to-face. He could not have shot him in the back, could not have fired the fatal shot.

Ladies and gentlemen, as the solicitor told you, it's not going to take a real long time. We don't have long, drawn-out trials like they do in other states. In South Carolina we move pretty quick. Now, it's going to take the better part of a week to

130

resolve this matter, but we will move rather quickly.

And just as you've already heard, the way you are going to get your evidence is from this witness stand. You're going to hear from the other people who are charged in this case. And guess what you get to do? Your sole province, no one else can take this away from you, you get to determine whether you believe them. You get to determine whether they're telling you the truth or not. And just like the judge just told you and he's going to tell you at the end again, you can believe part of what they tell you, some of what they tell you or none of what they tell you.

You can weigh factors such as why were they saying what they're saying? Do they have any bias or motivation, what reason do they have? And I suggest you're going to hear plenty of reason why people are going to say that it was Mr. Adams. We'll get into that.

The solicitor has already told you, already told you that at the end of the case you're probably not going to know who fired the shot. Ladies and gentlemen, it does matter. It does matter.

Mr. Adams is charged with murder. That's as serious as it gets in the state of South Carolina,

131

charged with murder. You must prove he's guilty beyond a reasonable doubt.

Now, a small example I'll give you, then I'll sit down and hush. There was a Super Bowl a few years ago, 2000, something like that. The St. Louis Rams played the Tennessee Titans. Back and forth the whole game. The last few seconds of the game the Titans are driving down the field. I don't know whether y'all saw it. I know a lot of people like ball games.

Steve McNair, quarterback, one of the greatest quarterbacks I think I have ever seen, I used to love watching him play, running downfield, broke free, gets tackled. There is no more time on the clock. So as soon as he goes down, the game is over with. They're down by I think about three points. So if he gets across the goal line, the Titans are going to win the Super Bowl.

He gets three feet from the goal line, tackled down. He didn't cross the goal line. They didn't give him any points for getting close to the goal line. You don't get points for getting close to proving something. The State has got to cross the goal line with the ball.

Now, the solicitor has already told you they're

132

not going to be able to do it. And I submit to you what you hear from that witness stand is going to back up everything that he just told you.

Ladies and gentlemen, at the end of this case the State will have shown you nothing that shows that Mr. Adams fired that fatal shot, that Mr. Adams, well, if he was standing there and didn't have a hand on the gun, didn't know anything about what was going to happen, and I submit to you he has to, he has to have some knowledge of what's going to happen, didn't play a role in the killing of Alpha Lee Miller.

Now, was there an argument? You're probably going to see that there was. They had a discussion. What it's over or what it was about may or may not be important to you. The important thing is after they are done with their discussion Mr. Miller was alive.

The State is not going to be able to prove their burden, and you will find Mr. Adams not guilty of murder. Thank you very much for your time and your service. I know you feel like you probably didn't have much choice in the matter and that's probably more correct than you may believe. But we do all thank you for your time and your service. And I know Mr. Adams is not begging for your mercy today; he is asking for justice. Thank you.

133

THE COURT: All right. Ladies and gentlemen, as has been alluded to, I just want to tell you one thing before we start with the calling of witnesses. As has been alluded to, there may be evidence in this case of other crimes, wrongs or acts. I will also tell you that evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show action in conformity there were. Such evidence, however, may be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident or intent.

I will further tell you, however, that evidence of other crimes or bad acts must be clear and convincing and is the level of proof that must be shown as far as those bad acts are concerned.

All right. Having given you those preliminary hearing instructions we are now ready to go forward with the testimony. And, Mr. Barfield, you may call your first witness.

MR. BARFIELD: Assistant Solicitor Maxwell has the witness.

THE COURT: All right. Mr. Maxwell.

MR. MAXWELL: Your Honor, the State calls Margaret Lawhorn.

MARGARET LAWHORNE, after being duly sworn, testifies as follows:

THE CLERK: Please be seated. I need you to state your name for the record.

THE WITNESS: My name is Margaret Lawhorn.

DIRECT EXAMINATION

BY MR. MAXWELL

Q Say it one more time? Say it into the mike?

A Margaret Lawhorn.

Q Ms. Lawhorn, do you live?

A In Ridgeway.

Q What is your address in Ridgeway?

A [redacted].

Q Near the town of Ridgeway or out in the country?

A Out in the country.

Q Is [redacted] Road a rural road or a major highway?

A A rural road.

Q Okay. Where do you live do you have a lot of neighbors in close proximity to your house?

A No.

Q Do you have any neighbors that live across the street from you?

A No.

Q Directly across the street? If you're standing on your front porch facing the road, do any neighbors

live out to the right of you?

A No.

Q Is there a house to the left of you if you're standing in that same spot?

A There's an abandoned house. Really, no. There's an abandoned house.

Q There is a house next to you?

A Yeah.

Q Does anybody live there?

A Yes.

Q Who stays in that abandoned house?

A The abandoned house?

Q The house to the left of yours?

A Bryan Lawhorn.

Q Is he a relative of yours?

A My nephew.

Q He's a nephew? What is behind y'all's two houses?

A Nothing but woods.

Q No houses or anything?

A (Shakes head negatively).

THE COURT: You have to give a verbal answer. You can't --

A No.

Q Just a wooded area like a forest?

A Yes.

Q Were you living in that home on April 5th of 2008?
A Yes.
Q Do you remember that day?
A Yes.
Q Let me go back for just one second. How far away is Bryan Lawhorn's, the house next door to you from your house, roughly?
A About -- not far. About from where I'm sitting to the back of the courtroom, a little farther.
Q Are there some trees and stuff inbetween or some bushes or --
A It's not straight but there's some bushes sort of -- I can see his house but not on the far back because his yard about the same -- the bushes in the back is about the same from his house as my house.
Q Okay. What were you doing on the late morning, early afternoon on April 5th of 2008?
A I was sitting there watching TV.
Q Did something get your attention?
A I heared [sic] a shot, one shot.
Q You heard one shot. What did that cause you to do?
A I went to the window and looked out.
Q That was during the daytime, correct?
A Yes.
Q Was the sun out? Or what was the weather like that

day?

A It was raining.

Q Was there any fog or anything, or could you see pretty clearly to Bryan's house?

A I could see pretty clearly. It wasn't raining that hard.

Q Okay. When you looked out your window, what did you see?

A I seen backing out at Bryan's door. It was the porch. There was a guy backing out with his hands in the air. Three guys came out behind him.

Q What was the guy that was backing out wearing?

A A yellow shirt.

Q And you saw him -- where did you see him backing out from?

A At Bryan's porch. He was coming out the door.

Q Okay. Who was behind him? Or what would you describe was behind him or following him?

A It was three mens [sic]. I'm saying guys.

Q Where did the guy in the yellow shirt go after he backed out?

A He kept backing up. He backed up on the right-hand side of the house going the opposite way.

Q Away from your house?

A Yes.

Q What did you see from there?
A I didn't see anything. But he came on around. He was still backing up and he came on the side of my house where I can see.
Q At that point how many shots had you heard at that point? Or had you heard any more gunshots than you initially first heard?
A No.
Q Okay. What did you see as they came around the other side of your house?
A He still has his hands in the air and the three peoples [sic] was right behind him. And so they came -- there's a bush between my house and Bryan's house. When he got by that bush I couldn't see anything. And I looked again. And the guy with the yellow shirt on was running down through the woods and I heard one shot and that's it. And I went to my back window and I called 911.
Q When you looked out your back window, did you call 911 before you looked out your back window?
A No. Uh-huh (affirmative).
Q You looked out your back window first?
A Yeah.
Q What did you see out your back window?
A At the edge of my yard, wasn't about three or four

feet [sic] from my backyard I seen a yellow thing laying in the edge of the woods. It was the same color as the shirt what I had seen come backing out the door.

Q Just to kind of clear it up. Initially you were looking out of a window towards the front of your house?

A Like --

Q When you first looked out of a window that day, you were looking out of a window out of the front part of your house?

A At the side.

Q The side part? And then you went to another window?

A Yes.

Q In the back part of your house?

A Yes.

Q Did you see the three males, did you see them do anything after you saw the yellow shirt, the guy laying on the ground?

A No.

Q Were you able to identify any of the three people that were chasing the guy with the yellow shirt?

A No.

Q Once you saw the yellow shirt, is that when you called 911?

A Yes.
Q Did you call more than once or just one time?
A I called once and she was asking me my name and I told her the address. She was asking my name. I hung up on her. She keep calling back. So I'd go back to the phone and I'd come back and look. And I seen the three guys go back up next to the house, and that was it.
Q Did you see anybody else around Bryan Lawhorn's house?
A When I first looked out the window I seen a car and two people were standing in the yard. But when I went --
Q You say two people. Are those other than the three people in the guy in the yellow shirt total?
A Yes.
Q Now a total of six people?
A Yes.
Q Okay. Did you see them do anything or follow the guy with the yellow shirt at all, the two people standing by the car?
A No.
Q Did you see anybody else around the house or in the yard?
A Later after that I seen another person.

Q After what?
A After the police came up there.
Q You saw a person you hadn't seen before?
A Yes.
Q Who was that? Do you know who that person was?
A He was a white male with red hair.
Q A white male or white female?
A I mean a white female.
Q And this was after you called 911?
A Yes.
Q And just another quick question. Do you live in Fairfield County?
A Yes.

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

THE COURT: Yes, sir.

Q Just a few more questions, Ms. Lawhorn. I believe you stated earlier when the guy in the yellow shirt backed out of Bryan Lawhorn's house, he went away from his house, right?
A Yes.
Q And did they go around the back side of Bryan Lawhorn's house before you saw them again?
A Yes.
Q On the opposite side. So they eventually circled the

house away from you?

A Yes.

Q Do you know that there's a barn on that property?

A Yes.

Q Is the barn close to your house, or is it on the opposite side of your house, the opposite side of Bryan's house from your house?

A The opposite side of Bryan's house.

Q And where were they initially headed when the guy in the yellow shirt was backing out of the front door and going towards the barn, going towards that direction?

A Yes.

Q Could you tell how long it took them to circle the house? Was it just very quick, or was it a few minutes?

A Probably about a few minutes.

Q So stuff could have been going -- there is some point in time where they were out of your sight for more than, say, five or ten seconds?

A Yeah.

Q Off the side of the house?

A Yeah.

Q Okay. There is no questions, Your Honor. Please answer anything Mr. Frick may have.

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Ms. Lawhorn, how you doing?

A I'm fine.

Q Now, you live right next door to Bryan's house, so to speak?

A Yes.

Q About how far away from his house are you?

A Like I said, about from where here where I'm sitting a little, probably behind that doorway.

Q Okay?

A Not too far.

Q Okay. And I want to show you what I believe is now State's Exhibit No. 1. What is that?

A It's Bryan's house.

Q That's Bryan's house. Now, when you kept talking about somebody was on the porch, is this the porch we're talking about?

A Yes.

Q And it's got some wood --

A Mm-hmm (affirmative).

Q -- a good ways up, right?

A Yeah.

Q And it's got screen on the other side, right?
A Yep.
Q Okay. You were back over here somewhere?
A Mm-hmm (affirmative).
Q In this general area, or I guess over here?
A I'm on this side.
Q Okay. Now, your window, you've got screens on your window?
A Not on that window, no.
Q The one you were looking out?
A No.
Q Okay. All right. I think you said it was raining a little bit?
A Yes.
Q Okay. How close to dark was it getting?
A It was in the morning time.
Q The morning time? Okay. All right. Do you remember giving a statement to law enforcement?
A Yes.
Q You gave them a written statement?
A Yes.
Q Okay. Do you recall telling them that you had heard two shots and then you went to your window?
A On my statement where he give me, I told him I heared [sic] a shot, one shot.

Q Uh-huh (affirmative).
A I went to the window. That's when I seen him backing out the door.
Q Okay.
A And they went to the other side of his house and they came around. But when they went around the other side of the house, I didn't see anything. When they came around, the guy with the yellow shirt was still backing up.
Q Yes, ma'am?
A There was three guys still behind him.
Q Yes, ma'am.
A They was close together. And so, just like I say, there's a bush there. I didn't see them at that second.
Q Right.
A And when I seen them again, the guy in the blue shirt -- I mean the yellow shirt -- was running down through the woods. I heared [sic] one shot.
Q Okay.
A And the three guys went back up next to the house and I didn't see them any more.
Q Okay. All right. So you'd hear a shot. That gets your attention?
A Yes.

Q Now, you're out in the country, like you said?
A I'm in the country.
Q Is it real, real unusual to hear gunshots?
A At that time of day, yes.
Q Okay. You didn't think there was somebody out there deer hunting or anything like that?
A No, I didn't.
Q Okay. All right. Do people -- have you heard gunshots coming from that house before or from near that area?
A Yes.
Q You have?
A Yes.
Q Okay. People shoot over there? I mean, is it like target practice, something like that?
A No.
Q What? What kind of gunshots have you heard?
A Just hear gunshots. That's all.
Q You haven't investigated other ones, just this one?
A No.
Q Okay. From your window you couldn't tell who was coming out the door?
A No.
Q Okay. Could you tell who if it was a black guy or a white guy maybe?

A A black guy.
Q You could definitely tell it was a black guy?
A Yeah. I know he was black.
Q Walking out the door?
A When I went to the window, the guy in the yellow shirt was backing out.
Q I understand that.
A Okay.
Q But I'm asking how fast was he moving?
A He was just backing out and the three guys was right there. They wasn't running or anything. They was backing out the door.
Q Okay. But nobody seemed real excited?
A No, not excited.
Q Okay. Just basically three guys and one guy was walking out the door. One is backing up?
A One guy was backing up with his hands in the air.
Q Uh-huh (affirmative).
A Three guys was behind him. The motion, it was like they was talking with him. That's what I seen. They went around that side of the house and came on this side. He was in the same position they were when they went around the house. His hands was in the air. And the guys at the edge of the bush where I didn't see anything --

Q I understand. I understand.
A -- when I seen the guy with the yellow shirt on, he was running down through the woods and I heared [sic] a shot, one shot.
Q All right.
A And when that one shot I went -- they went back up -- I went to the back window because it was close -- because he was running and it was close to my backyard.
Q Okay. You saw people moving around the house. That's why you went from the one window to the other one?
A No. I seen the guy when running down through the woods.
Q Okay.
A And I heared [sic] the shot. When I heared [sic] the shot, that's when I went to the back window.
Q Okay. Was there anything going on that got your attention to make you move from one window to the other?
A The shot.
Q The shot?
A Mm-hmm (affirmative).
Q Okay. So how many gunshots did you hear total?
A Two.

Q Two. Okay. And you don't recall telling law enforcement that you saw -- you heard two to start with, do you?

A No, I don't.

Q Okay. Well, let me show you this now. Well, how are they saying two?

A Because I say two shots, and they might have mis -- put at the top like two shots, I heared [sic] two shots.

Q Okay. All right. Well, didn't you go over it with them?

A I was upset and I was scared.

Q I understand.

A Okay.

Q I understand. Okay. At no point you could recognize anybody's faces?

A They was black guys. One had -- the one that was backing up had on a yellow shirt.

Q Yes, ma'am.

A It was two tall guys. Okay.

Q See, I'm not trying to grill you on that. I understand. This is a very simple question. I'm not trying to be as mean as you think I might be. I simply want to know, when you saw the three guys other than in the yellow shirt, did you recognize any

of them?

A No.

Q Okay. All right. Did anybody ever show you a photo line-up and say, hey, these are the guys, do you recognize them?

A No. No.

Q Okay. All right. Are you related to Bryan Lawhorn?

A Yes.

Q What's your relationship to him?

A I'm his aunt.

Q Okay. How long have you been living over on Flint Hill Road?

A I've been living there about 30 years. But I had moved out. I've been back about ten years.

Q Does Bryan stay there, or is that his place he comes there now?

A That's his mother's house.

Q Does she stay there?

A No.

Q She has passed on?

A No.

Q She lives somewhere else?

A Yeah.

Q Okay. That's all I have. Thank you, Ms. Lawhorn.

A You're welcome.

151

THE COURT: Redirect, Mr. Maxwell?

MR. MAXWELL: No further questions, Your Honor.

THE COURT: All right. Thank you. You may step down. Ladies and gentlemen, I know you've been in the courtroom only about an hour or a little less, but we have been working since quarter after 2 and I think it is appropriate that we take our mid-afternoon break at this time. We are going to take about a ten-minute recess at this time. I'm going to allow you to go to your jury room.

Please do not discuss the case among yourselves while you're in the jury room. Of course any discussion is premature. You can talk about anything you want to talk about except for this case. Weather, sports, children, grandchildren or whatever else you've got to do to get ready for Christmas or whatever you want to talk about. But don't talk about this case. And we'll send for you in about ten minutes. Thank you. You may go with the bailiff.

(Jury out at 4:00 p.m.)

THE COURT: All right, counsel. Let's take a ten-minute recess.

(Whereupon, a break is taken)

THE COURT: This is the matter of The State vs. Willie James Adams, Jr. The defendant is present

with his counsel, Mr. Frick. The State is present and represented by Mr. Maxwell and Mr. Garfield. Anything before we bring the jury in, Mr. Maxwell, Mr. Barfield?

MR. FRICK: Nothing.

THE COURT: Mr. Barfield?

MR. BARFIELD: Nothing from the State, Your Honor.

THE COURT: All right. Bring the jury in, please.

(Jury in at 4:13 p.m.)

THE COURT: All right. Thank you very much, ladies and gentlemen. And we are now ready to proceed. Mr. Maxwell, Mr. Barfield, you may call your next witness.

MR. MAXWELL: Your Honor, the State calls Josh Fabel.

THE COURT: All right. Come around, please.

JOSHUA FABEL, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MAXWELL

Q State your name for the record?

A Joshua Fabel.

Q And, Officer Fabel, who are you employed by?

A Richland County Sheriff's Department.
Q Are you a -- what is your position at Richland County?
A Deputy sheriff.
Q Prior to your employment in Richland County, where did you work?
A Fairfield County Sheriff's Office.
Q What was your position at the Fairfield County Sheriff's Office?
A Deputy sheriff.
Q What did your duties include being a deputy sheriff?
A It includes patrolling and trying to prevent crime and also responding to calls from 911.
Q Were you working for the Fairfield County Sheriff's Department in April of 2008?
A Yes, I was.
Q On April of 2008, were you in patrol in a certain area of town?
A Yes, I was.
Q Here in the county? Excuse me.
A Yes, I was. I was patrolling the east side of the county which is the Ridgeway area.
Q At some point on April 5th, 2008, well, let me -- what day of the week was April 5th, 2008?
A It was a Saturday.

Q Did at some point you receive a call? Or tell me how you ended up going to, responding to a call that afternoon?

A I was parked at the intersection of Catawba and 21, and I received a call shots fired at approximately 2:48 in the afternoon.

Q And did the call come from the 911?

A Yes, it did. It came from central dispatch.

Q Were you dispatched to a location?

A Yes. [redacted] Road.

Q And is [redacted] Road in Fairfield County?

A Yes, it is.

Q How long did it take you to get to the scene to [redacted] Road from the time you received the call to go there?

A At the most, approximately five minutes.

Q When you arrived on the scene, what was going on or what did you observe at that time?

A When I arrived at that incident location at that address, me, a State Trooper and another deputy of Fairfield County got in the yard and we did not see a body or anything at the moment. So we thought it was another residence.

Q Were you the first one --

A Yes. I was the first deputy on the scene.

Q -- to pull up? All right. Finish what you were just saying a second ago.

A And we left the residence and went approximately two or three houses down. And the complaint called back, said we were at the wrong residence. So we came immediately back and started searching the wood line for our victim, because we didn't see anybody in the yard.

Q Who was with you when you pulled back up the second time?

A At the time Sergeant Neal Robinson arrived when we came back to the residence.

Q Okay. How much time elapsed between the first time you pulled up in the yard until the second time you pulled up in the yard?

A Maybe a minute or two. Because she called immediately back and said we were going the wrong way.

Q What was the first thing you or the other deputies did upon arriving at the residence?

A The second time?

Q The second time.

A Like I said, the first time we didn't see anything in the front yard. So the second time we started spanning out in the wood line. And we did see what

seemed to be a body laying down in the brush.

Q Go back just a second. When you arrived on the scene, did you see anybody else in the yard?

A No.

Q Did anybody secure the scene or go inside the house?

A No. Not at that moment because we understood our victim was in the wood line. So we didn't enter the residence at all at that moment.

Q I'm going to show you what's been marked as State's Exhibit 1. Will you please tell the jury what that is?

A That is the 3252 residence and that is the front porch.

Q Is that the house where you responded to that day?

A That is correct.

Q An accurate depiction of the house from the day you responded to it?

A Yes, it is.

MR. MAXWELL: Your Honor, permission to publish this to the jury?

THE COURT: Permission granted. If you'll recall, ladies and gentlemen, you have the right to look at those pictures when they're being passed around. But anything that's in evidence will go with you when you retire to deliberate your verdict. So

you'll have ample opportunity to study it for as long as you would like.

Q Did at some -- upon arriving how did the search go? I mean, who was involved in the search?

A Me and Sergeant Robinson, like I said, started searching the wood line and we saw what seemed to be a body laying down to the left of that front porch in the woods behind the residence.

Q Did you go up to it?

A Yes, we did.

Q What drew your attention to that being the body?

A A bright yellow shirt. And we walked up to the victim. He was lying face down.

Q Did you check him for any vital signs?

A We checked him for vital signs, did not see any breathing or any movement; checked his vitals, no pulse. And then we immediately summoned EMS to the scene.

MR. MAXWELL: Your Honor, may we approach?

THE COURT: Sure.

Q Deputy Fabel, I'm going to show you what's been marked for identification purposes as State's Exhibit 7. Will you please tell the jury what that's a picture of?

A That is a picture of the victim laying face down.

Q Is it in the woods?
A Yes, in the wood line.
Q Is that the same scene you saw when you arrived that day other than the yellow tape?
A That is correct.
Q And is that an accurate depiction of the scene you saw that day again?
A That is exactly the way I remember it.

MR. MAXWELL: Your Honor, at this time I'd make motion for this to be entered into evidence as State's Exhibit 7.

THE COURT: All right. Any objection, Mr. Frick?

MR. FRICK: No objection.

THE COURT: All right. State's No. 7 admitted into evidence without objection.

(WHEREUPON, State's Exhibit No. 7 is admitted into evidence.)

MR. MAXWELL: Your Honor, permission to publish it to the jury.

THE COURT: Permission granted.

Q After you and deputy Robinson, Sergeant Robinson discovered the body, what was y'all's next step?
A We started securing the scene with the tape and approaching the complaint, the witness, and seeing

what she saw, exactly what she saw. And then I believe a person was discovered in the residence.

Q Were other calls made through the radio to get --

A Yes. And other deputies did respond. And we did call for investigators to respond to the scene.

Q Do you know if you called for them?

A I do not recall.

Q You said there was someone found in the residence?

A Yes.

Q Do you know who that was?

A No, I do not.

Q Do you know male or female?

A It was a white female.

Q Did you speak with her at all?

A No, I did not.

MR. MAXWELL: Beg the Court's indulgence briefly, Your Honor.

THE COURT: Yes, sir.

MR. MAXWELL: No further questions for this witness at this time, Your Honor.

THE COURT: All right. Madam bailiff, will you get the exhibit and give it back to the court reporter? All right. Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Deputy Fabel, you were what's called a responding officer in the situation?

A Yes, sir.

Q Your role is basically to show up, assess the situation?

A Make sure it's secure and notify others if I have to.

Q Okay. And in this one --

A That's just what I did.

Q -- you had a situation that you needed to notify someone?

A Yes, sir.

Q Okay. All right. You said the first call that you got was about 2:48?

A That's correct.

Q Okay. There were no other calls about shots fired prior to that afternoon?

A No.

Q Okay.

A Not that I recall.

Q Okay. But nothing came over the radio?

A No.

Q And if somebody had called in; particularly, would it have gone over the radio?

A Yes, it would have. If it was for the county's

responsibility.

Q Okay. All right. So to your knowledge nothing before?

A No. I do not recall.

Q All right. Riding out the Flint Hill Road, you said you and a trooper were going out there?

A Yes, sir.

Q Which Trooper?

A Lawrence Hodges.

Q Okay. He just on duty back up?

A Yes. He monitored our channel. And also he helped back me up because of the shots fired.

Q Okay. Yeah. Typically y'all back each other up?

A Yes, sir. Yes, sir.

Q Go to the scene, see nothing?

A We didn't see anything in the front yard.

Q Okay.

A I thought they had had the address wrong. So we were checking the houses down the street.

Q Okay.

A And then the witness called back and said we were at the wrong -- you know, we had left, come back. That's when we came back.

Q Did you get back to the road? Were you still on Flint Hill when they said turn around and come back?

A Oh, yeah. We were still on Flint Hill. We went away from whatever Flint Hill is off of.
Q I was trying to remember, too.
A Yeah. I can't remember. Yeah.
Q Okay. You come back. At this time do you have other deputies with you? Is that --
A Yes. Sergeant Robinson had arrived at that time.
Q I understand. Okay. Y'all get out and start looking around?
A Yes, sir. Instead of looking in the front yard like we did at first, we started checking the back.
Q Okay.
A And then we saw the victim.
Q Do you discover the body?
A I think we discovered it at the same time because we were walking together.
Q Okay. At that point in time you put up the tape like you said?
A Well, we checked him first.
Q Okay.
A The vital signs --
Q Sure.
A -- all that stuff. And then we started securing the scene. The tape was put up pretty quickly after we, you know, identified everything.

Q Well, did you find or were you involved with the collection of any evidence at the scene?

A I do believe I did see some shell casings on the ground but I did not collect any.

Q That was left for whoever --

A For the investigators or whoever else.

Q Very good. Okay. So other than being the responding officer --

A That's it.

Q -- no other duties out there?

A That's it.

Q Thank you, sir. That's all the questions I have?

A Thank you.

THE COURT: Redirect?

MR. MAXWELL: No further questions of this witness, Your Honor.

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

MR. MAXWELL: We would ask if Officer Fabel could be excused.

THE COURT: Any objection?

MR. FRICK: No objection.

THE COURT: All right. Mr. Fabel, you are excused. Thank you for coming.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right. Mr. Maxwell, you may call your next witness.

MR. MAXWELL: Your Honor, the State calls Chris Hill.

THE CLERK: Raise your right hand.

CHRIS HILL, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MAXWELL

Q State your name?

A Sergeant Chris Hill.

Q And, Officer Hill, who are you employed by?

A The Fairfield County Sheriff's Office.

Q How long have you been employed by the Sheriff's Office?

A Nine years.

Q Were you working for the Sheriff's Office in April of 2008?

A Yes, sir.

Q And specifically April 5th, 2008?

A Yes, sir, I was.

Q Were you on duty on that particular day or that particular afternoon?

A Yes, sir.

Q Did you respond to a call at some point in the middle

of that afternoon to the Ridgeway community on Flint Hill Road?

A Yes, sir, I did.

Q And do you remember what time it was?

A It was 4:30. I was assigned to be at the center area of the county. So I would have asked for back up.

Q How did you -- did you -- tell me how you came to go to [redacted] Road?

A Central dispatch gave a call out about shots being fired. And normally everybody working the area would respond. And I responded to the scene.

Q How long did it take you to respond once you got the call?

A Well, I was in Winnsboro. So it probably took me a good ten to fifteen minutes because I had to ride there.

Q When you arrived on the scene, were other deputies there?

A Yes, sir.

Q Do you recall how many?

A I think it was two from -- three from the county, actually I think one with the Highway Department.

Q When you arrived on the scene, what did you do?

A Basically I just did a perimeter, just securing the perimeter. At that time we identified the deceased.

And we were just waiting on the investigators to come.

Q Explain how you identified the deceased?

A I'd been knowing Mr. Miller a while. So -- and went down there. And after we checked -- deputy Fabel told me he checked the vitals, he said, it looks like I recognize him but I can't recall who he is so after we turned him over we knew who it was.

Q Who was it?

A Alpha Lee Miller.

Q How long had you known Mr. Miller?

A Probably about two years.

Q Did you see anybody else at that scene?

A No, sir.

Q Did you talk with anybody else at the scene?

A No, sir.

Q Do you remember who called investigators or who called SLED?

A Lieutenant Eddie White at that time notified the chain of command and the investigators.

MR. MAXWELL: No further questions, Your Honor.

THE COURT: Cross examination, Mr. Frick.

CROSS EXAMINATION

BY MR. FRICK

Q Sir, you're basically the identification service for

the Sheriff's Department, aren't you?

A Basically.

Q You know about everybody in the county, don't you?

A Yes, sir.

Q Okay. That was your role in this? You identified who was in the woods?

A Yes, sir.

Q Okay. Did you check any evidence, take any statements, do anything like that?

A No, sir.

Q Okay. All right. That's all the questions I have. Thank you, sir?

A Yes, sir.

THE COURT: Redirect, Mr. Maxwell?

MR. MAXWELL: No further questions, Your Honor.

THE COURT: All right. Thank you, Mr. Hill. You may step down.

MR. MAXWELL: I ask if Deputy Hill may be excused.

THE COURT: Do you have any objection, Mr. Frick?

MR. FRICK: No objection, Your Honor.

THE COURT: All right. Sergeant Hill, you are excused. Thank you for coming.

THE WITNESS: Yes, sir.

THE COURT: All right. Mr. Maxwell, call your next witness.

MR. MAXWELL: Your Honor, the State calls Neal Robinson.

NEAL ROBINSON, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MAXWELL

Q State your name for the Court?

A Neal Robinson.

Q And, Mr. Robinson, who are you employed by?

A The Fairfield County Sheriff's Department.

Q What is your position with the Sheriff's Department?

A Lieutenant for the Sheriff.

Q And, Lieutenant Robinson, how long have you worked at the Sheriff's Department?

A A little over seven years.

Q And were you working on the day of April 5th, 2008?

A Yes, sir, I was.

Q And was that a Saturday?

A Yes, sir.

Q What was your duties on that date?

A As the other deputy stated, we was basically on patrol, road patrol.

Q Did around a little before 3:00 on that afternoon,

did you get dispatched to a call?

A Yes, we did.

Q Was it to [redacted] Road?

A Yes, sir, it was.

Q Where were you at when you received the call?

A If I'm not mistaken, I think I was in the center area also. It may have took me fifteen minutes to get there, ten to fifteen minutes maybe.

Q Who was on the scene when you arrived?

A At the time Josh Fabel and Lawrence Hodges with the Highway Patrol.

Q Did you go with them to another residence, or they had already done that and come back?

A They had already done that. I was pulling up as they was coming back.

Q When you got out your car on the scene, what did you do?

A Myself along with Corporal White at the time, we decided to walk in the wood line because supposedly there was a body in the wood line. So we was [sic] basically searching for a body.

Q Were you able to find a body?

A Yes, sir, we was [sic].

Q What drew you to the body?

A The bright yellow shirt.

Q I want to show you State's Exhibit 7. Will you please tell the jury what that is?
A That is a body with a bright yellow shirt identified as Alpha Lee Miller.
Q Is that an accurate depiction of what you saw that day other than the yellow tape?
A Yes, sir. Exactly.
Q Okay. Did you see anybody else at that residence?
A There was a white female there, sir.
Q Was she the only one there?
A Yes.
Q Was she inside when y'all were out?
A Later found out, yes, she was.
Q After the body was found -- let me go back a second. When the body was found, do you or Deputy Fabel check it to see --
A Yes, we did.
Q -- vital signs?
A We checked for vitals. There were no vitals.
Q At that point did you attempt to secure the scene?
A Yes, sir.
Q Did you use yellow tape?
A Yes, sir, we did.
Q Did you see anything at the scene that caught your attention?

A Nothing other than the bright yellow shirt that pretty much drew our attention to it.

Q Did you see anybody else outside?

A No, sir.

MR. MAXWELL: No further questions, Your Honor.

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Now, you said you're a lieutenant over what?

A Now I am. At the time I was sergeant.

Q Okay. Were you still in a similar capacity or --

A Pretty much, yes.

Q Okay. So basically if there's a call going out you're kind of the supervisor of the road deputies for that day or --

A No. At the time Lieutenant Eddie White was the road supervisor.

Q Okay.

A I was a sergeant under him on shift.

Q Okay. But still kind of in a supervisory fashion?

A Yes.

Q Okay. What I'm getting at is y'all received a call at about a quarter to 3, something like that?

A Yes, sir.

Q Had there been a call prior to quarter to 3 that you're aware of?
A No, sir. Not that I'm aware of.
Q The first time y'all hear about any kind of shooting over on Flint Hill Road was a quarter 'til 3?
A That's correct.
Q And then there was some subsequent call by a person, about: Hey, the person is going the wrong way or something?
A Yes, sir.
Q When you arrived on the scene, Mr. Miller's body had already been discovered?
A No, sir.
Q No. Okay. So you were in the group of people that discovered it?
A That's correct.
Q Okay. Did you do any identification or anything like that?
A No, sir. I just knew he looked familiar. Chris did.
Q That's always Chris's job?
A That's correct.
Q All right. Did you collect any evidence or take any statements or do anything else further in the investigation?
A No, sir, I did not.

Q All right. Other than as a responding officer, that was your role?

A Secure the scene. That's correct.

Q Okay. That's all the questions I have. Thank you, sir?

A Thank you.

THE COURT: Redirect?

MR. MAXWELL: Nothing further, Your Honor.

THE COURT: All right. Thank you, sir. You may step down, Mr. Robinson.

MR. MAXWELL: We ask that Lieutenant Robinson also be excused, Your Honor.

THE COURT: Any objection?

MR. FRICK: No objection. None.

THE COURT: All right. You are excused. Thank you for coming. All right. Call your next witness, Mr. Maxwell.

MR. MAXWELL: Yes, sir. The State calls Eddie White.

THE CLERK: Raise your right hand and put your left hand on the Bible.

EDDIE WHITE, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MAXWELL

Q State your name?
A Eddie White.
Q And, Mr. White, with whom are you employed?
A With the Department of Public Safety.
Q Prior to your employment with the Winnsboro Department of Public Safety, where were you employed?
A The Fairfield County Sheriff's Office.
Q Were you employed with the Sheriff's Office in April of 2008?
A Yes, I was.
Q And what was your position with the Sheriff's Office?
A I was shift lieutenant, supervisor.
Q And were you working or on duty on the day of April 5th, 2008?
A Yes, I was.
Q Were you dispatched to a call on Flint Hill Road, the Ridgeway area?
A Yes, sir. Any time we have a shooting we all go to the call.
Q Where were you at initially?
A I was patrolling the western side of the county.
Q Did it take you a while to get there?
A Yes, sir. About 25, 30 minutes.
Q When you arrived on the scene, what was going on?
A When I arrived on the scene, my sergeant and

corporal, they had secured the scene. I just told them before I got there make sure don't let anybody near the scene except EMS.

Q Explain to the jury a little bit further about what securing the scene means?

A That means don't let anybody come near the area where there has been a shooting or anything near the victim or the residence because they can contaminate the area, destroy evidence.

Q What do you all do to prevent people from coming on to the scene?

A We always rope off the area with crime scene tape.

Q Does it also involve checking to see who else is in the area?

A Yes, sir.

Q Do you know if anybody was at that particular residence or in the yard of that residence on that date?

A Well, when I got there a white female did come from the inside of the residence.

Q Was she the only one you saw there?

A Yes, sir.

Q Do you know anything about a search warrant being executed on that day?

A Yes, sir.

Q Were you involved in the search at all?
A Yes, sir.
Q Was the search warrant executed on the house, in the surrounding area?
A We searched the area surrounding the area at first, and then after we found out that the female was in the house, they went back and got a search warrant for the residence.
Q And was the search warrant for [redacted] Road?
A That's correct.
Q And do you know that to be the residence of Bryan Lawhorn?
A That's correct.
Q And did you sign the return on the search warrant?
A Yes, sir, I did.
Q I'm going to show you -- please explain to the jury what that is?
A This is a search warrant.
Q And what's the address on the search warrant?
A [redacted].
Q And what's the date of it?
A Ridgeway. April 5th of 2008.
Q I'm going to show you the last page. Is that your signature? What is that particular page?
A This page, well, pertains to all the evidence that

were [sic] collected and my signature.

Q Is that a return?

A Yes, it is.

Q And that's your signature as Eddie White on the bottom of it?

A Yes, it is.

Q Thank you. No further questions, Your Honor?

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q You said when you got to the scene you had already -- were they in the process of still securing it, or had it already been secured?

A It had already been secured.

Q Okay. Were there any other civilians I'm not saying in the scene, but had people shown up?

A We had a few people that had shown up that were standing outside the residence.

Q Shootings kind of draw a crowd sometimes, don't they?

A Yes, sir.

Q All right. Y'all had procured the search warrant. Why did you all get the search warrant?

A For the residence.

Q Okay.

A Inside the residence.
Q Oh, okay. For the inside of the residence?
A Yes, sir.
Q All right. And how did y'all come to determine that it was Mr. Lawhorn's residence?
A Just by the statements that was given from the neighbor.
Q Okay. Now, I want to -- I think he already showed it to you. But what I'm looking at on the return, I've got -- the first two items are already marked out and it says error?
A Yes, sir.
Q Can you tell me what's going on with that? Take a look at it if you want to.
A No, sir. Not -- I can't recall.
Q You don't recall?
A Hmm-mm (negative).
Q Okay. That's fine. I know you signed a return. But in the actual collection of evidence, did you actually go around and physically collect evidence?
A I didn't collect it. We just looked and if we saw anything that looked possible, well, someone else collected the evidence.
Q Okay. And this, basically this, y'all leave a copy of this at the place searched?

A That's correct.
Q Okay. And you've got to have somebody from the Sheriff's Department sign it, right?
A That's correct.
Q And that basically was your role?
A Just happened to have been me.
Q Okay. All right. One more question, the same one I've asked a couple of other people. You were obviously on duty this date?
A Yes, sir.
Q You were lieutenant over road deputies?
A Yes, sir.
Q So if they responded to any call in the county, you'd know about it?
A Yes, sir.
Q Are you aware of any call prior to about a quarter 'til 3 about shots fired at Flint Hill Road?
A No, sir.
Q The first time anybody had heard about it was a quarter 'til 3?
A Yes, sir.
Q That's all we've got. Thank you, sir.
A Yes, sir.

THE COURT: Redirect?

MR. MAXWELL: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. MAXWELL

Q Officer, I'm going to show you what's been marked as State's Exhibit 1. Please tell the jury what that is?

A This is a residence located on Flint Hill Road where the incident took place.

Q Is that the house that was searched? Does the search warrant pertain to that particular house?

A Yes, sir. That's correct.

Q Okay. Also do you know who or if the investigators were called to the scene?

A Yes, sir. They was [sic] called to the scene.

MR. MAXWELL: No further questions, Your Honor.

THE COURT: Recross?

MR. FRICK: No, sir.

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

MR. MAXWELL: We'd also ask that Mr. White be excused.

THE COURT: Any objection?

MR. FRICK: None, Your Honor.

THE COURT: All right. Mr. White, you are excused. Thank you for coming. All right. You may call your next witness.

MR. BARFIELD: The State calls Greg Boney.

THE CLERK: Raise your right hand.

GREG BONEY, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. BARFIELD

Q State your name, please, sir?

A Greg Boney.

Q Mr. Boney, you're retired now?

A Yes, sir. I'm a retired Lieutenant with the Fairfield County Sheriff's Office.

Q And when did you retire from the Sheriff's Office?

A June of this year.

Q Were you working for the Sheriff's Office on April 8th of 2008. April 5th of 2008. Excuse me?

A Yes, I was.

Q What was your job with the Sheriff's Office then?

A I was criminal investigator.

Q Were you on call on Saturday, April 5th of 2008?

A Yes, I was.

Q Did you get called out from your home?

A Yes, I did.

Q You were not actually working when this thing happened. Is that correct?

A That's correct. I was on call.

Q Did you find out the nature of the reason for your being called out, what the call was all about?
A Yes. I was notified by our central dispatch there had been a shooting on Flint Hill Road in Ridgeway.
Q Did you go to the scene?
A Yes, I did.
Q Were other -- first of all, were other law enforcement officers there then?
A Yes, they were.
Q Were emergency medical personnel there then?
A No, they were not. They had already came and gone on.
Q Okay. Do you know about how long after the call initially went into the Sheriff's Office it was before you got there? 30 minutes? An hour? Two hours?
A It was probably within an hour. I was notified a little bit after 3:00.
Q All right.
A That's when I was called.
Q And as the on-call investigator on that Saturday, did you become the primary investigator on this case?
A Yes, I did.
Q Did anything of substance happen before you got there to take control and give direction for the case?

A When I arrived the shift had already secured the scene and cleared the residence for safety reasons.

Q And you say cleared the residence. In law enforcement parlance, what are you talking about when you say clear the residence?

A They just make sure that nobody was -- no danger left for them or the public.

Q Like somebody in there hiding with a gun or something?

A Correct.

Q And there was no danger found inside the house?

A No.

Q Were you satisfied that that scene was properly secured when you got there based on law enforcement training and protocol?

A At the time, yes. But more people were starting to arrive, and I requested they expand the perimeter out another 100 yards or so to the road.

Q And Mr. Maxwell was asking Officer White a minute ago about how the scene was secured. Does it sometimes involve blocking off roadways, too?

A Yes, it does.

Q And was that done in this case?

A Yes. Driveways were blocked off.

Q Were people allowed in and out of the scene, meaning

the area surrounding that house and the house itself other than law enforcement and emergency medical people who had business there?

A No, they were not.

Q Now, when you got there -- well, before you got there, were you aware that there was a dead body?

A Yes, I was.

Q And did the Fairfield County Sheriff's Office seek assistance from some outside agency since you had what appeared to be a homicide?

A Yes.

Q Is that fairly routine for small agencies, particularly in our circuit?

A Yes, it is.

Q So who did you call?

A I notified my supervisor who was Lieutenant Mary Ann Phillips at the time. That was when I was in route. I had received more information and updates from I think it was Sergeant Robinson and Lieutenant White. So I had a little bit more background of what was going on at the scene. I related to her what I needed and I was going to need her assistance and her to go ahead and get the process going to get SLED crime scene in route.

Q And was that again something that's fairly routine in

a homicide case to have SLED, the State Law Enforcement Division, crime scene agents come to the scene?

A Yes, it is.

Q If you're going to do that, does anybody do anything with the scene before SLED gets there?

A No, they do not.

Q And in this case, number one, did SLED crime scene team respond to the scene?

A Yes, they did.

Q Do you remember who the agents were or how many?

A There was two crimes agents. I believe it was Melissa Skipper and Kim Dinh I believe is how you pronounce her name.

Q All right. Were there some SLED field agents who also responded?

A Yes, there was.

Q Now, prior to the arrival of the SLED crime scene agents, first of all, did the scene remain secured until they got there and afterwards?

A Yes, it did.

Q Prior to the crime scene agents' arrival, did anybody process the crime scene?

A No, they did not.

Q Did any evidence -- was any evidence or stuff of

significance observed by law enforcement?
A Yes.
Q Did anybody pick it up, move it, manipulate it, do anything with it prior to SLED crime scene getting there?
A No, they did not.
Q Now, did you anticipate the need for a search of the house, the yard, the barn that's out there we'll talk about in a little bit and the surrounding areas?
A Yes, I did.
Q And in anticipation of needing to do a search, what did you do?
A I left, left the scene, you know, as it was secured. I left the scene. I had to come back to Winnsboro to Magistrate Russell Price's residence here in Winnsboro, and I obtained a search warrant for residence and the surrounding area.
Q Now, I've got a lot of pictures here and various people have talked about various pictures. But I want to show you a couple. State's Exhibit No. 1, do you recognize that picture?
A Yes, I do.
Q And what is that a picture of?
A It's a picture of the residence.
Q And that the front of the house?

A That's the front of the house.
Q If you pull up in the driveway in front of that house and get out of your car and look at the house and take pictures, is that the shot you're going to get?
A Yes, it is.
Q All right. I'm showing you now State's Exhibit No. 3. What's that a picture of?
A That's a picture of the barn. Directly when you pull up in the driveway, if you look straight, the house will be on your left. If you look straight north, there is the barn on the left side.
Q If I am looking -- if I am in the driveway looking at the house from the front, is the barn over here to the right?
A That's correct.
Q All right. And the barn being shown in State's Exhibit No. 3?
A Yes, it is.
Q Did you get a search warrant for the property?
A Yes, I did.
Q Did the search warrant get -- eventually did the search warrant get served, executed? Did the search occur?
A Yes, it did.
Q And at what point in relation to the arrival of the

SLED crime scene agents did all that happen?

A The search was initiated as far as evidence when SLED crime scene arrived. They did the actual search and collection of evidence.

Q All right. I am showing you, it looks like a four-page document and it's a copy. Can you identify what that is?

A This is a search warrant I obtained from Judge Price along with the return.

Q And is the return the last page signed by Lieutenant White?

A Yes, it is.

Q And is this the same search warrant that he testified to about a few moments ago?

A Yes, it is.

MR. BARFIELD: Your Honor, I'll offer the search warrant as the next State's Exhibit.

THE COURT: What number will that be?

COURT REPORTER: 42.

THE COURT: All right. State's No. 42 admitted. Any objection?

MR. FRICK: No, Your Honor.

THE COURT: Without objection.

(WHEREUPON, State's Exhibit No. 42 is marked for identification and received in evidence.)

Q At some point were you present when State's Exhibit No. 42, the first search warrant, was carried out, served?

A Yes, I was.

Q And did you become aware of an issue that resulted in the issuance or the seeking of an additional search warrant?

A Yes, I did.

Q Were you directly involved in that?

A I requested Investigator Jeff Talbert to get a second search warrant.

Q All right. I'm jumping way ahead. Was an autopsy done of the body of Alpha Lee Miller?

A Yes, it was.

Q And where was the autopsy done?

A Newberry Hospital in their morgue.

Q Who did the autopsy?

A Dr. Joel Sexton.

Q Did you go to the autopsy?

A Yes, I did.

Q Were you present for and during the autopsy?

A Yes, I was.

Q Were samples, specimens, evidence, things collected during the autopsy?

A Yes, there was.

Q And who collected them?
A Dr. Sexton.
Q And who did he give them to?
A They were transferred to me.
Q And what did you do with them?
A Transferred, took them to SLED and locked them into evidence.
Q All right. We will probably talk more about that later on in this case. Your Honor, that's all the questions I have with Mr. Boney at this time, reserve the right to recall him?

THE COURT: All right. Cross examination, Mr. Frick. You can withhold it if you want to.

MR. FRICK: Briefly.

CROSS EXAMINATION

BY MR. FRICK

Q Investigator Boney, what was your role in this investigation?
A I was the primary investigator.
Q The primary investigator?
A Yes.
Q But were you the one that took any statements or anything like that, or was that Ms. Phillips, or Talbert?
A She took statements. I was involved with some of the

statements. My job basically as the primary was to make sure everything was kind of coordinated and done, everything was filtered back through me in this case.

MR. FRICK: All right. Beg the Court's indulgence.

THE COURT: Sure.

Q Okay. Let me ask you the same question I asked Lieutenant White. I've got two items on the search warrant that you did, and they're scratched out. Can you tell me what that's about if you recall?

A Yes, sir. To the best of my recollection.

Q Please.

A I wanted -- the first warrant that I obtained had to do strictly with the homicide. The razor blades and the video receiver basically concerned the second search warrant that was obtained which was for illegal narcotics.

Q All right. That's what I wanted. Okay. So I guess you, belt and suspenders kind of thing, you see the stuff in the residence and then you get the second search warrant?

A That's correct.

Q Okay.

A And I didn't want to -- Lieutenant White started to

put it on the return, and I realized what he was doing, and that's why I asked him to scratch it out and initial it.

Q Did you collect the evidence and send it to SLED, or were you again just basically a coordinator in this?

A At the crime scene?

Q Right. Picking up shell casings, stuff like that, was that you or somebody else?

A SLED crime scene collected all evidence and transported it to SLED their self.

Q Okay. The photographs that we've got, was that --

A All that's SLED crime scene.

Q Crime scene. All right. I think that's all I've got right now. Thank you, sir.

THE COURT: Redirect at this time, Mr. Barfield?

MR. BARFIELD: None.

THE COURT: All right. Subject to recall, the witness is excused. Counsel, are you ready to proceed at this time?

MR. BARFIELD: Yes, sir.

THE COURT: You may call your next witness.

MR. BARFIELD: Jeff Talbert.

JEFF TALBERT, after being duly sworn, testifies as follows:

THE CLERK: Please be seated. State your name

for the record.

THE COURT: All right, Mr. Barfield.

DIRECT EXAMINATION

BY MR. BARFIELD

Q State your name, please?

A Jeff Talbert.

Q And, Mr. Talbert, by whom are you employed?

A The Fairfield County Sheriff's Office.

Q Were you employed by the Fairfield County Sheriff's Office on April 5th of 2008?

A Yes, sir.

Q What is your job for the Sheriff's Office now?

A An investigator.

Q What was it then?

A Investigator.

Q And as an investigator with the Sheriff's Office, did you become aware that there had been a homicide down in Ridgeway on Flint Hill Road?

A Yes, sir.

Q Were you initially at the scene?

A No, sir.

Q Did information get provided to you to enable you to obtain a second search warrant for the premises?

A Yes, sir.

Q And without getting into a lot of detail, did you

know why we needed the second search warrant?

A Yes, sir.

Q Why did we need a second search warrant?

A During the initial search warrant for the crime scene of the homicide there was items located, possibly stolen four-wheelers and also some drugs in the residence. So they had asked me to get another search warrant to receive those items.

Q Now, I'm going to show you a piece of paper which I think at this time is I think six pages stapled together. Take a minute to look at that and tell me if you know what that is that's a copy. Tell me if you know what it is?

A Yes, sir. This is the search warrant that I received from Judge Price.

Q You're the affiant on the affidavit for the search warrant?

A Yes, sir.

Q All right. Thank you, sir.

MR. BARFIELD: Your Honor, at this time I'd offer this second search warrant as State's Exhibit No. 43.

MR. FRICK: No objection.

THE COURT: State's No. 43 admitted into evidence without objection.

(WHEREUPON, State's Exhibit No. 43 is marked for identification and received in evidence.)

Q Did you participate in the execution or service of this search warrant?

A The one thing that I did, well, they asked me since I had a four-wheel drive vehicle to go by and pick up a trailer to pick up a four-wheeler that was possibly stolen. And I did get that four-wheeler from the scene.

Q You did go to the scene after you obtained the search warrant?

A Yes, sir.

Q All right. And we might or might not put you back up later on. But did you interview some witnesses and do some other things during the course of this investigation?

A Yes, sir.

Q All right. Thank you. Answer anything Mr. Frick has?

THE COURT: Mr. Frick, cross examination.

CROSS EXAMINATION

BY MR. FRICK

Q You were the one who procured this second search warrant?

A Yes, sir.

Q Okay. And again, I know we've already said it three times; but there was some stuff in the residence that was outside of the initial realm of the first search warrant?

A Yes, sir.

Q Basically y'all go to a shooting case and a drug case breaks out?

A Right.

Q Okay. Now, just is we're all clear. This search warrant is for the residence of whom? Is it Mr. Lawhorn's residence?

A Yes, sir.

Q Okay. One question. You may or may not know it. But on number 10 on the return it says something about video surveillance to include four cameras. Were there any tapes or anything? Do you know?

A Not that I'm aware of.

Q Okay. Do you have any idea what this video surveillance thing is?

A I remember seeing it, yes, sir. But I'm not sure if it was working or if it had any videotapes.

Q Y'all didn't procure anything? Y'all didn't?

A No, sir.

Q I think one of the photos in here, I'm not going to try to -- well, is that it? No. 4, State's No. 4, is

that --

A Yes, sir.

Q There were cameras set up?

A Yes, sir.

Q Do you recall how many cameras you saw?

A No, sir. I do not recall.

Q Okay. Did y'all collect those cameras?

A I didn't collect them myself, but I'm sure they were collected. Yes, sir.

Q Okay. It's on the warrant?

A Yes, sir.

Q I mean on the return. So something got collected?

A Yes, sir.

Q Do you recall what it was?

A No, sir.

Q Okay. All right. That's all I've got right now. Thank you?

THE COURT: Redirect, Mr. Barfield?

MR. BARFIELD: None.

THE COURT: All right. You --

MR. BARFIELD: I ask that he be excused subject to recall.

THE COURT: All right. You are excused. You are subject to recall, so you may not be released.

THE WITNESS: Thank you, sir.

THE COURT: All right, Mr. Barfield. You may call your next witness.

MR. BARFIELD: Brad Douglas. Actually, I've got two more others. I said two more before him, and I've got two more after him, if you'll let me do it.

THE COURT: All right.

THE CLERK: Would you raise your right hand.

BRAD DOUGLAS, after being duly sworn, testifies as follows:

THE CLERK: Please be seated.

THE COURT: All right, Mr. Barfield.

THE CLERK: State your name for the record.

THE WITNESS: Brad Douglas.

DIRECT EXAMINATION

BY MR. BARFIELD

Q Mr. Douglas, by whom are you employed?

A The Fairfield County Sheriff's Office.

Q How long have you been employed by the Sheriff's Office?

A Approximately 15 years.

Q And what was your -- were you employed by the Sheriff's Office on April 5th of 2008?

A Yes.

Q What was your job at the Sheriff's Office on April 5th, 2008?

A I was the lieutenant over narcotics.
Q What is your job with the Fairfield County Sheriff's Office now?
A I'm presently the captain over investigations in narcotics.
Q Did you become aware on April 5th, 2008 that there had been a homicide in Fairfield County?
A Yes.
Q Did you go to the scene initially or did you -- well, that's not a good question. Did you get called out on that day?
A Yes, I did.
Q Why did you get called out as a drug agent?
A There were some drugs located there.
Q Now, I'm going to show you State's Exhibit No. 43. Take a minute and look over that just for a second. It's in evidence. But just tell me if you know what that is.
A It's a drug search warrant.
Q Are you familiar with that particular search warrant?
A Yes.
Q Is that the search warrant that -- was this search warrant obtained to search the property for drugs after the crime scene search warrant was executed?
A Yes.

Q Now, I'm going to show you a picture, State's Exhibit No. 4. Tell me what that is it looks like a bird house. What's that?

A That is a surveillance camera.

Q All right. Have you seen what's shown in that picture before?

A Yes.

Q When and where did you see it?

A I'm sorry. The date slipped my mind. But it's going to be at that residence on Flint Hill Road where the murder of Mr. Miller took place.

Q On the day the search warrants were executed?

A That's correct.

Q Now, describe, first of all, have you got what's shown in that picture in your box there in a minute? We're going to talk about it in a minute. But have you got that, or part of it?

A I have the camera. I do not have what looks to be like a wooden bird house.

Q Describe what that is shown in that picture?

A It looks to be almost like these wooden bird houses that kids build nailed to the side of a tree. And of course one end of it's missing. There's a camera up in it. It just appears to be something to keep the weather off the camera.

Q Was the camera a wire or wireless system?
A It was wired. In fact, on the picture you can actually see the wire running from the camera toward the residence.
Q Do you recall seeing that item which is the subject of that picture while you were out there?
A Yes.
Q How far up the tree was it?
A The best of my recollection, I think it was probably maybe ten feet. I know we had to use some, I'm not sure a ladder or something, to climb up to it.
Q Was there only one in a tree, or were there several cameras out there?
A There was one in that tree. I believe there was one on top of the residence and maybe one on the porch.
Q Was there some base station somewhere inside that house to monitor all that stuff?
A Yes. There was a small I guess you'd call it a receiver and it was on the television in I guess the den area of the residence hooked to the TV.
Q Kind of like a cable box hooked up to a TV?
A Yes. Exactly.
Q Did you examine the components of that system in connection with the search out there?
A Yes.

Q Was there a tape that could be taken out of anything that recorded anything?

A No. This appeared just something you don't record live. From what we could tell, there was no recording device. It was just a very small device on the TV.

Q Did the Sheriff's Office recover any recorded media that you believe was captured by that system?

A No.

Q Now, look in your little toy box there and tell me if there's anything in it that's part of this system?

A Yes, sir. The camera system minus probably a few of the wires to and from the residence.

Q Pull out just the main components. I don't want a bunch of wires.

A Okay. Here is the one of the cameras here. And I have two of the cameras. I believe one of them for some reason we couldn't get to, maybe the one on top of the house. There is another camera. And this is actually the device -- of course the rest of it is just some wires. This is actually the device that sat on top of the television. And of course, you know, you have your thing that it receives from wherever the power source is. I think it sets up there like that and it's just a -- it says wireless

receiver on it. It says nothing about recording.

Q Have you ever seen anything like that before?

A Yes, sir.

Q Pretty cool stuff, good stuff?

A It's very common in investigations we conduct.

MR. BARFIELD: Your Honor, I'd offer these three items as 44, 45 and 46 I think.

THE COURT: You're going to offer them separately.

MR. BARFIELD: Well, I'd be happy to offer them together if I had something to put them all in.

A I do have one more camera here. I'm sorry. This just looks a little different. I didn't see it at first.

THE COURT: How about put all those in the box?

MR. BARFIELD: I'll offer them as a single exhibit, four pieces.

THE COURT: Show them to Mr. Frick and see if he's got any objection to them.

(Pause)

THE COURT: That is State's No. 44, is that correct?

COURT REPORTER: Yes, sir.

THE COURT: All right. State's No. 44. Is there any objection?

MR. FRICK: No objection, Your Honor.

THE COURT: Admitted without objection.

(WHEREUPON, State's Exhibit No. 44 is marked for identification and received in evidence.)

Q Were you present throughout the entire search for the drug search warrant?

A When the drug search warrant was done, yes. I think some items were maybe found while conducting another search warrant prior to when I arrived there.

Q All right. Did you become aware that some narcotics were actually found?

A Yes.

Q Did you bring that -- are you in addition to captain over investigations also an evidence custodian for the Sheriff's Office?

A Yes.

Q You are one of two people who has got access to the evidence out there?

A We have actually two different evidence rooms, one in drugs and one for just other general purposes of the Sheriff's Office. I'm a custodian at the Sheriff's Office, and at that time I was a custodian for the drugs to which I am not, to clarify that.

Q But you have some of that stuff with you today?

A That's correct. Yes, sir.

Q That's fine. All right. That's all the questions I have of you right now. Answer anything Mr. Frick has. But keep all that stuff when you step down. It stays in here?

A Yes, sir.

THE COURT: Mr. Frick, cross examination.

CROSS EXAMINATION

BY MR. FRICK

Q The camera stuff, that's the stuff we've got on Investigator Talbert's search warrant, right?

A That's correct.

Q Okay. And this is the stuff I was asking him about. Of course I don't know if you were in the room.

A I was not.

Q Okay. You said that y'all didn't find any recording devices or anything like that. But could one have been attached to it?

A You know, I didn't study it enough to know if you could attach a recorder. I don't know.

Q And I certainly understand that. That's not your area of expertise. You didn't find one, but you don't know whether there could have been one or not?

A No, I do not.

Q Okay. Do you recall where the different cameras were?

A I recall one being in the, I call it a bird house on the side of the house. And that's between -- if you're standing on the highway facing the residence, it's to the left of the residence which is in a tree I think between Ms. Lawhorn's and the residence where the incident occurred.

There was another one I remember on top of the roof, I want to say attached to a brick chimney or something. I just remember getting up there to retrieve it.

And I believe the one that kind of looked different was maybe on the porch out a window. The wires were run out of a window looking maybe at the entrance door.

Q Okay. I'm going to show you what we've got as State's No. 1 here. This is Mr. Lawhorn's residence, correct?

A Yes.

Q Okay. Now, you talked about one that -- I'll try to hold it over here so everybody can see. You talked about one that was on this. Is this the chimney you were talking about?

A Yes. I believe so.

Q Now, there is a tree over here. Is that near the first one you're talking about between the two

residences?

A I believe that is going to be the tree, the one in again what I call the bird house.

Q I understand. Okay. And then there was another one on this porch?

A Yes. I believe so.

Q Okay. All right. Now, were you involved in the collection of the narcotics and whatnot in this second search warrant?

A The only thing I collected was the surveillance equipment.

Q Okay. Who, if you recall, collected that, the narcotics or drugs?

A The narcotics? I think there were several people collecting things. SLED Agent Dinh, she collected a quantity of, it looks like --

Q That's fine.

A Several different people, but I was not one of them.

Q That's fine. I don't need to go through all that.

A Okay.

Q Were the items turned over -- everything was turned over to you?

A No. At that time Investigator Petersen, he took custody of them and he turned them into our other head evidence custodian.

Q Okay. Now, the stuff we find, are you aware of where it came from? And don't get me wrong. I'm not asking you to tell me where each item came from. I'm saying, in general, where did all this stuff come from?

A All what stuff? I mean --

Q All the stuff in this search warrant, the drugs, the cameras?

A Yeah. The cameras came from one out the tree, one on top of the roof, I believe there is some --

Q But they are all from this one residence, correct?

A Yes.

Q That's Mr. Lawhorn's residence, correct?

A That's correct.

Q Okay. Were you involved in any other part of this investigation or just the narcotics end of it?

A Pretty much the narcotics end.

Q Okay. That's all the questions I've got right now. Thank you?

MR. BARFIELD: Nothing else from this witness now. I reserve the right to recall him.

THE COURT: All right. The witness is excused with the right to recall. Thank you. You may step down. Thank you very much.

MICHAEL GREENE, after being duly sworn,

testifies as follows:

THE CLERK: Please be seated. Would you state your name for the record.

THE WITNESS: Michael Greene.

DIRECT EXAMINATION

BY MR. BARFIELD

Q Mr. Greene, by whom are you employed?

A I'm employed by the South Carolina Law Enforcement Division.

Q How long have you been employed by SLED?

A I've been employed by SLED for ten years.

Q Are you a field agent for SLED?

A Yes, sir.

Q And y'all reorganized again. But you're assigned to the upper state?

A Correct.

Q Were you assigned to the Midlands region back in April of 2008?

A Yes, sir, I was.

Q And SLED, if something major happens, do field agents along with major crime scene agents from time to time get called out?

A Yes, sir, we do.

Q How did you find out about this case?

A I received a phone call from a SLED supervisor on my

cellphone to respond.
Q Okay. And did you respond?
A Yes, sir.
Q You live in Lancaster?
A Yes, sir.
Q Was everything still pretty fresh when you got over here?
A Yes, sir, it was.
Q Did you go straight to the scene?
A Yes, sir, I did.
Q Did you become aware that, number one, crime scene agents were on the way?
A Yes, sir.
Q Or were they there before you got here?
A We actually arrived about the same time.
Q Were you aware that a crime scene search warrant had been sought and obtained for the processing of the scene?
A Yes, sir.
Q Did you become aware that some narcotics were found which made it important to have to get a second search warrant simply for narcotics and related substances?
A Yes, sir.
Q Did you participate in the execution and service of

search warrant number two for the narcotics?

A Yes, sir.

Q Now, I'm going to show you a couple of pictures. I'm going to show you State's Exhibits 36, 37, 38, 39 and 40. Take a minute. You probably haven't seen them. Take a minute, flip through them, and then when you're through looking at them, I'll ask a few questions about them.

A Yes, sir.

Q Are you familiar with what's shown in those pictures?

A Yes, sir. I believe this one may have been from a different location.

Q Yeah. Narcotics. Let me take that one back. You're absolutely right?

COURT REPORTER: Excuse me. I need the witness to speak up and not completely turn away from me, please.

A Okay.

COURT REPORTER: Thank you.

A Yes, ma'am.

Q How many people were involved in the service of the drug search warrant?

A I could take a guess. Fifteen. Ten. I don't know. Something like that.

Q How big an area was the search going to be conducted

over?

A Large.

Q Inside a house and outside in the woods, too?

A Correct.

Q All right. Describe, generally describe briefly, but generally describe the lay of the property. We've seen pictures of the house. We've seen pictures of the barn off to the right of it. How are things laid out there?

A Well, when you pull in the driveway you're looking at the front porch of the house. The barn or out building was to the right of that not real close to the house. A very rural area, no houses really close to that. I don't recall any across the road or anything. And then there was just some, for lack of a better word, junk around in the area of the woods and things.

Q Is there some open yard that had green grass that's shown in pictures?

A Yes, sir.

Q Around the house?

A Yes, sir.

Q Beyond the green grass, are there woods and bushes and trees and stuff?

A Correct.

Q Now, what's shown in those pictures? Well, let me do specifically the first two, 36 and 37. What is that?

A Yes, sir. This is a red and white thermos that I located in the wooded area.

Q Now, I'm going to hand you a red and white thermos. Is that red and white thermos right there the one that you located in the wooded area?

A Yes, sir. It appears to be.

Q All right. Where in relation to the house -- first of all, these pictures, two pictures are the same thing?

A Yes, sir. One further back and then one closer.

Q When you found that thermos, did you pick it up?

A I did.

Q When you picked up that thermos, did you unscrew the lid?

A I did.

Q When you unscrewed the lid, was there anything in it?

A Yes, sir.

Q Now, first of all, there's something in there today. Can you tell me what that is?

A It looks like a brown paper bag.

Q And why would somebody have left a brown paper bag in there?

A I don't know.

Q I might be asking you a question you don't know the answer to?
A Yeah. I don't know.
Q Got anything to do with moisture maybe?
A Could be. Yes, sir.
Q Because is there anything of significance other than a brown paper bag?
A Yes, sir.
Q All right. When you opened the lid was there anything in it?
A Yes, sir.
Q And describe generally speaking what the appearance of what was in it was?
A It appeared to be a large quantity of cocaine.
Q Did you manipulate what was in it at that point?
A No, sir.
Q What did you do with it?
A Put the thermos right back down where I found it and notified other officers and notified the crime scene agents so they could come and photograph it just as it was.
Q Did you screw the lid on it before you put it back down?
A Yes, sir, I did.
Q Now I'm showing you State's Exhibit No. 39. Take a

minute and look at that and tell me if you recognize what's shown in that picture?

A Yes, sir, I do.

Q What is it? Is that the same thermos that --

A It is.

Q -- you physically have up there beside you?

A Yes, sir.

Q Is that what it looked like when you unscrewed the lid?

A Yes, sir.

Q Did you move any of the stuff shown in the top of that thermos in that photograph?

A No. All I did was take the top off of it, saw what was in there, put the top right back on it.

Q All right. So I'm going to show you State's Exhibit No. 40. I guess you don't know what that is then? Or do you?

A No. Not for sure.

Q That's fine. And who did you turn the thermos -- well, you sat it back down. Did you take possession of it again?

A I did not collect it. No. We notified crime scene. They photographed it and one of the narcotics officers for the Sheriff's Office collected it.

Q All right.

MR. BARFIELD: Your Honor, at this time I'd ask that the thermos be marked for identification.

THE COURT: All right. No. 40 --

COURT REPORTER: 45.

THE COURT: 45 for identification for the record.

(WHEREUPON, State's Exhibit No. 45 is marked for identification.)

COURT REPORTER: I'm sorry. I can't hear the defense attorney.

THE COURT: All I heard was State's No. 45 will be ID. That doesn't have to be approved by him. Have you got something you want to put on the record, Mr. Frick?

MR. BARFIELD: Let me do it.

Q Is this the thermos?

A Yes.

MR. BARFIELD: I offer this item as State's Exhibit No. 45 into evidence.

THE COURT: All right. Any objection?

MR. FRICK: Yes, sir. I really don't know where it came from. I don't know how it got here today.

THE COURT: All right. Without publishing it, we'll have it offered and we'll rule on the matter later on. All right. It's been offered. He's

objected to it. I have not ruled on it at this point. So right at this point it's still ID. And we'll take care of that before we leave.

MR. BARFIELD: That's all from Agent Greene at this time. Please answer any questions Mr. Frick has.

THE COURT: Cross examination, Mr. Frick.

CROSS EXAMINATION

BY MR. FRICK

Q Other than looking at what's been called State's ID No. 45, were you involved in the collection of any other evidence?

A No, sir.

Q Okay. Were you involved with, I mean, anything at all in this case other than finding this thermos?

A Took some statements, and I was involved in the case pretty much from beginning to end.

Q Okay. All right. What really was your role in the investigation then?

A Just to assist the Fairfield County Sheriff's Office.

Q Okay. The lead investigator would have been?

A Investigator Boney.

Q Okay. And you didn't seize whatever was in the thermos we're talking about, correct?

A I did not seize anything from the scene. No, sir.

Q All right. And again, whatever is found, whatever you see, was that on the property of Mr. Lawhorn?

A I would guess it's approximately -- and I don't know where his property boundaries are. So I don't know that. I can tell you it's probably about 100 yards from the house or thereabouts.

Q But let's assume his property extends, it's on the curtilage of his property.

A If you say curtilage, are you talking about right around the house, the property he would use every day?

Q Sure.

A I wouldn't say that. I mean, it's a good little ways in the woods. But I mean, it's close to his residence, but it's certainly not immediately in his backyard.

Q Well, is it back behind the barn?

A Yes, sir.

Q How far behind the barn?

A Probably 60 yards behind the barn. I'm just guessing.

Q Okay. All right.

A It could have been 50. It could have been somewhere in that ball game.

Q And I understand we're in a rural area.

A Oh yeah.
Q So it's conceivably still his property though. And I understand you didn't do any --
A Well, you know, again, I don't know if it's exactly his property. But there were no other houses close to that, if that answers your question.
Q It kind of does but it raises another one. If you've got a search warrant for his property, why are you wandering off in the woods then?
A Because there was a trail going right down -- the way I found this is there is a trail. And, you know, I'm curious. I'm investigating a crime. I'm finding out where this trail is going.
Q Sure.
A And it led directly to that red thermos.
Q Okay. But the trail starts where? On Mr. Lawhorn's property?
A Absolutely. Absolutely.
Q All right. Thank you. That's all I've got?

THE COURT: Yes, sir. Mr. Barfield.

MR. BARFIELD: No other questions at this time with the right to recall.

THE COURT: All right. You may be excused at this time with the right to recall.

THE WITNESS: Thank you.

220

MR. BARFIELD: That's three. I'm done.

THE COURT: All right. All right, ladies and gentlemen. It is 5:20 something now and I think it's the appropriate time for us to adjourn for the afternoon. So I am going to allow you to go to your homes and families.

I do want to tell you certain things. Again, reemphasize that you should not discuss the case with your family or anyone else that you see over the evening recess. Do not allow anyone to discuss the case with you.

I do not know whether there will be any media reports about this case, either broadcast media or principle media. But if there are, do not listen to those broadcast media or the print media. With all due respect to my friends in the news media, sometimes the things they report are not always accurate as to what goes on in court. And you've got to decide this case based upon what you hear in this courtroom.

Also in the morning when you're reassembling do not discuss this case among yourselves. It's still of course premature for you to begin any discussion of this matter. So over the evening recess just forget about this matter and come back tomorrow

221

morning refreshed, and we'll be ready to go forward at 9:30.

The one thing I am going to ask that you do is the 12 of you who might make up the principal part of this jury, if you will select among yourselves one individual to serve as the foreperson of this jury. And when you select that foreperson, just notify the bailiff who that is. And when you come back in that foreperson will sit here on the second seat on the front row, of course with the two alternates seated where they are seated.

But other than that, I'm going to excuse you now but would ask that you select the foreperson in the morning after you all get assembled. Wait until you all get assembled and then select your foreperson, and then we will bring you in and be ready to start tomorrow morning at 9:30. Have a pleasant evening. I'll see you tomorrow.

(Jury out at 5:24 p.m.)

THE COURT: All right. Madam bailiff, close the door, please. All right. There were three photographs that we discussed that were admitted into evidence, State's No. 7. The other two numbers are ID numbers and I'm not sure what they are, Madam reporter.

222

COURT REPORTER: 6 and 8 are the only two left.

THE COURT: 6 --

COURT REPORTER: 6 and 8.

THE COURT: 6 and 8. They are ID only. The objection was that they were repetitious and I agreed that they were repetitious. So I have admitted No. 7 which is the same as 6 and 8. But unless the State wishes to be heard further on that, we'll leave it at that. Anything on that?

MR. BARFIELD: I don't disagree that they are repetitious, Your Honor. The only significance to State's Exhibit 8 for ID is it's the most close-up shot of the victim. It shows that he has two shoes, one on each foot. There was a spare shoe found on the scene, and I simply was going to offer this picture to show that it wasn't his shoe that was found out there in the woods.

THE COURT: I let you offer it later.

MR. BARFIELD: Yes, sir.

THE COURT: And I think the reason that I kept it out is it was a close up of the scene and it is somewhat more prejudicial than the other two that were further off. However, the fact that they are prejudicial is not the only reason, might be prejudicial is not the only reason to include it if

223

it shows some other fact. If you later link up some other fact that you wish for that picture to show, you can offer it again.

MR. BARFIELD: Thank you.

THE COURT: Okay. That will take care of that matter then for now. And then let's talk about the thermos. What's your objection to the thermos, Mr. Frick?

MR. FRICK: Well, Your Honor, I just wasn't clear where that one was coming from. But I have reviewed the search warrant which I believe is already in evidence. And this was one of -- apparently there is two. And I don't know if there's really any way to tell which thermos is which thermos. But I think the gun comes out of one and some drugs come out of the other one.

THE COURT: Well, it doesn't matter what the search warrant says, as long as the witness identified it as being the one he saw at the scene, I think it makes it relevant. So --

MR. FRICK: Your Honor, I agree. And I would say that just to clarify my position. I don't object to that being admitted into evidence.

THE COURT: All right. State's No. 48 [sic] will be admitted into evidence. 45. Okay. I can't

224

even read my own handwriting.

MR. BARFIELD: Judge.

(WHEREUPON, State's Exhibit No. 45 is admitted into evidence.)

THE COURT: All right. 45 is admitted into evidence without objection. All right, counsel. Let's recess at this time. Just so that we don't run into any hitches or anything, I'll ask counsel and court personnel to be here at 9:15 in the morning so that we'll be prepared to start with this jury promptly at 9:30.

MR. BARFIELD: Thank you, Judge.

THE COURT: Thank you. We'll be in recess until tomorrow morning.

(Whereupon, the proceedings are concluded for the day, to be reconvened tomorrow morning)

225

Tuesday, December 8, 2009

THE COURT: All right. Back on the record. No, not yet. Back on the record with regard to the matter of the State vs. Willie James Adams, Jr. Mr. Adams is present with his counsel, Mr. Frick. The State is present and represented by the solicitor and assistant solicitor.

Counsel, I've been advised that all the jurors are present. Anything before we bring the jury in, Mr. Barfield?

MR. BARFIELD: No, sir.

THE COURT: Mr. Frick?

MR. FRICK: Yes, sir. Briefly. Your Honor, yesterday there was a lot of testimony about drugs. I believe we had a small hearing about the relevancy of those and whether they were prejudicial vs. probative under 404(b) and Lyle.

After doing a little review over the evening, I would renew my objection. As I recall, the Court ruled that it would be admissible under a common scheme or plan. In my review of the case law, common scheme and plan, they have to be similar cases. We're talking about drugs versus a shooting. I would think that under Tuffour and --

THE COURT: Well, Mr. Frick, it's kind of hard

226

for me to go back and undo something that's already been done and the testimony has already been done on it. And that wasn't pointed out to me yesterday in arguments when I asked the court about it at that time, when I asked you about it at that time. I mean --

MR. FRICK: Your Honor, in all due respect, I didn't have my case law with me, but I did ask what common scheme or plan.

THE COURT: Well, that's true. You did. But, I mean, what can I do about it now?

MR. FRICK: You could strike it and give the jury a curative instruction.

THE COURT: All right. I'll hear from you. And that's why I wanted to be here at 9:15. That's why I asked you to be here at 9:15, if there are any matters that we would bring up beforehand because I want to start with the jury at 9:30. And I was told, I sent my clerk out here, I was told that there was not anything.

MR. FRICK: Your Honor, quite simply what I just stated, under Martucci (ph) --

THE COURT: You got the case? Hand it up, please.

MR. FRICK: Yes, sir. I do have the cite. I do

227

not have it printed out.

THE COURT: The cite won't do me a bit of good.

MR. FRICK: Well, I can hand you what I'm looking at. It's the bottom of that page and the top of the other one.

(Pause)

THE COURT: Let me ask you this. He also refers in Mr. Khan's book to The State v. Pagan about motive. How about that? Why wouldn't it show motive in this case?

MR. FRICK: Well, the reason why I make my argument is that yesterday Your Honor didn't rule on motive.

THE COURT: Yes, I did. Well, I did not rule on motive. But let's say that if I agree with you on this, why wouldn't motive then be appropriate?

MR. FRICK: Because it's not a requirement.

THE COURT: It's not a requirement but the State has the right to prove motive.

MR. FRICK: I understand that. And my argument is specifically tailored to the ruling that you made yesterday on common scheme or plan.

THE COURT: All right. Well, I will admit it on the basis of motive.

MR. FRICK: Thank you, Your Honor.

228

THE COURT: Okay. Mr. Barfield, anything else besides motive that you think that it should be admitted under?

MR. BARFIELD: Well, Your Honor, I --

THE COURT: Motive, identity, the existence of a common scheme or plan, absence of mistake or accident or intent. Those are the five exceptions.

MR. BARFIELD: Yes, sir. I would argue that it goes -- let me get my rule out so I'll be citing it correctly. Motive clearly. And I argued that yesterday.

I think it is relevant as to identity because we are alleging Mr. Adams committed the homicide and we're alleging that Mr. Adams complained about drugs being stolen from him by the victim. So I think it goes to idea.

I think if I'm arguing that this evidence goes to motive, then I think it also is relevant to show that it was not a mistake or an accident.

And then I think also intent. Motive and intent are kind of intertwined but I think it is relevant as to intent also.

THE COURT: All right, Mr. Frick. Assuming -- and I understand your point about common scheme or plan, what about the other four provisions of Rule

229

404 where it would be admissible; that is, motive, identity, lack of mistake or absence or the absence of mistake or accident and intent. Those are the four other exceptions. What's your position on those?

MR. FRICK: Well, absence of mistake or intent, I don't see how they apply at all in this situation. I think clearly the most probative in this matter would be motive. And my argument continues to be that when you put it under the 403 analysis of more probative versus prejudicial, we're talking about a murder case.

The State is clearly trying to implicate that my client was involved in some drug activity and that was the reason behind the shooting. But we haven't identified whose drugs they are. But they're just simply trying to I think show a propensity that he is involved in some criminal activity, so he must have done this.

Because of prejudice in that and the seriousness of the case, I think the prejudice outweighs the probativeness. They don't have to prove motive. And that's why I would ask you to not call it under motive.

Under identity, just like I said, we've talked a

230

whole lot about drugs. Everyone has testified the same way. It's Mr. Lawhorn's residence, Mr. Lawhorn's residence. No one has tied it to my client yet. For them to be admissible, there has got to be clear and convincing evidence that they're tied to my client. We've had none of that. And that's why I would move to strike it under identity as well. And of course you've already heard my argument on the common scheme or plan.

THE COURT: We did that. Tell me about the intent.

MR. FRICK: Well, I really don't see how it applies in this case. I don't understand how they're trying to show intent by possessing drugs causing a shooting. I don't follow the logic and I don't think it applies.

THE COURT: All right. Mr. Barfield, what does the evidence in this case or what will be the evidence in this case that ties the drug evidence to this defendant as far as identity is concerned?

MR. BARFIELD: Your Honor, --

THE COURT: The intent exception.

MR. BARFIELD: -- there will be witnesses who testify either this afternoon or tomorrow morning, civilian witnesses who were present during the time

231

leading up to this event and during the time of the event who, to paraphrase and summarize, will testify that prior to the event they had knowledge that a complaint had been made that the victim had stolen drugs from the property where this event occurred.

There I think will be -- without looking at my notes in detail I can't say -- but I think there will be witnesses who will say that that information came from Mr. Frick's client.

There will be witnesses who were present at the scene who will say that Mr. Frick's client confronted the victim and said, where is my shit, when this event began to unfold.

There was argument in the yard about it. There was argument about that between Adams and the victim while Adams was armed with a handgun standing out in the yard. I think that's how it ties -- some of it is circumstantial, and certainly I don't have any forensics that say that the drugs that were recovered in this case belonged to Adams, but there is certainly testimonial evidence and circumstantial evidence that, whether it was his drugs or not, Adams was complaining about the stuff being stolen from the premises where this occurred.

THE COURT: All right. Well, we'll just have to

232

see what the evidence develops. And I'll leave it open to Mr. Frick to renew the motion if there is a lack of tying it together on the basis of the identity or mistake of accident or intent. But at least at this point it's still my view that, and it is my view, that it is admissible under motive. While the State does not have to prove motive, it has the right to prove motive.

And I think that at the very least it is admissible under motive, and in my analysis of it under the 403 analysis, I still think that the probative value is not substantially outweighed by the danger of unfair prejudice. And that's what the requirement of 403 is.

So at this point it's admissible at least under motive, and we'll see later on whether there's any tie to identity, mistake or accident or intent. And I'll decide later whether I feel I agree with you, Mr. Frick, with regard to the common scheme or purpose. Now that I'm thinking about it, maybe common scheme and purpose does require that prior bad acts are necessary to prove the facts of this case. And that's what you're saying it is not. Instead, prior bad acts are not necessary, for the proof of the murder.

233

MR. FRICK: Yes, sir.

THE COURT: Okay. And I'll rule on that later.

MR. FRICK: Yes, sir.

THE COURT: But I think at the very least it is admissible under motive.

MR. FRICK: And just I would for the record object to that evidence at this time.

THE COURT: Sure.

MR. FRICK: Understanding that you're going to allow me -- under motive. But I just would note my objection on record.

THE COURT: All right, sir.

MR. BARFIELD: Can I put one more brief thing on the record? I'm not trying to -- I just want to --

THE COURT: Yes, sir.

MR. BARFIELD: -- put something on the record. I'm not arguing against what you've done certainly. But with respect to the drug evidence and its relation to the homicide, prior bad acts, a lot of times when you do the balancing test you can look at how similar the prior bad act and the act being tried are to each other.

And I think the fact anything that they are so dissimilar lessens that prejudice greatly. Just because his perhaps his client was involved in drugs

234

doesn't tell us that he would have killed somebody. So --

THE COURT: That's a similarity that makes -- it's supposed to be a similarity that makes them admissible.

MR. BARFIELD: In one respect it is. But, for example, when you're talking about somebody's prior record, if you've got a prior record that you're trying to introduce, sometimes the Court will say, well, I'm not going to let you say it's a housebreaking because we're charging him for a burglary now because it would be too prejudicial and the jury would too easily draw the conclusion that because he did that one he did this one.

THE COURT: Well, that's the 609 analysis under the impeachment situation. That's different from the character admissibility under 412.

MR. BARFIELD: I understand. But I am simply saying that it would be hard for the jury I would say to draw a -- to leap from him being involved in the drug business to him killing somebody. I think the dissimilarity makes it not likely that they would draw that conclusion. But I just want to put that on the record.

THE COURT: I understand. And I understand the

235

other problem in this is that it is difficult for the State to show how this alleged crime took place without the reference to drugs.

MR. BARFIELD: Yes, sir. It's the old res gestae argument. It's just an ongoing series of events that led to the homicide.

THE COURT: Okay. All right. I think both of you got your positions on the record. All right. Bring the jury in, please.

(Jury in at 9:46 a.m.)

THE COURT: All right, ladies and gentlemen. Good morning. And thank you for your promptness in being back here. I do apologize to you for keeping you waiting a few minutes. I thought that we would have everything out of the way and be ready to start promptly. But we have gotten legal matters taken care of and we are now ready to go forward.

I believe we have a forelady. Ms. Strausbaugh. Okay. Ms. Strausbaugh, you have been elected by your peers as the forelady of this jury. And so you are taking the appropriate seat. If you'll sit there throughout the rest of the trial.

I do need to ask all of you; if anyone has attempted to make any contact with you concerning this case over the evening recess, I would need to

know about it now. Negative response. And that's good.

The other thing that I would ask you, if anyone has read any news stories or have seen anything in the broadcast media or any television or radio about this case or heard anything about this case over the evening recess outside of the courtroom or read anything about the case, I would also need to know about that now. Again, negative response. And that's good.

All right. We are ready to go forward. Mr. Barfield.

MR. BARFIELD: I call Barkley Ramsey.

THE CLERK: I need you to raise your right hand. Place your left hand on the Bible.

BARKLEY RAMSEY, after being duly sworn, testifies as follows:

THE CLERK: Please be seated. State your name for the record.

THE WITNESS: Barkley Ramsey.

DIRECT EXAMINATION

BY MR. BARFIELD

Q Mr. Ramsey, what do you do for a living?

A I am Fairfield County coroner.

Q And how long have you been a Fairfield County

coroner?

A I've been the coroner since January and deputy coroner for nine years.

Q Were you deputy coroner for Fairfield County back in April of 2008?

A Yes.

Q As deputy coroner, did you go to a homicide scene down near Ridgeway on April 5th of 2008?

A Yes.

Q What is your responsibility as a deputy coroner and now as coroner when you go to a homicide crime scene?

A I go to the scene and make the pronouncement of death.

Q All right, sir. And when you arrived at this scene, do you recall where it was specifically?

A It was in a wooded area off old 21 in Ridgeway.

Q All right. Do you recall it being [redacted] Road down in Ridgeway?

A Yes.

Q Was there a deceased person at that crime scene?

A Yes. In a wooded area off to the left of the house.

Q When you got there was the scene secured?

A Yes.

Q When you got there were members of the Fairfield County Sheriff's Office present?

A Fairfield County Sheriff's Department was present.
Q When you got there were members of the Fairfield County EMS present? Or do you recall?
A I don't recall about EMS.
Q When you got there were agents from the State Law Enforcement Division present?
A They were arriving about the same time I did.
Q All right, sir. From a law enforcement perspective, who did you initially deal with?
A With Greg Boney with the Sheriff's Department. He was the lead investigator.
Q All right, sir. Now, what is your -- what do you -- physically what do you do when you go to a scene like this?
A I get with the investigator. We will get a few pictures, let SLED process the scene. And then after that we'll remove the body from the scene.
Q Now, do you have some responsibility to physically check the body?
A I will check to make sure the body is deceased.
Q All right. Now, I want to show you a picture which is State's Exhibit No. 7. Take a minute to look at that and tell me if you recognize what's shown in that picture?
A Looks like a male subject face down with gray pants

and a yellow shirt.

Q And is that the body that you're referring to that you saw down on Flint Hill Road on April 5th, 2008?

A Yes, sir.

Q And did you check the body?

A I check the body.

Q Was there any life in the body?

A No life in the body.

Q Okay. Did you make a determination from an official capacity about the status of that body?

A Yes. It had no pulse and there appeared to be a gunshot wound to the lower left back.

Q And did you pronounce that body dead?

A At that time I did.

Q Who was the body of? Who was that the body of?

A Miller. Alpha Lee Miller.

Q All right, sir as coroner now or deputy coroner then, did you have some further responsibility on this homicide case for disposition of the body?

A After SLED finished their investigation we were able to take the body and it was taken to Newberry for an autopsy.

Q Was that autopsy ordered by the Office of the Corner for Fairfield County?

A Yeah. By the coroner's office.

Q Thank you, sir. Answer anything Mr. Frick may have.

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Do you do any collection of evidence?

A That's left up to the State Law Enforcement Division.

Q Okay. So you just do a preliminary investigation as to a cause of death?

A Right.

Q That appeared to be ...?

A A gunshot.

Q Single? Multiple?

A Just from looking at the scene, it appeared to be a single, until the autopsy is done, and then I'll be able to find out further after that.

Q In the back?

A In the back, in the lower back.

Q Okay. That's all we've got. Thank you.

THE COURT: Redirect?

MR. BARFIELD: No, sir. And I ask that the witness be excused.

THE COURT: Any objection.

MR. FRICK: No objection.

THE COURT: All right. Thank you for coming,

sir. You are excused.

MR. BARFIELD: Dr. Sexton.

THE COURT: All right, Dr. Sexton. Come around, please.

THE CLERK: I need you to raise your right hand, put your left hand on the Bible.

DR. JOEL S. SEXTON, after being duly sworn, testifies as follows:

THE CLERK: Please be seated. State your name for the record.

THE WITNESS: Dr. Joel Steven Sexton.

DIRECT EXAMINATION

BY MR. BARFIELD

Q And, Dr. Sexton, I normally would ask you by whom are you employed. But are you employed right now?

A I am retired as far as full-time practice. I am still doing consulting work.

Q And what was your occupation before you retired from your full-time practice?

A I was the director of the pathology department at Newberry County Memorial Hospital and president of a corporation that did autopsies for about 26 of the county corners in this end of the state.

Q Are you a licensed medical doctor?

A Yes, I am.

Q Where did you go to college?

A I went to college at the University of Virginia. Then since I was on a Naval scholarship, I spent three years active duty in the Navy. Then I attended medical college of South Carolina, receiving a master's in chemistry. And then the Medical University of South Carolina which was the same institution but it became a university in that period of time, then received my medical degree.

I then attended the residency department or the residency at the pathology department there and became a pathologist with national board certification in anatomic pathology, clinical pathology and forensic pathology in 1972. I stayed on to teach at the Medical University until 1983 when I moved to Newberry into private practice.

Q And from '83 forward did you remain in private practice as a licensed and board certified forensic pathologist, among other things, until your retirement?

A Yes. That's correct. And still am licensed and certified.

Q That was my next question. Do you still remain those credentials?

A Right. I recently extended my national certification

for another ten years.

Q And over the course of your career, can you give the jury any idea of how many forensic autopsies you have performed?

A Well over 7,000.

Q Have you testified in the courts of this state previously and been qualified as an expert witness in forensic pathology?

A Yes.

Q Have you got any idea how many times you've been qualified as an expert in forensic pathology?

A At least over 700 times.

MR. BARFIELD: Your Honor, at this time I would offer Dr. Sexton as an expert witness in forensic pathology.

THE COURT: Voir dire with regard to qualifications, Mr. Frick?

MR. FRICK: Nothing additional. And I wouldn't object to him being declared an expert.

THE COURT: All right. I will find Dr. Sexton as in a expert in the field of forensic pathology. Ladies and gentlemen of the jury, let me tell you what that means. Normally if a witness is not testifying as an expert the witness's testimony in the form of opinions or inferences is limited to

those opinions or inferences which are rationally based on the perception of the witness, are helpful to a clear understanding of the witnesses testimony, or the determination of fact in issue and to not require special knowledge, skills, experience or training.

Power, if scientific, technical or other specialized knowledge will assist the trier of fact, and that's you in this case, to understand the evidence or to determine a fact in issue, then a witness who is qualified as an expert by knowledge, skill, experience, training or education may testify in the form of an opinion.

So basically the difference between a witness who is qualified as an expert is that an expert witness is allowed to give an opinion; whereas, a nonexpert witness is normally not allowed to give an opinion. And I have qualified Dr. Sexton as an expert in the field of forensic pathology. All right, Mr. Barfield.

Q Dr. Sexton, briefly tell us -- well, first of all, when you are called upon to do an autopsy in a law enforcement case, do you get some background, some history, some factual basis for the case before you proceed?

A Yes. We generally receive some history from the Coroner's Office.

Q All right, sir. And what is the -- I think it's on, but you've got to get right up there in it. What is the objective of a forensic autopsy?

A Basically we want to try to find any evidence on the surface of the body before we actually do an autopsy that might be helpful in understanding the circumstances surrounding the death. And then we examine the external surface of the body, removing the clothing, after we've checked the clothing, checking the body and looking to see if there are any injuries or any evidence there, photographing the body, then do an internal dissection and at that time drawing samples of fluid that can be analyzed by toxicology. And all that's in an effort to determine obviously the cause of death. But in addition to the cause of death as many facts as we can to help understand the circumstances as to whether the injury could have been self inflicted or whether it might have been an accidental type injury or whether it had to be at the hands of some other person.

Q If you have a homicide case that you're doing a forensic autopsy on and there is some evidence of injury, are you also interested to know whether

there's any disease or other process going on within the body that could have contributed to the demise of the person upon whom you're doing the autopsy?

A Yes. Definitely. We examine each and every organ internally, make sure there's no disease present that might have played a role in how the circumstances occurred, as well as contributed to the cause of death or in fact be the cause of death. Even a person who has an injury might have died from some natural condition that would have been more rapidly fatal. But in this case all we saw was the traumatic injury.

Q Now, on or about April, I believe it was April 6th --

A 6th.

Q -- of 2008, did you get called upon to perform a forensic autopsy on the body identified to you as that of Alpha Lee Miller?

A Yes. That's correct.

Q And who called upon you to do that forensic autopsy?

A That would have been the deputy coroner, Barkley Ramsey.

Q Here in Fairfield County?

A Yes. That's correct.

Q And were you aware that this was a suspected homicide case?

A Yes. We were told --

Q And were you -- I'm sorry?

A We were told that.

Q And were you aware that it was a case being investigated by Fairfield County Sheriff's Office?

A Yes.

Q Now, did you receive the body of Alpha Lee Miller for autopsy?

A We did.

Q You did that at a Newberry hospital?

A Yes, we do that at the hospital in the morgue and it arrived in time for us to start that case at 10 Alpha Lee Miller.

Q First of all, how was the body clothed?

A Had on some gray pants, black and red athletic shoes with white socks that are the ankle type that are practically just in the shoe and a yellow, short-sleeved shirt that had some blood in the upper right front and a large Pittsburg Steelers emblem.

Q Now, I'm going to go ahead and ask you about any defects in the shirt. Were there any defects in the shirt? And if there were, tell the jury what the defects are and describe them for us?

A There were two holes in the shirt. One was in the lower left back which was a fairly round whole but

not completely round. And there is another one that was more like a tear in the front right at the front of what we call the axilla or the armpit. So there were two holes in the clothing. These corresponded to two holes in the body.

Q Once you had examined the body from an external standpoint with clothing on, did you disrobe the body?

A Yes. That's correct.

Q Did you examine the body externally without clothes on to determine other than injury from gunshot whether there were any injuries on the body other than gunshot wounds?

A There were no other injuries other than the gunshot wound.

Q Now, were there gunshot wounds on the body of Alpha Lee Miller?

A There is actually a single gunshot wound. There were two holes but there was an entrance hole in the left lower back. We determined that by looking at the appearance of that hole. When a bullet is traveling, similar to a football that's well thrown, it's spiraling, and it's in a flat trajectory, so that it tends to enter nose first, and it produces either a round hole or a sort of tear shaped hole where the

bullet hits the skin before it penetrates at an angle. And that's what this one did.

There was an abrasion around the entrance hole -- we call it an abrasion collar -- that was more elongated in the lower left position, indicating that the bullet hit the skin and was grazing the skin before it penetrated, having come upward from the rear and below the individual.

The entrance hole in the clothing or the hole in the clothing, so, no soot or powder or any burning at that location. Recognize when a gun fires, in addition to the bullet coming out, the powder that's causing the rapid burning and causing that bullet to go out sometimes is still burning when it comes out the end of the barrel. So if the person is close enough to the gun, you actually get burning of the fabric. If it's a little further away, you might not get the burning, but you get the completely burned powder particles which would produce a soot that could be wiped off the skin but would stay on the clothing. And you also get powder particles that are unburned or are burning that will stick to the clothing. This can also occur on the skin.

Q Was there any of that, number one, on the shirt of Alpha Lee Miller?

A There was none of that present.
Q Was there any of that on the entrance wound to the body which we'll talk more about in a little bit?
A There was none on the body as well under that entrance wound.
Q Now, what does that tell us about the distance of the weapon from Alpha Lee Miller when the shot was fired and he was hit?
A These particles, the powder particles of most revolvers and semi-automatic pistols which we felt this was based on the appearance of the wound, and it's true also of many rifles that will only go about maybe three or four feet depending on the type of powder, in this case none of that was present. So it was at least a couple of feet away depending on the type of powder and may be further. But at least several feet away from the entrance at the time, meaning the front of the gun, the muzzle of the gun was that far or further away at the time the shot was fired.
Q All right. Now, I'm going to ask you about the exit wound and then we'll go back and I'll let you tell us about the path of the bullet. Was there an exit wound on Alpha Lee Miller's body?
A Yes. The exit, as I mentioned was in the upper right

chest, nearly in the side of the body right in the front of the axilla or the armpit, came out at that point and exited through the clothing at that point.

Q As part of your autopsy process, do you do a sketch of significant findings that you make on a body?

A Yes. We do a body diagram.

Q Is this a copy of your body diagram for the autopsy you did on Alpha Lee Miller?

A Yes. This is a copy of the diagram that I made.

Q Does it show where you indicated an in entrance wound?

A Yes, it does.

Q And if you would, I'm going to give you a red pen. Maybe not. Put a circle around where you indicated the entrance wound was with that red pen.

(Witness complies)

Q And does it indicate where you found the exit wound on the body?

A Yes, it does.

Q And if you would do the same, put a circle and put -- just write entrance by -- it probably written on there. If it's not --

A Right. One says gunshot wound. I'll put the word entrance in red. And the exit wound is written by the exit wound. And in doing these diagrams I draw

the arrow which gives the direction of the wound based on where the entrance is located. I designate the exit if it's on the opposite side of the body by a dotted star.

I've also drawn it on the front of the body as a solid sort of star because when it comes out, the bullet pushes the skin away from the body and then tears through the body unless there is something -- or tears through the skin -- unless there is something holding the skin against the body at that point.

If there is, then there sometimes is a scrape or an abrasion at the point of exit which can be confusing at times. But at this point there was no shoring of that wound. And so the exit wound was more a tear.

Q All right, sir.

MR. BARFIELD: Your Honor, at this time I'd offer the diagram as the next State's Exhibit.

MR. FRICK: No objection.

THE COURT: All right. State's Exhibit No. --

COURT REPORTER: 46.

THE COURT: State's Exhibit No. 46 is admitted without objection.

(WHEREUPON, State's Exhibit No. 46 is marked for identification and received in evidence.)

Q Dr. Sexton, I'm going to jump ahead and we'll come back. Was a fired bullet recovered from the body of Alpha Lee Miller?

A No, it was not.

Q How do you see if there's a bullet in a body when you're doing an autopsy?

A We x-ray the body. We x-ray from generally two different directions. And we x-rayed the body making sure that we included the area from the point of entrance to the point of exit. So the entire abdomen and chest were x-rayed and there was no bullet present and no particles, no lead particles or portions of copper jacket.

Q Do you do the x-raying before you do the dissection of the body?

A Yes.

Q All right. Now, are you able to tell the jury anything about the size or caliber of the bullet that made the entrance and exit wounds on Alpha Lee's body?

A The skin of the body is elastic. We can sometimes say that the bullet was probably no larger than a certain size, depending on what part of the body it

goes through. But generally speaking, because the skin is elastic, it's very difficult to give a caliber based on it just going through the skin. And so in this case all we could say was that it fully penetrated and there are certain types of calibers that tend to do that more than others. And one is a 9-millimeter. The other is a .40 caliber. This was a smaller looking hole. So it's more consistent with a millimeter but I could not tell just from looking at the skin wounds that in fact it was a 9-millimeter. But it was certainly a medium caliber more likely than a large caliber.

Q Now, if you would, describe for the jury the path of the bullet through the body of Alpha Lee Miller from entrance to exit? And describe the damage that it caused along that path.

A The bullet as I mentioned entered here on essentially the left side of the body but behind the arm. So it's entering here on the left lower back or the left side of the back. It passes through the spleen which is adjacent to our stomach and caused some hemorrhage there. It passed through the juncture between the stomach and the esophagus causing a little hemorrhage there. The major hemorrhage came from it passing through the heart, and it was through the portion of

the heart that we call the atrium which is where the blood accumulates before it falls into the ventricle and is pumped out through the body. It was the left ventricle that it passed through.

Then also it passed through the lung on the right side before exiting. So it deposited then two quarts of blood in the right chest cavity, compressing that right lung and depriving the body of blood to pump to the brain and elsewhere through the body. So the hole through the heart and the lung caused extensive bleeding into the right chest, causing the person to die from loss of blood.

Q Did you determine if there was any other disease process or injury to the body other than the gunshot wound that contributed to the death of Alpha Lee Miller in any fashion whatsoever?

A There was no other injury that would have contributed to his death and no other disease or illness that would have contributed to his death.

Q To a reasonable degree of medical certainty did you reach a conclusion about the cause of death after Alpha Lee Miller?

A I did.

Q And what was your conclusion, and what is it today?

A The cause of death would be the loss of blood which

we refer to exsanguination and it was due to the internal injuries that that gunshot wound caused, primarily the heart and the lungs, but it also as I mentioned passed through the junction of the liver -- I'm sorry -- junction of the stomach and the esophagus as well as spleen. So in my opinion he died from loss of blood from passing a bullet through the heart and lung due to a gunshot wound.

Q Based on your examination of the body, the wounds and the path of the bullet through the body, are you able to tell the jury anything about the position of the body in relation to the position of the firearm that fired the bullet?

A Yes. To a degree. If you supposedly took a long dowel and could push it through the hole and out where it came in and then position the body in such a way that that dowel will point toward the shooter, because it's passing up and to the right, if both of them are on the same level ground, then the person being shot had to be leaning forward and turning to the right at the time he was shot. Or he could have been on a higher surface so that the person shooting at him would be shooting upward. Or he could have been lying down. There are several different positions.

But if you envision a line passing through between the two holes and then think about what would be at the other end of that stick or a dowel, you can get an idea of where the shooter would be in relationship to the person being shot.

Q Did you in connection with your autopsy collect certain items of clothing from the body and turn them over to Greg Boney at the Fairfield County Sheriff's Office?

A Yes. That's correct.

Q And if you would, just tell the jury what it is that you collected and turned over to Greg Boney?

A We collected clothing which include the shirt and the pants and the shoes and socks that I mentioned earlier. There were some items in his pocket. And all of that was turned over to Greg. In addition, the toxicology samples included blood from the chest cavity as well as some urine and some fluid from the eye as well as pieces of brain tissue that could be used for certain analysis if need be.

Q Were all of those things turned over to Greg Boney?

A They were.

MR. BARFIELD: Beg the Court's indulgence one moment.

THE COURT: Yes, sir.

Q As the pathologist on this case, was it your expectation that some of the samples, specifically the blood that you collected from the body, would be analyzed and some report made, specifically a toxicology record made from that?

A Yes. That's generally the case. And we receive a copy of that report.

Q And was that done in this case?

A It was.

Q And I'm handing you, it looks like a four-page document. Can you tell us what that is?

A Yes. This is the report on the toxicology that was done on the sample that we transferred to Greg Boney on Mr. Miller.

Q Are you familiar -- I'm not asking you what the results are yet. But have you reviewed it and are you familiar with what the toxicology results were in this case?

A Yes, I have.

Q All right.

MR. BARFIELD: Your Honor, at this time I'd offer the toxicology report as the next State's Exhibit.

THE COURT: Any objection?

MR. FRICK: No, sir.

THE COURT: Admitted in evidence as State's No. 47 without objection.

(WHEREUPON, State's Exhibit No. 47 is marked for identification and received in evidence.)

Q Dr. Sexton, I'm going to hand you State's Exhibit No. 47 now. And if you would, just briefly summarize what the toxicology findings were concerning Alpha Lee Miller as a result of the sampling you took at autopsy?

A When they analyzed the blood they found that there was some alcohol present. The legal limit for a person being intoxicated is about 80 milligrams percent or not terminology they use in the measurements they use as.080. His was.097. So he was at a level that would normally intoxicate people. That doesn't mean it would have affected him, depending on how much he had been accustomed to drinking in the past.

More particularly, he also had on board some cocaine, some free cocaine. In this case 0.18 milligrams per liter and some of the metabolite of cocaine which is benzoyl ecgonine, he had 4.2 million grams per liter of benzoyl ecgonine.

In addition, he had some of the coca ethylene which is the combined product when you take cocaine

and drink alcohol at the same time.

Q What does it mean when you find a cocaine metabolite in a toxicology setting?

A It means it's been in the body long enough to metabolize. But recognize cocaine metabolizes fairly rapidly in the body.

Q Are you able to tell us anything about the timeframe from -- well, first of all, once the death occurs, is the content of the blood sample that you're going to eventually draw going to be static? Is anything changing and metabolizing after death?

A It would be static to some extent. The alcohol can increase after death because part of what keeps us healthy are the bacteria that reside in our colon. And after death that bacteria, the good bacteria or the bad bacteria, alpha acidophilus is the good types that we sometimes take to help us stay healthy. That starts migrating throughout the body, depending on how long the person is dead and how quickly they're put into a cold environment. So that can sometimes produce some alcohol.

The cocaine can certainly change some after death. If it's in an environment where again it's not allowed to be slowed down by cold or putting it in a tube with chemicals that prevent changes that

might occur. And in this case --

Q Slide up to the microphone just a little bit. I think she's having a little bit of trouble hearing you. I'm sorry.

A In this case, in addition to it being after death, it was also not in a blood vessel but in a cavity. And so that also allows the possibilities of some of the gastric contents to get in there because it passed through the stomach and the esophagus. So that could change what's going on, depending on how he took this, whether he took it orally or whether he did some other means like sniffing it.

Q Are we talking about hours or days with the toxicology results that showed up in this case?

A The free cocaine indicates probably hours.

Q Okay. How about the metabolite? One hour?

A It's hard to say with the metabolite.

Q Okay.

A In fact, it could have even been minutes with the free cocaine present.

MR. BARFIELD: All right. Beg the Court's indulgence one moment. Your Honor, give me just a minute to pull some stuff out?

THE COURT: Yes, sir.

Q I apologize for doing it. But I'll give you some

gloves if you want them take a look at that to whatever extent you need to and then I'll ask you if you can identify it?

A The bag has my printing on the outside. It's my handwriting. And it's the shirt that was removed from Mr. Alpha Lee Miller. It's been cut some because at the time we removed it we did not make any cuts on it but it's been obviously analyzed and there are some labels in different parts of the shirt indicating where samples were taken.

Q That's the shirt that you took off the body?

A Yes. This is the shirt I took off the body of Mr. Miller.

Q And is that one of the items that you turned over to Greg Boney with the Sheriff's Office?

A Yes, it is.

Q I appreciate you doing that for me. If you'll stick it back in that bag and I'll take it back from you. Your Honor, I'm going to mark this for identification.

THE COURT: State's No. 48 for identification only.

(WHEREUPON, State's Exhibit No. 48 is marked for identification.)

Q Thank you, Dr. Sexton. Answer anything Mr. Frick has

for you?

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Now, Dr. Sexton, just to clarify, your role is to determine the what and the how in the death of Mr. Miller, correct?

A Yes. That's correct.

Q Not the who. You're not involved with that at all, correct?

A That's correct. It's very rare that we find something that can be traced back to an individual. Sometimes to a firearm. But in this case the bullet passed all the way through the body.

Q And in this case you've made no determination as to the who, correct?

A That's correct.

Q Okay. Now I'm going to ask you to take a look again and just clarify for me. On State's No. 46, a single gunshot wound, correct?

A Yes. That's correct.

Q Coming from the back? You're saying it goes up through the body to some degree?

A Correct. It enters low on the left side of the back,

exits high on the front.

Q Okay. And you said the way the -- I guess so I have a clear picture, if I'm standing directly at you, fire directly at you, there is no difference in height, we would be looking at basically a round entry wound?

A No. It would still be elongated because the person being shot would have to be bent forward.

Q Okay?

A Otherwise, the bullet would, if anything, maybe go downward. Because, see, it's entering low. So the person shooting, if they're on a level surface would probably be aiming downward for it to end up hitting low. And we would expect it to keep going downward. So the person being shot has to be bending forward and turning in order for it to enter a little bit on the back side or the left side and come upward.

Q In this circumstance, however, it appears that the gun is fired from a different level, from lower than Mr. Miller?

A That's one option.

Q Okay?

A If they're on different levels, then the shooter could have been on a lower level shooting at Mr. Miller on a higher level and that would give the

upward angle.

Q But regardless of where the person with the gun is, the bullet came from lower. Is that fair to say?

A Well, yes. It went upward in the body.

Q Okay?

A Which if the body is leaning far enough forward, that could be horizontal on a level surface.

Q Okay?

A And so if they are understanding and leaning forward or just moving and leaning forward, bending over to pick up something. There are any number of ways they could be leaning forward and starting to turn away or being at an angle.

Q Okay. Now, I know you're not going to draw this conclusion but it is as possibility then that Mr. Miller was in the process of running away from whoever had the gun?

A Yes. They could have been.

Q Okay. Based on the way the trajectory of the bullet goes through him, the entry wound, the exit wound, it's entirely possible that he had his back turned and was heading away?

A It wouldn't be completely turned but would be turning.

Q Okay?

A Because it's coming in low on left side of the back and coming out high on the front. If he were totally turned, then it would be more enter the middle of the back and exit the middle of the front.

Q I understand. Okay. Now, I know you said that -- and I don't expect you to be able to make a determination as to the caliber. But you said it was probably a smaller caliber?

A What we call a -- there are small, medium and large calibers. And people lump them various ways. But generally the 9 millimeter is one of those we call a medium caliber as opposed to 45's and larger calibers.

Q And this clearly wasn't a .45 or a .40 or anything like that?

A In my opinion it probably wasn't. But recognize I'm looking at skin that's elastic. I've looked at a lot of gunshot wounds. But in certain parts of the body, like the sole of the foot, if it goes through the sole of the foot the bullet on it almost disappears because of the thickness in the elasticity there. But this was most consistent with a medium caliber.

Q Now, understanding your area of expertise is forensic pathology and not firearms, is a 380 or a .38 similar to a 9-millimeter?

A A .380 is. And a .38 is about the same size.
Q Right.
A But the .38's don't have the penetrating power normally. But there is a Plus P type of round that could. So that's a possibility as well. That's why I'm saying medium caliber as opposed to a 9-millimeter specifically. But when people started getting killed with 9-millimeters, we saw a lot more shots going all the way through the people where the bullet was retrieved somewhere and then evaluated by SLED.
Q The 9-millimeter is really kind of a speculation? It could have been likely any medium caliber?
A Correct.
Q All right.
A I wouldn't say it's speculation, but it could be any medium caliber.
Q Okay. Thank you. Did you note any other fresh injuries on the body of Mr. Miller?
A Did not.
Q Nothing appeared to have struck him on the head. No I guess what would be called blunt force trauma or anything like that?
A No. We actually reflect the scalp so we can get to the brain. And even though injuries may not show up

externally, if a person receives a serious enough injury to be of any consequence, there would be bruising internally inside the scalp, and there was none.

Q Okay. So that would indicate to you that it was likely there was no injury by somebody hitting him with a board or a pipe or something like that?

A Correct.

Q And you didn't see any other particular abrasions that caught your attention that required any further examination, did you?

A Correct. We did not.

Q Okay. You list the cause of death as exsanguination or bleeding out?

A Correct from the gunshot wound.

Q Can you give us some idea about how long it would have taken Mr. Miller to bleed out?

A That's quite variable. Usually the histories we get in a situation like this is the person becomes unconscious in minutes and is essentially dead in a few more minutes. But there are unusual case on file where a person is run over by a train, actually a Subway, cuts him in half and he lives for six hours. And sometimes arteries will go into spasm for a period of minutes or hours and not bleed. But

generally speaking, the part of the body that it went through, the atria, is a very thin muscle. It's only a few millimeters thick and it's normally just a collecting chamber. So it could tend to bleed rather freely. And it's part of the heart and the heart is always pumping. When you're anxious or angry or afraid it's pumping faster. So I would anticipate in this case because of what it went through it would have been just a matter of minutes before he would have lost enough blood, maybe less than a minute, to pass out. There are some people that pass out just when they realize they're about to get a shot in the arm from psychological affect. Some people if they're shot will not even realize they are shot. But certainly in this case I would think in a matter of minutes he would have passed out from loss of blood and been dead shortly thereafter.

Q Okay. So, and I don't expect to pin you down exactly, but there is nothing in this case that indicates that he would have staggered around for a while or been running around for a while? Understanding that it's possible?

A Yeah. That's possible. I don't know whether you hunt. But I have shot deer, and the heart's -- most of it is right there where I shot them. And

300 yards away is the deer.

Q Sure.

A You can certainly expect from the histories we get, like I say, it takes minutes sometimes for them to pass out and they may not even know they've been shot. Police officers wake up in the hospital and ask why they're there. The history we get is because they've been shot. They passed out but they didn't realize it. Because it's not like TV where you get thrown across the room when you're shot.

So he certainly could have continued running for some distance if he was running. Or he could have done some things. Or he may have just passed out immediately. But you can go a long ways in a minute.

Q The long and short of it though, it would have taken very long for him to bleed out in most circumstances?

A That is correct in my opinion.

Q Now, I know the solicitor covered this a little bit, but just to clarify it. When you look at a bullet hole it can tell you a good deal about distance. Is that correct?

A If in fact some of the other things that come out of the bullet, like the powder and the soot and the flames have some affect, then it can.

Q In this case you don't have what's called the

stippling or the burning or anything around the bullet hole. So it was not jammed up against him?

A Correct. It was not jammed up against him where we get a characteristic finding of charring of the edge of the wound and tearing of the clothing and soot on the clothing. And it was not far enough back, say a matter of inches, to get stippling and tattooing. None of that was present.

Q And, in fact, it was more than a few feet I believe is what you said?

A It's usually at least a couple of feet to have nothing. And sometimes further depending on the type of powder and the gun that's used and the projectile. Because shotguns obviously have a lot more powder in them. But we're not dealing with a shotgun anything. But it depends on the gun and the powder, the type of powder as well as the amount of powder.

Q Sure. If it were a 9-millimeter, how far would it have gone? Any idea?

A I'd say again maybe somewhere between two and four feet. You would have it maybe back at least four feet, maybe only two feet. Like it may have been a .380. Although in my understanding they're not as penetrating as the regular 380. A .380 is essentially a 9-millimeter short. It's a shorter

version of that cartridge with less powder.

Q Obviously you collected this shirt. Do you do the examination to determine whether there was any gunshot powder, any other type of residue on that?

A Usually we can see that with the naked eye if there are powder particles and there's soot. But if it's simply if burned powder that's left a chemical on the shirt, then it has to be tested chemically by SLED. And SLED does that. Because even though the powder grains generally aren't seen if the gun is more than, say, four feet away, sometimes the remnants of that powder grain is still there in the form of some chemical material that can be picked up chemically by SLED.

Q You observed no powder, no burns, no residue?

A That's correct.

Q Again indicating there would have been some distance away?

A Correct.

Q Doctor, one final thing. I note on here that you've got some other drawings, something across the chest here and some kind of diagonal drawing here and something that's indicated as a scar?

A He had a total of four scars. One was a very long one that extended the right abdomen up across the

left chest, one diagonally on the right chest and another one across the abdomen, as well as one on top of the back of his right hand. All of these were well healed scars from months or years in the past.

Q Okay. That was my next question. These were old scars, nothing fresh, nothing new?

A That's correct.

Q And other than the gunshot wound, the one single gunshot wound, no other notable injuries?

A That's correct.

Q Thank you, doctor?

A You're welcome.

THE COURT: Redirect?

MR. BARFIELD: Just one follow-up.

THE COURT: Yes, sir.

MR. BARFIELD: Maybe not just one but a couple.

REDIRECT EXAMINATION

BY MR. BARFIELD

Q You gave, Dr. Sexton, several scenarios about positions of the body in relation to the gun when the weapon was fired. I asked you some of that. Mr. Frick asked you some more of that. Is another scenario that the victim could have been on the ground? Is that positioning consistent with the nature of the gunshot wound?

A It is. In other words, anything that would allow the bullet to go upward and to the front. So if he has fallen on the ground or for whatever reason is on the ground with his right side down and his left side sort of up, someone standing near his feet could shoot and the path would be the same.

Q Thank you. I don't have anything further.

THE COURT: Anything further?

RECROSS EXAMINATION

BY MR. FRICK

Q Just briefly to follow up on that. Would one have to be closer to the ground as well?

A No. If he is lying on his right side, then his right side, if you again take a dowel and put it through, say, a mannequin that was like a person, it would be pointed upward and to the rear.

Q Okay?

A So if somebody is standing in the right position away from his feet, in other words, down toward his feet, you could get an angle that would be roughly the same angle. You'd have to be on the side. He couldn't be lying flat. Although I guess he could even be lying flat if the person is way off to the left at the right angle. The only way to visualize that is to imagine a dowel through a mannequin that's passing in

that direction and sort of position the mannequin as you would a body so that the path would go downward in this case but because the body would be down it would go upward in the body and you're down at the feet.

Q Okay. I guess the long and short of it is we can speculate a lot on position of the shooter and the victim, but it's pretty difficult to determine in the end?

A Correct. We can't determine it if looking just at the body. All we can get is a direction that it goes in the body which can match a number of different scenarios.

Q But the one certainty we have in this case was that Mr. Miller was shot in the back?

A Yes. On the left side of the back.

Q Yes, sir.

A It's not dead center. It's just behind his left arm on the left side of the back.

Q But still --

A He is turning away or turned away some from the person who was doing the shooting.

Q Thank you.

A You're welcome.

MR. BARFIELD: Nothing else from Dr. Sexton and

ask that he be excused.

THE COURT: Any objection, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: All right. Thank you, Dr. Sexton. Thank you for coming. You are excused.

THE WITNESS: You're welcome, Your Honor. Thank you.

THE COURT: All right. Mr. Solicitor.

MR. BARFIELD: Just one second, Your Honor.

THE COURT: Yes, sir.

MR. BARFIELD: We call Amy Stephens.

THE COURT: All right, Ms. Stephens.

THE CLERK: I need you to raise your right hand.

AMY STEPHENS, after being duly sworn, testifies as follows:

THE CLERK: Please be seated. And state your name for the record.

THE WITNESS: Amy Stephens.

DIRECT EXAMINATION

BY MR. BARFIELD

Q Ms. Stephens, by whom are you employed?

A I'm employed with the South Carolina Law Enforcement Division which is also known as SLED.

Q How long have you been employed by SLED?

A I've been with SLED since March of 2006.

Q What is your current job at SLED?
A I am a forensic technician in the evidence control department. We log in the evidence that comes in, package it appropriately and stock it in our evidence room.
Q Now, I'm going to ask you some general questions about evidence control at SLED and then some specific questions about this case. Where does SLED get evidence in its evidence control department? Where does it come from?
A We receive evidence from different agencies throughout the State of South Carolina.
Q And sometimes does evidence come into your department directly from SLED agents, specifically crime scene agents?
A Yes, they do.
Q And if something comes into your department, how is it initially identified?
A We have paperwork that the officers have to fill out and they will give us that paperwork and help us determine which items are which.
Q Now, does evidence -- does a case that is worked on in the forensics department at SLED get a SLED lab number?
A Yes. Every case that comes in is given a SLED lab

number with item numbers.

Q Does every piece of evidence that relates to that particular case bear that same SLED lab number?

A Yes, it does.

Q Did you do some work on this case?

A I did.

Q A SLED lab number assigned to this case?

A Yes. The SLED lab number is L-08-5088.

Q When does the SLED lab number get assigned to a case?

A The very first submission.

Q The first piece of evidence that comes in?

A Correct.

Q And how is it assigned? Is this all computer driven?

A It is.

Q How are items numbered within a lab number? First to come in or --

A Correct. It goes by the regular numbering system: 1, 2, 3, 4, 5.

Q Do crime scene agents on the scene sometimes give that initial item number to something?

A They can, but we log it in according to the paperwork. So however they list it on the paperwork is how we log it in.

Q So if Kim Dinh with SLED is working a crime scene and she picks up eight things and she gives them numbers

1 1 through 8 on her paperwork, is that the way they
2 get logged in --
3 A That's correct.
4 Q -- when they get to your department?
5 A Yes.
6 Q When something comes in, how is the integrity of the
7 evidence preserved, maintained and preserved?
8 A We package the evidence according to what type of
9 evidence we get. If it's clothing or a GSR kit, that
10 type of evidence, we will put it in an envelope or a
11 box. Biological evidence is packaged in a
12 heat-sealed pouch which is sealed by us and then we
13 have the submitting officer initial and date the
14 sales.
15 Q Does the submitting officer, whether it be a local
16 law enforcement agent or a SLED agent who works a
17 crime scene put markings on packaging to identify
18 that with that officer?
19 A I don't understand your question.
20 Q Initials?
21 A Yes.
22 Q Does everybody who handles it put something on it so
23 it can be identified to that person?
24 A Yes.
25 Q When something comes in -- well, for example, just

for example, not this case in particular; but if it's suspected drug evidence, does it come in sealed up by the local agency?

A Yes. We receive it in what we called a BEST kit.

Q And is the BEST kit sealed up?

A It is.

Q Is a vial of blood from an autopsy, is it in something that is sealed before it ever gets to you?

A Yes.

Q When it comes in to your department, do you all open up any existing and intact sales?

A No.

Q Is it packaged in additional packaging?

A Yes. It is packaged in our SLED heat-sealed packages.

Q And are they sealed?

A Yes, they are.

Q Now, when something moves through the forensics department at SLED, is there some record maintained of who handles it, where it goes and what's happening to it?

A There is. We have what we call a chain of custody.

Q Does the chain of custody trace every item which is given a number within a SLED lab number all the way from in the door to out the door?

A Yes, it does.
Q I hand you a document which appears to be a numbered document of 39 pages plus a cover sheet which is in the form of an email. Take a look at that and tell me if you can identify what that is?
A I can. This is the verified chain of custody for SLED lab number L-08-5088.
Q The case that you're here for today?
A Correct.
Q Is it all of it? Does it appear to be all of it? You don't need to look through every page, but --
A It does. It's pages 1 through 39.
Q All right. Thank you.

MR. BARFIELD: Your Honor, at this time I offer the chain of custody as the next State's exhibit.

THE COURT: Mr. Frick?

MR. FRICK: No objection, Your Honor.

THE COURT: All right. It will be admitted as 40 --

COURT REPORTER: 9.

THE COURT: -- 9. State's Exhibit No. 49 into evidence without objection.

(WHEREUPON, State's Exhibit No. 49 is marked for identification and received in evidence.)

Q Ms. Stephens, just a couple of other general

questions. If something comes in the door; for example, if an officer from the Jasper County Sheriff's Office comes to SLED with something he says he wants to log in to be tested for drugs and it's in, you know, a Zip-locked bag that isn't sealed up or anything, what are y'all going to do with it?

A We still accept it. We will make a note about it that it was not sealed at the time of submission.

Q Okay. What if something comes in and is sealed up -- well, first of all, when something gets sealed up once it comes in your door, does it stay sealed up until somebody does some work with it?

A Yes, it does.

Q If, for example, you take something in that somebody from the DNA department is going to come down and pick up to work on and the DNA person comes down and the seal is broken, what was going to happen then?

A We still will give it to the analyst and they will take it from there, makes notes what they need to make notes about.

Q Is there anything in this chain of custody that you're aware of that indicates that there are any integrity issues with the evidence or broken seals or anything other than something intentionally done by a chemist or analyst to work on a piece of evidence?

A Not to my knowledge.
Q Now, did you receive some evidence on this case and log it in and give it item numbers?
A I did.
Q Specifically, what did you take in in your department on this case? And if you would, do you have your documentation to show what you took in?
A Yes, I do.
Q Did you take in one batch of evidence or several in this case?
A I took in several pieces of items.
Q Was it all at one time, or did you receive submissions on different dates from different people?
A It was all at one time.
Q Generally speaking, what is it that you logged into the lab at SLED?
A I logged in the autopsy specimens, the clothing from the victim and the blood standard from the victim.
Q And I'm going to show you the chain of custody again just for illustrative purposes. Does the chain of custody trace items by item number?
A Yes, it does.
Q And does it deal with every transaction involving item 1 before it starts the transactions involving item 2?

A Yes, it does.
Q For example, the gray portion of that is described as what?
A It's the item description, a handgun described as one 9-millimeter Parabellum with three unfired 9-millimeter CBC and one magazine.
Q All right. And does every entry under that until we get to the next shaded portion detail everything that happened to that pistol when it was at SLED?
A Yes, it does.
Q Okay. Is that consistent that way for each item throughout the chain of custody?
A Yes, it is.
Q All right. Tell us then briefly, not briefly, specifically by item number and what the item was that you took into the lab?
A I received SLED item number 27 which is blood toxicology from the victim. I also received a SLED item 28, urine from the victim, SLED item number 29, ocular fluid from the victim, SLED item number 30 which is a bile from the victim, SLED item 31, brain from the victim, SLED item 32, liver from the victim, SLED item 33, a bag containing victim's shirt, SLED item 34, a bag containing the victim's pants, and SLED item 35, a blood standard from the victim.

Q Now, I'm not going to hand you this, but I'm holding it up as close as you need me to hold it up. Do you recognize that item? Maybe you can without --

A We usually recognize the labels that we put on the outside of the box.

Q Okay.

A In this case I would have placed that inside of a box and placed a yellow label on the outside.

Q All right. This has been identified previously as a yellow t-shirt. Do you look at it?

A Not if it's sealed up. We do not open any containers. We work on what we say is said-to-contain policy.

Q I will simply ask you if there is an item number written on the exterior bag package, that this shirt is in?

A Yes, there is.

Q And what item number is that?

A Item number 33.

Q And from the chain of custody, what was item 33 in this case?

A Item 33 was the victim's shirt.

Q All right. With the stuff that came into you, was there any problem with the integrity with any of the stuff you just told us you just took in at the lab?

A No, there was not.
Q Did you manipulate it at all, open anything up, break any sales?
A No, I did not.
Q Thank you, ma'am. Answer anything Mr. Frick has.

THE COURT: Cross examination, Mr. Frick.

CROSS EXAMINATION

BY MR. FRICK

Q Other than cataloging these, do you do any testing or anything like that on the items?
A No, I do not.
Q You simply just ensure the integrity of the chain of custody, correct?
A Correct.
Q And it was fine in this case?
A To my knowledge, yes, it was.
Q Thank you. That's all I've got?

THE COURT: Mr. Barfield.

MR. BARFIELD: Nothing further from this witness. I ask she be excused.

THE COURT: All right. Any objection?

MR. FRICK: No objection.

THE COURT: All right. You are excused. Thank you for coming.

THE WITNESS: Thank you.

287

MR. BARFIELD: The next witness is going to take a little while.

THE COURT: All right.

MR. BARFIELD: I'm happy to do it, but if you want to take a break.

THE COURT: Yeah. We've been at it about an hour or a little over an hour anyhow. All right, ladies and gentlemen. We are going to recess for a few minutes at this time, allow you to go to your jury room. Please do not discuss the case among yourselves but relax for a few minutes and we'll send for you very shortly. Thank you. You may go with the bailiff.

(Jury out at 10:53 a.m.)

THE COURT: All right, counsel. It's about five minutes 'til 11. Let's be ready to start back at ten after.

MR. BARFIELD: Thank you, Judge.

THE COURT: Thank you.

(Whereupon, a break is taken)

THE COURT: We'll continue. Mr. Adams is present with his counsel, Mr. Frick. The State is present with Mr. Barfield and we are ready to go forward. Counsel, let me put something on the record just so we'll have the record complete and everybody

288

will know where we stand on this in case this matter is at some point subject to review by another court.

And that is with regard to the view of the evidence of drugs and drug transactions. In my view that evidence of drug and drug transactions was admissible to show motive for this homicide and is relevant for that purpose. Yesterday I declined to rule on the motive question, but I do believe that it was relevant and is relevant for that purpose.

Also under 403 of South Carolina rules of evidence, in my view the probative value is not substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading of the jury or by considerations of undue delay, waste of time or needless presentation of cumulative evidence.

The Court admitted the testimony before it was presented ruling it relevant under 404(b) and citing as one reason a common scheme or a plan. Further review has convinced me that the reasoning is likely incorrect and the Court is hereby reversing my previous ruling that it was admissible under 404(b) as a part of a common scheme or plan.

The earlier ruling, however was harmless because the testimony is admissible and relevant because of

289

motive and the 403 weighing of probative value vs. prejudicial effect is the same.

Now, the State also contends the testimony is admissible to show identity. At this point there is no testimony that requires the testimony to link -- or there is no testimony in this evidence at this point that links the drug evidence to the defendant, so, no ruling is made on that point.

Similarly, no ruling is made with regard to the absence of mistake or accident or intent. However, those matters may be linked up by the State at another time, and the matter can still be objected to at a subsequent time, Mr. Frick, if you see any rulings why or any reason why you don't think it's admissible under any of the other theories that the State may be putting forth.

MR. FRICK: Thank you, Your Honor.

THE COURT: All right. With that then, we'll go forward.

MR. BARFIELD: I'm ready to call my witness.

THE COURT: Bring the jury in, yeah.

(Jury in at 11:14 a.m.)

THE COURT: All right. Thank you very much, ladies and gentlemen. And we are now ready to proceed. Mr. Barfield, you may call your next

witness.

MR. BARFIELD: I call Kim Dinh.

THE CLERK: If you'll raise your right hand, put your left hand on the Bible.

KIM DINH, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. BARFIELD

Q Speak into that microphone and speak very loudly and tell us your name, please, ma'am?

A My name is Kim Dinh.

Q And, Ms. Dinh, by whom are you employed?

A South Carolina Law Enforcement Division, commonly known as SLED.

Q How long have you been employed by SLED?

A I have been employed by SLED for four years.

Q Where at SLED do you work currently?

A I am currently in the crime scene unit division.

Q There has been some reorganization. But generally speaking, is that the section of SLED that you've been employed in the entire four years that you've been there?

A No, I have not.

Q Where did you start?

A I started in the records division as a fingerprint

examiner.

Q Okay. What else is done by -- well, let me ask you this. It used to be crime scene latents prints, et cetera, et cetera. Is that the way it's organized now?

A It recently just got reorganized and that's what we are now.

Q All right. For a while you were pulled out into a region and put in the field and now you're back in the lab?

A That is correct.

Q I'm going to ask you a few questions about the crime scene part of your job first. First of all, where did you go to school?

A I graduated from the University of South Carolina with a bachelor's degree in criminal justice and criminology.

Q When did you graduate?

A 2005.

Q When did you go to work for SLED? 2005?

A That is correct.

Q Your first job after graduation? In the field I guess maybe is what I'm talking about.

A Yes.

Q All right. That's fine. When you got to SLED after

having a bachelor's degree from USC, did they turn you loose?

A No.

Q What did you have to do when you became employed by SLED to further your education and training to do what you do as a profession?

A I was sent to the Criminal Justice Academy where I graduated as a law enforcement officer, class one, and then I also had to complete courses in classic fundamentals, basic fingerprinting, advanced fingerprinting, footwear and tire wear collection and comparison and also bloodstain analysis.

Q Did you take all of those courses and get all of that instruction?

A Yes, I did.

Q Did you successfully pass I guess is the word we need to use all of those courses and all of that instruction?

A I did complete the two-year in-house training program under court qualified examiners.

Q All right. That was my next question. Do people at SLED mentor you and train you in addition to formal instruction through classes and courses?

A Yes.

Q One person the whole time during your two-year period

or multiple people --

A Multiple people.

Q -- in various fields? People mentor you in fingerprinting, different people perhaps in blood spatter analysis, things like that?

A Yes, sir.

Q All right. Have you been anywhere else out of house for training other than what you've described so far?

A I am not really sure of your question.

Q Have you been to seminars anywhere other than in-house training at SLED after you went to work for SLED?

A Yes, sir.

Q What kind of stuff have you done in that regard?

A We also have done ATF classes with a Post Blast class. We have also done FCAIA which is the International Association for Identification where we have chapters and seminars and have guest speakers come in.

Q All right. And I might have asked you this, and if I did, I'm sure you answered. But how long have you been on a crime scene team with SLED?

A Three years.

Q All right. What areas of the state have you been called upon to work crime scenes in?

A All over the State.
Q You got any idea how many crime scenes you have participated in processing in the three years you've been working as a crime scene agent?
A Approximately 200.
Q All right. Have some of those -- generally -- well, let me ask you this. When a local agency, for example, in a homicide needs help from SLED, what is the -- and calls SLED; generally speaking, how many people get sent out on a crime scene team?
A Generally, two.
Q What is the function of the crime scene team from SLED with respect to a local case like a homicide?
A Well, with SLED, we are an assisting agency. So when a local law enforcement agency calls upon us, we assist them with any type of processing and investigation that they might not need or they might not have the manpower to do themselves.
Q When you get to a scene, when you're there to process a scene, who is in charge of the scene?
A Typically either the local law enforcement agency or if we are heading the -- as is it is a SLED case, a local law enforcement agency, SLED will head it.
Q If you're there as a crime scene agent and local guys are walking all in and out, do you have authority

to --

A Yes, I do.

Q -- control what's going on?

A Yes, I do.

Q All right. Have you worked crime scenes as lead agent and as not lead agent?

A Yes, sir.

Q Did you get called along with Melissa Skipper, or dispatched along with Melissa Skipper, to work this crime scene on Flint Hill Road in Fairfield County down in Ridgeway on April 5th of 2008?

A Yes, sir.

Q Were you the lead crime scene agent on this case?

A I was.

Q All right. Do you have training in crime scene reconstruction?

A Yes, I do.

Q And have you done crime scene reconstructions?

A Yes, I have.

Q Did you do that in this case?

A Yes.

Q To some degree?

A To some degree.

Q Have you had training in latent print identification?

A I have.

Q And did you do some fingerprint work in this case?
A I did.
Q How many times in your career at SLED have you done latent print identification work on actual cases?
A Several thousands.
Q Okay. Have you had training on footwear and tire tread identification?
A Yes, I have.
Q How many times in your career have you done those types of comparisons in actual cases?
A Approximately 60.
Q Bloodstain pattern analysis, have you had training in that?
A Yes, sir.
Q How many times have you done that in actual cases?
A Just about every bloodstain that I've encountered.
Q And probably how many?
A Roughly two-thirds of my total investigations.
Q Okay.

MR. BARFIELD: Your Honor, at this time I would offer Agent Dinh as an expert in crime scene reconstruction, latent print identification, footwear and tire tread identification and bloodstain pattern analysis.

THE COURT: Voir dire or qualifications on these

feeds, Mr. Frick.

MR. FRICK: I wouldn't have any additional voir dire. I have no problem with the latter ones. I would take issue with the first one that the State suggested.

THE COURT: Which was crime scene investigation?

MR. FRICK: Yes, sir. I don't think in general theory -- there is a case on point that dealt with that they could go into if the Court so desires. But that's the only reason.

THE COURT: All right. Come on then, counsel.

(Whereupon, a bench conference is had)

THE COURT: All right. The Court will qualify Ms. Dinh as an expert in the field of latent fingerprint identification. Her other testimony in my view is things that she can testify to as a result of her training that do not require an opinion, and she can certainly testify as to what she did as a result of her training but do not require a finding by the Court of an expert, that that is a recognized expert for expert testimony. But it does not preclude her from testifying to that.

Mr. Frick, if you feel that she is going beyond the field of what she can testify to as to what she actually did and is transcending the road into expert

testimony, then you can object at that time. But, otherwise, the Court will qualify her as an expert in the field of latent fingerprint identification.

Q Did you get dispatched to Fairfield County on April 5th of 2008 along with Melissa Skipper?

A I did.

Q When you got here was the scene secured?

A Yes, it was.

Q And whose control was the scene in when y'all got here?

A Fairfield County Sheriff's Office.

Q Did you and Agent Skipper come together?

A No. We drove separately.

Q All right. Did you get a briefing by somebody with local law enforcement to find out what the heck was going on or what was thought to have gone on so you'll know what you're looking at?

A I did.

Q Do you remember who it was you talked to about that?

A It was Investigator Greg Boney.

Q All right. Did you become aware that there was a deceased person on the premises?

A I was.

Q Describe generally the premises. What kind of a place was this? First of all, in the town or out in

the country?

A It was more out in the country.

Q All right. Were there structures on the property?

A There was a small house and if I remember correctly, may I refer to my notes.

Q Yeah. Let me do this before you answer that question.

A Okay.

Q Just flip through them. Mine are in more detail than you really need. But tell me if you're familiar with the photographs that I've handed you.

(Pause)

Q Are you familiar with what's shown in those pictures?

A Yes, sir.

Q What are those pictures of, generally speaking?

A They're the pictures of the house. On the outskirt of the house there is a shed outside and the back property area of the house.

Q Of this crime scene?

A Yes, sir.

Q Who took those pictures? Are they your pictures of the crime scene team's pictures?

A Yes.

Q Either you or Agent Skipper took them?

A Yes, sir.

Q Do these pictures accurately depict what you saw when you got to this scene that day?
A Yes, sir.
Q All right. What was your purpose in going to this scene? What were you called upon to do as a crime scene agent for SLED?
A I was called upon to process a scene that had a deceased victim and to process a scene for further evidence for Fairfield County Sheriff's Office.
Q Were you aware when you got there that a search warrant had been obtained by the Fairfield County Sheriff's Office?
A Yes, I was.
Q Now, I'm going to jump way ahead. At some point -- well, when you got there, had any searching been done that you know of other than just securing the scene and clearing the house and things like that?
A That's it.
Q Did you become aware that some suspected marijuana was found on the front porch of the house when the first -- when the searching first began?
A I was notified.
Q Did you become aware that an additional search warrant was going to be obtained?
A Yes, sir.

Q I'm showing you State's Exhibit No. 35. Do you recognize what's shown in that picture?
A Yes, sir.
Q Is that the little bit of marijuana looks like maybe it's on a grill on the porch of that house?
A Yes, sir.
Q Did you -- was the second search warrant obtained by the Sheriff's Office folks?
A Yes, sir.
Q Okay. Were the searches kind of being done concurrently, all at the same time?
A After my portion of the death investigation and the body had been removed and we were searching the premises, that was done in conjunction with what I was doing.
Q What did you go to first to start processing this scene?
A The deceased victim.
Q What was your objective in dealing with the victim, Alpha Lee Miller? What were you going to do? When you went to the body, what were you looking for? What was your purpose in dealing with the dead body?
A I was looking for a possible cause of death which appeared to be a gunshot wound. I was also looking for any evidence around the body, possible footwear

or cartridge cases, anything that could be linked to the death of the victim.

Q Did the victim appear to have some injury that might have caused his death?

A Yes, he did.

Q And describe generally -- we've heard the autopsy results -- but describe generally what you saw?

A He had two round circular holes in his body. One was in the lower back and one was towards the upper torso on side.

Q Was the body fully clothed when you saw it?

A He was. His shirt was pulled up from EMS being there.

Q Was there some sign that there had been some medical procedures conducted with the body?

A Yes, sir.

Q Electro-lead pads or something stuck on him?

A Yes, sir.

Q Did you find anything around the body of any significance like footwear impressions or spent cartridge cases or any ballistics evidence anywhere around the body?

A I did not find any.

Q Did y'all -- did you know at that time whether the injury, assuming it was a gunshot wound, was a

through-and-through wound? Or did you know one way or the other about that?

A Not 100 percent.

Q Did y'all examine the area around the body and the property overall to see if you could find any fired bullets there in that crime scene?

A We did search the premises.

Q Did you find any fired bullets? Not cartridge cases, not unfired bullets but the slug that comes out? Did you find any fired bullets anywhere on the scene?

A No, sir.

Q Did you do any processing of the body to collect information or evidence that would be necessary later on for other reasons?

A Yes, we did.

Q What did you do?

A We GSR'd the victim.

Q Now, stop right there. What does GSR stand for?

A GSR stands for gunshot residue.

Q And what -- first of all, how do you GSR a victim? Where on the victim were you looking for gunshot residue?

A We, when we collect a GSR kit, we collect it from the hands area. It's two sets of types of collection that we use. The first one is a sticky tab and we

basically take a sticky tab and touch the areas of the hand according to the label. And then we go back behind that with nitric acid and then swipe the hands with some swabs and collect those.

Q And when you collect that stuff, what do you do with it?

A We put it in a bag and seal it and label it.

Q And what are you -- you don't analyze GSR collection kits. Is that correct?

A That's correct.

Q Somebody else in your lab does?

A That's correct.

Q Do you have some training as a crimes agent about the whole reason for swabbing and doing the sticky tabs?

A Yes, sir.

Q What are you trying to see if you've got?

A Well, when a gunshot is fired, it emits gasses and powder that can adhere to the hand, and that's what we're collecting to see if he fired a gunshot or if it's possible that he was near one that was fired.

Q Based on your training, is there some window of opportunity within which you might be on a -- well, let me back up. On a living person, is there some window of opportunity within your training that you might expect to collect something if it was there?

A Yes, sir.
Q If you've got a living person that you want to know if he's got gunshot residue on his hands, how long have you got from the time of the event until you can check the sample and have a viable chance of getting something?
A We have a six-hour window for a living subject.
Q So what if somebody gets arrested a day later or two days later? Anybody going to swab his hands for GSR?
A No, sir.
Q Did you do that with Alpha Lee Miller?
A I did.
Q Did you seal it up?
A I sealed it up.

MR. BARFIELD: Beg the Court's indulgence one moment.

THE COURT: All right.

Q I'm going to show you an envelope. You don't need to open it up. But just from the markings on it, can you tell me what that is?
A This is item 20 from lab number L-08-5088. It is a GSR gunshot residue evidence collection kit.
Q And was that collected by you and Agent Skipper and sealed up and taken to SLED?
A Yes, it was.

Q Let me ask you this question generally. Mark this for identification at this point?

COURT REPORTER: State's 50.

THE COURT: State's No. 50 for identification only, a GSR kit.

(WHEREUPON, State's Exhibit No. 50 is marked for identification.)

Q Let me ask you this question generally. I'm going to ask you a bunch of stuff about things that you picked up and took possession of. Did you pick up a whole bunch of stuff at this crime scene and take possession of it and do something with it?

A I did.

Q Did the stuff that you picked up or you and Agent Skipper together picked up, did y'all take that directly to SLED and get it logged into evidence control?

A We did.

Q It didn't go to Fairfield County Sheriff's Office officers and then go to SLED. It went straight from y'all?

A Yes, sir.

Q What else did you need to do with Alpha Lee Miller's body for purposes of your crime scene processing?

A We also major case print the victim to be able to

identify him with the previous card.

Q You do that on a body on the hands of a body that's lying there in the weeds?

A Yes, sir.

Q Okay. Did you do that for Alpha Lee Miller?

A We did.

Q Did you have some anticipation that you might have to compare what you took off his hands to other things later on?

A Yes, sir.

Q Anything else you did with the body of Alpha Lee Miller?

A No, sir.

Q All right. Now. Talk to me now about what you did to process the other areas of the scene of first of all, you described I think a house?

A Yes, sir.

Q Were there any other buildings on the premises that you noted?

A There were some sheds out to the right of the house if you were looking at the house.

Q I'm showing you State's Exhibit No. 3. Is that the shed that you're referring to?

A Yes, sir.

Q Was there open area around the house, some open area

around the house?

A Yes, there was.

Q Yard? Grass?

A Yes, there was.

Q Was there more grown up area beyond the grassy parts? Were there woods?

A Yes, sir.

Q Did you notice anything unusual about the area surrounding the house, the wooded areas surrounding the house? Not anything you found, but describe it for the jury.

A It was mostly grown up grass to the left of the house and then when you kind of were at that back corner, there are mostly trees a little bit further from the house.

Q Was there a mechanism to get down into those areas that was obvious to the naked eye?

A There were some worn paths that you can kind of see where there had been multiple trips in this one particular area.

Q Now, where did you start and what did you find? You just take me through it, if you will.

A May I refer to my notes?

Q You may. Please. When you get to something you picked up I'm going to reach over here and grab it

and let you see if you can identify it.

A We started with the body. And there were two paths. There was a white shoe on the upper path.

Q Let me ask you this. Do you know whether that white shoe ever had any significance to this case?

A I do not know.

Q Do you recall whether the victim had on shoes?

A He did.

Q Both shoes?

A He had red shoes on.

Q All right. Go ahead.

A And there was on lower path there was a pinkish/purplish purse that had some green leafy substance inside.

Q I'm going to show you that thing. Tell me if you can identify that?

A That is it.

Q Did you all seize this and take to it SLED?

A We did.

Q Was there anything of significance found about or within this little zip up purse?

A No, sir.

Q All right. Thank you, ma'am. Go ahead.

A After we processed the body, between the house and the shack or the shed there was two 9-millimeter

Winchester cartridge cases.

Q Do you have the SLED item numbers for them?

A I do.

Q If you'll give me them, we'll get them one at a time.

A That is item 2, item 3 that I just mentioned.

Q All right. Now, I'm going to stop you there for a minute. When you found some of the things you found there on the scene which have got SLED item numbers which we'll talk about in a minute, did you in some way mark them on the ground so that they could be photographed and you could remember where stuff came from?

A Yes, I did.

Q Did you give some sort of marker numbers to items 12 and 3?

A Yes, I did.

Q What are the marker numbers that you gave to 2 and 3?

A They were markers 1 and markers 2.

Q Bear with me just one minute, please, ma'am. Well, go ahead and tell me about item number 3 and we'll do all three then at once?

A Item number 3 was an unfired bullet, was a 9-millimeter Winchester.

Q All right. Now, I'm sorry. Tell me one more time. Item 2 was placed at -- was marked by marker what?

A 1.
Q All right. And item 3 was marked by marker what?
A 2.
Q Now, I'm showing you State's Exhibit No. 13. Are those the markers, the yellow things the markers 1 and 2 that you just referred to?
A That is correct.
Q Now, tell me what it was -- well, first of all, is this item -- this is real confusing. Is this item 2 which you marked with marker 1 in this picture?
A This is item 2.
Q And did you seize that and put it in that little can?
A I did.
Q And what was item 2 which is what is marked here as marker 1?
A This is one 9-millimeter Winchester cartridge case.
Q And when you say a cartridge case, what do you mean?
A It is the back side of the bullet when you were looking at a full bullet, it's the back side, the actual copper jack, what contains the copper jacket of the bullet. So the actual just shell.
Q The fired -- it had been fired. There was no bullet in it. Is that what you're saying?
A Right.
Q What is item 3 which you marked with marker number 2?

What with was that?

A Item 3 is the same thing.

Q A fired cartridge case. Is that correct?

A That's correct.

Q All right. What else did you find? And where was this? Generally speaking, this area is where?

A Between the house and the shed or shack.

Q I'm showing you State's Exhibit No. 3. Is that the barn from looking at, from the house looking toward the barn? Is that what that photograph shows?

A That is.

Q Are those same markers, 1, 2 and actually marker 3 also shown in that picture?

A Yes, sir.

Q Okay. All right. Anything else you found in that area?

A Item 3 was -- I'm sorry. Item 4 was one unfired 9-millimeter Winchester.

Q And did you give it a marker number?

A I did.

Q Is this item 4 that you just referred to?

A Yes, it is.

Q And what marker number did you give it?

A This was marker number 3.

Q In the same general location?

A Yes, sir.
Q And you said unfired bullet, 9-millimeter bullet?
A Yes, sir.
Q Where did you go next?
A After that to the right of the shack was one 9-millimeter Winchester cartridge case.
Q Did you give it an item number?
A That item number was item number 5.
Q Is this item number 5 that you just referred to?
A Yes, sir.
Q Okay. And did you give it a marker number?
A Yes, sir.
Q What was that marker number?
A That was marker number 6.
Q Before I get there, let me ask you this. I'm showing you State's Exhibits 14, 15 and 16. Do you know what's shown -- well, you previously indicated those are pictures from the crime scene. Are these closer photographs of the items shown and the markers with numbers 1, 2, and 3?
A Yes, sir.
Q The same stuff that you've just described to us?
A Yes, sir.
Q I have lost track. What was it that you just described next?

A It was marker number 6, item 5. It was one 9-millimeter Winchester cartridge case.
Q And was there -- is that it?
A Yes, sir.
Q And was there an item 6 that you labeled with marker number 7?
A Yes, sir.
Q And what was item 6 that you labeled with marker 7?
A It was one unfired bullet, 9-millimeter Winchester.
Q Is that it?
A Yes, sir.
Q Now, those two items were found generally speaking where?
A To the right of the shack.
Q Showing you State's Exhibit No. 22, is that a picture of where those items were found along with the two yellow markers, 6 and 7?
A Yes, sir.
Q And are these two pictures, State's Exhibit 23 and 24 closer shots of the items shown by markers 6 and 7?
A Yes, sir.
Q Where did you move next? Let me ask you this. With respect to the fired cartridge cases and the unfired bullets, at the scene was it your intention to do any processing of them?

A Not at the scene.
Q Later on?
A Yes, sir.
Q Where did you go next?
A From there we went and surveyed the wooded area. A 9-millimeter pistol was located in a black plastic bag that was further packaged in another black plastic bag and placed in a white, five-gallon bucket with a pillow on top.
Q All right. Bear with me just a minute. Can we approach the bench briefly?

THE COURT: Sure.

(Whereupon, a bench conference is had)

Q Agent Dinh, I'm going to hand you four photographs, State's 18, 19, 20 and 21, ask you if you -- generally speaking, tell me what's depicted in those pictures, and then I'll ask you some specifics about them in a minute.
A State's item 18 shows a white, five-gallon bucket on top of a black plastic bag.
Q Now, let me ask you this. Do you know who actually found that bucket first?
A No, I do not.
Q That's fine. Did somebody find it and determine there was a pistol in it before it became significant

to take a picture of it? Does that make any sense at all? Did somebody kick it over and see a pistol and then put it back so you could come take a picture of it and then process it?

A Yes, sir.

Q Okay. You don't know who did that?

A No, sir.

Q Was that the condition of the bucket when you first saw it or had it been opened up and laid out?

A This was the condition that I first saw it in.

Q Now, did you manipulate the bucket? Did you do something with it after you saw it and started taking -- after you took that first picture, did you do something with it?

A Yes, I did.

Q All right. Tell us what.

A I removed the contents from the black bag to photograph it.

Q Was the bucket upside down when you first saw it?

A Yes, sir.

Q And if you turned it up, what was the first thing in the top of the bucket?

A I believe it was a white pillow.

Q A pillow. Is that what you said?

A Yes, sir.

Q And all right. And what was under the pillow?
A A black -- two black -- it was a black trash bag within another black trash bag.
Q Regular old trash bags?
A Yes, sir.
Q Was the pistol wrapped up in the plastic bags?
A Yes, sir.
Q Did you open all that up?
A Yes, sir.
Q Did you take the pistol out?
A Yes, sir.
Q All right. What was the condition of the pistol, generally speaking, from a ready-to-fire standpoint, from a loaded and ready-to-fire standpoint?
A It was -- the hammer was cocked back. There was one round in the chamber, two in the magazine and the safety was off.
Q Which means what?
A It was ready to fire.
Q All right. Are those pictures accurate depictions of the condition of that pistol when you saw it and examined it?
A Yes, sir.
Q And did you determine -- I'm not asking you what it was. But did you determine the make and the model

and the serial number of the pistol and take a photograph to show all of that?

A Yes, sir.

Q Is that shown in these photographs?

A Yes, sir.

Q And you gave the pistol marker 5?

A Yes, sir.

Q Don't open the bag.

A Okay.

Q I presume it's safe. I presume they wouldn't have sealed it in a bag that's not. But handle it carefully and tell me if you can identify the content of that bag?

A In this bag is one 9-millimeter Parabellum containing one magazine and three unfired rounds.

Q Is that the items that you just described you seized from within the bucket?

A Yes, sir.

Q And how do you know that's the pistol and the stuff that was with the pistol?

A It has --

Q You got some markings on there that show it's yours?

A Yes, sir.

Q All right. Thank you, ma'am. Now, before I get too far ahead of myself, let me go ahead and mark some of

these things for identification --

MR. FRICK: Objection, Your Honor.

Q -- and give them some numbers so we'll know where to go.

(Pause)

(WHEREUPON, State's Exhibit No. 51 is marked for identification.)

(WHEREUPON, State's Exhibit No. 52 is marked for identification.)

(WHEREUPON, State's Exhibit No. 53 is marked for identification.)

(WHEREUPON, State's Exhibit No. 54 is marked for identification.)

(WHEREUPON, State's Exhibit No. 55 is marked for identification.)

(WHEREUPON, State's Exhibit No. 56 is marked for identification.)

COURT REPORTER: State's Nos. 51 through 56 for ID.

THE COURT: Okay. State's No. 51 through 56 for identification only.

Q Agent Dinh, where did you go next?

A We went further into the woods where we located a couple of red thermoses.

Q Did some local law enforcement agents and I think one

of your field agents actually locate some of that stuff?

A Yes, sir.

Q I'm showing you State's Exhibit 45. Was it given a SLED item number?

A No, sir. I don't believe so.

Q Okay.

(Pause)

A No, sir.

Q Was there more than one of these out there?

A Yes, sir.

Q Do they appear to be identical? Well, is this another one?

A Yes, sir.

Q And do they bear your SLED lab number?

A No, sir.

Q That's right. They don't. That's a different matter. Do you know whether the drug analysis Department of SLED got involved in this case and assigned a different lab number to work they did on this same scene?

A I do not know.

Q You do not know. Okay. That's fine. Now, can you identify these two things? One of them is in evidence, State's Exhibit 45.

A They appear to be red thermoses that we located in the woods.
Q All right. Did you see the items in the woods while they were in the woods?
A Yes, sir.
Q Showing you State's Exhibits 36, 37, 38, 39 and 40, take a minute and look at those pictures, tell me if you can identify what's in them?
A It is a photograph of a red thermostat -- thermos. Sorry.
Q That's fine. Are there actually two -- there are several pictures of a red thermos. Do you know whether there were one or two thermoses there at the scene?
A There were two thermoses.
Q Are both of them shown in some one or more of those pictures?
A Yes, sir.
Q All right. Now, did you at some point have occasion to examine one of those red thermoses?
A Yes, sir.
Q Was there anything in it of interest to you?
A One of them had some white substance in it along with a blue sandwich bag.
Q Is this two different photographs of the same thermos

that had the stuff in it?

A Yes, sir.

Q Did local law enforcement take possession of those items?

A They did.

Q Or did you as a crime scene agent?

A They took possession.

Q Where did you go next?

A We went inside the house.

Q Was anything of significance found inside of the house?

A We found -- we found some -- a fired cartridge case underneath an end table, a 9-millimeter.

Q All right. Did you give it a lab number? An item number? Excuse me. The first one that you found.

A Yes, sir. It is item -- item 9.

Q And it was -- was it a fired cartridge case or an unfired bullet?

A It was a fired.

Q And where in the house was it found?

A It was underneath the end table in the living room.

Q Give me just a minute. First of all is that the number 9 that you just the described for us sealed up in an envelope?

A Yes, sir.

Q I'm showing you State's Exhibit No. 27. Is that a picture of it under that end table?
A Yes, sir.
Q All right. Where did you find this?
A We also found one bag of unfired round. There were twenty-eight (28) 9-millimeter Winchester round in this bag.
Q Now, what kind of bag was it, do you recall?
A It was a plastic or a true bag.
Q And did you give it a SLED item number?
A I did.
Q Can you identify what's in that heat-sealed envelope?
A It is item 11. That is, those unfired bullets were inside that white bag.
Q All right. And where were they found inside the house?
A They were found in a dresser in the back room.
Q I'm showing you State's Exhibit No. 29. Is that a picture of the bag with the bullets laid out after y'all took possession of it?
A Yes, sir.
Q What else did you find?
A We found one unfired 9-millimeter Luger stamped with an I in that dresser also.
Q What item number did y'all give it, did you give it?

A Item number 8.
Q Is that an envelope containing what you've just described as item 8?
A Yes, sir.
Q Now, there are a couple of bullets in drawers here, and I'm not sure which one. But let me see if you can tell me. Can you tell me if this picture, State's Exhibit No. 30, is the item 8, or is that a different one?
A I believe that is it.
Q All right. Thank you, ma'am. What else did you find?
A Two unfired round from a storage room, 9-millimeter C. B. C. and also a 9-millimeter one with a head stamp I.
Q And did you give them a SLED item number?
A Yes. It's SLED item number 7.
Q Is this an envelope containing what you've just described as SLED item number 7?
A Yes, sir.
Q From the photos -- well, I'm not worried about the photos at this point. What else did you find?
A We also found a flavored water bottle in front of the couch.
Q All right. Did you do anything with it eventually?

A In the lab, I did.
Q What did you do with it?
A I swabbed the opening for DNA and also processed outside for latent fingerprints.
Q I'll go ahead and ask about the water bottle. Did you get any fingerprints off the water bottle that were helpful in this case?
A No, I did not.
Q And you don't know the outcome of the swab work that you did around the mouth of the bottle?
A No, I do not.
Q What else did you find in the house?
A We also found one cigarette butt in a plate in the living room.
Q Let me ask you, ultimately how many cigarette butts did you all take out of the house?
A We took three.
Q And did you package them up for DNA to see if they could do anything with them?
A Yes, we did.
Q All right. Sealed them up, didn't do anything else with them yourself?
A That's correct.
Q What else did you find in the house?
A We found one box of 9-millimeter Luger CBC containing

five unfired rounds.

Q Did you give it a SLED item number?

A Yes, sir.

Q And what was that item number?

A Item number 10.

Q I'm showing you State's Exhibit No. 28. Does that somewhere in that photograph show item 10, where it was before it got picked up by law enforcement?

A Yes, it does.

Q And first of all, what does that picture show? Not what's in the picture, but what part of the house is that? Where is that?

A This is from the living room right past the front door taking into the kitchen area.

Q And is that a counter where that stuff is sitting?

A Yes, it is.

Q And I'm going to hold it up over the microphone. Put your finger where the box of bullets is in that picture?

A It is right there.

Q All right. Thank you. Those are 9-millimeter?

A Yes, sir.

Q Everything you've described so far that you picked up inside and outside is all 9-millimeter up to this point?

A Yes, sir.
Q Did you find any other ammunition in this case that we need to deal with?
A No, sir.
Q What else did you find, if anything of significance, at this scene?
A We found a folding knife out on the opposite side of the driveway.
Q Did you give it an item number?
A I did.
Q Did you?
A Item 13.
Q Item 13 in that heat-sealed envelope?
A Yes, it is.
Q Did you do anything with it, process it in any fashion?
A Processed it for latents.
Q Did you get any fingerprints off this knife that helped was anything?
A No, sir.
Q All right. What else, if anything, did you find?
A We found a red pipe.
Q Did you give it an item number?
A Yes, sir.
Q What's the item number?

A It is item number 15.
Q Is that it?
A Yes, sir.
Q Where did you find that pipe?
A The red pipe was located on the left side of the house when you're looking at the house.
Q Was it given a yellow marker?
A Yes, sir.
Q What was the number?
A Marker 4.
Q Let me find if picture. Hold on just one second for me, please, ma'am. Showing you State's Exhibit No. 17, what's that show?
A That shows marker number 4. It's a red pipe.
Q Is that the same pipe that we just laid against the rail here?
A Yes, sir.
Q And is that where it was when you first saw it?
A Yes, sir.
Q And in relation to the barn, which side of the house is the pipe on in relation to the side of the house that the barn is on?
A Marker 4 is on the left side of the house and the barn is on right side of the house.
Q All right. What else, if anything, did you find?

Well, let me just cut to the chase on this. I'm handing you something in an envelope. Take a look at that and tell me if you can identify that?

A This was a card that we found in the back bedroom.

Q Inside the house?

A Yes, sir.

Q And do you know what kind of card it is? Is it like an EBT card or something, or do you know?

A I don't have an EBT card. I do not know.

Q That's fine. Does it have anybody's name on it --

A It does.

Q -- that identifies it with somebody?

A It's bearing the name Alpha Lee Miller. Miller.

Q And did you give it a SLED item number?

A I did.

Q What item number did you give it?

A Item 14.

Q Anything else that you found?

A I believe that is it.

MR. BARFIELD: All right. Now, Your Honor, let me mark these things for identification --

THE COURT: Yes, sir.

MR. BARFIELD: -- before I proceed.

(WHEREUPON, State's Exhibit No. 57 is marked for identification.)

(WHEREUPON, State's Exhibit No. 58 is marked for identification.)

(WHEREUPON, State's Exhibit No. 59 is marked for identification.)

(WHEREUPON, State's Exhibit No. 60 is marked for identification.)

(WHEREUPON, State's Exhibit No. 61 is marked for identification.)

(WHEREUPON, State's Exhibit No. 62 is marked for identification.)

(WHEREUPON, State's Exhibit No. 63 is marked for identification.)

COURT REPORTER: 57 through 63 for ID.

THE COURT: I have 57 through --

COURT REPORTER: 63.

THE COURT: -- 63 for identification only.

Q Now, Agent Dinh, when you got back to the lab or sometime after you got back to the lab, did you undertake to process some of these items that you had taken possession of there at the scene?

A Yes, sir.

Q Specifically, did you determine, try to determine whether you could match any latent fingerprints to anybody's known fingerprints?

A I tried.

Q Now, let me ask you this first. Tell us very briefly how you do -- first of all, that's a latent fingerprint?

A A latent fingerprint, latent means not easily visible. So a latent fingerprint and a fingerprint is a -- if you look at your hands, you have a set of friction ridges on your hands you find here, your joints, your palms and also the bottoms of your feet. These friction ridges do just that. They create friction so when you hold a cup it doesn't slip out of your hand.

These friction ridges are unique to the person. So, no two individuals have the same fingerprints, and you will not find the same fingerprint on a single person. So you can't have two fingers that are the same.

A latent fingerprint is, after somebody touches an object you leave an outline secreted by the pores in your hands and the ridges. You secrete sweat. So when you touch an object, it leaves an outline of your ridges. These are not easily visible to the eye. So we use enhancements to make these visible to the eye.

Q Now, when you were at the scene did you attempt to preserve any latent fingerprints on anything there at

the scene?

A I did.

Q Did you lift any, successfully lift any latent fingerprints there at the scene?

A Not at the scene.

Q Did you take any of the stuff to the lab to see if you could develop or lift or preserve any latent fingerprints on any of these items once you got back to the lab?

A Yes, I did.

Q Did you get any latent fingerprints from any of the items that you worked with?

A I got one.

Q All right. Now, tell me what it was off of and then I'm going to get you to tell us what else you tried to get fingerprints off of. What did you get a latent fingerprint off of?

A I got a latent fingerprint off the red pipe.

Q What else did you try to develop latent fingerprints from? Of the stuff that you took, do you have a report that tells us everything you tried to get print off of?

A Yes, I do.

Q Just run down the list?

A I processed handgun with the three unfired bullets

and the magazine.

Q No latent fingerprints came off that gun?

A No, sir.

Q All right. Go ahead.

A I also processed the cartridge cases and unfired bullets from outside and inside with no results. I also processed plastic white plastic bag that the 28 rounds came in, didn't get any results off of that. I also processed purple and pink purse and the folding knife in the yard and also processed the voucher with Alpha Lee Miller's name on it and have no results on that.

Q Now, when you say no results, how can you get no results I guess? Explain that to the jury.

A It's a no value for identification which basically means there's not enough detail on there to make an identification or a comparison.

Q Now, when you lift a latent print, what good is it to you without something else? What else do you need to make a latent print mean anything or to be able to do anything with it?

A The fingerprint card.

Q Of?

A Of the subject that I am comparing it to.

Q Did you get some known fingerprint cards for various

people involved in this case to compare to the latent print that you lifted off the red pipe, State's Exhibit No. 62 for identification?

A Yes, I did.

Q Whose phone fingerprint cards did you have?

A I have known fingerprint card, Alpha Lee Miller.

Q The victim? That's the victim, is that right?

A Yes, sir.

Q Okay.

A Willie James Adams.

Q Okay.

A Levarn Jackson and Bryan Lamont Lawhorn.

Q Were you able to get any results? Did you compare the latent print off the pipe to the known fingerprint cards of the victim and the three other fellas you just told us you had prints from?

A I did.

Q And did you get any results from that?

A I did. I got a non-identified result.

Q Which means what?

A That the latent that was on that pipe does not belong to any of those four names.

Q Now, explain how, if you can, we've talked about just boxes full of stuff that you tried to get fingerprints off of or latent prints that had enough

for to you do something with. How can it be that just -- people haven't left fingerprints all over this stuff? Explain to the jury how you don't get latent prints or why you might not?

A Leaving latent prints is not like TV where if you touch something you're going to leave a fingerprint. Leaving a latent is by chance and by random. Basically there is three major factors that go into leaving a latent. It's the condition of your hands. If you work with a lot of paper your ridges might be really worn. You don't leave really pretty latents, what we call pretty latents.

Also the weather outside. If it's sunny and it's rainy, and this type it was rainy and it was outside, moisture can have a big factor, considering your latent is 99 percent moisture and body oils.

The third one is the type of surface that you are leaving the latent on. The rougher the surface, the less likely you are to leave latents because it creates gaps inbetween within a latent.

Q Was it unusual for you after processing so many crime scenes not to find more latents at the scene than the one you found on that pipe?

A It is not unusual.

Q Okay. Did you do any processing of State's Exhibit

No. 56 for identification which you previously identified as the 9-millimeter pistol?

A I did process that.

Q What was your interest in the pistol once you got back to the lab?

A I processed it for fingerprints.

Q And you told us a little bit ago that you didn't find anything on the pistol?

A That's correct.

Q Did you do any other testing or any other evidence preservation of the pistol for other departments in the lab to work with it?

A Yes. I swabbed the trigger finger area and I also swabbed the hand area.

Q The handle part?

A Yes, sir.

Q And what was the purpose in taking swabs from the trigger and the handle of that pistol? What perhaps could you find there, could somebody find there?

A Touch DNA.

Q What is touch DNA? You're not a DNA expert?

A That's correct.

Q You have some training about DNA to be able to preserve evidence for DNA testing?

A Yes.

Q And what do you understand touch DNA to mean? Touch meaning touch?
A Yes, sir.
Q What is touch DNA?
A Basically when you touch an item you have the possibility of leaving skin cells. And I swab for those skin cells to see if the DNA within those skin cells would match the person who touched it.
Q All right. Did you do any testing of the swabs that you took?
A No, sir.
Q Now, I'm going show you another heat-sealed envelope which has got all kinds of stuff in it. Can you simply tell me if those -- let me back up. What number, evidence number did we give to the pistol? What item number did SLED give to the pistol?
A Item 1.
Q Did you give item numbers to the two swabs you took from the trigger and from the handle of the pistol?
A I did. The trigger is item 1.1 and the handle is item 1.2.
Q And when you say swab, you're talking about this little thing sort of like a Q-tip?
A Yes, sir. It's wet with de-ionized water or saline solution and just simply just swabbed across the

areas that we would suspect somebody would touch.

Q And did you preserve those two swabs, SLED items 1.1 and 1.2?

A Yes, I did.

Q Are they contained in that envelope?

A Without opening it?

Q Well, I don't mind you opening it. Do you need a knife?

A I had one and left it in the truck.

Q You probably wish you had yours. That way you wouldn't have to mess with mine.

(Pause)

A Yes. They are both in here.

Q Is there other stuff in this still sealed envelope?

A Yes, sir. 16.1.

Q All right. Let me see what 16.1 is. 16.1 is swab from a water bottle?

A Yes, sir.

MR. BARFIELD: Your Honor, at this time I'd offer for identification purposes -- well, let me open it. Let me let you open it. Pull out 1.1 and 1.2. We don't need to get them all mixed up. I'd offer items, SLED item numbers 1.1 and 1.2 as identification purposes as the next two numbered exhibits?

THE COURT: All right. 64 and 65.

COURT REPORTER: For ID?

THE COURT: For ID.

(WHEREUPON, State's Exhibit No. 64 is marked for identification.)

(WHEREUPON, State's Exhibit No. 65 is marked for identification.)

THE COURT: Those would be swabs. Is that right?

MR. BARFIELD: Yes, sir.

Q Did you make a not-to-scale sketch? Did you and Agent Skipper make a not-to-scale sketch with the measurements showing some of the things that were identified and picked up in this case?

A Yes, we did.

Q I'm going to hand you that. Is that a copy of the sketch?

A Yes, it is.

Q And generally speaking, what does it show by way of structures, first of all?

A It shows the house, the shed and the outskirt area with the trees and the overgrown area and the Flint Hill Road.

Q All right. Now, are there numbers and circles on there?

A Yes, there is.
Q What do the numbers and circles represent with respect to things that you have talked about today?
A They represent the items that I collected.
Q And do they represent -- are the numbers consistent with the yellow marker numbers with the little triangles you put down there on the ground?
A Yes, they are.
Q Okay. And I'm also going to hand you this document which appears to be four pages long. Can you identify what that is?
A Yes, sir.
Q Is that your report for the conclusions that you reached concerning latent fingerprint identification and also the swabs that you collected from other items?
A It is.
Q That's a copy of it?
A Yes, sir.
Q That's your report? Your signature?
A Yes, sir.

Q (By Mr. Barfield)

MR. BARFIELD: Your Honor, I'm going to offer the sketch as the next State's Exhibit, not for ID but exhibit.

THE COURT: Sketch of the scene. And it becomes State's Exhibit No. 66.

MR. BARFIELD: And, Agent Dinh's report I would offer again as an exhibit, not for identification.

THE COURT: Agent Dinh's report. Any objection to either the scene or the report, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: All right. Both will be admitted as, the sketch of the scene is Exhibit No. 66 and the report of the SLED agent as State's No. 67 without objection.

(WHEREUPON, State's Exhibit No. 66 is marked for identification and received in evidence.)

(WHEREUPON, State's Exhibit No. 67 is marked for identification and received in evidence.)

MR. BARFIELD: Give me just one second, Your Honor.

(Pause)

MR. BARFIELD: Thank you, ma'am. Answer anything Mr. Frick has for you.

THE COURT: All right. Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q You are one of the crime scene people that goes out to the scene and collects all this stuff, correct?
A That is correct.
Q Okay. And you went in the house and collected bullets, shell casings, whatnot?
A Yes, sir.
Q Okay. Were you able to -- aside from the fingerprints, were you able to identify bullets, shell casings or anything with any particular person in this case?
A No, sir, I was not.
Q Okay. The red pipe we're talking about, this is the one thing that we did get a fingerprint off of, correct?
A Yes, sir.
Q Okay. It did not match up with any of the people in this case, correct?
A That is correct.
Q Okay. And you said that was -- it's on your diagram I'm looking at. It's found beside the house?
A Yes, sir.
Q On the side away from the barn?
A That is correct.
Q Towards where Mr. Miller was?
A That is correct.

Q Okay. And that's indicated by this picture, No. 17, correct?

A That is correct.

Q Okay. Can you then help me out on something? Number 1 on the porch, is that not a red pipe? Where my thumb is.

A That is a red pipe.

Q Do you recall seeing another red pipe?

A I'm not really sure what you're asking me.

Q Well, is it more than one?

A It appears to be so.

Q Okay. Is it the same one or a different one or do you know?

A That appears to be a different one from that one.

Q Okay. This one was not collected?

A No, sir.

Q Okay. Any particular reason?

A No, sir.

Q Okay. On the pistol itself, State's No. 56, now, correct me if I'm wrong. To get a latent you basically need some type of smooth surfaces, correct?

A I wouldn't say smooth, but you need a surface that can adhere a latent to be able to compare it to.

Q It helps?

A It helps.

Q And it helps for it to be out of the environment, correct?
A Depending, yes, sir.
Q Well, on this particular day, was it kind of drizzly and raining?
A Yes, sir, it was.
Q If this had been covered up let's say with a pillow, would that have helped out in preserving any latent prints?
A Yes, it would have.
Q Now, I certainly don't expect you're going to get them off the handle. But along the barrel of the gun here, was anything found?
A No, sir.
Q Nothing at all. The clip.
A The magazine?
Q Right.
A No, sir.
Q Okay. And any of the bullets that were with the gun?
A No, sir.
Q Okay. In fact, on any of these shell casings that were found, did you attempt to do lifts off those?
A I didn't have anything to lift.
Q Okay. Meaning --
A They were of no value, which means there were not

enough ridge details for me to even attempt to lift.

Q Okay. But they are typically smooth type surfaces that we'd like to see if we can find tricky latents off of. Is that correct?

A We'd like to.

Q But we don't have that?

A No, sir.

Q In the house I think we found a water bottle or something like that?

A Yes, sir.

Q There was some DNA done on it?

A Yes, sir.

Q Okay. Anything in the house fingerprinted, latent lifts?

A As far as the house itself or items I collected within the house?

Q Anything in the house.

A The other rounds that were found inside the house and the box of unfired cartridge cases and the voucher, those were all processed for latents.

Q Nothing?

A No, sir.

Q Okay. In fact, the only real identifying feature that you found at the scene was Mr. Miller's EBT card, correct? Or voucher. Whatever we call it.

A What do you mean identifying feature?
Q The only thing that had anybody who is listed in this case name on it, any identifying thing was Mr. Miller's card, correct?
A That's the only thing I collected.
Q Okay. And this list you do, I think number 9 on -- I don't know what it actually is on your listing. But only the little diagram that was a purple purse that I think we talked about initially?
A Yes, sir.
Q That was found near Mr. Miller?
A Yes, sir.
Q But we don't know any more about that?
A No, sir.
Q Okay. With Mr. Miller himself, I know you collected the GSR kit. I can't recall. Did you process it or --
A I was in the process while Agent Skipper collected the GSR kit.
Q Okay. But that's not your duty, to deal with the processing and all that, right?
A I don't understand your question.
Q Did you process the GSR kit on Mr. Miller?
A Did I collect it or did I examine it?
Q I know you collected it. Did you process it after it

was collected to determine whether he had GSR on his hands?

A I didn't examine it no, sir.

Q All right. That was my question. Anybody else was there a GSR kit collected?

A I do not know.

Q Okay. And I think I recall your testimony was that you didn't discover the pistol but you're the one that went out photographed it?

A Yes, sir.

Q Okay. And I guess finally collected it?

A Yes, sir.

Q Okay. How far out in the woods was it?

A It was pretty far.

Q Pretty far? Can you guesstimate for me?

A I'd say anywhere from 50 to 75 yards out into the woods.

Q Okay. As far as Mr. Miller himself, were any latent attempted, or can you usually get latents off of a person; i.e., did you lift cards off his hands? What I'm asking you is, did you do any potential latent lifts for potential suspects?

A I'm not really sure what you're asking me.

Q Did you try to see if there were any fingerprints on Mr. Miller?

A No, I did not.

Q Okay. Were there any other law enforcement, any other people at the scene that were inside the scene, suspects, anything like that?

A Not to my knowledge.

Q Okay. All right. That's all the questions I've got. Thank you, ma'am?

THE COURT: Redirect, Mr. Barfield?

MR. BARFIELD: None.

THE COURT: All right. Thank you, Ms. Dinh. You may step down.

THE WITNESS: Thank you.

THE COURT: Would you like to have the witness excused, Mr. Barfield?

MR. BARFIELD: Yes, sir. Your Honor, I ask that the witness be excused and her partner, Ms. Skipper, who I now have no need to have on the witness stand. So I would ask that they both be excused. I have explained it to Mr. Frick and I don't think he objects.

THE COURT: No objection?

MR. FRICK: No, sir.

THE COURT: All right. Ms. Skipper and Ms. Dinh may be excused.

MR. BARFIELD: We call Kimberly McGill.

THE CLERK: Raise your right hand. Put your left hand on the Bible.

KIMBERLY MCGILL, after being duly sworn, testifies as follows:

THE WITNESS: Kimberly McGill.

DIRECT EXAMINATION

BY MR. BARFIELD

Q Ms. McGill, by whom are you employed?

A South Carolina Law Enforcement Division, commonly --

Q How long have you been employed by SLED?

A About a little over three and a half years.

Q And what section of SLED do you work in?

A I am in the DNA department.

Q Are you a analyst?

A Yes.

Q Where did you go to college? Where did you go to school?

A I went to Clark Atlanta University. I received my Bachelor of Science degree in biology, and I also went to Georgia State University and received my master of science in molecular, genetics and biochemistry.

Q Was that all before you went to work for SLED?

A Yes.

Q Okay. When you went to work for SLED, did you

immediately go work at the DNA lab?

A Yes. I was trained by a court qualified analyst. I received various training courses of DNA and serology. I also attended various classes and conferences in the field of DNA and serology.

Q Have you done DNA analysis work in the lab at SLED over the course of I think you said three years?

A A little over three and a half. Yes.

Q Have you analyzed many samples during the time you've been there at SLED?

A Yes.

Q Have you compared evidentiary samples to develop DNA profiles to known standards of various people --

A That's correct.

Q -- to compare them?

A Yes.

Q Have you been called upon to come to the courts in this state to be qualified as a forensic analyst on prior occasions?

A Yes.

Q About how many times have you been qualified? When you're qualified, are you qualified as a forensic analyst, or what do you call it?

A I have been qualified three times. And when I'm qualified they're in the fields of DNA and serology.

Q All right. Have you ever been offered as a witness in DNA and serology as an expert and not been qualified? Has any judge ever turned you down?

A No.

Q Okay.

MR. BARFIELD: Your Honor, at this time I'd offer Ms. McGill as an expert witness in DNA and serological analysis.

THE COURT: Mr. Frick, any voir dire with regard to qualifications?

MR. FRICK: No initial voir dire, no objection to her.

THE COURT: All right. All right. The Court will qualify Ms. McGill then as an expert in the field of DNA and serology analysis or forensic DNA and serology analysis.

Ladies and gentlemen of the jury, you'll recall that I told you yesterday that an expert, or maybe it was this morning, that an expert witness, the difference between an expert witness and a nonexpert witness is an expert witness is allowed to give an opinion when that expert has been qualified by the Court as an expert based upon knowledge, skill, experience, training or education and that the testimony would assist the trier of fact to determine

a fact in issue. And so I have qualified this witness as an expert witness. Mr. Barfield.

Q Ms. McGill, I'm going to ask you a few questions about DNA analysis first of all. What is DNA?

A DNA stands for deoxyribonucleic acid. It's found in almost all of our cells. We receive half of our DNA from our mother and half of our DNA from our father. It pretty much tells us who we are. DNA is responsible forgiving us two eyes, a nose and also genetic components. The portion of the DNA that we look at in forensics is the part of DNA that separates us.

If you look around the courtroom you'll see that we have two eyes and a nose. That's the part of the DNA that's primarily the same in each individual. But in forensic science we, particularly in forensic DNA, we look at that portion of DNA that allows us to be different.

Q Now, when you -- what types of human substances can you identify DNA in first of all?

A Okay. DNA can be found in cells. They are located in blood, semen, saliva, skin cells, urine and also some organs.

Q When you have a sample of something that is sent to the DNA lab what do you call the result that produces

some evidence that there is DNA there? What do you call it?

A A DNA profile.

Q And technically speaking, what is a DNA profile? Is it something that you look at a picture of, or what is it?

A Well, in the end we generate somewhat of a picture, but it's not really anything you can physically see. As indicated before you receive half of your DNA from your mother and half of your DNA from your father. And in forensics we look at 15 locations on the DNA strand. And like I said, these 15 locations are what separates one individual from the next.

When we generate a DNA profile, a DNA profile will show you what alleles came from your mother and what alleles came from your father, not specifically saying this came from mom or this came from dad, but it's the contribution of DNA from both of your parents which makes you which in turn is your DNA profile.

Q Now, the profile itself, from a laboratory standpoint, from what you actually work with, what is the profile? Is it numbers? Is it a picture? What is it?

A It's actually -- how do I say this? It's actually

DNA. It's -- in turn, how we generate it with the machine, it shows us a picture. But, you know, you can't see DNA. So it's not like a picture would come out and it will show you some type of molecules or something, because you can't see DNA with the visible eye.

Q Does a chart get generated that does have a series of numbers that you work with in the lab?

A Yes.

Q Okay. Now, did you get called upon to do some work in the DNA lab on some items, some SLED numbered items that were submitted from this case down in Fairfield County from April of 2008?

A That is correct.

Q I'm going to ask you about some things that I want to cover first and then we'll come back to some other stuff. First of all, let me jump ahead. If you develop a DNA profile, are any two DNA profiles of different people ever the same?

A No. With the exception of identical twins.

Q Now, if you develop a DNA profile off a piece of evidence seized by law enforcement in an investigation, do you need anything else to do anything with it?

A When evidence is received involving cases that we

receive from law enforcement agencies, we compare known standards which are standards which are received from individuals which we know where they came from, and we compare them to the evidentiary items in the case.

Q Did you get a known standard or any known standards to develop DNA profiles from in this case?

A Yes.

Q One or more than one?

A One.

Q Whose known standard did you have, DNA standard?

A A blood standard was received from the victim, Alpha Lee Miller.

Q Did you determine Alpha Lee Miller's DNA profile by working with that known blood standard from him?

A Yes.

Q Did you ever need it? Did it ever become useful to you with the other things you worked on in this case?

A Yes. It allowed me to compare any potential evidence to the standard.

Q Now, I'm going to ask you about some items that I want to take care of first. Some cigarette butts. Were some cigarette butts submitted to you for DNA profiling in this case?

A Yes.

Q Were you able to develop any kind of human DNA profile from any of the cigarette butts that were submitted to you?

A I will be referring to my report if that's okay.

Q That's fine. That will be fine. Thank you, ma'am.

A There was no DNA profile developed from the three cigarette butts I received.

Q Did you have submitted to you some swabs from the mouth of the water bottle that Agent Dinh described seizing from the scene earlier?

A Yes.

Q Did you develop a DNA profile from the swabs from the water bottle?

A Yes.

Q Do you know whose it was?

A I don't.

Q Do you know what sex the DNA profile belonged to?

A Yes.

Q Was it male or female?

A Female.

Q Was any female DNA -- was any female known standard ever submitted to you for any purpose in this case?

A No.

Q Did you receive State's items 64 and 65 for identification for work in this case? Take a look at

them and first of all tell me if you know what they are?

A Yes. These are swabs from a handgun.

Q All right. Are those swabs from the trigger and from the handle of the handgun?

A That is correct.

Q Are those SLED items 1.1 and 1.2?

A Yes.

Q And do they bear the same SLED lab number, 08-05088 I think it is?

A That is correct.

Q The samples that you worked with?

A Yes.

Q Does what you have in your hand indicate who originally took those items or put those things in that envelope?

A Yes.

Q Who did it first?

A Kim did.

Q All right. And do you have some markings on those envelopes to indicate that you worked with those items?

A Yes, I do.

MR. BARFIELD: Your Honor, at this time I'd offer 64 and 65 as exhibits rather than for

identification.

THE COURT: Any objection, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: They'll be admitted into evidence as State's Exhibit's No. 64 and 65. The clerk will remove the ID mark.

(WHEREUPON, State's Exhibit No. 64 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 65 is admitted into evidence.)

Q Tell the jury what touch DNA is?

A As indicated by Agent Dinh, touch DNA is any DNA that is released or sloughed off by, for example, such as your hand. You can touch some items and sometimes you can leave your DNA behind. It doesn't happen in all cases. A lot of people sloughed off skin cells and DNA can be found in skin cells.

Also, if you're sweating, for example, in your hands, you may release DNA on whatever it is you're touching because your DNA is also found in sweat.

Q Always or sometimes do you get touch DNA when you try it?

A Sometimes.

Q Did you test State's Exhibits 64 and 65 which were identified tasks swabs from the pistol to determine

if you could develop DNA profiles from what Kim Dinh swabbed off that pistol?

A That is correct.

Q Did you develop a DNA profile from either one of those swabs?

A No. Item number 17.1 is what we call a partial DNA profile. It was developed. And what that means, in order to develop a DNA profile, you have to have -- in order to develop all the 15 locations which creates the profile, you have to have a sufficient amount of DNA or a certain amount of DNA.

One of the cigarette butts yielded a partial DNA profile which simply means that only a few of the 15 locations were able to be identified. And, therefore, with that profile it wasn't enough to be able to compare to a known standard.

Q So what you're telling us is, of all the items you tried to develop a DNA profile from, the only thing you got was a partial profile on one cigarette butt?

A That is correct.

Q Did you prepare a report containing your findings?

A Yes.

Q I'm going to hand you a three-page document and ask you if you can identify that?

A Yes.

Q Is that a copy of your report?

A Yes, it is.

MR. BARFIELD: Your Honor, at this time I'd offer her report as the next State's Exhibit's.

THE COURT: 68?

COURT REPORTER: 68.

THE COURT: All right. Any objection.

MR. FRICK: No, Your Honor.

THE COURT: State's No. 68 is a report of this witness. It's admitted into evidence without objection.

(WHEREUPON, State's Exhibit No. 68 is marked for identification and received in evidence.)

Q Thank you, ma'am. Answer anything Mr. Frick has.

A Thank you.

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q So the only standard that you were given to compare anything against was Mr. Miller?

A That is correct.

Q So if you had been able to develop a complete profile, you could only include or exclude Mr. Miller as the contributor of that DNA?

A That is correct.
Q And I guess the only partial profile you got was off of some cigarette butt. Is that correct?
A Yes. That is correct.
Q And in your report it says not suitable for CODIS. Can you tell us briefly what CODIS stands for?
A CODIS stands for the Combined DNA Index System. It's used as an investigative tool for investigative purposes. And it's a database that contains profiles of samples that were used in -- or samples of DNA profiles that were developed in different cases.
Q Thank you. And what your report tells us is that some woman we don't know was drinking from the water bottle?
A Yes.
Q Thank you.
A Thank you.

MR. BARFIELD: Yes, Your Honor, real quick.

THE COURT: Yes, sir.

REDIRECT EXAMINATION

BY MR. BARFIELD

Q The only known standard you had to develop a DNA profile from was the victim's?
A Yes.
Q Had you developed a DNA profile on any of the other

items that you tested; number one, could you have requested the local agencies to send you any other known standards they wanted you to compare it to?

A Yes.

Q Could the agency on its own have sent you any other known standards they wanted you to compare it to?

A Yes.

Q Was there any need for any other known standards? Was there any need for any known standard, period, in this case based on the results of your attempts to develop DNA profiles?

A No.

Q Thank you.

THE COURT: Anything further?

MR. FRICK: Nothing further.

THE COURT: All right. You thank you. You may step down.

THE WITNESS: Thank you.

THE COURT: Counsel, step up a minute, please.

(Whereupon, a bench conference is had)

MR. BARFIELD: Ms. Simmons.

THE COURT: All right. Come around, please.

ILA SIMMONS, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. BARFIELD

Q State your name, please, ma'am.

A My name is Ila Simmons.

Q And, Ms. Simmons, by whom are you employed?

A The South Carolina Law Enforcement Division.

Q How long have you been employed by SLED?

A Ten years.

Q What section of SLED are you employed in?

A I work in the trace evidence department which is the forensic laboratory.

Q How long have you been in trace evidence?

A Ten years.

Q What are you -- I don't mean this facetiously. But what are you an expert at?

A We -- trace evidence encompasses several areas of forensics. We analyze gunshot residue, gunpowder residues. We perform fiber, paint comparisons, as well as analyzing arson residues and explosive residues.

Q Okay. Have you been -- and I think I asked you this a minute ago. How long have you been in the trace evidence department?

A Ten years.

Q For ten years. Where did you go to college?

A I went to the Columbia college.

Q And what was your degree in?
A Chemistry.
Q Did you go to work for SLED? Was SLED your first law enforcement job after college?
A Yes.
Q Was it very soon after end college --
A Yes, sir, it was.
Q -- or did you do something else for a while?
A No, sir. It was right after I completed my degree.
Q Did you receive in-house training and have you continued to receive in-house training during your ten years you've been at SLED?
A Yes, sir. My first three years at SLED I worked with a court qualified SLED certified trace evidence examiner who taught me how to collect trace evidence and analyze trace evidence using the instrumentation that we have in the laboratory. I had to complete oral, practical and written examinations and I had to complete them with 100 percent efficiency to continue on as a trace evidence examiner.

And during the ten years I am a member of the southern association of forensic science, a member of the American academy of forensic science. I am also a member of the Federal Bureau of Investigation's gunshot residue symposium where they invite people

from around the world who practice gunshot residue to discuss the standards and practices that all people will use.

Q Are you in good standing with SLED right now as a trace evidence examiner with the State Law Enforcement Division?

A Yes, sir.

Q Have you been called upon to testify as a trace evidence examiner in the courts of this state on prior occasions?

A Yes, I have.

Q Have you always been qualified -- about how many times have you testified?

A Several hundred times.

Q Have you ever been denied qualification as a trace evidence examiner?

A No, sir.

MR. BARFIELD: Your Honor, at this time I'd offer Ms. Simmons as I guess an expert witness in trace evidence examination, gunshot residue analysis in particular for this case.

THE COURT: Mr. Frick, have you got any voir dire with regard to qualifications?

MR. FRICK: No, Your Honor. And I have no objection to her being an expert in gunshot residue

matters.

THE COURT: All right. The Court will qualify this witness as an expert in the field of gunshot residue analysis. And, ladies and gentlemen, you will recall of course that when a witness is qualified as an expert, that witness is entitled to give an opinion.

Q A couple of unrelated things for a minute. Did you come into possession of an item delineated as item 33 and identified as a yellow shirt from the victim in this case?

A Yes, I did.

Q Did you do some examination of that shirt to see if you could determine anything about, similar to what Dr. Sexton told us, about distance of the gun from the victim when he was shot, things like that?

A Yes, sir, I did.

Q First of all, did you see the defects in the shirt that appeared to be bullet holes?

A Yes, I did.

Q Was there some blood on the shirt?

A There was blood on the shirt and the shirt was also very wet with water.

Q Okay. What were you trying to do with the shirt?

A I was trying to make a determination as to how far

the muzzle end of the gun was from the garment when the gun was discharged.

Q And what would you perhaps find on the shirt to be able to make some conclusions about that?

A A mixture of chemicals that come out of the gun and gun powder particles.

Q Do you apply chemicals to the shirt to see if those other chemicals are present?

A Yes, I do.

Q Did you do that in this case?

A Yes, sir, I did.

Q Were you able to make any determination at all about the presence of chemicals that would come from a gun being fired?

A I did not find any gunpowder on the shirt. And in many instances that would lead me to believe it was a distant shot, probably farther than three feet away. The gun was farther than three feet away from the shirt. But because the shirt was so wet with water and with blood, the chemicals, I could not determine definitively how far the gunshot was.

Q You also had in your possession the pants that the victim was wearing?

A Yes, sir.

Q Were there any findings made at all about -- did you

try but were there any findings made about the pants?

A Oh. I examined the pants for the presence of holes that could be consistent with bullet holes and no holes were found.

Q Now, what is gunshot residue?

A Gunshot residue is a mixture of microscopic chemicals that come out of a gun when it's fired. It comes out in a cone shaped cloud. It can get on anything in close proximity to the gun when the discharge occurs, including the hands of a person firing a weapon.

Q Could it get on the hands of somebody who is standing next to the guy who shoots the weapon?

A Yes, sir. If they're close enough to the gun.

Q Is there some -- with a deceased person, is there any time limit by which samples should be collected on a deceased person, assuming somebody has got control of the body?

A No, sir. What happens, gunshot residue has a consistency of flour. So if someone were to shoot a gun and wash their hands, they're going to wash the gunshot residue off. If they begin to sweat, if they have any sort of moisture on their hands, they were holding a glass that was sweating, this could all remove gunshot residue.

On a deceased person, the heart is no longer

beating. You're no longer perspiring. The skin becomes like an inanimate object. So the gunshot residue would remain on it until it was removed by an outside source. However, on a living individual constantly making contact with things in your hands, constantly sweating, absorbing things through your skin, gunshot residue will not last longer than six hours.

If I were to shoot a gun at noon, by 6:00 this afternoon there would be no gunshot residue left on my hands even if I didn't wash them.

Q If a suspect is arrested outside that six-hour window, is there any point in taking swabbings from that suspect's hands for gunshot residue collection?

A No, sir.

Q Now, did you receive in your lab item 20 which also had some sub items? And can you identify what the contents of that envelope are?

A Yes, sir. This is State's Exhibit 50. It is a gunshot residue kit labeled from Alpha Lee Miller. It is marked with my initials, the laboratory identification number, as well as the item number and the date that the kit was opened.

Q Now, are there some sub items under generally item 20?

A Yes, sir.
Q And what are the sub items?
A Within the GSR kit there is a sample collected from the right palm, a sample collected from the back of the right hand, a sample from the left palm and a sample from the back of the left hand. Those are the sub items.
Q Is that the standard areas that you try to collect samples from?
A Yes, sir.
Q That a crime scene agent would try to collect samples from?
A Yes, sir, it is.
Q Did you test all four of those samples to determine whether there was gunshot residue present in the samples collected from Alpha Lee Miller's hands as the crime scene?
A Yes, sir, I did.
Q What was your finding?
A The metals that we found did not indicate the presence of gunshot residue.
Q Did you prepare a two-page report which contains those conclusions, including what you've told us about the shirt and the pants a few minutes ago?
A Yes, sir, I did.

Q Is that a copy of your report?

A Yes, sir, it is.

MR. BARFIELD: Your Honor, at this time I'd offer Ms. Simmons' report as the next State's Exhibit.

THE COURT: 69?

COURT REPORTER: 69.

THE COURT: Any objection, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: Exhibit No. 69, the report of Ms. Simmons, is admitted into evidence without objection.

(WHEREUPON, State's Exhibit No. 69 is marked for identification and received in evidence.)

Q Thank you, ma'am. Answer anything Mr. Frick has.

THE COURT: Mr. Frick, cross examination.

CROSS EXAMINATION

BY MR. FRICK

Q Clearly you didn't find any gunshot residue on Mr. Miller?

A Correct.

Q And I guess, did someone bag the hands at the scene or something to preserve or --

A I'm not certain, sir. I wouldn't know.

Q You just get the kit?

A Yes, sir.
Q Was anything else from anyone else submitted to you for examination in this matter?
A No, sir.
Q Okay. This is kind of a hypothetical. But if you had a suspect and you could have the clothing that they had worn while the gun was fired, is it possible to find gunshot residue on it?
A It is. And what is different about clothing is gunshot residue is going to remain on it until it is washed or removed in some way. It's not like the skin where it's continuing to be sloughed off.
Q So assuming the clothing is left piled on the floor or somewhere else, even up to a day or so later, gunshot residue could still be on the clothing of the person who fired the weapon?
A Yes, sir. If it had not been laundered in some way.
Q Okay. That's all the questions I have. Thank you, ma'am?

THE COURT: Redirect?

MR. BARFIELD: None. I ask that she be excused.

THE COURT: Any objection, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: All right, Ms. Simmons. You are excused. Thank you for coming. All right, ladies

373

and gentlemen. I have been advised that the next witness will put us into the lunch. It's about five or seven minutes 'til 1:00. And so we are going to recess for lunch at this time. I'm going to allow you to go and get your lunch you know, ask you to be back, if it suits everyone, in an hour and 15 minutes. That should give everyone enough time I ask you to be back in your jury room, please, at 2:15. We'll be ready to go forward at that time.

Again, over the lunch recess do not discuss the case with anyone. Do not allow anyone to discuss it with you and do not discuss it among yourselves when you reassemble in your jury room. It's still premature for you to begin any deliberations. So with those admonitions I am going to excuse you now and ask you to please be back in the jury room at 2:15. I'll see you at that time. If you'll go with the bailiff. Thank you.

(Jury out at 12:53).

MR. BARFIELD: We'd ask Ms. McGill be excused also.

THE COURT: Any objection to Ms. McGill being excused?

MR. FRICK: No objection.

THE COURT: All right. Ms. McGill, you are

374

excused. Thank you. All right. Before we adjourn, counsel, just wait just a minute. Let's wait about two minutes. I want to give just a couple of minutes for the jury to clear the immediate area before we adjourn, allow everything to move out.

(Pause)

THE COURT: We'll be in recess until 2:15. See you at 2:15.

(Whereupon, a lunch break is taken).

THE COURT: This is the State vs. Willie James Adams, Jr. Mr. Adams is present in court with his counsel, Mr. Frick. And the State is present, represented by Mr. Barfield. Mr. Barfield, anything before we bring the jury in?

MR. BARFIELD: Yes, sir. One very brief thing. State's Exhibit No. 56 for identification is the heat-sealed envelope containing the firearm, the magazine and two live -- actually three live rounds. Dan DeFreese is going to be -- I'm going to call him up very briefly. I'm going to call Dan DeFreese from SLED firearms to testify about this stuff.

With the the Court's permission, I'd like for him to come up, open it up, make sure the gun is clear and safe because I do want him to have it out of the bag during his testimony.

375

THE COURT: All right. We'll definitely do that. And the other thing I want to tell you is that, and I just learned this when I was first on the bench. You can introduce all of those and they have the right to be introduced as evidence in this case because I assume you're going to tie them together. But I will not let the weapon and the bullets go to the jury room at the same time.

MR. BARFIELD: I agree with that wholeheartedly and was going to suggest that if you didn't bring it up. I do not anticipate you letting that happen, and I don't want it to happen either.

THE COURT: I remember I was in Florence and the case involved -- it was a murder case and the defense was self-defense. And he bought a five shot revolver and the guy was shot six times. And one of the issues in the case was how fast you could load or unload a revolver. And I could just see that trying that in the jury room to see how fast it would take. And so I -- and I did let the bullets go back then, and I realized then I was on the way home and I almost wrecked the way home when it hit me that we could have had an accident. So that is one thing. But, yeah. Have Mr. DeFreese come on up.

MR. BARFIELD: Would you check, Agent? Madam

376

Clerk, do you have a small envelope?

THE CLERK: A letter envelope?

MR. BARFIELD: Yeah. I've got three loose bullets that I want to put in something.

(Pause)

MR. BARFIELD: And, Your Honor, as a housekeeping matter, we've marked everything that was in the big envelope as State's 56 for ID. I would at this time ask that the record show that the firearm with the inserted magazine which has been made safe be 56 for ID and then a separate envelope containing three live round be -- can we mark it 56 A. or something?

THE COURT: Or 57. We could do it either way.

MR. BARFIELD: Well, we've already marked -- have we got anything? What's the last number? We've gone into the 60's already.

COURT REPORTER: We're now at 70 would be next.

MR. BARFIELD: Are you okay with 56-A?

THE COURT: Yeah. I don't have a problem. Any way y'all can distinguish it, that's fine.

MR. BARFIELD: 56-A.

COURT REPORTER: So 56-A for ID.

MR. BARFIELD: For ID.

377

(WHEREUPON, State's Exhibit No. 56-A is marked for identification.)

THE COURT: Mr. DeFreese, you've check the weapon and it's safe?

MR. DEFREESE: Yes, sir.

THE COURT: Okay.

MR. BARFIELD: Other than that, Your Honor, I'm ready.

THE COURT: All right. Mr. Frick, anything before we bring the jury in?

MR. FRICK: No, sir.

THE COURT: All right. Good. Bring the jury in. Thank you.

MR. BARFIELD: I do have a couple of things that I'm going to move into evidence when the jury gets back in that I think we need to do some housekeeping on.

THE COURT: That will be fine.

(Jury in at 2:21 p.m.)

THE COURT: All right. Thank you, ladies and gentlemen. Thank you for your promptness in being back here, and we are now ready to proceed. Mr. Barfield.

MR. BARFIELD: Your Honor, during the morning witnesses testified about two or three items that I

378

had marked for identification purposes. State's Exhibit No. 50 was identified I believe as the -- let me make sure -- GSR kit, and I would move that into evidence.

THE COURT: Any objection, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: All right. It will be admitted into evidence as State's Exhibit No. 50 without objection.

(WHEREUPON, State's Exhibit No. 50 is admitted into evidence.)

MR. BARFIELD: State's Exhibit 62 for ID is identified as the red pipe that Agent Dinh found on the scene, I need to move it into evidence.

THE COURT: Any objection, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: Admitted into evidence without objection.

(WHEREUPON, State's Exhibit No. 62 is admitted into evidence.)

MR. BARFIELD: State's Exhibit 63 Agent Dinh testified was the card which bears the name Alpha Lee Miller. I'd move to introduce it into evidence.

THE COURT: Any objection?

MR. FRICK: No, Your Honor.

THE COURT: Admitted into evidence without

objection.

(WHEREUPON, State's Exhibit No. 63 is admitted into evidence.)

MR. BARFIELD: And with that, I will call Greg Boney again briefly.

THE COURT: Come up just a minute, Mr. Barfield.

(Whereupon, a bench conference is had)

THE COURT: Mr. Boney, I will remind you that you've already been sworn. And you may proceed, Mr. Barfield.

GREG BONEY, after being recalled and reminded he is still sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. BARFIELD

Q Mr. Boney, you testified I guess it was yesterday about being the lead investigator in this case. And I will ask you now, were several people developed as suspects for various charges arising out of this case?

A Yes, sir, they were.

Q And was Willie James Adams a suspect for the charge of murder?

A Yes, he was.

Q What date did this incident happen again?

A April 5th, 2008.

Q And was Willie James Adams arrested sometime after April 5th of 2008?
A Yes, sir. He was arrested on April the 8th, 2008.
Q Was Levarn Marcellus Jackson later developed as a suspect and charged with murder in this case?
A Yes, sir.
Q Was he arrested?
A Yes, sir.
Q What day was he arrested?
A 4-6-2008.
Q And was Bryan Lamont Lawhorn also developed as a suspect for the offense of murder in this case?
A Yes, he was.
Q Was he arrested?
A Yes, he was.
Q What day was he arrested?
A April 7th, 2008.

MR. BARFIELD: All right. That's all the questions I have of Mr. Boney at this time.

THE COURT: Cross examination, Mr. Frick?

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Obviously they were arrested a day or so after the event, each one of them individually?

A Yes, sir.
Q Did you at any point obtain a search warrant or do anything to get any clothing from these people?
A No, I did not. I didn't have any location which to search at that time.
Q Okay. All right. But nothing ever -- I guess what you're saying is nothing came out that would lead you to know what to look for or --
A Where they might have been during the time between the shooting and when they were locked up.
Q Okay. Without getting into too much detail, do you recall where each person was arrested?
A Mr. Lawhorn was arrested at his mother's residence on Flint Hill Road here in Fairfield County.
Mr. Jackson I believe was arrested at the -- he came to the Ridgeway P.D. I'm not positive about it, but I believe that's right. And Mr. Adams was arrested at his sister's house on Calhoun Street here in the town of Winnsboro.
Q Okay. All right. Thank you.
THE COURT: Anything further of witness, Mr. Barfield?
MR. BARFIELD: Nothing from Mr. Boney at this time. Right to recall later on in the week.
THE COURT: All right. You may step down,

Mr. Pony. You are subject to recall.

MR. BARFIELD: I call Dan DeFreese.

THE COURT: Come around, Mr. DeFreese.

FRANK D. DEFREESE, after being duly sworn, testifies as follows:

THE CLERK: Please be seated. I need you to state you are your name for the record.

THE WITNESS: My name is Frank Dan DeFreese. That's D-E, capital F, R-E-E-S-E.

DIRECT EXAMINATION

BY MR. BARFIELD

Q Mr. DeFreese, by whom are you employed?

A By the South Carolina Law Enforcement Division.

Q And how long have you been employed by SLED?

A For 42 years.

Q What department of SLED are you employed in?

A I work in the forensic services laboratory, and within the laboratory I work in the unit where we do the identification of firearms and toolmark evidence.

Q How long have you worked in that part of the laboratory?

A For -- well, I've been associated with the identification first of all 42 years. I've been actively working cases for 37 of them.

Q All right, sir. From time to time you've been called

upon to testify as an expert witness in firearms identification in the courts of this and perhaps other states?

A Yes, sir.

Q About how many times have you testified as an expert in firearms identification in the State of South Carolina in our courts?

A I can only estimate it. It's something between 600 and 700 times.

MR. BARFIELD: Your Honor, at this time I'd offer Mr. DeFreese as an expert in firearms identification.

THE COURT: Mr. Frick, any voir dire?

MR. FRICK: None. I am quite familiar with Mr. DeFreese's credentials. So, no, sir. And I have no objection to him being offered as an expert in toolmarks and firearms.

THE COURT: I find him to be qualified in toolmarks and firearms evidence.

Q Did you get called upon to examine some items under SLED lab number L08-0588 associated with the case that we're all here for this week?

A Yes, sir, I did.

Q Did you participate in the crime scene investigation at all?

A No.

Q Were necessary items logged into the lab at SLED and picked up probably by you to do your work on them?

A They were.

Q Is this a handgun case?

A It is.

Q How many basic types of handguns are there?

A We generally divide handguns into pistols and revolvers.

Q All right, sir.

A Revolvers are manually operated firearms that have their cartridges in a centrally located revolving cylinder. They have one barrel and multiple chambers in that cylinder. Pistols can be either manually operated or they can be operated by using some of the energy in the cartridge to cycle the firearm. The most commonly encountered pistols are semi-automatic pistols.

Q Now, I'm going to go ahead and show you something and then let you educate us a little bit about this particular item. I'm showing you what was a heat-sealed envelope marked as State's Exhibit 56 for identification. Take a minute to examine that and then tell me if you recognize the item in the bag?

THE COURT: Before it goes in front of the jury,

I will tell the jury that before I allowed this to be introduced into evidence we did ensure that it has been made safe. So it has no ...

A Yes, sir. I've had this pistol before.

Q And did you put some markings on it to identify it as the pistol that you worked with?

A I did. It has that case number, the L. 08-5088 together with this item number and my initials on its barrel, slide, magazine and frame.

Q Now, when you received that pistol was the magazine with it?

A It was.

Q Was there any ammunition with the pistol when you received it?

A Yes, sir. The pistol was received with three unfired 9-millimeter Luger cartridges.

Q Now, I'm handing you a little envelope marked for identification State's Exhibit No. 56-A. Do you recognize the contents of that little envelope?

A Yes, sir, I do.

Q What are they?

A These are the three cartridges that were received with the pistol.

Q First of all, what caliber is that pistol?

A It's 9-millimeter Luger caliber.

Q What makes it Luger as opposed to just 9-millimeter?
A The caliber is common called 9-millimeter Luger. It has many other names, like 9 by 19-millimeter or 9-millimeter model 1908. But it was a cartridge that was introduced in 1908 for use in the German Luger pistol. And since then it's been used in hundreds of different pistols.
Q When you received those items that are on the rail there by you, was the ammunition out of the magazine and out of the pistol?
A It was.
Q Did you -- all right. Well, now, that is a semi-automatic pistol?
A It is.
Q Explain to the jury how that pistol operates?
A All right, sir. Once again demonstrating that the pistol is not loaded, this pistol has a barrel which you can partly see and part of it is covered by the slide. And at the rear of the barrel there is an enlarged area called the chamber into which a cartridge can be placed.

If I were to prepare this gun for firing, I could do it in a couple of different ways. But, for instance, I could fill this magazine with cartridges. This magazine will hold as many as 15 cartridges. If

I decided to load the gun in that fashion, I could stick the magazine, pretending that it's loaded, into the gun where it will latch. At this point if there were cartridges we could see it through what's called the ejection port which is where my finger is now.

Thereafter I'd release the slide and as I released the slide a surface on the slide would contact the top cartridge, strip it out of the magazine and load it into the chamber at the rear of the barrel.

The pistol is now prepared for firing. Now, you see the hammer is cocked because the slide was back. It can be fired in this fashion which is called the single action mode by pulling the trigger. That would have caused the hammer to drop, the firing pin to be struck by the hammer.

The firing pin would have pushed forward. It would have indented the primer of the cartridge that's in the chamber. That would have caused the primer to explode. It would have put a flash into the main powder charge. At that point the powder charge begins to burn. It burns very, very rapidly. We think of it is almost an instantaneous explosion.

It builds pressure inside of the cartridge case. That pressure wants to go somewhere and it takes the

path of least resistance which is to drive the barrel or drive the bullet down the barrel and out of the gun.

A very short time later the recoil or the kick from the explosion of that cartridge will cause the barrel to -- the slide to come back very slightly which drops the barrel out of engagement with the slide. The barrel is locked to the slide at the instant of firing.

Thereafter the slide continues all the way to the rear. When it's all the way to the rear or close to the rear, that cartridge case which has just been fired strikes an object called the ejector and it's expelled. It's flipped out of the gun automatically.

At this point there is a spring which is being compressed entire time. It takes over and the slide goes back forward and it's prepared for the next shot.

Q And when that occurs is the hammer back if you load the magazine and fire the pistol and all of the activity you just described occurs and the spent cartridge case is ejected?

A Yes, sir. Well, the hammer is back now. After the gun fires it's going to cock the hammer and leave the hammer cocked. Now, this gun can be carried and

fired in two ways. I described before the single action mode. It can also be fired in what's called a double action mode. In the double action mode -- excuse me -- in a double action mode a single long pull of the trigger -- you'll notice the hammer is being moved back as I pull the trigger. When it moves back a certain amount, it drops the hammer.

So this gun can be carried in essence with the hammer not cocked. And so for the first shot just a long pull of the trigger makes it fire the first time. After it cycles, then we have to let up on the trigger just slightly. I've got the trigger completely pulled now. It will fire once for each pull of the trigger. But when I let the trigger forward, you may have heard it just make a slight little tick sound which resets it, so that as I pull it again, it fires in a single action mode. Then it cycles again. I let up on the trigger again. It's ready to fire.

Q You can fire it successively as long as you have ammunition in the magazine?

A So long as ammunition is present and, you know, so long as the pistol functions as it should. And then at the conclusion of firing it also has a safety mechanism which --

Q That was my next question. Does it have a manual safety?

A It does. It's located on the slide. And as I depress the safety, as I turn it down from the horizontal position, it de-cocks the hammer without firing the gun and it also thereafter prevents the gun from firing.

Q If it's in proper working order, can it be fired with the safety engaged?

A No. With the safety in the safe position you can pull the trigger but nothing happens. When I move the safety to the fire position, then it is capable of firing in either the single or the double action mode.

Q Now, we'll come back and talk about ammunition in a minute. Is there some way to measure trigger pull on a pistol like that?

A There is.

Q Is there any significance to the measurement of trigger pull? Tell the jury what that means?

A Well, trigger pull is the amount of effort, and it's measured in pounds, that it takes to make the gun discharge. The amount of weight literally that's hung on the pistol. For instance, to fire it in the single action mode I would hang a series of weights

on the trigger with the muzzle pointed essentially straight up and measure how much weight it took to make the gunfire.

And the same in the double action mode. Of course in the double action mode I've got a very long, heavy pull of the trigger because in addition to just releasing the hammer, I'm also cocking the hammer. So the single action --

Q So measurement would be different between single action and double action firing?

A Correct. It takes much more to fire it double action than it does single action. And in this case it took between seven and a half and seven and three quarter pounds applied not trigger to make it fire in the single action mode. That's where the hammer is already cocked. In the double action mode where we're cocking and firing at the same time it takes between 13 and 14 pounds loaded on the trigger to make it fire.

Q You mean literally that much weighing pulling against the trigger with the barrel pointed straight up to make the trigger be pulled?

A Yes.

Q Are you familiar with that make of firearm, first of all?

A I am.
Q I hesitate to ask you this. How many other makes of firearms have you worked with during your career at SLED?
A Hundreds of different makes of firearms.
Q Now, relatively speaking, how do you rate the trigger pull, both single action and double action, of that pistol, State's Exhibit No. 50 whatever it is for identification?
A 56.
Q 56. How do you rate the trigger pull of that pistol relative to your common makes and brands of pistols?
A It's a little heavier than I have encountered on similar pistols. It's got a fairly heavy trigger pull for a gun of this type.
Q Now, as part of your initial work on this case, did you have to examine that firearm to make some observations about it and determine whether it was in proper working order?
A I did.
Q Was it?
A It was.
Q Is that a fire -- was there any defect in the firearm that you were made aware of through your examination of the firearm?

A No. I observed it did have a little surface rust on it. And the action was somewhat dry as a result of it's having been processed for latent fingerprints. But the gun functioned and fired normally during my test firing.

Q Is that a gun that is easy to accidently pull the trigger on, either single or double action?

A No, sir.

Q Did you have -- let me jump way ahead. Did you have any fired bullets, bullets that perhaps had been fired through that gun to compare to that gun --

A No, sir.

Q -- in this case?

A There were no evidence bullets submitted in this case.

Q All right. Did you have -- and you probably will call them different than the way I call them. Did you have any unfired rounds that were seized as evidence in this case to examine?

A Yes, sir. In addition to the ones we've called Exhibit 56-A, there were other unfired -- these are known as unfired cartridges.

Q Okay. Let me ask you about Exhibit 56-A first. Well, first of all, if you have an unfired cartridge and a pistol, are you able to do any comparison at

all between the unfired cartridges and the pistol?

A Sometimes. There are sometimes questions asked, for instance, can we tell if a given unfired cartridge was ever cycled through a firearm without its being fired.

Q Does that happen sometimes, you pull the trigger and the ammunition does not ignite?

A Well, sometimes it's either misfired or you get a jam or the person unloaded firearm.

Q Now, was that an issue in this case? Was there any allegation or examination for any of the unfired cartridges having been matched up to that pistol in any way?

A No, sir.

Q Now, are you able to tell whether unfired cartridges are proper ammunition that could be used in a particular firearm?

A Yes, sir. We are.

Q Now, were State's Exhibit 56-A for identification all -- did you determine whether they were proper ammunition for State's Exhibit 56 --

A I did.

Q -- for identification?

A And they were.

Q Did you have other unfired cartridges submitted to

you in this case?

A I did.

Q And it might be easier for you to give me the number and me to hand you the item. But if you would give me the SLED item numbers for unfired cartridges that came into your possession?

A The unfired cartridges were items 4, 6, 7, 8, 10 and 11. Item 7 was two cartridges. Item 10 was five and item 11 was 28 cartridges.

Q You had 4, 6?

A 7.

Q 7, 8?

A 8, 10 and 11.

Q All right. I'm going to hand you all of them. Briefly. One at a time I guess, State's Exhibit No -- give me your numbers again?

A 4.

Q All right. I'm going to do them one at a time. Do you recognize State's Exhibit 53 for identification?

A Yes, sir, I do. State's Exhibit 53 is an unfired 9-millimeter Luger caliber cartridge which is the right ammunition to use in State's Exhibit 56.

Q All right. I'm going to hand you State's Exhibit 55 for identification which is SLED item number 6. Do the same procedure for that one, if you would,

please, sir.

A Yes, sir. State's Exhibit 55 is also an unfired 9-millimeter Luger caliber cartridge.

Q Proper for that pistol?

A Yes, sir.

Q State's 57 for identification is SLED item number 7. Tell me if you recognize that and what it is?

A State's Exhibit 57 consists of two unfired 9-millimeter Luger caliber cartridges.

Q Proper ammunition for a pistol in State's No. 56 for identification?

A Yes, sir.

Q State's No. 58 for identification, SLED item number 8?

A Yes, sir. State's Exhibit No. 58 is also an unfired 9-millimeter Luger caliber cartridge, the correct caliber for use in State's Exhibit 56.

Q State's 60 for identification, SLED item number 10. Tell us what that is after you've examined it?

A Item number 10 is a Mag-Tech brand cartridge box. This is in a sealed container which has my initials and my date of sealing. I can open it if you like. At the time that I sealed it up it contained five unfired 9-millimeter Luger caliber cartridges, the same --

Q Proper ammo for that pistol?
A The proper caliber for use in that pistol. And the cartridges matched the description of contents that were on the box. That is, it's a Mag-Tech box which contains Resillion-made cartridges that have a CBC head stamp on it.
Q Do you have any reason to believe that the five unfired cartridges that were in the box are not still there, without having to open the thing up?
A No. The pouch is still sealed and it still has my initials and my date of sealing on it.
Q We'll leave it sealed then. I'm going to hand you finally -- not finally, but final for the moment -- State's 61 for identification which I believe is SLED item number 11.
A Yes, sir.
Q What is that?
A SLED item number 11 contains 28 unfired 9-millimeter Luger caliber cartridges which are the correct caliber for use in State's Exhibit 56. And these are also in a sealed pouch that still has my initials and my date of sealing on it.
Q All right. Thank you.

MR. BARFIELD: Your Honor, at this time as to 56, 56-A, 53, 55, 57, 58, 60, and 61, I move to

introduce those as evidence, not simply for identification.

THE COURT: Mr. Frick.

MR. FRICK: In objection.

THE COURT: All right. They'll be admitted in evidence as marked without objection. Let the court reporter take a minute and take the ID markings off of them.

(WHEREUPON, State's Exhibit No. 53 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 55 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 56 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 56-A is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 57 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 58 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 59 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 60 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 61 is admitted into evidence.)

Q Mr. DeFreese, did you also have submitted to you for study and examination what I call fired cartridge cases?

A Yes, sir, I did.

Q And do you have SLED item numbers for those items?

A That would be items 2, 3, 5 and 9.

Q I'm handing you State's Exhibit for identification exhibits 51, 52, 54 and 59 which I think correspond to your SLED item numbers. If you would just look at all of them and then we'll talk about them.

(Pause)

Q While you're looking at them, let me ask you this. When you get one of these things in your hands to work on, do you mark the individual fired cartridge case and the individual unfired cartridge?

A Yes, sir. I do.

Q Is that what you're checking when you open those things up?

A That's exactly what I'm looking for. Each of these cartridges or cartridge cases should have the case number, the item number and my initials engraved on them. Which so far they do.

Q Good. Tell me if you find one that doesn't.

A And these are still -- the containers are still packed back up the way that I do that.

Q Thank you.

(Pause)

A Yes, sir. I recognize all of these.

Q And is that four fired cartridge cases?

A Yes, sir.

Q May I hold them? Excuse me.

A I'm just confirming exhibits 51, 52, 54 and 59.

Q Did you examine each of those items?

A I did, sir.

Q Now, tell the jury what the components of a cartridge are?

A A loaded cartridge consists of a bullet, a cartridge case, propellant powder and then a primer assembly.

Q Let me hand you State's Exhibit 56-A if that will help you for illustrative purposes?

A The bullet is that conical shaped object that loaded into the cartridge case that's expelled the bore and out of the gun. It's what the gun shoots. The cartridge case is the structure into which everything else is loaded. The bullet is loaded into the mouth of the cartridge case. The propellant powder is inside the cartridge case. And the primer is this smaller in diameter section in the rear of what's

called the case head in the back of the cartridge case. The primer is constructed of a cup and an anvil and a priming compound which is -- that's what's struck by the firing pin. It's what initiates the firing.

Q Explain to the jury what happens to the cartridge by the pistol to fire the bullet?

A When the cartridge is loaded into the chamber, into the back of the barrel, when the shooter pulls the trigger, the firing pin as a result of that emergencies from the breach face. The breach face being that portion of the gun that holds the back end of the cartridge in the barrel.

For instance, my hand in this case would be the bridge face. It's what holds the cartridge in the gun. On this particular gun on State's Exhibit 56 the breach face is located in the slide in the portion of the pistol that goes back and forth.

The firing pin strikes the primer and builds pressure as a result of the burning of the powder inside the cartridge. When it does, the cartridge seeks to expand in all directions. But because it's in the barrel, the barrel has it confined on its sides and the breach face has it confined at the back.

The pressure builds to a point where the cartridge is placed very, very firmly against the breach face because in this cartridge you're talking about a pressure of like 35,000 pounds per square inch, a pretty high pressure that's being built up.

So all the marks that are on the breach face are transferred to the back of the cartridge case to the primer and the areas surrounding the primer as the pressure builds to drive the bullet out of the barrel.

Q Does the firing pin make a mark?

A It does.

Q Left on the cartridge case?

A It does.

Q Well, what happens with the primer? Does anything -- other than the bullet being expelled from the mouth of the cartridge and of course the expendable inside it burning up or whatever and being propelled, does anything break apart or come apart?

A Well, the primer does -- the contents of the primer literally disintegrate. They almost instantaneously burn. The priming compound is a very, very high velocity explosive. It's propelled into the main body of the cartridge case through a flash hole and that's what initiates the burning and the propelling

of everything. But the primer does actually move out of the cartridge case and moves into contact with the breach face very early on in the firing cycle.

So the primer is intimately in contact with the breach face, and that's why it's in a position to pick up, all except that portion that the firing pin has impressed, the rest of it will come into contact with the breach face.

Q Does the primer stay in the cartridge case after the --

A It does.

Q -- firing is over?

A It does. Every once in a while one will accidentally be expelled. But for the most part, the primer remains -- the fired primer and the fired cartridge case remain together. The bullet has gone out the barrel. The propellant powder is being consumed.

Q Now, when the pistol is fired and the fired cartridge case is ejected from the ejection port of the pistol, that pistol?

A Yes, sir.

Q Where does it go?

A It's propelled with sufficient energy to clear the pistol. This pistol would tend to eject generally to the right if the pistol were in proper orientation.

But it goes out of the gun in some direction, just generally this way. Because the injection port is on the right side of the gun, it can't really be ejected directly left.

Q And would fall wherever gravity takes it?

A Pretty much wherever gravity takes it or wherever -- it might bounce or there could be other things that have to do with where it ultimately winds up. But it's going to end up falling a short distance away from the gun.

Q Is there some way in your science to compare a pistol like State's Exhibit 56 for identification with a fired cartridge case like State's Exhibits 51, 52, 54 and 59 and determine whether those fired cartridge cases were in fact fired through that pistol?

A Yes.

Q Explain to the jury how you do that?

A It's a side-by-side microscopic comparison that I make between these evidence items, these fired cartridge cases, and between cartridge cases that I obtained by test firing State's Exhibit 56. After I select my information about the pistol and do my markings on it and what have you, I'll then take the gun and go test fire it and I'll obtain cartridge cases that I know that pistol has fired. And then

I'll compare them with these cartridge cases to see if the same matching breach face impressions are present on all of them.

Q How do things occur to the breach face of the gun that will leave impressions on the back end of a cartridge case?

A During the manufacturing process there is a certain amount of variation that occurs from part to part. During the finishing process, during the bluing process, and really even during the process of making the steel from which the slide itself is machined that there's a constant breakdown of the cutting tools. There is build up of material on the cutting tool surfaces. And then once a gun is actually put into service, there is a certain amount of use or abuse or rust that could be microscopic imperfections that were present in the steel from which it was made. There are a number of different sources for unique individual markings to be placed on cartridge cases by a particular slide.

Q Did you compare -- well, first of all, did you test fire State's Exhibit 56-A [sic] to get you some fired cartridge cases that you knew were fired through that gun?

A Yes, sir. Actually 56, the pistol.

Q The pistol. Yes, sir. Did you compare your test cartridge cases to 51, 52, 54 and 59 to determine, if you could, whether 52, 54 -- 51, 52, 54 and 59 were fired by pistol 56?

A Yes, sir.

Q And did you reach a conclusion?

A I did.

Q What is your conclusion?

A My conclusion is that all four of those cartridge cases were fired by this pistol.

Q All right, sir.?

MR. BARFIELD: Your Honor, at this time I would offer 56, 56-A, 51, 52, 54 and 59 as exhibits rather than for identification.

THE COURT: Is there any objection, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: All right. They'll be admitted into evidence. The exhibits as have been identified will be admitted into evidence without objection. And let the court reporter taking the ID markings off of the exhibits, please.

MR. BARFIELD: I think we've actually already taken it off 56-A.

(WHEREUPON, State's Exhibit No. 51 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 52 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 54 is admitted into evidence.)

(WHEREUPON, State's Exhibit No. 59 is admitted into evidence.)

MR. BARFIELD: Thank you, sir. Answer anything Mr. Frick has.

THE COURT: Cross examination, Mr. Frick.

MR. BARFIELD: I forgot something. I'm sorry.

THE COURT: Go ahead.

Q I'm handing you a three-page document. Take a look at that and tell me if you can identify it. Did you prepare a report containing your findings concerning what you've just testified about?

A I did. And this is it.

Q That's a copy of that report?

A It is.

MR. BARFIELD: Your Honor, at this time I'd offer the report as the next State's Exhibits.

MR. FRICK: No objection.

THE COURT: And that's number?

COURT REPORTER: 70.

THE COURT: Nobody 70 will be Mr. DeFreese's report without objection.

(WHEREUPON, State's Exhibit No. 70 is marked for identification and received in evidence.)

MR. BARFIELD: My apologies for not being through when I said I was.

THE COURT: That's all right.

MR. BARFIELD: Thank you.

CROSS EXAMINATION

BY MR. FRICK

Q Agent DeFreese?

A Yes, sir.

Q In your report, you've got -- have you got it in front of you?

A I've got one here.

Q Okay. On your report items 2, 3, 4, 5 and 6 indicate that they were found from different marker numbers?

A Yes, sir.

Q I know you weren't at the scene, but in your vast experience at SLED, does that mean those are the ones that were found scattered about, or would you know?

A I was listening to Agent Qinh's testimony this morning and she was talking about different photo markers --

Q Yes, sir.

A -- or photo placards. And that's what this refers to. When I say from marker 3 or from marker 6, that

corresponds with the photo marker from which that object was said to have been recovered.

Q Okay. And you were present during her testimony earlier, right?

A Yes, sir, I was.

Q Those are the ones that were found somewhere between the house and the barn and somewhere else?

A Right.

Q Okay. With item 1 you had three unfired cartridges, correct?

A Correct.

Q Okay. Those are the ones that were actually in the magazine?

A They were just received with it. I don't know where they were when they were recovered.

Q Okay. You received it as one whole package?

A Right.

Q Okay. Do you recall this morning whether she testified whether it was loaded in the magazine or not?

A I don't know that she had any testimony about that.

Q That's fine. That's fine?

A Yeah.

Q But conceivably, if they're all packaged together, those bullets were with that gun, or those cartridges

were with that gun?

A Yes, sir. I assume they were received with it, with the gun.

Q Okay. Now, obviously all the bullets, or I would call them bullets, and I know I'm completely incorrect on that.

A All of the cartridges.

Q All of the cartridges that you examined were clearly cartridges that could be fired by this gun?

A Yes, sir.

Q Or a gun of this type?

A Correct. Or any gun of that caliber.

Q Okay. They're not all of the same head stamping?

A They're not.

Q Okay. Is head stamping like a brand? What is that?

A Head stamping are identification marks that are placed on the cartridge case head. In some cases it will indicate the caliber. Sometimes not. But some of them are coded. In this case these are all -- you've got head stamps. Some of them, for instance, have the 9-millimeter Luger CBC head stamp. Those would be the Mag-Tech cartridges.

Q Yes, sir.

A Some of them had an I, or it's really a star and a capital I and another Star 9-millimeter Luger. And

those are -- that's the head stamp of the Independence brand cartridge. And then, you know, a great many of them were also Winchester brand and they were marked Win 9-millimeter Ruger.

Q So the head stamp particularly means a different brand or something of that nature?

A Yes. There were three different brands of 9-millimeter Luger caliber cartridges among the unfired cartridges.

Q Okay. The ones, the three that were packaged with the gun --

A Yes.

Q -- were what type?

A They were the CBC head stamp. Those would have been like Mag-Techs.

Q Okay. The ones in item 2, 3, 4, 5 and 6, those were obviously fired and unfired?

A Yes.

Q Were Winchesters?

A Right. 2 and 3 were fired. 4 was unfired. 5 was fired. And 6 was unfired. And they all bore the Winchester head stamp.

Q Okay. All right. Now, in your test firing of this gun, obviously it was in proper working order?

A Yes, sir.

Q And you make a comparison with the test fired to the fired ones. The fired ones were fired by this gun?
A Yes, sir.
Q Couldn't have been fired by any other gun?
A No, sir.
Q Specific tool marking by this one gun?
A Right.
Q Okay. You also mentioned sometimes they may leave an impression upon ejectment. Is that correct?
A Sometimes it's possible -- not with every gun, but sometimes it's possible to determine if an unfired cartridge that was cycled through the gun was actually cycled through a particular gun. And that's usually based on matching extractor and/or ejector marks.

Because the firing pin obviously didn't mark it, or at least didn't mark it sufficiently. And you don't have a build up of pressure within the cartridge. So there may be some other surfaces within the firearm that would come into contact with the cartridge. In very rare instances magazine lips or some other part of the feed mechanism might possibly leave a unique identifying mark.

But for the most part, it's all -- occasionally you can identify cartridges as being a loaded into a

firearm. You can't do it all the time because a lot of times there just aren't sufficient marks.

Q Were there any markings for this gun when you did a test fire or test ejectment?

A I did not compare any of the unfired cartridges -- I didn't attempt to make an identification of unfired cartridges back to that particular firearm.

Q You went into some detail about the pressure that's required to fire this pistol?

A Yes, sir.

Q And I think it's fair to say your estimation was that the trigger was not pulled accidentally?

A I would say so. It's fairly heavy.

Q Is it possible that the gun could misfire or accidentally fire, whatever the proper term may be, in an attempt to eject cartridges?

A That's a question that gets back to the skill of the shooter and how familiar the person with that particular firearm was. All the gun knows is that when it's loaded and you put enough pressure on the trigger to fire. And if someone is familiar with the gun, they wouldn't be troubled by that. Someone unfamiliar might if you were attempting to pull the slide back and you just pulled the trigger. Now, so far as the gun is concerned, that's a valid command

to fire. So if you pull the trigger, it will shoot.

Q So probably exactly what you just said. But if I were holding the gun in my hand, had my hand on the trigger and was trying to eject, it is possible the gun could have fired?

A Sure. If the breach is closed and you pull the trigger, regardless of what you're trying do with it, it's going to go off.

Q Also part of toolmark -- well, I guess I've said the word bullet and that was referring actually to the cartridge. What is a bullet exactly?

A A bullet is actually the projectile that's expelled the bore and out of the gun.

Q Okay. Now, in your business, when you have a bullet there is special grooves that are left by each gun as the bullet travels out, correct?

A Well, the identification of bullets is also based on the identification of matching microscopic imperfections on the bullet that result when the bullet is being driven down the barrel and out of the gun.

Q Yes, sir.

A Where the rifling, the series of spiraling grooves grips the bullet to make it spin, that's what imparts the marks on a bullet. They are scratches or

striations. Whereas, what we're dealing with here are impressions where the pressure actually slammed the back of the cartridge case into the breach face.

Q I understand?

A Yeah.

Q I question -- and I know you didn't have a bullet to examine in this situation?

A Right.

Q But I guess what I'm trying to get to is if you had a bullet, could you have determined that that bullet had been fired out of this gun?

A Perhaps. If the bullet had been recovered in sufficiently undamaged condition, it might have been possible to determine that the bullet was fired by that specific gun or not.

Q Okay.

A If we had a bullet.

Q And of course there are circumstances where the bullet remains in whoever received the bullet and you can compare it to the gun and fairly conclusively say whether that was the gun that fired it or not?

A Yeah. Where we can recover a sufficiently undamaged bullet from the body of the victim, a bullet that still has some markings intact on it, we can very frequently identify it to a particular gun.

Q Obviously you're able to look at the tool marking on the spent cartridge and tell us whether a gun fired it or not. Does it put any particular date stamp or anything like that?

A I wish it did.

Q So you can say it fired the gun but you can't tell us with any certainty when it was fired?

A Or by whom.

Q Thank you. That's all I've got?

MR. BARFIELD: Just some follow up.

THE COURT: Yes, sir.

REDIRECT EXAMINATION

BY MR. BARFIELD

Q Mr. Frick was asking you about some accidental discharge of this gun by manipulating it in some manner, working the slide or whatever. If you don't have your finger on the trigger, inside the trigger guard, if you are just gripping it, hands around the grip and you're working the slide, is that gun going to fire?

A No.

Q Is there any way that gun is going to fire if you ain't pulling the trigger?

A No. If you pull the trigger it will fire. If you don't pull the trigger it won't.

Q Thank you?

THE COURT: Anything further, Mr. Frick?

MR. FRICK: Just briefly though.

RECROSS EXAMINATION

BY MR. FRICK

Q You mentioned that that depends on the skill of the person operating the gun. If you're not familiar with that, possibly you could have your finger on trigger?

A I can't know what an un skilled shooter is going to do with a gun.

Q Right.

A You know, there's just no way to know. The only thing I can tell you for sure is if you pull the trigger it will shoot and if you don't it won't. So you can set it up however you like.

Q Very good. Thank you, sir.

THE COURT: Thank you, Mr. DeFreese. You may step down.

MR. BARFIELD: I'd ask that he be excused.

THE COURT: Any objection?

MR. FRICK: No, sir.

THE COURT: All right. You are excused. Thank you for coming.

THE WITNESS: Thank you, sir.

THE COURT: Good to see you. All right. Counsel, approach just a moment, please.

(Whereupon, a bench conference is had)

THE COURT: All right, Ladies and Gentlemen. I was just talking with the lawyers about scheduling and I believe it's appropriate that we take our afternoon recess at this time. We're going to do so. It's about 16 minutes after 3. And so we will take a recess until about 3:30 and we'll be ready to resume. Just go to your jury room. Relax for a few minutes and then we'll bring you back in just a very short time. Thank you.

(Jury out at 3:16 p.m.)

THE COURT: All right. Let's try to be ready to start back at 3:30, counsel. Thank you.

(Whereupon, a break is taken)

THE COURT: All right. We are back on the record with regard to the matter of The State vs. Willie James Adams, Jr. Mr. Adams is present with his counsel, Mr. Frick. The State is present with the solicitor and assistant solicitor. Anything before we bring the jury back in, Mr. Barfield?

MR. BARFIELD: Nothing from the State.

THE COURT: All right. Mr. Frick, anything before we bring the jury in?

MR. FRICK: I think we just need to exchange one of the reports because he's got two. I've got one and haven't got the other one. We just realized it.

(Pause)

MR. FRICK: We're ready to proceed, Your Honor.

THE COURT: All right. Bring the jury in.

(Jury in at 3:34 p.m.)

THE COURT: All right. Thank you very much, ladies and gentlemen. And we are ready to proceed. Mr. Tenth, I decided that chair you were sitting in was awful uncomfortable looking and you're a big guy. So I wanted to get you something a little more comfortable.

JUROR: Thank you. I concur.

THE COURT: All right. Thank you. All right, Mr. Solicitor, you may call your first witness.

MR. BARFIELD: Your Honor, the State calls Travis Petersen.

TRAVIS PETERSEN, after being duly sworn, testifies as follows:

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

THE WITNESS: Travis Petersen.

DIRECT EXAMINATION

BY MR. MAXWELL

Q Mr. Petersen, who are you employed by?
A Department of Homeland Security.
Q Prior to being employed with the Department of Homeland Security, who were you employed by?
A The Fairfield County Sheriff's Office in the narcotics unit.
Q When did you leave the Sheriff's Office to go to the Department of Homeland Security?
A In June of this past year.
Q Were you working for the Sheriff's Department back in April of 2008?
A Yes, sir, I was.
Q And what was your position at that time?
A I was a narcotics investigator.
Q Briefly tell the jury, what does being a narcotics investigator entail?
A Being a narcotics investigator, we investigate any complaints from the citizens of the community about narcotics, make street level buys and just investigating, make cases along those lines.
Q Were you working on April 5th, 2008? Initially were you working on April 5th?
A No, sir. Initially I was not.
Q At some point were you called to a scene?
A Yes, sir, I was.

Q Were you called to [redacted] Road in regards to a murder?

A Yes, sir, I was.

Q When you got there, what was going on when you got there? Were other law enforcement people already there?

A Yes, sir. There were several law enforcement officers already on the scene prior to my arrival.

Q Was the scene secured at that time?

A Yes, sir, it was.

Q Do you know at some point of a search warrant being executed at that residence by the Sheriff's Office?

A Yes, sir.

Q Were you involved in that search?

A Yes, sir.

Q Simply, what did you find during the search?

A Initially during the search there was a bag of marijuana located on the front porch. I believe it was located on a grill.

Q I'm going to show you what's been marked as State's Exhibit 35. Will you please tell the jury what that is?

A This is a picture of the baggy containing the plant-like material believed to be marijuana that I found on that date.

Q Where on the property was that more specifically?
A This was located right on the front porch to the front door.
Q I'm showing you State's Exhibit 1. Are you referring to that front porch that's on the front of that house?
A Yes, sir, I am.
Q Once this marijuana was found, did it cause you to do something else?
A Yes, sir. The Sheriff's Office obtained another search warrant for the residence itself.
Q Do you know who got the search warrant?
A Yes, sir. That search warrant was obtained by Investigator Talbert.
Q Was the search warrant ultimately executed at the residence?
A Yes, sir, it was.
Q Were you involved in that search?
A Yes, sir, I was.
Q Did you end up signing the return on that, on the drug search warrant, the second search warrant?
A Yes, sir, I did.
Q I'm going to show you State's Exhibit 43, which is the second search warrant. I'm just going to show you the return. And is that your signature on the

return?

A Yes, sir. That is my signature.

Q During the course of the second search warrant being executed, were there further narcotics found?

A Yes, sir.

Q Go more into what was found and who found it and where it was found?

A Yes, sir. In relation to a second search warrant -- are you referring to the cooler?

Q The second search warrant?

A Yes, sir. The second search warrant. Right when the second search warrant was obtained, an Igloo cooler was located approximately 100 yards behind the barn which is to the right of residence by SLED Agent Michael Greene.

Q Do you know if he did anything with it?

A Yes, sir. It's my understanding that he did pick that cooler up and look inside.

Q What did he do after he looked inside of it?

A It's my understanding that he placed it back in the same vicinity in which it was found.

Q Is that the cooler the jug you're referring to, State's Exhibit 45?

A Yes, sir, it is.

Q Was there another jug found nearby?

A Yes, sir, there was.
Q How do you know that's the -- let me go back just one second. Did you ultimately go and pick up and look into the jug that Agent Greene had found?
A Yes, sir, I did. Once he found it he came and got myself and SLED Agent Kim Dinh.
Q And what did Ms. Dinh do?
A She proceeded to the location and took several pictures.
Q I'm going to show you what's been marked State's Exhibit 36 and 37. Will you please tell the jury what those are?
A Yes, sir. These are pictures of the Igloo cooler in the ravine that was located behind the residence.
Q Is that what both pictures are?
A Yes, sir, it is. One is from afar and one is up close.
Q Did you pick that up and look into it?
A I did see inside of it. Agent Kim Dinh was opening it up and took the pictures, at which point I took custody of the narcotics that was inside.
Q I show you what's been marked State's Exhibits 39 and 40. Will you please tell the jury what's going on in that particular picture?
A Yes, sir. The lid is being removed to show the

substance later identified as cocaine base and cocaine and --

Q Is that you standing there holding it? Do you remember?

A Yes, sir.

Q Or is that Agent Greene?

A Yes, sir. I'm actually -- you can see me in one of the pictures. You can see my pants and my shoes standing right beside him.

Q And what is inside the jug?

A Yes, sir. Approximately 43 grams of cocaine base which is commonly referred to as crack cocaine, and approximately 394 grams of powder substance later identified as cocaine.

Q Now, you did testify earlier there were two jugs?

A Yes, sir, there were.

Q How do you know that this is the jug that had the drugs in it?

A It was marked item number 9.

Q And is that jug marked item number 9?

A Yes, sir, it is.

Q Explain a little bit further about how the drugs were packaged in the cooler?

A Yes, sir. The cocaine was packed down inside and a cookie of crack cocaine base was right on top.

Q What is cocaine base?
A Cocaine base is commonly referred to as crack. It's cocaine that's been cooked down adding baking soda.
Q Is crack a rock or a solid substance?
A Yes, sir, it is.
Q And cocaine is what?
A A powdered substance.
Q Both cocaine powder and crack cocaine were found in the jug?
A Yes, sir, they were.
Q How were they in relation to each other?
A They were side-by-side. The powder cocaine was on the bottom and the crack was right on top.
Q How was the crack -- let me go back a second. How was the cocaine packaged?
A The cocaine was packaged in two separate plastic baggies.
Q Like a Ziploc bag?
A Yes, sir.
Q How was the crack cocaine or cocaine base packaged?
A It was not packaged. It was just sitting on top. It was not in any type of container other than the Igloo cooler.
Q Was it sitting on top of the powder cocaine inside?
A Yes, sir, it was.

Q What did you do -- let me -- does that look familiar?
A Yes, sir.
Q What is that?
A This is the cocaine and crack cocaine that was found on that day and where you would identify it with the BEST kit and our signatures.
Q The cocaine that was found in this jug here?
A Yes, sir.
Q How do you know -- what are you using to identify that as the same stuff you took out of here?
A Yes, sir. When I take custody of any type of drug, it's submitted into evidence at which point it's given a BEST kit number which is turned into SLED by our drug evidence custodian, and that BEST kit number is identifiable right here on this package.
Q Okay. Now, in here in this bag, is the powder and the crack separated within this bag?
A Yes, sir, it is.
Q Are they in different bags within this big bag?
A Yes, sir, they are.
Q What did you do personally after you took the drugs out of this jug?
A Well, on the scene I took it and secured it in my vehicle and then once the scene is secure returned to the narcotics office at which point the baggies that

the cocaine was in, we transferred them and submitted those baggies.

Q Who transferred them?

A Myself and Germany Ashford.

Q Is Mr. Ashford also a narcotics investigator?

A Yes, sir, he is.

Q Why did y'all transfer them into another bag?

A We were submitting the bags for fingerprint analysis.

Q What kind of bags were the controlled substances put into?

A They were put too plastic Ziploc baggies also.

Q Were they still separated?

A Yes, sir, they were.

Q And just go back a second. There was basically three different things taken out of the jug. Is that correct?

A Yes, sir.

Q Was there two bags of cocaine?

A Yes, sir.

Q Were they kept separate when they were taken to your office and put into a different bags?

A Yes, sir, they were.

Q The crack was kept separate in another bag?

A Yes, sir.

Q Then who did you give them to after you transferred

into different bags? Do you remember?

A Yes, sir. It was signed over to Lieutenant Brad Douglas.

Q Do you know if Lieutenant Douglas gave them to -- what did he do with them to the best of your knowledge?

A To the best of my knowledge, which all three of us were in the same room, he signed them over to Investigator Ashford for submission to SLED.

Q Within just a few minutes?

A Yes, sir.

MR. MAXWELL: No further questions at this time, Your Honor.

THE COURT: Mr. Frick.

CROSS EXAMINATION

BY MR. FRICK

Q It was Agent Greene that finds the coolers?

A Agent Greene found cooler number 9, the one that contained the cocaine and crack.

Q Weren't there two coolers found?

A Yes, sir.

Q What was in the other one?

A The other one was empty.

Q Okay. All right. So the stuff we're talking about was in -- or the solicitor was talking about -- was

in this one right here?

A Yes, sir. Number 9.

Q After he found it did he come get you or somebody from Fairfield or --

A Yes, sir. As soon as he found it he placed it down and come [sic] and got myself at which point myself and SLED Agent Kim Dihn proceeded to the location.

Q At that time had y'all already obtained the search warrant for this place?

A Yes, sir.

Q Had it already been served on residence?

A Yes, sir. It was in the process of being served.

Q Okay. Now, in looking at the search warrant, it specifically says to be searched, single-story, wooden frame residence, Flint Hill Road, premises, out building, vehicle, boat, and safe?

A Yes, sir.

Q Which is standard language in a search warrant, correct?

A Yes, sir.

Q Where was this stuff located in relation to the house?

A It was located behind the barn in the tree line.

Q Okay. Any idea about how far?

A Not without taking a guess. No, sir. I mean.

Q I'm going to ask you to take a guess.
A Maybe 50, 75 yards behind the barn.
Q 50 to 75 yards behind the barn?
A Yes, sir.
Q Okay. Was anybody aware at the time where the property line?
A No, sir. Not that I can recollect.
Q Okay. Now, that wasn't the only stuff that was found, was it?
A No, sir.
Q Okay. Obviously we've got some marijuana that was found at the house itself. And that was the I guess genesis for the search warrant?
A Yes, sir.
Q All right. Was anything found on Mr. Miller?
A Yes, sir. There was approximately 7.5 grams of powder substance believed to be cocaine that was located in his pants pocket by SLED Agent Kim Dihn.
Q That's not part of the package the solicitor was talking about here. That was sent separately?
A Yes, sir. That was separate.
Q Okay. When you obtained the search warrant you were able to ascertain whose residence this was or whose property it was?
A When he we obtained it?

Q Yeah.
A Yes, sir.
Q Whose?
A Bryan Lawhorn.
Q Okay. Back to the package of stuff that the solicitor had, you initially said that it was sent off for fingerprinting?
A Yes.
Q Analyst?
A Yes, sir.
Q Do we have any fingerprints came off of any of that?
A No, sir. It come [sic] back inconclusive. No fingerprints were found.
Q Okay. How about the little cooler here? Did we attempt or find anything on it?
A I did not attempt to get fingerprints off of it. I can't say. But to my recollection it was not attempted.
Q Okay. All right. Other than those drugs and the stuff on Mr. Miller, were you involved with obtaining any of this other stuff in this case?
A No, sir.
Q That's all the questions I've got. Thank you, sir?

THE COURT: Redirect?

MR. MAXWELL: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. BARFIELD

Q Do you remember what the weather was like that day?

A Yes, sir. It was raining and drizzling outside.

Q Was the jug wet?

A Yes. It was in a ravine, like a little run off.

Q Was there water running in the little ravine?

A Yes, sir. There was water.

Q A lot of rain coming down on it?

A Yes, sir.

Q You mentioned a second ago I think about some other drugs that were found?

A Yes, sir.

Q Besides the ones in the jug and besides the marijuana, where else were the drugs found?

A Yes, sir. There was plant-like material believed to be marijuana approximately a weight of one gram that was located inside the victim's pants pockets along with approximate weight of 7.5 grams of a powder substance believed to be cocaine.

Q Do you recall who found those drugs in the victim's pocket?

A Yes, sir, I do.

Q Who was that?

A SLED Agent Kim Dihn.

Q Do you know what she did with those drugs?
A Yes, sir. She gave them to me.
Q Please tell the Court what this is here? Tell the jury?
A Sir, this is the powder substance that was obtained from the victim that was submitted to SLED once I submitted it into evidence.
Q Is that the drugs that were found on victim in his pants pocket?
A Yes, sir, they are.
Q And again, how do you identify them?
A By the BEST kit number that is assigned when it's submitted into evidence.
Q And what did you do with these drugs?
A They were submitted to Lieutenant Brad Douglas and Investigator Jeremy Ashford.
Q Did you personally take them away from the scene?
A Yes, sir, I did.
Q And back to -- where did you take them?
A I took them back to the narcotics office.
Q Did y'all -- is it in the same bag it was in when it was taken out of Mr. Miller's pockets?
A No, sir.
Q Did y'all -- who took them out of that -- what was it was wrapped in when it was in Mr. Miller's pocket?

A It was in a plastic bag.
Q What did you all -- who changed the bags?
A Myself and Investigator Ashford.
Q (By Mr. Maxwell)
MR. MAXWELL: No further questions, Your Honor.
THE COURT: Mr. Frick, anything further of this witness?
MR. FRICK: No, Your Honor.
THE COURT: All right. Thank you, sir. You may step down. All right, Mr. Maxwell.
MR. MAXWELL: Your Honor, the State calls Investigator Jeremy Ashford.
JEREMY ASHFORD, after being duly sworn, testifies as follows:
THE CLERK: Please be seated. State your name for the record.
THE WITNESS: Jeremy Ashford.

DIRECT EXAMINATION

BY MR. MAXWELL

Q Investigator Ashford, with whom are you employed?
A Fairfield County Sheriff's Office.
Q And how long have you been employed by the Sheriff's Office?
A Almost ten years.
Q And what is your position with the Sheriff's Office?

A Narcotics investigator.
Q Do you have a specific duty within the narcotics unit?
A Yes, sir. I am also the evidence custodian for drug evidence.
Q What does that entail?
A I collect from the deputies of the Sheriff's Office and preserve all the evidence in relation to drugs and occasionally guns when they are related to drugs.
Q Did you respond to Flint Hill Road on April 5th, 2008?
A I did not.
Q When did you become involved with this case at all?
A Once the drugs were transferred to me at the evidence custodian.
Q When were they transferred?
A Let me see the page. The day after I believe.
Q Is that basically when you came back to work on Monday?
A Right.
Q How can you identify those drugs as the drugs being taken from the Flint Hill property?
A They are -- the BEST kits have numbers assigned. Well, all the BEST kits that we have numbers assigned to all the paperwork that we do. And when I place

the evidence into the BEST kits all the paperwork is assigned that number that I can identify it just by looking at it.

Q Explain to the jury a little bit further about what a BEST kit is?

A A BEST kit is short for a best evidence sample testing kit, and it's pretty much what's used to transfer all of the evidentiary paperwork to SLED as far as chain of custody, identification numbers, names of the officers involved or whatnot. I take the evidence and place it into a tamperproof bag. You can see this Greene strip here. That's opened when the BEST kit is new. You place it inside. You remove a tearaway strip, and once you seal it back up, it's in that bag, it's sealed. And once it gets to SLED or wherever, if that has been tampered with it will be obvious on the bag.

Q After you put it in the BEST kit what do you do with it?

A After I place it in the BEST kit I take it to SLED and they log it in and --

Q Do you take it immediately to SLED or do you --

A Not immediately, no.

Q Where do you keep it in the meantime?

A It's at our office. It's an old military weapons

vault. The best thing I can use to describe it is it's similar to a bank vault, a big combination lock on the door, walk in.

Q Is access limited that vault?

A Yes, it is.

Q Jump back just one second. Do you recall the drugs coming to you on Monday morning?

A Yes.

Q What was the condition of the drugs in? What were they packaged in?

A They were packaged in these little plastic baggies. The cookies were loose but the powder --

Q Did you put --

A The crack cocaine. We call it a cookie because usually when it's cooked it's round in the shape of a cookie.

Q Did -- was it on that morning when you put it in the BEST kit?

A Right.

Q At some point did the drugs get sent to SLED?

A Yes.

Q How do they get sent to SLED?

A By hand by me.

Q Do you drive them down there?

A Yes.

Q Is that to Columbia?
A Yes.
Q How do you sign them in at SLED?
A They have a log in system. Everything is computerized now. I can't recall at the time whether it was or not. But you do all the paperwork, you take it down there. They use your paperwork to log it into their system and the chain of custody continues by everyone that touches that package.
Q At some point is the package received back from SLED?
A Once they are done with it I go back down there to pick it up.
Q Again personally?
A Personally.
Q What do you do with it? How do you sign it out from SLED?
A There is a release system that's similar to the log in system that gives you the paperwork back with whatever they're giving you inside the package that they put it in once they're done with it. And I take it back to our office, put it back into the original box where I store it and it sits there until court.
Q Other than those drugs being in SLED, being at SLED, were they ever out of your possession or out of your custody I should say when you came in that Monday

morning after the events had happened on Saturday?
A No.
Q Do you have any idea of these, any knowledge of these being tampered with other than SLED testing them?
A No.
Q No further questions, Your Honor?
THE COURT: Cross examination, Mr. Frick.
MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Investigator Ashford, were you at the scene --
A No, I wasn't.
Q -- on the date of the incident?
A No.
Q You're basically evidence custodian in this case?
A Exactly.
Q And you are not involved in any of the values?
A No.
Q Just basically recordkeeping?
A That's it.
Q Okay. Now, let's clarify for us; I think you received them on the 7th. They were gotten from the scene on the 5th. Where were they between the 5th and the 7th, the drugs?
A They were signed over from Investigator Petersen to

Lieutenant Douglas.

Q All right. Kept in y'all's evidence locker or where was it?

A I wasn't there. I'm not sure.

Q And you weren't at all involved in obtaining the search warrant?

A No.

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

MR. MAXWELL: Nothing further, Your Honor.

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

MR. MAXWELL: Your Honor, I beg the Court's indulgence for a minute. The State calls Angil Landrum.

THE COURT: All right. Come around, Ms. Landrum.

THE CLERK: I need you to raise your right hand, put your left hand on the Bible.

ANGIL LANDRUM, after being duly sworn, testifies as follows:

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

THE WITNESS: Angil Landrum.

DIRECT EXAMINATION

BY MR. MAXWELL

Q Ms. Landrum, with whom are you employed?
A South Carolina Law Enforcement Division, also known as SLED.
Q How long have you worked for SLED?
A A little over seven years.
Q And what is your position with SLED?
A I am a forensic chemist.
Q How long have you been a forensic chemist?
A Seven years.
Q The whole time you've been with SLED?
A Yes, sir.
Q Did you go to college?
A Yes, sir.
Q Where did you go to college?
A I got my bachelor's degree from Talladega College and my master's degree from University of Georgia.
Q What is your bachelor's degree in?
A Chemistry.
Q And what is your master's in?
A Chemistry.
Q What does your job entail at SLED?
A My job duties are to conduct scientific examination of drug related evidence, maintain the chain of custody, and to provide expert testimony in a court of law.

Q Do you go through any ongoing training at SLED?
A Yes, sir, I do.
Q Will you tell us a little bit about that?
A Every year we get proficiency tested.
Q Do you have other training you receive other than your college education and your on the job training with SLED?
A Yes, sir. I --
Q What is that?
A I attended and graduated from the Drug Chemistry Academy at the National Forensic Science Technology Center, and I've also graduated from South Carolina Criminal Justice Academy.
Q Have you ever testified in court?
A Yes, sir, I have.
Q How many times have you testified in court?
A Sixty-nine times.
Q Have you been qualified as an expert those 69 times?
A Yes, sir.

MR. MAXWELL: Your Honor, at this time I'd offer Ms. Landrum as an expert in forensic chemistry.

THE COURT: Mr. Frick, any voir dire with regard to qualifications.

MR. FRICK: No, sir. And no objection to her being qualified as an expert in this area.

THE COURT: All right. The Court would qualify Ms. Landrum as an expert in the field of forensic chemistry, and as such she'll be entitled to give an opinion. You may proceed, Mr. Maxwell.

Q Ms. Landrum, do you get -- does SLED receive controlled substances from different law enforcement agencies throughout the State?

A Yes, sir, we do.

Q And do y'all test those substances?

A Yes, sir.

Q How do you go about receiving things from local law enforcement?

A We receive the evidence from our log in department. And the officers normally whenever they submit the evidence they do through our log in department. Then from there it's logged into the computer system and it's held downstairs in their evidence vault until I actually go downstairs to retrieve the evidence.

Q And once you retrieve it, where do you go? Where do you take it?

A Once I retrieve the evidence I place it upstairs in what we call a drug vault. It has a key card access.

Q And is access limited to the vault?

A Yes, sir.

Q At some point do you go in and test it?

A Yes, sir, I do.
Q How do you test -- how do you perform the test?
A The cocaine and crack specifically, we do a preliminary test and a confirmatory test. And a preliminary test is just a screening test that's used to give you an idea as to what the unknown substance may be. And the confirmatory test identifies the substance to the exclusion of all others.
Q Did you receive these two packages from the Fairfield County Sheriff's Office?
A Yes, sir, I did.
Q How do you know where they come from?
A On the inner packaging it has the agency that actually submitted the evidence and the date that it was sealed. And on the bag in red, the inner packaging, I have that the seal was intact, the date and my initials when I actually opened the items of evidence.
Q When you received them are they in what you called the BEST kit?
A Yes, sir.
Q And in relation to those two different bags, when you received those from the Sheriff's Office, were they sealed and were they -- or were they tampered with? Were they sealed?

A Yes, sir. They were sealed. And if you notice on the bag I indicated that the seal was intact, the date, as well as my initials.

Q Had they been tampered with?

A No, sir.

Q What did you do with those -- first of all let's just deal with this one. Tell us what you did with that bag?

A May I refer to my notes?

Q Yes, please.

A With this particular item of evidence I conducted a preliminary test and a confirmatory test, as I stated earlier. The preliminary test that was done is what we call a color test. With the color test you observe either the presence or absence of a color change which is indicative for a certain class of drugs. And that's the preliminary test.

And the confirmatory test that I use is called a Fourier Transform Infrared Spectroscopy, abbreviated FT-IR. And with that you place a small amount of the unknown sample onto the instrument. The infrared light passes through the sample measuring the absorbency at different wavelengths, and as a result a spectrum is produced which is unique for every molecule.

Q Was that particular substance assigned an ID number or a lab number?
A Yes, sir, it was.
Q What is the lab number?
A The SLED lab number is L08-05306.
Q Did you do a report on your testing?
A Yes, sir, I did.
Q Is that a copy of your report?
A Yes, sir, it is.
Q What were the results of the test in regards to that particular package?
A Cocaine found 6.02 grams, 92.90 grains of C-2.
Q And was it powder cocaine?
A Yes, sir.
Q After you finished the test what did you do in regards to packaging this? After you open up the BEST kit, how do you repackage it?
A Once I got through with my analysis I placed it inside this Ziploc bag which has "bag add" which means that I actually added this bag. And from there it's placed inside this outer packaging, what we call a K pack pouch, and it is heat-sealed with the date and my initials.
Q And has that been tampered with since you sealed it in that bag?

A No, sir, it has not.

MR. MAXWELL: Your Honor, at this time I'd make a motion to offer the cocaine found on Mr. Miller as evidence as a State's Exhibit and also Ms. Landrum's lab report from the test.

THE COURT: Mr. Frick?

MR. FRICK: No objection.

THE COURT: All right. I am going to request that we just go forward from there. I'm not ready to make a ruling on that right now. And let's not publish it to the jury just yet.

COURT REPORTER: Should I mark it for ID?

THE COURT: Just leave it for ID, mark it for ID.

(WHEREUPON, State's Exhibit No. 71 is marked for identification.)

(WHEREUPON, State's Exhibit No. 72 is marked for identification.)

Q Ms. Landrum, did you test this substance or the substances in that bag?

A Yes, sir, I did.

Q Now, when those came to you in the BEST kit, how were they packaged?

A When the items came to me, item 1.1 was in a plastic sandwich bag. Item 1.2 was in an evidence bag. And

item 1.3 was also in an evidence bag.

Q What was item 1.1?

A Item 1.1 was cocaine base crack found.

Q A rock substance?

A Yes, sir.

Q And what were items 1.2 and 1.3?

A Item 1.2 was cocaine found. It was a powder substance. Item 1.3 was compressed powder and it was cocaine.

Q And all three of these things were in one big bag?

A It was inside this inner packaging called the BEST kit.

Q But were they separated within the BEST kit?

A Yes, sir.

Q When you received the BEST kit, had it been tampered with?

A No, sir, it was not. As indicated on this bag as well, I have that the seal was intact, the date and my initials.

Q Did you end up testing the substances inside the BEST kit?

A Yes, sir, I did.

Q I'm going to hand you -- please tell me what that is?

A This is a copy of my lab report which relates to this item of evidence.

Q Did you test it in the same way as you referred to earlier?

A Yes, sir.

Q What were the results of item 1.1 which is the crack substance?

A Item 1.1 was cocaine base crack found, 41.81 grams, 645.21 grains C-2.

Q What were the results for item 1.2?

A Item 1.2, cocaine found, 106.48 grams, 1,643.19 grains, C- 2.

Q And what was item 1.3 result?

A Item 1.3 was cocaine found, 269 grams, 4,151.20 grams of C-2.

MR. MAXWELL: All right. At this time I ask for them to be marked for identification purposes only.

THE COURT: 73 and 74.

MR. MAXWELL: 73 is going to be the report.

(WHEREUPON, State's Exhibit No. 73 is marked for identification.)

(WHEREUPON, State's Exhibit No. 74 is marked for identification.)

Q Was this BEST kit given an ID number or lab number by SLED?

A Yes, sir, it was.

Q What is that lab number?

A The SLED lab number is L08-05309.
Q And does that match the lab number on your report?
A Yes, sir, it does.
Q Thank you. After you sealed this up, where did it go after that?
A After I sealed the evidence, it goes back into the drug vault until the case has been reviewed and locked. From that point I will then return the case back downstairs to the log in department. So when the officers who submitted the evidence other evidence custodian, whenever they come back to SLED they can retrieve their evidence.

MR. MAXWELL: That's all the questions I have at this time, Your Honor.

THE COURT: All right, counsel. Come up a moment, please.

(Whereupon, a bench conference is had)

CROSS EXAMINATION

BY MR. FRICK

Q Ms. Landrum?
A Yes, sir.
Q Your whole purpose at SLED is to receive a package, whatever it may be, and test it to determine whether or not it is drugs essentially, right?
A That's correct.

Q Okay. And that was your purpose in this case, correct?

A That's correct.

Q You are not at the scene collecting stuff?

A No, sir, I'm not.

Q You don't even really know where it comes from?

A No, sir.

Q You really don't even know how it got to you?

A No, sir. Other than the evidence custodian bringing it.

Q Just at the lab, unseal it, seal it back, send it back to wherever it came from?

A That's correct.

Q Thank you. That's all the questions I have at this time?

THE COURT: Mr. Maxwell?

MR. MAXWELL: Nothing further, Your Honor.

THE COURT: All right. Thank you, Ms. Landrum. You can step down.

MR. MAXWELL: Your Honor, we ask that she be excused.

THE COURT: Any objection?

MR. FRICK: No, Your Honor.

THE COURT: All right. You are excused, Ms. Landrum. Thank you for coming.

453

THE WITNESS: Thank you.

THE COURT: Counsel, do y'all want to talk about scheduling a minute?

MR. MAXWELL: Yes, sir.

(Whereupon, a bench conference is had)

THE COURT: All right, ladies and gentlemen of the jury. I've been advised by counsel that this is a good stopping place for us this afternoon. You have not heard all the testimony from the State and there will be additional testimony. But this is a good place for us to stop for the afternoon and we are going to do that. And I'm going to excuse you, allow you to go to your homes and families, ask you to be back in your jury room tomorrow morning at 9:30.

Again I would tell you, over the evening recess do not discuss the case among yourselves when you are reassembling there in the jury room. Do not discuss it with your family or your friends while you're away from the courthouse tonight, and do not allow anyone to talk with you about the case. If anyone should approach you to try to talk with you about the case, get their name or descriptions and report it to me. Also do not read any news stories or listen to any television or media broadcast concerning this matter

454

because you've got the decide the case based upon what you hear in this courtroom.

But we are going to break. We've got some more work to do. But as far as what you need to stay here for, it will not be necessary that you stay any longer this afternoon. Have a pleasant evening. I'll see you tomorrow morning at 9:30. Thank you.

(Jury out at 4:18 p.m.)

THE COURT: With regard to this evidence of the drugs, I earlier ruled that it would go to prove motive. My concern is that in the weighing process of the 403, probative value versus prejudicial effect, I came down on the side of the probative value.

We've gotten awful close, if not crossed the line of where it exceeds the probative value where you are trying to introduce a quantity of drugs and the drug reports, that is more than just saying that drugs were involved in this case. That's what I thought that the testimony was going to be or that's what the State's purpose of getting into the matter regarding drugs.

We're almost getting into the point now where a drug case to show the amount of the drugs, the weight of the drugs, introduce the drugs themselves. And

455

I'm having some second thoughts about the prejudicial effect in view of that.

The defense could have very easily been lured into not objecting to that, to the testimony regarding that by my previous ruling to the effect that I would allow testimony with regard to drugs.

But very likely, Mr. Maxwell, and Mr. Barfield, I think it's overkill as to what you're trying to show for under 404(b). I'll be glad to hear from you.

MR. BARFIELD: Your Honor, I think, of course you're not ruling on the admissibility of the documents and the drugs.

THE COURT: No. But all the other stuff that's coming in, all the weight and all that. And the other thing of course that really troubles me at this point, too, is the fact there has been no link of these drugs whatsoever to the defendant.

MR. BARFIELD: Well, that's what tomorrow is going to be all about.

THE COURT: Yeah.

MR. BARFIELD: I think you withheld your ruling and I think you probably need to hear from tomorrow's witnesses to be able to make that determination.

THE COURT: Well, my concern of course is that a

456

lot of times you ring that bell and you can't un-ring it. And I'm not sure that we're not already there.

I can't anticipate what the testimony is going to be. And I really had thought the testimony was going to be that there were drugs involved and that some sort of dispute arose over the drugs, and I expected that. And that was the reason for my ruling as it was.

I certainly did not expect, did not anticipate that we were talking about the weight and the quantity and the way they were packaged and things of that nature. But I will hold off on 71. I'm telling you, Madam reporter, 71 is what for identification.

COURT REPORTER: It's the last SLED report.

THE COURT: All right. That's the SLED report.

COURT REPORTER: 72 is the bag with powder cocaine that goes with that report.

THE COURT: Okay.

COURT REPORTER: 73 is the SLED report that goes with 74, the bag of crack cocaine.

THE COURT: Okay. Good. All right. That's what I have. 71, 72, 73 and 74. All right. Anything else you want to add at this time? I'm just going to withhold it and see. But I am concerned about the matter. But, Mr. Frick, anything you'd

457

like to put on the record?

MR. FRICK: Your Honor, the only other additional thing that I would say is obviously you heard my concerns this morning, and I would reiterate those again. Additionally, we have now heard from the two people who were involved in seizing the cooler that had the vast amount of drugs in it.

I have questioned Investigator or Agent Greene yesterday. He is not able to tell me -- it's clear that they had to go well into the woods to find this stuff. Nobody can tell me whether this was on the property that they had the search warrant for or not. Now, maybe there's an issue with me raising that, but I think it is relevant to discussion and I would object to the introduction based on not knowing where they even found the things. It certainly wasn't plain view because it's in a cooler. So I just have issues as far as how they actually obtained them and where they came from.

THE COURT: Well, the problem with the search warrant and with whose premises it was, you know, who's to say that at least the coolers weren't in plain view, maybe the contents weren't in plain view. But I guess my question is, what's your standing to raise the issue regarding that?

458

MR. FRICK: I certainly understand I have a standing problem, but I still raise the issues. Because basically they're introducing -- all the testimony has been this is on Mr. Lawhorn's property. Well, he's not the one on trial. It's my client on trial, and they're introducing the drugs, that it's him. So I think by virtue of that --

THE COURT: They haven't yet.

MR. FRICK: Well, they're attempting to.

THE COURT: Yeah.

MR. FRICK: But that I believe would give me standing since they're trying to introduce them against him.

THE COURT: All right. I'll keep it in mind, counsel, and we'll see what the testimony is going to be tomorrow. But you know, I don't mind telling you, Mr. Barfield, I am very concerned about the fact that this is getting very, very close, if not over the line, of prior bad acts to show motive. We'll have to see what the testimony is going to reveal. All right. Thank you. We'll be in recess. Let's be here at 9:15 just to make sure that we don't have anything that comes up overnight. I'd like to start promptly with the jury at 9:30.

MR. BARFIELD: Thank you, Judge.

459

MR. FRICK: Thank you, Your Honor.

THE COURT: All right.

(Whereupon, the proceedings are concluded for the day, to be reconvened tomorrow morning)

460

Wednesday, December 9, 2009

THE COURT: Be seated. All right. We're back on the record in regard to the matter of The State vs. Willie James Adams, Jr. Mr. Adams is present with his counsel, Mr. Frick. The State is present with the solicitor, Mr. Barfield and his assistant solicitor, Mr. Maxwell.

Yesterday afternoon we had the testimony of Ms. Landrum from SLED with regard to certain drugs that were marked and identified for identification purposes being two packages of drugs and two reports marked for identification as 71, 72, 73 and 74 for ID. I advised at that time that I was not going to admit them, and we of course adjourned for the afternoon.

This morning I have conferred with counsel and I am increasingly concerned about this matter with regard to the drugs under the 404(b) exception under which I admitted testimony regarding drugs as evidence of motive. And I still think it is evidence of motive, but I'm increasingly concerned over the 403 analysis of probative value versus prejudicial effect.

It's my understanding that the State intends this morning to go into the fact witnesses of this

461

case, the people that were present at the time and that it will involve testimony regarding drugs and these drugs and other drug testimony.

And it's my thinking that the only way to handle that is going to be to handle it as a proffer by the State with the Court having an opportunity to rule on whether it is admissible or not.

I mentioned in chambers in discussing this matter with the attorneys that this matter came about in a little bit different form than I have seen it in the last 14 years by the State making a motion to be allowed to go into the testimony as opposed to the usual way of coming before the Court where the defense makes a motion to suppress.

Generally what I do in that situation when it has been made as a motion by the State to suppress, I withhold ruling until I actually know what the testimony is. I did not do that in this case and really in effect gave an advisory ruling which I probably should not have done until I knew exactly what the testimony was going to be.

But the only way that I know of to minimize that situation at the present time is to require the State to advise the Court before any further testimony comes in with regard to drugs or the involvement of

462

drugs in this homicide. And I've been advised by Mr. Barfield that the only way to do that is that these witnesses that he now plans to present is basically the rest of his case.

So I am, therefore, going to send the jury home and we're going to take it as a proffer from the State. I will say that on the proffer what I'm really interested in is the minimum with regard to the circumstances of the homicide, Mr. Barfield, because that's not the issue that I need to hear. What I'm really interested in is the proffer regarding the drug testimony as showing motive. And so if we limit it to that, that will hold this down somewhat.

All right. Is there any objection to the handling of that, handling the matter in that fashion at this time, Mr. Barfield?

MR. BARFIELD: None from the State.

THE COURT: Mr. Frick?

MR. FRICK: None from the defense.

THE COURT: All right. Bring the jury, in, please.

(Jury in at 9:58 a.m.)

THE COURT: Ladies and gentlemen, thank you for your promptness in being back here. And I do want to

463

apologize to you. A matter of law has come up that the Court is going to have to deal with. It's going to take us a little bit of time to deal with. And rather than have you sitting there in that little jury room while we deal with this over the next couple of hours I think it is better that I just let you go for a little while and bring you back this afternoon so that maybe you can tend to some things that you would want to do. But there would be no way -- there is no way for me to avoid this, but I don't want to just keep you sitting there drinking coffee while we do attend to these legal matters.

So I am going to excuse you now and ask you to come back to your jury room at 2:00. We'll be through by then and we will have had a chance to get some lunch and we will be ready to go forward with whatever we need to do at that time.

I apologize for that, but I just think that's the way to handle it. There was no way for me to anticipate this yesterday or I would have not brought you back this morning. But it is something that came up late yesterday after you had already been excused. And we have not been able to resolve it and will not be able to resolve it. It will take us a couple of hours to take care of that and get it resolved.

So, as I say, I do apologize for this inconvenience but I think it's the best way to do it. Rather than just keep you sitting in the jury room, maybe you can go Christmas shopping or do something that you would like to do in the next two to three hours. With that, I'm going to excuse you and ask you to please be back in the jury room at 2:00. Thank you very much.

(Jury out at 10:00 a.m.)

THE COURT: All right, counsel. That being the case, let the record reflect that the jury is excused. And, Mr. Barfield, I'm going to ask you to go ahead and call your witnesses with your proffer on the matters with regard to the further testimony that you would want to get before the jury. And of course, Mr. Frick, I will allow limited cross examination for that purpose. All right.

MR. BARFIELD: I call Mary Ann Phillips.

MARY ANN P. TALBERT, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. BARFIELD

Q Ms. Phillips, testify into the microphone. You were on the witness stand Monday and I questioned you about what's been I think marked as State's Exhibit

41 for identification which you previously identified as Mr. Adams's waiver of rights form and the written statement that you took from him on April 8th I believe of 2008. Is that what you have in your hand?

A Yes, sir.

Q All right. When you questioned him -- and we're not going to go back through all that -- but when you questioned him on April 8th of 2008, did you talk to him about drugs?

A Yes, sir.

Q Did you seek through your questioning of Mr. Adams to elicit some explanation for why the events that occurred out on Flint Hill Road on April 5th happened?

A Yes, sir.

Q Did Mr. Adams give you some explanation --

A Yes, sir.

Q -- of what the reason for the events was?

A Yes, sir.

Q From his statement, read the portion of his statement that was the explanation to you for what happened?

A Reggie came by and told Bryan that Amp had been taking dope all night.

Q Stop. Who is Reggie?

A Reggie Gibson.

Q Who is Bryan?

A Bryan Lawhorn.

Q Who is Amp?

A Alpha Lee Miller.

Q All right. Go ahead. Hang on a minute. Let me see what else I need to ask you about. Well, just continue to read the statement. Publish the entire statement?

A From the beginning?

Q Yes. Start over and just read the entire statement.

A We got back from the club about daylight. Boo went to the store. Reggie came --

Q Who is Boo? I'm sorry.

A Boo is --

THE COURT: Maybe we can shorten this just a little bit. Of course this is not a jury. The statement is being offered and everything and I've already ruled its admissibility. Is there any objection to my reading the statement?

MR. BARFIELD: No. None at all.

THE COURT: All right.

Q If you would, hand the statement up to the judge. And, Your Honor, I was going to suggest that.

THE COURT: Continue, Mr. Barfield.

Q Later on in the statement, Ms. Phillips --

Ms. Talbert -- there is reference to somebody named Boo-Mo. Is Boo-Mo the same person as Boo?

A Yes, sir.

Q And Boo would be Levarn Jackson?

A Yes, sir.

Q When you were questioning Mr. Adams about these events, the geographic context or location that you were talking to him about, where were he and you talking about these events occurring?

A At the Sheriff's Office.

Q No. The events themselves.

A Oh. Off Flint Hill Road.

Q Was that the crime scene that's involved in this case?

A Yes, sir.

Q When Mr. Adams told you Reggie came by and told Bryan that Amp had been taking dope all night, did you know where Adams was referring to that Amp had been taking dope from?

A The house on Flint Hill Road.

Q Okay. Thank you, ma'am. That's all I have on --

THE COURT: I have a question. Who is Reggie?

THE WITNESS: Reggie Gibson.

MR. BARFIELD: Next witness.

THE COURT: Okay. But it's referred to in the

statement. I just want to know who he is referring to.

Q Who is Reggie?

A Reggie Gibson.

THE COURT: Okay. All right. Cross examination.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Ms. Talbert, you've got a copy of the statement in front of you, don't you?

A Yes, sir.

Q Now, that says Reggie came by and told Bryan, correct?

A Correct.

Q Okay. And I think what we're trying to get at is the exact night of the incident. Bryan told Amp to get his shit?

A Yes, sir.

Q Is that the line we're talking about?

A That's what Mr. Adams told me.

Q Okay. And when were talking about shit, we're talking about ...?

A Dope.

Q That was your understanding?

A Yes, sir.

Q But it was Bryan who told Amp that Amp is Alpha Lee?

A Right.

Q Okay. And anywhere in this statement, the written statement you've got in your hand, does it say that the drugs were Mr. Adams's?

A No, sir.

Q Okay. Thank you.

MR. BARFIELD: That's all for this witness.

THE COURT: Thank you. If you'll give that back to the court reporter, please.

MR. BARFIELD: I call Reggie Gibson. Step up. They'll give you the oath and then have a seat in the jury box.

THE CLERK: If you'll raise your right hand, put your left hand on the Bible.

REGINALD GIBSON, after being duly sworn, testifies as follows:

THE CLERK: Have a seat.

COURT REPORTER: Sit forward, please.

THE COURT: Push up to the microphone because we want to hear your testimony. All right. Go ahead.

DIRECT EXAMINATION

BY MR. BARFIELD

Q Mr. Gibson, you must speak very loudly. Tell us your

name, please?

A Reginald Gibson.

Q And I'm going to ask you some questions about this case but limited to drug matters. Okay? We're not going to talk about the shooting or other details about that right now. We're just talking about some drug things.

A Yes, sir.

Q Do you know first of all Bud Adams?

A Yes, sir.

Q Do you know Bryan Lawhorn?

A Yes, sir.

Q Do you know Levarn Jackson?

A Yes, sir.

Q Do you know Alpha Lee Miller?

A Yes, sir.

Q I'm going to ask you a couple of general questions and then some details. Were you at Bryan Lawhorn's the day the shooting occurred when the shooting occurred? Were you there?

A I was there.

Q Had you been at Bryan Lawhorn's the Friday night before that Saturday when the shooting occurred?

A Yes, sir.

Q Had you been to Bryan Lawhorn's during the day Friday

before the Saturday the shooting occurred?

A Yes, sir.

Q All right. Have you in the past used crack cocaine?

A Of course.

Q Who did you -- from time to time have you ever bought crack cocaine at Bryan Lawhorn's house?

A Occasionally.

Q Okay. Has Alpha Lee Miller ever been there at Bryan Lawhorn's house when you've bought crack cocaine there?

A Occasionally.

Q When you've bought crack cocaine at Bryan Lawhorn's house, who did you buy from?

A The house owner.

Q Who is whom?

A I guess it's Bryan.

Q Well, who did you deal with? Who did you talk to --

A Bryan.

Q -- when you went there to buy crack cocaine?

A Bryan.

Q When you bought from Bryan Lawhorn's house, were you buying little bits or lots?

A Little bits.

Q What was the typical transaction for you? How much money --

A Ten dollars.
Q Ten dollars. What did you get for ten dollars?
A I have no idea. I'm not affiliated with scales and weights and all that.
Q That's fine. A rock?
A Yeah.
Q All right. When you would go to Bryan Lawhorn's house to buy crack cocaine, what would you say to Bryan Lawhorn?
A Do you have anything?
Q And when you say anything, what were you referring to?
A Ready rock.
Q Say that again?
A Ready rock.
Q Ready rock?
A Uh-huh (affirmative).
Q When you say ready rock, what are you referring to?
A Crack cocaine I believe.
Q That's fine. Would there be times when Bryan would have some?
A Occasionally.
Q And would you give him money for ready rock?
A If I had it.
Q All right. When you were going to make a purchase,

did anybody leave your presence before ready rock was handed over to you?

A Of course.

Q And who would leave your presence?

A Either one of the workers or himself.

Q All right what do you mean? All right. Who is himself first of all?

A Bryan.

Q And who were the workers?

A Amp Lee was one.

Q Who else were the workers?

A I have no idea.

Q When you say workers, what do you mean workers?

A People that work for other people.

Q Well, --

A Employees.

Q -- did Bryan Lawhorn have employees?

A I guess so.

Q What kind of work did they do for Bryan?

A All type of things.

Q Like what? Give me an example?

A Like cut grass or fix the roof, fix the house.

Q All right.

A Things of that sort.

Q And was Alpha Lee one of his workers?

A I believe so.
Q And when either Bryan or Alpha Lee would leave your presence, did you see where they went?
A If anything, they went out the door to the right. Or to the left rather.
Q Out the front door to the left?
A Yes, sir.
Q And what is out to the left when you go outside the house?
A A barn that's several yards away.
Q All right. What's beyond the barn?
A And a grassy field.
Q And what's beyond the grassy field?
A I have no idea.
Q Well, are there woods out there anywhere?
A I guess there's woods.
Q After either Bryan or Alpha Lee or some other worker would leave the house, would whoever left the house come back to the house?
A Pardon?
Q After somebody left, would somebody come back in the house?
A Yes, sir.
Q Was anything provided to you when somebody would come back in the house?

A Occasionally.
Q And what would it be?
A A ready rock.
Q Were you at Bryan Lawhorn's house Friday evening?
A Yes, I was.
Q Who went -- did anybody go with you Friday evening?
A No.
Q What? Do you know what a plumbing snake is?
A Yes, sir.
Q Did you ever have a plumbing snake in your possession Friday evening?
A Yes, sir.
Q Where did you have a plumbing snake in your possession Friday evening?
A In the car.
Q And where did you go in the car with the plumbing snake?
A To Bryan Lawhorn's.
Q Did anybody go with you to Bryan's with the plumbing snake?
A No.
Q Was anybody there when you got there?
A Yes, sir.
Q Who was there?
A Bryan and Amp Lee.

Q Was anybody else there?
A Bud.
Q Bud Adams?
A Yes, sir.
Q Do you know Alicia Gibson?
A Of her, yes, sir.
Q Did she show up Friday night while you were there?
A Yes, sir.
Q Was anybody with her?
A A police officer.
Q Did you talk to them?
A I talked to the officer.
Q Was it day light or dark when Ms. Gibson and the officer came Friday night?
A Dusk.
Q Did the officer or Ms. Gibson talk to anybody else who was there?
A No one else was there.
Q Okay. Where was everybody when the police officer and Ms. Gibson came up?
A Gone.
Q When did they get gone?
A When they observed the vehicles coming in.
Q All right. Who was it that got gone?
A Bryan Lawhorn.

Q Bud?
A Amp Lee.
Q Okay. Anybody else there that got gone?
A That I cannot remember, no.
Q Did you see -- while you were still at Bryan's, did you see Bryan any more while you were still there that night?
A No, sir.
Q Did you see Bud any more that night while you were still there?
A No, sir.
Q Did you see Amp again that night while you were still there?
A Yes, sir.
Q Where did Amp come from for you to see him next?
A From out the grass I believe.
Q Which side of the house?
A Most likely near the barn.
Q Did you do anything? Did you move your car at any time while you were there?
A No.
Q Where did you move your car to?
A To turn it around to go out.
Q Did you move your car down to the barn at any time?
A I think -- yeah. Yeah.

Q Was it dark by the time Amp came out?
A It was already dark at that time.
Q Did you carry a flash light?
A Yes, sir.
Q Did Amp at any time have possession of your flashlight?
A Yes, sir.
Q How did he come to be in possession of your flashlight?
A He asked me for it.
Q Did he tell you what he was going to do with it?
A No, sir.
Q Did he take it?
A Yes, sir.
Q Where did he go when he took your flashlight?
A I guess to the barn or out in the grass somewhere.
Q Did he come back?
A Yes, sir.
Q Did he have anything with him when he came back?
A Yes, sir.
Q What did he have with him?
A He had a container.
Q Could you see the container to tell what it was?
A Later.
Q What was the container? Describe it?

A Something similar to a soda can.
Q To a soda can?
A Yeah. In that size.
Q What did he do with the container?
A Put it in my glove box.
Q Did y'all leave Bryan's house?
A Yes, sir.
Q When you left Bryan's house, was Bryan there?
A No, sir.
Q Was Bud there?
A No, sir.
Q Was anybody else there that you know of?
A Not that I know of.
Q Now, did you go back to Bryan Lawhorn's house Saturday? I asked you a little bit ago were you there when the shooting occurred. You said yes. Is that correct?
A I don't know if I was actually there.
Q Well, --
A But I was there during the whole occurrence.
Q All right. And were other people with you when you were there during the occurrence?
A Yes, sir.
Q We'll talk about that this afternoon probably. I'm going to back you up. Earlier Saturday, did you go

to Bryan Lawhorn's house by yourself earlier Saturday?

A Yes, sir.

Q Who was there?

A Bud.

Q Who else?

A Boo.

Q Who else?

A I don't know if anyone else was there.

Q Did you talk to Bud and Boo?

A Yes, sir.

MR. BARFIELD: Excuse me, Your Honor. I grabbed the wrong paper.

THE COURT: Just for my edification, is Bud Marcellus Jackson?

MR. BARFIELD: No, sir. I'm sorry. Bud is this defendant, Mr. Adams.

THE COURT: Oh. I know that. Boo I mean. Is Boo Jackson?

MR. BARFIELD: Boo is Levarn Jackson, the prior Marcellus Jackson. Yes, sir.

THE COURT: That's what I meant to say.

Q When you were at Bryan Lawhorn's Saturday when Adams and Jackson were there, did you have a conversation with Adams?

A Yes, sir.
Q What did you tell Adams?
A I told him that when we left from there that night, whatever Amp Lee had did, if it was just clean up or whatever, he had grabbed some things and put it in the car and took it with us.
Q You told Bud Adams that?
A Mm-hmm (affirmative).
Q Did Adams ask you any questions?
A Not that I can recall.
Q Was there any conversation about where Alpha Lee Miller was at that time?
A Yes.
Q Describe that.
A He wanted to know where did he go to that night.
Q Who wanted to know?
A Bud.
Q Wanted to know where who went that night?
A Amp Lee.
Q The Friday night before? Is that what you're saying?
A Yes, sir.
Q Did you tell Bud Adams where you last saw Alpha Lee Miller Friday night before?
A Yes, sir.
Q And where was that, in general?

A Ridgeway.
Q Okay. Somebody's house?
A Yes, sir.
Q I'm going to talk a little bit about Saturday when the incident occurred. Now, not all of the detail but a little bit of the detail. Who went with you to Bryan Lawhorn's Saturday when the incident occurred?
A Kimberly.
Q Kimberly Lawson. Give me a last name?
A I don't know a last name.
Q Okay. Kimberly?
A Yes, sir.
Q And who else?
A And Vickie.

THE COURT: And who?

MR. BARFIELD: Vickie.

Q Let me do this. Ms. Lawson, stand up. Do you know that to be Kimberly?
A Yes, sir.
Q Bea? Do you know that to be Bea?
A Yes, sir.

MR. BARFIELD: Your Honor, for the record, if you want me to give it to you, Kimberly Lawson and Vickie Smith.

THE COURT: Okay. It helps me. Thank you.

Q Anybody else with you when you went to Bryan's that Saturday when the incident started?

A No, sir.

Q How about Alpha Lee Miller? Was he around?

A No, sir.

Q Stop. Let me ask you another question. How did you get to Bryan Lawhorn's Saturday when the incident occurred?

A From picking up Amp Lee.

Q Okay. How did you get there?

A Driving.

Q Your car?

A Yes, sir.

Q Were the two girls that you just talked about in your car with you?

A It wasn't my car, but --

Q The car?

A It was the car, yeah.

Q Where was Alpha Lee Miller?

A Somewhere else.

Q Well, no. Let me ask you this question. We ain't got a jury. I'm going to lead him.

THE COURT: Yes, sir.

Q Did you take Alpha Lee Miller with you in the car and the two girls to Bryan's?

A Yes, sir.
Q Okay. Did Alpha Lee get out of the car?
A Yes, sir.
Q Where did he go?
A Into the house.
Q Did he have any conversations that you heard with anybody when he went into the house?
A Not that I know of.
Q Did he stay in the house?
A No, sir.
Q Did you see him do something?
A He came out the house and went into the field.
Q Which side of the house? The barn side or the other side?
A The barn side.
Q Did he go out of your sight?
A Yes, sir.
Q Did anybody come out of the house behind him?
A Bud.
Q Bud Adams?
A Yes, sir.
Q Did anybody else then come out of the house behind him?
A No, sir.
Q Did you see Alpha Lee again?

A Yes, sir.
Q Where was he when you saw him -- are you outside when this is going on?
A Yes, sir.
Q Where was Alpha Lee when you saw him again?
A On the opposite side of the barn.
Q And where was he moving toward? Was he moving?
A He was standing still.
Q Could you see him from where you were?
A Yes, sir.
Q Was anybody with him at the opposite side of the barn?
A Yes, sir.
Q Who was with him?
A Bud Adams.
Q What were they doing?
A Talking I believe.
Q Could you hear what they were saying at that point?
A No, sir.
Q Did you see a pistol?
A Yes, sir.
Q Where was the pistol?
A Amp Lee had it.
Q Did the pistol change hands?
A Yes, sir.

Q Whose hands did it go into next?
A Bud Adams.
Q Was there a conversation -- were they still over there by the barn?
A Yes, sir.
Q Was there conversation between the two of them at some point that you could hear?
A Yes, sir.
Q What was the conversation? Who said what?
A I think Mr. Adams was asking Amp Lee about where is his package.
Q Did Alpha Lee respond?
A I have no idea.
Q Okay. Did Bud ask him where the package was once, or was that an ongoing conversation?
A I think it was just Bud kept asking over and over. Alpha Lee was mostly in a defensive mode.
Q How was he in a defensive mode?
A Because Bud had the pistol.
Q What was Bud doing with the pistol?
A Waving it up and down; to the ground, to the sky.
Q Did the pistol fire any while Bud had the pistol during this exchange between the two of them?
A Yes, sir.
(Pause)

Q Did you see what was in the container that Alpha Lee Miller had?

A No, sir.

MR. BARFIELD: Just a second, Your Honor.

THE COURT: All right.

MR. BARFIELD: That's all from this witness.

THE COURT: Cross examination.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q On that Friday night when Alpha Lee asked for the flashlight from you --

A Yes, sir.

Q -- and he went down in the woods, you say he came back with a soda can?

A Something the size of a soda can.

Q Okay. Could you tell what it was?

A No, I didn't.

Q Did you ask him what it was?

A No, sir.

Q Did you care to know what it was?

A No, I didn't.

Q Do you have any idea what was in it?

A No, sir.

Q Did he tell you what was in it?

A No, sir.
Q At any time?
A No, sir.
Q Okay. That Saturday morning when Alpha Lee comes out and Bud comes out behind him and they're having the conversation between the house and the barn, you over hear Bud saying, where is the package?
A Yes, sir.
Q Do you have any idea what the package was?
A No, sir.
Q Did you care to know?
A I didn't want to.
Q Did anybody tell you?
A No, sir.
Q Today do you have any idea what the package is?
A No, sir.
Q And to your knowledge, this whole area, this property, the house, the barn, whatever land that is, whose land is that?
A I believe it's Bryan's.
Q Okay. The transactions that the solicitor discussed with you previous to all this stuff --
A Yes, sir.
Q -- you had dealt with Bryan Lawhorn?
A Yes, sir.

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

THE COURT: Anything further of this witness on this issue, Mr. Barfield?

MR. BARFIELD: No, sir.

THE COURT: All right. Thank you, sir. You may step down at this time.

THE WITNESS: Thank you.

THE COURT: All right. Mr. Maxwell.

MR. MAXWELL: Your Honor, the State calls Kimberly Lawson.

THE COURT: All right. Ms. Lawson, come around.

MR. BARFIELD: Could I say something to the witnesses?

THE COURT: Sure.

MR. BARFIELD: For all of you who are going through this exercise this morning, we're doing this without the jury being here and if you didn't understand when the judge said what he said a little bit ago, we're going to run through it without the jury here and we're all going to gather back up here this afternoon at 2:00 and run threw it with the jury here. So do not leave the courthouse. It's going to be an all day thing for you. Okay. Thank you.

THE COURT: And I will also tell you to be here all day whenever the solicitor needs you. So if

you're not here you can be summoned by the sheriff and be held in contempt of court.

KIMBERLY LAWSON, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MAXWELL

Q State your name.

A Kimberly Lawson.

COURT REPORTER: Could you wait just a minute, please?

THE COURT: Wait just a second.

COURT REPORTER: The train.

(Pause)

THE COURT: All right. Go ahead.

Q Ms. Lawson, where are you from? What part of the county are you from?

A From Fairfield County.

Q Are you? What part of it?

A Winnsboro.

Q You're from Winnsboro. Are you familiar with the Ridgeway community?

A Yes, sir.

Q Have you spent some time in the Ridgeway community?

A Yes, sir. I lived in Ridgeway.

Q Do you live in Ridgeway now?

A No, sir.
Q Were you living in Ridgeway back in 2008?
A Yes, sir.
Q Do you know Bryan Lawhorn?
A Yes, sir.
Q How do you know Bryan?
A That's my first cousin.
Q Do you know Bud Adams?
A Yes, sir.
Q How do you know Bud Adams?
A I was engaged to Bud.
Q How long ago was that?
A About four and a half years.
Q Four and a half years ago?
A Mm-hmm (affirmative).
Q Did the engagement last four and a half years ago or you were engaged that long ago?
A We was [sic] just engaged that long ago.
Q Do you know Levarn or Bud or -- excuse me -- Boo Jackson?
A Yes, sir.
Q How do you know Mr. Jackson?
A Just from family, neighborhood.
Q Do you know Alpha Lee Miller?
A Yes, sir.

Q How do you know Mr. Miller?
A He used to live with us.
Q What do you call Mr. Miller?
A Athlete.
Q Athlete?
A Uh-huh (affirmative).
Q What do you call Mr. Adams?
A Bud.
Q And what do you call Mr. Jackson?
A Boo.
Q Okay. Were you there when the shooting occurred at Flint Hill Road?
A Yes, sir.
Q How did you get there?
A With Reggie.
Q On Saturday morning how did you and Reggie meet up?
A I was at my house on the porch and Reggie drove up and Reggie told me that Athlete had been looking for me.
Q Looking for you?
A Yeah.
Q What time was that, roughly?
A It was early in the morning.
Q Did you get in the car with Reggie at that point?
A Not right then. A few hours later we went to the

store.

Q Did he pick you up again from your home?

A Who? Reggie?

Q Yeah. Did Reggie pick y'all up from your home before y'all went to the store?

A Yeah. Yeah. He got me from home.

Q Did just you and him go to the store?

A At that point in time, yeah.

Q Where did y'all go after you left the store?

A I can't quite remember at what point did we get Vickie in the or car, but I know we had went to Debbie's house.

Q Did you pick up Vickie at some point?

A Yeah.

Q That's Vickie Smith?

A Yeah.

Q Did at some point y'all receive a call about Alpha Lee Miller?

A Yes, sir.

Q Who answered a phone call about Alpha Lee Miller?

A I talked to Debbie on Reggie's phone and Debbie said that Athlete wanted a ride.

MR. FRICK: Your Honor, I would object. I don't think she -- that would be hearsay.

THE COURT: All right. The objection is noted.

Go ahead. This is proffered outside the presence of the jury, and I'll note that you object to the conversation between this witness and who?

Q It's Debbie?

A Yeah.

THE COURT: Okay. The objection is noted.

Q After talking with Debbie --

A Mm-hmm (affirmative).

Q -- what did you learn regarding Alpha Lee after the phone call from Debbie?

A That Athlete had took something from the Flint Hill residence.

Q Was there anything said about going to pick Alpha Lee up?

A Well, Reggie said he was going down there, yeah, to pick Athlete up.

Q What did y'all pick Alpha Lee up from?

A From Mr. Murphy's house.

MR. FRICK: Judge, --

A They call him --

MR. FRICK: -- just to clarify, obviously I would object to anything that she is going to say someone else said.

THE COURT: No, sir. Your objection is noted and we'll argue it later. That's not really the

issue here and I don't mind ruling on hearsay issues before and in the presence of the jury if that becomes necessary. I'm really interested in the testimony that Mr. Frick thinks is prejudicial from the standpoint of the drug testimony. So the fact that who had taken something or whatever, that may or may not be admissible on hearsay grounds, but that's not the purpose of this in camera hearing.

MR. FRICK: And, Your Honor, I just want to make sure I'm not waiving any objection. That's why I'm asking --

THE COURT: You're not waiving any objection to that because whatever I rule on here probably needs to be made on the record unless I tell otherwise.

MR. FRICK: Certainly. Just to clarify, if there's something --

THE COURT: Your hearsay objection is continuing.

MR. FRICK: Okay. Thank you, Your Honor.

Q Ms. Lawson, did y'all at some point go pick up Alpha Lee?

A Yes, sir.

Q Was Vickie already in the car prior to picking up Alpha Lee?

A Yes.

Q And again, where did y'all pick Mr. Lee [sic] up from? Mr. Miller up from?

A Mr. Murphy's house.

THE COURT: Let me just interrupt you just a minute because we had this little conversation back and forth. As I understand the testimony that is objectionable, that he has objected to it being hearsay is a conversation between this witness and Alpha Lee, not between this witness and the defendant. Is that correct?

MR. MAXWELL: That's correct.

THE COURT: Okay.

Q Ms. Lawson, did at some point that morning you know of people at Mr. Lawhorn's home wanting to talk to Alpha Lee, find, know where he is?

A Yes, sir.

Q Do you know where that information came from?

A No, sir.

Q You just heard it?

A Yes, sir.

Q Do you know what it was about?

A No, sir.

Q After y'all picked up Mr. Miller, where did you all go?

A Flint Hill.

Q Mr. Lawhorn's residence?
A Yeah. Right.
Q Had you been there before?
A Yeah.
Q When you all arrived at the scene on Flint Hill Road, what did Mr. Miller do?
A He got out the car and went in the house.
Q Did at some point he come out of the house?
A Yes, sir.
Q Was that a short period of time --
A Yes, sir.
Q -- inside the house? When he was coming out -- during that period of time of him going into the house and coming out, did you hear anybody say anything? Did you hear Bud say anything to Mr. Miller?
A No, sir.
Q Where did Mr. Miller go?
A He went, come out the door and went to the left of the house down by the barn through the woods.
Q Did he go out of your sight?
A Yes.
Q Did anybody follow him when he was walking towards the barn?
A Once he got down like in the woods almost, that's

when Bud and Boo-Mo come out the house.

Q Is Boo-Mo the same as Boo?

A Boo. Yeah. I'm sorry.

Q Boo Jackson?

A Yeah.

Q Who was walking first out of those two? Were they walking side-by-side or one of them more --

A They was just more like side-by-side.

Q Did Mr. Miller come out of the woods?

A Yes, sir.

Q And did you see him have anything?

A Yes, sir.

Q What did he have?

A He had a gun.

Q Was Bud saying anything to him? Did Bud say anything to him?

A Bud was asking him where was the stuff. But he cursed.

Q Where was the shit?

A Yeah.

Q Did Bud -- did he say it one time or more than one time?

A Continuously.

Q Did Bud -- did the gun end up in Bud's hands?

A Yes. After he gave it to Bud.

Q What did Bud do with the gun then?
A He shot in the ground a few times asking him, you know, where the shit -- can I say it?
Q Yes.
A Where the shit was at.
Q That's what he said?
A Yeah. Where the shit at. He was shooting in the ground. So as they was having --
Q What was Mr. Miller doing?
A He was saying he don't know, he don't know. But he was like backing up towards the house or whatever.
Q And did they continue?
A Yeah. Athlete swung at Bud, so Bud --
Q Okay. Stop right there.
A Okay. I'm sorry.

MR. MAXWELL: Thank you, ma'am. Answer anything Mr. Frick has.

THE COURT: Cross examination, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK

Q Ms. Lawson?
A Mm-hmm (affirmative).
Q Do you have any firsthand knowledge of what Alpha Lee did or didn't do that Friday night?

A No.
Q Okay. The only thing you got is through conversation with Debbie?
A Right.
Q Okay. On that Saturday morning when you said Bud was saying, where is the shit at --
A Mm-hmm (affirmative).
Q -- did you know what the shit was?
A No.
Q But it was clear whatever it was, it was gone?
A Yeah.
Q Okay. And the only thing that Alpha Lee came out of the woods with was a gun?
A Correct.
Q You didn't hear anybody say, let me go back and get something?
A No.
Q Okay. That's all I've got. Thank you.
A Thank you.

THE COURT: Anything further?

MR. MAXWELL: Nothing further, Your Honor.

THE COURT: All right. Thank you. You may step down?

MR. BARFIELD: Vickie Smith.

THE CLERK: Raise your right hand. Place your

left hand on the Bible.

VICKIE SMITH, after being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. BARFIELD

Q You holler into that microphone, please, ma'am. Tell us your name?

A Vickie Smith.

Q And, Ms. Smith, when law enforcement initially talked to you about this case they used the name Cooper. Was that a name that you previously used?

A That's my maiden name, sir.

Q Okay. Are you nervous?

A Yes. Very.

Q Just relax. Do you know -- I'm going to throw all these names at you again. I'm going to string out a bunch of names and ask you if you recall these people. Do you know Bud Adams?

A Yes, sir.

Q Do you know Bryan Lawhorn?

A Yes, sir.

Q Do you know Boo Jackson?

A No, sir.

Q All right had you ever met him prior to this incident?

A No, sir.
Q Do you know Alpha Lee Miller?
A Yes, sir.
Q Do you know Kimberly Lawson?
A Yes, sir.
Q Do you know Debbie?
A Yes, sir.
Q Okay. Generally speaking, how do you know these people?
A Just hanging out in the neighborhood, getting high.
Q Getting high. Were you a crack smoker?
A Yes, I was.
Q Are you a crack smoker?
A No, I'm not. I've been recovered for ten months.
Q Did you have help to get recovered?
A Yes, sir. I've been through Morris Village and WCR which is the Woman's Community Residence.
Q Are you still getting help?
A I'm still in recovery, sir.
Q Are you still being counseled?
A Well, between that and my job, it's -- you know, yeah. I try.
Q Are you clean?
A Oh, yes, sir.
Q Are you the Vickie that Mr. Gibson talked about

riding with him and Kim and Amp to Bryan Lawhorn's sometime Saturday on April 5th of 2008?

A Yes, sir.

Q Now, let me back you up just a little bit. How long had you known Bud Adams prior to that day?

A I had only met him maybe a couple of times.

Q Where --

A I really didn't know him that well.

Q Where had you met Bud Adams? Well, let me ask you this. Is that Bud over yonder in the plaid shirt?

A Yes, sir.

Q Where had you meet Bud Adams? Through whom and where did you meet Bud Adams?

A Through Ms. Lawhorn.

Q And how did she know him? Do you know?

A They were engaged to be married. They were a couple on and off.

Q Were they a couple in April of 2008?

A No, sir.

Q When you met Bud Adams and saw him however many times it was after you met him, where did you see Bud Adams?

A I seen him a couple of different places.

Q Like where?

A I used to live on Park Road. I've seen him there. I

have seen him at Ms. Lawhorn's. You saw him at Bryan's house.

Q All right. Let me just ask you this question point blank. Had you been to Bryan Lawhorn's house prior to April 5th of '08?

A In the past, yes, sir.

Q One time? Several times?

A Several times, sir.

Q Generally speaking, why would you be at Bryan Lawhorn's house?

A To score some dope.

Q What kind of dope was your dope of choice?

A Crack cocaine.

Q And would you buy dope at Bryan Lawhorn's?

A On occasions.

Q From whom would you buy dope at Bryan Lawhorn's?

A Different people.

Q Give me some names.

A Mr. Lawhorn, Mr. Miller.

Q Amp?

A Yes, sir.

Q Did you know him as Amp or Alpha Lee?

A I knowed [sic] him as Amp.

Q Had you ever seen Bud Adams there at Lawhorn's house when you were there buying dope?

A A couple of times.
Q Had you ever bought dope from Bud Adams at Lawhorn's house?
A No, sir.
Q Had you ever bought dope from Bud Adams?
A I got it mixed up. I have never bought dope from Bud Adams but I have Mr. Lawson [sic].
Q Lawson or Lawhorn?
A Lawhorn. I'm sorry.
Q No. That's fine. So what you're saying is that you have never bought dope from Bud Adams. Is that correct?
A No, sir, I haven't.
Q Okay. Bear with me just a minute. And let me ask you this question again. I think I asked it and I think you answered it, but let me just make sure. Was Bud Adams ever at Lawhorn's house when you bought dope from Lawhorn?
A Only a couple occasions.
Q When those transactions occurred, would you be inside to initiate the transaction or outside?
A Both.
Q Were you buying him amounts, like a rock, a $20 rock or something?
A Yes, sir. I have bought quantities.