

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AHMAD JAMAL WILKINS,

APPELLANT

APPELLATE CASE NO. 2012-212387

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS #69 (VIDEO)
STATE'S # 71 (PHOTOGRAPH)
STATE'S # 110 (PHOTOGRAPH)
STATE'S # 112 (PHOTOGRAPH)
STATE'S # 114 (PHOTOGRAPH)
STATE'S # 119 (CD RECORDING)
STATE'S # 144 (AUDIO CD OF STATEMENT)

1 the jury what your initial findings were, that this was a
2 mixture. Explain to the jury how more than one person's
3 DNA can be on an item.

4 A That is just simply that whatever item that was --
5 that DNA was developed from, that the contributor -- there
6 was more than one contributor's DNA.

7 So if I were to touch something and then
8 somebody were to come behind me and touch something,
9 chances are you're going to have a mixture of my DNA with
10 another person, and that's very, very common in DNA
11 analysis.

12 Q And has DNA analysis developed and gotten very
13 sensitive?

14 A It is very sensitive, yes.

15 Q And is it uncommon to have a mixture based on the
16 testing we're doing now?

17 A I'm sorry, could you repeat the question?

18 Q Uncommon for it to be a mixture?

19 A No.

20 Q More than one person?

21 A No.

22 Q And in doing DNA analysis, can you tell this jury or
23 can anyone tell this jury how long the DNA's actually been
24 on that item?

25 A We can't tell that either, no.

1 Q And will certain things affect DNA's ability to stay
2 on an item, say, if I go over and touch something, how
3 long -- if I left DNA, number one, and if it was there,
4 how long it would stay?

5 A Yes, there's several factors that will affect whether
6 or not it can be developed.

7 Q And you mentioned earlier in your example to them
8 that simply different people handling an item can leave
9 it?

10 A Yes.

11 Q But, in fact, a person that's handled something more
12 recently, and depending on how they handle it, too, can
13 increase their chances of leaving DNA?

14 A It's possible.

15 Q Okay. The first item that you mentioned that you
16 were testing is which item?

17 A It was Item 2.

18 Q And that was a mixture?

19 A It was.

20 Q And could you tell how many people contributed to the
21 mixture? Is that possible in certain cases?

22 A I can give you -- based on the data that was
23 generated, I can tell you that there was at least three
24 contributors.

25 Q Okay. And how were you able to do that? Can you

1 explain that to the jury?

2 A Yes. With a diploid profile, which is basically a
3 profile that is generated from the DNA that you obtain
4 from mom and dad, by looking at the locations that we're
5 analyzing, we can determine the minimum number of
6 contributors based on that. So if you get half DNA from
7 mom and half from dad and those fragments are different
8 sizes, that's your unique genotype that makes you, that
9 makes you unique.

10 Based on how many alleles are present at those
11 locations we can determine, okay, this is a mixture, this
12 is at least, you know, three people, possibly more, based
13 on that, based on the alleles that we see in the data.

14 Q Okay. And typically when doing DNA testing, is DNA,
15 a person's DNA profile, the complete profile, is that
16 unique to a person?

17 A It is unique with the exception of identical twins.

18 Q Of identical twins?

19 A Correct.

20 Q So, say, even brother and sister or two brothers,
21 would their DNA be unique to each of them?

22 A Yes. Your DNA profile is unique to you and only you
23 unless you have an identical twin.

24 Q And in this case when you did your initial testing on
25 Item No. 2, which I believe is the glove?

1 A Yes.

2 Q What was your -- you said it was a mixture of three
3 people or more?

4 A Of at least three, yes.

5 Q And were you able to do any sort of testing to -- and
6 you used the words "include" and "exclude." Can you
7 explain to the jury why you used those terms?

8 A Yes. When we interpret mixtures, the first thing we
9 look at is whether it's a discernible or distinguishable
10 mixture, and that just means that there's more than one
11 person, that we have a very strong major contributor and a
12 very minor contributor. And sometimes we may have a
13 mixture of three people where there might be one major and
14 then two minor. But the first thing we do is determine,
15 okay, can we distinguish a major contributor and a minor
16 contributor in this profile.

17 In this instance, it was indistinguishable. So
18 I couldn't even depict a major and minor contributor, but
19 I can tell you that there's a minimum of three people and
20 I can -- by looking -- by comparing that to a standard, I
21 can tell you if a person is included or is excluded from
22 that mixture.

23 Q And in this case I believe you said you were able
24 to -- you had two known standards; is that correct?

25 A That's correct.

1 Q One from Ahmad Wilkins and the other from whom?

2 A Eboney Williams.

3 Q And were you able to include or -- were you able to
4 exclude either one of those as being a contributor to the
5 DNA you found from the glove?

6 A Eboney Williams is excluded as a contributor. So her
7 DNA is not present in this mixture. Ahmad Wilkins cannot
8 be excluded.

9 Q And what does that mean, "cannot be excluded"?

10 A Basically his DNA is present and he's included in
11 this mixture.

12 Q And as a contributor, could you tell whether he
13 was -- and in different mixtures it depends, doesn't it?
14 Was he a major contributor or a minor contributor or could
15 you tell?

16 A I couldn't tell. It's indistinguishable at this
17 point. So I can see the alleles present, but I cannot
18 depict whether or not he's major or minor.

19 Q Okay. In your initial testing of the ligature from
20 around the neck, what were your findings?

21 A Well, with the diploid profile that I was just
22 explaining to you where you can see the alleles
23 contributed by your mother and father, the DNA profile
24 from item three off the neck ligature was "no DNA unlike
25 the victim." So because that particular item was taken

1 off the victim herself, it's very common to see that
2 person's DNA. So from item three there was no other DNA
3 except for the victim's.

4 Q When you did the standard testing?

5 A Correct, when you do what's called the diploid --
6 generating a diploid profile.

7 Q A what profile?

8 A A diploid.

9 Q And we'll get to this later, but is there more
10 sensitive testing that can also be done that was actually
11 done in this case?

12 A Yes. It's not necessarily that it's more sensitive,
13 but we have another option where we try to develop a
14 Hepler profile. And in those instances we use a kit
15 called Y-filer. And what that will do is target male
16 specific DNA. It targets locations on the Y chromosome.

17 So, for example, if there's a victim that is a
18 female and the possible subject is a male, we will run
19 this particular kit to pull out any male DNA that's there
20 and it will completely ignore any female. So that is
21 another kit that we have the option of using and what we
22 used in this case as well.

23 Q Okay. And then as far as other items that you
24 initially tested, what were those other items? We'll get
25 back to the additional testing on this.

1 A The initial -- with the regular AmpF/STR testing,
2 Items 3, 4 and all those Items 7, which were a series of
3 six cigarette butts.

4 Q And then you have the two known standards; is that
5 correct?

6 A That is correct.

7 Q I want to show you what's been marked as State's
8 Exhibit No. 107. Is that the known standard from the
9 defendant?

10 A Yes, it is.

11 Q And was it submitted to you in a properly sealed
12 package?

13 A It was.

14 Q And it was actually submitted at a later date; is
15 that correct?

16 A That is correct.

17 Q And you actually made comparisons at a later date?

18 A Yes, that's correct.

19 Q Does the timing of when you do your DNA testing
20 affect the results in any way?

21 A No. If it's been properly packaged, no.

22 Q Okay. And once you collect the actual DNA standards
23 and do the testing yourself it can be preserved, and is?

24 A Yes.

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

1 offer 107. I believe it's not in evidence yet.

2 THE COURT: What says the defense?

3 MR. MAY: Subject to pretrial motions, Your
4 Honor.

5 THE COURT: It's admitted.

6 (WHEREUPON, STATE'S Exhibit No. 107, having been
7 previously marked, was admitted into evidence.)

8 (WHEREUPON, STATE'S Exhibit No. 121 was marked
9 for identification only.)

10 BY MS. CAMPBELL:

11 Q I'm going to show you a document -- first of all,
12 have you had an opportunity to review this?

13 A Yes.

14 Q And does it fairly and accurately reflect some of
15 your findings in this case? Not the CSC kit, but some of
16 the other findings?

17 A Yes.

18 MS. CAMPBELL: Your Honor, at this time we'd
19 offer State's Exhibit No. 121 into evidence.

20 MR. MAY: Your Honor, we have a Riddle motion.

21 THE COURT: Is there an objection to the
22 exhibit?

23 MR. MAY: Yes, sir. Objection, Your Honor.

24 THE COURT: What's the objection?

25 MR. MAY: Violation of Riddle.

1 THE COURT: Says the State.

2 MS. CAMPBELL: Your Honor, I believe she
3 testified that the exhibit --

4 MR. MAY: Your Honor, I'd ask that she not have
5 a speaking objection.

6 THE COURT: Is it a demonstrative exhibit?

7 MS. CAMPBELL: I'll use it as demonstrative,
8 Your Honor.

9 THE COURT: To be used for demonstrative
10 purposes.

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

13 THE COURT: Yes.

14 MS. CAMPBELL: Thank you.

15 BY MS. CAMPBELL:

16 Q Basically some of the testing that was done on the
17 glove, you talked first about a certain type of testing
18 that's done. Now, there's two types of testing that were
19 done on this glove?

20 A There were, yes.

21 Q And is one exclusive of the other or why were both
22 kinds of testing done on the glove?

23 A I'm sorry, could you repeat the question?

24 Q Why were both types of testing done on this glove?

25 A Basically because I had a mixture that was

1 indistinguishable, I wanted to do further analysis to see
2 if I get more information and that was more --

3 THE COURT: Madam Court Reporter, can you hear
4 the witness?

5 THE COURT REPORTER: No, Judge.

6 THE COURT: I can't either.

7 THE WITNESS: Okay. Basically for Item No. 2 we
8 had an indistinguishable mixture, meaning that we couldn't
9 tell major or minor.

10 But in this case because we had a male subject,
11 we used the Y-filer, which I explained earlier, and that
12 will ignore any female DNA that's present and focus on the
13 male DNA. So it's basically just to give us more
14 information.

15 BY MS. CAMPBELL:

16 Q Okay. And in this kit, the first testing you did,
17 which tests for male, female or whatever, right?

18 A Right. It's just the basic DNA analysis profile that
19 we're developing.

20 Q Okay. And when you did that testing on the glove,
21 your initial testing, what were your results?

22 A That Eboney Williams is excluded.

23 Q Is excluded. So her DNA's not present?

24 A Right.

25 Q Okay. In addition to that, did you do a comparison

1 to Ahmad Wilkins' known standard?

2 A We did.

3 Q And what was the result of that?

4 A He cannot be eliminated.

5 Q He could not be eliminated?

6 A That's correct.

7 Q And on this it says that his DNA is present. Is that
8 another way of saying the same thing?

9 A Yes.

10 Q So Ahmad Wilkins' DNA is present, his profile is
11 present in the DNA you developed from that?

12 A Yes. He's included in the mixture.

13 Q As well as other people's?

14 A Yes.

15 Q And then in addition to that, later, at a later date,
16 you actually did what's called a Y-filer?

17 A It's a Y-STR profile which is what is developed.

18 Q Okay. And again, that addresses or is able to weed
19 out the male DNA; is that correct?

20 A Correct. It can also give us an indication of how
21 many males are present.

22 Q Okay. And you ran that second test on this same
23 evidence. And is that unusual to do?

24 A No, it's not. It's different.

25 Q And what were the results when you did that?

1 A That it's a mixture as well and Ahmad Wilkins is the
2 major contributor of this mixture.

3 Q Ahmad Wilkins?

4 A And any paternally-related male. Because it is male
5 specific looking at the Y chromosome, so any
6 paternally-related male to him, his father, his brother
7 will have the same Y-STR profile.

8 Q And on the glove when you did the initial testing,
9 are there any statistics that you actually attribute to
10 whether or not that is Ahmad Wilkins' DNA?

11 A The statistics that I can use for this mixture that
12 was obtained off the glove was from the very first
13 analysis, and because it is indistinguishable I can't pull
14 out a major or minor and basically that allowed me to
15 observe the alleles that are in the mixture, determine
16 whether or not the alleles from the contributor are there,
17 and then calculate the percentage of the population that
18 would be excluded from the mixture.

19 Q And what percentage of the total population anywhere
20 is excluded from the mixture?

21 A 99.95 percent of the Caucasian and African-American
22 populations were excluded.

23 Q So 99.95 percent of people --

24 A Yes.

25 Q -- are excluded?

1 A That is correct.

2 Q And is that considered a rare match?

3 A That is a very high number of exclusion.

4 Q I guess I get caught up in the words.

5 Is that a better way to put it, that that's a
6 very high number of exclusion?

7 A Correct.

8 Q When you actually ran the neck ligature again, were
9 you able to find DNA?

10 A I was.

11 Q And again, was that a mixture?

12 A From the regular AmpF/STR it was just the female's
13 DNA, so -- from our victim, so from there I did the Y-STR
14 kit to check if we could find any additional males and
15 actually there was a mixture, a male mixture on that item.

16 Q Okay. And were you able to determine whether or not
17 the defendant's DNA was present?

18 A I was. So that Ahmad Wilkins or any
19 paternally-related male, any male that shared that Y-STR
20 profile cannot be eliminated.

21 Q Are there special steps that you took to try to get
22 DNA evidence from the neck ligature?

23 A Yes.

24 Q And explain to the jury what you actually had to do
25 to get a suitable, I guess, sample.

1 A Because it was a touch DNA item, we basically scrape
2 it down with a sterile blade and then take a swabbing of
3 that and any type of fragments that come off of that in
4 hopes to dislodge any epithelial cells that were on that
5 item, and then from there, we put that in a tube and then
6 we start our process.

7 Q And that was done in this case?

8 A It was.

9 Q And has been used in other cases?

10 A Yes.

11 Q Item number four that was also tested was the nail
12 scrapings from the left hand only; is that correct?

13 A Yes, that's correct.

14 Q And you tested those items as well?

15 A I did.

16 Q And who -- you were able to get DNA from that?

17 A I was.

18 Q And who did that match?

19 A That matched the victim.

20 Q So the nail scrapings matched the victim. Is that
21 unusual in nail scrapings?

22 A No, it is not. Nail scrapings are an example of what
23 we call an intimate sample, meaning that they are taken
24 off the person themselves, so it's not unusual. We'd
25 expect to see that person's DNA in that sample because

1 it's coming off of their person.

2 Q The next item that you actually tested was a series
3 of cigarette butts?

4 A Yes.

5 Q And those items were tested as well?

6 A They were.

7 Q And were you able to come up with -- to extract DNA
8 from those cigarette butts?

9 A I was.

10 Q And what were the results of those?

11 A Item -- the cigarette butt 7.1, 7.3, 7.4, 7.5 and 7.6
12 from the six different butts that were collected, they all
13 came back to the victim. And then there was a cigarette
14 butt that was labeled 7.2 that came back to an unknown
15 female.

16 Q So was there any reason for you to do any further
17 comparison to Ahmad Wilkins's DNA it if's an unknown
18 female?

19 A No, there was not.

20 Q Because you can exclude it on that alone?

21 A Yes.

22 Q Item number ten, the beer can that was near the
23 cigarette butts that you tested, were you able to extract
24 any DNA from that?

25 A It was not -- there was no DNA extracted from that

1 sample.

2 Q So even if, say, I hold a beer can, you aren't
3 necessarily going to be able to get a DNA profile from me
4 depending on how it's held and all the factors we've
5 talked about?

6 A Correct, yes.

7 Q And finally the final item, one of the items were the
8 two Buccal swabs, the one from the victim and the one from
9 the defendant?

10 A Yes.

11 Q And those were used as comparisons?

12 A They were.

13 Q Thank you. You can be seated.

14 The testing in this case took place and kind of
15 evolved over a period of time; is that correct?

16 A That is correct.

17 Q And, in fact, were certain items in this case
18 resubmitted?

19 A They were.

20 Q And why did that happen? Explain that to the jury.

21 A Basically we're coming up with new techniques all the
22 time to enhance our ability to develop DNA profiles. So
23 that the scraping technique that I had mentioned earlier,
24 that was something that had come around more recently and
25 so our attempt was to just get more information until we

1 could see who the contributors were.

2 Q And that was done in this case. And in this case I
3 believe the evidence was submitted at least twice?

4 A Yes, that is correct.

5 Q And as long as the evidence is stored properly, does
6 it inhibit your ability to test at a later date?

7 A No, it does not.

8 Q And each time with each piece of evidence in this
9 case, every single piece you tested on whichever time, was
10 it submitted correctly?

11 A It was.

12 Q And do you actually look for evidence of tampering
13 prior to doing the testing?

14 A Yes, I do.

15 Q Were you also in contact with the investigators on
16 this case?

17 A I was.

18 Q And at one point did you actually request that the
19 rape kit be resubmitted?

20 A Yes.

21 Q And it took them a period of time to get it back over
22 to you?

23 A Yes, that is correct.

24 Q And you documented that, your attempts to get it from
25 them?

1 A Yes.

2 Q And did you also -- when you got it back --

3 MR. MAY: Objection, Your Honor. I'd ask that
4 the witness testify and not Ms. Campbell.

5 THE COURT: I haven't heard the question.

6 BY MS. CAMPBELL:

7 Q How was it submitted?

8 A Under normal protocol. When I received it, it was
9 sealed properly and labeled.

10 Q And this is a piece of evidence you'd already
11 examined prior to that?

12 A It was, yes.

13 Q And when you -- how was it packaged when you
14 resubmitted it after first looking at it?

15 A Initially it was in a box with four other items, and
16 when I received that box again when it was resubmitted,
17 Item 1 was not in that particular box at that time.

18 Q So it would have been separate?

19 A Yes.

20 Q Would you have made sure that it was sealed properly
21 and stored properly?

22 A Yes.

23 Q And that was done?

24 A Yes.

25 Q And then when it was resubmitted in I believe it was

1 January of 2010, was it still sealed properly?

2 A It was.

3 Q So there's no evidence of any tampering or
4 alteration?

5 A No.

6 Q Is that correct?

7 A That is correct, yes.

8 Q And I believe that the criminal sexual conduct kit
9 was actually submitted a third time to your department for
10 testing recently?

11 A It was submitted again, yes.

12 Q And that was at the Court's request --

13 A That was.

14 Q -- for further testing.

15 You hadn't done any testing initially on the CSC
16 kit. Why was that?

17 A Because the kit screened negative for semen.

18 Q When the CSC kit, which is Item No. 106, was
19 resubmitted recently, was it packaged properly?

20 A Yes, it was.

21 Q And was there any evidence of any tampering or
22 altercation of the evidence itself?

23 A No, there was not.

24 Q And did you -- when did you last receive it this
25 year?

1 A I started my analysis on it again the last time on
2 March 8th of 2012.

3 Q And did you do additional testing?

4 A Yes, I did.

5 Q And what kind of testing were you requested by the
6 Court to do?

7 A Because the kit screened negative for semen, they
8 still wanted us to do a DNA analysis to just try to
9 develop any profile of any male that would be there
10 potentially. So I picked up the evidence again, retested
11 samples, and did the Y-STR profile to identify any male
12 DNA that was present, and there was none. They were
13 negative.

14 MS. CAMPBELL: Your Honor, at this time I'd
15 offer State's Exhibit 106 into evidence.

16 THE COURT: What says the defense?

17 MR. MAY: Your Honor, I'd object with there
18 being some chain issues.

19 THE COURT: What says the State?

20 MS. CAMPBELL: Your Honor, I believe we've
21 presented the chain evidence and explained it.

22 THE COURT: Ladies and gentlemen, I'll have you
23 go to the jury room while we talk about this for a moment.

24 (The jury left open court at approximately
25 5:30 p.m.)

1 THE COURT: Ms. Campbell, if you'll recap the
2 chain testimony for me.

3 MS. CAMPBELL: Your Honor, I'll get you a clean
4 copy of the chain.

5 Basically the evidence at autopsy was collected
6 by Leonard Bradley. The next day on February 5th, 2009,
7 Leonard Bradley gave it to Tammy Moore. That same day she
8 took it to the CPD locker as she testified.

9 Then on February 13th, Theresa Dixon gave it to
10 Tammy Moore. She returned it that same day.

11 On the 17th it was released to Tammy Moore who
12 then took it to the Richland County Sheriff's Department,
13 turned it over to Tena Goff as she testified.

14 On the 17th Tena Goff then forwarded it to
15 Rachel Grant at the DNA department.

16 It was then returned to the evidence room. And
17 on September 3rd of 2009, William Cedarstaff gave it to
18 P.J. Nelson who returned it to the CPD evidence room.

19 Then on October 1st of 2009, Donna Martin gave
20 it to P.J. Nelson, but it was not in that box. The box
21 went over, but as she just testified, it was done
22 separately.

23 Then on January 4th, Donna Martin gave it to
24 P.J. Nelson to be taken over. Nelson hand-delivers it to
25 Rachel Grant herself as she testified to.

1 And then on March 8th of 2012, Mr. Nelson again
2 took the item back to Tena Goff where the final analysis
3 was just done.

4 THE COURT: What says the defense?

5 MR. MAY: Yes, sir. Your Honor, between
6 10-17-2010 and 1-4-2011 -- I'm sorry, between 10-1-2009
7 and January 4th, 2010, the rape kit is missing. Your
8 Honor, it is in her notes that she denotes.

9 THE COURT: The other witness who had it at CPD
10 says it was not missing.

11 MR. MAY: She never said where it was. And in
12 her notes, Your Honor, respectfully --

13 THE COURT: Is that the basis for your objection
14 or do you have more?

15 MR. MAY: I have more, sir.

16 THE COURT: All right.

17 MR. MAY: And in her notes, which we have not
18 been able to cross her on, she states that the rape kit
19 was removed, meaning that it's intentionally taken out.

20 THE COURT: Who said that?

21 MR. MAY: In her notes, in her bench notes.

22 THE COURT: It wasn't in her possession, it was
23 in the police department's possession, wasn't it?

24 MR. MAY: We don't know. I don't believe that
25 Ms. Donna Martin ever said where it was. She never said

1 where it was. She said it wasn't lost, but she never says
2 where it was.

3 In fact, she -- it's documented in Ms. Grant's
4 notes, says that it is -- it says in Ms. Grant's notes
5 that the rape kit cannot be located. She never said where
6 it was found, she never says where it was.

7 THE COURT: Ms. Grant's notes?

8 MR. MAY: In Ms. Grant's notes.

9 THE COURT: It's what Ms. Grant said?

10 MR. MAY: That's the quotation from Ms. Martin.

11 THE COURT: But Ms. Grant was not the custodian
12 of it at the time, was she?

13 MR. MAY: Your Honor, I'm showing the Court that
14 there's a chance or there's a -- there's a lot of
15 circumstances that show that the custodian did not know
16 where it was.

17 THE COURT: All right. According to you and
18 according to this witness.

19 MR. MAY: Your Honor, all we have is evidence.
20 All they have is that it wasn't lost from what she says.
21 So, I mean, Your Honor, I think it cuts both ways.

22 THE COURT: What says the State?

23 MS. CAMPBELL: May it please the Court.

24 In her statement -- it seemed to be obvious,
25 Your Honor, I believe her testimony was it was located

1 in -- there were four other boxes and it was located in
2 one of those boxes. She said it was never missing, that
3 it was in the evidence room the entire time. That was her
4 testimony.

5 THE COURT: All right. The law does not require
6 testimony as to whose eyes are on an item for the entire
7 period of time between the time it's collected and
8 presented in court. It requires that it not be tampered
9 with and accounted for. I overrule the objection. It's
10 admitted over objection.

11 (WHEREUPON, STATE'S Exhibit No. 106, having been
12 previously marked, was admitted into evidence.)

13 THE COURT: Let's bring the jury back.

14 Let's stand for a moment or two as they gather
15 them.

16 (The jury came into open court at approximately
17 5:35 p.m.)

18 THE BAILIFF: Your Honor, the jury's present.

19 THE COURT: Continue.

20 The back row jurors are having difficulty
21 hearing the witness. I can't hear the witness, the court
22 reporter can't hear the witness.

23 Now, ma'am, hit that mic a time or two. Maybe
24 you need to talk into the mic so that people can hear you.

25 BY MS. CAMPBELL:

1 Q Okay?

2 A Uh-huh.

3 Q And when the kit was submitted to you, Item No. 106
4 that's now into evidence, it was properly sealed?

5 A That is correct.

6 Q And what was the results of the testing of the kit
7 the final time?

8 A Using the Y-STR amplification kit, there was no Y-STR
9 DNA profile developed from the vaginal, oral, or rectal
10 swabs.

11 Q And what does that mean in terms I can understand?

12 A There was no male DNA present.

13 Q And is that what you're typically looking for in a
14 DNA -- in a rape kit? Excuse me.

15 A Yes, that is correct.

16 Q And as far as your final finding on the glove, whose
17 DNA did that include or match?

18 A Ahmad Wilkins cannot be excluded, and with the Y-STR
19 kit, he is the -- him or any paternally-related male is
20 the major contributor.

21 Q So his -- is that a fair way of saying his DNA is
22 present?

23 A Yes.

24 Q And as far as the ligature from the neck, when you
25 ran the Y-filer on that, what were your results?

1 A There was a mixture that was four individuals, four
2 males, and he cannot be excluded from that mixture.

3 Q So it'd be fair to say his DNA is present --

4 A Yes.

5 Q -- or any paternally-related --

6 A Yes, that's correct, any paternally-related male.

7 Q For the record, can DNA flow through the air and
8 transfer that way?

9 A No, it cannot.

10 Q And when you say touch DNA, it's not different from
11 body fluids but it's just a different way of getting it
12 there?

13 A Correct. It's from your epithelial cells that have
14 been left behind when you touch an object.

15 Q But there has to be an actual touching?

16 A Yes.

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

18 (Pause.)

19 MS. CAMPBELL: Thank you.

20 Your Honor, I have nothing further.

21 THE COURT: Cross-examination?

22 MR. MAY: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. MAY:

25 Q Now, let's just go ahead and start off with something

1 that's different from your report, okay?

2 A Okay.

3 Q At Ms. Campbell's prompting, you just said that
4 Mr. Wilkins' DNA is present in these samples, correct?

5 A Yes.

6 Q Now, in your report do you say that?

7 A No, I do not.

8 Q Now, in your report you say that he cannot be
9 excluded, correct?

10 A That is correct.

11 Q For either thing? For either the neck ligature,
12 correct?

13 A Yes, that is correct.

14 Q Or the glove?

15 A The Y-STR profile for the neck ligature --

16 Q The Y-filer?

17 A Yes.

18 Q You can't exclude him?

19 A I cannot exclude him.

20 Q That doesn't mean he's present, does it?

21 A It means he's included.

22 Q But it doesn't mean that he's -- you said -- she
23 said -- she asked you is his DNA present, and you cannot
24 say that based on the results also from the Y-filer, can
25 you?

1 A He cannot be eliminated which, therefore, includes
2 him in that mixture, so yes, his DNA is present.

3 Q You're saying that his DNA from his body is present
4 in that profile?

5 A The Y-STR profile, him or any paternally-related
6 male.

7 Q Why didn't you say that in your report?

8 A I did say that in my report.

9 Q You said he can't be excluded. You never said his
10 DNA's present, did you?

11 A The statements that we have in our report are candid
12 statements. They do it by reporting protocol pretty
13 consistent from analyst to analyst. So because my
14 statement says he cannot be excluded, therefore it
15 includes him into this mixture.

16 Q All right. So that means that he or one of his
17 paternal relatives -- your testimony today is that he or a
18 paternally-related relative's --

19 A Correct.

20 Q -- DNA, actual DNA is present on that ligature?

21 A Yes, in the mixture that was obtained.

22 Q Okay. That's testimony today.

23 All right. So let's go through this.

24 You wouldn't say this is an ideal DNA case,
25 would you?

1 A Define "ideal."

2 Q You're not saying that it's one in ten quadrillion?

3 A Not necessarily, no. Depending on the type of
4 evidence and the data that we generate, we have different
5 options for statistics. There is no ideal DNA case. We
6 represent the facts for how they are.

7 Q All right. Now, you already said that on the glove
8 there is no -- you cannot determine a major contributor,
9 correct?

10 A Correct.

11 Q The only thing you can conclude is that the victim's
12 DNA is not located on the glove, correct?

13 A That is correct. She was excluded as a contributor.

14 Q Now, there are mixtures here, correct?

15 A That is correct.

16 Q And now, I'm no DNA analyst, so if I butcher some of
17 these terms, please bear with me.

18 A Okay.

19 Q But when you look at mixtures, what happens is you
20 get -- you use an electropherogram, correct?

21 A That is the data printout.

22 Q Okay. But you use a machine to look at it, correct?

23 A I use an instrument called a genetic analyzer.

24 Q All right. And what happens is you never really can
25 say that -- it's not like you can -- when you get your

1 report, it's just a bunch of numbers; is that fair, at
2 different loci? At different loci you say -- loci is
3 locations, correct?

4 A That is correct.

5 Q And what you're doing is you're not mapping the human
6 gene -- you're not mapping the human genome, you're
7 looking at very specific places on different chromosomes?

8 A That is correct.

9 Q And you're looking for repeats and that's what an
10 allele is, is how many repeats are seen at those certain
11 locations?

12 A That is correct.

13 Q And as you're looking at these, you use a technique
14 to amplify the gene?

15 A Correct.

16 Q You're looking at certain places and once you get the
17 readout, it's -- you get a readout of different alleles,
18 meaning numbers of repeats at certain locations?

19 A That is correct.

20 Q All right. So when you get these readouts it's
21 not -- you can't match an 11 allele at one location to a
22 12 allele at the other?

23 A I'm not sure I follow your question. I'm sorry.

24 Q I'm trying to explain it the best way I can. It's in
25 here. Let me see if I can get it out.

1 All right. If those are three genes, it's not
2 that you say there's an 11 in this -- 11, 12, 13, 14 --
3 what I'm trying to say is that you do not -- the machine
4 doesn't capture a gene and you look at that gene by
5 itself.

6 A No.

7 Q You look at all the alleles at certain locations
8 together?

9 A Yes, we interpret mixtures as a whole.

10 Q Okay. Now, when you interpret mixtures as a whole,
11 if the same allele is there from two different
12 contributors, say an 11, that 11 will only show up as one
13 11, not two 11s?

14 A That is correct.

15 Q So I don't want to use the term "mass," but it's
16 hidden, so if there's three 11 alleles, there's only going
17 to be one show up on your report?

18 A That is correct.

19 Q Now, the Y-filer is something different. The Y-filer
20 looks -- I'm sorry, let's go back to STR. I apologize.
21 I'm trying to get this correct.

22 The STR looks at different places on the
23 chromosome, and a chromosome, you have one from your
24 mother and one from your father?

25 A For the Y-STR we --

1 Q Not the Y-STR.

2 A I'm sorry.

3 Q For the standard identifying kit that you use.

4 A Yes.

5 Q So there should be two alleles -- even if they're
6 both 11s and only one shows up, but there's one from the
7 father and one from the mother?

8 A That is correct.

9 Q And then with the Y-filer, you have only the Y
10 chromosome.

11 Now, let's talk about this for a second because
12 the Y chromosome is donated solely by the father.

13 A That is correct.

14 Q So my Y chromosome is the same as my brothers, the
15 same as my four brothers, assuming that we had the same
16 father?

17 A Correct.

18 Q And it's the same as my father's three brothers,
19 assuming that they had the same father?

20 A That is correct.

21 Q And we can just branch this out as far as the
22 imagination can go depending on how many male relatives
23 you have from a common related paternal patriarch?

24 A Correct.

25 Q Now, let's talk about CPD using you-all.

1 Y'all charge CPD money to use your services,
2 correct?

3 A That is correct.

4 Q Now, I will show you something and please tell me if
5 you recognize this.

6 A I do.

7 Q And is that a bill for a contract agreement with
8 Columbia Police Department for y'all's services?

9 A It is a request form for analysis.

10 Q And on there you quote them \$200 per test y'all run,
11 or per sample?

12 A Yes.

13 Q And then y'all bill them at the end. And as you
14 said, you're located at Two Notch Road?

15 A That is correct.

16 Q And CPD is on Washington Street downtown?

17 A I guess. I'm not familiar with their location.

18 Q All right. Well, there's another DNA laboratory on
19 Broad River Road, correct?

20 A That there is, correct.

21 Q And they don't charge anybody anything, they do it as
22 a part of their mission to provide free DNA?

23 A Correct.

24 Q So CPD came to y'all and is paying tax dollars in
25 order to -- as opposed to going to the free laboratory,

1 correct?

2 A Correct.

3 Q Now, on this test for the glove, you ran an
4 Identifiler kit, correct?

5 A That is correct.

6 Q Now, there's additional kits you can run that look at
7 different loci or locations?

8 A That is correct.

9 Q And in this case you did not. There's a PowerPlex
10 which looks at three additional or two additional?

11 A Two additional, but they -- but there are -- a lot of
12 them overlap between kits.

13 Q A lot of them overlap, but there are additional
14 places that other tests look at?

15 A Correct. There are additional, but it does subtract
16 two other loci from the current kit.

17 Q I got you. But you could look at additional loci had
18 you run these kits?

19 A That's true.

20 Q Now, you agree with me that DNA is a biological
21 material?

22 A I do agree with that.

23 Q And it can be degraded and destroyed?

24 A Yes.

25 Q And it needs to be kept in accordance with certain

1 procedures?

2 A Correct.

3 Q And while it can also be destroyed, it can also be
4 planted?

5 A Correct.

6 Q There's a reason there's procedures to ensure correct
7 handling of specimens. You'd agree with that, right?

8 A I do agree with that, yes.

9 Q Now, in this case -- and the reason why laboratories
10 follow certain procedures is because mistakes discredit
11 your laboratory or discredit the results, right?

12 A That is correct.

13 Q You want to make sure that everything is uniform so
14 that way, that people can have faith in what you're
15 saying?

16 A Yes.

17 Q Now, in your log you say that evidence was
18 unintentionally returned to CPD, correct?

19 A That is correct.

20 Q And "unintentionally" is your word that you use in
21 your log, right?

22 A Yes, it is.

23 Q CPD does not have a laboratory, do they?

24 A I believe they do have a drug analysis. I'm not
25 familiar with it.

1 Q DNA?

2 A No, no DNA laboratory.

3 Q All right. So it's not like they could take
4 specimens and open them up and run an Identifiler or a
5 PowerPlex on different specimens?

6 A Correct.

7 Q So the only things they can do is lose evidence,
8 destroy it or plant it? They couldn't examine the
9 evidence, could they?

10 A No. Not that I'm aware of, no.

11 Q Now, you requested this evidence back and that's
12 denoted in your notes, correct?

13 A Which time?

14 Q From October of 2010 -- 2009, I'm sorry?

15 A Yes.

16 Q Let me take one step back. If you have your notes
17 with you, look at page 54.

18 A Page 54?

19 Q Yes. At least that's what it says in ours. Let me
20 show this to you.

21 A Okay. Yes, I haven't updated each jacket.

22 MR. MAY: Your Honor, if I could get a copy of
23 that, that'd be great.

24 BY MR. MAY:

25 Q Did it change any of your notes?

1 A No.

2 Q Okay. Do you have this sheet?

3 A I do.

4 Q Now, on June 4th, 2009, you had Dave McClure upload a
5 mixture into CODIS as a forensic mixture; is that correct?

6 A That's correct.

7 Q Now, CODIS is the DNA database pretty much?

8 A Yes. It stands for Combined DNA Indexing System.

9 Q And if I can phrase this the correct way. There are
10 a lot of potential offenders in there, correct?

11 A Correct.

12 Q Okay. And he ran it and do you have the report that
13 he received from once he uploaded the mixture?

14 A There is no report that was generated as a result of
15 this search.

16 Q All right. So what happens is that he puts in the
17 alleles and he uploads the different numbers of the
18 different loci and then it runs and sees what kind of
19 permutations the program can find and see if there are any
20 matches from potential offenders and then there is a
21 report?

22 A It will generate potential candidates, not
23 necessarily matches.

24 And after speaking with Dave McClure at SLED,
25 they don't keep -- because what we had done was called a

1 keyboard search, or you can do it manually, but they don't
2 keep a record or any documentation of that search.

3 Q Now, earlier I asked you if you could call up Dave
4 McClure and see if he could upload it and then give me a
5 printout, didn't I?

6 A Yes, you did.

7 Q Did that happen?

8 A No, it did not.

9 Q All right. Was that after you talked to Ms. Campbell
10 or before? Did you ever talk with Mr. McClure?

11 A I did talk to Mr. McClure.

12 Q All right. And they wouldn't do it?

13 A It's something that they don't keep on file.

14 And it's kind of like generating a list -- say
15 if you were to buy a lottery ticket and you wanted to
16 generate a list of anybody who has a potential number
17 that's in that winning number and you can realize pretty
18 quickly that that list would be exponentially very large.
19 So as a result of this upload of this mixture, there was
20 lots of potential candidates, not actually matches. It
21 would bring up anybody that had one allele in common, who
22 had two alleles in common, or so forth.

23 So in this particular instance that's something
24 that we specifically don't do. We do not generate a
25 profile or a CODIS report. There is no CODIS report in

1 this case.

2 Q Okay. Now, I asked you to see if you-all could do
3 it. As you just said, there's a lot of different
4 combinations of permutations from the alleles that are
5 found or seen at -- from the glove mixture, correct?

6 A That is correct.

7 Q If you'd bear with me. We're going to start to look
8 at some of these different combinations of permutations.

9 In October of -- I draw your attention to
10 October of 2009 in your notes. You stated that -- I'm
11 sorry, September. You say that the evidence was
12 unintentionally resubmitted to CPD, correct?

13 A That is correct.

14 Q At some point between September 29th and October 19th
15 it is returned to Richland County, correct?

16 A That is correct.

17 Q And October 19th, 2009, is the first time you get
18 your hands on that evidence?

19 A Correct.

20 Q And you see that number 11, the rape kit, has been
21 removed from the box that contains items 11, 12, 13, 14,
22 15?

23 A Yes.

24 Q All right. Now, "removed" is the word that you put
25 in there, correct?

1 A Yes.

2 Q Removal would indicate an intentional act, would it
3 not?

4 A That is just the word that I -- these bench notes are
5 very general documentation. So when I opened up the box
6 it wasn't in the box, so it had been taken out. So
7 "removed" is the word I chose to use.

8 Q Okay. Now, you'd originally looked at it and you
9 sent it back to CPD, correct?

10 A Yes.

11 Q So you knew what was in that box when it left
12 Richland County Sheriff's Department?

13 A Correct.

14 Q And in that box when it left Richland County
15 Sheriff's Department was a rape kit?

16 A Correct.

17 Q So somebody removed it in between the time it left
18 Richland County Sheriff's Department and you saw it again
19 on October 17th, 2009?

20 A That is correct.

21 Q Because as everybody said over and over, these boxes
22 are sealed. So if there's a sealed box and it's been
23 resealed and the rape kit was in there when it was sealed
24 originally and it's not there when you open it again,
25 somebody has removed it?

1 A Correct.

2 Q And as I said earlier, removal denotes an intentional
3 act because it's sealed and then it's resealed, correct?

4 A Correct.

5 Q You left a message with Investigator Thomas -- I'm
6 sorry, you informed Investigator Thomas of this on
7 October 19th, 2009, correct?

8 A Correct.

9 Q You didn't hear anything back per your notes and you
10 started thinking -- I don't know what you're thinking, but
11 on December 7th, 2009, you left Thomas a message again,
12 correct?

13 A Right.

14 Q On December 10th, 2009, you spoke with Donna Martin
15 and she said she'll attempt to locate the rape kit?

16 A Correct.

17 Q The rape kit that has been removed from the box?

18 A Correct.

19 Q And again you spoke with her again on December 15th,
20 2009, and she said she'll get back with you?

21 A Correct.

22 Q Called Investigator Thomas on December 17th, 2009,
23 with no answer, correct?

24 A Yes.

25 Q Called CPD evidence room, no answer?

1 A Yes.

2 Q Now, this is interesting, I think, and please let me
3 know why you put -- I'm sorry. I'll withdraw that. I
4 apologize.

5 On December 18th, 2009, you called CPD evidence
6 room and they said in quotes, "they hadn't looked in the
7 back?"

8 A Correct.

9 Q Now, you receive a message on December 22nd, 2009,
10 from Donna Martin; is that correct?

11 A Yes.

12 Q And she informed you that the rape kit cannot be
13 located?

14 A Correct.

15 Q You informed Investigator Thomas the rape kit cannot
16 be located?

17 A Yes.

18 Q And then no explanation, on January 4th, 2010, Nelson
19 hand-delivers it to you?

20 A Yes.

21 MR. MAY: Now, Judge, it is all right if the
22 witness steps down?

23 THE COURT: Yes.

24 BY MR. MAY:

25 Q All right. You can stand right there in front of the

1 jury, and just for her sake, you need to speak up.

2 A Okay.

3 Q All right. Now, this is the Identifiler kit that was
4 run on the sample from the glove, correct?

5 A I can't testify to that until I have had a thorough
6 examination of it.

7 Q Please do.

8 A Okay. Well, and along with that, too -- well, I have
9 to ask with these -- we don't do charts with RFU.

10 Q It was under 150.

11 A Okay.

12 THE COURT REPORTER: Judge, I can't hear.

13 THE WITNESS: I'm sorry. I was inquiring about
14 the chart and he said that those indicate alleles that are
15 below 150 RFU.

16 This seems to have -- this is how it's been
17 documented.

18 BY MR. MAY:

19 Q All right. So those are the alleles that are denoted
20 on your report, correct, on the Identifiler kit?

21 A Yes.

22 Q Now, this is the Identifiler kit. The bold is the
23 Identifiler kit you ran on Mr. Wilkins. You can see the
24 17 here at 22 as compared to the Identifiler from the
25 board.

1 A This is --

2 Q That's later.

3 A Okay.

4 Q I agree. But we can make it a lot easier.

5 His similar alleles are seen in every place but
6 the FGA?

7 A That is correct.

8 Q Now, just a second ago you compared it similar to a
9 lottery, right? You used the terms for a lottery?

10 A That was in regards to the CODIS, it generating a
11 potential CODIS report.

12 Q I got you. But you can't win the lottery if you
13 don't have an exact match of everything, correct?

14 A Correct.

15 Q Okay. Now, when you ran your statistics, you left
16 the FGA loci out of your statistics?

17 A I did, along with others as well.

18 Q As well as others. You left out the FGA, though, and
19 there's a missing 22 allele from Mr. Wilkins?

20 A That is correct.

21 Q Now, as you're talking about the different kinds of
22 permutations, here's a profile that is not Ahmad's from
23 these alleles. Here's another one. And all it's doing is
24 going around, and as you can see, the selected profiles
25 are changing because there are literally thousands of

1 different profiles that are contained within these alleles
2 that are seen in this mixture; is that fair to say? As
3 you just testified to, there are -- the reason why no
4 report from CODIS was generated was because there's too
5 many?

6 A Correct.

7 Q So there are a lot of potential profiles seen in
8 these numbers?

9 A Yes, because it's a very complex mixture.

10 Q It's a very complex mixture. So a lot of different
11 people could have contributed to this mixture?

12 A At least three.

13 Q Correct. But the potential -- as you said, CODIS
14 would not print you out the report because there were so
15 many potential contributors?

16 A Correct.

17 Q And if the person, or if the three people, or however
18 many contributors that donated to this mixture did not
19 have a 22 FGA, then it would not be Ahmad because Ahmad
20 has to have a 22 FGA?

21 A There are certain phenomena that happen with the
22 data and developing a profile, so we interpret the profile
23 as a whole. So at that particular location one of his
24 alleles has dropped out, so we interpret it as a whole.
25 And then in conjunction with that, running the Y-filer kit

1 on the same items of evidence verifies that that was a
2 male.

3 Q All right. Now, I asked you -- you just mentioned
4 the Y-filer on the glove. I would ask you, what page of
5 your bench notes is that located? I see the
6 electropherogram. I don't see any notes.

7 A Well, there may not be notes. The notes are just
8 kind of a generalization of documentation so they may
9 not -- I may not have documented that particular -- that's
10 why we have a formal report to encapsulate all the
11 results.

12 Q Okay. And the results of the formal report is that
13 he cannot be excluded, right?

14 A Yes.

15 Q Okay. Now, there's another female's DNA found on
16 that glove as well, correct?

17 A Actually I cannot verify that. That's one benefit of
18 the Y-filer kit is it will help us determine the number of
19 male contributors.

20 Q Okay.

21 A All I can tell you about the mixture from the glove
22 using the Y-filer kit is that there's at least three
23 people.

24 Q Okay.

25 A So it could be one female and two males, it could be

1 multiple combinations. And so by using the Y-STR kits I
2 was able to determine that there's two males present.

3 Q Okay. Now, the statistics that you quote are based
4 on the unrelated population, correct?

5 A Correct.

6 Q So as far as a relative, it would be a substantially
7 lower percentage?

8 A The population base is generated by the FBI and they
9 do pull those from the unrelated population.

10 Q Okay. Now, let's look at the Y-filer.

11 This is the Y-filer from the neck ligature.

12 Please take your time and review it.

13 A And these don't have --

14 Q No, sir -- no, ma'am.

15 A Okay.

16 Q And there it is Ahmad or a paternal relative?

17 A That isn't right.

18 Q It's not?

19 A No.

20 Q I apologize. All right. It's fixed on this one.

21 A Okay.

22 Q The ten is now bolded.

23 Now, the bold are Mr. Wilkins as compared --
24 well, Mr. Wilkins or a paternal relative as compared to
25 the neck ligature?

1 A Yes.

2 Q Now I turn your attention to DYS-38911.

3 A Okay.

4 Q All right. Mr. Wilkins, was his present?

5 A No.

6 Q And again at DYS-635, there was no reading?

7 A Correct.

8 Q And then at DYS-438, Mr. Wilkins didn't show and yet
9 you had two alleles there, both ten and two, correct?

10 A Correct.

11 Q And now again when you look at this mixture, the one
12 thing that you can say for certain is there are at least
13 four male DNA found on this bathrobe belt?

14 A That is correct.

15 Q Now, it could be more, but we know at least four, and
16 that's because at these two locations you have four
17 alleles; is that correct?

18 A That is correct.

19 Q Now, again, there are an infinite number of
20 calculations of permutations of this profile that could or
21 could not -- that would not be Ahmad or a paternal
22 relative, correct?

23 A Well, Y-STR can give you different stats.

24 Q Correct. And no stat was given on this, correct?

25 A Correct.

1 Q But what I'm saying is that from these alleles, there
2 are hundreds of thousands of calculations and permutations
3 that can come up -- they can be put out there based on if
4 a potential donor had certain alleles at certain areas?

5 A That is correct.

6 Q So that's the reason why your statistic says he
7 cannot be eliminated is that there are -- you can take the
8 stand back.

9 A All right.

10 Q That's the reason why your statistic or that your
11 finding on the official report is that he can't be
12 eliminated; isn't that correct?

13 A That is correct.

14 Q Now --

15 A Or any paternally-related male as well.

16 Q Thank you.

17 All right. So your findings on your official
18 report, the report that will be reviewed by other crime
19 scene or crime labs for accreditation states that he
20 cannot be excluded, correct? That's the official report
21 is that he cannot be excluded?

22 A I'm sorry, repeat that first part of that question.

23 Q Okay. You generate these reports not only for cases
24 in court, correct? You generate the case for court?

25 A Correct.

1 Q You also generate them so that your peers can review
2 them?

3 A Yes. Correct.

4 Q All right. Now, when it's a peer review document,
5 you want it to be correct?

6 A Correct.

7 Q You don't want to reach too far because your peers
8 won't see that as not --

9 THE COURT: You may have to remove the screen.

10 MR. MAY: I don't know how to turn -- I'll be
11 happy to, but I don't know how to do it.

12 All right. I beg the Court's indulgence.

13 (Pause.)

14 BY MR. MAY:

15 Q All right. Now again, getting back to my train of
16 thought, your official results are not only used for court
17 cases, correct, they're also used for review by peers?

18 A They are -- we generate the report for cases, but
19 before we can actually generate those, they have to be
20 technically reviewed by another trained, qualified
21 analyst.

22 Q All right. So it's peer reviewed, correct?

23 A Yes.

24 Q And on your peer review statements, your official
25 conclusion is that he or a paternally-related relative

1 cannot be excluded from the mixture?

2 A That is correct.

3 Q All right. Now again, there are at least four males'
4 DNA located on that ligature, correct?

5 A Correct.

6 Q And again as you said, you cannot age DNA, you don't
7 know when it was left?

8 A Correct.

9 Q You don't know how it was left?

10 A Correct.

11 Q You just know that there is a substance there and
12 there's a lot of mixture -- there's a DNA mixture on that
13 item?

14 A That is correct.

15 Q Now, you only tested what CPD asked you to test,
16 correct?

17 A Correct.

18 Q So there is a lot of stuff -- well, there's some
19 stuff that was not tested?

20 A Yes.

21 Q There's bedding from the house that was not tested?

22 A Correct.

23 Q Bedding would have the potential to have a lot of DNA
24 on it, correct?

25 A Correct.

1 Q Both touch DNA?

2 A Correct, yes.

3 Q Different bodily fluids?

4 A Correct.

5 Q And in this case, CPD did not ask you to test it,
6 correct?

7 A The items that were tested in this case were a result
8 of a conversation between Investigator Thomas and myself
9 and he explained to me the details of the case. Some
10 items may not truly need to be tested. Every item in
11 every case may not be tested depending on the
12 circumstances of the case. So in this particular
13 instance, those were not found to be probative items at
14 that point.

15 Q All right. So bedding that was removed by the killer
16 and placed in a dumpster was not probative in this case?

17 A I can't answer that question.

18 Q The leg ligatures were not tested, were they?

19 A They were not.

20 Q And the leg ligature --

21 MS. CAMPBELL: Objection, Your Honor. I think
22 she has the right to finish.

23 MR. MAY: I apologize. I didn't realize she was
24 still talking.

25 THE WITNESS: Yes, sir.

1 The leg ligature, because it -- as you recall,
2 because it was such a large item --

3 BY MR. MAY:

4 Q Uh-huh.

5 A -- when we try to develop a DNA profile -- we have
6 very small tubes, so to fit something that's such a big
7 item, when we had another ligature in this case, we
8 decided to focus on that one.

9 Q Now, per your notes, CPD did not request the leg
10 ligature be tested, correct?

11 A From my notes?

12 Q Yes, ma'am.

13 A Can you direct me to a particular time?

14 Q I will try as soon as I find it.

15 A Okay.

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

18 (Pause.)

19 BY MR. MAY:

20 Q I'm going to hand you something and ask if you
21 recognize that.

22 A I do.

23 Q All right. And in there, if you'd please tell me
24 what CPD requested you test.

25 A Per the very first conversation that I had with

1 Investigator Thomas, only the fingernail scrapings, neck
2 ligature, cigarette butts and beer can were requested, and
3 that was from the very beginning.

4 Q Okay. And now in your notes, do you not denote the
5 word "only"?

6 A I do. Yes, I do have the word "only."

7 Q Now again, several beer cans were found and not all
8 the beer cans were tested, were they?

9 A I don't think so. Correct. Number eight beer can
10 was not tested.

11 Q And other personal items, douche bottles, they were
12 not tested?

13 A I'm sorry, say that again.

14 Q Douche bottles, they were not tested?

15 A I never received those.

16 Q All right. And you would not be able to, of course,
17 test anything that was not submitted to you by Columbia
18 Police Department?

19 A Correct.

20 MR. MAY: Beg the Court's indulgence, Your
21 Honor.

22 (Pause.)

23 BY MR. MAY:

24 Q All right. Now, correct me if I'm wrong, on the neck
25 ligature you performed a scraping?

1 A That is correct.

2 Q And that scraping was, as you said, using a sterile
3 razor blade or some kind of cutting instrument?

4 A Yes.

5 Q And you could go over a sizable piece of cloth?

6 A Correct.

7 Q All right. You could have done that on the leg
8 ligature also, correct?

9 A It could have been done, yes.

10 Q All right. But it wasn't?

11 A It was not.

12 Q And whoever killed her also tied up her legs?

13 A I can't answer that question.

14 Q Now, we asked you to -- I'm sorry, let me back up.

15 Now, doesn't the ASCLD accreditation, that's the
16 crime lab accreditation, require that you document your
17 testing? So again I'm going to ask you, can you please
18 show me the notes and amp sheet and genetic analyzer sheet
19 from your Y-filer testing of the glove.

20 (Pause.)

21 THE COURT: Let's stand for a moment.

22 (Pause.)

23 THE COURT: Mr. May, you prefaced the question
24 by saying, "Let me ask you again." Is it something she
25 could not locate before?

1 MR. MAY: Your Honor, I believe that she -- we
2 moved to another question. I don't believe I was -- I
3 don't believe I waited to articulate what we actually were
4 looking for.

5 THE WITNESS: I believe that amp sheet has been
6 left out and that is something that I can -- that can be
7 retrieved. There were several analyses with this case and
8 it's one sheet that I can produce for you.

9 BY MR. MAY:

10 Q So you don't have it right now in your official case
11 jacket?

12 A It doesn't appear so, no.

13 THE COURT: Let's sit down.

14 BY MR. MAY:

15 Q And again, that is required by the accreditation
16 standards, correct?

17 A Correct.

18 Q Now, we earlier went through a line of questions
19 regarding the missing rape kit, correct?

20 A That is correct.

21 Q What you tested in February of this year -- or March,
22 I don't know which one it is.

23 A I believe it was March.

24 Q Let's say 2012. The only thing you tested in 2012
25 was a Y-filer kit?

1 A That is correct.

2 Q And a Y-filer kit would only denote whether or not
3 there would be male DNA present on that sample?

4 A That is correct, yes.

5 Q And if that sample was not the sample of Eboney
6 Williams but had been replaced by another sample, we don't
7 know at this point, do we? It was never tested.

8 A I'm sorry, please repeat your question.

9 Q The sample that went missing, the rape kit, if it was
10 replaced with somebody else's sample, we don't know
11 because a profile of that rape kit was not done?

12 A When I received the rape kit the final time it was
13 sealed. The last time I had personally sealed it.

14 Q Correct. But the last time that you received this
15 box -- when this box left you it was sealed and it came
16 back sealed, correct?

17 A Correct.

18 Q And yet something had gone missing?

19 A Correct.

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

21 (Pause.)

22 THE COURT: Any redirect?

23 MS. CAMPBELL: Just a few questions, Your Honor.

24 REDIRECT EXAMINATION

25

1 BY MS. CAMPBELL:

2 Q And when you received the rape kit back the third
3 time at the Court's request, it was still sealed in the
4 manner you had submitted it?

5 A Yes, that's correct.

6 Q And, in fact, you checked it to make sure your
7 initials were still on it?

8 A I did.

9 Q And was there any evidence anyone had tampered with
10 it or altered it in any way?

11 A No.

12 Q Was there any evidence it was in a different --

13 MR. MAY: Objection, Your Honor. She's leading.

14 THE COURT: Objection's overruled.

15 THE WITNESS: No.

16 BY MS. CAMPBELL:

17 Q He asked you about the -- I believe you said the only
18 thing you could indicate from your testing on the glove
19 was that it was a mixture?

20 A That is correct.

21 Q Was there anything else you could tell from your
22 testing on the glove?

23 A From the Identifiler results there was at least three
24 people and then the Y-filer results it was -- he was --
25 him or any paternally-related male was the major

1 contributor.

2 Q And when you say "him," whose DNA was on the profile
3 on the glove?

4 A I'm sorry, Ahmad Wilkins.

5 Q Okay. And on the ligature when you did its testing
6 were you able to determine more than there was just a
7 mixture?

8 A Yes. There was at least four people and Ahmad
9 Wilkins could not be excluded from that mixture as well.

10 Q And when you say cannot be excluded, does that
11 include him?

12 A It does include him, yes.

13 Q And does that mean his DNA is present?

14 A That does, yes.

15 Q As with the glove?

16 A Correct.

17 Q And he asked you some questions about a CODIS search
18 or some search that was done by Dave McClure?

19 A That is correct.

20 Q Is that in any way relevant to your findings or
21 anything?

22 A No. It's more of an investigative tool.

23 Q And tell the jury just briefly how that works.
24 What's CODIS?

25 A CODIS stands for the Combined DNA Indexing System and

1 it houses forensic profiles that are developed from cases
2 and they are monitored by the FBI.

3 Q And when you run it through that profile, it can
4 develop possibilities the same way like you can run a
5 fingerprint through AFIS?

6 A That is correct, yes.

7 Q And in this case was the mixture -- because you had a
8 mixture, was that really suitable for any probative value
9 in this case?

10 A No, it was not.

11 Q Once you had a known standard, however, could you
12 make determinations?

13 A Yes, that is correct.

14 Q So anything done by CODIS in your testing, would that
15 affect your results in any way?

16 A It did not.

17 Q Just so if that confused anybody.

18 DNA testing, can that exonerate people?

19 A It sure can.

20 Q And is it used for that purpose on a daily basis?

21 A It is.

22 Q And can it also implicate people?

23 A Yes.

24 Q As in this case?

25 A Yes.

1 Q He also asked you about evidence being degraded and
2 destroyed depending on how it's stored and things of that
3 nature. Even if it's exposed to weather or heat, degraded
4 DNA, that doesn't make it look like somebody else's, does
5 it?

6 A No, it doesn't.

7 Q Was there any evidence in the evidence that was
8 submitted to you and how it was submitted of any tampering
9 in this case?

10 A There was not.

11 Q So you can't make somebody -- if you degrade it, you
12 can't make it look like somebody else's DNA?

13 A No, you can't.

14 Q He also showed you a series of numbers that went on
15 and on and on, correct? Did that affect your results or
16 your opinion here today in any way?

17 A It did not, no.

18 Q He also asked you about testing on the CSC kit and
19 how it was handled. As far as the glove and the neck
20 ligature, is it probative in your opinion, ma'am, to test
21 the murder weapon for DNA?

22 A Yes.

23 Q And would it be probative also to test some items
24 such as a glove that might be left behind by someone?

25 A Yes.

1 Q And were those items tested in this case?

2 A They were.

3 Q Along with some other items that you discussed with
4 Investigator Thomas?

5 A Yes.

6 Q And those were the ones you felt to be most probative
7 for value for the jury later on possibly?

8 A Yes.

9 Q And when you did your testing initially, did you even
10 know if you were going to be able to get any results?

11 A No, we don't know.

12 Q Okay. And also when you tested those items, as far
13 as testing that was done on the glove and specifically the
14 ligature, the neck ligature, that testing was all
15 completed, with a majority of it by May of 2009?

16 A I'm sorry, can you repeat the question again?

17 Q Was the initial testing done on the ligature and the
18 glove in the spring of 2009?

19 A Yes.

20 Q And then once you do your testing, those results stay
21 with you; it's not like you send out those with the
22 evidence again, do you?

23 A No.

24 Q So you had the DNA profiles at that point, at least
25 some of them?

1 A Correct.

2 Q And all your testing that was done after that was
3 consistent with that?

4 A It was.

5 Q And no one crawled into your laboratory and changed
6 your results or anything from when you initially tested
7 it?

8 A No.

9 Q And that was all submitted properly?

10 A It was, yes.

11 Q And the only reason you did the tests you did
12 recently on the CSC kit was because you were asked to do
13 that by the Court?

14 A That is correct, yes.

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

16 (Pause.)

17 BY MS. CAMPBELL:

18 Q And your report was reviewed in this case?

19 A It was, yes.

20 Q And prior to issuing any report back, were these
21 standard procedures protocol?

22 A That is correct, yes.

23 MS. CAMPBELL: Thank you, ma'am. Nothing
24 further.

25 THE COURT: Further cross.

1 MR. MAY: Yes, sir.

2 RECROSS-EXAMINATION

3 BY MR. MAY:

4 Q Your report was reviewed in this case, correct?

5 A It was.

6 Q And your report says cannot be excluded or a
7 paternal -- that Mr. Wilkins on the Y-STR of the neck
8 ligature cannot be excluded nor can any paternally-related
9 male, correct?

10 A Correct.

11 Q That's what your report says.

12 CODIS, she just asked you about CODIS. Again,
13 CODIS, as you said, there was a lot of potential donors
14 per the CODIS report keyboard search --

15 A Uh-huh.

16 Q -- in this case? A lot of potential donors?

17 A Yes.

18 Q Now, you said there's no evidence of tampering, yet a
19 sealed box was opened and something was removed and it was
20 sealed back, correct?

21 A Correct. When I received it the second time it was
22 sealed properly the way it should have been.

23 Q The box, correct?

24 A Yes.

25 Q All right. So somebody did open it and they resealed

1 it, correct?

2 A Correct.

3 Q She just asked you is it probative to test a murder
4 weapon. Is it probative, correct?

5 A Yes.

6 Q She just asked you that.

7 A Yes.

8 Q Is it probative to test a binding material of a dead
9 person's legs?

10 A I would think so.

11 Q Is it probative to test sheets that were removed by a
12 murderer?

13 A Yes.

14 Q Again, the Y-STR had three locations where
15 Mr. Wilkins Y-STR did not show up?

16 A That's correct.

17 MR. MAY: No further questions.

18 THE COURT: Thank you. You may step down.

19 And while she's stepping down, I'm excusing the
20 jury for the day.

21 Thank you-all very much for your patience, to
22 the extent you had patience, and we'll quit for the day
23 and start back at 9:30 tomorrow morning.

24 Thank you-all very much. Please do not discuss
25 the case.

1 The question is what's unfairly prejudicial to show to the
2 jury, not what he can testify to.

3 Bring us the jury, please.

4 MS. CAMPBELL: Your Honor, one thing I didn't
5 put on the record. I'm sorry.

6 THE COURT: You love that record, don't you?
7 You love the record and love the jury being out.

8 MS. CAMPBELL: I apologize. They're bringing
9 the jury in.

10 THE BAILIFF: Hold them up.

11 THE COURT: I'll say for the record that I've
12 never seen a case where there has been more pretrial
13 disclosure of discovery and discussion concerning
14 discovery than in this case, and for the defense to at
15 every turn claim that they haven't received something, or
16 seen something, and the State hasn't reviewed this
17 evidence or the testimony with them, I think is beyond
18 what is required regarding disclosure. I think the
19 disclosure in many instances exceeds what the rules
20 require. And so it's constantly new Riddle motions, Rule
21 5.

22 While I certainly understand the defense's
23 position, I hope the record clearly reflects my position.

24 MS. CAMPBELL: Thank you, sir.

25 Last night it came to my attention that I was

1 THE COURT: All right. Welcome back, ladies and
2 gentlemen, to Day No. 4.

3 Madam Forelady, how are you-all doing?

4 THE JURORS: We're fine.

5 THE COURT: Very good. Good news.

6 All right. Next witness.

7 MS. SIMPSON: The State calls Dr. Bradley
8 Marcus.

9 DR. BRADLEY MARCUS, after being duly sworn,
10 testified as follows:

11 THE CLERK: Have a seat in the witness box.

12 State your name for the record, please.

13 THE WITNESS: Dr. Bradley William Marcus,
14 M-A-R-C-U-S.

15 DIRECT EXAMINATION

16 BY MS. SIMPSON:

17 Q Dr. Marcus, where do you work?

18 A I work at Professional Pathology Services here in
19 Columbia and also have an appointment as the chief medical
20 examiner here in Richland County.

21 Q And as chief medical examiner of Richland County,
22 what do you do?

23 A I perform autopsies, forensic autopsies for the
24 coroner's office.

25 Q Okay. And are you licensed in your profession?

1 A I am.

2 Q And how long have you been licensed as a pathologist?

3 A I've been licensed as a pathologist for approximately
4 ten years.

5 Q Okay. And can you tell the jury a little bit about
6 your educational training and background?

7 A Yes. I have a four-year college degree. After
8 college I went to medical school. I received an M.D.
9 degree.

10 From there, I did a residency training program
11 in anatomic pathology and clinical pathology at the
12 Medical University of South Carolina. That was four
13 years. After that training, I took a board certification
14 exam and I'm board certified in anatomic pathology and
15 clinical pathology.

16 From there, I did a fellowship training in
17 forensic pathology, which was one year where all I did was
18 forensic cases with another forensic pathologist and I
19 learned the trade of doing everything involving forensics.

20 After that year, I took another board exam and
21 I'm board certified in forensic pathology.

22 After that year, I did another year of training
23 in cytopathology, learning how to read pap smears and
24 diagnosing cancer by little needle biopsies. After that
25 year, I took another board certification exam and I'm

1 board certified in cytopathology.

2 And from there, I took the job here in Columbia,
3 South Carolina, and have been here working at Professional
4 Pathology Services since and working doing forensic
5 autopsies for the coroner's office.

6 Q Now, you've mentioned a number of aspects with
7 respect to pathology that you're trained in.

8 With respect to forensic pathology, what is it?

9 A Forensic pathology deals with basically when somebody
10 dies suddenly and unexpectedly, to determine the cause and
11 manner of death; the cause of death, is it disease or
12 injury that brings about the death.

13 The manner of death is the circumstances
14 surrounding the death, and those usually are in five
15 categories: Suicide; homicide, death at the hands of
16 another person; accidental deaths, unintended deaths;
17 natural deaths due exclusively to disease; and then
18 sometimes undetermined where you just don't know the
19 circumstances -- you just don't know the circumstances of
20 how somebody died.

21 Q So you deal with things other than just homicides, or
22 suspected homicides?

23 A Yes, absolutely.

24 Q How many autopsies would you say you're performed?

25 A I've performed approximately 1800 autopsies.

1 Q Okay. And how are you brought into a case?

2 A Basically what happens is the coroner's office is in
3 charge of investigating any sudden and unexpected death.
4 If they deem it necessary for an autopsy, they notify me
5 and -- notify me of an autopsy that needs to be performed
6 and they contact me and then they send the body to
7 Palmetto Health Richland Hospital for an autopsy, a
8 scheduled autopsy to be performed.

9 Q And are you board certified?

10 A I am.

11 Q And have you testified before as an expert?

12 A I have.

13 MS. SIMPSON: Your Honor, at this time the State
14 would seek to qualify Dr. Marcus as an expert in pathology
15 generally, including specifically forensic pathology.

16 THE COURT: What says the defense?

17 MR. SHEALEY: Brief voir dire.

18 VOIR DIRE EXAMINATION

19 BY MR. SHEALEY:

20 Q Doctor, where did you go to medical school?

21 A I went to the Medical University of the Caribbean.

22 MR. SHEALEY: Okay. Nothing further.

23 Thank you.

24 THE COURT: He's qualified as a forensic
25 pathologist.

1 CONTINUED DIRECT EXAMINATION

2 BY MS. SIMPSON:

3 Q And just a follow-up question: Do you actually have
4 to continue your education to maintain your
5 certifications?6 A Yes. I'm required to get 70 continuing medical
7 education credits per year and I have to retake my boards
8 every ten years. I have to retake my board certifications
9 every ten years.10 Q And did you have an occasion to perform an autopsy in
11 this case?

12 A I did.

13 Q And who did you perform that autopsy on and where did
14 you perform it?15 A I performed an autopsy on Ms. Eboney Williams at
16 Palmetto Health Richland Hospital on February 4th, 2009.

17 Q Okay. And do you document your findings in a report?

18 A I do.

19 Q And were you able to determine to a reasonable degree
20 of medical certainty a cause of death in this case?

21 A I was.

22 Q And what was that?

23 A Ms. Eboney Williams died of asphyxia by a ligature
24 strangulation.

25 Q And do you have some initial information before you

1 perform the autopsy?

2 A I'm given a history, kind of what the scene findings
3 were, by the coroner's office, what they found at the
4 scene, and I'm given that information prior to me
5 performing the autopsy, yes.

6 Q Okay. And you said death by asphyxia by ligature
7 strangulation. What is asphyxia?

8 A Asphyxia is lack of oxygen getting to the tissues of
9 the body, primarily the brain, which can cause then a
10 fatal arrhythmia. Strangulation is, again, basically to
11 the neck region, basically force around the neck that
12 causes lack of blood flow/oxygen to the neck, to the head,
13 which then causes lack of breathing/blood flow to the head
14 and you get a fatal arrhythmia and you die.

15 Q Now, we've heard the term "ligature" a lot throughout
16 this case. Can you tell the jury exactly what a ligature
17 is?

18 A Oh, yeah. A ligature is anything -- is anything that
19 can be wrapped around the neck, any type of -- you know,
20 any type of object that could be a ligature, any type of
21 thing that can be wrapped around the neck, okay, a cord of
22 some sort, we call that just in general terms a ligature.
23 We use that form, that term is a ligature, and that's the
24 general term we use, a ligature.

25 Q Okay. And can you describe for the jury the first

1 stage in your process with respect to conducting an
2 autopsy?

3 A Well, the first thing we do with an autopsy is the
4 body comes out and it's photographed, we photograph it.
5 We have a representative from the coroner's office there
6 and usually an investigator from the police department is
7 there and we photograph the body.

8 And while they're photographing the body, I back
9 things up with a diagram just in case something happens; a
10 malfunction with the camera or something, I have a diagram
11 as a backup. Generally that doesn't happen anymore, but
12 in the old days with film, you know, you could get
13 something to happen with the film or something and you
14 have to have a backup diagram.

15 So basically we start by doing a full external
16 examination, looking for any types of, you know,
17 identifying marks, scars, injuries, or lack of injuries on
18 a body, just documenting everything and putting it in our
19 report. And then basically then we start our autopsy.

20 Sometimes we do special procedures before we
21 start the autopsy, sometimes we don't have to. Sometimes
22 we do x-rays, sometimes we don't.

23 In this case, I believe we did do an x-ray on
24 the head region because I saw there was a ligature around
25 the neck, so I wanted to make sure there weren't any

1 broken bones in the neck, so I did an x-ray just to make
2 sure before I opened the body up.

3 Q And what did you observe in your external
4 examination?

5 A Yes.

6 So on Ms. Williams -- on Ms. Williams, she
7 arrived and she had a ligature -- there was a ligature
8 around her neck tied in a knot that was behind her, on the
9 back of her neck.

10 She -- but bearing the obvious, she also was
11 significantly burned; her body had significant burn and
12 charring to her body in areas. There was charring -- I
13 estimated to approximately 60 percent over her body
14 surface there was significant charring. So clearly there
15 had been a fire involved with her, in the area. And that
16 was relayed to me from the scene investigation, the
17 coroner told me that there was a fire. So -- and clearly
18 there was a fire. So she had a significant charring
19 effect on her.

20 And she had some -- her eyes -- her eyes, she
21 had petechiae on her eyes and confluent hemorrhaging in
22 the sclera of her eyes. There was very, very significant
23 findings there. And that, again, goes along with having a
24 ligature around her neck.

25 When a ligature goes around your neck, what you

1 can get -- you get an increase -- that basically stops the
2 blood flow going up to the neck. The blood is then
3 trapped up in the neck area, it increases the pressure in
4 the little vessels in your eyes and those little vessels,
5 they break and they form these little things called
6 petechiae, little red dots in your eyes, very, very
7 characteristic of strangulation, very, very
8 characteristic.

9 If any type of, you know, asphyxia via
10 strangulation is involved, you generally have petechiae
11 that are present. And when it's a lot, the petechiae kind
12 of merge and you get confluent hemorrhage in the eyes,
13 very, very characteristic. Very characteristic. And she
14 had them, clearly had them in her eyes. But again, she
15 had a ligature around her neck, so I wasn't very surprised
16 about that.

17 Q And I believe you also noted skin slippage. Can you
18 tell the jury what that is?

19 A Yes. Some of her skin -- your skin is made up of
20 multiple layers, and again, some of the skin on her had
21 been slipping off, again, all related to the fire. That's
22 all related to the fire.

23 When you have heat from the fire, your skin can
24 kind of slip off, okay? It's all related, it's all
25 artifact from the fire.

1 Q Okay. And I noted that you really didn't find any
2 abrasions or contusions in this case. Does thermal injury
3 or fire affect, potentially, your ability to see those?

4 A Yes. If -- an abrasion is just basically a scratch
5 on the skin, a scratch. If there is charring to the skin
6 area, where the skin literally is charred off, you will --
7 you're not going to see an abrasion, it's gone because of
8 the charring. You're just not going to see it.

9 Q Okay.

10 A Again, that will affect -- if there are other
11 injuries, you could miss them from charring, yes.

12 Q So if she had kind of superficial scratches and
13 wounds, you potentially wouldn't have been able to see
14 them?

15 A That's correct.

16 Q What do you do next in your examination?

17 A From there -- from there, before I started messing
18 with the neck I got her undressed, and because of the
19 circumstances, she was found in an apartment, all right,
20 with a ligature around her neck, and alone, I do a sexual
21 assault kit, okay, because of the circumstances around
22 that, a woman found alone with a ligature around her neck.
23 Sexual assault's kind of related to strangulation, so I go
24 ahead and do a sexual assault kit -- they're very easy to
25 do -- and so I went and did a sexual assault kit right

1 before I do the autopsy. That's the protocol. I went and
2 performed a sexual assault kit, and then I went right to
3 the neck and I started messing around with the ligature,
4 documenting the ligature around the neck, and then I
5 believe I removed the ligature around the neck.

6 Q I'm going to show you what's been marked as State's
7 Exhibits 122 and 123. Can you tell me if you recognize
8 these?

9 A Yes, I do.

10 Q And do they fairly and accurately depict what you
11 observed?

12 A Yes.

13 Q And what is in those pictures?

14 A This is the ligature around her neck, around her neck
15 before I removed it, and then this is the ligature on the
16 table laid out with a ruler and me pointing at it.

17 MS. SIMPSON: Your Honor, at this time the State
18 would introduce State's Exhibits 122 and 123 into
19 evidence.

20 MR. SHEALEY: Without objection.

21 THE COURT: They're in evidence.

22 (WHEREUPON, STATE'S Exhibits Nos. 122-123,
23 having been previously marked, were admitted into
24 evidence.)
25

1 (WHEREUPON, State's Exhibits Nos. 140-147 were
2 marked for identification only.)

3 BY MS. SIMPSON:

4 Q So 123, what are we seeing here? You can step down.

5 A So here, this is the cloth ligature around the
6 victim's neck here, all right? And you can see it's
7 around the neck, all right? And there is a knot behind
8 the neck, generally in this region around the neck here.

9 Q Okay. And is that -- the way it's tied, is that
10 important to you or does that indicate anything to you?

11 A I can't really say. I'm just going to say the knot
12 behind the neck right here and it's -- well, the knot --
13 also the ligature -- well, yeah, you could you say that.

14 The ligature here, see how it's almost
15 horizontal? See how the ligature's horizontal here? It's
16 horizontal.

17 In a hanging death, ligatures are upward angled
18 because the weight, you know, pulls the body down and
19 they're up. But in strangulation deaths, they're
20 horizontal. That's the way they are. And that makes
21 sense, because when someone hangs, the ligature gets
22 pulled upward and you actually get what they call an
23 inverted V back here. But in this case they're
24 horizontal, and you can clearly see this is the back of
25 her neck.

1 Q So she is face down when she comes to you?

2 A She's face down when she comes to me, yes.

3 Q And then in State's Exhibit 123.

4 A Okay. So here --

5 Q What do you see?

6 A Oh, this is 122. I'm sorry.

7 Q Oh, I'm sorry, 122.

8 A Okay. So here is just the ligature. I removed it
9 and it's laying on the table here. I cut the end and put
10 tape on the ends. Some of her hair was caught in the knot
11 here. And just the measurement, the ruler per scale
12 showing the ligature removed, that I cut the knot in half.

13 Q Thank you.

14 Now, the sexual assault kit, what exactly is
15 contained in that? I know it's a kit full of something.
16 Can you describe that for the jury?

17 A Sure.

18 Basically I do swabs, I do anal/rectal swabs, I
19 do vaginal swabs, I do oral swabs, and then I make smears
20 on slides of those three.

21 I pulled some pubic hair and then I comb pubic
22 hair -- I comb pubic hair, you know, because there's the
23 possibility of another person's pubic hair being in there.
24 And then -- I also then obtained some pulled head hair as
25 a control. And then I wrap it up and put it in a South

1 Carolina Law Enforcement sexual assault kit and I submit
2 it to the law enforcement people.

3 Q So you perform the sexual assault kit, I guess, as a
4 matter of course with respect to these cases. Did you
5 actually observe anything that was consistent with sexual
6 assault?

7 A No. I wrote in my report there is no trauma to the
8 anal or vulvar -- the anal or the vulvar region area,
9 there is no trauma there. In my opinion, I wrote in my
10 final diagnosis no oral, anal, or vaginal trauma. In my
11 opinion, there was no sexual assault here in this case.

12 Q Okay. So after the sexual assault kit was performed,
13 you said you went into the autopsy.

14 A Yes.

15 Q Describe for the jury what you did.

16 A So from the autopsy, then, what we do is we basically
17 then start the autopsy, making a Y-incision, and start
18 dissecting the organs, procuring fluids for toxicology
19 testing.

20 In this case, we got cardiac blood from her.

21 In this case, though, a couple of things we
22 wanted to look at very, very closely.

23 We wanted to inspect the neck. The neck is one
24 very fascinating organ. There's lots of muscles in the
25 neck and all the muscles are in very nice layers in the

1 neck, and so you can do a very good neck dissection, and
2 every layer is individual so you can actually dissect each
3 layer out, so we did that. And so that's one of the first
4 things, we concentrated on the neck to look for, because
5 of the strangulation, generally you can see hemorrhage in
6 the neck because there is a force applied to the neck
7 here, so you can see hemorrhage there in the neck. The
8 neck again supports a strangulation, and we found
9 hemorrhaging in the neck. We found some hemorrhage in the
10 sternohyoid muscle, which connects from the hyoid bone to
11 the sternum, we found hemorrhage there. We also found
12 hemorrhage on the hyoid bone itself. There was some focal
13 hemorrhage on the hyoid bone, which again supports a
14 strangulation as the cause of death. There was trauma to
15 that area which all makes -- all supports strangulation.

16 Q Now, the hyoid bone was actually intact. Is that --
17 and by "intact," what do you mean?

18 A So again, all the literature about strangulation
19 talks about you can get a fractured hyoid bone, and
20 fracture meaning a broken hyoid bone with strangulation.
21 Again, I've done lots of cases and have never seen one,
22 but the hyoid bone was perfectly intact in this case, but
23 there was hemorrhage on it. There clearly was hemorrhage,
24 hemorrhage meaning blood, on the hypoid bone. So there
25 was some trauma to that area, okay?

1 The other thing we wanted to look for, okay,
2 because there was a fire involved was soot, okay? There
3 was soot, all right? If you're alive when a fire is
4 burning, you're going to inhale all the soot from the fire
5 and that soot will go in your nostrils and then it will go
6 down into your larynx and you can clearly see it in your
7 trachea right here. When you cut the trachea, you'll see
8 black -- carbonaceous black material in your trachea here.
9 All right. And that clearly shows that you were inhaling
10 that if you were alive. So right away I clearly saw that
11 there was no soot in that area there. So right away that
12 tells me that she was dead before the fire started.

13 And another thing that supported that was that
14 if you're alive during a fire, your blood has got a very,
15 very cherry red look to it, cherry red, because of the
16 carboxyhemoglobin that binds -- carbon monoxide is made
17 when a fire burns, it binds to your blood and you have
18 this cherry look to you, people look cherry red. She
19 didn't have that look at all. She did not have that look
20 at all.

21 So right away I said she was dead, plus the fact
22 that she had the petechiae in her eyes, that tells me she
23 was alive, because you don't get them after you're dead,
24 and so she was alive (sic) before the fire.

25 Q Or dead before the fire?

1 A Excuse me, she was dead before the fire started.

2 Q Okay. So she didn't die from smoke inhalation or
3 anything like that?

4 A No, no, she didn't die -- the toxicology testing
5 proved that.

6 Q And you said you use diagrams to document the
7 injuries. I'm going to show you what's been marked as
8 State's Exhibits 140, 141, 142, and 143. Do you recognize
9 these?

10 A Yes, those are the diagrams I made during the
11 autopsy.

12 Q And would it assist you in your testimony in
13 explaining your findings if you could present these to the
14 jury?

15 A Yes.

16 MS. SIMPSON: Your Honor, at this time I'd like
17 to introduce State's Exhibits 140 to 143 into evidence.

18 MR. SHEALEY: Without objection.

19 THE COURT: Admitted without objection.

20 (WHEREUPON, STATE'S Exhibits Nos. 140-143 were
21 admitted into evidence.)

22 MS. SIMPSON: May the witness step down?

23 THE COURT: Yes.

24 BY MS. SIMPSON:

25 Q Let's start with State's Exhibit 140. Can you tell

1 us what we see there?

2 A Yes. So, okay, this is the diagram I made again to
3 back up the photographs that we made.

4 All right. So this is the general wave length,
5 temperature, eyes, and so forth, what we see. So this is
6 just the back-up diagrams I made. So, again, this is just
7 showing the ligature, the ligature from the -- it looked
8 like a robe -- the ligature looked like a robe, a thing
9 from the robe it looked like to me. That's what it looked
10 like.

11 Now, the body was in this thing, we call this --
12 this is a pugilistic position. A pugilistic position is
13 what they call like a boxer stance, like this, and it's
14 very, very characteristic.

15 What happens is in a fire death, because of the
16 heat the muscles contract and they always go like this,
17 all right? So that's very characteristic and it's called
18 a pugilistic position. It's a boxer stance. That's what
19 that term "pugilistic" stands for, okay?

20 Again, the skin splints, again all related to
21 the heat, and these little blisters -- again, charring to
22 the head, the posterior ears, the arms, the forearms, the
23 right hand, abdomen, posterior thigh, medial aspects of
24 the legs, okay?

25 Q So she was charred actually 60 percent --

1 A Yeah --

2 Q -- so a significant --

3 A In medicine, we try to estimate by percentages, so I
4 put about 60 percent of her body was charred; again, had
5 that black look to it, okay?

6 Q And next, State's Exhibit 141. What do we see here?

7 A Okay. This is just a diagram I made of the ligature,
8 of the ligature furrow that was around the neck, and again
9 showing that it was, you know, horizontal, okay?

10 Again, width, about 0.6 inch in width. The
11 length is -- I put that at 35 centimeters. I just give
12 it -- I measure it to be thorough for my report.

13 Q And the tie was actually in the back?

14 A Yes. The knot was right about here. This is just
15 depicting the furrow, the furrow that the ligature made.

16 Q All right. And then State's Exhibit 142, what do we
17 see?

18 A Okay. Here again, for the eyes, I just wanted to
19 show in the eyes here, she had this confluent scleral
20 hemorrhage and these petechiae. The petechiae are little
21 dots, little hemorrhages get in the eye, little dots.
22 When you get a lot of them they all kind of merge and then
23 it becomes a hemorrhage. So they all kind of become
24 confluent, they all merge together. But there a few -- a
25 little more -- a few petechiae -- when you pull down

1 conjunctivae, you can see a few more little ones down
2 there, but in the eyes, they clearly had confluent
3 hemorrhage; again, all supports strangulation as the cause
4 of death.

5 Q And then finally, State's Exhibit 143.

6 A Okay. So after we did the remainder of the body, the
7 autopsy of the torso, abdomen, and pelvis, we went then to
8 the head, and what we do with the head is make an incision
9 in the back of the scalp here and we actually reflect the
10 scalp over to preserve everything, and basically on her --
11 on the undersurface of the scalp, when you reflect it
12 over, you can't see it by looking at the scalp here, but
13 on the undersurface of it, she actually had a little bit
14 of hemorrhage on the left side of her scalp here, right
15 about here, and then she had a little bit of hemorrhage
16 here on the right side. So right about here, and she had
17 a slight amount of hemorrhage right here.

18 Q Predominantly on the left side?

19 A Predominantly on the left side. So at some point
20 before she died, she had some sort of blunt trauma to her
21 head, at some point.

22 Q And by blunt trauma, what do you mean?

23 A She could have been punched or hit with something.
24 That's what I mean.

25 Q And this was right before her death this would have

1 occurred?

2 A Yes, right.

3 Q Thank you.

4 And, Dr. Marcus, you also said that, I believe,
5 you reviewed a toxicology report. Do you collect samples
6 for submission for testing?

7 A Yes, we do.

8 Q Can you tell the jury about that?

9 A We collected cardiac blood for toxicology testing and
10 sent it to the SLED toxicology lab for testing that day.

11 Q Okay. And in addition to collecting the samples, do
12 you actually do an internal examination during your
13 autopsy?

14 A Yes, a full internal exam of all the organs also. We
15 do a full internal exam with micro -- and we also look at
16 all the tissues under a microscope.

17 Q With respect to Eboney Williams' internal exam, tell
18 us a little bit about your findings.

19 A Okay. Well, she was 22 years old and other than her
20 injuries, she was fairly a healthy woman. Her heart was
21 in good shape, lungs excellent. She was -- other than
22 that, her heart was fine, everything was excellent. No
23 other -- nothing else I found, no other diseases, no other
24 natural disease in her that I found -- no other natural
25 disease I found in her. She was healthy.

1 Q Okay. And moving back to the toxicology report, did
2 you actually receive that report and review it?

3 A I did.

4 Q And what were the findings on the report?

5 A She had negative blood ethanol, no blood alcohol in
6 her system. She had a little bit of cocaine in her
7 system, 0.28 milligrams per liter. She had
8 Benzoylecgonine in her system, which that's from chronic
9 cocaine use, and she also had Levamisole in her system,
10 which is a cutting agent for cocaine. When they make
11 cocaine, that's a cutting agent, so it's an ingredient in
12 the cocaine. And then her blood carboxyhemoglobin level
13 was negative, which supports that she was dead before the
14 fire. And that's it.

15 Q And the level of cocaine, you could tell us, was that
16 level consistent with cocaine having been ingested prior
17 to her death?

18 A Yes.

19 Q Fairly recently?

20 A Fairly recently, yes.

21 Q All right. And tell us again what you determined the
22 cause of death to be.

23 A Her cause of death is asphyxia by a ligature
24 strangulation.

25 Q Okay. And did the cocaine contribute to her death in

1 any way?

2 A No.

3 MS. SIMPSON: Thank you, Doctor.

4 THE COURT: Yes, sir.

5 MR. SHEALEY: May it please the Court.

6 CROSS-EXAMINATION

7 BY MR. SHEALEY:

8 Q Dr. Marcus, I'm going to apologize in advance if I
9 misstate any of this medical terminology.

10 A That's fine.

11 Q Now, the cause of death is by ligature strangulation,
12 so she was basically choked, loss of oxygen, right?

13 A That's correct.

14 Q Okay. I'm looking at your report. "Rigor "-- or I
15 think actually I had to consult the pathologist about
16 this -- this is pronounced rigor?

17 A Rigor, that's correct.

18 Q -- "cannot be assessed due to thermal injury"?

19 A That's correct.

20 Q Okay. And rigor, that's the stiffness of the
21 muscles, and livor --

22 A Livor.

23 Q "Livor cannot be assessed due to thermal injury." Is
24 that settling of the blood?

25 A That's correct.

1 Q Okay. And as a pathologist, you would use that to
2 determine a time of death?

3 A You can, yes.

4 Q Okay. So due to the fire and the charring, you can't
5 really determine that, can you?

6 A I can't, no. She was charred and the rigor tends to
7 set in very fast.

8 Q But, I mean, as a pathologist you're generally
9 looking for something like that to try to narrow down the
10 window of time, right?

11 A Yes.

12 Q And you've testified there was no soot in the oral
13 cavities, so she had passed away before the fire was set?

14 A That's correct.

15 Q Okay. You mentioned a sexual assault kit and you
16 said that you did that, and you could testify more about
17 if you do it in every case, but you said you did it here,
18 particularly because of the ligature strangulation and
19 maybe a little suspicious, that kind of thing; is that
20 true?

21 A That's correct.

22 Q Okay. Do you often ever look for pregnancy or
23 anything like that or anything else while you're down
24 there in that general area during your full autopsy?

25 A Yeah, I do.

1 Q Did you do that in this case?

2 A I did.

3 Q Okay. And where is that indicated in your report?

4 A I don't think I indicated it in here.

5 Q Okay. Well, can you find it in your notes?

6 A No, I don't think I put it in my notes.

7 Q Okay. Does that mean you didn't do it in this case?

8 A No, I know I did it.

9 Q But you just can't testify about what the results
10 are?

11 A They're negative.

12 Q They're negative for what?

13 A For pregnancy.

14 Q Okay. How do you know that if that's not in your
15 notes?

16 A Because I -- to be honest, I dictate from a template
17 and that's not in my template.

18 Q What exactly is not in your template?

19 A About the uterus.

20 Q Okay. But we don't know for sure, do we?

21 A Well, I could do an amended report if you'd like and
22 add it there.

23 Q I mean, you testified -- you're qualified as an
24 expert and you've done a great deal of autopsies, right?

25 A Yes.

1 Q So you have to refer to your notes to kind of figure
2 out what's going on in each individual case, right?

3 A That's correct.

4 Q Okay. So right now you can't say with any certainty
5 whether she was pregnant or not?

6 A Well, if she was pregnant, I would have had it in my
7 report.

8 Q Do you often -- I know you said you dictate. Do you
9 often -- do you also note in your handwritten notes the
10 weight of certain organs and that kind of thing?

11 A Yes.

12 Q Would that lend you some assistance in making your
13 report?

14 A It does.

15 Q Do you have any notes about the uterus or anything
16 like that with you?

17 A I don't.

18 Q So we don't know the weights or anything?

19 A They're in the report. The weights are in the
20 report.

21 Q Now, Doctor, the toxicology you reviewed with
22 Ms. Simpson. So her blood did come back positive for
23 cocaine and also chronic cocaine use you said?

24 A Uh-huh.

25 Q Now, is it -- were you able to determine that by some

1 cutting agents or is that something separate?

2 A Benzoylecgonine.

3 Q Okay. And that's the cutting agent?

4 A No, that's a cocaine metabolite.

5 Q Okay. So the cutting agent you discovered in her
6 blood is something different?

7 A That's levamisole.

8 Q Okay. And your testimony is that you did an
9 examination of all her organs, right?

10 A Correct.

11 MR. SHEALEY: Beg the Court's indulgence.

12 (Pause.)

13 MR. SHEALEY: Thank you, Doctor. No further
14 questions.

15 THE COURT: Any redirect?

16 MS. SIMPSON: No, Your Honor.

17 THE COURT: Thank you. You may step down.
18 Next witness.

19 MS. CAMPBELL: May it please the Court. The
20 State calls Sergeant A.L. Thomas.

21 A.L. THOMAS, after being duly sworn, testified
22 as follows:

23 THE CLERK: Have a seat in the witness box.
24 State your name for the record, please.

25 THE WITNESS: Arthur L. Thomas.

1 THE COURT: Let's stand for a moment before we
2 start with this witness.

3 (Pause.)

4 THE COURT: All right.

5 DIRECT EXAMINATION

6 BY MS. CAMPBELL:

7 Q Sergeant, where are you employed?

8 A City of Columbia Police Department.

9 Q And what do you do there, sir?

10 A I supervise the special victims unit.

11 Q As supervisor of the special victims unit, what are
12 your current duties?

13 A I currently investigate missing persons, sexual
14 assaults, children's deaths, kidnapping, and other crimes
15 of that nature. And I supervise ten personnel in that
16 particular unit, the victim's advocates.

17 Q Back in February of 2009, where were you assigned
18 then?

19 A I was assigned to our homicide unit, which is called
20 VCAP.

21 Q Okay. And you were actually an investigator at that
22 point?

23 A At that juncture I was, yes.

24 Q And since then you've received a promotion to
25 sergeant?

1 A That's correct.

2 Q As an investigator in the homicide unit, what were
3 your duties?

4 A We investigate any homicides, any attempted
5 homicides, highly aggravated assaults, things of that
6 nature.

7 Q I want to turn your attention to the day of February
8 the 3rd of 2009.

9 A Yes.

10 Q Did you respond to Bethel Bishop Apartments?

11 A Yes, I did.

12 Q And what type of call were you responding to that
13 day?

14 A We responded to a call of a fire with a body. They
15 had a unit in -- I believe it's 33-F at [REDACTED]

16 The fire department responded. Upon trying to
17 make entry, they noticed that a body was laying in the
18 front portion of the home. They backed out and they
19 called law enforcement.

20 My partner Reese and I arrived at the scene.
21 They had already had Crime Scene up and Patrol was on the
22 scene along with Fire when I arrived.

23 Q Okay. And you mentioned a partner. Is that
24 Investigator Kevin Reese?

25 A That's correct.

1 Q And were the two of you principals in this case as
2 far as the investigation is concerned?

3 A That's correct.

4 Q When you got to the scene, what did you do?

5 A Upon arriving on the scene, I spoke with Patrol and
6 the supervisors that were on the scene. I spoke with Fire
7 prior to gaining entry to the scene, trying to get an idea
8 of exactly what happened and how the body was discovered.

9 Apparently management was notified by tenants of
10 dark smoked windows and they notified management.
11 Management opened the door, saw the smoke, called Fire,
12 and then the events went accordingly.

13 Q While there at the scene, you and Investigator Reese,
14 what did you-all do?

15 A We actually tried to access the exterior door a
16 little bit prior to making entry and then finally we went
17 inside along with our Crime Scene personnel, trying to
18 assess exactly what was going on in the home.

19 Upon entry, I noticed again the body was laying
20 in between the bedroom and the hall area, a short little
21 breezeway area, toward the couch. We noticed that the
22 smoke detectors were dismantled, no batteries. Soot was
23 everywhere and the body appeared to be covered in possibly
24 the bed linen from the bed, somewhat charred to the body.
25 And we noticed objects tied around the victim's neck and

1 feet.

2 The actual area itself was disheveled, stereo
3 system knocked on the floor, CDs were down, obviously a
4 sign of some type of struggle.

5 The victim was face down. From what I could
6 observe, the heat in the general area apparently was very
7 intense but at some point just fizzled out because it did
8 not burn the entire apartment, just stayed in the central
9 area of the body itself and its immediate surroundings.

10 We walked around other areas of the house, the
11 kitchen, trying to see if there's anything that could have
12 caused that, possibly accidental, but with the tying of
13 the different things around her neck and feet, we knew
14 that there was an actual homicide that had occurred there.

15 Q And in actually looking the body initially, were you
16 able to tell whether it was a male or female?

17 A Initially not. It was so charred we did not know
18 exactly what we had.

19 Q And, in fact, you could see the ligature around the
20 legs, but the ligature around the neck was somewhat
21 obscured to you?

22 A Yes, due to the charring of the body.

23 Q As part of your investigation that day, were
24 investigators from the Columbia Fire Department,
25 Investigator Seal, actually called in as well?

1 A Yes, he was.

2 Q And is that protocol in doing an investigation
3 involving a fire such as this?

4 A Yes, it is. Investigate Seal is an arson
5 investigator with a number of years with the fire
6 department, and that is protocol.

7 Q And in addition to that, was the coroner's office
8 also notified and responded?

9 A Yes, they were.

10 Q And is that also protocol as far as an investigation
11 such as this?

12 A That is also protocol.

13 Q The circumstances as you first came upon them with
14 the ligature around her neck and everything, did that
15 initiate a homicide investigation?

16 A Yes, it did.

17 Q And were you able to determine information there at
18 the scene that day about who was actually living in that
19 apartment?

20 A Yes. From management, we immediately started making
21 contact, getting background information on the possible
22 tenant. Again, we could not identify the body at the
23 scene at the time.

24 We found that the person, the tenant there was a
25 single tenant, her name was Eboney Williams, and she's the

1 only person that resides in that particular unit.

2 Q And in getting your background information from your
3 investigation, were you aware of whether or not anyone
4 else was in that apartment when the body was found?

5 A To our knowledge there was no one else in the
6 apartment when the body was found, and it was actually
7 found by management and then the fire department.

8 Q And in your assessment of the scene that day, the
9 surfaces of the entire apartment, were they covered with
10 certain material?

11 A Yes. The entire apartment, even though the fire
12 apparently burnt itself out, it was entirely covered with
13 a dark black soot. The windows from the exterior were
14 blackened with -- almost looked like they were tinted, and
15 many of the witnesses that we spoke with in our canvas,
16 that's what they assumed, they assumed it was tinted or
17 that she'd moved out and the place was vacant.

18 Q As far as investigating the scene itself, was Crime
19 Scene called in and did they actually photograph and
20 collect evidence there at the scene?

21 A Yes, Crime Scene was called and Tammy Moore was our
22 tech, along with Paul Nelson, and they processed the scene
23 for us, took photos, helped collect any evidence that we
24 thought was culpable, and did collection.

25 Q You mentioned your observations in the body area and

1 you also mentioned that certain areas in the living room
2 appeared to be disturbed.

3 A Yes.

4 Q Was there anything else significant in the living
5 room area that caught your attention?

6 A Yes. As we're looking at a crime scene, we're trying
7 to make some assessments of evidence and we also want to
8 make an assessment of anything that seem strange in the
9 crime scene.

10 Again, the living room area was disheveled, with
11 CDs and the radio system on the floor. But what stood out
12 to us was that there was a single glove in the floor that
13 appeared to be out of place.

14 Even though the home itself was sooted very
15 badly, it was apparent that the young lady was neat in her
16 care of the home; it wasn't a mess, clothes weren't tossed
17 everywhere. And we actually received information that she
18 was kind of a compulsive personality later, but that glove
19 stood out.

20 Q Okay. And was that photographed by Investigator
21 Moore and collected by her that day?

22 A Yes, it was.

23 Q And at a crime scene, is it important to call in
24 crime scene investigators to collect evidence so it may be
25 tested later?

1 A Yes, it is.

2 Q And when you're there at the crime scene, do you know
3 exactly what may or may not be important later on down the
4 road as your investigation develops?

5 A No, we don't. We try our best to try and make an
6 assessment of what will be most important in collection of
7 evidence. We try to be all inclusive to anything that
8 would stand out to us, and we use our experience, our
9 training, and so forth to try to make that type of
10 assessment.

11 Q You mentioned that there was a comforter covering the
12 body that was somewhat charred.

13 A Yes.

14 Q State's Exhibit 103, is that a comforter?

15 A Yes. I believe that is, yes.

16 I believe that would be the bedding off the bed.
17 There was no bedding on the actual mattress as we were in
18 the house.

19 MS. CAMPBELL: Your Honor, at this time I
20 believe 103 is not in evidence yet.

21 MR. SHEALEY: Without objection.

22 THE COURT: Admitted without objection.

23 (WHEREUPON, STATE'S Exhibit No. 103 was admitted
24 into evidence.)

25 BY MS. CAMPBELL:

1 Q There at the scene that day that you canvassed or
2 your observations inside, did you also have other officers
3 canvassing outside as far as collecting evidence?

4 A Yes, we did. We tried to set up a crime scene
5 parameter that was large enough in case there was evidence
6 during the perpetrator's exit that may have been dropped
7 and left behind or we thought may be important at some
8 later time, so we did have officers out canvassing and
9 looking for any exterior evidence that may have been left
10 behind.

11 Q Okay. Let me back up one second. There's one thing
12 I didn't mention.

13 As far as the assessment inside, was there any
14 evidence of any forced entry in this case?

15 A There was no evidence that we could see. Again, upon
16 our entry into the front door, we were looking at the door
17 and the hinges to see if they'd been kicked in or what
18 have you. We could not assess that there was any forced
19 entry into the residence.

20 Q Okay. And was that significant as far as whether or
21 not the victim may or may not have known her assailant?

22 A In normal circumstances when there is no sign of
23 forced entry, that means that the victim knew the
24 assailant.

25 Q The information related to you was that the front

1 door was locked; is that correct?

2 A That's correct.

3 Q And as far as the back door, was it locked or
4 unlocked as far as you know?

5 A We were uncertain if it was locked or unlocked.

6 Q But had someone had a key to the front door, they
7 could make entry in or out; is that correct?

8 A That's correct.

9 Q And there were some keys found in the residence, but
10 you don't know how many sets there were?

11 A That's correct. There were some keys in the home,
12 but we don't know how many keys were accessible to whom
13 when it came to that apartment.

14 Q There was a dumpster that was out in the parking lot
15 area, I believe?

16 A Yes.

17 Q Was that searched and certain items found?

18 A Again, we expanded the crime scene out. There was a
19 dumpster in that parameter. An officer, an agent with
20 Narcotics actually, climbed into the dumpster because
21 there was some type of bedding in the dumpster. We did
22 not know if this was possibly good evidence or not, and
23 they went ahead and retrieved that, and that was actually
24 collected as well.

25 Q Okay. And just for the record, during the course of

1 your investigation, was there any evidence of any sexual
2 assault that would make that bedding probative?

3 A No, no evidence of sexual assault or anything of that
4 nature. So the actual bedding that was on her person is
5 what we focused on most.

6 Q That day out at the scene, do you-all also make a
7 canvas to try to interview witnesses there at the scene?

8 A Yes.

9 Q And Bethel Bishop Apartments, what type of area is
10 this?

11 A It is a housing area for assisted living, lower
12 income persons.

13 Oftentimes in a homicide in particular, people
14 are very reluctant to give us information in reference to
15 what may or may not have happened. We found that quite
16 evident during the course of canvassing. But we did get,
17 again, some background information and some other things
18 from some associates and friends of the victim that helped
19 us down the road.

20 Q Specifically, are you also trying to narrow down a
21 timeline of when she was alive?

22 A That's correct.

23 Q And significantly, were you able to narrow down a
24 timeline there at the scene of people that had last seen
25 her or spoken to her on the phone?

1 A Yes.

2 Q And specifically, did you speak briefly to a Ms.

3 Cynthia Jackson?

4 A Yes, I did speak to Ms. Cynthia Jackson.

5 Q You can't say what she said, but did she give you
6 pertinent information?

7 A She did give me pertinent information at the scene.

8 Q As well as other witnesses there at the scene having
9 last seen her?

10 A They did.

11 Q As a result of your canvas that night, what time
12 period were you focusing on generally?

13 A The time period that we focused on was sometime after
14 3 or so where she had made apparent phone calls to
15 different people or -- and making certain requests and so
16 forth.

17 Q And at that point on that day that you get that
18 information, you don't have the phone records yet?

19 A No, the phone records are not in hand yet. We are
20 eagerly awaiting on those.

21 Q As your investigation followed up over the next
22 several days, did you continue to try to contact people
23 that knew her or may have had contact with her?

24 A Yes. Again, normally people are a little reluctant
25 to talk to us. The first day we found that, but as we

1 continued to canvas the area and go back and speak, some
2 of her friends and associates actually gave us some names
3 of particular male associates and friends of this young
4 lady that she may have entertained or so forth, and we
5 followed up on every name and so forth that we could
6 during that point in the investigation, yes.

7 Q And at this point, the first stages of this
8 investigation, had you ever -- did the name Ahmad Wilkins
9 come up in any way?

10 A No. Ahmad Wilkins' name did not come up at this
11 point in the investigation from any friends or associates
12 that we had spoken with, so he was not on our radar at
13 all.

14 Q During the course of your investigation, I believe on
15 the 5th of February, did you also make contact with a
16 Venchie Grimes?

17 A Yes.

18 Q And did the name Grimes become significant later on
19 in this investigation?

20 A Yes, it did.

21 Q I want to turn your attention to February 12th. The
22 investigation's proceeding and y'all have talked to a
23 number of people.

24 A Yes.

25 Q At this point had you been able to eliminate a number

1 of people as suspects?

2 A That's correct.

3 Q And -- or narrowing down the time period on the
4 victim's last whereabouts?

5 A That's correct.

6 Q Was it significance in this case, as in any murder
7 case, to get phone records?

8 A Yes, it is.

9 Q When did you receive those?

10 A We actually received the phone records themselves, I
11 believe that was on the 12th of February, which changed
12 the direction of the investigation.

13 The phone records themselves normally will
14 assess whom she was last in communication with, which
15 normally means that's the last person she possibly met
16 with or would have information that's pertinent to the
17 investigation, and we want to make contact with that
18 individual immediately.

19 Q And in the phone records as far as the person she
20 last had conversation with, approximately what time are
21 you able to determine that phone?

22 A The --

23 Q Just approximately.

24 A The approximation of the phone calls, there were
25 approximately ten calls to and from this number from

1 approximately 3 on up to about 4, I think, it's 4:13,
2 4:17, something of that nature. Those are all
3 approximates.

4 Q And that's in the phone records that have been put in
5 evidence?

6 A Yes, it is.

7 Q And what was that phone number?

8 A The phone number itself, 446-0191.

9 Q Upon learning that information, is your next step to
10 try to determine who that phone was being used by or
11 belonged to?

12 A Yes. That phone number became our priority in this
13 investigation. Again, if nothing else, this person could
14 inform us of the last sighting or conversation they had
15 with the victim at that time. So it became the most
16 important thing in the investigation.

17 Q Later that day, did you make contact with the witness
18 you'd made contact with earlier, Nicole Jones?

19 A I did make contact with Nicole Jones.

20 Nicole Jones was able to help me identify the
21 person that owned that number, that had that cell number.

22 In our interview with Nicole, Investigator Reese
23 and I spoke with her in detail. She advised that a
24 subject by the name of Mad that she was in relations with
25 actually owned that number and called her frequently from

1 that number.

2 We identified the defendant from Ms. Nicole
3 Jones and identified this number as being attached to him
4 as the number that he makes calls from.

5 Q And was there a significance as far as the
6 defendant's whereabouts and where he lived in relation to
7 the Bethel Bishop Apartments?

8 A Yes. We were able to, from the information gathered,
9 that Ahmad actually stayed at -- in the Bishop with
10 apparently a girlfriend, and that girlfriend was at 25-H,
11 and he resided there as well.

12 Q And her name was what?

13 A Nicole Grimes.

14 Q And that's different from Nicole Jones?

15 A And that's different from Nicole Jones.

16 Q And Nicole Jones was in a different building in the
17 Bishop?

18 A Correct. He apparently was in relations with both
19 females.

20 Q Did you also get information about Idris Wilkins, the
21 defendant's brother?

22 A Yes. We were able to identify that the defendant's
23 brother actually was a maintenance personnel in the a
24 complex and worked on the apartments and so forth out
25 there. He sometimes stayed with family in that area, but

1 I think he had a different address.

2 Q And he did not live in the Bethel with the brother?

3 A No, the brother does not reside in Bethel Bishop.

4 Q Were you able to determine whether or not the
5 defendant had actually ever done any kind of work out at
6 the Bishop himself?

7 A Yes. It was found that the defendant would sometimes
8 help the brother with maintenance issues in the complex
9 periodically and that he would have access to the
10 maintenance area and the items in there.

11 Q In fact, two days later, on the 20th of February,
12 your investigation was still proceeding?

13 A Yes.

14 Q Did you make contact with Nicole Grimes?

15 A On the 20th, yes.

16 Q And was she able to give you pertinent information
17 about the cell phone as well?

18 A Yes. On the 20th, Nicole was able to corroborate
19 what Ms. Jones told us, that, in fact, that number, the
20 446-0191, belonged to her boyfriend and the father of her
21 child, Ahmad Wilkins.

22 Q Did she also give you other information about what
23 she remembered about the night?

24 A Yes, she was. She was able to advise us that Ahmad
25 had come in distraught, pacing the floor approximately for

1 a hour saying, Oh my God, Oh my God, Oh my God. It
2 disturbed her so that she got up to ask him what was
3 wrong. He advised her don't worry about it, go back to
4 bed. He stayed up for a longer period of time pacing and
5 then finally came to bed and curled up onto her. We asked
6 her was that odd that he would do so, and she said yes.

7 Q Did she also give you a time period, a specific time
8 period, when she said the defendant came back into the
9 house?

10 A Yes. That was strange to us. She gave us an exact
11 time, upon questioning her, of Ahmad's arriving back into
12 the home. And throughout my years of doing
13 investigations, it's very hard to give a precise time.
14 She gave a time of 3:55 in the a.m. and remembered that's
15 exactly when Ahmad came in and that's exactly when he was
16 in the house and that he had not gone elsewhere after
17 3:55.

18 Q And this event occurred on February 3rd?

19 A Yes.

20 Q And you're interviewing her some 17 days later on the
21 20th; is that correct?

22 A That's correct.

23 Q And was she still with the defendant at that point?

24 A She was.

25 Q And did she also give you the phone number where she

1 could be reached?

2 A She did give a number and --

3 Q Is it on her statement?

4 A I think it's on her statement. I don't have her
5 statement with me.

6 Q Let's review that.

7 A All right. I think it cut off at the end. My
8 statement has it clear, but it's 786-776 -- and it's cut
9 off right there.

10 Q 786; is that right?

11 A 786-77 -- the last, I think it's 65, but I --

12 MR. SHEALEY: Your Honor, I object --

13 THE WITNESS: -- I can't see it.

14 MR. SHEALEY: -- before she writes it on the
15 board, that he be allowed to testify to what the number
16 is. Otherwise, she's testifying.

17 THE COURT: All right. Don't lead the witness.

18 MS. CAMPBELL: Yes, sir.

19 BY MS. CAMPBELL:

20 Q Did she also indicate where she lived in the Bishop?

21 A Yes, she did.

22 Q And did she indicate on the night in question that
23 she gave you information about -- specific information
24 about the defendant's whereabouts?

25 A That's correct.

1 Q On February 20th, did you also make contact with
2 Ahmad Wilkins himself?

3 A Yes, we did make contact with Mr. Wilkins.

4 Q And did he actually come to headquarters and speak to
5 you-all?

6 A Yes, he did.

7 Q And specifically as far as this case is concerned,
8 what were you-all asking him about?

9 A We asked him about the phone number to confirm that
10 that was, in fact, his cell phone number. We also
11 inquired of him about his conversation with the victim
12 himself.

13 We also asked him about his relationship with
14 the victim. And he indicated to us that they did not have
15 a sexual relationship, but that the relationship was drug
16 related, that she would call that number in order to have
17 him bring her cocaine, and cocaine was her preference of
18 drug.

19 He advised that he, in fact, would and did in
20 the months, the last portion of January and the first part
21 of February, deliver cocaine to the victim.

22 When he made statements in regard to deliveries
23 of cocaine, particularly the first part of February, we
24 started asking more in-depth questions in reference to
25 that particular time frame.

1 Q And did you, in fact, terminate that interview?

2 A Yes. At some juncture the interview was terminated.

3 Q Did you attempt -- at that point was he in custody on
4 these charges or anything?

5 A No. During this interview he was not in custody, he
6 came in on his own. We were following up again on the
7 lead, the phone number, and the communications between he
8 and she and their relationship, and so at that juncture he
9 was not in custody, so we did not advise him of any rights
10 or anything of that nature.

11 Q And at that point he was just willing to give you
12 information generally about what happened?

13 A That's correct.

14 Q And then you terminate the interview?

15 A Yes.

16 Q Did you attempt to record that interview?

17 A Yeah, we did attempt to record the interview. We had
18 a malfunction with the -- I had a physical recorder at
19 that time -- we've since replaced it -- but there was
20 problems in retrieving the information off that recorder
21 for this particular interview.

22 Q But as far as what information he was even giving you
23 at that point anyway, he was giving you general
24 information?

25 A Yes, he gave general information for which I

1 testified to, his relationship to her and the fact that it
2 was purely a narcotic business-style relationship.

3 Q At a later date, did you retrieve a recorded phone
4 call in the jail?

5 A Yes.

6 Q And that would have been when he would have been in
7 the jail on an unrelated matter that night, right?

8 A That's correct.

9 Q And again, we're at February 20th at this point,
10 right?

11 A That's correct.

12 Q And have you had an opportunity to review the phone
13 calls?

14 A I have listened to the call, yes.

15 MS. CAMPBELL: Your Honor, at this time we'd ask
16 permission to publish State's Exhibit 119.

17 THE COURT: What says the defense?

18 MR. SHEALEY: Subject to our previous
19 objections, we've listened to what she has, so --

20 THE COURT: All right. Admitted over objection.

21 (WHEREUPON, STATE'S Exhibit No. 119, having been
22 previously marked, was admitted into evidence.)

23 THE COURT: Ladies and gentlemen, I'll give you
24 a few minutes break before we proceed to give them an
25 opportunity to set this up.

1 Please go to the jury room. Please do not
2 discuss the case.

3 (The jury left open court at approximately
4 10:58 a.m.)

5 THE COURT: All right. We'll take a few minutes
6 break.

7 MR. SHEALEY: And, Your Honor, I assume she's
8 got a transcript.

9 THE COURT: We'll take about five minutes or so.
10 (A break was taken.)

11 MR. SHEALEY: Your Honor, if I could put
12 something briefly on the record about the transcripts of
13 these jail phone calls.

14 THE COURT: Sure.

15 MR. SHEALEY: I've listened to these the best I
16 could in great detail this morning so we could make sure
17 there wasn't anything objectionable and I'd just generally
18 object to the use of this aid because there is so much
19 open to interpretation.

20 Just specifically, here on one of them -- you
21 know, and I've tried as hard as I could to hear what it
22 was -- I think the jury needs to do it with their own
23 senses -- but here there's some things that the
24 Solicitor's office has typed up as part of their
25 transcript that put a different light on what it may or

1 may not be.

2 I just think, for instance, when they're
3 asking -- Nicole says something about the glove allegedly
4 to Mr. Wilkins and he, per their office says, "But I ain't
5 with it." I listened to it today and I thought it said,
6 "I ain't do it." So I think the jury needs the right to
7 make that decision for themselves without this completely
8 different meaning by this transcript, if you follow the
9 transcript.

10 As to the other phone call which is more
11 stronger and mentions a robbery, which it's hard to tell
12 when you're really hearing it, but they put it in there
13 and we tried to listen yesterday about the phone calls and
14 today to make sure there's nothing about other unrelated
15 crimes or wrong acts was in there, but that is in there.
16 So I would just say or ask you --

17 THE COURT: So there's some reference to a
18 robbery?

19 MR. SHEALEY: Yes, sir, it's talking about --
20 he's saying what they've got him in there for and they
21 told me, "What's up with the robbery?"

22 "The dude turned himself in, he robbed people.

23 "I'm like, 'Okay, let me go.'"

24 And yes, it talks about a robbery, he's been
25 alleged to do it, so it's something we'd like to avoid on

1 this. I couldn't even hear it barely on the actual audio.
2 So I think I'd just like to let the jury use it here.
3 It's just like -- it is audio evidence.

4 So I would ask that we don't put these in for
5 interpretations that may or may not be correct and let the
6 jury decide what they'll use. And it does mention things
7 like robbery if they start reading. It's a prior bad act.

8 THE COURT: Yes, ma'am.

9 MS. CAMPBELL: This is the same audio that we
10 provided and they had no objections to our redacted
11 version which has got all the part where he talks about
12 beating up other people, we took out all that. It's not
13 referring to him being a robber, he's saying some other
14 dude did the robbery.

15 MR. SHEALEY: It's talking about --

16 MS. CAMPBELL: And they just put on the record
17 an hour ago that they were fine with our redacted version.

18 MR. SHEALEY: Of the audio tape itself. We just
19 got this obviously minutes before the break. I didn't
20 anticipate they'd be using this because we figured we
21 would have been provided with this days ago.

22 THE COURT: As it relates to the two items that
23 Mr. Shealey mentioned, if you would just draw a line
24 through those things. And then the others, just draw a
25 line and black those out.

1 (The jury came into open court at approximately
2 11:21 a.m.)

3 THE BAILIFF: Jury's present, Your Honor.

4 THE COURT: Very good. You may continue.

5 MS. CAMPBELL: May I pass out the transcripts?

6 THE COURT: Sure.

7 BY MS. CAMPBELL:

8 Q Again, this is a phone call between whom?

9 A This phone call is between the defendant and Nicole
10 Grimes, his girlfriend.

11 Q And this was on February 20th of 2009?

12 A That's correct.

13 (Audio recording played but not transcribed.)

14 BY MS. CAMPBELL:

15 Q Those were the phone calls that were made on the
16 20th?

17 A Yes.

18 Q From the Richland County Alvin S. Glenn Detention
19 Center actually?

20 A That's correct.

21 Q And you retrieved those at a later date?

22 A Yes, I did.

23 Q That day did you hear discussions with Nicole Grimes
24 and with Ahmad Wilkins on the phone, the records from the
25 phone?

1 A Yes, they did.

2 Q And in using those phone records, what were you
3 trying to do?

4 A Well, trying to corroborate any information he had
5 about communication with the victim. Also trying to give
6 the defendant the opportunity to explain the numbers and
7 the conversation that he may have had with the victim and
8 any relationship with the victim as well as see what
9 Ms. Grimes knew about the relationship between the victim
10 and the defendant as well.

11 Q So Mr. Wilkins when he made his phone call was aware
12 that you-all had some phone records?

13 A Yes.

14 Q As well as Ms. Grimes?

15 A Yes.

16 Q Had you, in fact, shown her a picture of the glove?

17 A Yes.

18 Q And at that point the DNA had been submitted for
19 testing, but did you have the results back?

20 A No, we hadn't had the results back at that time.

21 Q And these phone calls as indicated, the inmates know
22 they're being recorded?

23 A Yes. As you can hear the pre-call statement letting
24 them know that the calls are recorded, so anything you say
25 can be retrieved.

1 Q Let me turn your attention to February 24th of 2009.

2 Did you attempt to get the video in this case?

3 A Yes, we attempted to get some video footage from the
4 complex area.

5 The complex has a multitude of cameras
6 throughout the area. They're not the best cameras, but
7 they do pick up -- some are motion, some are still mode,
8 some rotate throughout, so we did try to obtain any type
9 of video footage we could at the time.

10 Q And in your investigation, in this one as well as
11 other ones, as far as trying to get footage from that --
12 what's the purpose of the cameras being there?

13 A Well, the purpose of the cameras is to try to catch
14 criminal acts. There are -- of course, in that particular
15 area, it has a number of crimes that are committed there.
16 They place the cameras in areas that there've been
17 complaints for high crimes, and so it's to catch any kind
18 of criminal act they can possibly catch or any activities
19 and so forth that occur in that complex.

20 Q People living in Bethel Bishop, are they aware of the
21 cameras?

22 A Yes. Everyone that lives there knows that the
23 cameras exists. Anyone with any criminal activity knows
24 exactly where they're placed and so they know how to also
25 avoid them.

1 Q How to avoid them?

2 A Yes.

3 Q As far as saying or doing anything where they are?

4 A Correct.

5 Q And they don't actually canvas the entire complex
6 itself, just parts of it?

7 A Yes, just certain areas where they've had high
8 complaints of criminal activities and so forth.

9 Q You mentioned some of them actually pan different
10 areas?

11 A Yes.

12 Q Do they move constantly?

13 A That's correct.

14 Q Some are fixed?

15 A That's correct.

16 Q And then some are motion activated?

17 A That's correct.

18 Q Does the motion have to be significant enough to
19 activate the camera for it to move?

20 A Right. It has to be a significant movement for the
21 camera to actually activate and start recording or it will
22 just sit still.

23 Q In the area, there's certain areas that aren't
24 recorded on the camera as well?

25 A That's correct.

1 Q And is it possible, especially in the woodline area
2 right behind the apartments, to avoid any kind of
3 detection whatsoever?

4 A It's quite possible to avoid the cameras if you know
5 where they're placed and if you live in the area.

6 Q So it's fair to say if someone were involved in some
7 type of criminal activity and wanted to avoid detention --

8 MR. SHEALEY: Your Honor, objection. This is
9 speculation at this point.

10 THE COURT: I have to hear the question.

11 BY MS. CAMPBELL:

12 Q Would it be possible or is it possible if you're
13 familiar with the area to avoid detection?

14 A It's possible.

15 MR. SHEALEY: Objection.

16 THE COURT: Your objection's overruled.

17 THE WITNESS: It's possible, yes.

18 BY MS. CAMPBELL:

19 Q Did you actually retrieve some video?

20 A I did retrieve the videos.

21 Q And specifically again, what time period are you
22 looking at?

23 A We were looking at the time frame between 3 and 4 to
24 6 in the morning. We're equating that to the phone calls
25 last made to and from the victim and the last time she had

1 conversation with anyone, which was the defendant, so
2 we're focusing on that time frame.

3 Q And in retrieving this information from Bethel
4 Bishop, did it become somewhat complicated because of the
5 time frames on the actual video?

6 A Yes. The time frames are approximate. The cameras
7 themselves are not accurate on the time. There is a
8 four-hour-and-some-odd-minute differential in the exact
9 time, so we had to actually try to equate it in some way
10 to try to get the footage.

11 Q Did you actually retrieve the footage and then a
12 couple of days later take it to SLED and try to see if
13 anything of significance was on there?

14 A That's correct. We first observed the footage on
15 their system to try to see what segments that we needed.
16 Once I observed certain movements of subjects and so
17 forth, we had that recorded and then I took that recording
18 to SLED to try to see if we could get it on a disc or
19 something like that.

20 Q Specifically I show you State's Exhibit 69 which is
21 already into evidence. Is that the footage that you were
22 able to retrieve?

23 A Yes, it is.

24 Q And in this footage, are you able to actually
25 identify anyone?

1 A You can't positively identify anyone in the footage.
2 There is footage of a subject in the rear of the complex
3 heading from one direction toward the victim's apartment,
4 but there is no clear identifiers to say whom that subject
5 is.

6 MS. CAMPBELL: Your Honor, permission to
7 publish.

8 THE COURT: Yes.

9 (Pause.)

10 THE COURT: Is something playing?

11 MS. CAMPBELL: No, sir.

12 THE COURT: Ladies and gentlemen, we'll have you
13 step to the jury room for a moment.

14 Please do not discuss the case.

15 (The jury left open court at approximately
16 11:44 a.m.)

17 THE COURT: We'll be at ease for a moment, or
18 two or three.

19 (A break was taken.)

20 THE COURT: Bring us the jury, please.

21 (The jury came into open court at approximately
22 12 noon.)

23 THE BAILIFF: The jury is present, Your Honor.

24 THE COURT: Very good. You may continue.

25 MS. CAMPBELL: Thank you, Your Honor.

1 (Video recording played but not transcribed.)

2 BY MS. CAMPBELL:

3 Q Basically what's being shown now as far as the area,
4 this is one of the cameras?

5 A Yes, this is Camera 8. This is a camera that
6 actually goes in motion, it's not a set camera. So as you
7 watch this footage, you will flip, I believe, to three
8 different locations.

9 The primary location we're looking at is that
10 side, which is behind the apartment and at the rear of the
11 victim's apartment.

12 Q And it also shows two other areas?

13 A Yes.

14 Q And it kind of flips from area to area?

15 A It does.

16 Q So it does not portray everything that's happened
17 that night at all?

18 A No, it does not.

19 Q And, in fact, there has to be in motion?

20 A Correct.

21 Q But it goes through the same rotation kind of over
22 and over?

23 A That's correct.

24 Q In this, in your observations, we're getting to -- as
25 you mentioned, the hours are off by four hours or

1 something?

2 A Correct.

3 Q But was there someone that you see in and around the
4 apartment complex at one point?

5 A Right. When you look at this footage, pretty much
6 what you want to see is that approximately around 4 and
7 thereafter, there will be a subject moving around the rear
8 of that complex, the rear of the victim's apartment, and
9 the subject is in dark clothing, dark pants, dark jacket
10 and so forth, and it just --

11 Q Look at this right here. Is that what you're
12 referring to?

13 A Yes. And again, there's nothing you can see except
14 the images just around the rear of her apartment. And
15 again, the time is approximately 4 something in the
16 morning.

17 And the importance of that was that Mr. Grimes
18 advised that the defendant left his home on the last call
19 made and said, "Leave your back door open, I'm en route,"
20 and cumulatively that information showed that a subject is
21 around the rear of her apartment around that same time of
22 the last call.

23 Q And again here the time period is 0056.27, you see
24 another subject?

25 A Yes. Again, the subject, dark clothing and so forth,

1 around the rear of the victim's unit on foot.

2 Again, the cameras move and so at a certain
3 point the subject will no longer be there.

4 Q Okay. And the quality of this?

5 A As you can see, the quality is quite grainy.

6 Q During this time period, pursuant to February 2009,
7 your investigation's ongoing?

8 A Yes, it is.

9 Q Were you in contract with Rachel Grant at the
10 Richland County Sheriff's Department?

11 A Yes, I was.

12 Q Why would you-all take the evidence to be tested to
13 SLED rather -- I mean to Richland County rather than SLED?

14 A The evidence we felt was time sensitive and we wanted
15 to try to get the results back as quickly as possible.

16 Because SLED services the entire state, there's
17 a great delay in their process and return of evidence and
18 so forth, evidential information. Richland County has an
19 accredited DNA lab and they get your results within a
20 matter of days to weeks, but much quicker than months that
21 it would normally come from SLED because of their influx
22 of cases.

23 Q And were you conferring with her about what evidence
24 was probative as far as testing goes?

25 A Yes. We were trying to assess -- we had a number of

1 items that we collected at the crime scene and we were
2 trying to assess which evidence would be most important in
3 trying to recover any kind of DNA. So we spoke with
4 Rachel and her colleagues in reference to what we should
5 process just based on what would be most probative in
6 pulling out some type of DNA of the defendant.

7 Q I want to turn your attention to February -- excuse
8 me -- March 2nd of 2009. Did you-all go and get a
9 search warrant in this case?

10 A Yes, March 2nd, we did get a search warrant.

11 Q And whose residence were you searching at that point?

12 A With the March 2nd one, it's the actual address of
13 25-H. That is the defendant's and his girlfriend's home.

14 Q And did Investigator Reese participate in that search
15 warrant as well?

16 A Yes, he did.

17 Q And did you-all collect certain items of clothing?

18 A Yes. We -- in the search I was looking for any dark
19 hooded-type jacket and dark jeans and any Air Jordan-type
20 tennis shoes. Those articles were described by Sean
21 Grimes and Cynthia Jackson as the articles of clothing
22 that were worn the night of the murder of Eboney and
23 that's what the defendant had on at that time. So I was
24 trying to retrieve anything in regards to those items of
25 clothing.

1 Q Moving on to April 28th of 2009, at this point you
2 still don't have any results back from the DNA testing?

3 A No.

4 Q And did you want to follow up and interview some
5 additional people, including Sean Grimes again?

6 A On the 28th, yes, we did. We did interview Sean
7 Grimes in reference to any information that he had in
8 reference to this murder.

9 In that interview, Mr. Grimes was able to
10 provide us with pretty much detailed statements in regard
11 to he and the defendant actually during the day and going
12 into the morning of February 3rd, that they were smoking
13 and hanging out and so forth.

14 He went into the fact that while at the house,
15 the victim repetitively called the house phone first
16 looking for Ahmad. He advised that Ahmad had gotten \$20
17 from the victim and was supposed to bring some powder
18 cocaine back.

19 He advised that his wife had Eboney call Ahmad's
20 cell phone, and immediately after she advised Eboney,
21 "Don't call my house too early in the morning," Ahmad's
22 phone started ringing off the hook. That's that 446-0191
23 number. He would answer it, he would repetitively tell
24 her, "Give me a little time, I'm coming."

25 Sean advised that he knew it was Eboney, he

1 could hear her voice, he thought of her as his niece or a
2 family member himself, and she continued to call.

3 At some point in the evening, late morning
4 there, Ahmad finally said, "Listen, I got to take this
5 package over. We have the flour. I'm supposed to put
6 something together that would resemble cocaine in a
7 plastic package to take to her." The last call he told
8 her to "leave the back door open, I'm coming."

9 Sean Grimes advised that when Ahmad left the
10 house, he went to the rear of their building, Building 30,
11 and headed towards Building 33, which is the footage that
12 you-all just saw of the rear of Eboney's house, with
13 the -- advising Eboney to leave her back patio door open.

14 Q At this point you've gotten a statement from Sean
15 Grimes. Was he able to give you a time period on any of
16 his statements?

17 A His time differed. We interviewed him twice. The
18 time at one point was between 3 and 4.

19 MR. SHEALEY: Objection, Your Honor. It's
20 hearsay.

21 THE COURT: What's the question?

22 MS. CAMPBELL: Did he ever give you any
23 information about time frames.

24 THE COURT: In referencing?

25 MS. CAMPBELL: Referencing Sean Grimes'

1 information.

2 THE COURT: The objection's overruled. You can
3 answer.

4 THE WITNESS: On the first interview with
5 Mr. Grimes, he gave information that the time was between
6 3, 4-ish.

7 On the second interview with Mr. Grimes, he said
8 1 to 2, but he still wasn't certain on the time.

9 He willfully admitted that he and Ahmad had
10 smoked crack, he was high, so he could not be precise on
11 the time.

12 BY MS. CAMPBELL:

13 Q And were the phone records instrumental in
14 corroborating the time frame you're talking about?

15 A The phone records themselves gave a closer time
16 frame, between 3 and 4. That's where the ten calls
17 between the two of them were taking place. So it
18 corroborates Sean Grimes' and Cynthia Jackson's statement
19 that calls made from Jackson's phone and calls made from
20 Ahmad's phone, it just gave us a more precise time frame,
21 better than their remembrance of exactly what time the
22 calls came in. It's more factual.

23 Q At this point the suspect in this case is who?

24 A Ahmad.

25 Q Ahmad Wilkins?

1 A Yes.

2 Q And are you still waiting on the DNA results?

3 A Yes.

4 Q And time passes -- a good deal of time passes as far
5 as the DNA testing?

6 A Yes, it does.

7 Q And at a later date, actually in the summer of 2010,
8 you have an exchange about information that Rachel Grant
9 needed?

10 A Yes. The DNA analyst, Ms. Grant, advised me that she
11 needed actual DNA from the defendant personally, she
12 needed a Buccal swab, which is of each cheek, so that she
13 could do a more detailed DNA -- analyze the DNA in more
14 detail. Also, that in order to do the Y-examination, she
15 would need an actual sample from the defendant.

16 Q And at that point did you take steps to get a search
17 warrant in this case?

18 A I did.

19 Q And what search warrant were you getting?

20 A I got a search warrant for Ahmad Wilkins' exact DNA.

21 Q And in getting that search warrant, you actually went
22 before a magistrate?

23 A Yes, sir.

24 Q And gave him general information?

25 A Yes, I did.

1 Q And then a lawful search warrant was obtained?

2 A Yes, it was.

3 Q And did Investigator Moore with your crime scene
4 investigative unit actually execute that search warrant
5 and collect the swab?

6 A Investigator Moore and Investigator Sumter executed
7 that search warrant for the DNA sample.

8 Q And that was in July of 2010?

9 A Yes.

10 Q And then that was forwarded to Rachel Grant?

11 A Yes, it was.

12 Q And that fall, did you receive information about the
13 DNA testing that had been done, specifically as to the
14 glove and the ligature?

15 A Yes, I did.

16 Ms. Grant informed me that after getting the
17 defendant's DNA, that she was able to do an extensive test
18 and that the ligature itself had evidence of the
19 defendant's DNA on it -- it had a mixture -- but the DNA
20 found could only be he, his father, or his brother that
21 was actually on the ligature and that a -- also on the
22 glove that was out of place at the crime scene, it had an
23 even stronger presence of DNA, and that he could not be
24 excluded from the DNA that was on the glove as well.

25 Q With that information, did you then consult with me

1 and my office and then go to a ministerial reporter and
2 obtain an arrest warrant?

3 A I did. After consulting with the Solicitor's office
4 and getting permission for a murder warrant, I took out a
5 warrant against the defendant, Ahmad Wilkins.

6 Q And based on the information you had, why did you
7 wait on the DNA evidence to come in?

8 A I felt that that was going to be good strong evidence
9 to place Ahmad in the victim's residence as well as the
10 fact that it was on the murder weapon itself, that he
11 choked her, and the glove became quite probative to my
12 case.

13 Q And, also, to give him the benefit to make sure --

14 A Well, we wanted to make sure that we had the right
15 man.

16 Q On February 2nd of 2011, was Ahmad Wilkins taken into
17 custody?

18 A Yes, he was.

19 Q And who actually arrested him that day?

20 A Actually we had a team out that day trying to look
21 for Mr. Wilkins, and Investigator Reese and his team, they
22 were able to locate Mr. Wilkins and take him into custody.

23 Q Once he was taken into custody, did he come down to
24 headquarters?

25 A Yes. Once he was taken into custody, he was

1 transported to headquarters and then brought up to the
2 second floor where we interviewed him in one of our
3 interview rooms.

4 Q And when you interviewed him, where did the interview
5 take place?

6 A In Investigations on the second floor. We have a
7 series of interview rooms throughout and we just placed
8 him in one of those and then Investigator Reese and myself
9 did the interview.

10 Q And prior to interviewing him, did you take any
11 precautions since he was in custody at that point?

12 A Yes. Once bringing him in, we handcuffed him to the
13 chair to ensure that he's secured and then we secured our
14 weapons in a lock box prior to proceeding with the
15 interview.

16 Q Prior to asking him any questions at that point since
17 he was in custody, I'll show you what's marked as State's
18 Exhibit 116 for ID purposes.

19 A Yes. This is an advisement of rights form. This is
20 what we normally advise any of our suspects of that we're
21 charging prior to any questions.

22 Q And can you tell this jury just basically how you go
23 about advising him of his rights that day?

24 A Yes. Basically we advise him before we talk to you
25 about anything, we go through line by line, if I may.

1 Q Let me offer it into evidence first.

2 A Okay.

3 MS. CAMPBELL: At this time we'd offer State's
4 Exhibit No. 116 into evidence.

5 MR. SHEALEY: Subject to our prior objections,
6 Judge.

7 THE COURT: It's admitted over the objection.

8 MS. CAMPBELL: Thank you.

9 (WHEREUPON, STATE'S Exhibit No. 116 was admitted
10 into evidence.)

11 BY MS. CAMPBELL:

12 Q Can you go through them?

13 A All right. We have them have a seat and advise them
14 that we want to talk to them in reference to the case and
15 then we pretty much read line by line each right.

16 "Before we ask you any questions, you must
17 understand your rights.

18 "You have the right to remain silent. Anything
19 you say can be used against you in court.

20 "You have the right to talk to a lawyer for
21 advice before we question you -- before any questioning
22 and to have him present during any questioning.

23 "If you cannot afford a lawyer one will be
24 appointed before questioning, if you wish.

25 "If you decide to answer questions now without a

1 lawyer present, you still have the right to stop answering
2 questions at any time. You also have the right to stop
3 answering questions at any time so you can talk to a
4 lawyer."

5 Once I've read that, I would have him initial
6 each line, that he understood each line, and then he reads
7 the bottom portion of that advising that he understands
8 his rights and he does not wish to have a lawyer present.

9 And once he agrees to all of that, he affixes
10 his signature here. Investigator Reese and I affix our
11 signature witnessing his signature.

12 Q And when you advised him of his rights, did he seem
13 to understand his rights?

14 A He understood his rights, yes.

15 Q Did he appear to be coherent?

16 A He was quite coherent.

17 Q Did he appear to be under the influence of any drugs
18 or alcohol?

19 A He did not.

20 Q At any time did you promise him anything to make him
21 talk?

22 A No, we didn't promise him anything.

23 Q At any time did you threaten him in any way?

24 A No, we didn't threaten him in any way.

25 Q Did you use any type of force or coercion?

1 A No force or no coercion.

2 Q And did you deprive him of any creature comforts?

3 A We did not.

4 Q In your opinion, was he willing to talk to you
5 voluntarily?

6 A He was willing to speak to us.

7 Q After understanding what his rights were?

8 A That is correct.

9 Q And at any time did he ever invoke any of his rights?

10 A He did not invoke at any time.

11 Q Did you and Investigator Reese then sit down with him
12 and have a series of questions for him?

13 A Yes, we did.

14 Q And were those tape recorded?

15 A We did record the statement, yes.

16 Q And I show you what's been marked as State's
17 Exhibit 144. Have you had an opportunity to review this
18 version of it?

19 A Yes.

20 Q And the parts that are on this, are they fairly
21 accurate and depict what went on?

22 A They are.

23 MS. CAMPBELL: Your Honor, at this time we'd
24 offer State's Exhibit 144.

25 MR. SHEALEY: Subject to our prior objections

1 and stipulations.

2 THE COURT: It's admitted.

3 (WHEREUPON, STATE'S Exhibit No. 144 was admitted
4 into evidence.)

5 MS. CAMPBELL: Thank you, Your Honor.

6 Permission to play it?

7 THE COURT: Yes.

8 BY MS. CAMPBELL:

9 Q While she's setting that up, during the course of
10 your investigation, did you also -- you had mentioned
11 earlier that you became aware that his brother Idris
12 actually worked out there?

13 A Yes, I did. During the course of the investigation
14 we spoke with management and found out his brother
15 actually was employed there.

16 Q But he actually stayed off the property?

17 A That's correct, he did not live in the complex.

18 Q And did you actually go and interview him?

19 A I did.

20 Q And what was the purpose of that interview?

21 A We interviewed the brother to try to assess if he, in
22 fact, did any maintenance in the apartment himself during
23 the time of the murder or before the murder itself. He
24 advised that he --

25 MR. SHEALEY: Objection, Your Honor, hearsay.

1 THE COURT: The objection's sustained.

2 BY MS. CAMPBELL:

3 Q You can't say what he said.

4 A I apologize.

5 Q But were you able to get pertinent information?

6 A Yes.

7 MS. CAMPBELL: May I approach, Your Honor?

8 THE COURT: Yes.

9 (Pause.)

10 BY MS. CAMPBELL:

11 Q And who did the questioning?

12 A Investigator Reese and I are questioning the
13 defendant at this time.

14 (The audio recording is played but not
15 transcribed.)

16 THE COURT: All right. Ladies and gentlemen,
17 we're going to stop at this point so that we can have
18 lunch. I'm going to take about one-half hour since your
19 lunch is already here -- we should be able to do that --
20 and then press on.

21 Please do not discuss the case.

22 If you'll leave the exhibits in the courtroom.
23 Leave them in your chair, if you'd like.

24 (The jury left open court at approximately

25 1:09 p.m.)

1 THE COURT: Half an hour should put us at about
2 1:45. All right.

3 (A lunch break was taken.)

4 THE COURT: All right. Bring us the jury.

5 (The jury came into open court at approximately
6 1:45 p.m.)

7 THE BAILIFF: Your Honor, the jury's all
8 present.

9 THE COURT: Very good. Ladies and gentlemen,
10 you may resume.

11 (The audio recording was played but not
12 transcribed.)

13 BY MS. CAMPBELL:

14 Q In this case, after you interviewed the defendant,
15 were you able ever to get the names of anybody that he
16 mentioned by nickname?

17 A No, we were unable to identify even the nicknames of
18 the people he gave at that time.

19 Q After he was arrested, did you continue to gather
20 whatever information may be pertinent in this case?

21 A Yes, we did.

22 Q And specifically in the summer of 2011, I believe
23 June of 2011, did you become aware of an inmate named
24 Patruan Hare?

25 A Yes, I did.

1 Q And did you end up going down to the Alvin S.
2 Glenn -- or where did you go to take a statement from him?

3 A An agent with our Narcotics Division contacted me in
4 reference to a Mr. Hare, advising that he had pertinent
5 information involving this homicide and that he wished to
6 speak with me in reference to it.

7 I then had Mr. Hare brought to Investigations
8 and I conducted an interview with him. He gave a detailed
9 statement of his communications with the defendant in
10 reference to my murder case.

11 As he spoke to the defendant and he took some
12 notations. They spoke over a course of weeks or what have
13 you and he gave details of the fact that they met over in
14 reference to narcotics, that there was consumption of
15 narcotics during his visit there between the two of them,
16 they did cocaine, marijuana, and had some drinks on a
17 chair in the living room. He said it was a love seat.

18 The information that he was giving, he did not
19 know Ms. Williams, he's not from the Bethel Bishop area,
20 but the details about furniture and places and so forth,
21 what he gave me, could only come from a person inside the
22 home.

23 As Ahmad explained to him what's transpiring, he
24 says that she consumed narcotics, the alcohol and so
25 forth, and when he made a pass for sexual favors, she

1 denied him and at some point he choked her.

2 Patruan says that when he mentions choking, he
3 says, "They say I used a belt."

4 MR. SHEALEY: Your Honor, we'd object at this
5 time. This is all hearsay.

6 THE COURT: It's testimony in the record.

7 THE WITNESS: All right. And then he starts to
8 allude to any evidence that we, as investigators, have on
9 him. He mentioned to Patruan that he had collected
10 cigarette butts because he and she sat on the couch and
11 smoked cigarettes and so forth. He alluded that during
12 our interview, that he actually ate a cigarette butt or
13 something of that nature to prevent us from getting DNA.

14 He also spoke in reference to Ahmad telling
15 about a footprint that was left in the living room area
16 and because of that footprint, we, in fact, searched his
17 home and retrieved a hoody and shoes and so forth that he
18 wore that night.

19 Again, with the details of her being in the
20 living room area near the chair as far as where she was
21 choked, only the person that committed the act would have
22 known exactly where the body was. There's no way Patruan
23 Hare should have been able to communicate that information
24 to me unless it came from the actual killer.
25

1 BY MS. CAMPBELL:

2 Q During the course of your interview with the
3 defendant in this case, did he also indicate to you
4 whether or not he was right or left-handed?

5 A Yes. The defendant is actually a left-handed
6 individual. The glove that actually was left in the unit
7 is a left-handed glove. If you smoke or what have you,
8 you light a lighter, you tend to light it with your
9 dominant hand.

10 MR. SHEALEY: Your Honor, objection. This is
11 just absolute speculation.

12 THE COURT: Ms. Campbell.

13 MS. CAMPBELL: I was going to ask him about the
14 significance, Your Honor.

15 THE COURT: How do you know that's what he's
16 saying?

17 BY MS. CAMPBELL:

18 Q How do you know what you're saying?

19 A Again, the evidence that's left on the scene and,
20 again, going on my experience as an investigator in the
21 department for 22 years, certain things that we come
22 across we come across quite frequently.

23 In this situation here, again the glove was
24 left --

25 MR. SHEALEY: Your Honor, my objection's the

1 same, speculation.

2 THE COURT: Your objection's overruled.

3 MS. CAMPBELL: Thank you, Your Honor.

4 BY MS. CAMPBELL:

5 Q Go ahead.

6 A And we found that to be very pertinent in our
7 investigation, that it so happened to be a left-handed
8 glove that stood out at the scene and that our
9 perpetrator's DNA that's been recovered is a left-handed
10 individual. Again, most people light up anything with the
11 dominant hand.

12 Q And in the course of your investigation, you actually
13 made case notes?

14 A Yes.

15 Q And do those case notes include what you did as well
16 as what Investigator Reese did?

17 A Yes, we were together the entire time. When we -- we
18 work a number of homicides, and when we work homicides
19 together, if he takes the notes, I read his notes and
20 concur with what's in there or add or what have you; if I
21 take the notes then he'd do the same. That's why we both
22 work off the same notes.

23 Q And that's been your practice for years?

24 A Yes, it has.

25 Q And in this case, you also keep copies of all

1 pertinent documents such as search warrants?

2 A Yes, we do.

3 Q And, in fact, in this case in preparation for trial,
4 one of the actual original search warrants cannot be
5 located at this point?

6 A That's correct.

7 Q But you kept copies?

8 A Yes, we did.

9 Q And that can be used for court?

10 A Yes, it can.

11 Q As well as all the statements and other documents in
12 these two files right here? This is all paperwork from
13 this case?

14 A Yes, ma'am.

15 Q The Bethel Bishop Apartments, where is it located?

16 A It's located at [REDACTED] It's almost
17 adjacent to 277.

18 Q I'll show you what's marked as State's Exhibits 145,
19 146, and 147. Do you recognize these? Have you looked at
20 these?

21 A Yes, I have.

22 Q And do these show the areas around Bethel Bishop as
23 well as the Bethel Bishop Apartments?

24 A Yes, they do.

25 MS. CAMPBELL: Your Honor, at this time I'd

1 offer these into evidence.

2 THE COURT: What says the defense?

3 MR. SHEALEY: No objection.

4 THE COURT: They're admitted.

5 (WHEREUPON, STATE'S Exhibits Nos. 145-147 were
6 admitted into evidence.)

7 MS. CAMPBELL: Your Honor, may the witness step
8 down now?

9 THE COURT: Sure.

10 BY MS. CAMPBELL:

11 Q You can come over on this side, but talk up loud.

12 I'm showing you State's Exhibit No. 145. What
13 general area of town is this?

14 A This again is the Beltline/Farrow Road area, and the
15 area also has the Bethel Bishop community in it. Here is
16 277, Lester Drive.

17 Q You're blocking it.

18 A I'm sorry. Can you see? I apologize.

19 In this area you have what is Lester Drive and
20 right here would be the Bethel Bishop/Ripplemeyer
21 community.

22 Q You've got to speak up.

23 A Right in this area here is the [REDACTED] area
24 where Bethel Bishop and the place of the homicide is at.

25 Q Okay. And between Beltline and Bethel Bishop is

1 another apartment complex?

2 A Yes. Here on Bailey Street that is called the
3 Colonies and for most purposes must enter the Colonies in
4 order to get to Bethel Bishop. And then you can also
5 enter here from Lester Drive to get to the backside of
6 Bethel Bishop.

7 Q I'll show you a closer-up view of the entire Bethel
8 Bishop apartment complex. It's State's Exhibit 146. Is
9 that, in fact, just a close-up view of what we just
10 viewed?

11 A Yes. This actually brings the complex in at a closer
12 range here, showing all of the apartment buildings in that
13 cluster. And I want to say there are approximately
14 30-some-odd buildings actually in the complex itself.

15 Q And these buildings, are they one-story or two-story
16 homes?

17 A They're two-story building.

18 Q In the Bethel Bishop area?

19 A That's correct.

20 Q But in the Colonies is it different?

21 A They're one-story.

22 Q Okay. State's Exhibit 147, does that show a close-up
23 of the buildings you've been referring to for the most
24 part?

25 A Yes, it does.

1 Q And Building 33 where the victim was living when she
2 was murdered, do you see that?

3 A Yes, this would be Building 33.

4 Q And then Building 30, is it down here?

5 A Building 30 is where Sean Grimes and Ms. Jackson
6 reside. And this is the back area leading to Building 33,
7 which is what you were observing on the video that they
8 showed you earlier.

9 Q Okay. And specifically down towards this area?

10 A Correct.

11 Q And as far as going into the woodline and being able
12 to be seen here, can you explain that to the jury?

13 A Again, as I just mentioned earlier, the cameras are
14 placed through where there's complaints and so forth, so
15 they're not all over. So there are certain areas that you
16 could go to within this area and not be seen by cameras.

17 Q Building 25-H, is it also shown on here?

18 A That is 25-H. I believe it's in the horseshoe area
19 right here.

20 Q About where you've got the light?

21 A That's correct.

22 Q And who was actually residing there?

23 A This is where the defendant resided with his
24 girlfriend.

25 Q That would be which girlfriend?

1 A Nicole Grimes.

2 Q Thank you, sir.

3 The person that you-all interviewed and arrested
4 for this crime, is he here in the courtroom?

5 A Yes, he is.

6 Q Can you point him out for the jury?

7 A Ladies and gentlemen, the tan sweater, sitting on the
8 other side of the three attorneys.

9 MS. CAMPBELL: Let the record reflect, Your
10 Honor.

11 THE COURT: It does.

12 MS. CAMPBELL: Thank you.

13 THE COURT: Ladies and gentlemen, I'll have you
14 go to the jury room for a break.

15 Please do not discuss the case.

16 (The jury left open court at approximately 2:38
17 p.m.)

18 THE COURT: All right. We'll take about ten
19 minutes or so.

20 (A break was taken.)

21 (A recess was held in the trial while other
22 proceedings were had.)

23 THE COURT: All right. Are we ready for the
24 jury?

25 MS. CAMPBELL: Yes, Your Honor.

1 Can we just make a request of the defense that
2 if they're going to put up lay witnesses, that we go ahead
3 and get dates of birth and information so we can run rap
4 sheets?

5 THE COURT: All right.

6 MS. CAMPBELL: Because we are, actually,
7 hopefully to the end of our case.

8 THE COURT: All right. Do you have information
9 for rap sheets on lay witnesses?

10 MR. MAY: I do not as of this point. I will try
11 to get them soon as possible, and as soon as I get them,
12 I'll give them to the solicitors.

13 THE COURT: All right. Bring us the jury.

14 (The jury came into open court at approximately
15 3:05 p.m.)

16 THE BAILIFF: Your Honor, all jurors are
17 present.

18 THE COURT: Very well. Cross-examination.

19 MR. SHEALEY: May it please the Court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. SHEALEY:

23 Q So you've been promoted recently?

24 A Yes, I have.

25 Q Okay. When did that happen?

1 A I believe it was last June, June 6th of last year.

2 Q Okay. How long have you been with the City of
3 Columbia?

4 A Twenty-two years.

5 Q All right. In 22 years time, you know how to take a
6 report, right?

7 A I would believe so.

8 Q You know how to observe an investigation?

9 A I'm trained to do that, yes.

10 Q Twenty-two years, right?

11 A That's correct.

12 Q Okay. This is not your first time as an
13 investigator, now you're sergeant, right?

14 A That's correct.

15 Q Okay. And even before you became an investigator you
16 had tons of training, right?

17 A That's correct.

18 Q Okay. How to secure a crime scene?

19 A That's correct.

20 Q How to document?

21 A That's correct.

22 Q And now you're a sergeant, so -- I mean, you know how
23 to lead, don't you?

24 A I've been leading for many years, sir.

25 Q Yes, sir. You've been given some responsibility with

1 the City of Columbia Police Department, haven't you?

2 A Yes, sir.

3 Q Okay. Now, in this investigation you were the lead,
4 right?

5 A Investigator Reese and I were leads, yes.

6 Q All right. But you took the notes?

7 A Yes, I did.

8 Q Okay. And you're a leader of men, you're telling
9 other people what to do?

10 A That's what I do, yes.

11 Q And it's safe to say the buck stops with you, you and
12 Reese on this investigation?

13 A In this case I am the lead, Reese is the co-lead,
14 yes.

15 Q Okay. Now, let's talk about Eboney. February 3rd,
16 2009, you got called out to Apartment 33-F?

17 A That's correct.

18 Q All right. And in the course of your investigation,
19 you came to understand and investigate areas of her life,
20 right?

21 A Yes, I did.

22 Q Okay. You understand that she did cocaine?

23 A That's correct.

24 Q We've heard testimony about powder and this kind of
25 thing, right?

1 A That's correct.

2 Q In looking for suspects and investigating, being the
3 lead investigator, you came to understand that she had a
4 lot of men in her life?

5 A She had a number of male friends and female friends,
6 associates, yes.

7 Q Right. Came to understand that she dates off of chat
8 lines?

9 A Some information was received that that did occur,
10 yes, sir.

11 Q And you-all are trying to find suspects and generate
12 suspects and you investigated all that kind of stuff?

13 A We're trying to make connections to her in any way.

14 Q You talked to neighbors of hers?

15 A Yes, we did.

16 Q You talked to friends of hers?

17 A Yes, we did.

18 Q You talked to enemies of hers?

19 A I don't know if anyone was an enemy, just associates,
20 friends, and anyone who's related.

21 Q Talked to a lot of people?

22 A That's correct.

23 Q Okay. Did you want to find out who she had seen
24 recently around the time of February 3rd, 2009?

25 A That's correct. And definitely before we received

1 any phone records, that was our primary --

2 Q Right. That's your job?

3 A Yes, sir.

4 Q Now, you testified about canvassing the area and
5 maybe sending other people out to canvas the area?

6 A Yeah, I had my whole team out there.

7 Q All right. You've got your notes in front of you?

8 A I do.

9 Q The notes for you and Investigator Reese?

10 A That's correct.

11 Q So you typed them up?

12 A That's correct.

13 Q Okay. I know that you-all spoke to Sierra Austin,
14 right?

15 A Ms. Austin, yes, sir.

16 Q And y'all are looking for any kind of male suspects
17 that Eboney had seen around the time of her death?

18 A Again, all of this prior to getting the phone
19 records, that's correct.

20 Q Sure, sure. Sierra told you about a guy named Larry
21 that she saw her with that drove a Mercedes?

22 A That's correct.

23 Q She told you about a guy named Tony, a light-skinned
24 black male in his 30s, right? He drove a gold truck,
25 you're taking notes, it's all in your report?

1 A Uh-huh.

2 Q Now, Sierra also told you about a heavy black male
3 weighing 380 to 390 pounds, right?

4 A That's correct.

5 Q Okay. She also told you about -- talking about
6 Sierra -- saw the victim get into some kind of black
7 Charger, Impala, around 2 p.m. the day before her death on
8 the 2nd; she told you that?

9 A I remember something in reference to the vehicle, but
10 if you give me a date and --

11 Q I'm just looking at your notes.

12 A Okay.

13 Q You can start chronologically, it's right there,
14 but -- it's right in your notes.

15 I'm going to move on now, though.

16 A Okay.

17 Q You talked to Shena Fowler --

18 A That name sounds familiar.

19 Q -- when you're looking for suspects and she mentioned
20 that she saw the victim with a guy she knows as
21 Christopher Glover and he drives a Solara and that the
22 victim was with this guy for a little bit and she came
23 back seeming like she was high, correct?

24 A Where are you in my notes?

25 Q It's all in your notes. It's all in your notes.

1 A What page are you on? I have page numbers on the
2 top. If you can tell me the page number --

3 Q Sierra Austin's page two. This is going to be real
4 easy. I'm going to go chronological here.

5 A Okay. Austin, got you, but I don't want to read
6 something I don't see.

7 Q That's right. Now I'm on three, all right? Stay
8 with me here. If you lose your place, it's probably just
9 the next page.

10 A All right.

11 Q You spoke to a lady by the name of Melika McClinton,
12 right?

13 A I did.

14 Q She says that she and Eboney used to go to Club F&L
15 with a guy named Carlos, right?

16 MS. CAMPBELL: Objection, Your Honor. This is
17 all hearsay testimony.

18 MR. SHEALEY: Your Honor, this is not hearsay.
19 This is --

20 THE COURT: She says it is, you say it isn't.

21 MR. SHEALEY: Your Honor, this goes to the
22 integrity of the investigative hearsay under Kyles v
23 Whitley. It's also investigative hearsay allowed under
24 and permitted under State v Thomas.

25 THE COURT: So it is hearsay, but it's allowed?

1 MR. SHEALEY: Yes, sir.

2 THE COURT: Okay. What says the State?

3 MS. CAMPBELL: I do not think the substance of
4 what another witness may have or may not testify to -- I
5 mean, the information's provided to the defense and they
6 could call anybody they want to, but it's not firsthand.

7 THE COURT: All right.

8 MR. SHEALEY: Your Honor, Ms. Campbell --

9 THE COURT: Let me hear the question again.

10 MR. SHEALEY: I was -- I asked Melika McClinton
11 and Ms. Campbell was going over suspects they had to
12 generate.

13 THE COURT: What's the question? I want to hear
14 the question.

15 MR. SHEALEY: Thomas: Eboney used to go to --
16 Melika McClinton and Eboney used to go the F&L Club with a
17 guy named Carlos, right?

18 THE COURT: The objection's overruled.

19 THE WITNESS: Yes.

20 BY MR. SHEALEY:

21 Q Okay. Melika also said they'd go to the club and
22 hang out with a guy named Larry Salley, a suspect that you
23 were investigating at the time, and they used to ride
24 motorcycles; you learned that from Ms. McClinton?

25 A I only had one suspect in this case, but I had

1 gentlemen and women friends and associates that I looked
2 for. The names that you are calling are not suspects,
3 they're just people that I wanted to know and speak with
4 because they were associated with her. I only had one
5 suspect, and that's your client.

6 Q Well, at this time -- chronological now, we're
7 starting in the very beginning -- you were generating
8 people that you were interested in, weren't you?

9 A I was looking for friends, associates, anyone that
10 could give me information, yes.

11 Q Okay. Now, when you're looking for friends and
12 associates, did anyone give you information?

13 A Yes, sir.

14 Q You spoke to Steve Marshall, right?

15 A Steve Marshall? What page are you on now?

16 Q It's right in your notes.

17 A If you tell me the page, that will help me.

18 Q On page five at the bottom.

19 A All right. Five at the bottom. Yes.

20 Q He said that the day before her death, that he saw a
21 heavy-set black male go into the apartment with her, he
22 was light-skinned, maybe about 280 pounds, black coat. Do
23 you see that in your notes?

24 A Okay. I do.

25 Q All right. Now, you also spoke to Venchie Grimes in

1 this case, right? Page six now, on page six.

2 A Page six at the bottom?

3 Q Page six.

4 A On February 5th, 2009, yes.

5 Q Right. And you spoke to him about his recollections
6 of Eboney around the time of her death, right?

7 A Yes.

8 Q All right. In your notes you see this number
9 associated with Venchie Grimes, don't you, 786-7765? It's
10 right by the name in your notes, right?

11 A Yes, it is.

12 Q Okay. And you're trying to write everything as
13 accurately as you can, right?

14 A That's correct.

15 Q That way you can recall it all when you come testify
16 at trial, right?

17 A That's correct.

18 Q All right. Now, I want to refer you to your notes.
19 You talked to a guy named Carlos Adams, right?

20 A Refer to the page and location for me, if you would.

21 Q I'll keep going. It's probably right towards the
22 end.

23 A Right towards the end. February 9th, 2009, correct.

24 Q You got it.

25 A All right. There we go.

1 Q Now, he came in and told you that he spent the night
2 with Eboney a couple of days before and he overheard a
3 conversation that she had with a guy named Chris and
4 another female on the phone --

5 MS. CAMPBELL: Objection, Your Honor. It's
6 double hearsay.

7 MR. SHEALEY: Your Honor, if you'll allow me to
8 continue, this goes directly to the integrity of the
9 investigation under Kyles v Whitley.

10 THE COURT: I haven't heard the question. Can't
11 rule on an objection until I hear the question.

12 MR. SHEALEY: And Carlos Adams said that he
13 stayed overnight with Eboney and overheard on the phone a
14 guy named Chris --

15 MS. CAMPBELL: Objection, Your Honor.

16 MR. SHEALEY: I haven't finished the question.

17 THE COURT: All right. The objection is
18 sustained.

19 I'm going to have the jury go to the jury room
20 and we'll discuss this matter.

21 (The jury left open court at approximately 3:16
22 p.m.)

23 THE COURT: All right. Let me hear these
24 arguments about all of these hearsay questions.

25 MS. CAMPBELL: May it please the Court, Your

1 Honor.

2 THE COURT: Yes.

3 MS. CAMPBELL: I believe he's crossed the line
4 as to third-party guilt in this particular instance. He's
5 getting ready to get into -- trying to get into it without
6 calling any witnesses other than the investigator, the
7 fact that one Carlos Adams said he was at Eboney's house
8 when he overheard a male on the phone who he thinks their
9 name was Chris and overheard Chris threatening her and
10 told her if she called the police he would kill her, he's
11 attempting to get this in through Investigator Thomas.

12 MR. SHEALEY: And, Your Honor, this -- in
13 response to Ms. Campbell -- this is information that he
14 learned in the course of his investigation. It's plain
15 and simple.

16 In the days after her death when he was trying
17 to develop suspects, even though he's saying that he's got
18 one suspect now, back then he was developing suspects and
19 this is something that he learned in the course of his
20 department's investigation, and this is very pertinent.
21 He learned about someone making a direct threat on her
22 life in the course of his investigation. This is directly
23 on point with Kyles v Whitley.

24 THE COURT: Well, you've been able to
25 assassinate the victim's character through the first few

1 questions, which is improper, and now you're seeking to
2 establish that someone else likely killed her because of
3 hearsay by someone that she'd been threatened?

4 MR. SHEALEY: Judge, I'm saying that he learned
5 of someone that threatened her life through the course of
6 his investigation. He ostensibly attacks the
7 investigation, which is permissible line of questioning
8 for a defense attorney, Kyles v Whitley.

9 THE COURT: It attacks the integrity of the
10 investigation in what way?

11 MR. SHEALEY: By showing that there are other
12 suspects.

13 THE COURT: It's because he didn't prove that --
14 because he didn't bring someone else to trial?

15 MR. SHEALEY: It just shows that there are other
16 suspects. Yes, Judge, that's exactly the point of that
17 case. And I'm allowed to talk to A.L. Thomas about what
18 he learned during his investigation and his department's
19 investigation.

20 THE COURT: Whether you're allowed, that's the
21 issue before me at this time. Is that your position?

22 MR. SHEALEY: Yes, that's correct. It's my
23 position that that's what Kyles v Whitley talks about.

24 THE COURT: All right. Ms. Campbell, what does
25 Kyles v Whitley talk about?

1 MS. CAMPBELL: Kyles v Whitley I don't think
2 addresses the third-party guilt issue at all. There's
3 case law, Your Honor, it's my understanding, and our
4 position would be is that he is attempting to go into
5 third-party guilt through double hearsay testimony and
6 that would not be proper, respectfully, Your Honor.

7 MR. SHEALEY: If I may just respond, Your Honor.
8 This is not a third-party guilt issue.

9 Your Honor, Kyles v Whitley, 514 U.S. 419, the
10 defense could have examined the police's good effect on
11 the knowledge of other people's potential guilt in a crime
12 to attack the ostensible integrity of the investigation --
13 to undermine the ostensible integrity of the
14 investigation.

15 It's not a third-party guilt issue. It's other
16 suspects.

17 THE COURT: Let me see the case that you're
18 talking about.

19 MR. SHEALEY: The line I'm citing is from a
20 brief, Judge. The case number is 514 U.S. 419. That's
21 the Supreme Court, United States supreme court.

22 THE COURT: That's Whitley?

23 MR. SHEALEY: Yes, Your Honor. Actually, I have
24 it here, an extra copy. Let me see if I've got another
25 one for Ms. Campbell.

1 THE COURT: Just give that one to Ms. Campbell.
2 I have it.

3 (Pause.)

4 THE COURT: Okay. He was convicted -- following
5 affirmance of the conviction and sentenced to death, it
6 was revealed on collateral review that the State had never
7 disclosed certain evidence favorable to him, and that
8 included, among other things, contemporary eye witness
9 statements taken by police; various statements made to the
10 police by an informant known as Beanie, who was never
11 called to testify; printout of license numbers parked at
12 the crime scene on the night.

13 The state court nevertheless denied review --
14 relief. The State Supreme Court denied application for
15 discretionary review.

16 He filed a federal habeas corpus which held that
17 suppression by the prosecution of evidence favorable to
18 the accused violates due process where the evidence is
19 material either to guilt or to punishment.

20 All right. I've gotten that far.

21 Then it talks about what Brady says.

22 Are you going to direct me to some other part of
23 the opinion that talks about what you just said,
24 Mr. Shealy?

25 MR. SHEALEY: Your Honor, 446 and 447, in that

1 opinion, it kind of plays into both the Fourteenth
2 Amendment, Judge, and the Sixth, right to confront, but
3 where the investigation information in that case was
4 suppressed concerning information that law enforcement got
5 about other witnesses --

6 THE COURT: Where the information was
7 suppressed. It's not suppressed here. You're asking him
8 questions based on what was given to you, so it's not a
9 suppression issue. You have the State's information.

10 MR. SHEALEY: Yes, Your Honor. I believe in
11 that case they weren't allowed to ask the officers
12 questions.

13 THE COURT: Well, that's what I'm asking you,
14 can you direct me to what portion of the opinion that
15 speaks to what you're talking about?

16 MR. SHEALEY: I gave my only actual full copy to
17 Ms. Campbell. I'm referencing my brief at 446 and 447.

18 THE COURT: Well, you know how briefs go.

19 MR. SHEALEY: Yes, Your Honor.

20 THE COURT: That's someone point of view through
21 interpreting something.

22 MR. SHEALEY: Well, yes, sir, it's my point of
23 view. That's why I was referencing it. But that's all I
24 have here. But I was quoting from 446 and 447.

25 (Pause.)

1 MR. SHEALEY: Your Honor, I think Mr. May's got
2 the case as well.

3 I know I'm arguing this, but we're allowed to
4 question anything that law enforcement did, he states,
5 dictates, that undermines their investigation. That's
6 proper cross-examination.

7 Certainly in our current situation where they
8 have a witness that A.L. Thomas spoke to that relays
9 information that not only was he there in close time to
10 her death, with Eboney, but that he overheard a
11 conversation where a guy as specific as Chris was on the
12 phone with Eboney threatening to kill her if she went to
13 the police, and then they gave him a polygraph and he
14 passes that. I think that's pertinent information, to at
15 least be allowed to him ask about it.

16 THE COURT: All right. Let's see here. You
17 told me 446, "Damage to the prosecution's case would not
18 have been confined to evidence of the eye witnesses."

19 They're still referring to the fact that the
20 State did not disclose certain evidence, did not give the
21 defense an opportunity to call various witnesses that
22 might have assisted the defense in the trial of their
23 case.

24 MR. SHEALEY: And, Your Honor, I know you're
25 still reading, but I would also note that Investigator

1 Thomas testified they had one suspect in this case. And,
2 Judge, I'll just say I would think it would be proper to
3 attack the integrity of his investigation and be able to
4 at least ask him about something as pertinent as this.

5 THE COURT: "A common trial tactic of defense
6 lawyers is to discredit the caliber of the investigation
7 or the decision to charge the defendant, and we may
8 consider such use in assessing a possible Brady violation.

9 "Admitted failure of the police to pursue these
10 pointers toward Beanie's possible guilt could have only --
11 could only have magnified the effect on the jury of
12 explaining how the purse and the gun happened to be
13 recovered."

14 So I'm gathering from this case that the police
15 had incriminating evidence on a guy named Beanie in Kyles
16 v Whitley and that evidence wasn't disclosed to the
17 prosecution, and in that context, he raised the question
18 about the integrity of the police investigation and what
19 the defense would or could have able to do had this
20 disclosure been made.

21 Then they go forward to, "In assessing the
22 significance of the evidence withheld, one must of course
23 bear in mind that not every item of the State's case would
24 have been directly undercut if the Brady evidence had been
25 disclosed. It is significant, however, that the physical

1 evidence remaining unscathed would have, by the State's
2 own admission, only have amounted to overwhelming proof
3 that Kyle was the murderer." It's a case of four eye
4 witnesses.

5 "The question is not whether the State would
6 have had the case to go to the jury if it had disclosed
7 favorable evidence, but whether we can be confident that
8 the jury's verdict would have been the same."

9 And they reversed the Court of Appeals in this
10 case.

11 "Since all of these possible findings" -- and
12 they list a number of them -- "were precluded by the
13 prosecution's failure to disclose the evidence would have
14 supported them, fairness cannot be stretched to the point
15 of calling this a fair trial," and so forth and so on.

16 I don't see where anything I've read here, other
17 than the use of the word that the failure of the State to
18 disclose certain evidence prevented the defense from
19 possibly attacking the credibility of the investigation,
20 of the police investigation and not questioning these
21 witnesses who were at the scene of the crime, the evidence
22 indicates that, I'm trying to figure how we stretch from
23 this case, *Kyles v Whitley*, to this case and these
24 questions here today.

25 I'll hear from Ms. Campbell and then Mr.

1 Shealey.

2 MS. CAMPBELL: Your Honor, we would also cite
3 the State v Darryl Burgess, a 2010 South Carolina case --
4 if I may approach --

5 THE COURT: All right.

6 MS. CAMPBELL: -- on third-party guilt.

7 And, Your Honor, I think as far as Whitley, my
8 understanding of Whitley is it's more of a Brady issue
9 rather than what we're talking about here today, and I
10 think Burgess is more in line.

11 MR. SHEALEY: And, Your Honor, I'm not arguing
12 third-party guilt. What I am saying, though, is that this
13 officer has information about other suspects and certainly
14 he's hearing, you know, someone telling him that he
15 overheard someone say, I'm going to kill you, I can attack
16 the integrity his investigation by asking him about that
17 and how he followed up on that.

18 THE COURT: Well, I know you think you could,
19 you should, the State thinks you shouldn't, and the
20 decision is mine on that issue.

21 MR. SHEALEY: Yes, Your Honor. Yes, sir.

22 THE COURT: All right. State v Darryl Burgess
23 out of Lexington County, Judge Knox McMahon, I have,
24 Darryl Burgess, who is convicted of the drug-related
25 murders of David Slice and Cam Faucette, earning them two

1 life sentences. It raises questions about jury selection
2 and the judge not removing a juror who realized that the
3 brother of the estranged wife of the victim worked for
4 him.

5 Then they argued the judge violated the
6 constitutional right to present a complete defense by
7 excluding evidence of third-party guilt.

8 Then the Court goes on to talk about that
9 third-party guilt issue by saying that defendant offered
10 testimony of five witnesses who would have testified that
11 the victim had been threatened over their drug -- the
12 victims had been threatened over their drug debts in the
13 months leading up to the murders.

14 On appeal, we contend the trial judge's decision
15 not to allow their testimony before the jury violated his
16 constitutional right to present a complete defense. We
17 conclude the judge ruled correctly. The Constitution
18 guarantees the defendant the right to present a complete
19 defense and to present their own witnesses in their
20 defense, and so forth.

21 This case, Burgess, is arguing that his right to
22 present a complete defense was violated -- is refuted by
23 the trial judge's correct application of the law of
24 third-party guilt to the facts of the case. The trial
25 judge correctly stated the admissibility of evidence of

1 third-party guilt is governed by the rules set forth in
2 State v Gregory, State v Cohen.

3 State v Gregory, the evidence offered by the
4 accused as to the commission of the crime by another
5 person must be limited to such facts as are inconsistent
6 with his own guilt and to such facts as raise a reasonable
7 inference or presumption as to his own innocence.
8 Evidence which would have no other effect than to cast a
9 mere suspicion upon another or to raise a conjectural
10 inference as to the commission of the crime by another is
11 not admissible, but before such testimony can be received,
12 there must be such proof in connection with it, such as a
13 train of facts and circumstances as tends clearly to point
14 out such other person as the guilty party. Remote acts
15 disconnected and outside of the crime itself cannot be
16 separately proved for such purpose.

17 The trial judge applied the Gregory standard
18 correctly, listening to each witness outside the jury's
19 presence, and provided Burgess the opportunity to argue
20 significant admissibility.

21 After quoting Gregory, the judge noted that some
22 of the evidence related to events that occurred more than
23 eight months before the murders and even the most recent
24 event occurred more than two weeks before. He found that
25 none of the evidence was inconsistent with Burgess' guilt

1 and concluded it's mere conjecture or surmise.

2 The exclusion of the testimony is consistent
3 with Gregory and within the trial judge's discretion.

4 All right. Mr. Shealey, yes, sir.

5 MR. SHEALEY: Thank you, Your Honor.

6 I'm not saying this is a third-party guilt
7 issue. I just think that I should be allowed under Kyles
8 v Whitley to at least ask Investigator Thomas about what
9 he did with this lead.

10 THE COURT: All right. Well, what's the
11 difference?

12 MR. SHEALEY: Well, I think I was objected to,
13 so he hasn't really been able to answer the question about
14 what he did with that, did he follow it up anyhow, and
15 just to attack the integrity of his investigation under
16 Kyles v Whitley.

17 THE COURT: All right. Well, to be certain that
18 I understand the facts, a person -- tell me the scenario
19 again.

20 MR. SHEALEY: From what I understand from
21 reading his report, he interviewed a guy by the name
22 Carlos Adams that spent Friday night -- you know,
23 Ms. Eboney was killed around Tuesday, that's the
24 allegation, that's the time frame, but on Friday night,
25 Carlos Adams stayed with Eboney until Saturday afternoon

1 pursuant to Investigator Thomas' report and what's relayed
2 in the report is that Carlos Adams overheard a phone
3 conversation that Eboney had with a guy on the phone named
4 Chris and also another female, and what he heard was that
5 they threatened to kill her if she went to the police. I
6 would like to ask him some questions about that.

7 THE COURT: Is there any evidence that she went
8 to the police?

9 MR. SHEALEY: I don't know. All I know is
10 what's represented in the report.

11 THE COURT: You just want to ask the questions?

12 MS. CAMPBELL: And, Your Honor, the fact that he
13 brought the testimony out, the threat out, and asked him
14 the question, "Did you follow up on whether or not
15 somebody threatened her over the weekend," I mean, it's
16 just doing it through double hearsay and it is third-party
17 guilt as well, Your Honor. That's our position.

18 THE COURT: All right. I'm going to sustain the
19 objection.

20 MS. CAMPBELL: Thank you.

21 THE COURT: Back to the character assassination
22 of the victim by -- and that was objected to by the State,
23 these various people who she was seen in the company of
24 and the club she went to and so forth, what is the basis
25 for the admissibility of that testimony, the character of

1 investigation again or --

2 MR. SHEALEY: I don't know if it was objected
3 to, but if --

4 THE COURT: There was an objection. I overruled
5 that objection. I'm revisiting it now in light of all
6 these other subsequent questions.

7 MR. SHEALEY: Your Honor, I think Ms. Campbell
8 on her direct was asking about all these suspects and that
9 kind of thing. It's replete within his report about who
10 he was talking to, and Eboney was talking to a number of
11 people, a number of potential suspects. And he's
12 presenting himself and this case to the jury as he's got
13 one suspect and suspect zero's in this courtroom and I
14 feel to impeach him and to talk about other leads he had
15 is very appropriate. You know, it's not necessarily --

16 THE COURT: He said he only had one suspect. If
17 he only had one, he only had one. He said he interviewed
18 many people.

19 MR. SHEALEY: Yes, Your Honor.

20 THE COURT: But he didn't call them suspects,
21 you called them a suspect.

22 MR. SHEALEY: Your Honor, I think he was looking
23 for a number of people, a number of profiles.

24 THE COURT: He was trying to solve the crime.
25 That's his job.

1 MR. SHEALEY: Yes, Your Honor.

2 THE COURT: All right. Well, I'm going to leave
3 it at that for the moment.

4 MR. SHEALEY: I'll move along, Judge. I'm ready
5 to move along.

6 THE COURT: Okay.

7 MS. CAMPBELL: Your Honor, the only concern I
8 have based on what he's done so far is also there's
9 mention of somebody obtaining a polygraph. Before he goes
10 into any polygraph information, I think we have a right to
11 hearing.

12 MR. SHEALEY: And I think the only time I ever
13 referenced the polygraph was here outside the presence of
14 the jury and it was about Carlos Adams, the guy we just
15 talked about.

16 THE COURT: Carlos Adams?

17 MR. SHEALEY: This is the gentleman that I was
18 trying to ask Mr. Thomas some questions about.

19 THE COURT: Did he give the person who made the
20 threat a polygraph?

21 MR. SHEALEY: He gave Carlos Adams who's
22 relaying this threat that he overheard a polygraph. So I
23 didn't say anything in front of any jury members about
24 that.

25 THE COURT: All right.

1 MR. SHEALEY: And I'm moving on after this.

2 THE COURT: Well, we'll take a two-minute
3 stretch and then we'll all move on.

4 (A break was taken.)

5 THE COURT: Bring us the jury. Let's press on.

6 (The jury came into open court at approximately
7 3:47 p.m.)

8 THE BAILIFF: Your Honor, all jurors are
9 present.

10 THE COURT: All right. Very well. You may
11 proceed.

12 MR. SHEALEY: May it please the Court.

13 THE COURT: Yes, sir.

14 BY MR. SHEALEY:

15 Q Now, Thomas, you got here after the fire department,
16 right?

17 A That's correct.

18 Q Okay. And I'm going to show you what has been marked
19 and is in evidence as Defendant's Exhibit No. 3.

20 One second.

21 (Pause.)

22 BY MR. SHEALEY:

23 Q Do you see when the fire department came, arrival?

24 A Yes, I see. They have the arrival at 13:07:29.

25 Q Okay. And you-all got there after that?

1 A That's correct.

2 Q Okay. Now, I've heard terminology about VCAP?

3 A Yes.

4 Q What is VCAP?

5 A VCAP is the equivalent to a homicide unit in most
6 agencies, a violent crime unit.

7 Again, as I spoke earlier, when I was in that
8 unit, we did murders, attempted murders, aggravated and
9 highly aggravated assaults, and pretty much all the major
10 crimes, bodily harm against persons type of thing.

11 Q Okay. And on February 3rd, 2009, you're VCAP?

12 A Yes, I was.

13 Q And who else was VCAP from that day that was on the
14 scene?

15 A Well, again, we pretty much dispatched the entire
16 team. There are approximately nine of us in the unit, I
17 believe at that time or more, and everyone pretty much
18 rode on that day that was working that day.

19 Q Okay. Investigator McCracken responded that day,
20 right?

21 A I believe I tached him out for some canvassing or
22 something possibly.

23 Q You tached him out?

24 A Yes.

25 Q Okay. What about Dow, he was there that day?

1 A I believe I tached him out to things as well.

2 Q He's VCAP?

3 A That is correct.

4 Q Investigator Benson, VCAP?

5 A He's since passed.

6 Q Okay. Investigator Menendez?

7 A Yes.

8 Q VCAP?

9 A That's correct.

10 Q I'm going to show you what's marked Defense 5. Take
11 a look at that. That's a crime scene log. Are you
12 familiar with that?

13 A I'm not familiar with this document, but it does say
14 Crime Scene Log.

15 Q Okay. But does that look like who was out there that
16 day?

17 A To be honest, there could have been more people out
18 there, but some of the names I see on here I do recognize,
19 yes, sir.

20 Q Who could have generated this, CSI Moore maybe?

21 A I'm not sure. I didn't see what name was on that or
22 anything of that nature. Again, I'm not familiar with
23 that paperwork right there.

24 Q Okay. Now, we've heard testimony from Officer
25 Walker. He's not VCAP, is he?

1 A No. He is a patrolman.

2 Q Okay. But once you-all got on the scene, Crime Scene
3 came shortly after you guys, right?

4 A That's correct.

5 Q You called that in?

6 A Did I call it in?

7 Q Yes.

8 A It was called in. I can't recall if I did it
9 specifically or not.

10 Q Okay. And we heard from Officer Tammy Moore and she
11 took pictures?

12 A That's correct.

13 Q Let me refer you to one picture here. Have you
14 reviewed the pictures in this case?

15 A I've seen some pictures in this case, yes.

16 Q Are you familiar with that picture?

17 A I'm not -- I saw this picture being handed up to
18 Ms. Moore earlier, but I'm not certain who took that. She
19 didn't recall that, and I can't say.

20 Q But you are the lead investigator on this case?

21 A I am the lead investigator.

22 Q Okay. How about this picture, have you seen this
23 one, the dumpster?

24 A I know some photos of the dumpster were taken. That
25 could be one of those photos, yes.

1 THE COURT: Are you referring to an exhibit
2 number?

3 MR. SHEALEY: Yes, Your Honor, Defense Exhibit 4
4 for the record.

5 BY MR. SHEALEY:

6 Q Now, eventually you came into the crime scene, into
7 the apartment, 33-F, right?

8 A Yes, sir.

9 Q And you got a call -- and I'm referring you to your
10 report again, if you look -- and chronologically it's up
11 front. It could be that first page or so when you get
12 there.

13 And you got a call from a Kelly -- I believe
14 that's Sergeant Kelly, Melron Kelly -- about something
15 being found in that dumpster, right? It's in your report?

16 A Are you referencing the comforter found in the
17 dumpster; is that correct?

18 Q The comforter in the dumpster.

19 A Okay.

20 Q And that's the dumpster that was outside the
21 apartment?

22 A That's correct.

23 Q Okay. And I think you mentioned -- you testified
24 earlier that Kelly was narcotics?

25 A That's correct.

1 Q He's not VCAP?

2 A He's not VCAP.

3 Q Okay. Why was he out there?

4 A When we have homicides and so forth, the narcotics
5 unit, the gang unit, and so forth will often come out to
6 assist us with additional manpower, particularly in a
7 complex that has 30-some-odd apartments. That's a lot of
8 territory to cover on foot. And so they normally -- if
9 it's something of that nature and they're free, they will
10 roll out as well, and that's what he did.

11 Q Okay. He called you about that comforter and you
12 instructed CSI to get that thing, right?

13 A Yes, I did.

14 Q Okay. How did you know it was of any importance at
15 the time?

16 A At the time I was uncertain of any importance. It
17 was an oddity in the dumpster.

18 I believe the reason it stood out is that the
19 trash had been emptied by the companies that dump those
20 things, and it was sitting in there, and we just took it
21 just in case.

22 Q So the trash company had emptied the dumpster?

23 A There was a minimal amount of trash in the dumpster.

24 Q Okay. And then when you got to the crime scene, you
25 learned that the bedding had all been stripped from the

1 bed?

2 A Now, the bedding that covered the body appeared to
3 the bedding from the bed.

4 Q But it was just mattresses in there, right?

5 A Correct.

6 Q Okay. It makes it more important, this comforter --

7 A Not more important. It's just I thought it was
8 something that we should collect.

9 Q Now, in your report as you reference it, you indicate
10 that a neighbor says --

11 MS. CAMPBELL: Objection, Your Honor.

12 THE COURT: I need to hear the question.

13 MR. SHEALEY: I'll ask the question.

14 BY MR. SHEALEY:

15 Q Did you come to learn that that is the victim's
16 comforter?

17 A In my report, there is -- if I can find it here -- in
18 my report, there's a statement made that it was possibly
19 the victim's comforter.

20 Q Possibly?

21 A Yes.

22 Q Okay. Now, let's talk about your observations on the
23 scene because you're an investigator and you're trained,
24 right?

25 A Uh-huh.

1 Q Trained to observe?

2 A That's correct.

3 Q Trained to take notes?

4 A That's correct.

5 Q Trained to testify?

6 A That's correct.

7 Q All right. Now, you testified to this, but you
8 noticed and you relayed through your other investigators,
9 you came to understand that there had been no front door
10 forced entry, right?

11 A There was no signs of forced entry of the front door.

12 Q And through your investigation, you came to learn --
13 we've heard some testimony about, in fact, the front door
14 was locked and had to be unlocked?

15 A Through the management's relaying to us that they
16 used a key through maintenance, we assumed that the door
17 had been locked prior to any entry.

18 Q Yes, sir. And you also learned per Investigator Seal
19 that that door, the patio door was locked?

20 A The patio door has been an issue. We're uncertain on
21 the security of the patio door.

22 Q Okay. And you came to also learn that -- well,
23 Investigator Seal testified that it was locked?

24 A And I believe he said he didn't know and then he may
25 have mentioned to a maintenance person and he couldn't

1 recall exactly in your questioning of him, if I recall.

2 Q And you were sitting in here this entire time, right?

3 A Yes.

4 Q So it's your position that that's -- you're unsure?

5 A It's my position that when we arrived on the scene,
6 different things were said about the patio door, so we're
7 uncertain if it was secure or not.

8 Q Okay. Now, Eboney's keys were found in that
9 apartment?

10 A A set of keys were found in the apartment.

11 Q Okay. I think you testified that, you know, you
12 weren't sure, multiple sets could have been made, but
13 Eboney's keys were found in that apartment?

14 A A set of keys were located in the apartment, that's
15 correct, believed to be hers.

16 Q Now, you heard Investigator Seal -- you've been
17 sitting here the entire trial, right?

18 A Yes, sir.

19 Q And he testified, and you heard this and you
20 referenced it yourself, that two of the smoke detectors
21 were disabled?

22 A Yes, it appeared that they were disabled, yes.

23 Q I believe you testified that one was removed?

24 A I don't think I testified to that, but I think there
25 was some testimony to one being removed.

1 Q And do you recall also, since you're sitting here the
2 entire time, Investigator Seal saying that one was
3 actually wrapped up in a cloth --

4 MS. CAMPBELL: Objection, Your Honor. It's
5 pitting the witnesses, referencing other testimony, what
6 he's heard in the courtroom.

7 THE COURT: The objection's sustained as to the
8 form of the question.

9 BY MR. SHEALEY:

10 Q Did you come to learn as the lead investigator in
11 your investigation of this case that one was wrapped up in
12 a cloth?

13 A Yes.

14 Q Okay. Now, the bed was stripped down to the
15 mattress, right? There's some pictures of that in here.

16 A I believe there are photos of that.

17 Q Right. Now, Eboney, Ms. Williams, did have a
18 bathrobe ligature that asphyxiated her. You came to find
19 that out in your investigation?

20 A That's correct.

21 Q You also came to find from the investigation that her
22 feet were bound as well?

23 A That's correct.

24 Q And you came to find out that that was with some
25 bedding, some sheets?

1 A That's correct.

2 Q Now, you've also come to find out during the course
3 of your investigation that some kind of flammable liquid
4 was used to set her on fire?

5 A That's correct, some type of accelerant.

6 Q Postmortem?

7 A That's right.

8 Q Okay. Now, I'm going to talk about your testing, DNA
9 testing; not you personally because I know you're not a
10 scientist, but you had some items tested, right?

11 A That's correct.

12 Q Now, you used Richland County Sheriff's Department as
13 your testing sight?

14 A I did.

15 Q Because the City of Columbia doesn't have a lab?

16 A We only have a marijuana lab right now.

17 Q Right. Nothing for DNA?

18 A No, we do not.

19 Q So your options are either SLED, South Carolina Law
20 Enforcement Division, or what you have?

21 A That's correct.

22 Q Okay. Now, you instructed Rachel Grant to only test
23 the neck ligature and the cigarette butts and the beer
24 can?

25 A I met with them in reference to what evidence we

1 needed to test first. Those items were discussed by she,
2 myself, Investigator Reese. And again, we were trying to
3 find evidence that would have the most probative-type
4 evidence on it and those were some of the ones that were
5 tested first.

6 Q Okay. And you're paying a bill for this as well,
7 right?

8 A Yes, we did.

9 Q Two hundred bucks a pop, something like that?

10 A Something of that nature.

11 Q Okay. So you went with the neck ligature, what
12 strangled this lady?

13 A That's correct.

14 Q Some cigarette butts?

15 A That's correct.

16 Q And you went with a beer can?

17 A That's correct.

18 Q All right. But you did not test the feet ligature
19 ever, right, the bedding that was tying her feet up?

20 A None of those items were tested.

21 Q None of what items?

22 A The two that you just mentioned.

23 Q Okay. And you didn't test what was labeled her
24 bedding that come from this dumpster?

25 A That item not tested either.

1 Q Isn't it safe to say that whoever killed her removed
2 that to the dumpster?

3 A No. It's safe to say that the neck ligature that
4 choked her was more probative to be tested, and that's
5 what we tested, which came back with your client's DNA.

6 Q So was the bedding stripped with -- some kind of
7 bedding around her ankles --

8 A Uh-huh.

9 Q -- and bedding found in the dumpster, you're telling
10 the Court and the jury that's not probative, for the
11 dumpster stuff to be tested?

12 A I'm telling you that in our discussion on what would
13 be most likely to retain the defendant's DNA were the
14 items tested, and that proved to be true for your
15 defendant.

16 Q I'm not math major, but at 200 bucks a pop, it's four
17 hundred bucks to test the legging ligature and the
18 dumpster materials, right?

19 A Any testing, there will be a cost assessed.

20 Q Roughly \$400 is it fair to say?

21 A I can't recall the exact -- something of that nature.

22 Q Okay. Now, you took Nicole Grimes' statement, right?

23 A We spoke to Nicole Grimes, yes, that is correct.

24 Q You took her statement?

25 A A statement was taken from Nicole Grimes, that is

1 correct.

2 Q Okay. And that was February 20th?

3 A Yes, February 20th.

4 Q And that was the same day that you took Ahmad's first
5 statement?

6 A Yes, that is correct, February 20th is when Ahmad
7 came in and he spoke to us.

8 Q But we don't have the benefit of a recording on that
9 first statement like we did with the second statement, do
10 we?

11 A We do not. There was an error recording.

12 Q It was destroyed somehow?

13 A There was a malfunction.

14 Q Okay. But we'll never know what that really -- what
15 that was about, will we?

16 A I noted the conversation. I believe I spoke about it
17 earlier.

18 Q Okay. So you're ready --

19 A I believe even in the second recorded statement he
20 spoke on the first statement. He referenced it a number
21 of times.

22 Q And referenced in your notes is your recollection of
23 that statement, right?

24 A That's a summary of some things that were stated in
25 that statement.

1 Q Now, we heard some jail phone calls from that same
2 day that you took a statement from Nicole and you took a
3 statement from Ahmad, right?

4 A That's correct.

5 Q And you told Nicole about things that -- pieces of
6 evidence that you had in that case, what you thought you
7 had, what you thought was important sexually, that kind of
8 stuff, right?

9 A I don't know about important sexually. We did
10 mention things that we had in the case to see if she knew
11 of any reason why these things were out there, yes, and if
12 she knew the whereabouts of Ahmad.

13 Q So you fed her some information about the case?

14 A We did.

15 Q Okay. And you talked to Ahmad that day, right?

16 A Yes, we did.

17 Q And then you later booked him on an unrelated charge?

18 A He was later arrested on an unrelated charge, yes.

19 Q And that's the phone call, the first phone call we
20 all heard today?

21 A I believe that's correct.

22 Q Where we could hear questions from Nicole asking
23 certain things to Ahmad that you'd fed her?

24 A I believe both of them spoke of our interview quite
25 candidly on the recording.

1 Q Okay. And you took her statement that day, her
2 written statement, right?

3 A I believe a statement was taken, yes.

4 Q Now, you liked certain things about this statement,
5 right, the pacing and all that kind of stuff, right? You
6 liked that, right? Right?

7 A Well, it's just what she wrote when she told us, yes.

8 Q And at that time, as early as February 20th, 2009,
9 you also knew that she's saying that Ahmad came home at
10 3:55?

11 A Yes, she was very certain that it was 3:55.

12 Q Now, this was taken by Investigator McCracken?

13 A Correct.

14 Q Now, he hasn't been here this week, has he?

15 A No, he has not.

16 Q Okay. But he was an investigator on this case?

17 A Yes, he was.

18 Q And you tasked him to do some stuff?

19 A What?

20 Q I mean, you tasked him?

21 A He was tasked as many other people were tasked, yes.

22 Q Same as Investigator Dow was tasked?

23 A That's correct.

24 Q And Menendez?

25 A That's correct.

1 Q And Benson?

2 A That's correct.

3 Q Who all wrote reports, correct?

4 A That's correct.

5 Q I mean, you're the lead investigator, so you would
6 know this kind of thing?

7 A That's correct.

8 Q Like you would know that in Nicole Grimes' statement
9 she says twice in the same statement that Ahmad came home
10 at 3:55 a.m. that night?

11 A Exactly. Again, Investigator Reese and I spoke with
12 her directly. The written statement was in front of
13 Investigator McCracken, but the verbal statement that was
14 taken was in front of us. And she did, she again was very
15 specific about the time, 3:55.

16 Q What time did you get up this morning?

17 A I got up at 5:30 a.m.

18 Q How do you know that?

19 A That darn alarm clock won't shut up.

20 Q And you know that because you had to wake up and get
21 out of bed and come here again, right?

22 A Absolutely.

23 Q So isn't it fair when you get up and come out of bed
24 that you know what time that is?

25 A Yes, because I set the clock.

1 Q And you're coming from a state of unconsciousness to
2 consciousness?

3 A Again, I set the clock for 5:30. It should go off
4 when I set it.

5 Q All right. I'm moving back from you to Nicole.

6 A Okay.

7 Q Now, it's fair to say that if she had to get up in
8 the middle of the night to unlock a door, that she would
9 recall, right? That's fair, isn't it?

10 A I can't say certain things because they lived
11 together and they both had keys, that's what she said.

12 Q Okay. But you heard her testimony?

13 A She also said she was awakened by the pacing and the
14 "Oh, God," which means she had to be asleep at some time.

15 Q Right.

16 A And all that is combined in one statement.

17 Q And in her statement she also says that he was there
18 that night after he came home at 3:55? She says it twice,
19 right? That's fair?

20 A She says it twice.

21 Q Now, I want to get to this February 2nd, 2011,
22 interrogation of Ahmad. We just heard that, right?

23 A I don't interrogate, I interview. We had an
24 interview with Ahmad.

25 Q You had a job interview to get your job, didn't you?

1 A It was an interview.

2 Q Were you handcuffed to the table when you
3 interviewed?

4 A Are you talking about his first statement?

5 Q I'm asking you. You're calling it an interview.

6 A Yes, it's an interview. And no, they didn't test the
7 cuffs out on me before hiring me as a police officer, no,
8 sir.

9 Q Okay. So this is an interrogation?

10 A No, this is an interview.

11 Q But he was cuffed to the table?

12 A On the second interview he was. On the first he was
13 not.

14 Q Well, that's what we're talking about, February 2nd,
15 2011?

16 A Okay.

17 Q All right. That's where we are.

18 A Okay.

19 Q Please refer to your notes.

20 Now, in this interrogation, he never told you
21 right away he didn't do anything, right?

22 A In the interview, he denied, yes.

23 Q And you and Reese have done probably 1,000
24 interrogations, right?

25 A We've done approximately a thousand interviews, yes,

1 we have.

2 Q And you're good. You're like a symphony orchestra,
3 you start off slow -- and you've had training on that,
4 don't -- tell me you haven't been to some training on
5 interview techniques, interrogation techniques.

6 A I've been to a number of trainings and some may
7 entail interviewing and so forth, yes.

8 Q And you and Reese always work in tandem?

9 A Yes, we work together when we're in that unit.

10 Q Interviewing?

11 A In our interviews?

12 Q Interviewing.

13 A Say it again?

14 Q You work in tandem when you interview?

15 A I don't know about tandem, but we work together when
16 we interview, yes.

17 Q All right. And you lied to him on that interview,
18 didn't you?

19 A Lied to who?

20 Q Ahmad. That's what we're talking about.

21 February 2nd, 2011, you lied to Ahmad on that
22 interrogation?

23 A I don't recall lying to him. If you can reference
24 something, I'll let you know if it's the truth or a lie.

25 Q Sure. Is there any information about a footprint in

1 this case related to Ahmad? There's not?

2 A If I can recall, it says what if I said there was a
3 footprint, what if I said there were fingerprints.

4 Q Well, that's the same thing --

5 A That's not a lie.

6 Q And a footprint and fingerprints, right? Right?

7 A Say it again?

8 Q It's part of your interview technique, right?

9 A Repeat the question. I'm sorry.

10 Q Lying, misstating facts?

11 A Okay.

12 Q That's part of your interview technique, right?

13 A No. My interview's trying to seek the truth out of
14 any defendant that I interview. I'm trying to get to the
15 truth of a case I'm working.

16 Q So getting the truth through lies?

17 A No.

18 Q No?

19 A Unh-unh.

20 Q Well, is there a footprint in this evidence
21 someplace? Is there something I'm not aware of? Is there
22 something that you know that I don't know?

23 A No. There's not a footprint. We didn't get one.

24 Q Okay. Is there fingerprint evidence that I'm unaware
25 of in this case?

1 A We did not send any fingerprints out.

2 Q So I know what you know?

3 A That's correct.

4 Q Okay. And he told you he didn't do it, he told you
5 over and over and over again when he's heard that for two
6 hours, right?

7 A Yes, he did.

8 Q You weren't quite happy with that?

9 A I was fine with it.

10 Q That's why you terminated that interview?

11 A Yes, at a certain point we determined that we needed
12 to terminate that interview. There was no need to go
13 further.

14 Q Now, Ms. Campbell played some video in this case?

15 A Yes.

16 Q All right. I want you to refer to your notes, but
17 there's video, the jury watched it. And you retrieved on
18 February 24th -- chronologically if you look at your
19 notes --

20 A All right. You said February 24th?

21 Q Yes, sir.

22 A All right. Give me a moment.

23 Q Page nine.

24 A All right. Okay.

25 Q And you retrieved video from the Bethel Bishop?

1 A Yes. We actually watched video first to see what
2 section of the video we needed.

3 After viewing the video, we observed a subject
4 at the rear of the complex near Building 33 at the
5 approximate time of 4-some-odd in the morning hours, and
6 that was a segment of the video that we wanted to make
7 sure we captured.

8 Q Let me bring you back to that date.

9 A Uh-huh.

10 Q Referring back to February 24th, 2009, you took video
11 to SLED? The video we watched you took to SLED?

12 A That's correct.

13 Q Let me refer you a little bit later on,
14 November 26th, you brought that video back and I believe
15 you met with Joe West at SLED and you brought it back and
16 reviewed it at that point, right? You got that?

17 A Correct.

18 Q Okay. And you noticed the time was off by about four
19 hours, right?

20 A Yeah, we had to proximate the time.

21 Q In your notes you say -- and what was played here in
22 evidence, you write in your notes at 20:57 video time,
23 there's a suspect that appears in the back of Eboney
24 Williams' house, and that equates to about 4:20 with the
25 approximated four-hour time gap?

1 A Yes. Again, it's an approximation, yes.

2 Q So twenty minutes after equals 4:20?

3 A Again, all of this is an approximation, yes, that's
4 correct.

5 Q That's in your notes?

6 A That's correct.

7 Q Which are very accurate and detailed?

8 A Again, all approximations. Go ahead.

9 Q I mean, there were details, you know how to do this
10 thing, right?

11 A You're right.

12 Q And the video we watched at 56 minutes and 55 seconds
13 equates per your notes to 4:56?

14 A Yes.

15 Q Of a subject walking down the back of the hill, down
16 the hill to Eboney's apartment at 33-F, right? That's
17 what was played?

18 A Yes, that was the video and those were the times that
19 they were played.

20 Q All right. And I think you were guessing that the
21 subject's wearing a dark hoodie and dark pants?

22 A Again, the video's grainy as the jurors could see and
23 the clothing was dark in nature.

24 Q All right. But based on that video and some other
25 things, you get a search warrant for where you believed

1 Ahmad lived at the time, didn't you?

2 A I did.

3 Q I'm sorry?

4 A Yes, I did.

5 Q Okay. That's in Nicole Grimes' apartment?

6 A Yes.

7 Q 25-H?

8 A That's correct.

9 Q And I'm going to show you a search warrant. And do
10 you recall in the affidavit referencing the video of the
11 apartment complex we've just been speaking of? Do you see
12 that in your search warrant?

13 A Yes, there it's highlighted?

14 Q Yes, sir.

15 A I do.

16 Q And that was a component of what you believed was
17 probable cause for the search warrant that you swore out
18 to the magistrate?

19 A That's correct.

20 Q Okay. Thank you, sir.

21 And that's your signature?

22 A That's correct.

23 Q Okay. Now, based on this video surveillance, you
24 also get a search warrant for Ahmad's DNA in a Buccal
25 swab?

1 A Not based on the video surveillance, but based on all
2 the facts that we had at the time, we did get a search
3 warrant for his DNA.

4 Q So you're saying that the video surveillance didn't
5 have any part of your sworn affidavit?

6 A Based on the facts, all of the facts. You said based
7 on the video, and you said that solely, so I'm just making
8 it all inclusive for you.

9 Q Let me rephrase it for you.

10 A Okay.

11 Q That was part of your sworn affidavit, wasn't it?

12 A Yes, it was.

13 Q All right. You see it right there?

14 A Yes, sir.

15 Q Now, Columbia Police Department executes a search
16 warrant for Nicole Grimes' apartment, right?

17 A That's correct.

18 Q And you get a number of items that you believe belong
19 to Ahmad?

20 A That's correct.

21 Q Now, none of those items are up here on this desk,
22 are they?

23 A To my knowledge, they have not been presented to a
24 jury.

25 Q And to your knowledge, none of these items came back

1 with any kind of flammable liquids on them, right?

2 A No. If I recall correctly, when we did the search
3 warrant on the home, Ms. Grimes had washed clothing, so
4 most of the items that we retrieved, we retrieved out of a
5 basket that had been washed, laundered, so there was no
6 smells or anything with any flammable liquids on it.

7 Q And Nicole Grimes never told you that Ahmad came back
8 smelling like any kind of gasoline or anything, did she?

9 A She did not.

10 Q Okay. And none of those items that you got based on
11 your search warrant, which in part was based on video
12 surveillance, none of that's up here on this table
13 introduced into evidence?

14 A To my knowledge it has not been presented to the
15 jury, that is correct.

16 MR. SHEALEY: Beg the Court's indulgence.

17 (Pause.)

18 BY MR. SHEALEY:

19 Q All right. Can you see that?

20 A Yes, I believe I can see it from here.

21 Q If you need to step out, feel free to.

22 A Okay.

23 Q Can you see that, Thomas?

24 A Yes, it's small, but I believe you're going to blow
25 it up.

1 Q I just want to make sure you've got -- it's not
2 shaded or anything like that.

3 A I believe I have a visual of it.

4 Q Okay. Now, I showed you that exhibit that talks
5 about the fire department getting there at 1:13, right?

6 A Yes.

7 Q Now, I want to show you something.

8 (Video recording played but not transcribed.)

9 BY MR. SHEALEY:

10 Q Now, this is the 16 screens and you testified that
11 some are motion sensitive, some are always kind of moving,
12 like No. 8 and No. 1, but in a second here there's the
13 fire truck, that's the first responder?

14 A Okay.

15 Q Stay with me here for about two minutes. Do you see
16 it? Do you see it all right?

17 A Yes, I see the fire truck.

18 Q Okay. I want you to pay attention to Camera 7 once
19 the motion comes up, okay, as well as Camera 9. Now, you
20 see this all -- maybe you didn't see, but pay close
21 attention to Camera 9 and 7.

22 A Okay.

23 Q Look at Camera No. 9.

24 A All right, Camera No. 9.

25 Q All right. There's the fire truck coming in there.

1 See that?

2 A I see one.

3 Q Now I'm going to stop it right here.

4 Now, you can see right here, Camera No. 7, that
5 first responder, you can see on the video that's 9:56 on
6 that time stamp, right?

7 A Again, the time is off, so --

8 Q I understand. I understand. It's roughly four
9 hours. That's 1:56 Thomas time I'll say, but that -- let
10 me show you this. This is what I showed you before. The
11 fire department's report, the arrival time says 1:13,
12 doesn't it?

13 A That's their time, yes.

14 Q Bear with me.

15 Let's play with these numbers for a second here.

16 Assuming the fire department is right and they
17 know when they get there at 1:13, that puts your time a
18 little bit off?

19 A I said before in testimony that the time was an
20 approximate. Go ahead.

21 Q I'd agree with you on that.

22 And I've looked at this video and I'm going to
23 go ahead and say that 56 minus 13 is 43 minutes. Let's go
24 with that math for a second. I'm going to go ahead and
25 say that your math, your approximate math is it's 43

1 minutes fast?

2 A Okay.

3 Q Now, I'm not a math major, but I would like to test
4 that again.

5 What time on that report right in front of you
6 does it say the fire department leaves?

7 A You want the last one that left? They left clear --

8 Q Yes, sir.

9 A -- 16:27:52.

10 Q And what time was that?

11 A That's the dispatch lead time.

12 Q And what time is that in non-24-hour-clock military
13 time?

14 A 1600 hours, that's 4:27.

15 Q That's correct. Bear with me.

16 Now, I'm going to play a little clip here. Now,
17 this is supposed to be on the video, exactly when the last
18 fire truck leaves. This is in evidence and I've watched
19 this.

20 I want you to watch here for that fire truck,
21 when it's leaving. This is later in the day, it's 4:27.
22 Let's watch it leave.

23 A Uh-huh.

24 Q Can you see all right?

25 A I'm looking.

1 (Video recording played but not transcribed.)

2 BY MR. SHEALEY:

3 Q And then we're looking for Screen No. 9 and Screen
4 No. 7.

5 A Okay.

6 Q There it goes, No. 9.

7 Now, let's stop it right there.

8 A Uh-huh.

9 Q On the video time, that's 13:10. Columbia Fire
10 Department leaving, video time 13:10. That's military
11 time at four hours, that's 1:10 in reality, you add four
12 hours Thomas time, that's 5:10. But on that report, the
13 Columbia Fire Department says they actually leave at 4:27.
14 So if you subtract 43 minutes, you'll notice that's -- my
15 math is actually right, 4:27. Subtract 43 minutes from
16 Thomas time and you can actually view the visuals here and
17 get the exact time based on the accurate reports.

18 Now we'll watch this video again that we've
19 watched of your suspect. I'm going to cue it back up.

20 A I might state that I didn't function off of dispatch
21 time. Any time during the course of my investigation, I
22 went by the time I had, the clock I had at hand. Again, I
23 told you it's an approximation.

24 Q I understand. And you put in your notes that 20
25 minutes -- and I'm getting it cued up here and we'll watch

1 this. Even though we've watched it one time already, I'm
2 going to cue it up for you.

3 A Go ahead.

4 Q Twenty minutes here. We'll go to Camera No. 8,
5 that's the one in question.

6 A All right.

7 Q And we should see the shadowy suspect there coming
8 up.

9 Here we go. I'm going to stop it right here to
10 note that that's at 20 minutes past midnight, which you
11 calculate to be 4:20 Thomas time. I'm going to go ahead
12 and play this thing a little bit. We'll watch him go off
13 the hill. We'll lose him for a second.

14 And you've watched this video, right? You know
15 what I'm talking about?

16 A I'm watching it.

17 Q Okay. Now we're sitting under Camera 8 for awhile.

18 There he goes.

19 So that's your suspect that you note in two
20 search warrant affidavits?

21 A You said, "There he goes."

22 Q It's just the image of him walking up the hill.

23 A I didn't see that. Play it back.

24 Q Okay. I'll back up a bit.

25 A If you play it to 20:57, you'll see a subject

1 walking --

2 Q Coming down the hill?

3 A Coming back behind the apartments.

4 Q We'll get to that. Do you want me to play this part
5 again?

6 A Yeah, I want to see what you're talking about. I
7 didn't see it. The camera moved or something.

8 Q If you want to get up --

9 A No. Go ahead.

10 Q Okay. We'll start it again.

11 A Go ahead.

12 Q Did you see that?

13 A I know it was about to get to the other section of
14 it. I didn't see what you saw.

15 Q There it is. All right.

16 A Yeah.

17 Q And you will continue up that hill and just follow
18 it?

19 A Okay.

20 Q He's underneath the camera right now. There he goes.
21 All right. I'm going to stop it so you can look
22 at the board now.

23 Knowing what we know about the arrival and the
24 leaving of the Columbia Fire Department and knowing that
25 your math is off by 43 minutes, you can calculate that

1 really this guy's coming up the hill at 3:37 a.m. All
2 right? Stay with me.

3 I'm going to show what was shown before of a
4 suspect walking down a hill you referenced in two search
5 warrant affidavits?

6 A Uh-huh.

7 Q Again, in Camera No. 8 -- and just for the jury's
8 benefit and your own benefit, before I do this, this is
9 what's already in evidence as a smaller diagram, but
10 you're familiar with this, right?

11 A Yes, I am.

12 Q All right. And what do these numbers indicate?

13 A Those are building numbers for the apartments and the
14 camera numbers.

15 Q Okay. So right now we're on what camera?

16 A Camera 8.

17 Q Okay. And that's what I'm pointing to right there,
18 right?

19 A That's correct.

20 Q That's Building 33?

21 A That's Building 33.

22 Q And that's where Eboney lived?

23 A That's where Eboney lived.

24 Q Okay. And this is generally that back cut area?

25 A That's correct.

1 Q And then Camera 9 is kind of looking over -- looking
2 at a dumpster or so right there, right?

3 A Yes.

4 Q Kind of in the front parking lot area?

5 A I really didn't focus on Camera 9, but I'll take your
6 word for it.

7 Q Okay. We'll get to that in a little bit. But you
8 recognize that?

9 A Correct.

10 Q Now, I'm going to play this. It's cued up at 56
11 minutes on the video time stamp. We're going to have to
12 wait for a little bit now, but I believe it's closer to
13 the end of the minute when the suspect that you referenced
14 walks down a hill. Let me know when you see it.

15 A He's walking.

16 Q All right. Keep on following him. See him go down
17 yet?

18 A No, sir.

19 Q Did he come down underneath the camera yet?

20 A He's done.

21 Q There he is. He's walking now.

22 A Okay.

23 Q You didn't know that?

24 A Unh-unh, not until you've showed me.

25 Q Okay. Let me go back, and he's gone. I'll stop it.

1 A The camera moves, he disappears.

2 Q Right.

3 Now, 56 minutes from the time stamp and your
4 affidavits you write 4:56, at least in your notes and your
5 report minus 43 minutes based on the realtime and we get
6 to 4:13 a.m. is that when -- when we're actually watching
7 that suspect, right? Right? Correct?

8 A That's what you're writing down, so, like I said, the
9 times are approximates, so I go with your approximation.

10 Q All right. Now, you watched this video, you're the
11 lead investigator, this is a piece of evidence, right?

12 A It was part of the totality of the evidence that I
13 had, yes.

14 Q And literally it's in evidence right now?

15 A Yes.

16 Q Okay. Let me show you something else.

17 A Sure.

18 Q I'm going to cue you up to 1:13 and I'm going to show
19 you something. I'm going to show you a couple more
20 things. And look on Camera 9. I want to reference you to
21 Camera 9 and 7.

22 A You said Camera 9 and Camera 7?

23 Q Yes, sir, Camera 9 and Camera 7.

24 A Okay.

25 Q Now, the first time you-all had gotten called out on

1 this day was the time -- once you got called about the
2 burnt body, right? That's the first time you got called
3 out there?

4 A I can't tell you what dispatch -- dispatch -- I
5 arrived out for a burnt body. I didn't know if patrol
6 came out there. I think you'll see a patrol car ride by
7 at some point in time.

8 Q This is a patrol car in Camera 7.

9 A I saw that, yeah.

10 Q And there it goes?

11 A Uh-huh. I've seen that.

12 Q Now, it's going to sit and park there for a little
13 bit. What is it doing there with its lights? Are those
14 running lights?

15 A I cannot tell you what that patrol car was doing over
16 there. That's direct patrol riding through.

17 Q But I'm not asking about that. I mean the time's
18 still going here and it's sitting here, and this camera's
19 interesting. Camera 9, isn't it true you watched this?

20 A Camera 9 will freeze.

21 Q It will?

22 A Yeah.

23 Q So you can't really see what's going on --

24 A That way it's locked out. The time and everything
25 freezes so you can't depend on it.

1 Q Now, there it goes. Do you see those cars in the
2 back kind of light it up for a second, but it's the motion
3 sensitivity, right?

4 A It will freeze, so it's not dependable.

5 Q So it will freeze for periods of time, and right now
6 it's stuck on time stamp 1:14?

7 A And it's stuck and it looks like that car's still
8 sitting there, but it's not.

9 Q Now, you've been in a marked squad car before?

10 A Uh-huh.

11 Q It went from bright lights down to running lights.
12 What is that?

13 A No, it's just lights. His lights are on.

14 Q There's a car going by again. So you didn't see
15 any -- I know you've got a bad angle -- you didn't see the
16 lights go kind of dimmer for a second?

17 A No. You just see the lights, sir.

18 Q Okay. Let's pull this up here for a second. Bear
19 with me.

20 A Okay.

21 Q What I'm writing up here is what I viewed -- and I
22 believe you did it, too -- you said you saw it, but this
23 marked cruiser is going to sit out there from the video
24 time stamp from 1:13 to 1 -- my handwriting's awful --
25 1:40, that's about 27 minutes, and that's the time stamp.

1 Now, Thomas time puts it at 5:13 a.m. in the morning,
2 about 5:40. But what we really know is if you subtract 43
3 minutes from that to get the realtime, that's 4:30 a.m. to
4 4:57 a.m. Do you follow me?

5 A Again, don't depend on that camera. It freezes. I
6 saw that, but that car -- that car --

7 Q Well, if you notice, these other ones are still
8 going. I guess Motion 1 is always kind of going, so
9 that's a good gauge as well as all this software, and this
10 right here is another good gauge, and I'm not going to sit
11 and watch this thing the entire time. I'm take you to a
12 second here.

13 A Go ahead.

14 Q When this car leaves at 1:40, time stamp time?

15 A Okay.

16 Q Now watch these lights and you tell me what you think
17 about this. On No. 9 --

18 A I'm watching No. 9.

19 Q All right. Do you see those things flash up?

20 A Okay.

21 Q Is your experience as a police officer, is that just
22 running lights or is that some kind of --

23 A He turned toward the camera, which made the lights
24 illuminate more.

25 Q Okay.

1 A It turns toward the lens at night.

2 Q But you agree that --

3 A If you notice how some of the lights are dim and then
4 you notice how the street lights are bright, it's because
5 it's right in the lens of the camera, so as the car angles
6 or whatever --

7 Q Now, it's sitting out there in front of that
8 dumpster, right?

9 A The camera showed a still there, yes.

10 Q And that dumpster's around in front of Eboney's
11 apartment?

12 A Yes, that's correct.

13 Q Now, you'd agree with my math, when came at time
14 stamp 1:13, the time stamp 1:40, the video time stamp is
15 about 27 minutes, right?

16 A I'll agree that you're approximating some times, yes.

17 Q Well, that's -- I mean, I showed you when it came and
18 when it left, so that's not an approximation, that's 27
19 minutes?

20 A I agree that you're approximating the time as I
21 approximated the time. Go ahead.

22 Q Now, you haven't testified about any calls out of
23 Eboney's apartment or anything like that? You're not
24 aware of that at the time, are you? You're not aware of
25 any calls out of Eboney's apartment or anything like that?

1 A The first call I'm aware of is when I was dispatched
2 out.

3 Q Okay. Let me show you something else. Bear with me.
4 (Pause.)

5 BY MR. SHEALEY:

6 Q Now, let's look at Camera No. 9. Once the motion
7 picks up -- actually, let me try to get this right.

8 A As you can see, 9 is not moving, but it's daylight on
9 the other cameras.

10 Q I apologize.

11 A There is a problem when it's just sitting still like
12 that.

13 Q Well, let me get you to the correct time and you'll
14 see a little activity, okay? Are you ready?

15 A Sure.

16 Q Camera 9, Thomas, look at it.

17 A Camera 9. It's daylight.

18 Q All right. And what's that?

19 A As I spoke earlier, the dumpster did dump the trash.

20 Q So you are aware of that?

21 A I did mention that.

22 Q Okay.

23 A That's why the comforter stood out to my narcotics
24 agent. There was not a lot of trash.

25 Q And who was that narcotic agent again?

1 A That was Agent Kelly.

2 Q Okay. So on this video at 9:19 -- just keep
3 watching -- to 9:22, Thomas time that puts that at
4 1:19 p.m. to 1:22, which in reality is 12:36 to 12:39 p.m.

5 A Okay.

6 Q Well, keep watching, I just want to show you this.

7 So he's still working on that one dumpster. And
8 we're talking about somewhere right around here. There's
9 Camera 9, right?

10 A That's correct.

11 Q That's her apartment building, No. 33?

12 A That's correct.

13 Q There it goes, it's moving.

14 A All right.

15 Q Let me get your attention to Camera No. 7.

16 A I'm watching.

17 Q There it goes. It catches Camera No. 7. It's taking
18 care of that next dumpster, Camera No. 7 being up here, so
19 we could say that's roughly around Building No. 31
20 according to our map, right?

21 A I would imagine so.

22 Q Okay. Now, that looks God awful, doesn't it, all
23 that -- all that stuff? It's probably hard to decipher?

24 A It's a bunch of approximated times. I'm fine with
25 that.

1 Q Well, I'm going to say they're not approximated. I
2 want to show you something here, a little bit neater
3 version of that scrabble.

4 MS. CAMPBELL: Objection, Your Honor.

5 MR. SHEALEY: This is demonstrative, Judge.
6 It's the same thing I've just written out here. This is
7 cleaned up for you.

8 THE COURT: Just a moment, sir.

9 The nature of the objection.

10 MS. CAMPBELL: Your Honor, I believe it's
11 offered into evidence and it's not been marked, it's not
12 been identified or the witness hasn't authenticated it.

13 MR. SHEALEY: Judge, it's simply a demonstrative
14 of what I've just written up here. It's the same exact
15 thing.

16 THE COURT: Well, I don't know what it is, so I
17 sustain the objection.

18 MR. SHEALEY: May I have a matter of law, Judge?

19 THE COURT: What?

20 MR. SHEALEY: May I have a matter of law?

21 THE COURT: Sure.

22 MR. SHEALEY: Outside the presence of the jury.

23 THE COURT: Sure.

24 If you'll go to the jury room, please.

25

1 (The jury left open court at approximately
2 4:45 p.m.)

3 MR. SHEALEY: Judge, I know you can't see it and
4 it's for the benefit of the jury and Investigator Thomas,
5 but this is a demonstrative of what's in evidence, time
6 stamps from the video that I've written out here, but I
7 wanted -- my handwriting's so bad. She hasn't objected to
8 this at all. It's the same thing exactly. She has used
9 demonstratives throughout this trial of things that are
10 not even in evidence, and I think that this is just a
11 neater version of what I've been doing this entire time.

12 I'm going to be wrapping up here in a second,
13 but I think it's proper for the jury to see. It's
14 referencing points in time of a video that is in evidence.
15 I think it's proper at this time. I would argue it's
16 proper, Judge, and it's the exact same thing that's on
17 this except it's not in my writing.

18 THE COURT: What's the matter of law?

19 MR. SHEALEY: That I wanted to articulate
20 outside the presence of the jury.

21 THE COURT: You want to argue the objection?
22 I've ruled on it.

23 MR. SHEALEY: Well, I would also ask you, if you
24 needed to, to take a look at it. You'll see what I'm
25 talking about. I know you're kind of at a disadvantage

1 back there.

2 THE COURT: What says the State?

3 MS. CAMPBELL: Your Honor, whenever we've used
4 demonstrative evidence we've had the witness authenticate
5 it and say it's their -- they've demonstrated and things
6 like that. That's not what they've done in this case.
7 These are all his time periods and everything. He's
8 merely trying to bolster what he's already put in front of
9 them. And I should have objected to the other thing, but
10 I was just trying to expedite things, Your Honor.

11 MR. SHEALEY: And, Judge, this is referencing
12 points in time that's in evidence and it's going to be --

13 THE COURT: What are you talking about? I'm not
14 even sure what you're currently talking about. Can you
15 show me what you've talking about?

16 MR. SHEALEY: Well, I'm going to have to move it
17 all around.

18 THE COURT: Okay.

19 MR. SHEALEY: But this is -- I can show you
20 this.

21 This is exactly why I wanted to get a little
22 better version of this. But, Judge, they played what's in
23 the video here of a suspect going up a hill and going down
24 a hill. There's a video time stamp. Thomas --

25 THE COURT: I mean, what is -- is that what the

1 Solicitor's currently objecting to?

2 MR. SHEALEY: She hasn't objected to this.
3 She's objecting to my neater version of this.

4 THE COURT: Where is your neater version?

5 MR. SHEALEY: It's getting ready to be played up
6 here on this frame. It's a PowerPoint slide.

7 THE COURT: You want to play a PowerPoint slide
8 and ask the witness what?

9 MR. SHEALEY: I'm going to ask him some
10 questions -- I already have, but it impeaches his time
11 frame by objectively looking at what we've already gone
12 through.

13 THE COURT: All right. How long is this
14 PowerPoint slide?

15 MR. SHEALEY: Seconds.

16 THE COURT: All right. Well, we're this deep
17 into these numbers and camera shots, and I don't know what
18 any of it is, but -- because I haven't seen any of it.

19 I think in future trials I'm excluding all
20 evidence that's demonstrated to the jury that's not shown
21 to the Court.

22 You can bring the jury back.

23 THE BAILIFF: Yes, sir.

24 THE COURT: You said it's seconds, so whatever
25 it is, we'll -- it can't be too --

1 MR. SHEALEY: Yes, Your Honor, it's a couple of
2 keystrokes.

3 THE COURT: It can't be too harmful if it's only
4 seconds.

5 MS. CAMPBELL: Your Honor, our only objection
6 would be it's not even Thomas' testimony, it's his
7 interpretation of what --

8 THE COURT: Well, we'll see what happens.

9 (The jury came into open court at approximately
10 4:49 p.m.)

11 THE BAILIFF: Your Honor, the jury's present.

12 THE COURT: All right. You may continue.

13 BY MR. SHEALEY:

14 Q All right, Thomas. I hope you can see this. This is
15 a little bit neater.

16 A I see it quite well.

17 Q But you agree that we watched Columbia Fire
18 Department arriving on the scene. It's video stamped the
19 same as the board right there that I wrote down
20 contemporaneously that we were going through with you, at
21 9:56, add four hours approximately like you said, that's
22 1:56. But we see them leaving and per their reports at
23 1:13, so I subtract 43 minutes from your -- 1:56 minus
24 1:13, that's the real time adjustment of 43, right?

25 A Again, I'm watching you do approximation like I did

1 approximations. Go ahead, Counsel.

2 Q Right? I do the same thing when they leave, subtract
3 43 minutes and you get the accurate time because when they
4 leave for Thomas time's 5:10. If you subtract 43 minutes
5 like we learned in the first one, you get 4:27 p.m., which
6 matches what you testified to in that report that's in
7 evidence. But when they leave, you watch our suspect go
8 up the hill at 20 minutes -- the State played it, I played
9 it, it's in evidence --

10 THE COURT: All right. Mr. Shealy, are you
11 arguing or do you have a question for the witness?

12 BY MR. SHEALEY:

13 Q Investigator Thomas, you saw me put that up there.
14 We played the video at 20 minutes, right?

15 A I agree that the approximations are the
16 approximations that you spoke about on the board over
17 there.

18 Q Right. And so the adjusted time that I told you
19 about is 3:37 minus 43 minutes as your approximation,
20 right? We watched the suspect walk down the hill at 56
21 minutes, right? We watched that, kept on going --

22 MS. CAMPBELL: Objection, Your Honor.

23 THE WITNESS: Again, these are your
24 approximations. I can only agree to your approximations.

25

1 BY MR. SHEALEY:

2 Q Okay. And in your notes, we went over this, it's
3 4:56 a.m. per your four-hour approximation, right? And I
4 walked you through how we subtract 43 minutes, which is
5 the math you got from actually watching the fire
6 department arrive and leave, it's really 4:13.

7 Now, the victim calls the defendant at 4:14.
8 That's the last time. 4:13 to 4:14:21, that's the phone
9 records, right? You reviewed the last phone call, right?

10 A Now, the phone records, yes, I'll agree to those.

11 Q You agree to that?

12 A Yes.

13 Q All right. And we watched that suspect walk down the
14 hill at 4:13.

15 I want you to answer me how someone is in
16 someone's apartment at 4:13 and still talking to them on
17 the phone at 4:14. Because that phone call, as you know
18 from the phone records, it ends at 4:14:21 a.m. in the
19 morning from Eboney Williams to Ahmad Wilkins, right?

20 A I can't answer your approximations, Counsel, but go
21 ahead.

22 Q I've done the math for you. Do you disagree with the
23 math?

24 A Again, I can't answer your approximations. I can
25 only answer to what I know.

1 Q So what you're saying is you can't answer to me how a
2 suspect -- and you're saying the suspect is Ahmad
3 Wilkins -- is inside someone's apartment while she is
4 calling him at 4:14:21? Does that make sense to you?

5 A I cannot answer to your approximations, Counsel.

6 Q Okay. Now, you also notice that --

7 THE COURT: Mr. Shealey, are you through with
8 this screen?

9 MR. SHEALEY: I'm wrapping it up, Judge.

10 THE COURT: All right.

11 BY MR. SHEALEY:

12 Q Now, you see that alibi time from Nicole Grimes at
13 3:55, don't you? Do you see that? That's what she says
14 in the statement?

15 A I see it.

16 Q And with the adjusted time, which we can verify based
17 on the video, based on when they say they come and when
18 they leave, and you compare it to your time, you realize
19 it's 43 minutes off, and I've done the math for you
20 here --

21 MS. CAMPBELL: Objection, Your Honor.

22 THE COURT: The objection's sustained.

23 BY MR. SHEALEY:

24 Q One last question, Thomas.

25 A Yes, Counsel.

1 Q The alibi's at 3:55, right? That's when Nicole
2 Grimes --

3 A That's when Nicole Grimes says Ahmad made it home.

4 Q And I showed you the math where the suspect that you
5 referenced in two separate affidavits, which are sworn
6 statements, right? An affidavit is a sworn statement?

7 A Go ahead, Counsel.

8 Q I'm asking you a question. An affidavit is a sworn
9 statement?

10 A Yes.

11 Q And your video is referenced in that -- in two of
12 those sworn statements I showed, right?

13 A All of my probable cause is referenced in there, yes.

14 Q How can you be walking past someone's apartment,
15 being inside their apartment and talking to them on the
16 phone?

17 A Again, I cannot answer to your approximations,
18 Counsel.

19 Q But you are aware of the alibi Nicole Jones (sic)
20 gives at 3:55?

21 A I'm quite aware of the 3:55 alibi.

22 MR. SHEALEY: Beg the Court's indulgence.

23 (Pause.)

24 THE COURT: Do you have other questions you're
25 going to ask the witness?

1 MR. SHEALEY: No, Your Honor.

2 THE COURT: All right. Any redirect?

3 MS. CAMPBELL: Yes, sir.

4 REDIRECT EXAMINATION

5 BY MS. CAMPBELL:

6 Q Investigator Thomas, he showed you one fire truck.
7 Did multiple fire trucks respond out there that day?

8 A Yes, they did.

9 Q At least five or six at different times?

10 A That's correct.

11 Q And in addition to that, when you were reviewing the
12 videotape and you were doing approximate times, you were
13 given a four-hour difference proximately?

14 A I was.

15 Q And does any of this affect anything?

16 A It does not.

17 Q In your affidavit for the search warrant, you gave
18 additional information to those magistrates, including
19 everything you had at that point, which is what you've
20 seen on the video?

21 A That is correct.

22 Q And is that proper?

23 A Yes, it is.

24 Q And in that same affidavit, you never say that the
25 suspect absolutely was there, you say you saw a male

1 walking in that area as approximate times?

2 A That's correct.

3 Q And that would be proper, to relate that information?

4 A That's correct.

5 Q And there is also a period of time when that last
6 phone call --

7 MR. SHEALEY: Objection. He already testified.

8 THE COURT: The objection's overruled.

9 BY MS. CAMPBELL:

10 Q -- around 4:13, 4:17, whatever it is that morning?

11 A Yes.

12 Q And then there's about an hour to an hour and a half
13 that you look at those phone records but there are no
14 phone calls.

15 A That's correct.

16 Q And then phone calls start again to what number
17 around 5:30?

18 MR. SHEALEY: Your Honor, objection, leading.

19 THE COURT: Don't lead the witness.

20 MS. CAMPBELL: Thank you.

21 BY MS. CAMPBELL:

22 Q To what number?

23 A 786-7765. That's close to 5 o'clock.

24 Q And you didn't get up before this jury and say that
25 everything that went on out at Bethel Bishop that night is

1 recorded on these videos?

2 A I did not.

3 Q You were just hoping to get information?

4 MR. SHEALEY: Objection, Your Honor, leading.

5 THE COURT: Don't lead the witness.

6 BY MS. CAMPBELL:

7 Q What were you hoping to get?

8 A I was hoping to get some evidence and I'd corroborate
9 the evidence that I have in my case.

10 Q And all of the evidence, the credible evidence -- as
11 far as the alibi he asked you about at 3:55 a.m. --

12 A Yes.

13 Q -- at 5:30 that morning, whose phone call or whose
14 family, or her, is he trying to get in touch with at
15 5:30 a.m.?

16 A The number --

17 MR. SHEALEY: Objection, Your Honor. That's
18 leading again.

19 THE COURT: The objection's overruled.

20 THE WITNESS: The number that's called is the
21 number that Ms. Grimes put down as her home number on the
22 statement.

23 BY MS. CAMPBELL:

24 Q And Ms. Grimes stayed in Building 25?

25 A That is correct.

1 Q And on occasion did she also stay in the building
2 with her sister, Building 13?

3 A That's correct.

4 Q He asked you about the evidence at the scene and what
5 you tested?

6 A Yes, he did.

7 Q One item of evidence he didn't ask you about was the
8 glove. Whose DNA was found on the glove?

9 A The defendant.

10 MS. CAMPBELL: Thank you.

11 MR. SHEALEY: Briefly, Your Honor.

12 THE COURT: Yes, sir.

13 RE CROSS-EXAMINATION

14 BY MR. SHEALEY:

15 Q Still got your notes?

16 A Yes, I do.

17 Q Page 6, Thomas.

18 A Page 6.

19 Q In your notes, you note --

20 A Page 6.

21 Q Are you there?

22 A One moment. What section?

23 Q The very bottom.

24 A The very bottom, okay.

25 Q You note exactly whose telephone number that is in

1 your notes and that's Venchie Grimes, right; 786-7765,
2 Venchie Grimes?

3 A Venchie Grimes is Nicole's brother --

4 Q Right.

5 A -- or family member, yes, and he gave the same number
6 as the contact. I noted that.

7 Q And he does not live in 25-H, does he?

8 A I'm not quite sure where he lives. He lives in
9 Bethel Bishop.

10 Q You know he doesn't live in 25-H?

11 A Again, I'm not certain exactly where he lives. I
12 know he's her brother.

13 Q And, in fact, you're aware because you've been out
14 there that Nicole Grimes didn't have a landline out there
15 in 25-H? You're aware of that?

16 A I'm not aware of that.

17 Q Well, you are aware you put that number and his name
18 in your notes?

19 A I'm aware that Nicole Grimes put that number on her
20 statement as her contact number.

21 MR. SHEALEY: No further questions.

22 THE COURT: You stay step down, sir.

23 THE WITNESS: Thank you, sir.

24 THE COURT: Next witness.

25 MS. CAMPBELL: The State calls Investigator

1 Reese.

2 THE COURT: Let's stand for a moment, ladies and
3 gentlemen.

4 (Pause.)

5 KEVIN REESE, after being duly sworn, testified
6 as follows:

7 THE CLERK: Have a seat in the witness box.
8 State your name for the record, please.

9 THE WITNESS: My name is Kevin Reese, R-E-E-S-E.

10 DIRECT EXAMINATION

11 BY MS. CAMPBELL:

12 Q Investigator Reese, where are you employed?

13 A Columbia Police Department.

14 Q What do you do there, sir?

15 A I'm assigned to a VCAP unit, which is an acronym for
16 Violent Crimes Against Persons. My unit investigates
17 violent crimes and homicides.

18 Q How long have you been at the police department?

19 A This is my second tour around since '91. This time
20 around, sometime prior to that.

21 Q Tell us a little bit about your duties as a crime
22 scene investigator for the Columbia Police Department.

23 A Well, if a report is generated or even before a
24 report is generated if we get a call to respond to a
25 particular incident -- it may be an armed robbery, an

1 assault against a person, a homicide, and we also
2 investigate just deaths, natural deaths, suicide,
3 accidental deaths, those kinds of things -- then we
4 respond and we act accordingly.

5 Q And frequently in the past you've worked with
6 Sergeant Thomas?

7 A Yes.

8 Q And is it unusual for you-all to be assigned as lead
9 investigators in a case?

10 A No. We've worked homicides for a number of years in
11 that unit, and pretty much he and I have always been
12 partners for all those years.

13 Q I want to turn your attention back to February of
14 2009. Did you respond with Investigator Thomas at the
15 time out to Bethel Bishop Apartments?

16 A Yeah. We were out working another case and we got a
17 telephone call from the supervisor advising us what we had
18 out there and we responded.

19 Q And when you got out there, just briefly tell the
20 jury what you found. And I'll be brief in going through
21 this.

22 A When we got out there, upon approaching the apartment
23 building we noted several fire engines out, a lot of the
24 people that lived in the area was out, it was just mass
25 confusion on the outside of the perimeter of the crime

1 scene tape. There were many police cars. We also knew
2 that unmarked cars from our department was out there. I
3 don't think any of them were necessarily homicide
4 investigators at that point, but we knew there was police
5 cars there. There was just a lot going on out there when
6 we got there.

7 Q Did you-all do a walk-through of the scene?

8 A Yes, we did.

9 Q And is that important in being able to follow up with
10 certain information?

11 A Yes.

12 Q And over the course of the next several days, did you
13 attempt to get information about the victim in this case
14 and any -- as far as it's pertinent to your investigation?

15 A Yes, we did.

16 Q And specifically, later that month, did you-all
17 receive some phone records that became significant in your
18 investigation?

19 A Yes.

20 Q And whose phone records were those?

21 A They were phone records to a phone being used, as far
22 as we understood, by him, the defendant.

23 Q And that was at a later date. Did you also get the
24 phone records from Eboney Williams?

25 A That's correct.

1 Q And in a murder investigation such as this, can that
2 be a useful tool as part of developing suspects in a case?

3 A That's one of the most useful and important tools,
4 yes.

5 Q And in going back through her phone records, were you
6 trying to look at the time period of the early morning
7 hours of February 3rd, 2009?

8 A Yes, we were.

9 Q And specifically, was it important to bring up a
10 specific last time she had what appeared to be a
11 conversation --

12 MR. MAY: Objection, Your Honor. She's
13 testifying, the witness's not.

14 THE COURT: The objection overruled.

15 MS. CAMPBELL: Thank you.

16 BY MS. CAMPBELL:

17 Q Was there a last phone call that you're looking at?

18 A Yes.

19 Q And were you-all able to get information as to whom
20 she had her last conversation with that night?

21 A Yes, ma'am, we were.

22 Q And who was using that phone at that time?

23 A Sorry. Say it again.

24 Q Who was using the phone at that time, that she made
25 the last phone call to?

1 A The defendant.

2 Q Ahmad Wilkins?

3 A Ahmad Wilkins.

4 Q Based on that information, I believe around
5 February 20th you go and make contact with Nicole Grimes?

6 A Yes, we did.

7 Q And was she able to give you information?

8 A Yes, she did.

9 Q And was there any -- was it significant as to the
10 night that this occurred?

11 A Yes.

12 Q Later that day did you also make contact with the
13 defendant in this case?

14 A That's correct.

15 Q And did you-all talk to him?

16 A Yes.

17 Q And what did you-all ask him about as far as this
18 case is concerned?

19 A Are you talking about the 20th?

20 Q The 20th, yes, sir, the first conversation?

21 A We pretty much asked him did he know Eboney, what was
22 his relationship with her, did he have her phone number,
23 did she have his phone number, did he talk to her, you
24 know those kind of things, had he been to her house.

25 Q Did he ever give you some general information?

1 A He did.

2 Q Did he give you anything specific?

3 A Yes, he did.

4 Q And what did he indicate his relationship was with
5 Eboney Williams?

6 A His biggest relationship that seemed to have him in
7 trouble was that he was a supplier of illegal narcotics to
8 her.

9 Q And that's the information he gave you?

10 A That's right. He gave it to us.

11 Q And at some point y'all needed to terminate the
12 interview with him that day?

13 A Yes.

14 Q And you-all did that?

15 A Yes.

16 Q Not based on anything you did, but based on the
17 circumstances?

18 MR. MAY: Objection.

19 THE COURT: The objection is sustained.

20 BY MS. CAMPBELL:

21 Q That night was he booked into the Alvin S. Glenn
22 Detention Center on an outstanding warrant from 2006?

23 A Yes, he was.

24 Q And later in the day did you-all retrieve a phone
25 call that was made by the defendant while he was at the

1 Alvin S. Glenn Detention Center that day?

2 A We did.

3 Q And how do you-all -- what information do you-all
4 have to have in order to retrieve a phone call from a
5 certain defendant in the jail, a target number?

6 A Yeah, the target number. The jail doesn't know who's
7 making a specific phone call, so we need to supply the
8 evidence room at the detention center with a number, then
9 when that number is called from the detention center, it
10 doesn't matter who calls it, it registers and we know that
11 that number's been contacted, called.

12 Q That same day when you-all had interviewed Nicole
13 Grimes, had you-all gotten a phone number from her that
14 she indicated was hers?

15 A Yes, we did.

16 Q What was that phone number?

17 A 786-7765.

18 Q And when you contacted the jail at a later date to
19 get the phone call that was made by the defendant that
20 day, what phone number did you provide to the jail for
21 them to pull the phone call from?

22 A 786-7765.

23 Q And did you have an opportunity to review that phone
24 call from the jail?

25 A Yes, I did.

1 Q And who were the two people talking on that phone
2 call?

3 A It appeared to be Nicole Grimes and the defendant,
4 Ahmad Wilkins.

5 Q That day did you show Nicole Grimes a photograph of
6 the glove that was involved in this case?

7 A We did.

8 Q And at that point you didn't have any DNA testing
9 back, did you?

10 A No.

11 Q As the investigation progressed, did you-all -- had
12 you-all taken some evidence or had some evidence taken
13 actually to the Richland County Sheriff's Department?

14 A Yes, we did.

15 Q And again, why did you choose to use the Richland
16 County Sheriff's Department versus SLED?

17 A It would be faster. Like Thomas said earlier, SLED
18 is a state agency and so you've got all these counties and
19 local law enforcement agencies that depend on SLED to
20 handle their cases. Columbia's inside of Richland County,
21 of course, so we chose to use that for expediency
22 purposes.

23 Q And is that done in some of the homicide cases?

24 A Yes, it is.

25 Q And specifically, was a determination made as to what

1 items would be tested first to find the presence or may
2 not have any DNA?

3 A In our discussions with the scientist, yes.

4 Q I'm going to turn your attention to March 3rd of
5 2009, a month after this occurred. Did you-all execute a
6 search warrant on the defendant's residence?

7 A Yes, we did.

8 Q And is that the residence he shared with the Nicole
9 Grimes' girlfriend?

10 A Yes.

11 Q And did you actually participate in the execution of
12 that lawful search warrant?

13 A I did.

14 (WHEREUPON, State's Exhibits Nos. 148, 149, 150
15 were marked for identification only.)

16 BY MS. CAMPBELL:

17 Q And did you-all collect certain items of clothing
18 that may or may not be involved in this?

19 A We did.

20 Q And again, this is how long after this event
21 occurred, that the search warrant was executed?

22 A On March 2nd.

23 Q I'm showing you what's been marked as State's
24 Exhibit 149, 150, and 148. Are these items you actually
25 found in the home?

1 A They are marked as such and they appear to be.

2 Q And you collected these at that search warrant?

3 A Right.

4 MS. CAMPBELL: Your Honor, at this time we'd
5 offer State's 148, 149, and 150.

6 THE COURT: What says the defense?

7 MR. MAY: Subject to rebuttal objections noted.

8 THE COURT: All right. So admitted.

9 MS. CAMPBELL: Thank you, sir.

10 (WHEREUPON, STATE'S Exhibits Nos. 148-150 were
11 admitted into evidence.)

12 BY MS. CAMPBELL:

13 Q Did you-all ever send that clothing off for any
14 testing for accelerants or anything else?

15 A No, we didn't.

16 Q And do you have some training in investigating arsons
17 as well as other types of property crimes?

18 A I've been to schools for deaths, investigating deaths
19 that involve fires, not necessarily arson investigation,
20 but deaths involving fires, yes, ma'am.

21 Q And in your -- usually with, say, accelerants used at
22 a scene, the person setting the fire, do they usually put
23 it on what they want to burn or on themselves?

24 A No, they put it on themselves -- I'm sorry -- on what
25 they want to burn, not themselves.

1 Q Time passed and the DNA lab was doing their testing.
2 At some point did they request that y'all get a known
3 sample for the defendant?

4 A Did we get a known sample from the defendant? Yes,
5 we did.

6 Q And did you also provide a lawful search warrant to
7 do that?

8 A Yes, we did.

9 Q And again, did you provide all the information,
10 including that video and what was seen in that?

11 A Actually, Thomas wrote up the search warrant, I read
12 it, and yeah, that's what we did.

13 Q During the course of your investigation, did you
14 become aware that the defendant in this case had done some
15 odd jobs out there at the Bethel Bishop?

16 A Yes.

17 Q And as well as his brother, I believe, was the
18 maintenance man out there?

19 A Yes.

20 Q And what type of odd jobs did he indicate he did to
21 you?

22 A During the interview he indicated that he -- I think
23 he said he painted, he did some painting work in one of
24 the apartments near the victim's apartment, and he painted
25 the railings, and I think he did some other stuff out

1 there, but it was clear to us that at that particular time
2 when we was talking about he was doing work out there for
3 that complex.

4 Q And during the course of your investigation, you are
5 familiar with Bethel Bishop Apartments, you investigated
6 other crimes out there as well and you're familiar with
7 their camera system?

8 A All kind of crimes, yes, I am.

9 Q Does their camera system necessarily reflect all the
10 activity that goes on out there?

11 A No. Those cameras -- their camera system, to be
12 honest with you, is not that much different from other
13 camera systems. Like, for instance, the camera systems
14 you hear about in Five Points or camera systems you hear
15 around in the intersections or on the highways, some of
16 them pan, some of them freeze, some of them blink, that
17 kind of thing. It doesn't always pick up everything that
18 you want it to.

19 Q And people that live in the area, they're aware of
20 the camera system?

21 A I've never met anyone out there that was not familiar
22 with the camera system or where the cameras are located.

23 Q And some of them work sometimes and some of them
24 don't; is that correct?

25 A Right.

1 Q In the fall of 2010, I believe you got the results
2 from the DNA testing that had been done specifically as to
3 the blood on the ligature?

4 A Yes.

5 Q And after that were you-all able to obtain an arrest
6 warrant in this case?

7 A Yes.

8 Q And was the defendant arrested, I believe, the
9 beginning of February of 2011?

10 A That's right.

11 Q And at that point he was taken into custody?

12 A Yes.

13 Q And were you there when he was advised of his rights?

14 A I was.

15 Q And it was you and Investigator Thomas at that point?

16 A Yes.

17 Q And as he was going through his rights, did he appear
18 to understand what his rights were?

19 A Absolutely.

20 Q Did he acknowledge what his rights were? Did agree
21 to talk to you-all?

22 A He did.

23 Q And at any point did anyone threaten or promise him
24 anything to make him talk to you?

25 A No.

1 Q Did you try to force him into doing anything?

2 A No, ma'am.

3 Q Did you hurt him in any way to make him talk to you?

4 A Hurt him? No, I did not.

5 Q And in your opinion, was he cooperating with you
6 voluntarily?

7 A Absolutely.

8 Q And at that point you-all took the recorded statement
9 that's just been played to this jury?

10 A That's right.

11 Q In the course of your investigation of this case, was
12 it Investigator Thomas's duty in this case to memorialize
13 the events?

14 A That would be correct.

15 Q So he took the notes?

16 A Yeah. That's really not an uncommon practice with
17 many investigative teams in many other departments.
18 Thomas and I do it.

19 If I had done something, let's say, for
20 instance, I went to another house, another location,
21 another city and Thomas was not with me and I interviewed
22 someone, did something in respect to this case, then yeah,
23 I would put those case notes down because Thomas and I
24 would not have been together at that time. But being that
25 during the majority of this investigation we were always

1 together, for him to do case notes like this, for me to do
2 case notes would have been redundant. It would have been
3 just repeating. The only difference there would have been
4 is I would have been saying the same thing he'd been
5 saying, I'd just be writing it differently, that's all.

6 MS. CAMPBELL: Thank you, sir. I don't have
7 anything further.

8 THE WITNESS: You're welcome.

9 THE COURT: By the defense.

10 MR. MAY: Yes, sir. May it please the Court,
11 Your Honor.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. MAY:

15 Q Now, you just testified that that -- I mean, we just
16 heard probably, what, an hour and a half worth of
17 audiotape?

18 A Yes.

19 Q That's fair to say?

20 A Yes.

21 Q Now, listening to you here, it sounds like a
22 completely different person than we heard on the
23 audiotape. Do you agree with that? I mean, it's almost
24 like -- I'll move on.

25 A Thank you.

1 Q Yeah. All right.

2 Now, you say you were one of the lead
3 investigators on this case, correct?

4 A Right.

5 Q And the reason why you didn't write any notes is
6 because there was two lead investigators and it would be
7 redundant?

8 A Basically, yeah.

9 Q Now, do you have a copy of the notes?

10 A Right.

11 Q All right. Now, the investigators assigned, whose
12 names are on there?

13 A What was your question?

14 Q Yes, sir.

15 A What was the question?

16 Q Yes, sir. When it says "Investigators Assigned," so
17 who wrote these notes, does it say Thomas and Reese, does
18 it say Reese, Reese and Thomas, or just Thomas?

19 A Well, if Thomas wrote the notes it would say Thomas,
20 it wouldn't say Reese and Thomas.

21 Q Now, you'd agree with me that there's a line that
22 says "Investigators" plural?

23 A Where are you looking at, at the bottom?

24 Q Yes, sir, where Mr. Thomas's name is and yours is
25 not.

1 A Yeah.

2 Q Okay. Now, you testified to VCAP, correct? And
3 that's part of the team that you say you're currently
4 on --

5 A Right.

6 Q -- and at the time of this so was Thomas?

7 A Right.

8 Q And you-all have worked a lot of cases together?

9 A Yes, sir.

10 Q You-all have been together for --

11 A Years.

12 Q Years?

13 A Years.

14 Q And you've seen all kinds of cases in Columbia, South
15 Carolina?

16 A Uh-huh.

17 Q And, as you said, VCAP is the violent crimes team?

18 A Right.

19 Q And you-all are primarily major crimes or homicide
20 investigators with the VCAP team?

21 A Right.

22 Q So you-all are people who they call in to get
23 confessions? Yes?

24 At the time you-all are the two guys that they
25 call in to get confessions?

1 A No, you -- I think you're blowing it all out of
2 proportion.

3 Every investigator would like to get confessions
4 in their respective cases. So they don't call on us to
5 get confessions. If that's the order of your
6 investigation, then that's what you're supposed to do, or
7 you try to do.

8 Q Yes, sir. But just for analogy purposes, not all
9 baseball hitters are home run hitters, but that's what you
10 and Thomas were for the years you-all were together,
11 you-all were the guys who teamed up to get confessions?

12 MS. CAMPBELL: Objection, Your Honor, asked and
13 answered.

14 THE COURT: The objection's overruled.
15 Is that a statement or a question?

16 MR. MAY: A question, sir.

17 THE COURT: All right.

18 THE WITNESS: I mean, you've probably got to
19 explain it a little better because I'd like to know what
20 you're getting at, and I don't.

21 BY MR. MAY:

22 Q Okay. We'll hit some more about you-all's interview
23 tactics in a little bit.

24 A Okay.

25 Q But you've been on the force a long time, correct?

1 A Right.

2 Q You know how to prepare a case?

3 A Yes, I do.

4 Q And more importantly, you know how to secure a
5 conviction?

6 A Secure a conviction?

7 MS. CAMPBELL: Objection.

8 THE COURT: The objection's sustained.

9 BY MR. MAY:

10 Q So let's talk about what you've done in this case,
11 all right?

12 Now, you-all responded out to Bethel Bishop
13 Apartments, correct?

14 A Right.

15 Q Now, let's just make sure that we're all on the same
16 page.

17 Is it fair to say Bethel Bishop Apartments is
18 what police consider a high crime area?

19 A That would be fair, sir.

20 Q It's in between Beltline and 277 or the I. DeQuincey
21 Newman interstate or freeway, right?

22 A Right.

23 Q There's the -- just in case they don't know what
24 we're talking about -- there's the pedestrian bridge
25 connecting the North Main area to the Bethel Bishop

1 Apartments, correct?

2 A The bridge over 277?

3 Q Yes, sir.

4 A It connects the Busby Street, which over near Farrow
5 Road, it comes across the interstate and connects it to
6 the Bethel Bishop.

7 Q Yes, sir.

8 A Uh-huh.

9 Q Now, we've already talked about this is Section 8
10 housing, correct?

11 A I don't really know.

12 Q It's under the Columbia Housing Authority. You don't
13 know?

14 A I don't think so. I've never seen Columbia Housing
15 Authority out there.

16 Q All right. Now, you said it was a mad house when you
17 got there. Those are the words you used when Ms. Campbell
18 asked you when everything was going -- when you arrived,
19 correct?

20 A I didn't describe it as a mad house.

21 Q Were there people everywhere?

22 A That's not a mad house, but yeah, there were people
23 everywhere.

24 Q There were people everywhere?

25 A Uh-huh.

1 Q Were there fire trucks?

2 A Yeah.

3 Q Police cars?

4 A Yeah.

5 Q Marked cars?

6 A Yeah.

7 Q Unmarked cars?

8 A Right.

9 Q Residents are coming out trying to figure out what's
10 going on?

11 A That's correct.

12 Q And there's a person trying to maintain order, trying
13 to make sure that not -- so unauthorized people don't go
14 into the crime scene, correct?

15 A Right.

16 Q Is there a scribe at the door?

17 A There was.

18 Q Was his name Johnson?

19 A According to the documents his name was Johnson, but
20 I don't know really know who it was.

21 Q You don't really know?

22 A No.

23 Q I have it.

24 What's been provided into evidence -- what's
25 been provide through discovery in this case that you're a

1 lead investigator on is a crime scene log. Can you please
2 show me where you are located on that crime scene log?

3 A I'm not on that crime scene log.

4 Q Okay. Yet you went into the crime scene?

5 A Yes, I did.

6 Q Now, probably trying to figure out what's going on,
7 correct?

8 A Yeah, uh-huh.

9 Q There's a fire investigator, Investigator Seal,
10 that's been here the entire week?

11 A Who was there.

12 Q And he's looking because there's fire damage,
13 correct?

14 A Right.

15 Q Now, almost everything in that crime scene is covered
16 in soot, right?

17 A Uh-huh.

18 Q And it's a crime scene, would you agree with that?

19 A Right.

20 Q You saw that she had a ligature around her neck?

21 A Yes.

22 Q Her feet were bound?

23 A Yes.

24 Q And you'd agree that most likely the person that has
25 put the ligature around her neck is the same person that

1 bound the feet?

2 A I would agree.

3 Q Now, there's potential evidence in that crime scene,
4 correct?

5 A Right.

6 Q And the kind of investigator you are is that you
7 don't really collect the evidence, you collect information
8 from people?

9 A That's right.

10 Q So you needed to look -- figure out what happened and
11 then go start talking to people?

12 A Uh-huh.

13 Q Okay. So you're not there collecting evidence,
14 correct?

15 A No.

16 Q Physical evidence? Your normal job is not to collect
17 the physical evidence, is that fair to say?

18 A That's right.

19 Q That's other people's job?

20 A Right.

21 Q Now, you start speaking with a group of women out
22 there?

23 A Say that again.

24 Q You start speaking with a group of women trying to
25 figure out what's going on?

1 A Right.

2 Q Now, one woman whom you spoke with named Tasha
3 Praylow, do you remember speaking with her?

4 A Is there -- are you looking at some notes or
5 something?

6 Q No, sir, there are no notes. So I'm asking you, do
7 you remember speaking with Tasha Praylow?

8 A No. I could have, but --

9 Q You could have?

10 Well, let me see if I can help you refresh your
11 memory as far as the subject of conversation.

12 A Okay.

13 Q Do you remember Tasha Praylow asking you or telling
14 you that you-all need to look at Kelly on this case?

15 A I think she might have told somebody else that
16 because I heard something about that, but I don't know
17 what she was -- no one ever told me that.

18 Q Okay. You heard something about it?

19 A Uh-huh.

20 Q Okay. Where is this in your notes?

21 A I don't have notes.

22 Q Okay. But you remember hearing something, "You need
23 to check out Kelly," and as a lead investigator, what did
24 you do to investigate Melron Kelly as a suspect in this
25 case?

1 A Probably about as much as I would have done if
2 somebody would have told me you need to check out Jim May.

3 Q Okay. Now, there's Melron Kelly, an investigator
4 with the narcotics unit?

5 A Right.

6 Q Did Mr. Kelly find evidence in a dumpster that had
7 just been emptied?

8 A He found a sheet or a blanket or something.

9 Q Some bedding, correct?

10 A Uh-huh.

11 Q And we just saw the dumpster being emptied, correct?

12 A You asked me did I see the dumpster being emptied?

13 Q Yes, sir. Did you see a dumpster being emptied on
14 that video?

15 A Which video are you talking about?

16 Q The video from Bethel Bishop Apartments.

17 A You mean the one --

18 Q Yes, sir, the video that's in evidence.

19 A The one he just showed?

20 Q Yes, sir.

21 A No, I didn't look at that video.

22 Q Okay. Now, your partner, who you and he, I believe,
23 shared the same information, just testified that you-all
24 had information that the dumpster had just been emptied,
25 correct?

1 A Say it again.

2 Q Your partner, whom you and he shared information,
3 correct -- that's the reason why there's only one
4 report -- just testified that you-all had information that
5 the dumpster had recently been emptied?

6 A I don't know, I didn't hear that. But if that's what
7 you heard, that's what you heard.

8 Q Yes, sir.

9 A I didn't hear that.

10 Q Now, I ask you to turn to your and Thomas's report,
11 page two.

12 A Okay.

13 Q Now, the third paragraph, right, you-all got a call
14 from Sergeant Kelly informing that he had found a
15 comforter and sheet located in the dumpster, correct?

16 A Right.

17 Q A neighbor says that is the victim's --

18 MS. CAMPBELL: Objection, Your Honor, hearsay.

19 MR. MAY: I'll rephrase.

20 THE COURT: All right.

21 BY MR. MAY:

22 Q You learned from your investigation that that was the
23 victim's --

24 MS. CAMPBELL: Objection, Your Honor. It's
25 hearsay.

1 THE COURT: Let me hear the question.

2 BY MR. MAY:

3 Q You learned from your investigation that that bedding
4 was the victim's?

5 A I don't think whoever said that was all that sure,
6 but I heard something to that effect, yes.

7 Q All right. In your report, I ask you to read along
8 with me.

9 "A neighbor identified the items" --

10 MS. CAMPBELL: Objection, Your Honor. He's
11 reading the report. He can refresh his memory.

12 THE COURT: All right. Ladies and gentlemen,
13 I'll have you go to the jury room.

14 Please do not discuss the case.

15 We may order food for you. We'll have the clerk
16 come in and talk to you about it.

17 (The jury left open court at approximately
18 5:33 p.m.)

19 THE COURT: Do you have the next witness here as
20 well?

21 MS. CAMPBELL: This is their last one.

22 THE COURT: All right. Do you have your
23 witnesses here?

24 MR. MAY: Your Honor, we have two witnesses. We
25 have one that we really need to put up today because he's

1 unavailable tomorrow.

2 THE COURT: All right.

3 MS. CAMPBELL: Your Honor, I'm going to inquire
4 if their DNA witness is going to be put up today?

5 MR. MAY: We don't have to put them up today.
6 The person we have is just a mere chain. I mean, it's
7 chain evidence. It will take less than two minutes.

8 THE COURT: All right. Then who do you have
9 after that?

10 MR. MAY: I have my DNA expert as well.

11 THE COURT: Okay. And he's here?

12 MS. CAMPBELL: We may be able to stipulate to
13 that, Your Honor.

14 THE COURT: All right. Of course, it's not a
15 time for witnesses to be unavailable under whatever
16 circumstances.

17 MR. MAY: Yes, sir. I know that Holding's
18 already sent somebody back. I'll be able to try and get
19 some people here as fast as possible and at the
20 appropriate time, I guess after D.V., if we get past D.V.,
21 then we'll also need you tonight to make sure we advise
22 him of his rights. That way we can talk to him tonight
23 about it.

24 THE COURT: All right. Regarding the objection.

25 MS. CAMPBELL: Your Honor, I believe he's trying

1 to get out information and try to bolster information that
2 he's already testified to. He's not sure about if she was
3 sure, that's information he got, and we would say it's
4 hearsay and we object on those grounds.

5 THE COURT: Remind me what the question was?

6 MR. MAY: He said the witness wasn't sure if the
7 bedding was the victim's.

8 THE COURT: So he answered that question?

9 MR. MAY: Well, sir, in his report that he's
10 adopted a belief in, it's --

11 THE COURT: The question to you is what was the
12 question that you asked him? If you don't recall that,
13 then I can have the court reporter find it.

14 MR. MAY: The question that was objected to?

15 THE COURT: Yes. That's what we're talking
16 about. That's why I sent the jury out.

17 MR. MAY: I was trying to lay the groundwork.

18 THE COURT: I don't need you to lay any
19 groundwork. I've been sitting right here for the past
20 four days, five days.

21 MR. MAY: Yes, sir, Your Honor.

22 I said, "Didn't you put in your report that --
23 in your report it states that when the officers pulled the
24 items out of the dumpster, a neighbor identified the items
25 as belonging to the victim, Eboney Williams," which is

1 impeachment evidence found in his report that he has
2 adopted a belief in.

3 THE COURT: Now you're making an argument as
4 well.

5 MR. MAY: Yes, sir. I apologize.

6 THE COURT: I overrule the objection to that
7 question.

8 What else?

9 MS. CAMPBELL: I believe that in his question
10 was something about "read along with me out loud," is the
11 part --

12 THE COURT: All right. We'll be at ease for a
13 few minutes.

14 (A break was taken.)

15 THE COURT: All right. Let's bring them back,
16 please.

17 THE BAILIFF: Yes, sir.

18 (The jury came into open court at approximately
19 5:44 p.m.)

20 THE BAILIFF: Your Honor, the jurors are all
21 present.

22 THE COURT: All right. Your objection's
23 overruled.

24 MR. MAY: Thank you, sir.

25 BY MR. MAY:

1 Q You just stated that -- regarding the bedding found
2 in the dumpster, you stated that the neighbor wasn't sure
3 whose the bedding was, correct?

4 A I mean, that was my understanding. I didn't speak to
5 that neighbor. When that was first brought to our
6 attention I was still inside of the apartment. I over
7 heard somebody talking about it and I thought Investigator
8 Thomas handled that situation and found out everything.

9 Q Now, in your notes, these are your notes, correct?

10 A Unh-unh. They're Thomas's notes. He wrote the
11 notes.

12 Q Wait a second. You just said these are both
13 you-all's notes?

14 A Yeah, but I'm telling you that Thomas wrote the
15 notes.

16 Q And you've adopted a belief in them, correct?

17 A Uh-huh.

18 Q All right. And this adopted belief in the notes
19 says, "When the officers pulled the items out of the
20 dumpster, a neighbor identified the items as belonging to
21 the victim, Eboney Williams."

22 A Again, I did not write this. I didn't handle the
23 situation about what was in the dumpster.

24 Q Yes, sir. So you have a detective who's not a part
25 of the violent crimes team on a scene?

1 A Uh-huh.

2 Q The detective's finding items in a dumpster that has
3 just been emptied?

4 A I can't address how he got to the dumpster. I don't
5 know about that.

6 Q This investigator, who people are informing
7 investigators under you that you-all need to look at for
8 the murder, you said that you heard things about that,
9 yes?

10 A Yeah, one time or so and I heard Melron talking about
11 it and everybody thought it was a joke.

12 Q Thought it was a joke. So did you turn this
13 information over to Ms. Campbell in the Fifth Circuit
14 Solicitor's office?

15 A I don't think so.

16 Q Did you call Internal Affairs to say, "Hey, there's
17 something you need to look at"?

18 A No, I didn't.

19 Q Did you find out that the reason why this was
20 persisting was there was a rumor that he had fathered a
21 child or had impregnated Eboney Williams?

22 MS. CAMPBELL: Objection, Your Honor.

23 THE COURT: The objection's sustained.

24 The jury's to disregard the question.

25 BY MR. MAY:

1 Q Now, you and Thomas spoke to Nicole Grimes on this
2 case, correct?

3 A Yes.

4 Q I believe it was February 20th, 2009?

5 A That's right.

6 Q You found out she lived in Apartment 25-H?

7 A Right.

8 Q That her boyfriend lived there as well?

9 A Right.

10 Q She said that her boyfriend, Ahmad Wilkins, was home
11 at 3:55?

12 A Are you reading from the statement?

13 Q No, sir. I've been here just as you have. Is that
14 not in the statement?

15 A Ask the question again.

16 Q Does she say in her statement that he was home at
17 3:55 in the morning?

18 A So you are reading from the statement?

19 Q Yes.

20 A You asked me to refer to the statement.

21 Q Yes, sir. I apologize. Yes, please refer to the
22 statement.

23 A All right. When Investigator McCracken wrote the
24 statement out, he asked her, "You stated Ahmad left about
25 1 a.m. What time did Ahmad get back?"

1 Her answer was "3:55 a.m."

2 Q Thank you, sir.

3 A Just one minute.

4 Q Okay.

5 A "How do you know it was 3:55 a.m. when Ahmad
6 returned?

7 "I looked at the clock and I went to open the
8 door."

9 Those are the references she made to 3:55 and he
10 actually wrote it down.

11 Q Yes, sir.

12 All right. Now she had a reason why she said
13 she remembered 3:55; you just read it, correct? Because
14 she had --

15 A She opened the door.

16 Q She had to let him in?

17 A Uh-huh.

18 Q Now, again, you've been at Bethel Bishop numerous
19 times, you agree it's a high crime area?

20 A Right.

21 Q It's a place that you'd want to lock your door if you
22 lived there, yes?

23 A Yes.

24 Q Okay. Now, let's look at why -- I'm sorry -- and
25 that was at Apartment 25-H, correct?

1 A Right.

2 Q Now, why did you begin to look at Nicole Grimes? Is
3 it because you obtained phone records showing that her
4 boyfriend was the last person to speak with Eboney
5 Williams on the telephone?

6 A That could have been.

7 Q Correct. Is that right, sir?

8 A It could have been the reason. I think she might
9 have came up at some other point, though, but yeah.

10 Q All right. So her boyfriend that's living in that
11 same apartment --

12 A Uh-huh.

13 Q -- the person that you interviewed on the same day
14 was the last person to have a telephone call with the
15 decedent in this case, correct?

16 A Right.

17 Q And, sir, that telephone call happened at 4:13 a.m.,
18 didn't it, per the phone records?

19 A I would have to see the phone records --

20 Q Yes, sir. Let me see if I can find --

21 A -- in order to be precise and correct about that.

22 Q Yes, sir.

23 MR. MAY: Beg the Court's indulgence for one
24 second, Your Honor. I apologize.

25 (Pause.)

1 BY MR. MAY:

2 Q Yes, sir. Now these are already in evidence. I'm
3 going to show you just a copy of something, okay? No. 58,
4 will you take a look at this?

5 A No. 58?

6 Q No. 58, yes, sir.

7 A Okay. I see it. What do you want me to do?

8 Q Would you agree that's the last number that you
9 received with any kind of answer from that? It lasts 68
10 seconds. Anything else is zero after that.

11 A Are you asking me is this -- I'm not sure what's the
12 calling number on here.

13 Q All right.

14 A Just give me a second, Counsel.

15 Q Yes, sir.

16 A Are you referring to the 754-8216 number or the
17 446-0191 number?

18 Q The one at 4:13, sir. It's the last number.

19 A 4:13:05?

20 Q 4:13:05, correct?

21 A Uh-huh.

22 Q Thank you, sir.

23 And you know that 25-H is on the second story?

24 A Yes, I do.

25 Q And now she told you this on February 20th, 2009,

1 yes, sir?

2 A Right.

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

4 (Pause.)

5 MR. MAY: Your Honor, I have no further
6 questions at this time.

7 THE COURT: Anything further?

8 MS. CAMPBELL: Just briefly.

9 REDIRECT EXAMINATION

10 BY MS. CAMPBELL:

11 Q Nicole Grimes you've been talking about, the one in
12 25-H, did she also have a sister or brother that lived in
13 Building 13?

14 A Yes, she did.

15 Q Did she stay there often as well?

16 A Yeah. She had -- the mother lived there, brother,
17 and she did -- as a matter of fact, sometimes when we went
18 looking for her, that's where we found her at.

19 Q He asked you about the bedding in this case. Is
20 there any evidence in this case of criminal sexual conduct
21 or rape?

22 A No.

23 Q He asked you about the crime scene log and the fact
24 that you weren't on it.

25 A Right.

1 Q Are you aware that Johnson did a report as to who
2 went in and out of the crime scene?

3 A Yes, I was aware of this.

4 Q And, in fact, what does it say right there on the
5 highlighted part, "The following Columbia Police personnel
6 were at the crime scene"?

7 A Yeah, he wrote out in his report everybody that was
8 in the crime scene he knew of, he recorded it and my name
9 is in there.

10 Q And your name's, I think, on the second line as one
11 of the people that went into the crime scene?

12 A Right next to Thomas's.

13 MS. CAMPBELL: That's all I have of the witness.

14 THE COURT: Anything further?

15 MR. MAY: Briefly, sir.

16 BY MR. MAY:

17 Q And Kelly was on that crime scene log also, wasn't
18 he?

19 A I'd have to look at it again.

20 MR. MAY: I'll withdraw the question.

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

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: The State's next witness.

24 MS. CAMPBELL: Subject to chain evidence, Your
25 Honor, we would rest.

1 they're putting in evidence with this next witness and
2 we've never received it.

3 THE COURT: All right. Let's see what it is and
4 we'll deal with it.

5 (The jury came into open court at approximately
6 6:25 p.m.)

7 THE BAILIFF: The jurors are all present, Your
8 Honor.

9 THE COURT: All right. Madame Forelady, members
10 of the jury, you have heard the State's case. It's now
11 the defense's turn.

12 Your first witness, please.

13 MR. SHEALEY: Thank you, Your Honor.

14 THE COURT: Yes, sir.

15 MR. SHEALEY: The defense calls Mr. George
16 Micholson.

17 GEORGE MICHOLSON, after being duly sworn,
18 testified as follows:

19 THE CLERK: Have a seat in the witness box.

20 State your name for the record and spell your
21 last name, please.

22 THE WITNESS: My name is George Edward
23 Micholson. Last name is M-I-C-H-O-L-S-O-N.

24 DIRECT EXAMINATION

25

1 BY MR. SHEALEY:

2 Q Good evening, Mr. Nicholson. Where do you work?

3 A AT&T.

4 Q And have you testified in this case already this
5 week?

6 A I have.

7 Q What do you do at AT&T?

8 A I'm in the Asset Protection Group, which handles
9 employee investigations and also serves as the custodian
10 of records for telephone company records.

11 Q And have you testified as the records custodian in
12 this case this week?

13 A I have.

14 Q And were you provided with a subpoena from my office
15 this week?

16 A I was.

17 Q And what number -- or what was that subpoena about?
18 Can you tell the jury?

19 A It was asking for subscriber information on a
20 telephone number for a certain period of time that
21 occurred January through March of 2009.

22 Q Okay. And can you tell us what that subscriber
23 number was?

24 A Area code (803) 786-7765.

25 Q Okay. And did you actually bring the subscriber

1 information with you on that today from AT&T?

2 A I did.

3 Q And has it been kept in the way you normally keep
4 your records as record custodian?

5 A It has, yes.

6 Q And may I see what you've brought?

7 A (Witness complying.)

8 MR. SHEALEY: If you'd mark this, please.

9 (WHEREUPON, Defendant's Exhibit No. 14 was
10 marked for identification only.)

11 BY MR. SHEALEY:

12 Q I'm going to show you what's been marked as Defense
13 for ID 14. Does that number have a subscriber name to it?

14 A It does.

15 Q And what is that name?

16 A The first name is Venchie, V-E-N-C-H-I-E, and the
17 last name is Grimes, spelled G-R-I-M-E-S.

18 Q And does it have a subscriber address on it?

19 A It does.

20 Q And what is that address, please?

21 A [REDACTED] Avenue, Columbia. It also has
22 Apartment No. 13-A.

23 MR. SHEALEY: Okay. Your Honor, at this time
24 I'd seek introduce the subscriber information from this
25 phone number.

1 MS. CAMPBELL: Without objection, Your Honor.

2 THE COURT: It's admitted without objection.

3 (WHEREUPON, DEFENDANT'S Exhibit No. 14 was
4 admitted into evidence.)

5 MR. SHEALEY: Thank you. That's all I have.

6 THE COURT: Anything by the State?

7 MS. CAMPBELL: No, sir.

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

9 Call your next witness.

10 MR. MAY: Yes, sir, Your Honor.

11 Defense calls Steve Lambert.

12 DR. STEVEN LAMBERT, after being duly sworn,
13 testified as follows:

14 THE CLERK: Have a seat in the witness box.
15 State your name for the record, please.

16 THE WITNESS: My name is Steven Jeffrey Lambert.

17 DIRECT EXAMINATION

18 BY MR. MAY:

19 Q Yes, sir, Mr. Lambert. Or is it Dr. Lambert?

20 A Dr. Lambert.

21 Q Dr. Lambert.

22 Can you please introduce yourself to the jury?

23 Where did you go to college?

24 A Sure. I went to Mars Hill College in Mars Hill,

25 North Carolina, just north of Ashville. In 1983 I got my

1 Bachelor's in chemistry from Mars Hill. After that I
2 taught high school for a year and escaped from high school
3 and came to graduate school at the University of South
4 Carolina where I got my Ph.D. in biochemistry. I
5 graduated in 1990. At that point I became employed at the
6 South Carolina Law Enforcement Division.

7 Q What has been your job experiences?

8 A Other than teaching school, after I graduated from
9 USC with a Ph.D., I was employed at South Carolina Law
10 Enforcement, also known as SLED, in the DNA analysis lab.
11 I was there for 19 years until I retired.

12 Q Do you have any specialized training?

13 A I do. I attended the Forensic DNA Analysis class at
14 the FBI laboratory in Quantico, Virginia back in 1990.
15 That's a month-long class.

16 I was also a visiting scientist in the research
17 lab at the FBI back in the early 90s and trained under the
18 analyst at SLED in how to do crime scenes and how to
19 process evidence and do basic serology, basic tests.

20 Q So you've worked in the field of DNA analysis?

21 A Yes, for approximately 19 years.

22 Q What do you do now?

23 A Now I'm a teacher at -- an adjunct professor at South
24 University. I teach nursing chemistry. And I also teach
25 a class at the University of South Carolina. I've taught

1 that since 1996.

2 Q And have you ever been admitted as an expert?

3 A Yes.

4 Q How many times?

5 A Over 80 times.

6 Q And have you ever audited laboratories?

7 A Yes, I have.

8 MR. MAY: At this time I'd offer Dr. Lambert as
9 an expert in the field of DNA analysis.

10 THE COURT: What says the State?

11 MS. CAMPBELL: Nothing from the State, Your
12 Honor.

13 THE COURT: He is admitted as an expert.

14 BY MR. MAY:

15 Q Did you review this case?

16 A Yes, I did.

17 Q What materials did you review, sir?

18 A I received the case file from the Richland County
19 lab, which included their case notes on the case about the
20 evidence that they received. It's got lot numbers and
21 things like that.

22 It also had the electropherograms, which are the
23 actual DNA printout. When you develop the DNA print, you
24 get a picture with some peaks on it. I reviewed that.

25 I reviewed the reports from the lab. I reviewed

1 the case notes, just the case log.

2 Q Yes, sir. And that's what you reviewed if you were
3 working in a laboratory?

4 A That's correct. It would be similar to what somebody
5 in that lab who would review the case, because every case
6 that comes out of a forensic DNA lab is reviewed by a
7 second analyst prior to signing it, signing the report.

8 Q And you were here yesterday for Ms. Rachel Grant's
9 testimony?

10 A Yes, sir.

11 Q Now, yesterday she used the word "present" when
12 describing Ahmad Wilkins on the glove and ligature.

13 A Yes, she did.

14 Q Is that an accurate description of this evidence?

15 A The word "present," to say that Mr. Wilkins was
16 present on that implies that his DNA has to be on that
17 item, that he was there, he was present.

18 The way that they worded that in the report,
19 they didn't use the word "present" in the forensic DNA
20 report issued by Rachel Grant from the sheriff's
21 department. What they said was that he can't be
22 eliminated. He's included as a possible contributor, but
23 he can't be eliminated. Now, that's a lot different than
24 actually being present on that item.

25 Q Now -- but there are times in a DNA analyst's career

1 when you can say that somebody is present on a crime
2 scene?

3 A There's a -- I've testified in a lot of cases that
4 have better evidence than this as far as I've got a blood
5 drop at a crime scene that I'm able to type; it's a pure
6 sample.

7 In this case, the samples are mixtures on this
8 neck ligature and on the glove. They're mixtures of more
9 than one person, three people, four people.

10 Sometimes we get a pure sample that's from one
11 person and I can develop an entire DNA print. I'm
12 confident that every bit of that print came from the
13 person that left it. In that case, the probability of
14 selecting somebody at random that just happened to match
15 that is maybe one in a quadrillion. Now, that's a million
16 billion. That's a huge number. And in those cases, I'm
17 comfortable to say within a reasonable degree of
18 scientific certainty that blood found at the crime scene
19 came from John Doe or whoever it matched.

20 Q And that's not what we have here, correct?

21 A No. And they didn't say that in the report. And in
22 a report -- Richland County I know has issued reports
23 where they've said there was a match, the probability is
24 extremely rare, one in a quadrillion, or even rarer than
25 that.

1 This isn't that case. This is a mixture case to
2 where they have to use the word in the report that he
3 can't be eliminated, can't be excluded.

4 Q Now, is there a sample in this case where you can
5 testify that someone was present?

6 A Yes, sir. Ebony Williams, for instance, is present
7 on the neck ligature. That sample done with the --
8 there's two kind of testings done in this case. There's
9 what they call STRs which tests both male and female.
10 Anybody's who's got DNA on there, it will test that.

11 On the neck ligature, they got a pure sample in
12 that regular STR test and it was Ebony Williams and you
13 could testify with confidence that within a reasonable
14 degree of scientific certainty it came from Ebony
15 Williams.

16 Q But what Ms. Grant testified to yesterday, the glove
17 and the Y-STR on the neck ligature, you can't say that?

18 A As far as Mr. Wilkins being present?

19 Q Yes.

20 A His profile is consistent with being in that mixture,
21 but there's also several other people in that mixture and
22 you can't tell for sure that his profile is in that
23 mixture.

24 There's a number of ways to get A, B, C, and D.
25 You can have an A/B person, a B/C person, a C/D person.

1 Any of those people could donate to that sample.

2 So it's true, he's included as a possible
3 contributor, but that doesn't guarantee that he's present.

4 Q All right. So now when you test pieces of evidence
5 and compare them with the known suspect, there are four
6 different things you can say about it, correct?

7 A That's true.

8 Q And what are those four things?

9 A Like you can have a match. Ideally that's what you
10 want when you're a DNA analyst doing these cases. You're
11 going to develop a profile, I've got a suspect or a
12 victim, I've got a perfect match, and I'll say in my
13 report I got a match and then I'll give how rare it is.

14 The second thing that you can have is you can
15 have an exclusion, and we've got exclusions in this case.
16 There's cigarettes that excluded Mr. Wilkins. There's
17 cigarettes -- there's a cigarette that excluded the
18 victim, Ebony Williams. There's another cigarette with a
19 female profile on it. So you can be confident about those
20 exclusions.

21 The third type of situation you can have is the
22 one that most of the evidence is like in this case, it's a
23 mixture. You can say that they're included. There's
24 nothing that I see that excludes them, but you can't
25 positively say that they're in that sample. There's a lot

1 of their profile in the sample, they're missing some of
2 their profile, but not enough for me to say he's
3 definitely excluded or for me to say he's absolutely
4 included, I've got a match.

5 And then the fourth condition that you run into
6 is just it's such a mess that it's inconclusive, and we'll
7 say that on reports sometime, that I just can't tell.

8 There's so many people in this mixture that the peaks are
9 all over the place and I can't make a definite statement.

10 Q All right. Rachel Grant testified that Ahmad Wilkins
11 was present on the glove?

12 A She did. She said that.

13 Q What did she say on her reports she signed and after
14 they were reviewed by another analyst at Richland County
15 Sheriff's Department?

16 A On the report -- I've got to get my glasses here
17 because I want to say this exactly like she said on the
18 report.

19 For instance, on the glove for the -- the STR,
20 the Identifiler result, she says Ahmad Wilkins cannot be
21 eliminated as a contributor to this mixture. And on the
22 Y-STRs on the glove she says, Ahmad Wilkins or any
23 paternally-related male cannot be eliminated. Or on the
24 neck ligature, she said specifically it's a mixture of at
25 least four individuals, Ahmad Wilkins or any

1 paternally-related male can't be eliminated. So it's --
2 they never used the word "match" on the report with
3 relation to Mr. Wilkins.

4 Q Now, talking about -- all right. Now, we heard this
5 term CODIS yesterday. Can you tell me about CODIS?

6 A CODIS is a database. It stands for Combined DNA
7 Index System. It's the database that contains profiles
8 from forensic cases. That is, if I've got blood found at
9 a scene, I don't know who it is, who it belongs to, I'll
10 develop that print and I'll load it into the database and
11 it's going to search against other cases, first of all, to
12 see if there's any other cases that might match that, and,
13 second of all, it's going to search against convicted
14 offenders, people who have committed crimes previously
15 that are in the national database.

16 Q And she testified yesterday that the number of hits
17 on CODIS was a lot of potential donors.

18 A The sample she searched, the STR profile from the
19 glove and got a whole bunch of hits. And I can imagine
20 she would looking at that sample, it's a complicated
21 mixture and you'd expect a bunch of people to possibly
22 contribute to it.

23 Now, I don't know how many she got, it wasn't
24 recorded in the case file, names or even what the hits
25 looked like, I mean, that it matched location number one

1 and location number five or whatever. Anyway, she said
2 she got a bunch of hits.

3 Q And that bunch of hits would be all the different
4 permutations and combinations that come from the found
5 alleles on this glove?

6 A Right. Anytime you've got a mixture, the FBI won't
7 even let you load a mixture this complicated to
8 permanently be searched in the database because it's just
9 so complicated. You can do what's called a keyboard
10 search, which is what she did in this case, to where you
11 put it in once, search it, and then realize, whoa, I've
12 got a whole bunch of hits, so then you don't put it in the
13 national database or you'll constantly get thousands of
14 hits, you know, potentially over the course of the life of
15 that sample.

16 Q And a report could have been generated from this?

17 A If you have a hit, you could have put that
18 information in your case log.

19 Q And you said a lot of these profiles are taken from
20 convicted felons?

21 A Yes, sir.

22 Q Now, talking about the Y-STR, we talked about it a
23 little bit yesterday, but can you explain it again?

24 A Y-STRs are parts on the Y chromosome. Males only
25 have the Y chromosome. So they're testing specifically

1 for differences between male individuals. You can test a
2 mixture of male DNA and female DNA and none of the female
3 DNA will interfere, you'll only get some male DNA.

4 Q And how many male -- how many different male DNA were
5 found on this ligature?

6 A There were at least four, and Ms. Grant testified to
7 that yesterday.

8 Q And when you say at least four, how could there be
9 more?

10 A Because if they're similar enough to each other, they
11 kind of mask each other. It's like you see the large
12 peaks, but there could be smaller peaks behind those. So
13 we never -- once we get a complicated mixture like that,
14 you're never really confident how many people are on that
15 mixture.

16 Q And if at a certain location there was an 11
17 allele -- there are three 11 alleles, how many is -- if at
18 a certain location there's a peak for an 11 allele, you
19 don't know if there's two, three, four, or just one allele
20 at that location, correct?

21 A Right. If multiple people contributing to that
22 mixture have an 11 allele, I can't tell how many people
23 are in the mixture.

24 Q Now -- and again, with the Y-STR, it looks at the Y
25 chromosome?

1 A That's correct.

2 Q And why is the Y chromosome important?

3 A Because a male would have that chromosome.

4 And the usefulness of that testing is that
5 you've got a mixture of male DNA and female DNA. Now you
6 can ignore all the female DNA that's present in the
7 mixture and specifically look at the male DNA.

8 Q And was this Y-STR testing of the ligature, did it
9 show that Ahmad was present as Ms. Grant testified to?

10 A Not conclusively present.

11 See, the word "present" has a lot of
12 connotation. His alleles are in that mixture, most of his
13 alleles.

14 Now there's two places where his alleles -- and
15 I hate to use the word "alleles"-- but the peak -- this is
16 part of the DNA profile -- of the numbers that you saw on
17 the screen yesterday, there's two places where his peaks,
18 his number doesn't even show up, which is not enough to
19 exclude him as a potential contributor, but it's kind of
20 disappointing when you see that as a DNA analyst. I can't
21 say with confidence that he's in there or not in there.

22 I'd really like to say he's a match or he's
23 excluded. This is kind of in that middle ground.

24 Q So you can't with confidence say that either Ahmad or
25 a paternally-related male is present or -- I'm sorry -- is

1 included or excluded, you can't say anything with
2 confidence because of those missing points?

3 A Right.

4 Q Now, there's also a missing point on the glove,
5 correct?

6 A On which sample?

7 Q On the STR.

8 A On the regular STR, not the Y-STR?

9 Q Yes, sir.

10 A Let me just check my notes to make sure.

11 Q At the FGA loci.

12 A That's correct. Mr. Wilkins has a 22 peak and it
13 didn't show up in the evidence.

14 Q Now, you reviewed the case file on the DNA tests in
15 this case. What things have to be present in the file to
16 support the findings?

17 A Like I said when I looked at the file before, it
18 shows where Ms. Grant received the evidence, she performed
19 preliminary tests on it.

20 It's got the lot numbers of the reagents she
21 used in case something was wrong with one of those
22 reagents you'd know, "Hey, I used it on this case, this
23 case, this case. I need to go back and refer to those."

24 It's got the electropherograms, that is the part
25 which shows the DNA profile.

1 It's got the way she calculated the statistics.
2 It's got phone conversations and things like
3 that.

4 Q Now, there's a missing item from this file, correct?

5 A In particular, the Y-STR analysis of the blood, which
6 is item two, I didn't see the supporting data that showed
7 where she had done what's called an amplification, which
8 is right before you test it. And then I didn't see where
9 she performed an actual testing on the genetic analyzer.
10 Those two sheets were missing. I didn't see them. I
11 don't know if I overlooked them or what, but I didn't see
12 where she had done that testing.

13 Q And you were provided an entire case jacket?

14 A What I was provided, I didn't see those two sheets of
15 paper. I saw it for all the other samples, but I didn't
16 see it for the glove.

17 And then I saw the final results where she had
18 the Y-STR profile for the glove. I just didn't see the
19 supporting data.

20 Q And the entire file that was provided in discovery
21 was numbered?

22 A Right, one through 58, 59, something like that.

23 Q Starting with the results, ending with possibly a
24 bill, I believe?

25 A It could be.

1 Q Are there any other items in this case that could
2 have been tested?

3 A On this case, there were certainly a lot more items
4 that were collected.

5 Q For instance, bed sheets?

6 A The bed sheets were not tested at all in this case.

7 Q Okay. Why would it have been important to test the
8 leg ligature?

9 A Just the same really, it was important to test the
10 neck ligature. The neck was implied to be, I guess, the
11 murder weapon. I believe strangulation is the cause of
12 death. By the same token, the killer put that neck
13 ligature on her. The person or persons who killed her
14 also put the leg ligature on her body. They left DNA
15 potentially on the neck ligature; they could have
16 certainly left it on the leg ligature.

17 Q And as you testified, it would have been helpful to
18 run a Y-STR to see if you could have eliminated some of
19 the four possible -- four or more possible male
20 contributors?

21 A On which item?

22 Q On the leg ligature.

23 A Potentially or -- I mean, you're going to run an STR.
24 There could potentially be a probative female sample on
25 that. There's no indication of the gender of the person

1 who committed the crime.

2 Q And that's a problem about not running a Y-STR, isn't
3 it?

4 A Well, if you're only running a Y-STR, you're only
5 going to see males. There may be a huge female component
6 that you would miss if you didn't run both tests, the STR
7 and the Y-STR.

8 Q And now fingernail scrapings, are those something you
9 normally look at in doing DNA analysis?

10 A Yes.

11 Q And in this case, did they run the fingernail
12 scrapings through the Y-STR?

13 A No, they did not. They ran it through the regular
14 STR and they didn't find anything other than the victim.

15 Now, a lot of times -- you know, if you scrape
16 my fingernail, you'd find me under my fingernails.

17 Potentially, especially if you've got a female
18 victim, she fought back at her attacker, maybe she
19 scratched him, most of that DNA under her fingernail might
20 belong to her. You could have done a Y-STR test to see if
21 there was a male under that fingernail, too.

22 Q And again, you can't identify which profiles were
23 left when?

24 A On which item?

25 Q On any item. You can't date profiles?

1 A That's correct. DNA, you can only infer about how
2 long they've been there or who placed them there and in
3 what order in a mixture. Sometimes you can't do that.
4 You have to rely on circumstantial evidence to figure out
5 how long it possibly could have been there. It could have
6 been there years, could have been there an hour.

7 Q Based on the testing results of this case, this is
8 not an ideal case, is it?

9 A I'm confident that the results that they tested are
10 the results. I didn't see anything in the case file that
11 would indicate that they mistested anything. But the
12 results they got are not ideal. You don't have a
13 beautiful blood drop at the scene that belongs to the
14 perpetrator, that's exclusively him. You're left with a
15 mixture on this case. So in that regard, it's not an
16 ideal case.

17 Q And in a lot of cases there are mixtures?

18 A Absolutely. Unfortunately.

19 Q And in those cases all you can do is call what's
20 there?

21 A That's right.

22 Q And in this case, one last time, because you sat here
23 for the testimony, on either the neck ligature or the
24 glove, can you say or can any person say that Ahmad
25 Wilkins is present, using the standards of a DNA analyst?

1 A He can't be excluded. That's different from saying
2 he's present and it has to belong to him.

3 Q And you can't be confident on the neck ligature?

4 A On the neck ligature, there's four other males, so
5 we're not even sure that his profile is in there. Plus,
6 he's got a couple of places that his profile is missing
7 that peak that would match him. So he can't be excluded;
8 I can't conclusively say he's there or not there.

9 MR. MAY: I beg the Court's indulgence, Your
10 Honor.

11 (Pause.)

12 BY MR. MAY:

13 Q And again, very quickly, you're about to go home, in
14 this case bedding that's identified as the victim's is
15 found in a dumpster. Would that have been probative to
16 test?

17 A It was probative enough for the killer, presumably
18 the killer to remove it from the scene. So whoever did it
19 felt that it was probative. I mean, if you can imagine
20 whatever happened went down, they're thinking that's the
21 first thing that's got to go, to get it out of there. If,
22 in fact, it is her bedding and you could have tested it,
23 if it is her bedding, comforter, sheets, her DNA very well
24 could be on it and then you could say, "Yeah, this is her
25 bedding," but it wasn't tested.

1 Q Now, in this case you've reviewed chain also?

2 A I didn't --

3 Q Let me rephrase that question.

4 You saw some issues with chain in her bench
5 notes?

6 A Right. That she had trouble with the chain of the
7 rape kit; that is, it went missing for awhile.

8 Q Is that troubling?

9 A We've had evidence disappear every now and then and
10 it will show back up.

11 I guess what's troubling was she indicated in
12 her phone conversations she tried to get it multiple
13 times. And when she testified yesterday, she said when it
14 left her possession it was sealed. What you do is you get
15 evidence tape, which is if you open the stuff up it's
16 going to rip that tape and I'll know that somebody's been
17 in there. I signed it, I've got my date on it, and that
18 shows that I was the last person to seal it.

19 She said it left her presence, she was confident
20 in the seal, which is good, it won't have to be sealed up.

21 When it came back, she said she was confident in
22 the seal, but when she opened it, she was missing an item
23 that she thought would have been inside it, which was the
24 rape kit, and they had to track that down.

25 If the seal was intact, I'm not really sure --

1 not having seen the item of evidence or the facts
2 surrounding it, I'm not sure how it got out of that box.

3 Q Yes, sir. And now we keep talking about the neck
4 ligature with the Y-STR. Y-STR again is not to a specific
5 person?

6 A No. Y-STR you get from your dad. So if you're a
7 male, you're going to have that same profile that your dad
8 gave you. So I match my dad who would match his dad.

9 Now, I've got two uncles in addition to my dad,
10 so my Y-STR would match them. I've got two male children,
11 it would match them. I would match all my male cousins
12 that belong to those uncles or my great-uncles or my
13 second and third cousins.

14 Everybody's got same the Y profile, so it's not
15 unique.

16 Q And if you had a brother, you'd match your brother,
17 assuming that he had the same paternal father?

18 A That's correct. Now there could be a mutation that
19 would show up in that Y, but for the most part, you'd
20 match your brother.

21 Q So absent a mutation you'd match all
22 paternally-related males?

23 A That's correct.

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

25 (Pause.)

1 MR. MAY: No further questions at this time,
2 Your Honor.

3 THE COURT: Ms. Campbell.

4 CROSS-EXAMINATION

5 BY MS. CAMPBELL:

6 Q You just said all the Y profiles are the same. Is
7 that what you meant to say?

8 A No, I didn't mean to say that. They would be the
9 same within a paternal line of the family; that is, I
10 would match my brothers, I would match my dad, I'd match
11 my uncles. Those are the same. Now, in a different
12 family, they're going to have different Y profiles.

13 Q So it's limited to people related paternally?

14 A That's correct. And it says that in the report.

15 Q As was testified to yesterday?

16 A I believe she said that. I can't recall specifically
17 if she said paternally, but -- I had trouble hearing in
18 the courtroom, but I believe she said it.

19 Q You went through your qualifications and stuff. When
20 is the last time you performed any forensic DNA case work?

21 A That's a good question. Probably prior to 2007.

22 Q Prior to 2007. So in the last, say, five years, you
23 haven't been in the laboratory?

24 A No, ma'am.

25 Q You haven't --

1 A Well, I was in the laboratory until 2008 but not at
2 the bench doing testing on evidence.

3 Q So the last test you did was in 2007?

4 A That's probably accurate.

5 Q When is the last time you completed a proficiency
6 test in DNA?

7 A That would have been sometime in 2008.

8 Q When is the last time that anyone did peer review on
9 your work, your testimony?

10 A On my testimony or on the testing, which one?

11 Q Whatever you want to answer.

12 A I don't know that they do peer review -- you have
13 somebody monitor your testimony at least once a year, so
14 that would have been in 2008.

15 As far as peer review on the testing that I did,
16 that would have been in 2007.

17 Q And we talked about two different kinds of testing
18 that's done in this case. One is called STR and one you
19 keep referring to as Y testing or I don't know what
20 terminology you want me to use.

21 A Y-STR is fine.

22 Q Y-STR and then there's regular STR?

23 A Yes.

24 Q And who actually trained you in regular STR analysis?

25 A Regular STR analysis?

1 Q Do you remember who trained you?

2 A That's a good question. Probably Gray Amick was
3 there. I trained him in previous analysis and he
4 validated the regular STR testing and was involved in my
5 training.

6 Q Is this Gray Amick right here?

7 A Dr. Gray Amick, yes, ma'am.

8 Q Dr. Gray Amick. And he's the one that actually heads
9 up the Richland County Sheriff's Department laboratory; is
10 that correct?

11 A Yes.

12 Q One of them?

13 A Yes.

14 Q And he actually trained you in STR analysis; is that
15 right?

16 A When we converted the testing, he trained me in STRs,
17 yes.

18 Q Okay. And that's the same laboratory which employs
19 Rachel Grant who testified?

20 A The Richland County lab, that's correct.

21 Q Okay. And you may not know this, but do you know if
22 he's had an opportunity to review her file as well as you?

23 A I would hope that he did, yes, ma'am.

24 Q Do you have -- you talked about the Y-filer or the Y
25 or STR, however you want me put it. Do you have any

1 proficiency in that area?

2 A I never took a proficiency test. I have tested
3 samples using those kits, but I never took a proficiency
4 test. Never did any case work on that.

5 Q Never done it yourself?

6 A I've done the test, but I haven't done it on case
7 work, no, ma'am.

8 Q Let me ask you this. You're here today on behalf of
9 the defense; is that correct?

10 A I was subpoenaed and asked to testify for the
11 defense, yes, ma'am.

12 Q Asked to testify?

13 A Sure.

14 Q Out of the goodness of your heart or are you doing
15 this for a fee?

16 A For a fee.

17 Q Okay. And so when did the defense first contact you
18 in relation to this case?

19 A That's a good question. Let me think.

20 It was probably back in December, I would think.

21 Q Earlier this year perhaps?

22 A December, January, yes, ma'am.

23 Q Okay. So in the last three months at least; is that
24 fair to say?

25 A Sure.

1 Q Have you put in much time on this case?

2 A Probably outside of the courtroom maybe -- I haven't
3 tallied it up completely. It's probably close to five,
4 six hours plus the time I've spent in the courtroom.

5 Q Okay. And how much do you charge for your time?

6 A \$150 an hour to review the case and \$1,500 a day,
7 flat fee, for being present in the courtroom.

8 Q And how many days have you been in the courtroom so
9 far?

10 A Just two.

11 Q Just two. So, so far it's only \$3,000?

12 A That's correct.

13 Q Plus a hundred and fifty an hour for how many hours?

14 A It would be five or six hours. I'll have to
15 double-check that.

16 Q And you weren't there to do the testing in this case?

17 A No, ma'am.

18 Q But you don't have anything to indicate that the
19 testing wasn't done properly?

20 A I looked in the case file. I didn't see anything
21 other than the absence of that supporting data for those
22 sheets.

23 Q And you got your information from the defense
24 attorneys, right?

25 A Yes. That's who provided me the case file.

1 Q Did you ever in preparation for your testimony think
2 it might be good to contact Dr. Gray Amick about this
3 case?

4 A No. I didn't see anything that I specifically
5 thought that I would need to talk to him about.

6 Q Did you ever think it would be prudent to talk to
7 Rachel Grant about this case?

8 A No, ma'am.

9 Q Did you ever request a complete copy of her file?

10 A No.

11 Q I'm showing you this sheet that you just testified
12 was missing from what had been provided to you.

13 A What is the page number on this sheet?

14 Q I don't know who numbered your pages.

15 A I don't either. There's consecutive page numbers.

16 One of the -- all the requirements or one of the
17 certification requirements is that we have page numbers.

18 All the rest of these pages are numbered. I
19 don't see a page number on this one.

20 This one doesn't appear to be part of the
21 original file. I don't doubt that it's what it represents
22 to be. It looks like it's got the glove on it and it
23 looks like it's the Y kit and it looks like it was done on
24 5-12, which is consistent with the electropherogram that I
25 saw that she had in her case file that was 5-13-09.

1 Q Okay. So that would be the missing sheet?

2 A This is the one that was not in the material that I
3 was provided.

4 Q When you saw that it was missing, did you call
5 Ms. Grant and go, "Hey, you're missing a sheet"? Did you
6 do it?

7 A No. I didn't realize that it was missing until
8 yesterday when I was looking at the -- the testimony came
9 to light about what day the rape kit came back to Richland
10 County. I've never had that date before, and when I saw
11 that, it prompted me to realize that that sheet was
12 missing.

13 Q You didn't even notice that it was missing?

14 A Not until yesterday, no.

15 Q Okay. You are aware of the TWGDAM guidelines?

16 A TWGDAM is the Technical Working Group on DNA
17 Analytical Methods and that name's been changed to SWGDAM,
18 which is the Scientific Working Group on DNA Analytical
19 Methods.

20 Q You know, I used the old terminology. I'm sorry, I
21 meant to say SWGDAM.

22 A That's fine.

23 Q SWGDAM. And basically these are the guidelines for
24 most forensic laboratories?

25 A If they choose to follow those, those are the

1 guidelines. They've been adopted by the people who
2 accredit the lab as they need to follow those documents.

3 Q Okay. And you talked about the different kinds of
4 conclusions that you can come to on the DNA tests.

5 And you're aware that the Richland County lab is
6 accredited?

7 A Yes, ma'am.

8 Q And who is it accredited by?

9 A The American Society of Crime Lab Directors
10 Laboratory Accreditation Board, better known as ASCLD/LAB.

11 Q And would you agree with me that ASCLD has some of
12 the strictest guidelines as far as making sure the lab is
13 properly testing and all that type of information?

14 A They do.

15 Q And they are accredited in that area?

16 A Richland County is, yes, ma'am.

17 Q Richland County is. And that would be where
18 Ms. Grant works?

19 A Yes.

20 Q And in the SWGDAM guidelines, they talk about there
21 are three possible conclusions you can come to?

22 A At least three, that's correct.

23 Q Okay. And the first one is the one you talked about
24 is it's just such a mess you can't say what it is?

25 A That's correct. I'm not sure what term they use in

1 that document.

2 Q Well, as an expert wouldn't you be familiar with
3 these?

4 A I can't remember exactly which term they use. But,
5 anyway, it's a mess --

6 Q Inconclusive and -- they don't use "it's a mess."
7 They use inconclusive or uninterpretable.

8 A That's correct.

9 Q So inconclusive is a possible. And a second possible
10 is DNA having results but known individual excluded?

11 A That's correct.

12 Q And in doing DNA testing, you talked about an ideal,
13 that this was not an ideal DNA case because you don't have
14 a single source from a single drop of blood which is
15 apparently where you feel comfortable about testifying
16 about DNA?

17 A Oh, no. I would testify to these results. I've
18 testified to similar results like this before. It's just
19 I would rather have a case where it matches perfectly to
20 one single contributor. But if these are the results that
21 you've got, these are the results that you've got.

22 Q So your testimony -- you're not trying to mislead the
23 jury here today that this is an unusual case in any way?
24 This is pretty standard for DNA testing in this day and
25 time?

1 A Unfortunately because DNA is so sensitive, we get
2 mixtures.

3 Q So we don't want to mislead them. So this is not an
4 unusual case and you've just characterized it as not an
5 ideal case?

6 A That's correct.

7 Q Because your idea of an ideal case is to have one
8 person at a single crime scene, not to mix any blood with
9 anybody else or any other skin cells and then you have one
10 source and that's your ideal case?

11 A I think most DNA analysts would rather have that than
12 a mixture any day.

13 Q And in testing DNA, the first thing you're doing --
14 and the benefit kind of goes to the person who you're
15 comparing it to -- your job is to see whether or not you
16 can exclude that person as being a contributor of any DNA
17 present, be it a single source, two source, three source,
18 whatever; is that correct?

19 A That's correct.

20 Q And in this case, were you able to exclude the
21 defendant from the glove?

22 A No, ma'am.

23 Q And in this case, were you able to exclude the
24 defendant from the neck ligature in the testing?

25 A No, ma'am.

1 Q So he is included?

2 A He is included, but not --

3 Q And we'll talk about terminology in a minute, okay,
4 because we can talk semantics.

5 A Okay.

6 Q So according to these guidelines, first you can come
7 up as inconclusive, simply can't make a determination of
8 any sort, and second -- and that can be because of many
9 factors, isn't it?

10 A Yes.

11 Q Degradation and all kinds of stuff?

12 A Exactly. There's multiple reasons.

13 Q And then the next one, which would be also ideal, is
14 to be able to exclude Ahmad Wilkins as being a contributor
15 of that DNA?

16 A That's correct.

17 Q And that is not in this case, you can't do that?

18 A Well, he's excluded from some items. He's excluded
19 from the cigarettes.

20 Q The two items --

21 A The two items that we're talking about, right.

22 Q Yes. He's not on the cigarettes.

23 And then the final way they say is that he
24 cannot be excluded as you referenced to in the report; is
25 that right?

1 A That's correct.

2 Q And in the guidelines, which pretty reputable labs
3 use, that then says, "i.e. means what"?

4 A Okay. This is what's in the yellow?

5 Q That might be helpful.

6 A Thank you. I appreciate it.

7 The known individual cannot be excluded, i.e.,
8 is included --

9 Q Is included?

10 A -- as a possible contributor to the DNA obtained from
11 an evidentiary item, and they couch that as a "possible
12 contributor."

13 Q Is included?

14 A Yes, ma'am.

15 Q So while we're talking semantics here, and you're
16 talking about you know how important it is, "cannot be
17 excluded," the guidelines themselves say included?

18 A That's correct.

19 Q And have you had an opportunity to look at the actual
20 case work in this case?

21 A Oh, yes. I'm assuming this is something that I've
22 seen before. This is Mr. Wilkins' Identifiler profile and
23 this is also the electropherogram, that is the peaks from
24 the glove, the STR.

25 Q And you've had an opportunity to review that?

1 A Yes, ma'am.

2 Q And you would agree that he cannot be excluded, you
3 just stated that?

4 A That's correct. The only place he doesn't show up is
5 at the FGA location. He's missing -- that the evidence is
6 missing a 22, and Mr. Wilkins is a 20.2, 22.

7 Q And other than -- and there are reasons for that,
8 you've testified to that before, that it can drop out?

9 A Not in this case, but, yeah, it can drop out. It's a
10 low level.

11 Q But we'll get to what you want to get out there, but
12 he is included based on that?

13 A He's included, he cannot be excluded, that's correct.

14 Q And however you want to use the terminology?

15 A Right.

16 Q And the purpose of the Y-filer is to weed out the
17 female so you can concentrate better on a male; is that
18 right?

19 A That's correct. And there was a female in this on
20 the neck ligature. For some reason one of those
21 contributors is female. I don't know who that is.

22 Q And the Y-filer that's done in this case on the neck
23 ligature, can Ahmad Wilkins' DNA be excluded?

24 A On the Y-filer, no, ma'am, he can't be excluded.

25 Q So he can be excluded on the glove and he can't be

1 excluded on the ligature which killed her?

2 A That's correct.

3 Q And ideally just as your single drop of blood with
4 one single person in it, ideally for Mr. Wilkins he would
5 be excluded?

6 A I don't know. Depends on the results of the test. I
7 don't know the answer to that. We didn't have that in
8 this case.

9 Q You mentioned that it would have been helpful to test
10 the bedding. Are you aware of any rape allegation in this
11 case?

12 A No, not aware of that. But whoever removed that
13 bedding thought that it was probative is the only thing I
14 can ascertain from that.

15 Q And, finally, are you aware that the defendant
16 himself acknowledges that it's his DNA on the neck
17 ligature, that he can just explain that away?

18 A I haven't heard that.

19 MS. CAMPBELL: That's all I have, Your Honor.

20 THE COURT: Any redirect?

21 MR. MAY: Yes, sir. I'll try to be as brief as
22 possible.

23 REDIRECT EXAMINATION

24 BY MR. MAY:

25 Q She didn't write up everything up here, did she? She

1 stopped writing when you were trying to talk, this "cannot
2 be excluded as a possible contributor"?

3 A That's right. The way that sentence went on -- and I
4 don't think I've got the SWGDAM guidelines with me anymore
5 -- but it says, "Can't be excluded, i.e., is included as a
6 possible contributor."

7 Q And while I'm winding this up, have you ever
8 testified for Ms. Campbell before?

9 A Yes, sir.

10 Q Several times?

11 A Yes, sir.

12 Q And did she treat you like this when you were her
13 expert?

14 MS. CAMPBELL: Objection, Your Honor. That's
15 hearsay.

16 THE COURT: Objection sustained.

17 BY MR. MAY:

18 Q Now, Richland County Sheriff's Department charged CDP
19 for this case, correct?

20 A Yes, sir.

21 Q And do you have the bill in the back of the case
22 jacket?

23 A That will take me just a second.

24 That was included in her case file. It's noted
25 as page 58 in the case file. It does have a page number

1 on it.

2 Q And how much is Richland County Sheriff's Department
3 charging CPD for this, that we know of?

4 A On this bill the total price was at \$200 a sample.
5 For 14 samples that was \$2,800.

6 Q Okay. And now there's a taxpayer free laboratory in
7 Richland County, correct?

8 A At the SLED lab, yes, sir.

9 Q Now, if you were -- you were provided with everything
10 that we were provided for in discovery, correct?

11 A As far as I know. I don't have any reason --

12 Q Yesterday did Ms. Grant have in her case jacket
13 what -- the missing documentation?

14 A It didn't appear that she could find it. I don't
15 know if it was in there or not.

16 Q Why are cases peer reviewed?

17 A We want -- these cases are important. Like, if
18 you're coming to court testing forensic DNA, this affects
19 people lives. You want to make sure that that testing was
20 done correctly, so you want the second analyst to go
21 through every single page in your case file to make sure
22 you did that test right. They will look at your results
23 to agree with your results and we would have situations
24 where one analyst would say, "Hey, I don't think you can
25 say this" or "Let's talk about this," to come to a lab

1 consensus. So that's for every single DNA case reported
2 in this country. It's not unique to Richland County or
3 SLED.

4 Q And, Dr. Lambert, you've peer reviewed numerous
5 people. You've peer reviewed Dr. Amick?

6 A That's correct.

7 Q He's peer reviewed you?

8 A Yes, sir.

9 Q It's what y'all do?

10 A That's right.

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

12 (Pause.)

13 BY MR. MAY:

14 Q And just to be certain, the terminology used by
15 y'all's profession in cases such as this is that somebody
16 cannot -- is what is fully written up there on the bottom,
17 correct?

18 A And that's very similar to what they said in the
19 report. They specifically say -- that's the wrong
20 report -- "Ahmad Wilkins cannot be eliminated" instead of
21 the word "excluded," but it's the same thing, it would be
22 interchangeable. "Ahmad Wilkins cannot be eliminated as a
23 contributor to the mixture."

24 Q And these words are important, so it is about
25 semantics.

1 A Oh, absolutely. They have specific words --
2 Ms. Grant mentioned yesterday, they've got specific words
3 so all the reports are consistent with each other. Those
4 words are validated in the laboratory, that we don't want
5 to have one person say something about the same data and
6 then have another analyst testify differently in a report,
7 so we want that to be consistent. That's why they have
8 specific language that she had to use in this report.

9 Q Correct. And that's the reason why it's important to
10 put up everything and not just pick and choose what words
11 to use to characterize a mixture, correct?

12 A I'm not sure I understand your question.

13 Q Ms. Campbell was trying to characterize this mixture
14 with Ms. Grant yesterday as "present," correct?

15 A Right. And the word "present" is not so much a word
16 that DNA analysts use. What we use is they match, they
17 can't be excluded. When I see "present," that implies
18 that somebody was there, they're present, they're present
19 in the courtroom today, they were there.

20 Now, their DNA may match what is there and if I
21 had that perfect match, I feel a whole lot more confident
22 they put their DNA on that item. But as far as their
23 presence, I'm hesitant to use that word. I kind of cringe
24 when I hear it.

25 Q Yes, sir. And just one last question.

1 As far as the murder weapon in this case, the
2 neck ligature, there are at least four male profiles
3 contained on that, correct?

4 A That's correct.

5 Q And Mr. Wilkins or a paternally-related male's
6 profile is missing at three different locations?

7 A It's missing at two locations that work; that is,
8 he's missing a number at two locations. There was one
9 location that none of those four males showed up at,
10 including anything that matched Mr. Wilkins.

11 Q And possible males. These are three more, right?

12 A That's right. At least four.

13 MR. MAY: No further questions, Your Honor.

14 THE COURT: Ms. Campbell.

15 RE CROSS-EXAMINATION

16 BY MS. CAMPBELL:

17 Q So you would not have reported this case out any
18 differently than Ms. Grant did?

19 A No, I agree with the way that they reported it in the
20 reports that they signed.

21 Q And back when you testified in this courtroom when I
22 was the prosecutor, how many years ago has that been? Is
23 that before you quit SLED?

24 A Yes.

25 Q And before you started testifying for defense?

1 A I testified for the defense two or three times while
2 I was at SLED. I was subpoenaed by the defense. And most
3 of those 80 testimonies I was subpoenaed by the
4 prosecution, but we were subpoenaed to testify to our
5 results.

6 Q And as far as that we talked about semantics and
7 everything, but his alleles are present in these -- as
8 just reported?

9 A The alleles are present. That doesn't necessarily
10 mean he's present and they don't say that in the report.
11 It's just that he can't be excluded.

12 Q And as far as who gets paid, you'd agree with me that
13 SLED has a huge backlog?

14 A They do.

15 Q And as far as Richland County having to recoup their
16 cost, they do the actual testing and that's what they get
17 paid for, to recoup the cost of the testing for other
18 agencies?

19 A I would assume that's how they spend that money.

20 MS. CAMPBELL: That's all I have.

21 THE COURT: You may step down, sir.

22 And, ladies and gentlemen, we're through for the
23 day. We've ordered dinner, but we were on a roll so I
24 thought we'd roll on to the end of the day.

25 So we need you back tomorrow morning at 9:30.

1 THE COURT: Good morning.

2 Yes, ma'am.

3 MS. CAMPBELL: May it please the Court, Your
4 Honor.

5 This morning at 9:19, apparently Mr. Shealey
6 emailed me the dates of birth on several witnesses. We
7 are running those presently.

8 He also had another issue yesterday.
9 Unbeknownst to me, there was some issue as far as Tasha
10 Praylow accusing a police officer of something untoward in
11 this case. It came out. I didn't know about it, I didn't
12 know where it was going. I think I objected, but it was
13 already out at that point. I objected, but the question
14 was already out there.

15 You've already made a ruling on third-party
16 guilt. We would just respectfully request that if any
17 other witnesses, and the defense can represent it, are
18 going to go into third-party guilt issues that violate
19 your previous rulings, Your Honor, that we be made aware,
20 and I believe pursuant to Burgess, we would have a right
21 to have a hearing outside the presence of the jury prior
22 to their testimony.

23 THE COURT: All right. We'll conduct that
24 hearing, if necessary.

25 MS. CAMPBELL: Thank you.

1 THE COURT: Mr. May.

2 MR. MAY: Yes, sir.

3 THE COURT: Yes, sir.

4 MR. MAY: May it please the Court, Your Honor.

5 Your Honor, I think there's two different issues
6 here. Ms. Campbell is saying third-party guilt. We're
7 also going exactly mirroring Kyles v Whitley. We have
8 information that was not turned over to the prosecution in
9 this case.

10 THE COURT: We'll proffer the -- let me hear the
11 information because I'm very suspect.

12 MR. MAY: Yes, sir.

13 THE COURT: We've had two or three instances
14 where the defense has deliberately sought to circumvent a
15 court ruling in introducing evidence in this case and I'm
16 going to review whatever you're proposing now and any
17 further circumvention will be dealt with.

18 MR. MAY: Yes, sir.

19 THE COURT: So let me hear it.

20 MR. MAY: Yes, sir.

21 Ms. Praylow, who would be our first witness up,
22 will testify that the night that Eboney Williams died, she
23 was scared that Melron Kelly was coming to kill her that
24 night.

25 THE COURT: Wait. Ms. Praylow was scared --

1 MR. MAY: No, sir, that the victim was scared --

2 THE COURT: All right.

3 MR. MAY: -- that Melron Kelly was coming to
4 kill her that.

5 THE COURT: And tell me again, who is Melron
6 Kelly?

7 MR. MAY: Melron Kelly is a sergeant in the
8 narcotics department of the Columbia Police Department.

9 THE COURT: Okay.

10 MR. MAY: Ms. Praylow will testify to that, that
11 she saw her the night that she died scared to death that
12 Melron Kelly was coming to kill her.

13 THE COURT: So she's basing it on statements of
14 the deceased person?

15 MR. MAY: Yes, sir.

16 THE COURT: All right.

17 MR. MAY: Furthermore -- these other people are
18 Mr. Shealey's witnesses. I don't know what each one of
19 them are going to testify to, so I'll let him --

20 MS. CAMPBELL: I'm somewhat confused, Your
21 Honor, because his question on cross-examination -- I can
22 get the court reporter to play it back -- was something
23 about Eboney Williams and somebody having Mr. Kelly, who
24 is a lieutenant at the Columbia Police Department, having
25 fathered a child, which is what I got out of it.

1 MR. MAY: And Mr. Shealey will address the other
2 witnesses that we're intending to call.

3 MR. SHEALEY: Your Honor, there's another
4 witness, Sierra Austin, who will basically be testifying
5 to the fact that Eboney Williams told her that she was
6 pregnant by Kelly, a Sergeant Kelly.

7 THE COURT: All right. Let's bring forth these
8 witnesses.

9 MR. SHEALEY: There's another one as well.

10 THE COURT: All right. Bring them all.

11 MR. SHEALEY: The other witness is Dawn Davis
12 Young, Your Honor.

13 THE COURT: And what does she have? What's her
14 plan?

15 MR. SHEALEY: She basically will be testifying
16 to the fact that Eboney came to her about how to deal with
17 an officer when you're messing around with them.

18 THE COURT: All right. So you can call your
19 first witness.

20 MR. MAY: We'd call Tasha Praylow.

21 (Pause.)

22 THE COURT: She's in jail?

23 MR. MAY: Yes. She's downstairs in holding. We
24 have a transportation order for her.

25 THE COURT: All right.

1 MS. CAMPBELL: I believe we're interviewing her
2 right now. We found out about her last night. We're
3 bringing her in.

4 THE COURT: All right. Call your second
5 witness.

6 MR. SHEALEY: The defense would call Sierra
7 Austin.

8 (Pause.)

9 THE COURT: Who is this lady?

10 MS. CAMPBELL: This is Ms. Praylow, Your Honor.

11 THE COURT: All right.

12 TASHA PRAYLOW, after being duly sworn, testified
13 as follows:

14 THE CLERK: Have a seat in the witness box.

15 State your name for the record and spell it,
16 please.

17 THE WITNESS: Tasha Praylow, T-A-S-H-A
18 P-R-A-Y-L-O-W.

19 MR. MAY: May it please the Court, Your Honor.

20 THE COURT: Yes, sir.

21 IN CAMERA DIRECT EXAMINATION

22 BY MR. MAY:

23 Q Where do you live?

24 A 31-A, Bethel Bishop Apartments.

25 Q Did you know Eboney Williams?

1 A Yes, I did.

2 Q How did you know Eboney Williams?

3 A Being a resident of Bethel Bishop.

4 Q All right. When was the last time you saw Eboney?

5 A The night of her murder there.

6 Q All right. Was she scared?

7 A Yes.

8 Q Why was she scared?

9 A She had mentioned to me that someone was coming to
10 kill her.

11 Q Who was coming to kill her?

12 A She said Kelly.

13 Q And you knew Kelly to be whom?

14 A A police officer.

15 Q Melron Kelly?

16 A Yes.

17 Q Did you tell Investigator Reese about this the next
18 day?

19 A I mentioned was Kelly a suspect, and he said no.

20 Q And you had told Reese this had he asked? Had he
21 investigated, would you have told him what you knew?

22 A Yes.

23 Q And what else did you know about Eboney and Melron
24 Kelly?

25 A She just had mentioned one time that they was in a

1 platonic relationship.

2 Q So just to be clear, the night that she died she told
3 you that she was scared of Melron Kelly --

4 MS. CAMPBELL: Objection, Your Honor. That's
5 not what she testified to. He's now putting words in her
6 mouth.

7 THE COURT: All right. It's direct. Do not
8 seek to lead the witness.

9 MR. MAY: Yes, sir. I apologize.

10 BY MR. MAY:

11 Q What did she tell you the night she died?

12 MS. CAMPBELL: Objection. That's not the
13 testimony.

14 MR. MAY: What --

15 THE COURT: Sir, you address your concerns to
16 the Court, not to --

17 MR. MAY: I apologize.

18 THE COURT: All right. You argue to me, not to
19 her.

20 MR. MAY: I apologize, sir.

21 THE COURT: Go ahead.

22 BY MR. MAY:

23 Q What did she tell you the night she died?

24 THE COURT: There's an objection and you're
25 responding to the objection?

1 MR. MAY: I don't know what the objection is,
2 sir.

3 THE COURT: What is nature of the objection?

4 MS. CAMPBELL: That's not the testimony in
5 evidence and it's leading.

6 THE COURT: The objection's overruled.

7 BY MR. MAY:

8 Q What did she tell you the night she died?

9 A That she was scared someone was coming to kill her.

10 Q Did she say who?

11 A She said Kelly.

12 THE COURT: All right.

13 MS. CAMPBELL: May it please the Court.

14 THE COURT: Yes.

15 IN CAMERA CROSS-EXAMINATION

16 BY MS. CAMPBELL:

17 Q When she said Kelly, did you know who she was talking
18 about?

19 A Yes, ma'am.

20 Q And how do you know Officer Kelly?

21 A From just being a police officer.

22 Q And he has dealings in the neighborhood?

23 A Police business.

24 Q Okay. And your testimony here today is the next
25 day -- at what point did you tell Investigator Reese that

1 they should go investigate Lieutenant Kelly?

2 A When he mentioned that he had found out that I had
3 seen Eboney that night.

4 Q So you were interviewed that night?

5 A I was interviewed that next morning.

6 Q That next morning?

7 A Yes, ma'am.

8 Q About what time of day was it you were interviewed?

9 A It was a.m. morning.

10 Q A.m. morning?

11 A Yes, ma'am.

12 Q And where did the interview take place?

13 A At my cousin's house.

14 Q And where is your cousin's house?

15 A 26-H Bethel Bishop.

16 Q 26-H. And who is your cousin?

17 A Tyesha Williams.

18 Q And did Tyesha Williams have a relationship with the
19 defendant, Ahmad Wilkins?

20 A No.

21 Q When you told him this information, did you tell him
22 exactly what you told the Court here today, or what did
23 you tell him?

24 A No, I just asked him simply, what about Kelly?

25 Q And that was direct with Investigator Reese sitting

1 right there?

2 A Uh-huh.

3 Q And what, if anything, did he say when you told him
4 that?

5 A He said Kelly wasn't a suspect.

6 Q At any later date did you relay to the police all
7 about how she had been threatened the night before, or she
8 said she'd been threatened?

9 A No.

10 Q Why didn't you give them that information when you
11 said they should look at Kelly?

12 A He said Kelly wasn't a suspect.

13 Q When is the first time you told anybody else, or the
14 police, about this information, about the threat that
15 Eboney related to you?

16 A Probably a couple of days, just the neighborhood
17 talking and everybody that had saw Eboney that night, just
18 kind of saying what they had to say or what their
19 conversation was with her.

20 Q My question is when did you tell the police what you
21 knew? Because this is important information.

22 A I'm not sure.

23 Q Did you ever tell the police?

24 A No.

25 Q When is the first time you told the defense

1 attorneys?

2 A When? Like a week ago.

3 Q Like a week ago?

4 A Uh-huh.

5 Q And they came to you about this?

6 A I was brought to them.

7 Q Who brought you to them?

8 A Bobby Watkins.

9 Q Bobby Watkins, their detective. And did he take a
10 statement from you?

11 A Uh-huh.

12 Q And do you have a copy of that statement?

13 A Me?

14 Q Yeah, you.

15 A No, ma'am.

16 Q Did you sign a statement?

17 A Yes, ma'am.

18 Q Have you reviewed the statement?

19 A Yes, ma'am.

20 Q And do you know where the statement is?

21 A No, ma'am.

22 Q He didn't bother to give you a copy?

23 A No, ma'am.

24 Q On that night when Eboney told you, exactly what did
25 she say to you?

1 A She just said that someone was -- asked me to come to
2 her house, someone's trying to kill her, really. I was
3 like who? She said Kelly. And I was like, I'm not
4 coming.

5 Q So she -- where did you live, in what building?

6 A During that time I stayed in 26.

7 Q In 26. So you know the Grimes family?

8 A Yes.

9 Q Do you know Ahmad Wilkins?

10 A Yes.

11 Q And how do you know Ahmad Wilkins?

12 A Just from being in the neighborhood.

13 Q And is he an acquaintance, a friend, or how would you
14 characterize him?

15 A Acquaintance.

16 Q And do you know Nicole Grimes?

17 A Nicole Grimes? Ahmad Wilkins' baby momma.

18 Q One of them.

19 A Yes, ma'am.

20 Q And where were you when this conversation with Eboney
21 took place?

22 A In the parking lot of 26 and 27.

23 Q And what did she want you to do?

24 A Come to her house.

25 Q And what time of night was that?

1 A That was around probably 11:30.

2 Q And she wanted you to come to her house and that's
3 when she told you that and you-all in the parking lot?

4 A Uh-huh.

5 Q What were you-all doing in the parking lot?

6 A Standing in the rain.

7 Q And why were you-all standing in the rain?

8 A Because -- to look for drugs.

9 Q Okay. So were you taking drugs that night?

10 A Uh-huh.

11 Q And what kind of drugs were you doing?

12 A Crack cocaine.

13 Q And who were you doing your crack cocaine with?

14 A By myself. That's why I didn't want to go back home.

15 Q This was obviously alarming that she thought someone
16 was going to kill her, right?

17 A It caught me by surprise.

18 Q But you never told the police this?

19 A No, ma'am.

20 Q And the first time you told anybody this was a week
21 go with Bobby Watkins?

22 A Well, with him. Before then, a couple of weeks ago
23 before that, he took me to Ahmad's lawyers and I told
24 them.

25 MS. CAMPBELL: That's all I have.

1 THE COURT: Any redirect?

2 MR. MAY: No, sir.

3 THE COURT: All right. You may step down.

4 Next witness.

5 MR. SHEALEY: We'd call Sierra Austin.

6 SIERRA AUSTIN, after being duly sworn, testified
7 as follows:

8 THE CLERK: Have a seat in the witness box.

9 State your name for the record and spell it,
10 please.

11 THE WITNESS: Sierra Austin, S-I-E-R-R-A
12 A-U-S-T-I-N.

13 IN CAMERA DIRECT EXAMINATION

14 BY MR. SHEALEY:

15 Q Ms. Austin, where were you living at the time of
16 Eboney Williams death?

17 A Next-door to her at Bethel Bishop.

18 Q What apartment number?

19 A 43-A.

20 Q Okay. Did you come to learn that she was messing
21 with an officer?

22 A Say it again?

23 Q Did you come to learn that Eboney was messing with an
24 officer?

25 MS. CAMPBELL: Objection, Your Honor, leading.

1 BY MR. SHEALEY:

2 Q Did you come to learn that she was having relations
3 with someone?

4 A Yes.

5 Q And who is that?

6 A Someone by the name of Officer Kelly.

7 Q All right. And how did you know that?

8 A She told me.

9 Q Okay. Did you learn that she was pregnant?

10 A Yes.

11 Q And how do you know that?

12 A She told me.

13 Q Did she tell you who by?

14 A (Witness shaking head.)

15 Q She didn't tell you who she was pregnant by?

16 A She told me she was pregnant, but I don't think she
17 knew who it was.

18 MR. SHEALEY: Beg the Court's indulgence.

19 (Pause.)

20 BY MR. SHEALEY:

21 Q Ms. Austin, I'm going to show you a statement that
22 you signed.

23 MS. CAMPBELL: Your Honor, there apparently have
24 been statements taken in this case on witnesses they
25 intend to offer. Those have not been provided to the

1 State.

2 MR. SHEALEY: Your Honor, I'm not saying I'm
3 going to introduce this into my case-in-chief. I want to
4 refresh her recollection as to a statement she signed.

5 THE COURT: You will be required to provide the
6 State with copies of the statements of witnesses.

7 MR. SHEALEY: Judge, is it your ruling that I
8 give them -- I only have one copy of this. Do I have to
9 give them a copy right now? Is that what your ruling is?

10 THE COURT: I said you will be required to
11 provide copies of statements to the State.

12 MR. SHEALEY: Before I proceed here?

13 THE COURT: Proceed.

14 MR. SHEALEY: Okay.

15 BY MR. SHEALEY:

16 Q Ms. Austin, I'm going to show you a statement that
17 you gave to Investigator Bobby Watkins. I'm going to
18 refer you to that last paragraph, if you'd just read that.

19 A Uh-huh. Oh, yes, she told me she was messing with
20 Officer Kelly.

21 THE COURT: Can't hear you, ma'am.

22 BY MR. SHEALEY:

23 Q Just read it to yourself real quick. Just read what
24 you told Mr. Watkins.

25 A Oh, I remember that.

1 Q Now, did you come to learn that she was pregnant,
2 Eboney Williams was pregnant?

3 A Yes.

4 Q And who did you learn that she was pregnant by?

5 A Officer Kelly.

6 MR. SHEALEY: No further questions at this time.

7 THE COURT: Provide the State with the
8 statements.

9 MR. SHEALEY: Yes, sir, we're getting that.

10 THE COURT: Provide the State with the statement
11 of the previous witness.

12 MR. MAY: Your Honor, if I may just address
13 that.

14 We would object to that under Rule 5. We don't
15 believe that it's required under Rule 5.

16 THE COURT: You can't object to the Court's
17 ruling.

18 MR. MAY: Okay.

19 THE COURT: If you'd like to give a statement
20 for the record, you can state whatever your objection is,
21 but you have to provide the statement.

22 MR. MAY: I understand, sir. I'm just trying to
23 make sure the record is replete with our objection.

24 THE COURT: All right.

25 MR. MAY: Your Honor, we would object to the

1 Court's ruling. If that's the Court's ruling, we will of
2 course comply, but we believe that that is not the rules
3 under Rule 5, South Carolina Rules of Criminal Procedure.
4 We are not intending to introduce the statements
5 themselves as substantive evidence in our case-in-chief.

6 THE COURT: No, you can't.

7 MR. MAY: Exactly.

8 THE COURT: You can't introduce statements as
9 substantive evidence in your case-in-chief.

10 MR. MAY: I agree, sir.

11 THE COURT: So there would be no point in
12 attempting to.

13 MR. MAY: And, sir, my reading of Rule 5 is that
14 we have to turn over anything that we're planning to
15 introduce in our case-in-chief as substantive evidence.
16 Statements taken in the course of our investigation are
17 not enumerated under the defendant's duty to disclose.

18 THE COURT: Well, we're not talking about
19 discovery prior to trial. We're talking about testimony
20 of witnesses during the course of the trial. A witness
21 has testified and they've indicated that they've given you
22 a statement. The Court is requiring you to give the
23 statement to the State for use for impeachment purposes.
24 And you have two minutes to do so.

25 (Pause.)

1. THE COURT: How much time is that, Mr. May.

2 MR. MAY: Sir, I have not been counting.

3 THE COURT: Do you want to use your watch or
4 mine?

5 MR. MAY: Preferably mine because I don't wear
6 one, but --

7 THE COURT: How about that clock on the wall
8 there?

9 MR. MAY: I did not check.

10 THE COURT: Where are the statements?

11 MR. MAY: Sir, they're evidently making copies
12 of them.

13 THE COURT: You don't know?

14 MR. MAY: I believe that they took them to make
15 copies of them. I'm here for eye candy.

16 THE COURT: Sir?

17 MR. MAY: I said I'm here for eye candy.

18 (Pause.)

19 MS. CAMPBELL: This is Tasha Praylow's, Your
20 Honor.

21 MR. SHEALEY: We're working on the rest.

22 (Pause.)

23 MR. SHEALEY: We're looking for it.

24 THE COURT: You're looking for what?

25 MR. SHEALEY: Dawn Davis Young's statement.

1 THE COURT: Have we heard from that witness?

2 MR. SHEALEY: No, sir.

3 THE COURT: Are you ready to proceed,
4 Ms. Campbell?

5 MS. CAMPBELL: Yes, sir.

6 IN CAMERA CROSS-EXAMINATION

7 BY MS. CAMPBELL:

8 Q Ms. Austin, do you remember talking to the police
9 that afternoon after this happened?

10 A Uh-huh.

11 Q And do you remember what you said to them?

12 A I don't remember word for word.

13 Q Okay. At any time you were talking to the police the
14 next day right after this -- and you knew Ms. Williams was
15 dead at that point, right?

16 A I mean, I didn't know really.

17 Q You didn't know? Did you know why the police were
18 talking to you?

19 A I'd been over her friend's next-door.

20 Q You were next-door?

21 A Uh-huh.

22 Q And where -- so you live in Building 33?

23 A Uh-huh.

24 Q Where in Building 33 did you live?

25 A Like on the left side of her.

1 Q On the left side of her?

2 A Uh-huh.

3 Q Do you know the defendant, Ahmad Wilkins?

4 A Uh-huh.

5 Q How do you know Ahmad Wilkins?

6 A He was staying out there.

7 Q Okay. And when you talked to the police that next
8 day, you didn't know Eboney Williams was dead when they
9 were talking to you?

10 A Somebody said -- I don't know -- I mean --

11 THE COURT: Ms. Witness, come forward and speak
12 into the mic so I can hear you.

13 THE WITNESS: Oh. From what I seen, I don't
14 know if it was her or not. I didn't know that.

15 BY MS. CAMPBELL:

16 Q Okay. Were they asking you questions about Eboney
17 Williams?

18 A Uh-huh.

19 Q And specifically, they were asking you about any
20 information you had?

21 A (Witness shaking head.)

22 Q And you never told them anything about her being
23 pregnant?

24 A I didn't.

25 Q No, you didn't?

1 A I was on drugs.

2 Q And you never told them anything about Officer Kelly,
3 or do you remember?

4 A Probably didn't. I was going through something that
5 day. I don't know. I probably didn't.

6 Q And when you had this conversation with Ms. Eboney
7 Williams about when she told you this information that
8 you're now relating to the Court, when did that take
9 place?

10 A Like -- probably like two or three weeks before that.

11 Q Two to three weeks before that?

12 A Yes, ma'am, she told me she was pregnant.

13 Q And where did the conversation take place?

14 A At her house.

15 Q So you and Eboney Williams were friends?

16 A Yeah, that's what I told you.

17 Q And it took place at your house. And how did it come
18 up?

19 A She just told me.

20 Q And what exactly --

21 A I mean, I saw that she was getting big and she just
22 straight out told me.

23 Q She was getting big?

24 A Uh-huh.

25 Q So she was showing?

1 A Yeah. I mean, she was gaining weight, she was
2 getting bigger.

3 Q Okay. And so you know --

4 A That's what she said. I don't know if she was
5 pregnant or not, but that's what she said.

6 Q And that's when she told you this information about
7 Officer Kelly?

8 A Uh-huh.

9 Q When is the first time you told the defense about
10 this?

11 A I don't keep up with it. I don't know.

12 Q And how did it come up that you thought it was
13 important to tell them that?

14 A Because it was a rumor.

15 Q It was a rumor?

16 A Yeah. Like, other people was hearing the same thing
17 that she told them.

18 Q It was a rumor?

19 A Uh-huh.

20 Q Do you still live out there?

21 A (Witness shaking head.)

22 Q Do you know the Grimes family?

23 A Grimes?

24 Q Shawn Grimes, Nicole Grimes?

25 A Oh, yeah.

1 MS. CAMPBELL: Thank you. I have nothing
2 further.

3 THE COURT: Anything further?

4 MR. SHEALEY: Briefly.

5 IN CAMERA REDIRECT EXAMINATION

6 BY MR. SHEALEY:

7 Q As far as the rumor, who told you that she was
8 pregnant?

9 A She told me --

10 Q Okay.

11 A -- she was pregnant, yeah.

12 Q Who did she tell you she was pregnant by?

13 A Officer Kelly. Because he used to parole the Bishop
14 a long time go, but I don't remember that.

15 Q And you don't know what he looks like?

16 A I don't know, nope.

17 MR. SHEALEY: Nothing further.

18 THE COURT: Anything further?

19 You may step down.

20 MR. SHEALEY: And, Judge, as far as Dawn Davis
21 Young, we're still looking for that. It got lost in the
22 copy process. We'll get that back in a second here and
23 then we'll call her and put her up.

24 THE COURT: Call your next witness.

25 MR. SHEALEY: I don't have a statement for them

1 yet. Do you still want me to call her?

2 THE COURT: Call the witness.

3 MR. SHEALEY: Okay.

4 DAWN DAVIS YOUNG, after being duly sworn,
5 testified as follows:

6 IN CAMERA DIRECT EXAMINATION

7 BY MR. SHEALEY:

8 Q Dawn, at the time of Eboney's death, where you were
9 living?

10 A 14-B Bethel Bishop.

11 Q Okay. And did you come to learn that Eboney had a
12 question about an officer?

13 A Yes.

14 Q Okay. Did you come to learn -- and what was that
15 question that she had?

16 A How would I go -- how would she go about messing
17 basically around with an officer, would I do it, and I
18 told her no.

19 Q Okay. Did you come to learn about Eboney being
20 pregnant?

21 A No.

22 Q Okay.

23 A Until after.

24 Q Okay. But you did come to find out about that she
25 wanted to -- or a had question about messing with an

1 officer and how to deal with it?

2 A Yes, sir.

3 MR. SHEALEY: Nothing further.

4 IN CAMERA CROSS-EXAMINATION

5 BY MS. CAMPBELL:

6 Q Is it Ms. Davis Young?

7 A Yes.

8 Q Ms. Davis Young, back when this happened when Eboney
9 died, where were you living?

10 A 14-B Bethel Bishop.

11 Q And did you know Eboney?

12 A Yes, ma'am.

13 Q How did you know Eboney?

14 A From the neighborhood.

15 Q Did you know Ahmad Wilkins?

16 A Yes.

17 Q How do you know Ahmad?

18 A He's my friend's brother.

19 Q He's your friend's brother?

20 A Yes.

21 Q And who is your friend?

22 A Tiffany Simmons.

23 Q Tiffany Simmons?

24 A Uh-huh.

25 Q And you said there was a conversation where she said

1 what to you?

2 A How would you go about -- would I basically mess
3 around with a police officer.

4 Q And when did this conversation take place?

5 A A couple of days before her death.

6 Q And where did it take place?

7 A At her home.

8 Q And what did you tell her?

9 A That it's something I wouldn't do.

10 Q And did she say anything else?

11 A No.

12 Q Did she ever say anything about being pregnant?

13 A No.

14 Q And as far as you knew, was she pregnant?

15 A No.

16 Q You were good friends with her?

17 A Yeah. I'd say so, yeah.

18 Q And that's all she told you?

19 A (Witness shaking head.) Yes, ma'am.

20 Q Did you talk to the police about this information?

21 A Not at first. Not the officers, no, not at first.

22 Q Okay. When did you go to the police with this
23 information?

24 A I didn't never go nowhere because they just
25 questioned us at Sierra's house.

1 Q All right. And who is "they"?

2 A Thompson? Thomas, Thompson. I can't recall his
3 name, really.

4 Q Investigator Thomas?

5 A Yes.

6 Q And when did they question you-all at Sierra's house?

7 A That day when they found her body.

8 Q So did you tell them that, this information?

9 A No. I just told them that I had seen her earlier
10 that night before.

11 Q And you didn't tell them this information?

12 A Not that I recall.

13 Q And why didn't you tell them that?

14 A Because there was so many others there, and, I mean,
15 I thought they would follow up, basically.

16 Q And did you go to them later and tell them this
17 information?

18 A Not that I recall.

19 Q And, in fact, when's the first time you told the
20 defense this information?

21 A When the investigator started coming around.

22 Q Okay. And do you remember the investigator's name?

23 A Watkins.

24 Q Watkins. And that's when he asked you some questions
25 and that's when this information --

1 A Yes.

2 MS. CAMPBELL: Thank you, Your Honor.

3 MR. SHEALEY: Briefly.

4 IN CAMERA REDIRECT EXAMINATION

5 BY MR. SHEALEY:

6 Q So you thought that Investigator Reese and Thomas
7 would follow up, is that what you said?

8 A I couldn't understand.

9 Q Did you just say that you thought Reese and Thomas
10 would follow up?

11 A Yes.

12 Q And they talked to you right after Eboney's death?

13 A Yes.

14 MR. SHEALEY: Okay.

15 THE COURT: Anything further from this witness?

16 MS. CAMPBELL: No, sir.

17 THE COURT: You may step down, ma'am.

18 Any additional witnesses?

19 MR. MAY: No, Your Honor, not for this matter.

20 THE COURT: All right. By the State.

21 MS. CAMPBELL: May it please the Court, Your
22 Honor.

23 In State versus Garcia, the victim's state of
24 mind, that case was reversed when they were allowed to go
25 into specifics. Also under --

1 MR. MAY: Can you please give me the cite,
2 please?

3 MS. CAMPBELL: The victim's statements, they
4 were not admissible under the state-of-mind exception. It
5 goes into the whole when you can go into the victim's
6 state of mind and what limits are put on it, Your Honor.

7 These are all hearsay statements supposedly made
8 in the days prior to the victim's death by these -- it
9 clearly goes into third-party guilt as well as it's
10 inadmissible under Garcia as well as it's inadmissible
11 under third-party guilt and it's also hearsay, Your Honor.

12 We would be asking that it be excluded under
13 those -- for those reasons.

14 Can I approach with Garcia, Your Honor?

15 THE COURT: Yes.

16 MS. CAMPBELL: And the cite is 512 S.E.2d 507.

17 THE COURT: All right. Mr. May.

18 MR. MAY: Yes, sir. May it please the Court,
19 Your Honor.

20 THE COURT: Yes, sir.

21 MR. MAY: Your Honor, where would you like me to
22 start? So that way I will be happy to -- either that or I
23 can --

24 THE COURT: I'll stop you if I think you're
25 getting off track. Don't worry about it.

1 MR. MAY: All right. Your Honor, first off,
2 this is relevant evidence as it goes to whether or not the
3 defendant is guilty of murder.

4 When we look at -- the State's been harping on
5 and on and on and on about State v Burgess. This has
6 nothing to do with State v Burgess. State v Burgess is
7 statements made between eight months to two weeks before a
8 killing. That's not what we're talking about. We're
9 talking a statement by Ms. Praylow.

10 And in all candor to the Court, Ms. Praylow's
11 statement is the lynchpin. Without Ms. Praylow's
12 statement, the other two become inadmissible because the
13 first statement makes it relevant. So I'll address
14 Ms. Praylow's statement.

15 It falls -- she says -- her testimony was that
16 the night that Eboney Williams died, Eboney Williams was
17 scared that Melron Kelly, an officer with the Columbia
18 Police Department, was coming to kill her.

19 Your Honor, she also testified that she asked
20 Reese, "Well, how about Kelly?" And Reese says, "Well,
21 he's not a suspect."

22 I believe we can get this in through the
23 integrity of the investigation as -- just as in Kyles v
24 Whitley, there was information that was withheld from the
25 prosecutor. On direct, Reese testified that he never

1 informed the prosecutor's office that Kelly was mentioned
2 as a suspect.

3 Because it goes to now the integrity of the
4 investigation: What else didn't they turn over? What
5 other suspects are out there? What else did they not do?

6 They know there's a person who's mentioned to
7 them by a witness specifically, and they did nothing.
8 Your Honor, under Whitley, without even reaching
9 third-party guilt, I believe it's admissible.

10 Furthermore, Your Honor, we believe that there
11 are several matters in which the actual statement itself
12 comes in: Number one, as impeachment of the
13 investigation; number two, my question to her was why did
14 you believe she was scared? So the question is asked in a
15 manner to not elicit hearsay testimony. She's saying why
16 she was scared, not for the truth of the matter.

17 Furthermore, Your Honor, I believe that if it is
18 for the truth of the matter, then it comes in under 803.1,
19 803.2, and those are my two strongest arguments.

20 I think there's a credible argument that can be
21 made under 804(B)(2), which is a statement under belief of
22 impending death; she believed somebody was coming to kill
23 her. I believe they come in under those exceptions if the
24 Court does believe it is hearsay.

25 THE COURT: Ms. Campbell.

1 MS. CAMPBELL: May it please the Court.

2 This is the issue that directly came up in State
3 versus Garcia and I do believe it's also addressed in
4 State versus Westin. This comes under 803.3. These are
5 hearsay statements obviously, Your Honor, by the victim
6 supposedly in times prior to when we're talking about to
7 this.

8 The same thing happened in State versus Garcia.
9 The testimony where they talk about how the witnesses
10 testified and the parents say that she was afraid
11 sometimes, but not because she thought her husband was
12 going to kill her, and basically it limits it saying she
13 was scared but not of whom and what. This is an issue
14 that came up in Westin, and you can put a declarant's
15 state of mind of being scared but you cannot say the
16 specific reason why under 803.3. I don't know how they
17 would think it would come in under any other exceptions,
18 801 or 802, Your Honor, because they were offering it for
19 any mental, emotional, or physical condition.

20 THE COURT: Under State v Garcia, you have a
21 situation where a guy admits that he shot and killed his
22 girlfriend when they were at home alone, but he claims
23 that the shooting was an accident. Testimony was offered
24 that -- to counter the claim of it being an accident and
25 testimony was allowed that he had -- that she was fearful

1 of him because he had kicked her and threatened to kill
2 her in the past. There's testimony that victim told
3 witnesses that the defendant kicked her and threatened to
4 kill her if she left him, and the Court ruled that on
5 appeal, that the testimony of the defendant being
6 fearful -- that the victim being fearful of the defendant
7 was admissible under the state-of-mind exception to the
8 hearsay rule, but that the reason for being fearful was
9 not admissible. And under 803, the existing emotional
10 state of mind of the declarant is admissible as an
11 exception to the hearsay rule. And they cited other cases
12 about declarant being afraid and all that being
13 admissible.

14 So in this case -- well, in that case, the State
15 offered all this evidence and the portion about the reason
16 for the fear was declared to be improperly admitted and
17 the conviction was reversed.

18 In this case, it does not involve prior threats
19 by the defendant, but prior threats by someone else. So
20 we have a little twist on Garcia in the sense that the
21 defense is offering it here as opposed to the State
22 offering it there. The defense is offering it in relation
23 to being fearful of someone else. In that case, the State
24 was offering in relation to being fearful of the defendant
25 to counteract his claim that the killing was an accident.

1 So what do you say about that, Ms. Campbell?

2 MS. CAMPBELL: Your Honor, we would still think
3 the premise itself under 803.3 would still apply
4 regardless of whether it's the defense or the State.
5 However, even under State versus Burgess, Your Honor, this
6 is third-party guilt and it's clearly hearsay, we submit,
7 and third-party guilt would not be admissible under
8 Burgess or under the Garcia line of cases.

9 THE COURT: Well, we're evaluating a combination
10 of a number of things here. We're investigating or we're
11 considering, the issue in Burgess we have threats the
12 Court said up to eight months before a drug dealer's
13 clients or friends have threatened retaliation, and that
14 was be excluded, and to some degree based on the
15 remoteness of the threats.

16 In this case, we have on the night of the death
17 these witness saying that -- this first witness saying
18 that the victim relayed to her that the police officer was
19 coming to kill her. The police then come and investigate
20 the case and that information is relayed to the police
21 department and it's blown off as being ridiculous.

22 We have these follow-up witnesses seeking,
23 attempting to offer some kind of motive supposedly for a
24 killing by a police officer by claiming that she was
25 pregnant and rumor has it and maybe she said she was

1 pregnant by the police officer and one witness saying how
2 do I end a relationship with an officer, would you have a
3 relationship with an officer.

4 So the central question for me, and to some
5 degree this Whitley case does come in to play because of
6 the fact that the claim is made that on the night of the
7 murder, a police officer supposedly is coming to kill the
8 victim, the victim ends up dead, and it's being
9 investigated by a fellow employee of that police
10 department, who blows off this claim.

11 MS. CAMPBELL: I believe the testimony was --
12 and I could be wrong -- was that she didn't tell anyone.

13 THE COURT: She told the first witness, that
14 Kelly was coming to kill her.

15 MS. CAMPBELL: She told the -- the victim
16 supposedly told this witness this.

17 THE COURT: Yes.

18 MS. CAMPBELL: But then the contention that the
19 witness then reported it to the police is not --

20 THE COURT: Well, that's debatable as to
21 whether -- she said she told Officer Reese the next day,
22 "Have you checked out Kelly?" and "You should check him
23 out." And Reese says, "He's not a suspect."

24 MS. CAMPBELL: Yes, Your Honor. I'm just saying
25 she never relayed that information.

1 THE COURT: So based on all of that, it's my
2 ruling that the statement of the first witness, Praylow,
3 is admissible based on the state-of-mind exception, that
4 she was fearful that Officer Kelly was coming to kill her.

5 The statements of these other witnesses about
6 the victim being pregnant or the victim being in a
7 relationship and wants to know, figure out how to get out
8 of the platonic relationship, those things are excluded.

9 I'm excluding the second, two and three, and
10 admitting No. 1.

11 MR. MAY: Thank you, sir.

12 But if I may just supplement the record just for
13 a second --

14 THE COURT: All right.

15 MR. MAY: -- is I thought we were just talking
16 about Praylow. I agree that if she was removed, then it
17 falls.

18 Your Honor, I believe that it is relevant
19 because now by saying that she's pregnant by Officer
20 Kelly, it becomes a relevant issue.

21 THE COURT: You've argued all that already. I
22 understand what you believe, but --

23 MR. MAY: I believe it's admissible under 803 --
24 South Carolina Rules of Evidence 803.19.

25 THE COURT: In spite what you believe, I've

1 excluded it, the second and third witnesses.

2 MR. MAY: Okay. 803.19.

3 Thank you, sir.

4 THE COURT: All right. What else before the
5 jury comes in?

6 MS. CAMPBELL: I just need to look at this rap
7 sheet real quick, Your Honor. I'm sorry.

8 THE COURT: 803.19, reputation concerning
9 personal or family history.

10 MR. MAY: Yes, Your Honor.

11 THE COURT: That's really stretching it.

12 MR. MAY: Well, sir, it talks about paternity in
13 803.19, and this is a comment regarding paternity of one's
14 unborn child.

15 THE COURT: Well, we're not dealing with
16 paternity here.

17 MS. CAMPBELL: We're good on the record.

18 THE COURT: All right. Let's take a two-minute
19 stretch and then we'll bring in the jury.

20 (A break was taken.)

21 THE COURT: Mr. Wilkins, while you're standing,
22 back on the issue of what we reviewed last night, your
23 Fifth Amendment right to testify or not testify, have you
24 talked with your lawyers about it?

25 THE DEFENDANT: Yes, sir, I have.

1 MR. MAY: Yes, sir. May it please the Court,
2 Your Honor.

3 THE COURT: Yes, sir.

4 MR. MAY: The defense calls Officer Moore.

5 TAMMY MOORE, after being duly sworn, testified
6 as follows:

7 THE CLERK: Have a seat in the witness box.
8 State your name for the record, please.

9 THE WITNESS: Tammy L. Davis Moore.

10 MR. MAY: May it please the Court, Your Honor.

11 THE COURT: Yes, sir.

12 DIRECT EXAMINATION

13 BY MR. MAY:

14 Q Officer Moore, you were -- you've already been in
15 here this week?

16 A Yes, I have.

17 Q You were qualified as an expert?

18 A Yes, I was.

19 Q And I asked you about a picture when you were on the
20 stand?

21 A Yes, sir.

22 Q And you remember this picture and you said didn't
23 remember it?

24 A At the moment I didn't recall the picture, but I
25 remember it now.

1 Q And you've had a chance to go through your records
2 and you took that, correct?

3 A Yes, sir, I took this picture.

4 THE COURT: Are you referring to an exhibit
5 number?

6 MR. MAY: Yes, sir. I'm referring to Defense's
7 No. 9, sir.

8 THE COURT: All right.

9 MR. MAY: At this time, Your Honor, the defense
10 moves No. 9 into evidence.

11 THE COURT: What says the State?

12 MS. CAMPBELL: No objection.

13 THE COURT: It's admitted.

14 MR. MAY: Thank you.

15 Thank you, Officer Moore.

16 (WHEREUPON, DEFENDANT'S Exhibit No. 9, having
17 been previously marked, was admitted into evidence.)

18 THE COURT: Any questions by the State?

19 MS. CAMPBELL: No, sir.

20 THE COURT: Next witness.

21 MR. MAY: Yes, sir. Defense calls Tasha
22 Praylow.

23 TASHA PRAYLOW, after being duly sworn, testified
24 as follows:

25 THE CLERK: Have a seat in the witness box.

1 State your name for the record, please.

2 THE WITNESS: Tasha Praylow.

3 DIRECT EXAMINATION

4 BY MR. MAY:

5 Q Ms. Praylow, you have to speak up a little bit. It's
6 bad sound.

7 Where do you live?

8 A 31-A Bethel Bishop Apartments.

9 Q And you're currently now in Alvin S. Glenn?

10 A Yes.

11 Q Why?

12 A On a bench warrant.

13 Q Okay. How did you know Eboney Williams?

14 A Being residents of Bethel Bishop.

15 Q Now, when was the last time you saw Eboney Williams?

16 A The night of her death.

17 Q All right. Can you tell us, was she scared?

18 A Yes.

19 Q How do you know she was scared?

20 A Well, she told me she was scared, for one.

21 Q What was she scared of?

22 A She said someone was coming to kill her.

23 Q Who did she say was coming to kill her?

24 A Kelly.

25 Q And who was Kelly? Who did you know Kelly as?

1 A A police officer.

2 Q Did you tell this to Investigator Reese?

3 A No.

4 Q What did you tell Investigator Reese?

5 A I asked him was Kelly being investigated.

6 Q And you told him this right after the death?

7 A That next morning.

8 Q And what did Reese say?

9 A He wasn't a suspect.

10 Q And you'd have told Reese had he asked you what you
11 knew about --

12 MS. CAMPBELL: Objection, leading, Your Honor.

13 THE COURT: Don't lead the witness.

14 MR. MAY: Yes, sir.

15 BY MR. MAY:

16 Q And you'd have cooperated with the police?

17 A Yes.

18 Q But they never asked you?

19 A No.

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

21 (Pause.)

22 MR. MAY: May we approach?

23 THE COURT: Yes, sir.

24 (A bench conference was held with the judge and
25 attorneys in the presence of the jury but out of the

1 hearing of the jury.)

2 BY MR. MAY:

3 Q And you knew Kelly as an officer, correct?

4 A Yes.

5 Q Where did Kelly primarily work? Was he in the Bishop
6 working?

7 A Yes.

8 Q What time of night was it when you saw her?

9 A Around 11:30.

10 Q And what were you-all doing?

11 A Standing in the middle of the street.

12 Q Were you doing drugs?

13 A Yes.

14 Q Was she?

15 A I'm a -- yes.

16 MR. MAY: No further questions at this time,
17 Your Honor.

18 THE COURT: Cross-examination.

19 MS. CAMPBELL: May it please the Court.

20 CROSS-EXAMINATION

21 BY MS. CAMPBELL:

22 Q Ms. Praylow, you knew Eboney Williams?

23 A Yes, ma'am.

24 Q Did you know the defendant, Ahmad Wilkins?

25 A Yes, I did.

1 Q And how did you know Ahmad Wilkins?

2 A From being in the neighborhood, same neighborhood.

3 Q And did you have dealings with him?

4 A He was an acquaintance.

5 Q He was an acquaintance?

6 A Uh-huh.

7 Q Did you do any business with him?

8 A No.

9 Q Did you ever buy drugs from him?

10 A No.

11 Q Did you know what Eboney's relationship was with
12 Ahmad Wilkins?

13 A No.

14 Q Did you ever ask Eboney what her relationship was
15 with Ahmad Wilkins?

16 A No.

17 Q Your testimony here today is on the night in
18 question, around 11 o'clock, you were out in the parking
19 lot?

20 A Yes.

21 Q And what time of night was that?

22 A That was around 11:30 that night.

23 Q Around 11:30?

24 A Yeah.

25 Q And what were you-all doing in the parking lot?

1 A I was coming from my cousin's house and Eboney
2 approached me about where could she get some drugs from.

3 Q And what were you doing out at 11 o'clock that right?

4 A I already had mine.

5 Q And you remember testifying earlier in a hearing --

6 A Yes.

7 Q -- where you said you out there doing drugs?

8 A Uh-huh.

9 Q And that's what you were doing?

10 THE COURT: Ma'am -- just a moment. Uh-huh.
11 You've got to talk. Let's use words, not sounds.

12 BY MS. CAMPBELL:

13 Q What kind of drugs were you doing that night?

14 A Crack cocaine.

15 Q And that night you had a conversation with Eboney?

16 A Yes, ma'am.

17 Q And were you-all good friends?

18 A We were friendly.

19 Q And during this conversation where you're talking
20 about -- she's asking about getting drugs, your testimony
21 to this jury is that's when she told you she was scared?

22 A Yes.

23 Q And what else did you say she said about being
24 scared?

25 A She asked me to come to her house, that she was

1 scared someone was coming to kill her. I asked who, she
2 said Kelly, I said no.

3 Q And Lieutenant Kelly is with Columbia Police
4 Department, right?

5 A Yes.

6 Q And he is head over the narcotics unit?

7 A Yes.

8 Q And he is not someone you like to deal with?

9 A I never had to deal with him.

10 Q Okay. Someone you don't want to -- so you don't know
11 him?

12 A I know him to be a police officer, narcotics.

13 Q And those police officers, including Investigator
14 Kelly, monitor and make it hard for you-all if you're
15 smoking crack and doing drugs?

16 A Kelly has never been a problem of mine.

17 Q Of yours?

18 A Yes.

19 Q Do you know the Grimes family?

20 A Yes.

21 Q And how do you know the Grimes family?

22 A Residents of Bethel Bishop.

23 Q And the Bethel Bishop community is pretty close-knit
24 right?

25 A Yes.

1 Q Everybody's pretty tight?

2 A Uh-huh.

3 Q You try to look out for each other?

4 A I guess.

5 Q And so when Eboney told you about someone coming to
6 kill her, you were concerned?

7 A Actually, I didn't pay her no attention.

8 Q Okay. So you didn't go over to her house with her
9 that night after she told you she thought she was going to
10 be killed?

11 A No.

12 Q Where did you go?

13 A About my business.

14 Q When you were standing out there in the parking lot
15 that night, how long were you out there?

16 A Give or take three to four minutes.

17 Q Three to four minutes?

18 A Yes.

19 Q Do you remember testifying earlier that you were out
20 there for a period of time and it was raining?

21 A Yes.

22 Q Do you remember what the temperature was that night?

23 A I don't remember.

24 Q Do you remember it being about 34?

25 A Thirty-four degrees?

1 Q Yes, ma'am.

2 A No.

3 Q This information was related to you and you went back
4 to your house. Did you see Eboney Williams or hear from
5 her any more that night?

6 A No, ma'am.

7 Q And the next morning, I believe, you testified
8 earlier or in a pretrial hearing, too, that next morning
9 you talked to police; is that correct?

10 A Yes.

11 Q And what time of morning was it that you talked to
12 the police?

13 A The a.m. hours.

14 Q The a.m. hours, so before noon?

15 A Yes.

16 Q Is that fair to say?

17 A Yes.

18 Q And where did you actually make contact with these
19 police officers?

20 A At my cousin's Tyesha's house.

21 Q And where does Tyesha live?

22 A 26-H Bethel Bishop.

23 Q And do you know where Nicole Grimes' house is?

24 A During that time, she was in 25-H Bethel Bishop.

25 Q So you-all were over at the 26 building and you were

1 having a conversation with what officer?

2 A Officer Reese.

3 Q And just so we're sure that this is straightened out,
4 this is the officer you claimed you talked that morning?

5 A Yes, ma'am.

6 Q And when you were over there, who else was there?

7 A Tyesha.

8 Q Tyesha who?

9 A Williams.

10 Q Okay. And is she here in the courtroom?

11 A No.

12 Q And who else was there?

13 A I think it was just me, her, and her kids.

14 Q And who was with Investigator Reese when you made
15 this statement to him that next morning around -- before
16 noon?

17 A Just me and him.

18 Q Just you and him?

19 A Uh-huh.

20 Q Where was Tyesha?

21 A In the house somewhere.

22 Q So she was in the house and it's you and him alone?

23 A She woke me up and said he was at the door.

24 Q Is that where you'd spent the night?

25 A Yes, ma'am.

1 Q And is it unusual for you to spend the night in
2 places other than your own residence?

3 A During that time I was staying with my cousin.

4 Q Tyesha?

5 A Yes, ma'am.

6 Q So you were living in what building?

7 A Twenty-six.

8 Q Okay. And at that point Investigator Reese's by
9 himself according to your testimony; is that correct?

10 A Yes, ma'am.

11 Q And in that morning you were talking with
12 Investigator Reese by yourself. What did you tell him?

13 A He asked me about the last time I talked to Eboney or
14 did I see Eboney that night. I confirmed that I had
15 and --

16 Q What did you say to him?

17 A Oh, I asked him was Kelly a suspect.

18 Q And then your testimony was he responded what?

19 A No.

20 Q And did you then tell him about this threat to your
21 good friend Eboney the night before?

22 A No.

23 Q Why not?

24 A He wasn't a suspect.

25 Q You didn't think it was important to give them --

1 they're asking information about Eboney, anything that --
2 when you last saw her, right?

3 A Uh-huh.

4 Q But you didn't tell them that, according to your
5 testimony?

6 A No.

7 Q When you're doing drugs out in the middle of the
8 parking lot, are you worried about the cameras out there?

9 A We wasn't doing drugs in the middle of the parking
10 lot.

11 Q I'm sorry. I misunderstood your earlier --

12 A We wasn't doing drugs in the middle of the parking
13 lot. We met up an the middle of the parking lot. She
14 asked me to give her a cigarette in the middle of the
15 parking lot.

16 Q And did you know who Eboney's drug dealer was?

17 A No.

18 Q Did you know it was Ahmad Wilkins?

19 A No.

20 MS. CAMPBELL: Thank you, Your Honor. I have
21 nothing further.

22 THE COURT: Anything further?

23 MR. MAY: Briefly, sir.

24 REDIRECT EXAMINATION

25 BY MR. MAY:

1 Q And you told this man right here, "Have you looked at
2 Kelly?"

3 A Yes.

4 Q You didn't talk to an Investigator Menendez, did you?

5 A No.

6 Q You said that you know Kelly, correct?

7 A Yes.

8 Q Is Kelly a problem for some residents in Bethel
9 Bishop?

10 A No.

11 Q He's not? And you were staying in Apartment 26-H at
12 the time?

13 A Yes.

14 Q And the reason why you didn't tell Reese about what
15 Kelly -- I mean about what Eboney said about Kelly coming
16 to kill her was because he told you he wasn't a suspect,
17 correct?

18 A Yes.

19 THE COURT: Anything further by the State?

20 MS. CAMPBELL: No, sir.

21 THE COURT: You may step down, ma'am.

22 MR. MAY: Thank you, ma'am.

23 THE COURT: Next witness.

24 MR. SHEALEY: Your Honor, the defense would call
25 Clarence Wilkins.

1 CLARENCE WILKINS, after being duly sworn,
2 testified as follows:

3 THE CLERK: Have a seat in the witness box.
4 State your name for the record, please.

5 THE WITNESS: Clarence D. Wilkins, Sr.

6 DIRECT EXAMINATION

7 BY MR. SHEALEY:

8 Q Good morning, Mr. Wilkins.

9 A Good morning.

10 Q Mr. Wilkins, how old are you?

11 A Sixty years old.

12 Q And where are you from?

13 A I'm from Portsmouth, Virginia. That's where I was
14 born.

15 Q All right. How long have you been in South Carolina?

16 A For the last 25 years.

17 Q All right. And what is your address now?

18 A [REDACTED] Columbia, 29210.

19 Q Okay. Are you work currently?

20 A Yes, I am.

21 Q Where are you employed?

22 A I'm employed with Richland School District 1.

23 Q Okay. Now, I'm going to bring you to what we're all
24 here for.

25 Do you have a son in this courtroom right now?

1 A I sure do.

2 Q Is it Ahmad?

3 A Yes, sir, it is.

4 Q Okay. And you're his father, right? By blood,
5 right?

6 A Yes, sir.

7 Q Do you have another son named Idris?

8 A Yes, sir, I do.

9 Q Are you his father by blood?

10 A Yes, sir.

11 Q Okay. Now, you haven't been here for this, but
12 there's been some testimony --

13 MS. CAMPBELL: Objection, Your Honor.

14 THE COURT: I need to hear the question.

15 BY MR. SHEALEY:

16 Q There's been some testimony surrounding your son's
17 arrest.

18 A Okay.

19 Q An allegation has been made that your son evaded the
20 police in a hotel room. Are you aware of that?

21 MS. CAMPBELL: Objection, Your Honor. It's
22 testimony.

23 THE COURT: The objection's sustained.

24 BY MR. SHEALEY:

25 Q Around March of 2009, did your son Ahmad get

1 arrested?

2 A To the best of my knowledge, yes.

3 Q Okay. At any time around that time did he ask you
4 for money?

5 A Not that I recall, no.

6 Q Okay. Did you ever give him money to get a hotel
7 room?

8 A No.

9 Q Okay. Now, you love your son Ahmad, don't you?

10 A Absolutely.

11 Q Okay. Are you going to lie under oath for your son,
12 though?

13 A No.

14 MR. SHEALEY: Okay. That's all. Answer any
15 questions Ms. Campbell has for you.

16 THE COURT: Anything by the State?

17 MS. CAMPBELL: No, sir.

18 THE COURT: You may step down, sir.

19 Next witness.

20 MR. SHEALEY: Your Honor, may I approach?

21 THE COURT: Sure.

22 (A bench conference was held with the judge and
23 attorneys in the presence of the jury but out of the
24 hearing of the jury.)

25 THE COURT: Ladies and gentlemen, I need you to

1 witness.

2 AHMAD WILKINS, after being duly sworn, testified
3 as follows:

4 THE CLERK: State your name for the record.

5 THE WITNESS: Ahmad Wilkins.

6 DIRECT EXAMINATION

7 BY MR. SHEALEY:

8 Q Good morning, Ahmad. How you doing?

9 A All right.

10 Q Ahmad, let's get right down to it.

11 Did you kill Eboney Williams?

12 A No, sir, I did not.

13 Q Okay. Did you know her?

14 A Yes, sir, I did.

15 Q Okay. And back in 2009, how did you know Eboney
16 Williams?

17 A Through delivering her drugs.

18 Q Okay. All right. Ahmad, are you nervous?

19 A A little.

20 Q Has this been trying for you, literally?

21 A Yes, it has.

22 Q Okay. Have you ever been on a witness stand before?

23 A No, I haven't.

24 Q Okay. Are you from Columbia, Ahmad?

25 A Born in Tacoma, Washington.

1 Q Okay. When did you move here?

2 A I don't quite remember.

3 Q Can you approximate how long you've lived in
4 Columbia?

5 A Thirty-some-odd years.

6 Q Okay. How old are you?

7 A Thirty-six.

8 Q All right. So most of your life; is that fair?

9 A Yes, sir.

10 Q Where did you go to high school?

11 A Columbia High.

12 Q Okay. How far did you go in school?

13 A Eleventh grade.

14 Q Was that your dad that was just up here?

15 A Yes, sir, it was.

16 Q Okay. Now, back -- I'm going to keep taking you back
17 to 2009. I'll try to make it quick as I can.

18 Back in 2009, where were you living?

19 A Bethel Bishop Apartments.

20 Q Okay. And do you remember who you were living with?

21 A My girlfriend.

22 Q And who was that?

23 A Nicole Grimes.

24 Q Did we see her earlier this week?

25 A Yes, sir, we did.

1 Q Okay. Are you-all still together?

2 A No, sir, we're not.

3 Q All right. We'll get back to that.

4 Back then, you said you knew Eboney from
5 delivering her drugs?

6 A That's correct.

7 Q Were you working at that time?

8 A No, sir.

9 Q Okay. Now, when we're talking about delivering
10 drugs, have you got stacks and stacks of cocaine in your
11 house?

12 A No, sir.

13 Q Okay. What kind of drug dealer were you?

14 A Low level.

15 Q Okay. Would you basically run drugs around?

16 A Run and use, yes, sir.

17 Q Okay. Now, talking about your use, did you use a lot
18 back then?

19 A Frequently, yes, sir.

20 Q Okay. And what was the drug that you would use?

21 A Cocaine.

22 Q Are we talking about powder cocaine?

23 A Yes, sir, powder cocaine.

24 Q Okay. And what did Eboney like to use?

25 A Powder cocaine.

1 Q Okay. Now, you said you stayed with Nicole Grimes,
2 who was your girlfriend back then, right?

3 A Yes, sir.

4 Q Now, you had a cell phone back then, didn't you?

5 A Yes, I did.

6 Q We talked a lot about your phone, right?

7 A Yes, sir.

8 Q Did Nicole have a phone, your girlfriend?

9 A No, sir, she did not.

10 Q Did you-all have a landline in your apartment?

11 A No, sir, we didn't.

12 Q Now, you sat here and you've heard a lot about the
13 number 786-7765, right?

14 A Yes, sir.

15 Q Whose number was that?

16 A Actually, it's her sister's phone number.

17 Q Okay. And who did her sister live with?

18 A Her sister, her mother, her brother, and her kids.

19 Q And her brother's Venchie Grimes, right?

20 A That's correct.

21 Q Okay. So she wanted -- if you weren't around and she
22 wanted to make a call, where would she go to make a call?

23 A To her sister's house.

24 Q Okay. At that number?

25 A Yes, sir.

1 Q All right. Now, I want to bring you squarely to what
2 we're all here for. I'll bring you right back to
3 February 3rd, 2009. Do you remember that day?

4 A Yes, sir, I do.

5 Q Okay. And that day was there a lot of -- the morning
6 of that day, daylight, was there a lot of police out
7 there?

8 A Yes, sir, there was.

9 Q Was there a lot of activity out there?

10 A Yes, sir, there was.

11 Q Was that the day that you learned Eboney had been
12 killed?

13 A Yes, sir, it was.

14 Q Your whole complex knew it, right?

15 MS. CAMPBELL: Objection, Your Honor, leading.

16 THE COURT: The objection's sustained, to what
17 others knew.

18 BY MR. SHEALEY:

19 Q Okay. Now, do you remember where you were on 9-11?

20 A Yes, sir, I do.

21 Q Okay. Where were you?

22 A Incarcerated.

23 Q Okay. Now, I want to talk to you about that day some
24 more. I know it's three years since then, and I think it
25 was -- is that correct, it's been three years since then,

1 roughly?

2 A Yes.

3 Q And I think you were arrested probably two years
4 after February 3rd, 2009, does that sound fair, when
5 Thomas and Reese talked to you?

6 A About that, yes.

7 Q Okay. So let's try -- I'm going to try to talk to
8 you about what you remember from that night from your own
9 memory, okay?

10 Now, you told us you were using a lot of drugs
11 at that time, right?

12 A Yes, sir.

13 Q All right. And we've heard from Sean Grimes, haven't
14 we?

15 A Yes, we have.

16 Q And we've heard from Cynthia Jackson, right?

17 A Yes, sir.

18 Q Did you know them?

19 A Yes, sir, I did.

20 Q Okay. And who was Sean Grimes to Nicole Grimes, your
21 girlfriend?

22 A It was her uncle.

23 Q Okay. And Cynthia and Sean, were they together?

24 A Yes, sir, I imagine.

25 Q All right. So were they drug users, too?

1 A Yes, sir, they were.

2 Q Okay. Did you-all hang out every once in awhile and
3 use drugs back then?

4 A I would be there sometimes when they'd use drugs or
5 sometimes they would get drugs from me, too.

6 Q Okay. That's fair.

7 Now, I know it's hard to remember exactly, but
8 you've heard testimony about being over at Sean and
9 Cynthia's house that night. Do you remember that?

10 A Yes, sir.

11 Q Okay. And that sounds fair?

12 A Yes, sir, it does.

13 Q All right. And you've heard testimony about
14 receiving phone calls from Ebony, okay? Do you remember
15 that?

16 A Yes, sir, I think so.

17 Q Okay. And generally when Eboney would want drugs
18 from you, how would she arrange that?

19 A She would either call me or see me out there in the
20 neighborhood.

21 Q Okay. So if she couldn't see you, would she use your
22 phone?

23 A Yes, sir.

24 Q All right. So the night that you were -- and this
25 would be the morning of February 2nd, you said she was

1 calling you. Do you remember how many times she called
2 you?

3 A Not the exact number.

4 Q Okay. And could there be anything else she'd be
5 calling about other than delivering her drugs?

6 A No, sir.

7 Q Okay. And what again would she want?

8 A Powder cocaine.

9 Q Okay. Now, you have heard from Sean that you were
10 there from 12:30 to 1. Could that be accurate?

11 A Could be.

12 Q And you've heard from Cynthia that you were there
13 from 1 to 2. Could that be accurate?

14 A Could be.

15 Q Okay. Do you remember exactly?

16 A No, I do not.

17 Q Okay. Now, during this time as well, there are
18 references to that you were going to look to get her some
19 powder and bring it over there. Is that what you did?

20 A Yes, sir, it is.

21 Q All right. But are you going to bring her fake drugs
22 or are you going to bring her real powder?

23 MS. CAMPBELL: Objection, Your Honor, leading.

24 THE COURT: The objection's sustained.

25

1 BY MR. SHEALEY:

2 Q What did you bring her that night?

3 A Powder cocaine.

4 Q Was it fake?

5 A No, sir, it wasn't.

6 Q Okay. And did you have a key to Eboney's house?

7 A No, sir, I did not.

8 Q Okay. Now, there's been testimony that you would
9 have had to have her leave the back door open for you.
10 Did she do that?

11 A That's probably correct, yes, sir.

12 Q Okay. Now, the apartments at Bethel Bishop -- and
13 correct me if I'm wrong -- but they generally from a back
14 siding door; is that true?

15 A Yes, sir, it is.

16 Q And a front door that locks?

17 A Yes, sir.

18 Q Is it a deadbolt?

19 A No, sir.

20 Q I mean, is it the top that you turn that's got the --

21 A Yes.

22 Q So is that a deadbolt?

23 A No, sir.

24 Q Okay. But is there a handle on the bottom?

25 A Yes, there is.

1 Q Okay. And the top is what you stick the key in,
2 right?

3 A Yes, it is.

4 Q All right. Now, talking about delivering drugs,
5 let's talk about that a little bit.

6 When you -- if you were going to go to Eboney's
7 house -- and we've got a map in here and I want to help
8 you -- you don't disagree with what Sean and Cynthia say
9 about you possibly delivering Eboney drugs that night, do
10 you?

11 A No, sir, I do not.

12 Q This is a map that's been talked about in this trial.
13 And can you see this?

14 A Yes, I can.

15 Q All right. Did Sean live here in 30? Can you see
16 that?

17 A Yes, he did.

18 Q All right. And did Eboney live here in 33?

19 A Yes, she did.

20 Q And is this area all through here essentially a back
21 kind of cut?

22 A Yes, sir.

23 Q And the front, is that like a main street?

24 A Yes, sir, it is.

25 Q Okay. Now, if you're delivering drugs to Eboney late

1 at night, are you going to use the back or are you going
2 to use the front?

3 A Probably the back.

4 Q All right. Why?

5 A Because it's high crime area and you get -- it's like
6 less noticeable to traffic drugs.

7 Q All right. You admit dealing drugs is illegal,
8 right?

9 A Yes, it is.

10 Q Okay. So -- and there's police always through there
11 looking for narcotics, aren't they?

12 A Yes, they are.

13 Q All right. So are you saying you'd be less
14 noticeable walking the back way?

15 A Yes, sir, that's what I'm saying.

16 Q Okay. Are there also other bad guys out there in the
17 Bethel Bishop?

18 MS. CAMPBELL: Objection, Your Honor, leading.

19 THE COURT: The objection's sustained.

20 BY MR. SHEALEY:

21 Q Is the Bethel Bishop a good neighborhood?

22 A No, sir, it's not.

23 Q Okay. Do people ever get robbed out there?

24 A Yes, sir, they do.

25 Q Do even drug dealers get robbed out there?

1 A Yes, sir.

2 Q Okay. So did you want to not be noticed when you're
3 delivering drugs?

4 A Yes, sir.

5 Q Okay. Let's talk about the time again. This would
6 have been -- let's just put it out there. I mean, do you
7 remember delivering her drugs that night?

8 A Yes, sir, I do.

9 Q Okay. Because the next day the police were all
10 around there, right?

11 A Yes, sir.

12 Q Does it make you think about where you were that
13 night?

14 A Yes, sir, it does.

15 Q Okay. And I'm going to ask you about delivering
16 those drugs here.

17 So did you go in that back door?

18 A Yes, sir, I did.

19 Q And did she leave it open like she -- like you told
20 her to?

21 A She actually opened it for me, if I'm not mistaken.

22 Q All right. Now, once inside, what did you do?

23 A Talked to her, I showed her the cocaine. She started
24 getting high.

25 Q Okay. Let me stop you there.

1 Now, it's February 3rd, 2009, right?

2 A Yes, sir.

3 Q And that's winter, isn't it?

4 A Yes, sir, it is.

5 Q Tell us what you generally wore in the winter.

6 A A jacket, hat if it was cold enough, gloves.

7 Q Okay. Now, when you get over there, you got inside,
8 you're talking about -- did she see what you had to give
9 her?

10 A Yes, sir.

11 Q Did she sample it?

12 A Yes, sir, we both did.

13 Q Okay. Because you both -- do you guys both like
14 powder?

15 A Yes, sir.

16 MS. CAMPBELL: Objection, Your Honor. He just
17 asked the witness what happened.

18 THE COURT: The objection's overruled.

19 BY MR. SHEALEY:

20 Q Do you guys both like powder cocaine?

21 A Yes, sir.

22 Q Okay. Now, I don't know much about powder cocaine.
23 How do you use it?

24 A Sniff it.

25 Q Okay. Is that how you like to use it?

1 A Yes, sir, it is.

2 Q How would you do it? Would you put it on your finger
3 and sniff it?

4 A Either my fingernail or roll up a dollar bill and
5 sniff it that way.

6 Q Okay. Do you remember exactly how you sniffed it
7 that night?

8 A No, sir, I don't.

9 Q Okay. Let me ask you this: Can you sniff powder off
10 your finger wearing a glove?

11 A No, sir.

12 Q Okay. What would you do with a glove if you happened
13 to be wearing gloves?

14 A Take them off.

15 Q Okay. And would you have been wearing gloves that
16 time of year?

17 A May have.

18 Q Okay. It's hard for you to remember, isn't it?

19 A Yes.

20 Q But you can say for sure, can't you, that you
21 wouldn't be wearing gloves if you're sniffing?

22 A No, you would not.

23 Q Okay. Now, how did she -- did she pay you for this
24 cocaine that night?

25 A No, sir, not with cash money, no, sir, she did not.

1 Q Okay. Previously when she had bought cocaine from
2 you, did she pay you?

3 A Yes, sir, she did.

4 Q Okay. What happened that night?

5 A Actually, that night I received oral sex.

6 Q Okay. Well, let's talk about that. We'll try not to
7 be too graphic here, but in the world of drug dealing, is
8 oral sex or any type of sex act sometimes payment instead
9 of money?

10 A Yes, sir, it is.

11 Q Have you ever received oral sex from Ms. Williams
12 before?

13 A No, sir, I did not.

14 Q Okay. But that night you did?

15 A Yes, sir, I did.

16 Q Why did you decide? Why did it happen like that?

17 A I was curious at having her give me oral sex because
18 I'd been hearing comments about it.

19 Q Okay. What kind of comments?

20 A About --

21 MS. CAMPBELL: Objection, Your Honor.

22 THE COURT: Objection sustained.

23 BY MR. MAY:

24 Q Okay. We'll move along.

25 But as far as you were concerned, that was your

1 payment?

2 A I guess, yes, sir.

3 Q Okay. Was it a good arrangement for you?

4 A Yes, sir, it was.

5 Q Now, we've heard testimony and you've told us that
6 you were dating Nicole at the time, weren't you?

7 A Yes, sir, I was.

8 Q All right. So this is technically cheating on
9 Nicole, isn't it?

10 A Yes, sir, it is.

11 Q All right. And I think the State brought another
12 Nicole Jones up here to talk about some things. Were you
13 also having a relationship with her?

14 A Yes, I was.

15 Q All right. Now, after getting high -- first of all,
16 how does cocaine make you feel?

17 A Edgy. It makes you hyper.

18 Q Okay. Is cocaine a stimulant?

19 A Yes, sir.

20 Q Okay. Now, does it make you pace?

21 A Yes, sir.

22 Q Okay. Now, did you fight Eboney that night?

23 A No, sir, I did not.

24 Q Did you-all have any type of disagreement?

25 A No, sir, we didn't.

1 Q Did you, in fact, receive oral sex for a little bit
2 of powder cocaine?

3 A Yes, I did.

4 Q Okay. Did you have any type of issue with her
5 whatsoever?

6 A No, sir, I did not.

7 Q Okay. Now, when you're high, you said you're hyper,
8 right?

9 A Yes, sir.

10 Q Does it make you focus real methodically and clearly?

11 A Not really.

12 Q Okay. Does it give you -- does it give a person
13 clarity to remove a smoke detector?

14 A No, sir.

15 Q Does it allow someone to think about using an
16 accelerant to destroy incriminating evidence?

17 A I wouldn't imagine.

18 Q Okay. Does it allow someone to know that possibly
19 incriminating evidence needs to be disposed of in a
20 dumpster outside?

21 A No, sir.

22 Q Okay. It's not that type of drug, is it?

23 A No, sir.

24 Q Okay. Did you walk over there with a gas can that
25 night?

1 A No, sir, I did not.

2 Q You don't own a car, do you?

3 A No, sir.

4 Q All right. Now, after getting high with Eboney, did
5 she say anything to you? What did she want to do?

6 A Just get high.

7 Q Okay. How long do you think you stayed over there?

8 A I can't be quite sure, a couple minutes.

9 Q Okay. At some point did she ask you to leave?

10 A She didn't really say leave. She said she was
11 expecting company, so I took it upon myself to leave.

12 Q Okay. Did she ask you anything else about drugs?

13 A Not then, no, she didn't.

14 Q Okay. Did she ask you anything about drugs later?

15 A Yes, sir, she might have called me again in reference
16 to more drugs.

17 Q All right. We'll talk about that later.

18 Now, you came in the back door. Do you remember
19 what door you left; do you remember?

20 A Out the front door.

21 Q All right. Why would you leave out the front door?

22 A Because I guess I didn't have anything to worry about
23 being stopped for. I could make it to my house without
24 having to fear going to jail.

25 Q Okay. Now, take that map again, talking about your

1 house. That's 25-H, right?

2 A That's correct.

3 Q All right. Can you see this?

4 A Yes, sir.

5 Q So 25 -- here's where Eboney lives, right?

6 A Yes, sir.

7 Q Is 25 that way?

8 A Yes, sir, it is.

9 Q So is that -- is leaving the front door the quickest
10 way to get to your house?

11 A Yes, sir, it is.

12 Q Do you remember exactly what time you got home?

13 A No, sir, I don't.

14 Q Were you high?

15 A Yes, sir, I was.

16 Q All right. Did you lock Eboney's door when you left?

17 A No, sir, I did not.

18 Q Okay. Now, you have a brother who works at the
19 Bethel Bishop, don't you?

20 A Yes, sir, I do.

21 Q What's his name?

22 A Idris Wilkins.

23 Q Okay. Does he work -- where does he work?

24 A He's a maintenance man.

25 Q All right. Did you get a master key from your

1 brother to commit some kind of crime at Eboney Williams'?

2 A No, sir.

3 Q Okay. Did you ever ask him for a master key?

4 A No, sir. .

5 Q Okay. Would he give you a master key if you asked
6 him?

7 A I doubt it.

8 Q Would that -- is he going to get fired if he starts
9 giving out master keys?

10 A Most likely.

11 Q Okay. Now, we heard from your ex-girlfriend, Nicole
12 Jones (sic), about when you got home?

13 A It's Grimes.

14 Q Sorry, Grimes. Do you remember that?

15 A Yes, sir.

16 Q She says you got home at 3:55. Do you remember that?

17 A Yes, I do remember 3:55, yes.

18 Q Okay. And she says she remembers that because she
19 had to get up and open the door and let you in?

20 A That's correct.

21 Q That she was sleeping. Do you remember that?

22 A Yes, sir.

23 Q Okay. Did you have a key to her house?

24 A I had one, but I didn't have it on me.

25 Q Why is that?

1 A There's no telling.

2 Q No telling? Were you high?

3 A Yeah, I guess I was.

4 Q Okay. Now, Nicole says that you paced around and
5 that you said, "Oh, Lord," and then after about an hour
6 you went to sleep and cradled her, okay, or went to bed
7 with her. Do you remember any of that?

8 A No, I don't.

9 Q All right. Were you high when you got home?

10 A Yes, I was.

11 Q Do you ever pace when you're high?

12 A Yes, I do.

13 Q Okay. Now, at this point, did you ever remember --
14 think hard -- getting a phone call from Eboney Williams at
15 this point once you're home?

16 A Yes, sir, I may have received a phone call from her.

17 Q Okay. We talked a lot about it in the phone records
18 where the State says a call was made to you at 4:13. Do
19 you remember that?

20 A Yes, I remember.

21 Q What would Eboney have been calling you about?

22 A More cocaine is the only thing I can imagine.

23 Q Okay. At that time you were home?

24 A Yes, sir, I was.

25 Q Okay. If she's calling you, would you try to score

1 some more cocaine for her?

2 A Probably.

3 Q Okay. Who would you call for cocaine?

4 A My brother-in-law or even my uncle.

5 Q Okay. Who is your brother-in-law?

6 A Venchie Grimes, then.

7 Q Is that the number?

8 A Yes, sir, it was.

9 Q Who's your homeboy?

10 A Kevin Williams.

11 Q All right. Where does he work?

12 A City of Columbia.

13 Q Okay. Is that all you knew for drugs?

14 A Yes, sir.

15 Q Okay. Did you end up finding more for her that
16 night?

17 A No, sir, I didn't.

18 Q All right. What do you think you did after trying to
19 find some drugs? Would you have gone to bed?

20 A Yes, sir.

21 Q All right. Now, you're not with Nicole anymore,
22 right?

23 A No, sir, I'm not.

24 Q She going to come in here and lie for you?

25 A No, sir, I don't think so.

1 Q All right. You-all aren't together anymore, are you?

2 A No, sir.

3 Q All right. But that's what she told police at the
4 time, right?

5 A Yes, sir, that's my understanding.

6 Q Now, let's talk about the next day.

7 Did you notice something unusual the next day in
8 the Bethel Bishop Apartments?

9 A Yes, sir, I did.

10 Q What was that?

11 A There was a lot of police activity.

12 Q Okay. Were there fire trucks?

13 A Yes, sir, I think there was.

14 Q Were there lots of people milling around trying to
15 see what's going on?

16 A Yes, sir.

17 Q All right. And is that when you learned that Eboney
18 had been killed?

19 A Yes, sir, it is.

20 Q Okay. Now, kind of like 9-11, is that the time when
21 you start thinking about where you were last night?

22 A It would have been probably, yes, sir.

23 Q And would you have remembered that you delivered her
24 drug that night?

25 A Yes, sir, I would.

1 Q Okay. Now, you've heard from Cynthia Jackson and
2 Sean Grimes. They thought it was unusual that you went
3 right up there pushing up, trying to see what was going
4 on.

5 A Uh-huh.

6 Q Is that unusual for you as a drug dealer to just
7 deliver drugs?

8 A No, sir.

9 Q Would you want to have brought your drug dealing to
10 the police's attention?

11 A No, sir, I would not.

12 Q All right. Now -- okay. I just want to put that out
13 there. Does that make sense?

14 A Yes, sir, it does.

15 Q All right. Ahmad, I want to talk to you about your
16 interaction with Investigators Thomas and Reese.

17 The evidence is that you met with them twice.
18 They would have met -- do you recall one time around --
19 around that time of '09 when they first talked to you, do
20 you remember that?

21 A I think so, yes, sir.

22 Q Okay. You've been sitting here and they talked to
23 you about your drug dealing with Eboney?

24 A I do.

25 Q Okay. And do you remember telling them that you did

1 deal drugs with Eboney?

2 A Yes, sir.

3 Q That that was you-all's relationship?

4 A Yes, sir.

5 Q Okay. And you've heard the testimony, but do you
6 remember telling them that you delivered drugs late
7 January/early February?

8 A Yes, that's correct.

9 Q And that's the truth, isn't it?

10 A Yes, sir.

11 Q Okay. But at some point during that conversation did
12 the focus of it turn about something else?

13 A Yes, sir, it did.

14 Q Okay. It turned to them trying to link you to her
15 murder, didn't it?

16 A Yes, sir, it did.

17 Q Okay. So did you stop the conversation?

18 A Yes, sir, I believe I did.

19 Q How does it make you feel to be accused of murder?

20 A It makes me feel scared. I mean, they're trying to
21 accuse me of something I didn't do.

22 Q Okay. Now, more time goes by.

23 A Uh-huh.

24 Q Was there a second encounter with them in 2011?

25 A Yes, sir.

1 Q When they arrested you for murder, didn't they?

2 A Yes, sir.

3 Q And we heard about an over an hour-long interview of
4 that the other day. Do you remember that?

5 A Yes, sir, I do.

6 Q Okay. Now, again, it started about your drug dealing
7 with Eboney, didn't it?

8 A I believe so.

9 Q And you started off telling them about the same
10 thing, don't you remember?

11 A Yes, sir.

12 Q Okay. But clearly you're arrested for murder at this
13 point, right?

14 A Yes, sir.

15 Q Now, we heard the tape, but they want to know exactly
16 when you got there, what happened, all that, right?

17 A Yes, sir.

18 Q Now, are you frustrated at this point?

19 A I believe I would have been.

20 Q Did you tell them that you were innocent?

21 A Yes, I did.

22 Q Did they believe you?

23 A No, sir, they didn't.

24 Q Did you feel that they had your best interests at
25 heart?

1 A No, sir, I didn't.

2 Q Okay. At some point did you tell them lies?

3 A Yes, I lied to them, yes, I did.

4 Q Now, towards the end of that tape, do you say things
5 like you'd never been over there?

6 A Yes, sir, I did.

7 Q Okay. And that is right after you told them you had
8 been there in late January/early February, right?

9 A Yes, sir, I did.

10 Q All right. Did you tell them you'd never been inside
11 her apartment?

12 A I may have, yes, sir.

13 Q Is this because you're scared?

14 A Yes, sir, it was.

15 Q Are you just trying to oppose them at whatever they
16 say at this point?

17 MS. CAMPBELL: Objection, Your Honor, leading.

18 THE COURT: The objection's sustained. Don't
19 lead the witness.

20 MR. SHEALEY: Yes, Your Honor.

21 BY MR. SHEALEY:

22 Q Were you frustrated?

23 A Yes, sir, I was.

24 Q Were you scared?

25 A Yes.

1 MS. CAMPBELL: Objection, Your Honor, to
2 leading.

3 THE COURT: The objection's sustained. It's
4 been asked and answered.

5 BY MR. SHEALEY:

6 Q Now, I want to talk to you about a prior conviction
7 you have for -- do you have a conviction for burglary
8 third degree?

9 A Yes, sir, I do.

10 Q Okay. So do the police have your best interest in
11 mind, in your opinion?

12 A No, sir.

13 Q Were you scared of Thomas and Reese?

14 A I wasn't actually scared of them. I was scared of
15 what they're trying to do to me, yes.

16 Q Okay. Now, during that same interview, they told you
17 a lot of things about the case. Do you remember that?

18 A Correct.

19 Q Do you remember them telling you that they had your
20 fingerprint?

21 A Yes, sir.

22 Q Do you remember them telling you that they had your
23 DNA on a cigarette?

24 A Yes, sir.

25 Q Do you remember them telling you that they found

1 flammable liquid on your clothing?

2 A I believe so.

3 Q Okay. And do you remember them telling you they had
4 your glove in evidence or collected in evidence?

5 A I believe so.

6 Q Now, let's leave the glove aside for right now.

7 A Uh-huh.

8 Q Now you've sat here through this whole trial. Have
9 you heard anything about your clothes having gas on them?

10 A No, sir, I haven't.

11 Q Have you heard anything about your fingerprint being
12 collected?

13 A No, sir, I haven't.

14 Q Have you heard anything about your DNA on cigarettes?

15 A No, sir, I haven't.

16 Q So were those lies they told you?

17 A Yes, sir, they were.

18 Q All right. Now, you heard the phone call between you
19 and your girlfriend at the time, Nicole Grimes, right?

20 A Yes, sir.

21 Q In your opinion, did they tell her the same thing?

22 A Yes, sir, I would think so.

23 Q Did you-all discuss that on the phone?

24 A Yes, sir.

25 Q All right. And were you discussing the lies that

1 they told you?

2 A Yes, sir, I was.

3 Q Okay. Now, as to the glove, you don't remember
4 whether you actually had a glove on that night or not, do
5 you?

6 MS. CAMPBELL: Objection, Your Honor, leading.

7 THE COURT: The objection's sustained. You
8 cannot suggest an answer to the witness.

9 BY MR. SHEALEY:

10 Q But do you -- but was it wintertime?

11 A Yes, sir, it was.

12 Q Okay. And do you do powder cocaine with a glove on
13 your hand?

14 MS. CAMPBELL: Objection, Your Honor, leading.

15 THE COURT: The objection's sustained. You've
16 asked that question and it's been answered before.

17 MR. SHEALEY: All right, sir.

18 BY MR. SHEALEY:

19 Q All right. Now, let's talk about Patruan Hare.

20 Were you in jail with Patruan Hare?

21 A Yes, sir.

22 Q Was he in there while you got arrested on this
23 charge?

24 A Yes, sir, he was.

25 Q Okay. Did he approach you about this case?

1 A He asked me what I was in jail for and I told him I
2 was in jail for a murder.

3 Q Okay. What else was he asking? Was he asking you
4 questions about what the police had?

5 A We were talking and we went into detail about it. I
6 told him what they told me that they had on me, I did.

7 Q Okay. Were you bragging about it?

8 A No, sir, I wasn't.

9 Q Okay. And you heard him say the word bragadocious,
10 didn't you?

11 A Yes, I did.

12 Q Were you frustrated?

13 A Yes, I was.

14 Q You were in jail, weren't you?

15 A For something I did not do, yes, sir.

16 Q All right. Does that make you angry?

17 A Very much.

18 MS. CAMPBELL: Objection, Your Honor.

19 THE COURT: The objection's sustained.

20 BY MR. SHEALEY:

21 Q Okay. Did you tell him at any time that you choked
22 Eboney Williams?

23 MS. CAMPBELL: Objection, Your Honor.

24 THE COURT: The objection's overruled.

25 BY MR. SHEALEY:

1 Q You can answer that question.

2 A No, sir, I did not.

3 Q Okay. Where is he getting that from?

4 A He probably got it from --

5 MS. CAMPBELL: Objection, Your Honor,
6 speculation.

7 THE COURT: The objection's sustained.

8 BY MR. SHEALEY:

9 Q Did you tell him evidence that the police told you?

10 A Yes, sir, I did.

11 Q Was the evidence that the police told you that she
12 was choked and burned?

13 A That's what it was, yes, sir.

14 Q Okay. Is Patruan Hare a liar?

15 A Yes, sir, he is.

16 MS. CAMPBELL: Objection, Your Honor.

17 THE COURT: The objection is sustained.

18 BY MR. SHEALEY:

19 Q Let me ask you this. Did you kill Eboney Williams?

20 A No, sir, I did not.

21 Q Do you have any problem with Eboney Williams?

22 A No, sir, I did not.

23 MR. SHEALEY: Beg the Court's indulgence.

24 (Pause.)

25 MR. SHEALEY: Ahmad, just answer anything that

1 Ms. Campbell has for you, okay?

2 THE WITNESS: Yes, sir.

3 THE COURT: Cross-examination.

4 MS. CAMPBELL: Yes, sir.

5 CROSS-EXAMINATION

6 BY MS. CAMPBELL:

7 Q Your testimony here today, and this is approximately
8 three years later, is that you now have a clear memory of
9 at least parts of that night now that we've had this
10 entire trial and you've heard all of this?

11 A Yes, ma'am, that's correct.

12 Q And back when the police interviewed you right after
13 this happened, you didn't have any of those clear memories
14 of that night or you didn't tell them to them?

15 A That would be correct.

16 Q And then two years later when they again gave you
17 opportunity after you're under arrest for murder, you
18 thought it was in your best interest just to lie to the
19 police, even though you had a perfectly good alibi?

20 A I didn't know I had no alibi.

21 Q And your testimony here today is that you lied to
22 police because you were -- and these are his words --
23 either you were frustrated or upset or scared?

24 A That's correct.

25 Q During that interview you were laughing. Is that

1 what you do when you're scared?

2 A No, ma'am.

3 Q You also stated in one of your statements that you
4 used to work at Bethel Bishop; is that correct?

5 A Not for Bethel Bishop, but I did side work out there,
6 yes, I have.

7 Q And during doing that work did you have to go into
8 apartments?

9 A Yes, ma'am, I would.

10 Q Did you ever go in Eboney's apartment before that
11 night?

12 A To do work?

13 Q For any reason.

14 A Not that I know of.

15 Q So it's just on this one night now that the DNA
16 evidence is back that you went in that apartment?

17 A Actually, I was there with one of my friends one
18 time.

19 Q When you would do your painting, did you do the
20 painting on the outside of the apartments?

21 A Outside and inside.

22 Q And what time frame is that that you were doing
23 painting, do you remember?

24 A No, ma'am, I don't remember.

25 Q Was it before all this happened, about six months, a

1 year, do you remember?

2 A It would have had to have been last spring or summer.

3 Q Summer or spring of the year before?

4 A Uh-huh.

5 Q And in doing painting, you have to have certain
6 equipment such as a paint brush?

7 A Yes, ma'am.

8 Q The paint itself?

9 A Yes, ma'am.

10 Q And paint thinner?

11 A Yes, ma'am.

12 Q Where is all that kept?

13 A I guess in the shed.

14 Q The shed's there on the property, right?

15 A Yes, ma'am.

16 Q And you would have had access to that paint thinner?

17 A No, ma'am. Actually, we had to leave that in there,
18 in the shop.

19 Q Your brother Idris, he's a maintenance man there?

20 A Yes, ma'am, he is.

21 Q And as a maintenance man back then, he had a master
22 key?

23 A I would assume so.

24 Q And the master key would open any apartment; is that
25 correct?

1 A Yes, ma'am, they do.

2 Q And are you and brother tight?

3 A Yes, ma'am.

4 Q Okay. Your testimony here today -- and I'm going to
5 talk about what you just testified here today, which is
6 your first time testifying to this, admittedly?

7 MR. SHEALEY: Objection, Your Honor.

8 THE COURT: The nature of the objection?

9 MR. SHEALEY: Burden shifting, Your Honor.

10 THE COURT: Whether or not this is his first
11 time testifying today?

12 MR. SHEALEY: About what he said to me and he
13 has no duty to comment or tell the police anything.

14 THE COURT: Let me hear the question again.

15 BY MS. CAMPBELL:

16 Q This is the first time admittedly you've testified to
17 any of this or told anybody this?

18 THE COURT: The objection's overruled.

19 MS. CAMPBELL: Thank you.

20 BY MS. CAMPBELL:

21 Q You can answer.

22 A Told me what again?

23 Q The events as you have detailed here in this
24 courtroom, three years later in detail, that you now
25 remember about what happened that night.

1 A This would be the first time, yes, it would.

2 Q Let me ask you this. That next morning you woke up
3 according to you in the morning, do you remember who woke
4 you up?

5 A Yes, ma'am, I do.

6 Q And at that point you went outside and saw, as you
7 said, all the fire trucks and everything like that?

8 A Yes, ma'am.

9 Q When you went outside and saw all the fire trucks and
10 everything, did you find out what had happened?

11 A Yes, I did.

12 Q That's your testimony?

13 A Yes, it is.

14 Q And how did you find out if you didn't walk over
15 there?

16 A Sean Grimes woke me up. That's who told me what's
17 going on out there.

18 Q And then you admit, as everybody else has testified,
19 you didn't go near over there? You weren't curious like
20 everyone else, you didn't go over there?

21 A I mean, I didn't go as far as some people went, no, I
22 didn't.

23 Q And your statement was to your lawyer that you didn't
24 go over there because you're a drug dealer and you don't
25 want to expose yourself?

1 A That was probably some of it, yes.

2 Q Every single time the police have talked to you, you
3 readily admit your drug dealing, don't you?

4 A Excuse me?

5 Q Every single time the police have talked to you, you
6 readily admitted you were drug dealing?

7 A Yes, ma'am.

8 Q Was Eboney not only a customer, wasn't she a friend
9 of you and Nicole's?

10 A No, ma'am, I wouldn't consider her a friend. She was
11 just someone who lived in the apartment complex that I
12 used to take drugs to sometimes.

13 Q Okay. Well, Sean Grimes and Cynthia Grimes have
14 testified that she was like a member of their family.

15 A A member of their family.

16 Q Okay. And Nicole was a member of their family?

17 A Yes, she is.

18 Q So she was at least associated with it. So that
19 morning when you found out what had happened, that Eboney
20 had been killed, you didn't think it was important to go
21 let them know what you knew?

22 A What was I supposed to know?

23 Q That you'd been with her until -- and we'll get back
24 to what time -- the morning before?

25 A That I was over her house doing cocaine.

1 Q That she's expecting someone else, according to your
2 testimony, to come over?

3 A To let them know that I was over her house getting
4 high with cocaine? No, ma'am, I didn't.

5 Q Or that she was expecting someone. That information
6 would be important to the police.

7 A When the police asked me questions, they was asking
8 me questions concerning myself and my involvement in that
9 case.

10 Q I'll get back to that. But at that point, didn't you
11 think it's important -- this poor girl had been killed,
12 right?

13 A Yes, ma'am.

14 Q She had been burned, right?

15 A Yes, ma'am, from my understanding.

16 Q And you didn't think it was important to tell the
17 police, yeah, I saw her last night, she was fine, but she
18 was expecting somebody else?

19 A No, ma'am, I didn't.

20 Q Your testimony here today is that on the night in
21 question you now have a detailed memory of what happened,
22 right?

23 A Yes, I do.

24 Q And let me go back to one thing.

25 Have you had an opportunity to -- your

1 understanding of what discovery is, that everything the
2 State has has been turned over to your lawyers?

3 A Yes, ma'am, I think.

4 Q And in preparation for this trial, you go over all --

5 MR. SHEALEY: Objection, Your Honor.

6 THE COURT: The objection's overruled.

7 BY MS. CAMPBELL:

8 Q -- you go over all the evidence in the case?

9 A I guess that would be standard.

10 Q And that would have been information that was
11 provided to you after the last conversation you had with
12 the police before this trial, right?

13 A I guess, okay.

14 Q And in that is included all the statements?

15 A Yes, ma'am.

16 Q All the forensic reports, what the DNA shows and what
17 it doesn't show?

18 A I would imagine.

19 Q And you knew all that before getting on the stand
20 today?

21 A Yes, ma'am, I did.

22 Q That night your testimony is, is there were a series
23 of phone calls from Eboney and you took some cocaine over
24 to her?

25 A Yes, ma'am.

1 Q So you're saying that your good -- or your
2 girlfriend's uncle, about all the different ways you were
3 trying to get cocaine, did that happen or didn't it
4 happen? I couldn't quite understand your story.

5 A I didn't understand your question.

6 Q When you were over at this house, were you actually
7 over there hanging out with them?

8 A Yes, ma'am.

9 Q Okay. And at that point were there some phone calls
10 that came in from Eboney?

11 A I believe the man take a phone call, yes.

12 Q And at that point did you go and get them to get you
13 some flour or ask about flour?

14 A No, ma'am, I didn't.

15 Q So that part's not true?

16 A No, ma'am, it's not.

17 Q And then at some point, though, you mentioned -- your
18 testimony was here today that you then left, right?

19 A Yes, ma'am.

20 Q And then you went over to Eboney's house. And you
21 told in detail to this jury how you went down the cuts so
22 you couldn't be seen, right?

23 A Yes, ma'am.

24 Q Because you're aware where the cameras are out there,
25 right?

1 A What do you mean by where --

2 Q As a drug dealer, you need to know where the cameras
3 are so you aren't making transactions on camera?

4 A What do you mean?

5 Q Well, why else would you be in the cut, in the
6 treeline where the cameras couldn't see you?

7 A I mean, I was just walking.

8 Q Okay. Because you want to stay out of the police's
9 observation, right, you're a drug dealer?

10 A Yes, ma'am.

11 Q And you know where the cameras are, you don't want to
12 be recorded who you're going to see?

13 A I might know where they were, but I don't know where
14 they pick it up or how they pick it up, no, ma'am.

15 Q But by your own admission, you definitely went over
16 to Eboney's house that night, right?

17 A Yes, ma'am.

18 Q Okay. Now that you've got this detailed memory, what
19 time did you get there?

20 A I don't remember the exact time.

21 Q Okay. Do you have an approximate time that you think
22 you got there?

23 A It was sometime in the morning.

24 Q Sometime in the morning?

25 A Yes, ma'am.

1 Q And I believe you testified on direct, once you got
2 over there, you-all got high?

3 A Yes, ma'am.

4 Q Did you-all smoke some cigarettes?

5 A I don't think I smoked any.

6 Q Did she smoke cigarettes?

7 A I don't recall if she smoked or anything when I was
8 there either.

9 Q Because your primary focus was -- well, you weren't
10 there that long?

11 A No, ma'am.

12 Q Your primary focus was to get high?

13 A Yes, ma'am.

14 Q And tell this jury where you-all were getting high.

15 A It would have been in the living room.

16 Q And exactly how did you-all snort cocaine?

17 A Exactly how did we snort it?

18 Q You've given examples of how it can be snorted. What
19 did you-all do that night?

20 A Sniff cocaine. I don't remember if we rolled it up
21 in dollar bills or got a piece of paper and dipped out the
22 bag or on the fingernails or what.

23 Q Okay. So you don't know about that detail, but
24 you've got a very vivid memory of every other detail,
25 right?

1 A That's correct.

2 Q Okay. So you get the cocaine snorted and at some
3 point, you-all have a conversation about how she's going
4 to pay you?

5 A It wasn't really a conversation.

6 Q Well, tell me how that exactly happened. You have
7 this vivid memory. Tell me how it happened.

8 A I really don't remember.

9 Q Okay. You don't remember that.

10 Well, let me ask you this. You don't remember
11 the conversation you had about how she was going to pay
12 you. Were you expecting to be paid with money when you
13 went over there that night?

14 A No, I wasn't.

15 Q Okay. So you-all had already had this conversation
16 where she needed cocaine and you were just going to pay
17 her -- or she was going to pay you with oral sex?

18 A No, ma'am, we didn't.

19 Q So if she didn't have any money and she wasn't going
20 to pay you with oral sex, how did you think you were
21 getting paid?

22 A I really didn't care about getting paid, actually,
23 but that just came up while I was there getting high.

24 Q You didn't care about getting paid? You're a drug
25 dealer. That's the way you live.

1 A Sometimes you have extra.

2 Q That you give away?

3 A That I use with people.

4 Q According to you, Eboney wasn't even a friend of
5 yours, she was just this person you dealt drugs to?

6 A Yes, ma'am.

7 Q So you're altruistic that way, you just give --

8 A Sometimes, yes, ma'am.

9 Q But fortunately for you in this case, you did get
10 paid is your testimony here today?

11 A Yes, ma'am.

12 Q Okay. And how did it come about that you decided
13 that she was going to pay you with oral sex?

14 A I didn't decide. I think I might have propositioned.

15 Q You propositioned?

16 A I think so.

17 Q So at that point she said what?

18 A She didn't say anything. She just --

19 Q Had you ever had this happen before with her?

20 A No, ma'am, I didn't.

21 Q Had you ever given her drugs before where she
22 couldn't pay for them?

23 A No, ma'am.

24 Q So she knew if she called you up and wanted you to
25 come over, she had to pay for the drugs?

1 A No, ma'am, she didn't.

2 Q So where does this proposition take place?

3 A In the living room.

4 Q The living room?

5 A Yes, ma'am.

6 Q And so at that point you mentioned that it didn't
7 take but a minute was your testimony, but then she
8 services you?

9 A Yes, ma'am.

10 Q And this is very crude and I'm sorry about this
11 question, but was it successful on your part?

12 A Successful to me?

13 Q Did you ejaculate?

14 A No, ma'am, I did not.

15 Q So you've read the DNA reports about the swabs?

16 MR. SHEALEY: Objection, Your Honor.

17 THE COURT: The objection's overruled.

18 THE WITNESS: I didn't.

19 BY MS. CAMPBELL:

20 Q So she gave you oral sex?

21 A Yes, ma'am, she did.

22 Q But your testimony to this jury is that you didn't
23 ejaculate?

24 A That's correct.

25 Q So how long did it take, do you know?

- 1 A Is your question, how long did it take?
- 2 Q That's my question.
- 3 A How long did what take?
- 4 Q The sex.
- 5 A A couple of minutes.
- 6 Q Where did it take place?
- 7 A The living room.
- 8 Q Were you standing up?
- 9 A Yes, ma'am.
- 10 Q Was she on the floor?
- 11 A No, ma'am, she was bending over.
- 12 Q Bending over you and you were standing up, right
- 13 there in the living room?
- 14 A Yes, sir. I mean, yes, ma'am. Excuse me.
- 15 Q And it didn't last long?
- 16 A No, ma'am.
- 17 Q And then you left?
- 18 A After we did some more cocaine and then she said
- 19 she's expecting company I left, yes, ma'am.
- 20 Q And at that point where did you go?
- 21 A I'm thinking I went home. I don't know where I went
- 22 exactly after leaving out probably.
- 23 Q Where did you go? I'm sorry.
- 24 A Eventually home.
- 25 Q Eventually home. Where did you go before that?

1 You've got a vivid memory now.

2 A I don't recall.

3 Q You aren't sure of the answer to that one?

4 A No, ma'am.

5 Q So eventually you get home and you don't have a key
6 to your own house. Did you-all have more than one set of
7 keys?

8 A I had a set, but I didn't have it on me.

9 Q And when you left her house, how did you leave?

10 A She let me out.

11 Q And then you walked down the middle of the street I
12 believe is your testimony?

13 A I walked, yes, ma'am.

14 Q Because now you're no longer the drug dealer scared
15 about the cops, even though that's where they patrol?

16 A Now I no longer had cocaine in my possession, yes,
17 ma'am.

18 Q So you wander around but you don't know where you go
19 and eventually you end up back at your house with your
20 girlfriend Nicole?

21 A Yes, ma'am.

22 Q And then you're inside and at this point you're
23 pacing? Or you don't remember that? I'm sorry.

24 A That's what she said.

25 Q You don't know that detail.

1 Do you remember her coming up and asking you
2 what's wrong?

3 A She may have, but I don't remember.

4 Q And do you remember telling her that nothing was
5 wrong, for her to go back to bed?

6 A I don't remember that, but that's what she said, yes,
7 ma'am.

8 Q And now your testimony is here today -- and you've
9 reviewed the phone records in detail, haven't you?

10 A The phone records? No, I haven't really actually
11 looked at them myself. My attorneys have.

12 Q Okay. Your attorneys have.

13 And now your testimony is that you received a
14 phone call from Eboney after you got back and she was
15 trying to score some cocaine because she needed it?

16 A Yes, ma'am.

17 Q And so then you made a couple of phone calls trying
18 to help her out?

19 A I believe I probably made some phone calls.

20 Q Who all did you call?

21 Well, where were you when you received the phone
22 call?

23 A At home.

24 Q How long had you been home?

25 A I don't really remember.

1 Q Do you remember where you were when you received the
2 phone call at home?

3 A Probably in the living room.

4 Q Do you remember where Nicole was when you received
5 the phone call at home?

6 A Probably in the back room.

7 Q And when you received the phone call, then you made a
8 couple more phone calls for her?

9 A I think so, yes, ma'am.

10 Q And who all did you call? You mentioned somebody
11 that works at the city?

12 A I think I might have tried to call my stepbrother,
13 Venchie Grimes.

14 Q Venchie Grimes. And that would be at the 786-7765
15 number?

16 A Yes, ma'am, it would be.

17 Q Did you call Sean Grimes? You wouldn't call Cynthia,
18 would you?

19 A Not that I recall, no.

20 Q So your testimony -- and you have a clear memory of
21 this -- you called Venchie Grimes?

22 A Yes, ma'am.

23 Q And basically she called you and then you immediately
24 made some phone calls to call around, right?

25 A I guess.

1 Q When you talked to your lawyer a minute ago about how
2 then there's a period of time where there's no phone calls
3 anymore --

4 MR. SHEALEY: Objection, Judge. This is talking
5 to Counsel.

6 THE COURT: I haven't heard the question.

7 BY MS. CAMPBELL:

8 Q Do you remember telling your lawyer on direct
9 examination about how you then went to bed?

10 A No.

11 Q Well, what did you do then? Tell the jury again.

12 A What did I do --

13 Q After you made the phone calls.

14 A Probably went to sleep.

15 Q And then when you were asleep, you didn't make any
16 more phone calls, did you?

17 A Not asleep, no, ma'am.

18 Q And how long were you still awake at your house
19 before you went to sleep?

20 A The exact time, I don't know.

21 Q Was it more or less than an hour, do you remember?

22 A No, I don't.

23 Q When you went to sleep, like Nicole said, you came
24 and got in bed and she said it was about an hour; does
25 that sound about right?

1 A I guess. I don't know.

2 Q And then you went to sleep and you slept until
3 you-all got waken up the next morning by your uncle?

4 A Yes, ma'am.

5 Q And during that time period you didn't make any phone
6 calls?

7 A Not until I wake up.

8 Q Then you went out there the next day and you didn't
9 think -- well, let me -- what was going through your mind
10 when you found out that Eboney was dead?

11 A What was going through my mind?

12 Q Yes.

13 A I don't know exactly what was going through it at
14 that time.

15 Q But you didn't think that you needed to go talk to
16 the police or anything? Because they were out there
17 asking questions, right?

18 A I don't know what they were doing. I never spoke
19 with them or anything.

20 Q And you stayed away from the whole crowd over there
21 where all this was going on?

22 A I was back from the crowd, yes, I was.

23 Q And then why did you never go back to Sean Grimes'
24 house ever after this?

25 A I wouldn't say that I never went back there. I don't

1 know why he said that either.

2 Q And you and Nicole -- and he asked you questions
3 about how you and Nicole were together back then. Do you
4 remember those questions? Y'all were together?

5 A Yes, ma'am.

6 Q I'm not trying to confuse you. If I say anything,
7 I'll clarify.

8 Y'all were together?

9 A Yes, ma'am.

10 Q And were you-all in love?

11 A I thought I was, yes.

12 Q And then, in fact, you-all had a child together,
13 which he didn't mention?

14 A Yes, we did.

15 Q And that's a special bond?

16 A Yes, ma'am, it is.

17 Q She's the mother of your child?

18 A Yes, she is.

19 Q And you loved her at the time?

20 A Yes, ma'am.

21 Q And she loved you?

22 A My understanding, yes.

23 Q And after this happened, you-all stayed together?

24 A After what happened?

25 Q After this happened to Eboney.

1 A Yes, we were together.

2 Q And, in fact, you-all were together for at least
3 another year, year and a half, two years -- actually two
4 years?

5 A That's fair to say.

6 Q And at any point did you discuss with Nicole Grimes
7 that that 4 o'clock hour would be important?

8 A No, ma'am, I didn't.

9 Q So you never discussed with her going over to
10 Eboney's that night?

11 A No, ma'am, I didn't.

12 Q Why didn't you tell her? She's the mother of your
13 child, she's the love of your life. Didn't you want to
14 tell her?

15 A Tell her that I was out sniffing cocaine with another
16 female? You know what I'm saying? No, ma'am.

17 Q And -- but you didn't think it was important to tell
18 her that you'd been to Eboney's?

19 A No, ma'am, I didn't.

20 Q Well, by February 20th, the police were there
21 asking you questions, right?

22 A February 20th?

23 Q Of 2009, 17 days after this happened to Eboney.

24 A Yes, ma'am.

25 Q And they asked you questions about what happened?

1 A I would imagine.

2 Q Well, do you remember?

3 A I remember them questioning me, yes, but I --

4 Q Well, let me ask you this. The day when you didn't
5 go over there, that you testified earlier that you didn't
6 want to get involved because you're a drug dealer and you
7 just don't go talk to the police, so they came to you, or
8 you actually went to them and they questioned you?

9 A Yes, ma'am, I went to them.

10 Q And they asked you specific questions about Eboney's
11 murder, right?

12 A I would imagine so.

13 Q Well, do you remember?

14 A I remember going down there and talking to them, yes.
15 They did ask me some questions.

16 Q Do you remember what they -- what you told them?

17 A Somewhat, yes, ma'am.

18 Q And at that point you sure weren't scared to tell
19 them about how you were her drug dealer and all that
20 information, right?

21 A I was never scared to tell them about it. I was her
22 drug dealer.

23 Q Well, I'm confused. Your testimony was earlier that
24 you didn't want to talk to the police because you are a
25 drug dealer, but you talked to them freely about your drug

1 dealings with Eboney, right?

2 A Yes, ma'am.

3 Q And so at that point did you tell them, "Listen, I
4 was over there"?

5 A No, ma'am, I didn't.

6 Q Did you tell them "Somebody -- she was expecting
7 somebody else when I left"?

8 A No, ma'am, I didn't.

9 Q "We had oral sex"?

10 A No, ma'am, I didn't.

11 Q At that point they're talking to you and you're
12 freely admitting you're a drug dealer, you're freely
13 admitting everything used, but you didn't think it was
14 important to tell them you'd been over there the night
15 before?

16 A No, ma'am, I didn't kill her, so I didn't think it
17 was important.

18 Q They're asking you specifically about where you were
19 that night and you didn't tell them you went over there?

20 A Correct.

21 Q Well, let's move on.

22 That night you were booked into Alvin S. Glenn
23 Detention Center and you called your girlfriend?

24 A Uh-huh.

25 Q Nicole?

1 A Yes, ma'am.

2 Q And she was at that number, 786-7765?

3 A Yes, ma'am.

4 Q Where she would often be; is that correct?

5 A And so was I, yes, ma'am.

6 Q And when you called her, you were talking about they
7 booked on a simple assault?

8 A Yes, ma'am, that's correct.

9 Q And you even laughed, you thought it was funny?

10 A Yes, ma'am, because they told me that I didn't have
11 any warrants on me, period, so --

12 Q You thought it was funny?

13 A No. I asked them. I don't know if I thought it was
14 funny or not.

15 Q And then you refer to those officers and how you
16 duped them about where you were when, and what they did?

17 MR. SHEALEY: Objection, Your Honor. It's a
18 mischaracterization of the evidence.

19 THE COURT: The objection's overruled.

20 BY MS. CAMPBELL:

21 Q Do you remember that?

22 A Yes, ma'am.

23 Q And you and Nicole are talking about evidence they
24 told each of you, right?

25 A I think so.

1 Q And then she's talking about how Eboney got your
2 phone number?

3 A I don't recall her asking me that.

4 Q Well, did Nicole know you were a drug dealer?

5 A I wouldn't say she asked me whether I was selling
6 drugs, no, ma'am.

7 Q Well, why were you trying to hide Eboney, that she
8 was one of your clients?

9 A What do you mean by "hide"?

10 Q You tell her you don't know how they got your phone
11 number, Sean must of called or something?

12 A Because I didn't want to admit contact with her, I
13 guess.

14 Q Okay. And at that point she starts talking about
15 what the police have shown her?

16 A I believe so.

17 Q And then she gets to the point where she starts
18 whispering about how they showed her a picture of the
19 glove?

20 A Whispering? I don't know about --

21 Q The one that you said you lost or something about
22 that?

23 A I seen that evidence, yes, I did.

24 Q And then you say, "I'm not going to discuss that on
25 the phone," or something to that effect?

1 A Yes, ma'am.

2 Q Why didn't you want to discuss that on that recorded
3 phone call?

4 MR. SHEALEY: Objection, Your Honor. May we
5 approach?

6 THE COURT: You may.

7 (A bench conference was held with the judge and
8 attorneys in the presence of the jury but out of the
9 hearing of the jury.)

10 THE COURT: The objection's overruled.

11 BY MS. CAMPBELL:

12 Q Can you answer the question?

13 A You'd have to rephrase it.

14 Q Why didn't you want to talk about the glove on that
15 recorded phone call?

16 A Because I didn't think it was important, I guess.

17 Q That wasn't something you discussed with her
18 otherwise?

19 A No, ma'am.

20 Q Then time passes and then the police arrest you on
21 that murder charge?

22 A Yes, ma'am.

23 Q 2011?

24 A Yes, ma'am.

25 Q February?

1 A Yes, February.

2 Q And at that point you're scared?

3 A Yes, ma'am

4 Q You've already told them you're a drug dealer, right?

5 A Yes, ma'am.

6 Q And they've arrested you?

7 A Yes, ma'am.

8 Q Did they advise you of your rights?

9 A Yes, they did.

10 Q You're facing a murder charge?

11 A Yes, ma'am.

12 Q And when they ask you specific questions about your
13 memory, it's not clear as it is here today. Are you
14 telling this jury that you didn't remember them or you
15 deliberately lied to the police?

16 A I probably did remember some of it, but I did tell
17 them lies, yes, I did.

18 Q Okay. Well, what parts of it didn't you remember
19 that are now something crystal clear?

20 A I can't actually quote you, but during the duration
21 of this trial things have come back to me that I didn't
22 recall.

23 Q Right. This trial has helped you with your testimony
24 here today, to make it work, or try to work?

25 A What do you mean?

1 Q Was that what you just said?

2 A I said it helped me remember some of the things that
3 I didn't when I was talking to them, yes.

4 Q You were adamant you had never been inside Eboney's
5 house except one time in 2008. Is that a lie or was that
6 what you didn't remember?

7 A That was a lie.

8 Q And at what point did it come back to you that Eboney
9 Williams, the night she was murdered, serviced you in her
10 living room?

11 A It never left me.

12 Q You didn't think it was important to tell the police
13 that, how you left?

14 A No, ma'am.

15 Q And when they asked about -- they didn't tell you
16 your fingerprints -- they asked you what if your
17 fingerprints -- why would your fingerprint be in there,
18 you said it wouldn't be?

19 A Yes, ma'am.

20 Q And it couldn't be?

21 A Yes, ma'am.

22 Q And they asked you why would any of these things be.
23 Were those things that concerned you when they asked you
24 questions about that?

25 A I wouldn't really say it concerned me, but --

1 Q Well, you had a good explanation as to why it would
2 be in there. Why wouldn't you tell them?

3 A I don't understand the question.

4 Q Didn't you have a good explanation as to why your
5 fingerprint might be in there or why your shoe print might
6 be in there or why your DNA would be in there?

7 A No, ma'am.

8 Q You just lied to them, then?

9 A Some of it I did, yes, ma'am.

10 Q Why did you lie?

11 A Because I felt like they felt like they had their man
12 and there wasn't nothing else I could do.

13 Q How could the truth hurt you?

14 A It couldn't.

15 Q But you didn't tell them the truth. Why not?

16 A I did tell them the truth. I told them I didn't
17 actually know Eboney Williams.

18 Q You didn't tell them the truth about anything that
19 went on that night. You said you hadn't been there, that
20 she made phone calls and that's as much as would admit.
21 Why didn't you tell them the truth as you're now saying it
22 is about what happened that night?

23 A I did tell the truth on some matters and some matters
24 I did not.

25 Q You specifically made it clear that you went to the

1 front door to do your drug dealing for that night. Is
2 that the truth or a lie?

3 A I had -- no, that was a lie.

4 Q And you specifically went through the whole fact that
5 you'd been over there a few times but you'd never been
6 inside. Is that the truth or a lie?

7 A I had been inside once before, yes, I have.

8 Q Well, you lied about going inside that night, didn't
9 you?

10 A Yes, I did.

11 Q You didn't think it was important to tell the police
12 the truth so that they could look into it?

13 A They seemed like they had already voted, it was
14 already voted on it so it didn't really matter.

15 Q During that time period they gave you information?

16 A Pertaining to?

17 Q Talking about recorded -- it's a recorded
18 conversation between you and the police, right?

19 A Yes, ma'am, it is.

20 Q And you denied it. You denied going in there. You
21 said you went to the front door. You denied giving her
22 drugs that night?

23 A I said I gave her drugs late January or early
24 February.

25 Q But at one point you tried to make it into December

1 or January until they told you that you already admitted
2 to the other?

3 A I don't recall that.

4 Q Why did you lie to the police after -- I mean you
5 were arrested for murder.

6 A Uh-huh.

7 Q You were already under arrest. Wouldn't telling the
8 truth help you?

9 A I didn't feel that it would.

10 Q Or did you need to see the evidence first?

11 A I didn't feel that it would.

12 Q When you and Eboney had oral sex that night, did she
13 take all her clothes off?

14 A No, ma'am.

15 Q Did you take all your clothes off?

16 A No, ma'am.

17 Q At any point, as your testimony is today, did you
18 grab something and try to strangle her?

19 A No, ma'am, I did not.

20 Q And your testimony is here today that you left and
21 you wandered around for awhile somewhere, and don't
22 remember that part, but then you ended up home?

23 A Yes, ma'am.

24 Q Then she called you again, you made follow-up phone
25 calls, and then you went to bed?

1 A That's correct.

2 Q And how many phone calls did you make; do you
3 remember?

4 A Not exactly, no, ma'am.

5 Q And then after that you were asleep the rest of the
6 night and didn't make any more phone calls?

7 A I believe that's correct.

8 Q So you didn't call the number 786-7765 after 5:30
9 repeatedly?

10 A I may have.

11 Q Well, which is it?

12 A I mean, if it's on the records, then I did.

13 Q You aren't sure what's on the records now?

14 A I didn't review them myself like I said earlier.

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

16 (Pause.)

17 BY MS. CAMPBELL:

18 Q Patruan Hare -- I'm sorry -- you-all were
19 incarcerated together?

20 A Yes, ma'am, we were.

21 Q When were you-all incarcerated together?

22 A I believe last year sometime.

23 Q And during that time -- did you know Patruan before
24 you went to jail?

25 A Yes, ma'am, I did.

1 Q How did you know him?

2 A I used to see him around.

3 Q See him around where?

4 A Columbia.

5 Q And were you-all acquaintances, friends, ran
6 together, what?

7 A I wouldn't say we were acquaintances, but I've been
8 in his presence a couple of times and he's been in my
9 presence.

10 Q And you admit you talked to him about your case?

11 A Yes, ma'am, I talked to him about what they said they
12 had on me, yes, ma'am.

13 Q And you gave him details about what happened?

14 A Gave him details about what they told me what
15 happened, yes, ma'am.

16 Q And do you remember everything you said to him?

17 A No, ma'am, not really.

18 Q But you definitely talked to him?

19 A Yes, ma'am.

20 MS. CAMPBELL: Thank you.

21 THE COURT: Redirect.

22 MR. SHEALEY: Yes, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. SHEALEY:

25 Q Ahmad, Ms. Campbell making a big deal about you not

1 bringing up the incident with Eboney, the drug deal, the
2 blow job to the police when they talked to you..

3 A Yes.

4 Q Do you recall that?

5 A Yes, sir.

6 Q Now, when they first talked to you in February of
7 2009, didn't you tell them that you delivered her drugs,
8 right?

9 A Yes, sir.

10 Q And did you tell them that you had delivered her
11 drugs in late January or early February?

12 A Yes, sir, I did.

13 Q And weren't you being truthful with them?

14 A Yes, sir.

15 Q Did you stop corroborating once you realized they
16 were trying to gather evidence for murder on you?

17 A Yes, I did.

18 Q Okay. Now, she's talked a lot as well about Sean and
19 Cynthia saying that you never came around after this
20 incident in February of 2009.

21 A Uh-huh.

22 Q You just told us about that burglary conviction,
23 right?

24 A Yes, sir.

25 Q Weren't you incarcerated around April of 2009?

1 A Yes, sir.

2 Q Okay. So you couldn't come around, could you?

3 A No, sir.

4 Q Okay. She's talking about you having maybe your
5 brother's key or you working maintenance. Did you ever
6 have any access to a master key?

7 A No, sir, I did not.

8 Q Any work you did with paint thinner or paints, did
9 you have to be let in by someone who actually had the key
10 to get your equipment?

11 A Yes, sir, that's correct.

12 Q Would it have been someone like Roberto Santana?

13 A Yes, sir, that's correct.

14 Q Or anybody who works in an official capacity?

15 MS. CAMPBELL: Objection, Your Honor, to
16 leading.

17 THE COURT: The objection's sustained.

18 BY MR. SHEALEY:

19 Q Would someone with an official key in an official
20 capacity have to give you your equipment?

21 A Yes, sir, they would.

22 Q Now, she's also made a big deal about how you never
23 told --

24 MS. CAMPBELL: Objection, Your Honor.

25 THE COURT: The objection's sustained.

1 BY MR. SHEALEY:

2 Q Do you need some water?

3 A Yes, sir.

4 MR. SHEALEY: Let's get you some water. I know
5 your throat must be getting a little bit dry.

6 Beg the Court's indulgence.

7 THE WITNESS: Thank you, sir.

8 (Pause.)

9 BY MR. SHEALEY:

10 Q Now, don't you admit that you never told Nicole
11 Grimes about other women?

12 A Yes, sir, I do.

13 Q All right. Did you ever tell her about your other
14 relationship with Nicole Jones?

15 A No, sir, I didn't.

16 Q How would she, Nicole Grimes, feel about you getting
17 a blow job from Eboney?

18 MS. CAMPBELL: Objection, Your Honor. It's
19 speculation.

20 THE COURT: The objection's overruled.

21 BY MR. SHEALEY:

22 Q Go ahead. How would she feel about that?

23 A Probably furious.

24 Q Okay. And is that why you didn't tell her?

25 A Yes, sir.

1 Q Okay. Now, there's also been some questions about
2 all the cameras that surround Bethel Bishop, right?

3 A Yes, sir.

4 Q Do you have any idea about what they actually look at
5 or not?

6 A No, sir, I do not.

7 Q Okay. Does the route that you took that night or
8 walked around have anything to do with where you think
9 cameras might be looking at you?

10 A No, sir.

11 Q Okay. Now, regarding the oral sex, you told
12 Ms. Campbell that you didn't ejaculate?

13 A Correct.

14 Q Why not?

15 A I guess I was too high.

16 Q Okay. Does that happen sometimes?

17 A Yes, sir. When you're high, yes, it does.

18 Q All right. Now, being over there, you told us it's
19 winter, right?

20 A Yes, sir.

21 Q You told us that you don't do cocaine with a glove
22 on, right?

23 A Correct.

24 Q Would you have worn gloves in the winter?

25 A Yes, sir, possibly.

1 Q Okay. You don't remember the specifics of leaving
2 the glove, do you?

3 MS. CAMPBELL: Objection, Your Honor.

4 THE WITNESS: No, sir, I don't.

5 THE COURT: The objection's sustained.

6 BY MR. SHEALEY:

7 Q All right. Now, once you got back, do you remember
8 the exact time you walked in the door?

9 A Mine?

10 Q Yes, sir.

11 A No, sir, I don't.

12 Q But have you heard if Nicole remembers that time?

13 A Yes, sir, I have heard that.

14 Q Okay. And she testified, do you remember, that she
15 had to get out of bed to let you in, right?

16 A Yes, sir, she did.

17 Q Did you leave your key home?

18 A Yes, sir, I did.

19 Q Why?

20 A Probably accidental.

21 Q Okay. Now, you told me and you told Ms. Campbell
22 that Eboney called again at this point regarding more
23 drugs, right?

24 A Yes, sir.

25 Q Do you -- would you have tried to find her more drugs

1 as a client of yours?

2 A Yes, sir, I would.

3 Q Do you remember the exact time frame, maybe, you
4 would have been calling Venchie or anybody else?

5 A Not the exact time, I wouldn't.

6 Q Okay. Do you remember that you did stay up for some
7 amount of time at that point?

8 A Yes, sir, I do.

9 Q Now, again, your apartment at 25-H, is that the first
10 floor or second floor?

11 A Second floor.

12 Q So you can't just walk out the balcony into the
13 street or anything, can you?

14 A No, sir.

15 Q So you would have to jump physically off that balcony
16 to get out?

17 A Yes, sir.

18 Q Unless you went through the front door, right?

19 A Yes, sir.

20 Q Did Nicole Grimes this week say anything about you
21 leaving through the front door after you came home that
22 night?

23 A No, sir.

24 Q Again, Ahmad, did you kill Eboney?

25 A No, sir, I did not kill her.

1 MR. SHEALEY: Okay. Nothing further.

2 THE COURT: Any redirect -- recross?

3 MS. CAMPBELL: No, sir.

4 THE COURT: All right. Thank you.

5 Ladies and gentlemen, I'll have you go to the
6 jury room.

7 Please do not discuss the case.

8 (The jury left open court at approximately 12:36
9 p.m.)

10 THE COURT: Sir, you may step down.

11 Who will be your next witness?

12 MR. MAY: If you can give us one minute, Your
13 Honor, we can give you an answer.

14 THE COURT: All right. We'll be at ease for one
15 minute.

16 (A break was taken.)

17 THE COURT: Yes, sir.

18 MR. SHEALEY: Your Honor, defense has no
19 furthers witnesses.

20 THE COURT: All right. Defense rests?

21 MR. SHEALEY: Yes, Your Honor.

22 THE COURT: All right. I'll entertain any
23 defense motions now.

24 MR. SHEALEY: Yes, Your Honor.

25 At this time we intend to move for a directed

1 I feel that the alibi has been corroborated by
2 his own testimony; that the State cannot disprove; they
3 have not been able to diminish it with that phone number
4 he would have been calling, per his testimony, looking for
5 more drugs for Ms. Williams and then he says he went to
6 bed until he woke up the next day, until he was awoken by
7 Mr. Sean Grimes.

8 So I still think -- I think that the already
9 mere suspicion of the State's case has been diminished
10 further to even less than mere suspicion, and I think that
11 even if Your Honor feels it's more than that, if Your
12 Honor feels there is actually a direct link, they still
13 have to disprove alibi to get to a jury and at this point
14 they have not done that.

15 Thank you, Your Honor.

16 And I'd also renew all of our, for the record,
17 objections and motions made previously.

18 THE COURT: I have no feelings one way or the
19 others. I have beliefs based on the testimony, and my
20 belief is that it's a jury issue and I'll deny the motion.

21 MR. SHEALEY: Thank you, Judge.

22 THE COURT: So defense has rested.

23 Does the State have any reply?

24 MS. CAMPBELL: Just briefly. If any, Your
25 Honor, it would be limited to three people. I didn't know

1 if we needed to break for lunch and give us just a second
2 and then we'd be ready to roll with everything.

3 THE COURT: Well, we can start with the first
4 one.

5 MS. CAMPBELL: Okay. I've just got one that's
6 on their way. She won't be here until 1:30.

7 THE COURT: We have to break for lunch, but we
8 can get rolling with whoever you've got. You said they'd
9 be here at 10, and now it's 10 to 1.

10 So let's bring the jury.

11 (The jury came into open court at approximately
12 12:48 p.m.)

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

14 THE COURT: Ladies and gentlemen, you've heard
15 the defense's case. It's time for reply by the State.

16 Ms. Campbell.

17 MS. CAMPBELL: Thank you, Your Honor.

18 The State would call Investigator Reese for
19 recall.

20 THE COURT: You're still under oath.

21 THE WITNESS: Yes, sir.

22 KEVIN REESE, after having been previously sworn,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MS. CAMPBELL:

1 Q Investigator Reese, you participated in the
2 investigation in this case; is that correct, as you
3 testified before?

4 A Yes, that's right.

5 Q And what time of day was it when you actually started
6 making contacts with witnesses in this case on the
7 afternoon of -- or the day of February 3rd?

8 A We didn't arrive out there until sometime after 1
9 o'clock is when we got the call, 1:30, something like
10 that, so it had to be sometime after that.

11 Q And it's come up in this case, a Ms. Tasha Praylow,
12 and she testified earlier today.

13 A Right.

14 Q Did you have any contact with Tasha Praylow at the
15 scene that day or any other time on this investigation?

16 A No, I never had any contact with her whatsoever.

17 Q At any point did she ever relay any information to
18 you as she testified here to today?

19 A She's never talked to me at all.

20 Q Specifically, did you even ever go -- and who were
21 you with that day on investigations?

22 A That day I was with Thomas all the time except one
23 time when he went outside to the dumpster or something.

24 Q And did you or Investigator Thomas ever go over to
25 Building 26 and talk to anyone?

1 A We never went over to Building 26 at all.

2 Q And you had no contact with her that day?

3 A No.

4 Q And she never related anything to you?

5 A No.

6 MS. CAMPBELL: Thank you, sir. I have nothing
7 further.

8 THE COURT: By the defense.

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

10 (Pause.)

11 CROSS-EXAMINATION

12 BY MR. MAY:

13 Q Good morning, Investigator Reese.

14 A Hey.

15 Q And you know exactly where you were February 3rd,
16 February 4th, February 5th, because you took detailed
17 notes of everybody you spoke with?

18 A I don't know exactly where I was, but I'm not going
19 to come in this courtroom and lie to you.

20 MR. MAY: Objection, Your Honor.

21 MS. CAMPBELL: He's answering the question, Your
22 Honor.

23 THE COURT: The objection's overruled.

24 THE WITNESS: I don't know that lady, I did not
25 speak to her, and we did not go to the 26 building anytime

1 during this investigation that I recall.

2 MR. MAY: Hold on one second.

3 BY MR. MAY:

4 Q All right. You never went to the 26 building anytime
5 during your investigation?

6 A Not that I recall. I definitely did not talk to
7 that lady.

8 Q Wait a second. You just said that you never went to
9 Building 26.

10 A I said that I recall.

11 Q So it wouldn't surprise you if in your notes that
12 you-all went to Building 26?

13 A If you would show me the note.

14 Q Yes, sir. Where it says Franklin Boyles.

15 A This doesn't say anything about he advised me of
16 anything. That's not my notes.

17 Q You already said that these notes and what you did
18 are the same because that's the reason why you don't take
19 notes?

20 A I think you probably need to ask Investigator Thomas
21 about that.

22 Q No, sir, I'm asking you.

23 A I don't recall that, what you've got there.

24 Q And you also don't recall talking to Tasha Praylow,
25 correct?

1 A I did not talk to Natasha Praylow.

2 MR. MAY: Nothing further.

3 THE COURT: Any redirect by the State?

4 MS. CAMPBELL: Nothing further.

5 THE COURT: You may step down.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Next witness.

8 MS. CAMPBELL: Your Honor, we have a witness
9 that will be here at 1:30 briefly and then possibly one
10 other witness that we have to make a decision on, but
11 they'll all be brief.

12 THE COURT: Ladies and gentlemen, we'll break
13 until 1:30.

14 Please do not discuss the case.

15 (The jury left open court at approximately
16 12:54 p.m.)

17 THE COURT: In the interim, we'll discuss any
18 requested jury charges.

19 Any objection to any of the requests to charge
20 by the State?

21 MR. SHEALEY: I don't have any yet, but once I
22 have a chance to review them --

23 THE COURT: Any objection to any requests to
24 charge by the defense?

25 MS. CAMPBELL: Your Honor, this has just been

1 MELRON KELLY, after being duly sworn, testified
2 as follows:

3 THE CLERK: Have a seat in the witness box.
4 State your name for the record, and spell it,
5 please.

6 THE WITNESS: My name is Melron Kelly,
7 M-E-L-R-O-N K-E-L-L-Y.

8 DIRECT EXAMINATION

9 BY MS. CAMPBELL:

10 Q Sir, where are you employed?

11 A Columbia Police Department.

12 Q And what do you do there, sir?

13 A I'm a police lieutenant assigned to Criminal
14 Investigations Division.

15 Q A lieutenant assigned to Criminal Investigations?

16 A Yes, ma'am.

17 Q And how long have you been working with the police
18 department?

19 A Twelve years.

20 Q And back in February of 2009, where were you
21 assigned?

22 A I was assigned to the narcotics unit as the unit
23 sergeant.

24 Q And in your duties as a narcotics agent, and a
25 sergeant in that, do you have dealings with people in the

1 Bethel Bishop area?

2 A I've worked numerous cases in the area, yes, ma'am.

3 Q And in the course of your dealings out there, do you
4 come in contact with certain people?

5 A Yes, ma'am.

6 Q Did you know a young woman named Eboney Williams?

7 A Yes, I did.

8 Q And how did you know her?

9 A Upon starting my career in 1999, I was assigned to
10 the Waverly/Martin Luther King neighborhood as a
11 residential officer. I lived in the neighborhood and I
12 worked there as well. Eboney lived, I believe, on the
13 2300 block of Senate Street. It was in my patrol area and
14 I knew her as a juvenile within the area.

15 Q Did you also know the Grimes family?

16 A Yes, ma'am. The Grimes family lived about two blocks
17 away from Eboney over on the 900 block of Walnut Street.

18 Kevin Grimes, who was about 12 or 13 at the
19 time, was my lunch buddy. Richland 1, along with the
20 Columbia Police Department, initiated a lunch buddy
21 program where we'd go out and mentor kids at the Richland
22 1 Schools. He attended Lyon Street Elementary at the
23 time.

24 Q And so you were a mentor for him?

25 A Yes, ma'am.

1 Q And that was something you volunteered for?

2 A Yes, ma'am.

3 Q And were you aware that the Grimes family had moved
4 over to the Bethel Bishop area?

5 A I was aware of that.

6 Q I want to turn your attention to February 3rd, 2009.
7 Did you respond out at the crime scene where Eboney's
8 murder occurred?

9 A Yes, I did.

10 Q And what was your role out there that day?

11 A On that date I was there to assist the on-scene
12 investigators with anything they'd need basically,
13 identifying nicknames or names, and also to help canvas
14 the area.

15 Q And you assisted with nicknames and names because you
16 were familiar with a lot of the residents?

17 A Yes.

18 Q Is that because of the drug dealing?

19 A Yes, ma'am. It's a high drug area. We've worked
20 numerous investigations out there, so I am familiar with a
21 lot of people out there.

22 Q In the weeks and months and any time prior, did you
23 ever threaten Eboney Williams in any way?

24 A No, ma'am.

25 Q The night before this occurred, the evening of

1 February 2nd, to February 3rd, did you have any contact
2 with Eboney Williams?

3 A No, I did not.

4 Q And, in fact, did you know her in any personal
5 capacity whatsoever?

6 A I did not.

7 Q And you only knew her with dealings mainly through
8 the Grimes family, and things of that nature?

9 A Yes, ma'am.

10 Q And had you had any personal contact with her?

11 A No, I did not.

12 Q At any point did you ever threaten to kill her?

13 MR. MAY: Objection, Your Honor, leading.

14 THE COURT: The objection's overruled.

15 BY MS. CAMPBELL:

16 Q At any point did you ever threaten to kill her?

17 A No, ma'am, I did not.

18 Q Did you ever have any dealings with Eboney other than
19 in a professional capacity of just knowing her?

20 A Just knowing her as a juvenile growing up in the
21 neighborhood in which I lived.

22 Q Tasha Praylow, she testified here earlier today?

23 A Yes, ma'am.

24 Q Do you ever have any personal dealings with her?

25 A Not personal dealings, no, ma'am.

1 Q Had you ever spoken to her professionally?

2 A Yes, I have on two occasions, I believe.

3 Q And what was that in reference to?

4 A I received a call from the manager of Bethel Bishop
5 Apartments, I believe her name is Marsha Portier, that she
6 had a resident that wanted to give some drug information.

7 Occasionally we will respond out to take any
8 anonymous information, whereby leaving the residents
9 anonymous and take information.

10 I believe I met with Ms. Praylow on two
11 occasions. I did not know her name at the time. I didn't
12 require her to give her name, but that's the same person.

13 Q And that was information you took anonymously?

14 A Yes, ma'am.

15 Q And in your dealings with the Bethel Bishop
16 neighborhood, how was the general feeling with the drug
17 dealers towards police officers?

18 A Resentment. Pretty much they stick together. When
19 it comes to identifying or asking for help from residents,
20 we don't get much help.

21 Q And is it unusual in that area for rumor mills or
22 rumors to be started about people?

23 A It's not uncommon.

24 Q Especially police officers?

25 A Yes, ma'am.

1 Q And that's happened before?

2 A Yes, ma'am.

3 Q And in this case, in the summer of 2009, did you take
4 some personal time off?

5 A Yes, I did.

6 Q And why did you take personal time off in the summer
7 of 2009?

8 A In the summer of 2009, I took some time off. My wife
9 and I had our first child.

10 Q You had your first child?

11 A Yes, ma'am.

12 Q And specifically, what month was your first child
13 born?

14 A She was born on July 3rd, 2009.

15 Q And during that time period, you took several weeks
16 off; is that correct?

17 A That's correct.

18 Q And, in fact, at some point did you become aware of a
19 rumor flying about your being arrested for this case?

20 A I was notified by one of my subordinate officers that
21 an informant was telling them that I had been arrested for
22 the murder of Eboney Williams.

23 Q Have you ever been arrested for murder?

24 A No, I've not. I've never been arrested.

25 Q And at that point what, if anything, did you do as

1 required protocol?

2 A I contacted the Internal Affairs Division and spoke
3 with Lieutenant Smith. At that time I asked could I see
4 him. When I saw him in person, I advised him of what had
5 been said by the informant. I also prepared him a written
6 statement and ask that he investigate it.

7 Q And did anything ever get written up or anything
8 develop from that?

9 A No, ma'am.

10 Q But it's proper to document?

11 A It's proper to document any rumors or false
12 allegations.

13 Q And as far as Ms. Praylow is concerned, you don't
14 know why she would have anything against you other than
15 drug dealing?

16 A That's correct.

17 Q You've been with the department for 12 years?

18 A Twelve years, yes, ma'am.

19 Q You're now a lieutenant, correct?

20 A Yes, ma'am.

21 Q And again, is it unusual for these rumors or false
22 allegations to be made?

23 A It is not unusual.

24 Q And again, why is -- what are they trying to do?

25 A They're trying, in my opinion, to paint the officer

1 in a bad light, especially in the Narcotic Division. We
2 have a lot of run-ins with people in the drug community
3 whereby rumors or false accusations come about, and we
4 investigate every last one of them.

5 Q And in your 12 years, is your jacket clean?

6 A Yes, ma'am. I have no complaints in 12 years.

7 MR. MAY: I object, Your Honor.

8 THE COURT: The basis for the objection.

9 MR. MAY: Yes, sir. She's improperly
10 submitting -- she's vouching for him.

11 THE COURT: Your objection's overruled.

12 MS. CAMPBELL: Thank you, sir.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MR. MAY:

16 Q Now, before we start, do you want to have counsel?

17 A No, sir.

18 MS. CAMPBELL: Objection, Your Honor.

19 THE COURT: The objection's sustained.

20 BY MR. MAY:

21 Q Now, you work in the narcotics unit of the Columbia
22 Police Department, correct?

23 A I do.

24 Q And with your work at the Bethel Bishop Apartments
25 and the Colonies, you're aware of those areas?

1 A I am.

2 Q You know where the video cameras are?

3 A I don't know specifically. I do know that both are
4 equipped with video cameras, more specifically, with the
5 Colony.

6 Q Have you ever been -- have you ever used the video
7 room at the Bethel Bishop or with the Colony?

8 A In terms of surveillance?.

9 Q Yes, sir.

10 A No, sir.

11 Q You haven't? So you know they're there?

12 A I do.

13 Q You can see them, can't you? They're on big poles,
14 aren't they?

15 A They are.

16 Q And you're familiar with the Bethel Bishop
17 Apartments, the residents know who you are?

18 A Yes, sir.

19 Q They know your car, right?

20 A Yes, sir, my police car.

21 Q A Dodge Charger?

22 A Yes, sir, I have a Dodge Charger.

23 Q They know you when you come in?

24 A Yes, sir.

25 Q With narcotics investigations, a lot of what you do

1 is using undercover people, correct?

2 A Yes, sir.

3 Q Have you ever been undercover?

4 A I have.

5 Q When you're undercover, you pretend to be somebody
6 you're not?

7 A Yes, sir.

8 Q You lie to people in order to get convictions?

9 A Yes, sir.

10 Q That's something that you've done personally,
11 correct?

12 A I agree with that.

13 Q That's something that you currently use other people
14 to do?

15 A Other officers, yes, sir.

16 Q And you say that you've known Ebone Williams for
17 awhile?

18 A Yes, sir.

19 Q You've known her since you lived on Senate Street?

20 A As a child in the area, yes, sir.

21 Q And it is your testimony today that you only just
22 knew who she was, you never had a sexual relationship with
23 her?

24 A That is correct, I've never had a sexual relationship
25 with her.

1 Q You never had a sexual relationship starting at age
2 15 on Senate Street?

3 A No, ma'am.

4 Q You understand that at age 15 that would be a
5 criminal sexual conduct in the second degree with a minor?

6 MS. CAMPBELL: Objection, Your Honor, asked and
7 answered.

8 THE COURT: The objection's sustained.

9 BY MR. MAY:

10 Q But you know about the laws about having sex with
11 minors, correct?

12 A I'm familiar with those, yes, sir.

13 Q And you know that the punishment's not only prison
14 time --

15 MS. CAMPBELL: Objection, Your Honor.

16 THE COURT: The objection's sustained.

17 BY MR. MAY:

18 Q You said that you had -- you're married?

19 A Yes, sir.

20 Q And it would not be good if some girl in Bethel
21 Bishop said you were having sex with her, would it?

22 A It wouldn't be true.

23 Q It wouldn't be good either?

24 A It wouldn't be good, no, sir.

25 Q It wouldn't be good if she claimed that she was

1 pregnant by you either, would it?

2 A No, sir.

3 MS. CAMPBELL: Objection, Your Honor. We have a
4 matter of law.

5 THE COURT: All right. Ladies and gentlemen, if
6 you'll step to the jury room.

7 (The jury left open court at approximately
8 1:58 p.m.)

9 THE COURT: Yes, ma'am.

10 MS. CAMPBELL: May it please the Court, Your
11 Honor.

12 I think the rule on this issue as far as what
13 they can go into, I don't understand why they keep going
14 where the rulings say they aren't supposed to go. They
15 get it out before I can object, Your Honor. At this
16 point, I mean --

17 THE COURT: Well, rulings depend on the
18 testimony and who the witnesses are.

19 MS. CAMPBELL: Yes, sir. And I just object.
20 This is not proper. There is no basis for it, where
21 they're clearly talking the one allegation of whether or
22 not he threatened her. That is the limited purpose of
23 this reply testimony. He doesn't have the right to make
24 it into a free-for-all and go into things that you've
25 already ruled is inadmissible.

1 THE COURT: All right. Yes, sir.

2 MR. MAY: Respectfully, Your Honor, I believe
3 it's an invited response. The Solicitor asked Lieutenant
4 Kelly if he knew her and he said, "I just knew her around
5 the street." He intimated that he did not have a personal
6 or romantic relationship; therefore, it's an invited
7 response.

8 THE COURT: What's an invited response?

9 MR. MAY: He said he didn't really know her.
10 There is -- we have witnesses --

11 THE COURT: I heard his testimony.

12 MR. MAY: Yes, sir.

13 I believe that we can impeach him with the fact
14 that there are people who say that he had -- or that he
15 was fathering a child with her.

16 THE COURT: Well, he says he had no sexual
17 relationship with her.

18 MR. MAY: Correct.

19 THE COURT: How does that impeach him?

20 MR. MAY: Pardon me, sir?

21 THE COURT: How would that impeach him if he
22 says he's never had a sexual relationship with her?

23 MR. MAY: Because she said that he impregnated
24 her. That was -- we had a hearing on it and we have
25 witnesses to say that Mr. Kelly was having a romantic

1 relationship with Eboney Williams and that he was actually
2 fathering a child was what she was telling them.

3 Your Honor, the State, through their own direct
4 examination of Mr. Kelly, put this into issue.

5 THE COURT: Put what into issue?

6 MR. MAY: Whether or not we can impeach him with
7 the fact that she told other people that she having a
8 sexual relationship with him.

9 THE COURT: Well, put it into issue in what way?

10 MR. MAY: He said that he did not have a sexual
11 relationship with her.

12 THE COURT: Right.

13 MR. MAY: We can impeach him with the fact that
14 she said they did. It takes two to tango. With Eboney
15 Williams saying that she had a sexual relationship with
16 Lieutenant Kelly -- I apologize for saying Mister -- then
17 it becomes --

18 THE COURT: Well, at least you've gotten --
19 you've given a title. Thomas doesn't have a title.

20 MR. MAY: I didn't cross-examine him --

21 THE COURT: All right.

22 MR. MAY: Lieutenant Thomas, sir.

23 It was through their reply case I believe that I
24 can impeach him with the questions and, Your Honor,
25 respectfully, the defense believes that we can now call

1 our own witnesses to impeach the person --

2 THE COURT: That's collateral. We're not going
3 there. You can't call anyone. This is State's reply.
4 When the State is through in reply, the case is over.

5 MR. MAY: Your Honor, I believe that they've put
6 something else out there through their own direct
7 examination.

8 THE COURT: What do you mean, "something else
9 out there"?

10 MR. MAY: Your Honor, they make -- Ms. Campbell
11 questioning of Lieutenant Kelly stated that -- he
12 responds, "Did you know this girl?"

13 "Well, I knew her, I just knew her. I really
14 didn't know her that well."

15 When you have a sexual relationship and you
16 father a child, you do. Therefore, this becomes proper.

17 THE COURT: Well, let's go to the rulings that
18 you've been through -- been to throughout the trial --

19 MR. MAY: Yes, sir.

20 THE COURT: -- and tell me the rule as opposed
21 to facts that are relevant. Let's go to the rule.

22 MR. MAY: Yes, sir.

23 Beg the Court's indulgence one second.

24 (Pause.)

25 MR. MAY: Your Honor, I believe under 608(B).

1 THE COURT: It says, "Specific instances of
2 conduct of a witness, for the purpose of attacking or
3 supporting a witness' credibility, may not be proved by
4 extrinsic evidence. They may, however, in the discretion
5 of the court, if probative of truthfulness or
6 untruthfulness, be inquired into on cross-examination of
7 the witness; one, concerning a witness' character for
8 truthfulness or untruthfulness, or concerning the
9 character for truthfulness or untruthfulness of another
10 witness as to which character the witness being
11 cross-examined has testified."

12 All right. What about B?

13 MR. MAY: Yes, sir.

14 Your Honor, the State made this relevant through
15 their questioning.

16 THE COURT: I'm not talking relevance at this
17 point.

18 MR. MAY: Your Honor, I would -- I can
19 cross-examine him on this issue.

20 THE COURT: Pardon me?

21 MR. MAY: I believe that this is fertile
22 cross-examination.

23 THE COURT: I know that. That's why I sent the
24 jury out, that you believe that you can, the State
25 believes you can't, and we're listening to arguments.

1 What you believe is not your -- who cares.

2 MR. MAY: Your Honor, additionally, I believe
3 405(B).

4 THE COURT: You're abandoning 608?

5 MR. MAY: Sir, I -- yeah.

6 THE COURT: Okay. You're abandoning 608.

7 MR. MAY: Yes.

8 THE COURT: You're going to which rule now?

9 MR. MAY: 405(B).

10 THE COURT: 405(B), "Methods of proving
11 character. In cases in which character or a trait of
12 character of a person is an essential element of the
13 charge, claim, or defense, proof may also be made of
14 specific instances of that person's conduct."

15 It's the character trait of -- it's a crucial
16 element of -- essential element of a charge, claim, or
17 defense.

18 MR. MAY: Yes, sir.

19 THE COURT: All right. Tell me about it.

20 MR. MAY: Yes, sir.

21 Part of our defense is to attack the integrity
22 and course of this investigation. I know you're getting
23 tired of hearing that term --

24 THE COURT: All right.

25 MR. MAY: -- but, Your Honor, it goes to the

1 integrity of the State's case. They put up somebody who
2 they know other witnesses are able to come in and testify
3 just to say he lied per the other witnesses. I agree that
4 what the -- the jury needs to be able to balance that.
5 The jury needs to be able to see that the State put up
6 evidence that they know is in direct contradiction with
7 other information. This is a specific instance of conduct
8 which the State yet again -- I must underscore this --
9 asked, they asked the question, and he responded he didn't
10 know her very well.

11 THE COURT: All right.

12 MR. MAY: They know of information that directly
13 contradicts that. And, Your Honor, it is the jury's
14 burden to determine the truth, where the truth is. And,
15 Your Honor, I believe that it is important that --

16 THE COURT: It's the Court's burden to make sure
17 that they hear appropriate evidence. Before the jury gets
18 their burden, we're right now -- we're not at the jury's
19 burden, but my burden.

20 MR. MAY: Yes, sir. 405(B), I believe it comes
21 in, respectfully.

22 THE COURT: All right. Anything else?

23 MS. CAMPBELL: Your Honor, respectfully, it
24 doesn't come in under 405(B) and I can back it up.

25 THE COURT: I'm excluding the testimony or the

1 cross-examination on that issue.

2 MR. SHEALEY: Your Honor, I have a brief matter
3 of law while the jury's out.

4 THE COURT: All right.

5 MR. SHEALEY: Simply regarding the testimony
6 that Ms. Campbell elicited from Mr. Kelly regarding his
7 going to Internal Affairs.

8 THE COURT: That matter of law will need to be
9 introduced through Mr. May who is doing the
10 cross-examination.

11 MR. SHEALEY: Yes, sir.

12 MR. MAY: Yes, sir. I believe I'd move for a
13 mistrial at this point. That material was not provided
14 before the trial under Brady. It is exculpatory.

15 At this time we'd move for a mistrial.
16 Ms. Campbell informed me over the break that there was at
17 least rumors of a potential suspect that is not this young
18 man. Your Honor, that is Brady.

19 THE COURT: So you're talking about which
20 suspect at this point?

21 MR. MAY: Lieutenant Kelly.

22 THE COURT: All right. I deny that motion.
23 Let's bring in the jury.

24 (The jury came into open court at approximately
25 2:09 p.m.)

1 THE BAILIFF: The jury's seated, Your Honor.

2 THE COURT: The objection's sustained.

3 You may proceed.

4 MR. MAY: Yes, sir. May it please the Court,
5 Your Honor.

6 THE COURT: Yes, sir.

7 BY MR. MAY:

8 Q Now, in this case right here, you said that Internal
9 Affairs was alerted or you alerted them that your name
10 came up in relation to Eboney Williams' death?

11 A It's something that an informant had told one of my
12 officers, yes, I was told by one of my officers.

13 Q So there's information from Bethel Bishop Apartments
14 that you're involved at least in this murder?

15 A At that point I had not known where the information
16 came from. It was just an informant that one of my
17 officers used.

18 Q Yes, sir. Now, you're a narcotics agent, correct?

19 A At that time I was, yes.

20 Q And at that time you're a narcotics agent and you're
21 not a part of VCAP that we've heard about earlier this
22 week?

23 A I supervised that unit before.

24 Q You supervised VCAP, the violent crimes --

25 A It's one of the units that I supervised, yes.

1 Q All right. So when you came up here earlier you said
2 that you were part -- I'm just trying to figure out. So
3 you are a member of VCAP?

4 A I supervised criminal investigations -- that's
5 Violent Crimes Against Persons.

6 Q Yes, sir.

7 A That's a crime scene unit.

8 Q Yes, sir.

9 A The narcotics unit. Gang task force.

10 Q And is a part of your job to collect evidence?

11 A No.

12 Q Yet in this case, you collected evidence, yes?

13 A No, sir.

14 Q You didn't find evidence in this case?

15 A I believe myself and Sergeant White went to --
16 Sergeant White went to a garbage can, I believe, because
17 something was -- there was a blanket or something like
18 that that we thought may have been related.

19 Q And, in fact, neighbors said yes, that's the bedding
20 from Eboney's house?

21 A I don't recall.

22 Q And the reason why it's probative is because whoever
23 killed her stripped the bed, yes?

24 A I'm not aware of that.

25 Q Now, you were on the crime scene, weren't you?

1 A Yes.

2 Q So whoever killed her stripped the bed. Did you see
3 the beds were stripped?

4 A I never went inside the apartment.

5 Q But you-all find this evidence, correct?

6 A Yes.

7 Q You found this evidence -- and the dumpster's largely
8 empty?

9 A I don't remember. I do remember that it was a
10 blanket or something of that nature inside the dumpster.

11 Q And you alerted?

12 A I alerted one of the investigators. You say it was
13 Thomas, it may have been him. Thomas and Reese were
14 together that day.

15 Q They were together that day?

16 A Yes, sir.

17 Q They're always together?

18 A Yes, sir.

19 Q Now, they did not interrogate you on this case, did
20 they?

21 A No, sir.

22 Q You never submitted DNA samples?

23 A No, sir.

24 Q Did you learn there were four male DNA on the murder
25 weapon? Did you learn that?

1 A No, sir.

2 Q So you never did give a Buccal swab, did you?

3 A No, sir.

4 Q You never were handcuffed to a table by them?

5 A No, sir.

6 Q But I.A. did receive information that at least people
7 in the community were putting your name with this murder?

8 A I went to them personally.

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

10 (Pause.)

11 BY MR. MAY:

12 Q I want to show you something. Do you recognize that?

13 A Yes.

14 Q And now the way a crime scene is set up -- we've
15 heard testimony -- they're describing a door logging who
16 comes in and out of the crime scene?

17 A Yes.

18 Q And is your name on that crime scene log?

19 A Yes, it is.

20 Q And that's persons -- there's somebody taking in
21 names as to who actually enters?

22 A Yes, sir.

23 The crime scene was roped off in such a way that
24 it encapsulated the building and parts of the parking lot.
25 So it would probably detail me going into the perimeter.

1 But as for the apartment, I never went inside the
2 apartment.

3 MR. MAY: Your Honor, no further questions.

4 THE COURT: Anything further?

5 MS. CAMPBELL: No, sir.

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

7 THE WITNESS: Thank you.

8 THE COURT: Next witness.

9 MS. CAMPBELL: There's nothing further from the
10 State.

11 THE COURT: All right. Ladies and gentlemen,
12 you have heard the State's reply. You have now heard all
13 of the evidence in this case.

14 I will have you go to the jury room and come
15 back for closing arguments.

16 Please do not discuss the case.

17 (The jury left open court at approximately
18 2:14 p.m.)

19 THE COURT: Any further matters before we
20 prepare for closing arguments?

21 MR. MAY: Yes, sir, Your Honor.

22 THE COURT: All right. Mr. May.

23 MR. MAY: The defense at this time would attempt
24 with the Court's permission to call Sierra Austin and Dawn
25 Davis.

1 Your Honor, again I believe that -- the defense
2 maintains that it is proper to call them in response to
3 the State's reply.

4 THE COURT: And what would you call that?

5 MR. MAY: Pardon me?

6 THE COURT: What would you call it?

7 MR. MAY: What would I call what?

8 THE COURT: The State has done a reply. What
9 would you call -- the defense is now attempting --

10 MR. MAY: Sur-reply.

11 THE COURT: And where is that provided in the
12 rules?

13 MR. MAY: It isn't. Your Honor, they put new
14 evidence in the matter.

15 THE COURT: But the question is, where is that
16 provided in the rules?

17 MR. MAY: I cannot direct the Court to the
18 direct rule. I do know, Your Honor, that very recently
19 when you've been in this courtroom you allowed a
20 sur-reply.

21 THE COURT: Did I?

22 MR. MAY: Yes, sir.

23 THE COURT: I don't recall that. That doesn't
24 make me a witness, I hope. I don't recall that.

25 MR. MAY: Your Honor, I believe in State v

1 Harbin you allowed -- because the State did introduce
2 additional evidence in their reply case, to allow the
3 defense to call a sur-reply. And, Your Honor, that is
4 what we would attempt to do through Sierra Austin and Dawn
5 Davis.

6 THE COURT: Was that based on the nature of
7 witnesses being called out of order?

8 MR. MAY: I don't understand your question, sir.

9 THE COURT: Was it based on the witnesses being
10 called out of order?

11 Were you involved in State v Harbin?

12 MR. MAY: I was merely an observer.

13 THE COURT: Oh, okay. All right.

14 Well, I deny the motion. I think the defense
15 cannot create issues for the State -- to compel the State
16 to reply, then call additional witnesses to further extend
17 the trial through sur-rebuttal, and the courts have
18 addressed that issue of sur-rebuttal.

19 The reason you can't find it is because it's not
20 part of the rules of procedure.

21 Many things are discretionary with the Court,
22 and I will not exercise that discretion in such a fashion
23 in this case, particularly on this issue, having ruled on
24 the issue already.

25 All right. What else, Mr. May?

1 MR. MAY: Your Honor, at this time the defense
2 would renew all previous objections, we'd renew all
3 previous motions, and again, at this time we'd move for a
4 directed verdict.

5 Your Honor, I believe it is the State's theory
6 in the case that -- they've put up the entire time that
7 Ms. Williams' death occurred after 4:13. They provided
8 the evidence of alibi. They have not disapproved the
9 alibi, which they must do. It is mere conjecture and
10 speculation that Mr. Wilkins was not in the house.
11 They've offered no evidence that he was in the house after
12 the alibi's established.

13 For those reasons, Your Honor, and for our
14 previous objections and motions, we'd move for a directed
15 verdict, sir.

16 THE COURT: All right. I would deny those. I
17 throughout have said it's a jury issue; who to believe,
18 that's up to the jury.

19 MR. SHEALEY: Your Honor, I just need about five
20 minutes before we start our closings just to make sure
21 that equipment's operating properly. I'll need to use it.

22 THE COURT: State v Watson talks about
23 sur-rebuttal testimony.

24 MR. MAY: What is that? Just for my
25 edification.

1 THE COURT: It's 579 S.E.2d 148, 353 S.C. 620.

2 In that case, the new matter was brought up by
3 the State on reply and the appellate court ruled that it's
4 error for the court not to allow sur-rebuttal testimony to
5 respond to the new matter that was brought up in reply.

6 Let's see what the new matter was in that case.

7 In that case, Watson is accused of abusing his
8 girlfriend's daughter and he denied the allegations,
9 claiming that the girlfriend was mad at him and that's why
10 she claimed that he did this.

11 In reply, the State presented the testimony of a
12 neighbor who said that she often saw Watson with his
13 girlfriend, their son, and the victim in a trailer and
14 also testified she went to the trailer to borrow something
15 and he was home with his son and victim and then on
16 cross-examination the witness admitted having a criminal
17 record involving fraudulent checks.

18 The State -- the defense contended that when
19 they allowed a neighbor to testify about seeing Watson
20 with the girlfriend and the child -- the child and son
21 together, that that constituted new matter and the court
22 should have allowed sur-rebuttal. And they went through
23 this whole analysis about sur-rebuttal being appropriate
24 when in the judge's discretion, new matter or new facts
25 are injected for the first time in rebuttal, especially

1 where the evidence offered in sur-rebuttal is for the
2 first time made competent by the evidence introduced by
3 plaintiff in rebuttal and could or should have been
4 entered at an earlier time, then it's not new matter. So
5 the case goes on and talks about the whole issue.

6 And in this case, I previously ruled on the
7 issue of excluding the testimony, that the issue of
8 whether or not Officer Kelly had anything to do with the
9 death of -- or could have had something to do with the
10 death of the victim was brought up through the defendant's
11 case, so it would not be new matter.

12 These other issues are collateral issues that
13 would have no bearing on the defendant in this case. I
14 find that it's not appropriate to go any further through
15 any sur-rebuttal.

16 That is the basis for my ruling.

17 You-all ready or take another minute or two?

18 All right. We'll take a another three-minute
19 stretch and then do closing arguments.

20 (A break was taken.)

21 THE COURT: Bring us the jury, please.

22 (The jury came into open court at approximately
23 2:32 p.m.)

24 THE BAILIFF: The jury's seated, Your Honor.

25 THE COURT: Thank you, sir.

1 Closing arguments, Ms. Simpson.

2 MS. SIMPSON: Thank you, Your Honor. May it
3 please the Court.

4 THE COURT: Yes.

5 MS. SIMPSON: Members of the jury, make no
6 mistake about it: There is only one victim in this case
7 and that is Eboney Williams.

8 Now that's contrary to what the defense would
9 have you believe. They would have you believe that the
10 defendant, Ahmad Wilkins, also known as Mad, is a victim.
11 Poor, poor Ahmad. He is a victim of the police. It's a
12 conspiracy against him. Even his own friends, his family
13 lying on him. Poor, poor Ahmad. Even that forensic
14 evidence, the DNA on the neck ligature and the glove, even
15 that's against him. How unlucky he is. What a big
16 unfortunate person. Poor Ahmad.

17 Now that's what the defense would have you
18 believe. And throughout the course of this trial we've
19 heard a lot. We've heard everything from trash the
20 victim, which is typical. It's not unusual.

21 Ahmad didn't do it, the police did. That's been
22 an insinuation, the police did it.

23 You've heard evidence which has, I submit,
24 distracted from why we're here today. We're here today
25 because Eboney Williams, during the early morning hours of

1 February 3rd, 2009, lost her life. She suffered blunt
2 force trauma to the head and was strangled at the hands of
3 the defendant, Ahmad Wilkins. And then in an effort to
4 destroy the evidence, he burned her body. And he almost
5 got away with it. Because had he have just left the
6 window open, or the door open just a crack, that fire
7 would have been able to breathe and we wouldn't here
8 today, but we are. And I ask that you remember that as
9 you go back to that jury room and deliberate.

10 Now, my name is Nicole Simpson as you've heard
11 in this trial. And I want to thank you for your service,
12 your attention, and especially your patience in this case.
13 I know you've been shuffled in and out and here we are,
14 it's Friday afternoon, it's been a long week.

15 You probably didn't expect that this would be
16 the type of case, or couldn't expect that this is what you
17 would be hearing. But we thank you, because this case is
18 very important. It's important to the defense and it is
19 important to the State and it's important to the victim's
20 family.

21 It's been said that jury service is the greatest
22 service that a person can render his or her country in
23 times of peace, and I agree with that. And I'm sure my
24 colleagues do, too.

25 Now, the roles in this courtroom are very

1 defined. The defense serves as an advocate for their
2 client and ensures their client's rights to a fair trial.
3 And the State, we represent the state, the citizens of
4 Richland County, and the victim in this case. And it's
5 our job to prove the defendant guilty beyond a reasonable
6 doubt.

7 Now, the Honorable Judge Newman is the judge of
8 the law in this case, and he will instruct you on the law
9 as you are to apply it to the facts in this case.

10 But, members of the jury, no one is going to get
11 up here and say that the most important role doesn't
12 belong to you, because it does. Because while Judge
13 Newman is the judge of the law, you are the sole finders
14 of fact in this case. And what that means is that
15 individually, and collectively, you must decide, and only
16 you can decide, if the defendant is guilty of murder.

17 This system of justice could do without the
18 lawyers, it could do without the judges, but it cannot do
19 without you.

20 So I have the opportunity now to talk to you
21 briefly about the law in this case.

22 Judge Newman will instruct you on the law at the
23 end of this case. And if I misstate or misquote anything,
24 it's not intentional. And if any attorney misquotes the
25 law, you follow Judge Newman as he reads it to you.

1 Now, after I do my closing on the law, then the
2 defense is going to get up here and they're going to argue
3 to you what they think the facts show and then my
4 co-counsel, Ms. Campbell, come before you and argue what
5 the State thinks the facts show. And if either side
6 mischaracterizes or misstates the facts in this case, you
7 remember them, because you heard them, you listened this
8 week.

9 Now, you will base your verdict on the evidence
10 in this case.

11 So, what is the evidence? Well, it is physical
12 evidence, evidence that you can see, touch, hear. And it
13 is the sworn testimony from this stand.

14 What evidence is not is comments by the lawyers,
15 speculation, accusations by the lawyers, questions by the
16 lawyers. That is not evidence in this case, or in any
17 case.

18 Now, the defense has chosen to put up a case in
19 this case. Now, the defendant has the constitutional
20 right not to testify. But when he does, and when the
21 defense puts up a case, you will judge their evidence just
22 as you do the evidence brought before you by the State.
23 And I'll get back to that in just a moment.

24 Now, the State, even though the defense has put
25 up a case and is arguing several defenses, and we'll get

1 to those, it is still the State's burden to prove him
2 guilty, and that is as it should be. Because no man
3 should ever be required to come in this courtroom and
4 prove himself innocent.

5 Now, I believe, and I can say this, defense
6 counsel got up here and said the State doesn't welcome
7 this burden, they don't want this, and to a certain extent
8 he's right, we don't welcome this burden. Eboney Williams
9 shouldn't have been murdered. We shouldn't be in here
10 today, but we are. And we are here because of the
11 defendant's actions. And we do welcome the burden in this
12 case, especially in this case.

13 Now that burden is fairly high, as it should be.
14 We must prove to you beyond a reasonable doubt that the
15 defendant is guilty of murder. But in every -- and
16 remember this -- there is the presumption of innocence.
17 The defendant is presumed innocent until proven guilty.
18 But in every criminal case where a defendant was
19 convicted, he started his trial presumed innocent and then
20 a jury of 12 people found him guilty beyond a reasonable
21 doubt. So if this burden was so high that the State could
22 never overcome it, no one would ever be responsible for
23 his or her actions.

24 Now, criminal cases are somewhat unique. You
25 may seen on TV stuff about civil cases where there are

1 video depositions and they can put up affidavits or
2 reports, things of that nature. Well, in a criminal case,
3 the defendant has the constitutional right to confront
4 each and every witness who is against him. And what that
5 means is that as the State, we have to bring forth
6 witnesses to you.

7 You've heard references to reports numerous
8 times, as well as written statements in this case numerous
9 times, but that's not enough for us just to stand up here
10 and read a report to you. We had to bring forth the
11 witnesses to come before you, to come before and face him.
12 And we did that. And eventually you will judge the
13 credibility of each of those witnesses.

14 Now, the one statement that is admissible in
15 this case is the defendant's statement, the audio
16 recording that you heard of the interview in this case.
17 And that is evidence that you can consider. And that is
18 one of the few statements or times a statement is
19 admissible.

20 Now, in that same vein, you've heard reference
21 to other officers, people who were out at the scene, crime
22 scene logs that contain numerous people on it. You've
23 heard other investigators in this case. Just generally
24 just names. Well, this murder investigation took a long
25 time, over a course of years, so a lot of people are

1 involved. But we brought before you the relevant --

2 MR. SHEALEY: Your Honor, I'd object and ask her
3 to stay on the law, closing on the law. She's getting
4 into the facts of this case.

5 THE COURT: All right. Close on the law.

6 MS. SIMPSON: The State is not allowed to bring
7 up cumulative witnesses to testify to the same thing over
8 and over again.

9 Now, additionally, we've heard some issues about
10 chain of custody. Maybe you didn't hear the term, but all
11 those witnesses who came up here and they testified:
12 Well, all this was in my possession, it wasn't altered or
13 tampered with in any way. You've heard reference to this
14 rape kit and how it went missing or it was destroyed or
15 it's not the same one. Well, members of the jury, we
16 can't introduce evidence until we establish the chain of
17 custody, which means that it has not been altered or
18 tampered with in any way. And that rape kit wasn't
19 altered or tampered with in any way.

20 I'm going to talk to you about the charge of
21 murder.

22 Now, murder is one of our most serious offenses
23 in South Carolina, perhaps the most serious, but it has
24 properly the shortest definition. A person is guilty of
25 murder if he kills another with malice aforethought,

1 either express or inferred. It's very short.

2 Members of the jury, I submit that no one is
3 going to get up here and tell you that Eboney Williams
4 wasn't murdered. She was strangled to death, wrapped in a
5 comforter, bedding, sheets, doused and set on fire to
6 burn. Murder. No one's going to say that Eboney Williams
7 wasn't murdered.

8 So what it is, there's several terms in here
9 that you need to know, that are legally defined. One of
10 those terms was malice, malice aforethought.

11 So what is malice? Malice is a term that
12 imports wickedness and excludes just cause or legal
13 excuse. It is something that springs from wickedness,
14 depravity, a depraved spirit, from a heart devoid of
15 social duty and fatally bent on mischief. It denotes
16 hostility, ill will towards another, though not necessary
17 towards the specific person injured. It is the
18 intentional doing of a wrongful act without just cause or
19 excuse, with an intent to inflict an injury or under
20 circumstances that the law will infer such an evil intent.

21 This case reeks of malice. She was strangled to
22 death. That is murder of the utmost and personal kind.

23 Aforethought. A lot of people think that murder
24 requires proof of premeditation, to have a plan, to lie in
25 wait and hiding, plan on killing a person for days, set it

1 out. That is not the case. Malice aforethought. Malice
2 aforethought is malice -- malice may not exist for any
3 additional time before the act of the killing occurs.
4 Malice may be conceived at the very moment the fatal blow
5 is given. Malice aforethought.

6 Now you are allowed to infer malice from the
7 facts and circumstances surrounding this case. I will say
8 it again: She was strangled to death, suffered blunt
9 force trauma to her head, and left in her own house. She
10 was dead, but they went a step further: They burned her
11 body. The defendant burned her body.

12 Now, there are no lesser-includeds in this case.
13 And by lesser included, I'm sure you-all have probably
14 seen on TV or heard murder in the first degree, murder in
15 the second degree, manslaughter, things of that nature.
16 Well, we don't have murder in the first degree or second
17 degree. But we do have manslaughter, involuntary and
18 voluntary manslaughter, the unintentional killing of
19 another. That is not what you are here to decide today.
20 The only charge before you is murder.

21 Now, I said that we must prove to you beyond a
22 reasonable doubt each element for which the defendant has
23 been charged. Murder. So what is proof beyond a
24 reasonable doubt? Well, simply said, it's proof that
25 causes a reasonable person to hesitate to act. It's proof

1 that leaves you firmly convinced. Now, the law defines it
2 as proof beyond a reasonable doubt, it's proof that leaves
3 you firmly convinced of the defendant's guilt.

4 Now there are very few things that we know in
5 this world with absolute certainty, and the law does not
6 require the State to produce proof that overcomes all
7 doubt or every possible doubt, only that doubt which is
8 reasonable. Only that doubt which is reasonable.

9 Now if based on your consideration of the
10 evidence you are firmly convinced that the defendant is
11 guilty of the crime charged, you must find him guilty. On
12 the other hand, if you think there is a real possibility
13 that he is not guilty, you must give him the benefit of
14 the doubt and find him not guilty. I submit that the
15 facts and the evidence in this case, members of the jury,
16 is proof beyond a reasonable doubt.

17 Now, my colleague will get up here and explain
18 those facts in a minute, explain that evidence, that proof
19 beyond a reasonable doubt.

20 Now, with respect to evidence, and you-all have
21 had quite a bit throughout this week, you've heard from a
22 number of witnesses, you've even heard from some of them a
23 second time. You've seen a lot of evidence in this case.

24 Now, the law -- we have two types of evidence.
25 Now it doesn't mean that the evidence is different or it

1 is to be weighed by you any differently or considered by
2 you as one being better than the other or worse than the
3 other. They are considered the same. It's just kind of
4 the way you get it, to an inference, okay?

5 Direct evidence is the testimony of a person who
6 asserts or claims to have actual knowledge of a fact, such
7 as an eye witness. Circumstantial evidence is proof of a
8 chain of facts and circumstances indicating the existence
9 of a fact. The law makes absolutely no distinction
10 between the weight or value to be given to either direct
11 or circumstantial evidence, nor is a greater degree of
12 certainty required of circumstantial evidence than of
13 direct evidence.

14 You should weigh all of the evidence in this
15 case. And after weighing all the evidence, if you are not
16 convinced of the guilt of the defendant beyond a
17 reasonable doubt, you must find the defendant not guilty.
18 On the other hand, if you are convinced of the defendant's
19 guilt beyond a reasonable doubt, then you must find him
20 guilty.

21 Now, defense counsel's opening statement said
22 that the State was trying to distance itself from faulty
23 or false evidence. I submit to you the only person trying
24 to distance himself from the facts and the evidence in
25 this case is the defendant, Ahmad Wilkins. The DNA, that

1 glove, the DNA on this neck ligature. His own testimony,
2 he was there, we're going to get to that. He had an
3 answer for everything, except for the things that weren't
4 quite convenient, that didn't quite fit his story, that he
5 couldn't make it work no matter what he said. The only
6 person distancing themselves from the evidence is the
7 defendant, be it direct or circumstantial.

8 And you're going to be able to consider all the
9 witnesses that came before you: Marsha Portier, Roberto
10 Santana, Cynthia Jackson, Sean Grimes, Nicole Grimes --
11 we'll get back to her -- Nicole Jones, the officers, the
12 investigators in this case, you're going to hear from all
13 of them.

14 You're going to hear from experts -- or I
15 apologize -- you've heard from experts in this case and
16 you're going to consider their testimony, specifically you
17 heard from a crime scene investigator and the DNA experts.

18 And you're allowed -- just because they're an
19 expert, you don't weigh them any differently. You can
20 still believe some of what an expert says, all of what the
21 expert says, or nothing that they say.

22 And I ask that you consider the expert's
23 qualifications, when was the last time that expert did
24 actual testing or he's been proficiency tested, reviewed,
25 peer reviewed, things of that nature. Are they qualified

1 to testify to what he or she testified to? Do they even
2 know about the area and the standards that apply to what
3 they've testified to?

4 Well, members of the jury, you've heard a lot, a
5 lot of testimony regarding drugs in this case, from
6 sniffing powder, smoking crack, snorting powder cocaine,
7 smoking crack, you've heard about that, and specifically
8 you've heard that the defendant had been smoking crack.
9 You heard that from Sean Grimes and Cynthia Jackson,
10 they'd been smoking crack in the day and even some of the
11 days prior. But remember, he told you he only does
12 powder, and he doesn't smoke it, but he only sniffs it.
13 The defendant was smoking crack as was our victim. Drugs
14 are prevalent throughout this case.

15 But with respect to being guilty of an offense,
16 voluntary intoxication is never an excuse or a defense to
17 a crime. A person who voluntarily renders himself
18 intoxicated is no less responsible for his acts while in
19 such condition. If a person involuntarily drinks
20 intoxicating liquors or takes drugs and becomes
21 intoxicated and if while in that condition commits an act
22 which would be a crime if it had been committed by a sober
23 person, the fact of drunkenness or intoxication would not
24 relieve the intoxicated person of responsibility.

25 So the fact that the defendant, Ahmad, had been

1 smoking crack or smoking coke, whichever you choose to
2 believe, was high, high, high, that fact is not a defense
3 or an excuse for what happened in Eboney's apartment.

4 Now the defendant, in addition to his trash the
5 victim, blame the police, even the officer committed
6 murder -- I don't know -- in addition to that, he has
7 another defense which the judge will charge you on. He
8 has raised the defense of alibi. Essentially, that means
9 that he is saying he was not at the scene of the crime at
10 the time it was committed but was elsewhere and he had
11 nothing to do with it. The word "alibi" means elsewhere.

12 There is no burden upon the defendant to prove
13 that he was not at the scene of a crime. There is no
14 burden upon the defendant to prove his alibi. The
15 defendant need not prove he was somewhere else. The
16 burden is still on the State to prove to you beyond a
17 reasonable doubt that the defendant was present at the
18 scene of the crime, actually participated in the crime,
19 and was not somewhere else. That's what the State has the
20 burden of proving beyond a reasonable doubt, that the
21 defendant was present and committed the crime.

22 His DNA in blood, his DNA on the neck ligature,
23 his own testimony that he was in the house. Defense
24 counsel's kind of broken it down to mere seconds, minutes
25 of video, things of that nature. I'm going to ask that

1 you look at the totality of this evidence. They've been
2 separating it out to distract you from the big picture.

3 Who was the last call? Who's DNA is in that
4 house? Who was Eboney's drug dealer?

5 As far as alibi, the witnesses, what did you
6 hear?

7 MR. SHEALEY: Objection, Your Honor, facts
8 again. She's not on the law.

9 MS. SIMPSON: I will move on.

10 THE COURT: All right.

11 MS. SIMPSON: My co-counsel will get up here in
12 a minute and explain the facts.

13 Finally, members of the jury, credibility. This
14 case turns on credibility. And it is your job, and your
15 job alone, to judge the credibility of each and every
16 witness that took this stand. Now you can believe some of
17 what a witness says, all of what a witness says, or
18 nothing that a witness says. That is up to you. But we
19 do ask that you consider several factors in determining
20 whether to believe a witness: What was that witness'
21 demeanor on the stand? Were they nervous? Did they seem
22 competent? Was that witness hesitant or forthright in
23 testifying? Was the testimony of that witness consistent
24 within itself and is it corroborated by other evidence in
25 this case? And perhaps most importantly, did that witness

1 have any reason to be biased or prejudiced in this case, a
2 girlfriend, a lover, a friend, the defendant himself,
3 biased or prejudiced?

4 Members of the jury, it is said that truth is
5 the mother of justice, and it is your job, your duty here
6 today to find the truth and to seek justice. And I submit
7 to you that when you go back and you deliberate, that you
8 will find that the State has met its burden and that there
9 is only one just verdict in this case and that is that the
10 defendant, Ahmad Wilkins, is guilty of murder.

11 Thank you.

12 THE COURT: Mr. Shealy.

13 MR. SHEALEY: Thank you, Your Honor.

14 I do want to start by thanking you-all.
15 Without -- and she is right, and that's probably the only
16 thing we'll agree on is this -- without you guys here,
17 this whole thing is not possible, our whole legal system
18 does not work. We've had a long week here, it's been a
19 cold week, late hours, but I just want to thank you,
20 because without you justice cannot be dealt.

21 Now, as you've known and you've probably
22 noticed, that's my brother right there. I'm Brian
23 Shealey, that's Luke Shealey. We grew up in Blythewood,
24 South Carolina, a little bit around here, and we grew up
25 in the country.

1 Our momma was a good cook, but she always wanted
2 to make us eat real healthy. We didn't get a whole lot of
3 good treats in the house, but the one thing that she did
4 give us when we're being good was the best
5 oatmeal/chocolate chip cookies that I've ever tasted. And
6 I like to cook. When I was young I used to wish that I
7 could learn how to make those cookies like my momma. And
8 so one day I watched her, eggs, flour, sugar, and I asked
9 her one day, I said, "Momma, how do you make those cookies
10 like that?" And she just kind of looked at me offhand and
11 said, "Just love, put a lot of love in there, put a lot of
12 love in there."

13 And I recall when I was young one time I tried
14 to surprise her by making these cookies. I got in the
15 kitchen, got in the cupboard, got some flour, sugar, the
16 eggs, and milk, and I made a mess. I forget what I gave
17 her or presented her, but it was something most hideous.
18 And I think she tried to be polite and she took a bite,
19 but I could tell by her face what she thought of it. I
20 said, "Mom, I'm sorry. I tried to make them the way you
21 did, I tried to make it with love." She said, "Son, it is
22 love," and she pulled out a recipe, but it's about the
23 details, too. It is about the details that make it. And
24 I've always kind of thought about that moment -- and I can
25 make cookies now, I follow that recipe and I go straight

1 from that -- but I know life is about details.

2 Now that you guys know where I'm going, this
3 case is about details. And don't let anybody water down
4 the details of this case, because they are significant.
5 And the details of this case is why Ahmad is innocent.

6 Now, he is presumed innocent by our law. He
7 does not have to present evidence to disprove their case,
8 he is presumed innocent. But I want you guys to think
9 about the details in this case, and that's why I've been
10 trying -- and I think it's been self-evident through even
11 their own case, the details of this case presenting itself
12 that Ahmad Wilkins could not have done this. I want to
13 talk about some details.

14 This is a great detail, but I'm not going to go
15 with that. Just one second here. We'll get to that.

16 There's a lot of evidence here. There's
17 pictures, charts, graphs. And what happened to Eboney
18 Williams is horrible. That poor girl was murdered
19 tragically, but not by Ahmad.

20 What we know is that she was killed with a
21 bathrobe. She was strangled, her feet were bound, bedding
22 was stripped off her bed, she was set on fire. It's been
23 referred to as a neck ligature. This is a bathroom tie --
24 a bathrobe tie.

25 I want to talk to you about the feet ligature,

1 which was never tested. I want to talk to you about the
2 fact that the testimony is that the door in the front was
3 locked. Roberto Santana had to unlock that door. The
4 front door was locked. You heard testimony that that
5 patio door was locked.

6 The person that killed Eboney knew her. The
7 person that killed Eboney had a set of keys. Think about
8 this. And the pictures are here and we've heard
9 testimony.

10 The front door, you can't lock yourself out of
11 your own house at the Bishop. There is a key that you
12 insert to lock the door behind you. There's no push
13 button. And you get this back in there, study that
14 carefully, it's very important in this case.

15 And the back patio locks from the inside. It's
16 a sliding glass door and you push the button and you lock
17 it through the inside. You can't lock yourself out in
18 back.

19 So whoever killed her -- the back was locked and
20 the front door was locked -- had a key. Someone that knew
21 her personally did this to her, someone that she had maybe
22 made a copy of her key. And the pictures of that key are
23 in evidence. Eboney's keys were inside that apartment.

24 The person that killed her did this with a type
25 of malice that I can't fathom, and the State may agree

1 with me on that, but it was not Ahmad Wilkins.

2 The person that killed her disabled not one but
3 two smoke detectors. Two. You heard from Seals one was
4 disabled, the other one was wrapped with a cloth around
5 it.

6 The person that killed her set her on fire. And
7 it wasn't the kind of fire that's just "here's a match."
8 Someone used an accelerant, bound her body in bedding --
9 again, I would say that's a personal thing, bedding,
10 someone that knew her personally that didn't want the
11 bedding tested -- bedding used to wrap her legs.

12 So you think to yourself, why would -- her arms
13 aren't bound. Why would someone want to bind her legs?
14 That's not going to really inhibit them as much as binding
15 your arms.

16 I'll tell you this. If you had killed somebody,
17 let's say, in a bedroom and you want to move them, it's
18 easier to move somebody if their legs are bound. It's
19 more compact.

20 Her bedding was found in the dumpster and not
21 tested. Her bedding was used to tie her feet and remove
22 her from her bed.

23 The person that killed her knew her personally,
24 had a key or a copy of a key to her apartment, and set her
25 on fire in a planned method, disconnecting the smoke

1 detector, covering another one with cloth, and setting her
2 on fire, probably with something like gasoline. That's
3 personal. That's unforgivable, but that's not Ahmad
4 Wilkins.

5 This case is about details. The rape kit -- I
6 can't make this stuff up. And the State's going to come
7 up here and say that we're slandering them and that we're
8 manipulating evidence and "I've never heard such
9 insinuations." But I can't make this stuff up. Most of
10 what I'm telling you about is in their case. Details.

11 You heard Mr. May on cross-examination of
12 Ms. Grant, who was as nice as she can could be, but when
13 she got the rape kit that came sealed from the Columbia
14 Police Department, it was sealed. She sent it back
15 sealed. She knew the rape kit was in there, she sent it
16 back. They need to test some more things, it came back to
17 them from the City of Columbia sealed. Okay. But the
18 rape kit was missing. She said it went out sealed, they
19 needed to test some more things, it came back sealed, but
20 the rape kit was missing.

21 The City of Columbia does not have their own DNA
22 lab. That should not have been removed. They can't do
23 anything with it but remove it or destroy it. They're not
24 testing it.

25 They didn't use SLED in this case. The free DNA

1 lab in this state, SLED, they didn't use that. They used
2 a lab, which they will say to expedite things, an
3 accredited lab. But they're also very selective with what
4 they tested.

5 Now, we've heard the testimony of Reese and
6 Thomas. There were a number of other investigators in
7 this case that weren't called, but we've heard the
8 testimony of Reese and Thomas, and you heard them get up
9 there and tell you about why they decided to test certain
10 things.

11 I just have these questions that I can't -- that
12 will never be answered: Why they didn't test the bedding
13 found by Investigator Kelly, knowing that if something was
14 found in a dumpster and all the bedding has been removed
15 and bedding was used to bind her, to remove her, I would
16 suggest, from where she was murdered in her bedroom,
17 you've got this stuff in a dumpster that you know the
18 killer touched -- Rachel Grant talked about shavings, you
19 can file it down and shave it and test that DNA -- why not
20 do that? Why not do that? For \$200 saved? I don't think
21 so.

22 And this is uncomfortable, this is very
23 uncomfortable to talk about. Like I said, this is
24 fantastical-type of information that we're dealing with
25 here. And it can't settle on my stomach. I haven't slept

1 all week. This is just awful, awful imagery, it's awful,
2 awful to hear, but it does not proof that Ahmad had
3 anything to do with this. But I question how a rape kit
4 can go missing.

5 And I didn't send out my investigator to
6 discover that. It's in the discovery. I read the bench
7 notes. They've read the bench notes of Rachel Grant.

8 In this case of all cases, when you've heard
9 this testimony, the rape kit goes missing, the binding of
10 her feet not tested, what was found in a dumpster --
11 which, by the way, was completely empty some half hour
12 before law enforcement came, Investigator Thomas testified
13 he was aware of that, it was completely empty -- that
14 seems significant. I want to know how that came into
15 being. Where did that come from? I want to know.

16 Now, details. Alibi. This is a case about an
17 alibi. Ahmad and Eboney had a phone call. She called him
18 the last time at 4:13 in the morning.

19 You heard Nicole Grimes up here, 3:55. And the
20 State, they love her and they hate her, Nicole Grimes.
21 They love her because she wrote a statement and she was
22 interviewed by Investigator -- the investigators in this
23 case on February 20th of 2009, and she said, "Ahmad came
24 home. I recall. He came home. I recall I had to get up
25 and let him in, 3:55."