

STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM LEXINGTON COUNTY
Eugene C. Griffith, Jr., Circuit Court Judge

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

KENNETH ANDREW LYNCH,

APPELLANT

APPELLATE CASE NO. 2012-212547

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT'S ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS # 7 - # 17 (PHOTOS OF APARTMENT), STATE'S # 120 - 122 (PHOTOS OF MEDICINE), STATE'S # 129 (PHOTOS OF CLOTHES IN CLOSET), STATE'S # 130 (PHOTOS OF TOILETRIES), STATE'S # 131 (PHOTOS OF CLOTHES IN CLOSET), STATE'S # 154 (PHOTO OF BLOOD SPLATTER IN CHAIR), STATE'S # 166 (PHOTO), STATE'S # 179 (PHOTO OF SINK), STATE'S # 181 - # 182 (PHOTOS OF TOOTHBRUSHES), STATE'S EXHIBIT # 202 (PHOTO OF GRANDBABY CLOTHES)

1 Because the court reporter's looked for it and she did not
2 find it from Deputy Polinder.

3 MR. HUBBARD: Judge, if it wasn't Polinder, then
4 it's probably not in there.

5 We've talked to these folks so many times,
6 honestly, we're -- I know we've talked about that, but if
7 it wasn't through him, I don't know. And I don't know if
8 Bresee did. But that's fine, Judge, we'll move on.

9 THE COURT: Okay.

10 And, gentlemen, you-all want to make any further
11 argument on whether they -- these items should be
12 suppressed or not? The case law, I read the three cases
13 that the State presented: McTier, Muquit, and United
14 States versus Edwards.

15 MR. STITELY: Judge, we just rely on the fact
16 that's why we have search warrants.

17 There was a search conducted before a search
18 warrant was obtained. These items had nothing -- if we're
19 to believe what Mr. Graham was saying about what they
20 think their inherent value is to this case, we're still
21 not sure what that has to do with the grand larceny,
22 which, of course, ultimately is the only thing he gets
23 charged for for two years. And we stand on our motion.

24 We don't think the items themselves are that
25 important, it's just that we have to follow procedures,

1 and that's a trend throughout the entire case, and we'll
2 bring it forward. But the procedures weren't followed in
3 this case.

4 MR. MYERS: The only other thing I have to
5 offer, Your Honor, is that last paragraph, even if you
6 delete that under a Franks versus Delaware analysis, the
7 warrant is still valid and produces probable cause.

8 THE COURT: Solicitor, I tend to agree with you.

9 Now, I can't imagine why law enforcement
10 consistently, whether it was Bresee, Polinder, and then
11 Edwards, all three consistently were checking for items
12 that would be relevant to the officer's safety and the
13 detainee's safety and looking for a weapon. And that's
14 what's kind of curious as to where it came from because
15 none of them identified it.

16 I would think that the bags would be of interest
17 to law enforcement at some time, whether they looked
18 through them looking for weapons or not. And so I kind of
19 discount that comment that it's "interesting items."

20 I believe the bags come in either way, either
21 they were not with -- a search warrant was not required,
22 they were his -- within -- they were all his personal
23 effects at the time of his detention. It was him and his
24 two bags. That was his entire world at that time. The
25 car wasn't his, and it was not near there, and he was not

1 near a house or his residence wasn't searched. So that
2 was all he had, and it was taken into custody, placed in
3 the control of law enforcement and handled along through
4 the proper channels from one officer to the next until it
5 got back to South Carolina.

6 The last paragraph of Attachment B, even if that
7 weren't there, I think there's ample testimony provided
8 under the affidavit for the magistrate to issue a search
9 warrant and the search was reasonable at that time. So we
10 will allow their introduction.

11 Now, I still note that I don't know where that
12 knife's from. Y'all have to enlighten me. I'm not going
13 to -- I'm not ruling on the admissibility of anything
14 other than the bags and the contents, but I don't know
15 where the knife came from, and I've not been provided
16 that. I don't know what's in the bags yet or not;
17 nothing's there for me. And for purposes of this hearing,
18 nothing's before me to make that ruling.

19 So you-all understand my ruling?

20 MR. MYERS: Yes, sir, we do.

21 The only other thing we have, Your Honor, is I
22 think the search warrant that was marked as a Court's
23 exhibit, we have a certified copy if you would like to put
24 the certified --

25 THE COURT: You can compare it. This is Court's

1 Exhibit 32, right?

2 MR. MYERS: It's the same one.

3 THE COURT: Okay.

4 MR. MYERS: All I'm telling the Court is we do
5 have a certified copy of the original, if you'd like to
6 put that in place of it.

7 THE COURT: Do you-all --

8 MR. STITELY: That's fine, Judge.

9 THE COURT: All right. We'll substitute in
10 Court's Exhibit 32 for the certified copy of 32.
11 Ms. Carol can make the change of sticker to make that
12 appropriately substituted.

13 (WHEREUPON, The Court's Exhibit No. 32,
14 previously marked, was re-marked for purposes of the
15 record.)

16 (WHEREUPON, STATE'S Exhibits Nos. 19-20A, having
17 been previously marked, were admitted into evidence.)

18 MR. MYERS: Thank you, Your Honor.

19 THE COURT: All right. We're done with the
20 issues pertaining to the motion and the validity of the
21 search warrant at this time?

22 MR. STITELY: This search warrant.

23 THE COURT: This search warrant, yes.

24 All right. Having ruled on that issue of the
25 search warrant for the bags, we'll now go back to the

1 trial mode and we're no longer in camera, we're back in
2 the trial setting.

3 MR. MYERS: Thank you, Your Honor.

4 MR. GRAHAM: Your Honor, the State would re-call
5 Investigator Chuck Bramlett.

6 THE CLERK: Still under oath, Your Honor?

7 THE COURT: Yes, ma'am.

8 CHARLES D. BRAMLETT, JR., having been previously
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GRAHAM:

12 Q Investigator Bramlett, when you were up on the
13 witness stand before, we were talking about the first time
14 that the bags, Mr. Lynch's bags had been gone into
15 pursuant to the search warrant on October 3rd, I believe,
16 of 2006. I believe that we had a pair of binoculars that
17 we were moving to introduce. Once you get your gloves on,
18 if you could retrieve that pair of binoculars.

19 MR. GRAHAM: Your Honor, the State would offer
20 those binoculars into evidence.

21 MR. MCGUIRE: Subject to our previous objection.

22 THE COURT: Subject to your previous objections
23 which we had the in camera hearing on before regarding the
24 search warrant and the warrantless search, they're
25 admitted as State's Exhibit 58, I believe.

1 (WHEREUPON, STATE'S Exhibit No. 58 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q Which bag, Investigator Bramlett, did that pair of
5 binoculars come out of?

6 A They came out of the black American Tourister bag.

7 Q The fabric bag here that's marked as State's No.
8 Exhibit 19?

9 A Yes.

10 Q At this time, I believe that is the only item that
11 you had that was out of that bag; is that correct?

12 A Yes.

13 Q Let's talk about State's 20, which is the leather
14 bag.

15 A All right.

16 Q Going in that bag, pursuant to this search warrant,
17 did you take out some other items?

18 A Yes, sir. There's a lot of documentation of papers
19 and assorted bank cards and bank statements that was taken
20 out.

21 Q Okay. Now, you didn't take out everything. Some
22 items were left in there; isn't that correct?

23 A Yes.

24 Q Some items were taken out later and inventoried, and
25 some of the items are still in there originally?

1 A Correct.

2 Q Okay. Let's go through what you took out that day.
3 So I don't know if you want to go through your return or
4 how you want to do it.

5 MR. GRAHAM: Judge, there's going to be a bunch
6 of loose paper. I don't know whether you want us to mark
7 it individually or whether you want to have a packet and
8 he describes it and we put it in a packet and just have
9 one number or how the Court wishes us to do this.

10 THE COURT: Do you want to do it as a packet?

11 MR. GRAHAM: I'm sorry?

12 THE COURT: Do you want to do it as a packet or
13 do you want to do them individual?

14 MR. GRAHAM: I think the packet would be easier.

15 THE COURT: Any objection to doing a packet of
16 all the documentation, aside from the six or seven things
17 we've already introduced which were the motel receipts and
18 the --

19 MR. GRAHAM: Yes, Your Honor.

20 THE COURT: -- bus ticket?

21 MR. McGUIRE: The only concern I would have is
22 before there's testimony regarding an item, if it could be
23 marked so we have a clear record even if it's for ID
24 purposes. I'd rather not do a packet if he's going to
25 identify something in a document. I believe the way that

1 we should do things is Mr. Graham should mark them for ID,
2 present it to the witness, see if he recognizes it, let
3 him ID it, then it goes into evidence.

4 THE COURT: I tell you what. Let's go with a
5 clear record. I mean, it's easier to make it that way.
6 And if whatever items are not going to be specifically
7 identified, they'll be introduced into a packet of the
8 other documents not specifically identified.

9 MR. GRAHAM: Okay.

10 MR. McGUIRE: Yeah. I wouldn't have any
11 objection with that.

12 THE WITNESS: The first item is going to be the
13 Public Storage receipt.

14 MR. McGUIRE: Again, Your Honor, if it could be
15 marked for ID.

16 THE COURT: Sure. We'll mark them as he
17 identifies them.

18 MR. GRAHAM: Here. I'll tell you what. Just
19 stack them all right here for a minute.

20 THE WITNESS: Okay.

21 THE COURT: This is slow and tedious, but I
22 would rather get it right.

23 THE WITNESS: The next two items are going to
24 be --

25

1 BY MR. GRAHAM:

2 Q I'm sorry. Just stack all the items over here, and
3 I'm going to present them to you one at a time and we'll
4 go through them.

5 A Okay. I'm sorry.

6 Q I'm going to show you a document and ask if you
7 recognize that document.

8 A This is going to be the Public Storage receipt that
9 was taken out of the bag.

10 MR. GRAHAM: Your Honor, the State would offer
11 the Public Storage receipt into evidence at this time.

12 MR. MCGUIRE: Subject to the previous objection.

13 THE COURT: Yes, sir. It's admitted subject to
14 your objections.

15 MR. MCGUIRE: Just for the record, that would be
16 our earlier objection regarding the documents that were
17 seized by Agent Bresee and faxed as well as the search
18 warrant. That's one of the items that was faxed.

19 THE COURT: All right.

20 (WHEREUPON, STATE'S Exhibit No. 59 was marked
21 for identification and received into evidence.)

22 BY MR. GRAHAM:

23 Q The Public Storage receipt is in the name of what
24 individual?

25 A Kenneth Lynch.

1 Q And can you tell me what month that receipt's from?

2 A This is dated February the 27th of '06.

3 Q Let me show you this object and ask if you recognize
4 that.

5 A Yes. This is an insert that was in the wallet, and
6 it has some ID, certification, forklift certification.

7 MR. GRAHAM: Your Honor, the State would offer
8 this into evidence at this time.

9 MR. MCGUIRE: Subject to previous objections.

10 THE COURT: State's 60.

11 And your objection is noted for the record.

12 MR. MCGUIRE: Thank you, Your Honor.

13 (WHEREUPON, STATE'S Exhibit No. 60 was marked
14 for identification and received into evidence.)

15 BY MR. GRAHAM:

16 Q Let me show you a business card and ask if you
17 recognize that as coming out of the black leather bag.

18 A Yes, it's an American Fuji Seal ink card, Larry D.
19 Lynch, business analyst.

20 MR. GRAHAM: Your Honor, the State would offer
21 this into evidence.

22 MR. MCGUIRE: Subject to previous objections.

23 THE COURT: State's 61 admitted subject to the
24 same objections.

25

1 (WHEREUPON, STATE'S Exhibit No. 61 was marked
2 for identification and received into evidence.)

3 THE COURT: And for the record so it will be
4 certain, I know that the Clerk of Court and I spoke about
5 this witness being reminded he was under oath. I'm not
6 certain I said that, so I remind you you're still under
7 oath from the prior two morning testimonies.

8 THE WITNESS: Yes, sir.

9 BY MR. GRAHAM:

10 Q Investigator Bramlett, let me show you another
11 business card and ask if you recognize that as coming out
12 of the black leather bag.

13 A This is a Public Storage business card, Kim Holbrook,
14 property manager.

15 MR. GRAHAM: Your Honor, the State would offer
16 this into evidence.

17 MR. McGUIRE: Subject to previous objections,
18 Your Honor.

19 THE COURT: It will be so admitted subject to
20 the objections as 62.

21 (WHEREUPON, STATE'S Exhibit No. 62 was marked
22 for identification and received into evidence.)

23 BY MR. GRAHAM:

24 Q I'm going to show you what appears to be a -- wait
25 just a second.

1 I've just handed you a bank document. Do you
2 recognize that as coming out of the leather bag?

3 A Yes. It looks like it's a deposit slip for Wachovia
4 Bank, dated 4-10-06, for \$10.

5 MR. GRAHAM: The State would offer that into
6 evidence, Your Honor.

7 MR. McGUIRE: Subject to previous objections.

8 THE COURT: Accepted subject to the same
9 conditions as the other ones.

10 (WHEREUPON, STATE'S Exhibit No. 63 was marked
11 for identification and received into evidence.)

12 BY MR. GRAHAM:

13 Q Let me show you another, what appears to be a receipt
14 and ask if you recognize that as coming out of the leather
15 bag.

16 A Yes. It's a BB&T transaction record dated 12 --
17 excuse me -- 10-12-05, bearing the last four numbers on
18 the account number, No. 6516.

19 MR. GRAHAM: The State would offer this into
20 evidence, Your Honor.

21 MR. McGUIRE: Subject to the previous
22 objections.

23 THE COURT: It will be so admitted subject to
24 the objections.

25

1 (WHEREUPON, STATE'S Exhibit No. 64 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q I'm going to show you another receipt and ask if you
5 recognize that as coming out of the leather bag taken from
6 Mr. Lynch.

7 A It's a receipt from, looks like the Pantry, dated
8 4-7-06.

9 MR. GRAHAM: The State would offer that receipt
10 into evidence, Your Honor.

11 THE COURT: It will be admitted under the same
12 objections.

13 MR. McGUIRE: Yes, sir. I'm sorry.

14 (WHEREUPON, STATE'S Exhibit No. 65B was marked
15 for identification and received into evidence.)

16 BY MR. GRAHAM:

17 Q Investigator, let me hand you a card and ask if you
18 recognize that card as coming from the leather bag.

19 A Yes, it's an Ace Cash Express card.

20 MR. GRAHAM: The State would offer this into
21 evidence, Your Honor.

22 MR. McGUIRE: Same objections.

23 THE COURT: Admitted subject to same objections.
24 It's like a prepaid gas card?

25 MR. McGUIRE: Ace Cash Express card.

1 (WHEREUPON, STATE'S Exhibit No. 65A was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q Investigator, let me show you an envelope with papers
5 inside it and ask if you recognize that as coming from the
6 leather bag.

7 A I do. It's an envelope with a letter from Robert W.
8 Lease, attorney at law, addressed to Mr. Kenneth A. Lynch.

9 Q And is there a letter inside the envelope?

10 A There is.

11 Q Does it appear to be from that attorney to Mr. Lynch?

12 A It does.

13 MR. GRAHAM: Your Honor, the State would offer
14 the envelope and the letter into evidence at this time.

15 MR. McGUIRE: Same objection.

16 THE COURT: Same ruling.

17 (WHEREUPON, STATE'S Exhibit No. 66 was marked
18 for identification and received into evidence.)

19 BY MR. GRAHAM:

20 Q Investigator Bramlett, let me hand you a number of
21 papers that are stapled together. Do you recognize those
22 as coming out of the leather bag?

23 A Yes. It's a deposit agreement for a personal account
24 from Wachovia Bank.

25 Q And approximately how many pages is that?

1 A The last page is numbered 18 of 18.

2 Q What does that appear to be?

3 A Documentation from the bank when you open up an
4 account or dealing with banks, deposit agreement,
5 disclosure, wire transfers, privacy statements, electronic
6 fund transfer disclosure.

7 MR. GRAHAM: Your Honor, the State would offer
8 this into evidence.

9 MR. MCGUIRE: Same objections.

10 THE COURT: Same ruling, it's admitted subject
11 to the objections.

12 (WHEREUPON, STATE'S Exhibit No. 67 was marked
13 for identification and received into evidence.)

14 BY MR. GRAHAM:

15 Q Investigator Bramlett, let me hand you a small slip
16 of paper and ask if you recognize that as coming out of
17 the leather bag.

18 A It is. It's a card or a piece of paper that would
19 simulate a credit card, like it was stuck in the slot of a
20 wallet. It says, on all four corners, it says "credit
21 card."

22 MR. GRAHAM: Your Honor, the State would offer
23 this into evidence.

24 MR. MCGUIRE: Same objection.

25 THE COURT: Same ruling.

1 (WHEREUPON, STATE'S Exhibit No. 68 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q I'm going to hand you what appears to be a ticket and
5 ask if you recognize that as coming from the leather bag.

6 A I do. It's a Greyhound bus ticket line in the name
7 of Laura Latimore, Latatore, dated 17 June '06.

8 MR. GRAHAM: Your Honor, the State would offer
9 this into evidence.

10 MR. MCGUIRE: Same objection, Your Honor.

11 To be a little bit more specific, this would be
12 one of the documents that was faxed, so that would be
13 subject to our earlier objection regarding the seizing of
14 the documents by Agent Bresee and then faxing them to
15 April Bayne without -- well before arrest. And also
16 subject to the search warrant issue.

17 THE COURT: All right. Your objections are
18 noted. Admitted subject to those objections.

19 (Discussion held off the record.)

20 (WHEREUPON, STATE'S Exhibit No. 69 was marked
21 for identification and received into evidence.)

22 MR. GRAHAM: Your Honor, for the record, the Ace
23 Cash Express card is 65A and the Pantry receipt is 65B
24 now.

25 THE COURT: All right.

1 (WHEREUPON, STATE'S Exhibit No. 65 was re-marked
2 STATE'S Exhibits No. 65A and 65B for identification
3 and received into evidence.)

4 BY MR. GRAHAM:

5 Q Lieutenant Bramlett, let me show you a two-page
6 document that appears to be from Wachovia. Do you
7 recognize that as coming out the leather bag of Mr. Lynch?

8 A Yes. This is a Wachovia customer agreement, access
9 agreement, and a rate disclosure form.

10 MR. GRAHAM: Your Honor, the State would offer
11 those into evidence at this time.

12 MR. MCGUIRE: Same objections.

13 THE COURT: Subject to the same objections.
14 That is State's 70 now.

15 (WHEREUPON, STATE'S Exhibit No. 70 was marked
16 for identification and received into evidence.)

17 MR. GRAHAM: Your Honor, these are two pages.
18 If there's no objection, I'm going to staple them together
19 so they don't get lost and we can maintain them as one
20 exhibit.

21 THE COURT: I think that will be proper.

22 BY MR. GRAHAM:

23 Q Investigator Bramlett, I'm going to hand you a small
24 slip of paper and ask if you recognize that as coming out
25 of the leather bag.

1 A I do. It has a phone number on it. It's a cut,
2 lined notebook paper.

3 MR. GRAHAM: Your Honor, the State would offer
4 this into evidence.

5 THE COURT: Subject to the same objections.

6 MR. MCGUIRE: Yes, sir. Thank you.

7 (WHEREUPON, STATE'S Exhibit No. 71 was marked
8 for identification and received into evidence.)

9 BY MR. GRAHAM:

10 Q Investigator Bramlett, let me show you a receipt and
11 ask if you recognize that as coming out of Mr. Lynch's
12 leather bag.

13 A I do. It's a customer layaway receipt.

14 Q What's the date on that receipt?

15 A It's going to be 7-8-05.

16 MR. GRAHAM: Your Honor, the State would offer
17 this receipt into evidence.

18 MR. MCGUIRE: Same objection.

19 THE COURT: Admitted subject to the objections.

20 (WHEREUPON, STATE'S Exhibit No. 72 was marked
21 for identification and received into evidence.)

22 BY MR. GRAHAM:

23 Q Investigator Bramlett, I'm going to hand you an
24 envelope with its contents. Do you recognize that as
25 coming from Mr. Lynch's leather bag?

1 A It's an envelope from BB&T, and I do recognize it.

2 Q And is there paper inside?

3 A It's a letter from BB&T dated February 13, '06.

4 MR. GRAHAM: Your Honor, the State would offer
5 the envelope and that letter into evidence at this time.

6 MR. McGUIRE: Same objections, Your Honor.

7 THE COURT: Same ruling, allowed subject to the
8 objections.

9 (WHEREUPON, STATE'S Exhibit No. 73 was marked
10 for identification and received into evidence.)

11 BY MR. GRAHAM:

12 Q I'll hand you another envelope and its contents and
13 ask if you also recognize that as coming from the leather
14 bag.

15 A I do. It's also an another BB&T letter. This was
16 dated February the 1st of '06, and it's addressed to
17 Mr. Kenneth Lynch.

18 MR. GRAHAM: Your Honor, the State would offer
19 this envelope and letter into evidence.

20 MR. McGUIRE: Same objections.

21 THE COURT: Allowed subject to the objections.

22 (WHEREUPON, STATE'S Exhibit No. 74 was marked
23 for identification and received into evidence.)

24 BY MR. GRAHAM:

25 Q Investigator Bramlett, looking at State's No. 74,

1 would you read that letter out loud, please.

2 A This statement from BB&T is dated February the 1st of
3 '07 (sic). It's addressed to Kenneth A. Lynch. It's the
4 checking account number 0005126485578.

5 "We recently advised you that the account
6 referenced above was overdrawn. At that time, we
7 requested a deposit be made to cover the outstanding
8 balance.

9 "The account has now been overdrawn for at least
10 20 consecutive days, has a negative balance of \$230.59.

11 "Please make a deposit to cover the overdrawn
12 amount. If the amount remains overdrawn, it will be
13 closed in approximately 20 days. Any negative balance
14 will then be reported to Check System and Account
15 Verification and Collection Network for Banks. A negative
16 balance may also be reported to the local credit bureau.

17 "Should you have any questions, please contact
18 your local BB&T office," and they list a phone number.

19 "Thank you for your prompt attention to this
20 matter."

21 Then at the bottom it says: "Reminder: BB&T
22 charges an overdraw account collection fee on the seventh
23 consecutive day of the account remaining overdrawn plus
24 collection of a \$30 fee when charging off an account."

25 MR. McGUIRE: Judge, the same objection, if

1 we're there yet.

2 THE COURT: Is there a different letter?

3 MR. GRAHAM: There were two BB&T letters, Your
4 Honor.

5 THE COURT: All right. This is a second BB&T
6 envelope, just a letter written from that envelope?

7 MR. GRAHAM: Yeah, there were two envelopes and
8 two letters.

9 THE COURT: They'll be admitted subject to the
10 objection.

11 (WHEREUPON, STATE'S Exhibits Nos. 73-74,
12 previously marked, were received into evidence.)

13 BY MR. GRAHAM:

14 Q Let me show you what appears to be a raffle ticket
15 and ask if you recognize that.

16 A I do. It's a raffle ticket from the Fallen Oak Hunt
17 Club.

18 Q Is there a date on that?

19 A Drawing will be held on June the 3rd of '06.

20 MR. GRAHAM: Your Honor, the State would offer
21 this raffle ticket into evidence.

22 MR. McGUIRE: Same objection.

23 THE COURT: Same ruling, it's allowed subject to
24 the objection.

25

1 (WHEREUPON, STATE'S Exhibit No. 75 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q Investigator Bramlett, let me hand you another
5 document that appears to be a tax-related document. Do
6 you recognize that as coming out from Mr. Lynch's bag?

7 A Yes, I do. It's from Bob Bennett Ford addressed to
8 Kenneth A. Lynch.

9 Q And what is that document?

10 A This is the W-2s for 2005 for Bob Bennett Ford to --
11 and it's in the name of Kenneth A. Lynch.

12 MR. GRAHAM: Your Honor, the State would offer
13 these tax documents into evidence.

14 MR. MCGUIRE: Same objections.

15 THE COURT: Allowed subject to the objections.

16 (WHEREUPON, STATE'S Exhibit No. 76 was marked
17 for identification and received into evidence.)

18 BY MR. GRAHAM:

19 Q Investigator Bramlett, I'm going to hand you some
20 other tax documents and ask you if you recognize those as
21 coming out of Mr. Lynch's leather bag.

22 A I do. It's from Bob Bennett Ford addressed to
23 Kenneth A. Lynch, and it's the 2004 W2s.

24 MR. GRAHAM: Your Honor, the State would offer
25 this into evidence.

1 MR. MCGUIRE: Same objection.

2 THE COURT: Same ruling. It's allowed subject
3 to the objections. .

4 (WHEREUPON, STATE'S Exhibit No. 77 was marked
5 for identification and received into evidence.)

6 BY MR. GRAHAM:

7 Q Let me hand you a piece of notebook paper and ask if
8 you recognize that.

9 A I do. It's another paper with the name and address
10 and phone numbers for Keith Lynch and Larry D. Lynch.

11 Q And that also came out of his leather travel bag?

12 A It did.

13 MR. GRAHAM: Your Honor, the State would offer
14 this into evidence.

15 MR. MCGUIRE: Same objection.

16 THE COURT: Same ruling. It's allowed subject
17 to the objections.

18 (WHEREUPON, STATE'S Exhibit No. 78 was marked
19 for identification and received into evidence.)

20 BY MR. GRAHAM:

21 Q Once again, Investigator Bramlett, let me hand you a
22 small slip of ruled paper and ask if you recognize that as
23 coming from Mr. Lynch's leather bag.

24 A I do. It's a small torn section of a notebook paper
25 with some phone numbers on it.

1 MR. GRAHAM: The State would offer this into
2 evidence, Your Honor.

3 MR. MCGUIRE: Same objections.

4 THE COURT: Same ruling. Allowed subject to the
5 objection.

6 (WHEREUPON, STATE'S Exhibit No. 79 was marked
7 for identification and received into evidence.)

8 BY MR. GRAHAM:

9 Q I'm going to hand you another slip of paper and ask
10 if you recognize that.

11 A I do. It's a small tablet or notebook paper that's a
12 note addressed to Mr. Kenneth Lynch, and it's from the
13 Cayce Police.

14 Q And that came out of Mr. Lynch's leather bag as well?

15 A Yes.

16 MR. GRAHAM: The State would offer that into
17 evidence, Your Honor.

18 MR. MCGUIRE: Same objection.

19 THE COURT: Same ruling. It's allowed subject
20 to the objection.

21 (WHEREUPON, STATE'S Exhibit No. 80 was marked
22 for identification and received into evidence.)

23 BY MR. GRAHAM:

24 Q Let me hand you a small yellow Post-it note and ask
25 if you recognize that.

1 A I do. It was in the bag, and it's got two numbers on
2 it, phone numbers, what appears to be phone numbers.

3 MR. GRAHAM: The State would offer this into
4 evidence, Your Honor.

5 MR. MCGUIRE: Same objection.

6 THE COURT: I'll allow it subject to the
7 objections.

8 (WHEREUPON, STATE'S Exhibit No. 81 was marked
9 for identification and received into evidence.)

10 BY MR. GRAHAM:

11 Q Let me hand you a business card and ask if you
12 recognize that.

13 A I do. It's a business card from U-Save Auto Rental
14 with the handwritten name Bryant on it.

15 Q And that came from Mr. Lynch's leather bag?

16 A It did.

17 MR. GRAHAM: The State would offer this business
18 card into evidence.

19 MR. MCGUIRE: Same objection.

20 THE COURT: Accepted subject to the objections.
21 It will be State's Exhibit 82.

22 (WHEREUPON, STATE'S Exhibit No. 82 was marked
23 for identification and received into evidence.)

24 BY MR. GRAHAM:

25 Q Investigator Bramlett, let me hand you another

1 business card and ask if you recognize that as coming from
2 the leather bag.

3 A I do. It's a business card from Park Place
4 Apartments.

5 MR. GRAHAM: Your Honor, the State would offer
6 that into evidence as well.

7 MR. McGUIRE: Same objection.

8 THE COURT: Same ruling. It's admitted subject
9 to objection.

10 (WHEREUPON, STATE'S Exhibit No. 83 was marked
11 for identification and received into evidence.)

12 BY MR. GRAHAM:

13 Q Let me show you a set of key rings and ask if you
14 recognize those.

15 A Yes, I do.

16 Q And where did that come from?

17 A Out of his bag.

18 This evidence bag says two sets of keys, but
19 there's one set in there right now.

20 Q Let me show you another set of keys that's -- this
21 says Court's exhibit. I thought it -- it's State's
22 Exhibit No. 24 and ask if you recognize this set of keys.
23 And that's the one with the bonus cards attached to it.

24 A Yes, I do. This is a second set of keys to go along
25 with this one.

1 Q Okay. So State's 24 that's already in evidence is
2 one of the keys that you took out of the bag, and then,
3 the second set is the one that you're holding in your
4 hands right now?

5 A Yes, these right here.

6 Q And both of those came out of Mr. Lynch's leather
7 bag?

8 A Yes.

9 MR. GRAHAM: Your Honor, the State would offer
10 this second set of keys into evidence.

11 MR. MCGUIRE: Same objection.

12 THE COURT: It's allowed subject to the
13 objections.

14 (WHEREUPON, STATE'S Exhibit No. 84 was marked
15 for identification and received into evidence.)

16 BY MR. GRAHAM:

17 Q Investigator Bramlett, if you could open that bag for
18 me. I'm going to have the court reporter mark on the key
19 chain itself.

20 There is a -- attached to the key ring itself is
21 a chain with a medallion on it. Just for identification,
22 would you say what those are.

23 A It says, it's tacked or stamped in Nine West.

24 MR. GRAHAM: And that's State's 84, Your Honor.

25 MR. MCGUIRE: Same objection.

1 THE COURT: Same objection noted. Admitted
2 subject to the objections.

3 (WHEREUPON, STATE'S Exhibit No. 84, previously
4 marked, was marked for identification and received
5 into evidence.)

6 BY MR. GRAHAM:

7 Q Let me show you a receipt and ask if you recognize
8 that receipt.

9 A I do. It's a Dollar Family -- excuse me -- a Family
10 Dollar store receipt.

11 Q And that came out of Mr. Lynch's leather bag?

12 A It did. It's dated 6-13-06.

13 Q And is there a Xerox copy of that that was made
14 because sometimes receipts fade over time?

15 A Yes. I believe there's two copies.

16 Q And that copy is a duplicate copy of the receipt
17 itself?

18 A It is.

19 MR. GRAHAM: Your Honor, the State would offer
20 both of those to be stapled together for preserving that
21 receipt over time.

22 MR. MCGUIRE: I'd make the same objection. I
23 don't have an objection with the copy, specifically.

24 THE COURT: It will be admitted subject to
25 objection. They'll be combined into one exhibit.

1 (WHEREUPON, STATE'S Exhibit No. 85 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q Investigator Bramlett, looking at State's 85, can you
5 tell me the date and time on that receipt?

6 A The date is going to be 6-13-06, and the time is
7 12:43.

8 Q And what was purchased?

9 A Mouthwash, shaving cream, razor, maybe some type of
10 hair gel, Hair PO4. And it's cut off, it says, FV crew-T.
11 So I don't know if that's what they're referring as a crew
12 T-shirt or what it is.

13 Q Were you able to determine whether that was paid and
14 in what manner that was paid?

15 A It was paid in cash. It says the cash was \$20 and
16 change was \$9.81.

17 Q I'm going to show you another item which appears to
18 be a pay stub. Do you recognize that as coming from
19 Mr. Lynch's bag?

20 A Yes. This is a pay stub for a check dated 6-9-06,
21 and it's in the name of Kenneth A. Lynch.

22 MR. GRAHAM: Your Honor, the State would offer
23 the pay stub into evidence.

24 MR. MCGUIRE: Same objection.

25 THE COURT: It's allowed subject to objections.

1 (WHEREUPON, STATE'S Exhibit No. 86 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q Investigator Bramlett, let me show you a debit card
5 and what appears to be a booklet to hold that debit card
6 and record transactions and ask if you recognize that.

7 A This is going to be from BB&T, Kenneth A. Lynch, and
8 it was in his bag.

9 MR. GRAHAM: Your Honor, the State would move
10 this into evidence.

11 MR. MCGUIRE: Same objections.

12 THE COURT: Admitted over the objections.

13 (WHEREUPON, STATE'S Exhibit No. 87 was marked
14 for identification and received into evidence.)

15 THE COURT: Mr. Graham, is that a debit card?

16 MR. GRAHAM: I'm sorry?

17 THE COURT: Is that a debit card?

18 MR. GRAHAM: Yes, sir, Your Honor, it's a debit
19 card from BB&T.

20 THE COURT: Very well. I want my description to
21 be accurate.

22 BY MR. GRAHAM:

23 Q Investigator Bramlett, let me show you another card
24 along with a booklet that looks to be to hold that card
25 and record transactions and ask if you recognize that as

1 coming from Mr. Lynch's leather bag.

2 A Yes. This is a Wachovia check card with the book,
3 the balance book.

4 MR. GRAHAM: Your Honor, the State would offer
5 the Wachovia card and the book into evidence.

6 MR. McGUIRE: Same objection.

7 THE COURT: Allowed subject to the objections.

8 (WHEREUPON, STATE'S Exhibit No. 88 was marked
9 for identification and received into evidence.)

10 BY MR. GRAHAM:

11 Q Investigator Bramlett, let me show you what appears
12 to be a traffic ticket from North Carolina and ask if you
13 recognize that.

14 A I do. It's a traffic ticket from Monroe, North
15 Carolina, and the name on it appears on the front as
16 Kenneth Andrew Lynch.

17 Q And that came out of Mr. Lynch's leather bag as well?

18 A It did.

19 MR. GRAHAM: Your Honor, the State would offer
20 that into evidence.

21 MR. McGUIRE: Same objections.

22 THE COURT: Allowed subject to the objections.

23 (WHEREUPON, STATE'S Exhibit No. 89 was marked
24 for identification and received into evidence.)

25 BY MR. GRAHAM:

1 Q Investigator Bramlett, I'm looking at State's 89.
2 That is a traffic ticket. Can you tell me what it was
3 for?

4 A It's a speeding ticket. According to this, he was
5 clocked at 77- in a 55-mile zone.

6 Q And does it have a court day that Mr. Lynch was to
7 appear in court?

8 A It does. It says Monday, 5 p.m., the 16th of
9 January, 2006.

10 Q Let me show you what appears to be a Wachovia receipt
11 and ask if you recognize that as coming from Mr. Lynch's
12 bag.

13 A I do. It's a deposit -- it's a slip for deposit in
14 the Wachovia Bank at Dutch Square in Columbia, dated
15 6-9-06.

16 MR. GRAHAM: The State would offer this ATM
17 receipt from Wachovia into evidence.

18 MR. McGUIRE: Same objections, Your Honor.

19 THE COURT: It's allowed subject to the
20 objections.

21 (WHEREUPON, STATE'S Exhibit No. 90 was marked
22 for identification and received into evidence.)

23 BY MR. GRAHAM:

24 Q I'll show you appears to be a South Carolina lottery
25 ticket and ask if you recognize that as coming from

1 Mr. Lynch's bag.

2 A I do. It's a South Carolina lottery ticket dated
3 6-10-06.

4 MR. GRAHAM: Your Honor, the State would offer
5 this into evidence.

6 MR. MCGUIRE: Same objections, Your Honor.

7 THE COURT: It's allowed subject to the
8 objections.

9 (WHEREUPON, STATE'S Exhibit No. 91 was marked
10 for identification and received into evidence.)

11 BY MR. GRAHAM:

12 Q Investigator Bramlett, let me show you another
13 document that appears to be a car title and ask if you
14 recognize that.

15 A I do. It's a title -- it's the State of North
16 Carolina's certificate of title for a vehicle, a 1983 Ford
17 in the name of Antoine Britt, and it shows transfer of
18 owner to Kenneth Lynch. It bears his name printed, his
19 name written.

20 Q Are you able to tell the date of the transfer
21 according to that document?

22 A Okay. The date of the document is 5 November of '97.

23 MR. GRAHAM: Your Honor, the State would offer
24 this Certificate of Title into evidence.

25 MR. MCGUIRE: Same objection.

1 THE COURT: It's allowed subject to the
2 objections.

3 (WHEREUPON, STATE'S Exhibit No. 92 was marked
4 for identification and received into evidence.)

5 BY MR. GRAHAM:

6 Q Let me show you another document and ask if you
7 recognize that as coming from Mr. Lynch's bag.

8 A It is. It's a documentation instruction on
9 fingerprinting.

10 Q And attached to that, is there an application that
11 appears to be filled out?

12 A There's an application for criminal rehabilitation.
13 At the bottom of it, it's a -- Citizenship and
14 Immigration-Canada is at the top.

15 Q Is there approximately three more pages of that
16 application as well?

17 A There's four pages of the application.

18 Q Let me show you another piece of paper that's labeled
19 "Information on Criminal Rehabilitation," and ask if you
20 recognize that as coming out of the bag as well.

21 A I did. It's part of the documentation from the
22 Citizenship and Immigration of Canada.

23 Q And then finally, let me show you another document
24 that has a card attached and ask if you recognize that as
25 coming from the bag and being related to the other paper

1 that we've been discussing.

2 A It is. Again, this is a printed letter or from
3 Citizenship and Immigration on what to do to be
4 rehabilitation (sic).

5 MR. GRAHAM: Your Honor, the State would make
6 these one exhibit and staple them together and offer them
7 into evidence.

8 MR. MCGUIRE: Judge, I have the same objections.
9 And with regard to the refusal papers to Canada, if this
10 was a jury I'd move to have it redacted regarding my
11 client's prior record. So I'd go ahead and make that
12 motion, too.

13 MR. GRAHAM: I don't think there's anything in
14 here for his record. I mean, it says how to clean it up,
15 but it doesn't actually say what it is or what is on that,
16 Your Honor.

17 MR. MCGUIRE: Judge, if it was a jury trial,
18 just the fact that it says, "criminal rehabilitation,"
19 that's the grounds for refusal. I'd move to have it
20 redacted.

21 THE COURT: I'm going to allow it subject to
22 your objections.

23 I think the Court as fact finder can disregard
24 the prior record in determination and evaluation of the
25 facts.

1 MR. MCGUIRE: Thank you, Your Honor.

2 THE COURT: If it were before a jury, I would
3 redact it.

4 (WHEREUPON, STATE'S Exhibit No. 93 was marked
5 for identification and received into evidence.)

6 BY MR. GRAHAM:

7 Q Investigator Bramlett, were there other items that
8 came from the leather bag?

9 A Yes, there were.

10 Q And do you have those with you as well?

11 A I do.

12 Q Would you bring some of them out.

13 A (Witness complies.)

14 Q Let me show you a bag and ask if you recognize this
15 bag and its contents.

16 A Yes, this -- yes, this is an evidence bag. It says
17 gold in color Nationwide ring with a red stone.

18 Q Can you look inside the bag and verify that that's
19 what that is?

20 A It is a Nationwide ring with a red stone in it.

21 MR. GRAHAM: Your Honor, the State would offer
22 that into evidence at this time.

23 MR. MCGUIRE: Same objections.

24 THE COURT: I'll allow it subject to the
25 objections.

1 (WHEREUPON, STATE'S Exhibit No. 94 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q Let me show you another bag and ask if you recognize
5 the bag and its contents. It appears to be three bags
6 stapled together, four bags.

7 A This one is marked, "Gold color Rolex watch with band
8 taken from rear zipper section of leather bag."

9 Q Can you verify the contents of that bag and make sure
10 that that is what you, in fact, removed from Mr. Lynch's
11 leather bag?

12 A It is the watch with the band removed from it. It
13 has Rolex on the face of it -- excuse me -- yes, Rolex on
14 the face of it.

15 MR. GRAHAM: Your Honor, the State would offer
16 the watch itself and the band as one piece of evidence.

17 MR. MCGUIRE: Same objections.

18 THE COURT: We'll allow it subject to the
19 objections.

20 That was all of the four bags or not?

21 MR. GRAHAM: I'm sorry, Your Honor?

22 THE COURT: Is that four bags?

23 MR. GRAHAM: No, he's ripping them apart.
24 They're just going to be one at a time.

25 THE COURT: Okay.

1 (WHEREUPON, STATE'S Exhibit No. 95 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q And I'll give you another bag and ask if you
5 recognize that bag and its contents.

6 A This says, "Gold in color chain."

7 Q And do you recognize that gold chain as coming from
8 Mr. Lynch's leather bag?

9 A Yes.

10 MR. GRAHAM: Your Honor, the State would offer
11 the bag and the contents of the chain itself into
12 evidence.

13 MR. MCGUIRE: Same objections.

14 THE COURT: We'll allow it subject to your
15 objections.

16 (WHEREUPON, STATE'S Exhibit No. 96 was marked
17 for identification and received into evidence.)

18 BY MR. GRAHAM:

19 Q Let me hand you another bag, Investigator Bramlett,
20 and ask if you recognize that bag and its contents.

21 A This bag is marked, "Silver quartz watch."

22 Q Do you recognize that bag and the contents of the
23 watch as being the silver quartz watch that you took from
24 Mr. Lynch's bag?

25 A Yes, I do.

1 MR. GRAHAM: Your Honor, the State would offer
2 that bag and that watch into evidence.

3 MR. MCGUIRE: Same objections, Your Honor.

4 THE COURT: Subject to your objection, we'll
5 allow it.

6 (WHEREUPON, STATE'S Exhibit No. 97 was marked
7 for identification and received into evidence.)

8 BY MR. GRAHAM:

9 Q Investigator Bramlett, the last bag that you have
10 before you right now, do you recognize that?

11 A I do. It's marked, "Silver and gold Chevrolet men's
12 watch taken from the leather bag."

13 Q And the contents of that bag, does that match up with
14 what you removed from Mr. Lynch's bag?

15 A It does.

16 MR. GRAHAM: Your Honor, the State would offer
17 that bag and the contents of the watch into evidence.

18 MR. MCGUIRE: Same objections, Your Honor.

19 THE COURT: Same ruling. We'll allow them
20 subject to the objections.

21 (WHEREUPON, STATE'S Exhibit No. 98 was marked
22 for identification and received into evidence.)

23 BY MR. GRAHAM:

24 Q Were there other items that you took?

25 A Yes, sir. These came at a later date under another

1 search warrant.

2 Q There was another search warrant that was executed.
3 I don't know whether there's another suppression motion
4 for that or not, but there are other items that were
5 removed later.

6 Could you bring one of those items out?

7 A This bag is marked, "One pair of reading glasses."

8 Q Do you recognize those as being a pair of reading
9 glasses that you took from Mr. Lynch's bag?

10 A Yes.

11 MR. GRAHAM: Your Honor, the State would offer
12 those into evidence.

13 MR. McGUIRE: Judge, we would have an objection
14 to the search warrant used to procure these items.

15 THE COURT: This is the bag or somewhere else?

16 MR. GRAHAM: From the bag. They went into the
17 bag at a later date.

18 THE COURT: Under a different search warrant?

19 MR. McGUIRE: Looks like it.

20 THE COURT: All right. You-all made an
21 objection. We'll have an in camera hearing regarding the
22 sufficiency of the second search warrant with regard to
23 these bags, or this bag. I'm not sure which. I'm not
24 aware of the warrant quite yet, but we'll allow the
25 defense to make its -- to state its ground on that search

1 warrant also.

2 (Pause.)

3 THE COURT: Have y'all found that other search
4 warrant?

5 MR. MYERS: Yes, sir, we have.

6 THE COURT: Is that what we're waiting on?

7 MR. STITELY: Can we look at it?

8 THE COURT: Sure.

9 (Pause.)

10 MR. STITELY: Your Honor, I guess we'd have to
11 call Investigator Bayne.

12 THE COURT: All right. If you'd come up for the
13 purpose of this in camera hearing.

14 THE CLERK: She's still under oath, Your Honor?

15 THE COURT: She's still under oath.

16 MR. GRAHAM: Your Honor, if I may, before
17 Mr. Stitely starts, I've got a copy that we can make a
18 Court's exhibit for Your Honor to have.

19 MR. STITELY: We're good with that.

20 THE COURT: That will be fine. This is Court's
21 Exhibit 33.

22 (WHEREUPON, The Court's Exhibit No. 33 was
23 marked for purposes of the record.)

24 APRIL BAYNE, having been previously sworn,
25 testified as follows:

1 DIRECT EXAMINATION

2 BY MR. STITELY:

3 Q Investigator Bayne, just a couple of questions.

4 And I guess I'm looking at the last two pages of
5 the search warrant. Do you have a copy of it in front of
6 you?

7 A I do.

8 Q And this is the one that you took out 1-19-2007?

9 A Correct. Are you looking Attachment A?

10 Q Yes, ma'am.

11 A Okay.

12 Q Is there another attachment somewhere?

13 A No. I just wanted to clarify, make sure I'm looking
14 on the right page.15 Q Now, on this one now, you used different language on
16 this search warrant than you did on the search warrant you
17 obtained back in September of 2006. Is that true?18 A I did use different language on this one as opposed
19 to the first search warrant of the bags.20 Q Okay. Is this more accurate language or was the
21 original one the more accurate language when you're
22 talking about the DNA you already were aware of?23 A One is no more accurate than the other. This is just
24 additional more-detailed information added into the
25 affidavit.

1 Q Well, you're saying that, but if you remember, in the
2 affidavit that you did three months before this or four
3 months before this, you said it was Cassandra L.
4 blood. In this one, you've actually backed up saying the
5 blood may be consistent with a daughter of Theresa Brown,
6 a significantly lower standard.

7 A Let me find that on here.

8 Q Sure. It's that last line of page 2 of Attachment A,
9 into the first two lines of page 3.

10 A The swabs were tested and it was determined that the
11 blood collected was consistent with being from the
12 daughter of Theresa Brown. Theresa Brown is the mother of
13 Cassandra L.

14 Q Okay. Do you remember your first affidavit?

15 A I don't. If you'll hold on one second I'll pull it
16 as well.

17 Q Sure. And it was in that same portion, the affidavit
18 portion of your first search warrant.

19 A That was September 25th, 2006. On that --

20 Q Yes, ma'am.

21 A -- I state the results indicated the blood was that
22 of Cassandra L.

23 Q Okay. And would you agree that there's a difference
24 in the two?

25 A I don't believe there is. I'm not a DNA analyst.

1 That's the wording that I chose.

2 Q Okay. And the items that you were searching in this
3 second search warrant were the items you guys had already
4 collected once; is that fair?

5 A Can you repeat that question? I'm sorry. I was
6 trying to -- I'm trying to search back through and find
7 the second one.

8 Q No problem. Well, the items that you say you wanted
9 to test were the items that were already collected;
10 watches, jewelry items, correct?

11 A Those were items that were originally found within
12 Kenneth Lynch's bags. We required additional testing.

13 Q Okay. Who told you to go get this search warrant?

14 A I believe it was my supervisor. To err on the side
15 of caution, we did an entirely new search warrant.

16 Q Okay. Who was your supervisor at this point?

17 A Captain Tony Owens. All warrants at that time were
18 approved through him.

19 Q And he's no longer with us, right?

20 A He passed away.

21 MR. STITELY: No other questions, Judge.

22 Thank you, Ms. Bayne.

23 MR. GRAHAM: Your Honor, the State doesn't have
24 any questions on this issue.

25 MR. STITELY: I have no other questions for her

1 for purposes of this hearing.

2 THE COURT: For the purpose of this hearing,
3 what was being sought different from 32 as to 33, why the
4 second search warrant? What were they looking for?

5 MR. GRAHAM: My understanding was that this
6 second search warrant we're talking about right now, they
7 were removing items to send to SLED for DNA analysis.
8 They were looking for blood.

9 MR. STITELY: And I guess that's our quandary
10 here, Judge. Because the items on the return of the
11 search warrant, as you can clearly see, are the same exact
12 items we're already talking about. So either someone's
13 not taking notes as to what was seized at what time or
14 it's the stuff they've already seized once. I guess we're
15 trying to figure that confusion out. Because it says on
16 the return here, Judge, "Silver in color quartz watch,
17 Chevrolet watch, Rolex, necklace."

18 Now, I was under the impression as we were
19 sitting through the litany of items that they'd already
20 seized once, they'd already seized these items. I guess
21 we were trying to figure out the purpose of the second
22 search warrant as well.

23 We just stand on our objection from the previous
24 search warrant and tie it into this one as well.

25 THE COURT: Solicitor, anything further?

1 MR. GRAHAM: Do you want to hear from me as far
2 as argument on this, Your Honor?

3 THE COURT: I mean, no, I don't.

4 I don't understand the need for the second
5 search warrant because the first warrant clearly described
6 any item that could contain DNA or fingerprints or shoe
7 prints, so it's dealing with all this trace evidence.

8 MR. GRAHAM: Your Honor, we would stand on the
9 language of the second, the language of the first, and
10 also the fact that it was all incident to arrest. That
11 would be the arguments that would go along with any of the
12 items that came out of these bags.

13 MR. STITELY: We've got nothing further. We
14 just didn't understand why they got a second search
15 warrant, Judge.

16 THE COURT: All right. I don't understand why
17 either, but I don't think that's relevant.

18 I think both warrants are consistent with one
19 another to a large extent. I've already ruled the first
20 one's, the items seized pursuant to it, are valid, and
21 ruling consistently, I believe the search warrant was
22 unnecessary in the second instance for Exhibit 33. But
23 nonetheless, it's yet again a very similar search warrant
24 with slightly distinguishable language.

25 But are we going to go through any items that

1 were seized pursuant to that one as opposed to the first
2 one or is that distinguishable? Do you-all know?

3 MR. STITELY: The return indicates the same
4 items, Judge, so I have no idea.

5 THE COURT: I don't either.

6 MR. GRAHAM: I don't know that it matters, Your
7 Honor, to be honest, under your ruling. I mean --

8 THE COURT: Okay. Under my ruling it shouldn't
9 matter, but I'm just curious as to were you-all going to
10 try to distinguish them.

11 So the second search warrant is valid for
12 purposes of this in camera hearing, and it has been marked
13 as Court's Exhibit 33.

14 All right. Anything else from the defense
15 regarding the search warrant?

16 MR. STITELY: No, Your Honor.

17 THE COURT: All right. Let's take a quick
18 break. We're at 4 o'clock.

19 Ms. Bayne, you can step down and we'll resume.

20 (A break was taken.)

21 THE COURT: All right.

22 MR. GRAHAM: Your Honor, the State would re-call
23 Investigator Bramlett.

24 THE COURT: We're back in the case in chief, in
25 trial mode outside of the in camera hearing.

1 CHARLES D. BRAMLETT, JR., having been previously
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. GRAHAM:

5 Q Investigator Bramlett, we were beginning to discuss
6 other items that had been taken out of the bags.

7 A Yes.

8 Q Did you bring some more of those items out? And
9 let's discuss them, please.

10 A All right. These other items were items taken out of
11 the nylon bag at this point on. The watches, the chain,
12 and all was taken from the leather bag. These were taken
13 from the nylon bag.

14 We have a brown belt or a black belt.

15 Q Does that appear to be the belt that you took -- and
16 you're saying that you took it from the nylon bag, what's
17 in my hand, State's No. 19?

18 A Let me just double-check my notes to make sure I'm
19 straight with which bag we're dealing with.

20 Yes, I believe it was the nylon bag.

21 MR. GRAHAM: Your Honor, the State would offer
22 that bag and the black belt into evidence that came from
23 the nylon bag.

24 MR. McGUIRE: Same objections, Your Honor.

25 THE COURT: I'll allow it subject to objection.

1 (WHEREUPON, STATE'S Exhibit No. 99 was marked
2 for identification and received into evidence.)

3 BY MR. GRAHAM:

4 Q Do you have another item from the nylon bag?

5 A Yes. This is a white Family Value T-shirt, extra
6 large, that was taken from the tourist bag.

7 Q Within the contents of that bag, does that appear to
8 be the -- one of those crewneck T-shirts that you took
9 from that bag?

10 A Yes, it's a white Family Value, extra large.

11 MR. GRAHAM: The State would offer the T-shirt
12 into evidence, Your Honor.

13 MR. McGUIRE: Same objection.

14 THE COURT: I'll allow it subject to objection.

15 (WHEREUPON, STATE'S Exhibit No. 100 was marked
16 for identification and received into evidence.)

17 THE WITNESS: And this is a second white Family
18 Value, extra large T-shirt.

19 BY MR. GRAHAM:

20 Q And again, within the contents of that bag, does that
21 appear to be another T-shirt that you took out of the
22 nylon American Tourister bag, State's Exhibit 19?

23 A It is. Family Value, extra large.

24 MR. GRAHAM: The State would offer this into
25 evidence, Your Honor.

1 MR. MCGUIRE: Same objections.

2 THE COURT: I'll allow it over the objections.
3 I was waiting for the paper to quit rattling.

4 THE WITNESS: Sorry, Your Honor.

5 THE COURT: That's all right. You can't help
6 it. I've never seen such a mess of lunch bags.

7 (WHEREUPON, STATE'S Exhibit No. 101 was marked
8 for identification and received into evidence.)

9 THE WITNESS: This is going to be a Cub Scout
10 day camp gray T-shirt, extra, extra large.

11 BY MR. GRAHAM:

12 Q Do you recognize that as being another T-shirt that
13 you took out of Mr. Lynch's nylon travel bag?

14 A Yes.

15 MR. GRAHAM: Your Honor, the State would offer
16 this in evidence as well.

17 MR. MCGUIRE: Same objection.

18 THE COURT: Allow it subject to the objection of
19 defense.

20 (WHEREUPON, STATE'S Exhibit No. 102 was marked
21 for identification and received into evidence.)

22 BY MR. GRAHAM:

23 Q Are there any other items that came out?

24 A Yes, sir. These are going to be Route 66 khaki cargo
25 pants.

1 Q And looking at the contents of that bag, do you
2 recognize those as being the Route 66 cargo pants that you
3 took from Mr. Lynch's nylon bag, State's No. 19?

4 A Yes.

5 MR. GRAHAM: Your Honor, the State would offer
6 those into evidence.

7 MR. MCGUIRE: Same objection.

8 THE COURT: Same ruling.

9 (WHEREUPON, STATE'S Exhibit No. 103 was marked
10 for identification and received into evidence.)

11 THE WITNESS: This is a black wallet that would
12 have been taken on the first search warrant that got
13 hidden down on the bottom on top of everything else.

14 BY MR. GRAHAM:

15 Q Earlier, you had testified about an insert in a
16 billfold. That would have been the one that had the
17 library card and the other items in it. Do you remember
18 that?

19 A Yes. It had an ID on the front of it and, then, it
20 had the forklift certification and other Bob Bennett
21 certification cards inside of it.

22 Q Is that what came from this wallet?

23 A Yes.

24 Q Okay. Which bag did the wallet come out of?

25 A This would have been the leather bag.

1 Q Out of the leather bag?

2 A Yes, sir.

3 MR. GRAHAM: Your Honor, the State would offer
4 this into evidence at this time.

5 MR. McGUIRE: Same objection.

6 THE COURT: It will be allowed over objection.

7 (WHEREUPON, STATE'S Exhibit No. 104 was marked
8 for identification and received into evidence.)

9 BY MR. GRAHAM:

10 Q Investigator Bramlett, referring to the leather
11 wallet, State's Exhibit 104, when you first pulled that
12 out of the bag pursuant to the search warrant, what, if
13 any, money did you find inside that wallet?

14 A There was no money in it.

15 Q There was no cash?

16 A No, sir.

17 Q Let me hand you another bag and ask if you recognize
18 that. I think that's where we started.

19 A This is a pair of reading glasses that we had looked
20 at just before the break.

21 MR. GRAHAM: I think that's what we were
22 offering when we first started, Your Honor, so the State
23 would reoffer these reading glasses into evidence.

24 MR. McGUIRE: Same objection.

25 THE COURT: It will be allowed subject to

1 objections.

2 (WHEREUPON, STATE'S Exhibit No. 105 was marked
3 for identification and received into evidence.)

4 THE WITNESS: That's all the items that we had
5 taken in lieu of the search warrant.

6 But now there were other items in the bags that
7 were of no value that we needed, so we didn't take those,
8 we left them intact in the bag.

9 BY MR. GRAHAM:

10 Q Well, let's talk about those, then.

11 Referring to State's 19, which is the nylon
12 American Tourister bag, do you recognize that?

13 A Yes.

14 Q And there were other items that you're testifying
15 that you took that were in the bag at the time that you
16 looked into it on these two search warrants, that you
17 never brought out and inventoried; is that right?

18 A Yes.

19 Q Okay. Let's open the bag now and find out what's
20 inside there.

21 A In the main section of this bag, there's mouthwash,
22 there's a can of hair dressing, shaving cream, plastic
23 cups, an empty packet where they had twin-blade razors.

24 And --

25 Q Can you tell us what store that was purchased from?

1 A Family Dollar.

2 Q How about the mouthwash?

3 A It's also from Family Dollar.

4 Q Is there anything else in the main compartment of
5 that bag?

6 A Just an empty plastic bag.

7 Q Now, you had removed some plastic bags. Is there
8 anything inside there?

9 A Here's a brown plastic bag. Again, it has
10 toiletries, moisturizer, skin moisturizer, a toothbrush,
11 toothpaste, Speed Stick, and a conditioning shampoo -- a
12 bottle of conditioning shampoo.

13 Q All those items were in a brown plastic bag that says
14 "Thank You" on it; is that right?

15 A Yes. And they are inside a white plastic bag.

16 Q And is there anything else that was inside that white
17 plastic bag?

18 A The white plastic bag is a Dollar -- a Family Dollar,
19 and there are four disposable razors inside this Family
20 Dollar bag.

21 Q If you would take all those items and put them back
22 into the main compartment of that bag.

23 Are there any side compartments on that bag?

24 A There's one in the front.

25 Q What, if anything, is in there?

1 A There's a writing pen and a soundtrack from Rush
2 Hour.

3 Q Anything else?

4 A No.

5 Q Are there any other pockets on that bag?

6 A No, sir.

7 MR. GRAHAM: Your Honor, without itemizing each
8 and every item in there, the State would now move the
9 contents of State's Exhibit 19 into evidence.

10 MR. MCGUIRE: Same objections.

11 THE COURT: I'm going to accept the bags and the
12 balance of the contents subject to objection.

13 MR. GRAHAM: Does it need to be renumbered or
14 can it stay as State's 19?

15 THE COURT: No. State's 19.

16 (WHEREUPON, STATE'S Exhibit No. 19, previously
17 marked for identification and received into evidence,
18 was again admitted into evidence.)

19 BY MR. GRAHAM:

20 Q Investigator Bramlett, looking at State's 20 --

21 THE COURT: I don't --

22 MR. GRAHAM: That's the leather bag.

23 THE COURT: Any objection to the contents going
24 with 19 as we just described them? They were inventoried.

25 MR. MCGUIRE: No objection.

1 THE COURT: Okay. Then State's 19 as admitted
2 in the case in chief.

3 BY MR. GRAHAM:

4 Q Investigator Bramlett, this is State's Exhibit
5 No. 20, which is a leather bag. There are multiple
6 zippers and contents in this bag of items that we haven't
7 discussed yet. Just if you would go into some of the
8 front zippers. This is the front bottom right zipper.

9 What, if anything, do you find in there?

10 A A stack of pay receipts, pay stubs.

11 Q And what are the dates on those?

12 A This one's dated 4-7-06. I have one dated 3-24-06.
13 There is one dated 3-31-06. I have another one dated
14 7-29-05, 3-10-06, 3-3-06.

15 Q And all those are made out in what name?

16 A All of them made out to Kenneth A. Lynch.

17 Q And who is the company that those pay stubs are from?

18 A They're all from Bob Bennett Ford.

19 Q Was there anything else in the right bottom front
20 zipper pocket?

21 A It's a door access card to a motel.

22 Q Anything else?

23 A In this pocket, no.

24 Q If you'd return all those items to that pocket,
25 please.

1 Is there also another pocket on the bottom left?

2 A There is.

3 Q What, if anything, is in there?

4 A It's a Wachovia ATM -- looks like a Wachovia ATM
5 receipt. .

6 Q Are you able to tell the date on that receipt?

7 A 4-13-06 on that one, 4-13-06 on this one.

8 Q Was there anything else from Wachovia in that pocket?

9 A There is a standard letter for a check card from
10 Wachovia addressed to Kenneth Andrew Lynch.

11 Q Would you return all those to that pocket, please.

12 Investigator Bramlett, let's go on the front
13 side of State's Exhibit No. 20.

14 Is there an upper left zipper as well?

15 A There is.

16 Q Is there anything in that pocket?

17 A There is an American Fuji Seal ink card from Tony
18 Malinski. There is a debit card agreement, disclosure of
19 personal account from Wachovia, a printed sheet, a
20 standard sheet.

21 Q Anything else in the upper left pocket on the front
22 side of the leather bag?

23 A No.

24 Q Can you put those items back and let's move over to
25 the upper right front side zipper pocket.

1 A This pocket is empty.

2 Q Is there a zipper that goes across the entire front
3 side?

4 A There is.

5 Q And what, if anything, is in there?

6 A There's a lighter, a gold colored -- a gold and
7 black-colored lighter, and loose change.

8 Q How much loose change is in there?

9 A Appears to be eight cents.

10 Q Besides the eight cents -- those are all pennies; is
11 that correct?

12 A Yes.

13 Q Besides the eight pennies that are there and the gold
14 lighter, is there anything else in that pocket?

15 A No, there's not.

16 Q If you'd please return all that to there.

17 On the back side, is there also a zipper pocket?

18 A There is one large pocket with a zipper across the
19 top.

20 Q What, if anything, is in that pocket?

21 A I have a Wachovia checkbook box that's empty. I have
22 a second Wachovia checkbook box, empty checkbook and
23 checks in the name of Kenneth A. Lynch. And there's
24 one -- three books of checks and a check register.

25 Q Are the three books of checks, are those blank checks

1 that haven't been written on or are they left over but
2 have been written?

3 A There is a checkbook. There's a book of starter
4 checks and deposit slips in Kenneth Lynch. These are
5 blank, these are blank. And this is a blank book of
6 checks.

7 Q Is there anything else in that top pocket on the back
8 side?

9 A This is a summary of account services from Wachovia
10 and indicates a checking account. Here's a schedule of
11 fees and funds available, a personal account from
12 Wachovia.

13 Here is a 2006 Ford racing calendar.

14 There's a blank envelope with a generalized
15 blank form from the State of North Carolina in the matter
16 of the State of General Sessions -- General Court of
17 Justice. It's blank.

18 Q Is there anything else in that envelope?

19 A No, sir.

20 Excuse me. There are three photographs.

21 Q Anything else in that envelope?

22 A No, the envelope is empty.

23 Q Would you return those to the envelope.

24 Is there anything else inside that zipper
25 pocket?

1 A I have a pack of Newport cigarettes that has not been
2 opened. Another pay stub from Bob Bennett in Kenneth
3 Lynch's name, dated 2-24-06. Another pay stub from Bob
4 Bennett to Kenneth Lynch, dated 4-28-06.

5 There's a deposit slip dated 4-10-06 for
6 Wachovia Bank of \$106. Another pay stub for Kenneth Lynch
7 from Bob Bennett Ford dated 4/21/06. I have a business
8 card from Billy K. Keefe -- Keefe, K-E-E-F-E -- Bob
9 Bennett.

10 I have one blue checkbook -- it's a savings
11 deposit book. It's not a checkbook, it's just deposit
12 slips and a savings account from Wachovia Bank.

13 Q Is that a starter set or does it have a name on it?

14 A It's a starter set. There is no name printed on
15 these checks.

16 I have another bank starter checks in Wachovia,
17 and it has a receipt, Wachovia Bank at Dutch Square in
18 Columbia, dated 5-19-06.

19 Q Anything else in that pocket?

20 A I have another lighter, a tab off of an envelope, and
21 three more pennies.

22 Q Would you please return all those items to that
23 pocket.

24 THE WITNESS: Your Honor, may I stand up while
25 I'm doing this?

1 THE COURT: Sure, you can.

2 THE WITNESS: Thank you.

3 There's another zipper section at the top, opens
4 to a little portfolio. It's divided by two dividers
5 making it three individual pockets.

6 There's a hair brush, men's cologne, Chapstick,
7 six pennies, another Family Dollar store receipt that is
8 dated 12-4-05. I have a letter from Wachovia Bank,
9 consolidated statement. It's dated 5-5-06 through 6-5-06.

10 THE COURT: Is there anything out of that
11 particular pocket that's not cumulative to the other
12 various and sundry receipts that are necessary to
13 introduce that we can't place back in there that cannot be
14 identified with specificity as to their noncumulative
15 affect?

16 MR. GRAHAM: I mean, there's just -- there's
17 other paperwork from a BB&T account that's from October of
18 '05, which would be separate. There's another Wachovia
19 statement. I don't know the date on it.

20 He has a silver certificate in the amount of one
21 dollar.

22 There's some Public Storage receipts that are in
23 his name from May and March of '06. There's a part of a
24 rental agreement, page 2 of 2 and 3 of 3, from Public
25 Storage that's blank.

1 Some January 1st, 2006, cutouts from a
2 newspaper. An opening packet from Wachovia Bank.

3 There appears to be Mr. Lynch's mother's, from
4 her -- obituary from her funeral service.

5 There's nothing else in that pocket I don't
6 believe.

7 THE WITNESS: No, sir. The center pocket is --
8 has one penny in it. And this is in the third pocket,
9 it's from Public Storage. And that's the contents of that
10 zipped-up pocket.

11 BY MR. GRAHAM:

12 Q We have one more pocket to go, Investigator Bramlett?

13 A Yes.

14 Q What, if anything, is in there?

15 A In this pocket we have seven, what appears to be CDs.
16 Here is photos and a letter from JoAnn Lynch, that's --
17 that's from Donna McBride addressed to a JoAnn Lynch.
18 There's two more CDs.

19 We have a Chevrolet box that the watch would
20 have gone into.

21 This is a plastic bag with nothing but napkins
22 and a pay stub, and that, I believe, was from Subway. A
23 pay stub in the name of Kenneth Lynch from Bob Bennett
24 Ford dated 2-17-06.

25 Another bottle of cologne. A lollypop. A

1 Wachovia Bank withdrawal slip.

2 A gray metal tube that's empty. And a torn
3 white plastic bag full of pennies, nickels and dimes. I
4 believe we counted it. It was about \$7 and some odd cents
5 in change.

6 Q Anything else inside that bag that we haven't
7 discussed?

8 A No, sir.

9 Q If you'll return all those items to that bag.

10 MR. GRAHAM: Your Honor, I think that concludes
11 the contents of the leather bag, and now the State would
12 move the contents of the leather bag into evidence. And
13 that's on State's No. 20.

14 MR. McGUIRE: Judge, I don't have any objection
15 to the contents of the bag, the ones that we just saw.

16 THE COURT: All right. The bag and the contents
17 of the bag will be allowed into evidence.

18 (WHEREUPON, STATE'S Exhibit No. 20A AND 20B
19 were previously marked for identification and
20 received into evidence.)

21 BY MR. GRAHAM:

22 Q Let me show you State's Exhibit No. 85. That is the
23 Family Dollar receipt from June 13 of 2006. Do you
24 recognize that as we previously discussed?

25 A Yes, sir.

1 Q Let me ask if this fairly and accurately represents
2 your testimony regarding that receipt. June 13th, 2006,
3 Family Dollar store 05311, receipt for mouthwash, T-shirt,
4 Barbasol, razor, hair pom, 12:43 p.m. found in Lynch's
5 bag.

6 A Yes, sir.

7 MR. GRAHAM: Your Honor, we would add that to
8 our board.

9 THE COURT: Go right ahead and add it.

10 BY MR. GRAHAM:

11 Q Investigator Bramlett, in addition to being involved
12 with the search warrant of the bag, did you also
13 participate in obtaining what are known as major case
14 prints as a result of a Schmerber hearing that we had in
15 front of His Honor back in January of this year?

16 A Yes, I did.

17 Q And do you have those with you as well?

18 A I do.

19 Q Now, describe what we're looking at here,
20 Investigator Bramlett.

21 A When you do major case prints, you take a series of
22 prints from the hand. And what I have done was I've
23 identified each page.

24 And normally what you do is you ink the hand and
25 then you put the hand flat down on the piece of paper so

1 that you get the palm as well as the individual fingers.
2 And then we take and try to hold the fingers up and then
3 just take one of the palm area. And then you take one of
4 the finger areas. And then you take one with the fingers
5 down where you get the fingertips, and then you take one
6 of the blade of the hand, and I did that for the right and
7 for the left hand.

8 Q All right. So let's go through it hand by hand. Let
9 me show you a piece of paper. That one says right-hand
10 print. Do you recognize that?

11 A Yes.

12 Q And what, if anything, did you write on there to
13 indicate that you took that and when you took it?

14 A What I do when I -- when I take major case prints, I
15 put the date on there, I put my name and sign it as the
16 person taking the prints. I have the suspect's name,
17 which was Kenneth Andrew Lynch. His date of birth, his
18 Social Security number, and I have him sign each one of
19 the pages indicating that these prints belong to him, and
20 it just says right-hand print.

21 Q So that is his right-hand print. You had him sign
22 there or you sign there?

23 A Yes.

24 Q And that's the print that you took from him on
25 January 18th of 2011?

1 A Yes.

2 Now, also on the pages is going to be the SLED
3 number, the case number, the item number, and initials of
4 somebody at SLED.

5 Q Let me show you a second piece of paper related --
6 it's going to have all the same information, the same
7 signatures. This one is for the right fingerprints. Was
8 that also obtained on January 18, 2011, by you from
9 Mr. Lynch's right hand?

10 A Yes, they are. And you can see for the thumb print,
11 because of the angle that it was, it rolled; it didn't get
12 a full print, so I put another one on top of it, in front
13 of it.

14 Q Let me show you another one. It says, "right edge
15 hand print." Do you recognize that one?

16 A Yes. That's going to be the blade of the hand, the
17 blade being the side.

18 Q And, again, that has your signature and Mr. Lynch's
19 signature?

20 A It does.

21 Q And you took that from his right hand on
22 January 18th, 2011?

23 A Yes.

24 Q Let me show you another piece of paper that's labeled
25 "right fingertip front." Do you recognize that?

1 A I do.

2 Q And is that, in fact, the right fingertip prints of
3 Mr. Lynch that you took on January 18, 2011?

4 A They are. My signature and his signature on them as
5 well.

6 Q Let me show you another one that's labeled right palm
7 print and ask if you recognize that one.

8 A Yes, that's the palm print.

9 Q Again, your signature and his signature?

10 A They are.

11 Q Obtained at the same time as the others?

12 A Yes.

13 Q And that's everything for the right hand of
14 Mr. Lynch?

15 A Yes.

16 Q Let me show you another stack of paper and ask if you
17 recognize those.

18 A This first one is of the left hand. Again, it's
19 dated 1-18-11. The same information on -- that I typed on
20 for the left hand, my name, my signature, his name, date
21 of birth, Social Security number, his signature, and it
22 says, "left hand print."

23 This one has my signature and his signature, it
24 says, "left fingerprint tips." It says, "left edge hand
25 print" for my signature and his both. This is left

1 fingerprints.

2 Again, I did the four fingers and the thumb was
3 fingerprinted twice. I had my signature and his signature
4 on it. And, then, it says, "left palm," my signature and
5 Mr. Lynch's signature on that as well.

6 Q And these ten pieces of paper, the various aspects of
7 Mr. Lynch's hands, these are prints that you took directly
8 from Mr. Lynch, and I'm talking about the defendant in
9 this courtroom?

10 A Yes, sir.

11 Q And they are materially and substantially in the same
12 condition as when you collected them from Mr. Lynch?

13 A Yes, they are.

14 MR. GRAHAM: Your Honor, the State would offer
15 these ten prints into evidence at this time.

16 MR. MCGUIRE: No objection to the prints, Your
17 Honor.

18 THE COURT: The prints will be accepted as a
19 singular exhibit. Ten pages?

20 MR. GRAHAM: Ten pages, Your Honor.

21 THE COURT: That will be State's 106.

22 (WHEREUPON, STATE'S Exhibit No. 106 was marked
23 for identification and received into evidence.)

24 BY MR. GRAHAM:

25 Q Investigator Bramlett, in addition to taking the case

1 prints from Mr. Lynch that day, did you also collect a DNA
2 sample?

3 A I did.

4 Q Also pursuant to the Judge's court order?

5 A Yes, I did.

6 Q And do you have that with you as well?

7 A I don't know if I have them in this batch. I would
8 have to retrieve those from the evidence room. I wasn't
9 ready for that at this time.

10 MR. GRAHAM: Your Honor, if we could take a --
11 however, he needs to retrieve another piece of evidence
12 that's locked up.

13 THE COURT: All right. It's back at --

14 MR. GRAHAM: He has it under lock and key across
15 the hall, Your Honor.

16 THE COURT: Okay. We'll take a brief break and
17 let him retrieve that.

18 While he's retrieving that, on the record --

19 MR. GRAHAM: Yes, sir?

20 THE COURT: -- my law clerk's informed me that
21 there's perhaps need of a recess tomorrow afternoon for a
22 short time, for the afternoon?

23 MR. McGUIRE: Yes, Your Honor.

24 THE COURT: Okay. I was just doing some
25 nonrelevant planning.

1 For planning purposes, if we go until about
2 1 o'clock to our normal lunch break and then give you the
3 afternoon; 12:30, 1 o'clock, is that about appropriate or
4 do you need more time than that?

5 MR. MCGUIRE: One o'clock would be fine.

6 THE COURT: All right. That's what we'll plan
7 on tomorrow is doing our normal 9 o'clock to 1 o'clock,
8 wherever we find a stopping point, and then we'll break
9 for the evening and allow you an opportunity, and that was
10 for the reasons outlined in your pretrial motion.

11 MR. MCGUIRE: Yes, sir.

12 (Break taken.)

13 THE COURT: Okay. Back on the record.

14 BY MR. GRAHAM:

15 Q Investigator Bramlett, in addition to taking the case
16 prints for Mr. Lynch that day, did you also take a DNA
17 sample?

18 A Yes, I did.

19 Q And what process did you use to collect that?

20 A First of all, I put on a pair of gloves and a mask so
21 that I would not breathe onto the swabs, to put my DNA on
22 them.

23 Once I was secured, I had two individual boxes,
24 and I asked -- explained to Mr. Lynch what the procedure
25 was going to be. He opened his mouth, I swabbed his right

1 cheek, let it air dry for a few minutes, I put it inside a
2 square box for the swab, took red evidence tape and
3 secured both ends of it. And I repeated that procedure
4 for the left side, swabbed it, let it air dry, put it in
5 the box and sealed it with red tape.

6 Q Prior to actually collecting the sample -- those
7 are -- they're like Q-tips, but you don't just get them
8 out of a box; they're sterile when you open them; is that
9 right?

10 A Yes, sir. There's two in a sterile package.

11 Q Okay. And both of these were sterile when you opened
12 them?

13 A I opened the package myself in front of Mr. Lynch so
14 he would see me open it. I took one swab out, conducted
15 the DNA swab, air dried it, secured it, and then I took
16 the second one out and repeated that procedure.

17 Q And do you have those in front of you?

18 A This is -- this is how I picked it up from SLED.
19 It's in their sealed pouch with the date and it's secured
20 inside.

21 Q All right. Once you collected the swabs from the
22 right and left cheek of Mr. Lynch and you put them in a
23 box, you said that you taped the box?

24 A I put, as you'll see here, it's a red evidence tape.
25 It's tamper proof so that if once you put it in the box,

1 if you try to open the box up, this tape will tear easily.
2 So once I secured the swabs in each box, then I put it
3 inside the bag and I secured the bag with tape to seal it
4 up and then document on the front.

5 Q All right. So you take those two boxes, you secure
6 each one individually with evidence tape and you initial
7 across it?

8 A Yes.

9 Q The purpose of that is to make sure nobody tampers
10 with it, or if they do, it's obvious that somebody did?

11 A Correct.

12 Q You take both of those boxes and you put them inside
13 a brown paper bag?

14 A Yes.

15 Q Okay. You were referring to a plastic bag. Is there
16 something inside the plastic bag in your hands?

17 A Well, the swabs are inside the paper bag, and when
18 this goes to SLED and log-in, they will take and put it in
19 a plastic bag, seal it up, and then whoever submits it has
20 to sign it, date it, put their initials and date across
21 the top indicating that the bag was sealed.

22 Q Okay. The bag, the brown paper bag that's inside the
23 plastic bag that you're holding, do you recognize that
24 brown paper bag?

25 A Yes.

1 Q And what bag is that?

2 A That's the evidence bag that I put the two swabs in
3 and sealed it myself.

4 Q Okay. So when it left your possession, two
5 individual boxes sealed with security tape for reasons --

6 A Yes.

7 Q -- put inside a brown paper bag that's sealed with
8 security tape as well?

9 A Correct.

10 Q And you recognize that bag as being the bag that you
11 sealed those in?

12 A It is.

13 Q Okay. Once it left your hands, what did you do with
14 it?

15 A It stayed in the evidence room until
16 Investigator Sullivan, who was the other evidence
17 custodian, transported it out to SLED to be logged in.

18 Q Now, would he have had any reason to go inside that
19 bag?

20 A No.

21 Q The brown paper bag?

22 A No, not at all.

23 Q So you collected it, put it into evidence, and then
24 Investigator Sullivan took it out to SLED and logged it in
25 out there?

1 A Correct.

2 Q The plastic bag that contains the brown bag, do you
3 recognize that?

4 A Yes. It's a standard bag that they have at log-in.

5 When we bring an item out that's not in a
6 package other than what we bring it in, the paper bag,
7 they put it in a plastic bag, and then they heat seal it
8 across the top, closing it up, securing it. They give it
9 back to the individual that brought it in. He has to put
10 his name on it as the sealing official, put the date, the
11 agency, and then the case number, and he has to verify
12 that this is a seal. And by doing so, once he verifies
13 it, he puts his initials and puts the date that it's done.

14 Q Do you recognize the handwriting of the -- of
15 Investigator Sullivan on that package?

16 A Yes.

17 Q And the part where you're talking about it being
18 sealed, do you recognize his initials?

19 A Yes.

20 MR. GRAHAM: Your Honor, the State would offer
21 that at this time for ID, subject to us establishing the
22 rest of the chain through the analyst, at which time we
23 would offer it into evidence.

24 MR. McGUIRE: No objection for ID.

25 THE COURT: It will be marked as State's Exhibit

1 No. 107 for identification purposes only.

2 (WHEREUPON, STATE'S Exhibit No. 107 was marked
3 for identification only.)

4 MR. GRAHAM: Your Honor, that's all the
5 questions the State would have for Investigator Bramlett
6 on direct.

7 THE COURT: How long are you going to be, Mr.
8 McGuire?

9 MR. McGUIRE: I'm happy to -- I mean, he's here
10 with us apparently all the time. I'm happy to start up
11 with him in the morning.

12 MR. HUBBARD: Your Honor, we do have one short
13 witness if Your Honor would entertain that if they want to
14 reserve their cross on this witness.

15 MR. McGUIRE: I don't have any objection to
16 that.

17 THE COURT: All right. Let's take your short
18 witness and cross is allowed tomorrow morning first thing
19 on Detective Bramlett.

20 Sorry, Detective.

21 MR. McGUIRE: Thank you.

22 MR. HUBBARD: The State calls John Moseley.

23 JOHN MOSELEY, after being duly sworn, testified
24 as follows:

25 THE CLERK: Have a seat, please, sir.

1 Once you're seated, speak up loud and clear,
2 stating your full name, spelling your last, please.

3 THE WITNESS: My name is John Moseley,
4 M-O-S-E-L-E-Y.

5 DIRECT EXAMINATION

6 BY MR. HUBBARD:

7 Q Mr. Moseley, where do you work?

8 A Moseley's Diamond Showcase.

9 Q Is that a family store?

10 A Family retail. We sell jewelry.

11 Q Who started that?

12 A My father.

13 Q And how long has that family business been in
14 existence?

15 A Thirty-seven years.

16 Q How long have you worked there?

17 A About 14 years.

18 Q Now, Mr. Moseley, is your office, your store, the one
19 on 378?

20 A Yes, sir.

21 Q Just right down the road?

22 A Right down the road.

23 Q As part of your business, do you do appraisal on
24 jewelry?

25 A All the time.

1 Q All the time?

2 A Uh-huh.

3 Q How many years have you been doing appraisals?

4 A Since I've worked there.

5 Q Fourteen years?

6 A Yes, sir.

7 Q All right. With the economy the way it's been, has
8 your business gone up as far as when you're called to do
9 appraisals?

10 A Yes, it sure has.

11 MR. HUBBARD: Your Honor, I'd move to offer him
12 as an expert in jewelry appraisals under 702.

13 MR. STITELY: I don't think we object to that,
14 with him as an expert in jewelry appraisals.

15 THE COURT: All right. He'll be stipulated as
16 to an expert in the field of evaluating the value of used
17 jewelry?

18 MR. HUBBARD: Yes, sir, Your Honor.

19 THE COURT: Very well.

20 BY MR. HUBBARD:

21 Q Mr. Moseley, I want to show you a number of items and
22 see if you recognize these as items we have shown you
23 before.

24 One is State's Exhibit 94. Do you recognize
25 that item?

1 A Yes, sir.

2 Q And what is that?

3 A It's a -- what appears to be a class ring. It's
4 Nationwide, actually, a ring that you would get for
5 working for Nationwide or something to that effect.

6 Q All right. And what caret gold is that?

7 A It's ten-caret gold. It's got a few small diamonds
8 in the top and what appears to be a ruby in the center.

9 Q Let me ask you, if I were to walk in today with this
10 ring and put it on your counter, what would you value it
11 at or what would you give me for that ring?

12 A You'd probably get about \$120, \$150, depending on the
13 weight. It all depends on the weight.

14 Q What about in 2006? Gold's gone up a lot since 2006.

15 A Yeah, gold was probably 700, so you're looking maybe
16 \$45, \$55.

17 Q Okay.

18 A Max.

19 Q Max.

20 All right. State's Exhibit 95. I'll show you
21 an item and see if you recognize that.

22 A Yeah. It's a -- just a replica Rolex.

23 Q So it's not a real Rolex?

24 A No, it's fake.

25 Q If I were to come in and put this on your counter,

1 what you offer me for that watch?

2 A I'd ask you to take it home and throw it away,
3 whatever you want to do with it. It's not worth anything.

4 Q All right. No. 96, State's Exhibit 96. I'm going to
5 show you and see if you recognize this, what appears to be
6 a gold chain.

7 A That's a -- it's a -- just a fake chain. There's no
8 stamps on it. There's -- it's base metal. It looks
9 yellow, but it's not real.

10 Q It's not real gold?

11 A Unh-unh.

12 Q If I were to come in with State's Exhibit 96 and ask
13 you what you would give me for it, what would you give me?

14 A Nothing.

15 Q No. 97, State's Exhibit 97, see if you recognize
16 this.

17 A It's just a watch that's base metal. There's no
18 value to it.

19 Q Okay. So you wouldn't offer me anything for that if
20 I were to come in your store?

21 A No.

22 Q And finally State's 98. Do you recognize this?

23 A Yeah, a Chevrolet watch. It's -- again, it's just a
24 base metal watch. There's no value.

25 Q Okay. So the only thing of value out of State's 94

1 through 98 was the ring?

2 A Uh-huh.

3 Q And you would -- back then, it'd probably be, how
4 much, \$45, \$50, did you say?

5 A Yeah. At the max, yeah.

6 MR. HUBBARD: That's all I have, Mr. Moseley.
7 Thank you so much.

8 Please answer any questions the defense has.

9 MR. STITELY: Thanks for coming, Mr. Moseley. I
10 have no questions.

11 MR. HUBBARD: I ask that he be excused, Your
12 Honor.

13 THE COURT: Thank you, Mr. Moseley.

14 THE WITNESS: Thank you.

15 THE COURT: All right. That will be it for
16 today. See you-all at 9, about the same starting time.
17 I'll be here about 9, a little before. We'll start as
18 promptly after 9 as we can.

19 MR. MCGUIRE: Yes, sir.

20 THE COURT: Thank you.

21 MR. HUBBARD: Thank you, Judge.

22 (The proceedings were concluded for the day to
23 be reconvened on April 24, 2012.)

24 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

25 VOLUME 6 OF 10

1 THE COURT: Good morning, everyone.

2 I was made aware of the Exhibit 4 letter. Have
3 we found that letter or are we going to substitute a copy?
4 Are y'all aware of that?

5 The court reporter made me aware, she was
6 inventorying everything.

7 Is it Defense Exhibit 4?

8 MR. MCGUIRE: I believe so. It's the -- it's
9 the letter from the school to Ms. Washington regarding the
10 fact that Miss Livingston may have been held back.

11 THE COURT: The assistant superintendent
12 testified along the line of "When I was the principal, I
13 sent letters like this. It was kind of the beginning of
14 second semester into the third nine weeks, be aware so
15 there is no surprise at the end of the school year, the
16 child may be held -- the child's held back."

17 So if we can find a copy of that letter, we'll
18 substitute it in.

19 Any problem with that with the State?

20 MR. MYERS: No, sir.

21 THE COURT: All right. You-all may have it, I
22 don't know. I mean, you-all look through your stuff and
23 see if y'all may -- somebody may have inadvertently picked
24 it up with all the other exhibits from yesterday.

25 Nevertheless, if we don't find it by the end of

1 today, we'll substitute a copy in for that because I
2 don't -- seems it was a copy anyway. So I don't find any
3 error in that.

4 All right. Are we ready to continue the
5 testimony of Officer Bramlett?

6 MR. MYERS: State's ready, Your Honor.

7 THE COURT: All right.

8 MR. MCGUIRE: Defense is ready.

9 THE COURT: Officer Bramlett, please retake the
10 stand.

11 MR. GRAHAM: Your Honor, Court's Exhibit No. 33
12 is a copy of the January 19th, 2007, search warrant, and
13 we have a certified true copy. If it's all right, we'd
14 just like to exchange this out for the Court's 33.

15 THE COURT: We'll do that. Let's do that before
16 he starts testifying.

17 (WHEREUPON, The Court's Exhibit No. 33 was
18 re-marked for purposes of the record.)

19 THE CLERK: Still under oath, Your Honor?

20 THE COURT: Yes. Officer Bramlett, you're still
21 under oath.

22 THE WITNESS: Yes, sir, Your Honor.

23 CHARLES D. BRAMLETT, JR., having been previously
24 duly sworn, testified as follows:

25 THE COURT: Okay. Mr. McGuire.

1 MR. MCGUIRE: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MCGUIRE:

4 Q Officer Bramlett, I'm going to hand you an envelope
5 and it has a letter with it and some photographs. Just
6 tell me if you recognize that.

7 Is that the same envelope, letter, and pictures
8 that came out of the leather bag during your testimony
9 yesterday?

10 A Yes, sir, this was in the bag.

11 Q Okay.

12 MR. MCGUIRE: Judge, since I might be referring
13 to this specifically in the future, I'm going to go ahead
14 and have it -- and this is just the contents in general of
15 the bag. I'm going to go ahead and mark it as a packet
16 one exhibit, defense exhibit.

17 THE COURT: Very well.

18 MR. MCGUIRE: It's already in evidence.

19 THE COURT: All right. We'll make it a subpart
20 then. Because all of the contents were admitted under
21 Exhibit 19 or 20, depending on which bag it is. What if
22 we mark the contents in a packet as whichever bag number,
23 subpart B, the bags themselves would be A.

24 Carol, is that easy to accomplish for your
25 records?

1 THE COURT REPORTER: Yes, sir.

2 THE COURT: So the contents, whatever you're
3 containing off in an envelope, will be subpart B.

4 MR. MCGUIRE: Yes, sir.

5 THE COURT: They're already in, that's just how
6 we'll identify them.

7 (Discussion held off the record.)

8 MR. MCGUIRE: Mark it State's 20B.

9 THE COURT: I don't see that being any
10 prejudice, though, because the State introduced all of it.
11 So we'll mark it State's Exhibit 20, A is the bag and B is
12 the contents that you're now segregating.

13 They're all in. This is for identification
14 purposes and convenience hopefully.

15 That was my mistake for not catching that.

16 (WHEREUPON, STATE'S Exhibits NOS. 20A-20B were
17 marked for identification and received into
18 evidence.)

19 BY MR. MCGUIRE:

20 Q Officer, I'm going to hand you what's been marked
21 State's Exhibit 20B, which I believe is the envelope,
22 letter, and photographs that came out of the leather bag
23 during your testimony yesterday; is that right?

24 A Yes, sir.

25 Q If you could, read the letter. I'll help you with

1 the handwriting if you have some difficulty.

2 A It says, "Hi, mom. How are you doing and
3 everybody -- how are you and everybody getting along?
4 Fine. At least that's the way I think. Sorry about
5 taking so long in writing, but we have been working hard
6 over here at all kinds of hours. Will you send -- send
7 them pictures up here soon because I found the man that
8 can paint pictures like that real" --

9 Q Fast.

10 A "Like -- like that real fast, and then I could send
11 them back to you and keep the little ones.

12 "And oh, yeah. I got a -- I got a letter that
13 says you haven't had another job. Do you like the new
14 one? Is Keith still running track? What about Larry?"

15 I believe that's Larry.

16 "What about Larry? Is he playing football this
17 year? I heard that Pumpkin is on a bowling team. What
18 did Daddy do with his -- with his bike? Is he still
19 riding?

20 "Tell Larry I'm playing football with the
21 company. I am in -- we are -- looks like 11 and -- 11 and
22 4. In the playoffs, we were 2 and 3.

23 "I am sending you some pictures. When you look
24 at them, somebody let Donna see, okay?

25 "Your son, Kenneth."

1 Q That was the letter that was in this envelope?

2 A Yes.

3 Q If you would just go ahead and put it back in there.

4 Officer Bramlett, the only other question I've
5 got for you is -- I'll show you what's going to be marked
6 as a Defense ID exhibit.

7 (WHEREUPON, Defense Exhibit No. 10 was marked
8 for identification only.)

9 BY MR. MCGUIRE:

10 Q Officer Bramlett, I want to hand you what's been
11 marked Defense Exhibit 10 for ID purposes only. Do you
12 recognize that?

13 A Yes, sir. This is a SLED evidence release form.

14 When we go out to SLED to pick up evidence, this
15 is identified as the container, what items are inside that
16 container. And then at the bottom, it has the signature,
17 who it's released to and who releases it.

18 Q And you actually signed that as the person receiving
19 those items?

20 A Yes.

21 Q From SLED?

22 A Yes.

23 Q I've got a question about the notation regarding a
24 crescent wrench. Do you see that?

25 A I do.

1 Q I'm having difficulty determining where this crescent
2 wrench came from. Can you help me there?

3 A I believe this crescent wrench would have been taken
4 during the original search warrant of the apartment.

5 Q But you don't know that?

6 A We would have to go back and look at it. But I don't
7 think that's come into play yet.

8 Q But you're the -- okay. I tell you what. If that
9 issue comes up, I'll just recall you.

10 But offhand, you don't remember exactly where
11 that comes from?

12 A I don't know who wrote that at the top either.

13 MR. MCGUIRE: Thank you.

14 Tell you what, we'll just recall you if that
15 issue comes up again.

16 That's all I've got for you, sir. Thank you.

17 THE COURT: Redirect.

18 MR. GRAHAM: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. GRAHAM:

21 Q Exhibit 20B, that was the envelope containing the
22 letter --

23 A Yes.

24 Q -- that Mr. McGuire had you read. Do you recognize
25 that?

1 A Yes.

2 Q Who is that envelope made out to?

3 A It's addressed to Joanne Lynch.

4 Q And are you able to tell -- I don't know. Can you
5 tell the date that that letter was mailed?

6 A It's post stamped August 11th of '05, it appears.

7 Q August 11th of '05?

8 A Yes, sir.

9 MR. GRAHAM: Thank you, Investigator Bramlett.

10 MR. MCGUIRE: Nothing further, Judge.

11 THE COURT: You may step down.

12 MR. GRAHAM: The State would call Walter Stover
13 to the stand.

14 WALTER STOVER, after being duly sworn, testified
15 as follows:

16 THE CLERK: Have a seat right up here, please,
17 sir.

18 Once you're seated, state your full name,
19 spelling your last for the record, please.

20 THE WITNESS: Walter A. Stover, S-T-O-V-E-R.

21 DIRECT EXAMINATION

22 BY MR. GRAHAM:

23 Q Mr. Stover, where are you employed, sir?

24 A Classic Ford Lincoln of Columbia.

25 Q And what do you do there?

1 A Shop foreman.

2 Q Shop foreman?

3 A Yes, sir.

4 Q Back on March 8th of this year, did Investigator
5 James Sullivan with the West Columbia Police Department
6 come out at Classic Ford and meet with you?

7 A Yes, sir.

8 Q And what was his purpose of coming out there?

9 A He wanted to know if we were able to cut a key from
10 the VIN number on the car.

11 Q And we're talking about Portia's car?

12 A Yes, sir.

13 Q And you worked -- you worked with Portia? You knew
14 her?

15 A Yes, sir.

16 Q Okay. Were you able to cut a key?

17 A Yes, sir.

18 What we do is, Ford has a system that we can
19 actually enter the VIN into it electronically, and they
20 send us back a key code that's a three- to four-digit
21 code. We put it in the machine, we put a blank key in
22 there, and it cuts the key to the -- to that code.

23 Q Let me show you a key that's got a piece of paper and
24 it's in a plastic envelope and ask if you recognize that.

25 A Yes, sir.

1 Q And is that the key you cut?

2 A Yes, sir.

3 Q The paper that's with it, is that the paper that you
4 used to get Ms. Portia's VIN number?

5 A Yes, sir. We pulled that out of our records where
6 she had had work done on the car before.

7 Q And that's the key that's related to Ms. Portia's
8 car, the Ford Focus?

9 A Yes. Yes, sir.

10 MR. GRAHAM: Your Honor, the State would offer
11 that piece of paper and the key into evidence at this
12 time.

13 MR. MCGUIRE: No objection, Your Honor.

14 THE COURT: Without objection it would be
15 State's No. 108, I believe.

16 (WHEREUPON, STATE'S Exhibit No. 108 was marked
17 for identification and received into evidence.)

18 BY MR. GRAHAM:

19 Q What was the VIN number that you used to have that
20 key cut?

21 A The VIN number we got off our computer in her records
22 was 1 Frank Apple Frank Paul 34 Nelson 25 William 228072.

23 Q Now, is there any difference between that key and a
24 key that would actually have started that Ford Focus?

25 A Yes. Being we were just cutting a key for the key

1 code itself, we did not use what they call a passkey,
2 which is a pass -- passive anti-theft system. It does not
3 have a computer chip in it.

4 Q So it would work the door locks, work the trunk, and
5 actually work the ignition, but the car wouldn't start?

6 A Yes, sir. It disables either the starter or the fuel
7 system, depending on what pass it has on it.

8 Q Did Investigator Sullivan bring some other keys out
9 for you to look at at the same time?

10 A He did bring out another key, yes, sir.

11 Q Let me show you -- did he bring you a key or a key
12 ring?

13 A I don't remember if it was a key ring or not, but it
14 was a key that he wanted me to look at and compare the key
15 to.

16 Q Okay. So he brought a key to you and were you able
17 to visually compare that with the key that you cut?

18 A Yes, sir.

19 Q And what did you determine?

20 A They were the same one. You could see where it had
21 been used on a car, but other than that, they were pretty
22 much, from what I've seen on keys, it was a match.

23 MR. GRAHAM: Thank you, Mr. Stover. That's all
24 the questions the State has for you.

25 CROSS-EXAMINATION

1 BY MR. STITELY:

2 Q Hey, how are you today?

3 A Doing fine, sir.

4 Q I guess just looking at it, we can -- we can tell the
5 difference, the one is big and the other one is little?

6 A No, sir. We go by the key cut, the actual -- oh, as
7 far as the --

8 Q The pass thing.

9 A Yes, sir. The actual computer chip is actually --
10 you can see where it's embedded in the key on the back
11 side there.

12 Q Okay. And I have had to get new keys for my cars
13 before, too, and you can go to the dealer with the VIN and
14 get a copy made?

15 A If you show proof of registration, yes, sir.

16 Q Is there any way to guarantee that this is the first
17 time a key has ever been copied on this vehicle?

18 A No, sir.

19 MR. STITELY: No other questions. Thank you,
20 sir.

21 REDIRECT EXAMINATION

22 BY MR. GRAHAM:

23 Q Mr. Stover, did you say that only the registered
24 owner can get a key cut?

25 A We do make them show proof of registration before we

1 have a key cut, yes, sir.

2 MR. GRAHAM: Thank you. That's all.

3 THE COURT: You may step down.

4 THE WITNESS: Thank you, sir.

5 MR. GRAHAM: The State would call Investigator
6 James Sullivan to the stand.

7 JAMES SULLIVAN, after being duly sworn,
8 testified as follows:

9 THE CLERK: Have a seat, please, sir.

10 Once you're seated, speak up loud and clear.
11 State your full name, spelling your last for the record.

12 THE WITNESS: My name is James Patrick Sullivan,
13 S-U-L-L-I-V-A-N.

14 DIRECT EXAMINATION

15 BY MR. GRAHAM:

16 Q Investigator Sullivan, where are you employed, sir?

17 A City of West Columbia Police Department.

18 Q And what do you do there?

19 A I'm a crime scene investigator and evidence
20 custodian.

21 Q All right. So as a crime scene investigator, what do
22 you do?

23 A I respond to and process crime scenes.

24 Q And what does that mean?

25 A I respond to break-ins or whatever calls for service

1 there is. I take photographs, I collect evidence, I dust
2 for prints, I take swabs for DNA. A myriad of things,
3 sir.

4 Q How about as an evidence custodian, what do you do
5 there?

6 A I take in evidence into the room, log it in, prep it
7 for further processing at SLED, take it out to SLED, bring
8 it back from SLED. Pretty much establish and maintain
9 chain of custody.

10 Q And in relating to this case, did you do some crime
11 scene work as far as the keys that were involved for both
12 the Ford Focus and with the apartment and the mailbox
13 keys?

14 A Yes, sir, I did.

15 Q Specifically, let's start with the car keys.

16 On March the 8th, did you meet with Walter
17 Stover at Classic Ford?

18 A Yes, sir, I did.

19 Q And did he cut you a key based on the VIN number of
20 Ms. Portia Washington's Ford Focus?

21 A Yes, sir, he did.

22 Q Let me show you State's 108 and ask if you recognize
23 that key.

24 A Yes, sir.

25 Q And that's the key that Mr. Stover cut that was based

1 on Ms. Washington's VIN number?

2 A Yes, sir, it is.

3 Q And it's my understanding that it wouldn't start the
4 car but that it would work the locks and the ignition; is
5 that your understanding as well?

6 A Yes, sir, that's what was explained to me.

7 Q Okay. Did you also take some other keys and compare
8 it and prepare some exhibits to that -- to that VIN-cut
9 key?

10 A Yes, sir.

11 Q Let me show you State's Exhibit No. 5. This is a key
12 that Ms. Sallie Jones testified that Portia Washington had
13 given her. Do you recognize that key?

14 A Yes, sir, I do.

15 Q And is that one of the keys that you compared with
16 the VIN-cut key, State's 108?

17 A Yes, sir, I did.

18 Q And then let me show you another set of keys. This
19 is going to be State's No. 24. This came out of
20 Mr. Lynch's leather bag. Do you recognize that?

21 A Yes, sir, I do.

22 Q And is that also another key that you compared?

23 A Yes, we did a comparison on this one as well. Yes,
24 sir.

25 Q Let me show you an envelope and ask if you recognize

1 that envelope and its contents.

2 A Yes, sir, I do.

3 Q And what does that envelope contain?

4 A It contains photographs and overlays for the keys
5 that you just showed me, sir. And it shows the comparison
6 of the keys.

7 Q When you say photographs and overlays, can you tell
8 me what you did?

9 A Yes, sir. The photographs were taken to the
10 Lexington County crime scene lab, and what we did was we
11 took scale photographs of them. We then imported them
12 into Photoshop, and using the different photographs, we
13 scaled them into Photoshop, created a overlay, printed
14 them out so we could have a photograph and an overlay of a
15 different key on top of it to show a comparison whether
16 the key cuts were the same.

17 Q When you say scale photo, what does that mean?

18 A That means that we wanted to make sure that -- when
19 we photographed the keys, there's a scale placed on top of
20 them, usually in millimeters, just to show that the
21 length, you know, the length of key, the cuts and
22 everything. So the photograph is depicting the actual
23 scale photograph of the key.

24 When we import that in Photoshop, we want to
25 tell the program that that's the scale that we're using so

1 the computer recognizes that's a specific distance so when
2 it prints the picture, the size is accurate.

3 Q And so you have pictures of the key that are scale
4 pictures, which means they're exactly the same size,
5 correct?

6 A Yes, sir.

7 Q Now, you talked about overlays. What did you mean by
8 that?

9 A What we did was we took --

10 MR. STITELY: Just for clarification, he keeps
11 saying we. Is he the one who actually did this or did
12 someone else do it?

13 THE COURT: Rephrase that question.

14 BY MR. GRAHAM:

15 Q Did you or did someone working with you assist you in
16 making the overlays?

17 A Yes, sir.

18 Q And what are overlays?

19 A The overlays are a blackened out copy or a shadow of
20 the key, the photograph we took. Nothing more than taking
21 the photograph, the actual color, and making it black and
22 then printing out an acetate to put over another
23 photograph.

24 Q Looking at the envelope in front of you, would you
25 pull out the photographs that you created that relate to

1 the car keys.

2 A Yes, sir.

3 Q And also, if you could pull out the overlays related
4 to those as well.

5 A Okay, sir.

6 Q You have in front of you, it looks to be four
7 photographs and an overlay. Would you explain what those
8 are?

9 A This first photograph is a photograph of the key that
10 was on, from my understanding, this key chain right here,
11 which is Ms. Washington's key. That's a -- the scale copy
12 shows the scale in the photograph and the key in the
13 background.

14 This photograph represents the second key that I
15 obtained from the family for this key right here, which is
16 the photograph of this key.

17 Q State's Exhibit No. 5 that you're referring to?

18 A From there, the scale was cropped out, and all we're
19 left with is the key, which we turn to gray scale, and
20 then we progressed it to black. Then we took this and
21 printed out an acetate so you have a clear overlay that
22 you can lay over another photograph to compare the key
23 cuts.

24 MR. GRAHAM: Your Honor, the State would offer
25 those four photographs and the overlay into evidence at

1 this time.

2 MR. STITELY: No objection.

3 THE COURT: Without objection, they'll be marked
4 as one singular exhibit, subparts if you like, State's
5 109. State's 109A through E admitted without objection.

6 (WHEREUPON, State's Exhibits No. 109A, 109B,
7 109C, 109D, 109E were marked for identification and
8 received into evidence.)

9 MR. GRAHAM: Your Honor, if I could ask
10 Investigator Sullivan to step down from the stand.

11 BY MR. GRAHAM:

12 Q So looking at State's 109A on the overhead screen,
13 again, which key are we talking about? Which key -- which
14 key is that a photograph of?

15 A That's a key from Ms. Washington's key chain.

16 Q So when we're talking about the ones that were
17 photographed, we're talking about the ignition key or the
18 car key on State's Exhibit 24?

19 A Yes, sir.

20 Q That is a scale photo?

21 A Yes, sir. It's scale. You can see the scale in the
22 photograph.

23 Q So they're the same size?

24 A Yes, sir.

25 Q State's 109B is where you begin to darken it; is that

1 correct?

2 A No. This is the establishing photograph of the key
3 that was obtained from the family.

4 Q So that would be Court's No. 5?

5 A Yes, sir.

6 Q So 109A is the key off the key ring and 109B is the
7 key that was obtained from Ms. Sallie Jones?

8 A Yes, sir.

9 Q Okay. 109C, what is that?

10 A This is where we began the darkening process. We
11 removed the scale and darken the key so all you see is the
12 key and nothing else.

13 Q 109D, what is that?

14 A This is a complete blacked out version of the key, so
15 all you see is the outline of the key and the key cuts.

16 Q And then 109E?

17 A This is the same outline printed out on acetate
18 through a copier, so it's a clear overlay.

19 Q So when I take State's No. 5, which was the key
20 obtained from Ms. Sallie Jones, and put it on that
21 overlay, what am I looking at?

22 A You're looking at a shadow image of the key.

23 Q Once you have the overlay of the key that -- that
24 Ms. Sallie Jones provided that she stated that she got
25 from her daughter, Portia, what did you do with that

1 overlay?

2 A I compared it to the key from Ms. Washington's key
3 chain.

4 Q And how did you do that?

5 A Just lay it over it. If I may.

6 Q Uh-huh. What if anything did you deserve when you --
7 observe when you put that overlay over the scale
8 photograph key of the Ford key off of the key chain?

9 A The cuts appear to be the same.

10 THE COURT: Pardon me?

11 THE WITNESS: The cuts appear to be the same,
12 sir.

13 BY MR. GRAHAM:

14 Q Do you see any areas of State's 109, which is the
15 photograph of the key off of State's 24, the key ring,
16 where it shows that the cut is different? Do you see any
17 areas of the key that shows when the overlay -- or on the
18 overlay where the cuts are different?

19 A No, sir.

20 Q Now, State's 108 was the key that you got from
21 Mr. Walter Stover at the Ford dealership?

22 A Yes, sir.

23 Q What, if anything, can you tell us about that key and
24 these two other keys?

25 A I'm going to lay out the keys and see the comparison.

1 THE COURT: I'm having real trouble hearing the
2 responses. I hear your questions, Mr. Graham, but I can't
3 hear the answer of the witness.

4 THE WITNESS: You can overlay the key and see
5 the comparison on this key as well.

6 BY MR. GRAHAM:

7 Q What, if anything, do you notice when you do that?

8 A That the key cuts appear to be the same.

9 Q Now, the two keys that we have, the one for State's
10 No. 5 and State's 24, those are keys that were used. Can
11 you see wear marks on those?

12 A Yes, sir.

13 Q Okay. And the key that we're referring to in 108 is
14 a fresh cut key?

15 A Yes, sir.

16 Q From your observations, the cuts are the same?

17 A Yes, sir.

18 Q Thank you. If you would have a seat.

19 Investigator Sullivan, in addition to comparing
20 car keys, did you also compare some other types of keys?

21 A Yes, sir, I did.

22 Q And what else -- what did you do -- what other types
23 of keys did you compare?

24 A The house keys and mail keys for the two key chains.
25 We utilized the same process.

1 Q So let me show you State's No. 24, which is one set
2 of keys, that's the one that has the Ford key on it. That
3 came out of Mr. Lynch's bag, and also State's 84. Are
4 those the two -- that also came out of Mr. Lynch's bag.
5 Are those the keys that you compared?

6 A Yes, sir, they are.

7 Q Okay. And you said you compared apartment keys, or
8 what appeared to be door lock keys?

9 A Yes, sir.

10 Q Okay. How many -- just referring to each one on
11 State's 24, how many door lock keys does that key ring
12 have?

13 A Just one, sir.

14 Q And you also talked about a mailbox key. How many
15 mailbox keys does that appear to have?

16 A Just one, sir.

17 Q Looking at State's 84, how many keys does it look
18 like, door lock keys, are on that key ring?

19 A Just one, sir.

20 Q And how about mailbox keys?

21 A Just one.

22 Q Okay. Do you have some photographs and overlays that
23 deal with the house keys?

24 A Yes, sir, I do.

25 Q Would you bring those out for me, please?

1 Investigator Sullivan, the process was the same
2 as for the car keys as for these?

3 A Yes, sir, they were.

4 Q So in front of you, you have an overlay and four
5 photographs of keys that deal with the mailbox key it
6 appears to be right here, right?

7 A Yes, sir.

8 Q And you're going to get out, I guess, the same
9 process for the mailbox key and the house keys, so you'll
10 also have four photographs and an overlay that deal with
11 the house key?

12 A On the house key, there was no gray overlay. There
13 was the two establishing photographs and then the black
14 scale. There was no gray overlay on that one.

15 Q Okay. So for the house keys, you have three
16 photographs and an overlay?

17 A Yes, sir.

18 MR. GRAHAM: Your Honor, at this time, the State
19 would offer all these photographs, which would be seven
20 photographs, three for the house key, four for the mailbox
21 key, and an overlay for each into evidence.

22 MR. MCGUIRE: No objection.

23 THE COURT: All right. This will be accepted
24 into evidence, respectively: 110 will be the mailbox key
25 and its overlays by subparts; and 111, the house key and

1 its subparts sub-numbered by letter.

2 (WHEREUPON, State's Exhibits Nos. 110A, 110B,
3 110C, 110D, 110E, 111A, 111B, 111C, 111D were marked
4 for identification and received into evidence.)

5 THE COURT: They are admitted without objection.

6 MR. GRAHAM: Your Honor, if I could again ask
7 Investigator Sullivan to step down.

8 BY MR. GRAHAM:

9 Q Let's start with 111, the apartment key. What does
10 that appear -- what is that a photograph of?

11 A This is a photograph of the apartment key on
12 Ms. Washington's key chain.

13 Q So we're talking about State's 24, the one with the
14 Ford ignition key?

15 A Yes, sir.

16 Q 111B, what is that?

17 A This is a photograph of the apartment key that was on
18 the defendant's key chain.

19 Q This would be State's Exhibit No. 84?

20 A Yes, sir.

21 Q So we have a scale -- 111A is a scale photo of the
22 apartment key off of State's 24, and 111B is a scale
23 photograph off of State's 84?

24 A Yes, sir.

25 Q All right. Let me show you 111C and ask you what

1 that is.

2 A This is the blacked out scale from this key here,
3 sir.

4 Q All right. So it's a blacked out scale of 111B,
5 which is the key off of State's 84?

6 A Yes, sir.

7 Q Okay. Once you have the blacked out scale, let me
8 show you 111D and ask you what that is.

9 A This is the same blacked out scale that's on the
10 printout in acetate for an overlay.

11 Q All right. And once you did that and you had the
12 overlay of the house key off of State's 84, what did you
13 do with it?

14 A I put it over the photograph and compared it to the
15 key cuts.

16 Q So what, if any, observations did you make when
17 you -- did you make when you compared the two house keys
18 off of those two key rings together?

19 A The cuts appeared to be the same.

20 Q When we're talking about the cuts, we're talking
21 about what look like teeth on the key; is that correct?

22 A Yes, sir.

23 Q In addition to doing the house key, did you also do
24 the mailbox key in a similar fashion?

25 A Yes, sir, I did.

1 Q Let me show you 110A and ask if you recognize that,
2 and which key does that belong to?

3 A This is the mailbox key off of the defendant's key
4 chain.

5 Q So that's a scale photograph of the mailbox key off
6 of State's 84?

7 A Yes, sir.

8 Q Let me show you 110B. What is that?

9 A This is the mailbox key from Ms. Washington's key
10 chain.

11 Q And that's going with State's No. 25 -- 24, I'm
12 sorry, State's 24?

13 A Yes, sir.

14 Q 110C, what is that?

15 A This is the gray scale of the defendant's key,
16 mailbox key.

17 Q And 110D?

18 A This is the black scale of the same key.

19 Q And 110E is the overlay. What is that an overlay
20 from, which key?

21 A This -- this is an overlay from the defendant's key.

22 Q And what, if anything, did you do to compare that to
23 the -- what appeared to be a mailbox key on State's 24?

24 A Just laid it over.

25 Q And what, if anything, did you observe when you laid

1 it over?

2 A That the key cuts appear to be the same.

3 Q Thank you, Investigator Sullivan. If you would have
4 a seat, please.

5 At some point during your investigation, did you
6 go out to Commanchee Trail to the Park Place apartments?

7 A Yes, sir, I did.

8 Q And did you meet with Gary Miller?

9 A Yes, sir, I did.

10 Q And who is Gary Miller?

11 A He is the apartment manager over there now.

12 Q And what was your purpose of going out there?

13 A The purpose was to check the house keys, or the
14 apartment keys, and the mailbox keys to see if they still
15 functioned in the locks.

16 Q And tell me what you did and what you found out.

17 A We compared -- or we tried the keys in the door locks
18 of the apartment and they did not work, and we tried the
19 keys in the locks of the mailbox key -- or the mailbox
20 lock, and they did not work. I then tried the keys in
21 every lock that was removed from any apartment and none of
22 them worked.

23 Q Let's switch gears and let me show you State's 107
24 and ask if you recognize that.

25 A Yes, sir, I do.

1 Q And what do you recognize that to be?

2 A It's a sealed bag when I dropped off a piece of
3 evidence at SLED. It's got my initials and the date at
4 the top where it's heat sealed. It's also got my name as
5 the sealing official and the date, my agency, and the case
6 number.

7 Q Are you aware of what the contents of that bag are?
8 There's a -- you're talking about the plastic bag, but the
9 bag inside, do you recognize that bag?

10 A Yes, sir, I do.

11 Q Okay. And what is that bag? We're talking about the
12 brown paper bag inside that plastic bag.

13 A They contain swabs.

14 Q Swabs of the defendant, buccal swabs of the
15 defendant?

16 A That's my understanding, yes, sir.

17 Q The ones that Investigator Bramlett collected
18 pursuant to the Schmerber order?

19 A Yes, sir. The bags say they're collected by
20 Investigator Bramlett, yes, sir.

21 Q When you came into custody of that, there was a brown
22 paper bag and there was some red security tape, the kind
23 that West Columbia uses, correct?

24 A Yes, sir.

25 Q Was there any evidence that that bag had been

1 tampered with when you took it out of evidence and took it
2 to SLED?

3 A No, sir.

4 Q Would you have noted that if there had been?

5 A Yes, sir.

6 Q Did you go into the bag, manipulate it, change the
7 contents of the bag in any way?

8 A No, sir.

9 Q Add anything to it or take anything away from it?

10 A No, sir.

11 Q Okay. So describe the process on January 19th of
12 2011 when you get it out of the evidence room in West
13 Columbia and you take it to SLED. What happens?

14 A The evidence is pulled and it's logged into SLED's,
15 what they call I-Lab. It's a program where I tell SLED
16 what the item of evidence I'm bringing to them is, what
17 the requested processes that they want done to the item of
18 evidence. I then log out the item of evidence on our
19 evidence sheet to show the chain of custody and where it's
20 going.

21 Q So you took those buccal swabs from the defendant in
22 that brown bag wrapped with tape and you go to SLED. Tell
23 me the process. So you put it in -- how does it get in
24 that plastic bag?

25 A I meet with the log-in, ladies that work the log-in

1 at SLED. They collect the evidence, they put it in this
2 bag, heat seal it, I date and initial because I witnessed
3 them seal it, and it gets taken from them.

4 Q Prior to it leaving your possession, you put it
5 inside that bag or they put it inside the bag in your
6 presence?

7 A In my presence, they put it in the bag.

8 Q Okay. So nobody else goes into the brown paper bag
9 inside?

10 A No, sir.

11 Q Okay. The brown paper bag goes inside that plastic
12 bag, and you said something about it being heat sealed.
13 What does that do?

14 A That's a process where they put it in a device and
15 they compress it with a heat strip and it seals the bag.

16 Q And is that also the plastic bag, what SLED uses for
17 their tamper-resistant bags?

18 A Yes, sir.

19 Q Okay. There is some initials on the top of the
20 plastic bag with the date of 1-19-11. Do you recognize
21 those initials?

22 A Yes, sir.

23 Q And whose initials are those?

24 A Those are mine.

25 Q So the bag is sealed in your presence and you initial

1 across that seal?

2 A Uh-huh.

3 Q Now, there's a -- what appears to be another cut over
4 on the other side of the bag with the initials RT. Do you
5 know what that signifies?

6 A That's another person's or it could be the evidence
7 tech's initials.

8 Q Okay. So somebody at a later date went into the bag?

9 A Yes, sir.

10 Q But that's been sealed up as well?

11 A Yes, sir.

12 Q The writing on the front of the plastic bag on
13 State's 107 says the sealing officer is James P. Sullivan.
14 That's you?

15 A Yes, sir.

16 Q It has a date of 1-19-11. That's the date that you
17 relinquished control of this?

18 A Yes, sir.

19 Q Stating it had come to the West Columbia Police
20 Department, and it has your case number, which is the case
21 number assigned to this case, correct?

22 A Yes, sir.

23 Q There is a bar code, a yellow bar code tracking
24 label, on the bag as well. Do you recognize that?

25 A Yes, sir. That's what the SLED log-in -- she affixed

1 that to the bag.

2 Q That was done in your presence?

3 A Yes, sir, it was.

4 Q And that's going to be -- there's a lab number, I
5 guess is what -- it starts with an L. That's the lab
6 number that SLED uses to identify it?

7 A Yes, sir, that's the SLED number.

8 Q And the item number that they've assigned to it is
9 what?

10 A Sixty-five.

11 Q So when you relinquished control, it was in the same
12 way that you got it out of evidence and had now been
13 sealed in the bag and you left it at SLED, right?

14 A Yes, sir.

15 Q Do you know the name of the evidence log-in
16 technician that assisted you and turned it over to SLED
17 and that actually took possession of this from you?

18 A I believe it was Nicki.

19 Q I'm going to show you a certified chain and ask if it
20 refreshes your memory.

21 THE COURT: I'm having trouble hearing you.
22 You're trailing away from me with your answers to
23 Mr. McGuire's -- I'm sorry -- Mr. Graham's -- I hear him
24 very well.

25 BY MR. GRAHAM:

1 Q You -- are you aware of who you turned this over to?

2 A I believe it was Nicki Hughes.

3 Q Nicki Perry Hughes?

4 A Yes, sir.

5 Q And she's one of the evidence log-in technicians at
6 SLED?

7 A Yes, sir.

8 MR. GRAHAM: Beg the Court's indulgence, Your
9 Honor.

10 (Pause.)

11 MR. GRAHAM: Thank you, Investigator Sullivan.
12 Please answer any questions the defense asks.

13 CROSS-EXAMINATION

14 BY MR. STITELY:

15 Q Detective Sullivan, how are you today?

16 A Doing well, sir.

17 Q I guess we're going to refer to you -- you did most
18 of the stuff for all these keys, correct?

19 A I was tasked with these keys, yes, sir.

20 Q Outstanding. And you kept referring to these key
21 chains as people's key chains. But you really don't know
22 whose they are, you just received them as pieces of
23 evidence, correct?

24 A Yes, sir, that's correct.

25 Q So when you kept referring to them as the defendant's

1 keys or Ms. Washington's keys, you have no basis to say
2 that other than you just had keys, fair?

3 A Other than what I have been told, yes, sir.

4 Q Okay. So you can't look at these and by any personal
5 identifying marks or anything like that tell me whose they
6 are?

7 A No, sir, I cannot.

8 Q Same with these ones? Sorry. That was -- the first
9 one was State's 24, the second one being State's 84.

10 A That's correct, sir, I can't identify them.

11 Q Okay. Is this the first time you've ever done a key
12 analysis?

13 A It's the first time I've ever done this process, yes,
14 sir.

15 Q Okay. And it looks like the scientific endings stop
16 with photocopies, fair? I mean it's just photocopies?
17 There wasn't an actual, like, laser that followed these to
18 trace the markings to determine if they were identical or
19 anything like that?

20 A No, sir.

21 Q Okay. You didn't actually go to a forensic expert to
22 have them identify that these keys are the same, you just
23 said they look similar, correct?

24 A Yes, sir, that's correct.

25 Q Now, when you went back out to the apartment complex

1 last month?

2 A Yes, sir.

3 Q Okay. You went to try keys on the door, correct?

4 A Yes, sir, I did.

5 Q Okay. Were you not aware that according to
6 Investigator Bayne's notes, that the door locks were
7 changed some six years earlier?

8 A No, sir, I was not.

9 Q Okay. And, in fact, you guys didn't just try the one
10 key, you tried the keys in about 117 different locks that
11 day, correct?

12 A Yes, sir, I did.

13 Q Okay. And you also found out that the individual who
14 would have last been able to alter locks or change locks
15 is facing murder charges, correct?

16 A Yes, sir, I did.

17 Q Sir, I want to load this up. I'm just going to check
18 some of the pictures on it.

19 Now, the car key in particular, I guess any of
20 them will do, but No. 108 or No. 5. To your knowledge,
21 was the car available for some period of time after
22 Mr. Lynch's arrest back in 2006? Do you have any idea?

23 A No, sir.

24 Q To your knowledge, did West Columbia or any agents
25 for the State ever actually just take one of these keys to

1 the car at the impound to see if they worked?

2 A Not to my knowledge, sir, no.

3 Q To your knowledge, is there any way to tell if any of
4 these keys were the originals or copies that were made at
5 a later date?

6 A Other than the copy that was made in my presence
7 using the VIN code, no, sir.

8 Q Would you -- and I apologize, I don't have printouts
9 of these, so I'm just going to go ahead and show you a
10 couple of items and see if these are the pictures of keys
11 as you guys were trying them in the locks.

12 Do you recognize this disc with the images on
13 it? Is that something you created? Can you see that from
14 there?

15 A Yes. They appear to be the photographs I took on the
16 day I tried them.

17 Q I'll just show you one to see if --

18 A Yes.

19 Q Do you recall these pictures?

20 A Yes, sir.

21 Q Okay. And these were just the pictures that West
22 Columbia or someone took when you went out to the
23 apartment complex?

24 A I took those pictures, sir.

25 Q And it's fair to say that there are about 15 images

1 of keys being inserted into a lock at different varying
2 stages of attempting keys in the lock?

3 A Yes, sir.

4 Q And it never worked?

5 A No, sir, it didn't.

6 MR. STITELY: Your Honor, we would ask -- Your
7 Honor, we would like to offer the disc containing the
8 pictures into evidence at this time.

9 We could -- we could print out copies of the
10 pictures, if you prefer, or we could just leave it at
11 this. However the Solicitor's office prefers.

12 THE COURT: And with specificity, you're saying
13 the 15 pictures of the keys and the hand and attempts to
14 unlock the deadbolt locks?

15 MR. STITELY: Yes, sir. Yes, sir.

16 THE COURT: Okay.

17 MR. GRAHAM: No objection, Your Honor, as long
18 as those are the keys -- I'm mean, the pictures that he
19 took.

20 MR. STITELY: I'll show him, too, to see if he's
21 the one that created it.

22 MR. GRAHAM: He's not -- he's not going to
23 recognize the disc, I don't think.

24 MR. STITELY: Well, Your Honor, what we'll do is
25 we'll go ahead and just -- if we can mark the disc and

1 these 15 pictures, we'll print them out and put hard
2 copies into evidence. Just that way, we can let him go.

3 So we, at this time, ask to mark this for the
4 pictures included on it.

5 THE COURT: All right. Very well. When we mark
6 at the next break or today the pictures which you're
7 attempting to put in, you and the State will agree to
8 which 15 y'all -- since I'm not familiar with them,
9 there's several pictures on there, you print out the hard
10 copies, I presume they'll be similar in nature and easy to
11 discern and they will be admitted without any objection.

12 MR. GRAHAM: Yes, Your Honor. The only thing I
13 would -- I would ask is once they get printed out, I'll
14 have Investigator Sullivan take a look at them, and if
15 there's a problem, we'll bring it to the Court's
16 attention.

17 THE COURT: All right. And so if that becomes a
18 problem, he will be allowed to be recalled.

19 MR. STITELY: Yes, sir. We just -- we don't
20 know what order they were going in, so --

21 (WHEREUPON, Defendant's Exhibit No. 11 was
22 marked for identification and received into
23 evidence.)

24 BY MR. STITELY:

25 Q I have one more question for you. I've just got to

1 find the piece of paper I'm going to ask you about.

2 I'm going to hand you what's already into
3 evidence as Exhibit No. 2 for the defense. It appears
4 it's been testified that it was the lease for the Park
5 Place Apartments. Are there two individuals on the lease
6 agreement?

7 A Yes, sir, there are.

8 Q And that was both Ms. Washington and Mr. Lynch,
9 correct?

10 A Yes, sir.

11 Q And I take it the apartment that we're talking about
12 was the Park Place Apartments?

13 A Yes, sir.

14 MR. STITELY: Okay. No other questions. Thank
15 you, Detective Sullivan. I appreciate it.

16 THE COURT: Any redirect?

17 MR. GRAHAM: No, Your Honor.

18 THE COURT: All right. You may step down.

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. Let's take a brief
21 break. I'll probably go 15 minutes. Come back at ten
22 minutes to the hour on that clock.

23 (A break was taken.)

24 (WHEREUPON, Defendant's Exhibit No. 4 was
25 re-marked for identification and received into

1 evidence.)

2 THE COURT: All right. Solicitor, are we ready
3 to call our next witness?

4 MR. GRAHAM: Yes, Your Honor. The State calls
5 Gary Miller to the stand.

6 GARY MILLER, after being duly sworn, testified
7 as follows:

8 THE CLERK: Have a seat, please, sir.

9 Once you're seated, speak up loud and clear.
10 State your full name on the record, spelling your last,
11 please.

12 THE WITNESS: My name is Gary Allen Miller.
13 Last name Miller, M-I-L-L-E-R.

14 DIRECT EXAMINATION

15 BY MR. GRAHAM:

16 Q Mr. Miller, where are you employed, sir?

17 A American Properties, Park Place Apartments in West
18 Columbia.

19 Q That's the ones there off of Commanchee Trail?

20 A Correct.

21 Q When did you begin working there?

22 A August 10th, 2010.

23 Q What do you do there?

24 A Property manager.

25 Q What does that mean? What -- what are your job

1 responsibilities?

2 A I'm responsible for the full function of the property
3 as far as rentals, maintenance, whatever needs to be done,
4 rent collections, leasing.

5 Q At the beginning of March or the end of February of
6 this year, did Investigator James Sullivan with the West
7 Columbia Police Department come out to see you?

8 A He did.

9 Q What was his purpose of coming out there?

10 A He had a set of keys that he needed to see if they
11 worked a particular apartment lock and mailbox.

12 Q Let me show you some keys and ask if you recognize
13 either one of these. This is State's 84 and State's 24.

14 A Yes. The keys that we have here -- actually, it
15 could have been either set, because both of these keys and
16 the mailbox keys are what we use.

17 Q Okay. Well, let's talk -- let's talk a little bit
18 about that.

19 Specifically, apartment M-7, that was
20 Ms. Washington's apartment. Were you able to determine
21 whether those locks have ever been replaced or rekeyed?

22 A We had -- for that particular unit, we have two work
23 orders on file that said that the locks had been repaired.
24 Repaired versus lubricated means that the lock had either
25 been rekeyed or completely replaced.

1 Q So you have two different orders showing that it had
2 been rekeyed or replaced twice?

3 A Correct.

4 Q And is it common to change locks when tenants leave
5 an apartment?

6 A As part of the market-ready process, yes. During
7 that process, we either, again, rekey the lock or change
8 it.

9 Q So in the roughly five and a half years since
10 Ms. Washington lived there, is it fair to say that it's
11 probably been either rekeyed or replaced numerous times?

12 A That would be a good statement, yes.

13 Q The key that Investigator Sullivan brought out to
14 you, what can you tell me? I know that he -- he testified
15 that he tried it in the M-7 lock and it didn't work. But
16 the kind of key that he brought out and showed you, what
17 can you tell me about that kind of key and the kind of key
18 locks that are used at Park Place Apartments?

19 A We -- we use a standard Kwikset lock set. That's
20 just the name brand of it. It uses a K-1 key blank, we
21 cut them ourselves, but that's the standard key that we
22 use. It's readily available anywhere.

23 Q Well, let me show you the keys on State's 24. Is
24 that the key that you're talking about?

25 A Correct.

1 Q On it, it says KW1 USA. So what does that tell me?

2 A Just that it's a Kwikset No. 1 blank.

3 Q And those are the kind of -- so a blank is what it
4 looks like before you --

5 A Before it's cut.

6 Q -- put the key cut in it, right?

7 A Correct.

8 Q And that's the kind of key that would go to locks at
9 Park Place Apartments?

10 A Correct.

11 Q Looking at State's 84, there's a -- I'm going to show
12 you another key. Do you see that key?

13 A Yes, sir.

14 Q And is that also a K-1 key blank that would be
15 consistent with the types of locks used at Park Place
16 Apartments?

17 A It is.

18 Q In addition to the apartment keys on State's 24,
19 there appears to be a smaller key that has Taylor on it,
20 and it's got a C0106. Do you recognize that type of key?

21 A That is a mailbox key.

22 Q That -- that's a mailbox key of the type used at Park
23 Place Apartments?

24 A The types we used to use.

25 Q The type you used to use back at the time that

1 Ms. Washington lived there in 2006?

2 A Correct.

3 Q On State's 84, there is a similar key with the same

4 C -- C0106, I guess?

5 A Right.

6 Q And that's also the type of blank used with keys at
7 Park Place Apartments?

8 A Correct.

9 Q Now, were you present when Investigator Sullivan --
10 did -- did he try to use these keys to open the mailbox?

11 A We did.

12 Q For M-7?

13 A Right.

14 Q Was he successful in doing that?

15 A No, sir, he was not.

16 Q Looking at the mailbox, could you see -- well, tell
17 me about whether those would have been changed out between
18 2006 and now.

19 A Yeah, they would have been, especially if the keys
20 for the apartment were not turned back in. We would
21 have -- one of the maintenance men would have had to pry
22 that lock open and install a new lock in that box.

23 Those key -- those locks only come with two
24 keys, and we maintain one and we give another out to the
25 tenants.

1 But those keys are so hard to cut that -- on our
2 machine that we -- we can't cut those. So we normally
3 have two for those locks.

4 MR. GRAHAM: Thank you, Mr. Miller. Please
5 answer any questions they have.

6 CROSS-EXAMINATION

7 BY MR. STITELY:

8 Q Mr. Miller, how are you today?

9 A All right, sir.

10 Q One thing you just said there at the end was kind of
11 interesting.

12 You said that you actually only have two keys
13 for the mailboxes?

14 A Currently, yes, that's all we have.

15 Q Would you agree that there are two keys here?

16 A That's correct.

17 Q And you said you always keep one for the apartment's
18 sake?

19 A No. This is -- as far as the way I manage the
20 property. How they did it back then, I don't know. And
21 they used to use a different type lock than what we use
22 now. Those keys are easier to cut, so they could have cut
23 those keys.

24 Q All right. Now, you said that that K-1 Kwikset is a
25 pretty common key?

1 A It is.

2 Q I was just sitting at the table listening. I'm just
3 going to show you my key chain and Mr. McGuire's key
4 chain, just randomly.

5 A Okay.

6 Q Look at our house keys. What kind of keys are these?

7 A Those are -- those are Kwikset KW1.

8 Q KW1, the exact same that any other house lock might
9 use?

10 A Correct.

11 Q How common are these keys?

12 A Very common.

13 Q Does it surprise you that you and me and Mr. McGuire
14 would randomly both have a Kwikset K-1 key on our key
15 chain?

16 A Not at all.

17 Q And how about that little mailbox key? This is my
18 key ring once again. What kind of key does that look
19 like?

20 A Again, it would be the same thing, same mailbox key.

21 Q No real way to differentiate?

22 A Other than checking the exact cut, no.

23 Q And they actually have, like, highly specific ways
24 they can do that where they can form molds and everything,
25 right?

1 A Yes.

2 Q Okay. And this actually is just a key to my boat
3 dock, but it's like a mailbox key, a common key type?

4 A Yes, sir.

5 Q What happened to the individual who was responsible
6 for the locks and the keys before you, do you know, at
7 Park Place Apartments?

8 A The manager?

9 Q Yes.

10 A The manager before me was -- was fired.

11 Q Okay. Why?

12 A Suspected for misappropriation of funds.

13 Q Okay. Was there someone at some point who was in
14 charge of the keys that was actually arrested on murder
15 charges? Do you know anything about that?

16 A The former maintenance man that you're talking about?

17 Q Okay. There's a note in the police officer's report
18 that the locks were changed back in June of 2006. Do you
19 have any idea in your Park Place records where those
20 original locks went?

21 A We maintain some of those in -- still in our shop.

22 And what we do with those, once we take them
23 out, we rekey them and have them set and ready to be put
24 into another apartment for when we do market-ready
25 process.

1 Q So is there any way to find what happened to those
2 original locks that were removed back on the 16th of June,
3 2006, as per the investigating officer's report?

4 A Not exactly. You wouldn't be able to track exactly
5 unless you had a -- a lock identifying number of some
6 type.

7 Q If they removed them, could West -- like, if the
8 police -- have police ever come to your -- in your tenure
9 there, is this the only time you've ever worked in an
10 apartment complex?

11 A No, sir.

12 Q How long have you been working in apartment
13 complexes?

14 A I've been working for American Property since 2008.

15 Q Okay. Anything before that?

16 A I've worked at Landmark Resources as a maintenance
17 coordinator, which we handled about 600 properties out of
18 Columbia.

19 Q Okay. About how long have you had anything to do
20 with properties, property management, anything like that
21 in your life?

22 A About nine years, ten years.

23 Q Okay. Have police ever in your experience had to
24 come and check a lock, check keys to a lock, before this
25 case?

1 A Sure.

2 Q Okay. Would it be impossible if the police brought
3 some kind of order to take the lock and maintain it, that
4 y'all could have accommodated that? Have you ever had
5 anything like that happen before?

6 A I haven't had anything like that happen.

7 Q If the police were to come to you today and say we
8 need a copy of this -- we need this locking mechanism so
9 we can put it into evidence, is that something they could
10 come ask you to do and you guys could remove the locks or
11 whatever?

12 A From a particular door, yes, you could do that.

13 MR. STITELY: Sure. Okay. Thank you, sir.

14 REDIRECT EXAMINATION

15 BY MR. GRAHAM:

16 Q Very quickly, Mr. Miller.

17 Mr. Stitely was asking about a maintenance
18 worker that was charged with murder. Who is he talking
19 about?

20 A Franklin Henderson.

21 Q And how long have you known Mr. Henderson?

22 A There was a layover -- I mean, an overlap of about
23 three months between me taking over the property and him
24 leaving the company.

25 Q And he was just recently arrested this year, wasn't

1 he?

2 A Correct.

3 Q And that was for a domestic charge.--

4 A Correct.

5 Q -- with his ex-wife, I believe?

6 A Yes, sir.

7 Q You don't know of any connection that he had with
8 Portia Washington, do you?

9 A No, sir.

10 Q Or Cassandra L. [REDACTED]

11 A No, sir.

12 MR. GRAHAM: Thank you.

13 MR. STITELY: Nothing additional.

14 THE COURT: You may step down.

15 MR. HUBBARD: The State calls Melissa Wallace.

16 MELISSA WALLACE, after being duly sworn,

17 testified as follows:

18 THE CLERK: Have a seat, please.

19 Once you're seated, speak up loud and clear,
20 stating your full name and spelling your last for the
21 record, please.

22 THE WITNESS: My name is Melissa Skipper
23 Wallace, W-A-L-L-A-C-E.

24 DIRECT EXAMINATION

25 BY MR. HUBBARD:

1 Q Agent Wallace, where do you work?

2 A I am employed by the South Carolina Law Enforcement
3 Division, commonly known as SLED.

4 Q What do you do for SLED?

5 A I am a special agent assigned to the crime scene and
6 latent print department.

7 Q How long have you been in the crime scene department?

8 A Almost seven years.

9 Q As part of your work with crime scenes, are you
10 trained in fingerprint analysis, in fingerprint
11 comparisons?

12 A I am.

13 Q And can you give us some of your background,
14 education, and training in those areas?

15 A I have a Bachelor of Science degree in mathematics
16 from the University of South Carolina. I have been a
17 police officer in South Carolina for almost 11 years.

18 I have successfully completed courses in basic
19 fingerprint, ridgeology, advanced palm print comparison
20 techniques, and complex latents.

21 I have also successfully completed the SLED
22 Latent Print Crime Scene Department's two-year in-house
23 training program under court-qualified senior examiners.

24 Q And through the years, have you had an opportunity to
25 conduct a number of evaluations and comparisons with

1 fingerprints?

2 A I have.

3 MR. HUBBARD: Your Honor, at this time, I'd
4 offer her as an expert in fingerprint comparisons and
5 examinations.

6 THE COURT: Voir dire?

7 MR. STITELY: No objection.

8 THE COURT: No objection. She will be so
9 qualified as an expert in fingerprint analysis and
10 comparison.

11 MR. HUBBARD: Yes, sir.

12 BY MR. HUBBARD:

13 Q Agent Wallace, were you asked at some point to review
14 a case involving Kenneth Lynch?

15 A I was.

16 Q Can you tell us your first involvement in this case?

17 A If I can refer to my notes?

18 Q Yes, please.

19 A My first involvement was in October of 2006.

20 Q What did you do in October of 2006?

21 A I reviewed a -- the original case of Agent Rod
22 Green's.

23 Q Okay. Was that a fingerprint analysis he had done
24 and rendered into a report?

25 A It was a crime scene response and a fingerprint

1 analysis that he had done.

2 Q What was your role in that report?

3 A As the peer reviewer, my responsibility is to review
4 the case, make sure that it meets policies and procedures,
5 as well as review the analysis and the comparisons that he
6 performed and verify his results.

7 Q Okay. That brings up another issue -- another
8 question. Is there a particular method SLED employs in
9 reviewing and comparing fingerprints?

10 A There is.

11 Q What is that method?

12 A The acronym is ACE-V, A-C-E-V. It stands for
13 analysis, comparison, evaluation, and verification.

14 The analysis phase is examining the latent
15 fingerprint, or the unknown fingerprint, to determine
16 whether the print is sufficient for identification.

17 After a print has been determined to be of
18 sufficient quality for identification, we move on to the
19 comparison phase.

20 During the comparison phase, we compare the
21 ridge characteristics of the unknown latent to the ridge
22 characteristics of a known standard.

23 During the evaluation phase, we make a
24 determination as to whether the examination yields an
25 identification, an elimination, or no conclusion could be

1 rendered.

2 The verification phase is when the case goes to
3 a second examiner and they do a second and independent
4 examination just like the original examiner performed.

5 THE COURT: Slow down. You're going really
6 fast.

7 THE WITNESS: Yes, sir.

8 THE COURT: I can listen to one speed and you're
9 a little ahead of me.

10 BY MR. HUBBARD:

11 Q Your role in reviewing Agent Rod Green's fingerprint
12 analysis, is that the verification process?

13 A It is.

14 Q Okay. Now, does SLED, to your knowledge, have a
15 policy on how many points you have to find in a
16 fingerprint before you can render a conclusion?

17 A No, we do not.

18 Q Let me ask you, does the FBI?

19 A No.

20 Q Okay. So that's not something that is necessarily
21 common to all law enforcement throughout the country, that
22 you have to have so many points?

23 A There is no recognized minimum number of points
24 recognized in this country.

25 Q Okay. I want to ask you about your peer review on

1 Mr. Green's report. I want to begin by showing you what's
2 been marked as State's 47 and 48. Do those look familiar?

3 A Yes.

4 Q What are those items?

5 A State's 47 is a latent lift, and State's Exhibit 48
6 is also a separate latent lift.

7 Q Okay. And do you see your initials on those latent
8 lifts?

9 A I do.

10 Q Are those the latent lifts that Mr. -- or Agent Green
11 took, the unknown latent lifts that he took in this case?

12 A According to his report, they were listed as being
13 from the victim's vehicle. But yes, he -- he recovered
14 those.

15 Q And I want to show you what's been marked State's 35.
16 Can you identify that?

17 A State's 35 is a fingerprint card bearing the name
18 Kenneth Lynch. It was used during the first examination
19 of the latents.

20 Q Okay. In the first examination, Agent Green was able
21 to identify your item 26; is that correct? Which is
22 State's -- State's 48; is that correct?

23 A That's correct.

24 Q Did you concur with his findings?

25 A I did.

1 Q Now, as to your item 27, which is State's 49, I
2 believe?

3 A State's 47.

4 Q Forty-seven. Using that print card, did you also
5 have the same issue that Agent Green had in identifying
6 those prints?

7 A I did.

8 Q So you concurred with his conclusion?

9 A I did.

10 Q You could identify some but not all using that print
11 card?

12 A That's correct.

13 Q Now I want to show you what's been marked into
14 evidence as State's 106 and see if you can identify this.

15 A Yes. State's 106 is the set of major case prints
16 which were submitted for comparison with the last unknown
17 latent fingerprint.

18 Q So the major case prints, 106, were obtained when you
19 were not able to use State's 35, just the basic
20 fingerprint card, to make an analysis?

21 A That's correct.

22 Q Okay. Now, using State's 106, did you go back to
23 that item 27, which is State's 47?

24 A Yes.

25 Q Did you go back and did you perform an analysis at

1 that point?

2 A I did. I did.

3 Q Let me ask you now, we're talking about major case
4 prints. How do those differ from the basic fingerprints
5 that you get when you go to jail or -- or you're on
6 probation?

7 A Typically, a fingerprint card only records the -- the
8 end digits of the finger, as well as some of the middle
9 digits when plain impressions are obtained.

10 Major case prints are complete inked fingers and
11 palms. It's all the surfaces of friction ridge skin on
12 the palms and fingers.

13 Q Okay. So does one include the entire hand itself?

14 A It does.

15 Q Then you have one that includes the entire palm; is
16 that correct?

17 A Those would be recorded in major case prints, yes.

18 Q Okay. Then you have some that focus primarily on the
19 fingers?

20 A Yes.

21 Q The entire fingers?

22 A A fingerprint card focuses on the end of the fingers.

23 Q Okay. But you also have some showing the actual
24 digits, too; is that correct?

25 A That's correct. Those are in the major case prints.

1 Q Basically you have five sets for each hand, right and
2 left; is that correct?

3 A Each hand was provided on five separate pieces of
4 paper.

5 Q Okay. So for a total of ten prints; is that correct?

6 A Ten pages, yes.

7 Q Okay. And using those major case prints found in
8 Exhibit 106, what, if any, conclusions did you draw when
9 you compared it to your item 27, State's Exhibit 47?

10 A I concluded that the State's Exhibit 47 was
11 identified with the State's 106 major case prints.

12 Q So you identified those prints initially as unknown
13 or that you couldn't identify, you've now identified to
14 the case prints of Mr. Kenneth Lynch?

15 A That's correct.

16 Q So the unknown latent print from the victim's car is
17 now identified to the defendant, Kenneth Lynch?

18 A That's correct.

19 MR. HUBBARD: Please answer any questions the
20 defense might have.

21 CROSS-EXAMINATION

22 BY MR. MCGUIRE:

23 Q Good morning, ma'am.

24 A Good morning.

25 Q Give me your last name again.

1 A Wallace.

2 Q Wallace. Agent Wallace, is this your first time
3 testifying in court?

4 A No, it's not.

5 Q Okay. You were just talking so fast that I thought
6 you might be nervous. So I want to ask you to slow down a
7 little bit, too, okay?

8 A Okay.

9 Q You first became involved as a peer reviewer?

10 A That's correct.

11 Q And tell me how the prints come to you when you're
12 going to do a peer review.

13 A They are provided to me from the case agent.

14 Q Does he walk in to you and hand deliver them and give
15 them to you? Does he put them in an in-box? Is it
16 interoffice mail? How does it work?

17 A It depends on the situation, depends on how available
18 we are, how busy we are. A lot of times, the other
19 examiner will walk them straight to you.

20 Q Okay. And do you receive any information other than
21 just the prints?

22 A Well, in reviewing the case, we do review case notes
23 and examination, so there is some background information
24 that we have. But in terms of, you know, complete
25 details, no.

1 Q Are you informed that he had called some prints a
2 match?

3 A I'm sorry?

4 Q Are -- when you get the prints to do a peer review,
5 do you know if the prior agent called them a match or not?

6 A We do when we review their actual paper documentation
7 within the case file.

8 Q Okay. So prior to your examination, you're informed
9 as to whether or not the first agent called it a match or
10 not?

11 A When we open up their paperwork, we can see what
12 determination they made at that point.

13 Q Okay. So you have their case jacket notes or notes?

14 A They're computerized, but yes, we can look at them on
15 the computer.

16 Q Okay. And do you know, for instance, how many points
17 of comparison the prior agent would call on the print?

18 A No.

19 Q Okay. Just -- just that it's a match or not a match?

20 A That they think it might be an identification or a
21 non-identification, yes.

22 Q Okay. And regarding the prints and your examination,
23 do you know how many points of comparison you called to
24 make it a match or to call it a match?

25 A Like I said before, we don't really count points like

1 a lot of television shows try to say that we do. It's
2 just a matter of examiner experience and training and the
3 examination of the latent print and the unknown print for
4 clarity and quality of detail.

5 Q Well, I guess my problem is this. And not on TV, but
6 in real courtrooms I've seen blowups of prints, and
7 examiners come in and they've got a big blowup and a nice
8 big red circle on the latent, and then a nice big red
9 circle on the known and they say that's a point of
10 similarity. Y'all can do that, can't you?

11 A Yes, sir.

12 Q Do you?

13 A Yes, sir.

14 Q You just don't keep those notes?

15 A Well, typically those are court charts and we do them
16 for court. We don't currently do them for case work.

17 Q I guess my problem is this. If this Court wanted to
18 say how many points of similarity or points of comparison
19 did you find in, say, the pinky finger, latent pinky
20 finger with the known pinky finger, what would you say?

21 A I don't know. We -- like I say, we don't count
22 points of minutia.

23 Q When you do a fingerprint analysis, you're looking at
24 ridge detail, right?

25 A That's correct.

1 Q And describe for the Court the unique characteristics
2 you can find on a print.

3 A Well, it's three different levels of detail that we
4 examine.

5 The first level is the pattern type or basic
6 ridge flow. There's three basic pattern types. First is
7 an arch, loop, or a whirl. After we look at the pattern
8 type, sometimes we can eliminate based on a pattern type.

9 From the first level of detail, we move to the
10 second level of detail, and that is examining those ridge
11 characteristics. The three basic ridge characteristics
12 are bifurcations, which is a ridge that forks; an ending
13 ridge, which is a ridge that just flows along and ends;
14 and dots, which are just what they sound like, dots.

15 When we make a comparison, we look at those
16 ridge characteristics and the relationship to each other
17 on the unknown and compare those with the ridge
18 characteristics and the relationship to each other on the
19 known.

20 From there, we can go to third level detail,
21 which isn't always represented in -- in standards or in
22 latents. Those are things like pores, edges of -- of
23 ridges and things like that.

24 Q And when you compare a latent print to a known print,
25 you are looking for similarity?

1 A Kind of. It's a lot easier to look for
2 dissimilarities.

3 Q And rule a print out, for instance?

4 A That's correct.

5 Q But if you're calling a print a match, are you
6 telling this Court that you don't identify points of
7 comparison or points of similarity on the latent and the
8 known print?

9 A I'm not sure what you mean.

10 Q When you look at a latent print and you identify,
11 say, a bifurcation at a certain point on the print, you
12 would go and look at the known print to see if it has a
13 corresponding bifurcation at that location, correct?

14 A That's correct.

15 Q And you would call that a point of similarity or a
16 point of comparison?

17 A Yes.

18 Q Okay. And you don't keep notes as to how many points
19 of similarity or points of comparison you find?

20 A Not at that time, no.

21 Q When would you do that?

22 A That's actually a recent change in policies that we
23 do now.

24 Q So if this case was not from 2006 but your
25 involvement became -- began today, you would have these

1 notes logging the points of comparison or points of
2 similarity?

3 A To a certain degree, yes. There's certain
4 requirements that have to be met. After we get to a
5 certain number, we don't have to document the exact amount
6 anymore.

7 Q Sure. Right. I mean, once you get 8 or 12 or so and
8 you're comfortable, you don't keep logging in to do the
9 whole print, right?

10 A That's correct.

11 Q So if this case was to not be from 2006 but your
12 involvement began, say, today or last month, you would be
13 able to turn to the Court and say, "Regarding the pinky
14 finger of the latent and the pinky finger of the known, I
15 found 12 points of comparison or similarity"?

16 A Yes.

17 Q Okay. And this is a change in policy?

18 A Yes. It actually took effect, I think, in December.

19 Q Okay. When is your most recent activity on this
20 case? Aside --

21 A May -- I'm sorry?

22 Q -- aside from coming here today?

23 A May of 2011.

24 Q Okay. If a -- when you do the peer review, is it
25 always a junior agent that's doing the peer review; for

1 instance, the senior agents calling it a match or not a
2 match? Is it always a junior agent that does the peer
3 review or is that random?

4 A No, it's random.

5 Q Okay. And if the first agent was to determine that
6 there's no match, would there ever be a peer review or
7 would it stop right there?

8 A We have a hundred percent peer review policy.
9 Everything gets reviewed, even the prints that are of no
10 value for identification.

11 Q Okay. You -- you referenced some notes. Do you mind
12 if I take a look at them?

13 MR. MCGUIRE: Judge, if I could have just one
14 second.

15 (Pause.)

16 BY MR. MCGUIRE:

17 Q They might be a little bit out of order. Sorry about
18 that.

19 I'm going to hand this up to you.

20 You referenced some notes that would come to you
21 with the latents --

22 MR. MYERS: I'm sorry. We can't hear back here,
23 Your Honor.

24 MR. MCGUIRE: I'll speak up.
25

1 BY MR. MCGUIRE:

2 Q You -- you referenced some notes that were
3 computerized that would come to you with the latents. Are
4 these the notes?

5 A Yes.

6 MR. MCGUIRE: I don't necessarily want to mark
7 your stuff into evidence and take it away from you.

8 Judge, we're going ask that we make a copy of
9 that and mark it into evidence.

10 THE COURT: All right. Just make copies of it
11 and then we'll mark them.

12 We'll stand at ease while you make those copies?

13 MR. MCGUIRE: Sure.

14 THE COURT: All right.

15 (Pause.)

16 MR. MCGUIRE: Madam Court Reporter, if I could
17 have you mark this as the next defense exhibit into
18 evidence.

19 (WHEREUPON, Defendant's Exhibit No. 12 was
20 marked for identification and received into
21 evidence.)

22 THE COURT: Defense 12 for identification
23 purposes?

24 MR. MCGUIRE: In evidence. No objection, I
25 believe.

1 MR. HUBBARD: No objection.

2 THE COURT: So this will be admitted as Defense
3 12 without objection.

4 BY MR. MCGUIRE:

5 Q Ma'am, I'm going to hand you your originals back,
6 what's been marked as Defense No. 12 into evidence. Is
7 that an identical photocopy of the notes that came with
8 the latents in this case?

9 A Yes. Yes.

10 Q Would there be any other notes, any handwritten notes
11 that are not here today?

12 A The only handwritten notes I have from his case are
13 from the actual crime scene.

14 Q Okay. And sometimes there will be notes on a jacket
15 or a folder. Do any notes like that exist in this case?

16 A No.

17 MR. MCGUIRE: Okay. All right. I will take
18 that back.

19 That's I've got for you, ma'am. Thank you.

20 THE COURT: Redirect.

21 MR. HUBBARD: No follow-up, Your Honor. I ask
22 that she be excused.

23 MR. MCGUIRE: Without objection.

24 THE COURT: All right. Thank you very much.

25 THE WITNESS: Thank you, Your Honor.

1 MR. GRAHAM: The State calls Gail Heath.

2 GAIL HEATH, after being duly sworn, testified as
3 follows:

4 THE CLERK: Have a seat, please.

5 Once you're seated, speak up loud and clear,
6 stating your full name, spelling your last for the record,
7 please.

8 THE WITNESS: My name is Brenda Gail Heath,
9 H-E-A-T-H.

10 DIRECT EXAMINATION

11 BY MR. GRAHAM:

12 Q Ms. Heath, where are you employed, ma'am?

13 A At the South Carolina Law Enforcement Division,
14 commonly referred to as SLED.

15 Q And how long have you been employed at SLED?

16 A For 28 years.

17 Q And in your 28 years at SLED, what have you done for
18 SLED?

19 A I am a forensic document examiner for the State Law
20 Enforcement Division.

21 Q And you have done that for 28 years?

22 A Yes, sir.

23 Q What does a forensic document examiner do?

24 A A forensic document examiner receives an item that
25 has a questioned signature or a questioned entry, it could

1 be a questioned typewritten document, computer generated.
2 It's an item that either authorship or authenticity has
3 been called into question.

4 Q Would it be fair to categorize -- categorize it as a
5 layman as handwriting comparison?

6 A That's correct.

7 Q You have 28 years of experience in doing that. How
8 many handwriting samples have you compared?

9 A Probably hundreds of thousands over the 28 years.

10 Q And how many times have you appeared in court to
11 testify about your opinions?

12 A 170.

13 MR. GRAHAM: Your Honor, the State would offer
14 Ms. Gail Heath for her 171st time as an expert in the
15 field of handwriting comparison.

16 THE COURT: Voir dire?

17 MR. STITELY: No, sir. No objection.

18 THE COURT: She is qualified as an expert for
19 the 171st time as an expert in handwriting comparison
20 analysis.

21 BY MR. GRAHAM:

22 Q Ms. Heath, did you have an opportunity to do an
23 analysis in this case?

24 A Yes, sir, I did.

25 Q Let me show you an envelope containing several cards

1 and ask if you recognize the cards.

2 A Yes, sir. They contain my case number, my item
3 number, and my initials.

4 Q How many of those cards are there?

5 A Twenty-eight.

6 Q And what was the purpose of those cards?

7 A These are what we refer to as exemplars or known
8 standards. And they're blank forms and you ask an
9 individual to fill out and dictate an entry that you want
10 them place on the card as myself or another officer
11 observes them write.

12 Q And were you -- did you observe Mr. Lynch write his
13 signature on those cards 28 times?

14 A Yes, sir, I did.

15 Q So we're talking about the defendant in the courtroom
16 today seated at the defense table?

17 A Yes, sir.

18 Q You have your initials on there as well as the date
19 to denote that you were present and that they're your
20 cards as well?

21 A That is correct.

22 MR. GRAHAM: Your Honor, the State would offer
23 all 28 of those writing exemplars of Mr. Lynch into
24 evidence as one exhibit.

25 MR. STITELY: The only exception would be the

1 original hearing we would have had way back when. We'd
2 still reinforce those objections to the taking of any
3 samples. I think the handwriting in question was at the
4 Schmerber hearing two judges ago. So we would maintain
5 our previous objection to lack of probable cause.

6 THE COURT: All right. That's consistent with
7 my notes. I was -- for some reason, I was thinking y'all
8 may have consented to the handwriting exemplars, but it's
9 consistent with your representation.

10 So your objection is noted. It's already been
11 ruled upon. We'll proceed with the witness. It will be
12 allowed to be considered.

13 MR. GRAHAM: I don't have these marked, Your
14 Honor.

15 THE COURT: There's only one packet. It will be
16 marked as one exhibit, 112, subject to the objection.

17 (WHEREUPON, STATE'S Exhibit No. 112 was marked
18 for identification and received into evidence.)

19 BY MR. GRAHAM:

20 Q Ms. Heath, State's No. 112 are the 28 signatures that
21 you observed Mr. Lynch write.

22 Let me show you two other documents and ask if
23 you recognize these, State's No. 32 and State's No. 31.

24 A Yes. Both items contain my laboratory number, my
25 item number, and my initials.

1 Q And do you recognize those as being items containing
2 an unknown signature that you were comparing with the
3 exemplars that you have?

4 A That is correct.

5 Q Tell me what you found when you did the comparison.

6 Well, what are those two items that I just
7 handed you, those two last exhibits, what are those?

8 A They appear to be Motel 6 receipts; one is a
9 photocopy and the other is an original.

10 Q What are the dates on those receipts?

11 A One has the date of June 12th through June 13th of
12 2006, and the original has the date of June 14th, 2006,
13 through June 15th of 2006.

14 Q Tell me about your examination and what opinion you
15 rendered as far as the known handwriting samples and those
16 two items.

17 A Okay.

18 MR. STITELY: Judge, we would renew our
19 objections, of course, as to how these documents were
20 obtained as part of one of those faxed search warrants,
21 for the record, because the report stems from what we
22 still consider to be an unlawful search.

23 THE COURT: The Canadian border, they were
24 already presented at that time and subject to the arrest,
25 search incident to arrest all in the state of Washington.

1 Your objection is protected on the record and as
2 consistently ruled, it's admitted.

3 BY MR. GRAHAM:

4 Q Ms. Heath, would you explain your examination and the
5 opinion you rendered?

6 A Yes, sir. In questioned document examination, we
7 usually examine microscopically the questioned document,
8 making note of anything, of any peculiarities that we see
9 in any beginning and ending strokes, connecting strokes.
10 We then compare it to a set of known handwriting that we
11 have from an individual, again, looking for any
12 similarities or differences that we find in the two,
13 comparing beginning strokes, comparing capital letters,
14 comparing the connecting strokes and all to see if both
15 items were written by the same individual.

16 Q And what, if any, opinion do you have about the Motel
17 6 receipts in regards to whether Mr. Lynch wrote them or
18 not, whether he signed those?

19 A Both motel receipts were written by the individual
20 that wrote the known standards, which was Mr. Lynch.

21 MR. GRAHAM: Thank you, Ms. Heath. Please
22 answer any questions the defense has.

23 THE WITNESS: Thank you.

24 CROSS-EXAMINATION

25

1 BY MR. STITELY:

2 Q Good morning, Ms. Heath. How are you today?

3 A Fine, sir. How are you?

4 Q I'm fantastic. I actually have a couple of
5 questions. It's kind of like a fingerprinting lesson.

6 May I approach?

7 A Certainly.

8 THE COURT: You may.

9 BY MR. STITELY:

10 Q Now, these documents you compared, I'm just going to
11 use them because we have them in front of you.

12 Is there any way to tell if it's written with
13 someone's right hand or their left hand?

14 A Not scientifically, no, sir.

15 Q Okay. If someone is ambidextrous and writes with
16 both hands, would their writing appear similar or
17 different? Have you ever had a case where you had to work
18 with someone who wrote with both hands?

19 A Yes, I have.

20 Q Okay. Would -- say if they wrote something
21 right-handed and wrote something left-handed, would they
22 be different?

23 A It would depend on the skill level of the particular
24 writer. Each writer -- it could be different with each
25 writer.

1 Q Okay. Looking at, like, these two, for example, and
2 you compared them to, you said, 28 standards for
3 Mr. Lynch?

4 A That's correct.

5 Q Was it a pretty easy call in your book to make a
6 determination that these matched these?

7 A I didn't have any particular difficulty with it.

8 Q Did it appear like these signatures were somebody
9 trying to hide their handwriting?

10 A No, it did not.

11 Q Now, I take it you've worked a case before where
12 someone's maybe tried to hide their handwriting or forge
13 someone's signature?

14 A Tried to disguise their writing, yes, sir.

15 Q But there was nothing that you've been presented in
16 this case, the Motel 6 receipts and the exemplars, that
17 would indicate he was trying to fudge his handwriting to
18 make it look like someone else's?

19 A No, sir. Not in my opinion.

20 Q Okay. Let me show you one other thing real quick and
21 ask if you've seen it before.

22 I'm going to hand you what's already been into
23 evidence as Exhibit No. 2 for the defense.

24 During your course of investigation with this
25 case, were you ever handed a leasing document and asked to

1 identify the handwriting, or just the Motel 6 receipts?

2 A No, I don't believe I've ever seen this.

3 Q Okay. And just flipping to just page three, I'm just
4 going to ask you -- if you can't do it, don't feel any
5 pressure. It's signed by what looks to be a Portia
6 Washington and a Kenneth A. Lynch. Can you kind of tell
7 us if that appears to be the signature that you would have
8 had on the exemplars?

9 A We don't examine from the stand. So I -- I can't
10 really make any conclusive opinion about this.

11 Q Okay.. Had they handed you this document that --
12 okay. Could you have done that if they'd asked you to?

13 A Yes, sir.

14 Q Okay. And the reason you can't do it from the stand
15 is why?

16 A Against agency policy to examine from the witness
17 stand.

18 Q Against policy?

19 A Yes, sir.

20 MR. STITELY: One second, ma'am.

21 (Pause.)

22 MR. STITELY: Thank you for coming. Appreciate
23 it.

24 THE WITNESS: Thank you.

25 MR. GRAHAM: No other questions, Your Honor.

1 THE COURT: You may step down.

2 MR. GRAHAM: The State calls Shane Phillips.

3 SHANE PHILLIPS, after being duly sworn,
4 testified as follows:

5 THE CLERK: Have a seat, please.

6 Once you're seated, state your full name,
7 spelling your last for the record, please.

8 THE WITNESS: My name is Shane Phillips,
9 P-H-I-L-L-I-P-S.

10 DIRECT EXAMINATION

11 BY MR. GRAHAM:

12 Q Mr. Phillips, where are you currently employed, sir?

13 A I'm the pastor of Crossroads Baptist Church in the
14 city of West Columbia.

15 Q And how long have you been the pastor of Crossroads
16 Baptist?

17 A About three years now, sir.

18 Q Prior to that, what did you do?

19 A I was a police officer with the City of West
20 Columbia. I was serving, I believe at the time of this
21 incident report, as the sergeant over our community action
22 team.

23 Q What is a community action team?

24 A It is a special team within the department that
25 specializes primarily in community policing, that is, we

1 get involved with the people. Rather than just responding
2 to calls every single day, we actually find out the needs,
3 concerns within the community and try to address those
4 directly.

5 Q If I said the name Ola Wooten, does that mean
6 anything to you?

7 A Yes, sir. She is the property -- or at least was the
8 property manager at Park Place Apartments.

9 Q Was that part of the community that you were a
10 community action team supervisor for?

11 A Yes, sir, it is.

12 Q Back in June of 2006, specifically on June 14th of
13 2006, did you respond to a call at 11:35 a.m.?

14 A Yes, sir, I did. There was -- I believe the call
15 came out as a possible missing person, and I was at the
16 police department at the time, and that's whenever I met
17 with Ms. Sallie Jones.

18 Q And after speaking with Ms. Sallie Jones, what did
19 you learn?

20 A When Ms. Sallie Jones came into the police
21 department, she was distraught. Her concern was that her
22 daughter, Ms. Portia Washington, she had been unable to
23 make contact with her in any way, any shape, or form, for,
24 I think, about three or four days. She said that she had
25 tried to make contact with her by telephone, by her

1 residence, through the property manager, and there was
2 actually, I believe, some contact with her employer at the
3 time, that she had actually made contact with, and no one
4 had been able to locate her.

5 Q Based on your conversation with her, what did you do
6 to try to verify the information that she gave you?

7 A Yes, sir. Based on everything that she told me, one
8 of our procedures as police officers, people will come in
9 and they will make police reports explaining that they
10 have not been able to make contact with somebody. It is
11 our job then to corroborate or substantiate what they're
12 saying.

13 So what I did was got some telephone numbers to
14 try to make contact myself, to contact Ms. Portia
15 Washington.

16 We also tried to make contact at the residence,
17 we tried to make contact through Ms. Ola Wooten, and I
18 even contacted their place of employment to find out if
19 they had had any contact as well; each time no contact
20 whatsoever.

21 Q When you contacted the employer, is that going to be
22 Bob Bennett Ford?

23 A Yes, sir.

24 Q Okay. What, if anything, did you learn about
25 Ms. Washington?

1 MR. MCGUIRE: Objection. Hearsay.

2 MR. GRAHAM: This is going to go to explain --
3 it's not offered for the truth of the matter, Your Honor,
4 it's going to explain his actions and why he did what he
5 did.

6 THE COURT: Is your question what he learned?

7 I think that's -- I'll sustain as to what was
8 said, but I think your question was proper, what he
9 learned.

10 BY MR. GRAHAM:

11 Q Mr. Phillips, based on your conversations with Bob
12 Bennett Ford, what, if anything, did you learn about
13 Portia Washington?

14 A That he had been -- well, she had not reported to
15 work for several days, that this was out of character, and
16 also mentioned that, you know, if she was going to be
17 absent for any reason, that he would advise her of that.

18 Q That she would advise them of that?

19 A Yes.

20 Q What, if anything, during that conversation did you
21 learn about the defendant, Kenneth Lynch?

22 MR. MCGUIRE: Judge, I have the same objection,
23 hearsay.

24 THE COURT: I'm going to allow the question. He
25 can't say what somebody else told him, but he can tell

1 what he learned, okay?

2 THE WITNESS: What we learned is that he had not
3 reported for work either.

4 BY MR. GRAHAM:

5 Q In addition to talking with the employer, Bob Bennett
6 Ford, you said that you spoke with Ola Wooten.

7 A Yes, sir.

8 Q What did you learn from Ms. Wooten?

9 A From Ms. Wooten, my concerns as a police officer, in
10 the last several days had she seen Ms. Washington, or
11 anyone for that matter, coming in and out of that
12 apartment. She says no, that she had not.

13 I asked any problems -- one of the things that
14 we ask as police officers, Are there any problems
15 associated there that might have been out of the norm that
16 you could tell us about? She says none that she could
17 think of at the time.

18 THE COURT: Okay. I thought the Court gave a
19 cautionary instruction to not repeat what other people
20 told him, but continue on.

21 THE WITNESS: I apologize, Your Honor.

22 The lease was paid up.

23 BY MR. GRAHAM:

24 Q Based on the information that you received from Ms.
25 Jones, from Bob Bennett Ford, and Ola Wooten, what, if

1 anything, did you do?

2 A There was reason for me to believe that Ms.
3 Washington was missing at that time. My goal as a police
4 officer was to take what information I had, the best
5 information that I had at that moment, and to get her into
6 NCIC so if she did pop up anywhere on the radar, we would
7 know.

8 Q Prior to having her placed into NCIC, did you go to
9 Park Place Apartments?

10 A Yes, sir, we did. I went with -- and I believe at
11 the time he was a captain -- Seth Zeigler. We went to the
12 apartment; we made contact with Ms. Ola Wooten, we asked
13 her to unlock the apartment. The reason for that was a
14 welfare check. We just wanted to look to see if anything
15 was out of the norm.

16 She unlocked the apartment, we stepped inside, a
17 very quick sweep of the apartment and backed out. It was
18 secured.

19 Q You called it a welfare check. Can you describe what
20 that means?

21 A Based on the information that we were given, that
22 there was no contact whatsoever, we go to the apartment
23 out of concern. Has something, anything, happened to the
24 family? We go inside to see is anything in disarray, is
25 anything out of order, is there any reason to believe

1 anything beyond the norm of what's going on, just to make
2 sure everyone is safe. We backed out and then we left.

3 Q Was the -- was there any sign of forced entry into
4 the apartment, M-7?

5 A No, sir.

6 Q Was the door locked or unlocked when you went in?

7 A The door was locked.

8 Q And how did you-all get in?

9 A Ms. Ola Wooten came and unlocked the door for us.

10 Q What was your impression when you went into the
11 apartment and made your welfare check?

12 A Whenever we walked in, nothing was disheveled,
13 nothing messed up, no sign of any kind of struggle or
14 anything like that. It was pretty well kept at the time.
15 It was lived in. There were evidences of people carrying
16 on life in the apartment.

17 Q Let me show you some photographs and ask if you
18 recognize these photographs.

19 A Yes, sir.

20 Q This is going to be State's No. 2.

21 A Yes, sir.

22 Q And also State's 8 through 16.

23 A Yes, sir. All the pictures are familiar with that
24 apartment, yes, sir.

25 Q Does that fairly and accurately depict the way that

1 you observed that apartment, M-7, on June 14th when you
2 made your welfare check?

3 A Yes, sir.

4 Q Specifically, what, if anything, did you notice about
5 a dress, a child's dress? What do you remember about
6 seeing that?

7 A There was some clothing that was laid out, like a
8 dress, I believe, on the daughter's bed. It was on a bed
9 there in that room. There was a dress that was laid out
10 to be worn at a future time.

11 Q What, if anything -- as part of your welfare check,
12 did you go into the bathrooms?

13 A Yes, sir. We checked every room in the dwelling.

14 Everything appeared normal in the bathroom.

15 There were toiletries, toothbrushes. There was, I guess,
16 the basic implements that anyone would use in a restroom.

17 Q That's in both bathrooms?

18 A Yes, sir.

19 MR. GRAHAM: Thank you, Mr. Phillips.

20 Please answer any questions the defense has.

21 CROSS-EXAMINATION

22 BY MR. MCGUIRE:

23 Q Good morning just barely. Good morning, sir.

24 A Good morning, sir.

25 Q Is it Pastor Phillips?

1 A You can call me Shane, but pastor's fine. Yes, sir,
2 I prefer pastor over reverend, yes, sir.

3 Q Okay. We'll stick with pastor.

4 A Yes, sir.

5 Q Pastor Phillips, your first involvement was in the
6 morning hours of June -- what day?

7 A I believe it was June the -- let's see -- the 14th is
8 whenever they came by to make the police report, if I'm
9 not mistaken. Yes, sir, the complaint was made on the
10 14th.

11 Q Okay. And you had the opportunity to sit down with
12 Ms. Sallie Jones?

13 A Yes, sir, I did.

14 Q And you were given a summary of failed attempts to
15 communicate with Ms. Washington?

16 A Yes, sir, I was.

17 Q And you indicated that you tried to contact Ms.
18 Washington yourself?

19 A Yes, sir.

20 Q By calling her telephone number?

21 A Yes, sir. There were a couple of different telephone
22 numbers at that time that I was given to contact her.

23 Q Okay. And how did you get her address?

24 A We were advised of the address, where she was staying
25 over there at Park Place Apartments.

1 Q Do you know who gave you the address?

2 A I want to say that Ms. Jones was the one that gave me
3 it directly. She was the one that made the complaint, she
4 was the one that told me about Park Place Apartments, so
5 I'm pretty sure she's the one that gave us that.

6 Q Okay. And you said you were part of the community
7 action --

8 A Community action team, yes, sir.

9 Q Okay. So you had dealings with the Park Place
10 Apartments before?

11 A Yes, sir. Even before I was the supervisor over the
12 community team, the city's divided up in about four
13 different sections. Property 2 just happens to have Park
14 Place Apartments and that was my assigned area, yes, sir.

15 Q And did you also -- did you have involvement with
16 Park Place as part of your job with the community action
17 squad?

18 A Yes, sir. Part of our duties is to meet with
19 businesses in our area as well as if you're traveling
20 around and you see people out in their yards. The idea is
21 that the police officers put a face on the department.
22 It's not just someone who responds for the purposes of a
23 bad situation locking people up. He responds to deal with
24 any issues. So, yes, sir, I had contact with Park Place
25 Apartments.

1 Q Okay. And who was the face of Park Place? You would
2 be the face of the police. Who would be the face of Park
3 Place Apartments back then?

4 A At that particular time, it would have been
5 Ms. Wooten.

6 Q Okay. And did she have any particular complaints or
7 needs for police activity there?

8 A Park Place Apartments does on occasion, yes, sir,
9 they do have some criminal activity that goes on in there
10 to varying degrees. I mean, there's all kinds of
11 different things that go on over there. Yes, sir, there
12 is.

13 Q Now, with regard to apartment M-7 -- that's
14 Ms. Washington's apartment that -- did you know she lived
15 there with Mr. Lynch?

16 A Yes, sir. Yes, sir, I did. I discovered that after
17 speaking to her for some time.

18 Q Okay. And they were boyfriend/girlfriend?

19 A Yes, sir.

20 Q Okay. And that a Miss Livingston, a child, also
21 lived there?

22 A Yes, sir. Now, I will tell you this, that in the
23 process of taking the police report, what we did -- the
24 main complaint that was brought to me was the concern of
25 Ms. Portia Washington.

1 Q Right.

2 A And so we were able to, I guess you would say, they
3 were able to give me facts concerning her, so that was my
4 main concern at the beginning, was something that I could
5 sink my teeth into, something that I could substantiate to
6 where we could get somebody into the computer.

7 Q Okay.

8 A But those facts concerning Mr. Lynch and also
9 **Cassandra L. [REDACTED]** do come to light.

10 Q Okay. And you added them to what you were doing as
11 those facts came to light?

12 A They were -- yes, sir, they were eventually added.
13 As people became part of the investigation onward, they
14 were added, yes, sir.

15 Q And prior to your inspection of apartment M-7, you
16 learned that there were no particular problems that Ms.
17 Wooten had with Mr. Lynch or Ms. Washington?

18 A Yes, sir. I believe -- and please forgive me because
19 I'm doing the best with my memory here --

20 Q Sure.

21 A In asking Ms. Wooten, my primary concern was, Is
22 there anything that really stands out as a horrible
23 situation? You know, is there something major beyond the
24 ordinary? And there was no indication of that.

25 Q Okay. And you went to the apartment with, I believe

1 you said, Seth Zeigler?

2 A Seth Zeigler. He was either a lieutenant or a
3 captain at the time. He may have been a lieutenant, but
4 either way, he was ranking -- he was my supervisor any way
5 you look at it.

6 Q I got you.

7 And before going into the apartment, did you
8 have -- you obviously had a brief conversation with Ola
9 Wooten?

10 A Yes, sir.

11 Q And did she also inform you that she had already been
12 in the apartment?

13 A I can't tell you whether she had said that or not. I
14 think whenever we came there what we had asked her was
15 based on the information that we had, we were doing a
16 welfare check and would she please open the door just to
17 where we could look around. I was not aware, at least to
18 my memory, that she had ever been in the apartment.

19 Q Okay.

20 A Sorry about that.

21 Q No, no, that's fine. That's fine. If you don't
22 know, you don't know.

23 A Yes, sir.

24 Q Now, with regard to the sweep in the apartment,
25 you've used the term "safety welfare check."

1 A Yes, sir.

2 Q And that's to -- that's to go in and make sure that
3 there's nobody in distress?

4 A Yes, sir.

5 Q Injured?

6 A Yes, sir.

7 Q Or perhaps even dead?

8 A Yes, sir.

9 Q And, for instance, you could have a carbon monoxide
10 situation?

11 A There could be a number of circumstances under which,
12 yes, sir, you are correct.

13 The idea at that time, and please forgive me if
14 I'm giving too much -- you just lift up your hand and I'll
15 be quiet, okay?

16 Q You're doing fine.

17 A But whenever you go in, it's not to have already
18 decided or have a decision that's been made. It's to go
19 in and see if everybody's okay.

20 Q Right. So you're basically looking for human beings
21 and that's not -- that's a task that you can accomplish
22 pretty quickly?

23 A Yes, sir.

24 Q And this is obviously not a search of the apartment,
25 going through people's things or opening drawers or

1 anything like that?

2 A No, sir. It is a welfare check, which is to be
3 minimally invasive. In other words, we're not trying to
4 disturb anything at the time. It's mainly to look through
5 to see if anyone's harmed, in distress, or if something
6 has happened, you know, that something could have happened
7 at that particular place.

8 Q Right. Okay. Let me ask you this. Back then, in
9 2006, would it be standard operating procedure for an
10 officer on the road to have a camera as part of their gear
11 or equipment?

12 A Oh, you're asking years ago.

13 West Columbia's finally come into the 20th
14 century so we have a lot more equipment now.

15 Yes, sir, we did have some equipment. Basic
16 road officers -- I hate to say basic, because we all
17 perform a vital function -- but like myself, we were
18 issued what we call CDV cameras. A lot of times those
19 were Polaroids is what they would give us to photograph
20 injuries of people that had been harmed or something like
21 that.

22 Q Okay. And if you did, say, find somebody who -- you
23 had a CDV complaint and you respond to an apartment, you
24 get the parties separated, everybody gets safe, and if a
25 victim's complaining of an injury, you would document that

1 with your camera?

2 A Yes, sir. If there was a sign of visible -- based on
3 the law, the way the law phrases this, that if somebody
4 has visible injury to their person, you get into that
5 whole "may" and "shall" arrest at the time, yes, sir, we
6 do document those.

7 Q Okay. Now, it wasn't necessary or standard operating
8 procedure to take photographs of an apartment for a safety
9 welfare check?

10 A No, sir, we did not do that, no.

11 Q That wouldn't be something you would do as a matter
12 of routine or course?

13 A Given the circumstance of the call that we were going
14 on, no, sir, I would not have done that, not me
15 personally. I was not an investigator at the time, so --

16 Q Sure. Now, did you ever have occasion after your
17 safety welfare check, did you ever have occasion to go
18 back into the apartment?

19 A I did. And please forgive me, I'm doing the best
20 that I can to remember this. I did go back into the
21 apartment. I believe I went back with Ms. April Bayne
22 into the apartment, yes, sir. Yes, sir, I did.

23 Q Okay. Now, before going back into the apartment with
24 Ms. Bayne, did you brief her on what you discovered, the
25 results of your safety welfare sweep of the apartment?

1 A Yes, sir. I believe that what I did was to explain
2 to her this -- it's the job of the police officer to
3 apprise an investigator as best they can of what they've
4 done. Sometimes we do well; sometimes not so well, sir.

5 Q Sure.

6 A But to give her some information of what was going
7 on. I'm sure that -- I'm trying to think because I don't
8 want to tell you a story here -- yes, sir, that we had
9 gone there and done a welfare check, yes, sir, if memory
10 serves me.

11 Q Okay. Was it -- and I know this is six years ago.
12 This is hard to remember.

13 Do you remember specifically telling Ms. Bayne
14 anything about the apartment looked like it was freshly
15 cleaned? Or do you remember if Ms. Ola Wooten gave you
16 that information?

17 A I want to be careful how I phrase this because upon
18 returning from the apartment M-7, reporting even to my
19 superiors basically what we had observed, because an
20 investigation was beginning at that moment, yes, sir, I
21 think that I did mention -- I don't know if it was
22 directly to Ms. April or to another officer, but I did
23 mention that the apartment looked, you know, in fairly
24 decent order and shape.

25 As a matter of fact, in even one of the pictures

1 it shows this as well, is that the chairs were on top of
2 the table like somebody had cleaned the floor.

3 Q Sure. Kind of like at a restaurant at closing time
4 the chairs go on top of the tables and everybody sweeps
5 and mops the floor?

6 A Yes, sir.

7 Q Okay. If you would, describe for me the second
8 search that you did with Ms. Bayne going back into the
9 apartment.

10 A I can remember going in the front door. I can
11 remember -- because at that moment my role had changed.
12 It's our job to stand with the investigator or what
13 they're doing is to, I guess you'd say, to be a witness,
14 you know, what is touched, what's not, this kind of thing.
15 And I think that we were in there for a short period of
16 time. It was not too terribly long that we just -- we
17 went into the apartment and walked through.

18 Q Would it surprise you to learn that Ms. Bayne's notes
19 indicate that it was much longer than that? I know it's
20 been a long time.

21 A Like I said, sir, I'm doing the best I can to
22 remember back then.

23 Q Let me see if I can help you.

24 A Okay. Help me out. I'll do my best to help you.

25 Q Sure. Would it be fair to say that the return to the

1 apartment, the second search, not your initial safety
2 welfare check, but the second search of the apartment
3 happened around 5 o'clock? Was that -- is that fair to
4 say?

5 A That's possible, sir. It is possible.

6 Q Okay. And that -- that the search took about, maybe
7 about an hour? Does that sound about right?

8 A Maybe. Maybe. Yes, sir.

9 Q And then after the hour, do you have a recollection
10 of talking to a Ms. Carla Perry on-site there at Park
11 Place?

12 A That one, that name does not ring a bell with me at
13 all.

14 Q Okay. Now, with regard to the second search of the
15 apartment, what do you recall witnessing? I think you
16 described your role as a witness. Tell me what you
17 witnessed.

18 A The only thing that, I guess, stood out to me, you
19 know, because once you've been in -- maybe if I say this,
20 this may help you understand my predicament.

21 A lot of times we go into apartments, a lot of
22 times we do searches, and sometimes these things run
23 together, they really do.

24 Q Sure.

25 A But in this particular situation, there was one

1 thing, I think, that did stand out to me, that there was
2 some food that I think was -- I don't know if it was on
3 the counter or in the refrigerator, but there was some
4 food that looked like it was freshly prepared for a meal.
5 That's about all I remember.

6 Q Okay. Did -- do you remember Ms. Bayne opening up
7 drawers and looking through drawers?

8 A Sir, I couldn't say with certainty. I really
9 couldn't.

10 Q Do you know if Ms. Bayne had a camera and was taking
11 pictures?

12 A See, that's another thing. I've seen these
13 investigators take so many photographs of so many things,
14 sir. I do.

15 Is it possible that she did? Yes, sir, it is.
16 I'm not positive about that.

17 Q All right.

18 A I'm sorry.

19 Q No, no, you're going to get a lot of dispensation
20 from me, Shane.

21 A Okay.

22 Q This is six years ago.

23 A Okay.

24 MR. MCGUIRE: Madam Court Reporter, I'm going to
25 ask you to mark these sequentially as defense exhibits.

1 THE COURT: Let's stand down for a minute and
2 let her get that done so she's not under the scrutiny of
3 everybody waiting on her because I could use the restroom.

4 If anybody else wants to use the restroom, this
5 is a brief break while the court reporter does her job.

6 (A break was taken.)

7 (WHEREUPON, Defendant's Exhibits Nos. 13-47 were
8 marked for identification only.)

9 THE COURT: Go ahead.

10 MR. MCGUIRE: Thank you, Your Honor.

11 BY MR. MCGUIRE:

12 Q Pastor Phillips, I'm going to hand you what's been
13 marked Defense Exhibits 13 to 47 for ID purposes only for
14 right now. If you would, just leaf through them and see
15 if you recognize these.

16 A So far. I mean, I'll look through the rest of them,
17 but, yes, sir, I do recognize some of these. I remember
18 that there was a CPAP machine, and this does look like the
19 bathroom, but let me continue to look through, sir.

20 Q Sure.

21 A Okay. So there is the meat that I was talking about
22 a moment ago.

23 Q I believe that might be the fresh food you were
24 referencing?

25 A Yeah, that I was -- I was referring to.

1 I remember the bedroom, the wigs here.

2 Some of these are very similar to the other
3 pictures.

4 A lot of these so far, sir, I do in some fashion
5 recognize. Some of the open -- I guess you'd say open
6 drawers and things like that, the contents within them I
7 don't think I was privy to.

8 I'm trying to be as quick as I can, sir.

9 Q Take your time, Pastor.

10 A All right. To answer your question, sir, many of
11 these I do recognize, more so from the outer angle, I
12 guess you would say, of the room.

13 Like I mentioned, I believe there was a CPAP
14 that was in a bedroom.

15 I think that the bathroom is pretty much the way
16 I remember it.

17 There's other articles in here, you know, like
18 the inside of jewelry boxes and things like that I don't
19 remember. I didn't touch any of those things.

20 I do remember seeing the meat. I'm not sure
21 where that is. It was either on the counter or in a
22 refrigerator, one of the two, and that was just -- I was
23 standing there.

24 For the most part, yes, sir, I do recognize
25 these photographs, but there are some here that I couldn't

1 swear to.

2 Q That's fair enough. I tell you what, we'll keep them
3 marked for ID purposes now and I'm going to ask you a
4 little bit more specific questions one at a time and we'll
5 mark some in evidence maybe and maybe some we won't.

6 Okay. Now, is this one of the photographs that
7 you're saying maybe you're not -- you're not privy to this
8 information?

9 A I want to make the statement here -- and, no, sir,
10 I'm saying this is probably not what I had privy to, but I
11 want to be careful in my testimony. And the reason why
12 I'm saying this is sometimes as police officers, we hear
13 the ongoing investigation of what's going on. So I may
14 have heard the term "panty," but what I'm saying is from
15 what I remember whenever I was in the apartment, I don't
16 remember directly, you know, addressing panties.

17 Q Okay. Now, do you -- so do you have any
18 recollection -- and I'll be very specific here. This is
19 not your first safety welfare check, but the second search
20 of the apartment when you go with Ms. Bayne.

21 Now, do you -- do you -- are you saying that
22 from what you recall you don't remember these items being
23 taken out of drawers and photographed when you went with
24 Ms. Bayne? I don't mean to put you in a tough spot there.

25 A No, sir. I'm obligated to tell the truth regardless.

1 I remember that day that there probably were
2 some photographs that were taken, but I do not remember
3 this directly, no, sir, I do not.

4 Q And it would be fair to say that you don't
5 specifically recall, you yourself, going and opening
6 drawers and taking items out, putting them on the carpet
7 and photographing them?

8 A No, sir. I would not have done that, no.

9 Q Okay. And you don't remember watching anybody doing
10 that?

11 A You'll -- you'll get in trouble for doing that. An
12 officer that messes with a crime scene, you'll get sent
13 home in a heartbeat. That's a no-no.

14 Q All right. Fair enough.

15 But again, you don't recall doing this yourself
16 obviously based on your last response. Do you recall
17 seeing anybody do that?

18 A I remember some photographs being taken. I do not
19 remember the panties specifically, no, sir, I do not.

20 MR. MCGUIRE: Okay. And just for the record,
21 that was Defense No. 13 for ID.

22 BY MR. MCGUIRE:

23 Q And, Pastor Phillips, do you remember either
24 photographing these items yourself or watching anybody
25 photograph these items on your second visit to the

1 apartment with Ms. Bayne?

2 A It's possible. The reason why I say that, sir, is
3 because that was out in the open.

4 Whenever you're asking a question -- I
5 understand you've got to go through them -- a lot of times
6 when photographs are being taken, you know, of course I'm
7 not standing over their shoulder -- I'm just kind of as a
8 witness -- it's possible that some of this may have been
9 photographed --

10 Q Okay.

11 A -- but I can't be positive.

12 MR. MCGUIRE: And just for the record, that was
13 Defense No. 14.

14 BY MR. MCGUIRE:

15 Q And, Pastor Phillips, I want to put up on the board
16 here what's been marked No. 15. I think -- do you have
17 more of a specific recollection of this?

18 A Yes, sir. The one thing that stood out to me -- and
19 here's where I'm careful not to step into the shoes of an
20 investigator, okay?

21 Q Sure.

22 A This is strictly observation.

23 The top left, if I'm not mistaken, that is a
24 CPAP or a constant positive air pressure machine that is
25 used for someone that may have some sort a sleep problem,

1 like sleep apnea, and I remember seeing that. That's
2 something that you would want to keep with you regularly,
3 especially if you're going to sleep. And if I'm not
4 mistaken, the one on the right would reflect the bathroom.

5 Now, once again, you're probably going to ask me
6 about specifically snapping these pictures. It's possible
7 that these pictures were snapped.

8 Of course, let me rephrase. The pictures were
9 taken, okay? We have photographs. As to when they were
10 taken, sir, I cannot tell you that.

11 Q Okay. And do you remember the bottom left-hand
12 photograph? It seems to depict yellow dishwashing or
13 cleaning gloves on a floor?

14 A I do not recall that, sir.

15 Q Okay. Pastor Phillips, one of the reasons that you
16 don't want to be going into drawers or opening things is
17 you don't want to overstep your bounds and engage in a
18 search without, say, probable cause or a proper warrant?

19 A Yes, sir.

20 Q Okay. And I believe you've already stated you have
21 no -- as best you can remember, you didn't do that, you
22 didn't open any drawers or anything like that?

23 A No, sir.

24 Now, I will tell you this. You know, if a
25 drawer was ajar or something like that going to a bedroom,

1 in order to do the welfare check, yes, sir, you would have
2 to do that. But as far as opening up drawers, packages,
3 things like that, no, sir.

4 Q Okay. And what about taking detailed photographs of
5 paperwork, do you have a recollection of that?

6 A No, sir.

7 Q And you don't know where that paperwork came from?

8 A No, sir. I couldn't identify it.

9 MR. MCGUIRE: Okay. And just for the record,
10 that was Defense No. 16 for ID.

11 BY MR. MCGUIRE:

12 Q And, Pastor Phillips, I'm going to show you what's
13 been marked No. 17, Defense 17 for ID.

14 On the bottom right-hand, that looks like one of
15 those things that was opened up with small items in it.
16 And you have no recollection of opening that up yourself?

17 A No, sir.

18 Q In fact, I think you'd say you didn't?

19 A No, sir, I would not have opened it.

20 Is it possible that a box could have been
21 sitting there on a dresser that was open? Yes, sir,
22 that's possible. But as far as the individual, the
23 officer opening that, no, sir.

24 Q Okay. Now, let me ask you this. In the upper
25 left-hand corner there are what appears to be a number of

1 hangers, and on the hangers -- I don't know, maybe half a
2 dozen hangers, maybe a little bit less -- there seems to
3 be some clothing. Is that fair enough?

4 A Yes, sir.

5 Q And I'm not sure if you can from where you are see,
6 but does the item on the top look like -- when my boys
7 were young, I believe my wife called that a "onesie"?

8 A An infant garment, yes, sir.

9 Q An infant garment for a young child, say, two or
10 three years or younger?

11 A Yes, sir.

12 Q Okay. And I believe you testified earlier that you
13 remember an item on a bed kind of laid out. Is that the
14 item you were talking about?

15 A If memory serves me correctly, I want to say that
16 there was something like a dress or something like that.
17 I'm not -- I don't think that that was it.

18 Q Okay.

19 A I remember that there were -- I think there were
20 several articles of clothes, but the one in particular, I
21 want to say it was something like a dress that was placed
22 out there.

23 Q Okay. Pastor Phillips, I want to show you what's
24 been marked No. 18, Defense 18 for ID. It appears a
25 little bit darker on the overhead, but on the bottom

1 left-hand corner, is that the fresh steak that you
2 remember?

3 A Yes, sir. Pretty much if memory serves me correct,
4 yes, sir, that was what I remembered, that there was some
5 meat that had been prepared or ready to cook.

6 Q I think the -- I think with regard to timing and the
7 dates, your conversation with Sallie Jones led you to
8 believe that nobody had been in or out of this
9 conversation -- and your conversation with Ola Wooten,
10 too, no activity in the apartment and nobody had been seen
11 since, I think, the 10th?

12 A I think so, sir. I think the last time that
13 Ms. Jones said that she was able to make contact with
14 Ms. Washington was on the 10th and that she had been
15 unable -- whether at the apartment, by telephone or
16 whatnot. And I even think that Ms. Wooten had said that
17 she hadn't noticed them for a few days there.

18 Q Okay. So this would be obviously on the 14th your
19 opportunity to look at this steak?

20 A Yes, sir.

21 Q Okay. I want to show you very quickly what's been
22 marked Defense No. 19 because I don't think you're going
23 to have any recollection about that. Again, that's some
24 more paperwork that looks to be spread out and
25 photographed. You don't recall that is my understanding?

1 A No, sir, I do not.

2 Q You don't know where that paperwork would have come
3 from?

4 A No, sir.

5 Q Okay. Pastor Phillips, this is No. 20 for ID.

6 Again, those are what appear to be yellow cleaning gloves
7 in the upper left-hand, and I think you already stated you
8 have no recollection of seeing that?

9 A I do not remember that. No, sir, I do not.

10 Q We've got some more paperwork, and again, my
11 understanding is you don't really have a recollection of
12 photographing or seeing paperwork. But in the bottom
13 right, there's the CPAP machine.

14 A Yes, sir.

15 Q You have a recollection of that. And I believe you
16 did say that the bathroom looked pretty ordinary?

17 A Yeah, pretty -- nothing out of the ordinary, no, sir.

18 Q I'm going to show you what's been marked 21 for ID.

19 Do you have a recollection of seeing the sink and the
20 water and the dish bubbles and the stuff in the sink?

21 A I do remember the kitchen. I do remember the sink.
22 The contents, it seems like there was something in the
23 sink, but I couldn't testify to exactly what was in the
24 sink.

25 Q Okay. Now, do you have a recollection of

1 photographing or seeing medicine bottles?

2 A I would not feel comfortable saying -- you know, in
3 my mind I see medicine bottles pretty much everywhere we
4 go.

5 Q Got you.

6 A Can I say that those were specifically the medicine
7 bottles that were in the apartment? Sir, I couldn't tell
8 you that.

9 Q Okay. And let me show you what's been marked No. 22
10 for ID. Is this a fair representation of the bedroom in
11 the upper left, the child's bedroom in the upper left?

12 A I believe so. I believe that there were some dolls
13 or something that was above the bed on the right, which
14 isn't indicated in that picture, if I'm not mistaken. And
15 I do remember the -- I believe the wig down there on the
16 bottom right. I remember that head.

17 Q Okay.

18 A There was a bed -- and I think it was that room --
19 there was a bed in the apartment that had dolls in boxes,
20 if I'm not mistaken, that was above the bed.

21 Q You can see the wigs. And to the right, are those
22 the dolls, the packages of the dolls?

23 A Yes, sir. Yes, sir.

24 Q Now, do you -- I know you have a recollection of
25 seeing this, but do you have a recollection of witnessing

1 anybody taking photographs of this?

2 A I remember it is indeed possible that at the time
3 that I was in there with Ms. Bayne, that there were
4 photographs that were snapped. I'm just -- I'm trying to
5 be careful in how I phrase it. I don't remember us going
6 through anything or doing anything like that. I certainly
7 would not have touched it. It's a good way to get written
8 up.

9 MR. MCGUIRE: Sure.

10 Judge, if I could have just one second.

11 THE COURT: Sure.

12 (Pause.)

13 MR. MCGUIRE: Judge, we're going to move Defense
14 No. 18 and 43 into evidence. My understanding is, no
15 objection.

16 MR. GRAHAM: That's correct, Your Honor.

17 THE COURT: 18 and 43 without objection?

18 MR. GRAHAM: Yes, sir.

19 (WHEREUPON, Defendant's Exhibits Nos. 18 and 43,
20 having been previously marked, were admitted into
21 evidence.)

22 BY MR. MCGUIRE:

23 Q Pastor Phillips, I want to hand both of those
24 exhibits up to you. That's the fresh steak that you
25 remember; is that correct?

1 A Yeah, it was a roast or something like that of some
2 sort. It was in a -- yes, sir, this is what I remember.
3 Yes, sir, that was the food.

4 MR. MCGUIRE: And, Judge, I want to go ahead and
5 publish to the fact finder.

6 Pastor Phillips, if you'd just hand them up to
7 the Court.

8 THE WITNESS: Sure.

9 THE COURT: Yes, sir.

10 BY MR. MCGUIRE:

11 Q Pastor Phillips, is it possible based on your
12 recollection of June 2006, that -- or do you have any
13 knowledge of Ms. Bayne going into the apartment without
14 you being there? Do you know if that happened?

15 A It's -- let me say this. Whenever -- and I guess
16 this may go to my involvement in the case. I took the
17 initial police report -- and I'm answering your question.
18 Please forgive me. I just want to --

19 Q Take your time.

20 A In other words, I want to give you my reasoning for
21 how I respond to this so it's not too vague.

22 Q Sure.

23 A My involvement in the case was, you know, I was
24 presented with information based on those facts. We felt
25 the concern, the need to go to the apartment, do a welfare

1 check and get these people -- at least initially until we
2 could gather more information on Mr. Lynch as well as, I
3 believe, **Cassandra L. [REDACTED]** -- to get them into NCIC.

4 From that point, we worked kind of as an
5 assistant, or at least my part would be to work with an
6 investigator, if they need me to go, if they need me to
7 stand by.

8 I believe that I did go in one time with April
9 Bayne into the apartment. I believe it is possible -- but
10 then again, my mind may be deceiving me here -- I may have
11 even been at least outside of the apartment on another
12 time when investigators were there. But as to how many
13 times she did go in there, I don't know, sir.

14 Q And you might not have any information with regard to
15 this, but Ms. Bayne's notes seem to indicate that she went
16 back several times to check to make sure the apartment was
17 still secure, that she went back in a couple of times to
18 make sure nobody had been in after her. Do you have any
19 knowledge of that? Would you have been maybe called out
20 for one of those visits?

21 A I think -- my recollection of people going back to
22 the apartment, I know that there were a couple of
23 different times they went back on warrants, to go back in
24 there to check out -- yes, sir.

25 Q That would be June 20th.

1 A Yes, sir. I think there were a couple of different
2 times that they went back for warrants, but I don't know
3 that she went --

4 Q And as far as you can recall, you were not on a
5 warrant detail?

6 A No, sir. No, sir.

7 Q And your involvement seems to end after the safety
8 welfare check and then at least one visit back with Ms.
9 Bayne?

10 A Yes, sir, to do the initial report, get the
11 information necessary to put people in NCIC, and then
12 pretty much I'd say, "Can I be of service to you?" And if
13 they need me -- because you don't want to throw a case at
14 somebody and say, Here, have a nice day.

15 Q Sure.

16 A You have a vested interest in that. And you want to
17 serve not only your law enforcement, but you want to do
18 your best to serve the family so --

19 But yes, I had minimal involvement in the case
20 after that fact. Once it goes over in investigations,
21 they're the experts in those kinds of things.

22 Q And, in fact, I think in reading Ms. Bayne's notes,
23 one of the reasons that you went back out with her is
24 because you'd already established contact with Ms. Wooten
25 and you knew Ms. Wooten?

1 A Yeah, that's entirely possible. Yes, sir.

2 Q So she kind of segues into the investigation on the
3 second search of the apartment, you're there because
4 you've been there the first time?

5 A That's entirely possible, yes, sir.

6 MR. MCGUIRE: Pastor Phillips, that's all I have
7 for you. Thank you, sir.

8 THE WITNESS: Thank you, sir.

9 THE COURT: Any redirect?

10 MR. GRAHAM: No, sir, Your Honor.

11 We'd ask that he be excused.

12 THE COURT: All right. Pastor, you may be
13 excused.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: All right. Mr. McGuire, Mr.
16 Stitely, have you-all's plans changed regarding your
17 conference with the expert this afternoon?

18 MR. MCGUIRE: We have it set up and arranged,
19 yes, sir.

20 THE COURT: Very good. That being the case,
21 we'll adjourn for the day.

22 MR. MCGUIRE: Yes, sir.

23 THE COURT: We'll resume in the morning.

24 MR. MYERS: Your Honor, I throw this out and let
25 you-all-all decide.

1 The next thing we'll get into is going into the
2 apartment on a search warrant. Do you want to take up
3 that search warrant now?

4 THE COURT: All right. Considering my denying
5 the defense motion in the pretrial motions and my offering
6 to allow them time to confer with the DNA expert, out of
7 an abundance of caution and having scheduled that
8 yesterday, I want to go ahead and allow them the entire
9 afternoon to make that and we'll delve into the search
10 warrant and its validity first thing in the morning.

11 MR. McGUIRE: Yes, sir.

12 MR. MYERS: All right.

13 THE COURT: All right. We're adjourned for the
14 day.

15 MR. McGUIRE: Thank you, Judge.

16 (The proceedings were concluded for the day to
17 be reconvened on April 25, 2012.)

18 (WHEREUPON, proceedings are resumed on
19 Wednesday, April 25, 2012.)

20 (WHEREUPON, Defendant's Exhibit No. 11A was
21 marked for identification only.)

22 THE COURT: All right, gentlemen.

23 Mr. McGuire, you look like you want to say
24 something. Go ahead.

25 MR. McGUIRE: I do. Judge, we have a bit of a

1 timing issue.

2 We have an expert witness, a pathologist, who
3 can testify up until Thursday afternoon and otherwise it
4 would be Tuesday morning. And if the State calls a
5 pathologist, it's very likely we're going to call our own.
6 I don't know -- if they don't, then we might not.

7 MR. MYERS: We're not calling a pathologist.

8 MR. McGUIRE: Okay. So we'll think about
9 whether we're going to call her or not. We might ask you
10 to take a witness out of order Thursday afternoon.

11 THE COURT: All right. If that issue comes up,
12 we'll deal with it and try to accommodate the schedule as
13 best we can.

14 MR. McGUIRE: Thank you, Your Honor.

15 And Mr. Stitely reminds me that we still have an
16 outstanding issue with, I think, with Ms. Bayne's
17 personnel file. And she'll be testifying with regard to
18 the search warrant this morning.

19 I don't know if the Court's decided if we're
20 entitled to anything out of that file or not.

21 THE COURT: I have not made that decision yet.

22 I've not reviewed the file. I've sat on it and
23 was waiting for the issue to come up.

24 I haven't thumbed through it to peruse it in any
25 way yet. I do have possession of it back in the chambers.

1 All right. Otherwise, are we ready to go,
2 Solicitor?

3 MR. MYERS: Yes, sir.

4 THE COURT: All right. Call your witness.

5 MR. GRAHAM: The State calls Beth Minemier.

6 ELIZABETH MINEMIER, after being duly sworn,
7 testified as follows:

8 THE CLERK: Please be seated.

9 State your full name and spell your last.

10 THE WITNESS: My name's Elizabeth Minemier.
11 Last name is M-I-N-E-M-I-E-R.

12 DIRECT EXAMINATION

13 BY MR. GRAHAM:

14 Q Ms. Minemier, where do you work?

15 A Wells Fargo Bank, formerly known as Wachovia.

16 Q And how long have you worked there?

17 A Going on seven years.

18 Q And as part of your job, have you been designated as
19 the records custodian for records relating to Kenneth
20 Lynch?

21 A I have.

22 Q And do you have those records here with you today?

23 A I do.

24 Q Can you tell me -- and those are actually Wachovia
25 records; is that correct?

1 A They are.

2 Q Can you tell me about what, if any, accounts Kenneth
3 Andrew Lynch had with Wachovia Bank back in 2006?

4 A He had a checking account and a savings account.

5 Q And do you have records relating to those accounts?

6 A I do.

7 Q What, if anything, can you tell me about activity in
8 Mr. Lynch's savings or checking accounts on June 9th of
9 2006?

10 A On June 9th -- I don't have any activity in the
11 savings on the 9th. He had a deposit.

12 Q A deposit?

13 A Yeah, he did have a deposit.

14 Q Can you tell me how much money was deposited into
15 Mr. Lynch's Wachovia savings account on June 9th of 2006?

16 A \$215.

17 Q And was there any money deposited into Mr. Lynch's
18 Wachovia checking account?

19 A \$43.

20 Q Let me show you a statement and ask if this
21 accurately reflects your testimony.

22 June 9th, 2006, Kenneth Lynch deposits \$215 into
23 Wachovia savings account and \$43 into Wachovia checking
24 account.

25 A Correct.

1 Q Let's move on to June 10th of 2006. Let's talk about
2 specifically withdrawals from Mr. Lynch's savings account.

3 What, if any, information do you have about
4 withdrawals at 4:37 p.m.?

5 A There was a withdrawal for \$20 at Dutch Square, 101
6 Dutch Square, Columbia, South Carolina.

7 Q And that was at 4:37 p.m. on June the 10th?

8 A It was.

9 Q Were there any other withdrawals on that same date?

10 A There were two other savings withdrawals, same
11 location. It's in military time, 1638, and then another
12 one a few seconds after that.

13 Q So that would be 4:37?

14 A 4:38, yep.

15 Q Okay. So we have two more withdrawals on June 10th,
16 2006 at 4:38 p.m. again from the 101 Dutch Square in
17 Columbia, South Carolina?

18 A Correct.

19 Q Let me show you some statements and see if these are
20 accurate as well.

21 6-10-06, \$20 withdrawal from Lynch's Wachovia
22 savings account located at 101 Dutch Square in Columbia,
23 South Carolina, at 4:37 p.m.?

24 A Correct.

25 Q And another one, Ms. Minemier, 6-10-06, \$20

1 withdrawal from Lynch's Wachovia savings account located
2 at 101 Dutch Square in Columbia, South Carolina, at
3 4:38 p.m.?

4 A Correct.

5 Q And again, ma'am, June 10th, 2006, \$20 withdrawal
6 from Lynch's Wachovia savings account located at 101 Dutch
7 Square in Columbia, South Carolina at 4:38 p.m. as well?

8 A Correct.

9 Q Now, was there any other activity from Mr. Lynch's
10 savings account on June 10th, 2006?

11 A Not on the 10th.

12 Q Moving over to his checking account, what activity
13 did he have on June 10th, 2006?

14 A There's a purchase at the Bi-Lo on June 10th for
15 22.89. It says Bi-Lo No. 442, Columbia, South Carolina.

16 Q Do you know the time?

17 A 6:17.

18 Q Is that a.m. or p.m.?

19 A It would be p.m.

20 Q Let me show you this statement.

21 Is this consistent with your testimony:
22 June 10th, 2006, \$22.89 purchase from Lynch's checking
23 account, Bi-Lo Store No. 442, Columbia, South Carolina,
24 6:17 p.m.?

25 A Correct.

1 Q Is there any other activity from Mr. Lynch's checking
2 account on June 10th, 2006?

3 A No other activity.

4 Q Moving on to June 11th, 2006, what, if any, activity
5 occurred in Mr. Lynch's savings account?

6 A Let's see. June 11th, savings account, \$20
7 withdrawal at Cayce, 1131 Knox Abbott Drive. It looks
8 like that occurred at 8 o'clock, 8 p.m.

9 Q 8 o'clock even or is it 8:02?

10 A 8:02.

11 Q 8:02 p.m.

12 Were there any other user transactions on that
13 day out of that account?

14 A Out of the savings account, no.

15 Q Were there transfers out of that account?

16 A No.

17 Q What was the balance of Mr. Lynch's savings account
18 after that \$20 withdrawal on Knox Abbott Drive in Cayce?

19 A 437.23.

20 Q Now, what was his balance at the end? Are there any
21 more user transactions out of his savings account at all
22 for the rest of that statement period?

23 A Yeah, there were two overdraft transfers to his
24 checking account: One in the amount of one thirty-three
25 on 6-12; one in the amount of four thirty-five on 6-14.

1 Q Were there any transfers from his checking to his
2 savings account any time during that statement period?

3 A From checking to savings, no.

4 Q Do you have the statement for June 6th, 2006, to
5 July 6th, 2006, in front of you for Mr. Lynch's savings
6 account?

7 A I do.

8 Q What does it reflect that the balance is on -- the
9 balance of the account is on June 14th, 2006?

10 A \$2.23.

11 Q Okay. So between -- let me ask you then if this is a
12 fair and accurate statement.

13 June 11th, 2006, \$20 withdrawal from Lynch's
14 savings account located on Knox Abbott Drive in Cayce,
15 South Carolina. The remaining balance of that account is
16 \$2.23.

17 A Correct.

18 Q And that withdrawal was at 8:02 p.m.?

19 A 8:02 p.m.

20 Q Are there any -- is there any activity on Mr. Lynch's
21 checking account on June 11th, 2006?

22 A There's a \$200 withdrawal, Cayce, 1131 Knox Abbott,
23 Columbia, South Carolina, and that occurred at 8:02.

24 Q Let me ask you if this is correct, ma'am.

25 6-11-06, \$200 withdrawal from Lynch's checking

1 account located on Knox Abbott in Cayce, South Carolina at
2 8:02 p.m.

3 A Correct.

4 Q Is there any other activity on Mr. Lynch's checking
5 account on that day?

6 A No.

7 Q On June 12th of 2006, is there any activity on either
8 account?

9 A No.

10 Q Moving on to June 13th, now at this point I don't
11 believe there is any more activity on Mr. Lynch's savings
12 account; is that correct?

13 A That's correct.

14 Q For the rest of the statement period, there's no more
15 user transactions on that account?

16 A No more user transactions.

17 Q How about Mr. Lynch's checking account for June 13th,
18 2006?

19 A There were three withdrawals. The first one was
20 2195, it was a \$20 withdrawal. It occurred at 745 Spur
21 156, Waskom, Texas, at 11:54.

22 Q Do you have the name of the bank where that occurred
23 at?

24 A Citizens National Bank.

25 Q The amount of the withdrawal was how much, ma'am?

1 A \$20.

2 Q So there was a \$20 withdrawal from Mr. Lynch's
3 checking account.

4 Let me show you another statement and ask if
5 this reflects your testimony.

6 June 13th, 2006, at 11:54 a.m., \$20 withdrawal
7 from Lynch's checking account at Citizens National Bank in
8 Waskom, Texas.

9 A Correct.

10 Q Shortly after that, within minutes, was there also
11 another transaction on Mr. Lynch's checking account at the
12 same location?

13 A Same location, \$200, 11:55.

14 Q 11:55 a.m.?

15 A A.m.

16 Q Let me ask you if this is accurate, ma'am.

17 June 13th, 2006, \$200 withdrawal from Lynch's
18 checking account at Citizens National Bank, Waskom, Texas
19 at 11:55 a.m.

20 A Correct.

21 Q Is there any more transactions on that same date and
22 near the same time?

23 A One more transaction, a withdrawal for \$200, same
24 location, 11:59 a.m.

25 Q Are there any more user transactions out of Mr.

1 Lynch's checking account after that one?

2 A No more transactions.

3 Q Can you tell me what the remaining balance in
4 Mr. Lynch's checking account was after that transaction?

5 A There were eight cents left.

6 Q Eight cents?

7 A Eight cents.

8 Q Let me ask you if this is accurate.

9 June 6th -- excuse me. June 13th, 2006 at
10 11:59 a.m., \$200 withdrawal from Lynch's checking account
11 at Citizens National Bank again in Waskom, Texas,
12 remaining balance is eight cents.

13 A Correct.

14 Q Ma'am, I want to show you what's been in evidence as
15 State's No. 25 and ask if you recognize that as a United
16 States map.

17 A I do.

18 Q And are you familiar with where Waskom, Texas, is?
19 If you need to step down, you can.

20 A Yeah. Near Dallas.

21 Q Let me ask you if this is accurate.

22 June 13th, 2006 -- these cover the transactions
23 in Waskom, Texas -- 11:54 a.m. to 11:59 a.m. at Citizens
24 National Bank, Waskom, Texas, withdrawals from the
25 checking account, \$20, \$200, \$200, with a balance of eight

1 cents.

2 A Correct.

3 MR. GRAHAM: Your Honor, the State would add
4 that to State's 25.

5 MR. STITELY: No objection.

6 THE COURT: Comment was added without objection.

7 MR. GRAHAM: I'm sorry?

8 THE COURT: Your comment was added without
9 objection.

10 MR. GRAHAM: Thank you.

11 BY MR. GRAHAM:

12 Q And again, ma'am, do you recognize where Columbia,
13 South Carolina, is on the map?

14 A (Shaking head.)

15 Q Let me ask if this is consistent with your testimony.

16 June 11th, 2006, at 8:02 p.m., Wachovia Bank,
17 Columbia, South Carolina, withdrawal from savings account,
18 \$20, leaving a balance of \$2.23.

19 A Correct.

20 MR. GRAHAM: Your Honor, the State would add
21 this to State's 25 as well.

22 THE COURT: Your comment's added without
23 objection.

24 MR. GRAHAM: Ms. Minemier, thank you for
25 answering those questions for me.

1 Please answer any questions the defense has.

2 THE WITNESS: Okay.

3 CROSS-EXAMINATION

4 BY MR. STITELY:

5 Q Hi, Ms. Minemier. How are you?

6 A Hello. Fine, thanks.

7 Q We actually know each other.

8 Just a couple of questions.

9 The June 10th withdrawal from the Dutch Square,
10 there were two you indicated, a \$20 and then another \$20.
11 That was June 10th at 4:37 p.m.?

12 A Correct.

13 Q Are those stand-alone ATMs or are those branches?

14 A Those are -- that's a standalone ATM at Dutch Square
15 if I recall. In '06 it was still a stand-alone.

16 Q Okay. And that's the kind that you would drive your
17 car up to?

18 A They have walk-up and drive-thru. I'm not sure which
19 one that is.

20 Q Is there any way to indicate on your records which
21 one was utilized?

22 A No.

23 Q Okay. All stand-alone ATMs with Wells Fargo -- well,
24 Wachovia and Wells Fargo now, they have video
25 surveillance, correct?

1 A As far as I know, yes.

2 Q Is there any way -- you didn't by chance bring any of
3 the video records to see what vehicle Mr. Lynch may have
4 been driving or if he walked?

5 A I did not.

6 Q Were you asked to bring those by chance?

7 A No.

8 Q You're actually the manager here in one of the
9 Lexington stores?

10 A I am.

11 Q The purchase on 6-10 from the Bi-Lo of \$22.89 at
12 6:17 p.m., that's an actual purchase, that's not a time
13 that it posted to his account? On 6-10 you said Bi-Lo?

14 A Actual purchase.

15 Q So that would be the time the transaction was
16 conducted, not a posting? Like, he bought something on
17 Thursday and it just happened to post?

18 A No.

19 Q And that Bi-Lo you said was located in Columbia is
20 where it indicates on your records?

21 A Correct.

22 Q The transactions, \$20, \$200, happens a couple of
23 times.

24 Is there any way to indicate if those are
25 withdrawals or what Wachovia calls fast cash where it just

1 gives you a set amount that you can grab? Is there any
2 way to indicate that on the records?

3 Like, when you put your PIN card in, correct me
4 if I'm wrong, but it used to be like you want to take a
5 withdrawal and you could type in an amount or do like a
6 fast cash which only allowed certain amounts and you push
7 the button?

8 A They're still both considered withdrawals, but, yeah,
9 there's no way to differentiate.

10 Q Okay. Do you remember back in 2006 what the largest
11 denomination you could hit the fast cash button was, by
12 chance?

13 A No.

14 Q Do you remember it used to kind of go 20, 40, 100,
15 200?

16 A No.

17 Q Is there any way to tell on Mr. Lynch's account with
18 what you have in front of you how much was the maximum he
19 could withdraw on any one transaction?

20 A No.

21 Q It is uncommon, though, to have an account that you
22 can only -- on certain cards people can only withdraw
23 certain amounts on any given transaction; is that fair?

24 A Normally it's cumulative, but there are withdrawal
25 limits.

1 Q Okay. At your ATM, what's the most now that someone
2 can go up and just pull cash out in one transaction?

3 A Some customers 800, some customers 1,000.

4 Q But it does depend on the customer, what kind of card
5 they have, what their accounts say and all that?

6 A It can.

7 Q Okay. It's not uncommon to see any of your customers
8 make, you know, two separate \$200 withdrawals on a card?

9 A Perhaps.

10 Q Okay. One other just real quick question.

11 You said on 6-12 and 6-14 there were two
12 overdrafts to checking; is that correct?

13 A Correct.

14 Q Those came from his savings account?

15 A They did.

16 Q I just want to clarify because the -- what Mr. Graham
17 put up on the board, a remaining balance from his savings
18 account on 6-11 of 2.23, when did the actual overdraft
19 come out?

20 A It posted to the account on the 12th and the 14th.
21 They could have been pulled on the 11th. That's not
22 realtime.

23 Q Okay. And you said at some point that his balance
24 was 437.23 on 6-11?

25 A On 6-12.

1 Q On 6-12. Which account is that?

2 A Savings.

3 Q So this actually is inaccurate that his savings
4 account's got 2.23. It actually, the next day, still had
5 \$437.23.

6 A Maybe it's semantics. We've got a daily balance
7 summary here, not in actual realtime. The bank doesn't
8 post in realtime. ATM transactions and purchases are
9 realtime.

10 Q Okay. But it definitely indicates that at some point
11 it looks like he had 420-something in that savings account
12 on the 12th from what your records show?

13 A Based on posting, yes.

14 Q And you don't have any information about any other
15 bank accounts Mr. Lynch may have owned at any other bank?

16 A I do not.

17 MR. STITELY: Okay. Thank you. No further
18 questions. Thank you for coming.

19 THE WITNESS: Yep.

20 REDIRECT EXAMINATION

21 BY MR. GRAHAM:

22 Q Ms. Minemier, the \$420 that Mr. Stitely was talking
23 about, isn't that the \$420 that was transferred from that
24 account to the other account to allow the transactions in
25 Waskom, Texas?

1 A It was.

2 MR. GRAHAM: Thank you.

3 THE COURT: You may step down.

4 THE WITNESS: Thank you.

5 MR. MYERS: Your Honor, the State now would take
6 up the search warrant for going into the apartment, and I
7 think it was June 20th.

8 We hand up to the Court a certified copy of that
9 search warrant. We'd like to make this a Court's exhibit.
10 And we stand on the warrant itself.

11 THE COURT: Very well. It will be marked
12 Court's Exhibit 34, I believe.

13 (WHEREUPON, The Court's Exhibit No. 34 was
14 marked for purposes of the record.)

15 MR. MYERS: And this would be an in camera
16 hearing, Your Honor.

17 THE COURT: So for purposes of today, we're now
18 moving into an in camera hearing.

19 Mr. McGuire, who do you intend to call first?

20 MR. MCGUIRE: April Bayne, Your Honor.

21 THE COURT: All right. That being the case, do
22 you believe based upon your request for an in camera
23 viewing of the personnel file that it would be appropriate
24 for me to review that now to make a determination as to
25 whether you'd be allowed that?

1 MR. MCGUIRE: Yes, sir.

2 MR. MYERS: I think that would be appropriate
3 when we get back into testimony rather than in camera. I
4 don't think that would be an issue for the in camera
5 search warrant hearing.

6 MR. MCGUIRE: Judge, while normally I might
7 agree with you or agree with that statement, there are
8 some credibility issues with regard to Ms. Bayne's
9 testimony.

10 She's testified previously that -- when we were
11 making this case -- that the safety welfare check
12 basically ended with Shane Phillips, Pastor Phillips now,
13 and then once that was completed, any other entries of the
14 apartment was a full-blown search.

15 She stated that her entry into the apartment was
16 still considered, in her view, as a safety welfare check.
17 She stated she's been on some 50 to 100 of them, it was
18 very routine to take photographs. We put a subpoena on
19 West Columbia Police Department and they indicate she's
20 only been on two. I believe that's impeachment of her
21 credibility.

22 There are other statements regarding the
23 preparation of the search warrant and how that was
24 prepared. I think that's going to be a credibility issue.

25 So I think if there's anything in her personnel

1 file that could be deemed an impeachment issue or
2 credibility issue, it's relevant now.

3 THE COURT: All right. Understanding both your
4 positions and we're in an in camera hearing, I think I'd
5 rather go ahead and review the personnel file now and make
6 a determination either way because I've got to do it
7 either way. I mean, like I said on the record, I've not
8 reviewed it as yet.

9 It's been delivered to me by the West Columbia
10 records custodian from the -- an agent of the city
11 manager, I believe -- I'm not certain of her name.
12 Anyway, I have her name on the file, so I can't speak from
13 recollection who handed it to me, but she very directly
14 would only hand it to me and not my law clerk or anyone
15 else. So it was delivered directly to me and it's in
16 chambers.

17 So if you-all will let me recess for a few
18 minutes and go review that and then we'll move forward
19 after that.

20 (A break was taken.)

21 THE COURT: All right. I've reviewed the
22 personnel record of Ms. Bayne, the next witness. Of
23 course, I've done that in camera in chambers.

24 I didn't find anything in there that I believe
25 would be relevant to her veracity. There's numerous

1 evaluations she had while working for West Columbia. She
2 evaluated on a scale of one to five on average of more
3 than four on all the evaluations. The evaluations seemed
4 to be consistently, I would say, above average to
5 excellent as an employee.

6 She changed positions several times, one in
7 which in particular -- I don't know if it's relevant to
8 this or not -- but from investigator to a victim's
9 advocate because the grant ran out.

10 And so unless you-all can point me to something
11 specific you're looking for, I don't see anything in there
12 other than an employment record of a young lady who's
13 proceeding as a law enforcement officer and received a pay
14 grade, merit pay increase just about every evaluation. I
15 didn't see anything that would point towards a reprimand
16 toward her veracity or any type of issue such as that.

17 Is there anything else you-all want me to --
18 y'all are seeking?

19 MR. MCGUIRE: No, sir.

20 THE COURT: All right. Well, having reviewed
21 that in camera, I'm going to make contact with
22 Ms. Valentino who is the city clerk for the City of West
23 Columbia and have that file returned to her. I'm certain
24 she'll come pick it up and I'll have it returned to her.

25 So having dealt with the in camera review of the

1 personnel file, we now proceed with the in camera hearing
2 regarding the search warrant, which has been identified as
3 Court's Exhibit 34.

4 MR. MCGUIRE: Yes, sir.

5 THE COURT: All right. Call your witness.

6 MR. MCGUIRE: We'd call April Bayne.

7 THE COURT: All right. Ms. Bayne, come forward.

8 Ms. Bayne, I'll remind you you're still under
9 oath from your prior testimony earlier in the week.

10 THE WITNESS: Yes, sir.

11 APRIL BAYNE, having been previously sworn,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MCGUIRE:

15 Q Good morning, Ms. Bayne.

16 A Good morning.

17 Q I want to pass up to you what's been marked Defense
18 Exhibit No. 13. Do you recognize that?

19 A Yes, sir.

20 Q What is that?

21 A Those are four photographs taken of the apartment,
22 the residence of Kenneth Lynch and Portia Washington, on
23 June 14th, 2006.

24 MR. MCGUIRE: Judge, we've got some of these
25 pictures placed on backing board just to make them a

1 little bit easier to handle. I'm going to have the court
2 reporter mark this one, if we could, please.

3 (WHEREUPON, Defendant's Exhibits Nos. 48-49 were
4 marked for identification only.)

5 BY MR. MCGUIRE:

6 Q Ms. Bayne, just for the record, let the record
7 reflect that Defense No. 13 for ID has been placed on a
8 projector.

9 Is that the same photographs you just described
10 to the Court?

11 A Yes, sir.

12 Q Now, in the upper right-hand corner, there appears to
13 be a piece of furniture; is that right?

14 A It's kind of hard for me to tell from here, but that
15 looks like it's the living room and the coffee table.

16 Q It's hard for me to see, too.

17 I'm going to hand it back to you because it's so
18 hard to see.

19 A It is. It's not very light.

20 Q In the upper right-hand corner --

21 A Yes. That is a piece of furniture as you walk into
22 the apartment through the door on the left up against a
23 wall --

24 Q Okay.

25 A -- like a small dresser or table.

1 Q And it appears that the drawers have been opened?

2 A That's correct.

3 Q And you opened the drawers?

4 A That's correct.

5 Q And then you removed some items?

6 A That's correct.

7 Q And the items that you removed are what appear to be
8 a pair of woman's underwear?

9 A That's correct.

10 Q And a pocket knife?

11 A That's correct. The crotch is cut out of the woman's
12 underwear.

13 Q And you put this on the carpet and photographed it?

14 A I did.

15 Q Both the underwear and you placed the pocket knife
16 next to the underwear?

17 A That's correct.

18 Q And you photographed them both and they appear in
19 that picture?

20 A Yes. I photographed them how I found them and then I
21 laid them out and took a more close-up photograph.

22 Q Now, when you're doing this, is Shane Phillips with
23 you?

24 A Yes, he staying in there as a witness.

25 Q Okay. Now, you were aware, of course, that Shane

1 Phillips had already cleared the apartment?

2 A At that time I don't know if I was told that or not.
3 In my notes, I found that -- looked like Park Place. I
4 was given information that Park Place had been in there
5 and that it looked -- it says, "Park Place says house
6 intact and the neighbors say car is gone."

7 But I can't remember if I was told Shane had
8 been in there or not. Obviously he had, according to his
9 testimony, but at that time I'm not sure if I was aware of
10 that. But I was aware that Park Place was reporting that
11 the house was intact.

12 Q When did you get involved with this case?

13 A I was actually leaving the courthouse from another
14 case headed home and my captain, Captain of Investigations
15 at the time, Tony Owens, called me. He asked me to
16 instead of going home for the day, to please report back
17 to the police department, that he had a case that he
18 wanted me to start on immediately.

19 Q What time was that?

20 A My notes reflect that I "at 1600 was updated by A2,"
21 which would be Captain Owens at the time, and that I got
22 the brief rundown of what was going on. I can read those
23 notes if you'd like.

24 Q If you would.

25 A Sure.

1 I have: "Updated A2. 53 BF" -- which stands
2 for black female -- "boyfriend been missing since
3 Saturday."

4 Then at the top I have: "Portia Washington,
5 " -- which we now know is her date of birth --
6 "boyfriend, Kenneth Andrew Lynch. Neighbors, car gone,
7 house intact Park Place says. Unusual.

8 "Bob Bennett Ford, female works there. Unusual.

9 "Get with Johnny" -- who was our TAC officer who
10 oversees NCIC -- "mom is in NCIC. Last time mom had
11 contact, on the 10th. The tag is in NCIC. Unknown,
12 question mark, yes.

13 "RCSO" -- which is Richland County Sheriff's
14 Department -- "inquired on her at 17:06." And then I have
15 the number for the sheriff's department. And beside it I
16 wrote, "delayed hit."

17 Then I have the tag, which is 682, S as in
18 Sierra, E as in Echo, H as in Hotel -- "delayed hit, 1425
19 at Texas, El Paso." I have a phone number written beside
20 it.

21 And then I put: "Get with Shane" -- which was
22 Shane Phillips -- "get with department." And then I wrote
23 "blood splatter" underneath.

24 And that was at 1600 on June 14th, 2006.

25 Q And what did you do after you received all of that

1 information?

2 A At 16:10 I called the number for El Paso, Texas, the
3 tag that was run at 12:30 their time, 2:30 our time by a
4 trooper.

5 "Kenneth Andrew Lynch, run ID, I-10, mile marker
6 82, spoke with a dispatcher who said they will get ahold
7 of the trooper now. The cell phone coverage was not
8 good."

9 So essentially, from my memory, the dispatcher
10 had to relay my questions over the phone to his officer
11 since the cell phone wouldn't work for him to call me
12 directly. So the next part that was relayed was relayed
13 through a third person, the dispatcher named Fred Messias.

14 And the information I got was that there was no
15 child, he was by himself. He was on the way to Arizona to
16 pick up the registered owner of the vehicle, Portia
17 Washington.

18 At that point I also called Richland County
19 Sheriff's Department who'd had a delayed hit on Portia
20 Washington's name and date of birth. And that was at
21 16:10, June 14th.

22 Q Now, your notes indicate, it says, "Get with Shane."
23 Did you get with Shane?

24 A At 1600 it says, "Get with Shane."

25 Not at that time, but I did later when I went to

1 the apartment so that Shane could be there as a witness.

2 Q Now, are you telling this Court that when you went in
3 that apartment and went through those drawers, you were
4 honestly under the impression that nobody had been in that
5 apartment yet?

6 A I do not remember if I was told that Shane Phillips
7 had been in the apartment or not, but I knew that Park
8 Place had said that the house was intact.

9 Q Do you know if you rode with Shane to the apartment
10 or met him there?

11 A No, we drove separately.

12 Q Why would you have to get with Shane?

13 A Because he was the responding officer and so my
14 supervisor wanted to make sure that the person who took
15 the initial report and had already met with the family,
16 because at that time they were no longer at the police
17 department, so he wanted to make sure that all the
18 information he had, I had.

19 Q And what information did Shane have?

20 A I don't reflect that in my notes. All I reflect is
21 what I was told from A2 at 1600.

22 Q And A2, again, is Tony Owens?

23 A Correct. Because I went directly to his office when
24 I left the courthouse. And he called me while I was en
25 route to my house. So I rerouted and went straight to the

1 police department and met with Captain Owens in his
2 office.

3 Q You called Shane Phillips the responding officer.
4 What did you mean by that?

5 A He's the officer that was initially dispatched to
6 take the report of the missing persons.

7 Q And when you -- did you speak with Shane before you
8 met him at Park Place?

9 A I don't believe I did. I think I met him -- because
10 he was running around doing other things and I was in
11 captain's office, and as soon as I left captain's office,
12 I went straight over to Park Place.

13 Q And when you get to Park Place, is that the first
14 time you talk to Shane about this case?

15 A I believe so. It's not written in my notes that I
16 talked to him before that, me directly.

17 Q And Shane was standing right next to you when you
18 went in the apartment?

19 A Correct.

20 Q Who got the key?

21 A I believe we got it from the manager. And I can't
22 remember if I got it or if he got it, but we got the key
23 from the manager.

24 Q And Shane's right there standing next to you when you
25 guys are going in this apartment with this key?

1 A Correct.

2 Q And it's your testimony to this Court that when you
3 entered that apartment with Shane standing right next to
4 you, you have no recollection whether he told you he had
5 already cleared the apartment?

6 A I don't remember being told that. I could be wrong,
7 but I don't remember being told that and it's not written
8 in my notes.

9 Q So you're going into an apartment on a missing
10 persons case, Shane's there as responding officer, and you
11 never asked, Hey, by the way, has anybody been in here?

12 A I don't recall that and it's not written in my notes.
13 It's been six years, so I can't sit up here and tell you
14 100 percent.

15 Q Well, even Shane, who is now a pastor, was able to
16 remember at least that he went in there first, cleared the
17 apartment, and then went in there with you later.

18 A Correct. That's what he testified to.

19 Q Shane strikes me as the kind of fellow who would give
20 you that update.

21 MR. MYERS: Is that a question or is that a
22 statement?

23 MR. MCGUIRE: It's an obvious statement.

24 I'll rephrase it.

25 THE WITNESS: Okay.

1 BY MR. MCGUIRE:

2 Q You're going into an apartment on a missing persons
3 case?

4 A Correct.

5 Q You know Shane Phillips is the responding officer?

6 A Correct.

7 Q And had all the initial information in the case?

8 A Correct.

9 Q And as far as you can remember, it never crossed your
10 mind to ask Shane if he had been in there already?

11 A From my memory, I don't remember if I asked him that
12 or if I was told that. And I'm looking at my notes and
13 it's not notated.

14 Q Now, what really happened is you got with Shane and
15 he debriefed you about his clearing the apartment, right?

16 A It's possible. I do not remember.

17 In my realtime notes, I don't see those
18 documented in my realtime notes.

19 Because all of this happened so fast and
20 furious. I'm leaving one case, I'm on the way home, I get
21 a call from my captain, I reroute, I go straight to his
22 office and his advice was, "You need to get on this, you
23 need to get on this right away, go over there now. We've
24 got a child missing, we need to figure out what's going
25 on."

1 Q Which is why a responding officer would have
2 immediately cleared the apartment, correct?

3 A I would hope so. I would think so, the responding
4 officer would have done that.

5 But whether -- whether that was relayed to me,
6 like I said, I don't have it in my realtime notes, I don't
7 remember. I cannot tell you 100 percent whether I was
8 advised of that or not.

9 What I can tell you is looking at my notes, I
10 was advised that the house is intact, according to Park
11 Place.

12 Q And Shane was the one who got the key from the
13 manager because he had already told you he did a brief
14 check, cleared the apartment, had already made contact
15 with the manager, and that's why you had him get the key;
16 isn't that right?

17 A He could have. I don't remember specifically who got
18 the key. I know that we got a key from the apartment
19 manager. Whether she handed it to me or whether she
20 handed it to him, I don't recall.

21 MR. MCGUIRE: Ma'am, if you could mark this.

22 (WHEREUPON, Defendant's Exhibit No. 50 was
23 marked for identification only.)

24 BY MR. MCGUIRE:

25 Q Ms. Bayne, I'm going to pass up to you what's been

1 marked Defense Exhibit No. 50 for ID. Do you recognize
2 that?

3 A Yes, sir. That's a summary report that I complete to
4 turn into the Solicitor's office after I finish my notes.
5 And generally after I finish the bulk of my
6 investigations, I go back and hand-type stuff so that it's
7 easier for them to read.

8 Q But you compile that from your handwritten notes?

9 A I compile that from my handwritten notes and from the
10 investigation as a summary.

11 Q And was that done last week or about six years ago?

12 A I don't know exactly when I did it, but it wasn't
13 last week. It was -- I want to say it was in the first
14 year after the investigation.

15 Q All right.

16 A Is that entire thing my report? I didn't flip
17 through it to see if there were any other documents in
18 there.

19 Q I'm just going to get you to read your entry from
20 6-14, 2006, 1600.

21 A Okay. Let me make sure it's the same.

22 Q Read that whole block.

23 A There are some additional notes on here that aren't
24 mine. Does that matter or --

25 Q Did you type that report?

1 A I typed the first pages and then there's a bunch of
2 stuff on the back that is not mine. So I just didn't know
3 if I needed to clarify that or not.

4 Q Let's just stick with the block at issue.

5 A 1600?

6 Q Yes, ma'am.

7 A All right. "Investigating officer met with Captain
8 Owens who advised that he had the following preliminary
9 information: Missing was a 53-year-old black female.
10 Along with her is her boyfriend. They both have been
11 missing since Saturday, June 10th, 2006. Neighbors are
12 claiming that the car is missing as well.

13 "Both of the adults work at Bob Bennett. Bob
14 Bennett stated that that was very unusual for the female,
15 and so does Park Place Apartments where they live.

16 "The last time the family had contact with the
17 female again was on 6-10-2006.

18 "The tag on the female's vehicle also in NCIC.

19 "Sergeant Phillips as" -- I guess that's a typo
20 -- "Sergeant Shane Phillips as he had been the reporting
21 officer. He had gotten with the apartment manager and can
22 get a key to the apartment. He did a brief check on the
23 apartment already to see if they were in there, but did
24 not see them.

25 "The adult female is named Portia Washington and

1 her boyfriend is Kenneth Lynch. So far there have been
2 two delayed hits in NCIC, one by Richland County Sheriff's
3 Department on Portia's name on 6-13-2006, 17:06 in El
4 Paso, Texas, today, 6-14-2006 at 14:25 on the vehicle."

5 Q So in putting this compilation together, your notes,
6 you do indicate, "Sergeant Shane Phillips, as he had been
7 the reporting officer, he has gotten with the apartment
8 manager and can get a key"?

9 A Correct. That's what I typed up.

10 Q And you typed in here, "He did a brief check on the
11 apartment already to see if they were in there, but did
12 not see them." You typed that?

13 A Correct.

14 Q Where would you have gotten the information that
15 Shane Phillips had already done a sweep of the apartment?

16 A I may have found that out later from Shane or Captain
17 Owens or somewhere else throughout my investigation.

18 Q After your search of the apartment?

19 A After I went into the apartment, yes.

20 As I stated, this is a summary after the fact.
21 My realtime notes don't indicate that and I can't remember
22 one way or the other.

23 Q So your testimony to this Court is that you believe
24 it's plausible that you go to the Park Place Apartments on
25 a missing persons case to do a check of the apartment,

1 right? You're doing that, right?

2 A I did a check of the apartment, yes, sir.

3 Q That Shane Phillips is shoulder to shoulder with you,
4 right?

5 A He's in the apartment. He's not, you know, right
6 next to me the entire time, but he's in there as a
7 witness, yes, sir.

8 Q While you're going in the apartment with Shane
9 Phillips, he's right there with you?

10 A Yes, sir.

11 Q And you're saying to this Court that it's plausible
12 in your mind that before entering the apartment, you have
13 no conversation with Shane Phillips as to him already
14 being in there?

15 A What I'm telling you is that I don't remember. It is
16 plausible that he could have gone in there. It's not
17 dictated in my realtime notes and I don't remember it.
18 Now, that doesn't mean it doesn't happen. I don't
19 remember that. I'm not going to sit up here and tell you
20 that I remember something when I don't.

21 Q And you're telling this Court that you believe that
22 the appropriate time to get updated from Shane Phillips as
23 to his initial sweep of this apartment is somehow after
24 your search of the apartment? I mean, are you saying you
25 think that's what happened?

1 A I'm telling you I don't have it documented when I had
2 a conversation with Shane to get updated.

3 What I remember and what reflects in my notes is
4 when I left the courthouse, I was given a call by
5 Captain Owens. I went directly to his office, I was
6 briefed by him.

7 I don't remember Shane being in that room. He
8 could have been, but I really don't remember him being
9 there.

10 I remember meeting him at Park Place Apartments.
11 I remember a key being given to us, whether it was him or
12 me, and I remember entering that apartment.

13 Q And you're saying you have no recollection of Tony
14 Owens saying, "By the way, we've already swept the
15 apartment to see if they were alive or in there"? You
16 don't remember that?

17 A I don't remember that. But as I stated, in my notes
18 when I met with him, I did document that Park Place said
19 the house was intact. I don't remember, but I would
20 assume from that that I was told Park Place had already
21 been in there. I don't remember.

22 Q And you have -- now, you say -- do you meet in the
23 manager's office with Shane or did you meet at the front
24 door of the apartment?

25 A I don't remember. I think at the front of the

1 apartment, but I don't remember. And it's not documented
2 in my notes.

3 Q So you say.

4 With regard to your update from Tony Owens --

5 A Yes, sir.

6 Q He told you when the people had last been seen?

7 A I have the last time the mom had contact was on the
8 10th.

9 Q And your position at this time would be an
10 investigator or detective?

11 A Yes, that's correct.

12 Q And certainly an investigator wouldn't be called
13 out -- or let's just talk about that.

14 You just gave a little speech about this was
15 real important, you've got missing people, you wanted to
16 get out there and see if they were okay, right?

17 A Yes, sir.

18 Q It would make logical sense to me, tell me if I'm
19 wrong, that a responding officer or road officer would get
20 out there right away?

21 A Yes, sir.

22 Q That would make sense, wouldn't it?

23 A Yes, sir.

24 Q You wouldn't want to call a detective to say, "At
25 your leisure when you're out of court, we have an urgent

1 missing person situation. When you can get around to it,
2 maybe you can go check the apartment." That doesn't make
3 much sense, does it?

4 A From my memory, Shane had taken the report. And
5 Shane was a good enough officer at that point to where he
6 realized this was not a normal situation we were dealing
7 with, and he went to several supervisors and said,
8 "Listen, I've got a situation and I think somebody needs
9 to be on it, somebody needs to be on it right away." That
10 was what was relayed to me on the phone, "You need to get
11 here and you need to get here how. We've got a child
12 missing, we need to go to work."

13 Q "A child missing, we need to get to work."

14 It seems like the first question on your mind
15 when you walk into the room to get an update from Tony
16 Owens or Shane or both of them --

17 MR. MYERS: Your Honor, is this a statement or a
18 question?

19 MR. MCGUIRE: It's a question.

20 BY MR. MCGUIRE:

21 Q It seems like the first thing you would say is,
22 "Well, has anybody checked the residence?"

23 MR. MYERS: It's a statement, Your Honor. We
24 object to him continuing making statements.

25

1 BY MR. MCGUIRE:

2 Q Isn't that what you would do?

3 A I could have asked that question. I do not recall if
4 I asked that question.

5 Once again, all I have is what -- I have to rely
6 on my notes. It's been six years and I don't want to
7 testify to something I don't 100 percent remember.

8 Q All right. Let's talk about your search.

9 You go in the apartment. What do you do?

10 A I go in the apartment. At this point, we know that
11 Mr. Lynch has been stopped in Portia Washington's car. We
12 know that there's no child in that car, no Portia in that
13 car.

14 I've also found out at this point from another
15 investigator, who's been dispatched to go to the workplace
16 to start getting background information at the same time,
17 I learned from him that Portia -- excuse me -- that
18 Angelica doesn't go to camp until next week.

19 Originally, I think there was some kind of
20 conversation along the way that maybe they're traveling.
21 So we get the information that the little girl doesn't go
22 to camp until next week.

23 Q Let me stop you there.

24 A Okay.

25 Q You walk in the door with Shane?

1 A Yes, sir.

2 Q Tell me what you do in the apartment.

3 A I walk in, I walk through the house. I go in the
4 living room. I look, there's some papers laying out on
5 the coffee table. I believe one of them's a life
6 insurance policy. There's a newspaper from June 10th,
7 which was the last day that anybody had seen Portia, that
8 Saturday. I see the dining room. There are three chairs
9 flipped up in the dining room, one chair is down. There's
10 some candy laying out. I go to -- yes, sir.

11 Q When you say, "flipped up," you mean placed on the
12 table?

13 A Upside down laying on top of the table, generally
14 like when people sweep or mop, that kind of thing.

15 I go to the kitchen and I'm looking for is there
16 a calendar, is something written on the calendar like
17 "we're going out of town." I don't --

18 Q Let me stop you there.

19 A Yes, sir.

20 Q It sounds like you're not looking for people because
21 you knew they weren't there because Shane told you; is
22 that right?

23 A He could have. I'm telling you I don't 100 percent
24 remember if I was told that or not. I can tell you there
25 were no people in that apartment when I went in.

1 Q It sounds -- well, no, let me rephrase that.

2 You go in the apartment. You've described going
3 into the living room and inspecting documents and a
4 newspaper, correct?

5 A I see them laying out, yes, sir.

6 Q Well, you read them to see the date, right?

7 A Yes. It was flipped out, so the very front page was
8 obvious, but yes, I saw that.

9 Q Okay. And that was the first thing that you remember
10 doing going into the apartment?

11 A Uh-huh.

12 Q Okay. And then after reading the document long
13 enough to determine that it appeared to be a life
14 insurance policy --

15 A Yes, sir.

16 Q -- and reading the paper long enough to establish the
17 date at least on the paper, where do you go from there?

18 A Like I said, I went through the dining room.

19 The dining room's kind of like built into the
20 living room. I saw the dining room, went into the
21 kitchen. Is there a calendar out? Do they have any kind
22 of upcoming plans? There's no calendar.

23 I see medicine laying out on the counter. Look
24 in the fridge, is there medicine there? There's no
25 medicine there.

1 I notice that there's a big tray of meat
2 marinating as if somebody's going to have a meal soon.

3 Q Hold on. Let's stop here.

4 A Yes, sir.

5 Q I'm going to turn your attention to what's marked as
6 State's Exhibit No. 3:

7 A Yes, sir.

8 Q Is it fair to say that's the front door?

9 A Yes, sir.

10 Q You walk into this apartment and you can pretty much
11 see from the front to the back regarding the right-hand
12 side of the apartment, which would be the living room and
13 eat-in area, correct?

14 A Correct.

15 Q Now, you stop in the living room to peruse some
16 documents, a life insurance policy, a newspaper, and then
17 you notice the chairs on the table, correct?

18 A Yes, sir.

19 Q And then you go into the kitchen?

20 A Yes, sir.

21 Q And then you start examining medicine bottles?

22 A I notice that there are medicine bottles out, yes,
23 sir.

24 Q Okay. Now, what is Shane doing at this time?

25 A I can't tell you. I remember he was in the

1 apartment. I wasn't focused on Shane at that point.

2 Q Okay. Now, with regards to being in the kitchen and
3 the medicine bottles, you -- I think you've already
4 testified not having a medical background, you didn't
5 really know exactly what the medicine was for; fair to
6 say?

7 A Correct.

8 Q So I think, if I'm not mistaken, you've testified
9 previously at another hearing that not having a medical
10 background, being able to make a judgment with regard to
11 this medicine, you wrote down the names of the medicine?

12 A Yes, sir. Before I left the apartment I wrote all
13 the medicines down and the doctors.

14 Q Now, did you start the writing of the medicine when
15 you're in the kitchen now or is that later?

16 A No, that's later.

17 Q But you're picking up the bottles and at least
18 examining them in the kitchen at this point?

19 A I'm looking at them. I'm not taking the time to
20 actually go through and write all of that down. I pick
21 them up, I look at them, set them down.

22 Oftentimes, in a missing person case, if we're
23 going to do a press release to try and recover these
24 people, we need to have -- we need to talk to their
25 doctors and we need to get information, is there certain

1 medications that they need right away, that if they don't
2 have with them could affect their health.

3 Q Sure. Let's not get ahead of ourselves.

4 Now, at this point when you're perusing the
5 newspaper, reading the life insurance policy, inspecting
6 the medicine, did you not feel a sense of urgency to check
7 the bedrooms for a person?

8 A That was my next -- I went in order of what I saw. I
9 did go into the bedrooms to see if there were people
10 there. There were not.

11 Q Again, my question's more of urgency and timing.

12 A It may have taken one, two minutes to walk in -- it's
13 a tiny apartment -- one to two minutes walk in and walk
14 through the kitchen and walk back out and make it into the
15 hallway.

16 Q Sure. But pieces of paper generally don't end up in
17 medical distress. So I'm asking you for this issue. I'm
18 asking you this issue.

19 A Okay.

20 Q Pieces of paper like the newspaper --

21 A It was laying out in plain sight on the coffee table,
22 yes, sir.

23 Q Well, which you read to establish the date of the
24 paper?

25 A It's written on the front, so if you glance at it,

1 you can see.

2 Q And you picked up some documents to determine if they
3 were a life insurance policy or not?

4 A There was a life insurance policy laying out on the
5 coffee table if -- I believe.

6 Q And you read that?

7 A I noted that it was a life insurance policy.

8 Q Okay. I guess my question is, again, since these
9 documents generally don't end up in physical distress, did
10 you not feel a sense of urgency to inspect the remainder
11 of the apartment before you started reading things?

12 A I glanced at them. It takes two seconds to glance at
13 something laying down and see the date on the very front
14 page or to see in big bold letters, you know, a life
15 insurance policy laying out. I did not sit down and
16 inspect it. I did not sit down and go through the entire
17 paper. I glanced on it on my way to the kitchen.

18 Q I appreciate that, but if you would answer the
19 question. Did you not feel a sense of urgency to inspect
20 this apartment for bodies?

21 A I did. And I thought I'd already testified I went
22 into the rooms of the other -- all the other rooms in the
23 apartment. It took me one to two minutes to go into --
24 through the living room and walk to the kitchen.

25 Q Uh-huh. After having talked about this a little

1 while here, wouldn't you agree that what really happened
2 is you were able to have this luxury of a more leisurely
3 search and inspect papers for dates or to at least
4 determine it's a life insurance policy, the reason you had
5 the luxury to take that time, even if you say it's only a
6 couple of seconds, is because you were already informed
7 there was no urgency with regard to people in distress?
8 Doesn't that make more sense to you?

9 A As I've stated previously, I don't remember if I was
10 told that. It's possible I was. It's even probable. I
11 don't have it in my notes and my memory doesn't serve if I
12 was told that.

13 Q All right. Let's get back to your search.

14 You identified medicine bottles in the kitchen,
15 correct?

16 A Correct.

17 Q What else do you do in the kitchen?

18 A Like I said, I walked past the sink, I looked inside
19 the refrigerator. Is there additional medicine there?
20 There's no additional medicine in there.

21 Q Then where do you go?

22 A I walk down the hallway. Immediately as you turn
23 down the hallway onto your left is a bathroom. Glanced in
24 it, nobody was there. I did note that there were tons of
25 toothbrushes there, toiletry items, things of that nature.

1 And then as you go down further into the
2 hallway, you can either go right into Angelica's bedroom
3 or you can go left into the master bedroom. I believe I
4 went into the master bedroom first. I can't remember the
5 exact order, but I did go into both of those rooms
6 ultimately.

7 Q And obviously nobody was there?

8 A No.

9 Q When do you start opening up drawers in this
10 apartment?

11 A After I've done that, I walk back into the living
12 room, open drawers to see if there's passports, if there
13 are bus tickets, printed out itineraries. I don't find
14 any of that.

15 In the bedroom, I open drawers to see if there's
16 --

17 Q Hold on.

18 A Okay.

19 Q Now, this is a piece of furniture in Defense No. 48;
20 is that correct?

21 A Yes. That's one of the pieces of furniture as you
22 walk in. It's on the left up against the wall in the
23 living room.

24 MR. MCGUIRE: Move it into evidence for purposes
25 of this hearing. It's marked as defense ID.

1 THE COURT: Any objection to that?

2 MR. MYERS: No, sir.

3 THE COURT: All right. We'll accept it for this
4 hearing as it's marked, Defense Exhibit No.?

5 MR. MCGUIRE: Forty-eight.

6 THE COURT: Forty-eight.

7 (WHEREUPON, Defendant's Exhibit No. 48, having
8 been previously marked, was admitted into evidence.)

9 BY MR. MCGUIRE:

10 Q Okay. Now, what you're holding in your hand is a
11 copy of a photograph. Who took that photograph?

12 A I did.

13 Q Okay. Now, to take that photograph, I'm assuming,
14 and tell me if I'm wrong, when you first inspect that
15 piece of furniture, all the drawers are closed?

16 A Correct.

17 Q And you open the drawers?

18 A Correct.

19 Q And you pull out some items?

20 A Yes.

21 Q You pull out a pair of women's underwear?

22 A Yes.

23 Q And you pull out a pocket knife?

24 A Yes.

25 Q You put them on the carpet?

1 A Yes.

2 Q And you photograph them?

3 A Yes.

4 Q Did you put them back in the drawer?

5 A I believe I did.

6 Q Did you take any documents or papers out of the
7 drawers?

8 A I believe I looked through them.

9 Q What did you find?

10 A Nothing to indicate any kind of travel. I didn't see
11 any passports, bus tickets, travel agendas, pamphlets,
12 anything of that nature.

13 Q Tell me what the pocket knife and the underwear has
14 to do with travel plans?

15 A That was just really unusual to me that the crotch of
16 a pair of women's underwear was stuffed in a drawer and
17 cut out laying next to a knife.

18 Q That wasn't my question. What do they have to do
19 with travel plans?

20 A Nothing.

21 Q Okay. So you're searching and photographing items
22 that don't have anything to do with travel plans, correct?

23 A I took photographs, correct.

24 Q Well, and you manipulated the items and moved them?

25 A I did take them out of the drawer and laid them down

1 and took a picture of them.

2 Q Closed the drawers?

3 A Yes, sir.

4 Q Let me hand you what's been marked No. 14 for ID.

5 A Yes, sir.

6 Q That's Defense 14.

7 THE COURT: Defense 14?

8 MR. MCGUIRE: Yes, sir.

9 MR. MYERS: No objection.

10 What is it?

11 (Pause.)

12 MR. MYERS: No objection.

13 (WHEREUPON, Defendant's Exhibit No. 14, having
14 been previously marked, was admitted into evidence.)

15 BY MR. MCGUIRE:

16 Q Do you recognize that?

17 A Yes, sir.

18 Q Photographs you took?

19 A Yes, sir.

20 Q Of the newspaper you already testified to?

21 A Correct.

22 Q And what else?

23 A The pictures of the couch in the living room.

24 Q They appear just to be pictures of the fabric of the
25 sofa?

1 A Yes. There's a few buttons that look like they've
2 been torn out.

3 Q Okay. The reason I show you that is because you were
4 keen to point out that you were looking for things related
5 to travel, going through the drawers. Tell me what the
6 fabric of the sofa has to do with travel plans.

7 A Nothing.

8 Q This is just a search at this point?

9 A I photographed a couch that had buttons torn off of
10 it. I didn't know if that indicated any kind of struggle
11 or anything like that.

12 Q Okay. So can we agree at this point this is a search
13 for potential evidence in a criminal matter?

14 A No.

15 Q Explain to me why we can't agree on that.

16 A Because I have three people missing, one of which is
17 found in Portia Washington's car. We have a child now
18 that we know is not even at camp, that's not supposed to
19 go to camp until next week. We have a child and Portia
20 missing, two people missing, and I need to figure out as
21 an investigator what we do next. Are they traveling, are
22 they missing, or has something worse happened?

23 Q Okay.

24 A Because time is of the essence for us, as
25 investigators, to go ahead and start on what we need to

1 do.

2 Q Sure. I want to hand you what's been marked as
3 Defense No. 49 for ID.

4 A Yes, sir.

5 Q Can we at least agree that when you took the
6 underwear out of the drawer, closed drawer, and put it on
7 the carpet, and when you got the pocket knife from the
8 closed drawer and put it on the carpet and you
9 photographed that, can we at least agree that at that
10 moment that was a search for potential evidence in a
11 criminal matter?

12 A No.

13 Q Okay. Explain to the Court why we can't agree on
14 that.

15 A Something unusual and I took a photograph and
16 documented it.

17 At this point, I still don't know what has
18 happened in that apartment. What I have confirmed is it
19 doesn't appear that they were traveling anywhere. It
20 appears that they left it life as usual.

21 MR. MCGUIRE: I'd move No. 49 in as an exhibit
22 for this hearing.

23 MR. MYERS: What is it?

24 MR. MCGUIRE: You might not be able to see that
25 far.

1 MR. MYERS: No objection.

2 (WHEREUPON, Defendant's Exhibit No. 49 was
3 admitted into evidence.)

4 MR. MCGUIRE: Move to publish to the fact
5 finder.

6 If you would, pass that up to the Court.

7 And if you would pass up No. 14 that's
8 already -- I'm sorry.

9 I'd move No. 14 in evidence for purposes of this
10 hearing.

11 (WHEREUPON, Defendant's Exhibit No. 14, having
12 been previously marked and admitted, was received
13 into evidence.)

14 MR. MYERS: No objection.

15 THE COURT: My records indicate 48, 49, and 14
16 have all been admitted for purposes of this hearing
17 without objection from the State, and perhaps others.

18 MR. MCGUIRE: We'd move 13 in as an exhibit,
19 too, for this hearing.

20 MR. MYERS: No objection.

21 (WHEREUPON, Defendant's Exhibit No. 13, having
22 been previously marked, was admitted into evidence.)

23 MR. MCGUIRE: If you would pass that up to the
24 Court.

25 THE WITNESS: Sure.

1 MR. MCGUIRE: Judge, I'm going to let the
2 Solicitor review a number of items marked for ID.

3 MR. MYERS: No objection.

4 MR. MCGUIRE: We'd move them into evidence for
5 the purpose of this hearing.

6 (WHEREUPON, Defendant's Exhibits Nos. 15-47,
7 having been previously marked, were admitted into
8 evidence.)

9 BY MR. MCGUIRE:

10 Q I'm going to hand you what's been marked No. 16
11 that's now in evidence for the purpose of this hearing.

12 If you would, just tell the Court if that's the
13 life insurance policy that you remember reading in the
14 living room.

15 A I believe it is.

16 Q If you would pass that up to the Court.

17 A Yes, sir.

18 Q I'm going to show you what's been marked No. 17 in
19 evidence for the purpose of this hearing. See if you
20 recognize that.

21 A Yes, sir.

22 Q There's a little box on there. Did you open that or
23 was that already opened?

24 A I can't remember. I believe I opened it, but I can't
25 be 100 percent sure.

1 Q If you would pass that up to the Court.

2 A Yes, sir.

3 MR. MCGUIRE: If we could have that marked.

4 THE COURT: Are they coming in without objection
5 for this hearing?

6 MR. MYERS: No objection.

7 (WHEREUPON, DEFENDANT'S Exhibits Nos. 51-55 were
8 marked for identification and received into
9 evidence.)

10 BY MR. MCGUIRE:

11 Q Now, Ms. Bayne, I want to take another stab at your
12 memory.

13 When you went to the apartment with Shane, do
14 you remember if Ms. Wooten, the apartment manager, was
15 there with you when you went in?

16 A I believe she was there. I don't know if she stayed
17 the whole time or not. But I want to say she was there,
18 but I can't be one hundred percent sure.

19 Q Okay. Now, you were here for Shane Phillips'
20 testimony, correct?

21 A Yes, sir.

22 Q Now, he had a recollection of being informed by
23 Ms. Wooten, I believe, that the apartment looked kind of
24 freshly cleaned, cleaned up?

25 A Yes, sir, he testified to that.

1 Q Now, when you're going into the apartment, were you
2 also informed of that, or do you not remember?

3 A I don't remember. I don't think I was.

4 Q Okay. Let me show you what's been marked 45 in
5 evidence as an exhibit for this hearing.

6 A Yes, sir.

7 Q Is that a picture you took?

8 A Yes, sir.

9 Q What is that?

10 A It appears to be some yellow cleaning gloves beside a
11 lamp and beside a red shoe in the master bedroom.

12 Q Tell the Court the significance of that, why that
13 photograph was snapped.

14 A It's just unusual. I just took a photograph of it.
15 I thought it was unusual that there were a pair of
16 cleaning gloves in the master bedroom. They seemed out of
17 place.

18 Q Cleaning gloves in an apartment is unusual?

19 A In a bedroom, rubber cleaning gloves is unusual.

20 Q Now, I don't think we're going to find any agreement
21 here, but you won't -- can we agree that at this point
22 you're searching for evidence?

23 A No, sir.

24 Q No? Okay. The gloves had something to do with
25 travel plans?

1 A No, sir..

2 Q Just unusual?

3 A Just unusual.

4 Q So maybe what we could agree on is that whatever is
5 unusual to you, you collect or photograph?

6 A I photographed several things I thought were unusual,
7 yes, and out of place.

8 Q So we can agree that whenever you find something
9 that's in your view unusual or out of the ordinary, you're
10 going to photograph it?

11 A I did photograph what I thought was unusual, yes.

12 Q Okay.

13 MR. MCGUIRE: If would you hand that to the
14 Court.

15 BY MR. MCGUIRE:

16 Q I hand you what's been marked as Defense No. 55.
17 That was unusual to you and you photographed that?

18 A Yes. Those are the underwear that we spoke of next
19 to the knife in the drawer.

20 Q Hand that up to the Court, if you would.

21 A Sure.

22 Q Defense No. 54.

23 A Yes, sir. That's the meat that was in the
24 refrigerator marinating.

25 Q Red meat in a refrigerator is unusual?

1 A No. I took that because normally if you're going to
2 plan a vacation or if you're going to leave out of town,
3 you're not going to have a huge cut of meat marinating
4 waiting to be cooked and just leave it there.

5 Q If you'd hand that up to the Court.

6 A Yes, sir.

7 Q No. 53, that's the underwear that you thought was
8 unusual?

9 A Yeah. It's kind of blurry, but it's a close-up of
10 the underwear on the carpet.

11 Q If you'd hand that up to the Court.

12 A Yes, sir.

13 Q No. 51, the unusual yellow gloves?

14 A Yes, sir, the rubber gloves in the master bedroom.

15 Q No. 52, what is unusual about that?

16 A Generally if people are going out of town, for me as
17 a woman, I'll pack my jewelry and take it with me.

18 Q If you would hand that up to the Court.

19 So now it sounds like you were manipulating
20 things or taking photographs of things that either strike
21 you as inherently unusual or unusual for somebody leaving
22 town?

23 A Correct.

24 Q Okay. I'll hand you what's marked No. 18. The
25 bottom right-hand corner, what is that?

1 A That is a knife that was laying out, I believe in the
2 hall bathroom on top of the toilet, laid out across the
3 mirror.

4 Q Okay. Now, you seem to have two categories here.
5 Was that inherently unusual or unusual for travel?

6 A That was just unusual, to have a knife laying out in
7 a bathroom.

8 Q Okay. So that would go in the inherently unusual
9 category?

10 A I thought it was unusual.

11 Did you want me to -- there's four photographs
12 on here. Did you want me to --

13 Q No, it's already marked in evidence. You don't have
14 to describe it. If you'd pass it up to the Court.

15 A Okay.

16 Q And obviously at this point you'd still not agree
17 this a search for potential evidence?

18 A No.

19 Q This is still a safety welfare check?

20 A This is still me trying to determine what do we need
21 to do. We've got people missing. Are they missing, are
22 they traveling, has something bad happened? We just don't
23 know and we don't know how to proceed with our
24 investigation.

25 Q Now, Ms. Bayne, do you remember testifying before

1 Judge Knox McMahon on or around July 15 of 2011?

2 A I do.

3 Q Now, before we get to that, it sounds like -- and
4 please correct me if I'm wrong -- that the photographs
5 were taken by you as part of an effort to advance your
6 potential search for missing persons?

7 A I took photographs for two reasons. As we've
8 established, anything unusual in that apartment I
9 photographed. I'm not used to -- I don't know these
10 people intimate enough to be able to say what's normal for
11 them and what's not. I photographed what I felt was
12 unusual. I photographed the entire residence because I
13 was in someone else's home without them being there. As a
14 liability reason, if no one's there, even though I have a
15 witness, I'm going to photograph it.

16 Q Wait, wait, wait, wait. Liability issue?

17 A Yes.

18 Q What do you mean by that?

19 A So that we can, as a liability issue, photograph so
20 that later on if these people do show up, that we didn't
21 tear any furniture up, we photographed as it was left.

22 Q So are you now saying that you're photographing the
23 fabric of the sofa to demonstrate that you didn't pop any
24 buttons off of it?

25 A I'm photographing, like I said, twofold: One, for

1 liability and, two, anything that's unusual, I
2 photographed it.

3 Q Now we have three categories. We have what's
4 inherently unusual, we have what's unusual for travelers,
5 and we have a liability issue, correct?

6 A I'm photographing what's unusual and I'm
7 photographing for liability reasons.

8 Q So that would be -- you would want -- and just tell
9 me if I'm wrong here -- if you're doing it for liability
10 issues, you want to take photographs of pretty much the
11 entire place, right?

12 A Yes.

13 Q Did you do that?

14 A I believe I did.

15 Q So is that a normal procedure, just liability
16 documentation?

17 A It's pretty common, yes.

18 Q It's pretty common. Have you done it before?

19 A Yes.

20 Q How many times?

21 A I can't give you an approximate number, but I've done
22 it before.

23 Q I mean, two times, more than 50, more than a hundred?

24 A Maybe more than 50. It's pretty common.

25 Q Okay. And, of course, that would be -- if you're

1 documenting for liability, again you'd want to take
2 photographs of the entire apartment to show that
3 everybody's possessions are still there?

4 A Correct.

5 Q Stereos, speakers, TV, that sort of thing?

6 A The rooms are intact.

7 Q Rooms are intact, you haven't damaged anything?

8 A Correct.

9 Q You haven't taken anything?

10 A Correct.

11 Q So we should have a full spread of the apartment
12 here, right?

13 A I can't remember exactly what I photographed. I know
14 I took several photographs.

15 MR. MCGUIRE: Your Honor, if I could have all
16 the photographs passed up to the Court at this point.

17 Thank you, sir.

18 Your Honor, I apologize for taking so long.
19 Just one second.

20 THE COURT: It's all right. Take your time.

21 (Pause.)

22 BY MR. MCGUIRE:

23 Q Ms. Bayne, I'm going to hand you a stack of
24 photographs that have all been entered into evidence
25 without objection for the purpose of this hearing, every

1 photograph that it appears you took. Show me the
2 liability photograph of that room right there.

3 A I've got it in my file. I'm not sure if you have it
4 in your file, but I have one in my file that I took. You
5 can see it. Do you want me to show it to you, the one I'm
6 talking about?

7 Q Yes.

8 A That's Angelica's bedroom and that's the master
9 bedroom. Do you want me to see if that's in this stack?

10 Q Hold on. I've got a question for you.

11 A Okay.

12 Q Now, I'm going to show you what's been marked Defense
13 No. 27. It's a photograph and it's got a date stamp on
14 it, 6-14-2006.

15 A Correct.

16 Q That's the day you go into this apartment with Shane
17 Phillips?

18 A Correct.

19 Q Are you telling me there's a photograph that's date
20 stamped 6-14-06 that's a liability photograph of this room
21 right here?

22 A I don't see a date stamp on it. But the reason I
23 know it's mine is that I took so many photographs as an
24 investigator that when I printed mine out, I did two- and
25 three- and four-fold photographs on printer paper, which

1 was unusual because I was the only one that had budget
2 money for a printer, my own personal color printer. So my
3 photographs are distinguishably different than other
4 investigators in the department.

5 Q The photograph that you're referring to that's on
6 your computer screen, when was that taken?

7 A I believe I took it that day.

8 Q Do you know?

9 A I can't be 100 percent sure, but I believe I took it
10 that day. I know it's one of my photographs, because like
11 I said, the whole printing issue. But I have it in my
12 file as taking it that day. And from my memory, I believe
13 I took pictures of all the rooms, but --

14 Q Yeah. We've established your memory's not too great.

15 The issue on that photograph, though, did you
16 turn that over to the prosecutor's office --

17 A Which one?

18 Q The one that you showed me.

19 A Yes, sir, because this is coming -- what's in my file
20 is scanned in from the discovery.

21 Q How many cameras did you have on the 14th?

22 A I actually had a few because I was running a criminal
23 domestic violence grant at the time as part of my job, so
24 I had a few.

25 Q Let me be more specific. How many did you use?

1 A I believe I only used one unless there was something
2 wrong with one and I grabbed the other, but I believe I
3 only used one.

4 Q Okay. So now all your photographs that you took on
5 the 14th with that camera would have a 6-14-06 date
6 stamp on them?

7 A Unless I switched out cameras or unless -- with the
8 camera I had at the time, if the battery was going dead
9 all the digital stuff on it, it wouldn't necessarily date
10 and time stamp if it was going dead. Does that make
11 sense? So -- but I can't be for certain. I know the
12 picture I'm looking at is not date stamped.

13 Q Wait a minute. I'm not a camera expert.

14 A Okay.

15 Q But now did you just say that if the battery in your
16 camera --

17 A Correct. You can --

18 Q Hold on.

19 A Sorry.

20 Q -- was going low --

21 A Uh-huh.

22 Q -- it would cease to generate the 6-14-06 date stamp?

23 A In order to save battery power, you can switch --
24 there was a mode on it to where you could switch to where
25 all that digital stuff wasn't there and you were just

1 looking through a plain lens. Does that make sense?

2 Rather than it showing up -- the digital cameras at the
3 time, they had like a little, I call it a TV screen, to
4 where you look at it through the back and you take the
5 photograph that way. If the battery was going dead, you
6 can cut that off and you can zoom in straight through --
7 just looking straight through an eyepiece. I don't know
8 if I'm describing that well enough, but --

9 Q Let's go back to my question.

10 A Yes, sir.

11 Q Are you saying that the camera you were using was a
12 battery-operated digital camera?

13 A Yes. You had to charge it. It was the old-school
14 stuff. You had to actually put -- there's a rectangular
15 battery that you had to plug into a charger and plug the
16 charger into the wall.

17 Q I don't want to put words in your mouth and I don't
18 want to misstate anything. Let's take this slow.

19 The camera you were using --

20 A Yes, sir.

21 Q -- was a digital camera?

22 A Yes, sir.

23 Q It was battery operated?

24 A Yes, sir.

25 Q The battery was able to be charged apparently?

1 A Yes, you plug it into a wall and a specific charger
2 for that battery.

3 Q And the digital camera in its -- and tell me if I'm
4 wrong -- in its normal mode would generate a date stamp?

5 A Yes.

6 Q But if you have a -- if the -- are you saying if the
7 battery starts going low --

8 A Correct, because it takes a lot more battery power --

9 Q Hold on. Hold on.

10 MR. MYERS: This is very interesting, Your
11 Honor, but I don't know what in the world it's got to do
12 with the search warrant, whether a camera works or not.
13 I'm going to pose an objection. Move on.

14 THE COURT: I'm going to allow his question. Go
15 ahead.

16 BY MR. MCGUIRE:

17 Q Now, are you saying that when the battery power of
18 this digital camera starts to get low --

19 A Yes.

20 Q -- now, are you saying that it would automatically
21 cease to generate the date stamp?

22 A You can switch -- no. You can switch from doing the
23 battery digital stamp on everything to where the LCD
24 screen on the back is not showing, you can turn that off
25 and you can go in and manually take photographs so that it

1 saves on battery power so that your camera doesn't go
2 dead. I had to do it quite often on crime scenes.

3 Q Now, is it your testimony that when you switch off
4 the display screen on the back of the digital camera, that
5 when you do that manually, when you disable the display on
6 the back of the camera, that that act alone will cause the
7 camera not to generate a date stamp?

8 A Yes.

9 Q And you've experienced this in the past?

10 A Yes.

11 Q You've switched off the back of the camera display
12 and -- okay. So you've had experience going to a crime
13 scene or some other place --

14 A Uh-huh.

15 Q -- with a camera that has some battery power to it?

16 A Uh-huh.

17 Q This digital camera?

18 A Uh-huh.

19 Q And you've taken photographs?

20 A Correct.

21 Q And you've come to a point in your photograph taking
22 where you find it necessary to disable the display on the
23 back of the camera, right?

24 A Correct, to save battery power so that it doesn't go
25 dead before I finish photographing.

1 Q And you've done that before?

2 A I've done that before. I don't know if I did that
3 this day or not, but I have done that before.

4 Q And you're testifying to this Court that when you
5 have done that in the past --

6 A Uh-huh.

7 Q -- you have noticed when you go to load the pictures
8 on the computer, that the ones you took with the display
9 active had a stamped date and the ones that you took
10 without the display being activated, the back video
11 display on the camera that you disabled manually to save
12 battery power, you notice that the pictures, the
13 photographs taken at that time do not generate the date
14 stamp?

15 A The digital effect drains the battery power, so
16 that's why you switch over to the manual.

17 Q I understand that.

18 A I guess I'm a little confused with your questions.

19 Q All right. You're telling us that you have gone to
20 some event like a crime scene in the past with this
21 camera, correct?

22 A Yes.

23 Q That the camera was appropriately charged or had some
24 battery power to it?

25 A Yes.

1 Q And you were taking pictures with the camera with the
2 video display operating?

3 A Yes.

4 Q That those photographs generated a date stamp?

5 A They generally do, unless there's a malfunction with
6 the camera.

7 I'm not a camera expert, but it was my
8 experience that when I switched to the manual mode, that
9 all the digital stuff wasn't working.

10 Q Okay. So you've gone to a crime scene with this
11 camera, you've used it with the display operating, you've
12 noticed that the photographs generated in that mode
13 generate a date stamp?

14 A Yes.

15 Q And --

16 A Because you set that digitally through the camera.

17 Q Because it's important to have a date stamp, right?

18 A Generally I always try to make sure mine were
19 correct.

20 Q Sure. Now -- well, it's useful, right?

21 A Yes.

22 Q It documents the date, and you want to have that if
23 you can?

24 A Correct.

25 Q Now, you're also testifying that you have experience

1 with this camera where you have manually disabled the
2 video display on the back of the camera?

3 A Correct, to switch to -- in order to save battery
4 power.

5 Q And when in that mode, you notice that the
6 photographs you take do not have a date stamp on them; is
7 that correct?

8 A When you switch over to the regular mode, the
9 digital -- all the digital stuff is no longer in effect.
10 It's just a plain point-and-shoot camera mode.

11 Q And it does not generate a date stamp in that mode?

12 A I'm confused as to what you're asking me.

13 When you switch from the digital mode that has
14 the screen on the back that shows the date and time stamp,
15 when you switch to that point-and-shoot mode, you're not
16 seeing a date and time stamp. It's just a point and shoot
17 through the glass mode. I don't know how to better
18 describe that.

19 Q Are you saying that when your camera is placed in
20 that mode by you --

21 A Into which mode?

22 Q No video display on the back of the camera.

23 A So the plain point-and-shoot mode where you're just
24 looking through the glass, the eyeglass?

25 Q Yes.

1 A Okay.

2 Q Are you testifying that when you're in that mode, the
3 photographs that you take will not have a date stamp on
4 them?

5 A I don't see a date stamp on it when I'm photographing
6 that way.

7 Q The photograph that your camera produces on a
8 computer screen and then later printed out will not have a
9 date stamp if you're in that mode. Is that your
10 testimony?

11 A I do not see a date stamp when I'm taking those
12 pictures. I do see it when it's in the digital mode. I
13 don't see it when it's in a point-and-shoot mode.

14 Q All right. Listen carefully.

15 A I'm trying to follow you. I'm just a little
16 confused.

17 Q Are you saying when you switch your camera to what
18 you refer to point and shoot --

19 A Yes, sir.

20 Q -- that the photographs generated in that mode with
21 you looking at it or looking through it, but when you put
22 it on a computer and print out the photographs, are you
23 telling us they will not have a date stamp on it?

24 A When I print it out or when I'm looking through it?
25 I guess --

1 Q When you print it out.

2 A When I print it out does it have a date on it? It
3 doesn't have a date when I'm taking it so it wouldn't have
4 a date when I'm printing it.

5 Q I think the question is fairly simple.

6 The photographs that you generate in
7 point-and-shoot mode when the video display on the camera
8 is disabled, when you go to load those pictures on a
9 computer and later print them out, are they going to have
10 this traditional date stamp that looks like this in the
11 right-hand corner of No. 27?

12 A No. Because when you're looking through the glass,
13 it doesn't have that. The digital, all the digital
14 effects of it have been shut down to save power.

15 MR. MCGUIRE: All right. Ma'am, if I could have
16 these marked.

17 THE COURT: We need to have a brief break. I
18 need to have a few minutes while you mark those, Carol,
19 and you take a few minutes, too.

20 We'll take about 15 minutes. That way we'll be
21 approaching lunchtime.

22 (A break was taken.)

23 (WHEREUPON, Defendant's Exhibits Nos. 56-61 were
24 marked for identification only.)

25 THE COURT: All right. Are you ready to

1 continue, Mr. McGuire?

2 MR. MCGUIRE: Thank you, Your Honor.

3 BY MR. MCGUIRE:

4 Q Ms. Bayne, I'm going to hand you what's been marked
5 Defense Exhibits for ID purposes 56, 57, 58, 59, and 60.
6 If you would, just look through those and tell me if you
7 can identify them.

8 A Yes, sir.

9 Q Are these photographs that you took?

10 A Yes.

11 Q If you'd pass them back to me.

12 A Yes, sir.

13 Q Did you notice that on each and every one, there is a
14 date stamp?

15 A Yes, sir.

16 Q Okay. I hand you what's been marked No. 56 for ID.
17 Do those appear to be photographs of a storage unit?

18 A Yes, sir.

19 Q You took those photographs?

20 A I believe that I did, sir.

21 Q What day did you take them?

22 A The date stamp says June 18, 2006. I can confirm
23 with my notes if you'd like.

24 Q I will just tell you, that is when you took that.

25 A Okay.

1 Q I'll hand you what's been marked No. 59 for ID. It
2 looks like some photographs that you took of the same
3 Public Storage unit.

4 A Yes, sir.

5 Q No. 58, more photographs of the storage unit?

6 A Yes, sir.

7 Q No. 57 looks like some photographs that you took of
8 the storage units and control panels?

9 A Yes, sir.

10 Q Okay. Now, on each and every one of these
11 photographs, there's a date stamp?

12 A Yes, sir.

13 Q Now, we know you went to the apartment on the 14th
14 and we looked at all the photographs on the 14th that
15 had a date stamp saying June 14th, 2006.

16 A Yes, sir.

17 Q And, quite frankly, a lot, right?

18 A Yes, sir.

19 Q And you went to the Public Storage unit on the
20 18th -- you can check your notes if you need to verify
21 that -- and you took photographs and they're all date
22 stamped, correct?

23 A Yes, sir.

24 Q That is you verifying the date that you went to the
25 Public Storage unit on the 18th?

- 1 A Yes, sir.
- 2 Q And you did?
- 3 A Yes, sir.
- 4 Q And you took photographs?
- 5 A Yes, sir.
- 6 Q And they're all date stamped?
- 7 A Yes, sir.
- 8 Q Now, ultimately you got a warrant for the search of
- 9 apartment M-7 at Park Place Apartments, correct?
- 10 A Yes, sir, we got several.
- 11 Q Okay. And, of course, one was for June 20th?
- 12 A Yes, sir.
- 13 Q And you were the person who got the search warrant?
- 14 A Yes, sir.
- 15 Q You drafted it, presented it to Judge Knox McMahon,
- 16 and he signed it?
- 17 A Yes, sir.
- 18 Q And you executed it, correct?
- 19 A Yes, sir, myself along with SLED.
- 20 Q With SLED?
- 21 A Yes, sir.
- 22 Q Now, there were multiple agents from SLED there?
- 23 A Correct.
- 24 Q They were assisting?
- 25 A It was my understanding that Captain Owens had called

1 them in. He wanted them to do the apartment search.

2 We stood by while they did the apartment search.

3 They were the experts at the time.

4 Q Okay. And they took photographs?

5 A Yes, sir.

6 Q A lot of photographs?

7 A I think several hundred, yes, sir.

8 Q You took photographs?

9 A I took photographs before the search warrant was
10 drafted. Generally, my practice was to take photographs
11 of the exterior of a residence or whatever it is we're
12 searching so that when we go back to write the actual
13 search warrant and the description of the premises, we can
14 be as detailed as possible.

15 Q Sure. You can describe it as the apartment that has
16 the gas grill by the door with the green mat?

17 A Yes, sir.

18 Q And you would have been tasked to do that?

19 A Yes, sir.

20 Q And do you remember doing that on the 20th?

21 A I believe I did. It would have been my standard
22 practice, yes, sir.

23 Q But when it came time to take photographs of the
24 inside of the apartment when the warrant was executed, you
25 didn't take any photographs?

1 A I don't believe I did that day. I think SLED pretty
2 much did all of that.

3 Q I'm going to show you what's been marked No. 60. Do
4 you recognize that?

5 A Yes, sir. Those are the exterior photographs of the
6 apartment that I took before the search warrant.

7 Q You took those on June 20th?

8 A Yes, sir.

9 Q Your camera was healthy enough to date stamp those as
10 well?

11 A Yes, sir.

12 Q Ms. Bayne, you can just put it down.

13 MR. MCGUIRE: Judge, I move Defense Exhibits 56
14 through 60 into evidence for the purpose of this hearing.

15 MR. MYERS: No objection.

16 THE COURT: All right. For the purpose of this
17 hearing, they're accepted.

18 (WHEREUPON, Defendant's Exhibits Nos. 56-60 were
19 admitted into evidence.)

20 BY MR. MCGUIRE:

21 Q Ms. Bayne, I want you to call up that picture on your
22 computer that we talked about a little while ago. And
23 when we take a break, I want you to produce a copy of
24 that. Okay?

25 A Yes, sir.

1 Q But right now, I just want you to show it to the
2 judge.

3 A (Witness complying.)

4 Q Did you take that picture?

5 A I thought I did, but again --

6 Q SLED could have taken that picture on the 20th?

7 A It is possible that they could have taken that
8 photograph.

9 Q What you did, April, is to try to refute the issue of
10 taking liability pictures, what you did was you reached in
11 the SLED pictures to say that you took a picture of that
12 bedroom, didn't you?

13 A These are in my file under my photographs that I had
14 from 6-14-06. I thought I took photographs of the
15 bedroom. I can't be 100 percent certain.

16 I do know that SLED took photographs of the
17 bedroom. I thought I did on 6-14.

18 Q On the 20th?

19 A Correct. And I thought I took them on June 14th,
20 2006, but these are not date stamped.

21 Q Can you prove you took that picture?

22 A No. I didn't dictate the photographs in my notes, so
23 no.

24 Q You didn't really take the picture of that bedroom
25 for liability purposes, did you?

1 A I thought I did. Again, the reason why I think this
2 is mine is because of the way it's printed.

3 Again, I didn't notate it in my notes, so I
4 can't prove it.

5 Q Okay. When you presented the search warrant to Judge
6 Knox McMahon, he wanted you to change it, correct?

7 A Correct.

8 Q He wanted you to add information to it?

9 A Correct.

10 Q We had a motion hearing regarding that and you
11 testified. Do you remember that?

12 A Yes, sir.

13 Q Do you remember that my attack on the warrant was
14 that Judge Knox McMahon, because he was so specific on
15 what he wanted you to put in the warrant, had crossed the
16 line between independent judge to acting as a police
17 authority? Do you remember that?

18 A I remember the hearing, yes.

19 Q Okay. Now, when you went to give that warrant to
20 Judge Knox McMahon, he gave you some specific advice as to
21 what to add to the warrant, correct?

22 A Correct.

23 Q What was that?

24 A He said that everything I had told him orally needed
25 to be put in writing into the affidavit.

1 Q And, of course, the gist of that motion was really
2 just how specific was Judge McMahon, and as you just
3 stated, your position was, he didn't give you any specific
4 advice, he just said, "Put everything we talked about in
5 the warrant."

6 A When I went to Judge McMahon, I gave him facts on the
7 case. He said, "Instead of telling me all of this orally,
8 I need it in writing," and I did so. And then I went back
9 to him and then he signed off on the warrant.

10 Q And what really happened, though, was he gave you
11 specific advice. Isn't it true that he said, "Ms. Bayne,
12 I want you to put the instances described as CDVs in the
13 Cayce Police reports, I want you to put that in the
14 warrant"? Wasn't he that specific?

15 A That was part of what I had told him orally, and so
16 that was one of the things that I went back and actually
17 put into writing and added to the affidavit.

18 Q But didn't he tell you specifically, "I want you to
19 add the CDVs"?

20 A He said, "Everything you put -- everything you just
21 told me orally," and I noted what I put orally, and then
22 he said, "I need it typed out before I can sign off on
23 it."

24 Q All right. Let me hand you two -- well, three if you
25 count the back, but two pieces of paper marked as Defense

1 No. 61 for ID. It appears to be your notes from
2 June 20th.

3 A I have a lead sheet for June 19th, June 20th. And
4 then I have handwritten notes for June 20th, yes.

5 Q If you would, hand that back.

6 A Sure.

7 Q Regarding the June 20th, 2006 -- you're going to
8 have to help me with that time.

9 A My handwriting's horrible. 1720.

10 Q Okay. 1720?

11 A Let me see. It could be 1720, it could be 1725 or
12 26.

13 Q Okay. Time is not a critical issue, so we'll take it
14 as 1720 or 1725. If you would, read the entry on your
15 handwritten notes there.

16 A Okay. "Judge Knox McMahon signs final draft of
17 search warrant. Wanted Attachment B added, CDV history
18 last," and then I have a symbol for paragraph.

19 "Rick Hubbard and Shawn Graham helped write
20 search warrant. Return to Scott Whittle. Gave certified
21 true copy of warrant."

22 Q I'm going to turn your attention to your lead intake
23 sheet, A20. If you would, just read the portion regarding
24 the judge. This is on -- well, I tell you what. Why
25 don't you read the first two sentences.

1 A Okay. "Judge Knox McMahon signed warrant 1720,
2 6-20-06. Rick Hubbard and Shawn Graham reviewed. Judge
3 wanted to add info on prior domestics to P.C. Did so."

4 MR. MCGUIRE: I'd move it into evidence for
5 purposes of this hearing.

6 MR. MYERS: No objection.

7 THE COURT: All right.

8 (WHEREUPON, Defendant's Exhibit No. 61 was
9 admitted into evidence.)

10 BY MR. MCGUIRE:

11 Q Now, despite your handwritten notes in essence
12 saying, "Judge McMahon wanted the CDVs added," you're
13 saying he never said that?

14 A I'm saying that that was part of the oral testimony
15 that I gave him.

16 Generally speaking, I would go to a magistrate's
17 office for typical warrants on more clear-cut cases. This
18 was an unusual case. And so, a lot of times what I would
19 do, our typical practice was just to give oral testimony,
20 the facts of the case. I gave him facts of the case and
21 he said, "Everything you just told me I want in writing."
22 Part of that was the CDV history.

23 Q Anything else?

24 A Not that I notated.

25 Q I mean, your notes are pretty clear, Judge Knox

1 McMahon wanted to add the CDVs, right?

2 A Correct.

3 Q I don't see any notes about anything else you're
4 adding?

5 A No. I did not write anything else down.

6 Q And at a hearing where I was trying to establish that
7 he gave you specific advice, you say, "He did not give me
8 specific advice. He just said, 'Everything we talked
9 about, put it in the warrant,'" right?

10 A Correct.

11 Q Despite -- well, never mind.

12 Now, when you were -- did you tell Judge Knox
13 McMahon that Mr. Lynch had tried go to Mexico or tried to
14 enter Mexico?

15 A I know I told him about the stop. I'm just
16 confirming with my notes. I don't remember, but I'm
17 checking my notes to see if I notated anything.

18 Q While you're looking for that, I'll just ask you, do
19 you have any information from any source whatsoever that
20 Mr. Lynch tried to cross the border into Mexico?

21 A In fact, after he was stopped -- he was stopped --
22 let me go back to the first question first, if that's
23 okay.

24 Q Sure.

25 A In my affidavit it states, "Officers were notified

1 that on June 14th, 2006, a highway patrolman had stopped
2 an individual who gave the identifiers of Mr. Lynch in El
3 Paso, Texas. This traffic stop occurred directly near the
4 United States and Mexico border. He was stopped in
5 Ms. Washington's car. However, neither Ms. Washington nor
6 Miss Livingston were in that vehicle. Mr. Lynch stated to
7 the highway patrol that he was en route to pick up the
8 registered owner, Ms. Washington, in Arizona."

9 Q Okay. Let's go back to the second question.

10 A Okay.

11 Q You were the lead investigator on this case, correct?

12 A Yes, sir.

13 Q You had been made aware of all the important
14 information, correct?

15 A I was supposed to be made aware of all important
16 information.

17 Q Okay. Did your agency receive any information from
18 any source that Mr. Lynch actually tried to physically
19 cross the border into Mexico?

20 A No. The information that we received is that it was
21 a very short distance where he was stopped, it was very
22 close to the United States-Mexico border. And then one of
23 the investigators, I believe it might be Britt Dove,
24 followed up and called Border Patrol and it was my
25 understanding that he had them run the tag to see if that

1 vehicle had attempted entry or gained re-entry and I think
2 that met with negative results, but I could double-check
3 my notes.

4 Q No, you're correct on that.

5 And did you or anybody from your agency tell the
6 prosecutor's office in Whatcom County, Washington, that
7 Mr. Lynch had physically attempted to go to Mexico and
8 cross the border into Mexico?

9 A I don't believe we did. I think we had told them he
10 was stopped, he was near the Mexico border. We don't know
11 if he was trying to get into Mexico or not, but he was
12 stopped near the border in her car.

13 MR. MCGUIRE: And, Judge, just for the purposes
14 of this hearing, we'd move the disc regarding the court
15 hearing, the first appearance in Whatcom County, into
16 evidence for the purpose of this hearing.

17 THE COURT: All right. That hearing, which we
18 watched via videotape, a four-square video of the
19 courtroom, will be proffered as if republished herein.
20 We've already seen it. We don't have to rewatch it unless
21 you have some specific points you want to watch, but
22 we've -- the Court's seen it and so it's now offered for
23 the purposes of this hearing.

24 Any objection, Solicitor?

25 MR. MYERS: No, sir.

1 THE COURT: Without objection.

2 MR. MCGUIRE: Thank you, Your Honor.

3 (WHEREUPON, The Court's Exhibit No. 27, having
4 been previously marked, was again marked for purposes
5 of the record.)

6 THE COURT: That is for purposes of our record
7 Court's Exhibit 27.

8 MR. MCGUIRE: Okay.

9 BY MR. MCGUIRE:

10 Q Officer Bayne, did you go back into this apartment
11 between the search on the 14th with Shane Phillips and
12 the search warrant on the 20th?

13 A We went back to it. We did not go back inside it.

14 Q I'm just going to ask you, on the CAD reports
15 officers appear as a number?

16 A Yes, sir.

17 Q Do you know who 139 is?

18 A At that time I don't know.

19 Q 184?

20 A I don't know.

21 Q 045?

22 A I don't know.

23 Q 130?

24 A I don't know.

25 Q Okay. Now, you went out there and actually had the

1 handyman change the lock to the apartment, correct?

2 A The locks were changed. I'd have to check my notes
3 to find out who was with us, but the locks were changed.

4 Q I think you and Colleen Belk went out there and had
5 the maintenance fellow change them out in front of you?

6 A If you've got a date I could double-check my notes,
7 but that sounds right.

8 Q June 15? It sounds like you went back out there on
9 the 15th to make sure nobody had gone in the apartment, do
10 you remember that?

11 A I'm sorry, bear with me. I'm looking -- I've got
12 three pages of 6-15.

13 Q 6-15, 18, 20.

14 A Yes, sir. What was your question?

15 Q It appears as though you actually went out there to
16 make sure nobody had gone in the apartment.

17 A Yes, we checked the exterior to make sure that no one
18 had kicked in the door, that the windows hadn't been
19 tampered with, those kind of things. In addition, I had
20 also asked officers to do security checks at the shift
21 that was working -- one during the day and one during the
22 night, if they could just do property checks, essentially
23 just walk on the outside of the apartment to make sure
24 that it had not been tampered with.

25 Q On 6-16, 9:45, you talk about going back out there,

1 making sure no one's been there? Looks like you're
2 contemplating having the locks changed?

3 A It says, "Revisit apartment, check windows, have lock
4 changed."

5 Q And you're saying you didn't go in the apartment?

6 A No.

7 Q How would you know if anybody had gone in there if
8 you didn't go in?

9 A There's no way of knowing. That's why we had asked
10 for apartment checks, security checks by officers until we
11 could get the locks changed to maintain the integrity.

12 Q Well, let's just be clear. When you say, "security
13 check by officer," you're not talking about posting an
14 officer at the door?

15 A No. Simply park your car, get out, walk around, make
16 sure that the windows are intact, the door hasn't been
17 tampered with, those kind of exterior checks.

18 Q Because you don't know who may have had a key to this
19 place, right?

20 A No. And that's why we had wanted the locks changed.

21 Q Right. So several days had passed between the 14th
22 and you going in there with Shane and actually having the
23 locks changed on the 16th; is that right? Or a couple of
24 days passed? Looks like you got around to it at 1450 on
25 the 16th.

1 A Yes, sir. So two days, yes, sir.

2 Q You're saying you never went in the apartment between
3 the 14th going in with Shane and the 20th with the search
4 warrant?

5 A No, sir.

6 Q But you got the locks changed on the 16th?

7 A Correct.

8 Q And you physically witnessed that, you were there and
9 saw them changed out?

10 A Correct.

11 Q You got a key?

12 A Correct, that we turned over to the apartment
13 manager.

14 Q Did you know that Johnny Sullivan was going to go out
15 there and try some keys in that lock recently?

16 A I'm unaware of that.

17 Q It just seems odd he'd try --

18 A I'm sorry, are you talking about Detective Sullivan?

19 Q Yes.

20 A Okay. I'm sorry. He's James Sullivan.

21 Q Oh, I'm sorry.

22 A I was aware he was doing some sort of followup, but I
23 wasn't privy to all the details.

24 Q If he went out there with a key -- well, you were
25 here for his testimony?

1 A Yes, sir.

2 Q He tried it in that door?

3 A Correct.

4 Q The door that you had the locks changed on?

5 A Correct.

6 Q And then he went around and tried it on 114 other
7 apartments on the off chance that that lock was still
8 being used at the apartment complex.

9 A Correct, he did say that he tried it.

10 Q Y'all didn't advise him that it had been changed back
11 in '06?

12 A I did not.

13 Q When you and Shane went over there to Park Place
14 Apartments and you entered on the 14th, y'all both left
15 with the impression of no evidence of foul play, correct?

16 A Correct.

17 Q No evidence of blood or injury or anything like that?

18 A I did not see anything -- I did not see obvious blood
19 anywhere. I didn't see major signs of a struggle.

20 Q Well --

21 A Aside from a few buttons on a couch.

22 Q Okay. So the buttons on the couch were the only sign
23 of anything that you could tell might have been some sort
24 of struggle?

25 A Correct. I didn't see any major signs of a struggle

1 or any major blood or anything like that.

2 Q Let's be specific.

3 A Yes, sir.

4 Q You say you didn't see any major signs of blood or
5 anything like that. Did you see any minor signs of blood?

6 A I did not see any blood.

7 Q At all?

8 A No.

9 Q And you can't verify for sure that there was nobody
10 in that apartment between 6-14 when you went in with Shane
11 up until the time you get the locks changed?

12 A No, sir.

13 Q You don't still happen to have the camera, do you,
14 that you used?

15 A I don't know. That would be a West Columbia
16 question. I don't know how they've recycled them through
17 the years.

18 Q You had the lock changed. Did you-all keep it?

19 A No, sir.

20 Q Where did it go?

21 A I have no idea. I'm assuming back with the
22 apartment, but I have no idea.

23 MR. MCGUIRE: That's all I have. Thank you,
24 ma'am.

25 THE WITNESS: Thank you.

CROSS-EXAMINATION

BY MR. MYERS:

Q Tony Owens at the time was your supervisor or second in command at the West Columbia Police Department?

A That's correct. He was the captain over investigations at the time.

Q And he told you that we have a missing child, we have to find out where that child is?

A Yes, sir.

Q And when you went to the apartment, you knew that no one had seen Portia Washington or Angelica since Saturday, June the 10th?

A That's correct.

Q And it was very unusual for her not to be in touch with her family, call them, talk with them?

A That's correct.

Q And they came in, I think it was on Wednesday, for a missing persons?

A Yes, sir.

Q She hadn't been to work, which is highly unusual?

A Yes, sir.

Q Mr. Lynch hadn't been to work?

A Yes, sir.

Q The last time anybody at the apartment had seen any of them was on that Saturday, June the 10th?

1 A Correct.

2 Q And no one else had seen them around there, the car
3 was gone also?

4 A That's correct.

5 Q And then before you went to the apartment, you'd
6 gotten a delayed hit from Texas that Lynch had been found
7 or stopped in Texas near the Mexican border in Portia
8 Washington's car?

9 A That's correct.

10 Q And neither Angelica nor Portia were in the car?

11 A Correct.

12 Q And that gave you even more heightened urgency to try
13 to find out where this baby was?.

14 A Absolutely.

15 Q And so you went to the apartment with Shane?

16 A Yes, sir.

17 Q And, of course, after that day, you knew that Shane
18 had been in there and he had checked for missing persons,
19 wasn't anybody there; you knew that, didn't you?

20 A Yes, sir.

21 Q Did you remove anything from the apartment?

22 A Absolutely not.

23 Q Take anything from the apartment?

24 A No, sir.

25 Q When you went in, you didn't see any blood?

1 A No, sir.

2 Q You didn't see any hairs?

3 A No, sir.

4 Q You didn't see any fibers?

5 A No, sir.

6 Q You didn't see any fingerprints?

7 A No, sir.

8 Q You took photographs to try to find out -- the
9 documents -- about where this baby might be, church camp,
10 on a trip or something?

11 A Yes, sir. I believe one photograph is of the church
12 camp information. There's some phone numbers, so I took a
13 picture so that I could take it back and start calling
14 these camps to verify.

15 Q And you verified that the camp wasn't really going to
16 start until the following week?

17 A Correct.

18 Q And, as a matter of fact, she never did go to that
19 camp, did she, the little girl?

20 A No, sir.

21 Q And with all this information, y'all are still trying
22 to find out where the little girl is?

23 A Correct.

24 Q Now, this is on the 14th. Y'all still looking trying
25 to find Portia. That's right, isn't it?

1 A Correct.

2 Q Still looking trying to find Angelica?

3 A Correct.

4 Q By then, the defendant's been taken into custody
5 trying to get into Canada up above Washington state?

6 A He was -- he was taken into custody on that June
7 18th, I believe, our time June 18th.

8 Q On a bus, not in the car?

9 A Correct.

10 Q And the car has been found in a bus station, in their
11 bus station in Seattle?

12 A Correct.

13 Q Stripped?

14 A Correct.

15 Q Still no Portia, no Angelica?

16 A Correct.

17 Q And then the decision is made to bring SLED in to
18 process the apartment?

19 A Correct.

20 Q Trying to find anything not seen to the naked eye?

21 A Yes, sir.

22 Q And your decision, or y'all's decision to get this
23 search warrant and to bring SLED in, it had absolutely
24 nothing to do with you going into the apartment on June
25 14th, did it?

1 A No. It was a total of various things that you had
2 just mentioned. There were a lot of things that were
3 popping up that were cause for concern for us.

4 Q And this affidavit in the search warrant, there's
5 nothing in that affidavit that would have any material
6 relevant connection with you going into that apartment on
7 June the 14th, is there?

8 A No, sir.

9 Q And you going in on June 14th, that had nothing to do
10 with y'all's decision to get this search warrant for SLED
11 to process it; isn't that right?

12 A No, sir. There were many other factors that came
13 into play in the upcoming days.

14 Q And then you went before Circuit Judge Knox McMahon
15 to get this search warrant?

16 A Yes, sir.

17 Q And you testified, testified in front of Judge
18 McMahon?

19 A I did.

20 Q Under oath?

21 A Yes, sir.

22 Q And he asked you some questions?

23 A He did.

24 Q About probable cause?

25 A Yes, sir.

1 Q And then he asked you to put that in writing?

2 A Yes, sir. He actually refused to sign it until I put
3 everything that I had told him in writing.

4 Q Right. He must have a written affidavit?

5 A Absolutely, yes, sir.

6 MR. MYERS: And at this time, Your Honor, we'd
7 cite State versus Baccus, B-A-C-C-U-S; 625 S.E.2d 216, a
8 2006 case. State versus Woods, 654 S.E.2d 887, a 2007
9 case, in which our Supreme Court has ruled that you must
10 have a written affidavit for a search warrant to be
11 issued. You cannot issue a search warrant based on oral
12 testimony alone. And that's also under Section 17-13-140
13 of the South Carolina Code.

14 BY MR. MYERS:

15 Q So you prepared an affidavit?

16 A Yes, sir.

17 Q You took it back before the judge?

18 A Yes, sir.

19 Q He reviewed it?

20 A Yes, sir.

21 Q And then he signed the search warrant?

22 A The second time, yes, sir.

23 Q Yes, when you brought the written affidavit back?

24 A Yes, sir.

25 Q To go in with SLED to look for blood, fibers, hair,

1 fingerprints, anything to assist y'all to try to find out
2 what happened to Portia Washington?

3 A Yes, sir.

4 Q And what happened to Cassandra L. [REDACTED]

5 A Yes, sir.

6 Q And then you went out with West Columbia Police
7 Department officers, you went out with SLED technicians,
8 and SLED processed the apartment pursuant to this search
9 warrant?

10 A That's correct.

11 Q And then the return was made?

12 A Yes, sir.

13 Q I think that Judge McMahon even wanted y'all to make
14 the return before the magistrate?

15 A I believe it was Judge Whittle that he wanted the
16 return made out to.

17 Q And that was done?

18 A Yes, sir.

19 Q As a matter of fact, on this search warrant is a
20 funny little mark here. It looks like a rectangle or
21 something. That's Judge Whittle's unique signature where
22 you-all made the return?

23 A I think, yes, sir.

24 Q The return was made on the June the 27th, 2006?

25 A That's when I returned it, yes, sir.

1 MR. MYERS: That's all we have, Your Honor.

2 THE COURT: Anything further, Mr. McGuire?

3 REDIRECT EXAMINATION

4 BY MR. MCGUIRE:

5 Q April, we already talked about the fact that you told
6 Judge McMahon about two incidents that are described as
7 CDVs?

8 A Yes, sir.

9 Q Okay. Now, the first incident actually involves Mr.
10 Lynch calling the police saying basically he and his
11 girlfriend were breaking up, he wanted to get some of his
12 stuff from the apartment, correct?

13 A If you'll bear with me, let me pull those prior
14 police reports.

15 Q Sure. Take your time.

16 A I believe you're referring to a police report from
17 Cayce Public Safety on October 7th, 2005; is that the one
18 you're referring to?

19 Q Yep.

20 A Yes, sir.

21 Q That involves Mr. Lynch actually being the person who
22 calls law enforcement?

23 A Yes, sir. Do you want me to read the narrative or --
24 okay.

25 He is listed as the complainant on that police

1 report, yes, sir.

2 Q And he basically says, "I just want to go and get
3 some of my things." He's not reporting a fight or
4 somebody being injured, he's saying he wants to get his
5 stuff.

6 A I would prefer to read -- since I wasn't there, I
7 would prefer to read from the incident report because
8 you're paraphrasing what's in the incident report and I
9 would rather just read what the incident report says, if
10 that's okay.

11 Q No.

12 A Okay.

13 Q You didn't give the incident report to Judge McMahon,
14 did you?

15 A No. I didn't provide him with a copy of that, no.

16 Q So we're really only interested in what you told him.
17 So did you tell him and fully explain that one of these
18 was actually Mr. Lynch getting a law enforcement officer
19 to go to the apartment -- well, actually it's the house,
20 New State Road, back in October of '05, to get his things
21 or stuff?

22 A From what I remember, I told him that there was a
23 domestic history and we have two prior incident reports
24 from Cayce Public Safety.

25 Q Okay. But you'll agree that the one we're talking

1 about right now from October of '05, Mr. Lynch did contact
2 law enforcement, request an officer to supervise him
3 getting some stuff from the place?

4 A That's part of the complaint, yes.

5 Q Okay. Now, the other one is from January 10 of '06?

6 A Yes, sir.

7 MR. MCGUIRE: If you could mark this.

8 (WHEREUPON, Defendant's Exhibit No. 62 was
9 marked for identification only.)

10 BY MR. MCGUIRE:

11 Q I'll hand you what's been marked Defense No. 62.
12 That's the one from January. When I say the one, I mean
13 the Cayce incident report describing a CDV incident with
14 Mr. Lynch and Ms. Washington in January.

15 A Yes, sir.

16 MR. MCGUIRE: I tell you what. I'm just going
17 to move that in as an exhibit.

18 MR. MYERS: No objection. I don't want to -- no
19 objection.

20 THE COURT: That's Exhibit 62. For purposes of
21 this hearing, it's moved in without objection.

22 (WHEREUPON, Defendant's Exhibit No. 62 was
23 admitted into evidence.)

24 BY MR. MCGUIRE:

25 Q Now, in that report, I believe -- and you can just

1 pass it up to the judge -- but -- in fact, why don't you
2 do that, April?

3 A Yes, sir. I'm just making sure all the pages are the
4 report, that there's nothing else attached.

5 Q And we can agree that report describes basically
6 pushing, I think Mr. Lynch pushed Ms. Washington is what
7 she said and then held her up against a wall?

8 A I want to be real careful about this because I wasn't
9 the officer that responded to this, so I would prefer just
10 to read exactly what was documented by the officer.

11 Q Well, the judge has it, he's got it.

12 A Okay.

13 Q I'm interested in what you told Judge McMahon. Did
14 you --

15 A I told him we had two prior incidents of domestic.

16 Q Okay. Did you tell Judge McMahon that in the January
17 report, there's not even an allegation that Mr. Lynch
18 struck Ms. Washington at all, he pushed her?

19 A Well, to me, a push is physical contact. It is a
20 physical assault. That's what the report is titled and
21 that's what's depicted in the narrative. I didn't go into
22 the details of what that assault was. I just said there
23 was a domestic assault.

24 Q So when you talked to Judge McMahon, you said
25 domestic assault, Mr. Lynch assaulted Ms. Washington?

1 A That there is a report on file for that.

2 Q You didn't say he pushed her, held her up against the
3 wall and then left?

4 A I don't believe I went into detail. I believe I just
5 told him it was a domestic assault.

6 Q Okay. And that report goes on to explain that Ms.
7 Washington didn't want to press charges because Mr. Lynch
8 had just learned his mother died basically right when that
9 happened?

10 A I believe there's a supplemental report to that
11 effect. I know there's -- let's see.

12 There's one notation saying she's going to come
13 in and give a statement to an investigator to follow up
14 and then there's another notation that says something to
15 the effect of that his mother had passed away and she did
16 not wish to prosecute.

17 Q And, of course, in the course of your investigation,
18 you tried to run all the incident reports regarding
19 Mr. Lynch, Ms. Washington, and this is really the only
20 thing y'all came up with regarding any kind of argument or
21 violence between them, correct?

22 A Between Kenneth Lynch and Portia Washington?

23 Q Yes.

24 A Correct.

25 Q You obviously got Ms. Washington's criminal history

1 regarding drugs and stuff like that, but regarding just
2 arguments or fighting or anything like that, this is it,
3 right?

4 A Correct. I have everyone's criminal history and I
5 attempted to pull reports from local agencies as well as
6 agencies out of state and these were the only two that I
7 found concerning any sort of altercation between the two
8 of them.

9 Q And in the course of your investigation, you verified
10 that Mr. Lynch's mother did pass away on January 10th?

11 A We did. We found -- part of the documents that were
12 recovered on his person was a note that, I believe, Cayce
13 Public Safety had left for him to call a relative as a
14 kind of an out-of-state death notice, I guess is what you
15 would call it.

16 Q Right.

17 MR. MCGUIRE: Ma'am, I'm going to have this
18 marked, if I could.

19 (WHEREUPON, Defendant's Exhibit No. 63 was
20 marked for identification only.)

21 BY MR. MCGUIRE:

22 Q April, I'll show you what's marked No. 63.

23 MR. MCGUIRE: I'd move it into evidence. I'm
24 not sure if there's an objection.

25 MR. MYERS: No objection.

1 (WHEREUPON, Defendant's Exhibit No. 63 was
2 admitted into evidence.)

3 BY MR. MCGUIRE:

4 Q That's the North Carolina report that indicates that
5 Mr. Lynch's mother was found dead January 10th, 2006?

6 A Yes, sir, that's correct.

7 Q And the second CDV report from Cayce is dated when?

8 A Let's see. January 10th, 2006.

9 MR. MCGUIRE: That's all I have. Thank you,
10 ma'am.

11 MR. MYERS: Nothing further.

12 THE COURT: You may step down.

13 MR. STITELY: The next couple matters with
14 regard to the search warrant, we would ask that the
15 testimony from Pastor Phillips be moved in instead of
16 recalling him and asking the same questions about his
17 involvement with the initial contact at the apartment.

18 THE COURT: Pastor Phillips' testimony is being
19 offered to be proffered within this hearing?

20 MR. STITELY: Right. Because we would have had
21 to go through who was the first reporting officer and all
22 that again.

23 THE COURT: Any objection to that, Solicitor?

24 MR. MYERS: No, sir.

25 THE COURT: All right. Officer Phillips'

1 testimony is proffered for purposes of the search warrant
2 in camera hearing.

3 MR. STITELY: Your Honor, the next thing -- and
4 I guess we'd ask because it makes it easier -- we would
5 either call an evidence custodian or custodian of records
6 from West Columbia or I can show the State the stuff we
7 got from them, the CAD reports for that address during the
8 week. We have them offered as an exhibit during part of
9 this hearing. And we can also ask Officer Bramlett or we
10 have the nice young lady over at West Columbia under
11 subpoena.

12 MR. MYERS: If I can just ask what this is
13 offered for and the purpose and what it contains that
14 they're relying on?

15 MR. STITELY: Sure. These are CAD reports
16 offering that the five different times that officers from
17 West Columbia went over to the apartment. It includes
18 times that they were on scene, it has the numbers by their
19 names -- we don't know who they are -- but indicates the
20 actions of West Columbia Police, official actions,
21 regarding the address of 1035 Commanchee Trail as reported
22 from their dispatch.

23 MR. MYERS: And for the purpose -- I'm sorry --
24 the purpose of it?

25 MR. STITELY: We're going to indicate that,

1 according to their records, at least five different
2 officers were in and about this apartment during that
3 week. It indicates one officer was there for two hours,
4 at one point another for an hour, a couple for a few
5 minutes here and there. It also does not indicate some of
6 the events that Ms. Bayne portrayed when she was back at
7 the apartment as being official police actions.

8 MR. MYERS: These documents say that other
9 people went into the apartment?

10 THE COURT: I'm uncertain.

11 MR. MYERS: If you've got somebody from the
12 department, I want to question them.

13 If he's got some information that somebody else
14 went into that apartment, I want to cross-examine that
15 person.

16 MR. STITELY: Well, I guess at this time, Your
17 Honor, we're going to have to try to get one of West
18 Columbia's higher-ups to tell us who these people's
19 numbers on these reports are. We have the custodians
20 under subpoena. I guess we can call them during lunch and
21 bring all of West Columbia's people down.

22 THE COURT: And those are the activities just
23 prior to the search warrant being issued that were related
24 to --

25 MR. STITELY: This is -- we filed a subpoena

1 asking specifically for West Columbia's CAD reports for
2 any police action at the apartment during the week of the
3 14th through the 20th. This is the items that were turned
4 over to us, not from West Columbia but through the
5 Solicitor's office, and they just appear to be -- they
6 just say West Columbia Police Department CAD reports.

7 They say, for example -- and we don't really
8 know -- Officer 130 on-site 11:38, close or completed
9 12:11:06. We assume that was Officer Phillips because of
10 the time and date on the 14th.

11 The next one would go on to similar ideas. No.
12 184, No. 130 on scene 11:09, 11:13, complete 1906. We
13 don't know who those numbered employees are.

14 The next day there's yet another officer. This
15 time, Units 13 and Unit 70 on scene 1437.

16 The next day, on 6-16, Officer 139 on scene
17 12:49.

18 The next date, 6-17, Officer 139 on scene 3:08.

19 We don't know who these people are.

20 THE COURT: I tell you what. I'll let
21 you-all-all figure that out over lunch, but I don't know
22 who they are either.

23 MR. MYERS: I do not contest that officers went
24 by the apartment complex. Are they trying to say somebody
25 went into that apartment? I want to hear somebody say

1 that.

2 THE COURT: All right. Let's take a lunch break
3 and you-all figure out whether or not the officers did,
4 because that's not for me to determine, that's for you-all
5 to sort out and present.

6 MR. STITELY: Yes, sir.

7 THE COURT: We'll be on break until 2:15.

8 (A lunch break was taken.)

9 THE COURT: What did you-all resolve while we
10 were over the lunch break, Mr. Stitely?

11 MR. STITELY: Judge, we can call two of the
12 witnesses. One is Investigator Belk, who I understand is
13 in the building. We've asked that we have Major Edwards
14 now to come on down.

15 We actually spoke individually to what we
16 thought was the evidence custodian, it wasn't, it was
17 actually a major, we have them under subpoena now.

18 We got the names of the officers assigned. One
19 of them was an Investigator Belk; she's here. One of them
20 is Matt Edwards; he's on his way, if he's not here yet.
21 And the other one is a road officer who just did a couple
22 of checks.

23 We would ask at this time to call Officer Belk,
24 who I understand is here.

25 THE COURT: All right. Officer Belk will be

1 summoned.

2 We're still in the in camera hearing.

3 MR. STITELY: Yes, sir.

4 THE COURT: Now, I note my law clerk and the
5 court reporter have discussed up until this hearing, I've
6 identified everything admitted for the in camera hearing
7 as a Court's exhibit. In this one particular hearing,
8 we've identified them as defense exhibits for purposes of
9 this hearing. We've been very clear about that.

10 So just for the record, I want everyone to
11 acknowledge that that's a distinguishing difference.

12 It doesn't make any difference to me, but just
13 be aware we've identified some documents for purposes of
14 this hearing as Defendant's Exhibits 51, 52, and in the
15 50s. I don't find any difference in them as far as my
16 consideration, but just note we've been calling them by a
17 different name so we can keep that clear.

18 MR. MCGUIRE: Yes, sir.

19 COLLEEN BELK, after being duly sworn, testified
20 as follows:

21 THE CLERK: Have a seat, please.

22 State your name for the record, please.

23 THE WITNESS: My name is Colleen Belk, B-E-L-K.

24 DIRECT EXAMINATION

25 BY MR. STITELY:

1 Q Officer Belk, is it officer, victim advocate,
2 detective? What's that?

3 A Victim advocate officer.

4 Q Okay. Do you recall, by chance, what your officer ID
5 was back in June of 2006? If I told you, would that maybe
6 help?

7 A Seventy, is that what you're talking about? My call
8 number or my employee number?

9 Q I guess there's a Unit No. 70 and then an officer ID
10 number. Do you remember what that was?

11 Do you recall being 043?

12 A That is my employee number, but my call number is 70.

13 Q Okay. So if it's a Unit 70, that would be you;
14 Officer ID 043 is also you?

15 A Correct.

16 Q Okay. Do you recall at the time when you went out to
17 1035 Commanchee Trail on June 16th of 2006?

18 A I know I was there. I'm not sure exactly of the
19 date, but I was there.

20 Q And according to the reports as far as we can tell,
21 it may have been a time when you went out with
22 Investigator Bayne.

23 A It could have been.

24 Q Do you recall a time during that week when you went
25 out with Investigator Bayne?

1 A I know we did go to the house. I'm not sure of the
2 date.

3 Q Okay. Do you remember the purpose of going?

4 A I don't -- I don't remember the purpose that day.

5 Q Have you ever seen a CAD operations report from West
6 Columbia?

7 A Yes.

8 Q I'll approach and show you part of something.

9 This is a CAD operations report that has a call
10 number. It looks to be dated on 6-16-2006.

11 A Uh-huh.

12 Q And I'm just guessing from what would make sense,
13 ONS would be on-site?

14 A On scene.

15 Q Or on scene. And COM would be complete?

16 A Right. Well, it could be comment.

17 Q Okay. What would that mean?

18 A That means the dispatcher could put a comment if an
19 officer relayed a comment to them or it could be complete.

20 Q Okay. How about the column over here, would that
21 typically mean complete on the far right-hand column?

22 A Yes, uh-huh.

23 Q Okay. So as you said, you would be Unit 70?

24 A Uh-huh.

25 Q If it says ONS at 1438, that would be like 2:38 in

1 the afternoon?

2 A Correct.

3 Q And then COM meaning complete at 1509, about 30
4 minutes later?

5 A Correct.

6 Q Okay. Is there any reason to believe that the date
7 wouldn't have been 6-16? Are they pretty good about
8 keeping records?

9 A When it's called in, yes.

10 Q And this is a standard procedure within West Columbia
11 to let dispatch know where you're going, or if they call
12 you, that's how they track you?

13 A If they call us, yes, that's how they track us.
14 Sometimes some things are self-initiated and some are
15 traffic stops. There are different things for dispatch to
16 record.

17 MR. STITELY: Okay. I'm going to go ahead and
18 mark this one and ask a few more questions about that.

19 (WHEREUPON, Defendant's Exhibit No. 64 was
20 marked for identification only.)

21 THE COURT: Defense 64.

22 BY MR. STITELY:

23 Q Just a couple of other things because I've never done
24 this.

25 If it says complaint, what does that indicate?

1 A That just means either it was the call that was given
2 out or what the officer would call back.

3 In the CAD system, some of these are pre-built
4 drop-down menus. So each one doesn't always fit, so the
5 dispatcher would choose something that's closest to what
6 either an officer called out or they were called to.

7 Q And this one just says, "complaint invest folo"?

8 A That's investigative follow-up.

9 Q Okay. And do you by chance know who Unit 13 was?

10 A I don't remember. The numbers change periodically.

11 Q But you do remember going out with Ms. Bayne?

12 A Yes.

13 MR. STITELY: Okay. Your Honor, we'd offer No.
14 64 as a defense exhibit for this hearing.

15 MR. MYERS: No objection.

16 THE COURT: All right. For the purpose of this
17 hearing, 64 is admitted.

18 (WHEREUPON, Defendant's Exhibit No. 64 was
19 admitted into evidence.)

20 BY MR. STITELY:

21 Q Do you remember at some point that week going back to
22 change the locks on the apartment? Were you involved in
23 that process?

24 A I do remember the locks being changed by the
25 management, yes, but I'm not specific on the day.

1 Q Okay. Do you remember if you were there when that
2 happened?

3 Do you have notes or investigative notes, or you
4 wouldn't have kept them?

5 A I do have notes, but I don't have them with me. They
6 would be in the case file.

7 Q Okay. You don't necessarily recall being the
8 individual there when they changed the locks, though?

9 A I'm not sure if I was there. I may have been. I'm
10 just not sure.

11 Q Okay. Do you recall if when you-all went back and it
12 indicated you were on scene for about 30 minutes, correct?

13 A Correct.

14 Q Do you recall going in to make sure that the
15 apartment was still secure?

16 A I do recall that we did look at the windows and the
17 door, the two doors.

18 Q Did you ever at any point look inside the apartment?

19 A I mean, I was in the apartment.

20 Q Okay. You went in the apartment?

21 A Right.

22 Q Okay. Any other times you would have been there that
23 week that you recall?

24 A I don't know. I'm sorry.

25 MR. STITELY: I have no other questions.

1 Hang on one second.

2 (Pause.)

3 BY MR. STITELY:

4 Q And the time you would have went in the apartment
5 would probably be a time that CAD indicated you were out
6 there on the scene?

7 A That I can't tell you without the CAD logs in front
8 of me.

9 CAD is -- CAD is what you put in or what someone
10 else puts in. It's not definitive of everything that
11 happens.

12 Q Well, out of fairness, let me show you everything I
13 got back from the subpoena. I will let you look at it.

14 A Okay.

15 Q We did a -- so you know, we did a subpoena requesting
16 all CAD reports for that address during the week.

17 A Okay.

18 Q And you can look through them and see if anything
19 jumps out as indicating to you any other times that you
20 would have been out there.

21 A I don't see my number on any of these, but I will
22 tell you, that doesn't mean I wasn't there.

23 Q Okay. But you're pretty sure you definitely went in
24 the apartment at some point?

25 A Yes.

1 Q Okay. Now, you're not a crime scene tech or anything
2 like that, correct?

3 A Correct.

4 Q And you wouldn't have involvement in specifically the
5 collection of forensic evidence or anything like that?

6 A Correct, I would not.

7 Q That's not within your job description?

8 A Well, all other duties, but no, not necessarily.

9 Q So is it fair to say when SLED came out to collect
10 evidence, that would not have been your detail?

11 A No, it would not.

12 MR. STITELY: Thank you, ma'am.

13 THE WITNESS: Okay.

14 CROSS-EXAMINATION

15 BY MR. HUBBARD:

16 Q Officer Belk, now you went in much later with the
17 family to help them get their stuff, did you not?

18 A Yes, I did.

19 Q That's after you-all are relinquishing control of
20 that apartment back to the apartment complex?

21 A That's correct.

22 Q Now, prior to the search warrant, you weren't going
23 in the apartment prior to the search warrant, were you?

24 A I don't believe I ever went in prior to the search
25 warrant, no.

1 Q The search warrant -- and I know the dates, you said
2 you were fuzzy on the dates.

3 A Uh-huh.

4 Q The search warrant was on the 20th, June 20th.

5 A Okay.

6 Q That's when SLED went in. You didn't go in with them
7 to --

8 A No, I did not. No.

9 Q The first report that came to West Columbia was on
10 the 14th?

11 A Okay.

12 Q Now, I think he mentioned the 16th, two days after
13 that but before the search warrant. And are you often
14 referred to as VAO?

15 A Correct.

16 Q What is VAO?

17 A Victim advocate officer.

18 Q Okay. And if I were to tell you on June 16th you're
19 listed as being there when they're changing locks, would
20 that surprise you?

21 A No, that wouldn't surprise me.

22 Q But that's not entering into the apartment, is it?

23 A Correct, that's not.

24 Q You're just observing them change locks?

25 A Right.

1 Q And it's true, too, didn't you-all have officers
2 going by there, going on the perimeter to check to see to
3 if the seal to the door's been broken or if any windows
4 are broken?

5 A Yes. And, honestly, I did that myself as well.

6 Q Okay. So everybody was being tasked at some point?

7 A Correct.

8 Q It's not a guarantee nobody went in, correct?

9 A Correct.

10 Q But you didn't go in?

11 A I didn't, no.

12 Q You did go in much later with the family, though; is
13 that correct?

14 A Yes, I did.

15 Q And that's when they're getting -- the apartment
16 said, "Listen, if you-all don't get stuff out, we're going
17 in and throwing it away"?

18 A Correct. They were quite rude and wanting the family
19 get the things.

20 Q Had you been in that apartment any time before a
21 search warrant? Before the search warrant? The search
22 warrant's on the 20th. I'm going back to --

23 A Oh, okay. I'm sorry.

24 No, I don't think so.

25 Q Okay.

1 A I don't believe so. I don't think I would have had
2 any involvement at that point.

3 Q The door's taped up at that point, right?

4 A Right.

5 Q There's crime scene tape, correct? Nobody's in the
6 apartment at that point?

7 A No.

8 Q So to your memory you weren't going in at that time?

9 A No, there would be no reason for me to go in at that
10 point.

11 Q I just wanted to clear that up because I know on the
12 dates you said you had some questions.

13 A Yes. I'm a little fuzzy on that. It's been quite a
14 long time.

15 Q Almost six years?

16 A Six years this June.

17 MR. HUBBARD: Thank you.

18 REDIRECT EXAMINATION

19 BY MR. STITELY:

20 Q I still want to clarify a little further.

21 A Okay.

22 Q When you went with Investigator Bayne that day, you
23 said that you guys looked at the doors. So now you're
24 saying you didn't look inside to make sure everything was
25 okay?

1 A No. I'm just saying I'm not sure exactly of the
2 dates.

3 Q Okay. And he's asking about later on. Was that the
4 search when the apartment complex had found some guns in
5 there back in like September, so three months later?

6 A I'm not sure. I'm sorry.

7 Q But you don't -- I guess my question is, on the
8 report on the 16th where you and Investigator Bayne went
9 out there, on that day, her notes indicate that the locks
10 were changed.

11 A Okay.

12 Q And I'd asked you -- you said you guys checked to
13 make sure everything was okay and I kind of asked did you
14 go and look inside. Do you not remember going inside that
15 day?

16 A I'm not sure if we -- we were standing at the door,
17 but as far as looking inside or going inside, I'm not sure
18 what the question is.

19 Q Okay. Did either you or Officer Bayne when you guys
20 were there, did either one of you go in and look around
21 the apartment when they were changing the locks to make
22 sure that everything was still as it was? Do you remember
23 that?

24 A I think I did stand inside the doorway while they
25 were changing the locks.

1 Q Inside the doorway of the apartment?

2 A Yes.

3 MR. STITELY: That's all. Thank you.

4 THE WITNESS: There were four -- I'm sorry.

5 BY MR. STITELY:

6 Q No, go ahead. Answer the question.

7 A There were four of us, if I can remember correctly,
8 and I was just trying to view them change the locks,
9 making sure that there was a change in the lock and a
10 change in the key.

11 RECROSS-EXAMINATION

12 BY MR. HUBBARD:

13 Q You weren't searching the apartment, were you?

14 A No.

15 Q You weren't going room to room and seeing what was in
16 there, were you?

17 A No, I was not.

18 MR. HUBBARD: Thank you.

19 MR. STITELY: Nothing further.

20 THE COURT: You may step down. Thank you very
21 much.

22 THE WITNESS: Thank you.

23 MR. STITELY: We'd call Major Edwards. We were
24 told he was back.

25 MATT EDWARDS, after being duly sworn, testified

1 as follows:

2 THE CLERK: Have a seat, please.

3 State your name, please, for the record.

4 THE WITNESS: My name is Matt Edwards,
5 E-D-W-A-R-D-S.

6 DIRECT EXAMINATION

7 BY MR. STITELY:

8 Q Welcome back, Major Edwards.

9 A Thank you.

10 Q I just have a couple of questions.

11 I'm talking to you specifically about a letter
12 that you wrote to us.

13 We filed a subpoena with West Columbia
14 requesting copies of any well checks performed by Ms.
15 Bayne during her employ there.

16 MR. STITELY: May I approach?

17 THE COURT: Yes.

18 BY MR. STITELY:

19 Q I'm going to show you a letter and some corresponding
20 documentation. Do you recognize that?

21 A Yes, sir.

22 Q Okay. And that was your reply to our request for any
23 records about welfare checks of Ms. Bayne?

24 A Yes, sir.

25 Q The documents behind it appear to be the ones you

1 sent us?

2 A Yes, sir.

3 MR. STITELY: Your Honor, at this time we'd ask
4 to have these marked into evidence, marked and then placed
5 into evidence.

6 THE COURT: The letter and the attachments will
7 be marked as Defense Exhibit 64 (sic) for ID purposes, for
8 purposes of this hearing.

9 MR. STITELY: Yes, sir.

10 (WHEREUPON, Defendant's Exhibit No. 65 was
11 marked for identification only.)

12 BY MR. STITELY:

13 Q Major Edwards, the sum total of reports you were able
14 to return to the defense was two, correct?

15 A Yes, sir.

16 Q And not 50 to 100?

17 A I'm sorry?

18 Q There weren't 50 to 100 reports that you found,
19 correct?

20 A No. There was two reports.

21 Q Were there any pictures attached to those?

22 A No, sir.

23 Q Would your system have allowed you to see if there
24 were attachments like pictures when you look at a report?

25 A No, our RMS system, no, would not.

1 Q Is there any way -- would they be indicated anywhere
2 on an incident report if an officer had corresponding
3 pictures?

4 A There's the possibility that they would be in the
5 narrative, but not necessarily, no.

6 Q Okay. But the long and short, there's two reports
7 and that was the sum total of what your search turned up
8 as far as welfare checks with Officer Bayne?

9 A Yes, sir.

10 Q All right. Let me ask you one other question.

11 During your -- I guess procedurally, you were
12 one of the other investigators involved in this case,
13 correct?

14 A That's correct.

15 Q Okay. And you guys would have meetings, I take it,
16 you and Investigator Bayne and anyone else working on the
17 case?

18 A Yes, sir.

19 Q Share information?

20 A As much as possible, yes.

21 Q At some point prior to -- well, specifically on
22 June 16th, did you go out to Bob Bennett Ford and
23 interview a Brad Clary, a parts and service director?

24 A Do you have a --

25 Q I'll show it to you, what I'm talking about.

1 Is that your handwriting?

2 A That is my handwriting, yes.

3 Q Do you remember going out to Bob Bennett Ford and
4 talking to Mr. Clary?

5 A I did several times.

6 Q Okay.

7 A Well, to Bob Bennett Ford several times, yes.

8 Q And you do remember Mr. Clary?

9 A Yes, sir.

10 Q Okay. Would the information you received from him
11 and anyone else be forwarded along to Investigator Bayne?

12 A Yes, sir.

13 Q And as the case agent, agent in charge, whatever you
14 want to call it, she would be the one who would take that
15 information and request a search warrant or whatever else,
16 right?

17 A Most of the time it was directed by Captain Owens,
18 but yeah, she generally would have all the information
19 from the case compiled into one case file.

20 Q Okay. And do you remember procuring information from
21 Mr. Clary in your initial interview about Ms. Washington
22 and Mr. Lynch working there?

23 A Yes.

24 Q Okay. You also found out from him -- it was noted in
25 a couple of other places -- how Ms. Washington got her job

1 at Bob Bennett Ford?

2 A Yes.

3 Q Through the Voc Rehab program?

4 A Yes.

5 Q And he also talked to you about her having
6 manic-depressive problems, correct?

7 A I think I notated exactly what it was.

8 Q With heavy medication required?

9 A Yeah, that's what my notes say.

10 Q Okay. Did you relay the information about the
11 medications for manic-depressiveness to Ms. Bayne
12 probably?

13 A I relayed the information on my notes, yes, sir.

14 MR. STITELY: No other questions.

15 THE WITNESS: Okay.

16 CROSS-EXAMINATION

17 BY MR. HUBBARD:

18 Q Major Edwards, let me ask you about these welfare
19 checks.

20 You say you pulled all you could find and there
21 were two that you could actually go in your system and
22 pull?

23 A Well, we requested it as a narrative title or as an
24 incident title under "welfare check" and it was pulled
25 according to that and that's all the system generated.

1 Q Now, you were aware that Investigator Bayne -- she
2 did -- what grant was she on, do you remember?

3 A It was a family violence grant, but, you know, it
4 encompassed several specific areas of domestic violence or
5 the like.

6 Q And back when you were a lieutenant and you were
7 supervising her, were you aware that she would do numerous
8 welfare checks?

9 A Yes.

10 Q And isn't it true that if she would go -- say she'd
11 get a call from DSS about a family, maybe kids are living
12 in squalor and she'd go check it out and there was nothing
13 to it, that wouldn't go in your system, would it?

14 A Correct. I mean, there's the potential that it could
15 have been classified as any number of specific criminal
16 activities. A welfare check itself is just a documented
17 incident type. But if it developed into something else,
18 then it would have been titled something else and
19 potentially could have been a lot more.

20 Q For instance, if she went in and found kids actually
21 living in squalor --

22 A Right. It would be neglect or child abuse or
23 something to that effect, not necessarily -- it wouldn't
24 stay a welfare check.

25 Q So based on the system that you-all keep, if you just

1 plug in "welfare check," it's not surprising you don't get
2 a large number, correct?

3 A That's correct.

4 Q Now, knowing the job that she had and that she had to
5 deal with DSS and kids, would you say she did numerous,
6 numerous welfare checks?

7 A Yes. Every time to my knowledge, at least if she was
8 on duty, if DSS called for assistance, she would
9 specifically go and help them. How it got documented, it
10 just would depend on the specific scenario.

11 So, yes, she would go a lot of times to help out
12 with what would start out as a welfare check and may
13 progress into something else.

14 She was by herself for a year in that position,
15 so she was the only one that would respond to those type
16 things. Then we got another investigator after that, but
17 --

18 Q Would it be safe to conservatively say 50 to 100 is
19 not out of the realm of possibility?

20 A Yeah, not out of the realm of possibility at all.
21 Perhaps more.

22 Q Perhaps more. And as part of her job, too, we heard
23 a lot about cameras. As part of her grant she got a
24 camera, too, didn't she?

25 A I think she has several cameras, yes, sir.

1 Q And was it unusual for her daily activity on these
2 welfare checks to often use that camera to establish
3 either everything's okay or it's not okay?

4 A Yeah, that would be in line with what she needed to
5 do, yes.

6 MR. HUBBARD: Thank you, Major. I was going to
7 call you lieutenant. You're major now, aren't you?

8 THE WITNESS: Yes, sir.

9 MR. HUBBARD: Thank you.

10 REDIRECT EXAMINATION

11 BY MR. STITELY:

12 Q Major Edwards, I guess we were asking the wrong
13 question. But is there any way for us to get copies of
14 these records or copies of any pictures that were ever
15 taken in a single investigation done by her?

16 A I think, if I'm not mistaken, last week or two weeks
17 ago about maybe 1,500 pages' worth of reports were
18 submitted to try and re-answer this subpoena, everything
19 that her name was attached to. So I believe the defense
20 has copies of all those reports. So it may be -- does
21 that answer your question?

22 Q We got every report done by West Columbia as a whole
23 for about three years.

24 A Well, that -- actually those were reports just
25 specifically assigned to her or her name would have been

1 attached.

2 Q Even if her name doesn't show up anywhere on them?

3 A In that narrative, no, those were -- we take probably
4 about 40,000 calls per year, so you didn't get all the
5 cases.

6 Q Is there a server that you guys keep your pictures
7 on?

8 A At that point in time, they were kept either in the
9 case file or, you know, it's up to each investigator at
10 the time. As technology developed, they would keep them
11 on their own computer. But, no, there was no specific
12 server at the time where we keep those. Now, our
13 computers, our desktops are backed up by a server.

14 MR. STITELY: One second, please.

15 (Pause.)

16 MR. STITELY: Thank you, Major. Appreciate it.

17 THE WITNESS: Yes, sir.

18 MR. STITELY: At this time I don't know if Major
19 Brothers has arrived or not.

20 (Pause.)

21 MR. STITELY: Okay. Apparently she's still at
22 West Columbia.

23 Your Honor, at this time I'm just going to offer
24 the CAD operation report. I'm not going to get into who
25 the other officers are. I think Officer Belk has

1 identified them as being the West Columbia documents. She
2 was familiar with them relatively so.

3 MR. MYERS: We have no objection to him entering
4 those into evidence. We do have an objection if they are
5 entered for the purpose of somebody going inside that
6 apartment. We have no information whatsoever that anybody
7 went back inside that apartment, and if that's his
8 contention, we want live people to testify.

9 MR. STITELY: They're being offered for the
10 point that the officers were at the place. I think the
11 only other two that had long-term durations have both been
12 called to the stand.

13 THE COURT: Very well. We'll accept them as
14 Exhibit 66 for the purpose of this hearing.

15 (WHEREUPON, Defendant's Exhibit No. 66 was
16 marked for identification and received into
17 evidence.)

18 MR. STITELY: That would be the end of our
19 witnesses and argument on the motion, Your Honor.

20 THE COURT: Is Brothers coming or not?

21 MR. STITELY: We don't need her, Your Honor, if
22 they could -- they're into evidence. We'll send her an
23 email saying we're okay without her.

24 THE COURT: All right. That being the case,
25 we'll hear you.

1 MR. STITELY: Your Honor, this is a
2 quasi-multifaceted argument about the search warrant.
3 It's a unique situation, this case, Judge, because the
4 search itself, we would contend, happened a number of
5 different times.

6 Going back to the beginning of the incident, the
7 first response happens on June 14th at about 11:38 in
8 the morning. We heard testimony from Officer Shane
9 Phillips, now Pastor Phillips, who said he spoke with the
10 family and went out and did a well check.

11 Very specifically in it, he was asked, "What did
12 you do? What do you do in a welfare check?"

13 "I walk into the apartment, I look for visual
14 signs of struggle, I look for people in distress, blood,
15 bodies, et cetera. Found none of it."

16 Asked on direct, "Did you go into drawers?"

17 "No, sir."

18 "Why didn't you go into drawers?"

19 "Well, that would be searching."

20 I asked if he manipulated any items in the
21 apartment. His response to that was actually kind of
22 funny. He said, "Well, if I manipulate an item, that's a
23 good way to get sent home." That was his response, "That
24 would be searching it."

25 We don't have an objection to Mr. -- to the

1 officer going in and doing that welfare check. At that
2 point he went back to headquarters, turned in his report.

3 Four hours later, Investigator Bayne goes back
4 out on-site. At this time, Your Honor, it's our
5 contention it is a search.

6 The original testimony offered the first time
7 from Officer Bayne was the reason she went in and took
8 pictures was a welfare check that you always take pictures
9 for so we can make sure for liability purposes they can't
10 say we impacted it. That was her testimony at the hearing
11 before Your Honor the first time -- or before Judge
12 McMahon the first time.

13 She confirmed at a second hearing, "I only took
14 pictures during my welfare check."

15 Today when she was on the stand, her answer was,
16 "Well, this time I was trying to find out if it looked
17 likely somebody was going on vacation, so I took pictures
18 of documents. I opened drawers to look for travel
19 documents. I opened the refrigerator to look for
20 travel -- proof they're going on vacation, I think I need
21 to search their fridge." Opened drawers, pulled out
22 underwear, pulled out a pocket knife, opened mail -- Your
23 Honor has the pictures -- took it out of its envelopes,
24 unfolded it, retook it where the date was sitting next to
25 the stamp, obviously staging it for what other purpose but

1 to photograph it as part of her search. She was on-site
2 for more than an hour inside the apartment and then
3 another hour afterwards. The CAD indicates the time that
4 she was there. This wasn't a welfare check.

5 She testified, Mr. McGuire asked her, "Well, the
6 first thing you do -- what'd you find out from
7 Investigator Phillips?" This became a dance. "Well, you
8 know, I don't know if he told me he went into the
9 apartment."

10 She didn't testify that the first thing she did
11 was went in and started looking at documents, looking in
12 drawers, looking at refrigerators.

13 If you're going into an apartment to make sure
14 that there's nobody in distress, you quickly walk through
15 it and say, "Look, there's nobody in distress now, let me
16 go ahead and inventory it." But then that's a search.

17 Your Honor, I'll start getting into the case law
18 in a few minutes, but it's important to see the
19 progression.

20 West Columbia had already done their well check.
21 Investigator Phillips or Sergeant Phillips had already
22 filed his report, apartment clear. They additionally had
23 already had information from the apartment complex the day
24 before, went in, everything appeared normal, followed up
25 by Investigator Phillips.

1 The interesting thing there is, when the stories
2 have come out, Sergeant Phillips said the missing person
3 was Ms. Washington and Mr. Lynch, no mention of a
4 granddaughter. In the evidence -- and you can look at
5 it -- are Investigator Bayne's notes. No mention of the
6 granddaughter at this point.

7 On the stand now, she's come up and said, "Well,
8 we were looking for a little girl." Her notes indicate
9 two persons missing: Portia Washington and Kenneth Lynch.

10 Later on they start coming up with the story
11 about the girl being missing, but that's not present when
12 she's in there doing a search. And her answer was,
13 "Because I thought it was peculiar and I wanted to take
14 pictures of it." I don't know how else to phrase that
15 other than saying, "I searched the place."

16 She goes back out again on the 16th. There's
17 been some conflicting testimony. She says she doesn't go
18 in. The CAD reports indicate that she was there on-site
19 for more than 30 minutes. Investigator Belk says that she
20 stepped in the doorway and watched as they were changing
21 out these locks.

22 During that time they're doing an external
23 investigation, finding out additional information, but our
24 real problem is that they've already started searching.
25 She took upwards of 100 photographs of a very intimate

1 location within it.

2 Now, I'm going to start, I guess, in order.

3 The first case when they talk about searches and
4 seizures, specifically searches, is a federal case from
5 1961, Mapp versus Ohio, which sets the standard. And they
6 actually talk about where the United States Supreme Court
7 stands on searches without a warrant.

8 And they say -- the law is very old, going back
9 75 years before that -- Boyd versus United States, and the
10 language is, "Applying to all invasions on the part of the
11 government and its employees into the sanctity of a man's
12 home and the privacies of life, it's not just breaking his
13 doors or rummaging his drawers" -- drawers actually
14 happened in this very specifically -- "that constitutes
15 the essence of the offense, but it's the invasion into his
16 infeasible right to personal security, personal liberty,
17 and private property. Breaking into a house and opening
18 boxes and drawers are circumstances of aggravation, but
19 any forcible or compulsory source of a man's own testimony
20 or his own private papers to be used as evidence to
21 convict him of a crime or to forfeit goods is within the
22 condemnation."

23 In evidence already, Your Honor -- you can view
24 it -- is the lease. Mr. Lynch is on the lease. They
25 can't take the position this isn't his home. It's his

1 home.

2 When you look at South Carolina law to determine
3 when you can make a search without a warrant, it's very
4 specific. We've had a number of different cases on it.
5 Most recently -- and I'll pass up Mapp and Boyd, the two
6 cases I just spoke of -- South Carolina standards are
7 pretty clear when you wonder about what kind of searches
8 you can do without a warrant. And the standard usually
9 comes down to what's called exigent circumstances.

10 Most recently, in State v Brown, a 2010 case --
11 and that's 698 S.E.2d 811, they talk about that. There's
12 clearly known exemptions as to when you can do a
13 warrantless search. Search incident to arrest. Not the
14 case here. We've had that argument a lot before.

15 Second, automobile exemption. It's clearly not
16 an automobile.

17 And if you have a search that's unlawful, the
18 key thing in Brown is it talks about the exclusionary rule
19 and how any and everything stemming from the search needs
20 to be excluded.

21 Your Honor, we also offer cases of State versus
22 Dupree. It's a 1995 case, 462 S.E.2d 279, once again,
23 talking about the only recognized exemption being exigent
24 circumstances.

25 We could understand if the argument in this case

1 was that Mr. Phillips going in was a potential exigent
2 circumstance, going in to determine if there was someone
3 in distress. The apartment's been cleared twice at this
4 point before Ms. Bayne starts getting there.

5 Also, State versus Abdullah, 2004, same premise
6 citing the reasons why you can go in and do a warrantless
7 search. It also says fruit of the warrantless search
8 shall be suppressed.

9 In that case it talks about exigent
10 circumstances and plain view. Our position once again
11 here, you have no exigent circumstances.

12 And here's another thing: They start going
13 through the drawers, going through the refrigerator,
14 staging evidence, as she put it, "Well, I wanted to take
15 it out and take a picture of it because I thought it
16 looked odd."

17 Abdullah is a 2004 case, 357 S.C. 344, 592
18 S.E.2d 344. Again, absent a showing of exigent
19 circumstances, a warrantless search is unlawful.

20 The apartment was searched multiple times before
21 they got a search warrant. I don't disagree with the
22 Solicitor's position earlier that you need an affidavit
23 for a search warrant, that's not our problem here. The
24 problem is, Ms. Bayne danced around why she was in that
25 apartment a couple of times. She first said it was for

1 liability purposes. "I wanted to take a picture of things
2 for liability purposes." That's clearly not why.

3 We asked her about that and her testimony was,
4 "Well, some of them were date stamped but maybe my
5 batteries died and I switched modes and that's why I don't
6 have date-stamped pictures." It doesn't add up. It was a
7 search and they were looking for a justification as to why
8 they were searching it.

9 She's trying to justify it by saying, "I don't
10 have a date stamp because it must have been a battery
11 malfunction." The pictures are clear in evidence. That
12 day her camera put a date stamp on it. Her pictures of
13 the storage facility on the 18th, date stamped. Her
14 pictures on the 20th when she goes back out to the
15 apartment to take the outside pictures for the search
16 warrant, date stamped every time. It was a search.
17 There's no question about it. Getting a search warrant
18 later does not fix the initial "if."

19 In this case, officers from West Columbia Police
20 Department made contact with that apartment, cleared it,
21 and then Investigator Bayne went in at least one other
22 time, Investigator Belk and Investigator Bayne went back
23 at least one more time, and then we have to look at the
24 overall veracity when we're looking into what goes into
25 the affidavit.

1 Through her representations on the stand, it's
2 clear -- and, Your Honor, this has been a case we've
3 argued before where you have omissions and only partial
4 truths going into affidavits. It didn't affect the
5 original arrest warrant.

6 In this case, Investigator Bayne presented to
7 Judge McMahon a situation where there were two criminal
8 domestic violence-type situations. It was not explained
9 to him that one of them was Mr. Lynch asking for an escort
10 to get his stuff and the second one was a pushing where
11 the charges weren't even brought because it was the day
12 his mother died and she said it was a misunderstanding
13 because she didn't know his mother had died. That's not
14 how it was presented to the judge. It was presented as
15 two domestic violences. It's a misrepresentation.

16 You saw that in the testimony that comes in when
17 he's up in Washington. Their contact point with West
18 Columbia, Investigator Bayne, is telling them we have
19 proof he's trying to cross the Mexico border, hold him.
20 That part's in evidence.

21 It's unreasonable to think that the Washington
22 state district attorney is making this stuff up. She says
23 West Columbia, South Carolina, wants this guy bad. They
24 have proof he tried to cross two borders. When she was
25 asked on the stand today, there's no evidence of that.

1 She even told you Investigator Dove even checks with
2 border patrol and there's no evidence he ever tried.

3 Again, partial truths start to add up.

4 In this case, the case law's pretty clear, it is
5 a warrantless search when she goes back in. When she
6 starts going through the drawers, that only solidifies it.
7 You can't cure it later on by just pretending like it
8 didn't happen, and that's what they'd have you do.

9 There's serious questions about veracity going
10 in. The story as to why pictures were taken and why the
11 search was conducted changed.

12 It's an unlawful search. Anything from it --
13 the warrant should be thrown out and anything stemming
14 from it should be suppressed.

15 MR. MYERS: They base this search on about four
16 or five well-established doctrines in the area of search
17 and seizure.

18 Number one is the defendant has no standing to
19 contest this search warrant. Why does he not have any
20 standing? Because he abandoned apartment M-7. He was
21 never coming back to apartment M-7. He was on the run.
22 He covered all of the lower part of the United States, the
23 western part of the United States, and for a time was in
24 another country.

25 He had in his bank account the total amount of

1 \$2.31. He had \$2.23 left in his savings account and eight
2 cents left in a checking account. He had, based on the
3 testimony, approximately \$7 in coins and he had some
4 worthless jewelry. He is never coming back to South
5 Carolina. He's never coming back to Lexington County.
6 He's never coming back to West Columbia. And by God, he's
7 never coming back to apartment M-7.

8 Abandonment, the leading case is Abel, A-B-E-L,
9 versus United States, 1960, a U.S. Supreme Court case.
10 And I'm glad he brought up Dupree because Dupree stands
11 for abandonment. Dupree abandoned the drugs he had. He
12 had a one-way ticket to Canada, wasn't two ways. He ain't
13 coming back. He clearly abandoned whatever was in M-7 and
14 he had no interest whatever.

15 Secondly, this was a heightened exigent
16 circumstance. It was heightened because by the time that
17 Ms. Bayne got over to the apartment, additional
18 information is known. This additional information is he's
19 now been spotted in Texas. Unfortunately, unfortunately,
20 when that Texas trooper stopped him in El Paso, eight
21 miles from Mexico, he didn't check the computer and didn't
22 pick up the NCIC. West Columbia got a delayed hit, he's
23 in El Paso, Texas, in Portia Washington's car, no Portia
24 Washington, no Cassandra L. [REDACTED] but a child's car seat
25 in the back. Not only that, he later abandoned that car,

1 just like he abandoned the house.

2 They had a seven-year-old girl, now they don't
3 know where they are, got some information about a church
4 camp. Checked there later on, not at the church camp.
5 Where's Portia Washington, where is the child, Angelica?
6 We've got to find them. Either they're traveling
7 somewhere, and we can't find any traveling; either they're
8 missing, and they are; or something worse. Unfortunately,
9 it turned out to be the something worse.

10 Not only was there exigency involved, it was
11 reasonable. The touchstone of the Fourth Amendment is
12 reasonableness. And it was certainly reasonable for them
13 to try to find this baby. Not to do so would have been
14 derelict in their duties.

15 But even with that, Your Honor, by them going
16 in, it makes no difference. It makes no difference
17 whatsoever. Nothing was taken. Sure, they looked around.
18 Sure, they're trying to find something to help locate
19 these two victims. Sure, they're looking for things. But
20 nothing was taken. And that law goes back to 1920. It's
21 the independent source rule and it's the inevitable
22 discovery doctrine.

23 The independent source rule was first announced
24 in 1920 by the United States Supreme Court, Silverthorn
25 Lumber Company versus the United States, 251 U.S. 385,

1 1920, in which the Court announced what's come to be known
2 as the independent source rule. And that independent
3 source means if there is an illegal entry, but later on a
4 search warrant is obtained independent of that entry, the
5 Fourth Amendment doesn't apply.

6 And that was followed up, Your Honor, later on
7 in 1984, Segura, S-E-G-U-R-A, Andre Segura, versus the
8 United States, 468 U.S. 796. In that case, some officers
9 went in to a place and they saw a bunch of evidence in
10 there without a warrant. They held that place until
11 somebody went and got a search warrant. A search warrant
12 was obtained from a judge based completely on information
13 unrelated to anything based on that entry. The entry was
14 never mentioned, the entry wasn't involved, it was
15 independent reliable facts, just like we have here. The
16 search warrant was obtained, it was brought back and
17 executed, and the Supreme Court said items then discovered
18 pursuant to that search warrant were admissible under the
19 independent source doctrine established by Silverthorn
20 back in 1920.

21 And then from that, we follow it up a few years
22 later in 1988, Murray, M-U-R-R-A-Y, versus the United
23 States. In Murray versus United States, drug officers
24 went into a warehouse. They discovered marijuana in a
25 huge drug operation, trucks, everything else. They

1 secured the place.

2 Officers went to a magistrate. They obtained a
3 search warrant independently based on other facts, nothing
4 based on that warrantless entry.

5 The Court says yes, in Segura we said that's
6 proper. But the Court here, when they came back and
7 executed the search warrant, they found bales of marijuana
8 that hadn't been seen previously and they had the
9 marijuana that was seen during the warrantless entry.

10 The Court in Murray expounded on Segura. They
11 said certainly the stuff found when the warrant was
12 executed is admissible, independent source doctrine. But
13 also the stuff seen during the warrantless entry, it, too,
14 is admissible because it was based on independent
15 information unrelated to the entry.

16 In the same vein, Your Honor, we have the
17 inevitable discovery doctrine in which these cases cite --
18 and that's under Nix, N-I-X, versus Williams, 467 U.S.
19 443, I think it is -- in that case, the same thing
20 happened, a body was found without a warrant. But there
21 was a search based on people looking, an independent
22 source. They said that the body would inevitably have
23 been found and they let in the admission of it.

24 There's a Fourth Circuit case also, Your Honor,
25 I don't think we need to cite it, but it's the United

1 States versus Whitehorn, W-H-I-T-E-H-O-R-N. That's at 813
2 Fed.2d 646. In that case, there was an apartment and it
3 was alleged a lot of people were making all kind of
4 illegal bombing equipment, guns, ammunition and everything
5 else. The officers went in and did a bomb sweep without a
6 warrant. The Court said that entry was without a warrant
7 and illegal. But they said when the officers thereafter
8 went and got a search warrant based on independent facts
9 not related to that unlawful entry, that when the warrant
10 was brought back and served, it was a valid warrant, all
11 of the evidence in the apartment was admissible, not only
12 what was seen during the illegal entry, but also stuff
13 discovered pursuant to the warrant.

14 Now, we have a perfectly valid warrant here.
15 Nothing in this affidavit is based on the entry on June
16 14th by April Bayne.

17 It talks about the missing persons report. It
18 talks about it's unusual for Ms. Washington not to talk
19 with family members. It talks about not going to work,
20 her work employees or co-workers are all concerned.

21 It talks about going to the apartment. It talks
22 about people around there haven't seen her, that they last
23 spoke with them or saw them on June the 10th.

24 It goes on there and it talks about that
25 officers were unable to find contact with anyone, that

1 these people were put in NCIC, that pulling cell phone
2 records to find out when the last call was made, last
3 contact with Ms. Washington.

4 It talks about officers notified on June the
5 14th prior to going into the apartment by Ms. Bayne, that
6 the Texas officer pulls the offender over near El Paso,
7 Texas. He's in the car. It's Portia Washington's car --
8 no Portia Washington, no daughter, no Angelica -- that it
9 was the owner was Mrs. Washington and this guy says he's
10 going to meet her in Arizona.

11 It talks about then him going to Canada. They
12 apprehended him on the Canadian border after he comes back
13 into the United States when he's refused admission into
14 Canada, that he's taken into custody, that a warrant's
15 been issued for his arrest.

16 It talks about the bus ticket from Seattle to
17 Canada. It talks about asking them to look for the car,
18 the car is found.

19 It talks about him staying at Motel 6. None of
20 this stuff's in the apartment. It's all independent.

21 It talks about where he's staying, giving a
22 fictitious state, using the right street address but
23 saying that it's Florida, not South Carolina.

24 It talks about the FBI interview out in the
25 state of Washington and how he comes up with this

1 fantastic story that he's going to see the bears in
2 Canada, how he lied about how he got there. When they
3 confronted him, then he switches his story, "Oh, yeah, she
4 gave me that car."

5 And it talks down here finally about the CDV
6 stuff. Obviously they didn't read this in the warrant
7 about domestic cases.

8 The first report was in 2005 when Mr. Lynch was
9 requesting officer assistance to remove items from a
10 residence where he claimed his girlfriend was evicting
11 him. They stretched this out beyond commonsense belief.

12 Under all these theories, this is admissible,
13 Your Honor. Even if you reject abandonment, even if you
14 reject the exhibits, even if you reject the
15 reasonableness, it doesn't make any difference. Segura
16 versus the United States, Murray versus the United States.
17 I'm sorry the United States Supreme Court ruled like this,
18 I don't agree with them a lot of times, but we have to
19 follow the law, and unfortunately, the law is kicking
20 their teeth out because nothing on that entry was used to
21 get this valid warrant, and this warrant is valid.

22 THE COURT: Anything else, Mr. Stitely?

23 MR. STITELY: Your Honor, we just point out that
24 at this point, everything becomes cumulative and once she
25 gets to the apartment, it was part of her investigation.

1 It's unlawful at that time. And how she used the
2 information, directing officers to go conduct other
3 interviews, all of it's tainted. You don't even get to
4 the independent analysis when you have a hole in the
5 beginning.

6 I think the cases I passed up offer contrary
7 positions, specifically in Brown where they talk about the
8 exclusionary rule defeating inevitable discovery without
9 clear proof applicable.

10 MR. MYERS: Your Honor, Brown is inapplicable.

11 THE COURT: I'm going to take a break and I'm
12 going to read all this stuff, or some of this stuff.

13 We'll take at least 15 minutes so y'all can have
14 some predictability.

15 (A break was taken.)

16 THE COURT: Yes, sir.

17 MR. HUBBARD: Your Honor, I may have to take up
18 one real quick matter.

19 One of our SLED agents has a house closing.
20 Would Your Honor oppose us releasing him for the evening?
21 He was actually going to be our next witness.

22 THE COURT: No. As few houses are being sold
23 these days, I think that would be appropriate.

24 MR. HUBBARD: Okay. We just wanted to check
25 with Your Honor. We've talked to the defense.

1 THE COURT: Not a problem. I'll be glad to do
2 that.

3 MR. HUBBARD: Thank you, Your Honor.

4 THE COURT: All right. Anything else from
5 either side regarding the search warrant issued on the
6 20th of June, Exhibit 34?

7 MR. STITELY: Not from the defense.

8 MR. HUBBARD: No, sir.

9 THE COURT: All right. I've reviewed the cases,
10 I've reviewed my summary and notes of the testimony, I
11 reviewed the search warrant itself, and I find that within
12 the corners of the search warrant, that it would be
13 reasonable.

14 Now, the facts contained in the affidavit, other
15 than a little bit about the -- the facts given about the
16 cleaning items seen in the house and the toiletries in the
17 bathroom, those two things are mentioned in the affidavit,
18 but I don't find those to be the facts which were
19 providing the probable cause for Judge McMahon to issue
20 the search warrant.

21 Facts independently gained by West Columbia
22 Police from numerous different sources, two people
23 missing, comments from family members, talking to the
24 employers, phone records, the moving across the
25 continental United States, statements given to the border

1 patrol, the Whatcom County Police and the interview with
2 the two Washington state -- I believe it was the Seattle
3 City Police and the FBI agent, gave inconsistent
4 statements, all that being together, I believe are
5 independent of the search conducted by Ms. Bayne and I
6 think under the law as outlined by Segura versus United
7 States, that the issuance of the search warrant was
8 reasonable considering all those circumstances.

9 All right. That was Exhibit 34.

10 Anything else regarding that issue?

11 MR. STITELY: Your Honor, I think one other
12 thing came up during the break.

13 THE COURT: All right.

14 MR. STITELY: In response to that order we had
15 you sign the other day about the credit bureaus, we got an
16 email during the break from, I guess, Risk Solutions that
17 does Equifax and stuff saying they have three records with
18 the Social Security for **Cassandra L. [REDACTED]** two from the
19 credit bureau, one for utility records for the past couple
20 of years. We're working on another order and we'll get
21 that to you as soon as we can. I just haven't gotten my
22 hands on it yet.

23 THE COURT: I'll be more than happy to help you
24 with that. That's reasonable.

25 All right. Considering the SLED agent or

1 THE COURT: All right. Ready to go?

2 We were, at the end of yesterday, in in camera
3 mode regarding the motion on the search warrant of the
4 apartment. That's been ruled upon, so we'll go back into
5 the trial mode or as if the jury were present; is that
6 correct?

7 MR. MCGUIRE: Yes, sir.

8 THE COURT: All right. For the record, that's
9 the situation we're in then, we're in trial mode.

10 MR. HUBBARD: The State calls Rod Green.

11 RODERICK GREEN, after being duly sworn,
12 testified as follows:

13 THE CLERK: Have a seat, please, sir.

14 Once you're seated, speak up loud and clear.
15 State your full name, spelling your last, please.

16 THE WITNESS: My name is Roderick Green,
17 G-R-E-E-N.

18 DIRECT EXAMINATION

19 BY MR. HUBBARD:

20 Q Agent Green, where do you work?

21 A I work with SLED.

22 Q What do you do today for SLED?

23 A I'm a narcotics investigator.

24 Q Was there a time when you were in another section of
25 SLED?

1 A Yes. I worked in the latent print crime scene
2 division, which was from 2000 to sometime in 2006.

3 Q Towards the end of your stint in crime scene, do you
4 remember being called out to West Columbia to work on a
5 case at an apartment complex?

6 A Yes.

7 Q Do you remember a case involving Kenneth Lynch?

8 A Yes.

9 Q Can you tell us why you were called out at that point
10 or what agency called you out?

11 A West Columbia called. They were going to be
12 executing a search warrant at an apartment and they
13 requested crime scene to come help process the scene.

14 Q Is that June 20th of 2006?

15 A Yes.

16 Q And the apartment, was that 1035 Commanchee Trail,
17 Apartment M-7?

18 A Yes.

19 Q In fact, let me show you a photograph that's already
20 been marked in evidence as State's 16.

21 Does that look like the apartment complex, the
22 exterior of the apartment complex that you were -- or the
23 apartment that you were asked to come in and do a crime
24 scene processing on?

25 A Yes.

1 Q Now, Agent Green, what type of training do you have
2 in crime scene collection or processing?

3 A As a member of the crime scene unit, there's
4 on-the-job training, there's the latent print crime scene
5 training and that's presided over by other crime scene
6 technicians. That's about a two- to three-year program
7 where there's required readings, there's written tests,
8 and every year there are proficiency tests given.

9 Q Does it also include other areas besides
10 fingerprints, like say, blood and blood spatter?

11 A Yes. We're trained in crime scene processing,
12 fingerprint examination, footwear, tire wear, and blood
13 stain pattern analysis.

14 Q And were you trained in how to collect evidence such
15 as blood evidence?

16 A Yes.

17 Q You were trained in a method so you would not
18 cross-contaminate items; is that correct?

19 A Yes, that's correct.

20 Q How many years -- you say you started in 2000 to
21 about 2006?

22 A Over -- yes, over six and a half years.

23 Q During that time, can you give me an estimate of
24 maybe how many crime scenes you might have been called out
25 to process?

1 A Over that time period, I'd say several hundred crime
2 scenes.

3 Q Were you ever called to testify in court?

4 A Yes.

5 Q Did you testify as an expert or were you qualified as
6 an expert to testify in crime scene processing?

7 A Yes. I qualified as an expert in state and federal
8 court.

9 Q Let me ask you this: Were you also qualified as part
10 of crime scene processing in the analysis of blood
11 spatter?

12 A Yes.

13 Q And in the collection of blood and bodily fluids?

14 A Yes.

15 MR. HUBBARD: Your Honor, I offer him as an
16 expert in crime scene processing and also specifically as
17 to blood spatter analysis and blood collection.

18 THE COURT: Voir dire.

19 MR. McGUIRE: Yes, sir.

20 THE COURT: All right.

21 VOIR DIRE EXAMINATION

22 BY MR. McGUIRE:

23 Q Agent Green, are you able to analyze the crime scene
24 with regard to blood spatter to reconstruct it? And what
25 I mean is, are you aware of the mathematical formulas

1 regarding velocity and blood spatter so that you can
2 actually place an object or a person with regard to a drop
3 of blood?

4 A Yes, I'm aware of the formulas.

5 Q But are you able to do it?

6 A Yes, I have been trained.

7 Q And what I mean is, if you have -- you're familiar
8 with the term cast-off?

9 A Yes.

10 Q Okay. That would be, say, objects, a blunt object --
11 if a person's blood is transferred to the object and the
12 object is swung, there's a cast-off pattern, correct?

13 A Yes.

14 Q And have you ever -- have you ever testified with
15 regard to placing either an object or person in a room to
16 recreate what happened?

17 A Yes.

18 Q And what I mean -- what I mean by that is, were you
19 able to say that a person, say, was -- a person would have
20 had to be in the -- the place where a person was struck
21 had to be six inches off the floor and we know this based
22 on velocity and the shape of the blood spatter?

23 A I've testified to the position of a victim in order
24 to create the pattern that we're seeing, yes, whether he
25 was standing or on the floor.

1 Q Okay. And what sort of analysis do you use to do
2 that?

3 A By studying the blood stains, the patterns created.

4 Q I mean, sometimes I've seen fellows come in and say,
5 That's a 90-degree spatter mark so we know that that's a
6 completely horizontal travel. Do you use that technique?

7 A Yes, that's part of it.

8 MR. MCGUIRE: That's all I've got.

9 MR. HUBBARD: I'd still move him as an expert in
10 crime scene processing and blood spatter analysis and
11 blood collection.

12 THE COURT: All right.

13 MR. MCGUIRE: Your Honor, we maintain an
14 objection to that.

15 THE COURT: Did he -- maybe I missed it. I know
16 he testified earlier at an in camera hearing.

17 MR. HUBBARD: Yes, sir.

18 THE COURT: Did he -- is there any special
19 certificates or -- I'm not certain -- like training
20 certifications or --

21 MR. HUBBARD: I can ask him some more detailed
22 questions.

23 THE COURT: All right. Do that for me.

24 CONTINUED DIRECT EXAMINATION

25 BY MR. HUBBARD:

1 Q Agent Green, when you worked for SLED doing crime
2 scene processing, did agents send you out to collect
3 evidence without training?

4 A No, it's all through training.

5 Q Let's talk -- when you first started, did you have to
6 work under somebody?

7 A Yes.

8 Q Did you have to observe what they did?

9 A Yes.

10 Q And at some point when you started actually
11 collecting evidence, were you also under somebody's
12 tutelage?

13 A Yes.

14 Q Somebody had to watch over you?

15 A Yes.

16 Q At SLED, do you have proficiency testing to make sure
17 that you know what you're doing?

18 A Yes. There is outside proficiency testing, it comes
19 from an outside agency, and we have to pass those tests
20 yearly.

21 Q Is that part of the accreditation process not only
22 for SLED, but also to keep you certified?

23 A Yes.

24 Q And were you certified to go into a crime scene as a
25 lead crime scene processor?

1 A Yes.

2 Q Based on your training and your experience?

3 A Yes.

4 Q You satisfied all the requirements that the State Law
5 Enforcement Division of South Carolina required for you to
6 go in and collect evidence?

7 A Yes.

8 Q In fact, June of that year, 2006, June 20th, you had
9 another agent with you by the name of Carl Kinley,
10 correct?

11 A Yes, I had Carl Kinley and Jamie Seals.

12 Q Was Carl Kinley at that time fairly new to the
13 process?

14 A Yes, he was.

15 Q Who was looking over Carl Kinley's shoulder?

16 A I was.

17 Q Who was tutoring and training Carl Kinley?

18 A I was.

19 Q Okay. So you had moved from a rookie to proficient
20 to veteran who's training some new guy?

21 A Yes, that's correct.

22 Q And you've testified in court, both federal and state
23 courts, as an expert in these areas?

24 A Yes.

25 MR. HUBBARD: I offer him as an expert again,

1 Your Honor.

2 THE COURT: All right.

3 MR. McGUIRE: Judge, I don't have an objection
4 to crime scene, crime scene maintenance, crime scene
5 security, collection of evidence at a crime scene, only
6 with regard to an opinion regarding blood spatter
7 specifically.

8 THE COURT: All right. Subject to your
9 objection, I find him qualified as an expert in the field
10 of crime scene processing and blood spatter analysis and
11 blood collection from crime scenes.

12 MR. HUBBARD: Yes, sir.

13 THE COURT: Your objection is noted.

14 MR. McGUIRE: Yes, sir.

15 BY MR. HUBBARD:

16 Q Now, Agent Green, when you got to M-7 at Park Place
17 Apartments, were you alone or you mentioned several other
18 SLED agents?

19 A Yes, Carl Kinley and Jamie Seals.

20 Q Was West Columbia also present?

21 A Yes.

22 Q Who took the lead on processing the crime scene, your
23 agency or West Columbia?

24 A I did, SLED.

25 Q That's why you were called in?

1 A Yes.

2 Q To do the processing?

3 A Yes.

4 Q Now, was this by way of a search warrant?

5 A Yes.

6 Q Do you remember about what time you arrived on
7 June 20th?

8 A We arrived at 1750, which is 5:50 in the afternoon.

9 Q And when you got there, did you do a visual on the
10 outside of that apartment?

11 A Yes.

12 Q And did you photograph the outside of that apartment?

13 A Yes.

14 Q I've already shown you one photograph which is still
15 before you which is State's 16. State's 15 look familiar
16 as well?

17 A Yes. That's a photograph near the door of the
18 apartment.

19 Q And is that a grill?

20 A Yes.

21 Q What's behind that grill?

22 A Plants.

23 Q Okay. That's as you found it on the 20th?

24 A Yes, on the 20th.

25 Q Now, Agent Green, when you-all went in the apartment,

1 what's the process you use, what do you start doing first?

2 A The first thing we do is photograph the apartment as
3 we found it before anything's moved, so someone comes in
4 with the camera, goes room to room and photographs the
5 entire apartment.

6 Q Okay. And do you end up kind of breaking up the
7 tasks assigned, an assigned task, like somebody's in
8 charge of the camera, somebody processing or spraying?

9 A Yes.

10 Q But the first step you take is photograph the
11 apartment as it is?

12 A Yes.

13 Q Let's go through that apartment.

14 Now, let's start the chart with State's Exhibit

15 3. Is this an accurate depiction of that apartment
16 complex?

17 A Yes.

18 Q You see the entrance that we were just talking about?

19 A Yes.

20 Q Would this be that living area?

21 A Yes.

22 Q What is this area?

23 A Dining room area.

24 Q This area?

25 A Kitchen.

1 Q This area right here?

2 A It's the hallway.

3 Q What is right here?

4 A There's a closet and then there's a hall bath.

5 Q Okay. What's this large room here?

6 A That's the master bedroom.

7 Q And this room here?

8 A That was a second bedroom.

9 Q Is that the smaller bedroom?

10 A Yes.

11 Q So it was a two-bedroom apartment?

12 A Yes.

13 Q And that looks like the layout?

14 A Yes, it does.

15 Q Okay. Let's start with the living area. I'll show
16 you some photographs and see if you recognize these.

17 A Yes.

18 Q What are these photos of?

19 A These are photographs of the living room.

20 MR. HUBBARD: We'd offer these into evidence at
21 this time, Your Honor.

22 MR. MCGUIRE: Without objection, Your Honor.

23 THE COURT: All right. They'll be so marked as
24 the next exhibits -- hold on and I'll tell you what I
25 believe them to be -- for the record, 113 through 116,

1 photos of the living room. Without objection they're
2 admitted into evidence.

3 MR. HUBBARD: Yes, sir.

4 (WHEREUPON, STATE'S Exhibits Nos. 113-116 were
5 marked for identification and received into
6 evidence.)

7 BY MR. HUBBARD:

8 Q Agent Green, I also want to show you what's
9 previously been marked into evidence, State's 14 and
10 State's 13. Do those also accurately depict the living
11 room area?

12 A Yes.

13 Q Now, referring to State's 113, is that the entrance
14 way?

15 A Yes.

16 MR. HUBBARD: Okay. Tell you what. Why don't
17 we do this. I'll try to use that projector. I don't know
18 if it will work too well, Judge.

19 THE COURT: All right. Give it a try.

20 BY MR. HUBBARD:

21 Q Take a look at 113. Is that the entranceway into
22 that apartment complex?

23 A Yes. That's a photograph of the front door at the
24 entrance.

25 Q Okay. Show you State's 14.

1 A Yes, sir. That's stepping further in the door,
2 another shot of the living room.

3 Q Okay. And the chairs that we see in the back, what
4 area is that?

5 A That's that dining area.

6 Q Okay. And is that a carpeted area or is that
7 linoleum?

8 A It's linoleum.

9 That's another photograph of the living room
10 area.

11 Q Are those the sliding glass doors that go outside the
12 apartment complex?

13 A Yes.

14 Q If you were to open those blinds, what would you be
15 looking at?

16 A You'd be looking outside in the parking lot.

17 Q The parking lot. Would you be able to see the
18 swimming pool that's close by?

19 A I'm unsure.

20 Q Can't remember?

21 A No, can't remember.

22 Q Is that also in the living area?

23 A Yes.

24 Q That is State's 115?

25 A Yes, just another photograph of the living area,

1 living room.

2 Q Now, all these items that we see here, all these
3 were -- that's how you found them?

4 A Yes.

5 Q All those clocks?

6 A Yes.

7 Q TV still there?

8 A Yes.

9 Q I don't know if you can see this one, but you can see
10 outside the door right there?

11 A Yes. This is another shot in the living room facing
12 towards the door; there was a stereo and an entertainment
13 center-type thing there.

14 Q Right here?

15 A Yes.

16 Q Now, these appear to be family photos?

17 A Yes.

18 Q Here's another shot. Looking at State's 13, is that
19 another picture of these clocks?

20 A Yes.

21 Q That's how you found the living area?

22 A Yes, sir.

23 Q Let me show you some more photographs and see if you
24 recognize these.

25 A Yes.

1 Q What are these?

2 A Photographs of a dining area.

3 MR. HUBBARD: Okay. We'd offer these into
4 evidence at this time, Your Honor.

5 MR. McGUIRE: No objection, Your Honor.

6 THE COURT: How many pictures?

7 MR. HUBBARD: Three.

8 THE COURT: They're 117 through 119.

9 (WHEREUPON, STATE'S Exhibits Nos. 117-119 were
10 marked for identification and received into
11 evidence.)

12 BY MR. HUBBARD:

13 Q Agent Green, I want you to look at State's 117. What
14 is that a photo of?

15 A It's a photograph of the dining area showing the
16 table with some of the chairs up.

17 Q State's 118?

18 A Another -- this is another photo of the dining area,
19 just a different angle showing some of the chairs up and
20 the TV and a few other items in the background.

21 Q These items here, that's how they were positioned
22 when you got there?

23 A Yes.

24 Q This is a similar photo. Do you still see those
25 items here?

1 A Yes.

2 Q And is this the sofa that kind of divides the living
3 area from the dining area?

4 A Yes.

5 Q Again, looking at that screen door that goes outside,
6 the sliding door?

7 A Yes.

8 Q I'll show you some more photos. Do you recognize
9 these four photographs that I'm showing you now?

10 A Yes. These are all photographs out of the kitchen
11 area.

12 MR. HUBBARD: Your Honor, we'd offer these in
13 evidence.

14 MR. MCGUIRE: Without objection, Your Honor.

15 THE COURT: Four photographs of the kitchen
16 area?

17 MR. HUBBARD: Yes, Your Honor.

18 THE COURT: That would be Exhibits 120 through
19 123 without objection.

20 (WHEREUPON, STATE'S Exhibits Nos. 120-123 were
21 marked for identification and received into
22 evidence.)

23 BY MR. HUBBARD:

24 Q Agent Green, I'm going to show you State's Exhibit
25 123. What are we looking at here?

1 A This is a photograph of the kitchen area.

2 Q State's 120?

3 A This is a closer view of the counter in the kitchen.

4 Q Is that a microwave right there, kitchen microwave?

5 A Yes.

6 Q I'll show you another shot. Same microwave?

7 A Yes, a closer view showing some of the medications
8 that were present.

9 Q State's 122, what we're looking at there, a little
10 bit closer on the medicines you're talking about?

11 A Yes.

12 Q Can you see a name? I don't know if you can see the
13 name on this medication?

14 A Yes, I can see some of the names.

15 Q Let me do this. Looking at State's 122 --

16 A Yes, I see a name. The last name is Livingston, the
17 first appears to be a Cassandra.

18 Q Okay. Looking at State's 121, whose name do you see
19 there?

20 A Portia Washington.

21 Q Just so the Court can see, 121 where you saw Portia
22 Washington, is that on this medication?

23 A Yes.

24 Q Right here?

25 A Yes.

1 Q Okay. Going down the hallway looking at State's 3,
2 what room is this that I've got my hand on?

3 A It's the hall bathroom.

4 Q Let me see if you recognize some photos here, two
5 photos?

6 A Yes.

7 Q Where do these photos come from?

8 A These are both photographs out of the hall bathroom.

9 MR. HUBBARD: I'd offer these into evidence.

10 MR. McGUIRE: No objection, Your Honor.

11 MR. HUBBARD: Two photos, Your Honor.

12 THE COURT: Two photos offered without objection
13 is 124 and 125, I believe.

14 (WHEREUPON, STATE'S Exhibits Nos. 124-125 were
15 marked for identification and received into
16 evidence.)

17 BY MR. HUBBARD:

18 Q Looking at State's 124, is that the sink area?

19 A Yes.

20 Q Based on your notes, did you-all find anything in the
21 sink area?

22 A Yes. We sprayed LCV in the sink.

23 Q What is LCV?

24 A LCV is a staining agent that's specific to blood.

25 Basically it's a clear liquid and when you spray it on

1 blood, if it's blood, you get an immediate reaction that
2 turns it purple.

3 Q Now, in the living area, in the dining area, and in
4 the kitchen, did you find anything that reacted to this
5 LCV?

6 A Only later when we found the bucket in the kitchen.

7 Q We'll come back to the bucket.

8 A Okay.

9 Q But nothing in the rooms themselves?

10 A No.

11 Q This being the first room going down that hallway, is
12 this the first room where you had a hit on or a reaction
13 to that LCV?

14 A We actually -- this is one of the rooms, but we
15 started in the bedroom.

16 Q I understand you might not have started here, but
17 just walking down that hallway --

18 A Just walking, yes, this is the first room.

19 Q And that LCV, does it react to chemicals like bleach
20 or other cleaning agents?

21 A Not to my knowledge.

22 Q Is it specifically designed to react to blood
23 enzymes?

24 A Yes.

25 Q And what I'm showing you is State's 125. Is that

1 also from that room?

2 A Yes.

3 Q You can see toothbrushes and mouthwash still in this
4 bathroom?

5 A Yes.

6 Q And going back to the original one, which is 124, do
7 you see other items, toiletry items in that bathroom?

8 A Yes.

9 Q Shaving cream, toothpaste, along with those
10 toothbrushes we talked about?

11 A Yes, sir.

12 Q I'm going to show you a couple of pictures going down
13 that hallway that have already been marked in evidence as
14 State's Exhibit 12. Do you see this photo?

15 A Yes.

16 Q Now, the room down at the very end of the hall, what
17 bedroom is that, the big one or the small one?

18 A That's the small bedroom.

19 Q Is that the one that appears to be a girl's room?

20 A Yes.

21 Q These photos, were they all in place when you went
22 in?

23 A Yes.

24 Q Let me show you State's 11 that's already in
25 evidence. Do these appear to be family photos?

1 A Yes.

2 Q All of them still in place?

3 A Yes.

4 Q Did it look like anybody had tried to come in and
5 pack up some of those photos?

6 A No.

7 Q They're all just like they had been left?

8 A Yes.

9 Q All right. I'm going to show you some photographs
10 from that bedroom we were just talking about, what
11 appeared to be the little girl's bedroom. I've got three
12 photographs. Can you identify these?

13 A Yes. These are all photographs from that smaller
14 bedroom.

15 MR. HUBBARD: Okay.

16 MR. McGUIRE: No objection, Your Honor.

17 THE COURT: Three photos, Exhibits 126, 127, and
18 128 are admitted without objection of the small bedroom.

19 (WHEREUPON, STATE'S Exhibits Nos. 126, 127, 128
20 were marked for identification and received into
21 evidence.)

22 BY MR. HUBBARD:

23 Q Agent Green, I'm going to start with some that were
24 already in evidence. State's Exhibit 7, does that
25 photograph look familiar?

1 A Yes. That's a photograph of that smaller bedroom.

2 Q And this chair here, did you see one very similar to
3 that outside in State's 16 on the exterior?

4 A Yes, there's one on the exterior.

5 Q So the chair in that bedroom is basically a twin of
6 the chair that's outside of that apartment complex?

7 A Yes.

8 Q I'm going to show you a few others that are already
9 in evidence, State's 19. Do these photos look familiar?

10 A Yes. It's a photograph in that second bedroom, the
11 top bunk area.

12 Q These being Barbies and dolls?

13 A Yes.

14 Q Stuffed animals on the bed?

15 A Yes.

16 Q This item here, what is that?

17 A It's a dress that was laid out along with some shoes.

18 Q The little shoes here.

19 I'll give you another angle, State's 10. Is
20 this like a little working area for schoolwork or computer
21 work?

22 A Yes.

23 Q You notice some items here. What are these?

24 A Appear to be wigs.

25 Q And again now you can see the actual bunk bed?

1 A Yes.

2 Q And does this appear to be the portion that was
3 actually slept on, the lower portion?

4 A Yes, the lower bunk, yes.

5 Q What is that object right there?

6 A I'm not certain from this -- I have to see it closer.

7 Q State's 10.

8 A Okay. Yes. It's a doll baby.

9 Q Just a tiny little doll baby next to that headboard
10 of the bed?

11 A Yes.

12 Q Okay. I'll show you some other photos that we just
13 put in. State's 126, is that just another shot of these
14 same stuffed animals at the top of the bed?

15 A Yes.

16 Q State's 127, is that a broader backup view or
17 stepping back and taking the same shot of the bunk beds?

18 A Yes, it's just another view of the bunk beds.

19 Q All right. And this is the area where you said the
20 child would sleep, or appeared to?

21 A Yes.

22 Q State's 128, what is this item here?

23 A Just a comforter that was on the bed.

24 Q And do you see another item back there?

25 A Yes, a teddy bear.

1 Q What is that?

2 A A teddy bear.

3 Q And State's 8. Do you recognize these shoes?

4 A Yes. These were the shoes that was laid out along
5 with the dress on the top bunk.

6 Q Sparkly shoes?

7 A Yes.

8 Q Do those appear to be play shoes or dress shoes?

9 A Dress shoes.

10 Q Now, the big room, does that appear to be the master
11 bedroom?

12 A Yes.

13 Q I'm going to show you several photographs. I've got
14 five photographs. Can you identify those?

15 A Yes. These are all photographs from the master
16 bedroom.

17 MR. MCGUIRE: No objection, Your Honor.

18 THE COURT: Five photos of the master bedroom,
19 129 through 133, admitted without objection.

20 (WHEREUPON, STATE'S Exhibits Nos. 129-133 were
21 marked for identification and received into
22 evidence.)

23 BY MR. HUBBARD:

24 Q Agent Green, I'm going to just start going through
25 these.

1 State's 133, what is this that we're looking at
2 here, this item right here?

3 A That's a clothes basket that was on top of the bed.

4 Q This is the only bed in that room?

5 A Yes.

6 Q And you see a little side table?

7 A Yes.

8 Q Looking at State's 30, is that that side table?

9 A Yes. It's a closer view of the side table.

10 Q And you see a number of perfumes or various hygiene
11 items next to the bed?

12 A Yes.

13 Q And State's 32, do you still see a bed right here?

14 A Yes.

15 Q What is this item right here?

16 A I believe that's a CPAP machine.

17 Q A breathing machine?

18 A Yes.

19 Q That's how you found it?

20 A Yes, it is.

21 Q Now, walking into that master bedroom, is there a
22 closet in that bedroom?

23 A Yes.

24 Q As you walk in--

25 A To the immediate left as you walk in.

1 Q So if this is the bedroom, right as you walk through
2 that door to the immediate left there's a closet?

3 A Yes.

4 Q I'm going to show you some photos.

5 State's 31, do you see clothes?

6 A Yes.

7 Q State's 129, clothes and a woman's purse up here?

8 A Yes, correct.

9 Q That's how you found it when you went into that
10 bedroom?

11 A Yes.

12 Q Let's see if you recognize these four photographs.

13 A Yes. These are all photographs from the master
14 bedroom.

15 MR. MCGUIRE: No objection, Your Honor.

16 MR. HUBBARD: We'd offer these into evidence at
17 this time, Your Honor.

18 THE COURT: Exhibits 134, 135, 136, and 137,
19 four photos of the master bedroom without objection.

20 (WHEREUPON, STATE'S Exhibits Nos. 134-137 were
21 marked for identification and received into
22 evidence.)

23 BY MR. HUBBARD:

24 Q Agent Green, just to orient ourselves, looking at
25 State's 134, is that shot taken from inside the bedroom or

1 outside the bedroom?

2 A That's a photograph on the inside of the bedroom.

3 Q And this chair is inside the bedroom?

4 A Yes, it is.

5 Q This door, is that the door entering into the bedroom
6 or is that a closet door?

7 A That's the door entering into the bedroom.

8 Q Let me show you another shot, State's 135. Is that
9 the doorknob opening into the bedroom?

10 A Yes.

11 Q Do you see a little mark right here?

12 A Yes.

13 Q What does that mark appear to be?

14 A It appeared to be a blood stain.

15 Q I'll show you 136. Is that a close-up shot?

16 A Yes, sir. That's a closer view of the suspected
17 blood stain.

18 Q And State's 137 is just to show the size of it?

19 A Yes.

20 Q Is that the same shot?

21 A Yes.

22 Q Now, did you test it with anything or take a swab of
23 that stain?

24 A Yes, sir, I did. We used phenolphthalein. It's just
25 a presumptive test for blood. We tested it first and it

1 was positive, so we took a sample of the blood.

2 Q Okay. So going into the room again, this is State's
3 134, the door going into this room tested positive for
4 blood?

5 A Yes.

6 Q I'm going to show you more photographs, 11
7 photographs. Do you recognize these photographs?

8 A Yes.

9 Q What are those photos of?

10 A These are all photographs in the master bedroom on
11 the floor near that green leather chair.

12 MR. HUBBARD: Okay.

13 MR. McGUIRE: No objection.

14 THE COURT: Eleven photos, 138 through 148,
15 inclusive, 11 photos of the master bedroom floor admitted
16 without objection.

17 MR. HUBBARD: Thank you, Your Honor.

18 (WHEREUPON, STATE'S Exhibits Nos. 138-148 were
19 marked for identification and received into
20 evidence.)

21 BY MR. HUBBARD:

22 Q Agent Green, going back to State's 134, let's talk
23 about the green chair.

24 I don't know if you can see it on this carpet,
25 but see right here, right beside the green chair?

1 A Yes.

2 Q When you walked into that room, did it appear that
3 chair had been sitting in this position or did it appear
4 it had been moved?

5 A It was -- as we photographed it, there was an
6 indentation just showing that it had been in another
7 position before.

8 Q Had any law enforcement officer, to your knowledge,
9 moved that chair before you got there?

10 A Not to my knowledge.

11 Q And you had not moved it before you took this
12 photograph?

13 A No.

14 Q I show you State's 148. It's kind of hard to see up
15 there, but is this a photo of the carpet when the chair is
16 moved?

17 A Yes.

18 Q Do you see indentations right here?

19 A Yes.

20 Q Is that where the chair basically sat?

21 A Yes.

22 Q State's 147, whose fingers are these, one of the SLED
23 agent's or yours?

24 A Those are mine.

25 Q And you can't see real well, but what are you

1 focusing on right here?

2 A There is a -- there is what appears to be a drop of
3 blood in the carpet.

4 Q I show you 146. Is that another shot of what appears
5 to be blood?

6 A Yes, that's a stain in the carpet.

7 Q I show you 145. Now, at this point, this purple
8 color, what is this stuff?

9 A This is -- that's a stain produced by the LCV.

10 Q Now, y'all went in and sprayed this carpet. Did
11 y'all spray areas or did y'all try to lay it out even?

12 A We just sprayed the area.

13 Q The general area?

14 A The general area, yes.

15 Q Now, again, with LCV, what happens if it comes in
16 contact with blood enzymes?

17 A When it comes in contact with blood, blood enzymes,
18 you get an immediate reaction and it turns purple.

19 Q Is that what y'all captured here?

20 A Yes.

21 Q Looking at State's 144, again this is with the chair
22 removed, you see a purple stain on the carpet?

23 A Yes.

24 Q And I don't know if you can see it here, but you can
25 see it even all the way over here?

1 A Yes. It's all the way over towards the mattress and
2 the box springs.

3 Q State's 143, is this the mattress we're talking
4 about?

5 A Yes.

6 Q Does that stain go all the way around this mattress
7 and back over here?

8 A Yes.

9 Q This is another shot of it, 142, from another angle,
10 this purple stain right up on the edge of the bed?

11 A Yes.

12 Q And this bed, was there a bed frame or just a
13 mattress on the floor?

14 A It was on the floor.

15 Q I notice -- I don't see any sheets on this bed. Did
16 you see any sheets on that bed when you went in there?

17 A No. That's the condition it was in.

18 Q State 141, again it's kind of hard to see here, but
19 this dark area up here, is that purple or violet?

20 A Yes.

21 Q And all this area here?

22 A Yes.

23 Q That's all an area that lit up and reacted to the LCV
24 that you sprayed?

25 A Yes.

1 Q I don't know if you're going to be able to see this
2 one at all, State's 140. This area right here, is that
3 also an area that lit up?

4 A Yes.

5 Q Now, State's 139, does that show you-all cutting out
6 a portion of the stained area?

7 A Yes.

8 Q Now, that stained area actually comes all the way
9 over to where another agent is standing, right here?

10 A Yes.

11 Q 138, is that just the underside of the carpet?

12 A Yes.

13 Q And y'all are checking to see if it went all the way
14 through?

15 A Yes.

16 Q Is this a piece of carpet that y'all eventually cut
17 out?

18 A Yes. It's a -- I took the cutting and submitted it.

19 Q So the top portion of that carpet reacted to the LCV?

20 A Yes.

21 Q Okay. I've got a stack of photos. I'm not sure how
22 many I've got. Eighteen photos. Would you take a look at
23 those?

24 A Yes. These are all photographs of the leather green
25 chair in the master bedroom.

1 MR. MCGUIRE: No objection, Your Honor.

2 THE COURT: Eighteen photos. Would that be
3 Exhibits 149 through 166? All of the leather green chair
4 in the master bedroom admitted without objection.

5 MR. HUBBARD: Yes, sir. Thank you.

6 (WHEREUPON, STATE'S Exhibits Nos. 149-166 were
7 marked for identification and received into
8 evidence.)

9 BY MR. HUBBARD:

10 Q Agent Green, looking at State's 166, it's very
11 similar to another photo we've already seen. Is this
12 photo taken before or after you-all sprayed this chair
13 with LCV?

14 A That's before.

15 Q This item here, did you-all collect that?

16 A Yes, we did.

17 Q Was anything visible on it that caused you to collect
18 it?

19 A There was a stain that I suspected to be blood.

20 Q Is that why you collected that?

21 A Yes.

22 Q And this chair -- we had been looking at carpet. Is
23 that where the chair had been seated and around the chair
24 area?

25 A Yes.

1 Q These items over here, were these vacuum cleaners and
2 things, were they already over there when you got there?

3 A Yes, they were.

4 Q See if you can see these. I show you State's 165.
5 If I can orient you, this is the arm of the chair -- I'll
6 turn it this way -- the arm of the chair and the back of
7 the chair. Do you notice something right here where I've
8 got the laser point, right where the arm meets the back?

9 A Yes. There's a stain that appears to be blood.

10 Q This is on the right arm of the chair?

11 A Yes.

12 Q Right above where the arm meets the back?

13 A Yes.

14 Q I show you State's 164. Is that a close-up of that
15 same stain?

16 A Yes.

17 Q Do you have a measuring ticket here, a little sticker
18 that shows the size of it?

19 A Yes. I put the scale tape next to it and
20 photographed it again.

21 Q Now, did you do a presumptive test on that?

22 A Yes.

23 Q And what was your presumptive test?

24 A We used phenolphthalein again and it was positive for
25 blood.

1 Q Looking at the same arm of this chair on State's
2 163 -- first of all, it looks kind of wet. Why does it
3 look wet?

4 A It's wet because at that point we sprayed LCV on it.

5 Q Do you see a discoloration right here where the hand
6 might rest on the right side or the right arm of that
7 chair?

8 A Yes.

9 Q Is this lightened up purple, is that the LCV lighting
10 up on the chair?

11 A Yes.

12 Q There's another shot, 162, and again this moisture,
13 that's where you-all sprayed?

14 A Yes.

15 Q Now, this discoloration I'm talking about, do you see
16 it in this photograph as well?

17 A Yes, it's on the arm of the chair, that right arm of
18 the chair.

19 Q And this is looking straight on at the chair, but
20 we'll focus on the -- if you're seated in the chair, your
21 right-hand side?

22 A Yes.

23 Q And this little thing up here, does that look like a
24 cap of some sort?

25 A Yes.

1 Q Is there any significance?

2 A No.

3 Q State's 161 is yet another close-up again and we see
4 moisture and that's the spray?

5 A Yes.

6 Q We're looking at the same arm of the chair and you
7 can see discoloration right here where the hand would be?

8 A Yes.

9 Q All right. Agent Green, did you-all flip that chair
10 over?

11 A Yes, we did.

12 Q Going back to this first exhibit I showed you, 166,
13 did you-all notice something way down here on the very
14 bottom of the chair? This is a reclining chair, correct?

15 A Yes.

16 Q This portion that would extend out if you were to lay
17 back in that chair, did you notice something right on the
18 very bottom of that portion?

19 A Yes. We saw what we suspected to be blood.

20 Q And did you-all flip the chair over as a result of
21 that?

22 A Yes.

23 Q All right. I show you State's 160. I don't think
24 you'll be able to see much here.

25 If this is the front of the chair and you're

1 looking back, is this the wood frame, the little square
2 that serves as the frame for the chair?

3 A Yes.

4 Q Okay. So the area that we're looking at was really
5 on the other side of this front right here; is that
6 correct?

7 A That's correct.

8 Q I want to show you, using the same photo, 160, you
9 can't see it on the screen, but if you look right below
10 that wood frame towards the front of the chair, right
11 below the wood, do you see something there?

12 A Yes. The -- we got a positive reaction with the LCV,
13 another blood stain.

14 MR. HUBBARD: Your Honor, I'll pass this up.

15 BY MR. HUBBARD:

16 Q There's another shot, 159. Now, again, this is that
17 front of that chair, correct?

18 A Yes.

19 Q And this moisture here, that's the spray?

20 A Yes, that's the LCV.

21 Q I don't know if you can really make it out here, but
22 did it light up purple here?

23 A Yes, along the edge, it was a positive reaction.

24 Q And this is part of that frame, is it not?

25 A Yes, it is.

1 Q Does it appear to be broken or is it still square?

2 A It was broken.

3 Q Was it broken when you got there?

4 A Yes.

5 Q This dark area here, was that visible before you
6 sprayed it?

7 A Yes, it was.

8 Q What did it appear to be?

9 A It's a transfer blood, transfer stain.

10 MR. HUBBARD: I will pass that one up, too.

11 BY MR. HUBBARD:

12 Q State's 158. Now, is this the corner that -- let me
13 ask you this. Is the bottom of the chair right here?

14 A Yes, that's the bottom.

15 Q The part that would be touching the carpet?

16 A Yes.

17 Q And this is that lip we're talking about right here?

18 A Yes.

19 Q You see tears?

20 A Yes.

21 Q All right. And you can't really see it here, but
22 what is right here?

23 A We got other stains of blood that are -- some
24 transferring and you also have some evidence of spatter.

25 Q I show you again State's 157. I'll try to orient it

1 here. Is this a close-up shot of that same area?

2 A Yes.

3 Q And the dark, what are we seeing here?

4 A The dark portions are -- it's a positive reaction to
5 the LCV and it's reacting to the blood spatter that's
6 present.

7 Q Okay. State's 156, is this a close-up of that torn
8 area?

9 A Yes.

10 Q And again, you can't really see it here, but did it
11 light up right above that torn area?

12 A Yes.

13 Q This is really the lip towards the floor, is it not?
14 I think so.

15 A Yeah.

16 Q All right. If you're not sure, you don't have to
17 say.

18 State's 155, again looking -- if you're just
19 lifting the chair up off the floor, you see the liquid
20 stuff you-all sprayed, correct, the LCV?

21 A Yes, the LCV.

22 Q And again, you can't really see it, but it lit up all
23 along here, the lip?

24 A Yes.

25 Q Is this that broken piece we're talking about?

1 A Yes.

2 Q And this little mark right here, is that that
3 crescent shape that you said looked like blood?

4 A Yes.

5 Q State's 154, that chair's now all the way on its
6 back; is that correct?

7 A Yes, it is.

8 Q And this is the broken frame we were talking about,
9 correct?

10 A Yes.

11 Q Is that that -- you look at the frame portion that's
12 broken. Is that that blood -- crescent-shaped blood area
13 on that frame?

14 A Yes.

15 Q And it's on the side that's broken, correct?

16 A Yes.

17 Q Now, right here, this dark area here, is that what
18 lit up when you sprayed it with LCV?

19 A Yes, it is.

20 Q And this would be a part of the chair, the front of
21 the chair that extends out for your feet?

22 A Yes.

23 Q And that's that little tear we're talking about right
24 here?

25 A Yes.

1 Q I'll show you State's 153. It's kind of hard to see,
2 but is this a close-up of that crescent area?

3 A Yes, it is.

4 Q So it's a fairly neat crescent, or is it -- I know
5 it's kind of hard to see there, but looking at this photo
6 right here, which is State's 154, is this a very visible
7 clean crescent shape?

8 A Yes.

9 Q And State's 153 is a close-up of that?

10 A Yes.

11 Q State's 152, it's got the chair rolled back, it's
12 kind of blurry on the big screen, but is that the doorknob
13 to the door, or one of the doors in the room?

14 A Yeah. I'm not sure about that one.

15 Q Is this more area right here that lit up? Just
16 another photo showing what lit up when you sprayed it?

17 A Yes. That would be the chair all the way back and
18 the door to the bedroom.

19 Q Let me show you a couple other photos, 151. Now, is
20 this the bottom of the chair where the upholstery is
21 stapled to the frame?

22 A Yes.

23 Q All in here, was that visible blood or did that come
24 out after you sprayed it?

25 A That was visible blood before we sprayed it.

1 Q And that's on the very bottom, correct?

2 A Yes.

3 Q Would this be part of the chair that's actually
4 touching the floor or close to the floor?

5 A Yes.

6 Q State's 150, another shot of the same thing. Again,
7 this is where the upholstery is stapled to the bottom; is
8 that correct?

9 A Yes.

10 Q All along here, is that visible blood?

11 A Yes.

12 Q And you-all sprayed it as well?

13 A Yes, we eventually just sprayed it.

14 Q And 149, this is another shot from the other side.
15 Do you see where the frame's broken right here, see the
16 nail?

17 A Yes.

18 Q And what is this stuff right here that we see on the
19 upholstery on the bottom of the chair?

20 A It's also blood stains.

21 Q I want to show you a close-up, too, of 149, stains
22 and maybe even spatter?

23 A Yes.

24 MR. HUBBARD: Your Honor, I'd pass all these
25 photos up.

1 THE COURT: Yes, sir.

2 BY MR. HUBBARD:

3 Q Agent Green, I've got some more photos for you. I
4 have four photos. Do you recognize these photographs?

5 A Yes. These are photographs also of that area near
6 the green chair in the master bedroom.

7 MR. MCGUIRE: No objection, Your Honor.

8 THE COURT: Photos 169 through 172 -- you said
9 four, but there's 12?

10 MR. HUBBARD: Yes, sir.

11 THE COURT: All right. Nos. 167 through 178
12 admitted without objection.

13 (WHEREUPON, STATE'S Exhibits Nos. 167-178 were
14 marked for identification and received into
15 evidence.)

16 BY MR. HUBBARD:

17 Q Agent Green, going back to State's Exhibit 166, the
18 green chair, do you see some items next to that chair?

19 A Yes. You've got a vacuum and some other items to the
20 right of the chair.

21 Q All right. I'll show you 168. Is that a close-up of
22 a yellow vacuum cleaner?

23 A Yes.

24 Q Does this appear to be like a handheld vacuum cleaner
25 here?

1 A Yes.

2 Q And this object here, is that the lamp standing next
3 to the chair?

4 A Yes, the lamp.

5 Q Again, looking at State's 166, you see that lamp
6 right next to the chair, correct?

7 A Yes.

8 Q Focusing on this little handheld vacuum cleaner right
9 here, I will show State's 178. This little measuring tape
10 you placed on this handheld --

11 A Yes.

12 Q -- you see a little dot right next to the on/off
13 switch and then a little dot at the bottom -- on the
14 handle right above the on/off switch?

15 A Yes, sir.

16 Q What do those appear to be?

17 A Those are blood spatter.

18 Q State's 167, kind of hard to see on the overhead, but
19 is this a close-up of the one blood dot?

20 A Yes.

21 Q With a little curlicue on it?

22 A Yes.

23 Q And down here kind of fading out of this shot, but is
24 that that blood dot again, the other blood dot?

25 A Yes.

1 Q Going back to 168, State's 168, were there containers
2 or what are these items right here that I'm showing on
3 that photo?

4 A Yeah. There was two storage containers, one blue on
5 the bottom and a gray one on top.

6 Q The blue one's right here that I've got the laser on?

7 A Yes.

8 Q Did you-all notice something on the blue container?

9 A Yes, there was also blood spatter on the blue
10 container.

11 Q I'm going to show you some shots taken of that
12 container, State's 173. Did you-all place this measuring
13 stick right here?

14 A Yes.

15 Q This is the blue container you're talking about?

16 A Yes.

17 Q The gray container on top of it?

18 A Yes.

19 Q Is the container just sitting on the floor?

20 A Yes.

21 Q These little pieces of tape here with measurements on
22 them, did you place those there?

23 A Yes, we placed scale tape next to some of the spatter
24 that was observed on the blue container.

25 Q Each one of these represents something you perceive

1 to be blood spatter?

2 A Yes.

3 Q I'll show you another shot, 174. It's just you moved
4 the measuring stick over to the other side of the
5 container?

6 A Yes.

7 Q Agent Green, I don't know if you'll be able see these
8 on this overhead, but 169. See that little dot right
9 there next to your little measuring tape right here?

10 A Yes.

11 Q Is that what you were observing when you put that
12 little sticky tape down --

13 A Yes.

14 Q -- to show the measurement of it?

15 A Yes.

16 Q Does that appear to be blood?

17 A Yes.

18 Q I don't know if you're going to see 170 or not, it's
19 faraway, but yet again a piece of measuring tape?

20 A Yes.

21 Q I'm sure you're not going to be able to see State's
22 172 and 171. Do you see this dot here and some stuff down
23 here?

24 A Yes.

25 Q Also appear to be blood?

1 A Yes.

2 Q Okay. Just to orient ourselves, I want you to look
3 at 175. Is this the green chair?

4 A Yes.

5 Q This is that lamp you're looking at?

6 A Yes.

7 Q The gray container pushed on top of the blue
8 container?

9 A Yes. That's correct.

10 Q State's 176, you-all moved some stuff out of the way
11 at this point; is that correct?

12 A Yes.

13 Q All of the tape that you placed, did you place any at
14 all, did you find anything on the gray container?

15 A No.

16 Q All the little measurements on the blue container, do
17 they appear to be no higher than a foot off the ground; is
18 that right?

19 A Yes, up to a foot. There may have been one right on
20 the lid, though, in another photograph, yes. So that's up
21 to 15/16 inches.

22 Q So all the spatter you observed on this container was
23 obviously low-level spatter?

24 A Yes, sir.

25 Q And again, the green chair had been right in this

1 area --

2 A Yes.

3 Q I'm pointing to the bottom of this photograph, which
4 again is State's 176; is that correct?

5 A Yes, that's correct.

6 Q State's 177, with the chair completely out of the way
7 and the yellow vacuum cleaner out of the way, you see the
8 handheld that you had marked with possible blood spatter?

9 A Yes.

10 Q And the blue container again?

11 A Yes.

12 Q So all these items are in the same general area,
13 correct?

14 A Yes.

15 Q Now, these items, are they next to the wall going
16 into the bedroom?

17 A Yes.

18 Q As you walk into the bedroom, they'd be on the
19 right-hand side?

20 A Yes, on the right.

21 Q Okay. Did you take swabs of the blood you saw on
22 both the chair and the container?

23 A Yes, we took swabs from the top of the chair and the
24 bottom of the chair, and we took a swab from the
25 container.

1 Q I'll show you some more photographs, six photographs,
2 and I'd like you to see if you recognize these.

3 A Yes. These are photographs of the bathroom and the
4 master bedroom.

5 Q And again looking at State's Exhibit 3, the chart
6 showing the diagram of the residence, we have been
7 focusing on this chair in the master bedroom, right?

8 A Yes.

9 Q That's that wall we were talking about with the lamp?

10 A Yes.

11 Q You see the containers right here also depicted on
12 this chart?

13 A Yes.

14 Q And over on this side is where the bed is; is that
15 correct?

16 A Yes, that's correct.

17 Q And what is this area right here?

18 A That's the master bath.

19 Q These photos are all of that master bathroom?

20 A Yes.

21 MR. HUBBARD: Any objection?

22 MR. MCGUIRE: No objection.

23 MR. HUBBARD: Offer these into evidence, Your
24 Honor.

25 THE COURT: Six photos of the master bathroom?

1 MR. HUBBARD: Yes, sir, Your Honor.

2 THE COURT: State's 179 through 184.

3 (WHEREUPON, State's Exhibit Nos. 179-184 were
4 marked for identification and received into
5 evidence.)

6 BY MR. HUBBARD:

7 Q Agent Green, I want to show you State's 184. This
8 area right here, what is that?

9 A That's the -- this is a photograph from the -- we're
10 standing in the master bedroom and that's the entrance to
11 the bathroom.

12 Q So if you look at State's 3, this chart, the
13 bathroom -- the TV is at the foot of the bed; is that
14 correct?

15 A Yes.

16 Q And then behind that TV is the entrance into the
17 bathroom?

18 A Yes.

19 Q Is that what you see in the photograph depicted up
20 here?

21 A Yes, it is.

22 Q Again, that is State's 184.

23 Let me show you one other thing on State's 184.

24 Do you see a little toothbrush right here?

25 A Yes.

1 Q Showing you State's 179, do you see that same
2 toothbrush?

3 A Yes.

4 Q Now, you've got some stuff here. Before we talk
5 about it, I want to show you State's 180. I don't know if
6 you can really see this, but this being the sink, what is
7 this we're looking at right here?

8 A That was a visible stain that we thought was blood
9 before we used the LCV.

10 Q It appeared to be somewhat diluted?

11 A Yes.

12 Q Now, going back to State's 179, is this where you
13 sprayed it with LCV?

14 A Yes, it is.

15 Q That's what showed up; that's what lit up?

16 A Yes.

17 Q All along the front side, the lip of the sink, and on
18 the counter as well?

19 A Yes.

20 Q Even down into the sink?

21 A Yes.

22 Q Just some other photos from that same bathroom.
23 State's 189, toothbrushes?

24 A Yes.

25 Q State's 182, other household products, a rinse, mouth

1 rinse, some shampoo, conditioner?

2 A Yes.

3 Q Moisturizer, various items, toothpaste, things like
4 that?

5 A Yes.

6 Q All those were there when you got there?

7 A Yes.

8 Q State's 183, is this the toilet in that bathroom?

9 A Yes.

10 Q Lid up or down?

11 A It was up.

12 MR. HUBBARD: I'll pass these up to Your Honor.

13 BY MR. HUBBARD:

14 Q Agent Green, you mentioned a metal bucket. Is that
15 near the kitchen area?

16 A Yes.

17 Q All right. I'll show you two photographs. Do you
18 recognize these?

19 A Yes.

20 Q Is that the bucket you're talking about?

21 A Yes, a photograph of the metal bucket -- metal bucket
22 that was found in the kitchen.

23 MR. MCGUIRE: No objection.

24 MR. HUBBARD: Offer these into evidence, Your
25 Honor, two photos.

1 THE COURT: Two photos, 185 and 186 without
2 objection.

3 (WHEREUPON, STATE'S Exhibits Nos. 185-186 were
4 marked for identification and received into
5 evidence.)

6 BY MR. HUBBARD:

7 Q I don't know if you're going to be able to see
8 anything just looking at it, but State's 185, all around
9 here -- if you actually take a look at the photo -- did it
10 light up?

11 A Yes. It reacted with the LCV.

12 Q There's a close-up, and I really don't know that
13 you'll be able to see it on this one either, 186, all
14 along this rim in the bucket, did that light up as well?

15 A Yes.

16 Q This was in the kitchen area?

17 A Yes.

18 Q Maybe that closet right off the kitchen --

19 A Yes.

20 Q -- or the dining area?

21 A Yes.

22 MR. HUBBARD: I'll pass those up to Your Honor.

23 BY MR. HUBBARD:

24 Q Now again, Agent Green, referring back to State's
25 Diagram 3, after you walked through the living area, in

1 the first bathroom, did you say you found something on the
2 sink in that bathroom?

3 A Yes.

4 Q That lit up with LCV?

5 A Yes.

6 Q Did you take a swab of that area?

7 A Yes. We swabbed that area.

8 Q And obviously in the bedroom on the chair --

9 A Yes.

10 Q -- took some swabs?

11 A Yes.

12 Q The carpet area, did you take swabs?

13 A Yes.

14 Q Did you also take a part of that carpet?

15 A Yes, we also did a cutting of the carpet.

16 Q The master bedroom, did you go in the bathroom and
17 take swabs from that sink area?

18 A Yes.

19 Q Okay. Agent Green, I've got what we have marked as
20 State's ID 49. I believe you had already talked about
21 Item 11 in here, SLED Item 11. If you would, can I get
22 you to open that up in the presence of the Court?

23 First, identify it.

24 THE COURT: Let's take a break first before you
25 get to that. We've been doing all the photographs. Is

1 this a good stopping point?

2 MR. HUBBARD: That would be great, Judge. That
3 would be fine.

4 THE COURT: Agent Green, you can relax, but you
5 can't consult with your lawyer during the break, okay?

6 THE WITNESS: All right.

7 THE COURT: We'll stand at ease until 11:20.

8 (A recess was taken.)

9 THE COURT: All right. We're ready to continue
10 with the testimony.

11 MR. HUBBARD: Thank you, Your Honor.

12 BY MR. HUBBARD:

13 Q Agent Green, during your testimony we've heard terms
14 like spatter, transfer, cast-off. What is spatter?

15 A Spatter is the pattern that blood will form once it
16 comes in -- it's airborne and comes in contact with a
17 surface.

18 Q So say you slam your fist into a puddle, and it
19 spreads out, sprays out. Would that be spatter, whatever
20 it lands on?

21 A Yes.

22 Q Transfer, what is transfer?

23 A Transfer is just a bloody wet object coming into
24 contact with another object and leaving an impression on
25 that object.

1 Q What is cast-off?

2 A Cast-off is whenever an object is used, say, to
3 assault someone and the object that's being used becomes
4 soaked with blood, and somewhere during the motion of
5 striking, blood is cast off of that object on to a wall or
6 another area.

7 Q Let me give you -- see if this is a good example of
8 cast-off.

9 If I had a baseball bat and it's swinging up and
10 down, and blood got on the bat and it got on the ceiling,
11 would that be cast-off?

12 A Yes.

13 Q Did you find any cast-off, to your knowledge?

14 A No.

15 Q But you had spatter and transfer?

16 A Yes.

17 Q All right. Agent Green, you talked about taking
18 swabs of blood that we saw on these photographs. So I
19 want to go through that with you.

20 I want to start with this master bedroom right
21 here. If you look at Diagram 3, is that the bathroom,
22 master bathroom?

23 A Yes.

24 Q Did you take a swab of that sink area where we saw
25 what appeared to be visible blood?

1 A Yes.

2 Q And this blue container where we saw what appeared to
3 be, I think you said, spatter?

4 A Yes.

5 Q Did you take swabs from it?

6 A Yes.

7 Q The green chair that we see in the master bedroom,
8 did you take swabs from it?

9 A Yes. From the top and the bottom.

10 Q Okay. The carpet area around the green chair going
11 all the way up to the bed, did you take swabs?

12 A Yes, and also a cutting.

13 Q Okay. Then the master bedroom door, which is not
14 depicted on this diagram but leading into the master
15 bedroom, did you take a swab?

16 A Yes.

17 Q Then the hall sink, let's see, if you come in the
18 main door, walk around the living area, go down the
19 hallway, is this the hall bath?

20 A Yes.

21 Q That sink, did you take a swab?

22 A Yes, we did.

23 Q I want to show you State's ID 49 and hand you a pair
24 of scissors that's -- I believe earlier you had IDed
25 Item 11, SLED's Item 11 in State's ID 49. If you would

1 open up this packet -- let's talk about some of those
2 other packets in State's ID 49.

3 Agent Green, do you recognize those packets?

4 A Yes. These are the envelopes I used to collect the
5 swabs.

6 Q Okay. If you would -- I might take these from you
7 for just a second.

8 Now again, State's -- I mean SLED No. 11, SLED
9 Item 11, you've already identified that, correct?

10 A Yes.

11 Q Is that the swab from the car out in Washington?

12 A Yes, it is.

13 Q Okay. We'll go in order here, if we can.

14 I'll hand you SLED Item 3. What is that a swab
15 of?

16 A This is a swab of blood from the master bedroom sink.

17 Q Okay. SLED Item 4, what is that?

18 A This is a swab of blood from the blue Sterilite
19 container.

20 Q Okay. That blue container we saw in the master
21 bedroom?

22 A Yes.

23 Q SLED Item 5, what is that?

24 A This is a swab of blood from the green chair in the
25 master bedroom.

1 Q SLED Item 6?

2 A A swab of blood from the carpet in the master
3 bedroom.

4 Q SLED Item 7?

5 A This is a swab of blood from the bottom of the green
6 chair that's in the master bedroom.

7 Q The underside of that chair?

8 A Yes.

9 Q SLED Item 8?

10 A It's a swab of blood from the master bedroom door.

11 Q SLED Item 9?

12 A This is a swab of blood from the hall bathroom sink.

13 Q Okay. And SLED Item 10?

14 A This is a swab of blood from the metal mop bucket.

15 Q Okay. Now, in all of these packets, Items 3 through
16 10 and even 11, you have your initials, and did you put
17 these in these packets?

18 A Yes.

19 Q Okay. And you identified 3 through 10 as all coming
20 from the apartment?

21 A Yes, that's correct.

22 MR. HUBBARD: Your Honor, I offer these at this
23 time.

24 MR. MCGUIRE: Object on chain.

25 MR. HUBBARD: I will mark them for ID, Your

1 Honor.

2 THE COURT: Okay. Very good. They're marked
3 for ID at this point.

4 MR. HUBBARD: Your Honor, I'll also do that to
5 Item 11, just to keep it in sequence.

6 THE COURT: So 3 through 11 are all marked for
7 identification purposes subject to the objection on the
8 chain?

9 MR. MCGUIRE: The chain, yes, sir.

10 MR. HUBBARD: Your Honor, State's ID 187 through
11 195. Just to keep track of them, Your Honor, I will place
12 them in a bag that's been marked as State's ID 49.

13 (WHEREUPON, State's Exhibits 187-195 were marked
14 for identification.)

15 BY MR. HUBBARD:

16 Q Agent Green, who is Denise Eargle?

17 A Denise Eargle is one of the techs at SLED.

18 Q Now, the items that we've just discussed, which were
19 your Items 3 through 11, is that who you turn these in to
20 at SLED?

21 A I turned those in to Carol Brooks, who was in log-in.

22 Q I had it backwards. She's also log-in?

23 A Yes.

24 Q So she and Denise Eargle work log-in?

25 A Denise worked log-in for awhile. I'm not sure if she

1 was during that time. Then she came to the crime scene
2 department.

3 Q All right. So you turned them into Carol Brooks?

4 A Yes.

5 Q I want to show you these -- first I'm going to glove
6 up.

7 Rod, I did kind of run through with you on these
8 Items 3 through 11. Did you put the security tape on them
9 or sign once that security tape was on it?

10 A Yes.

11 Q Okay. Is this how you turned it in?

12 A Yes, it is.

13 Q All seals were -- all of these envelopes were sealed
14 and taped and marked by you?

15 A Yes.

16 Q Identified by you?

17 A Yes.

18 Q None of them were open when you turned them in?

19 A No.

20 Q I'll show you what would be SLED's Item 13. See if
21 you recognize this.

22 And you might need some more gloves on. I tell
23 you what, let me do this.

24 Do you see tape here?

25 A Yes.

1 Q SLED tape?

2 A Evidence tape.

3 Q Okay. Do you recognize this?

4 You might have to stand up. I'll pull it out
5 here and hold it for you.

6 Do you recognize this?

7 A Yes. This is a carpet cutting that I took.

8 Q And the purple stuff we see on the carpet, is that
9 that LCV that you sprayed?

10 A Yes, that's the LCV.

11 Q Okay. Now, when you turned it in, did it have these
12 cuttings taken out of this?

13 A No, it didn't.

14 Q That's done later?

15 A Yes.

16 Q This is what you took from that apartment in the
17 master bedroom?

18 A Yes.

19 Q When you turned it in, did you take it in the bag and
20 have the bag sealed?

21 A Yes.

22 Q That was done in your presence?

23 A Yes.

24 Q I want to show you what would be SLED's Item 14 and
25 see if you recognize this.

1 A Yes. This is the multi-colored sheet that we also
2 collected out of the master bedroom.

3 Q Is this what we saw on the green chair?

4 A Yes, on the green chair.

5 Q I notice this bag had tape on it and since the seal
6 has been broken, but are you the one that turned this in?

7 A Yes.

8 Q Was this sealed in your presence?

9 A Yes.

10 Q I want to show you what SLED has marked as Box B,
11 Container B. Do you recognize these items? If you would,
12 you might have to step down a little bit.

13 What items did you put in Container Box B?

14 A Box B was the linens that I took off of the bed that
15 came from the smaller bedroom.

16 Q Okay.

17 A Along with -- I think the cuttings were in the box
18 and also the multicolored sheet.

19 Q So in the small bedroom, what we're talking about is
20 the little girl's bedroom?

21 A Yes.

22 Q And we were looking at bunk beds, so you took those?

23 A We took all the linen off the bottom bunk.

24 Q Okay. Where it appears she would sleep?

25 A Yes.

1 Q Comforter, sheets, the whole bit?

2 A Yes.

3 Q Pillows?

4 A Pillow cases, yes.

5 Q Okay. All of that is in this Box B?

6 A Yes.

7 Q And I think at one point you might have even had 14
8 in there, the multi-colored sheet; is that correct?

9 A Yes.

10 Q Now, when you turn this in, is everything bagged and
11 marked by you?

12 A Yes.

13 Q And was this sealed in your presence in this box?

14 A Yes, it was.

15 Q Okay. I believe 13 might have been in here as well,
16 the carpet cutting, just for storage purposes?

17 A Yes.

18 Q Okay.

19 A It was all going to the same place in the lab.

20 MR. HUBBARD: Your Honor, I move all of these
21 into evidence.

22 MR. MCGUIRE: No objection, Your Honor.

23 THE COURT: To make sure I'm certain, that's all
24 the items from Box B --

25 MR. HUBBARD: Yes, sir.

1 THE COURT: -- which would be carpet cutting,
2 the multi-colored sheet --

3 MR. HUBBARD: Yes, sir.

4 THE COURT: -- and the linens from the small
5 bedroom?

6 MR. HUBBARD: Yes, sir.

7 THE COURT: Those three things?

8 MR. HUBBARD: Yes, sir.

9 I'll propose to mark them as the carpet cutting
10 as one, the multi-colored sheet from the chair is another,
11 and then the box with all the bed linens as one exhibit.
12 So three exhibits.

13 THE COURT: All right. That would be Exhibits
14 196, 197, and 198 without objection. This is not the
15 sub-items that were in SLED ID -- I'm sorry, State ID No.
16 49, the plastic bag with all the sub-envelopes that have
17 been marked for identification purposes. We're not
18 addressing those yet.

19 (WHEREUPON, STATE'S Exhibits Nos. 196-198 were
20 marked for identification and received into
21 evidence.)

22 BY MR. HUBBARD:

23 Q All right. Agent Green, now this box, when you
24 turned it in at SLED, you put all these items in here; is
25 that correct?

1 A Yes.

2 Q And you sealed this box?

3 A Yes.

4 Q And was tape put on it, you initialed it, when you
5 took it to log-in?

6 A Yes.

7 Q And I had asked you earlier, who is Denise Eargle?

8 A Denise is one of the forensic techs in the lab.

9 Q She's the one you turn this stuff in to?

10 A No, I turn those in to Carol Brooks.

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

12 (Pause.)

13 BY MR. HUBBARD:

14 Q I had it written down wrong. You're right, Carol
15 Brooks. Did she work log-in?

16 A Yes, she worked log-in.

17 Q Now, her job, did she have to rip stuff open and open
18 bags or do anything like that?

19 A No.

20 Q Everything she does is in your presence?

21 A Yes, she received the items in.

22 Q She puts tape on them and you initial them in front
23 of her, don't you?

24 A Well, she will just give me the tape and I will do
25 all of it.

1 Q Y'all were present together when that happened?

2 A Yes.

3 Q All items that you turned in were secured?

4 A Yes.

5 Q You didn't just take an open box that was unsecured
6 and say, "Here, take this to evidence"?

7 A No.

8 MR. HUBBARD: Okay. Beg the Court's indulgence.

9 (Pause.)

10 MR. HUBBARD: Agent Green, I believe that's all
11 I have at this time.

12 Your Honor, I would -- after the cross, I would
13 ask leave to recall Agent Green at a later time.

14 MR. McGUIRE: Judge, I know you took a break,
15 but I'm going to have to get all the pictures back and
16 determine what I want to use to cross Agent Green on, so
17 if we could take a break so I can get all the photographs
18 back.

19 THE COURT: Sure. We'll take -- it's quarter
20 'til -- about noon and that'll give you to lunch time. So
21 let Mr. Knight know when you're ready and I'll step back
22 in because I've got a phone call to make anyway.

23 So we'll stand at ease for a few minutes.

24 (A recess was taken.)

25 THE COURT: Defense Exhibits 67 through 74,

1 those are marked for identification?

2 MR. McGUIRE: Judge, I'm just going to move them
3 in to evidence. I marked them and there's no objection.

4 THE COURT: Okay. And they're all photographs?

5 MR. McGUIRE: They are.

6 THE COURT: 67 through 74, photographs -- of the
7 apartment?

8 MR. McGUIRE: Yes, sir.

9 THE COURT: -- within the apartment admitted as
10 Defense Exhibits 67 through 74 without objection.

11 (WHEREUPON, DEFENDANT'S Exhibits Nos. 67-74 were
12 marked for identification and received into
13 evidence.)

14 CROSS-EXAMINATION

15 BY MR. McGUIRE:

16 Q Agent Green, were you the fellow with the house
17 closing?

18 A Yes.

19 Q I hope that went okay for you.

20 A Yes.

21 Q All right. What I want to do is back up here and
22 let's talk about what happens before you actually go into
23 this apartment, okay?

24 You were called in by West Columbia Police
25 Department; is that right?

1 A Yes.

2 Q And were you there in an assisting role, or did you
3 have control of the crime scene?

4 A Well, I mean, we're called in to process the crime
5 scene by the investigators, but we are an assisting
6 agency.

7 Q Okay. Was there -- is there a chain of command on
8 site of who's in charge?

9 A I'm in charge of processing, collecting, but the
10 investigators are in charge of the scene.

11 Q Okay. So the local West Columbia investigators would
12 be technically in charge of the scene?

13 A Yes.

14 Q And they would have the general overall authority
15 about what you're looking for, what you're going to take,
16 or is that a combination of --

17 A It's sort of a combination. We tell them what we see
18 and we come to a decision on what we're taking.

19 Q Okay. Now, is there any kind of huddling up or
20 meeting before you go into the apartment? I mean
21 obviously you-all don't just show up there and say, "Let's
22 see what we find." I mean there's some kind of
23 organizational meeting before you go in, right?

24 A Yes.

25 Q And tell the judge how that goes. Who's in charge of

1 that?

2 A In this case, we were called to West Columbia, we met
3 with Captain Owens and some of his investigators prior to
4 going to the scene.

5 Q So you met at the West Columbia Police Department
6 headquarters?

7 A Yes.

8 Q And did you get a debriefing on what the facts of the
9 case were up to that point?

10 A Yes.

11 Q And so you had -- was there a theory offered, a
12 theory of what was going on, what you were looking for,
13 what may have happened?

14 A We were asked to look into the house and see were
15 there any signs of foul play.

16 Q Just sort of generally?

17 A Yes. I'm not -- I don't think they knew if the house
18 was involved or not, the residence.

19 Q I'm going to show you what's been marked Court's
20 Exhibit 34. That's a copy of the search warrant. Did you
21 ever take a look at that or see that before going into the
22 apartment?

23 A Yes.

24 Q So you and your colleagues from SLED would have
25 reviewed the search warrant to see what you guys were

1 looking for?

2 A Normally we -- the search warrants are very general,
3 and we just sort of make sure it includes things that we
4 could be looking for. Every crime scene is unique.

5 Q Okay. Were you looking for guns?

6 A Before or after? In this case we didn't look for any
7 guns, so there were no signs of a gun being used.

8 Q Now, at some point did April Bayne or somebody else
9 from the West Columbia Police Department tell you that
10 they believed that somebody had cleaned up a potential
11 crime scene?

12 A No.

13 Q Okay. I want to show you again what's been marked
14 Court's Exhibit No. 34. I want to show you what's been
15 marked -- well, let me show you what's Attachment A to the
16 search warrant. If you could, just look at the last
17 sentence on Attachment A and tell us what it says.

18 A "Also needed would be any cleaning supplies or
19 utensils that would be used to clean up the apartment in
20 an attempt to cover any type of crime that may have
21 occurred."

22 Q Okay. So the warrant itself indicates that you-all
23 would be looking for things to clean up a crime scene?

24 A Yes. That's pretty general, yes.

25 Q And did you-all do that?

1 A Yes.

2 Q I'm going to show you the pictures in a second, but
3 I'm just going to ask you if you remember.

4 This apartment contained a bucket that tested
5 positive for blood, correct?

6 A Yes.

7 Q It was a galvanized bucket found in the kitchen?

8 A Yes.

9 Q And you shot it with LCV and it reacted?

10 A Yes.

11 Q And there's a large yellow vacuum cleaner in the
12 master bedroom right next to the big green chair; do you
13 remember that?

14 A Yes.

15 Q There's also the smaller handheld vacuum cleaner that
16 actually was marked by you because it had a little blood
17 spatter on it?

18 A Yes.

19 Q And there's a cupboard that contains carpet cleaner,
20 a can of carpet cleaner; do you remember that?

21 A No.

22 Q No? And there's also a pair of yellow -- what appear
23 to be heavy latex cleaning gloves in that area next to the
24 vacuum cleaner, the large yellow vacuum cleaner, the
25 smaller handheld vacuum cleaner, and the green chair. Do

1 you remember the yellow gloves?

2 A I'd have to see the photographs. Just off of memory

3 I --

4 Q But you would agree these would all be things that
5 would be used to clean something up?

6 A Yes.

7 Q And the warrant specifically says you're looking for
8 cleaning supplies and utensils?

9 A Right. And that's before we enter the house. That's
10 just a general statement.

11 Q We're going to try our luck with this machine over
12 here.

13 Agent Green, I'm going to put up on the
14 projector here Defense No. 67. Do you recognize that?

15 A Yes.

16 Q And the table's got some food on it, correct?

17 A Yes.

18 Q A couple bananas?

19 A You'd have to point them out. I don't see any
20 bananas.

21 Q Banana?

22 A I believe so.

23 Q Tell you what. How about we try it like that?

24 A Yes, a bunch of bananas.

25 Q All right. And when you-all went into this

1 apartment, you-all documented the fact that it was about
2 90 degrees inside the apartment; do you remember that?

3 A I believe somebody took a photograph of the
4 thermostat.

5 Q So who was taking photographs, is that you or
6 somebody else?

7 A That was -- it was a combination of myself, Carl
8 Kinley, and Jamie Seals.

9 Q But you do remember somebody actually photographing
10 the thermostat to verify the temperature in the apartment?

11 A Yes.

12 Q And let me show you what -- it's not marked.

13 MR. MCGUIRE: If I could have that marked,
14 ma'am.

15 THE COURT: No objection?

16 MR. HUBBARD: No objection.

17 THE COURT: 75, 76, 77, Defense Exhibits,
18 without objection, admitted.

19 (WHEREUPON, DEFENDANT'S Exhibits Nos. 75-77 were
20 marked for identification and received into
21 evidence.)

22 BY MR. MCGUIRE:

23 Q Agent Green, I'm going show you No. 75 there. Is
24 that the thermostat?

25 A Yes, it's a photograph of a thermostat.

1 Q Do you see where the needle was kind of pegged all
2 the way over to the right there?

3 A Yes.

4 Q About 90 degrees?

5 A Yes. But I don't -- it wasn't 90 degrees in there.
6 I'm extremely sensitive to heat; I would have been
7 sweating all over the place. I don't think it was -- I
8 don't think it was that hot in the apartment.

9 Q Maybe it was that hot when you got there and you-all
10 turned it off?

11 A I don't recall.

12 Q Well, we've got a little needle here and it's on 90,
13 right?

14 A Yes. I'm just telling you, I don't remember it being
15 that hot in there.

16 Q Okay. And this is June 20, 2006, right?

17 A Yes.

18 Q And the switch indicates that the air-conditioning is
19 off?

20 A Yes.

21 Q So we've got an apartment in West Columbia, South
22 Carolina, with no air-conditioning on in June, and we've
23 got a needle showing 90, but you don't remember it being
24 that warm?

25 A No.

1 Q Okay. Let me show you what's marked No. 76. Do you
2 recognize that?

3 A I believe that's a photograph of the kitchen under
4 the sink.

5 Q It looks like a cabinet with some doors open?

6 A A cabinet, yeah.

7 Q And in the cabinet there's a -- it looks like a dirty
8 dish rag?

9 A Yes.

10 Q A rag that you'd use to clean something?

11 A Yes.

12 Q And next to it there is a can of carpet cleaner?

13 A Yes.

14 Q And do you remember if anybody took the carpet
15 cleaner can into evidence or if they printed it?

16 A No.

17 Q But you're a fingerprint guy, aren't you?

18 A Yes.

19 Q You're looking for stuff to clean up a crime scene,
20 and you've got a can of carpet cleaner right here.
21 You-all didn't take that and print that?

22 A No.

23 Q And is it true that the cleaning rag's in the far
24 right-hand portion of the picture?

25 A Yes.

1 Q And the can of carpet cleaner is sort of adjacent to
2 the rag, next to the rag there, the pink can?

3 A Yes.

4 Q I'm going to throw No. 77 up on the projector.
5 You've got a couple of cardboard boxes there, correct?

6 A Yes.

7 Q And they're next to the plastic containers there on
8 the right?

9 A Yes.

10 Q No blood or anything found on the cardboard boxes?

11 A No.

12 Q Or actually anything found in that whole corner of
13 the room?

14 A No.

15 Q There's a jewelry box -- well, some kind of box there
16 on that piece of furniture, would you agree?

17 A Yes.

18 Q It's closed?

19 A Yes.

20 Q Was it closed when you got there?

21 A Yes.

22 Q I'll put up on the projector what's marked 73.

23 Now, on the right-hand side there, the far
24 right-hand side, we're seeing the green chair, right?

25 A Yes.

1 Q And right next to that is the large yellow cleaning
2 machine, vacuum cleaner, right?

3 A Yes.

4 Q And at some point you were made aware that Ms.
5 Bayne's theory was that whoever was cleaning up here was
6 probably their suspect, right? Did you ever learn that?

7 A I mean, I don't know if we had that type of
8 discussion. We found signs of things being moved around.

9 Q Uh-huh. Well, when you're in there and you're
10 processing this crime scene and you got this green chair,
11 and you got the carpet, and you're using LCV because
12 somebody's obviously cleaned up this area, correct?

13 A That's one that was used, yes, correct.

14 Q Well, I mean, you-all could barely, barely, barely
15 see any blood with the naked eye on the carpet, right?

16 A That's correct.

17 Q And you had to shoot it with the LCV to make the
18 stain appear?

19 A Yes.

20 Q And the logical explanation for the stain appearing
21 is that blood was there but it was cleaned up?

22 A Yes. It could have been -- yes, it was -- there was
23 a concentration of blood and it appeared to be blood
24 spread across the surface.

25 Q Okay. And you might not know this, but were you or

1 any of your fellow agents tasked with trying to locate the
2 Rug Doctor cleaning machines, or was that just limited to
3 West Columbia?

4 A SLED wasn't part of that.

5 Q Okay. Now, did anybody take this yellow vacuum
6 cleaner into evidence or print it?

7 A No.

8 Q Did you print the small handheld vacuum cleaner?

9 A No.

10 Q See the yellow gloves behind the lampshade?

11 A Yes.

12 Q Do you remember them now?

13 A Yes.

14 Q Anybody take the yellow gloves into evidence or swab
15 them for DNA?

16 A No, there was no visible signs of blood before or
17 after the LCV was sprayed.

18 Q Let's talk about that. You found the bucket in the
19 kitchen, right?

20 A Yes.

21 Q And it shot positive with the LCV, right?

22 A Yes.

23 Q And nobody took the yellow gloves or swabbed them for
24 DNA?

25 A They didn't test positive with the LCV, and there was

1 no visible signs before or after.

2 Q You say you guys shot those gloves with LCV?

3 A Yes.

4 Q They were unusual enough for you to take them from
5 their position there, spread them out, shoot them with
6 LCV?

7 A Yes.

8 Q You shot the outside of the gloves?

9 A Yes.

10 Q All right. What about the inside?

11 A I don't think we would have shot the inside.

12 Q Okay. So let's say you have a perpetrator in this
13 apartment, gets in a scuffle with somebody, gets some
14 blood on the inside of his -- on his hands and he puts his
15 hands in the gloves. They may have tested positive with
16 the LCV. Now what happens?

17 A If he used the gloves, I would expect him to put the
18 gloves on and get blood on the outside if he was using
19 them to clean.

20 Q All I'm saying is, somebody could get some blood on
21 their hands, put their hands inside these gloves, and it
22 could have tested positive if you shot the inside of the
23 gloves with LCV. That's possible?

24 A I mean, sir, I can't tell you what is or is not
25 possible. I mean, everything is possible. It's possible,

1 yes.

2 Q Okay. And the contents of the vacuum cleaners,
3 either one of them, that was not seized or taken into
4 evidence?

5 A No.

6 Q I'll show you what's No. 74. You know, it looks like
7 at this point you guys start moving stuff around because
8 everything was sort of clustered by that green chair. The
9 yellow gloves, the vacuum cleaners, the red shoes, that
10 was all kind of in a heap by the chair, right?

11 A Yes.

12 Q And now you started to move some stuff out of there?

13 A Yes.

14 Q I'll show you what's No. 71. That's the bucket from
15 the kitchen, right?

16 A Yes.

17 Q Now, it tests positive with the LCV in the bottom of
18 the bucket, correct?

19 A Yes.

20 Q But the whole bucket doesn't test positive for the
21 LCV, right, or with the LCV, right?

22 A No, only the bottom.

23 Q And LCV is one of the agents that's used in blood
24 stain recovery because it doesn't degrade the blood
25 standard and you can test it for DNA later, correct?

1 A Yes.

2 Q But sometimes the solution is so thin that even if it
3 tests positive with LCV, a secondary test or even a DNA
4 test will result in negative findings because the solution
5 can be so diluted, right?

6 A Yes, sir.

7 Q Okay. I'll show you what's No. 70. Same bucket,
8 it's a closer shot of the bottom?

9 A Yes.

10 Q 69's a little bit different shot showing the bottom
11 of the bucket that tested positive there with the LCV,
12 correct?

13 A Yes.

14 Q Were you advised by anybody from West Columbia that
15 they had already conducted at least a search of this
16 apartment to some extent; did you know that?

17 A Yes, as part of their welfare check.

18 Q Did you know that people were opening drawers, going
19 through documents, taking stuff out, putting it on the
20 carpet, photographing it; did you know all that?

21 A No.

22 Q You were just informed that they did a safety welfare
23 sweep?

24 A Yes.

25 Q And that sweep would be limited to looking for people

1 in distress?

2 A Yes.

3 Q I'll show you what's State's 133. The laundry basket
4 there on the bed, was it in that exact position when you
5 came in?

6 A Yes, I believe that's -- we photographed everything
7 in place as we found it.

8 Q Y'all don't start moving things until you photograph
9 the apartment as you find it?

10 A Yes.

11 Q And that way you know its original condition in case
12 there's an issue later with, well, where was that moved,
13 where was that wrench, that sort of thing?

14 A Yes, sir.

15 Q Agent Green, I want to show you what's marked
16 Defense No 78.

17 MR. MCGUIRE: I want to move it into evidence.
18 I don't think there's an objection.

19 MR. HUBBARD: No objection.

20 (WHEREUPON, DEFENDANT'S Exhibit No. 78 was
21 marked for identification and received into
22 evidence.)

23 BY MR. MCGUIRE:

24 Q Was that the kitchen counter?

25 A Yes.

1 Q Appear to be a tomato there on the counter?

2 A Yes.

3 THE COURT: For the record, Defendant's 78 is a
4 photograph of the kitchen counter admitted without
5 objection.

6 MR. MCGUIRE: Yes, sir.

7 BY MR. MCGUIRE:

8 Q Agent Green, the tomato would be there on the
9 left-hand side at the bottom of the paper towels?

10 A Yes.

11 Q I'm going to ask you some questions now specifically
12 regarding the carpet stains and the use of LCV.

13 You would agree that LCV has a sensitivity ratio
14 one to 10,000?

15 A Sir, I don't know the sensitivity.

16 Q Rod, I thought you were an expert.

17 A In using LCV, yes.

18 Q You use it, you know what it does, but --

19 A But I'm definitely not a chemistry major on the
20 sensitivity of LCV.

21 Q All right. But you've used it in the past?

22 A Yes.

23 Q Many times?

24 A Yes.

25 Q And you would agree with me that if a blood -- if

1 blood is on carpet, drops of blood on carpet, and nobody
2 cleans it up for some time, but they come back, say, a
3 week later and try to clean it up, and then you hit it
4 with LCV, you're going to have a nice crisp pattern with
5 nice crisp edges on the edge of the bloodstain, correct?

6 A Well, you're talking about blood that's in a fabric,
7 so, I mean, you're working also against the fabric. I'm
8 not sure what pattern you would get inside of a carpet
9 fabric.

10 Q Well, if I -- I mean I give a pint of blood every now
11 and again to the Red Cross. If I took my pint of blood
12 and I just poured it on the floor and made a nice big
13 circle, and it's a carpeted floor, and we let it dry, say,
14 a week, come back, clean it up, scrub it like heck, get it
15 out of there, you hit it with LCV, you're going to have a
16 pretty nice crisp pattern where that nice big circle of my
17 blood was, right?

18 A On a porous surface, yes.

19 Q And you would agree that when somebody's using some
20 sort of solution, whether it be water or an aerosol carpet
21 cleaner or whatever, to scrub the fresh blood, you're
22 going to get kind of a smeared pattern, somewhat of a
23 fuzzier pattern, not good crisp edges, right?

24 A Again, I mean, I'm not sure what effect the carpet --
25 carpet would absorb the blood, so -- but, I mean, I'm not

1 sure. And depending on what method they're using to wipe
2 it, sort of what-if. It's hard to answer that.

3 Q Well, have you had experience to apply LCV to blood
4 stains on carpet before this case?

5 A This is -- I can't recall using it on carpet before.

6 Q How about after this case?

7 A No. I left the unit soon after.

8 Q Okay. So this is your only experience with LCV on
9 carpet?

10 A This is only -- we worked hundreds of scenes. I just
11 don't recall. This is the only one I remember.

12 Q You're qualified as an expert, and based on your
13 training and education, were you ever taught that blood
14 that dries on fabric, even this carpet, then is later
15 cleaned up after it's dry, will leave a pretty crisp edge?
16 Did you learn that?

17 A Blood that's -- you mean blood that's dried in
18 carpet, and I guess I would have to know the manner that
19 it was cleaned up in.

20 Q Well, in your training you've seen many photographs
21 of crime scenes where LCV was used, right?

22 A Yes.

23 Q Or something similar. It might be Hungarian Red,
24 Crowle's Double Staining, Amido Black; these are all
25 similar substances to LCV, right?

1 You might not be familiar with all of those.

2 A No, I'm not familiar with all of them, but, yeah,
3 there are a lot of staining agents.

4 Q Okay. Some of them are more specific than others;
5 some of them are better on porous surfaces, some of them
6 are better on hard surfaces, that sort of thing, right?

7 A Yes.

8 Q Now, when you are taught how to use a reagent like
9 LCV, at your lectures and your training, you're shown
10 pictures of other crime scenes, correct?

11 A Yes.

12 Q And one of -- one that seems very popular I've seen
13 plenty of times is the footprints across carpet. You've
14 seen that - you've seen something similar to that, right?

15 A I'm sure.

16 Q Right. And when you have that kind of pattern, when
17 you've got, say, tennis shoes walking through a pool of
18 blood, walking across carpet, and then they dry, and then
19 someone tries to clean them up, you got a really nice
20 crisp pattern generally?

21 A I don't know. I can't say I've studied what --
22 studied exactly what a cleanup looks like. It would
23 depend on how the person cleaned it up.

24 Q So in all of your training and education, you've
25 never been taught that if somebody cleans up, with any

1 kind of solution, fresher blood, you're going to have a
2 very blurred edge. It would just be like a big blurred
3 stain. You're not aware of that?

4 A Well, I mean, I've studied wipes and swipes and what
5 it looks like after, say, an object's been wiped after
6 it's dried, but to talk about in carpet, I mean, it's just
7 common sense I would say.

8 Q Yeah, I agree with you. I mean, if you've got a
9 bucket and you've got a rag and you've got some sort of
10 solution and you're rubbing fresh blood and you're not
11 letting it dry, you're going get a stain that's a little
12 blurry with LCV or some other similar reagent, right?

13 A Yeah, just spread out, not concentrated.

14 Q Right. And you've obviously been taught that if
15 somebody's cleaning up -- and the reason you guys use this
16 stuff is to uncover blood stains where they've been
17 cleaned, right? That's one of the uses?

18 A That's one of the uses.

19 Q Right. And you've been taught that if a person is
20 using a rag and some sort of solution and a bucket to rub
21 out fresh blood, and then the rag's going back in the
22 bucket, back on the blood, back in the bucket, now part of
23 the stain that you get is actually part of the diluted
24 solution, correct?

25 A Yes.

1 Q Okay. So it's really hard to quantify exactly how
2 much of this stain is unadulterated blood and how much of
3 it is a diluted solution, and the solution being some
4 blood in it but also some other water or some other
5 cleaning agent, correct?

6 A Yes.

7 Q And there's absolutely no way that anybody trained in
8 blood spatter or blood stain analysis can even attempt to
9 qualify the blood in this case?

10 A I don't know. I wouldn't know how to do that.

11 Q Right. I'll show you what's State's Exhibit 138,
12 Rod. And it's a little difficult to see on the projector
13 there, but it's hard to point out a very crisp edge to any
14 of this stain, correct? Kind of a blurred pattern, would
15 you agree with that?

16 A Yes. I mean, there's a concentration of blood and
17 then there's an area that's --

18 Q A little bit lighter?

19 A -- a lighter stain, yes.

20 Q If you would, just pass that up to the Court.

21 And again, that's because we could be seeing the
22 stain because you're using LCV and this could be -- your
23 LCV could be picking up a diluted solution at this point?

24 A Yes.

25 Q Did you shoot all the rooms with LCV?

1 A The floors, yes.

2 Q And there's no -- there's no drip pattern leaving
3 this room?

4 A No.

5 Q There's nothing that would be classified as a drag
6 mark or transference leaving this room?

7 A No.

8 Q There's not a drop of blood in the hallway that you
9 found?

10 A No.

11 Q In the kitchen?

12 A No.

13 Q On the floor of the small bedroom?

14 A No.

15 Q In the living room?

16 A No.

17 Q Okay. We're limited to, regarding the floor, just
18 the bedroom area by the chair?

19 A Yes.

20 Q Agent Green, there was a photograph of a bathroom
21 sink that tested positive when you shot it with LCV, kind
22 of in the front part of the sink; do you remember that?

23 A Yes.

24 Q That is State's 179. I will put it up on the
25 projector.

1 Now, when you saw that, were you able to see a
2 little bit of blood there before you shot it with LCV, or
3 that only came up with the LCV?

4 A The stains were present before LCV.

5 Q Which bathroom is this?

6 A That's in the master bedroom.

7 Q Right. Kind of close to the green chair area, right?

8 A Yes.

9 Q Okay. Were there items taken from this apartment
10 that would not be under your control, or did every item
11 seized leave with you?

12 A I can tell you the items that I collected that went
13 to the lab. Now, there were also in my notes a computer
14 taken by West Columbia PD.

15 Q I'm not worried about that.

16 Are you aware of any other items being taken out
17 of this apartment other than the computer and what you
18 took?

19 A No, that's the -- those are all the items that I'm
20 aware of.

21 Q Do you know if anybody -- do you remember a crescent
22 wrench at all?

23 A No.

24 Q Let me show you what's been marked Defense No. 17.
25 Right there in the upper left-hand corner, is that the

1 same laundry that was in a basket when you guys got there?

2 A I'm not -- I'm not sure.

3 Q Tell you what. Let me show you the basket picture.
4 You'll have to bear with us for a second.

5 State's No. 133, tell me if I'm wrong, appears
6 to be that laundry basket with a plastic bag and then a
7 number of items on hangers. And then the upper left-hand
8 corner on Defense No. 17, is that the same laundry, the
9 same little blue onesie with the yellow pattern on it?

10 A That dress -- that onesie looks to be the same.

11 Q And I don't want to put you at a disadvantage having
12 to make that call on the projector, so if you would, just
13 take a look at State's 133, Defense No. 17, and just see
14 if you think it's the same laundry there.

15 A It appears to be, yes.

16 Q When you guys got there, it was in the basket?

17 A Yes, it was in the basket.

18 Q Did you-all document the apartment as you find it to
19 make sure you could say this is exactly how when we got
20 there, that's how we found it?

21 A Yes, that's how we found it.

22 Q Agent Green, I'm going to put on the projector what's
23 been marked Defense Exhibit No. 49. Do these items look
24 at all familiar to you?

25 A No.

1 Q Did you seize them, test them, photograph them, do
2 anything as far as you remember?

3 A No, I didn't seize them.

4 Q I want to put up Defense No. 3. Did you, when you
5 were at the apartment, ever inspect any dumpsters?

6 A Yes, there was a dumpster outside of the apartment.

7 Q Did you-all search it?

8 A We walked through the dumpster.

9 Q What were you looking for?

10 A Victims, any signs of blood.

11 Q And if there was something there, you'd have found
12 it?

13 A Yes.

14 Q And just for the record so we're clear, you didn't
15 find anything?

16 A No.

17 Q No blood, no bodies, no victims, no evidence of foul
18 play?

19 A No.

20 Q I will show you what's been marked State's No. 7.
21 The little red chair's got a wooden chair behind it; is
22 that correct? You can barely see it maybe.

23 A Yeah.

24 Q It's got the wooden chair behind the red chair on
25 State's No. 7.

1 I will show you what's been marked Defense
2 No. 24. Up in the upper left-hand corner, it's the same
3 chair?

4 A Yes.

5 Q But it's in a physically different position?

6 A Yes. It's further up towards the red chair.

7 Q But State's No. 2 is how you found it?

8 A Yes.

9 Q Agent, I want to show you what's been marked
10 State's 122, medicine bottles on the counter?

11 A Yes.

12 Q I want to show you what -- and this is how you guys
13 would have found them?

14 A Yes.

15 Q I want to show you what's been marked Defense No. 21,
16 in the lower right-hand corner, a picture of the same
17 medicine bottles?

18 A They appear to be.

19 Q Okay. But they're all clustered together kind of
20 close in No. 21, and they're all spread out in yours, in
21 State's No. 122; fair to say?

22 A Yes.

23 Q They've been moved from sort of a cluster to a
24 spread-out line?

25 A Yes.

1 Q And, of course, your policy would be not to move
2 anything until the apartment's completely documented
3 visually with photographs to make sure you can say, this
4 is how we found it?

5 A Yes, we were -- yes, we would photograph it first.

6 Q Agent Green, just regarding blood spatter, are you
7 familiar with the term "comet tail" or "trailing tail"?

8 A Yes.

9 Q And it's a little counterintuitive because somebody
10 not trained in blood spatter like yourself could see a
11 drop of blood that hit a hard object at an angle and it
12 looks like it's actually going the wrong direction,
13 doesn't it?

14 A Yes, the direction of travel is towards the tail.

15 Q Right. The thicker part of the drop is the back end,
16 and the comet tail -- the point of the comet tail is the
17 direction of travel?

18 A Yes.

19 Q If we think of a comet flying through the sky, it's
20 exactly the opposite?

21 A Yes.

22 Q And that's obviously because the drop of liquid hits,
23 compresses, throws up a thin funnel which then falls
24 forward in the direction of the moving drop?

25 A Yes.

1 Q Did you notice any drops that had comet tails in your
2 examination of this scene?

3 A Was there any spatter that had a tail on it?

4 Q Yes.

5 A There was some spatter around the -- on the blue
6 Sterilite container, and some may have had a tail on it.

7 Q Did you reach any sort of opinion as to how it was
8 traveling when it got on the blue container?

9 A Just all coming from the direction, that same general
10 area around that bloody area next to the chair.

11 Q What about the height?

12 A Yeah, we put the -- we put that ruler in the picture
13 and they're all between 10 and 15 inches off the floor.

14 MR. MCGUIRE: Judge, just one second.

15 (Pause.)

16 MR. MCGUIRE: Agent Green, that's all I have for
17 you. Enjoy your new house.

18 MR. HUBBARD: No follow-up questions, Your
19 Honor.

20 THE COURT: All right. You may step down, Agent
21 Green.

22 Gentlemen, we're a few minutes to 1. Let's take
23 a break until 2:15.

24 MR. MCGUIRE: Yes, sir.

25 (A lunch break was taken.)

1 THE COURT: Are we ready to go?

2 MR. MCGUIRE: Yes, sir.

3 THE COURT: All right. We talked before lunch
4 about the schedule for the rest of the week. My law
5 clerk's gathered a little information from y'all.

6 Tell me, the pathologist this afternoon, when do
7 you-all want to call her? And, Mr. Myers, when would it
8 suit the State since we're calling this out of order?

9 MR. MYERS: Any time.

10 MR. STITELY: She's here, Judge, and we asked
11 Mr. Hubbard and they're okay with us doing her first. She
12 should not be very long.

13 THE COURT: All right. Let's do her now, then.

14 Good enough. Call your witness.

15 MR. STITELY: Your Honor, at this time we'd call
16 Dr. Kimberly Collins to the stand.

17 DR. KIMBERLY COLLINS, after being duly sworn,
18 testified as follows:

19 THE CLERK: Have a seat, please.

20 Once you're seated, Doctor, state your full name
21 on the record, spelling your last.

22 THE WITNESS: Dr. Kimberly Ann Collins,
23 C-o-l-l-i-n-s.

24 DIRECT EXAMINATION

25 BY MR. STITELY:

1 Q Dr. Collins, where do you currently reside?

2 A On Wadmalaw Island, which is part of Charleston
3 County, South Carolina.

4 Q And where are you currently employed?

5 A I'm currently employed by Fulton County Medical
6 Examiner's office, which is affiliated with Emory
7 University School of Medicine.

8 Q Okay. And what is your job title?

9 A I'm the medical examiner, forensic pathologist.

10 Q Okay. Tell me a little bit about your educational
11 background.

12 A I went to college at the University of Georgia, and I
13 graduated in 1985 with a bachelor's in microbiology. I
14 then attended medical school at the Medical College of
15 Georgia, where I received my M.D. in 1989.

16 Following medical school, I chose to specialize
17 in pathology, and so I went to Bowman Gray School of
18 Medicine at Wake Forest University in Winston-Salem, North
19 Carolina, for a five-year combined anatomic and clinical
20 pathology residency.

21 After my residency, I wanted to subspecialize in
22 forensic pathology, and so I chose to come to the Medical
23 University of South Carolina in Charleston. And I
24 finished my fellowship training in 1994.

25 I stayed on staff there for 15 years as director

1 of forensic and autopsy pathology, and when we had a
2 medical examiner system, I was Chief Medical Examiner for
3 Charleston County.

4 Q And you're an M.D. as well, correct?

5 A Yes.

6 Q Where are you licensed as a medical doctor, which
7 states?

8 A South Carolina, North Carolina, and Georgia.

9 Q Do you hold any other specific professional
10 certifications?

11 A I am board certified in anatomic pathology, clinical
12 pathology, and forensic pathology.

13 Q And since you've finished your education in 1994, is
14 that pretty much what you've been doing?

15 A Yes.

16 Q Have you ever testified in court before?

17 A Yes, in court and depositions.

18 Q Okay. Have you ever been qualified as an expert
19 before?

20 A Yes.

21 Q In what fields?

22 A In forensic pathology and general pathology.

23 Q Okay. And that's -- if you had to guess, how many
24 times have you been qualified in court as an expert in
25 those two fields?

1 A Approximately 250.

2 MR. STITELY: Your Honor, at this time we'd
3 offer Dr. Collins as an expert in both pathology and
4 forensic pathology.

5 MR. MYERS: No objection.

6 THE COURT: Without objection she is so
7 qualified in those two fields.

8 MR. STITELY: Thank you, sir.

9 BY MR. STITELY:

10 Q Dr. Collins, you were engaged by the defense in the
11 case of State versus Kenneth Lynch, correct?

12 A Yes.

13 Q Okay. And in what capacity did we ask for your
14 assistance?

15 A I was asked to examine some photographs of some
16 blood, blood spatter, and treatment by the law
17 enforcement, to just look at the blood and the crime
18 scene, death scene.

19 Q Okay. In your career, have you ever had the
20 opportunity to review a crime scene?

21 A Yes, I have.

22 Q How many times?

23 A Hundreds.

24 Q Have you worked for both defense and the State as a
25 pathologist?

1 A Yes.

2 Q Okay. And you testified on behalf of the State when
3 you were a medical examiner as well as testifying now in
4 private practice?

5 A Correct. And even before we were neutral, so we were
6 an expert witness just testifying on the autopsy findings.

7 Q And for the Court's sake, we sent you a packet of all
8 the pictures in this case when we engaged your services,
9 correct?

10 A Yes, that's correct.

11 Q I'm going to approach with some of the pictures that
12 have been placed into evidence already in this case, and
13 I'm going to ask if these seem to be the ones that you
14 reviewed.

15 And we actually had a chance to look at these
16 during the break, but these are about a hundred pictures
17 taken by SLED in this case.

18 This indicates the room that we've had some
19 questions with you about?

20 A Yes.

21 Q Okay. What do you do as a pathologist when making a
22 determination if a significant injury occurred; what would
23 you look for?

24 A Well, if we are -- if we go to the scene where the
25 injury or the accident or incident, rather, took place, we

1 would look at the surroundings, we'd look for any signs of
2 struggle, any signs of trauma. We would then -- if we
3 continued on to an autopsy, we would try to correlate the
4 scene with the autopsy findings and physical findings.

5 Q Okay. And what kind of physical things are you
6 looking for at the scene? What would you typically expect
7 to be found at the scene if there was an expectation some
8 crime had been committed?

9 A We'd look for anything that could be used as a weapon
10 to correlate with any physical findings or potential
11 trauma. We look for any blood, fibers, hair, or any
12 tissue that might be present.

13 Q Okay. And one thing just to ask you: If someone was
14 to, as the expression is, bleed out, how much blood does a
15 human being have to lose in a relatively short amount of
16 time to bleed out, to die from loss of blood?

17 A Well, a human being has -- adult human has about six
18 liters of blood, and so if you lose about a third pretty
19 rapidly, about two liters, then that can put you into
20 shock and you could die. And if you have a prolonged
21 bleed, you could possibly lose three liters before death.

22 Q Okay. How about in a smaller -- in a minor child,
23 the proportion is about the same, adult to a child?

24 A The proportions are the same as far as a third and a
25 half. So once you lose a third of your blood, you can go

1 into shock and result in death.

2 Q Okay. Have you ever been to an occasion or a crime
3 scene where someone bled out?

4 A Yes.

5 Q Okay. What do you typically see forensically when
6 you're looking at that kind of scene?

7 A It can depend on the reason for the bleed-out, but
8 what we see is, we see the patient or the victim, we'll
9 see blood either around the patient or the victim as well
10 as throughout the scene, other parts of the house, on
11 certain objects, and sometimes you can see patterns in the
12 blood or the blood smear to indicate certain movements.

13 You also see certain spatters that, of course,
14 would be interpreted by a blood spatter expert, but you
15 use that information to correlate with what you have on
16 the body.

17 Q Okay. Specific to this case now, you've looked at
18 all the pictures of the master bedroom and some of the
19 hallway and the other rooms of this apartment where the
20 alleged incident took place, correct?

21 A Yes.

22 Q And you weren't here for the testimony a little while
23 ago of their expert. Would that be typical of something
24 you would have seen or listened to in most trials?

25 A Sometimes, unless I'm sequestered. It depends on the

1 counselors.

2 Q Okay. In an occasion -- have you ever worked an
3 occasion where the alleged scene of either an accident,
4 crime, incident of any kind involved carpet?

5 A Yes.

6 Q Okay. What, if any, have you ever seen as far as if
7 blood were to pool on a carpet, what is your normal
8 expectation of what you'd find?

9 A Depends on how much pool's on the carpet. If the
10 victim is at the location on the carpet where he or she
11 died and the cause of death is blood -- rapid blood loss
12 or exsanguination, you'd see blood around the body, you'd
13 see blood on the floor through the carpet, or had it go
14 through the padding, through the floor.

15 I've had cases -- I was actually at a scene
16 where I'm on the bottom floor and I see a pool of blood on
17 the floor; the body's upstairs. There is no blood between
18 floor one and floor two, but the blood has soaked through
19 the floor above, through the carpet, through the floor and
20 down, dropping onto the carpet on the first level. So
21 that's what we would see in an exsanguination or a
22 bleeding-out death.

23 Q Okay. Now, you've had an opportunity to review some
24 of the pictures in this case. Did you see any that
25 indicate -- you mentioned bodies being moved, anything to

1 indicate a dragging down the hallway in this case?

2 A No.

3 Q Did you see anything indicating -- and I'll ask you
4 about specific pictures.

5 One of the pictures that is up here has been
6 previously entered into evidence as State's No. 138. Is
7 this a picture you previously viewed?

8 A Yes.

9 Q Okay. And it appears to be a cutting of carpet
10 indicating what's on the underside?

11 A Correct.

12 Q Okay. Are you familiar with what this purple color
13 would be on the carpet?

14 A There are different chemicals that you can use to
15 highlight or identify blood, and so it's a crystal violet
16 which is purple, and it can be sprayed on objects.

17 I've done it on human bodies looking for
18 handprints, because you can actually lift a print off a
19 body.

20 And so they have sprayed around on the carpet,
21 and then they have cut a piece of the carpet to
22 demonstrate the bottom of the carpet and the padding
23 underneath which does not stain purple.

24 Q Okay. And what would that indicate to you, that it
25 does not stain purple?

1 A It would indicate there's no blood on the bottom of
2 the carpet or on the padding.

3 Q Okay. In your experience would that tend to suggest
4 that there was a pooling or blood or not? Or can't tell
5 from the picture?

6 A You can't tell from the picture. All you can say is,
7 there wasn't a significant volume to soak through the
8 carpet at that time.

9 Q Okay. Were you able to look at the pictures of the
10 green chair, the close-ups that were provided?

11 A Yes.

12 Q And I'll show you State's Nos. 160, 159, 158, 157,
13 and I guess I'll stop at this point.

14 You reviewed all the pictures of the chair. Is
15 there any degree of medical certainty that you can make
16 some kind of quantification of exactly how much blood was
17 present from what you saw?

18 A No. It's absolutely impossible medically and
19 scientifically.

20 Q Okay. And why is it not possible?

21 A All you have here are findings consistent with blood
22 spatter. You cannot look at the spatter and tell how much
23 of a volume was lost. This could be the only blood that
24 was present versus there could be a different amount
25 present on another object. There's no way you can look at

1 a blood spatter pattern and extrapolate backwards to say
2 the volume that was lost from a person.

3 Q Okay. And let me just ask you, as far as you've seen
4 stuff -- have you ever worked a crime case where there was
5 an alleged cleanup involved?

6 A Yes.

7 Q Okay. If they used some lifting agents to determine
8 the blood, like you said in this case the LCV, is that
9 typically consistent with the exact amount of blood, or is
10 it consistent with where blood or blood material or some
11 solution that's been diluted has been in contact?

12 A The LCV, the purple? It's just the next --

13 MR. STITELY: I think we just went cold.

14 Do we need a moment, Judge?

15 (At this point there was a power surge and the
16 electricity in the courthouse became inoperable.)

17 (A break was taken.)

18 THE COURT: The Court will come back to order.

19 It appears that the inadvertent electricity and
20 light flashing has quit, so we'll move forward.

21 Mr. Stitely, continue on.

22 BY MR. STITELY:

23 Q And I don't know if I ever just got to --

24 Dr. Collins, I just want to show you all of the pictures
25 in this case that have been marked as State's 113 through

1 198, and I'll just flip through them.

2 You've seen every photograph that was provided
3 to you in the packet of pictures from us, and that's
4 concurrent with the ones that have been entered into
5 evidence as these exhibits?

6 A Yes.

7 Q You reviewed all these pictures?

8 A Yes.

9 Q Okay. And you actually had received them before this
10 date by way of electronic correspondence?

11 A That as well as a jump drive or thumb drive.

12 Q Okay. And do you remember around how many pictures
13 it contained?

14 A A couple hundred.

15 Q Okay. But there's no question that you've seen all
16 the pictures that have been laid before you today?

17 A That's correct.

18 Q And I guess just at the very end, from everything
19 you've seen in this case, to any degree of medical
20 certainty, could you make an expectation or state the type
21 of injury that may have been present?

22 A No.

23 Q The nature of how that injury came to be?

24 A No.

25 Q The severity of that injury?

1 A No.

2 Q Is there anything that could be ascertained from any
3 of this information that would speak directly to a violent
4 crime must have taken place here?

5 A No. You can have -- this is just blood, human blood;
6 that's all that we know.

7 Q And you can't quantify how much blood?

8 A No, you cannot.

9 MR. STITELY: Thank you, Dr. Collins. I have no
10 further questions.

11 Please answer any questions the Solicitor may
12 have.

13 CROSS-EXAMINATION

14 BY MR. MYERS:

15 Q Doctor, but with the presence of blood, there was an
16 injury?

17 A It could have been a natural injury, a natural
18 bleeding, or an inflicted bleeding.

19 Q But it was an injury?

20 A There was a bleeding. It could have been a
21 nosebleed, it could have been menstrual blood. That's all
22 we know, is it's human blood. We don't know how it got to
23 the location that it was found.

24 Q From a seven-year-old?

25 A As far as a nosebleed. Not the menstrual blood, no.

1 I'm just telling you how it would have arrived there.

2 MR. MYERS: Thank you.

3 THE COURT: Anything else?

4 MR. STITELY: We'd ask that Dr. Collins be
5 released.

6 MR. MYERS: No objection.

7 THE COURT: Very well. Thank you for coming,
8 Doctor.

9 THE WITNESS: Thank you.

10 THE COURT: All right. With the witness for the
11 defense taken out of order having been accomplished,
12 Solicitor, back to you.

13 MR. GRAHAM: The State calls Sherry Brown.

14 SHERRY BROWN, after being duly sworn, testified
15 as follows:

16 THE CLERK: Have a seat, please.

17 Once you're seated, speak up loud and clear.
18 State your full name, spelling your last, please.

19 THE WITNESS: Sherry Brown, B-r-o-w-n.

20 DIRECT EXAMINATION

21 BY MR. GRAHAM:

22 Q Ms. Brown, where are you employed, ma'am?

23 A State of South Carolina, SLED, also known as -- well,
24 it's -- excuse me.

25 Q State Law Enforcement Division, also known as SLED?

1 A Yes.

2 Q And how long have you been employed there?

3 A Eighteen years.

4 Q And how many times have you testified in court?

5 A This is probably my 55th or 56th time.

6 Q What do you do for SLED?

7 A Currently I'm a forensic technician assigned to the
8 DNA Department.

9 Q What other things have you done during your career
10 there?

11 A I started out as a technician in the Toxicology
12 Department.

13 Q Is it fair to say you understand how the flow of
14 items works coming in from log-in to an analyst?

15 A Yes.

16 Q Let's talk about a couple of items, then.

17 A Okay.

18 Q Let me show you what's been marked as State's 49 for
19 identification. It has several envelopes inside it,
20 State's 195, 193, and others. Can you tell me what that
21 is and if you recognize it?

22 A Yes, I recognize it.

23 Q How can you recognize it?

24 A Several markings on the heat seal pouch. Number one,
25 it's got a SLED little yellow sticker giving the case

1 number, and this particular one is a container number.

2 Q Okay. What's the lab number on that case?

3 A L-06-9031.

4 Q And that's the tracking number, isn't it?

5 A Yes.

6 Q And is that what's commonly called a bar code label?

7 A Yes.

8 Q So you could scan it and your computers keep track of
9 it?

10 A Yes.

11 Q You called it a container. What does that mean?

12 A When multiple items are in the heat-sealed pouch,
13 it's given a container number because it contains so many
14 items. If it was just one item, that would be like,
15 example, Item 1. But this held many items, so it's
16 considered a container.

17 Q If you would go in that bag and tell me what's inside
18 that bag. It's already cut open.

19 A Okay.

20 Q Now, you've actually seen this bag before, haven't
21 you?

22 A Just the heat-sealed pouch, yes.

23 Q Well, and it had items in it when you saw it?

24 A Yes.

25 Q The items that you just poured out of there, they all

1 have the -- let me show them to you one at a time. 195,
2 do you recognize the same lab number, the bar code label
3 on that one?

4 A Yes.

5 Q And while the package on 49 was a Container C you
6 said, this actually has an item number and that's a SLED
7 item number?

8 A Right.

9 Q So that would be SLED No. 11.

10 Let me show you another one. This is
11 State's 194. That has the same bar code number, but it's
12 Item 10?

13 A Yes.

14 Q State's 193, again it has the same bar code number,
15 but it has Item No. 9; is that correct?

16 A Yes, uh-huh.

17 Q State's 192, that again has the same SLED lab number,
18 bar code label and this is Item 8?

19 A Correct.

20 Q State's 191 is the same bar code number with the lab
21 number, Item 7?

22 A Yes.

23 Q 190 is Item No. 6 with the same bar code number, lab
24 number?

25 A Yes.

1 Q 189, same bar code number, Item 5.

2 State's 188, same bar code number, Item No. 4?

3 A Yes.

4 Q And 187 is the same with No. 3, right?

5 A Yes.

6 Q Okay. You have a document in front of you that I
7 think is called a certified chain of custody. What is
8 that?

9 A It's an electronic copy of everything. Anytime that
10 bar code is scanned, it's registered in a file, so when
11 you print it out, you get a complete chain of custody.

12 Q So when it moves around and transfers hand to hand or
13 in a box or whatever, there's a bar code and the computers
14 keep track of it?

15 A Yes.

16 Q And don't you also have to review it later to call it
17 a certified chain? Doesn't everybody who touched it have
18 to review it and authenticate and say, Yes, I did touch it
19 on these dates and these times?

20 A Yes. You have to verify your portion of the chain to
21 make sure it goes from line to line and you knew what you
22 did at that time.

23 Q Rod Green, do you know him?

24 A Yes.

25 Q He is in narcotics now, but at one time he was a

1 crime scene investigator for SLED?

2 A Yes, he was.

3 Q He was the investigator assigned to this case, and he
4 testified that he turned this bag and its contents, all
5 the contents we just talked about, State's 49 and all the
6 bags and the contents heat-sealed, and that I believe he
7 gave it to Carol Brooks. Can you tell me whether your
8 records reflect -- what does it reflect about Items 3
9 through 11, SLED Items 3 through 11?

10 A Rod Green did -- he handed it to Carol Brooks, which
11 is a forensic technician in evidence control.

12 Q What is evidence control, what does that mean?

13 A That's where -- an area within SLED that all the
14 agents, submitting agency can come in, sit down in front
15 of the evidence control technician and they can help them
16 log the cases in.

17 Q Once Carol took possession of it, what is policy
18 regarding -- does she go inside that bag or handle the
19 contents of the bag or manipulate it?

20 A No, she doesn't. She has them -- what my view is by
21 working there so long, she has them put them in the
22 heat-sealed pouch. She heat seals them and hands it off
23 to them so they can sign it and initial the heat-sealed
24 line.

25 Q So what we're saying, we're talking about that whole

1 container, that Container A, right?

2 A Yes.

3 Q And that had the Items 3 through 11. So the chain of
4 custody we're getting ready to talk about is going to be
5 the same for all those items until somebody cuts in that
6 bag; is that right?

7 A Correct.

8 Q What did -- Carol got it, I believe, on June 27,
9 2006; is that correct?

10 A Yes.

11 Q What did she do with Container A, which is
12 State's 49?

13 A On that same day within three minutes, she scanned it
14 through the bar code label into an area within the DNA
15 evidence control, DNA evidence intake storage.

16 MR. STITELY: Your Honor, we're going to object.
17 Unless she actually witnessed her doing this, she's just
18 assuming off a piece of paper what someone else did. I
19 don't think this is the woman who did this, nor did she
20 actually witness it. I think she's just reading off a
21 piece of paper. That would be hearsay by definition.

22 THE COURT: That's not a business record?

23 MR. GRAHAM: Your Honor, under State versus
24 Hatcher, the South Carolina Supreme Court Case, 708 S.E.2d
25 750, March 21st of last year, we don't have to have every

1 person come testify, we just need to identify -- we don't
2 even need to identify everybody. We do it as best as
3 practical. We identify who they are and what they would
4 have done with it.

5 THE COURT: Is it State versus Valentine that
6 had that outline, you could fill in the -- is that the
7 name of it?

8 I mean, it's my understanding the way the rule
9 works, if a witness testified she -- he gave it to Brooks,
10 and then the next witness says, "I received it from
11 Brooks," then that gap can be filled in under the premise
12 of the case. Is it technically Brooks? If it's
13 reasonable and it's their practice to do it, the
14 methodology described thus far, it would be allowed and
15 that chain would be complete nonetheless.

16 MR. STITELY: I guess the question, then, they
17 haven't asked is: Is she the one who took it from
18 Ms. Brooks?

19 THE COURT: Well, continue on. I understand
20 your objection.

21 MR. GRAHAM: She's not going to be the one who
22 took it from Ms. Brooks.

23 I don't believe that's what the law requires.
24 If Your Honor wants us to do that, then we're going to
25 need time to get all these people here.

1 THE COURT: Let me read it.

2 (Pause.)

3 MR. GRAHAM: Your Honor, if I can pass this case
4 up for your review.

5 THE COURT: Sure. That will be fine.

6 (Pause.)

7 THE COURT: I think what I was calling State
8 versus Valentine is State versus Sweet. I may have been
9 misquoting the case name.

10 (Pause.)

11 THE COURT: Mr. Stitely, I understand your
12 objection. I'm going to let the questioning continue.

13 As I understand the law, it's not necessary for
14 the State to account for every single hand-to-hand
15 transfer, but, you know, that the condition remains the
16 same from the time it was secured until the time it was
17 analyzed, I think that's what's required.

18 So understanding your objection, I do not think
19 that the State is required to bring in Ms. Brooks if they
20 can establish that the condition was sealed and
21 transferred.

22 MR. STITELY: That would be our problem.
23 Ms. Brooks is the one who seals it, or seals it with
24 Mr. Green, so she'd be the individual who is there at the
25 sealing. She had nothing to do with the sealing of the

1 evidence --

2 THE COURT: But Mr. Green's testified that he
3 was there when it was sealed because he initialed it,
4 right?

5 MR. STITELY: He said Ms. Brooks --

6 THE COURT: I mean, he was a party and he's
7 testified and -- I mean, Ms. Brooks would be nice to have,
8 I mean, "I watched Mr. Green initial the seal I made," but
9 is that really necessary if Mr. Green's initials are on
10 the heat seal -- I don't think Ms. Brooks is required.

11 MR. STITELY: Yes, sir, Your Honor.

12 THE COURT: So I'm going to allow the testimony
13 to continue, Mr. Graham.

14 MR. GRAHAM: Thank you, Your Honor.

15 BY MR. GRAHAM:

16 Q Ms. Brown, I believe that you left off with
17 Ms. Brooks moving it to a DNA evidence intake storage
18 location; is that correct?

19 A Yes.

20 Q Can you tell me what happens next on June 28 of '06?

21 A June 28, 2006, at 9:51 a.m., forensic technician
22 Emily D. Norris took custody of that case at that time.

23 Q And then what did she do with it?

24 A It stayed in her custody until June 30, 2006. At
25 11:54 a.m. she transferred it to a secure location within

1 the DNA Department labeled DNA-F10.

2 Q And then what happened on July 14th, 2006?

3 A July 14th, 2006, at 1:42, I transferred the evidence
4 from DNA-F10 to my custody because the case was going to
5 be assigned to a DNA analyst. So that's the procedure
6 that we get. And then I transferred it a minute later
7 within the electronic and physically put it in the DNA
8 refrigerator on the fourth floor, which is a secure
9 location within the DNA Department.

10 Q Okay. And it was being assigned to Lieutenant Robin
11 Taylor?

12 A Yes.

13 Q So let's talk about when you took possession of that
14 out of a DNA-F10, that's a DNA storage locker or
15 refrigerator, or what was it?

16 A It's in a locked box within a walk-in freezer.

17 Q Okay. So not everybody has access to it?

18 A Only DNA personnel.

19 Q So this bag right here ---

20 (A break was taken because of power failure.)

21 THE COURT: All right. We're ready to continue.

22 BY MR. GRAHAM:

23 Q Ms. Brown, I think we were looking at State's 49 for
24 identification. We talked about the contents and we
25 talked about the chain of custody.

1 When it came to you, can you describe the
2 condition of Container A which you referred to on the
3 label, which is State's No. 49 for ID?

4 A When I retrieved it out of DNA-F10, it was -- it had
5 never been opened at that time.

6 Q So it had been sealed at log-in by Rod Green in Carol
7 Brooks' presence like your records reflect?

8 A Yes.

9 Q And then it had been passed from storage location to
10 person and around until it came to you. When it came to
11 you, how do you know that it hadn't been opened?

12 A I can -- going by the people that's cut open and
13 heat-sealed it back, no one other than Lieutenant Robin
14 Taylor's initials is on the heat-sealed pouch.

15 Q Okay. And she actually -- that's after you came into
16 possession of it, wasn't it?

17 A Correct.

18 Q All right. So how do you know that nobody else cut
19 into that pouch? When I call that a tamper-resistant
20 or -- what do you-all call that bag? It's not just a
21 plastic bag, it's a special type of bag.

22 A It's a heat-sealed pouch.

23 Q What's the purpose of SLED using a heat-sealed pouch?

24 A To store evidence in. It's a way to keep the
25 evidence all together.

1 Q Is there any way to go into that bag and cut into it
2 and not have somebody know that you did it?

3 A No. It comes with both sides and the bottom already
4 heat-sealed from the vendor that we get it from, and it's
5 just one heat seal across when the evidence is put in it.

6 Q So when you're looking at it where Rod Green heat
7 sealed it at the top of the exhibit, you can see where the
8 plastic is basically melted together, right?

9 A Yes.

10 Q On the other three -- the other side, the other side
11 and the bottom, when you said it comes from the vendor,
12 it's a made plastic bag?

13 A Right. Both sides will look like this side.

14 Q So if somebody would have gone into that bag since
15 Rod Green had heat sealed it, would you have been able to
16 tell?

17 A Yes, because once I picked it up, if there was a cut
18 there, it's just like what happened here, the coin
19 envelopes would have all fell out.

20 Q And if somebody had -- if that bag was not in the
21 right condition, if it had been tampered with or messed
22 with since it had been sealed, would you have made a
23 notation about it?

24 A Yes, I would. And I also would have stopped there,
25 talked to the supervisor and let them know and it would

1 have been noted within the chain of custody.

2 Q And did you notice anything out of the ordinary? Was
3 that bag tampered with when it came to you?

4 A According to the notes, there was no other notes on
5 it, so it was -- had not been tampered with while it was
6 in other people's possession or container possession.

7 Q So you didn't go in the bag, did you?

8 A No, I did not.

9 Q You didn't change anything that was inside or
10 manipulate anything inside?

11 A No.

12 Q So when it left your possession, where did it go?

13 A Within the DNA Department, each analyst had a
14 container that evidence was assigned to them. It went
15 into Lieutenant Robin Taylor's container, where she could
16 pick up the evidence and start processing it.

17 Q So you got possession of that Container A,
18 State's 49, on July 14, 2006. On the same day, just a
19 minute later, you transferred it to the refrigerator
20 compartment for Lieutenant Taylor; is that correct?

21 A Correct.

22 Q And then who is the next person that retrieves it out
23 of that refrigerator container?

24 A Lieutenant Robin Taylor took custody of it on 7/17,
25 2006, at 1449.

1 Q Now, that's for Item 3, but it's really for the whole
2 container as you called it, right?

3 A Correct.

4 Q So that included SLED Items 4, 5, 6, 7, 8, 9, 10, and
5 11, all those items that we talked about that were in that
6 bag, right?

7 A Yes.

8 Q And that's the same chain of custody for each one of
9 those items because it was a bag as a whole that contained
10 each and every one of those items?

11 A Yes.

12 MR. GRAHAM: I believe that's all the questions
13 I have. Thank you, Ms. Brown.

14 MR. STITELY: No questions, Judge.

15 THE COURT: You may step down.

16 MR. GRAHAM: The State would call Jan Bryson.

17 JAN BRYSON, after being duly sworn, testified as
18 follows:

19 THE CLERK: Have a seat, please.

20 Once you're seated, state your full name on the
21 record, spelling your last, please.

22 THE WITNESS: My name is Janice Bryson,
23 B-r-y-s-o-n.

24 DIRECT EXAMINATION

25 BY MR. GRAHAM:

1 Q Ms. Bryson, where are you employed, ma'am?

2 A I'm employed by the South Carolina Law Enforcement
3 Division.

4 Q And what do you do there?

5 A I'm a forensic technician in the Evidence Processing
6 Department.

7 Q And how long have you worked with SLED?

8 A I've been at SLED 23 years.

9 Q You gave me your job title. Can you tell me what you
10 do?

11 A Whenever larger items of evidence are submitted to
12 the lab to process for hair, fiber, body fluids, it's my
13 responsibility to collect the evidence and make sure that
14 it's routed to the appropriate department.

15 Q And did you process evidence related to the West
16 Columbia case that we're here on, the State versus Kenneth
17 Lynch?

18 A Yes, sir, I did.

19 Q In general terms, what did you do?

20 Let me show you a box that is State's 198 and
21 ask if you recognize this box.

22 Do you recognize that?

23 A Yes, sir, I do.

24 Q And how do you recognize it?

25 A It has my initials, the date, and the SLED lab

1 number.

2 Q And what is that SLED lab number?

3 A It is L-06-9031.

4 Q And that's the same one that's on that box?

5 A Yes, sir, it is.

6 Q Is there a container number on that box?

7 A Yes, sir, it's Container C -- Container B, I'm sorry.

8 Q Container B. Now, Container B contained multiple
9 items; is that correct?

10 A That's correct.

11 Q What exactly -- how did Container B come in to SLED?

12 A It was sealed and it was submitted to our Evidence
13 Control Log-in Department.

14 Q Rod Green was the -- you know who Rod Green is?

15 A Yes, sir.

16 Q He was the crime scene person who worked that
17 apartment scene, collected evidence, and he testified that
18 he put a bunch of items in that bag, and he sealed it,
19 tamper-resistant tape, and he turned it in to Carol
20 Brooks?

21 A That's right.

22 Q You know who Carol Brooks is?

23 A Yes, sir.

24 Q Okay. Tell me what the chain of custody is for that
25 box until it gets to you.

1 A It was brought in by Rod Green. Carol Brooks logged
2 the evidence in, and I received -- she placed it into the
3 evidence intake storage, and I received it from the
4 evidence intake storage.

5 Q Okay. So it went from Rod Green, who had it taped
6 up, to Carol Brooks to an intake storage location and then
7 you got it from the intake storage location?

8 A Yes, sir.

9 Q What date you get it from the intake storage
10 location?

11 A July 17th of 2006.

12 Q When you got that box, was it properly sealed?

13 A Yes, sir.

14 Q Had anybody else cut into it?

15 A No, sir. I broke the seal.

16 Q How would you know if somebody had gone into it?

17 A When the evidence is brought in to SLED, it has
18 yellow crime scene tape on it, and it was intact when I
19 received the box.

20 Q So you cut into the box, and you broke the seal?

21 A Yes, sir.

22 Q Tell me what you found inside.

23 A I found Item 13, a section from carpet.

24 Do you want me to list all the items?

25 Q Well, let's just open it, and we'll talk about what

1 you found in there, and then we'll work our way through
2 it.

3 A Okay.

4 Q Let me show you -- so you said Item 13 was a section
5 of carpet?

6 A Yes, sir.

7 Q Let me show you State's 196 and ask if you recognize
8 that.

9 A Yes, sir. These are my initials, the SLED lab
10 number, the item number, and the day that I processed the
11 evidence.

12 Q So this is Item 13, SLED's No. 13, that was inside
13 that box and sealed?

14 A Yes, sir.

15 Q And it was a cutting of a carpet?

16 A Correct.

17 Q Now, this itself is in a paper bag, and that paper
18 bag was sealed inside that box as well, wasn't it?

19 A That's correct.

20 Q And that hadn't been tampered with either?

21 A That's correct.

22 Q You were talking about initials over here. Do you
23 recognize your handwriting?

24 A Yes, sir, that's my handwriting.

25 Q Where it says, "J.A.B."?

1 A "J.S.B."

2 Q "J.S.B." And it has Lab No. L-06-9031, which is this
3 case?

4 A That's correct.

5 Q And then it was Item 13.0, and you went in there on
6 7-17-06?

7 A That's correct.

8 Q Okay. In addition to the carpet, Item 13, what else
9 was in there?

10 A Item 14 was a flat sheet.

11 Q Let me show you State's 197 and ask if you recognize
12 this bag and its contents. And there's gloves, if you
13 want to look.

14 A Do you want me to open it?

15 Q Just if you would glance inside and make sure that
16 that's what you were looking at.

17 A Yes, sir, it appears to be.

18 Q And that was this bag which you labeled again, it has
19 your handwriting and your initials, the lab number, Item
20 14, and again, July 17, '06, on it in your handwriting?

21 A That's correct.

22 Q So it was a multi-colored sheet labeled from the
23 master bedroom; is that right?

24 A Item 14, it says, "A multi-colored sheet found in
25 green chair."

1 Q In the green chair.

2 And when you got Item 14 out of that box, it was
3 properly sealed by Agent Green, and no one had gone into
4 this box or gone into this bag except for you, right?

5 A That's correct.

6 Q In addition to the carpet and this multi-colored
7 sheet from the green chair was also several other items?

8 A Yes, sir. There was linen removed from the bed of
9 Cassandra L. [REDACTED]

10 Q Let me show you the rest of the contents of State's
11 198 and ask if you recognize these as being the other
12 items that are in there.

13 A Yes, sir. I recognize that it has the SLED lab
14 number, the item number, and the day that I processed the
15 evidence.

16 Q So if I understand what happened here, Agent Green
17 collected a bunch of items which he says is coming from
18 Angelica's room, and when you went in here, you itemized
19 it?

20 A That's correct.

21 Q Is that right? So you -- the one that you're
22 holding, in fact, is labeled 15.6. Is that your
23 handwriting?

24 A Yes, sir, it is.

25 Q And your initials, the lab number, and the date

1 again. The date on this is 7-18-06; is that correct?

2 A That's correct.

3 Q And what is this item which you have labeled 15.6?

4 A 15.6 is a comforter.

5 Q And then let me hand you another one and ask if you
6 recognize that bag and its contents.

7 A Yes, sir, I do.

8 Q Okay. And what is that one?

9 A Item 15.1 is a flat sheet.

10 Q Another item that has 15.4 on it.

11 A 15.4 is a fitted sheet.

12 Q And another one that's labeled 15.2, I believe, again
13 with your handwriting and initials?

14 A Yes, sir. Item 15.2 is a pillow case.

15 Q 15.3?

16 A 15.3 is a pillow sham.

17 Q And you recognize that again as your -- that item and
18 your handwriting?

19 A Yes, sir, I do.

20 Q And lastly, ma'am, 15.5?

21 A 15.5 is a comforter.

22 Q And again, Ms. Bryson, you recognize your
23 handwriting; this lab number; and the date, July 18th,
24 when you processed it?

25 A Yes, sir.

1 Q Starting with Item No. 13, which is the carpet
2 cutting that you identified related to this case, tell me
3 what you did with it. When you got it out, it was a big
4 square or rectangular piece of carpet?

5 A Correct.

6 Q What was your purpose in processing it? What were
7 you doing?

8 A The request was made by the submitting agency to look
9 for possible blood stains.

10 Q And how did you go about looking for blood stains on
11 that carpet?

12 A I do a visual of the item to see if there's any
13 stains that appear to be blood, and if I see an area, I
14 will do a chemical test, it's a phenolphthalein test, and
15 that will allow me to see a chemical color change if that
16 stain is potentially blood.

17 Q Phenolphthalein, that's what's called a presumptive
18 test, I think. What does that mean?

19 A It means that when I send the evidence upstairs, it's
20 a good indication that it is blood.

21 Q So tell me what you did with Item 13. You processed
22 it with phenolphthalein.

23 A That's correct.

24 Q What did you find?

25 A I took three cuttings that were positive for the

1 presumptive test of blood.

2 Q And how do you label those?

3 When you talk about a cutting, you have a big
4 rectangular piece of carpet which is Item 13. How do you
5 get cuttings out of it?

6 A Item 13 was the parent item, the section from the
7 carpet, so I cut -- took three cuttings, so it would be
8 13.1, 13.2, and 13.3.

9 Q So you tested different areas of that carpet with
10 phenolphthalein?

11 A Correct.

12 Q Were they things that you could visibly see? Did you
13 pick -- were there only three spots on there, or you
14 picked three random spots?

15 A Best I can remember, it must have been random. I
16 can't remember exactly what it looked like.

17 Q So you had three areas that tested positive, and you
18 cut out smaller areas. What's the purpose of you cutting
19 out the smaller areas?

20 A So I don't send the entire item to the DNA
21 Department.

22 Q So you ended up making, you said, I believe, three
23 sub-items, 13.1, 13.2, and 13.3, which were three --
24 separating the three cuttings that came from the bigger
25 piece of the carpet, right?

1 A Yes, sir, that's correct.

2 Q For Item No. 14, that was the flat sheet that was
3 found in the green chair, tell me what you did in
4 processing that sheet.

5 A The request was made to look for possible blood
6 stains, and so I used the phenolphthalein test, and I took
7 five cuttings that were positive for the presumptive test
8 of blood.

9 Q And how many did you take -- did you make cuttings
10 where they were positive?

11 A Yes, sir, I took five cuttings.

12 Q And so they were positive. You made five cuttings;
13 so I'm assuming those are going to be labeled 14.1, 14.2,
14 14.3, 14.4, and 14.5?

15 A Yes, sir, that's correct.

16 Q You sent them to DNA.

17 Looking at Item 15, which was the bed linens
18 from Angelica's room, you testified already that you
19 created, I believe, six sub-items; is that correct?

20 A That's correct.

21 Q Of those six sub-items, when you processed those, did
22 you find any areas of DNA interest where you made cuttings
23 out of any of those items?

24 A Yes, sir, I did.

25 Q And which item number did those come from?

1 A I took a cutting from 15.3, which was the pillow
2 sham, and I took a cutting from -- two cuttings from Item
3 15.6.

4 Q All right. So then I'm assuming from Item 15.3, the
5 pillow sham, you created a 15.3.1?

6 A That's correct.

7 Q And the other one you said was 15.6?

8 A Right.

9 Q And I believe that's the "101 Dalmatians" comforter?

10 A That's correct.

11 Q And you created two cuttings from that --

12 A That's correct, yes, sir.

13 Q -- is that correct? And that's what you labeled
14 15.6.1 and 15.6.2?

15 A Yes, sir.

16 Q All right. Ms. Bryson, let me show you another item
17 and ask if you recognize this item. And you may need to
18 go to the inside bag.

19 A Yes, sir. I can see my name on the inside of this
20 bag and the day that I sealed it.

21 Q Okay. So on the inside of the bag, you see the right
22 lab number for this case?

23 A Yes, sir.

24 Q And does it have a container number?

25 A That's correct.

1 Q So it came -- all these things came in a big box
2 which I think was Container B?

3 A Correct.

4 Q Once you created your sub-item, because you don't
5 want to send that big box up to the DNA analyst, you want
6 something that you can manage, correct?

7 A Right, uh-huh.

8 Q So you created Container C; is that correct?

9 A Correct.

10 Q So tell me what you put in Container C and how
11 everything in there -- how do you -- when you make a
12 cutting, all these cuttings that we talked about, what do
13 you do with them?

14 A When I created Container C, I take the cuttings that
15 I made like 13.1, 13.2, 13.3, I place the individual
16 cuttings in an individual coin envelope, seal and initial
17 and date them, and then I place all the cuttings that we
18 made into a heat-sealed pouch, seal and date, initial and
19 date it, and then I gave the heat-sealed pouch to Robin
20 Taylor in the DNA Department.

21 Q Okay. So all the items that we talked about, 13.1,
22 13.2, 13.3, 14.1, 14.2, 14.3, 14.4, 14.5, 15.3.1, and
23 15.6.1, and 15.6.2, all those cuttings are inside coin
24 envelopes inside the plastic bag that you've identified as
25 being Container C from SLED?

1 A Yes, sir, that's correct.

2 Q And you put each one of those in its own envelope and
3 labeled it --

4 A Correct.

5 Q -- and put it inside that Container C tamperproof
6 SLED bag with the lab number and the Container C notation
7 on it, and you heat sealed it and signed it?

8 A Yes, sir.

9 Q And then when it left your possession, it was just
10 the way you collected it?

11 A That's correct.

12 Q And you recognize that as being the item here in
13 front of you?

14 A Yes, sir, I do.

15 MR. GRAHAM: Your Honor, the State would offer
16 that into evidence at this time.

17 MR. STITELY: Your Honor, we're going to object
18 to the chain on that bag specifically. Just looking at
19 the forensic chain, it looks like it left SLED's custody
20 for a period of about five years.

21 THE COURT: Well, I mean --

22 MR. STITELY: Your Honor, we can clarify that,
23 but it definitely, according to her records, indicates it
24 went somewhere else in November of 2006, doesn't come back
25 to SLED until this year.

1 MR. GRAHAM: Your Honor, we'll offer it for ID
2 at this time, and when Lieutenant Taylor testifies, we'll
3 offer it into evidence at that time.

4 THE COURT: Very well. So it's offered for ID
5 purposes, numbered State's Exhibit 199, and that's
6 Container C, more or less; is that correct?

7 MR. GRAHAM: Yes, it's SLED Container C, Your
8 Honor.

9 THE COURT: I believe all the subparts have been
10 identified by her that was in this plastic bag, which is
11 State's Exhibit 199. All right.

12 (WHEREUPON, STATE'S Exhibit No. 199 was marked
13 for identification only.)

14 BY MR. GRAHAM:

15 Q Ms. Bryson, when you can -- when you created that --
16 -- I'm sorry -- Ms. Bryson, looking at State's 199 for
17 identification, when you created that bag that's inside
18 there with all those coin envelopes and you heat sealed
19 it, what did you do with that bag?

20 A I gave it to Robin Taylor in the DNA Department.

21 Q So you handed it to her?

22 A That's correct.

23 Q So it left your hands the way you collected it and
24 entered Lieutenant Taylor's hands exactly how you made
25 that bag?

1 A Yes, sir.

2 MR. GRAHAM: Your Honor, I believe that's all
3 the questions that I have for Ms. Bryson.

4 Thank you, ma'am.

5 CROSS-EXAMINATION

6 BY MR. STITELY:

7 Q Good morning, ma'am.

8 A Good morning.

9 Q I'm going to ask you a question about one specific
10 thing that we noted in one of these.

11 A Yes, sir.

12 Q Now, this box -- we don't have a jury, this is for
13 the judge's education, this was Item B on all the SLED
14 records, right, this whole box?

15 A Yes, sir.

16 Q I'm going to ask you specifically about 15.4. Do you
17 have your records what that one is?

18 A 15.4 is a fitted sheet.

19 Q Should there be anything else in these bags aside
20 from that?

21 A I keep the white paper that I process the item on.

22 Q Has anyone else, according to your sheets, had access
23 to these bags, any other agency?

24 A I don't know what happens to the evidence once it
25 leaves my custody.

1 Q I guess what we've been talking about, and you heard
2 me when I said something to the judge, at some point West
3 Columbia got all these items back, correct? They were
4 given to Investigator Bramlett and then they come back to
5 you guys a couple of years later?

6 A According to the chain of custody, yes, sir.

7 Q Things like this?

8 A That probably came from me. When I do a
9 phenolphthalein test, I use a swab. I swab the area that
10 appears to be blood, and if that swab turns positive, I
11 collect it and sent -- collect -- cut the item out and
12 send it to DNA for further testing, so that's probably a
13 broken piece of the swab that I used.

14 Q Okay. So that wouldn't have been something that
15 would have been with it at the time it was collected?

16 A No, sir.

17 Q I guess there's one other question. When you
18 check -- hang on -- when you checked Item No. 13, which
19 was a carpet cutting -- let's hold it up. I won't make
20 you touch it, you're not wearing gloves.

21 You run a different test, is what you're saying,
22 than this purple stuff here, correct?

23 A The test I do is the phenolphthalein test.

24 Q And that's just a presumptive test, that's not an
25 actual true indicated guess that there may be blood

1 present?

2 A Yes, sir, that's correct.

3 Q Did you test this entire item?

4 A No, sir, I only tested the items that -- the area
5 that appeared to be a possible blood stain.

6 Q Okay. But you said you don't remember if it was
7 something you visually saw or something you just sprayed?

8 A No, sir, I don't spray anything.

9 Q Okay. I guess you just - do you Q-tip it?

10 A Yes, sir. I use a sterile swab.

11 Q Okay. Well, we just asked the officer who made the
12 purple stain that said he sprays. I didn't know if you
13 sprayed or just hit it with it.

14 A No, sir, I don't spray.

15 Q Did you at all check the back to see if there was any
16 blood on the back?

17 A Yes, sir.

18 Q Okay. Did that test come back?

19 You didn't cut anything like specifically from
20 here, just these big three holes?

21 A That's correct.

22 Q And one other thing. Mr. Graham kept saying the
23 items that came from Angelica's room.

24 You, in fact, have no idea where any of these
25 items came from, just that they were in a box that you

1 received at SLED, correct?

2 A That's correct.

3 Q So you can't make any guesses as to who owned any
4 sheets or who was the one who touched them or anything
5 like that? All you could say is this came in to SLED in
6 this form?

7 A Right. Whatever is on my paperwork, that's what I go
8 by.

9 MR. STITELY: Thank you, ma'am. No further
10 questions.

11 MR. GRAHAM: No other questions, Your Honor. I
12 ask that she be excused.

13 THE COURT: You may step down.

14 MR. GRAHAM: The State would call Nicky Perry
15 Hughes.

16 NICKY PERRY HUGHES, after being duly sworn,
17 testified as follows:

18 THE CLERK: Have a seat, please.

19 Once you're seated, state your full name on the
20 record, spelling your last, please.

21 THE WITNESS: Nicky Perry Hughes, H-U-G-H-E-S.

22 DIRECT EXAMINATION

23 BY MR. GRAHAM:

24 Q Ms. Hughes, where are you employed, ma'am?

25 A I'm employed with the South Carolina Law Enforcement

1 Division, commonly known as SLED.

2 Q And how long have you worked for SLED?

3 A I've worked for SLED approximately six years.

4 Q And what have you done for SLED during your six years
5 there?

6 A I'm a forensic technician in the Evidence Control
7 Department. We log in, package, and transfer evidence
8 submitted to the lab for forensic analysis.

9 Q Let me show you what's been marked as State's 107 and
10 ask if you recognize this item.

11 A I do. This is evidence submitted for Lab
12 No. L-06-09031, and it's Item No. 65.

13 Q And are you aware what Item No. 65 is?

14 A According to our chain of custody, Item No. 65 is one
15 sealed heat-seal pouch containing a buccal swab, described
16 as buccal swab taken from right and left cheek of Kenneth
17 Lynch.

18 Q And can you tell what agency and what person brought
19 that item to SLED?

20 A I received that item from James Sullivan with the
21 West Columbia Police Department on January 19, 2011.

22 Q So you did. So you actually got that from his hands?

23 A I did.

24 Q Okay. Can you explain the log-in process and how
25 items are sealed?

- 1 A Sure. They're brought into the lab and sealed.
2 They're accompanied by a SLED forensic services request
3 form which details the case information. I will log that
4 into the computer and the computer will generate -- in
5 this case it was an additional item, so a lab number was
6 already generated. It would generate the next item
7 number. I will place that item in the heat-seal pouch,
8 and I will seal the heat-seal pouch and I will have the
9 submitting officer initial and date on the seal and sign
10 and date the front of the bag.
- 11 Q When you're placing it in the bag for the officer and
12 heat sealing it, are you doing that in a room somewhere
13 where they can't see you or are you with that officer?
- 14 A I'm in their presence; they're in my presence.
- 15 Q So until that bag is sealed, you don't take it out of
16 their presence; is that right?
- 17 A That's correct.
- 18 Q Okay. So you say you got that bag sealed with its
19 contents inside from Investigator Sullivan with the West
20 Columbia Police Department?
- 21 A I did.
- 22 Q Tell me what happens with it next.
- 23 A After the log-in process is complete, I will then
24 place the evidence in our DNA evidence intake storage, and
25 that is located in our locked evidence room.

1 Q Prior to you relinquishing custody of it, did you go
2 in that bag or do anything to change its contents or
3 manipulate the contents of the bag?

4 A I did not.

5 Q Once you place it in -- when did you place it into
6 the DNA intake storage?

7 A On January 19, 2011, at 12:40.

8 Q And then tell me what happens next to that item.

9 A Then on January 20, 2011, it appears that forensic
10 technician Patricia Crooks retrieved that piece of
11 evidence out of the DNA evidence intake storage. She
12 transferred it to DNA forensic technician Jennifer
13 Stainbrook.

14 Q Okay. Would either one of them have any reason to go
15 inside that bag?

16 A No.

17 Q Okay. And then what did Jennifer Stainbrook do with
18 the bag?

19 A According to the chain, Jennifer Stainbrook then
20 placed the evidence in the DNA storage drawer 12B in the
21 DNA Department.

22 Q What date was that done on?

23 A That was on January 20, 2011.

24 Q And what happened next?

25 A Then on February 26, 2011, Lieutenant Robin Taylor,

1 forensic scientist in the DNA Department; retrieved it
2 from the DNA storage drawer 12B.

3 Q So that is the -- everybody who handled the item from
4 the time that Investigator Sullivan let go of it from West
5 Columbia until Lieutenant Taylor had it in her hands?

6 A That is correct.

7 MR. GRAHAM: Thank you. And please answer any
8 questions the defense has, ma'am.

9 MR. STITELY: May I approach the witness, Your
10 Honor?

11 THE COURT: Sure.

12 MR. STITELY: I'm sorry, I forget to do that all
13 the time.

14 THE COURT: All right.

15 CROSS-EXAMINATION

16 BY MR. STITELY:

17 Q Do you have with you your evidence sheet? And you
18 said --

19 A The chain of custody?

20 Q Yes, ma'am.

21 When did this go to Lieutenant Taylor? I'm
22 sorry.

23 A It appears that she retrieved it out of the DNA
24 storage drawer on February 26, 2011.

25 Q Is that the only time that Lieutenant Taylor had this

1 item?

2 A According to my chain. I'm not sure. You would have
3 to ask Lieutenant Taylor, but according to my chain, yes.

4 MR. STITELY: One second, please, Your Honor.

5 (Pause.)

6 BY MR. STITELY:

7 Q Hold that for one second, ma'am. I'm sorry.

8 I guess your chain for this item, which is
9 State's No. 107, indicates that Lieutenant Taylor got it
10 on 2-26-11?

11 A Yes, out of the DNA storage drawer.

12 MR. STITELY: I have no other questions. Thank
13 you, ma'am.

14 THE COURT: Any redirect?

15 MR. GRAHAM: No, Your Honor.

16 THE COURT: You may step down.

17 THE WITNESS: All right. Thank you.

18 MR. GRAHAM: The State calls Lieutenant Robin
19 Taylor.

20 ROBIN TAYLOR, after being duly sworn, testified
21 as follows:

22 THE CLERK: Have a seat, please.

23 Once you're seated, speak up loud and clear.

24 State your full name, spelling your last for the record,
25 please.

1 THE WITNESS: My name is Robin A. Taylor,
2 T-A-Y-L-O-R.

3 DIRECT EXAMINATION

4 BY MR. GRAHAM:

5 Q It's Lieutenant Taylor; is that correct?

6 A Yes, it is.

7 Q Lieutenant, where are you employed, ma'am?

8 A I work for South Carolina Law Enforcement Division.

9 Q And how long have you been employed with SLED?

10 A March was 22 years.

11 Q And in your 22 years at SLED, what have you done?

12 A Well, I began at SLED, working there in March of 1990
13 as a forensic serologist, and then a few years later I was
14 trained as a forensic DNA analyst doing RFLP technology
15 and worked on the bench, continued to work on the bench,
16 and then was trained in PCR DNA technology.

17 And in 2006, I was promoted to the position of
18 team leader and supervised a portion of the DNA
19 Department.

20 And then in 2008, I was promoted and now
21 supervise the entire DNA section.

22 Q What is your educational background?

23 A I have a Bachelor of Science degree in medical
24 technology from the University of South Carolina. I
25 graduated from Baptist Medical Center School of Medical

1 Technology here in Columbia. And I worked in clinical
2 laboratories for approximately two and a half years prior
3 to joining SLED. And again, I've been at SLED since 1990.

4 Q How long have you been in the field of DNA?

5 A Basically my entire career. I was formally trained
6 in DNA in the mid-90s.

7 Q In addition to your training at SLED, do you have any
8 experience or educational experience outside of SLED in
9 regards to the DNA field?

10 A Well, we're required to have continuing education
11 every year, so I've met all of those requirements and
12 attended a DNA course at the FBI. That was a
13 graduate-level course in molecular biology. Again, just
14 various continuing education and courses throughout the
15 years.

16 Q And have you ever -- how many DNA analyses do you
17 think you've performed, analysis and comparison?

18 A Thousands. I don't know any closer than that. Quite
19 a few.

20 Q How many times have you been qualified as an expert
21 in South Carolina and testified on DNA analysis and
22 comparison?

23 A Around 90 times. Seventy-five in DNA in particular,
24 around 90 times if you include the forensic serology
25 discipline as well.

1 MR. GRAHAM: Your Honor, the State would offer
2 Lieutenant Robin Taylor as an expert in the field of DNA
3 analysis and comparison.

4 MR. MCGUIRE: No objection.

5 THE COURT: Ms. Taylor's qualified as an expert
6 in the field of DNA analysis and comparison.

7 MR. MCGUIRE: Although, Your Honor, I should
8 bring to the Court's attention that we would have an
9 objection that would be in line with the pretrial motion
10 in limine regarding testimony concerning the 101
11 Dalmatians blanket.

12 THE COURT: Remind me of that objection.
13 Outline your objection one more time just so the record is
14 clear.

15 MR. MCGUIRE: Yes, Your Honor.

16 The expected testimony from Ms. Taylor -- and
17 our good faith basis for expecting it would be the
18 Schmerber hearings that we've already had -- would be that
19 she would testify that there's a semen stain on the 101
20 Dalmatians comforter, that the DNA profile recovered from
21 that stain matches the DNA profile of the known standard
22 from Mr. Kenneth Lynch, and that at least a portion of
23 that semen stain contained a female fraction -- we're a
24 little unclear on what her testimony might be on that --
25 but that our objection would be relevance, a 403 objection

1 in that given the nature of the blanket, where it's found,
2 the nature of the stain would give rise to a dangerous
3 unfair and undue prejudice. That the probative value is
4 minimal, if any, because of the -- regarding the history
5 of the blanket, we haven't had any testimony indicating
6 that this blanket never left the room, how often it was
7 washed, when it was purchased.

8 This stuff is very hardy, lasts a long, long
9 time, and in that the danger of unfair prejudice is so
10 great and the probative value so low, while generally that
11 would be a state law issue, a rule of evidence issue, it
12 would be a due process violation regarding the 14th
13 Amendment because the danger is just so great, the unfair
14 prejudice, and also it invokes a Rule 404(b) analysis
15 where the implication is some sort of prior bad act which
16 would have to be proven by clear and convincing evidence,
17 which is wholly lacking at this point.

18 THE COURT: All right.

19 MR. GRAHAM: Your Honor, if I may.

20 THE COURT: Yes, sir.

21 MR. GRAHAM: It was not -- I wasn't going to
22 offer those into evidence. We were going to proffer the
23 testimony at the time of the objection.

24 There's been references throughout the trial by
25 the defense on the subject of third-party guilt, and so we

1 wanted there to at least be a record outside, I guess, in
2 hearing mode that there wasn't going to be in -- I mean,
3 we're talking about, that it was not unidentified and it,
4 in fact, was Mr. Lynch. If we don't need to go into that
5 in hearing mode, that's fine, but we were not planning on
6 offering it in our case-in-chief.

7 THE COURT: All right. If you don't plan on
8 offering it, then the record's noted your objection and so
9 we don't need to address it is the way I would understand
10 your intent to move forward.

11 MR. GRAHAM: It was my intent to not offer what
12 he's objecting to into evidence, but -- in the
13 case-in-chief, but to actually proffer the testimony in
14 hearing mode so there would be testimony on it.

15 THE COURT: All right. Well, we can do that.

16 So I'll let you continue forward. We're still
17 in trial mode. When we get to that point of proffer, if
18 you'd like to, we'll let you proffer that testimony.

19 MR. GRAHAM: Thank you, Your Honor.

20 BY MR. GRAHAM:

21 Q Lieutenant Taylor, were you assigned to do the DNA
22 analysis for L-06-09031, the DNA work involving the State
23 versus Kenneth Lynch?

24 A Yes, I was.

25 Q And part of that, did you collect known standards in