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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY

R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MANDY LENORE SMITH,

APPELLANT

APPELLATE CASE NO. 2013-002209

RECORD ON APPEAL

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED OCTOBER 7-11, 2013	1
TESTIMONY	
ROBERT DENNIS	
Direct Examination by Mr. Stumbo.....	26
Cross Examination by Mr. Verner	41
MATT BOWERS	
Direct Examination by Mr. Stumbo.....	57
Cross Examination by Mr. Verner	62
DANNY GILLIAM	
Direct Examination by Mr. Stumbo.....	63
Cross Examination by Mr. Verner	67
Redirect Examination by Mt. Stumbo	70
WESLEY BOLAND	
Direct Examination by Mr. Verner	71
Cross Examination by Mr. Stumbo	84
MANDY SMITH	
Direct Examination by Mr. Verner	88
Cross Examination by Mr. Stumbo	109
Redirect Examination by Mr. Verner	117
TERRY MAYERS	
Direct Examination by Mr. Scott.....	154
Cross Examination by Mr. Verner	162
Redirect Examination by Mr. Scott	164
Recross Examination by Mr. Verner	165
WHITT KLEIN	
Direct Examination by Mr. Stumbo.....	166
Cross Examination by Mr. Verner	169
Redirect Examination by Mr. Stumbo	173
Recross Examination by Mr. Verner	174
CLARENCE CURRY	
Direct Examination by Mr. Scott.....	176

Cross Examination by Mr. Verner	192
BILLY DERRENBACHER	
Direct Examination by Mr. Scott	195
Cross Examination by Mr. Verner	216
Redirect Examination by Mr. Scott	245
Recross Examination by Mr. Verner	253
WESLEY BOLAND	
Direct Examination by Mr. Stumbo.....	260
Cross Examination by Mr. Verner	270
Redirect Examination by Mr. Stumbo.....	291
DANNY GILLIAM	
Direct Examination by Mr. Scott	292
Cross Examination by Mr. Verner	302
DONTE KESSLER	
Direct Examination by Mr. Scott	308
Cross Examination by Mr. Verner	312
Redirect Examination by Mr. Scott	315
JANICE ROSS	
Direct Examination by Mr. Stumbo.....	321
Cross Examination by Mr. Verner	333
Redirect Examination by Mr. Stumbo.....	347
Recross Examination by Mr. Verner	349
SUZANNE CROMER	
Direct Examination by Mr. Stumbo.....	353
Cross Examination by Mr. Verner	368
Redirect Examination by Mr. Stumbo.....	352
TIMOTHY WISE	
Direct Examination by Mr. Scott	382
Cross Examination by Mr. Verner	428
Redirect Examination by Mr. Scott	537
Recross Examination by Mr. Verner	545
ROBERT DENNIS	
Direct Examination by Mr. Scott	555
Cross Examination by Mr. Verner	612
Redirect Examination by Mr. Scott	685
SAMANTHA WRIGHT	
Direct Examination by Mr. Verner	697
Cross Examination by Mr. Stumbo	705
Redirect Examination by Mr. Verner	708

KRIS HANSEN	
Direct Examination by Mr. Verner	710
Cross Examination by Mr. Stumbo	718
DON BUFORD	
Direct Examination by Mr. Verner	722
Cross Examination by Mr. Scott	765
VICKI MCCARTHA	
Direct Examination by Mr. Verner	776
Cross Examination by Mr. Scott	798
MANDY SMITH	
Direct Examination by Mr. Verner	805
Cross Examination by Mr. Stumbo	925
Redirect Examination by Mr. Verner	942
Recross Examination by Mr. Stumbo	945
MARYBETH CLARDY	
Direct Examination by Mr. Verner	946
TONYA TRIBBLE	
Direct Examination by Mr. Verner	948
Cross Examination by Mr. Scott	950
MOTION FOR DIRECTED VERDICT	953
CHARGE CONFERENCE	953
DEFENSE CLOSING ARGUMENT	970
STATE'S CLOSING ARGUMENT	1010
CHARGE ON THE LAW	1021
VERDICT	1052
SENTENCING HEARING TRANSCRIPT DATED OCTOBER 14, 2013	1059
STATE'S EXHIBIT #19 (Waiver of Rights and Written Statement by Mandy Smith)	1080
STATE'S EXHIBIT #20 (Waiver of Rights and Written Statement by Mandy Smith)	1084
STATE'S EXHIBIT #23 (Missing Person Flyer)	1088
STATE'S EXHIBIT #30 (Waiver of Rights and Written Statement by Timothy Wise)	1089
STATE'S EXHIBIT #31 (Waiver of Rights and Written Statement by Timothy Wise)	1092

STATE'S EXHIBIT #32 (Waiver of Rights and Written Statement by Timothy Wise)	1094
DEFENDANT'S EXHIBIT #7 (Picture)	1097
DEFENDANTS'S EXHIBIT #8 (Picture)	1098
COURT'S EXHIBIT #3 (Jury Note)	1099
COURT'S EXHIBIT #4 (Jury Note)	1110
NOTICE OF APPEAL	1111
INDICTMENT AND SENTENCING SHEETS	1103
CERTIFICATE OF COUNSEL	1110

- 1 Q Did she have anybody else in her posse you were
2 scared of coming after you?
- 3 A She had several people that she associated with.
- 4 Q Don Buford being one of them?
- 5 A One of them.
- 6 Q Scared of him?
- 7 A Not really.
- 8 Q A guy named Kris Hansen, scared of him?
- 9 A No.
- 10 Q Well, John Henry you are not scared of anymore, are
11 you. John Henry was a pretty big guy, wasn't he, in his
12 prime, when you knew him he was, he wasn't a small man at
13 all, was he?
- 14 A No.
- 15 Q Bigger than you?
- 16 A Yes, he was.
- 17 Q You are telling us you would struggle to handle
18 Mandy, you certainly couldn't handle John Henry without a
19 weapon in your hand, could you?
- 20 A No, sir.
- 21 Q Where did Mandy get these latex gloves from, I
22 suppose, she doesn't have any income while she is living
23 at your property, does she?
- 24 A No.
- 25 Q What is she doing with cleaning gloves?

- 1 A I have no idea.
- 2 Q You didn't get them from inside of your mom's kitchen
- 3 and bring them out for her?
- 4 A No.
- 5 Q Do you know what she did with them?
- 6 A She burnt them.
- 7 Q Where did she burn them?
- 8 A At the river.
- 9 Q So y'all, did y'all go fishing later on that day?
- 10 A That evening.
- 11 Q You did go fishing?
- 12 A Yes.
- 13 Q Did y'all talk at all about the killing of John
- 14 Henry?
- 15 A No, sir.
- 16 Q And you didn't lift a finger to help her with the
- 17 body of John Henry?
- 18 A No.
- 19 Q Mandy is not a small girl, is she?
- 20 A No.
- 21 Q But you testified she looks today just like she did
- 22 back then?
- 23 A Yes, sir.
- 24 Q You are saying she hasn't gained weight while she has
- 25 been jail for at least two years?

- 1 A Maybe a little bit.
- 2 Q Just a little bit. Was the body of John Henry moved
- 3 by either you or Mandy before it was desecrated?
- 4 A No, sir.
- 5 Q Did you see her drag the body?
- 6 A No, sir.
- 7 Q When did you tell law enforcement that you had driven
- 8 her, Mandy back out to the scene?
- 9 A On the 26th.
- 10 Q On the 26th. And that was only because Mandy was now
- 11 in jail and were no longer scared of her?
- 12 A Right.
- 13 Q What was used to take the head of John Henry off of
- 14 his body?
- 15 A I don't know.
- 16 Q You didn't see her?
- 17 A No.
- 18 Q Couldn't have been something as small as a kitchen
- 19 knife, could it?
- 20 A I don't know.
- 21 Q Was Mandy wearing jogging shorts when she went back
- 22 out, what was she wearing on that day?
- 23 A I don't recall.
- 24 Q You don't recall what she was wearing?
- 25 A No.

- 1 Q Recall what color it was?
- 2 A No.
- 3 Q Don't recall whether it was short pants or long
- 4 pants?
- 5 A Short pants.
- 6 Q Short pants. And latex gloves is all you remember?
- 7 A I know that she had latex gloves.
- 8 Q Okay. How long does it take you to drive from your
- 9 property to the Judy B. Road where John Henry's body is
- 10 lying?
- 11 A 15 to 20 minutes.
- 12 Q And in that 15 to 20 minutes you would not have seen
- 13 a knife large enough to have to do this?
- 14 A No.
- 15 Q She just had it in her pants?
- 16 A I don't recall seeing anything.
- 17 Q Could she have found it on your truck?
- 18 A No.
- 19 Q What happened to that knife?
- 20 A I don't know what she did.
- 21 Q Burn it at the campsite?
- 22 A All I remember her burning was the plastic bag and
- 23 the rubber gloves.
- 24 Q But you are saying she came back holding his head?
- 25 A In a bag.

- 1 Q In a bag?
- 2 A Yes.
- 3 Q In like a shopping bag?
- 4 A Yes.
- 5 Q And then as luck would have it you had a bucket in
- 6 the back of your pickup truck?
- 7 A Yes.
- 8 Q And she was unemotional doing this?
- 9 A Unemotional.
- 10 Q And did you ever get out of your car at all?
- 11 A No.
- 12 Q You just kind of sat there listening to the radio?
- 13 A I just sat there.
- 14 Q How long did that take?
- 15 A I don't know.
- 16 Q Did you smoke a cigarette during the break?
- 17 A No.
- 18 Q I don't even know, do you smoke cigarettes?
- 19 A Yes, I do.
- 20 Q Do they calm your nerves sometimes?
- 21 A Not really.
- 22 Q And you have no idea today how long you were out
- 23 there on Judy B. Road on May 17th?
- 24 A No.
- 25 Q Do you know what it was that you are saying that

1 Mandy had?

2 A I knew what it was that she had.

3 Q How did you know that?

4 A I saw it when--

5 Q So you are saying that when she went to the body and
6 she put the head in the back of your truck you didn't even
7 know that that was a head?

8 A No.

9 Q Do you think it was a ball?

10 A I didn't know what it was, she threw it in the river.

11 Q And she just went out there to the body, did you
12 think she was trying to get more crack cocaine off of John
13 Henry's body out there?

14 A I don't know.

15 Q But you saw her come back with something large?

16 A Yes.

17 Q And you without getting out of the truck just watched
18 her throw it in the back of your car, truck?

19 A She put it in the bucket.

20 Q And whose suggestion was it then to go fishing?

21 A I had my fishing stuff, I had planned on going
22 fishing that day.

23 Q So you are saying that this, that the jaunt started
24 with you wanting to go fishing and then Mandy saying, give
25 me a ride, I want to go with you and then her leading you

- 1 to the Judy B. Road?
- 2 A Yes, sir.
- 3 Q Just by the way, I want to do something real quick
- 4 and she didn't plan this out?
- 5 A I don't know.
- 6 Q Did she know you were going to go fishing?
- 7 A Yes.
- 8 Q That wasn't a way to kind of get away from your home
- 9 and kind of calm down with nobody coming around, hard for
- 10 anybody to find you?
- 11 A No.
- 12 Q You indicated that she told you that his name was on
- 13 his clothes?
- 14 A Yes.
- 15 Q Did John Henry have a wallet?
- 16 A I don't know.
- 17 Q When did she say, that was pointless because his name
- 18 was on his clothes. When did she tell you that?
- 19 A After she had thrown his head in the river.
- 20 Q She just said, oh, darn it, I made a mistake, I left
- 21 his name on his clothes?
- 22 A No, she didn't say it like that.
- 23 Q In kind of a wistful way or what kind of way?
- 24 A Kind of mad.
- 25 Q Why did she make you get back in the truck to go take

1 his pants. That certainly would be a little bit easier to
2 do, wouldn't it?

3 A I don't know.

4 Q Did she seem to be taking some kind of enjoyment out
5 of doing this?

6 A Not particularly.

7 Q And the only thing you said during this whole time,
8 is this is crazy?

9 A Yes.

10 Q And then May 20th the police comes back to your
11 house, is that right?

12 A That's right.

13 Q And this time it is the Lexington County police
14 again?

15 A Major Boland.

16 Q Did he come with any Lexington County?

17 A I think he came with one Lexington and one other
18 Newberry, yes.

19 Q And was this an unexpected visit to you?

20 A I know that they had been to the house previously
21 that same day.

22 Q Was Mandy at the house on May 20th?

23 A Not when they came back, no sir.

24 Q Where was she?

25 A I have no idea.

1 Q Had she moved out?

2 A No, she had seen some friends of her's at Walmart and
3 she wanted to go with them.

4 Q So this was the day, May 20th is the date, was the
5 last day that Mandy was at your house?

6 A Right.

7 Q Did law enforcement call you beforehand and say, we
8 want to come back up and talk to you again?

9 A No.

10 Q They just came out of the blue and rolled up?

11 A They just showed up.

12 Q And it just so happened that you and Mandy were out
13 at Walmart?

14 A I had to pick up some stuff for my mother.

15 Q What was that stuff for your mother?

16 A She needs some incontinence pads.

17 Q And you testified she called you trying to look for
18 you?

19 A Yes.

20 Q And said, come back, they are looking for Mandy?

21 A Yes.

22 Q And you turned over your phone to law enforcement?

23 A Yes, sir.

24 Q Which would include your call log?

25 A Yes, sir.

1 Q And just by luck as how it happened Mandy just
2 happened to find somebody willing to take her away?

3 A She met people in the parking lot before we even went
4 in.

5 Q I don't know who people are, who is people?

6 A I don't know who they are either.

7 Q White people, black people?

8 A They were black people.

9 Q Guys, sir, girls?

10 A It was two guys and a girl.

11 Q Two guys and a girl. Do you remember what kind of
12 car they got in?

13 A It was a blue car, that is all I can tell you.

14 Q And she just, had y'all already gone into Walmart
15 shopping?

16 A Yes. She saw them in the parking lot before we went
17 in.

18 Q And just socially said, hey, how have y'all been
19 doing, give me a ride?

20 A I guess.

21 Q And that is the last you saw of Mandy?

22 A Yes.

23 Q It is not a fact that Mandy had already called her
24 parents or called friends to come take her away and you
25 were taking her to meet the person who was taking her

1 away?

2 A I don't know.

3 Q It is not a fact that after he did this you told

4 Mandy you got, you better go, they are coming for you, you

5 better go?

6 A No.

7 Q Didn't make any threats to harm her?

8 A No.

9 Q Didn't make any threats to kill the animals?

10 A No.

11 Q Weren't carrying the gun with you at that time?

12 A No.

13 Q As luck would have it she just ran into random people
14 who spirited her way?

15 A Yes, sir.

16 Q Do you know if they were from Newberry?

17 A I don't know.

18 Q Just never seen them before in her life?

19 A I had seen them one previous time at a apartment in
20 town, one of them I had.

21 Q This was in the Walmart parking lot?

22 A Yes.

23 Q Walmart is pretty good about having video cameras and
24 stuff like that, aren't they?

25 A Yes, sir.

1 Q What time do you get back from the house after your
2 mother called?

3 A I don't recall.

4 Q Do you recall what time Mandy got in the car with the
5 strangers?

6 A No.

7 Q Daytime?

8 A It was still daytime.

9 Q Before lunch, after lunch?

10 A Way after lunch.

11 Q Did you find it odd that the police were coming back
12 again to talk to you?

13 A Yes, it was obvious.

14 Q Why was that?

15 A They wanted to talk to me, they didn't want to talk
16 to her.

17 Q They said this time we want to talk to you?

18 A Yes.

19 Q That didn't make you a little bit nervous?

20 A It made me a lot nervous.

21 Q I understand you are not a lawyer but did you
22 understand what they might be wanting to talk to you
23 about?

24 A I didn't know.

25 Q Murder perhaps?

1 A Perhaps.

2 Q Are you aware that murder is usually a pretty big
3 charge?

4 A Yes, sir.

5 Q And your testimony today is in hopes of some kind of
6 leniency, right?

7 A Yes.

8 Q And it has been when you first gave your statement on
9 May 20th to law enforcement that if I talk to them I am
10 hoping that I can get out of this?

11 A Yes, sir.

12 Q So Mandy just doesn't happen to be there anymore so
13 now you have got a fall guy you can put the blame on,
14 right?

15 A No.

16 Q On May 20th, after two prior meetings you say, I
17 don't know, law officer, I don't know anything about John
18 Henry's disappearance on May 20th. It is now, well, on
19 second thought I think that Mandy might have something to
20 do with it?

21 A On the 20th was the first time I had spoken to them.

22 Q They didn't even speak to you in small talk
23 beforehand?

24 A No, sir.

25 Q You didn't meet with Mr. Boland on the 16th?

- 1 A I met Boland with her.
- 2 Q On the 16th?
- 3 A I guess it was the 16th.
- 4 Q And he didn't speak to you at all about the reason
- 5 they were there?
- 6 A No, he wanted to talk with her.
- 7 Q And that is perfectly understandable to me, you know,
- 8 that law enforcement rolled into my yard and I don't have
- 9 any real interest on why they want to talk to somebody on
- 10 my property. It just didn't interest you at all, is that
- 11 a pretty common occurrence that law enforcement rolls into
- 12 your driveway wanting to speak to somebody?
- 13 A No, sir.
- 14 Q It doesn't make you at all interested on what they
- 15 might be talking about?
- 16 A I didn't know. He wanted to speak with her alone.
- 17 Q You didn't have a fear, in your testimony that Mandy
- 18 might have lied on you and put your name on it?
- 19 A Not at the time, no sir.
- 20 Q But now that Mandy is conveniently on the run, your
- 21 opinion is now, I think Mandy might have something to do
- 22 with her disappearance, she has got anger issues?
- 23 A Yes, sir.
- 24 Q And she is in trouble with the law, is that right?
- 25 A Yes, sir.

1 Q What do you mean by she has been in trouble with the
2 law?

3 A I have been told stories about her.

4 Q Well, tell us stories about what you have heard.

5 THE COURT: That is not relevant.

6 Q Do you have any firsthand personal knowledge of Mandy
7 getting in trouble with the law?

8 A No.

9 Q Did you ever see Mandy again after May 20th?

10 A No, sir.

11 Q Did she ever come back by her property?

12 A No, sir.

13 Q Mandy was awfully attached to her animals, wasn't
14 she?

15 A Yes, she was.

16 Q She was relying on you to take care of them?

17 A Yes, sir.

18 Q Did you understand that harm to those animals was a
19 very real fear to her?

20 A Yes, sir.

21 Q And it was some way somebody could get some real
22 pressure over her?

23 A I guess so.

24 Q But basically your May 20th statement, this is now
25 the third time you had at least some interaction with

1 police. And at this time it is, now that Mandy is gone,
2 well maybe she had something to do with it, right?

3 A Right.

4 Q Did you tell law enforcement about the make and model
5 of the car?

6 A I told them that it was a little car but I didn't
7 know who the people were.

8 Q You remember whether you mentioned the gun?

9 A Sir?

10 Q Do you remember whether you mentioned the gun?

11 A Yes, I did.

12 Q What did you say about the gun on May 20th?

13 A I told them that I had the gun that I had loaned to
14 her.

15 Q How did that subject, how did the gun come into the
16 conversation with the law enforcement investigators?

17 A They were asking me about his disappearance.

18 Q And it just occurred to you at that point that she
19 had a gun that I had loaned to her. Did you tell them
20 about anybody else who knew that she was carrying your
21 gun?

22 A Yes.

23 Q Did your dad come out and talk to them?

24 A My dad wasn't there.

25 Q Dad kind of, he would be able to say I went to the

1 room and got for her, wouldn't he?

2 A Yes.

3 Q And your dad doesn't mind you loaning guns to ladies
4 that you meet on Craig's List?

5 A Like I said, I had said, I had been friends with her
6 for two years.

7 Q Do you recall anything happening between May 7th,
8 John Henry is killed by either you, Mandy or together, is
9 that correct?

10 A Sir?

11 Q May 7th John Henry is killed?

12 A Yes, sir.

13 Q And it is either Mandy who did it?

14 A Yes, sir.

15 Q Or it is you who did it?

16 A No, sir.

17 Q That is not even a possibility?

18 A No, sir.

19 Q And it would be silly for the jury to even consider
20 that as a possibility?

21 A Yes, sir.

22 Q Or that you did it together. But you are saying that
23 is also not true?

24 A Yes, sir.

25 Q What happens between May 20th and May 25th that gets

- 1 you to decide that you want to talk a little bit more to
2 law enforcement?
- 3 A They arrest her or they pick her up.
- 4 Q How do you know that?
- 5 A Captain Dennis called me.
- 6 Q And told you, we have got Mandy?
- 7 A Yes.
- 8 Q Do you remember whether that was the morning of the
9 25th?
- 10 A That was the morning of the 2tth.
- 11 Q So the morning of the 25th Mr. Dennis sitting right
12 there says, Tim, we have got Mandy in custody. Does he
13 ask if you want to talk to them or he is just informing
14 you for your safety?
- 15 A He asked me to come down to the station.
- 16 Q And now you are scared because your concern is Mandy
17 is going to tell on me, right?
- 18 A No, sir.
- 19 Q That didn't even cross your mind that once Mandy went
20 to jail she might implicate me?
- 21 A No, sir.
- 22 Q It is possible that somebody who knows that somebody
23 who has done something bad that I was at, that I might
24 want to get my story in first, right?
- 25 A Yes, sir.

1 Q So you get right in your car and you go down and talk
2 to Captain Dennis?

3 A Yes, sir.

4 Q You know they have got Mandy?

5 A Yes, sir.

6 Q Mandy may or may not lie on you and try to implicate
7 you in the murder, right?

8 A I don't know.

9 Q That doesn't scare you at all?

10 A Not at the time.

11 Q You are scared of her but you trust her not to
12 implicate you in a crime and falsely accuse you of a
13 crime?

14 A Yes, sir.

15 Q When, dadgum it, she scares the daylights out of me
16 but she is going to be honest when she is caught. Is that
17 what is going through your head.

18 MR. SCOTT: Objection, asked and answered again, Your
19 Honor.

20 THE COURT: You may answer the question.

21 A Can I hear it again.

22 Q You are not at all scared that this person that you
23 are scared of, I am threatened that she is going to kill
24 me but you are not at all concerned that she might try to
25 put the blame?

- 1 A Not really.
- 2 Q Even though it was my gun?
- 3 A Yes, sir.
- 4 Q Even though I was there?
- 5 A Yes, sir.
- 6 Q Even though I was there when the body was destroyed?
- 7 A Yes, sir.
- 8 Q But I am sure she is not going to throw me in the
- 9 fire?
- 10 A I didn't think so.
- 11 Q And so you meet with Mr. Dennis at the Newberry
- 12 County Sheriffs Department, is that correct?
- 13 A Yes, sir.
- 14 Q Do you recall who you met with other than Captain
- 15 Dennis?
- 16 A Major Gilliam.
- 17 Q And I guess you are sort of comfortable with Major
- 18 Gilliam. You don't know him well but you kind of know
- 19 Major Gilliam, don't you?
- 20 A Yes, sir.
- 21 Q From the community?
- 22 A Yes, sir.
- 23 Q And he makes you feel comfortable that you can get
- 24 stuff off of your chest?
- 25 A Yes, sir.

1 Q Does Mr. Dennis make you feel the same way?

2 A Yes, sir.

3 Q He is typically kind of a soft spoken type when he is
4 interrogating you?

5 A Yes, sir.

6 Q What possesses you to give your story, what goes in
7 your head in giving your story on the 25th to the
8 sheriffs?

9 A I was there, they had asked me some questions and I
10 decided--

11 Q You weren't scared, did they tell you whether they
12 had already talked to Mandy first?

13 A No.

14 Q Did they tell you that they hadn't talk to Mandy yet?

15 A They didn't tell me anything.

16 Q And again, in your May 25th statement you lied again
17 and some more by saying that you weren't even at Judy B.
18 Road, right?

19 A Right.

20 Q Basically on the 25th all you told Mr. Dennis and Mr.
21 Gilliam was that she had texted me, that she was there and
22 she needed help getting home and I gave her instructions
23 on how to get home?

24 A Right.

25 Q Well Mandy is in jail now, right?

- 1 A Right.
- 2 Q Mr. Dennis has told you that?
- 3 A Yes, sir.
- 4 Q You are still scared of what?
- 5 A Implicating myself.
- 6 Q Of doing what?
- 7 A Of being there.
- 8 Q Well, I mean, you know being there is not a crime
- 9 when somebody else does something else, don't you?
- 10 A If they don't report it they can't.
- 11 Q You would love to get that charge put on you today,
- 12 wouldn't you? And you also lied going back to Judy B.
- 13 Road to destroy John Henry's body?
- 14 A Yes, sir.
- 15 Q So your first three or four encounters with law
- 16 enforcement you hadn't been honest yet?
- 17 A No, not completely.
- 18 Q Where do you spend the night of May 25th?
- 19 A At the county detention center.
- 20 Q Why?
- 21 A Because I had taken them out to where his body was.
- 22 Q The 25th was when, after you gave this statement you
- 23 agreed basically that the sum and substance of that
- 24 conversation was, I don't know if she did anything but if
- 25 she did it would be there?

- 1 A Right.
- 2 Q And I will show you guys where Cry Baby Bridge and
- 3 Judy B. Road are?
- 4 A Right.
- 5 Q And but you had already been out there, right?
- 6 A Sir?
- 7 Q You had already been out there on the 19th, just less
- 8 than a week before?
- 9 A Yes, with her.
- 10 Q Now this is in May in South Carolina?
- 11 A Right.
- 12 Q And it is hot?
- 13 A Yes, sir.
- 14 Q And the body had started decomposing, it smelled bad?
- 15 A I guess so.
- 16 Q Before you even smelled what was coming, you knew the
- 17 smell was coming because you had been out there before,
- 18 right?
- 19 A Yes, sir.
- 20 Q I guess my question is, when Mandy, do you have
- 21 air-conditioning in your car?
- 22 A I did.
- 23 Q The first time that you are saying that Mandy went
- 24 out and I didn't know what she was doing to John Henry's
- 25 body were you just running your air-conditioning?

- 1 A Yes, sir.
- 2 Q Did you roll down your windows?
- 3 A No, sir.
- 4 Q How did you know the odor was there?
- 5 A That day I didn't.
- 6 Q What tipped you away when you go back with Mr. Dennis
- 7 to put the shirt over your nose?
- 8 A When we actually smelled the smell.
- 9 Q So your testimony is you didn't cover your nose until
- 10 actually you could smell the body of John Henry lying in
- 11 the woods?
- 12 A Right.
- 13 Q And they find the body?
- 14 A Yes, sir.
- 15 Q How long did it take Robert Dennis and Mr. Gilliam to
- 16 find the body after they left their car?
- 17 A Two or three mintues.
- 18 Q And then it really gets confusing because more and
- 19 more law enforcement and people are coming in?
- 20 A Yes, sir.
- 21 Q Where are you, how long did they keep you out there
- 22 at the scene where John Henry's body was?
- 23 A I have no idea.
- 24 Q Could it have been thirty minutes?
- 25 A It could have been longer.

- 1 Q Do you remember how many people had arrived before?
- 2 A No, sir.
- 3 Q Did they just continue to let you sit in the backseat
- 4 of the car?
- 5 A Yes, sir..
- 6 Q Okay. You weren't wearing a gun on this day, were
- 7 you?
- 8 A No, sir.
- 9 Q When did they take you away from the Judy B. Road?
- 10 A After another Deputy came out and brought a cooler of
- 11 water and cups. They had him bring me back to the
- 12 sheriffs office.
- 13 Q Did they tell you why?
- 14 A No.
- 15 Q Did you know, did you have an understanding why?
- 16 A Not particularly.
- 17 Q Were you handcuffed?
- 18 A No.
- 19 Q Did you ride in the front seat of the officer's car
- 20 or the backseat?
- 21 A The front seat.
- 22 Q So just like in any other passenger they carry you
- 23 back to the sheriffs department?
- 24 A Right.
- 25 Q Then what happened at the sheriffs department?

- 1 A I sat.
- 2 Q For how long?
- 3 A I have no idea. A couple of hours.
- 4 Q I would think sitting at the sheriffs department when
- 5 there is a body lying in the woods that they have
- 6 discovered and I was there, that you might tend to get a
- 7 little bit nervous during that time, wouldn't you?
- 8 A No.
- 9 Q I was cool and collective?
- 10 A Yes.
- 11 Q Did you have your cigarettes to smoke?
- 12 A Yes, I did.
- 13 Q But you weren't worried about you, at that point you
- 14 had this, I am going to get the truth out when they come
- 15 back and I am not going to be in trouble and so you felt
- 16 good about where you were?
- 17 A Kind of.
- 18 Q Weren't scared at all being charged with murder?
- 19 A No.
- 20 Q Weren't scared at all of harming that man's dead
- 21 body?
- 22 A I wasn't involved in that.
- 23 Q And you maintained throughout the whole thing that
- 24 you are just a victim of circumstances?
- 25 A I was there.

1 Q You were there and it was your gun?

2 A That I didn't have.

3 Q By your statement alone?

4 A Right.

5 Q Who do you talk to next on the evening of May 25, are
6 you in Danny Gilliam's office or you are just in, what
7 kind of facility?

8 A I was in the training offices.

9 Q Was there a deputy that stayed with you?

10 A Yes.

11 Q Were you free to leave?

12 A No.

13 Q But you weren't in restraints either?

14 A No.

15 Q Do you remember talking to anybody else the evening
16 of May 25th?

17 A I talked with Lieutenant Ben Chapman.

18 Q About this crime?

19 A No, I wrote a statement in his office.

20 Q And that is the statement of May 25th?

21 A Yes.

22 Q And that is the statement where you said untruthfully
23 that she had texted me, that she was there but I hadn't
24 gone there?

25 A Right.

1 Q So that was the untruthful statement?

2 A Right.

3 Q I mean, apparently you hadn't decided then that you
4 were going to come clean, you were still lying, is that
5 right?

6 A No.

7 Q That is incorrect?

8 A I was still trying to protect myself.

9 Q And so you weren't calm and collected waiting for Mr.
10 Dennis or the other police officers to come back to that
11 crime scene where John Henry's body was. You were getting
12 nervous?

13 A Yes, sir.

14 Q Were you panicking?

15 A No, sir.

16 Q Did you think you were going to get in a little bit
17 of trouble or a lot of trouble?

18 A I figured a pretty good bit of trouble.

19 Q 30 years to life trouble?

20 A I didn't think that.

21 Q Then what happened when you gave the statement with
22 Mr. Dennis and Mr. Chapman, it was Mr. Dennis and Mr.
23 Chapman?

24 A I think so.

25 Q What happened next?

- 1 A They actually, it wasn't Mr. Dennis, it was Mr.
2 Chapman. They, he made some phone calls and told me that
3 I was going to have to go to the detention center.
- 4 Q Did he tell you why?
- 5 A No.
- 6 Q You don't think that is odd that they take people to
7 jail and they don't bother to tell them why?
- 8 A I hadn't been charged with anything.
- 9 Q You felt like you were in protective custody for your
10 sake?
- 11 A Yes, sir.
- 12 Q They were protecting you from Mandy?
- 13 A Yes, sir. They were protecting me.
- 14 Q From?
- 15 A I don't know.
- 16 Q So you spent that night in a holding cell?
- 17 A No.
- 18 Q They didn't put you in the general population, did
19 they?
- 20 A No, they put me in an isolation cell.
- 21 Q Is that a single person cell?
- 22 A Yes, sir.
- 23 Q Basically in the belly of the detention center?
- 24 A Basically.
- 25 Q No windows?

- 1 A Yes, there was one window.
- 2 Q And the door?
- 3 A The door.
- 4 Q What is in that window?
- 5 A A big piece of glass.
- 6 Q No bars or anything?
- 7 A No bars.
- 8 Q Just a thick piece of glass?
- 9 A Yes, sir.
- 10 Q What is your view of that prison cell, what do you
- 11 see when you look out that window?
- 12 A You see duty station.
- 13 Q You see other prison cells?
- 14 A No, you don't see anything like that.
- 15 Q Do you recall when you started your conversation the
- 16 following day with Mr. Chapman and the other investigators
- 17 in this case?
- 18 A Next day I was brought from the detention center to
- 19 Major Gilliam's office.
- 20 Q Do you recall how long you had been in that cell now.
- 21 Were you allowed to wear your clothes like you have now or
- 22 did they put you in a jumpsuit?
- 23 A They put me in a jumpsuit.
- 24 Q Flip flops?
- 25 A Flip flops.

1 Q Did they take you at some point to the sheriffs
2 department?

3 A Yes, sir.

4 Q Have handcuffs on?

5 A Yes, sir.

6 Q Have leg irons in?

7 A Yes, sir.

8 Q That doesn't scare you a little bit, a life like
9 that?

10 A A little bit, yes.

11 Q And you are saying today that your statement of May
12 26th at this time you finally got it right?

13 A Yes, sir.

14 Q And it is not those leg irons and handcuffs, it is
15 your guilty conscious weighing on you?

16 A Yes, sir.

17 Q They tell you they know you are out there at the, did
18 they tell you that they know that you were out there the
19 night that John Henry was killed?

20 A They decided, since I knew where the body was that
21 they figured I was out there when it happened.

22 Q Did they say they had any evidence for Mandy against
23 you?

24 A No.

25 Q What evidence did they say they had against you?

1 A Just that I, my statement and the fact that I had
2 said I was there.

3 Q When did you say you were there?

4 A That was on the 26th.

5 Q So that is not until the very last time you give a
6 statement that you said, yes, I was there?

7 A Right.

8 Q And at this point you have got a couple of balls, I
9 mean you have a couple of untruthful statements in the air
10 where you are having to juggle several different
11 statements to the police, right?

12 A Yes.

13 Q So on the 26th you get a clean slate to wrap it all
14 up, right?

15 A Yes, sir.

16 Q Tell me again, the first shot, how did that happen?

17 A They had walked off away from me and was smoking some
18 crack. And a couple of minutes later I heard the shot and
19 when he came running by me his right shoulder, it was
20 blood on it.

21 Q That is a pretty eventful day, you have got a clear
22 recollection of that night?

23 A Yes, sir.

24 Q Weren't under the influence of any marijuana or other
25 drugs?

- 1 A No, sir.
- 2 Q If John Henry had run towards the cars he would be
- 3 running away from the woods, wouldn't he, he would be
- 4 running down the road?
- 5 A Yes, sir.
- 6 Q And then, did he do a change of direction or how did
- 7 he divert himself towards the woods again?
- 8 A He turned into the woods.
- 9 Q Right or left?
- 10 A To the left.
- 11 Q How far is Mandy behind you?
- 12 A She is pretty close.
- 13 Q John Henry saying anything?
- 14 A Screaming.
- 15 Q No words, just screaming?
- 16 A Yes.
- 17 Q You didn't tell law enforcement that he didn't say
- 18 something like, please don't?
- 19 A No, sir. I don't recall doing that.
- 20 Q Could you see Mandy shoot the second shot?
- 21 A No, sir.
- 22 Q You didn't think to tell Mandy, please don't do this,
- 23 get off, have you ever seen other people fight before?
- 24 A No, sir.
- 25 Q You have never tried to break up a fight?

1 A No, sir.

2 Q And certainly wouldn't when there is a weapon
3 introduced in the fight, would you?

4 A No, sir.

5 Q How far away was Mandy and John when you are saying
6 that she shot John Henry?

7 A 40 or 45 or 50 feet, something like that.

8 Q And it is 1:00 o'clock in the middle of the night in
9 the deep woods?

10 A It is a big open space.

11 Q Could you see that shot at all?

12 A All I could see was a flash..

13 Q In the woods?

14 A It was out in the open area.

15 Q Did you hear Mr. John say anything after he was shot
16 the second time?

17 A No.

18 Q Did you bother to walk over there and ask him if he
19 was all right?

20 A I didn't.

21 Q You are saying that Mandy came out with crack and a
22 crack pipe, where did she put the gun at this point?

23 A She was holding it..

24 Q And the crack and the crack pipe?

25 A Yes.

1 Q But you are scared of Mandy at this point, you didn't
2 take off running for your own safety or drive off?

3 A No.

4 Q You are denying that you put Mandy up to the
5 desecration of John Henry's body to try to conceal his
6 identity?

7 A Yes.

8 Q Even though you had come clean and finally gotten off
9 of your conscious as of May 26th you still didn't do
10 anything wrong, am I getting it wrong?

11 A No.

12 Q Your story today is, I still didn't do anything wrong
13 but it has been weighing on my conscious not doing
14 anything wrong so I finally told them I didn't do anything
15 wrong. Am I saying it incorrect?

16 A I didn't report it.

17 Q And that is what you were scared of?

18 A Yes.

19 Q And all of this two week period of time when you are
20 saying you couldn't sleep, couldn't eat, no appetite, just
21 constantly on my mind, was only because I didn't report
22 it?

23 A Right.

24 Q And you are saying that Mandy is violent because she
25 screamed at Don when the car broke down and he hadn't

1 checked the oil before?

2 A I didn't say that. She was violent. I said that she
3 showed anger.

4 Q You ever been in a car with a woman when the car
5 breaks down and you are driving?

6 A Yes, I have.

7 Q She doesn't tend to blame that on the driver for not
8 checking the oil or putting gas in?

9 A It depends.

10 Q On that basis you are saying she is a violent, angry
11 woman?

12 A I didn't say she was violent, I said she was angry.

13 Q You told the police she is violent. When did you
14 tell police you had taken your car to, when the body was
15 desecrated?

16 A I told them on the 25th.

17 Q Were you aware that Don Buford had been arrested
18 because people thought that they had used his car?

19 A I didn't know.

20 Q Did that weigh on your conscious?

21 A I didn't know about it.

22 Q And on May 26th is the date you said that, when you
23 gave the statement on the 26th is the date that you broke
24 down crying?

25 A Yes, sir.

1 Q Did you get your tears on your statement?

2 A No.

3 Q What kind of hope are you trying to get today for
4 your testimony, what kind of help are you hoping to get
5 today for your testimony?

6 A Whatever I can get.

7 Q Does that involve that you might be going to prison?

8 A Yes.

9 Q Does that involve that they might still charge you
10 with murder?

11 A Yes, sir.

12 Q But you are hoping that they don't?

13 A I am hoping that they don't.

14 Q I don't have any more questions.

15 THE COURT: Redirect, Solicitor?

16 MR. SCOTT: Yes, sir.

17 REDIRECT EXAMINATION

18 By Mr. Scott:

19 Q Mr. Wise, how many days do you say you were in the
20 county jail?

21 A 336.

22 Q During that time did you ask law enforcement to meet
23 with you so you could change your statement again?

24 A No, sir.

25 Q Why not?

- 1 A I didn't want to change my statement again.
- 2 Q Was there anything else to add?
- 3 A Nothing.
- 4 Q Now, you testified you had been friends with Ms.
- 5 Smith three years at the time of this incident?
- 6 A Two years at the time of the incident.
- 7 Q 2009 you hung out with Mandy about every few days?
- 8 A Yes.
- 9 Q 2010, not as much but just during the weekends?
- 10 A Yes.
- 11 Q But then in 2011 you were unemployed and you were
- 12 hanging out there about every other day?
- 13 A Right.
- 14 Q What kind of friends were y'all?
- 15 A Just friends.
- 16 Q Close friends?
- 17 A I was, at the time she was my best friend.
- 18 Q So you did care for her as a friend, is that safe to
- 19 say?
- 20 A Yes.
- 21 Q And you told her mother you thought of her as a big
- 22 sister?
- 23 A Yes.
- 24 Q What is y'all's age difference?
- 25 A Three or four years, I am not sure.

- 1 Q Who is older?
- 2 A She is older.
- 3 Q Do you have any brothers and sisters?
- 4 A Yes.
- 5 Q Older or younger?
- 6 A Older.
- 7 Q She was like that to you, like an older sister?
- 8 A Yes.
- 9 Q How many close friends do you think you have?
- 10 A Four or five.
- 11 Q Spend a lot of time at home with your parents?
- 12 A Yes.
- 13 Q Play a lot of cards on the computer?
- 14 A Some.
- 15 Q Is that what you were doing that Saturday night when
- 16 she texted you?
- 17 A Yes.
- 18 Q Hanging out by yourself playing a card game on the
- 19 computer?
- 20 A Yes, sir.
- 21 Q You didn't want to see Mandy Smith get in trouble,
- 22 did you?
- 23 A Not really.
- 24 Q Did that have anything to do with why you didn't tell
- 25 officers about her immediately?

- 1 A That was the number one reason but I was also scared
2 of her and for myself.
- 3 Q Why did you give her that .9 millimeter?
- 4 A For self defense.
- 5 Q Whose idea was that?
- 6 A My dad had suggested it.
- 7 Q Why?
- 8 A Because she lived by herself.
- 9 Q Why does she need self defense, I mean what was she
10 defending herself from?
- 11 A She had gotten a restraining order.
- 12 Q She didn't ask for the weapon?
- 13 A No.
- 14 Q Y'all gave it to her without her asking?
- 15 A Right.
- 16 Q So you were aware of that restraining order?
- 17 A Yes, sir.
- 18 Q You said you were aware of Mr. John Mayers spending a
19 week with her?
- 20 A Yes, sir.
- 21 Q That was after the restraining order?
- 22 A Yes, sir.
- 23 Q What did that make you think about the status of
24 their relationship at that point?
- 25 A I wasn't sure what it was.

1 Q Why didn't you ask for the gun back then?

2 A Just in case, because we didn't need it.

3 Q The night of May 7th Mandy invited you to Judy B.

4 Road?

5 A Yes, sir.

6 Q And was that uncommon?

7 A It wasn't uncommon for her to invite me to go hang
8 out at different places.

9 Q Late at night?

10 A Yes.

11 Q And you said you had been out to Judy B. Road with
12 her before?

13 A Yes, sir.

14 Q Do you recall the last time prior to May 7th that you
15 had been out there with her?

16 A Maybe a few days before.

17 Q What kind of physical embarrassments that she and
18 John Henry were doing that night?

19 A Just a hug.

20 Q What kind of shorts was she wearing?

21 A They are jogging shorts or workout shorts.

22 Q You said baggy?

23 A Yes.

24 Q Could you see the pistol in the pocket?

25 A No.

- 1 Q And were you paying attention to her pockets?
- 2 A Not really.
- 3 Q What kind of top was she wearing?
- 4 A A tshirt.
- 5 Q She was roughly the same size that she is now back
- 6 then?
- 7 A Maybe a little bit smaller.
- 8 Q Okay. She had her pants like that?
- 9 A Yes.
- 10 Q How much do you think I weigh?
- 11 A I have no idea.
- 12 Q About 180 pounds maybe?
- 13 A Maybe.
- 14 Q Is this gun noticeable in my shorts?
- 15 A No. Not from here.
- 16 Q You didn't notice them in her pants either that
- 17 night?
- 18 A No.
- 19 Q This was out in the open in the turnaround?
- 20 A Right.
- 21 Q Do you recall, was it a full moon, was stars out?
- 22 A The stars were out, it was a partial moon.
- 23 Q Enough light for you to see to carry on a
- 24 conversation with both, is that correct?
- 25 A Right.

1 Q So your testimony is that after y'all are sitting in
2 the car and speaking they walk off some 45, 50 feet?

3 A Yes, sir.

4 Q Still don't know about that in her shorts?

5 A I wasn't paying any attention.

6 Q Now, during cross I think counsel for Mr. Smith, Ms.
7 Smith asked you if you panicked at the sound of the gun.
8 Was it the sound of the gun or was it the sound or sight
9 of Mr. Mayers being shot. What panicked you?

10 A The sight.

11 Q You had never seen anybody shot before?

12 A Never in my life.

13 Q What, tell me what feeling did that elicit from you
14 upon seeing him running by screaming and bleeding?

15 A Fear.

16 Q Now, you didn't see a full body embrace?

17 A No.

18 Q This kind of thing going on, did you?

19 A No.

20 Q You are talking about just a hug?

21 A Yes, just a hug.

22 Q Your testimony is you are not a gun enthusiast?

23 A No.

24 Q You are not a gun collector?

25 A No.

- 1 Q Were you able to clear the jam in that pistol?
- 2 A No.
- 3 Q You didn't even know how to clear a jam from a gun?
- 4 A No.
- 5 Q Didn't know to slide it back and how to eject it?
- 6 A It was, the way it was jammed it wasn't jammed like
- 7 that.
- 8 Q Did you plan on disposing of the gun?
- 9 A No.
- 10 Q As a matter of fact you just put it in your truck?
- 11 A Yes.
- 12 Q You didn't try to hide it or anything?
- 13 A No, it was in the console.
- 14 Q You volunteered it to the officers?
- 15 A Yes, sir.
- 16 Q Did you force Mandy Smith to move onto your property?
- 17 A No, sir.
- 18 Q Did you threaten to kill her dogs?
- 19 A No, sir.
- 20 Q Have you never harmed her dogs?
- 21 A No, sir.
- 22 Q Did you force her to go on the run?
- 23 A No, sir.
- 24 Q You didn't hold a gun to her and say, get out of
- 25 town?

1 A No, sir.

2 Q Did you hold a gun to her and tell her to go out
3 there and desecrate those remains?

4 A No, sir.

5 Q Thank you.

6 THE COURT: Recross, Mr. Verner.

7 MR. VERNER: Briefly.

8 RECROSS-EXAMINATION

9 By Mr. Verner:

10 Q Did you know you were in jail exactly 336 days?

11 A Yes, sir.

12 Q You would count the days you were in jail?

13 A Yes, sir.

14 Q And you have been out about a year since then?

15 A A little over a year.

16 Q You got any intention, did you have a good time when
17 you were in the detention center?

18 A No, sir.

19 Q Got any desire to go back 336 times more?

20 A No, sir.

21 Q You actually helped Mandy get the restraining order,
22 didn't you?

23 A Yes, sir.

24 Q You took her to the Magistrate's office?

25 A I brought her up here.

- 1 Q Brought her up to the Lewis Rich Magistrate's?
- 2 A Yes, sir.
- 3 Q You drove her?
- 4 A Yes.
- 5 Q Did you help her fill out the paperwork?
- 6 A No, sir.
- 7 Q And when she got back together with John Henry you
- 8 were upset?
- 9 A No, sir.
- 10 Q We have done this to keep him away and you have gone
- 11 back to him?
- 12 A No, sir.
- 13 Q You didn't get angry?
- 14 A No, sir.
- 15 Q You didn't think that Mandy had violated the
- 16 restraining order?
- 17 A She violated the restraining order of her own, that
- 18 was her own choice.
- 19 Q Well, the restraining order was on John Henry?
- 20 A Yes.
- 21 Q But you felt that Mandy had violated the restraining
- 22 order that you had helped her get and she was going to
- 23 continue no matter what you did to go back to John Henry.
- 24 You are the one that called John Henry that night and said
- 25 she has moved to my property and she is safe now, is that

1 right?

2 A I called him and told him and she was moving.

3 Q And that she is moving away and that she is on her
4 own, she is safe now, she feels safe now?

5 A That is what she said.

6 Q And that is what you told John Henry to keep him away
7 from your property, were those Mandy's words or your words
8 to John Henry.

9 MR. SCOTT: Your Honor, I just object.

10 THE COURT: Overruled.

11 A Those were her words.

12 Q And even though you felt that Mandy was a potential
13 danger to you?

14 A Yes, sir.

15 Q You kept the gun in the glove box or console of your
16 pickup truck?

17 A Yes, sir.

18 Q I suspect when you live out there in the country like
19 that you probably don't lock it?

20 A Yes, I do.

21 Q You do?

22 A Yes, sir.

23 Q Any prowlers out there?

24 A There has been people thieving.

25 Q Did you call the police on them?

1 A I have never had anybody break into my stuff
2 personally.

3 Q And actually on cross you actually testified that, or
4 recross for the Solicitor you testified that one of the
5 major reasons that you didn't tell the police on Mandy was
6 really she was like a sister to you, I didn't want her to
7 get into any trouble?

8 A Right.

9 Q When Solicitor Scott here put this firearm in his
10 pants what does he have on that Mandy didn't have on that
11 night?

12 A He has got on pants and a jacket.

13 Q That is not real, Mandy had short pants and a tshirt,
14 right?

15 A Yes.

16 Q Thank you.

17 THE COURT: Thank you, Mr. Wise, you may step down.
18 Ladies and gentlemen, we will take our evening recess.
19 You are not to discuss this case with anyone. That
20 includes your family, or friends your fellow jurors or
21 anyone else. You are not to read, watch or listen to any
22 news accounts about the case. You are not to use your
23 computer, cellular phone or any other electronic device
24 with communications capabilities to obtain or disclose
25 information prohibited, information which is prohibited

1 include but is not limited to the following, information
2 about a party, a witness, an attorney or a court officer,
3 news accounts of the case, past or present, should there
4 be any; information collected through juror research on
5 any topic raised or testimony offered by any witness or
6 information collected through juror research on any other
7 topic that the juror would think to be helpful in deciding
8 the case. Remember you decide the case based on the
9 evidence and testimony, exhibits, stipulations presented
10 in the courtroom before you. Remember to keep an open
11 mind, do not begin your deliberations until you have heard
12 all of the evidence and testimony, closing arguments by
13 the attorneys and instruction of the law by the Court and
14 then directed by the Court to begin your deliberations
15 with your fellow jurors in your jury room. Thank you and
16 be back at 9:30 tomorrow morning. You are excused for the
17 day.

18 (Whereupon, the jury was excused from open court for
19 the day.)

20 THE COURT: Any specific request to charge,
21 Solicitor?

22 MR. STUMBO: Your Honor, I have heard your malice
23 charge before. I guess the State versus Belcher, just
24 some guidance and your law clerk can email it to us so I
25 can look at it. Accomplice liability, the hand of one is

1 the hand of all. The standard accomplice liability
2 charge.

3 THE COURT: Any specific request to charge,
4 Solicitor?

5 MR. STUMBO: Your Honor, I would like to know, I
6 guess, I have heard your malice charge before. I guess in
7 the light of the State v. Belcher with some guidance on
8 that. If your law clerk could email to us in the morning
9 sometime so I can look at it. As far as implied malice,
10 in particular.

11 THE COURT: Any other specific request?

12 MR. STUMBO: Accomplice liability, Your Honor. The
13 hand of one, the hand of all, we would like that. And
14 just the standard accomplice liability charge would be
15 fine on that one.

16 THE COURT: Mr. Verner, do you have any position as
17 far as the implied malice charge is concerned?

18 MR. VERNER: In honesty, Your Honor, I haven't
19 briefed myself recently on the, if the implied malice is
20 that the use of the gun, from the use of the gun that they
21 can imply malice, is that the law?

22 THE COURT: Yes, sir. Belcher basically says that if
23 there is anything tends to mitigate the homicide from a
24 murder to being a lesser included offense then you would
25 not give that specific instruction.

1 MR. VERNER: That will answer my, I was going to
2 suggest that if the Court believes his statements are true
3 that the charge of voluntary manslaughter could be
4 appropriate and depending on, and so if the Court does
5 charge voluntary manslaughter I don't know of the Court's
6 ruling, that that automatically means implied malice
7 doesn't come in or you could still charge implied malice.

8 THE COURT: I think Belcher pretty much would say if
9 there is a lesser included offense then you would not
10 charge the implied malice. I would tend to agree with
11 that. I would have to reread it tonight, of course. But
12 I will tend to agree with that situation. My practice has
13 been that if I do give a lesser included offense I do not
14 charge the implied malice.

15 MR. VERNER: I note, Your Honor, that it has been a
16 little while since I have read that statute. I do know
17 that the Court has moved substantially away from
18 automatically, the use of a weapon is implied malice, they
19 have taken some large steps away from that, that has an
20 absolute holding. And I think they are leaning more
21 towards that's something that the jury can consider but
22 that doesn't necessarily imply. But I do think the Court
23 is right, from my reading of those, those do tend to come
24 in involuntary or for manslaughter a lesser included type
25 situation. I apologize, I haven't read that case law for

1 some period of time. The last case I read, they seemed to
2 be drifting from that as an absolute charge. I would
3 argue that there is some evidence from the statements of
4 the conspirator, codefendant or witness that could suggest
5 voluntary manslaughter so I am preserving my right to
6 argue that to, Your Honor, or if the Court believes that
7 there is some evidence in the record of that.

8 THE COURT: We can visit that voluntary manslaughter
9 in the morning. I realize I am asking before the State
10 had rested and before you have presented but I am making
11 an assumption that we would probably argue and charge
12 tomorrow.

13 MR. VERNER: I am assuming the State is going to be
14 asking for the flight as an indication of--

15 THE COURT: I don't think that is a charge, I think
16 that is an argument. Historically the Court does not
17 charge flight. The State can argue flight as a conscious
18 of guilt.

19 MR. VERNER: Your Honor, both versions are going to
20 go to some extent on the mere presence at the scene of a
21 crime. Clearly his, the codefendants statement is a clear
22 mere presence. And quite frankly, Your Honor, that is
23 what I anticipate my defense is going to be also.

24 THE COURT: If I charge hand of one, hand of all I
25 charge mere presence. I was trying to think of the name

1 of the case. Mattison, M-A-T-T-I-S-O-N. But I would
2 charge mere presence if I charge hand of one, hand of all.
3 I intend to charge the hand of one, the hand of all and
4 mere presence.

5 MR. VERNER: I don't know how much longer they are
6 going to go but I think it could be possible for the jury,
7 to reach the jury tomorrow. I don't anticipate that I
8 would be extremely long with my witnesses, if they closed
9 up relatively early. But I will tonight research all of
10 the charges and email the prosecutors those charges.

11 THE COURT: And you can email them to my law clerk
12 also, please.

13 MR. VERNER: I do have a criminal charge book at my
14 office in the court house which would be now locked up to
15 me tonight. One of the prosecutors can get me in there.
16 I typically go back over my charge book.

17 THE COURT: How many more witnesses have you got,
18 Solicitor?

19 MR. STUMBO: One. We will be done.

20 THE COURT: That would be the Captain?

21 MR. STUMBO: Correct, Your Honor.

22 THE COURT: How many witnesses do you think you are
23 going to have?

24 MR. VERNER: Four to half a dozen, Judge. Several of
25 them wouldn't be particularly long witnesses. I do intend

1 to offer some character witnesses, Your Honor.

2 THE COURT: We will reassemble at 9:30 in the
3 morning.

4 (Whereupon, the trial will resume the next morning at
5 9:30 a.m.)

6 October 10, 2013

7 THE COURT: Anything from the State before we bring
8 in our jury?

9 MR. STUMBO: Nothing from the State, Your Honor. I
10 know we discussed charges at the end of the day yesterday.
11 Do you want to take that up at the end of our case?

12 THE COURT: Yes, sir.

13 MR. STUMBO: Okay. Nothing from the State.

14 THE COURT: Mr. Verner, anything from the defense?

15 MR. VERNER: No, sir. I would prefer to take up
16 charges maybe at a later time.

17 THE COURT: Bring our jury, please.

18 (Whereupon, the jury came into open court at
19 approximately 9:35 a.m.)

20 THE COURT: Welcome back, ladies and gentlemen. As
21 you recall, we are continuing the trial of the case by the
22 presentation of evidence and testimony by the State in its
23 case-in-chief. Please continue to give the parties your
24 complete and undivided attention that you have done
25 throughout the course of this trial. Solicitor, call you

1 next witness, please.

2 MR. SCOTT: The State calls Captain Robert Dennis.

3 CAPTAIN ROBERT DENNIS, being

4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Scott:

7 Q Captain Dennis, how long have you been with the
8 sheriffs department?

9 A I started at Newberry County Sheriffs Office around
10 1997. Prior to that I worked for Newberry City Police
11 Department, beginning in 1991.

12 Q Overall how many years of law enforcement?

13 A Just over 22 and a half years.

14 Q You are a captain now, what was your rank in 2011?

15 A In 2011 I was Lieutenant over the investigations unit
16 at Newberry County Sheriffs Office.

17 Q What kind of duties would a Lieutenant with the
18 sheriffs department have?

19 A At the sheriffs office as Lieutenant over
20 investigations we had the duty of, well number one,
21 investigating cases. The secondary role of that is to
22 assign cases to investigators that we have working under
23 us. At that time we had four other criminal investigators
24 and we investigated cases that range from petty larceny,
25 to phone harassment, to burglaries, right up to homicide

1 and other cases that would involve sexual assaults of that
2 nature.

3 Q And did you have an opportunity to become involved
4 with the investigation of a missing person named John
5 Henry Mayers out of the Chapin area?

6 A We did.

7 Q When you came onto the case what information did you
8 have in regards to Mr. Mayers?

9 A The first way that we were notified was through what
10 is called a teletype or email. And that was back around
11 the 11th of May of 2011. We had been sent that email of a
12 flyer which I believe the Court had earlier this week.
13 And we began to disseminate that to our patrol units as
14 well as areas in the Little Mountain area to kind of
15 generate any information that could be gathered from the
16 community.

17 Q On the 11th what was the nature of your investigation
18 at that point?

19 A On the 11th we really hadn't initiated anything fully
20 other than just disseminating those flyers and making our
21 patrol division as well as investigations aware of Mr.
22 Mayers missing at that point and time.

23 Q Do you know when he was first reported to be missing?

24 A When we actively began the investigation around the
25 16th, that is when Major Boland, at the time he was

1 Captain, he was notified by Lexington County and kind of
2 brought him up to speed as far as the report being filed
3 on May the 10th. They suspected he went missing on May
4 the 7th of 2011. Because we joined Lexington County with
5 Little Mountain and the Chapin area Major Boland was, had
6 a vast knowledge of that area as well as dealing with some
7 of the folks in that county line area. So that is one of
8 the reasons why he was notified to assist Lexington County
9 in locating people.

10 Q So at what point, Wesley Boland I guess is undertaken
11 a joint investigation with Lexington County in the
12 beginning. At what point do you become involved, you
13 mentioned the 11th passing out flyers.

14 A Yes, sir. The main time that I became involved was
15 on May the 20th which was a Friday. Major Boland had
16 notified me that they were going up to Timmy Wise's
17 residence and looked for Mandy. And I asked him if I
18 needed to come out and he said, yes. So, within that
19 point and time of them telling me that I drove
20 immediately to the Newberry County Sheriffs Office where
21 I met up with Lexington County. Major Boland, who they
22 were interviewing Tim Wise at the time.

23 Q Did you sit in on that?

24 A No, I did not sit in on that one, no.

25 Q Were you aware of where Mandy Smith was at that time?

1 A No, I had not been fully briefed because they were
2 continuing to do the interview inside the sheriffs office.
3 But once they finished they came out and said that they
4 had their intentions to go up to Mr. Wise's residence to
5 make contact with Ms. Smith and Mr. Wise was there. So
6 they gathered some information from Mr. Wise that they had
7 gone to Walmart and upon his return to the residence Mr.
8 Wise, excuse me, Ms. Smith was not with them.

9 Q Let's go to May 25th, what was going on May 25th?

10 A On May the 25th, after going and talking with Ms.
11 Smith, on the 20th we had recovered a handgun which I was
12 with Mr. Wise as well as the detectives, Mr. Derrenbacher
13 and Major Boland, went back to the residence, recovered
14 the gun.

15 Q You mentioned the gun, when was that turned over?

16 A The gun was turned over on May 20th of 2011.

17 Q Was that at the sheriffs department or was that at
18 Mr..Wise's home?

19 A No, sir. That was, we recovered that gun at Mr.
20 Wise's residence out of his vehicle.

21 Q How did you learn of the presence of that gun?

22 A Once Mr. Wise had completed his statement to Major
23 Boland and the Lexington County Detective I was able to
24 read that statement as well as meet with Mr. Wise who
25 agreed to accompany us back up to his residence and

1 recover the gun. Just to back up, because he had written
2 in his statement of loaning that gun to Ms. Smith.

3 Q So he informed you of the presence of that gun?

4 A That's correct.

5 Q And describe the gun?

6 A The gun is described as a black in color, the handle
7 is probably a wood grain type and he said it was a .9
8 millimeter.

9 Q Wood grain handle on that gun?

10 A I would say, it is kind of a brownish, I wouldn't say
11 it was wood itself.

12 Q Let me show you State's number 27, do you recognize
13 that?

14 A It depends on how you hold the light to it. The
15 handle is black in color but it is a black handgun and it
16 is the gun that we retrieved from Mr. Wise's truck.

17 Q And you were the one who retrieved it?

18 A I was.

19 Q And what did you do with it after you retrieved it?

20 A After it was recovered Mr. Wise advised us that the
21 gun was jammed, that he had attempted to retrieve the
22 cartridges from inside the chamber of the gun where it was
23 jammed without success. So with that being said we had
24 still had what I consider a loaded handgun that we had to
25 take precautions to secure. I did that by securing it in

1 a box and placing it in my vehicle.

2 Q You have already described the physical description
3 of it but anything else that you observed with the pistol
4 when you retrieved it out of the glove compartment?

5 A It actually wasn't in the glove compartment. As you
6 know most vehicles have what is called a center console
7 and that is where the gun was in the vehicle. Mr. Wise
8 was going to retrieve it which I stopped him and he
9 allowed me to retrieve it. Opened up the center console
10 and it was just laying inside the center console.

11 Q Was it wrapped in a towel?

12 A At the time it was not wrapped up, it was, once you
13 opened the compartment I could see it in plain view.

14 Q Did you have any knowledge of Mr. Wise handling the
15 gun?

16 A He had said that he had handled the gun, to place it
17 in the truck where we recovered it.

18 Q And did you observe it for any fingerprints or
19 anything?

20 A Once we got back to the sheriffs office, one of the
21 things that we had to do with this gun is make it safe.
22 So we took the precaution of looking at the outside of the
23 gun using a flashlight to see if we could see any visible
24 prints on the handgun. Once we did not see anything I
25 took what is called DNA swabs of the handle and around the

1 trigger area of the gun as well as the trigger on the
2 backside of the gun.

3 Q To your knowledge were you able to retrieve any
4 usable DNA?

5 A Those were sent to SLED and I do not have a record on
6 those, no.

7 Q You did not get any DNA results back?

8 A No.

9 Q Let me show you State's number 25. What is that?

10 A State's 25 is a casing, a shell casing which I
11 recovered out of the gun, it was a spent round jammed in
12 the pistol.

13 Q That is what is left after a bullet was fired, that
14 was jammed in the gun is what you are saying?

15 A It was, yes.

16 Q This is evidence, State's number 28, what is that?

17 A This is a round that was discovered in the magazine
18 of the gun that we recovered.

19 Q But was unable to be fired due to the jammed casing,
20 is that what I am understanding?

21 A I believe there would have been another bullet.

22 Q Another what?

23 A Another bullet.

24 Q There was another bullet in the gun you are saying?

25 A Yes, sir. What had happened is the shell casing as

1 well as one of the bullets during the ejection of whatever
2 transpired, the bullet which was a live round went into
3 the inside of the fired casing and was jammed into the
4 jammer of the handgun.

5 Q So the casing had actually flipped?

6 A That's correct.

7 Q Flipped it backwards?

8 A Yes, sir.

9 Q After being fired?

10 A That's correct. That was not a situation that we
11 wanted to be in because of the, attempting to get that
12 dislodged without accidentally having a discharge of the
13 gun.

14 Q But you were able to eventually clear the jam?

15 A We were able to clear the jam and make the weapon
16 safe for transport, yes.

17 Q So after you retrieved the handgun what did you do
18 with it?

19 A After we made the handgun safe from that point of, at
20 the sheriffs office, that gun was placed into an evidence
21 box. The gun was secured in that evidence box with no
22 live ammunition or shell casings and it was sealed and
23 transported to SLED for firearms examination.

24 Q And then when they sent it back have you had it under
25 the sheriffs department's care and custody the entire

1 time?

2 A It has. Once it was sent back to the Newberry
3 Sheriffs Office from SLED it was logged into our evidence
4 at the sheriffs office.

5 Q But that gun, State's number 27, that is the pistol
6 that you observed that day that had jammed and you got out
7 of Mr. Wise's truck?

8 A Yes sir, it is.

9 Q That's on May 20th?

10 A That's correct.

11 Q When was the next time you had any involvement with
12 this investigation after that?

13 A The next time was on May the 25th and we had met what
14 we, not only within our department but we ask for
15 outsiders to come in too, surrounding counties or here in
16 the City. We decided to meet with Lexington County so we
17 could put all of our heads together and decide which way
18 we needed to go from there. With Mandy not be located on
19 the 20th we decided it was time to ask Mr. Wise to come
20 back in and talk to him a little more in depth to see if
21 he would cooperate with us and give us more information.

22 Q And was he able to do that on the 25th?

23 A We did meet with him on the 25th, yes.

24 Q Is that when he gave his second statement?

25 A Actually what happened is, we had Mr. Wise to bring

1 his vehicle back to the Newberry County Sheriffs Office.
2 We have what is called a wash rack at the back of our
3 sheriffs office which allows us to have a concrete pad so
4 we are not hauling in the dirt or gravel or anything like
5 that. And it allows us to forensically, so to speak, look
6 a vehicle over to see if we see any type of evidence on
7 that vehicle. Mr. Wise agreed, he brought his vehicle and
8 we spoke with him probably for 30 to 40 minutes just
9 casually talking to him, letting him know that we were
10 concerned about Mr. Mayers, we were concerned about Ms.
11 Smith. And I even let Tim know we were concerned about
12 him as well. That by reading his statement that he gave
13 on the 20th there was some things that he was kind of
14 holding back from us.

15 Q At some point did he indicate that he may know more?

16 A He did. In that conversation I believe Major Gilliam
17 and myself confronted him and Major Gilliam just basically
18 asked him, do you think there is a place that Mandy would
19 go with John, maybe to harm him or whatever the case may
20 be. And Tim indicated he thought of Judy B. Road. At
21 first he didn't know the whole name of the road but he
22 knew it was Judy Road out in the Maybinton section of the
23 Sumter National Forrest which is towards the Whitmire end
24 of our county.

25 Q Was that significant to you all that he came up with

1 such a specific location?

2 A It did play a main part because what you find is most
3 people that don't travel Newberry County a lot, they won't
4 know of those places unless they go out there. Zombie
5 Land, Cry Baby Bridge is one of that we go out there,
6 probably Halloween is the best time of going out there
7 because people try to get that effect of being scared.
8 The Newberry Sumter National Forrest in that area is just
9 well known for hunting, deer hunting, turkey hunting. And
10 in May that was, no type of hunting was going on during
11 that season.

12 Q Deer season is over?

13 A Yes, sir.

14 Q Turkey season is not in?

15 A There were nothing to be hunted out at Sumter during
16 that time as far as game wise.

17 Q So after he mentions this Judy Road what did y'all do
18 next?

19 A Pretty much the easiest thing to do was load up and
20 ride out there because that was the first break, so to
21 speak, that we had of an area that we have not checked.
22 So myself and Major Gilliam and Mr. Wise loaded up. At
23 the time I was driving a Suburban and it is one of the
24 long ones. I was driving, Major Gilliam was in the front
25 and we had Tim in the back. And at the time he was not in

1 any custody.

2 Q Did y'all know how to get to Judy Road or did he have
3 to direct y'all out there?

4 A One of the things that we try to do is get the
5 individuals that we ride around, we let them give us the
6 instructions of where we need to go and turn. So that
7 was, once again, the way we had Tim to instruct us and he
8 did.

9 Q You say that is in Whitmire?

10 A It is in the Whitmire section, kind of Maybinton
11 area. You know, if you pull it up on your Google Maps or
12 different things like that it would highlight itself
13 entirely green to show the Sumter National Forrest.

14 Q About how long did it take to get out there from the
15 sheriffs department?

16 A From the sheriffs department we went the most direct
17 route and that was, we turned on Highway 34, right there
18 where the old Hardees used to be, it is now Fusion. We
19 went straight down 34 to Kitts Crossroads which is Highway
20 34 and 176. We took a left on 176 and rode down until we
21 got to Brazelmans Bridge which is just before the 121/176
22 split to go to Whitmire at Union County. He told us to
23 take a right on Brazelmans Bridge which took us into the
24 Sumter National Forrest. Just before what we classify as
25 Cry Baby Bridge, Mr. Wise indicated you need to slow down,

1 the road is right up here on the left. And if I had not
2 slowed down we would have went right past it. It is kind
3 of grewed up on both sides of the road there, it is now
4 marked visibly. But at the time it would slip up on you.
5 And Judy Road turned back to the left off of Brazelmans
6 Bridge Road.

7 Q Paved Road?

8 A No, sir. It is a gravel road that leads into the
9 forest.

10 Q And then once you go down Judy Road where did you go
11 next?

12 A Once we turned onto Judy Road we traveled right at a
13 mile. The road forks, it continues on to the left and
14 then it bears back to the right. Once we turned onto Judy
15 B. Road, or Judy Road, excuse me, I had probably traveled
16 maybe 40 to 50 yards down the road and I rolled down both
17 my window and Major Gilliam's window. At the time for us
18 it is very significant because during the time that we
19 have estimated Mr. Mayers missing we felt like there would
20 be some type of decomposition to the body and we would be
21 able to smell that.

22 Q Did you ultimately experience that?

23 A Yes, we did. Once we had made that right fork which
24 that road is almost a mile long we got to what is a, kind
25 of the throat so to speak of the turnaround. Once we past

1 the throat area of that turnaround we were immediately
2 struck by the smell. I continued on, got to the end of
3 what, the very back side of the turnaround, stopped the
4 vehicle, asked Major Gilliam if he would stay with Mr.
5 Wise and I began walking back toward the entrance, the
6 throat area and looking in the edge of the woods. And I
7 did locate a body.

8 Q Did you ask Mr. Wise where it was out there or did
9 you just sort of get out and start looking on your own?

10 A No, sir. At the time because we now had further
11 evidence of a possible crime I didn't ask Mr. Wise any
12 further questions at that point.

13 Q Okay. Let me show you State's number 1. What is
14 this, what view are we looking at here?

15 MR. DENNIS: Can I step down, Your Honor?

16 THE COURT: Yes, keep your voice up.

17 A What you are looking at is I am standing here in the
18 main road that comes in to this turnaround area. So I am
19 looking back to the dead end turnaround so to speak of
20 Judy B. Road.

21 Q And tell me where you parked your vehicle when you
22 got there?

23 A It is about that tall, but you can see at the very
24 top of the screen there is an individual with a blue shirt
25 on.

1 Q Right there?

2 A Yes, sir. That is where I parked my vehicle. I
3 stayed to the outside closer to the forest line, the wood
4 line and pulled right in to where that individual is
5 standing at the back of the road.

6 Q And whereabouts did you ultimately find Mr. Mayers?

7 A Mr. Mayers was located up in this area of the forest,
8 back toward the entrance of Judy B. Road, the turnaround.

9 Q He was in the wood line?

10 A Yes, sir. He was probably the distance and giving
11 the jury a range to judge, from me to about where the
12 Solicitors table is.

13 Q 20 feet or so?

14 A 20, roughly, yes sir.

15 Q And what did you observe about Mr. Mayers?

16 A The first thing that was noted about Mr. Mayers, the
17 body was strongly decomposing. The first thing was is
18 that we noticed that his arms were outstretched above the
19 head and then his feet were back into the forest. And
20 further view of the body, it would have been in the prone
21 position which is face down.

22 Q Anything else significant about the body that you
23 observed?

24 A One of the things that was noticed about the body,
25 wherever we start the examination we always look head to

1 toe. At that point and time we did not find the head for
2 the body.

3 Q As far as the turnaround, that opened area, did you
4 find any other evidence out there that you collected?

5 A Yes, we did. We do what is called a line search and
6 that is where we have individuals pretty much stand on
7 either side of you, pretty much arms length away and we
8 take in a straight line up through the road or the area
9 that we are searching. And we did do that. Located in
10 the area was a spent cartridge casing which was a .9
11 millimeter as well as a cigarette butt.

12 Q Let me show you State's number 6, do you recognize
13 that?

14 A Yes. State's number 6 are photographs that I took.
15 There are two markers in the picture. One is labeled
16 marker one and the other one is marker two.

17 Q Those were in what we call in the opening, the
18 turnaround area?

19 A That's correct.

20 Q What is number one marker?

21 A Number one--

22 MR. VERNER: Your Honor, can I have which photographs
23 he is using.

24 MR. SCOTT: Number 6.

25 Q Captain Dennis, what is number one there, what is

1 that marking?

2 A Number one here looking at, indicates the spent
3 cartridge or casing that was located there on the
4 turnaround.

5 Q Okay. And number two?

6 A Number two is the cigarette butt that was located.

7 Q Back to State's number 1. Whereabouts were those
8 markers in the turnaround area?

9 A Those markers were placed and evidence was located in
10 this area of the turnaround.

11 Q This is State's number 10. The cigarette, were you
12 able to obtain any evidentiary, anything of evidentiary
13 value of that cigarette?

14 A No sir, we were not.

15 Q But you did have it tested?

16 A Yes, sir. That cigarette butt was collected and then
17 the same process sent to SLED for DNA analysis and it was
18 sent back that they were unable to obtain any type of DNA
19 from that cigarette butt.

20 Q State's number 9, the picture here, the shell casing.
21 Was that sent off as well to be tested?

22 A Yes, sir. And you can see just a little bit clear in
23 this photo of the casing there.

24 Q Let me show you State's number 24. What is that?

25 A State's number 24 is the tin container that we used

1 to collect evidence at the sheriffs office. This is the
2 shell casing that was collected from marker number 1 off
3 of Judy B. Road.

4 Q So the casing illustrated in State's number 9 is the
5 shell casing you had in your hand there?

6 A Yes, it is.

7 Q State's number 24, I believe that was testified to
8 yesterday?

9 A That's correct.

10 Q Anything else that you located out there that you
11 were able to take into evidence?

12 A The only other thing that was collected was the body
13 of Mr. Mayers. We did collect some of his clothing items
14 which was a pair of brown sandals that were not
15 immediately at the body but had been tossed some five foot
16 away from the body, just to the, where his body was at,
17 just to the outside of the, of where we were working with
18 his body.

19 Q You say tossed, do we know that they were exclusively
20 tossed?

21 A No, sir.

22 Q But they were not with the body?

23 A They were not with the body, no.

24 Q Let me show you State's number 22 here, that has been
25 marked for ID purposes.

1 A This is a, what I call a bird's eye view of the Judy

2 B. Road area off of Brazelmans Bridge Road.

3 Q And Brazelmans Bridge Road, is it seen in this one?

4 A Yes sir, it is. It is at the lower half.

5 Q Would you mind stepping down for a minute.

6 THE COURT: Is that in evidence?

7 MR. SCOTT: No sir, Your Honor, we will mark it.

8 THE COURT: It can't be published until it is in
9 evidence.

10 MR. VERNER: If it is going to be used as a
11 demonstrative, I don't object as being used as a
12 demonstrative piece.

13 THE COURT: He hasn't offered it yet. All I am
14 saying, I don't know if he is going to offer it into
15 evidence or not.

16 MR. SCOTT: It is going to be altered before it is
17 introduced, so probably introduced as the final product.

18 Q If you would, Captain Dennis, do you see on that map
19 the turnaround.

20 THE COURT: Let me ask you something, Solicitor. Are
21 you offering it into evidence?

22 MR. SCOTT: Not at this time, Your Honor.

23 THE COURT: All right, you may continue.

24 Q Did you see the turnaround area that we were just
25 talking about on the projector?

1 A Yes, I do.

2 Q Would you be able to circle that and label it,
3 something to indicate that is where John Mayers was found?

4 A I can, yes sir. And what I am doing as I am writing,
5 explaining to the jury, I have circled the end of Judy B.
6 Road and I am listing it as the crime scene and location
7 of locating Mr. Mayers. Just for court purposes I wrote
8 end of Judy B. Road, crime scene of locating John Mayers.
9 At the top of that I placed the date that we located which
10 was 5/25/2011.

11 MR. SCOTT: Your Honor, at this time we would offer
12 State's number 22 for admission into evidence.

13 THE COURT: Mr. Verner?

14 MR. VERNER: I have no objection, Your Honor.

15 THE COURT: State's 22 is in evidence.

16 (Whereupon, State's Exhibit 22 was admitted into
17 evidence.)

18 MR. SCOTT: Permission to publish it to the jury.

19 THE COURT: Yes sir, you may publish.

20 Q Captain Dennis, how would you describe this area that
21 is illustrated in State's 22 here?

22 A Well, Sumter National Forrest. This is an area that
23 you find very few homes, most of the points of reference
24 that you would see are red blocks. Those are houses but
25 most of those are what we classify as hunting homes.

1 People come down during the hunting season and they stay
2 there a week, two weeks at a time or even sometimes months
3 at a time to do hunting. Then the rest of the time there
4 is no one there. People come and they check on them, you
5 know, at their convenience. The road itself, as you see
6 Judy and then Judy B. back to the right. This is a road
7 that is gravel, it is not maintained as you would find
8 most typical roads are. But it is a road that you can
9 ride on without the fear of falling in some holes or
10 different things like that. The National Forrest does
11 keep that road maintained.

12 Q After Mr. Wise took you out there to the end of Judy
13 B. Road and found Mr. Mayers, at some point did he give
14 another statement?

15 A Yes, he did. And just to kind of slow the role down
16 a little bit. Whenever you are looking for a missing
17 person you are trying to do all of the avenues that you
18 can. Once we located the body of Mr. Mayers we kind of
19 slowed ourselves down. The first thing that I did was
20 went back to my vehicle and I Mirandized Mr. Wise and I do
21 so on a Newberry Sheriffs Office rights form. Once I had
22 Mirandized Mr. Wise we pretty much started talking and I
23 was not going to keep him there at the crime scene. So we
24 had to wait probably another 25 to 30 minutes to actually
25 get other folks to us such as Major Boland who was

1 continuing to follow up on leads. He came to us. My
2 other investigators came to us. Also we requested
3 Lexington County because they had been involved with us in
4 the investigation. We ask that they have a couple of
5 their crime scene investigators come up and assist me with
6 the scene.

7 Q And after you Mirandized him, you said that was at
8 the scene or back at the sheriffs department?

9 A No, that was at the scene of Judy B. Road.

10 Q Did you talk to him any more at the scene?

11 A I pretty much talked to Mr. Wise and advised him, you
12 know, what I classify as the coming of Jesus speech. You
13 know, you are in trouble, you brought us here and you know
14 these things. I even questioned him about, as we turned
15 onto Judy Road off of Brazelmans Bridge Road which is the,
16 just turning off of Brazelmans Bridge we hadn't even
17 gotten close to where we located Mr. Mayers. Mr. Wise
18 immediately, once I rolled down the windows, took his
19 shirt and put it over his face. That was the first part
20 of knowing we are going to the right location and then
21 once we found the body. And I gave that to Mr. Wise in a
22 nutshell, you know, you have got to tell us the truth. We
23 have got to move on because there are so many people
24 involved in this. The family needs closure, we need to
25 find out what part you played and then we need to find out

1 what part anyone else played.

2 Q So the shirt over the nose, that indicated to you
3 that he knew what was coming?

4 A It indicated that he had been there probably before.

5 Q And ultimately did he give another written statement
6 on the 25th?

7 A He did, yes. Once Lieutenant Chapman arrived on the
8 scene, I asked Lieutenant Chapman if he would transport
9 Mr. Wise back to the sheriffs office, hold him there and I
10 asked Mr. Wise to go ahead and write a statement. And I
11 was able to respond back to the sheriffs office and meet
12 there with Mr. Wise and Mr. Chapman to go over the
13 statement he had written.

14 Q He didn't completely come to Jesus at that point, did
15 he?

16 A No, sir.

17 Q What was he saying at that time?

18 A Let me review my notes, please. One of the things
19 that Mr. Wise indicated is that he was asked to call Mr.
20 Mayers and inform him that Ms. Smith didn't want anything
21 to do with him anymore and that she was moving from her
22 Wheeland School address and that is where she was going to
23 be moving at, she would be safe. Also he went on to
24 indicate that, around May the 8th which classified in my
25 notes because I asked that, would be around the morning

1 of, she texted him again and was wanting to know how to
2 get to I-26 to Brazelmans Bridge Road. So he gave her the
3 information how to get back to 26 and then he stated the
4 following Monday, I learned that Mr. Mayers was missing
5 and he said I became suspicious of Ms. Smith after she
6 started becoming paranoid when asked where I thought she
7 might have hidden his body. I thought of Judy B. Road off
8 Brazelmans Road and I agreed to take deputies there to the
9 end. He also indicated that he had, she and him had been
10 to the end of Judy B. Road the night before Mr. Mayers
11 became missing.

12 Q He is still not putting himself there at the scene
13 when the crime was committed though?

14 A No, sir.

15 Q You mentioned some text messaging. Were you able to
16 retrieve any texts from Mr. Wise's phone?

17 A We did retrieve Mr. Wise's phone after he told us
18 that. Now we have to consider this was the 25th that we
19 got his phone and we are talking about texts that was done
20 around May the 7th or May the 8th. One of the things that
21 we have learned in law enforcement and dealing with
22 different carriers, cell phones have become very popular
23 in the world today. That is the main way of
24 communicating. Even so, texting, their servers at the
25 different carriers whether it is Verizon, AT&T or any

1 other one, they have gotten to the place that they do not
2 maintain texts because it just takes up so much room for
3 their server and they begin to delete it about after 15
4 days. With that being said a phone can also only hold up
5 so much memory. And after a certain period of time it
6 will begin overwriting the text on that phone. So at that
7 time we were unable to verify any of that information of
8 what Mr. Wise was telling us of his texts between Ms.
9 Smith and himself.

10 Q Do you recall what kind of phone it was?

11 A I believe it was an orange in color, let me take a
12 look just a minute, please. It was a orange, classified
13 as Palm Puzzle.

14 Q Is that a flip phone or a smart phone?

15 A It is not a flip phone but it is one of these that
16 the screen is right there visible to you whenever you
17 touch it.

18 Q The bottom line was you were able to review it and
19 were unable to retrieve these text messages?

20 A That's correct.

21 Q And you were unable to see the 15 days as a window
22 you are interested in had already elapsed?

23 A Yes. Anything pretty much after about 15 days we are
24 unable to get any type of text form from any carrier.

25 Q On the 25th, anything else significant on the 25th.

1 Where was Mandy Smith on the 25th?

2 A Mandy had been arrested in Greenville on the night of
3 the 24th, 25th. And she was at Newberry County Detention
4 Center on unrelated charges to this case.

5 Q At this point, you may have already mentioned this,
6 was Tim Wise arrested?

7 A On the evening of May the 25th we took Mr. Wise into
8 custody, we had not formerly charged him yet but we did
9 take him into custody with the intention of making charges
10 against him, yes.

11 Q The next day, Thursday, May 26th, did you have any
12 more contact with Timmy Wise that day?

13 A We did, yes sir. We met with Mr. Wise again on May
14 26th, he was brought from the Newberry County Detention
15 Center over to the sheriffs office located at 520 Wilson
16 Road, formerly known right now as the trailer park. And
17 we interveined Mr. Wise in the office with Major Gilliam.

18 Q Did he request to speak to you all or did y'all find
19 him, do you recall?

20 A No, we went back to get Mr. Wise. I had attempted to
21 leave an open dialogue with him on the 25th. Because we
22 had not shared with him about the head and I knew that
23 would be important because we had searched the area and
24 did not locate it. So we went to go get him on the 26th
25 and give him yet the opportunity to let us know exactly

1 what happened and if he could help us any further.

2 Q At that point what kind of information did he share
3 with you?

4 A Well, to begin we had to, we started off with giving
5 Mr. Wise his rights which is his Miranda rights because we
6 were investigating a potential homicide. Mr. Wise was
7 given his rights and we began at 11:19 a.m. on the morning
8 of 5/26. And Mr. Wise waived his rights to any type of
9 counsel or anything of that nature and he was willing to
10 talk to myself and Major Gilliam.

11 Q What is he saying on the 26th?

12 A The 26th, I would describe it difficult for Mr. Wise.
13 He finally broke down. And when I say broke down, he
14 began crying and he did admit to us now being at the dead
15 end of Judy B. when Mr. Mayers was shot. With that being
16 said we kind of continued the interview of talking with
17 him trying to get further information of what happened,
18 what transpired. He began to tell us of how, one thing
19 that was consistent between the 25th and now the 26th is,
20 is that Ms. Smith had asked him to call Mr. Mayers and let
21 him know she was coming to pick him up. During that time
22 that she would pick him up at Mr. J.'s which is located
23 there on Highway 76 at the County line, a couple of tenths
24 of a mile across our line on the right going into Chapin.
25 That he had sat down and began playing cards on his

1 computer again and then sometime around 11:30 she sent him
2 another text to meet her at the end of Judy B. Road. He
3 left his home, so he tells us, and he arrived out on Judy
4 B., somewhere about quarter till midnight and he was the
5 first one there. And he said it was just a little bit
6 time had elapsed before he saw the headlights come up and
7 saw the white pickup pulling into the end of Judy B. Road.
8 In that vehicle was Ms. Smith who was driving and Mr. John
9 Henry Mayers.

10 Q How did he describe the killing happened?

11 A In the conversation of talking with Mr. Wise he
12 stated that, once they met there they kind of hung out
13 around 30 to 40 minutes and that John had walked over to
14 the woods facing Mandy. He stated that he heard one
15 gunshot and then he saw John coming running and hearing
16 John say, please don't and started running out Judy B.
17 Road. And I asked him about that, running out and he said
18 running back the way they came in. Tim stated as John ran
19 past him he saw that he was bleeding from his shoulder
20 area because he had on a white tshirt. The first question
21 that both myself and Major Gilliam had of him was, how
22 could you see this because this is a dark area and he once
23 again, well, the moon was out and the stars were out so
24 there was a little bit of an illumination there in that
25 area which it is open. You would probably think of that

1 area, just a little bit bigger than this courtroom with no
2 cover, all the trees were off to the outside of it. So
3 you would have a little bit of an illuminating light
4 coming from the stars and the moon. He said that he saw
5 John running to the edge of the woods when he heard the
6 second shot. And then he said two to three minutes later
7 Mandy came out. I asked what, if anything, what happened
8 next. He said that whenever Mandy came out of the woods
9 she made the comment, he won't be hurting me anymore. And
10 Tim stated that he had never seen Mr. Mayers hurt Ms.
11 Smith, never been around. And he completely said he was
12 just in total shock of what happened. He said that he
13 left and as he left Mandy come in behind him and followed
14 him out and they left the area.

15 Q In two separate automobiles?

16 A That's correct.

17 Q Did he talk about going back out there?

18 A He did. We kind of got to that stopping point of
19 what he had explained to us, what transpired there. And I
20 said, well, we really need to know what happened later on
21 because the head is missing and we haven't located the
22 head. Once again Mr. Wise became emotional, and he stated
23 that they had gone back around May the 19th to Judy B.
24 Road. And I said, well, who is we. He said it was he and
25 Mandy. And said that he took his truck, they drove out to

1 Judy B. Road. He stated that Mandy got out, went into the
2 woods, later came back out with a bag and placed it in a
3 gray bucket in the back of the truck. And that they rode
4 down to the river where he had gone many times before
5 fishing and that is where she tossed it into the river,
6 the bag. And I asked, I said well, what was it. And he
7 said it was the head, she had cut it off.

8 Q Did he show you the part of the river where Mandy
9 done this?

10 A He did. We drove out to the river which is Enoree
11 River off of Maybinton Road and we had Mr. Wies with us
12 and he indicated the area which she had throwed the bag
13 and indicated how it floated because the water was
14 running. When I say, running, it was a natural flow of
15 water coming down. And he pointed for us to know that the
16 head floated down within the bag and kind of disappeared
17 out of sight along some logs that was sticking out of the
18 water.

19 Q So he takes you to that part of the river?

20 A Yes, sir.

21 Q Y'all drove him out there?

22 A Yes, sir.

23 Q Let me show you State's number 13. Do you recognize
24 that?

25 A I do. State's number 13 is a photograph of the

1 river. I am actually standing on the bridge looking down
2 to where the ramp is that people would, they would go and
3 launch their boats or canoes or whatever.

4 MR. SCOTT: Your Honor, the State would offer State's
5 13 for admission into evidence.

6 THE COURT: Mr. Verner?

7 MR. VERNER: Can I see it for just one second. No
8 objection, Your Honor.

9 THE COURT: 13 is in evidence without objection.

10 (Whereupon, State's Exhibit number 13 was admitted
11 into evidence.)

12 Q You say you are on a bridge looking down at the
13 river?

14 A That's correct.

15 Q You mentioned he said the bag went down?

16 A That's correct.

17 Q Do you see that in this photo?

18 A The area in which he indicated the bag went down was
19 in this area here. You can see a log here going to the
20 top of the picture and just in here there are some more
21 logs that are jumbled so to speak that have lodged
22 themselves there at that point.

23 Q Did you have a whole lot of hope that you would ever
24 find any remains?

25 A Not really, no.

1 Q And so what did you do for search for these remains?

2 A One of the things that we have access here to in
3 Newberry County is a dive team. We called the leader of
4 the dive team which was Assistant Chief Glenn Hamm,
5 Prosperity Rescue Squad and asked for him to respond. One
6 of the reasons why we called Mr. Hamm is he has frequently
7 dove for us to retrieve evidence of value that has either
8 been thrown in the river or thrown in the lake. So we
9 called for his assistance to come. And this is, just to
10 point out, this is the ramp that comes down and this is
11 our sheriffs office boat.

12 Q Okay. Let me show you State's number 14. Do you
13 recognize that?

14 A Yes. State's 14 is a photograph of pretty much
15 someone being in the sheriffs office boat and we are
16 actually shooting back from where the logs were back
17 toward the bridge.

18 MR. SCOTT: Your Honor, the State would offer number
19 14 for admission into evidence.

20 MR. VERNER: Without objection.

21 THE COURT: Without objection State's 14 is in
22 evidence without objection.

23 (Whereupon, State's Exhibit 14 was admitted into
24 evidence.)

25 Q In this picture, is this where the remains were

1 found?

2 A Yes sir, they were, yes sir.

3 Q Mr. Hamm was able to retrieve Mr. Mayers remains from
4 this area?

5 A He was, yes sir. And just for reference point,
6 Solicitor, the bridge is here at the top of the screen.
7 Here where the pointer is at is the ramp, this is the log
8 and this is the jumbled up logs and we are looking back
9 toward the bridge from the previous picture.

10 Q Okay. Probably just a lot of luck involved for them
11 to find that, those remains, is that accurate?

12 A I really don't believe in luck when it comes to
13 police work. It is just taking the time to get out there
14 and do.

15 Q Mandy Smith at this point has been arrested, is that
16 what you testified to earlier?

17 A Yes, sir. She had been taken into custody in
18 Greenville County. Major Boland had gone up with another
19 investigator from Newberry Sheriffs office taking custody
20 of her and brought her back to Newberry County on
21 unrelated charges.

22 Q At some point did you have an opportunity to speak
23 with her on the 26th?

24 A Yes sir, we did.

25 Q Who is we?

1 A At first it began, the interview started on May 26th,
2 3:51 p.m. and that interview was conducted at the sheriffs
3 office on Wilson Road in Major Gilliam's office. Major
4 Gilliam was in the office when we began the interview but
5 had to leave due to other obligations that he had to meet
6 that afternoon. Once he left I asked for Investigator
7 Matt Bowers to come up and sit the remainder of the time
8 with us.

9 Q Was this before or after Timothy Wise had given his
10 final statement?

11 A This was after Mr. Wise had given his final
12 statement. It was also after we had regrouped from the
13 river going to the pathology office here at Newberry
14 Memorial Hospital and then coming back to the office.

15 Q Okay. And did you read Ms. Smith her Miranda rights?

16 A Yes, I did.

17 MR. VERNER: Your Honor, at this time I would raise
18 an objection and I would like to be heard on a matter of
19 law.

20 THE COURT: Yes, sir. Ladies and gentlemen of the
21 jury panel, if you would please step to your jury room.
22 Do not discuss the case.

23 (Whereupon, the jury was excused from open court.)

24 THE COURT: Mr. Verner.

25 MR. VERNER: Your Honor, I would object again to the

1 statements coming in. The change of facts that we have
2 from when I originally raised this motion was that Major
3 Boland's testimony for the jury was that Mandy was the one
4 who told him that she wanted to get an attorney to come
5 speak to him. I think when I first raised the motion that
6 the proffered testimony was, I think it came from her
7 mother and that was part of the Court's consideration in
8 denying my motion to suppress the statements. The trial
9 testimony differed in the fact that the officer testified
10 that it was the defendant, Mandy Smith, who raised the
11 request that she wants to come in and speak to them when
12 she has an attorney. I do think that could affect the
13 Court's analysis of this motion and I reraise my motion to
14 suppress.

15 THE COURT: It does not change my analysis. I think
16 it is a matter of information that goes before the jury
17 and it is a matter of the testimony of Major Boland. You
18 are making the assumption that it is absolutely correct as
19 to what he testified in front of the jury panel as a
20 position against what he testified in-camera. Still by
21 the preponderance of the evidence and the totality of the
22 circumstances I find that she did not invoke her right to
23 an attorney under State versus Kennedy. State versus
24 Kennedy, as you all well know, the Defendant Kennedy said,
25 what if I asked for an attorney. And that was clear that

1 the person was already under arrest at that time so it
2 does not change the Court's ruling under the State versus
3 Washington and the State versus Kennedy. But your motion
4 is certainly noted for the record, Mr. Verner.

5 MR. VERNER: Thank you, Your Honor.

6 THE COURT: We can take our recess now. Captain, you
7 may step down, you may not discuss your testimony with
8 anyone during this break.

9 (Whereupon, a short break was taken.)

10 THE COURT: Anything further, Mr. Verner?

11 MR. VERNER: No, Your Honor.

12 THE COURT: Anything from the State?

13 MR. SCOTT: No, Your Honor.

14 THE COURT: Bring our jury in, please.

15 (Whereupon, the jury came into open court at
16 approximately 11:02 a.m.)

17 THE COURT: All right, Solicitor, you may continue.

18 CONTINUE DIRECT EXAMINATION

19 By Mr. Scott:

20 Q May 26th, after you spoke to Timothy Wise and he gave
21 his final statement were you able to then speak with Mandy
22 Smith?

23 A Yes, I was. Ms. Smith was already at the Newberry
24 County Detention Center. We had her transported over to
25 the Wilson Road Sheriffs Office off of 76 and we met in

1 Major Gilliam's office.

2 Q Was she read her Miranda rights?

3 A She was, yes sir. We use a form at the sheriffs

4 office which has the rights on it as well as the wavier.

5 Q Did she appear to understand her rights?

6 A Yes, she did, yes.

7 Q You advised her she didn't have to speak with you

8 all?

9 A I did. There is a formality of allowing her to read

10 along with me as I am reading the rights.

11 Q And you said they are printed up on a form that you

12 give her?

13 A Yes, they are.

14 Q You are saying she reads them as you are reading them

15 aloud?

16 A That's correct.

17 Q So you also inform her that anything that she says

18 can be used against her later?

19 A Yes, I did.

20 Q And did she have the right to an attorney?

21 A Yes, I did.

22 Q She had the right to a free attorney if she couldn't

23 afford one?

24 A That's correct. I always put a caveat in there

25 letting them understand too that there could possibly be a

1 fee, you know, to the court. As someone always told me,
2 nothing is never free.

3 Q The \$40.00 dollar application fee?

4 A That's correct.

5 Q For a public defender is what you are talking about?

6 A That's correct.

7 Q And then of course that they have the right to stop
8 answering questions at any time?

9 A That's correct.

10 Q Did she appear to understand these rights as you read
11 them to her?

12 A She did. She both verbally said that she understood
13 them and then she signed our form that we use to indicate
14 that she did understand the rights that were given to her
15 and dated 5/26.

16 Q Did you threaten her or intimidate her in any way?

17 A No, sir.

18 Q What about Danny Gilliam?

19 A As a matter of fact Major Gilliam went up to the side
20 office and got her a drink so that she could have.

21 Q What did she say?

22 A During the discussion, one of the things, whenever we
23 started out with the conversation after Ms. Smith had had
24 her Miranda rights read to her and she waived, we began
25 talking about the disappearance of John Henry Mayers. She

1 began to go down that road, she had not seen him as well
2 as the last time she had seen him, he was getting into a
3 PT Cruiser with Pee Wee. Now, Pee Wee to us is Elvis Hill
4 that we know him from down in the Little Mountain area.
5 At that point and time I instructed Ms. Smith that, you
6 know, we had already found the body of Mr. Mayers. And
7 that we had Tim in custody and that we know part of the
8 truth. And it was time for her to clear her conscious and
9 give us her side. And she began to talk about her teenage
10 years of moving in with the Mayers family. Of how they
11 had pretty much given her a home, given her some home life
12 styles of cooking and treating her as one of the family.
13 And then she began talking about her relationship with
14 John, that started off good at first and then began to
15 fall into the drug use. She also claimed that he was
16 making her do things so that they both could support their
17 habit of getting drugs such as sex or different things of
18 that nature so that they could obtain crack cocaine.

19 Q Did she talk at all about May 7th of 2011?

20 A She did.

21 Q What did she say about that day?

22 A She told that her and John were together, that she
23 had asked him to call and tell him that she would be there
24 to pick him up.

25 Q Wait a minute, she and John had been together. Is

1 that what you said?

2 A Her and John had been together that night, I had kind
3 of jumped ahead. She had Tim to call him and she went to
4 pick him up. She stated that when she picked him up they
5 were talking. At first it was, it started off good but
6 then it became more abusive because he was fussing about
7 her moving. He told that she was running around on him
8 and she tried to, as she told, she tried to calm him down
9 because she wanted to keep her friendship with him and she
10 also indicated that she loved him still. And then we
11 asked what happened out at the turnaround of Judy B. Road.
12 And she stated that she thought she pretty much snapped.
13 That she had been outside the truck and that she had the
14 gun with her because she had it for protection after a
15 restraining order. And she told that after she shot him
16 for the first time Tim freaked. And Tim got in his truck
17 and left. I asked her what happened. She said she was in
18 the woods whenever she shot him first and that John came
19 at her and she shot him again. She also began to kind of
20 elude because I had already told her that we had located
21 the head. And she said she was scared. She was scared
22 because she had talked with the cops prior to the 20th and
23 then after the 20th we couldn't locate her anymore, that
24 she didn't want to do it but she went back to the location
25 of where John's body was at and she took the head off and

1 she went to the river and Tim was with her and threw it in
2 the river. She also told me she was sick and tired of
3 wasting her life over John. The other thing that she
4 shared with us that she made adamant that Jeff was not
5 involved in any such way. And I just clarified, you know,
6 now who are we talking about. And she said Don Buford.
7 Then I believe I asked her about the truck and she said,
8 yes, I did have his truck but Don was not around and he
9 had nothing to do with being with Tim and myself.

10 Q What, if anything, did she say anything about Tim
11 Wise?

12 A Well the one thing that she talked about was, is
13 after the first shot she said that Tim freaked out and
14 that he left.

15 Q What, if anything, did she say regarding Timothy
16 Wise's knowledge of what she did that night or what she
17 was going to do that night?

18 A As far as, maybe you need to reask the question, I am
19 trying to understand what you are asking.

20 Q She mentioned Don Buford had no part in this whole
21 thing, is that what you said?

22 A Yes.

23 Q What, if anything did she say regarding Timothy
24 Wise's involvement with this May 7th incident?

25 A You know the only thing that she mentioned about was

1 Tim making the calls, the gun belonged to Tim. And then
2 Tim going back and helping, and I say helping, he was the
3 transportation to go back to the 19th where they removed
4 the head and then threw it in the river.

5 Q You said, she said something about Timothy making the
6 calls, what does that mean?

7 A She had instructed Mr. Wise to make the phone calls
8 to John to let John know, hey, I am coming to pick you up.
9 I need to--

10 THE COURT: Wait just a minute, Solicitor, you may
11 step down.

12 (Whereupon, a juror exited the courtroom due to
13 coughing and returned three minutes later.)

14 THE COURT: You may continue, Solicitor.

15 MR. SCOTT: Thank you, Your Honor.

16 Q Captain Dennis, you had mentioned something about she
17 said, she indicated that Tim Wise had made the calls,
18 would you explain that?

19 A Yes, sir. She had Mr. Wise make the call to John to
20 tell him that she had moved and that she was going to be
21 safe where she was going.

22 Q Who did she say removed Mr. Mayers head?

23 A According to her statement, Ms. Smith wrote, a week
24 later I went back to where this took place and removed
25 head and took it to nearby river.

1 Q And did she memorialize her statements to you in any
2 way. Did she reduce it to writing?

3 A She did. We have a three-page statement that Ms.
4 Smith introduced to myself and Matt Bowers on the 26th of
5 May.

6 Q Let me show you State's number 19. Do you recognize
7 that?

8 A State's 19 is the original rights form as well as the
9 three-page statement written by Mandy Smith.

10 Q That is the original statement?

11 A Yes, sir. Just for your knowledge and the jury's
12 knowledge I was reviewing a copy but this is the original
13 that I turned over to the Solicitor's office.

14 MR. SCOTT: Your Honor, at this time the State would
15 offer State's number 19 for admission into evidence.

16 THE COURT: Any objection, Mr. Verner.

17 MR. VERNER: Subject to my previous objection.

18 THE COURT: Subject to your previous objection
19 State's 19 is in evidence.

20 (Whereupon, State's Exhibit 19 was admitted into
21 evidence.)

22 Q Captain Dennis, I would ask you if refreshing your
23 memory would help and I would direct you to the last four
24 or five sentences of the statement.

25 MR. VERNER: Object to the form of that question.

1 Q Let me ask you, what, if anything, did Mandy Smith
2 say about Timothy Wise's knowledge of what she was going
3 to do that night?

4 A At the end of her last page, page three of the
5 supplemental she wrote, Don Buford had nothing to do with
6 what went on and had no knowledge of this. I just used
7 his truck. Timothy Wise had no knowledge of what happened
8 until it was done and he freaked out and left.

9 Q Is it your testimony that that statement is freely
10 and voluntarily given by Mandy Smith?

11 A It was. It was written in her own handwriting at her
12 convenience.

13 Q That was after being informed of all of her
14 constitutional rights?

15 A That's correct.

16 Q You did not intimidate her in any way?

17 A No sir, by no means.

18 Q Was Ms. Smith charged on that date?

19 A She was.

20 Q What charges, what was she charged with?

21 A Ms. Smith was formerly charged the next morning with
22 murder.

23 Q At the time that that statement was given was Timothy
24 Wise incarcerated?

25 A He was, yes sir. He was incarcerated on the evening

1 of May the 25th and then he was reinterviewed on the
2 morning of the 26th and then placed back at the Newberry
3 County Detention Center where he was informed he would
4 also be retrieving formal charges of murder.

5 Q Was that the last time you spoke with Mandy Smith?

6 A No, it was not.

7 Q When was the next time you spoke with Mandy Smith?

8 A The next time I spoke with Mandy Smith was on 6/10 of
9 2011. I had received information from the jail through a
10 letter that was addressed to myself. And it came from Ms.
11 Smith and she had written the letter on June 7th asking
12 that, I have tried to reach you through family. I would
13 really like to talk to you in person, revise my statement.
14 Please let me know something, I have been trying for over
15 a week now. Thanks, Mandy L. Smith. After retrieving or
16 receiving this letter I did go over to the Newberry County
17 Detention Center where Ms. Smith was being detained in
18 custody and had her brought up to Captain Kitchens office
19 which is part of, the front part of the jail. Once you go
20 past Captain Kitchens office where the Magistrate's office
21 is at that is the jail. Brought her up to Captain
22 Kitchens office and briefly spoke to her.

23 Q Let me ask you again, did you read her her Miranda
24 rights, the ones you outlined earlier?

25 A I did not read her her Miranda rights until we got

1 over to the sheriffs office. Once she told me that, I am
2 glad to see you, I need to talk to you about my statement.
3 I knew then it may take a little bit longer to talk to
4 her. I just didn't want to be there at the detention
5 center with interruptions or things like that. So we rode
6 back out to the sheriffs office on Wilson Road. I had a
7 deputy with me, Michael Claytor who, when we made the
8 transport we got to the office. Prior to going in the
9 office we took a smoke break. I don't smoke but I do
10 allow others to smoke. And went into my office and
11 formerly gave Ms. Smith her Miranda rights once again on
12 that form that we use at the sheriffs office.

13 Q And what did she tell you on June 10th. From my
14 count this is 15 days after her last statement?

15 A That's correct.

16 Q And she has been in the jail this entire time?

17 A She has, since May, if you count the 24th, 25th.

18 Q What is she telling you on June 10th?

19 A What she is telling me on June 10th. In the first
20 statement all is true about the abuse and drugs that she
21 relayed about her and John. That also is the truth was
22 that she had T.C., which T.C. is Timothy Carol Wise, folks
23 call him T.C., we call him Tim, we call him Timmy. Had
24 him call John, that she would pick him up at Mr. J.'s in
25 Chapin. That she had told T.C. where she was going and

1 that she would--

2 MR. VERNER: Your Honor, subject to my same, I object
3 to the statement, the second statement as well. This is
4 the second statement.

5 THE COURT: Step up here for just a moment.

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

9 THE COURT: Thank you, you may proceed, Solicitor.

10 Q Tell me what, on June 10th what was Ms. Smith saying?

11 A Ms. Smith once again, she wrote that she had texted
12 Tim Wise around 10:00 p.m. to call John so that he would
13 come and hang out with her. She picked up John about a
14 half hour later and then she texted him to let him know
15 where she was going. She also claimed that that is
16 something that she always did, to let Tim know where she
17 was going. She stated that when John and her arrived
18 there which was Judy B. Road, that Tim was already there.
19 Asked Tim why he was there and he said he had a feeling of
20 need to be there. I just thought he was being protective
21 and she was talking about Tim. John, Tim and I talked and
22 laughed for a while. John and I were standing together.
23 John was behind me holding onto me and we was talking and
24 looking up at the night sky. From out of nowhere I was
25 pushed and I fell to the ground and I heard a shot. When

1 I looked up John and Tim was struggling with each other.
2 I screamed to Tim, no T.C., no. John took off running.
3 He went between the trucks and down the road. I got my
4 feet and ran after them, Tim chased him down. When I came
5 past the trucks there was a second shot. I seen Tim in
6 the woods. I ran to where Tim was and seen John on the
7 ground laying on his back. I went to where John was on
8 the ground. I was so scared and crying and screaming.
9 Tim grabbed me and pulled me away from John. I tried to
10 go back to John but Tim wouldn't let me. He kept pulling
11 me away. Tim pulled me to Don's truck and told me to get
12 in. I was so scared and in shock. Tim closed the door of
13 the truck and went back to where John was. I don't know
14 what he did when he went back. When Tim came back to the
15 truck, Tim told me that he would kill me and my kids,
16 (animals), if I told anyone and that I had to be ready to
17 sleep in the shed at his house by Sunday night. Tim
18 followed me out of that place and I am sure he followed me
19 home. I had given Tim the gun back a couple of weeks
20 before the 7th of May. I had never shot the gun before.
21 Around the, Tim took me for a ride which ended up back at
22 the place where John was and he made me get his head and
23 put it in a bucket and then went to a river and Tim tossed
24 it in. Tim was not suppose to be there that night, was
25 suppose to be John and I. I love John and, yes, he was a

1 mean, mean person most of the time. But he did not
2 deserve to die by Tim's hand. This whole situation has
3 caused me a lot of mental harm. This past week I found
4 out that Tim is in love with me and has been working at
5 destroying my life over the past three to four months. He
6 destroyed my relationship with my landlord, my boyfriend,
7 (Kris), and my relationship with Don. And he hated John.
8 When Tim first met my mom he took her out for breakfast
9 and asked and almost drilled her for information about me
10 and my past. My mom told many things about my past such
11 as my mom's dad sexually abusing me and trouble I went
12 through, trouble I went through that she told Tim about me
13 being in Epworth's Children's home and the struggle with
14 that. I feel as though that Tim has preyed on my mental
15 status when it comes to men and he played me. I never
16 knew he was in love with me. If I would have I would not
17 of been so close of friends with him. Tim used me for
18 some sick, twisted game. And that is the end of her
19 statement on the 10th.

20 Q And she was able to put that in writing for you?

21 A She did. She wrote that and signed it.

22 Q Let me show you State's number 20. Do you recognize
23 that?

24 A Yes, sir. State's number 20 consist of four pages.

25 The first page is the rights form that we read to an

1 individual. And she waived her rights, she signed in two
2 places. One that she understood her rights, second place
3 that she was waiving her rights to have an attorney
4 present and was willing to talk to me. The next two pages
5 are the actual voluntary statement form where the
6 individual is allowed to write the statement and then the
7 third page is just a supplemental of her continuation of
8 the statement. And then the last page is the letter that
9 I had received that was dated June the 7th but it was
10 probably a couple days after that that I received it. And
11 all of this is the original form that I submitted to the
12 Solicitor's office.

13 Q Thank you.

14 MR. SCOTT: The State would offer State's 20 for
15 admission into evidence.

16 THE COURT: Subject to--

17 MR. VERNER: The same objections, Your Honor.

18 THE COURT: State's 20 is in evidence subject to
19 objection.

20 (Whereupon, State's Exhibit 20 was admitted into
21 evidence.)

22 Q Captain Dennis, the revised statement was given a
23 couple of weeks after the first statement. She is now
24 saying it was all Tim Wise who did everything. Is that
25 safe to say?

1 A That's correct.

2 Q She is saying he was playing a sick, twisted game?

3 A That was her remarks in that statement, yes sir.

4 Q And you said she described John Henry Mayers holding
5 her from behind. That is what she said?

6 A Yes, sir.

7 Q And this is after everybody is laughing and talking?

8 A That is the way the statement reads, yes sir.

9 Q And then she told you out of no where she is pushed
10 to the ground. Is that what she says?

11 A That's correct.

12 Q Did you speak with her anymore after this?

13 A No, sir.

14 Q From the time that John Henry Mayers, the date we
15 know that he died or the date we are told that he died,
16 May 7th to June 10th, do you agree there is a lot of time
17 that is elapsed since then?

18 A Yes, sir.

19 Q Twenty days or so?

20 A Yes, sir.

21 Q And at this point how many people do you think you
22 interviewed and how many leads have you followed?

23 A I would say, you know, probably a dozen or more leads
24 that came in. A lot of those leads came in from the
25 family, you know, just being out there, knowing John,

1 knowing his habits, knowing the people that he interacted
2 with. So they were giving, not only Lexington that kind
3 of took the lead up until the 20th of following up but
4 also making contact with Major Boland and the following up
5 with leads.

6 Q And there were multiple locations that were involved
7 in this crime, is that safe to say?

8 A Yes, sir. There were several locations that we were
9 just, you know, in our county, Lexington County and then
10 once things started kind of opening up then Sumter and
11 then Greenville, places like that.

12 Q Let me show you State's 21. Do you recognize this?

13 A State's 21 is a map, geographical map, so to speak,
14 of Newberry County.

15 Q Is that a fair an accurate representation of the
16 County and the quarters of the County?

17 A Yes sir, I believe so.

18 MR. SCOTT: Your Honor, the State would offer number
19 21 for admission into evidence.

20 MR. VERNER: Without objection, Your Honor.

21 THE COURT: State's 21 is in evidence.

22 (Whereupon, State's Exhibit 21 was admitted into
23 evidence.)

24 Q If you can step down, Captain Dennis. Can you locate
25 Mandy Smith's resident on Wheeland School Road?

1 A I am going to put a dot and a kind of a big circle
2 around it. And I will come off to the side and write
3 Mandy Smith's residence. I wrote home instead of
4 residence.

5 Q What about Timothy Wise's home on Highway 76, do you
6 see where that is on the map?

7 A I am going to draw a line out to the side.

8 Q What about, now Mr. J.'s is just over the County
9 line. So this is solely Newberry?

10 A That's correct. 76 runs here into Little Mountain.
11 I will place a dot just outside of our line. Mr. J.'s gas
12 station, store is on the right side of 76 going into
13 Chapin which is Skylark, it is listed that we can see but
14 the biggest portion of it is in Lexington County. John
15 Mayers lived at [REDACTED] in Lexington County and then
16 Mr. J.'s and I will write those to the side in that area.
17 Two things I wrote on the map is Mr. J.'s store and John
18 H. Mayers home.

19 Q Thank you. You see Judy B. Road?

20 A Yes, sir. Judy B. is actually here in the Sumter
21 National Forrest.

22 Q Okay. Now, the location, the river and Mr. Mayers
23 remains were located at another town?

24 A Yes, they were.

25 MR. VERNER: Your Honor, I would ask him to circle

1 the Judy B. Road. If he can write as he did the others.

2 A Okay. I will go right above. I placed Judy B. Road
3 above what I marked. And then the location of Maybinton
4 Road which is still in the Sumter National Forrest area,
5 the bridge. I circled the bridge area at Maybinton Road
6 and Enoree River and off to the side I put location of
7 remains of John H. Mayers.

8 Q And I guess the concentrated cluster there in the
9 center is where we are now as we sit here today in court?

10 A This is the City of Newberry which is located maybe
11 toward the center, lower half of the map.

12 Q This looks like a fairly dynamic investigation, a lot
13 of different locations, and it looks like you are all over
14 the County, is that fair to say?

15 A Not only are you at about five different locations
16 within our County but Sumter, Greenville, and then I
17 believe they met Mr. Buford down on Garners Ferry also.
18 But, yes, this is a lot of locations that you have got to
19 go to to obtain information.

20 Q And the investigation of, it took over 20 days or so
21 from, really to arrest?

22 A If you think about it that way, yes, around 20 some
23 odd days. But if you think of in the real world the cases
24 are never closed until where we are at today. And that
25 being said, that allows, that if anything comes up that we

1 need to follow up on then that would give us the
2 opportunity to investigate.

3 Q I am going to show you State's 29. I will just have
4 you review it.

5 A State's 29 is a larger version of the month of May in
6 2011. And it has several dates of importance that have
7 been highlighted by little cut depictions of what
8 transpired that day.

9 Q Based on your investigations and your involvement in
10 this case is that a fair and accurate representation of
11 how this case unfolded and the relevant dates?

12 A I would say yes, Solicitor. The only thing that, the
13 19th was a day that we, and I listed on the map, Wheeland
14 School Road which was the home of where Mandy used to
15 live. That area, based off of contact with the family and
16 members of the family, we went out to that location and
17 walked that entire property as well as had assistance of
18 the Lexington helicopter, they came up and actually flew
19 the area in hopes of locating evidence or John.

20 Q So on the 19th you are saying you did an extensive
21 search on the Wheeland School Road property?

22 A That's correct.

23 Q And that is not on that--

24 A No, that is not on there.

25 Q I guess, what is on there, is it accurate?

1 A Yes, sir.

2 Q Was anything found of value during the search of the
3 Wheeland School Road property?

4 A No sir, it was not.

5 MR. SCOTT: Your Honor, the State would offer State's
6 number 29 for admission into evidence.

7 MR. VERNER: I would object.

8 THE COURT: You have an objection?

9 MR. VERNER: I do, Your Honor.

10 THE COURT: Step up here for me, please.

11 MR. VERNER: Yes, sir.

12 (Whereupon, a bench conference was held in the
13 presence of the jury but out of the hearing of the
14 jury.)

15 THE COURT: State's 29 is in evidence subject to
16 objections. I would advise the jury that it is a calendar
17 of the month of May of 2011 and it has on various dates
18 summaries of events that allegedly happened. You heard it
19 was prepared by prosecution witness. If your memory is
20 different, it is what you determine the facts are. You
21 give this calendar whatever weight and whatever value you
22 think it deserves, if any. It has no greater weight or no
23 greater value than your memory or any other item. With
24 that being said 29 is in evidence subject to noted
25 objections.

1 (Whereupon, State's Exhibit 29 was admitted into
2 evidence.)

3 Q So in addition to covering various spots of Newberry
4 County and Lexington County this also, the investigation
5 covered the majority of the month of May in 2011?

6 A That's correct.

7 Q And May 7th is per your investigation is when the
8 murder occurred?

9 A From information obtained through the Lexington
10 report as well as the two individual statements we
11 received we had marked May the 7th as the death of Mr.
12 John Henry Mayers.

13 Q And then various dates in between but on the 26th is
14 when Mandy Smith gives her first statement admitting to
15 being the one who killed John Henry Mayers?

16 A That's correct.

17 Q And down here you have listed June 10th, 2011 is when
18 she had asked to revise her statement. Is that correct?

19 A That's correct.

20 Q Thank you. And based on all of this information and
21 your entire investigation who was charged with the murder
22 of John Henry Mayers?

23 A After review of all of the information received we
24 went before the Magistrate on the morning of the 27th and
25 presented our case to them and we received two warrants,

1 one warrant for Mandy Lenore Smith being charged with
2 murder and Tim Carol Wise also being charged with murder.

3 Q Thank you. Please answer any questions Mr. Verner
4 has for you.

5 THE COURT: Before you begin your cross if you and
6 the Solicitor will step up here.

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

10 THE COURT: You may proceed, Mr. Verner, with your
11 cross.

12 MR. VERNER: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 By Mr. Verner:

15 Q You are the officer who interviewed Tim Wise?

16 A Which time, Mr. Verner?

17 Q May 25th?

18 A May 25th and May 26th.

19 Q You testified in the very beginning that you started
20 or at least Newberry County really started its actual
21 investigation of the disappearance of John Henry Mayers on
22 May 16th?

23 A That was the official call from Lexington to Major
24 Boland.

25 Q Prior to that you may have helped circulate missing

1 persons flyers?

2 A That's correct.

3 Q But in terms of actually sending bodies out in the
4 field that was May 16th?

5 A That's correct.

6 Q Did you have any meetings with, conversations or
7 interrogations with Tim Wise prior to May 25th?

8 A No, sir. The only time that I spoke--

9 Q You took the gun on May 20th?

10 A May 20th would have been the first time to have any
11 type of conversation with Tim. The first part of that
12 investigation was done by Lexington Detective Derrenbacher
13 and at the time Captain Boland. I was called and I came
14 to the sheriffs office on the 20th and regrouped with them
15 so we could go up to Mr. wise's home on the evening of the
16 20th.

17 Q How much of a conversation did you have with Tim Wise
18 on May 20th?

19 A I would say I talked with Tim for maybe 10, 15, 20
20 minutes prior to leaving the sheriffs office because we
21 were just kind of regrouping, didn't want to send a whole
22 large group of people up there so we were discussing who
23 all was going to be there.

24 Q Was Tim, on May 20th, considered a strong suspect at
25 that point of a murder case or a crime?

1 A I don't know if you would consider him a strong
2 suspect at that time but once I laid my hands on the gun
3 there was some gut feelings going on then.

4 Q It stepped up from just being someone who knew the
5 missing man to something may be more serious going on?

6 A That's correct.

7 Q Are you familiar with what that would be?

8 A Yes, sir.

9 MR. SCOTT: Your Honor, I think the time to publish
10 this to the jury is after it would be entered into
11 evidence.

12 MR. VERNER: Your Honor, I would ask the Court to
13 take judicial notice of the cycle of the phase of the moon
14 on May 7th of 2011. And in lieu of entering my IPAD I
15 would ask that that be allowed, I be allowed to at some
16 point to print out a copy.

17 THE COURT: The only thing I am looking for does it
18 have the latitude or longitude on here.

19 MR. VERNER: May I approach with the Solicitor?

20 THE COURT: Sure.

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

24 THE COURT: I will allow you to publish this at this
25 time. And if you could make a copy and email it.

1 MR. VERNER: I will include the website address.

2 With the Court's permission I would ask the Deputy to turn
3 out the lights in the courtroom.

4 Q Are you familiar with what you are looking at,
5 Deputy?

6 A It would be the moon.

7 Q That is the phase of the moon on May 7th of 2011?

8 THE COURT: Point that out for him.

9 Q You understand in May of 2011 we would have had a
10 full moon on 5/17/2011?

11 A Yes, I see that.

12 Q And we would have had a new moon, that is where you
13 cannot see the moon at all on May 3rd?

14 A I see that.

15 Q Between May 3rd and May 10th it was between a new
16 moon where you could not see the moon and because the sun,
17 the earth blocks out the light of the sun on the moon.
18 And by, within three days after it had just reached its
19 first quarter?

20 A I understand what you are pointing at, yes sir.

21 Q And this picture would be May 7th, that would be
22 between a new moon and a first quarter moon?

23 A Yes. And the only thing that I can testify to is if
24 that is what that says then I would have to take by the
25 face value that it is because I do not remember that

1 night. I can only recall what was instructed to me by the
2 statement and testimony of the defendant.

3 Q My understanding is Tim told you and Major Gilliam,
4 that even though Mandy and John were some considerable
5 distance away there was enough moonlight you could see
6 what was going on?

7 A Not only the moonlight but also stars he said.

8 Q And he actually didn't register that until you
9 testified that when he said he saw it, one of your first
10 questions is how can you see that in the dark, Sumter
11 Forrest. And he said the moonlight?

12 A And the stars, That's correct.

13 MR. VERNER: Your Honor, I would ask the Court to
14 take judicial notice that that was the moon on May 7th of
15 2011.

16 THE COURT: I will do that and that would be
17 Defendant's number 3 in evidence. Subject to objection or
18 without objection.

19 (Whereupon, Defendant's Exhibit 3 was admitted into
20 evidence.)

21 MR. VERNER: And I would also ask the Court to take
22 judicial notice that because of the phase of the moon is
23 determined by the location of the sun and the location of
24 the earth between the moon that it would be the same in
25 India. The phase of the moon is the same regardless where

1 you are in the world because that is determined by the
2 sun, the earth blocking out the light of the sun on the
3 moon.

4 THE COURT: I will take judicial notice of that, Mr.
5 Verner.

6 MR. VERNER: Thank you, Your Honor.

7 Q That is not a lot of moonlight but that is a little
8 bit of moonlight, right?

9 A I would say so, yes sir.

10 Q Are you sure Tim said there was moonlight?

11 A I know what Tim told me.

12 Q I am just asking, if he said I can see because of the
13 moonlight?

14 A That's correct. Tim said he could see because of the
15 moonlight and the stars.

16 Q Are you aware what time the moon set that night?

17 A No, sir.

18 Q So even though there was only that sliver of moon, do
19 you recall looking up what time the moon would have set on
20 the evening of May 7th?

21 A Mr. Verner, no, I can't. That is something that I
22 normally don't do is look up.

23 MR. VERNER: Your Honor, I would ask the Court,
24 unless the State objects, to take judicial notice that the
25 sun set nine minutes after midnight on--

1 THE COURT: The moon.

2 MR. VERNER: The moon set which is below the horizon
3 at 12:09 a.m. which is nine mintues after midnight May
4 8th. So midnight of the evening of the 7th the sun was
5 nine minutes above the horizon. And it set the next
6 morning, just slightly after midnight on May 8th.

7 THE COURT: The sun and moon, I am just not there.

8 MR. VERNER: I am talking moon.

9 THE COURT: Ladies and gentlemen, if y'all will step
10 out for a few minutes. Don't discuss the case.

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

12 THE COURT: The interest to me is, this goes both
13 ways. Because you have got Tim Wise has testified I saw
14 this. You got Ms. Smith testifying I saw this. You get
15 your night vision along within the darkness. That is why
16 you, when you are out on patrol as an officer you make
17 sure, you close one of your eyes to maintain your night
18 vision. We know that. But it goes both ways. I don't
19 have any objection, whatsoever. I mean it is, the
20 condition of the earth is the condition of the earth.

21 MR. STUMBO: We have absolutely no problem with it,
22 Judge.

23 THE COURT: But I do see that slight difference
24 between New York and, it is a great difference between New
25 York and Columbia in many respects. But and even greater

1 difference between New York and Newberry. I don't know
2 all about ambient light and such like that.

3 MR. VERNER: That is traditionally why pirates are
4 suppose to wear a patch so if they get attacked in the
5 dark they can see. Your Honor, with the Court's
6 permission I will print out actual copies of these but I
7 don't want them to take my IPAD.

8 MR. STUMBO: We would prefer them not to have the
9 IPAD back in the jury room.

10 THE COURT: This will be Defense 4 admitted into
11 evidence.

12 (Whereupon, Defendant's Exhibit 4 was admitted into
13 evidence.)

14 THE COURT: Bring our jury.

15 (Whereupon, the jury came into open court at
16 approximately 11:55 a.m.)

17 THE COURT: Mr. Verner, you may continue your cross.

18 Q Are you familiar with what time the moon set on what
19 I really consider the day of May 7th?

20 A No, I am not, Mr. Verner.

21 Q Let me show you something. That appears to be the
22 moon set in Columbia, South Carolina?

23 A That's correct.

24 Q Here we are on May 7th. The sun rose above the--

25 A The moon rose at 9:46 a.m.

1 Q On the day that John Henry Mayers was killed the moon
2 was above the horizon at 9:46 in the morning, you can
3 first see it, right?

4 A According to the official record, yes sir.

5 Q And then what time did the moon set?

6 A There is no time.

7 Q Well, you can look down--

8 A On May the 8th, okay. I see what you are saying now.

9 Excuse me, May the 8th at 12:20 a.m.

10 Q So twenty mintues after midnight, really the day of
11 May 7th, the night of May 7th, twenty minutes after
12 moonlight the moon was below the horizon, you couldn't see
13 it?

14 A According to the official record, 12:20 a.m.

15 Q And we assume that the people who are doing the
16 official records are like scientist and people who--

17 A I would assume so.

18 MR. VERNER: Your Honor, I would ask the Court to
19 take judicial notice that the moon rose and set on May 7th
20 and May 8th.

21 THE COURT: I do so. Thank you.

22 Q And of course when we are talking about the horizon,
23 if you are on the beach you can see for miles and miles a
24 complete sunset to the actual horizon, right?

25 A Yes, sir.

- 1 Q But we are not on the beach in Newberry, are we?
- 2 A No, sir.
- 3 Q We are in a turnaround in the Sumter National
- 4 Forrest?
- 5 A That's correct.
- 6 Q What is between Tim Wise and the horizon?
- 7 A Trees.
- 8 Q Tall uncut trees?
- 9 A It would be, our pine trees so to speak.
- 10 Q And those can be pretty big boys compared to a guy,
- 11 right, they are much taller than a person?
- 12 A Yes, sir.
- 13 Q And these are uncut, Sumter National Forrest is
- 14 largely an uncut forest?
- 15 A For the most part, yes sir.
- 16 Q At some point there is a forest of fully grown pine
- 17 trees between Tim Wise and the horizon of the earth?
- 18 A Not only just pine trees but an assortment of oaks
- 19 and others. So, yes sir.
- 20 Q But they are trees?
- 21 A Trees, tall trees.
- 22 Q So even if you watch the moon in the Sumter National
- 23 Forrest go down it is out of your view well before it
- 24 actually sets because the trees at some point block you
- 25 from seeing the moon, right?

1 A On your analogy, yes.

2 Q And to get it straight, the clearing we are on is
3 just kind of a, it is not like being on the beach. This
4 is a fairly small turnaround clearing. So even if there
5 is starlight it is not like standing on the beach and
6 seeing all of the stars. It is the starlight in a
7 turnaround, it is just those stars that you can see
8 between the trees?

9 A As I described earlier, Mr. Verner, and I used this
10 courtroom as a refence. This courtroom is about the size
11 of that turnaround area, maybe just a little bit bigger.
12 And the walls would represent the trees that would be
13 around there and then you would take into consideration a
14 tree could be anywhere from 20 foot to maybe 60, even to
15 100 foot tall.

16 Q So instead of these walls which I estimate are about
17 10 feet high, you have got 60 foot high trees?

18 A Yes, sir.

19 Q So you would have to put five more walls on top of us
20 before you get to the tree line?

21 A Thereabouts, yes sir.

22 Q And this room has, I count 20 lights on it. So it is
23 a good bit brighter than that clearing would be?

24 A This room is definitely brighter.

25 Q And Tim said he reached that clearing about 11:45,

1 almost 15 mintues short of midnight?

2 A That's correct.

3 Q And then he told you it took Mandy and John about 30
4 more minutes, he said 20 or 30 more minutes to get there?

5 A About 25 to 30 more minutes, yes sir.

6 Q So if Tim is correct and they did take 30 mintues to
7 get there then they would have arrived about 12:30?

8 A That's correct according to what we are talking
9 about, the time period, yes sir.

10 Q And even on the beach the moon is gone, the moon is
11 on the other side of the earth?

12 A Yes, sir.

13 Q So by the time, assuming Tim Wise is being candid
14 with you, by the time John and Mandy roll up into the
15 Sumter National Forrest it is pitch black except for the
16 stars?

17 A And that being according to Tim's testimony, yes.

18 Q Did you look at whether it was a cloudy day or a
19 clear day, or do you recall whether it had rained on May
20 7th?

21 A No sir, we do not utilize any of what you did, we
22 didn't check on anything, no sir.

23 Q If there were clouds in the sky or if it was overcast
24 it would have been even darker?

25 A That's correct.

1 Q This is the handgun Tim Wise presented from his
2 pickup truck to you?

3 A It is the handgun I retrieved. He told me where it
4 was at and I retrieved it, Mr. Verner.

5 Q Was there any kind of cloth, I know the Solicitor
6 talked to you a little bit about it but you heard there
7 may have been a cloth or something wrapped around it to,
8 did you notice one?

9 A No, sir. At the time I retrieved the gun it was in
10 the center console above the seat, between the driver and
11 passenger. Once I lifted that up the gun was visible
12 without me having to move any papers, cloth or anything
13 like that.

14 Q Guns sometimes can be pretty good receptors of
15 fingerprints, can't they. It is kind of an oily surface
16 sometimes and fingerprints. That is often times a good
17 place to get fingerprints?

18 A Yes and no.

19 Q Why no?

20 A Because if you sometimes take a gun as SLED testified
21 the other day, there is an explosion that takes place
22 within the gun to project the bullet. With that being
23 said it heats up the gun. So with our hands being kind of
24 oily sweaty that may have the fingerprints evaporate and
25 we are not able to get any.

1 Q But I understand, there was a spent shell in the
2 chamber, you got the assumption that that might be a live
3 round?

4 A Yes, sir. That is not only for the safety of our
5 evidence custodian but also for us and where we were
6 getting ready to sent it to SLED. That shell needed to
7 come out.

8 Q And you are a hundred percent sure this gun is
9 unloaded right now?

10 A Yes, sir. I checked it and that is my gun lock and I
11 am the only one that has keys to it.

12 Q Did it appear that it had been wiped off for
13 fingerprints. You did look at it for fingerprints, didn't
14 you?

15 A Yes, sir. We did look at it and, you know, not like
16 a vehicle or one of these tables where I take a cloth and
17 wipe it and you can see that. You may not readily see
18 that on a gun if someone attempted to wipe fingerprints or
19 just clean it.

20 Q Can you tell whether there were any indications that
21 it had been wiped or cleaned?

22 A Not a hundred percent sure can I say it had been
23 wiped or cleaned, no.

24 Q But wiping the gun clean would be one way to take
25 fingerprints off of it with a cloth?

- 1 A Yes, sir.
- 2 Q So if you had had the gun in your hand and shot it
- 3 you might want to wipe it off?
- 4 A That's correct.
- 5 Q This is a semiautomatic pistol?
- 6 A That's correct.
- 7 Q Which means you have got to have a magazine of
- 8 bullets and shove it into the bottom of it to load it up
- 9 with bullets, right?
- 10 A That's correct.
- 11 Q But before that doesn't make it ready to shoot.
- 12 Before you do that you have to chamber the bullet, right?
- 13 A That's correct. You must pull back on the slide to
- 14 chamber a bullet from the magazine into the chamber.
- 15 Q And even with the chain in there it is still a fairly
- 16 strong, you have to give it a good yank. It is not
- 17 something that you can do gently, is it?
- 18 A I understand what you are asking. I think, to pull
- 19 it back it would depend on the individual.
- 20 Q Stronger people can do it much easier than--
- 21 A Probably can do it much easier than someone else.
- 22 Q And if you hadn't shot a gun like that before would
- 23 you necessarily know that is how you load the gun?
- 24 A If you have no knowledge of guns I am sure that
- 25 someone would have to show, teach or do whatever.

1 Q And when you rack a gun or chamber the round it makes
2 a fairly loud sound too, doesn't it. I am blocked from
3 doing that because of the chain through it. But that is a
4 fairly loud, much louder than you are hearing now?

5 A Yes, sir. And it can be done, I understand what you
6 are asking, Mr. Verner, but it is also one of those
7 questions, yes and no. Individuals can rack a gun and not
8 make that sound like that depending on where they have
9 that gun positioned on, whether it is behind their back,
10 whether it is front of them, whether they are concealing
11 or whatever. So once again it is a yes and no question.
12 If I was to pull the gun up and rack it in here just like
13 that, sure you may hear it because I let the slide slam
14 back. But then I could pull it down below the view of the
15 audience and rack it and you never hear me rack that gun.

16 Q If the gun wasn't loaded on, or chambered at least.
17 If a bullet wasn't chambered on the evening of May the 7th
18 you could always, sometimes people keep a bullet in the
19 chamber of guns?

20 A That's correct. Most people you will find they will
21 already have a bullet chambered in the slide, as I would
22 call ready position.

23 Q This gun have a serial number on it?

24 A If you will let me look at it one more time, please,
25 Mr. Verner. Yes sir, it has a serial number on it.

1 Q Do you know whether you ran the serial number to see
2 who was the registered owner. Guns are required to have
3 some kind of registered owner on it usually?

4 A As SLED testified, most guns that you find that you
5 would go to Walmart--

6 Q I am not asking what SLED testified, in your personal
7 knowledge do guns typically have to be registered to an
8 owner?

9 A And I am getting to that. If an individual goes and
10 buys a gun from a dealership such as Walmart or other
11 dealerships that sell guns then that individual, yes,
12 would have to register. If I take that gun and I sell it
13 to Mr. Verner then we do not have to register that
14 transaction. But most people and I know me and you would
15 do this, we would reenact some type of bill of sale
16 sometimes.

17 Q I am not buying a gun from you.

18 A I wouldn't sell you one, Charles.

19 Q But the private transactions are excluded from the
20 general registration. But at some point it has to be
21 registered to somebody?

22 A That's correct.

23 Q Did you run the serial number on this gun to see who
24 owns this gun?

25 A No, we do not run the serial number of that gun due

1 to the fact of the ID being made by Mr. Wise as well as
2 his father, Carol Wise.

3 Q Out of curiosity, when this case is concluded one way
4 or the other what will happen to this handgun?

5 A This gun, depending on the outcome of the trial will
6 remain in custody either the Newberry County Sheriffs
7 Office or the Clerk of Court's office.

8 Q Indefinitely?

9 A Yes, indefinitely.

10 Q Never going to be destroyed?

11 A Under the circumstances of our law--

12 MR. SCOTT: Objection.

13 MR. VERNER: I will withdraw the question.

14 Q How long have you been a law enforcement officer?

15 A Since '91.

16 Q I suppose you take fairly regular training with
17 handguns?

18 A Yes, sir. we do annual qualifications for firearms.

19 Q That is just part and partial, if they are going to
20 give you a gun, they are going to train you repeatedly on
21 not just the safety aspects of it but if you use it, how
22 to use it effectively?

23 A That's correct.

24 Q Are you familiar with the phrase, centermass?

25 A I am.

1 Q What is centermass?

2 A Centermass is what we classify below the neck and
3 above the beltline.

4 Q So when people get training on how to shoot a gun
5 they are taught to shoot somebody in the centermass. That
6 is the best chance to hit somebody?

7 A And I guess it would depend on what group of people
8 that you are talking about, law enforcement, yes we would
9 centermass shots.

10 Q But basically when somebody takes training in a
11 handgun they are trained that you shoot for centermass,
12 right?

13 A That's correct.

14 Q Would you characterize this as a centermass shot?

15 A Yes, sir. I would classify that as a centermass
16 shot.

17 Q So it could be an indication that the person who shot
18 that gun knew what he was doing?

19 A Or she was doing.

20 Q Or she was doing. But somebody who shot that gun
21 knew what they were doing?

22 A That's correct.

23 Q But Tim Wise told you he doesn't like guns, he
24 doesn't mess with them?

25 A I don't think Mr. Wise said he didn't like guns. I

1 mean he has had a concealed weapons permit, he has carried
2 a gun, he has access to guns through his father.

3 Q Did you enter the Wise home?

4 A I did, I did go inside. Mr. Carol's and Ms. Helen's
5 home.

6 Q Is there a room that is locked inside the home. Did
7 you visit every room in the home?

8 A I did not visit every room inside the home but there
9 is a room off to the side that Mr. Carol has, off to the
10 side in the kitchen, to the left side coming in through
11 the backdoor that is a room that he reloads shotgun
12 shells. And that is where he keeps his reloader for the
13 shotgun shells as well as the long guns.

14 Q You recall how the guns were kept in that room?

15 A I know there were two propped up against the wall.
16 And I can't remember the rest of them. Two long guns.

17 Q Did you see any handguns in there?

18 A No sir, I did not.

19 Q Did you actually take an inventory of what was in
20 there?

21 A No, sir. We were instructed that the gun recovered
22 from the vehicle was the only gun that Mr. Wise, Tim Wise
23 had control of as well as, through his statement that Ms.
24 Smith had control of.

25 Q That is the only one he told you he had control of?

1 A Between the two, yes.

2 Q Did you ask Mr. Wise's father whether he had loaned
3 Mandy Smith a gun?

4 A In the conversation with Mr. Carol Wise, the father,
5 he had no knowledge that that gun was missing.

6 Q Is it fair for me to say or characterize, rather,
7 that without the statement of Tim Wise and Mandy Smith
8 being considered by you, that you have no more knowledge
9 of who fired that gun than I do or the members of the jury
10 or the prosecution does that, the basis of who fired that
11 gun is based entirely on that statement or those
12 statements?

13 A Based on those two statements, yes.

14 THE COURT: What two statements?

15 A The statements that were given by Mr. Wise and Ms.
16 Smith.

17 Q No other forensic or tangible or any other evidence
18 whatsoever other than the statements and the evidence that
19 you have already presented?

20 A The only other thing would be the evidence of what
21 was located on Judy B. Road, the spent casing and then the
22 SLED analysis.

23 Q Between number one and this is State's number 6.
24 Marker number one marks the spent casing round?

25 A That's correct.

1 Q And marker number two marks the cigarette butt found
2 at the scene?

3 A That's correct.

4 Q What approximately is the distance of those?

5 A I would say the approximate distance between the two
6 is roughly three or four foot.

7 Q Fairly close proximity?

8 A Fairly close proximity, yes sir.

9 Q And because there is no DNA on the cigarette butt it
10 may have been Mandy, John or Tim's cigarette butt?

11 A You could speculate to that, yes.

12 Q But it could also just be, just an incidental
13 cigarette butt that perhaps somebody else had left out
14 there unconnected to the, it could be just a red herring,
15 somebody else could have dropped it entirely?

16 A That's correct.

17 Q You know what brand of cigarette that is?

18 A Mr. Verner, from looking at my notes and I don't have
19 a closeup but I don't believe that there was enough on the
20 end of the cigarette to let us know a name brand. It was
21 just the butt portion with the cotton in it.

22 Q But it didn't appear, the longer the cigarettes are
23 out the more start to get deteriorate because of the
24 weather?

25 A Oh sure, yes sir.

1 Q Did it appear to have been at least fairly recently
2 discarded as of the time you found it?

3 A For the time we found it it had probably been out
4 there a few weeks.

5 Q But you didn't find it until May 25th?

6 A That's correct. We found it on May the 25th.

7 Q So the reason you thought it was worth taken was
8 because it was in that, at least consistent with the time
9 range of the killing of John Henry Mayers?

10 A Well it was in that, in that area, that time range
11 and through the photograph looking with that distance of
12 being three to four foot, we felt it relevant right there
13 with the spent casing, yes sir.

14 Q Tim said he was sitting on the tailgate of his truck
15 and that John had wondered away with Mandy. What did he
16 tell you he was doing?

17 A He was just sitting there smoking and drinking. And
18 when I say smoking he said cigarettes. I did ask, what
19 were you smoking. He said cigarettes and drinking
20 Mountain Dew.

21 Q When you went and retrieved the gun yourself from Tim
22 Wise's truck was he with you?

23 A Yes, sir. He accompanied us back from the sheriffs
24 office to his house. And please understand I came just a
25 little bit later to the sheriffs office and Detective

1 Derrenbacher and Major Boland had already brought Tim to
2 the sheriffs office and were doing their investigation and
3 interview. So once I got there then we left from there
4 and went up to Mr. Wise's house and he was transported
5 back to his home.

6 Q But you are the officer who actually retrieved the
7 gun from the car of Tim Wise?

8 A That's correct, yes sir.

9 Q And doubt that that was Tim Wise's vehicle where the
10 gun was found?

11 A No sir, it was definitely Mr. Wise's truck.

12 Q Was the truck parked on his property or at the
13 sheriffs department?

14 A No sir, the vehicle was parked at his parents
15 residence located up on Highway 76 in the back yard.

16 Q Was it locked?

17 A I can not remember that, Mr. Verner.

18 Q Do you recall seeing the shed that Mandy Smith was
19 staying in?

20 A Yes sir, I do.

21 Q Were all the dogs still there at the time you went
22 out there?

23 A All of the animals were still out there in the shed,
24 yes.

25 Q And you basically walked the whole premises of the

1 Wise property to get acquainted with everything and looked
2 for evidence in that location?

3 A I did walk around the outside of the property as well
4 as walk through the house, yes sir.

5 Q Did it appear that Mandy was staying or living in the
6 ten by ten or ten by twelve shed?

7 A Yes sir, she was, yes.

8 Q And on May 20th is when you recovered the handgun
9 from Tim Wise's truck?

10 A That's correct, yes sir.

11 Q And that is also the same day that his memory got,
12 well he got a little bit more perceptive in saying, he
13 went from saying we don't know where John Henry Mayers is
14 to, well, Mandy knows, has something to do with his
15 disappearance?

16 A Me not having the personal knowledge of that because
17 I didn't interview him, I did read that in the first
18 statement that he gave.

19 Q And he had, that would have been his third visit at
20 least with the police or if you don't know?

21 A I can't answer that one, Mr. Verner.

22 Q But then on May 24th Mandy is arrested in Greenville
23 by Major Boland, is that right?

24 A Yes sir, it would have been May the 24th of, the
25 morning of May 25th.

1 Q And you communicated that information to Tim Wise and
2 suggested that he come on down and talk again to you?

3 A Actually I did not communicate that to Mr. Wise until
4 he actually got to the sheriffs office and we were on the
5 back wash rack.

6 Q Did that seem to change his demeanor?

7 A Not really. The demeanor that you saw yesterday
8 would pretty much depict the demeanor that Mr. Wise
9 maintained with us up until the last interview on the
10 26th.

11 Q Until he broke on the 26th is when there was a
12 substitutive change?

13 A That's correct, yes sir.

14 Q But prior to his interrogation, I call it
15 interrogation, I am sure we can argue about a hundred ways
16 to call it. But prior to his interview interrogation with
17 you on the 25th he was aware now Mandy was in custody of
18 the Newberry County Sheriffs office?

19 A Yes, sir. He was advised, once he got there and we
20 began talking on the wash rack that Mandy had been
21 arrested in Greenville.

22 Q Did you indicate to him that this might be a murder
23 investigation?

24 A No, sir. Until we actually had facts in front of us
25 and evidence in front of us to say this is a homicide we

1 were just still treating it as a missing person.

2 Q But if his memory got a little bit better and this
3 time he agreed to ride with you, again said, by May 20th
4 we understand that Mandy had left, she was on the run as
5 y'all would say, right?

6 A Yes, sir. She could not be located.

7 Q By May 25th Mandy is back and now he says, well, she
8 did tell me something happened or I will lead you to where
9 she would have done something to the body.

10 A Yes, sir. We still had to pry that information, so
11 to speak, from him. If Mandy would do something what
12 would she do and where would she go.

13 Q And the question was kind of given to him in a range,
14 you know, if Mandy had harmed John Henry on the scale of
15 ten to ten do you think that she would put the body in the
16 Sumter National Forest, ten being the highest chance. He
17 said, eight or nine.

18 A That is correct, yes sir. Major Gilliam asked that
19 question of him while we were in our vehicle.

20 Q Now he is pretty confident there is a body out there?

21 A Yes, sir.

22 Q And you are sure, before you, when you went out there
23 you knew that you were going to be smelling for the
24 possible presence of a body. You knew that going in?

25 A Yes, sir. Based off of my experience over the last

1 years and death investigation we use all of our senses and
2 the nose being one of them. And knowing that we have a
3 missing person who disappeared on the 7th, if there was
4 any chance of locating him there would be the composition
5 of the body and we would be able to smell it.

6 Q You testified that you were certain in your opinion
7 that Tim, before you could smell anything that Tim had
8 already started covering his nose?

9 A Yes, sir. I had turned off of Brazelmans Bridge Road
10 onto Judy Road, not even a few yards down the road I
11 leaned over and rolled down both the front windows, mine
12 down and Major Gilliam's window. And as I as had rolled
13 them down Mr. Wise asked, why are you doing that. And
14 simultaneously he had pulled his shirt which he had a
15 shirt on and pulled it over his nose and I instructed him
16 that was so that we could smell for a deteriorating body.

17 Q And it was clear based on your observation that he
18 had been close enough to the dead body of John Henry
19 Mayers that he had smelled that horrible smell?

20 A Yes, sir. That is a smell that you just don't
21 forget. Once you smell it it is there with you. So you
22 would know that you are getting ready to encounter that
23 again and it is not pleasant, no.

24 Q And unfortunately that is not the first time that you
25 had had to do something similar?

1 A No, it is not.

2 Q And you found the body of John Henry Mayers in the
3 woods?

4 A Yes, sir. Once we made it to the end of the road, as
5 I testified earlier, we smelled it, both Major Gilliam and
6 myself were just taken away. Both of us simultaneously
7 just looked at each other and I proceeded to the far end
8 of the road. I believe the picture I indicated, you
9 highlighted, marked where I went, there was a blue shirt,
10 a gentleman wearing a blue shirt. And that is where we
11 went and parked.

12 Q This is State's 1. Who are those gentlemen in that
13 photograph?

14 A The gentleman here is our coroner.

15 Q Mr. Newton?

16 A Craig Newton. And I do not--

17 Q That is probably law enforcement?

18 A Yes, sir. But this is the area where the blue shirt
19 is, that is where I proceeded with my vehicle and parked.
20 I asked Major Gilliam if he would stay there with Mr. Wise
21 and I began to walk from my vehicle, the edge of the wood
22 line, kind of getting into the grass so I could see into
23 the woods. And then right here in this area the odor was
24 very strong and I took a couple of steps and located Mr.
25 Mayers body.

1 Q How deep into the wood line?

2 A I was standing there whenever I made the judgment,
3 from where you are standing, 25 to 30 feet up into the
4 woods there.

5 Q Ten yards into the woods, off the road into the
6 woods?

7 A That's correct.

8 Q Did it appear the body had been moved?

9 A Based on what I looked at the body and the other
10 evidence found it appeared that Mr. Mayers had been drug
11 into the woods, due to the fact the hands were
12 outstretched above where the head would have been and the
13 shirt which was a tshirt was rolled up as if it would
14 catch whenever you are pulling something on the ground and
15 rolling it up to underneath the shoulders and where the
16 head would have been.

17 Q And you heard the pathologist say that there could be
18 several reasons for that but in your opinion it appeared
19 he had been dragged because of that position?

20 A Looking at that position and taking note of the other
21 areas on the body, yes, animals could have pulled from the
22 body but the shirt was rolled up indicated that it was in
23 a rolled position and not in a pulled position as
24 something latching onto it.

25 Q And your experience as a law enforcement investigator

1 you think that was most probably that he had been dragged?

2 A He had been moved there, yes sir.

3 Q By his feet I would suppose?

4 A Yes, sir. The other indication was he was described
5 as, you know, probably had shoes or sandals on, we found
6 the sandals just off to the side of where the body was at.

7 Q Were they deeper in the woods or were they closer in
8 the woods or about the same?

9 A No, sir. They were just tossed to the side. If you
10 look this is probably waist high vegetation that is grown.
11 So just to kind of look around the body, that is where we
12 located the shoes and they would have been on this side
13 from where the body was found in this area.

14 Q Even further away from the vehicles that would have
15 been parked?

16 A Yes, sir.

17 Q Were they flip flops or sandals?

18 A They were sandals. My son calls them Jerusalem
19 sandals would be the ones that go around your back of your
20 feet to hold so they don't slip or fall off.

21 Q It is unlikely in your opinion that they would have
22 fallen off if he was running?

23 A Those type of sandals and I have worn a pair, they
24 don't, they wouldn't fall off like a pair of flip flops.

25 Q So that is part of the reason you think that they

1 were probably tossed?

2 A Yes, sir. They would have come off with some degree
3 of force to move them off, as you and me would pull our
4 shoes off, you would have to unbuckle and pull. So if
5 someone is pulling on it, yes, they would come off of your
6 feet.

7 Q Let me go back if I could. This is also State's 1.
8 Where did Tim Wise indicate he had parked his vehicle on
9 May 7th?

10 A Tim said, whenever he came into Judy Road he came in,
11 he went around and parked here where it was headed back
12 out.

13 Q Put your pointer.

14 A He would park here where the front of his truck would
15 have been coming toward us.

16 Q It could have been a little bit closer to us or could
17 have been even further away from us?

18 A That's correct.

19 Q About how far from that general position where you
20 believe Tim indicated that he had parked was the body of
21 John Henry found?

22 A Just to the right here, 20 to 25 feet in the wood
23 line here.

24 Q So what is the distance from the edge of that wood
25 line?

- 1 A From here to about there.
- 2 Q Yes.
- 3 A I would say anywhere from 50 to 75 feet.
- 4 Q And while we are looking at this photograph, that
- 5 would be, Mr. Newton is an average size person I guess?
- 6 A I would say Mr. Newton is probably about 5'10", 5'8",
- 7 some where along in there.
- 8 Q An average guy for the most part, in that ballpark an
- 9 average height. The top of the treeline to how a person's
- 10 head would have been?
- 11 A Yes, sir. If you are standing out at that area, yes
- 12 sir.
- 13 Q So those are pretty tall trees right there, the
- 14 average person looking up?
- 15 A Yes, sir.
- 16 Q And that, this is the horizon, right?
- 17 A Where your pen is at?
- 18 Q My pen would be pretty much the horizon?
- 19 A What you are saying is that this level here which
- 20 would put it eye level with Mr. Newton across.
- 21 Q The moon was down at this level by midnight?
- 22 A If that is what the official records say, I can't
- 23 disagree with that.
- 24 Q And it is less than a quarter moon, right?
- 25 A According to the records, yes sir.

1 Q I believe you testified that as soon as you located
2 or relatively shortly after you located the body of John
3 Henry Mayers that you went ahead and Tim Wise was arrested
4 for murder?

5 A Once we found the body myself and Major Gilliam
6 regrouped, we went ahead and notified for other
7 investigators to come out to assist us, notified the
8 coroner, notified Major Boland so that he could let
9 Lexington know. And then I went back to my vehicle which
10 I keep all of my forms in my vehicle. And I immediately
11 gave Mr. Wise his Miranda rights while we were sitting
12 there on Judy B. waiting for others to arrive so that I
13 could, we could start the investigation as well as get
14 someone out there to help transport Mr. Wise away from the
15 scene. So at the time he was not in custody and was
16 transported to the sheriffs office, our temporary home
17 where the trailer park on Wilson Road, he was transported
18 there by Lieutenant Ben Chapman.

19 Q But it is clear on that same date, when you were
20 talking to him that y'all were talking about a murder
21 charge. You weren't talking about obstructing an
22 investigation, you were talking about charging Tim Wise
23 with murder?

24 A That's correct.

25 Q Did that seem to affect him, he still took in a

1 fairly calm demeanor?

2 A Yes, sir. He still, his demeanor was still calm. I
3 don't think that it had really set in to him as far as the
4 murder charge.

5 Q You may not remember exactly what you said, but your
6 typical come to Jesus speech starts out you are in trouble
7 now?

8 A I mean there is, you will find with working with me,
9 Mr. Verner, that if I sit down and talk to you I've got
10 the answer to the question already prepared. And that is
11 our typical come to Jesus type speech, you know, you are
12 in hot water now. And it is time to help yourself.

13 Q Do you think that is what Tim Wise did, help himself?

14 A I think with Tim's conscious, yes he helped himself
15 by telling and giving admission to being there and
16 whatever he played in it.

17 Q Well, he didn't really admit there until you
18 accidentally had him busted, he didn't really come forth
19 with that until the cat was already out of the bag at that
20 point, was it?

21 A Once again, I don't know if the cat is completely out
22 of the bag yet.

23 Q And Tim told you during that first sitdown with Ben
24 Chapman that he called John Henry Mayers on, and Tim Wise
25 told John Henry Mayers that Mandy had moved to his

1 property, she was going to be safe there and that he
2 didn't need, he didn't want anything, that Mandy didn't
3 want anything more to do with John Henry?

4 A That is correct, Mr. Verner.

5 Q That Tim is the person who told that to John Henry?

6 A That Tim is the one that relayed that to John Henry.

7 Q And this is the same day that Mr. John Henry is
8 killed?

9 A May 7th of 2011, yes sir.

10 Q Now I might have misheard you but I thought you also
11 said that Tim indicated that he had been at that place the
12 evening before, the Judy B. Road with Mandy. But that
13 might have jumped out of the timeframe. Did he say he had
14 been there the night before?

15 A Actually that is in the statement that he wrote on
16 May the 25th there at the end. He stated, I agreed to
17 take deputies there, meaning Judy B. Road, because she and
18 I had been to the end of it before and since she was on
19 Brazelmans the night Mr. Mayers disappeared.

20 Q I may have misheard you but I thought you said that
21 Tim Mayers said he had been there on the evening of the
22 24th, the night before your statement or that was just,
23 that is out of the timeline context.

24 A It might be out of the timeline context, Mr. Verner,
25 I apologize for that.

1 Q Unfortunately today you have to rely on, there are a
2 lot of text messages that are supposedly have been
3 conveyed in this case as to what was actually in those, we
4 are relying entirely on Tim Wise's account that these text
5 messages were actually sent, received and whatnot?

6 A That's correct.

7 Q We don't have any way to know whether that is true or
8 not, his credibility as a witness?

9 A That's correct.

10 Q Just to clarify, you said you told Tim that Mandy was
11 in jail on unrelated charges to this investigation. That
12 forgery was really part and parcel of this investigation,
13 wasn't it. It is the same people?

14 A It is the same people involved but not directly
15 associated because of the time period.

16 Q It is not part of the trial in this murder case today
17 but you heard Major Boland say that one of the reasons to
18 go ahead and get that warrant is to get Mandy into custody
19 where y'all could interview her.

20 A That's correct.

21 Q She didn't have other charges in other counties that
22 y'all just happened to find her. Because of this
23 investigation is why these charges came about?

24 A Because of the disappearance investigation and what
25 the family had relayed as far as the vehicle. Yes, we

1 kind of rolled it up into the entire investigation and was
2 a way to apprehend Ms. Smith so that we could better get
3 an understanding of her knowledge of the whereabouts of
4 Mr. Mayers.

5 Q And then on May 26th you called Tim back to speak to
6 you again?

7 A That's correct. On the morning of the 26th we had
8 him brought from Newberry County Detention Center back to
9 the sheriffs office.

10 Q And at this time is when you first talked about
11 finding the body without the head?

12 A That's correct.

13 Q And at some point Tim started crying?

14 A Yes, sir. Both myself and Major Gilliam were in the
15 office interviewing Mr. Wise and we pretty much began
16 explaining to him what we had located out on Judy B. Road
17 and that we needed more information. I mean it wasn't
18 going away, this case just wasn't going to go away because
19 we had to find closure, not only for the family but for
20 Mr. Mayers. And he broke down.

21 Q And he was crying because of fear of his own being.
22 Why was he crying because he was scared, right?

23 A Folks cry for many different reasons. They cry when
24 they are happy, they cry when they are sad, they cry when
25 they are scared.

1 Q Why do they cry when they are in handcuffs talking to
2 police officers in the back of the jail or in an
3 interrogation room and they are being told that they have
4 got murder charges?

5 A That is scary because that is life, you are looking
6 at life.

7 Q He wasn't crying because you were charging him with
8 obstructing investigation.. That is not what you were
9 talking to him about charging him with?

10 A No, sir. No, sir. I talk about the big stuff, that
11 is little to me.

12 Q It was clear to him, we are not talking about little
13 charges, we are talking about the big stuff as you say?

14 A Yes sir, murder is probably the worse you can deal
15 with in our country right now.

16 Q But even at that point he still didn't admit to doing
17 anything wrong, did he?

18 A No, sir.

19 Q Didn't admit doing anything wrong he had done in the
20 killing of John Henry, did he?

21 A The first question was no. And then to your second
22 one, no, he did not admit to doing anything as far as
23 actually shooting Mr. Mayers.

24 Q He is smart enough to say, I didn't have anything to
25 do with the murder, I didn't have anything to do with the

1 head cutting?

2 A I don't know if you would say he was smart enough to
3 say he didn't do any of that. But he placed himself there
4 for both of those events, whether he participated or
5 whether he watched.

6 Q But he was able to lead you to the spot where he
7 indicated he and Mandy had disposed of John Henry's head?

8 A Yes, he did.

9 Q Did he happen to mention to you that he says Mandy
10 had burned some of the evidence in a little camp fire?

11 A No, sir. We had no, at the time we were down there I
12 had no information of burying anything there at the site
13 of the river. There were only two things there that we
14 knew we were looking for, one being the remains of the
15 head of Mr. Mayers and the bucket that was used to
16 transport the head.

17 Q Where was the bucket found?

18 A The bucket was found just to the right of the ramp,
19 throwed in some waist high brush and growth.

20 Q It appeared the bucket had not actually been thrown
21 into the river, it had just been thrown into the tree
22 line?

23 A That's correct, yes sir.

24 Q But he didn't indicate anything to you at that time
25 when you are out there, did he go to the actual site of

1 the bridge where the head was thrown in the water?

2 A Yes, sir. He actually rode out there with me to show
3 us the exact location of where they had been. So he was
4 in an orange and white jumpsuit and restrained both around
5 the waist as well as leg shackles.

6 Q Did he happen to mention, he didn't walk over and
7 say, well here is the spot where she set the fire and
8 burned the evidence?

9 A No, sir. There was no mention of that to us.

10 Q Had he said that that would be something fairly
11 important that you would investigate, wouldn't it?

12 A That would have been something that we would have
13 looked at, collected if needed to be, photographed and
14 things like that to have available for us.

15 Q Did you see just from the best of your recollection
16 any little camp fires or anything where people had been
17 setting fires out there?

18 A Mr. Verner, that is an area where folks frequently go
19 down.

20 Q Kind of a fishing hole?

21 A And other things.

22 Q And you went into the home, you said Tim's father's
23 name is Carol?

24 A That's correct.

25 Q What is his mother's name?

1 A Ms. Helen.

2 Q Does she keep a fairly clean home or what was the
3 condition of her home?

4 A It is not the cleanest home that any of us would
5 maybe consider, it was cluttered, unkept.

6 Q Did you look for any latex gloves in that home?

7 A Mr. Verner, in looking, no, I did not at that
8 particular time of walking through look for any type of
9 latex gloves or anything like that. So, no.

10 Q Did you happen to fall upon any latex gloves in the
11 shed that Mandy was living in?

12 A No sir, I don't remember seeing any. As a matter of
13 fact I, I have a phobia of spiders so you won't catch me
14 in there.

15 Q Were there spiders in that shed. Oh, you are talking
16 about the tarantula?

17 A It was a tarantula in the shed.

18 Q But, no, like cobwebs and that type?

19 A No, sir.

20 Q But you don't recall finding any latex gloves or
21 anything?

22 A From where I was standing, no sir, I did not see any.

23 Q Was the shed searched by law enforcement for other
24 evidence?

25 A Yes, sir. I did have someone go in there.

1 Q I guess my question is, the instrument that was used
2 to decapitate John Henry, the knife or was anything ever
3 found of that actual instrument?

4 A No actual instrument was found indicating as what
5 everybody illustrated as cutting off. No instrument was
6 found either at the river or any location in the truck or
7 vehicle or anything like that.

8 Q Was Tim questioned about where that would be?

9 A Because they use the word, cut, he had been asked
10 that but there was no indication of where that item went.

11 Q He didn't say anything about being thrown in the
12 river or took it home and cleaned or anything like that?

13 A No, sir.

14 Q Whatever it was we don't have it today?

15 A Even if it was something used.

16 Q After the head of John Henry had been found in the
17 river by the divers was Tim Wise reexamined by you,
18 reinterrogated, reinterviewed? I assume his statement on
19 the 26th was before you found the head or after you found
20 the head?

21 A We read him his rights on the 26th at 11:19 a.m., so
22 that was the start of talking with Mr. Wise about where
23 the head was. Mr. Wise stayed with us after taking us and
24 the end or the last statement that he gave on the 26th, my
25 ending time is at 4:30 p.m. And so we had been out at the

1 river site and then come back to the office so that he
2 could write the statement down in his own handwriting.

3 Q Okay. And Tim told you his version is, after Mandy
4 killed Mr. John Henry Mandy took crack cocaine and a pipe
5 and began to smoke, right, maybe not on the 26th statement
6 but in one of those statements he says Mandy is a drug
7 user, Mandy took crack cocaine from the late Mr. Henry,
8 John Henry and a pipe and smoked it?

9 A That is correct.

10 Q And you had detectives enter the shed of Mandy Smith?

11 A Yes, sir.

12 Q Did you find any crack cocaine?

13 A No crack was found in the shed, no sir.

14 Q Did you find a crack pipe?

15 A No, sir.

16 Q Find anything that had been modified that appeared to
17 be used in the crack smoking area?

18 A No, sir.

19 Q So according to Tim she has got a crack habit but
20 there is no evidence of any kind of crack, drugs or
21 implementation found in the shed where she lives?

22 A That's correct.

23 Q The first statement that Mandy gave to you was on May
24 26th, correct?

25 THE COURT: Is that the area you are going to now?

1 MR. VERNER: Yes, sir.

2 THE COURT: I think we will take our lunch recess
3 now. Captain, you may step down. Ladies and gentlemen,
4 we will take our lunch recess at this time. I remind you
5 during this recess you are not to discuss this case with
6 anyone, that includes your fellow jurors, family, friends
7 or anyone else. Do not watch, listen to or read any news
8 reports about the case should there be any. Do not do any
9 investigation on the internet. Keep an open mind and do
10 not begin your deliberations until you have heard all of
11 the evidence and testimony, closing arguments by the
12 attorneys and the instruction on the law by the Court and
13 then directed by the Court to begin your deliberations
14 with your fellow jurors. With that being said you are now
15 excused for your luncheon recess. I would ask you to
16 please be back at 2:30. Thank you.

17 (Whereupon, the jury was excused from open court for
18 a lunch break.)

19 THE COURT: Captain, you are subject to cross and
20 perhaps redirect and recross, do not discuss your
21 testimony with anyone during this recess. The Court will
22 be in recess until 2:30.

23 (Whereupon, a lunch break was taken.)

24 THE COURT: Anything before we bring our jury?

25 MR. SCOTT: No, Your Honor.

1 MR. VERNER: No, sir.

2 THE COURT: Let's bring our jury.

3 (Whereupon, the jury came into open court at
4 approximately 2:35 p.m.)

5 THE COURT: We will continue the cross-examination of
6 Captain Dennis by Mr. Verner. Mr. Verner.

7 CONTINUE CROSS-EXAMINATION

8 By Mr. Verner:

9 Q Captain Dennis, I intend at this point to move into
10 questions concerning your interviews with Mandy Smith but
11 before I do that I just want to backtrack on one last
12 question on what we were discussing a little bit earlier.
13 Okay.

14 A All right.

15 Q Is this the photograph, number 1 we were talking
16 about a little bit earlier, about the position of the
17 truck and the position of John Henry's body?

18 A That's correct.

19 Q Just a real quick backtrack. Where is your
20 understanding that Tim Wise had parked his vehicle, with
21 the laser pointer?

22 A My understanding is Mr. Wise, when he came into Judy
23 B. Road, came in on this side, circled around and come to
24 rest on this side with his vehicle headed back out.

25 Q How far up, you are not sure but that is what your

1 understanding is?

2 A That is my understanding from his statement.

3 Q And your understanding also is that Mandy's vehicle
4 that she had borrowed from Mr. Buford was side by side?

5 A Yes, sir. My understanding was from the way that
6 they were talking is when she pulled in, she just pulled
7 straight up beside where they would kind of be drivers
8 window to drivers window.

9 Q And real quick, you found the body of John Henry
10 Mayers where?

11 A Without having the exact picture or landmark it would
12 be in this area in the woods.

13 Q I am not a hundred percent clear, I just want to
14 establish where in this photograph or if there is a better
15 one, a different photograph but where in that vicinity was
16 the shell casing and cigarette butt found?

17 A It was found in this area here.

18 Q In the general location where the trucks would have
19 been?

20 A That's correct.

21 Q Had you met Mandy Smith prior to May 25th?

22 A No, sir. It was actually May the 26th before I
23 actually met her.

24 Q So she is arrested in Greenville on the evening of
25 May 24th, she stays at the Newberry County Detention

1 Center for the full day of May 25th?

2 A That's correct.

3 Q She was arrested on the 24th, 25th, switchover
4 period.

5 A She was housed at the Newberry County Detention
6 Center and I believe she had already had a bond hearing on
7 the charge of forgery to which she had a cash bond that
8 was set.

9 Q She hadn't been able to make bond and was still in
10 jail for the day of the 25th?

11 A That's correct. She had not made bond and was still
12 in custody.

13 Q And to the best of your recollection nobody would
14 have talked to her from law enforcements perspective for
15 the day of the 25th?

16 A The only person that would of had a conversation or
17 contact at the time would have been Major Boland or the
18 other Investigator Spring.

19 Q That was just for the transport from Greenville to
20 Newberry?

21 A That's correct.

22 Q But after she is actually put in a cell to the best
23 of your knowledge nobody in your department would have
24 spoken to her for the day of the 25th?

25 A That's correct.

1 Q May 26th is when you decide to interview Mandy Smith?

2 A Yes, sir.

3 Q Whether you decide or you are assigned to do it but
4 that is the, is it fair to say by that point you had
5 become the lead investigator in this case?

6 A Yes, sir.

7 Q Also we have learned on May 26th you had already
8 spoken to Tim Wise?

9 A Yes, sir.

10 Q You had already visited Judy B. Road?

11 A Yes, sir.

12 Q You had already recovered the head of, you didn't go
13 to Judy B. Road on May 26th, did you?

14 A No, sir.

15 Q You went directly to the place close to there to find
16 the head that had been thrown into the river?

17 A That's correct. Which was Maybinton Road.

18 Q It is a general area but not exact?

19 A That's correct.

20 Q Just out of curiosity would you travel the same from
21 Tim Wise's house to both locations?

22 A From Mr. Wise's residence which he lives up toward
23 past Shakespeare going toward Laurens County, he would
24 have come back this way on Highway 76. The first major
25 intersection is Highway 121. He would have taken a left

1 on Highway 121 and traveled down--

2 Q I am not asking specifically, just in general you
3 travel largely the same roads?

4 A You would travel that road to get to that, once you
5 got to the point but you could take a different route to
6 Mr. Wise's home.

7 Q About what time was it that you returned to the
8 sheriffs department after recovering John Henry's head?

9 A We were probably around the 3:00, 3:30, 4:00 o'clock
10 area, somewhere around in there.

11 Q Had Mandy sent any kind of word that she wanted to
12 speak to you or how was the decision is now is the time to
13 speak to her?

14 A No, sir. The decision to speak to her was made after
15 discussion with, of Lexington. Major Boland, Major
16 Gilliam, because we had gathered what we felt substantial
17 information to go to her with.

18 Q And that is not really unique to this case. Almost
19 every case that you try at some point once the defendant
20 is arrested you are going to see if he wants to talk or
21 she wants to talk?

22 A That is exactly right. Whether it is a larceny case
23 or whether it is a murder case we try to ascertain as much
24 information as we can before going to actually confront
25 someone with the information that we have got.

1 Q Did you travel, I assume in 2011 the sheriffs
2 department is still where it is now on Wilson Road?

3 A That's correct, 520 Wilson Road, the trailer park.

4 Q Also the old Piedmont Tech or the trucking school?

5 A Well, it was actually part of the old Armory
6 maintenance lot, the old Piedmont Tech now would have been
7 the old armory. And then Piedmont Tech and now I assume
8 to be the sheriffs office.

9 Q And you drove to Lewis Rich to speak to her or you
10 had here brought to the sheriffs department?

11 A No, we had her brought over to the sheriffs office by
12 detention center personnel. They have either the van or
13 they have means of transportation to bring someone to and
14 from us.

15 Q And I assume when she came over she is in prison
16 issued garb?

17 A To my knowledge she was in a jumpsuit.

18 Q The jail, male and female gives different colored
19 jumpsuits to inmates and you wear underwear and a tshirt
20 underneath it.

21 A It kind of depends on where you are located within
22 the jail. If you are in a maximum security you would have
23 a white and orange stripe. If you are a female they have
24 yellow jumpsuits, public works is green. And it just kind
25 of helps separate to know where they are from.

1 Q It has been a while since you have been there.

2 Public works is blue now, isn't it?

3 A I believe the State inmate.

4 Q Okay. But she came in, whether it was a yellow or
5 red jumpsuits she came in?

6 A Yes sir, it could have been either yellow or red.

7 Q Had handcuffs on or did she have any?

8 A Under policy for transportation of anyone in custody,
9 whether they are under bond or no bond, they would have to
10 be transported with leg shackles as well as a belly chain
11 around them and handcuffed in the front.

12 Q We are talking about shackles, we are talking chains?

13 A Yes sir, chains.

14 Q And typically, it is policy usually when an inmate or
15 somebody charged with a crime is transported somewhere, it
16 is not just handcuffs but it is also cuffed around their
17 waist?

18 A Yes, sir. We utilize a chain that goes around about
19 the waist area. That way the handcuffs can be positioned
20 in their front. It is a little more comfortable, it is
21 embarrassing but it is one of those techniques that we
22 are, that we use so that they can't get free to get their
23 hands above them or below them.

24 Q And at that time she had been served, or had she been
25 served with forgery warrants.

1 A She had been served with a forgery warrant and it is
2 my understanding she was under a cash bond that had not
3 been paid for her release.

4 Q Do you know whether she was taking any medication at
5 the time you spoke to her?

6 A None was mentioned during the interview, no.

7 Q And it was clear to you and to Mandy and to everyone
8 that you were talking to her about a murder case?

9 A I believe when we started the conversation, Mr.
10 Verner, it was, you know, John is missing, we need to know
11 where he is at to see if she would have opened up to us at
12 that point. With me saying that it is the understanding
13 that I bring before you too that I had already read her
14 her Miranda rights from our form which she had waived by
15 verbally saying that she was willing to talk to us and she
16 also signed it.

17 Q Obviously, she didn't have a lawyer or anybody else
18 with her when she came in, it was just her, right?

19 A It was just her, yes sir.

20 Q And I believe that in the State's exhibit, on the May
21 26th statement she signed it on, at 7:37 p.m.

22 A That's correct.

23 Q And you would have, the very first you would have
24 done is recite the Miranda written warning to her and that
25 is timed at 3:51?

1 A That's correct.

2 Q It was about a four and a half hour interview?

3 A Yes, sir. Usually what we do, Mr. Verner, as you are
4 well aware, some cases are more complex than others. It
5 could be just a simple thirty minute conversation of
6 ascertaining what happened. In this case it took a little
7 bit longer because we actually verbally got her to tell
8 what happened where I could do some clarification in
9 asking questions and different things. And then gave her
10 the opportunity to write it down on a piece of paper.

11 Q And I apologize, that is three and a half hour
12 interview. How long did it actually to take Mandy, as
13 best as you recall, to actually do the written statement?

14 A I would probably say Ms. Smith probably took maybe
15 close to 40, 45 minutes to write the statement. Because
16 we actually, that to go in and where she messed up or
17 marked out to whatever, we had to get her to initial those
18 and go back through.

19 Q So after she writes down the statement and basically
20 once the written statement was done that pretty much, the
21 interview was over and she was taken back to the detention
22 center?

23 A Yes, sir.

24 Q And even after she wrote it, I assume from the way
25 you are talking that either you would read it out loud or

1 she would read it out loud, sentence by sentence, and from
2 time to time she would clarify or be allowed to make
3 additions or subtractions?

4 A That's correct. Before I actually mark out and what
5 I try to do, excuse me, is on the last page of any
6 statement that an individual writes I usually X out at the
7 very time so that way there is no adding to the statement.
8 Once I X it out at the bottom I have them to put their
9 initials on it.

10 Q And all of these statements are already in evidence?

11 A Yes, sir.

12 Q By X'g out that is basically what you mean?

13 A That's correct. Yes, sir. And those are her
14 initials that are in the four locations of the X.

15 Q By the time she writes the final statement that is
16 basically the statement that you believe and she believes
17 is the appropriate statement to write based on y'all's
18 conversations for the two hours beforehand?

19 A Yes, sir. This is the statement that she gives to be
20 her first accurate way that she remembers it as far as
21 what transpired that night.

22 Q And y'all are going over it, you and the declarant
23 are going over the statement line by line. Do sometimes
24 you point out, you know, well that doesn't add up right
25 there or are you sure about that is the right name, change

1 that right there because you observed the error?

2 A No, sir. What we try to do is, once again, I do not
3 X out at the bottom until I have looked over that
4 statement to make sure we have, you know, qualified the
5 occurrence as the crime occurred or as the person had
6 dictated during the verbal conversation. So if I had seen
7 anything that was not placed in that statement I would
8 have asked her about it and then ask her if we need to
9 write that down.

10 Q And then during the interview you also keep your own
11 separate notes about what is asked sometimes and what is
12 answered sometimes.

13 A I do, yes sir.

14 Q I am sure that is not complete but that hits the big
15 points that you think are worth noting?

16 A It is my shorthand, yes sir.

17 Q And you sometimes use that to compare against her
18 statement?

19 A I do, yes sir.

20 Q What was her emotional state at the time that you
21 interviewed her?

22 A Mandy was a lot skinner than the way she appears
23 today. And when we began discussing the disappearance of
24 Mr. Mayers she did cry and became upset. But we were able
25 to talk her through that and as a matter of fact Major

1 Gilliam was, had gotten her a drink and she had requested
2 to smoke so we try to meet all of her needs to try to
3 bring her down to reality and a state of calmness so that
4 she could think about the events that transpired and give
5 them to us as she remembers them.

6 Q And that is worth noting, that she has been detained
7 since the time you had spoke to her?

8 A Yes, sir. She has been incarcerated at the detention
9 center since May, the morning of May 24th or early morning
10 of the 25th.

11 Q And unfortunatley she physically has gained a
12 substantial amount of weight. She is not quite the girl
13 she was than when you saw her?

14 A No, sir. She, you know, she gave admission of the
15 drug use--

16 Q I am just talking about weight right now?

17 A And that is what I am talking about. That was part
18 of her problem that she did not maintain a great appetite
19 but now she was able to.

20 Q How far did you understand Mandy went through school?

21 A In the conversation of the reading her her rights she
22 stated that she had completed the eighth grade.

23 Q Was the last grade that she had completed?

24 A Was the last grade that she physically completed
25 within school.

1 Q So she hadn't even done a freshman year of high
2 school at that point?

3 A No, sir.

4 Q Is that a relatively low education level?

5 A Well, it depends on, most people get to high school
6 whenever they drop out but you will find that some people
7 won't go around the seventh and eighth grade depending on
8 whatever the problem is. But it is definitely by no means
9 a low grade as far as being able to function like we do on
10 a daily basis.

11 Q And the first, did she cry in the first statement?

12 A Yes, sir. She was emotional, yes sir.

13 Q And you told her that you had spoken to Tim and had
14 gotten his story about John Henry's disappearance and
15 death, didn't you?

16 A Yes. The first part of the conversation with Ms.
17 Smith was, she--

18 MR. VERNER: Your Honor, respectfully, I do
19 respectfully object. It was, I don't know that that
20 particular question requires a clarification. It was a
21 yes or no question.

22 THE COURT: He can answer yes or no and then explain
23 his answer.

24 MR. VERNER: Respectfully he is doing that on every
25 question, Your Honor. I do object.

1 THE COURT: I know of no rule that says a witness
2 cannot clarify his answer.

3 Q Had you told her that you had spoken to Tim Wise
4 prior to taking her statement?

5 A I had told her that I spoke to Tim Wise prior to
6 taking the statement but only after she became evasive,
7 that she had no knowledge of John Henry Mayers
8 disappearance.

9 Q So it was based, something to, come on Mandy, quit
10 playing games with us, we have already spoken to Tim, the
11 cat is out of the bag, you better talk, it is your come to
12 Jesus speech?

13 A That's correct. Yes, sir.

14 THE COURT: Did you say the cat is out of the bag.

15 A Actually I use this, it is time to get to the whole
16 truth of the matter, Your Honor.

17 Q And in fairness, you didn't use the phrase, come to
18 Jesus either?

19 A No, sir.

20 Q That is just how you characterize that type of
21 interview?

22 A That's correct. Sometimes the come to Jesus analogy
23 is not pretty but it is something that we try to seek the
24 truth.

25 Q You did not tell her that you had arrested Tim at

1 that point, had you?

2 A I don't know if we had actually said he was arrested
3 but I believe she understood that Tim was in custody.

4 Q How would she know that?

5 A During the conversation of what we talked about with
6 the information I had received and that he was at the
7 detention center.

8 Q But she would have been in a max cell, by max I mean
9 an isolation cell?

10 A She would have been able to be transported through
11 the jail from the booking area and I don't know if they
12 placed her in the women's cell or they had placed her in a
13 isolation cell. So I can't testify to her exact placement
14 during that point and time.

15 Q And your understanding is that Tim Wise had also been
16 placed in an isolation cell, or what you call C-Max?

17 A Yes, sir. Which is, in the point of the kitchen area
18 but that is--

19 Q And typically females being transported don't go
20 through the male dormitories or cells of inmates. They
21 are typically segregated males and females in the prison?

22 A Yes sir, they are segregated but not out of sight and
23 sound, they can't see.

24 Q You are saying that she could have seen Tim Wise in
25 an isolation cell?

1 A Yes, sir. This is a small county and a small jail,
2 news travels even in the jail.

3 Q She did indicate to you that sometime during the
4 afternoon of May 7th that she had tried to meet up with
5 John Henry and that he had left her to go with a guy named
6 Elvis Pee Wee Hill? If you see that in your statement, I
7 would like for you to show me.

8 A I do have that in my notes that I had taken which
9 would have been the first part of the interview where she
10 said, saw John on Saturday, May 7th at Mr. J.'s before
11 dark and saw him get into PT Cruiser, brownish, went home.
12 And she was talking about herself going home and I believe
13 this is at the point and time that we had the come to
14 Jesus speech.

15 Q Do you have an understanding of whose PT Cruiser we
16 are talking about?

17 A At the time the PT Cruiser belonged to Pee Wee,
18 excuse me, Elvis Hill and I think that has been since
19 repo'd.

20 Q And there is some other independent verification that
21 that might be true, certainly at least one witness out
22 there, certainly Pee Wees's wife confirmed that that is
23 true too?

24 A Yes, sir.

25 Q And do you know Elvis Pee Wee Hill?

1 A I do, yes sir.

2 Q Is it possible that that could have been a drug run
3 or an attempt to go purchase drugs? If you don't know
4 then just answer--

5 A I don't know, I wouldn't clarify that at this point
6 and time.

7 Q Is it safe to say that Elvis Hill is someone who is
8 well known to law enforcement in Newberry?

9 A Yes sir, he is.

10 Q And prior to Mandy beginning to write the statement
11 you would have talked to her assuming you spent about
12 three and a half hours with her, two hours or so, that
13 would have been back and forth conversation with some
14 breaks?

15 A Yes, sir. There was a smoke break and just her
16 drinking or just giving her time to regain her thoughts.

17 Q And the May 26th statement she was clear that Don
18 Buford had nothing to do with the appearance of John
19 Henry?

20 A Yes, sir. As a matter of fact, the first thing that
21 or one of the things that we talked about was and she
22 stated over and over and over again is that Jeff didn't
23 have anything to do with it. And she made sure that she
24 put that at the end, Donald Buford had nothing to do with
25 what went on and had no knowledge of this. I just used

1 his truck.

2 Q And is it fair to say that the vast majority of her
3 statement on May 26th primarily concerns the extent of her
4 long relationship with John Henry, most of it is stuff
5 that predates May 7th?

6 A Most of the information she placed in the report,
7 yes, indicates her life as she began living and growing in
8 the relationship with John.

9 Q And she indicated that she was the one who actually
10 had shot John Henry Mayers?

11 A Yes.

12 Q And she has basically said when this happened Tim
13 Wise was so scared that he freaked out and just left the
14 scene?

15 A That's correct. She actually rode, Tim Wise, Timothy
16 Wise had no knowledge of what happened until it was done
17 and he freaked out and left. And then she went on to add
18 a week later, I went back to where this took place and
19 removed head from John and took it to a nearby river.

20 Q Based on your interview with Tim Wise he did indicate
21 that they had stayed out there for some period of time
22 prior to him leaving, right?

23 A The night it happened?

24 Q Yes.

25 A Yes, sir.

1 Q They did stay there for some period of time?

2 A That's correct.

3 Q Do you think Mandy was scared when she gave that
4 statement to you?

5 A I think Mandy was scared as well as emotionally
6 drained by what had happened.

7 Q Do you think that she was protecting Don Buford?

8 A I don't think she was trying to protect him other
9 than, you know, if, I think she would have thought that we
10 would have gone after him also if we thought, but I think
11 that we verified the information by Major Boland going and
12 questioning him as well as Tim's statement and then now
13 you have got Mandy qualifying Don had nothing to do with
14 it.

15 Q Do you think the way that Mandy was arrested at
16 midnight could have affected her emotional state?

17 A Yes and no.

18 Q You understand that Mandy had done 13 days in jail
19 for the marijuana charge in the year of 2000?

20 A Yes, sir.

21 Q But has never been in custody to your knowledge since
22 you, since Major Boland arrested her on the night of May
23 24th?

24 A Without, you know, running any type of rap sheet or
25 anything like that that I could verify this would be the

1 only time that I have dealt with her as far as an
2 investigation.

3 Q Running rap sheets, you certainly run a rap sheet--

4 A Yes, sir. She has got the one on there.

5 Q In almost every criminal case you handle in court
6 there is a rap sheet run on anybody who goes in front of a
7 Judge on any kind of substitutive case, certainly felony
8 cases?

9 A Certainly felony cases, yes sir.

10 Q And there is nothing to indicate that she had been
11 incarcerated or arrested between the year of 2000 and when
12 Major Boland arrested her in Greenville?

13 A No, sir.

14 Q There might be but when you ran the rap sheet there
15 was nothing listed?

16 A That's correct. And just to clear that up, an
17 individual can be arrested such as a traffic ticket is an
18 arrest, but it is normally looked at as a summons. So
19 some of that stuff wouldn't show up on a regular criminal
20 rap sheet.

21 Q But you would agree with me that given a blue ticket
22 or a citation is a quantum leap from being actually put
23 into a detention center?

24 A Yes, sir.

25 Q And you would understand that, even a normal guy like

1 me gets nervous talking to law enforcement at times?

2 A Some people do, yes sir.

3 Q Some people get more nervous and some maybe get more
4 aggressive?

5 A And some people just don't care.

6 Q But the typical reaction is, when you want to talk to
7 somebody about a crime they are nervous?

8 A Yes, sir.

9 Q And that is just even in almost any kind of case?

10 A I am nervous sitting up here, Mr. Verner.

11 Q I don't really believe you but--

12 THE COURT: Strike that from the record, please.

13 Q At the time you do the interview you are also armed?

14 A Yes, sir.

15 Q And any other officer conducting an interview with
16 you would be armed?

17 A Yes, sir.

18 Q And then Mandy was taken back to the detention
19 center?

20 A That's correct, after her statement, yes sir.

21 Q And you have got some familiarity with how the
22 Newberry County jail works in the 20 years plus that you
23 have been an officer?

24 A Yes, sir.

25 Q Typically in a murder trial or in a more serious

1 trial inmates are more likely to be held in a maximum
2 security cell as opposed to the pretrial dorms?

3 A Depending on the gender of the individual. Most
4 males that we have would be secured in what is called
5 maximum security or they could be reclassified and could
6 be placed in a pretrial state which is an open dorm. Most
7 of the females that we have, depending on the
8 circumstances of their arrest, they could be placed in
9 isolation or they could be placed in a dormitory room with
10 other females.

11 Q The severity of the charges is not one of the factors
12 considered in that?

13 A Being familiar with our local jail because of the
14 size of it we don't have a lot of rooms. Once again, I go
15 back to the gender. Our females are typically housed in a
16 dorm room together unless it has been seen that there is
17 another problem or we need to maintain their isolation.

18 Q And another factor that would determine whether
19 somebody is put in isolation if there is a codefendant in
20 the same like crime, very likely if it is a major crime,
21 very likely they are going to be isolated by being put in
22 an individual cell?

23 A And it could, yes.

24 Q And it is your understanding that she was being
25 housed in the same cell with Tim Wise?

1 A No, not in the same cell.

2 Q I mean the same detention center?

3 A The same detention center, yes.

4 Q And the Newberry jail is not just, it holds 110
5 people, give or take?

6 A Yes, sir.

7 Q It is small compared to some places but it is still
8 holding over 100 people?

9 A That's correct.

10 Q Did anything meaningful happen between June 10th in
11 your investigation and June 26th concerning Mandy and you?

12 A On June the 10th, yes.

13 Q Between the date of June 10th and May 26th?

14 A Yes, sir. Between May the 26th and June 10th and I
15 not sure exactly when I received it but I did receive a
16 letter that was addressed to me, Lieutenant Robert Dennis.
17 It probably had been written on June the 7th and it was as
18 follows: I have tried to reach you on the phone through
19 family, I would really like to talk to you in person and
20 revise my statement. Please let me know something. I
21 have been trying for over a week now. Thanks, Mandy L.
22 Smith.

23 Q But other than the letter saying that she wanted to
24 talk to you in terms of you having any other interaction
25 you would not have?

1 A No sir, would not have had any interaction
2 whatsoever.

3 Q And, of course, on May 26th was the last time you
4 also spoke to Tim Wise?

5 A That's correct.

6 Q And then based on her request you brought Mandy back
7 to speak to you on June 10th?

8 A That's correct. I went over to the detention center
9 and asked for her to come, to be brought up to Captain
10 Kitchens office. I asked her about the letter and she
11 said, yes, I need to talk to you about my statement.
12 Didn't go any further in detail and we rode over to the
13 Newberry County Sheriffs Office.

14 Q Did she appear to be in a better mental state on June
15 10th as on May 26th?

16 A I would say that she looked a little more rested as
17 far as talking to me. But the other thing that was very
18 important is she really wanted to get a smoke too.

19 Q It was clear by June 10th she definitely knew that
20 Tim Wise was incarcerated at the jail at that point,
21 whether or not she knew on May 26th it was clear that she
22 did know by June 10th that he was in jail?

23 A Oh, yes sir. She would have known, if not, the day
24 and understood the day that I interviewed her, she would
25 have known the next morning because that was when the

1 27th, when the formal charges of murder were brought
2 against both of them and then they had their bond hearing.

3 Q I am curious, Tim has never given a statement
4 admitting any wrong in the murder to you at all, right,
5 other than being there?

6 A That's correct, other than being there.

7 Q And after your interview with Mandy she basically
8 took Tim's side and said, no, he hadn't been involved in
9 it, right?

10 A Yes sir, on the May 26th statement, yes.

11 Q But on May 27th the decision was still made to charge
12 Tim Wise with murder?

13 A That's correct.

14 Q At that point law enforcement was not satisfied with
15 either Tim's statement or Mandy's statement or just the
16 circumstances that you felt that Tim must have known
17 something more or you would not have charged him with
18 murder?

19 A Just the mere fact of him being there presented us
20 the evidence, whether he was just there or whether he
21 assisted.

22 Q You understand if I am just at the location where a
23 crime happens I might not be involved in the crime?

24 A And I understand what you are saying, yes sir.

25 Q But you felt strong enough at that time that you

1 needed to charge Tim Wise with murder?

2 A Definitely, yes sir.

3 Q So you are feeling at that time was that Tim had not
4 given a truthful statement, even as of the May 26th?

5 A And a lot of that was based on, Mr. Verner, from the
6 day the investigation actually started on May the 10th,
7 after the disappearance of May the 7th all the way up
8 until all of the information we gathered of two individual
9 not coming forth and providing a legitimate reason of Mr.
10 Mayers disappearance.

11 Q Right, but by May 27th is when the warrant was
12 officially served and you believed that you had enough
13 evidence to charge both with murder?

14 A That's correct.

15 Q But Tim had given a, they had both given statements
16 exonerating Tim?

17 A That's correct.

18 Q So it is clear you say that you must have believed
19 that Tim was not being completely candid in his May 26th
20 statement?

21 A Regardless of whether he was candid or not, just the
22 mere presence of him being there and I am not there, I am
23 going to charge both persons.

24 Q You wouldn't have charged him with murder when you
25 thought he was guilty of a lessor charge just to put more

1 pressure on him, would you?

2 A No, sir. I am not going to try to intimidate him to
3 talk or anything like that. I am going to always start
4 with the top charge of what we are dealing with.

5 Q A lot of cases do work out lower but you charge the
6 charge originally that you think is the one that you can
7 prove if you have to go to trial?

8 A That's correct. The negotiations would be left up to
9 the Solicitor's office.

10 Q But he wasn't charged with murder by you when you
11 really felt that he was just obstructing the
12 investigation?

13 A No, sir. I felt like he and both Mandy played a part
14 in the death of John Henry Mayers.

15 Q And between June 10th and May 26th was about two
16 weeks?

17 A Roughly, yes sir.

18 Q Mandy still being held at the detention center?

19 A That's correct.

20 Q Still no lawyer who has spoken to her or at least
21 given you notice of representation?

22 A That's correct.

23 Q Eighth grade, relatively low. I understand your
24 position but relatively low education level?

25 A Eighth grade.

1 Q Your understanding is she had had some contact with
2 her family or at least a letter certainly indicates that
3 she had some contact trying to get them to communicate?

4 A Yes, sir. From the letter and her talking about her
5 mother.

6 Q And June 10th is when she says, I want to tell you
7 the truthful story?

8 A That's correct.

9 Q And in June 10th she does implicate Tim Wise as the
10 man who kills John Henry Mayers?

11 A That's correct.

12 Q Do you know how fast Mandy can run?

13 A No, sir.

14 Q This is back on June 10th of 2011, two and a half
15 years ago.

16 A That's correct.

17 Q And so her telling you that she felt that Tim had
18 killed John Henry was because he was jealous of John and
19 her relationship?

20 A That is what she told on June 10th, yes sir.

21 Q Today and this week during trial that is not the
22 first you have heard that, that was her story within two
23 weeks of being arrested, two and a half years ago?

24 A Ask that again.

25 Q The fact that she claims that Tim Wise shot John

1 Henry Mayers because Tim Wise was jealous of John Henry
2 Mayers, you been aware of that defense for two and a half
3 years. It didn't just come out this week in court?

4 A No, sir. It was made evident on June the 10th.

5 Q Of 2011?

6 A Of 2011, yes sir.

7 Q Thank you. If the Solicitor has any more.

8 THE COURT: Solicitor.

9 MR. SCOTT: Thank you, Your Honor.

10 REDIRECT-EXAMINATION

11 By Mr. Scott:

12 Q Timothy Wise's statement, I am talking about the last
13 one he gave, May 26th. What time of day was that
14 completed?

15 THE COURT: May 26th?

16 MR. SCOTT: Yes, Your Honor.

17 THE COURT: What was the question, Solicitor?

18 MR. SCOTT: My question was, what time of day was his
19 May 26th, that would be his final written statement, what
20 time was it that it was completed.

21 THE COURT: Okay.

22 A On May the 26th that was completed around 4:30 p.m.
23 which that time was not noted by me, that is Ben Chapman's
24 writing.

25 Q But that is reflected in State's number 32?

1 A Yes, sir.

2 Q And at what time of the day on May 26th was Mandy
3 Smith's statement initiated?

4 A I sat down with Ms. Smith 5/26 at 3:51 p.m.

5 Q Captain Dennis, is that reflected in State's number
6 19?

7 A Yes, sir.

8 Q So there is, between the time her statement begins
9 and his statement ends is roughly 40 minutes, 39 minutes?

10 A Yes, sir. And what you have to understand is that
11 during this time period Mr. Wise, on the 26th once I
12 brought him back to the sheriffs office and got his
13 statement going and talked with him we had requested for
14 Mandy to be brought over. So once they told me she was
15 here I allowed Mr. Chapman to complete getting the written
16 statement and I moved to Major Gilliam's office so that I
17 could be with Major Gilliam and interview Ms. Smith with
18 the knowledge and information that I had.

19 Q So would there had been any possibility for Timothy
20 Wise to communicate with Mandy Smith in that 39 minutes?

21 A Not during that time because we had Mr. Wise
22 completely separate in another trailer which we call it
23 our investigations trailer. And Ms. Smith was transported
24 down our boardwalk out of sight, sound all the way to
25 Major Gilliam's office to a very end trailer where the

1 interview was conducted. I was between trailers coming
2 from, once they called me and told me Mandy was there I
3 left our trailer and walked out to the boardwalk to start
4 with Mandy.

5 Q I guess my question, to your knowledge would they
6 have had any opportunity to get together and come up with
7 these statements?

8 A No, sir.

9 Q Have you had a chance to review and compare Timothy
10 Wise's May 26th statement to Mandy Smith's May 26th
11 statement?

12 A Yes, sir.

13 Q Is there anything that you find significant when you
14 compare those two statements from one another?

15 A The one thing that you look at that remained constant
16 in both of the statements, actually all three of the
17 statements, is that Ms. Smith had Mr. Wise contact Mr.
18 Mayers and arrange the meeting down at Mr. J.'s. And then
19 they all met on Judy B. Road. Also during the looking and
20 reading of the gun being used, they both admitted of who
21 the gun belonged to, belonged to Mr. Wise, that she had
22 gotten it during the time of a restraining order here,
23 even up to the point of going back to Judy B. to dispose
24 of the head. The one thing that remains consistent with
25 both of them is they were both together at the time that

1 John Henry Mayers life was taken.

2 Q What about Timothy Wise's knowledge of what events
3 were going to unfold?

4 A At the very end of Ms. Smith's statement she
5 indicates that Mr. Wise had no knowledge of what was
6 fixing to happen. And then after it did happen he freaked
7 out. Mr. Wise also indicated that in his statement. And
8 he also testified to that.

9 Q So each one, they both talk about Mandy Smith asking
10 Tim Wise to communicate with Mr. Mayers. And in each
11 statement they talk about going to Judy B. Road?

12 A That's correct.

13 Q And in each statement they talk about Mandy Smith
14 having the gun?

15 A That's correct.

16 Q And in each statement they talk about Mandy Smith
17 shooting the gun at John Henry Mayers?

18 A That's correct.

19 Q And in each statement they talk about her firing the
20 gun twice at Mr. Mayers?

21 A That's correct.

22 Q And in each statement they talk about her going back
23 and desecrating the body?

24 A Yes, sir.

25 Q And in each statement they mention that Timothy Wise

1 had no knowledge of what was going to occur?

2 A That's correct.

3 Q And that he freaked out?

4 A Yes, sir.

5 Q Thank you.

6 THE COURT: Mr. Verner?

7 MR. VERNER: No further questions, Your Honor.

8 THE COURT: You may step down, thank you, Captain.

9 Solicitor, you may call your next witness.

10 MR. STUMBO: Your Honor, that is the State's case.

11 THE COURT: All right, thank you. Ladies and

12 gentlemen of the jury, the State has presented all of the

13 evidence and all of the testimony that the State intends

14 to present in their case-in-chief. I have to take up

15 certain matters at this point outside of your presence. I

16 will give y'all about a twenty minute recess. Please

17 don't discuss the case.

18 (Whereupon, the jury was excused from open court for

19 a break.)

20 THE COURT: Any motions at this time, Mr. Verner?

21 MR. VERNER: I move for a directed verdict, Your

22 Honor, on the charges. I understand there is some

23 conflicting testimony. As a matter of law we would ask

24 the Court for a directed verdict.

25 THE COURT: Thank you, very much. Do you care to

1 respond, Solicitor?

2 MR. STUMBO: Just, Your Honor, in the light most
3 favorable to the State I think it is apparent that there
4 is plenty of evidence here on all three charges to put
5 this case to the jury.

6 THE COURT: Yes, I would respectfully deny the motion
7 as to both the murder charge, possession of a firearm
8 during the commission of a violent crime and desecration
9 of human remains. It appears that there is both direct
10 and substantial circumstantial evidence that indicates
11 both, not only the direct testimony, Timothy Carol Wise is
12 an eyewitness or an ear witness to what may have occurred.
13 But also State's exhibit number 19, the statement which I
14 recall as a confession by the defendant herself where she
15 admits the responsibility for committing the act. I do
16 realize there are conflicting statements given by both Ms.
17 Smith and numerous statements given by Mr. Wise. But
18 still looking at the light favorable, looking at the
19 evidence in light of, most favorable to the nonmoving
20 party I would respectfully deny the motion. Do you have
21 other motions?

22 MR. VERNER: Just one, Your Honor. I would ask the
23 Court to strike the, the State had indicated it is also
24 moving forth on the accomplice liability theory. I would
25 ask the Court, there has been no evidence, the State's

1 theory of the case is that Mandy was the shooter. Our
2 theory of the case is that Tim Wise is the shooter. But
3 there has been no testimony, no direct evidence that I
4 have seen of any kind that there was accomplice liability,
5 that they were acting in concert and I would ask the Court
6 to strike that line, the murder on that basis.

7 THE COURT: I would also deny that. There is
8 testimony from Mr. Wise, she texted Mr. Wise to meet her
9 and John Henry Mayers at the location in Sumter National
10 Forrest. He testified to it and it is also in her
11 statement of 10, June, State's 20 where she says she
12 texted him and told him, her and John were going to hang
13 out. And that, she does not say that she invited Tim to
14 meet them there. But, of course, his testimony is that he
15 was invited and came there in his truck. And her
16 statement says he was there when they got there. Now a
17 reasonable mind can say, that is acts of preparation. If
18 you read her statements where she alleges physical,
19 mental, sexual abuse over a 20 year period by John Henry
20 Mayers, she may want a .9 millimeter weapon, she may want
21 a .9 millimeter weapon and a .32 year old adult male who
22 is not John Henry Mayers hanging with her at midnight, on
23 the night of the 7th, early morning hours of the 8th. So
24 inferentially you could draw that, and of course the jury
25 has got to determine the credibility, they can believe

1 all, part, none of what a particular witness says. But he
2 could have provided the gun, in her first statement she
3 says, after the restraining order I started carrying a gun
4 in my shorts for a few weeks. She may not have said in
5 her shorts, she may have said I started carrying a gun for
6 the past few weeks for self protection and things like
7 that. So, you know, conspiracies aren't done in moonlight
8 or moonset. Well, they are done in moonlight or moonset,
9 they are not done in the light of day, coldblooded. That
10 is where you get the hand of one is the hand of all. So I
11 respectfully deny that motion also. Any other motions?

12 MR. VERNER: Procedurally, Your Honor, I think I have
13 got three witnesses I can get probably before too late in
14 the evening today. I intend to call Samantha Wright, Kris
15 Hansen and then Don Buford are the three witnesses I think
16 we can probably get in today.

17 THE COURT: All right. Will you please have Ms.
18 Smith come around to the podium right here.

19 MR. VERNER: Come on up, Mandy.

20 THE COURT: Madam Clerk, will you place Ms. Smith
21 under oath for me, please.

22 MANDY SMITH, being
23 first duly sworn, testified as follows:

24 THE COURT: Ms. Smith, I need to go over something
25 with you, I do this with everyone who is on trial and I

1 need your responses to be under oath. That is why I had
2 the Clerk place you under oath. We have reached the stage
3 of the trial where the State has rested. In your side the
4 defense now as the opportunity to present evidence for the
5 jury to consider. I believe they may already be four
6 exhibits that has been presented.

7 MR. VERNER: Yes, sir.

8 THE COURT: Do you understand where we are at in the
9 trial of the case?

10 MS. SMITH: Yes, sir.

11 THE COURT: In that regard you may call witnesses to
12 testify. And if you choose to testify yourself you may do
13 so. Do you understand?

14 MS. SMITH: Yes, Your Honor.

15 THE COURT: No one can force you to testify. You
16 have the absolute right to remain silent. And if you
17 choose not to testify I will tell this jury that they
18 cannot hold your silence against you in any way. I will
19 tell them that they are not to discuss that, the fact that
20 you do not testify, not to discuss at all in the jury
21 room. Do you understand?

22 MS. SMITH: Yes, Your Honor.

23 THE COURT: I have heard from both Mr. Verner and the
24 State on the criminal history. I take it there is no
25 criminal history that would subject to impeachment under

1 Rule 609. Is that correct, Mr. Verner?

2 MR. VERNER: My understanding is the Court is
3 correct, Your Honor.

4 THE COURT: Solicitor?

5 MR. STUMBO: That's correct, Your Honor.

6 THE COURT: Thank you very much. The decision
7 whether you testify or not, Ms. Smith, is your decision to
8 make and yours alone. I expect that you have confirmed
9 with your attorney and others whose opinions you value on
10 the important decision. But the ultimate decision, the
11 ultimate call about whether or not you testify is your
12 call to make, your decision. Do you understand?

13 MS. SMITH: Yes, Your Honor.

14 THE COURT: Has anyone exercised any undue influence
15 over you to get you to choose to testify or not to
16 testify?

17 MS. SMITH: No, Your Honor.

18 THE COURT: Today are you under the influence of any
19 drugs or alcohol, medication or anything that negatively
20 affects your thinking ability?

21 MS. SMITH: No, Your Honor.

22 THE COURT: Do you suffer from any physical or mental
23 problems that affect your thinking today?

24 MS. SMITH: No, Your Honor.

25 THE COURT: All right. Do you have any questions

1 that you would like to ask me about your right to testify
2 or not to testify?

3 MS. SMITH: No, Your Honor.

4 THE COURT: We are going to take a fifteen minute
5 recess. I will allow her the opportunity to discuss that
6 with Mr. Verner. And I will ask her what her decision is
7 after the break.

8 MR. VERNER: Thank you, Your Honor. I would
9 represent that we intend that she is likely to testify but
10 we are going to think about it over the night and make a
11 final decision. Ultimately she understands that is her
12 decision in my opinion.

13 THE COURT: I thought we were, so you are wanting
14 overnight to talk with her?

15 MR. VERNER: Even if she does testify I don't
16 anticipate that she will start until tomorrow because of
17 the other witnesses. Our intention is that she wants to
18 testify and is likely to do that, Your Honor. But until
19 we actually come to that point I think she reserves the
20 right to change strategy. Our intent is to testify.

21 THE COURT: So you are talking about three civilian
22 witnesses and perhaps Ms. Smith.

23 MR. VERNER: I don't think we would get to her this
24 evening. She would be a Tim Wise length witness and I
25 think we are going to be lucky to get out by 5:00 with the

1 three witnesses.

2 THE COURT: I will give her the evening hours.

3 MR. VERNER: Okay.

4 (Whereupon, a short break was taken.)

5 THE COURT: Bring our jury in, please.

6 (Whereupon, the jury came into open court at
7 approximately 3:54 p.m.)

8 THE COURT: Ladies and gentlemen, as you heard before
9 the recess the State has rested. You heard all of the
10 evidence and all of the testimony you are going to hear
11 from the State in its case-in-chief. The defense, I
12 believe they have already presented two exhibits, the
13 defense 3 and defense 4. But the defense may also present
14 additional evidence and testimony if the defense desires
15 to do so. A criminal defendant in South Carolina is
16 always presumed to be innocent and does not have to prove
17 himself or herself innocent. The State of South Carolina
18 always bears the burden of proving its case beyond a
19 reasonable doubt. However, a defendant may present
20 evidence if the defendant desires to do so. So we will
21 now turn our attention to Mr. Verner. Mr. Verner, does
22 the defense intend to present witnesses on behalf of Ms.
23 Smith?

24 MR. VERNER: Your Honor, the defense intends to put
25 up a defense.

1 THE COURT: Call your first witness.

2 MR. VERNER: Samantha Wright.

3 SAMANTHA WRIGHT, being

4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Verner:

7 Q Samantha, how old are you?

8 A 19.

9 Q Where are you from?

10 A Prosperity.

11 Q I understand you didn't necessarily expect to be here
12 today, did you?

13 A No, sir.

14 Q Are you from Newberry County?

15 A Yes, sir.

16 Q Lived here all of your life?

17 A Yes, sir.

18 Q Are you employed or in school?

19 A In school.

20 Q Where do you go to school?

21 A Piedmont.

22 Q That is in Newberry County?

23 A Yes, sir.

24 Q Do you know Mandy Smith?

25 A Yes, sir.

- 1 Q Do you know Tim Wise?
- 2 A Yes, sir.
- 3 Q Do you know John Henry Mayers?
- 4 A I met him like twice maybe.
- 5 Q Tell me how you know Mandy Smith?
- 6 A My mom was engaged to her brother for three years or
- 7 so.
- 8 Q And so you met her originally through your mother?
- 9 A Yes, sir.
- 10 Q Did you strike up a friendship with her?
- 11 A Not then, no.
- 12 Q How long have you known Mandy Smith?
- 13 A Probably two years.
- 14 Q Did you know here in 2011?
- 15 A Yes, sir.
- 16 Q Would you ever come over to her house?
- 17 A Yes, sir.
- 18 Q How often would you visit Mandy?
- 19 A Probably once a week, up to five days a week.
- 20 Q Up to five days a week sometimes?
- 21 A Yes, sir.
- 22 Q Over how long of a period of time?
- 23 A I would say about five or six months.
- 24 Q And what time frame, you understand John Henry Mayers
- 25 was killed in May of 2011 and Mandy was arrested?

- 1 A Yes, sir.
- 2 Q Are we talking about the same time period that you
3 would see Mandy?
- 4 A Yes, sir.
- 5 Q What did you and Mandy have in common?
- 6 A We both smoked marijuana.
- 7 Q I was going to start with the dogs, did you like
8 dogs?
- 9 A Yes, sir.
- 10 Q You understand you can't be smoking marijuana, don't
11 you?
- 12 A Yes, sir.
- 13 Q You can get in trouble for that, you understand?
- 14 A Yes, sir.
- 15 Q Do you like dogs?
- 16 A Yes, sir.
- 17 Q Was that one thing that you and Mandy had in common?
- 18 A Yes, sir.
- 19 Q Occasionally in your youth you would smoke marijuana
20 in the past?
- 21 A Yes, sir.
- 22 Q Would Mandy smoke marijuana with you?
- 23 A Yes, sir.
- 24 Q Did you ever see Mandy using any other harder drugs
25 such as crack cocaine?

- 1 A No sir, just marijuana.
- 2 Q And how long of a period were you coming over to her
- 3 house?
- 4 A I hung out with her about six months and I was there
- 5 almost every day.
- 6 Q Never saw any indication that Mandy was using crack
- 7 cocaine?
- 8 A No, sir.
- 9 Q Was smoking marijuana?
- 10 A Yes, sir.
- 11 Q When you would visit Mandy, was it more of the night
- 12 time, daytime or just any time?
- 13 A Any time.
- 14 Q Did you see other people who were regularly there
- 15 when you would come visit her?
- 16 A Tim and Jeff, that is about it.
- 17 Q By Tim you are talking Tim Wise?
- 18 A Yes, sir.
- 19 Q How often was Tim Wise at her house?
- 20 A Almost every day too.
- 21 Q You like Tim Wise?
- 22 A No, sir.
- 23 Q Has he ever done anything to you to make you dislike
- 24 him?
- 25 A No, he just always gave me a bad vibe.

1 Q You dislike him but he has never personally done
2 anything directly to you?

3 A No, sir.

4 Q And I think you said somebody named Jeff?

5 A Yes, sir.

6 Q Is Jeff here in the courtroom today?

7 A Yes, sir.

8 Q Can you identify him, where is he in the courtroom
9 today?

10 A The one with the goatee back there.

11 Q I didn't understand a single word you just said.

12 A The one all the way in the back.

13 Q Okay. The balded man with the goatee?

14 A Yes, sir.

15 Q He was there frequently with them?

16 A Yes, sir.

17 Q Do you like Jeff?

18 A Yes.

19 Q Was anybody else there on a pretty regular basis?

20 A Not that I can remember.

21 Q I think you testified that you met John Henry Mayers
22 one time?

23 A Once or twice, yes.

24 Q Once or twice, did those meetings stand out in your
25 mind or were they just barely casual encounters?

- 1 A Barely.
- 2 Q Was that over at Mandy's house?
- 3 A Yes, sir.
- 4 Q Did you ever hang out with Mandy at other places or
- 5 was it for the most part at her house on Wheeland School
- 6 Road?
- 7 A At her house.
- 8 Q And we are talking about the house on Wheeland School
- 9 Road?
- 10 A Yes, sir.
- 11 Q And Mandy had a lot of pets?
- 12 A Yes, sir.
- 13 Q Do you remember what kind of pets she had?
- 14 A She had a lot of dogs, a cat, an Iguana and a snake.
- 15 Q Was she affectionate towards her pets?
- 16 A She loved them.
- 17 Q We all love our pets but on a scale would you say
- 18 more than the average person was she attached to her pets?
- 19 A Yes, they were basically all she really had.
- 20 Q She was very affectionate and loving relationship
- 21 with her pets?
- 22 A Yes, sir.
- 23 Q Did you ever see Mandy carry a gun?
- 24 A Not that I can recall.
- 25 Q Mr. John Henry was killed on May 7th of 2011, do you

1 understand that, don't you?

2 A Yes, sir.

3 Q Do you recall how long or how closely up until that
4 date that you had seen Mandy?

5 A I think I had seen her in May the 1st.

6 Q About a week before this happened?

7 A Yes, sir.

8 Q So up until a week before John Henry Mayers was
9 killed did you ever see Mandy carrying a gun?

10 A No, sir.

11 Q If she was carrying a gun as often you were over at
12 that house do you think it is likely that you might have
13 seen that?

14 A Yes, sir.

15 Q Have you ever seen Tim Wise carry a gun?

16 A Not that I can recall.

17 Q Has he ever shown you a gun?

18 A I think he has once, I can't really remember and I
19 don't remember what kind of gun it was.

20 Q Did you have any kind of relationship with Tim Wise
21 beyond Mandy's home?

22 A No, sir.

23 Q Have you been over at Tim's house?

24 A I went over to Tim's house once with Mandy.

25 Q Do you remember what that was for?

- 1 A No, sir.
- 2 Q You see Mandy today, is it safe to say that she has
3 gotten a little larger today than she was when you were
4 hanging out with her regularly?
- 5 A Yes, sir.
- 6 Q She was, how would you describe her physical
7 appearance back in May of 2011?
- 8 A She wasn't really skinny but she was a lot skinner
9 than she is today.
- 10 Q And you understand the importance of your testimony
11 under oath today?
- 12 A Yes, sir.
- 13 Q Are you confident that you saw Tim show you a gun--
- 14 THE COURT: No sir, her answer was, I think he has
15 once, I can't really remember.
- 16 MR. VERNER: That is what I am asking her to clarify,
17 Your Honor.
- 18 Q Did he show you a gun or didn't he show you a gun?
- 19 A I don't really remember.
- 20 Q Did you indicate to me earlier--
- 21 THE COURT: No sir, that is an improper form of--
- 22 Q Do you think Mandy would do anything to harm her
23 dogs?
- 24 A No, sir.
- 25 Q Was she protective of her pets?

1 A Yes, sir.

2 Q Answer any questions the Solicitor may have.

3 THE COURT: Solicitor.

4 CROSS-EXAMINATION

5 By Mr. Stumbo:

6 Q I am David Stumbo, I don't believe we have met. I
7 will be brief. I see you got a Roma's tshirt on, do you
8 work there?

9 A No, sir.

10 Q Just like to go there and eat?

11 A Not really.

12 Q Just like the tshirt?

13 A Yes, sir.

14 Q You are 19 years old now, is that right?

15 A Yes, sir.

16 Q So that would have made you 17, 18 when you were
17 hanging out with Mandy about two years ago in 2011?

18 A Yes, sir.

19 Q 16, 17?

20 A Yes, sir.

21 Q And y'all smoked marijuana at her house when you go
22 over there at the time?

23 A Yes, sir.

24 Q How old was she then, in her 30's?

25 A Yes, sir.

- 1 Q She was in her 30's and you were in high school?
- 2 A Yes, sir.
- 3 Q Did you bring the marijuana with you or was it there
- 4 when you got there?
- 5 A Sometimes I would bring some with me and sometimes it
- 6 would be there.
- 7 Q You said Tim gave you a bad vibe but he never did
- 8 anything to you, is that correct?
- 9 A Yes, sir.
- 10 Q Did he ever get violent with you?
- 11 A No, sir.
- 12 Q Did you ever see him get violent with anybody?
- 13 A No, sir.
- 14 Q Did you ever see him threaten to kill Mandy's dogs
- 15 when you were at the house?
- 16 A No sir, not that I can remember.
- 17 Q And you mentioned Jeff Buford was at the house, you
- 18 called him Jeff, right, that is Don Buford in here in the
- 19 courtroom?
- 20 A Yes, sir.
- 21 Q What was the nature of his and Mandy's relationship?
- 22 A They were really good friends as far as I know, more
- 23 like brother and sister, that is what I saw.
- 24 Q So they weren't romantically involved at all?
- 25 A No sir, not that I know of.

1 Q When you were there they were just hanging out being
2 friends?

3 A Yes, sir.

4 Q And the same situation with Tim Wise, right, they
5 were just friends, correct?

6 A Yes, sir.

7 Q You said you met John Henry Mayers once or twice and
8 so you weren't around John Henry and Mandy on a regular
9 basis, were you?

10 A No, sir.

11 Q Did you ever see him hit Mandy Smith?

12 A I never seen him hit Mandy Smith but I came over to
13 her house one day and she had a black eye and they had
14 told me that he punched her in the face, as far as I can
15 remember.

16 Q They had told you that but that is not something that
17 you saw, witnessed or anything like that?

18 A No, sir.

19 Q You weren't out in the Sumter National Forrest on
20 that dirt road that night John Henry Mayers was killed,
21 were you?

22 A No, sir.

23 Q You seen Mandy smoke marijuana but you never was
24 around her when she smoked crack cocaine?

25 A No, sir.

1 Q You were only around her and John Henry Mayers once
2 or twice, right?

3 A Yes, sir.

4 Q Did John Henry Mayers ever get violent with you, get
5 aggressive with you?

6 A No, sir.

7 Q And this last statement about Timothy Wise, you said
8 at first you think you might have seen him with a gun but
9 then the second time you were asked that you said, I don't
10 really remember?

11 A I don't really remember.

12 Q Nothing further.

13 THE COURT: Redirect?

14 MR. VERNER: Briefly.

15 REDIRECT EXAMINATION

16 By Mr. Verner:

17 Q Samantha, did Mandy Smith introduce you to marijuana?

18 A No, sir.

19 Q You see this firearm?

20 A Yes, sir.

21 Q Have you ever seen it in the possession of Mandy
22 Smith?

23 A No, sir.

24 Q You ever seen it before today?

25 A No, sir.

State of South Carolina)
) Court of General Sessions
County of Newberry) 2011-GS-36-503-505

State of South Carolina)
) vs.) Transcript of Record
)
Mandy Lenore Smith)
) DEFENDANT) VOLUME III

October 7, 2013
Newberry, South Carolina

B E F O R E:

Honorable R. Knox McMahon, Judge

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

David Stumbo, Solicitor
Dale Scott, Assistant Solicitor
Attorneys for the State

Charles Verner, Public Defender
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1 Q That is all I have.

2 MR. STUMBO: No more questions, Your Honor.

3 THE COURT: You may step down. Mr. Verner, call your
4 next witness.

5 MR. VERNER: I would call Kris Hansen.

6 KRIS HANSEN, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Verner:

10 Q Mr. Hansen, what is the name you go by?

11 A Lonnie Kristen Hansen, I go by Kris.

12 Q How long have you lived in Newberry County?

13 A Going on five years.

14 Q Are you married?

15 A Widowed.

16 Q How long ago did your wife pass away?

17 A 2006.

18 Q I assume it was an accident?

19 A Yes, car accident.

20 Q Do you have any children?

21 A One, son.

22 Q Where do you live today?

23 A I live in Prosperity.

24 Q Are you employed?

25 A Yes, self-employed, I own two businesses.

1 Q What type of work do you do?

2 A House design, low country mainly and historic
3 renovation.

4 Q Do you know Mandy Smith?

5 A Yes, I do.

6 Q Do you know Tim Wise?

7 A Yes.

8 Q Do you know John Henry Mayers?

9 A No.

10 Q Tell me how you know Mandy Smith, please?

11 A Chapin being a small town, everybody knows everybody.
12 All of my friends sort of went and graduated at the same
13 and I met them through my friends.

14 Q How long have you known Mandy Smith?

15 A We knew each other for about a year after introduced.

16 Q You understand as I indicated that Mr. John Henry
17 Mayers passed away on May 7th or died, was killed on May
18 7th of 2011?

19 A Yes.

20 Q Is that about the time that you knew Mandy?

21 A No, we quit hanging out about two months prior.

22 Q Well, there was an incident involving you, Mandy and
23 John Henry Mayers, wasn't there?

24 A Yes.

25 Q What was that?

- 1 A We got back from the Waffle House--
- 2 Q And don't tell me, we, because we get confused by
- 3 your we.
- 4 A We were in her driveway.
- 5 Q When you say, we, I don't know who the other person
- 6 is you are talking about.
- 7 A Mandy and I were in the car from returning from the
- 8 Waffle House.
- 9 Q Were you in a romantic relationship with Mandy?
- 10 A No, we were just very good friends.
- 11 Q And over, how long a period were you friends?
- 12 A About a year.
- 13 Q How often would you come and see Mandy?
- 14 A Whenever she said the fish were biting in her pond.
- 15 Q So y'all liked to fish?
- 16 A Yes, I like to fish, we both got a lot of critters.
- 17 I have chickens, dogs and a horse.
- 18 Q Did you visit her home on Wheeland School Road?
- 19 A Yes.
- 20 Q Were there other places that you hung out with Mandy?
- 21 A She would stop by my house and pet the horse and feed
- 22 the chickens and we just hung out.
- 23 Q I am guessing that you have a horse and some
- 24 chickens, you probably live out in the country?
- 25 A Yes.

1 Q And Mandy's home was out in the country?

2 A Basically about five miles down from my road.

3 Q Were you both fond of animals?

4 A Yes.

5 Q There was an incident that happened on March, around
6 midnight on March 23rd of 2011?

7 A Yes.

8 Q Do you remember that evening?

9 A Very well.

10 Q What happened?

11 A Mandy and I returned from Waffle House and we were
12 just sitting, she was getting ready to go back in her
13 house and I was going to go home. I had a son to take to
14 school in the morning. We were just sitting there
15 chitchatting and all of a sudden two headlights just
16 popped on and all of a sudden she was getting hauled out
17 of the passenger side without a word, notice or anything.
18 It freaked me out. It was just lights popped on and the
19 next thing you know it was right to the passenger window,
20 both of our windows were down but the light blinded me.
21 And all I seen was two arms and a fist, pulling her out
22 and beating her. I got her back in the car and then, they
23 got in the car and left. I didn't even recognize the men,
24 I didn't even know who it was until she informed me later.
25 Q Do you know who that was?

1 A At the time I had no idea.

2 Q Do you know now who that was?

3 A Yes.

4 MR. STUMBO: Your Honor, calls for hearsay,
5 objection.

6 THE COURT: I would sustain the objection.

7 Q Did you press any charges on anybody that night?

8 A I went in as a witness for a restraining order. I
9 wasn't worried about my own safety due to a certain family
10 member.

11 Q Do you know who the, did you testify at the
12 restraining order hearing?

13 A Yes.

14 Q Do you remember who the restraining order was granted
15 against?

16 A Mayers.

17 Q John Henry Mayers?

18 A Yes.

19 Q Did he appear at the hearing?

20 A Yes, that was the only time that I actually seen him
21 face to face.

22 Q And that restraining order hearing was about the
23 incident involving you and Mandy in the car?

24 A Yes. I didn't file one but I was there to make sure
25 she got one.

- 1 Q Did Tim Wise accompany you to the hearing?
- 2 A I believe he was there, that was two years ago.
- 3 Q When you say, describe how many times Mandy got hit
- 4 that you saw?
- 5 A I got brushed in the jaw once and I would say she got
- 6 about four or five.
- 7 Q How hard were the hits?
- 8 A What I would call beat down. I mean it was--
- 9 Q Violent hits?
- 10 A Violent, it was vicious.
- 11 Q In the face?
- 12 A Yes.
- 13 Q And you said you got hit once too?
- 14 A Yes, because I grabbed her and tried to pull her back
- 15 in the car.
- 16 Q How was Mandy extracted from the car?
- 17 A She didn't get extracted, I made sure she wasn't
- 18 getting pulled out and he took off. I mean I did the best
- 19 I could to protect her.
- 20 Q I thought you indicated, you said they left, they got
- 21 in the car?
- 22 A I heard somebody yell out, from the car's direction,
- 23 I didn't see who but I heard somebody else yell. I don't
- 24 know who that was either.
- 25 Q So by they, you are not talking about Mandy?

- 1 A No, I am talking about Mayers and then there was
2 somebody hollering something, I don't know, I was in panic
3 mode. I heard somebody else yelling saying come back or
4 stop or something like that.
- 5 Q And the intent was to pull her out of the car through
6 the window?
- 7 A Yes and beat her.
- 8 Q Do you see Mandy today?
- 9 A Yes.
- 10 Q Was Mandy a smaller lady then than she is today?
- 11 A Yes.
- 12 Q Okay. Did the man say anything?
- 13 A Not at all, that is what freaked me out. There
14 wasn't no words, no nothing, it was just bang.
- 15 Q Nothing was spoken before?
- 16 A No. That is what caught me off guard, it was almost
17 like it was just set up, like they rolled up just to
18 initiate violence, honestly.
- 19 Q Was that the first time you had ever seen a fight,
20 just ever you saw a fight?
- 21 A I grew up with 30 years at Department of Justice.
- 22 Q I don't mean, I don't understand what you are saying?
- 23 A My dad is very high in the Federal Department of
24 Justice so I have seen him come back, stories.
- 25 Q He is a police officer?

- 1 A Yes, well he does have a badge.
- 2 Q Okay.
- 3 A Retired.
- 4 Q Have you ever been in fights yourself?
- 5 A Only when I was backed in a corner.
- 6 Q That, the answer is yes?
- 7 A Yes.
- 8 Q And my understanding is is that you do know some
- 9 martial arts?
- 10 A Yes.
- 11 Q Seeing a fight wouldn't--
- 12 A That situation rattled me if that is the question you
- 13 wanted to know, been in tight spots but that one I was
- 14 helpless. It was just, it was so fast and it just woke my
- 15 eyes up.
- 16 Q Was Mandy hurt?
- 17 A Yes.
- 18 Q Had you and Mandy done anything to anybody that night
- 19 that would have antagonized this?
- 20 A Nothing that I would be aware of.
- 21 Q How often would you come and see Mandy when you knew
- 22 her?
- 23 A She called me, I had two days off, I had a Wednesday
- 24 and a Saturday. And usually we will do an afternoon fish
- 25 on a Wednesday, every other Wednesday and then if she had

1 a little bonfire over the weekend or something I would
2 stop in.

3 Q Over how long a period of time?

4 A A year. Whenever we just wanted to chill.

5 Q Have you ever seen Mandy smoke marijuana?

6 A Yes.

7 Q What about crack cocaine?

8 A No.

9 Q Please answer any questions from the prosecutor.

10 THE COURT: Solicitor.

11 CROSS-EXAMINATION

12 By Mr. Stumbo:

13 Q Mr. Hansen, you said y'all would chill, by that you
14 mean y'all would smoke pot together?

15 A Once in a while when we went fishing, mainly it was
16 fishing and me helping her mend her fences, we watch TV or
17 a movie, you know, it was just a basic friendship.

18 Q Once in a while you smoked pot?

19 A Yes.

20 Q You are talking about this incident where someone
21 comes in and tries to throw her out of the car, you said
22 the lights were blinding when they pull in?

23 A A car just all of a sudden, lights came on. I never
24 seen or heard the car roll up the driveway or anything.
25 Lights just came on and the next thing you know I seen a

1 figure come around and grab her.

2 Q Come around and grab her at the window, the window is
3 open?

4 A Yes, both windows were open and I had two headlights
5 right there in my face. And all of a sudden she goes out
6 the passenger window.

7 Q And you were pulling on the other end trying--

8 A I was trying to keep her from going out of the car.

9 Q And in the course of that when this person is trying
10 to pull her out you get hit how many times?

11 A Once, I mean he punched her but the fist were just
12 coming. I just grabbed her and I got like collateral
13 damage so to speak.

14 Q And he is outside the car hitting you and pulling her
15 out at the same time?

16 A He wasn't hitting me, he was intending to hit her but
17 as those fists were fraling I put my face in the way. It
18 is pretty much, I was not the intended person, it was her.

19 Q Well, there seems to be a bag in the story here. You
20 say that all of a sudden she just gets in the car with him
21 and leaves?

22 A No, no. She stayed in the car with me until he left.
23 As soon as he was done hitting her somebody yelled and
24 then he got in his car and left. Either I jumped out and
25 go that way or I would make sure she is all right.

1 Q So I must misunderstood. You didn't testify that she
2 left with him?

3 A No, she stayed in my car, he left with somebody else
4 in a car. She never exited falling out of my car, she was
5 only about half way out the window.

6 Q You say y'all were just friends?

7 A Yes.

8 Q Would it surprise you to know that she referred to
9 you as her boyfriend?

10 A Yes, it would.

11 Q This is State's exhibit 19. I want to read this for
12 you. It says, John was to just pop in on me which he had
13 done many times. And he creeped on my property with
14 lights on the car off and assaulted me and my boyfriend of
15 a year. I am assuming she is talking about you there?

16 A Yes. I mean, yes. That is how she referenced me but
17 the feeling wasn't mutual then. That is news to me.

18 Q State's number 20 is another statement of Mandy
19 Smith. Ms. Smith refers to, I am going to read this and
20 ask you if this is an accurate statement. This past week
21 I found out that Tim is in love with me and has been
22 working at destroying my life over the past three to four
23 months, he destroyed my relationship with my landlord, my
24 boyfriends, (Kris), spelled K-R-I-S. My relationship with
25 Don and he hated John. So I am assuming by, she mentions

1 Don and John in here but refers to you as the boyfriend,
2 is that correct?

3 A That is how she perceived it, honestly if she had
4 guns for me I didn't know about it. I was just friends
5 with her. But maybe she thought it would lead somewhere
6 else, I don't know.

7 Q Could it be because y'all were having sex in the car
8 when John Henry Mayers drove up that night?

9 A No.

10 Q Pulled her out?

11 A No, we just got back from the Waffle House.

12 Q Middle of the night?

13 A Yes, came back from a little get together.

14 Q Nothing further.

15 THE COURT: Any redirect?

16 MR. VERNER: No, Your Honor.

17 THE COURT: Any objection for this witness to being
18 excused?

19 MR. VERNER: Nothing, he is under subpoena. He is
20 welcome to stay.

21 MR. STUMBO: He can be excused, no objection.

22 THE COURT: You may call your next witness, Mr.
23 Verner.

24 MR. VERNER: I would call Don Buford.

25 DON BUFORD, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Verner:

4 Q State your name, please.

5 A Donald Miller Buford, Jr.

6 Q Mr. Buford, we sometimes here you referred to Jeff,
7 is that the same person, is that you?

8 A Yes sir, it is a nickname.

9 Q Where do you live, sir?

10 A I live in Sumter, South Carolina.

11 Q How long have you lived in Sumter?

12 A Since 1998.

13 Q Are you employed?

14 A Yes, sir.

15 Q Where do you work?

16 A I am a store manager with Dollar General store in
17 Columbia, South Carolina.

18 Q What did you do before you were the store manager at
19 the Dollar General?

20 A I was a medical analyst for the Department of Defense
21 for medical operations in Southwest Asia and prior to that
22 I retired 24 years in the United States Air Force.

23 Q Were you honorably discharged?

24 A Yes, sir.

25 Q And it was 24 years?

- 1 A Yes, sir.
- 2 Q Are you married?
- 3 A No, sir.
- 4 Q What is your marital status?
- 5 A I am divorced.
- 6 Q Do you have any children?
- 7 A Yes sir, I have four.
- 8 Q Are any of those children in the armed forces?
- 9 A Yes, sir. Three of my boys are in the Air Force
- 10 today.
- 11 Q Do you know Mandy Smith?
- 12 A Yes sir, I do.
- 13 Q Do you know Timothy Wise?
- 14 A Yes, sir.
- 15 Q Did you know John Henry Mayers?
- 16 A I met John I think three times.
- 17 Q How would you characterize your relationship with
- 18 Mandy Smith?
- 19 A Over the years we were romantically involved. She
- 20 actually lived with me for a couple of years and then she
- 21 moved away and moved back up to Little Mountain. From
- 22 that point on it became more of a friendship and just hung
- 23 out.
- 24 Q Did you, how long of a period of time have you known
- 25 Mandy Smith?

- 1 A Ten plus years.
- 2 Q Did you know her about the timeframe of May of 2011?
- 3 A Yes sir, I did.
- 4 Q Did you ever have an occasion to visit her on the
- 5 Wheeland School Road here in Newberry County?
- 6 A Yes sir, I did.
- 7 Q How often would you come to visit Mandy in Newberry?
- 8 A Usually every weekend.
- 9 Q Over what period of time?
- 10 A About the time she moved there and she contacted me
- 11 and told me she was back in Little Mountain, just about
- 12 every weekend from that point on.
- 13 Q Roughly when did she tell you she was back in Little
- 14 Mountain?
- 15 A It was probably 12 to 18 months prior--
- 16 Q Prior to May 11th?
- 17 A Yes, sir. And that is just a guess.
- 18 Q Within a frame of a year or a year and a half you
- 19 were seeing her almost every weekend?
- 20 A Yes, sir.
- 21 Q By May of 2011 was your relationship really romantic
- 22 or intimate anymore?
- 23 A From my point of view I thought it was, from her
- 24 point of view I think it was more of a friendship.
- 25 Q And what type of vehicle did you have?

1 A At that time I had just bought a 2003 white Ford
2 Ranger.

3 Q If I could back up, at what rank did you come out of
4 the military?

5 A E7 Master Sergeant.

6 Q When you would come every weekend to see Mandy what
7 typically would y'all do?

8 A Usually come up on a Friday night right after work, I
9 usually go to the store and make sure she had stuff, I
10 would always bring dog food for the dogs. Just hang out
11 with the dogs, most of the dogs that she had at her
12 Wheeland School address I had at my address at Sumter
13 before she moved. She moved and took the dogs with her.

14 Q Were they originally your dogs that she had taken or
15 they were just kind of dogs that were hers that you were
16 keeping for her?

17 A No, they were basically our dogs when we lived
18 together. We accumulated the rescue dogs over a period of
19 time. And then when she decided to move she took the dogs
20 with her.

21 Q Do you remember how many pets she had?

22 A Yes, sir.

23 Q What pets did she have at the Wheeland School?

24 A She had nine dogs, depending on which week you went
25 up there, it could be eleven, twelve. She had an Iguana,

1 she had fish, she had rats, she had guinea pigs, she had
2 spiders and she had snakes.

3 Q Were you fond, I assume if you were coming over there
4 were you fond of dogs too?

5 A Absolutely, sir.

6 Q Was Mandy attached to her dogs?

7 A Absolutely.

8 Q What do you mean by absolutely?

9 A That was her children, in her mind that was her
10 children. She would love them just as I do my kids.

11 Q Perhaps more than an average person would love their
12 pet?

13 A Oh, yes.

14 Q And you have known Mandy for over ten years?

15 A Yes, sir.

16 Q Have you ever known her to intentionally harm any of
17 her pets?

18 A That would never happen.

19 Q Would she be concerned if others would harm her pets?

20 A Nobody would ever hurt her pets.

21 Q Is it fair to characterize Mandy as bit of a free
22 spirt?

23 A Yes, sir.

24 Q Did you ever seen Tim Wise at Mandy's house?

25 A Yes, sir.

1 Q Over what period of time, did you know Tim other than
2 through Mandy?

3 A No, sir. The first time I met Tim Wise, at the time
4 she had a Dodge Dakota truck. My vehicle was inoperative,
5 she would let me take it Monday through Friday so I could
6 get back and forth to work. I would come up on the
7 weekends. At one point during the week a friend of ours
8 was killed on a motorcycle and she had Tim drive her down
9 to my Sumter house to get the truck and that was the first
10 time I had met Tim Wise.

11 Q You are visiting almost every weekend for a year, a
12 year and a half?

13 A Yes, sir.

14 Q How often is Tim present?

15 A He is usually there either when I get their or I see
16 him one or two times during the week and just about every
17 weekend.

18 Q Did you like Tim?

19 A He was okay, a little bit quirky and strange at times
20 but seemed to be okay.

21 Q Never did anything specifically that you felt--

22 A He had a lot of different views on life, different
23 from what I grew up with. And so that was what actually
24 bothered me and stuff.

25 Q Did you know Mr. John Henry Mayers?

1 A I met him three times.

2 Q Do you remember the three times that you had met him?

3 A Yes sir, I do.

4 Q What were those?

5 A One night Mandy asked me to walk down to her gate, to
6 her property on Wheeland School Road. And there was a car
7 parked down at the gate and we went down there and she
8 kind of introduced me to everybody in the car. And one of
9 the names was John Mayers.

10 Q Did you know that John had a past with Mandy?

11 A Yes, I did.

12 Q You met him one time meeting, walking with Mandy to
13 the gate?

14 A Yes, sir.

15 Q What was the other time?

16 A The second time was on my birthday and it was in
17 2011, March 5th. I was grilling out cooking chicken, John
18 came by talking to Mandy, he came out and talked to me a
19 little bit.

20 Q Was John invited to come by that day?

21 A I don't think so but I can't recollect.

22 Q He may have been?

23 A He may have been, yes sir. I was out there grilling
24 barbecued chicken and he come out and told me that, from
25 what he could see I was doing a pretty good job and

1 invited him to stay for dinner but he said he had other
2 things to do.

3 Q He indicated he was a griller too?

4 A Yes.

5 Q And then what was the third time that you recall?

6 A The third time was, I think it was a Sunday
7 afternoon. I needed to get back to Sumter, this was
8 before I bought the truck. And Mandy had worked out an
9 arrangement where John was going to take me down to the
10 Airport exit in Columbia where my roommate would pick me
11 up there. Mandy, myself, John and I don't know who the
12 other person was, we got in John's car. We drove to the
13 Chapin exit out there by the interstate to get gas, I put
14 gas in John's car. Mandy and him got into a little
15 argument over something and the next thing you know Mandy
16 said get out the car. So we all got out of the car and
17 John left and we were stuck there and went over to the
18 Waffle House and got something to drink.

19 Q Do you remember what Mandy and John were arguing
20 about?

21 A I don't remember exactly what they were talking
22 about. I just know that it was kind of a point
23 counterpart on what they were arguing about. And John
24 said something about, well, you didn't mind it last night
25 while we were having sex or something to that effect.

1 Q And Mandy was offended by that?

2 A Yes, she got pretty upset about that.

3 Q And those are the only three times that you can
4 recall?

5 A That is the only three times I can recall of meeting
6 him.

7 Q By March of, was it clear at that timeframe that she
8 and John were continuing some kind of relationship
9 together?

10 A I suspected it. I never saw him and her together
11 except those three times. She did indicate to me earlier
12 that year, we went to the Auto Zone or Advance Auto in
13 Chapin, I can't remember which one is there, and when we
14 came back out to the car after we bought what we were
15 buying she told me, she said she ran into somebody she
16 hadn't seen in 20, 25 years. And she told me later that
17 it was John.

18 Q Were you comfortable around Mr. John Henry?

19 A I was only around him three times. I knew at some
20 point early in 2011 that Mandy picked back up on the crack
21 cocaine habit and through her admission that John also had
22 the same addiction. So I didn't really want to be around
23 that at all so that was my only concern was the crack
24 cocaine use.

25 Q Did you ever tell Mandy not to bring John Henry back

1 to the house while you were there?

2 A Yes, sir. One night she got a phone call and she
3 said that John is coming over. And I said, well why is he
4 coming over. And she said, well, he just got paid, he has
5 got some crack and I could smoke his crack. And I said, I
6 really don't want him here with you guys doing that. And
7 she made a phone call and he didn't show up that night.

8 Q Mandy knew that you were uncomfortable having John
9 Henry around because of that issue?

10 A Yes, sir.

11 Q Prior to Mandy getting reunited with John was she
12 into crack cocaine?

13 A Not to my knowledge. She had a big marijuana
14 problem.

15 Q Did Mandy trust you around her dogs?

16 A I can honestly say I was the only one that she would
17 actually, she would leave overnight or I could come up and
18 spend the night with the dogs and she could leave and go
19 away for a day or so and I would be the only one that she
20 would allow to watch the dogs.

21 Q Were these outdoor dogs or indoor dogs or both?

22 A Ninety-nine percent indoor. We had one dog that just
23 loved to stay outside and couldn't get him to come in.

24 Q Do you remember the names of the dogs?

25 A Yes, sir.

1 Q And you understand that Mandy has been in jail since
2 May of 2011?

3 A Yes, sir.

4 Q Do you have any of her former pets?

5 A Yes, sir.

6 Q How many do you have?

7 A Three.

8 Q Three. Dogs?

9 A Yes, sir.

10 Q Do you have any of the other pets?

11 A No, sir.

12 Q You call them rescue dogs. Was Mandy breeding dogs
13 or by rescuing that means she was just saving them
14 herself?

15 A No. What I mean by rescue is, we drive down the road
16 and see a dog walking along the side of the road, stop,
17 see if we can identify who the owner was. I remember one
18 time she stopped to pick up a dog that was so matted that
19 the dog couldn't even walk. And we took that dog home,
20 shaved it, cleaned it up, got the shots, flea dipped it
21 and found it a good home and named her Mattie because she
22 was matted.

23 Q Were there any particular dogs that Mandy was closest
24 to?

25 A She was closest to her pit bulls.

- 1 Q Do you remember some of the names of those dogs?
- 2 A Yes, sir.
- 3 Q Tell me just the names of some of them?
- 4 A Ollie, Oz, Milly, Borne, Sugar, Molly, Ollie, that is
- 5 the names off of the top of my head.
- 6 Q And several of the nine dogs were pit bulls?
- 7 A Yes, all of those were pit bulls.
- 8 Q But there were others?
- 9 A Yes, there was a boxer, there is a poodle, there was
- 10 Choco, a mixed breed dog. You can give me time I could
- 11 probably come up with another 8 or 10 over the period of
- 12 10 years.
- 13 Q To some extent several of those dogs were your dogs
- 14 too?
- 15 A I raised them just like she did and three of the
- 16 dogs, Ollie, Millie and Oz, we got from a friend of ours
- 17 who their mother had gotten killed by a coyote or
- 18 something. And we got them there at seven days old and we
- 19 bottle fed them until they were weaned and two of those
- 20 dogs has passed on and Oz, I still have.
- 21 Q Do you remember the dog named Millie?
- 22 A Yes, sir.
- 23 Q What happened to the dog named Millie?
- 24 A Millie got shot.
- 25 Q By whom?

1 A T.C., Tim Wise.

2 Q How do you know that?

3 A I got a call from Mandy sometime during the week, we
4 had a very strict rule that when you have dogs together,
5 if you had nine poodles together and they get out in the
6 yard and they start playing and a couple of the poodles
7 start getting rambunctious and we would see they are
8 getting mad at each other. It is easy to break up two
9 poodles, it is very, very hard to break up two pit bulls
10 when they get rambunctious and they start fighting each
11 other. Millie was a very loyal dog, very nice dog but it
12 had a couple of other incidents with other dogs and it
13 came to the point that Millie was not adapting to the
14 group, to the family so to speak. She told me that--

15 Q By she you mean Mandy?

16 A I am sorry. Mandy told me that Millie was put down
17 by Tim.

18 Q Did you speak to Tim about that?

19 A I did not speak to him about that that night. The
20 following weekend when I went up there, of course when I
21 got there the first thing I did is I walked down to
22 Millie's grave and they had buried Millie down under the
23 tree, down by the pond where she liked to go and went
24 fishing, she would go down there and lay under that tree.
25 And Tim walked up to me and put his arm around me and

1 said, just want to tell you it went quick, it was one shot
2 and she didn't suffer and that is what he told me.

3 Q Did you speak any more about it?

4 A No. He walked away and I sat there for quite a long
5 time.

6 Q Do you remember two dogs named Ollie and Obie?

7 A Yes, sir.

8 Q How long were they there with Mandy?

9 A The entire time that she was there until they passed
10 on.

11 Q Did Mandy have any emotional ability to put down dogs
12 that are injured herself?

13 A No, sir.

14 Q Did you ever see her carrying a gun?

15 A No, sir. I did see her carry a gun probably three or
16 four years when she first moved to Little Mountain.
17 Timothy had bought her or gave her this little .22, it
18 looked like a really old gun, didn't have a firing pin and
19 it was more of a conversation piece and she had it in a
20 box. That is the only time that I have ever seen her
21 touch a gun.

22 Q Have you ever seen Mandy shoot a gun?

23 A No, sir.

24 Q What about a rifle?

25 A No, sir.

- 1 Q Have you ever seen her put down any of her dogs?
- 2 A No, sir.
- 3 Q Have you ever seen her carry this gun?
- 4 A No, sir.
- 5 Q How long of a period of time did you know Timothy
- 6 Wise?
- 7 A Like I said, from the time he came down that night to
- 8 bring Mandy to pick up her truck until, still going today.
- 9 Q Have you ever seen Timothy Wise carry a gun?
- 10 A Yes, sir.
- 11 Q Do you recall when?
- 12 A It was on several occasions when he was at the house,
- 13 he would either stop in or was already there when I got
- 14 there.
- 15 Q By gun are we talking rifle, shotguns or handguns?
- 16 A I saw him with handguns.
- 17 Q Where, and I am not talking what location but was it
- 18 in his car or on his person?
- 19 A It was on his person.
- 20 Q Were you aware that he may have had a concealed
- 21 weapons permit?
- 22 A I don't know if that came up in the conversation or
- 23 not. No, I don't.
- 24 Q Did he seem to have an interest in guns?
- 25 A He seemed to me that he did. I mean if he had a gun

1 on him I would assume he would have an interest in guns.

2 Q While you were there he never threatened or
3 brandished a weapon, a firearm at you, did he?

4 A Absolutely not.

5 Q So when he was showing you a gun it was just for a
6 conversation piece?

7 A Yes.

8 Q Can you tell me whether it was that gun?

9 A No sir, I cannot.

10 Q Was it the same gun that Tim carried or did he keep
11 different guns?

12 A The one gun that I do remember at one time was a .38
13 revolver.

14 Q It was a revolver?

15 A Yes, sir.

16 Q Okay. Where did he carry that on his person?

17 A It was either on his side or in the back.

18 Q Was it holstered or was it tucked into his belt?

19 A At one time I saw it holstered but the rest of the
20 time it was either tucked in his belt or in his jacket.

21 Q Did you know if Tim hunted?

22 A No sir, I do not.

23 Q Did you also see him with other weapons?

24 A Yes, sir.

25 Q I am going to ask you if you can identify--

1 MR. VERNER: Your Honor, I am going to show them to
2 you first so you understand what we are talking about.

3 THE COURT: Show them to the Solicitor first to see
4 if there is an objection.

5 MR. VERNER: Okay.

6 THE COURT: Do you have an objection to any of these?

7 MR. SCOTT: Your Honor, if he can lay the proper
8 foundation and only after that they could come in. I am
9 not sure how he is going to get those in there yet.

10 THE COURT: Step out a minute, ladies and gentlemen.
11 Do not discuss the case.

12 (Whereupon, a short break was taken.)

13 MR. VERNER: I would ask them to be premarked.

14 MR. SCOTT: Your Honor, if he can proffer the
15 testimony.

16 (Whereupon, Defendant's Exhibit Nos. 5, 6, 7, and 8
17 were marked for identification only.)

18 THE COURT: Mr. Verner.

19 Q Mr. Buford, are you familiar with these four
20 photographs I am handing up?

21 A Yes, sir.

22 Q Is it fair to say that you brought those photographs
23 to me?

24 A Yes, sir.

25 Q On what device were those photographs taken?

1 A They were on Mandy's telephone that I got when I
2 picked up her property after she was arrested and then I
3 downloaded them to my computer.

4 Q So they came from Mandy's cell phone?

5 A Yes, sir.

6 Q But you took possession of some of her property after
7 she was arrested?

8 A Yes, sir. Her mom and her brother and myself went to
9 her property behind Tim Wise's house or to her storage
10 shed and we took all of the possessions there and I put
11 them in a storage bin.

12 Q Do you still have that cell phone?

13 A I think that was the Droid, yes sir, I do. But I
14 think the pictures all have been deleted off because I
15 tried to use the Droid as my personal phone but I have the
16 pictures on my home computer.

17 Q Are you familiar with Tim Wise, you would recognize
18 Tim Wise?

19 A Yes, sir.

20 Q Is that clearly Tim Wise in those photographs?

21 A Yes, sir.

22 Q Can you recognize where Tim is from looking at those
23 photographs?

24 A He is at 1635 Wheeland School Road at Mandy Smith's
25 property or house.

1 Q In your opinion are those an accurate depiction of
2 Tim Wise and Mandy's house in those photographs?

3 A Yes, sir.

4 MR. VERNER: I will defer to the Solicitor.

5 MR. SCOTT: Your Honor, we would object at this point
6 to those coming in for a number of reasons. First of all,
7 Mr. Buford would not be the proper witness to introduce
8 these. He did not observe these, he did not, excuse me,
9 observe Mr. Wise when these photos were taken. He did not
10 himself take the photos. By his testimony he retrieved a
11 phone from somebody else, downloaded them from the phone
12 onto another device and then printed them up. I do not
13 think that he can lay a proper foundation, Your Honor.
14 Furthermore he has testified the device that took the
15 photos, the original photos now have been deleted. I do
16 not think the proper foundation, will be able to lay the
17 proper foundation to get those photos in, Your Honor.

18 THE COURT: May I see them, please. Can I ask a
19 couple of questions of the witness?

20 MR. VERNER: Yes, Your Honor.

21 THE COURT: And then you can follow up.

22 By the Court:

23 Q Were these on the Droid phone in sequence?

24 A Yes, sir.

25 Q In other words, you did have to search areas of the

1 phone, you could see all of them?

2 A Yes sir, 1, 2, 3 and 4.

3 Q And was there any kind of, most of those Droid phones
4 will pop up a date?

5 A I don't remember that, sir.

6 Q Did it pop up a date, you just don't remember the
7 date or you don't even remember if it popped up a date?

8 A I don't remember if it popped up a date, sir.

9 Q And did you download all of the photographs that were
10 in the Droid phone to your computer?

11 A Yes, sir.

12 Q How many were on there?

13 A I would say any where from 70 to 100.

14 Q 5 and 7, does that look like Mr. Wise holding the
15 same weapon? Does that look like the same weapon?

16 A You are talking is this weapon the same as the weapon
17 in the other picture?

18 Q Right.

19 A Yes sir, it is.

20 Q And what is in that background?

21 A That is Iggie, sir, the Iguana.

22 Q And then does it appear then that these two
23 photographs, 6 and 8 are closeups of part of the weapon
24 scene than 5 and 7?

25 A Yes sir, those are closer and this one is taken at a

1 different angle than those three. These three are facing
2 the cage where Iggy is. This one is Iggy would be
3 behind, going this way. I know that because of the window
4 right here.

5 Q And, of course, by the way what is that right there?

6 A It is a Mountain Dew.

7 Q And it appears that these were on Ms. Smith's phone
8 that you retrieved after she was incarcerated?

9 A Yes, sir.

10 Q You may not know this but would your inference be
11 that she was a photographer?

12 A I would assume it would be. The second thing she
13 loved most in her life besides her dogs was her phone.
14 She took pictures of everything.

15 THE COURT: I am going to allow one far shot and one
16 closeup.

17 MR. VERNER: Does the Court have a specific, my
18 choice or the Court has a specific preference?

19 THE COURT: I don't really have a preference, I mean
20 both of them, I guess it would go to the issue of
21 relevancy. Of course, we don't know whose weapon this is.
22 We don't even know if it is a real weapon for that matter
23 but he says, no, I don't like guns, I don't have guns,
24 just like that.

25 MR. VERNER: I think he specifically testified he

1 didn't spend time with guns.

2 THE COURT: Solicitor.

3 MR. SCOTT: Judge, I would just note the objection.

4 I don't think he can properly authenticate those videos.

5 Furthermore, there is always the fear that they have been

6 altered. He did not personally observe them. With all of

7 the photo shops and whatever else they got now, I don't

8 think he would be the proper witness to lay the

9 foundation, authenticate those photos.

10 THE COURT: I have ruled. I think it goes to the

11 weight and not the admissibility. If he has still got the

12 phone at a certain point get the phone.

13 By Mr. Verner:

14 Q You brought the zip drive?

15 A I brought a flash drive that has those pictures on

16 them. I can bring the phone.

17 Q Did it have the other photographs or you just did

18 these four individual photographs.

19 A No, I just put those four on there so it would be

20 more clarity.

21 Q You brought the computer image that you printed it

22 from on your flash drive?

23 A Yes, sir.

24 Q But you didn't bring any of the other 70 to 100

25 photographs?

1 A No, sir.

2 THE COURT: Go ahead, Mr. Verner.

3 MR. VERNER: Your Honor, he told me that he also
4 brought the flash drive where he recorded from the phone
5 to the computer first. And if that is available I am just
6 asking whether he brought the full camera or just those
7 individual pictures.

8 THE COURT: I don't have any objection since y'all
9 are just getting this. I don't have any objection to it.
10 I think based on Mr. Wise's testimony, I hadn't carried a
11 gun since college.

12 MR. VERNER: Your Honor, I am still proffering them,
13 all four of them. I understand the Court is only allowing
14 me to introduce two of them. So defendant's number 6 and
15 defendant's number 5 I am proffering for the Court as
16 exhibits.

17 THE COURT: 5 and 6 are in evidence subject to the
18 solicitor's objection.

19 MR. VERNER: 7 and 8 are the ones I am actually
20 offering into testimony.

21 THE COURT: 5 and 6 are cumulative to 7 and 8, I am
22 not allowing them. 7 and 8 are in evidence. You will
23 have to lay a foundation when the jury comes in. Anything
24 before we bring the jury in.

25 MR. SCOTT: We are ready, Your Honor.

1 THE COURT: Bring the jury in, please.

2 (Whereupon, the jury came into open court at
3 approximately 5:00 p.m.)

4 THE COURT: All right, Mr. Verner.

5 CONTINUE DIRECT EXAMINATION

6 By Mr. Verner:

7 Q I am going to hand you two photographs, Mr. Buford,
8 and see if you recognize what is on these photographs. I
9 am handing you 7 and 8 for the defense.

10 A Yes sir, I recognize those.

11 Q Are those fair and accurate depictions, you are
12 familiar with Tim Wise?

13 A Yes, sir.

14 Q Do you recognize Tim Wise in those photographs?

15 A Yes, sir.

16 Q Do you recognize the location where Tim Wise is in
17 those photographs?

18 A Yes, sir.

19 Q How do you know that?

20 A That is Mandy's living room at 1635 Wheeland School
21 Road.

22 Q Are those photographs that you brought to me today?

23 A Yes, sir.

24 Q Where were those photographs located?

25 A They were on a phone that Mandy had.

1 Q How did you come in possession with Mandy's phone?

2 A When she was arrested her mother, her brother and
3 myself went to her place behind Tim Wise's house in the
4 storage shed and in the barn area and retrieved all of her
5 property and I got these, the phone.

6 Q And you printed them out on your computer paper?

7 A Yes, sir.

8 MR. VERNER: Your Honor, I would offer, the
9 introduction of evidence defendant's 7 and 8.

10 THE COURT: All right, Solicitor.

11 MR. SCOTT: Your Honor, subject to our prior
12 objection.

13 THE COURT: All right, subject to previous objection
14 7 and 8 are in evidence.

15 (Whereupon, Defendant's Exhibit 7 and 8 were admitted
16 into evidence.)

17 MR. VERNER: May I use your illumination device?

18 MR. SCOTT: Sure.

19 MR. VERNER: With the Court's permission I intend to
20 publish these to the jury.

21 THE COURT: Sure, you may publish.

22 Q Who is this in this photograph, Mr. Buford?

23 A That is Timothy Wise.

24 Q Can you recognize where he is, you recognize that as
25 Mandy's place?

1 A Yes sir, that is the living room of the trailer at
2 1635 Wheeland School Road.

3 Q How do you know that?

4 A Because he spoke of Iggie, the Iguana earlier and
5 that is Iggie's cage behind Timothy's head right there.

6 Q Iggie is the Iguana?

7 A Yes, sir.

8 Q Are you sure that is Timothy Wise?

9 A Yes, sir.

10 Q Let's get back, I believe you said there was a pit
11 bull named Ollie and a pit bull named Obie?

12 A Yes, sir.

13 Q Can you tell me a little bit about Ollie and Obie?

14 A Ollie was one of the triplets of Millie, Ollie and Oz
15 that we got when their mother was killed by a coyote or
16 something. Ollie was a bighead, short to the ground. Not
17 like Oz and Millie, they were a lot taller. I called,
18 Ollie's nickname was Fatback, he was just huge. He was a
19 very, very nice dog, very calm dog. Obie, he was an
20 outside dog, or her outside dog, Mandy's. He would rather
21 be outside regardless if it is rain, snow, sleet or hail,
22 he just wanted to be outside so we built a pen in the back
23 part of her backyard. It was an old dog pen that we put
24 tarp around, tarped it across the top. We had air
25 conditioning in there. And then in the winter time we had

1 heaters in there and he just loved to be outside.

2 Q How long did y'all together own Mandy owned Ollie and
3 Obie?

4 A She had Ollie, like I said since he was seven days
5 old. We bottle fed them until they were weaned. Obie was
6 one to be picked, she picked up along the road, Mandy did.
7 I would say we probably had them two together for about a
8 year or so.

9 Q Did those two dogs get along?

10 A No, them two dogs did not get along with each other.
11 They got along with every other dog and every other animal
12 that Mandy had. It was just them two, for whatever the
13 reason, I guess both being males and both not being fixed,
14 they just didn't like each other.

15 Q And they were both pit bulls?

16 A Yes sir, Ollie was a Brindle nicknamed Fatfat,
17 probably weighed 100 to 120. Obie was a brown, probably
18 still not full grown but probably weighed 60 to 70 pounds.

19 Q And I don't know what a Brindle dog is?

20 A He is white, black, brown, multicolored.

21 Q Is that an unusual pit bull?

22 A No, sir.

23 Q Was Ollie kept separate from the other dogs?

24 A Ollie stayed in the house a lot of the times but at
25 certain times, the shed was directly behind her back door

1 of her trailer. We had put air conditioning in there,
2 that was where her washer and dryer was. And we had three
3 or four cages in there. And at the time Ollie was kept
4 out there.

5 Q Dog cages?

6 A Dog cages, yes. And he was kept out there in the
7 cages.

8 Q Did Mandy's dogs just run free because this is out in
9 the country or was this yard fenced in?

10 A The yard was fenced in by two strands, maybe three,
11 above electric fence.

12 Q To your knowledge did the dogs ever stray outside of
13 that fence?

14 A They wouldn't dare.

15 Q They didn't chase any animals outside the fence?

16 A There was one occasion, the electric fence was
17 probably mid thigh, when I stand up next to it. There was
18 an occasion where a deer come out of the woods, jumped
19 into the backyard, realized there was eight pit bulls eyes
20 looking at it and it took off running. Nine pit bulls
21 went after the deer, the deer jumped the fence, the dogs
22 stopped.

23 Q Was the fence even activated at that time?

24 A No, after about a week or so after they touched it a
25 couple of times I just unplugged it and they didn't know

1 the difference.

2 Q Were these fairly well behaved dogs?

3 A Yes, sir.

4 Q Still they were fairly large dogs?

5 MR. SCOTT: Your Honor, I just object at this time to
6 relevancy of this line of questioning regarding the dogs.

7 THE COURT: Step out, ladies and gentlemen, do not
8 discuss the case.

9 (Whereupon, the jury was excused from open court.)

10 THE COURT: Please tell me where we are headed, Mr.
11 Verner.

12 MR. VERNER: I am still trying, as the Court knows
13 part of our defense was that Mandy was particularly
14 susceptible to threats against her dogs and was
15 affectionate towards the animals. I think we have largely
16 covered that. We have alleged that there was a threat by
17 Tim to harm them. Where we are going is, Tim shot these
18 two dogs and that Tim did not like the dogs, Mandy's dogs.
19 But basically that Tim shot these two dogs.

20 THE COURT: And under what rule would that be
21 admissible.

22 MR. VERNER: He denies he did it. I specifically
23 asked him if he harmed any of the dogs and he said no.

24 THE COURT: Under Rule 608(b), specific instances of
25 conduct. Specific instances of conduct of a witness, for

1 purposes of attacking or supporting the witness'
2 creidilbity. Other than conviction of crime is provided
3 from Rule 609 may not be proven by extrinsic evidence.
4 This is extrinsic evidence, it is not admissible. It is a
5 collateral matter, it is a collateral issue. The witness
6 denied it, it is not a conviction of crime. I know of no
7 way it is admissible.

8 MR. VERNER: I don't have Rule 609 in front of me. I
9 was trying to pull it up. I do accept the Court's reading
10 of it. And I really wasn't using it and I understand the
11 Court probably got the better interpretation of it but I
12 really wasn't using it as a prior bad act. I was really
13 just using it that he had guns. Just that Tim was
14 familiar with guns, Tim used guns, Tim had shot things
15 with guns.

16 THE COURT: A, that would be cumulative. I have
17 already let two photographs in of the witness with a
18 particular photograph of a gun in his possession. Under
19 Rule 608 it is not admissible.

20 MR. VERNER: Could I just proffer that testimony real
21 quick?

22 THE COURT: Certainly, yes sir.

23 Q What happened to the dogs, Ollie and Obie, how were
24 the dogs killed?

25 THE COURT: How do you know that, how do you know

1 what happened.

2 A The only way I know what happened to the dogs is I
3 was told they were shot.

4 THE COURT: See that is hearsay.

5 Q Did you see the dogs at that point afterwards or when
6 they were injured?

7 A No sir, I did not.

8 Q Did Tim confirm to you that those dogs were shot?

9 A When I came up that weekend they both talked about
10 the dogs being put down. But it never was inferred or
11 said that he specifically, like he did Millie.

12 Q Mandy is the one that you are relying on that he was
13 shot?

14 A Yes, sir.

15 Q But there is no question that they said they put them
16 down?

17 A Yes, sir.

18 Q And Tim was one of them that said they put them down.
19 But actually being shot comes from Mandy?

20 A Right. She said that the dogs were put down by a
21 weapon.

22 MR. VERNER: That is the proffer, Your Honor, I
23 accept the Court's ruling.

24 THE COURT: All right. Thank you. Are we going to
25 get into any of these other areas?

1 MR. VERNER: No, Your Honor, as far as the dogs and
2 animals?

3 THE COURT: Well, anything you think I am going to
4 have to send the jury back on?

5 MR. VERNER: No, sir. I don't anticipate there is
6 going to be anything shocking again.

7 THE COURT: Bring our jury, please.

8 (Whereupon, the jury came into open court at
9 approximately 5:17 p.m.)

10 THE COURT: All right, Mr. Verner, you may continue.

11 CONTINUE DIRECT EXAMINATION

12 By Mr. Verner:

13 Q Did Timothy Wise ever express to you that you were a
14 romantic rival to him?

15 A No, sir.

16 Q Did he ever tell you to stop coming around Mandy?

17 MR. SCOTT: I object to hearsay, Your Honor.

18 THE COURT: I sustain the objection.

19 Q Were you still visiting, you were with Mandy and T.C.
20 on May 7th, weren't you, of 2011?

21 A Yes, I was staying at Mandy's house at 1635 Wheeland
22 School Road and Timothy Wise did come up.

23 Q And what vehicle were you in?

24 A I was in my 2003 Ford Ranger, white.

25 Q Was there anybody else over there?

- 1 A No sir, just us three.
- 2 Q What was going on on May 7th?
- 3 A She was in the process of moving from that location
- 4 to a place behind Tim Wise's house.
- 5 Q Had it been clear that she had to move even prior to
- 6 that date?
- 7 A I think we actually started moving the night before,
- 8 that Friday night we moved a load or two over there.
- 9 Q Do you know why she was moving?
- 10 A She told me that the landlord wanted her to move and
- 11 that is what was told to me.
- 12 Q And that was prior to the date of May 7th?
- 13 A Yes sir, that was May 6th.
- 14 Q Where did Mandy move to?
- 15 A She moved to a ten by twelve shed which was behind
- 16 Timothy Wise's house.
- 17 Q Do you know anything about why that was chosen or if
- 18 you don't you don't?
- 19 A No sir, I don't.
- 20 Q Did you help them move?
- 21 A Yes, sir.
- 22 Q Was it just the three of you moving that day?
- 23 A I believe so, it was just us three.
- 24 Q Was there anything out of the ordinary happen that
- 25 day?

1 A On which day, sir?

2 Q I understand your moving and that is out of the
3 ordinary but just, did anything bad or traumatic happen
4 while you were there?

5 A At the house on Wheeland School Road?

6 Q While moving from the house on Wheeland School Road
7 to Mr. Tim Wise's property. Nothing stands out in mind?

8 A Nothing stands out during the move process itself,
9 no.

10 Q Do you recall Mandy leaving to go meet John Henry
11 Mayers?

12 A I remember Mandy leaving, didn't know where she was
13 going at the time.

14 Q What time was that?

15 A She actually left twice, she left early morning, I am
16 assuming went to the store for something. She came back
17 and then later on that evening she left in my truck.

18 Q Both times she would have been in your truck?

19 A Yes, sir.

20 Q Was she welcome to use your truck while you were down
21 to visit her?

22 A Actually I think that was, the first weekend my truck
23 was actually there. But I just bought the truck a week
24 prior. All the other times when she lived with me she
25 could use my vehicle whenever she wanted to.

- 1 Q All of the animals were transported?
- 2 A I am sorry?
- 3 Q All of the animals were transported?
- 4 A Yes, sir.
- 5 Q And all of the property that she had in that
- 6 apartment was transported to the shed?
- 7 A Yes, sir.
- 8 Q Do you recall how long Mandy was gone the second time
- 9 she left?
- 10 A No sir, I don't. If I had to guess it would be
- 11 between three to four hours at the most.
- 12 Q But she didn't tell you where she was going or you
- 13 didn't--
- 14 A No, sir. Mandy had a habit of just going, sometimes
- 15 she would be back in an hour, sometimes she would be back
- 16 in a day.
- 17 Q Was anybody in it particularly bad that day that you
- 18 saw?
- 19 A No sir, I did not recognize.
- 20 Q What kind of outfit was Mandy wearing?
- 21 A I don't recall, sir.
- 22 Q Do you recall seeing a gun while you were moving
- 23 stuff?
- 24 A No sir, I did not.
- 25 Q Did you see a gun on Tim Wise?

1 A No sir, I did not.

2 Q Did you see a gun on Mandy Smith?

3 A No, sir.

4 Q So Mandy goes for a couple of hours and comes back,
5 approximately what time did she come back on May 7th?

6 A It was later that night. At one point I was laying
7 down for a while. I remember her opening the door because
8 it was odd because at the beginning of the property there
9 is an electric gate. Sometimes it would open and
10 sometimes it wouldn't. So it surprised me when she opened
11 the door and came in because I didn't hear the car pull up
12 and then she told me that the gate wasn't opening. It had
13 to be, I don't remember the time, I just know that it was
14 late at night.

15 Q Did Tim, how long did Tim stay over there at the
16 Wheeland School Road, Tim Wise?

17 A On that day?

18 Q Yes, sir.

19 A He left, well actually we took a load over to T.C.'s
20 house, I am sorry, Tim's house. He stayed there, we came
21 back to the Wheeland School property. I don't remember
22 exactly what time we got back there but it was after that
23 that she asked to use my truck and that is when she left.

24 Q Did Tim leave at the same time Mandy left?

25 A No, sir. He never came back to the house once we

1 took that last load for the day over to his house. He
2 stayed at his house and then we came back to the Wheeland
3 School Road.

4 Q What did you do, you just testified that Mandy left
5 again?

6 A Yes, sir.

7 Q About what time at night?

8 A I know it was dusk, with the beginning of nighttime.
9 I am thinking, 7, 8, 9 o'clock, I am guessing. I don't
10 really remember the time she actually left.

11 Q Did she tell you what she was doing?

12 A No, sir.

13 Q Did you have any idea where she was going?

14 A No, sir.

15 Q But you let her use your truck?

16 A Yes, sir.

17 Q What did you do after Mandy left?

18 A Watched TV, of course played with the dogs, layed
19 down for a little bit. I just hung out there at the
20 house.

21 Q Did Mandy return that night?

22 A Yes sir, she did.

23 Q When did she come back?

24 A It was sometime around midnight or a little after.

25 MR. SCOTT: Your Honor, I just object, asked and

1 answered questions again.

2 THE COURT: Move it along, please. You may ask your
3 next question.

4 Q Did she tell you anything, did she come back after
5 midnight?

6 A Sometime around the night, yes sir, I didn't look at
7 the clock.

8 Q Did you stay there until Sunday?

9 A Yes, sir. But I attempted to leave that night.

10 Q Why was that?

11 A We had gotten into an argument over something. And
12 to me it was just really, really petty. She got really
13 upset.

14 Q What was it about?

15 A I don't remember. I know one time we had an argument
16 over a coke can being left on the kitchen table. So it
17 was something as petty as that.

18 Q Has Mandy ever been violent towards you?

19 A No sir, she has not.

20 Q Have you ever seen her violent towards anybody?

21 A No, sir.

22 Q I think you testified you were going to leave that
23 night. What prevented you from leaving?

24 A I got upset, I grabbed my little night bag that I
25 brought for the weekend. I walked out of her, what would

1 be her backdoor but it was actually the front of her
2 trailer, we always entered and exited out the other side.
3 And I proceeded to walk down the road, the driveway to
4 where my truck was parked because the electric fence still
5 wasn't working. There was a street light there and as I
6 just passed the street light I heard the door open and I
7 heard her come down the steps and started coming towards
8 me. And I noticed that by the shadow because the light
9 would be behind her and then I saw the shadow. She came
10 around me, hugged me and said, don't leave, I need you now
11 more than ever. And I turned around and walked back in.

12 Q But you don't remember what she was wearing that
13 evening?

14 A No sir, I don't.

15 Q Did you see any blood on her?

16 A No sir, I did not.

17 Q Did she come back with a gun that you saw?

18 A I have never seen a gun or a weapon that night.

19 Q She was emotional when she came back?

20 A Mandy has many emotions sometimes. It is hard to
21 figure out which emotion she has. But she didn't seem,
22 the only thing that was out of the ordinary of that whole
23 sequence that I just said was her coming, running out to
24 me and stopping me. In the past when we argued, I don't
25 like to argue, I don't like to fuss, it is best just to

1 walk away. I was in the process of just walking away and
2 she actually came and stopped me and said, don't leave.
3 That is the first time in ten years she has ever come
4 running to me and told me not to leave.

5 Q And you stayed until Sunday?

6 A Yes, sir.

7 Q Did Tim Wise come back that evening?

8 A I don't know if anybody came back. Like I said, the
9 road from the fence where the truck is parked up to where
10 Mandy's house is, there is a little slow turn going from
11 Mandy's house to the gate. So until you get about, I
12 don't know, I am guessing 60 to 70 yards down the driveway
13 is where it straightens out where you can see the end down
14 there where the street light is and you can see the fence
15 and you can see the silhouette of the truck. I never got
16 to that point when she stopped me.

17 Q Did you continue to move Mandy's possessions from the
18 Wheeland School Road to Tim Wise's house after Saturday,
19 May 7th of 2011?

20 A Yes, sir.

21 Q How long were you there moving stuff?

22 A I left at approximately, I would say around 11:00
23 Sunday night heading back to Sumter because I had to work
24 at 7:30 the next morning.

25 Q And Sunday was spent moving stuff to Tim Wise's?

- 1 A Yes, sir.
- 2 Q Did you see Tim Wise the next day, Sunday?
- 3 A Yes, sir.
- 4 Q How was he acting?
- 5 A The part that struck me the funniest about that whole
6 situation is, every time I saw Mandy or Mandy would move
7 to carry a box over here, Tim was always with her. They
8 were like two peas in a pod so to speak. Seemed very
9 clingy and just, they were whispering. But I never, it
10 got to the point if I had to go get something out of the
11 trunk of the car and she happened to be in that area
12 within seconds Tim would be there too. So it just struck
13 me as odd.
- 14 Q A little bit out of character for Tim and Mandy?
- 15 A Yes, to be that close and clingy, yes it was.
- 16 Q Was Mandy following Tim or Tim was following Mandy?
- 17 A It appeared to me that Tim was following Mandy.
- 18 Q Did you see her, did you see him telling her
19 anything?
- 20 A I saw them, it looked like they were talking when
21 they were across the area where the barn or the half barn
22 where she had her stuff. I did notice them whispering and
23 talking to each other but I couldn't make out anything
24 they were saying.
- 25 Q Neither one of them talked about the death of John

- 1 Henry Mayers to you?
- 2 A No sir, they did not.
- 3 Q And then you left and went back to Columbia, I mean
- 4 Sumter?
- 5 A Yes sir, Sunday night.
- 6 Q Did you come back to Newberry after May 7th?
- 7 A Yes, sir.
- 8 Q Did you come back the following weekend?
- 9 A Yes, sir.
- 10 Q Where did you go?
- 11 A I went to Mandy's place behind Tim Wise's house.
- 12 Q Was he there?
- 13 A Yes, sir.
- 14 Q Where was Mandy staying when you came back to see her
- 15 the next weekend?
- 16 A It appeared that she was staying in the shed with her
- 17 animals.
- 18 Q Was she acting differently when you came back?
- 19 A No, sir.
- 20 Q Was Tim Wise acting differently when you came back?
- 21 A Yes. I know I took her out to eat the first night
- 22 back and it was insisted to me that Tim go eat dinner with
- 23 us.
- 24 Q By who?
- 25 A By Mandy.

1 Q Did anything out of the ordinary happen that weekend?

2 A No, sir.

3 Q Was Tim constantly in her presence when you were
4 there?

5 A It seemed to be until it was time to go to sleep and
6 stuff and then he went to his house and we just kind of
7 chilled out with the dogs for a while.

8 Q Did you come back the next weekend?

9 A I don't remember coming back the next weekend. I
10 know that weekend we put up the dog pens. I was usually
11 up there every weekend so more than likely I was there. I
12 just don't remember any circumstances.

13 Q Were you ever told that you were no longer welcome to
14 come by?

15 A Yes, Tim told me that.

16 Q When was that?

17 A That would have been the Sunday, probably the 15th of
18 May which would be a Sunday, I believe, if my math is
19 correct. We were building the dog pens around her shed
20 just so the--

21 MR. SCOTT: Your Honor, I just would object to any
22 further hearsay, soliciting hearsay.

23 THE COURT: I sustain the objection.

24 MR. VERNER: Your Honor, I am not offering the
25 statement for the truth of the matter.

1 THE COURT: I sustain the objection.

2 Q Are you still a friend of Mandy's Smith?

3 A Yes, sir.

4 Q Are you still romantically connected to Mandy Smith?

5 A I hope to be, yes.

6 Q So you do have an affection for her?

7 A Yes, sir.

8 Q And you would like to help her?

9 A Yes, sir.

10 Q If the Solicitor has any questions.

11 THE COURT: Solicitor.

12 CROSS-EXAMINATION

13 By Mr. Scott:

14 Q You have been with Mandy over ten years now?

15 A Yes, I have known her for over ten years, yes sir.

16 Q In fact you two were engaged to be married at one
17 time, is that correct?

18 A Yes, sir.

19 Q In fact you gave her an engagement ring?

20 A Yes, sir.

21 Q What happened to that engagement ring?

22 A Actually I gave her two engagement rings. I actually
23 asked her to marry me twice. The first time she got mad
24 and left and pawned it or sold it. The second one she
25 gave back to me.

1 Q That is fairly erratic behavior, do you agree?

2 A Not for Mandy, no.

3 Q So that was common for her?

4 A The relationship we had, we loved to hate each other,
5 and hate to love each other so to speak. Very free
6 spirited, she kind of did what she did and I kind of did
7 what I did.

8 Q Free spirited, that is not the term you would use for
9 somebody getting angry and going and selling an engagement
10 ring, is it?

11 A Yes, sir.

12 Q Free spirited? Would you term your relationship with
13 her as, I don't know, volatile, tumultuous?

14 A I wouldn't quite say that.

15 Q You all met over the internet, correct?

16 A Yes, sir.

17 Q You two met from an adult website, correct?

18 A Yes, sir.

19 Q What type of adult website was it?

20 A It is called Adult Friend Finder.

21 Q Okay, what is adult Friend Finder?

22 A It is where you go in there and look for people to
23 chill out with. We actually started talking about music.

24 Q Who wore the pants in y'all's relationship?

25 A She did.

1 Q She kind of called the shots, didn't she?

2 A Absolutely.

3 Q You didn't tell Mandy what to do, did you?

4 A No, not really.

5 Q Sumter, Little Mountain, what is that, an hour and
6 forty-five minutes?

7 A Depending on malfunction junction in Columbia, yes
8 sir.

9 Q You were heading up there every weekend?

10 A Yes, sir.

11 Q You love Mandy, right?

12 A Yes, sir.

13 Q That is why you would go up there?

14 A Yes sir, and the dogs.

15 Q You loved the dogs too?

16 A No question.

17 Q In the beginning of y'all's relationship after you
18 meet on line what kind of things would you do when you
19 would go up there to Little Mountain?

20 A Mainly just go out and make sure the dogs were fed
21 and make sure everything was fine and groceries. We did a
22 ton of fishing all over Newberry County and the
23 surrounding counties.

24 Q Mandy liked to fish, correct?

25 A Yes, sir.

1 Q This primarily was a sexual relationship?

2 A It was in the beginning when she was in Little
3 Mountain, afterwards it did not, it was not.

4 Q You said Tim was quirky and strange, correct?

5 A Yes, sir.

6 Q He didn't force Mandy around either, did he?

7 A I don't know if you would call it forcing around. He
8 would always input into what we were doing and it was
9 about a fifty/fifty call as to what we did, depending on
10 what Mandy wanted to do or what Timothy wanted to do.

11 Q And you would do what Tim wanted to do?

12 A I would just go along because Mandy is going along.

13 Q But Mandy didn't let people tell her what to do
14 though, did she?

15 A Not from my point of view she didn't. But there were
16 times that Tim would actually say something and we would
17 actually go do it. Now, whether that is bossing around or
18 ordering around or controlling around, I wouldn't know.

19 Q Tell me about that time you told Mandy John was not
20 to come over, she was excited about John getting paid,
21 correct?

22 A Yes.

23 Q She was excited about him having crack, correct?

24 A Yes, sir. That is what she told me.

25 Q And you didn't want that?

1 A I didn't want crack around me, no sir.

2 Q You were about the only one she would let watch her
3 dogs, correct?

4 A Yes, sir.

5 Q Do you know about her leaving all of her animals with
6 Timothy Wise after she left on May 20th and didn't come
7 back until the 24th or so, right?

8 A I found that out after all of that happened, yes sir.

9 Q She left those dogs in his care, correct?

10 A Yes, sir.

11 Q And you have seen her carry a gun, correct?

12 A No sir, I have not. Except the .32 that was given to
13 her as a gift that did not have a firing pin. That was
14 the only time I ever seen her handle a gun.

15 Q But she did accept the gift. I think you said it was
16 a .22 earlier?

17 A A .22, .32, I don't remember the caliber. I just
18 know that .38's and M16's are in the military.

19 Q And these defense exhibits, numbers 7 and 8. You
20 weren't here when these were taken, correct?

21 A No sir, I don't think I was.

22 Q Do you know, your understanding was that Mandy took
23 these photos?

24 A It was my understanding, yes.

25 Q Why do you think she would have been interested in

- 1 taking photos of Timothy Wise with a gun?
- 2 A Mandy took pictures of every single thing, not that
- 3 in particular. She just takes pictures of everything.
- 4 Q Things that just caught her interest?
- 5 A Yes, sir.
- 6 Q This gun, State's number 7. That appears to be
- 7 Timothy Wise with a hunting rifle, correct?
- 8 A I don't know what kind of weapon it is, sir.
- 9 Q You were in the military for how long?
- 10 A 24 years.
- 11 Q Do you know a long gun when you see one?
- 12 A I can tell that is a long gun, yes.
- 13 Q Not a pistol, correct?
- 14 A Yes, sir.
- 15 Q And State's number 8, that is the same long gun,
- 16 isn't it?
- 17 A It appears to be, sir.
- 18 Q What significance does it, did Timothy Wise have a
- 19 long gun, any to you?
- 20 A He has a long gun.
- 21 Q You are working at the Dollar General now?
- 22 A Yes, sir.
- 23 Q At the time you were working at Shaw Air Force Base?
- 24 A Yes, sir.
- 25 Q Just wanted a career change?

1 A No, sir.

2 Q Any reason you left the military?

3 A I was kind of forced to leave. It wasn't military at
4 that time, it was the Department of Defense.

5 Q It was Shaw Air Force Base?

6 A Yes, sir. The same job, retired on a Friday and
7 started working in Civil Service on Monday.

8 Q You said Mandy has many emotions?

9 A She can be very emotional, yes sir.

10 Q You never know which Mandy you are going to see,
11 correct?

12 A No, sir.

13 Q Sometimes it could be as simple as a coke can that
14 can set her off, correct?

15 A To get to where she is yelling, yes sir. Never
16 violent.

17 Q In fact, the last time you saw Mandy and Tim together
18 this was after May 7th it was Mandy insisting that Tim
19 come with y'all to eat, correct?

20 A Yes, sir.

21 Q You are still in love with Mandy, right?

22 A Yes, sir.

23 Q You have been speaking with her on a daily basis
24 after trial, correct?

25 A Not during the trial, no sir.

1 Q At the conclusion of each day, correct?

2 A Yes, sir.

3 Q You don't want to see her get in trouble?

4 A If she did it, yes. If she didn't do it, no.

5 Q Thank you. Please answer any other questions that
6 Mr. Verner may have for you.

7 THE COURT: Thank you, Solicitor. Mr. Verner,
8 redirect?

9 MR. VERNER: Your Honor, I don't have anything else.

10 THE COURT: You may step down. Ladies and gentlemen
11 of the jury, we will now take our evening recess. Please
12 do not discuss the case with your fellow jurors or family
13 members or friends or anyone else. Do not read, watch or
14 listen to any news reports of the case should there be
15 any. Do not do any investigation on the internet. Please
16 remember do not begin your deliberations until you have
17 heard all of the evidence, all the testimony, closing
18 arguments from the attorneys and the instructions on the
19 law by the Court. Please be back in your jury room at
20 9:30 in the morning.

21 (Whereupon, the jury was excused from open court for
22 the day.)

23 THE COURT: Anything further from the State?

24 MR. STUMBO: No, Your Honor.

25 THE COURT: From the defense?

1 MR. VERNER: No, Your Honor.

2 (Whereupon, the trial will resume the next day at
3 9:30 a.m.)

4 October 11, 2013

5 THE COURT: Yes sir, Mr. Verner.

6 MR. VERNER: I do want to apologize to the Solicitor
7 for this. The photographs that I entered yesterday and
8 last night the Court, I reread the rules of evidence
9 particularly Rule 609 and the criminal rules of discovery.
10 The photographs I introduced in my opinion are subject to
11 discovery and ordinarily would have been exposed to the
12 Solicitor's office by the rule. We are certainly
13 operating under that presumption that I am under a duty of
14 reciprocal discovery. However, I just, to clarify, I
15 wasn't aware until the morning that I received those
16 photographs, that when the witness brought them to court I
17 had never seen them before and I wasn't aware of them
18 prior to trial. So they were, I should have at least,
19 first thing in the morning, I had them in about an hour
20 before the witness testified and I probably should have
21 presented them to the Solicitor's office at the start of
22 the case. But in candor, I wasn't aware of the existence
23 of the photographs or had never seen them before until the
24 day I got them. I probably should have given them to the
25 Solicitor before the witness testified.

1 THE COURT: Anything from the State?

2 MR. STUMBO: Your Honor, we trust Mr. Verner's
3 professionalism and judgment. We have no problem with
4 that.

5 THE COURT: All right, Mr. Verner, will you and your
6 client please come around, please.

7 MR. VERNER: Yes, Your Honor.

8 THE COURT: Madam Clerk, will you place Ms. Smith
9 under oath, please.

10 MANDY SMITH, being
11 first duly sworn, testified as follows:

12 THE COURT: Good morning, Ms. Smith.

13 MS. SMITH: Good morning.

14 THE COURT: We talked yesterday at one of the breaks
15 concerning your right to testify or not to testify. Do
16 you recall that?

17 MS. SMITH: Yes, sir.

18 THE COURT: And I ask you at the time if you had
19 discussed that issue with your attorney.

20 MS. SMITH: Yes, sir.

21 THE COURT: You have had yesterday afternoon, the
22 evening and it is now about quarter to 10:00 in the
23 morning. Do you have any questions you would like to ask
24 me about your right to testify or not to testify?

25 MS. SMITH: No, sir.

1 THE COURT: Have you made your decision about whether
2 to testify or not to testify?

3 MS. SMITH: I will testify, sir.

4 THE COURT: That is your decision?

5 MS. SMITH: Yes, sir.

6 THE COURT: It is your own decision?

7 MS. SMITH: Yes, sir.

8 THE COURT: No one is forcing you or using any undue
9 influence on you to get you to testify?

10 MS. SMITH: No, sir.

11 THE COURT: All right. I find that the decision of
12 Ms. Smith and it is her decision, that she understands,
13 intelligently understands her right to testify or not
14 testify. That she has made a decision to testify and that
15 decision is made freely, knowingly and voluntarily. Thank
16 you very much, Ms. Smith.

17 MR. VERNER: Thank you, Your Honor.

18 THE COURT: Anything before we bring the jury in,
19 please.

20 MR. STUMBO: Nothing from the State, Your Honor.

21 THE COURT: From the defense.

22 MR. VERNER: No, Your Honor.

23 (Whereupon, the jury came into open court at
24 approximately 9:46 a.m.)

25 THE COURT: Good morning Mr. Foreman and ladies and

1 gentlemen of the jury. As you recall and I hope y'all had
2 a pleasant evening. As you recall, we are continuing the
3 trial of the case by the presentation of evidence and
4 testimony by the defense in its case-in-chief. We will
5 turn our attention to Mr. Verner and ask him to call his
6 next witness. Mr. Verner, you may call your next witness.

7 MR. VERNER: Your Honor, I would call Vicki McCartha
8 to the stand.

9 VICKI MCCARTHA, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Verner:

13 Q State your name for the record.

14 A I am Vicki McCartha, Mandy Smith's mother.

15 Q Spell your last name, Ms. McCartha.

16 A M-C-C-A-R-T-H-A.

17 Q And can I have your birthdate, please.

18 A 8/28/56.

19 Q 8/28/56. Where do you live, Ms. McCartha?

20 A I live in Greenville, South Carolina.

21 Q And long have you lived in Greenville?

22 A Probably 15 years.

23 Q Where are you original from?

24 A Originally from Walhalla, South Carolina but I lived
25 in Chapin for 16 years.

- 1 Q And you testified you are Mandy's mother?
- 2 A Yes, sir.
- 3 Q How many children do you have?
- 4 A Five.
- 5 Q Where is Mandy in that group?
- 6 A As age goes?
- 7 Q Yes, ma'am.
- 8 A She is the third child, from the oldest she is third.
- 9 Q Do you remember, I am sure you do, where was Mandy
- 10 born?
- 11 A Ocone County, in Walhalla.
- 12 Q Let me ask you this, did Mandy have a normal
- 13 childhood?
- 14 A Yes.
- 15 Q At what point did she move to, did you move to Chapin
- 16 at some point?
- 17 A Yes, sir.
- 18 Q How old was Mandy when you moved to Chapin?
- 19 A I want to say 6, 7 years old.
- 20 Q Around the 4th grade, 3rd grade?
- 21 A Yes, sir.
- 22 Q At that time was she, she was young but was she a
- 23 good student at that time?
- 24 A Yes. I mean Mandy was very smart but I had a lot of
- 25 problems in the classes, teachers complaining in her class

1 because she would lay her head down on the desk and just
2 would not do what the teacher said.

3 Q This started about what grade?

4 A From the very beginning.

5 Q Did you understand at some point, learn about a
6 traumatic event from Mandy?

7 A Yes. When I had had my last son which is the fourth
8 one.

9 Q What is his name?

10 A Ben McCartha.

11 Q Okay.

12 A And he was just 23 days old.

13 Q How old is he now?

14 A He is 25.

15 Q Is Ben in the courtroom today?

16 A Yes, sir.

17 Q What happened?

18 A The school called, Chapin Elementary called and said
19 that Mandy had gone blind, just totally blind, she
20 couldn't see anything. And they wanted me to come and get
21 her and take her to the doctor. And I was new and hadn't
22 been living there for too long so I didn't, I had to
23 familiarize myself with eye doctors and this and that and
24 the other. And so the school set up an appointment, I
25 think his name was Dr. Brown if I remember correctly.

1 Q What kind of doctor was he?

2 A Eye doctor. And so I took her there and he did a lot
3 of different tests. And he pulled me into a room, just he
4 and I. And he said that Mandy could see fine, that he
5 done things that she wouldn't know he was doing, you know,
6 that her vision was perfect. But that he felt that she
7 had what he called, hysterical blindness.

8 Q Define what hysterical blindness is?

9 A It is where, if something traumatic going inside of
10 you, inside your mind or whatever. It comes out in
11 different ways for different people.

12 Q It is not a physical defect of the eye?

13 A No.

14 Q It is more of a mental issue?

15 A Yes.

16 Q Did he refer you to anybody?

17 A No. Actually he just, he called Mandy in and talked
18 to her and told her that we knew that something was going
19 on with her.

20 Q How old was Mandy at this point?

21 A She was 10.

22 Q Where did you take Mandy next?

23 A Well, that night we were sitting at the dinner table
24 and we hadn't even starting eating, I was cooking and
25 Mandy was doing her homework. And she just popped up and

1 said, Mom, there is something I need to talk to you about.
2 And I said, okay. And I just put everything off the stove
3 and sat down at the table and I said, well, let's talk.
4 And she told me that Papa does things to me that he
5 shouldn't be doing. And so--

6 Q Who is Papa?

7 A Well, I didn't know at the time who she was referring
8 to, whether it be Papa McCartha or my daddy. And so I
9 said, you talking about Papa McCartha.

10 Q By Papa you mean grandfather?

11 A Yes, grandfather. And she said, no, she said your
12 daddy. And I was shocked because, you know. And I said
13 you are talking about Papa Smith. And she said, yes. And
14 so she proceeded to tell me the things, not to an extent
15 that she gave to DSS.

16 Q What did she tell you?

17 A That my daddy did things to her about as long as she
18 could remember.

19 Q Did she say what doing things to her meant?

20 A She didn't clarify it to me and I was in shock and
21 didn't know what to say. She told me that he does it to
22 Tonya too. Which Tonya is her eleventh month older
23 sister.

24 Q She said he does it to Tonya too?

25 A Mandy said that daddy does it to Tonya too.

1 Q And we are talking about your father?

2 A Yes.

3 Q Did you take her to counseling or who do you call?

4 A First I went to, well I went to Tonya first.

5 Q Who is Tonya?

6 A Her sister and asked her--

7 Q How old is Tonya in age range?

8 A Like a month older--

9 MR. SCOTT: Object to hearsay, Your Honor, at this
10 time.

11 THE COURT: Sustained.

12 Q Your belief is that Mandy and Tonya were sexually
13 molested as children?

14 A I know so.

15 Q Was your father convicted?

16 A Yes, he was convicted. He pleaded no contest. He
17 got five years mental health and five years where he could
18 not go around children, you know, below the age of 18.

19 Q Was he put on a sex offender registry?

20 A Yes.

21 Q How old was he when he entered his guilty plea?

22 A 78.

23 Q How long did that go on until that criminal case was
24 resolved?

25 A A long time. I tell you the truth, Mr. Verner, I

1 think I was so in shock because, you know, it was a long
2 time.

3 Q And this is in what county?

4 A Lexington.

5 Q Lexington County Department of Social Services?

6 A Yes, sir.

7 Q How old was Mandy when the criminal case got resolved
8 against your father?

9 A It went pretty fast I think. Mandy was in such bad
10 mental about it, they did not make her testify in person
11 but they did do a video of Tonya and Mandy both.

12 Q Did Mandy's behavior improve after your father was
13 convicted or did it get worse?

14 A Mandy told me that she felt like she had done
15 something bad. And she just, she hurt.

16 Q Where was Mandy's father?

17 A In prison.

18 Q Were you a single mother or had you remarried?

19 A I had remarried.

20 Q So your husband was at the house but he would have
21 been Mandy's stepfather?

22 A Yes.

23 Q Are some of your children from Mandy's father and
24 some are from your second husband?

25 A Yes.

1 Q Did Mandy continue to live with you through school?

2 A No. Mandy had been, Mandy took this of my father so
3 bad that she felt like she was dirty. She never respected
4 herself, she was very distance. She stayed there but when
5 she met John Mayers--

6 Q Well, before she met John Mayers did she ever live
7 outside of your home?

8 A Yes, she had to go to Epworth's Children's Home.

9 Q How old was she when she went to the Epworth's
10 Children's Home?

11 A She was about 13.

12 Q Where is the Epworth Home?

13 A It is in Columbia.

14 Q Do you know what kind of cases they handle?

15 A Well, it is more of like an orphanage but they do,
16 you know, they have counseling and they had given Mandy,
17 we had spent over \$10,000.00 dollars in counseling. And
18 she still just had that rebellious especially towards me.

19 Q Was her sister who had been molested acting the same
20 way Mandy was?

21 A No, not at all. But we do know there was more done
22 to Mandy than there was Tonya.

23 Q And they had personality or are they different type
24 personalities?

25 A Well, in someways in the same and then they are

1 different. Mandy didn't handle the thing very well.

2 Tonya did.

3 Q How long was Mandy at the Epworth Children's Home?

4 A Right at a year.

5 Q And then she came back home to you?

6 A Yes, she came back home to me.

7 Q Had they been able to help her and modify her
8 behavior?

9 A No, I think she was worse.

10 Q And in what way do you mean worse, what problematic
11 behavior was Mandy?

12 A Well, she was very solitude, you know, she would talk
13 with her friends more than she would her family. And I
14 had no doubt that she loved us but she was, she was very
15 traumatized. And she never learned how to handle it.

16 Q Was she a runaway at that age?

17 A Yes, very much so. Robert Wessinger, one of the
18 policeman at Chapin, I had filed a missing person of which
19 they said she was a runaway.

20 Q He would be the juvenile officer in Chapin or just an
21 officer?

22 A Just an officer.

23 Q But he was the one in most often in contact?

24 A Yes.

25 Q Do you remember how far Mandy successfully went

1 through school?

2 A Eighth grade as far as real good but then she did go
3 to Dreher High School when she was at Epworth. And she
4 was in band and, you know, I thought she was changing and
5 learned to deal with things. But then she ended up having
6 to come back home after she got out of Epworth.

7 Q Did she enter high school?

8 A Ninth grade but it didn't last.

9 Q Where did she go to high school?

10 A Chapin, well no it was Dreher, Dreher was the high
11 school.

12 Q Did she pass the ninth grade?

13 A No.

14 Q Did she have to repeat a grade?

15 A Three times. Well, she went in for her third time.

16 Q So she went back for a second year but didn't pass
17 the ninth grade?

18 A Yes.

19 Q Did she have any learning disabilities or was it more
20 emotional?

21 A Emotional. Mandy was very smart, when she applied
22 Mandy was excellent. She just had so much on her mind, I
23 guess, that she couldn't do it.

24 Q Was Mandy a confident girl?

25 A Confident, not at all. I mean as far as herself or

1 self esteem?

2 Q Yes, ma'am.

3 A No.

4 Q Do you know how old Mandy was when she met John Henry
5 Mayers?

6 A She was about 15, 14, 15, probably closer to 15 I
7 guess.

8 Q Do you know how old John Henry Mayers was?

9 A No.

10 Q Did he appear to be about the same age as Mandy?

11 A I mean I knew he was a little older but I didn't know
12 he was as old as he was. I didn't see a difference by
13 looking at them but I didn't see them but one time
14 together.

15 Q How far, when you were living in this area with Mandy
16 how far away did John Henry Mayers live at your house?

17 A Four miles I guess.

18 Q In the Chapin area?

19 A In the Chapin area.

20 Q After Mandy met John Henry did her behavior improve
21 or get worse or about the same?

22 A No. Mandy started acting real weird, far out weird.
23 I tried to talked to her. Mandy closed me out anyway
24 because of what happened to daddy, well she blamed me.
25 And so she turned more to the Mayers family because they

- 1 could accept her more or they understood more.
- 2 Q Was Mandy still running away?
- 3 A Yes.
- 4 Q Do you know where she was running to?
- 5 A To the Mayers family.
- 6 Q Did the family kind of adopt her as a family member?
- 7 A Oh, yes. Ms. Jeanie which is Jeanie Mayers, the
- 8 mother, John's mother. She and I talked and she told me
- 9 that, she felt like she could love Mandy, I mean she did
- 10 love Mandy. And that she was a part of their family.
- 11 Q Did you ever visit Mandy at the Mayers home?
- 12 A No.
- 13 Q Did you approve of Mandy living with John Henry at
- 14 the Mayers home?
- 15 A No.
- 16 Q Did you get law enforcement to try to get her brought
- 17 back home?
- 18 A Yes.
- 19 Q On occasion did the Mayers bring Mandy back to your
- 20 house?
- 21 A Yes. Ms. Jeanie brought Mandy to my home.
- 22 Q How old was Mandy at that time?
- 23 A She was right at 15 or 16 age.
- 24 Q Did Ms. Jeanie try to bring her back home?
- 25 A Yes, she did bring her home.

1 Q Do you know how old Mandy was when she, do you know
2 how long Mandy lived with the Mayers family?

3 A Not really because Mandy was, like she would come
4 home, she would call me and say, Mom, I need you to come
5 get me. And so I would go and pick her up but we didn't
6 meet at the Mayers, it would be right outside of Skylark.

7 Q Skylark is the community that the Mayers were
8 staying?

9 A Yes. And so I would bring her home and she would eat
10 for one day, sleep for two, wash her clothes and then the
11 next thing I knew she is gone. There was just no keeping
12 her from the Mayers family. She loved them.

13 Q Was that kind of a repetitive process of picking her
14 up from the Mayers family?

15 A Yes.

16 Q Over how long a period of time?

17 A With five children, you know, I had two toddlers, a
18 baby too. Over the whole time I guess, I know it was well
19 over a year that it kind of went back and forth, back and
20 forth. So I would say a year and a half.

21 Q Did at some point Mandy just continuously lived at
22 the Mayers family home?

23 A Well, I didn't know that. I didn't know where she
24 was but that is where I assumed she was but I didn't know
25 that for sure until later.

1 Q Do you know whether she was involved in a sexual
2 relationship with John Henry Mayers?

3 A I have no doubt.

4 Q And about what age did that start for Mandy?

5 A It started right around 15 years old.

6 Q I believe you said you only met John Henry Mayers one
7 time?

8 A One time personally, yes.

9 Q Where was that?

10 A It was a Labor Day Festival in Chapin and Mandy
11 brought him up to me because the whole family was there.
12 And she brought him up to me to introduce me to him.

13 Q Did you tell him you were happy to meet him?

14 A I wasn't happy to meet him.

15 Q Did you like him at that time?

16 A No.

17 Q Did he like you?

18 A No.

19 Q Did you ever call the police and say, you know, my
20 daughter is too young to be in a relationship with a grown
21 man?

22 A Yes. I went a few times and talked about it and they
23 just kind of throwed it off and I don't know, I don't know
24 what the thing was with them.

25 Q Was it treated more like a runaway?

1 A A runaway, definitely.

2 Q At some point Mandy left South Carolina?

3 A Yes.

4 Q Do you remember how old she was?

5 A Well, she left Lexington County and she went to Fort
6 Stewart with her sister.

7 Q How old was Mandy at that time?

8 A About 17 I guess.

9 Q From the period of age 15 to when she left and went
10 to her sister's house, where primarily was Mandy living?

11 A The Mayers.

12 Q And did she continue to have a sexual relationship
13 with John Henry Mayers during that time?

14 A I personally don't know during that time.

15 Q Was she living at the Mayers house constantly?

16 A Yes.

17 Q Was there any evidence that Mandy was involved in
18 drugs?

19 A Mandy had a, when she would come home she would be,
20 her, I know in particular one of the times she called me
21 to come and get her she said that she was so messed up on
22 cocaine that if I don't come and get her she is going to
23 die. And that was her words, I am going to die, I need
24 you to come and get me, please come and get me.

25 Q How old was she at that time?

1 A 15, 16.

2 Q Had you ever seen any signs that she was abusing
3 drugs like that before the relationship of John Henry?

4 A No.

5 Q After Mandy moved with her sister to Fort Stewart in
6 Georgia?

7 A Yes.

8 Q Did you hear any more about John Henry Mayers?

9 A No.

10 Q When did you next hear about John Henry Mayers?

11 A I didn't hear anything about John until two weeks
12 before John became missing. And Mandy had called and said
13 could I help her. so I drove from Greenville to Chapin and
14 took her \$100.00 dollars to pay her power bill. And so we
15 were talking and we didn't meet at her residence on
16 Wheeland School, whatever, we met at a trailer right below
17 that, there was another home on the left. And I don't
18 know who lived there. And I went in, there was another
19 girl there and two guys which all seemed very, they were
20 very nice, they were polite to me and everything. Which I
21 have always liked kids period and especially teenagers.
22 And so I sat there and talked with them for a while and I
23 told her, Mandy, I need to get back on the road. And so
24 we went outside and I gave her the money and we were
25 hugging and all. And I started to turn around and walk

1 off, she told me, she said, mama, there is something I
2 need to tell you. And I said, what is it. And she said,
3 I am seeing John again. And so I kind of blessed her out
4 a little bit because she knew I didn't approve.

5 Q But you didn't do anything?

6 A Blessed her out.

7 Q So you last saw Mandy about two weeks before Mr. John
8 Henry was killed?

9 A Before the missing came out.

10 Q Before the missing report?

11 A I didn't know anything about anything else.

12 Q Just delicately, has she gained some weight when you
13 last saw her?

14 A Yes, I love her but yes, she has gained a good amount
15 of weight.

16 Q She is larger today than she would have been in May
17 of 2011?

18 A Yes, very much larger.

19 Q What was her body type about May of 2011?

20 A I think Mandy was probably around in a 14 more than
21 likely and maybe a little bit smaller but she is so short.
22 She was, well I can give you an example if you would like.
23 My daughter, Tonya is about the size Mandy was before
24 Mandy went to jail. They are so much alike in their
25 height.

1 Q When was your next occasion to come in contact with
2 Mandy after you gave her the \$100.00 dollars?

3 A Mandy called me maybe a month later timeframe. I
4 don't keep dates, there is too much goes on in my life. I
5 was running a business so everything is on my mind too.
6 But she called me and she just, she told me, she said,
7 mama, I need to talk to you. Will you come and get me. I
8 asked her, I said what is going on. She just said I need
9 to talk to you. And she, I am really serious, I need to
10 talk to you. So I said, okay. So I left Greenville and
11 met Mandy with her first cousin, Terry at the Burger King
12 up there at, where 76 and 85 or 26 joins together, there
13 is a Burger King right there before you go onto the ramp.

14 Q That is near Columbia?

15 A Yes. And so that is where I met them and Mandy got
16 out of the car with Terry and got in the car with me and
17 so we started driving, I didn't know where to go. I
18 didn't know what she really wanted. And so, you know, I
19 asked her, I said what is going on. And she said, she
20 cried and cried and cried. And I said, Mandy, you have to
21 talk to me, I don't know where I am going, where do you
22 want me to go. I don't know what is going on so I don't
23 know what to do.

24 Q But you ended up taking her back to your house in
25 Greenville, is that correct?

1 A Yes.

2 Q Is that close in time to the days she was arrested by
3 Major Boland of the sheriffs department?

4 A Five hours later she was arrested.

5 Q Had you heard from anybody looking for Mandy prior to
6 Mandy calling you and you picking her up in Columbia?

7 A Yes, my son, my oldest son, Brad, had called.

8 Q Called you?

9 A Called me, not the day, not that day but the day
10 before. And we are talking about,--

11 Q Mandy was arrested almost midnight on May 24th?

12 A 24th, 25th. And Brad called me and said, he said
13 mama--

14 MR. SCOTT: Your Honor, at this time I object to any
15 hearsay that Brad said.

16 THE COURT: That would be hearsay. I sustain.

17 Q Without saying what he said, what was the purpose of
18 him calling you?

19 A That--

20 THE COURT: That would be hearsay.

21 Q Who did you call after Bard called you?

22 A Well, I had Investigator Boland call me and wanted to
23 know if I knew where Mandy was. And at the time I didn't.

24 Q Do you know how Major Boland, Investigator Boland
25 would have gotten your phone number?

1 A Through Brad, would be my biggest guess, I don't
2 know.

3 THE COURT: Guesses are not admissible, Mr. Verner.

4 MR. VERNER: May I be heard just briefly, Your Honor,
5 at sidebar?

6 THE COURT: No, sir. Guesses are not admissible.

7 MR. VERNER: I didn't hear you.

8 THE COURT: Guesses are not admissible. You may ask
9 your next question.

10 Q Major Boland called you?

11 A Yes.

12 Q Did you agree to bring Mandy to the Newberry County
13 Sheriffs Department to meet him?

14 A Well, at this point I didn't know anything going on.
15 I had not even talked to Mandy. He just wanted to know
16 had I seen Mandy or talked to Mandy. And at that point I
17 had not.

18 Q So your first call was before you had picked Mandy
19 up?

20 A Yes.

21 Q And then at some point Mandy called you and asked for
22 a ride home?

23 A And I went to Columbia and picked her up and tried to
24 get her to talk.

25 Q Did you realize then that Mandy was a suspect in a

1 murder case?

2 A No, I didn't know anything about a murder. She told
3 me about a forgery and so did Boland.

4 Q Major Boland?

5 A Yes.

6 Q At some point did Major Boland call you back or did
7 you call him back?

8 A I called him back to tell him that Mandy was, has
9 agreed to come in and that I was going to bring her in the
10 next morning.

11 Q Did you tell Investigator Boland that Mandy was at
12 your house then?

13 A Yes, he knew she was at my home.

14 Q Did you inform Investigator Boland that you were
15 attempting to try to get her to turn herself in with an
16 attorney?

17 A Yes.

18 Q Did he respond or reply back to you after you said
19 you were going to bring Mandy back?

20 A He was skeptical about whether I was going to bring
21 her in or not.

22 Q What do you mean?

23 A He just said, are you sure that you are going to
24 bring Mandy in. And I said, yes, I am going to bring
25 Mandy in. She has agreed to come in. And that is what we

1 had planned on doing.

2 Q So the evening of the 24th your intention was to
3 bring Mandy back to Newberry County?

4 A Yes.

5 Q Was Mandy's intention to come with you?

6 A Yes.

7 Q What happened on the evening of May 24th?

8 A There as a knock on the door, Mandy opened the door.
9 Boland was standing there. And he said, Mandy, do you
10 know who I am. And she said, I sure do. And he said, do
11 you know why I am here. And she said, probably about the
12 forgery. And he said, yes, among other things. But they
13 didn't, I think it was not discussing anything else in
14 front of me. And so they came in and arrested Mandy.

15 Q As far as the death of Mr. John Henry Mayers did you
16 have any more involvement in this case after Mandy left?

17 A I didn't know anything about a murder and I think
18 Boland knew that, that it was just a forgery issue which I
19 didn't know anything about John.

20 Q Do you know if Mandy was scared?

21 A She was very nervous. It was like, she kept telling
22 me she was trying to protect me. And I said, Mandy, why
23 are you trying to protect me over a forgery. I didn't
24 have anything to do with it. Which I didn't even know
25 what she had forged. She was very tight nit with me, she

1 wouldn't talk.

2 Q Is that, when Mandy is upset is she emotional or does
3 she tend to be quiet?

4 A Quiet. With me anyway, I guess by me being her
5 mother she knows I am not in the best of health so she
6 tried to keep me calm.

7 Q Has Mandy ever been violent with you?

8 A No.

9 Q The prosecutor may have some questions for you.

10 THE COURT: Solicitor.

11 CROSS-EXAMINATION

12 By Mr. Scott:

13 Q During your testimony you have to assume a lot, don't
14 you?

15 A You are talking about what I am saying?

16 Q Yes, ma'am.

17 A Because I, you know, there was, Mandy and I had grown
18 so far apart.

19 Q A lot of this stuff you just, you are having to
20 assume and you are having to guess about, right?

21 A What part are you talking about?

22 Q You assume a lot of things like you assume John
23 Mayers and she were having sex, assume he is getting her
24 into crack, assume she is at the Mayers but you really
25 don't know?

1 A I know that she was at the Mayers because Ms. Jeanie
2 brought her to the house and said, you know, we need to
3 try to keep her here because that is not the place for
4 her.

5 Q But you couldn't control her, could you?

6 A No.

7 Q Because she was rebellious?

8 A She was very rebellious, I have to admit that, she
9 was, out of five children I can't say too much about
10 having one that is a rebellious child.

11 Q Mandy Smith does what Mandy Smith wants to do, right?

12 A As she was a teenager, yes, because she didn't, she
13 didn't know what responsibility was.

14 Q She has always been strong willed but an early age
15 she would just leave her mother's home on her own, right?

16 A She did, yes.

17 Q Very confident.

18 A Yes, I guess it would be confident.

19 Q How old was she when she first left home?

20 A She was right at 14, 15. It is hard for me, because
21 five children, it is hard to keep up with whose, whose,
22 what, what, who has done what. I would say right at the
23 end of 14 at the beginning of 15.

24 Q Around 15 years old she is striking out on her own?

25 A Yes.

1 Q Because Mandy Smith does what Mandy Smith wants to
2 do?

3 A Mandy does a lot of what other people want her to do.

4 Q Who wanted her to leave?

5 A I think Mandy wanted to be with John. She loved him,
6 there is no doubt about that, she has told me that over
7 and over, over the years.

8 Q Now you only met John one time?

9 A Once.

10 Q At what point did you go to Officer Wessinger at the
11 Chapin PD and, say, sir I am not leaving until you come
12 with me to that house out there on Skylark and you get my
13 15-year-old daughter?

14 A Mr. Wessinger always came to my home and he forbided
15 me to go out there. I was not to go out there. It was
16 not the place for me to go. And he forbidden me.

17 Q He just outright refused to enforce the law as a
18 police officer?

19 A As far as getting Mandy, yes.

20 Q And you went to other officers, you went to his
21 chief, right?

22 A There was several cops that came, different ones. I
23 think his name is Scottie Smith. But Wessinger was the
24 main one in Chapin that you dealt with, there wasn't, at
25 that time there was not a whole slew of cops there, there

1 was two really.

2 Q Chief Smith was there?

3 A No, Robert Smith. Robert and I had talked too.

4 Q And you told him, we have got to get this 15-year-old
5 girl back home. And he just outright refused?

6 A They would get Mandy back, they have gone to get
7 Mandy but Mandy would go right back. As soon as she would
8 get a chance she would go right back. That is really how
9 she ended up at Epworth because, Mandy was already kind of
10 rebellious and when she was Epworth, and when she came
11 back she was even more rebellious from Epworth. And then
12 she just, it was like Epworth was the worse place for her
13 because when she came back I think the kids that were
14 there had a lot of problems just like she did. And they
15 were, from the ones that I met were very rebellious too
16 and very much did what they wanted to do. And so it was
17 a, she, it was worse and there was no controlling Mandy as
18 far as her leaving. I tried locking the windows, I tried
19 turning the door knob backwards, I mean we have done
20 everything that we could to keep her in the home. But she
21 would get out, she would go.

22 Q But the fact Mandy Smith had more time outside of
23 your home at this point than she ever spent living with
24 you?

25 A No, no. During the time with the Mayers Mandy would

1 come home for a while and then she would go back to the
2 Mayers and then she would come back home and then she
3 would go back to the Mayers. It was like having two
4 adoptive families. I was a family and the Mayers were a
5 family. And she kind of spent time with both of us. And
6 that is the way it was for a year and a half.

7 Q The fact is Mandy Smith was rebellious and would
8 always do what she wanted to do?

9 A Mandy was influenced a lot, Mandy was not a leader,
10 Mandy was a follower whereas Tonya is a leader and she is
11 not a follower. So it is that mind thing, all five of the
12 children are different. But Mandy was more of, she loved
13 her friends. Her friends really came before us, the
14 family. And it had been that way ever since she started
15 making friends. She was, well one thing I think she held
16 so much against me because of my daddy and she went to
17 other people for what I couldn't give her or what she
18 thought I could give her. As a mother I wished I had seen
19 it but I didn't and who would have thought their daddy.
20 And I have always felt guilty because I feel like a lot of
21 the things that has gone on in Mandy's life has been
22 because I didn't catch it, I didn't see it and I didn't
23 stop it quick enough.

24 Q You have a lot of guilt of things that have happened
25 in the past, correct?

1 A Yes, I do.

2 Q You are Mandy Smith's mother?

3 A Yes. And I love her very much, she is a good person.

4 Q A smart person?

5 A No, well, I don't know. Mandy didn't apply herself
6 in school and but she is a good hearted person.

7 Q You said she has always been very, very smart?

8 A She was when she was applying herself in school. But
9 once she hit those teenage years Mandy just let it go.

10 Q Probably a motivation issue is what she had. Do you
11 agree?

12 A By that you mean?

13 Q She was smart when she would apply herself but she
14 had difficulty applying herself?

15 A Yes, she did because, I think Mandy would turn
16 against herself. When I found out about daddy, what her
17 and Tonya told me was that they never wanted to tell me
18 because they knew I would lose my family. And my family
19 would turn against me because of daddy, which they did, I
20 lost all of my family. But, you know, I anticipated that
21 because I knew they would take daddy's side. And I think
22 Mandy has always, for my sake, I think Mandy has always
23 regretted it coming out because she knew that I did lose
24 my family and I love my mother and father very much and my
25 sisters and my brothers, we were a very close family.

1 Q I am sorry you had to go through all of this today.

2 A You know, those bad things that you try to push back
3 and go on with your life and now all of these emotions
4 about it are coming back up and what the kids went through
5 and what DSS put them through.

6 Q It is obvious you have a whole lot of guilt in this
7 whole thing. I think you have said you regretted you
8 weren't there to see it. So now you have been called here
9 to help Mandy as much as you can and I understand that as
10 well. Mandy came to your home when you met her in
11 Columbia on the 24th?

12 A Yes, sir.

13 Q Did she tell you she had been, I guess, what I would
14 say, away from Newberry for four days at that point?

15 A I did not know, she did not say. Mandy wouldn't tell
16 me.

17 Q You didn't know it on the 20th, four days prior she
18 had told officers she would be directly to them.

19 A I didn't know anything.

20 Q Ms. McCartha, Mandy has always been rebellious and
21 has always been very smart and Mandy Smith has always done
22 what she wanted to do?

23 A I won't say that Mandy has always been smart.

24 Q You said that--

25 A In school.

1 Q What does that mean?

2 A It is like when she quit school, it is like that all
3 just left. I mean she, Mandy is not stupid by far, you
4 know, but I just don't think Mandy, I don't know. I tell
5 you the truth, I don't even know.

6 Q Thank you.

7 THE COURT: Redirect, Mr. Verner?

8 MR. VERNER: No, Your Honor.

9 THE COURT: You can step down. Call your next
10 witness, Mr. Verner.

11 MR. VERNER: We call Mandy Smith to the stand.

12 MANDY SMITH, being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 By Mr. Verner:

16 Q State your name.

17 A Mandy Lenore Smith.

18 Q Mandy, is Mandy Smith your maiden name, your original
19 name?

20 A No sir, it is Mandy Black.

21 Q When you were born you were Mandy Black?

22 A Yes, sir.

23 Q How old are you today?

24 A 36.

25 Q Where have you lived in the last two years?

- 1 A At Newberry County Detention Center.
- 2 Q This is your first time you have been in front of a
- 3 large group of people since that day?
- 4 A Yes, sir.
- 5 Q Where were you born?
- 6 A Walhalla, South Carolina.
- 7 Q Where did you grow up?
- 8 A In Chapin, South Carolina.
- 9 Q Do you remember what happened on the night of May
- 10 7th, 2011. Do you still remember?
- 11 A Yes, sir.
- 12 Q How old were you when you went to the Epworth
- 13 Children's Home?
- 14 A To be honest, I don't even remember being at Epworth.
- 15 I lost a lot of childhood.
- 16 Q Do you remember meeting John Henry Mayers?
- 17 A Yes, sir.
- 18 Q How old were you when you met John?
- 19 A Probably around 14, closer to 15.
- 20 Q Did you meet John in high school?
- 21 A Yes sir, I was in high school.
- 22 Q Was he also in high school with you?
- 23 A No, sir.
- 24 Q How much older was John than you?
- 25 A Almost 11 years.

- 1 Q He would have been in his mid twenties?
- 2 A Yes, sir.
- 3 Q Do you remember where you met John Henry?
- 4 A I met him through a friend of ours, Dianne Bates.
- 5 Q In the Chapin community?
- 6 A Yes, sir.
- 7 Q Do you recall specifically where you met him?
- 8 A I had met him at Dianne's house.
- 9 Q I am assuming you were just kids hanging out at that
- 10 place?
- 11 A Yes, sir.
- 12 Q Is it fair to say you had a turbulent childhood?
- 13 A Very much so.
- 14 Q Were you involved with drugs before you met John
- 15 Henry Mayers?
- 16 A No, sir.
- 17 Q How quickly, did you and John hit it off at first or
- 18 did that just seeing him over time of the relationship?
- 19 A He came, I was pretty much running away from home at
- 20 the time and I was staying with Dianne. And once a white
- 21 girl hits the neighborhoods everybody pretty much spreads
- 22 and there was a lot of people coming by Dianne's house to
- 23 see who I was and John was one of them.
- 24 Q Were you promiscuous at that time?
- 25 A Yes, sir.

- 1 Q You were sexually active?
- 2 A Very much so.
- 3 Q Did you and John Henry Mayers have a sexual
- 4 relationship?
- 5 A Very much so.
- 6 Q On a regular basis or just infrequently?
- 7 A After he found, he met me he would come to Dianne's
- 8 house and see him and he would keep me away from anybody
- 9 else.
- 10 Q Did you consider him your boyfriend at that time or
- 11 just somebody you were seeing?
- 12 A No, not really. He was pretty much just somebody I
- 13 would hang out with and he had introduced me to smoking
- 14 crack.
- 15 Q How old were you when you started smoking crack
- 16 cocaine?
- 17 A 14, 15.
- 18 Q And at that time John Henry had already started using
- 19 crack cocaine?
- 20 A Oh, yes sir.
- 21 Q How often did you do this drug together?
- 22 A At least every day.
- 23 Q Over how long a period of time?
- 24 A Me and him were on and off with each other until I
- 25 was almost 18.

- 1 Q You would have been in the ninth grade at that time?
- 2 A Yes, sir.
- 3 Q Did you live at the home of Jeanie Mayers?
- 4 A Yes, sir.
- 5 Q Where was that home?
- 6 A [REDACTED] Lane.
- 7 Q How long after you had gotten into a sexual
- 8 relationship with John Henry Mayers did you move into this
- 9 home?
- 10 A Probably about six months.
- 11 Q So y'all had seen each other kind of off and on at
- 12 your house and your friends houses?
- 13 A Yes, sir.
- 14 Q Did he ever come to your house where your mother,
- 15 Vicki, was?
- 16 A No, sir.
- 17 Q Did you ever tell your mother that you were in a
- 18 relationship with him?
- 19 A Yes, sir.
- 20 Q At that time?
- 21 A Yes, sir.
- 22 Q Do you recall your mother trying to get you away from
- 23 his home?
- 24 A Oh, yes sir.
- 25 Q How many times do you think that happened?

- 1 A A whole bunch.
- 2 Q At times even his mother, Ms. Jenny tried to bring
- 3 you back to your house?
- 4 A Yes, sir.
- 5 Q Were you in love with John Henry at that time or
- 6 just--
- 7 A I have been in love with John my whole life.
- 8 Q Do you think John Henry was in love with you at that
- 9 time or was he seeing other people too?
- 10 A He was seeing a lot of other people but John loved
- 11 me.
- 12 Q Did he treat you nicely?
- 13 A For the most part, yes.
- 14 Q Were there physical incidents between you?
- 15 A Very much so.
- 16 Q Was there physical violence between you?
- 17 A Yes, sir.
- 18 Q How tall are you, Mandy?
- 19 A 5' 3".
- 20 Q 5' 3"?
- 21 A Yes, sir.
- 22 Q Was John larger than you?
- 23 A Very much so.
- 24 Q What type of body type did he have. was he skinny,
- 25 was he obese?

1 A He was, like a big teddy bear.

2 Q Do you remember how old you were when the acts of
3 violence were directed toward you?

4 A It started shortly after I moved into the Mayers home
5 because he figured I was living with them, I was his. I
6 wasn't suppose to see anybody else unless he had, he said
7 so.

8 Q Was John Henry, he had many good character traits?

9 A Yes sir, he did.

10 Q But he also had some bad character traits?

11 A Yes, sir.

12 Q Would you say he was heavily involved in using crack
13 cocaine at that time?

14 A Yes, sir.

15 Q Did you two ever use crack cocaine in his own home?

16 A Yes, sir.

17 Q Did you get along with the Mayers family?

18 A Yes, sir.

19 Q Did you ever have a relationship with one of John
20 Henry's brothers?

21 A Not his brother, his uncle.

22 Q Well who was that?

23 A John Mayers.

24 Q Was that a sexual relationship?

25 A Yes, sir.

- 1 Q Was that in the home of the Mayers?
- 2 A No, sir.
- 3 Q About how old were you when that happened?
- 4 A John had introduced me to him, I was still living at
- 5 Dianne's house.
- 6 Q And Diane is about the same age or is she an older
- 7 lady?
- 8 A She is older than I am.
- 9 Q Was she already out of school at the time you were
- 10 staying with her?
- 11 A Yes, sir.
- 12 Q Over what period of time had you lived with, what age
- 13 range did you substantially live with the Mayers family?
- 14 A Up until I was almost 18.
- 15 Q Over that period of time, from 15 to 18, how often
- 16 were you consuming cocaine?
- 17 A Almost every day.
- 18 Q John the same?
- 19 A Yes, sir.
- 20 Q How often were the acts of violence?
- 21 A At least once a week.
- 22 Q Were any other members of the Mayers family violent
- 23 towards you?
- 24 A Oh, no sir. The Mayers family is a wonderful family.
- 25 Q They know John has mistreated you at times?

1 A I think some of them might of thought so, especially
2 verbally but I don't really recall any of them seeing it.

3 Q Verbally meaning he was also--

4 A Verbally mean.

5 Q Well, I mean give me an example of what you mean by
6 that?

7 A John would take me out at night and have me sleep
8 with this person or that person for crack.

9 Q How old were you then?

10 A Right at 15.

11 Q How long did that go in?

12 A Our whole relationship until I moved out, around 18.

13 Q Were you willing to do this for crack cocaine?

14 A Sometimes yes, sometimes no.

15 Q John didn't get jealous with you having sex with
16 other men?

17 A He wouldn't at the time but afterwards, after he
18 thought about it for a while he would.

19 Q Would it continue?

20 A Excuse me?

21 Q But it continued?

22 A Yes, sir.

23 Q Was this consensual sex or was it sometimes enforced
24 on you?

25 A Quite a few times it was forced.

1 Q Was it ever more than one guy at a time?

2 A Yes, sir.

3 Q Was it for money or for drugs?

4 A Drugs.

5 Q Did you ever do this on your own?

6 A No, sir.

7 Q How were these meetings arranged?

8 A By John.

9 Q Were they in the Mayers home or would he carry you
10 out somewhere?

11 A It was never in the Mayers home.

12 Q Did you live at the Mayers home continuously from 15
13 to 18 or you kind of went back and forth?

14 A No, sir. I went back to my mom's house quite a few
15 times whenever John would get on one of his moods, I would
16 go back for a day or two and then I would always end up
17 back with him.

18 Q When John was sober did he have a pleasant
19 disposition?

20 A Oh, yes sir.

21 Q He could be very friendly to people?

22 A Yes, sir.

23 Q Did his attitude change or did his demeanor change
24 when he was high?

25 A Yes, sir.

1 Q How?

2 A He would, whenever he would frist start something he
3 would be fine. But after the night came along and he kept
4 smoking and more smoking and more smoking he would get
5 verbally abusive and then it would usually turn to
6 aggressive.

7 Q I believe you said there was a violent incident about
8 once a week while you were with John?

9 A Yes, sir.

10 Q Over how long a period of time, the whole time you
11 were with him?

12 A Pretty much the whole time we were together.

13 Q Would he hit you?

14 A Yes, sir.

15 Q Close fists or slap you?

16 A Both.

17 Q Would he do that in front of his family?

18 A No, sir.

19 Q Did y'all share a room or did you have your own room
20 in the Mayers home?

21 A We stayed actually inside the Mayers family for a
22 while and then there was a camper that him and I stayed in
23 right outside the home for a while.

24 Q I think we had talked about you had a relationship
25 with his Uncle John?

- 1 A Yes, sir.
- 2 Q Was that part of the same drug or was that just
3 something that you had?
- 4 A A part of the same drug.
- 5 MR. STUMBO: Your Honor, I am going to object to the
6 relevance of the relationship.
- 7 THE COURT: I will overrule the objection.
- 8 MR. VERNER: Your Honor, I have completed this line
9 of questioning.
- 10 THE COURT: You need to move on.
- 11 MR. VERNER: Yes, sir.
- 12 Q Did he ever hit you with an object, did John Henry
13 ever hit you with an object in his hand?
- 14 A No, sir.
- 15 Q It was always fists?
- 16 A Fist or slaps, yes.
- 17 Q Was he jealous of you?
- 18 A Very much so.
- 19 Q Was he controlling?
- 20 A Very much so.
- 21 Q Did he ever punish you in ways other than just
22 hitting you or slapping?
- 23 A Yes, sir.
- 24 Q What would that be?
- 25 A I really would rather not say.

1 Q Is there any kind of, can you describe just one
2 punishment other than physically hitting you or slapping
3 you? Did he ever make you stay outside?

4 A No, sir. His main punishment was anal sex.

5 Q I assume to mean it wasn't in a pleasant romantic
6 way?

7 A No, sir.

8 Q What happened when you turned 18?

9 A A guy in the neighborhood had gotten killed and Ms.
10 Jenny had sat me down and told me that I really needed to
11 leave, that I could possibly be next. So I had a car then
12 and I packed my stuff in my car and I moved to Georgia
13 with my older sister.

14 Q Which sister are we talking about?

15 A My older sister, Tonya.

16 Q You have got four brothers and sisters?

17 A Yes, sir.

18 Q Who is your oldest sibling?

19 A Brad.

20 Q And then?

21 A Then it is Tonya and me and then my little brother,
22 Ben and my little sister, Mary Beth.

23 Q Which one are you closest in age to?

24 A My older sister.

25 Q Tonya?

1 A Yes, sir.

2 Q You got in your car and you went to Georgia to be
3 with Tonya?

4 A Yes, sir.

5 Q Did you tell John you were leaving?

6 A No, sir.

7 Q That was your idea to just go see her or did she
8 suggest that?

9 A I had talked to her and she had suggested that I
10 could come and visit. I went and visited and ended up
11 staying.

12 Q You said Fort Benning?

13 A Fort Stewart, Georgia.

14 Q Why Fort Stewart, isn't that a military base?

15 A Yes, sir. My older sister was in the Army at the
16 time.

17 Q Was she single or married at that time?

18 A She was single.

19 Q How long did you live with Tonya in Georgia while she
20 was in the Army?

21 A Probably about a year. During that time I had met a
22 guy and he was getting out of the military and he had
23 asked me if I wanted to go to Michigan with him. And I
24 told him yes.

25 Q So you moved to the Sate of Michigan?

- 1 A Yes, sir.
- 2 Q How old were you then, Mandy?
- 3 A A little over 19.
- 4 Q What was that man's name?
- 5 A Michael Small.
- 6 Q How long did you live in the State of Michigan?
- 7 A Until I was like 23.
- 8 Q Did your family come and see you there?
- 9 A Yes, sir. My little brother and sister came and
- 10 stayed two weeks with me one time.
- 11 Q You hadn't burnt the bridges with your family, they
- 12 still had a warm relationship towards you?
- 13 A Yes, I didn't talk to them all the time but I would
- 14 always call my mom and let her know that, at least once a
- 15 month I was okay.
- 16 Q You got arrested in the State of Michigan?
- 17 A Yes sir, I did.
- 18 Q On what charge?
- 19 A Possession of marijuana.
- 20 Q What happened as a result of that?
- 21 A I spent 13 days in jail and had 8 months of probation
- 22 and I had to pay some money.
- 23 Q How old were you then or what year did that happen?
- 24 A I think it was 2000 or 2003.
- 25 Q At some point you left the State of Michigan?

1 A Yes, sir. I talked to my mom and I had been gone
2 from South Carolina quite a while. When I was in Michigan
3 I came back to South Carolina and to see my family and
4 seen John at least three times during that time.

5 Q After you got those 13 days in Michigan about the
6 year of 2000 were you ever put in jail until this event
7 happened?

8 A No, sir.

9 Q So that hasn't been something that you got used to?

10 A No, sir.

11 Q Where did you go from Michigan?

12 A To Greenville, South Carolina.

13 Q Did you live alone or who were you staying with?

14 A I stayed with my mom for a few weeks.

15 Q By then she had already moved to Greenville?

16 A Yes, sir.

17 Q How long did you stay in Greenville?

18 A Not very long, maybe a month or two and then I found
19 a cabin on Lake Murray at Putnams Landing.

20 Q That would have been about what year?

21 A Like 2004.

22 Q Did you strike up a relationship again with John?

23 A Yes, sir.

24 Q In 2003 or 2004?

25 A Yes, sir.

1 Q How long did that relationship last?

2 A Until I went to Germany, about a year and a half,
3 almost two years.

4 Q Did you meet anybody else romantically?

5 A Yes, sir. I met a guy on Lake Murray, he was in the
6 Army.

7 Q What was his name?

8 A Robert Smith.

9 Q And that is why you now have the Smith as your last
10 name?

11 A Yes, sir.

12 Q How often would you see John during this period of
13 time?

14 A Robert only came, he lived in Columbia by Fort
15 Jackson and he would come and see me on the weekends and I
16 would see John through the week.

17 Q And did you resume the sexual relationship with John?

18 A Yes, sir.

19 Q When you came back did you notify John you were here
20 or you ran into a family member who notified him?

21 A I ran into one of his son's, they had come to Putnams
22 Landing to go fishing and I had seen Clarence and told him
23 to, you know, tell John I was back in town. I had been at
24 Putnams Landing maybe two months at the most when I seen
25 Clarence.

1 Q Why, if John had treated you so badly why would you
2 had resumed that relationship?

3 A I loved John, no matter how mean he was his good
4 points overruled his bad points.

5 Q But you ended up marrying Robert Smith?

6 A Yes, sir. He had gotten orders to go to Germany and
7 I like to travel and he had asked me if I wanted to go and
8 he said the only way that I could go is we got married.
9 So that was, the only reason we got married was so I could
10 go to Germany with him.

11 Q Did anybody else live with you?

12 A In Germany?

13 Q You and Robert lived together?

14 A Yes sir, in Little Mountain.

15 Q Did anybody live with you?

16 A No, sir.

17 Q Did Robert, did you and Robert have children?

18 A No, sir. He had a daughter.

19 Q Did she live with you?

20 A No, sir. She lived in Germany but she would come
21 during the summer and spend, she spent two summers with us
22 from Germany.

23 Q What was her name?

24 A Sara.

25 Q Did you have a close relationship with Sara?

1 A Yes, sir. I still did until I came to jail, we would
2 email back and forth.

3 Q Did you have pets at this time?

4 A Yes, sir.

5 Q Lots of pets?

6 A I had three, a cat and two dogs. I took the cat and
7 my Tea Cup Poodle to Germany with us.

8 Q How long did you live in Germany, I assume you lived
9 in an American Military base in Germany?

10 A Yes, sir.

11 Q How long were you there?

12 A About two years. We had only been in Germany three
13 weeks and Rob ended up going to Iraq, that is when Iraq
14 was really, it was really bad over there. He spent two
15 tours over there.

16 Q This was at the Dessert Storm war, was that the war
17 after September of 2011, it couldn't have been after 2011,
18 could it?

19 A No, sir.

20 Q That would have been the Dessert Storm operation in
21 Iraq?

22 A No, it was after 911 because they had already, the
23 airports and security and stuff like that was a lot worse
24 and you actually had to show your military ID before you
25 got on the military base.

1 Q Do you remember what year you and Robert married?

2 A Not really.

3 Q But you divorced?

4 A Yes, sir.

5 Q Where did you divorce?

6 A In Germany.

7 Q Did Robert mistreat you or it just didn't work out?

8 A No, sir. He went into the war and he was really high
9 up in rank and when he came back he flat out said that he
10 couldn't mentally handle taking care of a wife and
11 himself.

12 MR. STUMBO: Objection, Your Honor.

13 THE COURT: That would be hearsay, I sustain.

14 Q As a result of the divorce did you continue to live
15 in Germany or where did you go then?

16 A I came back to South Carolina.

17 Q Would you say Robert treated you well?

18 A Yes, sir. We did not have a bad marriage.

19 Q But the problem was he had been deployed and was gone
20 for some period of it?

21 A Yes, sir.

22 Q Came back to South Carolina or where did you come
23 back to?

24 A To South Carolina. I stayed with my mom for a few
25 weeks and then I, I had already met Don on an internet

1 site.

2 Q Don Buford?

3 A Yes, sir.

4 Q Well let me ask you, before you moved to Germany had
5 you ever lived on the Wheeland School Road property
6 before?

7 A Yes, sir.

8 Q When did you, did you live there with your husband,
9 Robert?

10 A Yes, sir.

11 Q So that is how you were familiar with the Wheeland
12 School Road property?

13 A Yes, sir.

14 Q At some point, do you remember when you came back to
15 South Carolina, it was after 911?

16 A It was after 911.

17 THE COURT: What was that last question again?

18 MR. VERNER: That was after the 911, 2001 attack and
19 I think my, I got my timeline, I was confusing Dessert
20 Storm.

21 THE COURT: All right. You may continue.

22 Q How old were you roughly when you moved back to South
23 Carolina?

24 A 25, 26.

25 Q You and Robert never had children?

- 1 A No sir, I can't have kids.
- 2 Q Have you gotten a medical diagnosis of why that is?
- 3 A Yes, sir. I no longer have any of my ovaries or
- 4 fallopian tubes. I have had to have them removed.
- 5 Q Were you in an accident?
- 6 A They have caused me lots of problems over the years.
- 7 Q You say have stopped here and there but did you end
- 8 up moving back to the Wheeland School Road property pretty
- 9 quickly after you came back to South Carolina?
- 10 A Yes sir, I lived in Sumter for a few years and it is,
- 11 whenever I first came back from Germany Wheeland School
- 12 Road, because me and Richard Grimmett kept an email
- 13 relationship going.
- 14 Q Richard Grimmett is the landlord at the Wheeland
- 15 School Road property?
- 16 A Yes, sir. We kept an email relationship going
- 17 because I left one of my dogs with him before I went over
- 18 there and I had sent him money every month for dog food
- 19 and such things.
- 20 Q You just told me you moved to Sumter, I assume that
- 21 was with Don Buford?
- 22 A Yes, sir.
- 23 Q And you had a romantic relationship with Don Buford?
- 24 A Yes, sir.
- 25 Q And you lived with him how long?

- 1 A A couple of years, a few years.
- 2 Q And he wanted to marry you at one time?
- 3 A Yes, sir.
- 4 Q Were you happy then?
- 5 A For the most part, yes.
- 6 Q How did you end up leaving Sumter and moving back to
- 7 Newberry?
- 8 A Richard had emailed me and told me that the lady that
- 9 he had living in the trailer had moved out and it was now
- 10 open for me if I wanted to move back. And I moved in 30
- 11 days later.
- 12 Q You just didn't want to get married again?
- 13 A No, sir.
- 14 Q Did you and Don have pets while you were living with
- 15 him?
- 16 A Yes, sir.
- 17 Q What kind of pets and how many?
- 18 A Nine dogs, two snakes, two guinea pigs, four foot
- 19 Iguana and my spiker, Zary and my rats.
- 20 Q Were you breeding dogs?
- 21 A No, sir. I rescued probably at least 150 dogs since
- 22 I have been back from Germany.
- 23 Q Did you keep dogs that were in bad health?
- 24 A Yes, sir.
- 25 Q What do you mean by that?

1 A I had and now only have three, I had four deaf dogs.
2 And I had, you know, rescued them and trained them in sign
3 language. Since I have been here my family was able to
4 take three of them but they couldn't take the fourth one.

5 Q And for the most part those were pit bulls?

6 A Yes, sir. One of them was a boxer but most of the
7 dogs I rescued over the years, it has been a wide range of
8 them but most of them have been pit bulls.

9 Q Have you been close with your animals, pets?

10 A Yes, sir.

11 Q Do they stay inside or outside?

12 A Inside.

13 Q Are you a loving pet owner?

14 A Very much so. My dogs get before I get.

15 Q When did you meet Timothy Wise?

16 A I had been living back at Little Mountain for a few
17 months, the only people I knew were the Mayers family. I
18 didn't know anybody else. The people that I went to
19 school with, I left in such a young age I didn't keep in
20 contact with any of them. So I found on Craigs List
21 somebody was looking for, you know, a friendship and I
22 answered it and it was Tim.

23 Q Is there such a thing as Craigs List category for
24 Services for the Night?

25 A No, sir.

1 Q You certainly didn't advertise anything called
2 Services for the Night, did you?

3 A No, sir.

4 Q Was it a friend finder type, what type of
5 relationship were you advertising for?

6 A I wasn't advertising, Tim was.

7 Q Tim was. And just in curiosity, what category was he
8 advertising?

9 A I don't really remember exactly what category, I
10 think it was just friends and he said he liked to fish and
11 I loved to fish.

12 Q Did y'all strike an online friendship?

13 A Yes, we had talked on line and on the phone for a
14 couple of weeks before we had actually met.

15 Q Now Tim goes by T.C., is that correct?

16 A That is what I know him as.

17 Q Was your relationship with Tim or T.C. romantic or
18 sexual?

19 A No, sir. It was the very first time we met but after
20 that it was not.

21 Q Were you interested in T.C. as a boyfriend?

22 A No, sir.

23 Q Do you think he was interested in you?

24 A Not that I was aware. I knew he loved me as a
25 sister, you know, when every time he would come to my

1 house he would walk in and give me a hug and kiss me on
2 top of my head. That is what my brothers do.

3 Q How often, would you got, did T.C. live with his
4 parents at the time you started seeing him physically?

5 A Yes, sir.

6 Q Still at the same place as you ended up?

7 A Yes, sir.

8 Q And you living on the Wheeland School Road property
9 at that time?

10 A Yes, sir.

11 Q Would you go more to his house or he would come more
12 to your house?

13 A He would come more to my house. I am not too keen on
14 leaving my animals for too long a time.

15 Q Out of curiosity when you would run errands and
16 whatnot are the dogs kept inside or you have fences around
17 the property?

18 A I had a electric fence on the outside. Only one of
19 the dogs would stay outside without me being there. The
20 rest of them, each was crate trained and there was like my
21 poodle and one of the pit bulls would stay out in the
22 living room.

23 Q Just out of curiosity, what was the name of the pit
24 bull or the dog that stayed outside?

25 A Obie.

- 1 Q What was the name of the dog that was allowed to stay
2 outside the crate inside?
- 3 A Molly.
- 4 Q Molly?
- 5 A Yes, sir.
- 6 Q How often, what year do you think you started your
7 relationship with T.C.
- 8 A 2009.
- 9 Q After you became friends how often would you and T.C.
10 see each other?
- 11 A Almost every day.
- 12 Q Predominately at your house?
- 13 A Yes, sir.
- 14 Q Did you have any other friends that were coming over
15 that often?
- 16 A Yes, sir. My niece, she would come by.
- 17 Q That was Samantha we heard from?
- 18 A Yes, sir. My friend, Donte, he would come by. Him
19 and his girlfriend. Don would come on the weekends.
- 20 Q How often would Don come on weekends?
- 21 A Pretty much every weekend.
- 22 Q Do you think it was odd that T.C. would come, did he
23 not have a full time job at that time?
- 24 A Not when we first met, no sir.
- 25 Q You didn't think it was odd that even a good friend

1 would come over every day?

2 A No sir, I like having my friends around.

3 Q You enjoyed it?

4 A Yes, sir.

5 Q Were there any other, so the most common guest you
6 would have would be T.C., Samantha and Don, on the
7 weekends?

8 A Yes, sir.

9 Q When you moved back to Wheeland School Road did you
10 inform John that you had moved back to Newberry?

11 A Not when I first got there but I had seen him at the
12 Auto Parts store one weekend, probably about four or five
13 months after I had been back. And he had seen me, I don't
14 know how he found out I was back at Wheeland School Road
15 but he had showed up one day.

16 Q Did you invite him back over to renew the
17 relationship with him?

18 A I wasn't sad to see him.

19 Q He somehow found out you were on Wheeland School
20 Road?

21 A Yes, sir.

22 Q You didn't tell any of his family members that that
23 is where you were and for him to come see you?

24 A No, sir.

25 Q Did you have any regular contact after you moved back

1 with any other members of the Mayers family other than
2 John?

3 A His nephew, Rob, I seen Rob quite often and Clarence,
4 Christopher would come over and go fishing in my pond.

5 Q What would you and T.C. do when he came over, how did
6 he pretty much spend the time?

7 A Watching movies, mostly fishing and hanging out with
8 my dogs.

9 Q Was T.C. also a dog lover?

10 A Yes and no.

11 Q Clarify?

12 A He would pet them if they came up to him but he is
13 not going to go to the store with them like I would. If I
14 go on vacation I pack my dogs, they go with me.

15 Q Did Tim ever pay for the upkeep of the dogs?

16 A There had been a few times that, like Don wasn't
17 going to come until the weekend and maybe I ran short of
18 dog food like on Thursday and he would buy me a bag of dog
19 food. But Don always paid him back, always. Don Buford
20 took care of us financially.

21 Q T.C. didn't?

22 A No, sir.

23 Q As best you recall he always got paid back by Don?

24 A Yes, sir.

25 Q Did you know T.C. had a concealed weapons permit?

1 A He told me he did.

2 Q Did T.C. ever have a pistol or rifle over at your
3 house?

4 A Yes, sir. He carried a gun and a holster on his side
5 quite often.

6 Q Do you know what kind of gun?

7 A No, sir. I don't know nothing about guns.

8 Q Did you see the photograph earlier of T.C. and the
9 firearm?

10 A Yes, sir.

11 Q Who took that photograph?

12 A I took those photos.

13 Q Where was that taken?

14 A It was at my house at Wheeland School Road.

15 Q And looking at the photograph is there anything in
16 there that clearly would have been in your home?

17 A Yes, sir. My Iguana's cage and you can actually see
18 a corner of my snake tank.

19 Q If you look beyond T.C. and some of those photographs
20 you can see the Iguana, Iggie?

21 A Yes, sir.

22 Q Was it just, occasionally that Tim or T.C. carried a
23 handgun or all the time?

24 A It was pretty much all the time. I really don't ever
25 remember seeing him without it.

- 1 Q On his hips, where did he keep the handgun?
- 2 A It was always hooked to his belt.
- 3 Q On his side or his belt?
- 4 A On his side, well kind of side, front area.
- 5 Q Do you know the difference between a revolver and
- 6 semiautomatic?
- 7 A I know a revolver spins from, I like westerns.
- 8 Q Was it that type pistol?
- 9 A No, sir. I didn't really, he never really pulled it
- 10 out and I never really looked at it.
- 11 Q Did you have interest in guns?
- 12 A No, sir. I like slingshots and that is the only
- 13 reason because my poodle likes to chase acorns.
- 14 Q Did you keep a gun in your home?
- 15 A No, sir.
- 16 Q Have you ever owned a working firearm?
- 17 A No, sir.
- 18 Q Well, you lived on the military base for a
- 19 while, didn't you?
- 20 A My ex-husband, he wasn't into guns, he was into
- 21 fishing, working on cars. He wasn't a gun person.
- 22 Q So even though you married a military man shooting
- 23 wasn't one of your avocations?
- 24 A No, sir. He didn't even own guns.
- 25 Q Did you hunt?

- 1 A No, sir.
- 2 Q Did T.C. hunt?
- 3 A I have heard him talking about hunting. I know
- 4 outside his house in Newberry he would shoot the birds out
- 5 of the trees. He would come over and talk about it.
- 6 Q Would he come over to your property to hunt?
- 7 A No, sir.
- 8 Q Did he ever give you a handgun?
- 9 A He had gave me one one time, it was really little and
- 10 I thought it was cute but it had a plastic handle and the
- 11 plastic handle was barely hanging on anyway.
- 12 Q Was that an actual firearm?
- 13 A To be honest I am not sure if it was real or not, it
- 14 looked like a little play gun.
- 15 Q Did you have bullets in it?
- 16 A No, there was no, the handle, the plastic on it
- 17 wasn't, would slide.
- 18 Q Do you recall whether that was a revolver or a
- 19 semiautomatic?
- 20 A It didn't have the thing that spins.
- 21 Q Where did you keep that gun?
- 22 A It sat on my table for a while and then Tim ended up
- 23 back with it.
- 24 Q How long did you have that?
- 25 A It probably sat on my table for six months maybe, it

1 was more of a conversation piece.

2 Q Did you ever shoot it?

3 A No, there was no way you could shoot that gun. I

4 don't see how, I mean it had a plastic handle that was one

5 screw holding it on.

6 Q Was it for your home protection that he gave it to
7 you?

8 A No, sir.

9 Q Do you recall why he gave it to you?

10 A He had brought it over to show it to me, he had got
11 it somewhere. And I was like, oh, that is cute.

12 Q And just ended up staying at your house?

13 A Yes, he left it on my table and it sat there for a
14 while. I am a table sitter, I don't even own a couch, I
15 sit at my table.

16 Q Did he give it to you because of the restraining
17 order in April?

18 A No, sir. This was way before that.

19 Q Did you still have it as of the date, had the
20 restraining order against John Henry been taken out?

21 A If I am not mistaken I think it was still sitting on
22 my table at that time.

23 Q Did you keep any other kind of weapons for protection
24 in your house?

25 A No, sir.

- 1 Q You have nine dogs?
- 2 A That is protection enough.
- 3 Q Were they protective dogs?
- 4 A Yes sir, very much so.
- 5 Q Did John get along with the pit bull?
- 6 A Yes, sir.
- 7 Q How long had you and John gotten back together prior
- 8 to the date of his death on May 7th of 2011?
- 9 A We had been seeing each other for maybe six or so
- 10 months.
- 11 Q How often were you seeing each other?
- 12 A At least a few times a week.
- 13 Q Where did you meet him?
- 14 A If I didn't have anybody, well mostly Don Buford at
- 15 my house, if I didn't have him at my house John would come
- 16 to my house.
- 17 Q Did John and Don get along?
- 18 A The times that they met they never had any issues.
- 19 John didn't have a problem with Don because Don paid all
- 20 of my bills.
- 21 Q What about T.C?
- 22 A I never really seen him have any issues with Don. I
- 23 mean I know he didn't like John.
- 24 Q I asked if John and T.C. get along?
- 25 A They really never talked much when they were around

1 each other.

2 Q Do you know if John carried a gun?

3 A No, sir.

4 MR. STUMBO: Your Honor, can we approach just
5 briefly?

6 THE COURT: Yes, sir.

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

10 THE COURT: Mr. Foreman and ladies and gentlemen of
11 the jury, I believe now would be an appropriate time to
12 take our morning recess. I will remind you do not discuss
13 this case.

14 (Whereupon, the jury was excused from open court for
15 a break.)

16 THE COURT: Anything before we take our recess,
17 Solicitor?

18 MR. STUMBO: Nothing for the State.

19 MR. VERNER: No, sir.

20 THE COURT: Ms. Smith, you may step down and don't
21 discuss your testimony with anyone.

22 (Whereupon, a short break was taken.)

23 THE COURT: Ms. Smith you may come back to the
24 witness stand. Let's bring our jury back, please.

25 (Whereupon, the jury came into open court at

1 approximately 11:35 a.m.)

2 THE COURT: You may continue, Mr. Verner.

3 CONTINUE DIRECT EXAMINATION

4 By Mr. Verner:

5 Q Mandy, I don't rightly remember what question I left
6 out on but we were talking about T.C. coming to your
7 house?

8 A Yes, sir.

9 Q Do you remember May 7th of 2011?

10 A Yes, sir.

11 Q That is the day John Henry Mayers was killed?

12 A Yes, sir.

13 Q How did, was that a Saturday?

14 A Yes, sir.

15 Q How did that day start?

16 A Started out with moving stuff to the shed behind
17 Tim's house.

18 Q Why were you moving?

19 A Because my landlord wanted me to move because I had
20 come in late on my light bill a couple of times.

21 Q And how did it come about that you were going to move
22 to T.C.'s property?

23 A I didn't really have anywhere else to go and Tim had
24 offered to help me get a shed to put behind his house for
25 me and my dogs.

1 Q How did you come up with the money. I assume this is
2 a financing?

3 A Financing, I got the money from Don Buford.

4 Q The company just loaded up and put it on site?

5 A Yes.

6 Q Did you have a relationship with T.C.'s parents?

7 A Yes sir, for the most part, they are very nice
8 people.

9 Q Did Mr. Wise, Sr. loan you the handgun after the
10 restraining order?

11 A No, sir.

12 Q And let me back track just very briefly. There was a
13 restraining order put against John Henry?

14 A Yes, sir.

15 Q Why was that, just briefly why was that put on him?

16 A Because he had came to my property one night
17 unannounced and had hit me quite a few times.

18 Q Were you hurt?

19 A Yes, sir.

20 Q At that point you decided to get a restraining order
21 to keep him from coming around any more?

22 A Yes, sir. Me and John had talked the week before and
23 told him I didn't want any more abuse as far as physical.
24 I could take his mental abuse but physical I couldn't deal
25 with it.

1 Q Did you press charges on him for hitting you that
2 night?

3 A I was going to but then I didn't want him to like
4 lose his job or anything like that. I just didn't want
5 him to be physical.

6 Q Who helped you get that restraining order, I am sure
7 many police officers helped you, I am curious the
8 non-police officers?

9 MR. STUMBO: Objection, Your Honor, I am sure many
10 police officers--

11 MR. VERNER: I wasn't being sarcastic, Your Honor, I
12 was just trying to limit it.

13 THE COURT: I assume you were talking about there
14 were people that assisted her, civilians.

15 MR. VERNER: Yes, sir. The point of my question is
16 what friends helped you get the restraining order. I
17 certainly didn't mean that at all.

18 Q I am just curious, what friends that we have talked
19 about helped you in the restraining order process?

20 A Tim wise and Kris Hansen.

21 Q Okay. And was there an actual hearing?

22 A Yes, sir.

23 Q And the restraining order was granted because of the
24 incident with you and Kris at your home?

25 A Yes, sir.

1 Q But you at some point started seeing John again, is
2 that correct?

3 A It was about three days after the restraining order
4 was taken out.

5 Q You remember what day the restraining order was taken
6 out?

7 A No, sir. The first part of April.

8 Q Can you read what I am showing you?

9 A Yes, sir. It is the restraining order.

10 Q And what date did the Magistrate issue that
11 restraining order against John Henry?

12 A It says it will be effective April the 8th.

13 Q That was the date of the hearing, April the 8th,
14 2011?

15 A I guess so, yes.

16 Q Let me make sure you are confident with that.

17 A I know it says it is effective until April of 2012.

18 Q And did John attend that hearing?

19 A Yes, sir.

20 Q The Magistrate Judge signed the order?

21 A Yes, April the 8th of 2011.

22 Q So you are confident it was April the 8th of 2011?

23 A Yes, sir.

24 Q Did T.C. ever give you a pistol because of the
25 restraining order?

- 1 A No, sir.
- 2 Q Did he offer to protect you against John?
- 3 A He told me if I moved to his house, after I was moved
4 in there if John ever came there and messed with me, you
5 know, which I told him that I doubt John would do that.
- 6 Q How long after the hearing on April the 8th of 2011
7 before you and John resumed seeing each other?
- 8 A Three days.
- 9 Q How was that initiated?
- 10 A He came to my house one day during lunch, on his
11 lunch break.
- 12 Q Invited by you?
- 13 A He just showed up.
- 14 Q Bad mood or happy mood?
- 15 A Wanted to talk about the restraining order and told
16 me he was sorry. I am a sucker for John.
- 17 Q Did you get back to a relationship that was sexual
18 with John after the restraining order?
- 19 A Yes, sir.
- 20 Q How often would you see John after the restraining
21 order, between April the 8th and the date that John Henry
22 was killed on June 7th, is a month to the date, isn't it?
- 23 A At least three or four times a week.
- 24 Q Coming to your house?
- 25 A Yes, sir.

1 Q If John came to your house and Don was there where
2 would you go?

3 A We would leave Don at my house to take care of my
4 dogs and me and John would go somewhere, usually out to
5 where he died.

6 Q Judy B. Road?

7 A Yes, sir.

8 Q Have you been a lot of times to Judy B. Road before
9 or just a few times?

10 A Me and John had been there quite a lot.

11 Q That was a fairly common place for you to go?

12 A Yes sir, we could stay out there all night and nobody
13 would mess with us.

14 Q Who was helping you move from the Wheeland School
15 Road to the, the home with the Wise's?

16 A Tim Wise and Don Buford.

17 Q Now Wheeland School Road is fairly close in proximity
18 to where John lived, isn't it?

19 A Yes, sir.

20 Q You were moving to the other side of the County,
21 weren't you?

22 A Yes, sir.

23 Q Was John happy about that?

24 A Not really, he didn't like me being so far away but
25 he couldn't do anything about it, he didn't have anywhere

1 for me to go. I mean, if it was just me, yes, but with
2 all of my animals, no.

3 Q But he wasn't happy about it but he was resigned to
4 it?

5 A Yes, sir.

6 Q Again, who helped you move that day?

7 A Tim Wise and Don Buford.

8 Q Anybody else?

9 A No, sir.

10 Q They both had pickup trucks?

11 A Yes, sir.

12 Q How much of Saturday did you end up spend moving to
13 the house of T.C?

14 A I think we took three loads of stuff.

15 Q Did John ever come and help you move?

16 A No, sir.

17 Q Did you work throughout the afternoon or did you take
18 a break and go anywhere?

19 A Yes, sir. I called John from Tim's house before me
20 and Don left to go back to my house that afternoon because
21 John had called me earlier that day and wanted to know--

22 MR. SCOTT: Objection, Your Honor, hearsay.

23 THE COURT: It would be hearsay.

24 MR. VERNER: I don't know what the answer is, Your
25 Honor, and I am certainly not offering it for the truth of

1 the matter of the hearsay statement.

2 Q But anyway you spoke to John by telephone?

3 A Yes, sir. And I was suppose to meet him at Mr. J.'s,
4 but by the time I got there he was there but he was on a
5 mission.

6 Q What do you mean on a mission?

7 A He had already smoked crack that day and he was
8 wanting to go off with his friends.

9 Q Do you know who he left with?

10 A A guy in a brown PT Cruiser.

11 Q Were you familiar with that man?

12 A I had seen him around.

13 Q Do you know what his name or nickname was?

14 A Pee Wee.

15 Q Do you know what Pee Wee's real name was?

16 A Not until this situation came about, the police told
17 me.

18 Q The trial in this case?

19 A Yes, sir.

20 Q What were John and Pee Wee doing?

21 A Smoking crack.

22 Q John had a LeSabre--

23 MR. SCOTT: Objection to that, Your Honor, I don't
24 think she has personal knowledge, that is hearsay.

25 THE COURT: I would sustain that objection.

- 1 Q Did John have a car?
- 2 A Yes, sir.
- 3 Q Did he have more than one car or how many vehicles
- 4 did John own?
- 5 A Just the Buick. His dad has a truck.
- 6 Q Does he have any other kind of vehicles?
- 7 A No sir, not that I know of.
- 8 Q Is that a Buick LeSabre?
- 9 A Yes, sir.
- 10 Q What happened to the Buick LeSabre?
- 11 A It had, it had a gasket that had blown, him and I
- 12 were leaving my house one day and he blew the head gasket
- 13 so he pulled it back on my yard. And I am very fluent in
- 14 fixing cars because I have most tools than a lot of men
- 15 have. And I told him I could fix it. So him and I, he
- 16 had vacation that week so him and I spent the week or a
- 17 few days taking the car apart and he was suppose to get
- 18 the parts for me to fix it.
- 19 Q You said him and I vacationed that week?
- 20 A Yes. John had a week's vacation and he spent it at
- 21 my house.
- 22 Q That was consensual?
- 23 A Yes, sir.
- 24 Q What happened to the LeSabre?
- 25 A John would never, had never gotten the parts and he

1 came to me and told me that he needed some money.

2 MR. STUMBO: Objection, hearsay, Your Honor.

3 THE COURT: I will sustain the objection.

4 Q He spoke to you, what did you do as a result of that
5 conversation?

6 A He didn't pay me my money back so the deal was that
7 he was going to sign his car over to me.

8 MR. STUMBO: Objection, Your Honor, hearsay.

9 MR. VERNER: That is not a statement, Your Honor,
10 that is--

11 THE COURT: Sustained.

12 Q Did John owe you money?

13 A Yes, sir.

14 Q Why did he owe you money?

15 A Because I had loaned it to him.

16 Q How much?

17 A \$250.00 dollars.

18 Q Where did you get \$250.00 dollars?

19 A From Don Buford.

20 Q How old was that LeSabre?

21 A How old?

22 Q Yes, was it a new car?

23 A It was like a 2003 I think.

24 Q Did you at some point dispose of the LeSabre?

25 A Yes sir, I sure did.

- 1 Q Where did you take it?
- 2 A I took it to the metal yard, maybe two and a half
- 3 miles away from my house.
- 4 Q Did John know you were going to do that?
- 5 A Yes, sir.
- 6 Q You testified, I think we left off that you went to
- 7 J.'s Corner Mart or J.'s Pantry?
- 8 A Yes sir, Mr. J.'s.
- 9 Q Is that a gas station?
- 10 A Yes sir, a gas station, convenient store.
- 11 Q Is it rural or is it in kind of a built up area?
- 12 A It is right across the street from the County line,
- 13 there is not any other stores around it, no.
- 14 Q Why did y'all choose Mr. J.'s convenient?
- 15 A Because it is right across the street from the county
- 16 line and he could just walk there instead of me having to
- 17 go all the way back down to Skylark Lane.
- 18 Q It just happened to be close to his neighborhood
- 19 where he lived?
- 20 A Yes, sir.
- 21 Q Were you angry because John had chosen to go with Pee
- 22 Wee instead of you?
- 23 A No, sir.
- 24 Q About what time of the day was that you met John the
- 25 first time on May 7th?

1 A 4:00 or 4:30.

2 Q And you have known John for many years by this point?

3 A Yes, sir.

4 Q Are you able to tell from looking at him, you can
5 sense whether he is intoxicated or not?

6 A Yes, sir. One of the telltale signs is when he is
7 not smoking he does not smoke cigarettes. But when he is
8 smoking he smokes cigarettes.

9 Q Where did you leave from J.'s place and go to?

10 A I went back home and Don and I had loaded up another
11 truck load of stuff to take to my shed behind Tim's.

12 Q So how many more loads did you and Don pick up?

13 A Just one more load after that.

14 Q What time did y'all break from doing the physical
15 moving?

16 A Probably 8:30, 9:00.

17 Q A lot of stuff still left to move?

18 A Yes, sir. I have accumulated a lot of stuff over the
19 years and most of it was still packed up from leaving
20 Don's house because I lived in a one bedroom trailer. I
21 could fill a three or four bedroom house with my stuff.

22 Q Were the dogs and animals taken first in the move or
23 were they taken last?

24 A In the middle.

25 Q Do you remember what day the dogs were taken?

- 1 A Sunday.
- 2 Q Sunday?
- 3 A Yes, sir.
- 4 Q So it is the evening, early evening, late afternoon
- 5 and you and Don had finished taking another load to T.C.'s
- 6 house?
- 7 A Yes, sir.
- 8 Q What happened?
- 9 A I called John from Tim's phone at Tim's house and
- 10 told him that, asked him if he wanted to meet up later and
- 11 he said yes.
- 12 Q Was T.C. with you?
- 13 A Yes, sir. He was right there, I used his phone.
- 14 Q But you are the one who called John?
- 15 A Yes, sir.
- 16 Q Did you subsequently go and meet John Henry that
- 17 night?
- 18 A Yes sir, I did.
- 19 Q What time did you go and meet John?
- 20 A 10:30, 11:00 o'clock.
- 21 Q Whose vehicle were you in?
- 22 A In Don Buford's.
- 23 Q What did you do for dinner that night?
- 24 A I really don't even remember.
- 25 Q Did you spend it with T.C. and Don or?

- 1 A I had spent it with Don.
- 2 Q Did y'all usually go out to restaurants when Don was
- 3 in town for the weekend or would you stay at home and eat?
- 4 A It depends.
- 5 Q Don't remember where you went that night?
- 6 A I think we ate at my house.
- 7 Q Had you been drinking alcohol at that point?
- 8 A No sir, I do not, I am not a drinker.
- 9 Q Had you been smoking marijuana?
- 10 A No, sir.
- 11 Q Had you been using crack cocaine?
- 12 A No, sir.
- 13 Q Were you under the influence of any other narcotics
- 14 or drugs at that point?
- 15 A No, sir. Tired from moving all day.
- 16 Q What were you wearing?
- 17 A A pair of jogging shorts and a tshirt.
- 18 Q I apologize somewhat but you have gained some weight
- 19 since you have been in jail?
- 20 A 85 pounds.
- 21 Q Do you remember what your weight was the day you got
- 22 arrested?
- 23 A 174.
- 24 Q Do you recall doing anything specific with either
- 25 T.C. or Don prior to meeting up with John?

- 1 A No, sir.
- 2 Q Did T.C. know you were going to meet John?
- 3 A Yes, sir.
- 4 Q You had used his phone?
- 5 A Yes, sir.
- 6 Q And did Don know?
- 7 A No. I told him I wanted to, you know, use his truck
8 and go out but out of respect I don't say, I want you to
9 go, you know.
- 10 Q What was your intention of meeting with John that
11 night?
- 12 A I hadn't had any in a few days, it was time. I was
13 tired and moving all day.
- 14 Q You were planning on hooking up and having a sexual
15 encounter with John that night?
- 16 A Yes, sir. All night long if possible.
- 17 Q Were you, what about using drugs that night?
- 18 A No, sir.
- 19 Q When John came over and y'all had romantic encounters
20 were drugs used or they weren't used?
- 21 A Always with him but not always with me.
- 22 Q Where did you pick up, why didn't you drive, his
23 LeSabre was broken down at this point. So you again meet
24 him at J.'s place that evening or that night?
- 25 A Yes, sir.

1 Q What time did you arrive?

2 A It was around 10:30, 11:00 maybe. I really don't
3 remember, it was a very, very long day. And I know I had
4 gotten home, I think I had told John over the phone that I
5 was going to meet him like at 9:30 or something like that.
6 But when I got home, dealing with the dogs and all of that
7 good stuff I had actually texted T.C. and asked him to
8 call John and tell him I was going to be a little longer.
9 And then whenever I started to leave my house I texted him
10 again and asked him to call John and tell him I was on my
11 way.

12 Q Did you tell T.C. to tell John that you were moving
13 and that you didn't want him to come around you any more?

14 A No, sir. John had already known that I was moving.

15 Q Did you tell T.C. any way to instruct John that the
16 relationship was over?

17 A No, sir.

18 Q Did anybody ride with you to J.'s place?

19 A No, sir.

20 Q Was anybody with John when you met him at the parking
21 lot, I assume you met him at the parking lot at J.'s?

22 A At the stop sign right there on the corner. I seen a
23 couple of people on the railroad track. He was standing
24 at the corner by himself.

25 Q Sometimes people will mill about the railroad track

1 area?

2 A Yes, sir.

3 Q Where did you, I assume John immediately got in the
4 car and y'all left?

5 A Yes, sir.

6 Q Where did you go?

7 A We went to Sam Koon Road and cut across to 176 and
8 took 176 to Maybinton.

9 Q Did y'all discuss where you were going to go that
10 night or was just, understood where you were going that
11 night?

12 A He had asked me earlier in the day when I talked to
13 him what I wanted to do. And I said, I have got Don so we
14 will hit the woods over at the Forrest. And he knew where
15 that was. And Tim knew where that was.

16 Q Had you been out there with T.C. before?

17 A No, sir.

18 Q Even socially?

19 A No, not with Tim.

20 Q Did you ever text or contact T.C. to tell him that
21 you were going?

22 A Yes. I had to text him to call John and tell him I
23 was on my way to pick him up.

24 Q Did you tell T.C. that you were going out to Judy B.
25 Road?

- 1 A He knew I was going out there, yes, I had told him.
- 2 Q Was it dark that night?
- 3 A Yes sir, the stars were out but it was predominately
- 4 dark.
- 5 Q Is Sumter National Forrest a pretty dark place to be?
- 6 A It depends on the moon really. Actually it is, if
- 7 you are at my pond it is about the same as being at my
- 8 pond versus being at Judy B. About the same darkness, it
- 9 depends on the moon.
- 10 Q There is no artificial illumination out there though?
- 11 A No, sir.
- 12 Q Was anybody there when you got to Judy B. Road?
- 13 A Yes sir, Tim was there.
- 14 Q Did you invite Tim to come there?
- 15 A No, sir.
- 16 Q Did John invite Tim to go there?
- 17 A No, sir.
- 18 Q Were John and T.C. buddies?
- 19 A No, sir.
- 20 Q Did T.C. tell you he was coming there?
- 21 A No, sir.
- 22 Q Did you expect to see him there?
- 23 A No, sir.
- 24 Q Were his lights on when you arrived there?
- 25 A No, sir.

1 Q What kind of vehicle would T.C. have been in?

2 A Black F150 Ford.

3 Q Pickup truck?

4 A Yes, sir.

5 Q How did you know T.C. was there, you just saw the
6 truck.

7 A Yes, sir. Whenever we came up to where it kind of
8 opens up I had seen his truck sitting there. I was like,
9 hey, Tim is here or T.C. is here. And John was like, what
10 is he doing here. I was like, I don't know.

11 MR. VERNER: May I publish State's 1, Your Honor.

12 THE COURT: Yes, sir.

13 Q Can you recognize State's 1?

14 A Yes sir, I do.

15 Q Can you tell me, is this where you and John ended up
16 going that night?

17 A Yes, sir.

18 Q Using this laser pointer, can you tell me where T.C.
19 was parked when you first saw his vehicle?

20 A He was parked over in this area right here. His
21 drivers door was like right about there. He had pulled
22 kind of way over to the shoulder.

23 Q So he wasn't in the main part of the road anymore, he
24 pulled over?

25 A No, sir.

1 Q I think you testified his lights are not on?

2 A No, sir. I had actually seen his bald head before I
3 had seen him because it kind of stuck out around the
4 blackness and with my lights shining on it.

5 Q I assume your high beams would have been on in this
6 place?

7 A Yes, sir.

8 Q And just for the record, you are pointing to the left
9 fork of State's exhibit 1 near where the man in the white
10 shirt is standing?

11 A Yes, right here.

12 Q Was the truck completely off the road or just
13 partially off the road?

14 A His driver door was like right there, right where the
15 grass overhangs right there. His driver door was like
16 right there, he had pulled over in the grass.

17 Q You see the grassy median in the middle?

18 A Yes, sir.

19 Q Is that about half way on that grassy median or is it
20 closer to us where we are standing or further away towards
21 the tree line in the back?

22 A He was over here.

23 Q I don't know where over here means?

24 A Right over there.

25 Q In terms of forward and backwards in the picture?

- 1 A He was facing us.
- 2 Q But was he closer to us than the half way of the
3 grassy nolle or was he closer to that line behind?
- 4 A Probably more to the front right here.
- 5 Q Did you recognize that as Tim's vehicle?
- 6 A Yes, sir. I seen his bald head.
- 7 Q Did it surprise you to see T.C. out there?
- 8 A Yes and no. He has shown up other places where he
9 knew I would be like at the lake with some other people.
10 It is not uncommon for him just to show up where I am at.
- 11 Q Where did you park your car?
- 12 A I just pulled in right next to him.
- 13 Q On the inside?
- 14 A Right in the middle pretty much.
- 15 Q So you took the left fork and you were going to do
16 the loop eventually to get out, clockwise?
- 17 A Yes, sir.
- 18 Q And he was coming counter clockwise?
- 19 A Yes, sir.
- 20 Q What happened, did you pull up and start speaking to
21 him immediately?
- 22 A Yes, sir. I rolled my window down and his was
23 already down. And I was like, what is going on, you know,
24 why are you here. And he said he just felt the need to be
25 there. I was like, okay, you are sitting at home lonely,

1 sure, you know, every time he would show up where I was at
2 he would hang out for an hour or so and then leave. And,
3 you know, it was really, I really didn't think nothing of
4 it.

5 Q Did T.C. drink alcohol?

6 A Not that I know of, sir.

7 Q Do you know if he had a favorite beverage that he
8 would drink?

9 A Mountain Dew.

10 Q So what happens after you and John, does John
11 interact with T.C.?

12 A Yes, sir. We all got out of the vehicle and John had
13 ended up setting me up on the hood of Don's truck and I
14 sat right there. And he stood in front of me--

15 Q Don't say he because I don't know which he you are
16 talking about.

17 A John stood in front of me and I had my arms wrapped
18 around him and we were just BS'g with Tim for a while.
19 And Tim was on his phone texting, he was towards the back
20 of his truck. So John and I just kind of mozied off.

21 Q Do you know who Tim was texting to?

22 A No, sir. Tim is a text-aholic which I can't say
23 much, I was too.

24 Q Did you keep your lights on in either of the trucks?

25 A No, sir.

- 1 Q Were you playing music?
- 2 A No, sir.
- 3 Q So the truck was turned off then?
- 4 A Yes, sir.
- 5 Q And you are sitting on the hood of--
- 6 A Don's truck.
- 7 Q So you are facing the far treeline?
- 8 A I am actually, I was actually sitting facing Tim's
- 9 truck.
- 10 Q Over the tire?
- 11 A Yes, sir.
- 12 Q And John is with you?
- 13 A Yes, sir.
- 14 Q Is John in a good mood?
- 15 A Yes, sir. He had been smoking that day. He was in a
- 16 pretty good mood.
- 17 Q John is standing up, you are sitting on the hood of
- 18 your car, where is T.C?
- 19 A Leaning up against his truck, towards the back of his
- 20 truck.
- 21 Q Did you and John buy alcohol at J.'s or bring alcohol
- 22 out to the scene?
- 23 A No sir, I am not a drinker.
- 24 Q Did you and John smoke marijuana or crack cocaine
- 25 along for the ride?

1 A No, sir.

2 Q Did you bring crack cocaine out to that scene?

3 A No, sir.

4 Q Do you know if John Henry brought crack cocaine out

5 to that scene?

6 A I have no clue.

7 Q Did you see John at all smoke crack cocaine out

8 there?

9 A No, sir. He smoked a couple of cigarettes.

10 Q How long, do you remember what y'all were talking

11 about?

12 A Oh gosh, all kinds of things. We talked a little bit

13 about the move.

14 Q Who is doing the talking for the most part. Is John

15 a talker?

16 A Yes and no, if he has something to talk about, he

17 talks but if he don't really have anything to talk about

18 he is not much of a talker, no.

19 Q Was he talkative that night?

20 A A little bit, earlier that week he and I had went

21 fishing in the pond and he always kind of got a little bit

22 upset because I always outfished him and we were, he likes

23 to pick about it not meaningly or anything. So every time

24 I seen him the rest of that week he would pick at me about

25 me outfishing him.

1 Q But in a good--

2 A Very good humor.

3 Q How long did you three sit out there talking?

4 A For at least 45 minutes or so.

5 Q Did you bring this pistol that evening?

6 A No, sir.

7 Q When is the first time you had seen this pistol?

8 A Here. The gun that Tim carried on his belt, it had a
9 black handle so it could have been that one. I have never
10 gotten like super close to it and the gun that he used to
11 shoot my dogs I never seen.

12 Q Let me ask about that while we are here then. Do you
13 know personally whether T.C. has shot any of your dogs
14 before?

15 A Yes sir, I do.

16 Q How many?

17 A Three.

18 THE COURT: I have ruled part of that inadmissible.

19 MR. VERNER: May I be heard?

20 THE COURT: Yes. Please go to your jury room. Do
21 not discuss the case.

22 (Whereupon, the jury was excused from open court.)

23 THE COURT: Mr. Verner.

24 MR. VERNER: Your Honor, the foremost reason I
25 believe it is admissible, I am not offering it to attach

1 the character of T.C., I am offering to show the state of
2 mind that she had a reasonable fear for her own safety and
3 for that of the dogs as part of the reason that her
4 actions occurred after the date of May 7th.

5 THE COURT: I ruled it inadmissible, Mr. Verner.

6 MR. VERNER: Out of--

7 THE COURT: Please do not interrupt me. I ruled it
8 inadmissible and then you come in this court and you ask
9 her a question that I had already ruled inadmissible in
10 front of this jury without advising the Court that you
11 have a matter of law to take up and you think that is
12 appropriate. It is inadmissible. Bring us our jury,
13 please.

14 MR. VERNER: May I be heard on Rule 609 though, Your
15 Honor.

16 THE COURT: No, sir. 609 is the Rule, if I am not
17 mistaken, for prior criminal act.

18 MR. VERNER: You are right, I mean Rule 608.

19 THE COURT: No sir, I have already ruled on 608.
20 Bring the jury, please.

21 (Whereupon, the jury came into open court at
22 approximately 12:11 p.m.)

23 CONTINUE DIRECT EXAMINATION

24 By Mr. Verner:

25 Q Mandy, have you ever held this pistol?

1 A No, sir.

2 MR. VERNER: Your Honor, I would ask permission of
3 the Court to publish the handgun.

4 THE COURT: They will have it in the jury room.

5 Q How long did you and T.C. and John spend outside the
6 trucks in conversation?

7 A Probably 45 minutes.

8 Q Was there any drug use going on at that point?

9 A No, sir.

10 Q Was everything cordial?

11 A Yes, sir.

12 Q Was T.C. a contributor to the conversation?

13 A Yes, he was.

14 Q What happened after about 45 minutes?

15 A Tim was texting on his phone and he was all into it
16 and he kind of veered off of our conversation. So me and
17 John just kind of walked a little ways away from him in
18 our own little world.

19 Q What do you mean by a little ways away?

20 A Don's truck was like right here. And from there,
21 around the front of the truck we just kind of walked over
22 towards the grassy area.

23 Q By grassy area you mean towards the middle of the
24 road?

25 A Yes sir, towards the middle.

1 Q So you weren't in the tree line, you are still in the
2 road?

3 A Yes, sir.

4 Q Let me back up a little bit. Do you know what time
5 you and John arrived to the Judy B. Road turnround?

6 A Not really.

7 Q Could it have been after midnight?

8 A Yes, possibly could.

9 Q You and John kind of drifted off to talk to yourself?

10 A Yes, sir.

11 Q What happened next, Mandy?

12 A We had our back towards the trucks and like I say, we
13 were in our little world. John had his big arm and hands
14 around me. And I am a lot shorter than he is, just
15 talking to me and I am talking to him. And the next thing
16 I knew I was pushed to the ground and there was a gunshot.

17 Q Do you know who pushed you to the ground?

18 A No, I don't.

19 Q Do you know where the gunshot came from?

20 A Kind of behind, beside me, it's like right there.

21 Q Do you remember seeing the flash?

22 A No, sir.

23 Q I assume it was a loud sound?

24 A Very much so.

25 Q Do you know where John was hit?

- 1 A No, sir.
- 2 Q In the body?
- 3 A No, sir.
- 4 Q Have you ever taken any firearms training, classes?
- 5 A No, sir.
- 6 Q Where was John, as best you can with your pointer,
7 where was John Henry Mayers when he was shot?
- 8 A Probably like right up in there.
- 9 Q Your laser pointer is indicating kind of the, looking
10 at the picture, the left middle of that grassy area in the
11 middle of the road?
- 12 A Yes, sir.
- 13 Q What was John wearing that night?
- 14 A A white tshirt and his work pants, he usually wore
15 his work pants.
- 16 Q Do you remember what he had on his feet?
- 17 A No sir, I don't.
- 18 Q Do you remember if John typically carried a wallet or
19 anything like that with him?
- 20 A He had his phone, I know he has his phone on him
21 because somebody called him on the way out there and he
22 had talked to them.
- 23 Q What about a wallet, did he typically carry a wallet?
- 24 A He generally had his wallet.
- 25 Q Was it raining that night?

1 A No, sir.

2 Q What happened next?

3 A I got pushed completely to the ground. I had
4 actually messed up my knee that night and also the force
5 of me hitting the ground.

6 Q Did you hit the ground foreward or backwards?

7 A Forward, I landed on my right knee and kind of slid
8 out.

9 Q How far was that shot from the trucks?

10 A Not very far. Me and John were not far from the
11 trucks. We were like right up in there.

12 Q Had you and John ever drifted off that night to go
13 smoke crack cocaine at the wood line?

14 A No, sir.

15 Q Did T.C. ever see you two smoke drugs before?

16 A No, sir.

17 Q Would you have hid that from T.C. that you were--

18 A No, I didn't hide anything from Tim.

19 Q And on that, while we are on that point, have you
20 ever injured your ankles before, your legs?

21 A Yes, sir.

22 Q Tell me about what kind of physical shape you are,
23 you were in as far as walking or running?

24 A I have broken both of my ankles at the same time
25 twice.

1 Q You recall how old you were or how long ago that was?

2 A The first time was before I went to Germany. I had a
3 camper out on Lake Murray and this is when I was living at
4 Wheeland School Road before I went to Germany. And my
5 family was coming that weekend and I went to the camper to
6 get like the curtains, the towels to take them back to my
7 house to wash them and freshen everything up.

8 Q Just tell me how you hurt your ankles?

9 A I had my arms full of stuff and I was coming out of
10 the little tiny camper trailer and I missed that step and
11 there was two steps below that--

12 MR. STUMBO: Objection to relevance.

13 THE COURT: All right, Mr. Verner.

14 MR. VERNER: Your Honor, I am offering this, is the
15 Court asking me for my reason for offering this testimony?

16 THE COURT: Yes, sir.

17 MR. VERNER: My relevance of the case is her ability
18 to chase after John Henry.

19 THE COURT: You may continue.

20 Q You had missed a step and broken both of your ankles?

21 A Yes, sir. Thank goodness there was a couple of
22 fishermen and a camper next to mine and they seen me fall.

23 Q And then you had broken your ankles again at the same
24 time?

25 A This was since I have been at the Little Mountain

1 house again. I was going out my back steps and one of the
2 dogs went in between my legs and it just, it was a bad
3 mess.

4 Q Did you participate in any kind of athletic program
5 at that time, were you doing anything athletic?

6 A Besides walking and playing with my dogs, no,
7 fishing.

8 Q Were you able to run at a full speed at that point?

9 A No, sir.

10 Q Were you a fast runner at all?

11 A No, sir.

12 Q Does running hurt your legs or ankles?

13 A Extremely.

14 Q Was John in pretty healthy condition at that point?

15 A Besides he liked to eat and he had his belly, but
16 other than that, yes.

17 Q You are on your knees on the ground, there is a
18 gunshot?

19 A Yes, sir.

20 Q What happens next?

21 A I looked back towards them and I am in a state of
22 what the heck is going on. And see him and Tim, both of
23 them are together.

24 Q How far from where you had fallen were they close
25 proximity?

1 A They were more towards Don's truck.

2 Q This was still in the area of where the cars are
3 parked?

4 A Yes, sir.

5 Q Did they fight each other?

6 A They were not like punching, fighting. From what I
7 remember it looked more like John was maybe struggling
8 trying to get the gun away from him.

9 Q What happened?

10 A John looked over at me and told me to run. And
11 whenever he said run he took off in the opposite
12 direction.

13 Q What happened?

14 A Tim followed him.

15 Q What happened, did you take off running?

16 A I struggled to get up and when I was headed towards
17 them I seen and heard the flash from the gun again.

18 Q Did you see if John had been injured after the first
19 shot?

20 A No, I didn't see any blood or anything.

21 Q Which direction, as we are looking at this
22 photograph, State's 1, which direction would John have
23 run?

24 A He ran in between the trucks and he was running
25 through here. And I was like right there, like right in

- 1 front of Don's truck when I seen the flash from the gun
2 and heard it. They were already in the tree line.
- 3 Q What are you talking about in the tree?
- 4 A They were over in this area.
- 5 Q You are indicating the right side?
- 6 A Yes sir, over in the right.
- 7 Q Were you able to see clearly?
- 8 A No, sir.
- 9 Q Did you see them at all?
- 10 A I seen the flash from the gun and heard it and I
11 could see Tim had a light colored pullover on that night
12 and I could barely see him over the top of the bushes
13 because they were right at, you know, kind of chest level
14 or height maybe.
- 15 Q How far into, had they gotten into the tree line?
- 16 A Yes, sir.
- 17 Q What did you do, you said you heard a second shot?
- 18 A I seen the sparks. I ran to them, that is John. And
19 when I got there he was on his back.
- 20 Q Was John saying anything?
- 21 A He mumbled a couple of words.
- 22 Q Was he conscious?
- 23 A For a few seconds, yes.
- 24 Q What happened when you reached T.C. and John?
- 25 A Tim was just standing there and I dropped to my knees

1 to John and Tim grabbed me up and I fought with him to get
2 back to John. He kept pulling me up. He ended up pulling
3 me back to Don's truck and he put me in there and he took
4 the keys and told me to stay there. And I stayed there
5 and he went back to John. I don't know what he did, he
6 went to him.

7 Q How much time after the second shot did you stay at
8 the scene of Judy B. Road?

9 A Maybe ten minutes, maybe.

10 Q What were you doing in the car?

11 A I was sitting there crying trying to figure out what
12 just happened.

13 Q Had you and T.C. formed an agreement to harm John
14 Henry that night?

15 A No, sir.

16 Q Were you aware that T.C. may have intended to harm
17 John Henry?

18 A No, sir.

19 Q A period of minutes, could it have been more or less
20 than ten minutes?

21 A Yes, sir. It could have been more or less.

22 Q What happens next, Mandy?

23 A Tim went back to John and I don't know how long he
24 was gone. I don't think he was gone very long. And he
25 came back to me and he opened the truck door and he told

1 me that he was going to follow me home and for me not to
2 tell nobody. That if I did that he would kill my dogs and
3 my family. And he knows where all of my family lives.
4 Because he has been at all of their houses. He followed
5 me back to my house.

6 Q Do you recall whether T.C. was pointing a gun at you
7 or not?

8 A No, I don't.

9 Q What kind of emotional state was T.C. in?

10 A He was fine. He wasn't nervous at all.

11 Q And so you drive your vehicle, where do you go from
12 Judy B. Road?

13 A He follows me and we get to a stop sign, I couldn't
14 remember which way to go. It was very traumatic and I had
15 texted him and ask him which way to go and he told me and
16 he followed me home.

17 Q How long did it take you to drive from Judy B. Road
18 back to Wheeland School Road? I assume by home it is the
19 Wheeland School Road?

20 A Yes, sir.

21 Q No stops between?

22 A No, sir.

23 Q Did T.C., you testified that T.C. had his phone out
24 there?

25 A Yes, sir.

1 Q Did you have a phone?

2 A No sir, I didn't have any minutes on it to call. I
3 could text but I couldn't call.

4 Q You go straight back to your house?

5 A Yes, sir.

6 Q What happens at your house?

7 A For some reason my gate wouldn't open that night. It
8 had its times when it wouldn't open, it would open and
9 stay open and not close. So I pulled right up to the gate
10 and Tim pulled in behind me and he told me to go home,
11 that he was going to sit there for a few minutes. So I
12 walked back to my house.

13 Q Was Don there that night?

14 A Yes, sir.

15 Q Did you tell Don what had happened?

16 A No, sir.

17 Q Did you talk to Don about anything?

18 A No, sir.

19 Q Was he awake when you got there or had he already
20 gone to sleep?

21 A He was awake.

22 Q Can you tell me what time you may have gotten home?

23 A No, sir. I don't know.

24 Q What happens, does anything happen the next morning?

25 A Well Tim had told me that night before that I needed

1 to make sure that me and all of my animals were at his
2 house by Sunday night.

3 Q This was after John Henry was killed?

4 A Yes, sir. It was after John was killed. And that I
5 would not spend another night at Wheeland School Road,
6 that I would be in the shed behind his house.

7 Q Did you ever spend another night at Wheeland School
8 Road?

9 A No, sir.

10 Q What happened Sunday?

11 A Spent the day moving, it was mostly moving the
12 animals.

13 Q Let me start, do you recall what time you started
14 moving?

15 A Probably around 8 or 9 that morning.

16 Q Did you have breakfast?

17 A No, sir.

18 Q Did you go over, did you start moving on your own
19 first or did T.C. come to your house. What was your first
20 interaction with T.C.?

21 A He showed up and we loaded his truck down with stuff
22 and then we used Don's truck for the animals, his truck
23 and a trailer for all of the animals.

24 Q What time did T.C. show up the following day?

25 A We had, I was already packing some because I had to

1 take all of the inside stuff that I needed for the dogs
2 and the rest of the animals and everything. So he was
3 probably there about 9:30, 10:00 o'clock.

4 Q And Don helped you move and T.C. helped you move?

5 A Yes, sir.

6 Q Was T.C. still carrying any weapons at that point?

7 A Not that I seen, no.

8 Q Did you have any pistols in any of your, what kind of
9 boxes were you using, plastic boxes?

10 A Yes, I am a plastic tub user.

11 Q Did you have any pistol in any plastic tubs?

12 A No, sir.

13 Q And so all of your pets and all of the animals are
14 brought over Sunday and but you still hadn't finished
15 moving as of Sunday?

16 A No, sir.

17 Q How does that day end?

18 A That was the only load we took was Tim's truck, Don's
19 truck and the trailer because you have got a lot of stuff
20 to prepare to move your animals so that day was spent on
21 nothing but the animals.

22 Q Did you and T.C. talk about what happened that night?

23 A Whenever we got to his house there was a time when me
24 and him were over by the overhang where the majority of my
25 stuff went. And he has asked me if I had told Don

1 anything and I told him, no, you told me not to. He just
2 wanted to pretty much clarify that and told me that Don
3 would be gone in a little while and that it would just be
4 him and I.

5 Q Did he talk about why that happened?

6 A No, I didn't ask him why until a couple of days
7 later.

8 Q When did Don leave to go back to Sumter?

9 A Sunday night.

10 Q Did you have a vehicle at that time?

11 A No, sir.

12 Q Did you have any other friends to come over and visit
13 you at T.C.'s property?

14 A Sam came and seen me once. Other than that that was
15 the only person that came and seen me.

16 Q Did you and T.C. ever sit down and either, at any
17 location and discuss what y'all were going to do because
18 of what happened?

19 A No. We never talked about the situation besides I
20 asked him why and he told me because I would never be away
21 from John any other way which was true.

22 Q Could you had called the police if you had really
23 wanted to at that period of time?

24 A Yes and no. T.C. or Tim, he never left my side. He
25 stayed with me all the time.

1 Q He didn't spend the night with you in the trailer,
2 did he?

3 A There was a few times where I had went into the shed
4 with my dogs and like one of the dogs would have to go use
5 the bathroom. And I would open the door to let them out
6 and he would be there.

7 Q Did T.C. ever threaten you during this period of
8 time?

9 A Yes, sir.

10 Q What did he threaten?

11 A Just kept stressing the fact that if I told anybody
12 that he would kill my animals and he told me that if, you
13 know, flat out that if I did that he would kill my animals
14 and my family.

15 Q Did you believe him?

16 A Yes.

17 Q Did y'all ever talk about coming up with a common
18 story that you could, did you think, did he ever sit down
19 and come up with a common story?

20 A No sir, we never talked about it.

21 Q Did you talk about an escape plan or anything
22 involving the police getting involved?

23 A No, sir.

24 Q Is there anybody you can talk to about what had
25 happened on May 7th?

- 1 A No sir, not until I talked to the police.
- 2 Q Did, at some point the police shows up at T.C.'s
- 3 house?
- 4 A Yes, sir.
- 5 Q Had anybody come first looking for T.C?
- 6 A No, sir. John's son Christopher and his daughter's
- 7 boyfriend, Tremaine, they came by looking for me.
- 8 Q Did you speak to them?
- 9 A No sir, I was in the house with Tim's mom. I didn't
- 10 even know they had come by.
- 11 Q Anybody else come by, prior to the police coming on
- 12 the 16th?
- 13 A No, sir.
- 14 Q Do you remember Investigator Boland coming by T.C.'s
- 15 house on May 16th?
- 16 A Yes, sir.
- 17 Q What happened as a result of that. Did he call
- 18 beforehand and say, we are coming?
- 19 A Yes sir, I was in the shed with the dogs. Actually I
- 20 was outside in the fenced area with them. And Tim come
- 21 over and told me that a police officer was coming to talk
- 22 to me, that I need to come to the house.
- 23 Q Did Tim tell you what to say?
- 24 A No, sir. Besides not telling on him.
- 25 Q Do you remember Investigator Boland showing up when

1 he first arrived at the house?

2 A Yes, sir.

3 Q Was he by himself or did he have other officers with
4 him?

5 A He was alone.

6 Q Where were you and T.C. when he first arrived?

7 A Standing or sitting on the front porch.

8 Q And you spoke to Investigator Boland?

9 A Yes, sir.

10 Q What did you tell him about the disappearance of John
11 Henry?

12 A That I didn't know where he was, that the last time I
13 had seen him he had left with a guy in a brown PT Cruiser
14 at Mr. J.'s.

15 Q Do you recall seeing Investigator Boland speak to
16 T.C.

17 A Not that I recall, no.

18 Q Did you know the neighborhoods, were there close
19 neighbors?

20 A Yes sir, right across the field is Tim's uncle or
21 something like that.

22 Q It would be another family member?

23 A Yes, sir.

24 Q Are there any police officers or any deputies who
25 live in that neighborhood?

- 1 A Yes, sir. The son of his uncle or whatever is a
2 police officer.
- 3 Q Could you have walked over to his house for help?
- 4 A Yes, I could have. It would have been a long walk.
- 5 Q And then, the last I saw John Henry he was with
6 somebody in a brown PT Cruiser?
- 7 A Yes, sir.
- 8 Q And you don't recall whether or not he spoke to T.C.?
- 9 A I don't think he did. Just general conversation,
10 hey, how are you doing.
- 11 Q Did you and T.C. talk about after, Major Boland or
12 Investigator Boland left, did you and T.C. talk?
- 13 A No, sir. He walked me back to my shed with my dogs.
- 14 Q And I understand that a Lexington County Deputy came
15 back the follow day again with Major Boland?
- 16 A Yes, sir.
- 17 Q Did they speak to you in any detail at that point or
18 was it still, have you seen John Henry?
- 19 A Just have I seen him.
- 20 Q The same answer you gave them?
- 21 A Yes, sir.
- 22 Q Do you recall seeing either one of them speak to
23 Investigator Boland or Lexington County Deputy speak to
24 T.C?
- 25 A Just general conversation, hey, how are you doing.

1 Q Did you know Investigator Boland or the Lexington
2 Deputy at that point?

3 A I had seen Captain Boland. He lived right down the
4 road from where I lived out on Wheeland School Road. I
5 had seen him.

6 Q So you knew who he was?

7 A I didn't know who he was, I knew he was a police
8 officer.

9 Q How long did you speak to the officers on May 17th?

10 A Maybe 10 or 15 minutes.

11 Q Can you tell me whether during this period of time
12 T.C. was still wearing his gun?

13 A I don't think so, no.

14 Q Did you ever see him or know that there was a handgun
15 in the console of his pickup truck?

16 A I didn't know what happened to the gun.

17 Q Did you have keys to his truck?

18 A No, sir.

19 Q Has T.C. ever been violent, prior to this date has he
20 ever been violent with you before?

21 A No, sir.

22 Q After the Lexington and Investigator Boland leave on
23 May 17th what was the next, did anything happen between
24 that date and the trip to Walmart with T.C.?

25 A Yes, sir.

- 1 Q Did people keep coming to the house?
- 2 A No, sir.
- 3 Q Did people call the house?
- 4 A I don't know.
- 5 Q What happened after the deputies came, do you
- 6 remember the date of May 19th?
- 7 A Yes, sir.
- 8 Q What happened, that is the day that you and T.C. went
- 9 to the body of John Henry?
- 10 A Yes, sir.
- 11 Q Was in that morning, what time of day was that?
- 12 A Around lunch time.
- 13 Q Whose idea was it to visit the Judy B. Road area?
- 14 A It was Tim's, he had put my fishing stuff in his
- 15 truck and his fishing stuff and told me he wanted to go
- 16 fishing and that I had to go with him.
- 17 Q Did you agree to go?
- 18 A Yes, I had no other choice.
- 19 Q Did he threaten you with a gun or just--
- 20 A I wasn't going to say, no.
- 21 Q What happened, who drove, you or Tim?
- 22 A Tim.
- 23 Q Did you know or did y'all discuss going out there to
- 24 Judy B. Road?
- 25 A No, sir.

- 1 Q Did you go anywhere other than, when you left his
2 house did you make any stops along the way?
- 3 A No, sir.
- 4 Q Went straight to Judy B. Road?
- 5 A Yes, sir.
- 6 Q What happened when you got to Judy Road?
- 7 A Well, he started heading in the general direction. I
8 had asked him where he was going and he told me I would
9 see when we got there. And the closer we got to the road
10 I asked him, you know, why are we going out here. And he
11 told me, you will see.
- 12 Q Prior to leaving did he tell you to take playtex
13 gloves?
- 14 A No, sir.
- 15 Q Did he tell you to take a knife?
- 16 A No, sir.
- 17 Q Did he tell you to take anything other than fishing
18 gear?
- 19 A No, sir. I didn't even put my fishing stuff in the
20 truck, he put all of it in there.
- 21 Q Did you have latex gloves at that point?
- 22 A No, sir.
- 23 Q Was T.C. employed at that point?
- 24 A No, sir.
- 25 Q Have you still got the Solicitor's laser pointer.

- 1 A Yes, sir.
- 2 Q What time do you and T.C. arrive at Judy B?
- 3 A It was sometime around lunch time or a little after,
- 4 afternoon.
- 5 Q Where did T.C. park, with the laser pointer?
- 6 A He parked right there.
- 7 Q For the record you are indicating the left turn in
- 8 the general vicinity with the man with the white shirt?
- 9 A Yes, sir.
- 10 Q Clear day?
- 11 A Yes, sir.
- 12 Q I assume once he pulls off the highway and gets on
- 13 the gravel road you know where you are going, don't you?
- 14 A Yes, sir.
- 15 Q Did you talk about why you are going there?
- 16 A Yes, I asked him why we were going out there and he
- 17 said you will see.
- 18 Q Did he ever say anything or did you have any more
- 19 talks even while you were on that gravel road?
- 20 A I was crying hysterically, I was really upset.
- 21 Q Do you take medication?
- 22 A I do now.
- 23 Q You didn't at that time?
- 24 A I was suppose to but I had gotten off of it.
- 25 Q Did you have a legal prescription for medication?

- 1 A Yes, sir.
- 2 Q What were you prescribed for at that time?
- 3 A Seroquel to help me sleep and Naproxen for
- 4 depression. But I had stopped taking it a couple of
- 5 months before this.
- 6 Q Long before, you were taking that medication long
- 7 before this happened?
- 8 A Yes, sir.
- 9 Q But you had stopped taking it before this happened
- 10 too?
- 11 A Yes, sir.
- 12 Q Was it finances or you just didn't like it?
- 13 A I don't like drugs.
- 14 Q You got to the turnaround on Judy B. Road?
- 15 A Yes, sir.
- 16 Q What happens?
- 17 A Tim tells me to get out of the truck, I tell him I
- 18 didn't want to. I didn't want to and he came around and
- 19 opened the passenger side door and pulled me out.
- 20 Q And go on.
- 21 A He told me he wanted me to go with him and he took me
- 22 to John's body.
- 23 Q Could you smell the decay of John Henry's body at
- 24 that point?
- 25 A Yes, sir.

- 1 Q It is not a pleasant smell, is it?
- 2 A You will never forget it.
- 3 Q Do you go straight to the body of John Henry at that
- 4 time?
- 5 A Yes, sir. He told me straight there.
- 6 Q Did he stay in the truck and watch you?
- 7 A No, sir.
- 8 Q Had he grabbed anything that you noticed on your way
- 9 walking over there?
- 10 A No, sir.
- 11 Q Did you know what the purpose of the visit was?
- 12 A No, sir.
- 13 Q Was the body of John Henry still in the general
- 14 location where you had last seen?
- 15 A Yes, sir. Moved a little bit, yes sir. The last
- 16 time I had seen him before Tim had put me in Don's truck
- 17 the night John died he was laying on his back. And when
- 18 he took me out there on the 19th John was on his stomach.
- 19 Q When you last saw John he was still laying on his
- 20 back still alive. But on the day of May 19th he had, he
- 21 was already on his belly?
- 22 A Yes, sir.
- 23 Q What was the condition of John Henry's body at that
- 24 point?
- 25 A Not good.

- 1 Q You are going to have to tell me what not good is.
- 2 A He was missing a good portion of the skin on his
- 3 back.
- 4 Q Was his shirt still on?
- 5 A Yes, sir. It was up around his shoulders.
- 6 Q Could you see his ribs, the skeleton?
- 7 A Yes, sir.
- 8 Q Do you remember whether his arms were outstretched at
- 9 that point?
- 10 A Yes sir, they were. They were above his head.
- 11 Q He was wearing sandals on the last night you saw him?
- 12 A I don't know what he was wearing.
- 13 Q Was his shoes still on when you got there or do you
- 14 recall?
- 15 A No, sir.
- 16 Q Not you don't recall?
- 17 A I don't remember seeing them on.
- 18 Q Do you ever remember taking them off and tossing
- 19 them?
- 20 A I didn't.
- 21 Q Did you see Tim do that?
- 22 A No, sir.
- 23 Q How far into the woods was the body of John Henry?
- 24 A Maybe 15 feet or so.
- 25 Q It was no longer in the edge of the road. It was

1 clearly in the wooded part?

2 A Yes, sir.

3 Q Could you see it from the road?

4 A To be honest I really don't remember.

5 Q Looking at State's 1, I see what appears to be kind

6 of tall grass on the date of May 25th and taller

7 shrubbery, was that the condition when you got out there?

8 A Yes, sir.

9 Q Was John Henry's body in the tall grass?

10 A When the night he died he was pass the grass and the

11 trees.

12 Q What happened when you and Tim get to his body?

13 A Tim pulled out a pair of gloves and told me to put

14 them on and I said what for. And he told me that he

15 wanted me to put John's head in a bag and he gave me a

16 knife. There really wasn't anything to cut.

17 Q What do you mean by that?

18 A There was no, John didn't have any skin on his head

19 at all. It was all gone.

20 Q It was just an exposed skull?

21 A Yes, sir.

22 Q Were there any muscles or skin left on the ground?

23 A No, sir. It was like a piece of cartilage or

24 something that was hooked to the skull and he told me I

25 had to cut.

- 1 Q What is your emotional state at that point?
- 2 A Not good.
- 3 Q What kind of knife did he give you?
- 4 A Like a little, not a paring knife is curved, a small
- 5 knife like a utility knife.
- 6 Q Did it come from your personal affects?
- 7 A No sir, it wasn't one of my knives and I am very
- 8 picky about my knives.
- 9 Q Had you ever done anything like that before?
- 10 A No, sir.
- 11 Q Have you ever eviscerated or cleaned a deer?
- 12 A No, sir.
- 13 Q Have you ever hunted?
- 14 A No, sir.
- 15 Q Who took the head off of John Henry, off the
- 16 skeleton?
- 17 A I did.
- 18 Q Where was Tim standing?
- 19 A Right there next to me with a gun.
- 20 Q Do you know what gun he had?
- 21 A No sir, it was black but I really don't remember what
- 22 it looked like.
- 23 Q Do you remember whether it was a revolver or a
- 24 semiautomatic?
- 25 A No sir, I don't. I remember the hole of it pointing

1 at me.

2 Q How long does it take you to take a skull off of the
3 neck?

4 A I really don't know how long it took but it wasn't
5 long, there wasn't, it wasn't John.

6 Q Are there bugs on the body?

7 A Yes, sir.

8 Q Are there maggots on the body at that point?

9 A There was a lot of things moving around on the body.

10 Q Is that a sickening feeling to do that?

11 A You will never get rid of it.

12 Q Do you still remember clearly?

13 A It has affected me tremendously.

14 Q Why didn't you refuse to do it?

15 A I did. But he told me if I didn't he would kill me
16 and he would kill my dogs and my family. And I will do
17 anything to protect my family and my dogs.

18 Q Do you think T.C. meant it?

19 A Yes. He killed the love of my life, yes.

20 MR. STUMBO: Objection, Your Honor.

21 THE COURT: You may ask your next question.

22 Q What kind of bag did you have?

23 A It was blue like a grocery bag, he pulled it out of
24 his pocket and told me to put it in there.

25 Q Like a Walmart or a grocery store plastic bag?

- 1 A Yes, sir.
- 2 Q Do you remember a bucket being out there?
- 3 A I remember him, that he had put one in the back of
- 4 the truck because we had taken it fishing with us a couple
- 5 of times. Whenever he had taken me back to the truck he
- 6 put the bag in the bucket.
- 7 Q Who carried the bag to the truck?
- 8 A I did.
- 9 Q How close was Tim standing to you when you did that?
- 10 A Very close, right there maybe a foot away.
- 11 Q No question in your mind he saw it?
- 12 A Yes, sir.
- 13 Q Directed you to do it?
- 14 A Yes, sir.
- 15 Q Do you remember what color the latex gloves were?
- 16 A Blue.
- 17 Q Were they like the kind a doctor or a nurse wears or
- 18 were they more like a lady who cleans?
- 19 A Like a doctor or a nurse would wear.
- 20 Q Did you have any latex gloves like that in your home?
- 21 A No, sir.
- 22 Q Do you know where they came from?
- 23 A No sir, I just seen him pull them out of his pocket.
- 24 Q Okay. Do you remember, you two got back in the
- 25 truck?

- 1 A Yes, sir.
- 2 Q You carried the head of John Henry back to the truck?
- 3 A Yes sir and Tim took the bag away from me and then
- 4 put it in the bucket.
- 5 Q And then do you talk when you get back in the truck?
- 6 A No, sir.
- 7 Q What are you doing in the truck at that point?
- 8 A I had my head between my legs and hysterically
- 9 crying.
- 10 Q What was Tim doing, was he emotional?
- 11 A No, sir.
- 12 Q Where did you go from there?
- 13 A He takes me back to the end of the Brazelmans Bridge
- 14 Road and he takes a left.
- 15 Q Total time how long do you think, from when you first
- 16 got there and left can you tell me how long you were
- 17 there?
- 18 A I don't really know but it probably wasn't any more
- 19 10, maybe 15 minutes.
- 20 Q And then you are out on the dirt road and get back on
- 21 the highway or Brazelmans Bridge Road?
- 22 A Yes, sir.
- 23 Q Where do you go?
- 24 A He takes a left and passing Cry Baby Bridge and goes
- 25 on down and it was a stop sign and he took a right. And

1 the river was done there on the right.

2 Q Had you ever been fishing at that spot before?

3 A No, sir.

4 Q Is there anybody else there when you get to that
5 spot?

6 A No, sir.

7 Q Is there a turn off on the road or a dirt road to get
8 off of the road?

9 A Yes, sir. You kind of pull down past the bridge and
10 kind of the woods and there is the river.

11 Q What happens when you get to the river?

12 A Tim tells me to get out of the truck and I got out
13 and he grabs the bucket and he hands me the bucket and
14 tells me come on. And took me down to the river and he
15 grabbed the bag out of the bucket and threw the bag in the
16 river.

17 Q At the edge of the river or does he throw, how wide
18 is the river at that point?

19 A I don't really remember.

20 Q Does it sink immediately or does it kind of float
21 away?

22 A I don't know. I sat down on the ground and I was
23 crying. I didn't see where it went or anything.

24 Q Did you throw anything else in the river?

25 A No, sir.

1 Q What happened to the knife?

2 A Tim had taken that back.

3 Q Do you know what he did with the knife?

4 A No sir, I don't.

5 Q What about the bucket?

6 A He had thrown the bucket in the woods.

7 Q There is no blood involved in this I guess?

8 A No sir, there was no blood. There was stuff on the
9 gloves but it wasn't blood.

10 Q Do you or Tim make a fire out there?

11 A No, sir.

12 Q Do you know what happens to the gloves?

13 A No sir, I don't.

14 Q You didn't get back in the truck wearing the gloves I
15 am sure?

16 A No sir, I had taken them off before we had left John.
17 And pulling the gloves off they kind of go inside out and
18 I handed them back to him so I don't know what he did with
19 them.

20 Q Did you make a fire and burn or destroy the evidence?

21 A No, sir.

22 Q How long are you and T.C. at the river site?

23 A Not very long I don't think. I really don't
24 remember, I remember what happened but as far as time wise
25 it is very, very foggy.

- 1 Q Can you tell me where you went from there?
- 2 A Back to Tim's house.
- 3 Q To go fishing or anywhere else?
- 4 A No, sir.
- 5 Q How did you spend the rest of that day?
- 6 A In my shed with my dogs. Tim was there most of the
- 7 day. I just kind of sat on my bed with most of my dogs
- 8 around me.
- 9 Q May 20th at some point you and T.C. went to the
- 10 Newberry Walmart?
- 11 A Yes, he told me I had to go with him.
- 12 Q Do you remember what time of day that was?
- 13 A Sometime in the afternoon.
- 14 Q While you are staying at T.C.'s house do you have
- 15 regular interaction with his parents?
- 16 A Yes and no. I pretty much kept to myself in the shed
- 17 or outside with my dogs or I would sit right outside Tim's
- 18 house with him. But not really.
- 19 Q Did you recall anything happening that date before
- 20 you went to the Walmart?
- 21 A No, I don't.
- 22 Q Was Tim staying out in the shed with you or was he
- 23 staying inside the home at night?
- 24 A He wasn't staying the night with me but he would stay
- 25 until I would fall asleep and then he would leave out.

1 But like I said, my dogs would want to go out in the
2 middle of the night or whatever and I would get up to take
3 them out and he would be out there.

4 Q Did you have a television set in your shed?

5 A Yes, sir.

6 Q About lunch time you told me that you went to the
7 Newberry Walmart?

8 A Yes, it was sometime in the afternoon.

9 Q Do you know what, was there reason for going to the
10 Walmart?

11 A His mom needs some pads or something.

12 Q Did you actually go in the store and make purchase of
13 them?

14 A No sir, I sure didn't.

15 Q What happened?

16 A On the way there his mom had called him and told him
17 that the police were at the house looking for me. And
18 that we needed to come back. And after he got off the
19 phone with her he told me that I was going to be in
20 trouble and that I needed to leave. That it would be the
21 best thing for my family and my dogs if I just got away.

22 Q Did you have a place to go?

23 A Not right then but I had seen a couple of people that
24 I knew in the parking lot and I had asked them if they
25 would give me a ride to Columbia.

1 Q And they did?

2 A Yes sir, they did.

3 Q Did you have any of your personal affects at all?

4 A No, nothing.

5 Q When you left the house that morning were you
6 intending to leave T.C.'s property?

7 A No sir, I would have took my dogs.

8 Q Have you ever been back to T.C.'s property?

9 A No, sir.

10 Q Everything that you owned in the world was left at
11 T.C.'s property?

12 A Every single thing.

13 Q All of your pets?

14 A All of my pets, all of my personal items, everything.

15 Q And these people do take you to Columbia?

16 A Yes, sir.

17 Q How long are you in Columbia or do you stay in
18 Columbia or do you go somewhere from there?

19 A I stayed around the Columbia area.

20 Q Where were you trying to go?

21 A I really wasn't sure.

22 Q At the time you left you didn't have an intention of
23 leaving T.C.'s place?

24 A No, sir.

25 Q So you are trying to figure out sort on the fly where

1 you would go?

2 A Yes, sir.

3 Q Can you tell me where you ended up?

4 A I called Don Buford and he had came and picked me up

5 from the people I was with and I got him to take me to

6 another gas station and I really don't want him anymore.

7 Q Did you tell Don that something had happened and you

8 were in trouble?

9 A I told him that the police were looking for me, that

10 I just needed a ride, that is all I told him.

11 Q Did he press you for details or he just--

12 A No sir, he didn't ask me any questions.

13 Q But he faithfully did pick you up and took you

14 somewhere?

15 A Yes sir, he did.

16 Q Where did he take you?

17 A I ended up at my cousin Terry's house.

18 Q Where is Terry's house?

19 A Off of Garners Ferry Road.

20 Q How long did you stay there?

21 A Almost three days, right at three days.

22 Q Did you tell Terry what happened?

23 A No, sir.

24 Q Did you call the police from Terry's house?

25 A I talked to Captain Boland and another police officer

- 1 quite a few times.
- 2 Q How did that conversation start?
- 3 A They told me that they wanted to talk to me.
- 4 Q Did they call your cell phone?
- 5 A Yes, sir.
- 6 Q So you returned the call at some point?
- 7 A Yes, sir.
- 8 Q And do you remember who you spoke to?
- 9 A I know I talked to Captain Boland and I talked to
10 another guy, I am not really sure who he was.
- 11 Q I assume they were asking you to come back to
12 Newberry and talk to them?
- 13 A Yes, sir. And I told them I was trying to reach my
14 mom and I was going to try to get a, I was looking for a
15 lawyer before I came and talked to them. I didn't want to
16 come without a lawyer.
- 17 Q Did you call some lawyers?
- 18 A Yes, sir. A whole bunch of them.
- 19 Q Did you have any money to pay for an attorney?
- 20 A No sir, not at that moment but after I talked to my
21 mom, my mom said that she would try to come up with some
22 money to help me put a down payment, not any kind of,
23 \$500.00 dollars or so, you know, nothing really
24 significant.
- 25 Q Do you go anywhere between Terry's, we are talking

1 about Terry Franklin?

2 A Yes, sir.

3 Q Do you go anywhere between Terry's house and your
4 mother's house, any other stops?

5 A No, sir. My cousin Terry, she took me straight to
6 meet my mom.

7 Q And your mother picked you up in Columbia?

8 A Yes, sir.

9 Q Did you tell your mother what had happened?

10 A No, sir.

11 Q How long were you in Greenville?

12 A Maybe five or six hours, not very long.

13 Q From your mother's house in Greenville, did you get
14 back in touch with law enforcement or did they get back in
15 touch with you?

16 A I had talked to Captain Boland again and told him
17 that I was trying, that I was with my mom and I was trying
18 to get a lawyer and me and mom would come the next
19 morning. They knew where I was at.

20 Q Was that on May 24th?

21 A Yes, sir.

22 Q And you were arrested around midnight on May 24th?

23 A Yes sir, at my mom's house.

24 THE COURT: Mr. Verner, perhaps now is a good time to
25 take a break. Ms. Smith, you may step down. Mr. Foreman

1 and ladies and gentlemen of the jury, we will take our
2 afternoon luncheon recess at this time. Do not discuss
3 the case with anyone including your fellow jurors, lunch
4 mates, family, friends or anyone else. Do not watch or
5 read or listen to any news reports of the case. Do not do
6 any investigation on the internet or otherwise. Please be
7 back at 2:30. When you come back and all of you are
8 present, I don't know how much longer this case will take.
9 It may be submitted to you today, it may not. Of course I
10 know you all recall from Monday I said, I have signed you
11 up for one week term of court, your jury service will be
12 over by Friday. The caveat to that is that your jury
13 service would end upon the resolution of the case, this
14 case may take more than a week. Mr. Foreman, if you will
15 discuss with the other members of the jury panel, if we do
16 not conclude the case today do y'all want to work tomorrow
17 I will work tomorrow. I do not like to work on Sundays, I
18 have done it in the past. If I do work on Sundays I only
19 do it Sunday afternoon or we can come back Monday. Again,
20 I am not saying we are not going to finish the case today.
21 Y'all have set here all week, y'all have plenty of common
22 sense as far as timing is concerned. It may not be
23 submitted to you today. Some of you may have some
24 commitments already for tomorrow, for the weekend. I
25 certainly want to accommodate y'all. Discuss that with

1 your fellow members of the jury panel. Let me know in
2 case we do have to work another day or beyond just let me
3 know if you want to work tomorrow that is fine with me.
4 If you don't want to work the weekend, Saturday or Sunday
5 we will come back Monday. That is fine. With that being
6 said remember to keep an open mind and do not discuss
7 anything else except the timing and be back at 2:30.
8 Thank you.

9 (Whereupon, the jury was excused from open court for
10 a lunch break.)

11 THE COURT: Mr. Verner, I would like for you to place
12 whatever you would like to place on the record in regard
13 to Rule 608. My ruling concerning the shooting of the
14 other two dogs, the alleged shooting of the other two
15 dogs.

16 MR. VERNER: I will start saying I didn't intend to
17 violate the spirit of the Court's order. First and
18 foremost, Your Honor, as I indicated previously to the
19 Court, evidence that may not be admissible under one rule
20 can be admissible under other rules. My intention of
21 offering the evidence about the dogs is not of the
22 character of the codefendant, T.C. It was to prove the
23 state of mind of my client that she had a realistic fear
24 of violence against herself and against her animals which
25 would not be character but would show her then existing

1 state of mind. And even if the shooting, if it is looked
2 at even under Rule 608, I wasn't even offering it that it
3 was a bad act because the dogs that were shot, Mandy, the
4 dogs were put down, at least the two that the Court
5 excluded, they had been injured and they were put down.
6 The second reason, Your Honor, even if the Court does
7 analyze this under Rule 608(b), the first part of that
8 paragraph, of course, is that it cannot be proven by
9 extrinsic evidence for the purposes of attacking or
10 supporting a witnesses credibility. However, they may be
11 admitted in the discretion of the Court if probative of
12 truthfulness or untruthfulness. However that does require
13 cross-examination and I will agree that this was a direct
14 examination. Again, my ultimate intent was not to attack
15 the credibility of T.C. but it was to prove that she had a
16 reasonable fear for the jury to believe why she didn't
17 report it which of course the State has brought into
18 evidence and will argue we know in its closing argument.

19 THE COURT: Thank you, Mr. Verner. First off, do you
20 object, Solicitor?

21 MR. STUMBO: Your Honor, I think 403 may come into
22 play here as well but I will save that analysis, I think
23 we are discussing 609 at this point or 608, I am sorry,
24 608.

25 THE COURT: Let me, I think I have already allowed

1 the testimony, unobjected to, that is why Mr. Buford, he
2 testified, I am not second guessing that I would have
3 allowed or not allowed. He testified to the shooting of
4 Milly, is that correct?

5 MR. VERNER: Yes, Your Honor.

6 THE COURT: There was no objection. There was no
7 objection whatsoever. And then the Solicitor objected
8 when you started talking about the other two dogs, Ollie
9 and Obie.

10 MR. VERNER: And objected hearsay.

11 THE COURT: But I have allowed evidence, testimony in
12 whether it was credible or not that Tim Wise carried a gun
13 most of the time on his holster. I have allowed two
14 photographs, Defendant's 7 and 8 into evidence showing Tim
15 Wise with a gun. Ms. Smith has testified that she took
16 pictures of. I have allowed evidence that Mr. Wise shot
17 the dog, Molly, that came through in extrinsic evidence
18 from the testimony of Mr. Buford unobjected to. That
19 testimony was that he had to put a dog down, that the dog
20 was given a proper canine burial in a location that the
21 dog loved to be at and that Mr. Wise later on conveyed
22 feelings of sympathy for having had to have committed that
23 act to Mr. Buford. So there is testimony from both Ms.
24 Smith and from Mr. Buford. I have let testimony in time
25 and time and time again that, through Ms. Smith that she

1 has been threatened if she told on Mr. Wise, that he would
2 kill her animals or family, he knew where her family
3 lived. I have allowed all of that in. Of course at this
4 point the Solicitor hasn't objected under 403. If it is a
5 situation where, many people have to put down animals,
6 they may be euthanized when people have funds to do so and
7 they, some people may not have the funds to do so but may
8 have to do that anyway. Quite frankly that is, it is
9 never pleasant to do that but in some situations it may be
10 a necessary, it may be appropriate at the time. I have
11 let tremendous amount of evidence in. I am not objecting
12 to having let the evidence in. But there is a lot of
13 evidence in there concerning to lay a foundation to argue
14 that she was, her mental state was such that she was
15 afraid of Mr. Wise. So I do think 608 does come into play
16 or either 404, if it is 404 the dogs being put down
17 humanly as opposed to non-humanly or in a mean spirited
18 type of manner, I think that is different. Solicitor,
19 what is your position as far as 403?

20 MR. STUMBO: Your Honor, I think the main thing here
21 is just that, that the prejudicial effect even to our case
22 or Tim Wise being one of our witnesses, how do we know at
23 that point how the animals were put down other than the
24 one description of, the one being put down inhumanly, the
25 other ones are just, we killed them. And I think that

1 that is not being offered for any other purpose at this
2 point than to play to the jury's emotions. I think jurors
3 are just like any of us, all of us, have some affection
4 for our pets, animals in general. I guess some don't.
5 But I don't know that that further, gets them any further
6 down the road of what the jury already knows or has heard
7 about her being scared of him. But I would say that the
8 probative value of it, because of all of the other
9 evidence that has come in regarding him threatening, her
10 claiming that T.C. threatened and he had a gun, these
11 pictures of the gun. That the cumulative affect of that,
12 of more evidence here, there is not much probative value
13 because of that other than to have that prejudicial effect
14 of having the jury turn their venom here towards Tim Wise
15 instead of the defendant. I think 403 is completely in
16 play here, Your Honor, I just don't see the probative
17 value at this point of continuing to harp on the dogs
18 being put down.

19 THE COURT: Do you care to respond, Mr. Verner?

20 MR. VERNER: The Solicitor is quite correct, Your
21 Honor, that my intent is to direct the jury's attention to
22 Tim Wise. And I represent it is crystal clear to me now
23 that Ollie and Obie, the two dogs are off the table in
24 this case. In candor, had that testimony gone forward it
25 would come out that Tim put down injured dogs which is

1 part of my reason why I don't think it was a bad act per
2 se, it wasn't a malicious killing dogs, it is putting down
3 injured dogs. But just that she had seen him shoot dogs
4 and was affecting her mental state of not reporting it to
5 the police. So had the testimony actually been allowed to
6 play out it would have confirmed that Tim put down injured
7 dogs which, in candor last night though would take it out
8 of a bad act and into just her emotional state or mind,
9 what she reasonably would have believed. It is crystal
10 clear to me that Ollie and Obie are not part of this case.

11 THE COURT: All right, we will take our lunch break.
12 Be back at 2:30.

13 (Whereupon, a lunch break was taken.)

14 THE COURT: Anything before we bring in our jury?

15 MR. STUMBO: We are ready, Your Honor.

16 MR. VERNER: We are ready.

17 THE COURT: Ms. Smith, if you can come around and
18 join us, please. Please bring our jury.

19 (Whereupon, the jury came into open court at
20 approximately 2:38 p.m.)

21 THE COURT: Ladies and gentlemen, I hope you had a
22 pleasant lunch. Did you have a chance to speak amongst
23 yourselves about the scheduling?

24 MR. FOREMAN: Yes, Your Honor.

25 THE COURT: If we were not to finish today will y'all

1 have a preference?

2 MR. FOREMAN: The preference is to recess until
3 Monday.

4 THE COURT: Thank you very much. Well, let's press
5 on. We will continue the direct examination by Mr.
6 Verner. Mr. Verner.

7 DIRECT EXAMINATION

8 By Mr. Verner:

9 Q Mandy, you were arrested in Greenville on the evening
10 of May 24th?

11 A Yes, sir.

12 Q And then we understand you spent the day of May 24th
13 in the detention center?

14 A Yes, sir.

15 Q Did anybody come and visit you or did you have any--

16 A No sir, they stuck me in a section of the jail by
17 myself with no phone calls.

18 Q Did you have windows to the outside world?

19 A No, sir.

20 Q Contact to the outside world?

21 A No, sir.

22 Q Were you aware whether or not T.C. had also, was also
23 in the detention center?

24 A No sir, I didn't.

25 Q I believe we understand on May 26th you were brought

- 1 to the sheriffs department, is that correct?
- 2 A Yes, sir.
- 3 Q Who did you meet with at the Newberry County Sheriffs
4 Department?
- 5 A Robert Dennis.
- 6 Q Anybody else that you remember?
- 7 A I don't know, they say Major Gilliam was there but I
8 really don't recall him being there. I was mainly focused
9 on Robert Dennis.
- 10 Q And Investigator Dennis is seated at the prosecution
11 table?
- 12 A Yes, sir.
- 13 Q At the time you were brought over to be interviewed
14 by Investigator Dennis had anybody told you that you were
15 being charged with murder?
- 16 A No, sir.
- 17 Q Had you gotten your forgery warrant by then?
- 18 A I really don't remember. I can't remember if it was
19 the 25th or the 26th.
- 20 Q Were you scared?
- 21 A Extremely.
- 22 Q Were you crying?
- 23 A Pretty much the whole time.
- 24 Q Has anything like this ever happened to you before?
- 25 A No sir, nothing like this.

1 Q You had lost your civilian clothes by this point?

2 A Yes, sir.

3 Q You were in prison issued?

4 A Yes, sir.

5 Q They don't keep you in chains inside the cells, did
6 they?

7 A No, sir.

8 Q At some point you were brought over to meet, to talk
9 to Investigator Dennis?

10 A Yes, sir.

11 Q Were you shackled?

12 A Yes, sir.

13 Q Where were you shackled?

14 A On my feet, there was a chain around my waist and it
15 was handcuffed in front of me.

16 Q And your arms are handcuffed to your waist?

17 A Yes, sir.

18 Q Do you remember who brought you over to meet
19 Investigator Dennis?

20 A No sir, I don't.

21 Q Did they tell you what the purpose of going over
22 there was?

23 A I had to talk to the investigators.

24 Q Had you requested to talk to them?

25 A No, sir.

- 1 Q Was this a traumatic time for you?
- 2 A Very much so.
- 3 Q But Investigator Dennis was a pretty friendly guy
- 4 when you meet him, isn't he?
- 5 A Yes sir, extremely so.
- 6 Q Did he have a friendly disposition or an aggressive
- 7 disposition?
- 8 A He was very friendly.
- 9 Q Is he dressed pretty much like he is now?
- 10 A No sir, he had on a pair of slacks and a shirt.
- 11 Q Was he armed with a handgun?
- 12 A Yes, sir.
- 13 Q Were you brought into the mobile home units to speak
- 14 to him?
- 15 A Yes, sir.
- 16 Q You gave a statement, he read you your Miranda
- 17 rights, is that correct?
- 18 A I don't really remember him reading them to me. I
- 19 remember signing the piece of paper.
- 20 Q What was your state of mind when you were talking to
- 21 Investigator Dennis?
- 22 A Very scared and nervous.
- 23 Q Were there other officers coming and going about or
- 24 was it pretty much isolated location?
- 25 A It was pretty much isolated.

1 Q Had you ever met Investigator Dennis prior to May
2 25th?

3 A No, sir.

4 Q He is a friendly person when you first meet him but
5 this is the first time you have ever encountered him?

6 A Yes, sir.

7 Q What did he tell you he wanted to talk about?

8 A The disappearance of John.

9 Q And how long, from when you first came there to when
10 you were brought back to the detention center, do you
11 think you spent with him?

12 A I am not sure.

13 Q Was he with you for the duration for the full time
14 you were there?

15 A Yes, sir.

16 Q Do you recall whether the interview was video taped
17 or recorded in any way?

18 A I have no clue.

19 Q Did he offer you any refreshments when you came?

20 A I don't remember.

21 Q But you know if you would have taken them if he had
22 offered them at that point?

23 A I probably would have if he offered them.

24 Q And you gave him a statement?

25 A Yes sir, I did.

- 1 Q Did he inform you that he had spoken to Tim?
- 2 A Yes, sir.
- 3 Q He made that clear to you when you came in?
- 4 A Yes, sir.
- 5 Q Were you aware that T.C. had been arrested on May
- 6 25th?
- 7 A No, sir.
- 8 Q What kind of day do you remember coming in?
- 9 A I have no clue, I was in an area called Flex and
- 10 there is no way to tell time.
- 11 Q Flex, that is not an open bay, that is an individual
- 12 cell?
- 13 A Yes, sir.
- 14 Q You don't come into contact with any men in that
- 15 section, do you, other than this correctional officer?
- 16 A You can possibly come in contact with them if you are
- 17 transported from the booking to that area but I did not
- 18 pass any, usually they clear the male inmates out before
- 19 they bring a female through.
- 20 Q I guess you have a lot of time to learn the
- 21 procedures of the jail in the time you have been there?
- 22 A I can honestly say that I probably know the
- 23 procedures better than some of the guards.
- 24 Q But you didn't know them on May 25th of 2011?
- 25 A No, sir.

1 Q Did you sleep the night of May 24th, the evening of
2 May 25th?

3 A No, sir.

4 Q Did you have a relaxing or pleasant time the day of
5 the 25th?

6 A No, sir.

7 Q There was also a condition of fatigue?

8 A Extremely.

9 Q Were you emotionally spent?

10 A Absolutely.

11 Q Investigator Dennis informed you that he has T.C.'s
12 statements?

13 A Yes sir, he had talked to me.

14 Q Does Investigator Dennis tell you that he says that
15 you, that T.C. says--

16 A I don't recall him saying that.

17 Q Did he inform you of the details of T.C.'s statement?

18 A A few of them.

19 Q You end up giving a statement claiming that you had
20 killed John Henry Mayers?

21 A Yes, sir.

22 Q And that T.C. had nothing to do whatsoever with the
23 crime?

24 A Yes sir, I did.

25 Q Is that true?

- 1 A No, sir.
- 2 Q Why would you give a statement like that?
- 3 A As far as I knew Tim was still out and he had my dogs
4 and he knew where my family was.
- 5 Q Did you express to Investigator Dennis that you were
6 scared of Tim?
- 7 A No, I did not.
- 8 Q Did you have anybody to speak to at all such as a
9 lawyer or family member prior to meeting with Investigator
10 Dennis?
- 11 A No sir, Robert Dennis actually gave me my mom's cell
12 phone number.
- 13 Q Were you able to call her?
- 14 A It wasn't that day, it was one or two days after
15 that, I was able to call her. I don't think I was able to
16 talk to her then.
- 17 Q At that time you hadn't been able to speak to
18 anybody?
- 19 A No, sir.
- 20 Q Did Investigator Dennis suggest to you that Tim had
21 loaned you a gun?
- 22 A I really don't remember. I remember him telling me
23 that there was a shell casing lodged in the gun.
- 24 Q Were you happy to get things off of your chest or
25 what was your state now?

- 1 A Even more upset.
- 2 Q You ultimately wrote a statement exonerating T.C?
- 3 A Yes sir, I did.
- 4 Q Exonerating Don Buford?
- 5 A Yes, sir.
- 6 Q You got into some history of you and John?
- 7 A Yes, sir.
- 8 Q Was that a truthful history?
- 9 A Yes.
- 10 Q Today you are denying that you killed John Henry
11 Mayers?
- 12 A Yes sir, I am.
- 13 Q Did you have anything to do prior to the shooting of
14 John Henry Mayers in concert with T.C.?
- 15 A No sir, I didn't.
- 16 Q Between May 25th, and you gave a written statement
17 and signed it?
- 18 A Yes, sir.
- 19 Q And the officer went over and reviewed it with you
20 and corrected little mistakes here and there and
21 inconsistencies, is that correct?
- 22 A Yes, sir.
- 23 Q And then you were taken back to the Newberry County
24 Detention Center?
- 25 A Yes, sir.

1 Q Do you recall what happened between May 25th and June
2 10th of 2011 to make you change your statement?

3 A One of the guards had told me a couple days after I
4 was arrested--

5 MR. STUMBO: Objection to hearsay, Your Honor.

6 THE COURT: I sustain the objection.

7 Q Had you been able to talk to any family members
8 privately since then?

9 A No, sir.

10 Q Were you able to hire an attorney?

11 A No, sir.

12 Q Had any lawyer or anybody come to give you advice in
13 the situation?

14 A No, sir.

15 Q Were you aware of the criminal system of criminal
16 justice?

17 A Pretty much what you see in the movies.

18 Q Whose idea was it to contact, did anybody from law
19 enforcement come and talk to you between May 25th and June
20 10th?

21 A No, sir.

22 Q Did you become aware that T.C. was now an inmate at
23 Newberry County Detention Center?

24 A Yes, sir.

25 Q Do you recall how you learned that?

1 MR. STUMBO: Objection, hearsay.

2 THE COURT: I sustain the objection.

3 MR. VERNER: Respectfully I think she can testify
4 from personal knowledge on this one.

5 Q Without somebody telling you that T.C. was in the
6 jail, did you learn from your own eyesight or see him?

7 A No, I did not see him.

8 Q Was it your belief--

9 MR. STUMBO: Objection.

10 THE COURT: I sustain the objection.

11 Q You initiated contact, did you try to contact Robert
12 Dennis specifically or who did you address your letter to?

13 A I finally got ahold of my mom about four days after
14 being, four or five days after being in jail and I told my
15 mom to try to contact Robert Dennis and I had his card and
16 his number and I had given that to my mom. And she
17 continuously getting ahold of him for him to come and see
18 me. And around June 7th he still hadn't come and seen me.
19 I had even gotten Lieutenant Adams to email him.

20 MR. STUMBO: Objection, Your Honor.

21 THE COURT: I will allow that. You may continue.

22 Q So your point was you made continuous attempts to
23 contact Investigator Dennis?

24 A Yes sir, I did. And I finally wrote him a letter and
25 mailed it to the Wilson Road address.

- 1 Q Did you actually physically mail it or did you just
2 use inmate mail system?
- 3 A I gave it to the guard and the guard--
- 4 Q But you did put a stamp on it?
- 5 A There was a stamp on it.
- 6 Q So you had mailed it postage?
- 7 A Yes.
- 8 Q It was just a letter that you wanted to talk to
9 Investigator Dennis?
- 10 A Yes and that I had been trying to contact him for
11 over a week.
- 12 Q Did Investigator Dennis come to the jail to see you
13 on June 10th?
- 14 A Yes, sir.
- 15 Q Did anybody else come with him?
- 16 A No, sir.
- 17 Q Where did he talk to you?
- 18 A In Captain Kitchens office.
- 19 Q That is at the detention center?
- 20 A Yes, sir.
- 21 Q And Captain Kitchens is the man who runs the jail?
- 22 A Yes, sir.
- 23 Q Was Captain Kitchens there?
- 24 A Yes, sir.
- 25 Q And then you gave a second statement?

1 A I started to and then he wanted to take me to the
2 sheriffs office.

3 Q By he you mean Investigator Dennis?

4 A Yes sir, Mr. Dennis.

5 Q Did Investigator Dennis take you in his cruiser to
6 the jail or sheriffs department?

7 A Robert Dennis took me.

8 Q He had his own vehicle and took charge of you and
9 carried you over there?

10 A It was a police vehicle but yes.

11 Q Were you shackled again?

12 A Yes, I was shackled as soon as they took me out of my
13 cell they put me in shackles.

14 Q Even inside the jail when you move from section to
15 section you were shackled?

16 A Yes, sir.

17 Q And you gave your statement dated June 10th to
18 Investigator Dennis?

19 A Yes, sir.

20 Q What had changed in your mind between May 25th and
21 June 10th?

22 A Tim was in jail and I had already talked to my mom
23 and they were, had talked to the pound in Newberry about
24 getting some of my animals. And so I knew my dogs were
25 potentially safe because they were at the pound. And I

1 was hoping to keep them safe. And since Tim was in jail
2 they would potentially be safe.

3 Q And you recanted your prior statement?

4 A Yes sir, I sure did.

5 Q The statement you gave on June 10th, was that a
6 truthful statement?

7 A Yes, sir.

8 Q And you maintain that it was T.C. who had shot John
9 Henry?

10 A Yes, sir.

11 Q Did you have any role in the shooting of John Henry
12 Mayers?

13 A No sir, I didn't.

14 Q Had you discussed harming John Henry Mayers before
15 his arrival?

16 A Absolutely not.

17 Q Had you taken a gun out there to the scene?

18 A No, sir.

19 Q You are maintaining today that you are innocent of
20 the crime of murder?

21 A Yes, sir. I did not kill John.

22 Q You admit that you are the person who removed the
23 skull or the head of John Henry from his body?

24 A Yes, sir.

25 Q Did you voluntarily do that?

1 A No, sir.

2 Q Why did you do that?

3 A Because Tim made me at gunpoint and that is why I did
4 it.

5 Q Mandy, the prosecutor is going to ask you some
6 questions?

7 THE COURT: Thank you, Mr. Verner. Solicitor.

8 CROSS-EXAMINATION

9 By Mr. Stumbo:

10 Q Good afternoon, Mandy.

11 A Hello.

12 Q Correct me if I am wrong but I think I caught this
13 earlier in your testimony. I believe you said that John
14 Henry Mayers was 11 years older than you?

15 A Yes, right at 11 years.

16 Q He was 43 years old when he died back in 2011, right?

17 A Yes.

18 Q And you were 34 years old two years ago when he died,
19 right?

20 A Yes, I turned 34 that March and he was going to turn
21 43 or 44 that August.

22 Q So that was 9 years older, not 11 years older?

23 A 9, 11, it is only a couple of years.

24 Q Let me just clarify the timeframe on this too. You
25 say that you moved into Epworth Children's Home sometime

1 back when you were a teenager?

2 A Yes, sir.

3 Q Ninth grade, is that your testimony was, the ninth
4 grade when you were--

5 A I don't remember going to Epworth. I remember bits
6 and pieces of being there but I don't remember exactly
7 when.

8 Q So ninth grade you would have been 14, maybe 15 years
9 old when you were in Columbia?

10 A Something like that, yes.

11 Q And moved home sometime after that to Chapin and went
12 to Chapin High School, right?

13 A Yes.

14 Q And that is about the time you meet John Henry Mayers
15 and stayed with him, right?

16 A Yes, sir.

17 Q So you would have been 15, 16 years old when you
18 first met John?

19 A I was quiet 15 when I met John.

20 Q But you had already gone through the 9th grade and I
21 believe your mother testified that you failed the 9th
22 grade four times and went to Dreher High School?

23 A No, I had failed 9th grade twice and I wasn't going
24 back for the third time.

25 Q The 9th grade when you were at Dreher you were only

1 14 years old, 13, 14?

2 A Dreher High School, if I am not mistaken, they
3 started from 7th grade.

4 THE COURT: That wasn't his question, answer his
5 question.

6 Q You were 14 and you say you don't even remember
7 Epworth and Dreher and all of that?

8 A I remember bits and pieces but not really, no.

9 Q But you remember exactly how old you were when you
10 met John Mayers?

11 A Pretty much, yes.

12 Q It was all around close to the same time?

13 A Before John I forgot a lot of my past, a lot of it.

14 Q I believe there was an allegation earlier that you
15 were about 13 years old when you first started having sex
16 with John Henry Mayers?

17 A No, not 13. I didn't lose my virginity to John, no.

18 Q It was mistaken when you heard that earlier, but it
19 is not 13 years old when you started having sex with John
20 Mayers?

21 A Not with John, no.

22 Q This family out here, the Mayers family, they took
23 you in, correct?

24 A Yes, sir.

25 Q Did they take care of you?

- 1 A Absolutely, very good.
- 2 Q How often would you stay over there, Mandy?
- 3 A Quite a bit.
- 4 Q It was open door for you any time you wanted to go?
- 5 A Yes, sir.
- 6 Q Let's fast forward a little bit. You got married to
- 7 this Robert Smith, is that correct?
- 8 A Yes, sir.
- 9 Q And your testimony is that the only reason you got
- 10 married to him so you could take a trip to Germany and
- 11 move to Germany?
- 12 A Yes, he told me if I wanted to go he would marry me
- 13 and take me with him.
- 14 Q And there again clarify this for me, but while you
- 15 were in Germany he was deployed to Iraq at some point,
- 16 correct?
- 17 A Yes.
- 18 Q And he was fighting for his country at that point?
- 19 A Yes, sir.
- 20 Q And that was the time you get on the internet and
- 21 start hooking up with Don Buford?
- 22 A No, sir. I didn't even know Don then.
- 23 Q Earlier you said you were in Germany when you first
- 24 met him on the internet?
- 25 A Yes. I met Don on line probably three months after I

1 signed my divorce papers but I had to stay another six
2 months before I could leave. The divorce papers had to be
3 finalized before I could leave.

4 Q You were divorced in Germany?

5 A Yes, sir.

6 Q German courts and all of that?

7 A We used a lawyer out of Iowa and went through the
8 military and got divorced. I told him if he wanted a
9 divorce I wanted to make sure it was all legal before I
10 left and it was all done legal and I received my papers at
11 my mom's house in South Carolina probably a week and a
12 half after I got back from Germany.

13 Q And speaking of Don Buford, you move in with him and
14 he starts taking care of you, correct?

15 A Yes, sir.

16 Q He is the sole supporter from day one?

17 A Yes, sir.

18 Q Even up until the time you are put into jail and
19 charged with murder here he is still taking care of you,
20 right?

21 A Yes, sir.

22 Q At any point during that time did you have a job?

23 A Once.

24 Q Did you try to go get employment to support yourself?

25 A I tried to work but I couldn't concentrate on work

1 and be away from my dogs. It just wouldn't work.

2 Q You couldn't concentrate on work while you are
3 carrying on relationships with other men, too, correct?

4 A Yes.

5 Q With John Henry Mayers?

6 A Yes.

7 Q Kris Hansen?

8 A Yes.

9 Q One night stand at least with Timothy wise, correct?

10 A Yes. I was very promiscuous, it is no unknown fact.

11 Q And all the while Don Buford sending checks to keep
12 you up from Sumter?

13 A Yes, sir. He is a very good man.

14 Q Let's move on to John Henry Mayers, your relationship
15 with him. I am going to show you State's 19. If you can
16 tell me if you have seen that before, your statement.

17 A Yes, sir.

18 Q Would it be fair to say, Mandy, that the first two
19 and a half pages of your first statement with Captain
20 Dennis was about, basically about how horrible John Henry
21 was and you can take your time to review it.

22 A For the most part, yes, it is true.

23 Q I didn't ask you if it is true. The first two and a
24 half pages are basically you telling Lieutenant Dennis and
25 writing on paper how bad a person he is, correct?

- 1 A Yes.
- 2 Q Subjected to gang rapes, correct?
- 3 A Yes.
- 4 Q Subjected to being pimped out, correct?
- 5 A Yes.
- 6 Q Subjected to constant beatings, correct?
- 7 A Yes.
- 8 Q Rapings?
- 9 A Yes.
- 10 Q You were in constant fear of him?
- 11 A I was to a point, yes. John could be very unexpected
- 12 at times.
- 13 Q Yet this is the man who is the love of your life?
- 14 A Yes.
- 15 Q I believe you described him earlier, he is like a big
- 16 teddy bear, right?
- 17 A Absolutely.
- 18 Q A big teddy bear who anally raped you to punish you?
- 19 A Yes.
- 20 Q But in your June 10th statement you don't say
- 21 anything about how John was a bad guy, do you?
- 22 A No sir, I don't.
- 23 Q Why not?
- 24 A Because I wanted to get the truth out.
- 25 Q You just said the truth was he was a horrible person,

1 he had raped you and done all of this terrible stuff,
2 right?

3 A I was not focused on that part of it, I was focused
4 on getting out that Tim killed John.

5 Q You were focused on the June 10th statement on how a
6 horrible person Tim Wise was, correct?

7 A Yes. He wasn't a horrible person to me until he
8 killed John.

9 Q So you accuse people of being terrible and bad to you
10 when it is convenient for you, right?

11 A No.

12 Q Your May 26th statement you needed John Henry Mayers
13 to be a bad person, a horrific person to justify you
14 shooting, correct?

15 A I did not shoot John Henry.

16 Q Well you said you did in the May 26th statement.

17 A Yes, I did but I did not.

18 Q That is why you said he was a bad person, right, so
19 they would think that you shooting him was okay. Is that
20 correct?

21 A I guess so, yes.

22 Q When that wasn't a good enough story anymore the June
23 10th statement is all about how bad a person Tim Wise is?

24 A It wasn't that the story wasn't good enough any more,
25 my dogs and my family were protected.

1 Q So it is all about your dogs and your family, right?

2 A Pretty much, yes.

3 Q Are you thinking about your dogs when you went on the
4 run for four or five days?

5 A I didn't go on the run.

6 Q Well, what were you doing out in Columbia and back at
7 Greenville?

8 A I was at my cousin, Terry's house and I was at my
9 mom's house, that is not running.

10 Q You were there because you knew the police were
11 looking for you, right?

12 A And I was trying to get a lawyer.

13 Q Trying to get away from the police, correct?

14 A Getting away from the police is not staying at your
15 family's house.

16 Q Well, if you were an innocent bystander, just
17 witnessed this horrific killing by Tim Wise wouldn't you
18 go to the police and tell them that. You hadn't committed
19 a crime at that point, had you?

20 A No but my dogs and all of my belongings are at Tim's
21 house.

22 Q So you make your two and a half pages about how
23 horrible the love of your life is just for that?

24 A I had to do what I had to do to protect my family and
25 my animals.

1 Q Well, these guys have badges and guns, couldn't they
2 protect your animals and your family?

3 A The police are not always there when you need them.
4 That is a known fact.

5 Q That is your assumption, your belief, that is not a
6 known fact?

7 A It is a known fact.

8 MR. VERNER: Objection, Your Honor.

9 MR. STUMBO: I will withdraw the question.

10 THE COURT: Thank you.

11 Q You do say even in this June 10th statement which I
12 am assuming now is your story, this is your story, now the
13 June 10th statement?

14 A It is the truth.

15 Q You are the one that texted Tim Wise that night,
16 right?

17 A For him, I couldn't call John, I wasn't going to use
18 Don's phone.

19 Q But you were the one that brought Tim into this
20 entire situation by texting him and asking him to call
21 John, right?

22 A It wasn't the first time. Tim was part of every
23 aspect of my life. He was the first person that I texted,
24 when I got up in the morning and the last person I talked
25 to before I went to bed every single day.

1 Q He sounded like he was the love of your life not John
2 Henry Mayers?

3 A He was my best friend. I have never been close to
4 anybody like him ever.

5 Q You testified earlier you left Tim's house where Don
6 Buford was also there, is that correct, Don Buford was at
7 Tim's house?

8 A Yes.

9 Q Tim was there as well?

10 A Yes.

11 Q Did you go and pick up John Henry Mayers so you could
12 go and have sex?

13 A No, me and Don go back to my house on Wheeland School
14 Road and I stayed there for a while and then I texted Tim
15 for him to call John and tell him I am on my way.

16 Q But by the time you leave to go pick up John Henry
17 Mayers down at Mr. J.'s Don is at your shed at Tim Wise's
18 house, right?

19 A No, Don is at my house at Wheeland School Road.

20 Q How did he get back out to Tim Wise's house all the
21 way up in Newberry by the time you get home. You had his
22 truck?

23 A I took him to my house before, you didn't listen to
24 my testimony earlier.

25 THE COURT: That is not the question. Answer the

1 question.

2 Q How did he get back to Tim Wise's house if you left
3 at Wheeland School and took his truck to get John?

4 A We took our last load to Tim's house, me and Don
5 Buford and Tim. I called John from Tim's phone when we
6 were at Tim's house. I didn't think I was going to be at
7 my house at Wheeland School Road as long as I did. And
8 whenever he stayed there a couple of hours I texted T.C.
9 Before I left my house at Wheeland School Road, Don is at
10 my house at Wheeland School Road, for him to call John and
11 tell him I am on my way.

12 Q You still haven't answered my question, how did he
13 get back to Timmy's house, the Wise's house up on the
14 other side of Newberry if you had the truck going down to
15 get John?

16 A I just answered that question.

17 Q I didn't hear that, if you can answer that for me
18 again. How did he get there?

19 A Me and Don left Tim's, went back to my house on
20 Wheeland School Road, we stayed there for a couple of
21 hours and then I texted Tim to call John and tell him I am
22 on my way.

23 Q Okay. So let's get back to the initial question. I
24 think you answered no. You did leave Tim Wise, your best
25 friend and Don Buford, another paramour who is supporting

1 you at the Wise residence?

2 A I did not, I said Tim. I did not say Don.

3 Q Where was Don?

4 A In the truck with me to Wheeland School Road.

5 Q How did he get back up to--

6 MR. VERNER: Your Honor, this has been asked and
7 answered.

8 MR. STUMBO: Your Honor, she is not answering the
9 question, how he got back to Tim Wise's house.

10 THE COURT: Step up here.

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

14 THE COURT: Thank you, Mr. Verner. Thank you,
15 Solicitor.

16 Q Just to wrap this up. So Don is at Wheeland School
17 Road?

18 A Yes.

19 Q When you go get John from Mr. J.'s?

20 A Yes.

21 Q And he is back at Timmy Wise's house when you get
22 back later from the National Forrest?

23 A I never went to Tim's house that night after we left
24 the forest, he followed me back to my house at Wheeland
25 School Road.

1 Q Okay. And you are texting Tim Wise the whole night,
2 correct?

3 A I texted him once after John was killed.

4 Q Now, you said earlier that you don't really run, you
5 can't run because of your physical condition in these
6 prior injuries, is that right?

7 A Yes, sir.

8 Q I am going to point you to what is in as State's
9 number 20, your June 10th statement. And the last two
10 sentence, if you could read those for the jury.

11 A I got to my feet and ran after them.

12 Q The next sentence?

13 A Tim chased him down. When I came past the truck
14 there was a second shot.

15 Q Next sentence?

16 A I seen Tim in the woods, I ran to where Tim was and
17 seen John on the ground.

18 Q So you say twice in this statement, June 10th
19 statement that you ran. So you did run that night?

20 A I can run but I can't chase after nobody.

21 Q You went back that night and ended up taking the
22 truck back where Don was, correct?

23 A Yes.

24 Q Now what you are telling is at Wheeland School, not
25 in Newberry?

1 A I never said I went back to Newberry. I said
2 Wheeland School Road.

3 Q And he is someone that has been supporting you
4 consistently for some time, correct?

5 A Yes.

6 Q He was someone who was, had a decent job, correct?

7 A Yes.

8 Q He was somewhat level headed, correct?

9 A Very much so.

10 Q And yet you didn't tell him that you had just
11 witnessed John Mayers being murdered by Tim Wise?

12 A Absolutely not.

13 Q He would have been a pretty good person to try to
14 help you out there, right?

15 A No, sir.

16 Q Why is that?

17 A Because Tim was sitting at the end of my driveway. I
18 wasn't telling anybody.

19 Q Was Tim's mom and dad home as well or was this at
20 Wheeland School?

21 A Wheeland School Road.

22 Q Did Tim ever go home that night?

23 A Not that I know.

24 Q He sat at the end of you driveway all night long?

25 A I guess so, I don't know.

1 Q Well, did you look out the window to see if he was
2 still up there or walk out to see if he was still there?

3 A Whenever I chased Don down towards the end of the
4 driveway I looked down and it looked like his truck was
5 sitting behind Don's.

6 Q So you chased down, you were running then to, right?

7 A Not really running.

8 Q It is your testimony to this jury that you were the
9 one that removed John's head from his body, correct?

10 A Yes, sir.

11 Q And that was done at gun point?

12 A Yes, sir.

13 Q One thing consistent between your statement on May
14 26th and your statement on June 10th is that you took the
15 head off the body, correct?

16 A Yes, sir.

17 Q It is just May 26th John Henry Mayers is the bad guy,
18 right?

19 A It had to be at that particular time, yes, to protect
20 my family and my dogs.

21 Q And then June 10th Tim Wise was the bad guy holding
22 the gun to you, correct?

23 A The truth came out.

24 Q In both statements you are the victim, right?

25 A Yes.

1 Q So you spent your life being victimized and being
2 told what to do by all of these men, correct?

3 A A good portion of it, yes.

4 Q How about Don Buford, he said you wore the pants in
5 that relationship?

6 A He is very passive and it was a nice change to get
7 what I wanted. Not many people get that.

8 Q You got what you wanted with your mama, right, didn't
9 you tell her you were going to go away and not come back?

10 A No.

11 Q But you left home whether you wanted her to or not?

12 A Absolutely.

13 Q Because you get what you want even from your teenage
14 years?

15 A Believe me, not all the time.

16 Q Mandy, we have five statements in evidence, correct.
17 We have two from you that you gave to the police, right?

18 A Yes.

19 Q For the record, State's 30 and 31 and 32, statements
20 by Tim Wise. You two were the only ones there other than
21 John Henry Mayers on the night of May 7th around midnight?

22 A Yes.

23 Q John Henry Mayers isn't here today to tell us his
24 side of the story, is he?

25 A I sure wish he was.

1 Q These fives statements in the course of this case and
2 the course of this trial, would it be fair to say the only
3 person that has put themself behind the trigger of that
4 gun that took John Henry's life is you?

5 A I didn't kill John.

6 Q You are the only one that has confessed to it?

7 A I had to.

8 Q It is your testimony to this jury today that you
9 confessed to a killing that someone else committed, that
10 is your testimony to this jury?

11 A Yes.

12 Q No further questions.

13 THE COURT: Redirect.

14 MR. VERNER: Briefly.

15 REDIRECT EXAMINATION

16 By Mr. Verner:

17 Q Mandy, is it fair to say, first of all, what is your
18 birthdate?

19 A March 10th, 1977.

20 Q Do you know John Henry's birthdate?

21 A August the 1st but I am not sure of the year.

22 MR. VERNER: Your Honor, may I publish State's 23.

23 THE COURT: What is his birthdate?

24 MR. VERNER: 1967, Judge.

25 THE COURT: August of '67, she was born March of '77.

1 MR. VERNER: Yes, that is 9 and a half years, at that
2 time 10 years older than you are.

3 THE COURT: Well, it is 10 years, it is 9 years and
4 however many.

5 Q 10 years in age but 9 and a half years of actual
6 duration, is that correct?

7 A Yes.

8 Q Is it fair to say that for the better part of, when
9 you were 15 through 18 you were a household member of the
10 Mayers family?

11 A Yes, sir.

12 Q Large stretches of that time you lived with John?

13 A Yes, sir.

14 Q You and Don left T.C.'s residence on the day of May
15 7th?

16 A Yes, sir.

17 Q Is it fair to say that Tim Wise's house is here?

18 A Yes, sir.

19 THE COURT: What are we looking at, State's 21?

20 MR. VERNER: This is State's 21, Your Honor.

21 THE COURT: Okay.

22 Q Your house has been identified as here?

23 A Yes, sir.

24 Q And John's house is identified as here?

25 A Yes, sir.

1 Q So if you are leaving Tim Wise's home you will pass
2 by your house before you go to John's house?

3 A Yes, sir.

4 Q So you are not going substantially out of your way to
5 drop John off?

6 A Absolutely not.

7 Q But you didn't drop him off, you both stayed there
8 for some period of time?

9 A Yes, we stayed there for quite a while.

10 Q Just to correct one statement, in your first
11 statement you claim that you had shot John Henry Mayers?

12 A Yes sir, I did.

13 Q You weren't portraying yourself as a victim, were
14 you?

15 A Not really, no.

16 Q You were taking the fault for a murder charge?

17 A Yes.

18 MR. STUMBO: Objection, Your Honor,
19 mischaracterization.

20 THE COURT: Yes, you will have to rephrase that
21 question.

22 Q At that time you were willing to admit that you were
23 the killer of John Henry?

24 A If that is what it took for my family and dogs to be
25 safe.

1 MR. VERNER: Recross, Your Honor.

2 THE COURT: Recross, Solicitor.

3 RECROSS-EXAMINATION

4 By Mr. Stumbo:

5 Q And that is the same family that you had run away
6 from when you were a young girl?

7 A It doesn't matter.

8 THE COURT: Answer the question, please.

9 A Yes, sir.

10 THE COURT: And then you can explain your answer.

11 Q And the same dogs that you left basically with Tim
12 Wise, the one that you were scared of, when you went off
13 all around the State running from the police, right?

14 A I didn't run around, all around the State.

15 MR. VERNER: Respectfully, Your Honor, I object.

16 This is recross, that is beyond the scope of the--

17 MR. STUMBO: Your Honor, he mentioned family and
18 dogs.

19 THE COURT: Under Rule 611 I will allow it.

20 Q So you did leave your dogs behind too, didn't you?

21 A I had to.

22 Q Why did you have to, explain that to us.

23 A Tim told me I had to. He told me as long as I had
24 to, what I had to do.

25 MR. STUMBO: No further questions, Your Honor.

1 THE COURT: Thank you. You may step down. Mr.
2 Verner, call your next witness.

3 MR. VERNER: Mary Beth Clardy, Your Honor.

4 MARY BETH CLARDY, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Verner:

8 Q Spell your last name for me.

9 A C-L-A-R-D-Y.

10 Q Mary Beth, how are you related to Mandy Smith?

11 A I am her youngest half sister.

12 Q How old are you?

13 A 23.

14 Q Are you married?

15 A Yes, sir.

16 Q Are you employed?

17 A No, sir.

18 Q Is your husband employed?

19 A Yes, sir.

20 Q Where does he work?

21 A Michelin.

22 Q Do you have any children?

23 A Yes, sir.

24 Q How many?

25 A Two.

1 Q Where do you live now?

2 A In Lexington.

3 Q Did you spend your time growing up with your sister,
4 Mandy?

5 A Once I reached the age of about 10 I saw her more
6 then when I was younger.

7 Q Have you spent large stretches of time with Mandy?

8 A Usually about two weeks in the summer.

9 Q Do you have an opinion as to her character for
10 truthfulness?

11 A Yes, sir. She has always been very open to me but
12 she never let me know anything bad that was going on, just
13 like a big sister should.

14 Q Have you ever seen her be a violent person?

15 A No, sir.

16 Q Have you always known her to love animals?

17 A Yes, sir.

18 Q Thank you. Answer any questions from the prosecutor.

19 THE COURT: Thank you, Mr. Verner. Solicitor?

20 MR. SCOTT: Nothing from the State, Your Honor.

21 THE COURT: Thank you and you may step down. Call
22 your next witness, Mr. Verner.

23 MR. VERNER: Call Tonya Tribble.

24 TONYA TRIBBLE, being

25 first duly sworn, testified as follows:

25 A It was my mother, my aunt and my little brother, Ben.

1 Q And you remember the trips to pick her up and bring
2 her back home?

3 A Yes, sir.

4 Q Did Mandy ever come to live with you?

5 A She actually came to live with me on two different
6 occasions. The first time I was in the military in
7 Georgia.

8 Q What branch of the military were you in?

9 A United States Army.

10 Q Have you mustered out of the military service?

11 A Yes, I am no longer in.

12 Q Are you still married to your husband in the
13 military?

14 A No.

15 Q How old were you when Mandy came to live with you?

16 A The very first time I was 19, I had my oldest daughter
17 at 19.

18 Q And Mandy was just one month less than a year younger
19 than you were?

20 A Yes, sir.

21 Q Where was that that you lived?

22 A In Georgia.

23 Q I understand that you live in Louisiana but did you
24 still maintain contact with your family members here in
25 South Carolina?

1 A Yes sir, definitely.

2 Q Did you see Mandy in the general timeframe of 2011?

3 A No, it had probably been about three years prior to
4 that since the last time I had actually seen and visited
5 with Mandy.

6 Q Have you seen Mandy be a violent person?

7 A No. She has always been very loud and upfront but I
8 have never seen her to be violent.

9 Q Thank you.

10 THE COURT: Solicitor.

11 CROSS-EXAMINATION

12 By Mr. Scott:

13 Q Ms. Tribble, you are Mandy Smith's older sister,
14 correct?

15 A Yes, sir.

16 Q You absolutely were not out there at the Sumter
17 National Forrest May 7th?

18 A Absolutely not, no sir.

19 Q You did not see her the night of May 7th of 2011,
20 correct?

21 A No, sir.

22 Q Thank you.

23 THE COURT: Redirect?

24 MR. VERNER: No, Your Honor.

25 THE COURT: You may step down. You may call your

1 next witness.

2 MR. VERNER: Your Honor, that is the defense.

3 THE COURT: The defense rests?

4 MR. VERNER: Yes, sir.

5 THE COURT: All right, Mr. Foreman and ladies and
6 gentlemen of the jury panel, as you have heard the defense
7 has now rested. You have heard all of the evidence, all
8 of the testimony you are going to hear from the State and
9 the defense in the case-in-chief. However, in South
10 Carolina the State may now present evidence in reply if
11 the State chooses to do so. Solicitor, does the State
12 intend to present any evidence or testimony in reply?

13 MR. STUMBO: No, sir. The State rests.

14 THE COURT: All right. Now you have heard all of the
15 evidence and all of the testimony you are going to hear in
16 the trial of the case. The procedure we will now follow
17 is, it is time for the closing arguments by the attorneys
18 and the instruction on the law by the Court. The manner
19 in which that is presented is the State has the
20 opportunity to open, are y'all going to open on the law?

21 MR. STUMBO: I am, Your Honor.

22 THE COURT: The State will open on the law. After
23 the State opens on the law then that is followed by
24 closing by Mr. Verner on behalf of his client. After Mr.
25 Verner's closing then the State will be able to close in

1 full on the facts and the law. After the closing
2 arguments I will then charge you or instruct you on the
3 law that we will apply in this case. Solicitor, do you or
4 Mr. Verner have an opinion as to the timing of your
5 closing arguments will take?

6 MR. STUMBO: First part maybe 15 or 20 minutes,
7 second part another 15 or 20 minutes.

8 THE COURT: I won't hold you to it, I won't start
9 tapping my pen or anything like that.

10 MR. VERNER: I intend to tailor it to the time of the
11 day so that the jury gets this case today.

12 THE COURT: Thank you very much.

13 MR. VERNER: And respectfully, very briefly may I be
14 heard at the bench.

15 THE COURT: Certainly. Step up.

16 (Whereupon, a bench conference was held in the
17 presence of the jury but out of the hearing of the
18 jury.)

19 THE COURT: After the closing arguments by the
20 parties I will charge you and instruct you on the law. We
21 will take a recess and then we will press on, 15 minutes.
22 Don't discuss the case.

23 (Whereupon, the jury was excused from open court for
24 a break.)

25 THE COURT: Mr. Verner, you have motions?

1 MR. VERNER: Yes, Your Honor, I would move on behalf
2 of the defense for a directed verdict on all three
3 charges.

4 THE COURT: Thank you very much. I will respectfully
5 deny the directed verdict motion as to all three of the
6 charges. I think there is direct and substantial
7 circumstantial evidence that the jury can return a
8 verdict.

9 MR. VERNER: For the sake of knowing and tailoring
10 our arguments, Your Honor. I submit because the State has
11 introduced as substitutive evidence the statements, there
12 is some evidence both from T.C. Wise's testimony and from
13 the statements that Mandy and John Henry were engaged in
14 smoking crack cocaine. Something happened and she shot
15 him at that instance. And some more facts to that but I
16 will submit there is some evidence, Your Honor, that would
17 support a voluntary manslaughter charge to the jury. And
18 so that we could possibly identify that in our arguments I
19 would go ahead and move for the Court to rule.

20 THE COURT: Solicitor, do you have a position on that
21 matter?

22 MR. STUMBO: Your Honor, I don't believe there is
23 evidence of that at this point because the defense has
24 very clearly indicated that they are going with this
25 second statement. And I don't see provocation, of any

1 sufficient provocation indicated by Ms. Smith while she
2 was on the stand that would have caused her to kill Mr.
3 Mayers in the heat of passion, Judge. I don't believe
4 here, I think the defenses are relatively inconsistent, I
5 think kind of can't go with the one defense and then ask
6 for the other. We don't believe at this point that there
7 was sufficient, any kind of provocation that would
8 necessitate a voluntary manslaughter.

9 THE COURT: Mr. Verner.

10 MR. VERNER: On the theory of whether it is
11 inconsistent, Your Honor, we are entitled to raise, to
12 defend on one issue and if there are facts in the record
13 that the State is really arguing three inconsistent
14 positions to the jury, that is Mandy operated alone, that
15 is that Mandy operating in conjunction with T.C. and that,
16 if evidence of the statements that the State would
17 introduce into evidence then their third would be the
18 voluntary manslaughter. So I submit that there is some
19 evidence that the State is operating on three inconsistent
20 legal theories. And, of course, in South Carolina you are
21 allowed to present inconsistent arguments as long as there
22 is some evidence and that there is no rule that you have
23 chose to defend all of the inconsistent arguments. You
24 can focus on one defense and still have facts of an
25 inconsistent offense. The only issue really for the

1 Court, Your Honor, is whether there is any evidence in the
2 record that would support the voluntary manslaughter
3 charge.

4 THE COURT: Are you referring to State's number 32,
5 5/26/11?

6 MR. VERNER: In candor, Your Honor, my voluntary
7 statements, I don't have them written down which ones are
8 which.

9 THE COURT: Will you hand me those statements,
10 Solicitor, 30, 31 and 32. 32 is the last written
11 statement that Mr. Wise gave.

12 MR. STUMBO: That's correct.

13 THE COURT: 30 is the first one he gave on the 20th,
14 31 is the one he gave on the 24th, no the 25th. And then
15 32 is the one he gave on the 26th. And the statement of
16 the 26th of, State's 32, the bottom line of page 1 says,
17 they arrived, they being Mr. Wise and Mr. Mayers and we
18 stood around talking for about 30 minutes. The next page,
19 top, at that point Mr. Mayers walked away from us towards
20 the woods. Mandy pulled a gun, pulled out the gun I had
21 loaned her and fired hitting Mr. Mayers in the right
22 shoulder area.

23 MR. VERNER: I must be referring, Your Honor, to his
24 actual live testimony and I have got it. This would be
25 his actual in court testimony, Your Honor. And by him I

1 mean T.C. Wise. He stated Mandy and John walked off,
2 smoked crack cocaine several times. They were 45 to 50
3 feet away and I couldn't clearly see them smoking crack
4 after ten minutes or so, after they went and smoked the
5 crack cocaine I heard the first shot. John Henry ran past
6 screaming with Mandy chasing him. So his in court
7 testimony does differ from his May 26th statement, Your
8 Honor, where the shooting occurred when John and Mandy had
9 wondered off into the woods to smoke crack cocaine. There
10 was testimony that the smoking the crack cocaine does at
11 times change John's temperament.

12 THE COURT: Well, I would agree with your, anything
13 further, Mr. Verner?

14 MR. VERNER: No, Your Honor.

15 THE COURT: I do agree with your proposition of law
16 but the, I think the law in South Carolina is you can
17 present inconsistent defenses. I agree with that.
18 However, no voluntary manslaughter is the taking of the
19 life of another in the sudden heat of passion based on
20 sufficient legal provocation, both heat of passion and
21 sufficient legal provocation must be present at the time
22 of the killing to constitute voluntary manslaughter. Even
23 if I believe that both John Mayers and Ms. Smith were
24 smoking crack cocaine, of course, voluntary intoxication
25 by alcohol and or drugs is not a defense to a specific

1 intent crime. It does not seem to be sufficient legal
2 provocation nor sudden heat of passion. Her own testimony
3 is, I believe, I paraphrase, that she was going out there
4 to have sex with Mr. Mayers perhaps all night if possible.
5 So I would deny the lesser included offense of voluntary
6 manslaughter. Any other request, Mr. Verner?

7 MR. VERNER: No, Your Honor.

8 THE COURT: Any request to charge from the State?

9 MR. STUMBO: Your Honor, based on the Belcher case, I
10 know there has been some recent case law on malice,
11 inferred malice charge and I do believe in the absence of
12 a voluntary option for the jury that use of a deadly
13 weapon can be charged. And I know that is in your
14 discretion, Judge. But I intend to argue it whether you
15 charge it or not and I do think the law does allow for
16 that.

17 THE COURT: I am not going to charge it, Solicitor.
18 I charge the totality and malice can be inferred. I am
19 not going to charge it. Any other request?

20 MR. STUMBO: I know we talked about this earlier, but
21 accomplice liability.

22 THE COURT: I am charging accomplice liability and
23 mere presence.

24 MR. STUMBO: Yes, sir.

25 THE COURT: Any other request, Mr. Verner?

1 MR. VERNER: Your Honor, in this case and I am sure
2 it is in there at some point, but the speculation does not
3 support--

4 THE COURT: Speculation, conjecture, surmise.

5 MR. VERNER: Suspicion and of course the mere
6 presence obviously would be the most consistent.

7 THE COURT: Yes, sir.

8 MR. VERNER: I have got some issues for the verdict
9 form but I suppose that that can wait for the Court to--

10 THE COURT: The way I do the verdict form, I don't
11 send the indictments in, I just put to as whatever
12 indictment number as to the charge of murder. We, the
13 jury, find the defendant guilty or not guilty, check to
14 the left. If they find them as guilty and they circle
15 both their check mark and the word, guilty. If they find
16 them not guilty they check to the left and circle both the
17 check mark and the two words, not guilty. Obviously they
18 cannot find her guilty of possession of a weapon during
19 the commission of a violent crime if they find her not
20 guilty of murder because, I do not believe that
21 desecration of the body is classified as a violent crime.

22 MR. STUMBO: It is not, Your Honor.

23 THE COURT: And then it is the same as far as the
24 desecration, it is either guilty or not guilty. And I
25 tell them the order that they are stated has no

1 significance whatsoever.

2 MR. VERNER: On that issue and I am glad the Court
3 brought that up, the defense of duress as the Court, I
4 think surmise that we have raised that the only reason
5 that she harmed the body of John Henry was the threat of
6 the codefendant.

7 THE COURT: And duress would only go to that one
8 charge.

9 MR. VERNER: Only would go to that one charge, Your
10 Honor.

11 THE COURT: What about that, Solicitor.

12 MR. STUMBO: As to the desecration charge?

13 THE COURT: Yes, sir.

14 MR. STUMBO: I think there is sufficient evidence.

15 THE COURT: Let me print out a charge on that and I
16 tend to agree with you. Let me read the charge. Let's
17 take about ten minutes.

18 (Whereupon, a short break was taken.)

19 THE COURT: In the audience I would remind you during
20 the closing arguments by the attorney I do not allow
21 anyone in and out while the attorneys are addressing the
22 jury panel. If you want to leave you can leave between
23 the Solicitor's opening and then when Mr. Verner begins or
24 you can leave at the end of Mr. Verner's argument and
25 before whichever Solicitor does the State's closing.

1 Depending on the length of time of those three closing
2 arguments I may take a break before I instruct the jury
3 and you may also not enter or leave, you may not leave
4 while I am addressing the jury also. Please maintain your
5 emotions while in the courtroom. Thank you very much for
6 your cooperation with the Court. All right, if you would
7 bring us our jury panel, please.

8 (Whereupon, the jury came into open court at
9 approximately 3:45 p.m.)

10 THE COURT: Welcome back, ladies and gentlemen of the
11 jury panel. As I told you we are now about to begin the
12 closing arguments by the attorneys. The order we will go
13 in, the State will open on the law first followed by Mr.
14 Verner on behalf of his client, Ms. Smith followed by the
15 Solicitor or Deputy Solicitor closing on behalf of the
16 State. If you would please continue to give the parties
17 your complete attention but remember the evidence in the
18 case is the testimony of the witnesses testifying before
19 you under oath, any exhibits or any stipulations that were
20 offered into evidence. The attorneys are not witnesses,
21 what they say is not testimony but they may refer to the
22 facts, the law, any inferences to be drawn and so please
23 give them your complete and individual attention. With
24 that being said, Solicitor, you may address the jury.

25 MR. STUMBO: Thank you, Your Honor, if it please the

1 Court, Mr. Verner. On midnight of May 7th, the early
2 morning hours of May the 8th, the final moments on this
3 earth for John Henry Mayers is spent laying on a hard
4 ground in the middle of the dark Sumter National Forrest
5 bleeding out. Don't know how long it took him to die. I
6 think thirty seconds, maybe a minute, maybe up to four
7 minutes. That is not just some faceless man, folks, that
8 is this guy right here, John Henry Mayers. His family has
9 been out here this week patiently watching this case and
10 watching the evidence. You have to wonder what the last
11 thoughts were going through John Henry Mayers head as he
12 lay there on that ground in the forest at night. That
13 short time that it took for him to pass away. Maybe he
14 thought about his brother, Terry, who we heard from, how
15 about he would never be able to go to Terry's house
16 anymore and work on things with him like they had done so
17 many nights after work. Maybe he thought of his father,
18 Charles, who was his whole life, his mother and his father
19 was the most important thing in his life. Maybe he
20 thought about the rides with his son, Clarence, after
21 work, father and son time that he would never have again,
22 never see his face again. Maybe John Henry's last
23 thoughts were about why in the world Mandy Smith, someone
24 he had known for years who had spent so much time with
25 him, who she called the love of her life, why in the world

1 that she would cause this gun to put two bullets in his
2 chest and end his life. Because of these people out here,
3 John Henry Mayers life meant something and that is why we
4 are here this week, that is why we spent this entire week
5 listening to testimony after testimony in this case. His
6 life meant something and we are in this courtroom to get
7 justice. Out of most respect, Mr. Verner is a fine
8 attorney, he said something in his opening that was
9 interesting. He said that it is not your job to find the
10 truth. I am one-hundred percent, whole heartedly disagree
11 with that. If we are not able to find justice and find
12 truth in this courtroom then where can we find it. That
13 is why we are here. We are here to find out why John
14 Henry Mayers isn't with us anymore and who is responsible
15 for that. We are here to talk about the law here and one
16 of the bedrock principles that we have in this Country and
17 it goes all the way back to the finding of our Country is
18 the presumption of innocence and in fact the burden of
19 proof has always rested on the State of South Carolina or
20 the government. We bear the burden, there is no burden on
21 the defendant to prove themselves innocent. The Judge
22 will tell you that at the end of this case and if you hear
23 anything slightly different from what I say from what
24 Judge McMahon tells you then he is the Judge of the law in
25 this case. But you are going to hear from him is the

1 presumption of innocence is not just a legal theory, that
2 it is a substantial right. Mr. Scott and I have the
3 burden of proof. I have said many times in cases such as
4 this, that burden of proof that we bear is one that we
5 gladly bear to you based on the evidence that we have in
6 this case. We are not ashamed whatsoever to bear the
7 burden of proof in this case as we always did. What is
8 the burden of proof. Let's talk a little bit about this.
9 I will direct y'all's attention to the screen just
10 briefly. Proof beyond a reasonable doubt, you are going
11 to hear the Judge tell you about proof beyond a reasonable
12 doubt is what is required on each and every element in
13 this case as to all three charges to find Mandy Smith
14 guilty. Now, you are going to hear several different
15 terms that he is going to use here but I want you to
16 listen for this one in particular because you are going to
17 hear it twice in his charge. Firmly convinced. I want
18 you to listen to that. The Judge is going to tell you
19 that what proof beyond a reasonable doubt is is proof that
20 leaves you firmly convinced that the defendant is guilty.
21 Firmly convinced that she had a hand, we are going to talk
22 more about that in a second, the hand of one is the hand
23 of all, it is another theory you are going to hear the
24 Judge talk about. If you are firmly convinced, what is a
25 firm conviction, a firm feeling. After you have heard

1 your mind and your spirit and your heart, heart of hearts
2 you are firmly convinced that the defendant is guilty and
3 responsible for the death of John Henry Mayers. You are
4 also going to hear a term that is proof that leaves you,
5 may leave a reasonable person to hesitate to act. And if
6 any defense attorney, I am sure Mr. Verner is going to
7 talk to you about that as well. But what is proof that
8 leaves any reasonable person to hesitate to act. It might
9 be different from me than it is for you. It is a
10 reasonable person. Well, different people may have twelve
11 different thresholds of what is a hesitation to act. So I
12 would zero you in on this particular charge. He is going
13 to say if you are firmly convinced that she did it then
14 you must find her guilty. So that is what beyond a
15 reasonable doubt means. Don't let it turn into some
16 unattainable burden of proof, one that we could never get
17 any criminal case. I have head many fine attorneys argue
18 that and by the end of it you could say nobody is guilty,
19 you can't ever prove this. If you are family convinced of
20 her guilty than she is guilty. So don't make it more
21 complicated than it is, folks, it is not. About murder,
22 what are the elements here. Killing of another person,
23 that is the first element with malice aforethought either
24 expressed or implied. That is it. Under our law in South
25 Carolina you can only kill someone with what the law

1 defines as malice aforethought then you are guilty of
2 murder. Now malice aforethought aren't words you hear
3 everybody. Maybe you heard it some if you watch TV shows
4 or the news or court shows. The Judge is going to tell
5 you what malice aforethought is at the end of this case.
6 I want you to listen to what he tells you it is, we are
7 going to talk a little bit about this in a second. Malice
8 can either be expressed malice. In other words he is
9 going to give an example of laying in wait for someone
10 with a gun ready to kill them might be expressed malice.
11 Or someone telling another person, I am going to kill you,
12 that is expressed malice. That happens sometimes. Most
13 of the time when somebody intends to kill somebody they
14 don't tell them beforehand, I am going to kill you before
15 they do it. So how do we prove malice if we don't have
16 this expressed, I am going to kill a person, well it is
17 implied. And malice can be inferred or implied from
18 actions that demonstrate a willful and conscious intent to
19 cause death or great bodily harm. So there is an intent
20 here to either kill or seriously injure somebody from
21 someone's actions. That is what malice is. So it can be
22 either a specific intent to kill or actions that would
23 indicate that that person intended to kill the other
24 individual. What is aforethought mean. Malice
25 aforethought would mean that sometime either right before

1 or sometime before the action was committed, the shooting
2 of the gun, the stabbing of the knife that the actions
3 that show the intent to kill, if that happens right before
4 or leading up to the time that the person is killed then
5 that is aforethought under our law. Sometimes referred to
6 in South Carolina, we don't have premeditated murder, some
7 other jurisdictions do. Here aforethought shows some sort
8 of thought in their head that there is an intent to kill
9 before they kill, okay. I would submit to you, ladies and
10 gentlemen, someone pointing a gun like this at somebody
11 and shooting them twice in the chest, point blank range or
12 actions that demonstrate a willful and conscious intent to
13 cause death or bodily harm. So we have malice here,
14 ladies and gentlemen. Now the second indictment that you
15 will have to consider in the jury room is possession of a
16 weapon during the commission of a violent crime. This one
17 is a little more easy to understand. Essentially it is
18 possession of a weapon and that could be constructive or
19 actual. In other words, if there are two people
20 committing a crime together, one has the gun and the other
21 one doesn't but they are both there for that same purpose
22 that would be, the second person doesn't have the gun, it
23 could actually be drug cases, other cases in the law that
24 is called constructive possession. Actual possession
25 would mean you have it in your pocket, in your hand, on

1 your person somewhere. Constructive possession means you
2 would have dominion or control over that particular item.
3 And there again two or more people can have joint
4 possession of something as well under the law. A gun or a
5 knife would be a weapon that would apply under this
6 statute. And you have to have a violent crime. And here
7 murder under the law and the Judge will instruct you on
8 this is a violent crime defined under the law. So if you
9 find Mandy Smith is guilty of having a hand, if you are
10 firmly convinced that you, that she had a hand in the
11 death of John Henry Mayers and that she had constructive
12 possession even with somebody else, this gun that killed
13 John Henry Mayers, then she is guilty also of possession
14 of a weapon during the commission of a violent crime.
15 Desecration of human remains. Destruction or damaging of
16 the remains of a deceased human being were desecration of
17 human remains. Now removing a head from the body I would
18 submit to you, ladies and gentlemen, is very clearly
19 desecration, it is disrespecting that body. And here it
20 is uncontroverted in the evidence that John Henry Mayers
21 head was removed from his body by Mandy Smith, even by her
22 own admission today. And yes, she has given you this line
23 about being forced to do it. But no one has ever disputed
24 that she is the one that took the head off of that body
25 and put it in that river. This is a very important

1 principle of the law, ladies and gentlemen, and the Judge
2 will instruct you on this and I want you to listen
3 carefully when he talks about the hand of one is the hand
4 of all. It essentially mean, folks, that there could be
5 multiple people guilty of murder even if only one of them
6 pulled the trigger. Here Mandy Smith has been charged
7 with murder of John Henry Mayers. Timothy Wise has been
8 charged with the murder of John Henry Mayers and he is
9 still today stands charged of the murder of John Henry
10 Mayers. His day in court is coming too. The twelve of
11 you are here to consider whether she is guilty of murder.
12 It will be another day and another time where Timothy Wise
13 will come to court on these charges as well. Why do I
14 bring that up. Because the hand of one is the hand of
15 all. Now, Timothy Wise, he has given you a statement that
16 basically says, well, the worst is all I did is went out
17 there and, with her and helped her take the head off and
18 drove her down to the river and put it in. That is all he
19 is saying. Other than that he is completely innocent.
20 Now, I will leave it to you, ladies and gentlemen, and the
21 Judge will tell you at the end of this case when he
22 instructs you also that you can believe all of a witnesses
23 testimony, you can believe part of it, you can believe
24 five percent, ten percent, ninety-five percent on the
25 testimony and you can believe none of it. That is all

1 your options here. And so I believe, I don't know if you
2 remember Captain Dennis when he said to you, maybe the cat
3 is not completely out of the bag yet. That is something
4 to be said about that. Maybe the full truth hadn't,
5 really the full story hadn't truly been told. But to
6 believe that Mandy Smith doesn't have a hand at all of the
7 killing of John Henry Mayers, you consciously got to
8 believe everything she gave you on this stand. Do you
9 think she was giving you the truth after she completely
10 told what she says is a bold faced lie to law enforcement,
11 State's 19. And comes back later and says, well, that is
12 not true at all. John Henry is not such a bad guy, Tim
13 Wise is the bad guy, he is the one that killed him. So
14 she completely flip flopped and yet today she gets on this
15 witness stand and expects you to believe her testimony.
16 Remember the hand of one is the hand of all and Timothy
17 Wise still is charged with murder in this case, folks. I
18 am going to have an opportunity after Mr. Verner comes and
19 speaks with you in a moment. Because the hands of Mandy
20 Smith, John Henry Mayers is no longer with us, ladies and
21 gentlemen. And this family had to sit here all week just
22 like y'all have and listen to it, with the most pain
23 standing, atrocious details you can imagine. Thank you
24 for your attention. I would ask you to give your full
25 attention to Mr. Verner as he address you and I look

1 forward to addressing you again at the end of this case.

2 THE COURT: Thank you, Solicitor. Mr. Verner.

3 MR. VERNER: May it please the Court.

4 THE COURT: Yes, sir.

5 MR. VERNER: Solicitor Stumbo. Fifteen years of
6 doing this and I still get nervous sometimes so I am going
7 to use my notes. Two families are here but it is not
8 their trial. You are going to have to make a decision
9 based on the evidence, you are going to disappoint
10 somebody. My daughter was absolutely correct when she
11 said if you want to know who did it who had the gun. It
12 is really no more complicated than that. Solicitor is
13 there a way.

14 MR. STUMBO: Your Honor, if I can help Mr. Verner get
15 this on here.

16 MR. VERNER: Thank you, Mr. Stumbo. Today at the end
17 of the show today you have got somebody's life that is
18 going to be profoundly affected. Your Honor, may I ask
19 the Court that I can present my closing with some of the
20 lights dim?

21 THE COURT: Yes, but I don't want the courtroom dark.

22 MR. VERNER: I understand that. Thank you. I
23 propose to you that something like that may very well have
24 been the last thing that John Henry Mayers saw before he
25 passed on. I submit to you, is it possible that he saw

1 that. It is certainly possible. I submit to you that is
2 probably based on the evidence you heard, it is probably
3 even probable that that is what he saw, something like
4 that. When Mandy through me puts up a defense that does
5 not lower at all the standard of proof on the State. When
6 we put up a defense there is no burden on Mandy whatsoever
7 to convince you of anything. The only thing that happens
8 is that the burden, if there is evidence from the State,
9 it gets decreased if the defense can show you points. But
10 there is never the burden on us to prove to you facts. In
11 civil court when you are talking suing somebody for money
12 for a car wreck you only have to show more probable than
13 not that something happened. It is 51 percent probable,
14 not even 51 percent, 50.5. That is money and that is
15 important to me but that is not life in prison. The
16 burden of proof in this case is the reasonable doubt which
17 means if it is a real doubt that it could have happened,
18 if it is a real possibility that it could have happened
19 she is entitled to a not guilty verdict. If it is just a
20 possibility that that is what John Henry saw on May 7th
21 she is entitled to a not guilty verdict. And that is just
22 a possibility that it happened that way. I submit to you
23 that that is probably at the probability stage that that
24 is how John Henry died. I heard the Solicitor talk about
25 accomplice liability, he did talk to you about that in the

1 beginning. What has changed. And I submit to you it is
2 his key witness, T.C. No burden on Mandy whatsoever to
3 convince you of her defense, that takes away from the
4 State's obligation to show you on any day, no doubt that
5 it happened. I submit to you, I can prove it to you right
6 here it didn't happened the way the State is claiming,
7 right here. This case is as simple as this. That is the
8 turnaround of Judy B. Road. You heard T.C. testify he had
9 parked somewhere in there. You heard T.C. and everybody,
10 all witnesses that Mandy and John pulled in that way.
11 These are the two pickup trucks, a little bit of stuff
12 along here. T.C.'s testimony today, Mandy and John walked
13 off about 45 to 50 feet away from the trucks. And he
14 could still see them in the light of the moon. They were
15 smoking crack cocaine. Why do we know, according to
16 T.C.'s story, why do we know that he, they would have had
17 to walk this way because he then says that after he hears
18 the gunshot from 45 to 50 feet away John runs back through
19 the trucks and we know John ends up here. I submit to you
20 is that not a fair summary of T.C.'s version of how John
21 Henry died. Bullets, the spent casings, there were two
22 bullets shot, we know that. The coroner found two
23 bullets, the pathologist found two bullets, the State's
24 firearm expert and Robert Dennis found two spent bullets.
25 One of them is here. Well, maybe that is the second

1 bullet because that is where Tim says the first bullet
2 comes from. Is this the first bullet shot or is that the
3 second bullet shot. That is the first bullet shot, how do
4 we know that. Because the second bullet shot jams the
5 gun. That gun is jammed and no further shots are coming
6 out there. This one is the jammed bullet, that is the
7 second shot you know that for a fact, you know for a fact,
8 once the bullet is jammed there is another round behind
9 it, that is the last bullet shot that night. John was
10 shot in the area of the trucks. There is no way to get
11 around that. If that is true that is not guilty. It is
12 certainly not guilty under T.C.'s theory at all. There is
13 no way to reconcile that with T.C.'s version that they had
14 walked off into the woods to smoke crack 45 to 50 feet
15 away and the bullet casings are being found under the
16 trucks, in the location where the trucks would have had to
17 be parked. I will explain to you the role of the jury.
18 Again, you cannot find the truth of what happened on May
19 7th, you weren't there, I wasn't there. Your verdict is
20 to truly reach a decision of whether the State has proven
21 beyond all reasonable doubt that this, their theory of the
22 case is how John Henry Mayers was killed. And they
23 haven't. You may get it wrong but you are never going to
24 get the truth unless you are lucky because you weren't
25 there. In some jurisdictions and some places basically

1 whether they use the term guilty or not guilty, proven or
2 not proven, that is what a lot of jurisdictions, a lot of
3 countries use as their standard, has the case, the State
4 has proven their factual case. And I appreciate the
5 attention of Judge Knox McMahon from Lexington here, I
6 heard him at the very beginning indicate that his only
7 role was to control when we get to take breaks. I don't
8 think anybody really believes that and Judge McMahon is a
9 very well respected Judge. He probably has had a hand in
10 his career in many of the most important cases in this
11 State for the last 20 years. He can be intimidating, well
12 respected, important Judge. In some respects he is the
13 least important person in the room because at least I as
14 an attorney and the Solicitor as a lawyer, we can argue
15 what we believe or what we submit to you the facts
16 support. You, the jury, reach a decision on what the
17 facts are about what happened that night or what would
18 have happened that night. There is no way to correct the
19 factual, if you get it wrong factually there is no
20 procedure, there is no appellate defense that you are it.
21 If Judge McMahon makes a mistake there are Judges over him
22 to correct his mistakes. There is nobody over you who
23 corrects a factual inconsistency. It is essentially your
24 case. Mandy is charged with murder and using this weapon
25 to commit murder. I don't think anybody disputes that

1 this is the gun that killed John Henry Mayers. Do you
2 think that they put it in Mandy's hand. Have you heard
3 any testimony, seen any evidence that T.C. and Mandy were
4 working in conjunction. No. Now they are arguing, if you
5 don't believe T.C. being honest well maybe you believe
6 that they were working together and you can still get her.
7 Have you heard any testimony, any evidence from any source
8 that they were working in tandem. You know, the
9 Solicitor, basically when he was, in his cross-examination
10 of Mandy he basically said you are the only person who has
11 admitted to shooting John Henry Mayers. You are the only
12 person who has given a confession. So what the
13 implication is, if you don't confess maybe you are not
14 guilty. Maybe that is why Tim is not on trial. He is
15 smarter, at least he is scared smart that he never, never
16 gave a truthful version. The Mayers family is not going
17 to have closure based on that guy's testimony. We know
18 that. Mandy did this, Mandy admits to this, after John
19 Henry's body had laid there about two weeks or so that she
20 took the head off. If you believe that there is even a
21 possibility is not going that she had somebody like that
22 standing in her presence that is an entire legal defense.
23 She didn't do it on her free will because she was scared
24 of dieing or getting really hurt or people dieing, that is
25 a complete defense of desecration even if she did it. It

1 would not be a defense to T.C., would be a defense to
2 Mandy if you believe that even a possibility that she may
3 have seen that. Mandy has given two statements to law
4 enforcement. May 26th, two days after she was arrested
5 and put in jail and then approximately two weeks later she
6 gave a second statement. At no time between these two
7 statements did she have access to a lawyer or an adviser
8 or family member to come and give her advice of what she
9 needed to say. She has got an eighth grade education, she
10 is not dumb but she, in two weeks she has got to learn
11 enough law to give a statement that is hard enough to get
12 her out of it or she needs to learn to stop being scared
13 and speak to the police. T.C. has given three written
14 statements plus his other statements and none of them have
15 been true yet and his testimony today and none of them
16 have been true yet. By my count you have had 18 witnesses
17 in this murder trial. And if you will indulge me I am
18 going to start with my witnesses first and what you saw.
19 Samantha Wright was the young lady with the blond hair,
20 she testified first for the defense. Do you think she was
21 truthful, do you think she was candid. She had a biased,
22 I like Mandy, Mandy was my friend. You really think she
23 was lying when she got on the witness stand. Do you think
24 she has ever been here or practiced or rehearsed in what
25 she told you. Didn't really like T.C., admits I have got

1 a biased, I don't know, he has never done specifically
2 anything to me, I just don't like him. That is a
3 potential biased that could affect her testimony. Do you
4 think it made her a liar on the witness stand. We go to
5 Mandy's house and smoke marijuana. Went there for about a
6 year. I think she said maybe six months to a year, she
7 was there five days a week for six months to a year.
8 Never saw Mandy use crack cocaine. Never saw, she was
9 there five days a week for at least six months, never saw
10 a gun in Mandy's house and she was there up until about a
11 week before John Henry Mayers was killed. Never saw a gun
12 in Mandy's house. Said that she and Mandy also were,
13 enjoyed pets a lot. That was the second thing they shared
14 in common. Do you really think she was lying, do you
15 think she was a practiced witness who was giving you
16 untruthful testimony. You had a chance to look at her.
17 Kris Hansen, he was the second guy kind of, he was the man
18 in the car when Mandy was punched in the face and hurt.
19 Any question in your mind who was reaching in that car
20 hitting Mandy. Any question in your mind. He said for
21 about a year, every Wednesday and Saturdays I would go
22 over to Mandy and we would finish and we would play with
23 the animals. Sometimes we would smoke marijuana. Do you
24 think Mandy would have been reasonable to have some fear
25 of John, you may love him. You think it would be

1 reasonable or a person might have some fear. He testified
2 he never came back after that. Saw her beat like that, he
3 didn't want that anymore, he never came back. Next was
4 Don Buford, retired military, 24 or 26 years in the Air
5 Force. He admits right off the bat, I have got a biased,
6 I love Mandy, I once, twice tried to get her to marry me.
7 I still love her and I would have a relationship with her
8 in the future. He has got a biased in favor of Mandy. He
9 has got a biased in favor of Mandy. Was he lying. Do you
10 think he got up here and purged himself for Mandy. He has
11 three sons in the military. He testified that he was the
12 one when Mandy was with him in Sumter, that is when Mandy
13 started and he started collecting multiple dogs. Any
14 question those are what I call two lovers at the very
15 least. Did you ever hear T.C. say I don't care about
16 guns, I don't enjoy guns, I don't even own a gun, I don't
17 even own a gun. He has got a CWP, a concealed weapons
18 permit, a gun permit, I don't carry guns, I don't own a
19 gun. My father has got six guns but they are locked away
20 in his house. I don't have access to them. Was that
21 truthful. There is Iggy right there behind him. Don
22 Buford testified I have seen him carry a gun. When I went
23 over there he would have them on him. He had a holster.
24 Was Don Buford lying about that or do you think he might
25 have seen Tim carrying a gun. Do you think it is possible

1 that he may have seen Tim carry this gun. He testified
2 Mandy, he saw a gun, Mandy had what he called a .22
3 caliber non-working gun. Don said it didn't have a firing
4 pin in it, it had a broken plastic handle, kept it on the
5 table. That is not the weapon, we know that is not the
6 weapon that was used to kill John Henry. Who brought that
7 over to Mandy. T.C., Don, I have never hurt Mandy's dog.
8 But he told Don Buford he had to shoot Milly, just took
9 one shot, she is in peace now, I did it cleanly, buried
10 the dog. I am not arguing that he did it in a heinous or
11 a mean way. But he said, I never harmed any of Mandy's
12 dogs but when Don came there for the weekend Milly is
13 gone, Milly is in a grave. T.C. walks down there with
14 them and says, you know, it is okay, Don, I did it clean,
15 one shot. Sounds like he shot that gun before, sounds
16 like he has shot something that is living and seen that
17 before. T.C. is always there, every time Don comes down
18 on the weekend T.C. was there. Do you think T.C., I have
19 got good friends myself. I am not there every day.
20 Unfortunantley I am working full time but do you think
21 there may have been an infatuation there. Do you think
22 T.C. may have been a little bit protective, a little bit
23 jealous, a little bit of infatuation for Mandy. Do you
24 think he may have considered John Henry a rival. We will
25 come back to Tim. Don tells you, I come ever weekend and

1 I have for several years and I know Mandy has started
2 using crack cocaine again. Our witness tells you that he
3 knows that Mandy is using crack cocaine again about the
4 time she was in this relationship with John Henry. Do you
5 think he was lying about that. Do you think that is
6 something that he would bring up if he was determined not
7 to let y'all have the facts and consider something, a fair
8 verdict. It was a fake .22 caliber, I saw it. I'm in the
9 Air Force, I don't shoot guns for a living but I know
10 what, I know guns, Don doesn't have guns but I have been
11 in the Air Force, I know what guns are. And the gun that
12 he did see, the only gun he saw at Mandy's was that
13 non-working .22. Just out of coincidence, do you remember
14 Donte Kessler testified he knows all the members of the
15 Mayers family and he will see them everyday. Do you think
16 he would have a biased in which side he would present his
17 testimony in. He said I saw a gun, I thought it was a toy
18 gun though. I saw a pistol, I thought it was a toy
19 pistol. Could that be the pistol with the small .22 with
20 the broken plastic handle or do you think he was looking
21 at this gun. This is a heavy gun, you are going to have
22 it back there and you can pass it around. And you can
23 appreciate that this does not appear, you can see the gun,
24 you can see the magazine round underneath it. In candor
25 Donte Kessler, he didn't look like he just fell off the

1 top of a turnip truck. I bet he is not a complete naive
2 person. The Solicitor tried several times, this is the
3 gun you saw, isn't it. And he said, no. You think he
4 wanted to be helpful to the Solicitor's case. I do. He
5 knows every member of the Mayers family and sees them
6 regularly. The Solicitor is saying several times, could
7 this be the gun, could this be the gun. And finally the
8 man says, well it could be the gun. I submit to you it
9 could also be that .22 caliber with the broken plastic
10 handle. When Don saw Mandy and T.C. on May 8th, Mother's
11 Day, the day after John Henry had been killed or possibly
12 the day that John Henry had been killed if it was after
13 midnight, it probably was. T.C. is a little bit
14 different, he is more clingy, he is tethered to Mandy, he
15 is whispering in her ear. I went over to the hood of my
16 car, Mandy walked over, Tim right behind her. You will
17 remember the testimony. I can't recall what weekend he
18 said it was but at some point T.C. tells Don, don't come
19 back here anymore. Why. Do you think T.C. may have
20 considered Don a potential rival, maybe a little bit
21 jealous of Don. Certainly wouldn't have the fear of Don
22 the same way he would have the fear of a larger man like
23 John Henry. Do you think Don looks like he could have
24 given Mandy some reasonable advice if Mandy had come to
25 him and wanted to talk. Does Don look like he is a fairly

1 level headed guy who could sit down with her and tell her
2 what she needs to do. Do you think he might be a threat
3 to T.C. if T.C. had been involved in some way in this
4 killing. Do you think that if Don and Mandy were allowed
5 alone that Don might not have suggested, you need to turn
6 him in. Do you think Don would not have helped Mandy in
7 this case. He is here, he has been here every single day.
8 You don't think he would have helped Mandy, you don't
9 think he would have given level headed advice to Mandy,
10 you don't think he would have called somebody, you don't
11 think he would have helped her hire an attorney. You
12 don't think he would have said, Mandy, you need to get a
13 lawyer and talk to the police and get it out there. T.C.
14 never, ever, according to Don's testimony and you can gage
15 whether he is a liar or not. Said that T.C. never left
16 them alone. You heard testimony from Vicki McCartha, that
17 is Mandy's mother who lives in Greenville. And I think
18 she laid out a fairly, it is unfortunate, none of that is
19 a legal defense, none of that is a legal defense. Do you
20 think that she was fairly truthful about the childhood
21 that Mandy had. Do you think she was lying today or do
22 you think that she was reasonably truthful about what
23 happened to Mandy growing up. Do you think a girl like
24 that with no self-esteem, runaway would be vulnerable to
25 an older man, an older man who could get high with and

1 that she could run away with. I am not saying that John
2 Henry made her that way. I am saying that he was there to
3 capitalize on it. He certainly was there to capitalize on
4 it. Mandy was always a flat child, John Henry was just
5 there to capitalize on it. And he did take advantage of
6 it. And you heard that John Henry had a very sweet mother
7 and she is a good lady and she tried to steer Mandy to the
8 good side, away from her 25-year-old son. When Mandy is
9 15 John is still 25. That is still rape in South
10 Carolina. If this case had started, another way this case
11 could have started was rape. 25-year-old man, 15-year-old
12 girl, possibly 14-year-old girl, a longterm sexual
13 relationship. Every one of those is rape, consensual or
14 not. Do you think that he was using Mandy to help him
15 with his drug habit. Do you think it is possible that
16 Mandy did have low self esteem from the way they lived.
17 Does a girl who has got that upbringing become a leader or
18 a follower. She is a follower, she has got no
19 self-esteem, she has been abused since she has been three.
20 Is she submissive to strong men, is that the type of
21 relationship she gets. Well, sometimes they do. Do you
22 think that T.C. became a flame after John. Do you think
23 that if she had put up with years of abuse from John Henry
24 as she did that she might not also fall in the line when
25 T.C. plays hard with her. I submit it is possible. Do

1 you think that Vicki painted a fairly and vivid and
2 accurate depiction of what Mandy was growing up or do you
3 think that she was a liar. I submit to you that she was a
4 credible witness. You heard from Mary Beth, that is the
5 23-year-old sister of Mandy. Said I didn't really,
6 because of her age difference, I was 10 before I started
7 seeing her regularly but spent a lot of time with her
8 growing up. Mandy was sweet, Mandy wasn't a violent girl.
9 Mandy loved the pets. And then clean up for our defense
10 you heard Tonya Tribble, she was the, I guess that is what
11 is called an Irish twin, less than a year, maybe not quite
12 an Irish twin. But close in age, they grew up together.
13 Tonya is less than a year older and they grew up until
14 Mandy moves in with the John Henry family, about the age
15 of 15 she testified. She would have been a year older.
16 Do you think when she was 16, she recollects what happens
17 to her. Her mother said that they looked pretty much,
18 what Mandy looked like in May of 2011 is pretty much what
19 Tonya looks like today is how the mother described it.
20 She was a much smaller lady. I understand that she has
21 been in jail, she has been depressed, she has gained some
22 weight. She was a prettier girl a few years ago, she was
23 a smaller girl two years ago and she was a much more
24 vulnerable girl two years ago. Tonya was the other sister
25 who had been abused by the grandfather. Remembers going

1 to the neighborhood of the Mayers and, for some period of
2 time going with the aunt and the mom and the other kids to
3 get Mandy and bring her back home, Mandy wouldn't stay
4 home. Do you think that it is possible that John Henry
5 introduced her to cocaine when she was 14 or 15. Tonya
6 was also in the Army and had been married to the military.
7 Let's talk about the State's case. That is the defense.
8 Do you think there was any witness from the defense that
9 showed any chip in the State's case. I submit to you
10 Samantha did, Samantha Wright certainly did. I submit to
11 you Kris Hansen and Don Buford were basically three fact
12 witnesses. T.C., I don't carry a gun but we know he does,
13 we know he does. You can figure that out, you knew that
14 from the moment you heard he had a concealed weapon permit
15 but I haven't used it since I was 21 in college. Don't
16 own guns, I just, I like having a CWP but I don't even own
17 the things. The State presented a case earlier this week
18 on Tuesday. And the older brother, I believe Mr. Terry
19 Mayers testified and I think he, he presented himself as a
20 fine man and I submit to you that he appeared to be a
21 credible witness, educated man. Even he played his bad
22 cards sometimes. I understand my brother at times had a
23 drug problem. He wanted to get out of it, he just never
24 could. His understanding, I thought he might be going to
25 rehab the week he was killed. He never got there. I grew

1 up with him, he was a sweet guy at times. He was a great
2 brother, great friend of mine but he had faults. And I do
3 submit that some of his flaws were by drugs. He testified
4 that he had a vague recollection of Mandy living with him
5 in his household sometime about the time that he was in
6 high school. That is lost in the blur of memory but he
7 graduated high school in 1984 and we know that Mandy was
8 born in 1977. So it was many years later. But as a young
9 Mandy he does remember Mandy as part of their household.
10 And members to that family did take her in and treat her
11 as an extended member of their family. And some perhaps,
12 like the uncle took advantage of me. But the State's
13 second witness was Whitt Klein. John is my employee, he
14 shows up on time. I only keep people employed who show up
15 on time and John, I can't recall how long he said John
16 worked with him. That John showed up on time for work but
17 he is not a social friend of mine. I don't go out with
18 him after work, we don't run in the same circles. What
19 John does after he leaves the recreation yard I don't
20 know. Not really that important of a witness. I am kind
21 of perplexed about why he would be called. He was the
22 last man who saw, we know he wasn't the last man who saw
23 John Henry alive because we know that John Henry was with
24 Pee Wee Elvis Hill the next day. But from my perspective
25 why is he important as a witness. We know that Mandy had

1 sold John's car sometime in mid April. For three weeks
2 John was getting other transportation to get to work.
3 When you get up in the morning and you go to work and your
4 car is missing, you think people notice that. You think
5 John Henry would have been aware that his car was gone, in
6 a period of three weeks time. Mandy is charged with
7 forgery for stealing it and the officer testified, the
8 ultimate goal in making that charge was to get Mandy in
9 custody to get her to talk. Once she is in custody she
10 will be scared, she will sing. That is the point of the
11 forgery charge was the break of the murder case. Do you
12 think that once they got Mandy in jail that that would
13 cure her and make her want to talk. You think a man would
14 notice in three weeks that his only car is gone without
15 him knowing that. Clarence Curry, John's son remembers
16 Mandy but he thought she was more like 16 when this,
17 during the time she came to live with them. And I submit
18 to you that that is probably a fair guess. I do think he
19 was truthful. I submit to you that he was a truthful
20 testimony, might not be bright for this reason. Assuming
21 Mandy was 16 Clarence is 29 today, he would have been
22 about 9 at the time, assuming Mandy was 16 do you think he
23 would have a clear recollection of what happened when he
24 was 9 or 8 or maybe that would blur into the years. I
25 think he did give a good faith estimate of about the time

1 Mandy came to live. It is possible that she came to live
2 there earlier. Even if she were 16 it would still be
3 rape. I heard his dad say once, Mandy ain't really my
4 girl. Billy Derrenbacher was the Lexington County work
5 for animal control but was formerly the investigator for
6 Lexington on the missing persons case. He goes, he knows
7 that Newberry has gone to Tim Wise's house on May 16th.
8 He goes back on May 17th. Their family members contacted
9 them. If you know that there is a dead body and you were
10 there do you think that Tim was getting more relaxed as
11 day went by and day went by and more people keep coming
12 back to them. Why are they coming back to me, he appeared
13 to be a fairly nervous guy, may not have been. He
14 testified that he was fairly calm but he also testified
15 that he got nervous around the police. Mr. Derrenbacher
16 testified that the one thing that Mandy said that makes me
17 suspicious that maybe she knew something was Mandy said I
18 keep thinking every time I turn the corner I am going to
19 see him. That made me think that maybe that she was
20 complicit in his death. I submit to you a fair reading on
21 that statement could also be what a battered woman says
22 about a guy who is no longer around her. At times I just
23 think he is behind me. Do you think that is a confession
24 to murder. Mandy said that she saw John with Pee Wee,
25 Elvis Hill, on the day that he died, May 7th. Elvis in

1 jail said, no, he wasn't with me and never seen him, he
2 has never really palled around with me. We know Elvis
3 hasn't been exactly candid because the wife that he beat
4 up that put him in jail or the girlfriend that they lived
5 together to make it a domestic violence says on the day he
6 beat me up and the day John Henry was missing I saw him
7 drive away with John Henry. He came back, the only fair
8 inference on how he came back is he was high. He was
9 acting violent, had been with John Henry. What do you
10 think Elvis and John Henry were doing. And I believe that
11 Ms. McCloud said that in the company of Mr. Boland too.
12 Do you think she was lying, she may have been, she was
13 angry at Elvis, he was beating her up. Maybe she threw
14 that in to put more trouble on Elvis or maybe that is the
15 truth. Mr. Derrenbacher says on May 20th we go back, this
16 is at least the third time we know of that the police have
17 been back to Tim's house, May 20th. This time mom calls
18 T.C., they are on their way to Walmart, says the police
19 are here, they want to see Mandy. Do you think T.C. may
20 have suggested, Mandy, you don't want to come back home,
21 now is your time to go. Do you think that Mandy would had
22 voluntarily, if she was planning to go on the run and
23 planning to leave T.C. at that moment do you think she
24 would have left her dogs there, all of them. You don't
25 think that she may have called Don or some other family

1 friend to say, come pick up my animals. I have got to go
2 tomorrow but I want to make sure they are safe. The
3 argument is going to come, she was so scared of T.C. why
4 would she leave her dogs and her pets and with T.C. I
5 will tell you the answer. Because she was more scared of
6 T.C. than she was thinking about the dogs at that time.
7 That is a panic decision. We know she loved her dogs, she
8 is more scared of T.C. at the time she takes off running
9 than she is thinking about her animals and you know she
10 wouldn't have done that if she had time to think about it.
11 Just left me in that parking lot, I don't know why she did
12 that. That helped T.C, that is why we are there right now
13 because T.C. got to give his statement to law enforcement
14 first. And he gave the one that said, I didn't do it, she
15 did it. And he maintains that today. The State's opening
16 argument could have been written from T.C.'s
17 autobiography, it was written entirely by T.C. And that
18 is the State's case, was that a fiction piece or a
19 non-fiction piece. That is exactly entirely why we are
20 today because T.C. got his story out first, he is from the
21 community. Mandy was not there to give her side of it,
22 Mandy wasn't, it worked real well with T.C. and he ran
23 with it. And he is hoping to get away with it and if he
24 does, do you think that these people are having closure
25 today. He comes back and he meets the deputy, this time

1 Mandy is not there anymore, she is gone, she is on the
2 run. They said, do you think Mandy might know something
3 about the disappearance of John Henry Mayers. This is the
4 third meeting or the third time law enforcement has come
5 to his house. At this time it is, well maybe she did.
6 She might have something to do with it, I know she had a
7 gun of mine, I just happened to give her a gun. It
8 happened to be in his possession. And his story today is
9 now, as he thinks about, maybe I didn't give her that gun
10 because that is a little bit inconsistent with my
11 statement earlier. It must have been my father who went
12 in there to give the gun because we know T.C. doesn't
13 carry guns. You remember Robert Dennis testified, met Mr.
14 Carol Wise and said I didn't even know that gun was
15 missing. Is that consistent with T.C.'s statement. Did
16 you see Mr. Carol Wise testify that, yes, I loaned Mandy
17 that handgun. Do you think he would have been able and
18 available to do that if that was true. He is not a
19 witness because he told Investigator Dennis, I didn't even
20 know this was missing. The police are looking for Mandy,
21 they strongly suspected, they only have got one version of
22 the story out, that is T.C. saying she had a gun now that
23 I think about it. Do you think he slanted his testimony
24 to make her look worse at times. This Craig's List
25 services for the night, do you think that was

1 intentionally put out there to hurt Mandy. We know
2 Craig's List doesn't have that category, services for
3 the night. That is a little attempt to get a little nick
4 on her to make her look bad for you. He knows what he is
5 doing when he said that. Major Boland was the
6 investigator on this case back in 2011. He also was there
7 when Ms. McCloud said that John Henry was with Elvis Hill.
8 But he has got a suspect, and he has got pinged cell
9 phones and he is determined to get her. And they did a
10 remarkably good job. They go from May 16th here in
11 Newberry where they have got a missing persons case with
12 no witnesses coming forward to the police and they saw,
13 they find the man and they track down the people who were
14 at the man's death from May 16th to May 25th. They go
15 from a missing persons case with no leads, well some leads
16 but nobody coming forth with information to finding the
17 man and finding the last two people who saw the man. I
18 think they ought to be commended on that and they stayed
19 on it. The problem is they found probably the less
20 credible man first and he got his story out there and that
21 has been the operating story of this case, the theory of
22 the prosecution for the last two years. T.C. is just
23 passive. When they called Don Buford he voluntarily met
24 them in Columbia. Do you know why Mr. Derrenbacher
25 focused on possibly seeing blood and that he may have been

1 involved, even T.C. admits it was my truck that went out
2 there to the river in disposing the head. Mr.
3 Derrenbacher was kind of determined that that could have
4 been blood and they could, Mr. Buford could have been
5 involved in taking that head. He didn't know. I am not
6 saying he is saying anything dishonest but he doesn't know
7 the answer whether that truck is involved or not. He
8 doesn't want to mess up the State's case on something that
9 he doesn't know so he keeps that issue open. That could
10 have been blood from taking the head. I am not willing to
11 exonerate him even when they have got T.C. admitting it
12 was my truck. Mr. Derrenbacher still sticks to the story
13 that he found blood that could have been from the head.
14 And we know that, in fact there probably was no blood when
15 the head was taken off the skeleton. He doesn't want to
16 mess things up, I am not going to be the one who messes up
17 this case if it could have been. Major Boland testified
18 that he spoke to Mandy and she told him, I am at my
19 mother's house and she was truthful about that because
20 that is where they got her. Mandy unfortunately never had
21 the time, never had a fair opportunity to sit down and
22 talk to somebody and just get common sense advice on what
23 she needed to do before she was in custody. Dr. Ross
24 testified, she was the pathologist. Really there are two
25 important things that come from her testimony. One is

1 that John Henry was clearly shot from the front both
2 times. That is another thing that is wrong with Tim.
3 John is running first, Mandy is chasing him. Do you think
4 she overtook him, circled around him and shot him a second
5 time. If Mandy was chasing him and shot him he would have
6 been shot in the back but the bullet was lodged in the
7 back and the bone fragments are in the front. She
8 testified I do not know the angle of where the bullets
9 came from that killed John Henry but I can testify to a
10 reasonable degree of medical certainty that it came from
11 somewhere in the front. It did not come from his back,
12 Mandy would have shot in the back if she was chasing him.
13 This is where the pathologist put roughly where the bullet
14 that went through the chest. We know this bullet went
15 through here because we seen the bone with the round hole
16 in it. That is what they call centermass, that shot went
17 straight through. That is a completely centermass shot.
18 Somebody knows what they are doing or is a lucky shot.
19 Speculating it is possible that one of the shots went
20 here, not sure but can't testify to that to a reasonable
21 degree of medical certainty because it is not clearly a
22 round bullet marking on it. It is marked, chipped, not
23 reasonable where I can absolutely say that is where the
24 second or one of the bullets entered. It is very likely,
25 it is consistent with all the facts, that is where the

1 bullet entered. We probably know, I think it is probably
2 fair to say we know that is the bullet that killed John
3 Henry. You think that was Mandy, do you think that might
4 be a possibility that might be Tim. Firearms expert
5 testified, Ms. Cromer, no doubt in the world that is the
6 weapon, you will have it back there with you. It has got
7 a number on it, I wondered if they wanted to they could
8 have run that number back to see how long ago it was
9 bought and who bought it. We know it is T.C.'s gun or at
10 least his father's gun. Do you think they could run that
11 number and see who bought that gun and when. It may have
12 passed hands, second hand, father, son. We know somebody
13 bought it from a dealer. T.C. was next, he is kind of in
14 the middle of their testimony, he has got the benefit of
15 getting buffered testimony kind of like clean up. Like
16 baseball, like clean up, the pitchers have to throw easier
17 pitches, you don't want to put him on base when you have
18 got a big hitter behind him. That is how Tim testified,
19 he swings the big hitters. Robert Dennis is the lead
20 investigator and the State's witnesses will prove that
21 that is the murder weapon. I am going to skip Tim and
22 come back to him. Investigator Dennis' testimony. You
23 don't have these and you don't have these, he has no
24 better idea than I do, Judge Knox does or any member of
25 the jury does who killed John Henry Mayers. He doesn't

1 have the benefit of three conversations with T.C. Wise who
2 never admitted to doing anything wrong or Mandy who is
3 scared for her family and animals. She might be weak
4 enough to admit something that she might not have done.
5 If you don't have the statements is there any evidence
6 that makes it more likely or not that this man or Mandy
7 killed John Henry. If we didn't have the statements then
8 you would have to lean to which one is more probable. I
9 submit to you it would probably go to the one who owned
10 the gun, the man who had the gun after the murder. That
11 is where you would have to place your bet if you had to
12 put chips on the table. The State rested with Robert
13 Dennis. We have had the benefit of three recorded
14 statements of Tim Wise and his live testimony today. And
15 I am going to go over and I have never in my life called
16 somebody a liar, I don't do that. I don't care if it is a
17 murder case or not but there might be reasons for wrong
18 stories but I do want to point out some inconsistencies.

19 MR. STUMBO: Your Honor, I haven't seen this--

20 MR. VERNER: Your Honor, I am going to summarize
21 portions of T.C.'s, portions of his May 25th statement and
22 May 26th written statement and that is why they may not be
23 truthful.

24 THE COURT: State's 30 and 31 and 32 are verbatim.

25 MR. VERNER: I actually will have each individual

1 statement. I will be able to cite to the Solicitor what
2 page and what line.

3 THE COURT: Okay.

4 MR. VERNER: This is page 1, line 1 of his May 20th
5 statement. He gave this statement around 6:35 p.m. to the
6 Lexington County, Newberry County and it was entered into
7 evidence. In March of 2011 I gave Mandy Smith a .9
8 millimeter handgun after having a restraining order issued
9 on John Mayers for her self protection. He knows what the
10 murder weapon is. This is a .9 millimeter. It happens to
11 be coincidental that Tim says, that is the same weapon
12 that I loaned to her. Page 2, line 6. That Saturday
13 evening she asked me to call Mr. Mayers around 9:45 p.m.
14 and tell him she was going to be leaving Chapin, Little
15 Mountain and that she would be safe and didn't need Tim
16 around her anymore. He told her, that is fine, I have got
17 stuff to do. John and Mandy were together that night.
18 They had arranged to meet. Page 2, line 10, I didn't hear
19 from Mandy, her again until that Sunday afternoon. He
20 admits later, I saw her at midnight or 15 minutes before
21 midnight I was on Judy B. Road. That is just untruthful.
22 This is his first statement. Page 2, line 11. On
23 Wednesday afternoon Mandy returned the handgun to me that
24 I had let her borrow. Well, in testimony he says I found
25 it in the living box, one of those plastic bins and I took

1 it back. Remember that is how he testified that he took
2 it out of the living box. You think that he might have
3 wiped that gun off. Do you think there might have been
4 prints on that gun. He also testified at trial he is not
5 the one who let Mandy borrow the gun, his dad did. We
6 know that is, well that would make his statement
7 untruthful. Page 2, line 13. There was a spent shell
8 case lodged in the chamber. I tried to dislodge the shell
9 casings without success. He testified under oath
10 yesterday in front of you, I picked it up with a cloth,
11 put it in my center console and never touched it again.
12 He may have pried it out or he may not have but those are
13 two entirely different stories. One of them is not true.
14 Page 2, line 16. It is my opinion that Mandy had
15 something to do with Mr. Mayers disappearance. He knows
16 that she was there the night that John Henry was killed.
17 He doesn't have an opinion that she might know something
18 about it, he knows it. Page 2, line 17. Mandy, she has
19 an angry issue since I have known her in the past. She
20 has had trouble with the law. No, she hasn't, unless he
21 knew her in Michigan in the year of 2000, she hadn't had
22 trouble with the law. Why do you think he said that,
23 maybe to discredit Mandy a little bit. Page 2, line 29.
24 Did Mandy tell you anything about what happened to John.
25 Answer, she hasn't told me anything that happened to John.

1 That statement is not true because T.C. was there the
2 night John was killed. He knows what happened to John.
3 Is Mandy capable of hurting or killing John Mayers.
4 Answer, I feel she would but she would in self defense.
5 Why does he put that there. He is already thinking about
6 possible legal defenses. May 20th, self defense. Page 2,
7 line 37. If so, what would Mandy's motive be for hurting
8 or killing John. Answer, fear or blackout rage would be
9 her sole motive. Well later he says, it was plain revenge
10 for John for the mistreatment in the past. It is not
11 fear, it is not blackout rage, that is not a motive. At
12 trial it is revenge for the mistreatment of John Henry of
13 Mandy over the years. This is page 2, line 41. Did you
14 kill John Mayers or have any part in his disappearance.
15 No. He was there, he may have killed John Henry Mayers,
16 he probably killed John Henry Mayers. Tim has got another
17 week to think about it before law enforcement comes to
18 visit him again. This is his statement from May 25th,
19 Tim's statement. Page 1, line 3. I called Mr. Mayers and
20 informed him that Ms. Smith was moving from Wheeland
21 School Road and that she no longer wanted anything to do
22 with John. That is different than his May 20th statement
23 where, she no longer wanted anything to do with him. Do
24 you think that that is a statement that somebody who has
25 had an infatuation or an issue with another man, she

1 doesn't want to hear anymore. Page 1, line 5. I told
2 John that she is going to be safe and that she would be
3 happy. Who do you think he was anticipating Mandy would
4 be happy with. Page 1, line 6. Around 1:00 a.m. she
5 texted me saying she was on Brazelmans Bridge Road and
6 wanted to get from I-26 there. He was in the car behind
7 her. He texted her, turn right on the interstate. I told
8 her which direction to go and told her to let me know when
9 she got home. He testified he was too scared to talk to
10 Mandy again that night. I went home and I was in shock
11 and I couldn't do anything. The next Monday I learned
12 that John Mayers was missing. He didn't learn that John
13 was killed that following Monday because he was there with
14 John the night he was killed. Why do you think he gives
15 this May 25th statement. Why do you think he feels the
16 need to change, Mandy is in custody. You think she might
17 talk, you think she might give her side to law enforcement
18 first. You think that he might want to preempt her, fire
19 on her before she fires on him. Robert Dennis testifies,
20 he knows we got Mandy in the jail. Do you think he might
21 want to, make him start looking for ways to get out of it.
22 Page 1, line 11. I became suspicious of Ms. Smith now,
23 after she started to become paranoid. He wasn't
24 suspicious of Ms. Smith because he knew John Mayers was
25 dead. He even knew Mandy did it or he knew he did it. He