

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

Appellate Case No. 2014-002623

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S.C. Supreme Court

RICHARD PATTERSON, 270085,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI

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Richard Patterson
Appellate Case No. 2014-002623

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*Appellate records have not been included in the Appendix inasmuch as Petitioner expressly waived any claims of ineffective assistance of appellate counsel in his PCR action. Those records, which include the material listed below, are available should this Honorable Court deem their inclusion appropriate.

Record on Appeal Volume I
Record on Appeal Volume II (Certificate of Counsel dated 2/25/02)
Final Brief of Appellant dated March 18, 2002
Final Brief of Respondent dated March 15, 2002
Court of Appeals Opinion No. 2003-UP-143 filed February 19, 2003
Petition for Rehearing dated 3/6/03
Return to Petition for Rehearing (No Return Filed)
Court of Appeals Order Denying Petition for Rehearing dated April 18, 2003
Petition for Writ of Certiorari filed August 18, 2003
Return to Petition for Writ of Certiorari filed September 17, 2003
Supreme Court Letter Denying Petition for Writ of Certiorari dated May 13, 2004
Remittitur from the Court of Appeals dated May 17, 2004

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

COURT OF GENERAL SESSIONS
00-GS-04-1042, 1043

THE STATE)

vs.)

TRANSCRIPT OF RECORD

RICHARD KEVIN PATTERSON)

OCTOBER 9, 2000
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. C. NICHOLSON, JR., JUDGE; and a
jury.

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

DRUANNE WHITE, Solicitor
Attorney for the State

JAMES BREHM, ESQ.
Attorney for the Defendant

RECEIVED

DATE

9/13/04

(SIGNATURE)

JOY HOLSTON
Official Court Reporter

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(DW) - DENOTES DEFENSE WITNESS

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1 THE COURT: Solicitor, whenever you are
2 ready.

3 MS. WHITE: Yes, sir. Judge, we also
4 have this morning, the defendant in this case is
5 charged with murder and they have searched the house
6 where the victim was killed. I don't think there is
7 going to be an issue of that. We've got consent from
8 the home owner, the defendant was not the home owner.
9 And the items that we are claiming on introducing are
10 from the owner's bedroom, not the defendant's bedroom.
11 But I just want to make sure that we do not need, if
12 we do need to address that or not. I don't think
13 there is going to be an issue on that but if so we
14 might want to do it this morning.

15 MR. BREHM: I don't think that is going
16 to be an issue, Your Honor.

17 THE COURT: On the issue you have this
18 morning would be the confession. One written
19 confession and one oral?

20 MS. WHITE: Your Honor, there are two
21 written and also oral.

22 THE COURT: All right, Mr. Brehm, you
23 want to hear any testimony on all three of them at one
24 time or do you want to take them individual?

25 MS. WHITE: Your Honor, I think it is

1 kind of chronological anyway.

2 THE COURT: Okay.

3 MS. WHITE: Your Honor, for the record,
4 it is State versus Richard Kevin Patterson.
5 2000-GS-04-1043, indictment for murder and 1042,
6 indictment for possession of a firearm or knife during
7 the commission of a violent crime.

8 THE COURT: Just a second, please.
9 Solicitor, whenever you are ready you can call your
10 first witness.

11 MS. WHITE: Yes, sir. The State calls
12 Matt Smith.

13 MATT SMITH, after being duly sworn,
14 testified as follows:

15 MS. WHITE: Your Honor, may I back up
16 and call another witness first. I am sorry.

17 THE COURT: That is fine.

18 MS. WHITE: The State calls Tim Smith.

19 THE COURT: Mr. Brehm, are you alleging
20 that there is a Miranda warning situation or just a
21 voluntariness of the statement or both?

22 MR. BREHM: Both, Your Honor.

23 THE COURT: All right, thank you, sir.

24 TIM SMITH, after being duly
25 sworn, testified as follows:

DIRECT EXAMINATION

BY MS. WHITE:

Q. What is your occupation?

A. I am an Anderson County Deputy Sheriff.

Q. And were you working on March 10th of this year?

A. Yes, Ma'am.

Q. And where were you working?

A. I was working through the Anderson County Sheriffs office.

Q. Did you receive a call?

A. Yes, Ma'am.

Q. Approximately what time did you receive that call?

A. I received a call at approximately 10:25 a.m.

Q. And where did you go when you received that call?

A. I went to Carrol Road in Belton, 622 Carrol Road.

Q. And when you got there did you see the defendant, Mr. Patterson?

A. Yes, Ma'am.

Q. And where was he?

A. He was sitting on the front steps of the porch on the front of the house.

1 Q. And at that point did you have any idea of
2 what the facts were in this case other than it being a
3 shooting?

4 A. Other than it being a shooting, no Ma'am, I
5 did not.

6 Q. Was the defendant in any kind of custody at
7 all?

8 A. No, Ma'am.

9 Q. Was the defendant the one that called in to
10 911 to report this and ask you all to come to the
11 scene?

12 A. Yes Ma'am, that is what I was told.

13 Q. And when you got to the scene and saw the
14 defendant did you begin talking to him about why he
15 called?

16 A. Yes, Ma'am.

17 Q. And, again, at that time was he in any kind of
18 custody at all?

19 A. No, Ma'am.

20 Q. While you were talking to him what did he say?

21 A. He told me that he and his girlfriend had been
22 home sitting around the house and I believe they had
23 been reading. And she told him she wanted him to go
24 down to the store for him to pick her up a drink and a
25 pack of cigarettes. He told me that she told him that

1 she loved him and that he left and went to the store
2 for a pack of cigarettes and a drink.

3 Q. Where, what store?

4 A. He told me he went down to the new store down
5 at 413 and 252.

6 Q. What is the name of that store, if you have
7 your notes or I have them if you need them to refresh
8 your memory?

9 A. One moment. It is the new Texaco.

10 Q. All right, go ahead.

11 A. He told me that he returned from the new
12 Texaco, that he found her where she had been sitting
13 in the living room, that she had apparently shot
14 herself in the head.

15 Q. Did he say where the gun was, if you will look
16 at your notes if you need to?

17 A. Yes. He said, yes sir, he told me that he had
18 found it in her hand.

19 Q. And did he say where she was?

20 A. Sitting on the sofa where he had left her.

21 Q. And where did he say the gunshot wound was?

22 A. In the head.

23 Q. Now, what did he say after that?

24 A. He told me that she had been depressed lately
25 because her father was sick. He had, I believe it was

1 cancer. And that she had been kind of depressed about
2 that, that they had had a relationship in the past but
3 that she had been forced to break up with him because
4 she feared for her life, I believe it was her husband.

5 Q. Did he say what his and the victim's
6 relationship was at this point?

7 A. He said they got along great. They were
8 boyfriend and girlfriend.

9 Q. Was he there at the scene?

10 A. Yes, Ma'am.

11 Q. Had the investigators even been called?

12 A. Not at the time we were having this
13 conversation.

14 Q. Did you have any idea whether it was a suicide
15 or not at that point?

16 A. At that point I had not even seen the victim.

17 Q. Now, did the investigators later come?

18 A. Yes, Ma'am.

19 Q. And did they talk to the defendant?

20 A. Yes, Ma'am.

21 Q. And after they talked to the defendant did you
22 have a conversation with Jeff Black, one of the
23 investigators?

24 A. Yes, Ma'am.

25 Q. And what, if anything, was your conversation

1 with him?

2 A. That he asked me to offer the defendant a ride
3 back to the LEC and he told me to make sure that I
4 understood that it was an offer, that he was not in
5 custody, he was not being arrested. I remember
6 specifically asking was it just a ride or was it
7 custody. He said he was not in any custody. Make
8 sure he understands the difference.

9 Q. And he told you to make sure the defendant
10 understood the difference?

11 A. Yes, Ma'am.

12 Q. Did you talk to the defendant about going to
13 the law enforcement center?

14 A. Yes, Ma'am.

15 Q. And why did you all want him to go to the law
16 enforcement center at this point?

17 A. Well, there were two reasons. One being
18 particularly the fact that it was an extremely hot
19 day. It was very uncomfortable out there, there was
20 no shade.

21 Q. And how chaotic was the scene at this point?

22 A. That is another one of the reasons. The
23 victim's family had shown up and they were almost,
24 there was no way to control them, there was just too
25 many of them and they were shouting and they were

1 screaming at the defendant. And they were -- at one
2 time I almost had to restrain an elderly woman who
3 almost tried to go after the defendant while he was
4 sitting in Mr. Black's car.

5 Q. So, did you talk to the defendant about going
6 to the law enforcement center?

7 A. Yes, Ma'am.

8 Q. Did you explain to him whether or not he was
9 in custody?

10 A. Yes, Ma'am.

11 Q. What did you tell him?

12 A. I told him he was not in custody, that he
13 could stay at the scene if he wished but that the
14 weather -- being as hot as it was and we had
15 air-conditioning at the office and it would be a
16 cooler environment. Also, that it would be less loud
17 and the family, of course, could not be there and
18 wouldn't have to worry about them screaming.

19 Q. And did he agree to go with you to the law
20 enforcement center?

21 A. Yes, Ma'am.

22 Q. Did you offer him anything to eat or drink?

23 A. Yes, Ma'am. I keep bottles of water in my
24 trunk and I did offer him a bottle of water, that's
25 all I had at the time.

1 Q. And did he drink that?

2 A. Yes, Ma'am.

3 Q. And when you took him to the law enforcement
4 center, where did you go?

5 A. We went up stairs to the second floor to the
6 investigations division. And I led him into the
7 building and led him upstairs, the investigation
8 division where the Captain unlocked one of the new
9 offices, one of the new rooms. And we sat in there at
10 a table and I worked on my report on my laptop
11 computer. And he sat at the table and we just sat
12 there with the door open.

13 Q. Ya'll were waiting for the investigators to
14 get there to talk to him?

15 A. Yes, Ma'am.

16 Q. At any time was he handcuffed?

17 A. No, Ma'am.

18 Q. At any time was he arrested?

19 A. No, Ma'am.

20 Q. At any time was he placed in a jail cell?

21 A. No, Ma'am.

22 Q. At any time was he restrained in any manner?

23 A. No.

24 Q. Did you ever say anything to him other than
25 you are not in custody, it is your choice to come to

1 the sheriffs department or not?

2 A. No, Ma'am.

3 Q. In your opinion, did he freely and voluntarily
4 talk to you?

5 A. Yes, Ma'am.

6 Q. In your opinion, did he freely and voluntarily
7 accompany you to the sheriffs department?

8 A. Yes, Ma'am.

9 Q. At any time did he request an attorney,
10 request to remain silent?"

11 A. Not in my presence.

12 Q. So, you never heard him request either one of
13 those?

14 A. No, Ma'am.

15 Q. In your opinion, did he freely and voluntarily
16 agree to come to the law enforcement center and to
17 talk to investigators?

18 A. Yes, Ma'am.

19 Q. No further questions.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. BREHM:

23 Q. If he wasn't under arrest, Deputy Smith,
24 please tell me why you placed him in the back of your
25 patrol car?

1 A. I had a student riding with me that day from
2 the Anderson Alternative School and he was riding in
3 the front seat of the car with me.

4 Q. Explain, if you can, if you know, were there
5 any other witnesses transported to the law enforcement
6 center for questioning?

7 A. I didn't have no knowledge whether there were
8 any or not, sir.

9 Q. Did you transport any other witnesses?

10 A. No, sir.

11 Q. When you got down to the law enforcement
12 center did you escort Kevin Patterson to this room as
13 you testified to?

14 A. I led him to the room, I wouldn't say escort,
15 usually when I escort someone I stand at the side of
16 them or behind them, in a position where I can grab
17 their arm. I led the defendant the entire way, he
18 could have left any time behind me.

19 Q. He could have left at any time?

20 A. Yes, sir. Once you get inside there is no
21 locked doors to leave, there is just locked doors to
22 get in.

23 Q. So, you led him to this room and it is your
24 testimony that at any point he could have done
25 anything he wanted to freely and voluntarily. He

1 could have left if he wanted to, he could have gotten
2 up and walked around?

3 A. Yes, sir.

4 Q. Then explain to me why you went to the
5 bathroom?

6 A. Because I had to go to the bathroom. I had
7 been at the crime scene since about 10:00 -- 10:25
8 that morning and I hadn't had a chance to use the rest
9 room.

10 Q. Did anybody else go to the rest room with you?

11 A. Yes, sir. The student went along just as
12 well.

13 Q. Is it your practice, your ride along goes to
14 the bathroom with you when you have to go?

15 A. He had to go to the bathroom as well, sir.

16 Q. So, it is your testimony that you had to go to
17 the bathroom, your ride along had to go to the
18 bathroom along with Mr. Patterson?

19 A. Yes, sir.

20 Q. Who was the one that initiated having to go to
21 the rest room. Did you say, Mr. Patterson, I need to
22 go to the rest room, will you follow me or did he say,
23 I have to go to the rest room and you said, I will go
24 along with you?

25 A. Mr. Patterson said, can I go to the bathroom

1 and I said, sure. I said -- I guess I might of said,
2 I will go with you. I led him again, I led the way to
3 the bathroom. I was the first one in and the first
4 one out.

5 Q. It is your testimony your ride along also went
6 to the bathroom?

7 A. Yes, sir.

8 Q. Who is your ride along?

9 A. Brandon S.

10 Q. And you placed him in a room, correct?

11 A. Well, we all sat down in the same room.

12 Q. And you made a point in your statement, I am
13 looking at your statement, that you say a couple of
14 times in here that the door was open six inches but
15 not closed?

16 A. Yes, sir. It was ajar.

17 Q. If the door closed does that in effect mean
18 that my client was in custody?

19 A. No, sir.

20 Q. Why do you make notes of this a couple of
21 times, the door was open six inches but not closed?

22 A. Because at the time, I am still not familiar
23 with it, it is a brand new building and I don't know
24 if that room locks from the inside or not. I know you
25 have to have the key to get into it but I wasn't sure

1 if you had to have a key to get out and so I left the
2 door ajar just in case.

3 Q. On March 10th of 2000 how long had you worked
4 with the sheriffs office?

5 A. By March 10th I had been there approximately
6 10 years and 3 months.

7 Q. And were you present when the investigators
8 came to the law enforcement center to meet with my
9 client, Kevin Patterson?

10 A. I was there when Mr. Black arrived.

11 Q. And to your knowledge did Mr. Black give my
12 client Miranda warnings?

13 A. I wasn't there for that. Mr. Black walked
14 into the room, sat down and then I left.

15 Q. Why you were there did he give my client any
16 Miranda warnings?

17 A. No, sir. I wasn't there more than 15 seconds
18 after Mr. Black arrived.

19 Q. When you went to the scene, just so we don't
20 have any confusion, were you the first person on the
21 scene or were there any others?

22 A. No, sir. There was another officer that
23 arrived just before I did.

24 Q. At any point did you talk to the 911 later?

25 A. Not directly. No, sir. Well, no, probably

1 not, we were too busy securing the scene.

2 Q. And when you secured the scene I think you
3 said that my client said that there was a gun in
4 Pearson's hand?

5 A. Yes, sir. The victim's hand.

6 Q. Where was the gun when you secured the scene?

7 A. I did not secure the immediate scene. I help
8 secure the exterior of the house. I never went into
9 the house. Well, the most I went into the house was
10 right before I left. I stuck my head into the door to
11 speak to my lieutenant and that is as far as I went
12 into the house. By securing the scene, I mean my
13 corporal was putting up crime scene tape on the front
14 porch to keep anyone from entering the house from the
15 front door.

16 Q. I believe your statement or in your report
17 indicates that my client said that he got kicked out
18 of his parents house. Did he tell you that, do you
19 remember that?

20 A. It sounds familiar. If you will give me a
21 moment.

22 Q. This is what I was providing for discovery.
23 Is this your statement?

24 A. Yes, that one, yes. Let's see. Yes sir, I do
25 remember that.

1 Q. And when you are out there on the scene are
2 you taking notes or did you make this report from your
3 memory?

4 A. Well, from memory. I wrote this the same day
5 after I had left the defendant alone with the
6 investigators. I believe I went downstairs and I
7 typed this one up right there.

8 Q. But you are prepared to testify about what my
9 client said comes from your memory, it doesn't come
10 from notes?

11 A. I have notes somewhere. I can probably find
12 them if you wish.

13 Q. That might be helpful. Describe my client's
14 condition, if you can?

15 A. At what time?

16 Q. I guess when you saw him.

17 A. The first time?

18 Q. Yes, sir.

19 A. He was sitting on the front porch. I believe
20 he was holding a cordless phone and talking on it.
21 But he was sobbing loudly.

22 Q. Did he appear to be upset, angry?

23 A. He was upset, he was sobbing, like crying
24 loudly.

25 Q. Describe, if you can, his condition in the

1 back of your car. Was his condition changing?

2 A. Yes, sir.

3 Q. How did it change?

4 A. He was very calm, very relaxed.

5 Q. And was he still crying?

6 A. No, sir. That was much later.

7 Q. He cried later?

8 A. No, he cried at first and he probably sobbed
9 for at least 10 or 15 minutes right there at the
10 beginning and then as time went on he calmed down and
11 he became more relaxed. He did become agitated by the
12 family yelling at him. He was worried about that.

13 Q. Had you ever had any contact with my client
14 before?

15 A. No, sir.

16 Q. And is it your testimony that my client was in
17 a correct state of mind, you testified that he
18 appeared to know what he was doing?

19 A. When I first arrived?

20 Q. You were talking, he appeared to give you a
21 statement freely and voluntarily?

22 A. Yes, sir. He was just telling me what
23 happened.

24 Q. And you said one of the reasons that you put
25 him in the patrol car to begin with, one of the

1 reasons is you got him out of the environment was
2 because it was hot?

3 A. Yes, sir.

4 Q. Is that in your report anywhere. It was March
5 10th, winter time, 10:00 o'clock in the morning. One
6 of the reasons you put him in the patrol car was
7 because it was hot?

8 A. On that particular day, yes sir.

9 Q. Do you remember him having a jacket?

10 A. No, sir.

11 Q. Long shirt?

12 A. I don't recall what he was wearing.

13 Q. You stand by your testimony that the reason
14 you put him in the patrol car and took him away was
15 because it was hot?

16 A. No, it was one of the reasons that I gave him
17 for wanting to get away from the scene, that I thought
18 it would be better than having to interview there at
19 the scene.

20 Q. But from memory now, the fact that it was
21 winter time, it is 10:30 or whatever in the morning.
22 Can you think back and tell us was that a valid reason
23 for putting him in the back of the patrol car?

24 A. Well, yes sir. It was a hot day, and you
25 wanted to speak to someone about something that

1 happened it would be better to do it in an
2 air-conditioned environment that was quiet than doing
3 it in a hot environment that was loud.

4 Q. Was your car air-conditioned. Can I look at
5 this statement, I mean, that is a report?

6 A. Yes.

7 Q. So, we have two reports and it is not noted in
8 any report that it is hot?

9 A. No, sir.

10 Q. Okay. Thank you. I don't have anything
11 further.

12 THE COURT: Redirect?

13 MS. WHITE: Yes, sir.

14 REDIRECT EXAMINATION

15 BY MS. WHITE:

16 Q. You said you have been an investigator for the
17 sheriffs department for 10 years. How long had you
18 all been in the new sheriffs department building at
19 the time that this occurred?

20 A. Yes, I don't remember the exact date but it
21 was definitely less than a month and a half.

22 Q. And how big is this new building?

23 A. It is over twice the size of our old building.

24 Q. But for the record, about how big, I mean how
25 many stories?

1 A. It is definitely two stories, three actually.

2 Q. And approximately, how many offices does it
3 have in it? A lot or a little?

4 A. A lot, at least.

5 Q. Is it easy to find your way around there if
6 you have never been there or not?

7 A. Well, I had to ask Captain Skipper to the
8 bathroom, I think.

9 Q. All right. That was my question, my next
10 question. Did you show the defendant where the
11 bathroom was?

12 A. Well, I went and asked Captain Skipper first
13 and then I came back and walked down the hall, he
14 showed me where it was.

15 Q. Did you ever threaten, coerce or promise the
16 defendant anything?

17 A. No, Ma'am.

18 Q. Now, I believe, I am looking at your notes,
19 what time did you arrive at the crime scene?

20 A. At about 10:42.

21 Q. A.M?

22 A. A.M., yes, Ma'am.

23 Q. All right. And the defense attorney was
24 asking about the heat, if you will refresh your
25 memory, what are you saying in your statement here?

1 A. That we had to move to a shaded area from the
2 back of the pickup truck. Because the back of the
3 truck was in the sun and it was getting pretty hot.

4 Q. And you talked about how the defendant was
5 sobbing?

6 A. Yes, Ma'am.

7 Q. Describe, if you will, how did you put in your
8 notes how he was sobbing, if you will just read that
9 sentence?

10 A. He was sobbing mildly during this time but I
11 never observed him to be tearing while he was sobbing.

12 Q. And you made these notes the day that this
13 occurred?

14 A. Yes, Ma'am.

15 Q. At all times when he was with you was he free
16 to leave?

17 A. Yes, Ma'am.

18 Q. No further questions.

19 THE COURT: Any recross?

20 MR. BREHM: No, sir.

21 THE COURT: Detective, or Deputy Smith,
22 what time did you arrive on the scene?

23 A. I arrived on the scene at 10:42 a.m.

24 THE COURT: What time did you get back
25 to the law enforcement center with the defendant?

1 A. I do not know, sir, I believe it was several
2 hours later. I can't tell you because it is not in my
3 notes.

4 MS. WHITE: Your Honor, I have a
5 Miranda rights form that is 1:51 p.m.

6 THE COURT: At what time?

7 MS. WHITE: At 1:51 p.m is when they
8 start the Miranda rights, it would have to be around
9 1:00, I would think.

10 THE COURT: Thank you. Any questions
11 subject to the Court's questions?

12 MR. BREHM: No sir, Your Honor.

13 THE COURT: Anything from the State?

14 MS. WHITE: No, sir.

15 THE COURT: Thank you, you may step
16 down.

17 MS. WHITE: The State calls Matt Smith.

18 MATT SMITH, after being duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. WHITE:

22 Q. What is your full name?

23 A. Matthew D. Smith.

24 Q. What is your occupation?

25 A. I am a deputy at the sheriffs office.

1 Q. And were you working on 3-10 of this year?

2 A. Yes, Ma'am.

3 Q. Did you receive a call?

4 A. Yes, Ma'am.

5 Q. Approximately at what time?

6 A. Somewhere around 10:30 or so.

7 Q. And did you go to the scene?

8 A. Yes, we did.

9 Q. Is that in Anderson County, South Carolina?

10 A. Yes, Ma'am.

11 Q. When you arrived there did you see the
12 defendant?

13 A. Yes, Ma'am.

14 Q. Where was he?

15 A. He was talking to Deputy Smith.

16 Q. And after he talked to Deputy Smith, at some
17 point did you go inside the residence?

18 A. Yes.

19 Q. And to your knowledge were there any other
20 witnesses to finding the body?

21 A. No, Ma'am.

22 Q. So the defendant was the only witness then?

23 A. Yes, Ma'am.

24 Q. And did you begin talking to the defendant to
25 find out what happened?

1 A. We talked to him briefly.

2 Q. And was he in any kind of custody or was he
3 just a witness who found the body at that point?

4 A. He was not arrested.

5 Q. Did you talk to the defendant there?

6 A. Yes, Ma'am.

7 Q. And where did you talk to him?

8 A. We sat down in the front seat of Officer
9 Black's car.

10 Q. And was the defendant free to leave at that
11 point?

12 A. Yes, Ma'am.

13 Q. Had he been charged with anything?

14 A. No, Ma'am.

15 Q. And was he cuffed?

16 A. No, Ma'am.

17 Q. Did you threaten him in any way?

18 A. No, Ma'am.

19 Q. Did you coerce him at all?

20 A. No, Ma'am.

21 Q. Did you make him any promises?

22 A. No, Ma'am.

23 Q. Did he at any time ask for an attorney or ask
24 to remain silent?

25 A. No, Ma'am.

1 Q. In your opinion, did he freely and voluntarily
2 agree to talk to you there at the scene?

3 A. Yes, Ma'am.

4 Q. And did you find out who had called into 911
5 to call you to the scene?

6 A. Yes, Ma'am.

7 Q. Who?

8 A. The defendant.

9 Q. I am handing you State's exhibit 1 for
10 identification, do you recognize that?

11 A. Yes, Ma'am.

12 Q. And is that the defendant's statement that he
13 gave you there at the scene?

14 A. Yes, Ma'am.

15 Q. And was he in any kind of custody at the time
16 he gave that statement?

17 A. No, Ma'am.

18 Q. And has that been changed or altered in any
19 manner whatsoever?

20 A. No, Ma'am.

21 Q. Who signed that?

22 A. The defendant.

23 Q. And did you witness it?

24 A. Yes.

25 Q. And how was the statement taken?

1 A. Orally and I would write the words.

2 Q. All right, he was telling you and you were
3 writing it as he talked?

4 A. Yes, Ma'am.

5 Q. And then did you give him a chance to look it
6 over and read it back to him or anything like that
7 before he signed it?

8 A. Yes Ma'am, I sure did.

9 Q. What did you do?

10 A. He read it over and I had him initial the top
11 and then he signed where he received a copy.

12 Q. And again, has this been changed or altered in
13 any manner?

14 A. No, Ma'am.

15 Q. What was the weather like that day out at the
16 scene?

17 A. It was in March, the sun was real bright and
18 it was warm.

19 Q. And did you talk to Tim Smith about further
20 interviewing the defendant?

21 A. I mentioned it, yes, Ma'am.

22 Q. And what, if anything, did you do in regard to
23 talking to the defendant again?

24 A. At the scene we did talk to him again.

25 Q. I am talking about after?

1 A. We discussed that we wanted to just talk some
2 more. I believe that is when Detective Black
3 mentioned to Officer Smith to go to the sheriffs
4 department.

5 Q. And did you talk to him at the sheriffs
6 department later that day?

7 A. Yes Ma'am, I did.

8 Q. Was he in any kind of custody?

9 A. No, Ma'am.

10 Q. Was he handcuffed?

11 A. No, Ma'am.

12 Q. What, if anything, did you provide to him to
13 eat or drink before you went in and talked to him?

14 A. We arrived at the scene around 11:00 and on
15 the way back it was a little after 12:00. Myself and
16 Detective Black were riding together in the same car,
17 we were hungry and stopped and got us something to
18 eat. We stopped and got the defendant something to
19 eat on the way back to the office.

20 Q. When you say something to eat, are you talking
21 lunch?

22 A. Yes. Checkers, I believe it was.

23 Q. When you got to the sheriffs department where
24 did you talk to the defendant?

25 A. In the interview room upstairs.

1 Q. And was he handcuffed?

2 A. No, Ma'am.

3 Q. Was he jailed?

4 A. No, Ma'am.

5 Q. Was he in any way restrained?

6 A. No.

7 Q. And did he agree to talk to you there?

8 A. Yes, Ma'am.

9 Q. And did he ever ask for an attorney or ask to
10 remain silent?

11 A. No, Ma'am.

12 Q. Did he freely and voluntarily agree to talk to
13 you?

14 A. Yes, Ma'am.

15 Q. Were there any threats or any coercions or any
16 promise made?

17 A. No, Ma'am.

18 Q. Now, I believe in talking to the defendant,
19 tell the Judge what happened?

20 A. We just kind of talked to him about what
21 happened. So, we took his statement on the scene and
22 he started to get hostile with the victim's family
23 which kind of, you know, upset him and they were kind
24 of loud and everybody was out in the yard, there
25 wasn't no where else to go. So, we talked to him at

1 the office and kind of just conversation more than
2 anything and we kind of got into what happened. He
3 was telling us what happened and he finally broke down
4 and said that he had shot the victim.

5 Q. All right, now, at that point what did you all
6 do?

7 A. We stopped right then, read the defendant his
8 Miranda rights, it was signed and we continued.

9 Q. I am handing you State's exhibit 2 for
10 identification, what is that?

11 A. The Miranda warning that we read to the
12 defendant on the 10th of March.

13 Q. Please demonstrate for the Judge how the
14 defendant was advised of his Miranda rights.

15 A. This is the standard form we use when we
16 interview everybody. Before we ask any questions, do
17 you understand your rights. You have the right to
18 remain silent. Anything you say can be used against
19 you in court. You have the right to talk to a lawyer
20 before we ask any questions and have him with you
21 during questioning. If you cannot afford a lawyer one
22 will be appointed before questioning, if you wish. If
23 you decide to answer questions now without a lawyer
24 present you have the right to stop answering at any
25 time. You also have the right to stop answering at

1 any time until you talk to a lawyer. We read this
2 part, have him sign where we did actually read him his
3 rights. And we have the defendant sign there and then
4 at the bottom of the waiver of rights it says--

5 Q. Did you read it to him?

6 A. We read this to him, that is what the form
7 says. We read this out loud, it says waiver of
8 rights. It says, I have read this statement of my
9 rights and know what my rights are. I am willing to
10 make a statement and answer questions. I do not want
11 a lawyer at this time. I understand and know what I
12 am doing. No promises or threats have been made to me
13 and no pressure or coercion of any kind have been used
14 against me. And then we have the defendant sign again
15 here and it was witnessed by Detective Black and
16 myself and with the time.

17 Q. And has that State's exhibit 2, the Miranda
18 rights been changed or altered in any manner?

19 A. No.

20 Q. Did the defendant sign that he understood his
21 rights and signed that he waived his rights?

22 A. Yes, Ma'am.

23 Q. And is that the defendant's signature?

24 A. Yes, Ma'am.

25 Q. Was there any threat to obtain his signature?

1 A. No, ma'am.

2 Q. Any promises?

3 A. No, Ma'am.

4 Q. Any coercion?

5 A. No, Ma'am.

6 Q. Did the defendant freely and voluntarily agree
7 to talk to you?

8 A. Yes, Ma'am.

9 Q. Did he appear to understand what he was doing?

10 A. Yes, Ma'am.

11 Q. Did he appear to be under the influence of
12 anything that would alter his judgment?

13 A. No, ma'am.

14 Q. Did the defendant give a statement after he
15 waived his Miranda rights?

16 A. Yes, he did.

17 Q. I am handing you State's exhibit 3 for
18 identification. Do you recognize that?

19 A. Yes, Ma'am.

20 Q. What is that?

21 A. This is a statement given at the law
22 enforcement center given by the defendant.

23 Q. And was this statement given after the
24 defendant was Mirandized pursuant to State's exhibit 2
25 and waived his Miranda's?

1 A. Yes, Ma'am.

2 Q. Was any threats or coercion or promise made to
3 obtain that statement?

4 A. No, Ma'am.

5 Q. Did the defendant appear to know what he was
6 doing when he gave that statement?

7 A. Yes, Ma'am.

8 Q. Did he at any time request an attorney or
9 request to remain silent?

10 A. No, Ma'am.

11 Q. Did he freely and voluntarily agree to give
12 that statement?

13 A. Yes Ma'am, he did.

14 Q. And how was that statement taken?

15 A. The same as the one on the scene.

16 Investigator Black was talking and I was taking the
17 notes to write the statement out.

18 Q. So, you wrote the statement after he told you?

19 A. Yes, Ma'am.

20 Q. You said the statement was at the scene. Did
21 you mean at the scene or do you mean the prior
22 statement?

23 A. The prior statement.

24 Q. Okay. All right. And when you were writing,
25 after you wrote the statement out did you let him read

1 it or did you all read it back to him. How did that
2 happen?

3 A. We let the defendant read the statement. The
4 places where I had made errors, I scratched through
5 where it was and if I changed anything I had the
6 defendant initial. He agreed to the statement and
7 signed every page and signed where he received a copy
8 of it.

9 Q. And has that statement, State's exhibit 3,
10 been changed or altered in any manner?

11 A. No, Ma'am.

12 Q. Is that the defendant's signature and initials
13 throughout the statement?

14 A. Yes, Ma'am.

15 Q. Is that the statement that the defendant gave
16 that day?

17 A. Yes, Ma'am.

18 Q. No further questions.

19 THE COURT: Any cross?

20 MR. BREHM: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. BREHM:

23 Q. Investigator Smith, what was the condition of
24 my client when he was -- when you were going over his
25 rights and he was giving this so called statement?

1 A. He told us what had happened.

2 Q. You said you had purchased some food for him,
3 he did eat that food, didn't he?

4 A. He drank his drink.

5 Q. Can you explain why the signatures on the
6 rights page and the signature on the statement page
7 are different?

8 A. No, sir.

9 Q. Had you had any contact with my client prior
10 to this day?

11 A. No, sir.

12 Q. Is it your testimony that you went to the
13 scene, placed Kevin in your car and he gave you a
14 statement?

15 A. Yes, he did.

16 Q. Why was he placed in your patrol car to take
17 his initial statement, his first statement?

18 A. Needed somewhere to write, just getting out of
19 the way. Like I said, it was a hot day for March. I
20 mean, it wasn't 100 degrees but it was warm. And like
21 I say, we were dressed for winter time, I guess.
22 Somewhere to sit down, there wasn't anywhere else to
23 go.

24 Q. The two of you in front of the car?

25 A. Yes, sir.

1 Q. And were the doors open or shut?

2 A. They were closed.

3 Q. They were closed?

4 A. Yes.

5 Q. But he wasn't in the back of your car?

6 A. No, sir.

7 Q. Now, you had taken the first statement from my
8 client yet you write it out?

9 A. Yes, sir.

10 Q. Why do you write it out?

11 A. I write all the statements where I can read
12 them.

13 Q. You write all the statements out?

14 A. Every statement I ever take I write, yes sir.

15 Q. And is that something that you do or is that
16 something that you are instructed to do?

17 A. The department and in investigation, everybody
18 that I know that works writes their statements. I
19 mean, it is not a set rule but everybody does it.

20 Q. And it is your testimony that my client was
21 given the opportunity to review this and make changes?

22 A. Yes, sir.

23 Q. And the statement -- you are writing a
24 statement, do you take notes and then transfer it to a
25 statement or do you remember it, did you listen to

1 Kevin talk and then you wrote the statement. Or are
2 you writing as he is talking?

3 A. Writing as he talked.

4 Q. And I notice that this is printed out, was he
5 talking fast, slow?

6 A. As I write, if he gets way ahead of me where I
7 can't keep up I will ask whoever I am talking to to
8 slow down and let me catch up.

9 Q. Now, when you go down to the law enforcement
10 -- well, let's get into the reason why he was placed
11 into the patrol car and transported to the law
12 enforcement center. Did you have a conversation with
13 Deputy Tim Smith or Investigator Black?

14 A. Investigator Black talked to Tim.

15 Q. Were you present for that conversation?

16 A. The very end of it. I didn't catch the whole
17 conversation, no.

18 Q. Do you recall the conversation to place him in
19 the patrol car and take him down to the law
20 enforcement center because it was hot?

21 A. That was one of the reasons, it was warm that
22 day. There was no where to go other than sitting in
23 the car.

24 Q. Well, you had already taken his testimony in
25 the car?

1 A. Yes, sir.

2 Q. So, my question is, what was the temperature?

3 A. I am not sure. It was just warm.

4 Q. 70's, 80's, 90's?

5 A. Probably high 70's or so. I mean, it was warm
6 for March.

7 Q. Now, what was the purpose of purchasing food
8 for my client?

9 A. Like I say, we got on the scene a little bit
10 before 11:00, a little after 12:00. I hadn't had an
11 opportunity to eat lunch and Investigator Black hadn't
12 and we assumed that Kevin hadn't. So, we bought him
13 some lunch too.

14 Q. Okay. And when you go into the law
15 enforcement, you go into this room, what is the
16 situation when you walk into this room, was the door
17 open or shut?

18 A. It is open a little ways, not all the way
19 shut. You can see in the room.

20 Q. And who is in the room with Kevin Patterson?

21 A. Officer Smith and Kevin are there.

22 Q. Are you related to Officer Smith?

23 A. No, sir.

24 Q. How long do you talk to Kevin Patterson before
25 you go over his rights. You just don't walk in there

1 and start reading him his rights, do you?

2 A. No, sir. A few minutes, I am not sure of the
3 exact time. We have got times written down in our
4 notes, maybe 15 minutes.

5 Q. And at what time did my client actually
6 receive his Miranda?

7 A. When he had made a statement that he shot --
8 that is when we stopped and read the Miranda.

9 Q. That statement actually stems from the two or
10 you, Investigator Black and yourself talking with my
11 client and you indicated to my client that there was
12 evidence to suggest that it was not a murder or it was
13 not a suicide, isn't that correct?

14 A. Not in those words.

15 Q. Well, tell me what words were used.

16 A. I don't remember exactly, it didn't look
17 right. We were trying to figure out what had
18 happened.

19 Q. But those weren't the words that you used,
20 something wasn't right.

21 A. I don't remember exactly what was said.

22 Q. But it is quite possible that the words that
23 you used were, this is not a suicide, this is a
24 murder?

25 A. I don't remember. I wasn't talking, I was

1 taking notes. Like I said, I don't remember those
2 words being said exactly.

3 Q. Well, it is pretty important. You say that my
4 client tells you that he has killed, that he has shot
5 Leanne Pearson. And what I am trying to do is find
6 out if that is something that is freely and
7 voluntarily given or is that something that you and
8 Investigator Black suggested to him was the case. And
9 I need you to remember as best you can, you are
10 sitting there saying it is not a suicide because up to
11 that point he is sitting there saying, she killed
12 herself, she is the one that got the gun, loaded the
13 gun, brought the gun in, raised it up to her head and
14 said, that does it. That's not the case, this is a
15 murder. I need you to testify of what was actually
16 said?

17 A. It was not said that it was a murder. We
18 didn't know. We were trying to figure out what had
19 happened. And Kevin was the last person that saw her.

20 Q. What I am asking is, what was said to Kevin to
21 get that response?

22 A. I don't remember exactly what was said, we
23 were just in conversation trying to figure out what
24 had happened.

25 Q. You and Investigator -- well, I guess you

1 can't testify for Investigator Black but you have had
2 a conversation with the family members and you had a
3 conversation with Investigator Black and it was your
4 opinion that this was a murder and not a suicide,
5 correct?

6 A. We didn't talk to the family or anything about
7 that.

8 Q. You didn't talk to any family members?

9 A. We talked to them but that wasn't brought up
10 at all.

11 Q. You heard out there on the scene, did you not,
12 that Leanne Pearson supposedly was going to break off
13 the relationship with Kevin Patterson?

14 A. I don't recall that that was then or
15 afterwards. We talked to the family briefly.

16 Q. And the family is upset?

17 A. Yes sir, they were upset.

18 Q. And you said earlier that things just didn't
19 seem right, what didn't seem right?

20 A. Just from the scene, some of the stuff that we
21 found did not look right.

22 Q. You told my client that there is evidence that
23 suggest that this is not a suicide, it is a murder and
24 you said that things don't look right, there are some
25 things out there at the scene that don't look right,

1 what doesn't look right?

2 A. From forensically what they told me, I was not
3 inside the scene when they were processing the scene,
4 I was outside.

5 Q. Forensically, what doesn't add up?

6 A. What they told me on the scene, I was not
7 inside processing the scene. I was outside, they had
8 told me that some of the evidence didn't look like a
9 suicide.

10 Q. That's what I am getting to, what didn't look
11 right, what was told to you?

12 A. Just the angle of the shot is what they said.

13 Q. The angle of the shot, above the ear, back a
14 little bit, right side of the head. Leanne Pearson is
15 right-handed, correct. The wound is right here. So,
16 what doesn't look right?

17 A. Like I said, I did not see the scene. As they
18 were moving it and the pictures and I was not inside
19 processing the scene. They said the angle didn't look
20 right. That's all the information I knew.

21 Q. Investigator Black is asking the questions and
22 you are taking the statement?

23 A. Yes.

24 Q. Right?

25 A. Right.

1 Q. So, is it safe to assume, not really assume,
2 is it safe to say that this is not my client's
3 statement, this is you writing out the words in
4 response to answers that he is giving to questions
5 posed by Investigator Black?

6 A. This is what your client was saying and we
7 were talking and these are his responses to what he
8 was saying is what is in the statement, is what he
9 told me.

10 Q. The responses to the questions, I mean, I am
11 having Investigator Matt Smith of the Anderson County
12 Sheriffs Office write my statement for me in my own
13 words. That is written by you in response to
14 questions by Investigator Black?

15 A. I write that on top of every statement that I
16 make because I am writing, physically writing, instead
17 of whoever I am interviewing writing the statement.

18 Q. And you have, my own words, who is my, is that
19 you or is that Kevin Patterson's own words. I met
20 Leanne approximately 4 years ago when she came to work
21 at Hitachi where I worked.

22 MS. WHITE: Your Honor, asked and
23 answered a bunch of times. I would ask that we move
24 on, it has been asked and answered.

25 THE COURT: I will overrule.

1 Q. Investigator Black asked the questions?

2 A. Right.

3 Q. You are taking down this statement, why do you
4 not take down the questions?

5 A. We don't write statements that way. It is an
6 interview, we are discussing things and that is what
7 we write.

8 Q. And the Anderson County Sheriffs Office has
9 the capability to videotape in which they did on March
10 10th of 2000?

11 A. I am not aware of a video camera that we have.

12 Q. You have no video camera?

13 A. Not in the interview room.

14 Q. Does the Anderson County Sheriffs Office
15 possess a video?

16 A. I am sure they have one.

17 Q. And this statement is not video taped, right.
18 You have the ability to audio tape yet this statement
19 is not audio taped?

20 A. No, sir.

21 Q. You testified my client was given an
22 opportunity to read this over and make changes and you
23 made mention the fact that there is several notations
24 on this statement where he has his initials?

25 A. Right.

1 Q. Who directed him to put those initials there?

2 A. If I had made a mistake and scratched
3 something out I ask everyone we went through,
4 everywhere I scratched out where it looked like I was
5 changing anything for him to put his initials where it
6 shows that I didn't change that. I just made a
7 mistake.

8 Q. So, you directed him to place his initials
9 certain places?

10 A. Right.

11 Q. And up here in the corners, I guess upper
12 left-hand corners of every page there is initials, you
13 also directed him to place his initials there?

14 A. Right.

15 Q. Do you recall him indicating to you that he
16 had to go to the rest room?

17 A. I believe we did go to the rest room
18 afterwards, yes.

19 Q. And there was a conversation between you and
20 Investigator Black as to when he would sign the
21 statement, do you recall that?

22 A. No.

23 Q. Is it possible that there was a conversation
24 with you and Investigator Black?

25 A. It could have been, I don't remember.

1 Q. And do you recall him signing the statement
2 and then going to the rest room, coming back and you
3 giving him a copy of the statement?

4 A. I don't recall.

5 Q. But it is possible that is what happened?

6 A. It could have been.

7 Q. A day or so later, one time that you went back
8 to the law enforcement center, my client is arrested?

9 A. Yes, sir.

10 Q. You go down to the jail and go and talk to him
11 again?

12 A. Yes, sir.

13 Q. And that time he indicates he wants to get an
14 attorney?

15 A. Right.

16 MR. BREHM: One moment, Your Honor.

17 Q. What is the time that you went, looking at the
18 waiver or rights form, what is the time period that
19 you went over Kevin's rights with him?

20 A. Are you asking what time the Miranda was
21 signed?

22 Q. Well, no. What I am asking is, is at the top
23 of the sheet don't you put the times there. Don't
24 you put the time at the top and the time at the
25 bottom, what is the time period?

1 A. I don't remember.

2 Q. Did you go over his rights one time or two
3 times?

4 A. I don't recall.

5 Q. You read this sheet and have him go over that
6 or whatever. But then in the statement that you
7 prepared there is also language about his rights at
8 the top but you don't go over it two times in a row
9 with him, do you?

10 A. I don't recall.

11 Q. And you recall sitting there as Investigator
12 Black is getting ready to ask him some questions, you
13 recall taking this voluntary statement, page 1 and
14 say, look at this?

15 A. After we had the statement written?

16 Q. No, before. And there is no reason to go over
17 his rights back to back, is there?

18 A. No.

19 Q. Okay. Now, I believe you went over my
20 client's mental condition. Is it your testimony,
21 exactly what my client said, looking at page 3 of the
22 second statement. Page 3 about seven lines down. My
23 client says he shot her, he took the gun from her and
24 he started walking down the hall and he turned around
25 and shot her?

1 A. Yes, sir.

2 Q. And that is exactly what my client said?

3 A. Yes, sir.

4 Q. Nothing further.

5 THE COURT: Redirect?

6 MS. WHITE: A couple more questions,
7 Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. WHITE:

10 Q. Did you give the defendant a copy of the
11 written statement?

12 A. Yes, Ma'am.

13 Q. And is that, in fact, the pink copy that the
14 defense attorney is holding up?

15 A. I believe so.

16 Q. After you gave these copies to the defendant
17 when did he call you to tell you the statement was
18 wrong?

19 A. He did not.

20 Q. He didn't?

21 A. No, Ma'am.

22 Q. At the jail don't they have somewhat unlimited
23 use of the telephone?

24 A. Yes, Ma'am.

25 Q. So, when did he pick up the phone and call you.

1 to tell you it was wrong?

2 A. He hasn't.

3 Q. You gave him a copy right there of both
4 statements?

5 A. Yes, Ma'am.

6 Q. No further questions.

7 THE COURT: Any recross?

8 MR. BREHM: One question.

9 RECROSS-EXAMINATION

10 BY MR. BREHM:

11 Q. You gave the statement to my client and do you
12 recall my client folding it up and putting it in his
13 pants or shirt?

14 A. I don't know.

15 Q. At some point you removed his clothing?

16 A. We don't do that, the jail does.

17 Q. All right. Nothing further. Thank you.

18 THE COURT: You may step down, thank
19 you very much.

20 MS. WHITE: The State calls Jeff Black.

21 JEFF BLACK, after being duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. WHITE:

25 Q. State your name, please?

1 A. My name is Jeff Black and I work for the
2 Anderson County Sheriffs Department.

3 Q. And were you working on March 10th of this
4 year?

5 A. Yes, Ma'am.

6 Q. Did you receive a call to go to the scene that
7 we are talking about?

8 A. Yes, Ma'am.

9 Q. After that, while you were at the scene did
10 you have a conversation with Tim Smith, a deputy in
11 your department?

12 A. Yes, Ma'am.

13 Q. And what, if anything, did you tell him in
14 regard to the defendant?

15 A. We had requested, if the defendant didn't
16 mind, if he would go to the law enforcement center. I
17 had been notified that the crowd had been gathering
18 outside. I asked him, if you would, to make sure he
19 understood that he wasn't in custody and if he
20 wouldn't mind going to the law enforcement center.

21 Q. And did you talk with the defendant at the law
22 enforcement center?

23 A. Yes, Ma'am.

24 Q. Now, when you begin talking to him was there
25 any kind of restraint?

1 A. No.

2 Q. Was he handcuffed or strained in any manner?

3 A. No.

4 Q. And did you bring him lunch, you all?

5 A. Yes.

6 Q. And how long did you talk to him about what
7 had happened before you Mirandized him?

8 A. I would have to take a look at the times and I
9 should be able to testify on that exactly. We walked
10 in the office at 1:29 p.m.

11 Q. So, you talked to him, what time does your
12 Miranda begin?

13 A. That would be on the other form, I don't have
14 it with me.

15 Q. All right.

16 A. Miranda was given at 1:51 p.m.

17 Q. So, 25 minutes?

18 A. Yes, Ma'am.

19 Q. During that time, I think the defense attorney
20 asked Detective Smith what did you all say about
21 things not looking right, would you tell the Judge
22 what you remember about that conversation?

23 A. The conversation started off initially where
24 we were just kind of discussing his relationship with
25 Leanne, how long they had been dating, just how it was

1 going and that kind of thing. If he had any kids, if
2 she had any kids. And we gradually progressed into
3 the fact that things really didn't look right on the
4 scene. I felt like that Kevin knew what had happened
5 inside the house and I wanted to get him to tell me.
6 I didn't know maybe if it was an accident or what it
7 was. And wanted him to just relate to me what had
8 happened. I felt like maybe that he was trying to
9 maybe not tell us that if it was an accident, afraid
10 that he would get in trouble or something of that
11 nature. So, I had him to kind of tell me what
12 happened.

13 Q. And at that point did he admit that he shot
14 her?

15 A. Yes, Ma'am. He got real quiet and than he
16 just spontaneously just said, well, I shot her.

17 Q. Did you threaten him, coerce him or make him
18 any promises?

19 A. No, Ma'am.

20 Q. Did he at any time ask for an attorney or ask
21 to remain silent?

22 A. No, Ma'am.

23 Q. In your opinion, did he understand what you
24 all were doing, did he appear to be under the
25 influence of anything that would of prevented him from

1 understanding?

2 A. No, Ma'am. I ask him specifically if he was
3 taking any drugs or if he was drinking, that is just
4 the standard things that I do in interviewing.

5 Q. And he said, no?

6 A. He said that he had had prodiset, (phonetic),
7 for an upset stomach earlier in the week and that he
8 does drink.

9 Q. And was he properly Mirandized?

10 A. Yes, Ma'am.

11 Q. You've got statements, the two in front of
12 you, did he sign that he understood his Miranda's and
13 that he signed that he waived his Miranda's?

14 A. Yes Ma'am, he did.

15 Q. And did he agree to give a statement to you
16 after he was Mirandized?

17 A. He did.

18 Q. And I will give you State's exhibit 3, do you
19 recognize that statement?

20 A. Yes, Ma'am.

21 Q. How was this statement taken?

22 A. I was sitting on one side of the table and
23 Kevin and Matt sitting on the other side. Matt was
24 taking the statement as we talked.

25 Q. And is that the defendant's responses in that

1 statement?

2 A. Yes, Ma'am. That is done exactly how he
3 states it. If we get ahead and Matt will stop us and
4 slow us down and say, let me catch up. I need to
5 catch up.

6 Q. And is that an accurate reflection of what the
7 defendant told you?

8 A. Yes, Ma'am.

9 Q. Has it been changed or altered in any manner?

10 A. Not that I am aware of.

11 Q. Now, until the defendant blurted out that he
12 had killed her, was the defendant in any kind of
13 custody?

14 A. No, Ma'am.

15 Q. And was he properly Mirandized before he gave
16 that written statement?

17 A. Yes, Ma'am.

18 Q. Was he given a copy of that statement?

19 A. Yes, Ma'am. I believe Detective Smith gave
20 him a copy.

21 Q. What opportunity, if any, was given to review
22 the statement before he signed it?

23 A. He read it, initialed it and agreed to it and
24 signed it.

25 Q. And you said he initialed it after he was

1 reading it. What do you mean?

2 A. What we ask them to do, to read the statement,
3 we will ask him to read through the statement and if
4 he sees any mistakes or any cross out things we ask
5 him to tell that there is a mistake so we can fix it.
6 And if there is anything crossed out we ask him to
7 initial those so it won't appear that we tried to
8 change anything.

9 Q. You said that he was given a copy at that
10 time?

11 A. Yes, Ma'am.

12 Q. And when, if ever, did he call you to tell you
13 that this statement was wrong?

14 A. I never received a call from him.

15 Q. Thank you.

16 THE COURT: Mr. Brehm,
17 cross-examination.

18 CROSS-EXAMINATION

19 BY MR. BREHM:

20 Q. How often do you get calls from the jail?

21 A. How often do we get calls from the jail?

22 Q. Do you personally get calls from the jail to
23 come down there and talk?

24 A. It depends on what they want at the time that
25 we do talk to them.

1 Q. But you did go down to the law enforcement
2 center on the day after or at some point after this
3 statement was given?

4 A. To the law enforcement center?

5 Q. Yes.

6 A. Yes, sir.

7 Q. The jail?

8 A. You are asking if I went down to the jail the
9 following day?

10 Q. Did you and Investigator Smith go back down to
11 the jail or did you go to the jail to see my client?

12 A. Very possibly could but I don't have any
13 specific recollection of that. I know we went back
14 down there because we had to serve warrants on him.
15 And we might of had some interaction with him at that
16 point.

17 Q. Your memory at that time is not too good?

18 A. Well, what I am saying is we had some
19 interaction at that point but as far as going and
20 interviewing him, I don't recall that we went to
21 re-interview him, no.

22 Q. But do you specifically remember the
23 interaction?

24 A. No, it was very vague, just served warrants on
25 him and I believe he stated that he had an attorney.

1 Q. Investigator Black, do you remember, I guess
2 during that interval between 1:29 and 1:51, offered my
3 client food?

4 A. I don't know if that was between the two or
5 when we walked in the room. Of course, I gave him
6 food at that point and then I sat down and got my pad
7 and started writing.

8 Q. You say that the conversation began at 1:29?

9 A. That is what time I started. I got my pad and
10 started writing. Of course, I offered him food and
11 said, here is some lunch if you want it and then sat
12 down and started writing.

13 Q. And he did not eat, correct?

14 A. I don't recall him eating anything.

15 Q. What was the time period that you first
16 engaged to my client, the time that you began the
17 conversation.

18 A. The conversation, itself, began at 1:29.

19 Q. But is it possible that it actually began
20 before that?

21 A. No, sir. I might of said, here is some lunch
22 but the conversation itself began at 1:29.

23 Q. No more than a minute?

24 A. Like I said, I said hello and offered him
25 food. I don't recall how long that took.

1 Q. You testified, you looked at the Judge, and
2 you said that things didn't appear right?

3 A. Correct.

4 Q. And, in fact, didn't you tell my client that?

5 A. Yes, sir.

6 Q. Because he is sitting there saying this is a
7 suicide. Being there is a loaded gun, came in, had
8 the gun in the right-hand, brought the gun up and shot
9 herself?

10 A. At the point we went in, your client didn't
11 really say too much. I was basically just talking to
12 him. And he was, about the children and the
13 relationship and then I specifically said things don't
14 look right. I feel like you probably know what
15 happened inside the house and I would like for you to
16 tell me.

17 Q. But my client had already been in contact with
18 911, correct?

19 A. That's correct.

20 Q. And my client had already given his statement
21 to Investigator Smith and he had already supposedly
22 talked to Deputy Smith. So, he has been talking the
23 whole time?

24 A. I recall that he gave the statement to
25 detective Smith. Now, whether or not he talked in

1 length with Deputy Smith, I am not aware.

2 Q. And all along he is sitting there saying that
3 she committed suicide. And that is when you say, that
4 doesn't seem right?

5 A. That is what was related to me. Yes, sir.

6 Q. And in fact you told him the evidence out
7 there at the scene suggested that it was a murder?

8 A. No, sir.

9 Q. You told him out there that the evidence
10 seemed to suggest otherwise or something to that
11 effect?

12 A. I told him that it didn't look right and that
13 I thought he knew what happened inside the house.

14 Q. What didn't look right?

15 A. The projectory of the bullet, before I left we
16 were able to lift Leanne's head up. The projectory
17 was at a downward angle and came in upwards behind the
18 ear and exited at this angle. And, of course, I don't
19 have the actual measurements with me. But it was at a
20 downward angle and that didn't appear to be right for
21 someone that was going to commit suicide and stick a
22 gun and back up and shoot themselves behind the ear at
23 a downward angle.

24 Q. But it would if they are struggling over the
25 gun?

1 A. That, I don't think that I ever gave much
2 thought.

3 Q. So, the only thing that didn't look right was
4 the projectory?

5 A. That's correct.

6 Q. Now, you just testified, she was actually
7 struck on the side of the head, not the back of the
8 head but just right behind the ear, correct?

9 A. To the rear of the ear. To be able to testify
10 exactly where the shot went in, the entrance--

11 MS. WHITE: Your Honor, I am going to
12 object. This is a Jackson v. Denno hearing. That has
13 nothing to do with whether or not this is a freely and
14 voluntary statement.

15 THE COURT: I think we are getting very
16 far from the Jackson v. Denno. I sustain the
17 objection and keep it on point, okay.

18 MR. BREHM: Yes, sir.

19 Q. The last question. On page 3 on my client's
20 statement. I think you heard Investigator Smith
21 testify that the exact words that my client says is
22 that he took the gun from her, started walking down
23 the hall and turned around and shot her, do you recall
24 that?

25 A. That is what Investigator Smith testified to.

1 Q. That was in response to what question by you,
2 do you remember?

3 A. I don't recall the exact question.

4 Q. Nothing further.

5 MS. WHITE: That's all we have of this
6 witness.

7 THE COURT: You may step down.

8 MS. WHITE: I don't know if the defense
9 is going to present any witnesses.

10 THE COURT: Do you have any witnesses
11 that you want to put up?

12 MR. BREHM: No, sir.

13 MS. WHITE: I do have some law that I
14 would like to argue, Your Honor.

15 THE COURT: It is his motion, let's
16 hear from him first.

17 MR. BREHM: Your Honor, we would
18 respectfully move that each and every--

19 THE COURT: First of all, let's take
20 one statement at a time. I believe he gave an oral
21 statement to the deputy when he arrived on the front
22 porch. What is your position as to that statement?

23 MR. BREHM: As to the statement that he
24 gave to the deputy outside of the car.

25 THE COURT: Outside when he was sitting

1 on the front porch when the deputy first got there.

2 MR. BREHM: No objection.

3 THE COURT: No objection to that
4 statement?

5 MR. BREHM: No, sir.

6 THE COURT: All right, the second
7 statement was given to the deputy concerning the
8 suicide, do you have any objection to it?

9 MR. BREHM: Given to--

10 THE COURT: Detective Smith, I believe,
11 Deputy Smith, that is exhibit number 1.

12 MS. WHITE: Your Honor, that was given
13 to Investigator Smith.

14 THE COURT: I am sorry.

15 MR. BREHM: The first statement I do
16 have an objection to that, Your Honor.

17 THE COURT: State's exhibit number 1.
18 What is your objection to it?

19 MR. BREHM: My objection, Your Honor,
20 is that my client, even though he was informed he was
21 not in custody, he was in fact in custody. He was in
22 a patrol car, he was not in the position to freely
23 leave that patrol car.

24 THE COURT: It is not an incriminating
25 statement. So, what difference is it going to make if

1 he is in custody or not, it is not incriminating. It
2 is saying that the lady committed suicide. Do you
3 have any objection to it?

4 MR. BREHM: For the record, yes sir.

5 THE COURT: What is your objection to
6 it. State's exhibit number 1?

7 MR. BREHM: My objection is that he
8 was, in fact, in custody.

9 THE COURT: The third statement was
10 oral?

11 MS. WHITE: Your Honor, the first
12 statement was oral at the sheriffs department. But
13 for purposes of the record we are probably not going
14 to go into the oral, we are just going to go straight
15 to the written.

16 THE COURT: So, you will stipulate that
17 you are not going to bring out the oral statement?

18 MS. WHITE: Unless the defense opens
19 the door with it but we are not planning on bringing
20 it up.

21 THE COURT: So, the only thing that
22 that leaves is the written statement. State's exhibit
23 number 3, I believe, is that correct?

24 MR. BREHM: Yes, sir. Our objection as
25 to the statement, that it was actually not my client's

1 statement, it is not written by him, not in his
2 handwriting, not audiotaped, not videotaped. As long
3 as they are going to stipulate that that oral, I shot
4 her, is not going to come in then I am satisfied with
5 that part.

6 THE COURT: Do ya'll have any objection
7 with the statement?

8 MR. BREHM: The only objection I have
9 would be in the form of the statement, the answered
10 and questioned form and the fact that it is not in my
11 client's handwriting.

12 THE COURT: You are telling the Court
13 that because he didn't put it in his handwriting, it
14 is not voluntary?

15 MR. BREHM: That is my objection, Your
16 Honor.

17 THE COURT: The Court doesn't
18 understand your objection. Let's make it more clearer
19 for the record. What is your objection to the
20 statement given to the police, State's exhibit number
21 3 where he said he shot her? What is your objection
22 to that statement? We have a Jackson v. Denno hearing
23 which determines two things, whether the Miranda
24 rights were given properly and it is a voluntary
25 statement. Now, are you taking the position that it

1 is a voluntary statement or not?

2 MR. BREHM: I take the position that it
3 is not a voluntary statement.

4 THE COURT: Why is it not a voluntary
5 statement?

6 MR. BREHM: I take the position that
7 because it is not my client's statement. They are
8 saying this is a voluntary statement, I am questioning
9 the fact that it is his statement to begin with. That
10 is my objection.

11 THE COURT: All right, Solicitor, I
12 will be glad to hear from you on the three statements.

13 MS. WHITE: Your Honor, first the State
14 would point out that until he was Mirandized he was
15 not in any custody until he blurted out, I shot her.
16 That's when he became in custody. I would cite
17 California versus Veheler, V-E-H-E-L-E-R, this is a
18 Supreme Court case. Organ versus Elstad. Both of
19 those hold that just because they were at the sheriffs
20 department being questioned does not mean they are in
21 custody. And, of course, no Miranda's were necessary
22 unless there was an interrogation and custody. As I
23 understand it, I don't mean to argue about the first
24 two statements at the scene because he was not in
25 custody. I just wanted to make sure I am right on

1 that.

2 THE COURT: Mr. Brehm?

3 MR. BREHM: I did object to the
4 statement being taken inside the police car.

5 THE COURT: He says he wasn't in
6 custody on the first statement.

7 MS. WHITE: Then I won't argue that
8 one. I will argue with the second one when he was
9 talking to Investigator Smith, you can't take the
10 statement standing out in a mob of people and write.
11 They sat in the front seat, it was their position, it
12 was a warm car, he was told he was free to go. There
13 is no indication, he was the one who called them to
14 come to the scene. They had no idea what they had.
15 As a matter of fact, they also said he hadn't even
16 been inside at that point. So, we would argue that he
17 certainly was not in custody at that time. As to the
18 written statement at the sheriffs department, once he
19 blurted out that he was responsible that he shot her
20 then, of course, they Mirandized, properly
21 Mirandized--

22 THE COURT: Mr. Brehm, do you object,
23 is part of your objection that the Miranda was done
24 improperly prior to the written statement where he is
25 stating that he shot the deceased?

1 MR. BREHM: Your Honor, I did not
2 object to that.

3 THE COURT: So, you do not have a
4 Miranda objection?

5 MR. BREHM: No, sir.

6 THE COURT: Go ahead, Solicitor.

7 MS. WHITE: Your Honor, even if the
8 Court held that he was in custody at the sheriffs
9 department before they Mirandized him, Organ versus
10 Elstad, E-L-S-T-A-D, and the State versus Register,
11 the first one being a Supreme Court case, the second
12 one being a South Carolina Supreme Court case. They
13 say that even if you do file a Miranda because they
14 are in custody and you talk--

15 THE COURT: He said Miranda is not an
16 issue.

17 MS. WHITE: For the record, once you do
18 Mirandize them then it is clean. Of course, there is
19 no requirement to videotape or whatever the officer
20 has testified and the evidence is uncontroverted.

21 THE COURT: Let me see State v.
22 Register.

23 MR. BREHM: For the record, I believe
24 that case is a Horry County case and I am familiar
25 with it. I don't have any problem with it.

1 THE COURT: As to the statement given
2 in the car to Detective Matt Smith, marked as State's
3 exhibit number 1, I find that the defendant was not in
4 custody at that time. I do find that the statement
5 was voluntarily and intelligently and knowingly made
6 without any duress, without coercion, without any
7 influence, without reward, without promise or hope or
8 reward. Without promise of leniency or threat of
9 injury or any compulsion or any inducement of any
10 kind. I find that the statement was freely and
11 voluntarily given. I understand the oral statement
12 made by the defendant, there is not any contest, is
13 that correct, Mr. Brehm?

14 MR. BREHM: Yes sir, Your Honor.

15 THE COURT: As to the second oral
16 statement made where he made it at the police
17 department, at the sheriffs department stating that, I
18 shot her. The State is not bringing that up so the
19 Court is not going to rule on that at this time.

20 MS. WHITE: Unless the defense attorney
21 opens the door on that.

22 THE COURT: I understand. The Court is
23 not ruling on it at this time based upon the State's
24 assertion of not presenting it. The written statement
25 which is State's exhibit number 3, I find that, even

1 though the defendant is not raising improper Miranda
2 rights, I find that he was properly advised of his
3 Miranda rights, it was properly signed by the
4 defendant and the police. I further find that the
5 alleged statement obtained from the defendant is
6 freely, voluntarily given without duress, without
7 coercion, without undue influence, without reward,
8 without promise or hope or reward, without promise of
9 leniency, without threat or injury, without compulsion
10 and inducement of any kind. And that such alleged
11 statement was voluntary and freely and an
12 unconstrained will of the defendant. And I find that
13 by the preponderance of the evidence presented by the
14 State on direct and cross-examination. Anything else?

15 MS. WHITE: Your Honor, we would move
16 that State's exhibits 1, 2 and 3 be admitted at this
17 time.

18 MR. BREHM: No objection.

19 THE COURT: All right. I will admit
20 State's exhibits 1, 2 and 3.

21 (WHEREUPON, State's Exhibit No. 1, 2
22 and 3 was admitted into evidence.)

23 THE COURT: Anything else, Solicitor?

24 MS. WHITE: No, sir. I don't think so
25 at this time.

1 THE COURT: Mr. Brehm, do you have any
2 voir dire request and list of witnesses?

3 MR. BREHM: Your Honor, yes I do and
4 will hand up to the Court.

5 THE COURT: Solicitor, do you have any
6 list of witnesses?

7 MS. WHITE: Yes, Your Honor and I will
8 hand the file up. I also have proposed jury charge
9 and will hand up to the Court and the defense
10 attorney.

11 THE COURT: We will deal with that
12 later on.

13 MR. BREHM: Your Honor, I am not sure
14 what you are asking the jury. But, this is a case
15 involving two individuals, Kevin Patterson and Leanne
16 Pearson that were involved in an adulteress
17 relationship. Leanne was married and Kevin was
18 married. What I would respectfully ask is that you
19 ask the potential jurors if they have any or would
20 they be biased if it came out that there was
21 adulteress relationships going on. I think this is
22 something important that the jury needs to know. I
23 think that might sway some.

24 THE COURT: If you will sit down and
25 write out specific questions you want and then I will

1. be glad to hear you on that, okay.

2. MS. WHITE: Your Honor, I probably will
3. not have any objection. I just want to know, would
4. you be able to decide the case fairly based on the
5. fact--

6. THE COURT: Just write your questions
7. out and submit it to the Court, okay.

8. MS. BREHM: You typically ask if
9. potential jurors who have been victims of a crime or
10. violent crimes?

11. THE COURT: Yes. Just write it out and
12. I will be glad to submit it. Solicitor, are we
13. through until 2:00?

14. MS. WHITE: Yes, sir.

15. THE COURT: We will come back at 2:00
16. o'clock.

17. (WHEREUPON, a lunch break was taken.)

18. (WHEREUPON, the jury panel came into
19. open court at approximately 2:00 p.m.)

20. THE COURT: Solicitor, call your case.

21. MS. WHITE: Your Honor, the State calls
22. the State versus Richard Kevin Patterson,
23. 2000-GS-04-1043, indictment for murder.
24. 2000-GS-04-1042, the State versus Richard Kevin
25. Patterson, indictment for possession of a firearm

1 during the commission of a violent crime.

2 THE COURT: Mr. Brehm, do you have
3 those other questions that you were going to write out
4 for me, please, sir?

5 MR. BREHM: Thank you, Your Honor, if
6 we could approach?

7 THE COURT: Yes, sir. Solicitor, have
8 you seen the questions?

9 MS. WHITE: Yes, sir.

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

13 THE COURT: Ladies and gentlemen of the
14 jury, I am going to call out some names and with these
15 names I am going to ask you the same questions. The
16 question will be, are any of you related by blood or
17 marriage to the individual, does anybody know the
18 individual, either personally, socially or with
19 business contacts. The first name I would like to ask
20 is Richard Kevin Patterson, would you please stand and
21 face the jury, please, sir. Anybody related by blood
22 or marriage to Mr. Richard Kevin Patterson, if so,
23 please stand.

24 (There was no response.)

25 THE COURT: Does anybody know Richard

1 Kevin Patterson either through personal contact,
2 business contact or social contacts, if so, please
3 stand.

4 (There was no response.)

5 THE COURT: The next name is Todd
6 Patterson, is he in the courtroom. Mr. Todd
7 Patterson, would you please stand and face the jury.
8 Thank you, Mr. Patterson. Is anybody related by blood
9 or marriage to Mr. Todd Patterson. Does anybody know
10 Mr. Todd Patterson either through personal contacts or
11 business contacts or social contacts. If so, please
12 stand.

13 JUROR: There is a possibility I
14 recognize him.

15 THE COURT: There is a possibility you
16 recognize who?

17 JUROR: Todd Patterson.

18 THE COURT: How do you know -- where do
19 you recognize him from?

20 JUROR: The Department of Corrections.

21 THE COURT: What is your name?

22 JUROR: Benjamin S. Stone, number 136.

23 THE COURT: All right, Mr. Stone, if
24 you will come around, please, sir. You are retired
25 from the Department of Corrections, do you think he

1 was an inmate there or what?

2 JUROR: Yes, sir. I am not absolutely
3 positive but I am pretty sure, I have seen a lot of
4 them but he looks familiar to me.

5 THE COURT: How long were you there?

6 JUROR: I was there 11 years.

7 THE COURT: And he does look familiar?

8 JUROR: Yes, sir.

9 THE COURT: Would that influence your
10 decision if you were chosen for this jury if he should
11 testify?

12 JUROR: I can't say yes or no.

13 THE COURT: Well, I need for you to
14 tell me yes or no.

15 JUROR: It is a possibility.

16 THE COURT: How strong a possibility?

17 JUROR: 50 percent.

18 THE COURT: What I am getting at, to
19 see if you are going to be prejudice if he was
20 actually an inmate.

21 JUROR: I would not be prejudice on
22 that.

23 THE COURT: How would it affect you on
24 50 percent basis, explain that to me.

25 JUROR: Well, I basically know his

1 character.

2 THE COURT: What do you mean by that?

3 JUROR: It means that he gave me a
4 little problem and I would question his ability to
5 answer a question.

6 THE COURT: So, you basically would not
7 believe him?

8 JUROR: Basically.

9 THE COURT: But if you are not going to
10 have an open mind about the defendant's witnesses and
11 their testimony how could you be fair to the State and
12 the defendant?

13 JUROR: I don't guess I could.

14 THE COURT: That is what we are trying
15 to determine, whether you think you could be fair and
16 impartial to the State and the defendant?

17 JUROR: Yes, I think I can be.

18 THE COURT: Let me ask you this, if it
19 is not the same person, how would you feel about that?

20 JUROR: I could be fair.

21 THE COURT: Why don't we try to find
22 out if this is the same person and I will hold it in
23 obedience until we find out. Okay. Is Barbara
24 Patterson in the courtroom? Would you please stand
25 and face the jury. Is anybody related by blood or

1 marriage to Barbara Patterson, if so, please stand.

2 (There was no response.)

3 THE COURT: Does anybody know Barbara
4 Patterson either socially or business wise or
5 personally, if so, please stand.

6 (There was no response.)

7 THE COURT: Michael Ward. Michael Ward
8 is a forensic pathologist practicing in Greenville.
9 Is anybody related by blood or marriage to Dr. Michael
10 Ward, if so, please stand. Does anybody know Dr. Ward
11 either personally or professionally through business
12 or personal contact with Dr. Ward, if so, please
13 stand.

14 (There was no response.)

15 THE COURT: All right, Dorothy Gentry.
16 Ms. Gentry, thank you, very much. Is anybody related
17 by blood or marriage to Dorothy Gentry, if so, please
18 stand.

19 (There was no response.)

20 THE COURT: Does anybody know
21 Ms. Dorothy Gentry either personally, socially or
22 through business or in any manner, please stand.

23 (There was no response.)

24 THE COURT: James Gentry. Is James
25 Gentry in the courtroom? He is not here. Is anybody

1 related by blood or marriage to James Gentry, if so,
2 please stand.

3 (There was no response.)

4 THE COURT: Does anybody know James
5 Gentry either through business, socially or personal
6 contact, if so, please stand.

7 (There was no response.)

8 THE COURT: Dr. Stanton Smith is a
9 general practitioner. Dr. Stanton Smith, a
10 psychiatrist in Greenville, South Carolina. Does
11 anybody know Dr. Stanton Smith either personal or
12 professionally or otherwise, if so, please stand.

13 (There was no response.)

14 THE COURT: Is anybody related by blood
15 or marriage to Dr. Stanton Smith, if so, please stand.

16 (There was no response.)

17 THE COURT: Cynthia Marks, a
18 psychiatrist in Greenville. Is anybody related by
19 blood or marriage to Dr. Cynthia Marks, if so, please
20 stand.

21 (There was no response.)

22 THE COURT: Does anybody know
23 Dr. Cynthia Marks, if so, please stand.

24 (There was no response.)

25 THE COURT: I have gone through all the

1 questions with you about who you know and if you are
2 related by blood or marriage. I am going to ask the
3 same questions but I am going to read out the names.
4 And if anybody knows anyone I am going to read out
5 please stand or if you are related by blood or
6 marriage, please stand. The first name is Timothy
7 Smith. The next name is Corporal Mike Bannister,
8 Investigator Jeff Black, Investigator Matt Smith.

9 JUROR: Your Honor--

10 THE COURT: What is your name?

11 JUROR: My name is Mary Pierce.

12 THE COURT: Transfer number 19.

13 Ms. Pierce, how do you know, who do you know?

14 JUROR: Matt Smith.

15 THE COURT: How do you know him?

16 JUROR: I grew up with his sister, she
17 was a good friend of mine.

18 THE COURT: Are you younger than
19 Mr. Smith or older?

20 JUROR: Older.

21 THE COURT: And have you seen him
22 recently?

23 JUROR: No, sir.

24 THE COURT: How long has it been since
25 you have seen him?

1 JUROR: 17 years.

2 THE COURT: Would the fact that he is
3 going to testify in this case cause you any difficulty
4 in sitting on this jury?

5 JUROR: No, sir.

6 THE COURT: Do you think you can be
7 fair to both the State and the defendant?

8 JUROR: Yes, sir.

9 THE COURT: Listen to the testimony and
10 be fair to both parties?

11 JUROR: Yes, sir.

12 THE COURT: Thank you, Ms. Pierce. All
13 right, the next name is Sergeant Steve Jones, if any
14 of these parties are in the courtroom, please stand.
15 Lieutenant Daryl Loftis of the Anderson County
16 Sheriffs Department, Investigator Randall Williams of
17 the Anderson County Sheriffs Department, Investigator
18 Mark Coyle of the Anderson County Sheriffs Department,
19 Investigator Mike Mitchell of the Anderson County
20 Sheriffs Department, David Ellis of Belton Rescue
21 Squad, Brett Holbert of the Belton Rescue Squad, Tim
22 Dowell of the Belton Rescue Squad. Yes sir, please
23 stand.

24 JUROR: Robert Horne. Number 66.

25 THE COURT: All right, juror number 66,

1 Robert Horne, how do you know Mr. Horne?

2 JUROR: Tim Dowell.

3 THE COURT: How do you know Mr. Dowell?

4 JUROR: We were together in the
5 voluntary fire department.

6 THE COURT: How long ago was that?

7 JUROR: 6 years.

8 THE COURT: Have you seen him very
9 often since then?

10 JUROR: No, sir.

11 THE COURT: Have you spoken to him in
12 the last 6 years?

13 JUROR: No, sir.

14 THE COURT: Haven't even seen him?

15 JUROR: No, sir.

16 THE COURT: When he testifies in this
17 case will that cause you any difficulty in sitting on
18 this jury?

19 JUROR: No, sir.

20 THE COURT: Could you be fair to both
21 the State and the defendant?

22 JUROR: Yes, sir.

23 THE COURT: Thank you. The next name
24 is Farah Pullets, Greg Shore, the Coroner. When I
25 call these names out please stand and remain standing.

1 JUROR: How do you know Greg Shore?

2 JUROR: I used to work with him at the
3 fire department and used to work with him on the EMS.

4 THE COURT: This is juror number 66,
5 Robert D. Horne. You see him on a regular basis now?

6 JUROR: I saw him two weeks ago.

7 THE COURT: You see him on a regular
8 basis with your job at the fire department?

9 JUROR: Yes, sir.

10 THE COURT: Would it cause you any
11 difficulty sitting on the jury, in a case that he will
12 testify on?

13 JUROR: Judge, I think--

14 THE COURT: Why don't you come around
15 here, please, sir. You know them all off and on,
16 right?

17 JUROR: I didn't say anything with the
18 deputies because I didn't know them real familiar. I
19 am in law with the sheriffs department and involved
20 with the EMS and fire department.

21 THE COURT: How is that going to affect
22 you on this jury?

23 JUROR: Well, you are putting them
24 together, I don't know.

25 THE COURT: I need to know. I need to

1 know how it is going to affect you and your thought
2 process sitting on this jury.

3 JUROR: I know them and are friends
4 with them.

5 THE COURT: Would it influence your
6 decision and that is what it goes towards?

7 JUROR: I would believe them over
8 somebody else, yes.

9 THE COURT: Do you think that fact
10 would cause you to be unfair?

11 JUROR: Yes, sir. Possibly.

12 THE COURT: Because of knowing them all
13 together?

14 JUROR: The Coroner and the fire
15 department, I don't think it would be fair.

16 THE COURT: All right, I am going to
17 excuse Robert D. Horne from the service on this
18 particular jury. Thank you. On my left, your name?

19 JUROR: David Shore.

20 THE COURT: Are you related to Greg
21 Shore?

22 JUROR: Yes, sir.

23 THE COURT: What is your relationship?

24 JUROR: Third cousin.

25 THE COURT: How often do you see him?

1 JUROR: Never met him.

2 THE COURT: How do you know that he is
3 your third cousin?

4 JUROR: That's all that I know.

5 THE COURT: Would that prevent you from
6 being fair to both the State and the defendant?

7 JUROR: No, sir.

8 THE COURT: Juror number 124, thank
9 you. Yes, sir.

10 JUROR: John Ware. I have known Greg
11 Shore for years. Know his brother and took care of
12 his dad and with cardiology.

13 THE COURT: Part of your duties was
14 with cardiologist at the hospital?

15 JUROR: Yes.

16 THE COURT: Do you know him personally
17 and socially?

18 JUROR: Official duties at the
19 hospital.

20 THE COURT: Do you think that would
21 cause you problems sitting on the jury?

22 JUROR: No, sir.

23 THE COURT: Do you think you can be
24 fair to the State and the defendant?

25 JUROR: Yes.

1 THE COURT: Thank you, Dr. Ware. Yes
2 Ma'am, your name?

3 JUROR: Elizabeth Herring.

4 THE COURT: Juror number 62, who do you
5 know?

6 JUROR: Greg Shore.

7 THE COURT: How do you know him?

8 JUROR: My ex-boyfriend's son worked
9 for him.

10 THE COURT: How long?

11 JUROR: Several years.

12 THE COURT: Do you know him personally
13 or do you just know him through your son having to
14 work there?

15 JUROR: I just know him through my
16 boyfriend. Can I speak to you privately, Your Honor?

17 THE COURT: Yes, Ma'am.

18 JUROR: My boyfriend was recently in a
19 case in this courtroom.

20 THE COURT: Who is your boyfriend.

21 JUROR: Walter Hanney. He did work for
22 Greg Shore and I would have trouble evaluating Greg
23 Shore's testimony without prejudice. I do not want to
24 be on this jury. I would like to serve but I have to
25 tell you that.

1 THE COURT: So, you are telling me you
2 do not believe Greg Shore and you would be prejudice
3 against anything he would say?

4 JUROR: Yes.

5 THE COURT: If you have already
6 prejudged a witness then how can you be fair to the
7 State? He will testify so how could you be fair to
8 the State?

9 JUROR: I can't be then.

10 THE COURT: I am going to excuse you
11 from jury service on this case. Thank you, very much.
12 The next name is Investigator Tommy Clamp of the
13 Anderson County Sheriffs Department. Investigator
14 Garland Major of the Anderson County Sheriffs
15 Department, Investigator Steve Reeves of the Anderson
16 County Sheriffs Department, Investigator Rusty Garrett
17 of the Anderson County Sheriffs Department, Dr. Brett
18 Woodard who is a pathologist here in Anderson at the
19 Medical Center. Dr. Ware, do you know him
20 professionally?

21 JUROR: Socially and personally.

22 THE COURT: Are you personal friends?

23 JUROR: We are not personal friends.

24 THE COURT: But you know him through
25 the medical social society?

1 JUROR: Yes, sir and I see him about
2 once or twice a week.

3 THE COURT: If he testifies in this
4 case would it cause you any problems to sit on this
5 jury, Dr. Ware?

6 JUROR: It might.

7 THE COURT: Come around. He is
8 transfer number 29. How would it might, explain your
9 answer.

10 JUROR: I deal with him pretty often
11 and there might be some things that I might not feel
12 that, I might have some things about the expert nature
13 of his testimony and things like that.

14 THE COURT: Would you tend to believe
15 his expert opinion or not believe his expert opinion?

16 JUROR: Depends on how he presented
17 it.

18 THE COURT: You think you might second
19 guess his expert opinion?

20 JUROR: I might, yes sir.

21 THE COURT: For what reason?

22 JUROR: I deal with him every day and
23 the other reason is that, I have had a civil suit
24 against me and he is one of the witness's against me.

25 THE COURT: You think that fact would

1 prejudice you?

2 JUROR: Probably not. I don't know.

3 THE COURT: If you don't know I don't
4 know, it depends on what you tell me. If you think,
5 you are just telling me whether you can be fair to the
6 State and the defendant. If you have to prejudge his
7 testimony then in my opinion you can't be fair.

8 JUROR: I would probably be all right,
9 I guess. Yes, sir.

10 THE COURT: Solicitor, do you have any
11 questions?

12 MS. WHITE: Could he be fair and
13 impartial, final question.

14 JUROR: Yes.

15 THE COURT: Do you have any question
16 that you want to ask him?

17 MR. BREHM: No, sir.

18 THE COURT: If you have any prejudice
19 then that is fine but can you overlook that and be
20 fair to both the State and the defendant?

21 JUROR: Yes, Your Honor.

22 THE COURT: All right, thank you,
23 Dr. Ware. The next name is Mike Sorrow, Steven
24 Pearson. Yes sir, your name?

25 JUROR: Scott Hawkins.

1 THE COURT: Terry S. Hawkins, juror
2 number 60. How do you know Mr. Sorrow?

3 JUROR: Mike Sorrow is my father-in-law,
4 if it is the same Mike Sorrow, I don't know.

5 THE COURT: Solicitor, can you give me
6 some background, did he used to be with the sheriffs
7 department years ago?

8 MS. WHITE: Not that I know of, Your
9 Honor. I can get a date of birth for you.

10 THE COURT: Mike Sorrow that used to be
11 with the city or county of Greenville years ago?

12 JUROR: No, sir.

13 MS. WHITE: Your Honor, I don't have a
14 date of birth on him. I talked to him by phone so I
15 cannot describe him.

16 THE COURT: Okay. See if you can find
17 him in your notes and try to describe him.

18 MS. WHITE: Your Honor, if we can be
19 looking while we go on with some other witnesses, it
20 may take us a minute to pull out his date of birth.

21 JUROR: His full name would help me.

22 THE COURT: Do you know his full name?

23 MS. WHITE: We have got Mike Sorrow,
24 Your Honor.

25 THE COURT: See what ya'll can dig out

1 in your paper work and we will go onto the next name
2 for right now. The next name is Stephen Pearson, Lisa
3 Patterson, Brandon Stephens, Phyllis Dean. Yes sir,
4 your name?

5 JUROR: Rodger Mundy.

6 THE COURT: Juror number 95, Rodger
7 Mundy. Who do you know, Mr. Mundy.

8 JUROR: I knew a Lisa Patterson.

9 THE COURT: How do you know her?

10 JUROR: She used to work for me.

11 THE COURT: How long ago?

12 JUROR: It was probably 8 to 10 years.

13 THE COURT: Have you seen her since
14 then?

15 JUROR: Maybe once.

16 THE COURT: Would that fact cause you
17 any difficulty to sit on this jury?

18 JUROR: No, sir.

19 THE COURT: Could you be fair to both
20 the State and the defendant?

21 JUROR: Yes, sir.

22 THE COURT: Thank you, sir.

23 MS. WHITE: Your Honor, we have got it,
24 James Michael Sorrow. His date of birth is ~~0-00~~-46.

25 JUROR: That's him.

1 THE COURT: If you would come around
2 please, sir. Juror number 60, Terry Hawkins. That is
3 your father-in-law?

4 JUROR: Yes, sir.

5 THE COURT: How is that going to affect
6 you with him testifying in this case?

7 JUROR: I don't know, I really don't.

8 THE COURT: Well, you are going to tend
9 to believe him over everybody else, aren't you?

10 JUROR: Probably.

11 THE COURT: How would it affect you in
12 looking at the case?

13 JUROR: I don't think it would. I
14 really don't. I think I would be tend to believe what
15 he said more but I think I can be fair.

16 THE COURT: Do you think you could be
17 fair to the State and the defendant regardless of what
18 he says?

19 JUROR: Yes.

20 THE COURT: Explain to me how that is
21 correct when I asked you the first question of whether
22 you are going to believe him over anybody else and you
23 said, yes. So, if that is the fact then how can you
24 be fair if you are going to believe him over everybody
25 else? I don't know what he is going to say, I don't

1 know what he is going to testify about. But let's
2 just say he saw him kill her, are you going to believe
3 him over everybody else then how are you going to be
4 fair?

5 JUROR: I guess I won't be.

6 THE COURT: I just want to know how you
7 feel and what you think.

8 JUROR: I think with him being my
9 wife's father, knowing him for 10 years I think I
10 would believe him over anybody else.

11 THE COURT: Then how is that going to
12 affect you in the overall fairness of the State and
13 the defendant?

14 JUROR: I probably wouldn't be fair.

15 THE COURT: I am going to excuse him,
16 juror number 60 from the trial of this case. Thank
17 you, very much.

18 MS. WHITE: Judge, I am going to object
19 to any questioning one over another. I would ask that
20 they just be asked questions.

21 THE COURT: No, I am not going to do
22 that.

23 MS. WHITE: Judge, their reputation--

24 THE COURT: I am not going to do that,
25 we are trying to find jurors that will be fair and I

1 am not going to do that.

2 MS. WHITE: May I asked something else
3 though. Judges that are out of state, or out of town
4 ones, you are allowed to ask the character because
5 people don't know their reputation and truthfulness
6 and character. And I don't think that just because I
7 know someone's reputation or truthfulness--

8 THE COURT: I didn't ask his
9 reputation, this was his father-in-law. Okay.

10 MS. WHITE: He is only a chain of
11 custody witness.

12 THE COURT: But it is his
13 father-in-law. I know this man can't be fair with his
14 father-in-law testifying. It is just human nature.

15 MS. WHITE: I know his role in the
16 case.

17 THE COURT: All right. The next name
18 is Brandon Stephens, Phyllis Dean, Scott Summers of
19 the Greenville County Sheriffs Department, Sergeant
20 J.T. Albrecht from the Mauldin Police Department,
21 Shannon Jordan. Yes sir, your name?

22 JUROR: Jimmy Davis.

23 THE COURT: Juror number 31. Jimmy
24 Davis. How do you know Shannon Jordan?

25 JUROR: I played softball with her

1 husband.

2 THE COURT: Do you see him on a regular
3 basis?

4 JUROR: I see him at games.

5 THE COURT: Do you see her on a regular
6 basis?

7 JUROR: About like when I see him.

8 THE COURT: Does she come to softball
9 games?

10 JUROR: Yes.

11 THE COURT: Are you good friends with
12 them or you just on the same team?

13 JUROR: We are good friends.

14 THE COURT: Would it cause you any
15 difficulty if she testifies in this case?

16 JUROR: No, sir.

17 THE COURT: Can you be fair to both the
18 State and the defendant?

19 JUROR: Yes, sir.

20 THE COURT: Thank you, very much.

21 Keith Jordan. Is that her husband?

22 JUROR: Yes, sir.

23 THE COURT: Would it cause you any
24 problems?

25 JUROR: No, sir.

1 THE COURT: You can be fair to both the
2 State and the defendant?

3 JUROR: Yes, sir.

4 THE COURT: Thank you, very much.
5 Denise Watkins, Ricky Mitchell, Betsy Arndt, Linda
6 Watson, David Bratcher, Cynthia Bratcher, Nathan
7 Ellison, Kayce Leann Mitchell, Jeremy Kevin Mitchell,
8 Tammy Alewine, Cathy Robinson, Deborah Gillespie,
9 Lyndsay Gillespie, Phillip Patterson. I believe we
10 have already covered Phillip and Barbara, didn't we?
11 Barbara Patterson, she has already stood. Billy Joe
12 Patterson, Jennifer Martinez, Dorothy Gentry, Danny
13 Martinez, Steven Childs, Cindy Tucker McCurry, Jan
14 Bryson of the South Carolina Law Enforcement Division.
15 Dan Defreese of the South Carolina Law Enforcement
16 Division, Kimberly Black of the South Carolina Law
17 Enforcement Division, Lilly Gallman of the South
18 Carolina Law Enforcement Division, Todd Hughey of the
19 South Carolina Law Enforcement Division, Dr. Roy J.
20 Ellison, Jr., Buddy Ellison of the Anderson County
21 Sheriffs Department, Laura Corley of the South
22 Carolina Law Enforcement Division, Sherry Brown of the
23 South Carolina Law Enforcement Division, Christine
24 Montgomery of the South Carolina Law Enforcement
25 Division, Rhonda Fields of the South Carolina Law

1 Enforcement Division, Charlie Boseman, Deputy Coroner
2 of Anderson County. Mr. Brehm, would you please stand
3 and introduce yourself and your firm?

4 MR. BREHM: Yes sir, Your Honor.
5 Ladies and gentlemen, I am James Brehm, and am an
6 attorney in Greenville, South Carolina.

7 THE COURT: Does anybody know Mr. Brehm
8 or anyone in his firm either presently or in the past,
9 if so, please stand.

10 (There was no response.)

11 THE COURT: Solicitor?

12 MS. WHITE: My name is Druanne White, I
13 will be representing the State's case.

14 THE COURT: Is anyone close friends
15 with the Solicitor, Druanne White, if so, please
16 stand.

17 (There was no response.)

18 THE COURT: If any of you jurors have
19 heard that there may be evidence of adultery, would
20 this prevent any juror from giving the State or Kevin
21 Patterson a fair trial in this case, if so, please
22 stand.

23 (There was no response.)

24 THE COURT: Has any juror or immediate
25 family or close friend been a victim in any crime, if

1 so, please stand. What is your name?

2 JUROR: Tommy Smith, juror number 129,
3 I have had a couple of vehicles stolen.

4 THE COURT: Juror number 129, you have
5 had a couple of vehicles stolen?

6 JUROR: Yes, sir. The last one was
7 February of this year.

8 THE COURT: Would that cause you any
9 difficulty with this trial, do you have any
10 preconceived notions for the State or against the
11 State as a result of the theft?

12 JUROR: No, sir.

13 THE COURT: Would that cause you any
14 difficulty with this trial, do you have any
15 preconceived notions for the State or against the
16 State?

17 JUROR: No, sir.

18 THE COURT: Do you have any
19 preconceived notions against the defendant's in
20 general?

21 JUROR: No, sir.

22 THE COURT: Thank you, very much. Yes
23 Ma'am, your name?

24 JUROR: Jean Bryant.

25 THE COURT: Yes Ma'am, Ms. Bryant.

1 Were you a victim?

2 JUROR: Yes.

3 THE COURT: You want to come up to the
4 bench, come on around.

5 JUROR: I was a victim.

6 THE COURT: How long ago?

7 JUROR: 25 years ago.

8 THE COURT: Do you have any feelings
9 for the State or the defendant?

10 JUROR: No, sir.

11 THE COURT: Can you be fair to the
12 State and the defendant?

13 JUROR: Yes, sir.

14 THE COURT: You think you can listen to
15 the testimony and be fair to both the State and the
16 defendant?

17 JUROR: Yes, sir.

18 THE COURT: Does any member of the jury
19 panel, a member or immediate family or close friend
20 ever been accused of committing a crime, if so, please
21 stand.

22 (There was no response.)

23 THE COURT: Ladies and gentlemen of the
24 jury, in this particular case, the State has indicted
25 Richard Kevin Patterson for the charge of murder,

1 killing one Donna Leanne Pearson on March 10th of the
2 year 2000. And this is the indictment, this is the
3 means by which the State brings the defendant before
4 the Court for trial. And has anybody read anything in
5 the paper about this case that occurred on March the
6 10th of the year 2000, if so, please stand.

7 (There was no response.)

8 THE COURT: Has anybody seen anything
9 on T.V. or heard anything on the radio or heard anyone
10 talking about the case, if so, please stand.

11 (There was no response.)

12 THE COURT: Has any member of the jury
13 panel formed or expressed an opinion about any issue
14 or matter in this case, if so, please stand.

15 (There was no response.)

16 THE COURT: Has any member of the jury
17 panel aware of any personal, biased for or against the
18 State or the defendant in this case, if so, please
19 stand.

20 (There was no response.)

21 THE COURT: Does any member of the jury
22 panel know of any reason whatsoever why they cannot
23 give both the State and the defendant a fair and
24 impartial trial, if not, please stand.

25 (There was no response.)

1 THE COURT: Solicitor, do you have any
2 further questions?

3 MS. WHITE: No, Your Honor.

4 THE COURT: Does the defendant have any
5 further questions?

6 MR. BREHM: No sir, Your Honor.

7 THE COURT: You want to take a break
8 before we do the jury?

9 MR. BREHM: Your Honor, the Department
10 of Corrections issue.

11 THE COURT: Ladies and gentlemen of the
12 jury, there are two questions we have got to clear up.
13 I am going to give you about a 15 minute break to go
14 to the rest room and be back in your seat in 15
15 minutes.

16 (WHEREUPON, a short break was taken.)

17 (WHEREUPON, the jury panel came into
18 open court at approximately 4:15 p.m.)

19 THE COURT: Mr. Stone, could you come
20 forward for a minute, please, sir. We run a criminal
21 check on this witness and he does not have a record.
22 So, that clears it up. Ladies and gentlemen of the
23 jury, earlier when Mr. Stone stood up and talked about
24 one of the witness's being possibly incarcerated, that
25 was a misidentification. Are you ready to draw the

1 jury, Solicitor?

2 MS. WHITE: Yes, sir.

3 THE COURT: The defendant?

4 MR. BREHM: Yes sir, Your Honor.

5 THE COURT: Give us a jury please.

6 (WHEREUPON, the jury was impaneled at
7 4:15 p.m., which is located behind index).

8 THE COURT: All right, ladies and
9 gentlemen of the jury, I am going to ask you to go to
10 the jury room very briefly for the purpose of
11 selecting either a forelady or a foreman. You can
12 elect anyone except one of the two alternates, they
13 aren't eligible for being a forelady or a foreman.
14 After you have done that, knock on the door, give the
15 bailiff the name of the foreman or forelady and I will
16 get you back in the courtroom, if you will follow the
17 bailiff, please.

18 (WHEREUPON, the jury was excused from
19 open court.)

20 THE COURT: Any motion from the State
21 on qualifications regarding the jury?

22 MS. WHITE: No, sir.

23 THE COURT: Any motions of the
24 qualification in drawing the jury?

25 MR. BREHM: No, Your Honor.

1 THE COURT: The remaining members of
2 the jury panel, as I told you earlier the clerk is
3 going to pass out some forms with a phone number on
4 it. Call that phone number after 6:00 o'clock
5 tomorrow night and there will be a message for you to
6 tell you when to report back or when to phone back on
7 the same number. You are excused for this evening.
8 Thank you.

9 (WHEREUPON, the jury panel was excused
10 from open court.)

11 THE COURT: For the record, we will put
12 the two alternate names in for the first alternate.
13 For the record juror number 95, Rodger Mundy is the
14 foreman. Anything from the State before we bring the
15 jury back?

16 MS. WHITE: No, sir.

17 THE COURT: Anything from the
18 defendant?

19 MR. BREHM: No, sir.

20 THE COURT: Bring us the jury, please.

21 (WHEREUPON, the jury came into open
22 court at approximately 4:45 p.m.)

23 THE COURT: Mr. Mundy, if you will
24 always sit in that seat, please, sir. The two
25 alternates sit on the seats that you are in. We are

1 not going to start the testimony today or opening
2 statements. I will ask you to be back in the jury
3 room at 9:30 in the morning and we will get started.
4 Please don't discuss the case amongst yourselves or
5 with anyone else. If there is anything in the paper
6 about it please don't read it because I want you to
7 make your decision based on the testimony you hear
8 from the witness stand. See you in the morning at
9 9:30 in the morning.

10 (WHEREUPON, the jury was excused from
11 open court.)

12 THE COURT: Is there anything from the
13 State before we adjourn?

14 MS. WHITE: Just one more thing, Your
15 Honor. Now, that we have started the case we would
16 ask that the bond be revoked on the defendant, to
17 remain in custody during the trial.

18 THE COURT: That is what I generally
19 do.

20 MR. BREHM: The jury has not been sworn
21 yet, my client has been out on bond, he has come to
22 court when requested every time. He has been called
23 in every week, his parents are on the bond and they
24 want to stay on the bond.

25 THE COURT: I am going to incarcerate

1 him at this time. Revoke his bond and put him in
2 incarceration and we will see him in the morning at
3 9:30.

4 (WHEREUPON, the jury was excused from
5 open court.)

6 (WHEREUPON, the partial proceedings
7 were concluded for the day. The trial will begin the
8 next day with Gwen Kyzer as the Court Reporter.)
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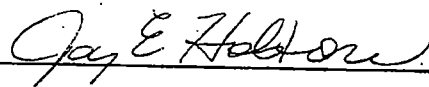
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)

I, Joy Holston, Official Court Reporter for the
8th Judicial Circuit of the State of South Carolina,
do hereby certify that the foregoing is a true,
accurate and partial Transcript of Record of the
proceedings had and evidence introduced in the trial
of the captioned case, relative to appeal, in the
Court of General Sessions for Anderson County, South
Carolina, on the 9th day of October, 2000.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

April 4, 2001



Joy Holston, Court Reporter

My Commission Expires: 03-13-06

IN THE COURT OF
GENERAL SESSIONS
DOCKET NOS.
2000-GS-04-1042
2000-GS-04-1043

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)
THE STATE)
-VS-)
RICHARD KEVIN PATTERSON)
DEFENDANT.)

COPY

TRANSCRIPT OF RECORD
VOLUME ONE

ANDERSON, SOUTH CAROLINA
October 9, 2000

B-E-F-O-R-E:

THE HONORABLE J. C. NICHOLSON, JR. JUDGE AND JURY.

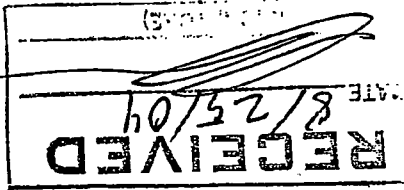
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(TUESDAY, OCTOBER 10, 2000.)

Voir Dire of juror No. 93, Thomas J. Moore.

THE COURT: Solicitor, you want to come forward.

Mr. Brehm, you want to come forward and bring your client around.

Mr. Moore, you sent me a note out stating that yesterday that the thought the doctor, the psychiatrist, which psychiatrist was it?

MR. MOORE: Dr. Smith, Stanton Smith.

THE COURT: Okay, Dr. Smith, that you thought that you knew him.

MR. MOORE: I recognized the name on the list, and I checked with my wife on it.

THE COURT: You checked with your wife.

MR. MOORE: Right.

THE COURT: All right, what is your relationship with Dr. Smith?

MR. MOORE: Six months ago, my grandson went to see Dr. Smith, he's an idiot.

THE COURT: Psychiatrist was an idiot?

MR. MOORE: My grandson was on drugs and couldn't function.

THE COURT: And you were angry with the psychiatrist?

MR. MOORE: Yes, 'cause he wasn't helping my grandson, there were a lot or other children with complaints, his license

is at risk.

THE COURT: Have you ever -- do you know him personally?

MR. MOORE: I never met him, never did.

THE COURT: He was just treating your grandson and you were very dissatisfied with the results of the treatment.

MR. MOORE: Yes, so were a lot of other folks.

THE COURT: How do you think that would affect you sitting on the jury?

MR. MOORE: I've never seen him, just talking to the family, I know nothing about him, I mean, the whole thing about his treatment of children I don't agree with him.

THE COURT: About treatment of children, you wouldn't trust him at all.

MR. MOORE: I wouldn't trust him.

THE COURT: But you think you could deal with him with an adult?

MR. MOORE: I think so.

THE COURT: Solicitor, do you have any questions you want to ask him?

MS. WHITE: Just if he could be fair and impartial to both sides.

THE COURT: All right do you think you can put that aside?

MR. MOORE: I think so, since no children are involved.

1 THE COURT: Do you think you could be fair to both the
2 State and to the Defendant.

3 MR. MOORE: I think so.

4 THE COURT: You got any questions you want to ask him?

5 MR. BREHM: I just think we should bring him off to the
6 side.

7 THE COURT: I understand, and I appreciate you doing
8 that. That's why I'm getting you out here and asking the
9 questions, that way people or -- in front of the audience,
10 because I don't think it's any of there business.

11 MR. BREHM: No, it's not.

12 THE COURT: I appreciate you writing the note. But you
13 think if -- is the psychiatrist going to be dealing with
14 children, or is it going to be all adults.

15 MR. BREHM: No, sir, all adults.

16 THE COURT: It's going to be all adults, do you think
17 you can put that incident aside with your grandchild, and be fair
18 to both the State and the Defendant.

19 MR. MOORE: Yes, sir.

20 THE COURT: Okay, I'm not going to disqualify you. All
21 right Mr. Moore, just go back to the jury room. Thank you very
22 much.

23 THE COURT: All right, I marked the note from the juror
24 as Court's Exhibit No. 1, and we have, for the record, asked him
25 questions and I have found him qualified.

1 Anything from the State before we bring the jury?

2 THE STATE: No, sir.

3 THE COURT: Anything from the Defendant?

4 MR. BREHM: No, sir.

5 THE COURT: All right, would you bring the jury in.

6 (WHEREUPON, the jury was sworn at 10:00 am)

7 THE COURT: All right, ladies and gentlemen of the
8 jury, I'm going to make a few opening remarks. I'm going to
9 explain to you the process we are going to go through this week
10 in trying this case. Very shortly, The State will make a
11 statement to you, and in the opening statement, The State will
12 tell you what they plan on proving from the witness stand this
13 week. After The State finishes their opening statement, then the
14 Defendant will have an opportunity to make an opening statement,
15 and he will tell you what he what he plans on presenting to you
16 and plans on proving on the witness stand this week.

17 Now, during the process of the trial, after the opening
18 statements, the State will start calling the witnesses, and the
19 State will have those witnesses on direct examination, asking
20 them questions, and after the State finishes the direct
21 examination, the Defendant will have each of those witnesses on
22 cross-examination. The difference between direct and cross, is
23 on cross examination the defendant's attorney can ask a leading
24 question. A leading question is a question that suggests an
25 answer. On direct examination you do not ask leading questions,

1 with a few exceptions under the law. After the State has
2 presented all their witnesses, and at that time the Defendant
3 will have an opportunity to present witnesses, and the roles will
4 be reversed. The Defense attorney will have his witnesses on
5 direct and the solicitor will have cross-examination and may ask
6 leading questions.

7 After all the testimony has been presented by the Defendant,
8 then The State will have an opportunity, if it so chooses, to
9 offer, what we call rebuttal witnesses, and after any rebuttal
10 offered by the State, they will have closing arguments, from The
11 State's attorney and from the Defense. And after the closing
12 arguments, I'll charge the law to you that's applicable under the
13 facts of this particular case.

14 Your job is to be fact finders. My job is to tell you the
15 law as it applies to the case. During the trial there may be
16 certain objections made by the solicitor, or made by the Defense
17 attorney, and what they are saying is, they are saying that
18 evidence, or the question, is not admissible under our rules of
19 evidence. We have certain rules of evidence and rules of court
20 that we conduct the trial by and it's my job, as Judge, to rule
21 on whether that evidence is admissible under our rules of
22 evidence. And these rules of evidence have evolved over time.
23 They are designed to present to you the most trust worthy and
24 reliable testimony from the witness stand. And it is my job, as
25 Judge, to rule on the objections made by the attorneys.

1 Now, if I -- as you go to leave the courtroom, no one is
2 trying to hide anything from you. Without you in the courtroom
3 is when I'm trying to decide on whether to rule or how to rule on
4 the evidence, I'll be freely able to comment on the facts with
5 you out of the courtroom. That's the reason I ask you to leave
6 the courtroom, so I can freely comment on the facts. I don't
7 want you to form an opinion that the Court has a opinion for the
8 State or the Defendant. So no one is trying to hide, I'm just
9 trying to make a decision on how to rule on that particular piece
10 of evidence.

11 Now, the State has the obligation to prove the Defendant
12 beyond a reasonable doubt. The Defendant is not required to
13 prove his innocence. A Defendant comes into the courtroom
14 innocent, and remains innocent until the State has proven beyond
15 a reasonable doubt his guilt. And reasonable doubt is the kind
16 of doubt that would cause a reasonable person to hesitate to act.
17 Reasonable doubt doesn't require proof to overcome every possible
18 doubt. And I'll discuss reasonable doubt a little further and in
19 a little more detail with you at the close of the case.

20 In order for the system to work, you have to pay attention
21 to the witnesses, pay attention to the attorneys, listen to the
22 testimony, because you are going to be the ones that's going to
23 decide credibility of the witnesses. In other words, the
24 believability of the witnesses, you can believe some of the
25 witnesses' testimony, or all of the witnesses's testimony. You

1 can believe some of the witnesses against other witnesses, or
2 you've got to make a determination as to the believability and
3 credibility of the witnesses, It has to entail paying attention
4 and listening. I know some of the days will be long and it'll
5 get difficult to listen, I ask you to listen. If any one can not
6 hear any witnesses, if you'll just put your hand up, I'll make
7 sure they speak up so you can hear each witness.

8 Now, does any juror want to take notes? If you do raise
9 your hand and the clerk will you pass out note pads and pens to
10 you. Madam clerk, would you pass out pens and note pads, please
11 ma'am. Does everybody have a pad that wants a pad? All right, if
12 everybody will write their name inside the notebook, and when you
13 leave the courtroom leave the note pad in your seat and we'll
14 collect them at the end of the day and distribute them back to
15 you at the beginning of each day. I don't want you to take them
16 home with you. At the end of the trial, the notes will be
17 destroyed. Let me say this to you about the notes, the notes are
18 just your means of taking notes during the trial, that's fine,
19 but someone else's independent recollection may be just as
20 accurate as your notes. The notes should not take priority in
21 your independent recollection of the testimony, so just leave
22 them in your chair and we'll distribute them in your chair and
23 we'll distribute them everyday.

24 Now, during the trial I'm going to ask you repeatedly not to
25 discuss the case amongst yourselves until you've heard all the

1 testimony. Now, the reason for that is I want you to hear both
2 sides, the State's side and the defendant's side. There's
3 additional reason for that, sometimes it's human nature if you go
4 in the jury room and you take a position, one way or another, and
5 later on you may hear something that changed your mind, and it's
6 human nature not to back off your one position and say, Hey, I
7 think I was wrong. So don't discuss the case so none of you are
8 taking a position one way or the another until you have heard all
9 the testimony. And I ask you to pay attention, and I look
10 forward to working with you this week.

11 Okay, Solicitor, go ahead.

12 MS. WHITE: Ladies and gentlemen, on March 10th,
13 of this year, Donna Leanne Patterson - witnesses will refer to
14 her as Leanne - was, I guess going together, living with the
15 Defendant in this case. I have to give you a little bit of
16 history about their relationship in order for you to understand
17 this case. The Defendant and Leanne had kind of an off again on
18 again, off again on again, relationship, they had broken up and
19 was not together several times. Starting in, about January of
20 this year, the Defendant moved in with Leanne - Leanne was living
21 with her niece Shannon, you'll hear her testimony, she'll be one
22 of the first witnesses - and Leanne had lived, for about three
23 months then, with the Defendant when this occurred. Leanne was
24 getting tired of the relationship, he smothered her, followed her
25 everywhere, and she just felt like she didn't have room to

1 breath, and she had gotten upset, too, about his looking through
2 her things and going through her things. So on the morning this
3 occurred, she looked in her purse and realized that he had been
4 through some of her things and she got very angry. And she had
5 planned on breaking up with him anyway and this was sort of a
6 struggle. That morning she got angry at him about this, tried to
7 break up with him, the Defendant ended up getting a gun and he
8 shot her, right here, sort of in the back of her head.

9 Now, you are going to hear that the Defendant called 911
10 after this, and told them that he had gone to the store, he had
11 come back and he found her dead. She did have some problems with
12 depression about a year or so before her death. But she had
13 gotten past that, she was now making plans, she was going to live
14 at her dad's house, she was making some plans. You'll hear from
15 the witnesses who saw her that morning and lived with her the
16 prior month, okay, she wasn't depressed. She was looking forward
17 to getting out of this relationship and getting on with her
18 life. Anyway, the Defendant called 911, said that he found her,
19 must have, basically, shot herself. The police arrived, and
20 somethings just didn't look right. For one thing, she was
21 sitting on the couch with her leg under her, the TV remote
22 control beside her, just sitting there like she had been watching
23 TV. The angle of the bullet was up here, coming down here, and
24 they found the bullet in the couch, which means she had to be
25 looking forward because it all lined up as where the bullet was.

1 Again, not like this, but like this. And there were a few other
2 things. The EMS person who first arrived, found her hand with
3 her trigger finger on the trigger on her lap, yet the entrance
4 wound was back here. So, there were some things that didn't add
5 up.

6 The police asked the Defendant what happened, and there
7 again he stood by his story. They talked to him again at the
8 sheriff's department and at that point, the Defendant gave a
9 written confession. The Defendant admitted that he had -- that
10 she had tried to break up with him that morning and that he had
11 gone, taken the gun, and that he had shot her. You are going to
12 hear that the Defendant signed this statement, had an opportunity
13 to read this statement, and in fact was given a copy of this
14 statement as soon as he made it.

15 At the conclusion of this case, the State is going to ask
16 for a verdict what speaks the truth, that's what the word verdict
17 means; to speak the truth. And the verdict that speaks the truth
18 in this case is one of guilty. The Defendant is charged with
19 murder, he is also charged with possession of a firearm during
20 the commission of a violent crime. The grand jury has indicted
21 him on both counts. And the State will ask for a verdict of ,
22 guilty on both counts at the conclusion of this case.

23 THE COURT: Mr. Brehm.

24 MR. BREHM: Your Honor, may it please the Court,
25 Madam Prosecutor. Ladies and gentlemen of the jury, that sounds

1 pretty bad. I'm Jimmy Brehm and I am Kevin Patterson's attorney.
2 Kevin Patterson has obviously been charged with the most serious
3 crime that someone could be charged with, murder. To this charge
4 Kevin has plead, pleas, and will continue to plea not guilty. Not
5 guilty. Kevin Patterson, because he has pled not guilty, has
6 been given a trial and that's why the panel was brought in
7 yesterday. Let me give you a little insight about you're --
8 where you are now, and hopefully you won't hold that against
9 Kevin. If you remember yesterday when you were -- your name was
10 called up, you came up here, the State passed on, said present
11 the juror, and then I'm sure you caught the exchange between
12 Kevin and myself, but I asked Kevin, What do you think? And in
13 every situation involving every single one of you, Kevin nodded,
14 yes. I trust them. Now, does he trust you as a person dealing
15 with his children; no. What he is trusting you to do is to give
16 him a fair trial. And the Judge, in his opening remarks, touched
17 on that a little bit and I want to talk about that.

18 How do you give Kevin a fair trial? Well, you listen to the
19 attorneys, you listen to the witnesses, because that's where your
20 evidence is going to coming from, consider the evidence that's
21 presented in front of you, or to you, consider the lack of
22 evidence - that's something that you can to do to give Kevin a
23 fair trial. Use your common sense, your everyday experiences
24 come into play. Keep an open mind, and don't reach a conclusion
25 until the testimony, until the trial is over. And the Judge has

1 instructed you are going to hear evidence from the Prosecutor,
2 the State's case. Then it's the opportunity for the
3 Defendant to present his case, but the Defendant does not have to
4 present a case. The Defendant is innocent until proven guilty and
5 he does not have to prove his innocence. Having said that, I will
6 tell you that Kevin Patterson is going to testify, you are going
7 to hear from Kevin. And we are going to present a case. Try to
8 keep an open mind and not reach a conclusion until this thing the
9 over with. If you do all these things then you've given Kevin a
10 fair trial.

11 What do I expect the evidence to show? I expect the evidence
12 to show that these two individuals, Kevin and Leanne, were
13 discussing plans about getting married. That they were living
14 together. That they were living together at Shannon and Keith
15 Jordan's house, Shannon is Leanne's niece. This happened on
16 March 10th, but on March the 9th, right prior to March 9th,
17 Leanne had asked Kevin to introduce her to his family. She had
18 been introduced to the brother, Todd Patterson, she had been
19 introduced to the parents, Mr. and Mrs. Patterson the night
20 before this. On March 9th, the couple, Leanne and Kevin, had
21 gone over to Greenville to Kevin's grandparents and discussed
22 their plans of marriage. They discussed the plans of marriage
23 with the grandparents, everyone was happy, Kevin treated his
24 girlfriend, Leanne, to a surprise dinner at her favorite
25 restaurant over in Greenville, favorite seafood restaurant, Shell

1 Crackers, the restaurant with the big boat. They went and they
2 had the seafood dinner, and afterwards Leanne wanted to go by and
3 see her daughter, I believe her daughter worked at Joe's Crab
4 Shack and they went over there and talked with her daughter
5 briefly. And then they went to Furman for a romantic walk around
6 the lake, out there where the tower is, if you have ever been to
7 Furman, you know what I am talking about, a romantic walk around
8 the lake, talking about marriage, talking about their future.
9 They go home, Keith and Shannon are up and they join Keith and
10 Shannon in watching, "Who Wants To Be A Millionaire", whatever
11 the name of that show is. Keith and Shannon go to bed, no
12 problem, everyone is happy. Keith and Shannon go to bed, Leanne
13 and Kevin stay up and watch "20/20" for about another 20 or 30
14 minutes, and then they go to bed. They make love, ending a
15 perfect evening in each other's arms as they go to sleep.

16 Let's now switch to March 10th. March 10th rolls around,
17 Kevin wakes up in the morning, Leanne has already gotten up. I
18 expect the evidence to show that Leanne has been having
19 conversation with Shannon, and Kevin gets up, puts on some shorts
20 on and tee-shirt on, walks into the room, Leanne is talking to
21 the insurance company about her daughter's wreck, automobile
22 accident, Keith and Shannon leave, there are no problems, no
23 problems. Kevin and Leanne are sitting on the couch and Leanne
24 does ask Kevin about these pictures, and these are pictures that
25 Kevin had because Leanne is getting ready to move in with her

1 father because he is battling cancer and is about to pass away,
2 so she wants to spend the last few days, weeks, months, with her
3 father. Kevin wants the picture to remember Leanne by. These are
4 Kevin's pictures, she takes them -- in her pocketbook, he sees
5 them in her pocketbook, he takes them back puts them in the night
6 stand, she takes them back from the night stand, this is the
7 argument that they are talking about. This is presumably why this
8 all happened. The argument ends, or the discussion ends, and
9 Kevin goes back to the bedroom because Leanne has asked him to
10 go the convenience store to get her a drink and some cigarettes.
11 And while back in the bedroom Kevin puts on his jeans, or pants,
12 shirt, puts on a jacket, and walks out into the living room,
13 walks out into living room. And as he walks out in the living
14 room, Leanne is coming from Keith and Shannon's bedroom, Leanne
15 comes out with a .380 caliber pistol in her right hand walking
16 towards the couch, takes the pistol, sits on the couch indian
17 style with the gun in her right hand. She is crying out loud,
18 she is in a state of mind that Kevin has never seen before.
19 Kevin attempts to calm her down, I love you, things of that
20 nature, everything will be okay, what's wrong. She's crying,
21 she's talking about her father dying, upset that she's not living
22 with her children, her children are not around. Upset, she said
23 that she screwed up Kevin's life, says she can not live if her
24 father dies. And while she is sitting in that indian style
25 position, crying, talking loudly, it gets worse. Kevin now knows

1 that he's not able to diffuse the situation. She takes the gun
2 from between her legs and starts to raise it up here. Kevin has
3 knelt down beside her trying to talk her out this, he jumps,
4 screams, no. She pulling it up here, he gets up beside her -
5 you'll see a diagram of the house - gets beside her puts his arms
6 -- hands around her hand and tries to pull the gun back this way,
7 tries to pull the gun back, away from her, tried to get the gun
8 from her. The gun goes off, she is struck here and it comes out
9 here. And when the gun goes off Kevin falls back into the corner
10 of the -- where the hallway meets the living room, Leanne's arm
11 drops. I expect the evidence to show that Kevin walks over to
12 Leanne, sees that she is not breathing, sees that she's bleeding
13 profusely from the side of her head, and freaks-out, this is a
14 real type experience. Kevin says he goes in his car, for some
15 reason, goes to the convenient store, doesn't remember much about
16 going to the convenient store, he gets two packs of cigarettes
17 and two Cokes, and hopes when he walks back into the door Leanne
18 will be there alive and everything will be fine, that this is
19 just a nightmare, this is just a bad dream. He walks back into
20 the house, she's dead, he sees the blood, he calls 911, says it's
21 a suicide. The police come out there, he says it's a suicide.
22 They found this is not a suicide, says this is a murder, confess
23 to the murder, give us a statement, and that statement is
24 essential in this case. I expect the evidence to show this
25 statement isn't video taped, this statement isn't audio taped,

1 this statement isn't even Kevin Patterson's own statement.

2 Two important things to keep in mind, the Prosecutor didn't
3 mention, remember you can consider the lack of evidence. When
4 Kevin walks back to that bedroom, his bedroom to put his clothes
5 on, supposedly after this argument, supposedly after Leanne had
6 broken up with him, guess what was in his bedroom, guess what was
7 in his bedroom; his gun. His gun with his ammunition. Did he
8 grab his gun, and load his gun and go out and shoot Leanne? No.
9 Number one.

10 Secondly, I expect evidence to show that Kevin blamed
11 himself. Kevin sat there and questioned, if I hadn't jumped up
12 and grabbed the gun, would she be dead? If I had talked with her
13 a little bit more, would she still be alive. Could I have done
14 something different, should I have done something different? That
15 played on through Kevin's mind, and he blamed himself. I expect
16 the evidence to show, he now knows what happened. Because the
17 evidence will show that Leanne, contrary to what the Prosecutor
18 says, that she had suffered from depression and that it was over
19 and done with, suffered from severe depression, major depression.
20 That factors that contributed to that depression were her father,
21 her children, her living arrangement, and other factors. These
22 stresses never were removed. I expect the evidence to show you,
23 ladies and gentlemen, that she was under doctors care,
24 Dr. Cynthia Marks, Dr. Stan Smith, that she was medicated or
25 supposed to be medicated, that she was not taking her medicine;

1 medicine such as lithium, medicine such as paxil. Ladies and
2 gentlemen, she had tried to commit suicide in the past. Not one
3 time, not two times, more than two times, and guess what, one
4 time with the exact same gun.

5 Thank you.

6 THE COURT: Solicitor, call your first witness, please.

7 MS. WHITE: The State calls Shannon Jordan.

8 THEREUPON:

9 SHANNON JORDAN,
10 after first having been duly sworn, testified as follows:

11 THE CLERK: Please have a seat in the witness chair,
12 state your full name, and spell your last for the record.

13 MS. JORDAN: My name is Shannon Jordan, J-O-R-D-A-N.

14 DIRECT EXAMINATION

15 BY MS. WHITE:

16 Q What is your occupation?

17 A I am a RA, residential assistant.

18 Q And where do you work.

19 A At Morningside residential.

20 Q And who do you live with?

21 A I live with my husband and my two children.

22 Q And did you know the victim in this case, Leanne?

23 A Yes, ma'am.

24 Q And what did you call her, Leanne?

25 A Leanne.

1 Q And how was she related to you?

2 A She was my aunt.

3 Q Describe for the jury what your relation with her was.

4 A She was just like my sister, we had grew up together forever
5 and she moved in with me in August and couldn't be no closer.

6 Q And what was the nature of your relationship when it came to
7 confiding with each other, I guess these discussions that were---

8 A She told me everything, it she wanted me to know she told
9 me, and if she didn't, she -- she just confided in me and told
10 me.

11 Q Now when did she move in with you?

12 A August of '99.

13 Q And did you know the Defendant, Mr. Patterson?

14 A Yes, ma'am.

15 Q And how do you know him?

16 A I worked with him at Hitachi before.

17 Q And were you familiar with whether he and Leanne had sort of
18 a relation?

19 A Yes, ma'am , they were off and on, off and on.

20 Q Now, at any point did he move in with her at your house?

21 A Yes, ma'am.

22 Q And when was that?

23 A January, 2000.

24 Q So they lived with you approximately how long then before
25 her death?

1 A Three months.

2 Q And did you have occasions to see them together there on a
3 fairly regular bases?

4 A Yes, ma'am.

5 Q Now, in the last month or so before her death, describe what
6 their relationship was like.

7 A It was -- it was real unusual. He would -- he was real
8 protective. He just followed her around, he would smother her to
9 death. She couldn't go from one room to the other without him
10 being right behind her, and it was just -- and if she wasn't home
11 when he thought she needed to be, oh he was out looking for her,
12 or he was on the phone trying to find where she was at.

13 Q And how -- what -- how did she react to this?

14 A She really got tired of it, she just, she was sick of being
15 smothered all the time. You know, her dad was dying with cancer,
16 she was going to move in with him.

17 Q And why did she want to move in with her dad?

18 A She wanted to spend his last days with him and take care of
19 him.

20 Q And did she talk to you about her intent for their
21 relationship?

22 A Yes, she told me that she was going to break it off with
23 him, that she was tired of being smothered all the time.

24 Q And that's Mr. Patterson?

25 A Yes, ma'am.

1 Q Now, in the time that she lived with you, say the month
2 prior to her death, that seems to be the most relevant time, what
3 if any suicidal---

4 A It was no suicidal. She was never depressed like that. She
5 had to much to live for, she had two children one fixing to
6 graduate high school, one fixing to get his drivers license.

7 Q Now, we've heard a little bit about the contact with her
8 children, who did she pick up from school just about every day
9 after school?

10 A Her son.

11 Q All right, so did she have regular contact with him, or not?

12 A Oh, yes.

13 Q And how about the contact with her daughter?

14 A Every day.

15 Q So did she see her children, basically, on a daily bases?

16 A Every day.

17 Q What, if any, suicidal tendencies did you see in her that
18 morning before her death?

19 A Had no suicidal tendencies, she was never depressed, never.

20 Q Now, a few weeks before her death what, if anything, was
21 she missing?

22 A She had mention to me she was missing some photos and a tape
23 out of her purse.

24 Q And did she confront the Defendant about that?

25 A Yes, and he said, I done it.

1 Q Said that you did it.

2 A Yes, ma'am.

3 Q Did you do it?

4 A No, ma'am. He said that I did it and a friend of mine, and
5 she confronted both of us. And I said we'll get all of us
6 together and go in and, I'll tell you, I said, Leanne I didn't do
7 it.

8 Q What were these photos?

9 A Of her and her husband, Steve, and her children.

10 Q She was married at the time; is that correct?

11 A Yes, ma'am.

12 Q And she had left her husband for the Defendant?

13 A No, she had left her husband.

14 Q All right, at any rate at some point she got involved with
15 Kevin Patterson.

16 A Yeah, yes ma'am.

17 Q And was she upset about these photos and things?

18 A Very.

19 Q And where had they been taken from.

20 A Her wallet.

21 Q Now, a day before her death what, if anything, did she ask
22 you to do?

23 A She had me and a friend of mine, Farah Pullets, to call a
24 locksmith and come in and unlock Kevin's truck and see if I could
25 find the pictures and the tape.

- 1 Q And did you do that?
- 2 A Yes, ma'am.
- 3 Q And this was on the 9th?
- 4 A Yes, ma'am.
- 5 Q So this was the same day we heard about her romantic dinner
6 and so forth?
- 7 A Yes, ma'am.
- 8 Q And so meanwhile you all were doing what?
- 9 A Going through his truck to find the pictures and the tapes
10 that were missing.
- 11 Q And did you find those photographs in the truck?
- 12 A Yes, ma'am.
- 13 Q I'm handing you State's Exhibits 30, 31, and 32, do you
14 recognize those?
- 15 A Yes, ma'am.
- 16 Q What are they?
- 17 A Those are the photos that we found in the truck.
- 18 Q Now were these the photos you were looking for, or were
19 these different photos?
- 20 A These are different.
- 21 Q And you were looking for which photos.
- 22 A The ones of her, her husband, and her children.
- 23 Q And when you found -- have these been changed or altered in
24 any manner?
- 25 A No, ma'am.

1 Q Are those the photos that you found?

2 A Yes, ma'am.

3 MR. WHITE: I ask that the photos---

4 THE COURT: Mr. Brehm, do you have any objection to
5 this?

6 MR. BREHM: No, sir, I don't have any.

7 THE COURT: All right, State's exhibit 30, 31, and 32
8 admitted without objection.

9 (WHEREUPON, three photographs of the victim were
10 admitted without objection and marked as State's
Nos. 30, 31, and 32.)

11 Q All right, and did you show Leanne these photographs?

12 A Yes, ma'am.

13 Q And what was her reaction?

14 A She was very angry, she was -- she just couldn't believe
15 that he had them in his truck, they were supposed to be put up,
16 private, and he had them in his truck.

17 Q So was she happy or not happy about these photographs?

18 A She was not happy at all.

19 Q And this was on, what day?

20 A This was the 9th.

21 Q Now, did you talk to her, after you showed her those photos,
22 did you talk to her about her plan on whether to stay with the
23 Defendant or break up with him?

24 A She had already told me that she was going to break up with
25 him, 'cause she was going to move in with her dad, that was a set

1 thing, it was already set.

2 Q Now, the next morning, on March 10th, what happened that
3 morning?

4 A I had got out of bed, I took my son to school, as I do every
5 Friday, come back home, my husband didn't work that Friday, we
6 were going to Wal-Mart, and when I got back home Leanne was up.
7 We talked in there, she gave me a bank card and wanted me to get
8 her some money out because she had to work that night. And we was
9 sitting there, and she just happened to be going through her
10 pocket-book getting her bank card out, and she looked at me and
11 she said, Well I just be damned, and I said what's the matter,
12 she said, I've got pictures missing out of my pocket-book again,
13 and she was very mad.

14 Q And did she say at that point what she intended to with the
15 Defendant at that point?

16 A Oh, she was going to complain to him about taking pictures
17 out of her wallet.

18 Q And did you talk to her and try to talk her out of it?

19 A I talked to her, I say, Leanne, please don't say anything
20 right now, but she was so angry that she was going to do it, she
21 was going to confront him with them.

22 Q Now, did you end up leaving the house that morning?

23 A Yes, ma'am. Me and my husband and our daughter, and our
24 nephew went to Wal-mart. We had---

25 Q Before you left, in your contact with her, did you notice

1 any depression or suicidal tendencies?

2 A No, I never notice any depression or suicidal tendencies the
3 whole time she lived with me.

4 Q All right, well, did you -- you said she was angry.

5 A Yeah, she was angry.

6 Q Did you notice any other emotion besides anger?

7 A No.

8 Q I believe you were saying you left the house.

9 A Yes, ma'am.

10 Q When you left, who was left at the house?

11 A Leanne and Kevin.

12 Q Go ahead.

13 A We had left the house, and came back, when we came back --
14 we were gone, I guess about 2 hours, 2½ hours, something like
15 that; and we came back home -- and when we came back home we
16 rounded the corner, and that's when we -- the rescue squad and
17 stuff, the detectives, the forensics, they were all in my yard,
18 my mom, a friend of mine, they were all in my yard.

19 Q And what happen at that point, did you see the Defendant?

20 A Yes, ma'am. I looked at him and I said, What have you done.

21 Q Did you notice any forced entrance?

22 A None.

23 Q Did you have anything -- were there any evidence of
24 burglary, or had anything been taken from the house?

25 A No, ma'am.

1 Q I'm handing you State's Exhibit 12, for identification, do
2 you recognize that?

3 A (Witness Nodded).

4 Q What is that?

5 A That's the gun that Leanne had.

6 Q And whose gun was that?

7 A It was her son's, her daddy give it to him, to her son, for
8 his birthday.

9 Q Where was this gun kept?

10 A It was kept in my top drawer, in my bedroom.

11 Q All right, if you go from your living room, back down the
12 hall, let's say the living room's here, we are going down the
13 hall, is your room to the left or to the right?

14 A My room's not going down the hall, right across the living
15 room.

16 Q Okay. And if you go down the hall, whose bedroom is down the
17 hall?

18 A Leanne.

19 Q Who?

20 A Leanne.

21 Q Did the Defendant stay in that same room?

22 MR. BREHM: Judge, I have no objections to admitting
23 the gun into evidence.

24 MS. WHITE: I'm getting ready to Your Honor. Your
25 Honor, at this point I would ask that State's Exhibit 12 be

1 admitted.

2 THE COURT: All right, do you have objection to State's
3 Exhibit 12, the gun, being admitted?

4 MR. BREHM: No, sir.

5 THE COURT: All right, State's Exhibit 12, the gun,
6 admitted without object.

7 (WHEREUPON, a pistol previously marked as
8 State's No. 12 was admitted without objection.)

9 Q Shannon, you say this is the gun that was in the bedroom of
10 whose bedroom?

11 A It was in my bedroom, in my top drawer.

12 MS. WHITE: Your Honor, I have made this weapon safe
13 and it does have something through it to prevent it from firing.

14 THE COURT: Thank you, ma'am.

15 Q I'm handing you State's 8, for identification, do you
16 recognize that?

17 A (Witness Nodded).

18 Q What is that?

19 A That's the holster that it was in.

20 THE COURT: Any objection, Mr. Brehm?

21 MR. BREHM: No, sir, Your Honor.

22 THE COURT: All right, State's Exhibit 8, admitted
23 without objection, the holster.

24 (WHEREUPON, a holster, previously marked as
25 State's No. 8. was admitted without objection.)

1 Q I'm handing you State's Exhibits 20, 29, 28, 27, 26, and 25,
2 would you look through those and see if you recognize this place?

3 A Yes, ma'am.

4 Q And what do those pictures depict?

5 A These are my home and his truck.

6 Q And do they fairly and accurately depict the way it looked
7 that day?

8 A Yes, ma'am.

9 MS. WHITE: I ask that State's Exhibit 20, 29, 28, 27,
10 26 and 25 be in evidence.

11 THE COURT: Any objection?

12 MR. BREHM: No, sir.

13 THE COURT: All right, 20, 29, 28, 27, 26, and 25
14 admitted without objection.

15 (WHEREUPON, six photographs of the crime scene and
16 Defendant's truck, previously marked as State's
17 Nos. 20, 25, 26, 27, 28, and 29 were admitted
without objection.)

18 Q And I'm handing you State's Exhibit---

19 MR. BREHM: Just for the record, I don't have any
20 objections to that coming in.

21 THE COURT: All right, get her to identify it and we'll
22 get it admitted.

23 Q State's Exhibit 14, will you take look at that.

24 THE COURT: State's Exhibit 14, diagram of the house,
25 admitted with objection.

1 (WHEREUPON, a diagram of the house that was
2 previously marked as State's No. 14. and admitted
without objection.

3 Q And what does that diagram show?

4 A My living room, the couch, chair, two end-tables, coffee
5 table, love-seat, TV.

6 Q All right, although not to scale, does it accurately show
7 the location of things?

8 A Yes, ma'am.

9 MS. WHITE: Your Honor, may I ask the witness to step
10 down?

11 THE COURT: Yes, ma'am.

12 Q All right, if you'll talk into this microphone so that the
13 court reporter can take down everything that you say. All right.
14 If you'll just basically tell the jury what each item is in this
15 diagram.

16 A This is my couch, this is a coffee table, this is the TV,
17 this is the love-seat, that's a chair, two end tables, and two
18 lamps.

19 Q All right, now just show the jury if you leave this room,
20 where is your bed room where the gun was?

21 A Right here.

22 Q So your bedroom is off this way.

23 A Yes, ma'am.

24 Q All right, and where is the, where was the victim's and
25 Defendant's bedroom?

1 A Right there.

2 Q All right, is there a hall or something or---

3 A That's the short hall right there.

4 Q Thank you, stay down a minute please. If you'll look up at
5 the TV and still talk into that microphone, I'm showing you
6 State's Exhibit 20, what does that show?

7 A That's my house.

8 Q State's Exhibit 25?

9 A That's my bedroom.

10 Q If you'll, what is this right here?

11 A That my chester drawers.

12 Q And what was in the chester drawers?

13 A The gun was in the top drawer.

14 Q And State's Exhibit 26, can you tell me what that is?

15 A That's the holster, that stayed in the bottom drawer --
16 second drawer.

17 Q And State's Exhibit 27?

18 A It's the pictures that was there in my top drawer.

19 Q Which pictures?

20 A The ones that we found in the truck.

21 Q And State's exhibit 28, what is that?

22 A Kevin's truck.

23 Q And State's exhibit 29, what is this?

24 A That's his jacket inside his truck.

25 Q Now, I believe you said that you found some pictures in the

1 truck, I'm handing you 30, 31, 32 are those the photographs?

2 A Yes, ma'am.

3 Q And when she found out that he had them in the truck, what
4 was her reaction?

5 A She was very angry.

6 MS. WHITE: If you'll have a seat back up, please.

7 No further questions.

8 THE COURT: Cross-examination?

9 MR. BREHM: Thank you, Your Honor.

10 CROSS-EXAMINATION:

11 BY MR. BREHM:

12 Q Ms. Jordan, you testified that you and Leanne were close,
13 and correct me if I'm wrong, but you were like sisters.

14 A That's right.

15 Q And, in your opinion, did she tell you everything that was
16 going on in her life?

17 A She told me what she wanted me know.

18 Q Did she tell you that she was under Dr. Stanton Smith's care
19 at Behavioral Health Services in Greenville?

20 A At one time she was.

21 Q And can you tell, for the jury, what time you are talking
22 about, what---

23 A It's been a couple of years back.

24 Q So you didn't know that she was seeing Dr. Stanton Smith
25 in '99?

1 A No, sir.

2 Q Did you know that she was, at some point had some type of
3 surgery where she was taking lithium?

4 A The only thing that I knew she had her knee surgery.

5 Q Did you know that she was prescribed to take paxil, you did
6 know about the paxil?

7 A I knew about the paxil.

8 Q Do you know why she was taking the paxil?

9 A I don't know why, no, I don't. She only told me what she
10 wanted me to know, we never discussed her medical records or
11 anything else.

12 Q When she talked about, and you touched on her talking about,
13 Kevin, but she also complained about her husband a lot, Steve.

14 A No, not hardly, not ever, not when she moved in with me she
15 didn't.

16 Q Well, isn't it true, Ms. Jordan, that when she was with
17 Steve she'd complain about Steve, and when she was with Kevin
18 she'd complain about Kevin, because she's leaving, when she's
19 with Steve she's leaving him and going with Kevin, and when she
20 was with Kevin for a while she was going back to Steve?

21 A I guess.

22 Q You know that she was affected by her father's health?

23 A She was upset about her father's health, I would be too if
24 my dad was dying with cancer, she was not depressed by no means
25 about it.

1 Q And I'm not disagreeing with you there, but in February of
2 this year, did she not learn that the doctor had only given her
3 father a couple of weeks or months to live?

4 A Yes, sir.

5 Q And that was very stressful for her, in fact she'd cry about
6 it, and was very upset about it, in fact she was going to live
7 with her father.

8 A Yes, sir.

9 Q Now, she loved Kevin very much, wouldn't you agree with
10 that?

11 A Yes, she loved Kevin.

12 Q In fact you had put that in your statement immediately
13 following this incident, that I knew Donna loved Kevin?

14 A Yes.

15 Q And more importantly to her, Leanne, was her children, she
16 loved her children.

17 A Very much.

18 Q And she frequently talked about her children.

19 A She talked about them and saw them very frequently,
20 everyday.

21 Q And in February and March of 2000, she was very troubled by
22 the fact that her children were not living with her; isn't that
23 correct?

24 A Troubled, no.

25 Q Upset, depressed?

1 A No.

2 Q Was she happy that her children---

3 A No, she wasn't happy that they weren't living with her, but
4 she was not depressed about it.

5 Q Okay ---

6 A Leanne was not the type that would be depressed, she was not
7 depressed the whole time she was living me. Her children were not
8 with her, but she was not so depressed that she would commit
9 suicide, she was not depressed at all.

10 Q Okay, it's your contention that's she's not depressed at
11 all.

12 A No.

13 Q But you don't know that she's going to two doctors?

14 A Like I said, she only told me what she wanted me to know.

15 Q So it's very likely, that there's a lot about Leanne that
16 you don't know about, even though you consider yourself to be
17 like sisters, it's likely that she kept a lot from you.

18 A About her mental state? There was no mental state to it,
19 because she was not depressed. I lived with her everyday, I seen
20 her everyday, I talked to her everyday, and you would know if
21 somebody was depressed, and she was not depressed.

22 Q You indicated that she cried a lot about her father, you
23 just testified about that.

24 A Yeah, she cried about her dad.

25 Q And she wasn't depressed about her children, but she wasn't

1 happy about her children.

2 A No.

3 Q Was she happy or sad about her relationship with Steve?

4 A She was, at the time sad about it, yeah, she wasn't
5 depressed.

6 Q So, you agree with me that there's a lot going on in
7 February and March with Leanne, her fathers going to die, she's
8 not living with her husband, her children aren't living with her,
9 she's got a lot going on; doesn't she?

10 A Uh, huh.

11 Q Did she ever tell you that she had, or do you know, that she
12 had attempted suicide on at least three separate occasions?

13 A No.

14 Q Did she ever relay an incident with her husband where she
15 took this very same gun and attempted suicide and her husband had
16 to take it away from her?

17 A Can you tell me the date of that incident?

18 MR. BREHM: One moment, Your Honor.

19 A Because the date -- if you can tell me the date of that
20 incident, I can tell you she did not get that gun until September
21 of '99, on her son's birthday, her dad give it to her son for his
22 birthday.

23 Q Okay. Who is Katherine Pearson?

24 A That is her mother-in-law.

25 Q You don't recall an incident where Leanne had threatened to

1 kill herself over the week-end---

2 MS. WHITE: I'd ask for what is being offered, first of
3 all is hearsay, and second of all what date is he talking about?

4 MR. BREHM: I was just asking.

5 THE COURT: Well, I think it's obviously hearsay, I'll
6 sustain the objection unless you to lay the proper foundation
7 where you show me it's not, or an exception to the hearsay rule.

8 MR. BREHM: Okay, I'll move on, Your Honor.

9 Q Are you familiar with a time -- with the time where she was
10 riding down the road and attempted to jump out the car when Steve
11 was driving, her husband?

12 A No.

13 Q Did she ever tell you at any point that she ever tried to
14 commit suicide?

15 A No, because Leanne was not the type of person to commit
16 suicide, I'm sorry, 'cause that is just not her.

17 Q What type of person tries to commit suicide?

18 A Well, one that stays severely depressed most of the time and
19 Leanne was not that.

20 Q Can you tell us what type of medications were in her
21 medicine cabinet?

22 A No because it was my medicine cabinet.

23 Q She didn't have -- where did she keep hers?

24 A In her purse.

25 Q Her purse.

1 A In her purse, and I never looked through her purse and if
2 she wanted to give me something she went in and got it and gave
3 it to me.

4 Q Now, I think you testified that, correct me if I'm wrong,
5 but you said that the relationship was unusual?

6 A Her and Kevin's relationship?

7 Q Right, Leanne and Kevin's relationship.

8 A Very much.

9 Q Unusual in the sense that they were on again, off again?

10 A Unusual in the sense that he had to know every move, and
11 everything that she done every minute of every day.

12 Q Okay, and you don't recall any situations where Kevin stayed
13 home there, and without Leanne, and sat there and talked to you
14 quite frequently while she was working?

15 A He would talk with me quite frequently, yeah, but it would
16 be in the sense of wondering what Leanne was going to do, when
17 Leanne's going to do it, and how she was going to do it,
18 everything that come out of his mouth, when he talked to me, was
19 usually about Leanne.

20 Q He was very much in love with Leanne.

21 A Very much.

22 Q And there's no question that you and Keith welcomed Kevin
23 into your house, into your home?

24 A That's right.

25 Q And he started living with you in January of 2000?

1 A Uh, huh.

2 Q And in fact when he came to live with you, you were happy
3 that he was coming there, you were happy that he was coming to
4 live with you?

5 A Happy? I agreed that he could stay, I told Leanne that I
6 had no problem with it, me or my husband either one.

7 Q Okay. The day before, you indicated that Leanne had said
8 that she was going to break it off.

9 A Uh, huh.

10 Q And was that March 10th, or was that March 9th?

11 A That had been, Leanne had told me that, I guess, three or
12 four week before any of that happened.

13 Q Were you aware that they had planned to get married?

14 A No, I knew they had went and looked at diamonds, but that
15 was about it, and that's as far as it went.

16 Q Well, somebody -- a couple that goes to look for diamonds,
17 wouldn't that suggest they are thinking about getting married?

18 A Well, she went to go look for a diamond. She never said
19 anything to me about getting married.

20 Q Did you have any personal knowledge that they had planed on
21 honeymooning in the Outer Banks?

22 A No, I had knowledge that they were going to visit the Outer
23 Banks, or she was, herself.

24 Q Okay, now let's talk about the missing photos, because I got
25 a little confused, she claimed that she was missing some photos

1 but they were photos of Steve.

2 A Yeah, photos of her, her children and Steve.

3 Q Okay, and you and Leanne broke into Kevin's truck---

4 A No, me and Leanne did not. Leanne had asked me and Farah
5 Pullets, a friend of mine, to call the locksmith to come and
6 unlock his truck so we could see if we could find the pictures.

7 Q So you and Leanne and Farah conspired to go into the truck.

8 A No, me and Leanne and Farah did not, Leanne asked me and
9 Farah to do it, there was no conspiring to it.

10 Q Well you all got together and it was agreed---

11 A When she asked, I said yes.

12 Q Okay, and you and Farah went inside the truck.

13 A Uh, huh.

14 Q And the purpose of you going into the truck was to try and
15 find the pictures of Steve and family.

16 A And the tape.

17 Q And this tape, are we talking about a Pink Floyd tape?

18 A We are talking about a tape that had some songs that Steve
19 had made for Leanne that was in her purse, I don't know what was
20 on the tape, I didn't ask.

21 Q Do you remember making a statement saying that it was
22 Pink Floyd music?

23 A Yeah, there was one Pink Floyd song on there, but they was
24 more than that.

25 Q Okay, when you and Farah broke into my client's, Kevin's,

1 truck did you find those pictures?

2 A No.

3 Q Did you find the tape?

4 A No. We found the pictures that were introduced into
5 evidence.

6 Q And those pictures were pictures that were given to Kevin by
7 Leanne, and I believe you testified that she said that she told
8 Kevin to put them away in a private place.

9 A Uh, huh. In that particular -- it was supposed to be in
10 there with their stuff in the room.

11 Q Now did she say they were supposed to be in the room, or---

12 A They were supposed to be put in a private place, and when
13 she said a private place that's what she means, they are kept in
14 her bedroom.

15 Q And we are referring to State's Exhibit 30, 31, and 32. Now
16 Ms. Jordan, these photographs weren't on the seat in Kevin's
17 truck, were they?

18 A No, they wasn't.

19 Q These photos weren't under the visor clips, were they?

20 A No, they wasn't.

21 Q In fact, these photos were found by you and Farah after you
22 broke into Kevin's truck up under the back seat hidden, correct?

23 A No, they were in a bag, they were not under the back seat
24 they were in a bag.

25 Q In a bag back behind the seat.

1 A Yeah, they were under a seat, right behind his seat.

2 Q This, which has been marked as State's Exhibit 28, is that
3 his truck?

4 A Uh, huh.

5 Q And you got obviously the driver's seat and passenger's
6 seat, but back behind there are there seats also?

7 A Uh, huh.

8 Q Up under those seats were where the pictures were found in
9 the back seat.

10 A They were in back, yeah.

11 Q So you find these photos and you have these photos and you
12 found an answering machine and tapes?

13 A Uh, huh.

14 Q And the tapes weren't Leanne's were they?

15 A No, I have no clue whose they were really.

16 Q I mean Leanne had never said that she was missing an
17 answering machine, did she?

18 A No.

19 Q And she never said she was missing audio tapes, did she?

20 A She was missing the tape, and that was all.

21 Q And these tapes weren't even close to looking like the tape
22 she was missing, were they?

23 A I have no clue what the tape looked like that I was looking
24 for no way, all I knew was that it was a cassette tape.

25 Q And it was you and Farah that went to this truck?

1 A Yes, sir.

2 Q Okay, let me show you your statement that you gave in March
3 of this year, and I highlighted the last sentence down there, and
4 tell me whether it was you or Farah that found this stuff in the
5 truck.

6 A It was both of us.

7 Q Can I get you to read the last line of the statement, that I
8 highlighted?

9 A Is says, "Donna found a answering machine, tapes, and
10 pictures of Donna that Kevin had taken, she was in lingerie," no
11 it was me and Farah who found them.

12 Q So is it your testimony that your statement is wrong or that
13 your testimony is wrong?

14 A That word right there is wrong, because Donna had got me and
15 Farah to get the tapes, me and Farah found the tapes and the
16 pictures of Leanne.

17 Q So your statement is wrong, Donna wasn't even there.

18 A No, her and Kevin were gone, and that's why she left, to get
19 me and Farah to go through the truck to find the tape and the
20 pictures.

21 Q And that's what I'm saying, your statement is wrong.

22 A Right there.

23 Q Now, this -- the March 9th, the day before this terrible
24 tragedy, do you recall Kevin and Leanne leaving your residence
25 and going to Kelvin's grandparents?

1 A They left, I have no clue of where they were going.

2 Q They never mentioned to you where.

3 A Nope.

4 Q And when they left, they were happy, there were no problems
5 on the 9th, right?

6 A When they left, they left, Leanne was already fed up with
7 the way Kevin had been doing her, when they left, they left.

8 Q Okay. So it is your testimony that on the 9th when they
9 went to the grandparents house, that she was upset.

10 A She wasn't upset, no, she was not upset but she was not
11 happy.

12 Q She was not happy, in love with Kevin?

13 A Right.

14 Q Did you know that they were going to go to eat, at Shell
15 Crackers.

16 A Like I said, I had no idea where they were going when they
17 left, all I know is when they left, they left. I didn't ask her
18 where she went, if she wanted me to know she told me.

19 Q And when they returned you and Keith were watching, "Who
20 Wants to be a Millionaire."

21 A I could not tell you what I was watching that night when
22 they returned. I really don't even remember. Me and Keith were
23 in there watching TV, I do know that, yeah. Me and Keith, and I
24 think Farah was there, and my two children were there.

25 Q The -- when they came in, when Leanne and Kevin came in can

1 you described how they were acting?

2 A When Leanne and Kevin came in, Leanne and Kevin went
3 straight to the bedroom.

4 Q And you don't recall watching, "Who Wants To Be A
5 Millionaire?"

6 A I don't know what I was watching, I was watching TV, but I
7 don't remember what it was.

8 Q Were you with your husband when he gave a statement to the
9 police?

10 A No, I wasn't, we were in two separate vehicles giving
11 statements at the same time.

12 Q The morning of the 10th, when you woke up, tell me who's in
13 the house. Who are the people physically in the house.

14 A When I got up that morning, me, my husband, my two children,
15 Leanne and Kevin.

16 Q And where are Leanne and Kevin?

17 A In the bed room.

18 Q And I believe you testified about the outlay of the house,
19 you guys, you and Keith are on one side of the home and Leanne
20 and Kevin are on the other side of the---

21 A Uh, huh.

22 Q Opposite sides.

23 A Uh, huh.

24 Q And in the middle you have the living room?

25 A Uh, huh.

1 Q When you woke up that morning, were you the first person to
2 wake up?

3 A Yeah.

4 Q And you and Keith at some point left.

5 A Uh, huh.

6 Q And you guys went where?

7 A Wal-Mart.

8 Q And who went with you.

9 A Me, my husband, Mickey, my daughter, and my nephew.

10 Q So when you left the only people in the house were Kevin and
11 Leanne.

12 A Uh, huh.

13 Q Now. Right before you left you indicated that Leanne made a
14 commit about he went and got the pictures. Now the pictures that
15 she was talking about aren't these pictures are they?

16 A All I knew is she said that he had been back through her
17 pocketbook and got some pictures out, she never said what the
18 pictures were this time.

19 Q Did you know that they had gone to Anderson Mall and had a
20 photo made in one of those booths?

21 A I think I seen them.

22 Q And did you see them on the night stand on Kevin's side of
23 the bed?

24 A Nope.

25 Q Where did you see them?

1 A She showed them when they come in one night when they had
2 them done, but that's about it.

3 Q Did you know, or did she tell you that she had given them to
4 Kevin.

5 A Nope.

6 Q You never saw them on the night stand beside Kevin's bed.

7 A Nope, there are not but one night stand in there, and it was
8 on, just against the wall, the only one night stand in there.

9 Q Now it's your testimony that Leanne was very angry when you
10 all left?

11 A Uh, huh.

12 Q Had she begun to cry yet, or was she just mad?

13 A She was mad.

14 Q But Kevin was fine?

15 A I don't know, Kevin went back to bed after -- when we got up
16 he got up for about five minutes and then went back there in the
17 bed room, and I didn't see Kevin when I left.

18 Q The time that you did see Kevin.

19 A He come in and sat on the couch for about five minutes, then
20 went back to bed, he never said nothing to me and I never said
21 nothing to him.

22 Q Leanne was talking on the telephone with the insurance
23 company about her daughter's wreck, correct?

24 A I think she was on the phone with the insurance company at
25 that time, because Kayce had called that morning and was talking

1 to her, at that time she got up because I woke her up because
2 Kayce was on the phone for her.

3 Q Okay, do you recall Kevin coming in sitting beside her, hug
4 her, kiss her, say good morning, something like that?

5 A No, Kevin got up, come in there sit on the edge of the
6 couch, stayed five minutes, went back to bed.

7 Q Any harsh words?

8 A She didn't say nothing to him and he didn't say nothing to
9 her.

10 Q No argument?

11 A None.

12 Q In fact when they argued, when and if they argued, it wasn't
13 -- they weren't outbursts, they were just discussion; correct?

14 A When they argued, it was in that bedroom.

15 Q Now, do you recall in your telling the police, that when
16 they argued it wasn't anything, they never made a spectacle.

17 A Right. Just like I said, when they argued, they argued in
18 the bedroom behind closed doors.

19 Q All right, there's not a lot of screaming, hitting, and
20 punching going on, they are just back there having a discussion.

21 A Right.

22 Q Disagreeing about certain things and they go back there in
23 the bedroom to deal with it and then come out and everything's
24 fine.

25 A They go back in the back bedroom they have their discussion,

1 they come out, if everything's fine, who knows? Like I said I
2 never asked Leanne anything she told me what she wanted me to
3 know.

4 Q Okay. Also in your statement, what did you indicated that
5 the reason why Kevin came to live with you.

6 A He had no where else to go.

7 Q What was your impression of why he was having to come and
8 live with you?

9 A Because his mom and dad kicked him out.

10 Q Did you know that in fact that he was living with his wife
11 at the time?

12 A I had no clue, and Leanne didn't either.

13 Q The way that you got that information, that he was basically
14 kicked out of his parents' house---

15 A Was from Leanne.

16 Q ---was from Leanne.

17 A That's right, because that's what he had told her.

18 Q How do you know that?

19 A Because she told me that Kevin had told her that his mamma
20 and dad had kicked him out, he had no place to go, would me and
21 Keith be all right with him coming to stay. And me and Keith told
22 her as long as he paid rent, like she did, we didn't mind.

23 Q So you weren't privied to the conversation, you were just
24 relying on what Leanne had told you.

25 A That's exactly right.

1 Q I'm wrapping it up, but can you explain why the gun is in
2 one drawer and the holster is in another drawer?

3 A Because the top gun stayed in my top drawer -- the gun
4 stayed in top drawer, unloaded at all times, and the holster was
5 in there with it and as I was going through my stuff, it fell on
6 the floor and I just threw it in the bottom drawer, that's where
7 it stayed.

8 Q The holster fell on the floor.

9 A On the floor. And I picked it up and put it in my bottom
10 drawer and it had been in there since September of '99 when her
11 dad give it to her for her son's birthday.

12 Q So the gun wasn't in the holster in the--

13 A No.

14 Q Why wasn't it in the holster?

15 A Because it didn't stay in the holster, it stayed in my top
16 drawer, unloaded at all times.

17 Q And when we mean unloaded, do we mean that---

18 A We mean that there were no bullets in it, it stayed unloaded
19 and the safety on so it couldn't fire.

20 Q Just bear with me, the gun has a clip.

21 A Uh, huh.

22 Q And what I'm getting to when we are talking about
23 unloaded---

24 A We are talking about the clips was not in it.

25 Q Okay, but were there bullets in the clip?

1 A I have no clue, because the clip didn't -- it stayed
2 unloaded, I don't know anything about the gun, all I know is it
3 stayed in my top drawer and it was gave to her in September of
4 '99 for her son's birthday, and it stayed in my top drawer
5 without a clip, and that's where it was at.

6 Q And finally, Kevin, at some point when he comes to live with
7 you asks you if he can bring a weapon inside the house.

8 A No.

9 Q You don't recall that?

10 A No.

11 Q You don't recall a weapon being in his room.

12 A No, when we found the weapon is when the Anderson County,
13 the detectives came in and that's where they found it and that's
14 when we first knowed it.

15 Q Okay, please tell the jury where that weapon was found.

16 A It was found underneath the bed where they stayed, which is
17 my daughter's bed now, which they found it underneath that bed.

18 MR. BREHM: I have no further questions.

19 THE COURT: Redirect?

20 MS. WHITE: Yes sir.

21 RE-DIRECT EXAMINATION

22 BY MS. WHITE:

23 Q You said that you gave a statement to the police; is that
24 correct?

25 A Yes, ma'am.

1 Q And did, who took that statement, which detective?

2 A Lee.

3 Q And is that detective any of the ones sitting here at the
4 table?

5 A No.

6 Q All right. And other than that one word that is different
7 where it says Donna, is the rest of the statement accurate?

8 A Everything is accurate.

9 Q Now, you said that you didn't know he had a gun in the
10 house; is that correct?

11 A Yes, ma'am .

12 Q Do you know when it was brought in?

13 A No, ma'am.

14 Q Was it a long gun or a short gun?

15 A It was long gun, it was in a case, I guess, like this.

16 Q The psychiatric appointments that we heard about, were you
17 aware that she saw a psychiatrist some time in February of '99?

18 A No, I don't know anything about that.

19 Q Well, if she were killed in March of '99, how far before
20 March of '99 would February be?

21 A Not, to far.

22 THE COURT: March of 2000.

23 MS. WHITE: I'm sorry, I'm in the wrong year.

24 Q March of 2000, how much difference would that be?

25 A Eleven months.

1 Q And then were you also aware she saw a therapist from
2 approximately March to June of '99?

3 A No.

4 Q Well, if that were true, how much time had passed from June
5 of '99 to March of 2000?

6 A About nine months.

7 Q Had she seen any therapist or doctors to your knowledge
8 since she moved in with you?

9 A No, ma'am.

10 Q And did she have a need to do that?

11 A No, ma'am.

12 Q You said the gun stayed in your top drawer unloaded, where
13 were the clip-cap?

14 A The bullets were not in it, inside the same drawer right
15 with the gun.

16 Q All right, you said inside the same drawer with the body of
17 the gun.

18 A Yes, ma'am.

19 Q All right. And you said she got the gun when?

20 A September of '99, on her son's birthday. Her daddy give it
21 to her to give her son when she felt like he was responsible
22 enough to handle it for his birthday.

23 Q And I believe the Defense attorney said something about the
24 mother-in-law had said something, was that the mother of the
25 husband that she had left?

1 A Uh, huh.

2 Q All right, and to your knowledge did she ever take that gun
3 and do anything with that gun in the way of attempted suicide?

4 A No, she -- it stayed in my drawer every -- when they got it
5 out to fire it, she let Kevin fire it. It was always, she was
6 with Kevin when it was fired or my husband was out there with him
7 when it was fired.

8 Q Now you said that she was upset about her dad's cancer.

9 A Yeah.

10 Q Well was she planning on running away from that or was she
11 planning on going and taking care of him?

12 A She was going, she was bound and determined she was moving
13 in and taking care of him it was already done, in the works.

14 Q So what was her goal in regards to how she was going to
15 treat her father in the last few days that he had in battling
16 cancer?

17 A She was going to be there and take care of him and for his
18 every need.

19 Q Do you know what kind of soft drinks she drank?

20 A She drank diet Pepsi or diet Mountain Dew.

21 Q And what kind of cigarettes did she smoke?

22 A Marlboro.

23 MR. BREHM: I object, Your Honor, improper questioning
24 concerning cigarettes.

25 THE COURT: I'll overrule.

1 MS. WHITE: That's all I have.

2 THE COURT: Any re-cross?

3 MR. BREHM: Yes, Your Honor.

4 RE-CROSS-EXAMINATION:

5 BY MR. BREHM:

6 Q To your knowledge, do you know why she stopped going to the
7 doctor or the therapist?

8 A No, I don't.

9 MR. BREHM: Nothing further.

10 THE COURT: You may step down, thank you very much.

11 Mr. Foreman, ladies and gentlemen of the jury, it's quarter
12 after on that watch, we are going to take about a 15 or 20 minute
13 break. If you need anything to drink or crackers or anything,
14 just let the bailiff know, he'll get them for you. And we'll
15 take about a 20 minute break, we'll get you back in the courtroom
16 in about 20 minutes we'll re-started. Please don't discuss the
17 case amongst yourselves.

18 (WHEREUPON, the jury was excused from open court.)

19 THE COURT: All right, we'll take about a 20 minute
20 recess.

21 (WHEREUPON, a short break was taken.)

22 THE COURT: Anything from The State before we bring the
23 jury?

24 THE STATE: No, sir.

25 THE COURT: Anything from the Defendant?

1 MR. BREHM: No, sir.

2 THE COURT: Will you bring us the jury, please.

3 (WHEREUPON, the jury returned to open court.)

4 THE COURT: Solicitor, call your next witness, please.

5 MS. WHITE: The State calls Tim Smith.

6 THEREUPON:

7 TIMOTHY A. SMITH,
8 after having been first duly sworn, testified as follows:

9 BY MS. WHITE:

10 THE CLERK: Please have a seat in the witness chair,
11 state your name, and spell you last name for the record.

12 MR. SMITH: My name is Timothy A. Smith, S-M-I-T-H.

13 DIRECT EXAMINATION

14 BY MS. WHITE:

15 Q What's your occupation?

16 A I'm an Anderson County Deputy Sheriff.

17 Q And how long have you been in law enforcement?

18 A I've been in law enforcement for 11½ years.

19 Q Where you working on March 10th of 2000?

20 A Yes, ma'am.

21 Q And did you receive a call that morning?

22 A Yes, ma'am.

23 Q And where did you go as a result of that call?

24 A I went to Carroll Road in Belton.

25 Q Is that in Anderson County South Carolina?

1 A Yes, ma'am.

2 Q And about what time did you get there?

3 A I believe it was approximately 10:42.

4 Q Do you know about time the call came in?

5 A Yes, ma'am, I received the call from central dispatch
6 approximately 10:25 am.

7 Q And when you arrived at the scene did you see anyone?

8 A Yes, ma'am.

9 Q And who was that individual?

10 A I saw several individuals, I saw the Defendant sitting on
11 the front steps of the porch in front of the house and I saw my
12 corporal standing on the porch itself behind him.

13 Q And did you talk to the Defendant?

14 A Yes, ma'am.

15 Q And what did you asked him and what did he say?

16 A I asked him first if we could move away from the front of
17 the house, as Corporal Bannister was, at that time, setting up
18 crime scene tape to secure the house as a crime scene. I asked
19 him if he would accompany me to the side of the house so we could
20 have a little bit more privacy and be away from the front. I
21 just then asked him what happened?

22 Q And what did he tell you when you asked him what happened?

23 A He told me that his girlfriend and he had been sitting
24 around the house just reading, enjoying the day, when she asked
25 him to go up to the local corner store, the Hwy 252 and 413 and

1 buy her a drink and pack of cigarettes.

2 Q Which store was that, what's the name of that store?

3 A I believe it's the Texaco, it was the newest store there at
4 that intersection, there are only two convenient stores, and it
5 was the newest.

6 Q All right, go ahead.

7 A He said that she asked him to go up there and buy her a
8 drink and a pack of cigarettes, and that she loved him. He said
9 that he drove up to the store, he bought the drink, he bought the
10 pack of cigarettes and he returned to the house. He told me that
11 when he returned to the house he found his girlfriend sitting on
12 the sofa where he had left her and that she had a gunshot wound
13 to her head and that she had a gun in her hand.

14 Q Go ahead.

15 A He stated that he then called 911 and told them about the
16 fact that he had come home and found her with the gunshot wound
17 to her head.

18 Q Did he say whether or not she had any depression?

19 A Yes, yes, ma'am. He told me that she had been depressed
20 lately that her father was dying with cancer, and that she was
21 very upset about that.

22 Q Did he say how he and she were getting along?

23 A He said that they were getting along fine, that they had no
24 problems.

25 Q Did he say anything at that time about how she got along

1 with her husband?

2 A Yes, ma'am. He told me that she did not get alone with her
3 husband, that she had been afraid of him in the past, and that
4 they had previously been boyfriend and girlfriend before but they
5 had broken up because she feared for his life, the Defendant's
6 life, from her husband.

7 Q So you were the first individual to talk to him, the
8 Defendant, is that correct, there at the scene?

9 A I was second Anderson County Deputy that came into contact
10 with him. I don't know if any conversation he had with Corporal
11 Bannister, but I was the first one to have any lengthy
12 conversation with him about what had happened.

13 Q And what if anything did he tell you about a struggle over
14 the gun?

15 A He never mentioned about the struggle over the gun.

16 Q What, if anything, did he tell you about an accidental
17 discharge?

18 A He never mentioned an accidental discharge.

19 Q But he told you that she was afraid of her husband---

20 A Yes, ma'am.

21 Q ---and that she had been depressed?

22 A And that she had been depressed, yes ma'am.

23 Q What if anything did he tell you about him being there when
24 the gun shot her?

25 A He said he wasn't there and he said he was at the store and

1 he said the last time he saw her she was sitting on the sofa
2 reading a magazine and that she loved him, and that when he left
3 the house she was still fine and when he came back from the store
4 that's when he discovered that she had a gunshot wound to her
5 head.

6 Q What, if anything, did he mention to if you about them
7 having any kind of argument over photos or anything else before
8 that happened?

9 A He never mention any argument at all, the impression he gave
10 me is that they were very happy together and that they had no
11 problems at all.

12 Q Now did you threaten him or coerce him in any manner?

13 A No, ma'am, I tried to make him as comfortable as possible.

14 Q At that point had you even been inside the house?

15 A No, ma'am. My entering the house was limited until just
16 before the Defendant and myself left the scene, where I would
17 just stick my head in and speak to my lieutenant for just a
18 moment and then I left. I never actually physically entered the
19 house other than just my head.

20 Q Well was the Defendant handcuffed?

21 A No, ma'am.

22 Q Where were you all sitting?

23 A Well, at first we tried to sit on the tailgate of a truck,
24 to the left of the house, but we couldn't get the tailgate down
25 so he sort of perched on the bumper, after a while it began to

1 get hot and he seemed to uncomfortable perched on the bumper, so
2 I suggested that we move over to a storage shed where there was
3 some shade to the left of the house. I got him a plastic chair
4 that was sitting around the side of the house in the sun, we
5 pulled it in the shade and he sat there and I just stood in the
6 shade.

7 Q And at that point did you have idea whether the scene was
8 persistent with what he was saying or not?

9 A No, ma'am.

10 Q Did the Defendant later talk to an investigator at scene?

11 A Yes, ma'am.

12 Q And after he talked to that investigator, what did you do?

13 A After he spoke to Investigator Black, Investigator Black
14 came to me and explained to me that there was going to be a test
15 done on the Defendant by another investigator, and that after the
16 test was performed, I should offer to take the Defendant to the
17 sheriff's office for a further interview about what had happened
18 to continue the -- trying to find out what had happened at the
19 scene. Mr. Black told me to make sure, very specifically, that
20 the Defendant understood that he was not in custody, because I
21 had asked him that. I had asked him was I transporting the
22 Defendant as a witness or in custody, it makes a difference as to
23 whether I use handcuffs or not, or to whether he has to go or not
24 at all. He said to make sure that the Defendant understood he
25 was to go willingly, not in custody and he was not under arrest.

1 Q You say he was going as a witness?

2 A Yes, ma'am.

3 Q And did you ask the Defendant whether or not he wanted to go
4 to the sheriff's department to give a statement, to give a
5 written statement?

6 A Yes, ma'am.

7 Q And did he agree to do that?

8 A Yes, ma'am. He at first asked me why.

9 Q What did you tell him?

10 A Well I explained to him that dealing with what the
11 temperature was at the time, it was a very hot day for March, it
12 was a very hot day, we had had a spell, and I explained to him
13 that the sheriff's department had air conditioning, it was a much
14 quieter environment, at the time a large group of family members
15 of the victim had much begun to congregate, much larger than we
16 had the capability to control. There had to be at least 15 to 20
17 family members standing on the grass to the side of the house,
18 and they began to yell insults and threats to the Defendant. They
19 were making various accusations---

20 Q That's okay, don't go into that. As a result of the scene
21 and the chaos at the scene, did you ask if he wanted to go to the
22 sheriff's department?

23 A Yes, ma'am, I thought it would be a much calmer environment
24 and that's how I presented it to the Defendant.

25 Q And did he go?

1 A Yes, ma'am.

2 Q And when you took him to the sheriff's department, where did
3 you all sit when you were waiting for the investigators?

4 A Well when we first got out of the car, I went up to the back
5 door, I opened the door and I preceded in the building ahead of
6 him---

7 Q Wait a minute, you said he was in the back seat then.

8 A Yes, ma'am.

9 Q Why was he sitting in the back seat in your car?

10 A On that day I had a Anderson County School District Five,
11 ride-along student, and from the moment we arrived on the scene
12 itself I didn't allow him to leave the car because he was only
13 16, he was an Anderson County Student and also I thought that if
14 he did not have an official reason for being there that his
15 getting out of the car would only serve to ruin the crime scene
16 in some way, because he just did not have the right to be there.
17 Therefore, I made him sit where he had been sitting at the
18 beginning of the day, which was in the front passenger's seat.
19 And I didn't allow him to leave the car until we actually
20 returned to the law enforcement center.

21 Q Okay, and when you got to the sheriff's department, you said
22 you all, you were saying you all went into this building, where
23 did you all go, where did you all end up?

24 A We went up to the second floor and we were walking up and
25 down the hallway looking for some place to just sit down. I

1 didn't know exactly where to go, it was a brand new building, it
2 was only the second time I had ever been on the second floor of
3 that building. I found Captain Skipper, with the sheriff's
4 office and I asked him if he would let us in to one of the rooms
5 they had set up specifically for interviews, and he came over and
6 unlocked the door and he let us in, and we all sat down around a
7 conference-type table and left the door open. And I proceeded to
8 write my report on the incident that had happened on my lap top
9 and the Defendant sat across the table from me, and we just sat
10 there and waited.

11 Q Now, was this just a regular room?

12 A (No response).

13 Q Did it have any jail cells, handcuffs, that sort of thing?

14 A Oh, no ma'am.

15 Q Is it kind of like an open room with a conference table?

16 A It's an open room with a conference table.

17 Q And was the Defendant threatened, coerced, made any promises
18 at all while you had him in that room?

19 A No, ma'am.

20 Q And did the investigators finally come?

21 A Yes, ma'am.

22 Q Now, are investigators dressed in uniforms, or are they just
23 dressed in plain clothes?

24 A They are just dressed in plain clothes.

25 Q And when the investigators came to the room do you remember

1 whether or not they had anything with them?

2 A Mr. Black was the only one that came to the room when I was
3 there, and I believe he had a drink and a bag from a fast-food
4 restaurant Burger King, McDonald's, something like that.

5 Q Was this around lunchtime, sometime after lunchtime, right
6 after lunchtime?

7 A Yes, ma'am, it was sometime after lunchtime, not very far,
8 perhaps an hour or more.

9 Q And when investigators got there, what did you do?

10 A I left. I left the room, I went downstairs and sat in a
11 lower room in the building and I typed out a statement.

12 MS. WHITE: No further questions.

13 THE COURT: Cross-examination?

14 MR. BREHM: Thank you, Your Honor. May it please the
15 Court.

16 CROSS-EXAMINATION:

17 BY MR. BREHM:

18 Q Deputy Smith, can I show this diagram, and ask you what that
19 is.

20 A This is a copy of my incident report that I wrote.

21 Q Copy of your incident report.

22 A Yes, sir.

23 Q And in your incident report you indicate that the plaintiff
24 (sic) called -- do you have a copy?

25 A Yes, sir, right here.

1 Q You indicated that the Defendant called 911 and reported
2 that his girlfriend shot herself.

3 A Yes, sir.

4 Q You indicated who the employees of EMS were?

5 A Yes, sir.

6 Q You indicated that Ms. Farah Pullets is a neighbor, she's
7 there, correct?

8 A Yes, sir.

9 Q And you go through what Kevin told you had happened?

10 A Yes, sir.

11 Q And it's got your name down at the bottom?

12 A Yes, sir.

13 Q And it's dated, what date?

14 A It's dated March 10th, 2000.

15 Q And what was your role when you went out to the scene, what
16 was your responsibility?

17 A My primary responsibility, as a road patrol officer, is to
18 secure the scene, secure any witnesses and or subjects if
19 necessary, to provide aid to any victims if necessary, and to
20 wait until investigators show up.

21 Q Okay, and following your responsibilities and duties, you
22 are required to -- well, you are supposed to do a report.

23 A Yes, sir.

24 Q And on page 2 of the report are the people that entered the
25 house?

1 A Yes, sir.

2 Q And then on page 3 you've got additional people that are at
3 the house?

4 A Yes, sir.

5 Q Okay, can you tell the jury on your incident report where
6 it's got additional other people that are at the house, can you
7 count for me how many people you listed in your report that were
8 there?

9 A That would be four.

10 Q Okay, can you tell me who the other 15 or 16 people, family
11 members?

12 A I'm sorry?

13 Q You indicated during your testimony that there were two
14 reasons why you took Kevin put him in your patrol car and took
15 him away, and one of them was there were 15 to 20 family members
16 there.

17 A Yes, sir.

18 Q Do you know how the family members got there?

19 A I believe some showed up on foot and some drove up in
20 vehicles.

21 Q Do you know who the family members were?

22 A No, sir.

23 Q Do you have anywhere in your report that there are 15 to 20
24 family members there?

25 A No, sir.

1 Q Now you also indicated that another reason that you put your
2 -- put Kevin in your car was because it was hot.

3 A Yes, sir.

4 Q It was March 10th, which is winter time, 2000.

5 A Yes, sir.

6 Q Can you tell me, roughly I know you can't give me exactly,
7 but what you think the temperature was that day?

8 A Well, I know it was extremely hot, I could have been just
9 used to colder weather throughout the winter, just feeling it was
10 hot, but if I had to put a estimate on it, I would say it was at
11 least somewhere between 70 and 80 degrees, for a March day it was
12 very warm.

13 Q Okay, and 70 degrees is extremely hot?

14 A After a winter time, with the cold weather, I would probably
15 think that it was.

16 Q Now, as an officer you've got your uniform on, correct?

17 A Yes, sir.

18 Q You also wear the vest?

19 A Yes, sir.

20 Q That makes things hot for you, correct?

21 A Yes, sir.

22 Q And Kevin had a tee-shirt on?

23 A I don't recall.

24 Q You don't recall him wearing a tee-shirt?

25 A No, sir.

1 Q He never indicated to you that he was hot, did he?

2 A I don't recall.

3 Q He never indicated to you that he was in any discomfort
4 other than the fact that his girlfriend had just died.

5 A I don't recall if we ever discussed the temperature or not,
6 sir.

7 Q Did any of the family members have weapons?

8 A I do not know sir.

9 Q So he was taken away in the back seat of the patrol car
10 because of all the family members, that was threatening him, and
11 because it was hot. Now when you get down to law enforcement
12 center, or the sheriff's office, and you put him in a room, and
13 what do you call those rooms?

14 A Well, I didn't put him in the room, I led him to the room,
15 as just someplace for us to sit. I don't know the exact title,
16 like I said that's only the second time I had ever been on the
17 floor of that building, at the time we hadn't been in it very
18 long, I imagine that they call it the interview room.

19 Q There's a lobby in the building; isn't it?

20 A Yes, sir.

21 Q There's places like a lobby.

22 A Yes, sir.

23 Q Okay, there's a place for the general public to come in and
24 sit down?

25 A Yes, sir.

1 Q And he wasn't placed in the lobby, you say he was placed in
2 an interview room.

3 A No. No, I lead him into the---

4 Q You lead him to the interview room.

5 A I lead him into the interview room, I didn't place him
6 anywhere, he wasn't in custody.

7 Q I know, he told me about it, and my question I'm going to
8 get to---

9 MS. WHITE: Your Honor, is there a question somewhere?

10 THE COURT: What's your objection, do you have
11 relevancy?

12 MS. WHITE: No, sir, I have an objection to making
13 comments instead of asking questions.

14 THE COURT: I will agree. Don't make your comments,
15 ask you questions, but what's the relevance of this line of
16 questioning at this point in time?

17 MR. BREHM: Talking about the interview room, I'm going
18 to talk -- I'm going to go into the interview room about his
19 height.

20 THE COURT: Go ahead, but let's move on to something
21 relevant.

22 Q The interview room, any windows in the interview room?

23 A (No Response.)

24 Q There are no windows in the interview room, are there?

25 A That's a difficult question, there sort of is.

1 Q Okay, well.

2 A It's a one way mirror.

3 Q One way mirror, but no windows looking out into the outside.

4 A No, sir.

5 Q And the door is shut, or is it opened wide open?

6 A When we arrived or when we sat down in the room?

7 Q When you sat down.

8 A When we sat down in the room the door was ajar approximately
9 6 inches.

10 Q And then my client tells you he has got to go to the rest
11 room.

12 A Yes, sir.

13 Q And you, do you let him go down to the rest room by himself,
14 explain to the jury what happens, when he says he's got to go to
15 the rest room.

16 A When he said he had to go to the rest room, I said okay. He
17 said where is it, and I didn't know, so I went and found Captain
18 Skipper, and Captain Skipper pointed us out the direction of the
19 rest rooms, which happen to be left down the hall. So then I led
20 the way down to the rest rooms, at the time since I had been busy
21 with this situation for approximately two and half hours, I felt
22 the need to use the rest room myself, and also the 16 year old
23 ride-along came with me. We, all three of us went in to use the
24 rest room, the 16 year-old and myself, we left first and we
25 started walking back down to the room where I left my lap top.

1 We walked down there, the Defendant came out of the bathroom
2 after us and followed us back down to the room where I had left
3 my lap top.

4 Q So you and the 16 year old go to the bathroom room with him.

5 A We went at the same time.

6 Q When you come out, you say that investigator Black and Smith
7 come in.

8 A All I saw was Mr. Black, I didn't see Mr. Smith.

9 Q And this, my client he is, he's upset, correct?

10 A At that time?

11 Q At any time that you saw him was he upset?

12 A He was upset for about the first 15 or 20 minutes that I saw
13 him.

14 Q Okay. And when you say, you say that you did not go,
15 actually go into the scene.

16 A No, sir, I just stuck my head in and said something to my
17 lieutenant, and left.

18 Q Okay. Talking about, going back to the condition of Kevin,
19 have you ever seen him before?

20 A No, sir.

21 Q Did you know Kevin either by word of mouth, or personally?

22 A No, sir.

23 Q So you wouldn't know him if he was upset, happy you wouldn't
24 know his, the way he expresses his conditions, would you?

25 A No, sir other than just comparing to just regular emotions,

1 no, sir.

2 Q And at some point you then type out, I guess a narrative?

3 A It's a statement.

4 Q A statement. At whose request did you do this additional
5 statement?

6 A I usually do those in the event of a investigation of a
7 serious nature, just to cover all the fine details.

8 Q And why don't you put it in your report?

9 A It is usually when writing a report of a serious nature,
10 something this serious, I try to cover the basics, I try to cover
11 all the basic points of it, and anything else that needs to be
12 covered in fine detail is usually done in supplemental reports.

13 Q Okay so you are not out there actually writing stuff down,
14 taking a statement from Kevin, word for word, as he keeps
15 talking.

16 A No, sir.

17 Q You take what's said, you had a conversation with law
18 enforcement, possibly family members, EMS, other police officers,
19 go down to law enforcement center and talk to, or Anderson
20 Sheriff's Office, and find your way around that building, and
21 then you sit down and try to recollect what was said, that's the
22 way this was done, correct?

23 A As I remembered what was said.

24 Q And you recall him saying that he was kicked out of his
25 parents house.

1 A Yes, sir.

2 Q Do you recall talking to Shannon Jordan, who just testified?

3 A (Pause).

4 Q Is it possible that you talked to Shannon Jordan out there?

5 A I don't believe I ever met her, I could be wrong, but I
6 don't think I ever did. The only female I remember speaking to
7 out there was Ms. Pullets.

8 Q Now, you were not or don't claim to be a witness to what
9 actually happen, are you?

10 A No, sir.

11 Q You are just someone that arrived afterwards and you are
12 trying to put pieces back together, correct, or do your job.

13 A Just try to do my job.

14 Q So you can't tell this jury what happened on March 9th of
15 2000.

16 A No, sir.

17 Q Can't tell the jury what happened in the morning of March
18 10th.

19 A No, sir.

20 Q You can't tell the jury what actually happened when this
21 fatal shot hit Leanne Pearson, can you?

22 A No, sir.

23 MR. BREHM: Nothing further, Your Honor.

24 THE COURT: Any re-direct?

25 RE-DIRECT EXAMINATION

1 BY MS. WHITE:

2 Q The incident report you talked about and you just put a few
3 details in, is that a public, in fact the press comes in and
4 looks at it pretty much on a daily basis?

5 A Yes, ma'am.

6 Q And so in a serious investigation, for your detailed
7 statement, why do you not put it in the incident report, and do a
8 supplemental for the detective's investigation?

9 A Because according to the way, this is what I'm led to
10 understand, I don't know this to be a fact, but what I've always
11 been taught while at the sheriff's office, it's under the Freedom
12 of Information Act, anyone is entitled to come in and get a copy
13 of the incident report. However, they are not entitled to
14 supplemental reports that go along with it. So often in a serious
15 investigation you write down the basic merit of what happened and
16 then for more specific things such as investigative notes,
17 possible suspects, things that would probably be inflammatory if
18 it got out to the public, you put in a supplement report for
19 privacy.

20 Q And did you type up a supplemental report that day?

21 A Well, technically---

22 Q Or a statement?

23 A Yes, I did type a statement.

24 Q All right, this is the day, March 10th that you typed that;
25 is that right?

1 A Yes, ma'am, I typed it.

2 Q If you'll start right here, what did you type?

3 A "During most of the rest of the time I was there, I tried to
4 keep in between the subject and members of the victims' family
5 who kept showing up and becoming more and more vocally out spoken
6 about their opinion of the subject."

7 Q Did you in fact have to get between one of the relatives and
8 the Defendant?

9 A Yes, ma'am.

10 Q Okay, and then if you will continue in your supplemental
11 report.

12 A "While the test was being given, more relatives of the
13 victim arrived on the scene and started yelling at the subject
14 across the yard."

15 Q The test we are talking about, is just any witness, victim,
16 or Defendant, if there is a shooting, you swab their hands for
17 gunshot residue; is that right?

18 A Yes, ma'am.

19 Q Not you, but your ID---

20 A The forensic officers.

21 Q And this was the a statement that you drafted that day?

22 A Yes, ma'am.

23 Q The Defense attorney asked you, I believe if you took this
24 person's statement in the lobby, do you all have interview rooms
25 at the sheriff's department where you bring people in private and

1 take their statement?

2 A Oh, yes, ma'am, we have many rooms for that sort of
3 discovery since I've been there.

4 Q And who all sits in the lobby?

5 A Generally people who are coming in to make police reports,
6 or waiting for civil documents to get processed.

7 Q So is it common, or uncommon, for you to take witnesses,
8 people who are bereaved over something, defendants, anybody like
9 that and interview them in the lobby while everybody's waiting
10 out there?

11 A We would never do it in the lobby, we have different rooms
12 now for bereaved relatives, or witnesses, or suspects.

13 Q And the Defendant told you that day, you said ,why he left
14 his parent's house. Why did he -- what did he tell you that day
15 about why he left his parents house?

16 A He told me that basically he had to leave, that his parents
17 were upset about his involvement with the victim, and that they
18 put him out of the house because he was seeing her again.

19 MS. WHITE: No further questions.

20 THE COURT: Re-cross?

21 RE-CROSS-EXAMINATION

22 BY MR. BREHM:

23 Q Deputy, I need you to look at your incident report.

24 A Yes, sir.

25 Q Talking about this and this.

1 A Yes, sir.

2 Q When the Prosecutor asked you about when you wrote this and
3 why you wrote this, this supplemental statement---

4 A Yes, sir.

5 Q Again referring to your actual report---

6 A Yes, sir.

7 Q Can I get you to read what I've outlined for you?

8 A Okay.

9 MS. WHITE: Your Honor, I ask that he clarify which
10 report, the public incident report, or the---

11 THE COURT: I think he said incident report.

12 MS. WHITE: He said the incident report?

13 THE COURT: He said incident report.

14 MS. WHITE: I'm sorry, I didn't hear that.

15 THE COURT: It's the public incident report, go ahead
16 and read it.

17 A "At that time the complainant told reporting officer that
18 his girlfriend had been sitting on the sofa reading. He stated
19 that she has asked him to go the store and buy her a drink and
20 some cigarettes, he stated that he went down to the new Texaco at
21 413 and 252. He stated that when he got home about 20 minutes
22 later he found her on the sofa with the gun in her hand.
23 Reporting officer did not ask him anymore questions."

24 Q Reporting officer did not ask him any more questions.

25 A Yes, sir.

1 Q Officer, how did you find out about his parents supposedly
2 kicking him out of house?

3 A It came up in the conversation, I suppose.

4 Q You suppose.

5 A Yes, sir. It was probably addressed during the conversation
6 while we were just sitting there.

7 Q Okay. How did it come out that she had been reading a
8 magazine?

9 A He told me that she had been reading a magazine.

10 Q How did it come out that her hand was covered with blood, or
11 that she was covered with blood?

12 A Basically the Defendant volunteered everything that he told
13 me, the questions I asked him were limited to what happened and
14 didn't really get much more specific than that.

15 Q Officer, you would agree with me, after reading your report
16 that you did right after this incident, that's dated and signed
17 off by your superior...

18 A Yes, sir.

19 Q One would have to assume that you asked him a couple of
20 questions about those tapes, and then after those couple of
21 questions, such as, who were you with. My girlfriend. Where was
22 she in the place, on the sofa, what's she doing, reading, what
23 happened, went to the store and got a drink and came back and she
24 had a gun in her hand, reading this it sounds like you asked
25 about 3 or 4 questions.

1 A Possibly so.

2 Q Where does this come from?

3 A He sat there talking for a while, sir.

4 Q Why is this not dated and signed off by a superior officer?

5 A It's just a written statement, I don't know why it wasn't
6 signed off by a superior officer, I just typed it on a program on
7 my computer and that was it.

8 Q Well there was a reason why you have these reports, correct?

9 A Yes, sir.

10 Q And don't you have incident reports that have, instead of
11 incident report you had supplemental report?

12 A Yes, sir.

13 Q It's not your practice to type your narratives on a
14 supplement reports.

15 A Well the problem with that is this particular computer
16 program, we've had some problems with typing things in it at the
17 time, and still now have today. I can't type a supplemental to a
18 report that's already been turned in. So as soon as I finish the
19 report I turn it in, then I typed my written statement. But I
20 had to do that through a separate program in the computer and
21 hand it in as a document rather than as part of the report,
22 because even now, even though we are trying to iron out the
23 problems with our computer system, I still can't type a
24 supplemental to my report on my lap top, and then turn it in and
25 have it them add it to the original report. We still don't have

1 that capability. It's just a problem with the report system.

2 Q Officer, why can't you type your supplemental the way you
3 type your initial report?

4 A I was trying to give my report to my supervisor as soon as
5 possible.

6 Q You were trying this incident report---

7 A The first original incident report to my supervisor as
8 quickly as possible.

9 Q That doesn't answer my question. Why can't you type the
10 supplemental, that means you have to submit it to you supervisor,
11 why can't you type this thing as it's supposed to be on the
12 supplemental report?

13 MS. WHITE: Your Honor, that's asked and answered, he
14 just answered that.

15 THE COURT: I'll sustain the objection.

16 He just explained to the jury why he couldn't do it because
17 of the computer's system, move on.

18 MR. BREHM: Judge he said he couldn't do it because he
19 was typing on his lap top. What I was trying to get at was
20 why---

21 THE COURT: Rephrase your question and move on, okay?

22 Q Why do you -- why do switch from using, I guess a type
23 writer to you lap top to do this?

24 A Oh, no this is the a -- this is a lap to.

25 Q Why does this look like this form and this is in this form?

1 A Because this is the computer system we use, that's for
2 reports, that's why the type-face looks like this and everything,
3 and my statement is done I believe in either word or note pad,
4 which is a different text style and different lettering and
5 everything.

6 Q You just did this on you own.

7 A Yes, sir.

8 MR. BREHM: Nothing further.

9 THE COURT: Officer Smith, you may be excused, you are
10 welcome to stay if you so chose.

11 Solicitor, you want to call your next witness?

12 MS. WHITE: The State calls Tammy Alewine.

13 THEREUPON:

14 TAMMY T. ALEWINE,
15 after having been first duly sworn, testified as follows:

16 THE CLERK: Please have a seat in the witness chair,
17 state your name, and spell your last for the record.

18 MS. ALEWINE: My name is Tammy Taylor Alewine,
19 A-L-E-W-I-N-E.

20 DIRECT EXAMINATION

21 BY MS. WHITE:

22 Q What's your occupation?

23 A I'm a customer mobile operator at Wilson Sporting Goods.

24 Q And did you know the victim in this case?

25 A Yes, ma'am.

1 Q How did you know her?

2 A She and I have been good friends for ten years.

3 Q I want you to be sure to talk all the way back to this back
4 wall, because everybody needs to hear you all the way back. You
5 are going to sound like you are yelling to yourself, but you are
6 not, but It's hard to hear over here. How often would you talk to
7 Leanne?

8 A Leanne and I normally talked on the phone everyday.

9 Q And did you know the Defendant?

10 A I had met him.

11 Q And how did you know him?

12 A Through Leanne.

13 Q And now approximately a week before her death, did you see
14 Leanne?

15 A Leanne died on March 10th, March 3rd she and I had planned
16 to go out to lunch, we met and had the little girlfriend thing,
17 exchanged birthday gifts.

18 Q And during that time did you talk to her about her
19 relationship with the Defendant?

20 A Yes, ma'am.

21 Q And did she tell you of any plans that she had in intended
22 for the future?

23 A Well I had already known before then that she had planned on
24 leaving him. She was going to move in with her dad. She had
25 called me and asked me if I knew of anyone that had a queen size

1 bed for sale, because she needed a bed to stay at her dad's
2 house, and I told her that since her dad was dying there was no
3 need to buy a bed, I had a bed she could borrow.

4 Q Did she appear to be depressed about having to go to stay
5 with her dad, or did she appear to want to go stay with her dad?

6 A She wanted to stay with her dad.

7 Q So how much time did she want to spend with her dad before
8 he died?

9 A As much time as possible.

10 Q And did she discuss with you her plans for the future, if
11 any, of a relationship with the Defendant?

12 A Well she told me once that when she moved that would be the
13 best way to end the relationship with Kevin.

14 Q So to your knowledge, was she happy with the relationship
15 with the Defendant or not happy?

16 A Not happy.

17 Q Now the morning of her death, did you talk to Leanne on the
18 telephone?

19 A Yes, ma'am.

20 Q And please describe to the jury how she acted and what'd she
21 say?

22 A Well she called me that morning, she got Kevin to get away
23 from the phone, because I could tell he was -- I didn't think he
24 was supposed to be there I thought he was working. But by the
25 way she was talking to me, I could tell he was sitting right

1 beside her. So she asked him to go get, I can't remember if it
2 was something to drink or to do something, just to get him away
3 from the phone. And she did, she did, she whispered to me over
4 the phone that she had paid a locksmith \$50 twice to get into his
5 truck to find the pictures and the tape that had been missing.

6 Q And how did she appear to be acting?

7 A Like her normal self. She was angry though, that, because
8 the day before they had found those pictures.

9 Q And how did you know she was angry about that?

10 A She told me she was going to end the relationship.

11 Q She said she was going to end the relationship. How
12 determined did she appear to be?

13 A Very.

14 Q Did you ever talk to Leanne again?

15 A After that morning, no, ma'am.

16 Q Do you know approximately what time it was she told you she
17 was going to end the relationship?

18 A Anywhere from 8:30 to 9:30 that morning, I was surprised
19 that she called me that early, normally she waits until later
20 that.

21 Q Was that unusually for her calling you that early?

22 A I thought so.

23 MS. WHITE: I have no further questions.

24 THE COURT: Cross-examination?

25 CROSS-EXAMINATION:

1 BY MR. BREHM:

2 Q Ms. Alewine, the information that you had pertaining to
3 Kevin, primarily came from Leanne telling you or talking to you
4 about Kevin.

5 A But I've also had conversations with Kevin, he has called my
6 house on numerous occasions.

7 Q Okay and for the record she was married to Steve Pearson,
8 correct?

9 A Yes, sir.

10 Q And how long had she been married to Steve?

11 A A few years, I'm not exactly sure.

12 Q Okay, and during the course of their marriage she has also
13 discussed with you her problems with Steve, had she not?

14 A His health problems.

15 Q Okay, his health problems and the way he treated her.

16 A They would have arguments occasionally.

17 Q She was upset with him several times because she ended up
18 leaving him to go with Kevin, correct?

19 A It did not stem from arguments that she left Steve, she told
20 me that the reason she was leaving Steve was because it was hard
21 to be a mother and a nurse maid and a wife.

22 Q So, Steve, a nurse maid to her father or a nurse maid to her
23 husband, Steve.

24 A On occasion to her husband.

25 Q To her---

1 A Well she loved Steve.

2 Q But she also loved Kevin, too.

3 A She told me she did.

4 Q And in fact she had been married to Steve, left Steve to go
5 live with Kevin and left Kevin to go back to Steve, then left
6 Steve to go back to Kevin, this was the third time correct? This
7 is the third time that they were living together. They lived
8 together over in---

9 A An apartment, that was the first time she left.

10 Q And she goes back to Steve.

11 A Uh, huh.

12 Q And then she leaves Kevin and they go live, she goes back to
13 Kevin and they live over on East North Street in Greenville, do
14 you remember that?

15 A That didn't last very long.

16 Q But it happened.

17 A I happened yes.

18 Q Okay, and then she goes back with Steve and then she leaves
19 Steve and that's when she moves in with Shannon and Keith and a
20 short while later Shannon and Keith accepted Kevin into their
21 house and they are all living together.

22 A Correct.

23 Q And Kevin's lived there for about 3 months?

24 A Correct.

25 Q Did Leanne ever discuss with you their plans to get married?

1 A No, she did not.

2 Q Did she discuss with you the fact that they had gone to look
3 at rings, like she discussed with Shannon?

4 A No, she did not. She did tell me that he wanted to get
5 married, she told me she would never divorce Steve, because she
6 still loved Steve to much.

7 Q So there's, there was no discussion about her going -- you
8 never knew that she went to look at rings.

9 A No.

10 Q Had any discussion that she went and they had planned on
11 going to the Outer Banks.

12 A She never told me that.

13 Q And you say you knew her for about ten years.

14 A Yes, sir.

15 Q Did you know about her phycological problems?

16 A As far as being mentally disturbed, depressed, no. I never
17 knew of that. I know that she went, she and Steve both went for
18 marriage counsel.

19 Q Did you know that several years prior to '99 she was on
20 lithium.

21 A No, I didn't, well I knew she had a operation on her knee.

22 Q Okay, did you know that she was suffering from depression,
23 and as a result of that depression she was on lithium?

24 A No.

25 Q Did you ever see episodes, did she ever demonstrate to you

1 episodes of anger, rage?

2 A Not rage, I've seen her get angry.

3 Q She got angry she got mad, I mean she got really mad.

4 A But it was not to the point where she made a sceptical of
5 herself, she voiced her opinion and normally it was just a
6 conversation that she and I were having with each other.

7 Q Okay. Did you know that she was going to psychiatrist, or a
8 psychologist, someone to help her with her with Steve, her
9 father, her father's illness, her family. Did she ever discuss
10 with you why she was going to the therapist?

11 A No.

12 Q Do you know that she had been prescribed for paxil or any
13 other medication?

14 A I know that she had been taking medication at one time to
15 try to quit smoking.

16 Q Did you ever see her just broke down and start crying?

17 A Yes.

18 Q Break down and start crying, just uncontrollable crying?

19 A Not uncontrollable, but I've seen her break down and start
20 crying.

21 Q What, you know, that she indicated to you that she loved
22 Steve and she loved Kevin, but in addition to that, she also
23 loved her father, correct?

24 A Oh, absolutely.

25 Q Her father was a very important part of her life.

1 A Yes.

2 Q And she also loved her children.

3 A Very much.

4 Q And in February of, let's see, in February of 2000, did you
5 know that she learned that her father didn't have to much longer
6 to live?

7 A Yes, but she also knew her dad had been sick for at least
8 two years and she knew this was something that was going to
9 happen and she was trying to prepare herself for that. And she
10 did a very good job of preparing herself for it.

11 Q Now, you -- how from February of 2000 until March, how many
12 times did you see her?

13 A Twice.

14 Q During the 44, 45 days.

15 A Twice.

16 Q So the other 42, or 43 days or so you didn't know what she
17 was doing, what was going through her mind.

18 A I talked to her on the phone, if it wasn't every day, I know
19 it was at least five times a week.

20 Q And she never displayed to you the crying when she was
21 talking about her father.

22 A I remember her crying about her dad but that's very
23 understandable.

24 Q And I agree, I mean, it's a very stressful situation when a
25 loved one is dying. What about her children, when she moved in

1 with Kevin over in Easley, her children went with her, correct?

2 A Right.

3 Q And then when she moved back, came back to Kevin and lived
4 with Kevin over in Greenville on East North Street, her children
5 were with her?

6 A Yes, sir.

7 Q But this time when she went to live with Shannon and Keith
8 her children weren't with her, were they?

9 A No, but she had contact with them every day.

10 Q Okay, but she had always lived with her children had she
11 not?

12 A Yes, but the reason her children were not with her is
13 because they were in school and if they had gone with her to
14 Belton, they would have transferred schools. Kayce was about to
15 graduate high school and there was no sense in her moving to
16 another school, she stayed where she was at.

17 Q And I understand that, but in terms of how it affected
18 Leanne, that didn't make her happy that her children weren't with
19 her, did it? She was upset that they weren't able to live with
20 her.

21 A She would rather her children been living with her but she
22 was not depressed about it.

23 Q Did her -- did you know about -- one second. Do you know
24 about her mother having heart surgery at some point?

25 A I know her mother had health problems.

1 Q Now you indicated that Leanne had told you that she was
2 going to end the relationship.

3 A Yes, sir.

4 Q And did you know that they had gone to meet with Todd, his
5 brother, did she ever indicated that she had met the brother?

6 A She told me that she had met his grandparents. On the
7 morning that she died, she told me she met his grandparents the
8 day before, but she also told me that the reason she went to do
9 that was so that she could get Kevin out of the house, so that
10 Shannon and Farah could get into the truck so when the locksmith
11 come out Kevin wouldn't be there.

12 Q So she goes to the grandparents and discusses marriage, but
13 the---

14 A I don't know what she discussed with them.

15 Q But there's some evidence that she met the grandparents the
16 night before and that was for the purpose of getting Kevin out of
17 his truck?

18 A To get him away from the house so they could have the
19 locksmith go into the truck.

20 Q We are talking about March 9th, 2000.

21 A Yes, sir.

22 Q Did she tell you why she needed to go back in the truck ?

23 A Because she had the pictures missing again and the tape.

24 Q Did she tell you that Farah and Shannon had already been in
25 the truck?

1 A She told me that, that morning that she paid a locksmith \$50
2 twice, to go into his truck. And that while she was gone with
3 Kevin to his grandparents house, she had Farah and Shannon get
4 the locksmith to come out and go back into the truck.

5 Q But they actually drove Kevin's truck to the grandparents.

6 A They didn't drive his truck, they went in her car.

7 Q So on March---

8 A The truck was left there, that's how the locksmith got in.

9 Q On March 9th, that's your testimony that they went into his
10 truck.

11 A She died on Friday, on Thursday the locksmith went into the
12 truck, it was my understanding of the conversation I had with her
13 on the morning of her death.

14 Q And did she tell you that they found what they were looking
15 for?

16 A No. She couldn't really talk to me because he was there. In
17 fact, she tried -- when I was trying to find out why he was there
18 she tried to make him think by the conversation he was hearing,
19 her side of the conversation, that we were talking about her dad.
20 Her dad was out of town in Beaufort at the time.

21 Q Okay. So she's whispering, and supposedly she doesn't want
22 Kevin to know that she had paid somebody to break into his truck.

23 A Of course not.

24 Q Did she say -- tell you about these pictures that were found
25 in his truck, State's Exhibit 30, 31, and 32?

1 A On March 7th, when Leanne and I met for lunch, and we had a
2 couple of drinks, when we exchanged birthday gifts, in my
3 birthday bag, it was a gift bag, it had several presents in it,
4 she had hidden negatives and from what I could look and tell of
5 the negatives, looked like some of them might be of her children,
6 but others were of negligees. She had hidden them in my birthday
7 bag, she knew that was the one place he would not look for them.
8 When we exchanged gifts, on that Friday, before she died she told
9 me to throw them away. He shows up at my house, uninvited, which
10 I had already talked to her about staying with me that night, we
11 were having too good of a time, I didn't want her to go back
12 home, I wanted her to spend the night with me. When he showed up
13 instead of me just throwing the negatives in the trash can,
14 because he surprised me showing up at my house uninvited, only
15 been there one time. And where I live I'm surprised he could even
16 find it again---

17 Q Ms. Alewine, I don't mean to interrupt you, but my question
18 was, did she tell you about these photographs that had been
19 retrieved?

20 A I don't know that those were the photos from the negatives,
21 that's what I'm trying to tell you, she wanted me to destroy the
22 negatives that she had in my birthday bag. She didn't tell me
23 that those pictures were found, no.

24 Q What I'm getting to is, did she tell you that we broke into
25 the truck and we retrieved these pictures of me in lingerie and

1 that infuriated me?

2 A She couldn't, she told me that she paid the locksmith \$50
3 twice, that's about as much as she could tell me with him sitting
4 right there.

5 Q Do you know why she stopped going to the psychiatrist or the
6 doctor?

7 A No, sir.

8 MR. BREHM: Nothing further.

9 THE COURT: Any redirect?

10 MS. WHITE: Just a couple, Your Honor.

11 RE-DIRECT EXAMINATION

12 BY MS. WHITE:

13 Q In the contact you had, daily phone conversations, limit it
14 the month before her death, did you notice anything that would
15 have indicated to you that she was suicidal?

16 A No.

17 Q Did you notice anything that would have indicated that she
18 wanted to lose her life?

19 A No, ma'am.

20 Q One other thing, you said that she was concerned about
21 Steve's health problems, Steve was her husband; is that right?

22 A Yes, ma'am.

23 Q What had happen to Steve a few years back.

24 A He suffered a head injury at work.

25 Q And since that time has he been affected by his head injury

1 according to her?

2 A Yes, ma'am.

3 MS. WHITE: Nothing further, Your Honor.

4 THE COURT: Any re-cross?

5 MR. BREHM: No, sir, Your Honor.

6 THE COURT: You may step down, Ms. Alewine, thank you
7 very much.

8 MS. WHITE: Your Honor, I would ask that Ms. Alewine be
9 excused, Your Honor.

10 THE COURT: Any objections to the witness being excused
11 Mr. Brehm.

12 MR. BREHM: No, sir, Your Honor.

13 THE COURT: Ms. Alewine you may be excused, you may
14 stay if you so choose.

15 Call your next witness.

16 MS. WHITE: Your Honor, The State calls Mark Coyle.

17 THEREUPON:

18 MARK COYLE,
19 after having been first duly sworn, testified as follows:

20 THE CLERK: Please have a set in the witness chair,
21 state your name, and spell your last for the record.

22 MR. COYLE: My name is Mark Coyle, C-O-Y-L-E.

23 DIRECT EXAMINATION

24 BY MS. WHITE:

25 Q What's your occupation?

1 A I am a crime scene investigate with Anderson County
2 Sheriff's Department.

3 Q What does that mean?

4 A Basically, I go to the crime scene, and the investigators,
5 I collect evidence, take pictures, process any evidence that
6 needs to be processed for fingerprints, gather blood, whatever
7 needs to be gathered.

8 Q Were you working on March 10th, 2000?

9 A Yes, ma'am.

10 Q And did you receive a call late that morning?

11 A Yes, ma'am, about 11:35.

12 Q And where did you go.

13 A To 623 Carroll Road in Belton.

14 Q And that's Anderson County, South Carolina?

15 A Yes, ma'am.

16 Q Now when you got there did you enter a house?

17 A I originally -- when I first got there I talked to the
18 coroner, Greg Shore.

19 Q When you got there did you eventually go inside the house?

20 A Yes, I did.

21 Q When you went into the house, did you go into the living
22 room?

23 A I did.

24 Q And when you got into the living room what, if anything, did
25 you see on the couch area?

1 A I seen the victim sitting on the left side of the couch with
2 a wound to her head, and of course a lot of blood.

3 Q And did she appear to be dead or alive?

4 A No, she was dead.

5 Q Did you perform a gunshot residue test on her hands?

6 A Yes I did.

7 Q And please describe, for the jury, briefly what is a
8 gunshot residue test?

9 A The gunshot residue test is a two part test, it's a particle
10 test and a swab test. Basically, we're trying to collect anything
11 from primer, gunpowder, lead residue, anything off the hands,
12 from the firing of the weapon.

13 Q And when there's a shooting, which individuals do you
14 normally test?

15 A Everybody that's on the -- that has been on the scene at the
16 time.

17 Q Okay, I'm handing you State's Exhibit 6, for identification,
18 what is that?

19 A That is the gunshot residue kit done on Donna Pearson.

20 Q After you collected this kit, what did you do with it?

21 A I placed it, with hers I put it on the seat beside me until
22 we were done.

23 Q And did it stay in you custody at all times?

24 A Yes, it did.

25 Q What did you eventually do with it, to whom did you give it

1 to?

2 A The only other person I give it to was Buddy Ellison.

3 Q And did you tamper with it or alter it in any manner while
4 it was in your custody?

5 A No, ma'am.

6 Q And did you ever have it out of your custody at any time
7 after you took it?

8 A No, ma'am.

9 THE COURT: Mr. Brehm, any objections?

10 MR. BREHM: No objections.

11 THE COURT: All right State's Exhibit No. 6, the
12 residue test of the victim, admitted without objection.

13 (WHEREUPON, victim's GSR kit previously marked as
14 State's No. 6 was admitted without objection.)

15 Q Did you see the gun?

16 A Yes, I did.

17 Q Now had EMS been in this scene before you were in?

18 A Yes, ma'am.

19 Q And when you got in, where was the gun?

20 A It was on the floor beside the coffee table.

21 Q And did you see the magazine of the gun?

22 A Yes, I did.

23 Q Where was that?

24 A Down beside the gun.

25 Q And did you see the bullet?

1 A Yes.

2 Q Where was that?

3 A The stem taken, it was under the coffee, just under the
4 front edge of the coffee table in front of the victim.

5 Q I'm sorry, no, I meant the bullet, itself.

6 A I'm sorry,---

7 Q Okay, let's back up a minute.

8 A Okay.

9 Q When I fire a gun, what comes out the end of the barrel with
10 lead in it?

11 A The bullet.

12 Q And the ejection port, what comes out of the -- let's say I
13 pull the trigger, the bullet comes out the end of the gun, what
14 comes out of the ejection port?

15 A The brass casing.

16 Q All right, and the brass casing does what to the bullet, how
17 do they look?

18 A How do they look?

19 Q Does it encase the bullet?

20 A Yes.

21 Q So it encases the bullet.

22 A Yeah.

23 Q So that's thrown out the side of the weapon while bullets
24 goes down the end of the barrel.

25 A Yes, ma'am.

1 Q All right, and you said the shell casing, the part that
2 comes out the ejection port was where?

3 A It was found in front of the victim, just almost, just a
4 little to her left on the front edge of the coffee table.

5 Q And the bullet that comes out the end of the weapon where
6 was that?

7 A I found it lodged in the third cushion of the couch, on the
8 seat area.

9 Q What were her injuries, could you tell?

10 A It was an entrance wound on the, would be on the right side,
11 and the exit wound on the left side, almost on her cheek bone.

12 Q All right, so she's sitting on the couch, and you said that
13 the entrance wound, somewhere in this area---

14 A Yes, ma'am, over here.

15 Q ---there's an exit wound somewhere around here, where's the
16 bullet?

17 A In the couch.

18 Q This way?

19 A Right.

20 Q Did you do anything with a rod?

21 A The coroner helped me, we set her in an upright position,
22 like if you were sitting there watching TV.

23 Q All right, so she was sitting upright.

24 A Right, and the head facing forward and we run the trajectory
25 rod, that's actually how we found the bullet, because the fabric

1 had closed up around it. We run the angle trajectory rod and it
2 leads us right to the bullet in a sofa cushion.

3 Q Okay, so you take the trajectory rod and you line it up with
4 the entrance wound, the exit wound and just follow it and that's
5 how you try to find the bullet?

6 A Yes, ma'am.

7 Q All right, now, did it line up with her looking straight
8 ahead or sideways, or what?

9 A Straight ahead towards the TV.

10 Q So it all lined up like this?

11 A Yes, ma'am.

12 Q And did you recover the bullet?

13 A Yes, ma'am, I did.

14 Q And you also recovered the magazine from the weapon.

15 A Yes, ma'am.

16 Q And did it have ammunition in it?

17 A Yes, ma'am.

18 Q And did you recover the shell casing?

19 A Yes, ma'am.

20 Q Let's start first with State's Exhibit 9 for identification,
21 what are those?

22 A The bullet out of the couch and the shell casing.

23 Q Would you take a look at those and see if they are in the
24 same condition?

25 A Yes, ma'am.

1 Q And did you tamper with those or alter them in any manner
2 after they came into your possession?

3 A No, ma'am.

4 THE COURT: Mr. Brehm, do you have any objection?

5 MR. BREHM: No objection.

6 MS. WHITE: Your Honor, State's Exhibit 9.

7 THE COURT: Bullet and shell casing, admitted with out
8 objection.

9 (WHEREUPON, a bullet and shell casing previously
10 marked as State's No. 9 was admitted without
objection.)

11 Q Now, other than -- well I'm handing you State's Exhibit 13,
12 other than some of those being fired by SLED, when they were
13 tested at SLED, do you recognize those?

14 A Yes, ma'am.

15 Q And what are those?

16 A Those were the bullets that were left in the magazine.

17 Q And at the time you recovered them, where the bullets in the
18 magazine in tack, or had they been fired?

19 A They were intact.

20 Q I believe there were 1,2,3,4,5,6, is that correct?

21 A Yes, ma'am.

22 MS. WHITE: Your Honor, I would ask---

23 THE COURT: Mr. Brehm, any objection?

24 MR. BREHM: No objection.

25 THE COURT: All right, State's Exhibit 13 bullets left

1 in magazine admitted without objection.

2 (WHEREUPON, bullet left in magazine previously
3 marked as State's No. 13 were admitted without
objection.)

4 Q Did you see anything beside the front door?

5 A Yes, there were a couple of drinks and a couple packs of
6 cigarettes.

7 Q I'm handing you State's Exhibit 4, for identification, take
8 a look in there and see if you recognize those.

9 A Yes, ma'am.

10 Q Now were they in the bag, or was that just something you
11 just put them in?

12 A I think they were just put in there, I think they were
13 laying loose.

14 Q Where were -- what -- you said you did recognize that; what
15 is it?

16 A It's two Mountain Dews, one diet, one regular, two packs of
17 cigarettes, Doral lights that are opened, and Marlboro mediums
18 that are not opened.

19 Q And where were those?

20 A Just to the right of the front door as you enter.

21 Q And what was the condition of the soft drinks.

22 A They were still cold.

23 Q Have you tampered with these or altered them in any manner
24 since you collected them?

25 A No, ma'am.

1 MS. WHITE: I ask that these be admitted.

2 THE COURT: Any objection?

3 MR BREHM: No, sir.

4 THE COURT: All right, that's State's Exhibit No. 4
5 admitted without objection, two mountain dew's and cigarettes.

6 (WHEREUPON, two drinks and two packs of
7 cigarettes previously marked as State's No. 4
were admitted without objection.)

8 Q So the cigarettes the same brands or different brands?

9 A They're the same.

10 Q Are they the same brand?

11 A Oh, I'm sorry, they are different from each other, yeah, but
12 they are the same ones we collected.

13 Q And are the drinks the same or different?

14 A They are different, one's diet.

15 Q And you said that the drinks were still cold?

16 A Yes, ma'am.

17 Q Now after you went inside the house, did you leave the
18 house?

19 A I had left to go asked the Defendant if I got do a GSR kit
20 on his hands.

21 Q I'm handing you State's Exhibit 5 for identification, do you
22 recognize that?

23 A Yes, ma'am.

24 Q What is that?

25 A That is the gunshot residue collection kit that was done on

1 Mr. Patterson.

2 Q And what time was this kit done on his hand?

3 A One after twelve, when I started.

4 Q And after you conducted that test on his hands, what did you
5 do with that?

6 A I placed it in my vehicle.

7 Q And did you tamper with it or alter it in any manner?

8 A No.

9 Q Was it locked in your vehicle ?

10 A Yes, ma'am.

11 Q And to whom did you give it when you were done?

12 A The evidence custodian, Buddy Ellison.

13 Q And is it substantially in the same condition that it was
14 in, other than being tested by SLED?

15 A Yes, ma'am.

16 MS. WHITE: I ask that State's Exhibit 5 be admitted

17 THE COURT: Any objection?

18 MR. BREHM: No objection.

19 THE COURT: All right, State's Exhibit 5 residue kit on
20 the Defendant admitted without objection.

21 (WHEREUPON, Defendant's GSR kit previously marked
22 as State's No. 5 was admitted without objection.)

23 Q When you were with the Defendant, did you notice any
24 injuries on him at all?

25 A No, ma'am.

1 Q Did he complain of any injuries?

2 A No, ma'am.

3 Q Did you later obtain the defendant's clothing?

4 A Yes, I did.

5 Q I'm handing you State's Exhibit 17, 18, 19, 16, and 15,
6 would you please go through -- call out each item and tell us
7 what that is please.

8 A Exhibit 17 is a white tee-shirt that the Defendant was
9 wearing. Exhibit 19 is the black boots that the Defendant was
10 wearing. Exhibit 15 is the blue jeans that the Defendant was
11 wearing. Exhibit 16 is the hat that the Defendant was wearing.
12 And exhibit 18 is the socks that the Defendant was wearing.

13 Q And what did you do with these items, did you recover those
14 from him later that day?

15 A Yes, ma'am, investigator Black and myself went down to
16 the---

17 Q Okay, and did you -- what did you do with those items after
18 you got them?

19 A Placed them into evidence.

20 Q Did you tamper with them or alter them in any way?

21 A No, ma'am

22 MS. WHITE: Your Honor, I'd ask that these exhibit, do
23 I need to pull them out and count the numbers out again?

24 THE COURT: Any objection?

25 MR. BREHM: Judge, I think that's not relevant.

1 THE COURT: Relevancy?

2 MS. WHITE: Your Honor, they were, may we approach the
3 bench?

4 THE COURT: Come forward.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury but outside the hearing of
the jury.)

7 THE COURT: All right, Solicitor I will sustain the
8 objection as to 15, 16, 17, 18, and 19, have them marked as
9 identification only until we have further testimony on those.

10 MS. WHITE: Yes, sir.

11 Q Now on those exhibits, what did you do with them after you
12 recovered them from the Defendant?

13 A Placed them into evidence.

14 Q And did you tamper with them or alter them in any manner?

15 A No, ma'am.

16 Q What do you mean placed them into evidence, to whom did you
17 give them?

18 A Buddy Ellison.

19 Q And are they in substantially the same condition that they
20 were in when you recovered them, other than any tests that may
21 have performed on them?

22 A Yes, ma'am.

23 Q When you were at the scene what if any evidence did you find
24 of forced entry, burglary type is the question?

25 A There was none.

1 Q What if any evidence did you find of going through things
2 and taking things?

3 A We did not find any.

4 Q Now when you looked through the house, did you find any
5 photographs?

6 A The 3 there.

7 Q I'm handing you State's exhibit 32, 31, and 30, what are
8 those?

9 A The 3 pictures of the victim.

10 Q And where did you find those?

11 A In the top draw of the night stand in Shannon's room.

12 Q Would that have been the same drawer that she testified
13 where the gun was kept?

14 A Yes, ma'am.

15 Q When you opened that drawer, let's say you open the drawer
16 to reach in and get a gun, how visible were these photographs if
17 you opened that draw and looked in it?

18 A Pretty visible, they were standing straight up and down.

19 Q I'm handing you State's Exhibit 27, what does that show?

20 A The 3 pictures just inside the draw.

21 Q So then if a person had gone back to that draw and looked
22 for a gun, what was fairly apparent if they opened that drawer?

23 A Everything in the drawer.

24 MR. BREHM: I object to that question line.

25 THE COURT: What's your objection, what's your legal

1 objection?

2 MR. BREHM: That she's asking for conclusion on
3 somebody else's opinion.

4 MS. WHITE: I'll withdraw it, Your Honor.

5 Q Did you attend the autopsy?

6 A Yes, ma'am.

7 Q I'm handing State's Exhibit 7, what is that, if you'll open
8 it and pull out the pack please, the brown pack?

9 A It says the serology of DNA of Donna Pearson.

10 Q Is that the -- they use that in testing at SLED, is that
11 correct, the actual blood itself, correct?

12 MR. BREHM: I object to the form of question.

13 THE COURT: Don't led your witness.

14 MS. WHITE: Yes, sir.

15 Q What kind of sticker is placed on the actual vial?

16 A Are you talking about the SLED sticker or the---

17 Q No the vial, when you get the blood from the pathologist,
18 what is placed on the tube of blood to identify it?

19 A I didn't collect that.

20 Q You weren't at the autopsy?

21 A Yes, ma'am.

22 Q Okay, you didn't collect the blood then?

23 A No.

24 Q Okay, all right. Now did you process the gun for
25 fingerprints?

1 A Yes, ma'am, I did.

2 Q What if any training have you had in the area of
3 fingerprints?

4 A I have had two, two-week courses at the South Carolina
5 Criminal Justice Academy and on the job training.

6 Q And you are in the forensic unit; is that correct?

7 A Yes, ma'am.

8 Q How often do you test for fingerprints while you are in that
9 unit.

10 A Everyday.

11 Q And how long have you been in law enforcement?

12 A In my 9th year.

13 Q And during that time how often have you, even before you
14 were in that unit, how often would you process things for prints,
15 finger prints?

16 A Just about every burglary, every kind of call that would be
17 necessary.

18 MS. WHITE: Your Honor, I would ask that the witness be
19 recognized as an expert in prints.

20 THE COURT: Mr. Brehm?

21 MR. BREHM: No objections.

22 THE COURT: So found.

23 Q Now what is the difference between a latent print and a
24 known print?

25 A Basically a latent print is the print we find on the scene

1 that we do not know who it belongs to.

2 Q And what is a known print?

3 A It's usually an ink print that comes off a finger print card
4 or a print that we get from -- we know who the owner is.

5 Q So you know who's giving it, it's like the part you see on
6 TV where they roll fingers?

7 A Yes, ma'am.

8 Q All right. Is a latent print left on every item that is
9 touched?

10 A No, ma'am.

11 Q What if any effect does the condition of the hand play in
12 whether of not a latent print is left?

13 A Very important.

14 Q Let's say the hands are very wet or very dry, how does that
15 effect the ability to lift a latent print?

16 A Depends on how wet because it'll actually increase the
17 ability to leave prints, if the hand is very dry, it'll tend not
18 to leave any prints.

19 Q The print is actually what, what are you leaving behind when
20 you leave behind a print?

21 A Can be sweat, can be oils out of your fingers.

22 Q All right, now let's say that the hand is, touches an item
23 and squeezes hard or wipes against it, how much would that effect
24 the ability for you to pick up a latent print after that?

25 A It greatly decreases your ability to lift a good print.

1 Q Let's talk about the surface of an item touched. Let's say,
2 I'm referring here to State's Exhibit 12, what if there are ridge
3 lines, ridge lines or small areas, something like that, in other
4 words, it's not a smooth surface, how does that effect the
5 person's ability to lift a latent print?

6 A It would effect it also, you can't make good contact with
7 the surface.

8 Q And did you process this particular weapon, State's Exhibit
9 12 for fingerprints?

10 A Yes, I did.

11 Q And were you able to lift any readable prints off of it?

12 A No, ma'am, there were no readable prints on the gun, the
13 magazine, or the bullet.

14 Q When we say readable prints, you may get a smudge or
15 something like that but there's nothing you can appear with
16 anything; is that right?

17 A Yes, ma'am.

18 Q When you walked in this room and saw Leanne on the couch,
19 what was across from her, from the couch where she was sitting,
20 from the couch where she was sitting, let's say she was sitting
21 here what's down here?

22 A The TV.

23 Q What was beside her?

24 A I believe it was the remote control for the TV beside her.

25 Q I'm handing you State's Exhibits 22, well I'm sorry, 21, 22,

1 23, 24, and 33, would you take a look at those please and see if
2 you recognize them?

3 A Yes, ma'am.

4 Q And what do those depict?

5 A The 21, 22, 23, and 24, are all in the living room, and 33
6 is I believe is one of the pictures that was taken at the
7 autopsy.

8 Q And do you, are those fair and accurate representations of
9 how the scene looked that day and how she appeared at the
10 autopsy?

11 A Yes, ma'am.

12 Q Have they been changed or altered in any manner?

13 A No, ma'am.

14 THE COURT: Any objection?

15 MR. BREHM: Is it okay if I look a them?

16 THE COURT: Yes, sir.

17 MR. BREHM: The Defense has no objections to 24, 33, or
18 23, but I do have an objection 22 and 21.

19 THE COURT: What's your objection:

20 MR. BREHM: Can we approach?

21 THE COURT: Yes, sir.

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury but out of the hearing of
the jury.)

24 THE COURT: All right, Mr. Brehm, you've got objections
25 to pictures, I believe, to what, 21 and 22; is that correct?

1 MR. BREHM: State's exhibits 21 and 22, that's correct,
2 Your Honor.

3 THE COURT: What's your legal objection:

4 MR. BREHM: Prejudice to both.

5 THE COURT: All right, I overrule. All right, 23, 24,
6 and 25(sic) are admitted without objection, and we'll admit 21
7 and 22 with objections. I may add, for the record, in light of
8 the objection, the Court has viewed the pictures and made an
9 analysis on 403, that I think is appropriately made, I release
10 prejudicial records.

11 (WHEREUPON, 3 photographs, 2 at the scene
12 and one at the autopsy previously marked as
13 State's Nos. 23, 24 & 33, were admitted without
14 objection; and 2 photographs at the scene
previously marked as State's Nos. 21, and 22 were
admitted over objection.)

15 MS. WHITE: Your Honor, may I ask the witness to step
down?

16 THE COURT: Yes, ma'am.

17 Q I'm showing you State's Exhibit 21---

18 (Interruption from audience.)

19 THE COURT: Bailiff, would you ask her to please leave,
20 and if anyone else would like to leave please take advantage of
21 it at this time to leave.

22 Okay, Solicitor, please proceed.

23 MS. WHITE: Yes, Your Honor.

24 Q What are we seeing here, this item, at the scene?

25 A That is the couch.

1 Q And what is this?

2 A That is the victim.

3 Q And is that the position in which you found her?

4 A Yes, ma'am.

5 Q And I don't know if you can see it up there, but do you know
6 what that is?

7 A I think it's the blood pool.

8 Q Okay, let me let you look at the picture.

9 MR. BREHM: Your Honor, I object to the leading, to the
10 pointing to the picture.

11 MS. WHITE: Your Honor, if I don't show him those how
12 is he going to identify them?

13 THE COURT: I overrule the objection.

14 Q If you can't tell, that's fine, you can't tell?

15 THE COURT: Solicitor, don't make comments, just ask
16 questions.

17 Q Let's look at another photograph, let's look at 22, what is
18 this item, can you tell on this picture what this item is?

19 A I'm sorry, that's the TV remote.

20 Q All right, and what do you view as you are looking at
21 State's Exhibit 22, what are you doing in State's Exhibit 22?

22 A We are running the trajectory rod to try and find the
23 bullet, the coroner is holding the victim's head the way it would
24 be when she was shot.

25 Q And again is this the position when you found her?

1 A Yes, ma'am.

2 Q Now, you had testified, I think a little earlier, about the
3 position of the head and how she had to be facing at the time she
4 was shot in order to get the bullet out where you pulled the
5 bullet out.

6 A Yes, ma'am.

7 Q Described for the jury, looking at this photograph, how you
8 came to that reason that she had to be looking ahead.

9 A Basically, we lined the trajectory rod up in front of her
10 face, matched it with the entrance wound and the exit wound at
11 the same angle and it led us right to the corner of the third
12 cushion where the bullet rested three inches deep.

13 Q So is that rod down on the area where you found the bullet?

14 A It's directly in the hole following the bullet, yes.

15 Q So if, let's say this is the trajectory rod, if her head
16 were faced this way when she was shot, would the bullet have been
17 here?

18 A No, ma'am.

19 Q Why not?

20 A It would be something like that.

21 Q Trajectory, with exiting and entrancing, and with my head
22 turned this way.

23 A You would be looking representative of probably -- at the
24 front door.

25 Q When you are saying about the entrance wound and exit wound,

1 it would be there?

2 A Yes, ma'am.

3 Q Okay, so by virtue of you finding the bullet here what does
4 that tell you then with the exit wound and the entrance wound as
5 to how she was facing when she was shot?

6 A That the bullet was fired from at a downward angle.

7 Q And again if you look the way she was facing, what is in
8 front of her in that room?

9 A The TV.

10 Q And where did you find the remote control?

11 A That's where it was, we hadn't moved it yet.

12 Q Looking at State's Exhibit 23, what is that?

13 A That is the bullet that I retrieved from the bottom of the
14 third cousin.

15 Q And this is State's Exhibit 24, what is this?

16 A That is the same cushion, I'm just showing the area that the
17 bullet was retrieved from.

18 Q And finally State's Exhibit 33, what is this right here?

19 A That is her ear.

20 Q And what is this right here?

21 A That is the entrance wound.

22 Q So in relation to her ear, it is what?

23 A It's behind her ear.

24 Q And is it up and down or the same level?

25 A It's up and down, I'm sorry it's up behind.

1 MS. WHITE: Have a seat back up please.

2 No further questions.

3 THE COURT: Mr. Brehm.

4 MR. BREHM: I have a motion I'd like to make outside
5 the presence of the jury, if I may.

6 THE COURT: Mr. Foreman, ladies and gentlemen of the
7 jury, it's 1:00 by my watch, we are going to take a lunch break
8 at this time, and I'm going to ask you again please don't discuss
9 the case amongst yourselves, or with anyone else. If anybody
10 approaches you about the case, please try to get their name and
11 give it to me, and we'll deal with that individual. I want you to
12 make a decision from the testimony you hear from the witness
13 stand, not from somebody on the street or from what you read in
14 the paper or hear on TV. So have a good lunch, and be back in
15 your jury room, I have some motions I need to hear at 2:00, so be
16 back in the jury room at 2:30, and we'll get started. Have a good
17 lunch.

18 (WHEREUPON, the jury was excused from open court
19 to go to lunch.)

20 MOTION FOR MISTRIAL

21 THE COURT: All right, Mr. Brehm, you said you had a
22 motion; is that correct?

23 MR. BREHM: Yes, sir, Your Honor. I had objected to
24 State's Exhibit 20 --

25 THE COURT: 21 and 22, I've heard your objection and

1 have already ruled on it.

2 MR. BREHM: Your Honor, I'm renewing my objection, the
3 reason I'm objecting is I'm asking for a mistrial. And my reason
4 is Judge I made the objection based on the grounds that these
5 photos are prejudicial. The solicitor placed these on camera,
6 showed them in front of the jury, showed them in front of the
7 victim's family, the victim's family as you know, it's on the
8 record, I'm not sure exactly who it was but there were several
9 friends and family members that blurted out, started crying,
10 screaming and created a disturbance---

11 MS. WHITE: Objection, Your Honor---

12 THE COURT: Just a second solicitor, I'll hear from
13 you, just let him finish, don't interrupt him, okay, and I won't
14 let him interrupt you.

15 Go ahead.

16 MR. BREHM: There was an outburst from family and
17 friends and had to be escorted out, and again I would ask for a
18 mistrial, that that was highly prejudicial, that impacted the
19 jurors, and was extremely prejudicial to show in front of the
20 family members. Under duress, I don't think it had any purpose
21 and I think it did prejudice the jury.

22 THE COURT: Okay, Solicitor, anything you would like to
23 say. I'm ready to rule, but I'll be glad to hear from you.

24 MS. WHITE: Yes, sir, just, I will put on the record,
25 Your Honor, there was no screaming, some of them started crying

1 and left the court room.

2 RULING ON MOTION FOR MISTRIAL

3 THE COURT: I think some young lady started crying when
4 she saw the picture and I asked them to escort her out, and he
5 escorted her out, and I'll deny your motion.

6 I will give the jury a curative charge as to not take any
7 sympathy or passion as to what happens from the audience when
8 they come back from lunch.

9 Anything else before we break from lunch?

10 MR. BREHM: That's it, thank you.

11 MS. WHITE: No, sir.

12 THE COURT: All right, Officer Coyle, please don't
13 discuss the case with anyone, we are still in trial, don't
14 discuss it with the Solicitor, or anybody else until you come
15 back and finish your cross-examination.

16 OFFICER COYLE: Yes, sir.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: Anything from the State before we bring the
19 jury?

20 MS. WHITE: No, sir.

21 THE COURT: Anything from the Defendant?

22 MR. BREHM: No, sir.

23 THE COURT: MR. Foreman and ladies and gentlemen of the
24 jury, prior to lunch there was a crying spell from someone in the
25 audience, and I'd just like to instruct you, your job, as jurors,

1 is not to find anyone innocent or guilty based upon your
2 prejudice, compassion or sympathy. Your job is to find the facts
3 as you see them from the witness stand, and not to base that on
4 any compassion, prejudice, or sympathy, and I would so instruct
5 you to ignore any outbreaks from the audience and I'll try to
6 keep it to a minimum.

7 Cross-examination, I believe.

8 MR. BREHM: Thank you, Your Honor.

9 CROSS-EXAMINATION:

10 BY MR. BREHM:

11 Q The scene at Keith and Shannon's home, when you walked
12 inside, you walked inside the living room, correct?

13 A Yes, sir.

14 Q And then to the left you had a hallway.

15 A Just a doorway to a bedroom, the hallway is on the right
16 side.

17 Q I'll hand you State's Exhibit 14, and if you could hold
18 that, where is the front door?

19 A This was it.

20 Q This is the front door right here?

21 A Yes, sir.

22 Q Okay, and where was, where was, I can not find it, where
23 was, can you come down here?

24 THE COURT: Mr. Bailiff, could you help him hold that
25 please.

1 Q Can you tell us where the front door is again?

2 A Right here.

3 Q Right there. And where was Leanne Pearson, looks like you
4 got two sofas, where was she?

5 A She was here on this one.

6 Q Okay and I didn't mean to confuse you but this opening right
7 here, is there a hallway that comes down this way?

8 A Yes, a short hallway.

9 Q Thank you. Now that hallway, you took pictures of the
10 scene, correct?

11 A Yes, sir.

12 Q And did you have a picture anywhere of the hallway?

13 A I'm sure I do.

14 Q I had misjudged the right way to like -- I'll continue on,
15 but you recall taking a picture of the hallway.

16 A I believe so, yes.

17 Q And you said it was a, is a short hallway, did you measure
18 the distance from the couch down the hallway to the bedroom?

19 A No, sir, I did not.

20 Q Did you -- give us a questimate.

21 A Six or eight feet maybe.

22 Q Okay, and this home that we are talking about, this is a
23 double-wide mobile home?

24 A Correct.

25 Q Now did you take any pictures of the bedroom going down the

1 hallway, in other words, you've got the couch here and you've got
2 the hallway that comes down six or eight feet, then you got a
3 bedroom, right?

4 A Huh, huh.

5 Q Did you take any pictures of the bedroom?

6 A Yes, I did.

7 Q Did you -- is part of your job is to collect evidence?

8 A Yes, sir.

9 Q Did you collect a gun belonging to Kevin Patterson?

10 A I don't believe I did, no, sir.

11 Q Did you look around, did anybody ever tell you to look for a
12 gun in Kevin Patterson's, I guess Kevin and Leanne's bedroom?

13 A No, sir.

14 Q So you did not know to look for one?

15 A No, sir.

16 Q Same thing about ammunition, did you look for any ammunition
17 or know of any ammunition in Kevin and Leanne's room?

18 A No, sir.

19 Q Now you testified that you located the shell casing, you
20 located the gun, and you also located the shell casing?

21 A Yes, sir.

22 Q And just for the jury, referring to State's Exhibit 13 can
23 you tell us what is a casing, can you show that to the jury?

24 A What is it make out of or what caliber?

25 Q What's the casing, and what's the, what's the bullet, this

1 is all a bullet but?

2 A The casing is the brass back part here, the bullet is the
3 projected off the darker brass here when it comes out.

4 Q Great, and when you walked in, when you walked you said that
5 you found the casing.

6 A Correct, Yes, sir.

7 Q And I'm not going to do that -- but where were the casings?

8 A The couch the victim was on, the far right corner of the
9 couch, there was a coffee table in front of her and almost
10 directly in front of her, or maybe just a hair to the left, just
11 under the corner of the coffee table.

12 Q Okay, let's say that this is the couch where Leanne was
13 sitting?

14 A Yes, sir.

15 Q Okay, and this is the hallway, and you say there's a coffee
16 table out here somewhere?

17 A Yes, sir.

18 Q Is it directly in front of the sofa?

19 A Uh huh, I believe so.

20 Q And if she's sitting about here, where was the casing found?

21 A About the top of your left leg -- left foot there just under
22 the corner of the coffee table.

23 Q Over here?

24 A Uh huh.

25 Q So the casing is not back in the hallway, it's not in the

1 bedroom, it's right in front of her.

2 A Yes, sir.

3 Q Now the gunshot residue, this GSR kit that you did, you
4 swabbed the victim's hands, you swabbed Leanne's hands, and then
5 you went out and you swabbed Kevin's hands.

6 A Yes, sir.

7 Q Did Kevin have any objection to you swabbing his hands?

8 A No, sir.

9 Q And just to explain it to the jury, you have some swabs in
10 there, right?

11 A Yes, sir.

12 Q You have four swabs?

13 A I believe there's a total of -- I believe a total of ten
14 swabs.

15 Q Ten swabs?

16 A You do a total of ten, if you have a shell casing.

17 Q And let's use my hand, you've got five chances---

18 A You have two that you do the front, two that you do the back
19 of each hand, and one for a control where you test the solution,
20 to make sure the solution is clean, and one if you have a shell
21 casing to do.

22 Q Okay, that's where the misunderstanding was. You have four
23 swabs actually put on a person's left or right hand.

24 A Yes, sir.

25 Q If you can demonstrate for me, I've got my left hand, where

1 would you swab on the hand?

2 A Back and front.

3 Q Just all around, go through the first one you do.

4 A You have little vials, that say left-rear or left-palm, and
5 if I had a palm, I'd put the solution on the two tips and I would
6 do all over the finger tips, all over the palm, and maybe a
7 little bit over this and I'd rub back and forth on your hand.

8 Q Okay, and then where's the second?

9 A On the back, back of the fingers, back of the hand.

10 Q Okay, how about the third or fourth?

11 A The other is a particle test you give first before you give
12 a swab, and you do the exact same thing, you do the palm first to
13 the back of the hand, then you do the swab test back and front.

14 Q Okay, the first one you do you just kind of touch it?

15 A Right.

16 Q Is it the same thing with the hand?

17 A Yes, sir.

18 Q Are you touching different areas of the hand?

19 A Yes, sir, you sort of touch and turn just a little bit, and
20 basically it's just a little sticky pad that would pick up any
21 kind of lead fragment, I'm not sure it would pick up powder
22 burns, but like just small pieces of lead fragment.

23 Q So you are not sure if it picks up the residue.

24 A The swab does, I know.

25 Q Where would you just dot on the hand with the four, or just

1 all over, can you do that with one swab or do you do it with
2 different swabs?

3 A The particle test has a lift in itself, and then you have
4 swabs to do your other work with.

5 Q Okay. Now, is this -- when you are doing this gunshot
6 residue, is this something that's -- can you see residue from the
7 naked eye?

8 A Sometimes.

9 Q Okay, and then there's sometimes that you can't.

10 A Right.

11 Q Now, you then say that you ran trajectory rods to find the
12 angle that the bullet went through, was the bullet found first
13 and the trajectory rod utilized, or was the rod used to find the
14 bullet?

15 A Actually, we -- he, the coroner held her head, we run the
16 rod and started looking, and you could see -- you could barely
17 see where it went through, like I said fabric sort of closed up
18 behind it as it went into the couch.

19 Q Okay. When you first got there, and you were looking for
20 the bullet, could you -- was that visible, referring to
21 State's 23?

22 A No, sir.

23 Q So you find the bullet using the trajectory rod and do you
24 measure -- had the rod going through to the couch, but on the
25 other side of that were you able to do any measurements?

1 A I believe we took some measurements, yes sir.

2 Q Okay, and?

3 A They are in my pictures, I did not put them in my statement.

4 Q There in the pictures.

5 A Some of the pictures I took.

6 Q Okay. Were you able -- just from memory were you able to
7 tell us about how high the gun was when it went off, or when the
8 shot was fired.

9 A I don't have any idea, no sir.

10 Q What measurements were you trying to -- I mean here's the
11 trajectory rod, going this way and you made measurements on her
12 right side, which would be right in front of the hallway, why
13 were you talking measurements over here?

14 A Basically just to give a point of reference later on if we
15 had to try to reconstruct something.

16 Q Okay. And off the top of your head, can you tell us what the
17 measurements were?

18 A No, sir.

19 Q But that's something that's accessible to you.

20 A Yes, sir.

21 Q Now, let's get into the fingerprints, you were qualified as
22 an expert in fingerprinting, tell us what method you use to
23 attempt to lift prints off the weapon?

24 A We have a process called fuming, had a fuming tank at the
25 office and basically you take -- it's called a cyano-tip (sic)

1 and basically what it is, it's like a dry super-glue, and when
2 heated it turns into a vapor and turns into a gas and will
3 actually adhere to any kind of fingerprints on an object. And
4 then I used black power, black fingerprint powder over that to
5 see if anything would develop and usable prints were found.

6 Q Okay, when you use this, when you heat the super-glue, in
7 your training what are you instructed to do with tip of the
8 weapon, and I guess the openings in the weapon?

9 A I don't know if there's any special instruction.

10 Q What you're doing is essentially heating super-glue and the
11 vapors attach themselves to the gun.

12 A Yes, sir.

13 Q And if you have the chamber, or muzzle open those that
14 super-glue can go in there and congeal, correct?

15 A I don't have any idea about that.

16 Q In your training you weren't instructed, during your
17 educations, that the proper way to do it was to close the chamber
18 and put a cork in the end of the gun.

19 A No, sir.

20 Q You didn't know that if you didn't do that it might mess up
21 the ballistics that go down at sled?

22 A No, sir.

23 Q Never was explained to you.

24 A No, sir.

25 Q When you first looked at the weapon, and you talked about

1 some, you talked about surfaces about how some surfaces were
2 conducive to prints better so than others.

3 A Yes, sir.

4 Q You'd agree with me that this type of surface on this gun is
5 pretty conducive to fingerprints.

6 A Yes, sir.

7 Q I can take my print right there and you can see it with the
8 naked eye.

9 A Yes, sir.

10 Q On farther down here, you can see my print.

11 A A little bit.

12 Q Let me wipe it off, right there?

13 A Yes, sir.

14 Q Okay, when you retrieved this weapon did you visually
15 inspect it for fingerprints?

16 A Yes, sir.

17 Q And where did you look on the gun for prints?

18 A Basically the same area you just showed, on the slick shinny
19 surfaces, of course, are going to show the better prints.

20 Q Okay, it's your testimony that you saw no prints, or no
21 visible prints on the weapon?

22 A No, sir.

23 Q Did you print the clip, did you visually inspect the clip?

24 A I did, and I printed the magazine also for prints.

25 Q What -- I'm going to do this real quick, when the super-glue

1 goes on here and dries, how do you get it off?

2 A We don't.

3 Q Who removes it?

4 A I don't know, we don't. If there's prints, we lift it, the
5 super-glue is used basically so you can get -- if you have to use
6 -- you might even can make multiple lifts off the same print, but
7 I've never tried to remove anything.

8 Q So this doesn't appear to have the super-glue on it does it?

9 A Yes, sir. If you look in the groove right here in the .
10 handle, I'm sorry on the bottom of the magazine, you can see
11 powder residue up there with the super-glue.

12 Q You talking about this right here, I can see that, but
13 what's on the clip itself?

14 A And it may not stick at all.

15 Q The same thing with the gun.

16 A Yes, in some areas it did and in some it didn't.

17 Q Okay how about the brass casings?

18 A Yes, sir. I did the same?

19 Q And the bullets.

20 A I did the same.

21 Q You did the same visible inspection on them.

22 A Yes, and dusted those as well.

23 Q And found nothing?

24 A No, sir.

25 Q Do you actually remember taking a photo of the hallway?

1 A I believe so, I thought I took pictures of just about all
2 the area.

3 Q Is it possible that you did not?

4 A Yes, sir, I'm sure it is.

5 Q Let me show you this picture that's yet to be marked and ask
6 if you can identify it?

7 A That is the bedroom of the Defendant and Leanne.

8 Q Okay, and can you tell me what's under the bed?

9 MS. WHITE: Your Honor, I'm going to ask that if he's
10 going to testify on this, that it at least be marked for
11 identification.

12 THE COURT: All right, Defendant's No. 1, for
13 identification, a picture of the bedroom.

14 (WHEREUPON, a photograph of the bedroom was marked
15 for identification as Defense's No.1.)

16 THE COURT: Are you going to offer it into evidence?

17 MR. BREHM: I'll go ahead and offer it into evidence.

18 THE COURT: Solicitor, do you have any objections?

19 MS. WHITE: No, sir.

20 THE COURT: All right Defense Exhibit No. 1 admitted
21 into evidence without objection.

22 (WHEREUPON, photograph of the bedroom was admitted
23 without objection as Defendant's No. 1.)

24 Q Looking at Defendant's Exhibit No. 1, did you take that
25 picture?

1 A Yes, sir.

2 Q And approximately where were you standing when you took that
3 picture?

4 A Either at the doorway or the middle of the room.

5 Q And what is clearly visible on the -- underneath the bed?

6 A The black?

7 Q Right.

8 A That looks like the corner of the -- his gun case.

9 Q So you took the picture, you were there and there's a gun
10 case visible, you didn't think to collect it?

11 A If I'm not instructed to collect it, I didn't collect it.

12 Q You have to been instructed to do everything? Is there like
13 a supervisor over the scene and he has to tell you everything to
14 do?

15 A I'm not the officer in charge, no sir.

16 Q Now part of your job was also to document any injuries, and
17 or obviously you had documented injuries to Leanne, but were
18 there any other injuries?

19 A Not that I seen, no.

20 Q There weren't any injures to Kevin?

21 A No, sir.

22 (WHEREUPON, a photograph of the Defendant was
23 marked as Defense's No. 2.)

24 Q I show you what's been marked for identification purposes as
25 Defense Exhibit No. 2, can you recognize that picture?

1 A Yes, sir.

2 Q And what is that picture of?

3 A That's a picture of the Defendant.

4 Q And there are no marked injuries, except a bruise, you see a
5 bruise on his thigh or leg or something like that; do you see
6 that?

7 A Yes, sir.

8 Q And you took this picture.

9 A Yes, sir.

10 MR. BREHM: Your Honor we'd move that this be admitted
11 into evidence.

12 THE COURT: Any objection?

13 MS. WHITE: No, sir.

14 THE COURT: All right, Defense Exhibit admitted without
15 objection, Defendant's Exhibit No. 2.

16 (WHEREUPON, Defendant's No. 2 was admitted without
17 objection.)

18 Q Was there any evidence of a struggle?

19 A No, sir.

20 Q Chairs over turned, coffee table messed up?

21 A No, sir.

22 Q Any evidence of an argument, things thrown around?

23 A No, sir.

24 Q Now you took pictures of the couch and collected evidence
25 off the couch, and pulled the bullet out of the couch itself; is

1 that correct?

2 A Yes, sir.

3 Q Did you collect anything else from the couch itself?

4 A (No Response.)

5 Q Did you take or find anything else from the couch?

6 A No sir, I think I took some blood samples, but that's all.

7 Q Okay and referring to State's Exhibit 21, and this is Leanne
8 on the couch, I believe the jury has already seen this, her
9 head's facing to the right. On the right side of the sofa she's
10 at the point of reference, to her right up on the arm, did you
11 see any blood or retrieve any blood?

12 A I don't recall, no, sir.

13 Q Continue to look at it.

14 A Okay.

15 Q On the wall back here was there any blood?

16 A No, sir.

17 Q On the floor to the right side of Leanne, was there any
18 blood?

19 A No, sir.

20 Q On the wall back here, where the hallway starts, was there
21 any blood?

22 A No, sir.

23 Q On the coffee table to the right of Leanne, was there any
24 blood?

25 A No, sir.

1 Q And when we talk about Leanne, you'd agree with me, would
2 you not, that Leanne had a -- referring to State's Exhibit 32,
3 had a pretty thick head of dark hair?

4 A Yes, sir.

5 Q Okay did you collect any hair?

6 A No.

7 Q That's not your job right?

8 A No, sir.

9 Q Now do you have your pictures organized in the way that if
10 you could retrieve to look to see if you took any pictures of the
11 hall?

12 A These are the pictures I have.

13 Q Going back to the prints for just one minute, can you
14 explain, were you taught or instructed how to use alternative
15 light sources?

16 A Yes, sir.

17 Q And, and did you do that in this case?

18 A No, sir.

19 Q Explain to the jury to begin with what an alternative source
20 is and how you can pick up prints using alternative light
21 sources.

22 A On any lifts on alternate light source, basically you can
23 put different types of florescent powders on it, you use
24 different type, different ultraviolet lights, and using specific
25 screens it can show up different prints.

1 Q And why was that not done in this case?

2 A The -- I've had best results from getting prints off of that
3 slick surface by lift, fuming, and dusting.

4 Q That slick surface, what about a surface like this?

5 A Still fuming and dusting, you still get partials but like I
6 said it has its grooves in it, you usually find bits and pieces.

7 Q Okay. So which is, for a non-slick surface which method is
8 best to develop a print?

9 A Depends on what kind of surface.

10 Q For a non-stick surface such as what I just showed you or
11 such as the clip, or like the casing?

12 A I use, like I said, I have my best results with fuming and
13 dusting. The alternate light source we use a lot of times to
14 collect blood and body fluids.

15 Q Looking at State's Exhibits 26, and 27, do you recognize
16 that?

17 A Yes, sir.

18 Q What's identified in those pictures?

19 A That's the dresser drawer in Shannon's bedroom.

20 Q Shannon's bedroom.

21 A Uh, huh.

22 Q Okay and you took these pictures at the scene?

23 A Yes, sir.

24 Q Did you dust the chest-of-drawers?

25 A No, sir.

1 Q Why did you not dust the chest-of-drawers?

2 A (No Response).

3 Q Were you not instructed to dust the chest-of-drawers?

4 A No, sir.

5 Q Were you certain that that's where the gun came from?

6 A No, sir, not at the time.

7 Q Do you now wish that you would have dusted for prints?

8 A Not really.

9 Q There's a gun in a cabinet and that gun is no longer in the
10 cabinet, it's out in the floor in the living room, someone had to
11 go, wouldn't you agree with me, someone would have to go get it
12 from the chester-of-drawers?

13 A Yes, sir.

14 Q And that someone, could have possibly had prints on them,
15 right?

16 A I don't know, possibly, yes.

17 Q I mean you can't open a drawer just by your sheer-will, can
18 you, you have to use your fingers to open the drawer?

19 A Yes, sir.

20 Q And when you touch things on the surface, chances are it
21 leaves prints.

22 A Sometimes.

23 Q Do you recall a book or magazine behind Leanne on the couch?

24 A (No response.)

25 Q Referring to State's Exhibit 21 to refresh your memory; do

1 you remember there being a magazine behind her head?

2 A I can see it, I don't remember what it was.

3 Q And then finally, talking about trajectory, have you had any
4 experience with trajectory of bullets?

5 A No, sir.

6 MR. BREHM: Nothing further, Your Honor.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 BY MS. WHITE:

10 Q Is there any way to fake fingerprints?

11 A No, ma'am, not accurately.

12 Q And a fingerprint will basically stay there indefinitely,
13 until it's wiped off or something; is that right?

14 A Yes, ma'am.

15 Q Now who all lived in this house, did the Defendant live in
16 the house?

17 A Yes, he did.

18 Q So if you dust something inside the house, where a person
19 lived, is there any way to tell whether or not that print was
20 left there five minutes before or five years before?

21 A No, ma'am.

22 MS. WHITE: No further questions.

23 THE COURT: Any re-cross?

24 MR. BREHM: Yes, sir.

25 THE COURT: Now she asked one question, keep it to what

1 she asked.

2 MR. BREHM: I am.

3 RE-CROSS EXAMINATION

4 BY MR. BREHM:

5 Q If you dusted this and you found Shannon's and Keith's and
6 Leanne's print, but not Kevin's print, what would that say?

7 A It could say a bunch of different things, I mean might have
8 found them.

9 MR. BREHM: Nothing further.

10 MS. WHITE: Your Honor, I'll just follow with one.

11 FURTHER REDIRECT

12 BY MS. WHITE:

13 Q Can you touch something and not leave a print?

14 A Yes, ma'am.

15 Q So does the lack of a person's print mean anything on an
16 object like this?

17 A No, ma'am.

18 THE COURT: I'll let you re-cross on that question if
19 you want.

20 FURTHER RE-CROSS-EXAMINATION:

21 BY MR. BREHM:

22 Q But you didn't even try, did you?

23 A No, sir.

24 THE COURT: Officer, Coyle, you may step down, thank
25 you very much.

1 MS. WHITE: Your Honor, may Officer Coyle be dismissed?

2 THE COURT: Any objections Mr. Brehm?

3 MR. BREHM: No objections, Your Honor.

4 THE COURT: Officer Coyle, you may be dismissed.

5 Solicitor, you can call your next witness.

6 MS. WHITE: The State's calls David Ellis.

7 THEREUPON:

8 DAVID ELLIS,

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

10 THE CLERK: Please have a seat in the witness chair,
11 state your name, and please spell your last for the record please
12 sir.

13 MR. ELLIS: David Ellis, E-L-L-I-S.

14 DIRECT EXAMINATION

15 BY MS. WHITE:

16 Q Mr. Ellis, what's your occupation?

17 A Paramedic.

18 Q And how long have you been a paramedic?

19 A Three year.

20 Q Were you working on March 10th of this year?

21 A I was.

22 Q And did you receive a call in response to the scene that
23 day?

24 A I did.

25 Q Now were you there before or after the law enforcement?

- 1 A Before.
- 2 Q And when you got there who did you see?
- 3 A The Defendant standing the front porch.
- 4 Q And what was he doing?
- 5 A I believe talking on the phone.
- 6 Q And did you go inside?
- 7 A I did.
- 8 Q When you got inside the living room what, if anything, did
9 you see?
- 10 A I saw the female in this case on the far end of the sofa.
- 11 Q Mr. Ellis, I'm going to ask you, the microphone I know is
12 above you, and if you could speak all the way back to this back
13 wall, all these people need to hear you. And did you see a
14 weapon?
- 15 A I did.
- 16 Q And where was the weapon?
- 17 A It was in her right hand in her lap.
- 18 Q Okay, if you'll just, I don't know if they can all see you
19 or not, but can you just kind of scoot up where they can see you
20 and show the jury where you found this gun.
- 21 A It was in her right hand, laying almost between her legs.
- 22 Q And what about the trigger finger, where was that?
- 23 A The finger was actually on the trigger, inside the trigger
24 ring.
- 25 Q All right, so it was in her lap with the finger in the

1 trigger.

2 A Yes, ma'am.

3 Q And what did you do when you saw this gun in this woman's
4 hand with her finger in the trigger?

5 A I immediately removed it from her hand and placed it on the
6 floor.

7 Q And did you take the magazine out of it, or not?

8 A Not at that point, no.

9 Q Okay, later did you do that?

10 A Yes.

11 MS. WHITE: No further questions.

12 THE COURT: Cross-examination?

13 CROSS-EXAMINATION:

14 BY MR. BREHM:

15 Q Mr. Ellis, you were not a witness to this, are you, you just
16 came out to the scene to do your duty, right?

17 A Yes, sir.

18 MR. BREHM: Nothing further.

19 MS. WHITE: May the witness be excused?

20 THE COURT: Yes, ma'am.

21 MR. BREHM: No objection.

22 MS. WHITE: The State calls Matt Smith.

23 THEREUPON:

24 MATT SMITH,

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

1 THE CLERK: Please have a seat in the witness chair,
2 state your name, and spell your last for the record, please sir.

3 MR. SMITH: Matt Smith, S-M-I-T-H.

4 DIRECT EXAMINATION

5 BY MS. WHITE:

6 Q What's your occupation?

7 A I'm a detective with the sheriff's office.

8 Q And how long have you been in law enforcement?

9 A Almost eight years.

10 Q Were you working on March 10th, of this year?

11 A Yes, ma'am.

12 Q And did you receive a call at sometime that morning?

13 A Yes, we did.

14 Q And where did you go as a result of that call?

15 A Went to Carroll Road in Belton.

16 Q Now, when you got there did you see the Defendant?

17 A Yes, ma'am.

18 Q And where was he.

19 A He was outside talking with Deputy Tim Smith.

20 Q And after he finished talking to Tim Smith; did you talk
21 with him?

22 A Yes, ma'am.

23 Q And where did you talk with him at?

24 A We sat down in front of Detective Black's patrol car.

25 Q Just briefly, explain to the jury what is the roll of a

1 uniformed officer, the investigator, and the crime scene
2 commission.

3 A The uniform officer is usually the first one responding,
4 they get there first and secure the scene, and to render aid any
5 victims, make sure any witnesses don't leave where, you know, we
6 might can talk to them. When the detectives arrive we take in
7 the crime scene, in this case there were several so, had
8 different duties, we are in charge of the scene. We talk to the
9 witnesses.

10 Q What about the crime scene or the forensic team.

11 A Well the forensic people collect evidence, take pictures,
12 get fingerprints.

13 Q And you all talk to people and take what's down there.

14 A Right.

15 Q And uniform officers, do they do in-depth statements, or
16 just ask somebody what happened, kind of just getting a jest of
17 what's going on?

18 A They kind of just get the preliminary story of what
19 happened, who might have been involved, that kind of stuff, where
20 they can tell us when we get there.

21 Q Okay?

22 A Just enough to do a report.

23 Q Okay and then when you get there do you normally talk to the
24 witnesses again in a little more in-depth?

25 A Yes, ma'am.

1 Q And is that what happened at this crime scene?

2 A Yes, ma'am.

3 Q All right, did you talk to the Defendant when you were at
4 the scene?

5 A Yes, ma'am.

6 Q You said that you all were in front of a vehicle, isn't that
7 correct?

8 A Yes, ma'am.

9 Q And when you talked to the Defendant out there at the scene,
10 did you take a witness statement?

11 A Yes, ma'am, I did.

12 MS. WHITE: May we approach the bench?

13 THE COURT: Yes, ma'am.

14 (WHEREUPON, a bench conference was held in the
15 presence of the jury but out of the hearing of
the jury.)

16 Q When you talked to the Defendant at the scene, had you been
17 into the crime scene yet?

18 A Briefly.

19 Q All right. And had you studied anything in there at the
20 time that you talked to him at the scene?

21 A No, ma'am.

22 Q And was he in any kind of custody when you talked to him
23 there at the scene?

24 A No, ma'am, he was not.

25 Q Was he handcuffed, under arrest, anything like that?

1 A No, ma'am.

2 Q Did you threaten him at all?

3 A No, ma'am.

4 Q Did you coerce him at all?

5 A No, ma'am.

6 Q Were any promises made?

7 A No, ma'am.

8 Q And did he appear to freely and voluntarily agree to talk
9 with you?

10 A Yes, ma'am, he did.

11 Q And is this the -- I'm handing you State's Exhibit 1, is
12 that the written statement that the Defendant gave at the scene?

13 A Yes, ma'am, it is.

14 Q Has it been changed or alter in any manner since it was
15 taken?

16 A No, ma'am.

17 Q Could you please read to the jury what the Defendant told
18 you there at the scene.

19 A Read the entire statement?

20 Q Let me just for identification purposes, the jury will have
21 this when they deliberate; is that correct? All those exhibits
22 that have been admitted the jury will have them in the jury room.

23 A Yes.

24 Q Okay, go ahead.

25 A It says, "I'm having investigator Matt Smith of the

1 Sheriff's office, is writing my statement for me in own words---

2 Q And detective Smith, please if you don't mind please turn
3 this way and please talk louder.

4 A "Leanne had to wake up this morning to call the insurance
5 company about a car that her daughter was driving. We both
6 worked 3rd shift and we were both off last night and went to my
7 grandparent's house and out to eat. Leanne said she was going to
8 read a book to get sleepy again, and go back to sleep. Leanne's
9 niece and nephew, Shannon and Kevin Jordan, who we live with,
10 left. We were both sitting on the couch, Leanne asked me if I
11 would go to the store to get her a drink and some cigarettes. I
12 got dressed and asked her if she wanted anything else, and she
13 said, no. I said I'll be back in a few minutes, Leanne said, I
14 love you, I said, I love you too, I'll be back in a minute. I
15 was gone about 15 or 20 minutes, I went to the new Texaco
16 station, Hwy. 252 and Hwy. 413, I bought a Mountain Dew and a
17 pack of cigarettes for me and a diet Mountain Dew and a pack of
18 cigarettes for her. I came home and walked inside the house
19 through the front door, I saw Leanne sitting on the couch with
20 blood on her and a gun in her right hand. The gun is her's, I
21 think her dad gave it to her. I called 911, and the lady at 911
22 wanted me to touch her neck to try to get a pulse. I touched her
23 on the left side of the neck and I didn't feel a pulse. The lady
24 on 911 told me to go outside. EMS got here first and I stayed on
25 the porch, on the phone," excuse me, "until police got here and I

1 hung up to talk to them. Leanne had said in the past that
2 everybody's problems were her fault, and it would be better off
3 if she wasn't here. Leanne's dad has cancer and she has been
4 having a hard time dealing with that. Leanne has talked about
5 overdosing on pills before, but that's it."

6 Q What, if anything, did he tell you about struggling for a
7 gun?

8 A He did not mention any struggle at all.

9 Q What, if anything, did he mention about her shooting herself
10 before he left for the store.

11 A He didn't say that.

12 Q What, if anything, did he mention about any argument that
13 they had that day about, or over the gun shot?

14 A He did not say that they had an argument.

15 Q Now, at some point after this, was the Defendant transported
16 from the scene to the sheriff's department?

17 A Yes, ma'am, he was.

18 Q And did you finish up at the scene, looking at the scene and
19 doing whatever you needed to do there?

20 A Yes, ma'am.

21 Q Now on the way back to the sheriff's department, did you
22 stop anywhere and get anything?

23 A Yes, ma'am.

24 Q And what was that?

25 A We stopped at the Texaco station there at 252 and 413, and

1 talked with the manager there and a clerk, and we obtained
2 surveillance video tape from their in-store camera and took that
3 into evidence.

4 Q I'm handing you State's Exhibit 35, for identification, and
5 you said you got it from the store, the surveillance tape?

6 A Yes, ma'am.

7 Q And after you obtained that tape, what did you do with it?

8 A We placed it in our car and drove on back to the sheriff's
9 office.

10 Q Now, did you do the mileage, and or the time, from the
11 victim's house to this Texaco station?

12 A We did. Not then, but we went back later and did.

13 Q Later.

14 A Yes, ma'am.

15 Q And how far is it from the home where the shooting occurred
16 to the Texaco station?

17 A I don't have it exactly, but I have it in my notes, I
18 believe it's a little over seven miles, there and back.

19 Q What do you mean, seven miles there and seven miles back?

20 A Round trip.

21 Q Round trip, okay.

22 A I believe that's what it was.

23 Q And you were saying about the tape, what did you do with the
24 tape?

25 A We took the tape into evidence and gave it to Investigator

1 Garrett, when we got back to the sheriff's office.

2 Q Gave it to Investigator Garrett?

3 A Yes, ma'am.

4 Q Did you tamper with it or alter it in any manner?

5 A No, ma'am, I did not.

6 Q Okay. When you got back to the sheriff's department, did
7 you talk to anyone there?

8 A I talked with investigator Garrett, when I gave him the
9 tape.

10 Q And did you talk with anyone after that?

11 A I spoke with the Defendant.

12 Q And what type of room did you talk to the Defendant in.

13 A In the interview room, upstairs.

14 Q And does this have jail cells in it?

15 A No, ma'am, it does not.

16 Q Describe this room to the jury.

17 A Approximately 12 by 12, maybe 10 by 10, I'm not exactly
18 sure, but a good-size room, had a conference-type table in it,
19 three or four chairs, there's a one-way mirror on the back wall
20 of it.

21 Q And how were you dressed?

22 A Plain clothes, did not, that day we, I didn't have a gun on,
23 not showing I had an ankle gun on.

24 Q So did your gun show?

25 A No, ma'am it did not.

1 Q Now, who else was with you when you talked to the Defendant
2 this way?

3 A Detective Black.

4 Q And how was he dressed?

5 A The same manner I was.

6 Q And again did he have any kind of gun showing, or anything?

7 A No, ma'am.

8 Q And what, if any, threats did you make to the Defendant?

9 A We did not threaten him.

10 Q And what, if any, coercions did you all use?

11 A None.

12 Q What, if any, promises did you all make?

13 A We didn't make any promises.

14 Q And what, if anything, did you bring the Defendant?

15 A We had been on the scene since a little after 11 or so,
16 myself and Detective Black were hungry, on the way back we
17 stopped by Checker's and bought him a hamburger, I don't remember
18 exactly what we got, but some lunch and a drink.

19 Q And you gave that to whom?

20 A We gave it to the Defendant.

21 Q Now when you got back to the sheriff's department and talked
22 to the Defendant, was he in any kind of custody or arrest or
23 anything like that?

24 A No, ma'am.

25 Q And did you continue talking to the Defendant?

1 A Yes, ma'am, we did.

2 Q Now after you talked to him for a little while did you --
3 did you morandize the Defendant?

4 A Yes we did.

5 Q I'm handing you State's Exhibit 2, do you recognize that?

6 A Yes, ma'am, I do.

7 Q What is that?

8 A It's a miranda form that we have at the sheriff's office,
9 signed by the Defendant, witnessed by myself and Detective Black.

10 Q If you'll demonstrate to the jury how you advised the
11 Defendant of his rights.

12 A The standardized form, we use on everything, right wherever
13 we are taking the statement or giving miranda, this case is
14 Anderson County Sheriff's Office, like that, with the date and
15 the time it starts. We go through and read it, the miranda.

16 Q Go ahead and demonstrate how it was read that day to him.

17 A "Before we ask you any questions, you must understand your
18 rights, you have the right to remain silent, anything you say can
19 be used against you in court. You have the right to talk to a
20 lawyer for advise before we ask you any questions and have him
21 with you during questioning. If you can not afford a lawyer, one
22 will be appointed for you before questioning if you wish. If you
23 decide to answer questions now without a lawyer present, you will
24 still have the right to stop answering at any time, you also have
25 the right to stop at anytime until you talk to a lawyer." And

1 after we read the miranda warnings, we had the Defendant sign
2 there, that's his signature, and at the bottom is called labored
3 rights. I read this to him, it says, "I've read this statement
4 of my rights, and I know what my rights are, I agree to make a
5 statement and answer questions, I do not want a lawyer at this
6 time, I understand and know what I am doing. No promises, or
7 threats have been made to me, and no pressure or coercion of any
8 kind has been used against me." There's a place on the bottom
9 for the Defendant to sign again where he's waived his rights, and
10 it's witnessed by myself and Detective Black, and the time.

11 Q Okay, has that been changed or altered in any manner since
12 it was signed by the Defendant?

13 A No, ma'am, it has not.

14 Q And the Defendant signed this, "No promises, or threats have
15 been made to me, no pressure or coercion of any kind has been
16 used against me;" is that correct?

17 A Yes, ma'am.

18 Q And he said, "I understand and know what I am doing," he
19 signed that.

20 A Yes, ma'am.

21 Q Now while you were talking to him, did he appear to be under
22 the influence of anything that would have altered his ability to
23 correctly relay the facts?

24 A No, ma'am, he did not.

25 Q Did he have any problem conversing with you at all?

1 A I'm sorry.

2 Q Did he have any problem conversing at all?

3 A No, no, ma'am.

4 Q Did you all use any threats, coercion, or promises at this
5 point?

6 A No, ma'am, we did not.

7 Q And did the Defendant make a written statement?

8 A Yes, he did.

9 Q I'm handing you State's Exhibit 3, do you recognize that?

10 A Yes, ma'am, I do.

11 Q What is that?

12 A This is the statement we took at the sheriff's office from
13 the Defendant.

14 Q And has that been changed or altered in any manner?

15 A No, ma'am, it doesn't appear to be.

16 Q And who signed that written statement?

17 A It is signed by the Defendant and witnessed by myself and
18 Detective Black.

19 Q And was a copy of this statement given to the Defendant?

20 A Yes, ma'am, it was and we have here where he received a copy
21 and had him initial where he did get a copy of it.

22 Q This is very important, when did he get a copy of this
23 statement?

24 A When the statement was given, before we left he had a copy
25 of the statement.

1 Q You gave it to him before you left the sheriff's department.

2 A Yes, ma'am.

3 Q And how was that copy, was it like a mimeographed copy, or
4 what?

5 A No, ma'am, these are three parts, there's a white copy, a
6 yellow copy, and a pink copy. And we give the Defendant the pink
7 copy that's on the back.

8 Q So as you write, it goes all the way through all the pages?

9 A Goes through all pages, yes, ma'am.

10 Q Will you please, oh -- and before he signed the copy of the
11 statement -- well describe for the jury, how you took this
12 statement, how did you actually take it down?

13 A Either myself or Detective Black asked questions, to get
14 details of what happened, he goes through and basically tells us
15 what happened, he just tells us the story from beginning to the
16 end. We get background relationship on what leads up to this
17 incident.

18 Q How is the statement taken, how do you take it down?

19 A As he is talking, I either write notes, or write directly on
20 here as we talk.

21 Q And in this case, with this statement, how was it taken?

22 A I think, I'm almost positive, directly onto the statement.

23 Q As you were talking?

24 A As we were talking, yes.

25 Q And did you change his words at all, or did you take it at

1 his word?

2 A No, words are not changed.

3 Q What, if any, opportunity was he given if he didn't
4 understand something to correct his statement?

5 A At the end of the statement we go through, read the
6 statement again, since I'm writing as I talk, I may make errors
7 or misspell something or, and I cross them out and he was given
8 an opportunity to look at those to make sure I didn't change
9 words, then initial over where my mistakes are, and like I
10 said---

11 Q Did he read the statement before he signed it?

12 A Yes, ma'am.

13 Q And did he initial anything that had been changed or
14 anything he disagreed with and have you change it before he
15 signed it.

16 A No, ma'am.

17 Q No, he wasn't given the opportunity to change it or he was?

18 A He was given the opportunity, but he did not offer any
19 changes.

20 Q And when he finished telling you this, you finished writing
21 it down, and he finished reading it, who signed it?

22 A He did.

23 Q And again when was he given an exact copy of that statement?

24 A Before he left the sheriff's office.

25 Q Now, would you please read to the jury the statement that he

1 gave at the sheriff's department?

2 A It says, "I am having Investigator Matt Smith of the
3 Anderson County Sheriff's office, write my statement for me in my
4 own words." That's the beginning of his statement. "I met Leanne
5 approximately four years ago, when she came to work at Hitachi
6 where I work, we started having an affair in March of 1998, we
7 moved in together in February of 1999, and lived in Easley. We
8 lived in Easley together for about five weeks and she moved back
9 in with her husband in Dacusville. We continued to talk and she
10 said that her husband found out she was seeing me and she was
11 threatened by her husband, that if she did not come home, that he
12 would harm her and me. In May of 1998 she moved back in moved
13 back in with me for three weeks in an apartment on East North
14 Street in Greenville. Leanne left again and moved back in with
15 her husband in Dacusville, I told her that it was over and we did
16 not speak. In August of 1999 Leanne moved in with her niece on
17 Carroll Road, Leanne told me that she was going to go through
18 with her divorce and I decided to give her another chance.
19 Sometimes we would argue about her hiding things from me and she
20 would get very defensive. Leanne and I picked her son up from
21 school yesterday, we came home to Carroll Road and dropped him
22 off. Leanne and I left at about 4:30 pm and went to my
23 grandparent's house. We got to my grandparent's house at about
24 5 pm, off of Farris Road in Greenville, we left my grandparent's
25 house at about 6:10 pm and went to Shell Crackers to eat. We

1 left Shell Crackers at about 8 or 8:30 pm, and went to see
2 Leanne's daughter at Joe's Crab Shack on Pelham Road. We went
3 to," the next page, "Furman University and got there about
4 8:45 pm, Leanne and I walked around the lake and sat at a picnic
5 table and left at about 9:30 pm. Leanne and I then went home, we
6 got there around 10 pm. Leanne and I went back to our bedroom and
7 played rummy until about 11:15 pm, we went back into the living
8 room and finished watching, "Who Wants to Be a Millionaire,"
9 Leanne and I watched "20-20" for about 20 minutes, and then went
10 to bed at about 12:20 pm. We stated making love and went to
11 sleep between 3 am and 3:30 am. Leanne got up this morning at
12 around 9 am and I woke up, too. I put on shorts and a tee-shirt
13 and got something to drink and sat on the couch and smoked a
14 cigarette. Leanne was on the phone, on hold with the insurance
15 company, I got up and went to the bathroom and came out and
16 Leanne told Shannon she was going back to bed, I was sitting on
17 the couch and Leanne was on the love seat. Shannon and Keith
18 left, Leanne got up and sat beside me on the couch, she got up
19 and I asked her if she was going to bed and Leanne said, yeah. I
20 told Leanne that I would be there in a minute, Leanne came back
21 and sat down with a book, I looked at Leanne and asked, what was
22 wrong, and she asked me why I took some pictures out of her
23 purse, I told her that I put the pictures in a night stand and
24 told her that no one would be able to see them there. Leanne did
25 not like the way she looked in the pictures, Leanne told me that

1 she had gotten the pictures back now, I told her that I did not
2 understand why she was so upset. I told Leanne that I loved her
3 and tried to kiss her and she kept pushing me away, this happened
4 three or four times. I stood up and told her that this is why I
5 don't understand you, sometimes I don't even know who you are
6 anymore. I went into the bedroom and put my clothes on, when I
7 came back out, she was walking out of Keith and Shannon's bedroom
8 with a silver gun, a automatic, I think it was a .380, the gun
9 was at Leanne's side and she sat down on the couch and put the
10 gun between her legs. It hurt my feelings that she needed a gun.
11 I kneeled down beside her on her right side beside the couch, I
12 asked her, What was wrong with you, I asked her, What has
13 happened to you. I leaned over and tried to hug her again,
14 Leanne said, maybe things would be better if we would go back to
15 the way things were before we met. I tried to hug her and kiss
16 her again, she told me to leave her alone. Leanne reached down
17 between her legs and pulled the gun up, I grabbed her hand and
18 took the gun away from her, as I was standing up I started
19 walking back towards the bedroom, I turned back and shot Leanne
20 in the back of the head. I stood there for a few seconds and
21 Leanne's head just leaned back. I just heard one breath, I
22 walked to the kitchen with the gun in my right hand, I walked
23 backed over to Leanne and put the gun in Leanne's right hand, she
24 was not moving when I put the gun in her hand. I walked back to
25 the bedroom and got a cigarette and walked outside, on the way to

1 the store I was thinking about getting two drinks and my brand of
2 cigarettes and her brand of cigarettes, I got a jacket before I
3 left the house. I drove up to the store and bought the drinks and
4 cigarettes and drove home, I smoked a Doral cigarette on the way
5 home. I came back home and walked inside and saw Leanne and she
6 had blood all over her shirt, I put the drinks and cigarettes on
7 the floor, I was scared and I couldn't believe I had shot her. I
8 called 911 and told the lady on 911 that I had gone to a store
9 and returned home and found Leanne had shot herself. The lady on
10 911 told me to check her pulse, and I did and I could not find
11 one. I went outside on the cordless phone and waited on EMS.
12 EMS got there first and I stayed on the phone until the deputies
13 arrived."

14 Q Now during the time he was giving you -- that's his final
15 statement; is that correct?

16 A Yes, ma'am.

17 Q And during the time that he was giving this final statement,
18 what, if anything did he tell you about a struggle over the gun?

19 A He didn't say there was a struggle.

20 Q What if any thing did he tell you about this being a
21 suicide?

22 A He did not.

23 Q You said that, I believe in the written statement he says
24 that he shoots her, when does he call 911?

25 A After he gets back from the store.

1 Q And how far was the store?

2 A I believe, it's a little over seven miles, I have that in my
3 notes exactly.

4 Q I'm handing you State's Exhibit 4, what are these item?

5 A Those are the drinks and cigarettes we found inside the door
6 in the house, laying on the floor.

7 Q So after she was shot, he got how many different kinds of
8 drinks?

9 A Got two different kind of drinks.

10 Q How many different kinds of cigarettes did he get?

11 A Two different kinds of cigarettes.

12 Q Did he call EMS before or after he made this seven mile
13 round trip to the store to buy cigarettes and drinks?

14 A After.

15 MS. WHITE: I've got no further question.

16 THE COURT: Cross-examination:

17 MR. BREHM: Thank you, Your Honor.

18 CROSS-EXAMINATION:

19 BY MR. BREHM:

20 Q Investigator, can you show the jury a video tape of this
21 alleged statement made by my client?

22 A No, sir.

23 Q Do you have video tape equipment at the Anderson County
24 Sheriff's office?

25 A I'm sure we have a camera somewhere, yes.

1 Q Can you tell the jury why you didn't video tape this
2 statement, this alleged statement?

3 A In our experience people are less conducive to talking when
4 there is a camera, they don't feel as comfortable talking to
5 people when they think they are being videoed.

6 Q You'd agree with me that video taping an alleged confession,
7 is more accurate than you writing out someone else's statement?

8 A Not necessarily.

9 Q It actually depicts, word for word, what is being said; do
10 you disagree with that?

11 A Yes, sir.

12 Q You disagree with that.

13 A To a certain degree you can take part of the video and some
14 people might say you deleted a part of it, when's it on paper,
15 it's on paper, it's everything they said.

16 Q I'm not talking about you messing with the evidence, I'm
17 talking about from my client's perspective. I'm talking about
18 from someone who is in testate, who is giving a statement, it is
19 more reliable to look at a video tape and discern what actually
20 happened, you'd agree with me, than sitting there having a jury
21 decide whether a statement is true or false, based on what you
22 write.

23 A That's an opinion.

24 Q But you'd agree with that, wouldn't you?

25 A No, sir.

1 Q And the reason why you are disagreeing with me is because
2 you say that you can delete part of the video tape?

3 A I'm not saying I would do that, but I'm just saying that's
4 what somebody could say, people are less likely to tell the truth
5 when they think they are on video.

6 Q Okay, how about can you show, or can you present to the jury
7 the audio tape?

8 A No, sir.

9 Q Do you audio tape capability down at the sheriff's office?

10 A I'm sure they do somewhere, not in the interview room.

11 Q Have you ever seen an audio tape, tape recorder at the
12 sheriff's office?

13 A Yeah.

14 Q Can you tell the jury why it is it wasn't audio taped, the
15 statement, the alleged statement was not audio taped?

16 A There again, through experience people are less likely to
17 feel comfortable talking to you if they think they are being
18 recorded.

19 Q What's the difference between recording it and you writing
20 it out?

21 A As far as what, what difference?

22 Q You said that people are far less likely to give you a
23 statement if they think it's being recorded, well isn't that what
24 you do here? You reportedly recorded my statement in your own
25 handwriting, right?

1 A Right.

2 Q So, Investigator Smith, what's there to loose by audio
3 taping the statement?

4 A I don't know.

5 Q You agree with me that the audio tape would be more accurate
6 than this?

7 A Not necessarily, like I said, there again, the tape could be
8 destroyed and this here's on paper it'll be here.

9 Q Could this not burn in a fire?

10 A It could.

11 Q Can somebody not take this and throw it in the trash can?

12 A They could.

13 Q Can't you make copies of audio tape?

14 A You could.

15 Q I guess the same reason stands that an audio tape isn't as
16 good because it could be deleted and parts edited and stuff like
17 that, is that you possession?

18 A That's my opinion, yes, sir, if that's what you are asking.

19 Q How about a combination, video and audio?

20 A Same, same thing.

21 Q Why wasn't he, my client, Kevin Patterson, why wasn't he
22 allowed to write out his own statement?

23 A It's practice at the sheriff's office, ever investigator I
24 know writes their own statements where they'll be able to read
25 them later on.

1 Q I mean, just because it's the practice of the sheriff's
2 office doesn't mean that makes it right does it?

3 A Well that's, that's the way we always do that, so I can know
4 four years from now, or whenever how long, exactly what this
5 says, I won't have to discern someone else's hand writing.

6 Q The reason why you report that, to give this statement is
7 saying that's the way the sheriff's office has always done it, is
8 that what I'm understanding?

9 A As far as I know, yes, sir. That's the way I was taught.

10 Q Women used not have the right to vote; is that right? That's
11 the way everything was done.

12 A Before my time

13 MS. WHITE: Your Honor, I object.

14 MR. BREHM: I withdraw.

15 THE COURT: I'll sustain the objection.

16 Q Now, have you gone to Columbia for any training?

17 A Yes, sir.

18 Q And where would you go to get your training down in
19 Columbia, where have you gotten your training down in Columbia?

20 A At the academy.

21 Q At the academy?

22 A Yes, sir.

23 Q And this isn't the way they teach at the academy, is it?

24 A They don't teach that way, they don't say that's the wrong
25 way to do it, no sir.

1 Q Well they teach you the right way to do it don't they? They
2 teach you how to do it, how to go to, how to interview, go
3 through it, how to make changes and then notarized it, correct?

4 A That's never been taught at the classes I've been. It's not
5 required to be notarized.

6 Q You've never been taught to have someone notarize it to
7 insure that this is Richard Patterson's signature?

8 A No, sir, I've never been taught that.

9 Q Were you in fact not taught down at the academy that the
10 proper way, if you are going to do it this way, is not only to
11 write supposedly what an individual says, but write down what the
12 questions are that are being asked?

13 A That is one way to do, yes, sir, with question and answers,
14 but that's not saying that, that way is right. There are several
15 different ways to take a statement, this is the way we take them.

16 Q Well you think it's right the way you do things, it's what
17 I'm used to, but is it the right way to do things for someone
18 who's giving a statement?

19 A It has worked, yes, sir.

20 Q And that was done, in this case, in other words the jurors
21 are not going to be able hear that, and see the question that was
22 asked and the response.

23 A The only questions that were asked -- this is the story
24 that was given to us, if we need to clarify it on something, we
25 may ask a questions. I we needed, you know, would like to know

1 more detail on something, we may ask a question.

2 Q But this is not the statement in my clients own words.

3 A That's the story he told us.

4 Q That's the story he told you as a result of questions that
5 were being deposed by Investigator Black. Investigator Black
6 says, what kind of cigarettes are you smoking when you are coming
7 back, and he says, Doral cigarettes, so you write in your report,
8 if you look at your report, I was on the way back I was smoking
9 Doral cigarettes---

10 A In the statement.

11 Q ---in the statement, I'm sorry.

12 A That was just something that needed to be clarified, like I
13 said he tells a story, if there was something we had to question
14 him about, we'd asked questions.

15 Q Something that needed to be clarified in your mind?

16 A Right.

17 Q So, he didn't, this, again, this is not a statement by my
18 client, this is a statement as you heard it and put it together.

19 A This is the story he told us in chronological order of what
20 happened.

21 Q Going to the first statement, the statement, I think it was
22 made out there at the scene.

23 A Yes, sir.

24 Q Outside of the car?

25 A Yes, sir, four-page statement, yes, sir.

1 Q And you say that, you talked about the way everything has
2 always been at the sheriff's office, is -- the way I understand
3 it---

4 THE COURT: Mr. Brehm, no comments, just ask questions,
5 Okay?

6 Q Explain how the first statement was taken down?

7 A As far as I can recollect, I may have taken notes on the
8 first one, but like I said, same thing, I write out what he's
9 telling me I go back and put 'em on this form.

10 Q Let me refresh your recollection.

11 A All right, sir.

12 Q Do you recall that?

13 A Yeah, I was taking it as he is telling what happened.

14 Q Okay. So as to the first statement, you take notes, and
15 then after you take the notes, then you reduce it to --

16 A The statement.

17 Q The statement. Okay, so that's the way it's usually done at
18 the Anderson County Sheriff's office, right?

19 A Like I say, sometimes I take notes first, put them on the
20 statement form, sometimes I don't.

21 Q Okay, please show the jury your notes on this statement, the
22 one that you just read to the jury, this three-page statement.

23 A I don't remember if I took notes on that or, I think I put
24 it directly on the statement.

25 Q So the practice at the Anderson County Sheriff's office is

1 to take notes and then reduce it to a statement. Let me show
2 you, Tammy Alewine; do you remember interviewing Tammy Alewine?

3 A Uh, huh.

4 Q That just testified.

5 A Yes, sir.

6 Q She give a statement, correct?

7 A Right.

8 Q And in that situation you took notes, right?

9 A Notes, right.

10 Q So everybody associated with this case, you take notes and
11 then put in your own words in a statement, why didn't you do that
12 on the three-page statement that reportedly my client gave?

13 A I don't put it in my words, I use his words.

14 Q Why didn't you do that in this cases?

15 A I don't recall.

16 Q Is it safe to say that you deviated from your common
17 practice?

18 A No, sir, like I said, sometimes I take notes, sometimes I do
19 not. There's no set rule which way we do it.

20 Q I want to point out, you've indicated in the statement that
21 you believed that Kevin said that Leanne went and got a book, I
22 can't remember exactly where that is, do you recall that, can you
23 pick that out?

24 A I think so, let's see.

25 Q Do you recall?

1 A Yes, sir. I don't know where it's at in the statement, but
2 I do recall that.

3 Q Do you remember, you are at the crime scene, correct?

4 A Yes, sir.

5 Q Out there at the scene, State's Exhibit 22, can you tell
6 that, what's back behind Leanne's head, is that a magazine or a
7 book?

8 A I can't tell.

9 Q Do you remember seeing a magazine out there?

10 A Like I said, I didn't process the scene, I wasn't in there
11 maybe five minutes total, I was outside talking with the
12 Defendant.

13 Q Well you were out there you saw the scene and you've looked
14 at the pictures, correct?

15 A Yes, sir.

16 Q There's no book is there?

17 A I don't recall one.

18 Q So it's quite possible that my client says that Leanne went
19 to go get a magazine and you wrote -- you determined it a book,
20 you wrote down book?

21 A I guess that would be possible.

22 Q And in doing so that's not Kevin Patterson's own words, is
23 it? That's how you interpreted it?

24 A If he said book, I wrote down book.

25 Q Can you explain to the jury, the time period you spent going

1 over Kevin Patterson's rights with him?

2 A We don't have any digital clock in the interview room, I
3 don't have a traditional watch, we look at our watch, like I
4 said, Detective Black is writing on this form as we go through
5 it, we write down, glance at the watch write the time, read
6 through make sure he understands, have him sign, half way through
7 where we read miranda, go down through read the bottom part of
8 the waiver, have him sign where he understands the waiver of his
9 rights, agrees to talk, have him sign that and then we witness it
10 and put the time.

11 Q And the time spent on this was a minute?

12 A Yes, sir.

13 Q Now, I'm going to show you Defendant's Exhibit No. 2, if I
14 can get you to look at the face?

15 A Yes, sir.

16 Q Is that the condition that my client appeared in, in front
17 of you?

18 A He had clothes on, pretty much.

19 Q That's why I told you to look at the face?

20 A (No Response.)

21 Q Now in that photograph was he, in the appearance that you
22 observed him, he wasn't happy was he?

23 A No, sir.

24 Q He wasn't elated, he wasn't joyful that his girlfriend had
25 just been killed?

1 A No, sir.

2 Q In fact, he was very remorseful, sorry, crying, devastated,
3 are those words that actually describe his condition?

4 A I wouldn't go into that detail, it was more shock than
5 anything, I think.

6 Q And you had took a statement from my client in this
7 condition and it's your testimony that he was in a good condition
8 to give a statement?

9 A He was not distraught where he couldn't understand us, no.

10 Q Okay. Now had you had any prior dealings with Kevin
11 Patterson?

12 A No, sir.

13 Q Well how do you know?

14 A In dealing with people in general, he didn't display any
15 actions that would, you know, lead us to believe that we
16 shouldn't take a statement from him right then.

17 Q Do you agree with me that some people are different than
18 other people?

19 A I agree with that.

20 Q And had you just lost a loved one, would you be in a mood,
21 or in a condition to give a statement?

22 A I don't know, it depends.

23 Q Now what was the purpose of bringing the food to him?

24 A Like I said, we, the call came in a little after 10:30 or
25 so, I don't know the exact times, but this was 12:30, 12:45,

1 myself and Detective were hungry, so we went through the
2 drive-through on the way back to the sheriff's office and brought
3 him something also, thought he might be hungry.

4 Q Okay, in your education down in Columbia and your time and
5 experiences as a police officer, you are taught that when you are
6 trying to get a confession out of somebody, to befriend the
7 people, right, or the person, correct?

8 A Not necessarily---

9 Q You try to buddy-up with them?

10 A ---we are just talking.

11 Q And you try to, in essence the reason why you got him some
12 food was to appear, to act as though you cared?

13 A No, sir, I thought he might be hungry, I was.

14 Q And in your talks, with my client, or in sitting down with
15 my client, you didn't sit down at the time, what time did you say
16 the rights started?

17 A 1:51.

18 Q You didn't just sit down with my client at 1:51 and go
19 through his rights and then get a statement from him, did you?

20 A No, sir.

21 Q You were with him for 20 or 30 minutes prior to that?

22 A Around 20 minutes, yes, sir.

23 Q And then in sitting down with my client, you and
24 Investigator -- let me ask you this, just you and Investigator
25 Black were in there, correct?

1 A Yes, sir.

2 Q Why are there two people in there?

3 A We always have two people in on an interview, Jeff's my
4 partner.

5 Q There weren't two people with Tammy Alewine.

6 A Yes, sir.

7 Q Who was the second person with Tammy Alewine?

8 A Investigator Black.

9 Q And it's your testimony that investigator Black was with you
10 when Kevin gave you this first statement?

11 A First statement, no.

12 Q So again you deviated from your common practice in this
13 case?

14 A Sometimes we have to, Jeff was doing something else on the
15 scene.

16 Q Okay, so you are sitting down talking with him and one of
17 things that you had him hint to is that this can not be a
18 suicide?

19 A Not in those exact words, no, sir.

20 Q Well something to that affect.

21 A Not really, we said it didn't look right.

22 Q Said something didn't look right.

23 A Yes, sir.

24 Q And the thing that didn't look right was the trajectory of
25 the shot.

1 A Right.

2 Q And the -- I believe you had spoken to the coroner and the
3 coroner was the one that pointed out that the trajectory.

4 A I don't remember exactly who told me that, but yes sir. I
5 wasn't in there when they ran the rod and all that, they just
6 said that there was something about the angle of the bullet that
7 didn't add up.

8 Q And that is that the shot goes in the side of the head,
9 correct?

10 A Toward the rear and up from the ear, I don't exactly.

11 Q You were at the autopsy, correct?

12 A Yes, sir.

13 Q And you were there with Dr. Woodard, made a diagram of the
14 head, do you recall that?

15 A Yes, sir.

16 Q And this?

17 A He did that at the autopsy room, I got that report from him,
18 yes, sir.

19 Q Okay, and it's got the front and the back

20 MS. WHITE: Your Honor, I'm going to object. That's an
21 unspoiled diagram, we do have a picture, again of the location.

22 THE COURT: What is your legal objection.

23 MS. WHITE: Hearsay, Your Honor.

24 THE COURT: I'll overrule the objection.

25 A I don't need to look at the diagram, I've seen it.

1 Q And it's an accurate diagram?

2 A As far as I know, yes, sir, they had the measurements.

3 Q Okay, and it lists the front of the head.

4 A Yes, sir.

5 Q And the back of the head.

6 A Right.

7 Q And the right and the left.

8 A Right.

9 Q And you wouldn't argue with me that it's on the right side
10 of the head?

11 A Right to the rear.

12 Q Right and to the rear by just a tad?

13 A Little bit, right, I don't know if that's to scale, but.

14 Q Okay. So the shot is to the right side of the head, just
15 above the ear, correct? And it travels downward coming out---

16 A Cheek.

17 Q Somewhere -- the cheek, right here. And you, based on that,
18 you and Investigator Black told my client that it was a murder,
19 not a suicide, or something to that effect?

20 A No, sir.

21 Q What words did you use then?

22 A We said, it didn't look right, didn't say nothing about a
23 murder.

24 Q Said it didn't look right.

25 A Right.

1 Q And my client again, attempted to explain to you, or tried
2 to explain to you what had happened, and you didn't believe him.
3 You didn't believe him when he gave this statement, and you
4 didn't believe him initially in the 20 to 30 minutes that you are
5 talking to him, you didn't believe what he was saying, did you?

6 A We had some doubt, yes, sir. We felt like he knew what had
7 happened.

8 Q Okay. And you wouldn't argue with me that Leanne Pearson is
9 a right handed person, would you?

10 A I think she was right-handed, yeah.

11 Q And the gun, the gun that was found came out of Keith and
12 Shannon's bedroom, right?

13 A As far as I know, yes, sir.

14 Q And tell the jury at what point did you go into Kevin's
15 bedroom and find his weapon?

16 A I did not search the house.

17 Q Tell me at what point that you, it was revealed to you that
18 there was a weapon in Kevin's bedroom?

19 A I did know that there was, but I don't remember when it was,
20 I don't know if it was on the scene or later, I don't recall.

21 Q As far as you knew, did you know that, that weapon was never
22 recovered?

23 A No sir.

24 Q Do you have Kevin's weapon to present to the jury?

25 A No, sir.

1 Q Have his ammunition?

2 A No, sir.

3 Q Wouldn't you agree with me that that's pretty important,
4 that's a pretty important piece of evidence?

5 A We didn't have any information that another gun was used,
6 no, sir.

7 Q Well if you had looked through the house, and look at your,
8 even at the pictures there, were taken you'd see there was a gun
9 case in Kevin's -- I can't find it, but there's a gun case under
10 the bed, correct?

11 A Saw that later, yes, sir.

12 Q And what in fact, Kevin sitting there telling you that he
13 went back into his room, if he had wanted to kill her he could
14 have gotten his own gun.

15 A At the time I didn't know he had one.

16 Q Now did you take part or do the lead or I don't know what
17 you call it, but execute a search warrant, in this automobile?

18 A No, sir. We were at the office when the search warrant was
19 signed and served.

20 Q Okay, who did that?

21 A I believe, Investigator Garrett got the search warrant.

22 Q So, Investigator Garrett got the search warrant to search
23 Kevin's truck.

24 A His truck, yeah.

25 Q And that wasn't at your direction?

1 A No, sir.

2 Q To your knowledge was that Investigator's Black direction?

3 A I couldn't answer that.

4 Q To your knowledge, you are the led investigator or is
5 Investigator Black the led investigator?

6 A We, if it's my case, I'm the leader.

7 Q Since you are the leading investigator, did you come to find
8 out what was given to you of significance, out of the truck?

9 A (No Response).

10 Q I mean, was there any weapons, ammunition, anything like
11 that in the---

12 A No, sir, as far as I know, no, sir.

13 Q Now, had you had known, apparently you make an assumption
14 that something is wrong, and that's when you start questioning my
15 client and get this so called statement from him, had you known
16 at the time that Leanne Pearson had been under a doctor's care,
17 at the present been on medication, would that had changed your
18 mind at all?

19 A No, sir.

20 Q Would that be something that you would have investigated?

21 A Later on, yes, sir.

22 Q Okay, in fact, later on, did you investigate this?

23 A I didn't specifically, no.

24 Q You didn't think it was important, did you?

25 A Kind of, we did get her medical record?

1 Q Yes.

2 A We have those, I think.

3 Q I mean, you didn't, you said, kind of, I mean I take your
4 response to mean that you just didn't care that much about it,
5 have you looked over her medical records?

6 A I haven't seen those, no.

7 Q Don't you think that's important, you are the lead
8 investigator, isn't it your job to take in all the evidence, take
9 in all the facts?

10 A Yes, sir.

11 Q And make a decision, whether or not, to charge someone?

12 A Yes, sir.

13 Q 'Cause you don't want to charge an innocent person, do you?

14 A No, sir.

15 Q You haven't gone over her medical records.

16 A I know pretty much what's in them, but I haven't read every
17 page, no, sir.

18 Q Have you talked to Dr. Stanton Smith?

19 A No, sir.

20 Q Have you talked to the Dr. Cynthia Marks?

21 A No, sir.

22 Q Didn't think it was important, did you -- you had your
23 confession, and that's all you needed, right?

24 A No, sir, we talked to a bunch of people, we didn't talk to
25 the doctors, we talked to a bunch of other people.

1 Q Now do you recall after this supposed statement, this three
2 pages, that you wrote out, do you recall my client when you
3 finished, him asking, or telling you, you and Investigator Black,
4 that he had to go to the rest room?

5 A I think he did, yes sir, I don't remember the exact dialogue
6 of that, but yeah, I believe he did have to go to the rest room,
7 yes, sir.

8 Q But prior to that, do you remember, he's got to go to the
9 bathroom and you sit there and you say, Well I need you to, I
10 need you to sign some places for me, and you are the one that
11 directed him, looking at State's Exhibit 3, you are the one that
12 directed him to sign on page 3, at the bottom, correct?

13 A Yes, sir.

14 Q And you were the one that directed him to initial the
15 corners of each page, and you were the one that instructed him to
16 initial on the places where you messed up.

17 A Yes, sir.

18 Q And how long did that take?

19 A I don't recall.

20 Q During that time, now it didn't take very long for him to
21 sign and initial a couple places, did it?

22 A I don't remember if we read through it then, or he had
23 already through it, I don't remember exactly how long the actual
24 signing took, no, sir.

25 Q But it's quite possible that he signed it, initial it, then

1 went to the rest room, came back and that's when you guys gave it
2 to him.

3 A I don't recall the exact order of whether we give it to him
4 before or after.

5 Q But, it's quite possible?

6 A Could be, he had it before he left the building.

7 Q And he took the statement folded up, as such, and put it in
8 his pants, correct?

9 A I guess that's the one you have.

10 Q And you guys took him down to the law enforcement center,
11 the jail---

12 A The jail, yes sir.

13 Q And booked him in the jail and charged him with murder and
14 possession of a crime -- possession of a weapon?

15 A Yes.

16 Q And that's on the 10th?

17 A Yes, sir.

18 Q And then two days later, do you recall that you and
19 Investigator Black going back down to the law enforcement center,
20 to the jail---

21 A To the jail.

22 Q ---to talk with him?

23 A Yes, sir. We were at the jail and we did go in and check on
24 him, yes, and at that time that's when he told us that he was
25 represented by an attorney.

1 Q And the Prosecutor claimed a thing or two about my client
2 going to the store.

3 A Right.

4 Q And the autopsy, you were there with Dr. Woodard, right?

5 A Right.

6 Q Tragically, Leanne died instantly?

7 A Yes, sir.

8 Q So, it's not a situation that had Kevin called 911 and an
9 ambulance got there, there's nothing that the ambulance could
10 have done or anybody else could have done, right?

11 A As far as I know, no.

12 Q I mean, she's, she's hit in the head, there's blood
13 everywhere on her left side, right?

14 A Yes, sir.

15 Q Now, the pictures that supposedly Leanne was upset about,
16 I'm kind of confused, but, is it your understanding that these,
17 referring to State's Exhibits 31 and 32, that these are the
18 pictures that she's upset about, or was she upset about some
19 pictures that had been taken at the mall?

20 A I believe they were pictures of her family that she was so
21 upset about.

22 Q And those were the pictures that she was trying to, that's
23 the reason she was trying to get her way into the car.

24 A I think so, yes, sir.

25 Q Did you ever hear about two, do you know about the pictures

1 that they were discussing, or arguing, were two pictures that he
2 had on his night stand that were made at the Anderson County, or
3 the Anderson Mall.

4 A No, sir, I don't recall.

5 Q Do you ever recall, or do you know of anybody ever finding
6 the pictures of the two, it's one of those booths, I'm talking
7 about black and white?

8 A Yeah, no, sir, I haven't seen those.

9 Q Now when you read the statement, I made a note to jot this
10 down, on page 3.

11 A Yes, sir.

12 Q And when you were reading, you said, I grabbed her hand and
13 took the gun away from her. It's actually not, I grabbed her
14 hand, in his statement it says, I grabbed her hands, right?

15 A Let me find it, yes, sir.

16 Q So according to Kevin's statement that was written down by
17 you, when he goes to grab the gun and she's in an indian, she's
18 in the indian position, according to his statement she has the
19 gun up here, he's grabbing both of her hands.

20 A He didn't show us how it happened, I don't know.

21 Q But you actually recall him saying, I grabbed her hands,
22 quote.

23 A That's what I wrote, that's what it says.

24 Q I mean you actually remember him saying that he takes the
25 gun from her, walks down the hall turns around and shoots her in

1 the back of the head, that's what you've got written down, right
2 here.

3 A If that's what I wrote, that's what he said, yeah.

4 MR. BREHM: One moment, Your Honor.

5 Q One last question. What's the one-way mirror in the
6 interview room for?

7 A Excuse me.

8 Q What's the one-way mirror in the interview room for?

9 A If anybody else wants to look in on the interview.

10 MR. BREHM: I said it was one question, so I'll leave
11 it. Thank you.

12 THE COURT: Mr. Smith, just sit tight one second.

13 Mr. Foreman, ladies and gentlemen of the jury, we've been
14 going for an hour and a half, I like to take a break about every
15 hour and a half, go to the jury room and the bailiff will get you
16 something to drink, you do whatever you need to attend to your
17 personal needs. We'll get you back in the courtroom in about 20
18 minutes, don't discuss the case amongst yourselves.

19 (WHEREUPON, the jury was excused from open court
20 at approximately 4:05.)

21 THE COURT: Detective Smith, please don't discuss the
22 case with anyone while we are on break.

23 We'll take about a 15 minute break.

24 (WHEREUPON, a short break was taken.)

25 THE COURT: Is there anything from the State before we

1 bring the jury?

2 MS. WHITE: No, sir.

3 THE COURT: Anything from the Defendant?

4 MR. BREHM: No, Your Honor.

5 THE COURT: Bring us the jury, please sir.

6 (WHEREUPON, the jury returned to open court at
7 approximately 4:26.)

8 THE COURT: Solicitor, re-direct?

9 RE-DIRECT EXAMINATION

10 BY MS. WHITE:

11 Q Detective Smith, the Defense attorney asked you why you
12 didn't do video, audio, and all that. What can happen if you do
13 a video tape, what can be said?

14 A They can say that we altered it and showed only the part
15 that we wanted the jury to see.

16 Q And what can be said if you do an audio tap?

17 A The same thing, say we only showed the part that we want
18 them to hear, say we threaten him and took that part out, or
19 something like that.

20 Q And what if you take an oral statement, in other words, you
21 don't take it down in writing, you just tell the jury what they
22 said.

23 A Same thing, no proof.

24 Q Now what do you feel, as an investigator, is the best way of
25 taking a statement that is full-proof?

1 A Handwritten statement, having them to sign and give them a
2 chance to make any corrections if they need to.

3 Q Whose initials are these at the beginning and end of each
4 page?

5 A The Defendant.

6 Q So at the start and finish of each page, who has initialed?

7 A The Defendant.

8 Q And who signed at the end of the statement?

9 A The Defendant.

10 Q And who signed on the first page?

11 A The Defendant.

12 Q And who signed on the second page?

13 A The Defendant.

14 Q Who initialed anything that's changed on the page?

15 A The Defendant.

16 Q Who was given a chance to completely read this statement
17 before he signed it or initialed it?

18 A The Defendant.

19 Q And who is given a copy, I think we saw the pink copy, the
20 minute this statement is signed?

21 A The Defendant.

22 Q Has that been changed or altered in any manner?

23 A No, ma'am, it has not.

24 Q The Defense attorney asked you about the long gun; is that
25 correct?

1 A Yes, ma'am.

2 Q And I believe he said if he wanted to kill her, he could
3 have gotten his own gun; is that correct?

4 A Yes, ma'am.

5 Q But if he wanted to make it look like suicide, whose gun
6 would he have used?

7 A Her's.

8 Q Now, I believe that we have heard testimony that the
9 trajectory was, the injury was here in the side, the singular
10 entrance wound was here, the exit wound was here and they did a
11 rod; is that correct?

12 A Yes, ma'am.

13 Q Which showed the head had to be faced forward; is that
14 correct?

15 A Straight ahead, yes, ma'am.

16 Q Now, I believe the entrance wound was right back here.

17 A Yes, ma'am.

18 Q And the gun was found where?

19 A In the victim's lap.

20 Q In the victim's lap.

21 A Yes ma'am.

22 Q With the finger trigger?

23 A Yes, ma'am.

24 Q There was a discussion about medical records, did the
25 solicitor's office gather all records and interview all medical

1 personnel before this trial?

2 A Yes, ma'am, you did.

3 Q And when asked about the medical records, the Defendant had
4 already given this confession.

5 A Yes, ma'am.

6 Q Is there any question in your mind that the Defendant knew
7 exactly what he was saying when he gave that statement and signed
8 it?

9 A No, ma'am.

10 MS. WHITE: Nothing further.

11 THE COURT: Re-cross?

12 RE-CROSS EXAMINATION

13 BY MR. BREHM:

14 Q Officer, the Prosecutor asked about the video and audio tape
15 and again you say it can be altered, who are you talking about
16 altering it, are you talking about you altering it or me altering
17 it?

18 A Any body.

19 Q If it's vide taped, you get a copy, you send it over to the
20 Prosecutor, and the Defense attorney gets a copy.

21 A Right.

22 Q If I come into court and my version is any different than
23 you all's version, aren't you going to make a big stink about
24 that?

25 A Yes, sir, I guess we would.

1 Q So what's the fear, why the fear that a video tape is going
2 to be altered?

3 A Not necessarily fear, this is just, I mean, it's signed you
4 have a exact copy of it. This hasn't changed at all. It wouldn't
5 change, there's nothing you can take out, there's no way you can
6 hide something out of there. That's why the best way is to take
7 a statement, in our opinion.

8 Q But this is an exact copy of what you wrote, it's not an
9 exact copy of what actually transpired, it's not an exact
10 statement of my client.

11 A It's exactly what he told me, the story that he told me,
12 that's how it's written.

13 Q And you indicate that handwriting the statement system is
14 the full-proof way to do it?

15 A Yes, sir, in my opinion.

16 Q Okay, for argument sake, let me give you that, just
17 hypothetical, for the time being, what's the danger of having
18 Kevin write a statement, if you are saying that a handwritten
19 statement is full-proof, then why not let him do it?

20 A Like I said, I want it to be in my handwriting where I can
21 read it, I may not be able to read his handwriting, or whoever
22 I'm taking a statement from, I may not be able to read their
23 handwriting.

24 Q I mean you might not be able to, but have you ever seen his
25 hand writing?

1 A No, sir.

2 Q Did you say, Here, let me see your handwriting, and if his
3 handwriting is not good, or if his handwriting is good let him
4 write it?

5 MS. WHITE: Your Honor, this has already been asked and
6 answered.

7 THE COURT: Been asked about a half a dozen times,
8 please move on.

9 Q And you would agree with me, would you not just because
10 something has initials on it or something has a signature on it
11 don't actually mean that someone has actually read and reviewed
12 it?

13 A He's given an opportunity to read it, we go over it, if --
14 he had an opportunity to make any changes if he wanted to, he
15 didn't offer any.

16 Q When you go and rent a car, they ask you to initial and sign
17 your name, do you go through the whole document?

18 A I've never rented a car.

19 Q When you go to rent a video, sign the paper work, have you
20 ever looked at all the paper work?

21 MS. WHITE: Your Honor, objection to relevance.

22 THE COURT: I sustain the objection.

23 Q Are you familiar in a civil case, have you ever had, have
24 you been deposed?

25 A No, sir.

1 Q Do you know what a deposition is?

2 A Pretty sure, yes.

3 Q A deposition is a pretty full-proof way of doing something,
4 taking down a statement, isn't it?

5 A I guess, I've never had one served, I thing I know what you
6 are talking about, but I've never been involved in one.

7 Q Now, the Prosecutor said, if he wanted the act to look like
8 a suicide then he would have gotten her gun, once again, where
9 was the gun? The gun was in front of her, Leanne, here's the
10 couch again, Leanne is on the sofa, and the gun, correct me if
11 I'm wrong is in the room over there in Shannon's and Keith's
12 room?

13 A Yes, sir.

14 Q So Kevin would have had to go across the living room in
15 front of Leanne go retrieve the gun, somehow, load the gun and
16 come back, goes walks around her, goes to the side of her down
17 the hall this way and turn around and shot her?

18 A That's not what's in the statement.

19 Q The question was, in re-direct was, if he wanted to make it
20 look like a suicide, he would have used her gun. And my question
21 is, that doesn't make any sense does it?

22 A (No Response.)

23 Q He's saying, what happened to her?

24 A I wasn't there, I don't know, I wasn't there when it
25 transpired.

1 MR. BREHM: Thank you, Your Honor.

2 THE COURT: You may step down Detective Smith, thank
3 you very much.

4 You want to call your next witness solicitor?

5 MS. WHITE: May Detective Smith be excused, Your Honor?

6 THE COURT: Any objections, Mr. Brehm:

7 MR. BREHM: No, Your Honor.

8 THE COURT: Detective Smith, you may be excused if
9 you'd like, thank you very much.

10 MS. WHITE: The State calls James Sorrow.

11 THEREUPON:

12 MICHAEL SORROW,

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

14 THE CLERK: Please have a seat in the witness chair,
15 state your full name, and please spell your last for the record.

16 MR. SORROW: Michael Sorrow, S-O-R-R-O-W.

17 DIRECT EXAMINATION

18 BY MS. WHITE:

19 Q What is your occupation?

20 A I got several, which one you want to hear first?

21 Q Which was your occupation on March 10th of this year?

22 A I own the store that is in question here.

23 Q All right, the Texaco?

24 A Yes.

25 Q And where is that located?

1 A On 252 and Hwy 413.

2 Q Now on March the 10th of this year did you all have any kind

3 of surveillance camera in the store?

4 A We've always had surveillance.

5 Q And what do you mean by that, what do you have?

6 A We have four cameras that watch the parking lot and inside

7 the store.

8 Q I'm handing you State's Exhibit 35, did a sheriff's deputy

9 come by, or investigator rather, come by on the 10th and retrieve

10 the tape, the video tape from that camera from you?

11 A Yes he did.

12 Q And did you get the -- how did you get the tape out of

13 camera, what did you do?

14 A All we did was just mash the ejection button, it's a 24-hour

15 tape, it had been running all night.

16 Q And did you alter that tape, change it in any manner before

17 you gave it to the sheriff's department?

18 A No, no, ma'am.

19 Q Is it in the same condition as it was when you gave it, have

20 you changed it at all?

21 A No, it hasn't been changed, not as I can tell?

22 MS. WHITE: Your Honor, I'd ask that 35 be admitted.

23 THE COURT: Any objection?

24 MR. BREHM: No objection.

25 (WHEREUPON, a video tape, previously marked as

1 State's 35 was admitted without objection.)

2 MS. WHITE: No further questions.

3 THE COURT: Cross-examination?

4 MR. BREHM: Yes, sir, really quick.

5 CROSS-EXAMINATION

6 BY MR. BREHM:

7 Q Did you see, or do you know Kevin Patterson?

8 A I've never seen him.

9 Q You didn't see him March 10th?

10 A I did not see him, no.

11 Q And the reason you have the video tape inside the store is
12 to accurately depict what's going on inside the store, right?

13 A Well, it -- one's focused on the cash register, anybody that
14 comes in the cash register is going to be photographed.

15 Q You find that video tapes to be pretty accurate?

16 A Well we've have several problems this year, and everone of
17 them is behind bars right now, so I'd say it was pretty accurate,
18 wouldn't you?

19 Q Well, that's what I was thinking.

20 A Yeah, yeah.

21 THE COURT: Any re-direct?

22 MS. WHITE: No, sir. May the witness be excused.

23 THE COURT: Mr. Sorrow, you may step down, thank you
24 very much.

25 MS. WHITE: Your Honor, My next witness is going to be

1 one of the other leading investigators on the scene, and I don't
2 know if you want to start him now or not.

3 THE COURT: Well, come up here for a second.

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury, but out of the hearing of
the jury.)

6 THE COURT: All right, Mr. Foremen, and ladies and
7 gentlemen of the jury, it's about 20 minutes to 5, and the next
8 witness is going to be rather lengthy, so we are going to adjourn
9 at this time and start back in the morning, and on top of that I
10 have another hearing scheduled at 4:45 on another matter that I
11 need to hear. So please don't discuss the case, if you see
12 anything in the paper, please don't read it, I want you to make
13 your decision from the testimony you've heard on the witness
14 stand, not that the paper is going to be wrong, but sometimes
15 they print things in there that's not necessarily admissible in
16 court, so I'm asking you not to read anything in the paper, watch
17 anything on TV, don't discuss anything with your girlfriend,
18 boyfriend, husband or wife, because they haven't heard anything,
19 they don't know what you've heard so they don't need to be
20 injecting their opinion into the case. See you in the morning at
21 9:30, and please leave your note books in your seat.

22 (WHEREUPON, the jury was dismissed from open court
23 for the day at 4:45 pm.)

24 THE COURT: All right, is there anything from the State
25 before we adjourn?

1 MS. WHITE: No, sir, Your Honor.

2 THE COURT: Anything from the Defense?

3 MS. BREHM: No, sir, Your Honor.

4 (WEDNESDAY, OCTOBER 11, 2000.)

5 (WHEREUPON, the jury returned to open court at
6 approximately 9:40 am.)

7 THE COURT: Solicitor, call your next witness.

8 MS. WHITE: The State calls Dr. Woodard.

9 THEREFORE,

10 DR. BRETT H. WOODARD,
11 after first having been duly sworn, testified as follows:

12 THE CLERK: Doctor, please have a seat in the witness
13 chair, state your name, and spell your last for the record.

14 MR. WOODARD: I'm Dr. Brett H. Woodard, W-O-O-D-A-R-D.

15 BY MS. WHITE:

16 Q Dr. Woodard, what's your occupation.

17 A I'm a medical physician, a pathologist by specialty
18 training.

19 Q Dr. Woodward, if you could talk up a little bit, we've got
20 this new microphone hanging down from the ceiling and it's a
21 little different from when you've been here before. And what's
22 your -- are you licensed?

23 A I'm licensed to practice medicine in the state of South
24 Carolina, North Carolina, Georgia, Pennsylvania, and Louisiana.

25 Q And what's your experience in the area of pathology?

1 A I received my training at Duke University Medical Center and
2 remained on the facility at Duke University Medical Center
3 following my training. I then came to Piedmont Pathologist &
4 Associates in Anderson, South Carolina in 1983. Following that,
5 I returned to North Carolina and did fellowship training at the
6 North Carolina Medical Examiners office in Chappell Hill, North
7 Carolina and have been practicing pathology here in Anderson
8 South Carolina since 1983.

9 Q What's the difference between a pathologist and a forensic
10 pathologist?

11 A A pathologist is physician who is in the general fields of
12 pathologist, there would be some training in the field of
13 forensic pathology. A forensic pathologist is someone who spent
14 additional training in the field of forensic pathology and is
15 primarily concerned, when they practice that area of pathology,
16 with the cause of injury to the human body, how those injuries
17 may have affected individuals, and what sequence of events that
18 may have occurred that caused the injuries.

19 Q If we can just wait a minute before we go into your
20 testimony, let's make sure everybody has their notes. Okay,
21 Dr. Woodard did you perform an autopsy on Donna Leanne Pearson?

22 A Yes, I did on the 11th of March of this year, at
23 approximately 10 am in the morning.

24 Q And just describe for the jury, what are you doing in an
25 autopsy and what is the purpose of what you do?

1 A The purpose of the autopsy is to determine the cause and
2 manner of death and to acquire any relevant evidence that may
3 help to establish that cause and manner of death. What we do
4 when we perform an autopsy is we start with the body as we
5 receive it from the location where it was discovered dead. We
6 exam the outside of the body, we photograph and document the
7 presence of any injuries that can be seen from the outside of the
8 body and then we carefully remove different layers of the body so
9 that we can look at the injuries and the tissues beneath the
10 outside of the body in how those injuries might have effect
11 significant body organs, like the brain or the heart. And we
12 also look for the evidence of any natural disease process, we
13 always acquire specimens for toxicology, the study of the
14 presence of drugs of chemicals that may have been in the body and
15 may contribute understanding to how injure or death occurred.

16 Q And did you exam Leanne's body?

17 A Yes, I did.

18 Q What if any gunshot wounds did you find on her body?

19 A I found a single gunshot wound to her head, it was behind
20 and above the right rear in the general area where I'm placing my
21 finger, an inch and three-eighths behind the ear, and an inch and
22 a quarter above the right ear in the back portion of the skull
23 and it was an entrance wound. There was an exit wound that was
24 in front of the hole where the ear is on the left side, was in
25 front of it and slightly above it where a bullet had passed from

1 her head from the right back to the left front.

2 Q Doctor I'm handing States Exhibit 36 for identification, can
3 you mark, and we'll assume the line that goes around the head
4 that, that's where the ear is, okay. So let's just assume that,
5 and if you'll mark an "E" for the entrance wound and an "X" for
6 the exit wound.

7 A The "E" would be in the general area if this is the ear, and
8 the ear or the center portion, mid-line of the ear, the ear would
9 come out, the entrance wound was above and behind the ear. The
10 exit wound, if we assume the ear would come out and on the aditus
11 is about or equal to, or the hole that your ear comes out, is
12 about equal to the edge of your eye, the exit wound was slightly
13 in front of that hole in front of the ear on the left side.

14 MS. WHITE: Your Honor I move to admit State's
15 Exhibit 36.

16 THE COURT: Any objections, Mr. Brehm:

17 MR. BREHM: No objection.

18 THE COURT: All right then, State's Exhibit 36 admitted
19 without objection.

20 (WHEREUPON, a styrofoam head previously marked as
21 State's No. 36 was admitted without objection.)

22 Q Now did you exam the entrance wound, and if so why?

23 A I examined the entrance wound to determine it was an
24 entrance wound, to look for other materials that may have passed
25 with the gun into the wound itself, and to look at the

1 characteristics of that wound.

2 Q All right, now when a weapon is fired, looking at State's
3 Exhibit 12 here, when a weapon is fired and the trigger is
4 pulled, we've already heard the bullet comes out the end of the
5 weapon, what if anything else comes out the end of a weapon?

6 A The -- when the cartridge explodes little pieces of unburnt
7 powder and burnt powder also go out the end of the weapon. The
8 unburnt powder and little metal fragments from the bullet being
9 forced down the barrel that are torn off, the bullet is, it's
10 forced through, what we call the rifling, or the little metal
11 twisting that's in the barrel are also thrown out. The powder
12 being very light is thrown a very short distance. It's like
13 trying to throw a leaf versus a small pebble. The small pebbles
14 can be thrown more easily than the leaf. So the powder goes a
15 very short distance, with hand guns it may go out as far as 6
16 inches from away from the hand gun, but it may be as little as 3
17 inches from the hand gun, depends on the individual hand gun.
18 The larger particles, the little metal particles and partially
19 burnt, or stuck together powder particles, can be thrown farther,
20 they may go out 6 to 12 inches. In a usual hand gun and since
21 they have more weight when they strike the skin they may produce
22 small tears, we refer to those tears or bruises of the skin as a
23 stippling versus powder.

24 Q Okay, Doctor, stop there a minute, you gave some estimate as
25 to what usual hand guns can do. To find out what this hand gun

1 actually does, what would SLED have to?

2 A The gun would be tested against a paper target with the gun
3 firing the same type of ammunition and basically would be backed
4 up in a serial way so they could map out the distance that these
5 events occur.

6 Q All right. So you were saying you were examining the
7 entrance wound and you were looking for some of this material;
8 is that correct?

9 A That's correct.

10 Q And why, what does this tell us if there is material versus
11 isn't any material?

12 A The distance the gun was from the wound at the time it was
13 discharged, the end of the barrel of the gun.

14 Q All right. So in other words, if you find some of this
15 substance in there that tells you the end of the barrel of the
16 weapon was where in relation to the head?

17 A Closer to the head.

18 Q Now if you find no materials in here, none of the little
19 materials or the powder, what does that tell you about the
20 distance of the end of the weapon to the head when it was
21 discharged?

22 A That the weapon was discharged farther from the head.

23 Q All right, so please tell the jury what you found when you
24 examined this wound, and how you examined this wound?

25 A We examined it first with our eyes, and basic photographic

1 lenses to take pictures of the wound as we see it on the day that
2 we do the autopsy at the time, how the hair was arranged, what it
3 appeared to be like, the general features. Then I exam the wound
4 with magnifying lenses, the magnifying lenses are 12½ times the
5 magnification, those of you on the jury who may be older and wear
6 bifocals you probably wear maybe 1½ to 2 times, so this is more
7 magnification than what would occur with bifocals or surgical
8 loops that we use. We look not only at the wound but at the hair
9 around the wound to see if there is any damage to the hair or if
10 any of the hair has acted as a blocking media for any of these
11 materials that I've discussed. Also we examined into the hole of
12 the wound itself, because if the gun is held in tight
13 approximation to the wound at the time it's discharged these
14 materials don't have a chance to come on the skin, they are
15 forced in the hole and would follow the bullet in the path that
16 the bullet made.

17 Q Okay. So let's back up and talk individually about your
18 finding on each thing. Let's talk first, you said you did 12½
19 times magnification looking in the hair for the powder debris?

20 A Looking for powder debris or signs of burning.

21 Q Let's start first with the powder debris, did you find any
22 of that in the hair using the magnification lenses?

23 A No.

24 Q So what, if anything, did that indicate to you?

25 A The lack of powder on the skin, the surface of the skin, the

1 lack of powder in the hair indicated that the gun was in all
2 probability more than 3 to 6 inches away at the time it was
3 discharged.

4 Q And once the jury hears the SLED -- in other words it was
5 farther than what would leave powder; is that correct, for this
6 individual gun?

7 A That's correct.

8 Q Now, let's talk about the singeing of the hair, did you look
9 for that?

10 A Yes, I did look at the edges of the wound itself and the
11 hair itself to see if there was any singeing. When a gun is
12 discharged there is an explosion, and that explosion produces a
13 small flame, and if the gun is very close to the head, and again
14 this is variable depending on the ammunition and the individual
15 gun, but a small flame comes out. If the gun is not held
16 immediately tight to the skin so that the skin makes a seal
17 against the barrel of the gun, then this small flame will come
18 out and things like hair will be injured by the flame, like
19 taking a match and touching it to your hair.

20 Q And what were your finding on that?

21 A We saw no evidence of those types of changes, either in the
22 edge of the wound or in the hair adjacent to the wound.

23 Q And so what, if anything, did that indicate to you as to the
24 distance of the gun at least, that the gun was from the head when
25 it was discharged?

1 A It was, in my opinion the gun would be more than 3 inches,
2 but it could be even farther from the head at the time of
3 discharge.

4 Q All right, now you also talked about the appearance of the
5 wound and the stuff in the wound that was driven in, in other
6 words where it was placed, tell me what your findings were on
7 that.

8 A When a gun is discharged depending on the distance of the
9 gun is from the wound, not only does the bullet go in the wound
10 but these hot gases and these material will go with the bullet.
11 They add to the energy that is placed into the wound to produce
12 damage into the wound. So if a gun is in tight position against
13 the skin, all the energy from the discharging shell goes into the
14 wound. And the powder as a tell-tale sign will be transmitted,
15 it can visibly be seen in the wound down to the surface of the
16 bone, because immediately beneath, in this location, immediately
17 beneath the skin we have a bone layer and that bone layer will
18 capture the powder as the bullet goes through the bone layer, the
19 powder will be captured on the outer surface of the bone the
20 direction that the bullet is coming from. The skull is a unique
21 bone in that it's made of two plates of bone with marrow, or
22 spongy material in between, so we have to two layers as the
23 bullet goes through, this outer layer will capture the powder.
24 So we look for those features, as well as the added energy that
25 would come from the exploding shell and all that exploding

1 material being forced into the wound as the bullet passed through
2 the brain.

3 Q And what did you find in respect to that?

4 A We saw no additive energy to the wound. We saw no powder or
5 burning of the initial wound track as it entered through the
6 scalp and we looked at the layers underneath the wound track.
7 Underneath the scalp, a layer of fibrous tissue that would be
8 underneath the skin, we looked at that and saw no powder. Then
9 we looked at the surface of the bone and saw no powder. When we
10 looked at the wound itself, when there's added energy to the
11 brain there's a small hole initially, just a matter of a second,
12 in which that's the only way for the energy to be removed from
13 the brain that we've added to the brain, that small hole is where
14 the bullet actually knocks a plug of the bone out as it goes on
15 its path. So there's so much energy put into the brain, the
16 brain has to have some way to get rid of that energy because it's
17 a tight closed box, and that usually leads to fractures in the
18 softer bones of the skull, if there's a tremendous amount of
19 energy, like a high powered rifle would produce, fractures over
20 the surface of the eyes, where the skull is very thin, or general
21 fractures about the entire skull. While there were fractures
22 associated with the entrance and fractures associated with the
23 exit, we saw none of this excess energy. So that again tells me
24 the gun, or is another feature that tells me the gun is more than
25 3 inches back, and probably even more that 3 inches back at the

1 time it was discharged, because this extra energy has had time to
2 go away and has not followed the bullet path.

3 Q And when you are using this term of 3 inches, are you saying
4 3 inches, or at least 3 inches?

5 A I'm saying at least 3 inches, it could be far more, I would
6 believe because of this lack of energy that it is far more than
7 just 3 inches.

8 Q But at any rate we'll have to wait and hear from SLED and
9 tell us how far this stuff was left on their test that was done.

10 A With that gun.

11 Q You are not talking about ballistics, you didn't test the
12 gun.

13 A No, I'm talking about injuries in the human body.

14 MS. WHITE: Your Honor, may I approach the bench?

15 THE COURT: Yes, ma'am.

16 (WHEREUPON, a bench conference was held in the
17 presence of the jury but out of the hearing of
the jury.)

18 MS. WHITE: Doctor, I think I'm getting alzheimer, I
19 did not qualify you as an expert, so let me back up a minute.

20 MR. BREHM: Your Honor, we are willing to stipulate to
21 that.

22 THE COURT: To a forensic pathologist?

23 MR. BREHM: Yes, sir

24 THE COURT: All right, by stipulation of the parties, I
25 find Dr. Woodard as an expert forensic pathologist.

1. Q Doctor you've testified on numerous occasion as an expert in
2 forensic pathology; is that correct?

3 A Yes, I have.

4 Q Okay, I'm sorry to interrupt you, please go back to what you
5 were saying, you were talking about the entrance wound, and I
6 think we've pretty much concluded that.

7 A There was no evidence of this extra energy that would come
8 from this explosion when the shell is discharged, all that had
9 time to dissipate, or go away, by the time the bullet entered the
10 skull. Handguns are not high energy rounds in the world of guns
11 like a deer rifle would be, where just a bullet itself has got so
12 much energy associated with it. So with hand guns, in order for
13 high energy injuries to occur we have to get this extra material
14 to go with the bullet.

15 Q All right, now what if any importance does this have to you
16 as a forensic pathologist, hearing this gun was not up against
17 the head, or in near proximity of the head, but was back a ways?

18 A That's one of the features that I try to evaluate to try and
19 determine the manner of death. When we talk about the manner of
20 death, we have several fixed choices. One would be a natural
21 disease, one would be an accident, one would be suicide, one
22 would be homicide. Homicide medically only indicates that
23 someone else led to the death of this individual, it does not
24 have a legal, but a medical definition.

25 Q And what, if any importance is there in knowing that the gun

1 is back away from the head when it's fired?

2 A We know certain behaviors occur when individuals use
3 firearms to commit suicide. One behavior which occurs is where
4 they usually place the firearm, one behavior which occurs is the
5 distance at which they place the firearm, when they tend to use
6 firearms, so we look for these features try and determine is
7 this in the wound in the usual location for suicide or the common
8 locations. Could the individual physically put the firearm in
9 that location and how far away was it, is that the usual pattern,
10 could the person with the wound in this location put the firearm
11 in that location and discharge it. Would it be physically
12 reasonable to do, in other words there are things that people
13 could do, but that would put so much pressure or extensive energy
14 to do it that they wouldn't do it.

15 Q All right, let's review certain factors. First of all the
16 distant of the gun, is that more consistent with suicide of how
17 many suicides have you worked?

18 A Hundreds.

19 Q All right, just tell the jury, let's start with that factor,
20 the distance of the gun?

21 A Guns are usually in tight connect or near connect, meaning
22 the gun may not be tightly placed against the skin, but it is
23 very near the skin.

24 Q With that, the handgun?

25 A Yes, with handgun or rifle.

1 Q Now are we talking about with suicide or homicide?

2 A With suicide.

3 Q Okay, go ahead?

4 A With suicide though tight contact does not exclude homicide,
5 and lack of contact does not exclude suicide, but the vast
6 majority of suicides the gun is held tight to the skin, or very
7 close to the skin with just a small amount of air space in
8 between. This leads to the powder being in the wounds, singeing
9 and sometimes, especially, I wasn't familiar with this type of
10 firearms that was the firearm, but sometimes the firearm such as
11 this where we have a sliding contraction after the gun is
12 discharged, that slid goes back to discharge the shell and comes
13 forward, we actually get bruises produced by that impact of the
14 end of the barrel against the skin.

15 Q Stop there for a minute because some jurors may not be
16 familiar with semiautomatic weapons. Okay, when the bullet comes
17 out and we've already heard the shell casing comes out the
18 ejection port, what you are talking about, and I can't do it
19 'cause I've got this in here, but the slid goes back and forward;
20 is that correct?

21 A To load another shell, that's why they call it a
22 semiautomatic.

23 Q And when it goes back and forward what does it do with the
24 gun?

25 A The gun goes forward, it takes some of the natural recoil of

1 the gun and uses it as the energy to load the next shell, but
2 when it does it forces the gun forward and often times with those
3 weapons we'll see bruising from that sliding mechanism.

4 Q Did you see any bruising here?

5 A No.

6 Q All right.

7 A When there are tight contact or near contact wounds.

8 Q All right, and let's go next to the angle of the shot, I
9 believe you've got the angle and I think you, I'm going to show
10 you an exhibit with a rod, looking at State's Exhibit 22, how, if
11 at all, of this angle of this injury important?

12 A The angle of the injury is important, again because it tells
13 me where the end of the barrel was, it doesn't tell me where the
14 handle was or the trigger was, but it tells me where the end of
15 the barrel was relative to the wound. So I know if my finger was
16 at the end of the barrel or this marker was the end of the barrel
17 the round part being there, that the end of the barrel has to
18 line up with this general path that I've described, in somewhere
19 along this path out to the range of firing this weapon, the end
20 of the barrel has to be located, if I then can retrieve at the
21 scene or law enforcement can retrieve at the scene, where the
22 bullet is, we can actual place that head 3-dimensionally between
23 the end of the barrel, not to say where the end of the barrel
24 was, but between the end of the barrel the, where the bullet is
25 recovered and this wound through the head, we can now place the

1 head on a path.

2 Q In other words we've got the stick, however it was, you are
3 not saying that the barrel was here, here, here, or here, but you
4 know it was somewhere along that path?

5 A Along that path.

6 Q All right and again, looking at suicide versus homicide,
7 how, if at all, was this angle important to you?

8 A The angle indicated that the weapon was behind the head at
9 the time it was discharge, and while that would be possible again
10 using my marker like it was the end of the gun barrel, if the
11 trigger finger was in the trigger at the time that it was
12 discharged, would require extreme motion of bringing this elbow
13 out and this wrist back which would be quite uncomfortable to
14 accomplish though physically possible. That's not a usual
15 behavior in a suicidal gunshot wound, so it's another unusual
16 finding if this was a suicide.

17 Q All right, now the injury that was inflicted on her, what
18 would have been the immediate reaction on her bodily functions,
19 the ability to move, had coordination, or make any sounds?

20 A The bullet passed through her brain structures, but it
21 specifically went through the, produced a tear in the brain stem,
22 the pons mid-brain area, that immediately would disconnect the
23 brain from the rest of the body, it wouldn't cause the heart to
24 stop, okay, but it would immediately disconnect the brain from
25 the rest of the body so before the sound occurred, she no longer

1 would be able to have any willful motion. Doesn't mean that she
2 wouldn't necessarily have a grand-maul seizure because of all
3 this sudden stimulation to the nervous system, but would clearly
4 indicate that she could not make a willful motion. So if she had
5 been standing, she would fall immediately to the ground and
6 appear, quote, "Dead" though her heart may still be functioning.

7 Q All right. So Doctor, if you heard that she had this injury
8 that the entrance wound was back here and you heard that when she
9 was found, she had her trigger finger in the trigger, the gun in
10 her lap, and she was seated on the couch when this occurred, so
11 she's sitting down, she's back like this, in your expert opinion
12 would that be consistent or inconsistent with this immediate
13 injury to having her hand laying down and around on her lap, or
14 something?

15 A It would be inconsistent in my opinion.

16 Q And why is that?

17 A Again, in order for her to inflict the wound, we have to
18 bring the arm up. Knowing if we are to believe that her, this
19 finger was in the trigger location, the arm had to be up, the
20 wrist had to be thrown back, so the arm had to be in this general
21 position with this being the end of the barrel as I use this
22 pointer. When all functions stops, that arm falls down and if
23 the gun still remains with the hand around the trigger finger, it
24 falls beside the body if she's at the end of the couch it falls
25 completely down, if she's not it may end up here at the lap level

1 near the couch, but it would fall just like it had turned off, it
2 wouldn't, it's not going to have a mechanism to swing it back to
3 the front of her body.

4 Q And the weight of this weapon, would that increase or
5 decrease the tendency to fall just straight down?

6 A That weight of that weapon, two things would happen, the
7 weapon would fall directly toward the center of the earth, which
8 would be straight down that line and there's the recoil of the
9 gun even though part of it is consumed to reload the bullet,
10 there's an action of the gun because there's an explosion the
11 bullet going forward, the gun wants to go back, and that would
12 throw the arm even farther away from the body.

13 Q Just one thing, that looks -- you were talking about the
14 slid going back and forth, you had said that as it goes into a
15 bruise into the -- is there a forward and a backward motion in
16 the recoil of the gun?

17 A The upper part of the slide goes forward, but the gun itself
18 because there's been an explosion it goes in the opposite
19 direction of the bullet. That explosion is what we call the
20 recoil of the gun and that would tend to force the hand in the
21 opposite direction or again with our general path here is
22 basically forcing the gun back this way at the time. What would
23 resist that motion would either be willful action, which she
24 couldn't make or the actual physical restraints of the body. In
25 other words, I can't make my hand go back behind my head and hit

1 the Judge, even though I might -- he was sitting in front of me I
2 could reach to him, there's a physical restraint in the
3 construction of my body that prevents me from reaching back
4 there.

5 Q Doctor, did you examine her for defensive wounds?

6 A Yes, I examined the hands, the fingernails, the wrist, and
7 the arms to look for any kind of bruises, scratches, fractures of
8 the nail the actual fingernails themselves to see if something
9 had caught on them and if they had been broken.

10 Q Okay, stop there, a defensive wound is if somebody attacks
11 me, we are talking like this, right? Or legs---

12 MR. BREHM: She's leading, Your Honor.

13 MS. WHITE: I'll rephrase.

14 THE COURT: I think she was just demonstrating, I think
15 she can give a demonstration and then ask a question, I'll
16 overrule. Go ahead Solicitor.

17 Q And did you find any of these defensive wounds?

18 A No, I did not.

19 Q So did you indicate, or did you find anything that would
20 indicate that she had been in a struggle?

21 A No, I did not.

22 Q During the autopsy, did you retrieve her testing at SLED,
23 some of the victims blood?

24 A Yes, I did.

25 Q I'm handing you State's Exhibit 7, obviously the blood has

1 been consumed, but is that the packaging?

2 A Yeah, this represents, on our tubes they manufacture the
3 little glass tubes we use, puts a little label on it and we
4 specifically add to that label our indentifying number, the date
5 that we perform it, and the victim's name, and this represents
6 that surface off that too.

7 MS. WHITE: Your Honor, I'd ask that State's Exhibit 7,
8 be admitted.

9 MR. BREHM: No objection.

10 THE COURT: All right, State's Exhibit 7 admitted
11 without objection.

12 (WHEREUPON, victim's blood previously marked as
13 State's No.7. was admitted without objection.)

14 Q So in your expert opinion, Doctor, what was the cause of
15 death of Leanne?

16 A A gunshot wound to the head.

17 Q And in your expert opinion and considering all of your
18 experience, the injury that you saw on Leanne Pearson, were they
19 more consistent with suicide or with homicide?

20 A They were consistent with homicide.

21 MS. WHITE: No further questions.

22 THE COURT: Cross-examination?

23 MR. BREHM: Thank you, Your Honor.

24 CROSS-EXAMINATION:

25 BY MR. BREHM:

1 Q Doctor Woodard, I believe your testimony about the --
2 talking about the distance from the gun to the wound, and I
3 believe I kept -- over and over again 3 to 6 inches; correct?

4 A The -- in a usual gun, obviously the gun itself would have
5 to be tested by SLED to determine that, that gun with that
6 ammunition, but as general rule you make that general statement,
7 though in this particular gun with this particular ammunition, it
8 may even be farther.

9 Q Okay, but it's your testimony that there's no way that this
10 shot was fired 3 inches closer, in your opinion?

11 A That's correct.

12 Q And when we are talking about 3 inches, let me pass up, this
13 is an old dollar bill, do you know, or would you agree with me
14 that that's 6 inches long?

15 A I don't measure dollar bills, so I can't answer that.

16 Q It's about 6 inches long?

17 A That's my understanding.

18 MR. BREHM: I'd like to put this dollar bill into
19 evidence, Defense Exhibit---

20 THE COURT: Do you have an objections, Solicitor?

21 MS. WHITE: No, sir.

22 THE COURT: All right, Defense Exhibit No. 3, I
23 believe.

24 (Thereupon, a dollar bill was admitted without
25 objection and marked as Defendant's No. 3.)

1 THE COURT: Do you want to offer to substitute a copy
2 or are you going to leave the one dollar bill there?

3 MR. BREHM: I'm going to leave the dollar.

4 Q So, Dr. Woodard, we assume this 6 inches, Defense Exhibit
5 No.3, and fold it in half, we are talking about 3 inches?

6 A From the end of the barrel.

7 Q From the end of the barrel, and you designated on State's
8 Exhibit 36 an "E" for the entrance wound, right?

9 A That's correct.

10 Q So if this is 3 inches and here's the end of the barrel,
11 this is the distance we are talking about, correct?

12 A That's correct.

13 Q And I believe your testimony was that in suicide cases that
14 typically what you have is somebody taking a gun and putting it
15 either to the head or close to the head.

16 A Well, by close to the head I mean $\frac{1}{4}$ inch, $\frac{1}{2}$ an inch from the
17 head.

18 Q Right, so either on the skin---

19 A Correct.

20 Q Or on the hair on the skin, just real close.

21 A Real close.

22 Q Than an inch.

23 A Less than an inch.

24 Q Have you in your practice and experience come across a
25 suicide where the distance was greater than an inch?

1 A Yes.

2 Q Maybe 3 inches?

3 A Yes, sir.

4 Q And I wrote it down and you touched on it, and you said that
5 -- you are talking about suicides and you mentioned rifles,
6 sometimes people use rifles ---

7 A Rifles and shotguns, yes.

8 Q Rifles and shotguns, and when they are doing that, I mean
9 with a rifle or shotgun their finger is quite a distance away
10 from, or let me change the question, their finger and their hand
11 is further away from their head than it would be with a hand gun?

12 A That's correct.

13 Q In other words the barrel is longer, typically what you have
14 with a rifle shotgun case, you have someone put it up under their
15 chin or in the mouth, correct?

16 A Or against their chest.

17 Q Against their chest, have you come across situations where
18 people take a shotgun or rifle and put it to their head?

19 A No, not really.

20 Q But it's possible.

21 A It's possible, certainly.

22 Q And in this situation you formed your opinion based on the
23 entrance wound, which is above the ear.

24 A And behind.

25 Q Above the ear and behind, and when we talk about the head,

1 we break it down into four areas, you've got the front of the
2 head, correct?

3 A Okay.

4 Q And you've got the back of the head, correct?

5 A Yeah.

6 Q And then you've got the sides, where the ears are?

7 A Okay.

8 Q This entrance wound was on the right side or left side?

9 A Right side.

10 Q Right side. Did you know that Leanne was right handed?

11 A No.

12 Q Was that something, when you are dealing with this possible
13 suicide is that something that you look for? I mean if
14 somebody's right handed, Doctor, and the entrance wound is on the
15 left side wouldn't that be inconsistent of suicide?

16 A Only 85 percent of right handed people shoot themselves in
17 the right side of the head, the majority of left handed people
18 shoot themselves in the right side of the head also.

19 Q Okay?

20 A So it doesn't help, that's my point.

21 Q If we are dealing with right handed people it's more often
22 than not, they are going to shot themselves in right side of the
23 head.

24 A Yes, it is.

25 Q Okay, now in determining whether it's a suicide or a

1 homicide it would be helpful for you, would it not be, to have
2 access and review the victim's psychological records, if any?

3 A Yes. It would.

4 Q And in this case had you learned that Leanne Pearson, let me
5 back up, did you know that this was Leanne Pearson's gun?

6 A I don't know whose gun it was.

7 Q Okay. Given the fact -- let's just assume that this is
8 Leanne Pearson's gun..

9 A All right.

10 Q This is Leanne Pearson's gun, and Leanne Pearson is
11 approximately how old or was approximately how old?

12 A Thirty-six.

13 Q Would it impact your decision if you learned that Leanne
14 Pearson has been prescribed at one time for lithium?

15 A No, it would not.

16 Q What is, what is lithium usually prescribed for?

17 A Major mood disorder usually manic depressant disorder.

18 Q Okay, and manic depressed people are suicidal in some
19 instances, correct?

20 A They can commit suicide, yes.

21 Q Would it change your professional opinion if you learned
22 that Leanne Woodard, I'm sorry Leanne Pearson was on paxil or had
23 been prescribed paxil?

24 A No, it would not.

25 Q What is paxil typically prescribed for?

1 A It can be prescribed for several things, depression
2 certainly is one of them. People who have anxiety disorders
3 related to living their lives, it is also prescribed for them.

4 Q In coming up with your opinion that this is a homicide as
5 opposed to a suicide, had you been given -- or let me ask you
6 this, during the course of your practice, or often times do you
7 receive reports from other doctors concerning positions?

8 A Yes, I do.

9 Q And would you typically review those documents?

10 A Yes, I would.

11 Q Were you presented with Dr. Cynthia Mark's medical records
12 on Leanne Pearson?

13 A I did see some medical records, and I don't honestly
14 remember who the physician was, so I can't answer you if it was
15 Dr. Mark's.

16 Q Let me just hand you these documents, and ask you do they
17 look familiar?

18 A The records I remember, or I believe I remembered were
19 related to, I thought it was a hospitalization, these appear to
20 be out-patient records, so I'm not familiar with these.

21 Q Okay, had you been provided records which indicated that
22 Leanne had---

23 MS. WHITE: Your Honor, I'm going to object. Now if he
24 wants to call the doctors, that fine, but this is hearsay and it
25 is not in evidence.

1 THE COURT: I hadn't heard his question yet, let him
2 finish the question, and I'll listen to you objection, let him
3 ask his question.

4 Q Doctor had you learned that Leanne Pearson had attempted
5 suicide on two or three occasions---

6 MS. WHITE: Objection, Your Honor, there's no evidence
7 of that.

8 THE COURT: What's your objection, Solicitor.

9 MS. WHITE: There's no evidence of that at all in the
10 record, none. Everybody---

11 THE COURT: What's your legal objection?

12 MS. WHITE: That there's no evidence in the record, and
13 it's hearsay.

14 THE COURT: What's your hearsay exception?

15 MR. BREHM: Judge, my, my--

16 THE COURT: Your question is hearsay, what exception do
17 you think it falls under?

18 MR. BREHM: My exception would be, Your Honor, that the
19 Doctor gave an opinion, I asked the Doctor with the medical
20 records, had he known about them made a difference---

21 THE COURT: Are you alleging it's under the medical
22 record exception or what are you alleging it's under?

23 MR. BREHM: Your Honor, I'm alleging that this is --
24 the hearsay doesn't apply, this is cross-examination and I'm just
25 asking a question.

1 THE COURT: I understand that but it's based on hearsay
2 of medical records, which are hearsay. Now if you can tell me
3 what exception under the hearsay rule your try applies, then I'll
4 be glad to listen to you.

5 MR. BREHM: Judge, my point -- my response to the
6 objection is that it's not hearsay, I'm allowed to ask leading
7 questions in cross-examination.

8 THE COURT: But you're still not entitled to ask
9 leading questions based on hearsay, and I'll sustain the
10 objection

11 MR. BREHM: Your Honor, will you note my objection for
12 the record?

13 THE COURT: You've already made it.

14 Q Doctor we've established, I believe, that the shot is to the
15 right side of the head.

16 A That's correct.

17 Q And your testimony indicated it was though discomforting or
18 whatever it is, it is physically possible for an individual to
19 place a gun in this position.

20 A That's correct, physically possible.

21 Q Let me ask you this, had you received Leanne Pearson's
22 medical records would they have been helpful to you in making
23 your decision?

24 MS. WHITE: Your Honor, I'm going to object to that,
25 too. These are out-patient therapy records which are not medical

1 records, so I'm asking---

2 THE COURT: Well, I think he can ask would it have been
3 helpful. I'll overrule your objection.

4 MS. WHITE: Yes, sir.

5 THE COURT: I think he can ask would they have been
6 helpful, we are not going into the records, what I'm saying is
7 information in the records.

8 MS. WHITE: I would just ask that he characterize them
9 correctly, Your Honor, they are not medical records.

10 Q My question stands, would that have been helpful?

11 A Given this wound, this pattern of wounding on this
12 individual they would have served no purpose.

13 Q That's your opinion, that they would have served no purpose?

14 A In this particular case, yes.

15 Q Okay, and that's based on the wound, the fact that it comes
16 in above the ear and it comes out above the cheek?

17 A That it comes out the -- the distance that the gun had to be
18 away from the individual and the position that the wound is, it's
19 not just above the ear, it's behind the ear in what's called the
20 posterior right quadrant of the skull. The fact that when the
21 projectile went through the tissue, it did not carry powder into
22 the wounding tissue inside the body, it didn't carry any of the
23 extra energy that was associated with the gun being near the
24 head, given all those factors with the bleeding pattern on the
25 individual, the trace of, other than smeared blood on the

1 individual's hands, all these features, I would say no, they
2 would serve no purpose.

3 Q It would serve no purpose, but how if you learned that the
4 subject, Leanne Pearson, in this case, was sitting on the chair
5 -- on the sofa, indian style, raised the gun up to her head put
6 it to her temple, her boyfriend, Kevin Patterson, grabs the gun
7 and tries to pull the gun away from her, standing up beside her
8 on the right side, trying to pull the gun back this way; that's
9 entirely possible isn't?

10 A I would -- It's possible, I would have expected injury to
11 the hand under those circumstances.

12 Q Injury to the hand?

13 A Yeah.

14 Q What if -- I don't feel comfortable doing that -- If I'm
15 Leanne Pearson, and I've got the gun here and I raise it up to
16 here and Kevin Patterson grabs, puts his hands over her hands to
17 try to pull it this way, when Kevin Patterson puts his hands over
18 her hands what kind of injury do you expect to get?

19 A The hand, the fingers are then caught between an immovable
20 object, the gun, and the other individual who is placing, by your
21 account, a great deal of force to try and manipulate the
22 positioning of gun. That force that would be applied, in my
23 opinion, would produce injuries along these inter-surfaces of the
24 fingers or the exterior surface where the hand was grabbed. They
25 may also produce injuries to the nail, depending upon the nail

1 character of the individual. And in this particular case, I'm
2 only looking at my pictures, she had moderate size nails.

3 Q And someone who comments suicide by themselves, sitting
4 there by themselves and fires the gun, you don't find any of the
5 injuries you just described, do you?

6 A No, but if another person grabs their hand, you just -- you
7 told me -- you gave me the scenario that another person grabbed
8 their hand, forced the gun away from the head, but it goes off
9 because the individual still has a hold of the gun.

10 Q Right, puts their hands over Leanne's hands, pulling the gun
11 back this way.

12 A Yeah.

13 Q Okay?

14 A Can I see the gun for a second? She would allegedly have
15 her hand over the trigger and her hand around the gun, this rod
16 wouldn't be here so she would be squeezing the gun with her
17 finger in some location here in the trigger, either the pad or
18 the complete finger. If you were to put your hand that way---

19 Q Okay, go ahead and put your hand that way?

20 A If you were to put your hand that way and, I'm attempting to
21 commit suicide and you come grab my hand, grab it.

22 Q If I can get you to put it toward your temple.

23 A All right. Okay.

24 Q If I grab your hand like that---

25 A Now, you are not---

1 Q ---and pull it back---

2 A If I'm resisting, resist me.

3 Q I haven't put that you are resisting, you are not listening
4 to my question. I'm saying if I put -- I'm the one trying to
5 pull the gun away?

6 A Well, if I offer no resistance and you offer no resistance I
7 wouldn't expect there to be injuries.

8 Q Doctor, I am resisting, I'm trying to get the gun away from
9 you this way?

10 A So you are resisting my muscular strength, is that what you
11 are saying?

12 Q Doctor---

13 A Not mine, hers, I mean someone's muscular strength---

14 Q ---what I'm getting to is the injuries that you are talking
15 about on her hand that you would expect to see.

16 A Uh, huh.

17 Q If you are Leanne, and you are on the couch and you've got
18 your head, if you could put your head down---

19 A Uh, huh.

20 Q ---then your head's going to go back that way, correct?

21 A Yeah.

22 Q Naturally when you are doing this--

23 A Right, if someone had a gun pointed to my head, yes, I would
24 say that's a natural posture.

25 Q What I'm saying is - would you hold the gun for a second?

1 A All right, you are not going to just lightly place your
2 hands here and do this, if you really think that I'm going to
3 pull this trigger and you are trying to get this gun away from
4 me, you are going to grab that hand and you are going to push
5 away, and that's what you are suggesting to me. And you are
6 going to have force, I'm going to put force on your hand because,
7 I'm not going to be able to control the force, I'm terrified for
8 you, according to your scenario, so I'm going to grab the hand
9 with the force that I can apply, which is a individual thing---

10 Q Okay---

11 A ---at the same time you as the shooter, who wishes to shoot
12 yourself, are going to apply force to prevent me from doing that.

13 Q Okay---

14 A ---she has a ring on this finger and when you take that
15 metal object and you crush those fingers together, it will injure
16 adjacent to the ring when two people, who are grown adults, both
17 place force in opposite direction, one of them larger than the
18 other one and able to apply more force.

19 Q Okay---

20 A And according to you using both hands.

21 Q Okay, Doctor, go ahead and you are a male, how tall are you?

22 A Five foot eight.

23 Q And how much do you weigh?

24 A Do I have to tell, 190 pounds.

25 Q So it's safe to say that you are bigger and stronger than

1 Leanne was?

2 A Absolutely.

3 Q Go ahead and exert as much force as you can on my hand.

4 A All right.

5 Q Go ahead, I mean you are not hurting me, stronger if you'd
6 like?

7 A Well, no, but you are not resisting.

8 Q Okay, I'm resisting now?

9 A Okay.

10 Q Okay, do it as long as you like as hard as you want, Okay?

11 A All right.

12 Q I'm trying to make a point and tell me---

13 A Well, can we put a ring on your finger, what size ring do
14 you wear?

15 Q Well, I'll try that one. If it gets stuck on there what?

16 A My wife will kill me.

17 Q Okay, I'm going to be resisting, I'm going to be pulling
18 back.

19 A Okay, you tell me how long they struggled, I'm willing to go
20 along with anything that you want.

21 Q Okay, do it as hard as you want.

22 A Well, no, I mean---

23 Q Press that ring as hard as you want?

24 A Well, no, I'm just grabbing your hand the way you described.

25 Q Okay, that's good?

1 A All right.

2 Q Now, I'm going to give the ring back. Can I get you to come
3 over here in front of the jury, off the stand. Now you are man,
4 you are stronger than Leanne---

5 A Well, now if your were playing Leanne in the scenario, you
6 would have the gun, you told me that Leanne had the gun.

7 Q Right, I was Leanne, I'm sorry?

8 A Yeah.

9 Q You are the male, you are exerting as much pressure or force
10 as you can, and you did that correct?

11 A Well, I exerted a reasonable amount of force I thought.

12 Q I mean you were up there squeezing the ring.

13 A No, I put my hand around your hands and squeezed.

14 Q Okay?

15 A All right, I did what you told me to do.

16 Q Doctor, would you please point out the injuries that I have.

17 A Okay, on you I see no injuries.

18 Q Okay, thank you?

19 A Uh, huh, but I have an injury on me.

20 Q Did you exam Kevin Patterson that day?

21 A No, I'm just saying, you know.

22 Q I'm sorry. Now you indicated that one of the first things
23 that you looked at when you observed Leanne Pearson was that you
24 looked at the entrance wound.

25 A That's correct.

1 Q And, I believe that you indicated that you observed no
2 powder stipplings or singeing, and you did that visually?

3 A That's correct.

4 Q And you then, and I was a little confused, because I was
5 trying to write, and I think you were talking about bifocals, you
6 said that you did something with a magnifying lens.

7 A I have a set of surgical loops, they are 12½ times power
8 that we then examine it with, in other words, not just my eyes
9 and my bifocals, but then I put surgical loops over my bifocals
10 and look through these.

11 Q Okay, but this isn't a microscope, this is---

12 A It's equivalent to a, what we call a dissecting microscope.
13 There is a microscope one can get that sits on a table that you
14 can exam large things like hair, or insects with, maybe in
15 biology class, some members of the jury might have used these,
16 these are a method to substitute for that, when it's inconvenient
17 to take whatever and take it to where that microscope is.

18 Q And you did that in part because you were asked to, let me
19 ask you this, do you recognize this as Doctor at the autopsy
20 report, is that something generated by you or is that.

21 A No, this is, it's got the Anderson County Sheriff's logo in
22 the upper left corner, it says, Anderson County Sheriff on the
23 bottom. I don't recognize the writing, I don't know who -- I
24 can't tell from this who prepared that document.

25 Q Okay, but when they come in, there are several things that

1 they are wanting from you, in other words they are wanting
2 fingernail scrapings, blood samples, fingerprints, photos, head
3 hair, pubic hair, urine sample, ocular fluid, oral swab, all
4 things of that nature, that's what you typically do anyway isn't
5 it?

6 A That's you'd have to ask them, my understanding or looking
7 at that is that's just their check list of what materials they
8 might have received, a sort of a tracking form rather than a
9 shopping list.

10 Q So you believe this document can be one that says they
11 receive things from you?

12 A Well, there's a, that they saw that these things were
13 collected, a sort of a tracking form, but you would have to ask
14 them why they use that form.

15 Q Okay, I don't know whether you saw on the form, it's got
16 head hair, and then if I can get you to refer to your report, it
17 says, looking on page five, it says internal examination?

18 A At the bottom of page five?

19 Q It's got special studies requested?

20 A Yep.

21 Q And the special study's that were requested are tissue,
22 photographs, sexual assault, blood, urine, toxicology, DNA, and
23 fingernail clippings?

24 A Okay.

25 Q So, that was requested of you---

1 A No, I requested it be done.

2 Q You requested that it be done.

3 A Yes, I'm only indicating things that are collected there and
4 requesting additional studies be conducted on it.

5 Q Okay, so hair is something that you and the Anderson County
6 Sheriff's office feels important?

7 A Yes, we collect hair on most cases that we are concerned
8 with that might be a homicide.

9 Q Okay, and the hair that you collected, and I'm not going to
10 try and find the picture, but you shaved the hair around the
11 entrance wound, did you not?

12 A To take a picture, after I took the initial picture, yes.

13 Q Okay?

14 A And did the initial examination, then I shaved hair.

15 Q Right, you do the initial examination, you shave the hair?

16 A Uh, huh.

17 Q You collect the hair.

18 A And put it in a tube.

19 Q Put it in a tube so that it can be examined?

20 A That's correct.

21 Q Okay, where's that hair?

22 A All these were given to the Anderson County Sheriff's
23 department representatives, in my understanding although I can't
24 document it, is that they take those to SLED.

25 Q Do you recall a conversation with me a month or so ago?

1 A I don't recall the date, but I believe it was you, there was
2 just someone on the telephone.

3 Q And that person on the telephone was asking for the hair.

4 A And I said it was place into evidence and was given to the
5 sheriff's department and I understood that it went to SLED.

6 Q Okay, and the reason for the telephone conversation was
7 because, we didn't have hair, so I call you remember and asked
8 you if you knew where the hair was?

9 A And I said, just what I just said, yes.

10 Q And the hair is important, in fact so important that you
11 actually requested a special study be done on it?

12 A No, I didn't request, I just collected it so it was
13 available for other studies, I didn't request a specific study be
14 done on it.

15 Q Doctor, I had you look at your report and you said special
16 studies requested, tissue, photographs, hair, and I asked you, I
17 said was that what---

18 A I know, but I didn't request them to do it, I didn't say to
19 them, please do these studies on the hair. I gave the hair to
20 them so that they could do whatever studies they wished.

21 Q Yeah, but you've got on here on you report, special studies
22 requested and you testified that this is what you requested, not
23 the---

24 A That's right, I requested that studies be conducted on hair.

25 Q Right?

1 A I didn't tell them which studies to do.

2 Q Okay, tell me the results of the studies of the
3 examinations?

4 A I do not know what they are.

5 Q And again you don't know where the hair is do you?

6 A It was, I didn't bring our evidentiary chain form with us,
7 it was given to one of the Anderson County Sheriff's
8 representatives, and exactly what happened to it after that I do
9 not know.

10 Q Okay, and you'd agree with me that the hair is pretty
11 important in this case.

12 A No, I wouldn't necessarily agree with you on that.

13 Q Well the hair, if examined properly, under a microscope or
14 by SLED or whoever, possibly could tell us whether or not there's
15 powder.

16 A The hair was examined properly for the determination of
17 powder by myself, but it could be repeated if examined under a
18 microscope at SLED. SLED also could do chemical test after the
19 powder becomes so thin, the cloud expands away from the explosion
20 you still can detect chemically sometimes, out to 4 feet away
21 from a gunshot wound. The chemical materials that come out of
22 the bullet as well, so yes, in DNA tests and---

23 Q Okay, I'm not asking about the DNA tests?

24 A No, but I'm just saying, you asked what tests could be done.
25 I mean there are a variety of tests that could be.

1 Q Okay and the chemical test is what I was getting, Doctor,
2 you said you used twelve times---

3 A 12%.

4 Q 12% times the magnifying or microscope, or loop, or whatever
5 you call it, there's a much more powerful microscope, would you
6 agree with that?

7 A Most dissecting scopes use a ten times magnification.

8 Q But there's a much more powerful microscope?

9 A Oh the microscope I use everyday, I can go to a thousand
10 times magnification.

11 Q All right?

12 A But I wouldn't be able to necessarily utilize that
13 microscope on this. Scanning electron microscopy is that what
14 you are looking for?

15 Q Not necessarily that, what I'm getting to is that there is a
16 much more powerful microscopes available to you?

17 A Well, you could go all the way to scanning electron
18 microscopy, if you wanted to.

19 Q What I'm getting is you, you apparently had done a visual,
20 and you apparently had used your loop, and then after that you
21 noted in your report special studies requested, hair. You give
22 the hair to the sheriff's office, I don't know where it is, but
23 the hair is important because a chemical test of another
24 microscope could have looked at, SLED could have looked at it, a
25 chemical could have been put on it to determine whether not there

1 was powder, correct?

2 A Well clearly, unless the gun was far more that 4 feet or
3 even farther away, there would be chemical powder on the hair
4 because the bullet went through that area, but that doesn't tell
5 us beyond this range, this general range that we are talking
6 about here, from the visual standpoint, it doesn't really add any
7 additional information.

8 Q But you are not answering my question, my question is that
9 hair is important, you specifically in your report said it was
10 important, it was collected for a purpose, you have indicated to
11 the jury that SLED could have looked at it and done a chemical
12 analysis on it?

13 A Yes.

14 Q Okay. And if that hair is available, that's pretty
15 important, right?

16 A I gave it to the sheriff's department, I can't answer beyond
17 that.

18 Q Okay, the purpose of my telephone conversation with you was
19 to get the hair so that we could have it tested, right; do you
20 remember that?

21 A I don't remember you asking me that, I remember you asking
22 me where the hair was and I explained that I gave it to the
23 sheriff's department, and I assumed it was at SLED.

24 Q Now, when we are talking about this hair, you would agree
25 with me that Leanne Pearson had a thick head of dark hair?

1 A I would agree that it was dark, I wouldn't necessary say it
2 is inordinately thick, it was a fine hair, the scalp could easily
3 be seen through the hair, it wasn't thick and coarse like someone
4 who has tight curly hair, I wouldn't even say it was as thick as
5 yours.

6 Q Well it's easily seen when you shave it and remove the hair,
7 Doctor, but look what's referred to, I'm showing you State's
8 Exhibit 32, and you talk about the curly tight hair, tell me
9 would you --- that's tight curly hair.

10 A No, I really, it's a thin wavy hair, if I could have the
11 picture, the State's picture back from before --- it was, no that
12 isn't it, I apologize.

13 THE COURT: Just hand him all the pictures so he can
14 find which one he's talking about.

15 MR. BREHM: There's only a couple of pictures of her.

16 A Yes this picture, which is State's Exhibit 33, I believe,
17 the hair has not been shaved at this time, and you know easily
18 you can seen the scalp in areas other than where we are
19 concerned, if you look farther behind the ear, you can clearly
20 see open scalp between the hairs, the hair is a fine wavy hair,
21 somewhat typical of Caucasian hair.

22 Q Doctor comparing you and me, do you have thick hair or thin
23 hair?

24 A Oh, I'm bald.

25 Q I'm sorry to bring that up, but you can see your scalp, do

1 you agree with me that I'm thick haired?

2 A Yes, absolutely.

3 Q And I can pull my hair back and you can see my scalp,
4 correct?

5 A Well, no I can't maybe, I can see your part, but no I cannot
6 get your hair to do what her hair does in these pictures.

7 Q Okay, you can not get my hair to do.

8 A As it does in that picture, 33.

9 Q Hair, essentially, doctor, you would agree with me that hair
10 acts as a filter?

11 A If it's thick and coarse enough, it may act as a filter,
12 yes.

13 Q There are times, often times when you don't have any
14 stippling on the scalp because of the hair?

15 A That's possible, yes, depending upon the nature of the hair.

16 Q And when one would take a -- the gun and ammunition and use
17 that, those papers that you were talking about, you take the
18 paper and you back up and shoot at it and you fire it back or you
19 move it back and fire it again, and you move it back and fire it
20 again, it's important in that illustration, you'd agree, to have
21 some type of filter, if someone is using hair, it's a lot
22 different than if you are just shooting at a piece of paper?

23 A That only tells you what bald skin would be like, absolutely
24 bald skin.

25 Q And Leanne Pearson was not bald?

1 A No she was not.

2 Q And in terms of forensic pathology, you characterized wounds
3 as contact wounds, and intermediate wounds.

4 A Contact, near-contact, intermediate, and distant, or
5 indeterminate, some people use indeterminate for distance.

6 Q And in this case, you eliminated contact wounds?

7 A Or near-contact.

8 Q And you would characterize this as an intermediate, wouldn't
9 you?

10 A That's correct, intermediate to distance, I don't know.

11 Q Were you familiar with the, were you ever briefed about the
12 room?

13 A Yes, I saw at the time we did autopsy, I saw polaroid
14 pictures, I believe they were taken by the coroner, but it may
15 have been one of the other law enforcement officers.

16 Q Okay, and in looking at State's Exhibit 21, the projectile
17 is found in the couch, you are familiar with that?

18 A Yes, I am.

19 Q And you got a hallway back behind the, let me use this as my
20 point of reference, here's the sofa, and here's where Leanne was,
21 Doctor.

22 A Yeah.

23 Q Leanne is right here and here's the hallway right here,
24 here's Leanne, here's the gun, this couch is where the bullet is
25 found?

1 A Yes, sir.

2 Q Based on that, based on where the bullet is found, based on
3 where she is, you have to say that this an intermediate wound
4 because where the bullet is found, the position of the head and
5 the dynamics of the mobile home, correct?

6 A Um.

7 Q I mean it can't be a distance shot because you run into the
8 wall?

9 A Distance to a forensic pathologist only indicates that it's
10 beyond the distance that they can find the trace evidence that
11 tells us how close the gun barrel was. That's anywhere out to
12 the range of the gun, obviously is no where, it's impossible for
13 this gun to have been discharged anywhere near it's capable
14 range.

15 Q I'm sorry, I didn't follow?

16 A There's not a space, that gun could probably shoot a
17 hundred, more than a hundred yards, you can't get a hundred yards
18 away from her in that building, clearly, I would agree with that.

19 Q Right, and based on --

20 A But you could get 12, 18, 20 inches away from her without
21 difficulty.

22 Q Right, and---

23 A Which would be a distant wound to a forensic pathologist.

24 Q Are you talking about the barrel or are you talking about
25 the individual that makes the shot?

1 A The barrel, the end of the barrel could get that far away.

2 Q So you are talking 18 inches?

3 A 18, 20 inches easily, from that picture.

4 Q Okay. And I might have asked this, and you might have
5 answered, and I apologize to everybody here, but did you agree
6 with me about it being an intermediate wound?

7 A I said it could be intermediate or distance. All I could
8 tell it's not contact and it's not near contact, so I'd move the
9 end of the barrel at least the 3 inches away, but it could be
10 farther, depending upon how this ammunition performs in this gun.

11 Q All right, so you've, you've eliminated this area?

12 A The end of the barrel is farther away than that, but the
13 bullet was behind the ear, not in front of it as you showed.

14 Q You kept saying that the shot is behind the head, and then
15 we keep hearing everybody talk about the back of the head, and
16 once again, referring to State's Exhibit 22, I'm referring to
17 State's Exhibit 22.

18 A All right.

19 Q That's the position she was in to determine---

20 A That's while she was dead at the scene, they are drawing a
21 general line of reference across the front of her head to where
22 the bullet goes, but it's not indicating where the bullet is. If
23 we were to look at the photographs I took, you can clearly see
24 that the bullet went behind her ear, this rod runs in front of
25 her face.

1 Q Right, but what I'm -- what I'm illustrating on, is I want
2 to show you is as a point of reference, and I'm to go back over
3 to my hypothetical couch and I'm Leanne?

4 A Okay.

5 Q And here's Leanne's head, and here's where the bullet's
6 found?

7 A That's correct.

8 Q On the sofa?

9 A The general area, that's correct.

10 Q And here's an open area to the right of her, there's the
11 hall way, she is struck in the side of head?

12 A Well no, it's behind the ear.

13 Q Behind the ear and the side of head?

14 A In the back quadrant of the head.

15 Q It's impossible to hit, or shot in the side of the head,
16 it's got to come on the side of the head, above the ear, and into
17 the couch?

18 A That's right.

19 Q That's the only way that it happened?

20 A That's right.

21 Q If there was a shot fired from back behind her head, then
22 the bullet wouldn't be found in the couch, the bullet would be
23 found in the coffee table, or on the floor, it could possibly
24 bounce off the floor and go into the wall or something?

25 A Well, this is referred to, this area is referred to the back

1 of the head. I'm confused by your question.

2 Q My question, is I don't want to mislead the jury, I want it
3 to be perfectly clear that is not a shot in the back of the head,
4 this is a shot into the side of head.

5 A Well, the area---

6 Q Is it possible for her, given the dynamics of the mobile
7 home and where the bullet is found, it is impossible to say, you
8 can't say that the shot is fired in the back of head, it's the
9 side of head. To the back and to the right of the hall way, to
10 the side in an open area, she is sitting on the couch and the
11 bullet is found right to her immediate left. There's only one
12 conclusion to draw from that, do you agree from that, you'd agree
13 with me that she was shot in the side of the head, granted it's
14 above the ear and a little bit back, but it's in the side of
15 head.

16 A It's in the side of head that is referred to as the general
17 area of the ear. This area that the bullet went into is referred
18 to as the back of the head, medically. Perhaps there's a
19 different legal definition, I don't mean to be---

20 Q I'm not asking you to give a legal opinion?

21 A Well, no, I'm just saying that medically that's considered
22 the back of head.

23 Q Okay, and what you've done is kind of like this styrofoam
24 dummy head, as you cross-section the head into two areas, you've
25 got back, front, and that's why Doctor when I came up here and

1 said can you describe for me, you would agree with me, that is
2 the front, this is the back and these are the sides. It sounds a
3 whole lot worse, if you get up here and you say, she's hit in
4 the, shot in the back of the head. What I'm trying to say is
5 actually, it might be back in terms of your medical definition---

6 MS. WHITE: Your Honor.

7 THE COURT: All right.

8 MS. WHITE: I'm going to object, he's a medical doctor,
9 if he -- Your Honor, I would have no objection of him saying,
10 given the entrance wound in the head, medically it's considered
11 in the back, given---

12 THE COURT: Okay, Solicitor. Mr. Brehm, ask your
13 question, quit testifying and let the Doctor answer it, okay?

14 MR. BREHM: Yes, sir.

15 THE COURT: Now, if you got a question, ask it, but
16 quit all your strenuous remarks, ask the question. Please
17 proceed.

18 Q The question is, in terms of breaking the head in four
19 quadrats, she was struck in the side of the head, not the back of
20 the head, not the front of the head, but the right side of the
21 head.

22 A I would consider it the back of the head, because it is
23 behind the ear, and because of the bony structures that it goes
24 through, based on anatomic definitions in the way these wounds
25 are usually discussed in the forensic literature.

1 Q The --- another special study that you requested was a
2 sexual assault kit.

3 A That's correct, I obtain a -- SLED has standard prepackaged
4 sexual assault kit we acquired those samples, and again gave them
5 to the Anderson County Sheriff's Department.

6 Q But, that's not an issue in this case, is it? She's not --
7 no evidence of -- this isn't a report of sexual assault?

8 A No.

9 Q And then you also requested toxicology?

10 A That's correct.

11 Q And did you receive the results from that?

12 A Never did.

13 Q When they do a toxicology, do they normally screen for
14 marijuana, cannabinoids?

15 A I would anticipate the usual five drugs of abuse would be
16 screened, that's a pretty standard toxicology screening, but I
17 can not answer for SLED's practices.

18 Q The hair that we've talked about, that you looked at, did it
19 have, if it appears to be wet, and in looking at State's
20 Exhibit 33, did you wash that or is that blood, or that---

21 A That's shine off of the camera flash, that gives these upper
22 strands, well actually, orienting it properly, these upper
23 strands have blood material, and there's shine off of the flash,
24 you can clearly see in these lower areas that the hair is dry
25 that there's not moisture added to the hair, the hair wasn't

1 washed, no.

2 Q Okay, but there is blood on that?

3 A Absolutely.

4 Q And the blood allows for the hair to be, allows for the
5 scalp to be seen better so that if the hair were completely dry.

6 A Well again below that is a large area that the hair's
7 completely dry and the scalp easily seen.

8 MR. BREHM: Nothing further.

9 THE COURT: Any redirect?

10 MS. WHITE: Yes, sir.

11 RE-DIRECT EXAMINATION

12 BY MS. WHITE:

13 Q Doctor, I show you State's Exhibit 37, what is that?

14 A This represents an evidence transfer envelope that we use in
15 our department, it seals at the top, that's been cut away, but it
16 shows the evidence that was in the bag, our case number, the
17 identification of the case. In the bag are two tubes, transfer
18 tubes, that we use. Again one is identified as head hair with
19 the patient's name, etc., the date is on it. The other is
20 identified as pubic hair, both appear to contain hair, hair from
21 the head hair, it's got some droplets of blood on it.

22 Q All right, are those the two samples of hair that you took
23 at the autopsy?

24 A Yes, they are.

25 Q All right, if you'll look in the head hair, now are those

1 random samples of hair from around the head or are those cut from
2 around the wound?

3 A With the blood, since we removed the tissue here, we would
4 have utilized that hair rather than destroying some other hair.

5 Q I don't understand, which one was it?

6 A It would be from this general area of this wound.

7 THE COURT: Solicitor, are you offering State's
8 Exhibit 37?

9 MS. WHITE: Yes, sir.

10 THE COURT: Any objection, Mr. Brehm?

11 MR. BREHM: No objection.

12 THE COURT: State's Exhibit No. 37, admitted without
13 objection.

14 (Thereupon, hair samples from the victim
15 previously marked as State's No. 37. Admitted
without objection.)

16 Q Now, I believe the Defense attorney was asking you about the
17 struggle with the gun. If you'll put that gun again like you
18 were struggling up in the angle, but remember it goes down this
19 way. Okay, like that. You said, I believe, if there was a
20 struggle, what would you do with your head?

21 A If there was a struggle and I wanted to shoot myself, I'd
22 probably be turning my head toward the gun.

23 Q And if it was a struggle and you wanted to get away, which
24 way would you turn?

25 A I'd turn my head away from the gun.

1 Q So, Doctor, do you find it consistent or inconsistent that a
2 person in a life and death struggle would sit on a couch, with
3 the TV changer right beside them, looking straight forward
4 towards the TV?

5 A Inconsistent.

6 Q What kind of ring was she wearing?

7 A A metal ring on the fourth finger of the right hand, I
8 believe it had some three stones, and it had sort of a braided
9 quality.

10 Q So it has three stones in it?

11 A Well, from my picture I see at least three.

12 Q And it's almost like hearts in different positions?

13 A Now that you say hearts it could be, or braided, it's got a
14 twisted quality.

15 Q That's not a smooth gun -- ring, like a wedding ring---

16 MR. BREHM: Objection.

17 THE COURT: What's your objection?

18 MR. BREHM: She's leading.

19 THE COURT: All right, don't lead the witness.

20 MS. WHITE: I'll rephrase, Your Honor.

21 Q Is this a smoothe ring?

22 A No.

23 Q Or is it a ring that has three stones in it with a
24 heart-type setting?

25 A Stones, with a setting, could be heart-type.

1 MS. WHITE: No further questions.

2 THE COURT: Any re-cross?

3 RE-CROSS EXAMINATION

4 BY MR. BREHM:

5 Q Doctor, the stones are in front of the ring, correct?

6 A As I take the picture, yes.

7 Q In other words, they are not on the side between the
8 fingers.

9 A No.

10 Q They are facing out.

11 A Well, as I take the picture, one of them is facing towards
12 the little finger, small finger, fifth finger of that hand.

13 Q And again, can you tell me the results of the examination on
14 the hair?

15 A I don't have any of that information, what ever SLED's
16 results were, I have no information.

17 Q Okay, so we'll have to wait on SLED to say what they found
18 with the hair?

19 A Yeah.

20 MR. BREHM: Okay, thank you, nothing further.

21 MS WHITE: Your Honor, let me just look at the pictures
22 that he was looking at again.

23 THE COURT: Go ahead.

24 FURTHER RE-DIRECT

25 BY MS. WHITE:

1 Q I'm handing you State's Exhibit 38, for identification, is
2 that the ring that you are talking about?

3 A Yes, it is.

4 Q And was that picture taken at the autopsy?

5 A Yes, it was, it was taken by me or Detective Black.

6 Q And was that how it looked at the autopsy?

7 A Yes.

8 THE COURT: Any objections Mr. Brehm?

9 MR. BREHM: No, sir.

10 (Thereupon, a picture of the victim's hand
11 previously marked as State's No. 38 was admitted
without objection.)

12 THE COURT: All right, Doctor, thank you very much,
13 since you didn't shoot me, you may be excused. Have a good day.

14 MR. BREHM: No objection.

15 THE COURT: All right, Mr. Foreman, ladies and
16 gentlemen of the jury, we are going to take about a 20 minute
17 recess, and just tell the bailiff whatever your needs are and
18 he'll be glad to take care of it. Don't discuss the case amongst
19 yourselves.

20 (WHEREUPON, the jury was excused from open court.)

21 THE COURT: Anything from The State before we take a
22 recess?

23 MS. WHITE: No, sir, Your Honor.

24 THE COURT: Anything from The Defendant?

25 MR. BREHM: No, sir.

1 THE COURT: All right, we'll recess for about 20
2 minutes.

3 (WHEREUPON, a short break was taken.)

4 THE COURT: Solicitor, you want to call your next
5 witness?

6 MS. WHITE: Yes, sir, the State calls Jeff Black.

7 THEREUPON:

8 JEFF BLACK,
9 after having been first duly sworn, testified as follows:

10 THE CLERK: Have a seat on the witness chair, state
11 your name, and spell your last for the record.

12 MR. BLACK: Jeff Black, B-L-A-C-K.

13 DIRECT EXAMINATION

14 BY MS. WHITE:

15 Q What's your occupation?

16 A I'm an investigator with the sheriff's office.

17 Q And how long have you worked in law enforcement?

18 A Approximately 11 years.

19 Q Were you working on March the 10th of this year?

20 A Yes, ma'am.

21 Q And did you go to the scene?

22 A Yes, ma'am.

23 Q Now after you went there where did you go?

24 A I went to the crime scene, and from there we went by way of
25 a Texaco store, Checker's restaurant and went to the office.

1 Q And when you went to the Texaco store, did you obtain an
2 item from that store, you and your partner?

3 A Yes, ma'am.

4 Q I am not very technologically inclined, let me look here a
5 minute, I'm handing you 35 for identification, where did you all
6 get that?

7 A That seems to be the tape that we removed from the Texaco
8 store, there at 252 and 413.

9 Q And has that been changed or altered in any way since you
10 obtained it?

11 A Not that I'm aware of, no ma'am.

12 MS. WHITE: Your Honor, may I have the witness step
13 down?

14 THE COURT: Yes, ma'am.

15 Q If you'll just step down, and get your pointer, if you don't
16 mind, and kind of describe, before we push the play on this tape,
17 I think I just did by accident, but before we do it, if you'll
18 kind of explain to the jury what they are going to be looking at
19 and where they need to focus their attention when we start and
20 push play?

21 A This is a surveillance video from the Texaco store, and what
22 you basically have here, you have four cameras and see four
23 different views, so it's not going to be like if you normally
24 watch TV where you are seeing one specific view. You are going
25 to see four different locations of the store, I believe one of

1 them is the parking lot at the gas pumps, one of them is going to
2 be the front door, one of them is the interior of the store, and
3 I believe there's maybe another one of the parking lot.

4 Q All right so when we first press play, whose vehicle do we
5 see drive up?

6 A There are going to be couple of vehicles at the gas pump---

7 Q No, no, no, whose vehicle that's pertinent in this case?

8 A The black dodge, the small dodge truck pull up at the front.

9 Q And whose is that?

10 A Mr. Patterson's.

11 Q All right, and point to the part that the jury needs to look
12 at to see it pull up?

13 A I believe it's this area right here, now when we turn it on,
14 I'll be able to tell.

15 MS. WHITE: Your Honor, we'll go ahead and play it.

16 (WHEREUPON, the video tape previously marked
17 as State's No. 35 was played for the jury.)

18 MR. BLACK: It's going to be this area right here, the
19 truck is going to pull up in that parking space right there.

20 MS. WHITE: Go ahead.

21 MR. BLACK: You'll also be able to see it right here.

22 MS. WHITE: It's a little confusing the first time you
23 see it, so if you could use your stick to kind of trace it.

24 MR. BLACK: That's Mr. Patterson coming into the store,
25 walks back to the drink cooler back here, walks up to the cash

1 register. He exits the store, backing his truck, appears to
2 remove his jacket, puts his seat belt on, and then leaves.

3 MS. WHITE: Go ahead and have a seat back up please.

4 Q Now after you got the tape, where did you go?

5 A We went to Checker's Restaurant, beside the old Kmart there,
6 which is the post office now.

7 Q And what did you do there?

8 A We purchased a burger for myself, and Mr. Smith, we bought
9 one, in thinking Mr. Patterson was probably hungry as well,
10 bought him a hamburger.

11 Q And where did you go?

12 A To the sheriff's office.

13 Q Now when you got to the sheriff's department where did you
14 go, what part?

15 A We went to the second floor, the interview room there at the
16 second floor where we could have some privacy.

17 Q And did you talk with the Defendant?

18 A Yes, ma'am.

19 Q Were you in plain clothes or uniform?

20 A I was dressed in khaki pants and a golf shirt.

21 Q And did you have any weapons displayed, or were you wearing
22 a gun that day?

23 A I was wearing a ankle gun that day.

24 Q What, if any threats did you all make?

25 A None.

1 Q What if any coercion did you all use?

2 A None.

3 Q What if any promises did you make?

4 A None at all.

5 Q Did he appear to be under any kind of stress, or drugs or
6 alcohol, anything that would affect his ability to give you a
7 statement?

8 A I specifically asked him, when we first sat down, and I
9 begin kind of writing his name, if he had had any drugs or
10 alcohol or anything like that, he replied that he didn't drink,
11 he had had some pepcid for his stomach, on a previous occasion,
12 but none that day.

13 Q All right, now, let's just get this straight, when you
14 talked to the Defendant at the sheriff's department, he ended up
15 giving you, I think it's already been introduced, the three page
16 statement; is that right?

17 A Investigator Smith wrote his statement while Mr. Patterson
18 and I were walking, we were sitting on one side of the table and
19 Matt was sitting on the other.

20 Q And that's the written statement that we heard about
21 yesterday?

22 A Yes.

23 Q Okay, was this statement given before or after the
24 Defendant's actions on this tape?

25 A That was given after.

1 Q So then after the killing, according to the Defendant, he
2 did what, where did he drive?

3 A He went to the Texaco station and bought two packs of
4 cigarettes and the two drinks.

5 Q So he drove to a store, what's he do once he gets to the
6 store?

7 A Walks in, buys two drinks, I believed it was two packs of
8 cigarettes, as well.

9 Q And were they the same kind of drink, or were they different
10 kind of drinks, same cigarettes, or different cigarettes?

11 A The two different cigarettes were different, and the two
12 drinks were different as well.

13 Q And this is all before he gives you this statement?

14 A Yes, ma'am.

15 Q And then he does what when he finishes -- who pays for
16 these, according to the video?

17 A It appears as if he does.

18 Q All right and then who is driving when leaves?

19 A Him.

20 Q Did he appear to have any kind of difficulty in knowing what
21 he was doing on this tape?

22 A Not at all.

23 Q And that was before or after, he met with you all and gave
24 this statement?

25 A That was before, the video was before he met with us.

1 Q Now, did you all morandize the Defendant before he gave this
2 statement?

3 A Yes, ma'am, I did, or we did Matt was in the room.

4 Q Did he waive his miranda?

5 A Yes, ma'am, he said he understood his rights and then he
6 signed a waiver.

7 Q I'm handing you State's Exhibit 2, is that the form that he
8 signed?

9 A Yes, ma'am.

10 Q Did he at any time ask for an attorney, or ask to remain
11 silent?

12 A Not at all, no ma'am.

13 Q Did he at any time indicate to you that he had trouble
14 understanding what was going on or that he didn't know what was
15 going on?

16 A No, ma'am.

17 Q Now the statement, where have I put that, well you've got
18 it, the statement that he gave marked State's Exhibit, is that 3?

19 A Yes, ma'am.

20 Q How was this statement taken?

21 A Basically, like I said I was on one side of the table, it's
22 kind of a short conference table, Matt was on the other side
23 writing, I asked Kevin to kind of tell us what happened that day,
24 give us a background on him and Leanne's relationship, and then
25 kind of go into what had transpired that day. What had led up to

1 the incident that occurred.

2 Q Okay my question is, how was this statement taken, this
3 written statement, what was the procedure for taking it?

4 A When he started relating the story to me, Matt wrote it down
5 as he was talking to me.

6 Q And whose words were used in the statement?

7 A Mr. Patterson's.

8 Q And again was any force, coercion, anything like that used
9 against Mr. Patterson?

10 A No, ma'am, not at all.

11 Q Did he appear to know what he was writing?

12 A He appeared to understand what Mr. Smith was writing.

13 Q Whose initials are these on each page and, whose signature
14 is on each page?

15 A The initial R-K-P.

16 Q Who is are those?

17 A Richard Kevin Patterson.

18 Q Well did you see him put these on, or not?

19 A Yes, ma'am, I was in the room.

20 Q So you actually witnessed it?

21 A Yes, ma'am.

22 Q And was he given a copy of this statement right after it was
23 given?

24 A Yes, ma'am.

25 Q Who was, who was given a copy?

1 A Mr. Patterson was given a copy of the statement, he signed
2 at the bottom, and then actually wrote out that he had received a
3 copy of the statement.

4 Q Now we have how many -- how was this statement, we saw
5 something about a pink copy yesterday, how was that?

6 A Yes, ma'am, there is generally some type of carbon behind
7 those pages, there's a yellow immediately behind, then there's a
8 pink behind that, as you write on the top portion it goes through
9 to the bottom portion. Mr. Patterson got the pink, we kept the
10 yellow one in our files, and we put the white with the case file.

11 Q And has the statement been changed or altered in any manner?

12 A Except for the evidence sticker, no, ma'am.

13 Q And is this what Mr. Patterson told you that day after he
14 had done all the stuff on this tape?

15 A Yes, ma'am, that is the story that he gave us.

16 Q Was the 911 tape collected, in other words the 911 call that
17 he made when he got back from the store?

18 A Yes, ma'am.

19 Q All right. Now according to the Defendant in his statement
20 what was the order of events?

21 A In the statement?

22 Q Start with the shooting.

23 A Okay, he shoots---

24 Q Okay, and then after the shooting, and that's done where
25 does he go?

1 A He goes to the Texaco station.

2 Q Okay, so we have the shooting, we have the tape we just saw,
3 what's the next thing?

4 A Then he goes back to the residence and calls 911.

5 Q All right, so the 911 call also occurs, after he drives to
6 the store and all; is that correct?

7 A Yes, ma'am.

8 Q All right, so let's see, we have the shooting, the trip to
9 the store, the 911 call, and then when did your statement that
10 you are talking about come in, after or before those things?

11 A After all those events, back at the sheriff's office that's
12 where we did the statement.

13 MS. WHITE: Nothing further:

14 THE COURT: Cross-examination?

15 MR. BREHM: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. BREHM:

18 Q Investigator Black, on the video tape who is that clerk, who
19 is the person that sells the drinks to him?

20 A I believe we have her name in our notes, I don't have those
21 notes with me right now.

22 Q But did you, did you talk with her or did Investigator Smith
23 talk with her?

24 A Investigator Smith was with me, I believe she was talked to
25 as well, I remember asking her if she had recalled seeing the

1 gentlemen, and asked her if she had a manager there and if they
2 had a video camera.

3 Q And did she remember seeing Mr. Patterson?

4 A I don't recall that she specifically saw him, or some one
5 who looked liked him, I don't think she knew Mr. Patterson, so
6 that would have been kind of asking if she knew Mr. Patterson, if
7 she didn't know him, you know I don't think so.

8 Q On that video, it's hard to see Kevin Patterson's face, it's
9 kind of dark, you can see the hat, you can see, you can tell it's
10 him, there's no question about that, but can you actually see his
11 eyes?

12 A No sir, the bill of the cap kind of shades his eyes a little
13 bit.

14 Q And is it easy for us to tell what his emotional state was,
15 I mean did you try or not?

16 A I have no way of knowing what his emotional state was.

17 Q But you can't tell from the video?

18 A No, sir.

19 Q Now, you get called out to this incident and what is your
20 role out there at the scene?

21 A Investigator Smith was riding with me so we went out there,
22 he initially talked with Kevin in my vehicle and I went into the
23 scene and assisted Sergeant Jones and Lt. Loftis, and Mr. Coyle in
24 kind of processing the scene and looking at the scene and kind of
25 trying interpret what we were, what we were looking at.

1 Q Moving forward, you go after being at the scene, you go down
2 to the sheriff's office and you interview my client.

3 A Myself and Mr. Smith did, yes.

4 Q And there's a period of about 20 or 30 minutes where you
5 were talking to him you haven't advised him of his rights or any
6 thing like that, you were just chatting with him?

7 A The exact time that we started the interview is recorded, I
8 don't believe it was 30 minutes, I think it was more like 20.

9 Q I said 20 or 30 minutes, 20 minutes?

10 A To be more specific, I think it was 20 minutes.

11 Q There's 20 minutes that go by, before you read him his
12 rights?

13 A That's correct.

14 Q And during that time period you are telling any client that
15 something is not right.

16 A I told your client that it didn't appear right.

17 Q And the thing that didn't appear right to you, you testified
18 that the people was out there, was the coroner out there?

19 A I believe, yes, sir, Greg Shore was out there.

20 Q And the thing that didn't appear right to you, that you were
21 referring, talking about with my client was the entrance wound
22 and the exit wound and the trajectory.

23 A That's one of the things, yes.

24 Q And do you remember previously testifying about this?

25 A Yes, sir.

1 Q Do you recall telling or testifying that, that was the sole
2 thing that didn't appear to be right?

3 A That was the primary thing that did not appear to be right,
4 yes, sir.

5 Q And in fact you told that to my client, you said that we
6 have evidence that would appear that this is not suicide?

7 A That's correct.

8 Q Do you recall Kevin telling you that the gun, and it was
9 Leanne's gun or a gun that Leanne's father had given to her.

10 A Yes, sir.

11 Q And that he didn't know where the gun was or he had a gun
12 back in his bedroom?

13 A No, sir, I don't recall that he told us that he had a gun
14 back in his bedroom at all.

15 Q Did you come to find out that he had a gun back in his
16 bedroom?

17 A Later in the afternoon, after he had already been processed
18 we did discover that there was a gun located in the back bedroom,
19 yes sir.

20 Q A gun with ammunition?

21 A I don't know whether it had ammunition in it or not.

22 Q And tell us, or tell the jury why that gun and ammunition in
23 the room was not collected?

24 A I was not specifically responsible for handling the scene at
25 that point, I was with Kevin at the sheriff's office. At that

1 point, the long gun with ammunition in the case didn't appear to
2 have anything to do with the actual homicide itself that had
3 occurred, we had the gun, we had the bullet, we had the shell
4 casing, and we had the confession from Mr. Patterson.

5 Q Did you just happen to find that you didn't know that there
6 was ammunition with Kevin's gun?

7 A No, sir. I specifically did not know that there was
8 ammunition with that gun in the house.

9 Q But then later you came to find that there was.

10 A I don't recall whether that was brought out, I did discover
11 that there was a gun.

12 Q Did you, in your investigation as part of your
13 investigation, talk with the occupants of the house, in other
14 words, living there. Leanne lived there, Kevin lived there in
15 the back bedroom, and then you got Keith and Shannon Jordan
16 living there, correct?

17 A That's correct, I believe Shannon also had some children
18 that lived there.

19 Q And as part of your investigation, as part of your duty is
20 to find out what they have to say.

21 A That's correct.

22 Q And can you explain why Keith says that---

23 MS. WHITE: Objection, Your Honor, to hearsay. He's
24 not allowed to ask what another witness says.

25 THE COURT: I'll sustain the objection.

1 Q Was there, during the course of your investigation, a
2 discrepancy about whether or not Leanne was actually mad at my
3 client, Kevin.

4 A I don't recall there being a discrepancy, could possible
5 have in the statement, but I don't recall that, no, sir.

6 Q But there's no doubt about it that right prior to this
7 incident, Keith Jordan was there?

8 A As I understand the statement to be correct, that's true.

9 Q Okay now he goes, you go back down to the law enforcement
10 center, and let me ask you this, have you ever seen anybody in
11 shock before?

12 A I'm sure I have.

13 Q And you'd agree with me that people that are in shock don't
14 normally act the way they usually act.

15 A That would be a correct assumption, I would imagine, I'm not
16 a medical doctor or an EMT, but that's my training would indicate
17 that would be true.

18 Q Some people confronted with a terrible tragedy like this,
19 scream, and hollering, and collapse.

20 A That's been my experience, yes.

21 Q Some people just shut up, don't say a word, zone out, blank
22 stare?

23 A Yes.

24 Q Let me refer you to State's Exhibit 2, the rights form that
25 you went over with Kevin, and how's his name signed at the

1 bottom?

2 A It appears to be Kevin Patterson on both the times that he
3 signed this particular document, that's what he went by, Kevin.

4 Q And it is your testimony that he appeared to be fine, he
5 appeared to know what he was doing, appeared to waive his rights,
6 things of that natures?

7 A We read the rights statement with him and he agreed that he
8 did know what he was doing and understood fully what the rights
9 were, and what he was doing.

10 Q Then can you tell us what the -- how he signs his name after
11 the three pages statement?

12 A Richard K Patterson, on the first page, Richard K Patterson
13 on the second page, and Richard K Paterson on the third page.

14 Q Okay, and this is State's Exhibit 3?

15 A Uh, huh.

16 Q And you would agree with me, would you not, that going to a
17 convenient store is highly unusual after such an incident like
18 this?

19 A Depending on what his motivation for going to the store was,
20 I don't know that I could agree with you. If he was trying to
21 create an alibi for himself, then no it wouldn't be unusual.

22 Q Well, he didn't try to create an alibi for himself, did he?

23 A I don't know what his intention on going to the store was.

24 Q Well he never told you that he was going to this store to
25 create an alibi, did he?

1 A He never told us that, no, sir.

2 Q And did he go to the store and try to hide any evidence that
3 was at the scene?

4 A I'm not aware of any evidence that he tried to hide.

5 Q And you are not aware of any evidence that was located in
6 his truck?

7 A No, sir, not specifically pertaining to this incident. Now
8 he did try and hid the incident itself for a given period of time
9 before he called for medical attention for Leanne, but after
10 everything was discovered and we arrived on the scene, I'm not
11 aware of what he tried to hid.

12 Q Well, I believe it's been testified, I believe the Doctor
13 testified, that Leanne died instantly, correct?

14 A That's correct, that what he testified to.

15 Q And all the video shows him buying is in evidence, two
16 different types of drinks, and two different types of cigarettes.

17 A Yes, sir.

18 Q And one drink is Leanne's, I believe Shannon testified, one
19 drink is Leanne's brand, or the kind she likes, or liked?

20 A Yes, sir.

21 Q And the other was Kevin's, and then one brand of cigarettes
22 was Leanne's and one was Leanne's?

23 A One was Kevin's, one was Leanne's, I believe is what you are
24 trying to say.

25 Q I'm sorry. One brand is his brand and one brand is her

1 brand?

2 A That's correct.

3 Q And when you bought him lunch, or brought him lunch, you
4 brought him Checkers?

5 A That's where we had gone, yes, sir, we brought him a
6 Checkers burger.

7 Q And you gave it to him and he didn't eat it, he didn't want
8 to eat it, did he?

9 A That's correct, he drank the drink, but he didn't eat the
10 food.

11 Q Now, you testified that in your opinion, or to the best of
12 your recollection, he was given a copy of statement, in fact I
13 have the copy talked about, the pink copy?

14 A I believe that is his copy that you have.

15 Q What I would like to get into is when was he given a copy of
16 his statement.

17 A Immediately after it was taken.

18 Q Do you recall when he finished talking with you, that he
19 indicated that he had to go to the rest room?

20 A I do recall that he indicated, yes, sir, I do recall that.

21 Q Do you also remember talking with investigator Smith about
22 when he would sign, and I believe Investigator Smith asked you,
23 something to the effect do we have him read it now, or read it to
24 him, or have him read it, sign it, or does he go to the bathroom;
25 do you recall that conversation?

1 A I don't recall that specific conversation, but that very
2 possibly could have happened, I don't know if it did.

3 Q Okay, and in fact what was agreed to by you and investigator
4 Smith was to go ahead and let him sign and initial the document
5 and then let him go to the bathroom?

6 A I believe what we agreed to was to let him read the
7 document, go over the document, initial it, asked him if he had
8 any questions, see if he had anything to change, makes sure that
9 that was an accurate representative of what he had told us and
10 then sign it and then we could go to the bathroom.

11 Q Okay, during the course of your questions, as you are the
12 one asking the questions and investigator Smith was the one
13 writing stuff down; right?

14 A I don't know if that's really an accurate way to put it.
15 He's telling us a story and if we have questions about any
16 specific part of the story, something we're not clear about or
17 something maybe we don't understand by the terminology that he's
18 using, we'll ask him to explain them, so we can better represent
19 what's he's trying to indicate on his statement, to make sure we
20 don't misrepresent what he's saying.

21 Q But during the course of his statement he indicated to you
22 that he had to go to the rest room and you indicated to him, and
23 told Officer Smith, just a little bit longer; do you recall that?

24 A I believe after his statements was over, he said that yes,
25 sir.

1 Q Now, Investigate Black to your knowledge has that video been
2 changed, edited, or altered?

3 A I'm sorry.

4 Q To your knowledge has the video---

5 A No, sir, I haven't had any knowledge, I don't think anybody
6 has, no.

7 Q So it's a pretty accurate description at what took place at
8 the Texaco?

9 A Yes, sir.

10 Q And you heard Investigator Smith yesterday when I asked him
11 about why do we have a video tape, let me ask you the same
12 question. You guys have video tape capability, but why isn't it
13 video taped?

14 A You want me to explain it to you Mr. Patterson, I mean,
15 excuse me, Mr. Brehm?

16 Q Yes, sir.

17 A It's my opinion and in 11 years of law enforcement, that no
18 matter how we take the statement, being videoed, audioed, oral,
19 or any other form, that Defense attorneys will attempt to punch
20 holes in whatever we do. You can alter a video tape, as you just
21 asked me about the video tape in question, you can alter an audio
22 tape, you can loop things in, you can stop it, put something in
23 and start it again, all these things you can maneuver, but the
24 written statement is what it is, he signed it, he initialed it,
25 he read it, he got a copy of it, right them. There is no way

1 that we could have altered that statement, and that's what he got
2 to give his Defense attorney, to prepare for his Defense.

3 Q You'd agree with me that a video can be altered, a video is
4 a lot better way to document what is actually going on, if you
5 are sitting there and talking to him and a video tape rolling,
6 I'm not allowed to alter it am I?

7 A Not at that time.

8 Q And is it fair to assume that what you probably have to do
9 to video would be to tape it, you keep a copy, give a copy to the
10 Prosecutor, and give me a copy?

11 A If it were to be taped, I would imagine that might be how
12 some jurisdictions do it, that's not how we do it, no.

13 Q And the same thing with audio?

14 A If that's what you did.

15 Q But it's your opinion that the best way to do it is to hand
16 write it?

17 A Yes, sir.

18 Q And if the best way to do it is to hand write it so you
19 won't have any confession, then why not let Mr. Patterson, why
20 not let Kevin write the statement?

21 A Again you've gone into specific practices, what we normally
22 do, if we normally let everyone handwrite their statements, then
23 you get into a situation where someone might not have the
24 education that another person has. Someone might not have the
25 hand writing that another person has. And if you stop then and

1 say look, your handwriting is to sloppy or you don't have enough
2 education to do this, that kind of puts a wedge between you and
3 them, or if you are in front of a group of people that would kind
4 of alienate them somewhat. And that's not something you would
5 want to do in a situation like this is to embarrass someone about
6 their limited education, or about their ability to write.

7 Q Investigate, my client has a 12th grade education, right?

8 A That's what I, I would have to look at my notes to see what
9 his education was.

10 Q You wouldn't argue with that would you?

11 A Again, I'd have to look on my notes to be able to testify to
12 that.

13 Q Referring to the statement up there at top?

14 A Completed 12th grade, yes, sir, I would agree with you.

15 Q And I just momentarily, or moments ago asked you to read his
16 name, you didn't have any problems reading his name, did you,
17 Kevin Patterson, or Richard Kevin Patterson?

18 A I didn't have any problems reading his name, I knew what his
19 name was so it makes it a little easier.

20 Q Did you remember testifying previously, that you do not
21 remember, could not say whether or not Kevin read his statement?

22 A I don't recall, where are you getting that from?

23 Q Your testimony on the---

24 A I couldn't remember whether or not he read it?

25 Q Prior to the jury coming in, testifying about the statement

1 that you did not remember if Kevin had read his statement, could
2 not say; do you remember that?

3 A No, I probably said, I could not say, because someone can
4 sit and pretend to read something and not read it, I don't know
5 whether he read it or not. I know he acted like he read it, he
6 initialed it as if he had read it and he signed it as if he had
7 read it, but I can't testify as to what he was actually doing
8 when he was sitting there looking at the pages, and then flipping
9 them.

10 Q Okay. When you eventually arrested him, charged him with
11 murder and took him down to the jail?

12 A Yes, sir.

13 Q And I believe your testimony was that you went back a couple
14 of days later to serve warrants on him, Mr. Patterson, do you
15 remember that?

16 A I don't recall specifically if it was warrants, I remember
17 we went down there for something, it might have been warrants, it
18 might have been for some other item, I don't recall what it was
19 we came in contact with him again for.

20 Q If I showed you a copy of the warrant, you could tell when
21 they were served, right?

22 A I don't know if I could tell when they were served, it
23 depends on who signed them on the back, I could tell when they
24 were issued.

25 Q You got a return on them?

1 A That's what if it was -- okay, it was served that day on
2 3/10/2000.

3 Q So on March the 10th, the same day this happened, the
4 warrant was served?

5 A Yes, sir.

6 Q And then a couple of days later you go down to the jail and
7 talked to Kevin, correct?

8 A Again, we were at the jail for something, I don't recall
9 what it was for, I have a habit of if I have somebody involved in
10 a situation like this, a lot of times I'll stop a couple days
11 later and check on them, that's kind of just a habit of mine to
12 make sure that everybody concerned is okay with the situation.

13 MR. BREHM: No further questions.

14 THE COURT: Re-direct?

15 MS. WHITE: Just a little bit, Your Honor.

16 RE-DIRECT EXAMINATION

17 BY MS. WHITE:

18 Q Now on the signed confession, the Defendant signed it how?

19 A Richard K. Patterson, is what it appears to be.

20 Q Is that more formal or less formal than Kevin Patterson?

21 A That would be more formal, on a legal document that's how I
22 would sign my name.

23 Q And this was a fairly significant document that he was
24 signing, too, isn't it?

25 A Yes, ma'am.

1 Q So then when he went from the signing of the rights as Kevin
2 Patterson to the signing of the statement he used a more formal
3 or less formal signature?

4 A I would say it's more formal.

5 Q If you had done a tape of some sort, instead of a written
6 statement, what would you expect the attack to be on the tape,
7 audio or video?

8 A That we had stopped it put something in it, not started it
9 in time.

10 Q And why hadn't you used what?

11 A I'm sorry.

12 Q And why hadn't you used instead, what?

13 A Why hadn't we used a written statement, why didn't you get
14 something that he could sign, or it's just the nature of what we
15 do that we expect that there's going to be people that sit in a
16 rooms and try to punch holes in every little thing we do, and in
17 any thousand and one ways that they can, anything that they can
18 think of to make people call it into question, that's what they
19 are going to bring up.

20 Q If an individual is distraught, or facing a serious
21 situation, do you want them when they are telling their story to
22 have to think about grammar, spelling all of those things?

23 A No, ma'am, not at all.

24 Q And if in fact you let them write their own statement, and
25 they later claim something is left out, then what are you going

1 to hear about?

2 A The fact that we didn't allow them to do a complete
3 statement, or that we had them only address certain points within
4 a statement, there's all kinds of---

5 Q How much training do they have to write a complete
6 statement?

7 A None.

8 Q What would you hear about?

9 A Again, that, that they didn't have any training or maybe
10 forcing someone to, who wasn't literate to write,---

11 Q Okay, I think we get the gist of it. Okay, let's go on the
12 alibi, I think the Defense attorney asked, well did he tell you
13 anything about an alibi. Now in the first few statements the
14 Defendant says, that -- what order do we have again?

15 A That he shoots Leanne and then goes to the store.

16 Q So is he claiming he's there at all, no, no, no, not your
17 statement, the first statement, is he claiming he's there at the
18 shooting?

19 A No ma'am, he states that Leanne has asked him to go to the
20 store to get a drink.

21 Q And in fact, when he goes to the store, whose drink does he
22 buy?

23 A He buys one for himself and Leanne.

24 Q As if she's dead or alive when he leaves?

25 A As if she's alive.

1 Q When he goes to the store, how many different packs of
2 cigarettes does he get?

3 A Two.

4 Q As if she's dead or alive when he last left her?

5 A As if she's alive.

6 Q But he didn't use the term alibi, did he?

7 A No, ma'am.

8 MS. WHITE: No further questions.

9 THE COURT: Re-cross?

10 RE-CROSS EXAMINATION

11 BY MR. BREHM:

12 Q Investigator you've never used video tape, have you?

13 A I'm sorry?

14 Q You've never video taped a confession, have you?

15 A No, sir.

16 Q And just so there's not confusion, what I'm getting to is
17 why not video tape this, why not video tape the question and
18 answer and the writing down of the statement.

19 MS. WHITE: Your Honor, I think this was gone into on
20 his direct, I was merely commenting---

21 THE COURT: I think it's not on the re-cross, keep it
22 to re-cross, Okay, move on.

23 MR. BREHM: Judge, with all due respect, what they are
24 talking about is video---

25 THE COURT: Move on. And keep it to re-cross.

1 Q Whether it's a formal or informal document, do you sign your
2 name in two different ways?

3 A I do occasionally, yes, sir.

4 Q And in a more significant type document, as you suggested
5 this statement is, isn't it a good idea to have it notarized?

6 A Sir, that's not something that I've ever done. Again you
7 have to go through the process of finding a notary, and having
8 someone, or bringing someone else into the case, that's not
9 something I've ever done or know to be done, to be honest with
10 you.

11 MR. BREHM: Thank you.

12 THE COURT: Detective, you may step down, thank you
13 very much.

14 Solicitor, call your next witness.

15 MS. WHITE: The State calls Willie Clinkscates.

16 THEREUPON:

17 WILLIE MAE CLINKSCALES,
18 after having been first duly sworn, testified as follows:

19 THE CLERK: Ms. Clinkscates, have a seat on the witness
20 chair, state your full name, and spell your last for the record.

21 MS. CLINKSCALES: My name is Willie Mae Clinkscates,
22 C-L-I-N-K-S-C-A-L-E-S.

23 DIRECT EXAMINATION

24 BY MS. WHITE:

25 Q What's your occupation?

1 A I'm a dispatcher at Anderson County Public Safety.

2 Q And what does that involve when you receive a 911 call?

3 A Dispatching out to law enforcement, EMS, and fire dispatch.

4 Q Now when you get a 911 call, somebody calls 911, and you
5 answer, what happens?

6 A We answer Anderson County 911, what's the location of the
7 emergency and a tape starts.

8 Q Okay, so the whole thing is taped?

9 A The whole thing is taped.

10 Q I'm handing you State's Exhibit 10; what is that?

11 A That's a recorded tape.

12 Q And is that the 911 tape in this case?

13 A Yes, ma'am.

14 Q And has it been changed or altered in any manner?

15 A No, ma'am.

16 Q I'm handing you State's Exhibit 11, for identification; what
17 is that?

18 A This is the written statement from what's on the tape.

19 Q Okay, the transcript?

20 A The transcript, yes, ma'am.

21 Q All right, and is that an accurate transcript?

22 A Yes, ma'am.

23 MS. WHITE: Your Honor, I would ask that State's
24 Exhibit 11 and State's Exhibit 10 be admitted.

25 MR. BREHM: No objection.

1 THE COURT: All right, State's Exhibit 10 and 11
2 admitted without objection.

3 (WHEREUPON, a 911 tape and transcript previously
4 marked as State's Nos. 10 and 11 were admitted
without objection.)

5 MS. WHITE: Your Honor, I'd like to ask if I could pass
6 out copies of State's Exhibit 11, so the jury could follow along
7 with the tape.

8 THE COURT: That's fine, what was 10 solicitor?

9 MS. WHITE: 10 was, I think the tape.

10 THE COURT: The tape?

11 MS. WHITE: Yes, sir.

12 MR. BREHM: Judge, I have no objection.

13 THE COURT: Thank you, sir.

14 Q All right, before we start playing the tape, if you'll look
15 on the first page, do you see where it says; "Ah, I went to the
16 store and I came back, and my girlfriend shot herself."

17 A Yes, ma'am.

18 Q All right. So then was the defendant's trip before or after
19 he makes this 911 tape?

20 A This is after.

21 Q The 911 tape was after?

22 A Uh, huh.

23 (WHEREUPON, State's Exhibit 11, 911 tape was
24 played for the jury.)

25 Q During this conversation when did the Defendant tell you

1 that he had struggled over the gun with the victim and it had
2 been accidentally discharged?

3 A That never came up in the conversation.

4 Q I'm sorry?

5 A It never came up in the conversation.

6 Q When did he tell you that he was present when the gunshot
7 occurred?

8 A He didn't.

9 Q If you go to page 11, now this is the 911 call, right?

10 A Yes, ma'am.

11 Q And you asked, did she write a note or anything, what's his
12 response?

13 A No.

14 Q How can you know that though at the time of a 911 call?

15 A No, ma'am.

16 Q Did he have any trouble understanding your questions or
17 responding appropriately to them?

18 A Sometime, he did, I had to repeat myself.

19 Q I'm not talking about repeating yourself, I'm talking about
20 could he answer appropriately when he answered?

21 A Yes, ma'am.

22 Q Who gave you directions to the house?

23 A He did.

24 Q Now in the beginning of the tape, we here the phone ringing
25 several times, when does the recorder pick up?

1 A Right when I say, Anderson County, it starts then.

2 Q I'm talking about the ringing, have you picked up --- let me
3 just play the beginning for you.

4 (WHEREUPON, beginning of the tape was replayed.)

5 A It picks up then, after the phone starts ringing.

6 Q Did you even know it picked up before you actually picked up
7 the phone?

8 A (No Response.)

9 Q Until, now?

10 A Until, now.

11 Q All right I want you to just listen to up to the point were
12 you pick the phone up, if you'll just listen and tell me any
13 moaning or groaning, or anything like that, that you hear until
14 you pick up the phone?

15 A Okay.

16 (WHEREUPON, first part of tape replayed.)

17 A No, ma'am.

18 Q Yet the recording starts the minute it starts ringing,
19 doesn't it?

20 A Yes, ma'am.

21 MS. WHITE: Nothing further

22 THE COURT: Cross-Examination?

23 CROSS-EXAMINATION

24 BY MR. BREHM:

25 Q Do you know Kevin's condition prior to him making the

1 telephone call?

2 A No, sir.

3 Q Or the state of mind he was in?

4 A No, sir.

5 Q During the -- how long did this tape last, 15 minutes?

6 A I'm not real sure sir.

7 Q During the time period that you did listen to him, he was
8 pretty hysterical, wouldn't you say?

9 A I would say, he was crying, to me he was crying.

10 Q And you indicated that he had some trouble understanding
11 you, and you clarified that with the Prosecutor. Can you tell me
12 what you meant by him having some trouble understanding you?

13 A Well when I asked a question, he'd say, uh, and I repeated
14 it.

15 Q He told you that she had shot herself and that she had
16 committed suicide?

17 A He told me that she had shot herself.

18 Q When the conversation was over you say bye to him, and do
19 you talk with a police officer?

20 A Oh, no, sir.

21 Q Okay, on page 19 it says, bye, bye, and that's it?

22 A That's it.

23 Q And this statement is a pretty accurate description of what
24 is on that tape.

25 A Yes, sir.

1 MR. BREHM: No further questions.

2 MS. WHITE: Just one more thing.

3 RE-DIRECT EXAMINATION

4 BY MS. WHITE:

5 Q How hysterical was he before he realized someone was
6 listening on the other end?

7 MR. BREHM: I believe she's already answered that.

8 MS. WHITE: No further question, Your Honor.

9 THE COURT: You may step down, thank you very much.

10 Solicitor, you got about a 20 or 25 minute witness?

11 MS. WHITE: Your Honor, I do. The State calls Buddy
12 Ellison.

13 THEREFORE,

14 CLARENCE B. ELLISON, JR,

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

16 THE CLERK: Have a seat in the witness chair, state
17 your name and spell your last for the record.

18 MR. ELLISON: Clarence B. Ellison, Jr. E-L-L-I-S-O-N.

19 DIRECT EXAMINATION

20 BY MS. WHITE:

21 Q And what's your occupation?

22 A Deputy sheriff, Anderson County Sheriff's Office, in charge
23 of processing evidence for the sheriff's office.

24 MS. WHITE: Give me just one minute, please.

25 Q I'm handing you State's Exhibits 19, 17, 16, 15, and 18,

1 would you take a look at those please and see if you recognize
2 those?

3 A Yes, ma'am, I do.

4 Q What are those items?

5 A Item No. 19, a pair of black boots; item 18 is a pair of
6 white socks; item No. 16 is a baseball cap; item No. 17 is a
7 white tee-shirt; item No. 15 pair of blue jeans with a belt.

8 Q From whom did you obtain the Defendant's clothing?

9 A All these Defendant's clothing came from Mark Coyle,
10 Anderson County Sheriff's office.

11 Q What did you do with them when you obtained them?

12 A They were place in the sheriff's office under lock and key
13 until they were transported to SLED, or South Carolina Law
14 Enforcement Division, for analysis.

15 Q By whom?

16 A By myself.

17 Q And did you put them into evidence once they were submitted
18 to SLED?

19 A Yes, ma'am, I did.

20 Q Did you tamper with, or alter these items in any manner?

21 A No, ma'am, I did not.

22 Q And are they in substantially the same condition they were
23 in, other than any SLED testing?

24 A Yes, ma'am, they are.

25 MS. WHITE: Your Honor, I'd ask that these exhibits be

1 admitted.

2 THE COURT: Any objection?

3 MR. BREHM: Just my original objection, Your Honor.

4 THE COURT: All right, State's Exhibits 15, 16, 17, 18,
5 and 19 are admitted, with objection.

6 (WHEREUPON, defendant's clothing, State's Nos. 15,
7 16, 17, 18, and 19 were admitted with objection.)

8 Q I'm handing you State's Exhibit 34, what is that?

9 A This would be the victim's clothes that I picked up at the
10 morgue at Anderson Memorial Hospital and transported to SLED, or
11 South Carolina Law Enforcement Division.

12 Q Did you tamper with them or alter them in any manner?

13 A No, ma'am, I did not.

14 Q Are they in substantially the same condition that they were
15 in then?

16 A Yes, ma'am, they are.

17 MS. WHITE: Your Honor, may we approach the bench?

18 THE COURT: Yes, ma'am.

19 (WHEREUPON, a bench conference was held in the
20 presence of the jury but out of the hearing of
the jury.)

21 Q And when you placed them into evidence at SLED, you did that
22 yourself; is that correct?

23 A Yes, ma'am, I did.

24 MS. WHITE: Your Honor, I believe the only other piece
25 of evidence is 33, I think that's already been admitted, I

1 believe you admitted it, but for the record, we would move 33.

2 THE COURT: It's already, been admitted without
3 objection..

4 MS. WHITE: No further questions.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION:

7 BY MR. BREHM:

8 Q Deputy can you tell us whether or not a blue -- or a new
9 blue rubber jacket was ever at SLED?

10 A No, sir, it was not.

11 Q And can you explain to us why hair was not sent to SLED?

12 A Which hair, sir?

13 Q This hair?

14 A This hair was carried to SLED.

15 THE COURT: Look on the side of it, that's Exhibit, I
16 think, 37 isn't it.

17 MR. ELLISON: Yes, sir, No. 37, this hair was carried
18 to SLED and SLED asked me to bring the hair back, they didn't do
19 hair examination any more, it was carried but brought back.

20 Q So on this hair no examination was done?

21 A No, sir.

22 MR. BREHM: Nothing further.

23 THE COURT: You may step down, thank you very much, you
24 may be excused.

25 THEREUPON:

1 DR. CHRISTOPHER TODD HUGHEY,
2 after having been first duly sworn, testified as follows:

3 THE CLERK: Doctor, please have a seat in the witness
4 chair, state your full name, and spell your last for the record.

5 MR. HUGHEY: I'm Dr. Christopher Todd Hughey,
6 H-U-G-H-E-Y.

7 DIRECT EXAMINATION

8 BY MS. WHITE:

9 Q Doctor Hughey, what is your occupation?

10 A I'm employed by the South Carolina Law Enforcement Division,
11 commonly referred to as SLED.

12 Q And what do you do there?

13 A I'm a forensic toxicologist.

14 Q What's your educational background?

15 A I have a bachelors of science degree in chemistry from
16 Wofford College, I have a Ph.D., or Doctorate in pharmacology
17 from the University of South Carolina, and I've got postdoctoral
18 experience from Duke University Center.

19 Q And what's your experience in the area of working in
20 toxicology?

21 A I've been practicing forensic toxicology now for a little
22 over four years.

23 Q And have you testified before as an expert in forensic
24 toxicology?

25 A Yes, ma'am, I have.

1 MR. BREHM: Your Honor, I'll stipulate that he's an
2 expert in toxicology.

3 THE COURT: The Court finds Todd Hughey as a qualified
4 expert in forensic pathology, Ph.D..

5 Q I'm handing you State's Exhibit 7, do you recognize that?

6 A Yes, ma'am.

7 Q What is that?

8 A It's a label removed from a blood tube.

9 Q And I assume that in your testing, it was consumed?

10 A Actually, this particular item of evidence here was from the
11 DNA serology department. I do not know in this particular case
12 that this was consumed.

13 Q Did you test the victim's blood, Donna Pearson, the blood
14 that was taken at the autopsy?

15 A Yes, ma'am, I did.

16 Q And what was the result of that -- back up a little bit,
17 what are you looking for in this test?

18 A Right, as a forensic toxicologist, it's my responsibility to
19 test any biological fluids or tissues that are submitted to the
20 laboratory for any chemicals, any toxins, any poisons, or any
21 therapeutic drugs, that may be present. We also exam any
22 submitted specimens for ethanol content, or drinking alcohol.

23 Q And just for clarification, if a person dies is that going
24 to alter any of these tests that you run, or would that still be
25 an accurate --

1 A It will be a reflection of the tissue and blood sample at.
2 the time of death.

3 Q All right. Did you find any blood alcohol in Donna Leanne
4 Pearson's system?

5 A I examined blood labeled, Pearson comma Donna, and that
6 contained no alcohol or drinking ethanol.

7 Q And did you find any barbiturates, benzodiazepine, cocaine,
8 opiums?

9 A I screened her blood for those particular classes of drugs
10 and found them to be negative.

11 Q And is that a sort of routine screening you all do when you
12 get blood?

13 A Yes, ma'am.

14 Q And did you also look at her urine to see if there was any
15 alcohol in her urine at all?

16 A I did.

17 Q Did you find anything in her urine?

18 A No, ma'am, it was negative.

19 Q And did you also check her ocular fluid, or the fluid from
20 her eye to see if there was any ethanol, alcohol in that?

21 A Yes, ma'am, I did.

22 Q And did you find any?

23 A It was negative, also for ethanol.

24 MS. WHITE: No further questions.

25 THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. BREHM:

Q Doctor, why, or do you know, were you asked to look for alcohol?

A It's just part of our standard operating procedures at SLED, any type of analysis no matter what type of case it is, we automatically screen the samples for ethanol or drinking alcohol.

Q And you also, correct me if I'm wrong, but don't you also screen for marijuana?

A We screen if we have a history of it, if we have no history, we do not screen for it in a death type case.

Q Do you know the history of Donna Leanne Pearson?

A No, sir, just what was provided on the request form.

Q Did the request form say or request everything about marijuana?

A Basically what is requested on the SLED service request form, examination request; blood alcohol is circled; drug screen was circled; blood type was circled, which is not something that the toxicology lab performs; and drugs suspected, no, was circled; so we did our routine analysis in this particular case.

Q And if you -- you apparently tested for not drinking alcohol but talking about the drugs; one, two, three, four different types of -- classes of drugs.

A Classes of drugs; that's correct.

Q And there's one class missing, and that one class is the

1 counter drugs, right?

2 A Well, no, sir, there's other classes, too, such as tricyclic
3 antidepressants, those type drugs, we have a limited screen based
4 on what we generally see in this state, unless the history would
5 dictate us opening up that screen and doing a little bit more
6 extensive analysis.

7 Q Did you know that Leanne Pearson, in this case, had a
8 history of depression, was that relayed to you?

9 A History of depression? No, sir, I don't believe it was.

10 Q Would your test have picked up if she was on -- had in her
11 system lithium?

12 A No, sir, it would not.

13 Q Would your test have picked up whether or not she was
14 medicated or had in her system paxil?

15 A No, sir.

16 Q How about lortab?

17 A No, sir.

18 Q Is that -- those 3 drugs is that some type of drug that
19 maybe -- that if somebody was aware of could have been screen
20 for?

21 A Yes, sir, we can screen for those.

22 Q Do you know why you weren't---

23 A Some drugs we don't actually have a screen for, we have to
24 go in and actually distract that chemical compound, or empty out
25 of the blood or tissue and analyze it that way. We can do that

1 if requested.

2 Q The lithium, lortab, and paxil, do you have a screen for
3 those?

4 A We do not have a screen for those at this current time. We
5 can analyze and quantitate them if we have a history of it, or if
6 it's an unexplained type death where we have no cause what so
7 ever, then we do a little bit more extensive work up on the case,
8 in a truly unexplained death.

9 MR. BREHM: Nothing further.

10 THE COURT: Re-direct?

11 MS. WHITE: May the witness be excused, Your Honor?

12 MR. BREHM: No objection.

13 THE COURT: Mr. Hughey, you may be excused, have a safe
14 trip back to Columbia.

15 THEREUPON:

16 JANICE BRYSON,
17 after having been first duly sworn, testified as follows:

18 THE CLERK: Please have a seat in the witness chair,
19 state your name, and spell your last for the record, please.

20 MS. BRYSON: Janice Bryson, B-R-Y-S-O-N.

21 DIRECT EXAMINATION

22 BY MS. WHITE:

23 Q What is your occupation?

24 A I'm a Forensic Evidence Technician at SLED.

25 Q And what does that mean?

1 A I examine a variety of items that are submitted to the lab
2 with the request for hair fiber, blood, and semen.

3 Q And have you testified numerous of times in that capacity?

4 A Yes, I have.

5 Q And did you examine the defendant's, your No.14 and 15, the
6 blue jeans of Richard Kevin Patterson, and white tee-shirt of
7 Richard Kevin Patterson?

8 A Yes, I did.

9 Q And what were you looking for?

10 A In this particular case I was looking for blood.

11 Q And did you find any?

12 A No, I did not.

13 Q Did you examine No. 16, the baseball cap of Richard Kevin
14 Patterson?

15 A Yes, I did.

16 Q And why did you look at that?

17 A I was looking for blood also.

18 Q And describe for the jury, what kind of tests are you doing
19 at your stage?

20 A What we do in our department, is the preliminary testing for
21 blood and semen, and this case I did the preliminary testing for
22 blood on the suspect's clothing.

23 Q And then a later test done to see if it's human blood or
24 not?

25 A That's correct.

1 Q And in this case did it turn out to be human blood, or not?

2 A It's my understanding that it wasn't.

3 Q Okay. So you pick up any blood whether it's human or not
4 and then do another test on down the line to see if it's human?

5 A That's correct.

6 Q All right and let's go to your No. 17 and 18, the
7 defendants's socks and black boots, what if any blood did you
8 find on those?

9 A The preliminary testing for blood was negative on 17 and 18.

10 Q Now when you say preliminary tests and you get a negative
11 result, is any further testing done?

12 A No. We take responsibility saying that no blood was
13 detected.

14 Q All right, and if blood is detected that's when it goes on
15 to determine what kind?

16 A Right.

17 Q And later tests showed that the blood on the baseball cap
18 was not human blood; is that right?

19 A That's my understanding.

20 MS. WHITE: No further questions.

21 THE COURT: Cross-examination?

22 MR. BREHM: Thank you, Your Honor.

23 CROSS-EXAMINATION:

24 BY MR. BREHM:

25 Q Ms. Bryson was a gun submitted to you to see if there was

1 any blood on a gun -- have you ever seen this gun? It's been
2 marked as State's Exhibit No. 12?

3 A No, sir, I haven't.

4 Q Did you have any samples submitted to you, referring to
5 State's Exhibit 24; from a couch that looked like this?

6 A No, sir, I did not.

7 Q Any fibers from a couch?

8 A No, sir.

9 Q Again referring to State's Exhibit 23, any fibers from a
10 carpet?

11 A No, sir nothing was submitted.

12 Q How about a blue new rubber jacket?

13 A No, sir I didn't process a jacket.

14 Q And then 16, on your report, says baseball cap and then it
15 was sent to D. N. A., it says sample, what was the sample?

16 A I tested a potential stain that may have been blood, and it
17 came up, the preliminary testing for blood was positive and I cut
18 that area out and sent it to a DNA for further testing.

19 Q So that as to the baseball cap you saw what appeared to be
20 blood on that?

21 A The chemical that I perform was positive for blood.

22 MR. BREHM: I have no further questions.

23 MS. WHITE: I have one question.

24 RE-DIRECT EXAMINATION

25 BY MS. WHITE:

1 Q Does the chemical testing give false results sometimes, and
2 that's why you send it on up for further testing?

3 A Yes it does.

4 MS. WHITE: Thank You.

5 THE COURT: Agent Bryson, you may be excused, thank you
6 very much.

7 Mr. Foreman, ladies and gentlemen of the jury, we are going
8 to take a lunch break at this time. I've got five minutes 'til
9 one, be back in your jury room at 2:30 and we'll get started,
10 please don't discuss the case amongst yourselves or with anyone
11 else. See you at 2:30.

12 (WHEREUPON, the jury was excused from open
13 court for lunch at approximately 12:55.)

14 THE COURT: Anything else from the State before we
15 break for lunch?

16 MS. WHITE: No, sir.

17 THE COURT: Anything from the Defendant?

18 MR. BREHM: No, sir.

19 THE COURT: Okay, we'll break for lunch until 2:30.

20 (WHEREUPON, a lunch break was taken.)

21 THE COURT: Anything from the State before we bring the
22 jury?

23 MS. WHITE: No, You Honor.

24 THE COURT: Anything from the Defendant?

25 MR. BREHM: No, sir.

1 THE COURT: Would you bring us the jury, please.

2 (WHEREUPON, the jury came into open court at
3 approximately 2:35 pm.)

4 THE COURT: Solicitor, if you'll call your next
5 witness, please.

6 MS. WHITE: The State calls Dan Defreese.

7 THEREUPON:

8 FRANK DAN DEFREESE,
9 after having been first duly sworn, testified as follows:

10 THE CLERK: Mr. DeFreese, please have a seat in the
11 witness chair, state your full name, and spell your last for the
12 record.

13 MR. DEFREESE: Frank Dan DeFreese, D-E
14 capital F, R-E-E-S-E.

15 DIRECT EXAMINATION

16 BY MS. WHITE:

17 Q Agent DeFreese, what's your occupation?

18 A I work for the South Carolina Law Enforcement division in
19 the laboratory, in Columbia. I'm assigned to the unit where we
20 do the analysis of the firearm and tool mark evidence.

21 Q And what's your educational background?

22 A I'm a graduate of the University of South Carolina in
23 Columbia, and I was employed by SLED in 1967 and at that time I
24 was assigned to the firearm and tool mark unit. For about two
25 and half years I studied the techniques of firearm and toolmark

1 analysis, under the gentlemen who established the SLED laboratory
2 when SLED itself was established, a fellow by the name of
3 M. N. Cate, who is now deceased. After studying techniques,
4 receiving specialized training there at sled, I began accepting
5 cases on my own and testifying as to my results, which I've been
6 doing now for about the last 30 years.

7 Q Approximately how many times have you testified as an expert
8 in firearms?

9 A Probably somewhere between five and six hundred now.

10 MS. WHITE: Your Honor, we ask that the witness be
11 recognized as an expert in the area of firearms.

12 THE COURT: Mr. Brehm, you want to ask any
13 cross-examination.

14 MR. BREHM: No, sir, Your Honor.

15 THE COURT: All right, I find Mr. DeFreese is a
16 ballistics expert.

17 Q I'm handing you State's Exhibit 12; do you recognize that?

18 A Yes, I do.

19 Q How do you recognize that?

20 A I recognize it by its overall appearance, its serial number,
21 and by the fact I made some markings on the pistol at the time I
22 examined it.

23 Q I'm handing you State's Exhibit 13; do you recognize that?

24 A I do.

25 Q And what is that?

1 A State's Exhibit 13 now contains three unfired .380 auto
2 caliber cartridges and three fired auto cartridge cases. At the
3 time I received it there were six unfired .380 auto caliber
4 cartridges. They were all put together on a string as these
5 remaining three were. I test fired the three that have resulted
6 in these cartridge cases during the course of my analysis.

7 Q I'm handing you State's Exhibit 9, do you recognize that?

8 A Yes, I do.

9 Q And what is that?

10 A It's a fired bullet.

11 Q And will you look in there and get the other item out of the
12 package as well?

13 A And a fired cartridge case, both of which also bear my
14 markings made at the time of analysis.

15 Q And did you look at all these items I just handed you?

16 A Yes, I did.

17 Q All right, let's start first with the -- what kind of gun is
18 that?

19 A State's Exhibit is 12, the pistol, it's a Lorcin MDL. L.380,
20 it's a .380 auto caliber semiautomatic pistol.

21 Q If I were to shoot that weapon, and we start it unloaded
22 please demonstrate for the jury what steps you would have to take
23 in order to get that weapon to where it's ready to be fired?

24 A To prepare item 12 for firing, it's necessary to get a
25 cartridge into the chamber---

1 THE COURT: Solicitor, you want to take the lock off of
2 it?

3 MS. WHITE: Do you need the lock off to demonstrate?

4 MR. DEFREESE: It might be helpful, yes ma'am.

5 A The pistol has a removable box magazine into which
6 cartridges can be placed. There are two ways in which it can be
7 loaded, and one would be that the slid can be simply---

8 Q Stop, stop there first. What do you mean by cartridge, can
9 you show me a cartridge so I can show the jury?

10 A The unfired cartridges are the ones that were tied together,
11 the cartridge consists of a cartridge case, in which there's
12 primer located at the back of the cartridge case. Inside the
13 cartridge there's a propellant powder and capping this all off is
14 the bullet, which retains the powder. It's an unfired round
15 which is capable of being fired in this pistol.

16 Q I'm sorry to interrupt, go ahead?

17 A Cartridges could be placed in the magazine, then the
18 magazine inserted in the pistol---

19 Q I want them to see it, 'cause someone who's never fired a
20 weapon -- which just show them how you place the cartridge in,
21 just do one, but how would you place it in there.

22 A It's a little rough to do it with the string on it, I'll
23 take it off the string. The top of the magazine follows direct
24 slightly and the cartridge is slid into the magazine.

25 Q And if I want to load more, I just keep doing that on top of

1 that one?

2 A Right, I believe this one holds up to seven cartridges.

3 Q For the purpose of demonstration let's take the ammunition
4 out, but -- okay, go ahead.

5 A After that the magazine could be placed in the pistol. Now
6 the chamber located at the rear of the barrel of the pistol is
7 still empty, it's necessary to pull the slide to the rear far
8 enough to engage a cartridge, permit it to go forward and place
9 the cartridge in the chamber. Now the same thing could be done
10 without the magazine by simply pulling the slid back by hand and
11 manually inserting a cartridge in the rear of the barrel, known
12 as the chamber, and letting it close. That's somewhat more
13 awkward to do but's it's a possible way. So the pistol would now
14 be prepared for firing and in the normal course of firing it will
15 load and eject, it'll load a fresh round and eject the firing
16 cartridge case as long as ammunition is present in the magazine.

17 Q Okay, now I've got it all loaded and all, what will I have
18 to do with my hands, or something, in order to get it to fire?

19 A First, this devise the manual safety is placed in the fire-
20 position. If the manual safety is in the safe-position, pulling
21 the trigger will not result in the gun's firing. But the manual
22 safety, if it were not already in the fire position, would be
23 placed in the fire position and the trigger would be pulled.

24 Q All right.

25 A That sets in motion a chain of events which causes the

1 bullet to go down the barrel, or down the bore and out the barrel
2 and or the bore and a short time thereafter the cartridge case
3 will be expelled. Because each time it fires the slide is
4 propelled to the rear, a fired cartridge case comes out, the next
5 cartridge that's present in the magazine is grabbed and forced
6 into the barrel and is prepared to fire. And one need only to
7 let the pressure off the trigger, and pull the trigger again for
8 another firing event.

9 Q Now, did you test this weapon---

10 THE COURT: Whoever has got the beeper, please leave
11 the courtroom with the beeper. Go ahead Solicitor, I'm sorry?

12 Q Describe for the jury, well first of all did you test this
13 weapon?

14 A I did.

15 Q And what if any safety problems, difficult in firing,
16 abnormalities did you find in this weapon?

17 A This State's Exhibit 12 functioned and fired normally
18 throughout my testing.

19 Q Now what is trigger-pull?

20 A Trigger-pull is the amount of effort measured in some unit
21 of weight, we measure it in pounds, that it takes to cause the
22 trigger to be pulled to point where the gun was fired.

23 Q And what was the trigger-pull in this particular weapon?

24 A Let me double check my notes. It was 8½ to 9 pounds. And I
25 checked it ten different times, sometimes trigger-pull will vary

1 slightly, sometimes it would fire with as little as 8½ pounds,
2 sometimes it took 9 pounds to fire it.

3 Q And how does it compare with other handguns?

4 A It's in the normal range for guns of this type which have
5 somewhat heavier trigger-pulls. If a trigger-pull is appreciably
6 less than 4 or 5 pounds, it's starting to get a little on the
7 light side for a gun of this type, but it's perfectly normal.

8 Q So 4 or 5 pounds would be light, and this one's heavier by
9 how many pounds than that?

10 A It's virtually double that.

11 Q And when you say heavier, that means it's harder to pull the
12 trigger; is that right?

13 A Correct.

14 Q All right, now did you compare the .380 with the bullet and
15 the shell casing from the scene, or the bullet from the body and
16 the shell casing from the scene?

17 A I did. What I did was I compared the test bullets and the
18 test cartridge which I fired in the pistol with the bullet and
19 cartridge case in question, State's Exhibit 9, I believe it is.
20 I found sufficient matching markings on both of them, to conclude
21 that both the bullet and the cartridge case were fired by this
22 pistol.

23 Q So then in your expert opinion the bullet from the scene in
24 the couch, did or did not match this gun, or was or was not fired
25 from this gun?

1 A In my opinion it was fired by this gun.

2 Q And the spent shell casing that was found at the scene was
3 that in your expert opinion, or was it not fired by this .380?

4 A It was fired by this .380.

5 Q Just briefly how do you perform that test?

6 A Well the analysis is based on a microscopic analysis of the
7 toolmarks that are present on the bullet and on the cartridge
8 case. When the bullet is forced down the barrel of a firearm
9 such as State's Exhibit 12, the bullet is a very tight fit
10 within the barrel, within the inside surface of the barrel which
11 we call the bore. In the bore there's a series of spiraling
12 flutes of raised and lower segments which are twisted either to
13 the left or to the right for the purpose of making the bullet
14 spin as it goes down the barrel. The spinning of the bullet is
15 there to enhance the bullet's accuracy, to make the bullet fly
16 straight, but as a result of the rifling being placed in the
17 barrel there are toolmarks left over from the manufacturer of the
18 barrel, which are unique toolmarks. They are transferred to each
19 bullet as it passed down the bore and it represents the signature
20 that the gun places on bullets that are fired in that gun. Where
21 the bullet is recovered in sufficiently undamaged condition, and
22 where the gun itself is consistent in its markings, it's possible
23 to determine that a particular bullet was fired by a particular
24 gun to the exclusion of all other similar guns. And that was the
25 analysis done on the bullet in this case. Similarly when a

1 cartridge case is fired in a gun, well in any gun, but
2 particularly in a gun such as this one, there are a number of
3 things that come into contact with the cartridge case. There are
4 a number of things, number of surfaces within the gun that can
5 leave unique identifiable toolmarks on the cartridge case. In
6 this case there were markings lifted on the cartridge case as a
7 result of is the chamber itself of the enlarged area in the back
8 of the barrel. As the cartridge is being extracted or being
9 pulled out of the chamber, markings are being placed on the
10 outside of the cartridge case which were extremely unique, and
11 they were the bases for my identification of the cartridge case
12 in this particular incident.

13 Q Were you also asked to do distance testing?

14 A I was.

15 Q And please describe for the jury what this test is, what
16 were you looking for?

17 A In this case I was asked to determine at what range from the
18 target outward, would I not find, or would I cease to find gun
19 powder residue deposited on a target. So I -- there being a
20 relative limited number of evidence of unfired cartridge, there
21 were six to start off with. I first started by shooting some
22 similar ammunition which I've got, to give me an idea of what
23 ranges and what behavior State's Exhibit 12, this pistol, what
24 sort of patterns it was going to leave at what particular range.
25 And from that I determined that by the time there was 24 inches

1 distances between the target and the pistol, all but a little bit
2 of residue had pretty well dissipated. And as the pistol gets
3 closer to it's target, around the bullet hole that was being
4 targeted there was a heavier and heavier deposition of gun powder
5 residue deposited.

6 Q And you performed this test by doing what how did you set it
7 up?

8 A Well in this case I used white blotter paper, which is a
9 standard media used in the industry. And I test fired the pistol
10 at 6, 12, 18, and 24 inches.

11 Q So, stop there. So you had your blotter paper and you
12 measure out 6 inches fire it, and you see what kind of powder is
13 left, then you go back 12 inches fire it, see what kind of
14 powder, on back every 6 inches; is that correct?

15 A Right.

16 Q And do you have the blotter paper if you'll pull out 6, 12,
17 18, and 24, and what -- before you do that, when you're talking
18 6 inches back, 12 inches, whatever, what part of the weapon is
19 that far back from the blotter paper?

20 A That's measuring from the very muzzle, the very end of the
21 barrel to the target, to the blotter paper. It's not measured
22 from the grip, you would have to add a slight distance farther
23 back, due to the length of the gun. These are my initial four
24 tests using ammunition which I provided at 6, 12, 18, and 24
25 inches.

1 Q I'm handing you State Exhibit's 39 through 42, what do those
2 show?

3 A State's Exhibit 39 is the test ---

4 Q Don't show it to the jury yet, 'cause I haven't admitted it,
5 just see if you recognize it?

6 A I do.

7 Q And what are they?

8 A These are four of the test patterns which I shot from
9 State's Exhibit 12 using ammunition that I provided.

10 Q And I believe that 39 is 6 inches; 40 is 12 inches; 41 is 18
11 inches; and 42 is 24 inches back; is that correct, you've got it
12 written on there?

13 A That's correct.

14 MS. WHITE: I ask that State' Exhibit 39, 40, 41 and 42
15 be admitted.

16 THE COURT: Mr. Brehm, do you have any objection?

17 MR. BREHM: I do, Your Honor, if these are the -- show
18 the test by the blotter paper that was used by the laboratory for
19 firing purposes then -- I have no objections to the -- involving
20 the firing using the cartridges that came from the gun---

21 THE COURT: What's your objection to these four
22 exhibits?

23 MR. BREHM: My objections to those four exhibits are
24 that they are not from the gun that was used and not knowing
25 whether they are from the cartridges that were used. He used his

1 own---

2 THE COURT: What is in question of the use of the gun,
3 that's not in dispute.

4 MR. BREHM: I think that the condition that it will
5 need submitted in -- was firing markings accurate as they were
6 using cartridges from the gun and I'm objecting to that.

7 MS. WHITE: Your Honor, I am going to move to admit the
8 ones from the gun---

9 THE COURT: I understand. For purposes of this
10 Solicitor, if you could establish it's the same manufactured
11 bullet, same weight, same grain, and then we'll -- I'll later
12 review his objection after that's established.

13 MS. WHITE: Yes, sir.

14 Q 39 through 42, which gun did you use?

15 A I used this gun, State's Exhibit 12.

16 Q And what ammunition was used?

17 A I used Remington Peters .380 autocaliber ammunition loaded
18 with 95-grain full-metal jacketed bullets, which is the same load
19 as the unfired ammunition received with item 12, but it may or
20 may not be from the same production run. It's made by the same
21 company and it's the same catalog number, it's the same to the
22 extent that I could get it, but's it's not -- I can't say it's
23 from the same batch of ammunition as the evidence received.

24 MS. WHITE: Move to admit 39 through 42.

25 THE COURT: Mr. Brehm, I'll be glad to hear your

1 objection.

2 MR. BREHM: Same objection, Your Honor, the round he
3 used -- he just testified they are not the same, not similar---

4 THE COURT: No, he testified they were the same
5 manufacturer, same grain, it may not have come from the same
6 assembly line, but it's the same manufacturer, same grain.

7 MR. BREHM: Judge, what I believe what we have here is,
8 indicates whether the testing -- whether those rounds fired, that
9 they show similar results, are the ones that were obtained from
10 the scene, that's not how -- I don't---

11 THE COURT: We haven't got to that point yet, they are
12 going to put the other ones in.

13 MR. BREHM: That's what I'm saying, they haven't laid
14 the foundation.

15 THE COURT: All right, I'll overrule your objection,
16 and allow them in, State's Exhibit 39 through 42 admitted with
17 objection.

18 (WHEREUPON, 4 test patterns fired from State's
19 No. 12 previously marked as State's Nos. 39, 40,
20 41, and 42, not received with the pistol, were
admitted over objection.)

21 Q Handing you State's Exhibits 43, 44, and 45, do you
recognize those?

22 A I do.

23 Q What are those?

24 A These are also test patterns on white blotter paper which I
25 fired using the pistol, State's Exhibit 12, and using three of

1 the six unfired cartridges which I originally received with the
2 pistol.

3 Q And have these been changed or altered in any manner since
4 you preformed the tests?

5 A The only alteration is done on any of them, you may note, is
6 that they've been laminated. That was done because the powder
7 residue adheres very slightly to the paper. And in handling and
8 storage, had I not laminated all of them, you could have just
9 whisked your hand across them and all the residue would have been
10 -- well not all of the residue, but a good portion of residue
11 would have been damaged.

12 THE COURT: Mr. Brehm, do you have any objection to 43,
13 44, and 45.

14 MR. BREHM: No objection to these, Your Honor.

15 THE COURT: All right, 43, 44, and 45 admitted without
16 objection.

17 (WHEREUPON, 3 test patterns fired from State's
18 No. 12 previously marked as State's Nos. 43, 44,
and 45, received with the pistol, were
admitted without objection.)

19 MS. WHITE: Your Honor, may I ask the witness to step
20 down.

21 THE COURT: Yes, ma'am.

22 Q If you'll talk into this microphone, Agent DeFreese, let's
23 start first with State's Exhibit 39, if you'll just hold that up
24 and tell the jury a little bit about that?

25 A State's Exhibit 39 is the test pattern which I fired where

1 there was six inches distance between the muzzle of the pistol
2 and this target, and the alignment of the pistol was at right
3 angle to the face of the target, it was shooting square in with
4 six inches from the muzzle of the target. And after which it was
5 marked and it was marked from there, you can see the deposition
6 of powder granules, you can also see some smoking effect, what
7 appears to be a discoloration and is from smoke at six inches.

8 Q How visible are these particlents to the naked eye if you
9 got it six inches from the target.

10 A They would be quite visible.

11 Q Now if you magnify, if these particles were in hair and you
12 are not looking with the naked eye, but you magnified 12½ times,
13 how visible would these particles be?

14 A I wouldn't have any trouble finding them.

15 Q All right, let's go next -- now you said that this was fired
16 with similar ammunitions, similar but you are not sure if it's
17 the same batch; is that right?

18 A Correct, it was fired with exactly the same loading of
19 ammunition, but there are some variation from lot to lot, or
20 batch to batch, and in fact even among cartridges within the same
21 box of ammunition some of them will burn cleaner than others, so
22 there some -- with every shot you won't see just exactly the same
23 deposition of residue.

24 Q Okay, and then I believed you did again with similar
25 ammunition the 12-inch, 18-inch, and 24-inch; is that right?

1 A That's correct.

2 Q And now after you did those, well let me back up -- did you
3 have a limited number of cartridges that came with the gun to
4 test?

5 A I did. I had a maximum of 6, and in fairness in case any
6 testing were anticipated by others, I wanted to leave at least
7 some of them, I didn't want to shoot them all.

8 Q So is that why you first did it with similar ammunition?

9 A Correct, I wanted to get an idea of at what ranges and how
10 the gun was behaving at that particular range.

11 Q Now let's go over to the ones that actually have this
12 ammunition that was supplied with the gun. You started there, I
13 believe, with 12-inches, is that right, 12-inches back?

14 A Correct.

15 Q Why didn't you start with the 6-inches back?

16 A Because it was obvious that at 6-inches there was heavy
17 deposition of residue, that the question that was asked was
18 what's the maximum range, or in essence, what's the minimum range
19 of where I could expect to see residue, minimal muzzle-to-target
20 distance. And of course, that was the deposition of residue was
21 so heavy that it was clearly not at 6-inches, it was at some
22 greater range than 6-inches.

23 Q All right so you started with the ammo that was supplied
24 with the gun then at what range?

25 A At 12-inches.

1 Q All right, now at 12-inches, why don't you describe what you
2 found?

3 A At 12-inches you can still see a heavy deposit of burned,
4 and partially burned powder, gun powder residue that the cloudy,
5 or smoky, effect is pretty well gone by this time, so the
6 component of gun shot residue that deals with smoke is pretty
7 well gone. We've got here just powder.

8 Q And again how visible is that to the naked eye?

9 A It's obvious.

10 Q Even if it's in hair?

11 A You -- in some other substrate, of course this is obviously
12 white, you deal with a black or brown particle, not white, it's
13 real easy to see with the naked eye here. If it were, for
14 instance a black background, you might have to have some
15 magnification or some assistance to see it.

16 Q And if you had magnification of 12½ times, would that be
17 sufficient in your expert opinion to spot this?

18 MR. BREHM: I have an objection, Your Honor, it's not
19 within his expertise.

20 THE COURT: Overruled.

21 A I wouldn't have any trouble finding it.

22 Q Now if you turn around to -- let's back up a minute, if I
23 fire a weapon, the bullet and you said gun shot residue and
24 particles come out the end of the weapon; is that right?

25 A Right.

1 Q What's going to go the futherest out of distance?

2 A Obviously the thing that will go the fartherest is the
3 bullet.

4 Q All right, and what goes the next futherest?

5 A Of the particulate matter that comes out the gun barrel
6 during the firing, the powder residue will be the next thing.

7 Q And what are we seeing here?

8 A We are seeing powder residue.

9 Q All right, and what is the thing that falls to the ground
10 first?

11 A Well the lightest particles are the ones, the lightest
12 component of gun powder residue would be the ones that fall the
13 fastest, they'll be the ones that fall the closest to the gun.
14 The heavier particle, which the heaviest one being the bullet,
15 the second heaviest being the powder particles themselves. Then
16 we have like smoke---

17 Q Okay, I'm holding State's Exhibit 39 again, the gray area in
18 here, what is that, not the particular particles but just the
19 gray area?

20 A That would be the smoking as the result of the smoking or
21 charring. And of course the last thing you have is whatever
22 component of actual flame, and some guns actually have a certain
23 amount of flame that's being committed from the muzzle and some
24 don't.

25 Q All right, so then my point is this, if you look at the

1 12-inches out, what are we looking at on this paper?

2 A We are looking at gun powder particles.

3 Q All right. Now if we turn this over and it's not going to
4 be for the jury to see here, but when they get in the back of the
5 jury room, what do you see on the back?

6 A Well the gun powder particles are coming out at a very, very
7 high velocity, now they are quite light, but they are traveling
8 at velocity which is in some cases faster than the bullet, and
9 when they hit something they'll make a puncture if they are close
10 enough, and if not they'll make a dimple in the material, it's
11 what we refer to as stippling. And at close range, you can look
12 on the backside of the target, it's not quite as visible now
13 because in essence, I've ironed the thing out as a result of
14 laminating it, but you can actually see the pumptate (phonetic)
15 wound that's been made in the paper as a result of being close to
16 the gun at the time of firing.

17 Q All right, let's go on to the 18-inches then, if the barrel
18 is 18-inches from there?

19 A At 18-inch we see still powder particles distributed evenly
20 around the bullet hole, and of course all the smoke is completely
21 gone, and as you look at it the distribution is wider and the
22 density of the powder particles is less. The farther away we
23 get, the more spread out it is and the fewer particles, or square
24 unit of area we can expect to see.

25 Q And again at 18-inches if you magnify it by 12½ times in

1 hair, how difficult would it be to find some of these particles?

2 A I wouldn't have any trouble finding them.

3 Q And finally, let's go to 24-inches, if the end of the barrel
4 of the weapon was 24-inches from the wound?

5 A By the time we get to 24-inches, there are still particles
6 that are present, they are disbursed widely and there is not many
7 particles there. This is so disbursed that, for instance if I
8 were to just cover up the bullet hole, you may not even notice it
9 from a distance. So they are there if you were to look at it
10 under magnification, you might still be able to find a particle
11 here or a particle there even at 24-inches, but they are so
12 disbursed that they wouldn't immediately clue you to the fact
13 that they were there. And at a range of 24-inches it's much
14 greater -- it would be easy to miss gun powder residue. In fact
15 if you can find an errant piece of gun powder residue at a
16 greater distance of just a feet, it might happen to strike here
17 or there but it wouldn't represent a distribution of power around
18 the bullet hole.

19 MS. WHITE: If you'll go ahead and have a seat back up.

20 Q So this Agent DeFreese, in your expert opinion based on your
21 expertise and experience -- make sure I've got a safe weapon here
22 -- if you heard that the gun was placed somewhere in here, that
23 the shot came here, and that there was no spotting of particles
24 in this area with a 12½ magnified microscope, or magnification,
25 what if anything would that tell you as to the distance of the

1 end of the barrel of the weapon to the injury?

2 A I would expect it to be 24-inches or great.

3 Q So when you are saying 24-inches, are you saying anywhere
4 from 24-inches out?

5 A Anywhere from 24-inches out, I would expect at ranges at
6 less than 24-inches to see something, all the way up to the point
7 where the muzzle was actually in contact, and then I would not
8 expect to see it on the outside of the wound.

9 Q It would be on the inside of the wound, correct?

10 A Correct.

11 Q If you heard that there was none on the inside of the wound
12 either, what would that tell you?

13 A If there's none on the inside, none on the outside it would
14 be my expectation the distance would be 24-inches on back. I
15 mean any distance greater than 24-inches.

16 Q So if you'll just take that, like I say it is safe, I just
17 made sure, and put it 24-inches from my head.

18 A It would be about there.

19 Q Now I believe there are chemical tests you can also run on
20 an item to see if there's this powder residue; is that correct?

21 A There are, there are ways to chemically detect the residue
22 and there are ways to detect it with, for instance
23 electromicroscopy.

24 Q But from the test you performed--

25 A I was only looking for grossly or with slight magnification.

1 Q What kind of magnification?

2 A Five, ten power, something like that.

3 Q And so if it were 12, that would be even greater
4 minification; is that correct?

5 A Yes.

6 Q So then Agent DeFreese, when it comes to you being able to
7 say this weapon was 24-inches or further back from the head,
8 would it had made any difference if you had found out -- or if
9 you had run any kind of chemical test on it, would that have made
10 any difference as to being at least 24-inches back?

11 A Not so far as the pattern of distribution was concerned.

12 Q Why?

13 A Because the pattern of distribution had more or less gone
14 away by that time, it wasn't an expectation of a regular
15 distribution of powder around the bullet hole at the time. Now
16 there could -- you could get, like I said an errant powder
17 particle that may have made it from the muzzle at 36-inches, and
18 just sort of, you know, it just happened to be bigger than the
19 rest of them that made it. But it wouldn't be a pattern, it
20 would just be a particle or a few particles, more or less like
21 what you see at 24-inches, which is just a small number of
22 particles.

23 Q So then would you have needed any kind of other test, other
24 than 12½ magnification, to be able to state your opinion that it
25 was at least 24-inches or back from the gun?

1 A No.

2 MS. WHITE: No further questions.

3 THE COURT: Cross-examination.

4 MR. BREHM: Thank you.

5 CROSS-EXAMINATION:

6 BY MR. BREHM:

7 Q Agent DeFreeze, these four, let me go through them, handing
8 you the items that have been marked State's Exhibits that you
9 have been testifying to.

10 A Yes, sir.

11 Q Would you hand me the ones that were fired with -- the
12 cartridges that were fired, ah...

13 A The ones that are marked item 11 cartridges, because in my
14 report, I refer to this as item 11 pistol, that's what I call
15 item 11. So, there's only the three of them, that would be
16 State's Exhibits 43, 44, and 45.

17 Q Okay.

18 A The other ones you'll note are marked "R-P test cartridges,"
19 they are the ones that were used in the ammunition which I
20 supplied, that's 39, 40, 41, and 42.

21 Q Okay, and in your report didn't you note that the residue
22 and powder on the 42, 41, 40, and 39 was heavier or greater than
23 the ones supplied?

24 A Yes, I thought it was. I thought there was uniformly a
25 little more noticeable powder, that the powder particles were

1 somewhat larger. And it may be due to just a shot to shot
2 variation, or it maybe due to the fact that the two cartridges
3 came from different lot numbers, they may have been produced at
4 different times.

5 Q Okay. And your testing was done down at SLED in Columbia,
6 correct?

7 A Yes, sir.

8 Q And it was done half of the bullets, I believe you indicated
9 before, were perpendicular to this -- here's the gun and here's
10 the casing?

11 A Right.

12 Q Straight shot into the paper?

13 A Correct.

14 Q Tell us if you can, the impact if the shot is not, I mean,
15 would it alter anything if the paper was tilted?

16 A Sure.

17 Q And what are the effects if you tilt, the paper is tilted?

18 A If you tilt the paper instead of getting what you would
19 expect to be a round distribution, because the powder particles
20 don't come out in a perfect cone, but they come out in what you
21 can think of as a cone in a funnel-like shape, and if you tilt
22 the target, what will happen is instead of getting a round
23 distribution on the paper, you'll get an oval distribution. So
24 that the powder will still be there but it's distribution about
25 the bullet hole will not be as regular. And of course, it's

1 never totally regular because the powder particles come out in
2 sort of a random fashion.

3 Q Let me refer you to State's Exhibit 45, which was the
4 testing that you did from 24-inches?

5 A Right. That's with some of the ammunition received with the
6 pistol.

7 Q And you testified that you had been able to observe a little
8 bit of residue, or powder, under magnification.

9 A Sure, I can see it with the naked eye.

10 Q Okay. How about if you -- this was done perpendicular.

11 A Correct.

12 Q From the bullet down, how much powder, looking from the
13 physical naked eye?

14 A It's one piece I can see from where you've got it.

15 Q One piece?

16 A Yeah.

17 Q And is that the piece?

18 A Right, and that's what I can obviously see. Under
19 magnification there may be some other small pieces as well, but
20 by 24-inches it's gotten to the point I felt like it could be
21 missed.

22 Q Okay, and your point of reference in terms of where it could
23 be missed is 6-inches, in other words you did a test on, looking
24 at State's Exhibit 44, you did the test at 18-inches, and you did
25 a test at 24-inches.

1 A Right.

2 Q Okay, you didn't do any testing from 19, 20, 21, 22, 23.

3 A No, I didn't have that -- any need.

4 Q Right, but you would agree with me that there's a distinct
5 possibility that somewhere in between here, you'd made the same
6 decision, you would have reached the same conclusion?

7 A Sure, I can't say that at 23-inches it wouldn't give you
8 substantially the same results as it would 24, or 22.

9 Q But the likelihood is that it goes down, correct?

10 A Right. The closer you get, the more likely you are going to
11 find powder particles; the farther away you get, the less likely
12 it is.

13 Q Okay. And tell the jury the impact of hair, in other words
14 if you were to cut -- referring to State's Exhibit 30, which is a
15 picture of Leanne Pearson, would you agree with me that she has a
16 thick head of curly dark hair.

17 A She appears to, yes, sir.

18 Q Okay, and tell me, if you can, the impact that, that would
19 have on your test if you put hair in front of -- if you had that
20 thick hair and placed the hair in front -- this essentially
21 represents the skull, correct?

22 A Well, it's just a testing media that we can use. If you are
23 talking about the powder residue that would have struck someone's
24 head, all right, powder residue is going to start to run into the
25 hair, obviously, first. The hair is going to tend to intercept

1 some of the powder residue, but of course the hair can't
2 intercept the bullet, the bullet is much heavier and much faster.
3 So you wouldn't expect to look at the scalp of someone who had a
4 full head of hair and see that, you'd expect to see powder
5 particles in that same kind of distribution to be in the hair,
6 you'd be looking in the hair itself. The same as if you were
7 wearing an article of clothing, you wouldn't be looking at the
8 skin, you'd be looking at the outermost garment for the purpose
9 of trying to detect the powder particles.

10 Q All right, so referring to State's Exhibit 33, which is the
11 entrance wound, you wouldn't expect to find any of this powder
12 because of her hair.

13 A Right, I wouldn't expect to see it on the skin. I would
14 expect to see the powder particles in the hair itself, but not on
15 the skin.

16 Q Okay, so the hair essentially acts as a filter?

17 A Correct. The hair would be what would stop probably the
18 majority of the powder residue all but of very close range. Like
19 at 6-inches, the powder residue if it were only 6-inches away,
20 the powder residue would be traveling at such a velocity that it
21 would probably -- ah, it would probably stipple the scalp, at
22 that range, go right through the hair. The hair would stop some
23 of it, but it wouldn't stop all of it.

24 Q All right, but more than 6-inches, once you get it more than
25 6-inches away that's how it can kind of be as a shield?

1 A Right, by the time you get like 12 and 18-inches away the
2 powder particles have lost a lot of velocity, because they are
3 quite light and they don't keep their velocity due to their,
4 their weight with respect to the atmosphere.

5 Q I'm showing you State's Exhibit 37?

6 A That appears to be some hair.

7 Q Have you seen this?

8 A No.

9 Q Does this bag, State's Exhibit 37, look like a SLED bag?

10 A No.

11 Q This vial, again State's Exhibit 37, looks like it says
12 Donna Pearson's head hair?

13 A That's what it says, yes, sir.

14 Q And it's your testimony that you didn't perform any analysis
15 on the hair?

16 A That's correct.

17 Q To your knowledge did anybody down at SLED do any analysis
18 on the hair?

19 A None that I'm aware of.

20 Q It's possible, is it not that there's particles on this
21 hair?

22 A I don't know, there could be, there may not be.

23 Q You'd agree with me that it's important, or would be
24 important to find out, you'd have to have that information to
25 making your conclusions, wouldn't it?

1 A It'd be nice to know, surely. But it really wouldn't have
2 anything to do with what I did.

3 Q And I understand that. But at -- tell me, if you can, does
4 cyandacrylate; do you know what that is? I might have butchered
5 that when I said it, but.

6 A Are you talking about super-glue fumes?

7 Q Fuming the -- got a list of prints -- they heat the
8 super-glue and the super-glue attaches itself?

9 A Right, which have been done in this case.

10 Q Okay, tell me the effect, if you know, if you don't plug up
11 the holes?

12 A If someone were to use a really excessive amount of
13 super-glue in attempting -- I'm not sure I have that latched
14 well -- if you were to use really excessive amount of super-glue,
15 which would be like to turn the pistol white, that's the color
16 that you could place that in, it might possibly interfere with
17 the transfer of marks. For instance when you barrel to the
18 bullet, or when you breech face to the cartridge case, if you
19 didn't clean it off after you once checked it for latent prints.
20 But, while there was some trace of super-glue residue on this, it
21 didn't interfere at all with any of the testing, it wasn't so
22 heavy as to represent an impediment.

23 Q But it could have an impact?

24 A Not in this case, it could if you really -- if you took it
25 to the absolute extreme and you super-glued the gun until it

1 turned a milky white, until I cleaned the gun it could have an
2 impact on it, but it wouldn't have much of an impact even then if
3 the gun were cleaned afterwards.

4 Q So when they, let's just say as they are super gluing the
5 gun ---

6 A Right.

7 Q --- left the prints, isn't it your understanding that they
8 are supposed to put a cork in front, close up the chamber, so as
9 not to get any inside the---

10 A People don't.

11 Q ---barrel.

12 A People generally don't. I mean that might be a good
13 practice in some cases but when the super-glue itself is not done
14 to excess, it's probably not necessary. It'd be nice to do, if
15 you could, but there's also the aspect of it that, for instance,
16 you may not wish to dislodge any piece of trace evidence that
17 might be just inside the bore, the sort of thing that you can get
18 with very close gunshot wounds where actually some of the blood
19 and tissue is sucked back into the bore - when the bore is very
20 close, for instance - and that may be the reason why an
21 identification officer, for instance, may not wish to alter the
22 weapon by attempting to plug the bore and plug the chamber.

23 Q Okay. And first, once again, why are these laminated?

24 A The laminated, particularly at the greater ranges, the
25 residue is clinging to the paper, but slightly. And that if you

1 were to like rub the papers together, you could cause the residue
2 to simply fall off. Now at close ranges, where the residue is
3 sort of like blasted into the paper, you'd have a harder time,
4 but in order to preserve the exhibit so that we could see it,
5 more or less, in the condition that I saw it, that's why I
6 laminated them.

7 Q So then this powder that's on these blotter papers, if you
8 will, it's easy to knock them off?

9 A Sure, and it would be easy on any other substance as well.

10 Q Okay. And for that reason, it's important for whoever is
11 processing the scene, and thereafter, not to touch around the
12 wound, I mean when you touch around the wound, when you touch
13 around the wound that residue may get wiped off or knocked off.

14 A Sure, at least one component of the gun powder residue could
15 be knocked off.

16 Q You'd agree with me, wouldn't you, looking at State's
17 Exhibit 33, that it appears that the area around the entrance
18 wound has been -- the hair has been pulled back to show the...

19 A Yes, I would.

20 Q And the hair has not been removed yet, has it?

21 A It does not appear to be. It simply appears to have been
22 pulled back.

23 Q Okay, and it's very likely that the little particles that we
24 are talking about in State's Exhibits 45, 43, and 44 could have
25 gotten knocked off and effected your conclusions had you known

1 about it, correct?

2 A If they were there, that could have been.

3 MR. BREHM: Thank you, nothing further.

4 THE COURT: Re-direct?

5 RE-DIRECT EXAMINATION

6 BY MS. WHITE:

7 Q You said that somebody should have looked at the hair under
8 magnification; is that correct?

9 A Correct.

10 Q And you said you all did not do that?

11 A Ah.

12 Q Does it make any difference whether the gun's here, on the
13 body before the hair is jostled and cut, or if it's done later at
14 SLED?

15 A It would affect it, the sooner you could do it the better on
16 the point of your preserving the evidence.

17 Q So then is it preferable for the forensic pathologist before
18 any hair is cut or jostled you do it at the autopsy, or
19 preferable to cut it and package it and everything else and send
20 it to SLED?

21 A It would be preferable for him to inspect it as quickly as
22 possible, with the least possible disturbance to the body.

23 Q And especially when you are looking at the 6-inch
24 distribution, you said that, that would be imbedded into the
25 hair, is that right. Go to different layers of the hair, I don't

1 mean go into the hair strain, I'm talking about into the group of
2 hair?

3 A Yes, it would -- there would -- at 6-inches there would be
4 enough quantity traveling at a high enough velocity to penetrate
5 most hair.

6 Q And you said also, I think, that at 6-inches there would be
7 enough to even get into the skin; is that correct?

8 A I would expect so, yes.

9 Q I'm handing you State's Exhibit 33, a picture of the
10 entrance wound, do you see any of that in this wound?

11 A No, nothing is obvious.

12 Q If you heard the forensic pathologist found no stippling in
13 the skin around the wound either, what would that indicate to
14 you?

15 A That would also be consistent with a more distant shot.

16 MS. WHITE: No further questions.

17 THE COURT: Re-cross?

18 MR. BREHM: No, sir.

19 THE COURT: Mr. DeFreese, you may step down, have a
20 safe trip back to Columbia, you are excused.

21 Solicitor, all your next witness.

22 MS. WHITE: State Calls Kim Black.

23 THEREUPON:

24 KIMBERLY BLACK,

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

1 THE CLERK: Have a seat on the witness chair, state
2 your name, and spell your last name for the record, please.

3 MS. BLACK: My name is Kimberly Black, B-L-A-C-K.

4 DIRECT EXAMINATION

5 BY MS. WHITE:

6 Q What's your occupation?

7 A I am a forensic chemist assigned to SLED, working in the
8 trace evidence department.

9 Q And what's your educational background?

10 A I received a bachelor of science degree in chemistry from
11 Francis Marion College in 1989.

12 Q And what is your experience in the area of trace analysis.

13 A I taught undergraduate organic chemistry laboratory at the
14 University of South Carolina in Columbia for a year. I worked
15 for a private company in organic analytical laboratory for a
16 year, I've been working with SLED since 1992, at that time I was
17 a forensic chemist assigned to the drug analysis department. I
18 transferred to the trace evidence department in 1995, that's
19 where I am currently assigned. Throughout all of those jobs, if
20 you will, the instrumentation that I do is directly related to
21 the instrumentation that I use now in the field of forensic
22 chemistry.

23 Q And approximately how many times have you testified as an
24 expert in forensic trace analysis?

25 A I believe approximately, 15 times.

1 MS. WHITE: Your Honor, I'd ask that Ms. Black be
2 recognized as an expert forensic trace analysis.

3 THE COURT: Any objection?

4 MR. BREHM: No objection, Your Honor.

5 THE COURT: All right, I find that she's an expert in
6 forensic trace analysis.

7 Q Agent Black, I'm handing you State's Exhibit 5 and 6, do you
8 recognize those?

9 A Yes. These items bear the lab number which corresponds with
10 this particular case, as well as my initials, and the date.
11 These are two gunshot residue collection kits, which I received
12 in this particular case.

13 Q Now we've heard some brief testimony about what this is, the
14 gunshot residue kit, would you please describe for the jury what
15 they are and what tests you run on these kits when you received
16 them?

17 A Gunshot residue is a cloud of material which is expelled
18 from the gun when it is fired. You can see some of it with the
19 naked eye, it looks like a smoke cloud, it's composed of very
20 small particles which contain metals that are found in the
21 ammunition. The gunshot residue test was designed to test
22 samples taken from the hands of an individual to determine if
23 that person came into contact with that cloud of material.

24 Q All right, stop there for one minute. We just heard some
25 testimony about what comes out of the end of the barrel of the

1 weapon, and what -- the stuff that you're looking for comes out
2 of which opening in the weapon?

3 A The majority of the cloud will often travel from the end of
4 the gun, from the muzzle of the gun. In this particular case you
5 have an ejection port that would also expel some of that
6 material, so there are two sources for the gunshot residue
7 material.

8 Q So if I pull the trigger and my hand is on the gun, what
9 kind of cloud would you expect to find cloud around my hand?

10 A That is the smoke cloud, or the gunshot residue cloud that I
11 referred to. It covers the area which is in close proximity to
12 the gun and any object which is located in close proximity to
13 that gun would actually have that material deposited on it.

14 Q The material that you are talking about, is there a limit --
15 let's say I fire a gun and I go do some things, and then you come
16 and test my hand, what is the time limit, if any, on being able
17 to detect this on my hand?

18 A Gunshot residue is very fragile evidence, it's just lightly
19 coated on the surface of your skin. In our laboratory with a
20 living individual, we actually have a time limit of six hours.
21 Any type of activity would diminish that material on the hands of
22 an individual. If a person washes their hands, that's obviously
23 going to remove any particles, but also things like rubbing your
24 hands on your pants, putting your hands in your pockets, rubbing
25 your forehead, or even rubbing your hands together, would also

1 diminish the material.

2 Q How about having your hands in a jacket pocket?

3 A Yes.

4 Q How about taking off your jacket?

5 A Yes.

6 Q How about handling cold drinks that have condensed --
7 condensation on the outside?

8 A Yes. There you've got the activity is actually touching
9 another object, but also touching a wet object, which would
10 absorb the materials and diminish the material on the hand..

11 Q Now if a person dies, do you have a time limit to test their
12 hands and get a valid test?

13 A With deceased individuals, we do not require a six hour time
14 limit, the reason for that is obviously we don't have to be
15 concerned with the individual washing their hands. We don't have
16 to worry about any activity, and we also don't have to worry
17 about just the natural absorption of this material through the
18 skin into the body, from body heat or perspiration. There are a
19 few things that we do take into consideration with a deceased
20 individual, if that body is transported from the crime scene
21 perhaps to the medical examiner's office, and someone brushes
22 against the hand, if they are not secured or bagged, the material
23 can be diminished that way. If there's a lot of blood on the
24 victim's hand, this could also serve to absorb those materials.
25 Aside from those two scenarios, well with the exception also, if

1 the deceased individual, if the emergency personnel tried to save
2 that victim at the scene by maybe wiping the hands and starting
3 an IV that could also diminish the materials.

4 Q And if you heard that in this case, the officer went to the
5 scene and tested the hands before the victim was ever moved, and
6 that she was dead, would you expect any of these absorption
7 process to diminished.

8 A No. The only thing that would effect in that case, would be
9 if someone actually touched the victim's hands there at the
10 scene.

11 Q Now let's start with the victim's gunshot residue test, what
12 were the results of that?

13 A In the kit that was submitted from Donna Pearson, the
14 quantity of metals that I detected did not indicate that there
15 was gunshot residue present on her hands.

16 Q So she had no gunshot residue on either hand?

17 A No, none that I found, no.

18 Q Now if you heard that Ms. Pearson had taken then gun and had
19 pulled the trigger and shot herself, what, if any gunshot residue
20 would you expect on her hands?

21 A In this particular case, because the gunshot residue samples
22 were collected at the scene, and based on the information that I
23 have, they were collected only one hour after the incident
24 occurred, and also the fact that the caliber of weapon used in
25 this case was a high caliber weapon, I would expect to find

1 something on her hand, if she had in fact pulled the trigger.

2 Q If her hands were near that gun in a struggle, right around
3 the gun somewhere, would you expect that?

4 A Yes. That's a possibility also.

5 Q So then in your expert opinion, the test results that you --
6 or what you concluded from the test, can you concluded whether
7 they are consistent or inconsistent with her having her hand on
8 the gun when the trigger was pulled?

9 A If she had her hand on the gun, from the -- holding the
10 handle, or if her hands were near the muzzle, then I would expect
11 to find something on the hands.

12 Q Now let's go to the Defendant's gunshot residue, what if any
13 results did you get on that?

14 A I received a kit from Richard Patterson, and in this
15 particular case the quantities of metals that I detected did not
16 indicate the presence of gunshot residue either.

17 Q And again, if you heard that somebody had gone and bought
18 drinks that were cold, taken jackets off, put hands in pocket,
19 drove a car somewhere, that sort of thing, would that or would
20 not that activity possible get rid of these materials?

21 A Yes, all of that activity would diminish the amount of
22 material on the hands.

23 MS. WHITE: No further questions.

24 THE COURT: Cross-examination?

25 MR. BREHM: Thank you, Your Honor.

CROSS-EXAMINATION:

1
2 BY MR. BREHM:

3 Q Agent Black, in response to the Prosecutor's question about
4 what would be expected on the deceased's hands, and she gave you
5 a scenario, and I believe that you said that there would not be
6 any residue, or what do you call premier?

7 A Gunshot residue is technically what we refer to it as.

8 Q Given the scenario that she just provided to you, you said
9 that you wouldn't expect to find any gunshot on the victim's
10 hands.

11 A No, I believe we were discussing the suspect's or Mr.
12 Patterson, in this case, the activities would diminish the
13 material on the hands. In the case of the victim, however, I
14 would expect to find something on that person's hands based on
15 that scenario that---

16 Q You're right, and I apologize. You would expect to find
17 gunshot residue on, if she's right handed, you expect to find
18 gunshot on her hand, given the scenario that the Prosecutor gave?

19 A Not just physically on the right hand, basically we just
20 look at all areas of the hand. A right-handed shooter, depending
21 on how their hands are oriented when they pull the trigger would
22 possibly have gunshot residue on their left hand, and as a matter
23 of fact most of the times, we do find residue on both hands. So
24 it wouldn't be limited to just one hand. But based on the
25 scenario that I was given, barring no transport of the body, no

1 one interfering with the hands of the victim, the kit taken in a
2 timely fashion after the incident, and also no excessive blood on
3 the hands, then I would expect to find gunshot residue on that
4 person.

5 Q Would you expect to find gunshot residue on some one's hands
6 if they have a glove on?

7 A No, I would not.

8 Q So you wouldn't expect to find any gunshot residue if the
9 hands were actually covered up?

10 A No, that is true.

11 Q And if the victim was sitting indian style and had her left
12 hand under her, would you expect to have any gunshot residue on
13 the left hand?

14 A No.

15 Q With the gun brought up here and fired up here, would you
16 expect to have any residue on the left hand?

17 A No, if she were positioned in the way that you are, with
18 your hand covered, then I would say, no, I would not expect to
19 find any residue there.

20 Q Okay, and as far as the right hand, if that hand is covered
21 up you wouldn't expect to find any residue; right?

22 A No. The materials is deposited on the first substance it
23 comes into contact with, so if someone is wearing a glove,
24 obviously the gunshot residue would be deposited on the glove and
25 not on the hand.

1 Q Okay. This has been marked as State's Exhibit 12, it's
2 unloaded.

3 A Okay.

4 Q And if the victim had her hand like this, actually could I
5 just -- hold onto it with your right hand, and put your left hand
6 over here. If she pulls the gun up to her head like such and
7 such -- I'm not going to point it at you.

8 A Okay.

9 Q But the person grabs her hand and covers her hands up, you
10 wouldn't expect to find anything, would you?

11 A I would still expect to find small amounts, but there is
12 still a possibility if the clinch of the clutch is really tight,
13 there is a possibility that it would cover that---

14 Q Well, I mean if she's got the pistol this way and he's
15 trying to pull it, and he's got a good clinch, you wouldn't
16 expect to find anything?

17 A Not if her hands were completely covered by someone else's
18 hands, no.

19 Q Likewise, if the right hand is the hand that holds the gun,
20 and the gun goes off, and the hand is -- drops down, EMS comes in
21 -- let me back up. The gun is still in the hand, hypothetically
22 speaking, the gun is still in the right hand, the gun is dropped,
23 the gun is in the right hand, EMS comes in and touches the hand
24 and moves the gun, that would impact your conclusions, too,
25 wouldn't it?

1 A Yes. As I stated earlier, that can affect it.

2 Q Okay. Now in the scenario that I gave you, where I covered
3 up your hands, you wouldn't expect to find -- you had your hands
4 on the gun, my hands covered your hands, you wouldn't expect that
5 when the kit is done, the GSR kit, you wouldn't expect to find
6 anything on the inside of my hand, would you, because they would
7 be covering up the other hand?

8 A Gunshot residue is also deposited on the gun itself, so
9 there is some gunshot residue particles left on that gun perhaps
10 from a previous shooting, so that's not necessarily true. If
11 there were any gunshot residue particles left on that gun from
12 handling it, you could still have some residue on the palm of
13 your hand.

14 Q Okay, let me---

15 A So depending on what happened prior, with this particular
16 gun there may or may not be particles on the palm.

17 Q Okay, in this situation, if you are the one holding the gun
18 and I've got it when I cover your hand, like such, I'm not
19 touching the gun, I'm not going to have any on the inside of my
20 hands am I?

21 A Oh, on your hands?

22 Q Right?

23 A You may or may not. It's not going to be an exact or an
24 absolute, that your hands are going to be covered so that there's
25 no gunshot residue there. Because it's not really like a cloud

1 you can see, it's like gaseous cloud, and so because of that
2 there can be some particles that can actually go through the
3 cracks of your fingers, if you are clutching someone else's
4 hands. Because if you've got your hands on top of someone else's
5 hands you've still got small openings here, where you could have
6 material that's actually going to be found on the hands. So it's
7 not exact, you can't say that it's completely covered and
8 therefore there's nothing deposited there, or you wouldn't expect
9 it.

10 Q Well as the Prosecutor indicated, if you put your hands in
11 your pocket, take your jacket off, or something like that, that
12 could be -- subject to move all this stuff?

13 A Yes, right.

14 Q Or wash your hands, or touch such as the drink, just the
15 drink is going to mess up what's on the inside of your hand?

16 A Right, right.

17 Q Now you just brought out a good point about if a gun has
18 just been fired, and that gun if, in other words, the gun goes
19 off and the gun is placed, after just being fired, into someone's
20 hand, you would expect to find residue on the palm of that
21 person's hand, correct?

22 A Yes.

23 Q And you did not in this situation, did you?

24 A On -- well no, I didn't find it on either individual's
25 hands.

1 MR. BREHM: Nothing further, thank you.

2 THE COURT: Re-direct?

3 MS. WHITE: Yes, Your Honor.

4 RE-DIRECT EXAMINATION

5 BY MS. WHITE:

6 Q But if the gun was wiped off, after it was fired and then
7 placed in a hand, would you expect to find that?

8 A Depending on how well it was wiped off. If it was wiped
9 pretty clean, no I would not. There may be a few particles left
10 there if they did a quick job, if you will.

11 Q And you said that if somebody removed a gun from the hand,
12 that could hamper with some of the stuff left on the hand, but if
13 all they did was remove the gun, put the hand back, and placed
14 the gun on the floor, would you expect that to erase all of the
15 gunshot residue from someone's hands had they fired a gun?

16 A Once again it would depend if they just, you know, just
17 gingerly pick up the gun and move it, and then gingerly move the
18 hand back and limit their exposure to those surfaces, then it
19 wouldn't really effect the gunshot residue there.

20 Q One other thing, I think the Defense attorney asked you, if
21 you were sitting on your left hand, but agent Black if you were
22 struggling over a gun, do you think it's reasonable to think
23 you'd be sitting on your left hand or would your left hand be
24 involved as well?

25 MR. BREHM: I object to that, Your Honor, totally

1 outside her expertise.

2 MS. WHITE: Your Honor, I'll withdraw that question.

3 THE COURT: Okay. Anything else Solicitor?

4 MS. WHITE: No, sir.

5 THE COURT: Re-cross, and keep it to re-cross.

6 MR. BREHM: Yes, sir.

7 THE COURT: She asked one question, go ahead.

8 RE-CROSS EXAMINATION

9 BY MR. BREHM:

10 Q She asked if you wiped the gun off, and I just want to know
11 if you do wipe the gun off, you take a towel, you take something,
12 and just take a towel, can you then detect on the towel the
13 residue?

14 A In some cases you can, it's a little more difficult to do
15 the analysis on a towel, but it would be possible because the
16 metallic materials you'd expect to be transferred onto the towel.

17 Q Okay, and in this case was a towel, wipe, or anything of
18 that nature submitted to you for analysis?

19 A No, I did not receive a towel.

20 MR. BREHM: Thank you.

21 THE COURT: Solicitor?

22 FURTHER RE-DIRECT

23 BY MS. WHITE:

24 Q And that's assuming that you could find the towel, is that
25 correct?

1 A Yes.

2 MS. WHITE: Thank you.

3 THE COURT: All right, Agent Black, thank you very
4 much, you may be excused, thank you for being here.

5 MS. WHITE: Your Honor, that's the State's case, the
6 State rests.

7 (WHEREUPON, State rests at approximately 3:45 pm.)

8 THE COURT: Mr. Foreman, Ladies and gentlemen of the jury,
9 I'm going to have to take up some motions with the parties, legal
10 motions. I'm going to ask you to go to the jury room, please
11 don't discuss the case amongst yourselves until you've heard all
12 the testimony, and after we finish the motions, I tell you what
13 we'll do since the Court will take about a 20 minute break after
14 the motions, we'll get you back in the court room very shortly.
15 Thank you very much.

16 (WHEREUPON, the jury was excused from open court.)

17 THE COURT: Any motion from the State?

18 MS. WHITE: No, sir.

19 THE COURT: Any from the Defendant?

20 MR. BREHM: Yes, sir, Your Honor, I would move for a
21 directed verdict on the grounds that the State, looking at the
22 evidence in light most favorable to the State, not being able to
23 prove the elements of murder. I guess that's my first motion.

24 THE COURT: That's your first motion?

25 MR. BREHM: My first motion, you want me to say them

1 all and then...

2 THE COURT: If that's your first motion, denied. Go
3 ahead.

4 MR. BREHM: Second motion, Your Honor, is that the
5 State has not proven identity.

6 THE COURT: Pardon?

7 MR. BREHM: The State has not proven identity, no one
8 has sat there and said, That's the person that did this.

9 THE COURT: That motion is denied.

10 MR. BREHM: And finally, I make a motion that the case
11 be dismissed because they have not proven jurisdiction.

12 THE COURT: That's denied. Anything else.

13 MR. BREHM: That's it.

14 THE COURT: Okay, thank you very much.

15 (WHEREUPON, a short break was taken.)

16 THE COURT: All right, is there anything from the State
17 before we bring the jury in?

18 MS. WHITE: No, sir.

19 THE COURT: Anything from the Defendant?

20 MR. BREHM: No, sir.

21 THE COURT: All right, bring us the jury, please.

22 (WHEREUPON, the jury returned to open court at
23 approximately 4:15 pm.)

24 THE COURT: Mr. Brehm, if you'll call your first
25 witness, please.

1 MR. BREHM: Thank you, Your Honor, the Defense calls
2 Dr. Michael Ward to the stand.

3 THEREFORE,

4 DR. MICHAEL EUGENE WARD
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Dr. Ward, please have a seat in the witness
7 chair, state your full name, and please spell your last for the
8 record.

9 MR. WARD: Dr. Michael Eugene Ward, W-A-R-D.

10 DIRECT EXAMINATION

11 BY BREHM:

12 Q Dr. Ward, with whom are you employed?

13 A I'm employed by Pathology Associates of Greenville, which is
14 a private pathology group, and also as the medical examiner for
15 Greenville County.

16 Q How long have you been the medical examiner for Greenville
17 County?

18 A Two and half years.

19 Q And what are your duties and responsibilities as medical
20 examiner of Greenville?

21 A My responsibilities are to assist the coroner in
22 investigating deaths that have happened in Greenville County in
23 determining cause and manner of death. And in that we do both
24 autopsy, scene investigation, as well as external examination of
25 human remains to determine how and why they died.

1 Q Doctor can we get into your educational background a little
2 bit, where did you do your undergraduate work, med school.

3 A I received by bachelor's degree in biology from the
4 University of Alabama, I received a master degree in forensic
5 science from the University of Alabama at Birmingham, I received
6 my medical degree from the University of South Alabama, I did a
7 four year anatomic pathology residency at the medical University
8 of South Carolina in Charleston, and a one year fellowship, of
9 post-residency training in forensic pathology at the University
10 of New Mexico, in Albuquerque. And I'm board certified by the
11 American Board of Pathology in both anatomic and forensic
12 pathology.

13 Q Doctor have you testified previously in criminal cases?

14 A Yes, I have.

15 Q Approximately how about times have you done so?

16 A Sixty to seventy-five times.

17 Q And have you -- in those cases do you testify as medical
18 examiner or do you testify typically for the prosecuting Defense?

19 A Generally called by the prosecution.

20 MR. BREHM: Your Honor, we would move that he be
21 qualified as an expert in the feild of forensic pathology.

22 THE COURT: Solicitor?

23 MS. WHITE: No objection.

24 THE COURT: All right, I find that Dr. Michael Ward as
25 an expert in forensic pathology.

1 Q Dr. Ward can you give the circumstances about which you were
2 contacted regarding this case?

3 A Yes, I was contacted by Mr. Brehm, to review a case for him
4 an autopsy protocol and some photographs.

5 Q Okay, and were you provided a copy of Dr. Woodward's -- I'm
6 sorry, do you know Dr. Woodward's first name?

7 A Brett.

8 Q Did you get a copy of his autopsy?

9 A Yes, I did.

10 Q And were you also provided photos of the autopsy?

11 A I was.

12 Q And you were also provided photos of the scene -- the scene
13 where Ms. Donna Leanne Pearson was shot?

14 A Yes, I was.

15 Q I want to -- talking about what your normal routine is in
16 Greenville in dealing with cases such as this, what do you do
17 when a body comes in?

18 A Generally the coroner's office will handle the
19 investigation, the scene investigation, occasionally they will
20 contact me to assist them with the scene investigation, if it's a
21 fairly complex thing, seeing that scene might be better that
22 relating that scene to me through verbally or the written word.
23 At the autopsy room, after the body has been sealed in a body
24 bag, transported to the autopsy room, we then open the body bag
25 and an initial external examination prior to removal of clothing,

1 prior to disturbing the body. Looking for wounds, looking for
2 evidence, any type of trace evidence that may be present.

3 Q And -- let's talk about the hair, let's talk about
4 specifically a case involving a gunshot wound to the head.
5 Involving hair, what do you do first with dealing with a gunshot
6 wound to the head, involving hair?

7 A Well first we examine the area surrounding the gunshot
8 wound, specifically looking to locate the gunshot wound to
9 determine whether which one was the entrance wound, which one was
10 the exit wound, and then the next most important information to
11 be learned from a gunshot wound is, are there any indications of
12 range of fire. So we look for gunshot residue that maybe present
13 on the body and specifically in this case, in the hair
14 surrounding the gunshot wound.

15 Q Okay, now you have looked at the pictures, let me show you
16 specifically State's Exhibit No. 30, have you seen that photo
17 before?

18 A Yes I have.

19 Q What I want to focus on is the, Donna Leanne's, head of
20 hair; does she have thin head of hair or is it a thick head of
21 hair?

22 A She seems to have abundant hair.

23 Q Okay, and is that straight hair or is it curly hair?

24 A It seems to have some curl to it, yeah.

25 Q Tell the jury what you would expect to find, or if you would

1 expect to find anything in terms of that residue in someone with
2 that type of hair?

3 A Coming from the barrel of the gun, once it has been fire,
4 not only does the bullet come out, but gunshot residue comes out.
5 And it comes out as hot gas, burned gun powder, and soot, and
6 unburned gun powder. The hair can very effectively block the
7 transmission of this gunshot residue from the barrel of the gun
8 to the surrounding skin. So if you exam the skin around the
9 gunshot wounds, and these are wounds that are not contact gunshot
10 wounds or directly up against the skin, or what we might call
11 loose or very close within an inch or two, if it's that close
12 some of the gunshot residue may be deposited. But as you pull
13 back away from the skin surface, the hair, very effectively,
14 especially thick hair can filter out gunshot residue and prevent
15 it from being deposited on the skin.

16 Q And in situations that you typically work on what's your
17 protocol in dealing with the hair around it -- the gunshot wound?

18 A Following the examination of the hair prior to either
19 disturbing the hair or washing the hair, which we would certainly
20 never do until we are completely through examining the wound,
21 after the initial examination, I will shave the hair around the
22 shotgun wound submit this, here in South Carolina, to the State
23 Law Enforcement Division for their analysis.

24 Q And the chemical analysis that is done, do you know the name
25 of it?

1 A No, I do not.

2 Q Are you familiar with a test that uses chemicals to detect
3 the residue?

4 A Yes, I am.

5 Q Now, this residue that we are talking about, is this dense
6 matter or is this like cake batter, light batter, thick matters
7 so small.

8 A That is particulate matter and what I would anticipate to
9 find in hair of what I would call it intermediate range gunshot
10 wound, which is greater than a few inches away from the skin and
11 less than two to three feet, would be small particles of unburned
12 gun powder, and they are visible to the naked eye. If you were
13 to put them on white paper, they'd certainly be visible to the
14 eye, but they are smaller than the head of a pin. And they tend
15 to be sort of gray or gray-green in color.

16 Q Now I'd like -- I'm referring to State's Exhibit 42, those
17 little dots?

18 A Yes.

19 Q Okay, and those dots -- that residue, are you -- how
20 careful are you in trying to save those.

21 A Well, we---

22 Q For evidentiary purposes of analysis.

23 A We, as carefully as we can, shave the hair around the wound,
24 immediately transfer it to white-blotter-type paper, so that if
25 anything falls off, will fall onto that blotter paper, wrap it,

1 place it into a separate coin-type envelope, seal it, and give it
2 to the investigating officer for transfer to State Law
3 Enforcement Division.

4 Q And would you mix the head hair with, say facial hair, or
5 pubic hair, or anything of that nature?

6 A In the same container, no.

7 Q Now, let me show State's Exhibit No. 22 and ask if you have
8 seen that picture in reviewing this case?

9 A Yes, I have.

10 Q And can you tell us your initial reaction in looking at
11 State's Exhibit No. 22?

12 A My initial to, ah...

13 Q To the hair on the head.

14 A My initial reaction to the photograph was that; one, whoever
15 is manipulating, or handling the head, of the decedent is doing
16 so without gloves, and possibly contaminating himself with bodily
17 fluids, that was my first immediate reaction. The second is
18 that; the head and the hair in this situation is being
19 manipulated and moved and any particulate matter that is present,
20 or potentially present, in the hair may be lost.

21 Q Okay. So let me refer you to State's Exhibit 21 and ask you
22 if you can identify, do you recognize that picture?

23 A Yes, I do.

24 Q Is that a picture that you have reviewed in this case?

25 A Yes, it is.

1 Q And State's Exhibit 21, shows Leanne Pearson in what
2 position?

3 A She's seated with her left foot pulled up under her right
4 foot, and her head leaning to the right resting on the right
5 shoulder portion of the couch.

6 Q Okay. So her head along with her hair is down over to the
7 side?

8 A That's correct.

9 Q Right here it's on her shoulder?

10 A Yes.

11 Q And in 22 it appears that someone has done what to her head?

12 A They have raised her head from the flexed to the right and
13 is now holding it straight up and down in the more anatomic
14 position.

15 Q Okay. And in doing so is it quite possible that this
16 particulate matter has been lost?

17 A Yes, sir.

18 Q Not lost, but fallen off on her shirt, or fallen off on the
19 couch?

20 A Yes, it is possible.

21 Q If -- I believe, the coroner over in Greenville is who?

22 A I'm sorry.

23 Q Who is the coroner over in Greenville?

24 A Parks Evans.

25 Q If Mr. Evans did this, what would you tell him to do, would

1 you tell him to keep doing that?

2 A (No Response.)

3 Q Moving the head like that?

4 A Our protocol in Greenville is to manipulate the body as
5 little as possible prior to transport to the autopsy room.

6 Q And Doctor, when you -- let me show you what has been marked
7 as State's Exhibit 33, and ask what that's a picture of?

8 A This is a photograph of a gunshot wound of entry.

9 Q Okay, and can you tell, it's got a ruler on there, correct?

10 A Correct.

11 Q And can you tell what the scale is, approximately how wide
12 is the gunshot wound?

13 A The scale in this photograph is in centimeters, actually
14 it's in millimeters, and it appears to be approximately eight to
15 nine millimeters.

16 Q Eight to nine millimeters. Now, let me show you this
17 picture and ask if you -- what has happened to gunshot, the area
18 around the gunshot wound.

19 THE COURT: Can you identify what he's looking at?

20 MR. BREHM: Let me get it marked as identification.

21 THE COURT: Okay, it will be Defendant's No. 4.

22 MS. WHITE: I have no objection, Your Honor.

23 THE COURT: All right, Defendant's Exhibit No. 4,
24 admitted without objection.

25 (WHEREUPON, a photograph of the victim was
admitted without objection and marked as

1 Defendant's No. 4.)

2 Q Let me show you what's been marked as Defendant's Exhibit
3 No. 4, taking the picture that you previously saw, what would you
4 say would be the area that was shaven around the gunshot wound?

5 A There's been a circle of hair removed, shaved around the
6 gunshot wound with which encompasses approximately 3 to 3½ inches
7 in diameter.

8 Q In reviewing this case - and I don't believe you have been
9 here for testimony - but, Dr. Woodard said that he examined that
10 and found no residue.

11 MS. WHITE: Objection, Your Honor, he said he examined
12 the hair and found no residue not that around that's shaved, it
13 was before it was shaved. I object to misstatement.

14 MR. BREHM: I apologize.

15 THE COURT: Dr. Woodard testified that he examined the
16 hair before he shaved it and found no element of residue.

17 MR. BREHM: Okay.

18 Q The area that we are talking about where it was shaven, in
19 that picture, Defendant's Exhibit 4, if it was a contact wound
20 how much residue would you expect to find in that area on that
21 hair?

22 A If this were a tight contact gunshot wound I would expect to
23 find virtually no gunshot residue on the skin surrounding this
24 wound. However, the wound would most likely appear different, it
25 would be torn or stellate in nature because the gas which comes

1 from the barrel of the gun would dissect its way between the skin
2 and the underlying bone, often times ripping the skin surrounding
3 the gunshot wound, but almost by definition you would expect to
4 see very little gunshot residue around the entrance wound of a
5 contact gunshot wound.

6 Q Okay. And as you move further back, what do you expect to
7 find?

8 A If this were a loose contact or just barely pulled away from
9 the skin, you could expect to see some charring, or burning on
10 the wound margins by this hot gas, discoloration of the skin
11 surrounding it by not only by the hot gas, but the deposition of
12 soot, this fine particulate matter that will deposit itself on
13 the skin and can be washed off, or lost during shaving. As you
14 move further back, such that the rest of this material had the
15 opportunity to spread out prior to impacting the skin, you can
16 see some stippling of the skin by this unburned gun powder. You
17 get far enough back where this gun powder is no longer coming out
18 in a concentrated fashion, or striking the target in a
19 concentrated fashion but beginning to spread out, it can be
20 filtered out by intervening substances, in this case hair.

21 Q Okay. And in this case if the gun was up against the head,
22 a contact wound you'd expect to find all of the above mentioned
23 that you just talked about, correct.

24 A If it were a contact gunshot wound, I would expect to have
25 seen this gunshot residue inside the depths of the wound, which

1 were not identified on Dr. Woodard's autopsy photographs.

2 Q Okay, now if you get out here are you going to find more
3 powder residue or less; the further you go away?

4 A As you back away from the target, or increase the muzzle to
5 target distance, the muzzle of the gun to the head, which is the
6 target in this case, there will be less concentration of gun
7 powder residue around the entrance wound and on the target, the
8 further you move back the less of this gunshot residue is
9 actually going to strike the target.

10 Q Now I'm referring to State's Exhibit No. 36, and on the
11 styrofoam head here, "E" is the entrance wound and "X" is the
12 exit wound, it's been marked by the, by Dr. Woodard. Looking at
13 and based on what you reviewed in this case, was that entrance
14 wound above the ear and back a little bit, would that have caused
15 you concern?

16 A Taking the location of the entrance wound, in and of itself,
17 and the trajectory through the head, although this might not be
18 your classic entrance and exit wound for a suicidal gunshot wound
19 it certainly not be that extraordinary, and certainly not out of
20 the range of possibility.

21 Q In referring State's Exhibit 22, again, in your medical
22 opinion would that -- you see where they've got the trajectory
23 rod attached to the finger?

24 A Yes.

25 Q Or to the hand, is that consistent, that picture, is that

1 consistent where you got the bullet hole in the couch, you've got
2 the entrance wound, the exit wound, and then it goes out to the
3 tips to the hand, is where that hand is, is that consistent with
4 a shotgun fired in that close a range -- entrance wound being
5 here, exit wound being here, and the bullet hole, or the bullet
6 being in the couch?

7 A Well the hand is slightly in front of the head. Since you
8 can't pass this trajectory rod actually through the wound itself
9 to accommodate for -- to get to this side of head you have to
10 move in front of the face, but other than that it's within the --
11 it's certainly possible that this is the location for the hand,
12 yes.

13 Q Given the fact that the trajectory rod goes in front of the
14 face, where would the hand go forward or go back, if you were
15 making a determination of where that gun, where the gun was when
16 it went off?

17 A Assuming that her head is in this position, then the barrel
18 of the gun, and her hand holding it, would have to be slightly to
19 the back of the head and slightly above and pointed forward to
20 her left and downward, assuming her head is in this position.

21 Q And given that photograph, you have the gun back here, or
22 the hand back here with the gun?

23 A That's correct.

24 Q Now did you have an opportunity - I think I've already asked
25 you this - you reviewed Dr. Woodard's autopsy, correct?

1 A Yes, I did.

2 Q And did you see anywhere in that autopsy where he placed
3 hair under amplification or magnification?

4 A He does not describe that in his autopsy protocol.

5 Q And finally Doctor, if -- as part of this review, were you
6 informed that Kevin Patterson said he -- that Leanne had shot
7 herself?

8 A Yes.

9 Q Committed suicide?

10 A Yes.

11 Q As part of your investigation as a forensic pathologist,
12 would you consider it important to review Leanne Pearson, the
13 decedent the in this case, records, medical records, psychiatric
14 records, psychology, psychological records.

15 A Yes. I would.

16 Q And have you, in your review of this case, been provided her
17 medical records?

18 A Yes, I have.

19 Q And Dr. Woodard, based on review of these medical records,
20 what type of individuals, or do you know, is or was Leanne
21 Pearson?

22 A She's described ---

23 MS. WHITE: We've declared the forensic pathologist,
24 not a psychiatrist. I just want to make sure we are within
25 expertise here.

1 THE COURT: Mr. Foremen, ladies and gentlemen of the
2 jury, as I told you at the beginning of the trial there may be
3 some times I have to comment on facts, and this may be one of
4 those times, please don't discuss the case, I'm going to let you
5 go the jury room to find on any arguments on this objection,
6 please don't discuss the case.

7 (WHEREUPON, the jury was excused from open court.)

8 THE COURT: All right, Solicitor, what is your
9 objection?

10 MS. WHITE: Your Honor, I don't know how far we are
11 going into psychiatric records, I'm asking if a forensic
12 pathologist who has never had any contact ---

13 THE COURT: Is your legal objection is that he's not
14 qualified.

15 MS. WHITE: I don't know, Your Honor, he hasn't shown
16 the qualification, he may be, but I haven't heard it.

17 THE COURT: Your objection is he is not qualified to
18 testify about psychiatric matters, is that your objection?

19 MS. WHITE: It's beyond his expertise, yes sir.

20 THE COURT: All right, Mr. Brehm, where are we, where
21 was he?

22 MR. BREHM: Judge, my response is that he is a forensic
23 pathologist, and in his duty as a forensic pathologist, he is
24 entitled to review medical records, or psychological records.

25 THE COURT: Well, first of all, what medical records

1 are we referring to?

2 MR. BREHM: We are referring to the psychological
3 records of Leanne Pearson.

4 THE COURT: All right, are they in evidence, or have
5 they been offered into evidence, are you planning on putting them
6 into evidence, where are they coming from? What I'm more
7 concerned about is the hearsay of the medical records rather than
8 the opinion of the doctor. I think he could probably give us
9 some psychiatric testimony just based upon the fact that he's an
10 M.D., but what records are we referring to, we are not in civil
11 court, where there's deposition and you can ask a question based
12 upon your review of records. That's my concern with the
13 question, and where you are headed is the admissibility of these
14 medical records and him forming his opinion upon the records, and
15 there's no basis for it.

16 MR. BREHM: Judge, if you are asking where the records
17 came from, they came from the Solicitor's office.

18 THE COURT: Okay.

19 MR. BREHM: The Solicitor's office gave them to me and
20 the Solicitor's office records saying that Leanne Pearson,
21 there's no dispute that they involve the same person that we are
22 dealing with here.

23 THE COURT: Well, what's your theory of Defense, is
24 your theory of Defense suicide, or argument? In opening
25 statement you argued that it was accident.

1 MR. BREHM: No, sir, No, sir. I never argued it was an
2 accident, I argued---

3 THE COURT: You didn't argue that he was struggling
4 with the gun and the gun went off in opening statements?

5 MR. BREHM: No, sir, what I did is I told her that she
6 went in and got the gun, she came back down, she sat on the
7 couch, indian style, she put the gun beside her, my client knelt
8 down beside her, she sitting there crying---

9 THE COURT: Are you arguing that she was trying to
10 commit suicide and he tried to prevent it and the gun went off?

11 MR. BREHM: Right.

12 THE COURT: Is that your argument?

13 MR. BREHM: Yes, sir.

14 MS. WHITE: And, Your Honor, I have no problem with the
15 psychologist, and psychiatrist coming in but I'm going to have a
16 blast on cross-examination if he's asking what her state of mind
17 is. The newest of these records, were like eight months before
18 her death, and---

19 THE COURT: All right, Solicitor, do you have an
20 objection, as far as the hearsay of the records, him using the
21 records.

22 MS. WHITE: Your Honor, beyond expertise, all through
23 out -- that's fine he can, he can talk about which school he's
24 relying, and give opinions, but I don't think he can recite all
25 the records. I mean, that's -- I agree he can form opinions

1 based on records, they don't have to be admissible, but actually
2 pulling things out of the records and I don't -- I think that,
3 that goes beyond his expertise to say what her state of mind was
4 on March 10th, when the last record is June of '99, this is
5 March 10th of the year 2000.

6 THE COURT: Well that would go to the sufficiency and
7 the weight of the testimony, I don't think that would go to
8 admissibility, Solicitor.

9 MS. WHITE: And like I say, I have no problem with, if
10 he says I reviewed the records and this is my opinion. But going
11 into the records and citing things for the record---

12 MR. BREHM: I didn't---

13 THE COURT: All right, Mr. Brehm, what are you planning
14 on doing, because she objected before your question ever came out
15 so I never really heard your question, what's your question?

16 MR. BREHM: What I intended, Your Honor, is with the
17 rest of the testimony is that he reviewed the medical records and
18 found that she showed symptoms of suicide.

19 THE COURT: All right, Mr. Brehm, let's get on with
20 some of this testimony and see where you are headed, and then
21 I'll rule.

22 MS. WHITE: And, Your Honor, I'd ask that we got the
23 expertise too, while---

24 THE COURT: I understand, let me see where he's headed
25 and where he wants to go first, Solicitor.

IN CAMERA HEARING

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BY MR. BREHM:

Q Dr. Ward, have you had an opportunity to review Leanne Pearson's medical records, precisely here psychological records.

A Yes, I was.

Q And in reviewing her psychological records, can you be able to -- in reviewing her records did you ever form an opinion, or have you formed an opinion about whether or not Leanne Pearson had been suicidal in the past?

A Her medical records describe her as having suicidal ideation, and as having previous suicide attempts.

Q And in fact one such episode describes her using a gun, attempting suicide with a gun.

A That's correct.

Q And would that cause you, as a forensic pathologist, would that cause you some concern in making a determination of whether a case is a homicide of a suicide?

A Yes, it would.

MRS. WHITE: Your Honor, I'd ask that---

THE COURT: Just a second, Solicitor. I'll hear you, I'm not going to cut you off, just don't interrupt him and I won't let him interrupt you, okay.

All right, Mr. Brehm, let me hear some testimony of his qualification to give that opinion. Right now he's a forensic pathologist, but there's an entire difference of psychiatric.

1 MR. BREHM: As a forensic pathologist, he has had some
2 experience in--

3 THE COURT: Well, just ask him some questions, let me
4 hear what he's going to say.

5 Q Dr. Ward, in your educational background, have you ever
6 taken psychology.

7 A I have taken psychology as an undergraduate course, and
8 during medical school had courses in psychiatry, as well as a
9 six-week clinical course, or a clinical experience in psychiatry.

10 Q Okay. And are you are you familiar with a terms such as
11 suicidal ideation, anhedonia, A-N-K-E-D-O-N-I-A, are you familiar
12 with major depression, or just depression in general,
13 schizophrenia?

14 A Yes, I am.

15 THE COURT: All right, Solicitor, you want to ask him
16 some question on cross-examination?

17 CROSS-EXAMINATION

18 BY MS. WHITE:

19 Q Doctor, the one psychiatrist saw the victim one time on
20 February the 22nd of '99; is that correct?

21 A Yes, ma'am.

22 Q And in his report he says, denies any suicide ideation; what
23 does that mean?

24 A That when asked the question whether she was thinking about
25 killing herself, she said, no.

1 Q And then if you go to the second page, it says no homicide
2 or suicide ideation again; is that correct?

3 A That's correct.

4 Q And if you go down to summary and formulations, but not
5 suicide ideation, she can be treated as an out patient, she is
6 not felt to be dangerous to self or others; is that correct?

7 A Yes, ma'am.

8 Q And this was a psychiatrist; is that correct, that---

9 A He's an M.D., I do not know that he is a psychiatrist.

10 Q And that was back in February of '99?

11 A That's correct.

12 Q Let's go to the other medical records, do you have those in
13 front of you?

14 A From Pedigree Therapy?

15 Q Yes. All right, she was only treated from, I think it's
16 March to June of '99 in these records, as an out patient; is that
17 correct?

18 A The initial contact that I see, the records seem to go from,
19 back to front.

20 Q Okay, so turn the other way then.

21 A The initial contact seems to be in February.

22 Q Oh, you're right, I'm sorry, from February to June of '99;
23 is that correct?

24 A Right.

25 Q So how much time lapsed then from June of '99 and March of

1 the year 2000.

2 A Approximately eight or nine months.

3 Q If you turn to one dated, 5/18/99 you see where it says
4 denys suicidal or homicidal ideation?

5 A Which one?

6 Q You can look on mine if you want to, I'm sorry, 5/18/99,
7 denies suicidal and homicidal ideation; is that?

8 A Correct.

9 Q If you go to 4/28/99, has thoughts of suicide during these
10 periods, but denys intent or plan; is that correct?

11 A Yes, it is.

12 Q If you go to 4/21 of '99, Leanne denies current suicidal
13 thinking; is that right?

14 A Yes, it is.

15 Q If you go to 4/10 of '99, denys suicidal thoughts.

16 A Correct.

17 Q If you go to, I think this is 5/10 again, was suicidal denys
18 suicidal -- current suicidal ideation; is that correct?

19 A Yes, it is.

20 Q So through these records she's denying, again we go to 3/10
21 of '99, denys suicidal ideation, during her three months of
22 treatment, every single note says she denys suicidal ideation,
23 denys suicidal intent, denys suicidal plan; is that correct?

24 A I don't know that every single note does, but it is there
25 throughout.

1 Q And she was never hospitalized, was she?

2 A I do not know.

3 Q Well, I mean, do they ever show that she was hospitalized?

4 A By these medical records, there's no hospitalization.

5 Q And wouldn't you agree that if she became suicidal, your
6 expertise in psychiatry tells you somebody would commit her and
7 get her some treatment.

8 A I would hope.

9 Q But anyway the last record is eight or nine months before
10 her death occurred, isn't that right?

11 A That's correct

12 THE COURT: All right, Mr. Brehm, I'm going to allow
13 you to go into, I think as an expert he can form his opinion as
14 an M.D. I think he can go into some basic psychiatric
15 information based upon what he's testified to. And I think as an
16 expert he can also go into hearsay matters and form his opinion,
17 so I'll allow you to go into in. But I'm not going to allow you
18 to go into all afternoon in great detail, other than what you've
19 done here; do you understand?

20 MR. BREHM: Yes, sir.

21 THE COURT: All right, anything else before we bring
22 the jury back.

23 MR. BREHM: No, sir.

24 THE COURT: And Solicitor, for the record, I'll deny
25 your motion.

1 MS. WHITE: Yes, sir. But I am allowed to cross on
2 medical records.

3 THE COURT: Oh yeah, yes ma'am, I said we'll go into
4 the records, I think you can question him on forming his opinion
5 based upon hearsay testimony as an expert.

6 (WHEREUPON, the jury returned to open court.)

7 THE COURT: You may continue, sir.

8 MR. BREHM: Thank you, Your Honor.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. BREHM:

11 Q Dr. Ward in addition to your background, getting back into
12 forensic pathology, have you also during the course of your
13 education had experience in a psychology lab, and so forth?

14 A As an undergraduate I had courses in psychology and through
15 routine courses through medical school was exposed to courses in
16 psychiatry as well as a clinic rotation in psychiatry as a third
17 year medical student.

18 Q And are you familiar with mental illness?

19 A To some degree, yes.

20 Q Depression?

21 A Yes.

22 Q Schizophrenia?

23 A Yes.

24 Q Paranoia, and things of that nature?

25 A Yes.

1 Q Can you describe for us what anhedonia is,
2 A-N-K-E-D-O-N-I-A?

3 A My impression is that it is generally a lack of receiving
4 any pleasure or any satisfaction upon a situation.

5 MR. BREHM: Your Honor, in addition to being an expert
6 in the field of forensic pathology, we move that he be presented
7 as an expert in the field of psychology.

8 THE COURT: I'm not going to qualify him in the field
9 of psychology, I'll qualify him as a general M.D. and forensic
10 pathologist, he can answer questions about psychiatry, within
11 certain limitations.

12 MR. BREHM: Okay, thank you.

13 Q Dr. Ward, going back to my question about Leanne Pearson,
14 you have had, or have you had the opportunity to review her
15 medical records?

16 A Yes, I have.

17 Q And when we talk about medical records, are we talking about
18 her physical records or her mental records?

19 A These are records from psychiatric and psychological
20 treatments.

21 Q And in your expert opinion has Ms. Pearson been considered
22 suicidal in the past?

23 A Yes, she has.

24 Q And would the fact she was considered suicidal in the past,
25 would that as a forensic pathologist have caused you concern in

1 your determination in whether this was a suicide or a homicide?

2 A Having information regarding a death, or of that individual,
3 if they had a diagnosis of depression, were on medication for
4 depression, or had a history of suicidal thoughts, or it could be
5 suicidal attempts, yes that would influence or be a factor that I
6 would consider in determining manner of death.

7 Q And would you have thought this important, the medical
8 records that you reviewed, would you had consider them, would you
9 have thought those to be important in making your determination?

10 A With these medical records?

11 Q Right.

12 A Yes, I would.

13 MR. BREHM: Answer any questions the Prosecutor may
14 have.

15 CROSS-EXAMINATION

16 BY MS. WHITE:

17 Q Doctor, were you provided a copy of the Defendant's
18 three-page written, signed, and initialed confession?

19 A I was not.

20 Q You weren't.

21 A No.

22 Q So you haven't seen that?

23 A No.

24 Q Would it surprise you to know that the Defendant gave a
25 written confession, and would that possibly change your opinion,

1 if you heard, "Leanne reached down between her legs and pulled
2 the gun up, I grabbed her hands and took the gun away from her,
3 as I was standing up I started walking back toward the bedroom, I
4 turned back and shot Leanne in the back of the head, I stood
5 there a few seconds and Leanne's head just leaned back. I just
6 heard one breath, I walked to the kitchen with the gun in my
7 right hand, I walked back over to Leanne and put the gun in
8 Leanne's right hand. She was not moving when I put the gun in
9 her hand, I walked back in the bedroom and got a cigarette and
10 walked outside, on the way to the store I was thinking about
11 getting two drinks, and my brand of cigarettes and her brand of
12 cigarettes," etc., etc. You were never provided of a copy of the
13 defendant's written statement?

14 A No, ma'am.

15 Q Well when you are considering whether it's more likely or
16 not that this was suicide do you think that might have been an
17 important piece of information to provide to you?

18 A If I were making that determination, yes I would consider
19 this to be important.

20 Q Do you think that would be more important or medical records
21 for eight months to thirteen months before her death would be
22 more important?

23 MR. BREHM: I object, Your Honor, about the thirteen
24 months, that needs to be corrected.

25 MS. WHITE: Oh, I'm going into that, Your Honor.

1 MR. BREHM: February of 1999---

2 THE COURT: That goes to the weight, what's your legal
3 objection, do you have a legal objection, I'll hear it.

4 MR. BREHM: She's saying it's thirteen months, it's not
5 thirteen months.

6 THE COURT: All right, Solicitor, what's the correct
7 dates as far as the records---

8 MS. WHITE: February of '99 'til March of 2000, I think
9 that's thirteen.

10 THE COURT: What do you think is the correct date,
11 Mr. Brehm?

12 MR. BREHM: Withdraw then.

13 THE COURT: Okay, all right?

14 Q All right, Doctor, let's just clear this up, we've heard
15 about these medical records, throughout the trial. All right,
16 the first thing of medical records, and there's only two; is that
17 correct?

18 A I've only seen two, yes.

19 Q Well, do you all know of any others that we haven't found?

20 A No, ma'am.

21 Q All right. Now let's start with the first psychiatric
22 record, that is one visit to the psychiatrist in February of '99;
23 is that correct?

24 A That's correct.

25 Q And that's it for this set of medical records; is that

1 correct?

2 A Yes.

3 Q In this, the psychiatrist says, denys any suicidal ideation,
4 will you explain to the jury what that means, denys any suicide
5 ideation?

6 A When asked by the psychiatrist, do you have any intentions
7 or thoughts of killing yourself, she obviously replied, no.

8 Q And if we go to the second page of the Doctor's report,
9 again it says, no homicide or suicide ideation; is that correct?

10 A That's correct.

11 Q And then summary and formulation, no suicide ideation, she
12 can be treated as an out patient, she is not felt to be
13 dangerous, dangerous to self or others. Isn't that what this
14 doctor concluded after giving a psychiatric exam in February
15 of '99?

16 A That was the summary of his formulation, yes.

17 Q Now, your expertise in the psychiatric field, surely you
18 realize that if a psychiatrist thought someone was suicidal they
19 would commit?

20 A At that time, yes.

21 Q And was she committed?

22 A To my understanding, no.

23 Q All right, let's go to the second set of records. Now this
24 is a therapist that she is seeing from February of '99, and the
25 last visit is June of '99; is that correct?

1 A That's correct.

2 Q So she stopped seeking any kind of psychiatric approximately
3 nine months before her death; is that correct?

4 A That's correct.

5 Q All right, let's talk about whether they found -- well,
6 let's, back up a minute. At any time during the time she was in
7 therapy was she committed to a hospital?

8 A To my knowledge, no.

9 Q And again, if the therapist thought she was suicidal what
10 would a therapist do or a psychiatrist do?

11 A Generally would be to commit or admit the person to
12 psychiatric treatment.

13 Q All right, let's move from February forward on these records
14 and see what we've got; let's start from back to forward. All
15 right on March 11th of '99, does the therapist write, denies
16 suicidal or homicide ideation?

17 A She says she continues to be depressed, but denys suicidal
18 or homicide ideation.

19 Q Now there's a difference between depressed and being
20 suicidal, isn't there? There are a lot people who get depressed
21 but aren't suicidal?

22 A That's correct.

23 Q All right, not let's go to, let's go to April and here
24 again, denys suicidal thoughts, denys current suicidal ideation,
25 was suicidal, but denys current suicidal ideation. That is in

1 April of '99; is that correct?

2 A That's correct.

3 Q Let's go now to April again, another visit; Leanne denying
4 current suicidal thinking; is that correct?

5 A On the line, yes.

6 Q Let's go now to again April of '99; has thoughts of suicide
7 during these periods but denys intent or plan; is that right?

8 A That's correct.

9 Q All right, let's go to May; denys suicidal homicidal
10 ideation; is that correct?

11 A Yes.

12 Q And then when she starts to quit, when we go to the May
13 session again, it says; depression better; is that correct?

14 A Yes, it does.

15 Q And the -- a couple of weeks later she stopped seeking
16 therapy; is that right?

17 A That's correct.

18 Q So these are the records that we've heard about; is that
19 right?

20 A (No Response.)

21 Q Now Doctor...

22 MS. WHITE: Your Honor, I'm going to need to open the
23 gun, if I may have the key please.

24 THE COURT: Yes, ma'am.

25 MS. WHITE: Thank you. Your Honor, this is a safe

1 weapon.

2 Q Doctor, if you heard that the victim had a gun was trying to
3 shoot herself and the Defendant came and grabbed her hand and put
4 his hands over the gun, would you expect any injuries to be
5 either on her hands or his hands, given that this a
6 semi-automatic weapon?

7 A It's possible, but not necessarily an absolute.

8 Q Okay, Doctor, when I pull the trigger of this gun and a
9 bullet goes out, this gun it snatches back like this; is that
10 correct?

11 A If it's unimpeted (phonetic), yes.

12 Q And if hands are around this and a hand gets caught, in the
13 ejection port -- have you ever been in the military?

14 A No, ma'am.

15 Q All right. If a hand gets caught in there, that can even
16 break a finger, can't it?

17 A I do not know.

18 Q Well at any rate, you would agree once that trigger pulled,
19 the gun went (trigger was pulled) in a split second?

20 A When the -- when the trigger was pulled and the weapon
21 discharged ---

22 Q Yes?

23 A ---the bullet ejects, or passing from the chamber out the
24 muzzle, whether the slide operates depends on whether it's being
25 obstructed or not.

1 Q All right, well if it's found and it has not been
2 obstructed, it's found and it -- and it, then it has done like
3 that; isn't that correct?

4 A If it cycle in rechamber (phonetic) of the rounds, yes.

5 Q So now if somebody's hands are closely around this gun, and
6 in a split second it does that, what might happen to the hands if
7 they are pressed in that area, especially that ejection port?

8 A I don't know about the ejection port, but you could
9 certainly get trauma to your palm from the sight mark, from the
10 sight.

11 Q Now not only coming out the end of the barrel of the gun,
12 but also the ejection port is what kind of gas, I believe you've
13 already testified to it?

14 A It's hot gas.

15 Q Hot gaseous smoke, gun powder, that sort of thing; is that
16 correct?

17 A I'm not aware of what exactly comes out of an ejection port.
18 I know the round, the spent casing will come out and I'm sure
19 it's being pushed out by some sort of gas.

20 Q And so that can burn the hands, too, if they were around
21 there; isn't that correct?

22 A (No Response.)

23 Q It's why the thing gets hot and you don't want to touch it
24 when it's shot a few times?

25 A It probably would not be a significant burn from one round.

1 being fired to the palm of the hand.

2 Q Doctor, I'm going to -- photograph of the Defendant --- let
3 me mark these for identification, please. I'm handing you---

4 MS. WHITE: Your Honor, I believe the Defense has no
5 objection to 46 and 47.

6 THE COURT: Is that correct?

7 MR. BREHM: Yes, sir.

8 THE COURT: State's Exhibit 46 and 47, admitted without
9 objection.

10 (Thereupon, two photographs of the victim's hand
11 were admitted without objection and marked as
State's Nos. 46 and 47.)

12 Q I'm handing you 46 and 47, the defendant's hands, do you see
13 any injuries on his hands?

14 A I do not.

15 Q Now, Doctor, if you heard that there are no injuries on his
16 hands, and nor are there any injuries on the victim's hands,
17 would that be important, given that this was fired, and pulled
18 forward during the firing process and hot gases?

19 A I don't know where is hands are supposed to be placed on the
20 weapon.

21 Q Well, supposedly completely over hers, I think it was
22 demonstrated like this, completely over hers?

23 A Well over her hands will be down around the magazine and
24 handle portion, and not near the slid.

25 Q And if they were completely over her hands, I believe they

1 were laced together even, would that be important to you?

2 A It could be important depending upon whether the slide will
3 pass over his hands of not.

4 Q And you were not at the autopsy, is that correct?

5 A No, ma'am.

6 Q And you said that you weren't aware of the chemical test
7 they do at SLED, they have an expert at SLED in firearms that
8 runs these tests; is that correct?

9 A That's correct.

10 Q And that expert would have more expertise as to what test
11 would be good at what time, and what test would be more
12 appropriate?

13 A I'm sure.

14 Q And Doctor, you said that looking at, I think it's State's
15 Exhibit 22, that's the one with the rod, you'd agree that in 22,
16 I'm going to show you and then show the jury what we are talking
17 about, okay.

18 A Okay.

19 Q You would agree at times we have to make a choice between
20 one test or another or perhaps, damaging a little bit in order to
21 do one test?

22 A Yes.

23 Q For instance while you are at the scene is the only time you
24 can take the rod, put it on the bullet, without moving the victim
25 and put the head in a position, and you've got to pull the hair

1 up to show where the entrance and exit wounds are, so you can
2 loose that evidence forever once you move the body.

3 A To do that particular example, yes.

4 Q And that's the only way we can know was she facing forward,
5 sideways, up, down, when she was shot?

6 A That's the only time you can put her in that position.

7 Q Okay. And so you have to do this if you are going to do
8 that and in fact, if the Defendant later says she was struggling,
9 we were having this life or death fight over a gun, the angle of
10 head at the time was a very important test.

11 A But that only tells me that that's the angle that they put
12 her head in.

13 Q Yes, but that's the bullet at the end, Doctor---

14 A Yes, ma'am.

15 Q ---and that's the exit, wound and that's the entrance wound,
16 so they lined all three up?

17 A Uh, huh. But I --

18 Q Go ahead.

19 A But I am certain that you could put her head in another
20 position and line those trajectories up.

21 Q How would you do that, Doctor, if this is the bullet that
22 it's resting on right here?

23 A One way, would be to move her head this way.

24 Q Uh, huh.

25 A And as she leans over, she's closer to that and the

1 trajectory would line up.

2 Q Yes, she would be on the plane is what you are saying?

3 A Correct.

4 Q It would have to be a plane. I think we've heard evidence
5 of that, she would be somewhere along this plane?

6 A That's correct.

7 Q So her head would have to be this way, regardless.

8 A (No Response.)

9 Q On the plane?

10 A Correct.

11 Q All right. So in other words she'd have to be looking
12 forward, she just might be tilted?

13 A That's correct.

14 Q All right. So in order to do that test though you have to
15 find where the entrance wound is, you cannot move the body first,
16 you've got to do it while you've got the bullet and everything is
17 in line up.

18 A To take that photograph, yes.

19 Q All right. And I believe you said that to you it looked
20 like she had a lot of hair?

21 A (No Response.)

22 Q Thick hair?

23 A Maybe everything is relative, but yes, she appeared to have
24 plenty of hair.

25 Q And these articles -- these particles that come in at the

1 end of the gun get lodged all in the hair; is that right?

2 A That's correct.

3 Q And so if, in fact, she does have this curly thick hair,
4 they could get lodged all in there especially -- I'm looking for
5 the one that -- okay, for instance at 6-inches, and particular,
6 you would have a lot of particles that would be going into the
7 hair?

8 A That's correct.

9 Q So some of these particles, even if you lifted the hair, did
10 your test, put it back down, that's not going to dislodge all
11 this, is it?

12 A Probably not all of them, no.

13 Q Doctor you wrote an article, a multi-factorial analysis of
14 firearm wounds to the head with attention to anatomic location;
15 is that correct?

16 A Yes.

17 Q And this is in 1999?

18 A Yes, ma'am.

19 Q And in it you said, "We can state with a reasonable degree
20 of certainty that suicidal wounds tend to be intraoral, or
21 involved in the temporal region, is the temple in front of the
22 ear or behind the ear?

23 A The temple region is considered anything -- the temple bones
24 goes from around the top of the ear forward, to just behind the
25 eye.