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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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 County of Newberry) Court of General Sessions
) 2011-GS-36-503-505

State of South Carolina)
 vs.) Transcript of Record
)
 Mandy Lenore Smith)
 DEFENDANT) VOLUME I

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

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3	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
4	1	Photo		X	339
5	2	Photo		X	339
6	3	Photo		X	339
7	4	Photo		X	339
8	5	Photo		X	339
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State's

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1	SLED Report	X		46
2	Letter Representation	X		539
3	Phase		X	655
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5	Photo	X		776
6	Photo	X		776
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8	Photo	X	X	776/784

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	Mental Health Evaluation	X		53
2	Stipulation	X		1094
3	Jury Note	X		1094
4	Jury Note	X		1094

1 THE COURT: Solicitor, if you would call your first
2 case for trial.

3 MR. SCOTT: Thank you, Your Honor, if it please the
4 Court. The State calls the State versus Mandy Lenore
5 Smith, indictment 2011-GS-36-505, that is an indictment
6 for murder.

7 The State versus Mandy Lenore Smith, indictment
8 number 2011-GS-36-504, an indictment for possession of a
9 weapon during the commission of a violent crime.

10 State versus Mandy Lenore Smith, indictment number
11 2011-GS-36-503, an indictment for desecration of human
12 remains.

13 Your Honor, these three indictments were true billed
14 by the Newberry County Grand Jury in August of 2011. And
15 the State is ready for trial if I may approach.

16 THE COURT: Thank you. Mr. Verner, you represent
17 Mandy Lenore Smith?

18 MR. VERNER: I do, Your Honor.

19 THE COURT: Is Ms. Smith present?

20 MR. VERNER: She is with me, Your Honor.

21 THE COURT: All right, is the defendant ready for
22 trial?

23 MR. VERNER: She is.

24 THE COURT: Thank you, very much. Ladies and
25 gentlemen, if you would please give me your complete and

1 undivided attention. We are going to go through a
2 procedure whereby we select a trial jury for the trial of
3 this specific case. As you recall, we went through the
4 procedure where you were qualified to sit as jurors on
5 jury service this week. Now we are going to go through
6 this procedure to select again, a fair and impartial jury
7 for the trial of this case for both the State and Ms.
8 Smith, the defendant. I am going to, because of certain
9 questions I must ask you I am going to read or publish to
10 you these three indictments that the State has called for
11 trial. The indictments are not evidence. The indictments
12 are the formal charging documents by which an individual
13 is placed on notice of charges that have been brought
14 against him or her. The indictments are mere allegations
15 and in no way are evidence of the allegations contained
16 therein. As I say, because of questions I must ask you I
17 will read these indictments to you. The first indictment,
18 11-GS-36-0505 reads that Mandy Lenore Smith did in
19 Newberry County on or about the 7th day of May of 2011
20 willfully, feloniously and with malice aforethought kill
21 one John Henry Mayers by means of shooting. And that said
22 John Henry Mayers did die in Newberry County as a
23 proximate result thereof on or about the 7th day of May of
24 2011 in violation of section 16-3-10 of the South Carolina
25 Code of Laws, 1976 as amended. That is an indictment for

1 murder.

2 Indictment 11-GS-36-0504 reads that Mandy Lenore
3 Smith did in Newberry County on or about the 27th day of
4 May, now Solicitor that is a different date than the
5 murder indictment, 2011, possess a firearm or visibly
6 displayed what appeared to be a firearm or visibly
7 displayed a knife during the commission of a violent
8 offense to wit: murder or any lessor included violent
9 offense in violation of 16-23-490 of the South Carolina
10 Code of laws, 1976 as amended. That is an indictment for
11 possession of a weapon during the commission of a violent
12 crime.

13 As far as those allegations, Solicitor, would you
14 have a motion?

15 MR. STUMBO: We do, Your Honor, that is a Scrivener's
16 error, it should be May 7th consistently through the three
17 indictments is the incident date.

18 THE COURT: Do we have any objection to that, Mr.
19 Verner?

20 MR. VERNER: Your Honor, I certainly cannot consent
21 to the amendment but we have been aware of the dates but I
22 cannot consent in this case.

23 THE COURT: All right, certainly, I will grant the
24 motion for the amendment. Again, ladies and gentlemen, as
25 I said, the indictments are not evidence. The indictments

1 contain mere allegations. It does say on or about the 7th
2 of May of 2011 in the murder indictment. I will amend the
3 possession of a weapon to reflect, 7th of May of 2011.
4 Again, that is not evidence, that is the allegations
5 contained.

6 The next indictment 11-GS-36-0503 reads that Mandy
7 Lenore Smith did in Newberry County on or about the 18th
8 day of May of 2011 willfully, unlawfully and knowingly and
9 without proper legal authority, the said defendant did
10 destroy or damage the remains of a deceased human being
11 and/or did remove a portion of the remains of a deceased
12 human being from a burial ground where human skeletal
13 remains are buried and/or desecrated human remains to wit:
14 that the said defendant did cut off the head of the
15 deceased, John Henry Mayers and throw the head into the
16 river in violation of 16-7-600 of the South Carolina Code
17 of Laws, 1976 as amended. That is an indictment for
18 desecration of human remains.

19 MR. STUMBO: Your Honor, if I may, that date would be
20 accurate, our motion to alter or amend would only apply to
21 the weapons charge, the 18th of May and that indictment
22 would be, we will go forward on it now.

23 THE COURT: Thank you very much, Solicitor. Again,
24 Solicitor, if you will, I know you have previously done
25 this in general qualifications. But if you would please

1 introduce yourself and any members of the Solicitor's
2 office that are going to assist you in the prosecution of
3 this case.

4 MR. STUMBO: Thank you, Your Honor. Again, I am
5 David Stumbo, the prosecutor in this case and every
6 General Sessions level or felony level case that comes
7 before the courts in the four-county circuit. We
8 prosecute all the cases in those four counties. So we
9 have a lot of work to do, this is one of those cases.
10 Dale Scott is my Deputy Solicitor here to my right. He is
11 going, he and I are trying this case together.
12 Investigator Walter Bentley is going to assist us in the
13 prosecution of this case. Also, a member of my staff, Ms.
14 Alice Douglas is here to my left, she is one of our
15 paralegals for the office and works exclusively here in
16 Newberry County as a Newberry County resident. You will
17 see her in and out of the courtroom and here at the
18 prosecution table. Also to my left and he is on the
19 witness list is Lieutenant Robert Dennis from the Newberry
20 County Sheriffs Office. He will be sitting, I am sorry,
21 Captain Robert Dennis, I demoted him. He will be sitting
22 at counsel table with us throughout the duration of the
23 case as the lead investigator of this case as well.
24 THE COURT: Thank you, Solicitor. And Mr. Verner,
25 again if you will introduce yourself and your client to

1 the jury panel.

2 MR. VERNER: Yes, Your Honor. I am Charles Verner
3 from here in Newberry. I am a lawyer with my father next
4 to the Cabana Cafe. Mandy Smith is my client. Mandy
5 Smith, she is from Chapin although she was living in
6 Newberry County, a resident of Newberry County. She is
7 the defendant in this case. Helping me is Vicky Hunter.
8 She used to be married to Gonzalea Hunter, he was a
9 longtime residence of Newberry County. Vicky will be
10 assisting me.

11 THE COURT: Thank you, Mr. Verner. Is any member of
12 the jury panel related by blood or marriage, close
13 personal friends, have any personal business, professional
14 relationship with Solicitor Stumbo, Solicitor Scott or any
15 member of the Newberry County Solicitor's office. If so
16 please stand. Yes, your number and name, please.

17 JUROR: 44, Bethany Crooks. I have had some
18 professional business with Robert Dennis.

19 THE COURT: Step up here to the Court Reporter,
20 please. What is your number?

21 JUROR: 44.

22 THE COURT: And tell me the--

23 JUROR: I was a special agent with SLED, forensic
24 artist and I worked with Robert on a couple of cases.

25 THE COURT: Given the fact that, did you say you were

1 under oath before you. The law as I tell you the law is,
2 you take that standard of the law, you apply it to the
3 facts as you find the facts to be from the testimony, the
4 exhibits presented. And then you reach a verdict which
5 speaks the truth. Don't do any independent investigation,
6 don't talk to anybody independently. I will release you
7 for your luncheon recess. Be back at 3:30. Thank you.

8 (Whereupon, the jury was released from open court for
9 a lunch break.)

10 THE COURT: Any objections to anything that I told
11 the jury from the State?

12 MR. STUMBO: No, Your Honor.

13 THE COURT: The defense?

14 MR. VERNER: No, Your Honor.

15 THE COURT: And is Ms. Smith in custody or on bond?

16 MR. STUMBO: She is in custody, Your Honor.

17 THE COURT: Anything further before we take our
18 recess?

19 MR. STUMBO: Nothing from the State.

20 MR. VERNER: No, sir.

21 THE COURT: I certainly respect in a case such as
22 this that it can be very emotional for one side or the
23 other or both sides. The jury in these type of cases has
24 a very difficult task to perform and I want to make sure
25 they have complete and unfeathered ability to listen to

1 the testimony and decide the case based on the law and
2 evidence and not on any outside or undue influence of any
3 emotional type. I certainly respect the support that the
4 members of the victim's family show for their lost loved
5 one. I would ask if you would not wear advocacy tshirts
6 to the court proceedings. There are many ways, as y'all
7 know, that we can honor the memories of our loved ones,
8 not only by wearing those types of memorabilia but in
9 other ways. I would ask and direct and order that you not
10 wear those. I might would revisit that upon the return of
11 the verdict. However, until the case is tried and
12 presented to the jury I would order that you not wear
13 those. Thank you. Court will be in recess until 2:30.

14 (Whereupon, a lunch break was taken.)

15 THE COURT: All right, Ms. Smith is present in the
16 courtroom along with her attorney, Mr. Verner. And the
17 Solicitor's office is present on behalf of the State.
18 What is your first motion y'all would like for me to hear.

19 MR. STUMBO: Your Honor, before we move into Jackson
20 v. Denno, Ms. Smith, she was evaluated and that is one of
21 the reasons that this case had been continued a couple of
22 times and she was evaluated by the Department of Mental
23 Health at the request of Mr. Verner. The report that was
24 issued in this situation was issued August the 8th of this
25 year. It was sent by Dr. Jeffrey Musick, who is a

1 psychologist for the Department of Mental Health, South
2 Carolina Department of Mental Health. The presiding
3 examiner of the case was Stephanie Chapman of U.S. School
4 of Medicine, she is a psychiatric fellow there and also
5 Dr. Richard Frierson of U.S. School of Medicine were
6 present for this evaluation. The evaluation by the
7 doctors concluded that although Ms. Smith reported she was
8 experiencing symptoms of depression and anxiety during the
9 time period of the alleged crime, was under significant
10 financial stress. She did not report a compulsion,
11 command, auditory, hallucination or other symptoms of
12 mental illness that would have impaired her ability to
13 conform her conduct requirements of the law. That is
14 actually a conformity of evaluation, Your Honor. And I
15 thought that I had the competency eval, if Mr. Verner has
16 that and I don't believe any of these are contested at
17 this point. We did want to put on the record, to protect
18 the record that the doctors of Mental Health did find Ms.
19 Smith was competent to stand trial under the legal
20 standards of Blair. And also was able to conform her
21 conduct with the requirements of law, obviously that is
22 not an issue here in this case.

23 THE COURT: If you would have those marked and may I
24 see them.

25 MR. VERNER: My copies was delivered to me by email,

1 I can print it out but I never got a hard copy. But I
2 agree that she was evaluated at the Department of Mental
3 Health and was competent to stand trial. She certainly, I
4 wouldn't dispute that.

5 MR. STUMBO: Your Honor, I am giving the competency
6 part of this. We can mark this one as Court's number 1.

7 (Whereupon, Court's Exhibit 1 was marked for
8 identification only.)

9 MR. STUMBO: This is a report dated August the 1st,
10 was issued August the 8th by the Department of Mental
11 Health. This will be Court's number 1 for the record.

12 THE COURT: I have reviewed Court's exhibit number 1.
13 I find that there are criminally responsible, both under
14 McNaughton and conformity capability to conform her
15 conduct to the requirements of the law. Anything further
16 in this regard, Solicitor?

17 MR. STUMBO: There is not, Your Honor, I just spoke
18 earlier, obviously there is a presumption of competency,
19 unless that issue is raised, it has not been raised by the
20 defense. The only reason we put this into evidence at
21 this point is we haven't received any notice of an
22 insanity defense. Obviously based on this report of
23 Department of Mental Health we don't anticipate that and
24 we just wanted to bring to Your Honor's attention that Ms.
25 Smith had been evaluated by the doctors at Mental Health.

1 THE COURT: Anything from the defense in this regard,
2 Mr. Verner?

3 MR. VERNER: No, Your Honor.

4 THE COURT: Thank you very much. I would find that
5 this complies under the circumstances of a Blair hearing.
6 It is Court's exhibit number 1.

7 MR. STUMBO: Thank you, Your Honor, we will proceed
8 with Jackson v. Denno at this time. The State would call
9 Captain Robert Dennis at this time.

10 MR. VERNER: Your Honor, before we get into this, I
11 have a few things that I would like to get out real quick.

12 THE COURT: Yes, sir.

13 MR. VERNER: I don't have a copy of the indictment
14 for the desecration. My understanding is that Mandy was
15 charged with murder originally. And then she has been
16 direct indicted on the possession of a weapon for a
17 violent crime. I have only got the arrest warrant for the
18 murder charge, Judge. My assumption is that she was
19 direct indicted for the possession of a weapon and the
20 desecration. If there are arrest warrants, and I haven't
21 seen them--

22 THE COURT: Here is the indictment.

23 MR. VERNER: I don't have the one for desecration so
24 I am not sure if that was done during the August 11th
25 term.

1 MR. SCOTT: That is a direct indictment true billed
2 by Newberry County Grand Jury August 5th of 2011. That
3 would be the same Grand Jury meeting that true billed the
4 other two.

5 MR. VERNER: Because on those charges, Your Honor, my
6 understanding is she would be entitled to be arraigned on
7 those charges. I would ask that that happen when the jury
8 comes in but on the charges that she was direct indicted
9 on she would have the right to be arraigned on those
10 charges.

11 THE COURT: I will be glad to arraign here now.

12 MR. VERNER: My preference is when the jury comes in
13 but I understand, that there is no requirement that the
14 jury be part of the arraignment.

15 THE COURT: Will you have her come around. Mandy
16 Lenore Smith, prisoner at the bar, if you answer at that
17 name hold up your right hand.

18 (Ms. Smith raised her right hand.)

19 THE COURT: Thank you, you may put your hand down.
20 You stand indicted by the name of Mandy Lenore Smith for
21 the crime of possession of a weapon during the commission
22 of a violent crime. The indictment reads that Mandy
23 Lenore Smith did in Newberry County state aforesaid, on or
24 about the 7th day of May of 2011 posses a firearm, or
25 visibly displayed what appeared to be a firearm or visibly

1 displayed a knife during the commission of a violent
2 offense to wit, murder or any lesser included violent
3 offense in violation of 16-23-490 of the South Carolina
4 Code of Laws, 1976 as amended. What say, you, Mandy
5 Lenore Smith. Are you guilty of the felony of possession
6 of a weapon during the commission of a violent crime or
7 not guilty?

8 MS. SMITH: Not guilty, Your Honor.

9 THE COURT: If not guilty I then ask you how will you
10 be tried.

11 MS. SMITH: By God and my jury, Your Honor.

12 THE COURT: God send you a good deliverance. Are you
13 ready for trial?

14 MS. SMITH: Yes, sir.

15 THE COURT: You are also indicted under that name,
16 Mandy Lenore Smith for desecration of human remains. That
17 indictment reads that Mandy Lenore Smith did in Newberry
18 County state aforesaid on or about the 18th day of May,
19 2011 willfully, unlawfully and knowingly and without
20 proper legal authority, said defendant did destroy or
21 damage the remains of the deceased human being and/or did
22 remove a portion of the remains of the deceased human
23 being from a burial ground where human skeletal remains
24 are buried and/or desecrated human remains to wit: The
25 said defendant did cut off the head of the deceased, John

1 Henry Mayers and threw the head into the river in
2 violation of 16-17-600 of the South Carolina Code of Laws,
3 1976 as amended. How do you say to that charge, are you
4 guilty or not guilty?

5 MS. SMITH: Not guilty, Your Honor.

6 THE COURT: How will you be tried?

7 MS. SMITH: By God and my jurors, Your Honor.

8 THE COURT: God send you a good deliverance. Are you
9 ready for trial?

10 MS. SMITH: Yes, Your Honor.

11 THE COURT: You may return to your seat. All right,
12 do you have further motions, Mr. Verner?

13 MR. VERNER: Your Honor, under the statute my
14 understanding is, assuming the verdict does come back
15 murder, a factor in sentencing before the Court to
16 consider is a history of domestic abuse by the defendant.
17 And most of that testimony would probably not be
18 admissible usually because of the hearsay objections
19 during a trial. But I would like to reserve my right to
20 be heard on that should that be an issue and that is
21 primarily what Dr. Schwartz-Watts would be listed as, Your
22 Honor. My understanding is that most of that testimony
23 the Court would exclude from the jury. But we would like
24 to be heard on that should that become an issue and that
25 would be entirely a legal issue for the Judge to consider.

1 THE COURT: I don't know how to rule on something
2 that is not before me at this time.

3 MR. VERNER: I guess, if the Court is inclined to
4 hear that testimony if the circumstances call of it, I am
5 unlikely to call Dr. Schwartz-Watts as a witness in the
6 case-in-chief. If the Court believes it needs to be
7 brought up in the trial then I would have to make sure she
8 is subpoenaed and be in the actual case-in-chief.

9 THE COURT: I can't rule on what is not in front of
10 me at this time. I understand that, as far as a battered
11 person is concerned, if she were to be found guilty that
12 would affect, if I were to find her to be a battered
13 person.

14 MR. VERNER: Yes, sir.

15 THE COURT: How it is presented is not for the Court
16 to anticipate now. I have sentenced people under that
17 statute in the past. And quite frankly, how it was
18 presented, Mr. Verner. If it was presented during the
19 trial or just at sentencing. I don't know how to answer
20 that, it is like a hidden road. I can't see that far to
21 the battle field yet because we are not on it.

22 MR. VERNER: Thank you, Judge.

23 THE COURT: If you need time to get Dr.
24 Schwartz-Watts here I will certainly--

25 MR. VERNER: My understanding is that is a more of a

1 sentencing issue, Judge. And should we cross that bridge,
2 that would be the only intent to have her as a possible
3 witness would be should we get to that. And at this time
4 I would raise my Jackson v. Denno.

5 THE COURT: All right, Solicitor, call your first
6 witness.

7 MR. STUMBO: The State calls Captain Robert Dennis to
8 the stand.

9 ROBERT DENNIS, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Stumbo:

13 Q State your name, please.

14 A Robert Dennis, Captain of Newberry County Sheriffs
15 Office.

16 Q Good afternoon, Captain Dennis. Were you involved
17 with the investigation of the defendant, Mandy Smith, on
18 an alleged murder case?

19 A I was.

20 Q And who was the victim in that case, Captain Dennis?

21 A The victim in that case was Mr. John Henry Mayers.

22 Q And how was that case initially investigated by your
23 department?

24 A The first part that we played in is Lexington County
25 Sheriffs Office contacted Major Boland at the time he was

1 Captain at the Sheriffs Office and required assistance of
2 locating some witnesses that were here in Newberry County
3 and identify folks that would have last been seen or may
4 have information of where Mr. Mayers could possibly be.

5 Q And as part of that investigation were you able to
6 develop any potential persons of interest in regards of
7 Mr. Mayers being missing?

8 A We were. We developed two suspects in the case of
9 Mr. Mayers disappearance.

10 Q And how was Ms. Smith brought to your attention at
11 that time, who brought her to your attention?

12 A At that particular time a codefendant in the case,
13 Timothy Carol Wise had disclosed the actual homicide of
14 Mr. Mayers. And told us where we could possibly find the
15 remains of Mr. Mayers and advised us that Mandy was indeed
16 the person that was with him whenever the crime was
17 committed.

18 Q Just to give the Court a little bit of a timeline,
19 when did Mr. Mayers go missing, Captain Dennis?

20 A He was reported missing on May the 10th of 2011. The
21 days prior to that which we were looking about May the 7th
22 was the last time anyone had really had contact with Mr.
23 Mayers.

24 Q May the 7th was a Saturday night, is that correct?

25 A That's correct.

1 Q And May 8th was Mother's Day, the next day, Sunday?

2 A That's correct.

3 Q Of 2011?

4 A That's correct, 2011.

5 Q And you stated that another person of interest, Mr.
6 Timothy Wise brought Ms. Smith to y'all's attention. When
7 was the first time y'all made contact with Timothy Wise?

8 A The first contact with Mr. Wise was on May the 20th
9 and that contact was made by Major Boland and Billy
10 Derrenbacher of the Lexington County Sheriffs Office.

11 Q And between, and sometime after May 20th you
12 indicated before to the Court that Mr. Wise disclosed
13 where Mr. Mayers body was or what he contended or alleged
14 to be Mr. Mayers body, when was that?

15 A That's correct. We interviewed Mr. Wise on, on May
16 the 25th of 2011. And he was able to take us and show us
17 where the body of Mr. Mayers was at.

18 Q Was that out there in Sumter National Forrest, is
19 that correct?

20 A That's correct. It was off of a forestry road which
21 is located off of Brazelmans Bridge Road in the Sumter
22 National Forrest which is toward the Whitmire section of
23 Newberry County. The main road which was a dirt road
24 which has a turnaround on it, that was Judy B. Road.

25 Q This is out in the middle of the National Forrest and

1 it is wooded pine trees around there?

2 A That's correct.

3 Q Now, was the body that you found, was it intact when
4 you found, when you and your colleagues found it, Captain
5 Dennis?

6 A No, it was not. The body was badly decomposed. We
7 could tell that it had been moved from one point into the
8 woods by the position of the body. The shirt was rolled
9 up, up around, under the underarms of the body that we
10 saw. And it was, the arms were outstretched and it was
11 missing the head portion of the body.

12 Q And as a result of this, you said Timothy Wise had
13 lead you to this body, correct?

14 A That's correct.

15 Q And who did Timothy Wise indicate, according to him,
16 had killed Mr. Mayers?

17 A According to Mr. Wise, after he had been Mirandized
18 he indicated that Mandy Smith was the person that fired
19 the shots.

20 Q And at this point on the 25th of May was Mandy Smith
21 in custody of Newberry County at that point?

22 A Yes, sir.

23 Q And what was she in custody of Newberry County for?

24 A She was in custody for an outstanding warrant of
25 forgery that had been reported to us involving the, a

1 vehicle belonging to Mr. Mayers. And that vehicle had
2 been, a bill of sale had been obtained from the DMV,
3 forged and the car sold at a local recycling here in
4 Newberry County.

5 Q And as part of that investigation was it the family
6 of John Henry Mayers that gave y'all information about
7 this car?

8 A They did as well as give us a handwriting sample of
9 Mr. Mayers.

10 Q After May 25th when Mr. Mayers body, which was
11 allegedly his body out in the woods when it was found, did
12 you have an opportunity to talk to Ms. Smith?

13 A Yes, I did.

14 Q And where did you interview Ms. Smith?

15 A The first interview took place on May the 26th of
16 2011 around 3:51 p.m. and that was the location of the
17 Newberry County Sheriffs Office in Major Danny Gilliam's
18 office.

19 Q And before you interviewed Ms. Smith, the defendant,
20 were you able, did you have an opportunity to read her her
21 Miranda rights?

22 A I did.

23 Q And how did you read those to her?

24 A We have a form that we utilize at the sheriffs office
25 which is called a rights form. And it has on that rights

1 form information pertaining to the person that we are
2 getting ready to interview which would consist of their
3 name, social security, date of birth, home address, and
4 any contact numbers that they may have such as a home,
5 work or other type of phone numbers. We ascertain how old
6 that person is and what is the last grade that they
7 completed as whether or not they can read or write.

8 Q Did you get that information from Ms. Smith?

9 A I did.

10 Q And did she indicate to you that she could read and
11 write?

12 A She could.

13 Q And what, I am going to hand you.

14 MR. STUMBO: Your Honor, may I approach the witness?

15 THE COURT: Yes, sir.

16 Q I am going to hand you what has been marked for ID as
17 State's 19. If you could take a look at that. Do you
18 recognize State's 19?

19 A Yes, I do.

20 Q What is in State's 19? What is the first page.

21 A The first page is the rights form, as I was
22 explaining earlier, that indicates all of the persons
23 personal information, address, phone numbers, the last
24 grade they completed and that they can read.

25 Q And on that rights form does it have the Miranda

1 warnings that y'all read to the suspects?

2 A It does.

3 MR. STUMBO: Your Honor, for purposes of this hearing
4 we would offer--

5 Q And did you personally review that form with the
6 defendant, Mandy Smith?

7 A I did.

8 Q And did you write the information in on the form?

9 A I did.

10 Q And attached to that form is pages, another three
11 pages. Is that the actual written statement that was
12 given by Ms. Smith?

13 A That is correct. The second page is a voluntary
14 statement form which begins with asking the same type of
15 question as far as the identification of the person we
16 will be interviewing. And also in a paragraph form are
17 the rights of the individual given to them again.

18 Q And were you present and did you personally read
19 these rights to Ms. Smith, the defendant?

20 A I read the first page and then allowed Ms. Smith to
21 read the second page before she began writing her
22 statement.

23 Q This is the original copy of those statements from
24 your file?

25 A And this is the original copy of the statement that

1 has been in my possession.

2 MR. STUMBO: Your Honor, we would offer State's 19
3 into evidence for purposes of this hearing only.

4 THE COURT: Mr. Verner.

5 MR. VERNER: No objection.

6 THE COURT: State 19 for identification purposes
7 only.

8 (Whereupon, State's Exhibit 19 was marked for
9 identification only.)

10 Q Captain Dennis, could you read the rights on page one
11 as you read them to Ms. Smith or reviewed with Ms. Smith
12 on May 26th of 2011?

13 A I can. The first part of is, it states before we ask
14 you any questions you must understand your rights. You
15 have the right to remain silent. Anything you say can and
16 will be used against you in a court of law. You have the
17 right to a lawyer for advice before we ask you any
18 questions and to have him or her present with you during
19 the questioning. If you have no money for lawyer fees the
20 Court will appoint one to represent you without cost to
21 you if you wish. If you decide to answer questions now
22 without a lawyer present you will still have the right to
23 stop the questions at any time. You also have the right
24 to stop answering questions at any time until you talk to
25 a lawyer. And then there is a sentence that says, I have

1 read this statement of my rights and I understand what my
2 rights are. And Ms. Smith indicated that she understood
3 those rights by signing her name and dating.

4 Q So she signed her name to State's 19?

5 A Yes, she did.

6 Q And did you observe her signing her name?

7 A Yes, I did.

8 Q Now, during the time that you were interviewing her
9 and she did appear to understand her rights?

10 A Yes sir, she did.

11 Q Did she at any time request an attorney?

12 A No, sir.

13 Q About how long did you sit and talk to her?

14 A The interview began at 3:51 p.m. and I indicated on
15 the second page of the report which ended at 7:37 p.m.
16 that afternoon.

17 Q And she did indicate that she wanted to give a
18 statement in regards to Mr. Mayers death?

19 A She did. She indicated that by the waiver which is
20 at the bottom of the rights form.

21 Q And so she signed it twice, is that correct?

22 A That is correct.

23 Q And did you sign the bottom of that form as a
24 witness?

25 A I did.

1 Q Now, at any time during the course of this interview,
2 when you were with Ms. Smith, did she ask to exercise her
3 right to an attorney while you spoke with her?

4 A No sir, she did not.

5 Q Did she ever ask to stop the interview, she didn't
6 want to talk anymore?

7 A No sir, she did not.

8 Q Did you make available to her restroom facilities if
9 she needed them?

10 A We did.

11 Q If she needed something to drink would you make that
12 available to her?

13 A We would had.

14 Q Did you threaten her in any way, Captain Dennis?

15 A No sir, we did not.

16 Q Did you intimidate her in any way?

17 A No, sir.

18 Q Did you make any promises in exchange for her giving
19 you this statement?

20 A No sir, we did not.

21 Q Did it appear to you to be freely and voluntarily
22 given?

23 A Yes sir, it did.

24 Q As part of State's 19, I am going to hand it back to
25 you. Did Ms. Smith sign the last page of the statement as

1 well?

2 A Yes, sir. Just out of formality we had them sign
3 each page of their written statement and all three pages
4 including the last are signed by Ms. Smith.

5 Q Now, State's 19, did Ms. Smith essentially in this
6 statement indicate that she was the one that had shot Mr.
7 Mayers?

8 A Yes sir, she did.

9 MR. STUMBO: Your Honor, I am going to pass State's
10 19 for your review.

11 Q One other matter for the record, Captain Dennis,
12 while Judge McMahon has the statement, State's 19, was
13 there anybody else present in Major Gilliam's, Danny
14 Gilliam's office when this statement was given?

15 A Yes, sir. Major Gilliam was present for a short time
16 of the interview and then the person who ended up staying
17 with me at the time was Investigator Matt Bowers of the
18 sheriffs office.

19 Q And are they both here present in the courtroom
20 today?

21 A Yes, they are.

22 Q And they witnessed you reading Ms. Smith her rights?

23 A Yes, they did.

24 Q And Investigator Bowers actually signed the statement
25 in State's 19 as well, is that correct?

1 A That's correct.

2 THE COURT: All right, Solicitor.

3 MR. STUMBO: Thank you, Your Honor.

4 Q This is May 26th when Ms. Smith gave that statement,
5 is that correct, Captain Dennis?

6 A That's correct.

7 Q Was she charged in the death of Mr. Mayers?

8 A She was charged with murder, yes.

9 Q Now at any time after that did you receive a request
10 from Ms. Smith to revise her statement or to speak with
11 you again?

12 A I did.

13 Q When was that?

14 A On June the 10th of 2011 we had received a letter
15 from Ms. Smith that had been dated June the 7th, that she
16 wished to talk to me again.

17 MR. STUMBO: If I may approach the witness, Your
18 Honor.

19 THE COURT: Yes, sir.

20 Q I hand you what has been marked for ID as State's
21 number 20. Take your time and take a look at that.

22 A I have reviewed it, Solicitor.

23 Q Captain Dennis, what is in State's 20, does that
24 memorialize your interview with Ms. Smith on June the
25 10th?

1 A It does.

2 Q And also on the back page of that is that the letter,
3 the actual original letter that Ms. Smith sent you in the
4 mail requesting to speak to you?

5 A That is. I am not sure if it actually come in the
6 mail or it was by way of COD, I can't remember actually
7 how we received that.

8 Q Okay. But in response to that letter you did go and
9 reinterview Ms. Smith?

10 A I did, yes sir.

11 Q Did you go through the same process, did you read her
12 rights again?

13 A We did. And actually prior to reading her rights,
14 she was being brought into Captain Kitchens office which
15 is located at Newberry County Detention Center, when Ms.
16 Smith began talking to me about there was some things in
17 her statements that she needed to talk to me about that
18 were not true I then decided we would stop our process of
19 talking and then move out to the Newberry Sheriffs Office
20 at Lewis Rich Road.

21 Q So you actually had her transported, she was in
22 custody but had her transported over to the sheriffs
23 office to conduct the interview?

24 A That's correct. And that interview was done on June
25 the 10th of 2011 about 11:35 a.m. And that was done in my

1 office.

2 Q Did you review the rights form again with Ms. Smith?

3 A Yes, I did.

4 Q Did she waive those rights?

5 A She did.

6 Q Did she sign the form waiving those rights?

7 A She did.

8 Q Signed it twice, is that her signature at the middle
9 of the page, at the bottom of the page on State's number
10 20?

11 A It is.

12 Q And you witnessed that?

13 A I did, yes sir.

14 Q And the statement, it is a two-page statement. Is
15 that Ms. Smith's signature on those two pages as well?

16 A It is.

17 Q And it is marked 1:40 p.m., June the 10th of 2011?

18 A Yes, sir.

19 Q And the letter that she sent you was dated, to have
20 her come speak to you was dated June the 7th of 2011?

21 A That's correct.

22 MR. STUMBO: Your Honor, the State would offer
23 State's 20 for ID purposes for the Jackson v. Denno
24 hearing at this time.

25 THE COURT: State's 20, ID only.

1 (Whereupon, State's Exhibit number 20 was marked for
2 identification only.)

3 Q Now, how long did this second interview last?

4 A We started at 11:35 a.m. and it ended at 1:40 p.m.

5 Q That is about two hours?

6 A Roughly, yes.

7 Q Any time during those two hours did you intimidate
8 Ms. Smith?

9 A No sir, we did not.

10 Q Did you make her any promise in exchange for this
11 second statement?

12 A No sir, I did not.

13 Q Did you offer any hope or reward of any sort for this
14 second statement?

15 A No, sir.

16 Q Did it appear to you to be freely and voluntarily
17 given by Ms. Smith, the defendant?

18 A Yes, it did.

19 Q Did you make available to her restroom facilities?

20 A We did, yes sir.

21 Q If she needed refreshments, something to drink during
22 this two hour time period, would that had been available
23 to her?

24 A It would have been available and we did allow for a
25 smoke break.

1 Q Now, in this second statement, State's number 20 did
2 Ms. Smith recant killing Mr. Mayers?

3 A Yes, she did. She actually recanted that during the
4 outing of where they were on Judy B, that instead of her
5 being the one to actually fire the shots, it was actually
6 Tim Wise who pushed her away from being held in the arms
7 of Mr. Mayers, pushing her down to the ground and then Tim
8 firing two shots at Mr. Mayers.

9 Q And did she say anything in the May 26th statements
10 about Timothy Wise being the trigger man?

11 A No, sir.

12 Q And this written statement given on June the 10th of
13 2011 appear to you to be freely and voluntarily given by
14 Mandy Smith?

15 A Yes sir, it did.

16 Q Was it witnessed by any of your fellow officers?

17 A No sir, I was the only one.

18 Q This was just you and in the office and Ms. Smith
19 giving this written statement?

20 A Yes, sir. And at the time the officer that made the
21 transport was Deputy Michael Clayton and he stayed there
22 with me.

23 Q No further questions at this time.

24 THE COURT: Mr. Verner.

25 CROSS-EXAMINATION

1 By Mr. Verner:

2 Q Captain Dennis, my understanding is that the first
3 contact with law enforcement and Mandy Smith was somebody
4 went by Tim Wise's home to speak to them to see if they
5 knew anything about the missing man?

6 A That's correct, yes sir.

7 Q Were you involved in that?

8 A I was not involved with going by the home at that
9 particular time, no.

10 Q But the first encounter with law enforcement and the
11 defendant would be the home visit during the missing
12 person investigation?

13 A That would be my understanding, yes sir.

14 Q Do you know who that officer was?

15 A It was Major Boland as well as Lexington County.

16 Q And then my understanding is then Tim Wise gave a
17 statement kind of jointly to the Lexington County sheriffs
18 office and representatives of Newberry County office?

19 A That's correct.

20 Q And the reason for that was, the residence was in
21 Lexington but the last seen location was the residence of
22 the defendants in Newberry County so it was unclear who
23 had jurisdiction in the case?

24 A Repeat that again.

25 Q Because Mr. Mayers was a Lexington County resident

1 and they had initiated the investigation, at that time it
2 was kind of a joint investigation between the two?

3 A That's correct, yes sir.

4 Q And then I believe Tim Wise gave a statement to law
5 enforcement which, appears to be on Lexington County forms
6 where he gave a statement on May 20th?

7 A That's correct.

8 Q And were you present for that interrogation?

9 A No sir, I was not present for that time period.

10 Q Do you know who the representative for Newberry
11 County would have been?

12 A Yes sir, it would have been Major Boland.

13 Q And I believe as a result of the May 20th
14 interrogation of Tim Wise, he implicated Mandy Smith as a
15 possible suspect?

16 A On May 20th he implicated himself and Mandy Smith as
17 being part of the forgery of the warrant that was issued
18 for the vehicle being taken and destroyed at the
19 recycling.

20 Q That is my question. He doesn't mention that this
21 was forged, does he. He doesn't say whether it was legal
22 or illegal.

23 A He actually in that statement, if you read it, that
24 they did go by the DMV to pick that up and she had him to
25 fill out the top part of that DMV title.

1 Q And then he says, then I told her to go get him. I
2 assume that means, John Mayers, to sign it?

3 A Yes, sir.

4 Q And then I would help her move it?

5 A Yes, sir.

6 Q And then on a later date he helped her move the car?

7 A That's correct.

8 Q So she doesn't specifically say it was forged at all?

9 A No, sir.

10 Q And in fact we know that John Henry Mayers, if this
11 would have happened almost a month, at least several weeks
12 before John Henry Mayers was killed? The transaction
13 alleged to have occurred on April the 21st?

14 A April the, the actual selling of the vehicle took
15 place on April the 26th of 2011.

16 Q So that would be at least two weeks prior to the
17 death of John Henry Mayers?

18 A Or the missing report that was taken, yes sir.

19 Q And I am assuming he was killed on May 7th which,
20 understand that that is at least two weeks?

21 A That's correct.

22 Q Had John Henry Mayers, to your understanding, come
23 forth to report his car stolen?

24 A We had not received any information of that through
25 the sheriffs office.

1 Q Ordinarily if somebody notices their car missing,
2 they would typically, the typical person reports that to
3 law enforcement fairly quickly, don't they?

4 A Depending on the jurisdiction. If the vehicle is
5 missing from Lexington County, it would have been filed in
6 Lexington County. If it had been missing in Newberry the
7 report would have been filed with Newberry County.

8 Q You have been a detective and a deputy for a long
9 time, right?

10 A Yes, sir.

11 Q And typically people notice their car missing pretty
12 quickly?

13 A Kind of depends on the circumstances surrounding the
14 car, Mr. Verner, whether it is a vehicle on their property
15 for some period of time, whether it is growed up around it
16 or what or this is a vehicle that they would pass on a
17 daily basis to go into their home or whatever. That would
18 generally be viewed more quickly than one backed in on the
19 back side of your property.

20 Q Did you secure the arrest warrant for forgery or, it
21 appears that Major Boland signed it?

22 A Major Boland, yes sir, Major Boland actually did the
23 report and we got the information and he issued, went
24 before the Magistrate to secure a warrant.

25 Q And that was on the same day that Tim Wise was

1 interviewed by law enforcement, May 20th? If you don't
2 have it I can hand it up to you.

3 A Just bear with me. I have it. I was just making
4 sure of the dates.

5 Q Are you aware of any other, were you a participant in
6 obtaining the arrest warrant for forgery?

7 A No, I was not.

8 Q But you were involved in the investigation of the
9 murder for the disappearance of John Henry Mayers at that
10 point?

11 A At that point I was aware of the disappearance and
12 the investigation of them interviewing Mr. Wise on the
13 20th and then I came out after they had completed their
14 interview, yes.

15 Q About how long before May 20th had you been involved
16 in the investigation?

17 A I would say, prior to that as far as being involved,
18 I was aware of it a couple of days prior but did not come
19 officially involved until the night of the 20th.

20 Q Are you aware of any other evidence of forgery that
21 you investigated that you have personal knowledge of such
22 as family members of John Henry Mayers or somebody
23 corroborating?

24 A What are you asking, I am trying--

25 Q Did you do anything to investigate the forgery

1 charges?

2 A The only thing that I did, Mr. Verner, is I obtained
3 a handwriting sample of Mr. John Henry Mayers and that was
4 on, something dealing with the Credit Life and Accidental
5 Health Insurance.

6 Q When did you obtain that sample?

7 A On May the 25th of 2011.

8 Q And May the 25th was also the date that Mandy Smith
9 was served with the arrest warrant for forgery?

10 A I believe so, yes sir.

11 Q Were you involved with her arrest?

12 A No sir, I was not.

13 Q But you were involved in her very first statement to
14 law enforcement?

15 A That's correct.

16 Q Which would have been the day after she was arrested
17 for forgery?

18 A And that would have been the 26th.

19 Q So she had been in jail, when you talked to her she
20 was in prison?

21 A Yes, sir.

22 Q Jumpsuit?

23 A Jumpsuit.

24 Q Did she have leg irons on?

25 A I would say she probably did until, and don't hold me

1 to that because most of the time what we find is we are
2 able to allow those people to be transported and then if
3 they don't have the leg irons on them we take the
4 handcuffs off so they can have their movement so that they
5 can write and do different things. But as far as
6 remembering whether she had leg irons, I cannot remember
7 that.

8 Q Usually by policy, when the jail sends somebody they
9 are both in hand shackles and leg irons?

10 A That's correct. Policy dictates that.

11 Q But then, when they are actually remanded into your
12 custody you got the option to removing the hand shackles?

13 A That's correct.

14 Q And that is usually factored, if you are going to do
15 that is whether the, whether they are already shackled at
16 the feet?

17 A Yes, sir.

18 Q So probably she did come to you in irons?

19 A Yes, sir.

20 Q Do you remember what her demeanor was, was she
21 crying?

22 A At first she was not, she was, I wouldn't say she was
23 real quiet but she was at that point of trying to
24 understand everything that was going on with the case.

25 Q Do you remember what time, you spoke to her, it looks

1 like the statement was started at 3:51 p.m.

2 A Yes, sir.

3 Q Is that what time you first encountered her at the
4 sheriffs department or had she been there for an hour or
5 two long before that?

6 A No, sir. Once she got there and we made it into
7 Major Gilliam's office this would have been the first
8 sheet of paper that I filled out and filled out the time
9 at the top.

10 Q So your very first actions with her, other than maybe
11 an introduction or small talk, would be to do the Miranda
12 rights form?

13 A That's correct.

14 Q And you represented that she, you handed her the
15 statement and you read it line by line to her before she
16 signed it?

17 A That's correct.

18 Q And you must have talked to her, not quite three
19 hours before she gave the written statement, it appears
20 that the written statement's time is 7:37 p.m.

21 A Actually, Mr. Verner, the 7:37 is whenever we are
22 ending the statement. That is the completion time.

23 Q A little over two and a half hours?

24 A Yes, sir.

25 Q She didn't know you, there was no prior relationship

1 between you two, was there, she wouldn't have prior
2 dealings with you, would she?

3 A No, sir.

4 Q So you were a stranger to her?

5 A Yes, sir.

6 Q Were you wearing your weapon, your service weapon
7 during the investigation?

8 A I normally do, yes sir.

9 Q And remind again, was there a second officer who was
10 part of the first interrogation or statement?

11 A On the date of the 26th, that was in the office of
12 Major Danny Gilliam, Major Gilliam was present for a brief
13 period of time. He had to leave due to an engagement.
14 The other officer that was present at the time and was
15 employed with the Newberry Sheriffs Office was
16 Investigator Matt Bowers.

17 Q And she indicated to you that she had an eighth grade
18 education?

19 A That's correct.

20 Q Would be below high school, would be a fairly low
21 level of dropping out of school?

22 A It depends on how you classify it, Mr. Verner. Most
23 eighth graders can function in the day-to-day world with
24 an eighth grade education.

25 Q But certainly not a high level of education?

1 A Not a high level, no sir.

2 Q What level of education do you have?

3 A I have completed high school as well as two years
4 with an Associate Degree at Piedmont Tech.

5 Q So you have a college degree and a full high school?

6 A Yes, sir.

7 Q Did she say she was taking any medication?

8 A Nothing was indicated at that time, no, that she had
9 been taking any medication.

10 Q Do you recall asking her or is that something that
11 they would usually bring up?

12 A Depending on the demeanor of the individuals,
13 sometimes I ask especially if they don't have a time
14 period to sit like she, she was incarcerated, I would ask
15 if they had had any drugs or alcohol.

16 Q But your testimony is she was clearheaded at the
17 time?

18 A Yes sir, she appeared clearheaded and knew her
19 surroundings and where she was at.

20 Q She was in a depressed state, but at the very
21 beginning?

22 A I don't know if I can classify her as a depressed
23 state at the beginning but she was trying to understand
24 the questions and what was going on. And as the interview
25 continued she began to emotionally explain her story and

1 her actions and her way of living.

2 Q And you understood her way of living, she lived in a
3 shed behind Tim Wise's house with her dogs?

4 A I am not exactly sure that she had begin staying
5 there yet. From what I understood is she was in the
6 process of moving to that location. But that is what that
7 handy house was being prepared for was for her living
8 quarters.

9 Q Have you been to Mr. Wise's house as part of this
10 investigation?

11 A Yes, I have.

12 Q Were there a large number of dogs there?

13 A There were a large number of dogs and spider, snake.

14 Q When was Mr. Wise taken into custody and arrested?

15 A Mr. Wise was taken into custody on the 25th.

16 Q On the same day that Mandy Smith was taken into
17 custody?

18 A Yes, sir.

19 Q And you had, were you involved in the interrogation
20 of him?

21 A Yes, I was.

22 Q So you had the information that he had provided, did
23 you inform Mandy Smith what he had said?

24 A Yes, sir. During our conversation she was advised
25 that Mr. Wise had given a statement against her.

1 Q Did you tell her that Mr. Smith, I am sorry, that Mr.
2 Wise had been arrested for murder?

3 A That he was in custody I believe would have been the
4 conversation.

5 Q Are you aware of the criminal history of Mandy Smith?

6 A As far as her charges?

7 Q Any prior criminal history of Mandy Smith?

8 A Not that I am aware of. The only thing that I have
9 dealt with is the, would be the forgery.

10 Q Which you arrested her for the day before?

11 A Major Boland, yes sir.

12 Q And since then, are you aware now of what her
13 criminal history is or you haven't--

14 A I really haven't looked at that.

15 Q Would you agree with me that someone who has been
16 arrested before, particularly plenty of times would have
17 more of a understanding of what is going on as opposed to
18 somebody that has been arrested for the first time?

19 A Could you ask that again, Mr. Verner.

20 Q If you have been around the block, so to speak, as
21 arrested several times that you would tend to become a
22 little bit more savey with your dealings with law
23 enforcement, have you observed that in your career?

24 A Yes, sir.

25 Q And somebody who is arrested for the very first time

1 is probably more scared, the very first time they are
2 arrested and taken into custody?

3 A I believe it would depend on the person, Mr. Verner.

4 Q But you don't agree that the person being arrested
5 for the first time in your life is a traumatic experience
6 and put in jail?

7 A Unfortunately in this day and age we encounter
8 several folks who have been arrested for the very first
9 time and would pretty much turn their nose up to us and
10 walk away. And then you have those who understand that
11 they have done wrong and they want to remorsefully get as
12 much help and understanding for what they have done to
13 make it as not traumatic to them whenever they go through
14 the court process.

15 Q Was the second statement, by May 25th, she was
16 certainly a suspect of murder from the moment that Tim
17 Wise would have identified her, she certainly was a
18 suspect, correct?

19 A That's correct.

20 Q And I think she was given, she gave the statement to
21 you on May 26th and she received the arrest warrant for
22 murder on May 27th?

23 A That's correct.

24 Q And then she initiated contact with you on June the
25 10th?

1 A Yes, sir.

2 Q At that time you were aware she was facing a murder
3 charge which is probably, unquestionably the most serious
4 charge you can get, is that right?

5 A That's correct.

6 Q Did you make any attempt to contact an attorney or to
7 see if she was represented or advise her that she probably
8 ought to wait until counsel gets appointed to her before
9 she will give a statement?

10 A No, sir. After receiving the information that she
11 wanted to talk that was her initiating that contact with
12 me. And because that contact was made, that is the reason
13 why we read her her rights again which would inform her
14 that she would have the right to talk to an attorney.
15 That she could waive those rights, I mean she could tell
16 me that she didn't want to talk. This is who is
17 representing me or whatever and she made no indication
18 that she wanted to speak to an attorney and waive those
19 rights by signing and then giving a statement.

20 Q And I believe you indicated but not on the record
21 that there, there are several pages of handwritten notes
22 on line, paper. Those would be your notes,
23 contemporaneous investigation?

24 A That's correct. Those are my notes for the
25 investigation.

1 Q And the June 10th, that interrogation started in the
2 jail in Captain Kitchens office in the detention center?

3 A That's correct.

4 Q And at what point did you decide to move it from the
5 jail to the sheriffs department?

6 A Whenever she said that she needed to talk to me about
7 the statement that she had gave, that some of the parts
8 were not true.

9 Q So really prior to taking any substitutive statement
10 from her, at that point you just had her transported to
11 the sheriffs department?

12 A The sheriffs office, yes sir, at 520 Wilson Road.

13 Q And likewise by then she was still in the prison
14 garb, chains?

15 A That's correct.

16 Q And actually been in the detention center for about
17 two weeks?

18 A That's correct.

19 Q What kind of mental state did or demeanor at least
20 did she have?

21 A For an individual being in the situation she was in
22 her demeanor, she was talkative, she was alert, as far as
23 where do we go from her type situation. Then I read her
24 rights again and then she ultimately gave a statement.

25 Q Did she cry, was she weepy?

1 A She cried both times, both on the 26th as well as on
2 the 10th.

3 Q Did she appear to be depressed?

4 A Once again, I don't know if I am qualified to answer
5 to that, Mr. Verner.

6 Q And, of course, her educational level would not have
7 increased from June 26th through, I mean May 26th to June
8 10th?

9 A No, sir.

10 Q Still eighth grade?

11 A Still eighth grade education.

12 Q Are you aware of any other statements that law
13 enforcement has that are alleged given by Mandy Smith in
14 this case other than these two written confessions or
15 statements?

16 A These are the only two that I am aware of.

17 Q Thank you.

18 MR. STUMBO: Nothing further of Captain Dennis.

19 THE COURT: You may step down.

20 MR. STUMBO: Call Matt Bowers.

21 MATT BOWERS, being
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Stumbo:

25 Q Good afternoon, Mr. Bowers, how are you doing today?

- 1 A I am good.
- 2 Q Where are you currently employed?
- 3 A South Carolina Electric and Gas.
- 4 Q What do you do there?
- 5 A I am working security out at V.C. Summer Nuclear
6 Station.
- 7 Q And before going over to SCE&G where did you work?
- 8 A Newberry County Sheriffs Office.
- 9 Q What did you do there at the sheriffs office?
- 10 A The last six years I was there I was assigned to the
11 investigative unit.
- 12 Q Did you work with Captain Dennis who just testified?
- 13 A Yes, he was my Lieutenant at the time.
- 14 Q He was your direct supervisor at that time?
- 15 A Correct.
- 16 Q Did you have occasion to be involved with the
17 investigation involving the defendant, Mandy Smith?
- 18 A Yes, I did.
- 19 Q Were you present when Captain Dennis interviewed Ms.
20 Smith on May 26th, 2011?
- 21 A Yes, I was.
- 22 Q I am going to show you the statement here in State's
23 19. Did you sign as a witness that statement, the
24 statement that Ms. Smith gave?
- 25 A I did.

1 Q And during the time you were in the room when Ms.
2 Smith gave this statement did you intimidate her in any
3 way?

4 A No, sir.

5 Q Did you make her any promises?

6 A No, sir.

7 Q Did she appear to be clearheaded and clairvoyant?

8 A Yes, sir.

9 Q Did she appear to understand the rights as she was
10 read them by Captain Dennis?

11 A Yes.

12 Q And she appeared to give this written statement and
13 this interview freely and voluntarily?

14 A Yes.

15 Q She asked for a lawyer?

16 A No.

17 Q Was she in any way promised anything by you or
18 Captain Dennis, anything to give this statement?

19 A No, sir.

20 Q And in the midst of that statement did she admit to
21 killing Mr. Mayers?

22 A Yes.

23 Q Did she appear to be under the influence of any kind
24 of narcotics or alcohol?

25 A No, she did not appear to be.

1 Q And without hesitation signed the wavier of rights
2 form on the front of State's 19?

3 A I can't remember if I was present for the waiver of
4 rights. I know I was present during her interview and
5 statement.

6 Q While she gave the statement?

7 A I went down to Major Gilliam's office because we knew
8 Major Gilliam would have to leave.

9 Q So you took Major Gilliam's place when he left the
10 room?

11 A He was there part of the time I was there but we knew
12 he was going to have to leave before it was over. I don't
13 remember for sure if I was there when the rights were read
14 but it was clear that she knew she was being interviewed
15 and freely given the statement.

16 Q And you stayed there after Major Gilliam left until
17 the interview was completed?

18 A Yes.

19 Q No further question.

20 CROSS-EXAMINATION

21 By Mr. Verner:

22 Q Mr. Bowers, were you an active participant in the
23 interrogation or were you just kind of there as a witness
24 to observe?

25 A As a witness to observe.

1 Q In terms of speaking to her back and forth it was
2 largely Captain Dennis who was conducting the
3 investigation?

4 A Correct.

5 Q We are talking about Major Danny Gilliam?

6 A Yes.

7 Q Are you sure he was present in the room for the first
8 investigation?

9 A When I first came in there, yes, he was present. I
10 can't remember exactly how long he was present. The
11 reason I came down there was because he was going to have
12 to leave.

13 Q Is that policy for the sheriffs department is to
14 typically have a second officer to witness an
15 interrogation?

16 A Yes, we prefer to.

17 Q Certainly in a bigger investigation?

18 A Absolutely.

19 Q More important. But as far as actually participating
20 in the conversation you would not have had a role, if any,
21 at all?

22 A I don't recall asking any questions of Ms. Smith
23 other than, perhaps, how are you doing, small talk. I
24 didn't ask any interrogative questions about the case.

25 Q You didn't make any notes?

1 A No, I did not.

2 Q It is possible you may have been there when the
3 Miranda form was completed but you don't recall whether
4 you were?

5 A I can't swear to it because if I was there when they
6 were being read I would have more than likely signed the
7 form.

8 Q You agree that you did not sign?

9 A I agree that I did not sign the rights form, I signed
10 the witness form.

11 Q Had she already starting writing the form when you
12 came in?

13 A The statement?

14 Q Yes, sir.

15 A No, she had not started writing her statement.

16 Q So you were present for the entirety of her
17 statement?

18 A Of her written statement, yes sir.

19 Q You were paying attention to the questions though?

20 A Yes.

21 Q Were portions of what Tim Wise had said told to Ms.
22 Smith?

23 A I am sure some of what Tim Wise had said was
24 mentioned but I couldn't recall exactly what. I wasn't
25 personally aware of what Tim Wise had said. I wasn't

1 familiar with his statement.

2 Q And this was about two years ago, give or take?

3 A Yes, over two years.

4 Q Did you visit the home of Tim Wise or Mandy Smith at
5 that time?

6 A I knew I went to Mr. Wise's home at least on one
7 occasion but I don't recall even getting out of the
8 vehicle.

9 Q Do you remember if that was before they were taken
10 into custody or that was during the murder investigation?

11 A I believe that was during the murder investigation.

12 Q Okay. So you would not have any contact with them
13 during the missing persons investigation that you recall?

14 A Not with Ms. Smith or Mr. Wise, no.

15 Q Okay. Thank you.

16 THE COURT: Redirect?

17 MR. STUMBO: Nothing, Your Honor. We call Danny
18 Gilliam to the stand.

19 DANNY GILLIAM, being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Stumbo:

23 Q Good afternoon, Major Gilliam.

24 A Good afternoon.

25 Q You are employed by Newberry County?

- 1 A I am Major for Newberry County Sheriffs Office.
- 2 Q You work with this guy to my left, Captain Dennis?
- 3 A Yes, sir.
- 4 Q Did you have occasion to be involved with the
- 5 investigation of Mandy Smith, the defendant?
- 6 A Not the investigation part. I was involved in the,
- 7 when she was brought to my office due to the office is
- 8 bigger and also has a bathroom in it, it is more
- 9 convenient.
- 10 Q Okay. Captain Dennis brings Mandy Smith, the
- 11 defendant, to your office at the Newberry County Sheriffs
- 12 Office?
- 13 A Yes, sir.
- 14 Q And is that where her interview was conducted?
- 15 A Yes, sir.
- 16 Q And were you present therein the office when Captain
- 17 Dennis read Mandy Smith her Miranda rights?
- 18 A I am pretty sure I was.
- 19 Q You didn't sign the form, correct?
- 20 A No sir, I did not.
- 21 Q But it was in your office at that time?
- 22 A Yes, sir.
- 23 Q And you were in and around the office at the time she
- 24 was interviewed?
- 25 A Yes, sir.

1 Q During the time that Mandy Smith was in your office
2 did you promise her anything in exchange for her
3 statement?

4 A No, sir.

5 Q Did you intimidate her in any way?

6 A No, sir.

7 Q Did you threaten her in any way to get her to give
8 you her statement?

9 A No, sir...

10 Q Did you observe Captain Dennis ever threaten her
11 while he read her her rights?

12 A No sir, I did not.

13 Q Did her statement appear to be given freely and
14 voluntarily to y'all?

15 A Yes, sir.

16 Q Did she appear to be under the influence of any drugs
17 or alcohol or any sort of thing?

18 A No, sir.

19 Q You didn't smell any alcohol on her?

20 A No, sir.

21 Q She was in custody at that time of the sheriffs
22 department, correct?

23 A Yes, sir.

24 Q Was she given the opportunity, you said you had a
25 bathroom in your office, is that correct?

1 A Yes, sir.

2 Q So if she had needed to use the restroom y'all had
3 one right there in the office?

4 A Yes, sir.

5 Q If she had requested any kind of refreshments or
6 something to drink would you have offered that to her?

7 A Yes, sir.

8 Q And you didn't promise any hope or reward or any kind
9 of exchange for a plea offer or any kind of benefit for
10 giving y'all this statement that day?

11 A No, sir.

12 Q To your observation did Captain Dennis act
13 professionally when he interviewed Ms. Smith?

14 A Yes, sir.

15 Q Did he follow all the protocols?

16 A Yes, sir.

17 Q And he read her her Miranda rights?

18 A Yes, sir.

19 Q And at any time did Ms. Smith ask for a lawyer?

20 A No, sir.

21 Q At any time did she ask to stop the questioning and
22 stop the statement?

23 A No, sir.

24 Q Stop the interview, she never requested that?

25 A No, sir.

1 Q No further questions.

2 CROSS-EXAMINATION

3 By Mr. Verner:

4 Q Major Gilliam, were you, prior to the interview with
5 Mandy Smith on May 26th in your office were you involved
6 in the missing persons investigation?

7 A No sir, I was not.

8 Q That ordinarily would not have been part of your
9 duties?

10 A No sir, it would not.

11 Q So this would be the first encounter you would have
12 had with Mandy Smith?

13 A Yes, sir.

14 Q Were you there for the reading for the Miranda
15 rights?

16 A Yes sir, I was.

17 Q Were you an active participant in the question and
18 answering?

19 A I was just there observing.

20 Q So you wouldn't characterize yourself as being a
21 participant in there other than as a witness?

22 A No, sir.

23 Q May have exchanged some small talk?

24 A Yes, sir.

25 Q About how long were you there before you left?

- 1 A Maybe about an hour or so.
- 2 Q Okay. Do you recall anybody else being in the
3 investigation, in the interrogation?
- 4 A No sir, just Captain Dennis and Investigator Bowers.
- 5 Q Were you offered, is there a reason you did not sign
6 the Miranda form?
- 7 A No sir, I just didn't sign it.
- 8 Q But you do remember being there when it was
9 individually put to Mandy Smith?
- 10 A Yes, sir.
- 11 Q Did she seem to be coherent or in a state of shock or
12 what was her demeanor to you?
- 13 A I think she understood what she was doing and where
14 she was at, yes sir.
- 15 Q Was she providing information or was she answering
16 questions?
- 17 A She was providing and answered questions.
- 18 Q Had you been to the home, prior to the interrogation
19 you would not have been to Tim Wise's home?
- 20 A No, sir.
- 21 Q Had you been to that house subsequent to the
22 investigation?
- 23 A No, sir.
- 24 Q Is it fair to say that you were not in the
25 investigations department of the sheriffs department?

1 A I was not.

2 Q My understanding you primarily handled the
3 corrections department of the sheriffs office and
4 personnel?

5 A At that time, yes sir.

6 Q The reason he was using your office was just merely,
7 it was a little bit nicer accommodating.

8 A It had a bathroom in it and we did have the,
9 refreshments that anybody would need.

10 Q Do you recall if she was handcuffed during the
11 interrogation?

12 A No sir, I don't think she was handcuffed.

13 Q Was she in leg irons?

14 A I don't remember that.

15 Q She was in a prison jumpsuit?

16 A Yes, sir.

17 Q And you were not involved in any of the statements of
18 Tim Wise, any of the interrogations of Tim Wise?

19 A No, sir.

20 Q Not prior to the investigation. Did you have any
21 involvement in the forgery investigation?

22 A No, sir.

23 Q Thank you.

24 THE COURT: Redirect?

25 MR. STUMBO: Just briefly.

REDIRECT EXAMINATION

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By Mr. Stumbo:

Q Major Gilliam, just to get our timeline right, just to clarify this for me. You did go in the vehicle with Captain Dennis and Tim Wise out to the National Forest and found the body?

A Yes sir, I did.

Q And so you were part of that with Tim Wise?

A Yes, sir!

Q And that was the day before y'all interviewed Ms. Smith?

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q So you were involved at that point, the day before Ms. Smith was interviewed and you were in the vehicle going out there to find the body in the National Forest?

A Yes sir, I was.

Q Judy B. Road, is that correct?

A Yes, sir.

Q That is all I have.

THE COURT: Recross?

MR. VERNER: No, sir.

THE COURT: You may call your next witness, Solicitor.

1 MR. STUMBO: That's all we have, Your Honor, for
2 Jackson v. Denno.

3 THE COURT: Does the defense intend to present any
4 evidence and testimony, Mr. Verner?

5 MR. VERNER: Yes, sir.

6 THE COURT: We will take about a ten minute recess.

7 (Whereupon, a short break was taken.)

8 THE COURT: All right, Mr. Verner.

9 MR. VERNER: We call Wesley Boland to the stand.

10 WESLEY BOLAND, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Verner:

14 Q Tell me your name for the record.

15 A Major Wesley M. Boland, Newberry County Sheriffs
16 Office.

17 Q And how long have you been with the Newberry County
18 Sheriffs Department?

19 A Going on 21 years.

20 Q What is your primary duty at the sheriffs department?

21 A When they hired me or in 2011?

22 Q Currently today.

23 A Currently I handle all the patrol functions and help
24 supervise investigations.

25 Q Is that different than was the case in May of 2011?

1 A At the time Major Gilliam was my supervisor and I was
2 Captain of what Robert Dennis is doing.

3 Q So you were primarily the investigator?

4 A I had road patrol and, yes.

5 Q In 2011 who were the other investigators at the
6 sheriffs department?

7 A Robert Spring, Matt Bowers and Nick Bouknight.

8 Q At that time was Robert Dennis an investigator?

9 A He was Lieutenant.

10 Q What does that mean?

11 A He was the supervisor of that unit.

12 Q So he was an investigator and he was also supervising
13 members of the investigative team?

14 A Yes, sir.

15 Q Do you recall what your first involvement in the
16 case, were you involved in the missing persons case of
17 John Mayers?

18 A Very much so.

19 Q In fact, it appears you were probably the lead
20 investigator or person in that case dealing with Lexington
21 County in the very beginning of the case?

22 A Some of the citizens and family had notified me prior
23 to Lexington wanting me to help Lexington. And until they
24 notified me I gathered what information I could. But
25 until I got in touch who was doing everything in

1 Lexington.

2 Q Are there family members from Newberry County, some
3 of Mr. Mayers family does live in Newberry County?

4 A Yes.

5 Q Okay. And so they also had reported to you, my
6 brother or my family member is missing?

7 A Not at that point. John Henry's family had filed a
8 report with Lexington but they wanted us to help too.

9 Q Because he had been in Newberry County frequently?

10 A Yes.

11 Q At some point that you went to visit Tim Wise and
12 Mandy Smith at their home, at Tim Wise's home?

13 A On a couple of different times.

14 Q Okay. Do you recall the first time you went?

15 A Would have been May the 16th, right about then.

16 Q Did you meet Mandy Smith at that time?

17 A I did.

18 Q And you met Tim Wise?

19 A I did.

20 Q And they didn't have anything, they were not
21 identified as suspects at that time?

22 A Lexington was trying to locate them, I was trying to
23 assist Lexington. At that time when I figured out where
24 they were and how to get in touch with them and did,
25 Lexington County could not come that afternoon. So I went

1 in and spoke to them briefly just trying to get any
2 information about John Henry's disappearance.

3 Q Was it a possible murder case at that time or was it
4 strictly just a missing person?

5 A A missing persons. I was assisting Lexington in
6 trying to locate a missing person at that time.

7 Q Did you see where Mandy Smith was living?

8 A She was the house when I went there. She was
9 actually in the house.

10 Q Had you called beforehand to say, I am coming up
11 there though?

12 A I did.

13 Q Did you go and look to where she was living at that
14 time?

15 A No, sir.

16 Q So May 16th you went and spoke briefly to Mr. Wise
17 and Mandy Smith at Tim Wise's house and then you left?

18 A Yes.

19 Q Did they give you any useful information at that time
20 that you acted on?

21 A Just information that she said that John Henry had
22 been with Elvis Hill, that was one of the names she spit
23 out. And she, you know, denied her being in any
24 involvement in it whatsoever. I didn't know any details
25 other than what Lexington had and he wasn't able to come.

1 So I just kind of made contact with her, found out
2 anything she may have saw or heard or seen or anything
3 that may assist us.

4 Q Did you speak to Elvis Hill afterwards or was that a
5 different--

6 A That was the next day.

7 Q You did, you are the investigator that spoke to Elvis
8 Hill?

9 A I was one of them, yes sir.

10 Q And he confirmed that he had been with John Henry?

11 A He denied it.

12 Q He denied that he had even been. Okay. What was
13 your next contact with either Tim Wise or Mandy Smith?

14 A The 17th after we left the jail myself and Detective
15 Billy Derrenbacher with Lexington County went back and
16 that is when we spoke to Mandy again.

17 Q Tim Wise's house?

18 A Yes.

19 Q What was the point of the second visit?

20 A Information that Billy had, Investigator
21 Derrenbacher, to let him talk directly to her because at
22 that time I had no information as to what he had from the
23 family or anything else. So just trying to get a little
24 more detail on what she had seen or heard or anything
25 else.

1 Q Who led the second interrogation, I call it
2 interrogation but I understand it is at her house, the
3 second contact?

4 A It was on the front porch of Timmy's house.

5 Q What encounter or what would you call the nature of
6 that type?

7 A Simply the same type of questions and that was myself
8 and Investigator Derrenbacher.

9 Q Were you, who was the lead investigator, the one
10 doing most of the talking?

11 A Investigator Derrenbacher on the 17th. Now, the
12 16th, I would have been there as well.

13 Q But the 17th was the first time that Lexington
14 County--

15 A Had made it up, yes sir.

16 Q Had made it up. Was there anything different
17 discussed on the 17th?

18 A Tried to get more detail. Investigator Derrenbacher
19 took what notes and information he had then.

20 Q Was Mandy Smith identified as a possible suspect in a
21 murder case after the meeting on May the 17th?

22 A No. We did not have a body or anything at that time.

23 Q So it is still just a missing persons investigation?

24 A Up until right at that point, yes sir.

25 Q And do you remember your next involvement in the case

1 as far as Mandy Smith and Tim Wise?

2 A It was every day from then on.

3 Q Just contacting different people?

4 A Continuously.

5 Q Did you have more contact with Mandy Smith after the
6 17th up until the, the arrest warrant was issued May 20th?

7 A Yes.

8 Q And you are the affiant or the prosecuting officer?

9 A I am.

10 Q On what basis was that forgery warrant obtained?

11 A Between the information gathered from the family, in
12 reference to the car of John Henry's, in reference to
13 statements made by Timmy Wise and also the handwriting, I
14 did not have a sample at the time but the family had, I
15 had let the family look at it and said, that was not John
16 Henry's writing on it.

17 Q Your testimony is that the family of John Henry had
18 looked at the handwriting sample and said we don't think
19 that is John Henry's?

20 A There was no question.

21 Q And it doesn't appear in Timothy Wise's statement on
22 May 20th that you talked about forging a bill of sale,
23 certainly didn't use that term. Are you sure that he said
24 the car was illegally--

25 A He said that him and Mandy had filled out the

1 paperwork their self.

2 Q But he certainly doesn't say we were doing it as part
3 of a forged ring, does he?

4 A Forged ring. They would have had to have the
5 paperwork to sell it to a scrapyard. That is why they
6 wanted the paperwork.

7 Q So he admitted that he had helped her forge the
8 document?

9 A He helped fill out that document, yes sir.

10 Q But doesn't he say, I told her to go get John Henry
11 to sign it?

12 A Well, he said that then. But as we further got into
13 it there was no question that Mandy had signed it. He
14 denied being there when it was actually signed. But he
15 did say that she did it because she wanted to get rid of
16 the car and get some money that John Henry owed her.

17 Q Are you aware of whether John Henry himself had made
18 any complaints about the car being taken prior to this?

19 A There was not a complaint filed with the sheriffs
20 office.

21 Q And certainly would not have been, would this have
22 happened in Newberry County or Lexington County?

23 A The car was actually parked at her house in Newberry
24 County where she was renting at the time.

25 Q That is not Tim Wise's house, that is the Wheeland

1 School?

2 A Wheeland School address.

3 Q Okay. Did you have any other information that you
4 based the forgery warrant on?

5 A As far as, I mean--

6 Q The family said that this signature does not appear
7 to be John Henry's?

8 A And then also the people at the yard itself, the
9 scrapyard, PMR, as well identified Mandy as the one
10 bringing it up there and Timmy.

11 Q And Tim Wise did not specifically say it, but you are
12 saying that he eluded to the fact that Mandy must have
13 signed?

14 A He said that Mandy was the one wanting it done
15 because of money that supposedly that John Henry owed her.

16 Q Have you read the Lexington County statement for this
17 case?

18 A I have not.

19 Q Were you with Timothy Wise when he gave his May 20th
20 statement to Lexington County?

21 A I was in there with Billy Derrenbacher, yes sir.

22 Q Was Mandy Smith identified as a suspect, when Tim
23 gave his statement on May 20th, no charges and no suspects
24 had been identified in a murder case at that point, right?

25 A We did not have a body yet but according to financial

1 records and talking to the family there was not a question
2 that John Henry was probably deceased somewhere.

3 Q Money was accruing in his checking account that he
4 would ordinarily have taken out?

5 A Would have been gone.

6 Q And y'all identified Mandy Smith as a possible
7 suspect by May 20th?

8 A Absolutely.

9 Q But just didn't have any hard evidence at that time
10 to make any charges against anybody?

11 A As far as a homicide?

12 Q As far as the homicide investigation and Timothy
13 Wise, after his May 20th statement was he still considered
14 a possible suspect too in the disappearance or did y'all
15 believe his statement?

16 A He was absolutely a suspect as well.

17 Q So even though he didn't make any incriminating
18 statements as far as himself, he hadn't been ruled out
19 either. I guess my question is, ultimately, the forgery
20 charges are still pending, unresolved?

21 A Yes, sir.

22 Q Was obtaining the forgery charges against Mandy to
23 bring her into custody done in furtherance of the murder
24 investigation?

25 A Explain.

1 Q By May 20th Mandy, there is no evidence that I think
2 I can get a Magistrate to sign a murder warrant for her
3 arrest?

4 A I didn't have a body.

5 Q Right. But was the forgery charge made in an attempt
6 to get her into custody where we could interrogate her?

7 A She was definitely a person of interest in the
8 missing of John Henry Mayers.

9 Q Was that a factor in taking out the forgery arrest
10 warrant on her, that she was a suspect in the murder case?

11 A Yes. Not a murder but a missing person that we
12 didn't know where he was, a body.

13 Q And once she was in custody then law enforcement
14 would have the access to interrogate her about the other
15 charges that she was suspected of?

16 A Absolutely.

17 Q Okay. Did you have any participation in any of the
18 interrogations of Mandy Smith once she was taken into
19 custody?

20 A I did not.

21 Q You didn't interrogate her about the forgery charges?

22 A Nothing, no. Actually very little on that. I mean I
23 had everything there as far as that.

24 Q Were you the arresting officer of Mandy Smith?

25 A Actually she was arrested in Greenville County. I

1 did go to Greenville County and meet with him. And
2 Greenville County took her in custody in Greenville County
3 and I took her from there.

4 Q Were you at the arrest scene too?

5 A I was.

6 Q But is Greenville County jurisdiction but you were an
7 assisting officer?

8 A It was our warrants and she was in NCIC and I went to
9 Greenville, met them and we went and found her.

10 Q Had you had prior conversations with her about her
11 coming to Newberry to turn herself in?

12 A She ran from us, ain't no questions.

13 Q But you had been talking to her by telephone?

14 A I had.

15 Q About how many conversations by telephone prior to
16 arresting her in Greenville?

17 A She took off that whole weekend prior to that so I
18 will have to look at the dates, I can't tell you exactly
19 but she had been running from me for days.

20 Q But she had been calling or maintaining phone
21 contact?

22 A Oh, no. Not after we tried to speak to her that last
23 Friday and she took off and we went all the way around the
24 State after that.

25 Q How was she located?

1 A She was located at her mother's house in Greenville.

2 Q From information that you had or from information
3 that just Greenville found her on their own?

4 A That was the information that I had.

5 Q That she might be at her mother's house. But then
6 prior to that it had been a couple of days before she had
7 spoken to you by telephone?

8 A Yes, sir.

9 Q Had she made any times that she was going to turn
10 herself in?

11 A She had claimed she was when she took off before. We
12 waited hours and she never showed.

13 Q And the mother is Vicki McCartha?

14 A I can't remember her name, I do remember her being
15 there that night.

16 Q Had she made any statements to you or the mother that
17 they were trying to hire an attorney and they wanted to
18 turn themselves in or make a statement where they had an
19 attorney.

20 THE COURT: That is the mother?

21 MR. VERNER: Well, either.

22 THE COURT: What was your question.

23 MR. VERNER: My question was, had either.

24 THE COURT: What was your initial question.

25 Q Had either Mandy Smith or her mother, Vicki McCartha

1 made any statements to you that she wanted to turn herself
2 in after she hired an attorney?

3 A At the night up there she claimed that, yes.

4 THE COURT: Who is she?

5 A Vicki McCartha, her mother--

6 THE COURT: Don't yell at me.

7 A I am sorry, Judge.

8 THE COURT: Who is she. Is it Ms. McCartha or is it
9 Ms. Smith? Who is the she you are referring to?

10 A Her mother, Ms. McCartha would be the only person
11 that said anything.

12 Q And the mother was aware that y'all were looking for
13 Mandy?

14 A Yes, sir.

15 THE COURT: Thank you, Mr. Verner. Thank you, Major,
16 also.

17 MR. VERNER: I have nothing further.

18 THE COURT: Solicitor.

19 CROSS-EXAMINATION

20 By Mr. Stumbo:

21 Q Just briefly. Major Boland, did you have paperwork
22 and other evidence to get this forgery warrant on Ms.
23 Smith?

24 A Yes, sir.

25 Q You had a bill of sale, is that correct?

1 A Yes, sir.

2 Q And the bill of sale had the forged signature on it
3 of Ms. Smith?

4 A It had the forged signature of John Henry Mayers.

5 Q Correct. But at that time you knew that that wasn't
6 John Henry's signature based on the paperwork or the
7 sample given to you by his family, correct?

8 A Yes, sir.

9 Q So at that point in your estimation did you have
10 probable cause to go to the Magistrate and get the
11 warrant?

12 A Yes, sir. Also it was information from the metal
13 recycle that John Henry was not there at all when the car
14 was actually taken to the recycling.

15 Q So you did talk to the metal scrap recycler who also
16 gave you paperwork with Ms. Smith's signature on it
17 scrapping the car, right?

18 A Picture of ID, yes.

19 Q And when you went over, you indicated that it was on
20 Tim's front porch when you first spoke with both Mr. Wise
21 and Ms. Smith, correct?

22 A Yes, sir.

23 Q Was that Tim Wise's mother's house, is that correct?

24 A Yes, sir.

25 Q So she actually owned the house, not Tim Wise?

1 A Yes sir, Timmy.

2 Q Timmy lived there?

3 A Yes, sir.

4 Q And at that point Mandy Smith was staying there some
5 too to your understanding?

6 A That was my understanding.

7 Q But she still had a residence down on Wheeland School
8 Road in Little Mountain?

9 A They said they had moved out of there by then. Until
10 I found her she was totally moved out from Wheeland
11 School.

12 Q That was the point in which you did make that first
13 contact, correct?

14 A Yes.

15 Q After you made that first contact where did Ms. Smith
16 go?

17 A After I made the first contact, on the 16th because
18 on the 17th is when me and Investigator Derrenbacher came
19 back to talk to her some more in detail.

20 Q And she fled the area at that point?

21 A No, sir. It was not until, I will have to look at
22 the dates, it was a couple of days after that.

23 Q You didn't see her again after that is what I am
24 getting at.

25 A No, sir.

1 Q The next time you saw her was when Greenville County
2 picked her up on your forgery warrant?

3 A Yes, sir.

4 Q Did you interview her at that point?

5 A I brought her back to Newberry and put her in jail.

6 Q Okay. So in that you did not interview her, you had
7 no need to go through the Miranda rights process?

8 A No, sir. I was not questioning her in any way. I
9 made it clear that I didn't want to talk to her about
10 anything.

11 Q And at that point Captain Dennis took over that part
12 of it and ended up talking to her sometime later?

13 A Yes, sir.

14 Q Now, during that trip back from Greenville did you
15 threaten Ms. Smith at all?

16 A None whatsoever.

17 Q Did you promise her anything to talk to anybody about
18 the forgery case or the missing persons case?

19 A No.

20 Q No further questions.

21 THE COURT: Redirect?

22 MR. VERNER: No redirect, Your Honor. I will call
23 Mandy Smith.

24 MANDY SMITH, being
25 first duly sworn, testified as follows:

1 Q What happened as far as you being taken into custody.
2 Did they just tell you to turn around or what were the
3 facts of them actually taking control of you?

4 A I told them to come on in and they put me in
5 handcuffs.

6 Q And then immediately turned over to Major Boland?

7 A The Major Boland is the one that put me in handcuffs.

8 Q Did they tell you why they were there?

9 A I really don't remember.

10 Q Did they serve you with an arrest warrant or any kind
11 of--

12 A No, no sir.

13 Q Did you have any conversations with any of the
14 officers while you were in the home of your mother in
15 Greenville?

16 A No sir, I sure didn't.

17 Q So it was pretty much limited to being taken into
18 custody and pretty much Major Boland was acting as the
19 lead arresting officer?

20 A Yes, sir.

21 Q He handcuffed you?

22 A Yes, sir.

23 Q And then how long before he put you in his vehicle?

24 A Not long, maybe fifteen minutes, he let me use the
25 bathroom.

1 Q What were you wearing at that time?

2 A Shorts and a tshirt, a pair of sandals.

3 Q Were those sleep clothes or were those just regular
4 outdoor?

5 A Just regular outdoor clothes.

6 Q Were you awake when they knocked on the door?

7 A Yes sir, me and my mom were sitting at the kitchen
8 table.

9 Q Had you had conversations, you were aware weren't you
10 that Major Boland was looking for you?

11 A Yes. I had called Major Boland earlier that night
12 whenever my mom had picked me up. And I told him--

13 Q Are we talking about the same night that you were
14 arrested or earlier?

15 A Yes, sir. I had talked to him a couple of different
16 times but that night that I got arrested I talked to him
17 earlier that day whenever my mom had picked me up. And I
18 told him that me and my mom were trying to get a lawyer
19 and that we would be there in the morning to see him.

20 Q And you were aware he was looking for you for the
21 forgery case or for the missing--

22 A My mom told me he was looking for me for, he needed
23 to talk to me.

24 Q Did you know what he was going to talk to you about?

25 A John.

1 Q That John was missing or that, didn't he tell you he
2 wanted to talk to you about a forgery case?

3 A No, I had no idea about the forgery case.

4 Q Did he have a SUV or a squad type vehicle he put you
5 in?

6 A A big white truck with a couple of silver tool boxes
7 in the back.

8 Q A pickup, law enforcement pickup vehicle?

9 A Yes, sir.

10 Q Were there any other officers with you for the ride
11 back to Newberry?

12 A Captain Boland and a really tall big bald guy.

13 Q From Newberry County?

14 A Yes, sir.

15 Q Do you know if his last name was Spring?

16 A I have no clue.

17 Q Did they talk to you at all?

18 A Captain Boland made a couple of comments on the way
19 back about, that I just need to come clean, a couple of
20 different comments but that is it.

21 Q You said you were in the house for about fifteen
22 minutes before you were put into the law enforcement
23 vehicle?

24 A If that. They weren't in there long, long enough for
25 me to use the bathroom and they put me in handcuffs and my

1 mom gave me a hug and we left.

2 Q Had any of the officers to your recollection read you
3 your Miranda rights?

4 A Yes, Captain Boland did before he put me in his
5 truck.

6 Q Did he just read them from a card?

7 A Yes, sir.

8 Q You recall him getting you to sign anything?

9 A No, sir.

10 Q But basically he read the rights from the card, did
11 he recite them from memory or do you even recall?

12 A He pulled out a little card.

13 Q And just basically read you your rights?

14 A Yes, sir.

15 Q To be clear, prior to that time you had told him that
16 you were going to turn yourself in, not your mother, but
17 you are saying you are the one--

18 A I talked to him.

19 Q That you were trying to hire an attorney to turn
20 yourself in and talk to him?

21 A Yes, sir.

22 Q I understand you just said that Major Boland said you
23 need to come clean during the trip home?

24 A Yes, sir.

25 Q Were there any other statements?

1 A He made a couple of more but I really don't remember
2 them.

3 Q About the specific John Henry Mayers case or just
4 about just general stuff?

5 A I really don't remember what all he said.

6 Q The only specific thing you remember is just that you
7 need to come clean?

8 A Yes, sir.

9 Q About whether he offered to help you out or anything
10 like that, you can't recall?

11 A No, sir.

12 Q Where did you, I would assume it would take you about
13 two hours or so to come back from Greenville to Newberry?

14 A It didn't take very long, he did like 110 all the way
15 back.

16 Q I assume the lights were on?

17 A No, sir.

18 Q Were you in the front of the truck or the back?

19 A The back.

20 Q At some high speed y'all came back home, y'all got
21 home quicker than the average commute?

22 A Yes, sir.

23 Q Where did you go after you came back to Newberry?

24 A He took me into the jail.

25 Q Did he participate in booking you in?

- 1 A No, sir. They just put me in a uniform and stuck me.
- 2 Q Did anybody interrogate you that night?
- 3 A No, sir.
- 4 Q What was your state of mind that night?
- 5 A Not very good.
- 6 Q Have you had a history of mental illness?
- 7 A Yes.
- 8 Q What did you have to diagnose for or suffer from?
- 9 A I am not quite sure, I really don't remember.
- 10 Q Have you been in-patient treated before mental
11 health?
- 12 A Yes, sir.
- 13 Q For what, do you recall what--
- 14 A No sir, I don't. I don't remember being there.
- 15 Q Have you had depression over the years?
- 16 A Yes, sir.
- 17 Q Have you ever been locked up before, my understanding
18 is that you have been arrested in the State of Michigan in
19 the year of 2000, is that correct?
- 20 A Yes sir, for marijuana.
- 21 Q Simple possession of marijuana?
- 22 A Yes, sir.
- 23 Q How long were you in jail for that charge?
- 24 A Thirteen days.
- 25 Q But that was, you had plead pretty quickly and that

1 was the sentence you had to do?

2 A Yes, sir. And I had to have probation for right at
3 eight months. As soon as I paid my probation off I was
4 done.

5 Q And in the year, you were born in 1977?

6 A Yes, sir.

7 Q So you were probably 23 at that time?

8 A Yes, sir.

9 Q Since then had you ever been arrested or put in jail
10 before?

11 A No, sir.

12 Q Have you ever been interrogated or investigated as a
13 suspect in a crime?

14 A No, sir.

15 Q This was all new to you as far as being taken into
16 detention?

17 A Yes sir, very much so.

18 Q Who was the next officer who came and spoke to you?

19 A Robert Dennis.

20 Q About the facts of the case, not just general stuff
21 but just about the actual facts of your case?

22 A Robert Dennis.

23 Q And you remember Robert Dennis at the table?

24 A Yes.

25 Q How was that contact initiated?

- 1 A I had been transported to the sheriffs office.
- 2 Q How long had you been in jail before you were taken
- 3 to the--
- 4 A I really wasn't quite sure because they had me in a
- 5 little room with no phone calls or nothing.
- 6 Q Did Robert Dennis come and pick you up from the
- 7 detention center or did one of the CO's carry you over
- 8 there?
- 9 A To be honest with you I really don't remember how I
- 10 got over there.
- 11 Q Had you sent word that you wanted to speak to law
- 12 enforcement about this case?
- 13 A I wrote him a letter.
- 14 Q No, the first day you got arrested?
- 15 A No, sir.
- 16 Q So that was initiated by law enforcement, the first
- 17 interview?
- 18 A Yes, sir.
- 19 Q And you were taken to the sheriffs department, do you
- 20 remember being taken to the sheriffs department?
- 21 A Yes, sir.
- 22 Q Were you in a prison issued jumpsuit?
- 23 A Yes, sir.
- 24 Q Were you in chains?
- 25 A Yes, sir.

1 Q Were they over your feet?

2 A Yes, sir.

3 Q Were they over your hands?

4 A Yes, sir.

5 Q Who took control of you at the sheriffs department?

6 A Robert Dennis.

7 Q Was he pleasant when you met him?

8 A Yes, sir.

9 Q Where did you go at the sheriffs department?

10 A He took me into an office and started asking me
11 questions.

12 Q Do you recall whose office that was?

13 A No, sir.

14 Q You heard and you saw Major Gilliam testify just a
15 minute ago that it was his office?

16 A Yes, sir.

17 Q Do you recall seeing Major Gilliam that night?

18 A No sir, I sure don't.

19 Q Had you seen him prior to today though?

20 A Yes sir, at the second interview.

21 Q But you do not recall him, are you sure he was not
22 there or just you do not recall seeing him?

23 A I do not recall seeing him.

24 Q Was Robert Dennis by himself or were there any other
25 officers in there with him?

- 1 A I thought Robert Dennis was by himself for a good
2 portion of the time and then a dark headed officer came in
3 and sat with us.
- 4 Q Did that look like Matt Bowers who testified a little
5 bit earlier?
- 6 A I thought he was younger but yes.
- 7 Q A younger officer than Mr. Dennis came in and sat
8 through it?
- 9 A Yes.
- 10 Q And those were the only two that you spoke to?
- 11 A Yes, sir.
- 12 Q Did they tell you, how was the interviews conducted.
13 Was it question and answer or did they just say, tell us?
- 14 A They told me a lot of information about what Tim had
15 told them.
- 16 Q What did they tell you, as best specifically that you
17 can recall, what did they tell you that they already knew?
- 18 A They told me about the shell casing being lodged in
19 the gun. And then, they told me something about a hole
20 being dug.
- 21 Q Did they tell you Tim had implicated you?
- 22 A Yes.
- 23 Q Did they tell you that Tim Wise was in custody?
- 24 A No, sir.
- 25 Q What was your belief as to whether Tim was arrested

1 or not?

2 A I thought he was out, he was free.

3 Q Was that a concern of yours?

4 A Yes, very much so.

5 Q Why was that?

6 A Because he--

7 Q By he, tell me who you are talking about
8 specifically.

9 A Because Tim Wise had threatened my family and my dogs
10 and he had, he was able to contact all of those people.

11 Q Do you know whether he had been contacting them?

12 A I don't really know.

13 Q He knew who they were?

14 A Yes, he knows where all of my family lives.

15 Q Had he made specific threats to you?

16 A Yes, sir.

17 Q That he would kill your dogs and kill your family?

18 A Yes, sir.

19 Q Did he tell you specifically who his family, who your
20 family--

21 A My mom and Don Buford, my dogs.

22 Q What did he threaten to do to Don Buford?

23 A To kill them if I told anybody what happened.

24 Q Was it important to you that he had threatened your
25 dogs?

- 1 A Very much so. My dogs are my life.
- 2 Q Explain that a little bit more to me.
- 3 A I spend a good part of my, because I can't have kids,
4 so I spend a good part of my life rescuing and training
5 and re-homing dogs and I really zeroed in on deaf dogs, I
6 love deaf dogs. And so I spend a lot of time and that is
7 what I dedicated my life to.
- 8 Q How many dogs did you have?
- 9 A I had ten at that time.
- 10 Q Where were they at the time you got arrested?
- 11 A In a shed behind Tim's house where we were living at.
- 12 Q Who was living in that shed?
- 13 A My dogs, me, my guinea pigs.
- 14 Q What are we talking about, how big of a shed are we
15 talking about?
- 16 A Ten by twelve.
- 17 Q Ten by twelve?
- 18 A Yes.
- 19 Q And that was for you and ten dogs to live in?
- 20 A And a snake, a four foot Iguana, two guinea pigs and
21 some rats.
- 22 Q Probably more than the average person, you had a
23 personal attachment to the animals?
- 24 A They were all very well taken care of.
- 25 Q Did Tim know that?

1 A Yes. Four of them were deaf dogs.

2 Q How long had you had the dogs, five or take?

3 A One of them I had had since he was seven days old.
4 And the other one, I had her since she was four months
5 old.

6 Q I don't care how old the dogs were when you got them,
7 how long had you had the dogs?

8 A Since I have been back from Germany.

9 Q How long is that?

10 A About ten years.

11 Q Okay. Had Tim Wise killed some of the dogs before?

12 A Yes, sir.

13 Q How many had he killed?

14 A Four.

15 Q Four of them?

16 A Yes.

17 Q When was that?

18 A A couple of months before this happened. Two of them
19 got to fighting because he had left one of their cages
20 unlocked and he had gotten out which I think he did it on
21 purpose. So they fought really bad. And he told me the
22 best thing to do was to kill them. So he killed them.

23 Q Did Tim have firearms at his home?

24 A Yes.

25 Q Do you know how many?

1 A At least four or five. He has a whole room
2 designated for guns and making his own bullets and
3 everything.

4 Q Do you know if he has a concealed weapons permit?

5 A Yes, sir.

6 Q The gun that was used to kill John Henry, do you know
7 whose gun that was?

8 A Tim's.

9 Q I think you said he killed two pit bulls after they
10 took after each other?

11 A Yes.

12 Q And you say he killed two other animals?

13 A Yes.

14 Q Was that about the same point and time?

15 A The first happened, she was a little more aggressive
16 and she kept attacking the small dogs so Tim ended up and
17 killed her.

18 Q Now at that time you had only, how long had you lived
19 with Tim Wise or behind Tim Wise's house at the time?

20 A I had moved in, John was killed that Saturday night,
21 May 7th. And Tim made me have all of my stuff and my
22 dogs, not all of my stuff but he told me I had to be moved
23 in with my animals and everything by that Sunday night.

24 Q But if killing the pit bulls and the other dogs
25 happened several months before then what property would

1 that have been on?

2 A On Wheeland School Road.

3 Q And he was a visitor to you?

4 A Yes, sir.

5 Q And I understand he had made threats to kill your
6 family and the dogs, had he made any threats directly at
7 you?

8 A Yes, sir.

9 Q The decision to leave Newberry, you left Newberry not
10 long after John Henry was killed, right?

11 A Yes, sir.

12 Q Whose decision was that?

13 A I didn't actually leave Newberry until like two days
14 after the last I seen Captain Boland. That was around the
15 20th.

16 Q Why did you leave Newberry?

17 A Because Tim told me if I didn't leave and run that I
18 was going to be going to jail and he would kill my dogs.
19 So I went and stayed with a cousin of mine in Columbia for
20 a couple of days and then I went with my mom.

21 Q You didn't have a car though, did you?

22 A No, sir.

23 Q So you relied on Tim or somebody else to take you
24 anywhere?

25 A Yes, sir.

- 1 Q You gave two statements to the sheriffs department?
- 2 A Yes, sir.
- 3 Q Is the May 25th statement accurate?
- 4 A No, sir.
- 5 Q I guess the difference is on May the 25th you said
6 that you shot John Henry?
- 7 A Yes, sir.
- 8 Q Is that truthful?
- 9 A No, sir.
- 10 Q And then on June 10th you gave a subsequent redacted
11 or changed statement?
- 12 A Yes, sir.
- 13 Q Had you spoken to anybody about the, about making
14 changes to the statement?
- 15 A I had written Robert Dennis a letter.
- 16 Q Had you been talking to an attorney or somebody else?
- 17 A No, sir.
- 18 Q But that was entirely your decision?
- 19 A Yes, sir.
- 20 Q What was the reason?
- 21 A I had found out that Tim was in jail.
- 22 Q Was being housed in Newberry with you or just that he
23 had been arrested?
- 24 A One of the guards told me that he was in max in the
25 jail.

1 Q And how did that affect your decision to talk to
2 Robert Dennis?

3 A Because I knew he was incarcerated and my family was
4 okay and my dogs.

5 Q You gave a statement to Robert Dennis that you had
6 been carrying Tim's gun since the restraining order was
7 put on John Henry Mayers in April?

8 A Yes, sir.

9 Q Did you give that statement to him first?

10 A Yes, sir.

11 Q Is that a factually true statement?

12 A No, sir.

13 Q Did you volunteer that you had the gun or did Mr.
14 Dennis indicate to you that Tim said that you had the gun?

15 A That Tim said that I had a gun.

16 Q How far did you go through school?

17 A I finished eighth grade.

18 Q The last grade you completed was eighth grade?

19 A Yes, sir.

20 Q Were you ever diagnosed with any kind of learning
21 disability?

22 A No, sir.

23 Q You can read?

24 A Yes, sir.

25 Q And you wrote your own statements?

- 1 A Yes, sir.
- 2 Q Did you indicate to Robert Dennis that you were
3 scared of him?
- 4 A Yes, sir.
- 5 Q During the first statement?
- 6 A I don't remember if I did or not on the first
7 statement.
- 8 Q How would you characterize what kind of emotional
9 state you were in when you first spoke to Robert Dennis?
- 10 A Very scared, worried about my dogs and my family.
- 11 Q Everything you had, were all of your possessions in
12 that shed behind Tim's house or did you have stuff at
13 another place?
- 14 A There was another shed behind Tim's house where all
15 of my, all of my other stuff, only my animals and my bed
16 and a TV.
- 17 Q Was that all of your worldly possessions or did you
18 have other stuff somewhere else?
- 19 A All of it was at Tim's house.
- 20 Q Were you under the influence of any drugs at the time
21 you spoke to Robert Dennis?
- 22 A No, sir.
- 23 Q You had not consumed anything the night before at
24 your mother's house?
- 25 A No, sir.

1 Q Do you recall Captain Robert Dennis reading your
2 Miranda, this is your signature on the Miranda rights
3 form?

4 A Yes sir, I believe so.

5 Q It appears to be yours. Do you recall signing that?

6 A I remember signing a piece of paper, yes.

7 Q Do you recall what you were signing?

8 A No sir, I don't.

9 Q Do you recall how these rights were recited to you?

10 A No, sir.

11 Q Do you recall Captain Dennis pulling out his, like a
12 wallet size form?

13 A No, sir.

14 Q I think you indicated to me the signature on the
15 rights form appears to be your signature?

16 A Yes, sir.

17 Q Is that what you recall signing or you just signed?

18 A I just signed it.

19 Q Did you indicate to Captain Dennis that you had
20 earlier said that you had wanted to get a lawyer to come
21 in?

22 A No, sir.

23 Q Were you crying during the interrogation?

24 A Yes, sir.

25 Q How long did you and Captain Dennis talk before you

- 1 actually sat down and wrote your statement?
- 2 A I am not really sure.
- 3 Q You recall how long the total interrogation lasted?
- 4 A No sir, I don't remember.
- 5 Q Do you recall whether it was video taped or tape
6 recorded?
- 7 A Not to my recollection.
- 8 Q To the best of your recollection you are saying it
9 was not recorded?
- 10 A It was not.
- 11 Q Did he interrogate you at all about the forgery case?
- 12 A No, sir.
- 13 Q At the time you spoke to him though you would have
14 only been charged with forgery at that point, right?
- 15 A Yes, sir.
- 16 Q Did he tell you that he wanted to talk to you about
17 the forgery case, did he tell you before you started
18 speaking to him that this was for a murder investigation?
- 19 A He never talked to me about the forgery.
- 20 Q Did he tell you that you were going to be charged
21 with murder?
- 22 A Yes, sir.
- 23 Q Prior to the conversation?
- 24 A I don't believe so, no.
- 25 Q Have you been diagnosed in the past for posttraumatic

1 stress disorder?

2 A Not that I know of.

3 Q Have you been diagnosed with anxiety disorder?

4 A Not that I know of.

5 Q Have you been diagnosed with major depression?

6 A Not that I know of.

7 Q That is all I have.

8 CROSS-EXAMINATION

9 By Mr. Stumbo:

10 Q Ms. Smith, you indicated to your lawyer that you were
11 scared of Timothy Wise, is that correct?

12 A Yes, sir.

13 Q Now, but you chose voluntarily to go live with him,
14 Tim Wise, correct?

15 A No.

16 Q But you were living there in the shed behind the
17 house with your dogs and all of that, isn't that right?

18 A Yes, sir.

19 Q So you voluntarily went to live with someone who you
20 were deathly afraid of?

21 A I had no other choice.

22 Q And you say he killed some dogs of yours but you care
23 about your dogs, right?

24 A Yes.

25 Q You took your dogs onto his property and put them at

1 risk?

2 A No. He did it on the Wheeland School Road property.

3 Q Right. But after that you took you and your dogs
4 over to live with him up here in Newberry on Highway 76,
5 right?

6 A Yes, we didn't plan on that. I planned on leaving
7 there because I, my landlord told me I had to move out.
8 So the week before John died we went and put money down on
9 a shed and had it delivered out there. I had no where
10 else to go.

11 Q Who was taking, you said you had two pit bulls and
12 all of these dogs to your lawyer. Who was taking care of
13 those animals when you were on the run to Columbia and up
14 to your mama's house up in Greenville?

15 A Tim was.

16 Q The same Tim who had killed them and threatened their
17 lives, is that right?

18 A Well, from my understanding, from what the pound said
19 whenever they went there, they had not been taken out,
20 that there was quite a bit of feces in their cages.

21 Q Your cousin in Columbia took you in for a few days,
22 right?

23 A Yes.

24 Q And your mama in Greenville took you in, right?

25 A I was there for a few hours, yes.

1 Q So you weren't scared of Tim Wise if you went to live
2 with him and you had these other options. That's not
3 true, is it?

4 A I had no other options for me and my dogs.

5 Q You claim that Tim Wise was threatening you. Did
6 this man, Captain Robert Dennis, ever threaten you when he
7 interviewed you?

8 A No, sir.

9 Q You said he was pleasant, correct?

10 A Yes, sir.

11 Q How about Major Wesley Boland, did he ever threaten
12 you in any way?

13 A No, sir. He is very overbearing.

14 Q Overbearing, what do you mean by that?

15 A His voice is very strong and very loud.

16 Q You say that you told him that you wanted, you and
17 your mama were trying to get a lawyer. You told him that?

18 A Yes, sir. I talked to him on the phone and told him
19 that. And me and my mom and the lawyer would be there the
20 next morning. And then before we knew, a few hours later
21 he was at my mom's house.

22 Q Well, when you ended up going to talk to Captain
23 Dennis and I am going to hand you what is in State's 19
24 here. Is that your signature on that form?

25 A Yes, sir.

1 Q And does it say on that form that you have a right to
2 a lawyer before you talk to them?

3 A Yes, sir.

4 Q You didn't request a lawyer before you gave this
5 statement, did you?

6 A No, I sure didn't.

7 Q And you said you gave it, not because you were scared
8 of the officer but because you were scared of Tim Wise?

9 A Yes, sir.

10 Q He wasn't in the room, was he?

11 A No, sir.

12 Q He was back at the house with your dogs and animals,
13 right?

14 A Yes, sir.

15 Q And you voluntarily left town and left those animals
16 in his care?

17 A I did not voluntarily leave. He told me I had to.

18 Q Well, Ms. Smith, would not that had been the
19 opportunity with Captain Dennis to tell him about Tim Wise
20 being a threat to you, threatening to kill you and your
21 mama?

22 A I was scared for my dogs.

23 Q The same dogs that you left with him?

24 A Yes, I had to.

25 Q You remember, I believe earlier you testified that

1 you remember the detail of the truck that Mr. Boland was
2 driving, the white pickup truck, correct?

3 A Yes, sir.

4 Q Tool boxes on it?

5 A Yes, sir.

6 Q But you can't remember exactly what he said to you on
7 the ride?

8 A No, sir.

9 Q But just that you were scared of him because he was
10 overbearing, is that what I understand your testimony to
11 be?

12 A I really wasn't scared of him, he was just very
13 threatening.

14 Q When he arrested you and put you in handcuffs he
15 didn't tell you what he was there for or why he was
16 arresting you?

17 A No, sir.

18 Q He didn't serve you a warrant at any point during
19 this time?

20 A No, sir.

21 Q And put you into custody?

22 A No, sir. I did not get a warrant until the next day.

23 Q You were served that warrant on May the 25th, is that
24 right?

25 A Yes, sir.

1 Q That was the day that they arrested you?

2 A They came and got me from my mom's house on the 24th,
3 around 12:00 o'clock at night.

4 Q You had no idea why you were going back to Newberry
5 County?

6 A I knew that he wanted me for questioning, that is
7 what he had told my mom.

8 Q So is it your testimony now that the June 10th
9 statement is correct, is that your testimony?

10 A Yes, sir.

11 Q So you weren't scared of John Henry Mayers the night
12 that he was killed?

13 A I always had a certain fear about John but I loved
14 him and that night, no I was not in fear of him.

15 Q Captain Dennis gave you an opportunity to tell him
16 back on May 26th everything that had happened that night,
17 correct?

18 A Yes, sir.

19 Q It wouldn't be a crime for you to have just witnessed
20 the murder, would it?

21 A When somebody, after you see somebody kill somebody
22 especially somebody that you care a lot about, you are
23 scared. And he told me if I ever told anybody that he
24 will go and kill my animals and my family.

25 Q This man wears a badge and a gun, correct?

1 A Yes, sir.

2 Q And he has the ability to arrest the person who
3 commits the murder, right?

4 A Yes, sir.

5 Q So why didn't you tell him that night?

6 A Because Tim was out.

7 Q But Tim wasn't in the jail with you, was he?

8 A No, sir.

9 Q Was he in the room with you when Captain Dennis was
10 asking the questions?

11 A No, sir.

12 Q So you were afraid of him and your testimony to this
13 Court today is that is why you gave the statement, that
14 Tim had done it or that you had done it because you were
15 scared of Tim?

16 A Yes, sir.

17 Q In your first statement you indicated you went out
18 and picked up John Henry Mayers down in Chapin
19 voluntarily, right?

20 A Yes, sir.

21 Q And took him out to a remote area of the Sumter
22 National Forrest?

23 A Yes, him and I had been there quite a few times.

24 Q But you also told him in that same statement that
25 John Henry had been beating on you and you were scared of

1 him, right?

2 A Yes, John can be very abusive.

3 Q But your statement to them that you were scared of
4 John Henry was a lot, correct?

5 A Like I said, I always had a certain fear for John but
6 I loved him.

7 Q Your statement on the 26th of May was that you took a
8 man that you were scared of because he had been beating on
9 you and went and picked him up, correct?

10 A Yes, sir.

11 Q And you went out and took him out to the middle of no
12 where, correct?

13 A Yes, sir.

14 Q The man that you were scared might kill you?

15 A Again, that I have been in love with for 20 years.

16 Q But you also told him in the same statement you were
17 afraid of him, correct?

18 A Yes.

19 Q So afraid you had been carrying a gun around to
20 protect yourself, right?

21 A Yes, sir.

22 Q So which is it, are you scared of John Henry Mayers
23 or were you scared of Timothy Wise?

24 A I was more scared of Timothy Wise.

25 Q Isn't it true, Ms. Smith, that you conveniently make

1 up who you are scared of, depending on what story you need
2 to tell in any given time?

3 A No, sir.

4 Q One more question, Ms. Smith. Major Boland comes
5 over to talk to you at Tim Wise's mama's house on the
6 20th, right?

7 A Yes, sir.

8 Q That was another opportunity to tell a guy with a
9 badge and a gun, if it were true that Tim Wise had killed
10 John Henry, that that is what had happened, right?

11 A Yes, sir.

12 Q But did you tell him that?

13 A No, sir. Tim was by my side the whole time.

14 Q When Tim left where did you go?

15 A To my cousin's house.

16 Q Why didn't you go back to Major Boland, Captain
17 Dennis?

18 A Because I was scared. Tim told me if I told anybody
19 that he would kill my animals.

20 Q But you left your animals with him again, right?

21 A I had no choice.

22 Q Nothing further.

23 THE COURT: Redirect, Mr. Verner?

24 REDIRECT EXAMINATION

25 By Mr. Verner:

1 Q In April of 2011 you had taken out a restraining
2 order against John Henry Mayers, is that true?

3 A Yes, sir.

4 Q Were you scared of him then?

5 A Yes, sir.

6 Q Before you had any involvement with the police
7 officers?

8 A Yes, sir.

9 Q Was that for physical violence that was a threat to
10 you?

11 A Repeat that, please.

12 Q Was that because of a physical altercation between
13 you and John Henry Mayers?

14 A Yes, sir.

15 Q Were other people involved in that?

16 A Yes, sir. One other person.

17 Q You recall when, who did you go to to get the
18 restraining order issued against John Henry?

19 A I don't remember her name.

20 Q Was it at the sheriffs department or did you go to
21 Family Court?

22 A I went to the jail.

23 Q Magistrate's office?

24 A Yes, sir.

25 Q And that was in April 2011, not a month before John

1 Henry was killed?

2 A Yes, sir.

3 Q Prior to staying with or moving over to Tim Wise's
4 property you had been living where?

5 A Wheeland School Road in a one-bedroom trailer.

6 Q Okay. Who was your landlord there?

7 A Richard Grimmett.

8 Q Were you paying rent?

9 A I was cutting the grass for my rent, it was 30 acres
10 and you had to cut like 14 acres of grass.

11 Q So he was letting you stay there for just maintaining
12 the property?

13 A And my light bill.

14 Q Why did you come to leave the Wheeland School Road
15 property?

16 A Because when me and Richard really wasn't getting
17 along he didn't like the fact that our light bill would
18 come due, come late when that is the only bill I had to
19 pay.

20 Q The point of my question was, were you voluntarily
21 moving to live with Tim Wise or had you been evicted from
22 your house?

23 A I hadn't been legally evicted but Richard wanted me
24 to leave.

25 Q That is the reason Richard had said you need to go?

1 A Yes, sir.

2 Q And y'all were fighting about some of the bills not
3 being paid timely?

4 A Yes, in a timely manner.

5 Q That was like a 30 acre spread?

6 A Yes, sir.

7 Q Did you have any other place to go after that?

8 A No, sir.

9 Q Were you employed?

10 A No, sir.

11 Q Did you have any assistance or government money or
12 any other money from any other source coming in?

13 A No, sir.

14 Q So living rent free without, was basically all you
15 could afford at that time?

16 A Yes, sir.

17 Q What was the arrangement that if you came and lived
18 on Tim's property, was he going to charge you rent or was
19 there an arrangement?

20 A No, sir. He wasn't going to charge me anything.

21 Q Thank you.

22 THE COURT: Thank you, you may step down. Any other
23 witnesses?

24 MR. VERNER: No, sir. That is it for the defendant.

25 THE COURT: Bring me the jury, please.

1 (Whereupon, the jury came into open court at
2 approximately 5:25 p.m.)

3 THE COURT: Welcome back, ladies and gentlemen of the
4 jury, I said 5:30, right. I said 3:30, and I apologize to
5 you. We have been working very diligently to conclude
6 some matters that the Court must decide before we can
7 began calling the witnesses. We will break for the
8 evening. Do not discuss the case with anyone and that
9 includes your family members, friends, fellow jurors. Do
10 not watch, listen to, read any news report about the case.
11 Do not do any investigation on the internet or otherwise.
12 Remember to keep an open mind and do not begin your
13 deliberations until you have heard all of the evidence,
14 all of the testimony, the instruction on the law by the
15 Court and then directed by the Court to began your
16 deliberations with your fellow jurors in your jury room.
17 Mr. Charette. I am going to appoint you foreperson of the
18 jury. If you would please serve in that regard. You
19 would be the jury spokesperson here in court and you will
20 also be responsible for signing and dating the verdict. I
21 will give you more instructions concerning that at the
22 conclusion of the case. Always maintain that seat for me,
23 please. You are excused and be back at 9:30 in the
24 morning.

25 (Whereupon, the jury was excused from open court for

1 the day.)

2 THE COURT: Solicitor, you have any evidence or
3 testimony you intend to offer?

4 MR. STUMBO: I don't, Your Honor. We are going to
5 rest on the testimony of the witnesses we called and
6 exhibits 19 and 20 on this matter.

7 THE COURT: Mr. Verner, I will be glad to hear from
8 you.

9 MR. VERNER: Judge, the question is, primarily the
10 May 25, 26th statement is what we would ask the Court to
11 focus on. From the testimony, the day before the
12 statement she indicated that she had indicated she wanted
13 to speak but wanted a lawyer present. The deputy recalls
14 that request but recalls it coming from her mother rather
15 than her. But certainly there was an indication of rights
16 the day before knowing that law enforcement wants to talk
17 to me and the day beforehand and the indication of rights.
18 I understand the deputy saying she never really told me
19 where she was and we had to track her down. But for the
20 same charges where the law enforcement saying, we want to
21 talk to you about this particular crime, there is an
22 indication of rights which cannot be retracked except by
23 clear evidence otherwise. So on that basis alone we think
24 the Court can deny the May 25th statement. Looking at the
25 totality of the circumstances, Your Honor, Mandy has never

1 really been locked up in this type of situation, the
2 stress of a person in this situation. The eighth grade
3 education which I do represent it, would be a low level of
4 education in today's society. The emotional state, the
5 stress she was under because of the codefendant's control
6 over her pets and threats to family I understand cannot be
7 put at the doorstep of law enforcement. But at the same
8 time when the Court is considering the totality of the
9 circumstances that the defendant is under I think is a
10 very real factor, Your Honor. The fact that she is in
11 custody, she is in chains, at least leg irons. The fact
12 of the fairly traumatic, I understand it is a knock on the
13 door arrest pattern but it is fairly, I think a reasonable
14 person being fairly traumatically affected by a midnight
15 arrest, certainly expecting law enforcement to come at
16 some point I imagine but I think it was going to be under
17 her terms. What I submit, Your Honor, the forgery rouse
18 to get her into custody to investigate further charges,
19 the fact that the statements of the codefendant were given
20 to her or her to them adopt as her own statements.
21 Specifically as to the May 25th statement, Your Honor, we
22 would ask the Court to rule that the totality of the
23 circumstances Mandy is not in her free will and the
24 statement was not involuntarily given, given the threat
25 against her, the traumatic nature of the arrest, the

1 charges and the indication of counsel was really not so
2 much, I don't consider the indication of counsel as part
3 of the voluntariness of the statement other than, I think
4 that can be separately addressed. And the low level of
5 education, Your Honor, we do believe that the May 26th
6 statement be involuntarily given. June 10th statement
7 does appear to have been initiated by her, possibly would
8 have been prudent given that we know that she was arrested
9 for murder to have seen about counsel being present for
10 it. Certainly I think that law enforcement and the
11 Solicitor is going to argue that the June 10th statement
12 is self serving and really not harmful to her. So I do
13 just direct a motion to the May 26 statement.

14 THE COURT: Thank you very much. All right,
15 Solicitor.

16 MR. STUMBO: Your Honor, first and foremost it
17 appears as if Mr. Verner's argument primarily rest on this
18 assertion that Ms. Smith requested a lawyer to Major
19 Boland. Major Boland testified very clearly, I believe
20 Your Honor clarified that with him on the stand that it
21 was her mother who had mentioned something about going to
22 get an attorney, having her to turn herself in. Quite
23 frankly, Your Honor, what we have here is just a swearing
24 contest between Major Boland and Ms. Smith ultimately.
25 And I believe Ms. Smith's testimony, based on the

1 inconsistency of these two statements that are already
2 before the Court on this hearing, her inconsistencies
3 throughout her testimony, she simply is not credible, Your
4 Honor. It is our position that Major Boland is, there is
5 no reason not to believe him when he says he never had a
6 request for an attorney from Ms. Smith. But furthermore,
7 Your Honor, when these statements were given she was
8 Mirandized very clearly and waived those rights, waived
9 her right to a lawyer both on May 26th and then again on
10 June 10th. It was in writing right in front of her, she
11 signed, she dated it. She even, by her own testimony,
12 Your Honor, stated she never once requested a lawyer from
13 Captain Dennis when he brought her over for her interview.
14 Neither did she ask for a lawyer the second time. Your
15 Honor, I believe under the case of Miranda and its prodigy
16 here that these statements, based on the testimony Your
17 Honor has heard, these statements were clearly freely and
18 voluntarily given. That it is a suspect credibility that
19 she even ask for a lawyer or requested one on the front
20 end. All we have is her testimony to even assert that at
21 this point, Your Honor. Based on the totality of the
22 circumstances here, Your Honor, that these statements were
23 freely and voluntarily given. We have had four officers
24 of Newberry County Sheriffs Department testify that they
25 never threatened Ms. Smith or gave her, promised her

1 anything to get her to give these statements. And not one
2 of them ever heard her ask for a lawyer during the entire
3 time, Your Honor. So based on the officers, the
4 credibility of their statements, Your Honor, and their
5 testimony, I know that is for you to evaluate obviously,
6 not me, their credibility in terms of this Jackson V.
7 Denno hearing. But based on the totality of the
8 circumstances State's 19 and 20 were freely and
9 voluntarily given by this defendant and should be
10 admissible, Your Honor.

11 THE COURT: Will you hand me 19 and 20.

12 MR. STUMBO: Yes, sir.

13 THE COURT: Anything in response, Mr. Verner.

14 MR. VERNER: Very briefly, Your Honor. I do want to
15 and the Court is going to remember what the Court
16 remembers but I don't recall Major Boland being
17 one-hundred percent that his mother, I think it was the
18 mama that said that. And even if it was, under the Fifth
19 Amendment I don't, I do think that an agent and certain
20 circumstances could invoke the right for a third party.
21 Ordinarily that could be problematic, we don't want other
22 inmates, invites for other inmates. But in the
23 circumstance where the mother is living or in the presence
24 of her daughter and the officer is talking to both of them
25 and the mother says, we are trying to come over as soon as

1 we can get the attorney. I don't think that the fact that
2 it was raised by her mother automatically excludes that as
3 being an indication of the right to counsel.

4 THE COURT: I don't know of such a case as that. I
5 know cases where family members and I was trying to look
6 up the name, family members have gone to the police
7 department, sheriffs offices when officers were
8 interrogating an individual and said, I am the
9 individual's mother or father or what have you and I want
10 him to have a lawyer. And I don't even think that the
11 police have the responsibility to advise the defendant.
12 Now if there is a case such as that I will be glad to look
13 at it. I am not aware of such a case.

14 MR. VERNER: I agree with the Court; there are cases
15 as the Court is talking about. Primarily the ones that I
16 recall are usually when a juvenile is in custody and the
17 mother comes and that is a factor, appropriate for the
18 Judge to consider. It doesn't necessitate overthrowing a
19 juvenile's confession that the parent was not allowed in
20 there or didn't get a lawyer in there. But that is a
21 factor in it. Our circumstances is a little bit different
22 because it is prior to the statement occurring. It is, we
23 are going to come. The only way I can think of fairness
24 is you can take that statement is they are together. I am
25 bringing Mandy down when we get an attorney. So the

1 statement would be in the company, just a little bit
2 different than the police arresting somebody and a family
3 member coming up and trying to invoke rights for them. I
4 do think the inference is that they would have been
5 together at the time.

6 THE COURT: Well, based on the totality of the
7 circumstances and the standard at this point in the State
8 versus Washington and the State versus Parker and looking
9 at the various cases I find that the statement of the 25th
10 is clearly admissible. I do not see it as a clear
11 indication as to her right. And even if you say, well, we
12 are looking toward to getting a lawyer, that still doesn't
13 mean they want a lawyer. A lot of people look to get a
14 lawyer and end up not getting one. They change their
15 mind. Additionally, she testified, if you believe any,
16 all or part of her testimony, that Major Boland advised
17 her of her Miranda rights. And it is clearly a no
18 custodial interrogation. There can be comments and such
19 like that. And even if they are they don't rise to the
20 function equivalent to question of Dennis. And then when
21 you get to Captain Lewis who she describes as pleasant and
22 she indicates that she signed this form and didn't really
23 recall what she signed and wasn't sure on that part.
24 Seemed to have selected memories on many other parts of
25 the period of time she spent with Captain Lewis. Page one

1 of three of the voluntary statement it appears she wrote
2 out, it also has the rights form on it and signed by Ms.
3 Smith, witnessed by Captain Lewis and Detective Bowers.
4 Page two of three is signed by Ms. Smith and page three of
5 three is signed by Ms. Smith. And each one of them
6 indicates voluntary statement and rights. And she then
7 obviously contacts, initiates contact and I understand
8 your position on the June 10th but she writes this note to
9 Lieutenant Robert Dennis. I have tried to reach you on
10 the phone from family. I would really like to talk to you
11 in person and revise my statement. Please let me know
12 something. I have been trying for over a week now.
13 Thanks. Signed Mandy L. Smith. And she was advised again
14 of her rights and gives a two page voluntary statement.
15 The first page of which has her rights again and she signs
16 the second page, she signs the voluntary statement. I
17 would note that an eighth grade education, of course Mr.
18 Verner indicates that in modern times, that would be the
19 lower end of our education on a level. However, your
20 level of education doesn't necessarily predict your
21 intelligence. She appears to be able to answer questions
22 appropriately put to her and when she doesn't understand
23 she asked for responses. I would further note her
24 handwritten note is, I guess they are taught very well as
25 being able to write. It is cursive. When I say this I

1 sell it the way I buy it. It does not appear to be any
2 misspellings in it. I am not the best scholar around. So
3 I think it is a matter for the jury as far as the Court is
4 concerned. The statement of the 25th is admissible. The
5 statement of the 10th, you are correct Mr. Verner, it is
6 self serving but I don't think I split that, I think under
7 the rule of completeness when one comes in they both
8 should be. All right. Anything, any other motions from
9 the defense, Mr. Verner?

10 MR. VERNER: No, Your Honor.

11 THE COURT: Solicitor?

12 MR. STUMBO: No sir, Your Honor.

13 THE COURT: I am making the assumption then we can
14 get started at 9:30 in the morning?

15 MR. STUMBO: Yes, sir.

16 THE COURT: Sheriff, if you will have the defendant
17 in here by 9:30 in the morning. Have a pleasant evening.

18 (Whereupon, the case will resume the next morning at
19 9:30 a.m.)

20 October 8, 2013.

21 THE COURT: Anything from the State before we bring
22 in our jury, Solicitor?

23 MR. STUMBO: Nothing from the State, Your Honor.

24 THE COURT: Anything from the defense, Mr. Verner?

25 MR. VERNER: No, Your Honor.

1 you sit too long and your thoughts start to wonder please
2 raise your hand, y'all will take a break and we will take
3 a break. Any objection from the State, anything that I
4 have said to the jury, Solicitor?

5 MR. STUMBO: No objections, Your Honor.

6 MR. VERNER: No objection, Your Honor.

7 THE COURT: We will now begin the trial of the case.
8 Solicitor, you may address the jury.

9 MR. SCOTT: Thank you, Your Honor, if it please the
10 Court.

11 THE COURT: Yes, sir.

12 MR. SCOTT: Good morning. You know, if you go down
13 Highway 121, towards Whitmire from here you will cross
14 176. You can choose to take 176, you can pass Brazelmans
15 Bridge Road, some people call it the road where Cry Baby
16 Bridge is, some call it Zombie Land. I am not from here
17 but I have heard stories about Cry Baby Bridge and Zombie
18 Land. If you take Brazelmans Bridge Road down towards Cry
19 Baby Bridge you will miss it if you are not looking for
20 it, but just off to the left there is a dirt road call
21 Judy Road. And if you choose to take that dirt road it
22 will take you deep into Sumter National Forest. And if
23 you choose to take Judy Road deep into Sumter Forest you
24 might pass a road called Judy B. Road which will take you
25 even farther out there, out past the nearest house,

1 nearest business, nearest farm, out to the very middle of
2 this pine forest. If you take the Judy B. Road far enough
3 it dead ends. There was a man name John Henry Mayers, he
4 was 43 years old in 2011 he had four children, he lived
5 right across the county line from Chapin just into
6 Lexington County. He grew up there, went to school there,
7 raised a family there, ultimately moved back in with his
8 aging parents to help them out, he cooked for them.
9 Everybody has a cook in the family, Sunday dinners were
10 prepared by John Henry Mayers, he was a brother, he was a
11 son, he was a father, he was a grandfather, I understand
12 he loved being a grandfather to his grandchildren, he had
13 a grandson and granddaughter. He would pick them up from
14 day care when Courtney was at work. This is his family.
15 John Henry Mayers died of two gunshot blasts through his
16 chest on May 7th of 2011 down at the end of Judy B. Road.
17 How did this come to be, how this father, this son, this
18 grandfather, how did he meet such a violent end. To tell
19 this story we have got to go back a ways, we need to go
20 back approximately two decades. About 20 years ago the
21 Mayers family took in a young woman who had left her home
22 or had been turned out of her home. At any rate she
23 needed a place to stay, had no where else to go. That
24 young woman was Mandy Smith. The Mayers family was
25 familiar with her, she had dated somebody within their

1 family, a relative of John Henry's. They taught her how
2 to cook, how to keep a house, how to care for herself,
3 things that she had never learned, treated her as if she
4 was one of the family. At some point John Henry Mayers,
5 he himself formed a relationship with Mandy Smith, a
6 tumultuous one by all accounts, by any accounts from the
7 very beginning. The one constant thing in this
8 relationship seems to be drug abuse. They were the kind
9 of couple that would fight, they would make up, they would
10 get back together, they would separate for long periods of
11 times, make back up. The drug abuse that I speak of, it
12 was an addiction to crack from Mr. John Henry Mayers. And
13 we don't hide that. And, of course, we all have issues,
14 we all have weaknesses, we all have problems. And that
15 was his main problem, an addiction to crack. Probably one
16 of the reasons his relationship with Mandy Smith at times
17 was a volatile one. April of 2011, almost exactly one
18 month before he died Mandy Smith got a order of protection
19 against John Henry Mayers, a restraining order. As I
20 said, this was a very volatile relationship. It was a
21 history of a pattern of it. She gets a restraining order,
22 she goes to her friend's, Tim Wise, and borrows a .9
23 millimeter. The wheels are set in motion at this point
24 for John Henry Mayers demise and he doesn't even know it.
25 May 7th of 2011, that is the day we are talking about, his

1 last day on earth for John Henry Mayers. Mandy Smith
2 sends her friend, Tim Wise, a text message. It is a
3 simple instruction. Tim, call John Henry Mayers, tell him
4 I am going to meet him at Mr. J's. I am from Lexington
5 County, I live in Chapin myself, that is a popular
6 landmark in the Little Mountain, Chapin area. A lot of
7 people meet there. That was a landmark he would have
8 known, walking distance from his house. Why didn't she
9 text him directly. Well, John Henry didn't do text
10 messaging. He is probably a little bit old school than
11 the text messaging. But she had no minutes on her phone
12 to call so she has to text Tim Wise who in turn calls John
13 Mayers. He was given an instruction, hey, Mandy wants to
14 meet you at Mr. J's. Meanwhile the Mayers family is
15 spending some time that Saturday with John Henry. The
16 understanding was that the next couple of days he was
17 going to check into rehab. They will tell you that they
18 hear a phone ring, John Henry Mayers answers it and then
19 leaves on foot. They never seen him again, almost like he
20 just sort of walks off the face of the earth. Meanwhile
21 Mandy Smith in Little Mountain at her Wheeland School Road
22 house, she has borrowed a friend's white pickup truck.
23 That friend is Don Buford. Who is Don Buford. It is
24 another, probably characterize him as a paramour. They
25 have had a relationship in the past, she and Don Buford.

1 I understand at one point they were engaged to one
2 another. Borrows his wife's pickup truck, leaves Little
3 Mountain, her Wheeland School Road address and drives into
4 Chapin to meet John Henry Mayers at Mr. J's. What did he
5 know, what did he understand about this meeting, did he
6 know where they were going. I wonder what he thought the
7 purpose of this meeting was. He got into that white
8 pickup with her and she took him miles and miles and miles
9 from his home in Chapin. She took him out to Brazelmans
10 Bridge Road, she turned on Judy Road, turned onto Judy B.
11 Road, took him out to the middle of a turnaround, a dead
12 end, miles away from anybody. Tim Wise was out there too,
13 Tim Wise who had called him and set up this rendezvous.
14 They pulled their truck side by side in this dark forest
15 and they talked. He smoked cigarettes in his truck, talks
16 through the window to them sitting in the white truck. At
17 some point John Henry Mayers and Mandy Smith get out of
18 the white truck, walk some 50 to 75 feet away to talk.
19 None of us know when it is the end really, we think the
20 next day is always promised to us. But clearly it is
21 cliché but you never know when the end is right in front
22 of you. But surely John Henry Mayers didn't know that.
23 When Mandy Smith pulled out that .9 millimeter out of her
24 pocket and shot him, Tim Wise who was out there will tell
25 you he hears John Henry scream, coming running back

1 towards him, back in between the two trucks, sprinting out
2 towards the woods trying to get away with Mandy Smith
3 giving chase, screaming at him the whole time with the .9
4 millimeter in her hand. Chases him out into the woods and
5 just as coldblooded as you please fired the fatal shot and
6 killed him, lights up a pipe, gets in that white truck,
7 heads back to Little Mountain. Tim Wise leaves too and
8 they leave John Henry Mayers all alone in that dark, dark
9 forest. That was a Mother's Day Sunday, May 8th. This
10 family had gotten together and highly, highly unusual for
11 the cook not to be there for Sunday dinner. Where is
12 John. Even more so it is Mother's Day and he is not here.
13 Something is up. Monday comes, Monday goes, still no John
14 Henry. Tuesday Charles Mayers, his father, goes riding
15 around. He is looking for John, some of the spots John
16 will go to from time to time. He comes across some
17 Lexington deputies out in front of Chapin High School.
18 Listen, deputies, my son, we have not seen him since
19 Saturday. I think it is time I file a missing persons
20 report. They take his report the next day. Deputy Billy
21 Derrenbacher of Lexington County Sheriffs Department, he
22 goes and speaks with the Mayers family. The name they
23 give right off the bat is Mandy Smith. Y'all probably
24 need to check with Mandy Smith, he might be with her. May
25 13th Billy Derrenbacher of the Lexington Sheriffs

1 Department, he goes out to Wheeland School Road, that is
2 the last known address for Mandy Smith. Her trailer is
3 empty at this point, everything has been moved out. They
4 learn that a white pickup truck and a black pickup truck
5 had been seen in the last few days moving things out,
6 taking them away. May 16th the Newberry Sheriffs
7 Department was contacted, Robert Dennis and Wesley Boland.
8 Wesley Boland calls Mandy, Mandy Smith, he has a phone
9 number for her. She informs him at that point, I've
10 moved, I am staying down Highway 76 out of Newberry and I
11 am staying on property owned by Tim Wise. Mandy Smith
12 says, I haven't seen John in some time, I don't know
13 anything about where he is. Meanwhile a payroll deposit
14 is made in John Henry Mayers account. It is certainly
15 still a missing persons investigation right now but the
16 deputies with the sheriffs department and from what they
17 understand from the family this deposit going in and no
18 activity on that account, it is not a good sign. They
19 would expect John Henry Mayers to receive a payroll check
20 and he has got bills to pay, he has got things to spend
21 money on. They are already starting to think the worst.
22 May 17th, Billy Derrenbacher at this point gets together
23 with Captain Wesley Boland of Newberry, so you have got
24 Lexington investigating missing persons and they are
25 getting help from Newberry County because like I said,

1 this is right on the line, they think this is extended
2 into Newberry County. They got back over to Mandy Smith's
3 house, this is the second time in two days she has been
4 visited by law enforcement. She is feeling the heat. She
5 says, oh well, the last person I saw him with was a guy
6 named Elvis Hill. Okay, where is Elvis Hill. Elvis Hill
7 is in jail. They go out and speak with him, his story
8 checks out, they are back to square one focusing on Mandy
9 Smith. There is a lot of stress Mandy Smith is going
10 through at this point. Two days in a row officers have
11 come to her house, ask her about this missing person. And
12 she shows how depraved her heart can be. She goes back
13 down Cry Baby Bridge Road, turns down Judy Road, goes to
14 the end of Judy B. Road, back to the killing field and
15 desecrates the remains, goes out there the next day
16 emerges out of the woods with a bag of crack. And when we
17 pass on and when we leave this earthly vessel behind and
18 we go see the maker the one thing we take for granted and
19 expect is that our body would be respected and given its
20 proper rights. And Mandy Smith didn't even afford John
21 Henry Mayers this very, very simple thing. She goes back
22 out there with Tim Wise, back to the killing field, she
23 removes his head, desecrates his body, goes down to the
24 Enoree River and throws his head into the river. Mandy
25 Smith did this. May 20th Deputy Billy Derrenbacher,

1 Wesley Boland, Robert Dennis, they are going back over to
2 Tim Wise's house. This is where all signs point, Mandy
3 Smith. Tim Wise's mother is there, Timmy Wise and Mandy
4 Smith are not. The mother, you just missed them, they
5 went down to Walmart. The Deputy says that is fine, we
6 will go down to Walmart and see if we can find them. Tim
7 Wise's truck is not there so they turn around and go back
8 to Tim Wise's house. Now Tim Wise is sitting on the front
9 porch but Mandy is not with him, where is Mandy. Tim Wise
10 says, well, when my mother called and said you guys were
11 over here she jumped in the truck with some other people,
12 I don't know where they went. Wesley Boland calls Mandy
13 Smith's phone, where are you, Mandy. Are you coming back
14 over here. Mandy tells him, I am about an hour outside of
15 town, I will be back in a few hours. Okay, we will wait
16 for you. Well they wait and they wait in vain because she
17 doesn't come back. They try calling her but at this point
18 she has turned her phone off, she is on the run, ladies
19 and gentlemen. The next few days the officers are chasing
20 her throughout the State. They go into different counties
21 looking for her, got her cell phone, your cell phone gives
22 off signals and officers have equipment that can detect
23 where that cell phone is. That is what they call pinging
24 a cell phone signal, they are pinging her signal, they are
25 seeing that she is traveling to various parts of the

1 State. They eventually zero in to Greenville County is
2 where she kind of settles down at her mother's house.
3 Wesley Boland shows up to the mother's house May 24th,
4 pick her up, bring her back out here to Newberry. May
5 25th Timmy Wise gets together with Robert Dennis and Danny
6 Gilliam from the Newberry Sheriffs Department and takes
7 them back out there to that killing field, shows them the
8 end of Judy B. Road where John Henry Mayers is. After 18
9 days of being out there all alone, they find him. He
10 gives a written statement, Timmy Wise does, doesn't want
11 to implicate himself yet, talks about Mandy Smith being
12 out there, he knew she was out there. She had been out
13 there paranoid but he has not yet implicated himself. The
14 next day Tim Wise gets a second more detailed statement.
15 At this point he is under arrest, he admits to being out
16 there and he tells the officers the same story I just told
17 you guys. Mandy Smith fired those two shots, they left
18 him out there and he hasn't gone to the police because he
19 was just scared. Mandy Smith is brought in, asked about
20 some of the stuff they found. We have located John Henry
21 now, what do you have to say about it. Go over some of
22 the things Tim Wise has said, loaned her a gun, knew where
23 he was out here, at this point she cracks. She tells what
24 happened, she admits to shooting him, says he was a mean,
25 mean person. She did it because they had this

1 relationship that in the past had been violent in her
2 words so she did this to him because of that, left him out
3 there. She said she removed the head because she hoped to
4 conceal the identity of the body in case it ever was
5 found. After 17 days in jail she wants to change her
6 story. She goes back to deputies, oh, all of that stuff I
7 said in the beginning, all of it is true except Tim Wise
8 shot him. That is after 17 days being in jail she changes
9 her story at that point. Ladies and gentlemen, you all
10 were picked, after the process yesterday, the
11 qualifications and the striking and it took all morning
12 but the defense and the State picked twelve jurors and two
13 alternates because we believe that you all can be fair and
14 impartial to the defense but also fair and impartial to
15 the State. As the Judge said this is a very important
16 case for Ms. Smith. This is a very important case for
17 Newberry County as well. You guys are picked on a murder
18 trial. The chances are, you never are going to be picked
19 to be on a murder trial again, very few people are. And
20 as far as crimes go and our code and our code of laws
21 murder is kind of top notch, it is taking another human
22 beings life, you represent the conscious of this county,
23 the values of Newberry County. And I say this often,
24 especially in this case, if you look amongst yourselves,
25 you see all walks of life, I see women, I see men, I see

1 black people, I see white people. Your jobs are about as
2 various as they are as there are many of you. And you
3 guys are going to use this collective conscious and you
4 are going to use your common sense and your life
5 experiences because they all vary. And you are going to
6 listen to all the evidence that we put before you and you
7 are going to listen to these witnesses and you are going
8 to look at the evidence and you are going to have to come
9 up with a decision. None of us were out there. We have
10 to listen from people who were, we have to look what the
11 evidence collected was and we have got to determine what
12 people's biased are and what their prejudices are. At
13 this point she is saying I did not do it, Timmy Wise did
14 it. As I told you earlier, I am Dale Scott, I work for
15 your Solicitor, David Stumbo. We are going to try to
16 present the State's case in an orderly manner. This is a
17 story that is about 20 days long, so we have got a lot of
18 ground to cover here. And we will try to be concise as
19 possible. There is a lot of ground to cover here, we
20 can't leave any stone uncovered if possible. Certainly
21 there is going to be some questions we can't answer. We
22 have to prove this case beyond a reasonable doubt. Every
23 criminal case from here to California, the State has to
24 prove their case beyond a reasonable doubt. What does
25 that mean. Often mischaracterized by others in that the

1 State has to prove their case beyond any and all doubt.
2 That is erroneous, that is completely incorrect. It is
3 beyond a reasonable doubt. Now the Judge will tell you at
4 the end of this trial that there are very few things in
5 this life that we know with one-hundred percent certainty.
6 And the standard of reasonable doubt does not require
7 that. The instruction that I can focus on, when the Judge
8 reads his instruction of reasonable doubt is firmly
9 convinced. We all understand what firmly convinced means.
10 After you hear all of this evidence and all of this
11 testimony and you are firmly convinced that Mandy Smith
12 committed this crime, that is beyond a reasonable doubt.
13 I don't want to cover a lot of the law and I know I have
14 stood up here for a while but I do want to cover another
15 thing because this will be in your heads probably the
16 whole trial. There is an aspect of the law where two
17 people can be guilty of the same crime. We call it the
18 hand of one is the hand of all theory. An analogy would
19 be if myself and another made an agreement to go out and
20 rob a bank. The understanding is I am going to be the
21 lookout while my friend goes inside with the gun and
22 sticks them up. Let's say things go wrong. He goes in
23 their with his gun and during the stake up he shoots and
24 kills a cashier. I can be charged with that murder too.
25 I want you to keep that in mind. This week we are trying

1 Mandy Smith. She has a codefendant named Timothy Wise who
2 has also been charged with murder. It is the State's
3 contention that Mandy Smith was the gunman, fired the
4 shots. This was her doing, her plan, this was her things,
5 this was her longtime boyfriend, this was the person she
6 went and met voluntarily after getting a restraining
7 order. This is the person she drove out to Judy B. Road.
8 Common sense, ladies and gentlemen, think about that
9 during this entire trial. Every piece of evidence that is
10 introduced, every witness who has testified, what makes
11 sense. Okay. And at the end of this trial we are going
12 to ask you to find Mandy Smith guilty of three charges,
13 murder, the unlawful killing of another with malice
14 aforethought, possession of a weapon during a violent
15 crime. That would be the .9 millimeter she had when she
16 shot and killed him and the desecration of human remains.
17 Listen carefully and at the end of this trial we are going
18 to ask you to find her guilty on all three of those
19 charges. Thank you.

20 THE COURT: Mr. Verner.

21 MR. VERNER: May it please the Court, Your Honor.

22 THE COURT: Yes, sir.

23 MR. VERNER: Solicitor Stumbo, Mr. Foreman and
24 members of the jury. As an aside, I have been to Cry Baby
25 Bridge in high school and I swear I have heard a baby

1 crying there. It might have been an owl or a cat but the
2 common place to go. If I had to put my hand on the Bible
3 I would swear I heard somebody crying but that was back in
4 high school. The problem with the narrative that Mr.
5 Scott is giving you is that is entirely the story of the
6 codefendant, Timothy Wise. The story he gave you is
7 entirely what Timothy Wise's version of this killing is.
8 And it is wrong and it is not true. We have got a
9 situation where two people are charged with killing a man
10 and it is either him, Timothy Wise, or it is her, Mandy
11 Smith, or it is both of them. My daughter doesn't talk to
12 me about work, she is nine years old and I was sitting at
13 the kitchen table and reading all of the paper work and
14 she said, what is this case about. I said, well, it is
15 complicated because it is two people charged with murder
16 of one guy, shooting one guy. And she said, well then
17 find who has the gun, who has the gun. It is simple, duh,
18 and it is. The nine-year-old girl, that is the case, that
19 is the entire bottom line. There is one question you have
20 got at the end of the case, who had the gun, who
21 reasonably had the gun. Did Mandy have the gun or did the
22 guy who owned the gun have the gun, Timothy Wise, whose
23 gun was it, he didn't tell you that, it was Timothy Wise's
24 gun who has got a room in his house filled with firearms
25 where he makes his own ammunition. Possibly has a

1 concealed weapons permit and here is where Timothy Wise
2 catches a break. He happens to get caught first but
3 basically, and let me go ahead, I am not here to kick
4 anybody who is not here to defend themselves. That is not
5 what my job is. But let's get the truth out there. Mr.
6 John Henry Mayers was a big guy, about 6 feet tall, 255
7 pounds at least according to his drivers license. A big
8 fellow, he had an addiction to crack cocaine every day for
9 years. One of the ways the family knew that he was
10 missing and probably dead was when he got a pay check it
11 was cleaned out up front because he bought it all in
12 drugs, the very same day, he had that kind of drug habit.
13 He was with Ellis Hill earlier that day buying crack
14 cocaine. Mandy has had a hard life and part of this is
15 brought upon and I am not kicking John Henry, this is just
16 the story out here today. Part of it was brought on by
17 John Henry when he was in his mid twenties, he came across
18 a 13 or 14-year-old girl that he struck up a sexual
19 relationship with, Mandy Smith. She was kind of a
20 latchkey kid but he is in his mid twenties, she is 13 or
21 14, he starts up a sexual relationship with her. He
22 introduces her at 13 or 14, 15 to crack cocaine. At some
23 point when she is 16 or 17 he is making her have sex with
24 people he knows for crack cocaine for him. She has been
25 gang raped by 18-year-old's at least one time and probably

1 other times because John Henry needed crack cocaine. That
2 is just part of the story. And that doesn't change the
3 fact that he is dead and it is going to come down to, he
4 was also physically abusive of her and he was controlling.
5 She lived with him at 15, he brought her into to live with
6 him at 15 when he is in his mid-twenties, that is rape,
7 that is second degree rape. She is with him several years
8 and he is using her to score crack cocaine at times. And
9 she is also using crack cocaine at an early teenage year.
10 At some point she leaves, she moves out of the State. She
11 meets a man in the military, she gets married, she goes to
12 Germany, she is gone. She gets divorced and she comes
13 back to Newberry County, does not tell John Henry she is
14 back. A family member or a sister or somebody sees her in
15 Newberry, she tells John Henry, hey, your old girlfriend
16 is back. And he finds her back at her old place and they
17 strike up the same relationship that they had where she
18 had sex with him, he is abusive but she cannot stop seeing
19 him. That is what they were doing on the night of John
20 Henry's death, they were meeting, the Solicitor wants to
21 paint that this, she lured this big guy deep into the
22 woods to ambush him. That is not true, that is where they
23 made out, that is where they had sex. You are going to
24 have an independent witness who says that is where they
25 have gone before. I was at her house, you are going to

1 have a witness not involved in the case saying I was at
2 Mandy's house that night. I didn't want John Henry over
3 there because he is scared. If you want to be with John
4 Henry you have got to go where you go in the woods. That
5 is what they were doing. John Henry is one of the guys
6 who had set up Mandy's cycle where she gets into abusive
7 relationships with dominating abusive men. That is just
8 her cycle. It is not healthy, doesn't make her a good
9 person but she just repeatedly trapped the same type
10 dominating guy again and again. Tim Wise comes along, he
11 is a gun nut. He walks around carrying a gun. As I said,
12 he has got his own room filled with guns. He is abusive,
13 Mandy is sexually active with several men. Not a perfect
14 person, she is sexually active with several people at the
15 same time including John Henry. Timothy Wise, the way the
16 Solicitor gave you the story was that Mandy killed the man
17 and then she immediately vacated that mobile home and
18 fled. That is not true. She had already moved out before
19 this even happened with John Henry. That is part of the
20 reason the story happened was because John Henry heard she
21 was moving. And he said, hey, where are you going. I do
22 want to commend law enforcement because this is a
23 Lexington County missing persons case and Newberry County
24 and Lexington were checking every day, where is this guy.
25 They know that Mandy is with Tim Smith, Tim Wise, I am

1 sorry. How do we know he is abusive, she is living in a
2 shed, a storage shed behind the house, a ten by ten shed
3 with ten dogs. You are going to hear that Mandy never had
4 children, she is, you will hear testimony and it is true,
5 she is just disproportionately emotional about her
6 animals, that is all she has got in life. She has got ten
7 dogs, she lives in a shed with the ten dogs behind Tim
8 Wise's house. Does that sound like that could be kind of
9 an abusive controlling relationship. I want to clarify,
10 you are going to hear testimony, the Solicitor said that
11 good police work, they tracked her down by pinging her
12 phone. Well, they did. But he neglected to tell you was
13 that Mandy was calling police almost every day saying I am
14 trying to get a lawyer, her mother called or maybe her
15 mother or it may be Mandy. I want to turn myself in, I
16 want to get a lawyer and come in on such a day. Well,
17 they has already pinged her phone and they arrested her
18 that night. He is leaving out the part that Mandy, even
19 though she had left, she is calling the police and
20 speaking to them on almost a daily basis. Here is where
21 Timothy Wise is one lucky guy. He gets caught first, he
22 has got the benefit of getting his story out first. When
23 they first come by, the police officer calls and says I
24 want to come and see if y'all know about this missing
25 person. Tim and Mandy are in the house. I wonder who

1 does all of the talking but they say, no, no, we don't
2 know where he was, he was last seen with somebody else.
3 The police officers keep coming back in because they keep
4 believing that they know a little bit more. At some point
5 Tim is alone and he says, hey, the police officer says, do
6 you think Mandy knows more about this missing person than
7 she is telling us. And Tim basically says maybe, you
8 know, she might have done something. And the police says,
9 well, where would she have done something. And Tim says,
10 well, Cry Baby Road or the Judy B. Road, I know she goes
11 there a lot. But he says, I don't know anything about it.
12 This first statement Tim Wise gave to the police officers,
13 I don't know anything about it but maybe Mandy could have
14 done something to him. Later on Tim will say, well, when
15 they have more evidence against Tim, he will say, yeah, I
16 know Mandy actually killed him because she told me about
17 she was going to kill him. And then when they know that
18 he is out there then the Solicitor says he revises his
19 statement but he knows he is out there. So he has to
20 finally say, yeah, I was out there but she just did this
21 out in the blue, this crazy girl, she just shot this man
22 out of the blue. While she is making out with John Henry,
23 she has got a .9 millimeter gun on her hips and he
24 wouldn't have felt that. The story is while they were
25 making out, they met at Judy B. Road. Tim Wise knew they

1 were going out there. Tim also, he was there before they
2 were, John Henry and Mandy come up and Tim is already
3 there. John Henry has drugs, crack cocaine, they used
4 drugs out there. Mandy is making out with John Henry and
5 time comes up and shoots him in the chest. Mandy is
6 knocked down and then Tim shoots him again. So, anyway
7 the police come back to Tim. Tim says, sir, Mandy might
8 have had something to do with this. If she did it it was
9 out there on the road on Judy B. Road. And so Robert
10 Dennis and the sheriffs office and Danny Gilliam, they
11 said show us where in the road you are talking about. And
12 so they go out in the road towards Judy B. and said, which
13 way did she go, left or right. And at some point the
14 deputies rolled down their window and they notice
15 something funny, Tim is in the back seat and he is pulling
16 his shirt up over his nose. At this time he hadn't said
17 there is a body out there, he is just saying something
18 happened, it could have happened in the woods. But when
19 the deputies look back at Tim he has pulled up his shirt
20 and he is sitting in the back seat like this. And he
21 says, why are y'all rolling down the windows. And one of
22 the deputies says, well, if there is a body out here then
23 maybe there will be a bad odor coming from the body and we
24 can fill it coming. Because Tim knows, he has already
25 been out there, he knows there is the odor of the body out

1 there. And he never takes the tshirt off of his nose
2 while he is sitting in the back of the car because he
3 knows, he has been out there before, he knows what the
4 body smells like, he knows what they are going to find.
5 They find the dead body of John Henry out there. Mandy,
6 when he was dead for about two weeks and cut John Henry's
7 head off with a knife after he had been out there in the
8 woods. Why would she do that. Why would Tim Wise go with
9 her to do that. I didn't have anything to do with the
10 case in the first place, you did it by yourself, I wasn't
11 even there. Why would you accompany somebody when they
12 are going to try to move the head to keep the body from
13 being identified if it was found. Why would you go with
14 somebody to do that. You are going to hear testimony from
15 Mandy. The first time the police came looking for John
16 Henry Tim starts getting nervous. They keep coming back,
17 keep talking to him. The same day the police comes back
18 asking for more information. Tim gets nervous, says
19 Mandy, let's go. Mandy doesn't have a car, Mandy doesn't
20 have a car. Who has got the gun after the murder. That
21 is a question for you, who has got the gun after the
22 murder. They get in the car and Tim takes her to the body
23 and Tim is threatening to kill her dogs and some members
24 of the family if she doesn't do this. And she is crying
25 but she does it and Tim has got a gun on her. I wouldn't,

1 if somebody was threatening my dog with a gun, I don't
2 mean to be mean but I would rather them shoot the dog than
3 me. Mandy is not wired like that. She lives with the
4 dogs, she loves the dogs, he has killed her dogs before.
5 He has gone out and shot her dogs before. You will find
6 out that is not normal to have that kind of attachment to
7 your dogs. Tim was preying upon it, and he may have
8 killed her dogs before with his guns. That is what he was
9 threatening to do. Mandy took John Henry, Tim took her
10 out there and forced her to do it. She didn't want to do
11 that, none of us would want to do that. And then Tim,
12 when the police keep coming back Tim said, well, you have
13 got to go. And he forces her out and she does leave. And
14 then that is when Tim says, well, it is all Mandy. The
15 problem in this case it is all Tim's money. You have to
16 believe that it is just somebody who is gun nut would loan
17 a pistol to somebody for extended periods of time to
18 commit a crime and, realistically people just don't do
19 that. Just briefly I will explain this. I know the
20 Solicitor is tired of it. What is the role of the jury.
21 It is, I wasn't there, nobody was there. There were two
22 people that were there and they are going to give me
23 conflicting testimony of what happened. What the verdict
24 means is not I speak the truth, it means I speak truly.
25 And the role of the verdict is that you will render a

1 verdict that you think under your oath truthfully. The
2 jury system is not put in to find the truth like a science
3 club. It's put in place to protect the citizens from the
4 government. That is why the role of the jury is in the
5 constitution. Before somebody can surrender their life,
6 their liberty or their property to the government the
7 State has to prove twelve people of his community, her
8 community, Mandy's community and she grew up in Chapin but
9 she has been living in Newberry for a long time. The
10 Supreme Court says if you hesitate to reach a verdict for
11 even a split second that is the reasonable doubt. I am
12 not sure she did it completely, but if you reach that
13 point the Supreme Court said that is a reasonable doubt in
14 an average person's finding. To hesitate to reach the
15 verdict of guilty, that is under your oath is to find a
16 reasonable doubt. My nine year old girl picked it up, it
17 is as simple as who had the gun. And you have to jump
18 through some amazing hoops to put it in Mandy's hand.
19 Thank you.

20 THE COURT: Thank you very much, Mr. Verner. All
21 right, Solicitor, you may call your first witness.

22 MR. SCOTT: The State calls Terry Mayers.

23 TERRY MAYERS, being
24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

- 1 By Mr. Scott:
- 2 Q State your name, please.
- 3 A Terry Mayers.
- 4 Q Terry, where are you from?
- 5 A Born and raised in Chapin, live in Irmo currently.
- 6 Q Where are you employed right now?
- 7 A State of South Carolina, Department of Mental Health.
- 8 Q What do you do at the Department of Mental Health?
- 9 A Accounts payable supervisor.
- 10 Q What facility?
- 11 A Morris Village which is an alcohol and drug rehab
- 12 facility.
- 13 Q How long have you been with Morris Village?
- 14 A I have been with Morris Village coming up on six
- 15 years, I have been with the State 23 years.
- 16 Q Tell me about John Henry Mayers, how was he related
- 17 to you?
- 18 A He is my brother, he is my friend.
- 19 Q Older brother, younger brother?
- 20 A I am 18 months older than him.
- 21 Q Grew up in the same household with him?
- 22 A Yes sir, yes sir, grew up in Chapin, [REDACTED]
- 23 Four brothers, half sister.
- 24 Q You two went to Chapin High together?
- 25 A Yes, sir.

1 Q Both of you guys, y'all both graduated from Chapin
2 High?

3 A Yes, sir.

4 Q Tell us about John Mayers, what were his issues with
5 crack?

6 A John used crack, he used it every week. I smoke
7 marijuana every week, I drink every week, John drinks
8 every week. We all know somebody that drinks every week,
9 smokes every week, takes pills every week. Everybody has
10 a problem, everybody knows somebody that--

11 MR. VERNER: Your Honor, that is beyond the scope of
12 the question. It is not responsive.

13 THE COURT: Certainly not beyond the scope but I will
14 sustain the objection.

15 Q This was a problem he struggled with, I guess is your
16 testimony?

17 A Yes, sir.

18 Q Had he sought any treatment?

19 A I think he had sought treatment a couple of times but
20 it never came about. He took the initial steps to get
21 help but it never evolved.

22 Q Did he remain employed though?

23 A Yes.

24 Q What was his job?

25 A He worked for the Town of Irmo, I think he may have

1 been outdoor beautification, guys that fix the town up. I
2 am not sure what they call that department.

3 Q In spite of his issues with drugs he was able to
4 maintain his employment?

5 A Yes. John had a job, John had a car. And as noted
6 before he took care of our mother.

7 Q He lived with your parents, is that correct?

8 A Yes, sir.

9 Q They live at the Skylark address that you mentioned
10 earlier?

11 A Yes, sir.

12 Q What kind of things did he do for them?

13 A He was mainly the cook, my mother is really sick and
14 he made sure she had the proper meals. She has diabetes
15 and all of that good stuff. So he basically took care of
16 all of her special needs really between working and, you
17 know, he made sure she was taken care of.

18 Q Where is your mother now?

19 A She is at home at Skylark.

20 Q She had some issues lately, is that correct?

21 A Yes, sir. The last two years or so she has gone
22 through some emotional problems of just, as the rest of
23 the family has as well, dealing with this. Then on top of
24 that she has diabetes and high blood pressure, kidney
25 problems, back problems. So, you know, she is missing him

1 more than anybody else because he was her caregiver and it
2 has just been tough for everybody. She physically
3 couldn't make it here nor emotionally.

4 Q Tell me about Mandy Smith, how do you know her?

5 A Mandy moved into our household when I was younger, I
6 am not quite sure how old I was at the time. But my mom
7 took her in, I don't know if her family put her out or
8 what but my mom took her in and made her a part of the
9 family, let her live there, taught her a few things about
10 life. Shortly after that I moved on so I am not sure what
11 happened after that.

12 Q Who was it that she knew in the Mayers family?

13 A My brother, John.

14 Q I just heard 13 years old. How old was she, do you
15 recall?

16 A I don't recall how old she was but I think that
17 figure is real close. I thought maybe she was 16 or so at
18 the time but I am not sure.

19 Q Do you know approximately when it was that she moved
20 in with you guys?

21 A I think I was still in high school. I graduated in
22 '84.

23 Q Okay. Now, do you know when Mandy formed a romantic
24 relationship with John?

25 A It has been at least two years that I am aware of.

1 He came over to help me paint my house and while he was
2 there his phone continuously rang while he was there and
3 it was her.

4 Q Two years from today, two years ago?

5 A Approximately.

6 Q When did they first begin their relationship, I guess
7 is my question?

8 A I can't say approximately but it has been within the
9 last three years.

10 Q So you are thinking they didn't get together
11 romantically until the last three years or so?

12 A Yes, he has been gone for over two years. I found
13 about her a couple of months prior to his death. He
14 already had had problems with drugs but it looked like it
15 was getting a little better. And whenever she came into
16 his life things sort of went down hill a little bit.

17 Q Well, help me close this gap. I am understanding
18 that sometime back in maybe the 80's, at some point she
19 moves in with your family?

20 A Yes, sir.

21 Q And you are saying two years ago--

22 A She reappeared.

23 Q Reappeared?

24 A Yes, sir.

25 Q Where had she been?

1 A I am not sure, sir, not sure.

2 Q Do you remember when she moved out of the Mayers
3 household?

4 A No, sir.

5 Q So she lives in the Mayers home, she leaves and we
6 don't know where. But then she reappears three years ago,
7 is that what you are saying?

8 A Yes, sir.

9 Q Tell me about that telephone call you were just
10 talking about?

11 A Which call is that. Oh, we were painting my
12 daughter's bedroom. We couldn't quite get the job done
13 because his phone kept ringing, his work phone. And I
14 kept asking who is calling, why do they keep calling you,
15 you just talked to them. He said it is Mandy, she wants
16 me to get up here, she wants me to get up there. And from
17 that point on I lost contact with my brother. I live in
18 Irmo, he worked in Irmo, he came by every day. He helped
19 me with whatever I needed done every day. But whenever
20 she came into his life he disappeared out of my life.

21 Q Had you had an occasion at all to hang out with Mandy
22 Smith when she was with John Mayers?

23 A No, sir.

24 Q Can you speak at all with any knowledge to their
25 relationship?

1 A Based on my brother they were just two people that
2 had a relationship. He said she was dealing with other
3 people as well, you know, they had sex, did a little
4 drugs, a little partying.

5 Q You remember May 7th of 2011?

6 A Yes, sir.

7 Q Tell me about that day.

8 A That is that Saturday, May 7th, was that a Saturday?

9 MR. SCOTT: May 7th, I think we can take judicial
10 notice, Your Honor, that was a Saturday on the 2011
11 calendar.

12 THE COURT: Any objection to that, Mr. Verner?

13 MR. VERNER: No, Your Honor.

14 THE COURT: All right, yes sir, that was a Saturday,
15 May 7th of 2011.

16 A I don't remember anything about that Saturday. All I
17 remember is the next day, my brother didn't come home for
18 Mother's Day and he didn't come home to cook his usual
19 Sunday meal.

20 Q Okay. That was unusual to you that he wasn't there?

21 A Right.

22 Q Why?

23 A That's what he does every Sunday. Every single
24 Sunday that is what he does, he cooks our Sunday meal.
25 And it was Mother's Day so that made it extra ordinary

1 that he wasn't there.

2 Q Your testimony is that this was highly concerning to
3 your whole family?

4 A Yes, sir.

5 Q What steps did you all take?

6 A We assumed that maybe that he had gotten with a girl
7 or something and maybe forgot it was Mother's Day or
8 something. I held out hope for two or three days that he
9 was probably okay. But around Tuesday or so sort of got
10 the idea that something funny was going on. And I think
11 that is the day my father put the missing persons report
12 in. And I never saw my brother again.

13 Q Tell me about, was he scheduled to check into some
14 sort of rehab facility?

15 A I can't one-hundred percent say that he was. I was
16 told that the was suppose to report either that Monday or
17 Friday, prior Friday or Monday after, I am not sure which
18 one it was, to a rehab facility.

19 Q Please answer any questions that Mr. Verner may have.

20 CROSS-EXAMINATION

21 By Mr. Verner:

22 Q Mr. Mayers, you graduated high school in 1984?

23 A Yes, sir.

24 Q Chapin High School?

25 A Yes, sir.

1 Q And may not be exactly but sometime around that range
2 is when Mandy came to live with your family?

3 A Not one-hundred percent sure but I think it was
4 around that time.

5 Q Okay. And you said you are about a year and a half
6 older than your brother, John Henry?

7 A A year and eight months.

8 Q And he was born in 1967, is that correct?

9 A Yes, sir.

10 Q Physically was he a large man or how would you
11 characterize John Henry's body build?

12 A He was about 5' 10" and a half, maybe 230, 235.

13 Q 230. When is the last time you had personally seen
14 Mandy Smith prior to today?

15 A Yesterday.

16 Q Prior to this week of court when is the last time you
17 seen Mandy Smith?

18 A I have not since--

19 Q For a couple of years?

20 A Since that incident.

21 Q You do not live with your mother and father?

22 A I do not.

23 Q So as far as John Henry taking care of your mother,
24 that comes from your parents telling you that and family
25 members?

1 A No, sir.

2 Q How do you know that?

3 A Witness, experience.

4 Q Thank you, Mr. Mayers.

5 THE COURT: Redirect, Solicitor?

6 MR. SCOTT: Yes, sir.

7 REDIRECT EXAMINATION

8 By Mr. Scott:

9 Q You graduated Chapin in '84?

10 A Yes, sir.

11 Q And you are thinking that she had already moved into
12 the Mayers home at that point?

13 A It has been a long time. That is what I thought.
14 Like I said, I am not one-hundred percent sure.

15 Q I am thinking she would have been seven years old at
16 that time, does that sound right?

17 A No.

18 Q So you think you are probably mistaken?

19 A Probably. I know she was a teenager, not sure which
20 age.

21 Q So you don't recall how old she was?

22 A No, sir. I do not.

23 Q Did you ever witness John Mayers being verbally or
24 physically abusive towards Mandy Smith?

25 A No sir, never.

1 Q Did you ever have any knowledge of him orchestrating
2 a gang rape against her?

3 A No, sir.

4 Q Thank you.

5 REXCROSS-EXAMINATION

6 By Mr. Verner:

7 Q Mr. Mayers, were you, are you aware that there was a
8 restraining order against your brother from an incident in
9 March of 2011 against Mandy Smith?

10 A No, sir.

11 Q You don't know the facts of what happened in that
12 case?

13 A No, sir.

14 Q At what point did you move out of your parents house?

15 A I left in 1987 when I joined the Army.

16 Q About three years after high school?

17 A Yes, sir.

18 Q And so you went into active duty Army?

19 A Yes, sir.

20 Q And that was in 1987?

21 A Yes.

22 Q Were you still stationed locally, did you go to Fort
23 Jackson?

24 A Fort Bragg, North Carolina.

25 Q Where would you have been stationed?

1 A Fort Bragg, North Carolina.

2 Q After boot camp, for the most part you were at Fort
3 Bragg in North Carolina?

4 A Yes, sir.

5 Q So you would still on occasion have an opportunity to
6 come visit your parents?

7 A Yes, sir.

8 Q Okay. Thank you.

9 THE COURT: Solicitor, you may call your next
10 witness.

11 MR. STUMBO: Your Honor, we call Whitt Klein to the
12 stand.

13 WHITT KLEIN, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Stumbo:

17 Q State your name for the record.

18 A Whitt Klein.

19 Q Can you tell the jury where you currently live?

20 A I live in Irmo, South Carolina.

21 Q And what is your job?

22 A I work for the Town of Irmo.

23 Q What is your role at the Town or Irmo?

24 A I am the Director of Public Services.

25 Q What does that involve, you are a supervisor?

1 A Correct. Concentrate on beautification and
2 landscaping type work.

3 Q On the streets?

4 A The streets, neighborhoods, parks, interstate, et
5 cetera.

6 Q How long have you been with the Town of Irmo?

7 A 13 years.

8 Q During the time you have been there in that 13 years
9 did you have occasion to supervise a John Henry Mayers?

10 A I sure did, he worked for us for probably three
11 years.

12 Q What was John Henry Mayers role there with the Town
13 of Irmo?

14 A We do a little bit of everything from mowing grass to
15 planting trees, planting flowers, doing all of the
16 maintenance, watering trees and the flowers, putting up
17 Christmas decorations, setting up the town festival which
18 is Irmo Okra Strut. So it is a little bit of everything
19 being a small town, we have to be real flexible and do a
20 lot of jobs.

21 Q Okra Strut was just last week, correct?

22 A Correct.

23 Q You have being busy?

24 A Yes, very.

25 Q John Henry Mayers, what kind of employee was he?

1 A John, very hard working guy, reliable, showed up,
2 whatever you would ask him to do he would do it.

3 Q May 7th or May 6th of 2011, I believe we have already
4 established that the 7th was a Saturday. So Friday, the
5 day before was May the 6th. Do you remember John Henry
6 coming to work on the last Friday that you saw him?

7 A I sure do.

8 Q And he worked a full day?

9 A He worked a full day. His car was broken down from
10 what he had told me. I, after work was over he asked me,
11 he said, can you give me a ride a little bit down the road
12 because I live not, towards Chapin but not all the way.
13 And I said, well, I will give you a ride to the gas
14 station near my house and drop you off there. So I did
15 that and he said he was going to have somebody meet him
16 there or either walk the rest of the way.

17 Q Is that the last time you saw John Henry?

18 A Very last time.

19 Q May the 9th, that Monday morning John Henry didn't
20 show up for work, did he?

21 A No.

22 Q Did you find that unusual for him to miss and not
23 call in?

24 A Yes, my guys, they show up and we get started at
25 7:30. I am usually there by 7:00. They are there at 7:30

1 and we are ready to get busy. If they don't show up for
2 work on time they don't stay around long. It was unusual
3 that he wasn't there. All of my employees have a town
4 cell phone. You can only call a few numbers from the cell
5 phone. It is restricted. I can call them but they can't
6 call out on their cell phone. One of the numbers, I tried
7 to call him several times that morning and never got a
8 response, it went right to, the phone was either dead or
9 it went to voice mail.

10 Q Did law enforcement come and speak to you regarding
11 John Henry being missing?

12 A Yes. Within a day or two I believe his brother
13 actually called first. Has he been at work, we hadn't
14 seen him since Saturday morning. And I said, no, no. I
15 dropped him off Friday afternoon, I dropped him off at the
16 gas station at 4:15. And that was the last I saw of him.
17 And I never heard from him Monday morning, didn't have a
18 message on my cell phone that he was going to be late or
19 anything.

20 Q And when law enforcement did come speak with you you
21 gave them all of this information?

22 A Correct.

23 Q Please answer any questions that Mr. Verner may have.

24 CROSS-EXAMINATION

25 By Mr. Verner:

1 Q Mr. Klein, you and John Henry weren't, as I would
2 characterize, as friends, were you?

3 A He was an employee of mine.

4 Q It was primarily an employee, employer relationship?

5 A Yes, sir.

6 Q You may have gotten along real well but it was
7 limited to working hours that you would have dealt with
8 him?

9 A Correct.

10 Q Did you hang out at all with him socially after work?

11 A No.

12 Q So what he is doing on the weekends or the evenings,
13 would you know?

14 A I have no idea.

15 Q How long had Mr. John Henry Mayers been working for
16 you at the time in Irmo?

17 A Approximately three years.

18 Q So you had known him through work for about three
19 years?

20 A Correct.

21 Q Do you remember what kind of car John Henry had?

22 A He had several vehicles that he drove. He had a
23 black pickup truck. I believe it belonged to his brother
24 or father. And then he had a motorcycle that he drove
25 occasionally. And then he had, I believe it was either a

1 gray or greenish Buick.

2 Q The Buick LeSabre?

3 A I believe that is what it is.

4 Q Was it his regular vehicle?

5 A Correct.

6 Q May come now and then in the other cars but primarily
7 you would see him in a Buick LeSabre?

8 A Correct.

9 Q Did he bring anybody else to work with him?

10 A Just him.

11 Q In April, do you remember how he was getting to work
12 before, I think you told Mr. Scott that the day before
13 that he was reported missing on May 7th, I guess Friday
14 was the last day of work he came to you?

15 A Correct.

16 Q And he had mentioned that he didn't have his car?

17 A Correct.

18 Q Your understanding he said something like it was
19 broken down?

20 A Correct.

21 Q Do you recall how long he had been without that Buick
22 Lab Saber?

23 A I have no idea.

24 Q Could it have been as long as a month he was coming
25 to work without it?

1 A I have no idea how long it had been. It may have
2 even been a week but I don't know. I can't remember
3 something like that.

4 Q But just based on his habit, if you had to speculate
5 which particular car he would have in the parking lot,
6 which vehicle of his would he have typically?

7 A The Buick.

8 Q That was his regular vehicle?

9 A Correct.

10 Q And so you do recall specifically what he said
11 happened to it, are you sure specifically he said it was
12 broken down or just, do you remember just that he didn't
13 have it?

14 A I remember he didn't have it because I dropped him
15 off that afternoon.

16 Q Did you specifically ask where it was or you just--

17 A I may have assumed that it was broken down.

18 Q Okay. How large of a man was John Henry?

19 A He was about my height, a little thicker.

20 Q You think he would be around 250 pounds?

21 A I don't think he was that big. I would think
22 probably 220. I am about 200, he would be about 20 pounds
23 heavier than I am.

24 Q And I believe you testified he was a nice fellow to
25 you to work with?

1 A Great guy.

2 Q Did you run criminal records checks on the employees
3 before you hired them?

4 A No.

5 Q Were you aware that he had been to prison for drugs
6 in the past?

7 A No.

8 Q Thank you.

9 THE COURT: Redirect?

10 MR. STUMBO: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 By Mr. Stumbo:

13 Q Have you ever been around people that are under the
14 influence of alcohol?

15 A Sure.

16 Q Ever been around anybody under the influence of
17 possibly drugs?

18 A Sure.

19 Q John Henry Mayers come to work intoxicated?

20 A No, not to my knowledge.

21 Q By your observation did he come to work under the
22 influence of drugs or high?

23 A No, absolutely not.

24 Q You never had those kinds of problems with him, did
25 you?

1 A No.

2 Q And would it be fair to say that you were comfortable
3 enough with him as a person to let him ride in your car
4 and take him up to Chapin after work like you did?

5 A For sure.

6 Q Did you ever see him act violently at anyone?

7 A Never, he was liked by everybody at work.

8 Q No further questions.

9 THE COURT: Mr. Verner.

10 REXCROSS-EXAMINATION

11 By Mr. Verner:

12 Q Were you aware that John Henry had a restraining
13 order on him from April for an act of violence?

14 A No, sir.

15 Q Your personal interaction with John Henry is limited
16 to exclusively him showing up for work and doing his job
17 like he is suppose to and having a good attitude at work?

18 A Yes, sir.

19 Q How he acts outside of your presence though you
20 wouldn't know?

21 A I have no idea.

22 Q Thank you.

23 THE COURT: You may step down. Any objection to Mr.
24 Klein being excused?

25 MR. STUMBO: Not from us, Your Honor.

1 MR. VERNER: No, Your Honor.

2 THE COURT: You may be excused. Perhaps now would be
3 a good time to take our morning recess. Mr. Foreman,
4 ladies and gentlemen of the jury, we will take about a
5 fifteen minute recess. Please don't talk about the case
6 with anyone including your fellow jurors.

7 (Whereupon, the jury was excused from open court for
8 a break.)

9 THE COURT: Anything before we take our recess?

10 MR. SCOTT: Your Honor, I think what we have decided
11 on, there is going to be a stipulation to the identity.

12 MR. VERNER: We stipulate that the man that was
13 killed on May 7th was John Henry Mayers, Your Honor.

14 MR. SCOTT: Just wanted to address that, Your Honor.
15 That would probably cut out a number of chain witnesses.

16 THE COURT: Write out a stipulation so I can publish
17 it to the jury. We will take out fifteen minute recess.
18 Thank you.

19 (Whereupon, a short break was taken.)

20 THE COURT: Anything from the State?

21 MR. STUMBO: Nothing from the State, Your Honor. We
22 did discuss that stipulation. We will get that to you
23 over the lunch break.

24 THE COURT: That will be fine. Anything from the
25 defense?

1 MR. VERNER: No, Your Honor.

2 THE COURT: Will the firearm come in, be offered.

3 MR. STUMBO: Possibly, Your Honor, but most likely it
4 will be first witness after lunch which will be Captain
5 Dennis.

6 THE COURT: If it is before lunch please let me know.

7 MR. STUMBO: Yes, sir.

8 THE COURT: Bring us our jury.

9 (Whereupon, the jury came into open court at
10 approximately 11:43 a.m.)

11 THE COURT: Call your next witness, Solicitor.

12 MR. SCOTT: Your Honor, we call Clarence Curry to the
13 stand.

14 CLARENCE CURRY, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Scott:

18 Q State your name.

19 A Clarence Curry.

20 THE COURT: Solicitor, I don't see his name on the
21 witness list.

22 MR. VERNER: Your Honor, we had noticed that he was a
23 possible witness and we agreed that it is proper to let
24 him testify.

25 THE COURT: All right. Let me ask the jury, have any

1 social, business or professional relationship with Mr.
2 Curry.

3 (No response.)

4 THE COURT: Thank you. You may proceed.

5 Q Mr. Curry, tell me your relationship of John Henry
6 Mayers?

7 A I am his first son.

8 Q How many children did he have?

9 A Four.

10 Q You have two sisters and another brother?

11 A Yes sir, that's correct.

12 Q How old are you?

13 A 29.

14 Q Where do you live?

15 A I live in Irmo, Columbia, excuse me.

16 Q Columbia or Irmo?

17 A Columbia. I am actually closer downtown by Richland
18 Hospital.

19 Q Okay. Because there are some Columbia addresses that
20 are actually in Irmo. Tell me about your father, what
21 kind of father was he?

22 A Definitely a good father. Always giving lessons.
23 Even at the time life was hard he would be the one to give
24 you a hard lesson. Great love from my grandparents and
25 family, my niece and nephew. My sister just had had a

1 little boy who was just born shortly around the time this
2 happened. He was very family oriented, hard worker. He
3 also, he had a few downs, I will not argue with that. His
4 daily routine consisted of, when he was driving was just
5 to go work, get off, help my uncle out some days, come
6 back home and check on my grandmother and then kind of be
7 in and out.

8 Q What do you mean, be in and out?

9 A He would leave quite a few times. The telephone
10 would ring, more than likely a call for him to come and do
11 something, have fun. He would run over for a few minutes
12 and come right back. He was never one to leave the house
13 for long periods of times.

14 Q It wasn't unusual for him to get a call and leave for
15 an extended period of time?

16 A No, definitely not. It doesn't take long to go do
17 what they were doing. And plus my grandmother is always
18 there and that is his number one concern, her and the kids
19 are the most important thing.

20 Q What you mean, go do what they were doing.

21 A Excuse me?

22 Q You said it wouldn't take long for them to go do what
23 they were doing?

24 A Well, they would be smoking dope, smoking and stuff.
25 It only takes a few minutes. So it is not one of those

1 things where you go out and smoking pot or something where
2 you are gone thirty minutes or an hour. Fifteen minutes
3 quick, thirty and come back. Kind of be sure my
4 grandmother was taken care of, be sure nothing has
5 happened with her blood pressure, sugar or anything.

6 Q You are talking smoking crack?

7 A Yes.

8 Q Where would he go to do that, would he do it at the
9 house?

10 A No. He would usually leave across from the
11 neighborhood. It is kind of a family neighborhood so he
12 would pretty much be comfortable wherever he was in the
13 neighborhood.

14 Q But that was no big secret. Y'all kind of understood
15 whenever he left?

16 A Yes. We understood what was going on when he would
17 leave, we knew he would come back. There were times when
18 he had a pot on cooking and the phone would ring and he
19 would tell you to watch the pot real fast until he came
20 right back.

21 Q He didn't tell y'all what he was doing but--

22 A Yes, we knew.

23 Q Did y'all undertake efforts to help him with his
24 problem?

25 A Oh, yes, all the time. Whatever was necessary to

1 help him out because he had the ability to do a lot. And
2 he was loved by everyone. Him doing better would be
3 better for the entire family.

4 Q Was he ever physically abusive towards you?

5 A No. The only time that we had any kind of problem
6 was when I was disrespectful to my grandparents. That is
7 pretty much it.

8 Q What happened?

9 A He would get pretty much upset then. And he would
10 use a scared tactic. He would run up to you and get
11 really loud because he was a lot bigger than us especially
12 growing up. Up until now we are close in size now but
13 then it wasn't. He would use scared tactics, he wouldn't
14 really do anything to us at all.

15 Q That would get you to respect your grandparents?

16 A Yes.

17 Q Tell me about Mandy Smith, how do you know her?

18 A I guess, the first time I actually recall meeting her
19 was probably, it was about '93, '94 period. Some of it, I
20 was kind of aware that she was in the neighborhood,
21 everyone pretty much had known everything in the
22 neighborhood being the family and everything that is going
23 on. So I kind of remember her from that. I think dating
24 a close friend of mine beforehand. She was a lot younger,
25 she dated one of my uncles. So that is my recall of

1 actually ever knowing her.

2 Q What was that year, '93, '94?

3 A Not one-hundred percent sure but that sounds about
4 accurate. Because I always remember being, I wasn't old
5 enough to drive and I remember that, when my grandmother
6 got to the point where she had no where to go and let her
7 in the house, she spent a lot of time with us and hung out
8 a lot. So we kind of looking forward to her driving,
9 being that she was old enough around that age, possibly
10 borrowed the car from my grandma.

11 Q Whose house were you living at at that time?

12 A I lived in the Skylark address.

13 Q With your grandparents?

14 A With my grandparents. All of us were there, so it
15 was about six or eight of us total in kids with the
16 adults.

17 Q Do you remember the circumstances she came to live
18 with y'all?

19 A Honestly am not one-hundred percent sure but I am
20 eighty-five, ninety percent sure, she didn't really have
21 anywhere to go. She was talking to my uncle first, my
22 grandfather's brother. And my great-grandmother wouldn't
23 allow anybody to move into that house. So she was kind of
24 out there and close with my dad. I wasn't sure quite what
25 the relationship was but I know eventually she kind of

1 worked her way on into the house and my grandmother
2 allowed her to stay in there. Because I remember my
3 grandmother saying something initially about her staying
4 there. And then, we are just one of those families, we
5 don't close the door on anybody. She stayed with us quite
6 some time.

7 Q And you say she had a relationship with an uncle of
8 yours and that is how your family knew her, to take her
9 in?

10 A Initially yes. Because when she first came around,
11 she wasn't with my dad, it was with my uncle. I am pretty
12 sure my Uncle James. I feel pretty comfortable saying
13 that.

14 Q How old would you say she was when she first moved
15 into the home?

16 A I am pretty sure about 16 or so at least, somewhat
17 around there, at least 16.

18 Q If you have any idea, do you know when she became
19 romantically involved with your father?

20 A I am not hundred-percent sure with that. I kind of
21 noticed it when I was that young but I didn't really know
22 much. And the house was so packed all the time because my
23 grandparents and then my dad and my uncle and then all of
24 the kids, my dad's four kids and a couple of more kids.
25 And it wasn't really a big house so it wasn't, you didn't

1 really have a lot of private moments and stuff like that
2 unless nobody was there. And obviously there was somebody
3 there all the time.

4 Q To your knowledge did they ever form a relationship,
5 boyfriend, girlfriend type relationship?

6 A Yes.

7 Q When did you first come to find that out?

8 A I was sure of that, I was under the line of question
9 the first time she came around. But when, at the second
10 time I was actually working and I ran into her one day.

11 Q Let me back up. The first time she was there?

12 A She was there before. It was a few years she lived
13 there when I was younger and then she kind of disappeared.

14 Q Do you know where she went?

15 A I wasn't quite sure where she went. As far as my
16 memory recalls, it was like she was there one day and the
17 next day she was gone. I just didn't see her for quite
18 some time.

19 Q You don't recall talk in the family about her and
20 your dad?

21 A I didn't get into my dad's business when it comes
22 down to something like that.

23 Q I understand. Tell me about, you were talking about
24 seeing her somewhere?

25 A It was some years later. I was actually working at

1 that time and I was living on my own.

2 Q Where were you working?

3 A I was working for Midland Air. I was doing
4 air-conditioning work and I was out in the Hilton area
5 down by Lake Murray Park and Ramp if anybody is familiar
6 with that area.

7 Q Talking about down Wessinger Road?

8 A Wessinger Road and that area. I ran into her and I
9 wasn't upset seeing her at that point. We didn't have bad
10 times between each other being a kid and her living in the
11 house. It was a pretty good relationship honestly. So I
12 was kind of happy to see her at that time. And I spoke
13 with her and she had a place, Epting's--

14 Q Epting's Landing?

15 A Epting's Landing if I am not mistaken. She had a
16 little place down there and I went down there and talked
17 to her one day. And we kind of caught up on everything.
18 She told me she was staying out there and was doing a lot
19 of fishing because I was doing a lot of fishing myself at
20 the time. And she talked about my dad. And I told her he
21 was working and everything was going fine. You know, so
22 they could possibly catch up with each other. And it came
23 to a point where he and I were riding together to work and
24 hanging out a good bit. We had a really close
25 relationship with each other. We spent a lot of time with

1 each other outside of work.

2 Q So you were working at Midland Air. Was he at the
3 Town of Irmo at that point?

4 A I don't think he was there. He may have been there
5 because I do recall us riding together to work back and
6 forth. Because he had a Buick that was gray and I had a
7 Buick that was gray. And I was living at Chapin at the
8 time. I worked in Ballentine and he worked in Irmo. So a
9 lot of days we would ride to work with each other and kind
10 of preserve gas. Kind of hang out like a father and son
11 times.

12 Q After work?

13 A Yes, sir.

14 Q So really from what you are describing as the first
15 time Mandy Smith was around the Mayers family is good
16 memories, is that what you are describing?

17 A I honestly can't say anything about the memories of
18 that. I recall then being younger.

19 Q Do you recall any kind of fighting between your
20 father and her?

21 A Not physical. I remember an argument or two but
22 nothing physical that was displayed in front of me.

23 Q When you see her down at Epting's Landing, you said,
24 that is in the Lexington County portion of Chapin, is that
25 correct?

1 A That's correct. . . .

2 Q When you see her there you took it upon yourself to
3 tell your dad, hey, I saw Mandy today. Is that what you
4 are saying?

5 A Yes, sir.

6 Q And then what happened?

7 A I know they started talking to each other because he
8 and I were talking about it riding back and forth. And
9 there was a few occasions, I was living in Little Mountain
10 to where she came over to the house, to my house.

11 Q If you know to your knowledge, approximately when was
12 that Mandy Smith and your father reunited?

13 A For that year, let's see, I am not sure, early in
14 2000, somewhere in that range.

15 Q Okay. When did you graduate from high school?

16 A 2003.

17 Q You were working at this point you say?

18 A I actually got in trouble so I was in night school
19 and working as well, kind of paying bills and going to
20 school so I can get a little bit better education and go
21 back to the high school.

22 Q At this point you think you were still working
23 towards your diploma?

24 A Yes. What do you mean by that point?

25 Q Epting's Landing.

1 A Oh, no. I was, I had just finished up and I got the
2 job, the supervisor gave me a job working for the company
3 under the fact that I couldn't work with any type of
4 refrigerator or anything I wasn't certified. So that
5 point I was probably just enrolled into Midlands Tech at
6 the time. It was kind of difficult to remember because I
7 got out of night school and went directly to college.

8 Q Do you recall the time you started college?

9 A It would take me a few minutes for me to think about
10 it and to be honest and accurate about the age and the
11 time.

12 Q You didn't graduate from Chapin?

13 A Sir?

14 Q You didn't graduate from Chapin?

15 A I graduated from night school.

16 Q Did you take some time off after you left Chapin and
17 go to night school?

18 A I finished night school and right after that I kind
19 of happened into college.

20 Q Did you ever fail any grades going through grade
21 school or middle school or anything?

22 A I did one year but we moved about three times that
23 year, three or four times. I went to Chapin, Mid Carolina
24 and Irmo all in those years.

25 Q Were you set to graduate when you were 19 years old

1 then?

2 A 18.

3 Q You jumped into night school, did you finish night
4 school?

5 A I got into some trouble and jumped right into night
6 school because I didn't want to keep going in the same
7 circle and got right out and wanted to try to focus and
8 hop right into college. And at the time I just,
9 everything happened so fast, I went to night school and
10 college and then I got offered a job from someone I knew
11 from going to school. So it all happened really fast.
12 And I had that job and I went to Midland Air. There was a
13 lot going on at that particular time.

14 Q So you really can't say about what year you saw her
15 at Epting's Landing?

16 A If I had to take a guess--

17 Q No, don't guess. We will come back to it. You see
18 her at Epting's Landing and you tell your father and
19 thereafter, it is your testimony that they got back
20 together and began seeing each other again?

21 A Yes.

22 Q And thereafter did you see Mandy Smith regularly?

23 A After they became involved with each other at that
24 point.

25 Q Let's call it part two, when they reunited?

1 A Yes. I saw her then because, like I said, we would
2 ride together to work and a lot times there would be a
3 spot for him to meet her at would be my house.

4 Q Okay. So she would come to your house to meet?

5 A Yes. And she and I would actually hang out some
6 times too, if he wasn't around or something she would tell
7 me about them and how she felt about him and how she loved
8 him, whatever.

9 Q At this point after the reunification, they are
10 holding themselves out as boyfriend and girlfriend, I
11 guess?

12 A I guess you could say that, yes.

13 Q And they weren't hiding it?

14 A No but I know my dad, he wouldn't, I mean, he kind of
15 knew more about her than I did. So he wasn't big on a
16 relationship then. He wasn't, I don't think he would
17 classify it as them being together. He had a little
18 understanding of what was going on with her a little bit
19 more than what I did.

20 Q Maybe this wasn't an exclusive relationship?

21 A Right. I recall having quite a few conversations
22 with him saying, that isn't really my girl.

23 Q They did hang out together?

24 A Yes.

25 Q Did you ever witness any kind of, during part time

1 after the reunification did you notice any kind of abuse
2 between the two of them?

3 A No, sir.

4 Q Did you ever witness your father being verbally
5 abusive towards her?

6 A No, sir.

7 Q Tell me about May 7th, 2011, do you recall that day?

8 A I don't, Saturday, I am not sure if that Saturday I
9 was working. I am not sure, I wasn't with them on that
10 Saturday. They were doing something else, I may have been
11 working or something. I remember the Sunday but not
12 Saturday.

13 Q Okay. Why do you remember Sunday?

14 A Because, I never recall my dad not being there for a
15 cook on Sunday especially on Mother's Day. If I had to
16 question him about putting his hands on me or doing
17 anything to me about anything, anything under the sun, it
18 would be my grandparents, not being there for my
19 grandparents. He just loved them so much. When he wasn't
20 there I automatically knew something was wrong, there was
21 no guessing to it, I knew something was wrong because he
22 didn't show up.

23 Q What was the routine over at the Mayers?

24 A On Sunday everyone goes to church and we go back home
25 and he has dinner prepared by then. We look forward to

1 his macaroni. When we had meals at church, everybody
2 would look for the macaroni he made.

3 Q That was the real red flag then, when he wasn't
4 there?

5 A I was sure at that time something was wrong, not what
6 but something was wrong. It wasn't one of those cases
7 where I was, maybe he would be home tomorrow. I know
8 something was wrong because, him not being there, maybe
9 that would happen but he would at least call my
10 grandmother. He would have called her some kind of way.
11 Even though he couldn't call out on his work telephone he
12 would have called my grandmother. He would not not call
13 my grandmother.

14 Q Okay. Did you all go looking for him?

15 A Yes. From that point me and my brother, he kind of
16 started questioning around and actually started looking
17 for him because we knew something fishy was going on. And
18 at that particular time we went to where she lived and
19 kind of looked around.

20 Q Where is that?

21 A Wheeland School Church Road.

22 Q That is in Little Mountain?

23 A Yes, sir.

24 Q Was she out there that day?

25 A I didn't look for her, I was just looking for him. I

1 figured if it was something that serious we would let the
2 police deal with it. I just wanted to look at the
3 surrounding area to see, because I know his car was broke
4 at the time so I was thinking maybe he was at her house
5 and came back home. I was thinking all kinds of things, I
6 knew something was wrong. I just never thought it would
7 be something like that, you know.

8 Q Mandy Smith, that was a name that came to mind, is
9 that what you are saying?

10 A That was the first thing, like I said, everything
11 else was kind of routine for me, the neighborhood. He
12 wasn't one to leave because anything that he wanted to do
13 he can do it. it was way out of character for him to leave
14 and not going and helping my uncle out or doing something
15 to help me out or something another. It was, just wasn't
16 like him to leave like that.

17 Q Okay. So Mandy Smith was the name you all gave
18 officers when they were looking for Mr. Mayers?

19 A Yes, sir.

20 Q Please answer any questions Mr. Verner may have for
21 you.

22 CROSS-EXAMINATION

23 By Mr. Verner:

24 Q Mr. Curry, I believe you said you are 29 today?

25 A Yes, sir.

1 Q You know how old Mandy is today?

2 A I heard it earlier but I really wasn't paying any
3 attention to it.

4 Q So if she was 16 when she came to live with your
5 father you would have been the age of 8, 9 area?

6 A Yes sir, somewhere in that area, yes.

7 Q Do you remember how many years she lived with y'all,
8 did you live there?

9 A Yes sir, I did.

10 Q That was at your grandparents house?

11 A Yes sir, at [REDACTED] yes sir.

12 Q But that is pretty much where you would stay, was
13 raised?

14 A Yes, sir.

15 Q How many years did she live with you there as best
16 you recall?

17 A Two or three years.

18 Q Did she ever move back in with you at a later day,
19 back to that house, your grandparents house?

20 A No, sir.

21 Q Did she ever, to the best of your knowledge, move
22 back in with your father or any of your family members?

23 A No, sir.

24 Q I believe you were talking about Mandy, you ran into
25 Mandy when she was living in Epting's Landing near Hilton?

1 A Yes sir, that is correct.

2 Q Could that be Putnam's Landing.

3 A I think that is it, yes sir, I am not one-hundred
4 percent sure. It is out on Wessenger, there is Hilton,
5 what we call the park and ramp to the left. And then
6 there is another on the right and then she was living down
7 in there.

8 Q If I suggest to you that Mandy was living in Putnams
9 Landing, is that consistent with your memory?

10 A It was some landing, I am not one-hundred percent
11 sure what those landings are, Putnams, Epting's, I know it
12 is Putnams and Epting's, I am not really sure which one it
13 was. I can take you to it but I am not really sure.

14 Q That was in 2004, wasn't it, because she married a
15 soldier and went to Germany after she lived there, right?

16 A After she was living at Putnams?

17 Q Yes. Could it have been 2004 that you first met her
18 at that time at the Putnams Landing area?

19 A It could have been but I am not one-hundred percent
20 sure but I do recall her telling me that she had moved and
21 got married and stuff like that before.

22 Q And then after that time that you saw her at Putnams
23 Landing you still had on and off occasion to see her over
24 the years?

25 A Yes.

1 Q And at some point within the last few years your
2 father and she had started seeing each other again, on and
3 off at least?

4 A It is really difficult. It is hard for me to
5 remember, I have been on my job now for four years.
6 Because that is what kind of throws the time off of my
7 current job. It is kind of difficult to sit up here and
8 say.

9 Q Are you a one-hundred percent sure she was seeing one
10 of your uncles or is that just the best of my
11 recollection, I think she had seen.

12 A I am not the one to say one-hundred percent sure but
13 I am ninety-nine, yes sir.

14 Q Okay. Do you remember which uncle you are talking
15 about?

16 A Johnny, yes sir.

17 Q Thank you.

18 THE COURT: Redirect?

19 MR. SCOTT: No, Your Honor.

20 THE COURT: Thank you, you may step down. Call your
21 next witness.

22 MR. SCOTT: The State calls Billy Derrenbacher.

23 BILLY DERRENBACHER, being

24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 By Mr. Scott:

2 Q Please state your name.

3 A William Derrenbacher. Derrenbacher is spelled,
4 D-E-R-R-E-N-B-A-C-H-E-R.

5 Q Mr. Derrenbacher, where are you employed?

6 A Currently with the County of Lexington as the
7 Director of Animal Services for the County.

8 Q Back in 2011 where were you working?

9 A I was a Detective with the major crimes division of
10 Lexington County Sheriffs Office.

11 Q When did you leave there to go with animal control?

12 A March of 2011.

13 Q March of?

14 A I am sorry, 2012.

15 Q Did you have an occasion to become involved with a
16 report of a missing person in the Chapin area of Lexington
17 County?

18 A I did. I believe our patrol units reported a missing
19 persons of Mr. Charles Mayers on the 10th. And then it
20 was assigned to me the following day which would have been
21 the 11th of May, to followup investigation.

22 Q What did your followup investigation consist of?

23 A Essentially what we like to do on the onset of any
24 investigation is to try to identify with any family or
25 friends this missing person may come in contact with.

1 Once we make contact with them then we would then in turn
2 find out if there is anyone that we can contact through
3 them, friend, family, phone numbers, addresses that we can
4 follow up on it, is this a common occurrence for this
5 particular person to go missing. And if so then we may
6 have different leads as far as to where to followup from
7 there. If it is not, in this particular case it was clear
8 from the family in speaking with the Mayers that he, John
9 Mayers did not go off anywhere, he was at home and it was
10 expressed to us that Sundays were his time to cook for his
11 family. So the fact that he did miss Sunday was a big red
12 flag for the family. So from that point and time I
13 immediately contacted our intelligence division of the
14 sheriffs office and had missing persons worksheet and
15 flyers put up.

16 Q Let me show you State's number 23. Do you recognize
17 this?

18 A Yes sir, I recognize State's 23.

19 Q What is that?

20 A This is a Lexington County Sheriffs Office missing
21 persons worksheet. It is dated May 11th of 2011,
22 basically displays a lot of the identifier's name, date of
23 birth, age of a missing person. There is other
24 identifiers on it such as their height, weight, gender,
25 authenticity, any other identifying, person identifiers,

1 scars, maybe potentially what they were wearing when they
2 were last seen and it also includes a photo of that
3 individual.

4 Q Where did that photo come from?

5 A I believe this photo was actually taken from the
6 Department of Motor vehicles.

7 Q Where did you get the physical information?

8 A The physical information was provided either from the
9 Department of Motor Vehicles from his drivers license or
10 either from his family who reported him.

11 Q And last seen, when was he last seen?

12 A He was last seen on 5/7, May the 7th of 2011 at
13 approximately 09:34 hours which is 9:34 in the morning at
14 [REDACTED] Chapin leaving with an unknown person in an
15 unknown type vehicle.

16 Q And you first become involved, what, four days after
17 he was missing, it was the 11th?

18 A Yes, the case was assigned to me on the 11th.

19 MR. SCOTT: Your Honor, the State offers State's
20 number 23 for admission into evidence.

21 THE COURT: Mr. Verner.

22 MR. VERNER: Can I see it just for one second. No
23 objection.

24 THE COURT: State's 23 is in evidence without
25 objection.

1 (Whereupon, State's Exhibit 23 was admitted into
2 evidence.)

3 MR. SCOTT: Your Honor, permission to publish?

4 THE COURT: Yes, sir.

5 Q May 11th, 2011 you are investigating a missing person
6 at this time. Is that correct?

7 A That's correct.

8 Q And at this point he has been gone four days?

9 A That's correct.

10 Q And you are talking about generating these flyers.
11 That is what we are looking at here, State's number 23?

12 A That's correct.

13 Q And how were those published, put them on telephone
14 posts?

15 A Generally what will occur just on the onset is they
16 are disseminate throughout our department, control shifts,
17 investigation shift, internally. They are also
18 disseminated throughout other law enforcement agencies and
19 jurisdictions within Lexington County and neighboring
20 Lexington County, Newberry County, Saluda County, Aiken
21 County. They are submitted to those by teletype, they are
22 also submitted through mail delivery or actual physical
23 postings. Throughout our investigations with patrol
24 shifts within the county and investigation through major
25 crimes we actually physically will hand these out to

1 businesses. We will post them at business, gas stations,
2 restaurants. Anywhere where we can put them where they are
3 physical to the public.

4 Q In the early parts of this investigation did you
5 generate any leads, did any names come up?

6 A One of the first persons that I spoke with on the
7 onset of my investigation was with Mr. Charles Mayers
8 which is John's father. In that conversation that I had
9 with him he indicated that he thought potentially either
10 John may have been with Ms. Smith or either she may have
11 information as far as where he may be.

12 Q So that was the name that came up early on?

13 A That's correct.

14 Q That would have been May 11th, is that when that name
15 came up first?

16 A It is May 11th at approximately 14:00 hours which is
17 2:00 p.m.

18 Q Did you followup on this Mandy Smith name you were
19 given?

20 A I did. Myself and another investigator did some
21 research at our intelligence division and we determined
22 that she had a listing at the Department of Motor Vehicles
23 on her drivers license for an address on Wheeland School
24 Road. And we actually went out to that residence trying
25 to locate her.

1 Q What did you find there?

2 A An empty trailer.

3 Q The Wheeland School Road address, is that in
4 Lexington or Newberry County?

5 A That is actually in Newberry County.

6 Q When did you contact Newberry County as far as your
7 investigation?

8 A May the 16th at approximately 10:00 o'clock in the
9 morning we made contact with Newberry County Sheriffs
10 Office and I made direct contact with, at the time Captain
11 Wesley Boland with the Newberry County Sheriffs Office.

12 Q At this point were you monitoring John Mayers
13 financial records?

14 A We were. We had actually requested a search warrant
15 for financial records from the bank he used. I believe
16 his check was a direct deposit check from the Town of Irmo
17 into his account. So that would give us some type of
18 indication whether or not he was using any money.
19 Typically when folks have an active account that they use,
20 whether it is your debit card or checking account or just
21 a savings. When you have money deposited in money
22 generally goes out. You have bills to pay, you have gas
23 to buy, groceries to buy, things of that nature. So money
24 doesn't generally sit to any one particular account
25 outside of a swiss bank account or savings account for any

1 length of time. So that was one of the things that we
2 were looking for as for any movement, collateral movement
3 at all in his account and there was none from that point.

4 Q What was your gut feeling as far as John Mayers?

5 A Just because of the financial records my gut feelings
6 was that he was probably no longer with us.

7 Q When was the first time you made contact with Mandy
8 Smith?

9 A I am sorry?

10 Q When was the first time you made contact with Mandy
11 Smith?

12 A I believe the first time that we made contact or that
13 I made contact was on the 17th of May, possibly the 18th.

14 Q That first contact, at least for you, where did you
15 meet her?

16 A I met her at the residence of Timothy Wise which is
17 provided to me at [REDACTED]

18 Q How did you learn of this address?

19 A When we requested the assistance from Newberry County
20 Sheriffs Office, from Major Wesley Boland we asked if,
21 because we didn't have any further information. The
22 Wheeland School Road was a dead end for us. Obviously we
23 are Lexington County, Newberry would probably have a
24 better indication of addresses and things like that and
25 some contacts within the County that they may be able to

1 make contact and find out to see if anybody knows where
2 she is at now. So from that point and time they located,
3 they located the address, a name was provided to us
4 throughout some of the interviews and Newberry County
5 Sheriffs Office was familiar with that name. That name
6 was Timothy Wise. So I think given that information they
7 were able to track down the address overall on Highway 76.

8 Q And was she living out there at that point?

9 A She was. She was staying, at that particular time
10 she was staying with Timothy Wise who lived there with his
11 mother, I believe.

12 Q Was there a father in the house?

13 A I am not one-hundred percent sure whether there was
14 or was not. I remember speaking with the mother at some
15 point and time in this investigation. But I don't
16 remember speaking with the father but potentially could
17 have been.

18 Q Did you have any knowledge of the living
19 arrangements?

20 A Not definitively because I know that there was a,
21 there was a small storage building outside, out behind
22 Timothy Wise's, the home, the residence where he lived.
23 There was a small storage building out there. And it was
24 my understanding that Timothy Wise had helped Mandy Smith
25 obtain this storage building under the pretences of

1 keeping her animals. Whether or not she actually lived in
2 the storage building I don't know. I don't know if she
3 stayed in the house some and then spent some time out in
4 the storage building or whether it was just essentially
5 for the animals.

6 Q May 17th is the first time you go out there. Was Tim
7 Wise there at that point?

8 A He was but I didn't make contact with Tim Wise at
9 that particular time.

10 Q You were there only to speak with Mandy at that
11 point?

12 A That's correct.

13 Q To your knowledge had she been visited by law
14 enforcement prior to you getting there?

15 A She had and I can, I was notified by Major Boland
16 that he had made contact, he had identified an address
17 initially and this is kind of going back. He had
18 identified an address where she was staying with Timothy
19 Wise. And that may had been a day prior to actually me
20 making contact with her but he had spoke with her, they
21 had went out to the residence. And he had obtained
22 whatever information he obtained and then the following
23 day, we, myself and another detective with the sheriffs
24 department and Major Boland went back out to speak with
25 her again which would have been the 17th.

1 Q What did your conversation with her consist of?

2 A I was asking her, I knew a little bit of background
3 history from the family, from Mr. Mayers family as far as
4 the relationship between the two of them. And in
5 investigations a lot of times you have to corroborate
6 evidence, corroborate statements. And one of those things
7 when you are speaking with someone is, I like to see if
8 their story is going to be any different than someone
9 else's as far as maybe the relationship.

10 Q Did she downplay her relationship or did she play it
11 up more than it actually was?

12 A There was not really any downplaying of the
13 relationship. She did not deny that she had a
14 relationship with Mr. Mayers. But it was on the onset of
15 my interview with her, it was very bleak. There was gaps
16 missing, there was just something that was not there, it
17 just didn't make sense to me. A person that would have
18 that type of relationship with another individual,
19 intimate relationships to me, I feel like that they would
20 have, they should have more information than what they
21 provided.

22 Q Did she say anything specifically that was
23 significant to you regarding his whereabouts?

24 A In the big wide world of investigations there is a
25 lot of things that one may look at as significant or

1 someone outside of the field may hear and may not seem
2 very significant to someone else. However, in this
3 particular case she did make a couple of remarks that I
4 just felt to be odd. To me they struck me as something
5 that I wouldn't expect someone to say. There again I
6 understand in situations people say things and they
7 articulate things in their own ways. However in this
8 particular case I asked Ms. Smith if she knew where Mr.
9 Mayers was. And she said she did not, she hadn't seen him
10 in a while. I believe she had reportedly advised Major
11 Boland the day prior the last time she had seen him he was
12 getting into another vehicle at Mr. J's. However, she
13 kept following back to a statement that I keep thinking
14 and I am going to quote this from her, I keep thinking
15 that every time I turn the corner I am going to see him, I
16 keep thinking I am going to see him. We are investigating
17 a missing persons. No one has ever indicated in our
18 investigation that someone is believed to be deceased.
19 And the fact that someone keeps referring to, I keep
20 thinking that I am going to see him, to me would indicate
21 that that person doesn't think that they are ever going to
22 see them again. Almost in a third person type of
23 statement, why wouldn't she, reasonably, why wouldn't she
24 think that she was not going to see him again.

25 MR. VERNER: Your Honor, I do object. He is

1 speculating.

2 THE COURT: I sustain the objection, you may ask your
3 next question, Solicitor.

4 Q That statement, it was a red flag?

5 A It was a red flag to me, yes sir.

6 Q Who was the name you mentioned, did she give a name
7 as far as seeing him get into another vehicle at Mr. J's.

8 A The name that she provided of getting, I believe it
9 was a brown or a bronze PT Cruiser was the name of Elvis
10 Hill who is currently incarcerated at the Newberry County
11 Detention Center.

12 Q Did y'all followup on that?

13 A We did. We went and actually spoke with Mr. Hill.
14 And he provided us with a statement and he was cooperative
15 with our questions.

16 Q Did you consider him a suspect, a name of interest
17 after that?

18 A We did not.

19 Q That is May 17th we are talking about, correct?

20 A Correct.

21 Q That is ten days after Mr. Mayers was last seen?

22 A That's correct.

23 Q Did you have an occasion to go back there to 21038
24 Highway 76, that is Timmy Wise's house, thereafter?

25 A We did. That was on the 20th of May. We had, after

1 speaking with Mr. Hill in the detention facility we felt
2 the need to go back and speak with her again to
3 corroborate a few statements. So we went back to the and
4 I will refer to it as the Highway 76, the [REDACTED]
5 [REDACTED] we went back to Timothy Wise's residence on Highway
6 76. That was myself and a detective at the sheriffs
7 office and Major Boland with Newberry County Sheriffs
8 Office. While there we were met by his mother, Timothy
9 Wise's mother who indicated she was not there and Timothy
10 was not there as well.

11 Q Who is she?

12 A She is Mandy Smith.

13 Q Did you have any idea where they were?

14 A She indicated that they had went to Walmart and
15 didn't suspect that they would be gone very long. At that
16 point we departed that residence of Highway 76, we went to
17 the Walmart. Timothy Wise drove a very identifiable
18 pickup truck. It was a black Ford L450 with decals on the
19 back glass and things of that nature. So we knew what it
20 looked like. We patrolled the parking lot, we didn't
21 locate that vehicle. After not locating the vehicle we
22 then in turn went back to the Highway 76 residence and the
23 vehicle was there in the yard.

24 Q Was Mandy Smith there?

25 A She was not.

1 Q Was Timothy Wise there?

2 A He was.

3 Q And you spoke with him?

4 A We spoke with Timothy Wise, asked him where Mandy
5 Smith was. He indicated that she, while at the Walmart
6 she got into an unknown vehicle with some unknown males
7 and departed but she was not in town.

8 Q This is May 20th, is that what you are saying?

9 A That's correct.

10 Q Did you, did y'all reach out to Mandy Smith?

11 A We did. We attempted to make a phone call, a phone
12 conversation with her. I think one or two, maybe possibly
13 three messages were left for her on the phone that she
14 had. It did go to voice mail and a short period of time
15 later we did receive a phone call back from Mandy Smith,
16 indicated that she was out of town, about an hour or so
17 out of town and would be more than happy to meet with us
18 at Newberry County Sheriffs Department when she returned
19 in about two hours.

20 Q Did she say anything at that time about going to find
21 a lawyer or anything like that?

22 A She did not.

23 Q Did you all wait for her at the Highway 76 residence?

24 A We did. We waited a little while and then we ended
25 up going back to the sheriffs office and, we were at the

1 Highway 76 address for a little while. After attempting
2 contact with her, I can't tell you exactly how long we
3 were there but the later time that we spent there that was
4 when we received a phone call from her indicating that she
5 was an hour or so out and she would meet with us at the
6 sheriffs office.

7 Q Okay. Did she show up at the sheriffs office?

8 A She did not.

9 Q Did y'all reach back out to her?

10 A I do know that we made contact. I believe Major
11 Boland attempted contact with her and the phone, it went
12 straight to voice mail.

13 Q So on the 20th did she ever show up at the sheriffs
14 department?

15 A She did not.

16 Q What happened with Timmy Wise, do y'all speak with
17 him any further?

18 A We did. We spoke with him again and he provided a
19 statement to law enforcement at that particular time, a
20 very vague statement. My feeling on it was that he
21 probably knew something but he didn't want to really
22 implicate himself.

23 Q He was, was he arrested at this point?

24 A He was not.

25 Q Was that a written statement?

1 A Yes sir, he provided a written statement.

2 Q Were you a witness to that statement?

3 A I was.

4 Q What was your involvement thereafter?

5 A Following that interview, essentially I was playing
6 in Newberry's backyard so I was assisting the agency with
7 whatever their needs were. Obviously our goal in
8 Lexington was to locate Mr. Mayers. That is the report,
9 we were following up on our end of it. By this point and
10 time it was very clear that this was more than just a
11 missing persons. This was an in depth investigation. We
12 reached out to Newberry for assistance and then once we
13 started getting a little bit more involved in this I
14 believe we both kind of became partners in this.
15 Lexington county offered whatever assistance they needed,
16 that we could offer to Newberry, vehicles, whatever we
17 could do to get this resolved.

18 Q It really kind of became a joint effort between
19 Lexington County and Newberry to try to locate Mr. Mayers?

20 A It did.

21 Q Were you involved after the 20th in trying to locate
22 Mandy Smith at all?

23 A I was. I stayed with Major Boland the entirety to
24 the night. Basically the 20th I was in Newberry all day
25 long following up on leads and then that rolled into the

1 night time hours where I believe defense counsel and the
2 Solicitor mentioned ping of the phone. But when the
3 phone, we started getting information on the phone then.
4 Yes, I continued my assistance with Newberry after leading
5 into the early morning hours of the 21st up to probably
6 7:00 or 8:00 o'clock that morning.

7 Q Where were y'all tracking the phone?

8 A I believe the phone went to Sumter. Yes, Sumter, to
9 locate Smith due to the phone trace that was conducted
10 during the investigation. She had a pretty clear avenue
11 straight toward the Sumter area and that is where it was
12 indicated she was going so we began traveling that
13 direction.

14 Q At that time was Sumter, was that location
15 significant to law enforcement?

16 A It was because that was, Mr. Buford resided in the
17 Sumter area.

18 Q Donald Buford?

19 A Which was an acquaintance, we knew him as an
20 acquaintance to Ms. Smith.

21 Q Do you know the nature of their relationship at that
22 point?

23 A I don't know the exact nature of their relationship.
24 I know that they, through some interviews it may have been
25 more of a platonic and then others that may have been more

1 involved.

2 Q Did y'all shoot down to Sumter?

3 A We did.

4 Q Who did you speak with?

5 A Initially we spoke with, I believe it was the
6 roommate of Mr. Buford who contacted him and then through
7 the roommate we made contact with Mr. Buford and he
8 arranged to meet with us at the Walmart near, I think it
9 was on Garners Ferry Road, out that way.

10 Q Just over the Sumter line into Richland County?

11 A Correct.

12 Q Any Mandy Smith?

13 A No, she was not with him. He did indicate that she
14 had been with him at some point and time that night and
15 that he had, I think, gotten her something to eat maybe
16 and given her a ride to another location.

17 Q What was your next lead as far as her location?

18 A Her phone, she kept cutting her phone off so
19 sometimes we would get a ping on her phone and it may be
20 an intermittent ping. And then other times it may stay on
21 long enough that we could get an actual address. But from
22 that point I believe the phone records from the phone
23 company and the pings tracked her back to Greenville.

24 Q Y'all shoot up to Greenville?

25 A I did not.

1 Q Who did?

2 A Major Boland with the Newberry County Sheriffs
3 Office.

4 Q To your knowledge you know the location where she
5 was?

6 A I do not have it indicated in my report but I think
7 it was her mother's residence, who she was staying with at
8 that particular time.

9 Q Okay. We are talking about pings, this is just
10 signals your cell phone gives off, is that what you are
11 describing?

12 A Every cell phone, I am not an expert on cell phone
13 trajectory and that sort of thing, but I have used it
14 numerous amount of times throughout my career. But pretty
15 much every cell phone emits a signal and it is an obvious
16 signal because it is a wireless system that your call is
17 transferred from a tower to a tower and it bounces off
18 others, depending on when or what service carrier you have
19 there it is bouncing off of Verizon or whether you are
20 roaming off of an AT&T tower. I think everybody can
21 associate that when you get your cell phone bill that you
22 may have roaming fees and things like that. But it, your
23 signal bounces off of towers. So that particular signal
24 can be traced directly back toward, to your phone, a
25 specific number for your phone. And it can give you, in

1 most cases, generally a ten foot radius around where that
2 phone is actually at.

3 Q Is that the sole way that you found where Mandy Smith
4 was?

5 A To my knowledge it is, it was her phone. She never
6 made contact with us at, in my involvement into this
7 investigation. And at all times while providing my
8 assistance to Newberry county Sheriffs Office. I do not
9 recall her making any contact with myself, with Major
10 Boland or any other member of our staff or investigators
11 to say that I wanted to speak with an attorney and I am
12 going to turn myself in. Anything of that nature.

13 Q She didn't tell you where her location was?

14 A She did not.

15 Q The last time you spoke with her was on May 20th, is
16 that correct?

17 A That's correct.

18 Q And when was it that she was located in Greenville?

19 A The 25th, the 24th.

20 Q The 20th and the 25th it is your testimony she did
21 not reach out to law enforcement?

22 A That's correct.

23 Q Thank you. Please answer any questions Mr. Verner
24 has.

25 THE COURT: Mr. Verner.

1 CROSS-EXAMINATION

2 By Mr. Verner:

3 Q Good afternoon, Mr. Derrenbacher. The first person
4 that you went to to try to get leads on the possible
5 location of John Henry Mayers was his father, Charles
6 Mayers?7 A That's correct. He was the reporting party on the
8 initial report so obviously I went back to that person.9 Q And he made it clear that she was often, he was
10 often, that John Henry was often with Mandy Smith?

11 A He did.

12 Q Did he indicate that that was a romantic relationship
13 or boyfriend, girlfriend type?14 A To my knowledge he indicated that it was a
15 relationship that they were always together. I don't know
16 whether he specifically said that it was an intimate
17 relationship or rather, I took that for what he said. But
18 my understanding was that routinely he was with her.19 Q Said something to the effect that y'all need to talk
20 to Mandy Smith, she is always with him but they are
21 always, something to that extent. And then some point you
22 subpoenaed John Henry Mayers bank records?

23 A I did.

24 Q And there was still money accumulated in the account
25 after May 7th?

1 A If you can bear with me for just a second I can give
2 you the exact days if you need it.

3 Q I don't need the exact days but after May, after his
4 reported date of disappearance--

5 A His check from the town of Irmo did go into his
6 account by direct deposit. And from the time the subpoena
7 was opened and reviewed there was no movement on any funds
8 in his account.

9 Q And that, was that unusual as a result of your
10 investigation you found that unusual?

11 A In this particular case in the type of account that
12 it was I found it incredibly unusual that there would be
13 no movement at all. I mean somebody is going to buy a
14 pack of gum.

15 Q Did the family tell you why that would be unusual?

16 A For John?

17 Q Right.

18 A No, they didn't particularly advise me why that would
19 be unusual. I mean, that it is, you don't have to be a
20 detective to think it would be unusual for no movement in
21 anyone's bank account, when their check just went in.

22 Q Was John Henry in the habit of taking all of his
23 money out as soon as it was deposited?

24 A I can't testify what his normal transaction would be.
25 I could only testify to what I would know as a reasonable

1 person who has a bank account that when I get paid it
2 doesn't stay in there very long.

3 MR. VERNER: May I approach the witness, Your Honor.

4 THE COURT: Yes.

5 Q Do you recognize this?

6 A Yes, that is the original report.

7 Q During the course of your investigation, a police
8 officer is pretty much required to fill in a detailed
9 incident report about what they do in a case?

10 A They fill in information as it is provided to them,
11 not necessarily we have all of the information, the
12 detailed information.

13 Q And typically on the bottom page--

14 THE COURT: You can't publish it, it is not into
15 evidence.

16 Q Whose signature, whose name is on the bottom lefthand
17 corner of this report?

18 A That is a supplemental investigator report, that is
19 mine, separate from the one that you just showed me.

20 Q So you would have been the author of this report?

21 A I was the investigator assigned to this report who
22 completed the supplemental that you have in your hand.
23 The report you just showed me was not my report, that was
24 an initiating report by Deputy Doug Edmondson?

25 Q Right. But at some point you did a supplemental

1 report further in the investigation?

2 A Yes, sir.

3 Q And the portion of it that you offered you put your
4 name at the bottom of it?

5 A That's correct.

6 Q What does your report reflect in the middle of it
7 about why it was suspicious that the money was missing or
8 hadn't been taken?

9 A Do you have a particular area?

10 Q Yes, sir. You just testified that the fact that the
11 money wasn't, that it was not your opinion that he had
12 taken all of the money at one time. In your report you
13 indicate that that was suspicious because he always
14 withdrew it all at one time for drugs? That is the wrong
15 page actually. See the sentence that says, who advised.
16 What was your understanding at the time why it was
17 suspicious that he was accumulating money?

18 A If you give, if I can have just a moment of the
19 Court's time to just view a little before where you are
20 pointing out.

21 THE COURT: You may.

22 A To clarify your question as far as why you--

23 Q I want you to answer the question--

24 THE COURT: Wait just a minute. The Court Reporter
25 can't get two much less three of us talking at the same

1 time.. Do you need clarification?

2 A Yes sir, if I could have clarification on his
3 question.

4 MR. VERNER: May I object, he hasn't answered the
5 question yet, Your Honor. I would like him to answer and
6 then clarify. And he hasn't given me an answer.

7 THE COURT: Thank you, very much. Repeat the
8 question, please, Mr. Verner.

9 Q Why was that suspicious to you on May 17th when you
10 entered your report?

11 A Okay. The way the report reads--

12 MR. VERNER: I object, Your Honor.

13 A Your Honor, I am trying to answer his question.

14 THE COURT: Objection is overruled.

15 A The way the report reads and the reason why I wanted
16 to go back a few sentences is because not necessarily is
17 it my direct impression. But when I notified his family
18 straight from the report, when I notified his family that
19 there has been no movement into his account they felt that
20 that was odd because, because of dependencies as they
21 advised me. He would normally move a lot of money out of
22 his account. As in anyone's account no movement in a
23 personal bank account is not a good sign. Either you are
24 really good at saving money or you have no bills. That
25 was my point.

1 Q What kind of dependencies are you talking about?

2 A Well, he had drug dependencies as stated by his
3 family.

4 Q And stated in your report?

5 A It is in the report as advised by his family.

6 Q So your testimony is that you forgot that when you
7 just testified or that, you wrote in your report that it
8 is odd that he had money accumulating because the family,
9 he usually took all of the money out for drugs. Is that
10 not in your report?

11 A I am a little confused as far as your line of
12 questioning. But what I am trying to testify to is not
13 the fact that it is odd that he had money into his
14 account. What I am testifying is that it is odd,
15 suspicious that none of it had moved.

16 Q And that is the only reason today that you are
17 suspicious of it. That was the only question. Then you
18 went to visit the trailer on Wheeland School Road in
19 Newberry?

20 A That's correct.

21 Q And it had been abandoned?

22 A Yes, apparently abandoned. We looked through the
23 windows and there was nothing inside.

24 Q And that was the last known address of Mandy Smith?

25 A That we could come up with per the Department of

1 Motor Vehicles. That is where we were kind of going off
2 of, a starting point.

3 Q Did you talk to anybody, the landlord, to see how
4 long the trailer had been abandoned?

5 A We had not spoke to the landlord at that point
6 because it was so new that we didn't even really know
7 whether she owned the property. We did know there was an
8 A and there was a B. One of them was a single wide on the
9 property and the other one was a double wide on the
10 property. However we did speak to someone on that
11 particular day which was the neighbor across the street.

12 Q And did he tell you how long the trailer had been
13 abandoned?

14 A If you bear with me for just a moment until I get to
15 that part. On May the 8th, 2011 Mr. Childers who is the
16 neighbor living adjacent to this driveway on Wheeland
17 School Road indicated that on May 8th he reported seeing a
18 white Ford pickup truck and a large black Ford pickup
19 truck departing the residence with household goods. That
20 is indicated on Wednesday of the following week. So he
21 references the Mother's Day. I am reading verbatim from
22 the report. Childers advised that he believed that
23 weekend of Mother's, that it was a weekend of Mother's Day
24 that the moving began which was May the 8th of 2011.

25 Q He said that is when it began or that is when he saw

1 pickup trucks moving stuff out?

2 A That is when it began, he said they continued moving
3 household goods from that trailer or from that area for a
4 couple of days.

5 Q Where in your report does it say that is when the
6 moving began?

7 A When I just asked, just directly above that, I asked
8 him if he happened to know the property owner's name. He
9 provided me with the property owner's name of Richard
10 Grimmatt. And then he states, he says the property
11 owner's name is Richard Grimmatt, however he states, a
12 white female by the name of Mandy rented the trailer.
13 Childers advised that he believed that Mandy may have
14 moved out due to seeing multiple trucks leaving the
15 household full of furniture over the weekend of Mother's
16 Day.

17 Q Mother's Day was on Sunday, right?

18 A That would establish it was on the weekend of
19 Mother's Day is what he is providing to us. That is what
20 he has given us.

21 Q And I believe you indicated you located Mandy at Tim
22 Wise's house on May 17th?

23 A Actually she was located there by Major Boland of
24 Newberry County Sheriffs Office the day prior, provided me
25 with that information that he had finally located her.

- 1 That is the address where I first made contact.
- 2 Q May 17th is the day you first went to speak to her?
- 3 A Correct.
- 4 Q Was anybody with you when you went to Mr. Wise's
- 5 house?
- 6 A Captain Boland and Detective Gorn, (phonetic), from
- 7 Lexington County Sheriffs Office.
- 8 Q He was captain then and now Major Boland?
- 9 A Major Boland now was a captain at this time.
- 10 Q Had y'all called before you went over there or just
- 11 it was an unannounced visit?
- 12 A My knowledge it was an unannounced visit.
- 13 Q And you encountered Tim and Mandy in the home?
- 14 A Tim was out on the front porch when we first arrived
- 15 and asked if I could speak with Mandy outside. I never
- 16 spoke with Tim.
- 17 Q Do you recall if Major Boland spoke to Tim Wise?
- 18 A I don't think he did that day. I don't know whether
- 19 he did the previous day when I was not with him. But that
- 20 particular day we just spoke with Mandy.
- 21 Q So at this point Tim's name really hadn't come up at
- 22 all other than that was where Mandy was living was the
- 23 only reason--
- 24 A Yes, I had no idea who Tim Wise was at that
- 25 particular time.

1 Q All right. Did you enter this home?

2 A No, not on that day, no.

3 Q Where did you talk to Mandy?

4 A Out in the front yard on the steps, near the steps of
5 the front yard.

6 Q On May the 17th did you see the shed in the back or
7 was that something you did at a later time?

8 A That was a later date.

9 Q But you subsequently went back to Mr. Wise's
10 property?

11 A We were there on the 20th.

12 Q Did you enter the house at that time?

13 A We were invited, yes.

14 Q Where there weapons, did you encounter a room where
15 there were weapons in the home?

16 A I don't recall seeing an armory and I am going to say
17 it as an armory because some people keep armories in their
18 residence. I don't recall seeing any room in there that I
19 would consider as an armory or a room specifically for a
20 weapon, holding up weapons. As a matter of fact, it was
21 an older farm house, the house was somewhat cluttered in
22 every room that we went to. But I cannot testify to
23 seeing a room that had a large amount of, a weapons's
24 case.

25 Q On May 20th were you executing a search warrant or

1 what was the purpose for going to the home on May 20th?

2 A On May 20th is the day that we initially went back
3 over there to speak with Mandy Smith again and they were
4 at Walmart.

5 Q Why did you, did the mother let you in to go through
6 the home?

7 A Yes.

8 Q And she said, if you want to look around you are
9 welcome to look around?

10 A No, we spoke with the mother initially first and she
11 told us that they went to the Walmart. Then we went to
12 the Walmart and then came back. Timothy Wise's truck was
13 back at the residence. So when we came back to the
14 residence to speak to Timothy Wise that is when we spoke
15 with his mother and that is when we spoke with Tim Wise.
16 He was home and invited us into the home.

17 Q Did you just speak to him in the living room or did
18 you go through every room in the home?

19 A I don't recall going through every room in the home.

20 Q It was still just there to talk to Tim. So at that
21 point you weren't going through every room searching for
22 evidence?

23 A No. We had no reason at that point and time to be
24 tearing anybody's house apart or going through any rooms.
25 We were just trying to make contact with Mandy.

1 Q Since May 17th have you ever had occasion to go back
2 to the Wise's property other than May 20th?

3 A May 20th was the last day.

4 Q So you wouldn't, have ever performed any kind of
5 search for evidence whether by warrant or consensually?

6 A No.

7 Q And that would include the shed out back?

8 A Correct.

9 Q You indicated to the jury that the statement that
10 Mandy made that you felt was just kind of funny, was I
11 keep thinking every time I turn a corner I am going to see
12 him. And you were a little bit receptive or you note that
13 just stuck out to you?

14 A Yes, sir.

15 Q Would that be consistent with a battered woman saying
16 I have a fear of somebody and just every minute I turn
17 around I am just scared I am going to see him.

18 MR. SCOTT: Your Honor, I think I am going to object
19 to that question.

20 THE COURT: Overruled. He can answer if he knows the
21 answer.

22 A It would be consistent if I was an officer responding
23 to a domestic related call. But I wasn't responding to a
24 domestic related call. I was just merely looking for a
25 man that has been reported missing.

1 Q But it was inconsistent with the context with the
2 story that you were there to talk to her about, right?

3 A It seemed odd to me, it was an odd statement that
4 someone would make as far as, not necessarily the words of
5 it but how it was said to me. My question would you, why
6 would you be surprised to see him again.

7 Q It was just out of context and didn't fit?

8 A It struck me wrong. You know, call it a gut feeling
9 or, it struck me wrong.

10 Q And then at some point you managed to find, she
11 indicated to you that he had been, he, John Henry, had
12 been with Elvis Hill, is that correct?

13 A That was an initial statement I believe that was made
14 to Major Boland which led us to go speak with Elvis Hill
15 over at the detention facility.

16 Q As luck would have it, Elvis just happened to be
17 locked up so he was easy to find?

18 A He was easy to find.

19 Q But he wasn't locked up on May 7th, was he?

20 A Not to my, not that I understand.

21 Q And Elvis said, I hadn't seen John Henry, he has
22 never been in my car, something to that extent?

23 A I would have to review back and I don't know that I
24 have a statement on that. I have what I did as far as the
25 sheriffs office, Lexington County is concerned but I don't

1 have a statement regarding that now so I can't testify to
2 what he exactly said.

3 Q I can help you out on that.

4 A Okay.

5 Q Very top, whose name is on the bottom of this report?

6 A That is my report.

7 Q The very first paragraph, at some point you
8 encountered Elvis Hill and spoke to him at the Newberry
9 County Detention Center.

10 A You are referring to and I will start on the second
11 sentence. Hill stated that at no time on May the 7th of
12 2011 nor any time that he could remember had he, excuse me
13 for a second, had the victim ever been inside of his
14 vehicle, a 2005 Chrysler PT Cruiser.

15 Q Okay. So Elvis, when you first met him at the jail
16 said he wasn't in my car on May the 7th and he has never
17 been in my car?

18 A Apparently that is what he said.

19 Q But you followed up further and investigated it
20 further, didn't you?

21 A We did.

22 Q And do you recall why Elvis was in jail on May 8th or
23 the date you spoke to him?

24 A Not one-hundred percent. It was potentially a
25 domestic related event.

1 Q He was beating up his wife, right, or at least it was
2 alleged to have?

3 A It was a domestic related event. I don't know
4 whether he had beat up or if there was anything physical.

5 Q By domestic related you mean a domestic violent type
6 charge, criminal domestic violence?

7 A That's my understanding.

8 Q Okay. And in, just to be more thorough in the police
9 work, you went ahead and interviewed his wife, is that
10 correct?

11 A We did.

12 Q Did her story match Elvis' story?

13 A Not really.

14 Q What do you mean not really?

15 A Her story actually included John Mayers.

16 Q Did the wife indicate whether John Henry Mayers was
17 riding around with her husband on may 7th? Do you have
18 your own copy of the report?

19 A I do.

20 Q Okay.

21 A According to her statement that she provided the
22 night of the 8th that her--

23 Q The 8th?

24 A Let me go back here. The assault actually occurred
25 on the 8th.

1 Q Why did she say the assault--

2 A She indicated that on the evening of 5/7/2011 the
3 victim and Hill were riding around in his vehicle
4 together.

5 Q So Elvis' wife said he is lying because he was riding
6 around with John Henry?

7 A According to her.

8 Q And that, in what condition did Elvis come home that
9 night?

10 A She stated that he was acting crazy and I believe he
11 was intoxicated.

12 Q Did she use the phrase, hit a lick?

13 A Her words were, and he stated that he had hit a lick.

14 Q Which means what in common parlance?

15 A Depends on what division you work. It could be
16 narcotics related, it could be a robbery, it could be--

17 Q Could it be consistent with using crack cocaine?

18 A I wouldn't say that.

19 Q Could it be consistent with killing somebody?

20 A It could be consistent with any one thing that any
21 particular individual in using the term would mean to
22 them. It could mean a robbery. I have heard suspects use
23 it in terms of robberies. I have heard it used on terms
24 of home invasions. I have heard it used in terms of the
25 stealing narcotics. It is commonly used on, in street

1 terms and it has various opinions.

2 Q One common term would be forcibly taking drugs from
3 somebody?

4 A Forcibly taking anything. The commonly term is
5 hitting a lick I would say in seventy-five or eighty
6 percent of investigations that I have heard that is used
7 is a robbery.

8 Q Okay. Does it have any good meanings that you know
9 of?

10 A Not unless you are trying to get to the center of a
11 Tootsie roll.

12 Q Short of a Tootsie roll, hitting a lick is a dubious
13 behavior, the more consistent with being a victim as
14 opposed to a drug?

15 A It could be, yes.

16 Q What did she say that Elvis said about staying around
17 here, did he say I have got to go and get out of town?

18 A According to what I recorded, portions of his
19 statements from his wife he indicated that he had to get
20 out of town, needed to get out of the area for a while.

21 Q And then on May 20th you went back to the Wise
22 household to speak with Mandy again?

23 A That's correct.

24 Q Was your intent to also speak to Tim at that time?

25 A At that particular time I knew Tim to be an

1 acquaintance of Mandy and that is where she was staying.

2 Q But you don't recall, you were definitely going there
3 to speak to Mandy?

4 A Yes, I wanted to speak to Mandy.

5 Q Were you intending to speak to Tim too?

6 A Certainly, I would speak to Tim's mom if she would
7 tell me something that would end this investigation.

8 Q And Mom said they had gone to Walmart?

9 A She indicated that they went to Walmart.

10 Q And then when you got back, did she tell you how they
11 had gone to Walmart?

12 A I don't know that she told me. I think she may have
13 said that they took his truck. I know his truck was
14 missing from the yard. So whether that they had taken his
15 truck or we just assumed they took his truck because it
16 wasn't there.

17 Q Tim had a pickup truck?

18 A He did.

19 Q Do you remember what kind and color?

20 A Ford F150, I would, approximately '97 to a 2004
21 model, 2003 changed body styles.

22 Q Ford F150?

23 A Extended cab 4-wheel drive, black, yes.

24 Q And it was a black vehicle?

25 A Yes.

- 1 Q Didn't y'all go to Walmart looking for that truck?
- 2 A We went to Walmart looking for that particular truck.
- 3 Q Do you know whether Mandy Smith had a vehicle at this
- 4 time?
- 5 A No sir, I don't.
- 6 Q You don't know?
- 7 A I didn't know if she had a vehicle or not.
- 8 Q Did you see any other cars or any other evidence that
- 9 Mandy had a vehicle around?
- 10 A No.
- 11 Q The truck is not there at Walmart so we came back to
- 12 Tim Wise's home?
- 13 A Correct.
- 14 Q And we, meaning you and Major Boland?
- 15 A Correct.
- 16 Q And Tim is there at that time?
- 17 A He is.
- 18 Q But Mandy is not there?
- 19 A According to Tim she was not.
- 20 Q But mother said that they had left the house
- 21 together?
- 22 A The mother indicated, his mother indicated they had
- 23 left the house together, they had went to Walmart and they
- 24 should be back shortly.
- 25 Q But Tim had dropped Mandy at the Walmart?

1 A According to his statement.

2 Q And then I think you called several times. Mandy has
3 got a cell phone and you called a couple of times. You
4 said at least three times leaving messages for her?

5 A Yes, sir.

6 Q Did she ever speak to you at all?

7 A She did, she eventually called me back.

8 Q I think you said a short time later she returned one
9 of my calls?

10 A And that is when she advised she was out of town
11 about an hour and a half. And she would be back to meet
12 with us over at the sheriffs office in about two hours or
13 so.

14 Q Do you remember what date of the week that was?

15 A That was the 20th.

16 Q And then also May 20th you went ahead and interviewed
17 Tim Wise, is that correct?

18 A Yes.

19 Q Were you present for the interview of Mr. Wise?

20 A Which interview.

21 Q On May 20th?

22 A I spoke with Tim Wise on the 20th but prior to me
23 speaking with Tim Wise he was interviewed by a detective
24 with the Newberry County Sheriffs Office, I was not in
25 that interview.

1 Q Okay. When you spoke to Mr. Wise, that was just back
2 at the house, when they returned from Walmart on May 20th?

3 A No, sir. I spoke when he was at the sheriffs office.

4 Q Okay. At some point he agreed to go to the sheriffs
5 department to speak to law enforcement?

6 A He did.

7 Q Did you accompany them to the Newberry County
8 Sheriffs Department?

9 A I did.

10 Q And at that time, I can't tell whose signature this
11 is, are these your signatures on the witness portion
12 bottom lefthand?

13 A Yes, that is a Lexington County statement form.

14 Q Who conducted that interview?

15 A That interview was conducted by myself.

16 Q And it appears Newberry County also must have gotten
17 him to sign a rights form?

18 A They conducted an interview with him first and then I
19 spoke with him secondary, just to see if anything had
20 changed so to speak. If he provided me with the same
21 tracks that he provided with them.

22 Q Did he say anything to you about Mandy forging a bill
23 of sale on his Buick LeSabre? On the very first page
24 towards the middle you talk about he helped her fill out
25 the top form of a bill of sale?

1 A Right.

2 Q Did he say anything about it being illegal, that she
3 stole the car or that it was forged?

4 A I was told that Mr. Mayers was going to sign his car
5 over to her. I filled out the top part of the bill of
6 sale and told her to get him to sign it and I would help
7 her move it.

8 Q And then he did that on what date?

9 A On the 21st of April.

10 Q It was sold to a recycling yard?

11 A According to his statement it was Prosperity Metal.

12 Q Did he indicate to you that the car had been stolen
13 or that the paperwork had been forged?

14 A I think in later statements.

15 Q I am not asking about later statements, I am asking
16 you you spoke with him on May 20th?

17 A Not on the 20th, no.

18 Q In any later statements did he mention that the car
19 had been stolen?

20 A I believe and I don't want to speak out of terms with
21 it because I don't have that in front of me. But I
22 believe that he did indicate later on that he had
23 knowledge of a forgery, that the paperwork was not filled
24 out by John Mayers.

25 Q And that was a statement made to you?

1 A I think that was in a verbal statement, not a written
2 statement.

3 Q Do you know what day he made that statement?

4 A I have no idea, sir.

5 Q Certainly in his written statement he didn't say
6 anything about an illegal transaction, right?

7 A I don't think he did in this particular one.

8 Q So this was your second really encounter with Tim
9 Wise. I understand the first one was pretty brief?

10 A The first one I didn't even speak with him.

11 Q Okay. And I don't know, the first time he doesn't
12 know anything about the missing John Henry?

13 A I didn't speak to him.

14 Q When you spoke with him on May 20th he still doesn't
15 know anything about factually John Henry Mayers
16 disappearance? He didn't give any factual statement about
17 John Henry being killed, did he?

18 A He did not.

19 Q Is it fair to characterize his May 20th statement
20 basically says, if something happened to John Henry maybe
21 Mandy could have done it.

22 A Actually the direct question was, was she capable and
23 he answered that she was.

24 Q Are you on that question and answer line of that?

25 A Yes.

1 Q Are these your questions and answers?

2 A They are, they are my questions and they are Timothy
3 Wise's answers.

4 Q But those would be your direct interrogation?

5 A I wouldn't say they were interrogation.

6 Q However you want to do it, talking to. Start with
7 the one that says question, is Mandy, did Mandy tell you
8 anything. Do you see that one?

9 A That is the third question down.

10 Q Would you read that?

11 A The question asked, did Mandy tell you anything about
12 what happened to John.

13 Q What is the answer?

14 A She hasn't told me that anything happened to John.

15 Q What is the next question?

16 A Is Mandy capable of hurting or killing John Mayers.

17 Q Answer?

18 A I feel like she would in self-defense.

19 Q Last question?

20 A If so, you are asking for the next one or the last
21 one?

22 Q Just read on down to the bottom.

23 A If so what would Mandy's motive be for hurting or
24 killing John.

25 His answer is, fear or blackout rage would be her

1 sole motive.

2 I asked him then, did he kill John Mayers or have any
3 part in his disappearance.

4 He answers, no.

5 Q Do you consider that Tim was being truthful in that
6 statement to you based on your investigation?

7 A Tim provided us in this particular interview with
8 more information than Tim knew that he provided us. No,
9 Tim was not being truthful. Tim was lying through his
10 teeth because he was involved in this.

11 Q Did he appear to be scared or nervous when you were
12 talking to him?

13 A Yes, sir. He was being interviewed by law
14 enforcement in reference to a missing person who obviously
15 was murdered. So, yes, he was scared.

16 Q And then I think you said you personally met with Mr.
17 Don Buford?

18 A I did.

19 Q What was the importance of Don Buford as a witness in
20 this case?

21 A The vehicle that Mr. Buford owned was determined to
22 be used by Ms. Smith to transport Mr. Mayers from the
23 Skylark area, Mr. J's to the area where his body was
24 eventually located. It was also used to transport his
25 body parts to another area after desecration.

1 Q Are you usure about that second portion of it?

2 A Yes. I am pretty certain.

3 Q And you did a search warrant where y'all searched Mr.
4 Buford's vehicle?

5 A We did.

6 Q What kind of vehicle did Don Buford own?

7 A It was a white Ford Ranger pickup truck.

8 Q He was also present with Mandy Smith and Tim Wise the
9 day of May 7th, wasn't he?

10 A Not to my knowledge.

11 Q You don't know whether he had been to her house that
12 day?

13 A I don't know that to be a fact, no.

14 Q Do you have any evidence that he is at all involved
15 in this killing?

16 A He who?

17 Q Mr. Buford at all, do you have any evidence that Mr.
18 Buford is at all involved in the death or disappearance of
19 John Henry Mayers?

20 A I have no evidence nor was, that I can recall any
21 evidence found that directly relates Mr. Buford other than
22 the use of his vehicle.

23 Q And he certainly wasn't charged with any crime in
24 this case?

25 A He was not.

1 Q And, again, I am going to ask you one more time, on
2 what basis are you saying that Mr. Buford's vehicle was
3 used to take the head to the lake or the river?

4 A Under statements made by, the confessions made by
5 Timothy Wise as far as his portion of this is concerned.

6 Q Again that comes from Mr. Wise's version of the
7 story?

8 A I tend to believe someone that wants to confess to
9 doing something outside of someone saying I didn't do
10 anything. It is hard for me to fathom that someone would
11 make up their involvement in a crime this heinous for any
12 apparent reason.

13 Q But Mr. Wise gave a statement on May 20th when it was
14 not true, right?

15 A He did.

16 Q And then he was interviewed again on May 25th, do you
17 recall him being interviewed on May 25th?

18 A I didn't interview him or after.

19 Q You don't have any knowledge of his--

20 A All I can tell you is being, assisting in the
21 investigation outside of what we initiated in Lexington
22 County is information provided by Mr. Wise as progressed
23 became more corroborating.

24 Q Y'all were able to weed out the inconsistencies of
25 his story?

1 A When you start off a story it is going to be a little
2 bit rough when you have got a, you have got to give more
3 details and those details became more evident as time
4 passed.

5 Q I think you indicated that Mandy called you and spoke
6 to you and said she was about an hour or so away and she
7 wanted to turn herself in or at least talk to you?

8 A She agreed to come and speak to us at the sheriffs
9 office.

10 Q Did she tell you about trying to get transportation?

11 A No, she just said she was out of town, about an hour
12 and a half and would meet us at the sheriffs office in
13 about two hours.

14 Q Did you ever have any subsequent calls, to the best
15 of your recollection, the conversation?

16 A I didn't speak with Ms. Smith again from that point.

17 Q Okay. Do you know whether she spoke with Newberry
18 County?

19 A I do not.

20 Q Were you, Mandy was arrested on May 24th, the evening
21 of May 24th in Greenville County at her mother's home?

22 A That is my understanding.

23 Q Were you at all involved in the apprehension or
24 arrest of Mandy?

25 A I was not.

1 Q So you don't know whether she had called or spoken to
2 law enforcement?

3 A I don't. I can't testify to that.

4 Q But by May 25th or so, in that area, once it became
5 clear that this was a homicide pretty much Newberry County
6 was the lead agency because Newberry County would be the
7 location where Mr. Henry Mayers body was found?

8 A Lexington County Sheriffs Office investigated a
9 missing persons. Once it transpired where it went it was
10 Newberry's investigation.

11 Q So pretty much from that date on Newberry County is
12 doing the full investigation?

13 A Newberry County has a lead and Lexington County is an
14 asset for manpower or assistance.

15 Q If there is a certain necessary witness in Lexington
16 County y'all would certainly help locate or do anything
17 you can but primarily at that point it becomes Newberry
18 County Detectives?

19 A Well, we are Lexington County detectives offering our
20 assistance to our neighboring county.

21 Q But you didn't have any more involvement after--

22 A I had no other involvement after that.

23 Q Would you have stayed on the case after that had
24 Lexington stayed on it or are you aware of any other--

25 A Beyond the arrest?

1 Q Yes, sir. Are you aware of any other Lexington
2 detectives becoming, maintaining a--

3 A Once an arrest has been made, obviously we have no
4 jurisdiction in Newberry County so there would be no need
5 outside of any other request for our investigators or
6 deputies to do anything further. My recollection, I
7 don't, I did not receive a phone call from the sheriff or
8 from any other member of Newberry County Sheriffs Office.

9 Q Thank you.

10 THE COURT: Before we go redirect, if any of the
11 spectators would like to step out at this time now would
12 be the appropriate time.

13 REDIRECT EXAMINATION

14 By Mr. Scott:

15 Q Mr. Derrenbacher, the defense was asking about Donald
16 Buford's truck, is that the white truck we have been
17 talking about?

18 A It is.

19 Q And he asked you about inventorying or looking inside
20 of it or investigating the truck?

21 A We executed a search warrant as far as that is
22 concerned, in the truck.

23 Q What, if anything, was found?

24 A I beg the Court's indulgence, Your Honor.

25 THE COURT: Yes, sir.

1 MR. VERNER: Solicitor, what truck are you talking
2 about, Mr. Scott?

3 MR. SCOTT: The question was in regards to the white
4 pickup.

5 THE COURT: Wait just a minute. There is a certain
6 amount of decorum that should be in the courtroom. And
7 the decorum in the courtroom is not for the parties to be
8 talking to each other. If y'all have something you want
9 to talk about you can address it to the Court.

10 MR. VERNER: Your Honor, I apologize, I didn't hear
11 which vehicle. There were several vehicles that were
12 searched and I was just trying to get my notes on which
13 one.

14 THE COURT: Repeat your question, Solicitor, please.

15 Q What, if anything, was found in the white pickup
16 truck that you spoke of earlier during cross-examination.

17 THE COURT: And that is Mr. Buford's truck?

18 MR. SCOTT: It is, Your Honor.

19 THE COURT: All right. Thank you.

20 A Your Honor, just for further clarification on it,
21 this is a white ford ranger,
22 1-Foxtrot-Tango-Yankee-Romeo-10-Delta-53-Alfa-Bravo-35116
23 belonging to that of Mr. Buford. Evidence collected from
24 that vehicle was one swab from the truck bed, one swab
25 from the truck bed, two swabs from the driver's side door,

1 contents of an ashtray, one set of keys, trace tape from
2 the driver's seat. And a DVD processing of the Bluestar
3 Agent to locate any blood remnants in the vehicle.

4 Q What is Bluestar Agent?

5 A Bluestar Agent is a chemical that is reactive to
6 blood typically used in investigations to determine, if
7 you have a crime scene where someone has cleaned the crime
8 scene, removed the blood to, attempted to remove the blood
9 and seemingly to the naked eye it is clean. However, if
10 you spray what is used as Bluestar or sometimes used as
11 luminal and then turn the lights down it will glow, the
12 blood will react, the chemical agent reacts to the blood
13 and it glows like a light, it is a very bright glowing
14 light and it is very easy to see with the lights off.
15 Obviously you are not going to see it with the lights on.
16 But it is reactive to that.

17 Q To your knowledge did the Bluestar Agent have any
18 reaction with any part of the white pickup truck
19 associated being owned by Donald Buford?

20 A It did. There were spots, several spots on the
21 vehicle that it reacted to, to the spots that were found
22 on the driver's side door and then two separate swabs were
23 taken from the truck bed itself.

24 Q This is a presumptive inference of blood, it is not
25 conclusive in his blood, is that correct?

1 A It is a presumptive test.

2 Q But it is your testimony that it did react positively
3 and it did give you a presumptive positive for blood in
4 the drivers door of the white pickup?

5 A Driver's door of the white pickup truck and two spots
6 on the drivers side door in the white pickup and two
7 separate locations in the truck bed.

8 Q From your investigation who was driving that white
9 pickup May 7th of 2011?

10 A From my investigation Mandy Smith was driving it.

11 Q Is that the vehicle that had the presumptive test of
12 blood on the drivers side door?

13 A That's correct.

14 Q During cross-examination you mentioned that here was
15 no evidence of Donald Buford committing that crime?

16 A That's correct.

17 Q The crime I am speaking of is the murder of John
18 Mayers?

19 MR. VERNER: Your Honor, I object, that is a
20 statement, that is not a question.

21 THE COURT: I thought he was directing to part of
22 cross-examination. Rephrase the question for me, please,
23 Solicitor.

24 Q During cross-examination you mentioned that there was
25 no evidence from your investigation that Donald Buford had

1 any part to do with the murder of John Henry Mayers?

2 A That's correct.

3 Q After your full investigation was, is there any
4 evidence that Elvis Hill had been involved with the murder
5 of John Mayers?

6 A It was not.

7 Q Were you able to exclude him as a suspect?

8 A We were able to exclude him.

9 Q On the 20th, when you go to Highway 76, Tim Wise's
10 house, who else lived there?

11 A I know his mother, potentially his father.

12 Q Do you know who owned the house?

13 A His mother, his parents, it was his parents home, Tim
14 Wise's parents home.

15 Q He lived there with them?

16 A He did.

17 Q And you spoke with the mother on the 20th, is that
18 right?

19 A That's correct.

20 Q Do you have any knowledge as to her calling Tim Wise
21 at the Walmart. I think it was your testimony that she
22 said Tim and Mandy had gone to Walmart. Did she call him
23 in your presence?

24 A I can review my report. I am not one-hundred percent
25 sure whether she did or not.

1 Q Just to your recollection, do you recall that
2 phonecall being made?

3 A She may have made a phonecall while we were standing
4 there to see if he would answer the phone. I recall it
5 when we asked, she was very nonchalant. She felt very, I
6 felt that she, she was speaking very confidently that she
7 assumed that they were going to be back in the next few
8 minutes.

9 Q The first statement Tim Wise have you all, May 20th,
10 was it, how would you characterize his statement?

11 A Without saying, characterizing anyone in particular,
12 it was pretty expectable I guess. Very few and far in
13 between do you come up with someone involved in a crime
14 that just running up to you and says, I did it. People
15 generally don't do that. They want to distance
16 themselves, they may provide you with information that
17 suggest that they were there, knew about it or had
18 knowledge of it. But they generally in most cases,
19 codefendants and or people that are responsible for crimes
20 will distance themselves from it and they give you a
21 little bit of the information. I feel that they think
22 they are going to make you happy if they give you a little
23 bit, maybe you will go away, you will leave me alone,
24 won't ask you many more questions, will give you a little
25 bit to suffice and then that is all. I think that is

1 initially what we saw here was Timothy Wise's efforts to
2 provide us a little bit of information that, you know, to
3 suffice us to get us to leave him alone. He was nervous.

4 Q Is it safe to say at first he was minimizing his
5 involvement?

6 A One-hundred percent he was minimizing his
7 involvement.

8 Q In his second statement did he implicate himself more
9 so?

10 A I do not, in the interview, and I do not have a copy
11 of that statement. I do know by reviewing the
12 investigational notes, the mutual investigation between
13 the two agencies that he was more forthcoming in that
14 interview.

15 Q And is that common with people implicated in crimes
16 such as these were minimizing at first and then upon being
17 presented with further evidence giving a more detailed
18 statement?

19 A Minimizing a statement with certain magnitude is very
20 common and the more, essentially everyone knows what your
21 mama or grandmother told you, don't lie because if you
22 tell a lie you have got to make up another lie to cover
23 that lie. And when folks lie they will typically make up
24 another lie to cover up the lie. And before long they
25 have fourteen, which lies they told and which they haven't

1 and then if you are any kind of investigator or law
2 enforcement officer you are going to pick up on the
3 consistencies in your story. Generally when you are
4 interviewing a suspect and you call them, you told me this
5 on this day and you told me this the last time I spoke to
6 you and now it is changed. They are caught in that lie
7 and sometimes they just continue lying and other times
8 they decide it is time to go ahead and tell you some more.

9 Q May 25th, who showed law enforcement where John
10 Mayers was?

11 A Timothy Wise.

12 Q On May 8th, on the weekend of May 8th who moved out
13 of their home on Wheeland School Road?

14 A Mandy Smith.

15 Q On May 20th who left Newberry and went down to Sumter
16 and then up to Greenville?

17 A Mandy Smith.

18 Q Was it ever a secret that John Mayers suffered from
19 drug addiction?

20 A No, sir.

21 Q Turn around and look at State's 23. When was that
22 generated?

23 A That was generated on the 11th of May.

24 Q What does it say at the very bottom?

25 A Subject has drug history.

1 Q That was something you knew all along, is that
2 correct?

3 A We can look into prior history to see if there are
4 abusers, if they had been arrested, narcotics activities
5 and this particular, when we ran the criminal history and
6 we run a few things to get information on them it pops it
7 up that he has prior drug history.

8 Q The back and forth during cross-examination regarding
9 his financial accounts and movements and whatnot, when you
10 were reviewing his bank accounts you are well aware that
11 he has a drug addiction problem, correct?

12 A Correct.

13 Q Thank you.

14 RECROSS-EXAMINATION

15 By Mr. Verner:

16 Q I believe you said that you took some Qtip swabs of
17 samples from, I understand it is probably a more, it is
18 not the version of a Qtip that you put in somebody's ear
19 but you basically have a Qtip to take swabs of blood in
20 crime scenes?

21 A Just to make clarification for court record. I did
22 not take any swabs. Those swabs were collected by a crime
23 scene investigator which is Detective Strickland.

24 Q I assume he is a very experienced--

25 A She is a very experienced crime scene investigator.

- 1 Q I stand corrected. She will be a reliable officer?
- 2 A Correct.
- 3 Q And trained to do that?
- 4 A Correct.
- 5 Q And the purpose of taking the swabs is to send them
6 to SLED, laboratories for a DNA analysis?
- 7 A Potentially. We take a lot of swabs during the
8 executing of a warrant in many different cases. Not all
9 swabs are ever sent to SLED to be analyzed.
- 10 Q Do you know, is there any other purpose that she
11 would have taken cotton swabs of the samples at that time?
- 12 A It was potential evidence.
- 13 Q But certainly they are not potential evidence just
14 because they are stuck on a cotton swab. You have to do
15 something with it before it becomes evidence, don't you?
- 16 A You submit them to a lab.
- 17 Q Okay. So they were potential DNA evidence?
- 18 A Potentially.
- 19 Q Do you know if they were ever submitted to you?
- 20 A I do not. The only report that I have from CSI or
21 from crime scene investigators is this particular one of
22 the execution of the search warrant. So what happened
23 once these swabs were taken, we do have a very small lab,
24 generally things of this magnitude in nature do not go
25 through our lab, it will go through SLED or Richland

1 County's lab. I can't tell you if those were ever
2 submitted. I don't know the answer to that.

3 Q But you understand in a murder case possible drops of
4 blood are ordinarily important evidence?

5 A Sure.

6 Q And in this case Newberry submitted many items to
7 SLED for testing. Are you aware that Newberry used SLED
8 DNA services in this case?

9 A I am.

10 Q And it takes maybe two days for a SLED report to come
11 back, DNA test to come back?

12 A Oh, no. DNA, if you are watching CSI on TV it takes
13 thirty minutes. But I have worked a multitude of homicide
14 cases in other criminal cases where DNA evidence was
15 collected and it sometimes can take upward of anywhere
16 from three to six months at a good time, to get that back.

17 Q Does this appear to be a standard SLED forensic
18 request?

19 A It is a little bit different than the ones that I
20 have gotten from them in the past but it states is SLED
21 Forensic Services request.

22 Q And the submission, SLED would have received the
23 submission on what date?

24 A January the 6th of 2011.

25 Q January the 6th?

1 A 1/6/2011. 6/1.

2 Q June 1st.

3 MR. SCOTT: Your Honor, I hate to interrupt, if I can
4 just see the exhibit.

5 Q Maybe this will help you with the numbers. So you
6 were saying it was the 6th month?

7 A There is a 1, a 6, a slash, a 1.

8 Q What is the date of that one?

9 A This is June 1st of 2011 at 13:07 hours which is 1:07
10 p.m.

11 Q So it appears that the report would have come in on
12 June 1st?

13 A Electronically to the lab, it was sent on June 1st.

14 Q When did SLED issue its DNA results?

15 A June 3rd.

16 Q So it took them two days to turn around with an
17 answer, right?

18 A Well,--

19 Q You can answer yes or no and then you--

20 A It took two days on this but this is a known source.
21 This is his own blood.

22 Q Is it just his own blood. My understanding of what
23 you just handed me there is the SLED analysis request of
24 what was collected at the initial crime scene. But
25 typically SLED keeps an inventory of how many items were

1 sent?

2 A Yes, they keep a breakdown of whatever is sent to
3 them. And if you have a known source obviously it is
4 going to make it easier to get a positive letter back
5 identifying. But if you do not have a known source then
6 it takes a while.

7 Q How many samples were sent in in that one? It is
8 twelve different items sent it?

9 A It is twelve items on here however it doesn't
10 identify whether or not the firearms portions of it were
11 sent for DNA analysis. They could have been sent for
12 just, fingerprinting, they could have been sent for
13 identification, ballistics. So there is a handful of
14 items that were DNA analysis.

15 Q Thank you.

16 THE COURT: Let's mark all of those documents for
17 defense identification purposes?

18 MR. VERNER: Yes, Your Honor.

19 THE COURT: You may step down.

20 MR. STUMBO: If Detective Derrenbacher can be
21 excused.

22 MR. VERNER: No objection.

23 THE COURT: You may be excused. Thank you for being
24 here. Mr. Foreman, ladies and gentlemen of the jury,
25 perhaps now would be a good time for us to take our

1 luncheon recess. Please do not discuss the case with
2 anyone, that includes your fellow jurors, lunch mates or
3 anyone else. If anyone tries to talk to you about the
4 case let me know. Do not watch, listen to or read any
5 news accounts about the case. Keep an open mind and do
6 not begin your deliberations until you are instructed to
7 do so. I would ask you to be back at 3:00. Thank you.

8 (Whereupon, the jury was excused from open court for
9 a lunch break.)

10 THE COURT: Anything from the State before we take
11 our recess?

12 MR. STUMBO: Nothing, Your Honor.

13 THE COURT: From the defense?

14 MR. VERNER: No, Your Honor.

15 THE COURT: All right. Have a pleasant lunch.

16 (Whereupon, a lunch break was taken.)

17 THE COURT: Will the firearm come up this afternoon?

18 MR. STUMBO: Most likely will, Your Honor, we are
19 going to put that in through Captain Dennis. I am hoping
20 we get to today. So we may want to go ahead and address
21 that.

22 THE COURT: I have copies of the guidelines of safe
23 handling of firearms as evidence in the courtroom and the
24 procedures for the safe handling of firearms in the
25 courtroom and a copy for the State and a copy for the

1 defense. Captain Lewis, would you tell me the condition
2 of the weapon as far as loaded, unloaded, safe, unsafe.

3 MR. DENNIS: Yes sir, Robert Dennis. Captain Robert
4 Dennis of the Newberry County Sheriffs Office. The
5 firearm is a .9 millimeter, semiautomatic pistol. It is
6 unloaded, the magazine is not with it. I still have
7 possession of the magazine. There is a gunlock that is
8 run through the chamber down through the magazine port and
9 then locked around the gun so it will not accept or be
10 racked for any type of ammunition. And it is presented at
11 this time on the table in front of Madam Clerk in a safe
12 manner. And I am the only one that has keys to the actual
13 lock.

14 THE COURT: Thank you. You are satisfied with that
15 condition, Solicitor?

16 MR. STUMBO: Yes, sir.

17 THE COURT: Mr. Verner?

18 MR. VERNER: I haven't seen it but I certainly don't
19 dispute the captain.

20 THE COURT: And of course if you look at number, I
21 think we have discussed, viewing the firearm handling
22 procedures. Number four informs jurors that any firearm
23 to be offered into evidence in the courtroom will be
24 unloaded. Do you want me to advise of that at the time it
25 is offered into evidence when they first come out this

1. afternoon, Mr. Verner, do you have a preference one way or
2 the other?

3 MR. VERNER: I think when the gun is presented the
4 Court can tell the jury. There was a question, it had one
5 jam, I was under the impression there was probably a
6 casing that probably jammed and I assume it has been
7 cleaned out?

8 MR. DENNIS: That is correct, Your Honor. All
9 ammunition has been cleared from the weapon and it is
10 separated from the weapon.

11 THE COURT: And, of course, y'all see the procedures.
12 They are to be unloaded, to be opened at all times,
13 handled by the barrel and not pointed at any person. It
14 would be in custody of the Court Reporter and this evening
15 the Court will make arrangements for the security. And,
16 of course, and never give the firearm and the ammunition
17 to a witness on the stand. Let's bring our jury in.

18 (Whereupon, the jury came into open court at
19 approximately 3:07 p.m.)

20 THE COURT: Solicitor, call your next witness.

21 WESLEY BOLAND, being
22 first duly sworn, testified as follows:

23 MR. STUMBO: State calls Major Wesley Boland to the
24 stand.

25

DIRECT EXAMINATION

1 By Mr. Stumbo:

2 Q State your name, please.

3 A Wesley Boland.

4 Q I assume by the uniform you are wearing that you work
5 for the sheriffs department here in Newberry?

6 A Yes, sir.

7 Q For Sheriff Foster?

8 A Yes, sir.

9 Q And your rank is Major, correct?

10 A It is now, it was not during this case but it is now.

11 Q You have been promoted since this incident?

12 A Yes, sir.

13 Q Would you give the jury some brief background, how
14 long you have been in law enforcement?

15 A I have been with the Newberry County Sheriffs Office
16 going on 21 years. At the sheriffs office from road
17 patrol to investigations, Lieutenant in investigations to
18 Captain and now Major.

19 Q And in that time how many cases have you worked at
20 the sheriffs department, thousands?

21 A Easily, yes.

22 Q One of the thousands that you have worked here for
23 the citizens of Newberry County did it involve a missing
24 person out of Lexington County?

25 A It did.

1 Q And that would be John Henry Mayers?

2 A Yes, sir.

3 Q Who contacted you initially to bring you into this
4 investigation?

5 A Sergeant Derrenbacher.

6 Q Sergeant Derrenbacher from Lexington County who
7 testified here right before lunch?

8 A Yes.

9 Q And he works for Lexington County, correct?

10 A Yes.

11 Q And he contacted you and the sheriffs department to
12 assist with their missing persons investigation, correct?

13 A That's correct.

14 Q Now, Mandy Smith, the defendant, from the beginning
15 when you got involved in this case was she a person of
16 interest?

17 A Yes, sir. She was a person of interest. The family
18 in particular had said she would be the one to know where
19 John Henry was.

20 Q And did you go with Detective Derrenbacher in
21 Lexington, or excuse me, in Newberry County to go try and
22 find something?

23 A Yes sir, we went all different places.

24 Q Did you go with him down to Wheeland School Road in
25 Little Mountain where Mandy was living before?

1 A We did.

2 Q Did you go with him to Timmy Wise's house on Highway
3 76?

4 A We did.

5 Q And did you have an opportunity to speak with Mandy
6 Smith, the defendant, prior to the time she went, left
7 town there on, around May 20th?

8 A Yes, sir. I first made contact with her on the 16th
9 after Derrenbacher notified me he was trying to locate
10 her. And I did make contact with her and talk with her.

11 Q I believe she gave y'all the name of a Elvis Hill at
12 that point, is that correct?

13 A Yes, sir.

14 Q Were you and Detective Derrenbacher able to followup
15 on this Elvis Hill character?

16 A Yes, sir. I have known Elvis for a long time. He
17 just happened to be in jail on another instance and went
18 to the jail and talked to him there.

19 Q And I know you were in the courtroom earlier when
20 Detective Derrenbacher testified but was there anything
21 ultimately that led y'all to believe that Elvis Hill was
22 involved with John Henry Mayers disappearance?

23 A No, sir. We followed up and didn't find anything.

24 Q Now, after you made the initial contact, I believe
25 you said on May 17th, let's fast forward a couple of days

1 to May 20th. Did you and Detective Derrenbacher go back
2 over there to Timmy Wise's mother's house on Highway 76.

3 A Yes sir, we did.

4 Q And at that time, I believe we heard earlier, they
5 weren't home, is that correct?

6 A His mother, Timmy's mother was there but Timmy or her
7 were not there.

8 Q Did y'all go over to the Walmart to look for her?

9 A We went to Walmart looking for them and didn't locate
10 them and ended up coming back to the house on 76.

11 Q And you came back to the house, Timmy Wise was there?

12 A Yes, sir.

13 Q His truck was there?

14 A Timmy was there.

15 Q And did you speak with Mandy Smith on the telephone
16 that day?

17 A I tried to call her. I think that Derrenbacher was
18 the one that talked with her that day.

19 Q Were you with Detective Derrenbacher during that time
20 period?

21 A Yes, sir.

22 Q And I believe the situation was, she indicated she
23 was an hour outside of town and would meet y'all back to
24 the sheriffs department, is that right?

25 A That was correct.

1 Q And did Mandy Smith meet y'all back at the sheriffs
2 department?

3 A She did not.

4 Q Now, the following days did you participate with
5 Detective Derrenbacher on trying to locate Ms. Smith?

6 A Actually I was doing that mainly along with the State
7 Law Enforcement Division.

8 Q Okay. So SLED was helping y'all with the cell phone
9 towers and that sort of thing?

10 A Yes, sir.

11 Q And did you go down to Sumter to look for her down
12 there?

13 A We had active tract by I-20, Kershaw County and she
14 was headed towards Sumter. We lost it there. We assumed
15 that she was going to find Mr. Buford, she was associating
16 with him because that is where it appeared she was headed.
17 So went on to Sumter from there. Ended up after a long
18 night, we made it back around 378, Garners Ferry Road and
19 spoke to Mr. Buford.

20 Q And Mr. Buford gave y'all consent to take a look at
21 his truck, to search his truck?

22 A Yes, sir. That was the first time we had actually
23 talked with him.

24 Q Any evidence at that point that Don Buford was
25 involved with the killing of John Henry Mayers?

1 A Not at that time, no sir.

2 Q But based on your investigation his truck was in the
3 possession of Mandy Smith, is that right?

4 A That is correct.

5 Q Now, ultimately Major Boland, where was Ms. Smith
6 located. Where was she found by you and Detective
7 Derrenbacher?

8 A Several days later we were able to locate her at her
9 mother's house in Greenville.

10 Q And that was with the assistance of SLED and their
11 cell phone tracking service?

12 A Yes, sir.

13 Q And were you the one that actually apprehended Ms.
14 Smith at this time?

15 A I met in Greenville, we went to the house together
16 and, yes, I was the one that actually went in the house
17 with them and got her, yes.

18 Q You bring her back to Newberry?

19 A Brought her straight back to Newberry.

20 Q During that time did you conduct any kind of
21 interview with her of any sort?

22 A I did not. I just told her to think about everything
23 and we were going back to Newberry. I didn't want to
24 speak to her at all about it.

25 Q Did you read her her Miranda rights?

1 A I did.

2 Q Did you read them off of a card?

3 A Usually off of a card or straight out. But I read it
4 and told her, I just read her her rights just in case she
5 started talking about it, it wasn't because it was
6 initiated by me. But I did that just as practice because
7 it was a long ride back to Newberry.

8 Q And do you have the card with you that you typically
9 read off of?

10 A I don't.

11 Q But you read her the Miranda warnings as you have on
12 your law enforcement card?

13 A Yes, sir.

14 Q Did you advise her of her right to remain silent?

15 A I did.

16 Q Did you advise her of her right to have an attorney?

17 A I did.

18 Q Did you advise her that anything she said could be
19 used against her in court?

20 A I did.

21 Q And did you advise her that if she did not have the
22 funding and financing for an attorney the State could
23 provide her one?

24 A I did.

25 Q Did she ever ask for a lawyer during this trip back

1 from Greenville?

2 A No, she did not ask for a lawyer. I told her I
3 didn't want to get into details or anything. I wasn't
4 going to talk to her about any of that. She just needed
5 to think about everything and we were going back to
6 Newberry that night. It was about 2:00 o'clock in the
7 morning then.

8 Q Did you ever intimidate her in any way?

9 A None whatsoever.

10 Q Did you threaten her?

11 A No, sir.

12 Q Major Boland, did you promise Mandy Smith anything to
13 talk to either you or any of the other officers with the
14 sheriffs department?

15 A No, sir.

16 Q Did you make her any plea deals or anything like
17 that?

18 A No, sir.

19 Q After she gets back down there to Newberry who at
20 that point in the department talks lead on the
21 investigation?

22 A At the time it was Lieutenant Dennis but it was, he
23 was actually, we were all working it together but he was
24 over the investigative division and he picked up
25 everything from there and it led on to the discovery of

1 Mr. John Henry's body.

2 Q Led to the discovery of the body out in the National
3 Forrest off of Judy B. Road?

4 A Yes, sir.

5 Q That is Captain Dennis to my left, right?

6 A Yes, sir.

7 Q Then at that point you kind of worked, just in the
8 background a little bit in assisting the investigator on
9 this case?

10 A Well, I got into this assisting Lexington County.
11 They, of course, have day to day cases they were working
12 and I picked up helping Lexington just to assist Lexington
13 to give them anything. And, of course, it got to be more
14 and more as we went. So, I mean I got a supervisory role
15 but I try to help them out as much as I can. That is what
16 it kind of rolled into.

17 Q Is it fair to say that it started as a missing
18 persons investigation and then right around this time Ms.
19 Smith comes back and y'all find the body out there and it
20 turns into a homicide investigation?

21 A Yes, sir.

22 Q Major Boland, while Ms. Smith was on the run and you
23 and Detective Derrenbacher run around the State trying to
24 find her did she call you at any point during that trip
25 when she is on the run?

1 A It was about five days in there. So, she did call me
2 once. I remember that she called me on a Sunday afternoon
3 and told me she was going to turn herself in Monday. And
4 I said that is the best thing for you to do. And then
5 what, she didn't show Monday, of course, but as soon as
6 she hung up I called SLED and told them they needed to let
7 me know where she was because she just called me.

8 Q And you found out she was in Greenville?

9 A No, at that time she was on Garners Ferry Road in
10 Columbia.

11 Q That was the Sunday, it was Sunday the 22nd of May.
12 Mother's Day was the 8th. This was Sunday two weeks later
13 on the 22nd, correct?

14 A Yes, sir.

15 Q And she was taken into custody in Greenville and
16 brought back to Newberry I believe on, that was May 24th,
17 late in the night or early morning hours of the 25th, I
18 believe it was, correct?

19 A Yes, sir. It was like 2:40 in the morning when she
20 was booked in in Newberry on the 25th.

21 Q Okay. Please answer any questions Mr. Verner may
22 have for you.

23 CROSS-EXAMINATION

24 By Mr. Verner:

25 Q Are you sure it was only one time that she called

1 you?

2 A We called her that Friday, Derrenbacher and them
3 called her. And we initially started whenever she took
4 off. And I had made several phone calls in between there
5 but I did not talk to her. The only time I recall talking
6 to her was that one day and that was Sunday prior to her
7 arrest late Tuesday night into Wednesday morning.

8 Q Did you talk to her mother at all?

9 A I talked to her, I never had talked to her mother
10 until that night that I arrested her. And then her mother
11 called me after that. I talked to her mother several
12 times after she was arrested and brought to Newberry.

13 Q I thought you testified at a earlier hearing that the
14 mother called you, that it was the mother that called you
15 about Mandy wanting to turn herself in?

16 A No. She, I talked to her mother that night there.
17 But as far as, her mother was the one that was at the
18 house when she was arrested on other charges.

19 Q Mandy called you on Sunday and that would be May
20 22nd. If I represent to you that that would be May 22nd,
21 is that consistent?

22 A Yes, sir.

23 Q Is that during that five day window that you are
24 looking for her?

25 A Yes, sir.

1 Q And Tim Wise would not have, he didn't implicate her
2 for the first time until his statement of May 20th. Is
3 that right? That is when he said Mandy may have had
4 something to do with it?

5 A Yes.

6 Q So, May 20th is when you first get at least a tip
7 that Mandy might have harmed John Henry Mayers?

8 A Yes, sir.

9 Q And that came from Tim Wise?

10 A Yes, sir.

11 Q And then Sunday she, Mandy Smith called you up or
12 returned one of your phone calls?

13 A Yes, sir. That was after Friday night, we went all
14 the way to Kershaw, to Sumter, back around Garners Ferry
15 Road. We went for over 24 hours straight looking for her.
16 And then I went back to Kershaw again later that day.

17 Q To your best understanding that call would have come
18 from Garners Ferry Road?

19 A That is what I was told after we finally got
20 everything tracked down.

21 Q She said she was coming in on Monday to turn herself
22 in?

23 A Yes.

24 Q Did she say that she wanted to get an attorney and
25 turn herself in and meet with y'all?

1 A I told her if that is what she wanted to do that was
2 fine but that was up to her. And she needed to turn
3 herself in.

4 Q Okay. But your recollection that it was Mandy that
5 said I want to speak to an attorney or find an attorney to
6 come with me?

7 A Yes.

8 Q And then Monday, the 23rd, she did not show up?

9 A She didn't show up.

10 Q And so the next day, Tuesday, is when you went up to
11 Greenville and had them assist you, obviously you got some
12 kind of ping or tip that she was at her mother's house?

13 A They told me what street it was on. It was late
14 Tuesday night, it was after, it was around 10:00 o'clock.
15 And I went to Greenville. I knew which street her mama
16 stayed on from intelligence information I had gathered.
17 And I figured that is where she was so we went straight up
18 there to Greenville and knocked on the door and she was
19 there.

20 Q When you say they, I am assuming you are talking
21 about SLED told you that the phone call initiated from
22 Greenville or you said they told me the address?

23 A Yes. The fugitive tracking team, yes.

24 Q And what time to the best of your recollection would
25 you have reached Mandy Smith's mother's home?

- 1 A I want to say it was around midnight.
- 2 Q And do you recollect her mother's name. Is that
- 3 Vicki McCartha?
- 4 A I talked to her after that. Y'all told me that is
- 5 what her name is but I couldn't recall it right off now.
- 6 Q How was the arrest done in Greenville? How did the
- 7 arrest go?
- 8 A No problems.
- 9 Q In terms of, was it a rolling arrest where you come
- 10 in immediately or was it a knock on the door?
- 11 A Knocked on the door and she was at the door and she
- 12 came to the door and I told her I had a warrant for her
- 13 arrest and she needed to come with me.
- 14 Q And that was about midnight on Tuesday, give or take,
- 15 between 10:00 o'clock p.m. and midnight on Tuesday?
- 16 A I left from Newberry at 10:00 o'clock.
- 17 Q So it would be around midnight of Tuesday night. Did
- 18 you speak to her at all once you were inside the home?
- 19 A Yes. I mean just talk wise.
- 20 Q But not about this particular case?
- 21 A Not in detail or nothing of this case.
- 22 Q And who transported her back to Newberry?
- 23 A Myself and Investigator Spring.
- 24 Q Basically Greenville did the arrest of her in
- 25 Greenville but you accompanied them because of the

1 Newberry case and it was turned over to you. What was the
2 arrest warrant for on Tuesday, May the 24th?

3 A She was brought in on a forgery charge.

4 Q And you procured the affidavit for her arrest on that
5 charge?

6 A Yes sir, that was a forgery on the title for selling
7 John Henry's car to the scrapyard.

8 Q She was alleged to have sold his car to a scrapyard
9 forgery the bill of sale on April 21st, give or take?

10 A Yes, sir.

11 Q And that would be about two or three weeks before
12 John Henry was killed?

13 A Yes, sir.

14 Q Had Mr. John Henry filed any report, to your
15 knowledge, that his car had been stolen?

16 A He did not.

17 Q You had a statement from Tim Wise where he talks
18 about the bill of sale and taking the car to the recycling
19 yard. Did he specifically say the documents had been
20 forged?

21 A He did not write that. Yes, he did say that.

22 Q What other evidence did you have to support the
23 forgery warrant?

24 A I had talked to the family as far as the signature on
25 there.

1 Q By family I assume to be Mr. Mayers family?

2 A Yes, the Mayers family. And they, of course, were
3 very intimate that Mr. Mayers would have never got rid of
4 that car because it was his car, he was proud of it, it
5 had a mechanical problem that he was trying to get money
6 to get fixed. And it was left at Mandy's house on
7 Wheeland School Road. And they knew it had been there,
8 until he got enough money to get the part to get it fixed.
9 I talked with them and then also the recycling center and
10 they advised, they have me the copy and ID of Mandy as who
11 turned the car in for scrap.

12 Q Did you prepare a signature exemplar. Did you get a
13 sample signature of the--

14 A Robert did eventually, yes sir.

15 Q Did you get one of Mandy Smith?

16 A I am not sure that he did or not.

17 Q Did you submit the signature to SLED or to an expert
18 in identification of forgery cases?

19 A No, sir. I mean, it is blatantly obvious.

20 Q Do you know if she has been found guilty of that
21 charge yet?

22 A No, sir. It is still pending.

23 Q Was part of the reason to obtain that charge was to
24 get her in custody so you could further investigate the
25 murder case?

1 A I would agree so, yes sir.

2 Q And then once Mandy was in custody at your leisure
3 y'all could try to speak to her or, but you would have,
4 know where she is and be able to speak to her?

5 A Yes, sir.

6 Q Would you agree with me that being in a jail cell
7 would be a coercive or a traumatic event to someone that
8 hasn't been in one before?

9 A She had.

10 Q She had done 13 days on a possession of marijuana in
11 the year of 2000?

12 A She had a prior history, yes sir.

13 Q What prior history other than--

14 A Either way that is prior history.

15 Q Okay. You would agree with me that getting a 13 day
16 sentence for possession of marijuana is a little bit
17 different than being arrested at midnight at home and then
18 taken to the jail on a murder charge?

19 A She wasn't taken to jail on a murder charge. She was
20 taken to jail on a forgery charge.

21 Q But it is clear that is what y'all were
22 investigating? Did you tell her what she was being
23 arrested for?

24 A Told her she was arrested for forgery, yes.

25 Q Did you give her an arrest warrant for forgery?

1 A She was served at the jail later, it was planned to
2 be served the next day because it had to be entered and
3 everything into NCIC.

4 Q Actually when you went up to Greenville you didn't
5 even have a warrant with you?

6 A Yes sir, I did have a warrant. I had a copy of the
7 warrant.

8 Q Okay. Who is Officer S. Epps?

9 A That would be Brad Epps, Steven Bradley Epps.

10 Q The deputy would have actually served her or gotten
11 her to sign the warrant or written that she was served on
12 the next day, the 25th?

13 A Yes, sir.

14 Q I think we heard that you first went to talk to Mandy
15 at Tim Wise's house on May 16th?

16 A Yes, sir.

17 Q Had you gone to Wheeland School Road before then?

18 A I live on Wheeland School Road. I had been, yes, I
19 have been on Wheeland School Road.

20 Q In reference to looking for Mandy in this case prior
21 to the 16th going to Tim Wise's house?

22 A Not looking for Mandy, no sir.

23 Q So as far as where her address was listed on her
24 drivers license you didn't go to the Wheeland School Road,
25 I assume someone told you she wasn't living there or you

1 heard from somebody else she wasn't living there?

2 A I had complaints in the community already of that
3 house. I had a prior, ran into Mandy and Don on a prior
4 traffic stop from Wheeland School Road prior to this.

5 Q My question is, did you go to the Wheeland School
6 Road looking for Mandy?

7 A We went up there and eventually served a search
8 warrant up there but I was not, it was after the 16th.

9 Q How did you know Mandy was living with Tim Wise?

10 A I believe actually the way I got the number was
11 through her landlord at Wheeland School Road.

12 Q Okay.

13 A I think he had a number for Timmy and I think that is
14 the way I got in touch with everybody.

15 Q Did the landlord tell you when she had moved out of
16 Wheeland School or why she had left the Wheeland School
17 address?

18 A No, I didn't go into detail with Richard.

19 Q By Richard you mean Richard Grimmatt is the property
20 owner?

21 A Actually I believe the property belongs to his
22 mother.

23 Q He would be managing it or have some kind of control
24 over it?

25 A He stays in another house on the same property, yes

1 sir.

2 Q May 16th, if I am correct, that would be a Monday you
3 went to Tim Wise's house?

4 A I will have to figure out the days. If the 11th was
5 a Monday, I mean the 16th was a Monday then, yes. Because
6 that would have been the same day that Investigator
7 Derrenbacher got in touch with me about, I had heard some
8 information from the county line and the family wanting to
9 try to find him. But until I actually had talked to him
10 it was nothing that I could do to help.

11 Q My question was, you went to Tim Wise's house on May
12 16th?

13 A Yes, sir.

14 Q Who did you meet with on May 16th?

15 A At that time it would have been Mandy and Timmy were
16 both at the house.

17 Q Did you speak to Tim Wise at all that day?

18 A Sergeant Nick Bouknight talked with him and Mandy
19 both. It was a short, general, just questions, have you
20 seen John Henry. I didn't know any details because I had
21 tried to get Detective Derrenbacher to come that day when
22 I was able to go meet them but he was tied up and couldn't
23 come. So I just told him I would go talk to them, get in
24 touch with them, find out how to get in touch with them,
25 get general information.

1 Q I assume both said, we haven't seen him?

2 A That's correct.

3 Q Did you go inside the Wise house?

4 A Not any time.

5 Q Did you see a smaller shed out back?

6 A Not on that, not at that time. As a matter of fact
7 every time I went and talked to Mandy and them they were
8 already in the house or on the front porch in the house.
9 I never saw her at that shed everybody is talking about.
10 I have not specifically seen it, no sir.

11 Q Did you call before you came or y'all just rolled up?

12 A We sat.

13 Q The first time, the 16th?

14 A I am sure I called.

15 Q And on the 17th you went back with Lexington County
16 Investigator Derrenbacher?

17 A Yes.

18 Q Did you speak to Tim Wise again on the phone that
19 day?

20 A Yes, sir. He was there, well, yes sir.

21 Q I think you were here for the testimony of the
22 Lexington County Detective. He said he spoke to Ms.
23 Smith?

24 A Yes.

25 Q Did you participate in talking to Ms. Smith on that

1 day?

2 A I was there, I had generally told him what she had
3 told me that day before. And he had more information so
4 therefore I just kind of said, here is Mandy and the
5 followup with what you know and talk to her.

6 Q Do you remember talking to Tim Wise on the 17th?

7 A I remember him being there. I remember him going to
8 the side and actually I think he talked to Sergeant Nick
9 Bouknight that day and in just general conversation wise.

10 Q And Sergeant Bouknight passed away over the past
11 year?

12 A Yes, sir.

13 Q Did you go back on May 20th to the Wise house?

14 A We did.

15 Q Did anything happen to the best of your recollection
16 between May 17th and May 20th that moved the case further?

17 A We were continuously following any lead every which
18 way. We interviewed numerous people along the county line
19 which is the Chapin, Little Mountain area. We interviewed
20 people at the jail, we interviewed anybody we could get
21 any information.

22 Q Every day you are constantly talking to more and more
23 people. But between May 17th and May 20th did anything
24 substitutive happen that moved the case further along, any
25 big events that the jury needs to know of?

1 A Nothing big at the time. I mean we were building on
2 little pieces all along.

3 Q What lead y'all--

4 A Following suspects, following their alibis or
5 whatever. And we were going through everything that we
6 needed to do.

7 Q At what point did it become apparent to you that you
8 were dealing with the murder of a homicide as opposed to a
9 missing persons case?

10 A After the 17th, between Derrenbacher's interview with
11 Mandy and talking to him and the family about the
12 financial stuff, no money going out of the account. I
13 don't think it was any question that this had turned into
14 something more than a missing persons case.

15 Q Ten days had passed, no money taken out of his
16 account and then it started to come clear to you that this
17 might be more of a murder or a homicide investigation?

18 A Yes, sir.

19 Q Would that change the way your office assigns
20 officers to investigate or just that the officers are
21 already on it, does it change?

22 A It was still an investigation concerning Lexington
23 County at that time. It was their missing persons case.
24 We were still assisting them until we found evidence of
25 something more, we were still continuing to follow on

1 their case.

2 Q It became a Newberry County case almost completely on
3 May 25th when you found the body of John Henry Mayers in
4 the forest?

5 A As soon as we got everything together Captain Dennis
6 was following up on that end. And, yes, once we
7 determined that the homicide appeared to happen in our
8 county then, yes sir.

9 Q That is pretty much when Newberry took complete
10 control of the case?

11 A Yes, sir.

12 Q You met with Elvis Hill in the jail?

13 A I did.

14 Q And he indicated to you, Mandy had told you on May
15 16th that she had seen John Henry with Elvis Hill?

16 A Yes sir, she did.

17 Q But Elvis Hill said I hadn't been with John Henry and
18 I have never been with John Henry?

19 A He said he wasn't with him then.

20 Q Okay. But did you also speak to Elvis Hill's wife?

21 A I did.

22 Q Was her characterization different than Elvis Hill's
23 characterization?

24 A Yes, sir. He had been locked up because of a
25 domestic between the two but I still had to follow

1 through.

2 Q You were talking to Ms. McCloud as a result of a
3 murder investigation and not for domestic violence?

4 A I was following up on a missing person of Lexington
5 County.

6 Q But that was the reason for talking to Ms. McCloud?

7 A We were following up on what Mandy had said and then
8 we were following up on whatever leads we could get.

9 Q And Ms. McCloud who was not under the threat of any
10 charges or anything like that said that my husband had
11 been with John Henry Mayers on May 7th?

12 A Yes, she did.

13 Q Did she indicate what they were doing?

14 A She didn't know, she wasn't with them. She just knew
15 that he had been there all night and came back raising
16 cane with her.

17 Q By he, you are talking about Elvis Hill?

18 A Elvis Hill, yes.

19 Q And then on May 20th, I guess that is the date that
20 you went to Tim's house and they were gone to the Walmart?

21 A Yes, sir.

22 Q You accompanied Officer Derrenbacher to the house and
23 to the Walmart looking for the vehicle?

24 A Yes, sir.

25 Q Then you came back and Tim was there alone, certainly

1 not with Mandy Smith at the time when you found him again?

2 A We went to the house, Timmy's mother said they
3 weren't there, they had gone to Walmart. She thought that
4 they would be back shortly. We decided to go ride to
5 Walmart to see if we could locate them. We went through
6 all of the parking lot, it was actually Detective Fraud,
7 (phonetic), and Sergeant Nick Bouknight was in one vehicle
8 and myself and Sergeant Derrenbacher were in the other.
9 And we rode through the whole parking lot and we came back
10 and Timmy was there at the house but Mandy had
11 mysteriously gone.

12 Q You call him Timmy, are you familiar with Tim?

13 A I wasn't until then. That was the first time I had
14 ever met him.

15 Q And that is when Tim still maintained that he didn't
16 know anything about the disappearance of John Henry Mayers
17 but he said Mandy may had done something to him?

18 A In a statement, yes sir, he did.

19 Q And then that is when Tim still maintained he didn't
20 know anything about the disappearance of John Henry Mayers
21 but he said Mandy may have done something to him?

22 A In a statement, yes sir, he did.

23 Q Did you go through his house on May 20th?

24 A No sir, I did not.

25 Q You were invited into I guess the living room area?

1 A I think Detective Derrenbacher went, I stayed
2 outside. He talked to his mother and all for a little
3 bit.

4 Q Had you ever been into Tim Wise's parent's house?

5 A No, just up on the porch.

6 Q Have you been into his home, at any time since May
7 20th?

8 A I have never been in there.

9 Q Was there any kind of search warrant for evidence
10 ever done on their home that you know of?

11 A Not that I am aware of.

12 Q What about the trailer out back, the shed out back?

13 A Not that I am aware of.

14 Q What did you do after you met with Tim Wise on May
15 20th, after he said Mandy might know something about it?

16 A We got enough information together to get a warrant
17 issued for Mandy's arrest for the forgery and tried to get
18 her to come in and that is when all the chase started, I
19 was trying to find her.

20 Q Do you know whether Mandy has got a car?

21 A Not that I was aware of. She didn't have any car
22 that I was aware of.

23 Q So Tim basically took her from the home and dropped
24 her off at the Walmart?

25 A Tim's story was she got in the car with some other

1 people he didn't know.

2 Q Just up and left him or he deposited her there to be
3 picked up by other people?

4 A He saw her get in the car with other people that he
5 said he didn't know. But that she had left with some
6 other people he didn't know.

7 Q Did Tim tell you he was expecting her to come back
8 with him and he was surprised she left?

9 A I mean, no, not really. He didn't, I wouldn't say
10 surprised. I guess, just what she wanted to do, I guess.

11 Q Did he ever say he told her she had to leave? Did he
12 ever tell you that Tim told Mandy she had to leave his
13 house?

14 A No, never at all.

15 Q You obtained the forgery warrant after the May 20th
16 interview with Tim Wise?

17 A Yes, sir.

18 Q And I understand that you called Mandy Smith's cell
19 phone several times and ultimately arrested her in
20 Greenville on the evening of May 24th?

21 A Yes, sir. Derrenbacher called her that day but there
22 was several days in there, yes sir.

23 Q Did you have any further involvement in the
24 investigation or was it largely turned over to, at that
25 time, Lieutenant Dennis?

1 A For the most part Lieutenant Dennis took over
2 everything as far as the lead investigation because they
3 did the interview and that is where we ended up, found the
4 body the next day.

5 Q You were not in the car when they actually found the
6 body?

7 A No.

8 Q Did you go to Columbia to meet Buford, Mr. Buford?

9 A That would have been Sergeant Bouknight and I think
10 Investigator Fraud with Lexington County.

11 Q You did not actually go to speak, did you ever
12 interview Mr. Buford as part of this case?

13 A I talked to him that Friday, well, actually Saturday
14 morning after, I guess it would be the 21st at Walmart on
15 Garners Ferry Road about 6:30 a.m.

16 Q By telephone?

17 A No, in person.

18 Q How did y'all arrange that meeting?

19 A We had went to Sumter looking for him because we
20 figured that is where Mandy was running to. And his
21 roommate had got in touch with him by phone and he said he
22 was in Columbia and we went there and met him in the
23 parking lot.

24 Q He agreed to meet you at some location that everybody
25 could find?

- 1 A Walmart parking lot.
- 2 Q At that time was his vehicle searched, is that when
3 the swabs were done?
- 4 A We did ask for a consent and we looked through stuff
5 that day but that was not when the search warrant was
6 done. We didn't have the information at that time.
- 7 Q Officer Derrenbacher was talking about the blue light
8 search and the swabs that was done, that was not done the
9 first time you met with Mr. Buford, that was done by them?
- 10 A That was done later.
- 11 Q That was done entirely by Lexington County?
- 12 A Yes, sir.
- 13 Q Have you ever done swabs yourself of crime scenes?
- 14 A Yes, sir.
- 15 Q What is the purpose of doing the swab?
- 16 A DNA.
- 17 Q Are you aware of any DNA results from Lexington
18 County as a result of the search of Mr. Buford's vehicle?
- 19 A I am not.
- 20 Q Do you know whether they were submitted to SLED or
21 their local laboratory?
- 22 A My understanding they were not submitted, they are
23 still in evidence.
- 24 Q Is it fair to say that blood droppings in a murder
25 case would be ordinarily fairly important evidence?

1 A It can be, yes sir.

2 Q Thank you.

3 REDIRECT EXAMINATION

4 By Mr. Stumbo:

5 Q Major Boland, you had done your homework on this
6 forgery investigation, hadn't you?

7 A Yes, sir.

8 Q Did you feel like that based on information from the
9 family and the signature comparisons and the paperwork and
10 all the things that you had, you had probable cause to go
11 seek that warrant for forgery?

12 A Yes, sir.

13 Q So that wasn't some trumped up charge just so you
14 could go find her on this missing persons case, was it?

15 A It was legitimate, yes sir.

16 Q And the Magistrate actually issued that warrant to
17 you?

18 A Yes, sir.

19 Q And on that trip back from Greenville, after you had
20 advised Mandy Smith of her right to have an attorney, at
21 any point did she invoke her right to say, well, I want a
22 lawyer, I want to talk to an attorney about this?

23 A No, sir.

24 Q You didn't participate in any of the subsequent
25 interviews that were done by Ms. Smith by your department,

1 were you?

2 A No, sir.

3 Q That was Captain Dennis?

4 A Yes, sir.

5 Q No further questions.

6 THE COURT: Recross?

7 MR. VERNER: No, Your Honor.

8 THE COURT: Thank you, you can step down. Solicitor,
9 call your next witness, please.

10 MR. SCOTT: The State calls Danny Gilliam.

11 DANNY GILLIAM, being

12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Scott:

15 Q Major, how long have you been with the sheriffs
16 department?

17 A 23 and a half years.

18 Q And how long have you ranked as a Major?

19 A 15.

20 Q May of 2011 did you become involved with the case we
21 are here trying today. That being the missing person
22 report that led to a homicide with the victim being John
23 Henry Mayers?

24 A Yes sir, I had some, they brought me up to date on
25 some of it.

1 Q When did you first become involved in this case?

2 A I was sitting there one day and Robert Dennis, he
3 called me and wanted to know if I had some time. And I
4 told him, yes. He wanted to know if I could come back,
5 back to the sheriffs office to the wash area and meet him
6 back there and I went back there with him.

7 Q What was the purpose of that meeting?

8 A Timmy Wise was back there and he had his truck and he
9 was looking at his truck. He wanted to know if I would
10 come and talk to Timmy.

11 Q And did you go back there and speak with Timmy?

12 A I did.

13 Q And that was with Captain Dennis, Lieutenant at the
14 time, Robert Dennis?

15 A Yes.

16 Q Did anything, what came out of that interview, I
17 guess, with Tim Wise?

18 A I have know Tim Wise for a while and we sit back
19 there talking. And I asked Timmy, I said, Timmy, I knew
20 that you knew Ms. Smith real well and everything. If you
21 know where or if anything that she wanted to go somewhere
22 or put something somewhere where would she go. And he
23 said, yeah, there is a road out on Brazelmans Bridge Road
24 that she liked to go. And I said, you think that is a
25 possibility where she might have had the body out there.

1 He said, I don't know. I said, can you take us out there.
2 He said, sure. So I got the Lieutenant and, so we got
3 into the Lieutenant's vehicle and we rode out there and he
4 showed us how to get to it and we let him give us
5 directions.

6 Q Okay. Now, this is May 25th?

7 A Yes, sir.

8 Q Is that your recollection?

9 A Yes, sir.

10 Q So your involvement is really, you kind of had been
11 briefed on the facts of this case beforehand?

12 A Yes, I had.

13 Q And on the 15th Lieutenant Dennis at the time called
14 you back to speak with Timmy Wise who had been brought to
15 the sheriffs department. How have you known Timmy Wise,
16 you said you had known him for some time?

17 A A few years.

18 Q How did you know him?

19 A I would see him places, I would always speak to him
20 and talk, actually came to my office one day and sit down
21 and talked just a little bit. Nothing particular, just
22 talk about what is going on with him and everything which
23 wasn't much. He would spend five or ten minutes with me
24 and then he would leave.

25 Q Just knowing him from the community here in Newberry?

1 A Yes, sir.

2 Q Y'all go to church together?

3 A No, sir.

4 Q Ever been in any trouble with you, is that how you
5 knew him?

6 A No, sir.

7 Q So essentially--

8 MR. VERNER: Your Honor, I will, a little bit of a
9 delay but I will object to the last, that is unfairly
10 bolstering, the credibility of that witness. I would ask
11 that it be struck.

12 THE COURT: I am going to sustain the objection.
13 Anything further as to that, Mr. Verner?

14 MR. VERNER: Just ask that the jury to disregard that
15 last statement.

16 THE COURT: That last question, ever been in any
17 trouble with you and the response of no. I would strike
18 that from your consideration, as far as your deliberation
19 of returning your verdict in this case. That is not a
20 part of the record at this time. Thank you, very much.
21 Solicitor, you may ask your next question.

22 Q So essentially you asked him, do you have any idea
23 where John Henry Mayers may be?

24 A Yes, sir.

25 Q And what was his answer again?

1 A He said that there is a place that she always, that
2 Ms. Smith always liked to go and always liked to look at
3 stars and everything. And I said, can you take us there.
4 And he said, I think I can. So I talked to Robert Dennis
5 at the time and so we got Lieutenant Dennis' vehicle. And
6 he gave us directions on how to get there.

7 Q How did he get there?

8 A Well, we actually, we rode on out and got on 176 and
9 we went on up to Brazelmans Bridge, turned right and we
10 got close to the road, he said, right up here we have got
11 to turn left. So we turned left onto Judy Road. Got on
12 up and he said there is a fork in the road up here. Now,
13 from one to ten, would we go straight ahead or we would go
14 right. He said from seven to eight we would go right up
15 here. So we went up there and we turned right and we run
16 a pretty good piece and we, Lieutenant Dennis, he lowered
17 the windows and he wanted to know why we lowered the
18 windows. And we said we might can pick up a smell or
19 something like that. It wasn't just a few moments I
20 looked back and he had covered up his nose and everything.
21 And it wasn't much further then it hit us. And I told
22 Lieutenant Dennis, I said, I think we are here.

23 Q What hit you, you are talking about the smell?

24 A Yes.

25 Q And so what did that tell you that he had covered up

1 his nose as y'all arrived down there?

2 A I really didn't think anything about it at the time.
3 But he did do that and I realized it is probably, I felt,
4 that is probably what he was doing was just trying to
5 cover up from the smell.

6 Q He knew what was coming in other words?

7 A Yes, sir.

8 Q Because at that point y'all hadn't detected any
9 orders, is that what you are saying?

10 A No sir, we had not.

11 Q So what was that last road y'all turned down?

12 A The split up there, we went to the right, I think
13 that might be Judy B, took a right I think.

14 Q Where is Judy B. Road?

15 A It is in the Sumter National Forrest off of
16 Brazelmans Bridge up to the road, I don't know exactly how
17 far it is down there.

18 Q Is that Whitmire?

19 A It is a Whitmire, Maybin, yes sir, it would be
20 considered Whitmire.

21 Q Maybin?

22 A Yes, sir.

23 Q What did you find down there, did you go to the end
24 of Judy B.

25 A Went to the turnaround and we parked and we got out

1 and we started walking and we did find the body.

2 Q That spot where you found the body over there, at the
3 end of Judy B. Road, is that Newberry County?

4 A Yes sir, it is.

5 Q Let me show you a few pictures. Let me show you
6 State's 1 through 11.

7 MR. VERNER: Without objection, Your Honor. I am
8 sorry, did he move them into evidence?

9 MR. SCOTT: No, not yet.

10 MR. VERNER: Okay.

11 Q State's ID 1 through 11. Take a minute and look
12 through those.

13 A Yes, sir.

14 Q You recognize all of those pictures?

15 A I do.

16 Q Is that what you observed May 25th when you went to
17 the end of Judy B. Road?

18 A Yes sir, it was.

19 MR. SCOTT: The State would offer State's 1 through
20 11 for admission into evidence.

21 THE COURT: May I see them, Solicitor.

22 MR. SCOTT: Yes, sir.

23 THE COURT: And that is without objection, Mr.
24 Verner?

25 MR. VERNER: It is, Your Honor.

Danny Gilliam - Direct by Mr. Scott

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1 (Whereupon, State's Exhibits numbers 1 through 11
2 were admitted into evidence.)

3 THE COURT: All right, Solicitor.

4 MR. VERNER: Your Honor, from my count can I ask the
5 Court Reporter what has been put into evidence.

6 THE COURT: 1 through 11 and 23.

7 MR. VERNER: Thank you.

8 Q Can you turn this way. This is State's number 1.
9 What are we looking at here?

10 A That would be the turnaround on Judy B. Road.

11 Q That is the sort of the terminating point of Judy B.
12 Road, is that what that is?

13 A Yes, sir.

14 Q As we look down at the end of Judy B. Road where was
15 Mr. Mayers found?

16 A Back over here to the right.

17 Q It indicates somewhere in here?

18 A Yes, sir.

19 Q Would that had been back in the wood line?

20 A Yes, sir.

21 Q State's number 2. What was that?

22 A That would be from another angle.

23 Q Looking back toward the entrance coming into Judy B.
24 Road?

25 A Yes, sir.

- 1 Q This is State's number 5. What are we looking at
2 here.
- 3 A One tree there to the right, that is the location.
- 4 Q That is what you are indicating?
- 5 A Yes, sir.
- 6 Q Approximately how far back in the woods did y'all
7 locate Mr. Mayers body?
- 8 A It was a fair distance off of the road. We walked
9 around for a while trying to locate the location of the
10 body.
- 11 Q Can you tell me how many yards back in the woods?
- 12 A I am not exactly sure.
- 13 Q Anything else that y'all found out there at the
14 turnaround on Judy B.
- 15 A We did, Lieutenant Dennis had located some shells.
- 16 Q Were you there when he located them?
- 17 A I think he might have said something to me, I didn't
18 walk over to where he was at.
- 19 Q Okay. That is May 25th. Do you recall what happened
20 the next day. I am sorry, let me back up one minute.
21 After Timmy Wise took y'all out there, to your knowledge
22 did he give a statement at that time?
- 23 A Sir?
- 24 Q After Timmy Wise took y'all out there did he give you
25 a statement?

Danny Gilliam - Direct by Mr. Scott

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1 A I wasn't with him. I was more or less staying way
2 back over, he was talking, I think talking mostly to
3 Lieutenant Dennis at the time.

4 Q Okay. The next day, May 26th, did you have an
5 occasion to meet Mandy Smith?

6 A I did. I did see her.

7 Q Were you present when she gave a statement?

8 A Yes, sir. It was in my office and went there. She
9 came in and I already told Lieutenant Dennis I would
10 probably be leaving in a little bit. There was things I
11 had to do and I stayed in there for, when he first started
12 the interview.

13 Q So you were there just at the beginning of this?

14 A Yes, sir.

15 Q Were you there, did you witness Robert Dennis reading
16 Mandy Smith her Miranda rights?

17 A Yes, sir.

18 Q And did you, you were a witness for that?

19 A Yes, sir. I didn't sign it but I was there and I did
20 witness him reading her her rights.

21 Q This is State's number 19, it is an ID exhibit.

22 A Yes, sir.

23 Q Those were the Miranda rights read to Mandy Smith on
24 May 26th that you witnessed?

25 A Yes, sir.

1 Q And thereafter Robert Dennis interviewed her?

2 A Yes, sir.

3 Q Please answer any questions Mr. Verner has.

4 THE COURT: Mr. Verner.

5 CROSS-EXAMINATION

6 By Mr. Verner:

7 Q Major Gilliam, I guess in 2011, late Spring, Summer
8 of 2011 part of your duties at the sheriffs office weren't
9 really investigation, were they?

10 A Yes sir, it was.

11 Q You were in investigations?

12 A Yes sir, I was always involved with investigators.

13 Q Is that your normal duty?

14 A I had many at the sheriffs office.

15 Q So it is not just when you get to the Major rank, you
16 are not just over one particular area, you still can cover
17 multiple areas?

18 A Yes, sir..

19 Q My understanding primarily you were also in charge of
20 the corrections unit or the detention center?

21 A I did. I was like the liaison between the jail and
22 the sheriffs office.

23 Q They have got their separate administrator but they
24 are part of the sheriffs department too?

25 A We have now made it all one, if you are a deputy

1 sheriff then you are a deputy at the sheriffs office also.
2 We have made it one group. We do have detention and then
3 we have the sheriffs office.

4 Q But at that time, to the best of your memory, it was
5 being treated as a separate identity?

6 A I wouldn't say that because we all try, we always
7 work together with them. I just, I was put like a
8 supervisor.

9 Q And you are from the Whitmire community originally?

10 A Yes sir, I am.

11 Q And I assume you are familiar with Judy B. Road and
12 Brazelmans Bridge Road?

13 A Very much so, yes sir.

14 Q From the photographs that I saw that the Solicitor
15 just played up on there, it appears to be a fairly well
16 traveled road?

17 A It is, it is a well traveled road.

18 Q I understand it is, is it that sandy rock type
19 substance. It looks like something has been poured on top
20 of the road to make it smooth?

21 A That is probably something they added to it.

22 Q But even though that is a rural road in the Sumter
23 National Forrest it gets pretty good traffic through
24 there?

25 A It does.

- 1 Q Why is that?
- 2 A Hunting season, different reasons, you know, people
3 ride out there. It is also one of our roads that we
4 actually patrol along too. We go check it out.
- 5 Q Sometimes people go there to look at stars?
- 6 A Yes, sir.
- 7 Q Sometimes people go there to use drugs?
- 8 A They could.
- 9 Q That might not be a reason it is patrolled?
- 10 A We patrol all of that area in there.
- 11 Q And could also be a secluded place to have a romantic
12 encounter?
- 13 A It could be.
- 14 Q And from your knowledge the Whitmire community is
15 used for all of those purposes?
- 16 A I would say so, yes sir.
- 17 Q I believe you indicated Tim said Mandy had been there
18 several times before?
- 19 A He said she liked to go there.
- 20 Q Did he indicate to you that she had gone there with
21 John Henry Mayers before?
- 22 A No, sir.
- 23 Q To the best of your knowledge Tim Wise began covering
24 up his nose prior to the odor of Mr. John Henry Mayers?
- 25 A Yes, sir.

1 Q As if he was anticipating it?

2 A Yes, sir. I turned and looked and he was just, doing
3 like this.

4 Q Didn't really click in until, at that moment, but
5 after hindsight it was--

6 A It was just a few seconds and I realized what was
7 going on.

8 Q What did that indicate to you?

9 A It indicated to me for him, I just, he was just
10 sitting back there and I didn't know what he was doing
11 then. He wanted to know why we rolled the windows down
12 and we explained that to him. And then when we got on up,
13 when we caught the smell then that is when we said, I
14 think we have it.

15 Q Did it suggest to you that he had been out there to
16 visit the body?

17 A No sir, it did not.

18 Q Did it indicate or suggest to you that perhaps he had
19 already been out there after the murder--

20 A After that happened I realized he had been there
21 before, yes sir.

22 Q And he would have had to come some time after the
23 death of John Henry to, for the odor to be out there?

24 A Yes, sir.

25 Q Did he, do you remember talking to him anymore. You

1 didn't have any further contact with Tim Wise after that
2 point?

3 A The only thing I did, he wanted to know if he could
4 have some water. I got him some water and things like
5 that. That was about it, just small talk.

6 Q Do you know if he was arrested at that point?

7 A Not at that point.

8 Q But he was already in the car with you and he was in
9 your custody or basically control?

10 A Yes, sir.

11 Q But not formerly arrested for murder at that point?

12 A Lieutenant Dennis had called in for assistance.

13 Q The crime scene unit?

14 A Yes, sir.

15 Q And do you recall, you testified I believe just a
16 second ago that you recall being present for the start of
17 Mandy Smith's conversation with Robert Dennis?

18 A Yes, sir.

19 Q Is it typically the practice of the sheriffs
20 department that a second officer will witness the Miranda
21 form?

22 A It is, it would be nice to have two people in there.
23 Sometimes you don't have that option but most of the time
24 we try to have two in there.

25 Q You don't recall what reason you didn't sign the

1 form, just for whatever reason?

2 A After he went through that then he started his
3 interview and then it was time for me to leave and I got
4 up and told him I had to leave so I went ahead and left
5 the office.

6 Q Were you just there primarily witnessing or were you
7 part of the conversation?

8 A I was witnessing that day, yes sir.

9 Q You may have had small talk. But as far as the
10 substitutive part?

11 A That was about it.

12 Q Did you look at the remains of John Henry Mayers?

13 A Yes sir, I did.

14 Q Did the body appear to have been moved?

15 A I couldn't tell that at that point.

16 Q The further investigators would come in?

17 A Yes, sir.

18 Q Thank you.

19 THE COURT: Redirect, Solicitor?

20 MR. SCOTT: None, Your Honor.

21 THE COURT: Thank you, you may step down.

22 MR. SCOTT: Your Honor, may I approach?

23 THE COURT: Yes, sir.

24 (Whereupon, a bench conference was held in the
25 presence of the jury but out of the hearing of the

1 jury.)

2 THE COURT: Ladies and gentlemen, I think it is time
3 for our afternoon recess. We will take about fifteen
4 minutes. Do not discuss the case.

5 (Whereupon, a short break was taken.)

6 THE COURT: Anything before we bring the jury in.
7 Solicitor?

8 MR. STUMBO: No, Your Honor.

9 THE COURT: Mr. Verner?

10 MR. VERNER: No, Your Honor.

11 THE COURT: Let's bring our jury in, please.

12 (Whereupon, the jury came into open court at
13 approximately 4:37 p.m.)

14 THE COURT: Okay. Call your next witness, Solicitor.

15 MR. SCOTT: State calls Donte Kessler to the stand.

16 DONTE KESSLER, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Scott:

20 Q State your name?

21 A Hakien Donte Kessler.

22 Q Mr. Kessler, where are you from?

23 A Little Mountain.

24 Q How long have you lived there?

25 A All of my life.

1 Q How old are you?
2 A 34.
3 Q Mr. Kessler, do you know Mandy Smith?
4 A Yes, sir.
5 Q Do you see her in the courtroom?
6 A Yes, sir.
7 Q Where is she?
8 A Right there.
9 Q How do you know Ms. Smith?
10 A I have known Mandy for a long time, over 20 years.
11 Q Just from Little Mountain or how did you know her?
12 A Went to school together.
13 Q Where did you go to school?
14 A Chapin High School.
15 Q And she went there with you, did she graduate with
16 you?
17 A I didn't graduate.
18 Q Did she track along with you, were y'all in the same
19 grade together?
20 A I think she was a grade higher than me.
21 Q Tell me what y'all's relationship has been in the
22 last 20 years?
23 A Just remained friends. You know, just good friends.
24 We have been friends for a long time. I have known her
25 for a long time, good friends.

1 Q Did you know John Henry Mayers?

2 A Yes, sir.

3 Q How did you know him?

4 A Family member, I know his sons and nephews and
5 everybody.

6 Q And do you remember the time when he passed?

7 A I mean, when everybody found out, like the family
8 came and told me or whatnot.

9 Q Did you have any knowledge of any relationship
10 between Mr. Mayers and Mandy Smith?

11 A I mean, as far as I know they was going together I
12 guess. Like I said, me and her have always been friends.
13 So we always kept in contact with each other.

14 Q You mean just like a relationship, romantic
15 relationship they had?

16 A Yes.

17 Q Did Mandy Smith make any comments about John Mayers
18 in the weeks leading up to his death?

19 A One night we was hanging out or whatever, went to her
20 house. And she has this gun but it was, at first when I
21 seen it I thought it was real. But as it went on I found
22 out it was fake. But she made a comment saying that John
23 put his hands back on her again she would kill him.

24 Q If he put his hands on her again she would kill him?

25 A Yes.

1 Q Why do you say the gun was fake?

2 A I mean because she told me it was fake after a while.

3 Q You did not handle the pistol?

4 A No.

5 Q I am sorry, I say a pistol, what kind of gun was it?

6 A I mean it looked like a little .9 millimeter, like a
7 big .9 millimeter, that is what it looked like.

8 Q What color was it?

9 A Black.

10 Q I just want to show you, this has been marked for ID
11 purposes State's 27. Do you recognize that?

12 A I mean it could have been. Like I said, it was a
13 quick look for me, you know, I don't mess with guns like
14 that. It was a quick peek and then she told me it was
15 fake so I took it as it was fake.

16 Q Is State's number 27 consistent with what she showed
17 you.

18 MR. VERNER: Asked and answered, Your Honor.

19 THE COURT: Overruled. You may answer the question,
20 Mr. Kessler.

21 A Like I say, it could be.

22 Q Approximately, you know the timeframe, when you found
23 out that Mr. John Mayers had died do you know
24 approximately when in relation to his death that this
25 meeting with Mandy Smith happens?

1 A I am going to say at least three weeks before. It
2 was like three weeks before Mother's Day I guess. So I am
3 going to say like three weeks.

4 Q Did she make any other statements to you?

5 A No. That was the last conversation we had.

6 Q Let me get this straight. For the last 20 years you
7 have been friends with Mandy Smith. Were you friends with
8 John Henry Mayers?

9 A Yes, I would say that, yes.

10 Q You and Mandy were friends and you and John Henry
11 Mayers were friends?

12 A Yes.

13 Q Thank you. Answer any questions that Mr. Verner has.

14 CROSS-EXAMINATION

15 By Mr. Verner:

16 Q Do you know a man named Gary Summers?

17 A Yes, sir.

18 Q Do you know a man named Elvis Hill?

19 A Yes, sir.

20 Q How long do you think, I may have misheard you, but
21 did you call Mr. John Henry, John L.?

22 A No it was John, we just called him John.

23 Q Okay. Have you ever seen John Henry with Elvis Hill?

24 A I mean I seen him that night with John.

25 Q So Elvis would be a buddy of John Henry's?

1 A I would say that.

2 Q Do you know whether, how would you characterize your
3 relationship with Gary Summers. He is a friend or
4 acquaintance?

5 A Yes, I have been knowing him a long time.

6 Q Do you know whether he sold some drugs to Elvis Hill
7 and John Henry the night of May 7th?

8 A Naw.

9 THE COURT: No, you don't know?

10 A No, sir. No, sir.

11 Q What community do you live in right now?

12 A Medowlock Road in Little Mountain.

13 Q In the Little Mountain area?

14 A I stay in Little Mountain. 244 Medowlock Road.

15 Q Are you from Newberry County originally?

16 A Lexington.

17 Q Lexington County?

18 A Yes, sir.

19 Q Are you familiar with some members of John Henry's
20 family?

21 A Yes, sir.

22 Q Do you recognize some members in the audience in his
23 family?

24 A Yes, sir.

25 Q How many of his family members that are here do you

1 think you know?

2 A I mean I know everybody here.

3 Q How many do you see on a pretty regular basis?

4 A I wouldn't say on a regular basis. But I see them
5 probably like three or four times out of the week.

6 Q So you see several members of John Henry's family to
7 the point to where it wouldn't surprise me to run into
8 them in the grocery store but it wouldn't be a long time
9 since you see them?

10 A Yes.

11 Q I think you testified that Mandy told you if John put
12 his hands on her again he would kill her, she would kill
13 him?

14 A Yes, sir.

15 Q Are you familiar how John treated Mandy?

16 A I mean, not really. But I head her talk about it but
17 we really didn't get into details.

18 Q Had you seen anything physical directed by John
19 towards Mandy?

20 A No, sir.

21 Q Did you hang around them when they were together or
22 did you kind of, one time with one, one time with the
23 other?

24 A Sometimes both of them.

25 Q Sometimes I saw John, sometimes I saw Mandy,

1 sometimes I saw both of them?

2 A Yes.

3 Q Did they appear to be in a romantic relationship?

4 A I mean it was all right.

5 Q Boyfriend and girlfriend like?

6 A Yes.

7 Q Was it exclusive?

8 A I would say that.

9 Q They weren't seeing anybody else?

10 A I don't think so.

11 Q Do you have any memory of John Henry beating up T.C.?

12 A No, sir.

13 Q Do you have any memory of John Henry beating up any
14 friends?

15 A No, sir.

16 Q Would you think it is fair to say that Mr. John Henry
17 had a crack cocaine problem toward addiction?

18 A I would say.

19 Q Just from knowing him. Thank you for your testimony.

20 THE COURT: Redirect, Solicitor?

21 REDIRECT EXAMINATION

22 By Mr. Scott:

23 Q You know a lot of the members of the Mayers family,
24 correct?

25 A Yes, sir.

1 Q You see a lot of them here today?

2 A Yes, sir.

3 Q Have you changed your testimony because of their
4 presence?

5 A No, sir.

6 Q In fact, you have known Mandy for 20 years as well,
7 is that correct?

8 A Yes, sir.

9 Q Thank you.

10 THE COURT: Recross?

11 MR. VERNER: No, Your Honor.

12 THE COURT: You may be excused. Solicitor, my
13 understanding is your next to be rather lengthy, is that
14 correct?

15 MR. STUMBO: That's correct, Your Honor.

16 THE COURT: Ladies and gentlemen, we will recess at
17 this time. I do want to advise the jury of one issue as
18 far as State's exhibit number 27 I believe it was, 27 for
19 ID only, the weapon. Now I would advise the jury that
20 firearms and that firearm is unloaded, it is open, it has
21 a lock through the barrel and the receiver end. The
22 magazine is removed, it will not be pointed at any juror,
23 a party or anything of that nature. And it will not be
24 handled at any time when it is not in that safe condition.
25 The Court had an officer state on the record the manner in

1 which it was secured prior to it being displayed to the
2 jury. And I do not want y'all to be concerned about that
3 in any manner. Ladies and gentlemen, during this evening
4 recess you are not to discuss this case with anyone. That
5 includes your family members, friends or anyone else. If
6 anyone tries to talk to you about this case please let me
7 know. Do not read, watch or listen to any news accounts
8 of the case should there be any. Do not use your computer
9 or cellular phone or any other electronic device with
10 communication capabilities to obtain or disclose any
11 prohibited information about the case. That includes but
12 is not limited to information about a party, a witness, an
13 attorney or a court officer, present or past news accounts
14 of the case should there be any. Information collected
15 through juror research, on any topic raised or any
16 testimony offered by any witness or information collected
17 through juror research on any other topic that the juror
18 might think would be significant in determining or helpful
19 in deciding the case. Remember to keep an open mind, do
20 not begin your deliberations until you have heard all of
21 the evidence, closing arguments by the attorneys and
22 instructions on the law by the Court. If you will please
23 report at 10:00 o'clock in the morning. You are excused
24 for the day. Hope you have a pleasant evening.

25 (Whereupon, the jury was excused from open court for

1 the day.)

2 THE COURT: Anything further from the State before we
3 take our recess?

4 MR. SCOTT: No, Your Honor.

5 MR. VERNER: No, Your Honor.

6 THE COURT: We will see you at 10:00 in the morning.
7 (Whereupon, the case will resume the next morning at
8 10:00 a.m.)

9 October 9, 2013

10 THE COURT: Anything before we bring the jury?

11 MR. STUMBO: Before we bring the jury out, one, we
12 talked about this stipulation yesterday about
13 identification of the body. SLED did do a DNA analysis,
14 we are not call her as a witness, the DNA expert based on
15 this stipulation. If we could have this published to the
16 jury this morning. It has been signed by Mr. Verner and
17 Ms. Smith, the defendant, and by Deputy Solicitor Scott as
18 well, for purposes of the record. It is consented to.

19 THE COURT: You agree with that representation, Mr.
20 Verner?

21 MR. VERNER: Yes, sir. The body identified belongs
22 to John Henry Mayers. And we agree with the stipulation.

23 THE COURT: Anything further, Solicitor?

24 MR. STUMBO: Your Honor, we talked about the fact
25 that the exhibits that we have had premarked for ID,

1 essentially we are going to call Dr. Ross a little bit out
2 of order this morning. She is here right now, Dr. Ross
3 has to be in Winnsboro for another case at noon. We are
4 going to call her at this time. We were going to put the
5 exhibits that we premarked, there is no objection to my
6 understanding from the defense on having these, go ahead
7 and have them introduced into evidence now before the jury
8 comes out so they will be in evidence. And as far as the
9 numbers, Judge,--

10 THE COURT: I hate to be a stickler but, you can't
11 introduce evidence unless it is introduced in front of the
12 jury. In other words, you can't, you can agree for them
13 to come in but it still has to be moved into evidence in
14 front of the jury.

15 MR. STUMBO: Correct.

16 THE COURT: And when they come in you can announce
17 that. Maybe you were saying the same thing.

18 MR. STUMBO: I am, Judge. I probably misspoke. Just
19 on the record we have agreed that these exhibits on the
20 table that were premarked will be no objection to them.
21 We can put that on the record in front of the jury at the
22 time.

23 THE COURT: Let's bring our jury, please.

24 (Whereupon, the jury came into open court at
25 approximately 10:09 a.m.)

1 THE COURT: Good morning, ladies and gentlemen, of
2 the jury. Hope you had a pleasant evening. Before I have
3 the Solicitor call his next witness in the trial I am
4 going to publish or read to you a stipulation that has
5 been agreed to between the parties. Evidence can come in
6 the form of testimony, exhibits or by stipulation,
7 agreement of the parties.

8 This document which will be a Court's exhibit has the
9 indictment numbers on it. It states that the State, by
10 and through its undersigned attorney, I believe that is
11 Deputy Solicitor Scott, and the defendant, Mandy Lenore
12 Smith by and through her undersigned attorney, that is Mr.
13 Verner, hereby agree and stipulate to the fact that the
14 remains of the decedent, victim, in the above captioned
15 case, State versus Smith, which were discovered on May the
16 25th and May 26th of 2011 in Newberry County are the
17 remains of John Henry Mayers. That document has been
18 signed by both the Deputy Solicitor, Mr. Verner, Ms. Smith
19 and myself as the presiding Judge. So that is a
20 stipulation, an agreement between the parties that the
21 remains that were recovered by the Newberry County
22 Sheriffs Department were the remains of John Henry Mayers.

23 With that being said, ladies and gentlemen, as you
24 recall the State is still presenting evidence and
25 testimony in its case-in-chief. If you would please

1 continue to give the parties your complete and undivided
2 attention as you have throughout the course of this trial.
3 With that being said, Solicitor, you may call your next
4 witness.

5 MR. STUMBO: The State will call Dr. Janice Ross to
6 the stand.

7 DR. JANICE ROSS, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Stumbo:

11 Q Good morning, Dr. Ross.

12 A Good morning.

13 Q Thank you for being here this morning. You are here
14 under our subpoena, correct?

15 A Yes.

16 Q And you have an office here in Newberry?

17 A Yes.

18 Q And you live here in Newberry County?

19 A Yes, I do.

20 Q If you could give the jury, Dr. Ross, a full summary
21 of your educational background?

22 A Yes. I got a Bachelor's Degree in Biology from the
23 University of South Carolina. I received my MD, my
24 Doctorate of Medicine from Upstate Medical Center in
25 Syracuse, New York where I also did training in Pathology.

1 Pathology is a discipline in medicine where we are trained
2 to do autopsies to find causes of death. And we are
3 trained to identify and diagnosis diseases like cancers by
4 using the microscope and by using the laboratory. I am
5 also a Forensic Pathologist which means that, a Forensic
6 Pathologist is further trained to find, to see patterns of
7 injury and to identify unnatural causes of death and
8 document patterns of injury and toxicology for the court
9 of law.

10 Q How long have you been certified as a forensic
11 pathologist?

12 A Since 1985.

13 Q And how long have you worked as a pathologist here in
14 Newberry?

15 A Since May of 2000.

16 Q So you have been here for about 13 years?

17 A Yes.

18 Q During the course of your career as a forensic
19 pathologist about how many autopsies have you conducted?

20 A Over 6,000.

21 Q And purposes of working out of this Newberry
22 Pathology office here in Newberry, do y'all do forensic
23 pathology work just for Newberry or for the entire State?

24 A We do approximately 25 or 26 counties of the State.
25 We don't have contracts specifically but they will ask us

1 to do their autopsies.

2 Q So the majority, we have 46 counties so more than
3 half the counties in the State, when they need an autopsy
4 done they bring the body here to Newberry to get that
5 done?

6 A Yes.

7 Q Have you ever been qualified as an expert in the
8 courts of this State and Federal court?

9 A Yes.

10 Q About how many times have you been qualified?

11 A At least 70 times.

12 Q And you do continue to carry Board certification for
13 forensic pathology today?

14 A Yes.

15 MR. STUMBO: Your Honor, at this time the State would
16 offer Dr. Ross as an expert in the field of forensic
17 pathology.

18 THE COURT: Mr. Verner?

19 CROSS-EXAMINATION

20 By Mr. Verner:

21 Q Good morning, Doctor.

22 A Good morning.

23 Q About how many times have you been qualified before
24 as an expert in pathology or forensic pathology?

25 A At least 70 in South Carolina.

1 Q And those are primarily for the State or for, called
2 as a State's witness in criminal trials?

3 A Yes.

4 MR. VERNER: Your Honor, I think she is certainly
5 qualified.

6 THE COURT: Thank you, Mr. Verner. Mr Foreman and
7 ladies and gentlemen of the jury, normally a person cannot
8 give opinion testimony. Normally when a person testified
9 they must testify as to either to what they saw, heard or
10 sense by smell or something of that nature. However,
11 there is an exception when someone is qualified because of
12 education, training, experience in a particular field, art
13 or science. They are permitted to give their opinion in
14 certain areas if the Court qualifies them that way. This
15 witness, Dr. Janice Ross, will be qualified in the area of
16 forensic pathology to give opinion testimony in that area.
17 That does not mean that you must accept the opinion or
18 opinions but it is evidence for the you, the jury, to use
19 in any way you see fit or deem appropriate. Thank you
20 very much. Solicitor, you may continue.

21 CONTINUE DIRECT EXAMINATION

22 By Mr. Stumbo:

23 Q Dr. Ross, did you have occasion in one of the
24 thousands of autopsies that you have done in recent years,
25 have occasion to conduct an autopsy on the body of a John

1 Henry Mayers?

2 A Yes.

3 Q When did you conduct that?

4 A That was on May the 26th of 2011.

5 Q And did you generate a report as a result to document
6 your findings in this autopsy?

7 A Yes.

8 Q Do you have your report with you?

9 A Yes, I do.

10 Q Now, Dr. Ross, correct me if I am wrong, there was a
11 body that was brought, remains for you to analyze,
12 correct?

13 A Yes.

14 Q And was a head or what appeared to be a skull or a
15 head, was it brought in separately for you to analyze?

16 A Yes.

17 Q If you could, tell the jury what your initial
18 observations were in the course of your autopsy of the
19 body itself?

20 A First of all, the body without the head was brought
21 to it. I actually went to the scene in Sumter Forrest
22 just to take a look at how the body was placed. From
23 there the body was put in a body bag and brought to the
24 morgue at Newberry County Memorial Hospital where we
25 opened the body. We do photographs and inventoried the

1 clothing. And then in this case because of the
2 skeletonized, the loss of of tissue and skeletization of
3 some of the bones we did full body Xrays.

4 Q So you did go out to he scene out at Sumter Natural
5 Forrest and were able to observe the body as it lay?

6 A Yes.

7 Q And how was the body positioned in the woods when you
8 arrived?

9 A It was on the surface of the ground and was face down
10 with arms up above where the head would be.

11 Q So the arms were outstretched?

12 A Yes.

13 Q Was the body on its back?

14 A On its front.

15 Q I am going to show you what I believe is already in
16 evidence as State's 4 and 5. Is that how the body was
17 positioned. I know it is a further away shot, but when
18 you came on the scene that day?

19 A Yes.

20 Q What state were the remains in, was there
21 decomposition at that point?

22 A There was great decomposition and loss of tissue.

23 Q And how was that important in terms of your analysis
24 and your autopsy?

25 A Well, a lot of the bones were exposed. That is what

1 we call skeletization. It is basically the upper body and
2 there were no organs, there was no lungs, heart,
3 intestines, stomach, liver. There were no organs left in
4 the body. So we had to clean off the bones and once we
5 did Xrays we saw that there were two bullets in the body.
6 And we clean off the bones to look for evidence where the
7 bullets may have gone, which direction. The bullets were
8 found underneath the skin of the back. One was in the
9 right midback and one was close to the left shoulder,
10 again in the back underneath the skin.

11 Q I am going to show you State's 15, 16, 17 and 18.

12 MR. STUMBO: Your Honor, we would moves State's 15
13 through 18 into evidence, I believe without objection.

14 MR. VERNER: I don't think she has identified them
15 yet, Your Honor, but there is not going to be an objection
16 once she identifies them.

17 THE COURT: Thank you, Mr. Verner.

18 Q Dr. Ross, if you could take a look at those and
19 please tell us if you recognize those pictures?

20 A Yes, I do.

21 Q And did you take those pictures or did someone in
22 your office take those photos?

23 A I took those at the time of the autopsies.

24 Q And those are an accurate representation of these
25 items as they existed the day you did the autopsy?

1 A Yes.

2 MR. STUMBO: Your Honor, at this time the State would
3 move State's 15, 16, 17 and 18 into evidence.

4 MR. VERNER: Without objection.

5 THE COURT: State's 15 through 18 is in evidence
6 without objection.

7 (Whereupon, State's Exhibits 15 through 18 were
8 admitted into evidence.)

9 Q Dr. Ross, I am going to show you State's 15 first and
10 if you could describe for the jury what that picture
11 consist of?

12 A This is a photograph of the Xray we took of the chest
13 on John Mayers. It shows two bullets present and some of
14 the ribs and backbone.

15 Q In the chest cavity could you clearly see two
16 bullets. I think you mentioned that before?

17 A Yes.

18 MR. STUMBO: Permission to publish to the jury, Your
19 Honor.

20 THE COURT: Will you show me, Doctor, where the
21 bullets are on there.

22 A This one here and one here.

23 THE COURT: And turn around and point that out to the
24 jury.

25 A The head would be this way, there is one bullet here

1 and one here. I think you can see the outline and just a
2 solid white--

3 MR. STUMBO: Your Honor, I am going to put it on the
4 overhead.

5 THE COURT: You may publish. Thank you.

6 Q Dr. Ross, just for purposes of the jury's view here.
7 As you pointed out to them a moment ago, this would be one
8 bullet right here?

9 A Yes.

10 Q And that is lower in the chest cavity?

11 A That is, it looks like it is in the chest cavity but
12 it is actually under the skin of the right back. This is
13 as if you are looking at the person front to front. So
14 his right side is on your left.

15 Q So this would be on his right lower part of his chest
16 cavity?

17 A Yes.

18 Q And where my finger is here on the top corner. That
19 would be the second bullet that was taken out of his body?

20 A Yes.

21 Q And that would be on the left side closer to the
22 upper chest cavity?

23 A Closer to the shoulder, yes.

24 Q And you were able to remove these bullets from the
25 body and document them for evidence?

1 A Yes.

2 Q Were they sent, to your knowledge, were they given to
3 law enforcement.

4 A Yes, they were handed to Robert Dennis.

5 Q Robert Dennis who is here at counsel table?

6 A Yes.

7 Q And State's 17 and 18?

8 A Those are photographs of the bullets removed from
9 John Mayers at the autopsy.

10 MR. STUMBO: Your Honor, permission to publish.

11 THE COURT: Yes, sir.

12 Q State's 17. And State's 18. Dr. Ross, is there
13 anything you could tell as far as where the bullets
14 entered the body and existed, I say exited, they were
15 found in the chest cavity. Were there any kind of entry
16 wounds that you could find?

17 A There was no skin on the front of the body left. But
18 we did find a hole defect in the fourth rib on the right,
19 close to where it connects to the sternum. There was also
20 a little fracture on rib number one, on the right. The
21 only thing that I can say is the rib four fracture was
22 consistent with an entry wound which means that one
23 bullet, at least bullet went from front to back.

24 Q And then, because of the decomposition of the tissue
25 there was no way to see any kind of entry wound on the

1 skin?

2 A Correct.

3 Q One of these two bullets in the chest cavity appeared
4 to have fractured the fourth right rib close to the
5 sternum?

6 A Yes.

7 Q State's 16 which is in evidence, does that document
8 that rib?

9 A Yes.

10 MR. STUMBO: Permission to the publish to the jury,
11 Your Honor.

12 THE COURT: Yes, sir.

13 Q Dr. Ross, where my finger is pointed here, where the
14 gap is and the curve where it comes back is where the
15 sternum, it would connect to the sternum, is that correct?

16 A Yes.

17 Q So as I am pointing out on my body here, would be
18 somewhere in this area on the lower right torso, closer to
19 the chest?

20 A Up further.

21 Q Here?

22 A Yes.

23 Q And this would indicate that one of the bullets that
24 entered his body, Mr. Mayers body came in the front, in
25 that front middle area on the right side?

- 1 A Correct.
- 2 Q You mentioned earlier that the head, the head was
3 brought in separately for you to analyze, is that correct?
- 4 A Yes.
- 5 Q And you did a full examination of that as well?
- 6 A Xrays showed no metal objects and examiantion showed
7 no fractures.
- 8 Q So it appears as the only two, at least documented
9 bullets that we have in the chest regions of the body?
- 10 A Correct.
- 11 Q And did you work with SLED on this case to ensure the
12 identity of Mr. Mayers, that this was indeed John Mayers
13 body?
- 14 A We sent material from the autopsy through Robert
15 Dennis to SLED for them to compare, yes.
- 16 Q And they did the DNA analysis and identification on
17 that?
- 18 A Yes.
- 19 Q And it was confirmed as his body?
- 20 A Yes.
- 21 Q Dr. Ross, to a reasonable degree of medical certainty
22 what is your opinion as to the cause of death of John
23 Henry Mayers?
- 24 A The gunshot wounds to the chest.
- 25 Q And what would the manner of that death be to a

1 reasonable degree of medical certainty?

2 A Homicide.

3 Q So in your medical opinion Mr. Mayers was killed by
4 another person by two gunshot wounds to his chest?

5 A Correct.

6 Q And based on the fact that the head was brought in
7 separately, you said you were on the scene that day and
8 was actually able to observe the body as it laid in the
9 National Forrest, correct?

10 A Yes.

11 Q And clearly to your observation at that point the
12 head had been removed from the body?

13 A Yes.

14 Q And then the head was brought to you sometime later
15 at your office here in Newberry for analysis?

16 A Yes.

17 Q You documented that in your report as well?

18 A Yes.

19 Q The head had been separated?

20 A Yes.

21 Q Answer any questions that Mr. Verner may have for
22 you.

23 CROSS-EXAMINATION

24 By Mr. Verner:

25 Q Is there a reason that your report is a daily,

1 separate date. I have got one that is June 1st and one is
2 June 8th. I guess my question is, is that the same report
3 just resent or did you make a change on the report.

4 A The same report except for we added the name because
5 I think we received the DNA analysis on June 3rd.

6 Q So the only difference between the first time you
7 sent law enforcement the report and the second time was
8 just to put the identity?

9 A Correct.

10 Q My understanding is that the toxicology report or a
11 sample of blood was taken from the body of John Henry
12 Mayers?

13 A I know we took, I saw that on the evidence form. I
14 don't believe we had blood but we took some muscle and a
15 molar tooth for the purpose of DNA. There was nothing
16 sufficient for toxicology.

17 Q The report says specimens are drawn for toxicology,
18 for toxicological analysis. Is that incorrect in your
19 report?

20 A Yes.

21 Q But I guess that is something that is often done but
22 may have been standard language, it just didn't get
23 redacted prior?

24 A Correct.

25 Q But there was also an indication that blood was put

1 in a lavender test tube?

2 A Yes. I think that was a typographical error.

3 Q That is often something that routinely would be done
4 but was mistakenly put in this report?

5 A Correct.

6 Q Was there anything, the blood is the easiest thing to
7 take a toxicological report from?

8 A Yes.

9 Q And what is the purpose of the toxicology report?

10 A To look for drugs and poisons. If we don't have
11 blood we will keep some organ tissue, for instance liver
12 and brain. We also try to get urine, we try to get fluid
13 from eyes called vitreous fluid. But none of that was
14 available in this body.

15 Q Does it have to be just fluid to get a toxicology
16 report or can it be skin tissue itself?

17 A Skin and tissue won't tell you anything
18 toxicologically. There is nothing that you can test for,
19 it is not something that you could identify. But you can
20 do toxicology on liver and brain tissue.

21 Q What about hair samples?

22 A We didn't have any hair. We had a little bit of
23 pubic hair but we didn't collect that.

24 Q Is it fair to say that human hair is often tested for
25 drugs?

- 1 A I suppose it could be. Usually scalp hair is tested.
- 2 Q Scalp hair, if it is not long enough pubic hair is
3 commonly tested?
- 4 A You would have to ask a toxicologist.
- 5 Q You are not familiar in your practice of other hair
6 being tested for drugs?
- 7 A No, I am not.
- 8 Q My understanding, Doctor, the police or someone
9 called you out to the death scene?
- 10 A Yes, Craig Newton, the coroner.
- 11 Q And I assume that you would have to work pretty much
12 on a regular basis with the coroner in your position?
- 13 A Yes.
- 14 Q And you worked on a regular basis with Lieutenant
15 Dennis now and members of the sheriffs department?
- 16 A Yes.
- 17 Q Cordial relationship?
- 18 A Yes.
- 19 Q You saw the body of Mr. Mayers out in the Sumter
20 National Forrest?
- 21 A Yes.
- 22 Q Do you remember the condition of the road?
- 23 A Dirt roads.
- 24 Q Did it appear to be fairly a well traveled road
25 though?

1 A It was fairly packed down. I don't recall--

2 Q Do you recall ruts in the road or anything that would
3 make it hard for people to travel up and down that road.
4 Do you have those pictures up there.

5 MR. VERNER: May I approach the witness, Your Honor.

6 THE COURT: Sure.

7 Q I am handing what has, State's number 2, it is a
8 photograph. Does that appear to be the condition of the
9 road?

10 A Yes.

11 Q Would you agree with me that that appears to be a
12 better maintained road than a typical dirt road?

13 A Yes.

14 Q Appears to have a lot more traffic and activity out
15 in it, I am not asking you as a doctor, I am just asking
16 is it your reasonable common sense?

17 A I guess.

18 Q I think in your report you indicated that it appeared
19 that Mr. John Henry, his body had been dragged?

20 A Yes.

21 Q Tell me again what made you--

22 A The arms were outstretched like so and his stomach
23 down.

24 Q What about his shirt?

25 A It was kind of up over where the neck was.

1 Q Did you make that observation or was that something
2 that law enforcement investigate, pointed out to you?

3 A That is what I saw and that is we received the body
4 in the morgue.

5 Q And that is just more of a common sense looking at
6 him type observation?

7 A Yes.

8 Q Did it appear to you that he had been pulled from his
9 feet or from his hands?

10 A Most likely from his hands.

11 Q Your opinion he was dragged by his hands, where ever
12 he ended up?

13 A I believe so, yes.

14 Q Could you tell any indication about how far he would
15 have been dragged?

16 A No. I don't remember any drag marks but he had been
17 there for some time.

18 Q Because he had been out in the field for a little
19 while, the body wasn't completely there for you to do a
20 weight of Mr. John Henry, right?

21 A Correct.

22 Q The lower body was still largely intact?

23 A Yes. The lower body was covered with pants and so
24 that kept some of the tissue on.

25 Q In State's exhibit number 23, there is some

1 indication that he may have been up to 240 pounds or in
2 that area. Is that consistent with what--

3 A It is hard for me to judge.

4 Q But you couldn't rule out that size man, could you?

5 A I could not.

6 Q And would you agree with me that that would be a
7 fairly large man if he was that size?

8 A Yes.

9 Q I believe you said you found one bullet, when you are
10 talking about the right side of the body you are talking
11 about Mr. Henry's, John Henry's right side of his body?

12 A Correct.

13 Q It would be your left, his right?

14 A Yes.

15 Q And you found one bullet in the lower chest cavity?

16 A In the right midback underneath the skin.

17 Q Are you sure to a reasonable degree of medical
18 certainty that that bullet entered from the front?

19 A One bullet entered from the front. I can't say which
20 one.

21 Q It is possible because of the time his body had been
22 out there that the bullets had been dislodged from where
23 they originally entered and may have just, rolled around
24 or did it appear that they had been lodged in and they
25 were consistent--

1 A The bullets themselves were surrounded by soft
2 tissues so they didn't move. It could have been an
3 entrance wound through some of the soft tissue on the
4 front of the body that was missing at the time I got the
5 case.

6 Q But to a reasonable degree of medical certainty you
7 think where you found the bullets from the Xrays of Mr.
8 John Henry's body was where they came to rest after they
9 had entered the body?

10 A Yes.

11 Q That they hadn't moved or rolled round?

12 A No, they had not moved.

13 Q And so the first bullet is in this back, up against
14 his skin?

15 A Yes.

16 Q Which would indicate and the rib was broken here?

17 A Yes.

18 Q But that may not have been the same bullet in your
19 opinion?

20 A Correct.

21 Q But could have been too?

22 A Yes.

23 Q And then the second bullet, there was a second rib
24 fracture?

25 A Yes. That was on the right side of the body. The

1 bullet was John Mayers right: The bullet was found behind
2 the left shoulder or close to the left shoulder, behind
3 the, underneath the skin on the back.

4 Q Are you pretty sure that that would be where the
5 second bullet came to rest originally?

6 A Yes.

7 Q It had lodged in enough that that is unlikely also,
8 moved its position after entering the body?

9 A That is where it was, yes.

10 Q But that could have been from this one?

11 A Yes.

12 Q And where was the second, it was to his right, just
13 below his clavicle?

14 A The second bullet was on the left. One on the right
15 midback.

16 Q Where it was found. I am asking where the fractured
17 rib was?

18 A The fractured rib was, one was the right fourth rib
19 near his breast plate, the breast bone, the sternum. And
20 one was on the left, the first rib which is up high. So
21 one bullet may have come in from the side.

22 Q There were no vital organs found by you?

23 A No, there were not.

24 Q I am not suggesting they are not the cause of death.
25 But I mean how can you be sure, if you don't have the

1 organs that, that it was not a different cause of death?

2 A Don't.

3 Q Basically I think your opinion is, that is the most
4 likely cause of death?

5 A Yes. The circumstances where the body was found, how
6 the body was found along with presence of two bullets.

7 Q But what damage the bullet did in the body or whether
8 he was hit or anything like that, are you able to say
9 that. By hit, I mean physically hit with an object in
10 your hand, a blunt object?

11 A No, no. Are you asking me if they were blunt force
12 injuries?

13 Q Yes, ma'am. Or were you able to find any other
14 injuries through the body?

15 A No, we were not.

16 Q Would you have been able to with a body in that
17 condition?

18 A Not necessarily.

19 Q By defect of the right first rib, what do you mean by
20 defect, you mean like a break?

21 A A little injury to one of the edges, it may or may
22 not have been due to a bullet.

23 Q Okay. And again, explain to me, the rib bone that we
24 saw on the projector, the darkened rib bone, that was, you
25 are sure that was broken by the bullet?

1 A It was a round hole consistent with a bullet.

2 Q But the second one is a nitch or some kind of, it is
3 not a clear bullet wound?

4 A Correct.

5 Q But it is, it stands out where it could be something?

6 A Yes.

7 Q Based on where you found the, either of the bullets
8 could Mr. John Henry have been shot in the back at all?

9 A No.

10 Q We agree if the 180 degree line is this way that
11 everything beyond the 180 degrees to my back, he could not
12 have been shot from that direction?

13 A Correct.

14 Q But it could have been slightly in front, to the side
15 or completely in front?

16 A Yes.

17 Q And that would also depend on too if he was moving
18 his body in that situation?

19 A Yes.

20 Q From looking at the broken bone, do you have any
21 opinion about how far the gun, the handgun would have been
22 from Mr. John Henry's body when it was discharged?

23 A Cannot tell from that.

24 Q Could have been ten feet away?

25 A It could be.

1 Q And could have been close proximity?

2 A Yes.

3 Q Just, without enough skin tissue there is just no way
4 to tell how far that shooter was?

5 A Correct.

6 Q But you were able, or were you able to determine
7 whether it was the same bullet type in the body or is that
8 something out of your field?

9 A It is out of my field.

10 (Whereupon, Mr. Verner has a skeletal diagram placed
11 in front of the jury.)

12 MR. VERNER: May I ask the witness to step down, Your
13 Honor.

14 THE COURT: You may step down and please keep your
15 voice up.

16 Q Does that appear to be a fairly standard skeleton
17 diagram?

18 A Yes.

19 Q Where the bones, where the rib bone was completely
20 broken, put the sticker.

21 A There was no bone completely fractured.

22 Q Where the one was introduced into evidence?

23 A This is the fourth rib close to the sternum.

24 Q On his left side?

25 A Okay, right side.

1 Q That is where we see the injury. Is that cartilage
2 or bone?

3 A It starts off to be cartilage but as we get older it
4 gets to be calcified.

5 Q Okay. But that is the one that we saw on the
6 monitor?

7 A Yes.

8 Q And then this one or the one that you said, I think
9 it was the first rib?

10 A Up in here somewhere.

11 Q The same thing, I understand that the bullet is
12 outside of the, where they were found. Can you show me
13 where you found the two bullets. And these would be the
14 blue. I have got to balance this.

15 A It would be right in here somewhere on the right.

16 Q Kind of behind the ribs but in the skin?

17 A Yes.

18 Q And then the second?

19 A Would be up in here.

20 Q It was above, substantially past, was there a fleshy
21 part left up there?

22 A Yes.

23 Q So one was a little bit closer to the skeleton and
24 one was a little bit further in the tissue?

25 A Well, it is underneath the skin.

1 Q But it would be more on his shoulder and less in his
2 ribs area?

3 A Yes.

4 Q Can you, to a reasonable degree of medical certainty
5 would it be more likely that this entry wound was the
6 bullet that ended up here?

7 A I can't say.

8 Q It would be just pure speculating?

9 A Correct.

10 Q Was there any way to determine if the projectory was
11 going up, at least one of them would had to have been
12 going up because the bullet was found higher than the
13 entry wound? At least one of the bullets would have had
14 an upward trajectory?

15 A If the entrance wound on the front was, ended up
16 being the bullet in the left shoulder it would have been
17 upward. But if it was the one in the back it would have
18 been pretty much straight in.

19 Q But again, any guess about which way the bullet was
20 moving in any manner, your guess would be no better than
21 anybody else's guess in this room?

22 A Correct.

23 Q And your testimony is that there was no reasonable
24 way you could have gotten any kind of toxicology report
25 from the body?

1 A No, sir.

2 Q Thank you, Doctor.

3 REDIRECT EXAMINATION

4 By Mr. Stumbo:

5 Q Dr. Ross, just based on, I believe that Mr. Verner
6 hit on this with several questions. But based on the
7 decomposition of the flesh and the organs there is no way
8 to really tell the path of the bullets here through the
9 chest cavity, correct?

10 A Correct.

11 Q But based on the fact that we have the broken rib in
12 the front and both bullets end up under the skin in the
13 back, they both, one appears to have entered through the
14 front middle. And the other one was somewhere around the
15 left shoulder, either on the side or the front, correct?

16 A Correct.

17 Q Mr. Verner did ask you a question about the body
18 possibly being dragged. Was there any evidence of that
19 there at the scene that you saw that day other than the
20 arms being out front?

21 A No, I did not.

22 Q Based on your training and experience and expertize,
23 two gunshot wounds to the chest, let me back up here for a
24 second and ask a couple of questions. Organs have been
25 essentially decomposed, right, you didn't find any organs

1 intact, is that correct?

2 A Correct.

3 Q If two bullets that entered the body had not impacted
4 any major organs, which we can't tell if they did or they
5 didn't. Could this had been a longer time period to have
6 actually expire or die? Is there any way for you to tell
7 how quickly John Henry Mayers passed away after he was
8 shot twice?

9 A No. The heart is at the level of rib number four.
10 So I can't see that that one wound in the front couldn't
11 have hit something vital, either the heart or one of the
12 vessels coming off the heart or the lung tissue. And that
13 will bleed, they may live for a short period of time.
14 With the wound through the lung or the heart, it will
15 bleed into the chest cavity and a person can be awake for
16 seconds, up to a minute after that.

17 Q If it didn't hit the ribs or the, excuse me, the
18 lungs or the heart and the person just bled out internally
19 could that have taken even a longer period of time for a
20 person to die?

21 A Well, where that entrance wound was I can't see it
22 wouldn't have hit something, either the heart, the lung or
23 a major vessel.

24 Q And also the way the body was positioned, there is no
25 way for you to tell after weeks of the body being there

1 and then someone coming and removing the head, whether
2 that is the way the body was right after he was shot,
3 correct?

4 A Correct.

5 Q He could have been flipped over in the intervening
6 weeks or had his arms pulled out by whoever removed the
7 head, correct?

8 A Correct.

9 Q So there is no way medically for you to tell that
10 that is how the body hit the ground after the shots were
11 fired?

12 A Yes.

13 Q Thank you.

14 THE COURT: Recross, Mr. Verner?

15 MR. VERNER: Yes, Your Honor.

16 RECROSS-EXAMINATION

17 By Mr. Verner:

18 Q Again, about whether the body was dragged, the shirt
19 was also pulled up this way, wasn't it?

20 A As I recall I think it was.

21 Q This would indicate that he was dragged by his feet?

22 A Either that or an animal, animals dragged it or
23 pulled it.

24 Q Are there any animals in South Carolina, in Newberry
25 County that would be able to pull a 240 pound man, short

1 of a domestic cow or any predator type animals that would
2 be large enough to pull?

3 A Well, they certainly would pull and tug on parts and
4 that is a lot of reason why a lot of the tissue was
5 absent. They would pull on clothing and it is a lot of
6 reason why there was an absence of tissue because of
7 animal eating.

8 Q But your immediate observation of the arms being this
9 way was that he had been pulled one way or the other?

10 A That's one possibility, yes.

11 Q I think you testified that that was your first
12 impression?

13 A Yes.

14 Q And the fact that his shirt was rolled up this way,
15 it would also suggest that it may have been pulled by his
16 feet?

17 A Either that or the animals did it.

18 Q The Solicitor talked to you about how long John Henry
19 may have survived after he was shot. First of all, you
20 don't have any indication what was the gap between the
21 first bullet entering the body and the second?

22 A Correct.

23 Q But assuming they were in fairly short order, within
24 a minute or so of each other. Are you able, as a
25 pathologist, to give us a range of how long he would have

1 lived?

2 A I would say between two to four minutes, two to five
3 minutes.

4 Q Your best guess as a pathologist would be two to four
5 minutes?

6 A Yes.

7 Q Would he have died immediately?

8 A I think he, he would have passed out first before
9 that, within a minute.

10 Q So he would have been conscious for a minute or so?

11 A Possible.

12 Q Would he have been able to call out for help?

13 A Yes.

14 Q Would he have been able to scream?

15 A Probably.

16 Q Would he be likely to do that or just, you don't know
17 under the circumstances?

18 A I don't know.

19 Q But he would have been, your best guess would be a
20 minute conscious?

21 A Up to a minute but more likely, it is hard to say,
22 thirty seconds, forty-five seconds.

23 Q If he had started running after he was shot the first
24 time would that be a factor in your evaluation at all? If
25 it was clear that he was running for some period of time

State of South Carolina)
) Court of General Sessions
 County of Newberry) 2011-GS-36-503-505

State of South Carolina)
) Transcript of Record
))
 Mandy Lenore Smith)
) VOLUME II
) DEFENDANT

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 after getting shot the first time?

2 A I am not sure what you are asking me.

3 Q Would the adrenaline or the fact that first shot
4 obviously didn't take him down, would that be a factor at
5 all in how long he would be able to, are people able to
6 get shot in the chest and still have mobility for a while?

7 A Yes.

8 Q Are they still able to fight for a while, assuming
9 that were engaged close with somebody?

10 A Yes.

11 Q If somebody suggested that John Henry may have run or
12 moved from some period of time after being shot the first
13 time that would be fair in your evaluation?

14 A It is possible.

15 Q Thank you.

16 THE COURT: You may step down. Solicitor, call your
17 next witness.

18 MR. STUMBO: The State calls Susanne Cromer to the
19 stand.

20 DIRECT EXAMINATION

21 By Mr. Stumbo:

22 Q Please state your name.

23 A My name is Suzanne Cromer.

24 Q You work for the State Law Enforcement Division?

25 A Yes, sir.

1 Q And that is you work out at the laboratory down in
2 Columbia?

3 A Yes, sir.

4 Q And what is your role with SLED?

5 A I am a forensic scientist in the firearms department.
6 I do firearm and tool mark examination.

7 Q Did you receive any education or specialized training
8 to become an expert in that field?

9 A Yes, sir. I have a Bachelor's Degree from Clemson
10 University. I did some work at the University of South
11 Carolina. I completed SLED'S in-house training program
12 for firearm and tool mark examiners which is an intense
13 study, three to five year program where we take written
14 tests, oral tests, practical exercises and we actually
15 work closely with other firearms examiners preparing their
16 cases.

17 Q So it is, for lack of a better term, kind of an
18 apprenticeship in-house at SLED?

19 A Exactly.

20 Q For three to five years you have to shadow others who
21 have been there for longer before you do your own?

22 A That's correct.

23 Q And how long have you been at SLED?

24 A It will be 15 years in December.

25 Q So you have been on your own for 10 to 12 years?

1 A Actually I was hired into the firearms department but
2 I did not move into the firearms examiner training program
3 until 2000. So I have been on my own 9, 10 years
4 approximately.

5 Q Those 9 to 10 years, how many firearms analysis have
6 you done for other agencies around South Carolina?

7 A I have probably done about 15 to 20,000 cases.

8 Q And of those 15 to 20,000 cases that you have done
9 work on have you ever come to court like today and
10 testify?

11 A Yes, sir.

12 Q How many times have you been qualified as an expert
13 or recognized as an expert by the courts in this State?

14 A Approximately 67 times.

15 Q And that is over the course of the past 9 or 10
16 years?

17 A That's correct.

18 MR. STUMBO: Your Honor, at this time the State would
19 offer Ms. Cromer as an expert in the field of firearms and
20 tool mark identification.

21 THE COURT: Mr. Verner.

22 MR. VERNER: May it please the Court, Your Honor.

23 CROSS-EXAMINATION

24 By Mr. Verner:

25 Q What was your degree, you got a degree from Clemson?

- 1 A Yes, sir.
- 2 Q Was that your undergraduate?
- 3 A Yes sir, it was. I got a degree in psychology.
- 4 Q And then you got a graduate degree from South
5 Carolina?
- 6 A No, I did not complete that. I was three credit
7 hours shy.
- 8 Q What was that in?
- 9 A Criminal justice.
- 10 Q So your training as far as firearms would almost
11 exclusively come from SLED?
- 12 A Yes, sir. I have also taken outside training through
13 the Association of Firearm and Tool Mark Examiners through
14 the South Carolina Chapter of the International
15 Association of Identification and the Bureau of Alcohol
16 and Tobacco and Firearms and Explosives.
- 17 Q Solicitor Stumbo may have asked you but I apologize
18 if he did. But have you been qualified as an expert in
19 this area before?
- 20 A Yes sir, I have.
- 21 Q In State's courts of South Carolina?
- 22 A Yes, sir.
- 23 Q How many times?
- 24 A Approximately 67 times. Four of which being, three
25 or four being in Federal Court.

1 Q And just, I understand what firearm marks, what would
2 be an easy definition for me to understand what a tool
3 mark identification is?

4 A Actually firearms identification is more of a subset
5 of tool mark identification. Anything that can leave a
6 mark like a bolt cutter on a pad lock, a crowbar on a
7 safe, they are tool mark identifications.

8 Q And it is a more of a specific subsection?

9 A That's correct.

10 MR. VERNER: Your Honor, she is in my opinion
11 qualified to give testimony.

12 THE COURT: Thank you. Again, ladies and gentlemen,
13 normally when a person testifies they cannot give opinion
14 testimony and most testify as to what they either saw,
15 heard or smell or something of that nature. However there
16 is an exception when someone is qualified because of
17 education, experience, training in a particular
18 profession. They are permitted to give opinion testimony
19 in certain areas that the Court qualifies. This agent,
20 Suzanne Cromer will be qualified in the area of tool mark
21 and firearms identification, forensic tool mark and
22 firearms identification to give opinions in those areas.
23 That does not mean that you must accept the opinions but
24 it is evidence that you, the jury, could use in any way
25 you see fit. Thank you.

1 cartridge case. State's 26 was my item 2 in this case and
2 my item 11 in this case. They were the fired bullets from
3 autopsy. Again, they are in a sealed container with my
4 initials and sealed date. State's 25 was my item 12 in
5 this case. It is a fired cartridge case. Again, still in
6 a sealed container with my initials and sealed date.
7 State's 28 is the unfired cartridge which was my item 3 in
8 this case or part of my item 3 in this case.

9 Q And these items were brought to you via people in
10 your area from the Newberry Sheriffs Department, is that
11 correct?

12 A Yes, sir.

13 Q And they were submitted by which person from
14 Newberry. Who brought those to SLED to be analyzed?

15 A They were brought by a Robert Dennis.

16 Q For example, this container in here, that is not, is
17 that y'all's container or another container. Who
18 generated that?

19 A We call it evidence 10. That is how I received it
20 and let me double check. And that was submitted along
21 with the autopsy bullets by Robert Dennis.

22 Q So the shell casing that is outside of this other
23 container here is what, that is what was inside of the
24 container when you received it?

25 A That's correct. When I receive it it is in that

1 container. I package it this way for court purposes.

2 Q And then you repackaged it and signed and dated the,
3 is that your handwriting?

4 A I heat seal and sign and date over the heat seal.

5 Q That is the same for all four of these exhibits, 24,
6 25, 26 and 28?

7 A That's correct. When I received it it was inside
8 this envelope with evidence tape sealed. I just remove it
9 and instead of putting it back in the envelope I put it in
10 a clear container that I can see through.

11 MR. STUMBO: Your Honor, at this time we would move
12 State's 24, 25, 26 and 28 into evidence.

13 MR. VERNER: Without objection.

14 THE COURT: State's 24, 25, 26 and 28 are in evidence
15 without objection.

16 (Whereupon, State's Exhibit numbers 24, 25, 26 and 28
17 were admitted into evidence.)

18 Q Agent Cromer, I am going to hand you now what has
19 been marked for ID as State's 27.

20 A I am looking for my markings. I scribe on a firearm
21 my lab number, my item number and my initials in several
22 different locations. Yes, this is what I received as my
23 item 3 in this case, State's exhibit 27. The Norinco
24 Semiautomatic pistol.

25 Q Did it come in a box like this and it now has some

1 SLED tape on it. That is how you received it in a box?

2 A That's correct.

3 Q But you made markings actually on this firearm?

4 A That's correct. I mark all of my evidence within
5 reason. If it is incredibly tiny I might not be able to
6 mark it. But I have scribed on all of these pieces of
7 evidence my lab number, my item number and my initials.

8 Q And this is the .9 millimeter that you analyzed in
9 connection with this case and it is documented in your
10 report?

11 A Yes sir, it is.

12 MR. STUMBO: Your Honor, we would move State's 27
13 into evidence as well.

14 MR. VERNER: No objection.

15 THE COURT: State's 27 is in evidence without
16 objection.

17 (Whereupon, State's Exhibit 27 was admitted into
18 evidence.)

19 Q Can you explain to the jury how you are able to match
20 a fired bullet to the gun that it came out of?

21 A What I am looking at is called rifling. Rifling is
22 put in the gun barrel which is this part right here, to
23 put rotary motion on a bullet. Very similar to a
24 quarterback who throws a football. He wants to get it
25 into a tight spiral. That is what the rifling does, it

1 puts the bullet or projectile into a spiral so it will
2 spin and go more accurately towards its target. The
3 rifling is made up of what we call lands and grooves,
4 raised and depressed areas. And there can be different
5 number of lands and grooves. You can have 4, 5, 6 and
6 they can go to the left or to the right, however it is
7 going to make the bullet spin. What I will do is first I
8 will look at my evidence bullet and see what the rifling is
9 on that. And then I will look in my gun and count the
10 rifling to see if it matches. During the manufacturing
11 process you are talking about hard steel tools putting
12 this rifling into this gun barrel so there are defects
13 during every pass. So those little defects look like
14 scratches on our microscope. So that is what we use to
15 base our identification from, those microscopic individual
16 characteristics.

17 Q And those are unique to any given firearm?

18 A That's correct.

19 Q And is that because when the gun is manufactured,
20 however the rifling is done by the manufacture on the
21 inside of the barrel could have these different minor
22 defects?

23 A Right. Like I said, they look like scratches and
24 depending on how many lands and grooves, how many
25 different areas. When I get my firearm I look at the

1 number of lands and grooves, I will shoot similar
2 ammunition to what I received in the case from this
3 firearm. Then I will take it back and I will
4 microscopically compare those bullets that I knowingly
5 fired from this firearm to each other and then I will go
6 look at my evidence versus these. And it is like putting
7 a 360 degree puzzle together.

8 Q And you microscopically analyze the parts with high
9 powered microscopes?

10 A Actually I start off on 10 power and work my way up.

11 Q And you have specialized equipment there in the lab
12 at SLED to test fire a gun?

13 A We have a bullet recovery tank. Our department is on
14 the second floor of our lab. Our water tank goes all the
15 way down to the first floor. We shoot downwards into
16 water because it will slow down the bullet without adding
17 to or taking away from any markings that are placed on
18 that bullet by the firearm. We retrieve those bullets out
19 of the water and then go to our comparison microscope.
20 The comparison microscope, like I said before, it allows
21 me to look at two objects side by side and compare them to
22 each other.

23 Q Okay. Now, what is in evidence as State's exhibit 26
24 has two bullets in it, correct?

25 A That's correct.

1 Q And you analyzed these and tested them against this
2 gun?

3 A That's correct.

4 Q And what is your opinion as an expert in this case to
5 whether these bullets were shot by this gun?

6 A I was inconclusive. We have four conclusions that we
7 can render. Positive, yes it was fired by this gun.
8 Negative, no it was not fired by this gun. Unsuitable,
9 meaning that it is too damaged or it does not have enough
10 markings on it for me to tell either way. Or
11 inconclusive, meaning it could have been this firearm, I
12 can't say it was and I can't say it was not. So I was
13 inconclusive.

14 Q And is that the amount of damage that could have been
15 done to the bullets from say, sitting in a decomposed body
16 for two to three weeks, would that affect your ability to
17 analyze it?

18 A That could. Also how the bullet engages with the
19 rifling inside the gun barrel. Decomposition, being
20 exposed to the chemicals of the body during decomp. It
21 all can play a part in being able to identify bullets.

22 Q And would the bullets here in State's 26 be
23 consistent with having been fired by a gun of this caliber
24 or one similar caliber?

25 A Yes. These bullets, I determined they were nominal

1 .38 caliber. When I say nominal .38, that means the
2 bullet is of a certain size and diameter. Approximately
3 .355 inches. That diameter size can be loaded into .9
4 millimeter Luger .38 Special or .357 Magnum caliber
5 cartridges.

6 Q So this type of bullet can actually be fired by a
7 .357 or a .38 or a .9 millimeter?

8 A That's correct.

9 Q And this is a .9 millimeter pistol?

10 A That is correct.

11 Q Now, State's 24, that is your item number--

12 A It is my item 4.

13 Q Now, what was that one described as when it came to
14 you, item 4?

15 A It was described as a shell casing from Judy B. Road,
16 dead end turnaround.

17 Q And State's 25, what was your item number?

18 A This is my item 12. It was labeled as spent round
19 jammed in pistol, removed.

20 Q So removed from the gun that they submitted to you?

21 A That's correct.

22 Q And these two shell casings, the damaged one removed
23 from the gun and the one that was actually found at,
24 described at Judy B. Road. What is your opinion as to
25 what gun those were fired out of?

1 A It is my opinion that these were fired by this
2 firearm.

3 Q And explain to the jury that opinion and how you came
4 to that conclusion?

5 A Cartridges are a little different because they don't
6 go down the gun barrel but they can be marked by five
7 different places in the firearm. The first and most
8 prominent is being the breach face. The breach face is
9 the part of the firearm where the head of the unfired
10 ammunition rests. So this part of the cartridge case will
11 rest up against what we call the breach face of the
12 firearm. And any imperfections that are left on that
13 breached face of the firing arm during the manufacturing
14 process can be imprinted on the head of this cartridge
15 case during the firing process. When ignition occurs the
16 firing pin will come through the breach face, strike what
17 is called the primer of the cartridge which is that silver
18 circle in the middle. It causes the initial sparks to go
19 through the flash hole to start the gunpowder burning
20 which causes a massive amount of pressure which pushes the
21 bullet down the barrel but it is also pushing this back
22 into the breach face. So you have your breach face, the
23 actual firing pin can leave individual marks. The
24 chamber, if there is any imperfections in the chamber of
25 the gun which is the forward part of the barrel. That can

1 be imprinted and actually being ejected and extracted from
2 the chamber also leave markings.

3 Q Based on your objections and analysis of the shell
4 casings here in State's 24 and 25, the bullet that was
5 removed from this particular gun and the casing at Judy B.
6 Road were both fired from this weapon?

7 A Yes, based on the breach face and firing pin
8 markings.

9 Q Okay. And there is an unfired bullet here which is
10 State's 28. Was there any analysis done on that?

11 A No. I received that with the firearm itself. And
12 other than it is the same construction, caliber and
13 construction than what I received in this case.

14 Q Was it described as anything in your paperwork of
15 this unfired bullet?

16 A It was described as a unfired .9 millimeter Luger
17 caliber cartridge.

18 Q Now, your role in a case like this is to simply to
19 take the evidence as it is brought to you and analyze it
20 for comparison purposes, correct?

21 A That's correct.

22 Q And then render an opinion as to whether they were
23 fired from a particular gun, correct?

24 A That is correct.

25 Q Is there any way you can tell, based on your role as

1 analyzing these items, who had the gun when it was fired?

2 A No, I cannot.

3 Q Is there any way you can tell who owned this weapon?

4 A No, I do not.

5 Q That is for other investigators involved with the
6 case to try to determine those matters, correct?

7 A That's correct.

8 Q That is all I have. Thank you.

9 CROSS-EXAMINATION

10 By Mr. Verner:

11 Q Good morning.

12 A Good morning.

13 Q You are primarily up at the SLED lab in Columbia?

14 A That's correct.

15 Q I am sorry, I may have missed one. You said that
16 when you do your analysis of the cartridge, the bullet, I
17 am sorry. That there are four different results that you
18 can reach?

19 A Right. That is for cartridge cases and bullets.

20 Q One is conclusive, I am sure to whatever degree of
21 science that this is the exact same bullet fired from
22 that?

23 A That is positive, yes.

24 Q You call it positive or conclusive?

25 A Positive.

1 Q And then one is unsuitable, just, it is broken into
2 pieces or for whatever reason I cannot make any kind of
3 determination?

4 A That's correct.

5 Q You can't even really test it?

6 A We can look at it but it might not have any of those
7 microscopic markings that we need.

8 Q Inconclusive is basically just not sure enough to
9 make a strong opinion on it?

10 A That's correct.

11 Q What was the fourth?

12 A Negative.

13 Q It is definitely not. Okay. And just fairly common
14 sense, well not common sense but common in your area, you
15 are pretty sure these were .9 millimeter bullets or .38
16 caliber bullets?

17 A Yes, .9 millimeter and .38.

18 Q .9 millimeter and .38 are essentially the same size?

19 A That's correct.

20 Q And it can be fired from a .9 millimeter gun?

21 A That's correct.

22 Q It can be fired from a .357?

23 A That's correct.

24 Q It can be fired by a .38 caliber?

25 A That's correct.

1 Q And this might be off but I hear about .380's, is
2 that a different type pistol?

3 A .380's are the same size but the bullet is smaller in
4 length. It is way too much, too long to be a .380.

5 Q So a .380 is not a .38 caliber?

6 A It is but I ruled out the .380 because of the eight
7 of these bullets and the length of the bullets.

8 Q It is just smaller or it is differently configured?

9 A The actual bullet itself is smaller on a .380 auto,
10 in length, not diameter.

11 Q The Solicitor asked if you could tell who owned the
12 gun. You individually cannot tell who owns the gun when
13 it is just handed to you out of the blue, right?

14 A That's correct.

15 Q But guns, they are registered and monitored by law,
16 aren't they, at least the buying and selling of them are?

17 A The buying and selling of them are.

18 Q And they all usually have serial numbers?

19 A Yes, most of them have serial numbers.

20 Q Okay. Modern guns are required to have serial
21 numbers, maybe an older gun might not have one?

22 A That's correct.

23 Q And people can obliterate serial numbers by
24 scratching it off of the file?

25 A That's correct.

1 Q You don't know whose gun this is?

2 A No sir, I don't.

3 Q Would that be a relatively easy thing for law
4 enforcement to find out?

5 A I would not know. I don't do that. I usually leave
6 that up to the investigators. I spend time wondering and
7 working on whether those bullets and cartridges were fired
8 by that gun. I leave that up to the investigators to
9 figure out who actually owned the gun and where the gun
10 came from.

11 Q But there should be, if it was purchased lawfully
12 there should be somebody who has got that number recorded
13 in a data base that can be accessed?

14 A If it was purchased legally and if it wasn't
15 purchased like hand to hand from neighbor to neighbor
16 there should be a record.

17 Q My dad could leave me a gun and it wouldn't
18 necessarily show up in my name?

19 A That's correct.

20 Q But if it was a purchased gun it should show up in my
21 name?

22 A Well, if someone starts to purchase records, yes.

23 Q Are you aware of any restrictions on the transfer of
24 guns?

25 A No, I am not.

1 Q State's 24 that has what looks like a tobacco tint in
2 it is the spent cartridge that you understand was found at
3 the scene?

4 A Yes, these are evidence.

5 Q And your understanding is that was the one that was
6 found in the scene of this crime?

7 A Yes.

8 Q And your testimony to a reasonable degree of
9 certainty is that this is the gun that fired that bullet
10 that was found where John Henry was killed?

11 A That is.

12 Q And that is not based on the cartridge but it is
13 based on the casing?

14 A Well the cartridge case.

15 Q The cartridge case.

16 MR. VERNER: May I publish, Your Honor.

17 THE COURT: State's 24?

18 MR. VERNER: Yes, Your Honor.

19 Q 25 is also a spent cartridge?

20 A It is a fired cartridge case.

21 Q Cartridge case?

22 A Yes, sir.

23 Q By cartridge you mean the actual bullet projectile?

24 A Cartridge is a whole piece of ammunition. The
25 bullet, the cartridge case, the gun powder, everything.

1 Cartridge case is the metal jacket.

2 Q And do you call the actual projectile?

3 A A bullet.

4 Q Just the bullet itself?

5 A Yes.

6 Q This one appeared to have some deformities?

7 A That's correct.

8 Q Is that just consistent with, do you know why that
9 would cause a deformity?

10 A Well, it was labeled as removed from gun.

11 Deformities to the mouth area of the cartridge case can
12 happen if it is stove piped in the firearm, it is not
13 uncommon.

14 Q But this was, you are not the person who removed the
15 cartridge from the gun?

16 A No, sir. At SLED we have a policy that no ammunition
17 is in a firearm when it comes in.

18 Q So one, presumably to you one of the Newberry County
19 investigators or officers would have removed this
20 cartridge?

21 A Presumably.

22 Q And it would have been already a fired cartridge?

23 A Yes.

24 Q And so your guess is that the deformity comes from
25 the extraction by sticking a screwdriver or whatever it is

1 to pull it out?

2 A Well, no, it could have been caused by the firearm
3 when it is jammed. The damage of the mouth could have
4 been caused by either being removed from the firearm
5 forcibly or it could have been caused if it was stuck in
6 the ejection.

7 Q And this one you tell me is an actual cartridge, this
8 one is State's number 28?

9 A Yes.

10 Q Was this one found in the gun or is the one that you,
11 tell me what number 28 is again?

12 A It was received with the firearm.

13 Q What do you mean?

14 A I received the gun, a magazine and that cartridge all
15 as one item.

16 Q So this could have been in the magazine?

17 A Yes, sir.

18 Q And then these two bullets you tell me are the
19 bullets that were found in Mr. John Henry Mayers body?

20 A Yes, that is correct.

21 Q Do you know which bullet was found in which portion
22 of the body?

23 A Yes. My item 11 was the one that was labeled right
24 chest. My item two was the one that was labeled left
25 shoulder.

1 MR. VERNER: May I publish these to the Foreman, Your
2 Honor.

3 THE COURT: Yes.

4 Q Does a gun like this have a kick to it or how does it
5 make you feel when you just hold it and shoot it?

6 A Because of the heaviness of that gun it really
7 doesn't have that much of a kick. Not to me, it might to
8 someone who is not used to firing a .9 millimeter.

9 Q This would be a fairly heavy, compared to, on the
10 heavier end of pistols?

11 A Yes, I would say so.

12 Q And this is an automatic, not a revolver?

13 A It is a semiautomatic.

14 Q Which means you have to pull the trigger every time
15 to fire.

16 A That's correct.

17 Q This would be fairly awkward to where, without a
18 holster, this would be a fairly awkward item to wear on
19 your body, wouldn't it?

20 A I have seen people conceal firearms, it just depends
21 on if you are used to carrying it or not.

22 Q But if you didn't have a holster this would be a
23 fairly prominent thing on your body, wouldn't it?

24 A It depends on how they were carrying it, how baggy
25 your pockets, if you had it in your pocket, if you had it

1 in your pants. It is heavy.

2 Q If you were sitting with a guy and he was cuddling
3 with your or feeling on you--

4 THE COURT: She is not qualified to answer that.

5 Q Is that, I don't know if this is, you threw me off of
6 my train of thought. Large gun, do you know how much it
7 weighs?

8 A No sir, I did not weigh it.

9 Q Would be much easier to carry in a holster than just
10 in your pocket or on your belt?

11 A Personally I like carrying it in a holster, I like
12 carrying firearms in a holster. I think it is a personal
13 opinion.

14 Q Were you ever in the military?

15 A No sir, I wasn't.

16 Q But you have shot many, many, many pistols, many,
17 many, many times?

18 A Yes, sir.

19 Q And the rifles too?

20 A Yes, sir.

21 Q Does the experience you have with weapons affect your
22 ability to use it?

23 A I don't understand what you are asking.

24 Q The more times you shoot guns the more familiar and
25 the better you become?

1 A I believe so, yes.

2 Q And would you agree with me that someone who hasn't
3 shot a gun before would be not very proficient?

4 A That could be, your first time shooting, it is
5 usually really awkward but if you read up and know what
6 you are doing it shouldn't be that bad. But it would be a
7 little different.

8 Q It is fairly simple physically, just point it and it
9 goes in the direction that you point it?

10 A That's correct.

11 Q But it is not that easy in real life, is it?

12 A No, it is not.

13 Q From the bullets that you saw, are you able with your
14 experience to testify as to how far the bullets travel.
15 My understanding is bullets, when they leave the chamber
16 they start expanding, is that correct?

17 A That is what we consider ballistics. That is
18 projectory. I don't worry about that, I think about the
19 actual bullet itself trying to identify it back to a
20 firearm.

21 Q Are you aware from your training that that is a fact
22 or you just don't know at all whether the bullets expand
23 once they leave?

24 A They don't usually expand once they leave the gun
25 barrel.

- 1 Q So that is just a urban legend?
- 2 A Yes. Unless they hit something and then they can
3 expand.
- 4 Q And that would, some bullets are made to expand when
5 they get hit?
- 6 A Yes.
- 7 Q But not these bullets?
- 8 A No.
- 9 Q And these are just the same kind of bullets I can go
10 to Walmart and buy?
- 11 A That's correct.
- 12 Q But the gun itself, I would have to go to a dealer
13 and sign the forms?
- 14 A That's correct.
- 15 Q Can you tell, look at the gun and tell when the gun
16 was made?
- 17 A I know that that type of firearm, I believe the model
18 started in like 1951 but I don't know when this particular
19 firearm was made.
- 20 Q So they first started making that type in '51?
- 21 A I believe it was 1951.
- 22 Q This individual pistol, you are not able from looking
23 at any of the markings that determine when this actual
24 pistol was made?
- 25 A No, I am not.

1 Q Okay. Thank you very much.

2 THE COURT: Redirect, Solicitor.

3 REDIRECT EXAMINATION

4 By Mr. Stumbo:

5 Q Just to clarify and I believe we have established
6 this but to clarify this. That is a casing, correct?

7 A It is a fired cartridge casing.

8 Q So in State's 24 it had a bullet in it at one time, a
9 slug or a bullet that is projected out?

10 A That's correct.

11 Q And that would be the rifling part where it travels
12 through the barrel?

13 A That bullet would have traveled down the rifling of
14 the firearm.

15 Q And then thrown into that spiral?

16 A That's correct.

17 Q And this is another casing that has some damage to
18 it, correct?

19 A That's correct.

20 Q Now, this unfired bullet that has the projectile in
21 the casing and this damaged casing which came from the
22 gun, came to you with the gun itself, is that correct?

23 A That's correct.

24 Q I believe it would come in the box like this. If you
25 could--

1 A That is actually my lab number, my item numbers that
2 was in this box meaning the gun, my item 3 was the gun, a
3 magazine and this unfired cartridge. My item 12 was this
4 cartridge case which is State's exhibit 25.

5 Q And so, casing of the fired bullet is damaged and an
6 unfired bullet came with the gun from law enforcement?

7 A That's correct.

8 Q And you packaged them separately when you sent, after
9 you did the analysis?

10 A I packaged them like this and put them back in that
11 box.

12 Q And State's 26 has these two fired bullets that you
13 did an analysis on. Does one of them appear to be kind of
14 mashed in on one side?

15 A Yes. There was heavy damage to the nose area of my
16 item 2 which was the bullet from the left shoulder.

17 Q And that would be consistent with it hitting
18 something solid?

19 A Yes.

20 Q And also affects your ability to analyze the lands
21 and grooves?

22 A That's correct.

23 Q No further questions.

24 THE COURT: Recross, Mr. Verner?

25 MR. VERNER: No, Your Honor.

1 THE COURT: You may step down. Any objection for the
2 Agent to be excused?

3 MR. STUMBO: No, Your Honor.

4 MR. VERNER: Not from the defense.

5 THE COURT: Ladies and gentlemen, we will take our
6 morning recess. We will take about 15 minutes. Do not
7 discuss the case during this recess.

8 (Whereupon, the jury was excused from open court to
9 take a break.)

10 THE COURT: We will take 15 minutes.

11 (Whereupon, a short break was taken.)

12 THE COURT: Bring the jury in, please.

13 (Whereupon, the jury came into open court at
14 approximately 11:59 a.m.)

15 THE COURT: Ladies and gentlemen, it looks like the
16 next witness will be a lengthy one. We will go ahead and
17 take our lunch break at this time. We will have you come
18 back at 1:30. Please don't discuss the case during your
19 luncheon recess.

20 (Whereupon, the jury was excused from open court for
21 a lunch break.)

22 THE COURT: We will take our lunch recess and see you
23 back at 1:30.

24 (Whereupon, a lunch break was taken.)

25 THE COURT: Anything before we bring the jury in?

1 MR. STUMBO: Nothing, Your Honor.

2 MR. VERNER: No sir, Your Honor.

3 THE COURT: I would like to remind the spectators to
4 make sure you follow the decorum and the rules of the
5 Court and I commend you for that. Don't go in and out
6 unless it is after the Solicitor's direct or before Mr.
7 Verner's cross. Bring our jury, please.

8 (Whereupon, the jury came into open court at
9 approximately 1:32 p.m.)

10 THE COURT: Ladies and gentlemen, hope you had a
11 pleasant lunch. We will continue with the case.
12 Solicitor, call your next witness.

13 MR. SCOTT: The State calls Timothy Wise to the
14 stand.

15 TIMOTHY WISE, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Scott:

19 Q State your name, please.

20 A Timothy Wise.

21 Q Mr. Wise, where are you from?

22 A I am from Newberry.

23 Q That is where you live now?

24 A Yes, sir.

25 Q How long have you lived in Newberry?

- 1 A My whole life, 32 years now.
- 2 Q Where did you go to school?
- 3 A I graduated from college, from Newberry College. And
- 4 I attended Newberry High School.
- 5 Q Who do you live with?
- 6 A I live with my parents.
- 7 Q Have you ever lived outside of your parents house?
- 8 A Previously when I was married I lived, me and my
- 9 ex-wife lived in town for about nine months.
- 10 Q How long have you lived with your parents?
- 11 A Since June of 2007.
- 12 Q Where do they live, what is the address?
- 13 A It is 21038 US Highway 76.
- 14 Q Are you employed?
- 15 A Not currently.
- 16 Q What have you done in the past?
- 17 A In the past I had been a water treatment plant
- 18 operator for the City of Newberry. I have been an armored
- 19 truck driver for AT Systems in Columbia. I worked as a
- 20 subcontractor for the US Department of Agriculture. I
- 21 have been a licensed, health insurance agent in Newberry
- 22 and I have been, an unarmed security guard at the
- 23 Jenkinsville Construction site.
- 24 Q What was that, V.C. Summers?
- 25 A It is the V.C. Summer new nuclear project.

- 1 Q You were a security guard at the nuclear plant?
- 2 A At the construction site.
- 3 Q Do you know Mandy Smith?
- 4 A Yes.
- 5 Q How do you know Mandy Smith?
- 6 A I met her in 2009 on Craig's List.
- 7 Q Tell me about that?
- 8 A I was advertising, looking for company for the
- 9 evening.
- 10 Q How did she contact you?
- 11 A She emailed me.
- 12 Q Is this a money, is money exchanged in this kind of
- 13 deal?
- 14 A No.
- 15 Q It is just, you are looking for company and she was
- 16 looking for company, is that what you are saying?
- 17 A Yes.
- 18 Q I am not reading between the lines, did you two have
- 19 sex in the beginning?
- 20 A Yes.
- 21 Q Would she come to your house?
- 22 A No.
- 23 Q You would go to her house?
- 24 A I went to her house.
- 25 Q Where was her house?

1 A [REDACTED]

2 Q How long have you maintained this sexual relationship
3 with Mandy Smith?

4 A Just one time.

5 Q Thereafter how would you term your relationship with
6 her?

7 A Friends.

8 Q So the genesis of your relationship with her, was it
9 Craig's List ad, you meet her and have sex and thereafter
10 you are friends?

11 A Yes, sir.

12 Q Y'all had no romantic relationship after that first
13 meeting?

14 A No.

15 Q What kind of things did you two like to do together?

16 A Just hung out and talked and fished. We did do some
17 marijuana. Went out with other friends.

18 Q John Henry Mayers?

19 A No.

20 Q Did you know him?

21 A I had met him twice.

22 Q Through?

23 A Through Mandy.

24 Q What was your understanding of their relationship at
25 that time?

- 1 A I didn't know what their relationship was. They
2 just, they would speak to each other, if they saw each
3 other and that was about it.
- 4 Q Tell me about the two times you met him?
- 5 A The one time I met him he, I met him, I had given her
6 a ride to some peoples houses and he was there. And he
7 talked to her and that was it. And then the second time
8 that I met him he was spending his vacation at her house.
- 9 Q Did you have any knowledge of what kind of
10 relationship those two had together?
- 11 A No.
- 12 Q She didn't talk about John Henry Mayers with you?
- 13 A No.
- 14 Q Not at all?
- 15 A She said that 14 years before that they had gotten
16 into a fight. And that she had hit him with a two by four
17 and that was it.
- 18 Q That is all she said about Mr. Mayers?
- 19 A Yes.
- 20 Q During your friendship with Mandy Smith did you have
21 any knowledge of any other people she may have romantic
22 type relationships with?
- 23 A Yes.
- 24 Q Who were they?
- 25 A It was one guy named Kris from Little Mountain, I

1 don't know his last name. There was one guy named Kris
2 Hansen from Prosperity. A guy that she had met on line
3 and I can't remember his name but he lived with her for
4 about three weeks.

5 Q Kris Hansen from Prosperity?

6 A Yes.

7 Q Who is Don Buford, do you know him?

8 A Don Buford I met as Jeff and the relationship there
9 was that they had met on the web site and they had lived
10 together previously but he would come up on the weekend
11 and he was paying her bills for her.

12 Q At the Wheeland School Road?

13 A Yes, sir.

14 Q Tell me about their relationship?

15 A To me it seemed like they carried about each other
16 sometimes and then the rest of the time they fought.

17 Q Was this to you knowledge a romantic relationship?

18 A I was told that in the beginning it had started out
19 kind of like a romantic relationship.

20 Q What does that mean?

21 A He liked to be tied up and beaten and she did that to
22 him. And because of that he took care of her.

23 Q Does that sound like a sexual relationship, is that
24 what you are describing?

25 A Yes.

- 1 Q Is this another Craig's List thing?
- 2 A I was told they met on the web site but not Craig's
- 3 List.
- 4 Q What kind of car did Don Buford drive?
- 5 A The last vehicle he had was a white Ford Ranger.
- 6 Q Was that something that Mandy Smith would drive from
- 7 time to time in your presence?
- 8 A Yes.
- 9 Q How many years have you known Mandy Smith?
- 10 A At this time I have known her for three years.
- 11 Q Since 2010?
- 12 A I have known her since 2009.
- 13 Q 2009. Do you remember April of 2011?
- 14 A Yes.
- 15 Q Tell me what you remember about 2011. What
- 16 significantly happened during that month regarding Mandy
- 17 Smith?
- 18 A Her and her, one of her boyfriends, Kris Hansen, were
- 19 in her car outside of the property on Wheeland School Road
- 20 and John Mayers came and tried to remove her from the car
- 21 forcibly. And they called the sheriffs department.
- 22 Q Is this a restraining order situation?
- 23 A Yes.
- 24 Q She obtained an order of protection against John?
- 25 A Yes, sir.

1 Q Because of that incident?

2 A Yes, sir.

3 Q To your knowledge at that time was she romantically
4 involved with John Henry Mayers?

5 A Not to my knowledge.

6 Q Do you have any knowledge why he would have taken
7 those steps to remove her from the car with Kris Hansen?

8 A What I was told is he had seen them together in
9 Chapin.

10 Q So he didn't like it, I guess?

11 A I guess.

12 Q What did Mandy Smith say to you about that incident?

13 A That she was afraid for her life and she was afraid
14 for her dogs, her animals lives.

15 Q Tell me about her animals?

16 A At the time she had nine dogs, seven rats, two guinea
17 pigs, a tarantula, a four foot Iguana and two bald
18 pythons.

19 Q It sounds like you are familiar with all of these
20 animals?

21 A Yes.

22 Q Is it fair to say you went to her home a fair amount
23 of times?

24 A A lot of times I was bringing food to the dogs.

25 Q Why.

- 1 A Because she couldn't afford to feed them.
- 2 Q Was she working during the time that you knew her?
- 3 A No.
- 4 Q What, if anything, did Ms. Smith ask you to do after
- 5 she got that order of protection against John Henry
- 6 Mayers?
- 7 A She wanted to know if she could borrow a gun for her
- 8 protection and to protect her animals.
- 9 Q Did you give her a gun?
- 10 A Yes.
- 11 Q Was it your gun?
- 12 A No.
- 13 Q Whose gun was it?
- 14 A It belonged to my father.
- 15 Q Did you tell your dad you were going to loan out that
- 16 gun?
- 17 A Yes.
- 18 Q What kind of gun was it?
- 19 A It was a .9 millimeter pistol.
- 20 Q What did you tell her when you gave it to her?
- 21 A I showed her and one of the guys that she was talking
- 22 to, Kris, the one I don't know the last name. They were
- 23 together when I gave it to her and they asked me how to
- 24 show her how to operate it.
- 25 Q Did you?

- 1 A Yes.
- 2 Q So there are two Chris' you are describing, there is
3 Kris Hansen and then a Kris, unknown last name?
- 4 A Yes, sir.
- 5 Q Let me show you State's 27. Do you recognize that?
- 6 A Yes, sir.
- 7 Q How do you recognize that?
- 8 A It is the handgun that I let her borrow.
- 9 Q Did you fire it with her?
- 10 A No.
- 11 Q How many guns do you have?
- 12 A I don't have any guns.
- 13 Q How many does your dad have?
- 14 A Six.
- 15 Q How many long guns?
- 16 A Four long guns.
- 17 Q Two handguns is what you are saying?
- 18 A That handgun and then a little .32 caliber revolver.
- 19 Q At some point in April did you have any involvement
20 with a Buick LeSabre that belonged to John Henry Mayers?
- 21 A It had been sitting in her yard.
- 22 Q Was it running?
- 23 A No.
- 24 Q Were you suppose to fix it?
- 25 A No. The week that he spent on vacation at her house

1 they were suppose to be rebuilding the engine.

2 Q What was your involvement with that car?

3 A I was told that he was giving it to her and so I
4 helped her pull it down to the recycling yard down the
5 road from where she lives.

6 Q Did you help her fill out a bill of sale?

7 A I filled out the address, the top part and then gave
8 it to her and told her to have him sign it.

9 Q Did you see him sign it?

10 A No.

11 Q Did you see her sign it?

12 A No.

13 Q So your involvement was just helping to tow it down
14 to the scrapyard?

15 A Yes.

16 Q Do you remember about when that was?

17 A No, sir.

18 Q Tell me about the Wheeland School House or School
19 Road property that she lives in?

20 A To my understanding the only thing she had to do was
21 pay the utility bill and she had fallen behind twice on
22 that. So the owner told her she had to find some place
23 else to go.

24 Q Who told you that?

25 A He actually told me that.

- 1 Q Did she eventually move out?
- 2 A Yes.
- 3 Q Did you help her move?
- 4 A Yes.
- 5 Q Approximately when was that?
- 6 A The first week of May.
- 7 Q Where were you moving her to?
- 8 A I had helped her get a utility building and she was
- 9 moving all of her stuff into that utility building.
- 10 Q What do you mean you helped her get one?
- 11 A She had to have a place to put it.
- 12 Q A place to put what?
- 13 A The utility building. She had to have a place to put
- 14 it.
- 15 Q It is like a portable outbuilding is what you are
- 16 describing?
- 17 A Yes, sir.
- 18 Q Where did she put it?
- 19 A My Dad told her she could put it on his property.
- 20 Q What is a utility building?
- 21 A This one is approximately ten feet by twelve feet
- 22 square or rectangle. It is built kind of like a little
- 23 house. Has got a window and a door, a place in the back
- 24 to put a big air conditioning system in it, wood frame.
- 25 It is not a permanent structure, it doesn't have a

1 foundation.

2 Q What was the purpose of putting it on your property,
3 what was it going to be used for?

4 A Give her a temporary place to stay until she found
5 another place.

6 Q So the understanding between you two is she was going
7 to live in this utility building?

8 A Yes.

9 Q So you ran electricity out to it?

10 A Yes, sir.

11 Q You said you put a air-conditioner in it?

12 A Yes, sir.

13 Q How far away from your home was it, your parents home
14 was it?

15 A Approximately 75, between 50 and 75 feet from my
16 parents house.

17 Q Tell me about all of her belongings at the Wheeland
18 School Road house or trailer?

19 A There was a little utility building there that was
20 full of stuff, boxes and rubber made containers full of
21 clothes, papers, pictures, all sorts of stuff, bed.

22 Q What happened to all of her belongings, where did
23 they go?

24 A We had moved them into a barn at my house and I think
25 her family came and picked it up, all of the stuff.

1 Q So what all was being stored in the utility building
2 you are describing?

3 A There was a washer and dryer, like I said several
4 rubber made tubs full of clothes, there was luggage, a
5 couple of boxes of stuff in the utility building.

6 Q Where is all of the dogs and spiders and snakes and
7 everything?

8 A They were in the house.

9 Q Your house?

10 A No, well they were in the utility building at my
11 house.

12 Q Ten by twelve, is that what you said?

13 A Yes, sir.

14 Q It had ten dogs in there, nine dogs in there?

15 A Yes, sir.

16 Q She was living in there?

17 A Yes, sir.

18 Q How did you get everything from Wheeland School to
19 your home on 76?

20 A Me and Don Buford and a mutual friend of ours, Drew,
21 we helped move all of that stuff.

22 Q Did you use your truck?

23 A I used my truck, Don used his truck and Drew used his
24 car.

25 Q You said Don had a white Ranger pickup and what did

- 1 you drive?
- 2 A I had a '97 F150 Black extended cab pickup.
- 3 Q When do y'all think you got done moving all of her
4 stuff from Wheeland Road to your place on 76?
- 5 A The last trip that we made was on, I would say,
6 between Monday and Wednesday after, in May, the second--
- 7 Q What were you going to say, after what?
- 8 A After this incident.
- 9 Q You are talking about, what are you talking about,
10 John Mayers dieing?
- 11 A Yes.
- 12 Q What day was that?
- 13 A May 7th.
- 14 Q What day of the week was that?
- 15 A It was a Saturday.
- 16 Q Tell me how Saturday started out?
- 17 A Saturday started out with me and her and Don Buford
18 hauling stuff from the property on Wheeland School Road to
19 my house.
- 20 Q Okay. How did John Henry's name come up that day?
- 21 A She wanted to let him know that she was moving.
- 22 Q Why?
- 23 A I have no idea.
- 24 Q What did she want from you?
- 25 A She didn't have minutes on her phone so she needed me

1 to call him to tell him that if he wanted to see her that
2 she was going to be in Chapin that afternoon.

3 Q How did she convey that message to you?

4 A She texted me.

5 Q I don't understand, can you text even though you
6 don't have minutes but you can't make phone calls out?

7 A Yes.

8 Q She texted you that message to call John Henry
9 Mayers?

10 A Yes, sir.

11 Q What did you think about this?

12 A I didn't think anything of it.

13 Q You agreed to do it?

14 A Yes, sir.

15 Q Did you call John Mayers?

16 A Yes, I did.

17 Q What did you say to him?

18 A I told him she was going to be at Mr. J's gas station
19 on 76.

20 Q What did he say?

21 A He said all right.

22 Q That was it?

23 A That was it.

24 Q Did you give him a time she was going to be there?

25 A I told him that she was headed over there.

- 1 Q So when she sends you the text message she means she
2 is going down there now to meet with him?
- 3 A Yes, sir.
- 4 Q What was the location in Chapin to meet?
- 5 A It is Mr. J's gas station.
- 6 Q That is just right over the county line into
7 Lexington?
- 8 A Yes, sir.
- 9 Q Did you speak with, do you remember about what time
10 that was?
- 11 A That was about 3:30 in the afternoon.
- 12 Q In May?
- 13 A In May.
- 14 Q What did you do next?
- 15 A I stayed at home.
- 16 Q Did you hear from Mandy again that night?
- 17 A Her and Don had brought another truck load of stuff
18 back to my house after that.
- 19 Q After what?
- 20 A After she had had me call John.
- 21 Q So she didn't go directly to see John?
- 22 A From what I was told that she had gone over there but
23 he got into a vehicle with somebody else.
- 24 Q So she came back to Newberry to your house?
- 25 A Her and Don came back to my house with a load of

1 stuff on his truck.

2 Q What happened?

3 A They left after that and I stayed at my house and eat
4 supper with my family. And then about 11:00 o'clock she
5 called or she texted me and asked me to call John again
6 and said she was going over there.

7 Q Did you call him?

8 A Yes, sir.

9 Q What did he say?

10 A He said all right.

11 Q I guess that was the end of your night. Did you go
12 to sleep at that point?

13 A No, sir.

14 Q What happened next?

15 A She texted me and ask if I wanted to come and hang
16 out with them.

17 Q Where?

18 A She said that they were going to be at Judy B. Road.

19 Q What is Judy B. Road?

20 A It is a turnaround in the National Forrest.

21 Q Have you ever been there before then?

22 A Yes, sir.

23 Q Why?

24 A Just hanging out.

25 Q Why do you hang out on turnarounds of National

- 1 Forrest at night?
- 2 A Just quiet place to hang out with friends.
- 3 Q Drinking?
- 4 A No, sir.
- 5 Q Smoking?
- 6 A Some.
- 7 Q What else goes on at Judy B. Road?
- 8 A Hanging out, building a bonfire.
- 9 Q That somewhere you have been before?
- 10 A Yes, sir.
- 11 Q Did you show Mandy that Road?
- 12 A Yes, sir.
- 13 Q What kind of stuff did y'all do out there?
- 14 A Just hung out and talked.
- 15 Q I think you said she texted you to come out with them
- 16 out there?
- 17 A Yes, sir.
- 18 Q What did you say?
- 19 A I said I would be out there in a little bit.
- 20 Q What was your understanding they were going to be
- 21 doing?
- 22 A As far as I know just talking.
- 23 Q Okay. Now, did you think that was odd that she
- 24 wanted you to go out there?
- 25 A No.

1 Q What was your understanding who was going to be out
2 there with her?

3 A I knew that John was in the truck, she texted me that
4 but I don't think anything of it.

5 Q Help this jury understand. This was the same guy she
6 had filed a restraining order against the month before?

7 A Yes, sir.

8 Q And now she is picking him up and driving him out to
9 this national forest at night?

10 A She had already violated or broken the restraining
11 order with the week he spent on vacation with her.

12 Q They had, to your knowledge, made up I guess?

13 A I guess so.

14 Q How did you feel about going out with these two after
15 all of this happened a month before?

16 A Like I said, the week that he was on vacation he
17 spent with her I had to give him a ride home, that was the
18 second time that I had met him and he was a polite
19 individual.

20 Q You had no reason to fear him?

21 A No.

22 Q Do you have a lot of friends?

23 A I have a few good friends.

24 Q On this Saturday night you thought it would be a good
25 idea to just go hang out with Mandy?

- 1 A Yes.
- 2 Q And her boyfriend?
- 3 A It was something that every weekend I would hang out
4 with her and a couple of others.
- 5 Q Were you in love with her?
- 6 A No, sir.
- 7 Q Were you obsessed with her in some way?
- 8 A No, sir.
- 9 Q You weren't infatuated with her?
- 10 A No, sir.
- 11 Q How long did it take you to get out there to the Judy
12 B. Road from your house?
- 13 A Fifteen or twenty minutes, maybe.
- 14 Q Did you get out there first?
- 15 A Yes, sir.
- 16 Q What did you do?
- 17 A I sat out there and waited about twenty-five minutes.
- 18 Q They eventually show up there?
- 19 A Yes, sir.
- 20 Q Do you know about what time that was?
- 21 A Maybe about ten minutes before 12:00.
- 22 Q How did they arrive?
- 23 A They drove up in Don Buford's truck.
- 24 Q The white Ranger?
- 25 A Yes, sir.

- 1 Q Was Don Buford in the truck?
- 2 A No, sir.
- 3 Q Was that uncommon for her to be driving his truck?
- 4 A No, sir.
- 5 Q Who was driving it?
- 6 A She was.
- 7 Q What happened once they got there?
- 8 A We sat around and talked for 25 or 30 minutes.
- 9 Q Did you get out of the truck?
- 10 A Yes. I was sitting on the tailgate of my truck and
- 11 they were kind of just walking around.
- 12 Q Were y'all parked side by side, is that what you are
- 13 saying?
- 14 A Yes, sir.
- 15 Q And you are sitting on your tailgate, and what are
- 16 they doing?
- 17 A They are just sitting there talking to me.
- 18 Q What were y'all talking about?
- 19 A Different things. Fishing, her moving to Newberry.
- 20 Q Did, do you recall John Mayers having any kind of
- 21 opinion about her moving or anything?
- 22 A No, sir.
- 23 Q Anything else significant come up?
- 24 A No, sir.
- 25 Q Were they arguing?

- 1 A No, sir.
- 2 Q What were they doing, were they loving on each other?
- 3 A They were hugging on each other, yes.
- 4 Q Do you see Mandy Smith here today?
- 5 A Yes?
- 6 Q Where is she?
- 7 A She is right there.
- 8 Q Is this how she appeared May 7th of 2011, does she
- 9 look any different now?
- 10 A No, sir.
- 11 Q What was she wearing that night?
- 12 A She was wearing a tshirt and like jogging shorts.
- 13 Q Were they tight, they were baggy?
- 14 A Big baggy jogging shorts.
- 15 Q Did y'all just sit in trucks all night talking?
- 16 A They had gotten out and were walking around and I was
- 17 sitting on the tailgate of my truck.
- 18 Q What were they doing?
- 19 A They walked off and was smoking crack.
- 20 Q Had you ever seen Mandy smoke crack before?
- 21 A A couple of times.
- 22 Q Were you aware that John Mayers, he had a issue with
- 23 crack cocaine as well?
- 24 A I had heard that.
- 25 Q Have you ever smoked crack?

- 1 A No, sir.
- 2 Q How far away did they go?
- 3 A Forty-five, fifty feet maybe.
- 4 Q You still able to see them out there?
- 5 A Not very clearly but I could still see their
- 6 outlines.
- 7 Q What were they doing, did you see them smoking?
- 8 A Yes, sir.
- 9 Q At any point did you hear any kind of an argument or
- 10 anything like that between the two of them?
- 11 A Not really.
- 12 Q Tell me what happened next.
- 13 A I heard the gun go off and then they come running
- 14 past me and I could see that he had been shot in the
- 15 shoulder.
- 16 Q Where abouts?
- 17 A In the upper right shoulder.
- 18 Q He came running to you for help?
- 19 A They ran past me.
- 20 Q And what are you doing, you are just sitting on your
- 21 tailgate?
- 22 A Kind of in shock.
- 23 Q What was John Henry Mayers saying?
- 24 A He was just screaming.
- 25 Q What was she doing?

- 1 A She was screaming at him but I couldn't understand
2 what she was saying.
- 3 Q John Henry Mayers came by you first?
- 4 A Yes.
- 5 Q And you could see this wound to his shoulder, is what
6 you are saying?
- 7 A Yes, sir.
- 8 Q Where did he go?
- 9 A He ran into the woods and she followed him.
- 10 Q What happened next?
- 11 A I heard another gunshot.
- 12 Q What did you say?
- 13 A I was more or less into shock. I didn't know what to
14 say.
- 15 Q How long was she out there with him?
- 16 A Maybe five minutes.
- 17 Q What are you doing right now, what you are doing
18 after this is happening and she is out there, you say
19 maybe five minutes, could it have been that long?
- 20 A It could have been longer, it could have been
21 shorter.
- 22 Q Have you ever seen a man shot before?
- 23 A Never in my life.
- 24 Q What was she doing when she came out?
- 25 A She came out of the woods holding the gun and

1 apparently she had gotten some crack from him or she had
2 some crack on her and she put it in a pipe and lit it up
3 right there.

4 Q After she had fired these two shots, chased him in
5 the woods, she smoked a crack pipe, is that what you are
6 saying?

7 A Yes, sir.

8 Q And then what?

9 A Then she said she felt safe that he wasn't going to
10 bother her anymore and I said, you know, I got to go.

11 Q Then you left there and went directly to the sheriffs
12 department, right?

13 A No, sir.

14 Q You didn't call 911?

15 A No, sir.

16 Q What did you do?

17 A I went straight to my house.

18 Q Did you get the gun back?

19 A Not then.

20 Q Did you tell your parents what just happened?

21 A No, sir.

22 Q Why didn't you do any of these things?

23 A One, I was in shock and two, I was afraid of what
24 might happen.

25 Q What do you mean by that?

1 A What was going to happen to me, what was going to
2 happen because I had just seen something that I had never
3 seen in my entire life before.

4 Q What you are describing though, you just was sort of
5 a spectator though, you just sort of watched this happen?

6 A Yes, sir.

7 Q What are you scared about?

8 A More or less scared of her because I didn't know, I
9 didn't think she was capable of that. And two, I had just
10 seen somebody get shot and it just, I was more or less in
11 shock.

12 Q Did you hear from Mandy Smith again that night, May
13 7th or the early morning hours of May 8th, I guess by now?

14 A She texted me wanting to know how to get to I-26.

15 Q From Judy B. Road?

16 A Yes, sir.

17 Q Did you tell her how to get there?

18 A Yes, sir.

19 Q When was the next time you saw her after that May
20 7th?

21 A I didn't see her again until around noon the next day
22 when her and Don Buford brought another truck load of
23 stuff to my house.

24 Q Did you go out and speak with them?

25 A Yes, I helped them unload the truck.

- 1 Q Are you asking about the night before and what that
2 was all about or anything?
- 3 A No..
- 4 Q What is your nickname, do you go by T.C.?
- 5 A Some people call me T.C..
- 6 Q What do other people call you?
- 7 A Timmy, Tim.
- 8 Q Mr. Wise, why don't you ask her about the night
9 before of what happened?
- 10 A Something that I was trying to forget, I hadn't seen
11 it.
- 12 Q You were trying to forget?
- 13 A I was trying to block it out, that is not something
14 that somebody wants to have in their head.
- 15 Q What happened with that gun?
- 16 A I didn't know what happened to it until later on that
17 week when I helped her finish moving her stuff to my
18 house. I found it in one of the boxes so I took it by the
19 barrel and wrapped it in some cloth.
- 20 Q What were you planning on doing with it?
- 21 A I wasn't planning on doing anything with it at the
22 time.
- 23 Q Why did you take it back from her?
- 24 A I felt a lot safer knowing that she didn't have it.
- 25 Q Where did you put it?

- 1 A I left it in the console of my truck.
- 2 Q Do you remember the first time the police came and
3 talked with you?
- 4 A I remember the first time that the police came to my
5 house, they didn't come to talk to me, they came to talk
6 to her. The first time they came to talk to me I went
7 with them to the sheriffs office.
- 8 Q Were you there when they were talking with her?
- 9 A Yes, but I wasn't near them.
- 10 Q May 16th, was that when that was?
- 11 A I don't know the date.
- 12 Q So you don't know what she told law enforcement?
- 13 A No, sir.
- 14 Q When was the next time they came to speak with her in
15 your presence?
- 16 A The next time they came to speak to her they came on,
17 it was that Friday but I wasn't there, we weren't there
18 when they came the first time.
- 19 Q You are talking about the Walmart?
- 20 A Yes.
- 21 Q By that point how many times had law enforcement
22 spoken to her, do you know?
- 23 A They had spoken with her twice before.
- 24 Q How was she reacting to them?
- 25 A She was kind of cordial to them and then, but after

1 they would leave then she would become kind of paranoid.

2 Q How so.

3 A Real fidgety, shaky, nervous acting. She would have
4 to go and see to her dogs.

5 Q Did she make any statements about how she was feeling
6 about law enforcement coming around?

7 A No.

8 Q Did y'all ever go back out there to Judy B. Road
9 during this time?

10 A On the day after they came to talk with her she said
11 she needed to go back out there.

12 Q What did you say?

13 A I asked her what for. She just said she needed to go
14 out there.

15 Q Why did she tell you that?

16 A She didn't have anybody that could give her a ride,
17 she didn't have a vehicle.

18 Q Where was Don Buford's truck?

19 A He was at work in Sumter, he only came up on the
20 weekends.

21 Q So what, she needed a ride from you?

22 A Yes, sir.

23 Q Did you give her one?

24 A Yes, sir.

25 Q Why did you voluntarily go back out there to that

1 scene?

2 A At the time I thought that I was, you know, helping a
3 friend.

4 Q Helping a friend do what?

5 A Trying to keep from getting in any more trouble than
6 she was already in. I didn't know what she had planned.

7 Q What did she have planned?

8 A She had some latex gloves and she removed his head,
9 the skull and put it in a bucket that had been in the back
10 of my truck.

11 Q Why?

12 A She said so it would make it difficult for anyone to
13 identify it. But then afterwards she said it wouldn't
14 have done any good because his name was on the inside of
15 his pants.

16 Q Why didn't she take his pants off. She went to all
17 the trouble to remove his remains and she didn't, was that
18 something she thought of later?

19 A Yes, sir.

20 Q What did y'all do with John Mayers remains?

21 A I took her down the road to the river and she threw
22 the skull in the river.

23 Q What river?

24 A It is the Tyger River.

25 Q How far away was it?

- 1 A Four miles, maybe five miles.
- 2 Q What was she saying during this time?
- 3 A She wasn't talking at that point.
- 4 Q What are you saying?
- 5 A I was, this is crazy.
- 6 Q The remains were thrown into the river?
- 7 A Yes, sir.
- 8 Q Tell me about the first time law enforcement come to
9 speak with you?
- 10 A That Friday afterwards I had gone to Walmart and
11 Mandy rode with me to get some stuff for my mother. And
12 while we were there my mother called and said that the
13 sheriffs office had come by the house looking for her.
14 And I told her and she decided that she wanted to go with
15 some friends of hers that she had met at Walmart. So she
16 went with them and I went back to my house and that is
17 when the sheriffs office showed back up at my house.
- 18 Q So your mother called you at the Walmart and says the
19 law is here looking for Mandy. Is that what you were
20 informed?
- 21 A Yes, sir.
- 22 Q And did you tell Mandy Smith that?
- 23 A Yes, sir.
- 24 Q What did she say?
- 25 A She said that she was going to go to the sheriffs

- 1 office but she was going to go later. She wanted to go
2 with her friends.
- 3 Q Who were these friends?
- 4 A I have no idea.
- 5 Q Did she say where she was going?
- 6 A No.
- 7 Q She told you she was leaving there to go to the
8 sheriffs department?
- 9 A Yes.
- 10 Q You went back to your house?
- 11 A Yes, sir.
- 12 Q And you met with law enforcement?
- 13 A Yes, sir.
- 14 Q Who did you speak with?
- 15 A I spoke with Captain Boland at the time.
- 16 Q Did you speak with Mandy Smith anymore that day?
- 17 A No, sir.
- 18 Q Did you give a statement to law enforcement that day?
- 19 A Yes, I did.
- 20 Q Did you tell them everything you knew?
- 21 A No, I didn't.
- 22 Q Why didn't you?
- 23 A Because I knew I was going to be in trouble and but I
24 told them information that I thought they should know.
- 25 Q What source of information?

1 A I told them about the car situation because they
2 were, they told me at the sheriffs office that they wanted
3 to know where his car was.

4 Q You are talking about the Buick LeSabre you helped
5 tow to the scrapyard?

6 A Yes, sir.

7 Q What did you tell them about that?

8 A I told them that we had towed it to the scrapyard.

9 Q What did you tell them?

10 A I told them that she had been real paranoid and that
11 I had gotten the gun back from her and it had been fired.

12 Q Did you give them the gun?

13 A Yes, I did.

14 Q Tell me about the gun, what kind of shape was it in
15 when you turned it over.

16 A It had a jammed shell in the chamber.

17 Q Is that how it appeared when you found it in her
18 belongings?

19 A Yes, sir.

20 Q So it wouldn't fire anymore with that jammed shell in
21 there?

22 A No, sir.

23 Q What else did y'all talk about?

24 A They wanted to know if I knew where she was and they
25 wanted to know about my cell phone.

- 1 Q This is May 20th, is that right?
- 2 A Friday, I think it was the 20th.
- 3 Q You said it was Friday?
- 4 A Yes.
- 5 Q Let me show you State's number 30. Do you recognize
- 6 that?
- 7 A Yes, sir.
- 8 Q How do you recognize that?
- 9 A I signed it on May 20th.
- 10 Q What is it?
- 11 A It is the voluntary statement that I gave to the
- 12 Lexington County Sheriffs investigators that were in
- 13 Newberry.
- 14 Q Do you remember drafting that for the sheriffs
- 15 department?
- 16 A Yes.
- 17 Q Safe to say you didn't tell them everything, did you?
- 18 A No, sir.
- 19 Q You were probably minimizing your role in this whole
- 20 incident?
- 21 A Yes, sir.
- 22 Q Tell us why you didn't just go ahead and tell them
- 23 the whole truth?
- 24 A One, I didn't know where she was.
- 25 Q What does that mean, what does that have to do with

1 anything?

2 A I didn't, she was, I figured if she was able to do
3 something like she did then she could easily do it to me
4 if she wanted to.

5 Q Any other reason you didn't tell them the whole
6 truth?

7 A I was still a little scared and I was concerned about
8 myself at that point.

9 Q Had you ever seen her demonstrate any, I don't know,
10 fits of rage before or anything where she has lost her
11 temper?

12 A Yelling and screaming at different people.

13 Q About what?

14 A The car didn't have any gas in it or it had low oil
15 because nobody had checked the oil in the car. Because at
16 one point she did have a car that she was driving.

17 Q What, she would yell at people when she would have
18 low gas?

19 A If somebody, like before Don got the Ford Ranger he
20 was driving her car. And say he didn't check the oil in
21 it and she would check the oil when he came up, she would
22 get very verbally angry with him for not checking the oil.

23 Q Okay. And in this statement did you tell officers
24 where Mr. Mayers was?

25 A No, sir.

- 1 Q Did it concern you at all that he was out there
2 alone?
- 3 A Yes, sir.
- 4 Q How did that affect you?
- 5 A Lost sleep, lack of appetite. I was having trouble
6 sleeping and having trouble eating.
- 7 Q But you still didn't go to the police?
- 8 A No, sir.
- 9 Q Tell me about, are you aware where Mandy Smith had
10 gone?
- 11 A No, sir.
- 12 Q When was the next time you spoke with law
13 enforcement?
- 14 A The following Wednesday.
- 15 Q What happened on that?
- 16 A They wanted to take a look at the truck and to see if
17 there was any evidence of wrongdoing with my truck. And
18 that is when I took them out to Judy B. Road.
- 19 Q Why did you decide on that date you were going to
20 take them out there?
- 21 A Because they had picked her up that morning.
- 22 Q So you did have some knowledge of when she was picked
23 up?
- 24 A Yes.
- 25 Q Do you know where she was found?

- 1 A I think that they picked her up at her mothers house.
- 2 Q Where is that?
- 3 A It is in Piedmont, South Carolina.
- 4 Q Okay. What is the correlation between them finding
- 5 her that morning and you showing them where the body was?
- 6 A I was still trying to minimize the amount of trouble
- 7 that I was in. But my conscious had played on me to the
- 8 point where I was ready for them to know.
- 9 Q How did you relay to them that you knew where they
- 10 could find Mr. Mayers?
- 11 A I told them that because of where, where she was the
- 12 night that happened, when she had texted me asking me
- 13 about I-26, I told them that was probably where he was at.
- 14 Q Did you get in the patrol car with them?
- 15 A Yes, sir.
- 16 Q Who were you with?
- 17 A I was with Lieutenant Dennis and Major Gilliam.
- 18 Q You told them what, go where?
- 19 A I told them to go out to 176 from the sheriffs office
- 20 and go up to Brazelmans Bridge Road.
- 21 Q And you told them to go down Judy Road?
- 22 A Yes, sir.
- 23 Q And then to take that turn off on Judy B.?
- 24 A Yes, sir.
- 25 Q What is this about you, them rolling down the

- 1 windows, what was that all about?
- 2 A I asked them why they were rolling down the windows
3 but then I noticed that they were hanging their heads out
4 the window smelling.
- 5 Q What did you do when they rolled down the windows?
- 6 A For the first part of the trip down Judy Road I
7 didn't do anything. But once we got down towards the
8 turnaround I smelled it and I covered my face with my
9 shirt.
- 10 Q You knew he was out there, you knew what y'all were
11 about to be coming upon, right?
- 12 A Yes, sir.
- 13 Q Because you had been out there, you had been out
14 there twice, right?
- 15 A Yes, sir.
- 16 Q You were out there when he was killed?
- 17 A Yes, sir.
- 18 Q You were out there when his remains were desecrated?
- 19 A Yes, sir.
- 20 Q You had a part in both of those, right?
- 21 A I had a part in the desecration, not in the initial
22 shooting.
- 23 Q You were there both times?
- 24 A Yes, I was there.
- 25 Q So you show him where he was?

1 A Yes, sir.

2 Q How long were you out there?

3 A I don't know how long I was out there. They had a
4 deputy come out and take me back to the sheriffs office.

5 Q Were you arrested?

6 A I was taken into custody but not charged with
7 anything.

8 Q Did you give another statement that day?

9 A Yes, I did.

10 Q How would you describe that statement?

11 A That statement gave them more information than the
12 one that I had given to the Lexington County investigator
13 but I still tried to minimize my involvement in the
14 situation.

15 Q Let me show you state's number 31. Do you recognize
16 that?

17 A Yes, sir.

18 Q That is the statement you gave, after you took
19 deputies out to Judy B. Road?

20 A Yes, sir.

21 Q What is different about this statement from the one
22 on the 20th?

23 A In this statement I still wasn't fair but I knew
24 where she was.

25 Q When were you arrested?

- 1 A I was formerly charged on the 27th.
- 2 Q What were you charged with?
- 3 A I was charged with murder.
- 4 Q What has happened with those charges?
- 5 A They are still pending.
- 6 Q You are still, you have pending murder charges
7 against you?
- 8 A Yes, sir.
- 9 Q That was the 27th you were served with that?
- 10 A Yes, sir.
- 11 Q Why did they wait to the 27th to serve you?
- 12 A On the 26th I wrote another statement.
- 13 Q Tell me about that statement?
- 14 A This statement told them everything.
- 15 Q This is your third statement?
- 16 A Yes, sir.
- 17 Q Why do you finally come clean on the 26th?
- 18 A My conscious. At that point, I had already, I had
19 spent the night in the county jail and they just
20 straightforward asked me, we know you know something else.
21 What can you tell us and at that point I kind of broke
22 down crying and just, I told them everything.
- 23 Q So this is the third statement. Is it fair to say
24 you implicated yourself a little more each time?
- 25 A Yes, sir.

1 Q And explain to this jury, what is the reason for
2 that?

3 A I was trying to minimize my involvement, trying to
4 keep myself out of as much trouble as I possibly could.
5 Because I had never been in any kind of trouble ever in my
6 life.

7 Q I don't get it. On the 26th you finally realized
8 your goose was cooked or something?

9 A Yes, sir.

10 Q What was different from the 26th and the day before
11 when you didn't tell them the whole thing. You had shown
12 them the body but you didn't tell them the whole story
13 though?

14 A The difference was is that my conscious had finally,
15 I couldn't take any more knowing what had happened.

16 Q Let me show you State's number 13. Do you recognize
17 that?

18 A Yes, sir.

19 Q What is that?

20 A That is the statement that I signed on the 26th.

21 MR. SCOTT: Your Honor, the State would offer State's
22 31 or 30, 31 and 32 for admission into evidence.

23 MR. VERNER: 30 is the statement of May 20th. 31
24 would be the statement of May 25th and 32 would be May 26.
25 Is that correct?

1 MR. SCOTT: That's correct, Your Honor.

2 MR. VERNER: If that is my understanding then I have
3 no objection.

4 THE COURT: State's, 30, 31 and 32 in evidence
5 without objection.

6 (Whereupon, State's Exhibit numbers 30, 31 and 32
7 were admitted into evidence.)

8 Q You are under subpoena here today, right?

9 A Yes, sir.

10 Q You put your hand on this bible and sworn to tell the
11 truth on that bible and to that Judge?

12 A Yes, sir.

13 Q Now, why should we believe somebody who has given
14 three different statements?

15 A I don't know. Like I said, I was trying to keep
16 myself out as much trouble as possible but then on the
17 26th I just, I knew it was no point, that I needed to tell
18 them everything.

19 Q Why, why didn't you just continue to deny even being
20 out there?

21 A My conscious wouldn't let me.

22 Q Well, they only arrested you after you told them you
23 were out there?

24 A Yes, sir.

25 Q And that date you were aware that she had been

1 arrested?

2 A Yes, sir.

3 Q And you still have pending murder charges?

4 A Yes, sir.

5 Q Tell me what you have been promised in order to
6 testify today?

7 A I haven't been promised anything.

8 Q Do you hope to get something out of your testimony
9 today?

10 A No.

11 Q You don't hope to get anything?

12 A I mean, I hope that I will get something out of it
13 but it's, I don't expect anything. I mean, I try to be as
14 much help as possible and I don't, I mean I have a lot of
15 hopes but if something comes from it so be it.

16 Q Has the sheriffs department given you any kind of
17 deal?

18 A No.

19 Q Has the solicitors office given any kind of a deal?

20 A No, sir.

21 Q Has anybody given you any kind of a deal to testify
22 today?

23 A No, sir.

24 Q Any kind of promise?

25 A No, sir.

- 1 Q Any kind of hint of what could happen to you?
- 2 A I have had a hint dropped here and there but it was
- 3 like we can't do anything with you until after you
- 4 testify.
- 5 Q You represented by a lawyer?
- 6 A Yes, sir.
- 7 Q And he has talked with you about your case?
- 8 A Yes, sir.
- 9 Q Tell me, explain to me your relationship one more
- 10 time with John Henry Mayers?
- 11 A I had only met him twice.
- 12 Q You hadn't been in a fight with him?
- 13 A No, sir.
- 14 Q You didn't hope to steal Mandy Smith from him?
- 15 A No, sir.
- 16 Q Do you have a room full of guns in your house?
- 17 A No, sir.
- 18 Q Is it your testimony that you are friends with her
- 19 even though y'all had a sexual relationship in the past?
- 20 A Yes, sir.
- 21 Q How many boyfriends to your knowledge did she have in
- 22 May of 2011?
- 23 A Two that I know of.
- 24 Q You weren't one of them?
- 25 A No, sir.

1 Q 26th you gave your final statement, right?

2 A Yes, sir.

3 Q And to your knowledge where was Mandy Smith on the
4 26th?

5 A She was at the detention center.

6 Q Did you learn that before or after you gave your last
7 statement?

8 A I learned that beforehand.

9 Q Your testimony earlier, that had some kind of effect
10 on why you gave that last statement?

11 A Yes, sir.

12 Q How?

13 A I felt a little more safe knowing where she was.

14 Q Thank you. Please answer any questions Mr. Verner
15 may have for you.

16 THE COURT: Mr. Foreman, ladies and gentlemen, we
17 will take about a 15 minute recess. Do not discuss the
18 case with anyone.

19 (Whereupon, the jury was excused from open court for
20 a break.)

21 THE COURT: Mr. Wise, you will be in custody of the
22 sheriff during this recess. You may not discuss your
23 testimony with anyone. You are subject to
24 cross-examination, perhaps redirect and perhaps recross.
25 Do you understand?

1 MR. WISE: Yes, sir.

2 THE COURT: Sheriff, if you will take Mr. Wise into
3 custody. We will be in recess for 15 minutes.

4 (Whereupon, a short break was taken.)

5 THE COURT: Everyone in place, solicitor?

6 MR. STUMBO: Yes, sir.

7 THE COURT: And your folks also, Mr. Verner?

8 MR. VERNER: We are here.

9 THE COURT: You can come back around and join us, Mr.
10 Wise.

11 (Whereupon, the witness resumed the witness stand.)

12 THE COURT: Mr. Wise, did you discuss your testimony
13 with anyone during this recess?

14 MR. WISE: No, sir.

15 THE COURT: Let's bring our jury in, please.

16 (Whereupon, the jury came into open court at
17 approximately 2:55 p.m.)

18 THE COURT: All right, Mr. Verner.

19 CROSS-EXAMINATION

20 By Mr. Verner:

21 Q Good afternoon.

22 A Good afternoon.

23 Q You were arrested on May 27th, Mr. Wise?

24 A Yes, sir.

25 Q Are you still in custody of the police?

- 1 A I am out on bond.
- 2 Q Your family was able to bond you out of jail?
- 3 A Yes, sir.
- 4 Q How long were you in jail on this murder charge?
- 5 A 336 days.
- 6 Q 11 months?
- 7 A Yes, sir.
- 8 Q And correct me if I am wrong, I submit that even
9 today you have still not told the full story to the jury
10 and to the family of John Henry Mayers, is that correct?
- 11 A No, sir.
- 12 Q You have?
- 13 A Yes, sir.
- 14 Q And it is the complete story?
- 15 A It is the complete story.
- 16 Q Can I go over what I perceive to be some problems
17 with your testimony?
- 18 A Yes, sir.
- 19 Q Do you own a concealed weapons permit?
- 20 A I had one but it is expired.
- 21 Q When did it expire?
- 22 A It actually expired last year or, it expired in 2011.
- 23 Q So up until the date that John Henry Mayers was
24 killed you were carrying a license to carry a gun every
25 day?

- 1 A Yes, sir.
- 2 Q And in fact you did carry a gun every day?
- 3 A No, sir.
- 4 Q Where is the holster for this gun?
- 5 A The holster is, was actually still in my father's
6 truck.
- 7 Q In your father's truck?
- 8 A Yes, sir.
- 9 Q That is not a gun that you carried around in a
10 holster?
- 11 A No, sir.
- 12 Q When you wore a holster where did you put it?
- 13 A I never wore a holster.
- 14 Q You never wore a holster and a gun?
- 15 A No.
- 16 Q But you got a CWP?
- 17 A Yes, sir.
- 18 Q And in fact you don't even own a gun, your father
19 owned guns?
- 20 A Yes, sir.
- 21 Q But you have got a CWP?
- 22 A Yes, sir.
- 23 Q You were formerly an armored truck driver?
- 24 A Yes, sir.
- 25 Q But they don't officially let you carry a weapon,

1 right?

2 A I wasn't licensed to carry a gun with them.

3 Q But you were licensed with the State to carry a gun?

4 A I had a CWP but I had no SLED card.

5 Q And then you became a security guard at the nuclear
6 power plant?

7 A It was un-armored security at a construction site.

8 Q My hunch is sometimes people who are involved with
9 security type work sometimes want to go into law
10 enforcement, did you ever apply to become a police
11 officer?

12 A I applied when I was working for the City of Newberry
13 as a water treatment plant operator. I had applied to
14 become a city police officer, yes sir.

15 Q How about a sheriffs deputy?

16 A No, sir.

17 Q So some job, do you hunt?

18 A No, sir.

19 Q But you do fish?

20 A Yes, sir.

21 Q And in your career you have been an armored truck
22 driver for banks?

23 A Mainly big department stores.

24 Q But they carry cash in those trucks?

25 A Yes, sir.

1 Q And then you are working at a Federal nuclear power
2 construction zone?

3 A Yes, sir.

4 Q But yet when the gun is fired you were like Barney
5 Fife out there in the country--

6 THE COURT: Rephrase the question, Mr. Verner.

7 Q You just panic and completely lose your cool.

8 THE COURT: Rephrase the question, please, go back to
9 the beginning and rephrase the question.

10 Q I want you to explain to me--

11 THE COURT: I want you to rephrase the question.

12 Q Yes, sir. Your testimony for this jury was that you
13 completely went into shock and panicked when you heard the
14 gun go off, when you are saying that Mandy shot Tim, John
15 Mayers, is that correct?

16 A Yes, sir.

17 Q And that is truly what happened?

18 A Yes, sir.

19 Q Would you agree with me that you probably weren't
20 qualified to become an armored security guard for a truck?

21 A Yes, sir.

22 Q Probably weren't qualified to carry a concealed
23 weapons permit, were you, according to your testimony?

24 A I don't, more than likely I wasn't.

25 Q The restraining order was issued on April 8th, is

1 that consistent with your recollection?

2 A Yes, sir.

3 Q And your testimony is that you loaned Mandy your
4 daddy's gun for over a month, for approximately a month,
5 the 7th would have been a complete month from, if you had
6 given it to her on April 8th?

7 A Yes, sir.

8 Q Nobody had any questions?

9 A Not really.

10 Q The father wouldn't mind his gun missing?

11 A He didn't, he actually told me that I could let her
12 borrow that one.

13 Q So it was your father's idea to give the gun to
14 Mandy?

15 A Yes, sir.

16 Q Okay. Do you know if Mandy was experienced carrying
17 guns?

18 A No, sir.

19 Q She didn't have any guns, did she?

20 THE COURT: No or she was not?

21 A No, sir. I didn't know whether she had experience
22 with a gun or not.

23 Q You know if she was in the Army, military?

24 A I know that she was married to a man that was in the
25 military.

1 Q But by people a soldier spouse, in your opinion is
2 that she would have learned about carrying the handguns?

3 A Maybe, I don't know.

4 Q In 2009 you testified that you had advertised on
5 Craig's List, you called Company for the Evening?

6 A Yes, sir.

7 Q Craig's List doesn't have a category called Company
8 for the Evening, does it?

9 A No, they have a category called Casual Encounters.

10 Q They are looking for male companionship, looking for
11 female, looking for casual encounters?

12 A Yes, sir.

13 Q There is no such thing as looking for company for the
14 evening, what you are implying is that she prostituted for
15 you on that evening in 2009, right?

16 A No, sir.

17 Q Your reason for saying that isn't for trying to make
18 her look bad to the jury right now?

19 A No.

20 Q Would you agree with me your phrase, for the evening,
21 was an incorrect category for Craig's List?

22 A Yes, sir.

23 Q You had a casual encounter, wanted to meet somebody
24 in the area?

25 A Yes, sir.

1 Q And at that time Mandy lived on Wheeland School Road?

2 A Yes, sir.

3 Q And you met her and you did have sex with her?

4 A Yes, sir.

5 Q But you did not have a continuous romantic
6 relationship with Mandy?

7 A No, sir.

8 Q How often after you met Mandy in 2009 did you have
9 occasion to see her?

10 A For the remainder of 2009 it was every few days I
11 would hang out with her. And we went swimming, we went
12 fishing.

13 Q What about 2010?

14 A 2010, not so much because I had started working at
15 Jenkensville. So the only time that I really talked to
16 her was on the weekends and that was when her boyfriend
17 and Don were around.

18 Q Which boyfriend are you talking about?

19 A Kris.

20 Q And then what about in the first five months of 2011?

21 A In February of 2011 I was terminated by the security
22 company that was in charge of Jenkensville then. So I was
23 without a job so I was hanging out with her and her
24 friends and her boyfriend pretty much every other day.

25 Q And I think you characterized that you would hang out

- 1 and sometimes fish with her and occasionally smoke
2 marijuana with Mandy?
- 3 A Yes, sir.
- 4 Q Did you consume crack cocaine with Mandy?
- 5 A No, sir.
- 6 Q Was Mandy consuming crack cocaine with you?
- 7 A No, sir.
- 8 Q When there was crack cocaine it was during that time
9 that John Henry Mayers was there?
- 10 A No, sir.
- 11 Q Did you ever hang out with Mr. John Henry Mayers?
- 12 A No, sir.
- 13 Q Other than the evening of May 7th?
- 14 A I hung out with them after that week that he was on
15 vacation, I hung out with them for part of a day.
- 16 Q And did you ever loan Mandy your car, Mandy didn't
17 have a car, right?
- 18 A Right.
- 19 Q So you would occasionally ride and pick her up and
20 take her places?
- 21 A Yes.
- 22 Q But she was entirely dependent on somebody else for
23 transportation during the period that you knew her?
- 24 A No.
- 25 Q You can explain.

1 A She owned the car that she drove, she let Don Buford
2 drive it. She sold it in March of 2011.

3 Q And for periods of time that you were with Mandy she
4 had several men that she would see and spend time with?

5 A Yes, sir.

6 Q And she was involved in a romantic relationship with
7 John Henry Mayers?

8 A Not that I know of.

9 Q Well, you said he vacationed at her home for a week?

10 A Yes, he vacationed at her home for a week.

11 Q Let me clarify, at some point not long after you met
12 her she said that 14 years ago that she had hit John Henry
13 with a board?

14 A Yes, sir.

15 Q And so that would have been when she was 18 or 19
16 years old?

17 A I guess so.

18 Q You are saying that Kris Hansen sometimes stayed with
19 her?

20 A He would come over.

21 Q As a friend or as a romantic partner?

22 A He was a romantic partner.

23 Q Okay. And then Jeff or, what you call Jeff but Don
24 Buford would come on weekends?

25 A Yes, sir.

- 1 Q Every weekend or just some weekends?
- 2 A Every weekend.
- 3 Q And he was good about, he would loan her money or
- 4 give her money to pay her bills?
- 5 A Yes, sir.
- 6 Q And then sometimes they would argue and sometimes
- 7 they would get along, any physical violence that you saw
- 8 between for them?
- 9 A Not that I saw.
- 10 Q And he would let Mandy use his Ford Ranger at times?
- 11 A Yes, sir.
- 12 Q Did she ever come to your house in his Ford Ranger?
- 13 A Yes, sir.
- 14 Q So Don wasn't particularly a jealous type, was he?
- 15 A No, sir.
- 16 Q And you wouldn't characterize yourself as a jealous
- 17 type?
- 18 A No, sir.
- 19 Q Were you happy about Mandy having these other male
- 20 friends?
- 21 A That was fine, that was her life.
- 22 Q You didn't tell her mother, Vickie McCartha that you
- 23 loved her on a Christmas Holiday?
- 24 A That's not the full statement.
- 25 Q Well, correct it. You have made a lot of statements

1 so go ahead and make this one.

2 A It was actually on Labor Day and I told her mother,
3 because everybody was drunk except for me, I was the
4 designated driver. I told her mother that I loved her,
5 that she was just like a big sister to me.

6 Q So your love was materialist or brother, platonic, I
7 guess is the smart persons word for that, it was I love my
8 brother platonically but you weren't in trying to keep
9 other guys away from her?

10 A No, sir.

11 Q That wasn't part of the reason for suggesting that
12 she come and live on your property?

13 A No, sir.

14 Q Okay. And can you tell me again the animals, the
15 pets that Mandy have?

16 A She had nine dogs.

17 Q Let's talk about the dogs. Were they all a
18 particular breed or were they mixed?

19 A There were different breeds. It was mainly put
20 bulls, a boxer, malamute and a poodle.

21 Q Mandy didn't have much income so she is not buying
22 these from--

23 A A lot of them she had gotten she had gotten for free.

24 Q Had she rescued them?

25 A Yes, sir.

- 1 Q Were they all different age ranges?
- 2 A Yes, sir.
- 3 Q Was she close to her dogs?
- 4 A Oh, yeah.
- 5 Q More than the average person?
- 6 A More than the average person.
- 7 Q Much more than the average person?
- 8 A I would say that.
- 9 Q Did she take good care of them?
- 10 A Yes, sir.
- 11 Q Spent a lot of time with them?
- 12 A She did.
- 13 Q Did she treat them kind of like her children?
- 14 A That she did.
- 15 Q You shot two of them after they were injured in a
16 fight, didn't you?
- 17 A No, sir.
- 18 Q You never shot two of the pit bulls after they had
19 taken after each other?
- 20 A No, sir.
- 21 Q What about there was another dog, there was a pit
22 bull named Milly that attacked a smaller dog and you had
23 shot that on the property too?
- 24 A No, sir.
- 25 Q None of the dogs you had shot?

- 1 A No.
- 2 Q And I think you testified that you help buy her food
3 for the dogs?
- 4 A Yes, sir.
- 5 Q But actually Don had been giving money for you to buy
6 food for these dogs, didn't he?
- 7 A Some of the money that he gave me or some of the
8 money that he gave he gave for food and the rest he gave
9 to put towards her electric bill.
- 10 Q Did she, while she was at Wheeland School Road did
11 she keep the dogs inside or outside?
- 12 A They lived inside most of the time.
- 13 Q And she lived by herself?
- 14 A Yes, sir.
- 15 Q I understand she had people coming to see her but she
16 lived by herself?
- 17 A Yes, sir.
- 18 Q And then she had nine dogs. What other animals did
19 she have?
- 20 A Two guinea pigs.
- 21 Q Where did she keep the guinea pigs?
- 22 A She kept them in the house too.
- 23 Q And then what else?
- 24 A A four foot Iguana.
- 25 Q Do you know the name of the Iguana?

- 1 A Iggie.
- 2 THE COURT: Say that again?
- 3 A Iggie.
- 4 Q What else did she have?
- 5 A She had seven rats.
- 6 Q By rats, these are brown rats or white?
- 7 A They are tame rats that you buy at the pet store.
- 8 Q And they were kept, I guess, a glass container?
- 9 A Yes, it is a glass container.
- 10 Q What else did she have?
- 11 A She had the two pythons.
- 12 Q And they were also kept in glass, like aquariums?
- 13 A Yes, sir. And she had a tarantula.
- 14 Q Did the tarantula have a name?
- 15 A I don't know.
- 16 Q I am just curious, when Mandy left your house for the
- 17 final time all of the pets were left with you, weren't
- 18 they?
- 19 A Yes, sir.
- 20 Q What has happened to the nine dogs?
- 21 A I had the sheriffs office get in touch with animal
- 22 control on the 26th of May.
- 23 Q Which is the same day they basically arrested you or
- 24 you gave your last statement to law enforcement?
- 25 A Exactly.

- 1 Q And then law enforcement took the nine dogs?
- 2 A Yes, sir.
- 3 Q What about the seven rats?
- 4 A They took all of the animals.
- 5 Q They took the two guinea pigs?
- 6 A Yes, sir.
- 7 Q Tarantula?
- 8 A Yes, sir.
- 9 Q Took a four foot Iguana named Iggie?
- 10 A Yes, sir.
- 11 Q Took the two pythons?
- 12 A Yes, sir.
- 13 Q So what has happened with those animals or you do not
- 14 know.
- 15 THE COURT: He is in jail by this time. He wouldn't
- 16 have any possible knowledge of that.
- 17 Q You weren't in jail on May 26th, were you?
- 18 A Yes, sir.
- 19 THE COURT: He said he was arrested.
- 20 Q May 26th you gave, were you under arrest and then
- 21 gave the statement?
- 22 A I was in custody, I had been taken into custody the
- 23 day before.
- 24 Q On the 25th?
- 25 A Yes, sir.

- 1 Q So you were taken on May 25th into custody?
- 2 A Yes, sir.
- 3 Q But not officially charged until May 27th?
- 4 A Right.
- 5 Q But you had signed some kind of authorization or
6 something. I thought you said you told law enforcement to
7 take the dogs?
- 8 A On the 26th I had law enforcement contact animal
9 control.
- 10 Q Okay. And there was a bed in that storage shed?
- 11 A Yes, sir.
- 12 Q And that is where Mandy slept?
- 13 A Yes, sir.
- 14 Q Ever sleep inside the home?
- 15 A No.
- 16 Q At some point Mr. John Henry left his LeSabre on
17 Mandy's property on Wheeland School Road?
- 18 A Yes, sir.
- 19 Q How long had it been at that house?
- 20 A A week.
- 21 Q Do you know how long that was before John Henry was
22 killed?
- 23 A I don't.
- 24 Q But your understanding was that John Henry was going
25 to give it to Mandy?

- 1 A Yes, sir.
- 2 Q Did you tell law enforcement that Mandy had stolen it
3 or was falsifying documents to steal it from John Henry?
- 4 A No.
- 5 Q You don't recall making that kind of accusation?
- 6 A No, sir.
- 7 Q And I think you testified that you spoke to, do you
8 remember who Mandy's landlord was out on Wheeland School
9 Road?
- 10 A Richard Grimmett.
- 11 Q And you spoke to Mr. Grimmett?
- 12 A Yes, sir.
- 13 Q And long before John Henry was shot--
- 14 A Yes, sir.
- 15 Q Mandy was being evicted or asked to leave because,
16 does that have anything to do with the killing of John
17 Henry Mayers?
- 18 A No, sir.
- 19 Q She had already been told--
- 20 A She had already been told to, that she needed to find
21 some place else to stay.
- 22 Q And you had extra room behind the house and she was
23 welcome to put a shed right there?
- 24 A Yes, sir.
- 25 Q I think you have indicated that Mandy texted you

- 1 several times about contacting John Mayers?
- 2 A Yes, sir.
- 3 Q Now my cell phone will keep text messages on it for
4 some period of time. Will yours do the same?
- 5 A It will go up to 200 and then it kind of overwrites
6 them.
- 7 Q Had you gotten 200 texts by the time you handed your
8 cell phone over?
- 9 A More than 200 texts.
- 10 Q How often do you text?
- 11 A 300 to 400 text messages a day.
- 12 Q So your phone will not keep texts messages, you
13 burned up through your memory before you even twilight,
14 days end?
- 15 A Most of the time.
- 16 Q Did you get any kind of authorization, get text
17 messages from the phone?
- 18 A Yes, sir.
- 19 Q Have you seen any text messages print out from your
20 phone?
- 21 A No, sir.
- 22 Q Who was your service provider for your cell phone?
- 23 A Page Plus.
- 24 Q Page Plus, is that a prepaid type plan?
- 25 A Yes, sir.

1 Q Some time on the afternoon of May 7th you indicated
2 Mandy texted you and said to tell John Henry that she was
3 moving?

4 A Yes, sir.

5 Q And I believe the Solicitor asked you why and you
6 said, I have no idea. But in your written statement, one
7 of your written statements you indicated that the reason
8 was that Mandy had told you was to say that you can't hurt
9 me anymore or words to that affect. And that is what you
10 told the police in one of your statements that Mandy, that
11 you told to John Henry Mayers. Is that correct?

12 A I told them what she had said was, you know, tell him
13 that she was going to be moving.

14 Q You didn't talk to him about that she would be safe
15 from him?

16 A No, sir.

17 Q Do you recall telling that to enforcement?

18 A No, sir.

19 Q On your May 25th statement, is this your handwritten
20 statement?

21 A Yes, it is.

22 Q I told him, who do you mean by him?

23 A John Henry.

24 Q That she was going to be safe and that she would be
25 happy. Is that what you told law enforcement on your May

- 1 25th statement?
- 2 A Yes, sir.
- 3 Q So your testimony, which is accurate, the statement
- 4 that you gave law enforcement--
- 5 A The statement is accurate.
- 6 Q This statement?
- 7 A Yes, sir.
- 8 Q So what you testified to ten minutes ago is not
- 9 accurate?
- 10 A Right.
- 11 Q At some point you said, in the midafternoon Mandy
- 12 left moving her furnishings over to your property to go
- 13 meet up with John Henry Mayers?
- 14 A Yes, sir.
- 15 Q Was that to kill him?
- 16 A I have no idea.
- 17 Q Or was that to meet up with him socially?
- 18 A Socially.
- 19 Q And then she came back and said that he left, did she
- 20 tell you Elvis Hill?
- 21 A Yes, well, I didn't know his name. They would call
- 22 him by a nickname but I can't remember what it was.
- 23 Q But that Mandy had wanted to meet up with John Henry
- 24 but he had left her and gone with another man?
- 25 A Yes, sir.

1 Q Do you remember what the nickname of Elvis Hill or
2 the man?

3 A I can't remember.

4 Q Are you alleging from your testimony that Mandy had
5 an idea to harm or that she had plotted to harm John Henry
6 in the afternoon?

7 A No, sir.

8 Q And then again, in the evening of May 7th, the
9 Saturday May 7th you again texted John Henry to say that
10 Mandy would be at J's Corner?

11 A No, sir. She texted me and asked me to call him.

12 Q Did you turn over that text to law enforcement?

13 A I turned over the phone to law enforcement.

14 Q But you agree you were the one who called John Henry?

15 A Yes, sir.

16 Q Had you ever been to Judy B. Road before?

17 A Yes, sir.

18 Q With Mandy Smith?

19 A Yes, sir.

20 Q How about with other people?

21 A Yes, sir.

22 Q Do you know if John Henry had ever been there?

23 A No, sir.

24 Q Do you know whether has has been there before with
25 Mandy Smith?

- 1 A I don't know.
- 2 Q Did you think it was odd or unusual for Mandy to say,
3 come meet me out at Judy B. Road or was she, she didn't
4 tell you she was going there, she just said tell John I
5 will pick him up at J's?
- 6 A Right.
- 7 Q Do you know where she was going to take him?
- 8 A No, sir.
- 9 Q Did you think she was going to take him off?
- 10 A It was possible.
- 11 Q Were you mad at Mandy for continuing to see John
12 Henry?
- 13 A No, sir.
- 14 Q I am curious, you used kind of a funny phrase, you
15 said that Mandy violated the restraining order by going
16 back with him. You don't blame Mandy for going back with
17 John Henry?
- 18 A She is the one that decided to go back to him.
- 19 Q In fact you are saying you gave her an automatic,
20 semi-automatic pistol?
- 21 A As protection.
- 22 Q At that time Mandy lived on your property, did you
23 she need the gun anymore?
- 24 A I still let her keep it.
- 25 Q She wouldn't have turned it back over to you, if she

1 had it, when she moved to her property?

2 A She might have, I don't know.

3 Q You wouldn't have protected her if John Henry had
4 come and he was angry at her?

5 A As she was staying on another part of my property she
6 would have, if he would have come she would have needed it
7 herself.

8 Q As to what happened, as to why the restraining order
9 was issued, you weren't there, you don't know what
10 happened though, do you?

11 A No.

12 Q But you just knew that she was scared of him?

13 A Yes, sir.

14 Q And you weren't even infatuated with Mandy?

15 A No, sir.

16 THE COURT: Asked and answered.

17 Q She was a fishing buddy of yours at that time?

18 A Well, a hang out buddy, fishing buddy.

19 Q Were you dating someone else while you were seeing
20 Mandy?

21 A Yes, sir.

22 Q Who were you dating?

23 A I was dating Sandy Taylor.

24 Q Are you still dating Sandy?

25 A No, we are just friends.

1 Q When did you start dating?

2 A March of 2011.

3 Q Did you have a girlfriend prior to Sandy Taylor while
4 you were seeing Mandy?

5 A Yes.

6 Q Who was your girlfriend before Sandy Taylor?

7 A My girlfriend previous to her was a girl named
8 Courtney Cross from Columbia.

9 Q And when did you start dating Courtney?

10 A I had started dating her in May or June of 2010.

11 Q John Henry Mayers was shot on Saturday night, May
12 7th, correct?

13 A Yes.

14 Q Who got to Judy B. Road first?

15 A Me.

16 Q Why would you have gone out to Judy B. Road?

17 A That is where she said that they were going.

18 Q How did she tell you she was going to Judy B. Road?

19 A She texted me.

20 Q And do you know if that text survived for law
21 enforcement?

22 A I have no idea.

23 Q But she specifically said I am going to Judy B. Road
24 and you are invited?

25 A Yes.

1 Q I am assuming you don't engage in three-way sex, do
2 you?

3 A No, sir.

4 Q Do you know why Mandy, was she trying to get you
5 there to assist her?

6 A I don't know.

7 Q Out of the blue, I don't know why she was going
8 there. I just decided to go, is that right?

9 A She invited me.

10 Q Did they have beer out there to drink?

11 A No, sir.

12 Q Was there a comment or some kind of astronomical
13 phenomenon going on that night where you needed the
14 vantage point?

15 A No, sir.

16 Q So you get there first, about what time?

17 A 11:45 maybe.

18 Q In the evening?

19 A Yes, sir.

20 Q Just before midnight?

21 A Yes, sir.

22 Q You are comfortable getting there in the dark?

23 A Yes, sir.

24 Q Are there street lights on Judy B. Road, are they?

25 A No, sir.

- 1 Q No houses near there, are they?
- 2 A Not for maybe a quarter of a mile.
- 3 Q I imagine it gets pretty dark in the Sumter National
4 Forrest at midnight, is that correct?
- 5 A Yes, sir.
- 6 Q Particularly when you are in the treeline?
- 7 A Yes, sir.
- 8 Q How long did you sit there in your pickup truck
9 before Mandy and John Henry arrived?
- 10 A 15, 20, 25 minutes, something like that.
- 11 Q What are you doing for 15, 20, 25 minutes?
- 12 A Drinking Mountain Dew and smoking cigarettes.
- 13 Q Listening to the radio?
- 14 A Yes, sir.
- 15 Q Did you know that John Henry and Mandy would go to
16 that road from other prior interludes that they have had?
- 17 A No, sir.
- 18 Q You weren't aware that if she was going out with John
19 and she couldn't take him home because she had another man
20 there she would have to take him out into the country?
- 21 A No, sir.
- 22 Q If she wanted to be intimate. You hadn't had that
23 from prior, from the two years you have known her, you
24 have never known that to happen?
- 25 A I have never witnessed it, no sir.

1 Q And Mandy and John Henry, they are driving from
2 Chapin?

3 A Yes, sir.

4 Q So how long is that a drive from Chapin to Judy B.
5 Road in Whitmire?

6 A 25, 30 minutes, maybe.

7 Q So they are in a truck together for 25, 30 minutes
8 together?

9 A Yes, sir.

10 Q And they are involved in an ongoing romantic
11 relationship?

12 A I guess so.

13 Q What happens, do you see their headlights coming down
14 the road?

15 A Yes, sir.

16 Q Mandy still driving or is John driving?

17 A Mandy was driving.

18 Q Where do they park?

19 A They parked parallel to me, facing the opposite
20 direction.

21 Q We have seen these pictures of that road. Now
22 State's number 1, that is not where you were because that
23 is the fork in the road, right?

24 A The turnaround is at the back of this, the road has
25 like a little grassy area in the middle of it.

- 1 Q So this is the location where you parked your truck?
- 2 A On the this side.
- 3 Q On the left side is what you are referring to?
- 4 A Yes, sir.
- 5 Q And then, so you parked over here?
- 6 A Yes, sir.
- 7 Q Where do Mandy and John Henry park?
- 8 A The same side but they were facing away from me.
- 9 Q So you had gone around the loop and turned back in to
- 10 face back out?
- 11 A Yes, I was facing back out.
- 12 Q So your headlights would be facing us if we were
- 13 standing here?
- 14 A Yes, sir.
- 15 Q Mandy and John just pulled up, they can stay on this
- 16 same lane and pull beside you going the opposite
- 17 direction?
- 18 A Yes, sir.
- 19 Q How much space would be between the two trucks that
- 20 night?
- 21 A Four feet.
- 22 Q And that is just a little bit closer of that same
- 23 little grassy area?
- 24 A Yes.
- 25 Q You were somewhere up in here?

1 A I believe.

2 Q How close to the wood line?

3 A I was on this side, that is facing back out, I was on
4 this side facing back out siting on the edge of the woods.

5 Q So you were on the edge of the road closer to the
6 wood line or closer to the middle?

7 A On this side, the far side over here.

8 Q Point on the screen, point for the jury where you
9 were parking your car?

10 A I was parked over here.

11 Q I thought you told me you were on the left side?

12 THE COURT: One is facing in and one is facing out.

13 MR. VERNER: You are absolutely right, Your Honor,
14 you are right.

15 Q This is from a different point?

16 A Yes, sir.

17 Q I thought it was just closer up. So you are going
18 back out?

19 A Yes, sir.

20 Q And so Mandy is on her, basically the driver's side
21 door would be on your driver's side door?

22 A Right.

23 Q What do y'all start doing?

24 A We were just talking.

25 Q Just calling out from your car to her car?

- 1 A Yes, sir.
- 2 Q Anybody playing the radio?
- 3 A At this point, no.
- 4 Q What did you and Mr. John Henry have to talk about?
- 5 A He was sitting on the passenger side.
- 6 Q He wasn't part of the conversation?
- 7 A He wasn't trying to be.
- 8 Q For how long did you talk to Mandy?
- 9 A Maybe five or ten minutes.
- 10 Q And he just is politely sitting on the far, away from
- 11 you just minding his own business?
- 12 A Pretty much.
- 13 Q Then what happened?
- 14 A They got out and started walking around.
- 15 Q I believe you just testified that they were out for
- 16 about 25 to 30 minutes?
- 17 A Yes.
- 18 Q What were they doing for 30 minutes?
- 19 A Just walking around talking.
- 20 Q What were they talking about, sports or what?
- 21 A Different things.
- 22 Q They weren't, so they left their car pretty shortly.
- 23 You said you talked to them for four or five minutes and
- 24 who gets out of their car, they do?
- 25 A They started getting out first.

- 1 Q Did you get out of your car?
- 2 A Yes.
- 3 Q Do all three of you sit on the tailgates of the car
- 4 talking?
- 5 A No, I sat on the tailgate of my truck.
- 6 Q And then they just kind of leave you on your own and
- 7 they wonder to a different part?
- 8 A They wondered to the other corner.
- 9 Q I think you testified when you heard the shot they
- 10 were about 40 or 50 feet away from you?
- 11 A Yes.
- 12 Q From where you are standing were they closer or
- 13 further away?
- 14 A Further away.
- 15 Q From where I am not to the far wall were they closer
- 16 or further away?
- 17 A Maybe a little bit further.
- 18 Q Even further, what about from me to the far wall?
- 19 A About that distance.
- 20 Q And you can see what was going on in the forest at
- 21 night?
- 22 A It is an open space.
- 23 Q Did you keep the lights on in the trucks?
- 24 A No.
- 25 Q But you are not drinking at all, you are just sitting

- 1 at the tailgate and they are, did you, did John ever touch
2 Mandy or put his arm around her?
- 3 A Yes.
- 4 Q Did it appear that he thought they were there to be
5 romantic?
- 6 A No.
- 7 Q What did he think they were going to do out there?
- 8 A He was just hanging out.
- 9 Q He didn't tell you why they were out there?
- 10 A No.
- 11 Q Did you talk to John Henry at all the night you shot
12 him?
- 13 A I didn't shoot him.
- 14 Q Did you talk to him at all the night he was shot?
- 15 A Yes, I did.
- 16 Q Mandy is wearing a white tshirt, right?
- 17 A Right.
- 18 Q And jogging shorts?
- 19 A Right.
- 20 Q Where is she keeping the gun?
- 21 A In her pocket.
- 22 Q Her jogging shorts have pockets?
- 23 A Yes, sir.
- 24 Q And this is just, it bounced along in her pocket the
25 whole night and it never occurs to anybody to mention it.

1 Did John Henry ever say, hey, that is a gun the chick has
2 got in her pocket?

3 A No.

4 Q Did you ever say anything, did you ever find it odd
5 that, did you notice that Mandy had a gun in her pocket?

6 A No, sir.

7 Q And while John Henry was touching her he never, while
8 you were there said anything about, hey, what is that in
9 your pocket?

10 A No, sir.

11 Q I think you have testified when they were about 40 or
12 50 feet away you heard the gun go off?

13 A They walked 40 or 50 feet away and started smoking
14 crack.

15 Q How long were they doing that?

16 A Maybe ten minutes.

17 Q But that didn't bother you?

18 A No.

19 Q Did you hear anything about any kind of fight or
20 altercation with them before the gun was fired?

21 A No, sir.

22 Q But you could see where John Henry was shot, right,
23 that night?

24 A When he ran by.

25 Q You saw the blood on his shoulder?

1 A I saw the blood on his shirt.

2 Q While John Henry and Mandy were in that darkness you
3 didn't walk up to him and just shoot him?

4 A No, sir.

5 Q You told law enforcement that when John Henry was
6 shot he ran off towards the wood line, right, trying to
7 get away from Mandy?

8 A He ran between the two trucks and then ran into the
9 woods.

10 Q So what you are saying now is, when he got shot the
11 first thing he did was run back into the open in the
12 middle of the road towards the trucks?

13 A Yes, sir.

14 Q And then changed his mind and decided, I better go
15 into the forest?

16 A I guess so.

17 Q And that Mandy was able to chase, to keep up with him
18 fast enough to track him down?

19 A I guess so.

20 Q How did she catch him?

21 A I don't know.

22 Q Did you see the second bullet in his back?

23 A No.

24 Q Because he wasn't shot in his back, was he?

25 A I don't know.

1 Q He was shot, do you know whether he was shot twice in
2 the front or twice in the back?

3 A I have no idea.

4 Q What you saw was the one in the shoulder?

5 A Yes, sir.

6 Q And your honest testimony is that you didn't shoot
7 him because you wanted to keep him away from Mandy, you
8 just wanted to keep him from coming around Mandy?

9 A I didn't shoot him for any reason, I didn't shoot him
10 at all.

11 Q You didn't worry because Mandy was at your house now
12 he would be coming around to see her at your house?

13 A No.

14 Q You didn't think in fairness because he had the
15 restraining order somebody needed to keep him away from
16 Mandy?

17 A No.

18 Q You are just sitting on the tail bed of the truck?

19 A Yes, sir.

20 Q And then when you hear the gunshot and you see John
21 Henry run by you you were in such shock you can't even get
22 off of the tailgate of the truck?

23 A I didn't know what was going on.

24 Q You hear a gunshot, you know something is going on,
25 don't you?

- 1 A Yes, sir.
- 2 Q So you froze like a deer?
- 3 A Yes, sir.
- 4 Q Even during the chase?
- 5 A Yes, sir.
- 6 Q Continued to stay and be frozen when you said Mandy
7 tracked him down and shot him?
- 8 A I didn't see what had happened after they ran past
9 me.
- 10 Q Did you drop your cigarette?
- 11 A No.
- 12 Q But you still can smoke a cigarette?
- 13 A I didn't have a cigarette in my hand at the time.
- 14 Q And I think you said when Mandy was chasing him she
15 was saying something that was just, you couldn't
16 understand, just gibberish talk?
- 17 A I could not understand.
- 18 Q When you say John Henry was shot the second time you
19 are saying he had already reached the woods?
- 20 A Yes, he was in the woods.
- 21 Q And Mandy was able to chase him down?
- 22 A I guess so.
- 23 Q And then you testified you could see Mandy coming out
24 of the woods holding a gun?
- 25 A Yes, sir.

1 Q How, if he ran off into the woods some distance away
2 from the truck and it is dark, pitch black?

3 A It wasn't pitch black dark, sir.

4 Q And that she came out and said, I've got to have some
5 crack cocaine. She just happened to have a bag of crack
6 cocaine on her?

7 A She didn't say anything, she just started smoking the
8 crack.

9 Q Well, that is not quite the way you told it to law
10 enforcement earlier, is it. You told law enforcement
11 earlier that she went back into the woods to get the crack
12 cocaine from him. Is that correct?

13 A I don't remember that.

14 Q Did she come out with crack cocaine, said Mandy
15 emerged from the woods a couple of minutes later saying
16 she wasn't going to let him bother her anymore and that
17 she could be safe now. And then she took a bag of crack
18 off of Mr. Mayers and proceeded to light a pipe. Is that
19 how it happened?

20 A She took a bag of crack out of her pocket and started
21 smoking it.

22 Q Same pocket she had the gun in?

23 A No, sir.

24 Q So she has got her drug pocket and her gun pocket on
25 these jogging shorts?

- 1 A She has got two pockets on the shorts, sir.
- 2 Q Cargo pockets?
- 3 A No.
- 4 Q And even though this chick had just killed a man in
5 front of you you sat there and sat with her while she
6 smoked crack cocaine, is that what you are saying?
- 7 A Maybe two minutes, three minutes...
- 8 Q Did you speak up to her?
- 9 A No.
- 10 Q And in fact you even testified that she didn't know
11 her way out of there and that you texted her directions to
12 get back onto the interstate?
- 13 A I texted her directions to I-26.
- 14 Q Even after you were in the shock, you managed to keep
15 your whereabouts pretty well where you could give her
16 directions back to the interstate?
- 17 A Yes, sir.
- 18 Q And then you didn't see Mandy again until noon the
19 following day?
- 20 A That's right.
- 21 Q So you got home, if you had been there and this
22 killing had happened between midnight and 1:00 in the
23 morning, is that a fair time span when the killing
24 happened?
- 25 A Yes, sir.

1 Q You went straight home?

2 A Yes, sir.

3 Q How long does it take you to get home?

4 A Maybe fifteen mintues.

5 Q Fifteen minutes?

6 A Yes, sir.

7 Q And then you go straight to bed or what?

8 A No. I went straight to the bathroom.

9 Q And you live in what community?

10 A It is just about a mile above the city limits.

11 Q Your testimony is I didn't even have the slightest
12 role in this killing at all?

13 A No, sir.

14 Q You are not in the same car with Mandy?

15 A No, sir.

16 Q She is, you have got a cell phone?

17 A Yes, sir.

18 Q You have got several guns, less the one you loaned
19 Mandy at your home, don't you?

20 A My dad does.

21 Q Well, apparently you have access to it where you can
22 loan her one, don't you?

23 A Yes, sir.

24 Q Your dad, is it kind of like my dad, you can kind of
25 come and get stuff you want from him and borrow it, not

- 1 too many questions asked?
- 2 A Yes, sir.
- 3 Q Do you know the quickest way to call law enforcement?
- 4 A 911.
- 5 Q You are not with Mandy, are you?
- 6 A No, sir.
- 7 Q You have only known this girl two years and you are
- 8 not in any kind of romantic relationship with her, right?
- 9 A Right.
- 10 Q And you are not a participant in the crime, right?
- 11 A Right.
- 12 Q Didn't call law enforcement that night?
- 13 A No, sir.
- 14 Q Did you go home and clean the truck up?
- 15 A There was nothing in my truck.
- 16 Q No need to clean it out?
- 17 A No, sir.
- 18 Q Up until about lunch time is when you see Mandy come
- 19 the next day?
- 20 A Her and Don Buford came the next day.
- 21 Q Was Mandy just acting as normal?
- 22 A She was quiet.
- 23 Q Did she stare you down and give you any kind of
- 24 intimidating stare, like she knows where you live?
- 25 A No.

1 Q And by that point you continued to help them move
2 onto your property, right?

3 A Right.

4 Q Do you remember what time you would have woken up
5 that morning?

6 A No.

7 Q What time you typically wake up on a Sunday morning,
8 Mother's Day?

9 A It depends.

10 Q Sleep in?

11 A Most of the time.

12 Q Did you sleep in on May 8th?

13 A Yes.

14 Q Your conscious didn't wake you up early that night?

15 A I didn't really sleep.

16 Q Didn't really sleep in. Did you see your parents
17 come down for breakfast?

18 A No.

19 Q Didn't see your parents at breakfast or any time
20 before Mandy got there?

21 A I came down when my dad started cooking lunch.

22 Q You didn't think to say, Dad, I saw the craziest
23 thing last night?

24 A No, sir.

25 Q And so Mandy comes with Don the next day and you just

1 take up helping her move from Wheeland School Road to your
2 property?

3 A Yes, sir.

4 Q And when she is at your property she is kind of under
5 your control, isn't she?

6 A No, sir.

7 Q You know where she is going to be, don't you?

8 A No, sir.

9 Q The fact that you moved her to this little house
10 behind your house you don't know where she is going to be?

11 A She had people that came over all of the time.

12 Q That didn't make you feel better knowing that she was
13 on your property?

14 A I was giving her a temporary place to stay until she
15 found someplace else to go.

16 Q Did you ever tell Mandy, no, it is just not a good
17 idea to come to my property today. You know, go ahead and
18 take off and good luck to you?

19 A No.

20 Q She was just welcome to move on as if nothing had
21 happened?

22 A Yes.

23 Q Then I believe you testified later that week you just
24 happened to find the gun in some of Mandy's belongings and
25 took it back and put it in your truck?

1 A Yes, sir.

2 Q Interesting thing was that you said when you found
3 the gun you took a cloth and you picked it up by the
4 barrel?

5 A Yes, sir.

6 Q What is the reason for doing that?

7 A I knew she had used it.

8 Q She has got fingerprints on the gun? That is what
9 that is for, isn't it?

10 A Yes, sir.

11 Q If I touch that gun there are going to be
12 fingerprints on the gun and I don't want mine on the gun
13 so that is why you are doing that?

14 A Right.

15 Q That is pretty good training from your law
16 enforcement and security guard career, isn't it?

17 A No, sir.

18 Q You have got a gun that you saw Mandy shoot?

19 A Yes, sir.

20 Q It has got her fingerprints on it, doesn't it?

21 A Yes, sir.

22 Q Did you handle it, I suspect that if somebody picks
23 up a gun that they know is a homicide weapon and they are
24 careful enough the first time to pick it up without
25 getting their fingerprints on it and they put it in the

1 glove box of their truck that they are not fingering it
2 the rest of the week, that they leave it pretty much like
3 that.. You know not to touch it, don't you?

4 A Yes, sir.

5 Q When did you turn the murder weapon over to law
6 enforcement?

7 A The 16th, 17th, on the 20th.

8 Q On the 20th. Captain Dennis over there or Major
9 Boland in the back, who did you turn that pistol over to?

10 A Captain Dennis.

11 Q Did you tell Captain Dennis that her fingerprints
12 would be on it?

13 A No.

14 Q Did you tell the law enforcement that you had
15 carefully placed it in cloth to preserve the fingerprints
16 on it?

17 A No, sir.

18 Q Why wouldn't you do that. Was the cloth still on the
19 gun?

20 A Yes, sir.

21 Q And the sole purpose of the cloth on the gun is to
22 keep your fingerprints off of it, right? Did you have any
23 other purpose, you are trying to, you are not trying to
24 preserve the condition of the gun, are you, to keep it
25 from getting dented. You are trying to keep your

1 fingerprints off of it?

2 A No, sir.

3 Q When you turned it over to the officer, was it still
4 in the same cloth that you picked it up with?

5 A I think so.

6 Q Does this gun come with a holster?

7 A No, sir.

8 Q Okay. Did you turn any of your other old holsters
9 over to the police?

10 A I don't have any holsters.

11 Q You don't own a holster?

12 A No, sir.

13 Q You have got a CWP, sometimes you do carry a gun, not
14 since the murder charge. But you have never carried a gun
15 but you have got a CWP?

16 A Not since I was in college.

17 Q How long have you had the CWP?

18 A I have had it since I turned 21.

19 Q And you are how old today?

20 A I am 32.

21 Q So 11 years you have had the CWP?

22 A Yes, sir.

23 Q We will take the two years away you have been facing
24 these charges of murder and in that time you have never
25 carried a gun?

- 1 A Not since college.
- 2 Q The police came by your house on May 16th. I believe
- 3 Major Boland came by your house on May 16th, do you
- 4 remember him coming?
- 5 A Yes.
- 6 Q What kind of conversation did you have? Well, let me
- 7 back up, did they call and say we want to come and talk to
- 8 Mandy or did they just show up?
- 9 A They had called on the 16th.
- 10 Q Okay. And said we want to speak to Mandy Smith?
- 11 A Yes.
- 12 Q And so you went out back and got Mandy and said, hey,
- 13 the police are coming?
- 14 A I am the one that told her they were looking for her.
- 15 Q And did you speak to law enforcement on May 16th?
- 16 A No, sir.
- 17 Q Did you talk at all to Major Boland?
- 18 A I did.
- 19 Q Was it more than just casual chitchat?
- 20 A Not really. I complained about being harassed.
- 21 Q By?
- 22 A John Stanley, (phonetic).
- 23 Q Okay. They had been coming around looking, seeing to
- 24 try and find Mandy too?
- 25 A Yes.

- 1 Q Major Boland is a pretty tough man though, isn't he?
- 2 A Yes, sir.
- 3 Q And he is a pretty thick strong fellow?
- 4 A Yes, sir.
- 5 Q And he is armed?
- 6 A Yes, sir.
- 7 Q With a police handgun?
- 8 A Yes, sir.
- 9 Q Did he come by himself?
- 10 A He was by himself that day.
- 11 Q You don't think that Major Boland could handle Mandy
- 12 Smith whether he was by himself or whether he had company?
- 13 A I don't know.
- 14 Q He has got a radio in his car too, doesn't he?
- 15 A Yes, he does.
- 16 Q He probably has a radio on his shoulder and he can
- 17 get help, doesn't he?
- 18 A Not at the time.
- 19 Q He didn't have a walkie talkie?
- 20 A I think he had one on his utility belt.
- 21 Q If I am scared of Mandy Smith that is probably you
- 22 need to be telling, isn't it?
- 23 A Yes, sir.
- 24 Q And he didn't put you in a situation where you were
- 25 right next to Mandy and you didn't have the opportunity to

- 1 speak?
- 2 A I was right next to Mandy when he was talking to me.
- 3 Q And she was glaring at you while you were talking to
- 4 him threatening, giving you an intimidating look.
- 5 A I was looking at him.
- 6 Q But you were scared of Mandy?
- 7 A Yes, sir.
- 8 Q You would spill the beans. But you had already had
- 9 Mandy's gun at that point, didn't you?
- 10 A Yes, sir.
- 11 Q You are a little bit bigger than Mandy, aren't you?
- 12 A Not by much.
- 13 Q A little bit taller?
- 14 A Maybe a little bit.
- 15 Q You don't think you are a little bit stronger?
- 16 A No.
- 17 Q Are you weaker?
- 18 A I wouldn't say weaker.
- 19 Q Well you are not stronger than Mandy then probably
- 20 you should carry a gun, right?
- 21 A Like I said, I haven't carried one since I was in
- 22 college.
- 23 Q But you have got Mandy's gun back, right?
- 24 A Yes.
- 25 Q And you don't make any kind of signal to Major Boland

1 over there?

2 A No.

3 Q So you just go on with the charade right now that we
4 don't know anything about anything?

5 A Right.

6 Q And that is where the first dishonesty has come in
7 the case, right?

8 A Yes.

9 Q May 17th Major Boland comes back again and this time
10 he has got another officer with him, is that right?

11 A I don't know about the 17th. Now on the 20th.

12 Q You don't remember a Lexington County deputy coming
13 up, you don't remember a guy with a goatee?

14 A On the 17th?

15 Q On the following day coming over to speak to you?

16 A Not on the 17th that I recall.

17 Q So if Lexington also sent a unit out there to speak,
18 it may be true but it is just lost in your memory?

19 A Yes.

20 Q If the Lexington officers had come with Major Boland
21 the second time you still have Mandy's gun, right?

22 A Right.

23 Q And the dadgum thing doesn't work anymore because it
24 has got an empty bullet jammed where you can't even get it
25 out of the chamber?

- 1 A Right.
- 2 Q I am not scared of that gun, am I?
- 3 A No.
- 4 Q There are two officers with guns on your property and
5 I am still too scared of Mandy to speak?
- 6 A Yes, sir.
- 7 Q And you are still in shock?
- 8 A I wouldn't say shocked but I was still in fear.
- 9 Q And you have had ten days of sleep since the killing
10 of John Henry as of the time that you encountered the
11 police officers?
- 12 A Yes, sir.
- 13 Q Did Mandy ever break into the house and try to do you
14 harm?
- 15 A No.
- 16 Q Do you have locks on your doors?
- 17 A Yes, I do.
- 18 Q Did you warn your dad, if I had invited someone in
19 who just killed a man and I didn't really know her that
20 well, and she was living on my parents property I might
21 want to warn my dad to stay away from her. Did you ever
22 warn your dad to stay away from her?
- 23 A My dad wasn't there, he was working.
- 24 Q During the daytime he was working?
- 25 A And in the evenings.

1 Q He came back late in the evenings?

2 A Yes.

3 Q That is worse because now you have got your mom
4 alone. Any warnings to her, you know, this lady is
5 dangerous. She scares the devil out of me, mom, please
6 stay away from her and she is going to be a guest, by the
7 way, on our property for the next couple of weeks. Any
8 type warning like that to mom?

9 A No.

10 Q Any other brothers and sisters out there that you
11 didn't warn?

12 A They don't live out there.

13 Q So you weren't worried at all for your mom's welfare
14 while Mandy, this person you are scared of is on your
15 property?

16 A I didn't think that Mandy would do anything to my mom
17 since I was the one that was there when she did what she
18 did.

19 Q But you certainly threatened to do something to her
20 mom if she told on you, didn't you?

21 A No, sir.

22 Q You didn't threaten to kill her mother?

23 A Not at all.

24 Q So the police have come to your house a couple of
25 times, more often and they are making more and more

- 1 contact with you since the killing, right?
- 2 A Right.
- 3 Q And you are already a nervous wreck from this
- 4 killing, is that right?
- 5 A They weren't making contact with me, they were making
- 6 contact with her.
- 7 Q They were coming to your house, right?
- 8 A Yes.
- 9 Q That doesn't make you nervous?
- 10 A No.
- 11 Q Well if you are calm and collective why don't you
- 12 tell law enforcement. What is preventing you then from
- 13 telling law enforcement if you are calm and collective?
- 14 A She was there.
- 15 Q Were you staying at the house now for those two weeks
- 16 every day twenty-four, seven together?
- 17 A No.
- 18 Q You had the truck, right?
- 19 A I had my truck.
- 20 Q And you are saying you never left the house over
- 21 those two weeks?
- 22 A Not really..
- 23 Q What does not really mean?
- 24 A I mean I have to run to the store.
- 25 Q Take Mandy with you?

- 1 A Sometimes.
- 2 Q Did Mandy insist on going every time?
- 3 A No.
- 4 Q Pull out a knife on you and say, you better keep me
5 with you?
- 6 A No.
- 7 Q So she has got you hostage but she still lets you
8 leave as you want to in your car and you have got six
9 guns, five of which work I presume in your house?
- 10 A At the time there was only three guns and I did not
11 have access to them.
- 12 Q Where does your dad keep these guns?
- 13 A He keeps them locked up in a room.
- 14 Q In a room in your house he has got guns locked up?
- 15 A Yes.
- 16 Q Does he load his own bullets?
- 17 A Yes, he does.
- 18 Q Has he ever taught you how to load your own bullets?
- 19 A No, he hasn't.
- 20 Q You have no clue how to run the little--
- 21 A He has taught me how to use the shotgun shell
22 reloader but not the rifle and pistol reloader.
- 23 Q So you can load up shot gun shells but not pistols?
- 24 A Right.
- 25 Q You were never in the military, were you?

- 1 A No.
- 2 Q Did you grow up hunting?
- 3 A I grew up mainly fishing.
- 4 Q Your dad has got a locked room in his house where he
5 has got his firearms?
- 6 A Yes.
- 7 Q Is the door to the outside locked or is there like a
8 gun safe inside the room?
- 9 A The doors to the outside is locked.
- 10 Q So she has got a room inside of his house that he
11 keeps locked?
- 12 A Yes.
- 13 Q Where does he keep the key?
- 14 A On his key chain.
- 15 Q Where does he keep his key chain?
- 16 A On his hip most of the time.
- 17 Q Is there a second key in case that one gets lost?
- 18 A Not that I know of.
- 19 Q Okay. Is it a big country door that would prevent
20 you from breaking it open?
- 21 A It is a solid oak door that is original to the house.
- 22 Q So your testimony then is that the only way you would
23 have gotten access to that gun to loan it to Mandy is get
24 your dad to unlock that door for you and let her in or
25 take it out?

1 A He got that gun out of his glove compartment on his
2 truck for me to give to her.

3 Q So he also, this is the pistol your dad carried in
4 his glove box?

5 A Yes.

6 Q Did he keep it in anything?

7 A No.

8 Q Does he carry any other handguns?

9 A No, sir.

10 Q Does your dad also have a concealed weapons permit?

11 A Yes, he does.

12 Q Mom doesn't have one?

13 A No.

14 Q Mandy has got no transportations, right?

15 A Only sporadically.

16 Q And you live pretty much out in the country?

17 A About a mile outside the city limits.

18 Q And she is there with her animals?

19 A Yes, sir.

20 Q Your dad has gone until well in the evening at night,
21 right?

22 A Yes, sir.

23 Q She is pretty much trapped on your property, right?

24 A No, sir.

25 Q Did she have any friends come and see her during this

- 1 time?
- 2 A Yes, sir.
- 3 Q Who?
- 4 A I don't know what their names are.
- 5 Q Do you see Don Buford back there?
- 6 A Buford came on the weekends.
- 7 Q Don, the balded guy with the goatee back there?
- 8 A Yes, sir.
- 9 Q But during the weekdays after he helped her move he
- 10 didn't come that week, did he?
- 11 A No.
- 12 Q He has got a full time job in Sumter?
- 13 A Right.
- 14 Q He sometimes lets her borrow his vehicle when he
- 15 comes down to see her, right?
- 16 A Right.
- 17 Q But he didn't come to your house, did he, after this
- 18 happened?
- 19 A Yes, he did.
- 20 Q Within the two weeks this happened Don came by?
- 21 A Yes.
- 22 Q For how long?
- 23 A The two weekends.
- 24 Q So each weekend after John Henry Mayers was dead you
- 25 are saying Don came and spent the weekend with you and

- 1 Mandy at that house?
- 2 A They stayed together in that--
- 3 Q They stayed in the utility shed?
- 4 A Yes, sir.
- 5 Q Didn't make you a slight bit nervous, I apologize but
6 you strike me a little bit as a nervous type. Today you
7 are still a little bit jittery, aren't you?
- 8 A Not really.
- 9 Q Well, you are calm and passive today?
- 10 A Yes, sir.
- 11 Q This testimony in front of this jury, in front of
12 John Henry's family hasn't made you nervous at all?
- 13 A Not really.
- 14 Q Mandy has got no vehicle and she is at your house,
15 you say a mile outside of town limites?
- 16 A Right.
- 17 Q She has got no where to go, right?
- 18 A Like I said, she had other friends that came by the
19 house.
- 20 Q Like you said many times before she has also got no
21 where to go is what you told law enforcement, right?
- 22 A Yes.
- 23 Q I am the only place she had to go is pretty much you
24 told law enforcement, right?
- 25 A Yes.

- 1 Q So she is at your house, she has no other place to
2 go, that is good for you so you can see her everyday. You
3 know she is not telling on you, right?
- 4 A That is not the case.
- 5 Q And in case she does tell on you, did Mandy know that
6 there was a bullet lodged in the chamber?
- 7 A I guess she did.
- 8 Q Is that why she stopped shooting?
- 9 A I don't know.
- 10 Q When you get a casing locked in there you can't shoot
11 anymore, right?
- 12 A Right.
- 13 Q So Mandy knew that?
- 14 A I guess so.
- 15 Q Why did you start trying to pry that bullet casing
16 out of the gun?
- 17 A I don't know.
- 18 Q To get rid of it?
- 19 A No.
- 20 Q To fix the gun so you could use it some more?
- 21 A I guess.
- 22 Q To fix the gun so you could use it to intimidate
23 Mandy?
- 24 A No.
- 25 Q You didn't threaten to harm her animals if she left?

1 A Not her or her animals.

2 Q I wouldn't touch a hair on your head, I wouldn't
3 touch a hair on your dogs head and I have never shot any
4 of your dogs before, right?

5 A No.

6 Q And you know she is close to her animals, don't you?

7 THE COURT: Been asked and answered. Move on.

8 Q You didn't threaten to harm her mother sitting back
9 there?

10 A No.

11 THE COURT: Asked and answered, move on.

12 Q What was the day that you rode back out there to
13 Mandy, to the woods to go visit the body of John Henry
14 Mayers?

15 A That would be the 19th.

16 Q On the 19th. That is the day before you give your
17 first written statement to the police?

18 A Right.

19 Q Do you recall having any other encounters with the
20 police between the 16th and the 17th and the 20th?

21 A No, sir.

22 Q But the police had come by your house a couple of
23 times looking for John Henry and his family is bothering
24 you, his family is calling you saying, where is John
25 Henry. That doesn't make you nervous?

- 1 A They were looking for her.
- 2 Q You tell Mandy, we are going fishing, right?
- 3 A Yes.
- 4 Q And you have got the gun in the glove box in front of
5 her in your truck or do you actually have it out in your
6 hand?
- 7 A It never appeared.
- 8 Q When you went to visit the body of John Henry on May
9 19th you started out by telling Mandy, we are going
10 fishing, right, because y'all two like to go fishing?
- 11 A She planned to go out there.
- 12 Q She planned to go out where?
- 13 A Out to where his body was.
- 14 Q But you just told us that she knew John Henry had his
15 name on his clothing?
- 16 A She didn't say that until afterwards.
- 17 Q She told you afterwards because she said, why did you
18 make me do that, his name is on his clothes, is that
19 right?
- 20 A No.
- 21 Q She is crying when she cuts off his head, right?
- 22 A No.
- 23 Q She doesn't say, why do you make me do that, that
24 doesn't do any good because his name is right there for
25 them to identify?

- 1 A No.
- 2 Q You are not holding this gun while Mandy is cutting
3 that man's head off?
- 4 A No.
- 5 Q She is not crying, is that a fishing bucket that you
6 had in the back of your truck?
- 7 A It is an ink bucket.
- 8 Q An ink bucket, what is an ink bucket?
- 9 A They use them to transport ink to the paper plants.
- 10 Q How big of a bucket is that?
- 11 A It is five gallons.
- 12 Q Bigger than, about this big?
- 13 A Smaller than that.
- 14 Q Smaller, kind of like a mop bucket size?
- 15 A Kind of, sort of.
- 16 Q When you get to Mr. John Henry's body out there in
17 the woods, it is not in good shape anymore, right?
- 18 A No, sir.
- 19 Q There is an odor coming from the body, right?
- 20 A Yes, sir.
- 21 Q And Mandy just wants to go up, I suppose there were
22 probably bugs on that body?
- 23 A I don't know.
- 24 Q I suppose there were probably maggots on that body?
- 25 A I don't know.

1 Q I suppose the animals had already attacked that body?

2 A I don't know.

3 Q You didn't see it?

4 A I don't know.

5 Q You don't have any curiosity what Mandy is doing
6 leaving the truck and walking up to that body?

7 A No.

8 Q And she takes it's head off?

9 A Right.

10 Q Was she smiling when she did that?

11 A She wasn't making any facial expressions but she
12 wasn't crying.

13 Q Just matter of fact like she has done it before?

14 A Yes.

15 Q Which is just like a prostitute when you found her on
16 the Craigs List for services by the night?

17 A No.

18 THE COURT: Been asked and answered. Move on.

19 Q You have had this gun holding it at Mandy when she
20 cut the head, didn't you?

21 A No.

22 MR. SCOTT: Your Honor, I understand he has got
23 latitude on cross-examination. We are covering well worn
24 trails that we have already been over. I think these
25 questions have been asked and answered already. And I

1 would just respectfully object to the duplicate questions,
2 Your Honor.

3 THE COURT: Thank you, Solicitor. Mr. Verner, you
4 may ask your next question.

5 Q You were holding this gun behind Mandy while she cut
6 that man's head off?

7 A No, sir.

8 Q She wasn't crying when she did it?

9 A No, sir.

10 Q She could cut a man's head off that is covered with
11 bugs, maggots and the stench of the body out in the woods,
12 and just not be disturbed by that at all?

13 A I guess so.

14 Q And she doesn't cry to you, why did you make me do
15 that.

16 MR. SCOTT: Objection, Your Honor. Asked and
17 answered already.

18 THE COURT: Sustained.

19 Q The Solicitor here, you have got an expectation of
20 hope on your outcome and your faith after today's
21 testimony, don't you?

22 A Somewhat.

23 Q Somewhat, well what do you mean by somewhat?

24 A Like I say, I am a realist, if something comes up it
25 is okay, if not--

1 Q What does a realist understand that a crime of murder
2 carries?

3 A Possibility of life.

4 Q What is the lower end possibility?

5 A I think it is 15 years.

6 Q Would you be surprised it is a little bit higher than
7 that?

8 A No, what is it.

9 Q And since you have got it all off of your chest on
10 May 26th you have been completely forthcoming to law
11 enforcement?

12 A Yes, sir.

13 Q You have been fully cooperative with law enforcement,
14 you got it all off your chest on May 26th, is that
15 correct?

16 A Yes, sir.

17 Q But in July, what are you looking at?

18 A I am looking at a faxed statement from my attorney to
19 the sheriffs office and the police department here in
20 Newberry.

21 Q Saying that they are not allowed to talk to you
22 anymore, right?

23 A Right.

24 Q But you got it all off your chest on May 26th, I
25 think you would be willing to talk to them after that

1 point?

2 A I had no knowledge that that was sent to them--

3 THE COURT: Whose statement is that, Solicitor.

4 MR. SCOTT: Your Honor, I think it was for ID

5 purposes only, it is a letter of representation from legal
6 counsel for Mr. Wise.

7 MR. VERNER: I was intending to offer for evidence,
8 Judge.

9 THE COURT: Step out please, ladies and gentlemen, do
10 not discuss the case during this recess.

11 (Whereupon, the jury was excused from open court for
12 a short break.)

13 THE COURT: Solicitor, what are you saying about
14 this.

15 MR. SCOTT: Your Honor, all I am saying and I don't
16 think we have got to the point yet. He was asked whether
17 or not he had an attorney by myself during direct. That
18 has been covered and explored through cross-examination.
19 He asked him to identify that. I would object at the time
20 for that coming into evidence. That appears to be drafted
21 by his attorney. I think the underlying, I guess, affect
22 that Mr. Verner is trying to cross is that he is
23 represented by an attorney. I don't know how much farther
24 he wishes to go with that or what he would do with it.
25 But we would object at the time of him moving that into

1 evidence.

2 MR. VERNER: My point, Your Honor, that is
3 inconsistent that he has been cooperative and working with
4 law enforcement since he gave his statement on May 26th
5 when the very following month he gives a statement saying
6 I will not talk to law enforcement. I think they
7 understand he has got a lawyer. My point is that he
8 hasn't been cooperating. And I would withdraw my attempt
9 to introduce it into evidence. But my question would be
10 that since that date you have given law enforcement notice
11 that you will not talk to them.

12 THE COURT: He has not given law enforcement notice.
13 And if you read this, you are on notice, the above named
14 person is asserting his or her right to have legal counsel
15 present during any conversations with law enforcement or
16 any other persons who may wish to question him or her with
17 regard to any information involving past crimes or
18 offenses alleged to have been perpetrated by either the
19 above named person or to other individuals. He is not
20 saying, I won't talk to law enforcement. He is just
21 saying, he is not saying anything. Mr. Brown is just
22 saying he wants to be present for any questioning. And,
23 Mr. Brown, I cut you off. Anything you would like to say?

24 MR. BROWN: My it please the Court, Your Honor. At
25 the time that Mr. Wise was arrested, at some time he was

1 appointed counsel. Typically my practice is, individuals,
2 if I am appointed that is one of the first letters I send.
3 My client would know, I am going to invoke every
4 constitutional right he has immediately. I don't think I
5 even met with Mr. Wise before that letter was sent. I am
6 going to do everything I can to protect his constitutional
7 rights. I put the Solicitor, the sheriffs department and
8 the City police department on notice because I didn't know
9 which was the lead law enforcement agency. So Mr. Wise
10 probably did not know that letter going out.

11 MR. VERNER: And this man can testify to that.

12 THE COURT: That is not relevant. It is not relevant
13 that his lawyer sent a letter of representation in just
14 saying that, I want to be present if law enforcement talks
15 to him. It is not relevant.

16 MR. VERNER: My followup question, of course, did he
17 arrange to ever give any further statement to law
18 enforcement.

19 THE COURT: Well, if he doesn't know anything about
20 this, if he says my statement is truthful on the 26th of
21 May of '11 why would he arrange to give any further
22 statement.

23 MR. VERNER: Because it is inconsistent with his
24 testimony, that I am cooperating with law enforcement
25 fully since May 26th of 2011.

1 THE COURT: Has law enforcement tried to talk to him
2 and he says, no I don't want to talk with you.

3 MR. VERNER: That would be a question I would pursue.

4 THE COURT: I think, quite frankly, I think it is
5 misleading under 403. It is misleading the jury that his
6 lawyer has written a letter of representation telling
7 that, you can't talk with him. He even sent it to Chief
8 Lindler which he says, probably the first letter he sends
9 out, Newberry City Police Department, to my knowledge, had
10 nothing to do with the case whatsoever. He is just
11 protecting his client's rights. But his client don't know
12 this.

13 MR. VERNER: I don't know that, Judge, I don't know
14 whether his client knows that or not.

15 THE COURT: It is not admissible. Defendant's 2 is
16 not admissible. Ask him if he knew his lawyer sent this.

17 MR. VERNER: I think he is entitled to answer that,
18 Judge, I think that would be an appropriate, and I am not
19 disputing it happened that way, Judge, in my opinion that
20 is inconsistent with his sworn testimony that he has been
21 cooperating and fully truthful with law enforcement since
22 May 26th.

23 THE COURT: It is inconsistent, let me make sure I am
24 tracking right. Maybe it is going completely, going by me
25 too quick. It is inconsistent with his testimony that he

1 testified truthfully or he gave a truthful statement 26th,
2 May, '11. And the letter written by his lawyer, 12, July,
3 '11 is inconsistent with his prior statement of 26, May of
4 '11.

5 MR. VERNER: His testimony today that it was weighing
6 on his conscious and needed to work with law enforcement.

7 THE COURT: All right. Didn't change a thing. A
8 letter sent by his lawyer on December 12th of 2011, and he
9 testified he doesn't even know it was sent, it is
10 inconsistent with his testimony today.

11 MR. VERNER: That it was on his conscious and he
12 needed to talk to law enforcement about what happened.

13 THE COURT: A letter sent by his lawyer on 12, July
14 '11, he doesn't know was even sent is inconsistent with
15 his statements before the jury that the events of 7 of May
16 and on up to 17 of May and on throughout the course of Mr.
17 Mayers death weighed on his conscious.

18 MR. VERNER: Your Honor, I accept the Court's ruling.
19 I understand the reasons for it. And I am not going to
20 argue beyond that point.

21 THE COURT: All right. Defendant's 2 is not
22 admissible.

23 MR. SCOTT: Your Honor, if I may.

24 THE COURT: Yes, sir.

25 MR. SCOTT: I had anticipated him getting into really

1 him being represented and exploring potential expectations
2 on what he would get out for testifying here today. I
3 frankly didn't hear any followup questions where he was
4 making the correlation between that letter and him not
5 being cooperative due to that letter. If he had I
6 wouldn't mind seeing the last couple of questions.

7 MR. VERNER: I don't correlate the two.

8 MR. SCOTT: And I think, I anticipated him going one
9 way and if he did make that statement we would ask those
10 to be stricken from the record. I don't recall him asking
11 that correlation yet. I think we get sort of, maybe
12 stopped right before he entered that.

13 THE COURT: Quite frankly, I thought it was a
14 statement that Mr. Wise gave in July. Y'all never showed
15 me evidence, y'all being y'all and y'all. Y'all never
16 showed me evidence. That is just an observation, that is
17 not a complaint, it is just an observation. So I thought
18 it was a statement by the defendant, excuse me, by
19 defendant Wise. Mr. Verner can certainly go into his
20 hopes and his expectations. That can be referenced into
21 by counsel and such.

22 MR. VERNER: Your Honor, again, I understand the
23 Court's ruling.

24 THE COURT: Defendant's 2 is not admissible. Now you
25 want me to, your motion now is to strike the last two

1 questions and responses?

2 MR. SCOTT: I think, Your Honor,--

3 MR. VERNER: I don't think we got in front of the
4 jury what the contents of the actual letter were, Your
5 Honor.

6 MR. SCOTT: Again, I think it is completely
7 appropriate to say he is represented by a lawyer but to
8 the extent that he correlated that letter to mean that Mr.
9 Wise had been uncooperative, we would ask those to be
10 stricken.

11 MR. VERNER: I might be wrong but I don't know that
12 we got it quite, I think he was still reading it. There
13 was a lack of a contemporaneous objection to it, Your
14 Honor.

15 MR. STUMBO: Your Honor, and I may be wrong. Mr.
16 Scott didn't hear it but I think the last couple of
17 questions before we got into this issue of the document
18 itself eluded to and I believe Mr. Verner's question
19 eluded to him not be cooperative with law enforcement and
20 going down that road in reference to this letter. So I
21 may have misheard that right at the end before we sent the
22 jury out.

23 THE COURT: I will just tell the jury the document is
24 not admissible and you can ask him if he has been
25 uncooperative. Maybe he has, I don't know.

1 (Whereupon, Defendant's Exhibit 2 was marked for
2 identification only.)

3 THE COURT: Thank you. Bring the jury in.

4 (Whereupon, the jury came into open court at
5 approximately 4:21 p.m.)

6 THE COURT: Thank you, ladies and gentlemen, with
7 your patience and with the Court. I sustained the last
8 objection. Mr. Verner, you may continue
9 cross-examination.

10 CONTINUE CROSS-EXAMINATION

11 By Mr. Verner:

12 Q You didn't have the slightest bit of curiosity what
13 Mandy was doing going back to the body that day?

14 A I was wondering what she was doing but I didn't find
15 out what she was doing until afterwards.

16 Q You were panicked when the killing happened but you
17 weren't scared during that time between law enforcement
18 made an arrest and you being able to talk to them and tell
19 them what happened?

20 A I was still fearful.

21 Q Fearful for your life or fearful for being arrested
22 and put in jail for shooting John Henry Mayers?

23 A For my life mainly.

24 Q And that is from Mandy Smith?

25 A Yes, sir.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

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

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Kaycie S. Timmons, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 27th day of April, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 27th day of April, 2015.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 24, 2021