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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Anderson County

J. Cordell Maddox, Jr., Circuit Court Judge

Opinion No. 2015-UP-256 (S.C. Ct. App. filed 5/20/2015)

2012-GS-04-02002

THE STATE,

RESPONDENT,

V.

JOHN FITZGERALD KENNEDY,

PETITIONER

APPELLATE CASE NO. 2013-002621

APPENDIX

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

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

John Fitzgerald Kennedy, Appellant.

Appellate Case No. 2013-002621

Appeal From Anderson County
J. Cordell Maddox, Jr., Circuit Court Judge

Unpublished Opinion No. 2015-UP-256
Submitted April 1, 2015 – Filed May 20, 2015

AFFIRMED

Appellate Defender Robert M. Pachak, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy Attorney General John W. McIntosh, Senior Assistant Deputy Attorney General Donald J. Zelenka, and Assistant Attorney General Kaycie Smith Timmons, all of Columbia; and Solicitor Christina Theos Adams, of Anderson, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *State v. McEachern*, 399 S.C. 125, 135, 731 S.E.2d 604, 609 (Ct. App. 2012) ("In criminal cases, the appellate court sits to review errors of law only."); *State v. Traylor*, 360 S.C. 74, 84, 600 S.E.2d 523, 528 (2004) ("The introduction of a 'mug-shot' of a defendant is reversible error unless: (1) the [S]tate has a demonstrable need to introduce the photograph, (2) the photograph shown to the jury does not suggest the defendant has a criminal record, and (3) the photograph is not introduced in such a way as to draw attention to its origin or implication."); *id.* at 84 n.12, 600 S.E.2d at 528 n.12 ("[T]he rationale for this holding is that such photos are prejudicial because they imply a defendant's prior bad acts."); *id.* at 84, 600 S.E.2d at 528 (explaining that although our supreme court has "strongly admonish[ed] the [S]tate against utilization" of a defendant's mug shot at trial, when the introduction of a defendant's mug shot does not prejudice the defendant, the error is not reversible); *State v. Stephens*, 398 S.C. 314, 322, 728 S.E.2d 68, 72 (Ct. App. 2012) (affirming the trial court's admission of photos that showed the defendant's "head and neck against a blank background," contained "no identifying marks as to date, location, agency, or purpose of the photograph," and showed the defendant "wearing street clothes," finding "[t]he photographs . . . could have come from driver's licenses, employee identification badges, or other sources").

AFFIRMED.[1]

THOMAS, KONDUROS, and GEATHERS, JJ., concur.

---

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

JOHN FITZGERALD KENNEDY,

APPELLANT

APPELLATE CASE NO. 2013-002621

Appeal from Anderson County

J. Cordell Maddox, Jr., Circuit Court Judge

Opinion No. 2015-UP-256

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, petitioner petitions this Court for rehearing concerning the following point that may have been overlooked or misapprehended. Detective Bearden testified that she put together a photo lineup with petitioner in it. She explained that when she put together the display, she used a program called the "Mug Web" where you can put in a suspect's name, and you can pick a picture out of a lineup if they have been arrested before. (R. p. 208, l. 21- R. p.210, l. 19)

Defense counsel objected to the introduction of the photo lineup because it was obvious after Detective Bearden's testimony that the photos were mug shots of people who had been arrested before. This was prejudicial. This Court even cites State v. Traylon, 360 S.C. 74, 84, 600 S.E.2d 523, 528 (2004) for the proposition that the "introduction of a 'mug-shot' of a defendant is reversible error." There was no demonstrable need to introduce the photo lineup because the witness already knew who petitioner was since she lived near him. The photograph shown to the jury did suggest that petitioner had a criminal record because Detective Bearden told the jury he did. Defense counsel also objected to detective Bearden testimony in this regard and the trial court said he was protected for the record.

The petition for rehearing should be granted.

Respectfully submitted,

Robert M. Pachak
Appellate Defender

This 1st day of June, 2015.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOHN FITZGERALD KENNEDY,

APPELLANT

APPELLATE CASE NO. 2013-002621

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Kaycie S. Timmons, Esquire, this 1st day of June, 2015.

Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 1st day
of June, 2015.

(L.S.)
Notary Public for South Carolina

My Commission Expires: July. 3 2023.

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The South Carolina Court of Appeals

The State, Respondent,

v.

John Fitzgerald Kennedy, Appellant.

Appellate Case No. 2013-002621

ORDER

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

J.

J.

J.

JUN 24 2015

Columbia, South Carolina

FILED
June 24, 2015

cc: Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire
Robert M. Pachak, Esquire
Kaycie Smith Timmons, Esquire
John W. McIntosh, Esquire
Christina Theos Adams, Esquire

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOHN FITZGERALD KENNEDY,

APPELLANT

APPELLATE CASE NO. 2013-002621

RECORD ON APPEAL

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State of South Carolina

County of Anderson

In the Court of General Sessions

State of South Carolina,	)	
	)	
Plaintiff,	)	2012-GS-04-2002
	)	
-vs-	)	
	)	December 2 - 5, 2013
John Fitzgerald Kennedy,	)	
	)	
Defendant.	)	Transcript of Record
	)	

B E F O R E:

The Honorable J. Cordell Maddox, Judge

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

Catherine T. Huey, Esquire
Assistant Solicitor for 10th Judicial Circuit
Attorney for the State

Andrew Potter, Esquire
Attorney for the Defendant

Renee H. Tollison
Circuit Court Reporter

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Juror#	Name	Race	Sex	Strikes Crt	Strikes Pl	Strikes Def.	Accept
134	Paul A. Todd	W	M		X		
15	Grace J. Bobo	W	F				X
135	Susan C. Vaughn	W	F				X
94	Kyle R. Merritt	W	M			X	
122	Melissa l. Sanders	W	F			X	
92	Joyce A. McIntosh	B	F				X
37	Lori A. Davis	W	F				X
105	Zachary R. Odell	W	M		X		
8	Nancy J. Bear	W	F			X	
120	Gabriel E. Royster	W	M			X	
47	Holly M. Gambrell	W	F				X
148	Ann Marie Wirfs	W	F			X	
50	Roy Gilbert	B	M		X		
68	Tonya M. Jones	W	F			X	
23	Anthony B. Calderone	W	M				X
147	Laquetta A. Winfield	B	F				X
112	Rachel A. Ramsey	W	F			X	
116	Melinda H. Richey	W	F			X	
100	Richard R. Mullins	W	M			X	
63	Brandon K. Jackson	W	M				X
2	Vicki I. Anderson	W	F			X	
24	Becky F. Campbell	W	F				X
60	Davison H. Hughes	W	M				X
38	Christopher T. Dean	W	M				X
46	Cheryl A. Froman	W	F				X
102	Linda S. Nations	W	F			X	
117	Connest F. Roberts	B	F		X		
5	Randell G. Atkins	W	M			X	
34	David L. Crowe	W	M				X

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for **Defense**.

December 2, 2013

(WHEREUPON, State's Exhibit Number 1 was marked for identification.)

(WHEREUPON, court convened with all parties present, and the following proceedings were had commencing at approximately 10:12 a.m.)

THE COURT: Okay. Are you ready to call your case?

MS. HUEY: Yes, sir, Your Honor.

THE COURT: Yes, ma'am.

MS. HUEY: Your Honor, the State calls the State versus John Fitzgerald Kennedy charged with murder, 2012-GS-04-2002.

THE COURT: All right. Ladies and gentlemen, we're getting ready to select the jury in the State versus John Fitzgerald Kennedy. It's an indictment for murder. I'm going to tell you if you're selected for a jury what I'm reading from. But I will tell you now that this is an indictment. In our court system, every case begins with an indictment. The Defendant in this case has pled not guilty which means that he is innocent until proven guilty. This indictment is literally just a piece of paper. You never consider an indictment as evidence. And if you're selected for the jury, you're going to hear me say that at least three times. But I do want to tell

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you that while it is an official document, it is merely an allegation at this point.

All right. Ladies and gentlemen, what I'm going to do first is I'm going to ask the lawyers to stand up, introduce themselves and any potential witnesses they have sitting at the table with them, and also the Defendant. I'm going to ask you to look very carefully because after they stand up, I'm going to ask you if you've ever been represented by these lawyers in the past, if you're a close personal friend or if you have any close business or personal relationship with either the lawyers, the Defendant, or any of the witnesses that may be at the stand -- at the table. Then I'm going to read a fairly long list of witnesses, and I'm going to ask you the same question.

So, yes, ma'am?

MS. HUEY: May it please the Court. My name is Catherine Huey. I'm an Assistant Solicitor here in Anderson County. At the table with me Brent Simpson and Stan Ashley of the Anderson County Sheriff's Office. And also Brantley Haigler with the Solicitor's Office as well.

THE COURT: Yes, sir?

MR. POTTER: May it please the Court. My name is Andrew Potter, Andy. I'm a member of the Anderson

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County Bar. This is Mr. John Kennedy who is my client. And seated with me also and will be with me all day is Ms. Kendra Gurley. She's my paralegal.

THE COURT: All right. Ladies and gentlemen, has anyone on the panel ever been represented or are you currently represented by either of the attorneys for the State or the Defendant? Or do you have any close business or personal relationship with the lawyers?

All right. Yes, ma'am, give us your name and number. Don't tell me too much.

THE JUROR: Chesa J. Campbell. I'm number 25. And I know Mr. Haigler and both detectives.

THE COURT: Okay. If you were selected for a jury, would your relationship with those parties create a problem for you?

THE JUROR: No, sir.

THE COURT: All right. Can you render a verdict in this case based only on the evidence that you hear in the courtroom and not let your relationship interfere with that duty?

THE JUROR: Yes, sir.

THE COURT: Okay. Okay. Thank you.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Can I approach real quick?

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THE COURT: Yeah.

MR. POTTER: Thank you.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: Ma'am, I don't mean to embarrass you at all, but where do you work?

THE JUROR: I work for Foothills Alliance Child Advocacy Center.

THE COURT: Okay. Because of that and because of the relationship, I'm going to let you go. It's not a problem -- and we all trust you -- but we don't want to create a problem.

THE JUROR: Thank you.

THE COURT: Thank you.

Yes, ma'am. Give us your name and number.

THE JUROR: Connest Roberts, juror number 107.

THE COURT: Okay. Yes, ma'am.

THE JUROR: I worked with the Defendant in late '80s, '85.

THE COURT: You worked with the Defendant in the '80s?

THE JUROR: Yes.

THE COURT: Would that relationship back then -- would that prevent you today from rendering a verdict based only on what you hear in the courtroom?

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THE JUROR: No.

THE COURT: And can you render a verdict and put that relationship aside?

THE JUROR: Yes. I haven't seen him since that.

THE COURT: All right. Thank you. That's the way to do it. We need to know it -- more is better.

Yes, ma'am?

THE JUROR: I'm Tonya Jones, juror number 68. I do know Detective Ashley, and I also went to high school with -- it was Townsend at the time.

THE COURT: Okay. All right. Would that fact prevent you from being fair and impartial in this case?

THE JUROR: No, sir.

THE COURT: And can you render a verdict based only on the evidence that you hear in the courtroom and put those relationships aside?

THE JUROR: Yes, sir.

THE COURT: Okay. Thank you.

All right. Now, I asked about the lawyers. Does anyone in this case know any of the witnesses that were introduced or the Defendant, or do you have any close business or personal relationship or you're related by blood or marriage to any of those parties?

(No response)

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THE COURT: All right. Ladies and gentlemen, I have to read you a list of witnesses. This is a list of potential witnesses in this case. I'm not saying that all of these people are going to testify, but they potentially could testify. After I read this list, I'm going to ask you the same question. Are you related by blood or marriage, or do you have any close business or personal relationship with any of these parties?

Brent Simpson with the Anderson County Sheriff's office; John Glenn, Anderson County Sheriff's Office; Chris Pridemore, Anderson County Sheriff's Office; Chris Wilson, Anderson County Sheriff's Office; Niki Gregory, Anderson County Sheriff's Office; Justin Richey, the Anderson County Sheriff's Office; McKindra Bearden with the Anderson County Sheriff's Office; Stan Ashley with the Anderson County Sheriff's Office; Brandon Dunn who used to work with the Anderson County Sheriff's Office. Kimberly King, James Evans, Margaret Conwell, Julie Moore, Ron Curry, Sharon Bowyer who works with Anderson County 9-1-1, Jan Johnson who works with MedShore, Heather Pressley, Rebecca Hanley, Nakie Davis, Todd Caron with the Anderson County Sheriff's Office, Amy Stephens with SLED, Betty Butler with SLED, Ashley Bell with SLED, Patricia Crooks with SLED, Courtney Smith with SLED, Nikki Hughes with SLED, Sheree Brown with SLED, Catherine

Leisy with SLED or Dr. Brett Woodard who is a forensic pathologist.

MS. HUEY: Judge, I'm sorry. There was a typo. It should be Josh Glenn with the Anderson County Sheriff's Office, number two.

THE COURT: Oh, okay. Instead of John Glenn, Josh Glenn. Thank you.

MS. HUEY: Yes, sir.

THE COURT: Does anyone on the panel have any close business or personal relationship with any of these witnesses, or are you related by blood or marriage to those witnesses?

Yes, ma'am?

THE JUROR: Brianna Shaver, number 125. I have a personal relationship with Joshua Glenn.

THE COURT: With who?

THE JUROR: Joshua Glenn. I also work closely Sharon Bowyer at the Anderson County Sheriff's Office.

THE COURT: Okay. In what capacity?

THE JUROR: I'm a 9-1-1 dispatcher.

THE COURT: Oh, you are?

THE JUROR: Uh-huh (affirmative).

THE COURT: Okay. Well, I'll let you go this week since we've got -- what was your number again?

THE JUROR: 125.

THE COURT: Okay. Thanks for all you do. 125 is excused because of her work.

Anyone else?

(No response)

THE COURT: Does anyone need me to repeat any of those names?

(No response)

THE COURT: All right. Ladies and gentlemen, is there any member of the panel or your immediate family or any close business or personal relationship, now or previously employed by any local, state or federal law enforcement agency or any governmental agency involving law enforcement or prosecution of crimes? If so, please stand.

Yes, ma'am. Give us your name and number?

THE JUROR: Anne Marie Wirfs. My father was a lieutenant in Washington, D.C.

THE COURT: How long ago was that?

THE JUROR: He passed away five years ago.

THE COURT: Okay.

THE JUROR: He retired.

THE COURT: Okay. Due to the fact that your father was involved with that, would that prevent you from being fair and impartial in this case?

THE JUROR: Would that prevent me? No.

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THE COURT: Okay. Can you render a verdict based only on the evidence that you hear in this courtroom?

THE JUROR: Yes.

THE COURT: Okay.

MADAM COURT REPORTER: I didn't get her name.

THE COURT: Give us your name and number again. I'm sorry.

THE JUROR: 148, Anne Marie Wirfs.

THE COURT: Okay. Thank you.

Yes, sir.

THE JUROR: I have a son-in-law who's a deputy sheriff in Lee County, Georgia.

THE COURT: Okay. Give us your name and number.

THE JUROR: 133, James Thurmond.

THE COURT: And your son-in-law?

THE JUROR: Yes.

THE COURT: All right. Will that fact prevent you from being fair and impartial in this case?

THE JUROR: No.

THE COURT: And can you render a verdict based only on the evidence that you hear in this courtroom?

THE JUROR: Yes.

THE COURT: Okay. Thank you, sir.

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Yes, sir?

THE JUROR: Anthony Calderone, number 23. My brother's a parole officer in Michigan.

THE COURT: Okay. Will that fact prevent you from being fair and impartial in this case?

THE JUROR: No, sir.

THE COURT: And can you render a verdict based only on the evidence that you hear in this case?

THE JUROR: Yes, sir. I also have two brother-in-laws who are -- one's parole, one's probation. And my brother was a postal inspector for the United States Government.

THE COURT: Okay. But can you still render a verdict based only on the evidence ---

THE JUROR: Yes, sir.

THE COURT: --- that you hear in this courtroom?

THE JUROR: Yes, sir.

THE COURT: Thank you, sir.

Is there any member of the panel who contributes money to any organization that lobbies on behalf of an injured party's rights or for harsher punishment for offenders or any group that provides assistance to injured parties of assault, criminal sexual conduct, home invasion, burglary or any other offense, including South

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Carolina Law Enforcement Officer's Association, the South Carolina Trooper's Association, the Fraternal Order of Police or any other organization rendering assistance to law enforcement? If so, please stand.

THE JUROR: I have given to the troopers ---

THE COURT: Okay. Give us your name and number first.

THE JUROR: Vicki Anderson, number 2.

THE COURT: Okay. And you've given money to the South Carolina Troopers?

THE JUROR: Yes, but not lately.

THE COURT: Okay. Will that fact ---

THE JUROR: No, sir.

THE COURT: --- prevent you from being fair and impartial?

THE JUROR: No, sir.

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

Yes, sir?

THE JUROR: Anthony Calderone. My wife has donated to law enforcement in general, also to the fire department.

THE COURT: Okay. Can you still render a verdict based only on the evidence that you hear in the courtroom?

THE JUROR: Yes, sir.

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THE COURT: Thank you, sir.

Does any member of the panel, other than the two who have stood up, contribute money to or volunteer time to any injury party's assistance organization?

(No response)

THE COURT: I think I've asked five. Has any member of the panel or your immediate family ever been injured as a result of any crime? If so, please stand.

THE JUROR: Vicki Anderson, number 2.

THE COURT: Come up here and speak to me, if you would, off the record.

(WHEREUPON, the following was held on the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: What happened?

THE JUROR: My brother was twenty years old. He's deceased now. He died about a year ago. And he was beaten up by a gang of boys and had brain damage the rest of his life.

THE COURT: Okay.

THE JUROR: Forty-four years.

THE COURT: Would that prevent you from being fair and impartial?

THE JUROR: No, it wouldn't.

THE COURT: Okay. And You can render a verdict

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based only on the evidence you hear in the courtroom?

THE JUROR: Yes, sir.

THE COURT: Any questions?

THE JUROR: It's been a long time ago.

THE COURT: You said forty-seven years ago.

THE JUROR: About forty-five.

THE COURT: Okay. Thanks.

(WHEREUPON, the following was held on the record in open court.)

THE COURT: Has any other member of the panel been a victim or your close or immediate family been a victim of a crime, a violent crime? If so, please stand.

Yes, ma'am, come up here, if you would.

I'm trying to jump ahead so I don't have to come back down here. I know what's coming.

(WHEREUPON, the following was held on the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: Give us your name and number here?

THE JUROR: Carmen Agarenzo, juror 1.

THE COURT: Okay. Tell us what happened.

THE JUROR: My ex-husband tried to kill me.

THE COURT: Oh, okay. How long ago was that?

THE JUROR: Six years.

THE COURT: Okay.

THE JUROR: He's still in prison.
THE COURT: Oh, he's still in prison? So he was charged with it?
THE JUROR: Convicted of assault and battery with a deadly weapon.
THE COURT: Okay. Would that prevent you from being fair and impartial in this case?
THE JUROR: No.
THE COURT: Do you think you can render a verdict based only on the evidence that you hear in this courtroom and put that aside?
THE JUROR: Yes, sir.
THE COURT: Okay.
MR. POTTER: I'm sorry?
THE COURT: She said, yes. But her husband, her ex-husband, was convicted for assault and battery with a deadly weapon.
You were the injured party?
THE JUROR: (Nodded head up and down in the affirmative)
THE COURT: And that was six or seven years ago?
THE JUROR: Uh-huh (affirmative).
THE COURT: All right. You're sure that won't be a problem?

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THE JUROR: Uh-huh (affirmative).

THE COURT: Okay. Thank you.

(WHEREUPON, the following was held on the record in open court.)

MS. HUEY: Judge?

THE COURT: Oh, one more. Sorry.

(WHEREUPON, the following was held on the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: Yes, ma'am. Give us your name and number?

THE JUROR: Melinda Richey, number 116.

THE COURT: Okay. Yes, ma'am?

THE JUROR: I was a teller. I was held -- a gun pointed me and, you know, he wanted money back in '93 probably.

THE COURT: Where was that?

THE JUROR: Where? In Simpsonville.

THE COURT: Okay. Do you think that would create a problem for you this week?

THE JUROR: Uh-uh (negative).

THE COURT: Can you render a verdict based only on the evidence that you hear in this courtroom?

THE JUROR: Yes.

THE COURT: Put that aside?

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THE JUROR: Uh-huh (affirmative).

THE COURT: Okay. Thank you.

(WHEREUPON, the following was held on the record in open court.)

THE COURT: Come on up. Sorry about that.

(WHEREUPON, the following was held on the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: Give us your name and number.

THE JUROR: Susan McKee, 93.

THE COURT: Okay. Yes, ma'am?

THE JUROR: In 1982 my home was broke in. Does that count?

THE COURT: Well ---

THE JUROR: It won't bother me.

THE COURT: Okay. So you can render a verdict based only on the evidence that you hear in the courtroom?

THE JUROR: Yes.

THE COURT: Okay. No, you're good.

Her house was broken into in 1982, but it won't bother her.

(WHEREUPON, the following was held on the record in open court.)

THE COURT: Has any member of the jury panel

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ever witnessed a crime, a violent crime? If so, please, stand, other than those that have spoken.

All right. Yes, sir. Give us your name and number and just tell me briefly the crime.

THE JUROR: James Thurmond, 133. An assault.

THE COURT: How long ago was that?

THE JUROR: It's been seven, eight years.

THE COURT: Okay. And would that prevent you from being fair and impartial in this case?

THE JUROR: I don't think so.

THE COURT: And you can render a verdict based only on the evidence in this case?

THE JUROR: Yes, sir.

THE COURT: Thank you, sir.

Yes, sir?

THE JUROR: Anthony Calderon, number 23. Armed robbery.

THE COURT: How long ago?

THE JUROR: I was sixteen or fifteen, something like that.

THE COURT: Oh, okay. Can you still render a verdict based solely on the evidence that you have heard in this case?

THE JUROR: Yes, Your Honor.

THE COURT: Okay. Thank you, sir.

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Ladies and gentlemen, this case involves the testimony of police officers and agents of the government that work with the South Carolina Law Enforcement Division. Is there any person in the jury panel who feels that the fact that a member of law enforcement or SLED may testify, that testimony -- do you feel that that testimony would be given greater weight by you because they were law enforcement officers? In other words, is there anybody on the panel that tends to think that they would give law enforcement officers' testimony greater weight than other testimony? If so, please stand.

(No response)

THE COURT: I'm going to skip ten just because I think it's -- but I'll make your voir dire part of the record.

MR. POTTER: Thank you, Judge.

THE COURT: Has any member of the panel ever testified in court or at a trial, hearing or deposition in a criminal case? If so, please stand.

(No response)

THE COURT: Has any member of the panel ever had a particularly pleasant or unpleasant experience with a government agent or law enforcement officer? In other words, have you had something that -- an experience that caused you to question that government agency's

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truthfulness or veracity, or have you complained about it? If so, please stand. Okay.

THE JUROR: Your Honor, I'm not sure if this qualifies or ---

THE COURT: Well, I'd rather have more. That's why I took a minute to read it.

THE JUROR: Yeah.

THE COURT: Give us your name and number. I'm sorry, Mr. Calderone.

THE JUROR: Andy Calderone, 23. A while back I was pulled over for having an expired license tag. Come to find out, I contacted my wife. She told me, you know, we get the form, we pay it. She went to the Department of Motor Vehicles. They said, oh, there was something wrong in the paperwork and your car didn't show up properly on the screen, plus the car you traded in still belongs to you.

THE COURT: Oh.

THE JUROR: I asked the department if they could give us something to indicate that so I could then take it to the court in hopes of getting out of paying a fine. They said, oh, no, we're not allowed to do anything like that. And so that's what happened. I don't know if it qualifies, but ---

THE COURT: If you're the only one that had a

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bad problem with the Department of Motor Vehicles, I could stand up on that one. I'm still arguing with them. But would that prevent you from being fair and impartial?

THE JUROR: No.

THE COURT: Okay. Thank you, sir. That's why I sort of blanched at that question the way -- I understand why you want me to ask it. But the way it was written, we'd be here all day.

All right. Does anyone on this jury panel know anything about this case? The alleged occurrence was in Anderson County on March 30th of 2012. The victim's name was Claud Schaffer Scott. And that's all we know at this time. That's all I know. Does anyone know anything about this Defendant or this case in particular? If so, please stand.

(No response)

THE COURT: Does anyone know the victim or his family, Claud Schaffer Scott?

(No response)

THE COURT: Does anyone know any reason whatsoever that you feel that you would not be a proper juror in this case? Now's the time to speak. This is my last question. Does anyone have any reason to believe that they should not be selected for this jury? As I said, I'd rather know more than less.

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Yes, sir. Give us your name and number?

THE JUROR: James Thurmond, 133.

THE COURT: Yes, sir.

THE JUROR: Is the sentence on this possibly the death penalty?

THE COURT: No, sir.

Anyone else?

Anything from the State, additionally from the State?

MS. HUEY: No, sir, Your Honor.

THE COURT: From the Defense?

MR. POTTER: Nothing from the accused, Judge.

THE COURT: Hold on just a second.

Okay. Ladies and gentlemen, the way we're going to select this jury -- this is a little bit different than a civil case. If you've ever been up here and been selected for a jury in a civil case, you know that we give out a list of potential jurors. The parties then go through and they strike jurors.

In a criminal case, you'll actually have your name called out. I need you to bring all your belongings, stand up and come, just come through these doors here, turn around and stand. You need to understand that in this state the State and the Defense in each crime, alleged crime, have a certain number of strikes. In

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other words, they can strike you from the jury for any reason with the exception of religious, racial, gender. There are certain statutory and common-law reasons why they can't strike you. But if you're not within those, one of those exceptions, they can strike you because they like the kind of socks you wear. I mean, that's the bottom line as long as it's not a fundamental right that we have. So don't be offended if you're told to sit down. If you are selected, I'll just need you to move over to the jury box and have a seat.

Mr. Shirley ...

By the way, this morning -- I have no idea what Mr. Shirley tells you as jurors when I'm not in here. I can tell you this. It's probably not true. But other than that, I get little snippets from friends that he talks ugly about the judges.

THE CLERK: Not this morning, Your Honor.

THE COURT: Oh, he felt sorry for me this morning because I can't breathe or move my hand.

THE CLERK: Yes, sir.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Six, right?

THE COURT: Yeah. That's what y'all got?

MR. POTTER: Just wanted to be sure. Six.

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MS. HUEY: Six what?

MR. POTTER: Strikes.

THE COURT: I couldn't hear you. I'm sorry.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: Five and ten strikes for the record. Is that correct?

MS. HUEY: Yes, sir.

THE COURT: And then one and two strikes on the alternate.

While they're pulling that -- it takes a second -- one of the reasons that I try to keep as many jurors as possible is that in this state in a case like this, we have fifteen total strikes amongst the parties which means that if you want to select twelve jurors and one alternate, you're going to need close to thirty people to select from. And we were getting kind of close this morning. I just didn't want to get too close. And when we've got criminal masterminds like that guy running around -- I didn't want to leave him on. But when you've been caught for illegally cutting wood ...

(Laughter)

THE COURT: You know, there's all kind of -- while they're doing this, there's all kinds of Internet reasons to get out of jury service. I always get a kick

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out of them because you can tell who's read the Internet. And it's the same people that publish those reasons are the people that think that there was somebody on the grassy knoll. It doesn't help to stand up and tell the judge to take your pick, pick one of them. And it doesn't help to stand up and say, I don't like to do court or the judges. When I go to Publix I have somebody tell me -- for the last thirteen years, I've had somebody tell me they didn't like me. So heck, you got to get in line to do that.

THE CLERK: Your Honor, if it pleases the Court we're ready and prepared.

THE COURT: Yes, sir.

THE CLERK: When I call your name, as the Judge said, if you would please bring all your belongings with you, come and stand in front of me, and turn around and face the attorneys and the audience, please.

My first potential juror is number 134, Paul A. Todd.

What say you for the State?

MS. HUEY: Please excuse this juror.

THE CLERK: Have a seat.

Juror number 15, Grace J. Bobo. Right here, please, ma'am.

What say you for the State?

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MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Ms. Bobo.

THE CLERK: That way, please, ma'am.

THE COURT: Congratulations. You're our first.

THE CLERK: Juror 135, Susan C. Vaughn.

MR. POTTER: I'm sorry. What was that number again?

THE CLERK: 135.

MR. POTTER: Thank you.

THE CLERK: Right here, please, ma'am. Thank you.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: And what say you for the Defense?

MR. POTTER: Please swear Ms. Vaughn.

THE CLERK: That way, please, ma'am.

Juror number 94, Kyle R. Merritt. Right here, please, sir. Turn and face the others.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Mr. Vaughn.

THE CLERK: Have a seat, please, sir.

Juror 122, Melissa L. Sanders.

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What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Ms. Sanders.

THE CLERK: Thank you. Please have a seat.

Juror number 92, Joyce A. McIntosh. Right here, please, ma'am. Thank you so much.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Ms. McIntosh.

THE CLERK: To the jury box, please, ma'am.

Juror number 37, Lori A. Davis. Right here, please, ma'am. Thank you.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Ms. Davis.

THE CLERK: To the jury box, please, ma'am.

Juror 105, Zachary R. O'Dell. Right here, please, sir.

What say you for the State?

MS. HUEY: Please excuse this juror.

THE CLERK: Have a seat, Mr. O'Dell.

Juror number 8, Nancy J. Baird. Right here, please,

ma'am.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: And what say you for the Defense?

MR. POTTER: Please excuse Ms. Baird.

THE CLERK: Have a seat, Ms. Baird.

Juror number 120, Gabriel E. Royster. Right here, please, sir.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Mr. Royster from this trial.

THE CLERK: Have a seat, Mr. Royster. Thank you.

Juror number 47, Holly M. Gambrell. Right here, please, ma'am.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Ms. Gambrell.

THE CLERK: Have a seat, please.

Juror number 148, Anne Marie Wirfs. Right here, ma'am. Thank you.

THE JUROR: Uh-huh (affirmative).

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THE CLERK: What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Ms. Wirfs.

THE CLERK: Have a seat back in the audience, please, ma'am.

Juror number 50, Roy Gilbert -- Gibert.

THE JUROR: Gibert.

THE COURT: Gibert?

THE JUROR: Gibert.

THE CLERK: Sorry. Right here, please, sir.

What say you for the State?

MS. HUEY: Please excuse this juror.

THE CLERK: Have a seat, please, sir.

Juror number 68, Tonya M. Jones. Right here, please, ma'am. Thank you.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Ms. Jones.

THE CLERK: Juror number 23, Anthony B. Calderone. Right here, please, sir.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

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MR. POTTER: Please swear Mr. Calderon.

THE CLERK: Have a seat, please, sir.

Juror number 147, Laquetta A. Winfield. Right here, please, ma'am.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Ms. Winfield.

THE CLERK: Have a seat in the box, please.

Juror 112, Rachel A. Ramsey. Right here, please, ma'am.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Ms. Ramsey.

THE CLERK: Have a seat, please, ma'am.

Juror number 116, Melinda H. Richey. Right here, please, ma'am.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Ms. Richey.

THE CLERK: Juror number 100, Richard R. Mullins. Right here, please, sir.

What say you for the State?

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MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Mr. Mullins.

THE CLERK: I have that as the ninth strike for the Defense.

MR. POTTER: Yes, sir.

THE CLERK: Juror number 63, Brandon K. Jackson. Right here, please, sir.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear this juror.

THE CLERK: To the jury box, Mr. Jackson, please.

Juror number 2, Vicki I. Anderson. Right here, please, ma'am.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Ms. Anderson.

THE CLERK: Juror number 24, Peggy F. Campbell. Right here, please, ma'am.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: To the jury box, please, ma'am.

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MR. POTTER: Please swear Ms. Campbell.

THE CLERK: I am so sorry.

Juror number 60, Davison H. Hughes. Right here, please, sir.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear this juror.

THE CLERK: To the jury box, please, sir.

Juror 38, Christopher T. Dean. Right here, please, sir.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Mr. Dean.

THE CLERK: Juror 46, Sheryl A. Roman.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Ms. Roman.

THE CLERK: Take a seat in the jury box, please.

Your Honor, that's twelve.

THE COURT: All right. We'll select one alternate. You have one and two strikes.

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THE CLERK: Just keep going down the list?

THE COURT: Yes.

THE CLERK: Juror number 102, Linda S. Nations. What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Ms. Nations.

THE CLERK: Juror 117, Connest F. Roberts. Right here, please, ma'am.

What say you for the State?

MS. HUEY: Please excuse this juror.

THE CLERK: Have a seat, please, ma'am.

Juror number 5, Randall G. Atkins. Right here, please, sir.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please excuse Mr. Atkins.

THE CLERK: Juror number 34, David L. Crowe. Right here, please, sir.

What say you for the State?

MS. HUEY: Please present this juror.

THE CLERK: What say you for the Defense?

MR. POTTER: Please swear Mr. Crowe.

THE CLERK: If you'd go that way, please, sir.

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Your Honor, that is twelve jurors and an alternate.

THE COURT: Okay.

(WHEREUPON, Court's Exhibits 1 and 2 were marked for identification only.)

THE COURT: All right. Ladies and gentlemen, I'm going to send you back to the jury room right now with Buck. You'll be back there three or four minutes, then I'm going to bring you back in just for a few minutes after I excuse everybody. When you come back, Mr. Calderone, I'm making you foreman of this jury. You'll be the only person that has to sit in one spot and you'll sit right there where Ms. Roman is. And the rest of you just can find your own spot. You'll always sit right there as the alternate.

You're going to get tired of hearing me say this because I will literally say this every time you're in the courtroom. Do not talk about this case. When you go back there for this three or four minutes, you're just going to have a few minutes. I can promise you that during the course of this trial, there are going to be times when you're sitting back there for twenty or thirty minutes, maybe even longer. And I'll explain a little bit of that this afternoon. But you can never talk about this case until you've heard all the evidence in the case and until you've heard all the testimony and the lawyers

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and I have given you my charge on the law.

So that's the only real instruction I have now. Just go back and have a seat, introduce yourselves, and I'll bring you back in in a second.

(WHEREUPON, the jury exited the open court at approximately 12:32 p.m.)

THE COURT: Any objection to the selection of the jury from the State?

MS. HUEY: Nothing from the State.

MR. POTTER: I'll have something to take up.

THE COURT: Well, you better do it now before I let them go.

MR. POTTER: It's a Batson motion.

THE COURT: Really? Come here.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Ladies and gentlemen, I'm going to excuse you. I would like to tell you that I'm going to excuse you for the week. But theoretically, there's a potential chance that you might have to come back tomorrow. I can tell you that that chance is fairly small. But I can't release you for the week yet. So what I'm going to ask is that you call in the Clerk's jury number tonight after six. We will know tonight whether or not we're going to need you tomorrow. The

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message will either be one of three things: have a great week and a good Christmas and you don't need to come back, call back tomorrow after six or we'll see you in the morning.

Don't be alarmed. I know you've got surgery for your child. Y'all aren't coming back. But I can't do that officially until we're finished up today. We've got some things we have to take up outside of your presence.

But I appreciate your patience this week. I appreciate your putting up with the slow pace because it was slower than normal. And Mr. Shirley's going to hand out the jury information sheet with the number. You will get a check at some point for twelve dollars.

Is that right?

THE CLERK: Yes, sir.

THE COURT: You get paid more than I do per hour, so that's pretty good. But I know it was slow. This was a lot slower than normal. It's my fault.

THE CLERK: This is an answering machine. So if the line is busy, somebody's just gotten ahead of you. So just keep dialing. We do not change the message until about six o'clock. And it will be very specific. It will say, it is Monday, December the 2nd, so that you'll know that you've gotten the current message. And it will tell you what to do.

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(WHEREUPON, a bench conference was held off the record.)

THE COURT: Thank y'all.

(WHEREUPON, the jury panel exited the open court at approximately 12:32 p.m.)

THE COURT: Okay. Buck, you can bring them in.

(WHEREUPON, the jury entered the open court at approximately 12:38 p.m.)

THE COURT: Okay. Ladies and gentlemen, let me tell you, I'm going to let you go to lunch now. We've got some matters that we have to, in any trial, take up outside your presence. I'm going to ask that you come back at three. That gives us enough time to have a little lunch and also to take up all the matters we have to take up. We'll start this afternoon. We're not going to go too long this afternoon at this point, but we will try to get started as best we can. And because of the late hour, I will give you further instructions when you come back at three. I have a fairly long charge. And then I'll tell you a little bit about the schedule this week because we've got some peaks and valleys with the schedule.

But for now, just go have lunch. Keep your juror button on. If anybody tries to contact you because of your jury service, either personally or by phone, let me

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know as soon as possible. Let one of the bailiffs know and they'll let me know, and I'll take care of it. That's not going to happen, but I need to tell you that. But one thing I'll tell you before you go -- and I'll articulate a little bit more later -- please don't try to find out anything about this case. I worry about jurors going home and trying to get a little extra information through the Internet or their friends or whatever. Don't do that. You will know more about this case than anybody in the world. And anything you get outside this courtroom has questionable truthfulness. So don't talk about this case at all until the end of the week.

But go have some lunch and we'll see you back at three o'clock. Back in that jury room.

(WHEREUPON, the jury exited the open court at approximately 12:40 p.m.)

THE COURT: Okay. I'll see y'all all at two fifteen, two thirty, and we'll take up all the matters including the Batson motion. Thank y'all.

MR. POTTER: Thank you, Judge.

THE COURT: If anything works out, let me know because I've got to hurry back.

(WHEREUPON, court stood at recess for a lunch break during which State's Exhibit Numbers 2, 3, 7-A through L, 9, 10, 11, 17-A, 17-B, 18-A through L,

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19-A through C and 20 were marked for identification only.)

THE COURT: Okay. Let's do Batson first. Oh, where's our guy? Is he on the way?

MS. HUEY: The Defendant?

THE COURT: Yeah. They're going to bring him up. It's going to be a second. I'll be right back.

(WHEREUPON, court stood at ease.)

(WHEREUPON, the Defendant entered the open court.)

THE COURT: Okay. Let's do Batson first.

BATSON MOTION

THE COURT: And there was a motion made off the record, so I guess you'd better make it officially.

MR. POTTER: Yes, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. POTTER: Judge, you asked if I had any objections or any issues in regards to the jury panel that was empaneled, for lack of a better word, and I do. There was -- with regards to the jury pool, we had a total of three African-American males in the pool of about forty-nine people, if my memory's correct, one of which you excused due to a medical issue that he had with family. And obviously, we have no objection with regards to that. So that left a total of two African-American

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males left on a panel of forty-nine.

Judge, I think one African-American male was called as a potential juror in this case. I think it was juror number 50. He is a fifty-eight-year-old black male. And according to my notes, he did not respond to any of the qualification questions or any of the questions you addressed to the jury. None of the voir dire questions I submitted to Your Honor did he respond in any manner. So at this point in time, due to the fact that we were down to two African-American males on this jury pool, it's our position that the fact that the State struck this particular gentleman must be shown it was done in a race-neutral manner or some sort of process that indicates that it was not done based upon the fact that he was a black male.

THE COURT: All right. Have you got a race- or gender-neutral reason for striking him?

MS. HUEY: I do, Your Honor. I have the RAP sheet for juror number 50. And he has a conviction from 1991 for petit larceny. And while that didn't take him out of the realm of actually qualifying to serve on the jury, larceny is a potential motive in this murder case, Your Honor. And therefore, I struck him for that reason.

THE COURT: Yes, sir.

MR. POTTER: Judge, we're talking about a

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thirty-day minor misdemeanor from 1991. The fact of the matter is if there was this issue in regards to whether she thought -- that the Solicitor thought that he would not be someone who would look kindly upon the State's case or something of that sort, then he could have easily been called up, questioned about his conviction from fourteen plus years ago. And at that point in time, additional questions privately could have been given to him to see whether or not he could give the State as well as my client a fair hearing on the trial or on the case.

So again, Judge, it's our position that the fact that we only had two African-American males on this jury panel to pull -- to choose from to start with, which I don't think necessarily are consistent with regards to the characteristics of our society, at least here in Anderson County. So we're going to respectfully object to the fact that he was struck. Thank you.

THE COURT: Okay. All right. I understand the motion. You're protected for the record. I don't think the strike and the reason for the strike was purely pretextual because it involves the potential motive in this case. I'm going to deny your motion for a Batson, but you're protected for the record.

MR. POTTER: Thank you.

THE COURT: Okay. What else do we have before

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we bring them in?

MS. HUEY: Your Honor, we have a Jackson Denno hearing that we'd like to start with, a Neil Biggers hearing, and then I believe the Defense wants to be heard on dying declaration.

THE COURT: Okay. All right. Whichever one you want to start with.

MR. POTTER: Judge, before we're going to take testimony, I would ask that all witnesses on this case be sequestered and admonished not to speak about the case and their testimony.

THE COURT: Yeah. What I'm going to do, if you're testifying, if you're a potential witness in this case, I need you to leave the courtroom except -- we'll come out and get whoever we're going to need. And obviously if you're here and you hear some testimony, please don't ...

Sir, ma'am, y'all don't talk about anything you hear, okay?

MS. HUEY: And other than the lead investigator, correct, Judge?

THE COURT: Right.

MR. HAIGLER: Stan's the first person we're calling.

MS. HUEY: Thank you. Oh, I'm sorry.

Stan's the first person we're calling, Judge.

THE COURT: Okay.

(WHEREUPON, all potential witnesses exited the courtroom.)

THE COURT: All right. What do we have here?

MR. HAIGLER: Your Honor, first up, I believe we're going to do the Jackson Denno hearing.

THE COURT: Okay. That's fine. You can call your first witness.

MR. HAIGLER: The State calls Investigator Stan Ashley.

(WHEREUPON, the witness was duly sworn.)

THE COURT: Yes, sir.

MR. HAIGLER: Thank you, Your Honor.

STAN ASHLEY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MR. HAIGLER:

Q. Investigator Ashley, where are employed?

A. Anderson County Sheriff's Office.

Q. And were you employed there on April 1st, 2012?

A. I was.

Q. Did you have the opportunity to talk to the Defendant in this case regarding taking a statement from him?

A. I did.
Q. When you did this, did you advise him of his rights?
A. I did.
Q. Did you do so using a form which contains the rights?
A. Yes. It's a written form that we have, yes.
MR. HAIGLER: Your Honor, may I approach the witness?
THE COURT: Yes, sir.
Q. I'm going to show you what's been marked as State's Exhibit 1. Is this the form that you used to advise him of his rights?
A. It is.
Q. And how do you recognize that form?
A. I recognize it by my writing, also by my signature. That's my handwriting.
Q. Does that form tell you what time this took place?
A. It does. At sixteen twenty-five hours. It would be four twenty-five p.m.
Q. On date?
A. On April 1st of 2012.
Q. Okay. And where did this take place?
A. At the Anderson County Law Enforcement Center in an interview room.
Q. Okay. Can you describe that interview room?

A. Yes. It's one door in and out. No window on the door. A twelve-by-twelve room approximately. Carpeted, beige walls, no fixtures other than the light, a light switch. There's a one-way mirror on one side. Well, it's a mirrored glass that you can see into but can't see out. Well, you can see slightly. A wooden table, Formica, and a couple three chairs.

Q. Okay. Was he given any food or drink while he was in this interview room?

A. He was. When we picked him up in the holding cell, myself and Detective Brent Simpson, we escorted him upstairs to the second floor where the interview room is. And he was offered a refreshment drink, which he -- I believe we gave him a Mountain Dew. I believe he requested a Mountain Dew.

Q. Okay. Was he allowed to go to the restroom?

A. He was.

Q. Did you go over that form with the Defendant?

A. I did.

Q. And did you make sure that he understood everything on the form?

A. I did. It's a two-part form, Advisement of Rights and the Waiver of Rights.

Q. And were any markings made on that form to indicate that he did understand his rights?

A. He signed it as such. We marked it on the section that he'd have the right to remain silent and anything you say may be used against you in court, that he reads to us to indicate that he can read and understand what he reads and what he hears us say and that we're saying it correct what is written.

Q. In your opinion, did he understand his rights on that day?

A. Yes.

Q. And he was not under the influence of anything as best you could tell?

A. As best I could tell, he was not.

Q. Were any threats or promises made in order to get him to sign the advisory of rights?

A. No, it wasn't. And no promises or threats or coercion. We also normally underline the word coercion and go over the word coercion and what it means so that he understands that we're not pressuring him or making any threats or promises.

Q. Okay. And did the Defendant indicate to you whether or not he wished to make a statement?

A. He indicated that he would talk to us but he would not put it on paper.

Q. So he did not reduce the statement into writing and nothing was recorded?

A. No.
Q. He just gave an oral statement to you in the presence of Brent Simpson?
A. Correct.
MR. HAIGLER: Your Honor, at this time, I'd like to allow Investigator Ashley to go into what the Defendant actually stated to him orally.
THE COURT: Yes, sir.
MR. POTTER: Judge, I don't know if that's necessarily -- I mean, the only issue that we're determining at this point in time is whether or not he gave a voluntary statement. I don't know if we necessarily need to go into what he said.
THE COURT: Yeah. At this point don't worry about it.
MR. HAIGLER: Yes, sir.
THE COURT: I need to make sure it's voluntary and make sure it meets the number of the requirements of an exception to hearsay.
MR. HAIGLER: Okay. I have nothing further.
Q. Please answer any questions that Mr. Potter has.
MR. POTTER: May it please the Court?
THE COURT: Yes, sir.

IN-CAMERA EXAMINATION

BY MR. POTTER:

Q. Detective, Mr. Kennedy turned himself in to you at the Sheriff's office; is that correct?

A. Correct.

Q. Do you know about what time that was when he showed up?

A. I wasn't present when he turned himself in. I was notified later, shortly thereafter, on the 1st from Detective Simpson to respond to the L.E.C. I was on call that week.

Q. Okay. So he turns himself in. You and Detective Simpson get a call saying somebody's here, you need to talk to them. And then you go down, ride down to the Sheriff's department and talk to him, correct?

A. Correct.

Q. He was placed in holding while they were waiting for y'all?

A. He was placed in a holding cell and the log done.

Q. Excuse me?

A. A log. We have to log them in and ---

Q. Got you.

A. --- check them ever so often.

Q. Now, you personally picked him up from the holding cell and brought him up to the interview room; is that correct?

A. Detective Simpson and myself. I was the first one

there.

Q. Okay. So both of y'all went down and got him and took him to the interview room?

A. Correct.

Q. And then the first thing you do in the interview room is you sit down and you go over the Waiver of Rights form; is that correct?

A. That's the first thing. We asked him if he needed anything to drink first.

Q. Okay. Now, and you go over the Waiver of Rights form. And you won't talk to him until he signs that Waiver of Rights or if he requests an attorney; is that correct?

A. Correct.

Q. At any point in time before he signed that arrest warrant -- excuse me. At any point in time before he signed that waiver, did he request to have an attorney?

A. He did not.

Q. All right. Now, is the interview room wired for sound?

A. No. It wasn't at the time.

Q. It wasn't at the time?

A. Correct.

Q. And subsequently, it has been wired for sound?

A. It has.

Q. Okay. And it does have video capabilities now?
A. It does now.
Q. Now, you went through -- was it you personally who went through the Waiver of Rights, or did Detective Simpson do it or do you know?
A. I did it. I went through it with Detective Simpson present.
Q. Okay. Did you read it to him, or did Detective Simpson read it to him?
A. I read it to him.
Q. Okay. So is it fair to say you kind of took the lead in going over the Waiver of Rights form?
A. That's fair to say.
Q. All right. And you've got two marks here. You have the right to remain silent. You've got a mark there. Did you make that mark?
A. I made that mark, those two marks.
Q. All right. And you made those marks while you were saying that to Mr. Kennedy; is that correct?
A. Yes.
Q. Was it your intention to have him initial those, those lines?
A. It was.
Q. But that didn't happen?
A. That didn't happen.

Q. Now, did you ask him if he was under the influence of any drugs or alcohol, anything of that sort?
A. Yes. We asked him if he was all right to talk to us.
Q. Okay. And what did he tell you?
A. Yeah. He was fine. He said he was good.
Q. Was there anything about his appearance or demeanor that made you concerned that he may be under the influence of anything?
A. No, sir.
Q. Okay. His eyes weren't dilated or anything of that sort?
A. It didn't appear that he was under the influence to us.
Q. He didn't have a smell to him?
A. Uh-uh (negative), no.
Q. After you went through the Waiver of Rights form, he signs that. He signs an advisory indicating he understands his rights, and then he goes further to the Waiver of Rights. And that's when you -- I presume it was you underlined where it says pressure or coercion. You underlined coercion?
A. Yes, I did.
Q. And that's where you described to him what coercion meant?

A. Yes.
Q. After he signs that, then you begin your interview; is that correct?
A. Correct.
Q. All right. During the course of this interview, were any threats or any type of promises made to Mr. Kennedy?
A. No.
Q. Any slamming of the table? Any threats that he was lying about anything made to him?
A. We spoke about his lying to us, but we didn't -- there was no slamming of books or -- everything was fairly civil. He -- he was civil; we were civil.
Q. Okay. How big is this table?
A. Two foot by -- it would be that width. It'd be two foot by about five foot, five feet.
Q. The table here in courtroom in front of the jury box, you're talking about this width?
A. Yes.
Q. But not this long? A little bit longer?
A. No. Longer than that. About two feet longer.
Q. Okay. How were the chairs arranged?
A. We had -- he was sitting -- we were both facing -- I was facing from his left side. I was at his left. Detective Simpson was directly in front of him.

Q. Okay. So the table was between he and Detective Simpson?
A. It was. And I had the corner across from him.
Q. I understand. About how far away were you?
A. I was probably a little further than Detective Simpson inasmuch as he was straight across the table from him. So I was about, I would say, five feet away from him.
Q. Okay. At any point in time during the interview, did you come closer to him?
A. We'd gone to get him -- got him some lunch -- you know, some lunch and all, so we interacted. As far as holding, I never approached him in any kind of manner.
Q. You didn't scoot the chair up to be a little bit closer to him while you were interviewing him?
A. No, I don't recall that we did.
Q. Okay. Were you -- who was asking the questions of him, you or Detective Simpson?
A. Detective Simpson.
Q. And he was the one generally in charge of talking to Mr. Kennedy, correct?
A. He was lead.
Q. Okay.

MR. POTTER: I have nothing further.

THE COURT: Anything else?

MR. HAIGLER: No, sir, Your Honor.

THE COURT: Okay. Thank you, sir.

THE WITNESS: Yes, sir.

MR. HAIGLER: The State now calls Brent Simpson.

THE COURT: All right. Let me ask you, just for the purposes of -- I thought it was a statement. There's no written statement?

MR. HAIGLER: No, sir.

THE COURT: How do you intend to introduce it?

MR. HAIGLER: We intend to allow the officers who witnessed the statement to publish an oral statement.

THE COURT: Okay.

All right. Come on up.

(WHEREUPON, the witness was duly sworn.)

MR. HAIGLER: May it please the Court, Your Honor.

THE COURT: Yes, sir.

BRENT SIMPSON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MR. HAIGLER:

Q. Investigator Simpson, where are you employed?

A. I'm employed with the Anderson County Sheriff's Office.

Q. And were you employed at the Sheriff's office on April the 1st, 2012?

A. Yes, sir.

Q. And did you have the opportunity to talk with the Defendant in the case regarding taking a statement?

A. I did.

Q. And you were technically the lead investigator in this case, correct?

A. Correct.

Q. But when you met with him and talked to him about giving a statement, Investigator Ashley read him his Miranda rights; is that right?

A. That's correct.

Q. And you witnessed this?

A. I did.

Q. And did you sign the Advisory of Rights form as a witness?

A. I did.

Q. And as you were in the room, did you feel as if he, the Defendant, understood his rights?

A. Yes.

Q. Did he seem to be under the influence of anything as far as you could tell?

A. Nothing that I could tell.

Q. And did you witness any intimidation or anything to

get the Defendant to sign this advisory form?

A. No, I did not.

Q. Did he ever indicate to you that he wanted to give a written statement?

A. No. He stated that he would talk to us but wouldn't put anything on paper.

MR. HAIGLER: I have no further questions, Your Honor.

THE COURT: All right.

Yes, sir?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

IN-CAMERA EXAMINATION

BY MR. POTTER:

Q. Detective, obviously you heard Detective Ashley testify. Detective Ashley was the one that went through the statement -- excuse me -- the waiver form; is that correct?

A. That's correct.

Q. You were present while this was going on?

A. I was.

Q. And you signed as a witness in regards to the Advisory of Rights as well as the Waiver of Rights; is that correct?

A. That's correct.

Q. All right. Detective Ashley testified that it was he and you that picked him up from the interview room and took him up -- excuse me -- from the holding and carried him to the interview room; is that correct?

A. We did it together.

Q. Was he handcuffed?

A. Yes.

Q. Well, when were the handcuffs taken off?

A. I don't believe they were taken off. We left them on.

Q. Okay. So he was handcuffed in the front, or was he handcuffed in the back?

A. In the front.

Q. All right. Did he have any shackles on the feet?

A. No.

Q. When you received a call that Mr. Kennedy had turned himself in, do you recall when that was?

A. I don't exactly remember the time. It was shortly before we got him out of the holding cell.

Q. Was it before twelve or was it after twelve, if you can recall?

A. That part I don't remember.

Q. It was a Sunday afternoon; is that right?

A. I do believe it was, yes.

Q. All right. So the amount of time he was in the

holding cell, you don't have any independent knowledge of how long he was there before you talked to him?

A. Not long, but I can't recall exactly.

Q. Now, Detective Ashley testified that you brought him up to the interview room. And this is a twelve by twelve room; is that correct?

A. Approximately.

Q. All right. There's a one-way mirror.

A. Right.

Q. Were there any other windows in that room?

A. No.

Q. And you sat down and spoke with Mr. Kennedy at a table. You sat across the table from him directly facing him?

A. Correct.

Q. And Detective Ashley was to Mr. Kennedy's side?

A. Right.

Q. Now, during the course of the interview after he signed the Advisory of Rights and Waiver of Rights form, did Mr. Kennedy ask for counsel?

A. No.

Q. Did he ever ask if he wanted counsel how that would happen?

A. He did not.

Q. The whole time during the interview at no time did

he ask for counsel or did he ask -- or did he express a desire to stop speaking?

A. He did not.

Q. Did he have any type of odor or anything like that that would indicate that he may be under the influence of any drugs or alcohol?

A. No, sir, not that I'm aware of.

Q. Is there any procedure they can do to determine whether or not somebody is intoxicated before you start talking to them?

A. No. We talked to him and asked him prior to the advisory. And he understood and was well aware that -- and he told us he wasn't. You know, by his demeanor and how he was talking, we assumed he was okay.

Q. So during the Advisory of Rights form you specifically say, are you drunk, are you intoxicated? Have you taking any medication or any drugs that would keep you from understanding what's going on?

A. Prior to signing the waiver, we did.

Q. When you go through the Advisory of Rights form, specifically Detective Ashley indicated that the first statement here is, you have the right to remain silent. Are you familiar with the form?

A. I am.

Q. Okay. Then there's a little dash mark there. And

under that it says, anything you say can be used against you in court. There's another dash mark there. It was Detective Ashley's intent to have Mr. Kennedy initial those. Is there any reason why he didn't initial those?

A. I guess it was just an overlook. Normally, we do.

Q. It goes on further. It says, you have the right to speak to an attorney -- or excuse me -- a lawyer for advice before you are asked any questions and have time with him -- with you during questioning. If you cannot afford a lawyer, one will be appointed for you before your questioning if you wish. Did you explain to him that you would make a call to the public defender's office or where ever if, in fact, he wanted a lawyer, to see if one could be appointed for him before questioning?

A. No. He read and stated he understands his rights as we read them to him off of that paper.

Q. Okay. So is it fair to say you didn't really -- you didn't go outside the four corners of this piece of paper in regards to explaining to him his rights?

A. We basically read him the sheet, and he understood it and signed it.

Q. During the interview process when you're speaking with him, did you make any threats? Did you slam any books? Did you slam your fist or anything on the table while you were sitting in front of him?

A. No, no kind of throwing or slamming books or anything like that.

Q. Did you ask Mr. Kennedy if he had any medical condition that would prevent him from understanding his waiver of rights?

A. I did.

Q. Okay. And do you recall what he said?

A. He said he had prior medical conditions, but he was, at that point in time, capable of talking with us.

Q. Okay. Was he more specific about what type of medical condition he had?

A. No. He wasn't really -- it was just -- I think basically he said he had some head injuries in the past. But other than that, that was all.

Q. Did you explore that any further apart from what he just told you?

A. No.

MR. POTTER: Nothing further.

THE COURT: Anything else?

MR. HAIGLER: No, sir, Your Honor.

THE COURT: Okay. Thank you, sir.

Anything else?

MR. HAIGLER: No, sir.

THE COURT: I'm real confused. And it may be just me. But how do you intend again to get this in?

Under what theory? I mean, you're going to have a detective testifying about what the Defendant said after he said he wouldn't write it down?

MR. HAIGLER: Essentially, yes.

THE COURT: And ---

MR. HAIGLER: He was willing to talk to them. He didn't want to -- after he spoke to them and they asked if they wanted to put something in writing, he said he didn't want to put anything into writing.

THE COURT: And generally, just for the purposes of proffering it, what is the Detective going to say that he said?

MR. HAIGLER: He's essentially going to say that he dodged questions. He would only -- he would only tell the truth when they told him what they knew. He said he wasn't there. Then he says, well, we have somebody that says that you were there. He says, okay, yeah, I was there but just for a second. So essentially, they're catching him in lies. And that's what we'd be using it for.

THE COURT: I mean, are you trying to get it in under and 804(b)(3), an exception, declarant unavailable or -- I mean, I don't know how they could testify to that.

MR. HAIGLER: Well, Your Honor, I don't --

honestly, I don't see it as hearsay. I don't think it goes to the truth of the matter asserted. I think if he was making an admission or a confession, then it would go to the truth of the matter asserted. He's not. He's just ---

THE COURT: Well, I assumed he admitted it to them.

MR. HAIGLER: He did not admit it to him.

THE COURT: So he basically was evasive in questioning?

MR. HAIGLER: That's correct.

THE COURT: Yes, sir?

MR. POTTER: Judge, the incident -- I wasn't given any notice with regards to this interview that was created by the officers except for what was in the incident report. And Detective Simpson's version of the event indicates they gave him a Mountain Dew to drink. They advised him that he was there -- why he was there and that they wanted to ask him some questions regarding the death of his friend Claud Scott. Defendant admitted coming into the residence and seeing his friend Claud Scott lying on the living area and somebody had beaten him. Kennedy stated that he did not hit Scott. And when he had seen him, he ran out the door and ran to Highway 28 By-pass. Kennedy advises that he had never seen

Kimberly there, and he did not talk to anyone when he left. When I advised Mr. Kennedy that we had a witness that had seen him get into the victim's blue car and leave, we had the video at Bi-Lo on South Main Street where the person who left the vehicle, changed his mind and said he did take the victim's car and leave and he parked in the parking lot at Bi-Lo and ran away from there. But he also said he did talk to Kimberly when he took the car. That's in essence, I think, the statement.

THE COURT: And that's basically what you want to get in, what he just said?

MR. HAIGLER: Yes, sir, Your Honor.

THE COURT: And what's your objection to it?

MR. POTTER: Well, Judge, obviously we want to make sure that Miranda was complied with. I don't necessarily see it coming in under the exception. It's not an admission against interest.

THE COURT: It doesn't appear to be an admission against interest. That's what I was confused by. I assumed you had a written statement. I don't know how you would get it in.

MR. HAIGLER: I think arguably it is a statement against interest. He does admit to being at the scene. And he's backtracking and lied. The admission in itself is a statement against interest. It

shows that he's not being forthcoming with law enforcement.

MR. POTTER: I don't necessarily think he was lying. He just didn't mention the fact that he took the car and he saw this lady. But it's not a situation where he said he hit this gentleman or anything like that. He denies specifically that he did.

THE COURT: All right. Well, here's what the rules say. This is why I wanted to make sure. It says that, a statement tending to expose the declarant to criminal liability -- here's the problem -- and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement. And I couldn't remember whether it was and or or. Yeah, I don't think that comes in. I mean, I think they can testify about their questioning. I don't think they can say anything that he said unless -- for the purposes of what I have now, I wouldn't go there. I think that's a problem. I mean, they can say he was evasive. I mean, their -- they can testify as to their observations of him.

MR. HAIGLER: Right.

THE COURT: But I think you get into trouble when they start testifying about what he said, assuming he doesn't testify. Okay? All right. So I guess I'm

giving you a partial on it. Don't let them testify about what he said. It'll change if he testifies.

MR. POTTER: I understand if the door's opened down the line that it may come in.

THE COURT: Yeah.

MR. POTTER: So we will deal with that issue if it comes up. But my concern is that I get to open the door.

THE COURT: I wouldn't anybody open the door. Once it's opened, everybody runs in including the cats and the dogs and everybody else. But I mean, for the purposes of them -- it's not really a statement, I guess, is what I'm telling you. So don't get into what he told them unless the door's opened. And I think it's because of 804(b)(3) that it doesn't meet those requirements. I mean, it's trustworthy, but it doesn't exculpate him.

Okay. What else we got to deal with?

MS. HUEY: We need to do a Neil Biggers hearing, Your Honor.

THE COURT: Okay.

MS. HUEY: Your Honor, the State calls McKindra Bearden.

MR. POTTER: Can you hold on just a second? That's -- she's the one who put together the lineup?

MS. HUEY: Yes.

MR. POTTER: May it please the Court. When we had ---

You're going to have Kimberly King testify?

MS. HUEY: Yes.

MR. POTTER: When we have Ms. King testify, I would ask that my client be set outside the courtroom for her testimony.

THE COURT: Who is she, and what's she testifying to?

MS. HUEY: She's the eyewitness that saw the Defendant coming out of the victim's trailer.

MR. POTTER: And she picked my guy out from a photo lineup.

MS. HUEY: And she also knows him, but ---

THE COURT: Okay.

MR. POTTER: That's fine, but ---

THE COURT: All right. So on your motion, he's leaving the courtroom?

MR. POTTER: Yes, sir. For her testimony.

THE COURT: I got you. As long as it's your motion and he doesn't object to being here and confronting her. Okay.

Okay. Well, let's get him out. Can y'all ---

MR. POTTER: Judge, may it please the Court?

THE COURT: Yeah.

MR. POTTER: I think they're going to do the detective who put together the lineup first.

THE COURT: Okay.

MR. POTTER: And then do her.

THE COURT: Okay.

MS. HUEY: However we need to do it.

How do you want to do it?

MR. POTTER: However you want to do it.

THE COURT: You do it. Just let me know before this witness comes in he's talking about.

MS. HUEY: Yes, sir. I will.

Can you get McKindra, please?

MCKINDRA BEARDEN,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MS. HUEY:

Q. Investigator Bearden, you're at the Sheriff's office, correct?

A. Yes.

Q. In investigations?

A. Yes.

Q. And did you become involved in the investigation of a homicide that occurred at [redacted] in Anderson County?

A. Yes, ma'am.

Q. All right. And in what way?
A. The night in question ---
Q. Specifically as it relates to the photo display? I'm sorry.
A. Huh?
Q. Specifically as it relates to the photo display.
A. I created the photo lineup, presented it to the witness and had her identify and sign an affidavit.
Q. So did you actually conduct the photo display then?
A. Yes. I created it and showed it to the witness and signed it.
Q. And how many photographs were displayed?
A. There were six.
Q. And was this Defendant included in that display?
A. Yes, he was.
Q. Were the other five persons all similar in physical description to the Defendant?
A. Yes.
Q. In what way?
A. The five persons I picked were black males, middle-age, medium to dark complexion, average build, similar haircuts, facial hair, noticeable scars or tattoos.
Q. And to whom did you show the display?
A. Kimberly King.
Q. What date did that take place.

A. That took place on the 30th of March, 2012.
Q. And do you remember about what time that was?
A. It was around nine thirty or ten o'clock that evening.
Q. And where were you physically when this display took place.
A. We were at [redacted]
Q. And were you inside the trailer or were you outside the trailer?
A. We were outside in my patrol vehicle.
Q. And so this would have been at night already?
A. Yes.
Q. Okay. And so what is the light like in your patrol vehicle?
A. We have aftermarket domes put inside the cars which are very, very bright. And I had that. It's a patrol light dome.
Q. And so the patrol car was lit up very well?
A. Very much so.
Q. And how did you present the display to Ms. King?
A. I advised her who I was. I showed her the lineup and asked her if she recognized anyone in the lineup.
Q. Did you tell Ms. King that the person she saw at Mr. Scott's home was definitely in the display?
A. I did not.

Q. Did you lead her to believe that she had to or should pick someone out?

A. I did not.

Q. Did you exert any pressure on her to pick someone out of that display?

A. I did not.

Q. Did you in any way influence her as to which photograph to select?

A. No.

Q. Did she, in fact, select a photograph of a person whom she saw at the crime scene?

A. She did. She identified number four and gave the name as John Kennedy.

Q. And how certain or confident did she appear to you?

A. She went to his picture directly and identified him.

Q. Did you ask her to make any marks to indicate her choice?

A. Yes. I asked her to circle that number that I placed below the picture and sign right below it.

Q. All right. Ms. Bearden, I'm going to show you what's been marked as State's 3 and 2. If you could take a look at both of these items, please.

A. Yes.

Q. Specifically, as to State's 3, is that the photo display that you showed Ms. King?

A. Yes, it is.
Q. On March 30th, 2012?
A. Yes.
Q. And is that display in substantially in the same condition as when you used it and she signed it and you signed it on March 30th, 2012?
A. Yes. This is my original signature.
Q. And again, will you tell the Judge how Ms. King indicted who she picked out in the display?
A. When I showed Ms. King the photo lineup, she identified the person listed number four. She said, that is John Kennedy, the person that she had seen.
Q. And then Ms. Bearden, in reference to State's 2 which you also have in your hand?
A. Uh-huh (affirmative).
Q. What is that exhibit?
A. This is an Affidavit of Photo Identification that I filled out that evening.
Q. Okay. And what's the purpose of that?
A. That's just a confirmation of where I was, the date and time, and what picture that she identified as the suspect and her signature and my signature.
Q. And again, so both of your signatures are on that form?
A. Yes, they are.

Q. Okay. And the purpose of that affidavit, what does it summarize?
A. This just summarizes the information contained or what was obtained by showing the picture lineup.
Q. Okay. And so the affidavit is done in connection with the photo display; is that correct?
A. It's always completed with the photo display.
MS. HUEY: I have no questions.
THE COURT: All right.
Yes, sir?

IN-CAMERA EXAMINATION

BY MR. POTTER:
Q. I'm sorry. Is it Investigator?
A. Yes.
Q. Ma'am, so you put together this photo array. What source did you use? Was it the driver's license or did you use the -- where did you get the pictures from?
A. The in-house jail system, Mug Web.
Q. Okay. And do you pick the photographs, or does the computer do that for you?
A. You do. The way the system works is you put the target name and pick a picture out. If they've been arrested multiple times or even one time, then it will pick the matching person's the same parameter. Then you physically go through and choose. Because sometimes the

computer will put stuff in there incorrect. You'll have a white female in the white males.

MR. POTTER: May I approach?

THE COURT: Sure.

Q. The photo array itself, may I take a look at it? I'm sorry. My copy's a little dark. And this is the actual photo array you used?

A. Yes.

Q. And you indicated when you testified earlier that the men you chose for this photo array, you were looking for similar haircuts; is that correct?

A. Similar, short, dark hair.

Q. Do you need to look at this again?

A. I've got it.

Q. Okay. I'm sorry. So you're looking for -- I'm sorry. Say that again.

A. Similar, short hair.

Q. Short hair?

A. As opposed to dreds or long hair or Afros.

Q. Were you looking for anything else in particular?

A. Facial hair, same approximate build. You don't want exactly the same, but you want similar.

Q. And you met with Ms. King in the patrol car; is that correct?

A. Yes.

Q. Or your vehicle?
A. Yes.
Q. All right. And this was about nine-thirty or ten o'clock at night?
A. Yes.
Q. Sitting in the front seat with you?
A. Yes.
Q. All right. And was this -- did you have to create this at the Sheriff's office, or did you create it in your vehicle?
A. I created it at the Sheriff's office.
Q. Okay. And then you drove to the scene?
A. Yes.
Q. Okay. Now, when you showed her this array, you explained to her that you were going to show Ms. King a photo array of the suspect in this case; is that correct?
A. No. I just asked her to identify the person that she had seen earlier that evening.
Q. Okay. And those were the words you used? Please identify the person that you saw earlier this evening?
A. I am paraphrasing because that's been two years.

MR. POTTER: Nothing further.

THE COURT: Okay. Anything else?

IN-CAMERA EXAMINATION

BY MS. HUEY:

Q. Ms. Bearden, but you never suggested that the person that was in the photo lineup definitely was at the scene; is that correct?

MR. POTTER: Judge, I'm going to object to that.

THE COURT: Sustained. You can step down. I understand.

Okay. Is your next witness the one we need to ...

MS. HUEY: Yes, sir, Your Honor.

THE COURT: Y'all approach a minute. Let me ask you something.

(WHEREUPON, a bench conference was held off the record during which the Defendant was removed from the courtroom.)

THE COURT: Okay.

MS. HUEY: The State calls Kimberly King.

(WHEREUPON, the witness was duly sworn.)

THE COURT: All right. While she's coming to the witness stand, just for the record, the Defendant's out of the room in the hallway and can't be seen or see the witness.

Yes, ma'am?

KIMBERLY KING,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MS. HUEY:

Q. Ms. King, have you ever testified in court before?

A. No, ma'am.

Q. Have you ever been a victim or a witness to a crime before other than this incident?

A. No, ma'am.

Q. How far did you go in school?

A. Ninth grade.

Q. Do you work right now?

A. Yes, ma'am.

Q. And where are you working?

A. The Cafe on Main Street in Jonesville, South Carolina.

Q. Okay. Is that like as a waitress?

A. I cook.

Q. A cook?

A. Uh-huh (affirmative).

Q. Okay. What were you doing -- drawing your attention to March 30th of 2012, just after five-thirty, what were you doing before checking on Mr. Scott that day?

A. Laying down on the couch. And I went outside on the porch just really -- just nothing really that day.

Q. And where do you live in relation to Mr. Scott? At that time, where did you live?

A. To the right side.

Q. Of his trailer?
A. Yes, ma'am.
Q. Okay. So obviously close and within walking distance?
A. Uh-huh (affirmative).
Q. So was it dark yet when you went to check on him?
A. No, ma'am.
Q. Was anyone else with you when you went to check on him?
A. No, ma'am.
Q. Describe the trailer that Mr. Scott was living in at the time.
A. It has a white door with a big tree in the front yard, like a beige-tan color. There was a few cars in the front, a camper out to the back.
Q. And how would you typically go to check on Mr. Scott?
A. At least once a day.
Q. You would go once a day?
A. At least once a day. Sometimes two or three times a day.
Q. And how would you enter his trailer typically?
A. Usually, the door would be open. But if not, the door was always unlocked until it got dark. And I would just walk in.

Q. All right. So when you went to check on him on this particular day, who, if anyone, did you see when you got to the trailer?

A. I saw no one when I first got there. I knocked on the door. The door was locked.

Q. Okay. And then who, if anyone, did you see?

A. John came around the trailer after I knocked a couple of times.

Q. Okay. And when you say John, do you know John's full name?

A. John Fitzgerald Kennedy. He called himself J.F.K.

Q. He called himself J.F.K.?

A. Uh-huh (affirmative).

Q. All right. And was he black or white?

A. Black.

Q. And where exactly did he come from?

A. From behind the trailer.

Q. And did he say anything to you?

A. At first, I said, where's Schaffer? He said, he's sleeping. He don't want to be bothered. I said, well, I don't care. He's been sick today, and I want to go in anyway. And I said, is the back door open? He said, no, it's locked. So he then went back around the back. I followed him. The door was actually unlocked. He locked it so I couldn't get in. And he had the car key in his

hand.

Q. And what about his physical appearance? What did he look like?

A. He was real sweaty and looked like he was out of breath.

Q. And so how long do you think you talked to him?

A. Maybe a minute, maybe two minutes at the most.

Q. And how close were you to him when you were talking to him?

A. About ten feet.

Q. And then did you see where he went when he left?

A. He backed up. He got into the blue, I guess a Ford -- I know it was a Ford, like Escort or Concord maybe. Light blue. He got into the car, backed up, pulled out of the yard and went to the right towards the bottom of the hill.

Q. So did you -- were you able to get a good look at him though?

A. Yes.

Q. And I see that you wear glasses. Were you wearing glasses on this particular day?

A. Yes, ma'am.

Q. And were you taking any kind of drugs, prescription or otherwise?

A. No, ma'am.

Q. Under the influence of alcohol or anything along those lines?

A. No. I was pregnant at the time. No.

Q. Okay. And what was your -- how far along were you?

A. Eight months.

Q. Now, you said that you saw J.F.K. or John F. Kennedy. How long had you known Mr. Kennedy?

A. Not long at all. I just knowed (phonic) him.

Q. Okay. How did you know him?

A. Just from being around the neighborhood.

Q. And what, if anything, was he doing with -- you called him Schaffer.

A. Uh-huh (affirmative).

Q. That's Claud Scott's nickname, correct?

A. Uh-huh (affirmative).

Q. What was Mr. Kennedy doing with Schaffer?

A. He had ---

Q. Was he staying there?

A. He was staying in the back in the camper. Apparently, his mother had kicked him out because she'd [sic] been stealing or something.

Q. But he'd been staying with Schaffer for a little while?

A. Uh-huh (affirmative).

Q. And for how long do you think that was?

A. A week or two weeks.
Q. And again, you would check on Schaffer every day at least once a day?
A. Yeah, at least once a day.
Q. And so would you see John F. Kennedy at that time?
MR. POTTER: May it please the Court? Judge, can I approach with the Solicitor, please?
THE COURT: Yeah.
(WHEREUPON, a bench conference was held off the record.)
Q. So backing up, Ms. King, how many times do you think you had seen him over at Schaffer's or otherwise?
A. Six or seven times.
Q. Did you, yourself, have any kind of contact with him over that time frame?
A. Not really. I mean, I'd seen him over there a few times, but not really as far as associating with, no, because I was scared of him. And he came over to my house one night. It was like eleven o'clock at night. Came over there and asked to take a shower after he knew that my roommate was gone.
Q. So he had come to where you were staying and asked to take a shower?
A. Uh-huh (affirmative).
Q. And it was just the two of you at that time?

A. Uh-huh (affirmative).
Q. And was that during the same time frame as he was staying with Schaffer?
A. Uh-huh (affirmative).
Q. In the camper behind Schaffer's trailer?
A. Uh-huh (affirmative).
THE COURT: Ma'am, if you would, say yes or no just so she can understand you.
THE WITNESS: Okay.
A. Yes, ma'am.
Q. So once you got in to check on Schaffer, what was Schaffer's condition at that point?
A. He was very badly beaten up, and he fell back on the floor after he opened up the door.
Q. And so once you saw that, what was your next step?
A. Called 9-1-1.
Q. Okay. And when you called 9-1-1, did you give the 9-1-1 dispatcher a name of who had been at Schaffer's trailer?
A. Yes.
Q. And whose name did you give?
A. John Fitzgerald Kennedy and called himself J.F.K.
Q. And now, did you also then give a written statement to Investigator Ashley regarding ---
A. Yes, I did.

Q. --- seeing J.F.K.?
A. Yes, I did.
Q. And then were you shown a photo display ---
A. Yes.
Q. --- by Investigator Bearden?
A. Yes.
Q. I'm going to show you what's been marked as State's 3. If you can take a look at that. Do you recognize that photo display?
A. Yes, ma'am.
Q. And how are you able to recognize it?
A. I pointed out number four and circled it and signed it when she showed it to me.
Q. Okay. And so when you say she, you met with the investigator to do this?
A. Yeah.
Q. Okay. And where did that take place?
A. In her vehicle in front of Schaffer's house.
Q. Did she ever tell you that one of the persons in the display was definitely who you saw at Schaffer's house?
A. No.
Q. Were you led to believe that you should pick someone out, that you had to pick someone out of that display?
A. No.
Q. Did she ever suggest a photo for you to select at

all?

A. No.

Q. And did she influence your decision at all?

A. No.

Q. So when you were shown that photo display, did you see the person whom you saw at Mr. Scott's trailer, Schaffer's, on March 30th of 2012 after five thirty p.m.?

A. Yes.

Q. Okay. And who did you pick from that display?

A. Number four, John Kennedy.

Q. Did you hesitate at all in picking that out?

A. No.

Q. And once you picked Mr. Kennedy out of that display, what did you then do to indicate you had picked him out?

A. I circled the number.

Q. And is your signature also on that form?

A. Yes.

Q. So is that display in substantially the same condition as when you last saw it?

A. Yes, it is.

Q. And then I'm also going to show you what's been marked as State's 2. Do you recognize that exhibit?

A. Yes, ma'am.

Q. Okay. And is your signature on that exhibit?

A. Yes, it is.

Q. What, if anything, does that signature indicate?
A. That I saw him in the house and that he left in the car before I found him.
Q. And when you say he, who are you referring to?
A. John.
Q. John F. Kennedy?
A. Uh-huh (affirmative).

MS. HUEY: That's all I have of this witness.

THE COURT: Yes, sir?

IN-CAMERA EXAMINATION

BY MR. POTTER:

Q. Ms. King, who was your roommate at this point in time?
A. Ron Cleary.
Q. Okay. So if you're looking at Schaffer's house, y'all's house was to the left, correct? If you're looking at it from this roadway, if you're looking at Schaffer's house, your house is to the left or to the right?
A. To the left. Like facing from the road?
Q. When you're standing on the road facing Schaffer's house?
A. Yeah, it's to the left.
Q. All right. You're not there anymore; is that right?
A. No.

Q. Now, how long have you lived there?
A. I lived there off-and-on for about fifteen years.
Q. And how are you related to Schaffer? Are you related to him in any way?
A. He's my step-grandfather. He was married to my grandmother.
Q. And you said you checked on him about once a day at least?
A. At least once a day.
Q. And why do you check on him once a day?
A. Because he was elderly and he'd been sick.
Q. Okay. Had he been sick that day?
A. Uh-huh (affirmative).
Q. I'm sorry. You need to say yes.
A. Yes. Yes, sir. I'm sorry.
Q. All right. Now, you came to the trailer. Did you go to the front door and knock on the front door or check the front door before you saw Mr. Kennedy?
A. Yes, I did.
Q. Okay. And it was locked?
A. Yes, it was.
Q. Okay. At what point -- when did you see Mr. Kennedy?
A. After I knocked a couple of times, he came from behind the trailer.

Q. Okay. Did he come from your side of the trailer side, or did he come from the other side?

A. My trailer side.

Q. All right. And what was he wearing?

A. I don't remember exactly what he was wearing, but I know he didn't have a shirt on because he was real, real sweaty.

Q. I didn't understand you. Can you say that again?

A. I said I don't remember exactly what he was wearing, but I do know he was really sweaty. His face was pouring sweat.

Q. Okay. But you don't remember what color shirt he had on?

A. No, I don't remember exactly what he had on.

Q. Do you remember if he had any long pants on or short pants on or anything basically?

A. No, I don't remember.

Q. Okay. But the one thing you do remember is him being real sweaty?

A. Yes.

Q. And really out of breath?

A. Yes.

Q. Okay. Nothing else unique that you saw about him?

A. No.

Q. Now, when you met with Investigator Bearden in her

car?
A. Uh-huh (affirmative).
Q. And she showed you the photo lineup?
A. Uh-huh (affirmative).
Q. And she handed it to you -- and was it dark out or was it light out?
A. It was dark.
Q. Okay. And she had the lights on in her car?
A. Uh-huh (affirmative).
Q. Okay. And when she handed it to you she said, identify the suspect you saw earlier this evening; is that correct?
A. Yes.

MR. POTTER: Nothing further.

THE COURT: Anything else?

MS. HUEY: That's all I have, Judge.

THE COURT: All right.

Thank you, ma'am. You can step down. If you would, just go outside the courtroom.

THE WITNESS: Yes, sir.

THE COURT: Richard?

(Off record discussion)

THE COURT: All right. When he comes back in, Richard is going to let the jury go to smoke or whatever they need to do for ten minutes.

Okay. You can bring him back in.

Is that all the witnesses?

MS. HUEY: For the Neil Biggers, yes, sir, Your Honor.

(WHEREUPON, the Defendant returned to the open court.)

THE COURT: Okay. Anything I need to hear in this regard?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Judge, the purpose of a Neil v. Biggers hearing, I'm sure you understand, is to determine whether there was any suggestiveness or undue influence given to the witness when she identified the subject. I think what's telling is that the witness wasn't told -- the witness was told specifically, identify the subject you saw earlier this evening and handed that photo array of six people. There was no indication that the suspect may not be in that photo array. So our position is that she was unduly influenced in the sense that she was in essence told, the subject's in this lineup, and not given -- and not told the suspect may be in this lineup, he may not be in this lineup, words to those effect. As a result, it comes across as being unduly suggestive in regards to identifying my client.

THE COURT: Yes, ma'am?

MS. HUEY: Your Honor, first of all, the witness in this case knew John F. Kennedy. She had known him, saw him six or seven times at least, knew him from the neighborhood. I think there's conflicting testimony about what was said when she was handed the display. Regardless, she picked out the display without hesitation. Both persons testified that, in terms of Investigator Bearden, that she did not suggest who she should pick out of the display. She didn't say that she had to pick someone out of the display. And then certainly Ms. King testified that she was not coerced into picking someone out or unduly influenced in picking someone out of the display.

MR. POTTER: Just briefly in rebuttal, Judge. Specifically, what Investigator Bearden said is identify the suspect you saw earlier this evening. And that is unduly influencing this witness by saying, the person you saw earlier this evening is in this photo array. And that is unduly suggestive, Judge. What she needs to say is, I'm going to show you a lineup of pictures. There may be somebody in there that you know; there may not be somebody in there you know. Do not feel as if you have to pick anybody out. Not, identify the suspect. That's -- it's just one step away from a show up, Judge.

THE COURT: All right. Well, I don't think it's unduly suggestive. But assuming that it was, under the second prong of Biggers, I think that in the totality of the circumstances, she had the opportunity to view the perpetrator. She had a good view of him. She knew him. And the temporal relationship between her identifying him and the crime is fairly short. So even if it was unduly suggestive, I think under the second prong it's admissible.

Okay.

MR. POTTER: Thank you, Judge.

THE COURT: What else do we have, dying declaration?

MS. HUEY: Yes, sir, Your Honor. Just briefly, do you want me to summarize what the witnesses are going to say?

THE COURT: Yeah.

MR. POTTER: Judge ---

(WHEREUPON, Mr. Potter and Ms. Huey conferred off the record.)

THE COURT: He was in the hospital?

MS. HUEY: Well, Your Honor, there's several. First of all, while Ms. King is on the phone with 9-1-1, a neighbor, Dave Evans, comes over to help with the victim until the ambulance arrives. He asks Mr. Scott,

who did this to you? And Mr. Scott, while he was laying there bloody, barely conscious, says, a black guy named John. He is transported to the hospital. During that time frame, Investigator Bearden and also Deputy Brandon Dunn were separately in the hospital room with the victim. And the victim tells Investigator Bearden that John did this to him. And then Deputy Dunn overhears the victim telling medical personnel that, again, John did this to him. And then Investigator Simpson, who is the lead on this case, Your Honor, was notified that the Defendant -- excuse me -- the victim was in poor shape and was told to rush over to the hospital. He did so. He was able to get a recording of the victim saying that, again, it was John who did it to him. And he gave a few more details than that, and that is recorded. So if we need to proffer testimony, I would call the neighbor, David Evans, two other law enforcement personnel as well as Investigator Simpson.

THE COURT: But would you agree that all the non-recorded statements were made to individuals ---

MS. HUEY: Under the stress of impending death.

THE COURT: --- prior to death under the stress of impending death, and that in each one he said John did this to me?

MS. HUEY: Yes, sir, in so many words.

THE COURT: Do you need any proffer testimony assuming that's what the statements are going to be?

MR. POTTER: Well, I guess what I need to know is if we're going to proceed under excited utterance or dying declaration.

THE COURT: Which one?

MS. HUEY: Am I ---

MR. POTTER: I think there needs to be some foundation. I think there needs to be some sort of foundation established before that statement can even be admitted to the jury.

THE COURT: Well, now, I'm assuming that he died ---

MS. HUEY: He did, Judge.

THE COURT: How long did he live?

MS. HUEY: He died around seven a.m. the following morning. So this incident occurred five thirty, five forty, and then he died the following morning.

THE COURT: Well, it seems to me that's pretty much the definition of a statement given impending death. I mean, I think it meets those requirements.

MR. POTTER: Well, in all due candor, Judge, I was provided a case related to this particular incident. The facts are relatively similar. I guess my position

is, is that in order for it to come in under dying declaration, there has to be some knowledge or some sort of knowledge that he's fixing to die. You know, the old law school question, I'm fixing to die, John did it. You know, it's -- and I think it's something that needs to be proffered and ---

THE COURT: Well, the declarant has to believe that he's dying.

MR. POTTER: Exactly. Now, that case that was provided, the declarant did not specifically say, I know I'm going to die or anything of that sort.

THE COURT: Right.

MR. POTTER: It was a kind of the totality of the circumstances, if I read it correctly, where it could be in essence, I guess, inferred that she knew she was going to die or she was in dire straits, for lack of a better phrase, and it was admitted.

THE COURT: He was in the hospital?

MR. POTTER: There was one statement made at the scene to a neighbor before the E.M.S. arrived.

THE COURT: Okay.

MR. POTTER: And then there was two to three statements made from the hospital.

THE COURT: But ---

MS. HUEY: And my position, Judge, is that

either ---

THE COURT: --- he had grave injuries, and he never got better?

MS. HUEY: Correct. And I believe, Your Honor, Mr. Potter's referring to State v. McHoney, 344 S.C. 85. And in this particular case, it wasn't that the declarant had to know that he was dying or utter that he was dying. It was that you could infer it from the facts and circumstances around it.

THE COURT: Right.

MS. HUEY: Surrounding it.

THE COURT: I would probably allow all that in, quite frankly, at this point. Why don't we -- I mean, I'll proffer anything or I'll take it up at the time when it gets ready to come in. That might be the best way to do it. That way the foundation's laid for each individual thing.

MR. POTTER: I would be fine either way, Judge.

THE COURT: Yeah. Let's do it that way. When it gets ready -- when you get ready to ask that question -- I'm going to tell you now, something's going to have to show up that I don't know to not allow it to be introduced. I think it's the definition of a dying declaration. But if something -- if there's testimony that somebody told him he was going to do great and we'll

let you out tomorrow morning, that's different. And that may come up during the testimony of the trial. So I guess what I would ask you is before you ask that question, assuming somebody doesn't blurt it out, just let me know. And then we'll go off the record.

MS. HUEY: Okay. So then if that's the case, we need to stay away from it in opening?

MR. POTTER: Until Your Honor's made a ruling on it.

THE COURT: Well, that's what I'm saying. I mean, I'm going to let it in unless something comes up. I -- you know, assume -- you know, that's the way it is with any kind of testimony. I can't imagine it not being -- anything he said after the beating during a short period of time, while he was under the stress of that medical condition, I would think would be the definition of a dying declaration. So I think you're okay with it. Assuming there's not some information I don't know. And again, I'm sort of stating the obvious. That could happen with anything.

MR. POTTER: The only concern I have, Judge, is sometimes you think you know what a witness is going to say.

THE COURT: Oh, yeah.

MR. POTTER: And suddenly ---

THE COURT: That's the risk.

MR. POTTER: You know, my concern is that proper foundation has been laid to get to the point where it comes in under the rules, if at all, according to that particular case. And ...

THE COURT: I mean, there's a risk that something's going to change. That would be with any testimony. I think you're okay to refer to any of that. I can't imagine something coming up that -- unless you have some information that somebody told him he's getting better.

MS. HUEY: No, sir.

THE COURT: Okay. Under the circumstances you set forth, I would let all that in, if that helps you. But just for the purposes of the record, let's deal with it as each of them come up since they're basically the same thing except for the recording. And then, just to protect the record, we'll do it each time.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Judge, can I have -- I'm really on the fence in regards to whether we need to proffer the testimony before we begin. And I think I know where we're headed. However, in an abundance of caution, I think we need to go ahead and just proffer limited

testimony. Not everything, so to speak, but at least limited testimony to get into the foundation.

MS. HUEY: I can call each witness and ask two questions, I mean, to lay the foundation.

THE COURT: Okay. Let's do that quick. I'm just a little concerned they've been sitting back there. Okay. Go ahead.

MS. HUEY: Your Honor, the State would call David Evans.

DAVID EVANS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MS. HUEY:

Q. Mr. Evans, I'm going to focus this testimony to when you went over to check on Schaffer after he had been assaulted. Okay? So when you got to his trailer and you knelt down next to Schaffer, what, if anything, did -- let me back up. First of all, can you please tell the Court what Schaffer's condition was at the time when you went to check on him?

A. He was awake. He was bleeding very bad. He was hurting really bad. As I said, he was covered in blood.

Q. He was covered in blood? And was he laying down or sitting up?

A. Yeah, he was laying -- he was in the floor.

Q. He was in the floor. Okay. And so while he was in this condition, did you try to talk to him?
A. Yes, I talked to him.
Q. Okay. And what, if anything, did you ask him?
A. I asked him was he okay. I asked him what happened. And he said John, a black guy, hit me.
Q. And were you able to talk with him more, or was that basically all he could tell you?
A. I was just -- actually, I was just trying to keep him awake until somebody got there.
Q. You were trying to keep him awake?
A. Uh-huh (affirmative).
Q. So was he in and out of ---
A. Yeah, he was in and out.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: Okay. Any questions?

IN-CAMERA EXAMINATION

BY MR. POTTER:

Q. Mr. Evans, when you saw Mr. Scott, was he inside the trailer or was he outside the trailer?
A. He was inside.
Q. Okay. And the reason you came over, is my understanding, you saw Ms. Kimberly King being upset; is that correct?

A. My wife seen her upset. My wife told me.
Q. Okay. And you live across the street?
A. Yes, sir.
Q. All right. And you came over. And did Mr. Schaffer Scott say anything else apart from responding to your question, what happened? Apart -- I guess that's not a fair question. Did he say anything else besides John, a black guy, hit me?
A. No, uh-uh (negative).
Q. And he said that in response to your question?
A. Uh-huh (affirmative).
Q. Did you say anything to him besides ask him what happened?
A. No. I just asked him what happened.
Q. How were you keeping him awake?
A. Do what now?
Q. How were you keeping him awake? You indicated you were trying to keep him awake.
A. I was talking to him.
Q. Okay. What were you saying to him?
A. I kept saying, Shaffer, are you okay? I said, Shaffer, stay awake. I said, we got help on the way.

MR. POTTER: Nothing further.

THE COURT: Okay. You can step down. Thank you.

MS. HUEY: Your Honor, the State calls Brandon Dunn.

BRANDON DUNN,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MS. HUEY:

Q. All right. Mr Dunn, you previously worked for the Sheriff's office?

A. Yes.

Q. All right. And you were working as a deputy on March 30th of 2012?

A. Yes, I was.

Q. And did you have occasion to respond to AnMed Hospital in reference to the victim in this case, Claud Schaffer Scott?

A. That's correct.

Q. And when you got to the hospital and got to Mr. Scott's room, what, if anything, did you observe?

A. I observed the E.R. crew in there working with him. When the E.M.S. people brought him in, he had bandages on covering his wounds. While I was there in the room with him as they were taking the bandages off, I was snapping photos of his injuries. The E.R. personnel were talking to him and asked him, who did this or did they know who did this or what happened to him? And during their

questioning him while they were taking care of him, I overheard him say, John did this.

Q. John did this?

A. John, uh-huh (affirmative).

Q. And you were in earshot of all of this? You could hear the victim telling this to medical personnel?

A. Yes. I was in the same room with him.

Q. And this was not in response to any questioning you had for him?

A. I never asked him a single question.

Q. And what else did you notice while they were working on him?

A. Just the extent of his injuries.

MS. HUEY: That's all I have for this witness.

THE COURT: Any questions?

IN-CAMERA EXAMINATION

BY MR. POTTER:

Q. Mr. Dunn, you arrived to the emergency room after Mr. Schaffer Scott was there; is that correct?

A. Yes, sir. Just a few minutes before. I'm sorry. It was a few minutes after he got there, I arrived.

Q. Okay. So after he got there from the E.M.S., you rolled in?

A. Yes, sir.

Q. And your job at that point in time was to take

pictures; is that correct?

A. I was told to stand by there with him and take any pictures if there were any to be taken, yes, sir.

Q. All right. And he was brought into a room, was being worked on by the E.R. doctors, E.R. nurses and they were asking him questions; is that correct?

A. Yes, sir.

Q. And that's when you heard him say, John did it?

A. Yes, sir.

MR. POTTER: Nothing further.

MS. HUEY: May he be excused?

THE COURT: Yes, sir. You can be excused. Thank you.

MS. HUEY: And Your Honor, the State calls Investigator Bearden to the stand.

THE COURT: You're still under oath. Thank you.

MCKINDRA BEARDEN,

BEING PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MS. HUEY:

Q. Investigator Bearden, did you have an occasion to respond to AnMed Hospital on March 30th of 2012 in reference to the victim in this case?

A. Yes, I did.

Q. And what was the purpose of you going to the hospital?

A. When the call originally came in, they transported the victim to the hospital. Myself and Stan Ashley, Detective Ashley, were both on call. He went to the incident location; I went to the hospital to meet with the victim.

Q. And were you able to meet with the victim?

A. Yes, I was.

Q. Okay. Would you please tell the Court what condition the victim was in when you saw him?

A. When I first got there, he had just gotten -- he had arrived a couple of minutes before I got there in an ambulance. So he had -- they had took him into the trauma room. I followed the officers, the EMTs, into the trauma room and was trying to speak with the victim as they were getting set up, taking blood pressure and doing the initial admissions.

Q. And what was the victim's condition at that point as far as you could tell?

A. He could talk. He had a lot of gauze and stuff around his head. He was bloody all over. They had an oxygen mask over his face.

Q. And were medical personnel still working on him while you were talking with him?

A. Yes, they were.
Q. And while he was in this condition, what, if anything, did he say to you?
A. I asked him, I said, Mr. Scott, I'm Detective Bearden with Anderson County Sheriff's Office. I introduced myself and told him who I was. And I asked him who had done this to him. And he replied -- and I thought he said Josh. And I said, Josh. He said, no, John. At that point in time, they had taken the gauze off of his head, and that's when he coded.
Q. You said he coded?
A. Every alarm in there starting going off. The nurses started yelling. When they took the rag off of his head, it was exposed really badly, and all of his stats dropped. And that's when they told us all to leave.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: Yes, sir. Anything?

IN-CAMERA EXAMINATION

BY MR. POTTER:
Q. Investigator, was Mr. Dunn in the room at the same time you were?
A. Mr. ---
Q. Deputy Dunn who testified earlier, was he in the room with you when this statement was made?

A. I don't know.
Q. Did you have a chance to speak with Deputy Dunn before you went and spoke to -- did you talk to anybody before you talked to him?
A. There was a lot going on. And I'm sure I talked to him at some point. I don't know if it was before or after, but we were all in the room together.
MR. POTTER: Nothing further.
THE COURT: Okay. You can step down.
MS. HUEY: And then, Your Honor, one last witness, Investigator Simpson.
THE COURT: Yes, sir. You're still under oath.

BRENT SIMPSON,

BEING PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MS. HUEY:
Q. Investigator Simpson, you were the lead investigator in this particular case; is that correct?
A. That's correct.
Q. All right. And did you respond to AnMed on March 30th of 2012?
A. I did.
Q. And what was the purpose of that?
A. I had been contacted by Sergeant Chris Bussey that Mr. Scott had been severely beaten about the head. And

when I responded, I did notice at that point in time there was a nurse in the room. And that was the only person there. She walked out. I walked in. At that point in time, I started talking to Mr. Scott. He was -- I wouldn't say very alert at that point. So I waited a few minutes and started talking to him and asked him, who did this to you. At that point in time, he said, John.

Q. All right. So backing up, we've heard a lot of testimony about his condition. What condition did you note?

A. He did have a bandage partially around his head, but he also had a lot of gashes in the top of his head. A lot of them you could actually, you could almost see down to his skull, several of those. His ear was split open. A lot of bleeding.

Q. And so he was able to tell you that John did this to him?

A. Yes.

Q. And now, were you able to record that?

A. I did. Using my cell phone -- that was the only thing I had at that point in time. I hit the record on it and presented myself, told him who I was and started asking him what happened to him.

Q. And now, was the entire conversation with Mr. Scott recorded then, or did you ask him some questions first

and then record?

A. No. Everything was recorded.

Q. And then once you -- once he finished talking, what, if anything, happened then?

A. Once he finished talking, he kind of went out of consciousness and never said anything else.

MS. HUEY: And Your Honor, we do have a recording. It's not very long if you need to listen to it.

THE COURT: I don't unless you do.

MR. POTTER: I mean, Judge, the only issue is whether -- it's not the statement itself, the foundation related to whether the statement is admitted or not. But I think that's the issue before the Court right now.

THE COURT: Yeah. I don't need to listen to it for foundation.

Yes, sir. Do you have any questions.

IN-CAMERA EXAMINATION

BY MR. POTTER:

Q. Investigator, did you have a chance to speak with the nurse before she left?

A. No, I didn't.

Q. Okay. Did she say anything spontaneously before you went in?

A. Not that I recall. She just walked out of the room,

and I walked in.

Q. Thank you. No other attending physicians or anything else, just you and Mr. Scott, correct?

A. At that point, yes.

Q. All right. Now, was he in a separate room, or was he in a bay?

A. He was in a bed.

Q. Okay. My question wasn't clear. Was he in like -- was he in the emergency department? Was he in like a bay where he was easily accessible to the doctors, or was he in a separate room by himself?

A. I don't understand what you're asking. Was he ---

Q. Was he in a room by himself?

A. I believe he was.

MR. POTTER: Nothing further.

THE COURT: Okay. You can step down.

MS. HUEY: That's all we have, Judge.

THE COURT: Okay. All right. As I said, I don't see any reason why any of that two groups don't come in as dying declaration, but you're protected for the record with your objection to it.

MR. POTTER: May it please the Court?

THE COURT: Uh-huh (affirmative).

MR. POTTER: Judge, just so, as we move on, when that testimony comes up, I will be objecting to it

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to reserve those issues.

THE COURT: All right. That's fine.

Okay. Y'all want to take a ten-minute break and we'll come back in and I'll charge them and start?

We do have the one juror that has to be in Greenville at what time?

THE CLERK: It says five forty-five.

THE COURT: Okay. I mean, you want me to just do my charge today, or do you want to go ahead and do your opening? Are your openings long?

MR. POTTER: Judge, my concern is that if we do opening, and then there's this long break before we start the meat of the case, so to speak. And so ---

THE COURT: Why don't I do my charge ---

MR. POTTER: My preference would be opening and have at it.

THE COURT: All right. Well, we'll do my charge and give them some reason to come back, and then we'll swear them in and we'll start tomorrow. We've got to start at ten and that's just going to be -- I hate it. I mean, that's my normal time anyway, but not for this reason. I have to get dressed in the morning.

Let's take ten minutes and then we'll come back and I'll do this.

MR. POTTER: Thank you very much.

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(WHEREUPON, court stood at recess for a short break.)

THE CLERK: Do we swear in today?

THE COURT: Actually, I'm going to swear them in tomorrow. Nothing good can happen if I swear them in today. I'll do my thing and then swear them in the morning. No, never mine. Can't do that. I'm trying to figure a way to not swear them in, but I'm going to go ahead and swear them.

Okay. Y'all ready?

MS. HUEY: Yes, sir.

MR. POTTER: Yes, Your Honor.

THE COURT: Okay. I'll just explain to them we got stuck, and we know we've got one member of the jury that has a birthday and we're not going to push that. It would be close. Because they've got to be in Greenville, right? Okay.

Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 4:35 p.m.)

THE COURT: Ladies and gentlemen, I appreciate your patience. Obviously, it's taken longer this afternoon than we expected, and I'll explain a little bit about that in a minute about the timing and who's responsible for you having to sit back there.

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What we're going to do this afternoon -- again, we went much longer than any of us expected. But it was required and mandatory, and it's my fault that y'all sat. I had the choice of making you come back at four or in the morning. I thought I could push it a little bit. I pushed it as hard as I can, and that was as quick a I could get it done.

Rather than make you sit and listen to a lot of testimony today -- I know we have a birthday today. And we've got a dinner in Greenville. I'm cognizant of that, and everybody else is. So we're going to swear you in. I'm going to tell you about this case and tell you about your role and my role and give you my opening charge, and then we'll dismiss you for the day. We'll do the lawyers' opening statements in the morning at ten.

The other option is for me to give you the opening charge, which only takes ten or fifteen minutes, and then start with the lawyers opening statements. The problem with that is, we're not going to get out of here before five fifteen or so, and that would push anybody going to Greenville.

Again, I'll tell you a little bit about the timing, but I'll take the blame for the fact y'all sat back there, and I apologize for it. I really do.

Okay. We'll swear you in, and then I'll tell you

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about the case.

THE CLERK: If I could have you stand and raise your right hand.

(WHEREUPON, the jury was duly sworn.)

PRELIMINARY CHARGE

BY THE COURT:

All right. Ladies and gentlemen, we're about to begin today, and get substantially into the case tomorrow, the State versus John Fitzgerald Kennedy. I want to tell you two things.

First, I told the whole group earlier that I'm reading from and will be reading from, in a few seconds, an indictment. This is the indictment. You'll have it with you when you begin your deliberations. You need to be very aware of the fact that an indictment is literally just a piece of paper that starts a case. It is the process by which this whole court system begins. It has no bearing on the guilt or innocence of the Defendant. An indictment is issued every time there's a criminal charge.

The Defendant in this case has pled not guilty. The best way to think of it -- and it's an old way to think of it. But the Defendant has about his shoulders a robe of innocence or righteousness. That presumption of innocence is very important. And if you think of it as a

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robe, it's about his shoulders. It remains about his shoulders. He wears it as he sits here today. And it will only be removed from him if you begin your deliberations and in your deliberations and find that he is guilty beyond a reasonable doubt. Up until the point that you find him guilty, he has that robe of righteousness or that presumption of innocence about his shoulders.

And the fact that there's been an indictment should never be discussed by you. People hear the word indictment and think many things. This is it. Nothing mysterious about it. It's just a piece of paper.

Now, the indictment does set forth the allegations of the State. And I'll tell you that the State is alleging that John Fitzgerald Kennedy did in Anderson County on or about March 30th, 2012, unlawfully and with malice aforethought kill Claud Schaffer Scott by means of blunt force trauma and that Claud Schaffer Scott died as a proximate result thereof. That's the statutory language and that sets forth the cause of murder. But please never discuss the fact that he's been indicted. And always remember that he has the presumption of innocence about him now and will have that presumption.

That presumption of innocence, that phrase is thrown around a lot. You hear it oftentimes on television, and

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nobody understands it. It is a substantial right that we have in this country under the state and the federal Constitution. It's not something that should be taken lightly. It is a very important and fundamental right that we all have. And again, he will remain innocent until you strip him of that innocence after you've heard the testimony in this case.

Now, ladies and gentlemen, that leads me into the first thing that I always tell every juror. Judges in this state have begun to be a little bit concerned -- excuse me -- have grown to be concerned about the influence of television. I've watched jurors now for almost thirteen years. And I can tell you that if you watch cases involving lawyers and judges and police officers, you're going to be very disappointed if you think this is going to be similar.

This case will not be finished in one hour with twenty-two minutes worth of commercials. There's not going to be an awful lot of excitement. Nobody's going to yell. There won't be a whole lot of screaming unless I do it. And it will not be something that you're used to watching in a television or a movie.

The reason I tell you that is I've watched jurors become frustrated over the last five or six years because they've grown so accustomed to their perception of the

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way things work.

This room and this process that we're beginning and that you're partaking in is a very important and serious process. This courtroom is a place of honor. We're here to seek the truth. And that may sometimes require us to go slower than you expect or want. It will require you sometimes to sit in the back like you've done all afternoon -- you got your first lesson on that -- while we seek the truth in here outside your presence. So understand that this is going to be a slower process than you may like and it's going to be more time consuming than you may want. I tell you that only just to warn you, if you think you're in for something exciting, it's probably not going to be.

And that leads me also to tell you that if you sit back there more than you like, please blame me. I have two real functions here. I'm the judge of the law. I'll tell you about that in a minute. And I also am supposed to control the timing and the schedule. And if you sit back there, don't get mad at the lawyers. Get mad at me because it's my problem.

Now, ladies and gentlemen, in a trial such as this, you and I have very different roles. You're the judge of the facts. You have to determine what the facts are in this case. You do that by listening to testimony from

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the witness stand. There are going to be documents and pieces of evidence that are introduced. You'll have all those with you when you begin your deliberations. But you have to determine what the facts are in this case.

At no time should you think that I believe or disbelieve a fact. In fact, if I think that something's true, you should disregard it. If you think that I think something's false, you should disregard it. My opinion about the facts in this case means nothing. You are the sole judge of the facts in this case.

I'm the judge of law. I'll have to determine during the course of the trial what the law is based upon objections that are made. And also during the course of the trial, my law clerk and I will be preparing a final charge on the law.

And after you've heard all the testimony in this case, I will actually read to you the law in the case. And you will take the law as I give it to you and apply it to the facts as you determine them to be and reach your verdict.

Now, you can't assume the law is something or presume that the law is something. You have to take the law as I give it to you and apply it to the facts. And likewise, I'm not going to try to influence you, or no one else will try to influence you, on what the facts

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are.

Our roles never cross. I will always be the judge of the law, and you will always be the judge of the facts. And the only time those two roles cross is when you take the law as I give it to you and apply it to the facts and reach a verdict.

If I raise my voice, if I turn red, if you think I'm angry or disbelieve a witness or don't -- or believe that a witness is telling the truth, disregard it. It means nothing. What I think means nothing about the facts, only about the law.

Now, tomorrow morning we'll begin with the opening statements from the parties' attorneys, or the attorneys for the parties. The opening statements will not be evidence, and I'll remind you of that tomorrow morning. But it's an opportunity for the lawyers to tell you a little bit about the case and tell you what they expect to present.

Immediately after -- excuse me -- the opening statements, we'll begin the testimony from the witnesses in this case. And one of the main jobs that you have is determining the credibility of the witnesses. And credibility under the law in South Carolina simply means believability. You have to determine whether or not you believe the witnesses in this case.

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Now, you can believe everything that a witness tells you tomorrow, or you can believe nothing that they tell you. You can take a portion of what a witness testifies to, believe that, and disregard the remainder. You alone individually have to determine whether or not you believe the witnesses in this case. And that will be one of the main jobs that you have, determining the credibility of the witnesses as they testify.

I urge you to watch the demeanor of the witnesses. Watch how they testify. You have to determine whether or not witnesses could have seen what they say they saw. And you have to also determine if witnesses have any motive that might not be obvious to the other parties in the courtroom. But you have to determine basically whether or not they're credible.

After you've heard the testimony of the parties or testimony of the witnesses, we'll have the closing arguments, and then I'll charge you on the law. And then we'll give this case to you for deliberations.

The State in this case has the burden of proving each and every element of the crime of murder beyond a reasonable doubt. Now, at the end of this case, I will give you a much longer definition of proof beyond a reasonable doubt. But the best way I know to tell you is that beyond a reasonable doubt means that proof that

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leaves you firmly convinced of the Defendant's guilt. I know that's a little bit vague, but the State must prove their case beyond a reasonable doubt. Not every doubt but a reasonable doubt. And again, at the end of this case, I'll read you a very long definition of reasonable doubt that I think will either make it more clear or less clear. I hope more clear.

Now, during the course of this trial, lawyers may make objections. If a lawyer's going to make an objection, they're going to stand up and say they object and state the objection. Almost every time they do that, I have to send you out of the courtroom. I promise you that unless this is very extraordinary, there are going to be times when you're going to be sent out of the courtroom, sit back there for ten minutes, come back in here, sit for two minutes and go back out for ten minutes. That is the way it flows. The reason we do that, we're not trying to hide anything from you. But obviously, I have to make a determination while you're out as to whether or not testimony or evidence is admissible or not. And if it's admissible, you'll hear it. If not, you won't.

I can tell you that after thirteen years every ten-minute break turns into a twenty-minute break. And there are sometimes good reasons, sometimes there aren't.

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Please understand that we are not sending you back there and going to make phone calls. We're working through this case until we finish. And if you do sit back there longer, there's a reason for it.

After all the testimony's been given, after you've finished your deliberations and reached a verdict, whatever it may be, I'll come back there and talk to you off the record. And that'll be an opportunity for me to tell you a little bit more about what's going outside your presence. Don't worry about that now. You will hear everything you need to hear.

I told you this morning, please don't go home and look on the Internet about this case or look up newspapers or call somebody that you know. I'm ordering you and asking you not to look on the Internet, not to look at any television recordings, not to read anything in the paper or any other material and not to listen on the radio to anything about this case. I don't know if there's going to be any publicity about it. If there is, please don't listen to it.

I hurt a very good reporter, I hurt her feelings a couple of years ago when I said this, but it's true. Almost everything you hear outside the courtroom is false. I mean, there's some shred of truth to it. But nothing good can come of you looking up more information

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than you're going to hear in this courtroom. I will tell you that if it comes to my attention that you have done that -- and it usually does -- I'll have to deal with it. There was a juror in Charleston that went to jail for looking up some information on the Internet. It's a very serious thing because, as I told you this morning, you're going to know more about this case than anybody in the world by the time you finish. And if you happen to go outside this courtroom for information, I'll have to deal with it. Please don't make me do that. I don't want to do it. And the whole point of this morning, all those questions, was to come up with twelve people plus an alternate who promise that they would listen to the testimony and render a verdict. That was the point of all those questions. Can you render a verdict even though you have this information? We're trying to find twelve people and an alternate who will listen and render a verdict based only on the testimony that they hear in this case.

Now, Mr. Foreman, your only job at this point during the course of the trial is communication with me. If you have a problem or an issue while you're back there in the jury room, Mr. Foreman, write that issue or problem out on a piece of paper, sign your name, knock on the door and give it to Buck. Buck will bring it to me. If I can

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answer a question during the course of the trial or deal with an issue, I will. If the law prevents me, I'll bring you in here and tell you I can't deal with it or can't answer.

There can be no notes during the course of the trial. I know a lot of people want to take notes. You can't do that. The reason is that I believe that people who take notes sometimes can convince other people that the notes are more true than a person's memory. And so I don't allow notes in my courtroom.

The last thing I'll tell you is sort of the first thing I told you this morning. Don't begin your deliberations or discussions of this case until it's all finished. For obvious reasons you shouldn't begin talking about this case until you've heard both sides. And you will only hear both sides once all the testimony has been introduced and the closing arguments have been made. For the same reason that you don't go talk to other people outside the courtroom, you shouldn't talk to each other about this case. This case, the State versus John Fitzgerald Kennedy should never be discussed in that jury room until I tell you to begin your deliberations. You can do anything else that you want, but don't discuss the case.

Now, tomorrow morning we're going to start at ten.

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Again, I'm really sorry about this afternoon. It just took us longer than we expected. We've been in here working pretty solid. And I don't think that -- I'm sure that won't happen again because we've taken care of most of the matters that are going to come up during the course of the trial that we would normally need to send you out. So we've sort of anticipated problems and taken care of them.

Now, if you have any contact, if somebody contacts you about your jury service, as I told you, please let Buck or Richard or I know tomorrow. Again, that's not going to happen. But in the event that somebody contacts you about your jury service, I want to know because I'll take care of that real quick.

I'm obviously not in the best mood this week. It would be a good time for me to sling somebody in jail for messing with you. They're not going to do that. You're not going to hear from anybody. Okay.

Any objections to what I've said or additions now?

MS. HUEY: Nothing from the State?

MR. POTTER: No, Your Honor.

THE COURT: Okay.

All right. I've rambled long enough. I will see y'all at ten tomorrow. Again, don't discuss the case. If you've got a problem, let your Foreman know and he'll

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let me know. And I hope you have a good birthday. See you tomorrow morning.

(WHEREUPON, the jury exited the open court at approximately 4:54 p.m.)

THE COURT: Okay. Anything we need to do this afternoon before we finish up?

MS. HUEY: No, sir.

MR. POTTER: We're good, Judge.

THE COURT: Do you -- how many witnesses do you really truly believe you're going to call?

MS. HUEY: I believe I've whittled it down to eighteen.

THE COURT: Okay.

MS. HUEY: Ish.

THE COURT: Ish. That's what I thought. Okay. And there's nothing else we need to do? I mean, y'all have talked with your clients and parties, and we're as far as long as we can get right now, right?

MS. HUEY: Yes, sir.

MR. POTTER: Yes, sir.

MS. HUEY: Now, for planning purposes we're going to start at ten?

THE COURT: Yeah. And I may tell them we're going to go a little later in the afternoon. And Wednesday, I'm rescheduling this because they're not

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going to do anything substantial, just look at it. So we won't have to leave at eleven.

MS. HUEY: Okay.

THE COURT: All right. I'll see you in the morning. I'll be here early.

MS. HUEY: Thank you, Judge.

MR. POTTER: Thank you, Judge.

THE COURT: Thank you.

(WHEREUPON, court stood at recess for the day at approximately 4:55 p.m.)

December 3, 2013

(WHEREUPON, State's Exhibit Numbers 4, 5, 6, 8, 12, 13-A through B, 14, 15, and 16 were marked for identification only.)

(WHEREUPON, court convened with all parties present and the following proceedings were had commencing at approximately 10:29 a.m.)

THE COURT: I've gotten a note from the jury. "Dear sir, juror number 46 has pre-op on the 16th of this month and surgery on the 20th." Congratulations to them. All right. I'll be in a murder trial in McCormick on the 16th. So I guess they're just -- well, I'm not sure what that is, but I'll explain to them that we're going to finish this week.

(WHEREUPON, Court's Exhibit Number 3 was marked for

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identification only.)

THE COURT: Okay. Are we ready?

MS. HUEY: Yes, sir.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Judge, I've spoken with Katherine in regards to some issues. She intends to call the -- use the 9-1-1 tape in her case-in-chief. I've got some issues with that 9-1-1 tape. And I don't know if you want to take that up now or if you want to take it up at that point in time.

THE COURT: We'll take it up at that point in time. Let's go ahead and we'll -- are you going to do that first?

MS. HUEY: Your Honor, I would seek to introduce it after the second witness is done testifying.

THE COURT: Okay.

MS. HUEY: So I'll lay the foundation with the first and second witnesses.

THE COURT: I've got to take a break at ten till twelve anyway. So that'll be a good time.

Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 9:29 a.m.)

THE COURT: All right. Good morning, Mr.

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Foreman and ladies and gentlemen. Let me take up two quick things. First, I got your note and that's exactly the way you communicate with me about the problems on the 16th and the 20th. We will be finished with this case this week, so that won't be a problem. But that's exactly the way you should communicate with me.

We're going to begin this morning with the opening statements from the attorneys representing the State and the Defendant. I want to remind you one last time that these opening statements are not evidence. They're just an opportunity for the attorneys to tell you a little bit about their case and what they intend to prove. The only evidence you'll hear in this courtroom will come from the witness stand. If you have a problem during the day, just let me know.

All right. Yes, ma'am? Yes, sir?

MR. HAIGLER: May it please the Court, Your Honor?

THE COURT: Yes, sir.

OPENING STATEMENT

BY MR. HAIGLER:

Ladies and gentlemen, on March the 30th, 2012, seventy-six-year-old -- I'm sorry. I get a little thirsty when I'm here and talking. Seventy-six-year-old Claud Schaffer Scott was -- who everybody here refers to

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Schaffer -- was brutally beaten and left for dead in his own home at [redacted] here in Anderson County. His attacker, John Kennedy, did not have to break into his home that day because he knew that the door would be unlocked. He knew this because for two weeks prior to this attack he was living in a camper behind the victim's trailer. Schaffer was letting him live in this camper and work for him while he was trying to find a better place to live. Schaffer was in the business of buying and selling used cars. And because of this, the Defendant knew that at times he would have a good amount of cash on him.

March 30th, 2012 was one of those times. And while Schaffer laid asleep in his recliner, John Kennedy walked into his home and brutally attacked him with a skillet. And when he was satisfied with the job that he'd done on Schaffer, he grabbed a set of his car keys and fled the scene. But not before Kimberly King saw him leaving the residence, noticed that he was sweating profusely and acting weird. So this let her know that something might be wrong.

Furthermore, the Defendant did not realize that Schaffer was not quite dead. And while he laid on his floor with his jaws fractured, his dentures busted out of his mouth, and his head split open, he was still able to

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tell his neighbor, John beat me. And while he laid in his hospital bed, he was able to tell not one, but three police officers, John beat me.

Ladies and gentlemen, John's sitting right over there at the Defense table. And throughout this trial, we're going to prove that he is not only guilty of brutally beating Schaffer, but that this attack resulted in his death.

Now, each of you has been selected to determine whether there is evidence beyond a reasonable doubt the Defendant, John Kennedy, is responsible for the murder of Claud Schaffer Scott. In order to prove this, we're going to present evidence, most of which will be in the form of testimony right here from the witness stand. You're going to hear from the victim's neighbors, people who interacted and had transactions with him, police officers, SLED agents, and Dr. Woodard who performed the autopsy and will tell you that the victim died of blunt force trauma. And even the victim himself who was recorded just hours before he died.

Now, when you're listening to this evidence and hearing the testimony, it's important for you to keep the elements of this crime in the back of your mind. As the Judge told you yesterday, murder is the killing of a person with malice aforethought. Malice can be defined

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as the wrongful intent to injure another. And it indicates a wicked or depraved heart intent on doing wrong. In other words, it is the wrongful, evil intent to take human life with no legal justification. Aforethought simply means that malice must accompany the act of the killing. And this evil, wicked intent does not have to be formed any significant amount of time before the killing. It could actually be conceived at the very moment of the blow. Now, the Judge is going to tell you about the elements and everything much later in greater detail than I am.

We just want to thank you for your time and presence here on this jury. We know it's not something that you are excited to do, but we couldn't do it without you. And this is a very important case for Schaffer Scott and his family. Thank you.

THE COURT: Thank you.

Yes, sir?

MR. POTTER: May it please the Court.

THE COURT: Yes, sir.

OPENING STATEMENT

BY MR. POTTER:

Today the government is going to present a case to you based solely upon circumstance, assumptions, and speculation. Circumstance, assumption, and speculation

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that resulted in a rush to judgment that John was guilty. No one's going to come up onto the stand and sit -- swear on the Bible and point at John and say, I saw John hit Schaffer Scott. No one's going to say that, not one witness. Instead, what the government's going to try to do is create a picture by way of a puzzle. They're going to use evidence and circumstances and assumptions and speculation and try to put this puzzle together for y'all to see. And this puzzle, ladies and gentlemen, is going to be missing pieces and it's going to have ill fitting pieces. And it not's going to give the complete picture of who resulted -- or who killed Schaffer Scott.

The evidence is going to show that Mr. Schaffer Scott was asleep in his house all alone when he was assaulted. And he told investigator Simpson that fact. Schaffer doesn't know who assaulted him. When someone is asleep, sound asleep in their lounge, how do we know he even came conscious after the first blow? Was he even conscious after the first blow, or did that first blow knock him out? Is he making an assumption of who assaulted him. If he is not knocked out and rendered unconscious after that first blow or the second blow, how was he able to see who his attacker is? His natural instinct is to protect himself because he's getting hit in the head. His arms, his hands are going to be

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blocking any chance to see who is attacking him.

Schaffer doesn't know who attacked him. Schaffer doesn't know. He assumes it was John because John more than likely was probably the last person he saw before he decided to take his nap because they had been together all day. And John lives with him.

The problem here is this. Once the investigators heard John's name, the investigation started with eyes wide open that slowly became blinded, focused solely on John. A flawed investigation.

Why is it flawed? Evidence is going to show that John was at the incident site and was seen by a witness by the name of Kimberly King. And she'll testify. He was not inside the house. She found him outside the house. He was sweating and he was nervous, but he didn't have any blood on him. And that's significant because Schaffer was beat pretty darn hard. There's blood splatter on the walls. There's blood on the lounge that he was sleeping on. There's blood on the floor. There's blood everywhere at the scene. But his attacker, alleged attacker, didn't have any blood on him? That's a red flag for an investigator. Maybe Schaffer didn't know who it was that attacked him. Maybe Schaffer was mistaken. I need to make sure I follow up on this.

Other issues. John left the scene in a car that he

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took that was owned by Schaffer. That vehicle was recovered almost within the next hour. No blood was found in that car. None. How can an attacker who brutally assaulted somebody with a frying pan, blood all over the scene, not have blood on himself and not able to transfer blood into the car using the steering wheel, using the gear shift? He should have had blood on his hands. Easily would have transferred that. Didn't. Another red flag.

There was another person living with Schaffer. She lived on and off. She had a boyfriend next door by the name of Ron Curry. She would come live with Schaffer whenever she and Ron got into an argument. Occasionally, I think he would beat her, and she would come and Schaffer would take her in.

Julie or Julia Moore knew that Schaffer was selling a car that day.

MS. HUEY: Objection, Your Honor. May I approach?

THE COURT: Yes, ma'am.

(WHEREUPON, a bench conference was held off the record.)

OPENING STATEMENT

CONTINUED BY MR. POTTER:

Ms. Julia Moore lived with the Defendant [sic].

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Through the investigation she was interviewed one time by one investigator. We had two investigators working on this case. One investigator interviewed her, not two. Evidence or what they discerned through that investigation determined she could not account for her whereabouts from one o'clock that afternoon until one thirty the following morning. And she was with Ron Curry.

She was a resident. She had lived with Schaffer Scott. She was driving a car that was owned by Schaffer Scott. She and Ron were found the next day in that car. And the investigators did not search that car. The investigators did not interview them immediately. We don't know what those individuals know or didn't know about this case. We don't know if there was any evidence available in that car that could have pointed towards guilt of John or not John. We don't know that.

MS. HUEY: Objection, again, Your Honor.

MR. POTTER: Can I not talk about a flawed investigation?

THE COURT: Y'all come here. Come up here a second.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: Ladies and gentlemen, I'm going to

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send you back to the jury room for just a second. Please don't discuss the case.

(WHEREUPON, the jury exited the open court at approximately 10:42 a.m.)

THE COURT: Okay. What's your objection?

MS. HUEY: Your Honor, my objection is that the defense is going to third-party guilt.

MR. POTTER: Judge, may I respond?

THE COURT: Sure.

MR. POTTER: I've got a right to present any type of defense on my client's behalf. Second of all, I'm not pointing a finger at anybody. I am offering evidence that it's a flawed investigation, that they didn't search that car. There could have been evidence that maybe exonerated him or could have convicted him. And that's what I said to the jury. I am not pointing the finger at anybody. I'm pointing the finger at the investigators for not doing their job. And that's part of our defense, Judge.

THE COURT: Well, you're coming pretty close. You said that they were found in the car the next day. I mean, you understand the problem with third-party guilt?

MR. POTTER: Judge, with all due respect, I think I have a right to present a defense.

THE COURT: Well, you do.

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MR. POTTER: And if you give me a moment, I think I have a case that deals with this issue.

THE COURT: Sure.

MR. POTTER: State v. Holmes. It's a recent case, 2006, as well as State v. Cope is what I'm going to rely on. I've got an ultimate right to present a defense. And part of -- I mean, Judge, part of any defense is going to involve, I didn't do it, someone else did. Every defense is based upon that.

THE COURT: Yes, ma'am?

MS. HUEY: But not a specific person, Your Honor.

MR. POTTER: And I haven't said a specific person.

THE COURT: All right. Be careful. You're getting real close.

MR. POTTER: I understand that, Judge, but ---

THE COURT: I mean, you've got -- listen, let me just -- here's why I sent the jury back. Y'all have got to let me talk, and don't interrupt me. That's just the rule. I hate it.

It's the way it is. I'm sorry. You're coming close. Just don't go there. I mean, he can skate close to the edge. He just can't go over. And if he does, it's a mistrial.

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MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: You've got to understand I'm in opening statement. I'm keyed up.

THE COURT: I understand. I'm keyed up too.

MR. POTTER: And the other issue, I've been objected twice in front of the jury in my opening statements.

THE COURT: If it was sort of a supercilious type thing, but you're close. You're right on the edge. As long as you stay on that edge, I don't have a problem with it. But you just can't point to one specific person. Don't do that.

MR. POTTER: I'm not going to do that, Judge.

THE COURT: Okay. Bring them back in.

(WHEREUPON, the jury entered the open court at approximately 10:45 p.m.)

THE COURT: All right. You can continue.

MR. POTTER: Thank you, Judge. May it please the Court.

THE COURT: Yes, sir.

OPENING STATEMENT

CONTINUED BY MR. POTTER:

As I was saying, potential avenues where evidence may or may not have been discovered were not followed

through by the State, by the government, by the investigators. A white Cavalier that was owned by Schaffer was not searched. The red flags that point to a situation where Schaffer might have been mistaken in regards to who assault him were not followed through by the government which leads to a flawed investigation, which gets back to the situation where they're presenting a case based upon circumstance, assumption, and speculation. And ladies and gentlemen, that is a dangerous road to go down because testimony and evidence that's based solely upon circumstance, assumption and speculation may and can result in an innocent man being found guilty. Thank you.

THE COURT: All right. Yes, ma'am?

MS. HUEY: Your Honor, may we call our first witness?

THE COURT: Yes, ma'am.

MS. HUEY: Your Honor, the State calls Kimberly King.

KIMBERLY KING,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Ms. King, how old are you?

A. Thirty.

Q. Are you currently employed?
A. Yes.
Q. Where do you work?
A. The Cafe in Jonesville.
Q. Okay. Where is that? Is that South Carolina?
A. South Carolina.
Q. Do you have any children?
A. Yes.
Q. And how old?
A. Eighteen months.
Q. One girl; is that right?
A. A girl, yeah.
Q. Now, did you know the victim in this case, Claud Schaffer Scott?
A. Yes, I did.
Q. And how did you know him?
A. He was married to my grandmother years and years ago, but he's been my grandfather ever since I've been a baby.
Q. Okay. And so you've been in touch with him over the years then?
A. Yes. He lived right next door to my mom.
Q. And what did people usually call Mr. Scott?
A. Schaffer.
Q. Schaffer? Now, when you say you lived nearby, how

long did you live close to Mr. Scott?

A. Off and on my whole life.

Q. Do you know how old he was?

A. Seventy-five, seventy-six.

Q. Was he working when you knew him?

A. No, not like a job-job. He just had like a car business. He sold cars.

Q. He would sell cars?

A. Yes, ma'am.

Q. And how often would you see Schaffer?

A. At least once or twice a day I would check on him.

Q. And why would you check on him?

A. Because sometimes he would be sick, because he was older and he couldn't clean his house and stuff like that. So I would go over there and help him clean and do chores around the house.

Q. And what was his health like?

A. Not too good.

Q. But did he get around?

A. Yeah. He could walk and stuff.

Q. And was he driving?

A. Yeah.

Q. Now, around the time of March 30th of 2012, was anyone else staying with Schaffer?

A. Yes.

Q. And who was staying there?
A. Julie Moore was staying inside the trailer with him, and John Kennedy was staying back in the camper behind the house.
Q. Okay. And when you say the camper behind the house, like a mobile camper?
A. Yeah.
Q. And that's where John F. Kennedy was staying?
A. Yes, ma'am.
Q. And how did you know John F. Kennedy?
A. I didn't really know him until he really like moved in. I didn't know him, know him. I seen him around a few times in the neighborhood before he moved over there. But the most I've ever seen him is five or six times. Maybe seven times.
Q. And how long was he staying in Schaffer's camper?
A. One or two weeks.
Q. And so during that one- or two-week period, is that when you would have seen him?
A. Yes, ma'am.
Q. And how many times did you say?
A. About five or six, seven maybe at the most.
Q. Okay. And is John F. Kennedy in the courtroom today?
A. Yes, ma'am.

Q. Could you please point him out to the jury?
A. Right there in the middle.
MS. HUEY: Your Honor, let the record reflect she's pointing to the Defendant.
THE COURT: All right.
Q. Now, do you know what, if anything, John F. Kennedy was doing for Schaffer while he was staying there?
A. I know sometimes he would work on a car, a car or two every once in a while.
Q. And is that some of the cars that Schaffer was selling?
A. Yes, ma'am. Before he would sell them, they'd get them ready to be sold.
Q. Did you have any one-on-one contact with Mr. Kennedy during that time frame?
A. Yeah. One night my roommate had left the house, and I was in the house by myself. I was pregnant at the time. So of course, I was not going to open up my door. He come over. It was like eleven -- I don't remember the exact time. But he came over. It was late. Said, can I take a shower. Which Schaffer wouldn't let him take showers at his house. So ...
Q. Okay. And so did you let him in ---
A. No.
Q. --- to your place?

A. No.
Q. And you said you were pregnant at the time?
A. Yes, ma'am.
Q. With your daughter now?
A. Uh-huh (affirmative).
Q. And so he came and knocked on your door. Was that in the two-week time frame surrounding March 30th of 2012?
A. Yes, ma'am.
Q. It would have been that time frame?
A. Yeah.
Q. Now, drawing your attention to Friday, March 30th of 2012, did you check on Schaffer on that particular day?
A. Yeah, I did. Earlier that day and then again when the accident happened.
Q. Okay. And earlier that day. Do you remember about what time that was?
A. About twelve, one o'clock. Somewhere twelvish, oneish. Somewhere around in there.
Q. You went and checked on him?
A. Yeah.
Q. Okay. And was anyone with Schaffer when you went and checked on him?
A. Yeah. Julie was there that day. She was getting ready to leave. She was getting her clothes on. John

was in the yard doing something to a car. And Schaffer was in the house. He was real sick that day.

Q. You said Schaffer was sick that day?

A. Uh-huh (affirmative).

Q. And you said J.F.K. was outside; is that correct?

A. Yes, ma'am.

Q. Now, so that was around -- between twelve and one or so?

A. Yes.

Q. That you checked on Schaffer first?

A. Yes. Yes.

Q. All right. And so do you remember what time you checked on him the second time?

A. Around -- it was five, five-thirty, sixish, something. I don't remember the exact time.

Q. What did you notice when you first went to check on Schaffer at around five-thirty or so?

A. The front door was locked. When I got there -- the door's normally either open, or if it's closed it's always unlocked until it gets dark. And of course, it wasn't dark yet. So immediately when I get over there, I twisted the knob to see if I could just walk in. And the door's locked.

Q. Okay. Now, when you say open, do you mean ajar?

A. Like open wide.

Q. Okay. Open wide so air comes in?
A. Yes, ma'am.
Q. Okay. Or if it was closed, it would be unlocked?
A. Yes, ma'am.
Q. And so on this particular time when you went to check on him, the door was closed?
A. Yeah, and locked.
Q. And locked. And so what, if anything, did you think about that?
A. That it was weird. So immediately I knocked on the door.
Q. And when you were knocking on the door, what, if anything, did you hear or see?
A. I didn't hear anything. But John Kennedy came from the back of the house and said, Schaffer is asleep. He don't want to be bothered.
Q. Okay. And what did John Kennedy look like when you saw him?
A. He was real sweaty and just looked weird.
Q. And he was telling you that Schaffer didn't want to be bothered?
A. Yes, ma'am.
Q. But could you tell where he was coming from?
A. From the back of Schaffer's house.
Q. From the back of the trailer?

A. Yes, ma'am.
Q. That Schaffer lived in?
A. Yes, ma'am.
Q. So what did you then do in response or say in response?
A. I said, well, I don't care if he's asleep. I'm still going in anyway. Is the back door locked? He said, no. So he flies back around to the back, so I follow behind him and, of course, the door wasn't locked. He locked it so I couldn't go in.
Q. So he locked the back of the trailer so you couldn't go in?
A. Yes, ma'am.
Q. And so then what did you do?
A. I went back around the front and started beating on the door. He had the key to the blue Ford. It was a car, a Ford Escort or Ford Contour. I don't remember exactly which one.
Q. One of Schaffer's cars?
A. Yes, ma'am.
Q. And it was blue?
A. Yeah. And he got in the car. He left and went toward the bottom of the hill. And then after that, I started beating on the door. But before he left he said, Kim, come on and go -- get in the car. Go to the store

with me. Let's just -- I said, no, I'm not going to leave with you.

Q. Okay. So he's trying to get you to get in the car with him?

A. Yes.

Q. To go to the store?

A. Yes.

Q. And leave Schaffer?

A. Yes.

Q. So how close do you think you were to John F. Kennedy ---

A. About ten feet.

Q. --- during this time frame?

A. About ten feet.

Q. And you obviously got a good look at him?

A. Yes.

Q. Well, you're wearing glasses now. Were you wearing glasses then?

A. Yes.

Q. Once John F. Kennedy took off in the blue car belonging to Schaffer, what did you then do?

A. I started beating on the door, and I heard Schaffer say, go away. I don't want to be bothered now. Go away. I said, no, it's me, it's me. It's Kim. Open the door. Open the door. So when he opens the door, then that's

when I see that he's beaten really bad and he just falls back in the doorway. And I immediately called 9-1-1.

Q. Okay. So he is able to come to the door, he opens the door. And you're on the porch; is that correct?

A. Yes, ma'am.

Q. And when he opens the door, does he immediately fall backward?

A. Yeah.

Q. And so you -- did you ever go ---

A. He really just crawled to the door. It was like he was on his knees when he got to the door.

Q. And did you ever go inside the trailer?

A. No, I didn't.

Q. Where was he in relation to the trailer? Where was he exactly when he fell?

A. At the front door. I mean, like ---

Q. Right in the door?

A. The doorway like, you know, like a normal doorway. And I mean, he didn't have a screen door or nothing. When the door opens, it's just at the doorway to go into the trailer. He laid from the threshold, I guess you would say, down into his living room.

Q. Now, I know you didn't go inside. But could you see into the trailer a little bit?

A. Yes.

Q. Okay. And what, if anything, did you see when you looked in?

A. The furniture was not like it should have been. It was kind of moved. You know, you could see there was a hassle or whatever. There was a frying pan laying next to him. His phone was laying next to him broken, and he was just bloody from head to toe.

Q. So your first step then obviously was to call 9-1-1?

A. Uh-huh (affirmative).

Q. Was Schaffer talking to you?

A. Yeah. The only other thing I can remember him saying is he kept calling my name, telling me to call 9-1-1 and not to leave him.

Q. Okay. And so what you did, you called 9-1-1?

A. Yes, ma'am.

Q. Ms. King, I'm going to show you what's been marked as State's 4. Could you take a look at that, please?

A. Yes, ma'am.

Q. Okay. And do you recognize that exhibit?

A. Yes.

Q. And how are you able to recognize it?

A. It's the 9-1-1 tape.

Q. Okay. And are your initials on that exhibit?

A. Yes, it is.

Q. Okay. Is that the 9-1-1 call you placed on March

30th of 2012?

A. Yes, it is.

Q. Does it fairly and accurately depict the call you made on March 30th, 2012?

A. Yes.

Q. And in that call, do you tell the 9-1-1 dispatcher that John ---

MR. POTTER: Objection, Judge. I think it speaks for itself. She's trying to bolster this witness, not to mention ---

THE COURT: Overruled. She can say what she said to the person.

Q. And what did you tell the 9-1-1 dispatcher when you called?

A. Can you repeat that again because he interrupted you?

Q. When you called 9-1-1 on March 30th of 2012, what did you tell the 9-1-1 dispatcher in terms of who had left Schaffer's trailer?

A. John Fitzgerald Kennedy and he calls his self J.F.K.

Q. Now, Ms. King, while you're on the phone with 9-1-1, who, if anyone else, comes to Shaffer's trailer?

A. David. Margaret was outside. David Evans. I think the last name is Evans.

Q. Okay.

A. He was in the house. His wife was outside, and she asked me was everything okay. I told her, no. I said, I need help. I need help. And David immediately came over.

Q. And he is a neighbor of Schaffer's; is that correct?

A. Yes. He lives across, directly across in front.

Q. And so a neighbor of you then too?

A. Yes.

Q. At the time?

A. Yes.

Q. So David comes over. And then what does David do when he gets to Shaffer's trailer?

A. He gets -- I think he gets on the phone with the 9-1-1 operator and they, I guess -- I'm guessing they tell him to wrap his head with some towels to stop his head from bleeding because his head was skeeting -- like skeeting blood out.

Q. Okay.

A. And he does that. And he needed some gloves so he told me -- told Margaret -- because his son's sick also, and he has hospital gloves at his house. He told me to tell her to get some gloves, and I did that. And she brought the gloves over for us to use to keep, you know, to keep the blood off of us.

Q. So did you see -- does David actually go in the

trailer with him?

A. Yes, ma'am.

Q. And he's helping Schaffer with the towels, and he's wearing gloves?

A. Yes.

Q. Now, Ms. King, did you eventually give a statement to law enforcement, specifically Investigator Stan Ashley ---

A. Yes, I did.

Q. --- saying what you observed and who you saw on March 30th of 2012?

A. Yes, I did.

Q. And in that statement, what did you tell Investigator Ashley?

A. Everything that happened that day.

Q. And who, if anyone, did you name as the person you saw leaving Schaffer's trailer on March 30th?

A. John Fitzgerald Kennedy, called himself J.F.K.

Q. Now, did you also meet with Investigator McKindra Bearden in reference to picking someone out of a photo display?

A. Yes, I did.

Q. And were you shown that photo display on March 30th of 2012?

A. Yes. It was later on that evening.

Q. All right. Ms. King, I'm going to show you what's been marked as State's 2 and 3. Do you recognize those exhibits?

A. Yes, ma'am.

Q. Specifically as to State's 3, is that the photo display you were shown on March 30th, 2012?

A. Yes, it is.

Q. And when you were shown that display, were you told anyone you should pick out of that display?

A. No.

Q. Did anyone put any pressure or tell you to pick someone specifically?

A. No, no.

Q. And when you were shown that display, did you see the person that left Schaffer's trailer on March 30th of 2012?

A. Yes.

Q. Okay. And whose picture did you circle?

A. John, number four.

Q. Okay. And how did you indicate that you had chosen Mr. Kennedy?

A. I circled the number and signed my name.

Q. And again, that was number 4?

A. Yes, ma'am.

Q. All right. And now I'm going to point your

attention to State's 2, which is the affidavit. Is your signature on that affidavit as well?

A. Yes, it is.

Q. And what does that signature indicate?

A. That he was in the house and left when I found him. He left in the car and stuff.

Q. And when you say he, who are you referring to?

A. John.

Q. John?

A. John Kennedy.

Q. John Kennedy. Do both of those exhibits fairly and accurately depict what you signed on March 30th of 2012?

A. Yes.

Q. Have they been altered or changed in any way?

A No.

Q. And that would be State's 2 and 3.

Now, on March 30th of 2012 when you went to check on Schaffer that second time, around five thirty or after five thirty, did you see anyone other than John F. Kennedy at that trailer?

A. No.

Q. Did you see anyone other than John F. Kennedy get into Schaffer's blue car and leave Schaffer's trailer?

A. No.

MS. HUEY: That's all I have at this time,

Judge.

THE COURT: All right. Yes, sir?

MR. POTTER: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Ms. King, you mentioned that Schaffer was sick that day; is that correct?

A. Yes, sir.

Q. Okay. Can you please tell the jury what you meant by that? Was he ill in regards to an ill stomach or did he ---

A. He just had his days where he wouldn't feel well. Sometimes he'll be weaker than others because he took Coumadin, which is a blood thinner. If you're familiar with Coumadin, it's a blood thinner. And he, you know ...

Q. Okay. So was it that medication that made him ill to your knowledge?

A. Uh-uh (negative). I mean, I don't know if it was the medication that made him ill or not.

Q. Did he have any bandages on his arms that day?

A. Not that I can remember.

Q. I'm sorry. So you don't remember seeing bandages on him or anything of that sort?

A. Not on that day.
Q. Okay. Now, I ask you to look at State's Exhibit 7-G. This is State's Exhibit 7-G.
MR. POTTER: May I approach, Judge? I'm sorry.
THE COURT: Certainly.
Q. This is a photograph. And that's Schaffer in the blue shirt; is that correct?
A. Yes, it is.
Q. Okay. And on his left arm -- is that a bandage on his left arm?
A. Looks like it.
Q. Looks like it. Okay.
MR. POTTER: Judge, may I show this to the jury?
THE COURT: Yeah. Let me look at it first.
MR. POTTER: Yes, sir.
THE COURT: Any objection?
MS. HUEY: No, sir. In fact, we'd seek to admit State's 7-A through L then.
THE COURT: Any objection?
MR. POTTER: No, Judge.
THE COURT: Okay. Without objection.
(WHEREUPON, State's Exhibit 7-A through L were admitted into evidence.)
MR. POTTER: As long as they're the ones

seeking to admit.

THE COURT: Yeah, they're ---

MS. HUEY: Yes, sir. Yes, sir.

MR. POTTER: All right.

(WHEREUPON, State's Exhibit 7-G was published for the jury.)

Q. So it looks -- it appears he's got a bandage on his left arm?

A. Yes, sir.

Q. All right. Do you know how he got that bandage?

A. No, I don't.

Q. Okay. Because you testified you didn't -- you don't remember seeing him with the bandage; is that right?

A. No, I don't remember.

Q. Okay. Typically, when you have a bandage on your arm, you're bleeding. It's because you were bleeding. Is that a fair statement?

A. I mean, nine out of ten.

Q. Now, you initially checked on Mr. Scott around one o'clock that afternoon?

A. Yeah, somewhere around in that time.

Q. And my notes indicate there was somebody else at the trailer as well as Mr. Scott?

A. Yes.

Q. Mr. Kennedy was outside the trailer?

A. Yes.
Q. But who else was in the trailer?
A. Julie Moore.
Q. Julie Moore?
A. Uh-huh (affirmative).
Q. And Ms. Moore, did she live there?
A. Yeah.
Q. And she would kind of come and go?
A. Yeah.
Q. She would stay a few days and leave; is that right?
A. Yeah.
Q. Okay. And you were living next door to Mr. Scott, correct?
A. Yes.
Q. Okay. Now, when you lived next door to Mr. Scott, did you live by yourself?
A. No.
Q. Who did you live with?
A. My roommate.
Q. Okay. And who was that?
A. Ron Curry.
Q. Okay. Now, let's talk a little bit about March 30th, that Friday. All right. You checked on him, him being Schaffer, around one o'clock that afternoon?
A. Yes, sir.

Q. He was, I presume, okay?
A. Yes.
Q. Okay. And then you came back later on about five-thirty, six o'clock to check on him again?
A. Yes.
Q. Okay. And you testified earlier that you came to the front door and it was locked, correct?
A. Yes.
Q. And is there steps in the deck leading to that front door?
A. Yes.
Q. Okay. Is that deck big enough to sit a chair on where you can sit on?
A. I mean, it is. But the wood was kind of not good enough to sit a chair on.
Q. Okay. And then -- so you noticed the door was locked, you came down off the steps, and that's when Mr. Kennedy came around the side of the trailer; is that correct?
A. No. I was still on the porch when he came around.
Q. Okay. So he comes around the trailer, and that's the first time you see him, right?
A. Yes.
Q. When you see him, you said he was sweating?
A. Yes.

Q. Can you remember what he was wearing?
A. I don't remember what he was wearing.
Q. So you don't know what color shirt he had on?
A. No, I don't.
Q. You don't know what color pants he had on?
A. No, I don't remember either.
Q. You don't know if he had short pants or long pants?
A. No, I don't remember what he had on.
Q. But you do remember that he was sweating?
A. Yes, because I was looking up at his face, trying to watch my step because I was pregnant at the time as well.
Q. I understand. But you noticed that he was sweating?
A. Yes, I did.
Q. That was something that you found odd, correct?
A. Yes.
Q. But you didn't find anything else odd about him?
A. I mean, just that he was sweaty and out of breath.
Q. Okay. Didn't see any blood on him?
A. No.
Q. Now, you followed John around to the back of the trailer?
A. Yes, I did.
Q. John went up, locked the back door, shut it and then left, correct?
A. Yes.

Q. Okay. So he didn't go in there?
A. No.
Q. He just opened up the door, locked it, shut it ---
A. Yeah.
Q. --- and said, come on with me?
A. Come go to the store with me, Kim, come go to the store with me.
Q. Okay. And then you came around front and began pounding on the door?
A. Yes.
Q. Okay. And then you heard Schaffer inside?
A. Yes.
Q. Okay. And you called Ron, didn't you?
A. Huh?
Q. You called Ron, didn't you?
A. A little bit later.
Q. Did you not call Ron first and then call 9-1-1?
A. No, I did not.
Q. So your first call was to 9-1-1?
A. Yes.
Q. When did you call Ron?
A. A little bit later. I mean, I was still in his yard when the cops and stuff was out there. And I -- you know, and I asked him did they know anything about it because I felt like they still got something to do with

it.

Q. That being Ron?

A. Ron and Julia, yes.

Q. And you thought they might have had something to do with it?

A. Uh-huh (affirmative).

Q. With regards to Schaffer's condition?

A. Yeah.

Q. Okay. Do you know -- did you know where they were at?

A. No, I didn't know where they were. They left about one o'clock.

Q. Okay. Now, you didn't see Schaffer get assaulted, did you?

A. No, I didn't see him get assaulted.

Q. Okay. And you didn't go inside the trailer?

A. No.

Q. But you looked inside the trailer?

A. Yes.

Q. Lots of blood in there, wasn't it?

A. Yes.

Q. Blood on the walls?

A. I didn't see nothing about no blood on the walls.

Q. Okay. Did you see blood on the lounge chair he was on?

A. I don't remember that. I remember seeing him and the blood on his clothes.

Q. Okay. Do you remember seeing blood on the floor?

A. I don't remember seeing blood on the floor.

MR. POTTER: Nothing further. Thank you.

THE COURT: Anything on redirect?

MS. HUEY: Just a couple of questions.

REDIRECT EXAMINATION

BY MS. HUEY:

Q. Did you see Julie Moore at the trailer just after five thirty on March 30th of 2012?

A. No, I didn't.

Q. When's the last time you had seen her at Schaffer's trailer?

A. The first time I went and checked on him.

Q. And that was between twelve and one or so?

A. Yes, ma'am. And she left in his white car, a Chevy Cavalier.

Q. And she left in his white car?

A. Uh-huh (affirmative).

Q. And was that white car at Schaffer's trailer after five-thirty when you went to check on him?

A. No, it wasn't.

Q. And you were living with Ron Curry at the time?

A. Yes.

Q. But do you know where Ron was?
A. No, I don't know where they were.
Q. Was he with Julie?
A. Yeah. He left with Julie.
Q. And what time did he leave with Julie?
A. He left about one, and then he came back. And then he left again about four-thirty with Julie in the white car again.
Q. At four-thirty?
A. Yeah.
Q. And did you see Ron Curry at Schaffer's trailer?
A. No.
Q. After five thirty on March 30th of 2012?
A. No, ma'am.

MS. HUEY: That's all I have, Judge.

MR. POTTER: May it please the Court? Just a follow-up to the ...

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. You can ask one question.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Thank you, Judge.

RECROSS EXAMINATION

BY MR. POTTER:

Q. Ma'am, one question. You testified that Ron came back and left at around four thirty; is that correct?

A. Yes, ma'am. I mean, yes, sir.

Q. Excuse me. It's going to be two questions. At any point in time when Ron came back, do you have personal knowledge of whether he went over to Schaffer's house or not?

A. No. He was inside our house.

Q. Thank you.

MR. POTTER: I don't have anything further.

THE COURT: Okay. Anything else from the State?

MS. HUEY: No, sir, Your Honor.

THE COURT: Okay. You can step down.

MS. HUEY: Your Honor, may she be excused?

THE COURT: Any objection?

MR. POTTER: None.

THE COURT: All right. Without objection.

MS. HUEY: Your Honor, the State calls David Evans to the stand.

DAVID EVANS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Mr. Evans, where do you work?

A. Glen Raven.

Q. How long have you been there?

A. It'll be thirteen years and three months the 28th of this month, December.

Q. Where do you live?

A. [redacted].

Q. And how long have you been at [redacted]?

A. Around fifteen years.

Q. Did you know the victim in this case, Schaffer Scott?

A. Yes.

Q. And is that what you called him, Schaffer?

A. Yes.

Q. Had he lived next door to you as long as you've been there?

A. Yes. Uh-huh (affirmative).

Q. Did you know -- how often would you see Schaffer?

A. Probably three or four times a week out in the yard.

Q. Three or four times a week you what?

A. Out in the yard.

Q. Out in the yard you'd see him?

A. Uh-huh (affirmative).

Q. Were y'all close or anything?

A. Well, no, not really. I would just see him. It was

more of a neighbor. He stayed over in his yard and stuff. He sold a lot of cars and stuff, so he was out there messing with them.

Q. Did you know anything about anyone staying behind Schaffer's trailer?

A. Yeah. There for a while, there was a guy staying there.

Q. Okay. And did you know his name or anything?

A. No.

Q. And was he black or white?

A. He was black.

Q. A black guy?

A. Yes.

Q. How many times do you think you saw this black guy at Schaffer's?

A. Probably three or four times.

Q. And what would you see him do?

A. He was cleaning cars for Schaffer.

Q. Now, drawing your attention to Friday, March 30th of 2012, what were you doing on this date? Do you remember?

A. I was at home at that time.

Q. And what, if anything, did you notice going on at Schaffer's?

A. Actually, I was in the house. My wife noticed that Kimberly was upset. And she come and told me -- she

said, there's something wrong across the street. Kimberly's upset. So I said, okay. So I walked over there and asked Kimberly what was going on. And that's when I seen what was -- I seen Schaffer laying in the floor with his feet almost out the door.

Q. What did you then do once you saw Schaffer in that condition?

A. I went and asked him was he okay.

Q. And how did you do that? Were you standing up or sitting down?

A. I was sort of kneeling over him. He was in the floor.

Q. And was he -- when you say in the floor, was he on his back or was he sitting up?

A. Yes. He was laying on his back.

Q. So he was laying on his back in the front area, front door basically of his trailer; is that right?

A. Uh-huh (affirmative).

Q. Okay. And so you went on in and knelt down beside him?

A. Yes.

Q. And when you knelt down beside him, did you ask him anything?

A. Yeah. I asked him was he okay. And he said yes to start with. And I asked him -- I said, what happened?

MR. POTTER: Judge, may it please the Court? I do have an objection at this time.

THE COURT: All right. Ladies and gentlemen, I need to send you out of the courtroom for just a second. Please don't discuss the case.

(WHEREUPON, the jury exited the open court at approximately 11:21 a.m.)

THE COURT: Yes, sir?

MR. POTTER: Judge, I know we've had some preliminary discussions about this particular witness. At this time, I'm going to make my -- I guess it's an 803 objection. It doesn't fall within the hearsay exceptions where the declarant is either available or unavailable. And that would be our objection at this time. It's my anticipation he's going to say, I asked what happened, and probably, this black guy, John, hit me, or something along those lines.

THE COURT: Okay. All right. And you're protected for the record, but I've ruled on it. That's the dying declaration issue?

MR. POTTER: Yes, Your Honor.

THE COURT: Yeah, I've got you. I'll allow him to answer that question pursuant to my previous ruling. But I understand.

MR. POTTER: Just to protect the record -- and

I don't mean ---

THE COURT: Yeah.

MR. POTTER: And we're objecting that proper foundation hasn't been laid.

THE COURT: Right. Okay.

MR. POTTER: Thank you, Judge.

THE COURT: All right. Thank you.

THE BAILIFF: Are you ready?

THE COURT: Yeah.

MR. POTTER: May it please the Court? Do I ...

(WHEREUPON, the jury entered the open court at approximately 11:23 a.m.)

MR. POTTER: May we approach?

THE COURT: Yeah.

(WHEREUPON, a bench conference was held off the record.)

DIRECT EXAMINATION

CONTINUED BY MS. HUEY:

Q. All right. Mr. Evans, let's back up just a little bit. You were kneeling down with Schaffer?

A. Yes.

Q. He was laying on his back in the doorway?

A. Yes.

Q. And describe what he looked like.

A. He was covered in blood.

Q. Could you tell where the blood was coming from?
A. From his head, his arms. I mean, he was just -- you really couldn't tell. He was just a bloody mess.
Q. And while he was in that condition and while you were kneeling down next to him, I believe you said you asked if he was okay?
A. Yeah.
Q. All right. And then what happened after that?
A. I asked him did he know me. He said -- I mean, he was sort of in and out. He said yes, and then he said, David.
Q. Okay. And then what, if anything, did you ask him after that?
A. I asked him what had happened.
Q. And what did he say happened?
A. He said he got hit.
Q. Okay. And did he say who hit him?
A. Yes.
Q. And who did he say?
A. He said John.
Q. And did he say whether he's a black or white person?
A. He said black.
Q. Okay. And so what did he say in its entirety then?
A. When I asked him what happened, he said, John, the black guy, hit me.

Q. Now, where was Kimberly while you were kneeling with Schaffer?

A. She was at the front door.

Q. And did you eventually speak with the 9-1-1 dispatcher yourself?

A. Yes, ma'am.

Q. I'm going to show you what's been marked as State's 4. Mr. Evans, do you recognize that exhibit?

A. Yes, ma'am.

Q. Okay. And how do you recognize it?

A. My initials are on it where I signed and dated it.

Q. What do those initials indicate?

A. That I heard this tape.

Q. Okay. And is that the recording of you calling the -- or speaking with the 9-1-1 dispatcher on March 30th of 2012?

A. Yes, ma'am.

Q. And does it fairly and accurately depict your conversation with that dispatcher?

A. Yes, ma'am.

Q. Has it been altered in any way?

A. No, ma'am.

MS. HUEY: Your Honor, at this time we'd seek to introduce State's 4 into evidence.

THE COURT: All right.

MR. POTTER: I do have an objection.

THE COURT: Okay.

Ladies and gentlemen, I'll send you out. This one's going to take a little longer, so get comfortable for about fifteen minutes. Don't discuss the case.

(WHEREUPON, the jury exited the open court at approximately 11:26 a.m.)

THE COURT: While y'all are discussing that, I've got to make that call. It's going to take me ten minutes, so I'll be back and we'll put the objection on the record.

MS. HUEY: Yes, sir.

(WHEREUPON, court stood at recess for a short break.)

THE COURT: We're talking about the 9-1-1 tape now?

MS. HUEY: Yes, sir.

THE COURT: All right. And what's your objection?

MR. POTTER: Judge, the tape itself, I believe Ms. King is quoted as saying, the man who did this is J.F.K. He ransacked his house and assaulted him in the head. She doesn't have any personal knowledge of that. She didn't see that happening. It's just her speculating on what may or may not have happened. It's misleading.

It's misstating the facts. It's speculative and prejudicial. She doesn't have any personal knowledge of these facts, and yet she's alleging it with the 9-1-1 operater.

THE COURT: We're talking about the 9-1-1 operator?

MR. POTTER: Yes, sir.

THE COURT: And you're only going to ask her to identify the tape, right?

MR. POTTER: Well, she ---

MS. HUEY: I've already laid the foundation with Ms. King. And then Mr. Evans is also on the 9-1-1, which I believe I've laid the foundation for.

THE COURT: Right.

MS. HUEY: And so I would like to admit it at this point. I am willing to redact some of the portions Mr. Potter's referring to if that's what we need to do.

THE COURT: Yeah, that might be better. I mean, can you do that easily?

MS. HUEY: I can't, not necessarily right this second.

THE COURT: Right.

MS. HUEY: I can publish it through another witness as long as that's the understanding.

MR. POTTER: The only thing -- I don't

necessarily have an objection to that. I guess there -- there is one statement that the State does want to include in there.

MS. HUEY: Well, we would like to include the fact that on the 9-1-1, Ms. King is saying John F. Kennedy just left this trailer, and he left in the victim's blue car. That portion, I think, should be allowed.

MR. POTTER: And I do have an issue with that. I think she's improperly bolstering the witness who's already testified.

THE COURT: Okay. Well, I think you're protected for the record. I think that portion of the tape -- all she's doing is testifying about what she saw. And I'll allow that part in. But if you can redact the rest of it, that's easier. I mean, that just takes away questions about the tape.

MS. HUEY: Yes, sir. I'll get with Mr. Potter either at lunch or later this afternoon, and we can figure that out.

THE COURT: Okay. But you're protected for the record.

MR. POTTER: And it's your intent to play the 9-1-1 tape to the jury?

MS. HUEY: Not at this point.

MR. POTTER: Okay.

MS. HUEY: I will wait until we redact.

MR. POTTER: Okay. And then play it?

MS. HUEY: The redacted one.

THE COURT: Okay.

MS. HUEY: If the Court's okay with that.

THE COURT: All right. Who do you want to call now?

MS. HUEY: I think he still has to cross.

THE COURT: Oh, okay. I'm sorry.

All right, sir. Come on back up.

(WHEREUPON, the witness resumed the witness stand.)

THE COURT: Sorry about that.

Okay. You can bring them back in.

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

THE COURT: Ladies and gentlemen, thank you for your patience on that. That was my fault. I had a phone call I had to make. Quite frankly, I was talking to my son in Africa. So I apologize.

Okay.

MS. HUEY: Just a couple more questions on direct.

DIRECT EXAMINATION

CONTINUED BY MS. HUEY:

Q. Mr. Evans, aside from speaking with the 9-1-1 dispatcher, what can you tell us about how the trailer itself looked, the area surrounding where Schaffer was laying down?

A. It was ransacked. It was horrible. Stuff was throwed (phonic) everywhere.

Q. And did you notice any kind of instruments or anything around his head, any kind of ---

A. Yeah. Glenn, he was laying like -- his feet was like hanging in the door, and his head was up towards the coffee table. There was a frying pan laying up to the right side of his head. His phone was laying in the floor, what was left of it.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: All right. Yes, sir?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Mr. Evans, do you go by David or James?

A. David.

Q. Mr. Evans, you testified earlier you didn't know the person -- the name of the person living in the camper behind Schaffer's house; is that correct?

A. Yes.
Q. And you know him as being a black guy; is that right?
A. Yes.
Q. And did your wife -- did she come to the house at any point in time?
A. No. Well, yes. She brought me a pair of rubber gloves.
Q. Say that again.
A. A pair of rubber gloves.
Q. Okay. And that was when you were inside with Schaffer?
A. Yes.
Q. Okay. Did she stay long or did she wait?
A. No. She had to go right back because my son's got traumatic brain injury, and we can't leave him alone.
Q. Okay. Now, inside the house where Schaffer was, it was a bloody scene. Is that a fair statement?
A. Yes.
Q. Did you see blood on the walls?
A. No.
Q. Did you see blood on the lounge chair?
A. No. There was blood on the coffee table.
Q. Okay. There was blood on the floor too?
A. Uh-huh (affirmative).

Q. And on this skillet or frying pan, you saw blood on that too; is that right?
A. I can't recall seeing blood on it, but it was laying beside his head.
Q. Do you remember -- did you look specifically, you know, at the frying pan to see if there was any blood?
A. No.
Q. So there may have been something and you just didn't see it?
A. Uh-huh (affirmative).
Q. You didn't see Mr. Scott get attacked, did you?
A. Do what, now?
Q. You didn't see Mr. Scott get attacked, did you?
A. No.
Q. And you don't know when he was attacked, do you?
A. No.
Q. And you don't know if he was asleep or not when the attack happened?
A. No.
Q. And when Mr. Scott said, John did it, you didn't know specifically who that person was?
A. No, uh-uh (negative).

MR. POTTER: Nothing further. Thank you.

THE COURT: Anything on redirect?

MS. HUEY: Nothing on redirect, Judge.

THE COURT: All right.

Thank you, sir. You can step down.

Does he need to be released from his ...

MS. HUEY: Yes, please.

THE COURT: Any objection?

MR. POTTER: No, Your Honor.

THE COURT: Okay. Sir, you are released from your obligation.

Who's your next witness?

MS. HUEY: I'm sorry, Judge?

THE COURT: Who's your next witness?

MS. HUEY: The next witness is the paramedic. Oh, excuse me. The first responding deputy.

THE COURT: And that's going to be fairly quick?

MS. HUEY: It should be fairly quick, yes, sir.

THE COURT: Ladies and gentlemen, we're going to take a five-minute break in a few minutes, but we'll hear this witness first. I promise you, it'll only be five minutes.

Okay. You can call your next witness.

MR. HAIGLER: The State calls Josh Glenn.

(WHEREUPON, the witness was duly sworn)

MR. HAIGLER: May it please the Court?

THE COURT: Yes, sir.

JOSHUA GLENN,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. HAIGLER:

Q. Deputy Glenn, where are you employed?

A. Anderson County Sheriff's Office.

Q. And how long have you worked there?

A. A little over -- almost four years.

Q. Okay. What's your position with the Sheriff's office?

A. I'm a deputy on road patrol.

Q. Okay. And as a deputy on road patrol, what are your responsible -- what are your primary duties and responsibilities?

A. My primary duty is to respond to calls for service in Anderson County.

Q. Okay. Were you working in that capacity on March 30th, 2012?

A. I was.

Q. Did you respond to a crime scene at [redacted] that day?

A. I did.

Q. Do you remember what time -- do you recall -- I'm talking about dispatch -- that you needed to respond?

A. I believe it was somewhere around six or six thirty

in the evening.

Q. And that's what time you were called?

A. That's what time I was called, yes.

Q. Okay. And do you know what time you arrived at the scene?

A. Within -- I believe within five to ten minutes.

Q. Okay. And [redacted], is that located in Anderson County?

A. It is.

Q. Okay. And what was the reason you were dispatched to the scene? What did they tell you?

A. I was dispatched as an assault call.

Q. Okay. And what do you typically do when you arrive on a scene when you're the first responding officer?

A. The first thing I do is secure the scene for safety, make sure that there's no threats on the scene to any other people that may be there and any others that are responding to the scene.

Q. Okay. And did you do that on this day?

A. I did.

Q. Who all was on the scene when you arrived?

A. When I arrived on scene -- at that time I didn't know names. So there was a white female that was standing in the front yard, and then inside there was a white male laying on his back in the doorway and then

another white male knelt down with him.
Q. Okay. Can you describe what the house looked like when you arrived?
A. From the door -- I'd only stepped at that point to the doorway. And the only rooms I had visible was the living room and the kitchen. And it appeared to be ransacked. There was items scattered throughout the floor and the area, furniture area.
Q. Okay. And what did the assaulted victim look like?
A. When I saw him, he was -- like I say, he was laying on his back. He was covered in blood. At that time, I couldn't really tell if there was any injuries due to the amount of blood that was on his body.
Q. Do you know about how long you were on the scene before the paramedics arrived?
A. I'm going to say somewhere between five to ten minutes.
Q. Did you do anything else on the scene as opposed to just clearing the scene? Did you do anything to collect any evidence?
A. I did. I went back to my car to retrieve my county-issued camera and I snapped a few pictures of the area where the victim was laying at.
Q. Is that pretty common? Have you done that before?
A. I have, yes.

Q. I show you what's been marked as State's ...

MR. HAIGLER: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

Q. I'm going to show you what's been marked for identification purposes as State's Exhibit 20. Do you recognize that?

A. I do.

Q. How do you recognize that?

A. I took this photo.

Q. And does that photo fairly and accurately depict the scene as it was when you arrived?

A. Yes, it does.

MR. HAIGLER: Your Honor, at this time I'd like for the witness to come down and publish the picture to the jury.

THE COURT: Any objection?

MR. POTTER: No, Your Honor.

THE COURT: All right. Without objection.

(WHEREUPON, the witness stepped down from the witness stand.)

MR. HAIGLER: I'm sorry, Your Honor. I've never tried to work any of this stuff before. Your Honor, it might be easier for him just to explain to the jury what he sees in the picture and pass it around.

THE COURT: That will be fine. However you want to do it.

MR. HAIGLER: Is that okay?

MR. POTTER: That's fine with me. It's what I do.

Q. Deputy Glenn, can you tell the jury what they see in that photo, what you observed?

A. Yeah. This is taken from the front porch of the residence. As you can see here, there's a white male victim laying at the threshold of the doorway. Behind him you have to see a -- it looks like a motorized scooter. Also laying underneath him on his left side is a walking cane. There appears to be a towel. Also an ottoman with what looks to be a clipboard that has some of our paperwork on it.

Q. Okay. Thank you, Deputy Glenn. You can be seated.

(WHEREUPON, the witness resumed the witness stand.)

MR. HAIGLER: Your Honor, at this time, the State would move to enter what's been marked as State's 20 into evidence.

THE COURT: Any objection?

MR. POTTER: No objection.

THE COURT: Okay. Without objection.

(WHEREUPON, State's Exhibit Number 20 was admitted into evidence.)

MR. HAIGLER: And I have no further questions for this witness, Your Honor.

THE COURT: All right.

Yes, sir?

MR. POTTER: Thank you. May it please the Court.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Deputy, I only have a few questions. As you testified earlier, did you go into the residence and look around?

A. I can't remember if I did initially. Now, we did -- once E.M.S. transported the victim, we did go through the residence to clear it. I can't remember if that was the first or second time. And we also cleared the area behind the residence.

Q. Okay. And inside the area where you found Mr. Scott, lots of blood in the area; is that right?

A. There was.

Q. Blood in the floor?

A. Yes, sir.

Q. Was blood splatter on the walls?

A. Yes, sir.

Q. And there was blood in the lounge chair?

A. Yes, sir.

Q. Do you recall seeing that? You didn't see the attack?
A. No, sir.
Q. So the attack wasn't taking place when you arrived?
A. No, sir.
Q. All right. And you don't know when the attack happened, do you?
A. No, sir.
MR. POTTER: Nothing further.
THE COURT: Anything on redirect?
MR. HAIGLER: No, sir, Your Honor.
THE COURT: Okay. You can step down.
Can he be released?
MR. POTTER: I have no objection.
THE COURT: Okay. Thank you, sir.
All right. Ladies and gentlemen, let me send you out for just a few minutes. Please don't discuss the case.
(WHEREUPON, the jury exited the open court at approximately 12:12 p.m.)
THE COURT: Well, take a quick break.
(WHEREUPON, court stood at recess for a short break.)
THE COURT: Okay. You can bring them in.
(WHEREUPON, the jury entered the open court at

approximately 12:22 p.m.)

THE COURT: Okay. You can call your next witness.

MR. HAIGLER: The State calls Jan Johnson.

(WHEREUPON, the witness was duly sworn.)

THE COURT: Yes, sir?

JAN JOHNSON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. HAIGLER:

Q. Ms. Johnson, where do you work?

A. MedShore Ambulance Service.

Q. And what is your job title there?

A. Paramedic.

Q. And how long have you worked at MedShore?

A. Ten years.

Q. What kind of training did you receive to be a paramedic, or what kind of training do you actually go through?

A. Well, we start with E.M.T. level, and then we go to intermediate, and then we go to paramedic school. And then we train every month, four hours of training every month. And then we take classes every two years in different things.

Q. And what are your duties with MedShore?

A. I work medic five. I'm a paramedic on B shift.
Q. Okay. And were you working in that capacity on March 30th, 2012?
A. I was. I was working at actually station nine, was where I was at at that time.
Q. Okay. Were you called to respond to [redacted] in Anderson County?
A. Yes, I was.
Q. Who came and responded with you?
A. Karen McAuliff (phonic) was my partner.
Q. Do you know what time you were called?
A. I think it was seventeen -- the call actually came out at seventeen fifty-six. Was dispatched at seventeen fifty-six and we were in route at the same time because we were already in our truck.
Q. Okay. Do you know what time you got there?
A. Yes, sir. According to the paperwork, it says we got there at eighteen oh eight. It was a good ways to [redacted], so it took us a while to get there.
Q. Okay. And when you got there, did you come into contact with the victim in this case, Claud Scott?
A. Yes, I did.
Q. Where was he when you first made contact with him?
A. He was laying on the floor just inside the door.
Q. And what did you observe?

A. A scene I wish I could get out of my head. He was bloody, beaten, bruised. It was hard to really recognize, you know, what he might have actually looked like, you know, before. Swelling everywhere about the face and the arms. Just about everywhere around his head was bleeding. His arms were -- the side of his arms were slit open. Like I said, he was -- massive trauma.

Q. Have you responded to other assault scenes as a paramedic?

A. Yes, sir.

Q. About how many if you had to just estimate?

A. I wouldn't know. I think -- I couldn't begin to tell you how many I've been to. I know this is the worst one I've ever seen.

Q. Was he able to tell you what happened to him?

A. I didn't ask. He -- I was mainly focused on trying to take care of him, trying to get him bandaged. My partner and I were trying to go through the procedures of what we're supposed to do to try to stop his bleeding. Put him on a C-collar in case something had happened, you know, with his spine. And our normal procedures with trauma is to put a C-collar on and backboard and try to stop the bleeding and get him into our unit and, of course, to the hospital as soon as we can.

Q. Did he say anything to you or speak to you at all

while you were treating him at the home?
A. He was asking me about his car. He wanted to know was his car outside. And I kept reminding -- you know, telling him that I did not see his car. I didn't see a car in the yard. That was his main -- you know, main focus at the time was where his car was.
Q. And what, if anything, did you do to treat him at the residence?
A. Well, we took -- we used just about every bandage we had on the truck, trauma dressings. We had the whole C-spine, of course, first to try to protect his neck. And we have a thick trauma dressing that we took and wrapped around his head. While my partner was putting the C-collar around his neck -- and then, of course, we tried to log-roll him, you know, as best we could, to get him onto the backboard and, like I said, get him in our unit as soon as we could.
Q. And did you transport him to the hospital?
A. I did.
Q. How was he transported?
A. We took him in priority, which is lights and sirens, to try to get him there as quick as we could. And in route I actually called the hospital and asked them to call a trauma alert. That way they have x-ray equipment, possibly a surgeon on the way down there. You know, it

kind of gets things started a little bit sooner.
Q. Which hospital did you take him to?
A. Anderson, AnMed Hospital.
Q. Okay. Do you know what happened to him while he was at the hospital?
A. I stayed there briefly for a little while. We had another call I had to go on later. I didn't get to stay there as long as, you know, I would have liked to because I would have liked to have, you know, been with him. I guess you always feel like in scenes like that, you wish you could have done more, you know. And you just -- I guess you just -- some calls just touch you more than others.
Q. Were you contacted and informed that the victim died as a result of his injuries?
A. No, I was not contacted from anyone. I think I was in the E.R. later, and I think some -- maybe one of the nurses told me that he had passed away.
MR. HAIGLER: I have no further questions, Your Honor.
THE COURT: Yes, sir?
MR. POTTER: Judge, we have no questions for this witness.
THE COURT: All right.
Thank you. You can step down and be released.

THE WITNESS: Thank you.

MS. HUEY: Your Honor, may she be excused?

THE COURT: Yeah, no problem.

MR. POTTER: No objection.

THE COURT: Thank you, ma'am.

MS. HUEY: The State calls Brandon Dunn.

BRANDON DUNN,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Mr. Brown, where are you working currently?

A. AmCan Transportation.

Q. And were you previously in law enforcement?

A. Yes, I was.

Q. Where were you working previously?

A. At Anderson County Sheriff's Office.

Q. In what position?

A. As a deputy sheriff.

Q. And how long were you a deputy sheriff for Anderson County?

A. A little over a year.

Q. Were you working in that capacity on March 30th of 2012?

A. Yes, I was.

Q. As a deputy?

A. Yes.
Q. As a deputy, what were some of your duties and responsibilities?
A. Just respond to calls for service, take reports for crimes committed, do partial investigations on like small crimes.
Q. And on March 30th of 2012, what was your responsibility on that date?
A. On that day, I was called to the emergency room in reference to stand by with a victim of a assault.
Q. The victim in this case, Claud Scott?
A. Yes.
Q. Do you know about what time you got to the hospital on March 30th?
A. I would say it was sometime between six-thirty and seven o'clock because I got called before we got out of roll call to go.
Q. And what time is roll call normally?
A. It starts at six forty-five.
Q. And so you responded to the hospital?
A. Yes.
Q. What did you see when you first got to the hospital?
A. When I first got to the hospital and got to the room where Mr. Scott was, the emergency personnel from the emergency room was in there doing their assessments,

taking the bandages off. And as they were taking the bandages off, I was looking at the victim's injuries.

Q. And what injuries do you recall him having?

A. Lord, there was numerous injuries. He had numerous lacerations to his head, his arms. I believe he had a lot of injuries to his hands, his face, his ears. It was a lot of them.

Q. And you took photos of those?

A. Yes, I did.

Q. Now, while he was in that condition, were you able to speak with him?

A. I never spoke to him, but I did overhear some of the things he was saying to the E.R. staff as they were doing their assessment and asking him questions.

Q. All right. So as the E.R. staff was working on Mr. Scott, what, if anything, did you hear Mr. Scott say?

MR. POTTER: Judge, may it please the Court.

THE COURT: Yes, sir.

MR. POTTER: I do have an objection at this time.

THE COURT: Okay. Ladies and gentlemen, I'll send you out for just about two minutes. Please don't discuss the case.

(WHEREUPON, the jury exited the open court at approximately 12:33 p.m.)

THE COURT: Okay. Yes, sir?

MR. POTTER: Judge, again, my objection -- I'm renewing my objections that were made when we talked about this proffer evidence yesterday. It does not fall within the hearsay exception. This is a statement that's being made to another party, not to this particular witness as well. So it's one step removed. And so we would move that this statement is not admissible under out-of-court evidence.

THE COURT: What was your question again to him?

MS. HUEY: It was in his presence, Your Honor.

THE COURT: What he heard him say?

MS. HUEY: Yes, sir. He was there to stand by with the victim to protect him essentially.

THE COURT: Okay. Yeah. I understand your objection. It's -- because of the proffer yesterday, I'll allow it.

Okay. You can bring them back.

MR. POTTER: Thank you.

THE COURT: Thank you.

(WHEREUPON, the jury entered the open court at approximately 12:34 p.m.)

THE COURT: Thank you.

Yes, ma'am?

Q. All right. Mr. Dunn, as the E.R. staff, as they were working on Mr. Scott, what, if anything, did Mr. Scott say?

A. I overheard Mr. Scott answer one of the questions of the E.R. staff when they asked him did he know who had hurt him. And I overheard him tell them that John did it.

Q. That John did it?

A. Yes.

Q. What was your next step, if anything, in reference to being at the hospital?

A. My next step after that, I was standby with him when they took him to C.T. to do an imagining of his head and everything until Detective Simpson arrived. And then I left at that point.

Q. So once an investigator came, you were then relieved?

A. Yes.

MS. HUEY: That's all I have of this witness, Judge.

THE COURT: Yes, sir, anything?

MR. POTTER: May it please the Court?

CROSS-EXAMINATION

BY MR. POTTER:

Q. Mr. Dunn, you didn't go to the scene where the

assault took place, did you?

A. No, sir, I did not.

Q. All right. So your only contact with Mr. Scott was at the hospital?

A. Yeah.

Q. All right. And so you have no personal knowledge of what the scene looked like?

A. No, sir.

Q. And you have no personal knowledge when the assault took place, do you?

A. No, sir.

Q. And you have no personal knowledge whether he was asleep or not when the assault took place?

A. No, sir.

Q. Thank you.

MR. POTTER: Nothing further.

THE COURT: Anything on redirect?

MS. HUEY: No, sir, Your Honor.

THE COURT: Okay. Thank you, sir. You can step down and be released.

MS. HUEY: Thank you.

Your Honor, the State calls McKindra Bearden to the stand.

MCKINDRA BEARDEN,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Investigator Bearden, where are you employed?

A. Anderson County Sheriff's Office.

Q. In what position?

A. I'm a detective.

Q. And as a detective, what are some of your duties?

A. I'm on call every five weeks which means I respond to felonies after hours. As a detective, I work white-collar property and have worked Internet crimes against children also.

Q. And were you on call the weekend of March 30th of 2012?

A. Yes.

Q. As such, did you have occasion to become involved in the investigation of this Defendant, John F. Kennedy, involving the victim, Claud Schaffer Scott?

A. Yes.

Q. And so what were some of your responsibilities on that particular day?

A. When the call come in -- it was myself and Detective Ashley were on call together as partners. When the call came in, he responded to the incident location, and I responded to the hospital.

Q. And when you responded to the hospital, what, if

anything, did you see when you first got there?
A. I arrived just a few minutes after E.M.S. had arrived with the victim and made contact with them as they put him in the trauma room initially. They were working on him, getting his vitals. Just had started the process of working on him.
Q. And what were you able to observe about the victim?
A. He was -- had been bludgeoned about the head, the arms, face. He was bloody, bruised, cut up. They had a lot of gauze and bandages on his head.
Q. Was he able to speak with you while he was in this condition?
A. Yes, he was able to speak with me.
Q. And while he was in that condition, what, if anything, did he say to you?
A. I introduced myself to him. And at that time I knew his name to be Mr. Scott. And I asked him if he had known who done this to him. And he did advise that he did.
MR. POTTER: I do have an objection.
THE COURT: Okay. And this is the declaration objection?
MR. POTTER: Yes, sir.
THE COURT: Okay. As previously said, I overrule. But you're protected for the record.

Q. While he was in this condition and in response to your question, what was he able to tell you?

A. He had an oxygen mask on over his face. And I said, do you know who done it? And he said, Josh. And I said, Josh? And he goes, no, John. I had misunderstood him, but he did correct me. He said John done it.

Q. So you thought he said Josh, but he corrected you and said John?

A. Yes. I was incorrect when I responded to him. He had said John the previous time.

Q. Okay. Now, what happened after he told you that?

A. As I was standing there talking to him, the nurses were working. And they unwrapped his head. When they unwrapped, took the gauze off, all the alarms started going off. He started -- all of his stats just crashed, and they cleared everyone from the room in a hurry.

Q. Including you?

A. Everyone, yes.

Q. And was that the last time you spoke with Mr. Scott?

A. Yes.

Q. What was your next step in terms of this investigation?

A. I went back to the office and did the search warrant and photo lineup at the office.

Q. All right. And the photo display, who did you

prepare that for?

A. They advised me -- Detective Ashley was on scene. He had a witness on scene, a Kimberly King, that had observed the person at the home. And I did the photo lineup for her to identify the person that she had seen at the time.

Q. And whose picture did you need to include in that photo display as a result of that?

A. It was John Fitzgerald Kennedy.

Q. Okay. I'm going to show you what's been marked as State's -- oh, no, I'm sorry. Just one second. I'm sorry. I'm going to show you what's been marked as State's 2 -- I did it again -- and 3. Will you take a look at these, please? Are you able to recognize those exhibits?

A. Yes. This is the photo lineup, the original that I put together and printed that evening and the Affidavit of Photo Identification that I printed that evening at the same time and also filled out on the scene with the witness.

Q. And so when you were putting together the display, what kind of characteristics are you looking for?

A. We have a program that's called Mug Web. And you put in the suspect's name, and you can pick a picture out of a lineup if they've been arrested before and in the

system. When you get that picture up, it'll pull up similar -- you pull up similar pictures. You go through and choose. What I went through to choose ---

Q. And -- I'm sorry. Go ahead. I apologize.

A. What I went through to choose would be people with similar coloring as far as skin characteristics, length of hair, facial hair, anything like that, the same age. You want somebody within the same parameter. You don't want exactly the same, but you want similar.

Q. Okay. Now, Ms. Bearden, you can also pull photos from driver's licenses too; isn't that correct?

A. You can, yes.

Q. Now, in terms of what specific characteristics in this case were you looking for in terms of physical characteristics?

A. I was looking for a black male, middle aged, thin to medium build, approximately -- I've already said medium complexion. Short hair, some facial hair that looked like the picture that we had of Mr. Kennedy on file.

Q. And now, once that display was put together, did you then show that to Ms. King?

A. Yes, I did.

Q. And where did that take place?

A. I went to the incident location at [redacted], and we were inside my patrol vehicle.

Q. Now, by the time you got there, was it dark already?
A. Yes.
Q. And so where was this display shown to her?
A. I showed it to her in my patrol car. We have dome lights that are put in after market that are really super bright. And I had the dome light on, and she could see the pictures very clearly.
Q. All right. Because your patrol car is very well lit?
A. Yes, very much.
Q. Because of that dome light? Okay. All right. Now, did you tell her she should pick someone out of that display?
A. No, I did not.
Q. Did you suggest any person in particular for her to pick out of the display?
A. Just the person that she saw. Is the person you saw on this lineup? Can you identify them?
Q. All right. And did she, in fact, then select someone from that display?
A. Yes, she did.
Q. All right. And what did she do to indicate that she selected a person?
A. I had numbered them one through six myself. And she circled the number four and signed below it.

Q. And number four is who?
A. That is Mr. Kennedy.
Q. Now, in terms of the affidavit, what's the purpose behind the affidavit which is State's 2?
A. It is just to confirm what I've shown them, the reason I showed it to them and what they chose. And it's just an explanation of what the picture lineup was.
Q. Now, are both of those exhibits -- excuse me. Are your signatures on that affidavit as well?
A. Yes.
Q. Including Ms. King's?
A. Yes.
Q. All right. And both of those exhibits, are they fairly and accurately depictive of what you showed Ms. King on March 30th of 2012?
A. Yes, they're exactly the same.
Q. And they haven't been altered or changed in any way?
A. No.

MS. HUEY: Your Honor, at this time we'd seek to introduce State's 2 and 3 into evidence and publish for the jury.

MR. POTTER: I do have an objection.

THE COURT: Is it the one we addressed earlier?

MR. POTTER: No.

THE COURT: All right.

Ladies and gentlemen, I have to send you out for two minutes. Please don't talk about the case.

(WHEREUPON, the jury exited the open court at approximately 12:45 p.m.)

THE COURT: Yes, sir.

MR. POTTER: Judge, the main purpose of this objection is the item itself. It's a photo array, and it's clearly not taken from driver's license photographs. These are all mug shots and which my client is one of them. And I think it's unduly prejudicial. At the very least under 403, prejudicial towards my guy because what's going to happen is they're going to take that back there and look at it, and they're going to see mug shots. They're not going to see driver's license photos.

THE COURT: Well, how was this -- I thought it was from the driver's license photos?

MS. HUEY: It could have been. This was from mug shots in this particular case.

THE COURT: Let me look at it.

MS. HUEY: I think Ms. Bearden has it. I mean, all you can see is the face, Your Honor.

THE COURT: All right. You're protected on the record. I'll allow that in. I mean, I -- you're assuming they know it's a mug shot. And you and I may know it, but ---

MR. POTTER: Well, I think it's fair to say that's not a photograph from the D.M.V. They're not in a collared shirt or smiling for that matter or anything like that.

THE COURT: Right. No, I know.

MR. POTTER: Yeah.

THE COURT: I mean, I understand. But I don't know how else you'd get them?

MR. POTTER: Well, there might be a picture that ---

THE COURT: There might be. I got you. You're protected for the record. Okay. I'll let you put it in. Bring them in.

(WHEREUPON, the jury entered the open court at approximately 12:49 p.m.)

THE COURT: Yes, sir?

MR. POTTER: I'm sorry, Judge. I need to take a matter up outside the jury's hearing.

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: Okay. Just for the record, we had a discussion off the record about the objection, and we'll preserve that when we take our lunch break. But your objection is preserved to that point. Okay.

MS. HUEY: So Your Honor, I believe where I was that I seek to admit State's 2 and 3 and publish.

THE COURT: Right. And he's objecting and I'm overruling, but I'll let you put it on the record. All right.

MS. HUEY: So Your Honor ---

THE COURT: You can publish it.

(WHEREUPON, State's Exhibit Numbers 2 and 3 were admitted into evidence and published to the jury.)

Q. Ms. Bearden, if you don't mind stepping down.

A. Okay.

(WHEREUPON, the witness stepped down from the witness stand.)

Q. All right. This is State's 3. Is this the photo display you showed to Ms. Kimberly King on March 30th of 2012?

A. It is.

Q. And again, she circled number four to indicate that's who she saw leaving Mr. Scott's trailer on March 30th of 2012?

A. Yes.

Q. All right. And number four is who?

A. That is Mr. John Fitzgerald Kennedy.

Q. Thank you. And this is the affidavit signed by you and Ms. King, State's 2. And again, this just

acknowledges in writing what she did?
A. Yes.
Q. As far as who she picked out of the display?
A. Yes.
Q. Okay. All right. Have a seat.
(WHEREUPON, the witness resumed the witness stand.)
MS. HUEY: That's all I have for this witness, Judge.
THE COURT: Any questions?
MR. POTTER: Yes, Your Honor. May it please the Court?
THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:
Q. Detective, how long have you been with the Anderson County Sheriff's Department?
A. We were absorbed by Pendleton. Pendleton was absorbed in 2006.
Q. Okay. So you were an officer in Pendleton?
A. Yes.
Q. Okay. Were you a road officer, or were you a detective?
A. I was a road officer.
Q. So eventually you made your way up to -- I'm assuming you go from road officer -- where do you go from

there?

A. It depends on the agency really. I've been in it twenty years.

Q. Okay. So you've been in law enforcement twenty years?

A. Uh-huh (affirmative), May the 9th.

Q. Okay. Now, you know it's important when you do investigations, and when you do -- when you're investigating incidents, the incident report is pretty much the basic paperwork that all officers rely upon when they do that?

A. Uh-huh (affirmative).

Q. Is that correct?

A. Yes.

Q. Okay. And that is the report -- it's important that you include all your facts and all your information that you've gathered in your investigation; isn't that correct?

A. Yes.

Q. Okay. And the reason you want to have all that information is you want to make sure the solicitor has all the information, and also wants to make sure that you've got all your information in case you have to refresh your recollection; is that correct?

A. Uh-huh (affirmative).

Q. So it's important that in your incident report you include everything in your investigation; is that right?
A. Well, that's why we do a case jacket. That's where ninety percent of the information is.
Q. So the information is not included in the incident report?
A. Anything that's handwritten or typed separately wouldn't be able to be put into a report system.
Q. So what's the purpose of doing an incident report?
A. Your incident report documents the original incident, gives you a case number and a case reference for all that extra paperwork.
Q. And you have supplements to that incident report; is that correct?
A. Excuse me?
Q. You have supplements to the incident report?
A. Yes.
Q. And you did a supplement to the incident report related to this case; isn't that true?
A. Yes.
Q. Okay. And that was done, and it was provided by the government to me through discovery. And you, on March 30th 2012 -- may I hand you a copy?
A. Uh-huh (affirmative).
MR. POTTER: Mark this as an exhibit for

identification purposes Defense 1. Identification only.

(WHEREUPON, Defendant's Exhibit Number 1 was marked for identification only.)

MR. POTTER: May I approach, Judge?

THE COURT: Yes, sir.

Q. This is your supplemental report that was attached to the incident report that was provided to me by the government through discovery; is that correct?

A. Yes.

Q. All right. Give me one second. In that incident report -- or excuse me -- that supplement to your incident report, there's nothing in there that indicates that Mr. Scott said the name Josh, is there?

A. No. That is my own hearing aid issue.

Q. I understand that. But you didn't indicate that in the incident report, did you? In your supplemental report, did you?

A. No.

Q. And that's an important fact in this investigation, is it not?

A. He corrected me. I was the one that was wrong.

Q. There's no information in regards to the photo array that you did when you left the scene. You indicated you were going to do a search warrant. There's no indication of how you did the photo array, is there?

A. The paperwork speaks for itself. I didn't document like I should. I guess I should be ashamed.

Q. Okay. So it's not -- that information is not in the incident report either, is it? The photo array information?

A. I didn't document it in the supplement, no, I did not.

Q. Okay. And the affidavit that you completed of Ms. King, that's been admitted as State's Exhibit Number 1. Excuse me. Do you have it?

A. I don't have it. I gave it back.

Q. Oh, here it is. State's Exhibit 2.

MR. POTTER: May I approach, Judge.

THE COURT: Yes, sir.

Q. The photo identification, this is the affidavit. You completed that affidavit completely?

A. Yes.

Q. Okay. The only thing she did, Ms. King, was sign her name; is that correct?

A. Yes.

Q. Okay. And there's no indication that you did that in your supplemental report that you provided in the incident report, is there?

A. No.

Q. Now, you went to the scene where the incident

occurred; is that correct?

A. Yes.

Q. Did you go inside the trailer?

A. No.

Q. You don't know when the assault took place, do you?

A. (No verbal response)

Q. You don't know when Mr. Schaffer Scott got assaulted, do you?

A. I had the CAD call when the time it came in.

Q. Okay. So you don't know when the assault actually took place?

A. No.

Q. All right. That's all I have. Thank you.

THE COURT: Anything on redirect?

MS. HUEY: Nothing, Your Honor.

THE COURT: Okay.

Thank you. You can step down and you can be released from your subpoena.

All right. Ladies and gentlemen, you've been very patient. I'm going to let you go to lunch. If you would, be back in the jury room by two thirty. I'll give you a little extra time because it's nasty outside. Have a good lunch and don't talk about the case. If anybody approaches you, let me know.

(WHEREUPON, the jury exited the open court at

approximately 1:00 p.m.)

THE COURT: Okay. Let's go back to the objection and go ahead and document that. We had an off-the-record conversation in which the objection was made. And I'll be happy to hear from you.

MR. POTTER: Judge, the testimony was she took the photographs from booking photos from the Sheriff's department. And that's the reason for the objection of it being admitted because it implies that my client has been arrested before and that there's a prior record with the court -- excuse me -- with law enforcement.

In addition to that, the photograph has Anderson County Sheriff's Department written -- or Sheriff's office written on top of it. It can easily be inferred these are booking photographs. These are not photographs taken from the D.M.V.

THE COURT: It says it on the pictures?

MR. POTTER: It says it right above the pictures.

MS. HUEY: Just printed from her computer, Your Honor.

THE COURT: Okay.

MR. POTTER: And in big bold letters, Anderson County Sheriff's Office is written on there. And again, Judge, I think it's highly prejudicial that those are

photographs that clearly are booking shots.

THE COURT: Okay. All right. Well -- and you're protected for the record. I think it's admissible. It would probably be better if it came from driver's licenses, but I don't think that makes it inadmissible.

You've got Brett Woodard at two-thirty?

MS. HUEY: Yes, sir.

THE COURT: All right.

MS. HUEY: And how late do you think you want to go today, Judge?

THE COURT: I can go a little later today. Whatever time you want to ---

MS. HUEY: We might get to a point, Judge, where it's everyone but SLED. And I hate to call SLED ---

THE COURT: No, don't get them -- no.

MS. HUEY: So my plan is ---

THE COURT: Do as much as you can without SLED, and you can do them tomorrow.

MS. HUEY: Exactly, if that's okay.

THE COURT: Okay. All right. Y'all have a good lunch.

(WHEREUPON, court stood at recess for a lunch break.)

THE COURT: Are y'all ready?

MS. HUEY: Yes, sir. Dr. Woodard's in the courtroom, Judge. He'll be the next witness.

THE COURT: All right. Let's wait on him to come up.

All right. Anything we need to take up before we bring them in?

MS. HUEY: Nothing from the State, Judge.

MR. POTTER: No, Your Honor.

THE COURT: Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 2:34 p.m.)

THE COURT: All right. Ladies and gentlemen, we're going through this next witness, and then we'll have to take a short break after this next witness. But if you have a problem let me know. I hope you had a good lunch.

You can call your next witness.

MS. HUEY: Your Honor, the State calls Dr. Brett Woodard to the stand.

BRETT WOODARD,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Dr. Woodard, what is your occupation or profession?

A. I'm a medical doctor, a pathologist by specialty training.

Q. And what exactly is a pathologist?

A. The general field of pathology is a field of medicine that studies disease through looking at the organs of the body, both microscopically and grossly, as well as looking at the fluids of the body.

Q. Are you also board certified in forensic pathology?

A. Yes, I am board certified in forensic pathology. Forensic pathology is a sub-specialty in pathology that deals with human injuries and their degree and capacity all the way up to death and how those injuries may have been produced.

Q. As a forensic pathologist, do you have occasion to perform autopsies?

A. Yes, I do.

Q. About how many do you think you've performed over the course of your career?

A. Approximately two hundred and fifty to three hundred a year.

Q. And again, how long have you been doing this, Dr. Woodard?

A. Since 1982.

Q. Have you ever testified as an expert?

A. Yes, I have.

Q. In forensic pathology?
A. Yes, I have.
Q. And do you remember about how many times that was?
A. Hundreds.
Q. And in the Courts of General Sessions?
A. In South Carolina as well as other states.
MS. HUEY: At this time, we would offer Dr. Woodard as an expert in forensic pathology.
THE COURT: Any objection?
MR. POTTER: No, Your Honor.
THE COURT: All right. Without objection.
Q. Now, Dr. Woodard, were you working and did you have an occasion to perform an autopsy on the victim in this case, Claud Schaffer Scott?
A. Yes, I did.
Q. And how did you come to receive Mr. Scott?
A. Mr. Scott had come to the Anderson Hospital, and he died after a traumatic event. He was -- I was given permission by the Anderson County Coroner's Office Chief Deputy Coroner, Charles Bozeman, to perform an autopsy on him to determine the mechanisms, manner and cause of death.
Q. Generally when you start an autopsy, what is your general procedure?
A. We examine the deceased as we receive them. In this

case he had been hospitalized, so the original clothes he had on had already been removed in the hospital. And any injuries that he had on his body had been attended to by the physicians who were caring for him at the hospital. But we examine the outside of the body, look at the injuries that are present on the outside of the body, catalogue those injuries and categorize those injuries so that we can later make a determination of the likely mechanism by which they were produced.

We then proceed to open the body and look at the internal injuries that are in the body and also look at the general state of health that the deceased has. Obviously, all of us have background health issues, and this can interact with injuries.

Q. Is that what you did in Mr. Scott's case?

A. Yes, it is.

Q. So if you could, please start with the first injuries that you note to Mr. Scott?

A. Mr. Scott had injuries that were over his hands and this surface of the forearm. We refer to this as the dorsal surface of the forearm or the back surface of the forearm all the way to the levels of his elbow. He had tears to the skin on his right that involved his third, fourth and fifth fingers, and they had been closed with sutures by the physicians. And he had large bruises with

tears in the skin over his arm on the right side.

On the left side, he had a large bruise that basically extended from the elbow down to the hand, and he had a tear on the third finger on the left hand, again, on this back surface of the arm.

He had large bruises on the back part of his leg behind the knee on the right side. And then we saw multiple injuries on the head and face. Both of his ears had large tears in the ear that had been closed by surgical wounds -- by suture material. He had large bruises underneath these torn injuries.

Significant blood had collected under the scalp and had run down, so we saw bruising or black and blue coloration around his eyes. He had at least ten separate cuts on his forehead. But it's difficult to definitely say that there weren't more tears in the skin of his head than ten because they crisscross, and you couldn't be sure where one started and another ended. So there could have been more.

He had a small tear on the bridge of his nose, and both his upper jaw and his lower jaw were broken. He had bruises on the front part of his neck, and he had bruises on the top front of his left shoulder, on the back of his right shoulder and on the back of his neck.

Inside his body, there were no breaks in his skull

bone, but his brain had suffered bruising. We call this contusion of the brain, and this involved both the right and the left side of the brain. And his brain was swollen which is a common reaction of the brain to injuries. And he had fine bleeding over the surface of his brain which is often associated with contusions because they tear the little tiny capillaries on the surface of the brain.

In dissecting his neck, we saw that a low cervical vertebra, the last cervical vertebra -- if you ran your hand down your neck right before your chest begins, the little spine that sticks out on the side of that was broken off. And the bone that would make up your shoulder blade, the scapular was broken on the right side.

Internally, he was a man of very poor health. He'd previously had significant blood vessel disease that had been medically treated. He had undergone coronary bypass surgery in the past. His heart was big, almost twice as large as it should have been. And he had his aortic valve replaced, the micro valve. The valve in the chambers below the left ventricle was diseased and non -- it was not functioning properly.

He'd previously had grafts put in in the far distal portion of his aorta as it extends down through your

pelvis and into your legs. And at the time that we saw him, he was developing gangrene of his right lower extremity because of lack of blood flow.

He had emphysema of the lungs, and his lungs were very heavy and filled with edema fluid. His muscular system demonstrated that he had a fair degree of muscular atrophy, more severe in the lower than the upper extremities. And he had changes in his kidneys which are often associated with high blood pressure and lead to a degree of dysfunction of his kidneys.

Q. When you were finished with the autopsy, Dr. Woodard, were you able to develop an opinion as to the cause of Mr. Scott's death?

A. Yeah. Because of the trauma that he suffered, it became too much for his heart with the limited blood flow that his heart had. And his heart gave out on him.

Q. And so then the cause of death was?

A. Ischemic cardiomyopathy due to blunt force trauma.

Q. And as such, what was it ruled?

A. Homicide.

Q. Now, Dr. Woodard, backing up specifically to the -- I believe you testified there were at least ten lacerations to Mr. Scott's head?

A. If not more. A minimum of ten.

Q. And so does that indicate that he was hit at least

ten times with something?

A. Something struck his head at least ten separate times, if not more.

Q. If not more. Okay. And I believe you testified that his jaws were broken?

A. That's correct. Both his upper and lower jaw.

Q. And would that affect his speech?

A. Yes. His speech would be kind of garbled. Most of our enunciations and speaking patterns require movement of the upper jaw and tongue. And obviously, those movements would be painful with a fractured bone.

Q. Now, in terms of the blows themselves, upon Mr. Scott being hit the first time, would he have been unconscious or incapacitated?

A. Well ---

MR. POTTER: I'm going to object, Your Honor. Speculative.

THE COURT: All right. If he knows. You can ask him if he knows the answer to that.

Q. Do you know the answer to that question?

A. Yes.

THE COURT: Okay. Overruled.

A. In Mr. Scott's case, he wasn't unconscious because we see evidence of activity, physical activity. He puts his arms up with his hands -- and his arms in an upward

position to use his arms to decelerate or fend off the blows that are being administered to him. And he would have to be conscious to assume these positions. Obviously, with repetitive blows, he may lose consciousness, but the brain injury that he suffers is not one that leads to an immediate coma. The coma that would follow would require swelling of the brain and usually take several hours or more before irreversible unconsciousness or coma begins to develop.

Q. Okay. So when you testified regarding the injuries to Mr. Scott's arms, in your opinion, what kinds of injuries were those?

A. They're what we call defensive injuries. The posturing of the extremities so that the extremities come between the attack and the individual rather than aggressive blows which are contained just within the hand or even in people who are trained with martial arts are the surfaces along the sides of the arms versus this back surface of the arm.

Q. So in order to be able to do that, they have to be awake; is that correct?

A. They have to be conscious.

Q. Now, the injury noted to Mr. Scott's -- the back of his leg, I think you said under his knee?

A. Behind the knee, correct.

Q. What, if anything, would that indicate to you about his posture when the attack took place?

A. It would only indicate that at some time either that leg was raised up using a defensive posture, or as he attempts to get out of the position he's in, he may have struck the leg against some other object.

Q. Would it or could it be consistent with him being in a seated position and again recoiling in a defensive posture?

A. Absolutely.

Q. In terms of Mr. Scott's health, in particular the gangrene in his leg, how, if at all, would that affect his mobility?

A. Well, he had bad hardening of the arteries, the peripheral extremities of his body. And that doesn't just happen instantly overnight. That's a slow process. The muscles atrophy for a prolonged period of time. Muscles and nerves atrophy before the blood flow becomes so insufficient that the tissues don't have enough blood flow and the surface tissues begin to die and we see the gangrene forming. So he had significant atrophy in his muscles, so his mobility would have been at best poor to limited. Would not necessarily mean that he would be using a wheelchair, but he would need some assistance to do whatever. He certainly wouldn't climb the stairs up

to the fourth floor of the courthouse.

Q. Now, in terms of while he may not have been unconscious, how would his demeanor have been affected in terms of being able to speak or anything along those lines?

A. He would have been significantly dazed, much like a prizefighter who's been severely struck by another prizefighter. It might have taken -- because of his brain injuries, it would have taken longer to bring to bear the process to convey thought.

Q. But he would be able to do that?

A. Yes, he would be able to do it. He would have more trouble with his movement than he would have had before the attack.

Q. Dr. Woodard, in your opinion, the injuries that Mr. Scott suffered, are those consistent with having been beaten with a skillet or a fry pan?

A. Some sort of large, flat surface structure with a curved edge to it. And a fry pan would be an excellent choice.

Q. Dr. Woodard, once you complete the autopsy, is anything saved from Mr. Scott?

A. Yeah. We would save evidentiary pieces of material such as body fluids. And we would have given them to -- I believe it was the county sheriff's department.

Q. And in that packet, would that -- would a sample of the victim's blood be included?

A. Yes. At that time they were taking anti-coagulated tubes full of blood.

Q. And you would have given that to law enforcement?

A. That would have been the Anderson Sheriff's Department representatives.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: All right.

Yes, sir?

CROSS-EXAMINATION

BY MR. POTTER:

Q. Doctor, the injury to the left leg, the left knee; is that correct?

A. Right behind the right knee.

Q. Excuse me. The right knee. Were you able to tell when that injury occurred?

A. It was consistent with having occurred around the same time that the attack occurred. I can't say it occurred an hour before the attack or at the time of the attack.

Q. Now, with the gangrene issues, you indicated there's a fair amount of atrophy in his lower extremities, correct?

A. That's correct.
Q. And that makes it more susceptible to injuries?
A. Because there's atrophy, it makes it more susceptible with an injury to produce the gangrene, yes.
Q. Okay. Now, you indicated that there were injuries to the back portion of his arms?
A. That's right. The back forearm.
Q. And that would have indicated to you defensive injuries?
A. That's correct.
Q. So if someone's being struck, it appears as if he's covering up his head to try to prevent any more blows on his head?
A. That's correct.
Q. At some point in time he may have lost consciousness, he may not have lost consciousness; is that true?
A. That's correct.
Q. And as a result of these blows -- and in essence, if I'm correct on this, the brain's kind of bouncing around inside the skull; is that true?
A. Well, once the defensive posture is lost, then the blows can strike the scalp, and the brain is then having energy transmitted through the scalp, the skull into the brain itself, producing whatever level of injury it

produces for a concussion all the way up to a contusion.
Q. A subarachnoid hemorrhage or something of that sort?
A. Well, that's all part of the contusion.
Q. Okay. Now, those blows could have happened before the defensive position happened or after. We don't know. Is that correct?
A. If he'd had all -- assume there were only ten, which we were able to count. If he had all ten beforehand, he never would have assumed a defensive position.
Q. You also indicated that as a result of these blows, he would have been disoriented like a prizefighter?
A. Correct.
Q. Having a hard time to distinguish his environment and what's going on?
A. He would have a hard time making judgments that you would make if you were in a similar environment and had been struck.
Q. Thank you.
MR. POTTER: Thank you.
THE COURT: Anything else?
MS. HUEY: That's all I have for this witness. May he be excused?
THE COURT: Any objection?
MR. POTTER: No, Your Honor.
THE COURT: Okay. Thank you, sir. You can be

excused.

MS. HUEY: Your Honor, the State now calls Chris Pridemore.

MR. POTTER: Judge, can we approach real quick?

THE COURT: Sure.

(WHEREUPON, a bench conference was held off the record.)

(WHEREUPON, the witness was duly sworn.)

THE COURT: Yes, ma'am?

CHRIS PRIDEMORE,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Investigator Pridemore, where do you work?

A. The Anderson County Sheriff's Office.

Q. And how long have you been with them?

A. Nine years.

Q. In what position are you currently?

A. Forensics investigator.

Q. And how long have you been a forensics investigator?

A. Four years.

Q. As a forensic investigator, what are some of your duties and responsibilities?

A. To take digital photographs of crime scenes, recover fingerprints, latent fingerprints, shoe wear impressions.

Anything of evidentiary value from a crime scene.

Q. Did you have occasion to respond to [redacted]

A. Yes, I did.

Q. And is that Anderson County?

A. Yes, it is.

Q. And what was the reason for your response?

A. We responded -- myself and Investigator McElrath responded to process the crime scene.

Q. So you mentioned Investigator McElrath. Is he your partner?

A. Yes, ma'am.

Q. Is that right?

A. Yes, ma'am.

Q. Okay. And is it common to work with a partner in forensics?

A. For the larger crimes scenes, yes.

Q. And is that what happened in this particular case?

A. Yes.

Q. What do you typically do when you first get on a crime scene.

A. The first thing you want to do is make contact with the officer, the investigator on the scene, and get an idea, a basic idea, of what kind of conflict or crime has been committed so you have an idea of where to start and what to look for.

Q. And did you do that in this case?
A. Yes, we did.
Q. All right. And who did you speak with?
A. When we made contact on the scene, Investigator Bussey was there, Investigator Ashley was there. And we made contact with them. They advised us of what they had, the information they had, and we proceeded from there with a search warrant.
Q. Okay. And so you would collect evidence as a result of where the investigation had been going thus far?
A. Yes, ma'am.
Q. Okay. So tell the jury what, if anything, you observed when you first got on the scene then?
A. The first thing I noticed when I first got on the scene and started looking around is we didn't observe any sign of forced entry into the residence.
Q. And had the residence already been taped off?
A. Yes, ma'am.
Q. And what does that tape indicate to you?
A. A crime scene. Do not cross.
Q. And so do you also then document the scene, you or your partner, in terms of photographs?
A. Yes. Investigator McElrath took digital photographs of the scene outside and inside.
Q. Okay. And essentially he's taking photos while you

are inside looking at the scene and collecting evidence; is that correct?

A. Yes.

Q. So you would have seen the scene as well?

A. Yes.

Q. All right. Investigator Pridemore, I'm going to show you what's been marked as State's 18-A, 18-B, 18-C, 18-D, 18-E, 18-G, 18-I, 18-J, 18-K and 18-L. If you would, please, take a look at all of those.

A. (Witness complied)

Q. Do you recognize all of those?

A. Yes, I do.

Q. Okay. And how are you able to recognize those?

A. Because these are the photographs that was taken by Investigator McElrath. I was there. It doesn't appear anything has been altered. The first one I actually shot from the road.

Q. Okay. We'll go over those in just one second. But nothing has been changed or altered?

A. No.

Q. Substantially in the same condition as when you saw the crime scene?

A. Everything appears to be the same. This is what we found.

MS. HUEY: Your Honor, at this time, we seek to

admit those photos.

MR. POTTER: No.

THE COURT: Without objection.

MS. HUEY: And publish, Your Honor.

(WHEREUPON, State's Exhibit Numbers 18-A through L were admitted into evidence.)

Q. If you would step down with all of those.

(WHEREUPON, the witness stepped down from the witness stand.)

Q. Okay.

A. This roughly is a view of the trailer from the road. The front door, it sits parallel with the main road.

Q. And this was 18-A. And so this is just a photo of the outside of the trailer from the road?

A. Yes. From the road, it's the front of the trailer. It sits parallel with the road.

Q. And again, shows the crime scene tape around it?

A. Right. Right.

Q. This would be 18-B.

A. And that's just a closeup. Basically the same thing where we tried to get the numbers on the trailer to show we are actually talking about the same address.

Q. Okay. And in terms of -- I believe you testified that there were no signs of forced entry?

A. Correct.

Q. And that's typically what -- you check out the front door, windows, that sort of thing?

A. You look at the -- correct. The windows, the doors, anything that you would be able to use to gain access into the residence.

Q. And this would be 18-C.

A. Actually, this picture was taken -- you can still see some of the doorframe here. It's right inside of the front door. When you open up the front door, this is the ottoman. There was a clipboard with some papers on it. You can see change, various coins laying in the floor. All of this is blood up into this area. This is the mobile scooter. Directly, further back from the scooter is the reclining chair.

Q. And I see some bandaging papers and that sort of thing. Did you respond to the crime scene after paramedics?

A. Yes. They had already arrived and transported the individual to the hospital.

Q. This would be 18-D. Will you tell the jury what that is?

A. This is basically the paperwork that was on the ottoman. It's just the Department of Motor Vehicles title. Margaret Conwell was the name that was on it. If you'll look, you'll see little droplets of blood all over

it. Actually on the clipboard itself as well. And it was sitting on the ottoman when you first come in the door.

Q. And this is 18-E.

A. Okay. This over here, now, is of the front door area. This is the edge of the couch. The kitchen is over here. This is where it looks like the struggle ensued. In this area, you'll see this table is broken. You'll see all the blood in this area here. If you look real close right here, you'll see a deformed-looking skillet and the tip of the handle of the skillet as well as a broken cell phone.

Q. State's 18-G?

A. This is another view from the main front door which is right here. Basically, he's standing beside the ottoman and taking another picture. You'll see the recliner, see the blood on the recliner, all over the floor.

You'll see the wallet which we recovered, which was right at the recliner. He had absolutely no money in it. The only money that was recovered was the change and stuff that's laying around.

There's the broken phone again, and there's the skillet. You can see the handle and the broken little table.

Okay. We'll go to the next one.

Q. And this would be 18-H?

A. That's just a closeup of the wallet itself. We had flipped it open to see if we could find the I.D. inside of it. I checked it for money. And like I said, it didn't have any money inside of it.

Q. And that was the wallet that belonged to Mr. ---

A. It belonged to the victim, yes.

Q. This will be 18-I?

A. That's a real good shot of the skillet right here. And that's where the handle was broke off of it. That's the rivets.

Q. So that's where the handle should be where the rivets are?

A. Correct. Correct.

Q. This would be 18-J?

A. And that would be the handle. And you can see the -- that's where the rivets actually come through the handle, and they're wallowed out. And they had some blood stains.

Q. And that matched up with the skillet?

A. Yes, yes. And that's a piece of the broken phone as well.

Q. All right. This would be 18-K?

A. This is blood spots, blood drops on the wall. This

is the scooter. If you are inside the residence, inside the room, the front door would be here. This is the edge of the recliner. The recliner sits kind of catty-corner like this. And this is the wall right beside it, would be basically to your left. About where your head is.

Q. And this is 18-L?

A. That one is just basically a closeup of the last picture. You just are able to see the blood drops better.

Q. And again, that's behind or next to the recliner?

A. Absolutely. Yeah, to the left side of it.

Q. All right. If you can have a seat then.

(WHEREUPON, witness resumed the witness stand.)

Q. So other than the photos, what, if anything else, was collected from the scene, Investigator Pridemore?

A. We collected three sets of blood swabs. One set was from the front doorknob on the inside. Another set was from the carpet area, which was where the skillet was located. And another set was from the coffee table in front of the couch.

Q. And the purpose of collecting those swabs?

A. For DNA.

Q. And you don't test for DNA yourself? That's done by another agency?

A. Right. We do not. We send that stuff off to SLED.

Q. I'm going to show you -- what was the reason -- first let me back up. Did you collect the skillet and the handle in this case?

A. Yes, I did.

Q. And what was the purpose behind collecting those two items?

A. When we arrived on the scene, we were advised that we had a suspect. We knew the name and we knew the means, the weapon. When we first went in, the skillet was lying on the floor in the area that we determined to be the scene. And it had blood on it, and it was -- obvious the shape it was in.

Q. I'm going to show you what's been marked as State's 5. I'm going to leave it in the box for the time being. If you could take a look at that.

A. (Witness complied)

Q. And do you recognize that item?

A. Yes, I do.

Q. All right. And is that the skillet you collected on March 30th, 2012?

A. Yes, it is.

Q. And once you collect that skillet, what do you then do with that item?

A. If possible, you can process it. We can process it. It will be sealed, placed into evidence. And if it needs

to be, it can be sent off to SLED or stay sealed up into evidence unless some investigator needs to have it pulled back out for some reason. And then they have to sign it out.

Q. And did you do that in this case? Did you log it into evidence at the Sheriff's office?

A. Yes, I did.

Q. Sealed?

A. Yes, I did.

Q. I'm going to leave that up with you for just a second. I'm also going to show you what's been marked as State's 6. If you could take a look at that.

A. (Witness complied)

Q. And do you recognize that item?

A. Yes, I do.

Q. Okay. And how do you recognize it?

A. It's the handle that I collected at the scene.

Q. Okay. And again, you followed the same process in terms of logging that in to evidence?

A. Correct.

Q. Sealed?

A. Correct.

Q. Have either of these items been altered or changed in any way to your knowledge?

A. Other than the SLED writing on them, no.

Q. Because obviously these items have been sent to SLED; is that correct?

A. Yes.

MS. HUEY: Your Honor, at this time we seek to admit State's 5, I believe, and -- 5 and 6.

THE COURT: Any objection?

MR. POTTER: None, Your Honor.

THE COURT: Without objection.

(WHEREUPON, State's Exhibit Numbers 5 and 6 were admitted into evidence.)

Q. So Investigator Pridemore, if you could step down again.

(WHEREUPON, the witness stepped down from the witness stand.)

Q. And show the jury -- again, this would be State's 5?

A. This is the skillet, the one that we were looking at in the viewing that had some coins in it. It was in front of the TV entertainment center. You see how damaged it is. There's still some blood dried on it. And the rivets where the handle was.

Q. And then this would be State's 6?

A. This is the handle from that very skillet that I collected. That's where the rivets went through the handle. You can see how that's all walled out.

Q. Thank you. Now, these were collected and sent to

SLED, but you were unable to get any prints off these items; is that correct?

A. Correct. Correct.

(WHEREUPON, the witness resumed the witness stand.)

Q. Investigator Pridemore, did you also enter the camper that would have been next to or behind the victim's trailer?

A. Yes. We did search the R.V. as well.

Q. And were you able to collect anything from that particular camper?

A. I believe we got some miscellaneous paperwork from inside that R.V.

Q. Where was it in relation to Mr. Scott's trailer?

A. If you're standing in the road looking at the front of the trailer, it would be to the left and back to the rear of the property, roughly -- we didn't measure exact. But it was roughly, I would say, about twenty-five feet, twenty-five yards. I'd say twenty-five yards. About seventy-five feet total.

Q. Could you see the camper from the street?

A. Yes.

(WHEREUPON, State's Exhibit Numbers 21-A through F were marked for identification only.)

Q. Okay. Investigator Pridemore, now I'm going to show you what's been marked as State's 18-F as well as 21-A

through F. If you could take a look at all of these, please.

A. (Witness complied)

Q. Are you able to recognize all of those?

A. Yes.

Q. Do those fairly and accurately depict the camper as you documented it on March 30th, 2012?

A. It does.

Q. Have they been changed or altered in any way?

A. No, ma'am.

MS. HUEY: Your Honor, at this time we'd seek to introduce these exhibits.

THE COURT: Any objection?

MR. POTTER: No objection.

THE COURT: All right. Without objection.

(WHEREUPON, State's Exhibit Numbers 21-A through F were admitted into evidence.)

Q. Again, if you could step down.

(WHEREUPON, the witness stepped down from the stand.)

Q. All right. This would be 18-F. Tell the jury what that is.

A. That's just a side shot of the R.V. if you're in the yard. If you were out in the road, you'd be about right here looking at it because it was kind of -- not straight

onto the road.

Q. This would be 21-A.

A. That's just a shot of the door, of the back side of the R.V. with the door open.

Q. 21-B. It's a little dark?

A. It looks like a little travel suitcase with a little pull handle. It was -- as soon as you stepped inside the R.V., it was in the corner of the rear.

Q. This would be 21-C?

A. That's just another shot of it before we opened it up.

Q. And that's a closeup of the suitcase?

A. Yes, ma'am.

Q. And did you then open that suitcase?

A. Yes.

Q. All right. So this would be 21-D.

A. And that's what was inside when we opened it up.

Q. And 21-E.

A. That is a shot from where the suitcase is back here, shooting back up towards the front, the sleeping area and the actual cab part of the R.V.

Q. And 21-F.

A. This is just another shot of how clean everything is. The counters. Other than the suitcase being in there, it didn't appear that anybody was there.

Q. Now, what was your purpose for searching the camper and documenting it?

A. We were advised that the subject, Mr. Kennedy, was staying in that camper. So we, under the search warrant, went in there to see if we could gather information as well.

Q. You can have a seat.

(WHEREUPON, the witness resumed the witness stand.)

Q. And then other than some miscellaneous paperwork, you were unable to collect anything else?

A. Correct.

Q. Of evidentiary value?

A. Correct.

MS. HUEY: I don't think I have anything else at this time, Judge.

THE COURT: Yes, sir?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Investigator Pridemore, is that right?

A. Yes, sir.

Q. Okay. You indicated there were no signs of forced entry to the trailer where the victim was found; is that correct?

A. Correct.
Q. Okay. So there were no broken windows, no broken doorways, anything of that sort?
A. No.
Q. Typically, when you see forced entry, that means doors were locked, the windows were locked, correct?
A. Correct.
Q. So if the door was left unlocked or left open, you're not going to see any forced entry?
A. Correct.
Q. You took three blood swabs; is that true?
A. Yes, sir.
Q. All right. One was of the carpet, coffee table, and the front doorknob?
A. On the inside, correct.
Q. On the inside. Okay. Well, that was my question. Did you take a swab of the lounge, a blood swab of the lounge that you saw in the living room?
A. Are you talking about the recliner?
Q. Yes, sir, the recliner.
A. No.
Q. Was that recliner lounge taken into evidence?
A. No, it was not.
Q. You also indicated you found a skillet and a handle to a skillet?

A. Yes, sir.
Q. And you took those items in for evidence; is that correct?
A. Correct.
Q. All right. And you dusted those items for fingerprints; is that true?
A. The handle, correct. And at that point those two items were sent to SLED.
Q. So you checked the handle for fingerprints or does SLED check the handle for fingerprints?
A. If we can process an item, we'll go ahead and process it.
Q. Okay.
A. Otherwise, we'll send it off to SLED and let them look at them.
Q. I guess maybe you misunderstood my question. Did you process the handle for fingerprints?
A. Yes.
Q. All right. And you found no fingerprints on it?
A. None.
Q. Does SLED do a separate process for fingerprints to your knowledge?
A. I'm assuming they did.
Q. And you checked the skillet itself for fingerprints?
A. Yes.

Q. All right. Now, you indicated that there was blood on the skillet; is that correct?

A. Yes, sir.

Q. Was there any hair or any scalp material, any skin material found on that skillet?

A. I don't believe Investigator McElrath found anything of that nature on the skillet at the time.

Q. Okay. Did you take the skillet, or did your partner do that?

A. No. I physically collected the skillet.

Q. Okay.

A. And when we got back to the office, we decided to process it, yes.

Q. I understand. So to your knowledge, no hair or any type of skin or scalp material was found on that?

A. Correct.

Q. But blood was found?

A. Correct.

Q. And blood was also found on the handle as well?

A. Correct.

Q. And those items were sent to SLED for further processing?

A. The skillet and the handle?

Q. Yes, sir.

A. Yes, sir.

Q. Okay. All right. You testified earlier if you're looking at the house, the trailer, the R.V. was to the left on the back portion of the lot; is that correct?

A. Yes.

Q. All right. And about twenty to twenty-five feet away from the trailer?

A. Twenty to twenty-five yards. Roughly seventy, seventy-five feet.

Q. Okay.

A. We did not physically measure it. That's just a rough estimate.

Q. So when we say it's not parallel, it's kind of further on back, correct?

A. Correct.

Q. Okay. Got you. Now, you got a search warrant for that R.V., correct?

A. It was encompassed in the original search warrant.

Q. That's fine. Well, you searched the R.V., right?

A. Yes.

Q. You didn't take it into evidence?

A. No.

Q. All right. You searched the R.V. You didn't find any blood or any bloody clothes?

A. No.

Q. You didn't find any bloody items at all? You didn't

find any clothes at all, did you?

A. No.

Q. So no evidence of value was located in that R.V.?

A. To my knowledge the only thing we recovered out of the R.V. was miscellaneous papers.

Q. And the R.V. wasn't taken into evidence for further processing?

A. No, sir.

Q. Were there any other out buildings on this property?

A. I believe there was a shed in the back.

Q. Directly behind that trailer?

A. Yes, sir.

Q. Was that searched?

A. I can't tell you if it was or not. At that point, I was back inside. I have no idea if it was searched by investigators or not.

Q. Is this kind of like a -- is this like a storage shed where people keep their lawnmowers and things of that sort?

A. I believe so.

Q. But you never went into it?

A. I never went into it.

Q. Okay. Any fingerprints inside the trailer -- well, let me make sure I ask this correctly. Inside the trailer itself where the incident occurred, were there

any search for fingerprints on any other items?

A. Inside of the residence?

Q. Yes, sir.

A. Okay. We checked the doorknobs for latent prints. Got negative results.

Q. Okay.

A. We processed the broken cell phone, which I believe had two latents on it. We sent it to the latent section. I do not know whether they were matched to anyone or not. We also processed the beer can from the counter. I do believe it was negative as well.

Q. Now, was there just one beer can you found at the scene, or do you recall?

A. I don't recall.

Q. Okay. Was that beer can taken into evidence?

A. I do believe it was.

Q. Was there any other liquor or alcohol bottles, cans found on the scene?

A. I don't recall.

Q. You indicated that you took a swab of blood from the coffee table; is that correct?

A. Yes, sir.

Q. And the coffee table wasn't taken into evidence?

A. No, sir.

Q. And there was blood spatter on the walls?

A. Yes, sir.
Q. And that blood spatter was directly to the -- if you're sitting in that recliner, it would be to the left?
A. Correct.
Q. And was there a blood swab taken of that?
A. No, sir, there was not.
Q. And there are a couple of pictures on that wall. Was there any blood on those pictures?
A. I don't recall if there was any blood droplets on the frames themselves.
Q. But we do know there was splatter?
A. We definitely know there was on the wall.
Q. I have nothing further. Thank you.
THE COURT: Anything on redirect?
MS. HUEY: I have no further questions, Your Honor.
THE COURT: Okay. You can step down.
THE WITNESS: Thank you, sir.
THE COURT: You can be excused.
MS. HUEY: Yes, sir.
THE COURT: Ladies and gentlemen, we're going to take about a fifteen-minute break at the most. Please don't discuss the case. I'll call you back in in about fifteen minutes.
(WHEREUPON, the jury exited the open court at

approximately 3:26 p.m.)

THE COURT: Okay. How many more witnesses do you have? Can we do everybody but SLED today?

MS. HUEY: SLED will be tomorrow, Judge.

THE COURT: Right.

MS. HUEY: We have four more, Judge, that are relatively short.

THE COURT: Okay. Let's take a break. Let me go back in here and eat real quick. I'll be right back.

(WHEREUPON, court stood at recess for a short break.)

THE COURT: Okay. Are y'all ready?

MS. HUEY: Yes, sir, we're ready. I'm sorry.

THE COURT: Are you ready?

MR. POTTER: Yes, sir.

THE COURT: Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 3:47 p.m.)

THE COURT: All right. Ladies and gentlemen, we're going to proceed forward until we finish for today. I think we can get four more witnesses in, and then we'll stop.

You can call your next witness.

MR. HAIGLER: The State calls Becky Hanley.

(WHEREUPON, the witness was duly sworn.)

MR. HAIGLER: May it please the Court?

THE COURT: Yes, sir.

REBECCA HANLEY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. HAIGLER:

Q. Ms. Hanley, where do you work?

A. The Peoples Bank.

Q. And where is that bank located?

A. 3009 Whitehall Road here in Anderson.

Q. Okay. And how long have you worked there?

A. About twelve years.

Q. And what do you do with Peoples Bank?

A. I'm a part-time teller.

Q. It sounds like kind of an obvious question, but what are your duties as a teller?

A. Just process customer's transactions, deposits, withdrawals, payments, cash checks.

Q. Okay. And were you working at the bank on March 30th, 2012?

A. I was.

MR. HAIGLER: Your Honor, may I approach the witness.

THE COURT: Yes, sir.

Q. I'm going to show you what's been marked exhibits 9

and 10 ---

MR. POTTER: Brantley?

MR. HAIGLER: After I show it to the attorney, obviously.

I'm sorry.

Q. Do you recognize these documents?

A. I do. I sure do.

Q. And what are they?

A. That's one of our checks that one of our customers wrote someone.

Q. And how do you recognize those items?

A. Well, it has my teller validation on the back, and it has my handwriting, the customer's driver's license number and his address and his birth date. It looks like the issue date and expiration date. It's my handwriting.

Q. Okay. And what does that receipt indicate?

A. It just indicates that I cashed this check and paid out cash, fifteen hundred dollars.

Q. Okay. Thank you.

MR. HAIGLER: Your Honor, at this time, I'd like to admit exhibits 9 and 10 into evidence.

THE COURT: Any objection?

MR. POTTER: No, Your Honor.

THE COURT: All right. Without objection.

(WHEREUPON, State's Exhibit Numbers 9 and 10 were

admitted into evidence.)

Q. I'm also going to show you after I show Mr. Potter ...

(WHEREUPON, Mr. Potter reviewed photographs.)

Q. I'm going to show you these still photos from the bank that day. Do you recognize these?

A. I do. Uh-huh (affirmative).

Q. Is that you in the photo?

A. It is.

Q. Do you remember that particular transaction?

A. I do. Uh-huh (affirmative).

Q. How do you remember it? Does anything stand out?

A. I remember most about seeing this story in the news. And I remember making mention to my husband that I just cashed a check for this man at the bank.

MR. HAIGLER: Your Honor, can I have the witness come down and publish the checks to the jury, if you don't mind?

THE COURT: Sure.

A. What do you want me to do?

Q. I want you to come stand down here for a second.

(WHEREUPON, the witness stepped down from the witness stand.)

Q. Can you explain to the jury basically just what you told me, how you recognized the check and your teller

number and your receipt when you cashed it?

A. Okay. When we cash a check, when someone presents a check to us to be cashed, we look to see who it's made payable to. And if we don't know them, we ask for I.D. He signed it here. I recorded his driver's license here and his address. This right here is our bank teller validation. It's got the date and the time and our branch number, my teller number and the customer's account number. And this here is a cash-out that goes with the check when we run it through processing. It's just letting us know that it was cashed out of my drawer in that amount. And it's got the same validation right there.

Q. Okay. Thank you.

A. Uh-huh (affirmative).

(WHEREUPON, the witness resumed the witness stand.)

MR. HAIGLER: I don't believe I have any more questions for this witness, Your Honor.

THE COURT: All right. Yes, sir?

CROSS-EXAMINATION

BY MR. POTTER:

Q. Ma'am, do you recall anything -- do you recall seeing any bandages on this gentleman when he came up to cash ---

A. I don't recall anything like that.

Q. Okay. So you don't recall the white bandage on his right arm?
A. No.
Q. Elbow area?
A. Uh-uh (negative).
MR. POTTER: Your Honor, may I approach the witness?
THE COURT: Yes, sir.
Q. Ma'am, I'm going to show you a photograph. It's marked as State's Exhibit 7-G. That's the inside of your bank; is that right?
A. Uh-huh (affirmative). Yes.
Q. Okay. And this gentleman right here is the person who cashed the check, correct?
A. Uh-huh (affirmative).
Q. All right. Does it appear he has a bandage on his -- excuse me -- his left arm?
A. It looks like he does. It's a little blurred. It looks like he does.
Q. Okay.
MR. POTTER: Nothing further. Thank you.
THE COURT: Anything else on redirect?
MR. HAIGLER: No, sir, Your Honor.
THE COURT: Okay.
Thank you. You can step down. You can be excused

too.

THE WITNESS: Thank you.

THE COURT: Your Honor, the State calls Justin Richey.

JUSTIN RICHEY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Investigator Richey, by whom are you employed?

A. The Anderson County Sheriff's Office.

Q. And what is your position there?

A. I'm an investigator with the forensics unit.

Q. How long have you been in forensics?

A. I've been in forensics for two years.

Q. And prior to that, where were you?

A. I was a detective for five years.

Q. What are some of your duties and responsibilities as a forensic investigator?

A. I respond to crime scenes, attend autopsies, locate, collect, photograph, and process evidence.

Q. And did you have an occasion to respond to an autopsy performed on Claud Schaffer Scott on April 2nd, 2012?

A. Yes, ma'am.

Q. And did you witness that entire autopsy?

A. Yes, ma'am.
Q. And you also documented that autopsy?
A. Yes, ma'am.
Q. Once the autopsy is completed, what, if anything, do you then do in terms of collecting evidence?
A. At the completion of the autopsy, I collect a sealed autopsy packet. It is obtained during the course of the autopsy.
Q. And what is usually in that autopsy packet?
A. In the autopsy packet are different specimens that are obtained during the course of the autopsy. There's usually a tube or a couple of tubes of blood from the victim, in this case Mr. Scott. Hair, fingernails, different specimens like that that are obtained.
Q. And once you collect that autopsy packet, what do you then do with it?
A. After I collect the autopsy packet, I transport the sealed packet from the morgue to the Sheriff's office. I enter the packet into the evidence computer and create a evidence barcode label, put that barcode label on the evidence packet and then entered the autopsy packet into the evidence refrigerator.
Q. And then do you have any other dealings with that piece of evidence after that?
A. No, ma'am.

Q. And so it's sealed once you put it into the refrigerator?

A. It's actually sealed at the autopsy before I ever receive it. So when it goes into the refrigerator in our evidence building, it goes in sealed just like I receive it at the autopsy.

Q. And again, you did that in this case when you received an autopsy packet from Dr. Woodard then?

A. I think it was Charlie Bozeman who was assisting Dr. Woodard that I actually received the packet from.

Q. And the packet's sealed. In that packet is usually a tube of the victim's blood; is that correct?

A. Yes, ma'am.

Q. All right. And then all of it is sealed and put into your evidence room once you get back to the office?

A. Yes, ma'am.

Q. I'm showing you what's marked as State's 16. I'm just going to show you what's been marked as State's 16. And there is a tube in this packet. Is that consistent with something you would have collected in the autopsy packet?

A. Yes, ma'am.

Q. As you attended the autopsy on Claud Schaffer Scott?

A. That would have been inside the autopsy packet.

Q. Thank you.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: Yes, sir?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Investigator, the autopsy packet -- you attended the autopsy. The autopsy packet is sealed when then handed to you?

A. Yes, sir.

Q. Is it sealed in your presence?

A. Yes, sir.

MR. POTTER: Nothing further.

THE COURT: Okay. You can step down and be excused. Thank you.

THE WITNESS: Thank you.

MS. HUEY: The State calls Chris Wilson.

CHRIS WILSON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Investigator Wilson, where are you employed?

A. I'm employed with the Anderson County Sheriff's Department.

Q. And in what position?
A. I work in the crime scene division.
Q. And how long have you been with them?
A. Since 2009.
Q. And where were you previously?
A. I was at Anderson. Before I came back to Anderson County, Anderson City. And then I was at Greenville County before that.
Q. Now, were you involved in the investigation of this case, John Kennedy?
A. I was, yes.
Q. And what was your involvement in this particular case?
A. I was called to the law enforcement division up on the second floor to photograph the Defendant and collect his clothing.
Q. And is that what you did in this case?
A. Yes, ma'am.
Q. I'm going to show you what's been marked as 17-A.

MS. HUEY: Oh, I'm sorry. Let me show it to you.

MR. POTTER: 17-A?

Q. Do you recognize that exhibit?
A. I do, yes, ma'am.
Q. And how do you recognize it?

A. That's the picture -- one of the pictures I took.
Q. And does it fairly and accurately depict what the Defendant looked like the 1st of April, 2012?
A. The night that I met him, yes, ma'am.
MS. HUEY: Your Honor, at this time we seek to admit State's 17-A.
THE COURT: Any objection?
MR. POTTER: No, Your Honor.
THE COURT: Okay. Without objection.
(WHEREUPON, State's Exhibit Number 17-A was admitted into evidence.)
Q. Okay. Investigator, if you don't mind stepping down to publish it to the jury.
(WHEREUPON, the witness stepped down from the witness stand.)
Q. And so is this a photo you took of the Defendant on April 1st of 2012?
A. Yes, it is.
Q. Now, did you -- and you can have a seat.
(WHEREUPON, the witness resumed the witness stand.)
Q. Did you also collect -- when you said you collected the Defendant's clothing, would it be the clothing he had on him this particular day?
A. Yes, ma'am, that's right. The shorts and the shirt.
Q. I'm going to show you what's been marked as State's

12. Do you recognize this item?
A. Can I get some gloves?
Q. Okay. So you're able recognize this item, State's 12?
A. Yes, yes.
Q. Would these be the shorts that you collected from the Defendant, John Kennedy, on April 1st, 2012?
A. They are, yes, ma'am.
Q. Okay. And what indicates, if anything, that you are the one that collected these? If you need to look at it.
A. When we collect things, we take them back to the office. And what we'll do is we'll enter them in to a computer, and we put our name on it. It has my name on the bar code label that we place on the item.
Q. And when you collect them, do you seal them or what is done with it?
A. Yes. What we do is after we get them, we place them in a bag. We'll label them and then we'll put the evidence tape across here to seal them. And we turn them in to evidence so they can be put up in a secured area.
Q. And then you are not responsible for transporting those after that point ---
A. No, ma'am.
Q. --- to SLED or anywhere else?
A. Not to SLED, no.

Q. And does that fairly and accurately depict what you collected then on April 1st, 2012?

A. Yes, ma'am.

Q. It hasn't been altered or changed as far as you know?

A. No, ma'am, not as I know.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: All right. Any questions?

MR. POTTER: Yes.

CROSS-EXAMINATION

BY MR. POTTER:

Q. It's investigator; is that correct?

A. Yes.

Q. You were called to the scene -- excuse me -- not the scene. You were called to the law enforcement center and you took a photograph of Mr. Kennedy, correct?

A. Right. Yes, sir.

Q. And you took his shirt he was wearing into evidence, and you took his pants that he was wearing into evidence. And those short pants are what you just identified, correct?

A. Yes, sir. Right.

Q. All right. Were those the only clothing items you took into evidence?

A. I'm not a hundred percent sure without seeing my supplemental. I can't remember if I took his shoes and his underwear.

Q. And his underwear?

A. Right.

Q. Okay. Because, yeah, your supplemental doesn't indicate exactly what clothing items you took.

A. I believe it was just the shorts and the shirt.

Q. Got you. Now, you also took a blood swab -- excuse me -- a cheek swab; is that correct?

A. Right, a cheek swab.

Q. Okay. Was any blood taken from Mr. Kennedy?

A. No, sir, not by me.

Q. There was scrapings taken from under his fingernails?

A. Under his fingers, yes, sir.

MR. POTTER: Nothing further.

THE COURT: Anything on redirect?

MS. HUEY: No, sir. May he be excused?

THE COURT: Yes, sir, you're excused. Appreciate it.

MS. HUEY: Your Honor, the State calls Todd Caron to the stand.

TODD CARON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Mr. Caron, where are you employed?

A. Anderson County Sheriff's Office.

Q. And in what position do you hold there?

A. Sergeant property and evidence, assigned to forensics.

Q. Okay. So you're he sergeant over property and evidence?

A. Correct.

Q. As such, what are some of your duties and responsibilities?

A. Make sure that the evidence that's brought in by the forensic technicians is properly stored, is safely put away. And anything that needs to be tested requested by investigators, send down to the State Law Enforcement Division.

Q. Commonly known as ...

A. SLED.

Q. ... SLED. Okay. So you're responsible for taking the items once they have been submitted into evidence, actually transporting that to SLED for further testing; is that correct?

A. Correct.

Q. Now, when you transport the items to SLED, where do

you retrieve them from typically?

A. Wherever they're stored.

Q. In your evidence?

A. In the evidence division, yes.

Q. And when you retrieve them, are these items sealed or otherwise?

A. No. They're sealed.

Q. Now, did you transport items in this particular case, State versus John F. Kennedy?

A. Yes.

Q. In particular, I believe there were several swabs taken from the victim's residence at [redacted] Would you be responsible for transporting those?

A. Yes.

Q. And then specifically, this would be State's 12. Did you transport this to SLED?

A. Yes.

MR. POTTER: I didn't hear that answer.

MS. HUEY: He said, yes.

A. Yes.

MR. POTTER: I'm sorry. I just didn't hear.

A. I'm sorry.

Q. As well as State's 5 and 6, would you have transported these to SLED, this skillet and skillet handle?

A. Yes, ma'am.
Q. And then, Mr. Caron, in terms of the autopsy packet that was collected from the victim in this particular case, do you retrieve items from that autopsy packet to transport to SLED?
A. Yes. We generally don't take the whole autopsy packet unless a certain item is requested. In this case, I separated the blood, which I noted when I separated it I created -- when we enter evidence, we put a bar code on it just like you'd see on this bag for tracking purposes. When I separated that from the tube of blood, which stayed sealed -- I just took it out of the autopsy bag, the packet -- I put it into a new container, gave it a new label stating that it was separated from that autopsy packet to go to SLED.
Q. And that's what you did in this particular case?
A. Correct.
Q. So I'm also going to show you State's 16. Did you also transport State's 16, which would have been a tube of the victim's blood, to SLED?
A. Yes.
Q. And I don't think I named what State's 12 would have been. But these would have been the shorts collected from the Defendant?
A. Yes.

Q. Now, when you -- you physically drive these items to SLED; is that correct?

A. Correct.

Q. And SLED is located in Columbia?

A. It is.

Q. Once you get to SLED in Columbia, what do you then do with these items?

A. The SLED forensics folks in the log-in, they take possession of them, properly log them in. They add their own bar code, which is the little yellow bar code on this. And they take them and send them for testing.

Q. So once you get to SLED, you leave these items with SLED forensic techs?

A Correct.

Q. Or log-in techs?

A. Yeah, log-in techs.

Q. And then you drive back?

A. Yes, ma'am.

Q. All right. Now -- and who accepted these items at SLED?

A. I don't have the paperwork in front of me, and it could have been different people.

Q. But regardless, it would have been a log-in tech?

A. Yes, at SLED.

Q. And do you remember what date you transported these

items?

A. Yes. All of these items went down on -- it looks like November the 8th, 2012.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: Any questions?

MR. POTTER: No questions, Judge.

THE COURT: All right.

Thank you, sir. You can step down and be excused from any subpoena.

Y'all, come here. I want to ask you a question about tomorrow.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Ladies and gentlemen, we've got a break in the witnesses. And rather than wait on them to come up from Columbia, we're going to start tomorrow at ten. We're going to get this case to you tomorrow. So that means that tomorrow afternoon, we'll probably argue and charge this case, which means I'll charge you with the law and then you'll begin your deliberations, assuming everything goes smoothly. And I can knock on wood with my arm, so we'll see.

Have a good night. Please don't read anything, listen to anything or watch anything regarding this case.

Please don't talk to anybody else. I know you won't. See you at ten.

(WHEREUPON, the jury exited the open court at approximately 4:14 p.m.)

THE COURT: Okay. I'll see y'all in the morning.

MS. HUEY: Thank you, Judge.

THE COURT: I'll get here as quick as I can.

(WHEREUPON, court stood in recess for the day at approximately 4:14 p.m.)

December 4, 2013

(WHEREUPON, court convened with all parties present and the following proceedings were had commencing at approximately 10:17 a.m.)

THE COURT: Did somebody put the State versus Mathis up here?

MS. HUEY: Oh, yes, sir, Judge. Just in anticipation of any defense objections, those will be two cases the State's relying on.

THE COURT: Oh, okay.

MS. HUEY: Mathis and Hatcher.

THE COURT: That's on the chain issue?

MS. HUEY: Yes, sir.

MR. POTTER: Yes, sir.

THE COURT: Okay. Anything we need to do this

morning before we get started?

MS. HUEY: We need to put a couple of things on the record, Your Honor.

THE COURT: Okay.

MS. HUEY: In terms of just marking exhibits the bank stills would be exhibit 7-A through L. We missed one. And there should not be an 8-D.

Is that correct?

MADAM COURT REPORTER: 7-D.

MS. HUEY: I'm sorry. 7-D.

THE COURT: Any objection to that?

MR. POTTER: No, Your Honor.

MS. HUEY: And Your Honor, we have redacted the 9-1-1 call.

THE COURT: Okay. Good.

MS. HUEY: And given that a new exhibit number. The redacted version will be 4-A.

THE COURT: Okay.

And you've listened to it and everything's fine?

MR. POTTER: I've listened to it, Judge.

THE COURT: All right. We've got four witnesses maybe?

MS. HUEY: From SLED, yes, sir.

THE COURT: Okay. All right. We'll do that. And then about eleven fifteen I need to take a break,

give Cindy my key and make sure she -- she's got to go sit at my house and wait on something.

You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 10:17 a.m.)

THE COURT: All right. Ladies and gentlemen, again, thank you for your patience this morning. We'll continue with the State's case. We're going to take a break at about eleven fifteen for ten minutes. We've got something we have to do outside your presence. And then we'll get this case to you today.

All right. You can call your next witness.

MS. HUEY: Your Honor, the State calls Amy Stevens.

AMY STEPHENS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Ms. Stephens, now, where do you work?

A. I'm employed with the South Carolina Law Enforcement Division, also known as SLED.

Q. How long have you been there?

A. Approximately eight years.

Q. What are your duties at SLED?

A. I'm a forensic technician in the evidence control

department. And our daily responsibilities are to log in, package, and transfer evidence for forensic analysis.

Q. What steps do you take in your position at SLED to ensure a proper chain of custody?

A. When a submitting officer walks into our office, we will enter the case information into our computer system. A unique lab number will be generated and that lab number will follow that evidence throughout its time at the laboratory.

Q. And did you come into any contact with the evidence in this case, which would be specifically State versus John Kennedy, SLED number L12-13798?

A. Yes, I did.

Q. And how did that come about, Ms. Stephens?

A. On November 8th, 2012, I received pieces of evidence from Todd Caron of the Anderson County Sheriff's Office.

Q. And that was on November 8th of 2012?

A. That's correct.

Q. I'm going to specifically show you what's been marked as State's 6, State's 16, State's 5 and State's 12. That's a big pile. Ms. Stephens, when you logged in the evidence from Todd Caron with the Sheriff's office, in addition to giving the evidence submitted a particular lab number, a unique and specific lab number, the items that are submitted, does SLED give their own numbers to

these as well?
A. Yes. Each piece of evidence is assigned an item number as well.
Q. Okay. So in reference to SLED item number 2, what was that particular piece of evidence?
A. This -- according to my chain of custody, it was a skillet with no handle.
Q. And that would be State's 5? No. Excuse me. It's State's 5?
THE COURT: State's 5?
MS. HUEY: Yes, sir.
A. That's correct.
Q. Okay. In reference to SLED item lab number 3, or item number rather 3.
A. Item number 3 is a skillet handle.
Q. Which would be State's 6?
A. That's correct.
Q. And then SLED item number 5, which would be State's 12?
A. From the bag that's in front of me states item number 5, L12-13798. But actually, when I logged it in, I put it in a box with our bar code label on it.
Q. But that was labeled as -- what did you describe that particular item as?
A. As SLED item number 5, which is also State's Exhibit

12, was a pair of multi-colored shorts from John F. Kennedy.

Q. And then finally SLED item number 8, which would be State's 16?

A. This item is a tube of blood from the autopsy of Claud Schaffer Scott.

Q. So you entered additional items in, but these are the ones we are focusing on today. That would be your SLED item numbers 2, 3, 5, and 8. Those are the ones that you submitted -- or you accepted from Todd Caron?

A. That's correct.

Q. And when you accept these items, what condition are they in?

A. They were sealed when I received them.

Q. And then what do you then do with them once you receive them?

A. Once I receive them, I will package them appropriately according to our policies, and then I will transfer the evidence to a storage location in our evidence room.

Q. And is that what you did in this particular case?

A. Yes, it is.

Q. All right. And did you alter or tamper with them in any way at all?

A. No, I did not.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: All right. Any questions?

MR. POTTER: No questions, Your Honor.

THE COURT: All right. Thank you. You can step down.

Can she be released?

MS. HUEY: Yes, please.

THE COURT: You're released. Thank you so much.

THE WITNESS: Thank you.

MS. HUEY: Your Honor, the State calls Patricia Crooks.

PATRICIA CROOKS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Ms. Crooks, where are you employed?

A. I'm employed by the South Carolina Law Enforcement Division, also known as SLED.

Q. How long have you been with SLED?

A. About thirty years.

Q. And what are some of your duties at SLED?

A. My duties at SLED entail working strictly in the evidence room. I don't log in evidence. I work in the

evidence room itself. In that position, I pull evidence that needs to be examined for forensic technicians or forensic scientists.

Once the evidence is examined, it's returned back to the evidence room. It's placed on a particular location in the evidence room. And then when the agencies come in that have submitted evidence, I run a program to see if they have any evidence to be returned. And if so, I pull the evidence and return it to them.

Q. And did you come into contact with any evidence in this particular case, State versus John F. Kennedy, SLED lab number L12-13798?

A. Yes, I did.

Q. I'm going to show you what's been marked as State's 6, State's 12 and State's 5. So Ms. Crooks, did you retrieve evidence in this particular case?

A. Yes, I did.

Q. And for whom did you need to retrieve evidence?

A. For Betty Walker.

Q. Betty Butler?

A. Excuse me. Betty Butler.

Q. Okay. I'm sorry. For Betty Butler; is that right?

A. Betty Butler.

Q. Okay. And Betty Butler is in what position at SLED?

A. She's a forensic technician in evidence processing.

Q. And so these would be -- she would be one of the persons that you would typically pull evidence for; is that correct?

A. Correct.

Q. All right. Now, I'm going to draw your attention to State's 5, 6, and 12, which are SLED item numbers 2, 3, and 5. Did you pull these particular items for Betty Butler?

A. Yes, I did.

Q. And when you pull these particular items, do you open the packaging or do anything with the items themselves?

A. No, I do not. We deal with containers, sealed containers said to contain.

Q. So your role is simply to pull it out of evidence and take it to a technician; is that correct?

A. They come down and pick it up. Uh-huh (affirmative).

Q. All right. Oh, they come there and pick it up?

A. Uh-huh (affirmative). Correct.

Q. But you pull it out so it's ready for them?

A. Correct.

Q. Okay. And did you do so in this case in reference to SLED item number 2, which is State's 5? If you could tell the jury what that item is?

A. Item number 2 is one, parenthesis, one sealed box containing miscellaneous described as skillet with blood on it, parenthesis, no handle.

Q. And could you tell the jury if you pulled SLED item number 3, which is State's 6. And what item would that have been?

A. Item three 3 was one, parenthesis, one sealed, heat-sealed pouch containing miscellaneous described as skillet handle with blood on it.

Q. And then did you also pull SLED item number 5, which would be State's Number 12? And if so, what was the description of that?

A. The description of item 5 was one, parenthesis, one sealed box containing clothing described as pair of multi-colored shorts from John F. Kennedy.

Q. So you pulled these, and Betty Butler came to retrieve those items; is that correct?

A. That's correct.

Q. Now, once Betty Butler is done with her processing, what does she then do with them?

A. She transferred the evidence back to me.

Q. So she brings it back to you?

A. Yes. And that was for restocking.

Q. Okay. And so then did you restock these same item numbers? That would be SLED item 2, which is State's 5;

SLED item number 3, which is State's 6; and SLED item 5, which is State's 12?

A. Yes, I did.

Q. And so you would have restocked those from Betty Butler?

A. Correct.

Q. And again, she brings them to you in the evidence room?

A. That's correct.

MS. HUEY: Your Honor, at this time, the State would move to admit State's Number 5, 6, and 12 into evidence.

THE COURT: Any objection? Any objection?

MR. POTTER: Judge, I'm sorry. I'm thinking. Judge, I think I may have an objection.

THE COURT: All right.

Let me send you out for about two minutes, ladies and gentlemen. Please don't discuss the case.

(WHEREUPON, the jury exited the open court at approximately 10:32 a.m.)

THE COURT: Yes, sir?

MR. POTTER: Judge, just out of an abundance of caution, at this point in time, I don't know if the chain is complete. We've got the evidence that's been submitted to SLED, and there's been testimony that the

evidence was taken by another lab technician. So we've got a disconnect in the chain. And it may -- further on down the line through other witnesses, it may be sufficient chain-wise, but at this point in time, I'm a little bit concerned about chain issues.

THE COURT: Okay. Yes, ma'am?

MS. HUEY: Your Honor, the State believes that it has provided a substantial chain in reference to these three items. We have put up testimony that has shown where these items have been throughout the processing thus far. Betty Butler would have been the evidence processor. She is unavailable. But Ms. Crooks can testify that Betty Butler came and retrieved these items, and then Betty Butler brought these items back to her.

THE COURT: So Betty Butler would have been the middle man between these two witnesses?

MS. HUEY: Well, Betty Butler's the middle man between Ms. Butler -- I mean, Ms. Crooks and then the DNA analyst.

MR. POTTER: Who?

MS. HUEY: I'm sorry?

MR. POTTER: Ashley Bell?

MS. HUEY: Catherine Leisy.

MR. POTTER: Judge, may it please the Court?

THE COURT: Yeah.

MR. POTTER: Judge, my concern is that the -- Ms. Butler significantly changes or alters the condition of these items. That's part of her job.

THE COURT: All right. Okay. I think you're protected for the record. I think under Hatcher, the State doesn't have to prove complete chain as long as, you know, in the discretion of the Court it's there. I'm going to -- but you're covered.

Okay. I'll allow it to be introduced.

MR. POTTER: Thank you.

THE COURT: Pursuant to your objection.

MS. HUEY: And Your Honor, just in anticipation, the next witness I then will call, Betty Butler did cuttings from these shorts and swabs from the skillet and the handle which are then sent to Catherine Leisy in DNA.

THE COURT: And you have Leisy here ready to testify?

MS. HUEY: Yes, sir.

THE COURT: Okay. All right.

And again, in light of the objection, I'll admit them. But you're covered for the record.

MR. POTTER: Thank you.

THE COURT: I'm assuming there's a continuing objection to entry of these documents or cuttings or DNA

samples.

MR. POTTER: That's fine, Judge. I'll renew my objection in full detail if necessary. But it won't be a situation where we need to send the jury out or anything.

THE COURT: Yeah, I got you.

Okay. You can bring them in.

(WHEREUPON, the bailiff handed a document to the Court.)

THE COURT: All right. I've got a statement from the foreman that says, "One of the jurors, Lori Davis, recognizes a person in the audience, worked with them, and has the same last name as the Defendant."

MR. POTTER: We have family members in the audience.

THE COURT: Yeah. I'll tell them not to worry about that unless there's objection.

(WHEREUPON, Court's Exhibit Number 4 was marked for identification only.)

THE COURT: Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 10:38 a.m.)

THE COURT: Okay. Ladies and gentlemen -- thank you, Mr. Foreman. I've discussed your issue. Thank you for sending me that issue. That should not be a problem. No one's going to testify. Unless there's

something specific that one of the jurors knows about this case, it's not a problem. But thank you for doing that.

Okay. You can continue.

MS. HUEY: Your Honor, so at this time the State would seek to admit State's Number 5, Number 6, and Number 12.

THE COURT: Pardon?

MS. HUEY: The State would seek to admit State's Number 5, 6, and 12 at this time.

THE COURT: Okay. And they're admitted. And you're protected for the record.

(WHEREUPON, State's Exhibit Number 12 was admitted into evidence.)

Q. Okay. Ms. Crooks, in addition to accepting SLED item numbers 2, 3, and 5 back from Ms. Butler, did she also submit additional items back to you? Specifically it would be SLED item number 2.1, 3.1, and 5.1 and 5.2?

A. 3.1 and 5.2?

Q. Backing up, it's 2.1, 3.1, 5.1 and 5.2?

A. That's correct.

Q. Okay. So I'm going to show you what's been marked as State's 13-A, 13-B, 14 and 15. So Ms. Crooks, if you could, tell the jury what SLED item number 2.1 is which is labeled as State's 14?

A. Item number 2.1, one, parenthesis, one, parenthesis. It's a sealed, heat-sealed pouch containing swab, parenthesis, S, parenthesis, described as from skillet bottom only, parenthesis, no handle, parenthesis.

Q. And if you could, tell the jury what SLED item number 3.1 which is State's number 15 is described as?

A. Item 3.1 is one, parenthesis, one, parenthesis, sealed, heat-sealed pouch containing swab, parenthesis, S, parenthesis, described as from skillet handle.

Q. And then in reference to State's 13-A which is SLED item number 5.1?

A. Item 5.1 is one, parenthesis, one, parenthesis, sealed, heat-sealed pouch containing cutting, parenthesis, S, parenthesis, described as from multi-colored shorts from John F. Kennedy.

Q. And then finally 13, State's 13-B, which is SLED item number 5.2?

A. Item 5.2 is one, parenthesis, one, parenthesis, sealed, heat-sealed pouch containing cutting, parenthesis, S, parenthesis, described as from multi-colored shorts from John F. Kennedy.

Q. And again, these would have been items that you accepted from Betty Butler; is that correct?

A. That's correct.

Q. And when you receive these items, in what condition

are they, sealed or ---

A. They were returned to me in a sealed, heat-sealed pouch.

Q. And again, you did not tamper with these items in any way?

A. No, I did not.

Q. Okay. And your role, once you receive these items back, is to put them back into evidence?

A. Yes.

Q. Where you might have to hold them for somebody else?

A. That's correct.

MS. HUEY: Bear with me just one second.

Q. So Ms. Crooks, did you then have to pull these items for someone else that works with SLED?

A. Yes, I did.

Q. Okay. So specifically, again, this would be State's 13-A, 13-B, 14 and 15 which is SLED item numbers 2.1, 3.1, 5.1, and 5.2. To whom would you have pulled those for?

A. I would have pulled those for forensic scientist Catherine Leisy.

Q. And did you do that in this particular case?

A. Yes, I did.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: All right.

Any questions?

MR. POTTER: Briefly, Judge. May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Ma'am, there were other items that you pulled for Ms. Betty Butler besides the ones that the State has indicated; is that correct?

A. Do you have a specific item?

Q. Item 1, swab from inside front door knob?

A. I pulled that item for Catherine Leisy.

Q. Okay. Item 4, fingernail scrapings of John Kennedy?

A. Yes, I pulled that for Catherine Leisy as well.

Q. All right. Item 4.2, right-hand fingernail scrapings of John Kennedy?

A. The -- 4.2?

Q. Yes, ma'am.

A. I received that evidence from Sheree Brown who is a forensic technician. And when I received it from her, I placed it on a shelf in the evidence room. And then I did not transfer that again.

Q. Okay. How about item 6, blood standard from John Kennedy?

A. I pulled that evidence and transferred it to Catherine Leisy.

Q. Okay. And we're going to go down a little bit. Item 7.1, swabs from the gear shift of Mercury Mystique?

A. I also received that evidence from Sheree Brown and placed it back on the shelf in the evidence room.

Q. How about 7.2 which is the swabs from outside driver's door of Mercury Mystique?

A. Okay. I received that evidence from Sheree Brown and restocked it in the evidence room.

Q. And just to refresh my recollection, Sheree Brown is a lab technician at South Carolina ---

A. She's a forensic technician.

Q. Okay. Thank you.

MR. POTTER: Nothing further.

THE COURT: Anything on redirect?

MS. HUEY: No, sir, your Honor.

THE COURT: Thank you. You can step down and be released from your subpoena.

THE WITNESS: Thank you.

MS. HUEY: Your Honor, the State calls Sheree Brown.

SHEREE BROWN,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Ms. Brown, where are you employed?

A. South Carolina Law Enforcement Division, also known as SLED.

Q. And how long have you been there?

A. A little over nineteen years.

Q. What is your position there?

A. I'm a forensic technician assigned to the DNA department.

Q. As such, what are some of your duties?

A. Collecting evidence that's submitted to SLED for DNA analysis and preparing some of the -- if it's got a blood standard and stabilize it into -- make it a dry form.

Q. And did you come into contact with any evidence in this case, specifically, State versus John F. Kennedy, lab number L12-13798?

A. Yes, I did.

Q. And in this instance, did you prepare a dried blood sample for the DNA analyst?

A. Yes, I did. Item number 6 is a blood sample drawn from suspect, John F. Kennedy. And then I created item 6.1, and that's our dried blood standard.

Q. And specifically as to SLED number item number 8, which would be the victim's blood; Claud Schaffer Scott?

A. Yes, I did. It's the blood from autopsy of victim,

Claud Schaffer Scott. And also I created item 6.1 [sic] from that liquid blood and made it -- put it on filter paper and made it a dried blood standard.

Q. And I'm sorry. Was that in reference to number 8?

A. Yes. I'm sorry. It's number 8 and item 8.1.

Q. And that became 8.1?

A. Yes.

Q. Okay. So tell the jury a little bit about what's involved in that process though.

A. Yes. We get a liquid tube of blood that was drawn. And I look, you know, to determine that it matches the case with the case number and all. And I'll take a small portion of the liquid blood and pour it on filter paper so it could be analyzed. It's easier to analyze a dried sample than a liquid sample. And on that filter paper, it has all the information that the DNA analyst would need. It has the case number, the item number and the person's name that was on the tube.

Q. And I'm going to show you what's been marked as State's 16, which includes SLED item numbers 8 and 8.1.

THE COURT: Catherine, would you take them ---

MS. HUEY: Yes, sir, I will.

Q. All right. Again, this is State's 16 which is SLED item number 8 and 8.1.

A. Yes. This is the heat-sealed pouch because I

recognize my initials on it when I opened it up.
Q. And so when you retrieve this item, it is sealed then?
A. Yes. It's sealed from when it was in the intake area.
Q. And once you receive this item or retrieve it rather from evidence, then you then open it; is that correct?
A. Yes. I opened it up, and I created the coin envelope that's in it. That's my handwriting. And I'll -- and the dried blood standard is in the coin envelope.
Q. And then once you are done preparing the dried specimen, what do you then do with it?
A. It is sealed, and SLED's policy is to return it back to the DNA intake. That's a location within our evidence control department. And it's housed there until it's ready to be analyzed.
Q. And is that what you did in this case?
A. Yes.
Q. And specifically in reference to SLED number 8 and 8.1?
A. Yes.
Q. Which is State's 16?
A. Yes.

MS. HUEY: That's all I have of this witness, Judge.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Ms. Brown, were there other items that you took to prepare to have the DNA analysis done?

A. Sir, I cannot hear you.

Q. Okay. I'm sorry. Did you take any other items to have prepared to have DNA analysis done on them?

A. No, sir. My part was only 6 and 7 [sic] that I came in contact before the analysis.

Q. Okay. Did you come in contact with item 7.1, swabs from a gear shift of a Mercury Mystique?

A. Let me go back and check.

Q. Take your time.

A. You said 7.1?

Q. Yes, ma'am.

A. I don't have a -- not in my records, I don't show anything.

Q. Just so I understand, the only two items that you took were item 6 and item 8, and you created item 6.1 and item 8.1 and then you returned them?

A. That's correct.

Q. That's all you did?

A. Yes.

Q. Thank you.

THE COURT: Anything on redirect?

MS. HUEY: No, sir, Your Honor.

THE COURT: You can step down and be released from your subpoena. Thanks.

THE WITNESS: Thank you.

MS. HUEY: Your Honor, the State calls Catherine Leisy to the stand.

CATHERINE LEISY,

BEING FIRST DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Ms. Leisy, where do you work?

A. I work for the South Carolina Law Enforcement Division, more commonly known as SLED.

Q. What is your position at SLED?

A. I am a forensic scientist assigned to the DNA and serology unit.

Q. And how long have you been in that position?

A. For almost eight years.

Q. What do your duties include at SLED in this position?

A. My responsibilities include processing forensic cases, generating reports based on the results and conclusions drawn, and testifying to those reports as

necessary. I also assist in quality assurance measures throughout the lab and in the training of newly hired analysts.

Q. What is your educational background?

A. I have a bachelor of science degree in genetic engineering from Cedar Crest College in Allentown, Pennsylvania.

Q. How often do you analyze DNA?

A. As far as number of individual samples, I've probably processed thousands, and I've worked on well over one thousand cases.

Q. Have you ever been qualified and testified as an expert in the fields of forensic serology and DNA analysis?

A. Yes, I have.

Q. And about how many times has that been the case?

A. Approximately fifty times.

MS. HUEY: Your Honor, at this time, we would offer Ms. Leisy as an expert in serology and DNA analysis.

THE COURT: Any objection?

MR. POTTER: No, Your Honor.

THE COURT: Okay. Without objection.

Q. So Ms. Leisy, what exactly is forensic serology and DNA analysis?

A. Forensic serology is the identification of bodily fluids that may be found at a crime scene or on an item of evidence such as semen, saliva or blood. Forensic DNA analysis enables us to develop a DNA profile from a biological stain left on an item of evidence and compare it to the DNA profile of a known individual. We can then try to determine whether or not that particular individual contributed the biological material that we're interested in on the item of evidence or at the crime scene.

Q. When your lab receives cases for testing, what steps are taken to ensure the integrity of those pieces of evidence?

A. When the evidence is first submitted, it is placed into plastic pouches that are then heat sealed. The initials of the individual sealing the pouch are placed across the seal as well as the date. As the evidence moves throughout the laboratory to different departments or in different storage facilities, the integrity of the pouch is maintained. So once the pouch gets to me, I'll be able to tell if anyone has entered the pouch and potentially tampered with the evidence. If the pouch is intact when it arrives to me, I know that everything is secure and it was handled appropriately.

Q. And what is that process called, that paperwork

trail called?

A. We maintain what we call a chain of custody. It's a list that shows who had custody of a particular item at a particular time.

Q. And was that done in this particular case, State versus John F. Kennedy, SLED lab number L12-13798?

A. Yes, it was.

Q. And did you, in fact, receive evidence in this particular case?

A. I did.

Q. Specifically, Ms. Leisy, I am going to refer you to SLED item numbers 2.1, 3.1, 5.1, and 5.2, 8 and 8.1 which are State's Exhibit Numbers 14, 15, 13-A, 13-B and 16.

A. These were all items that I took into my custody under this case number for analysis.

Q. All right. Now, drawing your attention specifically to SLED item number 2.1 and 3.1, 5.1 and 5.2, these items would have gone through evidence processing first; is that correct?

A. That is correct.

Q. And who was in charge of processing this particular evidence?

A. These items were worked on by evidence processing technician Betty Butler.

Q. And that would have been the swabs from the skillet,

the swabs from the skillet handle, and then shorts labeled as belonging to the Defendant, John F. Kennedy?

A. That's correct.

Q. So she processes these items first. And what is the purpose of that?

A. The purpose of evidence processing is to identify bodily fluids that may be on larger items of evidence such as clothing or an item such as a skillet. If such evidence is identified by our technicians, they take a smaller sample of it and pass that on to us for DNA analysis.

Q. And that's what was done in this case?

A. Correct.

Q. So she's kind of the first step in the process?

A. That's correct.

Q. So then you received the swabs from the skillet which is 2.1, the swabs from the skillet handle which is 3.1, and then cuttings from the shorts which are 5.1 and 5.2?

A. Correct.

Q. And again, when you retrieved these particular items were they, in fact, still sealed?

A. They were.

Q. In terms of your analysis on -- let me back up. Now, in addition to those exhibits or items that came

from Betty Butler's analysis, did you also obtain an item number from Sheree Brown?

A. Yes, I did.

Q. Okay. And specifically, that would be SLED item number 8 which was then -- 8.1 was also created?

A. Correct.

Q. And again, when you received these particular items, were they sealed?

A. They were.

Q. And the purpose of them going to Sheree Brown first is?

A. The particular item that Ms. Brown worked on was a vial of blood to be used as a known DNA standard. When we receive a vial of blood, we pour it onto a piece of sterilized paper and allow it to dry. DNA will stay more stable during long-term storage once it's dried on the paper than it will if you leave it in the -- leave it as liquid form in the tube.

Q. And then once you retrieved all of these items, were you then able to analyze these?

A. Yes, I was.

MS. HUEY: Your Honor, at this time, we'd move to admit State's 14, 15, 13-A, 13-B and State's 16.

THE COURT: Any objection?

MR. POTTER: May it please the Court? In

regards to, and in reference to my earlier comments, we would ask that those be incorporated.

THE COURT: All right. Those are incorporated.

MR. POTTER: Thank you, Your Honor.

THE COURT: Okay. It's admitted.

(WHEREUPON, State's Exhibit Numbers 13-A, 13-B, 14, 15 and 16 were admitted into evidence.)

Q. Okay. So Ms. Leisy, if you could then, take us through the analysis you performed on those particular items starting with 2.1 which would have been a swab from a skillet collected in this case.

A. The first step that I performed on this particular item was to perform what we call a presumptive serology test. It's a chemical test that allows us try and determine whether or not blood may be present. The results of that test were positive, indicating the possible presence of blood. I then went ahead with DNA processing and developed a DNA profile from that item.

Q. And did you have something to compare this DNA profile?

A. I did. I compared it to DNA profiles developed from John Kennedy and Claud Scott.

Q. And what, if anything, were your results from this exam?

A. From the swab from the bottom of the skillet, the

DNA profile developed matches that of Claud Scott.

Q. The victim in this case?

A. That's correct.

Q. All right. Specifically as to SLED item number 3.1 which is a swab from skillet handle?

A. Again, I performed the same presumptive serology test. Received a positive result indicating the possible presence of blood, developed a DNA profile and determined that that profile also matches the DNA profile of Claud Scott.

Q. And in reference to 3.1, are you able to develop a statistic in reference to that analysis?

A. I am. The probability of randomly selecting an unrelated individual having a DNA profile matching this item is approximately one in two hundred and fifty quadrillion.

Q. Now, drawing your attention to State's 13-A and 13-B which are SLED item numbers 5.1 and 5.2, these would have been the cuttings from the shorts labeled as belonging to the Defendant, John F. Kennedy.

A. Again, I performed the same presumptive serology test on both items. I received a positive result for both items. I developed the same DNA profile from both of these cuttings and determined that it matches the DNA profile of Claud Scott.

Q. And again, was a statistic developed on that?
A. The same statistic would apply of approximately one in two hundred and fifty quadrillion.
Q. So in other words the victim Claud Scott's blood was located on the shorts labeled as belonging to the Defendant, John F. Kennedy?
A. What I can say to that is that in my scientific opinion, it's reasonable to believe that the DNA profile developed and the DNA left on that item belongs to Claud Scott.
Q. And again, that statistic was what?
A. Approximately one in two hundred and fifty quadrillion.

MS. HUEY: That's all I have for this witness, Judge.

THE COURT: Yes, sir?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Ma'am, I have a report dated April 25th, 2013, where it looks as if forensic serologist Ashley Bell tested item 2, 3, and item 5 of SLED and they indicated blood. Are you familiar with that report?
A. I am.

Q. Okay. And that was an evidence processing step, I presume? They look and they determine if there was blood, and then they send it to you for further analysis?

A. That's correct.

Q. Are you part of that analysis that took place in the report of April 25th of 2013?

A. No, I was not.

Q. You did a report that was dated August 9th, 2013; is that correct?

A. Yes, sir.

Q. Okay. Now, you also tested several swabs that were provided as well?

A. I did.

Q. Okay. Item 1, swabs from inside the front doorknob; is that correct?

A. Correct.

Q. Item 4, fingernail scrapings of John Kennedy?

A. Correct.

Q. Item 4.1, left-hand fingernail scrapings of John Kennedy?

A. Yes.

Q. Okay. In regards to item 4.1, analysis was done on that?

A. It was.

Q. And what was your determination?

A. In terms of the left-hand fingernail scrapings from John Kennedy, the DNA profile developed is a mixture of at least two individuals. The major ---

Q. Okay. Excuse me, Officer.

A. I'm sorry. The DNA profile developed from the major contributor to this mixture is attributable to John Kennedy. And the partial DNA profile developed from the minor contributor is insufficient for reliable interpretation.

Q. Okay. But we know -- strike that. There was also 4.2, a right-hand fingernail scraping of John Kennedy?

A. Correct.

Q. Was an analysis done of that item?

A. There was. And the DNA profile developed is attributable to John Kennedy.

Q. Okay. And there was no other DNA attributable in that item?

A. From 4.2, no, sir.

Q. Now, item 7 indicates swabs?

A. Yes, sir.

Q. Okay. And item 7.1, they're swabs from the gearshift of a Mercury Mystique?

A. Yes.

Q. And you performed an analysis on that?

A. I did.

Q. And what was your determination?
A. I performed my initial presumptive serology test and received negative results indicating there was no blood present. I was able to develop a partial DNA profile from this item which contained male DNA, but I could not make a conclusive decision regarding the inclusion or exclusion of John Kennedy or Claud Scott as a possible contributor to this item.
Q. So there was no blood indicated?
A. Not based on the test that I ran, no, sir.
Q. Okay. And also on 7.2 there was no blood indicated on the swabs of the outside driver's door of the Mercury Mystique?
A. That's correct.
MR. POTTER: Nothing further. Oh, I'm sorry. One more thing.
Q. The blood that you analyzed, is there any testing that you can conduct to determine when that blood got onto the particular item?
A. No, there is not.
Q. So the blood that you tested could have been placed on that item a year ago or yesterday?
A. That's correct.
MR. POTTER: Nothing further.
THE COURT: Anything on redirect?

MS. HUEY: That's all I have for this witness, Judge. May she be excused?

THE COURT: Any objection?

MR. POTTER: No, Your Honor.

THE COURT: Okay. Thank you.

THE WITNESS: Thank you.

THE COURT: Let's take our break right now, if you don't mind.

Ladies and gentlemen, I'm going to send you back for about ten or fifteen minutes, probably fifteen. Please don't discuss the case, and I'll call you in in just a few minutes.

(WHEREUPON, the jury exited the open court at approximately 11:09 a.m.)

THE COURT: All right. For planning purposes, how many more witnesses do you have?

MS. HUEY: We're figuring that out right now. One, maybe two, Judge.

THE COURT: Okay. We'll take a break.

(WHEREUPON, court stood at recess for a short break during which State's Exhibit Numbers 22 and 23 were marked for identification only.)

THE COURT: Okay. Y'all ready?

MS. HUEY: Your Honor, I have something I need to take up with you.

THE COURT: Okay.

MS. HUEY: The State plans to call Brent Simpson next. During the duties -- as an investigator during his duties, he listens to jailhouse recordings. And there are two specifically in this particular case in which the Defendant alleges self-defense.

THE COURT: Okay.

MS. HUEY: Which I believe is contrary to what has been presented thus far. We would like to introduce those and don't know if you need to hear them or ...

THE COURT: Well, is there any objection to them?

MR. POTTER: Yes, Judge. First off, I haven't presented a case thus far in regards to anything. I've been addressing cross-examination on other issues. What is alleged in these phone calls is he's talking to his family trying to get counsel. And he specifically says, just tell the lawyer it's self-defense. It's an attempt of him to try to get a lawyer to come in and talk to him. It's not a situation where he's saying, this is clearly I was defending myself. I had no choice or anything like. Call -- Scott gave me his -- can call Scott McElhannon. It's a self-defense case. Call that lawyer in Greenville and tell them it's a self-defense case. It's him trying to get his family to get an attorney to

start working on his case. And his thinking is, tell the lawyer it's self-defense at this point in time, then he'll give it some consideration. It's not in regards to the specific case or the facts. There's no information in there saying Schaffer went after me, I had to defend myself or anything like that. It's, I need to talk to a lawyer. Tell the lawyer it's self-defense.

THE COURT: All right. Why don't you proffer it. I think that's probably the thing we need to do.

MS. HUEY: Outside the presence of the jury, correct?

THE COURT: Yeah.

MS. HUEY: Your Honor, the State calls Brent Simpson to the stand.

THE CLERK: He's already been sworn?

THE COURT: Yeah, you have been sworn already, right?

THE WITNESS: I have.

THE COURT: Yes, sir. You're still under oath. I appreciate it.

BRENT SIMPSON,

BEING PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

IN-CAMERA EXAMINATION

BY MS. HUEY:

Q. Investigator Simpson, as an investigator, do you

have access to the recordings from the jail system?
A. Yes, ma'am, I do.
Q. Okay. Could you explain a little bit of how that comes about?
A. We have a program on our computer that's called the jail file system in which we can log in our user name and the password and listen to inmates' telephone calls by installing their name. And every phone call that they have made from the jail pops up.
Q. And so prior to the inmate making a phone call, just generally speaking, is there any kind of warning that is issued when they're making a phone call?
A. Yes. Once they set up their account, they go through a stage when they enter the jail. They have to do a -- it's probably a five-minute setup. You have to do a voice recognition setup in order to get a password or PIN to use the phone. And after that, anytime they use the phone, it lets them know that every call is being recorded and subject to listening.
Q. And in addition to the warning on the recording, are there any signs up at the jail indicating that they are being recorded?
A. Yes, I believe there are.
Q. Now, in this particular case did you access jail phone calls that John F. Kennedy made?

A. Yes, I did.
Q. And how did you -- specifically, as it relates to him, how did you access those?
A. Through my desk computer, I log into the system and put his name in. And several calls came up, and I listened to each and every one of them at that point in time.
Q. And what time did he turn -- or what day did he turn himself in on this murder charge?
A. I believe he turned himself in on April 1st, 2012.
Q. And so what two calls were of significance that you listened to?
A. There was one call on April the 11th, 2012, and I don't have the date on the other one. I'll have to find it for you. The others were April 5th, 2012.
Q. And as you listened to these recordings, were you -- actually -- let me back up. When the Defendant turned himself in on April 1st, of 2012, did you speak with him at that point?
A. Yes, I did.
Q. How long do you think you spoke with him?
A. It was several hours, probably five to six hours total. He did -- we did offer him supper. He did eat in that time frame also, so it wasn't continuous ongoing.
Q. Okay. And as you were listening to these

recordings, in addition to you having plugged his name in and it pulling up the calls he made, did you also recognize his voice?

A. I did.

Q. And I show you what's been marked as State's 22 and 23. Do you recognize these?

A. Yes, I do.

Q. And what are those exhibits?

A. These are recordings of the phone calls made by John F. Kennedy on the jail system.

Q. Okay. And did you download those from your system?

A. Yes, I did. Also, I recorded those on a compact disk.

Q. And for purposes of this hearing, I believe those have been redacted; is that correct?

A. That's correct.

Q. All right. So in terms of anything other than that, have they been altered in any other way?

A. No, they have not.

MS. HUEY: So Your Honor, at this time we would want to publish these particular phone calls.

THE COURT: Okay. All right.

MS. HUEY: And just for the Court to be aware, as Mr. Potter indicated, these are about twenty-minute phone calls. And a lot of it is talking about him

wanting to get an attorney, talking to his family and that sort of thing. So we've attempted to just focus in on the statements he made regarding self-defense.

THE COURT: Okay.

MS. HUEY: So this would be State's 22. State's 22 is April 5th, Your Honor.

THE COURT: Okay.

(WHEREUPON, State's Exhibit Number 22 was published for the Court.)

MS. HUEY: That would be State's 22 from April 5th, 2012. And Your Honor, at this time, we'd like to publish State's 23 from 4/11/2012.

(WHEREUPON, State's Exhibit Number 23 was published for the Court.)

THE COURT: Okay. Is self-defense -- I mean, this is the first time self-defense has come up. I'm just kind of curious as to why it's just coming up now. I mean, is it an issue?

MS. HUEY: Well, Your Honor, we didn't know what the Defense was going to present obviously.

THE COURT: Right.

MS. HUEY: And I believe Mr. Potter opened with that no one can put the Defendant inside the trailer with Mr. Scott. And the Defendant's own words put him in there.

MR. POTTER: Judge, I didn't say that. I just said Mr. Scott doesn't know who assaulted him and that Mr. Scott is mistaken as to who assaulted him. Judge, obviously, it's fair game on rebuttal if my guy gets up and testifies. Or if I present any evidence related to it, I think it's fair game. However, in their case-in-chief -- first off, I haven't presented a case for a defense as of yet officially. Additionally, this is highly prejudicial. He's trying to get his family to hire a lawyer. And one way a lawyer's going to take a case is if he thinks he's going to make money and he thinks he can do well with it. Just tell him it's self-defense. And that way, at least he'll come down here and talk to me.

THE COURT: What would be the problem with reserving it for rebuttal if he raises the issue of self-defense? I mean, would that create a problem for you, assuming he doesn't argue it, because you can't argue it if ...

MS. HUEY: In terms of rebuttal, Your Honor, though, that would mean he would have to put up a case.

THE COURT: Right.

MS. HUEY: Which is ---

THE COURT: Do you want it in assuming he doesn't raise self-defense?

MS. HUEY: Well, my position is, Your Honor, he has indicated through his opening and through cross, that this is a flawed investigation, that the police are going after one person and not investigating anybody else, that no one -- however he wants to phrase it. But no one puts him inside the trailer. And here in the Defendant's own words he's saying, it was him or me.

MR. POTTER: If this gets admitted, in essence we've got an issue here because now I've got to put my guy -- I have to have my client refute that.

THE COURT: I tell you what, I'm not going to allow it in your case-in-chief. I'll allow it in rebuttal if he presents -- introducing self-defense at this point without a defense creates a lot of problems. But if self-defense comes up as a defense, I'll allow you to introduce it.

MS. HUEY: And Your Honor, if I may then, again -- and I objected to this in opening. But Mr. Potter has been intimating that these two other people are involved in this. And if that is the line he goes down in cross, then he may open the door.

THE COURT: No, I stopped him. I think I stopped him. I mean, you objected. I stopped him and then he -- I mean, like I said -- as I said two days ago, he's walking that thin line. But I wouldn't allow him to

go into third-party guilt at this point.

MR. POTTER: Well, may it please the Court?

THE COURT: Yep.

MR. POTTER: We do need to address that.

THE COURT: Okay.

MR. POTTER: Her witness opened up the door when she said, I called Ron. I thought Ron and Julie had something to do with this. And she volunteered that information. It wasn't because of a question from me or anything of that sort.

MS. HUEY: But she also testified that she did not see Ron or Julie there at the time of this incident.

THE COURT: Well, look, the evidence is what it is. Let's -- at this point, I'm not going to allow the evidence of self-defense unless it is raised as a defense. But I'm going to keep him inside that line as self-defense. I mean, you can't just pop up with self-defense.

MR. POTTER: That's not going to pop up, Judge.

MS. HUEY: All right. He's trying to avoid that, Judge, because he knows how silly it is which is why I want it in.

THE COURT: Well, y'all come here a minute.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Let's keep it out until it comes up. If it comes up, it comes in.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Judge, if it's all right with you, after Ms. Huey gets done with direct, before we start cross, I want to just make sure I don't have any issues with third-party guilt. So I want to kind of confirm some things with you before we start cross based upon what he testifies to.

THE COURT: Okay.

MR. POTTER: So if I stand up and ask for the jury to be removed, that's what -- I just want to make sure.

THE COURT: All right. Who would your next witness be?

MS. HUEY: Brent Simpson, Your Honor.

THE COURT: Okay.

MS. HUEY: He'd be the last witness.

THE COURT: Okay.

MS. HUEY: And I do intend to publish the 9-1-1 call. Does that need to be addressed?

MR. POTTER: I've listened to it. It's been redacted. Actually, she says my guy was there. I find that prejudicial, but ---

THE COURT: Okay. Well, again, it is what it is.

MR. POTTER: Yes, sir.

THE COURT: I mean, you know, you can argue. All right. I'll allow that to be introduced over your objection. Okay.

Step down for now and we'll bring you right back up. Thanks.

THE CLERK: He has not been sworn in in front of the jury.

THE COURT: Okay. All right. We'll do that then.

Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 11:47 a.m.)

THE COURT: All right. Ladies and gentlemen, as I told you two days ago, every ten minutes turns into twenty. And I apologize. We were working outside your presence. It took longer.

You can call your next witness.

MS. HUEY: The State calls Brent Simpson to the stand.

BRENT SIMPSON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HUEY:

Q. Investigator Simpson, where do you work?

A. I'm employed with the Anderson County Sheriff's office.

Q. And how long have you been with the Sheriff's office?

A. Since 2005.

Q. And in what position are you in at the Sheriff's office?

A. I'm a criminal investigator.

Q. As such, what are some of your duties?

A. Basically, we investigate mostly felonies involving burglaries, thefts, frauds, assaults and homicides.

Q. Did you become involved in the investigation of a homicide that occurred at [redacted] in Anderson County?

A. Yes, I did.

Q. And in what capacity?

A. I was the lead investigator in the case.

Q. And when you're labeled a lead investigator, do your duties change at that point?

A. I kind of oversee the whole thing at that point.

Q. Did you have an occasion to respond to AnMed Hospital on March 30th of 2012?

A. Yes, I did.

Q. And for what purpose?
A. I was contacted by Sergeant Bussey at that point that he was on the scene of an assault and the victim had been taken to the AnMed E.R. And I responded to the E.R. in an attempt to talk to him to get any information I could.
Q. When you got to the E.R., what condition was Mr. Scott in?
A. When I walked in, the doctors and nurses were still working on him. I kind of stayed out of the room. Once everybody cleared out, I walked in. And he had bandages around the sides of his head. I could still see most of the top. He had severe gashes in the top of his head, staples, still a lot of bleeding. He was in very critical condition.
Q. Do you remember about what time you spoke with the victim?
A. I believe it was around -- I took a statement from him. It was seven fifty-three when that statement began, p.m.
Q. And how were you able to document this conversation?
A. I recorded it. The only thing I could do at that point in time -- obviously he could not write. So I had a cell phone with me which I used the recording feature on it to record the entire interview.

Q. And it was just you and the victim in the room together?
A. At that point, yes, ma'am.
Q. Let me show you what's been marked as State's 11. If you could take a look at this, please. Do you recognize that exhibit?
A. I do.
Q. And does that fairly and accurately depict and represent the conversation you had with the victim Claud Schaffer Scott on March 30th of 2012?
A. Yes, it does.
Q. Has it been altered or changed in any way?
A. No.

MS. HUEY: Your Honor, at this time we would seek to admit State's 11 into evidence.

THE COURT: Any objection?

MR. POTTER: Yes, Your Honor.

THE COURT: Okay. Is this what we discussed?

MR. POTTER: Yes, Your Honor.

THE COURT: Okay. I've got to send you out for two more minutes. It won't be ten this time. Please don't discuss the case.

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

THE COURT: All right. Yes, sir?

MR. POTTER: Judge, for the record, I know we had pre-trial hearings on this particular matter. But I believe this is the recording involved in the dying declaration. And I understand Your Honor has already ruled on my objections related to that pre-trial hearing.

THE COURT: Yeah.

MR. POTTER: I'm merely renewing those objections and incorporating my arguments that I made in the prior hearing.

THE COURT: Okay. Your objection is renewed and overruled pursuant to my previous ruling.

MR. POTTER: Thank you.

THE COURT: Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 11:52 a.m.)

THE COURT: All right. Thanks for your patience.

Yes, ma'am?

MS. HUEY: Your Honor, at this time we'd seek to admit State's 11 and publish.

THE COURT: Okay. Pursuant to a previous ruling, I'll allow you to introduce it.

(WHEREUPON, State's Exhibit Number 11 was admitted into evidence and published for the jury.)

Q. Investigator Simpson, after the recording stops,

what happens next?

A. Mr. Scott fell unconscious and never opened his eyes, never said anything else.

Q. Now, prior to meeting with Mr. Scott at the hospital, did you have any information regarding a potential perpetrator or any details?

A. The only details I was told was Mr. Scott had been assaulted, and he'd been struck in the head and his vehicle had been taken.

Q. Did you eventually learn, as the lead investigator, of Kimberly King's statement?

A. I did.

Q. After you recorded the victim's statement, I believe you said the victim fell unconscious?

A. He did.

Q. And he never recovered from his injuries?

A. No. He essentially passed away due to the injuries.

Q. And what time did he pass away?

A. I believe it was around seven twenty the following morning on the 31st of March, 2012.

Q. What were your next steps after getting the victim's statement recorded?

A. After that, I contacted investigator Bussey and told him that I had the recording on my phone. He had since explained to me Kimberly's statement, what she had seen.

And he also let me know that three other people had been told that John F. Kennedy had assaulted Mr. Scott.

MR. POTTER: Objection, Your Honor.

THE COURT: Sustained.

MR. POTTER: Ask that to be stricken.

THE COURT: Yeah. That'll be stricken.

Q. Just refrain from saying what other people said. So what, if anything, became of the victim's blue car?

A. We did locate the victim's car on March the 31st. Someone contacted us, and we recovered the car at 2901 South Main in the Bi-Lo parking lot.

Q. Okay. And what kind of car was it actually? I know there's a been a couple of references to the kind of car.

A. It's a Mercury Mystique.

Q. And is that the same make and model as another car or the same type?

A. Same type as a Ford.

Q. Investigator Simpson, I'm going to show you what's been marked as State's 19-A through C. If you could please take a look at these. Do you recognize those?

A. I do.

Q. And do those fairly and accurately depict the Mercury Mystique belonging to Claud Schaffer Scott that was found at the Bi-Lo at 2907 South Main Street?

A. Yes, ma'am.

Q. Have they been altered or changed in any way?
A. No, ma'am.
MS. HUEY: Your Honor, at this time we'd seek to introduce 19-A, B and C.
MR. POTTER: No objection.
THE COURT: Without objection.
(WHEREUPON, State's Exhibit Numbers 19-A, B, and C were admitted into evidence.)
Q. Investigator Simpson, if you don't mind stepping down with the photos.
(WHEREUPON, the witness stepped down from the witness stand.)
Q. This is 19-A. Could you tell the jury what that depicts?
A. This is the blue Mercury Mystique that was found in the parking lot that belonged to Mr. Scott.
Q. And that's exactly where it was parked?
A. Yes.
Q. It hasn't been moved?
A. (No verbal response)
Q. All right. And State's 19-B?
A. This is just a different angle of the exact same car where it was parked.
Q. And 19-C?
A. This is also the same car, just the rear view of it.

Q. Okay. And it had a dealer tag on it?
A. Yes.
Q. Okay. You can have a seat.
(WHEREUPON, the witness resumed the witness stand.)
Q. Now, as a result of finding the missing blue car at the Bi-Lo, were you able to retrieve a video from the Bi-Lo assistant manager, a surveillance video?
A. Yes, I was.
Q. What day and time -- according to that video, what day and time does the blue car drive into the Bi-Lo parking lot?
A. I think the car was driven into the parking lot on March the 30th around six oh four p.m. And at around six oh five p.m., a black male was seen on the video running away from the car.
Q. Okay. Now, can you make out who it is, other than it being a black male?
A. You can't really make out exactly who it is, but you can tell it's a black male.
Q. And then at what time is the black male seen leaving the car, running away from the car?
A. It was approximately six oh five, about a minute later.
Q. I'm going to show you what's marked as State's 8. I'm going to show you this. Is this the surveillance

video you collected from Heather Pressley for -- as a result of this investigation?

A. Yes, it is.

Q. And again, it fairly and accurately depicts the surveillance video taken March 30th of 2012?

A. That's correct.

MS. HUEY: Your Honor, at this time we'd seek to publish State's 8 and admit.

THE COURT: Any objection?

MR. POTTER: No, Your Honor.

THE COURT: All right. Without objection.

(WHEREUPON, State's Exhibit Number 8 was admitted into evidence.)

Q. Investigator Simpson, if you don't mind stepping down. And from the TV, maybe you can point out when the car is coming in.

(WHEREUPON, the witness stepped down from the witness stand.)

Q. I'm sorry. Let me back up one second.

(WHEREUPON, State's Exhibit Number 8 was published for the jury.)

A. Okay. This is the car coming into the parking lot now.

Q. And that's the next shot?

A. Yes, it is. You can see a person getting out of the

car and going around to the front. You see him running toward the side of the store. With this picture being blown up like it is, it's kind of grainy. But that's because it's smaller than the size of a computer screen. You can tell that it's a black male.

Q. And is that the extent of the surveillance video?

A. Yes.

Q. You can take your seat.

(WHEREUPON, the witness resumed the witness stand.)

Q. Now, this Bi-Lo at 2907 South Main Street, how far is it approximately from the victim's trailer at [redacted] Circle?

A. It's approximately eight miles. It takes about fifteen, sixteen minutes to drive it.

Q. And again, what time did the 9-1-1 call come in from Kimberly King?

A. The call, I believe, came in at -- the first 9-1-1 call came in at five fifty-one p.m.

Q. So just under fifteen minutes after the car is seen abandoned at the Bi-Lo parking lot?

A. That's correct.

Q. Now, as your part of the investigation, did you obtain a recording of the 9-1-1 call placed by Kimberly King ---

A. Yes.

Q. --- on March 30th of 2012 at five fifty-one p.m.?
A. I did.
MS. HUEY: Your Honor, at this time we'd seek to introduce State's 4-A and publish.
THE COURT: Any objection?
MR. POTTER: I'm sorry. What was that again?
MS. HUEY: The 9-1-1?
MR. POTTER: Yes, subject to my previous comments regarding this matter.
THE COURT: Okay. Subject to previous objection, it's admitted.
(WHEREUPON, State's Exhibit Number 4-A was marked and admitted into evidence and published in open court.)
Q. Now, Investigator Simpson, you didn't actually go to the crime scene; is that correct?
A. I did not.
Q. Did you have an opportunity to view the photos from the crime scene?
A. Yes.
Q. I'm going to show you what's already been admitted as State's 20 and State's 18-D. If you could take a look at those photos. Now, drawing your attention to the ottoman inside Mr. Scott's residence, there's a clipboard on that ottoman?

A. Right.
Q. And were you able to view what was on that clipboard?
A. Yes.
Q. Okay. And what was on the clipboard?
A. It's paperwork from the South Carolina Department of Motor Vehicles to where Mr. Scott had sold a vehicle to Ms. Margaret Conwell.
Q. And does it indicate the date that that took place?
A. I don't see a date on this page.
Q. But as a result of seeing this, did you then go speak with Ms. Conwell?
A. I did.
Q. And as a result of speaking with Ms. Conwell, what did you learn?
A. I learned that Ms. Conwell had purchased a ---

MR. POTTER: Judge, at this point in time I'm going to object. This is, in essence, a kind of end-around on hearsay.

MS. HUEY: May we approach, Your Honor?

THE COURT: Yeah.

(WHEREUPON, a bench conference was held off the record.)

MR. POTTER: Judge, I'll withdraw that objection.

THE COURT: Okay.

You can continue.

Q. Okay. So backing up, Investigator Simpson, as a result of speaking with Ms. Conwell, what did you then learn?

A. I spoke with Ms. Conwell, and she advised me that she had bought a van on March the 30th around lunchtime from Mr. Scott.

Q. So on the same day that he was killed?

A. Right.

Q. And do you know how much she paid Mr. Scott for that van?

A. It was fifteen hundred dollars down, and she made that payment by check.

Q. And did you get a copy of that check eventually?

A. Yes, I did.

Q. Now, were you able to tell on which bank account that was drawn?

A. Yes. It was Margaret Conwell's account, and it was drawn on the Peoples Bank.

Q. Okay. So as a result of it being drawn on the Peoples Bank, did you then go to the Peoples Bank to try and obtain surveillance stills?

A. Yes, I did.

Q. I'm going to show you what's been previously

admitted as State's 7-A through L. Are these the surveillance stills that you obtained from Peoples Bank?

A. Yes, they are.

Q. Okay. And if you don't mind stepping down, please?

(WHEREUPON, the witness stepped down from the witness stand.)

Q. I'm going to publish 7-A. Can you tell the jury about what time this shot is from the parking lot of the Peoples Bank?

A. This is March 30th, 2012. And the time is one oh nine p.m. when they pull up in the car, in a blue Mercury Mystique.

Q. And again, that's the same blue car that we've been talking about that Mr. Scott owns?

A. Yes, ma'am.

Q. And this would be State's 7-B. What, if anything, does that depict?

A. It's the same. It's one oh nine p.m. It shows Mr. Scott getting out of the passenger side and John Kennedy standing in front of the vehicle.

Q. And this is 7-C?

A. This photo shows one ten p.m., which shows Mr. Scott about to enter the bank, and John Kennedy is in front of him about to open the door.

Q. And this is 7-E?

A. This is also one ten p.m., just a few seconds later, with Mr. Scott and John Kennedy entering the bank.

Q. 7-F?

A. This is a few seconds later, also one ten p.m., showing Mr. Scott coming into the bank and Mr. Kennedy behind him.

Q. This is 7-G?

A. And then this is one ten p.m. Mr. Scott is walking up to the bank tellers, and Mr. Kennedy is kind of standing in the lobby area.

Q. Okay. Can you tell what he has in his hand? What Mr. Scott has in his hand?

A. It looks like a cane.

Q. State's 7-H?

A. This is one fourteen p.m. It shows Mr. Kennedy sitting in the lobby of the Peoples Bank.

Q. 7-I?

A. This is also one fourteen p.m. Mr. Scott is cashing the check at the teller window with Mr. Kennedy sitting in the chair in the lobby.

Q. 7-J?

A. This is a few seconds later, one fourteen p.m., where Mr. Scott and Mr. Kennedy are exiting the bank.

Q. 7-K?

A. This is one fourteen p.m., also a few seconds later,

showing Mr. Kennedy getting in the driver's seat of the blue Mercury.

Q. And finally 7-L?

A. And one fifteen p.m. shows Mr. Scott getting into the passenger's side.

Q. Okay. You can take a seat.

(WHEREUPON, the witness resumed the witness stand.)

Q. So these stills show that the Defendant and the victim are together on March 30th of 2012 from about one ten to one fifteen, give or take?

A. Correct.

Q. The afternoon of the day he was killed?

A. Right.

Q. Now, to your knowledge then, Investigator Simpson, the fifteen hundred dollars that Mr. Scott received from the teller at Peoples Bank on March 30th of 2012, was that ever recovered in his trailer?

A. No, we never recovered any cash.

Q. Any money at all?

A. The only money was the change laying on the floor that you see in the photos prior.

Q. Now, you never went to the crime scene. But as a result of being the lead investigator, do you have any knowledge of whether any fingerprints were developed from the trailer?

A. No fingerprints were identified from anyone. And that could be because there's several ---

MR. POTTER: Object. I'm going to object on the speculation on why or why not there was not any ---

THE COURT: Yeah. Just let ---

MR. POTTER: I mean ---

THE COURT: Sustained. He can only testify about what he knows.

Go ahead. You can rephrase it.

Q. In your experience have you been involved in how many investigations?

A. Numerous.

Q. And how often do you find fingerprints as a result of these investigations?

A. Very few.

Q. And what are some of the reasons behind that?

A. The person could be sweaty.

MR. POTTER: Again, Judge, the same objection with regards to speculating in regards to ...

THE COURT: Well, I think he can testify to that.

Okay.

A. A person could be sweaty and not get a good fingerprint. Their hands could also be dry. There's several different reasons why. The texture of the object

that is touched is not substantial for a fingerprint. There's several different reasons.

Q. And were there any signs of forced entry at Mr. Scott's trailer on March 30th, 2012?

A. No, ma'am.

Q. But there were signs of struggle?

A. Yes.

Q. Now, from all of these things that you testified to today, and as lead investigator, were you able to develop a time line of the events leading up to Mr. Scott's death and then following his death?

A. Yes, ma'am, I was.

Q. Okay. And what was that time line?

A. Starting Friday, March the 30th, 2012, Mr. Schaffer Scott sold a van around lunchtime that day. He then went to the Peoples Bank to cash that check. That was approximately one fourteen the same day he cashes the check and gets fifteen hundred dollars cash back. After that, Ms. King sees Mr. Kennedy sweaty, trying to get away from the scene, takes Mr. Scott's car and drives off in it. At that point, she goes inside and finds Mr. Kennedy -- I'm sorry -- Mr. Scott in the condition he's in. We also find the vehicle later in the parking lot of the Bi-Lo the following day. And through the video, of course, we see at six oh four p.m. is when the vehicle's

dropped off, which is roughly fifteen minutes after Ms. King calls 9-1-1 and sees Mr. Kennedy leave. I was able to record the statement on March the 30th of the victim, his last statement, declaring that Mr. Kennedy did strike him.

MR. POTTER: Objection, Your Honor.

THE COURT: Sustained. I mean, it stands for itself.

Q. You were able to take a recording from the victim?

A. Correct. After that, the next morning around seven twenty, Mr. Scott does pass away as a result of his injuries from the blunt force trauma. The next morning, April the 1st, Mr. Kennedy turns himself in.

Q. I'm going to show you what's been already admitted as 17-A. Does this accurately depict what the Defendant looked like on April 1st of 2012?

A. Yes, it does.

Q. Okay. And at your direction, was that the clothing that was collected and then sent to SLED?

A. Yes, it was.

Q. For further testing?

A. Yes, ma'am.

Q. In particular the shorts?

A. Yes, ma'am.

Q. 17-A. And again that accurately reflects what Mr.

Kennedy looked like when he turned himself in on April 1st?

A. Yes, ma'am.

Q. Now, do you recall what color shirt he was wearing at the bank earlier the day that Mr. Scott was killed?

A. I believe -- I know it was a different color shirt. I'm not positive what color it is.

Q. But it was different than the one he turned himself in?

A. Correct.

MS. HUEY: That's all I have at this time, Judge.

THE COURT: Yes, sir?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Judge, there's some matters I need to take up outside the jury's hearing.

THE COURT: Okay.

MR. POTTER: Additionally, I have to go the bathroom.

THE COURT: All right. Y'all come here a minute. Let me ask you a scheduling question.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Ladies and gentlemen,

I'm going to send you to lunch now. We've got about twenty-five minutes worth of work outside your presence. Rather than have you sit, I would ask that you be back in the jury room at two fifteen, and we will get started. Again, we're going to get this case to you today. But we've got about forty-five minutes worth of work to do.

Have a good lunch. Don't talk about the case. See you at two fifteen.

(WHEREUPON, the jury exited the open court at approximately 12:35 p.m.)

THE COURT: Okay. You need to break right now?

MR. POTTER: I do, Judge.

THE COURT: We'll be back in ten minutes.

(WHEREUPON, court stood at recess for a short break.)

THE COURT: Okay. What do we need to deal with?

MR. POTTER: Judge, this is the issue on cross as to whether or not I can get into any questions related to issues of third-party guilt. May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Judge, I handed the clerk Holmes versus South Carolina, a United States Supreme Court case decided May 1st, 2006, wherein it dealt with the exclusion of defensive evidence of third-party guilt

denied the Defendant a fair trial under -- I think it's addressed in the State verus Gay case. Judge, I haven't shepherdized this case since -- I'm of the opinion that I think this is still good law. In essence, in a nutshell, it says that the old rule under State v. Gay is no longer applicable, that failure or denial of the Court to allow the Defendant to present third-party evidence of guilt denies the right to present a defense, if I'm reading this correctly.

THE COURT: All right.

Yes, ma'am?

MS. HUEY: Well, Your Honor, we would argue that it also has to be inconsistent with the Defendant's own guilt. And we've had nothing to this point that shows that. I'm not sure what Mr. Potter's going to try and get into. And maybe we need to proffer first. But I think it's going to try to elicit hearsay testimony, if anything, from Investigator Simpson.

THE COURT: All right. Well, let's see what we've got. Who do you need to call?

MR. POTTER: Investigator Simpson.

THE COURT: Okay.

You're still under oath. I know you know that.

Yes, sir?

MR. POTTER: Judge, can I have a quick moment?

THE COURT: Sure.

IN-CAMERA EXAMINATION

BY MR. POTTER:

Q. Investigator Simpson, there was two other people that were interviewed that you didn't speak about in your direct examination regarding the investigation of this case; is that correct?

A. Correct.

Q. And that would be Ron Curry who was the next-door neighbor of the decedent?

A. Right.

Q. As well as Ms. Julia -- is it Julia or Julie Moore? Is it Julia Moore?

A. Julie.

Q. Julie Moore? And she was also -- she lived at the decedent's residence as well; is that correct?

A. She was staying there, yes.

Q. She came and went? Whenever Ron beat her up, she would come?

A. That's right.

Q. And stay a few days and then leave?

A. True.

Q. You found her state identification card at the scene; isn't that true?

A. At the scene?

Q. Yes.
A. I wasn't at the scene.
Q. Okay. Do you know if there was a photograph of her state identification card taken?
A. I'm not aware of one.
Q. All right. Now, you had an opportunity -- you learned during the course of your investigation that she was driving a white Cavalier that was owned by the decedent, correct?
A. Correct.
Q. And that they were found, they being Mr. Ron Curry and Ms. Julie Moore, the following day at a boat ramp in that Cavalier; is that correct?
A. Correct.
Q. And at that point in time, you didn't hold them for questioning or anything of that sort; is that correct?
A. We did talk with them, but they were under some sort of substance at that point in time. We couldn't actually take a statement from them.
Q. Okay. Did you talk to them, or did the deputies talk to them?
A. Myself and investigator Ashley.
Q. And that was on the 31st of March?
A. I believe that's correct. Yes.
Q. Okay. Was this at the boat ramp where you spoke to

them?
A. Yes.
Q. Okay. And at that point in time, the vehicle was taken into custody, correct?
A. That's correct.
Q. Okay. Was that vehicle searched?
A. It was.
Q. Okay. Was anything found in the vehicle?
A. We didn't find anything at that point.
Q. Was that -- excuse me. I didn't mean to cut you off.
A. At that point, we didn't.
Q. Did you take it into evidence?
A. Yes, we did. I had it towed.
Q. Did you take it to the Sheriff's office for evidence processing?
A. No. I believe it was taken to the tow yard.
Q. Okay. And it was turned over back to the decedent's sister; isn't that correct?
A. Correct.
Q. Okay. So there was no processing of that vehicle to see if there was any blood or anything like that in the consistent way that you tried to process the Ford -- Mercury Mystique?
A. No.

Q. Now, you learned from interviews -- you subsequently interviewed Julie Moore, correct?

A. Yes.

Q. And that was on April 4th, I believe; is that correct?

A. I've got April 2nd.

Q. Excuse me. April 2nd. And on April 2nd, you got a written statement from her; is that correct?

A. Yes, sir.

Q. All right. And based upon that information, you learned that she had a prior dispute with the decedent?

A. Yes.

MS. HUEY: That would be hearsay, Your Honor. Objection.

THE COURT: Okay. Sustained.

But for the purposes of the proffer, I'll allow you to ask the question.

MR. POTTER: Thank you.

Q. And in your interview of Ms. Julie Moore, she was aware that Mr. Schaffer was going to -- Mr. Schaffer Scott was going to sell that van that day; is that correct?

A. Yes.

Q. And she also told you she picked up Mr. Curry around four-thirty down the road from the decedent's house; is

that correct?

A. That's correct.

Q. From four thirty that day until one thirty the following morning, was there any way that you could pursue or find or follow her whereabouts where she could document where she was at during that time period?

A. Not at that point, I don't believe.

Q. Did she provide any documentation to show where she had been or anything of that sort?

A. Not at that time period.

Q. You subsequently learned that she and Ron stayed in a hotel room; is that correct?

A. Correct.

Q. Was a search warrant executed on those hotel rooms?

A. No.

Q. When you -- I want to back up a second. When you met with them on the boat ramp -- and you indicated that they seemed to be in an intoxicated state; isn't that correct?

A. Yes.

Q. Okay. Did you separate them and look at their clothes, look at their hands, look to see if they had any blood on them or anything of that sort?

A. We did.

Q. Is that documented in your incident report?

A. I'm not sure if it's documented or not.
Q. Okay. Was the time you sat -- excuse me. Let's back up a second. When you met, you and Detective Ashley met with the two, Mr. Curry and Ms. Moore, was that documented? I'm sorry. That's a bad question. Was there anything in the incident report that indicated that you met with Mr. Curry and Ms. Moore at that boat ramp?
A. In my supplemental?
Q. Yes, sir.
A. I believe it's in Investigator Ashley's.
Q. All right. In regards to your supplemental ---
A. I'm not sure about that.
Q. I've got a narrative that says, later that evening road deputies find the other vehicle that the victim owned parked at the Broyles Landing boat ramp. Julie Moore and Ron Curry were in this vehicle. They did not know the victim was dead. She told me that she uses the white Chevy Cavalier often and the victim Scott allows her to do it. So is that the only indication?
A. Yes.
Q. And there's nothing in here indicating that the vehicle was searched. It just says the vehicle was towed and turned back to the sister?
A. Correct.
Q. Now, based upon your interview, there was another

witness -- based upon your interview with Ms. Julie Moore, there's another witness that she indicated might have information related to this investigation; is that true?

A. Yes.

Q. A Wendy; is that correct?

A. Correct.

Q. Has that witness ever been located?

A. Never located.

MR. POTTER: That's all I have, Judge.

THE COURT: Anything from the State?

MS. HUEY: Your Honor, I don't think I need to question Investigator Simpson. I object to the entire line of questioning.

THE COURT: Okay. Let me pull up what I found at lunch. Okay. I think Holmes is still the law. But the issue is whether the probative value outweighs the potential adverse effects; is that right? Is that your impression?

MS. HUEY: Yes, sir.

THE COURT: Both y'all's impressions?

MR. POTTER: Yes, Judge.

THE COURT: And Holmes says that it should be excluded only if it has a very weak logical connection to the central issue. I just -- I think -- and actually, if

you read the facts in Holmes, this is all sort of similar. I'm not going to let you introduce that. I think that's logical. The probative value just is not strong enough given what I've heard. And I've looked at both sides of the case according to Holmes. And not just the State's case, but the Defense case is what was proffered. Okay?

MR. POTTER: Thank you, Judge.

THE COURT: But y'all are protected for the record.

Okay. Assuming the third-party guilt doesn't come in, where are we as far as ---

MR. POTTER: I just have -- I do have questions I need to do on cross.

THE COURT: On cross?

MR. POTTER: Yes, sir. But it won't be third-party.

THE COURT: Okay. Why don't we break, be back in here. We'll do cross.

And then will that be your last witness?

MS. HUEY: Yes, sir. Then we'll rest.

THE COURT: All right. And then you'll rest and we'll do the Fifth Amendment information and then figure out where we are. Okay? All right. Y'all have a good lunch.

MR. POTTER: Two fifteen, Judge?

THE COURT: Huh?

MR. POTTER: Two fifteen?

THE COURT: Yeah. Two fifteen, two thirty. It depends on whether I get lunch or not.

(WHEREUPON, court stood at recess for a lunch break.)

THE COURT: All right. Have y'all had a chance to read my circumstantial evidence? That was the only thing that you said before lunch you wanted.

MR. POTTER: Judge, I haven't seen it. I haven't seen your circumstantial evidence.

THE COURT: It's at the bottom. And we'll go over this in more detail. But I'm more comfortable with what I normally give them, but I'll make this a part of the record.

MR. POTTER: Judge, that's all I'm asking.

THE COURT: I'll make it Court's Exhibit ... Is that 1? No, 3.

MADAM COURT REPORTER: It's 5.

THE COURT: 5? Okay.

(WHEREUPON, Court's Exhibit Number 5 was marked for identification only.)

THE COURT: All right. So we've got the cross and then y'all will rest, and then we'll do the Fifth

Amendment stuff, right? So we'll have to take a break at the end of the cross anyway.

Okay. Y'all ready? Everybody ready?

MS. HUEY: Yes, sir. I'm sorry.

THE COURT: Bring them in.

(WHEREUPON, the jury entered the open court at approximately 2:29 p.m.)

THE COURT: All right. Ladies and gentlemen, thank you. We'll continue with the ...

Come on back up.

(WHEREUPON, the witness resumed the witness stand.)

THE COURT: ... continue with the cross-examination.

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POTTER:

Q. Detective, Mr. Kennedy, John F. Kennedy, he turned himself in to y'all's office; is that correct?

A. That's true.

Q. And photographs were taken of him at that time; is that correct?

A. That's true.

Q. And I think it was Chris Walker who took those photographs?

A. Wilson, Chris Wilson.
Q. And part of those photographs were of his hands, correct?
A. Right.
Q. All right. And there were no injuries to his hands, were there?
A. Not that I'm aware of.
Q. Okay. And what else you did is you took fingernail scrapings from his hands as well, correct?
A. Right.
Q. And those were taken into property and evidence and submitted to SLED; is that correct?
A. Correct.
Q. All right. And as you heard testifying -- you've sat through the testimony of all the witnesses -- the SLED DNA analyst indicated that there was no blood in those fingernail scrapings; is that correct?
A. Correct.
Q. Now, as you testified earlier, you were the lead investigator in this case, correct?
A. Correct.
Q. All right. So that means it's your rodeo, for a lack of a better phrase?
A. Somewhat.
Q. Okay. You're directing the investigation. You're

determining what evidence to take in. You're determining who to interview. You're determining what pictures need to be taken and all that. You're the boss of the investigation, correct?

A. Mostly.

Q. Okay. And that was because you were the on-call homicide investigator at the time, correct?

A. Right.

Q. And it's protocol for the Sheriff's department. You're the man that gets the job, so to speak, correct ---

A. Right.

Q. --- when it happens when you're on call. Now, when you received the call, the first stop you made was to the emergency room to check out Mr. Scott, correct?

A. Correct.

Q. And at no time that night or the following day or until today have you gone out to the crime scene; is that correct?

A. I did go to the crime scene.

Q. Did you go to the crime scene on March 31st, 2012?

A. 31st?

Q. Yes: You testified that you didn't.

A. I didn't on the 30th.

Q. Excuse me. On the 30th. You didn't go to the crime

scene on the 30th, correct?
A. Correct.
Q. And you testified you didn't go to the crime scene on direct examination; isn't that correct?
A. Correct, on the 30th.
Q. At any point in the incident report or supplements did you indicate that you went out to the crime scene?
A. No.
Q. So now you're saying you went to the crime scene?
A. We initially did a separate search warrant for some paperwork that we did not have or did not think we had into evidence.
Q. And when was that?
A. That was on April 2nd.
Q. April 2nd?
A. Yes.
Q. The incident happened on March 30th?
A. Correct.
Q. You didn't go to the crime scene until April 2nd?
A. Right.
Q. And you're the lead investigator?
A. Correct.
Q. And you're responsible for the investigation of this case?
A. Correct.

Q. And you didn't go to the crime scene until April 2nd?

A. Right.

Q. Did you personally interview Ms. Kimberly King?

A. No, I did not.

Q. Did you take a statement from Ms. Kimberly King?

A. No.

Q. Did you interview Mr. James David Evans?

A. No, I did not.

Q. Did you take a statement personally from Mr. James David Evans?

A. No.

Q. There was testimony that Mr. Kennedy was living in an R.V. on the property, and you heard that testimony?

A. Correct.

Q. That R.V. was not taken into evidence, was it?

A. No.

Q. It was not taken into evidence, and it wasn't processed, was it?

A. No.

Q. At the crime scene, there were three swabs of blood taken inside the trailer, the living room area; is that correct?

A. Right.

Q. There was no blood swab taken from the recliner

where Mr. Scott said he was when he was attacked, correct?

A. Not that I'm aware of.

Q. Okay. There was not a blood -- there was not a swab taken of the blood splatter on the wall of the crime scene, correct?

A. Not that I'm aware of.

Q. Do you know if there was a blood -- excuse me. There was not a swab taken of blood on the ground -- on the floor of the trailer; is that correct?

A. I believe there was one taken of the carpet.

Q. Was that submitted for SLED testing?

A. Yes. Three blood swabs.

Q. Three blood swabs? What were those three blood swabs from?

A. One was the front door inside knob, one from the carpet beside the skillet and one from the coffee table.

Q. And you also had a swab from the skillet as well as from the skillet handle, correct?

A. (No verbal response)

Q. I'm looking at -- if you -- I'm looking at the SLED report dated August 9, 2013. That's what I'm referencing.

A. (No verbal response)

Q. Do you have that report, sir?

A. I just found it.
Q. And this is the one that's dated August 9th, 2013?
A. I have one dated August the 8th.
MR. POTTER: May I approach, Judge?
THE COURT: Yes, sir.
MR. POTTER: Judge, may I show the witness my SLED report that has been provided by the government to refresh his recollection? I guess to ask if he's ever seen it, then to refresh his recollection.
THE COURT: You can do that.
Q. I'm handing you ---
MR. POTTER: We'll just go ahead and mark it for purposes of identification only.
(WHEREUPON, Defendant's Exhibit Number 2 was marked for identification only.)
Q. This is Defense Exhibit 2. Have you seen this report?
A. Yes.
Q. Do you have it in your case file that you're referring to right now?
A. Not at this point.
Q. Okay. So in that SLED report, there is an indication that they have a swab from the inside front door knob?
A. Right.

Q. They have a swab from the bottom of the skillet and a swab from the skillet handle. But there was nothing in there in regards to a swab from the carpet on the floor and the coffee table. Do you recall that, or do you need to look at it again?

A. Yeah, let me look at it. No, they don't show it on here.

Q. So the swab from the carpet and the swab from the coffee table were not sent to SLED, to your knowledge, for testing?

A. I can't say it wasn't sent. I requested it to be sent.

Q. Okay. Now, you have in front of you the SLED report dated November 8, 2012, correct?

A. Right.

Q. Is that -- and that's the request for services. That's what SLED uses to, in essence, intake what you're delivering to them to be tested; is that correct?

A. I'm not aware of how they do that. I didn't take it down.

Q. Okay. All right. So does that report indicate that the swab from the coffee table and the swab from the carpet were submitted?

A. No, this one does not.

Q. You didn't take the recliner into evidence, did you?

A. No.
Q. Okay. And that was the recliner where Mr. Scott said he was when he was attacked, correct?
A. Correct.
Q. There was blood on that recliner, was there not?
A. Correct.
Q. Okay. And your knowledge about that is because you saw the photographs?
A. Correct.
Q. Because you didn't go; is that right?
A. Right.
Q. Did you execute the initial search warrants on the house and the R.V.?
A. No.
Q. Were you involved in compiling and getting the photo array complete?
A. No.
Q. There's a photograph that's been submitted by the government that shows -- from the bank that shows Mr. Kennedy to be in a red shirt. Was that red shirt ever recovered?
A. No.
Q. Was a search warrant ever executed on -- strike that. When Mr. Kennedy -- when John turned himself in, you took his shirt and you took his pants into evidence,

correct?

A. Correct.

Q. In addition to taking a photograph of him. But you didn't take the shoes nor his underwear into evidence, did you?

A. No.

Q. Now, we talked about how you didn't interview Mr. David Evans. Were you aware that his wife had made an appearance on the crime scene?

A. At my initial contact with Mr. Scott, no. Later on I did find that out.

Q. Okay. Was she interviewed?

A. I did not interview her.

Q. Now, you also testified that you were able to put together a rough time line in regards to what happened that day, correct?

A. Right.

Q. And you testified to that on direct. Starting with around twelve o'clock or thereabouts, the van was sold to Ms. Conwell, I believe her name is; is that correct?

A. Right.

Q. We obviously know that the check was cashed at one fourteen by Mr. Schaffer Scott because we have photographic evidence of that as well as the check and all of that. The next step in that time line isn't until

five fifty when the 9-1-1 call is made; is that correct?
A. That's correct.
Q. Okay. So we've got about four hours and change that we can't account for what happened during that time; is that correct?
A. Yes.
Q. Okay. You don't know when this assault took place, do you?
A. Not the minute, no, sir.
Q. It could be assumed that it happened immediately before Kimberly King showed up, or it could be assumed it could have happened earlier; isn't that true?
A. I don't know.

MR. POTTER: I have nothing further. Thank you.

MS. HUEY: Just a couple on redirect, Your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MS. HUEY:

Q. Investigator Simpson, I think Mr. Potter touched on your duties as a lead investigator?
A. Right.
Q. Would some of those duties include delegating tasks?
A. Absolutely.

Q. Okay. And did you do that in this particular case?
A. I did.
Q. And why do you have to delegate?
A. One man can't do the whole show.
Q. Exactly. But your role as a lead investigator is to do what, to supervise the whole thing?
A. Right.
Q. And then your role is to review statements collected, evidence collected and that sort of thing in terms of the investigation?
A. Correct.

MS. HUEY: That's all I have, Judge.

THE COURT: All right.

Thank you, sir. You can step down.

MS. HUEY: Your Honor, the State rests.

THE COURT: All right. Ladies and gentlemen, at this point in the trial, the State has rested which means they've presented all the evidence they're going to present. In every case at this point, we have to take a substantial break. We're going to continue on today. But we have a good bit of material we have to take up outside of your presence. It is going to be ten after before we start back. And I apologize for making you sit back there. But please don't discuss the case. I'll bring you back in as soon as we finish.

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(WHEREUPON, the jury exited the open court at approximately 2:46 p.m.)

THE COURT: Okay. Just for planning purposes, do you -- what do you intend to do at this point?

MR. POTTER: Judge, for the record, we would make a motion for a directed verdict. And I submit that issue to Your Honor.

In regards to -- we do have -- want to renew our objections. I do want to renew my objections to some of the evidence that has been presented by the government, namely the photo array ...

THE COURT: Okay.

MR. POTTER: ... as well as -- I want to preserve the issue in regard to the chain of custody issues.

THE COURT: So you're just renewing those objections?

MR. POTTER: I am, Your Honor. And again, I would like -- if it pleases the Court, I would like to be heard again on the photo array issue.

THE COURT: Okay. What about witnesses? Is your client going to testify?

MR. POTTER: Judge, he's not going to testify.

THE COURT: Okay. All right. Let's do the Fifth Amendment rights.

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Mr. Kennedy, come on up if you would.

(WHEREUPON, the Defendant approached the bar.)

JOHN F. KENNEDY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: All right. Mr. Kennedy, we've now reached the point in the trial where I need to explain certain rights to you. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And in particular I need to explain to you your Fifth Amendment right under the U.S. Constitution. Do you understand that no person -- under the Constitution no person shall be compelled to testify against themselves, and that's a substantial right that you have.

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that you have to make a decision freely, voluntarily, and intelligently about whether or not you're going to testify?

THE DEFENDANT: Yes, sir.

THE COURT: Have you made that decision?

THE DEFENDANT: Yes, sir.

THE COURT: And are you going to testify in this case?

THE DEFENDANT: No, sir.

THE COURT: Do you understand that if you don't

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testify, that I'm going to tell the jury they can't take that into account? In other words, they can't discuss the fact that you haven't testified in their deliberations. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And do you also understand that I'll do my best to charge them on the fact that the fact you haven't testified can't prejudice you in any manner. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Now, if you did testify, you'd be subject to cross-examination on anything governed by the rules of evidence, specifically any record you might have of certain cases. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. Have you had plenty of time to speak to your lawyer about whether or not you're going to testify?

THE DEFENDANT: Yes, sir.

THE COURT: And do you have any questions of me about your rights?

THE DEFENDANT: No, sir.

THE COURT: Okay. Do you need to speak to your lawyer now about whether or not you're going to testify?

THE DEFENDANT: No, sir.

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THE COURT: Okay. Do you understand all the rights as I've given them to you?

THE DEFENDANT: Yes, sir.

THE COURT: And have you decided whether or not you're going to testify?

THE DEFENDANT: Yes, sir.

THE COURT: And what are you going to do?

THE DEFENDANT: I'm not going to testify.

THE COURT: All right.

Mr. Potter, anything else you need to put on the record?

MR. POTTER: No, Your Honor.

THE COURT: All right.

And this decision is yours; is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. Thank you, sir.

(WHEREUPON, the Defendant returned to his seat.)

THE COURT: All right. You want to renew your objection on the photo array? And then I've got to take a short ten-minute break.

MR. POTTER: Judge, I do. And again, I don't want to belabor the point. I understand you've ruled on it. But the concern I have is the character issues in regards to the fact that for all practical purposes, that's clearly a mug shot of six guys. They're cloaked

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in a shroud, so to speak. They're not in regular shirts or ties or what have you. And they all have surly looks, as best you could say, on their faces. It really impugns my client's character and clearly demonstrates that he's got a prior record. I mean, I think it's -- it speaks for itself. I think it's clear as the summer sun, in all honesty, Judge. And I would ask -- respectfully renew my objection and ask you to reconsider allowing the photograph of the photo array. In addition with the Anderson County Sheriff's Office written across the top, I just think it's highly prejudicial, Judge, and it goes to my client's character and potential criminal record.

THE COURT: Okay.

Yes, ma'am, anything?

MS. HUEY: Nothing further, Your Honor, no, sir.

THE COURT: Okay. And I do understand. I -- look, I wish those pictures were driver's license pictures too. But I don't think they're so prejudicial that they outweigh any probative value they have. And I think -- I'm not as concerned about the Sheriff's department designation at the top, but I understand. I'm going to deny your motion, but you are protected.

MR. POTTER: And I'd also renew my original objections to -- quite honestly I can't remember --

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whichever piece of evidence I objected to when she moved to have it admitted.

THE COURT: Yeah, I think you're covered because you objected.

MR. POTTER: I just want to make sure.

THE COURT: Okay. So you basically won't have any witnesses?

MR. POTTER: Judge, that's our case. And again, I would, for the record, renew my directed verdict motion.

THE COURT: Okay. And just for the record, that's denied as well.

All right. Let's take a break and then we'll come back. And do y'all want to argue and charge this afternoon? It's fine with me.

MR. POTTER: Judge, the only -- I did -- is there going to be an instruction related to the dying declaration in that they can make a determination of credibility of that dying declaration?

THE COURT: I don't have that, but I'll be -- I mean, I don't have a problem with it if y'all have got something.

MR. POTTER: I was kind of hoping you'd have something.

THE COURT: Look, I'm like you. I think

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everybody would like to finish. I'm a little concerned about them getting it at four for Mr. Kennedy's sake.

MR. POTTER: I'm sorry, Judge?

THE COURT: I'm a little concerned about them getting the case at four o'clock for his sake. But y'all talk about it and see what you want to do. I'll do either way. Let me step back here, and then I'll be back. Y'all decide what you want to do.

(WHEREUPON, court stood at recess for a short break.)

THE COURT: Okay. Why don't we go ahead and argue and then let me see what the time is. If your closing arguments aren't too long -- I looked at my charge. It's not as long -- I mean, the strange thing about it is that the murder charge is fairly concise. I'm a little -- I mean, I'm worried about them staying late, but I'm also worried about telling them that we'd get it to them today. And it's just a fine line. I don't want to charge and have them leave, but argue ---

MS. HUEY: Judge, I just feel uncomfortable with not doing it all at once. I'm happy to go ahead and close and get it to them.

MR. POTTER: I would agree. I mean, technically all evidence is closed. The case is coming to you, but we just have to do the formality and you'll

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have it tomorrow morning.

THE COURT: Yeah. I mean, I ...

MR. POTTER: Because ultimately if you don't charge them today, they still won't get the case until tomorrow anyway.

THE COURT: Right. Well, do y'all have any objection to going forward? I mean, I'm more concerned now about the fact that they're going to get angry that they're coming back. If it was four, I'd be different. But I mean, we're just caught in that middle ground. Unless y'all really object, I'll just go ahead and go forward.

MS. HUEY: Do you want to ask them, Judge, see if they have a preference?

THE COURT: I don't mind doing that. I don't mind going back there and asking the foreman to poll the jury. You want me to do that? That may be the easiest way to do it. It at least keeps them happy. Or I'll make the decision. Do you want me to poll them?

MS. HUEY: Because I agree with you. I don't want to make them mad since we've said they were going to get it.

THE COURT: I don't either. I mean, it really is a fine line. I hate to say I'm overly concerned about it. But for everybody's sake, I don't want them ...

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Do you have any objection to me asking the foreman what he wants to do?

MR. POTTER: No, Your Honor.

MS. HUEY: Yes, sir.

THE COURT: I'll just do it off the record. I'll pull him out in the hallway tell him to find out whether they want to proceed on or come back in the morning.

MR. POTTER: Either way, we're going to have to come back tomorrow.

THE COURT: Well, if we do -- no. I'll do the charge too.

MR. POTTER: Oh, you'll do the charge?

THE COURT: I'll tell them we'll finish up today until they finish, or we can come back tomorrow.

MS. HUEY: And then they would begin deliberations today?

THE COURT: Yeah. Oh, we'd have to. Yeah, I can't charge and send them home. That's what -- I mean, I can't start deliberations and send them home. That's the fine line. So basically, it's do you want to finish up today or tomorrow.

MS. HUEY: Correct.

THE COURT: Do you have any objection to me putting it that way?

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MR. POTTER: No.

THE COURT: All right. Let me find out what he wants.

(WHEREUPON, court stood at ease.)

THE COURT: All right. He went in and asked them what they wanted to do. Then he came back out and asked me if they would have to stay once they started. I told him yeah. They decided tomorrow. So that's -- it really is sort of an in-between time. A half hour earlier, it wouldn't be a question; a half hour later, it wouldn't be a question. We'll start about ten fifteen in the morning. I'll bring them in now and tell them -- I've got something at nine. I actually thought we would be finished. And I'll be clear by ten. Any problems with that, the way I did it?

MR. POTTER: No, Your Honor.

MS. HUEY: No, sir. Thank you, Judge.

THE COURT: I'd rather know what they want to do.

MS. HUEY: Thank you.

THE COURT: Okay. You can bring them in. I'm going to tell them they've heard all the evidence they're going to hear though.

MR. POTTER: Yes, sir.

(WHEREUPON, the jury entered the open court at

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approximately 3:25 p.m.)

THE COURT: All right. Ladies and gentlemen, my concern was that I'd been telling you all week and today that we were going to finish. Quite frankly, as I told the lawyers outside your presence, if it was a half hour earlier, it wouldn't be a question. If it was a half hour later, there wouldn't be a question. But we're all a little bit concerned about whether you would grow frustrated having to come back tomorrow. So your input helps.

You've heard all the evidence that you're going to hear in this case. The problem is that once we begin the arguing, the final closing argument by the attorneys and once I charge you, at that point, you have to go into the deliberations and you have to stay. So starting tomorrow is fine with us. Our only concern is you.

And what we will do tomorrow morning about ten fifteen -- I also thought we were going to be finished. I have an appointment at nine. I'll be here by ten. In the morning, you won't hear any more evidence. You'll hear the closing statements by the lawyers, and then I will read to you -- and unfortunately, I have to literally read to you this entire document. And the concern about doing that tonight is that, as I told jurors before, the only time I've ever read to people in

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my life were to my children to make them go to sleep and to jurors to try to keep them from going to sleep. And that's sort of a fine line. So your input helps.

I will see you at ten fifteen tomorrow. Again, you're not going to hear any more testimony. You will hear the closing arguments and the charge, and then we'll get this case to you. Please don't discuss the case or look anything up, and I'll see you about ten fifteen.

MR. POTTER: Judge, may it please the Court?

THE COURT: Yeah.

MR. POTTER: May we have a sidebar real quick?

THE COURT: Yeah.

MR. POTTER: I'm sorry.

(WHEREUPON, a bench conference was held off the record.)

MR. POTTER: Ladies and gentlemen, the concern is that there might have been some publicity about this. And again, as I told you earlier, we spent a lot of time early in the week narrowing you down to twelve plus one alternate based upon your assurance that you would render your verdict based only on the evidence that you hear in this courtroom. Please don't watch the news about this case or any other related type cases or read anything about it. I will see you at ten fifteen.

(WHEREUPON, the jury exited the open court at

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approximately 3:28 p.m.)

THE COURT: All right. I'll see y'all about ten fifteen. Okay. I'll get here as quick as I can.

MR. POTTER: Thank you, Judge.

MS. HUEY: Thank you.

(WHEREUPON, court stood in recess for the day at approximately 3:28 p.m.)

December 5, 2013

(WHEREUPON, court convened with all parties present and the following proceedings were had commencing at approximately 10:33 a.m.)

THE COURT: Okay. You need to officially rest. I know you sort of danced around it, but are you resting?

MR. POTTER: We rest, Judge.

THE COURT: Anything on rebuttal?

MS. HUEY: No, sir, Your Honor, other than, if we may address -- I've been talking to Mr. Potter about his closing argument and whether he's going to try to get into third-party guilt again, which I know you've already ruled on, Your Honor. And I believe ---

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: The only thing I was going to mention in closing was what their witness, Kimberly King, said. I think Ron and Julie had something to do with it.

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And that's all I was going to say. I was just going to repeat that.

THE COURT: That's it?

MR. POTTER: That is it.

THE COURT: Well, you can say to the jury -- repeat what somebody said.

MR. POTTER: But I'm not ---

THE COURT: You just can't infer from that ---

MR. POTTER: I'm not going to take it any further than that.

THE COURT: So you're going to throw it out there and let it fly around the room?

MR. POTTER: Yes, sir.

MS. HUEY: Well, Your Honor, I think that just smacks in -- I mean, that is the third-party guilt we're talking about. And you ruled that I ---

THE COURT: But she did say that.

MS. HUEY: I understand. But you ruled that I couldn't get into a statement that he made admitting to doing this crime in self-defense. It's completely misleading this jury.

THE COURT: Well, I'm still trying to figure why y'all would put in a statement for self-defense?

MS. HUEY: The Defense's implication has been the Defendant did not do this, that he was not there.

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While I admit it opens up a potential defense argument for him, it puts him at the scene committing this heinous crime.

MR. POTTER: Judge?

MS. HUEY: And the defense -- self-defense argument is a total -- for lack of a better -- silly.

MR. POTTER: And Judge, the defense is they can't prove it. This is why they can't prove it.

THE COURT: If the Defense is they can't prove it, you can repeat what somebody said. She did say that. But I don't think that gets -- I mean, you can sit up there and say -- repeat anything that they testified to because that was a statement on the record. But you can't go any further and say, that should lead you to the next -- I understand. I'm going to hold you to that.

MR. POTTER: And Judge, I can tell you exactly -- what exactly I will say. Kimberly King said Ron Curry and Julie Moore had something to with it. And that was my understanding of what she said.

MS. HUEY: She thought they had something to do with it. And this is my point, Judge. He is completely pointing at two different people that you've already ruled on he can't get into.

THE COURT: Well, I don't think he can go any further than that. But I think she did say it. I mean,

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I understand your position, and I'm going to hold you to that. You cannot say anything beyond that.

MR. POTTER: And I'll change it to she thought. I have no problem with that.

THE COURT: Okay. That's what she said.

MS. HUEY: And that she didn't see neither of those people there other than John Kennedy.

THE COURT: Right. I mean, look, there was a bunch of people in that area, but I don't think that rises to the level of third-party guilt. I'm not ---

MR. POTTER: Thank you, Judge.

THE COURT: Okay. Anything else that y'all can anticipate? Y'all have been pretty good about anticipating each other's moves.

MR. POTTER: Judge, just one last time -- and I know Your Honor's ruled on it -- I'm going to respectfully ask you to reconsider on the photo array. We think it is unduly cumulative and unnecessary because she does have witnesses outside who's testified that my client was outside that trailer at the time of the incident.

THE COURT: Okay. And you are covered on the record. But I'll deny that.

MR. POTTER: I just thought that -- just throw it out there to be safe. Thank you, Judge.

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THE COURT: Okay.

All right. Y'all ready? And the charge is what it is. I mean, I'm -- I added the dying declaration. I'm not sure I'm going to read it and flip a page, but I'll try.

All right. Bring them in.

(WHEREUPON, the jury entered the open court at approximately 10:37 a.m.)

THE COURT: All right. Ladies and gentlemen, I apologize for letting you sit back there. I take the heat for a lot. I told you at the beginning it's my problem you have to sit back there. And most of the time it isn't, but I take the heat for it because I don't want you getting mad at anybody else. This morning, it was my problem.

So we are -- you've heard all the testimony that you're going to hear. We've now reached the point where you have to -- or you need to hear the closing statements from the attorneys. As I told you at the beginning, the closing statement is not evidence. But it's an opportunity for the lawyers to tell you about what they think they've proven and also to argue their case. They can actually argue a position in the closing statements.

After that, I'm going to, as I said yesterday, read to you this charge on the law. And I know I'm repeating

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myself, but I really need you to carefully listen to it because it is the law that is applied to this case. I would do anything if I could find a way to avoid reading it to you. But for consistency's sake, all the judges have to read it. So bear with me.

Depending on the length of the closing statements, we might take a short stretch break before I start reading this to you. We'll just see how it goes.

If for any reason during the closing statements or my charge you need to take a break and I don't appear to be ready to take a break, just raise your hand, get my attention, and we'll take a break for whatever reason.

Again, thank you very much for your patience this morning.

MS. HUEY: May it please the Court?

THE COURT: Yes, ma'am.

CLOSING ARGUMENT

BY MS. HUEY:

On March 30th, 2012, seventy-six-year-old Schaffer Scott was brutally beaten and left for dead in his own home at [redacted] And even though his jaws were broken, his ears were split open, he had at least ten lacerations to his head, numerous injuries on his arms, he was bleeding profusely, brain already swelling, he was still cognizant enough to open the door for Kimberly

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King. He was cognizant enough to recognize Kimberly King and call her by name, Kim.

He was cognizant enough that when his neighbor, David Evans, came and knelt down beside him, who did this to you? The black guy, John. He was cognizant enough that when Jan Johnson, the paramedic with MedShore, came to help Schaffer Scott, he was asking, where's my car. He was cognizant enough that when emergency room personnel are working on him trying to save his life and they ask him, who did this to you, John did it. And Deputy Dunn heard that as he stood watch over Schaffer Scott.

He was cognizant enough to correct Investigator McKindra Bearden, not Josh, John did this to me. And he was cognizant enough when Investigator Brent Simpson was able to get to AnMed, literally in the nick of time, to record the victim's final words, John, the black guy, did this to me. He was staying in my camper. I was asleep in my recliner. He hit me with a skillet.

Schaffer Scott never hesitated. He never changed his mind. He never doubted who did this to him. John. And when we started this trial we told you, John is sitting at that Defense table. John Fitzgerald Kennedy is the one who is responsible beyond a reasonable doubt for the brutal beating that resulted in Schaffer Scott's

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death.

But we have more than Schaffer Scott's words. We have more than that. We have witnesses and evidence to support and confirm Schaffer Scott's words. We had Kimberly King who knows John F. Kennedy, knows him. Knows he was living, staying in the camper behind Schaffer.

And when she went to check on Schaffer on March 30th of 2012, she saw John F. Kennedy coming out from behind Schaffer's trailer. And he was sweaty and he was acting weird. And what does he say to her? Don't go in there. Schaffer's asleep. He doesn't want to be bothered. Kimberly's going in there anyway. Oh, no, no, come to the store with me. Come on, let's go to the store. No. I'm going in. And when he knew she was going in to check on Schaffer anyway, he grabbed the keys to Schaffer's car and he took off in Schaffer's blue car on his own.

And then Kimberly King, thank goodness, went to check on Schaffer. And when she found him in that devastating condition that he was in, she immediately called 9-1-1. And what did she tell the dispatcher? John F. Kennedy, John Fitzgerald Kennedy, just left Schaffer's trailer in Schaffer's blue car.

That same blue car is abandoned eight miles from Schaffer's trailer. It takes about fifteen minutes to

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get there. The Bi-Lo surveillance video shows that car being abandoned six oh four, six oh five. It shows a black male getting out of that blue car that belonged to Schaffer and running back behind Bi-Lo on foot. He knew the police would be looking for him and that blue car. He had to ditch it.

We also have the bank stills from Peoples Bank that show the victim and the Defendant together that day just a few hours before the assault. The Defendant watched while Schaffer cashed a fifteen-hundred-dollar check, fifteen hundred dollars that was never recovered. No money was recovered for that matter except some loose change.

Further, we have Dr. Woodard's testimony. Schaffer Scott died as a result of blunt force trauma consistent with being hit with a skillet. He had defensive injuries to his arms. And what does that indicate? Not only was he trying to protect that head which was getting beaten in over and over again, but he was also awake and conscious enough to protect himself, to try to protect himself. So he could have seen his attacker, and he did see his attacker.

Now, Dr. Woodard also testifies that even though he may have been stunned obviously from having been beaten in the head, he could still communicate. He might have

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difficulty communicating because his jaws were broken, but he could still communicate. And Schaffer did.

Finally, we have blood evidence. The Defendant turned himself in on April 1st, 2012. And when he did, perceivably he's wearing the same shorts as he had on in that video or the stills from the bank. A different shirt, but same shorts. And those shorts, according to DNA analyst, Katherine Leisy, had Schaffer Scott's blood on it in two spots. One in two hundred and fifty quadrillion chance that it wasn't Schaffer's blood. Those were on his shorts.

Additionally, the skillet and the handle of the skillet had Schaffer's blood on them. Schaffer said he was hit with a skillet. Schaffer's blood is on that skillet.

There is blood in the recliner and the wall beside the recliner. Schaffer said he was sitting in his recliner when he was first hit, asleep.

Let me submit to you, ladies and gentlemen, that this Defendant, John F. Kennedy, brutally beat Schaffer Scott on March 30th of 2012. He took this skillet, and he beat him over the head, arms, face, even legs, over and over and over and over and over again. So much so that it bent the skillet, broke the handle off. And when he thought he was just about dead, he took off with that

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fifteen hundred dollars.

He had his bags packed. You can see the photos of the camper where he was staying. He was ready to go but for Kimberly King interrupting his plan. And thank God she did. He took off in that blue car. He obviously had time to change at some point because we know he had a red shirt on at the bank and a different shirt when he turned himself in. He changed at some point, but we know he ditched the car and then later turned himself in. All the evidence points to John Fitzgerald Kennedy.

The Defense is going to argue that we have a circumstantial case, that there's no direct evidence to put his Defendant in Schaffer's trailer as the one who attacked and brutally assaulted Schaffer. Well, I beg to differ. We have direct evidence. We have eyewitness evidence. We have Schaffer Scott's own words. His brave, strong, final last words he was able to record just hours before he died. And that's what I'm going to leave y'all with.

(WHEREUPON, State's Exhibit Number 11 was published in open court.)

THE COURT: Yes, sir?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

MR. POTTER: Judge, just bear with me for a

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second.

THE COURT: Yes, sir.

CLOSING ARGUMENT

BY MR. POTTER:

When I spoke to y'all on Tuesday morning, I told you about this case and what the government was going to attempt to show. This is a case based purely upon circumstance, assumption and speculation. That's what this case is based on, and that's what the government's trying to show to you. A case based upon circumstance, assumptions, speculation that resulted in a rush to judgment in a flawed investigation that John was guilty.

Now, we know that no one saw the assault take place. We know that. No one got up here and testified that they saw John hit him. No one said, I saw John pick up this skillet, if that's what you believe the weapon was, and strike Schaffer Scott. No one said that.

No one knows when the attack happened. The government wants you to assume it happened immediately before Ms. Kim King showed up. We don't know that. They want you to assume that. They want you to speculate on that. They want you to believe in that circumstance, but we don't know that.

What the government's trying to do is put together a puzzle showing a picture of John's guilt with missing

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pieces and ill-fitting pieces. Missing pieces and ill-fitting pieces because what? They're giving you a case of circumstance, assumption and speculation. That's what the case is about.

Now, I've been practicing law for a while, and cases take on lives of their own. And they get titles. This is the punched-drunk prizefighter. Dr. Brett Woodard, a forensic pathologist classified what happened to John -- or excuse me -- to Mr. Scott as being a punched-drunk prizefighter.

To transfer from what he said, Detective Simpson, were you on the couch or were you standing up? I was asleep. He was asleep? Yeah. Were you in the couch in the living room or -- yeah. In the living room on the couch. On a recliner. Recliner? Yeah. I was sleeping on the recliner. He was asleep on the recliner at the time the assault took place. But we don't now for how long. Five minutes, ten minutes, fifteen minutes, twenty minutes, thirty minutes, an hour. We don't know how long he was asleep on that couch. We don't have that information. We don't know. The government wants you to speculate that he'd just put his head down and he got attacked and then Kim King shows up.

We know if he was asleep in the recliner when the attack happened, that first blow was unprotected. We

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know that. And we know that he cannot see who's assaulting him because of the defensive wounds to the arms. Instinctively, because you don't have to be totally awake and conscious to instinctively protect yourself. If he's protecting himself, then he can't see who's attacking him. He can't see.

Not to mention the fact that the impact of the blows to his head turned him into a punched-drunk prizefighter. This is a person that we see every Sunday afternoon. We see it every Sunday afternoon, don't we? A person who cannot assess and comprehend what's going on around him because of the brain injury, the swelling of the brain, the blows that he's taken to the head. We see it every Sunday.

It comes down to this. Mr. Scott does not know who is attacking him, so he assumes who it is. He speculates who it is. And based on circumstances, he thinks it's John. In Mr. Scott's mind, it may be John. In reality, it's not.

Was John the last person he saw? He spent the whole day with John. We know that. Was John the last person he saw before he went to bed and took that nap in the recliner? Was John picked out because he knew John was staying there? We don't know.

Which leads to this. We have a flawed

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investigation, a rush to judgment. Detective Simpson goes to the hospital and talks to Mr. Scott. When he goes there, his eyes were wide open. I've got an investigation to do. I'm going to do a good job on this investigation. I'm going to find out what happened to Mr. Scott. Mr. Scott improperly identifies John as the person. And what happens? That investigation closes to a tunnel vision towards one person, one thing only and refuses to consider anything else, anything else that may lead to evidence towards this case.

He's so confident about it, he doesn't go to the crime scene. He doesn't go to the durn crime scene. It's not important for him to do that. That's offensive. He is the chief of that investigation. He's responsible for it. He doesn't go to the crime scene.

Three to four days afterwards, he decides to execute a second search warrant. He doesn't see where the blood is. He doesn't see where Mr. Scott was laying when he got assaulted. He doesn't see where the weapon was. He doesn't see that. That's offensive. Mr. Scott's family deserves better. Justice deserves better. John deserves better.

No one knows when this attack happened. No one saw this attack take place. The one witness, Ms. Kimberly King, who meets John outside the trailer -- didn't

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testify that he was in the trailer, he was outside the trailer -- does not see him covered in blood. Doesn't see any blood on him. If John is the suspect of this attack, there's blood splatter on the walls, there's blood splatter on the lounge, there's blood splatter on the floor. Mr. Scott is covered in blood. How is it that he doesn't have any blood on him?

She knew something was wrong. Something didn't feel right. And she looks at him and he's sweaty. And that's it. That's the only thing she notices. Doesn't see blood on him. How can somebody commit a brutal attack, bludgeon somebody, and not have any blood on them?

When he left in the vehicle, there was no blood found in the vehicle. Now, they took that vehicle into evidence and processed it. Good. They found two spots that they thought were blood. They submitted it to SLED. SLED came back and said, no. I had to get that from the SLED agent. I had to ask the SLED agent that.

David Evans comes to the scene. He lives across the street. His wife tells him something's wrong across the street. Go find out. She's not interviewed. Did she see anything beforehand? Did she see any cars coming and going? Did she see any people coming and going? We don't know that because we didn't go out to the crime scene to talk to people when we were investigating this

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case. She may have had information that could have benefitted the investigation of this case. But no, we've got our guy. We've got our blinders on. We don't need that information even though that is information that may be beneficial to the investigation of this case.

No bloody clothes found in the R.V. or at the scene, and there's no blood in the R.V. We know John was staying in the R.V. behind the house. They took some nice pictures of it, but they didn't take it into evidence. They didn't find any bloody clothes in that R.V. They didn't find any blood in the R.V. They didn't take the R.V. into evidence for processing. They took the Mercury Mystique or whatever the vehicle was that John left the scene in for processing, but the place where he was living, they didn't take it in to process it. How hard would it be to call in a flatbed truck, throw the thing on a rollback, take it down and process it to see if there's any evidence in there? They didn't do that. They didn't do that. He didn't go out to the scene to see the R.V. He didn't go out to the scene to look at it. That wasn't important for him to do.

Three swabs of evidence was recovered from the blood in the entire crime scene. We know from testimony that there was a significant amount of blood in this crime scene. Blood on the walls, blood splatter on the walls,

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blood on the lounge, on the floor. Three swabs is all they take. That's all they take. Two of which are not submitted to SLED for testing. What evidence have they missed there?

Again, had he gone out to the crime scene, maybe he would have seen that and maybe he would have said, well, we need to do some more because they didn't take the recliner into evidence for processing. That's where Mr. Scott was when he got assaulted. Why wouldn't you take the recliner? Process it. Look at it. Is there any more evidence in there that we need to find out who did this to Mr. Scott? Had he gone out to the scene, maybe they would have done that. Had he cared to have gone out to the scene, maybe they would have done it had he not put the blinders on immediately after talking to Mr. Scott.

Cris Pridemore testified that there were fingerprints found on the cell phone, but there's no report on who they belong to.

There's an out building, a shed behind the trailer. They didn't search it. Why didn't they search it? They had a search warrant for the entire property. Simpson wasn't there to tell them to search it, I guess.

What evidence could have been found in that trailer? Bloody clothes, maybe a weapon, maybe a suspect. Who

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knows? We don't know because they didn't bother to search that. They didn't bother to take the shoes or the underwear of John into evidence for processing. Ladies and gentlemen, if he was in that scene, if he committed this crime, there would be blood on the sole of his shoes. Why not find out if that's true or not? Are they afraid that there's not blood on those shoes?

They never looked for the red shirt he was wearing the day of the incident. What happened to that shirt?

There was no hair or scalp material found on the weapon used in the assault. If the skillet was what was used for this assault, would it be reasonable and logical to see hair and scalp material and skin left over on that skillet? There's blood splatter on the skillet, yes, but there's also blood splatter on the walls.

You ever take a hammer and try to hammer something, hit your knuckles? It hurts. You scrape up your knuckles. Okay. If the suspect who committed this crime had used the skillet, if you believe what the government wants you to assume, used the skillet, how does he not have any injuries on his hand?

Mr. Scott sustained multiple blows to his head in a vicious manner. How is there not injuries on his hands? And the skillet breaks. How can he not have injuries on his hand? How can he not have any blood in his

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fingernails, in the crevices and the cracks of your nails? How can you not have that? This is an intimate assault, and you don't have any blood on your hands?

We know that Mr. Scott had a bandage on prior to the attack. He had a white bandage on his left arm. You'll see the photographs in the bank picture. You'll also see there's some sort of wound on his left arm -- his right arm, excuse me. Left arm? Right arm. Look at those pictures. Is that how those two small spots of blood got on John's pants? Do we know when those two small spots of blood got on John's pants? Because the DNA lady said, we can't test for that. It could have happened a year ago. It could have happened a week ago. It probably could have -- it could have happened the day before I tested the material. And again, it's such an intimate, in-your-face type of assault. How is there only two spots of blood? They want you to assume that blood came from the assault. Two small spots, and we don't know when that came from or where it came from.

It goes back to this. We don't know when the attack happened. You've got a time line that the government gave you of four hours and thirty-four minutes from when the photograph of Mr. Schaffer Scott cashing the check to when the 9-1-1 call happened. Four hours and thirty-four minutes. I can drive to Edisto in less time. That's a

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long time. And we don't know when this assault happened. We don't know -- and we don't know -- excuse me. No one saw the assault take place. This is strictly a case that the government has presented to you based upon circumstances, assumptions and speculation. That's what they want you to believe. That's the best they've got.

Mr. Scott was the punched-drunk prizefighter. That first blow was unprotected. His brain was affected immediately. He was covering up. He cannot comprehend. He cannot assess what was going on while the assault is taking place. He was covering up. He can't see.

Ladies and gentlemen, circumstantial evidence is dangerous. In a case based solely upon circumstantial evidence, it's dangerous as I told you before. Let me give you a quick demonstration. I broke a pencil. Direct evidence you saw that I broke the pencil. You know that I broke the pencil. If I take this pencil ...

(WHEREUPON, Mr. Potter exited and then re-entered the courtroom.)

CLOSING ARGUMENT

CONTINUED MR. POTTER:

... and I come back and I've got a broken pencil. Do you know if I broke the pencil? Do you know if I gave it to somebody out there and he broke it or she broke it? Do you know if I dropped it and broke it? Or do you even

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know if it's the same pencil I walked out with? That's the danger of circumstantial evidence.

We've presented innocent explanations in regards to all the circumstances that they are relying upon, and they haven't rebutted.

They haven't met their burden. They have not met their burden. They haven't met their burden. Mr. Scott doesn't know who assaulted him. They have not met their burden. And the problem with a circumstantial case, the problem with a case that's based upon a circumstance, assumption and speculation is that that could send an innocent man to a conviction.

THE COURT: All right. Ladies and gentlemen, I'm going to give you five minutes. Please stretch and don't discuss this case. We'll call you back in in five or ten minutes, and then I'll charge you.

(WHEREUPON, the jury exited the open court at approximately 11:10 a.m.)

THE COURT: Now, I'm going to give everybody a chance -- if you want to leave, now's the time. Don't do it while I'm charging. I'll be right back.

(WHEREUPON, court stood at recess for a short break.)

THE COURT: Y'all look at this real quick and see if that's okay. It's the verdict.

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(WHEREUPON, counsel reviewed document.)

THE COURT: Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 11:24 a.m.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, we've now reached the point in the trial where I'm going to charge you on the law in this case. As I told you, you've heard all the testimony that you're going to hear from the witness stand. You've heard the opening and closing statements of the parties. It's now my duty and obligation to give you the law as it applies in this case. Again, I have to read it to you, and I apologize.

CHARGE

BY THE COURT:

Ladies and gentlemen, the indictment in this case charges the Defendant with murder. I remind you that the fact that the Defendant was arrested, charged and indicted in this case is not evidence and cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. The indictment is merely a document by which the formal written charges are made and the case begins. It is literally just a piece of paper and should not be discussed by you other than you'll have it in the jury

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room and you will have an opportunity to look at the written charges. But it's basically just a typewritten form that we use.

Now, I charge you that the Defendant has pled not guilty to this indictment. And that plea puts the burden on the State to prove the Defendant guilty.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it's an important rule of law that the Defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you being your deliberations, but it accompanies the Defendant throughout the trial until you reach a verdict of guilt based upon evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence, as I told you, is like a robe of righteousness put about the shoulders of the Defendant which remains with the Defendant and upon the shoulders of the Defendant until it's been stripped from the Defendant by evidence satisfying you of the guilt --

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the Defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled until you, the jury, are satisfied from the evidence of the Defendant's guilt beyond a reasonable doubt.

Now, you've heard the term reasonable doubt thrown about this courtroom. I'll charge you the State has the burden of proving the Defendant guilty beyond a reasonable doubt. Some of you have served as jurors in civil cases in which you were told it's only necessary to prove that a fact is more likely true than not true, such as by a greater weight or preponderance of the evidence. In criminal cases, the State must be more powerful -- State's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt. There are very few things in this world which we know with absolute certainty. And the law does not require proof that overcomes every possible doubt. If, based upon your consideration of the evidence, you are firmly convinced that the Defendant is guilty of the crime charged, you must find the Defendant guilty. If, on the other hand, you think there is a real possibility that the Defendant

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is not guilty, you must give the Defendant the benefit of the doubt and find him not guilty.

Now, as I told you earlier, you and I have very different roles. You've had to listen to the testimony in this case. You have to determine whether or not you believe the witnesses. Your main role is to determine the credibility of witnesses. You can believe everything that a witness told you from this witness stand; you can believe nothing that they told you. You can take a portion of the witness' testimony and believe it and disregard the remainder.

You alone have to determine the credibility or believability of the witnesses. If at any point during the course of this trial I've given you the impression that I believe a witness or I disbelieve a witness, disregard it. My opinion about the witnesses' truthfulness is an irrelevant issue. You alone can determine the credibility of the witnesses.

I've had to make some rulings in this case. My job is the judge of the law. You're the judge of the facts. You have to take the law as I'm giving it to you now as the law in this case. And you also have to take the rulings I made in this courtroom as the law in this case. You have to apply this law as I'm giving it to you now to the facts as you determine them to be to reach your

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verdict.

Now, ladies and gentlemen, I charge you there are two types of evidence which are generally presented during the trial. There's direct evidence and there's circumstantial evidence.

Direct evidence is the testimony of a person who claims to have actual knowledge of the facts, such as an eyewitness. It is evidence which immediately establishes the main fact to be proved. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or observation.

The law makes absolutely no distinction between the weight or value to be given either direct or circumstantial evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in this case. After weighing all the evidence, if you are not convinced of the guilt of the Defendant beyond a reasonable doubt, then you must find the Defendant not guilty.

Now, ladies and gentlemen of the jury, this Court

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has admitted certain evidence and statements allegedly made by the deceased victim after the injuries. I have determined that these statements should be admitted as evidence in this case. However, it is for you to determine the believability of these statements. In deciding this question, you may consider whether the Defendant [sic] was dying and whether he knew he was dying and whether the victim had lost all hope of recovering at the time the statements were made.

Now, ladies and gentlemen, I instruct you and I emphasize the fact that the Defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration of the question of guilt or innocence of the Defendant. It must not be considered by you in any manner whatsoever.

A defendant has a constitutional right to remain silent. And the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath, you are to draw no conclusion whatsoever from the fact that the Defendant in this case did not testify. The fact that this Defendant did not testify should not even be discussed by you in the jury room.

The burden of proof as I've stated to you is on the State. The Defendant is not required to prove his innocence. The burden of proof remains on the State to

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prove guilt beyond a reasonable doubt.

Now, ladies and gentlemen, I charge you that in order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness, or criminal negligence.

Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by you, the jury, from the circumstances surrounding the situation.

Now, there's no way mathematically to prove criminal intent to any certainty. So the law says that criminal intent may be inferred from the circumstances shown to have existed at the time of the alleged crime. This is how you make a determination of whether or not the element requiring intent was present. It's not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as other facts, by taking into consideration the acts of the parties and all the facts and circumstances of this case.

Criminal intent is a mental state, a consciousness of wrong-doing. It is up to you to determine what the Defendant intended to do based on the circumstances shown to have existed. Criminal intent can arise from action

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or failure to act. It may arise from negligence, recklessness, or indifference to duty or to consequences that is considered by the law to be equivalent to criminal intent.

Now, ladies and gentlemen, the Defendant in this case is charged with murder. The State must prove beyond a reasonable doubt that the Defendant killed another person with malice aforethought. Malice is hatred, ill-will or hostility toward another person. It is the intentional doing of a wrong-doing -- of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law would infer an evil intent.

Malice aforethought does not require that malice exist for any particular time before the act is committed. But malice must exist in the mind of the Defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought may be expressed or inferred. These terms, expressed or inferred, do not mean different kinds of malice but merely the manner in which malice may be shown to exist. That is either by direct evidence or by inference from the facts and circumstances which are proved. Expressed malice is shown when a person speaks

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words which express hatred or ill will for another or when the person prepared beforehand to do the act which was later accomplished. For example, lying in wait for a person or any other acts of preparation going to show that the deed was in the Defendant's mind, that would be expressed malice.

Malice may also be inferred from conduct showing a total disregard for human life. Inferred malice may also arise when the deed is done with a deadly weapon. A deadly weapon is any article, instrument or substance which is likely to cause death or great bodily harm.

Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case. Ordinary objects may become deadly weapons when the facts show that they have been used to inflict serious bodily harm or injury.

Now, ladies and gentlemen, there are two possible verdicts in this case. You may find the Defendant not guilty of murder or guilty of murder. And what I've done, Mr. Foreman, is I've prepared a verdict form -- my law clerk has prepared a verdict form -- that says, we, the jury, by unanimous consent find the Defendant, John Fitzgerald Kennedy -- and we've placed guilty of murder and not guilty of murder. Please don't infer any importance to the fact that guilty of murder is listed

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first. One has to go first. She listed guilty first. That shouldn't be considered by you.

Your verdict has to be unanimous. That is that all of you have to agree on the verdict.

And what I'll do once you've retired to begin your deliberations, we'll send back all the evidence that's been admitted. There's a lot of evidence here. I would urge you not to open any plastic packages. But you will have everything with you in the jury room. You also -- also, you may have noticed this morning, you have some pads back there for notes or votes, whatever you want to use the pads and pencils for. You will have all of that in the jury room in a few minutes.

You'll also have the indictment and the verdict form. Once you've reached a verdict, whether it's guilty or not guilty, I need you, Mr. Foreman, to sign the verdict form, date it, and knock on the door. At that point, we'll bring you back in and let you announce your verdict to the Court. As I told you earlier, if you have a question or a problem while you're deliberating, the best way to -- and you've had to do it a couple of times -- just write out the question or problem on a note, sign your name, put the date and time, and knock on the door.

When you're in your deliberations, you must stay back there to deliberate until you've reached a verdict

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or until you need a break, which I'll be happy to give you. If there's a problem or issue that you need answered, just write the question or problem out. As I told you on Monday, if I can answer the question, I'll bring you back in and tell you I can answer it. If I can't, I'll bring you back in to tell you I can't answer it.

We have all the evidence and all the testimony recorded. If you need to listen to any testimony or view any type of evidence or any document that we have in here that's been admitted, I'll be happy to do that for you.

Now, at this point in the trial, what I'm going to do is send you back to your jury room. I give the attorneys for the State and the Defendant the opportunity to ask me to charge something different or to change my charge. If I'm going to make an addition or subtraction or change to the charge that I just gave you, I'll bring you back in and make that change. Assuming that I don't make any changes to the charge, in a few minutes we'll deliver this verdict form to you and all the evidence and indictment, and you can begin your deliberations. Please don't start talking about this case until everything's been delivered to you.

Y'all have been very patient. I know this has been sort of a choppy, slow week, but I need your patience for

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one last few minutes while I send you back and ask that you don't begin your deliberations. Only begin your deliberations when everything's delivered to you.

You need to take everybody back but the alternate, and I'll be back to talk to you in just a second.

(WHEREUPON, the jury exited the open court at approximately 11:39 a.m.)

THE COURT: You can go out there. I'll meet you in the hallway.

(WHEREUPON, the alternate exited the courtroom.)

THE COURT: All right. Other than what y'all have previously talked about and put on the record, any changes or additions to the charge?

MS. HUEY: Nothing from the State.

THE COURT: From Defendant?

MR. POTTER: No, Your Honor.

THE COURT: Okay. I've got the indictment and the verdict form. Y'all make sure everything's together, and we'll send it on back.

MR. POTTER: Judge, just for the record, one last -- I wanted to make sure I note my objections to the evidence that I've previously made and I would incorporate those arguments.

THE COURT: They're all done.

MR. POTTER: Thank you.

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MS. HUEY: Should we send some gloves back?

THE COURT: Yeah, probably. I mean, I hope they don't open anything up.

THE CLERK: I was going to take some.

THE COURT: Okay.

MS. HUEY: The blood isn't open.

THE COURT: Yeah.

MS. HUEY: But the shorts they might want to see. And the cuttings.

THE COURT: Okay.

Here's the -- and the indictment's going back too.

While y'all are doing that, let me talk to the alternate real quick.

(WHEREUPON, the alternate was dismissed off the record at approximately 11:39 a.m.)

THE COURT: Okay. Please note that one minute after they went back, this was handed to me. "Dear Judge, I have a question of procedure. You say we cannot discuss the issue of the Defendant not saying anything. What else are we not supposed to do? Can one person try to persuade another as to how they believe? Can it be discussed as to what the responsibility of the Defense attorney is? P.S., some of the members feel the jury room is cold."

Okay. What I'm going to tell them is that my charge

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is as complete as it can be. That other than not discussing his lack of testifying, I can't tell them what they're supposed not to do. But if they have a question as to what to do, to ask us. As to one person trying to persuade another, yes, they can. They have to each make a -- well, yes, they can. Can it be discussed as to what the responsibility of the Defense attorney is? Yeah. And we'll try to warm up the room.

Bring them in.

(WHEREUPON, the jury entered the open court at approximately 11:57 a.m.)

THE COURT: Okay. Mr. Foreman, ladies and gentlemen, of the jury, let me read this. "Dear Judge, I have a question of procedure. You say you cannot discuss the issue of the Defendant not saying anything. What else are we not supposed to do? Can one person try to persuade another as to how they believe? Can it be discussed to what the responsibility of the Defense attorney is? And some of the members feel the jury room is cold."

Okay. Let me address these. You cannot discuss, as I told you and charged you, whether or not the Defendant testified. That's a constitutional right that he has. As to what else you can't do, I can't give you instructions on that. If you have a question as to

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whether or not you should do something, you can write that out. Or if you have a question about any testimony, write that out. Other than how I instructed you, you can basically do what you want back there. As to whether or not one person can try to persuade another, yes, you can. I mean, you can argue this case. And you should. You also have to reach a conclusion individually and as a group, and that's part of the problem. So you can try to persuade another.

You can discuss the responsibility of all the attorneys in this case and all the parties that have testified.

And as to whether or not the room is cold, I'll tell you that it is cold. Yesterday it was hot. We had the county come over and work on it. And I think because of the change in temperature, it's just -- when I first started this job thirteen years ago, the climate was controlled out of Charlotte. It's no longer controlled out of Charlotte, but we're about eight hours behind. And if you want to blame anybody for that, blame Richard Shirley. He's in charge of the courthouse pursuant to the statute.

(Laughter)

THE COURT: I think that addresses everything. The main issue is that any communication between us is

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this way. And if you have a question as to what you should or shouldn't do, no matter how mundane or trite it may be, this is the way to approach it. Because I understand this is the first time you've done it and I don't mean to dismiss it because I do this every week. But it's new to you. If you've got a question, that's the way to do it. I would rather you ask me more questions than less, and then ask me something when it's over. Okay. We'll get it as warmed up as possible. And we'll be here. So if you've got a question, let me know. Don't build any fires back there.

(WHEREUPON, the jury exited the open court at approximately 11:57 a.m.)

THE COURT: Okay. Any objection to what I said or how I said it?

MS. HUEY: Nothing from the State.

MR. POTTER: No.

THE COURT: I don't mean to be derisive. I probably need to smile.

Okay. We'll make this 6.

(WHEREUPON, Court's Exhibit Number 6 was marked for identification only.)

THE COURT: Y'all come here and let me ask you something.

(WHEREUPON, a bench conference was held off the

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record.)

(WHEREUPON, the verdict form and exhibits were delivered to the jury after which court stood at recess awaiting the verdict of the jury at approximately 11:58 a.m.)

THE COURT: All right. Bring them in.

(WHEREUPON, the jury entered the courtroom at approximately 12:29 p.m.)

THE COURT: Okay. Mr. Foreman, sorry for the delay, but we had a problem trying to find something. The note says -- and I'm assuming you want this -- "copy of your charge, transcript of Mr. Schaffer Scott in hospital, transcript of Kim King's statement, and a device to play recording." Is that correct?

Okay. You cannot have a copy of the charge. I can recharge you on any portion or all of it. I just need you to specifically tell me which portion you need. It's against the rules of evidence for me to give you a copy of the charge. Why? The reason for it is lost in antiquity.

We do not have a transcript of Mr. Schaffer Scott or of Kim King's statement. But again, I can play you -- replay you a portion or all of it. We just need a little time to find it. And actually, we have it recorded and it will play back. The device to play recordings we will

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get to you. You're entitled to that. We just don't have one present. When Mr. Shirley is back -- he's out ordering your lunch right now. But we will get you a device. So if you need me to recharge you on any portion or all of the charge, I'll have to bring you back in and do it. And I'll be happy to do that. And if you need any portion or all of the transcripts replayed to you, I just need specifically what you need, and we'll bring you back in. Or if you just want all of it, we'll play the recording. But there is no written transcript right now. And ...

Do you have any device down there other than a computer to play the CD?

THE CLERK: No. We can play it here through the system.

THE COURT: Okay. That is one option. We can replay the CD through the system. We just have to bring you back in. And that may be the best option. The only other option is the computer. We were talking about how cassette tapes were perfect until CDs came out. Unfortunately, I can't give you a computer back there. I trust you, but the law doesn't. The State of South Carolina doesn't.

Okay. So basically, if you need any portion or all of the transcripts or my charge read, I'll be happy

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to do that. I just need a designation of what you need. And if you want to play a recording, we'll just bring you in here. Now, I'll clear the courtroom and let you listen to it. That may be the best way to do it. Okay?

Again, this is the way to communicate. Sorry for the delay.

(WHEREUPON, the jury exited the courtroom at 12:32 p.m.)

THE COURT: If they want a portion played, I'll have to clear the courtroom and let them listen to it. But I'll have to clear the courtroom.

MR. POTTER: Judge, I'd prefer not to be here to have to listen to it again.

THE COURT: Well, I'm going to tell you, I'm not even going to take my robe off because there's got to be something they want unless he's just anticipating something.

MR. POTTER: Judge, the only thing I would maybe -- and I leave it to your discretion -- maybe kind of admonish them a little bit to get the job done.

THE COURT: Huh?

MR. POTTER: Maybe admonish them a little bit to do the work.

THE COURT: It's a little early for an admonishment.

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MS. HUEY: Yes.

THE COURT: But admonishing is coming, trust me. We'll just see.

(WHEREUPON, court stood at recess awaiting the verdict of the jury at approximately 12:33 p.m.)

(WHEREUPON, Court's Exhibit Number 7 was marked for identification only.)

THE COURT: Okay. You can bring them in. I'm going to do the charge part before I play this. And I'm going to just charge them ten again.

MR. POTTER: Judge, are you going to address that first issue on the first question too?

THE COURT: Yeah.

(WHEREUPON, the jury entered the courtroom at approximately 1:00 p.m.)

THE COURT: Okay. Ladies and gentlemen, let me address these individually.

The first statement or question is, "According to the State of South Carolina, if a person commits assault, and as a result a person dies, does the State determine that or look at that as murder?" Is that the correct question?

(WHEREUPON, the jury foreman nodded head up and down in the affirmative.)

THE COURT: All right. Let me be real clear.

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The only law you can consider is the law that I've charged you. My role in this case is to charge you on the law. I have charged you on the law that applies, so you shouldn't consider any other statutes or law that has not been charged to you.

I'm going to skip to the bottom. "We would like to hear that part of the charge dealing with criminal intent. And is that the same as motive?" The only thing I can do at this point is I'm going to recharge you on intent. If you have a specific portion of the intent charge, I'll be happy to specifically charge that, but I can't tell you what to think about the charge. I can only charge it to you. So if you would, listen up, and I will charge you on intent again.

In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation.

There's no way to prove intent to a mathematical certainty. So the law says that criminal intent may be inferred from the circumstances shown to have existed at

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the time of the alleged crime. This is how to make a determination of whether or not the element requiring intent was present.

It's not necessary to establish intent by direct and positive evidence. But intent may be established by inference in the same way as other facts, by taking into consideration the acts of the parties and all the facts and circumstances of the case.

Criminal intent is a mental state, a consciousness of wrongdoing. It is up to you, the jury, to determine what the Defendant intended to do based on the circumstances shown to have existed.

Criminal intent can arise from an action or a failure to act. It may arise from negligence, recklessness or indifference to duty or to consequences that is considered by the law to be the equivalent of criminal intent.

Now, as I said, the law as I give it to you is the only law that you can consider as you apply it to the facts.

Then the second part is: "We would like to hear Ms. King's testimony from when she found Scott to the end, and we would like to hear Mr. Scott in the hospital."

What we have agreed to do is we're going to play

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Ms. King's testimony from the beginning and Mr. Scott's testimony from the beginning. So if you have got some specific portion you want to listen to, we'll let do you that.

Now, what we're going to do is this is exactly the way it was given. It was done by a recording.

(WHEREUPON, the testimony of Ms. King was played in open court for the jury.)

THE COURT: Okay. The last portion is: "We'd like to hear Mr. Scott in the hospital." Do you have that on the computer? Because you probably didn't take that down, did you?

MADAM COURT REPORTER: No, sir.

THE COURT: Yeah, we've got to replay that. It's not transcribed.

MS. HUEY: Judge, the one that's in evidence?

THE COURT: Is it back there?

MS. HUEY: Yes, sir.

THE COURT: Yeah. Franklin, go with her and get that CD, please.

THE CLERK: Judge, she has a question.

THE JUROR: Can I step out just for a moment?

THE COURT: Yeah.

THE JUROR: Thank you. Sorry.

(WHEREUPON, a juror exited the courtroom and then

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returned.)

THE COURT: Franklin, go with her to get that.

(WHEREUPON, State's Exhibit 11 was played in open court for the jury.)

THE COURT: All right. Ladies and gentlemen, I think we've dealt with the statute as I think I've previously discussed that. You've heard Ms. King's, Mr. Scott, and I recharged intent. Lunch is here. I would ask that you continue into your deliberations while you eat. If you have a question, let me know.

MS. HUEY: Judge, may I approach real quickly? I'm sorry.

THE COURT: Yeah. Hold on.

Do you need them to stay?

MS. HUEY: Yes, sir, just a moment.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. You can begin your deliberations.

(WHEREUPON, the jury exited the courtroom at 1:41 p.m.)

THE COURT: I wouldn't go too far. All right. I'll let you know.

(WHEREUPON, court stood at recess awaiting the verdict of the jury.)

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THE COURT: Okay. We have another question. I'll read it exactly the way it was presented to me. "Your Honor, I wish to make sure I understand the charge. If we believe that the Defendant, quote, unlawfully and with malice aforethought killed Claud Schaffer Scott by means of blunt force trauma, and that Claud Schaffer Scott died as a result thereof, close quote, that this belief meets the charge given and that we then believe the Defendant to not only be guilty of the wording in the indictment of that of murder?" And then, "If needed, please re-read the charge or part of the charge that covers this."

I'm going to recharge murder. That's all I know to do. Any objection to that? I mean, that's read exactly the way it was said to me.

MS. HUEY: Or you could answer yes, Judge.

THE COURT: Thank you. I'll recharge murder.

MS. HUEY: May I just run really quickly?

THE COURT: Yeah, yeah.

MS. HUEY: Thank you. I'm sorry.

(WHEREUPON, court stood at ease.)

THE COURT: All right. When we start back, everybody needs to be quiet. I let you come in here. We've got to wait on the bond hearing until we finish this, but you're going to have to be quiet. If you

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can't, you need to step out.

Okay. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 2:24 p.m.)

THE COURT: Okay. Mr. Foreman, let me read the question exactly to make sure I understand it. "Your Honor, I wish to make sure I understand the charge. If we believe the Defendant, quote, unlawfully and with malice aforethought killed Claud Schaffer Scott by means of blunt force trauma and that Claud Schaffer Scott died as a proximate result there of, close quote, that this belief meets the charge given and that we then believe the Defendant to not only be guilty of the wording in the indictment, but that of murder?" Is that correct?

MR. FOREMAN: (Nodded head up and down in the affirmative).

THE COURT: Okay. What I'm going to do is recharge murder to you. I think it will answer that question. If it doesn't, I'll be happy to recharge any other portion.

All right. Ladies and gentlemen, the Defendant is charged with murder. The State must prove beyond a reasonable doubt that the Defendant killed another person with malice aforethought. Malice is hatred, ill will or hostility towards another person. It's the intentional

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doing of a wrongful act without just cause or excuse and with the intention to inflict an injury or under circumstances the law will infer an evil intent.

Malice aforethought does not require that malice exist for any particular time before the act was committed. But malice must exist in the mind of the Defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous ill intent and the act.

Malice aforethought may be expressed or inferred. These terms, expressed or inferred, do not mean different kinds of malice, but merely the manner in which malice may be shown to exist. That is, either by direct evidence or by inference from the facts and circumstances which are proved.

Expressed malice is shown when a person speaks words which express hatred or ill will for another or when the person prepared beforehand to do the act which was later accomplished. For example, lying in wait for a person or any other act of preparation going to show that the deed was within the Defendant's mind, that would be expressed malice.

Malice may be inferred from conduct showing a total disregard for human life. Inferred malice may also arise when the deed is done with a deadly weapon.

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A deadly weapon is any article, instrument or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case. Ordinary objects may become deadly weapons when the facts show that they have been used to inflict serious bodily harm or death.

All right. If you would continue on. And again, if you want to listen to anything that is back there in your jury room, we'll clear the courtroom and bring you in here and let you listen to it in private. Okay. Thanks.

(WHEREUPON, the jury exited the open court at approximately 2:28 p.m.)

(WHEREUPON, Court's Exhibit Number 8 was marked for identification only.)

THE COURT: I wouldn't go too far. That's question number twelve, I think.

(WHEREUPON, court stood at recess awaiting the verdict of the jury.)

THE COURT: Okay. I think we have a verdict. You can bring them in.

(WHEREUPON, the jury entered the open court at approximately 2:43 p.m.)

THE COURT: All right. Mr. Foreman, I understand you have a verdict. Is that correct?

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THE FOREMAN: Yes, sir.

THE COURT: All right. If you'd hand it to Mr. Shirley.

All right. You can publish it.

THE CLERK: If it pleases the Court. This is in the State of South Carolina, County of Anderson, in the Court of General Sessions, Tenth Judicial Circuit. This is the verdict in the case number 2012-GS-04-2002, the State of South Carolina versus John Fitzgerald Kennedy, Defendant. We, the jury, by unanimous consent find the Defendant, John Fitzgerald Kennedy, guilty of murder. Signed by the Foreperson, dated December the 5th, Anderson, South Carolina.

THE COURT: All right. Ladies and gentlemen, I need patience one last time. I'm going to send you back. I'm discharging you from your duties, but I need to send you back for just a second. I'll be back to briefly talk to you in about three minutes. And then I'll let you go.

(WHEREUPON, the jury exited the open court at approximately 2:45 p.m.)

THE COURT: Okay. I'm going to go back and talk to them and release them, and then I'll come back in. Okay?

MR. POTTER: May it please the Court?

THE COURT: Yes, sir.

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MR. POTTER: Judge, I'd ask that they be polled.

THE COURT: Polled?

MR. POTTER: Yes, sir.

THE COURT: You want them brought back in and polled?

MR. POTTER: Yes, sir.

THE COURT: All right. Bring them back in. We're just going to do it by asking them to raise their hand if that's their verdict rather than going individually through.

MR. POTTER: Yes, sir.

(WHEREUPON, the jury entered the open court at approximately 2:46 p.m.)

THE COURT: All right. Yes, sir, you can poll them.

THE CLERK: Ladies and gentlemen, the verdict that I have just published was the verdict you reached in the jury room. I ask you was it your verdict then and is it your verdict now? And if that's so, please raise your right hand.

(WHEREUPON, all jurors' right hands were raised.)

THE COURT: All right. The last time I've got to send you back. I'll be back in just a second.

(WHEREUPON, the jury exited the open court at

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approximately 2:47 p.m.)

THE COURT: Okay. Let me go talk to them. If y'all will fill everything out, I'll be right back.

(WHEREUPON, court stood at ease.)

THE COURT: Okay. Come on up, Mr. Kennedy. It's going to take me a second.

(WHEREUPON, the Solicitor, Mr. Potter and the Defendant approached the bar.)

THE COURT: Yes, ma'am?

MS. HUEY: Your Honor, may it please the Court. First of all, I would like to pass up some photos of the victim in this case, Schaffer Scott, Your Honor. The State did not seek to introduce any of these because they are so gory and gruesome, but I would like you to see firsthand exactly how violent this attack was on Mr. Scott.

THE COURT: Okay. Hold on just a second. All right. Yes, ma'am?

MS. HUEY: And as such, we would be seeking a life sentence in this case, Your Honor. Several family members are here and would like to address the Court at the appropriate time.

THE COURT: All right. Now would be fine. If you would, give us your full name and spell last name, please.

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MS. HANSARD: Eland Hansard.

THE COURT: Yes, ma'am?

MS. HANSARD: Schaffer was my brother. And I miss him very much. What happened to him was horrible. I haven't been able to get a good night's sleep since it happened. And I just don't want this to happen to anybody else, to another human or another family. So I pray that you give him life without parole. Thank you.

THE COURT: Okay. Thank you.

MS. STOWE: Your Honor, my name is Dale Scott Stowe. The last name is S-T-O-W-E.

MS. HAGY: Your Honor, I'm reading this -- Denise Hagy -- reading for Ms. Stowe.

My name is Dale Scott Stowe. I'm the eldest child of Claud Schaffer Scott. This was a very heinous crime. My father was a seventy-six-year-old man in poor health. He did not deserve this. The Defendant had no right to beat my father like he did. John could have taken the money and left. He's old enough, in good physical shape that he should have been working and had a home of his own and not living off my father. Our family will never get over this. John does not deserve to be set free. We will never see our father again. And John should never see the light of day again. I feel the appropriate sentence should be life without parole. Please, Your

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Honor, give him life without parole.

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

MR. SCOTT: Your Honor, I'm Claud Anthony Scott. I'm the youngest son, the only son. And I haven't seen my daddy in thirty years. And I've had it on my heart to come make things right, you know. And on account of this, I'll never get that opportunity. And I just pray that God will be with his -- John's family and with John and that this never happens to nobody else. And I want him to get life with no parole. And I mean, like everybody else said, it'll never be the same. Thank you.

THE COURT: Thank you.

Yes, ma'am, anything else?

MS. HUEY: No, sir, Your Honor.

THE COURT: Yes, sir.

MR. POTTER: Thank you, Your Honor. May it please the Court. John is fifty years old, a high school graduate. He's originally from Rome, Georgia. He and his family have lived here in Anderson for about seventeen years. His family is in the courtroom today. They've been in the courtroom all week long. I'm sure you've noticed.

He has a limited criminal record, which is odd. And if I remember correctly, there's no assaults, any ABWIKs

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or anything like that on his record.

MS. HUEY: He has a 2006 interfering or hindering with officers. That's the only charge.

THE COURT: Okay.

MR. POTTER: In 19 -- or excuse me. In 2008 he suffered a stroke and was hospitalized for a period of time. He did have some psychiatric evaluations done in regards to N.G.R.I. as well as competency, and those came back as not of a concern.

Judge, he's been locked up for about six hundred fourteen days. He is disabled as a result of that stroke. He is fifty years old. And as Your Honor knows, the minimum sentence on a murder conviction is thirty years day-for-day. So for all practical purposes, a thirty-year sentence is a life without parole sentence for him. I'd ask Your Honor to consider that the average life span of an inmate at S.C.D.C. is not going to be eighty years old.

THE COURT: Okay.

Mr. Kennedy, the jury's found you guilty. Is there anything you want to tell me?

THE DEFENDANT: Yes, sir. I'd like to apologize to the family members. I'd like to apologize to everyone within the Court. I was a good friend to Mr. Schaffer. He was a real good guy. I know it's a little

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late now, but Mr. Schaffer -- Julia Moore had an altercation with Mr. Schaffer, and Mr. Schaffer had asked me to help him. I only tried to help Mr. Schaffer. She had actually said that she was going to come back and get him. But I was not able to prove that she came back and get him. Later that evening, I had went to sleep in that camper. And when I went to sleep in that camper, I woke up and I saw Mr. Schaffer laying there. When I saw him laying there I screamed his name several times. At that point Mr. Schaffer looked at me and assumed that I had assaulted him. I have never assaulted anyone in my life. But you know, I pray to God that you all will have mercy on my soul.

THE COURT: Okay. All right. Well, I've heard the whole case and all the evidence, and the jury has found you guilty. Because of the conviction and because of your age, which is fifty, the minimum sentence is thirty years. I think that's, for all practical purpose, a life without parole given the fact that -- the way the Department of Corrections calculates it. So the sentence is thirty years. Give you credit for time served. Good luck to you.

THE DEFENDANT: Yes, sir.

MR. POTTER: Thank you, Judge.

THE COURT: Thank you.

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CERTIFICATE OF REPORTER

I, the undersigned Renee H. Tollison, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 2nd through 5th days of December 2013.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

March 26, 2014

Renee H. Tollison

Circuit Court Reporter

NOTICE OF INTENT TO APPEAL

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX, JR.

JUDGE OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2012-GS-04-02002

THE STATE OF SOUTH CAROLINA,

Respondent
-vs-

JOHN FITZGERALD KENNEDY
Appellant.

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the Defendant, John Fitzgerald Kennedy, hereby gives notice that he appeals his conviction and sentence imposed on December 5, 2013, by the Honorable J. Cordell Maddox, Jr., Judge of the Tenth Judicial Circuit, on the charge of murder. The case and exceptions will be served within the normal time limit.



ANDREW T. POTTER
ASST. PUBLIC DEFENDER
ANDERSON COUNTY

OTHER COUNSEL OF RECORD ARE:
Catherine Huey and Brantly Haigler
Assistant Solicitor's
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	AFFIDAVIT OF MAILING
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

I, KENDRA GURLEY, being duly sworn depose and say that I am employed by the Public Defender's Office for Anderson County, and that I did on December 9, 2013, at or around the hour of 2:00 p.m. place a copy of the Notice of Intent to Appeal addressed to The Attorney General in the mail room located in the Anderson County Courthouse, Anderson, South Carolina, to be mailed by the Anderson County mail clerk.

Kendra Gurley
KENDRA GURLEY

Sworn to before me this

9 day of December, 2013.

Blair McCullough
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2-26-2018

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

I, CATHERINE HUEY, Assistant Solicitor, for Anderson County, hereby accept service of a copy of the Notice of Appeal in regard to the captioned matter this 9 day of December, 2013.

FOR BY C.H.

CATHERINE HUEY
ASSISTANT SOLICITOR
ANDERSON COUNTY

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY)		
	)	
Defendant.	)	
	)	

I, KENDRA GURLEY, hereby certify that I am employed by the Office of the Public Defender for Anderson, South Carolina, and that I did on December 9, 2013, at or around the hour of 2:00 PM, file a copy of the Notice of Appeal in regard to the captioned matter with the Clerk of Court of General Sessions, Anderson, South Carolina.

Kendra Gurley
KENDRA GURLEY

ATTESTED BY:

Richard A. Hiles
CLERK OF COURT FOR ANDERSON COUNTY,
SOUTH CAROLINA

NOTICE OF INTENT TO APPEAL

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX, JR.

JUDGE OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2012-GS-04-02002

THE STATE OF SOUTH CAROLINA,

Respondent
-vs-

JOHN FITZGERALD KENNEDY
Appellant

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the Defendant, John Fitzgerald Kennedy, hereby gives notice that he appeals his conviction and sentence imposed on December 5, 2013, by the Honorable J. Cordell Maddox, Jr., Judge of the Tenth Judicial Circuit, on the charge of murder. The case and exceptions will be served within the normal time limit.

ANDREW T. POTTER
ASST. PUBLIC DEFENDER
ANDERSON COUNTY

OTHER COUNSEL OF RECORD ARE:
Catherine Huey and Brantly Haigler
Assistant Solicitor's
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

RECEIVED
DEC 12 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	AFFIDAVIT OF MAILING
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

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Kendra Gurley
KENDRA GURLEY

Sworn to before me this

9 day of December, 2013.

Black McCuller
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2-26-2018

RECEIVED
DEC 12 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY)		
	)	
Defendant.	)	
	)	

I, CATHERINE HUEY, Assistant Solicitor, for Anderson County, hereby accept service of a copy of the Notice of Appeal in regard to the captioned matter this 9 day of December, 2013.

FOR BTB. HA
CATHERINE HUEY
ASSISTANT SOLICITOR
ANDERSON COUNTY

RECEIVED
DEC 1 2 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

I, KENDRA GURLEY, hereby certify that I am employed by the Office of the Public Defender for Anderson, South Carolina, and that I did on December 9, 2013, at or around the hour of 2:00 PM, file a copy of the Notice of Appeal in regard to the captioned matter with the Clerk of Court of General Sessions, Anderson, South Carolina.

Kendra Gurley
KENDRA GURLEY

ATTESTED BY:

CLERK OF COURT FOR ANDERSON COUNTY, SOUTH CAROLINA

RECEIVED
DEC 12 2013
SC Court of Appeals

TENTH CIRCUIT PUBLIC DEFENDER OFFICE

ANDERSON AND OCONEE COUNTIES

Anderson County Office
301 Camson Road
Anderson, SC 29625
Tel. 864.260.4048
Fax 864.260.4134

HERVERY B. O. YOUNG
Circuit Public Defender

Oconee County Office
415 S. Pine Street
Walhalla, SC 29691
Tel. 864.638.3133
Fax 864.638.3120

December 6, 2013

Ms. Tanya Gee
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: State v. John Fitzgerald Kennedy

Dear Ms. Gee:

Please find enclosed the Notice of Intent to Appeal in regard to the captioned matter along with the Acceptance of Service of Catherine Huey, Assistant Solicitor for Anderson County, and an Affidavit of Mailing to the Office of Attorney General. Please file the aforesaid in the appropriate file.

Thank you for your cooperation and assistance in this matter.

Yours truly,

Andrew T. Potter
Asst. Public Defender

ATP/kkg
Enclosure

RECEIVED
DEC 12 2013
SC Court of Appeals

Anderson Public Defender's Office
301 Camson Road
Anderson, SC 29625



RECEIVED
DEC 12 2013
SC Court of Appeals

Ms. Tanya Gee
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

29211$1629 B012

OFFICE OF THE SHERIFF

ANDERSON COUNTY SC

Affidavit of Photo Identification

Case Number: _____

Location: [redacted] ANDERSON Date & Time: 3/30/12 2209

I, KIMBERLY KING (victim/witness), have viewed a group of 6 photographs

on 3/30/12 (date), from which I have positively identified photograph number 4, as displayed to me

by DET. M. BEARDEN, a Deputy of the Anderson County Sheriff's Office,

as being the person who:

WAS IN THE HOUSE AND LEFT WITH CLAUD SCOTT'S CAR JUST BEFORE I FOUND MR. SCOTT BEATEN INSIDE HIS HOME.

FILED-CLERK'S OFFICE ANDERSON SC
2012 DEC -5 P 4:14
RELEASE AND SESSIONS

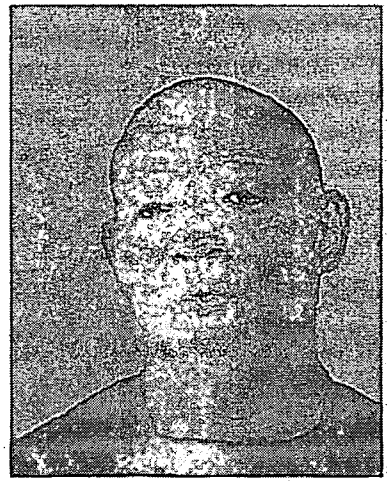
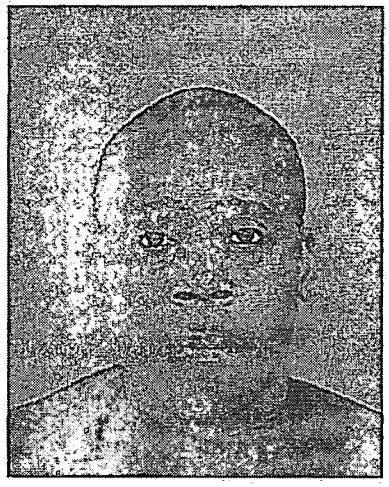
KIMBERLY KING — Kimberly King
Victim/Witness's Name — **Victim/Witness's Signature**

Witnessed By:

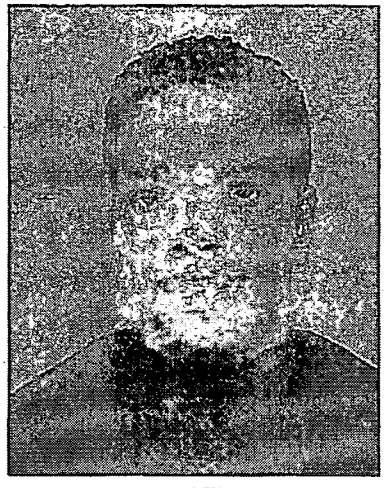
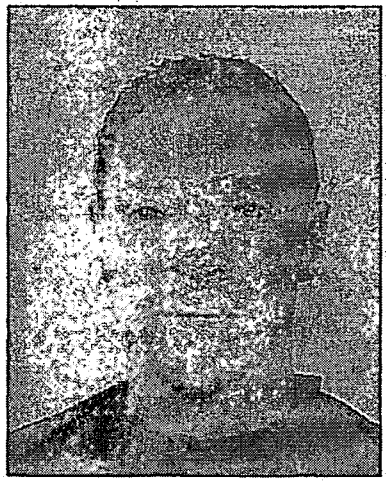
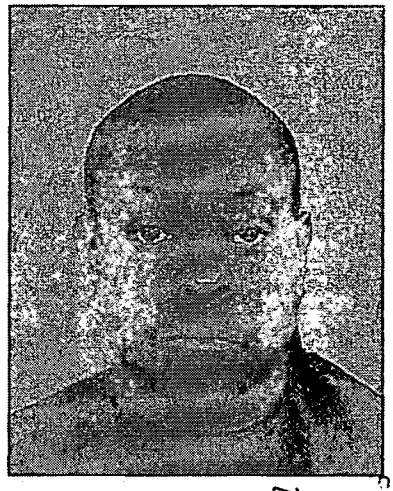
MCKINDRA BEARDEN — [signature]
Name — **Signature**

STATE'S EXHIBIT 2

Anderson County Sheriff's Office


1

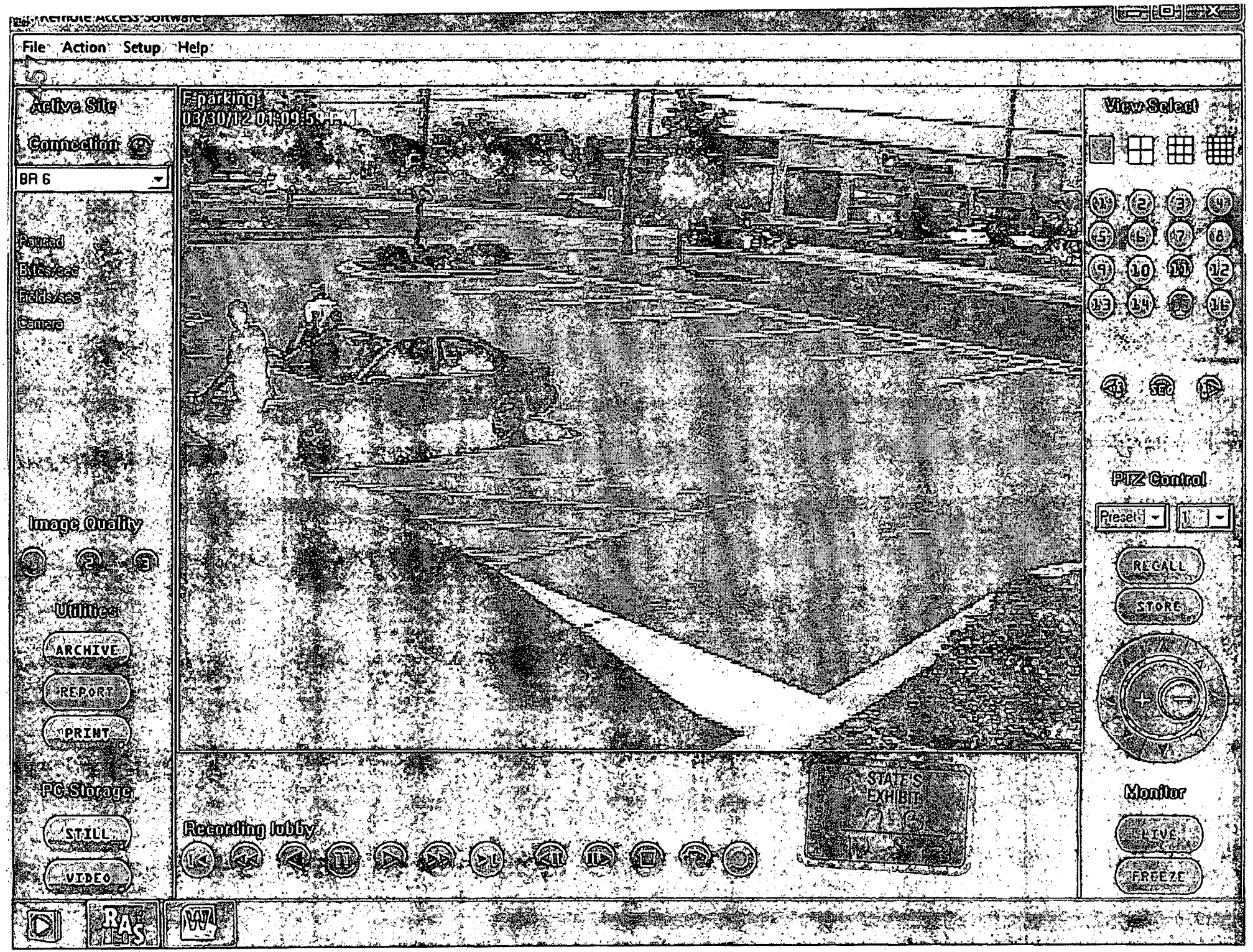
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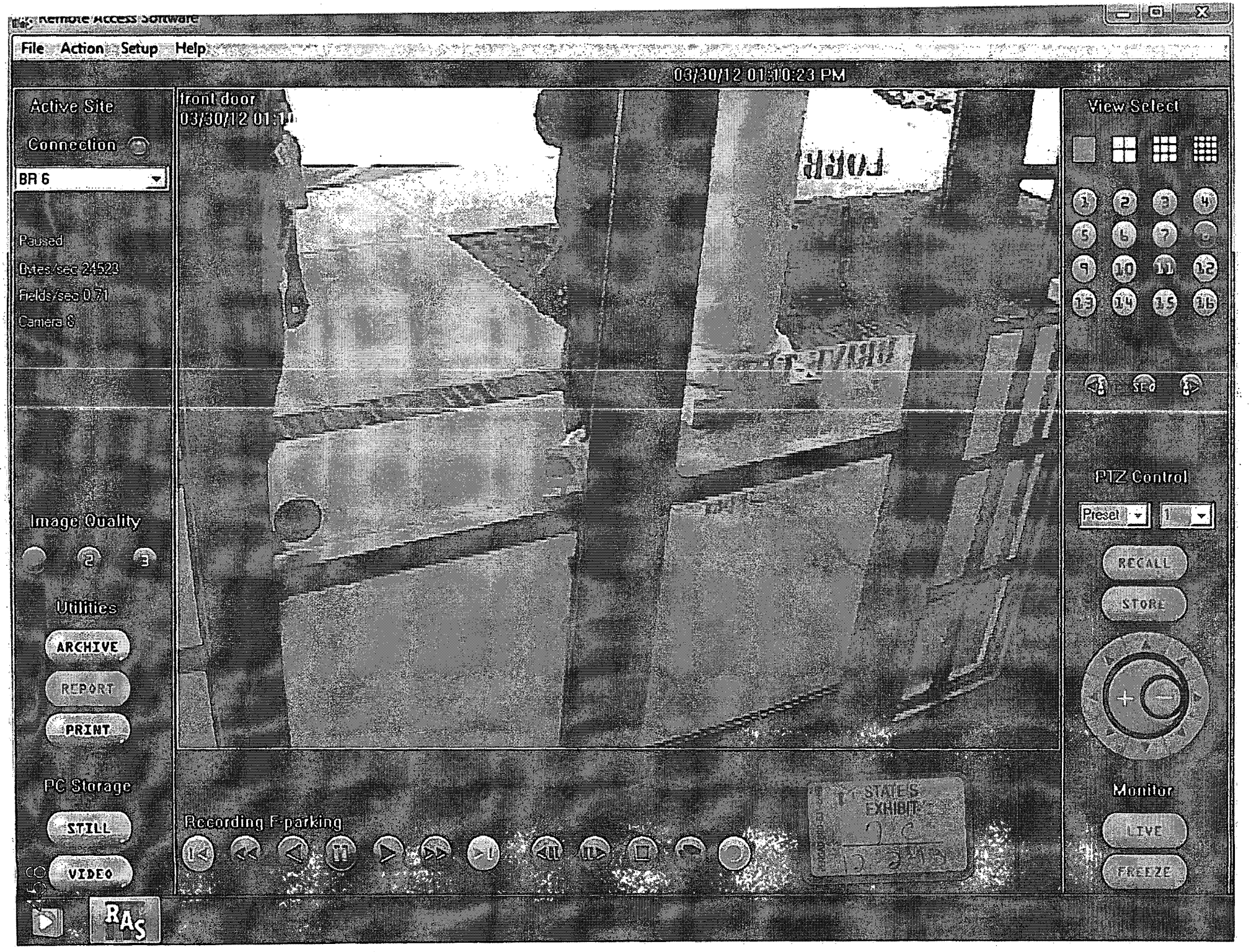
x Kimberly King
McKinley
3/30/2012

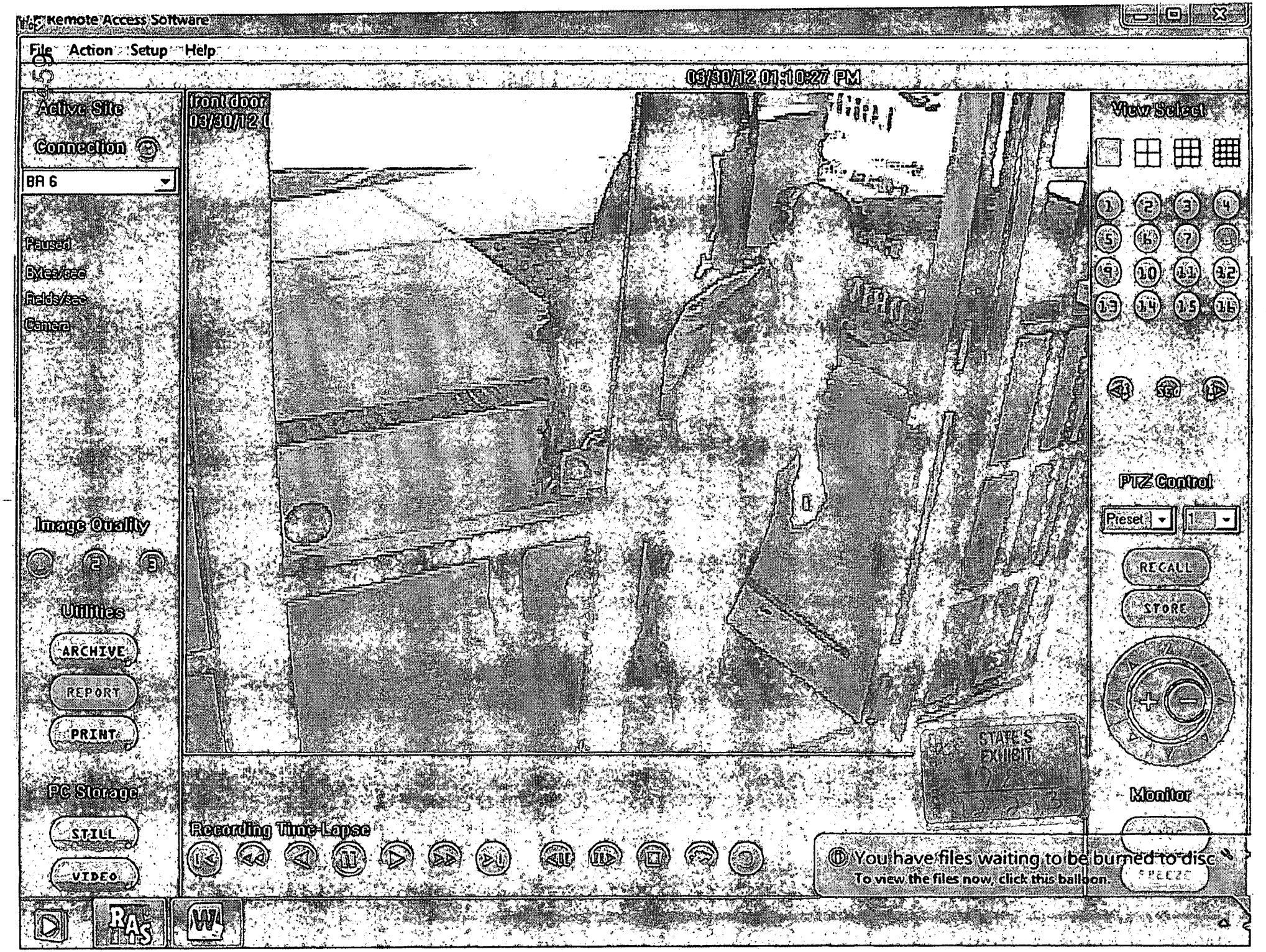
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ANDERSON SC
2013 DEC -5 P 4:14
CLERK OF COURT
COMMON PLEAS AND
GENERAL SESSIONS

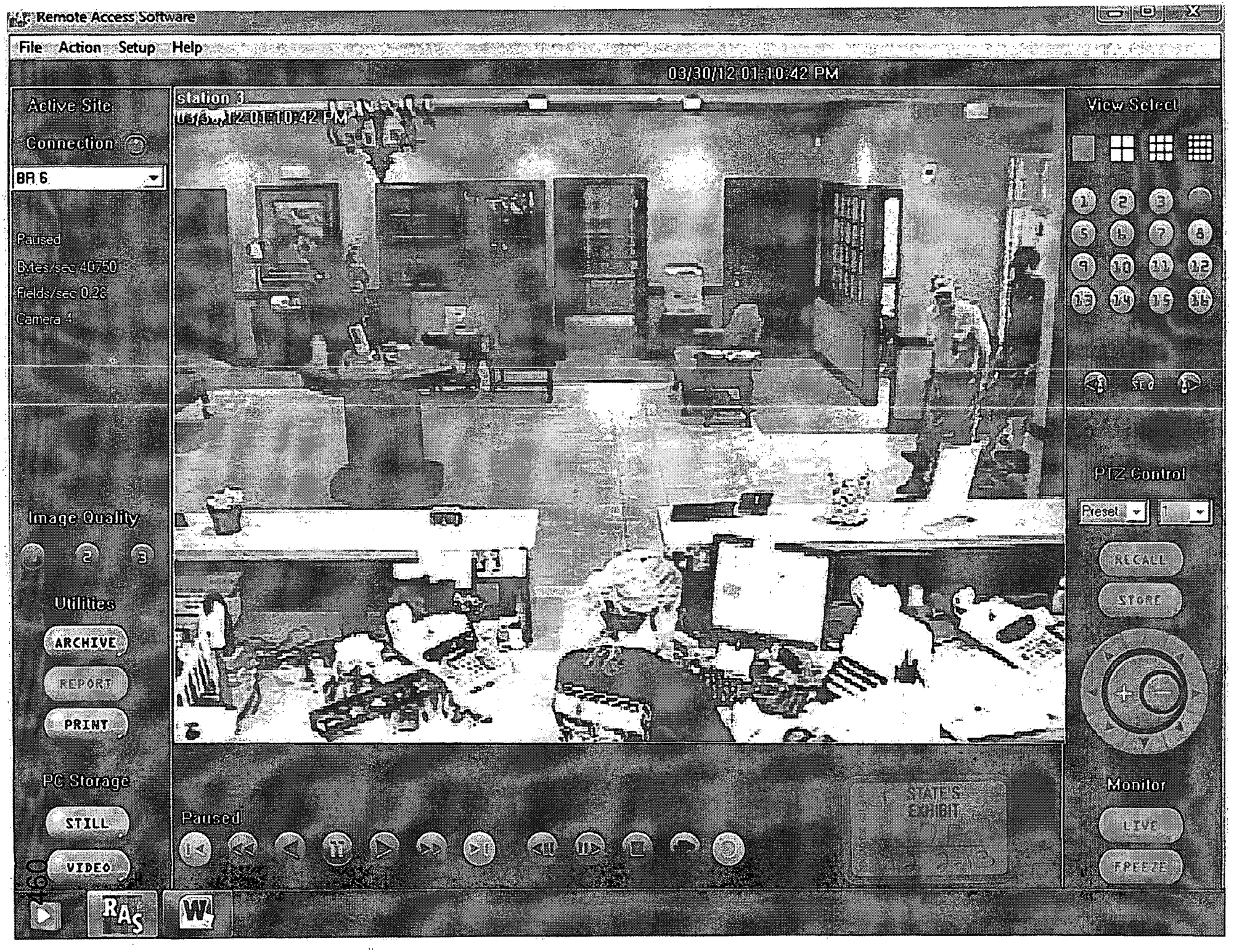
STATE'S EXHIBIT
3

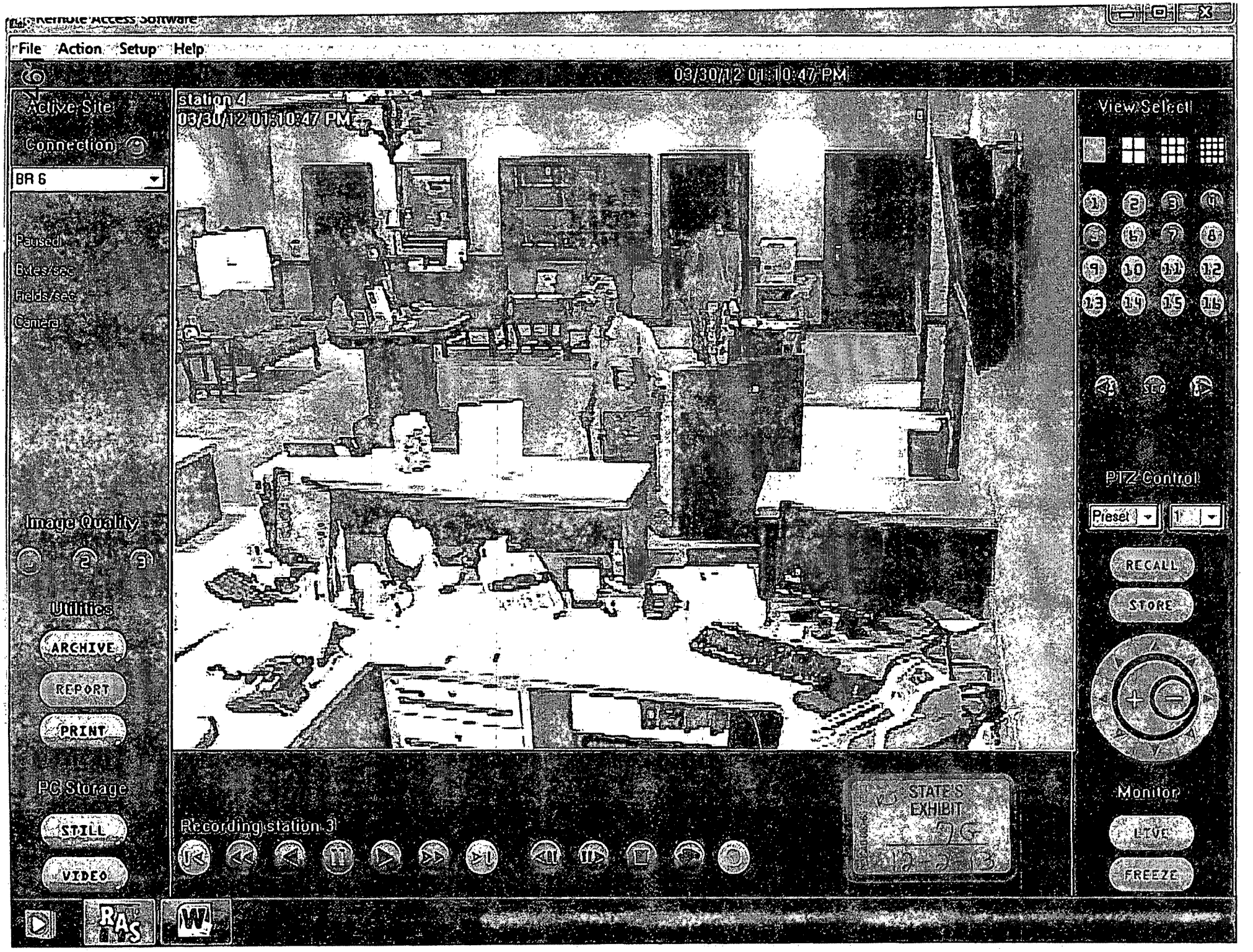

Remote Access Software
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Active Site
Connection
BR 6
Paused
Bytes/sec
Fields/sec
Camera
F parking
03/30/12 01:09:54 PM
View Select
Image Quality
Utilities
ARCHIVE
REPORT
PRINT
PC Storage
STILL
VIDEO
Paused
Play Current Clip
PTZ Control
Preset
RECALL
STORE
Monitor
LIVE
FREEZE
EXHIBIT


Remote Access Software
File Action Setup Help
Active Site
Connection
BR 6
Paused
Bytes/sec
Fields/sec
Camera
Image Quality
Utilities
ARCHIVE
REPORT
PRINT
PC Storage
STILL
VIDEO
F-parking
03/30/12 01:09:58
Recording lobby
STATE'S EXHIBIT
View Select
PTZ Control
Preset
RECALL
STORE
Monitor
LIVE
FREEZE

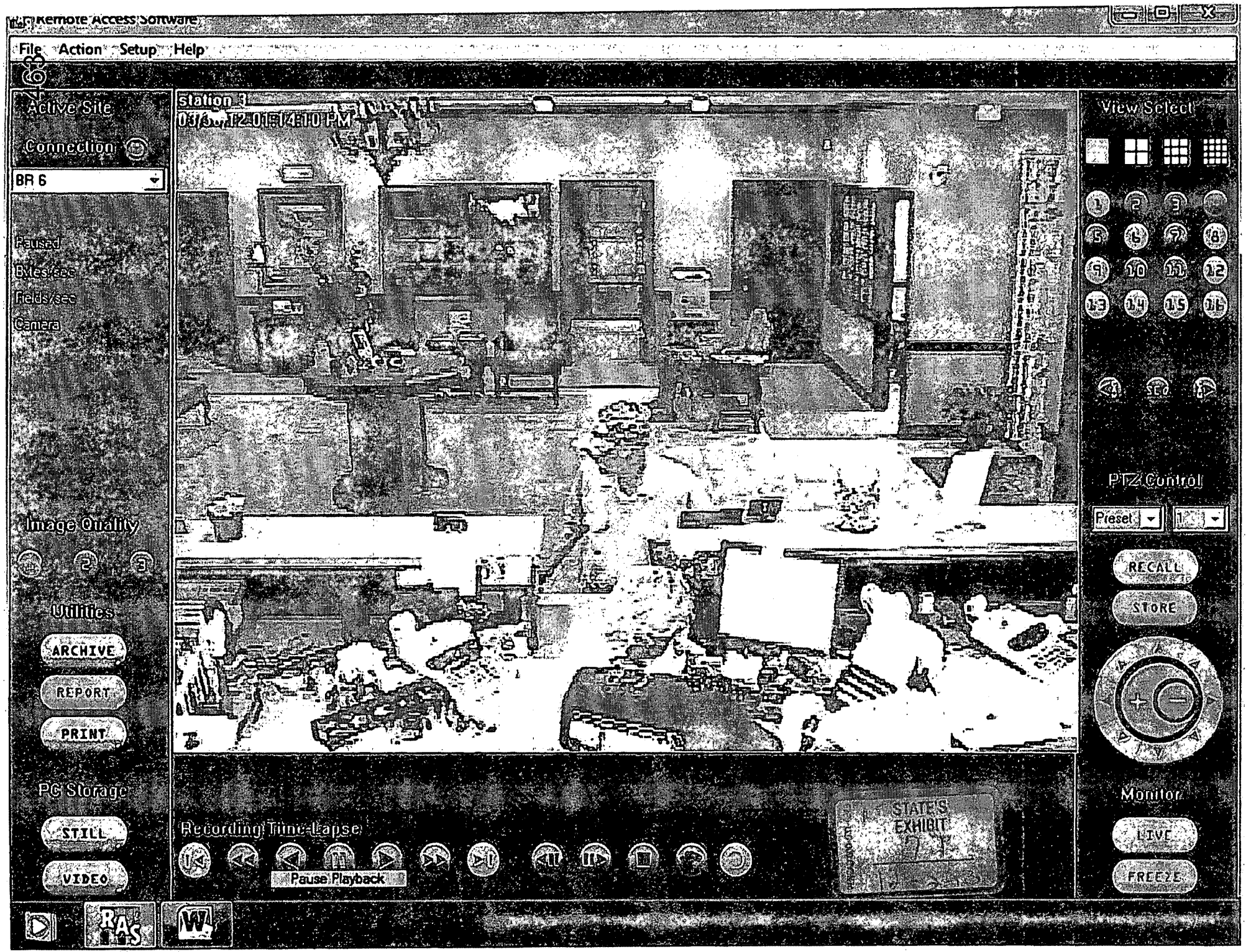

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front door
03/30/12 01:11
View Select
1 2 3 4
5 6 7 8
9 10 11 12
13 14 15 16
SEQ
Image Quality
1 2 3
Utilities
ARCHIVE
REPORT
PRINT
PC Storage
STILL
VIDEO
PTZ Control
Preset
1
RECALL
STORE
Monitor
LIVE
FREEZE
Recording F-parking
STATES EXHIBIT
RAS


Remote Access Software
File Action Setup Help
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Active Site
Connection
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Paused
Bytes/sec
Fields/sec
Camera
front door
03/30/12
View Select
Image Quality
Utilities
ARCHIVE
REPORT
PRINT
PC Storage
STILL
VIDEO
PTZ Control
Preset
RECALL
STORE
Monitor
FREEZE
STATE'S EXHIBIT
Recording Time-Lapse
You have files waiting to be burned to disc
To view the files now, click this balloon.

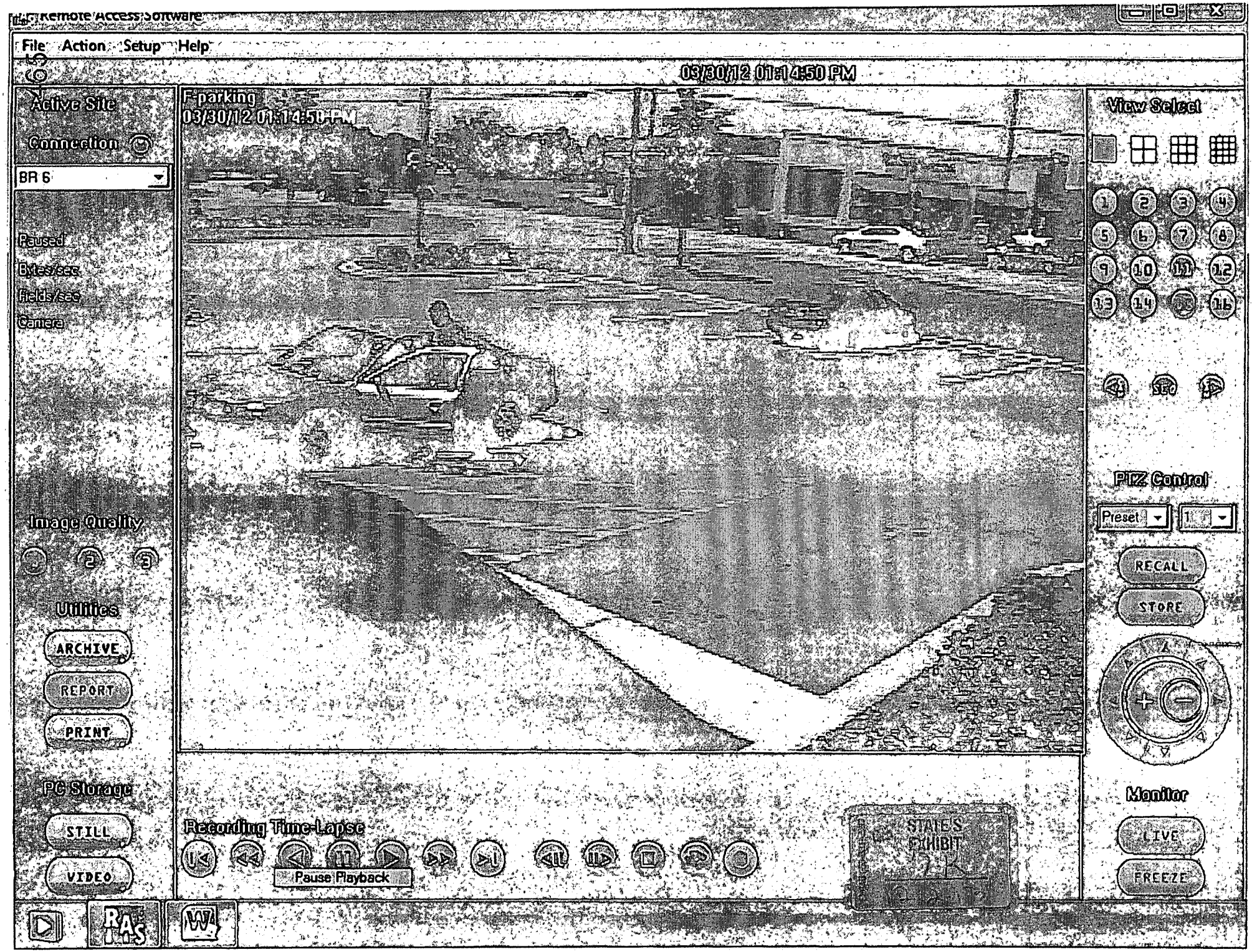

Remote Access Software
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Connection
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Camera 4
station 3
View Select
Image Quality
Utilities
ARCHIVE
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PTZ Control
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RECALL
STORE
Monitor
LIVE
FREEZE
Paused
STATE'S EXHIBIT

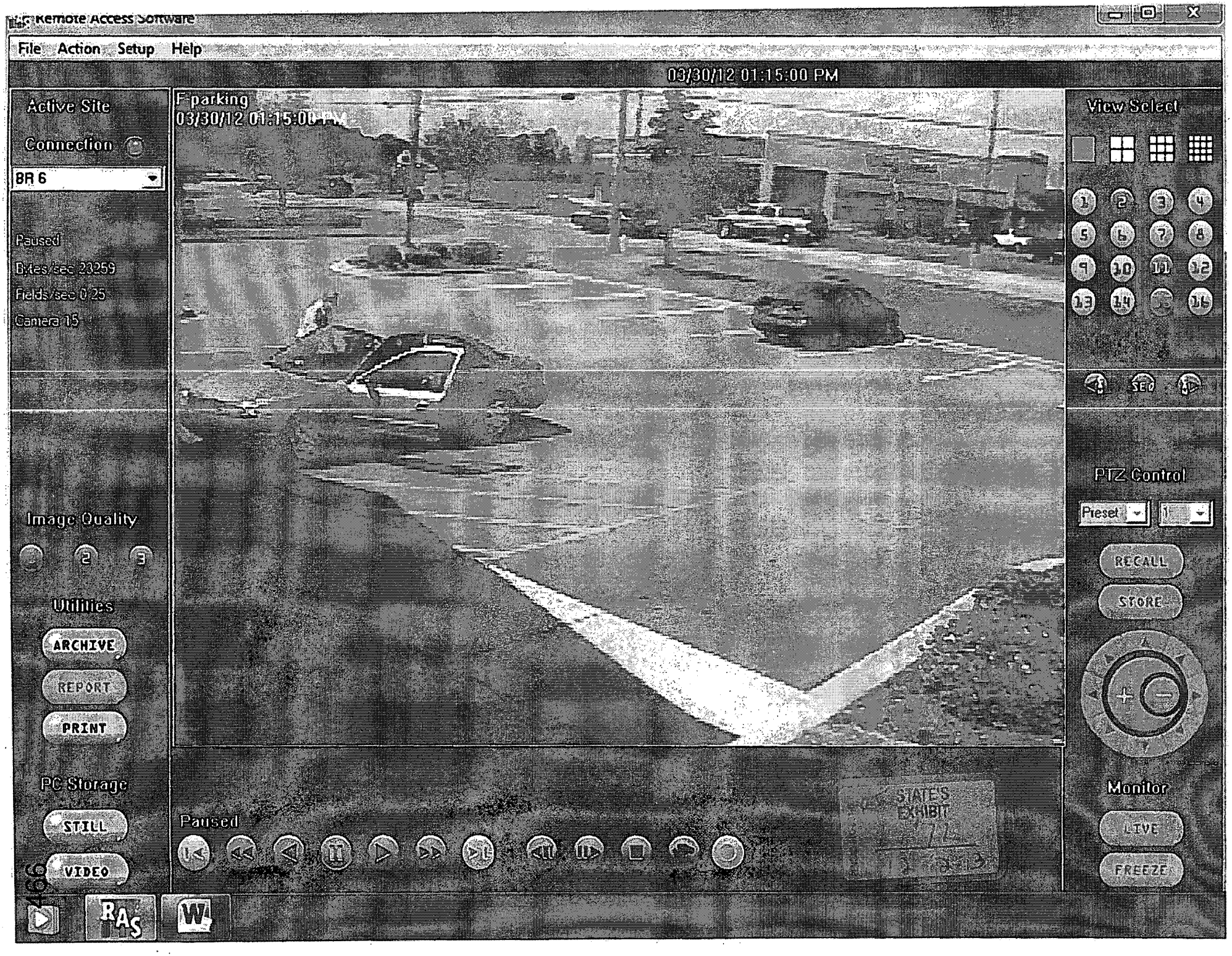

Remote Access Software
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Bytes/sec
Fields/sec
Camera
station 4
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View Select
PTZ Control
Preset
RECALL
STORE
Image Quality
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REPORT
PRINT
PC Storage
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VIDEO
Recording station 3
STATE'S EXHIBIT
Monitor
LIVE
FREEZE

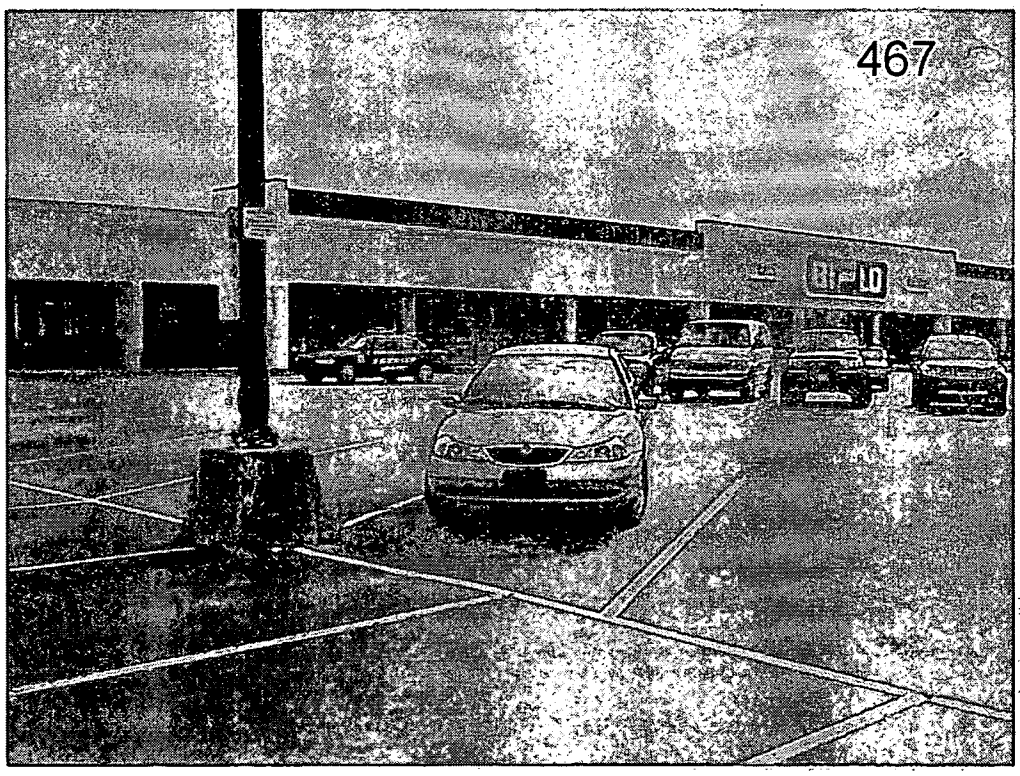

Remote Access Software
File Action Setup Help
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Connection
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Bytes/sec
Fields/sec
Camera
station 2
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9 10 11 12
13 14 15 16
SEQ
PTZ Control
Preset
1
RECALL
STORE
Image Quality
1 2 3
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REPORT
PRINT
PC Storage
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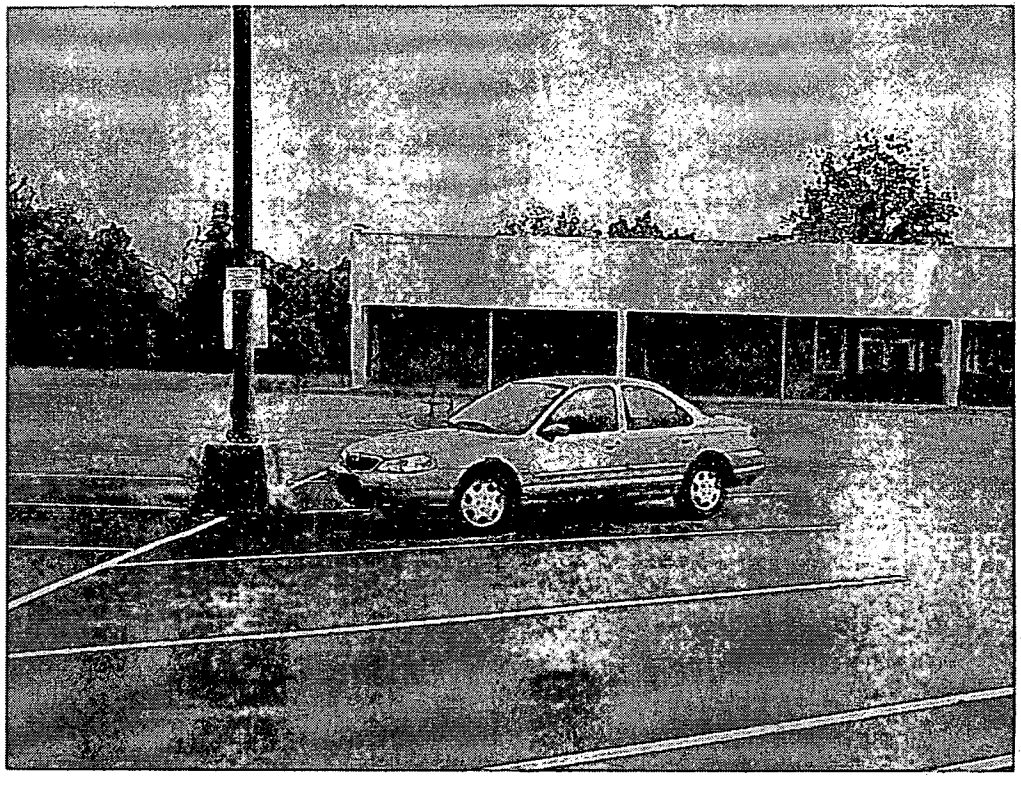

Remote Access Software
File Action Setup Help
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Connection
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Bytes/sec
Fields/sec
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Image Quality
Utilities
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REPORT
PRINT
PC Storage
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VIDEO
station 1
05/ 12 01:14:10 PM
Recording Time-Lapse
Pause Playback
STATE'S EXHIBIT
View Select
PTZ Control
Preset
RECALL
STORE
Monitor
LIVE
FREEZE


Remote Access Software
File Action Setup Help
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Connection
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Fields/sec 0.82
Camera 8
front door
03/30/12
View Select
Image Quality
Utilities
ARCHIVE
REPORT
PRINT
PC Storage
STILL
VIDEO
PTZ Control
Preset
RECALL
STORE
Monitor
FREEZE
Paused
Pause Playback
STATE'S EXHIBIT


Remote Access Software
File Action Setup Help
03/30/12 01:14:50 PM
Active Site
Connection
BR 6
Paused
Bytes/sec
fields/sec
Camera
F-parking
03/30/12 01:14:50 PM
View Select
Image Quality
Utilities
ARCHIVE
REPORT
PRINT
PC Storage
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VIDEO
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Preset
RECALL
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Recording Time-Lapse
Pause Playback
STATES EXHIBIT
Monitor
LIVE
FREEZE


Remote Access Software
File Action Setup Help
03/30/12 01:15:00 PM
Active Site
Connection
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Camera 15
F parking
03/30/12 01:15:00 PM
View Select
1 2 3 4
5 6 7 8
9 10 11 12
13 14 15 16
SEQ
PTZ Control
Preset
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RECALL
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Image Quality
1 2 3
Utilities
ARCHIVE
REPORT
PRINT
PC Storage
STILL
VIDEO
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LIVE
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Paused
STATES
EXHIBIT


467




4GG

469

WITNESSES

W B Simpson, Anderson County Sheriff's Dept.

ARREST WARRANT NUMBER

J911873

ACTION OF GRAND JURY

SEP 18 2012

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date: 12-5-13

DOCKET NO. 2012-GS-04-02002

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

SEP 18 2012

Term

THE STATE

vs.

John Fitzgerald Kennedy

CTH

Indictment for

Murder

SC Code: 16-03-0010, 0020
CDR Code: 0116

470

STATE OF SOUTH CAROLINA)
)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on SEP 1 8 2012, the Grand Jurors of Anderson County present upon their oath:

Murder

That **John Fitzgerald Kennedy** did in Anderson County, on or about **March 30, 2012,** unlawfully and with malice aforethought kill Claud Schaffer Scott by means of blunt force trauma, and that Claud Schaffer Scott died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Catherine D. Hughes
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 18, 2014

Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT