

VOLUME TWO OF THREE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County

James R. Barber, III, Circuit Court Judge

RECEIVED

JUN 18 2015

S.C. Supreme Court

CARMEN LATRICE RICE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

A P P E N D I X

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1 for defense counsel to raise that and talk about the
2 differences in the penalties. Or, if there's been
3 some accepted offer or an offer made, I think, for a
4 plea with those specific time sentences, that that's
5 fair, the defense can get into that in front of the
6 jury.

7 None of that's on the table. If she is just a
8 charged defendant, whether it's related to the same
9 case or some other case, that that puts in front of
10 the jury the precise issue that they're forbidden to
11 consider, which is sentences. They can't consider
12 that.

13 **MR. MOBLEY:** I'm sorry. I kind of -- I stated
14 my position. I know I'm protected on the record. I
15 understand the Court's ruling, Your Honor.

16 **THE COURT:** Y'all are free to charge whatever.
17 I think that will certainly, I'm sure, come out in
18 front of the jury. And you can ask her if, in fact,
19 there is a deal between her and the State or if
20 there's been an offer of a deal. And if there is
21 none, which, as I understand from the State, that
22 there is no deal between the codefendant and the
23 State, then anything related to potential sentences,
24 should she be found guilty on these charges, is
25 improper for the jury to even hear that.

1 **MR. MOBLEY:** And I just -- just from the
2 standpoint of protecting the record, I just want to
3 make it clear that, you know, I'm requesting to be
4 allowed to cross-examine the codefendant under the
5 confrontation clause of the maximum penalty that she
6 is facing. And I will not do that in that the Court
7 has ruled that I cannot do that.

8 **THE COURT:** You understand that the reason we
9 can't do that is because sentences are in the
10 Court's discretion and that's not a matter that the
11 jury -- the only thing they should consider is based
12 on the evidence and testimony, guilt or innocence,
13 up or down.

14 **MR. MOBLEY:** And I would agree and I understand
15 the Court's -- I appreciate the Court stating its
16 reasons on the record. I just -- and I agree with
17 respect to the defendant that is certainly the case,
18 you know, that, unfortunately, this -- the
19 codefendant just happened to have the same charges
20 as the defendant, which is something I don't have
21 any real control over, but, once again, I understand
22 the Court's ruling.

23 But, once again, my motion under the
24 confrontation clause of the state -- in the United
25 States Constitution, I should be allowed to

1 cross-examine the witness on her understanding of
2 the maximum penalty she's facing for these charges.

3 **THE COURT:** The fact that she can be prosecuted
4 and is being prosecuted on these charges is the only
5 thing the jury should properly consider. And y'all
6 can certainly go into that all you want.

7 All right. We'll take about five minutes and
8 bring the jury back out.

9 (Brief Recess.)

10 **THE COURT:** Are we ready to bring the jury back
11 out?

12 **MR. MEADORS:** The State's ready, yes, sir.
13 Thank you.

14 **THE COURT:** Okay. We'll bring them back out.

15 (The jury returns to the courtroom.)

16 **THE COURT:** Thank you, ladies and gentlemen.
17 Ladies and gentlemen, we're going to continue. We
18 were trying to break in time to take one last
19 witness before your lunch gets here. I did get your
20 note. I promise you, we'll get you some snacks and
21 stuff for this afternoon, but we're ready to
22 continue at this point.

23 And the State is ready to call their next
24 witness.

25 **MR. MEADORS:** If it pleases, Your Honor.

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

2 **MR. MEADORS:** The State of South Carolina will
3 now call Iris Bryant.

4 **THE COURT:** Ms. Bryant, if you'll come around,
5 the clerk will swear you in.

6 IRIS RENEE BRYANT,
7 having been duly sworn, testified as follows:

8 **THE CLERK:** Please have a seat, state your full
9 name for the record.

10 **THE WITNESS:** My name is Iris Renee Bryant.

11 **THE COURT:** Ms. Bryant, I'm going to ask if
12 you'll pull a little closer to the microphone right
13 in front of you. Thank you, ma'am.

14 DIRECT EXAMINATION

15 BY MR. MEADORS:

16 **Q** Spell your last name.

17 **A** B-r-y-a-n-t.

18 **Q** I'll ask you like I do every witness. Where
19 are you from?

20 **A** From Beaufort, South Carolina.

21 **Q** I need you to speak up. Speak into the mike
22 please, okay?

23 **A** Okay.

24 **Q** Were you born and raised there?

25 **A** Yes.

IRIS RENEE BRYANT - DIRECT BY MR. MEADORS

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1 Q And where did you go to high school?

2 A Beaufort High, Battery Creek, but I got my GED
3 when I was at Lee Correctional.

4 Q Beaufort High, Battery Creek, but you got your
5 GED where?

6 A When I was at Lee Correctional Institution.

7 Q And that's a prison?

8 A Uh-huh.

9 Q When did you get your GED?

10 A Last year, September.

11 Q Tell the jury if you've got any family?

12 A Yes. I have a grandmother that's a hundred. I
13 have two sisters and a brother, three kids.

14 Q Two sisters?

15 A Uh-huh.

16 Q Where are they living?

17 A One of them live in Norfolk and one of them
18 live in Beaufort.

19 Q The one in Norfolk, what do they do?

20 A She's in the Navy.

21 Q And the other one's in Beaufort?

22 A Uh-huh. She's a chemistry teacher.

23 Q You said you have a brother?

24 A Uh-huh. He works for the Government.

25 Q Where?

1 A In Beaufort.

2 Q Now, when did you leave Beaufort?

3 A In 1998.

4 Q 19 what?

5 A 1998.

6 Q Where did you go?

7 A To Columbia.

8 Q And who did you live with when you came to
9 Columbia?

10 A My aunt.

11 Q And prior to leaving Beaufort, did you work
12 any?

13 A Yes. I worked at fast food, at a grocery store
14 and in my mother's beauty salon.

15 Q And that's in Beaufort?

16 A Yes.

17 Q And when you came here in '98, did you work at
18 any fast foods here?

19 A Yes.

20 Q Burger King?

21 A Burger King on Devine.

22 Q And after you came to Columbia, did you have an
23 occasion to go up to Virginia?

24 A Excuse me?

25 Q Did you go up to visit your sister?

1 **A** After I came back, yeah.

2 **Q** You came back in '98, but you ended up going
3 back to Beaufort?

4 **A** Yes.

5 **Q** When was that?

6 **A** '98, it was just in a couple of months time
7 frame.

8 **Q** Who did you stay with when you went back to
9 Beaufort?

10 **A** My grandmother.

11 **Q** Did your aunt have a shop?

12 **A** My aunt and my mother have a beauty shop
13 together.

14 **Q** Together, okay. Come here in '98 and go back
15 to Beaufort in '98. And did you have an occasion to
16 come back to Columbia?

17 **A** Excuse me?

18 **Q** Did you have an occasion to come back to
19 Columbia?

20 **A** When I came back in 2001.

21 **Q** And you mentioned Lee Correctional. Were you
22 charged with drug charges from 1998?

23 **A** Yes.

24 **Q** Did you plead to distribution of crack cocaine
25 later on after that?

1 A Yes.

2 Q Was that in 2003?

3 A 2003.

4 Q All right. Tell these folks did you get a --
5 you said you were in Lee, what kind of sentence did
6 you get for that?

7 A I got a two year sentence and I did a year off
8 of it.

9 Q You got a what year sentence?

10 A Two year sentence.

11 Q And you did how much off of it?

12 A A year.

13 Q And is that when you got your GED?

14 A Yes.

15 Q All right. Where is Lee?

16 A It's in Greenwood, South Carolina.

17 Q Tell the folks do you know Carmen Rice, the
18 defendant in this case?

19 A Yes.

20 Q And you're charged in this case also, aren't
21 you?

22 A Yes, I am.

23 Q You're charged with murder and armed robbery?

24 A Yes.

25 Q Now, when did you meet Carmen Rice?

IRIS RENEE BRYANT - DIRECT BY MR. MEADORS

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1 **A** October of 2001.

2 **Q** That's the date we've got up here on the board,
3 right?

4 **A** Yes.

5 **Q** Okay. And as a reference point, do you
6 remember 9/11?

7 **A** Yes.

8 **Q** And are you saying you met her after 9/11?

9 **A** Yes, I did.

10 **Q** Can you tell the folks where you met Carmen
11 Rice, if you remember?

12 **A** I met her at Allen Benedict Court. It's an
13 apartment complex off of Oak Street by Benedict.

14 **Q** Right near Benedict?

15 **A** Uh-huh.

16 **Q** And do you remember where in Allen Benedict
17 Court you met her?

18 **A** She was hanging out with some girls from
19 Benedict, one of them name was Tip. And they was
20 like living in the N building.

21 **Q** N as in Nancy?

22 **A** Uh-huh.

23 **Q** And after you met the defendant, Carmen Rice,
24 you say in October of 2001, did you have an occasion
25 to see her more than one time?

1 A Yes.

2 Q And how often would you see her?

3 A About for the time frame that I met her, I'd
4 say about a good 15, 16 times.

5 Q And did you ever meet a fellow named Bernard
6 Brennan?

7 A Yes.

8 Q And can you tell the jury where you met
9 Mr. Brennan?

10 A At the Hot Spot off of Farrow Road.

11 Q Hot Spot off of Farrow Road?

12 A Yes.

13 Q And, at that point, did he introduce himself to
14 you?

15 A Yes.

16 Q Did you have an occasion to see Mr. Brennan
17 again?

18 A Yes, at the car wash across the street from the
19 Hot Spot.

20 Q And is there any eating establishment near
21 there?

22 A Eating?

23 Q Eating, yeah. Fast food?

24 A Hardee's.

25 Q Okay. And that was the second time you had

IRIS RENEE BRYANT - DIRECT BY MR. MEADORS

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1 seen Mr. Brennan?

2 **A** Yes.

3 **Q** Did you see him again?

4 **A** Yes, I seen him a third time.

5 **Q** Where is that?

6 **A** At Vet's Hair Salon.

7 **Q** At Vet's what?

8 **A** Hair salon.

9 **Q** Where is that?

10 **A** That's right across from the Hot Spot.

11 **Q** Did you see him a fourth time?

12 **A** Yes.

13 **Q** And that's the night when?

14 **A** The night he got killed.

15 **Q** With all due respect to those in the courtroom,
16 after you met Mr. Brennan, was there phone numbers
17 passed?

18 **A** Yes.

19 **Q** And did you ever have an occasion to be with
20 Mr. Brennan?

21 **A** Like?

22 **Q** Go out with Mr. Brennan prior to this evening?

23 **A** No.

24 **Q** Do you know whether or not Ms. Carmen Rice had
25 the opportunity to meet or get to know Mr. Brennan?

1 A Very well. I passed the number to her.

2 Q So you gave the number from Mr. Brennan that he
3 had given to you to Ms. Rice?

4 A Yes.

5 Q And as a result of that, did Ms. Rice begin to
6 get to know Mr. Brennan?

7 A Yes.

8 Q Now, if we could move to October 25th, 2001,
9 you remember the night this all happened, don't you?

10 A Yes.

11 Q And, specifically, can you tell the jury, did
12 you have an occasion to see Carmen Rice this day?

13 A Yes.

14 Q Tell them how you got with her.

15 A Carmen, her other friend, Amber, and her son
16 came and picked me up from my friend's house -- my
17 friend's mother's house, told me that Bernard was
18 going to be taking us out and get something to eat.
19 I didn't think no more of it, you know. We stopped
20 by the Hot Spot, got a cigar to smoke a blunt, went
21 downtown to the Varsity, went in there, came out,
22 went to another place, went to Calloways, she got
23 something to eat, got in the car and went on
24 Fairfield Road.

25 Q Let me stop you there. Did you know where

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1 Carmen Rice was living at?

2 A Yes.

3 Q I'm going to show you what's marked State's 37.

4 Do you recognize this?

5 A Yes.

6 Q If this is Two Notch -- the corner of Two Notch
7 and Chestnut, what's this over here?

8 A Anthony's.

9 Q Where is her house in relation to Anthony's?

10 A (Indicating).

11 Q Had you been to that house a lot?

12 A Yes.

13 Q And where were you staying?

14 A I was staying down Tiffany Gardens.

15 Q How far is that from here?

16 A Hum...

17 Q If you were to leave 2124 Braham to go to your
18 house, how would you do it?

19 A My aunt's house.

20 Q Your aunt's house. I'm sorry.

21 A I would walk up Chestnut.

22 Q Okay. Then do what?

23 A Go straight up and make a left on Barneville.

24 Q So it's that close?

25 A Uh-huh.

1 Q And during this time period of October 2001,
2 how often would you go over to where Carmen was
3 staying?

4 A A couple -- a period of times, I will -- they
5 sold weed sometimes, some period of time.

6 Q Was anybody else staying with her there?

7 A Her father and her little boy.

8 Q You said the little boy's name earlier. I
9 can't remember. Do you remember what his name was?

10 A Shawn.

11 Q Shawn. So you testified you'd been to Varsity,
12 I think, and maybe somewhere else, then you went to
13 Calloways?

14 A Yes.

15 Q Had you ever been to Calloways before?

16 A No.

17 Q Do you know where Calloways is?

18 A Off of -- once you go downtown, you keep going
19 down, then it will be on the right somewhere.

20 Q Never been there before?

21 A No.

22 Q And what were you wearing?

23 A I was wearing a gray hoody and some jeans.

24 Q And what was the defendant, Carmen Rice,
25 wearing?

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1 A Some jeans and an orange pullover sweater.

2 Q And after you left Calloways, and I don't want
3 to interrupt you again, who was in the car?

4 A Me, Carmen and Bernard.

5 Q And where was Bernard?

6 A In the front seat.

7 Q He was driving?

8 A (Witness nodded head.)

9 Q And where were you sitting?

10 A In the passenger seat.

11 Q And where was the defendant, Carmen Rice?

12 A Behind Bernard.

13 Q What kind of car were y'all in?

14 A A Mercedes.

15 Q How did you get from Calloways -- how did you
16 leave Calloways?

17 A In the car, in the Mercedes.

18 Q That's a terrible question. Where did you go,
19 specifically? Did you get on the highway or go back
20 through Columbia?

21 A We got on the interstate.

22 Q And once you got on -- is that what interstate,
23 I-20?

24 A Yes.

25 Q After you got on the interstate, where did

1 y'all go?

2 A Off of Fairfield Road Exit.

3 Q And, at that point, when you got off Fairfield
4 Road Exit, where did you go?

5 A We went down the second road that was on the
6 right, which is Crawford.

7 Q And what time of night was it?

8 A Around 9:00, 9:30.

9 Q I want you to tell the jury, and you're taking
10 a right down Crawford Road, tell them what happened?

11 A We're riding, you know, and -- we're riding
12 down the street, right. We were listening to music
13 because I'm changing like the C.D. player. Carmen
14 lit a cigarette. And then he was like nobody can
15 smoke in his car. So when I turned around to tell
16 her, she had a gun out, you know what I'm saying,
17 she had -- a gun was out. I told her, I ain't want
18 to be a part of that. She just looked at me,
19 pointing the gun at his head and was like, Stop the
20 car, you know what I'm saying, let her out.

21 By this time, I mean, you don't hardly ever see
22 no man scared, you know. This man was scared. This
23 man was literally crying or whatever.

24 When I got out of the car, I didn't even have
25 time to shut the door, there were some words. I

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1 heard some shots. The car started rolling. It
2 stopped. She got out, shot some more, like twice,
3 told me to stand by the trunk.

4 I was crying, you know what I'm saying, because
5 if you would have seen it, I mean, there was nothing
6 I could do. I mean, I couldn't help this man, not
7 -- if you would have seen it, it would have made
8 anybody cry, you know what I'm saying, scared. I
9 ain't never seen nobody die. I ain't never seen
10 nobody die, you know what I'm saying. He was just
11 in the car like, why she did that, whatever.

12 Then she started wiping the car down, took his
13 wallet, was like, Come on, you know what I'm saying.
14 The whole time I'm scared, this girl got a gun, you
15 know. I just seen what she could do. She told me
16 to come on. We got in the woods. She made -- she
17 made me run. We ran down another street.

18 Q You said she wiped down the car?

19 A Yeah.

20 Q What was she wiping it down with?

21 A A handkerchief.

22 Q What, if anything, did she say to you after she
23 shot him when you were out of the car?

24 A Told me to toughen up when I was crying.

25 Q Told you to toughen up?

1 A (Witness nodded head.)

2 Q Who took the money?

3 A Carmen.

4 Q How did you get from the car -- well, where did
5 you go?

6 A I was standing by the trunk.

7 Q After she got the money?

8 A We went in the woods.

9 Q Were you walking?

10 A Running.

11 Q Were you keeping up with her?

12 A Not barely at first.

13 Q Did she say anything to you?

14 A Yeah. She told me to come on, was I down and
15 was I going to talk. I told her, No, wasn't going
16 to say nothing.

17 Q Tell these folks how you got from the car --
18 where did you go from the car? You said you're
19 walking, running, I don't -- what were you doing?

20 A Well, we started running. It's like it was
21 some bushes. We went through the bushes. She threw
22 the wallet down a drain storm, threw the bullets
23 down one.

24 Then there was another street. We had to jump
25 a fence, went across an interstate. I mean, like

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1 cars is coming, you know what I'm saying,
2 18-wheelers, you know, pressing on breaks and we're
3 just running across the interstate, jumped the wall,
4 run up the ramp. We got to the store on Fairfield
5 Road, the Exxon.

6 Q Where did the wallet go?

7 A In the drain storm.

8 Q As you're running down Crawford -- and you need
9 to speak in there when you answer, if you don't mind
10 okay? Do you recognize this is Crawford Road?

11 A Yes.

12 Q And you recognize this is the interstate?

13 A Yes.

14 Q Does this help you? Can you show the jury how
15 y'all got from where y'all shot Bernard Brennan to
16 over the interstate?

17 A We ran through these woods, up this street.

18 Q Payne Street?

19 A Yes. And through this backyard, through this
20 back -- through this backyard to this -- jump the
21 fence and crossed the interstate.

22 Q And when you crossed the interstate, what did
23 you do?

24 A We ran across the interstate.

25 Q I understand that. I mean, but where did you

1 go after you crossed the interstate?

2 A It was another ramp and then to the Exxon.

3 Q And was there anything in the gun?

4 A Was there anything in the gun?

5 Q Were there any shells or...

6 A She threw the shells down a drainpipe.

7 Q Down the drainpipe?

8 A (Witness nodded head.)

9 Q Was that before you crossed the interstate?

10 A Yes.

11 Q Where are the drainpipes?

12 A Off of Payne.

13 Q When you got -- did you get to the Exxon?

14 A Yes.

15 Q Where did y'all go from there?

16 A Somebody she knew gave us a ride.

17 Q Who was that person?

18 A It was an older man she knew.

19 Q What kind of vehicle was it?

20 A A black Trans Am.

21 Q Did you know the person?

22 A No. We went up Fairfield Road to Columbia

23 College around the Hot Spot up by Powell Court,

24 Palmetto Terrace by C.A. Johnson. We made a right

25 and then an immediate left by the school and went

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1 straight on down to her house from there.

2 Q To Braham?

3 A Yes.

4 Q And, specifically, when you got down to Braham,
5 where did this fellow -- where did the fellow drop
6 you off?

7 A At Anthony's.

8 Q Back on State's 37, point out Anthony's?

9 A (Indicating).

10 Q Dropped you off at Anthony's?

11 A Yes.

12 Q Anthony's was closed that time of night, wasn't
13 it?

14 A Yes.

15 Q What, if anything, happened at Anthony's?

16 A What, if anything happened?

17 Q Anything happen with clothes?

18 A Yeah.

19 Q Tell them about it.

20 A She took off her wig, her orange sweater and
21 her jeans and threw them in this oil container
22 behind Anthony's. And she had on some more clothes
23 under it. And then from there, we walked to her
24 house, which is right around the corner like a five
25 minute walk.

1 Q Well, if this is Anthony's you pointed out,
2 that's her house?

3 A Yes.

4 Q You walked from there to there?

5 A Yes.

6 Q You know -- do you know -- do you know Amber
7 and Cynthia?

8 A Yes.

9 Q Did you see them that night?

10 A Yes, I did.

11 Q And do you know what, if anything, Amber was
12 doing with Shawn?

13 A She was supposed to have been baby sitting
14 Shawn.

15 Q Baby sitting Shawn?

16 A Uh-huh.

17 Q And you said -- who else was there, if anybody,
18 at the house?

19 A At the house that night was her dad and this
20 dude. And Carmen called Amber from the pay phone
21 and asked her to come pick her up and then take her
22 to get a room. She wasn't there when we got there.
23 And maybe about ten minutes, she came back to the
24 house with Shawn and her girlfriend and picked
25 Carmen up.

1 Q Describe what you were thinking. Tell these
2 folks when you turned down -- Ms. Bryant, when you
3 turned down the road, after you got on Fairfield
4 Road, you're turning down Crawford, what's going
5 through your mind, tell them?

6 A I'm thinking we're going to somebody's house.

7 Q You knew money was going to be taken from him
8 that night, didn't you?

9 A Yes. I knew she was going to go to the hotel,
10 do something with the Visine and take his money, you
11 know, it's supposed to make you sleep. She's going
12 to take his money.

13 Q You knew he was going to -- his money was going
14 to be taken that night, didn't you?

15 A Yes, I did know.

16 Q No doubt about that, is it?

17 A No.

18 Q Did you know a gun was going to be involved?

19 A No, I didn't.

20 Q Where did she work during this time period?

21 A She was a security guard.

22 Q Did she have a gun as a part of that business?

23 A Yes.

24 Q Did you see it?

25 A Yes.

1 Q Is that the gun you saw that night?

2 A Yes.

3 Q How much of this money did you get?

4 A She didn't give me nothing. I didn't even have
5 cab fair to leave her house.

6 Q Had you seen Bernard Brennan with a lot of cash
7 earlier?

8 A Yeah.

9 Q How had you seen it?

10 A He was flashing it.

11 Q Did you know that Bernard carried a lot of
12 cash?

13 A No, not till I seen it.

14 Q Prior to that night, the defendant, Carmen
15 Rice, had been out with Mr. Bernard Brennan before?

16 A Yes.

17 Q Did you go tell anybody what happened?

18 A Yes, I did.

19 Q Who did you tell?

20 A I told this boy named Peanut, Nathaniel
21 Hallman.

22 Q Peanut?

23 A Yes.

24 Q Did you tell the police?

25 A No.

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1 Q Did you tell the police in 2001? Did you tell
2 them?

3 A No.

4 Q Did you ever tell the police before they came
5 and talked to you?

6 A (Witness shook head.)

7 Q Why didn't you do that?

8 A I was scared, scared of going to jail for
9 murder, scared of --

10 Q You were part of it, weren't you?

11 A No.

12 Q Well, you were there?

13 A Yes, I was there.

14 Q You knew he was going to be robbed?

15 A Yeah, but not with no -- not with no gun.

16 Q And you said the Visine, I think, you said
17 earlier?

18 A Yes.

19 Q Explain that to me.

20 A It was just something that some girls do. They
21 drop a couple of -- drop some Visine in your drink,
22 supposed to make you sleep.

23 Q And that's what you thought she was going to do
24 that night?

25 A Yes.

1 Q And why did you think that?

2 A Because she told me.

3 Q And that's when you thought he was going to be
4 robbed?

5 A At the motel.

6 Q And you talked to Stan Smith and some police
7 officers in this case, didn't you?

8 A Yes.

9 Q And I believe you talked to them on several
10 occasions?

11 A Yes, I did.

12 Q On July 25th of 2003, do you remember talking
13 to them?

14 A Yes.

15 Q And, at that point, you didn't tell them
16 anything, did you?

17 A No.

18 Q And on July 28th, 2003, did you admit knowing
19 Peanut?

20 A (Witness nodded head.)

21 Q And, at that point, did you know Peanut had
22 talked to Stan?

23 A (Witness nodded head.)

24 Q But you didn't tell them anything else about it
25 then, did you?

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1 **A** (Witness shook head.)

2 **Q** Please, ma'am, say yes or no.

3 **A** No.

4 **Q** And on August 6th, 2003, did you then admit you
5 knew Carmen?

6 **A** Yes, I did.

7 **Q** Did you tell him in August of 2003 that you
8 were present when Bernard Brennan got shot?

9 **A** Yes.

10 **Q** No, you didn't tell him in August 6th, 2003.

11 **A** August the 25th was the last -- when I told --

12 **Q** August 6th?

13 **A** No, I didn't.

14 **Q** Did you tell him you knew there was going to be
15 a robbery, but you denied being there?

16 **A** Yes.

17 **Q** You didn't tell him the truth then, did you?

18 **A** No.

19 **Q** And on August 25th, did you finally admit to
20 him --

21 **MR. MOBLEY:** Your Honor, I object. He's
22 leading this witness through all of this testimony.

23 **MR. MEADORS:** Your Honor, respectfully, I don't
24 think I've been leading at all. I'm trying to
25 direct her statements here and I asked her did she

1 or didn't she.

2 **THE COURT:** Anything else as to that?

3 **BY MR. MEADORS:**

4 **Q** Just on August 26th -- 25th, did you or did you
5 not admit to being there?

6 **A** Yes, I did.

7 **Q** And in August 25th, did you tell Stan there had
8 been somebody else in the car, too?

9 **A** Yes.

10 **Q** Who did you tell him that was?

11 **A** Nikki.

12 **Q** So, at that point, you had how many people in
13 the car?

14 **A** Three.

15 **Q** Plus Mr. Brennan?

16 **A** Yeah.

17 **Q** Was that true?

18 **A** No.

19 **Q** Why did you not tell him anything to start with
20 and then tell him these different things?

21 **A** Because I was scared. The only witness that --
22 the only other witness was dead and I was scared to
23 get caught up in this, you know. I feel bad,
24 especially -- I know it's been hard for you. It's
25 been hard for me, too. I might not grieve the way

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1 you think, but I did grieve. I'm sorry that I was a
2 coward and didn't come forward, but I hope that you
3 can forgive me. If not now, then some time. That I
4 -- I'm planning to back all the consequences that
5 can happen to me so that you can have peace. And I
6 hope that this week you'll have peace. And I'm so
7 sorry. I really am.

8 **Q** Is the woman -- excuse me -- the person that
9 was in the car with you the late night hours of
10 August 25th, 2001, that was with you and Mr. Brennan
11 in this courtroom?

12 **A** Yes.

13 **Q** Is the person that was there with you when
14 Mr. Brennan was shot in this courtroom?

15 **A** Yes.

16 **Q** And tell the ladies and gentlemen of the jury
17 is the person that shot Mr. Brennan, while you were
18 in the car, in this courtroom?

19 **A** Yes.

20 **Q** Would you point her out if they're here for the
21 jury?

22 **A** Carmen, with the white shirt (indicating).

23 **MR. MEADORS:** I would like the record to so
24 reflect.

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

1 **MR. MEADORS:** Thank you. That's all we have.

2 **THE COURT:** Thank you, Mr. Meadors.

3 Mr. Mobley.

4 **MR. MOBLEY:** Thank you, Your Honor. May it
5 please the Court. Your Honor, can we approach?

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

7 (Whereupon, a bench conference was held off
8 the record, in the presence of the jury, but out of
9 the hearing of the jury.)

10 **THE COURT:** Ms. Bryant, let me ask you, ma'am,
11 do you need to take a short break before you
12 continue?

13 **THE WITNESS:** I'm okay.

14 **THE COURT:** You're ready to go forward?

15 **THE WITNESS:** Yeah.

16 **THE COURT:** Okay. Mr. Mobley.

17 **MR. MOBLEY:** All right. Your Honor, May it
18 please the Court.

19 CROSS-EXAMINATION

20 BY MR. MOBLEY:

21 **Q** Would you like some water?

22 **A** Yes, please.

23 **MR. MOBLEY:** Your Honor, may I?

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

25 **THE WITNESS:** Thank you.

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1 BY MR. MOBLEY:

2 Q Ms. Bryant, I want to ask you a few questions.
3 Now, the first time you talked to law enforcement
4 about this was November of 2003; is that correct?

5 A The first time I gave a statement?

6 Q To the investigators.

7 A No, that's not --

8 Q I'm sorry. July of 2003?

9 A Yes.

10 Q Yes?

11 A Yes.

12 Q Was that a written statement?

13 A Yes.

14 Q You signed a written statement?

15 A Yes.

16 Q And have you had a chance to look at a copy of
17 that statement?

18 A Yes. I have a copy.

19 Q Okay. You have a copy. And do you recall when
20 you gave that statement, they told you you were
21 under oath?

22 A Yes.

23 Q Just like you're under oath today?

24 A Yes.

25 Q Okay. And at the time you gave that statement,

1 did you know what under oath meant?

2 A Yes.

3 Q Okay. Does it mean the same thing then that it
4 means today?

5 A Yes, it does.

6 Q Okay. And what does that mean?

7 A To tell the truth.

8 Q That means you're swearing to tell the truth.
9 You're swearing or affirming that what you're saying
10 is the truth; is that correct?

11 A Yes.

12 Q And at the time you made that statement, that's
13 what you were saying?

14 A Yes.

15 Q And part of that is -- I mean -- well -- so in
16 that statement, you knew they were asking you about
17 the murder of Bernard Brennan; is that correct?

18 A Yes.

19 Q And when you were under oath and asked about
20 that statement, asked about whether or not you knew
21 anything about the murder, you stated you did not;
22 is that correct?

23 A Yes, I did.

24 Q So at the time you were under oath and made
25 your statement to law enforcement, are you saying

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1 that you lied with respect to that statement?

2 **A** Yes, I did lie.

3 **Q** They also asked you about going to Crawford
4 Road, is that correct, in that statement?

5 **A** Yes.

6 **Q** And I think you indicated you'd never been to
7 Crawford Road; is that correct?

8 **A** Yes.

9 **Q** And was that a lie?

10 **A** Yes.

11 **Q** So you lied under oath the second time in that
12 same statement, correct?

13 **A** Yes.

14 **Q** And they asked you about whether or not anyone
15 had shown you a lot of cash; do you recall that?

16 **A** Yes.

17 **Q** Have you seen a lot of cash?

18 **A** Yes.

19 **Q** And what was your answer to that?

20 **A** Yes.

21 **Q** That you had seen or you had not?

22 **A** That I did.

23 **Q** In that first statement, you said you'd seen
24 someone with a lot cash?

25 **A** I think.

1 Q They asked you if you showed someone a lot of
2 cash; do you recall that?

3 A Yes.

4 Q Okay. And what was your answer to that?

5 A No.

6 Q Now, they also asked you whether or not you
7 even knew Bernard Brennan, correct?

8 A Yes.

9 Q Okay. And what was your answer to that
10 question?

11 A No.

12 Q Was that the truth or was that a lie?

13 A That was a lie.

14 Q And you knew you were under oath, correct?

15 A Yes.

16 Q In that statement during that interview on July
17 of 2003 when you were under oath, did you ever
18 mention Carmen Rice?

19 A No.

20 Q After that statement, I believe you actually
21 initiated more contact with investigators, correct?

22 A Yes.

23 Q All right. I just ask you to make sure you
24 speak audibly so the microphone can pick up your
25 responses, okay?

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1 A All right.

2 Q And, in that statement, you were under oath
3 again; is that correct?

4 A Yes.

5 Q Let me back you up. So that July 3rd statement
6 that you gave that you were under oath, that entire
7 statement was a lie; is that correct?

8 A Yes, it was.

9 Q During that entire time -- how long did you
10 talk to investigators that day?

11 A Thirty minutes.

12 Q For 30 minutes, while you were under oath just
13 like you are today, you sat there and lied to
14 investigators is what you're saying?

15 A Yes, I did.

16 Q Now, you initiated contact with them again on
17 August 6th; is that correct?

18 A Yes.

19 Q Or around August 6th?

20 A Yes. I phoned them.

21 Q And said you wanted to tell them some more
22 information, correct?

23 A Yes.

24 Q All right. And they obviously were glad to
25 hear it, right? Or were -- would welcome the

1 opportunity to talk to you, correct?

2 A Yes.

3 Q Because they were trying to solve a crime. And
4 when you gave them that statement, you, once again,
5 were put under oath; is that correct?

6 A Yes.

7 Q Okay. It meant the same thing on August 6th
8 that it meant on July -- in July of 2003 and that it
9 means today, correct?

10 A Yes, it does.

11 Q That you're supposed to tell the truth?

12 A Yes.

13 Q That you're swearing or affirming to tell the
14 truth. And you gave some details that were
15 different than the previous statement; is that
16 correct?

17 A Yes.

18 Q You talked about Carmen for the very first
19 time, correct?

20 A Yes.

21 Q Okay. And you told them that you lied in the
22 previous statement, correct?

23 A Yes.

24 Q And you also told them about this girl named
25 Ashley?

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1 A Yes.

2 Q And you told them that you smoked weed with
3 Ashley on -- they asked you about the events of
4 October of 2001, correct?

5 A Yes.

6 Q And they asked you if you smoked and you said
7 that you and Ashley smoked weed that night, correct?

8 A That day.

9 Q That day.

10 A Yes.

11 Q Weed being marijuana?

12 A Yes.

13 Q Okay. Was that true or was that a lie?

14 A Yes, that was true.

15 Q Okay. So you and Ashley were smoking marijuana
16 that day?

17 A Yes, we was.

18 Q Now, the person that you described as Ashley,
19 did you later identify her as somebody else?

20 A Amber.

21 Q Okay. So you were -- how would you describe
22 your relationship with Amber?

23 A There was no relationship. I met her through
24 Carmen.

25 Q But you -- I mean, you smoked weed with her at

1 some point?

2 **A** Yeah, but that's not a relationship, that's
3 just a -- we just smoked -- we just smoked social.
4 It wasn't nothing personal. I didn't know nothing
5 about Amber.

6 **Q** All right. But you got together and smoked
7 weed with her, or marijuana with her?

8 **A** Yes.

9 **Q** Did you do any other drugs with her?

10 **A** No.

11 **Q** Did you, yourself, do any other drugs at all
12 during that time period?

13 **A** No.

14 **Q** You didn't do any ecstasy?

15 **A** Just weed.

16 **Q** Now, in that statement in August of 2003, when
17 you're speaking to investigators, when they're
18 talking to you about what happened and asking you
19 about what happened, they asked you about Bernard
20 Brennan again, correct?

21 **A** Yes.

22 **Q** Did you tell them you didn't know him?

23 **A** On the August 6th statement? Yes, I think I
24 did. I can't recall the statement. It was a lie.
25 I can't remember it.

1 Q All right. So you lied again in that state --
2 when they asked you about that?

3 A Yes.

4 Q And you also told them that -- in October of
5 2001, you told them that you were with Ashley and
6 Carmen and some other girl named Nikki, correct?

7 A Yes.

8 Q Okay. Now, was that the truth or was that a
9 lie?

10 A That was a lie.

11 Q Under oath?

12 A Yes.

13 Q And then you told them that you and Ashley left
14 Carmen at Calloways with this other girl; is that
15 correct?

16 A Yes.

17 Q Okay. So was that the truth or was that a lie?

18 A It was a lie.

19 Q And then you told the investigators that
20 Ashley, after she dropped Carmen and this other
21 person, Nikki, off, that she dropped you off
22 somewhere else; is that what you told investigators?

23 A Yes, I did.

24 Q Okay. Now, was that the truth or was that a
25 lie?

1 A It was a lie.

2 Q And you also told them that you didn't see
3 Carmen anymore that night; is that correct?

4 A Yes.

5 Q Now, was that the truth or was that a lie?

6 A It was a lie.

7 Q And then, in this same statement in August when
8 you're talking to investigators, you told them that
9 Ashley discussed the whole crime with you and gave
10 you details about the crime; is that correct?

11 A Yes.

12 Q Was that the truth or was that a lie?

13 A It was a lie.

14 Q And I think in that same statement you talked
15 to investigators, you gave a description of this
16 person that was Nikki, correct?

17 A Yes.

18 Q And you said the girl was lighter than you,
19 correct?

20 A Yes.

21 Q Okay. And you said that her -- you gave a
22 description of her hair, right?

23 A Yes.

24 Q You said she had sandy brown hair?

25 A Yes.

1 Q And you also gave a description of her build,
2 correct?

3 A Yes.

4 Q You said she was tall, correct?

5 A Yes.

6 Q You said this girl that was with Carmen was
7 thick?

8 A Yes.

9 Q And you said she had a big butt?

10 A Yes.

11 Q So now what you're saying is -- I'm asking you,
12 are you -- was what you said then the truth or was
13 that a lie?

14 A It was a lie.

15 Q In October of 2003 -- I'm sorry -- on August
16 25th, did you have a chance to give them another
17 written statement?

18 A August 25th?

19 Q Yes.

20 A Yes.

21 Q How did that come about?

22 A I called them.

23 Q So you called them a second time?

24 A A third time.

25 Q A third time to give them more information?

1 A Yes.

2 Q So what you're saying, I guess, just so we're
3 clear, during that second conversation on August
4 6th, about how long did you meet with the
5 investigators? How long did you talk to them?

6 A That second time?

7 Q Correct.

8 A Not long. I can't remember the exact time
9 frame, but --

10 Q Was that at the Richland County Sheriff's
11 Department?

12 A Yes.

13 Q But the entire time you met with them, you're
14 saying you were lying that entire time?

15 A Yes.

16 Q So then -- so even though you called them to
17 give them more information, what you gave them was
18 more lies is what you're saying?

19 A No. Actually, I was scared. And I was telling
20 them, you know, basically, who did it. I just
21 didn't involve myself.

22 Q Okay. But you gave a lot of lies in that
23 statement, correct? You just didn't leave yourself
24 out. It's not -- you just didn't tell them what
25 happened and leave yourself out, you gave specific

1 details about somebody else, correct?

2 A Yes.

3 Q And that was a lie is what you're saying,
4 correct?

5 A Yes.

6 Q So you didn't just leave yourself out. It's
7 not as simple as that, correct?

8 A Correct.. The whole -- the three statements was
9 all lies, everything.

10 Q So on August 25th, you called investigators
11 again?

12 A Yes.

13 Q And said, Hey, I got more great information I
14 want to give you or more information I want to give
15 you about this case?

16 A Yes.

17 Q And I think -- so you go to talk to them and
18 what do you tell them about the relationship between
19 Ashley and Amber?

20 A That they was lesbian lovers.

21 Q I mean, I'm sorry. Ashley and Carmen?

22 A That they was lesbian lovers.

23 Q And you told the investigators that Candy, who
24 you later -- I mean, what were you calling Carmen at
25 that time?

1 A Candy.

2 Q You were calling her Candy?

3 A Yes.

4 Q You weren't calling her Carmen during that
5 statement?

6 A Yeah.

7 Q You were calling her Candy and Carmen?

8 A Yes.

9 Q So -- but on the August 25th statement that you
10 initiated again with investigators -- and just so
11 we're clear, you were under oath in that statement
12 as well, correct?

13 A Yes, I was.

14 Q Okay. And on August 25th of 2003, did being
15 under oath mean the same thing that it meant in July
16 of 2003, did it?

17 A Yes.

18 Q Okay. And that being under oath on August 25th
19 be the same thing that it meant on August 6th of
20 2003?

21 A Yes.

22 Q And when you're under oath on August 25th, does
23 that mean the exact same thing that it means today?

24 A Yes, it do.

25 Q Which means you're supposed to tell the truth,

1 correct?

2 A Yes.

3 Q And that's what you swore. In that August 25th
4 statement where you were supposed to tell the truth
5 a third time, you told the investigators that Candy
6 and this other girl went to meet Bernard Brennan; is
7 that what you told them?

8 A Yes.

9 Q Was that the truth or was that a lie?

10 A It was a lie.

11 Q And then you added something different to the
12 story, right, to this version? You added something
13 different to it. This is the first time you
14 actually put yourself in the picture for the crime
15 scene, correct?

16 A Yes.

17 Q And I think you described yourself was sitting
18 in the front seat and Carmen and this other person
19 sitting in the back seat?

20 A Yes.

21 Q Is that what you told them?

22 A That's what I told them.

23 Q Is that the entire truth or was that a lie?

24 A It was a lie.

25 Q You also went into some detail -- more detail

1 about the sequence of events that night regarding
2 the shooting, correct?

3 A Yes.

4 Q You describe what took place. You actually
5 stated you were not in the car at the time Bernard
6 Brennan was shot; is that correct?

7 A That's correct.

8 Q Okay. Now, was that the truth or was that a
9 lie?

10 A That was the truth.

11 Q And you also described hiding under a house
12 that was on Crawford Street; do you recall that?

13 A Yes.

14 Q You told investigators that, correct?

15 A Yes, I did.

16 Q Was that the truth or was that a lie?

17 A It was a lie.

18 Q And you talked about how you waited for about
19 an hour and a half, correct?

20 A Yes.

21 Q All right. Now, was that the truth or was that
22 a lie?

23 A It was a lie.

24 Q And you told the investigators that some boy,
25 some young kid or some boy walked up to you and

1 asked if you had been raped; is that what you told
2 them?

3 **A** Yes.

4 **Q** Now, was that the truth or was that a lie?

5 **A** It was a lie.

6 **Q** And then you told them that this boy gave you a
7 ride on his bicycle, correct?

8 **A** Yes.

9 **Q** And that you rode on his handle bars. He gave
10 you a ride back to your house and you sat on his
11 handle bars?

12 **A** Yes.

13 **Q** Was that the truth or was that a lie?

14 **A** It was a lie.

15 **Q** Then you also told the investigators that you
16 had another conversation with Ashley, right?

17 **A** Yes.

18 **Q** Ashley meaning Amber?

19 **A** Yes.

20 **Q** And you told the investigators that Amber
21 actually told you where the shells had been dropped,
22 correct?

23 **A** Correct.

24 **Q** And now you're saying is that the truth or is
25 that a lie?

1 **A** That was a lie.

2 **Q** So you're saying Amber didn't tell you where
3 the shells were dropped?

4 **A** No. I seen where the shells were dropped.

5 **Q** Now, they also asked you in that same statement
6 whether or not the previous statement you had given
7 except for the new details were true; do you recall
8 that?

9 **A** Yes.

10 **Q** And what did you tell them?

11 **A** I told them it was true.

12 **Q** So you lied again?

13 **A** Yes.

14 **Q** So, at this point, before your testimony today,
15 you gave a statement to investigators July 3rd?

16 **A** Yes.

17 **Q** In which you were under oath, correct?

18 **A** Correct.

19 **Q** Understanding it means you're swearing to tell
20 the truth?

21 **A** Yes.

22 **Q** And you lied completely during that statement
23 is what you're saying?

24 **A** Yes.

25 **Q** You're also saying that on your August 6th

1 statement, you met with the investigators, correct?

2 A Yes.

3 Q You were put under oath again?

4 A (Witness nodded head.)

5 Q Understanding that you swear to tell the truth,
6 correct?

7 A Yes.

8 Q And you lied to them again throughout the
9 entire statement, correct?

10 A Correct.

11 Q Not just about one small detail, correct?

12 A Correct.

13 Q When you talked to them on August 25th, you
14 were put under oath again. You met with
15 investigators, volunteering, just like you're doing
16 today, you're volunteering information to help out
17 today, right?

18 A Yes.

19 Q Just like you volunteered the other times. I
20 mean, they didn't contact you, you contacted them
21 the second and third time, right?

22 A Yes.

23 Q So they didn't ask -- they didn't come and ask
24 you to tell them or ask you for the help, you
25 volunteered this information, correct?

1 **A** Yes.

2 **Q** You volunteered this information and you still
3 lied about it?

4 **A** Yes.

5 **Q** When no one asked you?

6 **A** Yes.

7 **Q** No one put any pressure on you to try to come
8 forward, you contacted them and volunteered
9 information and it was a lie?

10 **A** Yes.

11 **Q** Now, when did you first meet Bernard Brennan?

12 **A** The beginning of October.

13 **Q** Was he driving a burgundy Taurus when you met
14 him?

15 **A** No, he wasn't.

16 **Q** Because you talked about -- when you talk about
17 what happened on this particular night -- well, let
18 me back up. So the version you gave today under
19 oath, did you ever tell the investigators that
20 during the investigation?

21 **A** The statement I gave today?

22 **Q** Yes.

23 **A** No.

24 **Q** So you talked to them three times under oath.
25 You never told them what you're telling the

1 courtroom today, correct?

2 A Correct.

3 Q What you're testifying to today. When was the
4 first time -- now, this event happened in October of
5 2001, correct?

6 A Yes.

7 Q Now, it's April of 2005?

8 A Yes.

9 Q This event happened three and a half years ago.
10 You'd given different statements to investigators on
11 multiple occasions, different details, different
12 facts, different versions. The version that you
13 testified to today, when was the very first time you
14 told anybody that version?

15 A Last week.

16 Q Last week?

17 A Yes.

18 Q Who did you tell that to?

19 A My lawyer and then Mr. Meadors and Lieutenant
20 Stan Smith.

21 Q And how did you come to tell them that
22 statement?

23 A How come I came to tell them?

24 Q How did you come to tell them? I mean, what
25 circumstances led you to give them that statement?

1 What was going on that day?

2 **A** Nothing. They knew it wasn't the truth.
3 Everybody seen this. They knew it wasn't the truth
4 when it wasn't the truth. I gave three statements.
5 I lied. I was scared. My --

6 **Q** What did they say to you --

7 **MR. MEADORS:** Your Honor, if she can finish her
8 testimony.

9 **MR. MOBLEY:** I'm sorry.

10 **THE COURT:** Ma'am, you can finish your
11 statement.

12 **THE WITNESS:** I was scared. I mean, every time
13 that I called I would give them little information,
14 you know what I --- I was scared. I didn't want to
15 put myself there. I came forward to tell the truth
16 because it's time. I mean, I can't keep living a
17 lie. I live with this every -- every night and
18 it --

19 **BY MR. MOBLEY:**

20 **Q** But the previous times you came forward, you
21 were put under oath and you lied those times as
22 well, correct?

23 **A** Yes, I did.

24 **Q** Now, Mr. Meadors asked you what Carmen Rice was
25 wearing and you described an orange pullover. Do

1 you recall that, saying that on direct examination?

2 **A** Yes.

3 **Q** This event happened three and a half years ago.

4 When was the very first time you described that
5 orange pullover to anybody?

6 **A** July, August, whatever statement --

7 **Q** To who?

8 **A** It was in the statement --

9 **Q** You described an orange pullover?

10 **MR. MEADORS:** Your Honor, if he'd let her
11 finish her testimony.

12 **THE COURT:** Yes, sir. Let her finish her
13 answer.

14 **THE WITNESS:** I did tell them what she had on
15 in one of my statements. I can't remember. I think
16 it was the August 6th statement.

17 BY MR. MOBLEY:

18 **Q** You recall saying she had an orange pullover?

19 **A** Yes.

20 **Q** Now, with respect to the time you arrived on
21 Crawford Road, you said that was about 9:30?

22 **A** 9:30 is when we left Calloways. About 9:30
23 that we left Calloways.

24 **Q** You left Calloways around 9:30?

25 **A** (Witness nodded head.)

1 Q About what time did you get to Crawford Road?

2 A What time did I get there? Probably about --
3 probably about almost two hours later, an hour and a
4 half later.

5 Q Okay. So you didn't get to Crawford Road until
6 about 11 o'clock?

7 A No. Crawford Road -- I'm sorry. No, we got
8 there -- the interstate was -- 15 minutes later.

9 Q All right. So you got to Crawford Road around
10 what time?

11 A Around 9:45, 9:40, about 9:45.

12 Q And you said when you left Crawford Road, you
13 said Bernard Brennan was dead at that time?

14 A Yes, he was.

15 Q Now, the statement about Carmen Rice wiping
16 down the seat, when was the first time you said that
17 to anybody?

18 A Last week.

19 Q Last week?

20 A Yes.

21 Q And just so we're clear, when you talked to
22 investigators last week, were you under oath then?

23 A Yes.

24 Q They put you under oath or did you just sit
25 down in the office and did you sign a document

1 saying you were under oath?

2 A No, but my lawyer -- my lawyer just told me to
3 tell the truth.

4 Q Okay. But you weren't put under oath at that
5 time, correct?

6 A Yes, I was. They asked -- yes.

7 Q How were you put under oath at that time?

8 A He asked me was this truth, the whole truth and
9 nothing but the truth.

10 Q Did you sign a written statement?

11 A No.

12 Q Now -- but from the standpoint of Iris -- I'm
13 sorry -- Carmen dropping the wallet down the drain,
14 when was the first time you said that fact to
15 anybody?

16 A Tuesday.

17 Q Tuesday this week?

18 A (Witness nodded head.)

19 Q So that's a new detail you didn't tell them
20 last week; is that what you're saying?

21 A Yes.

22 Q Okay. So when you talked with them last week,
23 you left some things out; is that what you're
24 saying?

25 A No. They knew about it last week. When I told

1 the truth, I told them everything.

2 Q Okay. I'm just trying to understand. I
3 thought you said -- and I'm not trying to put words
4 in your mouth, okay? When I asked you one of the
5 first times you told somebody about Carmen --

6 A The wallet.

7 Q -- you said Tuesday?

8 A That's what you asked me.

9 Q Yeah.

10 A Tuesday is when I told them the truth.

11 Q So between Tuesday last week or Tuesday this
12 week?

13 A Tuesday last week.

14 Q All right. And when was the first time you
15 described to anybody Carmen Rice dropping shells
16 down the drain?

17 A When was the first time? The second statement.

18 Q But you said Ashley said that?

19 A Yeah.

20 Q You didn't say Carmen Rice told you that,
21 correct? You witnessed that, right? You said
22 Ashley gave you some details about some shells being
23 dropped down the drain, correct?

24 A Yes.

25 Q And you also indicated or testified that Carmen

1 took her clothes and threw them away; is that what
2 you said today?

3 **A** Yes, that's what I said.

4 **Q** Before last week, did you tell anybody that?

5 **A** No.

6 **Q** And this thing about the Visine and -- and when
7 was the first time you told anybody that you thought
8 that she was going to put Visine in Bernard
9 Brennan's drink?

10 **A** I didn't actually use the word Visine, I used
11 rolling. And the first time was in the second
12 statement.

13 **Q** When was the first time you used the word
14 Visine?

15 **A** Last week.

16 **Q** Last week. And I think Mr. Meadors asked you
17 about the money and you said you didn't get any of
18 the money?

19 **A** Yes.

20 **Q** Who's Nathaniel Hallman?

21 **A** That's Peanut.

22 **Q** And you know Peanut?

23 **A** Yes, I know Peanut.

24 **Q** Do you recall calling Peanut that night in
25 October of 2001?

1 A Yes, he picked me up.

2 Q And you told him what happened, correct?

3 A Yes.

4 Q And you told Peanut that you and your cousin
5 robbed Bernard Brennan; is that correct?

6 A No, that's not correct.

7 Q That's not what you told Peanut?

8 A No, that's not what I told Peanut.

9 Q And didn't you also ask Peanut to take you back
10 to the vehicle where Bernard Brennan was shot so you
11 could get the jewelry?

12 A That's not true. We did ride back to the crime
13 scene because he didn't believe me that it happened.

14 Q But you asked him to take you back to the crime
15 scene?

16 A No, he didn't believe me. He wanted to go
17 back, but we did ride through there.

18 Q So you're saying you didn't tell him -- you
19 didn't ask him to take you back to get jewelry?

20 A No.

21 Q And you're saying you didn't tell him that you
22 and your cousin robbed Bernard Brennan?

23 A No.

24 Q Isn't it true that you also told Nathaniel
25 Hallman or Peanut that you and Tina split the money?

1 A Who is Tina?

2 Q Is that what you told him?

3 A No.

4 Q You didn't say you and your cousin, Tika, or
5 you and your cousin, Tina, shot Bernard Brennan?

6 A No.

7 Q And you didn't tell him that you and your
8 cousin split the money?

9 A No. He doesn't know who shot him.

10 Q You didn't tell him it was about a thousand
11 dollars?

12 A No.

13 Q Do you know Lamont Bostic?

14 A Yes, I do.

15 Q Isn't it true that prior to Bernard Brennan
16 driving this Mercedes, that he drove a Ford Taurus,
17 a burgundy Taurus?

18 A I wouldn't know.

19 Q You wouldn't know that. And when he drove that
20 burgundy Taurus, you didn't ask -- before he got the
21 Mercedes, didn't you ask Lamont Bostic to help you
22 rob Bernard Brennan before then?

23 A No, I didn't.

24 Q And he told you, no, he wouldn't do it?

25 A That's not true.

1 Q Do you know someone by the name of Arletta
2 Frierson?

3 A Who?

4 Q Arletta Frierson.

5 A Not right offhand.

6 Q Do you know somebody by the name of Alana
7 Quattlebaum?

8 A Yes, I do.

9 Q Who's Alana Quattlebaum?

10 A Carmen's friend.

11 Q Is she your cousin?

12 A My cousin? No, she's not.

13 Q But you had a chance to meet Alana Quattlebaum
14 when you were at the Alvin S. Glenn Detention
15 Center, correct?

16 A One -- the same Quattlebaum that you're talking
17 about is Carmen's friend that I'm separated from
18 because of Carmen who jumped on me about two weeks
19 ago.

20 MR. MOBLEY: The question is -- I move to
21 strike that, Your Honor, that was not a response to
22 my question.

23 MR. MEADORS: Your Honor, she answered the
24 question.

25 MR. MOBLEY: Well, I mean, just -- she can't

1 give any answer she wants. That's not how it's
2 supposed to work. She can answer --

3 **THE COURT:** Y'all are trying to figure out who
4 she is. I'm going to leave the answer in. Y'all
5 try to ask her some question directly so if you want
6 to talk -- so y'all can be sure she's talking about
7 the same person. I assume y'all know a little bit
8 about what y'all anticipate the answers are going to
9 be, but try and direct your question to narrow down
10 who you want her to answer --

11 BY MR. MOBLEY:

12 **Q** Isn't it true that you told Alana Quattlebaum
13 that Carmen --

14 **MR. MEADORS:** Objection to hearsay.

15 **MR. MOBLEY:** That's not hearsay.

16 **MR. MEADORS:** I'm sorry. What she told her. I
17 apologize.

18 **THE COURT:** Go ahead.

19 BY MR. MOBLEY:

20 **Q** Isn't it true that you told Alana Quattlebaum
21 that Carmen Rice was not there and was not involved
22 when you robbed Bernard Brennan and that it was you
23 and your cousin who shot Bernard Brennan?

24 **A** No, sir.

25 **Q** And didn't you tell the exact same thing to

1 Arletta Frierson when she was also at the detention
2 center with you that you -- that Carmen Rice was not
3 involved in that robbery, that you and your cousin
4 shot Bernard Brennan?

5 A Who is Frierson? Sir, these people don't even
6 -- I know Quattlebaum, like I said, she's Carmen's
7 friend. Me and this girl has a separation code at
8 the jailhouse. We cannot be, just like me and
9 Carmen has a separation code, we cannot be nowhere
10 around each other. We don't get along because of
11 Carmen. Three weeks ago I was jumped on by this
12 same girl because of Carmen. I pressed charges on
13 her. Me and Alana Quattlebaum don't have any words
14 to each other.

15 Q Do you know Alicia Wilder?

16 A That's her roommate.

17 Q Didn't you tell Alicia Wilder that I'll shoot
18 you like I shot that man?

19 A No, I did not, sir. And that's just words put
20 around that your client has told different people at
21 the jail.

22 MR. MOBLEY: I object, Your Honor. That's
23 nonresponsive to my question.

24 THE COURT: She's answering to the question.

25 MR. MOBLEY: She can say whether she did say it

1 or not.

2 THE COURT: I'll let the answer stand. I think
3 it's responsive to the question.

4 BY MR. MOBLEY:

5 Q Now, when you're put under oath in July of
6 2003, you say you lied because you were scared?

7 A Yes.

8 Q And you were put under oath on August 6th of
9 2003 and you said you lied under oath because you
10 were scared, correct?

11 A Yes.

12 Q And when you gave that statement under oath on
13 August 25th of 2003, you lied and you said because
14 you were scared; is that correct?

15 A Yes.

16 Q And right now you're facing -- you're charged
17 with murder; is that correct?

18 A Yes, but it's not about me.

19 Q Do you understand you're charged with murder?

20 A Yes, I understand I'm charged with murder.

21 Q And armed robbery?

22 A Yes.

23 Q You're scared today?

24 A Yes, but I'm putting that aside.

25 Q But the previous three times you were under

1 oath -- put under oath and -- put under oath and
2 swore to tell the truth because you were scared, you
3 lied?

4 A Yes.

5 MR. MOBLEY: That's all I have at this time,
6 Your Honor, from the witness.

7 MR. MEADORS: Beg the Court's indulgence.

8 THE COURT: Yes, sir.

9 (Pause.)

10 REDIRECT EXAMINATION

11 BY MR. MEADORS:

12 Q In July of August of 2003, were you more
13 worried about an oath or a murder charge?

14 A A murder charge.

15 Q What has Stan Smith -- by the way, last week
16 you said your lawyer was present?

17 A Yes, she was..

18 Q And she works for the public defender?

19 A Yes, she does.

20 Q Ms. Deborah --

21 A Ms. Deborah Ahrens.

22 Q She was in the room?

23 A Yes.

24 Q And you were told, in response to Mr. Mobley's
25 questions, to tell the truth?

1 **A** Yes.

2 **Q** What have I ever asked you to do in this case
3 since I got involved in it?

4 **A** To just tell the truth.

5 **MR. MOBLEY:** Objection, Your Honor. I mean,
6 when he starts putting himself as a witness in that
7 capacity, I would object to that.

8 **THE COURT:** I sustain that.

9 **MR. MEADORS:** Your Honor, respectfully -- I'm
10 sorry.

11 BY MR. MEADORS:

12 **Q** In the August 25th, 2003 statement, did you put
13 yourself there?

14 **A** Yes, I did.

15 **Q** And when were you charged with murder?

16 **A** I was charged with murder in November.

17 **Q** And armed robbery?

18 **A** Yes.

19 **Q** And you were there?

20 **A** Yes, I was there.

21 **MR. MEADORS:** Thank you.

22 **THE COURT:** Thank you, sir.

23 Mr. Mobley, anything on recross?

24 **MR. MOBLEY:** Nothing further at this time, Your
25 Honor.

1 **THE COURT:** All right. Ma'am, you may step
2 down. Thank you, ma'am.

3 All right. Ladies and gentlemen, we're going
4 to break for lunch now. Your lunch should be here
5 very shortly. Over the lunch break, I just ask you
6 not to talk about the evidence or testimony you've
7 heard or seen. And we'll bring you back -- we'll
8 try to start at two o'clock or a few minutes after
9 that, give you about an hour for lunch. We'll see
10 y'all very shortly. Thank you.

11 (The jury was excused for lunch.)

12 **THE COURT:** All right. Counsel, anything we
13 need to take up before we break for lunch?

14 **MR. MEADORS:** No, sir. How long are we
15 breaking for, Judge?

16 **THE COURT:** We'll probably come back about five
17 after 2:00. I'll give them an hour to eat.

18 **MR. MEADORS:** Thank you.

19 **THE COURT:** And we'll start back then.

20 (Whereupon, there was a luncheon recess.)

21 **THE COURT:** We're going to bring Ms. Bryant
22 back up.

23 (Pause.)

24 **THE COURT:** Mr. Hart, do y'all want to put
25 anything on the record as to Ms. Bryant?

1 **MR. HART:** Other than the objection that
2 Mr. Mobley made, Your Honor, we do feel that we
3 should be able to go into the bias and motive of Ms.
4 Bryant in reference to her pending charges and,
5 specifically, ask her about the possible sentences
6 that she's facing under those charges, Your Honor.
7 We believe she does have a motive to come in here
8 and not tell the truth.

9 **THE COURT:** And just so the record is clear,
10 Mr. Meadors brought to the Court's attention after
11 the break, a case -- a Court of Appeals case, 2004
12 case, that appeared to suggest that there was a
13 codefendant in the same situation, that, I think,
14 they found it was harmless error not to have gotten
15 into it, but they did find that the Court should
16 have allowed that testimony. We had that discussion
17 at side bar. And I take it that case has not been
18 taken by the Supreme Court yet or it may not have
19 been appealed to the Supreme Court.

20 My own reading of that is that it probably
21 conflicts with South Carolina Supreme Court cases,
22 particularly, the last paragraph, but that's the
23 Court of Appeals's decision. And I'm, out of an
24 abundance of caution, will allow both sides to raise
25 that one issue with this witness again.

1 Mr. Meadors will be allowed to ask her about
2 that because he had indicated, obviously, during the
3 trial as this issue came up, that he would have
4 brought it up. And then Mr. Mobley can get into the
5 issue on cross at that point.

6 **MR. MEADORS:** Your Honor, I would like the
7 Court's permission just to briefly address her as to
8 those penalties.

9 **THE COURT:** Yes, sir. Mr. Meadors, the State's
10 ready for the jury?

11 **MR. MEADORS:** Yes, Your Honor.

12 **THE COURT:** The defense is ready?

13 **MR. HART:** Yes, Your Honor.

14 **THE COURT:** All right. We'll bring the jury
15 back out.

16 (The jury returns to the courtroom.)

17 (The witness, Iris Renee Bryant, resumed the
18 witness stand.)

19 **THE COURT:** Thank you, ladies and gentlemen.
20 I'm sorry for bringing you back out late.

21 Ladies and gentlemen, we brought back Ms.
22 Bryant as a witness for a limited examination by
23 both sides. And after that, I'm going to give you
24 all what's called a curative instruction. It's an
25 instruction to you as to what you can do with this

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1 testimony.

2 Madame Forelady, I'll instruct you, and it will
3 be your job, to make sure that the jury, during its
4 deliberations, carry out those instructions.

5 Mr. Meadors.

6 **MR. MEADORS:** May it please the Court.

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

8 REDIRECT EXAMINATION

9 BY MR. MEADORS:

10 **Q** Ms. Bryant, I've just got a couple of questions
11 for you. Are you aware that the crime of murder
12 carries 30 years to life?

13 **A** Yes, sir.

14 **Q** And are you aware that the crime of armed
15 robbery carries ten to 30 years?

16 **A** Yes.

17 **MR. MEADORS:** Thank you.

18 **THE COURT:** Mr. Mobley.

19 **MR. MOBLEY:** Thank you.

20 RECROSS-EXAMINATION

21 BY MR. MOBLEY:

22 **Q** Ms. Bryant, now when you testified earlier, I'd
23 asked you about the statements you made to
24 investigators on July of 2003; do you recall that?

25 **A** Yes.

1 Q And you explained that you lied under oath in
2 that statement; do you recall that?

3 A Yes.

4 Q And I think you indicated -- and if I'm
5 mistaken, please correct me, I'm not trying to put
6 words in your mouth, okay? I think you indicated
7 you were scared, correct?

8 A Yes.

9 Q And I think you indicated you were scared of
10 getting charged with murder, correct?

11 A Yes.

12 Q Because you didn't want to get charged with
13 murder?

14 A No, because I didn't kill anybody.

15 Q But you understood or you indicated that you
16 lied on July of 2003 under oath?

17 A Yes.

18 Q You lied on August 6th of 2003 under oath?

19 A Yes.

20 Q You lied on August 25th of 2003 under oath
21 because you were scared of getting charged with
22 murder, correct?

23 A Yes.

24 Q Okay. Well, at this point, you have been
25 charged with murder, correct?

IRIS RENEE BRYANT - RECROSS BY MR. MOBLEY

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1 **A** Yes.

2 **Q** Okay. And at the time you became charged with
3 murder, at some point, you became aware of the
4 penalty you were facing, correct?

5 **A** Yes.

6 **Q** You understood that if you got convicted of
7 murder or pled guilty to murder, you'd be facing a
8 minimum of 30 years in prison; do you understand
9 that?

10 **A** Yes.

11 **Q** And you'd be facing a maximum of life in prison
12 if you pled guilty or got convicted of murder,
13 correct?

14 **A** Yes.

15 **Q** Okay. And you understand life means life; do
16 you understand that?

17 **A** I understand.

18 **Q** There's no, you know, you will spend everyday
19 of your natural life --

20 **MR. MEADORS:** Your Honor, objection going into
21 the --

22 **MR. MOBLEY:** I think it goes to exactly her
23 understanding of the penalty, Your Honor.

24 **THE COURT:** She's already answered that. You
25 can ask her your last question, but she's answered,

1 as to the sentencing ranges, she testified as to her
2 understanding of that. You can go ahead and ask her
3 that last question.

4 **MR. MOBLEY:** Okay. I want to make sure I don't
5 run afoul of the Court's ruling regarding the
6 question I'm being allowed --

7 **THE COURT:** The last question you were asking
8 her, I'll let you go ahead and ask that, but you're
9 repeating the same thing to her over and over again,
10 but you can ask that last question.

11 **MR. MOBLEY:** Okay. And I just -- all right.
12 If I say the wrong question, just cut me off, okay?

13 **THE COURT:** I'm just saying, I'm not cutting
14 you off at this point.

15 **BY MR. MOBLEY:**

16 **Q** All right. But you understand that if you get
17 a life sentence of murder, life means exactly life?

18 **A** I understand.

19 **Q** You don't get out again. Now, just so we're
20 clear, and you're testifying, you're hoping to get
21 something from the State, correct?

22 **A** No, I'm not.

23 **Q** You're not hoping to get anything?

24 **A** No.

25 **Q** Well, I mean, have you pled guilty already?

IRIS RENEE BRYANT - RECROSS BY MR. MOBLEY

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1 **A** No, I haven't.

2 **Q** So, at this point, you haven't even pled guilty
3 to either charge?

4 **A** No, I haven't.

5 **Q** Why haven't you pled guilty yet?

6 **A** Because it's not my time for trial, it's hers.

7 **Q** It's not time yet. But you can plead anytime
8 you want to, can't you?

9 **A** I guess, but she have to be tried first
10 because --

11 **Q** No, she doesn't have to --

12 **A** -- I was a witness.

13 **MR. MEADORS:** Your Honor, objection.

14 **MR. MOBLEY:** I guess my question --

15 **THE COURT:** Mr. Mobley, I think you're getting
16 into some matters that, first of all, this witness
17 has no control over and that are beyond the issue of
18 the sentencing ranges.

19 **MR. MOBLEY:** All right. Thank you. I'll
20 rephrase my question, Your Honor.

21 **BY MR. MOBLEY:**

22 **Q** But, at this point, you have not entered any
23 kind of plea at this time?

24 **A** No, I haven't.

25 **Q** So you understand that the State is free to

1 dismiss either one of the charges, correct?

2 MR. MEADORS: Objection, Your Honor.

3 THE COURT: I'm going to sustain that. That's
4 beyond the sentencing issues.

5 MR. MOBLEY: Well, may we approach, Your Honor?

6 THE COURT: Yes, sir.

7 (Whereupon, a bench conference was held off
8 the record, in the presence of the jury, but out of
9 the hearing of the jury.)

10 BY MR. MOBLEY:

11 Q Just so we're clear, Ms. Bryant, at this point,
12 you have two charges pending, the armed robbery
13 charge, correct?

14 A Yes.

15 Q And the murder charge?

16 A Yes.

17 Q Okay. And your understanding of your
18 arrangement with the State is based on your
19 testimony -- and I'm not trying to put words in your
20 mouth, okay? So if I'm misquoting something, you
21 let me know, all right?

22 A (Witness nodded head.)

23 Q All right. But your understanding is they
24 haven't told you what they're going to do for you,
25 correct?

IRIS RENEE BRYANT - RECROSS BY MR. MOBLEY

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1 **A** I'm still --

2 **Q** What, if anything, they're going to do for you?

3 **A** I'm still charged.

4 **Q** Okay. You're still charged. But nothing has
5 been done with your charges as of yet, correct?

6 **A** No.

7 **Q** Okay.. And they haven't told you what they're
8 going to do for you?

9 **A** They didn't say they were going to do anything
10 for me.

11 **Q** Okay. Well, I mean, I think you -- is it safe
12 to assume they're going to do something for you?

13 **MR. MEADORS:** Objection, Your Honor.

14 **THE COURT:** Sustained.

15 **MR. MOBLEY:** I'll withdraw that.

16 BY MR. MOBLEY:

17 **Q** But, at this point, they haven't told you what,
18 if anything, they're going to do for you?

19 **A** I'm still charged with murder and armed
20 robbery.

21 **Q** As of right now, you are. And what did they
22 tell you? They'd wait and see after your testimony,
23 how it went, is that -- what did they tell you?

24 **A** Tell the truth.

25 **Q** Okay. I mean, did they tell you they'd decide

1 after your testimony?

2 A No.

3 Q I mean, did they tell you when they were going
4 to decide?

5 A No. She have to be -- I'm just a witness in
6 her case. I guess mine will come when it's my time
7 to go up.

8 Q Okay. So, at this point, you have no idea
9 what, if anything, they may do for you. You know
10 you're not going to find out until some point after
11 you testify?

12 A Until I go into court.

13 Q And you haven't been to court in three and a
14 half years obviously?

15 A No.

16 Q Okay. So you understand the State can decide,
17 if your testimony goes favorable to them, they can
18 decide, they can dismiss the murder charge?

19 A I don't know what they could --

20 Q And you'd get out of life in prison. And you
21 also understand that, in this case -- I mean, you
22 gave a statement admitting to being there, right?

23 A Yes.

24 Q You put yourself at the crime scene, correct?

25 A Yes.

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1 **Q** So you can -- there's no -- there's no dispute
2 about you being there. They don't need physical
3 evidence to put you to the scene. They don't need
4 eyewitnesses. You put yourself there?

5 **A** I did.

6 **Q** And, at this point, except for your testimony,
7 no one else can conclusively put anybody there
8 except for you, right?

9 **A** Exactly.

10 **Q** None of the statements you made -- none of the
11 statements you made earlier on admitting to being
12 there were coerced, were they?

13 **A** Excuse me?

14 **Q** I mean, nobody made you --

15 **THE COURT:** Mr. Mobley, this is beyond the
16 scope of what I --

17 **MR. MOBLEY:** I'll withdraw the question, Your
18 Honor. Thank you, Your Honor.

19 **THE COURT:** Mr. Meadors.

20 REDIRECT EXAMINATION

21 BY MR. MEADORS:

22 **Q** You knew there was going to be a robbery?

23 **A** Yes.

24 **Q** You were there?

25 **A** Yes.

1 Q You're charged with murder and armed robbery?

2 A Yes.

3 Q Have I promised you anything?

4 A Nothing.

5 Q Why are you testifying today?

6 A Because it's the truth.

7 MR. MEADORS: Thank you.

8 THE COURT: Anything further, Mr. Mobley?

9 RECROSS-EXAMINATION

10 BY MR. MOBLEY:

11 Q Just briefly. You said, in response to
12 Mr. Meadors' question, that you're testifying today
13 because it's the truth; is that what you're saying
14 to Mr. Meadors?

15 A Yes.

16 Q And that's what you're saying to this jury?

17 A Yes.

18 Q But, Ms. Bryant, you lied under oath in July
19 when you talked to investigators.

20 MR. MEADORS: Your Honor, I'm going to object.

21 He's asked and answered. This is redirect (sic).

22 There was stuff he went over --

23 THE COURT: This has been asked and answered.

24 MR. MOBLEY: I'll withdraw the question.

25 THE COURT: Limit your scope of recross to

1 Mr. Meadors' redirect.

2 MR. MOBLEY: And I thought that's what I was
3 doing, with all respect to the Court, Your Honor,
4 because the last statement she made was, he asked
5 about if she's testifying because it's the truth and
6 I was asking about her history of telling the truth,
7 Your Honor, but the Court --

8 THE COURT: But that's been asked and answered
9 on direct and cross.

10 MR. MOBLEY: Thank you, Your Honor.

11 THE COURT: Thank you, sir.

12 All right. Ms. Bryant, you may step down.

13 Thank you, ma'am.

14 Madame Forelady and ladies and gentlemen of the
15 jury, let me instruct you all of something and this
16 is an instruction that is a part of your oath. You
17 all, as part of your deliberations, are to follow
18 the Court's instructions. At the close of the case,
19 I'll give you other instructions on the law, but
20 this is what I'm going to give you now and I'll
21 remind you again of it at the close of the case.

22 Testimony relating to sentences or possible
23 sentences for any charge, criminal charge, ladies
24 and gentlemen, as it relates to this witness that
25 you just heard about, you can only consider that,

1 and I'll give you other issues as to how you
2 evaluate testimony from all the witnesses later, but
3 you can only consider that sentence -- possible
4 sentencing information as to any motive or bias by
5 that witness, Ms. Bryant. You cannot, ladies and
6 gentlemen of the jury, consider that for any other
7 purpose.

8 Madame Forelady, it will be your job, during
9 the course of deliberations, to make sure that any
10 issues about sentences or any discussions about
11 sentencing are related solely to that one area of
12 your proper consideration.

13 Particularly, ladies and gentlemen, you cannot
14 consider any possible sentences on these charges.
15 And they are charged with both the same crimes, the
16 defendant, as well as the witness you just heard.
17 You cannot consider that in any way, shape or form
18 as you consider the question of guilt or not guilty
19 on these charges as they relate to the defendant.

20 Again, Madame Forelady, it will be your job to
21 make sure that the jury, in the course of its
22 deliberations, does not consider the question of
23 possible sentences should this jury come back with,
24 for example, a guilty on either or both of the
25 charged indictments.

TERESA ROUSE - DIRECT BY MR. LUPTON

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1 And I'm instructing you all to follow that to
2 consider any possible sentences on these charges
3 solely for purposes of should the jury determine
4 those to be appropriate to consider on the question
5 of bias or motive on the part of Ms. Bryant. Thank
6 you, ladies and gentlemen.

7 Mr. Meadors or Mr. Lupton.

8 **MR. LUPTON:** Your Honor, the State calls Teresa
9 Rouse.

10 TERESA ROUSE,
11 having been duly sworn, testified as follows:

12 **THE CLERK:** Please have a seat, state your full
13 name for the record.

14 **THE COURT:** State your name for the record.

15 **THE WITNESS:** Teresa Rouse.

16 **THE COURT:** Okay. You're going to have to
17 slide real close up to that microphone.

18 **THE WITNESS:** Teresa Rouse.

19 DIRECT EXAMINATION

20 BY MR. LUPTON:

21 **Q** Just tell the jury a little bit about yourself.
22 Where are you from?

23 **A** From -- I stay here in Columbia, South
24 Carolina.

25 **Q** Do you work anywhere?

1 A Yes.

2 Q Where do you work?

3 A I work at McDonalds in the daytime and Fort
4 Jackson at night.

5 Q Do you know the defendant, Carmen Rice?

6 A No, I was only her roommate in --

7 **THE COURT:** You're going to have to --
8 seriously, the last juror back there has got to be
9 able to hear you, as well as my court reporter who
10 takes everything down. You have to hold your head
11 up and speak into that microphone, okay.

12 **THE WITNESS:** (Witness nodded head.)

13 BY MR. LUPTON:

14 Q And I know you're nervous about testifying, but
15 just speak up. And could you tell the jury have you
16 ever met Carmen Rice before?

17 A No, only in jail.

18 Q And did you meet her there?

19 A Yes, sir.

20 Q And were you, in fact, her cell mate at some
21 point?

22 A Yes, sir.

23 Q And before we go into any of that stuff, what
24 were you in jail for?

25 A Assault and battery with intent to kill.

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1 Q And did you plead guilty to that?

2 A Yes, sir.

3 Q And you got a sentence; is that correct?

4 A Yes, sir.

5 Q Now, while you were in jail, before you pled
6 guilty, you said you were a cell mate with Carmen
7 Rice; is that correct?

8 A Yes, sir.

9 Q And, during that time, did she ever say
10 anything to you about this case?

11 A No, sir. She only showed me her little
12 paperwork thing, that's all.

13 Q Did she ever -- did you ever, at some point,
14 get into a fight with her?

15 A Yes, sir.

16 Q And tell the jury what that fight was about?

17 A It wasn't really a fight with me. It was a
18 fight with another cell mate, but I don't know what
19 it was over.

20 Q But you were involved in that fight?

21 A Yes, sir.

22 Q And, as a result of that fight, did she ever
23 say anything to you?

24 A Yes, she had made little threats to me.

25 Q And what did she say in those threats?

1 **A** She said all kind of stuff.

2 **Q** I'm sorry, I couldn't --

3 **A** All kind of things.

4 **Q** Did she ever threaten to do you any harm?

5 **A** Yes.

6 **Q** What did she say?

7 **A** She said she could have some people to come and
8 get me, stuff like that.

9 **Q** Did she make any statements, any threats to you
10 that referenced this case?

11 **MR. MOBLEY:** Objection, Your Honor.

12 **MR. HART:** Objection, Your Honor.

13 **THE COURT:** Which one?

14 **MR. MOBLEY:** This one. I'm sorry.

15 **MR. HART:** She has answered that question, Your
16 Honor. He is leading her into an answer. It has
17 been asked and answered, has she made a threat and
18 she says, yes.

19 **MR. LUPTON:** Your Honor, she testified about
20 multiple threats and I'm trying to focus on a
21 particular --

22 **THE COURT:** She hasn't quite answered it. I'll
23 allow the question.

24 BY MR. LUPTON:

25 **Q** Did she ever make any threat that particularly

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1 referenced this case?

2 A Yes.

3 Q And what did she say in that threat?

4 A She could do me like how she did that man or
5 something like that.

6 Q She said she would do you like she did that
7 man?

8 A (Witness nodded head.)

9 MR. LUPTON: Beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 (Pause.)

12 MR. LUPTON: Nothing further, Your Honor.

13 THE COURT: Thank you, sir.

14 Mr. Hart.

15 CROSS-EXAMINATION

16 BY MR. HART:

17 Q Ms. Rouse, at one point in time, you had
18 pending charges in the Solicitor's office, right,
19 back in 2003?

20 A Yes.

21 Q You were charged with assault and battery with
22 intent to kill?

23 A Yes, sir.

24 Q You pled to probation?

25 A Yes, sir.

1 Q And the investigators, they came to talk to you
2 about this case before you pled, right?

3 A I'm not sure.

4 Q You aren't sure? Do you remember giving a
5 statement to Investigator Mincey about this
6 particular case?

7 A I'm not sure.

8 Q Is there anything that would refresh your
9 memory?

10 A Sir?

11 Q If I was to show you a statement, would that
12 refresh your memory?

13 A Yes, sir.

14 Q Do you recognize that document?

15 A Yes.

16 Q That's the statement you gave to Investigator
17 Mincey, right?

18 A Yes.

19 MR. LUPTON: Your Honor, the State has no
20 objection to this coming into evidence.

21 THE COURT: Thank you, sir.

22 BY MR. HART:

23 Q In fact, you gave this statement on March 3rd,
24 2004, right?

25 A I don't remember the date.

1 Q Well, you remember giving a statement to
2 Investigator Mincey?

3 A Yes.

4 Q In fact, he asked you did you know Carmen Rice,
5 didn't he?

6 A Yes.

7 Q And, in your statement, you said, She did not
8 have anything to do with that murder. You gave
9 Investigator Mincey that information, right?

10 A I don't remember that.

11 Q What does that say in your statement?

12 A She said she did not have anything to do with
13 the murder, but...

14 Q Also, there was something in your statement
15 about Peanut, right?

16 A Yes, from what she told me.

17 Q In that there was something about Peanut and
18 Stevie B doing the murder, correct?

19 A Yes, from what she told me.

20 Q You talked about the fight that -- or a
21 confrontation that you and Ms. Rice had, that upset
22 you, didn't it?

23 A Me and her didn't have a fight, sir.

24 Q There was a confrontation between the two of
25 you?

1 **A** No, sir.

2 (Pause.)

3 **THE COURT:** Anything further, Mr. Hart?

4 **MR. HART:** Beg the Court's indulgence one
5 second.

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

7 (Pause.)

8 **MR. HART:** Just one further thing, Your Honor.

9 BY MR. HART:

10 **Q** You remember pleading guilty on March 2nd,
11 2004?

12 **A** For what?

13 **Q** To the charges that you're on probation for?

14 **A** Yes, for one year -- for one of them.

15 **Q** Tell us what's the date of your statement?

16 **A** March 3rd, 2004.

17 **Q** Which was one day after you pled guilty, right?

18 **A** I'm not sure.

19 **Q** Well, you would agree that March 3rd does come
20 after March 2nd, right?

21 **A** Yes.

22 **Q** And you got probation, didn't you?

23 **A** Yes.

24 **Q** And you were charged by this Solicitor's
25 office, right?

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1 A Yes.

2 MR. HART: No further questions, Your Honor.

3 THE COURT: Thank you, sir.

4 Mr. Lupton.

5 MR. LUPTON: And, Your Honor, to clarify, I'm
6 not sure if the statement was placed in evidence by
7 the defense. Your Honor, at this time, since the
8 writing was gone into and she was asked to read her
9 statements or explain her statements from the -- I'm
10 going to ask her --

11 REDIRECT EXAMINATION

12 BY MR. LUPTON:

13 Q Would you please read that highlighted portion?

14 A Did you believe Carmen's story of why --

15 MR. HART: Objection, Your Honor.

16 MR. LUPTON: Your Honor, it's admissible. They
17 opened the door to this statement. They put in
18 parts of the statement. The State is entitled to go
19 into the entire statement.

20 THE COURT: Y'all approach.

21 (Whereupon, a bench conference was held off
22 the record, in the presence of the jury, but out of
23 the hearing of the jury.)

24 THE COURT: Objection sustained.

25 BY MR. LUPTON:

1 Q When Carmen Rice told you what was asked on
2 cross-examination, did you believe that statement?
3 Did you believe what she told you?

4 MR. HART: Objection, Your Honor.

5 THE COURT: Sustained.

6 MR. LUPTON: Your Honor, may we approach?

7 THE COURT: Yes, sir.

8 (Whereupon, a bench conference was held off
9 the record, in the presence of the jury, but out of
10 the hearing of the jury.)

11 THE COURT: Objection sustained.

12 BY MR. LUPTON:

13 Q With regards to those statements, isn't it true
14 that she told you many different stories?

15 A Yes,, sir.

16 Q Now, you pled guilty to your charges on March
17 2nd; isn't that correct?

18 A Yes, sir.

19 Q And you didn't give a statement until after you
20 pled guilty; isn't that correct?

21 A Yes, sir.

22 Q Now, before you pled guilty, did anybody from
23 the Solicitor's office ask you about whether or not
24 you even knew of Carmen Rice?

25 A No, sir.

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1 Q Did anybody from the sheriff's department ask
2 you if you even knew who Carmen Rice was prior to
3 your plea?

4 A No, sir.

5 Q Was giving a statement on Carmen Rice any part
6 of the basis of your plea?

7 A No, sir.

8 Q And when Carmen Rice threatened you, told you
9 she was going to do you like she did that man, how
10 was she acting?

11 A She was all rowdy and stuff like that, yelling
12 between the doors and from down -- from the down
13 bottom of the jail.

14 Q And was that story different than the story she
15 told you about it being these men doing this murder?

16 A Excuse me?

17 Q Was her statement, I'll do you like I did that
18 man, was that a different statement, different story
19 than the story she told you about some men doing it?

20 A Could be.

21 MR. LUPTON: Nothing further, Your Honor.

22 THE COURT: Thank you, sir.

23 Mr. Hart, anything further on recross?

24 MR. HART: Nothing further, Your Honor.

25 THE COURT: Ma'am, you may step down. Thank

1 you.

2 Is the State prepared to call their next
3 witness?

4 **MR. MEADORS:** Falisha Hallmon.

5 FALISHA HALLMON,
6 having been duly sworn, testified as follows:

7 **THE CLERK:** Please have a seat, state your full
8 name for the record.

9 **THE COURT:** Just say your whole name for the
10 record, ma'am.

11 **THE WITNESS:** Falisha Hallmon.

12 DIRECT EXAMINATION

13 BY MR. MEADORS:

14 **Q** Spell your last name, please?

15 **A** H-a-l-l-m-o-n.

16 **Q** Now, you're in chains right now?

17 **A** Yes.

18 **Q** Where are you housed right now?

19 **A** Goodman Correctional.

20 **THE COURT:** Ms. Hallmon, I'm going to ask you,
21 too, if you can move a little closer to that
22 microphone. Thank you, ma'am.

23 BY MR. MEADORS:

24 **Q** Can you move around?

25 **A** (Witness nodded head.)

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1 **MR. MEADORS:** Can we approach?

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

3 (Whereupon, a bench conference was held off
4 the record, in the presence of the jury, but out of
5 the hearing of the jury.)

6 **THE COURT:** Mr. Meadors.

7 **MR. MEADORS:** Thank you, Your Honor. If it
8 pleases the Court.

9 **BY MR. MEADORS:**

10 **Q** You're currently housed where?

11 **A** Goodman Correctional Center.

12 **Q** And how long have you been at Goodman?

13 **A** Since August 2003.

14 **Q** And why are you in Goodman?

15 **A** Probation violation.

16 **Q** And probation violation for what?

17 **A** Fraudulent checks and bank fraud.

18 **Q** Fraudulent checks and what?

19 **A** Fraudulent checks and bank fraud.

20 **Q** And what kind of sentence are you serving there
21 now?

22 **A** Five years.

23 **Q** When is your max out date?

24 **A** December 1st, 2005.

25 **Q** 2005?

1 A Yes, sir.

2 Q In addition -- that's the fraudulent checks.

3 Where are you from?

4 A Columbia, South Carolina.

5 Q Born and raised here?

6 A Yes.

7 Q Tell these people where you went to high

8 school?

9 A C.A. Johnson.

10 Q And when did you -- did you graduate?

11 A Yes.

12 Q You got a sister?

13 A Yes.

14 Q Tell them where she's from -- where she's

15 living now and what she's doing?

16 A Lower Maryland. She's a FBI agent.

17 Q And you got a brother?

18 A Yes.

19 Q Where are they living?

20 A In Augusta, Georgia.

21 Q And I've got pregnant seven point five down

22 here. Why have I got that down there?

23 A I had a miscarriage, stillborn.

24 Q And I did not -- you had a baby since you've

25 been in prison?

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1 A Yes.

2 Q Okay. And when was that?

3 A December, last year.

4 Q And that's the one you lost?

5 A Yes, sir.

6 Q And did you go to Benedict?

7 A Yes, sir.

8 Q When did you go there?

9 A '94.

10 Q Did you graduate?

11 A Yes.

12 Q When did you graduate?

13 A '97, June.

14 Q What did you do after that?

15 A Nothing really, started getting in trouble.

16 Q Didn't go on to a career?

17 A Well, yeah, I started working some.

18 Q And you said you started getting in trouble.

19 Is that when you got in trouble with checks and
20 credit cards?

21 A Yes, sir.

22 Q And why were you doing checks and credit cards?

23 A I was on pills, Xanax.

24 Q And that led to some of the troubles that
25 you're in jail on right now?

1 A Yes, sir.

2 Q Did you ever work at Fuddruckers?

3 A Yes, sir.

4 Q When?

5 A That's my work release job, currently.

6 Q Currently? So you go there and work and you
7 get restitution to pay for your crimes?

8 A Yes, sir.

9 Q And then you come back at night to prison?

10 A Yes.

11 Q And after your State time, have you got some
12 federal time you got to do?

13 A Ten months.

14 Q Okay. That's for the bank fraud?

15 A Yes, sir.

16 Q And that will happen after you finish this
17 sentence?

18 A Yes.

19 Q A year and a day I think you told me?

20 A Yes, sir.

21 Q In addition to that, you had a financial
22 transaction card fraud conviction?

23 A Yes.

24 Q And a forgery, two counts?

25 A Yes.

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1 Q When, if ever, did you meet Carmen Rice?

2 A At Alvin S. Glenn Detention Center.

3 Q And do you remember when that was?

4 A November of '03.

5 Q And where were you in the process of -- I don't
6 mean this bad, but were you waiting on your sentence
7 or waiting to come to court?

8 A Yes, sir.

9 Q And how did you come in contact with her at
10 Alvin S. Glenn, Ms. Hallmon?

11 A I was her roommate.

12 Q And how long did you room with her?

13 A About a month and a half before I went to R and
14 E.

15 Q And did she ever tell you anything about this
16 case?

17 A Yes.

18 Q And, specifically, did she tell you whether or
19 not she had shot Bernard Brennan?

20 A Yes.

21 Q And did she tell you she had?

22 A Yes, sir.

23 Q And do you remember, specifically, what she
24 told you about doing it?

25 A She said, I shot the nigger.

1 Q Shot the what?

2 A Nigger.

3 Q The N word?

4 A Yes.

5 Q And that's not funny. I mean, you said it that
6 way. But where were you when she said that?

7 A In the room, we had an argument -- well, yes,
8 sir.

9 Q And did she tell you what she shot him with?

10 A No, sir.

11 Q Did she tell you what, if anything, she had
12 done with what she had shot him with, the gun?

13 A No, sir.

14 Q And did she tell you where it was she shot him?

15 A No, sir.

16 Q Did you have an occasion or do you know Iris
17 Bryant?

18 A Yes, sir.

19 Q How do you know Iris Bryant?

20 A From R and E.

21 Q And I know what R and E is, but these folks
22 don't know --

23 A I'm sorry.

24 Q What is R and E?

25 A Receiving.

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1 Q Reception and evaluation?

2 A Uh-huh.

3 Q And why do you go there?

4 A For processing to the department of
5 corrections.

6 Q And that's where you met Iris Bryant?

7 A Yes, sir.

8 Q And let me back up a minute. You said you
9 were, in November of '03, with Carmen Rice?

10 A Yes.

11 Q And you may have said a month, I don't -- how
12 long were you in Alvin S. Glenn Detention Center?

13 A Until January 3rd.

14 Q And you remember January 3rd?

15 A Yes.

16 Q What, if anything, did Iris Bryant tell you
17 about this case?

18 A She said that -- we was in the rec yard at
19 receiving evaluation --

20 Q I'm sorry, just speak up a little bit. You
21 were on the rec yard?

22 A Yes, at R and E and that they picked Carmen up
23 at the phone booth or something, I don't know, some
24 phone booth they picked Carmen up at and --

25 Q Without going into what she told you, let me

1 stop you. Did she tell you about this case, also?

2 A Yes, sir.

3 Q And did you ever learn anything about Florida?

4 A Yes, sir.

5 Q Tell them what you know about Florida.

6 A That Carmen had went up there to live
7 supposedly with some guy.

8 Q Down there?

9 A Yes.

10 Q Do you know Amber Byrd?

11 A No.

12 Q You never met her?

13 A No, sir.

14 Q Shawnetta Wise?

15 A No, sir.

16 Q Anthony Stewart?

17 A No, sir.

18 Q Did you know anything about this case before
19 Ms. Rice told you about it?

20 A No.

21 Q Did you want to know anything about this case?

22 A No.

23 Q Did you ask her to tell you anything?

24 A No, sir.

25 Q Matter of fact, did you tell her not to tell

1 you anything?

2 **A** Yes.

3 **Q** And did she just keep talking?

4 **A** Yes.

5 **Q** Now, when you -- did you eventually let the
6 sheriff's department know that she told you that
7 she'd shot Bernard Brennan?

8 **A** Yes.

9 **Q** Did you write them a letter?

10 **A** Yes, sir.

11 **Q** And did you, in that same letter, say something
12 about somebody you were dating that you wanted them
13 to look at?

14 **A** Yes, sir.

15 **Q** And why did you do that?

16 **A** Because I was mad and frustrated.

17 **Q** I'm sorry?

18 **A** I was mad and frustrated.

19 **Q** Was that somebody you knew?

20 **A** Yes.

21 **Q** And somebody you'd had a relationship with?

22 **A** Yes, sir.

23 **Q** Told them that he had been involved in some
24 drugs or something?

25 **A** Yes, sir.

1 Q So you sent that -- in that same letter, you
2 also told them about what Carmen Rice had told you
3 about this murder?

4 A Yes, sir.

5 Q Did they come see you as a result of you
6 sending the letter?

7 A Yes.

8 Q That's what you wanted to happen?

9 A Yes, sir.

10 Q Stuff about that fellow that you had a
11 relationship with wasn't the truth, was it?

12 A No, sir.

13 MR. HART: Objection, Your Honor.

14 THE COURT: I'll allow the answer to stand.

15 MR. MEADORS: On what basis?

16 MR. HART: I think he's letting him complete
17 his question.

18 THE COURT: I'll allow it.

19 BY MR. MEADORS:

20 Q You said it was not true?

21 A Yes, sir.

22 Q Did Carmen tell you what she had been wearing
23 that night?

24 A Something about an orange shirt.

25 Q And she told you that?

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1 **A** Yes.

2 **Q** You didn't see her that night?

3 **A** No.

4 **Q** And prior to preparing to coming in here maybe
5 a few weeks ago, had you ever met me?

6 **A** No, sir.

7 **Q** And you're finishing out your time and then
8 going over to federal penitentiary?

9 **A** Yes, sir.

10 **MR. MEADORS:** Beg the Court's indulgence.

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

12 (Pause.)

13 **BY MR. MEADORS:**

14 **Q** You don't remember her telling you anything
15 about a gun?

16 **MR. HART:** Objection, asked and answered, Your
17 Honor.

18 **THE COURT:** I think this particular question
19 has -- do you recall this being asked -- I'll allow
20 it. Mr. Meadors.

21 **BY MR. MEADORS:**

22 **Q** Do you remember if she told you anything about
23 a gun?

24 **A** Only about an officer that used to work at the
25 county, I don't know whether he's still there at the

1 county or not, but he was supposed to have been the
2 officer that worked at the security company that she
3 supposedly had worked with and they could verify
4 that she was supposedly turned her gun in or
5 whatever.

6 MR. MEADORS: That's all.

7 THE COURT: Thank you, sir.

8 Mr. Hart.

9 MR. HART: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. HART:

12 Q Ms. Hallmon, you were at Graham Correction
13 Institute, right?

14 A Yes.

15 Q And you gave a statement to Investigator
16 Mincey, correct?

17 A Yes.

18 Q Do you remember meeting him down at Graham?

19 A Yes.

20 Q Let's talk about why you were at Graham. You
21 were there for financial card theft, right?

22 A Yes.

23 Q You would agree that financial card theft is
24 when you dishonestly use someone else's credit card,
25 correct?

1 **A** Correct.

2 **Q** Which means you aren't telling the truth when
3 you go up there and use that person's credit card,
4 right?

5 **A** Correct.

6 **Q** And that was in -- back in January of '04,
7 correct?

8 **A** When I went to Camille?

9 **Q** Exactly.

10 **A** Yes.

11 **Q** But that wasn't the only time you were
12 dishonest, was it?

13 **A** No.

14 **Q** In fact, back in 2002, you were convicted of
15 credit card theft, right?

16 **A** Yes.

17 **Q** You received five years suspended on 90 days
18 and three years probation, right?

19 **A** Correct.

20 **Q** But that still wasn't the last time you were
21 dishonest, was it?

22 **A** No.

23 **Q** When you were on probation, you agreed to
24 follow the conditions of your probation, right?

25 **A** Yes.

1 Q You didn't follow the conditions of your
2 probation, did you?

3 A No.

4 Q You broke that agreement, right?

5 A Uh-huh.

6 Q Ms. Hallmon, there's more dishonesty, isn't it?

7 A No.

8 Q Are you sure?

9 A Uh-huh.

10 Q Let's talk about 2001, check fraud, convicted,
11 right?

12 A Okay.

13 Q When you use someone else's check, you are
14 saying, this is my check, right?

15 A It was my check. It's a fraudulent check.

16 Q When you used your check, you said, I have
17 enough money in the bank to write this check, right?

18 A Right.

19 Q But you didn't have enough money in the bank,
20 did you?

21 A Correct.

22 Q That was dishonest, wasn't it?

23 A Uh-huh.

24 Q Ms. Hallmon, that's still not the last time you
25 were dishonest, was it?

1 A No.

2 Q 2000 bank fraud, right?

3 A Exactly.

4 Q Again, not telling the truth, right?

5 A Uh-huh.

6 Q You would agree you have a history of not being
7 dis -- of not being honest, right?

8 A No, I agree I have a history of checks.

9 Q Which is being dishonest, correct?

10 A In your words, yes.

11 Q Okay. That's still not the last time you were
12 dishonest, is it?

13 A (No response.)

14 Q Ms. Hallmon?

15 A Yes.

16 Q That wasn't the last time, was it?

17 A For?

18 Q Being dishonest?

19 A No.

20 Q In fact, you wrote a letter to the sheriff's
21 department, right?

22 A Yes.

23 Q In that letter you wrote to the sheriff's
24 department about Fred Cooper, correct?

25 A Correct.

1 Q And you gave some information about Fred
2 Cooper, didn't you?

3 A Yes.

4 Q That information wasn't true, was it?

5 A Yes.

6 Q The information was true?

7 A Yes.

8 Q About Fred Cooper?

9 A Uh-huh.

10 Q Do you remember giving a statement back on
11 January 6th, 2004?

12 A Yes.

13 Q You gave a statement to Investigator Mincey?

14 A Yes.

15 Q Investigator Mincey asked you, Did you send a
16 letter to McDaniels or state investigators at the
17 sheriff's department; do you remember that question?

18 A Yes.

19 Q And you said, Yes, I sent it under the name of
20 Nadine Thompson; do you remember that answer?

21 A Yes.

22 Q Your name is not Nadine Thompson, is it?

23 A No.

24 Q That was a false statement, wasn't it, Ms.
25 Hallmon?

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1 A Yes.

2 Q You were not honest in that letter, were you?

3 A (No response.)

4 Q Ms. Hallmon?

5 A Yes.

6 Q Were you or were you not honest in the letter
7 you wrote to the sheriff's department?

8 A In what reference? To the name, no.

9 Q You were not honest about the letter in
10 reference to Mr. Cooper either, were you?

11 A Yes.

12 Q Ms. Hallmon, read that question and answer.

13 A I would -- you marked two, which one?

14 Q What does the question say?

15 A He said, was the letter true.

16 Q What was your answer?

17 A No.

18 Q He also asked you, Why did you lie, right?

19 A Right.

20 Q So you did lie in that letter?

21 A Okay. He asked me why did I lie.

22 Q Which means you lied in the letter, correct?

23 A (No response.)

24 Q Ms. Hallmon?

25 A Oh, yes.

1 Q You made that whole story up, didn't you?

2 A No.

3 Q When you gave your statement to Investigator
4 Mincey, you took an oath to tell the truth; isn't
5 that right?

6 A Yes.

7 Q Before you took the stand, you gave an oath to
8 tell the truth, didn't you?

9 A Yes.

10 THE COURT: Anything further, Mr. Hart?

11 MR. HART: I'm sorry. Beg the Court's
12 indulgence, Your Honor.

13 (Pause.)

14 BY MR. HART:

15 Q Ms. Hallmon, you had a motive for not being
16 honest in that letter to Investigator Mincey, right?
17 Correct, you had a reason for lying?

18 A About what?

19 Q About the letter to Investigator Mincey?

20 A No.

21 Q Are you sure, Ms. Hallmon?

22 A (No response.)

23 Q Investigator Mincey asked you, Why did you lie,
24 right?

25 A Yes.

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1 Q What was your answer?

2 A Because my ex-fiance, Fred, hasn't came to take
3 care of our son. And I do know he sells drugs. I
4 made up the stuff -- I can't read the rest of that
5 -- so that, and then whatever that says, to his
6 house.

7 MR. HART: No further questions, Your Honor.

8 THE COURT: Thank you, sir.

9 Mr. Meadors.

10 MR. MEADORS: Yes, sir.

11 REDIRECT EXAMINATION

12 BY MR. MEADORS:

13 Q He just asked you about the statement you gave?

14 A Yes.

15 Q And the first letter you gave and asked you if
16 you fabricated it?

17 A Yes.

18 Q You made up some lies about this fellow, right?

19 A Yes.

20 Q On October 25th, 2001, you weren't on Crawford
21 Road, were you?

22 A No.

23 Q And you didn't know Carmen, did you?

24 A No.

25 Q Iris Bryant?

1 A No.

2 Q Bernard Brennan?

3 A No.

4 Q In looking on your statement on page three --
5 excuse me -- page three, did Carmen tell you that
6 Iris was with her?

7 A Yes.

8 Q She told you that?

9 A Yes.

10 Q Did you even know Iris?

11 A No.

12 Q Is that a lie?

13 A No.

14 Q You mentioned that N word a minute ago.

15 A Yes.

16 Q Did you put that in here that she told you
17 that?

18 A Yes.

19 Q Did you put here in the statement -- they said
20 you had not told the truth about -- did you put in
21 here, if you'd read this page, what, if anything,
22 she told you about the weapon?

23 A Carmen said that the weapon that the police are
24 looking for was sold to a drug dealer. She said
25 that she switched it out with an identical weapon.

1 She said she turned the switched up weapon in, that
2 it's a light-skinned guard at Alvin S. Glenn
3 Detention Center who Carmen used to work with at
4 Best Security.

5 Q She told you that?

6 A Yes.

7 Q You put that in your statement?

8 A Yes.

9 Q What's that next thing, Carmen was trying to
10 get him to give a statement saying she had turned it
11 into him; did she tell you that?

12 A Yes. It says, Carmen was trying to get him to
13 give a statement saying that she turned it into him.

14 Q Is that what she told you?

15 A Yes.

16 Q Is that a lie?

17 A No.

18 Q Did you know where she worked?

19 A No.

20 Q Prior to meeting her?

21 A No.

22 Q Did she tell you whether or not, after she'd
23 shot Mr. Brennan, she had a car that took her away?

24 A Yes.

25 Q What did she tell you about that?

1 **A** Too fast, too furious --

2 **MR. HART:** Objection, Your Honor. Is she going
3 to go from her memory? Is she just going to read
4 from the statement? I mean...

5 **MR. MEADORS:** Your Honor, he impeached her on
6 the statement, said she -- I'm sorry.

7 **THE COURT:** I'm going to let her review the
8 statement. She doesn't have to read from the
9 statement, but she can review it to refresh her
10 recollection.

11 **BY MR. MEADORS:**

12 **Q** Start with there, just read that silently to
13 yourself.

14 **A** (Witness complies.)

15 **Q** And the top of that page, too, please.

16 **A** (Witness complies.)

17 **Q** Did she tell you about how she got away from
18 the murder scene?

19 **A** Yes.

20 **Q** Did she tell you who, if anybody, picked her
21 up?

22 **A** No. She just said about the car, just said it
23 was too fast, too furious, that her and whoever it
24 is husband of her's was that was in the military got
25 from some auto place on West Beltline.

FALISHA HALLMON - REDIRECT BY MR. MEADORS

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1 Q Did you take that as a bumper sticker or what?

2 A I reckon. I didn't go into detail.

3 MR. HART: Objection, Your Honor, that's asking
4 to speculate.

5 THE COURT: Let me hear the question again. I
6 don't think it was --

7 MR. MEADORS: That's all.

8 BY MR. MEADORS:

9 Q And without going into what Iris told you, did
10 Iris tell you about this incident, too?

11 A Yes, sir.

12 Q And you put that in the statement, didn't you?

13 A Yes.

14 Q And after -- I think you testified earlier, did
15 Iris tell you she had on something orange?

16 A Yes.

17 Q Did you know what she was wearing on October
18 25th from your own knowledge?

19 A No.

20 Q Did you put orange in your statement?

21 A Yes.

22 Q I said Iris. Did Carmen tell you she was
23 wearing orange? Did I say the wrong name?

24 A Yes, sir, you did.

25 Q It was Carmen told you she was wearing orange?

1 **A** Yes, sir.

2 **Q** I apologize.

3 **MR. MEADORS:** Thank you. That's all.

4 **THE COURT:** Thank you, sir.

5 BY MR. MEADORS:

6 **Q** Well, is this Carmen (indicating)?

7 **A** Yes.

8 **MR. MEADORS:** Thank you. That's all.

9 **THE COURT:** Thank you, sir.

10 Mr. Hart.

11 **MR. HART:** I do have a brief recross, Your
12 Honor.

13 RECROSS-EXAMINATION

14 BY MR. HART:

15 **Q** Ms. Hallmon, when you committed those frauds,
16 the people you committed against, they couldn't tell
17 if you were telling the truth, could they?

18 **A** Yes.

19 **Q** They could tell that you were telling the truth
20 and you committed a fraud anyway, right?

21 **A** Yes.

22 **MR. HART:** No further questions, Your Honor.

23 **THE COURT:** Ma'am, you may step down. Thank
24 you.

25 Mr. Lupton.

1 **MR. LUPTON:** Your Honor, the State calls Dottie
2 Cronise. Your Honor, may we approach?

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

4 (Whereupon, a bench conference was held off
5 the record, in the presence of the jury, but out of
6 the hearing of the jury.)

7 DOROTHY CRONISE,
8 having been duly sworn, testified as follows:

9 **THE CLERK:** Have a seat and state your full
10 name for the record.

11 **MR. LUPTON:** Beg the Court's indulgence, we're
12 marking exhibits.

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

14 (State's Exhibit Numbers 49 through 55 were
15 marked for identification purposes.)

16 **MR. LUPTON:** Your Honor, for the record, all of
17 these were turned over to the defense as part of
18 discovery.

19 **MR. MOBLEY:** That's correct. There's no
20 questions about that.

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

22 **MR. LUPTON:** And I believe subject to the prior
23 objection, they are -- there's no --

24 **MR. MOBLEY:** There may be one of those
25 documents, and I wanted to see which ones he was

1 planning on admitting, there may be one I'd have an
2 objection to and I'm processing that as I walked
3 back from the side bar we had.

4 **THE COURT:** That's fine. We'll take that up.
5 I know you're not waiving your previous objections
6 that we dealt with.

7 **MR. MOBLEY:** Well, yeah, subject to my -- I
8 mean, when he plans to introduce them, I'll renew my
9 prior objection.

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

11 **DIRECT EXAMINATION**

12 **BY MR. LUPTON:**

13 **Q** Ms. Cronise, would you please tell the jury a
14 little bit about yourself?

15 **A** Well, first of all, I'll state my name for the
16 record. It's Dorothy Cronise. As far as about me,
17 I retired from the State Law Enforcement Division in
18 2001. After 20 plus years with them, retired law
19 enforcement. And then went to work with America's
20 Best Security as one of their policy makers and
21 training people with their company.

22 **THE COURT:** Ms. Cronise, I'm going to ask if
23 you'll slide a little closer to that microphone as
24 well.

25 **THE WITNESS:** Okay. Sorry, my voice is soft.

1 I apologize.

2 BY MR. LUPTON:

3 Q Once you left -- once you retired from SLED,
4 you said you worked for America's Best Security
5 Company?

6 A Yes, sir, that's correct.

7 Q And is part of your duties there, and part of
8 your duties since you left there, did you serve as
9 records custodian?

10 A Yes, sir, I did.

11 Q And, in that capacity, I'd like to show you
12 what's been marked State's Exhibit 49 through
13 State's Exhibit 55 and see if you can recognize
14 those as America's Best Security Documents?

15 A Yes, sir. These are our documents maintained
16 by America's Best Security.

17 Q And were these documents that were maintained
18 in the normal course of business for America's Best
19 Security?

20 A Yes, sir, they would be.

21 Q And, specifically, with regards to State's
22 Exhibit 49, could you look at that and explain to
23 the jury what that is?

24 A This is going to be, I don't know if you've
25 passed it around to them or they'll get to see it

1 later, this, for your information, is a listing of
2 employees that had been terminated in the last 90
3 days period of time. And that would have been as of
4 November the 29th of 2001. And it just lists those
5 employees that have been terminated and possibly --
6 the ones that are highlighted is, as its noted here,
7 have not turned in their assigned equipment.

8 Q Is the highlighted ones the ones that have or
9 have not?

10 A Highlighted officers have turned in their
11 equipment. The ones that are not highlighted have
12 not.

13 MR. LUPTON: Your Honor, at this time, I move
14 to admit that as -- into evidence.

15 MR. MOBLEY: Subject to my prior objection on
16 this issue, Your Honor.

17 THE COURT: Yes, sir, subject to that. That is
18 Exhibit...

19 MR. LUPTON: 49, Your Honor.

20 THE COURT: Subject to, without waiving the
21 defense's prior objections, I'm going to admit it as
22 State's 49.

23 (State's Exhibit Number 49, America's Best
24 Security list of terminated employees, admitted into
25 evidence.)

DOROTHY CRONISE - DIRECT BY MR. LUPTON

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1 BY MR. LUPTON:

2 Q And can you look at the 25th name on that
3 document and read that out for the jury?

4 A Yes, sir. That would be Carmen Rice.

5 Q And is that name highlighted?

6 A No, sir, it is not.

7 Q And that would indicate what?

8 A That they have not turned in their equipment,
9 or that Carmen has not -- Ms. Rice had not turned in
10 her equipment.

11 Q And, next, I'd like to hand you State's
12 Exhibits 50 and 51. Can you explain to the jury
13 what those are?

14 A These are payroll checks that were issued by
15 America's Best Security for pay --

16 Q And would they be -- would those be the checks
17 after or before they were given to the defendant?

18 A These checks are after they were given to the
19 defendant.

20 Q And were they after the checks were cashed?

21 A Yes, sir.

22 Q Basically, they're returned checks?

23 A Yes, sir.

24 Q And would you keep that in the normal course of
25 business as well?

1 **A** Yes, sir. Our accountant would have kept all
2 of the returned checks.

3 **Q** And, first of all, can you state -- did either
4 of those checks bounce or were either dishonored?

5 **A** I don't see any notation on the front of the
6 checks that they were not honored.

7 **Q** And, on each of them, does each bear an
8 endorsement Carmen Rice?

9 **A** Yes, sir, they do.

10 **Q** And, on the front, does each contain a thumb
11 print, or a fingerprint rather?

12 **A** A fingerprint, yes, sir. There's a fingerprint
13 on each check.

14 **Q** And would that be Carmen Rice?

15 **A** To the best my knowledge, yes, sir.

16 **MR. LUPTON:** Your Honor, I ask 50 and 51 be
17 admitted into evidence.

18 **MR. MOBLEY:** Subject to my previous objection,
19 Your Honor.

20 **THE COURT:** Yes, sir. Without waiving that,
21 I'll admit them as State's 50 and 51.

22 (State's Exhibit Numbers 50 and 51, payroll
23 checks, admitted into evidence.)

24 **BY MR. LUPTON:**

25 **Q** And, specifically, on State's Exhibit 50, can

DOROTHY CRONISE - DIRECT BY MR. LUPTON

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1 you read the date that it was issued?

2 **A** It's October 17th, 2001.

3 **Q** Thank you. And, next, I'd like to show you
4 State's Exhibit 52. Can you explain what that is?

5 **A** This is a fax that would have been sent or was
6 sent to the South Carolina State Law Enforcement
7 Division from America's Best Security. They have a
8 requirement that they be notified when we have any
9 transfers or terminations of employees, they must be
10 notified. And this is the termination form of
11 employees.

12 **MR. LUPTON:** Your Honor, I ask this be admitted
13 into evidence.

14 **MR. MOBLEY:** Subject to my prior objection,
15 Your Honor.

16 **THE COURT:** Yes, sir. Without waiving that,
17 I'll admit it as 52?

18 **MR. LUPTON:** Yes, Your Honor.

19 **THE COURT:** Thank you, sir.

20 (State's Exhibit Number 52, America's Best
21 Security Employee Termination Forms, admitted into
22 evidence.)

23 **BY MR. LUPTON:**

24 **Q** And on this page -- first of all, is that a
25 termination page?

1 **A** Yes, sir, it is.

2 **Q** And that would indicate that the person is
3 terminated, correct?

4 **A** Yes, sir.

5 **Q** Does Carmen Rice's name appear on that page?

6 **A** Yes, sir, it does.

7 **Q** And what is the date of her termination?

8 **A** The date of termination is October the 30th of
9 2001.

10 **Q** Thank you. And, next, I'll show you State's
11 Exhibit 53. Do you recognize what that is?

12 **A** Yes, sir. This, again, is another form that is
13 sent to the State Law Enforcement Division.

14 Whenever an officer carries a weapon, they must
15 qualify with that weapon. And the officer that
16 takes them out to qualify them must fill out this
17 form and send it back in.

18 **Q** And do you recognize --

19 **MR. LUPTON:** Your Honor, at this point, I ask
20 that that be admitted into evidence.

21 **MR. MOBLEY:** Subject to my prior objection,
22 Your Honor.

23 **THE COURT:** Yes, sir. Without waiving that,
24 I'll admit it as State's 53.

25 (State's Exhibit Number 53, Carmen Rice's

DOROTHY CRONISE - DIRECT BY MR. LUPTON

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1 weapon qualification form, admitted into evidence.)

2 BY MR. LUPTON:

3 Q Do you recognize the person that ran that
4 qualification's name?

5 A Yes, sir. That would be Steve Wilson with the
6 South Carolina Highway Patrol.

7 Q And who is that a qualification record for?

8 A Carmen Rice.

9 Q And does that indicate that Carmen Rice
10 qualified with a weapon?

11 A Yes, sir, she did pass the course.

12 Q What kind of weapon did she qualify with?

13 A A Taurus 65, model 65. It would be a .357
14 Caliber.

15 Q .357 Magnum?

16 A Possibly, yes, sir. It's not listed on there,
17 so.

18 Q But if .357 was .357 Magnum --

19 A It is a .357 Magnum.

20 Q And State's Exhibit 54?

21 A Those are -- or this is a copy of a personnel
22 action form. And America's Best Security used these
23 for employee personnel actions whether or not it was
24 disciplinary or exemplary.

25 Q Basically, if you got one of those, you did

1 something good or you did something bad?

2 A Yes, sir.

3 MR. LUPTON: Your Honor, I ask that this be
4 admitted into evidence.

5 THE COURT: Mr. Mobley.

6 MR. MOBLEY: Subject to my prior objection,
7 Your Honor.

8 THE COURT: Without waiving, that's admitted as
9 State's 54.

10 (State's Exhibit Number 54, Personnel Action
11 Form, admitted into evidence.)

12 BY MR. LUPTON:

13 Q And who is that a record for?

14 A This is for Ms. Rice, Carmen Rice.

15 Q And in that, is that for a good or for a bad?

16 A This is a verbal counseling -- or documenting
17 verbal counseling for Ms. Rice where she --

18 Q And according to the document, what was the
19 verbal counseling for?

20 A She was coming to work not prepared for her
21 duty station.

22 Q And what was the date that that counseling took
23 place?

24 A This is dated October the 10th of 2001.

25 Q And on the results at the bottom or remarks,

DOROTHY CRONISE - DIRECT BY MR. LUPTON

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1 what is the supervisory remarks for Ms. Carmen Rice?

2 **A** It states that Ms. Rice, to remain on schedule,
3 must call office for availability until such time as
4 a permanent schedule will be assigned to her.

5 **Q** Thank you. And, finally, State's Exhibit 55?

6 **A** This is a document that America's Best Security
7 would occasionally get on the officers asking about
8 their employment as to whether or not they are going
9 to be eligible for housing through the housing
10 authority. And this is something that we also would
11 keep in the employee's file for reference.

12 **MR. LUPTON:** Your Honor, I ask that that be
13 admitted into evidence.

14 **MR. MOBLEY:** Subject to my prior objection,
15 Your Honor.

16 **THE COURT:** Yes, sir. It's admitted as State's
17 55.

18 (State's Exhibit Number 55, Housing
19 Authority Form, admitted into evidence.)

20 BY MR. LUPTON:

21 **Q** And what does it list as the last date that Ms.
22 Rice worked?

23 **A** It states here October the 10th of 2001.

24 **Q** And that would be consistent with State's
25 Exhibit 54?

1 **A** Yes, sir.

2 **Q** That she showed up and was placed into a pool
3 of employees?

4 **A** Yes, sir.

5 **Q** Would that also be consistent with her not
6 being officially terminated until October 30th?

7 **A** That would be.

8 **Q** Thank you.

9 **MR. LUPTON:** Beg the Court's indulgence.

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

11 (Pause.)

12 **BY MR. LUPTON:**

13 **Q** Let me ask you if you know this, if not, that's
14 fine. Do you know if the site that Carmen Rice
15 worked, according to State's Exhibit 54, the SCANA
16 Lyle site, do you know if that was an armed post?

17 **A** Yes, sir, it was armed. You had to have a
18 weapon to work there.

19 **Q** And that weapon would have been part of her
20 equipment?

21 **A** Yes, sir.

22 **MR. LUPTON:** No further questions, Your Honor.

23 **THE COURT:** Thank you, sir.

24 Mr. Mobley.

25 **MR. MOBLEY:** May it please the Court, Your

1 Honor.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. MOBLEY:

5 Q Ms. Cronise, good afternoon, ma'am.

6 A Yes, sir.

7 Q Do you recall talking to sheriff's department
8 investigators about this case?

9 A Yes, sir.

10 Q Okay. And they came to you and they asked --
11 they indicated they were looking for records on
12 Carmen Rice, correct?

13 A Yes, sir.

14 Q Was that a pretty straightforward task?

15 A Yes, sir.

16 Q But America's Best Security Company had some
17 problems, correct?

18 A You would need to be a little more explicit.

19 Q Did they go bankrupt?

20 A Yes, sir, they did.

21 Q Do you consider that a problem?

22 A Yes, sir.

23 Q Okay. That's a pretty big problem if you're
24 going bankrupt?

25 A Yes, sir.

- 1 Q So they had some financial problems, right?
- 2 A Yes, sir.
- 3 Q And some of the payroll checks bouncing?
- 4 A Yes, sir, they did.
- 5 Q They had some other problems as well, correct?
- 6 A (No response.)
- 7 Q Did you have some high turnover in employees?
- 8 A Yes, sir.
- 9 Q And you're only one person that worked at
- 10 America's Best Security Company, correct?
- 11 A One of many, yes, sir.
- 12 Q One of many?
- 13 A Yes, sir.
- 14 Q And although you're in a position today to
- 15 identify certain information that was contained in
- 16 those records, you're not telling this jury that you
- 17 actually documented all of that stuff yourself,
- 18 correct?
- 19 A That's correct. I did not make those actual
- 20 documentations, no, sir.
- 21 Q So you can't vouch for the authenticity of the
- 22 information contained in the document, all you can
- 23 do is identify the document as a -- what appears to
- 24 be an America's Best Security Company record?
- 25 A They are America's Best Security records, yes,

1 sir.

2 Q And there are many other people that had
3 responsibility for completing information?

4 A Yes, sir.

5 Q And recording information?

6 A Yes, sir.

7 Q But those are some of the same people that were
8 involved in the high turnover as the company had
9 financial problems, correct?

10 A A few, but not many. The top level management
11 stayed relatively the same.

12 Q Well, what about -- who was in charge of
13 equipment? I mean, who was in charge of the
14 equipment? What -- what do you call that person,
15 that person -- that classification? Was that called
16 logistics?

17 A Yes, sir, it could have been probably one of
18 the many names for it.

19 Q Did you have a pretty high amount of turnover
20 in the logistics department?

21 A We had several people that were in charge of
22 those areas, yes, sir.

23 Q And logistics -- just so we're clear so the
24 jury knows what we're talking about, logistics is in
25 charge of, I guess, keeping track and collecting

1 equipment from employees?

2 A Yes. Logistics would have signed out
3 equipment, documented what was coming in, who was
4 picking up uniforms, those sort of things, who was
5 issued handcuffs.

6 Q And also it kept track of when it came back in?

7 A Yes, sir.

8 Q And I think you indicated you had a few people
9 in logistics?

10 A Yes, sir.

11 Q How would you describe the record keeping at
12 America's Best Security? It was pretty shoddy,
13 wasn't it?

14 A I wouldn't say so, no, sir.

15 Q When you had conversations with investigator --
16 do you recall meeting with Investigator Mincey?

17 A Yes, sir.

18 Q Do you recall the difficulty he was having
19 trying to find certain information? You don't
20 recall that at all?

21 A If you're talking about when we were actually
22 physically looking for the information or what --
23 I'm not clear on what your question is.

24 Q Okay. Just so we're clear, Investigator Mincey
25 came to you looking for very specific information;

1 is that correct?

2 A Yes, sir.

3 Q Okay. Were you able to give him the exact
4 information that he wanted pretty easily?

5 A No, sir. The records had been stored and it
6 was a matter of having to go find the information
7 that he was looking for. As you said, the company
8 had gone into bankruptcy and everything was filed
9 away.

10 Q And he had to talk to several different people,
11 correct? Wasn't he given the names of -- who's Mel
12 Newman?

13 A He was also a member of the company.

14 Q Okay. A pretty high ranking member of the
15 company?

16 A Yes, sir.

17 Q Was he partially in charge of the record
18 keeping?

19 A Yes, sir.

20 Q Okay. Where is Mel Newman?

21 A That, sir, I am not certain. He has moved.

22 Q Did Mel Newman have some psychiatric problems?

23 MR. LUPTON: Objection, Your Honor.

24 MR. MOBLEY: He's one of the people in charge
25 of keeping the records.

1 **MR. LUPTON:** Your Honor, his current situation
2 is not relevant to --

3 **THE COURT:** He's not here. She wouldn't -- I'm
4 not going into that.

5 **MR. MOBLEY:** I'm sorry, Your Honor.

6 **MR. LUPTON:** I think if he wanted to ask
7 whether he had some psychiatric problems at the
8 time.

9 **THE COURT:** The objection is sustained. We're
10 going to move on from that.

11 **MR. MOBLEY:** Just so the record can be clear,
12 Your Honor, you know, she's offering these records
13 -- the State is offering these records under the
14 business record exception. My objection is that the
15 manner of record keeping and the problems they had
16 with shoddy records indicated the record keeping
17 manner was not trustworthy. And I think --

18 **THE COURT:** If y'all don't have proof of
19 anything regarding that other than your question,
20 we're not going into that.

21 **MR. MOBLEY:** And I'll be glad to accept her
22 answer, but I think if she's got knowledge that one
23 of the people -- one of the main people in charge of
24 keeping the records had those kind of problems, she
25 can answer. If she can't answer, she can't answer.

1 But I think I'm allowed to ask the question.

2 THE COURT: Move on from that topic.

3 BY MR. MOBLEY:

4 Q But Investigator Mincey had to talk to several
5 different people in order to find anything out to
6 any degree of certainty, correct?

7 A As to what degree of certainty, I'm not sure of
8 what you're speaking of. As far as whether or not
9 she was an employee, that was -- that should have
10 been a very straightforward, simple task.

11 Q Now, Mr. Lupton -- let me see the documents.
12 Now, Mr. Lupton asked you about the discipline
13 problems she had on this State's Exhibit Number 54?

14 A Yes, sir.

15 Q And it states, She arrived to work unprepared
16 for duty?

17 A Yes, sir.

18 Q And also fails to communicate her availability?

19 A Yes, sir.

20 Q And there's a note on this form, correct?

21 A Yes, sir.

22 Q About her employment with SCANA?

23 A Yes, sir.

24 Q The problem is she showed up to work with her
25 child, right?

1 A I'm not sure exactly what the problem was.

2 Q Mind if I approach?

3 A Yeah.

4 Q Do you see what I'm referring to?

5 A Yeah.

6 Q Okay. Why don't you read to the jury what that
7 is?

8 A SCANA Lyle site, showed up to work with her
9 child, age unknown, took child home at request of
10 supervisor and returned to work later.

11 Q She had a child care problem?

12 A Yes, sir, apparently so.

13 Q And that's why she was disciplined?

14 A (No response.)

15 Q Let me rephrase the question. Attached to the
16 statement where she was disciplined about showing up
17 to work unprepared and being more diligent about her
18 availability is a note which references her bringing
19 her child to work, a child care problem?

20 A Yes, sir.

21 Q Okay. Thank you. Now, he also asked you about
22 equipment being turned in and he showed you another
23 form.

24 A Yes, sir.

25 Q And I'm going to refer to State's Exhibit

1 Number 49 and that's the one they were -- Mr. Lupton
2 asked you about employees and terminated employees
3 giving equipment back; is that right?

4 **A** Yes, sir.

5 **Q** And you didn't complete the sheet yourself,
6 correct?

7 **A** No, sir, I did not.

8 **Q** And what does the bottom of that sheet say?

9 **A** Highlighted names indicate that officers have
10 turned in their assigned equipment.

11 **Q** All right. With respect to assigned equipment
12 here, officers, when they came on duty or become
13 hired, they're given various different things,
14 correct?

15 **A** Yes, sir.

16 **MR. MOBLEY:** I want to mark this Defense
17 Exhibit Number 3 for identification at this time.

18 **MR. LUPTON:** Your Honor, I'm going to have to
19 object as to relevance. This is a document that
20 relates to a completely different time period, a
21 completely different site, an unarmed post. It has
22 no bearing on equipment issued for an armed post.

23 **THE COURT:** Let me see the document.

24 ...(Defendant's Exhibit Number 3, Officer
25 Uniform Checklist, was marked for identification

1 purposes.)

2 (Whereupon, a bench conference was held off
3 the record, in the presence of the jury, but out of
4 the hearing of the jury.)

5 BY MR. MOBLEY:

6 Q I'm showing you what's been marked Defendant's
7 Exhibit Number 3. Can you tell me what that is?

8 A It would be a uniform officer checklist of the
9 equipment that was issued.

10 Q Was that issued to Carmen Rice?

11 A It does not have her signature on here, but it
12 does have her name in the upper right-hand corner.

13 Q Is that a pretty standard form for the security
14 company?

15 A Yes, sir, it is.

16 Q And when somebody becomes employed as a
17 security guard or goes on duty, they've got to have
18 certain equipment, correct?

19 A Yes, sir, they must.

20 Q And the first portion of that form, what's it
21 called?

22 A The form used -- on this one, it is either
23 logistics or supervisor evaluation.

24 Q And what's the title of this form?

25 A Standard Officer Uniform Checklist.

1 Q And there are two different sections to this
2 document?

3 A Yes, sir.

4 Q And the first section is called uniforms,
5 right?

6 A Yes, sir.

7 Q And there are a list of different items that a
8 person, in this case, Carmen, would have been given
9 as part of her equipment?

10 A That's correct.

11 Q And one of the items she would be given is a
12 shirt, correct?

13 A Yes, sir.

14 Q And it's checked off that she was given a
15 shirt?

16 A Yes, sir.

17 Q And one of the items it indicates she was given
18 as part of the uniform, pants, correct?

19 A Yes, sir.

20 Q And it was checked off she was given pants?

21 A Yes, sir.

22 Q And one of the items she was given was a black
23 belt?

24 A Yes, sir.

25 Q Also part of the equipment in a uniform?

1 A Yes, sir.

2 Q She was also given black boots or shoes,
3 correct?

4 A Yes, sir.

5 Q Polished?

6 A Yes.

7 Q It says polished, right?

8 A Yes, sir.

9 Q And there's a portion for whether or not she
10 was given socks?

11 A Yes, sir.

12 Q And that's checked, correct?

13 A Yes, sir.

14 Q There's also a portion for whether or not she
15 was given a black T-shirt?

16 A Yes, sir.

17 Q Is that checked off?

18 A Yes, sir.

19 Q That was something she was given as part of her
20 duties?

21 A Yes, sir.

22 Q Next box, hat?

23 A Hat, yes, sir.

24 Q That's not checked, right?

25 A No, sir.

1 Q Which meant she wasn't given a hat?

2 A No, sir.

3 Q So you can keep track of what's given to
4 employees?

5 A Yes, sir.

6 Q Equipment needs, and there's additional items
7 here?

8 A Yes, sir.

9 Q First one is badge?

10 A Yes, sir.

11 Q Checked off that she got a badge?

12 A Yes, sir.

13 Q Name tag?

14 A Yes, sir.

15 Q Checked off that she got a name tag?

16 A Yes, it is.

17 Q There's a box for collar pin?

18 A Yes, it is.

19 Q Is that checked off?

20 A No.

21 Q Which means she didn't get --

22 A No, sir.

23 Q And keys?

24 A Correct.

25 Q Standard equipment?

1 A Yes, sir, they are.

2 Q And you would agree with me that if a person is
3 terminated from a company, you want your stuff back?

4 A Yes, sir.

5 Q You don't want just some of it back, you want
6 all of it back?

7 A Yes, sir.

8 Q So you want the socks back, right?

9 A Yes, sir.

10 Q You want the shoes back?

11 A Yes, sir.

12 Q You want the hat back. You want the belt back.
13 You want the badge back. You want the name tag even
14 back, right?

15 A Well, the name tag would not be useful. Any
16 equipment that is reusable that could be reissued to
17 other officers we try to get back.

18 Q All right. You want to get all of your
19 equipment back. And the form you're referencing,
20 State's Exhibit Number 49, states highlighted names
21 indicate officers have turned in all of their
22 assigned equipment?

23 A Yes, sir.

24 Q And equipment is any number of things, right?

25 A That's correct.

1 Q And just so we're clear, it's not necessarily
2 in reference to a firearm, correct?

3 A No, sir, it's not. Firearms would have been
4 maintained on property.

5 Q Were any firearms missing or unaccounted for at
6 America's Best Security Company?

7 A Yes, sir.

8 Q In fact, there are about 33 firearms that are
9 unaccounted for, correct?

10 A I do not know the exact number.

11 Q Is that an approximate number?

12 A An approximate, yes, sir..

13 Q And how do you account for that? Is it bad
14 record keeping?

15 A I don't have any answer for that.

16 Q And I appreciate you answered honestly. The
17 bottom line is there are 33 firearms missing and the
18 bottom line is you guys don't know where they are?

19 A No, sir.

20 Q And can't account for it.

21 MR. MOBLEY: That's all I have at this time,
22 Your Honor.

23 THE COURT: Thank you, sir.

24 MR. MOBLEY: I'm sorry. I move Defendant's
25 Exhibit 3 into evidence.

1 **THE COURT:** I think without objection -- well,
2 you raised an objection. I'll overrule the
3 objection. I'll allow it in.

4 (Defendant's Exhibit Number 3, Officer
5 Uniform Checklist, admitted into evidence.)

6 REDIRECT EXAMINATION

7 **BY MR. LUPTON:**

8 **Q** Now, with regards to equipment, does equipment
9 include a weapon?

10 **A** Yes, sir, it does.

11 **Q** And this form right here, Dutch Square Mall,
12 that's not an armed post, is it?

13 **A** No, it is not.

14 **Q** Would a weapon be considered part of the
15 equipment for an unarmed post?

16 **A** Not for that post, no, it would not.

17 **Q** So it wouldn't be listed on this particular
18 list?

19 **A** No, sir.

20 **Q** Uniform -- in fact, an officer wouldn't be
21 allowed to show up for work at an unarmed post
22 carrying a gun?

23 **A** Actually, at Dutch Square, they would have been
24 terminated immediately. Dutch Square has had that
25 strong of policy.

1 Q And Mr. Mobley asked about the form that
2 indicated that Carmen Rice showed up for work on
3 October 10th with her three-year-old son?

4 A Yes, sir.

5 Q Is it appropriate, under the security company's
6 guidelines, to bring a three-year-old child to --

7 MR. MOBLEY: Objection, Your Honor. I think we
8 all agree --

9 THE COURT: He asked her about if that was one
10 of the reasons, custodial reasons, but you asked
11 about it. I'm going to let him go back into it on
12 redirect.

13 MR. MOBLEY: Thank you, Your Honor.

14 BY MR. LUPTON:

15 Q Is that appropriate under America's Best
16 Security's policy?

17 A No, sir.

18 Q And just so we're clear, that was the only form
19 admitted into evidence. Do you know if there was
20 any other disciplinary problems of a similar nature?

21 A Not to my knowledge.

22 Q Do you know one way or the other?

23 A No. I would not have been the one to handle
24 those.

25 Q So when Mr. Mobley asked you about all it was

1 was a child care issue, you don't know if that's all
2 it was?

3 A No, sir, I don't.

4 Q Now, with regards to questions about the
5 missing weapons.

6 A Yes, sir.

7 Q You know those weapons are missing, correct?

8 A Yes, sir.

9 Q Do you know who has them?

10 A No, sir, I do not.

11 Q Is it possible that those weapons are weapons
12 that were never turned in by the people they were
13 issued to?

14 A That's possible.

15 Q And is it possible that that includes Carmen
16 Rice's weapon?

17 A Yes, sir.

18 MR. LUPTON: No further questions.

19 THE COURT: Thank you, sir.

20 RECROSS-EXAMINATION

21 BY MR. MOBLEY:

22 Q Possibly they were turned in and
23 misappropriated or stolen by other employees?

24 A I can only testify to the forms that I have
25 been given to testify to as far as the custodian of

1 the record.

2 Q And the reason I asked you, a second ago, he
3 asked you if something was possible and you were
4 able to give an answer and that's why I'm asking you
5 that question?

6 A There are all kinds of possibilities, yes, sir.

7 Q But the bottom line is you have no idea where
8 the weapons are?

9 A As far as missing weapons, no, sir, we do not.

10 Q And a big part of that is the record keeping?

11 A That's possible.

12 Q I mean, if there were records as to where the
13 weapons were, what happened to them, it wouldn't be
14 a problem? I mean, you would be able to account for
15 them, right?

16 MR. LUPTON: Your Honor, this goes beyond the
17 scope of redirect and it was also asked and answered
18 on cross.

19 THE COURT: Go ahead and ask her this. You've
20 been asking her all sorts of stuff. Go ahead and
21 ask your question.

22 BY MR. MOBLEY:

23 Q And the problem is a result of the record
24 keeping, that's why you can't account for these
25 weapons because the record keeping is so horrible?

1 **A** We can account that the weapons were there. As
2 to what happened to them, as to why we cannot locate
3 them at this particular point in time or when the
4 company folded or went bankrupt, as you pointed out,
5 I can't tell you why we can't account for those
6 records.

7 **Q** Okay. Well, the records aren't there to
8 indicate what happened to them, right?

9 **A** No, they're not.

10 **MR. MOBLEY:** Thank you. That's all I have.
11 Thank you, ma'am.

12 **THE COURT:** Thank you, ma'am. You may step
13 down.

14 Ladies and gentlemen of the jury, I'm going to
15 let y'all take a short break. We'll get you some
16 snacks or drinks or something this time. Do not
17 discuss the evidence or testimony you've heard or
18 seen thus far. And we'll bring you back out
19 shortly.

20 (The jury retires to the jury room.)

21 **THE COURT:** All right. We'll stand down for
22 about ten minutes.

23 (Brief Recess.)

24 **THE COURT:** Mr. Lupton, State ready for their
25 next witness.

1 **MR. LUPTON:** Mr. Meadors isn't in the
2 courtroom. I've just sent for him. If I can have a
3 minute for him to come down. I'm calling the next
4 witness so if need be, I can start without him, but
5 since he's lead counsel, I would like to wait on
6 him.

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

8 (Pause.)

9 **THE COURT:** Mr. Lupton, while Mr. Meadors is on
10 his way down, for logistic purposes, time-wise, how
11 many more witnesses do you think the State has? I'm
12 not holding you to an exact number.

13 **MR. LUPTON:** Your Honor, our beloved court
14 reporter asked me that question earlier. The answer
15 is it's kind of a moving target. As we progress in
16 the case and we see how things are going, we're
17 making decisions. I would anticipate that the next
18 witness will probably be somewhat long -- somewhat
19 longer than the past couple, maybe half an hour, 45
20 minutes. The one after that shouldn't be too long.
21 I don't know that we'll get through those two in
22 time to -- it's 4:30 now, I don't know if we'll get
23 through those two in time to call anybody else
24 today.

25 **THE COURT:** I'm just trying to get some sense

1 for the rest of the week. I'm anticipating, I
2 guess, we'll probably end up canceling probation on
3 Friday.

4 **MR. LUPTON:** I think it's very likely that the
5 State will finish either tomorrow or very early on
6 Friday. I don't think we should go much into
7 Friday, if, at all, in the State's case.

8 **MR. MOBLEY:** And if we do go into Friday, just
9 so we're clear, our case is short. Any case we put
10 up will be short. So, I mean, I think we can --
11 it's probably safe to say the jury will get the case
12 some time Friday.

13 **MR. LUPTON:** And we may take -- we've got a
14 witness -- I've let Mr. Mobley know about it, we
15 have a witness that is pregnant, is having some
16 complications, we may go ahead and call her next out
17 of order. She was supposed to be called earlier.
18 We may just go ahead and call her now and interrupt
19 our order on the ABS witnesses and get her out of
20 here.

21 **THE COURT:** We'll probably, just to be safe, go
22 ahead and cancel probation.

23 **MR. MEADORS:** I apologize if I'm late. I hope
24 I didn't hold up the Court. I'm sorry.

25 **THE COURT:** We were just trying to get a sense

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1 of time-wise for the rest of the week. We'll take
2 care of that.

3 The State's ready to call their next witness?

4 MR. LUPTON: The State's ready.

5 THE COURT: We'll bring the jury back out.

6 (The jury returns to the courtroom.)

7 THE COURT: Thank you, ladies and gentlemen.
8 We're ready to continue at this point.

9 Mr. Lupton.

10 MR. LUPTON: Your Honor, the State would call
11 Ms. Shawnetta Wise.

12 THE COURT: Ms. Wise, if you'll come down and
13 be sworn.

14 SHAWNETTA WISE,

15 having been duly sworn, testified as follows:

16 THE CLERK: Please have a seat and state your
17 full name for the record.

18 THE COURT: State your name for the record,
19 ma'am.

20 THE WITNESS: Shawnetta Wise.

21 THE COURT: You may need to pull up to that
22 microphone a little bit, too. Thank you, ma'am.

23 DIRECT EXAMINATION

24 BY MR. LUPTON:

25 Q Ms. Wise, would you tell the jury a little bit

1 about yourself? Where are you from?

2 A Here, Columbia, South Carolina. From
3 Pinehurst. What community I'm from?

4 Q Well, Columbia is fine. Have you lived in the
5 Columbia area all your life?

6 A Yes, sir.

7 Q And what are you doing right now?

8 A Nothing now, staying home.

9 Q And are you expecting anything?

10 A A baby.

11 Q Are you pregnant?

12 A Yes, sir.

13 Q And how far along are you?

14 A Five months.

15 Q And do you know the defendant in this case,
16 Carmen Rice?

17 A Yes, sir.

18 Q How do you know her?

19 A We was -- well, we was associates. We used to
20 converse (sic) we stayed across the street from
21 each other.

22 Q And when you say you stayed across the street
23 from each other, I show you what's been marked
24 State's Exhibit 37, the map of Two Notch, Chestnut
25 and Braham street. Do you recognize that area?

1 A Yes, sir.

2 Q And is that where you lived across the street
3 from Ms. Rice?

4 A I stayed on the corner, 2601, right there, on
5 the corner of Chestnut.

6 Q Right here?

7 A Yes, sir.

8 Q And Carmen Rice was right across the street?

9 A She stayed down Braham Street, yeah.

10 Q That house there?

11 A Yes, sir, like up in here, one of them.

12 Q And how well did you know her?

13 A We used to talk about a lot of stuff, like when
14 I used to be sad a lot or me and my grandma was
15 going through a lot of problems and I used to talk
16 to her.

17 Q And did she talk with you about things, too?

18 A Yeah. We talked to each other about things.

19 Q So y'all had a pretty close relationship?

20 A Yes.

21 Q Now, at some point, you were arrested on a
22 simple assault; is that correct?

23 A Yes, sir.

24 Q And when you went to the detention center, were
25 you there at the same time as Ms. Rice?

1 A Yes.

2 Q And while you were in there, did you have a
3 conversation with her about this case?

4 A Yes.

5 Q Could you tell the jury how that conversation
6 came up and what was said?

7 A She was crying and I asked her why she was
8 crying. She was sitting at the table with another
9 inmate, or whatever you call them, and I asked her
10 why she was crying and she told me why she was
11 crying.

12 Q And why was she crying?

13 A Because she had done something, but everybody
14 thought she was alone, something like that.

15 Q Do you remember what she told you?

16 A I don't remember her exact words now.

17 Q Well, let me ask you, did you ask her what she
18 had done?

19 A No, I never asked her what she done.

20 Q And did you ask her -- you stated you asked her
21 why she was crying and she said she had done
22 something, but you don't recall the exact words?

23 A Not now because now they got me on all kind of
24 medications.

25 Q And I'd like to show you a statement.

1 **A** I remember my statement.

2 **Q** And could you look at that statement to refresh
3 your memory, right there? Without reading it out
4 loud, could you read it and refresh your memory?

5 **A** Yes, sir.

6 **Q** And was this statement given shortly after
7 you --

8 **A** Like the next week after I came home. I was
9 home for like three days, four days, something like
10 that or the next week.

11 **Q** And so this was fresh after --

12 **A** Just getting out.

13 **Q** And when it was fresh in your mind, what did
14 you say she said?

15 **A** She said she had done something and people
16 thought she was alone.

17 **Q** Did she say, I did it?

18 **A** She said she done something.

19 **Q** And y'all were talking about the murder?

20 **A** I assume that's what she -- I mean, I never
21 said -- she did not come out and say she had
22 murdered someone when --

23 **Q** But she said she did it?

24 **A** She said she done something.

25 **MR. MOBLEY:** Your Honor, she's asked and

1 answered that question. He keeps repeating the same
2 question over and over.

3 **THE COURT:** Her answer needs to stand for
4 itself.

5 BY MR. LUPTON:

6 **Q** And did she go on to elaborate, But it wasn't
7 supposed to go down that way?

8 **A** Yeah, she said that.

9 **Q** And she said she also was --

10 **MR. MOBLEY:** He's leading the witness, Your
11 Honor, I object.

12 **THE COURT:** Sustained.

13 BY MR. LUPTON:

14 **Q** Did she talk about selling a gun?

15 **A** No, she never said anything about selling a
16 gun.

17 **Q** And do you recall coming into the Solicitor's
18 office pursuant to a subpoena?

19 **A** Yes, sir.

20 **Q** And do you remember speaking with myself, with
21 Investigator Ace Wesley present?

22 **A** Yes, sir.

23 **Q** And do you recall telling us, at that time,
24 that you had asked Carmen Rice that -- how you
25 couldn't understand how somebody could kill another

1 person and asked Carmen if she really did it?

2 A Yes, sir.

3 Q And do you recall that that's when you said,

4 She's told you, yeah, I did it, but it wasn't

5 supposed to go down like that?

6 A She said she done something.

7 Q But do you recall telling --

8 A Yes, sir.

9 Q -- with Ace Wesley, the investigator from the
10 Solicitor's office, present --

11 A Yes, sir.

12 Q -- you said her answer was, yeah --

13 MR. MOBLEY: Your Honor, he's leading the
14 witness horribly at this point.

15 THE COURT: Sustained. You have to first see
16 whether or not she remembers it before you go any
17 further and ask her if she can testify to what she
18 said.

19 MR. LUPTON: Your Honor, based on the fact that
20 she has admitted to being Carmen Rice's friend, the
21 State would ask to impeach her with her prior
22 statement. It's inconsistent with what she's
23 testifying to now.

24 THE COURT: She may be, in fact, qualified to
25 do that, but y'all haven't demonstrated it yet.

1 You've got statements, obviously, she's made, you
2 can show those and see if you can refresh her
3 memory. And if that doesn't work, then we'll take
4 up your other issue.

5 BY MR. LUPTON:

6 Q And do you recall stating, with the
7 investigator present, her answer to the question of
8 did you do it, did you kill somebody, was, Yeah, I
9 did it, but it wasn't supposed to go down like that
10 and I wasn't --

11 THE COURT: That's the same objection
12 Mr. Mobley just made. You need to rephrase it.

13 THE WITNESS: Can I say something?

14 THE COURT: No, ma'am, there's not a question.

15 BY MR. LUPTON:

16 Q Looking at your statement from April 15, 2004,
17 is this your statement?

18 A Yes, sir.

19 Q And you signed it?

20 A Yes, sir.

21 Q And what did you say?

22 A She said, I did it, but it wasn't supposed to
23 go that way. She also said she was not alone.

24 MR. LUPTON: Nothing further, Your Honor.

25 THE COURT: Mr. Mobley.

CROSS-EXAMINATION

1

2

BY MR. MOBLEY:

3

Q Ms. Wise?

4

A Yes, sir.

5

Q I'll try not to keep you up here too long. Do
6 you need a break before we start?

7

A No, I'm okay.

8

Q Now, this statement that Mr. Lupton referred to
9 was signed by you or given by you in April -- or
10 signed by you in April of 2004; is that correct?

11

A Yes, sir, I signed it.

12

Q And where were you living at that time? Was
13 that on Chestnut Street?

14

A Yes.

15

Q I'm sorry?

16

A Yes.

17

Q Who were you living there with?

18

A My grandmother, my three brothers and my two
19 uncles.

20

Q Was one named Fred?

21

A Yes.

22

Q Did Fred tell you -- I mean, did you know that
23 investigators had come to the house before looking
24 or talking to people about Carmen Rice?

25

A Did I know before we --

1 Q Did you know, at some point prior to you giving
2 your statement, that investigators had come to that
3 very same house you lived in and asked --

4 A That they had came to my house?

5 Q Correct.

6 A No, I was in DJJ. When I came home from DJJ, I
7 went to -- got into a fight three days after that
8 and then I went to the adult one.

9 Q What were you in DJJ for, ma'am?

10 A Running away from home, fighting in school.

11 Q And DJJ is, just so everybody understands, the
12 Department of Juvenile Justice?

13 A Department of Juvenile Justice.

14 Q Did your Uncle Fred tell you that an
15 investigator had come to the house and said that --

16 MR. LUPTON: Objection, Your Honor, hearsay.

17 THE COURT: You might need to rephrase that,
18 sir.

19 BY MR. MOBLEY:

20 Q Were you advised by your uncle that an
21 investigator told him that you could get money for
22 giving information on Carmen Rice?

23 A My uncle's name is -- no, nobody never told me
24 that..

25 Q No one told you that?

1 **A** No.

2 **Q** Now, when you gave the statement, this written
3 statement, you gave it to an investigator; is that
4 correct?

5 **A** Investigator Bells -- Bell.

6 **Q** And do you recall what state of mind you were
7 in when you talked to the investigator and you gave
8 him this statement?

9 **A** I can remember some of it.

10 **Q** Would it be fair to say you were kind of
11 confused when you were talking to him?

12 **A** He was -- I mean, I gave him three different
13 statements because, at first, he wasn't -- he was
14 asking me different questions. And then my
15 grandmother told him -- my grandmother didn't know
16 that he was in there asking me questions. So when
17 she had came in the house, then she told him not to
18 be asking me questions. So they went out the room
19 and they talked. Then he came back in, he said he
20 was going to start over. He wanted another
21 statement, so -- I mean.

22 **Q** But you say you gave him three different
23 statements?

24 **A** Uh-huh.

25 **Q** Okay. Well, let's talk about the first

1 statement you gave him. And just so we're clear,
2 you said he was asking a question in kind of a
3 confusing kind of order is that what he was doing?

4 A No. I mean, I could understand -- I'm not
5 slow. I could understand what he was asking me.

6 Q Okay. So you said you gave him three different
7 statements, correct?

8 A Uh-huh.

9 Q Okay. And the first statement you gave him,
10 did he write down everything you were saying?

11 A No. That's why I told him to write another
12 statement.

13 Q Okay. Well, what did you tell him in your
14 first statement?

15 A No. He asked me some of the same questions,
16 but some of the answers that I was giving him, he
17 wasn't writing them down. He was just writing down
18 some of the questions and not all of the questions.

19 Q Okay. So you were telling him things -- he was
20 asking you questions and there are certain answers
21 -- and just so we're clear, I know you signed this,
22 but you didn't actually hand write this statement
23 yourself, correct?

24 A No, sir.

25 Q They gave you this or whoever it was, the

1 investigator, he wrote all of this stuff down,
2 correct?

3 A Yes, sir, and I signed it.

4 Q And he gave it to you and asked you to sign it?

5 A Yes, sir.

6 Q Okay. So you didn't control the content of
7 what's in this statement, right? He wrote all of
8 this stuff down not you?

9 A Yes, sir.

10 Q And I think you indicated, there are a lot of
11 questions that he asked you and you gave him the
12 answers and he wasn't writing those answers down,
13 correct?

14 A I told him to write another one.

15 Q Okay. And why did you tell him to write
16 another one?

17 A Because I felt like some of the questions he
18 was asking me he should have wrote all of them down
19 instead of some of them.

20 Q So would it be fair to say when the
21 investigator tried to interview you, he was trying
22 to -- and tell me if this is your opinion as to why
23 you asked him to write a second statement, that when
24 he recorded your statement, he wrote it in a manner
25 that was not exactly the truth, is that what

1 happened?

2 **A** No, it wasn't that it wasn't the truth. It's
3 just when he asked me one question and I answered
4 it, then I thought he wrote it down, but when I read
5 it, it was some answers, but it wasn't all of my
6 answers on there.

7 **Q** He was leaving some our your answers out?

8 **A** Uh-huh.

9 **Q** And you felt that the answers that you were
10 giving were important enough that he should include
11 them?

12 **A** I didn't know if it was important or not. I
13 just felt like whatever I say, he should have wrote
14 everything down.

15 **Q** So you went through it a second time, so you
16 gave him three different statements?

17 **A** Uh-huh.

18 **Q** Okay. What happened the second time?

19 **A** The same thing.

20 **Q** So after the first time, you tell him some
21 things, he didn't write everything down, you look at
22 it and you told him. He says, Okay, we'll try it
23 again. And the second time he does more or less the
24 same thing again; is that correct?

25 **A** Yes. The third time my grandma just told me to

1 get up.

2 Q Tell me about that. Please elaborate on that
3 third time. The third time is when you gave this
4 statement?

5 A Yes.

6 Q Okay. Tell me about when you say your
7 grandmother just told you to get up or him to get
8 up?

9 A Me to get up.

10 Q Okay. And why was that?

11 A I don't know.

12 Q Did she think you were having a rough time or
13 something?

14 A I don't know why she told me to get up.

15 Q Now, on this third statement, the one that you
16 signed on April 4th, there's a portion on this --
17 mind if I approach you, ma'am?

18 A Yeah.

19 Q Okay. Thank you. There's a portion of the
20 statement where you write down, where you signed it,
21 where your statement says, Carmen said she did it or
22 I did it. Is that a misstatement in this written
23 statement?

24 A The one you just showed me?

25 Q Yes.

1 A Yes.

2 Q Now, when you reviewed the written statement
3 and you saw that he wrote down that you said that
4 she said I did it, did you say anything to him?

5 A I told him she said she did something. He said
6 it was the same thing.

7 Q All right. So --

8 A So I -- that's why -- I mean, I felt like it
9 was the same thing because he said it was the same
10 thing, so I didn't see no difference in it.

11 Q Okay. So in this written statement, he wrote
12 down you said that she did it when actually she
13 didn't say she did it, she said she did something,
14 correct?

15 A Yes, what's the difference. I mean --

16 Q I'm just asking you about what was said?

17 A Well, yes.

18 Q And you told the investigator, in this third
19 interview, on this third time you're talking to him
20 -- I mean, in the first few times, he wasn't writing
21 down all your answers so you have to do a third
22 statement. So the third time you told him, That's
23 not what I said, I didn't say that she did it. I
24 said she did -- she said she did something. And he
25 told you, It's not the same -- you said he told you,

1 It's the same thing, it doesn't matter, just go
2 ahead and sign it?

3 **A** He didn't say go ahead and sign it. He told me
4 it's the same thing. My grandma told me after I
5 signed it -- when he said it's the same thing, I put
6 my signature on it. And my grandma said, Now,
7 that's enough, she ain't got to write no more. Then
8 she told me to get up, then I left, went outside.

9 **Q** Okay. Now, when you had the conversation with
10 Carmen when you were in jail with her, I mean, she
11 was crying, right?

12 **A** Yes, sir.

13 **Q** Okay. And she was kind of upset?

14 **A** Yes, sir.

15 **Q** And you also, during that conversation, heard
16 her talk about how she's missing her son, correct?

17 **A** Yes, sir.

18 **MR. MOBLEY:** I don't have anything further from
19 the witness at this time, Your Honor.

20 **THE COURT:** Thank you, sir.

21 **REDIRECT EXAMINATION**

22 **BY MR. LUPTON:**

23 **Q** It's your testimony today that you talked to
24 the police officer the first time and you felt that
25 he wasn't including everything in the statement so

1 you wanted him to do it again?

2 **A** Yes, sir.

3 **Q** And so he included the stuff you wanted in
4 there?

5 **A** Not the second time, that's why I did it the
6 third time.

7 **Q** All right. So you got what you wanted into the
8 statement?

9 **A** Yes, sir.

10 **Q** And --

11 **A** Hold on. What you mean I got what I wanted?

12 **Q** Well, your testimony was that he wasn't writing
13 down the things you were saying and you wanted him
14 to write it down because you thought it might be
15 important; is that right?

16 **A** Yes, sir. When he did it the third time, he
17 just didn't ask the same questions, but he wrote
18 down my answers to them.

19 **Q** He wrote down your answers?

20 **A** Uh-huh.

21 **Q** And that was your testimony earlier is that I
22 asked you if these were your answers --

23 **MR. MOBLEY:** Your Honor, I object. He's
24 leading the witness.

25 **THE COURT:** Rephrase the question.

1 BY MR. LUPTON:

2 Q Earlier you testified, did you not, that the
3 officer wrote down your answers?

4 A Yes, sir.

5 Q And on this statement, he asked you the
6 question, Did Carmen ever talk with you about the
7 murder she is charged with? And you answered that
8 you had been locked up with her overnight and that
9 she talked then and she said --

10 MR. MOBLEY: Your Honor, I mean, once again,
11 he's continuing -- it's like he's cross-examining
12 the witness. It's his witness, Your Honor. I would
13 ask that he not lead his witness in this fashion.

14 THE COURT: I'm not far off letting him do it.
15 Ask her if she recalls what it was she said first
16 and then you can -- you can show her the document
17 obviously to refresh her memory.

18 BY MR. LUPTON:

19 Q Do you recall what you told the officer she
20 said?

21 A Yes, sir.

22 Q And you told the officer, you testified
23 earlier, as to the answer; is that not correct?

24 A Okay. When he asked me that, he also asked me
25 -- when he said, Do I know anything about the

1 murder, and he asked me, Any conversation that we
2 had, and I told him the conversation and he put my
3 answer after that question.

4 Q Now, you testified earlier you remember coming
5 in and talking with the investigator and myself?

6 A Yes.

7 Q Do you remember telling us, telling the
8 investigator, that you were afraid to come in and
9 testify?

10 A Yes.

11 Q And do you remember telling the investigator
12 that you had been contacted by an investigator for
13 the defendant?

14 A Yes.

15 Q And that you had been threatened by that
16 investigator with -- that you would be brought up on
17 charges?

18 A Yes.

19 Q Now, do you also recall being contacted by the
20 defendant?

21 A Yes. By the defendant?

22 Q On, I believe, it was a three-way call?

23 A Oh, yes. But that -- we didn't talk about a
24 murder, but, yes, we talked.

25 Q And do you recall telling us that you felt

1 intimidated?

2 **A** Because we know the same people, a lot of the
3 same people.

4 **Q** And you were afraid to come in and testify
5 against Carmen Rice?

6 **A** Yes.

7 **Q** And what's your grandmother's name?

8 **A** Katie Wise.

9 **Q** And she signed as a witness in this statement
10 that you were given -- asked to look at and asked if
11 it was your statement and you signed it that it was
12 your statement?

13 **A** My grandmother didn't read the statement, but
14 she signed it.

15 **Q** You were given -- asked to read it?

16 **A** Yes.

17 **Q** Asked if it was your statement and you signed
18 it?

19 **A** Uh-huh.

20 **MR. LUPTON:** Nothing further, Your Honor.

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

22 Mr. Mobley, anything further?

23 (Pause.)

24 **THE COURT:** Anything on recross, Mr. Mobley?

25 **MR. MOBLEY:** Nothing further, Your Honor.

1 **THE COURT:** All right. Ma'am, you may step
2 down.

3 **MR. LUPTON:** Your Honor, I ask that this
4 witness be excused.

5 **THE COURT:** Any reason not to excuse this
6 witness?

7 **MR. MOBLEY:** No objection, Your Honor.

8 **THE COURT:** Without objection, ma'am, you're
9 free to come and go as you please.

10 **MR. LUPTON:** Your Honor, the State calls
11 Anthony Stewart.

12 **MR. MOBLEY:** Your Honor, can we approach?

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

14 (Whereupon, a bench conference was held off
15 the record, in the presence of the jury, but out of
16 the hearing of the jury.)

17 ANTHONY ERIC STEWART,
18 having been duly sworn, testified as follows:

19 **THE CLERK:** Please have a seat, state your full
20 name for the record.

21 **THE WITNESS:** Anthony Eric Stewart.

22 DIRECT EXAMINATION

23 BY MR. LUPTON:

24 **Q** Mr. Stewart, tell us a little bit about
25 yourself. Where are you from?

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1 **A** I'm originally from New Jersey.

2 **Q** And how long have you lived here in South
3 Carolina?

4 **A** About 12 years.

5 **Q** And in that time, were you ever employed by
6 America's Best Security Company?

7 **A** Yes, sir.

8 **Q** When was that?

9 **A** 2000, around October, November 2000.

10 **Q** And do you remember when it is you left the
11 security company -- that particular security
12 company?

13 **A** Around November of 2001.

14 **Q** And in relation to -- do you remember if it was
15 towards the start of the month, towards the end of
16 the month, was it near --

17 **A** Towards the end.

18 **Q** And can you relate that to any holiday?

19 **A** Around Thanksgiving.

20 **Q** Which is at the end of the month, correct?

21 **A** Correct.

22 **Q** And during that time, what was your position
23 within the company?

24 **A** Major, supervisor of all clients.

25 **Q** In terms of a Major in the company, what --

1 does that relate to the person in overall charge,
2 the second in charge?

3 A Third in charge.

4 Q You're number three in the company?

5 A Yes, sir.

6 Q And what did your duties involve as a Major of
7 the company?

8 A Scheduling, recruit new clients, daily rounds
9 to all our clients to make sure our officers are
10 doing what they're supposed to be doing.

11 Q You would supervise and make sure that the
12 security officers were making their posts and doing
13 what they were supposed to be doing?

14 A Correct.

15 Q Now, do you recall why you left? Well, let me
16 -- one of the sites, do you recall if one of the
17 sites was a SCANA site?

18 A Yes.

19 Q And do you recall, approximately, how many --
20 first of all, was it an armed site or an unarmed
21 site?

22 A Armed site.

23 Q And do you recall, approximately, how many
24 security guards would be on a particular -- any
25 particular shift with SCANA?

1 **A** Well, not right off. But each post had at
2 least four officers per shift.

3 **Q** And in relation to 9/11, was this before or
4 after 9/11/2001?

5 **A** Right after.

6 **Q** And did that have an impact on the security
7 business?

8 **A** Well, in our company, it increases -- it had a
9 big increase on our company.

10 **Q** And you say you left in November of 2001.
11 Where did you go from there?

12 **A** Coastal International to work with SCANA.

13 **Q** Why is it that you left and went with Coastal?

14 **A** Better pay. It was a job offer from Coastal
15 International after -- I guess, after evaluating my
16 supervisory skills, they brought me on to their
17 company as a supervisor.

18 **Q** They hired you away from ABS for more pay?

19 **A** Correct.

20 **Q** And do you recall Carmen Rice?

21 **A** Yes, sir.

22 **Q** And do you see Carmen Rice in this courtroom?

23 **A** Yes, sir.

24 **Q** Can you point her out?

25 **A** (Indicating).

1 **MR. LUPTON:** Your Honor, I ask the record to
2 reflect that he indicated the defendant, Carmen
3 Rice.

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

5 BY MR. LUPTON:

6 **Q** And did she work for America's Best Security?

7 **A** Yes, sir.

8 **Q** Do you recall, approximately, when she worked
9 from and to?

10 **A** Not -- if I'm not mistaken, it was around March
11 or April, somewhere in that fact, of 2001.

12 **Q** That she was hired?

13 **A** That she was hired.

14 **Q** And do you recall when she left?

15 **A** Not right off the days, but around October of
16 2001, the same year, October, November.

17 **Q** And you were still employed there during that
18 time; is that correct, as a Major with America's
19 Best Security?

20 **A** Yes.

21 **Q** And as part of her duties, do you know whether
22 or not -- being on an armed security site, whether
23 or not Carmen Rice was issued a weapon by the
24 company?

25 **A** Best of my knowledge, all officers was issued a

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1 weapon to work on them sites, couldn't work without
2 it.

3 Q What kind of weapon would y'all have issued
4 her?

5 A .357 Taurus.

6 Q And did y'all load that with -- first of all,
7 explain for the jury, I don't know if everybody on
8 the jury knows about .357's and all that, what kind
9 of a handgun is a .357 Magnum?

10 A High capacity revolver.

11 Q It's a revolver, one of the kinds that spins?

12 A Correct.

13 Q And what kind of bullets does a .357 Magnum
14 fire?

15 A Well, you can fire .38 shells or .357's, .38
16 longs.

17 Q What kind of bullets did America's Best
18 Security issue to its officers?

19 A .38 longs.

20 Q And as far as issuing the weapons, would an
21 officer be issued a weapon that they would then keep
22 and take home with them?

23 A In most occasions, yes.

24 Q And as far as you know, did Carmen Rice have a
25 weapon that was issued to her that she took home

1 with her?

2 A As far as my knowledge, yes.

3 Q And do you know whether or not she, at some
4 point in October, missed a shift?

5 A Not only in October, it was a few shifts.

6 Q She missed a few shifts?

7 A Yeah. So to pinpoint, no, but it was quite a
8 few shifts.

9 THE COURT: Mr. Stewart, I'm going to ask if
10 you can slide a little closer to that microphone.
11 Thank you, sir.

12 BY MR. LUPTON:

13 Q I'd like to show you what's been marked as
14 State's Exhibit 54. And can you take a look at
15 that? And looking at that, can you tell at least
16 one of the shifts that she missed, what date it was?

17 A Yes, October 10th, 2001.

18 Q And in the remarks, I guess, the supervisor
19 remarks towards the bottom, could you read that?

20 A To be honest, I can't.

21 Q Pardon me?

22 A I can't read this. The handwriting is not
23 legible for me.

24 Q You're having a hard time reading it. Can you
25 make out those words?

1 **A** No, those are the words I can't make out.
2 Security Officer Rice to, and I don't understand
3 these words, something on schedule --

4 **THE COURT:** I'm not sure that anybody can hear
5 you. You need to speak up loud enough so the jury
6 can hear.

7 **THE WITNESS:** Well, I can't make out this word.
8 But, Security Officer Rice to, the word I can't
9 read, on schedule, must call office for availability
10 until such time as a permanent schedule is assigned
11 to her.

12 BY MR. LUPTON:

13 **Q** Is it possible that that word that you couldn't
14 read is remain?

15 **A** Yes, that's what it is.

16 **Q** And does that carry any significance for you?

17 **A** Come again?

18 **Q** Let me rephrase that. When a person -- did
19 y'all have a high turnover in the security business?

20 **A** Correct, yes, sir.

21 **Q** And when a person missed a shift, were they
22 immediately fired for that?

23 **A** No, sir. We placed them in a pool of officers
24 to keep them on file just in case we can use them in
25 future assignments.

1 Q And would it be possible for such a person to
2 then be recalled back to service and used again?

3 A Correct, yes, sir.

4 Q To help with the company?

5 A Yes, sir.

6 Q And if that happened, they wouldn't be fired;
7 is that correct?

8 A Correct.

9 Q And does it appear from that document that's
10 what happened in this case?

11 A Correct.

12 Q And do you know when she was officially
13 terminated?

14 A No, sir.

15 Q And if you look at State's Exhibit 52, does
16 that indicate when she was officially terminated?

17 MR. MOBLEY: Objection, Your Honor. He stated
18 he didn't know not that he couldn't recall, he said
19 he didn't know.

20 THE COURT: It's in the document already in
21 evidence. He said he doesn't know.

22 MR. LUPTON: I'll move on Your Honor.

23 BY MR. LUPTON:

24 Q Is it possible for a person working for that
25 security company, was it possible back then for a

1 person to have their last shift that they worked and
2 then pick up a paycheck before the company knew that
3 that was the last shift that they were ever going to
4 work?

5 A Yeah, it's possible.

6 Q And if that was the case, would the company
7 withhold a paycheck until they had their -- until
8 the company got the equipment back from that person?

9 A They normally wouldn't hold a paycheck unless
10 they know for sure the person's last day was already
11 existed.

12 Q So if the person wasn't terminated until after
13 that paycheck was issued, then the paycheck wouldn't
14 be held?

15 A Correct.

16 Q Now, is part of your duties at America's Best
17 Security Company, were you assigned -- well, let me
18 rephrase that. Do you know whether or not Carmen
19 Rice turned in her weapon prior to leaving?

20 A Prior to my leaving?

21 Q Yes.

22 A No.

23 Q And were you assigned to get that weapon back?

24 A Yes, sir.

25 Q Did you ever get it back prior to leaving?

1 **A** No, sir.

2 **MR. LUPTON:** Beg the Court's indulgence.

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

4 (Pause.)

5 **MR. LUPTON:** Thank you. Please answer any
6 questions Mr. Mobley has.

7 **THE COURT:** Mr. Mobley.

8 CROSS-EXAMINATION

9 BY MR. MOBLEY:

10 **Q** Mr. Stewart, good afternoon.

11 **A** How are you doing?

12 **Q** All right. So when you worked at America's
13 Best Security, I believe you were -- held the rank
14 of Major?

15 **A** Yes, sir.

16 **Q** And you were the number three man in the
17 company, correct?

18 **A** Yes, sir.

19 **Q** And there were two people ahead of you?

20 **A** Yes, sir.

21 **Q** Who was that?

22 **A** Don Crane and Mel Newman.

23 **Q** And you worked there until June of 2002,
24 correct?

25 **A** Incorrect.

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- 1 Q When did you stop working there?
- 2 A Around November 2001.
- 3 Q Okay. You didn't go back to America's Best --
- 4 A Yes, sir, I went back.
- 5 Q I'm sorry?
- 6 A Yes, I went back to them, but I wasn't
- 7 continuously working through June.
- 8 Q But where were you working up until June of
- 9 2002?
- 10 A I was working at Coastal International through
- 11 SCANA.
- 12 Q Okay. That's another security company?
- 13 A Correct.
- 14 Q What rank did you hold there?
- 15 A Sergeant.
- 16 Q Okay. And you stopped working there in June of
- 17 2002, correct?
- 18 A Correct.
- 19 Q And there's a reason you stopped working there,
- 20 right?
- 21 A Correct.
- 22 Q They let you go?
- 23 A Correct.
- 24 Q They fired you?
- 25 A Yes.

1 Q Because you got arrested, right?

2 A No. I got fired because I failed a drug test.

3 Q Okay. And what drugs were you taking?

4 A Marijuana.

5 Q So as part of your job at the security company,
6 you're required to take a drug test, correct?

7 A Correct.

8 Q Okay. Because they don't want their employees
9 on drugs?

10 A Correct.

11 Q And you failed the drug test?

12 A Correct.

13 Q And that's why you got fired from Coastal?

14 A Correct.

15 Q And did you get arrested after you got fired
16 from Coastal?

17 A Yes.

18 Q Okay. And you got arrested for another drug
19 charge, right?

20 A Correct.

21 Q And when you got fired from Coastal for failing
22 a drug test, you got arrested for trafficking in
23 cocaine; isn't that correct?

24 A I don't know what the charge on trafficking
25 was, but, yes, I was arrested.

1 Q You don't recall being arrested for trafficking
2 in cocaine?

3 A No.

4 Q But it was a drug charge?

5 A Correct.

6 Q You pled guilty to it, correct?

7 A Correct..

8 Q Just so we're clear, you're not saying that
9 Carmen Rice never turned her gun in, right? You're
10 not saying -- you can't say that she didn't turn it
11 in, correct?

12 A I can't say that, no, sir.

13 Q You can just say that you didn't get it from
14 her?

15 A I never received it, correct.

16 Q But didn't Charley Hinch tell you he got it
17 from her?

18 A Correct.

19 Q Now, who's Charley Hinch?

20 A At the time, he was a Major when I went back
21 with ABS.

22 Q Okay. So he had a supervisory position as
23 well?

24 A Correct.

25 Q And what were his duties?

1 **A** Same as mine, to make sure -- check out all
2 sites, make sure all of the officers are doing their
3 job, scheduling, client recruitments and so forth.

4 Q And equipment retrieval?

5 **A** Well, that was assigned to several people.

6 Q Okay. And Charley Hinch told you he got her
7 gun back?

8 **A** Correct.

9 Q And ABS had various policies, correct, various
10 departmental policies?

11 **A** Correct.

12 Q And I think, as part of their policies, if they
13 had an employee that did not return their handgun,
14 wasn't the company policy to send that employee a
15 letter, inform them that the company would seek
16 prosecution if that firearm was not returned?

17 **A** Correct.

18 Q Do you have any kind of letter like that
19 showing Carmen Rice was sent that kind of letter?

20 **A** No, I don't have no copies of nothing.

21 **MR. MOBLEY:** I don't have anything further from.
22 this witness, Your Honor.

23 THE COURT: Mr. Lupton.

24 *****

25 *****

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1 REDIRECT EXAMINATION

2 BY MR. LUPTON:

3 Q With regards to the drug charge, who was your
4 Prosecutor on that?

5 A I believe it was you, sir.

6 Q In fact, it was. And you were charged with
7 trafficking when you were first arrested; isn't that
8 correct?

9 A I'm really not sure that was the first charge.

10 Q Do you know whether or not the drug report came
11 back as below --

12 MR. MOBLEY: Objection. He's leading the
13 witness, Your Honor. He can ask him what the result
14 -- he certainly shouldn't be leading the witness as
15 to the exact number of the --

16 THE COURT: Let me hear the question first.

17 BY MR. LUPTON:

18 Q Do you know whether or not the drug report on
19 the cocaine that you had came back below the level
20 for trafficking?

21 A That was to my knowledge, yes, sir.

22 Q And were you told that it came back below that?

23 A Yes, sir.

24 Q And is that why your charge was reduced as far
25 as you know?

1 **A** As far as --

2 **MR. MOBLEY:** Objection, Your Honor.

3 **THE COURT:** I'll sustain that for leading.

4 **MR. LUPTON:** I'll rephrase it.

5 BY MR. LUPTON:

6 **Q** At the time that you pled guilty to that, that
7 was back in 2002, correct?

8 **A** Correct.

9 **Q** As far as you know, had I ever heard of Carmen
10 Rice at that point?

11 **MR. MOBLEY:** Objection.

12 **THE COURT:** Sustained.

13 BY MR. LUPTON:

14 **Q** Did I ever mention the name Carmen Rice to you?

15 **A** No, sir.

16 **Q** Did I ever ask you --

17 **MR. MOBLEY:** I object to any statements or
18 conversations of Mr. Lupton because Mr. Lupton has
19 put himself in a position to be a potential witness
20 to be called in this case if he wants to do that.

21 **THE COURT:** You might need to rephrase that
22 question.

23 **MR. LUPTON:** I'll rephrase it.

24 BY MR. LUPTON:

25 **Q** Did anybody ever ask you to give any statements

1 or any kind of testimony in exchange for your guilty
2 plea?

3 **A** No, sir.

4 **Q** Other than the fact that you were allowed to
5 plead guilty to --

6 **MR. MOBLEY:** He's leading the witness again,
7 Your Honor, continually.

8 **THE COURT:** I'm going to sustain it unless you
9 can rephrase it.

10 BY MR. LUPTON:

11 **Q** What did you plead guilty to?

12 **A** Possession with intent to distribute.

13 **Q** Powder cocaine?

14 **A** Powder cocaine, yes, sir.

15 **Q** What did you have in your possession?

16 **MR. MOBLEY:** Objection, Your Honor.

17 **THE COURT:** What's the objection?

18 **MR. MOBLEY:** I think, just so we're clear, on
19 the rule regarding impeachments, the conviction
20 itself is admissible, but all of the underlying
21 facts that would go to it, he can't go into that
22 under the rules for that.

23 **THE COURT:** I'm not quite sure why we're going
24 to this level of detail with this. Where are we
25 going, Mr. Lupton?

1 **MR. LUPTON:** I'll speed it along, Your Honor,
2 if it please the Court.

3 BY MR. LUPTON:

4 **Q** You pled guilty to what you did; is that
5 correct?

6 **MR. MOBLEY:** Objection, Your Honor. He is
7 continually leading this witness and trying to -- I
8 object to the leading, Your Honor, continual
9 leading.

10 **THE COURT:** It's already out there. Let him
11 phrase the question first.

12 BY MR. LUPTON:

13 **Q** What did you plead guilty to?

14 **A** Possession with the intent to distribute.

15 **Q** What were you guilty of?

16 **A** Excuse me?

17 **Q** What were you guilty of?

18 **A** Possession of heroin and powder cocaine.

19 **Q** Did I make any recommendations or was it a
20 straight-up plea?

21 **A** Straight plea.

22 **Q** So you got nothing?

23 **A** Nothing.

24 **Q** For this testimony --

25 **MR. MOBLEY:** I object to that characterization.

ANTHONY ERIC STEWART - REDIRECT BY MR. LUPTON

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1 **MR. LUPTON:** I'll withdraw -- I'll rephrase it.

2 **BY MR. LUPTON:**

3 **Q** Were you offered anything for this testimony
4 today?

5 **A** No, sir.

6 **Q** Is this Solicitor's office in any position to
7 help you for your testimony today?

8 **A** No, sir.

9 **Q** You talked about Hinch. When you worked
10 initially back in 2001, 2000, 2001, for America's
11 Best Security, what was his position?

12 **A** Well, the rank was moved up pretty quickly. As
13 I stepped up from Sergeant on up, Hinch was a step
14 right behind me. So when I made Major, he was
15 Lieutenant, Captain.

16 **Q** How would you characterize y'all's
17 relationship?

18 **A** A battlefield, always a power struggle.

19 **Q** And do you know -- first of all, when he told
20 you that he got the weapon back, when would that
21 have been that he got the weapon back? Would that
22 have been after you left?

23 **A** After I left.

24 **Q** So that would have been after October 25th,
25 2001, correct?

1 **A** Correct.

2 **Q** Do you know whether or not he ever actually
3 got --

4 **MR. MOBLEY:** Objection, Your Honor.

5 **THE COURT:** He can testify as to whether or not
6 he knows whether he got it or not. You can ask the
7 question.

8 BY MR. LUPTON:

9 **Q** Of your personal knowledge, do you know whether
10 or not he ever retrieved any weapon from Carmen
11 Rice?

12 **A** No, sir.

13 **Q** Do you know of any reason why he would say he
14 had if he had not?

15 **MR. MOBLEY:** Objection, Your Honor.

16 **THE COURT:** What's the objection?

17 **MR. MOBLEY:** He's asking the witness to
18 speculate. I'm not quite sure what kind of answer
19 he's trying to illicit a question like that.

20 **THE COURT:** I'll allow him to answer this
21 question. He can testify if he has any personal
22 knowledge. He can't speculate or guess as to any
23 reasons.

24 BY MR. LUPTON:

25 **Q** Do you know of any reason why he might tell you

1 he got it back if he had not?

2 A No.

3 Q And do you have -- y'all -- you testified that
4 y'all had a competitive relationship?

5 A Correct.

6 Q And would that have --

7 MR. MOBLEY: And I object at this point to
8 relevance, you know --

9 MR. LUPTON: I'll move on.

10 THE COURT: To the relevance?

11 MR. MOBLEY: Of his relationship with
12 Mr. Hinch. I mean, he asked him whether or not he
13 had any personal knowledge of whether he actually
14 got it or not, he answered that question. He asked
15 him whether or not he knew of any reason that he
16 might tell him that, he said, no, he couldn't
17 speculate on that. So him trying to develop more of
18 this relationship is completely irrelevant in this
19 case, Your Honor. I mean, I think he's gotten all
20 he can get into regarding his relationship with Mr.
21 Hinch.

22 MR. LUPTON: I'll rephrase, Your Honor.

23 THE COURT: I'll sustain the objection. And
24 remind both sides that, and I've tried to be
25 patient, but repetitive and cumulative questions and

1 testimony at some point will wear out patience.

2 Move on to something else.

3 BY MR. LUPTON:

4 Q Did he ever try and show you up by --

5 MR. MOBLEY: Objection. The bottom line is the
6 witness has answered the question and he doesn't
7 probably like the answer. He's trying to ask him
8 the same question a different way to get the answer
9 that he wants.

10 THE COURT: I think we're back on the same
11 subject. Is this more about his relationship with
12 Mr. Hinch or whoever he is?

13 MR. LUPTON: Your Honor, I'll move along.

14 BY MR. LUPTON:

15 Q All right. You testified that you don't have
16 any idea of whether or not he retrieved any weapon
17 from Carmen Rice in actuality; is that correct?

18 A Correct.

19 Q Even if he did retrieve some weapon, do you
20 know if that was the weapon that she was actually
21 issued?

22 A No, sir.

23 Q Could it be possible for her to have switched
24 up the weapons?

25 MR. MOBLEY: Objection completely to something

ANTHONY ERIC STEWART - RECROSS BY MR. MOBLEY

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1 like that, Judge. He's got no basis to even ask
2 that question. It's so far speculative to be
3 irrelevant.

4 **THE COURT:** The witness has already testified
5 he doesn't know anything about whether he got a gun,
6 didn't get a gun, whether it was the gun that she
7 was issued. That's already been answered.

8 BY MR. LUPTON:

9 **Q** As of November 2001, you had not retrieved her
10 weapon; is that correct?

11 **A** Correct.

12 **MR. LUPTON:** Nothing further.

13 **THE COURT:** Mr. Mobley, anything further?

14 RECROSS-EXAMINATION

15 BY MR. MOBLEY:

16 **Q** Now, you, yourself, were issued a firearm,
17 correct, with America's Best Security?

18 **A** Correct.

19 **Q** And when Mr. Lupton asked you about your
20 criminal charges, do you recall him asking you about
21 those a few minutes ago?

22 **A** Yes.

23 **Q** And he was a Prosecutor in the case and what
24 you pled to; do you recall that?

25 **A** Yes.

1 Q He left something out, didn't he?

2 A Yes.

3 Q Didn't you also plead guilty to an unlawful
4 possession of a pistol charge?

5 A Yes.

6 Q At the same time -- and you were arrested for
7 that at the same time you were arrested for
8 trafficking in cocaine; correct?

9 A Yes.

10 Q So you had the dope and the pistol on you,
11 correct?

12 A Correct.

13 MR. MOBLEY: That's all I have, Your Honor.
14 Thank you.

15 THE COURT: Mr. Stewart, you can step --

16 MR. LUPTON: Was it a stolen pistol?

17 THE COURT: Hold on. It's direct, cross,
18 redirect and recross.

19 Mr. Stewart, you can step down.

20 Does the State have another short witness?

21 MR. LUPTON: Yes, Your Honor. Your Honor, the
22 State would call Chris Duke.

23 (Whereupon, a bench conference was held off
24 the record, in the presence of the jury, but out of
25 the hearing of the jury.)

CHRIS DUKE - DIRECT BY MR. LUPTON

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1 **MR. LUPTON:** And, Your Honor, for the record,
2 Mr. Mobley does not have any objection to the last
3 witness to be released.

4 **MR. MOBLEY:** That is correct. My good friend,
5 Mr. Lupton, has accurately stated my position or
6 articulated my position to the Court.

7 **THE COURT:** Thank you, sirs.

8 CHRIS DUKE,
9 having been duly sworn, testified as follows:

10 **THE CLERK:** Please have a seat and state your
11 full name for the record.

12 DIRECT EXAMINATION

13 BY MR. LUPTON:

14 **Q** Deputy Chris Duke, did you used to work for
15 America's Best Security Company?

16 **A** Yes, sir, I did.

17 **Q** And, approximately, what time period did you
18 work for that company?

19 **A** I worked for that company March of 2001
20 through, approximately, May 2002.

21 **Q** You were working there at the same time as
22 Carmen Rice; is that correct?

23 **A** That's correct, sir.

24 **Q** And what were your responsibilities at
25 America's Best Security?

1 A I was a lieutenant, a supervisor over personnel
2 working in the field. I have responsibility for
3 scheduling and issuing equipment.

4 Q And would that include weapons?

5 A Yes, sir.

6 Q And did you ever -- did you issue Carmen Rice a
7 weapon?

8 A Yes, sir. She was issued, as were most
9 officers, a .357 Taurus model.

10 Q And what kind of ammunition was issued to her,
11 if any?

12 A Typically, ammunition issued was .38 Special
13 plus P.

14 Q And would there be other types of ammunition
15 that might be issued?

16 A There were occasions where .357 ammunition was
17 issued and regular .38 Special ammunition.

18 Q But, typically, what was issued?

19 A It was .38 Special Plus P Hollow Point rounds.

20 Q And when you issued a weapon, did you issue it
21 at the start of each shift and take it back up?

22 A No, sir. The time where we got through issuing
23 weapons was right after the 9/11 incident. We were
24 working with SCANA manning posts 24 hours a day
25 seven days a week. Officers began taking their

CHRIS DUKE - DIRECT BY MR. LUPTON

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1 weapons home due to the large amount of hours that
2 they were working.

3 Q And do you know whether or not Carmen Rice ever
4 turned in her weapon?

5 A No, sir, I cannot recall her turning in a
6 weapon.

7 Q And do you recall -- did you have to send out
8 any kind of a letter in relation to that?

9 A Yes, sir. We lost contact with Ms. Rice. She
10 quit showing up for work. Eventually, we completed
11 termination paperwork and attempted to retrieve all
12 issued equipment to include uniforms, handcuffs and
13 the weapon.

14 Q And you sent out a letter?

15 A A certified letter, yes, sir, trying to locate
16 her.

17 Q And would that be a letter that was sent out
18 pursuant to America's Best Security policies?

19 A Yes, sir.

20 Q And do you know who sent that letter out?

21 A It would have been up the chain of command
22 through personnel, the Vice President in charge of
23 personnel, Dottie Cronise. Major Anthony Stewart
24 had a hand in making sure that these things were
25 sent up the chain of command to be sent.

1 Q And with regards to Carmen Rice, do you have
2 any specific recollection whether or not a letter
3 was sent out for her?

4 A I believe one was sent. I drafted the notice
5 with her name on it to be sent out.

6 Q So you drafted the letter for her?

7 A Well, I drafted the format letter. Her name
8 was on one of the formats that needed to be signed
9 off on and then sent out certified mail.

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

11 THE COURT: Yes, sir.

12 (Pause.)

13 MR. LUPTON: Nothing further, Your Honor.

14 THE COURT: Thank you, sir.

15 Mr. Mobley.

16 MR. MOBLEY: Just briefly.

17 CROSS-EXAMINATION

18 BY MR. MOBLEY:

19 Q Mr. Duke, good afternoon, sir.

20 A Good afternoon, sir.

21 Q How long did you work at America's Best
22 Security Company?

23 A I worked there just over a year, sir.

24 Q And what time period did you work there?

25 A I worked there from March 2001 through about

1 May 2002.

2 Q And at the time you left, how would you
3 describe the record keeping at America's Best
4 Security?

5 A The record keeping there was -- the company was
6 in a time of transition. There were -- there were
7 several issues with it. We never lost anything.
8 Shortly after the company went bankrupt, I
9 understand they stored these documentations.
10 However, any of the record keeping that I did or had
11 direct knowledge of, the record keeping was pretty
12 well maintained.

13 Q But after the company had some problems, that's
14 when the record keeping became more problematic is
15 that fair to say?

16 A Well, sir, as the company entered its problems,
17 it's the time I resigned my position in May of 2002.
18 I cannot speak any further than that.

19 Q Okay. So would you say it was a gradual -- I'm
20 not trying to put words in your mouth. I know
21 you're trying to give me a complete answer so if I
22 misstate what you're saying, correct me, okay? So
23 you're saying as the company had problems, the
24 record keeping became gradually worse?

25 A Well, if there was a problem with it after my

1 leaving, it would have had to have been a gradual
2 one along the way.

3 Q But it seems like you're aware that there were
4 some problems with the records. Based on the way
5 you're trying to answer the question, it seems like
6 you're aware there were some problems they were
7 having with the records?

8 A Well, there's always problems with interoffice
9 paperwork, sir, in trying to maintain the flow.
10 However, it wasn't shoddy record keeping, you know.
11 You pretty much had the same chain. You didn't have
12 to go all over the place to get what you needed.
13 Everything was readily available.

14 Q Were you aware that there are 33 weapons that
15 are unaccounted for at America's Best Security?

16 A Yes, sir.

17 Q And you wouldn't call that shoddy record
18 keeping?

19 A I cannot speak after that -- I became aware of
20 that after I resigned from the company.

21 Q And why did you resign from the company?

22 A I resigned from the company due to a change in
23 position and a offer of another position paying more
24 money.

25 Q Now -- so any kind of letter that was sent to

1 Carmen Rice, can you produce that letter?

2 A No, sir, I cannot.

3 Q And you're not saying -- you can't say she
4 didn't turn the weapon in, you're saying you didn't
5 get it back from her, correct?

6 A I'm saying, based on the information I had up
7 until my time of resignation, I had not received
8 that weapon or was unable to account for it having
9 been turned into any personnel from America's Best
10 Security.

11 Q Okay. But hers was not the only weapon that
12 was unaccounted for, correct?

13 A That's correct, sir.

14 Q There were -- and, quite frankly, the weapon --
15 the .357, was that the standard issued type weapon
16 then?

17 A The standard issued weapon was a Taurus .357 or
18 a Rossi .38 Special.

19 Q About how many .357's would you say that the
20 company had possession of when they were in full
21 capacity?

22 A Forty-five to 50.

23 Q Is that a pretty common firearm?

24 A Yes, sir, it is.

25 Q And is it common on most security companies

1 based on your experience and knowledge?

2 A It depends on the security company, sir.

3 Q That's not an unusual weapon, correct?

4 A No, sir. 357's are also used for home defense.
5 It's a pretty reliable weapon.

6 Q Okay. So you can say what happened up until
7 the time that you left, but you can't say whether or
8 not the weapon was retrieved by anybody -- or
9 anybody else after you left, correct?

10 A That's correct, sir. I cannot speak for
11 anything that happened after my resignation.

12 MR. MOBLEY: All right. Thank you.

13 THE COURT: Anything on redirect?

14 MR. LUPTON: No, Your Honor.

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

17 All right. Ladies and gentlemen, we're going
18 to break for the day. Overnight, I just ask that
19 you not talk about the evidence or testimony you've
20 seen or heard thus far. We'll get started again at
21 9:00 a.m. in the morning. If you'll be back in the
22 jury room, we'll be ready to go then. Y'all have a
23 good night and safe night on the way home. And
24 we'll see y'all in the morning.

25 (The jury was excused for the day.)

1 **THE COURT:** Counsel, anything else we need to
2 take up?

3 **MR. MOBLEY:** I don't think I put my -- I think
4 we talked at the side bar about my objection to
5 Mr. Stewart's testimony. And I think the Court
6 allowed me to reserve the objection until we took
7 the break and I wanted to put my objection on the
8 record regarding the testimony of Anthony Stewart.

9 I objected to his testimony on the grounds of
10 relevance, Your Honor, and on the grounds of under
11 Rule 403 that his testimony had no probative value
12 and any probative value was substantially outweighed
13 by the substantial risk of unfair prejudice, Your
14 Honor.

15 **THE COURT:** I think that objection has been
16 raised to a number of issues and I've indicated and
17 did so on the record, but I wanted to make sure you
18 got your grounds on the record for record
19 preservation points, but I obviously overruled the
20 objection on that. But you're right, you did need
21 to argue your grounds on the record.

22 Anything else before we break?

23 **MR. MEADORS:** Thank you, Judge.

24 **MR. HART:** Thank you, Your Honor.

25 **THE COURT:** Thank you, gentlemen. See y'all in

1 the morning.

2 (Whereupon, the proceedings were concluded
3 for April 6, 2005.)

4 (The following proceedings were held on
5 April 7, 2005.)

6 (State's Exhibit Number 56, letter to Sarah
7 Dennis, was marked for identification purposes.)

8 **MR. LUPTON:** Your Honor, before we start, just
9 one housekeeping matter, I was looking over the
10 court reporter's list of exhibits that have been
11 entered into evidence to make sure that everything
12 was in that was supposed to be in. And State's
13 Exhibit 43, Calloways receipt, which Mr. Mobley did
14 not object to, came in without objection,
15 apparently, was never formally admitted into
16 evidence. I moved it in, Mr. Mobley didn't object
17 to it, but apparently you never --

18 **THE COURT:** Yeah. I have it down as admitted
19 because there was no objection to it, but if the
20 record wasn't clear, it's admitted.

21 **MR. LUPTON:** The court reporter didn't catch
22 that. I just wanted to make sure. So at this time
23 it's formally admitted.

24 (State's Exhibit Number 43, receipt from
25 Calloways, admitted into evidence.)

1 **THE COURT:** Anything else we need to take up
2 this morning?

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

4 **THE COURT:** Mr. Mobley, do y'all need some
5 time?

6 **MR. MOBLEY:** No, we're fine. Thank you, Your
7 Honor.

8 **THE COURT:** Anything else from the defense
9 before we bring the jury out?

10 **MR. MOBLEY:** Just, you know, I think on a
11 housekeeping note, as I indicated, a lot of the
12 pretrial matters would be witness specific. I
13 believe the young lady outside they plan to call
14 today is a Ms. Sarah Dennis. In the case file,
15 there's some reference to when the defendant was
16 employed with Ms. Dennis, some dispute she got into
17 with the witness' boyfriend. There's some
18 allegation she chased him out of the house with a
19 butcher knife or something like that. I didn't
20 think they'd planned on trying to get into that, but
21 I just wanted to make sure, from a preliminary
22 standpoint, that's not something they planned on to
23 get into.

24 **MR. MEADORS:** It's actually a chopping knife
25 about this big (indicating) and she came out the

1 door swinging it at the next witness' boyfriend. I
2 don't plan on getting into that unless they open the
3 door and I certainly will try to get in if they do.

4 **THE COURT:** I presume y'all will stay away from
5 that.

6 **MR. MOBLEY:** Yeah, I'm going to try not to ask
7 that question. Now, if I say chopping block, that's
8 not a thing with butcher knife, right, so that
9 wouldn't open the door.

10 **THE COURT:** Well, we'll assume you're talking
11 about the restaurant.

12 All right. We're ready to bring the jury out.

13 (The jury enters the courtroom at 9:15 a.m.)

14 **THE COURT:** Thank you, ladies and gentlemen.

15 Ladies and gentlemen of the jury, I did receive a
16 note this morning. There are two issues on there,
17 one relates to child care issue and I'll discuss
18 that with the individual juror before we break for
19 the day.

20 As to the first question, no, ladies and
21 gentlemen, we do not anticipate this trial going
22 into next week. So y'all should be finished this
23 week. But we are ready to start this morning.

24 **MR. MOBLEY:** There's another matter. We need
25 to approach.

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1 (Whereupon, a bench conference was held off
2 the record, in the presence of the jury, but out of
3 the hearing of the jury.)

4 **THE COURT:** Thank you, ladies and gentlemen.

5 **MR. MEADORS:** May it please, Your Honor.

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

7 **MR. MEADORS:** The State of South Carolina will
8 call Ms. Sarah Dennis.

9 **THE COURT:** Ms. Dennis, if you'll come around
10 to the bailiff, we'll get you sworn in, you can take
11 the witness chair.

12 SARAH DENNIS,

13 having been duly sworn, testified as follows:

14 **THE CLERK:** Please have a seat, state your full
15 name for the record.

16 DIRECT EXAMINATION

17 BY MR. MEADORS:

18 **Q** Would you state your name?

19 **A** Sarah Dennis.

20 **Q** Would you spell your last name?

21 **A** D-E-N-N-I-S.

22 **Q** If you'll speak into that so everyone can hear
23 you. Ms. Dennis, please kind of introduce yourself
24 to the ladies and gentlemen of the jury. Where are
25 you from?

1 **A** My mother's...

2 **THE COURT:** You've got to speak up, ma'am, so
3 the court reporter and that last juror back there
4 can hear you.

5 **THE WITNESS:** Okay. My mother's Korean and my
6 father is Caucasian. And he's in the military, so,
7 I guess, this has been home since '85.

8 **BY MR. MEADORS:**

9 **Q** And when you say, This has been home, here in
10 Columbia?

11 **A** South Carolina.

12 **Q** In --

13 **A** In Columbia.

14 **Q** And where did you go to school?

15 **A** Spring Valley High School.

16 **Q** When did you graduate?

17 **A** '94.

18 **Q** After high school, Ms. Dennis, what did you do?

19 **A** Went to Midlands Tech for a little while, got
20 pregnant, dropped out of school, worked at Richland
21 Memorial Hospital up until the time that I went to
22 Florida for a couple months.

23 **Q** And as far as going to Florida for a couple of
24 months, what time frame was that, Ms. Dennis?

25 **A** I believe I moved there June of 2001 until

1. February, March of 2002.

2 Q Prior to going to Florida, what were you doing
3 here in Columbia?

4 A Just working, working in the hospital.

5 Q And you go down to Florida, where were you in
6 Florida?

7 A Orlando.

8 Q What did you do there?

9 A I worked in the OR at Sand Lake Hospital.

10 Q So you got a degree in RN or nursing?

11 A I have an LPN and I graduate with my ADN on the
12 11th of May.

13 Q Congratulations.

14 A Thank you.

15 Q Where were you living in Orlando?

16 A In an apartment complex, maybe five miles from
17 my mother's house off of John Young Parkway.

18 Q And during this time period, if I could take
19 you into the Fall of 2001, Ms. Dennis, was your
20 grandmama sick?

21 A She was.

22 Q And did your mama go to visit your grandmama in
23 Korea?

24 A She did.

25 Q Now, who else was staying with you besides your

1 mama, if anybody?

2 **A** My mother didn't stay with me.

3 **Q** Okay. I misheard you. Was anybody staying
4 with you? Your child?

5 **A** My daughter.

6 **Q** Now, do you know the defendant, Carmen Rice?

7 **A** I do.

8 **Q** Please tell the folks how you know her?

9 **A** We stayed in the same apartment complex at
10 Bentley Court, I guess, in 2000, 2001.

11 **Q** And Bentley Court is where?

12 **A** Off of Broad River Road.

13 **Q** Were y'all in the same apartment or just in the
14 same complex?

15 **A** The same side of the building.

16 **Q** Do you remember the number of that building?

17 **A** 2100.

18 **Q** I'm sorry?

19 **A** 2100.

20 **Q** Okay. And that's how you got to know Carmen
21 Rice?

22 **A** Correct.

23 **Q** And as a result of that, did y'all become
24 either friends and or socialize?

25 **A** Yes.

1 Q And you left in June of 2001?

2 A I did.

3 Q After you left June 2001, were you still in
4 contact with Carmen Rice?

5 A Yes.

6 Q By phone?

7 A Phone, and I visited.

8 Q You'd come back and forth?

9 A Right.

10 Q Often?

11 A Yes.

12 Q And how old is your child?

13 A I'm sorry?

14 Q How old is your child?

15 A How old is she now?

16 Q Yes, ma'am.

17 A She's eight.

18 Q So back then, she would have been?

19 A She was four years old I think.

20 Q Now, specifically, if I could take your mind to
21 October, November, December of 2001. Did Carmen
22 Rice have an occasion to come stay with you for a
23 while?

24 A She did.

25 Q And can you tell the folks when that was as

1 best you remember?

2 A I don't remember the date. I believe it was
3 some time in November.

4 Q Why do you think it was some time in November?

5 A Because it was after my mother left to go to
6 Korea and she wasn't there for Halloween.

7 Q And your mother had gone to Korea in November?

8 A Some time in November.

9 Q And you're saying she, Carmen Rice, wasn't
10 there for Halloween, correct?

11 A Correct.

12 Q And you just remembered she wasn't there?

13 A Yes.

14 Q And did she have children?

15 A Yes.

16 Q Did y'all go trick or treating that night?

17 A I did.

18 Q Take your child?

19 A Right.

20 Q And if Carmen Rice had been there with your
21 child, would they have gone trick or treating?

22 A Correct.

23 Q But you're sure she wasn't there for Halloween?

24 A She wasn't there.

25 Q How long did she stay with you, Carmen Rice, in

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1 Orlando?

2 A Up until maybe the second week of December, a
3 week prior to Christmas, some time in between there.

4 Q And during that time period, was she working?

5 A No.

6 Q You were working?

7 A Yes.

8 Q Did she smoke?

9 A Yes.

10 Q And did there come a point when Carmen Rice
11 came back to Columbia?

12 A Yes.

13 Q And do you remember -- you said that was about
14 -- what did you say that was when she came back?

15 A The reason why?

16 Q No, don't --

17 A When she came back --

18 Q Well, there was a dispute, let's just leave it
19 at that, correct?

20 A Yes.

21 Q When did she come back and specifically --

22 A Between the second week of December or the week
23 before Christmas.

24 Q And you brought her back?

25 A Correct.

1 Q Did you see her after that?

2 A Yes.

3 Q Where?

4 A I've seen her at her house and then she came to
5 work at Richland.

6 Q And when you say her house, where are you
7 talking about, Sarah?

8 A Off Two Notch behind Anthony's Dairy Bar.

9 Q Is that Sarah with an H?

10 A Yes.

11 Q In looking at State's 37 --

12 MR. MEADORS: Excuse me, Your Honor, for
13 putting this in front of you right now. I
14 apologize.

15 Q This is Two Notch and Chestnut. Are you
16 familiar with that?

17 A Yes.

18 Q Is this Anthony's? I know it's a terrible
19 picture, but do you recognize that? If you don't,
20 that's fine.

21 A I believe so because this was the car lot
22 across from it.

23 Q Where did Carmen Rice live in relation to
24 Anthony's?

25 A She would have stayed on the road somewhere

1 back here, like right in this area (indicating).

2 Q And that's the house you'd been to?

3 A Correct.

4 Q And after she comes back to Columbia from
5 Florida, you saw her several times?

6 A Yes.

7 Q All right. Did there come a point where you
8 learned she had been arrested?

9 A Yes.

10 Q Did she write you a letter?

11 A She did.

12 Q And I want you to look at this letter, it's
13 marked State's 56, and tell me is this a letter that
14 she wrote and that you received?

15 A Yes.

16 Q What's it say right there?

17 A Dear Sarah.

18 Q And that's you, right?

19 A Yes.

20 Q Came to your address?

21 A Yes.

22 Q And what's it signed right there?

23 A Carmen Young.

24 Q All right. You recognize that as her
25 handwriting, don't you?

1 **A** Yes.

2 **Q** And that's her name, correct?

3 **A** It was -- well, I knew her as Carmen Rice.

4 **Q** But you knew that was Carmen Rice, Carmen
5 Young?

6 **A** Right.

7 **MR. MOBLEY:** No objection, Your Honor.

8 **THE COURT:** Thank you, counsel. Without
9 objection, it's admitted.

10 (State's Exhibit Number 56, letter, admitted
11 into evidence.)

12 **BY MR. MEADORS:**

13 **Q** Now, you had just stated that you're sure it
14 was after Halloween when she got there, correct?

15 **A** Correct.

16 **Q** Probably November because your mom went to
17 Korea?

18 **A** Right.

19 **Q** Your grandmama is dead now?

20 **A** She is.

21 **Q** I'm sorry. Looking down at this last page, I
22 believe it was page three, could you read that
23 sentence right there?

24 **A** It says: Please help me beat these charges.

25 All I need you to do is to verify that I was in

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1 Florida when this happened. Your word is credible.

2 October 17th, 2001.

3 Q What does that say after that October 17 --

4 A Oh. Until week of December -- second week of
5 December.

6 Q So did you take that to mean that she wanted
7 you to say that you were down there between
8 October --

9 MR. MOBLEY: Objection to what she attempted to
10 mean -- the letter speaks for itself, Judge.

11 BY MR. MEADORS:

12 Q What did you take that to mean?

13 MR. MOBLEY: Once again, the same objection,
14 the letter speaks for itself.

15 THE COURT: Well, she can testify as to her own
16 response to that letter. I understand your
17 objection is what -- she's not testifying as to what
18 the defendant was thinking, she's testifying as to
19 what she understood that to mean.

20 MR. MOBLEY: And my objection would still be
21 the same, Your Honor. I mean, how she received the
22 letter, her impression of the letter, I mean, is
23 certainly subject to interpretation and that's
24 something that's not relevant.

25 The bottom line is the letter speaks for

1 itself. And if the jury wants to -- the jury can
2 draw whatever any inference they want to from it,
3 but this witness shouldn't be allowed to give a
4 particular slant on the letter based on her own
5 personal perception of it. I mean, it speaks for
6 itself. She can say that Carmen wrote the letter.
7 And that's my objection, Your Honor.

8 **THE COURT:** I understand.

9 **MR. MEADORS:** Judge, I guess, we're saying what
10 -- this letter is written to you, it says, Please
11 help me beat these two charges on two dates, I'm
12 asking her what that means to her.

13 **THE COURT:** Yes, sir. I'll let her testify to
14 that. She's not testifying as to anything that the
15 defendant thought or intended. She's testifying as
16 to her own reaction to that.

17 BY MR. MEADORS:

18 **Q** Did you keep that letter?

19 **A** I did.

20 **Q** Why?

21 **A** I don't know just because I never knew if I was
22 going to be called to court or anything, so.

23 **Q** And you turned that letter into whom?

24 **A** To Mr. Lupton.

25 **Q** And what did you take that sentence to mean

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1 when you read it?

2 **A** That she wanted me to tell whomever that those
3 were the dates that she was in Florida.

4 **Q** Now, did y'all -- who's Twana Branham?

5 **A** Yes.

6 **Q** Did you have an occasion to call or did Twana
7 Branham call you, without going into what was said?

8 **A** She did.

9 **Q** And as a result of that, did you call back to
10 Columbia to see if anybody had been killed?

11 **A** Yes.

12 **Q** And what was Ms. Rice's demeanor when that was
13 going on?

14 **A** She was a little scared and she stated that she
15 didn't like anybody lying on her and she was worried
16 about it.

17 **Q** And was a call made back to check to see if
18 someone was dead?

19 **A** Yes.

20 **Q** Was a call also made to check back and see if
21 there were any warrants on Ms. Rice?

22 **A** Yes.

23 **Q** And, at that time, were there any?

24 **A** No.

25 **Q** And the gentleman that was called to check on

1 was whom; do you know?

2 A His name -- we called him Dice.

3 Q And Dice wasn't dead, was he?

4 A No.

5 Q And after that, did Ms. Rice's demeanor get
6 better after she found out there weren't any
7 warrants pending?

8 A Yes.

9 Q And then after that, she came back to Columbia?

10 A Yes.

11 Q Do you remember when those calls were?

12 A The calls from Twana Branham was the same night
13 that we moved to Florida. It was late that night.
14 And the calls to the State newspaper, Richland
15 County and the city were made that morning, the
16 following morning.

17 Q Carmen Rice in the courtroom?

18 A Sir?

19 Q Is Carmen Rice or Carmen Young in the
20 courtroom?

21 A Yes, she is.

22 Q Just point her out for the jury.

23 A She's sitting in the middle between these two
24 gentlemen (indicating).

25 MR. MEADORS: Thank you. That's all.

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1 **THE COURT:** Thank you, sir.

2 Mr. Mobley.

3 **MR. MOBLEY:** Thank you.

4 CROSS-EXAMINATION

5 BY MR. MOBLEY:

6 **Q** Ms. Dennis, good morning.

7 **A** Good morning.

8 **Q** All right. Now, I believe you actually lived
9 in the apartment above Carmen?

10 **A** I did.

11 **Q** And you and Carmen were friends, correct?

12 **A** Correct.

13 **Q** And you knew some of the guys she dated?

14 **A** Yes.

15 **Q** You knew, I think, you -- about a Mr. Dice or
16 people called him Dice, but his last name was Dice,
17 right?

18 **A** I don't know what his last name -- I knew him
19 by Dice.

20 **Q** You knew a guy named Dice that she dated?

21 **A** Correct.

22 **Q** And drove a nice car?

23 **A** Right.

24 **Q** And when Carmen went to Florida, did you guys
25 go together or separately when she went to Florida?

1 A When she moved to Florida with me?

2 Q Yes.

3 A She came with me.

4 Q Okay. Now, that wasn't a very sudden move, was
5 it?

6 A No.

7 Q It wasn't like out of the blue, all of a
8 sudden, Carmen said, I've got to go to Florida?

9 A No.

10 Q You guys actually talked about that for some
11 time, correct?

12 A We've talked about it before.

13 Q And you knew she had relatives in Florida?

14 A Yes.

15 Q Okay. So that was something that -- it was
16 something you guys had talked about in the past, a
17 trip to Florida?

18 A Not necessarily to Florida, but, I mean, she
19 talked about moving away from Columbia and it was an
20 opportunity and she took it.

21 Q Okay. And did she try to get a job up there?

22 A Not to my knowledge.

23 Q Okay. Now, you were living in Columbia -- when
24 did you go to Florida? What date did you go to
25 Florida?

1 **A** I don't know the specific date. It was June of
2 2001.

3 **Q** June of 2001?

4 **A** That I moved, yes.

5 **Q** Okay. But did you go to Florida -- I think you
6 talked about Halloween. Were you in Florida on
7 Halloween of 2001?

8 **A** Right.

9 **Q** Okay. So what date did you go up there during
10 2001 in October; do you recall?

11 **A** What date did I what?

12 **Q** You said you were -- you talked about Halloween
13 and your children trick or treating and when you
14 went to Florida. So you're saying you were not in
15 Florida on Halloween?

16 **A** I was in Florida.

17 **Q** Okay. And did Carmen go with you?

18 **A** She was not there at that time.

19 **Q** Okay. Now, at the time you were in Columbia,
20 were you in Columbia at the time Bernard Brennan was
21 killed?

22 **A** I do not believe so.

23 **Q** Okay. You don't believe so or you don't know?

24 **A** I don't know.

25 **Q** Okay. So you didn't know the exact date that

1 he was killed, correct?

2 A No.

3 Q Now, when you first heard about him being
4 killed, where were you?

5 A If you're referring to the incident of the
6 phone call.

7 Q Yeah.

8 A We were in Florida -- I was in Jacksonville
9 when I got the phone call.

10 Q Okay. And where was Carmen?

11 A She was with me.

12 Q Okay. So when you first heard about Bernard
13 Brennan being -- when you first got the phone call
14 about Bernard Brennan being killed, you were
15 actually in Florida?

16 A Correct.

17 Q Okay. And when you first got that telephone
18 call about him being killed, Carmen was in Florida?

19 A Correct.

20 Q Okay. And she was with you when you got that
21 telephone call?

22 A She was with me when I got the call.

23 Q And before you got that telephone call, before
24 you went to Florida, you had no idea that he had
25 been killed, correct?

1 A Correct.

2 Q Okay. And -- so the very first time you heard
3 him killed, you were with Carmen and you were both
4 in Florida together?

5 A Correct.

6 Q And -- so you heard that someone had been
7 killed?

8 A Correct.

9 Q You and Carmen were together. You talked about
10 making some telephone calls to the newspaper and to
11 the police department?

12 A Yes.

13 Q And was Carmen participating with you in making
14 those telephone calls?

15 A She did.

16 Q You guys were doing that together?

17 A Right.

18 Q And once you determined that there is no
19 warrant for Carmen and that Andrew Dice had not --
20 or Dice had not been killed, I mean, was there any
21 point in you looking or thinking about it any
22 further?

23 A No.

24 Q And Carmen -- when you were in Florida, when
25 you got that telephone call, you confronted Carmen,

1 right?

2 A I did.

3 Q Okay. And she didn't say she had killed
4 anybody, correct?

5 A No.

6 MR. MOBLEY: A moment briefly, Your Honor. I'm
7 sorry. I'm not sure if I got...

8 (Pause.)

9 Q Now, I want to ask you about the letter you
10 received from Carmen. Now, you went to Florida with
11 Carmen in October of 2001, correct?

12 A It was probably November.

13 Q Okay. November, around that time period,
14 October, November 2001?

15 A Right.

16 Q And as --

17 MR. MEADORS: Objection. She said November not
18 October.

19 THE COURT: Her answer will stand for itself.

20 Ladies and gentlemen, I just remind y'all, the
21 evidence, ladies and gentlemen, is the witness'
22 testimony not questions from any of the lawyers.
23 And I'll go over that with y'all when I instruct you
24 at the end of the case.

25 BY MR. MOBLEY:

1 Q Okay. But, approximately, November of 2001?

2 A Correct.

3 Q Now, do you recall the specific date?

4 A No.

5 Q And when were you first asked to recall the
6 specific date you went to Florida?

7 A When the investigator came to my job and asked
8 me about Carmen.

9 Q And what year was that?

10 A Last year in probably January.

11 Q Okay. Of?

12 A I'm sorry, 2003.

13 Q Okay. So you were first asked to recall that
14 date about two years earlier, correct?

15 A Correct.

16 Q Okay. And at the time when you were asked
17 about that date -- I mean, could you recall the
18 specific date that you went to Florida when you were
19 asked about it two years later?

20 A That she came with me?

21 Q Correct.

22 A No.

23 Q And the reason it had been two years?

24 A Correct.

25 Q That was just, it had been two years, you knew

1 you had been to Florida?

2 **A** I had been to Florida.

3 **Q** You knew you were at Florida?

4 **A** Right.

5 **Q** And you had an idea, approximately, what time
6 you went to Florida?

7 **A** Right.

8 **Q** But there's no way you could recall the
9 specific date, correct?

10 **A** Not the specific date, but I knew that she
11 wasn't there for Halloween. That was the year of
12 September 11th and we were scared to trick or treat,
13 so.

14 **Q** That was the thing that stuck out in your mind?

15 **A** Correct.

16 **Q** Even though you couldn't recall the specific
17 date?

18 **A** Right.

19 **Q** And I think you even talked to your mom to try
20 to get some idea of the time frames you were there?

21 **A** Correct.

22 **Q** Just to make sure, because it's very difficult
23 to remember a very specific date from two years
24 prior?

25 **A** Right.

1 Q But you know --

2 MR. MOBLEY: Beg the Court's indulgence, Your
3 Honor.

4 THE COURT: Yes, sir.

5 (Pause.)

6 BY MR. MOBLEY:

7 Q Now, in that letter Carmen wrote you, did she
8 expressly ask you to lie?

9 A When you say expressly, I mean, she wrote a
10 statement telling me what she wanted me to say, so
11 if it wasn't the truth, I'd take it as a lie.

12 Q Okay. But -- and just so we're clear, I mean,
13 she was in Florida with you?

14 A She did stay with me in Florida.

15 Q But it wasn't on the date she put in the
16 letter?

17 A She could not have been there that day.

18 Q Okay. And you remember that specifically. I
19 understand that, okay? But just so we're clear, I
20 mean, she asked you to verify that she was in
21 Florida with you on a particular date?

22 A Correct.

23 Q And you're clear that that was not the date.
24 She got there about two weeks later?

25 A I don't know if it was two weeks. It was some

1 time in November.

2 Q Okay. Well, the next month?

3 A Right.

4 Q Okay. So the time frame that she asked you to
5 verify that she was in Florida was off?

6 A Correct.

7 Q Okay. But she was in Florida, there's no
8 question about that?

9 A She was in Florida.

10 Q She was in Florida with you?

11 A Yes.

12 Q And when she was in Florida with you was the
13 very first time that you heard about the murder of
14 Bernard Brennan or someone being killed?

15 A Right.

16 Q Okay. And she was with you the first time you
17 heard about that?

18 A She was there.

19 MR. MOBLEY: That's all I have, Your Honor.

20 THE COURT: Thank you, Mr. Mobley.

21 Mr. Meadors.

22 MR. MEADORS: Just a few brief follow-ups.

23 Thank you, Your Honor.

24 *****

25 *****

REDIRECT EXAMINATION

1
2 BY MR. MEADORS:

3 Q You have no idea when Bernard Brennan was
4 killed, do you?

5 A No I don't.

6 Q And the information you received was it that
7 Bernard Brennan had been shot or that Dice had been
8 shot?

9 A It had been Dice.

10 Q It wasn't even Bernard Brennan?

11 A No.

12 Q And I believe your testimony was that you had
13 been trying to get her to come up since that summer?

14 A Correct.

15 Q And it was in November that she was willing to
16 come with you?

17 A Yes.

18 Q And all of this was after 9/11, right? Or do
19 you remember that?

20 A Halloween --

21 Q You remember the time?

22 A Yes.

23 Q And is there any question in your mind that she
24 was not there before November?

25 A No.

1 **MR. MEADORS:** Thank you.

2 **THE COURT:** Thank you, sir.

3 Mr. Mobley, anything further?

4 **MR. MOBLEY:** Nothing as to this witness, Your
5 Honor. I don't have any objection to this witness
6 being excused.

7 **THE COURT:** Thank you, sir.

8 Thank you, ma'am. You may step down. Thank
9 you.

10 **MR. LUPTON:** Your Honor, at this time, the
11 State and the defense have entered into a
12 stipulation. There's two Bell South subpoenas which
13 resulted in phone record information that the
14 defense is going to allow into evidence.

15 **MR. MOBLEY:** I'm stipulating to those, Your
16 Honor. I don't have an objection to those
17 documents. I understand that Mr. Smith is the
18 records custodian, but I'll stipulate to him --

19 **MR. LUPTON:** Well, we have the records
20 custodian present, but rather than call him, this
21 will speed things along.

22 **THE COURT:** Thank you, counsel.

23 Ladies and gentlemen, let me just explain to
24 y'all, and I'll explain all of this to you at the
25 very conclusion of the trial when I charge on the

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1 law, a stipulation between counsel is just an
2 agreement between counsel. It's just like evidence.
3 In this case, these are being admitted pursuant to
4 the stipulation between both sides. Then those
5 would be State's 57 and 58.

6 (By agreement of counsel, State's Exhibit
7 Number 57, subpoena for Bell South, and State's
8 Exhibit Number 58, phone records from Bell South,
9 were received in evidence.)

10 **THE COURT:** The State may call their next
11 witness.

12 **MR. LUPTON:** Your Honor, the State would call
13 David...

14 **THE COURT:** Which witness is this?

15 **MR. LUPTON:** This is David Collins, Your Honor.

16 **DAVID J. COLLINS,**

17 having been duly sworn, testified as follows:

18 **THE CLERK:** Please have a seat, state your full
19 name for the record.

20 **THE WITNESS:** David J. Collins.

21 **DIRECT EXAMINATION**

22 **BY MR. LUPTON:**

23 **Q** And, Investigator Collins, could you tell the
24 jury where it is that you're employed?

25 **A** I work for the Richland County Sheriff's

1 Department.

2 Q In what section?

3 A I work in the forensic laboratory as a firearms
4 and tool marks examiner.

5 Q And could you tell the jury a little bit about
6 your background and your training and experience?

7 A I received a bachelor's degree from the Citadel
8 in 1984 and that was the extent of my higher
9 education. And then I went to -- worked for SLED in
10 1990 where I was employed in the forensic services
11 laboratory there as a firearms examiner -- firearms
12 and tool marks examiner.

13 Through SLED, I received training in my field
14 of expertise. There are no schools per se that can
15 qualify you to be a firearms and tool marks
16 examiner. This training for this type of a position
17 is typically all on the job, very similar to an
18 apprenticeship. I was in that training program for
19 approximately two and a half years and then I've
20 been qualified by SLED as a firearms and tool marks
21 examiner.

22 At that time, I began a case work -- or case
23 load on my own and also joined a professional
24 association, the Association of Firearms and Tool
25 Marks Examiners, otherwise known as AFTE, through

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1 which I received continuing education and training
2 in my field.

3 I've received training in firearms repair from
4 various firearms manufacturers to include Colt, SIG,
5 Glock, Beretta and High Point. I've also toured
6 other laboratories and manufacturing facilities.

7 **Q** And before you went to work for SLED, did you
8 have any background or experience with firearms?

9 **A** Before going to work for SLED, my background
10 with firearms was pretty much all recreational. I
11 was a competitive shooter and also had taken some
12 gunsmithing courses.

13 **Q** And since becoming employed at SLED -- well,
14 first of all, when did you leave SLED and where did
15 you go?

16 **A** I left SLED in September of 2002 to go to the
17 Richland County Sheriff's Department to establish
18 their firearms laboratory.

19 **Q** And during the time you worked at SLED and the
20 time you worked at Richland County as a firearms and
21 tool marks examiner, approximately, how many cases
22 have you examined?

23 **A** I've examined, during that time frame, well
24 over a thousand -- actually, it might be more
25 accurately numbered in the thousands of cases. I

1 have, during the examination of those cases, had the
2 opportunity to examine thousands of individual items
3 of evidence.

4 Q And have you ever testified as an expert
5 witness in firearms, tool marks examination?

6 A Yes. I've testified in that field of expertise
7 in excess of 200 times in the General Sessions Court
8 of South Carolina. I've also been qualified as an
9 expert witness in those fields in the states of
10 North Carolina and Georgia. And I've also testified
11 in the military and federal court system.

12 MR. LUPTON: Your Honor, at this time, I would
13 offer this witness as an expert in the field of
14 firearms and tool marks examination.

15 MR. MOBLEY: No objection, Your Honor, to his
16 qualifications.

17 THE COURT: Thank you, sir. Without objection,
18 he's so qualified and may testify as such.

19 BY MR. LUPTON:

20 Q In the course of your employment with the
21 Richland County Sheriff's Department, were you
22 involved in investigating or examining any evidence
23 related to this case?

24 A Yes, I was.

25 Q Could you tell the jury about that, please?

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1 **A** My involvement with this case came, I believe,
2 in 2002 when some firearms were submitted for a
3 possible comparison with some fired bullets that
4 were submitted in this case. The initial
5 examination of the evidence in this case was
6 performed by another SLED firearms examiner.
7 Subsequent to those examinations, I reexamined all
8 of the evidence so that I can present the testimony
9 today.

10 **Q** And could you tell the jury who was at -- first
11 of all, back in 2002, that was when you were still
12 employed at SLED?

13 **A** I was employed with Richland County Sheriff's
14 Department, but I was working in the SLED
15 laboratory. Our facilities at Richland County were
16 not complete at that time and so SLED was allowing
17 me to use, actually, the exact same office that I
18 had resided in there for 12 years.

19 **Q** And who was that SLED firearms examiner that
20 you were working with?

21 **A** That was Vello Pavell did the initial
22 examination in this case.

23 **Q** And you testified that you also looked at it
24 again so that you could testify here?

25 **A** Yes, I did.

1 Q And what was the reason for that?

2 A Agent Pavell was testifying this week in two
3 other trials in the state, he was unable to be here.

4 Q One of them a death penalty case?

5 A At least one of them, maybe both of them, I'm
6 not sure.

7 Q And based on that, he was unavailable for this
8 trial?

9 A That is correct. And due to that circumstance,
10 I simply reexamined the evidence.

11 Q But you had examined it before as well?

12 A I had looked at the bullets before to compare
13 them with some firearms that were submitted for
14 comparison with them after I became employed with
15 Richland County. The full examination of the
16 bullets was actually something that I did not do at
17 that time and that I did in preparation for this
18 trial.

19 Q And could you tell the jury about the results
20 of your examinations and your observations?

21 A I received a total of five fired bullets or
22 portions of bullets in this case. And the first
23 thing that I did when I examined them was -- well,
24 the first thing that I do when I examine any type of
25 evidence is I take notes as to its condition when I

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1 receive it. These notes describe the weight and the
2 dimensions, various other factors concerning its
3 projectiles.

4 From that information, I can try to determine
5 what caliber of projectiles they were most
6 consistent with being. And by looking at
7 microscopic measurements of the rifling impressions
8 on those bullets, I can generate a list of possible
9 brands of firearms that could have fired those
10 bullets.

11 When I talk about rifling, what I mean is there
12 are spiraling grooves in the barrel of most handguns
13 and rifles that are placed there by the
14 manufacturer. These grooves cause the bullet to
15 spin when it leaves the barrel which is done to
16 stabilize the bullet in flight, much in the same way
17 that when a quarterback throws a pass, he tries to
18 throw a spiraling pass so that it flies a straighter
19 and truer path.

20 By taking measurements of those impressions
21 left by those rifling grooves on the surface of the
22 bullet, I can sometimes determine what brands of
23 firearms could have fired it. Different
24 manufacturers use different widths of grooves and
25 different numbers of grooves in different directions

1 of twists and by comparing that information with a
2 data base that the FBI, or the Federal Bureau of
3 Information, provides me, I can generate that list
4 of possible brands.

5 In this case, I was able to examine these five
6 bullets and determine that they were most consistent
7 with being originally loaded into some .38 caliber
8 cartridges. What I mean by that is that they were,
9 based on their diameter and their weight, consistent
10 with coming from a barrel that was -- had a knot on
11 diameter of about point 358 inches. Various --
12 several different types of cartridges can fire
13 bullets of that dimension. However, one of the
14 bullets was a little more intact than the rest and I
15 was able to further conclude that it was more
16 consistent with a .38 Special caliber bullet.

17 Q All right. Let me stop you there, interrupt
18 you. You talked about the condition of the bullets.
19 Can you tell the jury what the condition of the
20 bullets was?

21 A All of these bullets displayed a certain amount
22 of damage, some more than others, but all of them
23 were -- displayed definite impact related damage and
24 abrasion. This is not uncommon with this type of
25 bullet. What we're dealing with here are plain lead

1 or lead alloy bullets. These bullets didn't have
2 any type of copper jacketing material on them.

3 Lead is a relatively soft metal and when it
4 comes into contact, hard contact or impact, with
5 some other object, it tends to deform, to break, to
6 sheer away and otherwise be damaged. In this case,
7 these bullets were all fairly significantly damaged.

8 Q And did that impact on your ability to identify
9 the type of bullet and where they came from?

10 A It did have a negative impact on me being able
11 to determine, with the exception of that one bullet,
12 the exact caliber that all -- that these ammunition
13 -- that these bullets came from. It also had a
14 negative affect on me being able to determine if
15 they were all fired by the same gun or not.

16 When the rifling grooves are placed in the
17 barrel of a firearm, they're -- that process leaves
18 behind microscopic defects in the barrel that are
19 scratched on to the surface of the bullet when it
20 passes through that barrel. These scratch marks on
21 the surface of that bullet are unique to that
22 particular firearm in much the same way that a
23 fingerprint is unique to a person.

24 By microscopically comparing, for instance, two
25 bullets under what we call a comparison microscope,

1 I can determine, hopefully, if they have sufficient
2 matching, individual characteristics or scratch
3 marks to determine if they were fired by the same
4 gun. Due to the damaged condition of these bullets,
5 I was unable to determine if they had all been fired
6 from the same gun or not.

7 I was able to determine that the general
8 rifling characteristics, that is, the dimensions of
9 those rifling grooves impressions that I was talking
10 about before were the same on all of the bullets and
11 all of the bullets had the same general type of
12 construction and material. What that enables me to
13 say is that they could have all been fired by the
14 same gun, but because of the inconclusive result of
15 the microscopic comparisons, I simply couldn't say.

16 Q And you talked about one bullet being in better
17 shape than the rest, better condition?

18 A That's correct.

19 Q What could you determine about that bullet?

20 A That bullet was most consistent with being a
21 .38 Special bullet. There was another bullet in
22 there that, I'd have to go back and look at my
23 notes, but one of them did display what was
24 consistent with being the remains of a hollow point
25 cavity on that bullet, that means that there was an

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1 indication that the bullet was originally a hollow
2 point bullet. The other bullets were simply too
3 badly damaged to make that determination.

4 Q And there was testimony that the defendant was
5 issued a .38 Special Plus P ammunition. Could you
6 explain to the jury what plus P means?

7 A There are two basic types of .38 Special
8 ammunition. There's .38 Special or plain .38
9 Special and then there's .38 Special Plus P. All
10 the plus P indicates is that there was -- that the
11 cartridges simply have more gun powder in them than
12 standard .38 Special. The plus P means for plus
13 pressure, higher pressure. The burning gun powder
14 -- the additional burning gun powder in that
15 cartridge case generates higher pressure and,
16 therefore, higher muzzle velocity in that
17 ammunition. It makes it a little bit more
18 powerful.

19 .38 Special ammunition and .357 Magnum
20 ammunition are essentially the same with the
21 exception of cartridge length. When they developed
22 the .357 Magnum cartridge, for instance, they
23 lengthened the .38 Special cartridge by about one
24 tenth of an inch to give it additional space for gun
25 powder so that they can get more power from it.

1 With .38 Plus P ammunition, what they've attempted
2 to do is bridge the gap somewhat between .38 Special
3 and .357 by just simply adding more power to a
4 standard .38 Special cartridge.

5 Q And that brings up the next question, which is
6 could you explain to the jury the difference between
7 a .357 and a .38 and explain how .38 Special
8 ammunition can be fired from a .357?

9 A As previously stated, a .38 Special cartridge
10 case is dimensionally the same as a .357 except in
11 length. It's just a little bit shorter and it will
12 fit very easily into the chamber of a .357 Magnum
13 caliber firearm. It's a common practice for many
14 people to use .38 Special ammunition in .357 Magnum
15 Caliber firearms as a means of providing perhaps
16 less expensive practice because .38 Special
17 ammunition is cheaper than .357 Magnum ammunition.
18 It also has less recoil, less kick and so,
19 therefore, it's often used as a training aid.

20 Many police officers around the country,
21 especially the older police officers that have
22 perhaps more memory of carrying .357 Magnum
23 Revolvers, often train and practice with .38 Special
24 ammunition for that reason because it does have less
25 recoil and it is -- or less kick and is less

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1 expensive to train with.

2 Q So it's common for .38 Special ammunition to be
3 used in a .357?

4 A Yes. It's a common and safe practice for .38
5 Special ammunition or 38 Plus P ammunition to be
6 fired in a .357 Magnum firearm. However, you cannot
7 place a .357 Magnum cartridge in a .38 Special. The
8 converse, you know, typically cannot happen because
9 the cartridge is longer than the chamber and simply
10 will not fit. If you do it in a revolver, the
11 bullet would be protruding past the end of the
12 cylinder and you wouldn't even be able to close it.

13 Q The .38 Caliber Plus P ammunition, does it come
14 in a lead hollow point type?

15 A Yes. There are several manufactures that
16 produce a Lead Hollow Point Plus P bullet of that
17 type of .38 Special.

18 Q Now, the .357 Magnum, what kind of weapon is
19 that in terms of is it a revolver or a pistol?

20 A Most of them, the vast majority of them are
21 revolvers. There are some .357 Magnum Caliber
22 Semiautomatic Pistols available and there are also
23 some rifles available.

24 Q Are you familiar with the Taurus .357 Magnum?

25 A Taurus makes several different models of .357

1 Magnum Revolver, yes. They're very popular.

2 Q And would a Taurus .357 Magnum, do they make
3 automatics?

4 A No, they do not make a semiautomatic pistol,
5 .357.

6 Q So a Taurus .357 Magnum would be a revolver?

7 A A Taurus .357 Magnum, would be a revolver, yes.

8 Q And just so -- for a lay person who didn't know
9 anything -- didn't know a whole lot about firearms,
10 that could be described as one of the type guns that
11 spins?

12 A That's correct. A revolver has a cylinder in
13 it that will have a certain number of chambers. A
14 six-shot revolver will have six chambers in the
15 firearm that you load individually and then you
16 close the cylinder and you fire those rounds. And
17 you have to manually open the cylinder to unload it.

18 Q And I'd like to show you a .357 Magnum
19 revolver. Is that -- obviously, it's not a Taurus
20 .357 Magnum, it's not anything related to this case,
21 but for demonstrative purposes, would that help you
22 explain what you're talking about?

23 A Yes. In a revolver, you have a cylinder such
24 as this. This serves basically as the magazine for
25 this firearm. In this particular case, there are

1 six individual chambers on the cylinder each of
2 which would hold one cartridge. So you would load
3 each chamber and then to make the gun ready to fire,
4 you would close it until it latches shut and then
5 you would fire the gun.

6 In this particular firearm and in the Taurus
7 firearms that I'm familiar with, there are two ways
8 you can fire it. You can either just pull the
9 trigger, which will cause the hammer to come to the
10 rear, and then release and fire the gun, that's
11 called a double action trigger pull, or you can cock
12 it with your thumb or some -- or your other finger
13 and then press the trigger to fire it. And that
14 requires less pressure than the first method that I
15 demonstrated.

16 Once you have fired the gun and you want to
17 reload it, you would have to open the cylinder by
18 pressing forward on this latch and pressing the
19 cylinder out and then you would press down on this
20 rod which would eject all of the unfired -- all the
21 fired and unfired cartridges and cartridge cases
22 from the gun, then you can reload it.

23 Q And what's the difference from that and an
24 automatic?

25 A A semiautomatic would have a magazine in it

1 that would hold the ammunition to be fired and,
2 typically, in handguns, most handguns, it's inserted
3 into the butt or the grip of the firearm. With a
4 semiautomatic, the gun, as it fires, leaves or
5 ejects the fired cartridge cases at the point of
6 firing.

7 Every time you pull the trigger on a
8 semiautomatic firearm, the mechanism operates and
9 extracts the fired cartridge case from the chamber
10 and ejects it from the gun. And then it re -- then
11 it automatically reloads itself and it's recocked
12 and ready to fire again. So all you have to do is
13 continue to pull the trigger and the gun will
14 continue to fire, if it's functioning properly,
15 until it's empty and then you reload it by replacing
16 the magazine in the grip.

17 Q And with the revolver, the cartridges, the shot
18 or fired cartridges, would stay in the weapon until
19 they were emptied?

20 A That is correct. The fired cartridge cases
21 would remain in the cylinder until the shooter or
22 someone else opens it up manually and extracts them
23 from the cylinder and reloads the firearm.

24 Q And is that handgun that you have there
25 substantially similar to a Taurus .357?

1 **A** It is very similar to a Taurus .357. This is a
2 Smith and Wesson brand revolver. And Taurus, in
3 much of their product line, has almost copied the
4 Smith and Wesson line as far as external appearances
5 and function... The internal mechanisms are slightly
6 different, but from an external appearance
7 standpoint, they're very, very similar.

8 **Q** Can you demonstrate how you would have to fire
9 that five times?

10 **A** Five times? As I stated before, there's two
11 ways you can do it, single action or double action
12 or any combination thereof. Before I demonstrate
13 this, I want to reassure everyone that the gun is
14 not loaded.

15 But if you had a loaded cylinder, you could
16 fire it five times by just simply pulling the
17 trigger five times (indicating). Or -- I didn't
18 need to open it and shut it, that was just a reflex.
19 But you could cock it manually (indicating) and do
20 it like that or any combination of the two. Between
21 shots, you could fire one shot double action and the
22 next single action, but most people will use one or
23 the other.

24 **Q** Now, you testified about examining the bullets
25 that were recovered in this case?

1 **A** That's correct.

2 **Q** And you testified about the condition and that
3 you -- but that you were able to make some general
4 determinations as to the type of firearms that could
5 potentially have fired those bullets; is that
6 correct?

7 **A** I was able to generate, based on those
8 measurements I took of the rifling impressions on
9 those bullets, a list of possible manufacturers of
10 firearms that could have fired them based on .38
11 Special .357 Magnum. What -- these bullets all had
12 essentially five rifling grooves, or consistent with
13 having five rifling grooves with a right-hand twist
14 and that in conjunction with the measurements that I
15 took from them enabled me to generate that list of
16 brands. There are two separate lists that I gave in
17 my report. One was a list of .38 Specials, the
18 other was a list of .357 Magnums.

19 **Q** And do you have a copy of your report?

20 **A** I do in front of me.

21 **MR. LUPTON:** Your Honor, at this time, we'd
22 mark this as State's Exhibit.

23 (State's Exhibit Number 59, firearms
24 analysis report, was marked for identification
25 purposes.)

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1 **Q** And this is your report?

2 **A** Yes.

3 **Q** And does that report reflect your findings in
4 this case?

5 **A** Yes, it does.

6 **MR. LUPTON:** Your Honor, at this time, we'd ask
7 that State's Exhibit 59 be admitted into evidence.

8 **THE COURT:** Any objection?

9 **MR. MOBLEY:** Your Honor, I would object to the
10 report being admitted into evidence. I mean, the
11 witness has certainly testified about the results of
12 his examinations, but, I mean, this physical
13 document itself, which just summarizes the results
14 of the examination, I don't think that needs to go
15 into evidence. He's testified that's the report he
16 generated that he -- as a result of his examination.
17 His testimony and his opinions are the evidence not
18 the reports, Your Honor.

19 **THE COURT:** The report contains, though, his
20 opinions and conclusions. I'll overrule the
21 objection and allow it in.

22 **MR. MOBLEY:** Thank you, Your Honor.

23 (State's Exhibit Number 59, firearms
24 analysis report, admitted into evidence.)

25 BY MR. LUPTON:

1 **Q** And in that report, you list the types of
2 weapons that those bullets are consistent with
3 having been fired from?

4 **A** Yes. The list is not intended to be all
5 inclusive, that needs to be made clear, and it is in
6 the report. The data base that this report comes
7 from is produced and maintained by input of people
8 sending in this information into the FBI. Qualified
9 firearms laboratories assist the FBI in generating
10 this.

11 It's possible that there are other makes of
12 firearms out there that simply haven't made it into
13 the data base. So this list is provided as an
14 investigative tool to the investigators so they can
15 have an idea of what they may be looking for.

16 **Q** Would that data base have included all of the,
17 at least, the common firearms?

18 **A** Yes. I would expect it to include all of the
19 common firearms that were examined frequently, yes.

20 **Q** And in that list, I'd ask you is there a -- is
21 Taurus .357 Magnum one of the possible weapons that
22 could have fired those bullets?

23 **A** Yes, it is.

24 **Q** Now, obviously, you can't testify that that was
25 the weapon, but that is -- those bullets are

1 consistent with having been fired from a Taurus .357
2 Magnum?

3 A It's possible that they were fired from a
4 Taurus .357 Magnum, yes.

5 MR. LUPTON: Thank you. No further questions.

6 THE COURT: Thank you, sir.

7 Mr. Mobley.

8 CROSS-EXAMINATION

9 BY MR. MOBLEY:

10 Q Investigator Collins, good morning.

11 A Good morning.

12 Q Just so we're clear, you're not telling this
13 jury that any of those slugs, I'm trying to make sure
14 -- I'm using a term of art, slugs, fragments, for
15 the sake of my questions, I'm referring to the
16 projectiles that you analyzed, okay?

17 A Yes, sir.

18 Q All right. Kind of a technically different
19 name for fragments, bullets, slugs, shells, but the
20 projectiles that you examined?

21 A Yes.

22 Q Now, you're not telling this jury -- you cannot
23 tell this jury that the projectiles that you
24 examined were fired from a Taurus .357 Magnum,
25 correct?

1 A No, I cannot.

2 Q And, in fact, as you indicated, that's a pretty
3 common bullet, the .38?

4 A The .38 Special lead bullet is very common,
5 yes, sir.

6 Q In fact, in your report, you indicated that it
7 could have come from a number of different models
8 of a .357 Magnum, correct?

9 A A number of different models of .38 Special
10 or a .357 Magnum Caliber firearms, yes, sir.

11 Q And one was a Taurus .357?

12 A Yes, sir.

13 Q It could have been fired from a Coonan Arms
14 .357 Magnum, correct?

15 A Yes, sir.

16 Q And it could have been fired from a Kassnar
17 .357 Magnum, correct?

18 A Yes, sir.

19 Q And it could have been fired from a Ruger .357
20 Magnum, correct?

21 A Yes, sir.

22 Q And it could have been fired from a Smith and
23 Wesson .357 Magnum, correct?

24 A That is correct.

25 Q Okay. And, quite frankly, there are probably

1 other models of .357 that are not in your data base
2 that those slugs or projectiles could have been
3 fired from, correct?

4 A It is possible, yes, sir.

5 Q And you also indicate it could have been
6 fired from a number of different .38 Special models?

7 A That is correct, I did.

8 Q And that's a different gun than a .357,
9 correct?

10 A It's a different caliber, yes, sir.

11 Q It could have been fired from a Taurus .38,
12 correct?

13 A That's correct.

14 Q It could have been fired from an Alamo .38?

15 A That's correct, sir.

16 Q It could have been fired from an Alfa .38?

17 A Yes, sir.

18 Q And it could have been fired from an Arizaga?
19 Is that how to pronounce it?

20 A Actually, sir, I'm not a hundred percent sure
21 myself on how to pronounce that, but I think it's
22 Arizaga or however you pronounce it could be correct
23 as well, sir.

24 Q And it could have been fired from a Century
25 Arms .38 Special?

1 A That's correct, sir.

2 Q And it could have been fired from a C.H. .38
3 Special, correct?

4 A Yes, sir.

5 Q And it could have been fired from an Errasti
6 .38 Special?

7 A That's correct, sir.

8 Q And it could have been fired from an
9 Escodin .38 Special?

10 A Yes, sir.

11 Q It could have been fired from a Gabilondo .38
12 Special?

13 A Yes, sir.

14 Q And it could have been fired from a Guisasola
15 .38 Special?

16 A Yes, sir.

17 Q And it could have been fired from a Herbert
18 Schmidt .38 Special?

19 A Yes, sir.

20 Q And it could have been fired from an INA .38
21 Special?

22 A Yes, sir.

23 Q And it could have been fired from an Iris Orbea
24 .38 Special?

25 A Yes, sir.

1 Q And it could have been fired from a Llama .38
2 Special?

3 A Yes, sir.

4 Q And it could have been fired from Ruby .38
5 Special?

6 A That's correct, sir.

7 Q And there's more. It could have been fired
8 from a Ruger .38 Special?

9 A Yes, sir.

10 Q And it could have been fired from a Smith and
11 Wesson .38 Special?

12 A Yes, sir.

13 Q And it could have been fired from an Sportarms
14 .38 Special?

15 A That's correct, sir.

16 Q And those are just the ones in your data base?

17 A Those are the ones in my data base, yes, sir.

18 Q So, I mean, it could have been -- from the
19 information in your data base alone, those
20 projectiles could have been fired from one of 23
21 different makes and models of .38 Specials or .357
22 Magnums?

23 A If I could just count just for a moment to make
24 sure of that.

25 Q Sure. And I'll tell you my math is not the

1 best. That's why I'm a lawyer.

2 A Actually, sir, I believe it's more like -- it's
3 probably more appropriately 19 different brands
4 because some of the brands are duplicated on both
5 lists.

6 Q Okay. And those are just the ones in your data
7 base?

8 A Yes, sir.

9 Q And as you indicated, there are probably
10 additional models, makes and models, that are not in
11 your data base that these projectiles could have
12 been fired from as well, correct?

13 A It is possible.

14 Q As you indicated, there could be even more than
15 the weapons you have listed on this particular
16 report?

17 A Yes, sir, it's possible there could be more.

18 Q But at least 23 -- I'm sorry, I'm not saying
19 23, I know you're saying the models are duplicate,
20 but I guess when you look at -- when you distinguish
21 between .38's and .357's, you document 23 different
22 makes and models total, correct?

23 A It's a total of -- a combination of when you
24 think of makes and calibers, it comes to 23.

25 Q I'm saying models instead of caliber, but when

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1 you consider models and -- or makes and caliber, the
2 total number here is 23, correct?

3 **A** Twenty-three different combinations thereof,
4 yes, sir.

5 **MR. MOBLEY:** All right. Thank you.

6 Nothing further from this witness, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. LUPTON:

9 **Q** But it could have been fired from a Taurus
10 .357?

11 **A** Yes, sir, it could have been.

12 **MR. LUPTON:** Nothing further.

13 **THE COURT:** Mr. Mobley?

14 **MR. MOBLEY:** Nothing further from this witness,
15 Your Honor.

16 **THE COURT:** Investigator, you may step down.

17 Thank you, sir.

18 Any reason not to excuse Investigator Collins?

19 **MR. LUPTON:** No, Your Honor.

20 **MR. MOBLEY:** No, Your Honor.

21 **THE COURT:** Investigator Collins, you're free
22 to come and go as you please, sir. Thank you.

23 The State may call their next witness.

24 **MR. LUPTON:** Your Honor, the State calls --

25 (Whereupon, a bench conference was held off

1 the record, in the presence of the jury, but out of
2 the hearing of the jury.)

3 **THE COURT:** The State may call their next
4 witness.

5 **MR. LUPTON:** Your Honor, at this time, the
6 State calls Lieutenant Stan Smith.

7 STAN SMITH,
8 having been duly sworn, testified as follows:

9 **THE CLERK:** Please have a seat, state your full
10 name for the record.

11 DIRECT EXAMINATION

12 BY MR. LUPTON:

13 **Q** Good morning.

14 **A** Good morning.

15 **Q** Would you tell the jury where it is that you
16 work?

17 **A** With the Richland County Sheriff's Department.

18 **Q** And how long have you been employed in law
19 enforcement?

20 **A** I started there as a road deputy in June of
21 1984.

22 **Q** Back when I was in high school still.

23 **A** I'm sorry to say that's probably true.

24 **Q** And tell the jury a little bit about your law
25 enforcement background and your experience.

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1 A I got a degree from the University of South
2 Carolina in Criminal Justice in '83. This is my
3 first job out of college. I was on the road in
4 uniform for about three years. The last year of
5 that three year span, I was in a special unit called
6 the Saturation Team, which is very similar to our
7 normal CAT Team, all of you probably have heard
8 about.

9 I was promoted to investigator in '87 under
10 Sheriff Frank Powell at that time. I was assigned
11 to a burglary unit, a property crimes unit where I
12 stayed for several years. I ultimately received a
13 couple of promotions, got the rank of sergeant
14 around '90, '91. I stayed in that unit during the
15 90's. During that time, I was also involved in a
16 number of homicide investigations. I was a
17 supervisor in investigations.

18 In '97 -- actually, December of '96, I left the
19 sheriff's department for a period of nearly three
20 years. I went into the private sector in the
21 security business actually, ironically. I decided
22 after about three years that the business world
23 could survive without me, that I needed to go back
24 in law enforcement. So I came back in '99.

25 And since I've been back at the sheriff's

1 department, I came back and I worked sex crimes for
2 about a year. After a year in sex crimes, I worked
3 armed robberies for about a year and I got some rank
4 back, I became sergeant. And then after that year,
5 I was promoted lieutenant over major crimes.

6 Q You've been working in law enforcement or
7 security continuously since 1984?

8 A Yes, since June of '84.

9 Q And the time you left the sheriff's department,
10 you went into private security business of your own
11 volition?

12 A I did.

13 Q And didn't like it, came back?

14 A That's correct.

15 Q You're currently, you said, head of major
16 crimes unit?

17 A I'm the lieutenant just over the major crimes
18 units. We handle armed robberies, violent crimes
19 and homicides, of course.

20 Q And, specifically, with regards to this case,
21 how did you become involved in this case?

22 A At the time of this incident back in October of
23 2001, I believe, at that time, I was a sergeant in
24 the major crime unit where my primary focus at the
25 time was probably armed robberies, but I was also,

1 again, on call for homicides that involved homicide
2 investigation. I became involved in this the
3 following morning after this homicide, the 26th, I
4 believe, of October.

5 Q And tell the jury about what you did once you
6 became involved in this case.

7 A Well, of course, as most homicides, I'm sort of
8 involved in in some capacity, some more than others
9 depending on the nature of the case, how quickly the
10 leads come in. In this particular case, I was
11 involved in it right away, probably more hands on
12 than some other cases. And I actually became
13 directly involved in it.

14 Q What did you do in your investigation?

15 A Well, I started actually -- of course, one of
16 the first things you attempt to do in any homicide
17 case is determine the victim's last known
18 whereabouts or who would have last seen the victim
19 alive because that often times leads you to the
20 person that did it. And, in this case, that's
21 exactly what we did. We traced the victim's last
22 known whereabouts.

23 We knew from a relative that he had just bought
24 a Mercedes Benz and he had a key cut for it because
25 he had only, I believe, received one key when he

1 bought the car. He had the key cut at, I believe,
2 Dick Dyer on Two Notch. And he had actually had to
3 go to the place where he bought the car, a place
4 called Pro Bowl Motors, which is down here in the
5 Vista, that afternoon to get a check to have that
6 key cut. We backtracked Pro Bowl Motors and got
7 some leads of some things he said there about where
8 he may be going that particular night.

9 Q And when you say he had just bought, do you
10 know if he had the Mercedes for a while?

11 A He'd had it for a couple of weeks, I believe,
12 is what we learned from his wife in the
13 investigation.

14 Q Do you know exactly how long?

15 A I don't specifically know, no, sir.

16 Q And -- so you tracked him down to Pro Bowl
17 Motors. Where did you track him from there?

18 A The salesman at Pro Bowl Motors indicate --
19 gave us some information that led us to a sports bar
20 in West Columbia. He couldn't remember the name of
21 it, remembered it began with a C. Mr. Brennan had
22 talked about possibly going there. It was a place
23 where there's pool tables and that kind of thing. I
24 checked with some Lexington County sheriff
25 investigators that I'm acquainted with and learned

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1 of several possibilities, locations, like that that
2 began with a C and one of them was Calloways.

3 I proceeded to Calloways that afternoon. I
4 believe it was a Friday afternoon. And sure enough,
5 that is indeed where Mr. Brennan had gone that night
6 and was last seen alive.

7 Q And did you talk with anybody there?

8 A Yes. I spoke to actually the manager of
9 Calloways. I think his name is Mr. Muse. Stevie
10 Parks, I believe, is a cook that was familiar with
11 the victim. Mr. Brennan had gone in there
12 frequently and several people there knew him by name
13 and sight. I actually learned that the waitress was
14 Heidi Feagin at that time and ultimately made phone
15 contact with Heidi that first day.

16 Q And so you spoke with several people there?

17 A Yes.

18 Q And what kind of information did you get from
19 them?

20 A Well, quickly, I learned that he had been in
21 the company of two young females at the time he was
22 in Calloways. I learned that he had been in there
23 some time after eight o'clock because they actually
24 were able to produce a hard copy of the meal --
25 where the order had been submitted for the food. I

1 believe they got some chicken wings and a couple of
2 mixed drinks. And that was around 20 minutes after
3 8:00, 8:18, I think. And that was pretty
4 significant because, of course, Mr. Brennan was
5 found some time around midnight.

6 Q And you got descriptions?

7 A I got physical descriptions of the two females
8 that were actually with him. The better of those
9 descriptions came from Heidi Feagin who actually
10 waited on them when they were in there.

11 Q Were there any inconsistencies?

12 A I didn't detect any inconsistencies right then.
13 They were both described as young and one of them
14 was described as having an orange top on.

15 Q And the person that had the best description
16 was --

17 A Was Heidi Feagin. She actually waited on them
18 in the location.

19 Q And where else did you track him to that night?

20 A We had learned, through some information we
21 gathered there, that he -- Mr. Brennan also
22 frequented a place called the Varsity, which is a
23 place that I knew from having been a student at
24 Carolina. It's been there a number of years. It's
25 actually on Devine Street near the law school not

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1 too far from the courthouse here. And I actually
2 proceeded to that location just thinking that
3 possibly he may have been in there as well that
4 night, hoping that somebody there may be able to
5 provide the identities of these two females.

6 Q And did you make contact with anybody from the
7 Varsity?

8 A Yes. I made contact with the manager there,
9 Mr. Patrone, who again knew Bernard by name and
10 sight. And sure enough, Bernard had been in there
11 that night.

12 Q And did you speak with anybody else who had
13 seen him there that night?

14 A Yes. Mr. Patrone knew that Bernard had shot
15 pool with a fellow by the name of Alton Page that
16 night. And we ultimately ran down Alton Page. And
17 he also described the same two females and went into
18 further detail. And this appeared to be the
19 location where the two females actually met up with
20 the victim.

21 Q And with regards to that, when the victim was
22 discovered, did he have -- I know his wallet was
23 missing, his money was missing, but did he have
24 anything on him?

25 A Yes. His cell phone was still on him and he

1 had some numbers in it which we were able to pull up
2 right away.

3 Q From the cell phone?

4 A From the actual phone itself in the memory of
5 the phone.

6 Q And did you attempt to backtrack to where those
7 numbers came from?

8 A Yes, we did. There had been -- there was a
9 number in there of particular interest to us. It
10 was actually from a pay phone. I believe it was
11 771-9444.

12 Q And did you ultimately track down where that
13 pay phone was located?

14 A Yes, we did.

15 Q And State's Exhibit 37, can you show the jury
16 where it is that that pay phone was located?

17 A It was actually a pay phone at a little handy
18 mart. I can't remember the name of it right off the
19 top of my head, but it was actually located on the
20 opposite corner. You can barely see the edge of the
21 lot here at Chestnut and Two Notch. Anthony's Dairy
22 Bar would be here (indicating). The pay phone was
23 right over here. Again, it was 771-9444.

24 Q And did that location have any significance to
25 you at the time?

1 A At the time, it did not have any significance
2 at all. Of course, later on it would have a lot of
3 significance.

4 Q Based on?

5 A Based on the ultimate suspects in the case.

6 Q And one of the suspects in this case was living
7 where?

8 A Right here (indicating).

9 Q And that would be Carmen Rice?

10 A On Braham Street, yes, sir.

11 Q And show you -- show you what's been marked as
12 State's Exhibit 57 and 58 admitted into evidence.
13 First of all, on State's Exhibit 57, can you tell
14 the jury what that is?

15 A That is a subpoena that was acquired to
16 determine whether there was a phone in service at
17 2124 Braham Street during October of 2001.

18 Q That would be Carmen Rice's house at the time?

19 A That's correct.

20 Q And was there a phone?

21 A No.

22 Q And that's indicated in the State's Exhibit?

23 A Yes.

24 Q And would that -- I show you State's Exhibit
25 58. Do you recognize that?

1 A Yes, sir.

2 Q And what is that?

3 A This was actually a search warrant we got for
4 all of the calls that were made from that particular
5 pay phone, which was at 2121 Two Notch, that number
6 being 771-9444.

7 Q And if you keep going in that, is the results
8 of that attached?

9 A Yes. It was supposed to describe her
10 information and the calls, but it did list the
11 location when we got the results back as 2121 Two
12 Notch Road, which is -- it was called the Midlands
13 Market.

14 Q And on the next page?

15 A These are the actual -- we asked for the calls
16 again were made -- the destination of calls that
17 were made from that phone that day and this is the
18 list.

19 Q And are there two that are of significance to
20 this case?

21 A Yes. The two that were again, you know, at
22 least they showed up on the victim's cell phone,
23 that's the 348-5171. And that there were two calls
24 that were made from the pay phone to that cell
25 phone, one at 1829 hours, which is 6:29 p.m., and

1 another one at 1834, which is 6:34 p.m.

2 Q And did you make any attempt to determine who
3 made those phone calls?

4 A Yes. What we tried to do was, just from a
5 common sense perspective, we tried to run down the
6 numbers that were on either side of those calls
7 thinking that somebody might have made three or four
8 phone calls at one time. And we were successful in
9 identifying an individual who had made calls, I
10 believe, on either side of those calls, but it wound
11 up being a dead end as far as the person who made
12 those calls.

13 Q Was he cleared of any involvement with this
14 case?

15 A Yes, he was cleared. He uses that phone
16 frequently. His name was Levi Bates. And he had
17 made some calls to some acquaintances and relatives
18 from that phone during that time frame.

19 Q And as far as how much use that pay phone gets,
20 how would you characterize that?

21 A It's probably a pretty heavily traveled area.
22 As a matter of fact, the information we learned from
23 Mr. Bates was that he just didn't remember who might
24 have used it in between. He couldn't recall.

25 Q And did you take any other steps to try to

1 determine who might have possibly used that phone?

2 A Yes. We actually -- it's sort of a long shot,
3 but we had the phone processed for fingerprints at
4 that time.

5 Q And how many days after the murder was that?

6 A It's going to be nearly two weeks.

7 Q Would you expect to find some fingerprints
8 still on --

9 A No, not with the phone used or something
10 touched as frequently as that --

11 Q Was this phone --

12 A -- the prints overlap.

13 Q Was this phone exposed to the elements?

14 A It was one of those, I believe, with the metal
15 cover that comes out a little bit, but --

16 Q Sort of clam shell type?

17 A Yeah, but it would be exposed to elements,
18 certainly, if the wind was blowing.

19 Q And that effort on the fingerprints, did
20 that --

21 A It proved negative.

22 Q And when you tracked the phone -- where the
23 phone calls came and the time, you were talking
24 about the phone calls came in to Bernard according
25 to a witness at the Varsity?

1 A That's correct.

2 Q Could you please pick that thread back up?

3 A The information of the witness was significant
4 because the witness, we learned, that as soon as
5 these calls were witnessed having been received, the
6 conversation was basically that, you know, come on
7 down where, you know, where he was. Shortly
8 thereafter, the witness described two females having
9 shown up. And it was obvious that that call, or
10 those calls, precipitated the arrival of the, if you
11 will, of the two females.

12 Q And did you determine anything about, from
13 Mr. Page, about the identity of those two females or
14 any descriptive information?

15 A At the time, there was a slight introduction of
16 sorts. Mr. Brennan had indicated, This is my niece
17 from New York and her friend from Beaufort. At the
18 time, we had learned that a niece had indeed been
19 down from New York earlier, like a week or two
20 earlier, but had gone back. And the Beaufort thing
21 would turn out to be significant.

22 Q Did it have any significance at that time?

23 A Not at the time it didn't.

24 Q But later you learned that Iris Bryant was from
25 Beaufort?

1 **A** That's correct.

2 **Q** And you said that -- how long did this process
3 of tracking down the victim's last whereabouts take?
4 How long were you working in that process?

5 **A** His last whereabouts were determined pretty
6 much right away the next day based on the visits to
7 the Varsity and Calloways.

8 **Q** And once you determined his whereabouts, where
9 did you go in your investigation from there?

10 **A** Well, we attempted to try to identify the two
11 females with any manner that we could.

12 **Q** And did you talk -- tell the jury about those
13 efforts.

14 **A** We -- of course, one of the first things that
15 we did, we felt like the best witness that could
16 provide descriptions was the waitress, Heidi Feagin.
17 We scheduled a meeting for her at SLED to do some
18 composite drawings, which is a tool that we
19 frequently use in investigations like this.

20 **Q** And she met with SLED?

21 **A** She met with a artist, a forensic artist, Roy
22 Pascal. And two composites were generated. Those
23 composite drawings were ultimately disseminated to
24 the news media and they were run on the news and the
25 newspaper at that time.

1 Q Were those run in October or November?

2 A I believe in November because she didn't -- I
3 think she went to SLED the first week in November to
4 actually generate the composites.

5 Q And so those sketches, those composites, were
6 run in the newspaper after Halloween of 2001?

7 A That's correct.

8 Q And were y'all running down leads?

9 A We were still attempting to run down leads
10 based on information we had learned about possible
11 acquaintances of the victim. And we came up with
12 sort of dead end after dead end.

13 Q And fair to say that y'all did a great deal of
14 investigation in trying to locate the two women?

15 A Pretty extensive bit of investigation.

16 Q In fact, I believe you generated 55 pages of
17 investigative notes?

18 A Actually, it's 35 pages.

19 Q I apologize.

20 A It's rather a lengthy follow-up and a lot of
21 that's directly linked to our attempts to identify
22 the two females.

23 Q That's single spaced and small typed?

24 A Yes, sir.

25 Q But, ultimately, in the beginning, that was

1 fruitless?

2 A It was fruitless, yes, sir.

3 Q Now, there were some fingerprints that were
4 lifted -- I'll talk about that later. There was
5 some hair that has been talked about in this case?

6 A Yes, sir.

7 Q Was there hair that was collected from the
8 victim's vehicle?

9 A It was my understanding, yes, sir.

10 Q And was that sent to SLED?

11 A It was sent to SLED.

12 Q Were they able to test that?

13 A No, sir.

14 Q And were those suitable for --

15 MR. MOBLEY: Objection. He can't lay a
16 foundation like that for this witness whether
17 forensic or trace evidence was suitable for testing.

18 THE COURT: I'll let him testify as to what he
19 was told --

20 MR. LUPTON: I'll withdraw the question. I'll
21 rephrase the question.

22 BY MR. LUPTON:

23 Q Were you informed that PCR --

24 MR. MOBLEY: And I would object to that on the
25 grounds of hearsay, Your Honor.

1 **THE COURT:** It's not offered for the truth of
2 the matter. It's part of their investigation as to
3 whether or not it was actually tested or not. It's
4 already been testified to, but it's not offered for
5 the truth of the matter.

6 **MR. MOBLEY:** I -- respectfully, I would like to
7 state to the Court, Your Honor, I mean, I think what
8 he's trying to establish, he's trying to put some
9 evidence that the items were not suitable for
10 testing whether they were or not, I mean, that's --
11 I think that's exactly what he's trying to offer it
12 for unless he can demonstrate some other purpose.
13 But I think that's exactly what he's trying to offer
14 it for to try to establish whether or not they were
15 suitable for testing. I mean, that was the
16 question.

17 **MR. LUPTON:** Regardless of --

18 **THE COURT:** It's not an issue in this trial at
19 this point. You can answer the question.

20 **BY MR. LUPTON:**

21 **Q** Regardless of whether or not they were actually
22 suitable for testing, were you informed that they
23 were not suitable for PCR?

24 **A** I have information now that they were not
25 suitable, that's correct.

1 **Q** And does the Richland County Sheriff's
2 Department have the capability of doing any other
3 type of DNA testing?

4 **A** We do have the capability of doing standard DNA
5 testing. And it is possible to be done or conducted
6 on hairs if there's a root on the hair. In this
7 case, there wasn't an identifiable root sufficient
8 enough quality to do DNA testing.

9 **MR. MOBLEY:** And, once again, Judge, I mean,
10 he's really getting out of the scope of his area of
11 expertise at this point. I mean, he can -- and
12 that's what I would object, Your Honor.

13 **MR. LUPTON:** I'll clarify that, Your Honor.

14 BY MR. LUPTON:

15 **Q** Regardless of whether or not that was true, is
16 that what the forensic scientist people informed
17 you?

18 **A** Yes.

19 **Q** And based on that, did you, as part of your
20 investigation, require that those hairs be tested?

21 **A** Initially, no.

22 **Q** And, ultimately, you later discovered that
23 there was another type of DNA testing that was
24 possible, but very expensive?

25 **MR. MOBLEY:** He's leading this witness, Your

1 Honor. I would object to the leading.

2 **THE COURT:** Sustain that.

3 **THE WITNESS:** I learned about that there's a
4 lab that could conduct mitochondrial DNA testing,
5 which basically it involves testing of hair without
6 a root.

7 BY MR. LUPTON:

8 **Q** And is that something that the sheriff's
9 department do --

10 **A** No, sir.

11 **Q** And based on your knowledge, did the
12 Solicitor's office ultimately --

13 **A** Yes.

14 **Q** -- pay for that testing?

15 **A** Yes, they did.

16 **Q** Did this case -- at some point, did you run out
17 of leads on this case?

18 **A** We had a -- in February of 2002, we generated a
19 sliver of a lead in an interview that I conducted
20 with a gentleman who knew the victim. Basically, he
21 knew an individual who had, according to him, talked
22 about having some knowledge of this case in sort of
23 nonspecific terms and that was -- he knew the
24 individual by the first name of Iris and he'd had a
25 relationship with her. We were not very successful

1 in learning or getting in touch with Iris or running
2 her down at that time, so, ultimately, yes, the case
3 did go cold.

4 Q And what does it mean for the case to go cold?

5 A It, basically, just means that your active
6 leads have sort of wilted away. I mean, your
7 efforts are still there. You want to do more, but
8 there's just nothing to do. You've run it down.
9 You've done the best you can. And in addition to
10 that, other cases are coming in. And it sounds bad
11 to say, but other homicides are taking place and
12 you've got to put your man power on those cases. So
13 both of those factors together create a situation
14 where -- what we commonly would call a cold case.

15 THE COURT: Mr. Lupton, before you go forward,
16 I should have taken a break before Investigator
17 Smith actually took the stand. I know he's going to
18 be up here for a while. And before we go further in
19 his testimony, I don't want to take a break at a
20 later point.

21 Ladies and gentlemen, I'm going to let you all
22 take a break for about ten minutes right now. I
23 just ask you not to talk about the evidence and
24 testimony you've heard or seen thus far. We'll
25 bring you back out about 20 till. Thank you.

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1 **MR. LUPTON:** Thank you, Your Honor.

2 (The jury retires to the jury room.)

3 **THE COURT:** Lieutenant Smith, I know you know
4 this, you're still under oath, still on the witness
5 stand, don't discuss your testimony. I forgot about
6 you were going to be up there for a while and y'all
7 don't get a chance to take breaks or have anybody
8 bring you any water or anything, so you can go ahead
9 and take a break now before we get into the meat of
10 your testimony.

11 All right. We'll take about ten minutes.

12 (Brief Recess.)

13 **THE COURT:** I want to remind everybody before
14 the jury comes back out to make sure that their
15 phones are off.

16 Counsel, are we ready to continue?

17 **MR. LUPTON:** The State's ready.

18 **THE COURT:** All right. We'll bring the jury
19 back in then.

20 (The jury returns to the courtroom.)

21 **THE COURT:** Thank you, ladies and gentlemen.

22 Mr. Lupton, you can continue at this point.

23 BY MR. LUPTON:

24 **Q** Lieutenant Smith, we had just gotten to the
25 point where you had explained what a cold case was?

1 **A** Yes, sir.

2 **Q** Does the Richland County Sheriff's Department
3 now have a special unit for investigating cold
4 cases?

5 **A** Yes, sir. Since 1997 with a case called the
6 Frieburger case, we actually formulated a cold case
7 unit. And it's comprised of -- I'm actually over
8 the unit in conjunction with my homicide and robbery
9 duties, but it's actually comprised mostly of senior
10 or retired personnel with a lot of experience, many
11 years of law enforcement experience. We also have a
12 full-time investigator assigned to the unit with a
13 good deal of major crime experience.

14 **Q** And was this case handed over to the cold case
15 unit?

16 **A** Yes, it was.

17 **Q** And did that unit work on trying to develop
18 leads?

19 **A** Yes, it did. And one of the main thrusts of
20 their effort was to locate Iris Bryant.

21 **Q** Did the sheriff's department ultimately get a
22 break in this case?

23 **A** Yes, we did. Actually -- before actually being
24 able to locate Ms. Bryant, we got a break actually
25 in July of 2003. We, basically, were able to become

1 involved in an interview with an individual named
2 Nathaniel Hallman and that was very significant in
3 this case.

4 Q And did he give information concerning this
5 case?

6 A Yes, he did.

7 Q Now, I know you can't talk about what he said,
8 but did he take you to any place specific?

9 A He actually -- Mr. Hallman took two of the cold
10 case detectives actually to 2124 Braham Street,
11 which is now known to have been the residence of
12 Carmen Rice in October 2001.

13 Q Right here?

14 A Yes, sir, right here (indicating). He pointed
15 that house to us, to the two cold case detectives
16 that actually were transporting him at that time.

17 Q And, again, you're not allowed to discuss what
18 he actually said, but did you show him a photo
19 lineup with, at some point, with Carmen Rice in it?

20 A Yes. He ultimately identified Carmen Rice as
21 the person that --

22 MR. MOBLEY: Hold on. Objection, objection. I
23 was talking to Mr. Meadors and I did not follow, I
24 missed some of the testimony. I'm certainly going
25 to object to this, Your Honor.

1 **THE COURT:** You're objecting to what
2 Mr. Hallman told the detectives?

3 **MR. MOBLEY:** Correct.

4 **THE COURT:** Mr. Lupton, any exception?

5 **MR. LUPTON:** Your Honor, I'll withdraw --

6 **MR. MOBLEY:** All right. I'm going to strike
7 it.

8 **THE COURT:** Well, he never answered --

9 **MR. LUPTON:** And I don't oppose.

10 BY MR. LUPTON:

11 **Q** I'll move on to, did you also, as a result of
12 discussions with or interviews with Nathaniel
13 Hallman, did you also begin to search for Iris
14 Bryant again?

15 **A** Yes, sir. The cold case detectives that were
16 assigned in that regard had developed some possible
17 leads on her. And this -- after the interviews with
18 Mr. Hallman, those efforts were stepped up some and
19 more pressure was applied and it turned out to be
20 successful. She was actually arrested on the
21 morning of July 25th, 2003.

22 **Q** And did you speak with Iris Bryant --

23 **A** Yes.

24 **Q** -- as a result of that arrest?

25 **A** Yes. We conducted several interviews with Ms.

1 Bryant subsequent to her arrest on the 25th of July.

2 Q And she initially denied any knowledge of the
3 crime; is that correct?

4 A That's correct.

5 Q And she ultimately gave successive statements
6 indicating greater knowledge of the crime?

7 A That's correct.

8 Q And did she ever change any significant
9 portions of her story with regards to who actually
10 committed the murder?

11 MR. MOBLEY: Objection.

12 THE COURT: Same hearsay objection?

13 MR. MOBLEY: Correct, Your Honor.

14 THE COURT: As phrased, I think it would be
15 hearsay. I think you can rephrase that, Mr. Lupton.

16 BY MR. LUPTON:

17 Q Regardless of the truth of her -- any of her
18 stories, just the actual whether or not the details
19 changed, can you say whether or not the details
20 changed any significant way as to who --

21 MR. MOBLEY: I'd object again, Your Honor.
22 He's rephrasing it to a way, but it's the exact same
23 question, he's just asking it a different way with
24 the exact same result that's going to be coming out.
25 I mean...

1 **THE COURT:** It's actually not being offered for
2 the truth. He can testify -- Lieutenant Smith can
3 testify as to, based on his interaction with her,
4 what the unit or himself did at that point.

5 **MR. MOBLEY:** And I wouldn't have any problem,
6 just I would object -- I wouldn't have any problem
7 with that. And he can certainly say even with
8 regards to things he did in the investigation, I
9 wouldn't object to it as a courtesy, but, I mean, I
10 certainly don't want him improperly bolstering Ms.
11 Bryant's testimony.

12 **THE COURT:** I'll sustain the objection. You
13 can rephrase it like that, Mr. Lupton.

14 **MR. MOBLEY:** Thank you, Your Honor.

15 BY MR. LUPTON:

16 **Q** After speaking with Iris Bryant, did you obtain
17 any arrest warrants?

18 **A** Not initially, no.

19 **Q** Why not?

20 **A** Because we wanted to further corroborate or
21 substantiate or hold up her statements with regard
22 to Carmen Rice.

23 **Q** And why would you want to do that?

24 **A** Because that's just good police procedure. We
25 just don't rely on one thing that someone says, it

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1 has to be corroborated.

2 Q And did you investigate -- begin investigating
3 Carmen Rice as a result of speaking with Iris
4 Bryant?

5 A Yes. And we had learned about the identity of
6 someone referred to as Ashley. And we began trying
7 to research that piece of information. Ultimately,
8 Ashley was learned to be Amber Byrd.

9 Q Without going into the specifics of who told
10 you what, did you get her name from just one source?

11 A No. Actually, we had obtained, running some --
12 just some routine name checks on Carmen Rice,
13 actually had possession of a Columbia Police

14 Department police report from back in 2001 where
15 Carmen Rice and Amber Byrd's name were both on the
16 report. It had something to do with a malicious
17 injury to a car at the Bentley Court Apartments. So
18 we actually had her name at least by that way.

19 Q And just so that there's no implication that
20 we're trying to say that she was involved in
21 wrongdoing --

22 A No, sir.

23 Q -- in that incident, in fairness, she was
24 listed as the victim; is that correct?

25 A I believe she was the victim in that case and

1 Ms. Rice was a witness in that report.

2 Q And did you do anything else in your
3 investigation of Ms. Rice?

4 A We --

5 Q Or learn anything else?

6 A We also learned, through, again, some
7 interviews, that she had been employed as a security
8 guard during the time of the Brennan homicide and
9 that was significant because there was a contention
10 that her weapon may have been -- was the murder
11 weapon in the case, so that was highly significant.

12 And we began to run that information down and
13 confirmed that she indeed was a security guard at
14 America's Best Security from the Spring of 2001 up
15 until at least the first week or so of October 2001.

16 Q And did you make contact with the records
17 custodian for America's Best Security?

18 A We did.

19 Q And as a result of that, were the security
20 company's records searched?

21 A Actually, the security company had gone
22 bankrupt and there's been a lot of testimony about
23 that and they weren't -- so their files were
24 archives, if you will, actually in a warehouse over
25 by the airport. And we dispatched the entire cold

1 case unit on two occasions to that warehouse to try
2 to find records. And they were unsuccessful in
3 finding some records pertaining specifically to Ms.
4 Rice's employment and certain specific circumstances
5 of her employment with America's Best.

6 **Q** Was that a cursory search or a thorough search?
7 How would you characterize the search?

8 **A** It was very thorough because they actually went
9 twice and spent, I think, the majority of the day
10 there on two occasions searching these boxes.

11 **Q** During that thorough search, were there any
12 records found indicating that the weapon that Carmen
13 Rice was -- had issued to her in October was ever
14 turned in when she left the company?

15 **A** No. As a matter of fact, the records were
16 obtained that indicated that a month after the
17 homicide, that her equipment and her firearm, et
18 cetera, were unaccounted for and --

19 **MR. MOBLEY:** Objection. He's using the word
20 firearm. I think he's mischaracterizing that
21 document. I'm assuming he's referring to the
22 documents in evidence.

23 **MR. LUPTON:** I'll let the records --

24 **THE COURT:** He can testify as to what the unit
25 did as a result of the documents that they found as

1 to whether they thought it was related to the
2 firearm or not and whether they continued to search
3 for it.

4 MR. MOBLEY: Thank you.

5 THE WITNESS: We knew that her last assigned
6 post, based on those records, was an armed post.
7 There had been a disciplinary problem with that last
8 assigned post and none of that equipment had ever
9 been turned in.

10 BY MR. LUPTON:

11 Q And you testified that you worked for a
12 security company for three years, approximately?

13 A I was a general manager of a security company,
14 yes, sir.

15 Q And would that kind of thing be unusual based
16 on your experience?

17 A The security business is a high turnover,
18 low-wage type business by design. And that's no
19 fault of any particular company, that's just the
20 industry standards. Most people aren't willing to
21 pay a lot to have security and there's a lot of
22 turnover. And the personnel are constantly a
23 problem, having and keeping personnel.

24 And a lot of times if you have somebody that
25 doesn't show up for a shift or has a disciplinary

1 problem, you don't terminate them because if you
2 terminated everybody that happened to, you wouldn't
3 have anybody to put on the shifts. So what happens
4 is you put them in sort of a standby pool because
5 the next time you need somebody to go to a job, that
6 may be the person that you can contact and can get
7 to that job. So as time goes by and they
8 continually don't -- you can't contact them, you
9 can't reach them, they don't show up for shifts,
10 then ultimately they are terminated.

11 Q And would it be uncommon to not recover that
12 equipment that was issued?

13 A It happens frequently.

14 Q In your efforts -- did you make an effort to
15 find that weapon that was issued to her?

16 A We made a lot of effort, thorough effort, to
17 find that weapon.

18 Q Were you ever able to find it?

19 A No, sir.

20 Q What did you do and what were some of the
21 things you did to try and locate that weapon?

22 A We conducted a number of interviews of people
23 who were affiliated with the company and who had --
24 and may have a recollection of any of the equipment.
25 We actually ran down the former owner of the company

1 who was living in New York. That was sort of a dead
2 end. The company had been in some degree of
3 disorganization. At the time, it was going
4 bankrupt.

5 Q And when was that time that it went bankrupt?

6 A It was in 2000 -- later in 2002, I think. But
7 I think the signs of its demise were back in as far
8 as the Fall of 2001, it was starting to go down
9 hill, because we had learned there was some
10 information about some payroll checks and that kind
11 of thing that wouldn't clear and they were having
12 problems. Nobody seemed to be able to account for
13 us the disposition of a number of the weapons.

14 Q You just mentioned payroll checks not clearing
15 or bouncing.

16 A Yes, sir.

17 Q Did you ever get any information that Carmen
18 Rice's payroll checks bounced?

19 A Actually, there were two checks that were
20 located that had cleared. We actually had returned
21 -- the returned checks on them.

22 Q Her last two checks?

23 A Yes, sir.

24 Q And did you --

25 MR. LUPTON: Beg the Court's indulgence.

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

2 (Pause.)

3 BY MR. LUPTON:

4 **Q** Did you ultimately make an effort to find out,
5 directly from Carmen Rice, whether or not the weapon
6 had been turned in?

7 **A** Yes, sir.

8 **Q** Tell the jury briefly about that.

9 **A** We actually wanted to see if we could learn
10 what her account may be regarding her issued weapon
11 in a way without tipping her or letting her know
12 that she was a suspect in a homicide case.

13 **Q** And why wouldn't you want to tip her off?

14 **A** Because we didn't want her to formulate some
15 stories, know about her being a suspect at the time,
16 know that it might be coming, hide evidence, dispose
17 of evidence, warn people, provide -- try to
18 formulate alibis. That's -- whenever we're getting
19 ready to possibly effect an arrest or we have a
20 suspect, we typically don't want that known for
21 those very reasons. You want it to be some element
22 of surprise because people will be inclined to
23 destroy evidence, try to develop alibis or warn
24 perspective witnesses on their behalf to look out
25 for them and that kind of thing.

1 Q And you said that you had somebody contact her.
2 Talk about that.

3 A Actually, understanding the dynamics behind the
4 security registration and security companies and who
5 they're regulated by, SLED actually regulates
6 security companies and they actually license
7 security companies and security guards. To be a
8 security guard in South Carolina, you have to pay a
9 fee to get your security card. SLED does background
10 checks on the guards. SLED does background checks
11 on the company owners before they actually allow
12 them to be a security company.

13 I understood all that, you know, particularly
14 from being in the business. And I enlisted the aid
15 of a couple of SLED agents and explained the
16 scenario to them. And, actually, we formulated the
17 idea of having the SLED agents actually go to Carmen
18 Rice's residence, represent the fact that they were
19 researching America's Best Security's missing
20 weapons and see what sort of account she would
21 provide to them as far as what happened to her gun.

22 Q And did that ruse develop any useful
23 information?

24 MR. MOBLEY: Objection.

25 BY MR. LUPTON:

1 Q Without going into what was said, I understand
2 that you can't testify to anything you were told by
3 Dave Lawrence or the other SLED agent, but did it
4 develop any useful information?

5 A Yes, it did.

6 Q And could you tell the jury about that?

7 A Well, actually, as a result of the visit, we
8 were unable to confirm any of the information
9 provided, specifically that the weapon had been
10 turned in, but it did provide some other information
11 that we were able to refute.

12 Q Well, other than getting information that you
13 found to be untruthful, did it develop any
14 information that was useable to you? And if it
15 didn't, that's fine.

16 A Well, we actually were able to ultimately learn
17 about some other possible employees of America's
18 Best that we ultimately interviewed in the case.

19 Q And did you interview any other employees from
20 the security company?

21 A Yes, we did.

22 Q And who was that?

23 A Anthony Stewart.

24 Q And, obviously, you can't talk about what he
25 told you, but skipping ahead, after Carmen Rice was

1 ultimately arrested and ultimately spoke with you on
2 a couple of occasions, did she ever tell you that
3 she had contacted Anthony Stewart about this subject
4 matter after SLED had contacted her?

5 **A** Yes.

6 **Q** And you talked about -- earlier we were talking
7 about Amber Byrd?

8 **A** Yes, sir.

9 **Q** Did you -- you said that, ultimately, you
10 located her through several independent sources?

11 **A** Yes, sir, we did.

12 **Q** And did you eventually talk to her?

13 **A** We did. We conducted a formal interview with
14 Amber Byrd.

15 **Q** And when was this in relation to when you
16 learned about Iris -- excuse me -- Carmen Rice as a
17 suspect?

18 **A** We learned about Carmen Rice at the end of July
19 and Amber Byrd was actually located -- bear with me
20 one...

21 **Q** Iris Bryant was -- Iris Bryant was arrested
22 July 25th you stated?

23 **A** Yes. On the 4th of November, actually, we
24 actually conducted that actual interview with Amber
25 Byrd.

1 Q And, again, I understand that you're not
2 permitted to state what Amber Byrd told you, but as
3 a result of your interview with Amber Byrd, what did
4 you do?

5 A We -- as a result of that interview, we had
6 reached the corroboration that we previously talked
7 about that we needed to charge Carmen Rice with the
8 murder of Bernard Brennan.

9 Q And were warrants issued at that time?

10 A Yes.

11 Q And were they ultimately served?

12 A Yes, they were ultimately served. Ms. Rice was
13 arrested on the warrants, actually, on the 5th.

14 Q And how were you able to locate her?

15 A We had learned based on -- during the
16 investigation, about her, who is now, I believe, her
17 husband, Joe Young, and the place that he actually
18 was employed. By the time the warrants were issued,
19 she had moved from the location where the SLED
20 agents made contact with her and we couldn't find
21 her.

22 Q Well, did you attempt to find her through SLED
23 agents?

24 A We did. There had been -- in that interview, I
25 believe a beeper number had been provided to the

1 SLED agents. And Agent Lawrence, Dave Lawrence, in
2 particular, had, based on my request, had tried to
3 keep her a number of times so we could get her at a
4 location where we could arrest her and that proved
5 unsuccessful. Several different occasions when he
6 would try, there was always an excuse about not
7 being able to meet or couldn't make it, that kind of
8 thing.

9 Q So when she would not meet with law enforcement
10 after that conversation with SLED, you ultimately
11 had to find her on your own; is that correct?

12 A Yes, sir. And actually on that 5th, I actually
13 set up some surveillance on her husband's place of
14 employment. -- I believe it's called Document Systems.
15 It's right off of Harden Street. And we were able
16 to observe, I believe, him coming back from lunch
17 and she was actually driving the car. And we were
18 able to follow the car and get her under arrest.

19 Q Now, before we leave Amber Byrd completely,
20 there were some questions from the defense to a
21 prior witness concerning why were Amber Byrd's
22 prints not run against a print that was found on the
23 victim's vehicle. Was there any reason why you
24 never requested Anna Clemens to check --

25 A Amber Byrd was never a suspect in this case.

1 Q Did she fit the description of the people that
2 were sought?

3 A No, sir. She had glasses. She was thin,
4 taller than what -- neither one of the individuals
5 seen with Mr. Brennan that night was described as
6 having glasses.

7 Q And did anything -- anybody's statements make
8 her a suspect?

9 A No.

10 Q Now, once you served the warrants, tell the
11 jury a little bit about that.

12 A Actually, we followed Ms. Rice from Document
13 Systems, I wasn't actually sure it was her, and she
14 proceeded, she cut across from Document Systems,
15 which I believe it's Laurel Street, it's not a --

16 Q Over by Mack's on Laurel?

17 A Yeah, by Mack's there on Laurel and then a fire
18 station, a new fire station, in that area. She cut
19 across over behind between like the Old Saxon Homes
20 and Benedict College, made her way over actually to
21 Chestnut Street. Sort of ironic, at that time, she
22 pulled in actually to the convenient store where the
23 cell phone call or where the call had been made from
24 the pay phone to Mr. Brennan's phone, she actually
25 pulled into that same store.

1 When she got out of the car, I realized that
2 was her. She had her little boy with her at the
3 time. I called for, I believe, Investigator Mincey
4 who was close by, said, I think I got her over here
5 on Chestnut Street. She actually got back in the
6 car, proceeded down to Chestnut Street, almost to
7 where Chestnut comes back into Braham Street,
8 ironically again where she used to live in that same
9 area. We were able to effect her arrest at that
10 time.

11 **Q** And once you arrested her, what happened?

12 **A** She was taken -- I took her myself in my car to
13 the Richland County Sheriff's Department in the
14 criminal investigative division in my office. And
15 she was advised of her rights on the way to the
16 sheriff's department verbally by myself.

17 **Q** And after advising her of her rights -- well,
18 what rights did you advise her of?

19 **A** The standard Miranda rights, that she had a
20 right to remain silent, anything she said could be
21 used against her in court, that she had a right to
22 talk to a lawyer for advice and have a lawyer with
23 her during questioning, and if she could not afford
24 a lawyer, one would be appointed to her before any
25 questioning if she wished, and that she could stop

1 answering questions at any time if she so chose.

2 Q And did she tell you she understood those
3 rights?

4 A Yes.

5 Q Did she agree to talk to you?

6 A She talked briefly with us, yes.

7 Q And what did she tell you?

8 A She admitted that she did know Iris and Amber.

9 She told us that. She said that she had turned her
10 gun in is what she told us. She said that she had
11 spoken to Anthony Stewart the day prior and that
12 Anthony would verify that. She said she had to turn
13 her gun in to get her last paycheck. She denied
14 that Amber had ever baby sat for Shawn citing the
15 fact that, she said, Amber was a lesbian, was always
16 kissing other girls in front of the boy and so she
17 -- in other words, she wouldn't let a lesbian baby
18 sit her child.

19 Q Now, did Carmen Rice later give a statement or
20 tell you verbally that Amber Byrd and Cynthia Parks
21 had moved in with her?

22 A Later on she would say they actually lived with
23 her for a while.

24 Q So she said that she had let them live there,
25 but later, but, initially, she denied even being

1 willing to let them be around her child?

2 A That's right.

3 Q And did she say anything about whether or not
4 she knew the victim?

5 A She denied knowing the victim.

6 Q And after talking with her, did she request
7 anything from you?

8 A She initially invoked her attorney privilege
9 which means she wanted to quit talking.

10 Q And certainly that's her right?

11 A That's correct. And, at that time, we can't
12 really ask her -- talk to her anymore -- anymore
13 questions at the time, but, actually, before she was
14 transported, she wanted to know, basically, the
15 story about how we got on to her again. She asked
16 again about -- to go through it and so I went
17 through the history of the case.

18 Q Told her all of the evidence against her?

19 A Laid it all out how we got to her.

20 Q Told her the witnesses?

21 A That's correct.

22 Q And did you make any attempts to verify or
23 disprove any of the statements that she made to you
24 that -- at that initial interview when she was
25 arrested?

1 **A** One of the primary things we did was contact
2 Anthony Stewart.

3 **Q** Well, even before that, that night when she
4 told you that she had turned in her weapon, did you
5 make any reference --

6 **A** We actually obtained a couple of search
7 warrants. They had moved some -- they had moved
8 from the location where the agents had first talked
9 to her, which is down off of South Beltline and we
10 had known where they had gone to. But from that
11 interview, we learned that they had rented a storage
12 unit that actually had a lot of their items there.

13 **Q** Did you ask her where the stuff was?

14 **A** Yes.

15 **Q** Did she tell you?

16 **A** She told us about having resided with a
17 relative of her husband for a period of time.

18 **Q** Well, did she tell you where -- about having a
19 storage unit?

20 **A** She told us that they were in storage, but she
21 would not divulge the location of the storage unit.

22 **Q** So she told you that her stuff was in storage,
23 but she wouldn't tell you where it was?

24 **A** Right. And we were able to learn the location
25 through some subsequent interviews with the husband.

1 And we did prepare search warrants for the storage
2 unit and this relative of his that they'd stayed at
3 his house -- that they stayed at his house
4 temporarily.

5 Q And with regards to the search warrant, you say
6 you ultimately learned where it was located, you got
7 a search warrant. About what time was the search
8 warrant obtained?

9 A The search warrant was actually obtained late
10 in the day, but they -- I don't believe they were
11 served until the next morning.

12 Q And when did you learn from the husband about
13 where the storage unit was possibly located?

14 A I believe we learned about it late that
15 afternoon around 4:30. I actually had an occasion
16 to speak with him and it had something to do with
17 him coming to pick up the little boy.

18 Q And when you talked with him, did you also ask
19 him if you could search their car?

20 A Yes.

21 Q And did he show up?

22 A He never showed up.

23 Q And you -- when you -- after talking to him and
24 getting the location of the storage unit, were you
25 able to get the search warrant and serve it during

1 that nighttime?

2 A We actually served it, I believe, the next
3 morning.

4 Q Why were you not able to serve it during the
5 nighttime that night?

6 A Well, it was beginning of -- darkness was
7 coming and this was perceived to be a storage unit
8 full of things that we needed natural daylight to
9 actually do an effective search.

10 Q And the next morning, how early did y'all go to
11 search the storage unit?

12 A The next morning we were pretty much out there
13 first thing. I actually signed the warrants at nine
14 o'clock, so we proceeded there right after that.

15 Q And once you got there, what did you discover?

16 A Well, actually, the storage unit has a log that
17 shows people coming and going. And we learned that
18 Joe Young, what's now, I guess, he's her husband,
19 had actually entered the unit a few minutes before
20 we got there as evidenced from the log.

21 Q And how long did he stay?

22 A He stayed just, I think, several minutes, not
23 -- a very short period of time.

24 Q And this was before y'all got there?

25 A Yes, about ten minutes before we got there

1 actually.

2 Q Did y'all search the storage unit anyway?

3 A We basically did. And it was like unloading,
4 you know, an entire house. I mean, it was full.

5 Q Did you find anything of any kind of
6 evidentiary value?

7 A Not with regard to this case, no, sir.

8 Q And you said that you got information that they
9 had been staying with a brother?

10 A I believe it was the husband's brother, Harvey
11 Young. And it was actually a trailer park out near
12 SLED on Broad River Road.

13 Q Did you get a search warrant and search that
14 location as well?

15 A Yes, we did.

16 Q And did you find anything there?

17 A No, sir. I actually found nothing there even
18 indicating that Carmen Rice or Joe Young had even
19 been there. It's a sparse trailer. There's
20 virtually nothing in it.

21 Q After arresting Carmen Rice, was anybody else
22 arrested for this murder and armed robbery?

23 A Yes. Ultimately, Iris Bryant was charged with
24 the murder and armed robbery of Bernard Brennan.

25 Q And what basis was she charged?

1 **MR. MOBLEY:** I object, Your Honor. He made the
2 arrest. He signed the warrant. But, I mean, I
3 think you're getting to a point where he's trying to
4 almost give legal conclusions to some extent. I
5 don't think that's really appropriate with this
6 witness. He can testify that he drafted the
7 warrants and she was arrested.

8 **THE COURT:** Well, unless it directly relates to
9 something to Ms. Rice, I'm not sure why we're
10 getting into why Ms. Bryant was...

11 BY MR. LUPTON:

12 **Q** Was Iris Bryant charged because she was --

13 **MR. MOBLEY:** Objection.

14 **THE COURT:** Y'all approach.

15 (Whereupon, a bench conference was held off
16 the record, in the presence of the jury, but out of
17 the hearing of the jury.)

18 **THE COURT:** Sustain the objection.

19 BY MR. LUPTON:

20 **Q** Once Carmen Rice was arrested, did you have any
21 other occasions to talk with her?

22 **A** Yes, I did.

23 **Q** Tell the jury about that, please.

24 **A** I came into possession of a letter that Ms.
25 Rice had sent to someone affiliated with America's

1 Best Security initially.

2 Q Without talking about that letter --

3 A Yes, sir.

4 Q -- how did -- and that person's not here to
5 testify.

6 A That's correct. The letter was forwarded to
7 me.

8 Q And how did you come to talk to Carmen Rice?

9 A Well, actually after that letter came to me, I
10 received a letter from Ms. Rice myself directed to
11 me. I actually received it on the 22nd of December
12 of '03. And, basically, she was asking me to come
13 talk to her at the Alvin Glenn Detention Center.

14 Q And did you, as a result of that letter, did
15 you talk to Carmen Rice?

16 A Yes. I believe I was on nights that week so I
17 couldn't get there right away and then the Christmas
18 holiday and I believe there was some time off during
19 that time. We actually got to her on the 29th of
20 December. I picked her up and brought her back to
21 the sheriff's department per her request for an
22 interview.

23 Q And what was the results of that interview?

24 A I reminded her that she had invoked her
25 attorney privilege previously which means she asked

1 for a lawyer, didn't want to talk. And I asked her,
2 you know, if she was sort of recanting that and
3 wanting to talk now. And, again, she was advised of
4 her rights. She indicated she did want to talk.

5 She was advised of her rights a second time and this
6 time she waived her rights and agreed to talk.

7 Q And what did she tell you?

8 A In this interview, it was a rather lengthy
9 interview. I think I took notes of it at the time.
10 She admitted that she knew Amber Byrd and Cynthia
11 Parks as back as long ago when they resided at
12 Bentley Apartments together. She said that she met
13 Amber when she used to walk home from her job at the
14 nearby Food Lion store. Amber would often times
15 give her a ride. Carmen said that both Amber and
16 Cynthia came and lived with her on Braham Street in
17 October of 2001 when she actually got that house,
18 that's what we alluded to earlier.

19 Q And that was different from her initial
20 statement?

21 A Her initial statement saying that she wouldn't
22 allow them to, you know, her to baby sit her kid.
23 Now, she's saying that they're actually living with
24 her.

25 She insisted that -- that one of the major

1 points was about her having a phone at that Braham
2 Street house in October of 2001 based on a call
3 being made from a convenient store virtually across
4 the street. She indicated that she did have a phone
5 when she lived there. She even said it was in her
6 boy's name, Shawn's name, because she was behind on
7 her bills and basically trying to hide her name. By
8 that point in time, we had obtained and received the
9 Bell South subpoena indicating that there was no
10 phone at 2124 Braham Street during the month of
11 October 2001 and that was shown to her.

12 Q State's Exhibit 57?

13 A Yes, sir.

14 Q And y'all showed that to her?

15 A Yes, sir.

16 Q What was her response?

17 A She, basically, couldn't explain that other
18 than to say maybe she had a cell phone during that
19 time frame.

20 Q Did you ever find any evidence of that?

21 A No, sir.

22 Q And what did she say as far as whether or not
23 she knew the victim in this case?

24 A She denied knowing the victim again in the
25 case.

1 Q Did she elaborate on that?

2 A She talked about an individual -- she actually
3 said she didn't mess with older fellows, but then,
4 at the same time, she talked about knowing this guy
5 named Dice who was an older fellow. I believe he
6 was actually 45 at the time of this incident whereas
7 Mr. Brennan was 47.

8 Q Forty-seven or almost 47?

9 A He was almost 47 maybe. He was in his mid 40's
10 at any rate. He was comparable aged to the person
11 we ultimately identified as Dice; Alvin Dice.

12 Q So she said she didn't mess around with older
13 men?

14 A Yes, sir.

15 Q Men your age?

16 A Thank you. Yes, sir.

17 Q And then after that, her next statement was the
18 older man that Amber was talking about as Dice?

19 A Correct.

20 Q Who is the same age as --

21 A You know, thereby acknowledging, Well, yeah, I
22 do mess around with older men.

23 Q Did she say anything else about Dice?

24 A She claimed that Dice drove a white Mercedes
25 during the time. In other words, I think she was --

1 I don't know what she was -- where she was trying to
2 go with that, but she claimed he drove a white
3 Mercedes. And I think we learned that he actually
4 drove a Lexus during that time frame.

5 Q And did she say anything about whether or not
6 she smoked?

7 A Yeah. She denied that she smoked.

8 Q Did she tell you where she was at the time of
9 the murder? Did you ask?

10 A Actually, that was a significant part of the
11 interview because I had received this previous
12 letter that had been forwarded to America's Best
13 Security, the individual. And there was an
14 assertion in there, a specific date that she had
15 gone to Florida, which was prior to the homicide.

16 Q What date was that?

17 A It was October the 13th, the homicide being on
18 the 25th.

19 Q And did she repeat that assertion to you?

20 A Yes. And that was again a specific date that
21 was written in that letter. And, of course, by that
22 point in time, we had the payroll checks with her
23 fingerprint on it from America's Best and her
24 signature on the back that were cashed here in
25 Columbia after the 13th and those were presented to

1 her.

2 Q And we'll talk about that in a minute, but
3 let's focus on this October 13th date. Did she say,
4 I might have been down there on October 13th?

5 A I believe she said that that's when she
6 actually went to Florida.

7 Q Did she indicate to you that she was certain of
8 that or not?

9 A Initially, she said she was certain of that,
10 yes.

11 Q Did she give you any basis for her certainty as
12 to it being that specific date?

13 A She talked about her friend, Sarah, and being
14 there.

15 Q And let's talk about Sarah in a minute. But
16 did she provide you with any kind of a story or an
17 explanation of why she was able to remember that she
18 was down in Florida from October 13th?

19 A No, she didn't -- she couldn't say why it was
20 that date, she just knew it was that date.

21 Q Did she say anything to you after that? Did
22 she try and bolster that with talking about her last
23 paycheck?

24 MR. MOBLEY: He's leading the witness, Your
25 Honor.

1 **THE COURT:** Sustained.

2 **BY MR. LUPTON:**

3 **Q** Did she talk about her last paycheck?

4 **A** Yes.

5 **Q** And was that in -- what was that in relation
6 to?

7 **A** That was in relation to the fact that she had
8 to receive her last paycheck before she went to
9 Florida.

10 **Q** Had not?

11 **A** That she had.

12 **Q** Well, initially, did she admit having received
13 her last paycheck prior to going to Florida?

14 **A** I believe she said that -- I believe she said
15 that someone had picked up the check for her or
16 something of that nature.

17 **Q** Did she tell you who she was claiming had
18 cashed that check?

19 **A** I believe she said her father cashed the check
20 for her.

21 **Q** Did she talk about whether or not it had
22 cleared?

23 **A** I believe she said it had bounced.

24 **Q** Did she tell you what had almost happened to
25 her father as a result?

1 **A** Said he was almost charged with passing a bad
2 check basically.

3 **Q** So that was her story to you is that -- that
4 her father had picked up her last check, tried to
5 cash it and was almost arrested as a result?

6 **A** That's right.

7 **Q** And did she try and use that in substantiation
8 for not being in Columbia?

9 **A** Right, the fact that the father had to pick it
10 up, but, you know, we had evidence otherwise.

11 **Q** And did you show her that evidence?

12 **A** Yes.

13 **Q** Did she admit that that was her check?

14 **A** Yes. She admitted that she must have actually
15 cashed the check here and so there was really no
16 further explanation for the date of the 13th at that
17 point.

18 **Q** And, again, what was the date of that last
19 check?

20 **A** I believe it was the 17th. It was subsequent
21 to the 13th.

22 **Q** And that is obviously in evidence. At that
23 point -- let's talk about Sarah. How did Sarah come
24 up in this conversation?

25 **A** Carmen indicated that she was not in Columbia

1 on October the 25th at the time of the homicide.
2 She was in Florida with an Oriental girl named Sarah
3 who lives in Florida that worked at the hospital.
4 And that was the only information that she provided
5 to me, which, at that point in time, obviously
6 that's something we wanted to check out. And Sarah,
7 Oriental girl, hospital in Florida was virtually
8 impossible to check out.

9 Q She didn't give you any other identifying
10 information?

11 A None.

12 Q Did she tell you that she knew Sarah was back
13 in Columbia in 2002?

14 A No, sir.

15 Q Did she tell you that she had worked with Sarah
16 at Richland Hospital?

17 A No, sir.

18 Q After the murder?

19 A No, sir.

20 Q Did she tell you that she had met Sarah at
21 Bentley Court, that Sarah had lived there?

22 A No, sir.

23 Q Did she tell you whether or not she could
24 remember Sarah's last name?

25 A No, sir.

1 **Q** Well, did you ask her what the last name was?

2 **A** Yes, sir. The only thing she could provide on
3 Sarah, Oriental girl, Florida, hospital and that was
4 virtually, again, impossible to run that down.

5 **Q** So this was a woman that she said she had lived
6 with in Florida, but she said she didn't know her
7 last name?

8 **A** That's correct.

9 **Q** And did you make any effort to track down
10 Sarah?

11 **A** Again, that's sort of weak to go with to try to
12 run down based on that, but we were able to,
13 fortunately, get a lead later on, which -- an
14 independent method or another witness in the case
15 where we -- actually able to identify Sarah.

16 **Q** And what -- how did that come about?

17 **A** We had learned that there was a guy named
18 Kenneth Martin. His nickname was Pieso. His name
19 had come up a couple times in the case as possibly
20 being someone that Ms. Rice had an affiliation with
21 at the time of the homicide. And, of course,
22 anybody that somebody's close to at the time a crime
23 is committed, once they're charged with it, we want
24 to go interview them because they might have
25 information about the case.

1 So we identified him, Pieso, or Kenneth Martin,
2 and we ran him down and we were able to locate him.
3 And although he denied any knowledge about the
4 homicide, of course, he was familiar with Sarah and
5 he remembered that Sarah had resided at Bentley
6 Court Apartments. Based on that interview, we were
7 able to go to Bentley Court Apartments and they
8 pulled her old file and we immediately identified
9 her.

10 Q And did you track her down?

11 A Actually, I ran through a people search program
12 we have, it's called Accurate. It's sort of a
13 nationwide search. You can put in a name,
14 especially a name like that. It might not work as
15 good on Smith or Jones, but Sarah Dennis was a
16 little bit unusual. I got an immediate hit on her
17 with a Florida connection. I realized it was
18 probably the right one. I actually enlisted the aid
19 of an agent with the state law enforcement agency in
20 Florida and had him go by that address for me. And
21 he actually made contact with a relative there and
22 said, She's not here, she's back in Columbia.

23 Q Did you ultimately speak with Sarah Dennis?

24 A Yes.

25 Q Where did you find her?

1 **A** I found her at Palmetto Richland Hospital.

2 **Q** So she was back up here working?

3 **A** Yes.

4 **Q** And you didn't get that from Carmen Rice?

5 **A** No.

6 **Q** Now, was this after you had talked with Carmen
7 Rice and told her the list of witnesses you'd been
8 able to speak with?

9 **A** When I located Ms. Dennis?

10 **Q** Right.

11 **A** Yes.

12 **Q** So Carmen Rice told you she didn't know where
13 Sarah Dennis was?

14 **A** Well, indicated she was in Florida was my
15 understanding, working at a hospital.

16 **Q** Look at State's Exhibit 56.

17 **A** Yes, sir.

18 **Q** And that's the letter from Carmen Rice to Sarah
19 Dennis?

20 **A** Yes, sir. It was testified to earlier.

21 **Q** And what's the date on that? When was that
22 sent to Sarah Dennis?

23 **A** This is January 30th, 2004.

24 **MR. LUPTON:** Beg the Court's indulgence.

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

1 (Pause.)

2 BY MR. LUPTON:

3 Q And just for the record, can you point out the
4 person that you're referring to as Carmen Rice?

5 A She's sitting between Mr. Hart and Mr. Mobley
6 in the gray outfit.

7 MR. LUPTON: Your Honor, let the record reflect
8 that he has indicated the defendant, Carmen Rice.

9 THE COURT: Yes, sir.

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

13 MR. LUPTON: Your Honor, no further questions.

14 THE COURT: Okay. Thank you, Mr. Lupton.

15 Ladies and gentlemen, we're going to take a
16 short break. I'm going to let the clerk order you
17 all lunch. She'll bring the forms back to you
18 shortly. Again, just in consideration of the time,
19 we're going to shorten lunch up about like it was
20 yesterday. So I'm going to let her get your lunch
21 orders while we take this short break. As quick as
22 y'all do that, we'll bring you back in. Y'all
23 obviously don't discuss the evidence or testimony
24 you've heard or seen thus far. We'll bring you back
25 out in a few minutes.

1 (The jury retires to the jury room.)

2 **THE COURT:** Lieutenant Smith, I just remind you
3 you're still under oath, still on the witness stand
4 not to discuss your testimony. Just for the record,
5 Lieutenant Smith, despite Mr. Lupton's comments,
6 either we're in the same boat or not, I think you're
7 a young man.

8 **THE WITNESS:** Thank you so much, Your Honor.

9 **THE COURT:** We'll take five minutes while they
10 get the jury's lunch.

11 (Brief recess.)

12 **THE COURT:** All right. Mr. Mobley, the defense
13 ready?

14 **MR. MOBLEY:** Yes, Your Honor, the defense is
15 ready to proceed.

16 **THE COURT:** Okay. We'll bring the jury out.

17 (The jury returns to the courtroom.)

18 **THE COURT:** Thank you, ladies and gentlemen.
19 We're ready to continue at this point. Mr. Lupton
20 had finished his direct and Mr. Mobley is ready for
21 cross.

22 **MR. MOBLEY:** Thank you, Your Honor. May it
23 please the Court.

24 *****

25 *****

1 CROSS-EXAMINATION

2 BY MR. MOBLEY:

3 Q Lieutenant Smith, good afternoon or it's before
4 12 o'clock, it's still morning.

5 A Good morning, Mr. Mobley.

6 Q I just have a few questions for you, Lieutenant
7 Smith. Now, you're the chief investigator in this
8 case, would that be fair to say?

9 A Yes, sir. The case sort of had dual
10 investigators, but with the cold case unit,
11 actually, Mincey probably would have been described
12 as that at that time, but, ultimately, I guess I had
13 the overall responsibility, yes, sir.

14 Q You're where the buck stops, basically, in this
15 case?

16 A Sort of, yes, sir.

17 Q For lack of a better phrase. And that being
18 the case, you were in charge of supervising the
19 investigation or overseeing the investigation?

20 A Yes, sir.

21 Q And I think, as you indicated, you're
22 ultimately responsible for a lot of the things that
23 took place in the investigation. Even if they were
24 done at your direction, as the supervisor or the
25 chief, it was ultimately your responsibility?

1 **A** Yes, sir. And a lot of things are done
2 automatically. In other words, they're not at my
3 direction or my, you know, strategy. They're done
4 because that particular investigator or forensic
5 investigator, if you will, that's their job, it's
6 done automatically.

7 **Q** And you generally try to oversee, to keep some
8 track of what everybody's doing so you can
9 coordinate what you think, as a senior investigator,
10 that needs to be done?

11 **A** You try to, yes, sir.

12 **Q** I'm not saying -- I know you still -- but you
13 try to do that?

14 **A** Yes, sir, you try to.

15 **Q** Now, early on you heard Mr. Page testify and
16 you interviewed him about his observations of
17 Bernard Brennan that night, correct?

18 **A** Yes, sir. I think I actually did a telephone
19 interview with Mr. Page initially.

20 **Q** And I think you talked about Bernard Brennan
21 having a lot of cash and a lot of money on him?

22 **A** I believe that's correct.

23 **Q** And that's something actually as you
24 investigated the case, I mean that's something you
25 found pretty consistent with people that knew

1 Bernard Brennan, he often flashed a lot of cash or
2 carried a lot of money on him; is that correct?

3 A Yes, sir. We learned that he often times kept
4 a lot of cash on him, that's correct.

5 Q That's kind of almost a trait of his, that's
6 kind of what he did, he flashed money around,
7 flashed cash around?

8 A Well, I think a lot of that was by virtue of
9 the fact that he was involved in this pool biggers
10 (ph) culture and that often times cash is exchanged.

11 Q You gamble playing pool?

12 A I think a lot of times that's true, yes, sir.

13 Q Sometimes you win money playing pool?

14 A Yes, sir, I'm sure that's true.

15 Q And early on you got information that these two
16 black females he was seen with, correct?

17 A That's right.

18 Q Okay. And, obviously, once you got that, the
19 thing to do was try to identify those two black
20 females, correct?

21 A Yes, sir.

22 Q Because they're potential suspects?

23 A Yes, sir, they are.

24 Q So you try to, at that point, early on just
25 identify as many black females as you can that was

1 associated with Bernard Brennan; is that correct?

2 **A** That matched the description. We were able to
3 eliminate several people right off the bat because
4 they were substantially older and that kind of
5 thing.

6 **Q** Exactly. But, I mean, you didn't have a
7 description at first, correct? Did you have a --
8 what kind of description did you have at first? You
9 had a general description before you had a
10 composite, right?

11 **A** Well, Heidi Feagin had been able to provide a
12 pretty good description that next afternoon.

13 **Q** Before you had a composite, you had a
14 description from Heidi Feagin?

15 **A** Yeah. Right.

16 **Q** And there are a lot of different women you had
17 to take a look at, correct?

18 **A** We ran through a few, yes, sir.

19 **Q** And the bottom line is Bernard Brennan was
20 associated with a lot of different females?

21 **A** With all due respect to -- yes, sir.

22 **Q** Yeah. And I'm not trying to -- I mean, that
23 was something you learned from the -- in the
24 investigation. You ran into a lot of different
25 women you had to interview to eliminate even from

1 the standpoint of being with him or knowing --
2 having information about his whereabouts; is that
3 correct?

4 A He was a friendly fellow and was well liked by
5 a lot of people.

6 Q By a lot of women as well?

7 A Well, he had a lot of male friends, too, that
8 we run across, in all fairness to Mr. Brennan.

9 Q Some of these women he didn't know very well,
10 correct, but he was with them, had interactions with
11 them?

12 A That would be true.

13 Q And I guess he wasn't very picky about it. I
14 mean, he would talk to someone, if they pulled over
15 at a parking lot or met them at a stop light and
16 that's how he met them?

17 A He was friendly.

18 Q Very friendly with women?

19 A Yes, sir.

20 Q And -- I mean, some of the women, I mean, some
21 were nice, some were not so nice?

22 A I'm not sure how you would categorize nice.
23 Everybody I talked to seemed to be nice.

24 Q You came in contact with a woman by the name of
25 Kenya Hunter; is that correct? That's one of the

1 persons you identified?

2 A Yeah. And I believe I didn't actually
3 interview her, but some of the detectives did make
4 contact with her.

5 Q All right. And you also became aware of
6 another woman named Kitten, that was her nickname?

7 A Yes. I remember that one quite well.

8 Q And who were they?

9 A Kitten is Holly Thompson. And this case had
10 generated some publicity and an individual, we later
11 learned, Holly Thompson, tried to benefit from that.
12 And she actually called in and tried to incriminate
13 another person that she was having a conflict with
14 ultimately. And we ran through all that with her.

15 Q And that's something that -- I'm sorry, I
16 didn't mean to cut you off -- but that's something
17 that actually happens in these cases, I mean,
18 invariably?

19 A Sometimes it happens, yes, sir.

20 Q I mean, you know, and the bottom line, you've
21 been a homicide or major crimes investigator for a
22 number of years and interviewed thousands of
23 witnesses?

24 A Yes, sir.

25 Q And I understand that, you know, I mean, it's

1 your obligation to document what the witness told
2 you, but you're not necessarily vouching for what
3 the witness said, but as part of the investigation,
4 you've got to document what a witness tells you in
5 the course of an investigation, correct?

6 A I mean, it depends on how you're describing a
7 witness. I mean, I don't want to just answer that
8 blankly.

9 Q And I'm not trying to -- I'm not trying to
10 double --

11 A I know you wouldn't do that.

12 Q But, I mean, you know, but if you're
13 investigating a homicide and some person gives
14 information about the crime --

15 A If they give information about the crime,
16 certainly you document that.

17 Q I mean, that's something you want to document?

18 A Yes, sir.

19 Q And just because you write it down doesn't mean
20 that you necessarily vouch for it, but you've got to
21 document it to -- in the course of your
22 investigation?

23 A If it's relevant to the crime, yes, sir.

24 Q Okay. You know, and the bottom line is that
25 some people in these kind of cases do lie to you?

1 **A** Sometimes it happens, yes, sir.

2 **Q** And that's not any fault of yours, but that's
3 just something that happens in these kind of cases?

4 **A** Sometimes it happens, yes, sir.

5 **Q** Now, you became aware of a woman by the name of
6 Jazzy, correct? That he had contact or interaction
7 with a woman by the name of Jazzy or whose real name
8 was Tonya Stevens, correct?

9 **A** It sounds familiar. If it's in my notes, if
10 you could direct me to it, it might help.

11 **MR. LUPTON:** Your Honor, can we approach?

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

13 (Whereupon, a bench conference was held off
14 the record, in the presence of the jury, but out of
15 the hearing of the jury.)

16 **MR. LUPTON:** Thank you, Your Honor.

17 **THE COURT:** Thank you, counsel.

18 BY MR. MOBLEY:

19 **Q** All right. Now, later in your investigation in
20 November of 2001, you received information from an
21 individual about Bernard Brennan being with two
22 women in his Mercedes; is that correct?

23 **A** We learned about it the next day.

24 **Q** Yeah, November 1st?

25 **A** Yeah.

1 Q And you learned that he had -- that he was with
2 two women. You received information that he was
3 with, specifically, two women and you had the names,
4 correct, Joy and Donna; do you recall that?

5 A You mean later on?

6 Q Yes, later on.

7 A Okay. That was another dead end lead, yes,
8 sir.

9 Q Okay. But you received information -- well,
10 let's talk about that.

11 A If you could direct me -- you probably have it,
12 so if you --

13 Q Okay. Let me -- if you want me to refer to a
14 particular portion in your investigative report,
15 I'll be glad to do it, all right?

16 A It would be helpful.

17 Q Certainly. As you indicated, you met -- and
18 this is actually not in your report, it's in
19 Investigator McDaniels' report. As you indicated, I
20 mean, you had pretty regular contact with the
21 investigators in this case, correct?

22 A Yes, sir. I don't have his report, though. Is
23 this through the Kitten thing that you were --

24 Q This is actually on the question about Joy and
25 Donna I just asked you. And I have his report right

1 here. From the standpoint of refreshing your
2 memory, mind if I --

3 A No, please.

4 Q I'm pointing to page seven of his report -- I'm
5 sorry -- turn to page eight.

6 A (Witness complies.)

7 Q And I'll give you a chance to read it before
8 you answer it. I know you want to refresh your
9 memory.

10 A Yes, sir.

11 Q So you recall receiving information that there
12 were two women, Joy and Donna, who were allegedly
13 with Bernard Brennan in his Mercedes at the same
14 time, correct?

15 A That's right.

16 Q And I'm not going to get into what they were
17 doing in the Mercedes, but you got that information.
18 And, as a matter of fact, you were given the
19 identity of another person that was with him when he
20 was with those two women; is that correct?

21 A Yes, sir.

22 Q That's in the notations. That's
23 investigator --

24 A We were able to pretty well quickly eliminate
25 all of that.

1 Q Okay. I'm just -- I understand that.

2 A Yes, sir.

3 Q And the person that was with -- allegedly with
4 Bernard Brennan when he was with the two women that
5 were with him at the same time, that person
6 indicated that those two women looked like women in
7 the composites, correct?

8 A If you say so. And it's just probably in
9 McDaniels notes. But, again, that was a dead end
10 lead and it was another attempt, just like the
11 Kitten attempt, for somebody to try to make
12 something off this case because of the media
13 attention and it went nowhere. We refuted the lead
14 all together.

15 Q All right. But you recall receiving
16 information from this witness that the two
17 composites resembled the two girls that Mr. Brennan
18 was with?

19 A That's the -- the lone subject?

20 Q Correct.

21 A Yeah.

22 Q Let me ask you this. Did you take -- so you
23 were able to identify Donna and Joy, correct?

24 A Yeah. They were older. I mean, they didn't
25 match at all, but we followed through with it

1 anyway.

2 Q Okay. But he said he thought they looked like
3 the composite, correct?

4 A He did.

5 Q Okay. But did you take those -- the
6 photographs of those women and show them to Heidi
7 Feagin?

8 A No. There were other procedures that we
9 undertook prior to getting to that point which
10 eliminated them.

11 Q All right. And you talked to -- I think, in
12 your investigative report on page seven, you talked
13 to a lady by the name of Twana Reese or you
14 identified somebody by the name of Twana Reese in
15 the investigation?

16 A On page seven?

17 Q Yes. You received information about Twana
18 Reese?

19 A Okay. Yes, sir.

20 Q Okay. And two separate people indicated that
21 Twana Reese resembled one of the people in the
22 composite, correct?

23 A I see that Audrey Weeks said it might resemble
24 a friend of hers or her brother.

25 Q Shinette Outten as well?

1 **A** That was an Antorio Waymyers. You said two. I
2 just see the notation about the one that she thought
3 that it might resemble.

4 **Q** So, I mean, just so we're clear, I mean, did it
5 reflect that Shinette Outten also indicated -- the
6 same paragraph of Twana Reese, the very last
7 sentence, does it also reflect that Shinette Outten
8 indicated the composite --

9 **A** She said -- I got it here in my notes that she
10 admitted that Twana Reese came by there a lot, said
11 she was basically homeless, said she sort of
12 resembled the sketch.

13 **Q** Okay. So both of these two women indicated
14 that Twana Reese resembled one of the women in the
15 sketch, correct?

16 **A** You know, when you got it might be, sort of,
17 yes, sir. It depends on how you -- I mean, that's
18 verbatim from my notes, yes, sir.

19 **Q** Okay. But you have two women that indicate
20 there's a possibility of resemblance to this one
21 woman, Twana Reese, and of the woman in the sketch
22 that was last seen with Bernard Brennan?

23 **A** That's correct.

24 **Q** All right. Now, did you take Twana Reese's
25 photograph and put it in a photo lineup and show it

1 to Heidi Feagin?

2 A No, sir. And if I can explain that, I'd like
3 to.

4 Q You have a right to explain your answer,
5 Investigator.

6 A When you have a homicide like this and you've
7 got a key witness like Heidi Feagin, you don't want
8 to dilute your witness, you don't want to overwhelm
9 them with photo lineups because sooner or later
10 you're going to confuse her. You want to show a
11 photo lineup based on pretty hard evidence or direct
12 evidence. If we started showing pictures of
13 everybody we came across in this case, it would have
14 basically have diluted Heidi Feagin and it would
15 have basically tampered with her memory of what the
16 women did actually look like. That's why we don't
17 do that.

18 Q Did you recall talking to Ms. Alethia Ellis and
19 her mother?

20 A I'm sure I did because you say so, but if you'd
21 direct me in my notes to that. What page are we on?

22 Q That's what happens when you read at three
23 o'clock in the morning.

24 A And also when you have 35 pages of notes.

25 Q Exactly. Thanks to my good friend, Mr. Lupton,

1 page 33 in your notes, sir.

2 A Page 33?

3 Q Yes, sir.

4 A All right, sir.

5 Q Take a look, do you see that you notated that
6 you have a conversation or some communication with
7 Alethia Ellis and her mother?

8 A Yes, sir.

9 Q And they both indicated that they had seen the
10 composite, correct, or the sketch? However you want
11 to call it.

12 A Yes, sir.

13 Q And they indicated that the composite appeared
14 to look like Amber Byrd or resemble Amber Byrd; is
15 that correct?

16 A She said one picture looks like Amber because
17 of the corn rows even though Amber wore glasses, but
18 she felt like the other -- she felt that the other
19 picture simply resembled Carmen.

20 Q Okay. But her mother also said one of the
21 pictures looked like Amber as well, correct?

22 A That would be on page 34, I guess?

23 Q I think they're actually both on the same page.
24 I think the mother is actually before Alethia in the
25 same paragraph -- that bottom paragraph of page 33.

1 **A** (Witness reviewing document.)

2 **Q** How about this, at least one of those two women
3 indicated that the composite looked like Amber?

4 **A** Alethia did, yeah.

5 **Q** And at that point, Amber witnessed -- when you
6 got that information, she clearly had been
7 identified as somehow being involved in this case or
8 a witness in this case?

9 **A** Yes, sir, she was a witness.

10 **Q** And so one of these two women at least
11 identified Amber Byrd as being someone that
12 resembled one of the people in that composite. Did
13 you take Amber Byrd's photograph and put it in a
14 photo lineup and show it to Heidi Feagin?

15 **A** No, sir, because I didn't -- at that point in
16 time, I had a statement from at least two people as
17 to who the shooter was in the case and there was no
18 reason to pursue Amber Byrd as a suspect in the
19 case.

20 **Q** Do you recall meeting a gentleman by the name
21 of Reggie Jones?

22 **A** I believe I recall that one. Is that Drak?

23 **Q** Drak.

24 **A** Yes, sir.

25 **Q** And often times when you investigate a case,

1 you look for people that have perhaps specific
2 information or details about the crime that maybe
3 only someone that was involved in the crime or the
4 crime scene might have; is that correct?

5 **A** Right.

6 **Q** And isn't it true that the death or the
7 shooting, Reggie Jones had very specific details
8 about the shooting?

9 **A** Yes, sir. And I believe, if I might explain
10 that, I determined how he was able to do that.

11 **Q** Okay. But just so we're clear --

12 **A** Yes, sir, he did have some details.

13 **Q** -- he had -- I mean, about the number of times
14 the victim was shot, where he was shot, things along
15 those lines, correct?

16 **A** Yes, sir. He had some details about it, if I
17 could explain that.

18 **Q** Certainly. You can always explain your answer.

19 **A** One of the locations that Mr. Brennan
20 frequented was a place called the Pub on Hard
21 Scrabble Road. And myself and one of the other
22 detectives had gone there that Friday night. And my
23 other detective actually mentioned, I believe,
24 McDaniels, that he had talked to several people.
25 And some of that information may have kind of come

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1 out during that -- he didn't mean for it to, but it
2 may have come out at that time inadvertently due to
3 some of the conversations. And I believe that's
4 what we directly attributed Mr. Jones' knowledge to.

5 Q That's what you think?

6 A I'm -- we're pretty sure that's how it happened
7 because Mr. Jones, in a subsequent investigation,
8 proved he had no correlation to anyone in the case.

9 Q But he did have those details?

10 A He did have those details, yes, sir, as I've
11 just explained.

12 Q And when you talked to Reggie Jones, he told
13 you about another person called Dorothy Nelson,
14 right?

15 A Yes, sir, I believe he did.

16 Q Okay. And I think he indicated that Dorothy
17 Nelson resembled one of the ladies in the composite,
18 correct?

19 A He may have done that, yes, sir.

20 Q And did you take Dorothy Nelson's photograph
21 and show it to Heidi Feagin?

22 A No, sir.

23 Q All right. Well, did you ask Investigator
24 Clemens to compare Dorothy Nelson's prints to the
25 print lifted from the vehicle?

1 **A** No, sir, I don't believe so. We asked her to
2 compare a number of prints. I don't think Dorothy
3 Nelson was one of them. She may have been, I just
4 don't recall.

5 **Q** If I told you you didn't, would you --

6 **A** There's a difference between submitting prints
7 for analysis and diluting a witness with a
8 photographic lineup and that's --

9 **Q** My question is --

10 **A** We probably did submit a lot of names for
11 prints that we wouldn't show lineups on.

12 **Q** Okay. I'm asking about, specifically, Dorothy
13 Nelson.

14 **A** I don't recall.

15 **Q** Okay. You want to take a look at your notes?

16 **A** If you say I didn't, I take your word for it.

17 **Q** I say you didn't.

18 **A** Okay.

19 **Q** You didn't do that.

20 **A** I take your word for it.

21 **Q** Now, Bernard Brennan's cell phone was recovered
22 from his Mercedes, correct?

23 **A** It was recovered from the scene, yes, sir.

24 **Q** Okay. And you received -- one of the things
25 you wanted to do was try to identify, as you

1 indicated, incoming and outgoing calls that were
2 placed to his cell phone?

3 A That's correct.

4 Q Okay. Good investigative technique. And you
5 identified, as you indicated, two telephone calls
6 that were made from a particular pay phone?

7 A That's right.

8 Q And I think you also indicated you identified,
9 another kind of coincidence or however you want to
10 call it, a man by the name of Levi Bates actually
11 made some telephone calls right around the same time
12 that calls were made to Mr. Brennan from that pay
13 phone?

14 A Yes, sir. That's correct.

15 Q And you interviewed Mr. Bates, correct?

16 A I did.

17 Q Okay. And he never said he saw Carmen Rice at
18 that pay phone making telephone calls, correct?

19 A No. What he did say is he doesn't remember who
20 was there.

21 Q Okay. But he didn't say it was Carmen Rice?

22 A No, sir.

23 Q He didn't say anything about Carmen Rice?

24 A He didn't remember who was there.

25 Q But he was clearly there around the time the

1 calls were made?

2 A Yes, sir. He talked about the -- matter of
3 fact, he talked about the large foot traffic and
4 people that use that phone. And he just didn't
5 remember who was there.

6 Q And I think you also indicated you had the
7 phone -- how long after the homicide did you have
8 the phone checked for prints?

9 A I'm assuming it was done right away.

10 Q Shortly after the phone calls were made,
11 shortly after Bernard Brennan was called, when you
12 had realized that he had received some telephone
13 calls from that pay phone, you had that pay phone
14 checked for fingerprints, correct?

15 A Right. And I -- it was --

16 Q You didn't find anything --

17 A It was several days later, but yes, sir.

18 Q And you didn't find any fingerprints on that
19 pay phone to match Carmen Rice; is that correct?

20 A And I don't believe we found any fingerprints
21 to match anybody on the pay phone.

22 Q Okay. But not just anybody's on trial, Carmen
23 Rice is on trial?

24 A That's right. We didn't lift any prints to
25 match --

1 Q So you couldn't --

2 THE COURT: Let him finish his answer before
3 you go to the next question.

4 MR. MOBLEY: Thank you, Your Honor.

5 BY MR. MOBLEY:

6 Q You didn't find any prints that matched Carmen
7 Rice on that pay phone?

8 A No, sir.

9 Q Thank you. Now, you also were made aware that
10 Bernard Brennan had had a second cell phone; is that
11 correct?

12 A I recall something about that, yes --

13 Q You had information -- I mean, you checked two
14 different numbers; do you recall? You want to take
15 a look at your subpoenas? You checked two different
16 mobile phone numbers?

17 A I recall something like that, yes, sir. But
18 the phone that was in question was the one that was
19 activated that night, that's what we focused on.

20 Q Okay. Well, did you ever find the second cell
21 phone?

22 A Frankly, I don't recall.

23 Q So you never found -- but you received
24 information that he normally carried two cell phones
25 on his person, correct?

1 A I believe that's correct, yes, sir.

2 Q You never found --

3 A Or at least had two cell phones. I don't know
4 that he always carried them, but I think we learned
5 that he had two cell phones.

6 Q Or usually kept them on his person?

7 A I don't know that that's correct. I'll take
8 your word for it. Again, the focus was on this
9 particular phone because it was active that night
10 during the actual, you know, the hours preceding the
11 incident.

12 Q Do you recall one of the investigators in the
13 case under your supervision, Investigator McDaniels?

14 A Yes, sir.

15 Q All right. And he worked under your
16 supervision, correct?

17 A Yes, sir.

18 Q All right. Mind if I show you his report to
19 refresh your memory?

20 A Please.

21 Q I'm going to direct you to the second paragraph
22 of his report. Does it reflect an interview with a
23 gentleman by the name of Mark Peters?

24 A Yes, it does.

25 Q Okay. And what does it state about

1 Mr. Brennan's cell phone?

2 A On the 26th of October, McDaniels spoke with
3 Mark Peters who stated that the victim always kept
4 two cell phones on his person.

5 Q So he said always kept two cell phones on his
6 person?

7 A Yes, sir. That's what that indicates.

8 Q And you never found a second cell phone; is
9 that correct?

10 A I don't recall that we did, no, sir.

11 Q Now, we understand that at the time Mr. Brennan
12 was killed, he was driving a silver Mercedes or a
13 Mercedes?

14 A Yes, sir.

15 Q But prior to that, you determined that he was
16 driving a burgundy or a maroon type Ford Taurus?

17 A I believe we actually located that car, yes,
18 sir. It's a burgundy Taurus.

19 Q And he had only been driving the Mercedes for a
20 few weeks?

21 A That seems right, yes, sir.

22 Q And in the course of the investigation, do you
23 recall Investigator Mincey talking about a meeting
24 with another witness that had seen Mr. -- or had
25 seen an individual, an older man, named Bernard who

1 was driving a burgundy Taurus?

2 A Would that be Alexander Sharpe?

3 Q Correct.

4 A Yes, sir.

5 MR. LUPTON: Your Honor, objection as to
6 hearsay. I mean, this is --

7 THE COURT: I'm not quite sure -- I mean --

8 MR. LUPTON: May we approach?

9 THE COURT: You can ask him about this. We've
10 already been down this road. You're not getting
11 into statements from other witnesses. Just ask him
12 what, if anything, he did as a result of talking
13 with those witnesses.

14 MR. MOBLEY: I'm just asking what he learned in
15 his investigation. I mean, the name wasn't
16 significant, but did he learn -- he was aware that
17 the defendant -- he testified on direct that he was
18 aware that the defendant had a burgundy, maroon
19 color Taurus prior to the Mercedes.

20 THE COURT: I just remind you hearsay applies
21 on cross as well as on direct.

22 MR. MOBLEY: All right, sir. Thank you.

23 BY MR. MOBLEY:

24 Q Now, you received information -- I know you
25 interviewed Iris Bryant several different times,

1 correct?

2 A Yes, sir.

3 Q And you received information that she had had
4 some interaction with an older gentleman named
5 Bernard that drove a burgundy Ford Taurus, correct?

6 A She indicated that she had interaction with
7 Bernard.

8 Q Exactly. And you also received information
9 that she had actually expressed a desire to try to
10 rob him --

11 MR. LUPTON: Objection, Your Honor.

12 THE COURT: Sustained.

13 Ladies and gentlemen, you're to disregard
14 Mr. Mobley's last question. I told you all earlier
15 questions from lawyers are not evidence to be
16 considered by you at all.

17 BY MR. MOBLEY:

18 Q Now, Iris Bryant has a cousin named Tiki; is
19 that correct?

20 A No, I don't think she has a cousin.

21 Q Or she has a friend named Tiki?

22 A Yes. Tika or something like that.

23 Q And when you first came in contact with Iris
24 Bryant, you became aware of this cousin or this
25 friend named Tika or Tiki?

1 **A** It was actually prior to actually coming into
2 contact with her, yes, sir.

3 **Q** Okay. But when you actually met Iris, she gave
4 you more details about that particular individual,
5 correct?

6 **A** Yes, sir.

7 **Q** And, at some point, you had an opportunity to
8 view a photograph of this particular lady, correct?

9 **A** Yes, sir.

10 **Q** And prior to seeing that picture of Tiki, you
11 had already seen a picture of Carmen Rice; is that
12 correct?

13 **A** Yes, sir.

14 **Q** Okay. And you made a notation in your report
15 that Tiki and Carmen looked remarkably similar;
16 isn't that correct?

17 **A** Yes, sir, they do.

18 **Q** And I think you would agree with me that, based
19 on your experience, that you probably pay more
20 attention to details of facial features than most
21 people, correct?

22 **A** I try to.

23 **Q** And, as a matter of fact, when you realized
24 that Tiki and Carmen looked very similar -- and did
25 you have an opportunity to meet with Tiki or did

1 Investigator Mincey have an opportunity to meet with
2 Tiki?

3 A Yes, sir.

4 Q Okay. And even she was mistaken about the
5 photo of whether she was Carmen, correct?

6 A Yes, sir. That's what I understand.

7 Q She even thought that Carmen was her?

8 A Yes, sir.

9 Q Now, did you take a picture of Tiki and ever
10 show that to Heidi Feagin and put that in a photo
11 lineup?

12 A No, sir. And I can explain why if you like for
13 me to.

14 Q I want to make sure you have full opportunity,
15 Mr. Smith -- I'm sorry -- Lieutenant Smith.

16 A We actually -- through interviews with
17 Nathaniel Hallman, we were directed to the house at
18 2124 Braham Street, which is --

19 MR. MOBLEY: Objection. That's hearsay.

20 THE COURT: You just invited him to explain his
21 answer.

22 MR. MOBLEY: I didn't think he was going to
23 give it a --

24 THE COURT: You've been asking him about these
25 folks and we've talked about the line that we're

1 trying not to cross here. He's going to be allowed
2 to explain his answer.

3 You can go ahead, Lieutenant Smith.

4 **THE WITNESS:** We actually were directed to that
5 house at 2124 Braham Street. Although there had
6 been some initial confusion over Tika versus Carmen,
7 the person that Hallman directed us to was clearly
8 Carmen Rice.

9 **MR. MOBLEY:** And that's what I make my
10 objection to somebody else pointing something out,
11 that is --

12 **THE COURT:** You've been asking him about that.
13 He can finish his answer.

14 **MR. MOBLEY:** Thank you, Your Honor.

15 BY MR. MOBLEY:

16 **Q** Now, you had an opportunity to meet with Carmen
17 Rice --

18 **MR. LUPTON:** Your Honor, I object. Maybe I
19 misheard, but I was under the impression that you
20 had instructed Mr. Mobley to allow the officer to
21 finish his answer.

22 **THE COURT:** He's allowed to finish his answer.

23 **THE WITNESS:** I think I finished it. We were
24 directed to that residence and it was Carmen Rice's
25 residence.

1 BY MR. MOBLEY:

2 Q Now, you had an opportunity to interview Carmen
3 Rice, correct?

4 A Yes, sir.

5 Q And you asked her about the gun?

6 A Yes, sir.

7 Q All right. And she told you she turned it into
8 Lieutenant Hynch, correct?

9 A Yes, sir, I believe that's correct.

10 Q Okay. And she also told you Anthony Stewart
11 would be able to corroborate that, correct?

12 A Yes, sir.

13 Q And you started asking some details -- when you
14 interviewed Carmen Rice, when was that?

15 A The first interview was on the date of her
16 arrest.

17 Q And you started talking to her about details
18 about what happened in 2001. When was that
19 approximately, around December, November of 2003?

20 A Bear with me just one minute.

21 Q Certainly.

22 A The first interview was, again, on the 5th of
23 December.

24 Q Okay. Of 2003?

25 A Right.

1 Q And that was, approximately, two years after
2 October 25th of 2001?

3 A Yes, sir, that would be correct.

4 Q A little over two years?

5 A Your math is right on that, yes, sir.

6 Q For once, I got something right.

7 A Yes, sir.

8 Q Thank you. When you interviewed her,
9 obviously, a vast amount of time had elapsed,
10 correct? Well, a significant time elapsed between
11 the time you interviewed her and the time you asked
12 her to recall events about it?

13 A Two years.

14 Q And you actually -- I mean, as an investigator,
15 you actually have the benefit of doing an
16 investigative report, correct?

17 A (No response.)

18 Q You do an investigative report, correct?

19 A Yes, sir.

20 Q Okay. And you document a lot of different
21 things?

22 A Try to, yes, sir.

23 Q You try to. I mean, that's, you know, you
24 document who you talk to, you try to document when
25 you talk to them?

1 **A** That's right.

2 **Q** Details of the conversation, correct?

3 **A** That's right.

4 **Q** And sometimes even your impressions of what the
5 witness said or whether they were truthful or --

6 **A** Sometimes that's true, yes, sir.

7 **Q** And it's important to do that because, I think,
8 especially when you work on a case when you
9 interview a lot of people over a long time period,
10 you've got to document those things to help your
11 ability to recall, right?

12 **A** Yes, sir.

13 **Q** Okay. So when you interviewed Carmen Rice, you
14 had, doing the investigation, documented a lot of
15 information on your own and you actually had access
16 to that information, correct?

17 **A** Yes, sir.

18 **Q** Okay. But when you interviewed Carmen Rice in
19 December of 2003, she was in a position of trying to
20 recall details from two years earlier without
21 benefit of any kind of note taking or a report to
22 refresh her memory, correct?

23 **A** I didn't hand her my follow up to read when we
24 talked to her.

25 **Q** I mean, she didn't have any notes?

1 A No.

2 Q She wasn't taking notes of her life over the
3 last two years, like no one, for the most part,
4 does?

5 A That's right.

6 Q When she was answering your questions, when you
7 were asking her about details of two years earlier,
8 she was going solely on her memory, correct?

9 A That's right.

10 Q I think you would agree with me that, it's part
11 of your experience as an investigator, when you
12 interview people regarding events that happened
13 significant time periods earlier, those long time
14 periods affect the accuracy of their memories,
15 correct, for some people?

16 A It depends on what you're talking about, but,
17 generally, that may be true. Certainly, dates would
18 come into play, I think, to some degree.

19 Q Dates would certainly be more difficult to
20 remember, those kind of details?

21 A Yes, sir.

22 Q And you talked about her last paycheck. And,
23 once again, when she told you about that last
24 paycheck, I mean, you had already had an opportunity
25 to go to America's Best Security before to view the

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1 records, correct?

2 A Which part of her talking about the last
3 paycheck are you discussing?

4 Q I'm talking about the interview in December.
5 Did you discuss that in December with her?

6 A On the December 5th interview -- yes, sir.
7 There was no dates discussed. She just said that
8 she had to turn her gun in to get her last paycheck.
9 Is that what you're referring to? On page 23 at the
10 bottom?

11 Q Okay. Correct. Now, was there another time
12 you asked her about her paycheck, her last paycheck?
13 I mean, you actually showed her a copy of the
14 paycheck?

15 A That was on a subsequent interview after she
16 sent me the letter, that's correct. And that's when
17 she had sent the letter saying that she was
18 definitely gone on the 13th. So she did have time
19 to think about the date then because she put it in a
20 letter.

21 Q She had time to think about it, correct?

22 A She had time to put it in a letter, yes, sir.

23 Q You said she had time to think about it. But
24 you had -- between that time, you had an opportunity
25 to review the records of America's Best Security; is

1 that correct?

2 **A** Yes, sir.

3 **Q** Okay. And you and your -- and another
4 investigator looked at a number of different records
5 regarding Carmen Rice, correct?

6 **A** That's right.

7 **Q** So when you talked to her, you actually showed
8 her the paycheck that indicated that, you know, she
9 received that check after the date that she had
10 indicated she'd left town, correct?

11 **A** That's correct.

12 **Q** Okay. When you showed her that, she admitted
13 it was her signature, right?

14 **A** Yes, sir.

15 **Q** She didn't deny it and say it wasn't her
16 signature?

17 **A** Kind of hard to deny it, her fingerprint was on
18 the check, too.

19 **Q** Okay. But she admitted that was hers?

20 **A** Yes, sir.

21 **Q** And when you showed it to her and said, Well,
22 this couldn't be the date, you couldn't have been
23 gone on that date, she admitted -- or she probably
24 wasn't very sure at that point, correct?

25 **A** She didn't have anything further to say or any

1 further explanation about it at that time as I
2 recall.

3 Q Didn't your notes say that she stated she
4 wasn't sure of the date once you confronted her with
5 the check?

6 A Yes. She claimed that she wasn't sure of the
7 date, yes, sir. But then she said -- well, I asked
8 her if she was now claiming that she went to Florida
9 between the date of the check, which was the 17th
10 now, and the date of the murder, the 25th. And then
11 she said she did go to Florida during that time with
12 a friend named Sarah. And that was how the Sarah
13 thing came out.

14 Q Okay. So she told you she went to Florida
15 around the time of the murder?

16 A Yes, sir.

17 Q Okay. And she gave you the information about
18 Sarah. She said her name was Sarah and nothing
19 else?

20 A Sarah, that she was Oriental and she worked at
21 a hospital in Florida.

22 Q And you were able to corroborate that she, in
23 fact, did go to Florida with a lady by the name of
24 Sarah that was Oriental and worked in a hospital,
25 correct?

1 A Ultimately I did, yes, sir.

2 Q And her dates are off?

3 A Her dates are way off.

4 Q About how far off? About two weeks off you
5 said?

6 A Well, Sarah would indicate that it was late
7 November, as I understand, which is highly
8 significant at that time.

9 Q Okay. About a month off. So her recall of
10 when she went to Florida, was about a month off?

11 A Her recall was also apparently off on how she
12 knew Sarah, which is telling at that time.

13 Q I wasn't asking you about Sarah. I was asking
14 you about her recall regarding the dates.

15 A Yes, sir. But I think the two things are
16 together and that's why I responded that way.

17 Q Just so we're clear, she'd indicated she had
18 been in Florida in October of 2003 -- I'm sorry --
19 October 2001?

20 A No, sir. Florida, November, Sarah did.

21 Q I'm talking about what Carmen told you?

22 A Oh, yes, sir. October -- in that last line of
23 questioning with her, after we sort of refuted the
24 date of the 13th, I asked her, Are you now saying it
25 was between the 17th and the 25th, because her whole

1 contention was she was in Florida at the time of the
2 murder, and she now said, Yeah, that's right, or,
3 basically, that was the impression I got. She was
4 now claiming that she was gone between that time
5 frame.

6 Q Okay. But you're asking her to recall an event
7 from two years earlier, correct?

8 A Yes, sir.

9 Q And she was about a month off?

10 A She was a month off, yes, sir.

11 Q And just so we're clear, when you talked to
12 Sarah -- I mean, Sarah was with Carmen in Florida
13 when she got the call about Bernard -- or about
14 somebody being murdered, correct?

15 A That's correct.

16 Q And I think, according to Sarah, it was the
17 very first day she was in Florida when she got the
18 call about somebody being murdered?

19 A I think her testimony was that, yes, sir.

20 Q So if Carmen was with Sarah -- and Sarah didn't
21 know about the murder that she indicated, correct?

22 A That's right.

23 Q Okay. So if Carmen didn't know about the
24 murder and she was with Sarah the first time Sarah
25 heard about it, when she heard about it, wouldn't it

1 be fair for her to assume that it happened when she
2 was in Florida and that's when she and Sarah first
3 heard about it?

4 A No, sir, it wouldn't be fair to assume that,
5 not for me. If you're asking me if I would assume
6 that, no, sir.

7 Q Now, you were trying to look for America's Best
8 Security records regarding Carmen's firearm,
9 correct?

10 A Yeah, that's correct.

11 Q You did a pretty extensive search?

12 A A number of us did, yes, sir.

13 Q You, yourself, Investigator Mincey,
14 Investigator Metze?

15 A Among others, yes, sir.

16 Q You guys looked at a lot of different records,
17 correct?

18 A That's correct.

19 Q Okay. And just so we're clear, you couldn't
20 find any documentation -- I'm sorry, let me back up
21 a little bit. Do you know who Chris Duke is?

22 A Yes, sir.

23 Q Okay. And you saw Chris Duke testify about his
24 former employment at America's Best Security?

25 A Yes, sir.

1 Q And you saw him testify about a letter he
2 supposedly sent to Carmen Rice about a firearm?

3 A Yes, sir.

4 Q Okay. And you looked through pretty much any
5 record you could find pertaining to Carmen Rice's
6 employment with America's Best Security, correct?

7 A Yes, sir, we tried to.

8 Q Could yourself or Investigator Mincey or
9 anybody else find any kind of letter that was sent
10 from Chris Duke to Carmen Rice or any letters that
11 were sent to Carmen Rice specifically about her
12 firearm?

13 A I don't recall that, no, sir.

14 Q In fact, when you talked to Mel Newman, he gave
15 you some computer towers -- some computers that were
16 from America's Best Security, correct?

17 A I do recall that happening, yes, sir.

18 Q And you gave those to SLED to examine, correct?

19 A Yes, sir.

20 Q Okay. So when SLED examined those two computer
21 towers, did they find any document that was sent or
22 any letter that was sent to Carmen Rice stating that
23 she had turned in her firearm?

24 A Not that I'm aware of, no, sir. But the key
25 document at that time that we were relying on

1 greatly was that November 29th document.

2 Q Okay. But the question is did anybody find a
3 letter from those computer towers that --

4 A No, not that I'm aware of.

5 Q -- Carmen Rice did not return her weapon?

6 A No, sir, not that I'm aware of.

7 Q And you talked to Chris Duke and Chris Duke
8 indicated that he had some information on his own
9 computer, correct?

10 A Repeat that again.

11 Q Chris Duke, did he also indicate he had some
12 information on his own computer?

13 A I believe he said that, yes, sir.

14 Q Okay. And he never produced to you any kind of
15 correspondence or any letter that was sent to Carmen
16 Rice indicating that she had not returned her
17 firearm?

18 A I don't believe so.

19 Q Now, you also indicated -- I mean, you talked
20 about Holly Thompson and you talked about some of
21 the things you looked at in the investigation to try
22 to, I guess, close out leads or consider them dead
23 ends. And the bottom line is people tell you things
24 a lot of times, but they're not always true?

25 A Holly Thompson sure did.

1 Q Okay. I mean, you know, and part of the
2 reason, she was high on drugs and she was trying --
3 you said she had an improper motive, she was trying
4 to get somebody else in trouble, correct?

5 A I think all of that's true.

6 Q Okay. And you got a letter from Falisha
7 Hallmon?

8 A Yes, sir, we did.

9 Q Falisha Hallmon, you know, told you something
10 about the murder weapon being in this other guy's
11 house, correct?

12 A She did.

13 Q Okay. And doing what you're -- being objective
14 in your investigation, based on that, you got a
15 search warrant and looked in this other guy's house
16 and went in and looked for this weapon, correct?

17 A We did.

18 Q Okay. And you didn't find it there, correct?

19 A No, sir.

20 Q And Falisha Hallmon, she lied about that?

21 A She did.

22 Q Okay. Because she wanted to get this other guy
23 in trouble?

24 A She did. The difference between, not to
25 mislead the jury, between Holly Thompson and Falisha

1 Hallmon, Falisha Hallmon was in a position to
2 credibly provide the information that she did
3 ultimately provide us, which was deemed to be true,
4 whereas Holly Thompson was not. That's the
5 distinction I --

6 Q But Falisha Hallmon did give you -- willfully
7 and knowingly gave you false information to get
8 somebody else in trouble?

9 A She did.

10 Q And I think you also indicated that sometimes
11 people come forward with information trying to get a
12 reward, trying to get some benefit?

13 A Yes, sir, that's often times true.

14 Q And I think you indicated that Holly Thompson
15 was probably trying to work out something with some
16 of her charges --

17 A I'm not quite sure what Holly Thompson was
18 trying to do to be honest with you.

19 Q Did you indicate that was something you
20 considered or that was considered?

21 A I think it was part of that and partly she
22 wanted to get somebody in trouble that she had some
23 extreme animosity towards.

24 Q And sometimes people want money or think
25 they're going to get a reward, correct?

1 A Sometimes that's true, yes, sir.

2 Q And didn't -- didn't you go to 2601 Chestnut
3 Street and tell somebody there that there might be a
4 reward if they gave some money (sic) about the
5 firearm that was involved in this case and they
6 could get a few hundred dollars?

7 A Yes, sir. That's an individual named Bruce
8 Wise. And that comment was made, there wasn't an
9 official notice or reward. Bruce Wise, actually, as
10 we were discussing the case, he said, Wasn't it a
11 .38? And I asked, you know, how he, you know, how
12 he basically had this information or why he thought
13 that that was the case. And he said not to worry
14 about it, kind of like, you know, he had some
15 information about the case. So, at that point in
16 time, I thought well maybe that might still get him
17 to tell what he knew. So, specifically, with regard
18 to Bruce Wise maybe, yes, sir.

19 Q Correct. And I think I'm going to read from
20 your report, tell me if this is -- would you please
21 read verbatim the second to last sentence in your
22 report regarding that?

23 A Bruce laughed and said that wasn't anything to
24 him.

25 Q I'm sorry. The third from last.

1 A Investigating officer even suggested that
2 several hundred dollars might be possible.

3 Q For information on the person that provided
4 info on the gun, correct?

5 A Right.

6 Q And you told somebody that?

7 A I told Bruce Wise that, yes, sir.

8 Q You told Bruce Wise --

9 A Only after he kind of intimated, in my opinion,
10 that he might know something about it.

11 And Bruce Wise, the significance of Bruce Wise,
12 so the jury will understand it, he lived on the
13 opposite corner from Carmen Rice on Chestnut Street
14 at Braham Street. And we ran a records check on
15 him. And there was a perception that maybe he was
16 involved in the drug trade and that quite possibly
17 he maybe had become the recipient of that gun
18 somewhere along the way. It was just an
19 investigative tactic at the time to try to retrieve
20 the gun.

21 Q Okay. But, I mean, a lot of people you got had
22 -- supposedly had information about the crime you
23 had to investigate, correct?

24 A Yes, sir, but not a lot of them lived right
25 there on the corner of Braham and Chestnut Street.

1 Q And that's the same house that Shawnetta Wise
2 lived in?

3 A That's correct. That's why we were there
4 talking to Bruce Wise that day.

5 Q Okay. So while you're there, I mean, you
6 indicated to someone in that household that there
7 would be some type of monetary reward if someone
8 gave information --

9 A And that further -- further, the reason as to
10 why we were there because Shawnetta Wise, turned
11 out, did have an affiliation with Carmen Rice and
12 this is her uncle I think it was.

13 Q Just so we're clear, you indicated to a witness
14 in this case, there would be a monetary reward for
15 information involved in this case, correct?

16 A If the gun was produced, yes, sir.

17 Q As you indicated, that would be a little bit of
18 incentive for a person to come forward?

19 A It often times is for --

20 Q Money?

21 A Yes, sir.

22 Q Now, regarding some of the evidence in the
23 vehicle, Mr. Lupton asked you about the hair, the
24 trace evidence in the vehicle, correct?

25 A He did ask that.

1 Q And he asked you about you got information that
2 was not suitable for testing?

3 A Yes.. I later received information along those
4 lines.

5 Q Where did you get that information?

6 A Actually, John Barron with our office.

7 Q When did you get that, date wise?

8 A Within the last couple of weeks in preparation
9 for trial.

10 Q Okay. So the hair evidence was taken from the
11 back seat of the vehicle in 2001, correct?

12 A Yes, sir.

13 Q And just so we're clear, there's no dispute
14 that it appears that Bernard Brennan was shot from
15 behind while someone was in the vehicle, correct?

16 A That's correct.

17 Q And so that hair was taken -- and you're the
18 chief investigator on this case, correct?

19 A I am.

20 Q All right. And this hair, this trace evidence,
21 was taken. And there's a reason they look for trace
22 evidence, right?

23 A Yes, sir.

24 Q Okay. And they found some?

25 A Yes, sir.

1 Q You were aware of that?

2 A I believe I became aware of it and it was sent
3 to SLED at the time. And I can't testify that I
4 knew SLED did or did not have mitochondrial DNA
5 capabilities during that time. I know it was sent
6 to SLED. I learned that all later, I can testify to
7 that. And, also, the jury needs to understand that
8 our DNA lab in-house came on board since that time.

9 Q Okay. I think you're going a little bit --

10 THE COURT: Let him finish his answer and slow
11 down a little bit, Mr. Mobley, okay? The court
12 reporter is having a hard time keeping up with you.

13 THE WITNESS: Our DNA lab came on board since
14 the submission. So John Barron works for us. And I
15 was able to communicate with him directly about that
16 in preparation for the trial.

17 BY MR. MOBLEY:

18 Q All right. Let's back up a little bit. But it
19 was collected in 2001, correct?

20 A That's correct.

21 Q Did anyone analyze it in 2001?

22 A It was sent to SLED for analysis.

23 Q Okay. But did anyone analyze it in 2001?

24 A I don't believe so now.

25 Q It was not analyzed in 2001, correct?

1 A No, sir. Now, I know I don't believe so.

2 Q And it was not analyzed in 2002; is that
3 correct?

4 A That's correct.

5 Q And it was available, correct?

6 A Yes, sir.

7 Q Okay. And it was in evidence in 2002, correct?

8 A It may have still been at SLED, but, yes, sir,
9 it was available.

10 Q Okay. And it was not analyzed in 2002?

11 A That's correct.

12 Q And it was still in evidence in 2003; is that
13 correct?

14 A Yes, sir.

15 Q Okay. And 2003 is, you know, and in October,
16 that becomes two years after the crime, correct?

17 A Yes, sir.

18 Q Okay. And it was not analyzed in 2003; isn't
19 that correct?

20 A That's correct.

21 Q And it was also in evidence in 2004, correct?

22 A That's correct.

23 Q So we're getting on three years at that point,
24 correct?

25 A Yes, sir.

1 Q And it's been available?

2 A Yes, sir.

3 Q And in evidence and it has not been analyzed at
4 that point, correct, not in 2004?

5 A That's correct.

6 Q And now we're into 2005, correct?

7 A That's correct.

8 Q About three and a half years, almost four years
9 after the event, correct?

10 A Yes, sir.

11 Q And this hair that has been readily available,
12 in evidence, that was found in the back seat of the
13 Mercedes that Bernard Brennan was killed in sat in
14 evidence untested and unanalyzed for about three and
15 a half, almost four years; is that correct?

16 A And I believe I explained it, but I'll be glad
17 to go over it again.

18 Q But the question is that it set there
19 unanalyzed?

20 A Yes, sir.

21 Q And, you know, Mr. Lupton talked about the
22 Solicitor's office, you know, getting this thing
23 tested. I mean, you were involved in some of those
24 conversations. It wasn't just them to push to get
25 it tested; is that correct?

1 **A** No, sir.

2 **Q** Who else pushed to get it tested?

3 **A** I believe you did.

4 **Q** The defendant's lawyer?

5 **A** And everybody involved in it wanted it tested.

6 **Q** And, in fact, Carmen Rice --

7 **MR. MOBLEY:** I want to mark this as Defense
8 Exhibit Number 4.

9 (Defendant's Exhibit Number 4, consent form,
10 was marked for identification purposes.)

11 **Q** Investigator -- Lieutenant Smith, I knew you
12 were an investigator, so I still do that from time
13 to time.

14 **A** You can call me whatever you want to,
15 Mr. Mobley.

16 **Q** Okay, Senor. I'm showing you Defense Exhibit
17 Number 4.

18 **A** Yes, sir.

19 **Q** Do you recognize that document?

20 **A** Yes, sir.

21 **Q** Okay. And what's the document?

22 **A** That's a consent from Ms. Rice for an oral swab
23 for DNA comparison.

24 **Q** Okay. So Carmen Rice voluntarily consented to
25 having -- submit the DNA sample to be tested against

1 that hair, correct?

2 **A** Per your instructions, yes, sir, which I was
3 privy to.

4 **MR. MOBLEY:** And I want to go ahead and move
5 this into evidence at this time.

6 **MR. LUPTON:** No objection, Your Honor.

7 **THE COURT:** Without objection, it's admitted.

8 (Defendant's Exhibit Number 4, consent form,
9 admitted into evidence.)

10 BY MR. MOBLEY:

11 **Q** Are you familiar with that process?

12 **A** Beg your pardon?

13 **Q** Are you familiar with the process with the
14 swabs?

15 **A** Yes, sir, I've done it, yes, sir.

16 **Q** And that would require the person to open their
17 mouth and have a saliva swab to be taken and given
18 as a sample?

19 **A** That's correct.

20 **Q** Okay. And she did that voluntarily?

21 **A** Yes, sir.

22 **Q** Now, we heard some testimony about a fiber that
23 was found in the back seat; do you recall that?

24 **A** A what?

25 **Q** A fiber?

1 A Yes, sir.

2 Q That the crime scene expert recovered from the
3 vehicle; do you recall that?

4 A Yes, sir.

5 Q And you did, in the course of the
6 investigation, receive some information or some
7 description of the clothing of the two black females
8 that were with Bernard Brennan when he was last seen
9 alive; is that correct?

10 A Yes, sir, particularly an orange sweater or
11 something like that.

12 Q And can you tell me, you know, you understand
13 what fiber evidence is, correct?

14 A Generally, I do, yes, sir.

15 Q Okay. And, basically, I'm not an expert, but
16 it's some item that comes from a cloth, presumably a
17 clothing item -- an item of clothing?

18 A That's correct.

19 Q Whether it be, you know, I'm not saying what
20 kind, but, you know, pants, shirt, suit, jacket,
21 whatever?

22 A It could be carpet, it could be clothing.

23 Q It could be anything?

24 A Yes, sir.

25 Q But the bottom line, you won't know until you

1 test it?

2 A That's right.

3 Q And this fiber evidence was also taken from
4 Bernard Brennan's Mercedes on the night he was
5 killed, correct?

6 A That's my understanding, yes, sir.

7 Q That fiber was never analyzed, was it?

8 A I believe it was also sent to SLED.

9 Q Okay. The question is, was the fiber ever
10 analyzed?

11 A I don't have any knowledge of that being -- of
12 the fiber being analyzed. I'm sure it was sent to
13 SLED and looked at. I'm not sure what you're
14 calling it being analyzed.

15 Q Do you have any documentation to reflect any
16 type of analysis --

17 A I don't, no, sir.

18 Q And you're the chief investigator on this case?

19 THE COURT: Mr. Mobley, again, you've got to --
20 you cannot talk over the witness.

21 MR. MOBLEY: Thank you, Your Honor.

22 THE WITNESS: I don't have any documentation
23 with me, no, sir.

24 BY MR. MOBLEY:

25 Q Okay. And you're the chief investigator on the

1 case, correct?

2 A Yes, sir.

3 Q And you would be the person, as you indicated,
4 that's primarily responsible for directing the
5 investigation, correct?

6 A Yes, sir. And I think that SLED's answer to
7 that may be, if I might --

8 MR. MOBLEY: I object to him giving an answer
9 from SLED. He didn't work for SLED --

10 THE WITNESS: I'm just trying to answer the
11 question.

12 THE COURT: You've been asking him about --

13 MR. MOBLEY: I'm asking if he knew whether or
14 not it was analyzed.

15 THE COURT: All right. Repeat your question
16 and I'll see if his answer responds to that.

17 BY MR. MOBLEY:

18 Q And just so we're clear, you don't have
19 anything to reflect that that fiber was ever
20 analyzed or tested; isn't that correct?

21 A No, sir, there was nothing to compare it to.

22 Q Okay. Do you have any kind of report showing
23 it -- okay. There was nothing to compare it to?

24 A Because we didn't find the orange sweater
25 primarily.

1 Q All right. But was there fiber -- well, you
2 didn't know that when it was first taken, correct?

3 A No, sir. And when you say analyzed, I am not
4 familiar enough with their procedures. I'm sure
5 they looked at it. And I don't know what, you
6 know --

7 Q Do you have any documentation --

8 A Usually --

9 Q I'm sorry. I'm cutting you off.

10 A Usually an analysis, and I think when it comes
11 to fibers, and I could be wrong, I'm not an expert
12 in that field, requires a submitted sample for
13 comparison is my understanding of fibers.

14 Q Do you have anything to reflect there was an
15 attempt to identify what kind of fiber it was?

16 A I don't, no, sir.

17 Q Okay. So, to your knowledge, you never even
18 identified it?

19 A Not that I know of, no, sir.

20 MR. MOBLEY: Thank you, Lieutenant Smith.

21 THE WITNESS: Thank you.

22 THE COURT: Thank you, sir.

23 Mr. Lupton.

24 *****

25 *****

1 REDIRECT EXAMINATION

2 BY MR. LUPTON:

3 Q Just to clarify a few things. Mr. Mobley did
4 not send in any kind of request that the hairs be
5 analyzed, did he?

6 A No, sir.

7 Q In fact, would it be more fair to characterize
8 he asked or mentioned the existence of it about a
9 week before trial?

10 A Yes, sir. The two of you coordinated that,
11 yes, sir.

12 Q And after he inquired about it, the Solicitor's
13 office and the sheriff's department then jumped on
14 trying to get it analyzed; is that fair?

15 A That's true.

16 Q So that wasn't a -- the analysis of it was not
17 initiated by some request, Please analyze this?

18 A No, sir. That would be true.

19 Q And the whole topic was brought up about how
20 long before the trial?

21 A It was about two weeks.

22 Q Based on your experience, would you
23 characterize that -- how would you characterize that
24 in terms of analyzing DNA?

25 A As far as the speed?

1 Q Right.

2 A It was pretty fast.

3 Q In fact, the Solicitor's office had to pay a 50
4 percent --

5 MR. MOBLEY: Objection, Your Honor, objection.

6 THE COURT: Sustained.

7 BY MR. LUPTON:

8 Q Are you aware of whether or not there was any
9 rush service charge?

10 MR. MOBLEY: Objection.

11 MR. LUPTON: Your Honor, I believe he is aware
12 of that.

13 THE COURT: Why are we going into this? It was
14 tested.

15 MR. LUPTON: All right. I'll move on.

16 BY MR. LUPTON:

17 Q Mr. Mobley also talked about Carmen Rice
18 consenting to have the sample taken for DNA; is that
19 correct?

20 A Yes, sir, that's correct. And, actually, I
21 spoke to Mr. Mobley that day about the consent form.
22 And, initially, he didn't want us to use a consent
23 form. And then he said, Well, go ahead, because he
24 directed her to supply the sample.

25 Q She did it at his direction?

1 A Yes, sir.

2 Q Now, when that agreement was first made, where
3 was Carmen Rice?

4 A She was in Alvin Glenn Detention Center.

5 Q The specific day it was taken, but when the --
6 when Mr. Mobley agreed to the sample being taken?

7 A She was here at 1701 Main Street that day.

8 Q And what was the purpose of that?

9 A She was actually up here, I believe, for that
10 reason among other things. And actually --

11 Q Are you familiar with the term Schmerber
12 hearing?

13 A Yes, sir.

14 Q Could you explain to the jury what a Schmerber
15 hearing is?

16 **MR. MOBLEY:** Objection, Your Honor.

17 **THE COURT:** They heard about whether or not she
18 consented to it. This is fair redirect.

19 **THE WITNESS:** A Schmerber hearing is a case, I
20 assume, Schmerber. It's a hearing where you
21 actually have to go in general sessions court and
22 plead your case to the judge for a need to acquire
23 samples, such as blood or saliva, for comparison
24 testing, such as DNA.

25 BY MR. LUPTON:

1 Q So a fair characterization is that she was in
2 the courthouse for the purpose of being ordered to
3 submit a DNA sample?

4 A That's correct.

5 Q Are you familiar with the efforts to take her
6 fingerprints out at the jail prior to this for
7 comparison against the car fingerprints?

8 A Yes, sir.

9 Q Did she voluntarily submit to that?

10 A She actually didn't, I believe, didn't want to
11 do it at first when one of our detectives went there
12 to my understanding.

13 MR. MOBLEY: Was he not present? If not, I
14 move to strike his answer. He's talking about what
15 somebody else did.

16 THE COURT: Y'all have been asking him all day
17 about other stuff everybody else was doing. I'm
18 going to allow it.

19 MR. MOBLEY: Thank you, Your Honor.

20 BY MR. LUPTON:

21 Q Based on your investigation as the chief
22 investigating officer who is responsible, as
23 Mr. Mobley has pointed out, for the actions of those
24 who investigated under you, did you learn as part of
25 your investigation, that she fought the

1 fingerprinting?

2 A She didn't want to do it and basically was
3 informed, you know, fingerprinting is something
4 that's -- they have to comply to in custody, so she
5 had to take it.

6 Q Now, there's also some talk about the last
7 paycheck. And Mr. Mobley asked you about after two
8 years couldn't somebody's memory be faulty on dates.
9 Was there any specific, specific event that she
10 cited that would indicate a specific memory of the
11 date of the last paycheck and where she was?

12 A It was the incident involving her father and
13 the bouncing of the paycheck was one reason she
14 recalled it.

15 Q And she stated that that was the last paycheck
16 she got?

17 A Yes, sir.

18 Q And that she could remember she was in Florida
19 because of that incident?

20 MR. MOBLEY: Your Honor, that's what he
21 testified to on direct examination.

22 THE COURT: You went in -- it was gone into on
23 cross about her possibly mistaking dates.

24 BY MR. LUPTON:

25 Q Is that correct? Is that how she related to

1 you she could remember that event?

2 **A** That's correct.

3 **Q** And would that be a memorable event in your
4 opinion?

5 **A** It was a specific reason at the time provided
6 which she was using to jostle her memory to
7 correlate with that last paycheck.

8 **Q** And that statement turned out to be untrue; is
9 that correct?

10 **A** That's correct.

11 **Q** And she ultimately admitted that that wasn't
12 true that she had gotten that paycheck?

13 **A** That's right.

14 **Q** Now, prior to being confronted with that, she
15 was insistent -- what date did she insist she had
16 gone to Florida?

17 **A** 13th of October, specifically.

18 **Q** And you interviewed her at the, when was it,
19 the end of December? Do you recall a specific date?

20 **A** Which interview?

21 **Q** The end of December interview?

22 **A** The 29th of December.

23 **Q** And at that interview, she told you she didn't
24 know where -- she wasn't able to provide you any
25 information on where Sarah Dennis was?

1 **A** Sarah, Oriental, Florida hospital was basically
2 what I got at that time.

3 **Q** And on State's Exhibit 56, what date did she
4 write to Sarah Dennis asking her to verify the 17th
5 as the date?

6 **A** I believe that was in January '04.

7 **Q** So after she was confronted with the paycheck,
8 she then is asking somebody to say it was the 17th?

9 **A** Yes, sir. And the words were, To help me beat
10 the charge.

11 **Q** To somebody she claimed -- she indicated to you
12 that she didn't know where that person was?

13 **A** That's correct.

14 **Q** Now, Holly Thompson, there was a lot of talk
15 about her. And she, I think everybody's agreed,
16 came in and gave some lies?

17 **A** She gave a bunch of them.

18 **Q** And she was trying to get somebody in trouble,
19 wasn't she?

20 **A** I think that was one of her motivations.

21 **Q** And that person was -- well, was the person she
22 was trying to get in trouble the person she said was
23 or tried to implicate as a suspect?

24 **A** I believe that she indicated that person had
25 knowledge of the thing -- of the case and she wanted

1 us to go after that person. But that person also
2 happened to be wanted at the time.

3 Q But the person that she had the grudge against
4 is the person she was lying on; is that correct?

5 A That's right.

6 Q Now, who did Falisha Hallmon indicate to you
7 she had a grudge against?

8 A Her baby's father. Basically, her boyfriend.

9 Q And she admitted that she lied about him; is
10 that correct?

11 A That's correct.

12 Q So the person she was trying to get in trouble
13 was --

14 MR. MOBLEY: He's leading the witness. I
15 object.

16 THE COURT: Sustained.

17 MR. LUPTON: We've covered it. I'll move on.

18 BY MR. LUPTON:

19 Q Did Shawnetta Wise ever ask you for any money?

20 A No, sir, not that I'm aware of.

21 Q Did you ever offer any?

22 A No, sir.

23 Q Now, at the start of all of this, at the start
24 of cross-examination, there was this lengthy parade
25 of people that Mr. Mobley said, Well, didn't you get

1 information about this person?

2 A That's correct.

3 Q Did you investigate all of the leads that you
4 got?

5 A We tried to. And we investigated those the
6 best we could and, you know, immediately eliminated
7 them one at a time.

8 Q And each of the people that you -- that
9 Mr. Mobley talked about, was each of those the
10 persons -- each of those people cleared through
11 investigation?

12 A Yes.

13 Q Was Carmen Rice cleared through investigation?

14 A No.

15 Q Did any of those people live at 2124 Braham
16 Street, the address that has come up time and time
17 again in this case?

18 A They did not.

19 Q Did any of those people reside just around the
20 corner from this pay phone right here?

21 A They did not.

22 Q Did any of those people work for America's Best
23 Security Company and have a Taurus .357 Magnum
24 issued to them?

25 A They did not.

1 Q Did any of those people have a codefendant come
2 in and say that was the person who killed --

3 MR. MOBLEY: Objection, Your Honor.

4 BY MR. LUPTON:

5 Q With regards to the people that were cleared,
6 did any of those people have that?

7 A They did not.

8 MR. LUPTON: Nothing further, Your Honor.

9 THE COURT: Yes, sir.

10 Mr. Mobley, anything further?

11 MR. MOBLEY: Just give me a minute to...

12 (Pause.)

13 RECROSS-EXAMINATION

14 BY MR. MOBLEY:

15 Q All right. Now, you went to -- when you sent
16 someone to get Carmen Rice's fingerprints, she was
17 in the custody of the detention center; is that
18 correct?

19 A Yes, sir.

20 Q Most recently. And just so we're clear, when
21 was this done?

22 A I want to say a couple of weeks before the
23 swab.

24 Q Like in the last couple of -- last few months?

25 A No. It was -- probably been within the last

1 month.

2 Q The last month?

3 A Yes, sir.

4 Q So some time in 2005, you sent someone to get
5 fingerprints from Carmen Rice?

6 A I think we wanted a better set of major case
7 prints in preparation for the trial. I think the
8 forensic sergeant, Anna Clemens, had requested a
9 better set. I think that's the reason why. I
10 wasn't involved specifically in that when it was
11 initiated, but learned about it afterwards.

12 Q She was arrested how long ago?

13 A In December of '01 -- or '03.

14 Q So just under two years ago, two and a half
15 years ago?

16 A Yes, sir.

17 Q Okay. So one and a half years after she gets
18 arrested, you send someone down to get major case
19 prints, correct?

20 A Again, the sergeant wanted a better quality
21 set, I think, is the reason for that.

22 Q And you didn't advise Carmen Rice that you were
23 coming to get her prints, correct?

24 A When we got there, we did.

25 Q I mean, she had no advanced notice? This is

1 not something you set up and scheduled, correct?

2 A No, sir.

3 Q Okay. And she had a lawyer at that time,
4 correct?

5 A I assume so, yes, sir.

6 Q She was represented by counsel pretty much
7 continuously the last couple of years?

8 A I assume that's correct, yes, sir.

9 Q Okay. And no one tried to -- no one contacted
10 counsel to try to schedule this meeting with Carmen
11 Rice to take her prints, correct?

12 A I'm not aware if that happened, no, sir.

13 Q So, to the best of your knowledge, Carmen Rice
14 had no reason to believe anybody was coming to take
15 her fingerprints?

16 A As far as I know, that's correct.

17 Q Because she knew she had a lawyer?

18 A I assume she did, yes, sir.

19 Q Who could not have told her that anyone was
20 taking her fingerprints because you guys hadn't told
21 anybody?

22 A I assume that's correct.

23 Q And didn't she indicate that at the time they
24 came to take her prints that she had a lawyer, she
25 had counsel?

1 **A** All I know of is that there was a basic refusal
2 to comply at that time. I don't know all of the
3 details of what she said, that could be true. I
4 don't know.

5 **Q** And Mr. Lupton asked you to distinguish between
6 Falisha Hallmon and Holly Thompson about their
7 motivation to fabricate, having a grudge against
8 somebody and they lied against this person because
9 they had a grudge, correct?

10 **A** Yes, sir.

11 **Q** And in the letter that Falisha Hallmon sent
12 you --

13 **MR. LUPTON:** Objection, Your Honor, hearsay.
14 He had Falisha Hallmon on the stand. He could have
15 asked her about anything he wanted to.

16 **THE COURT:** Where are we going with this, Mr.
17 Mobley?

18 **MR. MOBLEY:** Well, you know, he talked about --
19 he made it a point to indicate --

20 **MR. LUPTON:** Your Honor, may we approach?

21 (Whereupon, a bench conference was held off
22 the record, in the presence of the jury, but out of
23 the hearing of the jury.)

24 **BY MR. MOBLEY:**

25 **Q** Lieutenant Smith, nice to see you again. It's

1 been way too long.

2 All right. Now, Mr. Lupton asked you about
3 Holly Thompson and her having to make up a lie
4 because she had a grudge against someone in
5 particular, correct?

6 A Yes, sir.

7 Q And he talked about Falisha Hallmon and her
8 making up a lie?

9 A Yes, sir.

10 Q Okay. And I think he asked you about whether
11 or not she had any kind of grudge against Carmen
12 Rice; do you recall that? Or had a grudge against
13 somebody --

14 A Had a grudge against her baby's father, I
15 believe.

16 Q And that was the motivation for lying or giving
17 a false statement against him?

18 A Against that portion of it.

19 Q Correct. And do you recall reading her letter,
20 correct?

21 A Yes, sir.

22 Q And you documented certain things about that in
23 your report?

24 A I did.

25 Q And when she wrote that letter, she didn't

1 identify it was Falisha Hallmon, correct?

2 A No.

3 Q But she referred to a person by the name of V.
4 Hallmon?

5 A I believe you're right, yes, sir.

6 Q Okay. Who was clearly Falisha Hallmon?

7 A Yes, sir.

8 Q And she indicated that V. Hallmon had got into
9 an argument with Carmen Rice in that letter,
10 correct?

11 A I don't have the letter. I take your word for
12 it.

13 Q Let's look at your report, I'm on page 30.

14 A All right.

15 Q And under the first paragraph, there's a note.
16 I believe that your note says, and I'm going to ask
17 you a question and tell me whether this is correct
18 or not, okay? It says: Note, the letter also
19 alluded to the fact that Cooper's ex-fiance, who was
20 V. Hallmon, had recently been incarcerated in Alvin
21 S. Glenn Detention Center and actually had an
22 argument with Carmen Rice?

23 A Which paragraph are you in?

24 Q In the second paragraph where it says note on
25 page 30. Right here.

1 **A** Yes, sir. What was the question? I'm sorry.

2 **Q** Okay. The question is didn't -- in Falisha
3 Hallmon's letter when she described V. Hallmon, she
4 indicated that V. Hallmon did have an argument with
5 Carmen Rice while in the Alvin S. Glenn Detention
6 Center?

7 **A** That's correct.

8 **MR. MOBLEY:** That's all, Your Honor.

9 **THE COURT:** Thank you, sir.

10 Lieutenant Smith, you may step down. Thank
11 you, sir..

12 All right. Ladies and gentlemen, I'm going to
13 let y'all break now. Your lunch should be here or
14 about here. We'll take an hour for lunch. Again,
15 enjoy your lunch. Please do not, obviously, discuss
16 any evidence or testimony you've heard or seen thus
17 far and I'll see y'all in an hour.

18 (The jury was excused for lunch.)

19 **THE COURT:** All right. Counsel, anything
20 before we break for lunch?

21 **MR. MOBLEY:** Not at this time, Your Honor.

22 **THE COURT:** All right. We'll see y'all back at
23 two o'clock then.

24 (Whereupon, there was a luncheon recess.)

25 (State's Exhibit Number 60, mannequin, and

1 State's Exhibit Number 61, diagram, were marked for
2 identification purposes.)

3 (The jury returns to the courtroom.)

4 **THE COURT:** Thank you, ladies and gentlemen.
5 We're ready to continue at this point.

6 The State ready to call their witness?

7 **MR. MEADORS:** If it pleases the Court. The
8 State of South Carolina will now call Doctor Clay
9 Nichols.

10 CLAY ALLEN NICHOLS,
11 having been duly sworn, testified as follows:

12 **THE CLERK:** Please have a seat, state your full
13 name.

14 **THE WITNESS:** Clay Allen Nichols,
15 N-i-c-h-o-l-s.

16 DIRECT EXAMINATION

17 BY MR. MEADORS:

18 **Q** Good afternoon, Doctor Nichols.

19 **A** Good afternoon.

20 **Q** Could you please relate to the jury your
21 educational background, experience and today your
22 educational background in the particular field of
23 expertise which you'll be testifying about today?

24 **A** To begin with, I'm a forensic pathologist. I'm
25 employed in the pathology group that covers Richland

1 Memorial Hospital and Baptist. I act as a forensic
2 pathologist for Richland County.

3 I received my bachelor's degree from the
4 University of Oklahoma in 1981, graduated from
5 Oklahoma's med school in '85. After that, I entered
6 a residency program at MUSC in both anatomic and
7 forensic pathology completing that in 1990. I was
8 on the faculty at MUSC where I was an associate
9 professor teaching pathology to med students and
10 residents and fellows until 2000 when I left and
11 went into private practice.

12 I'm board certified by the American Board of
13 Pathology in both anatomic and forensic pathology.
14 I hold an unrestricted license to practice medicine
15 in surgery in the State of South Carolina.

16 Q What's the difference between pathology and
17 forensic pathology?

18 A Pathology is a branch of medicine that deals
19 with the laboratory diagnosis of disease. Any time
20 any sort of tissue is removed at surgery or a biopsy
21 is taken, it's sent to a pathologist where it's
22 looked at usually under the microscope looking for
23 presence or absence of disease. Pathologists also
24 get trained in the performance of autopsies, which
25 is a dissection of a person, to discover why they

1 died. A forensic pathologist has an additional one
2 to two years experience in doing autopsies on people
3 who die suspicious and unnatural deaths.

4 Q And how many autopsies have you performed in
5 your career?

6 A Between four and 5,000.

7 Q And have you ever been offered as an expert in
8 the field of forensic pathology in the courts of
9 record of this state?

10 A Many times.

11 MR. MEADORS: Your Honor, at this time, we
12 would offer Doctor Clay Nichols as an expert in the
13 field of forensic pathology.

14 THE COURT: Any objection or requested voir
15 dire?

16 MR. HART: No objections, Your Honor.

17 THE COURT: Without objection, he's so
18 qualified and may testify as such.

19 BY MR. MEADORS:

20 Q How many of y'all are there in Columbia,
21 forensic pathologists?

22 A Me.

23 Q Just one?

24 A Yeah.

25 Q Are you looking to hire some more?

1 A Yes, hopefully.

2 Q And, Doctor, tell the jury, if you will, in
3 what condition, if any, do you like to see the body
4 in relation to how it was at the scene of the crime
5 or of the incident?

6 A If at all possible, I would like to do the
7 scene investigation or be a participant in that,
8 that's not always possible. Often times photographs
9 are taken or scene sketches or a person who has
10 personal knowledge of the scene relates that to me
11 before the autopsy begins.

12 Q Fair to say you like to appoint yourself with
13 as much background and knowledge of the case prior
14 to doing the autopsy if possible?

15 A Of course.

16 Q And, in this case, did you have an occasion to
17 do an autopsy on the body of one Bernard Brennan?

18 A Yes.

19 Q And when was that, Doctor?

20 A October 26th, 2001.

21 Q And tell these folks what do you -- I guess you
22 kind of work in the morgue, don't you?

23 A Exactly.

24 Q Where is the morgue?

25 A The morgue is in the basement of Richland

1 Hospital.

2 Q Now, is the body -- your office is there, too,
3 correct?

4 A Well, it's in Richland, but not in the morgue.

5 Q Do you take pictures of the body or do you take
6 notes of how the -- what condition the body is in
7 when you first see it?

8 A Yes.

9 Q Clothing?

10 A Yes.

11 Q Prior to doing the autopsy?

12 A Correct.

13 Q And, again, why do you do that?

14 A To document any sort of pertinent finding that
15 may offer an explanation to the cause of the
16 person's death.

17 Q Can you go through and tell this jury how you
18 performed this autopsy on Bernard's body?

19 A To begin with, we look at the body in the
20 morgue. The body's usually clothed. We look at the
21 clothing to see what condition it is, if there's any
22 sort of damages to the clothing that may relate to
23 the cause of death. The clothing is removed. The
24 body is examined externally, once again, looking for
25 any sign of possible mechanism of death.

1 After that is documented, we do an internal
2 dissection where all of the organs are removed one
3 by one. Their weight's surveyed. Small pieces of
4 tissue are submitted for microscopic examination.
5 Fluids are harvested for toxicologic evaluation.

6 After all of that's done, a preliminary report
7 is dictated and, hopefully, in about 30 days,
8 everything comes back from the various testing
9 agencies and a final report is issued.

10 Q And that's your report, I believe, you -- this
11 is your report you've done in this case. And prior
12 to getting the gunshot wounds, you do the internal
13 examination of what you've just talked about,
14 correct?

15 A Yes.

16 Q Weigh different organs?

17 A Yes.

18 Q Do you also send off any fluid for toxicology?

19 A That's correct.

20 Q And do you have the results of that in this
21 case?

22 A Yes, I do.

23 Q What are those?

24 A Specifically, no blood ethanol was identified.
25 And on general drug screen for substances of abuse,

1 that was also negative.

2 **Q** So no substances of alcohol or drugs in the
3 body of Bernard?

4 **A** Correct.

5 **Q** After you examined the body, weighed the
6 organs, taken the blood for toxicology, did you have
7 an occasion to examine Bernard's body for any wounds
8 relating to this incident?

9 **A** Yes, I did.

10 **Q** I want to ask you to go through, if you will,
11 to start with and then I'm going to ask you, after
12 you get through, to come down and show us, but can
13 you take it the way you kind of did it in your
14 report to describe the injuries that Mr. Brennan had
15 in his body?

16 **A** I'll be happy to. There were five gunshot
17 wounds identified to his body. I arbitrarily
18 labeled them numbers one through five. The one
19 through five does not indicate the firing sequence
20 just how I numbered them.

21 Gunshot wound number one is located on the left
22 upper mid back at a distance of nine inches from the
23 top of the head and one point five inches to the
24 left of the midline. No soot or powder stippling is
25 identified. The wound measures zero point three

1 eight by zero point three zero inch. There is a
2 zero point one eight inch abrasion border at the
3 seven o'clock position. The bullet is found to
4 enter at this site with subsequent fracture of the
5 underlying first thoracic vertebra.

6 The spinal cord does not appear to be
7 lacerated. The bullet is recovered lying free
8 within the left chest cavity. The recovered
9 projectile is a deformed lead bullet with a zero
10 point 355 inch base. The approximate angles of
11 trajectory are forward 70 degrees to the right 20
12 degrees and upward ten degrees.

13 Q Let me stop you there. A couple of things, you
14 said no soot or powder stippling is identified?

15 A That's correct.

16 Q Please explain to the ladies and gentlemen of
17 the jury what you mean by that?

18 A That when a gun is fired, more comes out of the
19 barrel of the gun than just the bullet. And
20 forensic pathologists use four basic ranges of fire
21 in order to characterize these in broad categories.
22 The first is a hard contact gunshot wound. This is
23 where the muzzle of the gun is tight up against the
24 skin. When the trigger is pulled, there is what's
25 known as a muzzle stamp which is caused by the skin

1 slapping against the muzzle of the gun. The bullet
2 and everything else in the barrel, rust, unburned
3 gun powder, soot, smoke, also enter the wound track.
4 If you break that gap --

5 Q And that's exactly when it's touching, right?

6 A Yeah.

7 Q When the gun is touching the skin?

8 A Touching. And when it's back a fraction of an
9 inch now, the trigger is pulled, the bullet goes in
10 the skin. Soot is deposited in a ring like fashion
11 around the wound, unburned gun powder, which is
12 heavier, also goes into the wound track. You back
13 up a couple of more inches --

14 Q You have a different terminology for that?

15 A Hard contact, loose contact. It's very close.

16 You back up a couple of inches, the trigger is
17 pulled down, bullet enters the skin. The soot,
18 which is lighter and wispiest, dissipates. And what
19 is deposited around the skin is the unburned gun
20 powder giving the skin around that area a salt and
21 pepper like pattern where you can actually see the
22 flakes of unburned gun powder around the skin.

23 The last category is a distant wound. And the
24 distance only means that the gun is far enough back,
25 it could be 16 to 18 inches further, little closer,

1 depending on the model of the gun and the type of
2 ammunition used. So now when the trigger is used,
3 the bullet will enter the skin, the soot is
4 dissipated, the unburned gun powder can no longer
5 carry that distance and that's dissipated, so all
6 you have is a gunshot wound hole and no other sign
7 of closeness around the skin.

8 Q So number, what you designated today, I think
9 you said arbitrarily, which means you don't know
10 exactly what holes went in when, right?

11 A That is correct.

12 Q Or what holes were made when. For gunshot
13 wound number one, no soot or powder stippling is
14 identified. So could that mean that it's 16 to 18
15 inches or more?

16 A Plus or more minus, approximately, in that
17 area.

18 Q And number one gunshot wound you got that from
19 Bernard's body, correct?

20 A That's correct. It was lying free in the chest
21 cavity.

22 Q Here are the two, I think, you recovered and
23 turned back over to the sheriff's department.

24 A Can I open these up?

25 Q Sure, yes, sir.

1 A Yes, sir.

2 Q Okay. So, Doctor, that -- is that number one?

3 A Yes, sir.

4 Q That you took from Bernard Brennan's body?

5 A Yes, sir.

6 Q And you turned this back over to law
7 enforcement for any potential comparison, correct?

8 A That's correct.

9 Q And the damage number one caused was what?

10 A It fractured the first thoracic vertebra, which
11 is a spine bone.

12 Q Would one be able to live after receiving just
13 that bullet for a little bit?

14 A Sure.

15 Q Would they be able to make some sounds or maybe
16 speak?

17 A Sure.

18 Q Let's go on to number two, Doctor, gunshot
19 wound number two?

20 A Number two is located in the left back at a
21 distance of ten inches from the top of the head and
22 six inches to the left of midline. The wound is
23 somewhat elliptical measuring zero point three eight
24 by zero point three zero inch in greatest diameter.
25 There is a zero point zero eight abrasion border at

1 the eight o'clock position. Powder stippling is
2 found around the wound and is one point seven by one
3 point three inch in greatest diameter. The bullet
4 is found to enter at this site with subsequent
5 fracture of the underlying rib, laceration of the
6 left upper lung lobe and subsequently exits the left
7 anterior neck at a distance of nine inches from the
8 top of the head and one point eight inch to the left
9 of midline.

10 The exit wound is elliptical measuring zero
11 point six by zero point four inch. The edges are
12 lacerated. No projectiles recovered. The
13 approximate angles of trajectory are forward 70
14 degrees, to the right 20 degrees and upward 30
15 degrees.

16 Q What does elliptical mean, Doctor?

17 A Oval.

18 Q And on here, this particular one, powder
19 stippling is found around the wound?

20 A That's correct. That would be a close gunshot
21 wound.

22 Q Fracture of the underlying rib and laceration
23 of the left upper lung lobe, correct?

24 A That's correct.

25 Q Now, go on to -- and could a person live for a

1 short period of time after this?

2 A Yes.

3 Q Number three, Doctor?

4 A Gunshot wound number three is located on the
5 left back adjacent to the upper crease of the
6 axillary fold, which is the armpit. The wound is
7 nine point five inches from the top of the head and
8 seven point five inches to the left of midline. The
9 wound is elliptical measuring zero point three zero
10 by zero point two eight inch.

11 There is a zero point one inch abrasion border
12 at the eight o'clock position. An asymmetrical area
13 of soot deposition is identified. At the 12 o'clock
14 position, the soot extends out zero point six inch
15 from the wound. At the three o'clock position, the
16 soot extends out to zero point four inch from the
17 wound. At the three o'clock position, the soot
18 extends -- excuse me, I already said that -- at the
19 six o'clock position, the soot extends to a distance
20 of zero point seven inch. And at the nine o'clock
21 position, the soot extends out to one inch from the
22 wound.

23 The bullet is found to enter the body at this
24 site with subsequent fracture of the underlying rib,
25 laceration of the left upper lung lobe. The bullet

1 subsequently exits the left anterior chest at a
2 distance of 12 inches from the top of the head and
3 two point eight inches to the left of midline. The
4 exit wound is irregular with lacerated edges and is
5 zero point seven by zero point four two inch in
6 greatest diameter. No bullet is recovered. The
7 approximate angles of trajectory are forward 80
8 degrees, to the right 10 degrees and forward 20 --
9 excuse me -- upward 20 degrees.

10 Q You didn't recover this bullet?

11 A No.

12 Q Entry and exit?

13 A That's correct.

14 Q Just as number two was entry and exit, correct?

15 A That's correct.

16 Q And could one live for a short time after
17 receiving this gunshot wound?

18 A Sure.

19 Q And it's got on here that a soot -- the soot
20 deposition. Was this a close shot, too?

21 A It was closer than number two.

22 Q Closer to --

23 A This is one where gun was a fraction of an inch
24 away from the body when the trigger was pulled.

25 Q Go on and describe number four for us, Doctor?

1 **A** Number four is to the left back adjacent to the
2 axillary crease, which once again is the armpit.
3 The wound is elliptical measuring zero point three
4 zero by zero point two eight inch. There is a zero
5 point one four inch abrasion border at the seven
6 o'clock position. Soot extends out to zero point
7 four inch at the ten o'clock position. The bullet
8 is found to enter the body at this site with
9 subsequent laceration of the soft tissue along the
10 wound track.

11 The bullet subsequently exits the anterior neck
12 at the midline at a distance of ten inches from the
13 top of the head. The wound is remarkably slit-like.
14 The wound is zero point eight inch in greatest
15 diameter. No bullet is recovered. The approximate
16 angles of trajectory are forward 45 degrees, to the
17 right 45 degrees and upward 30 degrees.

18 **Q** And soot extends out to point four inch at the
19 ten o'clock position?

20 **A** That's correct.

21 **Q** Describe how close this shot would be?

22 **A** Once again, this -- the gun was within
23 fractions of an inch from the body when the trigger
24 was pulled.

25 **Q** That's a loose contact?

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1 A That's correct.

2 Q As well as loose contact for three?

3 A Yes.

4 Q Two is a close gunshot wound?

5 A That's correct.

6 Q And one was a -- more distant, correct?

7 A That's correct.

8 Q And, finally, number five which you designated,
9 I think, loose contact gunshot wound, please tell
10 the jury about that?

11 A Number five is to the left back adjacent to the
12 axillary fold, the arm pit again. The wound is
13 elliptical measuring zero point three zero by zero
14 point three two inch. There is a zero point zero
15 eight inch abrasion border at the eight o'clock
16 position. Only a minimal amount of soot is present
17 which may be overlap from the adjacent gunshot wound
18 number four.

19 The bullet is found to enter the body at this
20 site, lacerating the soft tissue along the wound
21 track. The left clavicle, or collarbone, is also
22 fractured secondary to the gunshot wound. The
23 bullet was recovered from beneath the skin of the
24 anterior chest.

25 The recovered bullet is a lead bullet with a

1 zero point 355 inch base. The approximate angles of
2 trajectory are forward 70 degrees, to the right 20
3 degrees and upward ten degrees.

4 Q As we stated earlier, that's a loose contact,
5 correct?

6 A That's correct.

7 Q Which is close?

8 A Close.

9 Q And the bullet's recovered from this gunshot
10 wound?

11 A That's correct.

12 Q And after all five of these gunshots, after a
13 body, in this case, Mr. Bernard Brennan's body, had
14 taken these, could one, based on your experience and
15 training, live for a short while to make sounds or
16 murmur?

17 A Yes.

18 Q How long do you think one could survive these
19 five --

20 A Minutes.

21 Q Minutes?

22 A Minutes. Mr. Brennan basically bled to death
23 as a result of the gunshot wounds to his back that
24 went through his lung. So depending on the bleeding
25 where he -- that would depend on how long he could

1 live and vocalize.

2 Q But for those minutes, he might be able to say
3 something?

4 A Yes.

5 Q You got marked next clothing. You had an
6 occasion, obviously, to examine, specifically, the
7 shirt in this case, correct?

8 A That's correct.

9 Q Tell the jury what you found there?

10 A Examination of the deceased's clothing is
11 remarkable for the presence of five holes in the
12 left back of the deceased's shirt corresponding to
13 gunshot wounds number one through five. A large
14 amount of soot is also identified around these
15 holes.

16 Q And looking at State's 10, that's basically,
17 what you're describing, the grayish area around his
18 shirt?

19 A That's correct.

20 Q You're familiar, as a forensic pathologist,
21 what does this appear to you to be on the seat?

22 A That's also soot on the back of the seat.

23 Q From the gun?

24 A Yes.

25 Q And looking at State's 18, Doctor, what does

1 this appear to you to be here, too?

2 **A** Soot also from the gun.

3 **Q** Now, with His Honor's permission, I'm going to
4 ask you to come down here, please.

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

6 (Witness leaves the witness stand.)

7 BY MR. MEADORS:

8 **Q** Do you recognize this?

9 **A** Yes, I do.

10 **Q** Is this a schematic drawing you prepared in
11 this case?

12 **A** That was prepared while I was in the autopsy
13 room. I didn't actually draw that.

14 **MR. MEADORS:** Your Honor, we want to now offer
15 State's 61, I believe, without objection.

16 **THE COURT:** Any objection, Mr. Mobley?

17 **MR. HART:** No objection, Your Honor.

18 **THE COURT:** Without objection, it's admitted.

19 (State's Exhibit Number 61, diagram,
20 admitted into evidence.)

21 BY MR. MEADORS:

22 **Q** You described five gunshot wounds and you,
23 again, grouped them your numbers one through five.
24 Show the jury, just start with number one here.

25 **A** Number one, left mid back here. This was not

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1 an exit wound. It was also not a distant -- it was
2 a distant gunshot wound.

3 Number two, the left back area here. This did
4 exit from the neck area right in here.

5 Number three also to the left back. You see
6 here, this was also an exit which came out here at
7 number three.

8 Number four, in the crease of the armpit, also
9 came out. Number four came out right here in the
10 midline of the neck.

11 And number five also near the axillary crease
12 here, that one did not exit. And the bullet was
13 recovered from beneath the skin of the mid anterior
14 chest here.

15 Bullet number one was distant. Number two was
16 close. Three, four and five were loose contact
17 gunshot wounds.

18 Q Based on your observation of Bernard's body and
19 the relationship of the gunshot wounds together, are
20 you able to group them in your opinion?

21 A Yes.

22 Q Explain that to the jury.

23 A Essentially what we have are three wounds here,
24 one, two and three. And, once again, the firing
25 doesn't indicate -- the numbering doesn't indicate

1 the firing sequence, but for the most part, these
2 were going forward.

3 Four and five appear to be from the side going
4 across the body. One actually exited from the
5 midline here to about a 45 degree angle. And this
6 one also exited -- I mean, was found beneath the
7 skin going from left to right.

8 So it appears that there are three here in the
9 back that are grouped together and different angle
10 of trajectories for number four and five.

11 Q Would that be consistent with getting shot
12 three times from behind and two from the side?

13 A Roughly, Yes.

14 Q And looking at State's 10, is that consistent
15 with State's 10?

16 A I think he appears to be leaning over in the
17 car. It would be very easy to fire at a close range
18 against the decedent's back. And, once again,
19 please note all of the soot around the deceased's
20 clothing, as well as the back.

21 Q And, Doctor, just for I.D., Your Honor, State's
22 60 for I.D. only, would you further show the jury,
23 again, if you can, on this, if you'll go through
24 your order, one, two, three, four, five?

25 A You want me to draw on it or just point them

1 out?

2 Q Just point them out.

3 A Number one, number two, three, four and five
4 (indicating).

5 Q And what you're saying, if you got shot back in
6 groups and Bernard was to fall over this way, then
7 the last two groupings would be consistent with the
8 side shot?

9 A Yes.

10 Q And all of them are close except one and that's
11 just maybe 16 to 18 inches?

12 A Approximately. It could be closer. It could
13 be further away.

14 Q You can have a seat back.

15 A (Witness resumes the witness stand.)

16 Q Doctor, I want to show you one final picture.

17 (State's Exhibit Number 62, autopsy
18 photograph, was marked for identification purposes.)

19 Q Doctor, showing you what's marked State's 62,
20 do you recognize this?

21 A Yes, I do.

22 Q Are those your hands?

23 A Yes, they are.

24 Q And does this depict the body of Bernard?

25 A Yes, it does.

1 Q And can you see all five gunshot wounds in this
2 picture?

3 A Yes, you can.

4 Q And up in here at the top, would that be what
5 you depicted as one?

6 A That's correct.

7 Q Two?

8 A Yeah.

9 Q Three, four, five?

10 A That's correct.

11 Q It looks like there's some dark...

12 A That's soot around the wound.

13 MR. MEADORS: Your Honor, I believe, without
14 objection... I've shown this to Mr. Hart.

15 MR. HART: No objection.

16 THE COURT: Without objection, it's admitted.

17 (State's Exhibit Number 62, autopsy
18 photograph, admitted into evidence.)

19 BY MR. MEADORS:

20 Q Just so -- maybe you can stand right there. If
21 you'll speak up so the court reporter can hear you.

22 This darkened area around here that's soot?

23 A Can I approach the jury, Your Honor?

24 THE COURT: Yes, sir.

25 (The witness leaves the witness stand.)

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1 **THE WITNESS:** Although all five gunshot wounds
2 are in this one picture, they're not all exactly
3 totally visible. This is number one up here. You
4 can see a little red mark.

5 But the ones that we're trying to demonstrate
6 here are this, this and this, three, four and five.
7 And you can see the black soot around the gunshot
8 wounds. Those are loose contact gunshot wounds.

9 And although not clearly depicted in this
10 particular photograph, this will be number two. And
11 that's the one that would have the salt and pepper
12 pattern around it, if we look at it closer, of the
13 unburned gun powder around it and that would be the
14 close gunshot wound.

15 BY MR. MEADORS:

16 **Q** But close, when you talk about -- when you say
17 close contact, point to me how close the gun would
18 be.

19 **MR. HART:** Objection, Your Honor. I think
20 they've demonstrated this at least twice already. I
21 think this is cumulative by now. He's demonstrated
22 on the board and with the diagram, Your Honor.

23 **THE COURT:** I don't think he's actually
24 demonstrated the distance. I'll let him do that.

25 BY MR. MEADORS:

1 **Q** Show on me how close the gun would have been to
2 get where those abrasions are in that picture or
3 that soot in the picture?

4 **A** The soot, something like this (indicating).
5 The muzzle of the gun just brushing the skin maybe
6 back another fraction of an inch.

7 **Q** And, Doctor, finally, you don't know if it was
8 one, two, three, four or five. It could have been
9 two, one, three, four, five, correct?

10 **A** That's correct.

11 **Q** Thank you.

12 **A** I also have bullet number five here that was
13 recovered.

14 **Q** Okay. Thank you. It's already in evidence.
15 This is number five you took out of Mr. Brennan's
16 body?

17 **A** Yes.

18 (Witness resumes the witness stand.)

19 **MR. MEADORS:** Beg the Court's indulgence.

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

21 (Pause.)

22 **MR. MEADORS:** Judge, that's all. Thank you
23 very much.

24 **THE COURT:** Thank you, Mr. Meadors.

25 Mr. Hart.

1 **MR. HART:** We have no questions for this
2 witness, Your Honor.

3 **THE COURT:** Thank you, Doctor. You may step
4 down. Thank you, sir.

5 **THE WITNESS:** Thank you, Judge Lloyd. It's a
6 pleasure.

7 **THE COURT:** Thank you, sir.

8 Any reason not to excuse Doctor Nichols?

9 **MR. MEADORS:** We'd so ask, please.

10 **MR. HART:** No objection, Your Honor.

11 **THE COURT:** Doctor, you're free to come and go
12 as you please. Thank you, sir.

13 **MR. MEADORS:** Beg the Court's indulgence.

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

15 (Pause.)

16 **MR. LUPTON:** Your Honor, at this time, the
17 State rests.

18 **THE COURT:** Ladies and gentlemen of the jury,
19 I'm going to ask if you'll return to the jury room
20 very briefly. At this point of the case, there's
21 some matters I have to take up with the attorneys
22 outside of your presence. We're going to bring you
23 back out very shortly. I just ask that you not talk
24 about the evidence or the testimony and we'll see
25 you in a few minutes.

1 (The jury retires to the jury room.)

2 **THE COURT:** Mr. Mobley.

3 **MR. MOBLEY:** May it please the Court, Your
4 Honor. At this time, on behalf of the defendant,
5 the defense would move for a directed verdict of not
6 guilty on behalf of the defendant in this case.

7 I'm sorry. First, I want to make sure I renew
8 all of my prior objections in this case, Your Honor.
9 Next, Your Honor, I want to move for a directed
10 verdict of not guilty on behalf of the defendant on
11 the grounds that the State to the -- the evidence in
12 the light most favorable to the State is
13 insufficient to go to the jury on the charge of
14 murder and armed robbery, Your Honor.

15 **THE COURT:** Does the State wish to make any
16 response?

17 **MR. MOBLEY:** Specifically, Your Honor,
18 specifically on the armed robbery charge, Your
19 Honor, I believe the testimony from Ms. Bryant was
20 that the -- Mr. Brennan was actually shot and killed
21 and after he was shot and killed, items were taken
22 from him. And I would submit to the Court that, you
23 know, one of the elements of armed robbery, that
24 you've got to receive -- or the taking must take
25 place as a result of use of that deadly weapon or

1 could have used that deadly weapon.

2 But at the time the items are taken from Mr.
3 Brennan, according to the witnesses, the only
4 witness that was present, he was already dead. So I
5 think, based on that alone, it's insufficient
6 evidence of an armed robbery in this case and I
7 would ask for a directed verdict of not guilty on
8 that ground, Your Honor.

9 **THE COURT:** Well, obviously, the testimony from
10 Ms. Bryant was that he was shot at that point. She
11 may or may not have said, I can't really recall, as
12 to whether she thought he was dead obviously.
13 Doctor Nichols did testify that there was a
14 possibility that a victim could live for a short
15 time after those shots were applied so that makes it
16 an issue for the jury to weigh.

17 **MR. MOBLEY:** Thank you, Your Honor.

18 **MR. LUPTON:** And, Your Honor, briefly on that
19 topic, her testimony was that he was moaning and
20 asking why. So I think that would indicate that he
21 was alive and would make it a jury issue.

22 Additionally, there is clear case law that if
23 the killing is part of the robbery, all one
24 continuous course of events, that it still counts as
25 armed robbery even though you have murdered the

1 person first. So on both grounds --

2 **THE COURT:** It's enough to go to the jury.

3 Ms. Rice -- just so the record is clear, I
4 respectfully deny all of the motions as to all of
5 the grounds for the motion for a directed verdict.

6 Ms. Rice, if you will, please stand, ma'am.
7 Ma'am, I'm going to go over a few things with you.
8 At this point in the case, the State has rested
9 their case against you. At this point, obviously,
10 you have a right not to do anything else in this
11 trial; do you understand that?

12 **Defendant RICE:** Yes, sir.

13 **THE COURT:** That's because the State carries
14 the burden of proving to the jury beyond a
15 reasonable doubt that you're, in fact, guilty of
16 these charges; do you understand that?

17 **Defendant RICE:** Yes, sir.

18 **THE COURT:** You don't have to convince the jury
19 you're not guilty; do you understand?

20 **Defendant RICE:** Yes, sir.

21 **THE COURT:** That means, ma'am, you don't have
22 to put up any evidence or testimony of any kind at
23 this point; do you understand that?

24 **Defendant RICE:** Yes, sir.

25 **THE COURT:** You, obviously, have a right to

1 offer witnesses and evidence at this point in the
2 case; do you understand that?

3 **Defendant RICE:** Yes, sir.

4 **THE COURT:** As a part of all that, ma'am, you
5 have a right to either testify on your own behalf in
6 front of this jury or choose not to; do you
7 understand that?

8 **Defendant RICE:** Yes, sir.

9 **THE COURT:** If you choose to testify, you've
10 sat here, you understand you can take the witness
11 stand and tell your story on direct examination, but
12 the State would get a chance to cross-examine you;
13 do you understand that?

14 **Defendant RICE:** Yes, sir.

15 **THE COURT:** I can't remember if we really
16 resolved any issues about a prior record or
17 anything, but there may or may not be some issues
18 that we have to take up as to an admissible, prior
19 record on your part; do you understand that?

20 **Defendant RICE:** Yes, sir.

21 **THE COURT:** And if the Court would have ruled
22 that certain issues in your record, and I'm telling
23 you, at this point, I don't even know if you have a
24 prior record, that the Court would hear those
25 matters and, as a matter of law, under our rules, if

1 anything is admissible, the State would be allowed
2 to inquire about that; do you understand?

3 **Defendant RICE:** Yes, sir.

4 **THE COURT:** And you, obviously, also have a
5 constitutional right to remain silent. Under our
6 constitution, ma'am, that means that nobody can
7 compel you to take the witness stand; do you
8 understand that?

9 **Defendant RICE:** Yes, sir.

10 **THE COURT:** If you do choose to exercise that
11 right, I'll instruct the jury, at the close of the
12 case when I give them the instructions, that under
13 their oath as jurors in this case, they are
14 instructed not to hold any silence against you; do
15 you understand that?

16 **Defendant RICE:** Yes, sir.

17 **THE COURT:** In fact, it would be a violation of
18 their oath to even discuss the fact that you did not
19 testify; do you understand that?

20 **Defendant RICE:** Yes, sir.

21 **THE COURT:** Ultimately, ma'am, the only thing
22 the Court can do is tell you to consult with your
23 counsel as to whether you wish to offer any evidence
24 or testimony, including your own testimony at this
25 point in the case; do you understand that?

1 **Defendant RICE:** Yes, sir.

2 **THE COURT:** But, ultimately, the decision as to
3 whether to testify or not testify is yours and yours
4 alone; do you understand that?

5 **Defendant RICE:** Yes, sir.

6 **THE COURT:** Nobody can compel you or coerce you
7 to do one or the other; do you understand that?

8 **Defendant RICE:** Yes, sir.

9 **THE COURT:** Have you made a decision -- I'll
10 ask Mr. Mobley. Have y'all made a decision as to
11 the defendant testifying at this point?

12 **MR. MOBLEY:** Your Honor, after consultation
13 with my client, my client has indicated that she
14 will exercise her right not to testify.

15 **THE COURT:** Is that right, Ms. Rice?

16 **Defendant RICE:** Yes, sir.

17 **THE COURT:** And you haven't been coerced in any
18 way to exercise that?

19 **Defendant RICE:** No, sir.

20 **THE COURT:** You understand you do have a right
21 to testify if you chose to?

22 **Defendant RICE:** Yes, sir, I understand.

23 **THE COURT:** You've had an adequate opportunity
24 to discuss that with Mr. Mobley and Mr. Hart?

25 **Defendant RICE:** Yes, sir.

1 **THE COURT:** Any questions at all about your
2 rights to either testify or not testify or offer
3 anything at this point in the trial?

4 **Defendant RICE:** No, sir.

5 **THE COURT:** Thank you, ma'am.

6 **Defendant RICE:** Yes, sir. Thank you.

7 **THE COURT:** Thank you, Mr. Mobley. Mr. Mobley,
8 does the defense intend to call any witnesses?

9 **MR. MOBLEY:** Yes, we are, Your Honor. I would
10 just like a brief moment to confer with the attorney
11 of one of the witnesses.

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

13 (Pause.)

14 **THE COURT:** Mr. Mobley, what's the issue?

15 **MR. MEADORS:** Your Honor, may it please the
16 Court. Apparently, the next witness we have pending
17 charges on, Alicia Wilder.

18 **MR. MILLING:** Your Honor, my concern, and I've
19 expressed this to counsel in this case, she does
20 have pending charges. She is currently incarcerated
21 on those charges. Without her having to repeatedly
22 assert her Fifth Amendment Right against
23 self-incrimination, we wanted to try and resolve
24 some of these issues beforehand.

25 I think it's okay for them to ask her what

1 she's currently incarcerated on, but as far as
2 getting into the underlying facts and things like
3 that, I think that would be an improper line of
4 questioning here. And I've already counseled my
5 client as far as what I would submit to her would be
6 the appropriate response.

7 **THE COURT:** I'm not quite sure -- are any of
8 the underlying facts of her charges related to this
9 case?

10 **MR. MILLING:** Not that I'm aware of.

11 **MR. MOBLEY:** I certainly have no idea what they
12 are and wasn't planning on going into them.

13 **MR. MEADORS:** I wouldn't go into them.

14 **THE COURT:** I was going to say it sounds like
15 then there's no reason to even bring it up.

16 **MR. MOBLEY:** Just so we're clear, the other
17 witness, Ms. Quattlebaum, has counsel who I've
18 already contacted and it's fine, you know, with her
19 testifying because the same thing -- I wasn't
20 planning on -- I have no idea what she's charged
21 with and I wasn't planning on going into it.

22 **THE COURT:** Mr. Milling, I'm sure you know the
23 facts of that case, but is any of her pending
24 charges in any way related to this matter?

25 **MR. MILLING:** Not to my knowledge. I have not

1 heard any of the facts about this case. I just
2 found out that this case was scheduled for trial
3 about ten minutes ago. So I just don't know
4 anything about the underlying fact -- and that was
5 part of my concern. I'm not aware that they're
6 related at all. They're different types of charges.
7 And I think that my client is just going to be a
8 witness based on some testimony she heard while she
9 was incarcerated.

10 **MR. MOBLEY:** Correct, Your Honor. I'll tell
11 the Court, and I was explaining to them, you heard
12 me ask Iris Bryant on cross-examination whether she
13 made certain statements in front of certain
14 individuals, which she denied. Obviously, under
15 801, I'm allowed to impeach her with testimony
16 regarding those statements. And obviously, I mean,
17 nothing to do with her pending charges or they're
18 not in any way involved in this case.

19 **THE COURT:** Mr. Milling, you're welcome to sit
20 here. I mean, I'll tell both sides not to get into
21 her pending charges, which it sounds like there's no
22 reason to.

23 **MR. MILLING:** I wouldn't think so based on what
24 I've just been informed about the case. I just
25 wanted to make sure. And that was the first red

1 flag that went up when I found out she was being
2 called as a witness.

3 THE COURT: I'll be glad to tell her -- she
4 knows you're here?

5 MR. MILLING: Yes, sir.

6 THE COURT: That if she has any question at
7 all, and I have no problem explaining this to the
8 jury, if she's got any question as to whether she
9 can answer that without violating her rights on
10 these pending charges, then I'll let you confer with
11 her about that. That's not a problem at all. But
12 it sounds like they really don't have a need to get
13 into her pending matters.

14 MR. MILLING: Yes, sir. Thank you.

15 MR. MEADORS: Your Honor, the other issue,
16 well, whether it is an issue or not, apparently,
17 these two detainees are going to testify in response
18 to a question that Mr. Mobley asked Iris Bryant. I
19 don't know -- particularly like did you tell so and
20 so something, correct?

21 MR. MOBLEY: Correct.

22 MR. MEADORS: And these will be the witnesses
23 that come in, I guess, to say that Iris did say
24 that.

25 MR. MOBLEY: Correct. And I'm allowed to do

1 that clearly under laws of the state, the rules, and
2 the number of cases that were prosecuted in this
3 office, Bostic and Saltz, as well as Rule 801.

4 **MR. MEADORS:** Judge, I guess, a couple of
5 things. I don't know if it's a collateral matter or
6 not. He's trying to impeach, obviously, Iris isn't
7 on trial.

8 **MR. MOBLEY:** I would ask her -- one of the
9 witnesses, I would ask if she -- I'd ask Iris if she
10 had indicated or said to someone, I'll do you like I
11 did that man. And another witness, I'll ask her if
12 she indicated that it was not Carmen Rice that was
13 involved, but her cousin, Tiki. And Iris denied it.

14 **MR. MEADORS:** I guess my other objection is
15 just third-party guilt if we have any reasonable
16 basis to believe this. I just think it's somebody
17 throwing out a name for jail.

18 **THE COURT:** The first part about it, the
19 statement, I don't have as much of an issue about.
20 I think you can fairly get into that to impeach.
21 This issue about somebody else doing it, there don't
22 we have, Mr. Mobley, some third-party guilt issues?

23 **MR. MOBLEY:** Well, I think, a remedy there -- I
24 mean, I think what you're always trying to balance,
25 of course, is any inappropriate inference by the

1 jury along with the defendant's rights under the
2 confrontation clause to present a defense and I
3 understand that. I do think -- but, you know, under
4 the rules, once I've asked her that question and she
5 denied the statement, I'm allowed to impeach her
6 with evidence of that statement. I certainly would
7 think if the Court wants to give a limiting
8 instruction on that, you know, that's fine, but I
9 think, you know, once --

10 **THE COURT:** I don't know that there was really
11 a specific objection as to the question to her about
12 somebody else doing it. There may have been at the
13 time. But here's a little bit of the problem,
14 obviously, you're running into is that we cannot,
15 and I assume you're going to impeach her to offer to
16 the jury, well there's this other person out there
17 that supposedly did it.

18 **MR. MOBLEY:** No. Just so we're clear, Judge, I
19 don't have any problem, you know, agreeing -- I'm
20 not going to argue third-party guilt that this other
21 person did it. I mean, you know, I -- the bottom
22 line the law in this state is just kind of --

23 **THE COURT:** Well, a little bit of it -- it's
24 not just the argument, but to put in front of the
25 jury anything to raise that conjecture and

1 speculation is what the courts consider is improper.

2 **MR. MOBLEY:** And I understand the Court's
3 concern. I mean -- and, obviously, that's, you
4 know, that's not something I plan to argue. And I'm
5 indicating that the bottom line is that she said it
6 wasn't Carmen, it was this other person. And she
7 denies that statement. So, I mean, I don't plan to
8 argue third-party guilt. I'm just -- that's what I
9 can tell the Court, I don't plan to argue
10 third-party guilt.

11 **MR. MEADORS:** I think that kind of strengthens
12 my argument. He's just kind of throwing it out
13 there and I think it's got no substantial basis.

14 **THE COURT:** And that's the worry. It's not
15 just the issue of argument, it becomes the issue of
16 the introduction of it in front of the jury. And
17 that's -- the cases actually go to not arguing about
18 that kind of stuff, but the actual introduction of
19 that evidence, whether it's argued to them or not,
20 in order to stop the jury from going back there and
21 speculating or engaging in conjecture. What else
22 would that be offered for other than --

23 **MR. MOBLEY:** To impeach. I mean, that goes to
24 the degree of impeachment of a witness, Your Honor.
25 She denied making a statement. I just don't -- I

1 mean, I think I'm allowed to go into it, quite
2 frankly, under that rule.

3 **THE COURT:** Well, it's arguable that you
4 shouldn't have gone into it initially and that is
5 because the initial question to her as to whether or
6 not she told them that somebody else did it without
7 more, obviously you can meet the test, third-party
8 guilt, you can get into that, but unless you have
9 more there, it's arguable that you shouldn't have
10 asked her that the first time.

11 **MR. MOBLEY:** And that's where, I guess, I would
12 respectfully disagree with the Court. I mean, I was
13 asking to impeach the witness' testimony, that was
14 the only -- and, unfortunately, I think there is
15 that overlap issue the Court's concerned with,
16 that's just one of these things where sometimes
17 evidence, you know, kind of crosses over and then
18 blurs that line of a different category.

19 But, you know, I mean, you know, I'm pretty
20 certain, and I would respectfully submit to the
21 Court, that she has denied making the statement when
22 asked about it under oath, under Reeves, I'm allowed
23 to impeach her with evidence of that statement, Your
24 Honor.

25 **THE COURT:** Well, you can certainly impeach her

1 as to whether she -- the first statement, that one I
2 don't have a problem with. The problem I've got is
3 why are we bringing it up in front of the jury
4 whether or not she says somebody else did it?

5 **MR. MOBLEY:** Well, I mean, it's a prior
6 inconsistent statement, it goes to her credibility.

7 **THE COURT:** I mean, but that becomes -- I mean,
8 there are a lot of things that you can impeach
9 witnesses on that aren't even material, set aside
10 the relevance issue, but materiality becomes an
11 issue and all of those aren't fair game. The
12 question becomes what, as to these statements, about
13 a third person should even be in front of the jury?
14 Unless you have something else that satisfies the
15 third-party guilt issue, the standard there, why
16 should we be putting any of that in front of the
17 jury?

18 **MR. MOBLEY:** Well, I just think, you know, I'm
19 not, you know, just so we're clear, I'm not aware of
20 any authority that kind of makes that distinction
21 regarding the impeachment rule. And if there is, I
22 mean, I would certainly stand here -- I try to keep
23 up with those kind of --

24 **THE COURT:** I don't know that there's a case
25 directly on point of that or not. There is clearly

1 case law that deals with this issue of third-party
2 guilt and raising that in front of the jury. And
3 the courts have been clear about that, appellate
4 courts have been clear about that, that as part of a
5 defendant's defense, it is not proper to just raise
6 this, well somebody else could have done it, defense
7 in front of the jury unless you have a specific
8 chain of facts and circumstances to satisfy the
9 standards for third-party evidence, it shouldn't
10 even be in front of the jury.

11 MR. MOBLEY: I would concur with the Court on
12 that issue, but I would also add to the Court there
13 are clear cases that were prosecuted in this office,
14 two murders, State versus Bostic and State versus
15 Saltz, both came back and reversed on appeal because
16 the appellate courts and one from the Supreme Court,
17 I'm not sure if Bostic was Supreme Court or
18 appellate, but for the failure of the court to allow
19 the defendant to impeach a witness with a prior
20 inconsistent statement. And in both cases, both
21 convictions, the court held that that was reversible
22 error for the trial judge not to allow the counsel
23 to do that.

24 THE COURT: Well, impeachment on a prior,
25 material, relevant statement is true, you can

1 impeach a witness on that. Impeachment here is not
2 really being used for impeachment so much as it is
3 if put in front of the jury, didn't you say that
4 there's this other person out there?

5 **MR. MOBLEY:** Well, she said it was not Carmen
6 Rice, it was this other person. I mean -- and,
7 certainly, I think you would agree her saying it's
8 not Carmen Rice, that's not third-party guilt,
9 that's just saying it's not this person.

10 **MR. MEADORS:** I thought the first statement was
11 that it was Tiki. I thought she said --

12 **THE COURT:** This whole thing about Tiki or
13 whoever --

14 **MR. MOBLEY:** That was the entire statement.
15 The entire statement was that it wasn't Carmen Rice,
16 it was her cousin, Tiki. It was not Carmen Rice.

17 **MR. MEADORS:** And I guess our argument would be
18 you can't use impeachment rules to get around the
19 rules of third-party guilt. I mean, if that's true,
20 you can come and ask any witness and they can get
21 anybody to come in and say the other. I think
22 there's got to be a substantial basis for that too,
23 to specifically name the person at least.

24 **THE COURT:** Well, you know, I don't have a
25 problem with you asking her if she ever said that it

1 was not Carmen Rice possibly. I mean, it depends on
2 how you phrase that, but --

3 **MR. MOBLEY:** I mean, I don't understand how the
4 Court could have a problem with that. That's not
5 even third-party guilt. I mean, how could that not
6 be relevant material if she's saying it's not this
7 particular person? I mean --

8 **THE COURT:** I said necessarily depending on how
9 you phrase it, I don't have a problem with you
10 asking that. The problem is you're bringing up
11 somebody else's name in front of the jury and that
12 is specifically issues of third-party guilt and
13 there's no way around that. I mean, the only -- you
14 say you don't want to argue that, but if you put in
15 front of this jury, here's a witness, she's saying
16 it's Tiki or whoever else it is, that would not be
17 admissible. That would plainly not be admissible.

18 **MR. MOBLEY:** In itself I would agree with the
19 Court it would not be. And the distinction is under
20 the impeachment Rule 801.

21 **THE COURT:** Well, why can't you just ask the
22 witness did you ever tell so and so it wasn't
23 Carmen?

24 **MR. MOBLEY:** I mean, I can do that as well. I
25 would ask -- just so we'll be clear, I mean, I would

1 ask the question however the -- under whatever
2 limitation the Court tells me I need to do it. My
3 volition is I should be allowed to ask her the
4 entire question that, you know, whether or not Iris
5 Bryant told her that not only that Carmen didn't do
6 it, that this other person did it. And however the
7 Court rules, I will abide by that. But I just want
8 to make my position on the record clear as to my
9 desire to impeach a witness' entire statement and
10 there's been evidence of that.

11 **THE COURT:** I mean, it's probably something
12 that should have been dealt with when you asked the
13 initial question. But these inferences in front of
14 a jury about some third person and vague references
15 like that are specifically what's prohibited and
16 it's been ruled not to be a part of a defendant's
17 constitutional rights to maintain their innocence on
18 something as to point vaguely to some third person.
19 And, in fact, it becomes a matter of law as to
20 whether any of that should be introduced in front of
21 the jury. And I assume y'all have nothing more as
22 to this Tiki person other than the statement.

23 **MR. MOBLEY:** I'm sorry?

24 **THE COURT:** I assume there's no other evidence
25 related to her.

1 **MR. MOBLEY:** I mean, I was planning to offer to
2 impeach the witness and that's the extent of it,
3 Your Honor.

4 **THE COURT:** I'll let you ask her if she ever
5 made the statement that it wasn't her, but without
6 getting into this issue that it was somebody else
7 who did it.

8 **MR. MOBLEY:** And I just want to -- and I'm
9 going to make sure I abide by the Court's rulings.
10 Just to kind of clarify for the record, you know,
11 I'm asking the Court to allow me to -- through the
12 evidence of Ms. Wilder, to impeach the testimony of
13 Iris Bryant that she not only indicated that it was
14 not Carmen Rice, but this person Tiki and the Court
15 has advised me that I can only ask the witness if
16 Ms. -- if Iris Bryant ever said it was not Carmen
17 Rice that was with her. Is that a correct statement
18 of my limitation?

19 **THE COURT:** If the witness ever said that it
20 was not Carmen Rice.

21 **MR. MOBLEY:** If Iris Bryant said it was not
22 Carmen Rice.

23 **THE COURT:** Yeah, you can do that without
24 getting into another name, because your initial
25 question to her is actually not evidence anyway. So

1 the fact that you ask that question isn't even
2 introduced as evidence.

3 MR. MOBLEY: The answer was no, so it's not --
4 that's fine. I just wanted to make sure the record
5 was clear on what I was asking and what I'm allowed
6 to do, that's all.

7 THE COURT: I'll let you do that if --

8 MR. MOBLEY: And just so we're clear, I mean, I
9 believe I'm allowed to do that under State versus
10 Bostic.

11 THE COURT: You can impeach a witness and
12 that's not the issue. The issue is, is whether you
13 can bring up this third person who is not in front
14 of the jury other than in this vague way. And there
15 is, as I understand from defense counsel, no other
16 evidence creating a chain of circumstances in facts
17 that would indicate third-party guilt.

18 MR. MOBLEY: I just -- like I said, I just want
19 to make sure I articulate on the record that I
20 believe, under the opinions of State versus Saltz
21 and State versus Bostic, which I rely on Rule
22 801(d) (1) --

23 THE COURT: Neither of which were third-party
24 guilt cases.

25 MR. MOBLEY: Actually, in Saltz -- no. In

1 Saltz, I asked a witness whether or not he had
2 indicated to somebody else that he was present and
3 other people were involved in the beating and the
4 death of the victim. And Judge Williams indicated
5 -- and I was allowed --

6 **THE COURT:** That's when there are additional
7 people who are guilty, not third-party guilt.
8 That's a little bit of a difference, sounds like, to
9 me...

10 **MR. MOBLEY:** I just want to make sure I
11 articulate the rule for the record before I was
12 interrupted.

13 **THE COURT:** Third-party guilt is different
14 than, you know, there were a bunch of folks there.

15 **MR. MOBLEY:** I understand, Your Honor.

16 **THE COURT:** Including the defendant.

17 **MR. MOBLEY:** I'm relying on those two opinions,
18 Saltz and Bostic, in which I rely on 801(d)(1)(A),
19 prior inconsistent testimony or prior inconsistent
20 statement. Thank you, Your Honor. And I'll proceed
21 to cross-examination with that limitation, you know,
22 under the Court's direction with Ms. Wilder. And I
23 don't think there's an issue with regard to the
24 other witness' testimony.

25 **MR. MEADORS:** Just so I won't have to object

1 too much.

2 (Pause.)

3 **MR. MOBLEY:** I guess from the standpoint of Ms.
4 Frierson, let me check my notes to see what she's
5 supposed to say. Let's go ahead and deal with all
6 of that now.

7 **MR. LUPTON:** Also, Your Honor, we would ask
8 that prior to the testimony, that the witness be
9 instructed that they're not allowed to blurt out any
10 of the information that the Court has deemed
11 inadmissible so that they don't have an end run in
12 trying to help their friend.

13 **THE COURT:** We'll instruct her that she cannot
14 mention anything -- she's the one in holding; is
15 that right?

16 **MR. MOBLEY:** Correct.

17 **THE COURT:** All right. We'll bring her up
18 first and instruct her that she can't say anything
19 about --

20 **MR. MOBLEY:** We're going to have the same issue
21 with Ms. Frierson and then what I'll do is, subject
22 to my previous and same objection, I will put on the
23 record Ms. Frierson, who I guess we're not going to
24 have today; is that correct?

25 **THE COURT:** What's the issue with Ms. Frierson?

1 **MR. MOBLEY:** It's going to be the same as Ms.
2 Quattlebaum. And I just think what I'll do at the
3 appropriate time is make the same objection. She --

4 **THE COURT:** She's talking about Tiki, too?

5 **MR. MOBLEY:** Yeah. Carmen didn't do it, it was
6 Tiki. And, once again, when she -- we call her,
7 I'll make the same objection on the record
8 understanding about my limitations.

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

10 **MR. MOBLEY:** Thank you, Your Honor.

11 **THE COURT:** All right. So we're bringing up
12 Ms. Quattlebaum first? Mr. Mobley, who are you
13 calling first?

14 **MR. MOBLEY:** I'm sorry, Your Honor. We're
15 going to call Investigator Mincey to the stand.

16 **THE COURT:** Which witnesses do you intend to
17 call?

18 **MR. MOBLEY:** Gene Mincey, Alicia Wilder, Alana
19 Frierson and Quattlebaum.

20 **THE COURT:** Wilder?

21 **MR. MOBLEY:** We can do Wilder so Mr. Milling
22 can leave.

23 **THE COURT:** Wait a minute, I'm totally lost
24 now. Who is Wilder?

25 **MR. MOBLEY:** I'm sorry. Ms. Wilder is not on

1 the list. And I had indicated to Mr. Lupton
2 earlier, a couple of days ago, that that was an
3 oversight on my part and that, you know, and that we
4 can do the appropriate voir dire on that particular
5 witness, that I might need to add her to the list
6 and I indicated that to Mr. Lupton. I just --
7 that's the housekeeping matter I forgot to address
8 to the Court.

9 **THE COURT:** Who is Wilder?

10 **MR. MOBLEY:** She's an inmate in the detention
11 center.

12 **THE COURT:** So the next three witnesses we're
13 going to have to bring up from holding?

14 **MR. MOBLEY:** Only two are in holding. Ms.
15 Frierson is in the department of corrections. She's
16 actually not going to be here today. I didn't think
17 we were going to get that far today, that's why I
18 didn't ask them to bring her over.

19 **THE COURT:** Mr. Lupton, do you know anything
20 about Ms. Wilder?

21 **MR. LUPTON:** Your Honor, he just said he told
22 me, but prior to today, I don't recall that.

23 **MR. MOBLEY:** You remember I sent you an e-mail
24 at three o'clock in the morning, remember that?

25 **MR. MEADORS:** I remember you mentioned it

1 earlier in the week. I can't remember when you did
2 it, but you said you forgot to put it on the list.

3 MR. LUPTON: I recall that now, Your Honor.

4 THE COURT: All right. Well, what's Ms. Wilder
5 going to testify to?

6 MR. LUPTON: I wasn't here to read it.

7 MR. MOBLEY: Ms. Wilder?

8 MR. MEADORS: Certainly, we'd ask that if Your
9 Honor does let her testify, that she -- the jury ask
10 if anybody knows or are related since she wasn't --

11 MR. MOBLEY: And I don't have any problem with
12 that. Ms. Wilder is the witness that says, and I
13 presume will testify, that -- to impeach Iris Bryant
14 on the, Don't make me do you like I did that man
15 statement.

16 THE COURT: You've got three witnesses for
17 that?

18 MR. MOBLEY: I have one on, Don't make me do
19 you like I did that man.

20 THE COURT: Wilder, Quattlebaum -- well, for
21 impeachment of Ms. Bryant, Wilder, Quattlebaum and
22 Frierson?

23 MR. MOBLEY: Correct.

24 THE COURT: Which ones are here today?

25 MR. MOBLEY: Ms. Quattlebaum and Ms. Wilder.

1 **THE COURT:** All right. Well, I'll let you call
2 those then. I guess, we need to bring up Ms.
3 Quattlebaum first. She's Mr. Milling's client.

4 **MR. MILLING:** Actually, Your Honor, Ms. Wilder
5 is my client. I think they're both in custody.

6 **THE COURT:** Well, the deputies are going to
7 need to know who you need brought up first.

8 **MR. MOBLEY:** Wilder.

9 **THE COURT:** We'll bring her up and we'll go
10 through with the jury as to whether or not they know
11 her. Is she the one who also mentions Tiki?

12 **MR. MOBLEY:** No, that will be Quattlebaum.

13 (Pause.)

14 **MR. MEADORS:** Your Honor, while they're --
15 we're waiting, they're saying they're going to call
16 Mr. Mincey. On the third-party guilt line, I don't
17 know what they're going to ask Mr. Mincey about what
18 other folks told him and I certainly --

19 **MR. MOBLEY:** No, not at all. I don't plan on
20 doing that. The bottom line is, you know, Ms. Heidi
21 Feagin testified, she made an in-court
22 identification. There was some issue about, you
23 know, her photographic lineup identification, prior
24 experience. And Mr. Mincey showed her a photo
25 lineup with Iris Bryant and she pointed to two

1 people. She didn't make a positive identification.
2 She pointed to two different people and neither one
3 of them was Iris Bryant. That's it.

4 And, also, he impeaches Mr. Duke. Mr. Duke was
5 asked if he told Investigator Mincey his record
6 keeping was horrible, he said he didn't think he
7 said that and that's what Mr. Mincey documents in
8 his records that Chris Duke said the record keeping
9 at America's Best is horrible.

10 **MR. MEADORS:** Thank you.

11 (Pause.)

12 **THE COURT:** She's not going into Tiki; is that
13 right?

14 **MR. MOBLEY:** Based on the Court's ruling. Oh,
15 I'm sorry, this is...

16 **THE COURT:** She's not the one who raises that,
17 is it?

18 **MR. MOBLEY:** That is correct, Your Honor.

19 **THE COURT:** All right. We'll sit her down
20 there then and just wait to bring the jury in.

21 (The jury returns to the courtroom.)

22 **THE COURT:** Thank you, ladies and gentlemen.
23 You heard, ladies and gentlemen, before we took the
24 break, the State rested. And, at this point,
25 Mr. Mobley, anything from the defense?

1 **MR. MOBLEY:** Yes, Your Honor. The defense
2 would call Ms. Alicia Wilder to the witness stand.

3 **THE COURT:** Ms. Wilder, if you'll come around
4 to the bailiff, we'll get you sworn in.

5 Mr. Milling, you're free to sit up close if you
6 need to.

7 **MR. MILLING:** Thank you, Your Honor.

8 ALICIA WILDER,
9 having been duly sworn, testified as follows:

10 **THE CLERK:** Please have a seat, state your full
11 name for the record.

12 **THE COURT:** State your full name for the
13 record.

14 **THE WITNESS:** Alicia Wilder.

15 DIRECT EXAMINATION

16 BY MR. MOBLEY:

17 **Q** Good afternoon, Ms. Wilder.

18 **A** Good afternoon.

19 **Q** My name is John Mobley.

20 **A** Hello.

21 **Q** Have we ever met?

22 **A** No, sir.

23 **Q** Where are you residing right now?

24 **A** I don't know what that means.

25 **Q** You're in jail right now?

1 A Yes, sir.

2 Q Okay. At the Alvin S. Glenn Detention Center?

3 A Yes, sir.

4 Q Okay. And, obviously, you're there because you
5 have some kind of pending charges, correct?

6 A Yes, sir.

7 Q And you're in a housing unit for females,
8 correct?

9 A Yes, sir.

10 Q Okay. And a lot of females are in that unit?

11 A Yes, sir.

12 Q Okay. And do you know a lady by the name of
13 Iris Bryant?

14 A Yes, sir.

15 Q Okay. And you know Iris Bryant?

16 A Yes. I don't know her personally, but I know
17 her by the name and know her by seeing her in the
18 unit.

19 Q Okay. Is Carmen Rice also in that unit?

20 A Yes, sir.

21 Q What kind of relationship did you have with
22 Iris Bryant?

23 A None.

24 Q And what kind do you have with Carmen Rice?

25 A She's a good friend.

1 Q Okay. And about how long have you been in
2 jail?

3 A Sixteen months.

4 Q Okay. Do you recall being present with Iris
5 Bryant and Carmen Rice during a verbal altercation?

6 A Yes, sir.

7 Q And do you recall any statements that Iris
8 Bryant made?

9 A Yes, sir.

10 Q In that verbal altercation?

11 A Yes, sir.

12 Q Okay. And what did she say?

13 A She said numerous things, you know what I'm
14 saying, as far as when they want, you know what I'm
15 saying, she want to fight --

16 Q Okay. Let me specify. Did she make any
17 threats during that altercation?

18 A Yes, sir.

19 Q Can you recall any specific threat that she
20 made?

21 A Yes, sir.

22 Q Okay. And what was that threat?

23 A Don't make me do you like I did that man.

24 Q Okay. And Iris Bryant said that?

25 A Yes, sir.

1 Q Okay. Who did she say it to?

2 A To Carmen Rice.

3 Q Okay. So Carmen Rice didn't say that, Iris
4 Bryant said that?

5 A Yes, sir, Iris Bryant.

6 Q And this is Carmen Rice here?

7 A Yes, sir.

8 MR. MOBLEY: That's all I have from this
9 witness, Your Honor.

10 THE COURT: Thank you, sir.

11 Mr. Meadors.

12 CROSS-EXAMINATION

13 BY MR. MEADORS:

14 Q Hey, Ms. Wilder.

15 A Hello.

16 Q Are you in there on a bench warrant?

17 A Yes, sir.

18 Q And your pending charges are armed robbery?

19 A One of them are.

20 Q And when was this altercation?

21 A Which one?

22 Q The one you just testified about, when was it?

23 A I mean, I don't know the exact date.

24 Q And you said Carmen Rice is a good friend of
25 yours?

1 **A** Yeah.

2 **MR. MEADORS:** That's all.

3 **THE COURT:** Anything further, Mr. Mobley?

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

5 **THE COURT:** All right. Thank you, sir.

6 Thank you, Ms. Wilder. You may step down.

7 Thank you.

8 Mr. Mobley, any further witnesses?

9 **MR. MOBLEY:** Yes, Your Honor.

10 **MR. HART:** The defense would call Investigator
11 Mincey, Your Honor.

12 GENE MINCEY,

13 having been duly sworn, testified as follows:

14 **THE CLERK:** Please have a seat, state your full
15 name for the record.

16 DIRECT EXAMINATION

17 BY MR. HART:

18 **Q** Investigator Mincey, do you remember speaking
19 to Ms. Feagin, Heidi Feagin, on April 24th, 2003?

20 **A** I spoke to her a couple of times. I'm not sure
21 that was the date. I'll check it. What was the
22 date you said?

23 **Q** April 24th. Specifically, if you go to page 15
24 in your report, your investigative report.

25 **A** Okay.

1 Q And just for clarification, you took over this
2 case from Investigator Smith, right?

3 A Yes, sir, approximately, July, August of 2002.

4 Q You sort of served as a cochief investigator,
5 if you could say?

6 A Well, there was several of us working the case,
7 but I was assigned to the case, yes, sir.

8 Q But you did a tremendous amount of work on the
9 case?

10 A Yes, sir.

11 Q But on April 24th, you spoke to Ms. Feagin,
12 right?

13 A I did.

14 Q And, in fact, she testified about two days ago?

15 A Yes, sir.

16 Q She was the young lady who was the waitress at
17 Calloways, right?

18 A Yes, sir.

19 Q On April 24th, you showed her some photos of
20 some possible suspects, right?

21 A I did.

22 Q Okay. One of the suspects in that photo was
23 Iris Bryant, right?

24 A Yes, sir.

25 Q And let's just clarify for the jury, how long

1 have you been an investigator?

2 A Which -- with?

3 Q Richland County Sheriff's Department.

4 A All right. I've been with the sheriff's
5 department -- I retired back in 2001 with 16 years.
6 I had worked previous 17 years with the City of
7 Columbia. And in between, I had a couple -- about
8 four or five years working at a bank as a white
9 collar crime investigator with them. I've been with
10 the -- I've returned with the -- after I retired, I
11 stayed out eight months, came back and I've been
12 back about four years. I've been with the county
13 about 20 years.

14 Q Let's say you have extensive experience in the
15 police department?

16 A Yes, sir.

17 Q Okay. Let's talk a second about the actual,
18 when you show a witness a photo lineup, several
19 photos. Do you actually have the photo lineup that
20 you showed Ms. Feagin?

21 A I do not have it, no, sir.

22 Q The photos, can you describe for the jury how
23 you set your photos up?

24 A We have six photos on a photographic lineup.
25 And, in this case, I believe they were arranged long

1 ways to page one, two, three, four, five, six. One,
2 two and three on top and four, five, six on the
3 bottom.

4 Q And they were actually color photos that you
5 showed to Ms. Feagin, correct?

6 A Yes, sir, I believe they were color photos.

7 Q Now, it's a reason why you put six different
8 photos on the lineup, correct?

9 A Correct.

10 Q Explain that to the jury why you put more
11 than --

12 A Well, you just can't show them one picture
13 because it wouldn't be fair. And you -- we use six
14 photographs for a lineup so -- just like you
15 wouldn't put a -- if you were looking for a white
16 male, 30 years old, you wouldn't put that white
17 male's picture in there with five women, that
18 wouldn't be fair. So you've got to kind of get them
19 all of the same age and as close as you can without
20 getting them, you know, exactly looking just like
21 the suspect. So, in other words, you've got to be
22 fair with the photographic lineup.

23 Q And in the photos that you showed Ms. Feagin,
24 Iris was listed as photo number four, right?

25 A Yes, sir.

1 Q Okay. Ms. Feagin pointed to photo number one,
2 correct?

3 A Ms. Feagin pointed to photo number one stating,
4 This looked similar to her, but I'm not saying this
5 is she. Then she pointed to number three saying,
6 One of their heads was slim like this.

7 Q And the photo that Ms. Feagin pointed to, at
8 that particular time, that was not the correct
9 photo, was it?

10 A No, sir, neither one of -- one or three. Ms.
11 Bryant was number four.

12 Q And you would agree that the time that you
13 showed her this photo was much closer in time to the
14 actual crime than two days ago, right?

15 A Yes,, sir.

16 Q Now, you stated she told you she wasn't sure,
17 right?

18 A Who --

19 Q She wasn't sure about the photo that she
20 pointed to. She wasn't exactly sure?

21 A What she said was -- she pointed at number one
22 stating, This looks similar. She didn't say it was
23 her, she says it looked similar, which, to me,
24 that's nowhere near an I.D.

25 Q Okay. Now, after that, she then pointed to

GENE MINCEY - DIRECT BY MR. HART

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1 photo number three?

2 A Yes, sir.

3 Q Right? That also was not the right photo, was
4 it?

5 A No, sir.

6 Q Now, in your interview with Ms. Feagin, when
7 she described these two black females, she never
8 told you that one of the females was about five
9 eight and a half, right? She never described that
10 description to you?

11 A They had already taken a description from her,
12 the initial investigators that initially began
13 working this case. And I went over there -- it took
14 me a while to locate her because she had changed
15 jobs. And when I found her, I told her I needed to
16 show her a photographic lineup to see if she could
17 identify anybody in there that looked like either
18 one of the subjects involved in the robbery and the
19 murder. She didn't go into the description with me
20 I don't think.

21 Q Right. She never said to you specifically?

22 A No, because she had already -- she had already
23 gave a description, which is -- earlier to the other
24 officers, which is in the follow up.

25 Q And you heard her testimony on Tuesday. She

1 never told you -- in particular to you when you
2 interviewed her, she never told you that one of the
3 suspects were slightly taller than her, correct?

4 **A** I'm not sure if she told me that or not. If
5 she did, I didn't write it down.

6 **Q** Okay. And she never told you that one of the
7 suspects appeared younger than the other?

8 **A** I don't think she told me that one was slightly
9 taller than the other one because all you can see is
10 faces on the pictures.

11 **MR. HART:** Okay. Thank you, Investigator
12 Mincey.

13 **THE COURT:** Thank you, sir.

14 Mr. Meadors.

15 CROSS-EXAMINATION

16 BY MR. MEADORS:

17 **Q** Gene, what was your first job in the sheriff's
18 department or in law enforcement?

19 **A** I walked the beat with the Columbia Police
20 Department.

21 **Q** What year was that?

22 **A** In the 60's, '62.

23 **Q** And Mr. Hart asked you about if you had
24 occasion -- about Ms. Heidi, she did the composites,
25 right?

GENE MINCEY - CROSS BY MR. MEADORS

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1 **A** She did the composites, yes, sir, but that was
2 prior to me taking over the case.

3 **Q** That's right. And when Heidi saw the picture
4 of Iris Bryant, she wasn't able to pick out anybody,
5 right?

6 **A** No, sir, she wasn't.

7 **Q** Now, was Iris Bryant like sitting in the room?
8 Was it more of a physical lineup where she could
9 actually look at her?

10 **A** No, sir. It was a photograph.

11 **Q** And she never got to see Iris Bryant in person,
12 did she?

13 **A** No, sir. She saw a picture of just this
14 section (indicating), probably, of her head.

15 **Q** And you never showed her a picture of Carmen
16 Rice, did you?

17 **A** No, sir.

18 **Q** Were you in here the other day when she saw
19 Carmen Rice live and picked her out?

20 **A** Yes, sir.

21 **MR. MEADORS:** That's all.

22 **THE COURT:** Mr. Hart, anything further?

23 **MR. HART:** Nothing further, Your Honor.

24 **THE COURT:** Investigator Mincey, you may step
25 down. Thank you, sir.

1 Anything further from the defense?

2 MR. MOBLEY: Yes, Your Honor. This will be the
3 witness we discussed a short time ago.

4 THE COURT: Ms. Quattlebaum?

5 MR. HART: Yes.

6 THE COURT: What I'm going to do is allow you
7 and Mr. Mobley and Mr. Meadors to instruct the
8 witness as to the Court's instructions about her
9 testimony and then she'll be brought out.

10 Ladies and gentlemen of the jury, I just ask if
11 you'll bear with us a moment as we bring the next
12 witness out.

13 (Pause.)

14 MR. MOBLEY: All right. Thank you.

15 (Whereupon, a bench conference was held off
16 the record, in the presence of the jury, but out of
17 the hearing of the jury.)

18 THE COURT: Ms. Quattlebaum, if you'll come
19 around, we'll swear you in and let you take the
20 witness chair.

21 ALANA SHERAY QUATTLEBAUM,
22 having been duly sworn, testified as follows:

23 THE CLERK: Please have a seat, state your full
24 name for the record.

25 THE WITNESS: Alana Sheray (ph) Quattlebaum.

ALANA SHERAY QUATTLEBAUM - DIRECT BY MR. MOBLEY

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DIRECT EXAMINATION

1

2

BY MR. MOBLEY:

3

Q Good afternoon, Ms. Quattlebaum. My name is

4

John Mobley, ma'am. I'm the lawyer for Carmen Rice.

5

When was the first time you met me?

6

A Today.

7

Q About how long ago?

8

A Half a minute.

9

Q And where are you staying right now?

10

A I'm incarce -- I'm being detained at Alvin S.

11

Glenn Detention Center.

12

Q Okay. And you've got some pending charges

13

you're in jail for, correct?

14

A Yes, sir.

15

Q And is there a particular unit that women are

16

put in?

17

A Yes, there is.

18

Q X-ray I believe it is?

19

A Yes, it is.

20

Q Okay. And all the women are there, right?

21

A Yes, sir.

22

Q So how long have you been there in the X-ray

23

Unit at the jail?

24

A I've been there for five months now.

25

Q In the five months you've been there, did you

1 ever have an opportunity to meet or interact with
2 Carmen Rice?

3 **A** Yes, sir.

4 **Q** And did you ever have an opportunity to meet or
5 interact with Iris Bryant?

6 **A** Yes, sir.

7 **Q** Okay. How would you describe your relationship
8 with Carmen Rice?

9 **A** We don't have a relationship. I just -- both
10 of us are just -- are just there. I'm not her
11 friend. I'm not a relative or anything. I see her
12 and I speak to her, that's it.

13 **Q** Okay. How would you describe your relationship
14 with Iris Bryant?

15 **A** The same thing.

16 **Q** So do you have any particular bias to either
17 one over the other?

18 **A** No, sir.

19 **Q** Now, who are you rooming with?

20 **A** Now?

21 **Q** Yes.

22 **A** My roommate's name is Falanda Archie.

23 **Q** Did you have a previous roommate?

24 **A** Yes, sir, I did.

25 **Q** Who was that?

1 A Arletta Frierson.

2 Q And who was she?

3 A She was Iris Bryant's first cousin.

4 Q Okay. And because you were rooming with Iris
5 Bryant's cousin, did you have an opportunity to, I
6 guess, just interact with Iris sometimes?

7 A Yes, sir.

8 Q Okay. Was there a time when you were -- and
9 Iris's cousin, Arletta, were doing Iris' hair?

10 A Yes, sir.

11 Q Okay. Why don't you tell the jury about what
12 happened and any kind of conversation that took
13 place?

14 A I was doing Iris Bryant's hair in braids. And
15 her cousin, we call her Lee-Lee, her name is Arletta
16 Frierson, she asked Iris what happened. And Iris
17 said she didn't want to talk about it. And then
18 Arletta asked her again. She said, Well, what
19 Carmen -- what did Carmen do? She said she was
20 going to tell the truth that Carmen had nothing to
21 do with it.

22 Q Did you know what she was talking about?

23 A I didn't know that they were involved together,
24 that they were codefendants. I didn't know their
25 charges, but later on I found out. And then I asked

1 Carmen who was her lawyer.

2 Q Okay. So the time you heard the statement, you
3 had no idea they were codefendants or what the
4 charges were?

5 A No, sir.

6 Q So you really didn't know what Iris was even
7 talking about?

8 A No, sir, I didn't.

9 MR. MOBLEY: That's all from this witness, Your
10 Honor.

11 THE COURT: Thank you, sir.

12 Mr. Meadors.

13 CROSS-EXAMINATION

14 BY MR. MEADORS:

15 Q You talked with somebody else from Mr. Mobley's
16 firm?

17 A Yes, sir.

18 Q You did? So you have talked to somebody on the
19 defense team?

20 A Yes, about five minutes before.

21 Q Besides Mr. Mobley?

22 A Yes, sir.

23 Q Five minutes before what?

24 A Before I talked to Mr. Mobley.

25 Q Have you talked to anybody else prior to that?

ALANA SHERAY QUATTLEBAUM - CROSS BY MR. MEADORS

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1 **A** No, sir.

2 **Q** Now, tell me this much, you said Iris' cousin,
3 Ms. Frierson?

4 **A** Yes, sir.

5 **Q** And he asked you what's your relationship and
6 your answer was, Well, we're not friends, we're not
7 relatives. Why did you answer that why? Why didn't
8 you just say we don't have any relationship?

9 **A** Because we don't. I mean, it's the same thing.
10 We don't have any relationship. No, no -- we're not
11 relatives or anything, because we aren't.

12 **Q** And you said, I believe you volunteered that
13 Ms. Frierson is a relative of Ms. Bryant, correct?

14 **A** Yes.

15 **Q** And do you know that Ms. Frierson has a pending
16 warrant against -- or Ms. Bryant has a pending
17 warrant against Ms. Frierson for assault; do you
18 know that?

19 **A** No.

20 **Q** You didn't know that?

21 **A** No, sir, I didn't.

22 **Q** So they must not be too close?

23 **MR. MOBLEY:** Objection.

24 **THE WITNESS:** I don't know --

25 **THE COURT:** I'm sorry?

1 **MR. MOBLEY:** Objection. I mean, he can ask her
2 what she knew, but, I mean -- he can ask her about
3 -- more details about the nature of their
4 relationship, I think is certainly --

5 **THE COURT:** I'll let him rephrase the question.

6 BY MR. MEADORS:

7 **Q** What's your name?

8 **A** Alana Sheray Quattlebaum.

9 **Q** Isn't it true that Ms. Bryant's got a pending
10 warrant against you?

11 **A** Yes, it is.

12 **Q** For simple assault?

13 **A** She threatened my -- threatened me and my
14 family, yes, sir. I wanted to hurt her before she
15 hurt me.

16 **Q** And you're unbiased?

17 **A** What do you mean by that?

18 **MR. MEADORS:** Thank you. That's all.

19 **THE COURT:** Thank you.

20 Mr. Mobley, anything further?

21 REDIRECT EXAMINATION

22 BY MR. MOBLEY:

23 **Q** When did -- do you recall when Iris Bryant
24 filed that warrant against you?

25 **A** Yes. It was March 13th.

ALANA SHERAY QUATTLEBAUM - REDIRECT BY MR. MOBLEY

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1 Q Of what year?

2 A Of this year.

3 Q March 13th of 2005?

4 A Yes, sir.

5 MR. MOBLEY: John, please approach.

6 (Whereupon, a bench conference was held off
7 the record, in the presence of the jury, but out of
8 the hearing of the jury.)

9 BY MR. MOBLEY:

10 Q Ms. Quattlebaum?

11 A Yes, sir.

12 Q Mr. Meadors asked you about a simple assault,
13 an assault warrant that Iris Bryant has filed
14 against you, correct?

15 A Yes.

16 Q Okay. And I guess the implication would be
17 you're saying this to get back at Iris for filing
18 that assault warrant against you. I'm not asking if
19 you did. Let me ask you this, you said that was in
20 March of 2005?

21 A Yes, sir.

22 Q Okay. That's this year she filed that simple
23 assault warrant against you?

24 A Yes, sir.

25 Q Okay. And that was last month?

1 A Yes.

2 Q Okay. When you were in jail, did you write me
3 a letter?

4 A Yes, sir.

5 Q Okay. And in that letter you wrote me --

6 A Yes, sir.

7 Q -- did you say the exact same thing you just
8 said today?

9 A Yes, sir.

10 Q Okay. And I want to refresh your memory. I'm
11 showing you this. Do you recognize that document?

12 A Yes, sir.

13 Q Okay. And what's that document?

14 A This is a letter that I wrote to you stating
15 that -- what I heard Iris Bryant say.

16 Q Okay. And is this letter dated?

17 A Yes, sir, it is.

18 Q Who put that date on the letter?

19 A I did.

20 Q Okay. You wrote -- this is your handwriting?

21 A Yes, sir.

22 Q And this is your date you put on this letter?

23 A Yes, sir.

24 Q And why don't you tell the jury the date you
25 wrote me that letter?

ALANA SHERAY QUATTLEBAUM - RECROSS BY MR. MEADORS

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1 **A** January 14th, 2005.

2 **Q** So you wrote that letter two months before Iris
3 Bryant filed that assault warrant against you?

4 **A** Yes, sir.

5 **MR. MOBLEY:** That's all I have of this witness,
6 Your Honor.

7 **THE COURT:** Thank you, sir.

8 Mr. Meadors, anything further on recross?

9 **MR. MEADORS:** Just one question.

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

11 RECROSS-EXAMINATION

12 BY MR. MEADORS:

13 **Q** You've got a distribution of cocaine and a
14 distribution of cocaine and a PWID crack from '94.
15 convictions?

16 **A** 1994, yes, sir.

17 **Q** A forgery, '95 and '97?

18 **A** Yes, sir.

19 **Q** And some shopliftings in '98 and 2000?

20 **A** Yes, sir.

21 **Q** Now, just one more question. That letter was
22 written more than five minutes ago -- when was that
23 letter written?

24 **A** In January.

25 **Q** And that was the letter you wrote to

1 Mr. Mobley?

2 A Yes, sir, it is. It's postmarked, also.

3 MR. MEADORS: Thank you.

4 THE COURT: Ma'am, you may step down.

5 MR. MOBLEY: I just want to follow up.

6 THE COURT: It's direct, redirect, cross and
7 recross, unless there's something else. What's the
8 subject matter?

9 MR. MOBLEY: Just quickly --

10 THE COURT: Well, tell me what it is first.

11 MR. MOBLEY: Okay. I just wanted to just
12 confirm that, you know, I think Mr. -- I'll withdraw
13 the question. No questions.

14 THE COURT: All right. Ma'am, if you'll
15 accompany the deputy.

16 Anything further from the defense?

17 MR. MEADORS: Your Honor, if we can approach.

18 THE COURT: Yes, sir.

19 (Whereupon, a bench conference was held off
20 the record, in the presence of the jury, but out of
21 the hearing of the jury.)

22 THE COURT: Ladies and gentlemen, we're going
23 to take a short break. I'm going to let you all get
24 some snacks and stretch your legs. If you need to
25 smoke, you can do so. There's going to be a little

1 bit of a time to get the next witness here and we're
2 going to do that, but rather than having you all
3 hear testimony tomorrow, we're going to do it this
4 afternoon so that we can break as we normally would.
5 And then tomorrow, ladies and gentlemen, you would
6 hear arguments and then I'd charge you on the law
7 and you can begin your deliberations.

8 So if you'll bear with us shortly, we'll have
9 the next witness transported here. And that may
10 take a little while, so we'll have you some snacks.
11 And you smokers, you can take a smoke break and all
12 of that and stretch your legs. I think it stopped
13 raining outside, so you should be in good shape.
14 But if you'll bear with us shortly, just don't
15 discuss the evidence or testimony you've heard or
16 seen thus far and we'll see you very shortly.

17 (The jury retires to the jury room.)

18 **THE COURT:** We're going to stand down until the
19 witness is transported over here and then we'll
20 reconvene. Thank you.

21 (Brief Recess.)

22 **THE COURT:** Mr. Meadors, is the State ready to
23 proceed?

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

25 **THE COURT:** Mr. Mobley.

1 **MR. MOBLEY:** I want to make sure that I have
2 the same limiting discussion with this witness as I
3 did with Ms. Quattlebaum, Your Honor.

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

5 (Pause.)

6 **THE COURT:** Ms. Frierson, I'm sorry they
7 brought you over here, ma'am. You can go back.

8 (Pause.)

9 **THE COURT:** Mr. Mobley, I take it there's
10 nothing else for the defense?

11 **MR. MOBLEY:** No, Your Honor. We can rest on
12 the record when the jury comes back.

13 **THE COURT:** All right. I'll bring them back
14 in, let you rest on the record.

15 **MR. MOBLEY:** Thank you, Your Honor.

16 **THE COURT:** We'll bring the jury in then.

17 (The jury returns to the courtroom.)

18 **THE COURT:** Ladies and gentlemen, I apologize.
19 I know when we sent you out, we did so to finish all
20 of the evidence and testimony this afternoon without
21 bringing you back in the morning and finishing
22 testimony.

23 Mr. Mobley, anything further at this point from
24 the defense?

25 **MR. MOBLEY:** At this time, the defense would

1 rest, Your Honor.

2 **THE COURT:** Ladies and gentlemen, you all have
3 now heard all of the evidence and testimony you're
4 going to receive in this case. I'm going to let
5 y'all go home for the evening.

6 Tomorrow morning, ladies and gentlemen, what
7 you're going to hear is closing arguments from both
8 sides and then I'm going to charge you all on the
9 law that you're to apply to this case. At that
10 point, you'll be able to begin your deliberations.
11 As I said, you'll have all of the exhibits that have
12 been admitted into evidence in the jury room with
13 you at the point you begin your deliberations.

14 But for now, I'm going to let y'all go home,
15 enjoy a good meal and the rest of the evening and
16 we'll see y'all back here at nine o'clock in the
17 morning.

18 I did understand that there was a juror who had
19 a potential child care issue tomorrow. Yes, ma'am,
20 your name.

21 **JUROR:** Christine Wallace.

22 **THE COURT:** Ms. Wallace, is there going to be
23 an issue? Is there something you need to work out
24 tonight?

25 **JUROR:** It's going to take a two to three hour

1 drive, I'm going to take care of it.

2 **THE COURT:** Okay. If there's still an issue in
3 the morning, just let me know in the morning.

4 But y'all enjoy the evening. We'll see y'all
5 again in the morning at nine o'clock. Thank y'all.

6 (The jurors were excused for the day.)

7 **THE COURT:** Mr. Mobley, anything at this point?

8 **MR. MOBLEY:** I think a preliminary housekeeping
9 matter. I wasn't quite certain that the record
10 reflected that I moved Defense Exhibit Number 1 into
11 evidence. I'm assuming there's no objection. I
12 wanted to make sure I corrected that.

13 **THE COURT:** I've got Defense Exhibit Number 1
14 as having been moved in.

15 **MR. MOBLEY:** That's fine.

16 At this point, Your Honor, I would additionally
17 like to renew all previous objections in this
18 matter, Your Honor. I also want to renew my motion
19 for a directed verdict of not guilty on behalf of
20 the defendant in this case, Your Honor, on the
21 grounds of insufficiency of evidence.

22 **THE COURT:** For the same reasons stated
23 earlier, I respectfully deny the defense motions.

24 Counsel, I know y'all probably have a few
25 housekeeping matters. As we break, what I would

1 ask, if y'all could, in about five minutes or so,
2 stop by chambers and let's talk about charges. I
3 don't know if there's going to be any real issue
4 there, but let's have a little talk about charges
5 and we'll finalize those tonight and do arguments
6 tomorrow. Thank you, counsel, both sides.

7 (Whereupon, the proceedings were concluded
8 for April 7, 2005.)

9 (The following proceedings were held on
10 April 8, 2005.)

11 **THE COURT:** Counsel, before we get started, I
12 know we've got to get the defendant up here, I guess
13 we'll take up anything we need to on the record once
14 she gets here related to the charge and then we'll
15 bring the jury out.

16 **MR. MOBLEY:** There's a pretrial matter we can
17 take up, Your Honor. I've given a copy of Holmes to
18 Mr. Lupton.

19 **THE COURT:** Do you want to argue anything right
20 now?

21 **MR. MOBLEY:** This is an issue --

22 **THE COURT:** Do you want to wait on your client?

23 **MR. MOBLEY:** I don't think we need to do that.
24 I just want to protect the record on this. We
25 discussed -- the defense called Ms. Alicia Wilder to

1 the witness stand in order to impeach Iris Bryant's
2 testimony. The Court had, over my objection,
3 limited my direct examination significantly. And
4 just to reflect the record, there were two parts to
5 the witness' statement. The first part was that
6 Iris Bryant had stated that Carmen Rice was not
7 involved and the second part was that this person
8 Tiki was involved, her cousin, Tiki, was involved.
9 And the Court, after arguments from counsel, limited
10 my examination of the witness to exclude any
11 reference to the person Tiki on the grounds that
12 that was impermissible evidence to third-party guilt
13 and I objected at that time.

14 But what I have, Your Honor, is the case State
15 versus Holmes. And, basically, Your Honor, I mean,
16 one of the things it does is it restates the
17 elements that will tell -- the fact that the Court
18 can consider third-party guilt.

19 At the top, it states, The evidence offered by
20 accused as to a commission of the crime by another
21 person must be limited to such facts as are
22 inconsistent with his own guilt and to such facts as
23 to raise a reasonable inference or presumption as to
24 his own innocence. Obviously, evidence which can
25 have no other effect than to cast a bare suspicion

1 upon another or to raise a conjectural inference is
2 not admissible.

3 Your Honor, in this case, I think that was the
4 Court's concern, but this is more than an inference.
5 This is something else very specific regarding this
6 identity of another person that was not my client,
7 that was consistent with other facts and evidence.

8 In particular, Investigator Smith had testified
9 that there's this other person that was associated
10 with Iris and she identified as a friend of hers
11 called Tiki. And I think, in her earlier statement,
12 she referred to a Nikki that was involved in it.
13 And he indicated that when he reviewed the
14 photographs of this person Tiki and the person --
15 the defendant, Carmen Rice, they were remarkably
16 similar. So that was not just conjecture or
17 speculation or inference, that was very specific
18 and, quite frankly, consistent with other portions
19 of the evidence, Your Honor. And I think, based on
20 that -- and I know the Court has to balance that
21 along with all of the evidence, and I think in the
22 Holmes case, they talk about if there was
23 significant forensic evidence that corroborated the
24 victim's -- the defendant's identification, that
25 that would be something to be considered along with

1 the third-party guilt evidence.

2 However, there was none of that in this case,
3 Your Honor. It's all based -- it's primarily on
4 witness testimony and the whole issue is this
5 identity issue. And according to the witness, not
6 only did Ms. Bryant state that it was not the
7 defendant, Carmen Rice, but she specifically said
8 another individual, whose name is Tiki, who was
9 identified -- referenced arguably by her by this
10 Nikki statement in the first statement -- in the
11 first couple of statements and corroborated by
12 Investigator Smith when he met with her and she
13 indicated she was friends with a person named Tiki.
14 And he once again corroborated the identities -- or
15 the photographs looked remarkably similar.

16 So based on that, I would ask the Court allow
17 me to recall the witness and resume my
18 cross-examination consistent with my request before,
19 Your Honor.

20 **THE COURT:** Mr. Meadors or Mr. Lupton anything
21 further?

22 **MR. MEADORS:** Your Honor, there's no evidence
23 whatsoever that Tika or Tiki was involved in this
24 except, it's come in this record, except that one
25 phrase, Your Honor. We just don't think that's

1 enough. It's just you can say anybody's name. So
2 we do think Your Honor ruled correctly and we'd ask
3 that Your Honor's ruling stand.

4 **MR. LUPTON:** Your Honor, I'd also note that the
5 -- that State v. Holmes that Mr. Mobley presented
6 was one in which the Court found that third-party
7 guilt was not appropriate.

8 Also, Your Honor, and I apologize, I missed
9 some of Iris Bryant's testimony, I don't know how
10 much of the details of her prior statements came in,
11 I'm under the impression that none of the details
12 did come into the record, but regardless, there's no
13 -- even if those did, I don't think they did, but
14 even if they did, there's no indication that
15 those -- that the people are the same people.
16 There's no indication that that person is the same
17 person that supposedly meets the description. I
18 think there's a difference in the terms Nikki versus
19 Tika. I just don't think that there's anything
20 there.

21 **THE COURT:** In fact, Holmes was one of the
22 cases I was looking at as we were discussing that
23 issue. It just does not even come close to, I
24 think, the standard set forth not only in Holmes,
25 but obviously Holmes cited to a long line of cases

1 regarding third-party guilt, well-established cases.
2 And I just don't think that any of that comes close
3 to the standard for admissibility in front of the
4 jury.

5 And I think it does put somewhat the burden on
6 the defense to actually put forth more competent
7 evidence, not that you have an obligation to put
8 forth anything, but I think as to the issue of
9 third-party guilt, there is certainly some
10 obligation on the defense to actually put forth more
11 stringent evidence regarding that to allow its
12 admissibility.

13 But I'll note your objection for the record and
14 respectfully deny the motion to recall the witness
15 as to the impeachment issue.

16 **MR. MOBLEY:** Thank you, Your Honor.

17 **MR. LUPTON:** Your Honor, one last point on that
18 just for the record on appeal. I believe that he
19 was allowed to go into evidence that she was not
20 guilty of this. She was allowed to -- the defendant
21 was allowed to put into evidence, extrinsic
22 evidence, that Iris Bryant made statements clearing
23 her. I believe that she substantially got in what
24 she was trying to get in. The name of the other
25 person doesn't significantly change the nature of

1 the evidence. She has substantially achieved what
2 she has sought to achieve in any event.

3 **THE COURT:** Counsel, anything further as to the
4 issue of which we discussed in chambers regarding
5 the charge?

6 **MR. MOBLEY:** Yes, Your Honor.

7 (The defendant enters the courtroom.)

8 **MR. MOBLEY:** We discussed the issue of a hand
9 of one, hand of all charge. And I gather the Court
10 is inclined to charge that. I would object to a
11 hand of one, hand of all charge. I don't think
12 there's any evidence in the record to support that,
13 Your Honor.

14 The evidence -- the testimony of Iris Bryant
15 was that she was present and somehow involved and my
16 client, the defendant, Carmen Rice, was the shooter.
17 There was also impeachment testimony that Iris
18 Bryant made a statement -- or two different
19 statements, one, that Carmen was not involved, and,
20 two, that she said she would do you like I did that
21 man, the inference being that she was the shooter.

22 There was never any evidence that when Iris
23 Bryant may have been the shooter, that Carmen Rice
24 was involved. And I think when we talk about a jury
25 charge, that the courts have consistently held, it's

1 got to be facts in the record to support it, not
2 inferences, not statements or closing arguments by
3 lawyers or -- I mean, I can't get up here and argue
4 self-defense in opening and present no evidence of
5 it and then try to give a self-defense charge.

6 I think that the Court -- I understand the
7 Court has a concern about an inference the jury may
8 draw from the testimony, but an inference is
9 different, and I'm not conceding they will draw that
10 inference, but for the sake of explaining to the
11 Court, an inference is distinct from evidence and
12 testimony in the record. And there's no evidence or
13 testimony in the record to reflect that Iris Bryant
14 was the shooter and Carmen Rice was present and
15 involved in the robbery. And I think you would need
16 that to support the hand of one is the hand of all
17 charge. So I would object to that charge, Your
18 Honor.

19 **THE COURT:** As we discussed last night, you
20 don't believe that both Iris and Amber -- Iris
21 Bryant and Amber Byrd's testimony would support that
22 she was, in fact, there?

23 **MR. MOBLEY:** Not as -- only in the shooting
24 capacity, in which case the -- in which case the
25 hand of one, hand of all charge wouldn't be

1 necessary.

2 THE COURT: Well, the problem we keep coming
3 back to is the jury could disbelieve that she was,
4 in fact, the shooter and believe the part of the
5 testimony that she was there.

6 MR. MOBLEY: Well, I understand. And, you
7 know, I guess my first -- I want to make sure it's
8 clear that I object to that.

9 Second, Your Honor, if that is the case, then I
10 think the Court is also compelled to give an
11 accessory before the fact charge because the witness
12 also testified that she and Carmen Rice talked about
13 using some Visine to knock the defendant out and
14 they were going to rob him. They could believe,
15 arguably under the same argument, Your Honor, that
16 maybe Carmen Rice participated and planned on the
17 robbery, but wasn't present, in which case she would
18 be an accessory to armed robbery.

19 And I think they should then -- based on your
20 same rationale and based on that same inference,
21 then the defense would like you to charge on
22 accessory after -- accessory of armed robbery and
23 also a King charge which tells the jury that in the
24 event that they have a dispute, they've got to
25 resolve that doubt in favor of the lesser charge.

1 That's cut both ways, Your Honor.

2 THE COURT: We've had this argument in other
3 cases about this King charge. Mr. Lupton.

4 MR. LUPTON: Your Honor, I'd cite State versus
5 Slater, S-l-a-t-e-r, 360 SC 487. It was a Court of
6 Appeals opinion handed down by the Honorable Judge
7 Beatty.

8 Your Honor, it specifically related to
9 self-defense in that particular case, but the Court
10 of Appeals specifically held if there is any
11 evidence in the record to support the charge, it has
12 to be submitted to the jury. And in that case,
13 there was no direct evidence. That case dealt with
14 the question of whether or not there was evidence of
15 withdrawal from a conflict supporting application of
16 self-defense.

17 In that case, there was no evidence that the
18 defendant stated, I withdrew from the conflict. He
19 simply discussed leaving, you know, running away.
20 And the court inferred from that the jury could
21 conclude that he was withdrawing from the conflict.
22 And, specifically, there was a consent in that case.
23 And the majority states that mentally, as the
24 defense suggests, the attacker may have thought that
25 he was withdrawing simply to gain some tactical

1 advantage; however, attacks does not determine the
2 attacker's state of mind, rather, as instructed by
3 our Supreme Court, we're simply to -- we are to see
4 only whether any evidence in the record supports a
5 self-defense charge.

6 So I think that if there's any evidence from
7 which a jury could reasonably infer, in this case,
8 you've got the question of Amber Byrd discusses
9 dropping him off, the jury could believe that and
10 believe that both of them were present, could choose
11 to believe, whether reasonable or not, could choose
12 to believe the testimony that Iris Bryant did
13 suggest -- doesn't state that she was the shooter.

14 Again, Mr. Mobley is asking for the Court to
15 draw an inference in his favor at that point, but
16 asking -- telling the Court that he cannot draw an
17 inference in another area. I would just argue that
18 if the Court is able to draw an inference in his
19 favor, the Court is bound to draw an inference in
20 the State's favor as well.

21 **MR. MOBLEY:** And just so we're clear, I'm not
22 asking the Court to draw an inference from the
23 standpoint of the hand of one, the hand of all
24 charge. I just don't think it's relevant. I mean,
25 I don't think it's an appropriate charge.

1 What I'm saying is if the Court's going to take
2 that rationale to justify that charge, then you've
3 got to take it both ways not also in favor of the
4 defendant, Your Honor, not just in the favor of
5 increasing the chances of a conviction, but also
6 you've got to give the jury an opportunity to
7 convict her of a lesser charge if you're going to
8 use an inference to justify an additional charge,
9 Your Honor. That's all I'm saying.

10 And I think -- and just so we're clear, I
11 object to the hand of one, hand of all charge.
12 However, if you're going to use that rationale to
13 justify making that charge, I think the same
14 rationale has to be given to justify giving a charge
15 on accessory before the fact of armed robbery and
16 the King charge which instructs them to resolve any
17 reasonable doubt in favor of the lesser offense,
18 Your Honor. I don't think you can have it -- not
19 have it both ways.

20 **THE COURT:** Well, it's -- obviously, the hand
21 of one charge is not a separate offense, it is a
22 theory of liability. And my concern is, is that
23 under the testimony, there is an opportunity for the
24 jury, if the jury believes what the defense put on,
25 that Iris Byrd -- Bryant rather, was, in fact, the

1 shooter, but believes the other testimony that Ms.
2 Rice was there participating in the crime, I've got
3 to charge hand of one.

4 **MR. MOBLEY:** I understand that. But, once
5 again, I think if you're concerned with the evidence
6 being inferred one way, you've got to be
7 concerned --

8 **THE COURT:** It's not an issue of preferring it
9 one way or an inference from one way. It is simply
10 the jury could discount, could choose to disbelieve
11 any part of it, not in terms of talking about
12 inferences or anything like that, but disbelieve the
13 part of the testimony that says Carmen Rice was the
14 shooter based on what the defense has put up. If
15 that's the case, then the evidence left has her
16 still, if the jury believes it, they're
17 participating in the robbery, as well as the -- they
18 find, under the facts and evidence, the murder as
19 well.

20 **MR. MOBLEY:** And I understand, but I guess,
21 once again, by the same rational, the jury could
22 believe the testimony that Carmen Rice was not
23 involved, yet believe that she somehow participated
24 in the planning of an armed robbery.

25 **THE COURT:** Well, doesn't that stick her still

1 with hand of one, hand of all?

2 **MR. MOBLEY:** Well, you know, they could -- once
3 again, they could clearly find that she only, you
4 know, planned to and the only probable consequence
5 of what she was involved in was an armed robbery.

6 **THE COURT:** Well, under hand of one, hand of
7 all, they would acquit her on the murder.

8 **MR. MOBLEY:** Correct.

9 **THE COURT:** And I think under that instruction,
10 they would have to acquit her.

11 **MR. MOBLEY:** Of the murder. Well, once again,
12 Your Honor, I think, you know, I would ask for that
13 charge if you're going to charge hand of one, hand
14 of all.

15 **MR. MEADORS:** Your Honor, there's no evidence
16 of accessory. The hand of one, hand of all, again,
17 is a way to explain in another theory, legal theory,
18 if you will, for how one can be convicted of murder.
19 I think it's totally separate from a whole different
20 charge to accessory.

21 **THE COURT:** I don't see any evidence regarding
22 accessory to charge, just accessory.

23 **MR. MOBLEY:** And just so we're -- we talk about
24 different things a jury could perceive or believe or
25 not believe. I mean, there was testimony that the

1 codefendant, Iris Bryant, stated that Carmen Rice,
2 the defendant, was not present. That Iris Bryant
3 also testified that Carmen Rice and she discussed
4 robbing some person and there was some plan whereby
5 they would put Visine in a drink.

6 Our belief, if they believe those two portions
7 of testimony, they could believe that perhaps Carmen
8 Rice took some conduct or some steps to assist or --
9 to assist a furtherance of Iris Bryant in committing
10 a robbery, but had no knowledge that some underlying
11 homicide might take place and just be an accessory
12 before the fact of armed robbery.

13 **THE COURT:** Under the hand of one charge,
14 though, about aiding and abetting and all of that,
15 not mere presence, they would acquit her on the
16 murder charge.

17 **MR. MOBLEY:** I understand that, Your Honor.

18 **THE COURT:** But under hand of one, hand of all,
19 she would still be guilty of the armed robbery
20 regardless.

21 **MR. MOBLEY:** Of the armed robbery not the
22 murder.

23 **THE COURT:** Right.

24 **MR. MOBLEY:** That's why I would ask that the
25 Court consider once again --

1 **THE COURT:** That's why I said I don't think
2 there's any evidence of accessory as to the armed
3 robbery. Under hand of one, hand of all, even under
4 your argument, the Court would still be obligated to
5 charge hand of one, hand of all as to the armed
6 robbery.

7 **MR. MOBLEY:** Well, just so we're clear, I mean,
8 I understand, but I'm asking if the Court charge
9 hand of one, hand of all, the Court also charge
10 accessory before the fact, Your Honor.

11 **THE COURT:** After looking at it last night, I'm
12 still convinced that I think it's a proper charge
13 under these facts and the testimony. I'm going to
14 charge hand of one, hand of all.

15 I don't see any facts or testimony to charge
16 any lesser included of accessory. You would be
17 entitled to that, Mr. Mobley, if you can explain to
18 me a little bit more as to how, under the evidence
19 and testimony that was presented, I can charge just
20 the accessory as a lesser included. I'm not quite
21 sure how I could do that.

22 **MR. MOBLEY:** And I'm just saying, once again,
23 if they believe those two portions of testimony that
24 she assisted her in committing a robbery and by
25 taking part in some of the planning and maybe

1 putting some Visine in the victim's drink, but that
2 was all she did to assist her in the robbery, but
3 the robbery took place and she was not a participant
4 in the actual robbery just an assistant during the
5 preparation of it and not present during the
6 commission of it, that would be the justification
7 for the accessory before the fact.

8 **THE COURT:** I'll certainly note your exception
9 to the charge both before and after I give the
10 charge. And you're not waiving it -- even if you
11 don't raise it again, I'll just note your exception
12 to the failure to charge accessory before the fact.

13 Anything else before we bring the jury out?

14 **MR. MOBLEY:** Nothing from the defense, Your
15 Honor.

16 **THE COURT:** All right. Counsel, we'll take a
17 quick second. As I explained to y'all yesterday, my
18 intention is that I know that the State is going to
19 open on the law. Mr. Mobley, you're going to have
20 your chance. And then Mr. Meadors will close.
21 There's a lot of evidence and testimony to cover.
22 I'm not going to cut y'all off so long as it's not
23 repetitive. But we'll try to take short breaks in
24 between each counsel's argument so that the jury's
25 not sitting there a long time. We'll stand down for

1 two minutes.

2 (Brief Recess.)

3 **THE COURT:** Counsel, let me take up one little
4 thing before we bring the jury out. There was,
5 obviously, testimony regarding some of the
6 witnesses' prior records, but there was also a
7 statement, I was thinking about it last night, made
8 by one of the witnesses that, in reference to the
9 defendant, she knew about the place, and I'm
10 assuming this was right, that they always smoked
11 dope over there or sold dope or something like that.

12 So I included in the charge just to mention to
13 the jury that they're not to consider that in any
14 way in ruling on these charges. I don't want to
15 highlight any testimony, but I do think I need to
16 point out to them that any bad acts by the defendant
17 only view as to weighing that credibility of that
18 particular witness and not to hold that against the
19 defendant.

20 **MR. MEADORS:** Thank you, Judge.

21 **MR. MOBLEY:** Thank you, Your Honor.

22 **THE COURT:** All right. We'll bring the jury
23 out.

24 (The jury enters the courtroom at 9:35 a.m.)

25 **THE COURT:** Thank you, ladies and gentlemen.

1 I'll advise you that we are ready to start. Ladies
2 and gentlemen, you all, yesterday at the close of
3 the day, heard all of the evidence and testimony
4 you're going to receive in this case. Let me
5 explain to you all that very shortly you're going to
6 hear closing arguments from counsel on both sides.

7 Let me just explain to you, time-wise, what I
8 plan to do. Obviously, ladies and gentlemen, you
9 all have been here all week and heard a lot of
10 evidence and testimony and I appreciate your
11 attentiveness throughout this process. You all have
12 been paying very close attention.

13 Because of the amount of evidence and
14 testimony, I'm not putting any time limits on
15 counsel to make arguments to you. Ladies and
16 gentlemen, ultimately, you all will make the
17 decision as to what the evidence and testimony
18 shows, but counsel will argue to you, during the
19 closing arguments, their view of the evidence and
20 testimony. It is not evidence, ladies and
21 gentlemen, just like I told you, the arguments and
22 questions from lawyers are not evidence. However,
23 it is a chance for them to recap the evidence and
24 testimony that was shown to you during the course of
25 the trial and argue that to you. Therefore, what

1 I'm going to do is, ladies and gentlemen, just
2 explain the procedure to you because of the way the
3 trial unfolded.

4 Under our rules, the State will open to you.
5 They will open on the law to you. What I intend to
6 do is take a short five minute break, let y'all
7 stretch your legs. Then, ladies and gentlemen, you
8 will hear from the defense. They will argue to you
9 during their portion of closing arguments and then,
10 ladies and gentlemen, I'll probably take another
11 short break. It's probably going to be a while at
12 that point to let y'all stretch your legs again.
13 And then, ladies and gentlemen, the State will come
14 back to you and argue the facts to you from their
15 view.

16 And so what I anticipate, ladies and gentlemen,
17 is that during one of those breaks, the clerk will
18 get your lunch orders. By the time we finish both
19 closing arguments and my instructions to you, it
20 should be about lunchtime anyway and we'll have your
21 lunch. You can eat while you begin your
22 deliberations.

23 So that's just to tell y'all a little bit about
24 what's coming this morning. I appreciate your
25 attention and patience with us.

1 Are we ready to start?

2 MR. LUPTON: Thank you, Your Honor.

3 THE COURT: Mr. Lupton, yes, sir.

4 MR. LUPTON: Good morning, ladies and
5 gentlemen. As the Judge told you, my job right now
6 is what's called the opening on the law. At the
7 close of the case, the Judge will charge you on the
8 law, but he is not allowed to talk about the facts
9 of this case. His job is to give you the law. My
10 job right now is to explain the law as it applies in
11 this case to the facts of this case. And after I'm
12 done, as the Judge told you, the lead lawyers for
13 both sides are going to come up and argue the
14 closing arguments.

15 I want to start off by talking about explaining
16 the State's burden of proof. This is a criminal
17 case. The State's burden of proof, we have to prove
18 that Carmen Rice is guilty beyond a reasonable
19 doubt.

20 Now, what does reasonable doubt mean? The
21 Supreme Court has struggled with defining that. The
22 Supreme Court has come up with several different
23 definitions. The most recent one that they've come
24 up with to explain beyond a reasonable doubt is
25 proof that leaves you firmly convinced of the

1 defendant's guilt. Proof that leaves you firmly
2 convinced of the defendant's guilt.

3 Now, there are other definitions, I'm sure
4 you'll hear some of them, but simply put, what your
5 job is in this case is go back to the jury room and
6 decide what you believe really happened in this
7 case. And if, after hearing all of the evidence and
8 the arguments and the charge on the law, if you go
9 back to the jury room and what you believe really
10 happened that Carmen Rice robbed and murdered
11 Bernard Brennan, then the State has met its burden
12 of proof and you should return a verdict of guilty.

13 Now, the next thing I want to talk about is
14 something called an accomplice liability. The term
15 in law about that is commonly called the concept of
16 the hand of one is the hand of all. What that means
17 is that if two or more people get together to commit
18 some crime, then each and every person who is acting
19 together is guilty of every act of every other
20 person. Regardless of whether they knew that act
21 was going to occur or they planned for that act to
22 occur, they're still guilty of all the acts of each
23 person.

24 Now, in this case, Iris Bryant is charged with
25 armed robbery and murder, as well as Carmen Rice.

1 She was present and knew what was going -- testified
2 she knew there was going to be a robbery. She is
3 guilty of murder and armed robbery even though she
4 did not pull the trigger. Under the law, if Iris
5 Bryant and Carmen Rice were acting together that
6 night, each of them is guilty of armed robbery and
7 murder regardless of which one of them pulled the
8 trigger.

9 Now, the next thing I want to talk about is the
10 concept of flight to avoid prosecution. The law
11 allows you to infer guilt from the defendant's
12 flight to avoid prosecution. There's evidence in
13 this case that the defendant, after Halloween, after
14 the composites came out in the paper, one of which,
15 there was testimony, resembled her, that she fled to
16 Florida. Sarah Dennis came in here and explained to
17 you how she had been trying to get Carmen Rice to
18 come to Florida with her since summer and that
19 suddenly after these composites come out, she wants
20 to go without any explanation. You can use that,
21 under the law of flight to avoid prosecution, you
22 can use that as evidence of guilt.

23 Additionally, another example of evidence of
24 flight to avoid prosecution in this case is
25 testimony that law enforcement officers with SLED

1 tried to get Carmen Rice to meet with them and she
2 refused, that she knew that they were on to her
3 about the gun that she hadn't turned in and that
4 after finding that out, she refused to meet with law
5 enforcement. You can use that and look at that as
6 to some evidence of guilt.

7 Now, what are they charged with? Murder and
8 armed robbery. What is murder and armed robbery?
9 The elements of murder simply put: The unlawful
10 killing of another with malice aforethought.

11 Now, there's certainly no dispute in this case
12 that the killing of Bernard Brennan was unlawful.

13 What's malice aforethought? The Judge will
14 give you the legal definition, but boiled down,
15 malice aforethought simply means that Carmen Rice
16 meant to kill Bernard Brennan or that she acted in
17 such complete disregard as to whether he died from
18 those wounds that she just didn't care.

19 Now, malice aforethought doesn't require any
20 great premeditation. It doesn't require that she
21 planned the murder at the same time as the armed
22 robbery. Malice can be formed the instant of the
23 murder. And malice can be inferred by you from the
24 use -- from her use of a deadly weapon in this case,
25 from her use of that Taurus .357 Magnum.