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SC SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Honorable Clifton Newman, Circuit Court Judge

Case No. 2010-CP-24-0259

CHARLES N. VANDROSS *Petitioner,*
v.
STATE OF SOUTH CAROLINA *Respondent.*

**APPENDIX
VOLUME I OF V**

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INDEX

TRIAL TRANSCRIPT (June 19-21, 2006).....	1
FINAL BRIEF OF APPELLANT.	635
<i>STATE v. VANDROSS</i> , UNPUBLISHED OP. NO. 2009-UP-192 (May 5, 2009).....	646
APPLICATION FOR POST-CONVICTION RELIEF.....	674
STATE’S RETURN.....	681
PCR HEARING TRANSCRIPT (March 13, 2013).....	688
APPLICANT’S TRIAL BRIEF.....	842
APPLICANT’S RULE 15(b) & (c) MOTION.....	854
LETTER FROM DAVID BELDING, ESQ. (November 19, 2013).	1151
LETTER FROM J. RUTLEDGE JOHNSON (November 8, 2013).	1152
RATIFICATION OF APPLICANT’S RULE 15 (b) & (c) MOTION.....	1153
ORDER OF DISMISSAL.	1154
NOTICE OF APPEAL.....	1169
TRIAL TRANSCRIPT (January 18-10, 2006).	1170
TRIAL TRANSCRIPT (May 1-4, 2006).....	1815
MOTION TO RELIEVE COUNSEL HEARING (October 29, 2013).	1899
STATE’S EXHIBITS 34 and 37- BIBLE PHOTOGRAPHS.	1926

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS
2004-GS-24-1147

STATE OF SOUTH CAROLINA,)
)
-vs-)
)
CHARLES NEMON VANDROSS,)
)
Defendant.)

June 19-21, 2006

B E F O R E:

HONORABLE WYATT T. SAUNDERS.

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VOLUME I of III
June 19, 2006

I-N-D-E-X

WITNESS:

PAGE:

JoAnn Suber Wilson

Direct Examination by MR. Peace	94
Proffer by Mr. Sheek	191
Proffer by Mr. Peace	194
Cross Examination by Mr. Sheek	202
Redirect Examination by Mr. Peace	262
Recross Examination by Mr. Sheek	270

Chris Hammett

Direct Examination by Mr. Peace	275
Cross Examination by Mr. Sheek	287

Dahad Raheim Suber

Direct Examination by Mr. Peace	291
Cross Examination by Mr. Sheek	297
Redirect Examination by Mr. Peace	303

Tony Davis

Direct Examination by Mr. Peace	306
Cross Examination by Mr. Sheek	309
Redirect Examination by Mr. Peace	317

James Alton Boggs, Jr.

Direct Examination by Mr. Peace	320
Cross Examination by Mr. Sheek	332

Jan Owens

Direct Examination by Mr. Peace	335
Cross Examination by Mr. Sheek	345
Redirect Examination by Mr. Peace	350

1	WITNESS:	PAGE:
2	Loretta Benson	
3	Direct Examination by Mr. Peace	355
4	Sherry McCauley	
5	Direct Examination by Mr. Peace	358
6	Cross Examination by Mr. Sheek	364
7	Redirect Examination by Mr. Peace	367
8	Recross Examination by Mr. Sheek	369
9	Marcus Todd Cromer	
10	Direct Examination by Mr. Peace	370
11	Cross Examination by Mr. Sheek	377
12	Eric Inks	
13	Direct Examination by Mr. Peace	380
14	Cross Examination by Mr. Sheek	404
15	Dr. Joel Sexton	
16	Direct Examination by Mr. Peace	418
17	Cross Examination by Mr. Sheek	434
18	Connie Moody	
19	Direct Examination by Mr. Peace	442
20	Cross Examination by Mr. Sheek	445
21	Ronnie Perry	
22	Direct Examination by Mr. Peace	447
23	Cross Examination by Mr. Sheek	453
24		
25		

1	WITNESS:	PAGE:
2	Adrienne Riley	
3	Direct Examination by Mr. Peace	456
4	Cross Examination by Mr. Sheek	463
5	Redirect Examination by Mr. Peace	468
6	Tracy Thrower	
7	Direct Examination by Mr. Peace	477
8	Cross Examination by Mr. Sheek	487
9	Redirect Examination by Mr. Peace	491
10	Jennifer Stoner	
11	Direct Examination by Mr. Peace	494
12	Cross Examination by Mr. Sheek	510
13	Redirect Examination by Mr. Peace	519
14	Recross Examination by Mr. Sheek	520
15	Jury Voir Dire	14
16	Jury Selection	40
17	Defense Motion for Directed Verdict	523
18	Closing Argument by Mr. Peace	531
19	Closing Argument by Mr. Sheek	562
20	Jury Charge	592
21	Jury Verdict	624
22	Sentencing	627
23		
24		
25		

E-X-H-I-B-I-T-S

STATE'S EXHIBITS:

PAGE:

1	No. 1	(Bursa Firearm)	285
2	No. 2	(Photograph)	178
3	No. 3	(Photograph)	163
4	No. 4	(Photograph)	131
5	No. 5	(Photograph)	135
6	No. 6	(Photograph)	138
7	No. 7	(Photograph)	139
8	No. 8	(Photograph)	136
9	No. 9	(Photograph)	139
10	No. 10	(Photograph)	150
11	No. 11	(Photograph)	151
12	No. 12	(Photograph)	152
13	No. 13	(Photograph)	328
14	No. 14	(Photograph)	327
15	No. 15	(Photograph)	285
16	No. 16	(Diagram)	147
17	No. 17	(Aerial Photograph)	125
18	No. 20	(Photograph)	375
19	No. 21	(Photograph)	375
20	No. 22	(Photograph)	375
21	No. 23	(Photograph)	402
22	No. 24	(Photograph)	375
23	No. 25	(Photograph)	375
24	No. 26	(Firearm Transaction Record)	451
25	No. 27	(Firearm Purchase Application)	451
26	No. 28	(Photograph)	382
27	No. 29	(Photograph)	384
28	No. 30	(Photograph)	384
29	No. 31	(Photograph)	385
30	No. 32	(Photograph)	385
31	No. 33	(Photograph)	392
32	No. 34	(Photograph)	392
33	No. 35	(Photograph)	392
34	No. 36	(Photograph)	392
35	No. 37	(Photograph)	392
36	No. 38	(Photograph)	392
37	No. 39	(Bullet Fragment)	396
38	No. 40	(Shell Casing)	394
39	No. 41	(Duct Tape)	397
40	No. 42	(Duct Tape)	398
41	No. 43	(Duct Tape)	399
42	No. 44	(Photograph)	181
43	No. 49	(Photograph)	165
44	No. 50	(Keys)	285
45	No. 51	(Pants)	401

1	STATE'S EXHIBIT:	PAGE:
2	No. 52 (Shirt)	400
	No. 56 (911 Audio Tape)	176
3	No. 57 (Photograph)	330
	No. 58 (Swabs)	403
4	No. 59 (Shirt)	476
	No. 60 (Cell Phone Record)	267
5	No. 61 (Photograph)	431
	No. 62 (Photograph)	415
6	No. 63 (Photograph)	415
7		
8	Court Exhibit No. 1 (Jury Note)	183
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P-R-O-C-E-E-D-I-N-G-S

(Convened at 10:20 a.m., June 19, 2006)

(Jury roll call and qualification).

THE COURT: Ladies and gentlemen, some general guidelines for your service as jurors during this week. Please do not bring any beepers or cell phones into the courtroom. It is important that you understand at this trial if a beeper or cell phone were to alert now it wouldn't be a disaster and the Court wouldn't sanction you but when the trial commences and you are involved in the trial you will see that a witness is testifying here in response to questions on direct examination, that the person directly examining that witness has made extensive preparations to examine the witness so as not to waste your time as jurors, the witness is thinking at a high level of concentration on how to answer the question truthfully and the person about to cross-examine that witness has also done some preliminary serious inquiries into how to cross-examine that witness and is making notes.

Once the question is asked, let's assume that a cell phone goes off. Well, the witness then has an opportunity or is confused, number one, or has

1 an opportunity to consider how they wish to answer
2 the question, which opportunity would not have been
3 available to them if the cell phone hadn't gone off
4 and interrupted the proceedings. The person who
5 posed the question may have forgotten exactly how
6 the question was asked. The person who is about to
7 cross-examine the witness may have lost their train
8 of concentration and forgotten exactly how they
9 were going to examine the person on
10 cross-examination.

11 That is why your Chief Justice has issued a
12 stern order against bringing into the courtroom any
13 cell phone, beeper or noise device of any sort.
14 Her order is on the courthouse door, I believe it
15 is still out there, is it not, Mr. Riddle? If
16 anyone cares to you may read it. Your Chief
17 Justice has issued her order and she expects you
18 not to bring those things into the courtroom.

19 Now, if you just absolutely must bring them
20 into the courtroom discuss that with the bailiff
21 and be certain that the device is on moot or on a
22 status that it will not make any noise nor disturb
23 the proceedings. That is important. The best
24 policy is not to bring it into the courtroom and
25 leave it in your vehicle.

1 You have become special persons, as you are a
2 member of the venire. The venire is composed of
3 all of you who have the potential of being trial
4 jurors. Please do not have any interaction with
5 strangers. The stranger may have an interest in
6 one side or the other of the case and that
7 interaction may be observed by someone who has an
8 interest in the other side of the case. You will
9 have just been compromised in your ability, in the
10 eyes of the person involved, in your ability to be
11 fair and impartial to both sides. It's important
12 that anyone who takes a seat in this jury box be
13 fair and impartial to both side of the issue. Even
14 innocent conversations are easily misunderstood and
15 misconstrued.

16 Please be here on time. We'll tell you what
17 time to be here and we'll try to utilize your time
18 effectively. If an emergency occurs at work please
19 do not call the call-in number but call the Clerk
20 of Court's number. Both of those numbers appear on
21 the juror information card or pamphlet which you
22 have. You should secure that card in your purse or
23 pocket, on your person until the end of this term
24 of court because if you are instructed to call in
25 you will call the call-in number and if some

1 inadvertent or unexpected emergency occurs that
2 causes you to be late and we expect you, please
3 call the Clerk of Court's number and get a real
4 person. The worst of all situations is to be ready
5 to go forward and have all the jurors in the jury
6 room ready to work except for one whose presence is
7 expected but whose whereabouts is unknown. Now, we
8 don't know what to do in that situation, so please
9 use every measure available to you if you are
10 delayed by some reason that you can't help we'll

~~11 understand that but let us know so we will know~~
12 when to expect you. We won't make a problem out of
13 it, we won't make it any trouble for you but please
14 let us know that you have had some incident or
15 circumstance and you are running late.

16 If you are selected as a trial juror you will
17 not, the best policy is don't stop nor tary nor
18 wait nor run into any strangers or answer any
19 questions but come directly from your mode of
20 transportation, your automobile or wherever you may
21 be let out of a car in front of the courthouse, and
22 go directly into the jury room which is behind
23 where Mr. Bolton is standing. Now, your Clerk will
24 have provided for you some light refreshments
25 there. That will also give you a chance to visit

1 with each other and relax a few minutes before we
2 go to work. So, don't speak with anybody unless
3 you know them to be fellow jurors or members of the
4 venire if we're gathering as a venire. It's very
5 important that you remain insulated from any
6 possible influence upon your thinking as a fair and
7 impartial juror.

8 From time to time if you are a trial juror, I
9 may as well tell you now that you may hear one side
10 or the other ask that the jury be excused to take
11 up a matter outside your presence. Ladies and
12 gentlemen, that is a common, ordinary motion and
13 there is no effort by the attorney making that
14 motion to secret or keep anything from the jury.
15 This is the only place where our court reporter has
16 the wherewithal to make the record and the
17 attorneys can speak to the record about a matter of
18 procedure or a matter of evidence. It's the only
19 place where the Court can hear them before such
20 matters may fall upon your ears or before your
21 eyes. So, don't hold it against the attorney or
22 his or her client who may make such a motion.
23 There is no effort to keep anything from the jury.
24 On the contrary, every effort is made to provide
25 the jury with all of the facts in every case, as

1 that is the job of the jury, to find the facts in
2 the case. But it does happen and you should know
3 that it's not unusual and it's a break for you. It
4 gives you you an opportunity to relax for a few
5 minutes and to relax your mind, as jury work is
6 mental work, as any of you who are selected to be
7 on the jury shall soon learn, jury work is mental
8 work and it's hard work. But don't hold such a
9 motion against the attorney who may make it or the
10 client of that attorney.

11 ~~-----~~ We will operate court from about 9:30 in the
12 morning until about 1:00 o'clock in the afternoon.
13 We'll come back into session at about 2:30 and
14 we'll operate court until about 5:30 in the
15 afternoon. Now, all of these estimated hours,
16 excuse me, all these estimated hours are because we
17 don't know precisely when we will take a luncheon
18 because we may have a witness who ends early and we
19 don't have a short witness to run up until
20 lunchtime. We may have a witness who is testifying
21 on the stand and whose testimony is expected to end
22 shortly after the lunch period, let's say 1:15 or
23 1:20, in which case we'll try to go over, we will
24 go over so that the trial jury will hear that
25 witness' testimony all at once without breaking it

1 up. Sometimes we do break up a witness' testimony,
2 particularly between direct exam and cross exam,
3 but we try not to do that if we possibly can.

4 But we'll start at 9:30, we'll run until
5 about 1:00, we'll come back into session about 2:30
6 and we'll run until about 5:30. But again those
7 are estimated hours. We'll try to keep with them
8 as closely as we can.

9 Your Clerk of Court, Miss Moon, who is not
10 here, has established a juror call-in system for
11 you. That's why it's important that you maintain
12 securely the juror information pamphlet that you
13 have. It has the call-in number and it has the
14 Clerk of Court's number. Please secure it because
15 if you are asked to call in you will have to know
16 what that number is, so don't lose it. If you
17 don't have one ask someone at the door before you
18 leave the building.

19 Now, we do intend to select a jury, we intend
20 to select a jury for the first case for trial this
21 week but we will give you an opportunity to relax
22 and stretch your legs. The restrooms are on this
23 floor and also on the first floor. You may go
24 outside the building but don't go far, stay within
25 call of the bailiff's voice. We will take about a

1 ten minute recess. We'll be in recess about ten
2 minutes. Thank you.

3 (Recessed at 11:21 a.m.).

4 (Reconvened at 11:39 a.m.).

5 THE COURT: Solicitor.

6 MR. PEACE: Thank you Your Honor. If it
7 please the Court, the State calls indictment
8 04-GS-24-1187, State versus Charles Nemon Vandross,
9 Mr. Vandross is charged with burglary in the first
10 degree, murder, kidnapping and possession of a
11 firearm during the commission of a violent crime.

12 THE COURT: Mr. Vandross, if you will stand,
13 please.

14 How do you plead to burglary, murder,
15 kidnapping, possession of a firearm or knife during
16 the commission of a violent crime?

17 JUROR: Not guilty, Your Honor, to all
18 charges, Your Honor.

19 THE COURT: Thank you. Be seated.

20 Ladies and gentlemen, we are preparing to try
21 the case of the State of South Carolina versus
22 Charles Nemon Vandross in indictment
23 2004-GS-24-1187.

24 Now, jurors in this and every case must be
25 absolutely fair and impartial to the people of the

1 State of South Carolina and to the defendant
2 Charles Nemon Vandross.

3 Is that the correct pronounciation?

4 MR. VANDROSE: Yes, it is, Your Honor.

5 THE COURT: To that end it is necessary to
6 determine if any member of the jury venire has
7 heard anything or knows anything about this case
8 and whether if any such knowledge were to exist it
9 in any way would affect any juror's ability to be
10 absolutely fair and impartial to the people of the
11 State of South Carolina and to the defendant
12 Charles Nemon Vandross.

13 Now, this is an indictment. It is no proof
14 anyone has done anything against the law. It is
15 simply a charging paper that brings the matter
16 before this Court for disposition. It vests the
17 Court with jurisdiction to determine the guilty or
18 innocence of the defendant here on trial. It under
19 no circumstances at anytime should be considered as
20 evidence, as it is not evidence.

21 This indictment alleges that Charles Nemon
22 Vandross did in Greenwood County on or about the
23 4th day of November, 2004, willfully and unlawfully
24 enter a dwelling without consent and with the
25 intent to commit a crime therein, when in effecting

1 entry or while in immediate flight therefrom he or
2 another participant in the crime was armed with a
3 deadly weapon or explosive or caused physical
4 injury to a person who was not a participant in the
5 crime or used or threatened the use of a dangerous
6 instrument or displayed what was or appeared to be
7 a knife, pistol, revolver, rifle, shotgun, machine
8 gun or other firearm, or the entering or remaining
9 occurred in the nighttime, said dwelling being
10 owned by JoAnn Wilson and occupied by the same said
11 JoAnn Wilson and Sanford Best, in violation of the
12 laws of the State of South Carolina.

13 That's Count One.

14 Count Two charges that Charles Nemon Vandross
15 did in Greenwood County, state aforesaid, on or
16 about the 4th of November, 2004, wilfully,
17 feloniously and with malice aforethought kill one
18 Sanford Best by means of shooting and that the said
19 Sanford Best did die in Greenwood County as a
20 proximate result thereof on or about the 4th day of
21 November, 2004; in violation of the laws of the
22 State of South Carolina.

23 Count Three states that Charles Nemon
24 Vandross did in Greenwood County, South Carolina on
25 or about the 4th day of November, 2004, willfully

1 and unlawfully and with criminal intent seize,
2 confine, embagle, decoy, kidnap, abduct or carry
3 away JoAnn Wilson without authority of law, being
4 in violation of the laws of the State of South
5 Carolina.

6 Count Four charges that -- strike that.
7 Count Four charges that Charles Nemon Vandross did
8 in Greenwood County, South CAROLINA on or about the
9 4th day of November, 2004, possess a firearm or
10 visibly displayed what appeared to be a firearm or
11 visibly displayed a knife during the commission of
12 a violent offense, being the crime of burglary,
13 first degree, and/or murder, and/or kidnapping or
14 any lesser included violent offense, said offense
15 being defined as an offense in Section 16-1-60 of
16 the Code of Laws of the State of South Carolina, in
17 that said defendant was convicted of committing or
18 attempting to commit the said violent crime, first
19 degree burglary and/or murder and/or kidnapping
20 and/or any lesser included violent offense, in
21 violation of the laws of the State of South
22 Carolina.

23 Now, these things are shared with you and
24 told you to determine if any member of the jury
25 venire has heard anything or knows anything about

1 this case. If there is any of you whom having
2 heard these allegations of the indictment, which is
3 not evidence, and none of these statements are
4 evidence, if you think that you have heard anything
5 or if you know that you have heard anything or know
6 that you know anything or have some knowledge of
7 these alleged facts please stand.

8 JUROR: The newspaper.

9 JUROR: Yes, Index Journal.

10 THE COURT: All right, let's slow down just a
11 minute. Just remain standing. Say your name and
12 juror number, please, ma'am?

13 JUROR: Celeste Hill, 56.

14 THE COURT: And how do you respond?

15 JUROR: I followed the case in the Index
16 Journal.

17 THE COURT: All right, thank you. Remain
18 standing, please, just for a moment.

19 Your name and number, please?

20 JUROR: Todd Harmon, 52, and I have just read
21 one article on it, on Charles Vandross, that's it.

22 THE COURT: All right, sir, remain standing,
23 if you will, please.

24 And the lady right over there?

25 JUROR: Helen Curry, 27. I just read one

1 article in the Index Journal.

2 THE COURT: Thank you.

3 The gentleman in the very back?

4 JUROR: Charlie Welton, 138, I'm a case
5 manager at Emerald High School and I think one of
6 the kids went to school there and the school
7 provided assistance.

8 THE COURT: All right, sir, thank you.
9 Remain standing.

10 Yes, ma'am?

11 JUROR: Lashon Murphy, 83. I read it in the
12 Index Journal, my mother went to church with her,
13 and my uncle is on the sheriff's patrol.

14 THE COURT: Say that again a little louder.

15 JUROR: My uncle is with the sheriff's
16 patrol.

17 THE COURT: Your mother --

18 JUROR: Went to church with her, been going
19 to church with her.

20 THE COURT: A member of the church with Mr.
21 Vandross?

22 JUROR: No, Miss Wilson.

23 THE COURT: Thank you.

24 Yes, the gentleman behind her?

25 JUROR: Number 45, Heyward Goldman. I just

1 read one article in the Index Journal.

2 THE COURT: Thank you.

3 Now, as to the five of you who have responded
4 in the ways that you have responded that you have
5 certain knowledge coming from various sources
6 concerning the allegations of the indictment, which
7 is not evidence, would the things that you know in
8 the way that you have expressed your knowledge of
9 them in any way affect or impair your ability to be
10 fair and impartial both to the people of the State
11 of South Carolina and to the defendant Charles
12 Nemon Vandross were you to be selected as a trial
13 juror in this case? If you feel that your ability
14 to be fair and impartial would be impaired at all
15 please raise your hand.

16 These two jurors will be removed from the
17 box. There will be no need for you to respond,
18 either of you to respond again. Thank you very
19 much. Be seated.

20 Did you get the names, Madam Clerk?

21 THE COURT: The gentleman at the back, your
22 name and number again, please?

23 JUROR: 138, Charlie Welford.

24 THE COURT: Thank you, sir. Be seated.

25 Ladies and gentlemen, the State of South

1 Carolina is represented by Solicitor Jerry Peace
2 who stands and introduces himself.

3 MR. PEACE: Thank you, Your Honor. It's my
4 honor and privilege to be the Solicitor of the
5 Eighth Circuit and I will be presenting the case on
6 behalf of the State.

7 THE COURT: Is there any member of the jury
8 venire who is related by blood or marriage to or in
9 any way acquainted with Jerry Peace? If so, please
10 stand, even if you know or think you know Solicitor
11 Peace, please let it be known by standing.

12 There are no responses.

13 Is there any member of the jury venire who
14 has ever been represented by the Solicitor's office
15 of the Eighth Judicial Circuit in any manner
16 whatsoever? If so, please stand.

17 Is there any member of the jury venire who
18 knows or think you know anyone who is now or
19 formerly associated with the Solicitor's office of
20 the Eighth Judicial Circuit in any fashion or
21 manner whatsoever, such as an attorney,
22 investigator, a clerk, paralegal, office worker or
23 anything whatsoever? If you in any way have been
24 knowledgeable of anyone who works with the
25 Solicitor's office please stand.

1 You need not reply, sir. Thank you.

2 Anyone else?

3 Your name and number, please, madam?

4 JUROR: Patricia Clark, number 22.

5 THE COURT: And how do you respond?

6 JUROR: My daughter-in-law is an attorney for
7 Mr. Peace.

8 THE COURT: That's a proper response. Thank
9 you.

10 Yes, madam?

11 JUROR: Helen Fisher, number 37. I have met
12 Dusty Strickland one time.

13 THE COURT: I'm sorry, I didn't hear the last
14 part?

15 JUROR: I have met Dusty Strickland one time.

16 THE COURT: Remain standing, please.

17 Yes, sir?

18 JUROR: 120, Mike Stewart. I grew up with
19 Mr. Strickland.

20 THE COURT: All right. Mr. Strickland --
21 this is Dusty Strickland, known as Dusty
22 Strickland. Stand up, Mr. Strickland, since this
23 juror number 120 has responded. Mr. Strickland is
24 an investigator with the Solicitor's office. Is
25 anyone related by blood or marriage to or in any

1 way acquainted with Mr. Strickland? If so, please
2 stand.

3 All right. We will go over those who have
4 not yet responded.

5 Yes, sir, your name and number?

6 JUROR: I'm juror number 3, my name is Carl
7 Arnold. I just know Dusty.

8 THE COURT: You know him?

9 JUROR: Yes.

10 THE COURT: All right. The lady on the
11 extreme right?

12 JUROR: Deborah Manning, number 71. I went
13 to school with Dusty.

14 THE COURT: Thank you. Proper response.
15 Remain standing.

16 Yes sir, in the back?

17 JUROR: Heyward Goldman, number 45. I went
18 to school with Dusty.

19 THE COURT: Thank you.

20 The lady in the white blouse?

21 JUROR: Number 80, Alexandria Morin. I also
22 went to school with Dusty's son several years ago,
23 about fifteen years ago.

24 THE COURT: All right.

25 Yes, ma'am?

1 JUROR: Jennifer Bullock, number 14. I'm
2 close friends with the family, I go to church with
3 them.

4 THE COURT: I'm sorry?

5 JUROR: Dusty Strickland is a close friend of
6 the family's and I went to church with him.

7 THE COURT: Thank you.

8 As to all of you who have stood in response
9 to the question of your various associations with
10 the Solicitor's office of the Eighth Judicial
11 Circuit --

12 THE CLERK: We have one more that stood up in
13 the back.

14 THE COURT: I'm sorry, I couldn't see you.
15 Yes, madam, your response? Your name and number?

16 JUROR: Linda Goldman, number 46. I also go
17 church with Dusty's son.

18 THE COURT: Thank you. That is a proper
19 response.

20 As to all of you who have stood and stated
21 that you have some relationship with the
22 Solicitor's office of the Eighth Judicial Circuit.
23 and/or an employee of that office, as the case may
24 be, in the ways that you have responded, would
25 those associations and/or knowledge of the

1 Solicitor's office in any way affect your ability
2 to be fair and impartial absolutely to the people
3 of the state of South Carolina and to the defendant
4 Charles Nemon Vandross? If you feel that your
5 ability to be fair and impartial would be impaired
6 at all please raise your hand.

7 There is no response. Thank you, be seated,
8 please.

9 Ladies and gentlemen, the defendant is
10 Charles Nemon Vandross who will please stand and
11 introduce himself to the jury.

12 Mr. Vandross stands to your right.

13 Thank you, sir.

14 Is there any member of the jury venire who is
15 related by blood or marriage to or in any way
16 acquainted, to whatever degree or extent or manner,
17 to Charles Nemon Vandross or any of his family
18 members of whom you may be aware? If so, please
19 stand.

20 There are no responses.

21 Mr. Vandross is represented by Lance Sheek.
22 Mr. Sheek stands and introduces himself to you, on
23 your extreme right.

24 MR. SHEEK: Thank you. Good morning, I'm
25 Lance Sheek, I practice law here in Greenwood with

1 the Sheek Law Firm and I represent Charles
2 Vandross.

3 THE COURT: Thank you, sir.

4 Is there any member of the jury venire who is
5 related by blood or marriage or in any way
6 acquainted with Lance Sheek, regardless of what
7 extent, degree or in what manner, please stand.

8 If you know or think you know Mr. Sheek or
9 anyone who works with him now or formerly please
10 stand and let us know it, regardless of how distant
11 that knowledge may be.

12 The gentleman in the back, your name and
13 number, please?

14 JUROR: Brian Oaks, juror number 91. I'm
15 currently represented by Mr. Sheek.

16 THE COURT: A proper response. Thank you for
17 it, sir.

18 Yes, sir?

19 JUROR: Steve Kastner, juror number 63. I go
20 to church with Mr. Sheek.

21 THE COURT: A proper response. As to the two
22 of you, would your knowledge of Mr. Sheek in the
23 way in which you have described it in any way
24 affect or impair your ability to be absolutely fair
25 and impartial to the people of the State of South

1 Carolina and to the defendant Charles Nemon
2 Vandross were you to be selected as a trial juror?

3 The gentleman in the front?

4 JUROR: No, sir?

5 JUROR: No, sir.

6 THE COURT: Thank you, and be seated,
7 gentlemen.

8 Is there any member of the jury venire who is
9 related by blood or marriage or who has any
10 knowledge or acquaintance with anyone who is
11 related by blood or marriage to Charles Nemon
12 Vandross or any of his family members or any of his
13 friends? Do you know of any relationship,
14 regardless of how far removed, with the defendant
15 Charles Nemon Vandross? If so, please stand.

16 Is there any member of the jury venire who
17 has ever seen Mr. Vandross before? Please stand.

18 There are no responses to either of the prior
19 inquiries.

20 Is there any member of the jury venire ever
21 been involved in any legal matter or litigation
22 wherein the other side was represented by the
23 Solicitor's office of the Eighth Judicial Circuit
24 or the other side was represented by Mr. Sheek? If
25 so, please stand.

1 Your name and number, please?

2 JUROR: Mike Stewart, 120. Mr. Sheek is
3 handling a case for my girlfriend's daughter.

4 THE COURT: Would that circumstance in any
5 way affect or impair your ability to be fair and
6 impartial --

7 JUROR: No, sir.

8 THE COURT: -- both to the State of South
9 Carolina and to the defendant Charles Nemon
10 Vandross?

11 JUROR: No, sir.

12 THE COURT: Thank you, sir. Be seated.

13 Ladies and gentlemen, the potential witnesses
14 in this case will now be listed and you are advised
15 that since a potential witness is required to be
16 listed by either side who may call that witness the
17 list may be lengthy. It does not mean that every
18 witness will be called but the rule of the court is
19 that if a witness is not on a witness list and you
20 are not asked about your potential knowledge of any
21 and all witnesses, then the parties cannot call any
22 witness who is not listed and whom you are not
23 inquired, whose identity you are not asked about.
24 So please pay close attention to these names as
25 they are called to you but don't be alarmed, as all

1 of them are not necessarily going to testify on
2 this witness stand, but depending upon the
3 developments of the case they could testify but if
4 the parties don't list them they could not testify,
5 so the parties are sure to list everybody,
6 regardless of how peripherally involved they could
7 be because neither side knows exactly how the case
8 may develop in this or any case.

9 The question to be asked of you after the
10 listing and calling of all of the potential
11 witnesses will be is there any member of the jury
12 venire who is related by blood or marriage to or in
13 any way acquainted with any of the potential
14 witnesses in this case? That will be the question,
15 so be on guard for any possible knowledge that you
16 may possess of any of these potential witnesses and
17 please let us know it when we have concluded the
18 calling of the list.

19 The potential witnesses are these and if any
20 potential witness is present he or she will please
21 stand upon the call of your name.

22 JoAnn Suber Wilson. She stands to your
23 right, ladies and gentlemen.

24 Thank you, madam.

25 Dahad Raheim Suber. Not present.

1 Jeremy Wilson. He stands to your right,
2 ladies and gentlemen.

3 Thank you, sir.

4 John Wilson. He stands to your right, ladies
5 and gentlemen.

6 Thank you.

7 Lieutenant Jimmy Boggs. He's with the
8 Greenwood County Sheriff's office.

9 Captain Larry Scott. He's with the Greenwood
10 County Sheriff's office.

11 Corporal Chris Hammett, Greenwood County
12 Sheriff's office.

13 Lieutenant Marc Cromer. He stands to your
14 right, ladies and gentlemen.

15 Thank you, sir.

16 Tony Davis.

17 Scott Delano.

18 Chris Ricketts.

19 Sherry McCauley.

20 Ronnie Perry.

21 Marcia Kelly.

22 Corporal Brandon Strickland. He stands to
23 your right, ladies and gentlemen, the Greenwood
24 County Sheriff's office.

25 Sergeant Eric Inks, spell his last name

1 I-n-k-s, Eric Inks.
2 Dr. Joel Sexton.
3 Dr. Janice Ross.
4 Agent Cecil Bradstreet, State Law Enforcement
5 Division.
6 Agent Tracy Thrower, spell his last name
7 T-h-r-o-w-e-r, Thrower, Agent Tracy Thrower, State
8 Law Enforcement Division.
9 Agent Adrienne Riley, State Law Enforcement
10 Division.
11 Agent Wendy Bell.
12 Agent Eddie Porter, State Law Enforcement
13 Division.
14 Herman Cobb.
15 Billy Davis.
16 John Still. Spell his last name S-t-i-l-l.
17 Steve Owens.
18 Agent Jennifer Stoner, State Law Enforcement
19 Division.
20 Ralph Evans, Greenwood County Sheriff's
21 office.
22 Luke Lark, he is employed at the detention
23 center.
24 Michelle Hawes, spell her last name
25 H-a-w-e-s.

1 Jan Owens.

2 Reverend Nelson Howard.

3 Loretta Benson.

4 She stand to your right, ladies and gentlemen.

5 Thank you, madam.

6 Connie Moody.

7 Ronnie McAllister.

8 Reverend W. L. Moore.

9 Sherry McCauley.

10 She's already been called. Sherry McCauley.

11 Tim Jung, spell his last name J-u-n-g. Tim

12 Jung.

13 Ken Whittington.

14 Terry Howard Tarrent.

15 Reverend Jacqueline Howard.

16 Jeff Hollifield.

17 The records custodian of Greenwood County
18 Sheriff's Department, and we don't have a name for
19 that but if anyone knows a person or persons who
20 have to do with records at the Sheriff's Department
21 please respond and let us know whom you know. The
22 records custodian at the sheriff's department.

23 The next individual witness is Debra Dewey.

24 Tammy Sampson.

25 Charles, known as Chuck, Price.

1 Is there any member of the jury venire who is
2 related by blood or marriage to or in any way
3 acquainted with any of these potential witnesses?
4 If so please stand.

5 If you think that you know these potential
6 witnesses or if you think you may be related to
7 them please stand and let us know of your possible
8 relationship with them.

9 Now, since there are so many standing, when
10 you respond you may be seated and then when the
11 question is asked concerning your ability to serve
12 you will please all re-stand, we don't want
13 everybody to become fatigued in standing a long
14 time.

15 We will start in the front. Your name and
16 number, please, ma'am, in the front?

17 JUROR: Celeste Hill, 56. I worked at
18 Whitten Center with Loretta Benson.

19 THE COURT: Thank you very much, and you need
20 not respond further. Thank you.

21 Yes, ma'am, your name and number?

22 JUROR: Jacqueline Mosley, number 81. I know
23 Ralph Evans, we grew up together.

24 THE COURT: Thank you for that response. You
25 may be seated. Remember to stand at the end.

1 Yes, ma'am?

2 JUROR: Amy Peeler, number 93. My husband
3 and I are friends with Detective Cromer and his
4 wife.

5 THE COURT: Thank you.

6 Yes, sir?

7 JUROR: Bill Hulsey, number 60. I know Jimmy
8 Boggs, he's a neighbor, he's done some work for me
9 on the side a couple times.

10 THE COURT: A proper response. Thank you,
11 sir.

12 We'll go to the extreme left. Yes, ma'am?

13 JUROR: Helen Curry, number 27. Jimmy Boggs
14 was a former landlord of mine about twenty years
15 ago.

16 THE COURT: That's a proper response, thank
17 you, ma'am.

18 Yes, madam?

19 JUROR: Jamie Powell, number 98. I know Eric
20 Inks.

21 THE COURT: Thank you. Be seated.

22 Yes, ma'am, the lady behind her?

23 JUROR: Ashley Stewart, number 119. Ralph
24 Evans is my uncle.

25 THE COURT: Thank you, a proper response.

1 The gentleman in the blue shirt?

2 JUROR: Steve Kastner, 63. Tammy Sampson is
3 active in my child's preschool and Ronnie
4 McAllister was kin by marriage to my wife.

5 THE COURT: Thank you, sir.

6 THE COURT: Brian Oaks, 91. I'm acquainted
7 with Ronnie McAllister and Tony Davis, a former
8 employee of the Sheriff's Department.

9 THE COURT: Thank you.

10 Yes madam?

11 JUROR: Number 80, Alexandria Morin, I know
12 Brandon Strickland and --

13 THE COURT: You have to speak louder, please.

14 JUROR: Sorry. I ran into Miss Wilson at the
15 restroom but it wasn't really a conversation of any
16 sort, and then I know Mr. Strickland.

17 THE COURT: Proper response. Thank you.
18 Your name and number again, please, for the record?

19 JUROR: Number 80, Alexandria Morin.

20 THE COURT: Thank you, ma'am.

21 Yes, ma'am?

22 JUROR: Juror Number 19, Sonya Calhoun. I
23 went to school with Brandon Strickland.

24 THE COURT: Thank you very much.

25 Yes, sir?

1 JUROR: Michael Hannah, 51. I went to school
2 with Brandon Strickland, I know his family.

3 THE COURT: Thank you, sir.

4 Yes, madam?

5 JUROR: Deborah Manning, number 71. I went
6 to school with Steve Owens and John Still if it's
7 the same John Still. I'm aware of one that worked
8 for my husband.

9 THE COURT: Thank you. Now, all who have
10 responded to the inquiry of having some knowledge
11 to some degree and way of some witness, please
12 stand.

13 Would your knowledge of any of the witnesses
14 who are potentially going to testify in this case
15 in any way affect your abilities to be fair and
16 impartial absolutely both to the people of the
17 State of South Carolina and to the defendant
18 Charles Nemon Vandross? If you feel that your
19 ability to be fair and impartial to both sides
20 would in any way be impaired please raise your
21 hand.

22 There are no responses. Thank you. Be
23 seated, please.

24 Is there any member of the jury venire who
25 has formed or expressed any opinion as to the guilt

1 or as to the innocence of the defendant Charles
2 Nemon Vandross based upon anything whatsoever? If
3 so, please stand.

4 There are no responses.

5 Is there any member of the jury venire who is
6 conscious or aware of any bias, interest or
7 prejudice for or against the people of the State of
8 South Carolina in this matter or for or against
9 Charles Nemon Vandross, the accused in this matter?
10 If so, please stand.

11 There is no response.

12 Is there any member of the venire who feels
13 that he or she, based upon anything whatsoever,
14 would not be able to give both the people of the
15 State of South Carolina and the defendant Charles
16 Nemon Vandross a fair and impartial trial were you
17 to be selected as a trial juror in this case? If
18 you feel that your ability to give both sides a
19 fair and impartial trial would be impaired at all
20 for any reason at all please stand.

21 There are no responses.

22 Is there any additional or other inquiry
23 requested of the venire by the State?

24 MR. PEACE: Not from the State, Your Honor.

25 THE COURT: Thank you. Is there any

1 additional or other inquiry requested by the
2 defense?

3 MR. SHEEK: Not from the defense, Your Honor.

4 THE COURT: Thank you. Now, ladies and
5 gentlemen -- first are the names in capsules,
6 ladies?

7 THE CLERK: No.

8 THE COURT: Is there any objection to the
9 names not being in capsules and the assistant
10 clerk's drawing the names, from the State?

11 MR. PEACE: Not from the State.

12 THE COURT: From the defense?

13 MR. SHEEK: Not from the defense.

14 THE COURT: Now, ladies and gentlemen, all
15 your names are on little pieces of paper. Will you
16 show them just a little piece of paper? All of
17 your names are on a little piece of paper like
18 that, which is really small, and they are all going
19 to be put in this gold appearing round box. Now,
20 this very box appears in courthouses, courtrooms
21 across the whole United States. Sometimes we have
22 boxes that are prepared by craftsmen in the
23 locality and they are very nice, made in walnut,
24 mahogany, but this box is supplied by a bingo
25 supply company and it is perfectly suitable for the

1 use to which it is being put both here and all
2 across these entire United States this day to
3 choose a jury. It's also called a random roller
4 box and you will observe, please, that the Clerk
5 will vigorously spin the roller box and mix up all
6 the names thoroughly and completely.

7 Mr. Riddle, if you will come up, please, and
8 take a station right here, and when your name is
9 called bring your belongings and come up to where
10 Mr. Riddle will give you a nice smile and try to
11 put aside any of your nervous feelings and face the
12 back of the courtroom, and each side has ten
13 strikes, is that correct?

14 MR. PEACE: The State has five, Your Honor.

15 THE COURT: The State has five.

16 MR. SHEEK: The defense has ten, Your Honor.

17 THE COURT: Ten for the defense, five for the
18 State.

19 Now, do not be of the opinion that you cannot
20 be fair and impartial if you are excused. That has
21 nothing to do with it. This is a strategic moment
22 in the trial of any case and any juror may be
23 challenged by peremptory challenge because of no
24 reason at all. It doesn't mean you can't be fair
25 and impartial. It does mean that the parties could

1 know something about somewhere you live or some
2 neighbor you have. They also could be excusing you
3 from this case because they want to try and hope
4 that somebody else will be drawn from the box.
5 There is no reason for you to be downcast and think
6 that you are not a good, impartial, reliable juror
7 if you are excused. That's not the case at all.
8 But each party, the parties have ten strikes, five
9 strikes, as we have said, and they may utilize them
10 or not utilize them as they wish, but as your name
11 is called please bring your belongings and come
12 right up here in front of this microphone where Mr.
13 Riddle will show you and face the back of the
14 courtroom and the parties will do as they will upon
15 call of the clerk.

16 Madam Clerk, let us have a jury.

17 THE CLERK: Number 7, Danny Barrett.

18 What say the State?

19 MR. PEACE: Please swear Mr. Barrett.

20 THE CLERK: What say the defense?

21 MR. SHEEK: Please seat Mr. Barrett.

22 THE CLERK: Number five, Steve Balchin.

23 What say the State?

24 MR. PEACE: Please swear Mr. Balchin.

25 THE CLERK: What say the defense?

1 MR. SHEEK: Please seat Mr. Balchin.

2 THE CLERK: 27, Helen Curry.

3 THE COURT: Number?

4 THE CLERK: 27.

5 MR. SHEEK: May we approach one moment, Your
6 Honor?

7 THE COURT: You may.

8 (Recorded bench conference).

9 MR. SHEEK: Judge, this lady is a school bus
10 driver.

11 THE COURT: Talk where he can hear you.

12 MR. SHEEK: I just want to make sure she
13 doesn't drive the route that picks these children
14 up from school, if that would be a proper inquiry.
15 She did not identify her children earlier and she
16 may not.

17 THE COURT: How do you want to handle that?

18 MR. PEACE: Well, I mean, I don't mind you
19 asking. I mean, I don't object to that, if you
20 think it's appropriate.

21 THE COURT: What was the --

22 MR. PEACE: Both the kids stood up. If she
23 would have recognized them she would have
24 responded, I believe.

25 THE COURT: She should have said that she

1 knew them, I mean, if that's what you're talking
2 about.

3 MR. SHEEK: Okay. Thank you.

4 (Bench conference concluded).

5 THE COURT: Continue.

6 THE CLERK: What say the State?

7 MR. PEACE: Please excuse the juror.

8 THE CLERK: 137, Shirley Lewis.

9 What say the State?

10 MR. PEACE: Please swear Mrs. Lewis.

11 THE CLERK: What say the defense?

12 MR. SHEEK: Please excuse Miss Lewis from the
13 trial of this case.

14 THE CLERK: 112, Asia Seigler.

15 What say the State?

16 MR. PEACE: Please excuse this juror.

17 THE CLERK: 139, Jennings West.

18 THE COURT: Number?

19 THE CLERK: 139.

20 THE COURT: Thank you.

21 THE CLERK: What say the State?

22 MR. PEACE: Please swear Mr. West.

23 THE CLERK: What say the defense?

24 MR. SHEEK: Please excuse Mr. West from the
25 trial of this case.

1 THE CLERK: 14, Jennifer Bullock.

2 What say the State?

3 MR. PEACE: Please swear Miss Bullock.

4 THE CLERK: What say the defense?

5 MR. SHEEK: Please excuse the juror from the
6 trial of this case.

7 THE CLERK: 136, Bobby Wardlaw.

8 What say the State?

9 MR. PEACE: Please swear Mr. Wardlaw.

10 THE CLERK: What say the defense?

11 MR. SHEEK: Please swear Mr. Wardlaw.

12 THE CLERK: 40, Adam Gagnon.

13 What say the State?

14 MR. PEACE: Please swear Mr. Gagnon.

15 THE CLERK: What say the defense?

16 MR. SHEEK: Please seat Mr. Gagnon.

17 THE CLERK: 141, Troy White.

18 What say the State?

19 MR. PEACE: Please excuse this juror.

20 THE CLERK: 51, Michael Hannah.

21 What say the State?

22 MR. PEACE: Please swear Mr. Hannah.

23 THE CLERK: What say the defense?

24 MR. SHEEK: Please seat Mr. Hannah.

25 THE CLERK: 118, Alexander Starks?

1 THE COURT: Number?

2 THE CLERK: 118.

3 What say the State?

4 MR. PEACE: Please excuse the juror.

5 THE CLERK: 22, Patricia Clark.

6 THE COURT: Number?

7 THE CLERK: 22.

8 What say the State?

9 MR. PEACE: Please swear Mrs. Clark.

10 THE CLERK: What say the defense?

11 MR. SHEEK: Your Honor, may we approach

12 again?

13 THE COURT: Yes, sir.

14 (Recorded bench conference).

15 MR. SHEEK: Your Honor, I move to strike for

16 cause. Her daughter-in-law is employed by Mr.

17 Peace.

18 THE COURT: Her what?

19 MR. SHEEK: Her daughter-in-law was employed

20 by Mr. Peace.

21 THE COURT: How says the State?

22 MR. PEACE: Well, I mean, she responded, she

23 said she can be fair and impartial on the case.

24 THE COURT: Now, I couldn't hear.

25 MR. SHEEK: Her son's wife is an Assistant

1 Solicitor here for Mr. Peace.

2 THE COURT: The motion to strike for cause is
3 granted.

4 (Bench conference concluded).

5 THE CLERK: You may have a seat, thank you.

6 37, Helen Fisher.

7 What say the State?

8 MR. PEACE: Please swear Mrs. Fisher.

9 THE CLERK: What say the defense?

10 MR. SHEEK: Please seat the juror.

11 THE CLERK: 119, Ashley Stewart.

12 What say the State?

13 MR. PEACE: Please swear Miss Stewart.

14 THE CLERK: What say the defense?

15 MR. SHEEK: Please swear the juror.

16 THE CLERK: 46, Linda Goldman

17 What say the State?

18 MR. PEACE: Please swear Mrs. Goldman.

19 THE CLERK: What say the defense?

20 MR. SHEEK: Please excuse Miss Goldman from
21 the trial of the case.

22 THE CLERK: 98, Jamie Powell.

23 What say the State?

24 MR. PEACE: Please swear Miss Powell.

25 THE CLERK: What say the defense?

1 MR. SHEEK: Please excuse her from the trial
2 of this case.

3 THE CLERK: Eleven, Thomas Boyd.
4 What say the State?

5 MR. PEACE: Please swear Mr. Boyd.

6 THE CLERK: What say the defense?

7 MR. SHEEK: Please excuse Mr. Boyd from the
8 trial of this case.

9 THE CLERK: 15, Ryan Bunn.
10 What say the State?

11 MR. PEACE: Please swear Mr. Bunn.

12 THE CLERK: What say the defense?

13 MR. SHEEK: Please swear Mr. Bunn.

14 THE CLERK: 100, Karen Price.
15 What say the State?

16 MR. PEACE: Please swear Mrs. Price.

17 THE CLERK: What say the defense?

18 MR. SHEEK: Please swear the juror.

19 THE CLERK: 146, Sharon Woolbright.
20 What say the State?

21 MR. PEACE: Please swear Mrs. Woolbright.

22 THE CLERK: What say the defense?

23 MR. SHEEK: Please excuse Mrs. Woolbright
24 from the trial of this case.

25 THE CLERK: 68, Mary Lumley.

1 What say the State?

2 MR. PEACE: Please swear Miss Lumley.

3 THE CLERK: What say the defense?

4 MR. SHEEK: Please excuse Miss Lumley from
5 the trial of this case.

6 THE CLERK: 144, Diane Williams.

7 What say the State?

8 MR. PEACE: Please swear Mrs. Williams.

9 THE CLERK: What say the defense?

10 MR. SHEEK: Please excuse the juror from the
11 trial of this case.

12 THE CLERK: Number 10, Odell Booker.

13 What say the State?

14 MR. PEACE: Please excuse the juror.

15 THE CLERK: 67, Dody Lovett.

16 Do you have any excuse for cause?

17 MR. PEACE: No, ma'am, no challenge for
18 cause.

19 THE CLERK: What say the defense?

20 MR. SHEEK: Please swear the juror.

21 THE CLERK: 125, Lisa Talbert.

22 Is there any excuse for cause?

23 MR. PEACE: No challenge for cause.

24 THE CLERK: What say the defense?

25 MR. SHEEK: Please swear the juror.

1 THE CLERK: 89, Deborah Newman.

2 Is there any excuse for cause?

3 MR. PEACE: No challenge for cause.

4 THE CLERK: What say the defense?

5 MR. SHEEK: Please excuse the juror from the
6 trial of this case.

7 THE CLERK: 128, Richard Terry.

8 Is there any excuse for cause from the State?

9 MR. PEACE: No challenge for cause.

10 THE CLERK: Any excuse from the defense?

11 MR. SHEEK: No challenge for cause.

12 THE COURT: We'll have two alternates.

13 Strikes are four for the defense, two for the
14 State.

15 THE CLERK: 83, Lashon Murphy.

16 What say the State?

17 MR. PEACE: Please swear Miss Murphy.

18 THE CLERK: What say the defense?

19 MR. SHEEK: Please excuse the juror from the
20 trial of this case.

21 THE CLERK: 6, Charlie Barr.

22 What say the State?

23 MR. PEACE: Please swear Mr. Barr.

24 THE CLERK: What say the defense?

25 MR. SHEEK: Please excuse Mr. Barr from the

1 trial of this case.

2 THE CLERK: 48, Lawrence Griffin.

3 What say the State?

4 MR. PEACE: Please excuse this juror.

5 THE CLERK: 104, Gladys Robinson.

6 What say the State?

7 MR. PEACE: Please excuse this juror.

8 THE CLERK: 13, Cornelius Brown.

9 Any excuse for cause?

10 MR. PEACE: No challenge for cause.

11 THE CLERK: What say the defense?

12 MR. SHEEK: Please swear the juror.

13 THE CLERK: 52, Todd Harmon.

14 Any excuse for cause from the State?

15 MR. PEACE: No challenge for cause.

16 THE CLERK: What say the defense?

17 MR. SHEEK: Please swear the juror.

18 THE COURT: Ladies and gentlemen of the trial

19 jury please do not discuss the case by, between and

20 among yourselves. You and I know precisely the

21 same thing about this case as each other and that

22 is the mere, bare essential statements of the

23 indictment which is not evidence, so don't talk

24 about the case at all and retire briefly to the

25 jury room.

1 (The jury was excused from the courtroom).

2 THE COURT: Is there any objection to the
3 selection or compilation of the jury, from the
4 State?

5 MR. PEACE: None from the State, Your Honor.

6 THE COURT: Thank you. Is there any
7 objection to the selection or compilation of the
8 jury from the defense?

9 MR. SHEEK: There will be from the defense,
10 Your Honor, under Batson.

11 THE COURT: All right. We'll ask the venire
12 remaining please to assemble, excuse me, assemble
13 back in the room where you were waiting. We have a
14 matter of law to take up and it must be taken up
15 outside your presence. Now, don't talk about the
16 case by, between and among yourselves as you retire
17 momentarily.

18 (The jury panel was excused from the
19 courtroom).

20 THE COURT: All the venire remaining have
21 been removed from the room, all the prospective
22 trial jurors are in the jury room. The motion is
23 before the Court or will shortly lie before the
24 Court concerning the selection and compilation of
25 the trial jury.

1 Mr. Sheek?

2 MR. SHEEK: Thank you, Your Honor. If it
3 please the Court, the defendant challenges the
4 selection of the jury and objects under the ruling
5 of Batson and cases following Batson.

6 Basically the State has exercised seven
7 strikes, including the two for the alternates.
8 Those strikes were exclusively African Americans.
9 Race would not be a proper criteria to base a
10 strike on and we would challenge the State's
11 strikes. We feel being exclusively African
12 Americans, with the makeup of the jury, it was one
13 sided.

14 THE COURT: All right, thank you, Mr. Sheek.
15 Solicitor, will you explain your strikes one
16 by one?

17 MR. PEACE: Yes, Your Honor, the State will
18 gladly accept that challenge from the defense.

19 As to the first strike, juror number 27,
20 Helen Curry, Helen Curry, I have in my notes had a
21 fraudulent check, number one, and number two, she
22 stated that one of the witnesses was her landlord.
23 I don't know what that relationship was with her
24 landlord after he was no longer her landlord,
25 whether it was good or bad, but the primary reason

1 for striking number 27 is because she has a
2 fraudulent check and I do my best, if I have a
3 strike, not to put anybody on the jury who has been
4 convicted for anything. So, that's number 27,
5 Helen Curry.

6 As to number 112, who was Asia Seigler, I
7 have Miss Seigler being unemployed, single. Again,
8 while there may be some single individuals on the
9 jury, I don't think that I sat anybody who was also
10 unemployed, so that was the reason for striking
11 number 112, Asia Seigler.

12 Number 141 is Troy White. Troy White, I have
13 down as having an assault and battery conviction.
14 As a matter of fact, three or four assault and
15 battery convictions and a trespassing. So, I
16 strike him because of his criminal record.

17 Number 118 is Alexander Starks. I have Mr.
18 Starks down as having been a victim in a domestic
19 situation. Of course this case although is murder,
20 kidnapping and burglary and possession of a weapon,
21 it has some domestic aspects to it. I didn't want
22 to put anybody on the jury who had been involved in
23 some kind of domestic dispute, whether they be a
24 victim in the case or whether they be a defendant
25 in the case. As Your Honor knows, many times you

1 have these domestic situations and somebody may be
2 unfairly targeted, so I did not want to deal with
3 somebody who was either a defendant or a victim in
4 a CDV.

5 Number 10, Your Honor, Odell Booker, a couple
6 things. I have Mr. Booker down as having a CDV on
7 his record. Mr. Booker was also late. As Your
8 Honor knows, I'm retired from the military, I can't
9 abide lateness for any reason, and those are the
10 two reasons that I struck Mr. Booker.

11 Number 48. Number 48 is Lawrence Griffin. I
12 have in my notes, and consulting with law
13 enforcement officers here, Mr. Griffin has been a
14 suspect in a CDV, and again I don't want anybody on
15 this jury who has anything to do with any kind of
16 domestic dispute.

17 Number 104 is Gladys Robinson. I have Miss
18 Robinson down as having a shoplifting conviction,
19 and of course as I said, I do my best, if I have a
20 strike, not to have anybody who has a conviction,
21 whether it be city court, magistrate's court or
22 General Sessions.

23 And those are the reasons I struck those
24 individuals, Your Honor. It had absolutely nothing
25 to do with their race. If they had been white I

1 would have struck them for the same reason, and
2 unfortunately, you know, what happens as a result,
3 with me trying a case, I usually use my strikes
4 pretty quick and I had used four strikes out of the
5 first seven jurors, but those are the reasons, Your
6 Honor.

7 THE COURT: Thank you, Solicitor. Now we
8 turn back to you, Mr. Sheek. Is there a response
9 or a rebuttal?

10 MR. SHEEK: Your Honor, I simply point out
11 that juror number 112, Asia Seigler, identified
12 herself as a student. While she may not have paid
13 employment, I don't think being a student would be
14 proper reason to strike somebody from the jury.

15 THE COURT: Is that the one that was
16 unemployed?

17 MR. SHEEK: That's the one the Solicitor
18 identified as unemployed, that's correct. I do not
19 believe being a victim of a domestic situation or a
20 suspect in a CDV is a reason, race neutral reason
21 to strike somebody from the jury. I think those
22 classifications are suspect and not reasonable.

23 THE COURT: Anything further, Mr. Sheek?

24 MR. SHEEK: I would simply ask the State if
25 any of the white jurors that were sat have ever

1 been suspect in any crimes to their knowledge,
2 victims to any crimes to their knowledge, or
3 students?

4 THE COURT: Now, as to the first two, the
5 question seems to be valid. Any of the white
6 jurors, caucasian jurors who have been accepted,
7 have they ever been suspects of a crime or victims
8 of a crime according to the best information and
9 knowledge of the State?

10 MR. PEACE: Not according to the information
11 I have, Your Honor. Once I exercise all my
12 strikes, I mean, I can't do anything about it
13 because I don't think that rises to the level of a
14 challenge for cause, but from the time I exercised
15 my strikes, back to the beginning, I'm not aware of
16 any of them having, either being a suspect, a
17 defendant or a victim in any domestic dispute or
18 any criminal action.

19 THE COURT: Any caucasian juror not stricken
20 an unemployed student?

21 MR. PEACE: No, sir, not that I'm aware of.
22 I believe everybody on the jury is employed except
23 I think there may be a housewife.

24 THE COURT: All right. Any further comments
25 or remarks from the defense?

1 MR. SHEEK: No, Your Honor.

2 THE COURT: The Court finds that the State
3 has expressed a racially neutral and nonpretensive
4 reason for the strikes and overrules the objection
5 to restrike the jury. And thank you very much for
6 the motion. It's been heard and disposed of.

7 Is there anything further, Mr. Sheek?

8 MR. SHEEK: Nothing in relation to the jury
9 selection, Your Honor.

10 THE COURT: Anything further, Solicitor?

11 MR. PEACE: No, sir.

12 THE COURT: Thank you. Show the venire back
13 in, please.

14 (The jury panel returned to the courtroom).

15 THE COURT: Will counsel approach just
16 briefly, please?

17 (Recorded bench conference).

18 THE COURT: You have made the Court aware
19 that this case has been tried on two occasions
20 without a verdict having been reached. How long
21 did those trials take?

22 MR. PEACE: About a day and a half.

23 THE COURT: When do you wish to ask this jury
24 to call in?

25 MR. PEACE: Well, I would have them call back

1 tonight just in case something happens.

2 THE COURT: Okay.

3 MR. PEACE: I mean, we can't predict but I

4 would have them call back.

5 THE COURT: Okay. We'll ask them to call

6 between 6:00 and 7:00.

7 MR. PEACE: Yes, sir, whatever time Chastity

8 thinks.

9 THE COURT: We might run late tonight, that's

10 the problem.

11 MR. PEACE: Well, I think, can we check and

12 see if she can set up her machine?

13 THE COURT: Miss Hall, it appears that we may

14 tonight run over our usual hour. Of course we run

15 until 7:00 o'clock sometimes but it looks like

16 we'll run until 6:30. The Solicitor indicates that

17 this case will not necessarily be a long trial.

18 Can you set up the machine, say between 6:30 and

19 7:30?

20 THE CLERK: Yes, sir, if you will just tell

21 them that's when they need to call I can have the

22 message on there.

23 MR. PEACE: You just set up the machine, you

24 don't have to have anybody down there?

25 THE CLERK: I have to do it.

1 MR. PEACE: You can set it up, once it's set
2 up?

3 THE CLERK: Yes, once I put the message on
4 it.

5 THE COURT: How about we have them call
6 between 7:00 and 8:00?

7 THE CLERK: Okay, that's fine.

8 THE COURT: We will certainly be finished by
9 then. Is that okay with you all?

10 MR. PEACE: Yes, sir.

11 THE COURT: Okay, thank you.

12 (Bench conference concluded).

13 THE COURT: All right. We thought we were
14 missing one of your number but we are not. Ladies
15 and gentlemen of the venire remaining, please call
16 the call-in number between 7:00 p.m. and 8:00 p.m.
17 this evening. Please call between 7:00 and 8:00
18 p.m. this evening. Now, if you don't have the
19 juror information pamphlet please be sure that you
20 ask at the door as you leave so that one of the
21 bailiffs can provide you with that number. Call
22 between those hours or that hour. If you don't get
23 an answer right away wait a few minutes and call
24 back.

25 Now, the message will be succinct, terse,

1 clear, not capable of misunderstanding. It will be
2 something to the effect of call back at a certain
3 hour or report here as a venire at a certain time,
4 here in this courtroom much as we did today.

5 Does anyone have any questions?

6 Call between 7:00 and 8:00 this evening.
7 Everyone remain seated except the venire is
8 excused. Thank you.

9 (Jury panel excused from the courtroom).

10 THE COURT: Solicitor, do you wish to open
11 after lunch, since it is now 1:00 o'clock?

12 MR. PEACE: Yes, it would probably be best to
13 do that.

14 THE COURT: All right. Now, the Court has a
15 matter at 2:00 which will be here in this room,
16 that will not run over 30 minutes. We have
17 instructed the attorneys that they will be strictly
18 limited on time to present their cases, so we will
19 start back at 2:30. The Court would say 2:30 sharp
20 but it is sometimes difficult to move people in and
21 out in that hour, so we are going to excuse the
22 jury until 2:30.

23 MR. PEACE: Yes, sir.

24 THE COURT: We'll try to get going right at
25 that moment.

1 MR. PEACE: Yes, sir.

2 THE COURT: Ask the jury in, please.

3 (The jury returned to the courtroom).

4 THE COURT: All present, Mr. Riddle?

5 BAILIFF: All present.

6 THE COURT: Ladies and gentlemen of the trial
7 jury, we're going to recess for lunch at this time.
8 Do not discuss the case by, between and among
9 yourselves. What little we know is gained only
10 from the indictment and you know and the Court has
11 told you twice or three times that the indictment
12 is not evidence. It just constitutes the charging
13 papers and the information on it is just
14 allegations or say-so, so you aren't to take that
15 as evidence at all. We will after lunch have
16 opening statements of the attorneys. That's when
17 you and I together will learn about the case and
18 what this is all about. Right now we really don't
19 know what it's all about but we will commence to
20 learn after lunch what it's all about.

21 Do not discuss the case by, between and among
22 yourselves nor with any other person. Now, if any
23 person, knowing the natural curiosity of human
24 beings, if anyone asks you about the case or what
25 you're doing at the courthouse you must tell them

1 and you are free to tell them that you're a juror
2 actually sitting on a case, on a case but you can't
3 tell them what kind of case, you can't tell them
4 who is involved or what little you know about it.
5 You must tell them, "I am a juror and I may not
6 discuss the case." That's all you can say. It
7 would be as if you have an interest either in the
8 prosecution or the defense of the case and some
9 juror who is sitting on a case in which you had an
10 interest went home or somewhere and started talking
11 about the case and someone said something to them
12 that stuck in their mind and upset the even mental
13 balance that jurors must maintain in order to be
14 fair and impartial to both sides, either in a civil
15 case or a criminal case, it makes no difference.
16 Jurors are sitting in those seats because they are
17 thought to be fair and impartial to both sides.

18 Now, if someone questions you and you
19 respond, "I'm a juror and I can't talk with you
20 about the case," that should be the end of the
21 matter, but if someone persists in attempting to
22 discuss this case with you after you alert them and
23 make them aware that you are a juror on this case
24 that throws up a red flag, that is alarming,
25 because that person is persisting in trying to talk

1 with you about this case, which is improper, wrong
2 and illegal and you should use every measure; every
3 measure and means at your disposal to get that
4 person's name and identity, or if it's more than
5 one, all of their names and identities by whatever
6 measure is available to you, whether it's
7 description, name of the person, license tag of a
8 vehicle, color and description, make, model of the
9 vehicle, the place it happened or anything that you
10 can do to identify that person because they have
11 ~~just infringed upon the right of you to be a fair~~
12 and impartial juror and infringed upon the business
13 of the Court. Don't share it with anyone. Tell
14 one of your bailiffs what happened. That will be
15 reported to the Court and the situation will be
16 investigated and dealt with fairly and properly as
17 soon as that can be done.

18 Now, were there to be any media coverage such
19 as newspaper, television or radio of this trial and
20 it were to come to your attention during the
21 luncheon hour please disabuse your mind of anything
22 that you may see, hear or read during that time.
23 It is not evidence. Don't pay any attention to it
24 and disregard it completely and absolutely. The
25 evidence upon which you will decide the facts of

1 this case will be revealed to you within the walls
2 of this courtroom and upon nowhere else under any
3 circumstances at all in any way. The evidence will
4 be revealed here in this courtroom, so disregard
5 anything that you may learn outside this courtroom,
6 put it out of your mind completely and absolutely.

7 Have a pleasant lunch and be back at 2:30.
8 Now, we do have something at 2:00 o'clock that's a
9 civil matter, it has nothing to do with this case;
10 so as you come in and make your way into the jury
11 room, if you hear some lawyers talking it has
12 nothing to do with this case. They are talking
13 about another case, a civil matter that happened in
14 another county at another time. I think it might
15 have happened in Greenwood County but I frankly
16 don't remember, it's been so long ago that we
17 talked about the case, but there will be some
18 lawyers here, they might be talking about something
19 that happened but it's a civil case, it has nothing
20 to do with this case and anything you hear you
21 should disregard it because it has nothing to do
22 with this case. We're going to try to dispose of
23 that, we will dispose of that between 2:00 and
24 2:30, so you be back by 2:30 and if you were to
25 come in a little early and you hear some remarks or

1 some words they don't concern this case.

2 Thank you very much. Leave by the room, by
3 the door behind you. Be back in the jury room at
4 2:30. Thank you very much. Everyone else remain
5 seated.

6 (The jury was excused from the courtroom).

7 THE COURT: We are in recess in this case
8 until 2:30, ladies and gentlemen.

9 (Recessed at 1:09 p.m.).

10 (Reconvened at 2:46 p.m.).

11 ~~THE COURT: The record will open. State of~~
12 South Carolina versus Charles Nemon Vandross,
13 indictment 2004-GS-24-1187.

14 Is the State ready?

15 MR. PEACE: The State's ready, Your Honor.

16 THE COURT: Have all motions been disposed
17 of?

18 MR. PEACE: Yes, Your Honor.

19 THE COURT: Thank you. Is the defense ready?

20 MR. SHEEK: The defense is ready, Your Honor.

21 THE COURT: Have all motions been disposed
22 of?

23 MR. SHEEK: Yes, Your Honor.

24 THE COURT: Thank you. Show the jury in,
25 please.

1 (The jury returned to the courtroom).

2 THE COURT: Madam Clerk.

3 THE CLERK: If you will please stand and
4 raise your right hands I'll administer the oath.

5 Do you solemnly swear that you shall well and
6 truly try the issues before this court and a true
7 deliverance make and a true verdict render
8 according to the evidence and law presented, so
9 help you God? Do you?

10 JURORS: I will.

11 THE CLERK: Thank you. You may be seated.

12 THE COURT: Ladies and gentlemen, you have
13 just taken an oath to well and truly try this case.
14 At the conclusion of the trial the Court will
15 charge you, which simply means tell you or inform
16 you what the law is as it may apply to the facts of
17 this case as you find them to be. The Court is the
18 sole and only judge of the law. However, you are
19 the most important judges in the courtroom, as the
20 jury is the only and sole judge of the facts. You
21 and you alone will determine the credibility of the
22 witnesses who testify before you. That simply
23 means the believability of the witnesses who take
24 the witness stand and testify right here in front
25 of you. It is your job to separate out what is

1 believable and what's not believable. So, pay
2 close attention to the witnesses as they testify
3 before you.

4 The Court may be called upon to determine
5 whether evidence is admissible but you and you
6 alone will determine what weight to give to any
7 evidence that is admissible or admitted for your
8 consideration. Evidence comes from two sources
9 and three sources only. The source with which you
10 are most familiar is testimony from the lips of
11 these witnesses to which you may give great weight
12 or no weight. You may believe some of a witness'
13 testimony or none of a witness' testimony. You may
14 believe some of one and some of another. That's up
15 to the jury entirely.

16 Also evidence is exhibits that may be
17 introduced during the course of the trial.
18 Exhibits are things that you can feel, you can see,
19 you can look at, such as photographs, articles,
20 things, and you will be able to take the exhibits
21 into the jury room with you and look at them and
22 consider them and give them such weight as you deem
23 they deserve after the trial is over and when you
24 are deliberating toward a verdict.

25 Also evidence are stipulations. Now, a

1 stipulation is an agreement to a fact or facts that
2 the parties enter into. The parties may or may not
3 enter into a stipulation. If they do, the
4 stipulation will be read to you and it is evidence.
5 It will be a statement of fact that the parties
6 have agreed upon. That will be read to you and you
7 can take that into your consideration as evidence.
8 It is evidence, it is a fact that the parties have
9 agreed upon.

10 To briefly recap, testimony of witnesses,
11 exhibits and stipulations. Nothing else is
12 evidence. What the Court says during the course of
13 the trial is not evidence. What the attorneys say
14 as they are questioning witnesses or coming before
15 you in opening statements and closing arguments is
16 not evidence. The evidence is testimony, exhibits
17 and any stipulations. Nothing else is evidence.

18 In this criminal case the burden of proof is
19 upon the State to prove the guilt of the defendant
20 here on trial beyond a reasonable doubt. The
21 defendant has no burden at all. The defendant is
22 not required to prove his innocence but the State
23 is required to prove the guilt of the defendant
24 beyond a reasonable doubt. The burden remains with
25 the State throughout the trial until and if they

1 prove the guilt of the defendant beyond a
2 reasonable doubt. Were they to fail to prove his
3 guilt beyond a reasonable doubt, then he will be
4 deemed to be not guilty. The word verdict comes
5 from the Latin term verdicto, which means to speak
6 the truth. So, when you do engage in
7 deliberations, and you shall not be able to discuss
8 this case with anyone, not even by, between and
9 among yourselves until permitted to do so at the
10 end of the trial when you go about the business of
11 reaching a verdict, which verdict will speak the
12 truth. We'll talk more about that later.

13 We'll have opening statements now. Opening
14 statements are very important because this is an
15 opportunity for the attorneys to come before you
16 and say what the case is about. They're going to
17 give you an idea of what the facts may or may not
18 reveal. They will tell you what they think is
19 important and to which, things to which you should
20 give great weight or things or facts which you
21 should not give great weight. So, that's the
22 purpose of that.

23 Now, if anyone at anytime cannot see or hear
24 everything that's going on you need to bring that
25 to the Court's attention by raising your hand so

1 that we can make such adjustments as may be
2 necessary to ensure that each of you can see and
3 hear everything.

4 One other thing before opening statements
5 commence. This judge does not appoint a
6 foreperson. You will have the opportunity to elect
7 a foreperson. You will do that from the twelve
8 jurors who are your primary jurors. The alternates
9 are not candidates for foreperson. The foreperson
10 has no more authority nor say-so nor weight than
11 any other juror but he or she will communicate with
12 the Court on behalf of the entire jury when it may
13 be necessary, if it does become necessary. He or
14 she will preside over your deliberations and will
15 affix his or her signature to the verdict form when
16 that time comes. But all of you have equal weight
17 in reaching the verdict which speaks the truth.

18 If any of you need individually to
19 communicate with the Court do not share with anyone
20 that you are communicating with the Court but do it
21 in writing, very quietly hand it to one of the
22 bailiffs, the bailiff will hand it to the Court and
23 we will consider your observation, request or
24 concern, as the case may be, and speak to you
25 either in writing or speak to you here in the

1 courtroom on open record, whichever it is, but if
2 it's a communication for the jury at large it will
3 be something that will be written by your
4 foreperson.

5 You needn't haste to appoint a foreperson or
6 elect a foreperson but as soon as you do please
7 write that person's name on a piece of paper, put
8 their juror number beside it and write foreperson
9 under their name and he or she will sit in the left
10 front seat of the jury box for the balance of the
11 trial. All others will sit wherever you are
12 comfortable except for your alternates, who will
13 maintain the alternate seats. Some people like to
14 sit in the same seats all the time and some people
15 like to sit in different seats. It just depends on
16 how you come out of the jury room and where you
17 have preferred to sit in the past and whether you
18 can get to that seat before somebody else does.
19 So, it doesn't matter where anybody sits except for
20 the foreperson when you elect that person, and for
21 the alternates. Those seats are taken. All other
22 seats are where you may wish to sit.

23 Thank you very much for your kind attention
24 to these opening remarks by the Court. This is an
25 important case. This case is important to the

1 people of the State of South Carolina and this case
2 is important to Charles Nemon Vandross and each of
3 the parties is entitled to a fair and impartial
4 trial at your hands.

5 We will now have opening statements.

6 Solicitor.

7 MR. PEACE: Thank you, Your Honor. If it
8 please the Court.

9 THE COURT: Solicitor Peace.

10 MR. PEACE: Mr. Sheek.

11 Ladies and gentlemen of the jury, I'm Jerry
12 Peace, as I said, it is my honor and privilege to
13 be the Solicitor for the Eighth Circuit. Solicitor
14 is just a fancy term for the chief prosecutor or
15 district attorney. My responsibility is to present
16 the State's case.

17 Now, this case is about jealousy, it's just
18 about pure unadulterated green with envy jealousy.
19 This case is a fatal attraction. Now, what I want
20 to do right now is just talk about where we are,
21 where we're going and how we're going to get from
22 where we are to where we're going. Where are we?

23 The defendant Mr. Vandross, that's the
24 defendant Mr. Vandross, Mr. Vandross is charged
25 with murder, burglary in the first degree,

1 kidnapping and possession of a weapon during the
2 commission of a violent crime. Now, what are these
3 things? You need to know what these are so you can
4 determine whether he's guilty of those offenses.

5 Murder, what is it? Murder is the unlawful
6 killing of another human being with malice
7 aforethought, expressed or implied.

8 Unlawfully means there was no legal
9 justification or excuse, there is not self defense
10 and it wasn't an accident.

11 Killing of another human being is easy, there
12 is somebody dead, and in this case Sanford Best is
13 dead.

14 With malice. The judge will define all the
15 terms for you. Malice, he will talk about being a
16 depraved heart, you can think of it just as
17 meanness, just meanness.

18 Aforethought means that it was thought about
19 before the killing took place. Now, it doesn't
20 have to be planned out over a day or a week or a
21 month or a year. You can make a determination, you
22 can have a forethought within a matter of seconds,
23 milliseconds.

24 Expressed or implied does not refer to two
25 different types of malice, that's only two ways in

1 which malice can be shown. Expressed malice is
2 easy. If somebody takes a gun and points it at
3 somebody and says, "I'm going to kill you," and
4 pulls the trigger that's expressed malice. Implied
5 or inferred malice is a little bit different. You
6 have to look at all the facts and circumstances
7 surrounding the event and you make a determination
8 if malice exists. So, that's murder.

9 Burglary in the first degree. Burglary is
10 entering a dwelling without permission with the
11 intent to commit a crime. That's the basic
12 definition of burglary. Because this is a burglary
13 in the first degree the State has to show an
14 aggravating factor. And just to give you an
15 example of some aggravating factors, one
16 aggravating factor is a burglary was committed
17 during the nighttime. Another aggravating factor
18 is the defendant either entered the dwelling or
19 left the dwelling while he had a gun or weapon.
20 Another aggravating factor is he used the weapon to
21 threaten somebody while he was in the dwelling.
22 Another aggravating factor is somebody in the
23 dwelling who wasn't a participant in the burglary
24 is injured.

25 So, those are some of the aggravating factors

1 that you can make a determination whether this was
2 burglary in the first degree.

3 Kidnapping is taking and carrying away
4 somebody without the authority of law. Now, the
5 judge is going to use terms like decoy, embagle,
6 but really it is just taking somebody and carrying
7 that person away, carrying that person away without
8 the authority of law.

9 Now, the easy one is the possession of a
10 weapon during the commission of a violent crime.
11 ~~Burglary first is a violent crime, murder is a~~
12 ~~violent crime and kidnapping is a violent crime.~~
13 If you find the defendant guilty of any of these
14 and you find he had a weapon or a knife during the
15 commission of a crime, then you can find him guilty
16 of possession of a weapon or knife during the
17 commission of a violent crime.

18 So, that's where we are and that's where we
19 are right now, June the 19th, 3:00 o'clock.

20 Folks, this ain't like TV. This is not going
21 to be like CSI, this is not going to be like Law
22 and Order. We're not going to be finished in an
23 hour. It's going to take us longer than forty
24 minutes and twenty minutes of commercials, it's
25 going to take us awhile. You heard the list of

1 witnesses the judge read out, and while all those
2 witness may not be called, there is going to be a
3 passel of witnesses in this case, a passel of
4 witnesses, so it is going to take us longer than an
5 hour.

6 So, we will go from where we are until you go
7 back in the deliberation room and you decide
8 whether the defendant is guilty of any or all those
9 charges. How do we get from here to there? How do
10 we get from here to there? The State has the
11 burden of proof and you will hear that throughout
12 this trial. The State has the burden of proof.
13 That's the way we want it, isn't it? The State
14 ought to be required to come in here and prove
15 somebody guilty, that nobody ought to have to come
16 in here and prove their innocence, the State has to
17 prove they're guilty. We're going to do that,
18 we're going to do that by the presentation of
19 evidence.

20 Now, I'm not going to go over everything the
21 State is going to present, I'm not going to tell
22 you everything that every witness that we call is
23 going to say, I'm not going to talk about every
24 piece of evidence that we're going to introduce but
25 I do want to give you kind of a guide or a road map

1 so if people testify and evidence is introduced you
2 will know where we're going.

3 So, these offenses occurred the late evening
4 hours of November the 3rd, 2004, early morning
5 hours of November 4th, 2004. That's when Sanford
6 Best was killed, he was shot in the head. That's
7 when JoAnn Suber Wilson was kidnapped. That's when
8 the home was burglarized. The case actually begins
9 before then. As I said, this is a case of
10 jealousy, just plain old ordinary stinking mean
11 jealousy.

12 You've got a defendant who had a relationship
13 with JoAnn Suber Wilson and this relationship
14 lasted a year, fifteen months, it had been awhile.
15 JoAnn Suber Wilson had met the defendant when she
16 took her boys up to a religious function up in
17 Greenville and they met then and he lived up in the
18 Greenville area, she lived down here in Greenwood,
19 she moved, she lived on McCormick Highway, 3938
20 McCormick Highway. Right as you pass Promise Land
21 her house is on the right. He helped her move in.

22 They had kind of a rocky relationship, it was
23 on and off and on and off, and sometimes when the
24 relationship was off he would go back up to
25 Greenville or Greer or somewhere. At some point

1 the defendant moved down to Greenwood. He got an
2 apartment at Pinetree Apartments. He got a job at
3 McDonald's. He got a job at McDonald's, the one
4 over by Walmart here in Greenwood County. That
5 McDonald's overlooks Regency Apartments where JoAnn
6 Suber Wilson worked. They had kind of a rocky
7 relationship.

8 On Sunday July 31st JoAnn Wilson told the
9 defendant to leave her house, it's not going to
10 work, you need to leave. This was before lunch on
11 Sunday when he left. He wouldn't give her her key
12 to her house, wouldn't give her her key to that
13 house when he left. By dinner time on Sunday
14 Sanford Best was in the house, and JoAnn Wilson
15 will tell you, she said, "I need a man around."
16 She and Sanford Best had known one another for
17 several years and had had a relationship, then
18 Sanford Best came and stayed with her beginning
19 that Sunday night.

20 Early in the week the defendant went over to
21 Regency Apartments where JoAnn Wilson worked like
22 nothing had happened, gave her her key, said,
23 "Here's your key, here's the key to your house."
24 What JoAnn Wilson didn't know was the defendant had
25 had a key made, so he had a key to her house.

1 Later on in the week JoAnn Wilson and Sanford
2 Best went to a football game. JoAnn Wilson has
3 four boys, one of them was playing football that
4 night, they went to that a football game. The
5 defendant was there, and you will hear that Sanford
6 said, "Hey, JoAnn, there's Charles," and when she
7 looked down at the end of the bench there he was
8 staring at her. There he was staring at her.

9 Now, Sanford Best had parked his car down the
10 street at somebody else's house. He had parked his
11 car on Sunday, Monday, Tuesday down at somebody
12 else's house so if Charles drove by he wouldn't see
13 Sanford was staying there. After they saw him,
14 after JoAnn and Sanford saw him at the football
15 game they thought, well, it doesn't matter. They
16 went home Wednesday night and Sanford just parked
17 his car right there at the house.

18 They just talked and did things that evening,
19 fell asleep on the bed. Sometime before midnight
20 JoAnn gets a hand over her face, it's the
21 defendant, "Don't you make a sound, don't you make
22 any noise," picks her up and body slams her on the
23 floor. Of course he's doing this, she doesn't know
24 what's going on, she's awakened, "JoAnn, don't you
25 scream, I'll include the boys in this, don't you

1 scream."

2 She's scared, she's scared. She tells him,
3 "I've got to go to the restroom." So, he lets her
4 get up and go to the restroom. She's got her mouth
5 has been cut, she's got a cut on her nose, she's
6 got scratches, she's bleeding. She goes into her
7 restroom, and there is a wall separating the toilet
8 from the rest of the restroom and you can see into
9 the bedroom.

10 She takes her own blood from her nose and her
11 mouth and writes Charles on the divider, writes
12 Charles on the divider. He throws her her clothes,
13 she gets dressed. She doesn't know what's happened
14 to Sanford, she doesn't know what's happened to
15 Sanford. The defendant pushes her out of the
16 bedroom into the living room, den area. They go
17 into the kitchen and he gets the keys to her car,
18 he takes her out the back door, she goes out the
19 back door, he put on his shoes, he's taken his
20 shoes off, and her house has thick carpet in it, it
21 has thick carpet, he has taken his shoes off so he
22 can tiptoe in. There is also a flashlight back
23 there.

24 The door, screen door, storm door is propped
25 open. So, he put on his shoes, gets his flashlight

1 and they go get in her car. Now, he's duct taped
2 her in this process. When she goes back in the
3 bathroom he throws the duct tape in, she spits on
4 it trying to make sure that it doesn't stick, she
5 can breathe and talk, but he ends up duct taping
6 her head, one nostril was duct taped, she can see
7 but she's got the duct tape around her.

8 So, they drive off, he tells her which way to
9 go. They turn right out of her driveway going from
10 Promise Land on Highway 10, down toward Bradley,
11 and they get to Bradley and he told her which way
12 to go, and they get to where 10 and 221 divide, he
13 tells her to go left, so they go left.

14 Meantime she's scared, she's terrified, she
15 thinks she's going to die, this is the night that
16 she is going to die. She tries to crash into
17 another car to get attention. That doesn't work,
18 the defendant grabs the wheel.

19 They go to the Tranquil A.M.E. Church, the
20 new church on 221, and they sit there for a few
21 minutes. Then he tells her to go to the old
22 Tranquil Church, which is on down 221, take a left
23 going down toward McCormick, I mean, it's out in
24 the middle of nowhere. He has her park out there.

25 Meanwhile he has the gun the whole time, he

1 has the gun the whole time. He has her park, and
2 it's a situation where he's mean and going to kill
3 her one minute and then doesn't know what he's
4 going to do the next. And you will relive with her
5 this night of total fear, total fear. He's
6 threatening to kill her. She doesn't know if her
7 boys are alive or dead, she doesn't know if Sanford
8 is alive or dead. She just doesn't know. He's
9 taken her from a deep sleep and taken her off and
10 he's fussing at her, telling her, you know, she's
11 ruined his life, she's ruined his life, that he's
12 killed a man, and it's at that point she knows that
13 Sanford Best is dead, Sanford Best is dead.

14 And he's telling her to get out of the car.
15 She's too scared to get out of the car. I mean,
16 she can't move. So, he gets out, comes around and
17 takes her out out of the car and she thinks, "This
18 is the night I'm going to die, I'm going to die
19 right here in this church parking lot." She
20 started reciting the 23rd Psalm and she's praying,
21 she's praying she doesn't die and she's trying to
22 think, "What can I do, what can I do so he doesn't
23 kill me?"

24 And, so, she starts talking to him, says,
25 "Charles, you always said our hugs were special,

1 you always said our hugs were special, will you
2 give me a hug to see if they are still special?"
3 And he gives her a hug. Then he goes into a rage
4 again and then she says it's just like something
5 came over him and it was like nothing happened, he
6 said, "JoAnn, what's the matter, I wouldn't hurt
7 you, JoAnn, I wouldn't hurt you."

8 They get back in the car, he's going to take
9 her back home, he says, "I'm going to take you back
10 home, you need to get the boys ready for school."
11 She's got three boys who were at home, who catch
12 the bus and go to school, "Get the boys ready and
13 we need to do a couple things and I'm going to turn
14 myself in."

15 So, they go back to her house and by this
16 time it's 5:30, 6:00, 6:30 in the morning and she
17 parks around back where she never parks and she
18 leaves her lights on thinking, "Maybe somebody will
19 see this and wonder what in the world is going on
20 at the Wilson house, what in the world is going on
21 at the Wilson house?" He lets her go in, he tells
22 her going back, "Don't try to use the phone, I
23 fixed the phone."

24 So, she goes in, she's hysterical. She gets
25 her boys up and she gets Raheim up, who is the

1 oldest one there, and tells him, "You need to help
2 get the boys ready to go to school." Raheim sees
3 there is something wrong with his mother, her hair
4 is all messed up, she's got this cut on her nose,
5 she's got scratches, I mean, her mouth, he knows
6 something, "Mama, what's wrong, what's wrong?"
7 "Mr. Charles has killed Mr. Sanford, you need to
8 help me, you need to help me, you need to get the
9 boys ready, I don't want you boys to get hurt."

10 So, they get ready to go to school and she's
11 going back, she's going back to look out the window
12 to see where the defendant is. A couple times she
13 sees him out there, one time she doesn't see him
14 and she's scared he has snook in the house. She
15 goes and looks and he's not where she thinks he
16 would be behind the house. She looks back, he was
17 evidently in the car doing something.

18 So, she is running back and forth and she
19 sees her cell phone that she put on the charger and
20 she sees the cord hanging over the chair, and she
21 grabs her cell phone. She makes two phone calls.
22 She calls 911, and you will hear the tape, you will
23 hear the tape of the 911 call. She calls 911 and
24 then she calls her friend down the street where
25 they parked the car, Jan, she called Jan and asked

1 Jan to call her mama, asked Jan to call her mama.

2 They go out, she gets the boys ready, she
3 takes them out on the porch and they hear the
4 sirens from the police, from the Sheriff's
5 Department, they hear the sirens and see the cars
6 coming down the road, they take off, they all ran,
7 they ran down the driveway to the road and they are
8 met there by the deputies.

9 JoAnn tells them, "Look, he's in the back,
10 he's killed somebody." The deputies go on either
11 side of the house and at the back of the house is
12 the defendant. Of course they draw on him, tell
13 him to put his hands up, "Put your hands up, put
14 them up higher," so they can check to make sure he
15 doesn't have a weapon. They approach him, and what
16 does he say? "The gun is in my pocket. The gun is
17 in my pocket."

18 They take the gun out of his pocket, arrest
19 him. They go in the house. They have to kick the
20 bedroom door open because the bedroom is locked.
21 They kick the door open, there is Sanford Best on
22 the bed dead, he's been shot in the head, he's been
23 shot in the head.

24 They take Mr. Best down for an autopsy, they
25 remove the bullet from his head, then matched this

1 bullet with the gun the defendant had in his
2 pocket. They match the gun and the bullet.

3 That's the case in a nutshell. That's the
4 case in a nutshell. So, you know where we are, you
5 know where we're going, you know how we're going to
6 get there.

7 Now, what's going to happen when you get
8 there? What happens? You have to determine
9 whether this defendant is guilty of any or all of
10 the charges. That's what you have to do.

11 Now, the judge is going to give you the law
12 because you're the finder of facts, the judge is
13 going to give you law and he's going to tell you
14 about murder and kidnapping and burglary and
15 possession of a weapon and he's going to talk to
16 you about reasonable doubt and he's going to tell
17 you what reasonable doubt is, because the State has
18 the burden of proof, the State has to prove beyond
19 a reasonable doubt, and you are going to hear that
20 term so much it is probably going to make you sick.
21 The State has to prove beyond a reasonable doubt
22 that this defendant committed those offenses.

23 I want to leave you with this. Regardless of
24 how the judge defines reasonable doubt, regardless
25 of how he defines reasonable doubt, when you go

1 back into that jury deliberation room and you look
2 at this evidence and you discuss this evidence you
3 won't have any problem finding this defendant
4 guilty beyond a reasonable doubt of murder,
5 burglary in the first degree, kidnapping and
6 possession of weapon during the commission of a
7 violent crime.

8 Now, I appreciate you doing your duty as
9 citizens of Greenwood County and being willing to
10 serve on this jury and I look forward to presenting
11 the State's case.

12 Thank you very much.

13 THE COURT: Mr. Sheek.

14 MR. SHEEK: Thank you, Your Honor. May it
15 please the Court.

16 THE COURT: Mr. Sheek.

17 MR. SHEEK: Solicitor.

18 Ladies and gentlemen of the jury, good
19 afternoon. Again my name is Lance Sheek, I
20 practice law and live right here in Greenwood with
21 my family, and today I have the privilege of
22 representing this gentleman that is sitting right
23 beside me, Charles Vandross.

24 Now, the Solicitor just told you quite a
25 story, and that's what it is, it's a story. You

1 know, as people tell stories, human nature is we
2 listen to them, we want to believe them, nobody
3 wants to believe someone would come in and tell us
4 something that's not true, that's for sure. But
5 there are a couple things I want you to remember,
6 keep in mind as we go through this case.

7 First of all, everything you just heard, the
8 accusations, the story you were just told, this
9 road map of where we're going and how we're going
10 to get there all comes from one person in this case
11 and that's JoAnn Suber, one person and one person
12 only.

13 Now, the State's told you about the charges
14 that they brought against this defendant. Let me
15 tell you a little bit about how charges work in the
16 State of South Carolina. The police can go and
17 request an arrest warrant for any number of charges
18 from what we call a Summary Court Judge. They tell
19 the judge what information they have, why they
20 think the arrest warrant should be given. The
21 defendant Mr. Vandross isn't called in to call
22 witnesses, present evidence or have an attorney,
23 anything like that, and a warrant is issued based
24 on an affidavit of the law enforcement agency.
25 There may be or may not be a preliminary hearing on

1 that charge. At a preliminary hearing again the
2 defendant doesn't get to call witnesses --

3 MR. PEACE: Your Honor, I'm sorry, I have to
4 object. This is not relevant in an opening
5 statement, how the prosecutorial system works, it's
6 not relevant to this trial, Judge.

7 THE COURT: The objection is sustained so far
8 as the process preceding the return of the
9 indictment.

10 Continue.

11 MR. SHEEK: This is the first time, the point
12 I'm getting at, the first time Charles Vandross
13 gets to come in and participate in front of an
14 unbiased panel of members of his community to sit
15 and look at the evidence and make a decision based
16 on that evidence, because there is something very
17 important you are going to learn as we travel this
18 road map that the Solicitor told you about.

19 I will submit to you the evidence is going to
20 show there is jealousy and that Sanford Best is
21 dead, but the evidence is not going to show that
22 Charles Vandross had any part in that murder or
23 that it was his jealousy that played any part in
24 Sanford Best being dead. As a matter of fact,
25 thousands of years ago when Moses wrote the first

1 five Books and gave a lot of the law to the
2 Israelites there was a standard he used that said
3 if another one comes to levy a charge, then you've
4 got to have some corroborating evidence.

5 I submit to you that is what you are going to
6 need to look for in this case, because anybody can
7 tell a story but you have got to look at the
8 surrounding evidence and see what does it
9 corroborate, what does it tell me? Does it tell me
10 the same thing that JoAnn Suber tells me, does it
11 contradict what JoAnn Suber tells me, is her story
12 consistent, is she credible, because you the jury
13 are going to get to judge the credibility of the
14 witnesses that talk to you. Credibility literally
15 means their believability, "Should I believe what
16 they are telling me?" And your job as finders of
17 the facts is to decide that credibility and no one
18 second guesses that, because I submit to you as you
19 go through this case and you listen to the
20 investigators that investigated this and the
21 evidence technicians and the people from SLED who
22 did the testing, and you may be told this isn't
23 like CSI and this isn't like Law and Order, what
24 this is about is a member of our community has been
25 charged with a crime. Charles Vandross sits here

1 innocent, the law says he's innocent, he comes into
2 the courtroom presumed innocent and that
3 presumption of innocence cannot be removed by
4 anybody but you the jury and only after the
5 evidence is put on from this witness stand to prove
6 him guilty beyond a reasonable doubt, and I submit
7 to you when you look at the evidence what you are
8 going to see is that Charles Vandross doesn't have
9 any blood on him, he doesn't have gunshot residue
10 on him, there are no fingerprints or footprints or
11 anything else that's going to put him inside that
12 house where JoAnn Suber says he was.

13 And if further than that, you are going to find
14 the physical evidence that the police does have
15 doesn't fit with the story she sits on that stand
16 and tells you, and you have got to wonder why.
17 That's where we're going because, you see, ladies
18 and gentlemen, where we're really going in this
19 case is whether or not this man is guilty of the
20 crimes, of the charges they levied against him.
21 He's not the defendant, he's the accused presumed
22 innocent they have got to prove guilty.

23 It's very important, because I can make up a
24 story about anybody, how do they prove it's not
25 true? Well, they don't prove it's not true. In

1 South Carolina and any state in this country the
2 State has got to prove it is true beyond a
3 reasonable doubt.

4 It's kind of like putting a jigsaw puzzle
5 together. The State brings you evidence and each
6 piece of evidence is like a piece of that jigsaw
7 puzzle. Alone you may not know what the picture
8 is, but in a proper prosecution and investigation
9 each piece of that evidence fits with the next
10 piece and makes a complete picture when the case is
11 finished. But when those pieces won't fit
12 together, it's when there is large pieces missing
13 and gaps there and the State wants you to assume,
14 suppose or guess at what the picture is and,
15 "Ignore what doesn't fit my story and take what
16 does fit with my story," that there is a problem,
17 and that's what you are going to be asked to do in
18 this case, because the evidence simply isn't there.

19 Now, through the next day or so you are going
20 to listen to witnesses that testify and they are
21 going to sit on this stand right up here. That is
22 where all the evidence is going to come from, from
23 their testimony. As we go through I want you to
24 keep an open mind and don't form an opinion until
25 the end of the case because it's easy, as I said,

1 if someone else tells you a story, to start
2 picturing. But you wait, because there will be the
3 rest of the story to come along and that's very
4 important.

5 I appreciate your time here. I know you all
6 have got lives and other things to do, you have got
7 jobs and other things to do that you would rather
8 be at, but Charles Vandross can't have a trial,
9 Charles Vandross doesn't have anybody unbiased to
10 listen to this evidence until the twelve of you, or
11 ~~fourteen with the alternates, come together and sit~~
12 and say, "State, give us what you've got."

13 A road map is nice, knowing where we're going
14 is nice, but the evidence is what this trial is all
15 about, that's why we're here. Lady Justice as we
16 see her there is blindfolded, she doesn't see
17 white, black, young, old, rich or poor. She waits
18 with an open mind, and that is what I'm going to
19 ask you to do, because the prosecution that comes
20 in looking through a presupposition the same as an
21 investigation that comes in with a presupposition,
22 they don't look for the evidence that's there, they
23 look for evidence that supports what they believe
24 happened. When that happens you don't get the
25 complete picture.

1 I'm going to ask you to keep an open mind as
2 we go through the next couple days.

3 Thank you very much for your time.

4 THE COURT: Call your first witness,
5 Solicitor, please.

6 MR. PEACE: Thank you, Your Honor. If it
7 please the Court, we would call JoAnn Suber Wilson
8 to the stand. Your Honor, if I may, I need to get
9 the --

10 THE COURT: Yes, sir.
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JOANN SUBER - DIRECT

1 JOANN SUBER WILSON,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you,
4 Solicitor.

5 MR. PEACE: Sir?

6 THE COURT: This witness is with you.

7 MR. PEACE: Thank you, Your Honor. If it
8 please the Court.

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. PEACE:

11 Q State your name, please.

12 A JoAnn Suber Wilson.

13 Q Okay. Mrs. Wilson, will you please spell
14 that for the court reporter?

15 A J-o-a-n-n, S-u-b-e-r, W-i-l-s-o-n.

16 Q All right. Mrs. Wilson, do you know the
17 defendant?

18 A Yes.

19 Q How do you know him?

20 A I used to date him, we used to live together
21 and we used to be engaged.

22 Q If you see him in the courtroom would you
23 point him out, please?

24 A Yes, sir. He's right there with the blue
25 striped tie on, right next to Mr. Sheek.

JOANN SUBER - DIRECT

1 Q Okay.

2 MR. PEACE: Your Honor, if it please the
3 Court, please let the record reflect that the
4 witness identified the defendant.

5 THE COURT: So reflected.

6 Q Now, Mrs. Wilson, where did you live on
7 November the 4th of 2004?

8 A I lived at 3938 McCormick Highway in Bradley.

9 Q Is that in Greenwood County?

10 A Yes, sir.

11 Q All right. When did you start dating the
12 defendant?

13 A I started dating Charles, it was like July of
14 '03.

15 Q All right. And where did you meet him?

16 A I met him at a church function in Cross Hill.
17 My boys have a gospel group and my boys were on the
18 program there and he was attending that same
19 service and afterwards, like everybody that wants
20 to get our information for us to be on their
21 program, they approach us and we exchange
22 information, and that's what happened.

23 Q Okay. Were you approached by the defendant?

24 A Yes, sir.

25 Q What information did you exchange?

JOANN SUBER - DIRECT

1 A We exchanged telephone numbers.

2 Q And did anything happen after you gave him
3 your telephone number?

4 A He called and made arrangements for my boys
5 to meet somewhere to take pictures for a flyer for
6 his men's day program at their church.

7 Q Now, when did this meeting occur in Cross
8 Hill? Do you remember what month that was?

9 A I think it was in May of '03.

10 Q Okay. All right, do you recall when the
11 defendant called you?

12 A He called me in June of '03, because his
13 program was in June.

14 Q And why did he call you?

15 A He called me so that we could schedule a time
16 where he could send somebody to take pictures of my
17 boys for the flyer for his men's day program.

18 Q Okay. Did someone come and take pictures?

19 A We were already at a function in Columbia and
20 this guy that he knew, he sent him down there
21 because he was attending that same function and we
22 took pictures down there.

23 Q Okay. Did the boys perform at his church in
24 Greenville?

25 A Yes, sir, they ministered on his program.

JOANN SUBER - DIRECT

1 Q When did they do that?

2 A In June of '03.

3 Q All right. Did you have any contact with the
4 defendant after that time?

5 A Yes, sir. He called July the 4th of '03. He
6 lived in Greenville and he was going to bring his
7 kids down here to the Piedmont Tech fireworks
8 display and he called me asking for directions to
9 Piedmont Tech and what time the fireworks started.

10 Q Did you have any contact with him after that?
11 Did you -- let me withdraw that question. Did you
12 meet him on July the 4th?

13 A No, sir. He didn't come. He didn't come.

14 Q All right.

15 A He changed his mind, one of his sons had an
16 accident on the way.

17 Q What, if any, contact did you have with him
18 after July the 4th?

19 A After July the 4th he called me, and I had
20 just bought a home, closed on that home on
21 McCormick Highway in June of '03 and in July we
22 were moving, and he asked me if I had anyone to
23 help me move, and he volunteered to help us move.

24 Q Did he help you move?

25 A Yes, sir.

JOANN SUBER - DIRECT

1 Q All right. When did the move occur?

2 A The move occurred in July, '03.

3 Q All right. Did you develop any type of
4 relationship with the defendant after he helped you
5 move?

6 A Yes, sir. On the third day that he helped us
7 move me and my girlfriend Jan was in the kitchen at
8 my new place and he was in there also, he told both
9 of us at the same time that God said we was
10 supposed to be together.

11 Q And what is Jan's last name?

12 A Jan Owens.

13 Q Jan Owens?

14 A Jan Owens.

15 Q Would you speak up just a little bit, please?

16 All right. So, what happened after that,
17 after he told you you were destined to be together?

18 A Well, he was living in Greenville, he had a
19 four bedroom apartment there, and he, in August,
20 mid to late August, it was like mid August or the
21 latter part of August, he moved in with me.

22 Q And was this at 3938 McCormick Highway?

23 A Yes, sir.

24 Q All right. What kind of relationship did you
25 have with the defendant?

JOANN SUBER - DIRECT

1 A In the beginning it was a good relationship.
2 We had a good relationship but when we started
3 living together it just changed. I mean, he just
4 changed. He started chastizing me about my clothes
5 that I would wear, my skirts would be too short or
6 my shirt wouldn't be buttoned up enough, I would
7 have to have it buttoned all the way up to my neck,
8 my jeans would be too tight. It was always
9 something. I was telling Charles, "These are the
10 same clothes I was wearing when you met me, why are
11 they not good enough for you now?" He just would
12 complain all the time about the way I dressed and
13 just a whole lot of different things.

14 When my girlfriends called, if I was on the
15 phone too long in his opinion, then he would do
16 things like, "Um," like to get me off the phone, or
17 he would just sit there and look in my face while I
18 was talking on the phone to my girlfriend. It
19 would aggravate me so bad I would just hang up.

20 He was jealous, he just turned jealous,
21 jealous of when I spent time with my kids. I have
22 this little saying that we used to have, and you
23 will see it in the diagram, on one side I called it
24 my side of the house and on the other side were my
25 kids' rooms and I would go over to their side of

JOANN SUBER - DIRECT

1 the house and maybe we would be back there playing
2 Playstation or looking at videos or just talking,
3 and instead of him coming over there with us he
4 will tip across the hallway and just peep around
5 the corner like we're doing something wrong, and it
6 would aggravate me, aggravate my kids, and then it
7 just turned to where they didn't like him no more
8 and I was frustrated all the time and we would
9 argue.

10 Q All right. Miss Wilson, were you working at
11 this time?

12 A Yes.

13 Q Where were you employed?

14 A I was employed at Regency Park Apartments as
15 property manager.

16 Q Where is that located?

17 A Located, I think that's Center Street right
18 down below the McDonald's, kind of across from
19 Walmart.

20 Q What was your duties there?

21 A I was the property manager there.

22 Q All right. Did the defendant get a job when
23 he moved to Greenwood?

24 A When he first moved in with me he would drive
25 back and forth to Greenville because his job was up

JOANN SUBER - DIRECT

1 in Greenville. But then he took a job down here in
2 Greenwood and he had a choice of several jobs. He
3 could have taken a job at Capsugel --

4 MR. SHEEK: Objection, hearsay.

5 THE WITNESS: He had a choice of several
6 jobs.

7 MR. PEACE: Hold on just a moment.

8 THE COURT: The objection is sustained.

9 MR. PEACE: Okay.

10 BY MR. PEACE:

11 Q All right, where did he take a job?

12 A He took a job at McDonald's.

13 Q Which McDonald's did he work at?

14 A He took the job at the McDonald's right up
15 the street from Regency Park.

16 Q Okay. Did he have an opportunity to work at
17 the other McDonald's?

18 A Yes, sir, he could have picked this other
19 McDonald's down on the bypass by Ballentine or he
20 could have picked the McDonald's on South Main.

21 MR. SHEEK: Your Honor, the same objection.

22 THE COURT: Sustained.

23 MR. PEACE: Your Honor, if I may, it's not
24 hearsay.

25 THE COURT: If she knows of her own

JOANN SUBER - DIRECT

1 knowledge.

2 MR. PEACE: If she knows of her own
3 knowledge.

4 MR. SHEEK: I object to lack of foundation at
5 this point.

6 THE COURT: All right. Lay a foundation,
7 Solicitor.

8 MR. PEACE: Okay, thank you.

9 BY MR. PEACE:

10 Q All right. Now, can you see Regency Park
11 where you worked, from McDonald's?

12 A Yes, sir.

13 Q Okay. Did the defendant ever call you when
14 you worked at Regency Park?

15 A All the time, all the time, all the time. I
16 would leave -- when you're property manager you
17 have to take rent money to the bank and deposit it
18 before 2:00 o'clock. Every time I would go up the
19 street he would go and call me on the cell phone,
20 "Where you going JoAnn?" "I'm going to make the
21 deposit in the bank, Charles." And if I didn't
22 come back by there at a time that he thought I
23 should come back by, even though there are other
24 ways to get to Regency Park than going down that
25 street, he will call me all the time.

JOANN SUBER - DIRECT

1 Q Now, how long did the defendant live with
2 you?

3 A He lived with me off and on for about twelve
4 to fourteen months.

5 Q Was this a continuous twelve to fourteen
6 months?

7 A No, sir. It was off and on because we would
8 break up and get back together, we would break up
9 and he would move to Greer, or we would break up
10 and he would move back to Greenville, and finally
11 we broke up and he took an apartment in Greenwood.

12 Q Do you know where that apartment was?

13 A Yes, sir. It was at Pinetree Apartments
14 right behind Regency Park.

15 Q Did you ever obtain a key to that apartment?

16 A Yes, sir. He gave me a key to his place. He
17 had a key to my place and I had a key to his place.

18 Q When did you give him a key to your place?

19 A I don't remember exactly when. It was
20 sometime during the time that he stayed there with
21 me.

22 Q Was the defendant living with you in October
23 of 2004?

24 A No, sir, he wasn't physically living with me.
25 He was trying to get back together with me to move

JOANN SUBER - DIRECT

1 back in with me but he still had his apartment at
2 Pinetree.

3 Q Did you see him in October of 2004?

4 A Yes, sir, I did.

5 Q And where did you see him?

6 A I saw him at my house. He came and we went
7 to Greenville on October 30th.

8 Q And what did you do in Greenville?

9 A We went to Greenville, we went and visited
10 some people for about four hours and then we came
11 back.

12 Q All right. And what, if anything, happened
13 when you came back?

14 A When we came back, we were coming down the
15 highway and as usual Charles, if we -- okay, I have
16 been in retail management, I go from retail
17 management to property management, and I'm in the
18 public a lot, so I know a lot of people's faces but
19 I don't know their names.

20 Q What other jobs have you had?

21 A Retail management, I worked at Bath and Body
22 Works, One Price, Mart's Designer.

23 Q You need to go over that. I don't understand
24 a word you're saying. What other retail jobs have
25 you had?

JOANN SUBER - DIRECT

1 A I was the manager at One Price Clothing
2 Store, I was the manager at Mart's Designer, I was
3 assistant manager at Bath and Body Works, and I was
4 the manager at Dempsey's. So, I have been in the
5 public a lot.

6 Q What happened, then, after your trip to
7 Greenville?

8 A On the way back, on the way back Charles did
9 what Charles normally does. We will be at a
10 redlight, and I'm a friendly person because I have
11 that retail experience, you speak to everybody, so
12 we were sitting in the car at a redlight and
13 somebody pulled up and they waved, I waved. It was
14 a male. As usual, "Who's that, JoAnn, do you know
15 him, JoAnn? Are you sure you don't know him,
16 JoAnn." That's very aggravating and it always
17 starts an argument and I get to the point where I
18 say, "Well, roll down the window and ask him," if
19 you don't believe me.

20 We would be in Walmart right here in
21 Greenwood, we would go in Walmart together, I used
22 to hate to go in WalMart. If somebody speaks to
23 me, whether I know them or not, I may know their
24 face, "Who's that, JoAnn, how do you know him,
25 JoAnn? Have you ever dated him before, JoAnn?" I

JOANN SUBER - DIRECT

1 mean, to keep putting up with that over and over
2 again, I mean, that's really aggravating.

3 Q All right. What, if anything, happened after
4 this incident at the traffic light?

5 A We argued all the way back to Greenwood and
6 when we got back he had to go to work. He had
7 brought his uniform over to the house and he went
8 to work. We argued, we argued over and over, we
9 argued and argued and then he left for work.

10 Q Did you ever argue about Sanford?

11 A Yes, sir, we argued about Sanford because
12 Sanford, I used to date Sanford before Charles, so
13 me and Sanford, we met in 1999 and we dated up
14 until like 2003, the first part of 2003, and I was
15 crazy about Sanford. I mean, Sanford and I were
16 good friends, we just had a relationship like, even
17 though it was rocky sometimes, we still always
18 worked out our problems and we always remained
19 friends no matter who he went with or who I went
20 with.

21 Q Okay. Did anything happen with the defendant
22 after he went to work that Saturday?

23 A No, sir.

24 Q Okay. Did anything happen on Sunday, October
25 31st?

JOANN SUBER - DIRECT

1 A On October 31st, that was the Sunday, it was
2 Halloween, we got up to go to church, okay?
3 Charles and I, we were arguing again and I just
4 couldn't take it anymore because life is too short
5 to be arguing, there is too many people in the
6 world to be arguing, and we argued and argued and
7 argued, and finally I told him just to get out and
8 leave. I had put him out about three or four other
9 times throughout the whole relationship but this
10 was just the last straw, I just couldn't take it
11 anymore, and I told him to give me my key and get
12 out.

13 Q Did he give you his key?

14 A No, sir, he would not give me my key. I
15 said, "Charles, I will give you your key if you
16 give me my key. Please give me my key because this
17 is it, give me my key." He would not give me my
18 key. He was adamant about not giving me my key and
19 he got in his car and left.

20 Q What time was this?

21 A This was Sunday morning before church.

22 Q Okay. What did you do after he left?

23 A After he left I went to church.

24 Q What did you do after church?

25 A When I came back from church, I can't

JOANN SUBER - DIRECT

1 remember if I called Sanford or Sanford called me,
2 but Sanford and I talked on the phone and I told
3 Sanford what had happened. I told Sanford what
4 happened on October 30th and I told Sanford what
5 happened on October 31st.

6 Q Now, did you maintain contact with Mr. Best
7 while you were dating the defendant?

8 A Yes, sir, I did.

9 Q What, if anything, happened after the
10 telephone call?

11 A ~~Sanford agreed to come down because I had~~
12 told Sanford I was scared of Charles, and Sanford
13 knew I was scared of Charles, and Sanford came down
14 there to stay with us.

15 Q What time did he come down to your house?

16 A I don't remember the exact time because it
17 was like two and a half years ago. I know it was
18 that evening, afternoon like.

19 Q Did he drive his automobile down to your
20 house?

21 A Yes, sir, he did.

22 Q Did he park it at your house?

23 A On October 31st, he and I had talked on the
24 phone and since Charles had left that morning, I
25 had called my girlfriend Jan and asked Jan could he

JOANN SUBER - DIRECT

1 park his car down at her house so just in case
2 Charles came by, then he wouldn't see Sanford's car
3 there and be trying to come and ring the doorbell
4 and wanting me to come outside and talk, because
5 that's what he always wanted, to talk. I mean,
6 there is nothing to talk about.

7 So, I told Sanford that on the phone and
8 Sanford agreed to park his car down at Jan's house,
9 and he parked his car down there and I went down in
10 my car to get him.

11 Q Did anything else happen Sunday evening?

12 A No, sir.

13 Q Did Mr. Best spend the night?

14 A Yes, sir, he did, Sanford spent the night.

15 Q Did he leave the next day?

16 A Yes, sir. Sanford had just started a new
17 job, so he had to leave like 5:00 in the morning in
18 order to go home to his house and get ready for
19 work, so I had to get up and take him down to Jan's
20 house, down to my girlfriend's house, and she had
21 like a U shaped driveway and I pulled in the back
22 of her house and let him get his car and then he
23 and I talked on the cell phone until I got back in
24 the house.

25 Q When is the next time you saw the defendant

JOANN SUBER - DIRECT

1 after October 31st?

2 A I saw Charles on November the 1st. I was at
3 Regency Park, sitting at my desk, and he walked in.
4 He walked in the door like everything was
5 hunky-dory. He brought me a cinnamon rasin biscuit
6 because that is what he used to do, you know,
7 before because he knew I liked them, and he waltzes
8 in there with a cinnamon rasin biscuit and then
9 just out of nowhere he hands me my key. Well, it
10 just felt really strange because just on October
11 31st he wouldn't given me my key, but he gave me my
12 house key and I gave him his apartment key.

13 Q Did you say anything at that time?

14 A I don't remember saying anything.

15 Q Did you take your key back?

16 A Yes, sir, I did.

17 Q Did he take his key back?

18 A Yes, sir, he did.

19 Q When is the next time you saw Mr. Vandross?

20 A The next time I saw Mr. Vandross was on
21 November the 3rd.

22 Q And where did you see him on November 3rd?

23 A I saw him at the Civic Center, at my son's
24 game.

25 Q And did anything happen at the game?

JOANN SUBER - DIRECT

1 A Well, can I go back a little bit, can I go
2 back before we get to the game?

3 Q Yes, sure.

4 A Well, on November the 3rd, that day I got a
5 phone call from my girlfriend Sherry.

6 MR. SHEEK: Objection, hearsay.

7 MR. PEACE: She hasn't said anything. I
8 mean, she hasn't testified as to anything she said.

9 THE COURT: She said she received a call.

10 MR. SHEEK: As long as she doesn't say what
11 anybody told her that's fine.

12 BY MR. PEACE:

13 Q Without telling us what you were told by
14 Sherry what, if anything, did you do in regard to
15 this conversation?

16 A I got a phone call from my girlfriend Sherry
17 and as a result of our conversation I was scared
18 and I went down to the Greenwood City Police
19 Department to take out a no trespassing notice or
20 restraining order or whatever I could get.

21 Q Did you get one?

22 A We got a no trespassing notice but because I
23 lived in the county, the county works, the lady
24 explained to me that the county works different.
25 She said that I had to go to the game and I needed

JOANN SUBER - DIRECT

1 to take a witness with me and if Mr. Vandross said
2 or did anything to me then I had to have a witness
3 with me and I had to document whatever he said or
4 did and then fill out that paperwork and bring it
5 back to them and they would have to mail it
6 certified or something like that.

7 Q After that conversation what did you do?

8 A I left the police department and then I came
9 back to work and then I came, on the way back from
10 the police department I called Sanford, I called
11 Sanford and told him exactly, as a result of the
12 conversation with my girlfriend Sherry, I told him
13 what I had did.

14 Q Okay. Now, were you going to the ballgame
15 that night?

16 A Yes, sir, I was going to the ballgame but
17 when I worked at Regency Apartments my hours were
18 9:00 to 6:00 and I didn't get off work until 6:00
19 o'clock, so Sanford agreed to go to my house and
20 pick up Jeremy and John, which are my younger two
21 children, and then we were going to meet at Emerald
22 High School so I wouldn't have to go all the way to
23 Promise Land, we would meet at Emerald High School,
24 and at that time my son was in the twelfth grade
25 and he was having basketball tryouts and so we were

JOANN SUBER - DIRECT

1 going to meet at Emerald and I was going to park my
2 car there and let him drive, and then I got in the
3 car with Sanford and my two youngest kids.

4 Q Did Sanford agree to go to the ballgame with
5 you?

6 A Yes, sir. I tried to find some girlfriend to
7 go with me but it was Wednesday night, it was Bible
8 study, Sanford was supposed to teach Bible study
9 but since I couldn't find anybody to go with me he
10 said that he would go with me.

11 Q Who did you try to get to go to the ballgame
12 with you?

13 A I tried to get Jan to go and I think it was
14 Lilly I tried to get.

15 Q Who all went to the ballgame?

16 A Me and Sanford and my sons Jeremy and John.

17 Q Where was this ballgame?

18 A The ballgame was at Greenwood Civic Center,
19 it was their football play-offs.

20 Q Did anything happen at the ballgame?

21 A Well, when we got to the ballgame Charles'
22 car, when we pulled in we noticed Charles' car was
23 there. There was a lot of people there so you
24 couldn't really tell where he was. Well, all the
25 other games that I would go to, I like to sit on

JOANN SUBER - DIRECT

1 the last bleacher, the highest one, so I can see,
2 and so that's what we did. We walked in and sat on
3 the last bleacher, the highest bleacher. And while
4 we were sitting there, you know, football, you are
5 going back and forth, and then Sanford spotted
6 Charles first and he said, "JoAnn, there he goes
7 right there." Then when I turned and looked he was
8 on the same bleacher that we were on except he was
9 on the other end.

10 Q Was he doing anything when he was sitting
11 down there?

12 A Yes, sir. When I looked he was staring at us
13 just like this. He has this stare that he stares
14 at you.

15 Q Did he say anything to you at that time?

16 A No, sir, he didn't say anything.

17 Q What happened after the ballgame?

18 A After the ballgame we went into the huddle
19 like you go on the field with all the parents and
20 meet with the coaches and then me and Sanford and
21 Jeremy and John, we went home.

22 Q All right. Were there any conversations on
23 the way home?

24 A On the way home we talked again about, you
25 know --

JOANN SUBER - DIRECT

1 Q Excuse me, who is we?

2 A Me and Sanford.

3 Q Okay.

4 A Me and Sanford were in the car together and
5 my two youngest kids and me and Sanford were
6 talking about, you know, what the lady had told me
7 to do at the Police Department and then we were
8 talking about as a result of the conversation I had
9 with my girlfriend.

10 Q And which girlfriend is that?

11 A Sherry.

12 Q Okay.

13 A He told me when he went to pick up my boys he
14 had discovered some important information.

15 Q Did you go straight home?

16 A No, sir. Before we went home we came down
17 the street and there is a left turn before you get
18 to my house --

19 MR. SHEEK: Your Honor, objection. I have a
20 matter for the Court.

21 THE COURT: Ladies and gentlemen of the jury,
22 do not discuss the case by, between and among
23 yourselves and retire briefly to the jury room.

24 (The jury was excused from the courtroom).

25 THE COURT: Mr. Sheek.

JOANN SUBER - DIRECT

1 MR. SHEEK: Your Honor, if it please the
2 Court, I believe we're getting ready to get into
3 another hearsay matter and since the bell can't be
4 unrung, and I anticipate, based on what has been
5 testified to previously, I believe the testimony is
6 going to be something to the effect that Mr. Best
7 took her to a cul-de-sac and told her this is where
8 the defendant had been watching her house. If
9 that's where we're going I object to that line of
10 testimony. It is clearly hearsay.

11 THE COURT: All right. The anticipatory
12 objection may or may not be well founded,
13 Solicitor, is that where --

14 MR. PEACE: Your Honor, one of the State's
15 positions goes to motive. The defendant was
16 watching the house, he was trying to come up with
17 an opportune time to break into the house. We also
18 have, I think, Sherry McCauley who actually had
19 seen the defendant parked in the cul-de-sac and
20 watching the house, so I don't think it's hearsay
21 and, I mean, if it is hearsay, we will say it goes
22 to motive.

23 THE COURT: Anything in response?

24 MR. SHEEK: Clearly, Your Honor, going to
25 motive is not a hearsay exception. I mean, even

JOANN SUBER - DIRECT

1 the argument it goes to motive shows they are
2 putting it in for the truth of the matter asserted.
3 Clearly an out of court statement, no confrontation
4 available to the defendant whatsoever, out of court
5 statement for the truth of the matter asserted,
6 hearsay. That is not an exception.

7 If Miss McCauley is going to get on the stand and
8 testify to something she saw that's fine, but this
9 witness saying, "I was told by someone else the
10 defendant was doing this," it's inadmissible.

11 THE COURT: Anything further, Solicitor?

12 MR. PEACE: Well, Your Honor, of course I,
13 believe me Your Honor, I would like to have the
14 person who did this here to testify but that person
15 is dead, and of course our position is he's dead
16 because the defendant shot and killed him.

17 THE COURT: The objection is sustained.

18 MR. PEACE: Thank you, Your Honor.

19 THE COURT: However, we will take about five
20 minutes. Any objection to Mr. Bolton telling the
21 jury to relax for about five minutes? Step in and
22 say that, please. It may be ten minutes, Mr.
23 Bolton.

24 BAILIFF: It may be ten minutes?

25 THE COURT: Now, Madam Witness, you are to

JOANN SUBER - DIRECT

1 consider that we're not taking a break. You are
2 under oath and you are testifying, so do not talk
3 with anyone about your testimony, any questions you
4 have been asked or any answers you have given to
5 those questions or any questions you expect you
6 could be asked or any answers you expect you may
7 give to those anticipated questions, but you are
8 entitled to relax and take a break as well. It is
9 ordered that you not go around either of the
10 attorneys nor any of the people here. It's best
11 that, if Mr. Higgenbotham can come, he can stay
12 with you and escort you, there is a restroom out
13 here, you can relax just a few minutes, but don't
14 go around anyone to raise any suspicion you talked
15 with anybody. Okay? It's as if we're not taking a
16 break.

17 THE WITNESS: Yes, sir.

18 THE COURT: All right, come down, and watch
19 your step and take your time. And, Mr.
20 Higgenbotham, you will escort her, please, to the
21 ladies room and let her walk around a little bit.

22 Ladies and gentlemen we're going to be in
23 recess for about ten minutes.

24 (Brief recess).

25 MR. PEACE: Your Honor, if I may, not to

JOANN SUBER - DIRECT

1 belabor the point but it's the State's position on
2 this testimony of the witness about the cul-de-sac,
3 I mean, she's going to testify they went to a
4 cul-de-sac and Mr. Best drove her to a cul-de-sac.
5 I mean, there has got to be a reason to do it, so
6 the State's position would be it is not for the
7 truth of the matter asserted but it's to show why
8 they went to the cul-de-sac, and that would be the
9 reason, the information the witness had.

10 THE COURT: Mr. Sheek?

11 MR. SHEEK: Your Honor, obviously going to
12 the cul-de-sac is absolutely irrelevant but for the
13 fact that she was supposedly told something that
14 incriminates this defendant. It still goes back to
15 the hearsay. If you remove the hearsay from it, it
16 has no relevance.

17 THE COURT: Well, that objection is
18 overruled. What she did is up to the jury to give
19 it such importance or weight as they may give.
20 Given that she went and was shown to the cul-de-sac
21 is admissible. You may ask her that but you may
22 not ask her what the other man said, what the
23 deceased may have said or didn't say. Any
24 conversation between them is not going to be
25 allowed.

JOANN SUBER - DIRECT

1 MR. PEACE: Yes, sir, okay. Thank you, Your
2 Honor.

3 THE COURT: Anything further?

4 MR. SHEEK: Just for clarification, as long
5 as it's not, "Based on what I was told, I believe
6 he was here watching me." That would still be
7 getting in the same area. If she says, "We went,"
8 I understand the Court's ruling. I don't want her
9 to say, "Based on the conversation, I believe he
10 was here watching my house."

11 THE COURT: Is there any confusion about it?

12 MR. PEACE: No confusion, no confusion at
13 all, Your Honor.

14 THE COURT: All right. Ask the jury in,
15 please.

16 (The jury returned to the courtroom).

17 THE COURT: All the jurors are present, with
18 the alternates properly seated.

19 Madam Witness, during the break you were
20 allowed to leave the witness stand. Did you speak
21 with anyone at all about any questions you have
22 been asked or answers you have given or any answers
23 that you expect to give to any questions you could
24 be asked?

25 THE WITNESS: No, sir.

JOANN SUBER - DIRECT

1 THE COURT: Did you talk with anyone at all
2 about this case?

3 THE WITNESS: No, sir.

4 THE COURT: Did you stay in the company of a
5 bailiff?

6 THE WITNESS: Yes.

7 THE COURT: All right. You understand you
8 have been sworn and you remain under oath to tell
9 the truth?

10 THE WITNESS: Yes, sir.

11 THE COURT: Thank you. The witness is with
12 you, Solicitor.

13 MR. PEACE: Thank you, Your Honor. If it
14 please the Court. Mr. Bolton, if I could get you
15 to assist me just one second?

16 BY MR. PEACE:

17 Q Okay, Miss Wilson, where did you go after you
18 left the ballgame?

19 A After the ballgame, there is a left turn
20 before my house and Sanford took me over to a
21 cul-de-sac across the street from my house.

22 Q All right. Now, if you would --

23 MR. PEACE: Your Honor, with the Court's
24 permission I would like to hand the pointer to the
25 witness.

JOANN SUBER - DIRECT

1 THE COURT: Yes, ma'am, you may come down.

2 MR. PEACE: Well, actually it's a laser
3 pointer so she can do it --

4 THE COURT: There is a pointer here, Mr.
5 Bolton.

6 MR. PEACE: I have a laser pointer, Your
7 Honor.

8 THE COURT: Oh, that's a laser pointer?

9 MR. PEACE: Yes, sir.

10 THE COURT: We're getting more modern than I
11 intended.

12 MR. PEACE: In spite of myself.

13 BY MR. PEACE:

14 Q Okay, I show you State's Exhibit 17 and ask
15 you if you recognize that?

16 A Yes, sir.

17 Q What is that exhibit?

18 A It's an aerial view of my house and you can
19 also see the cul-de-sac.

20 Q Okay. Miss Wilson, would you please show the
21 jury where on that diagram your house is located?

22 A Right there.

23 Q All right. Now, will you show them where the
24 cul-de-sac you're talking about is located?

25 A Right there.

JOANN SUBER - DIRECT

1 Q Okay. So, is the cul-de-sac directly across
2 from your house?

3 A Yes, sir.

4 Q Can you see your house from that cul-de-sac?

5 A Yes, sir.

6 Q Okay. And what happened after you saw the
7 cul-de-sac?

8 A Then we left and went to the house.

9 Q All right. And what did you do when you got
10 to the house?

11 A Well, we had talked on the way up the road
12 that based on the conversation with my girlfriend
13 Sherry, that we were not going to park his car down
14 to Jan's house anymore. He had parked there on
15 October 31st, he parked there November the 1st, he
16 parked there November the 2nd, but on November the
17 3rd he didn't park his car there, he parked his car
18 under my garage.

19 Q What night was this?

20 A November the 3rd.

21 Q All right. Now, how many nights, from
22 Sunday, had Mr. Best spent the night with you?

23 A Sanford spent the night October 31st, he
24 spent the night November the 1st, November the 2nd
25 and November the 3rd.

JOANN SUBER - DIRECT

1 Q Okay. Now, what happened after you got home
2 on November the 3rd?

3 A On November the 3rd we all went in the house
4 and we kind of played tag team wrestling in the
5 living room and when we got finished playing the
6 kids went in their rooms and then we went in my
7 room and he, you know, pretty much watched ESPN
8 like he always does and then he said he was going
9 to, he was supposed to go to Bible study that
10 night. He was actually supposed to teach Bible
11 study but since he didn't do it he was going to go
12 over his Bible study lesson while he was laying in
13 there on the bed.

14 Q Did you talk to anyone else in your room?

15 A My son Raheim came over because my sister
16 called and we were on the phone talking about what
17 school he was going to go to, his financial aid
18 stuff, and my son Raheim came over in the room,
19 too, and we all were sitting on the bed, Sanford
20 was laying on the bed because he had fallen asleep,
21 and me and Raheim was sitting on the bed, we were
22 talking to my sister.

23 Q Okay, thank you.

24 MR. PEACE: Will you give me just one moment,
25 Your Honor?

JOANN SUBER - DIRECT

1 The State would move State's Exhibit 17 for
2 identification be admitted as State's Exhibit 17.

3 MR. SHEEK: Without objection, Your Honor.

4 THE COURT: What is it?

5 MR. PEACE: It's a diagram, yes, sir.

6 THE COURT: Number 17 is admitted, Number 17
7 is admitted for identification purposes. Is that
8 what you said?

9 MR. PEACE: No, sir, I'm asking that it be
10 admitted.

11 THE COURT: Any objection?

12 MR. SHEEK: No objection, Your Honor.

13 THE COURT: Exhibit Number 17 of the State,
14 ladies and gentlemen, is evidence in the case.

15 (Aerial photograph marked and received in
16 evidence as State's Exhibit Number 17).

17 MR. PEACE: Thank you, Your Honor.

18 BY MR. PEACE:

19 Q I show you State's Exhibit 16 for
20 identification and ask you if you recognize that
21 diagram?

22 A Yes, sir.

23 Q What is that diagram?

24 A It's a diagram of how my house looked.

25 Q Did your house look like that on November the

JOANN SUBER - DIRECT

1 3rd and 4th of 2004?

2 A Yes, sir.

3 Q All right. Now, is that diagram to scale?

4 A No, sir.

5 Q All right. Now, will you show, using the
6 pointer that I handed you earlier, would you show
7 the jury where your bedroom is located on the
8 diagram?

9 A Right there.

10 Q Where is the living room?

11 A It was like a great room, I have it divided,
12 there is no wall, that's the living room and that's
13 the den.

14 Q Where is the boys' bedrooms?

15 A Over on that side of the house.

16 Q Now, did you have the ability to shut the
17 boys' bedrooms off from the rest of the house?

18 A Yes, sir. They have doors on their
19 individual rooms and then there is a door, like a
20 little hallway, foyer, and coming out of the living
21 room there is a door right there.

22 Q Is that door normally open or closed?

23 A It was normally closed.

24 Q What happened after you talked to Raheim that
25 evening?

JOANN SUBER - DIRECT

1 A After we talked to Raheim and we fell asleep,
2 he wasn't supposed to fall asleep because he was
3 supposed to go take a shower and I was supposed to
4 go take a shower, but we fell asleep, I fell asleep
5 with my Regency Park shirt on.

6 Q And what color is your Regency Park shirt?

7 A It's black and white.

8 Q And what, if anything, happened after you
9 went to sleep?

10 A After I went to sleep, I don't know how long
11 I was asleep, but I was awakened by Charles
12 Vandross with his hand over my mouth and a gun to
13 my head. He jerked me and woke me up and he said,
14 "Bitch, you better not scream."

15 Q Did anything happen after that?

16 A Of course to be awakened like that, I was
17 terrified, I thought I was dreaming, you know, but
18 there he was, he was like, his face was right there
19 with mine and his hand was over my mouth and the
20 gun was to my head and immediately out of reflex I
21 just started trying to get his hand loose from my
22 mouth, I started tusseling with him.

23 Q All right. Were you still on the bed while
24 you were tusseling?

25 A Yes, sir, I was still on the bed.

JOANN SUBER - DIRECT

1 Q At any point did you get off the bed?

2 A When he picked me up and threw me on the
3 floor.

4 Q And what happened after he threw you on the
5 floor?

6 A When he picked me up and threw me on the
7 floor I went face down and he straddled across my
8 back and pulled my hair like that and had the gun
9 to my head and he said, "JoAnn, if you don't stop
10 fighting I'm going to include the children in it."

11 Q What happened after that?

12 A I stopped fighting because I was terrified.

13 Q All right. And what happened after you
14 stopped fighting?

15 A Then I -- when I get nervous I have a nervous
16 stomach and I was terrified and he was straddling
17 across the back of me pulling my hair.

18 Q Was he saying anything during this time?

19 A I was just begging, "Please, please don't do
20 this," and he was just, he told me that if I didn't
21 stop fighting that, "I will include the children in
22 this," and then I asked him could I please use the
23 bathroom, could I please go to the bathroom,
24 because I had to go to the bathroom real bad.

25 Q Did he let you go to the bathroom?

JOANN SUBER - DIRECT

1 A Yes sir, he let me go to the bathroom. He
2 pulled me up by my hair onto my knees and I stood
3 up and he pushed me into my bathroom.

4 Q Did he go into the bathroom with you?

5 A No, sir, not at that time.

6 Q All right. What did you do?

7 A I went to the bathroom, I went and sat down
8 and had a bowel movement.

9 Q Okay. Did you do anything else in the
10 bathroom?

11 A Yes, sir. While -- when he pushed me, there
12 is a mirror in my bathroom, and I was bleeding from
13 where we were tusseling, my nose was bleeding and
14 my mouth was bleeding, and when I was sitting there
15 on the toilet there is like a little half wall a
16 little taller than this one, and I'm sitting there
17 and the door is open and I can see him out in the
18 bedroom but I couldn't see what he was doing, I
19 could just only see like his legs, the bottom part
20 of his body, and I tried to take the blood that
21 came out of my nose and my mouth, because I'm
22 thinking he's going to kill me because I was the
23 one that rejected him, and I put, I tried to write
24 his name on the wall in my bathroom because, so
25 somebody would know what happened to me because I

JOANN SUBER - DIRECT

1 thought he was going to kill me.

2 Q Where were you bleeding at the time?

3 A I was bleeding from my nose, from here,
4 inside my nose and right here and in my mouth.

5 Q Okay. Could you use the pointer and show the
6 jury where the mirror is located in the bathroom?

7 A That's my bathroom door and the mirror is
8 over here.

9 Q I'm going to show you what has been marked
10 State's Exhibit 4 for identification.

11 MR. PEACE: Your Honor, if I may, if I can
12 ask the jury to turn around in their chairs so they
13 will be able to see the exhibit.

14 THE COURT: All right.

15 Q All right, I show you what has been marked
16 State's Exhibit 4 for identification and ask you if
17 you recognize that photograph?

18 A Yes, sir.

19 Q And what is that photograph, Miss Wilson?

20 A It's where I was trying to write Charles, I
21 was trying to write, in my mind I was trying to
22 write Charles V, help me. I don't think I just
23 wrote Charles, I smeared some blood so when the
24 cops showed up they would know it was foul play.

25 Q Now, what happened after that?

JOANN SUBER - DIRECT

1 A After that I was writing, trying to write and
2 I could sit there and see him, you know, see the
3 bottom part of his body. I couldn't see because
4 it's not like a straight, straight view, he was
5 like against the bed--

6 Q Just one second, please, if I could retrieve
7 the photograph. Your Honor, the State would move
8 State's Exhibit 4 for identification be admitted as
9 State's Exhibit 4.

10 THE COURT: How says the defense?

11 MR. SHEEK: No objection.

12 MR. PEACE: Okay.

13 THE COURT: State's Exhibit 4 is part of the
14 evidence in the case, ladies and gentlemen.

15 (Photograph marked and received in evidence
16 as State's Exhibit Number 4).

17 MR. PEACE: Thank you, Your Honor.

18 BY MR. PEACE:

19 Q Miss Wilson, what happened after you wrote
20 his name in your own blood?

21 A Then he came toward the bathroom. I could
22 see him turning, he was coming toward the bathroom,
23 so I had to jump up off the toilet and come around
24 kind of to meet him so that he wouldn't see what I
25 was trying to write.

JOANN SUBER - DIRECT

1 Q Could you see what he was doing while you
2 were using the bathroom?

3 A I could not see what he was doing. All I
4 could see, he was doing something but what, I don't
5 know. All I could see was the bottom part of like
6 his legs and, you know, the bottom part of his
7 body. I couldn't see his hands.

8 Q Where was he in the bedroom?

9 A I was right there and he was right there.

10 Q Was he next to the bed?

11 A Yes, sir, right there.

12 Q All right. What was the position of his
13 body?

14 A Can I stand up and show you?

15 Q Just describe his position. Was he facing
16 the bed?

17 A He was facing the bed this way.

18 Q Okay. Could you see what, if anything, he
19 was doing?

20 A No, sir, I couldn't.

21 Q Okay. All right, what happened after that?

22 A He came to the bathroom door and, like I
23 said, I jumped up so he wouldn't see what I was
24 writing on the wall and then he threw me my
25 clothes, he threw me my pants and some boots.

JOANN SUBER - DIRECT

1 Q Okay. Was he saying anything to you at this
2 time?

3 A I was begging him, "Please, Charles, please
4 don't do this, please don't do this." He was
5 telling me, "Shut up, shut up," and he say, "Shut
6 up." I was begging and pleading, I thought I was
7 going to die.

8 Q All right. What happened after he came to
9 the bathroom?

10 A He threw me my clothes and I started putting
11 them on and I think he went back, he went back by
12 the bed or he went back in there and then he came
13 back and threw me some duct tape.

14 Q All right. And what did you do with the duct
15 tape?

16 A He told me to put the duct tape on my mouth.

17 Q Did you put it on your mouth?

18 A Yes, sir. Not at first, because when I put
19 it on it was too tight and I kept trying to spit on
20 it to make it not be so tight around my mouth, and
21 when he threw me the duct tape he went back out
22 into the bedroom so there for awhile he was out of
23 the bathroom, I tried to tear the duct tape with my
24 teeth and I started sticking, trying to leave some
25 more clues, I started sticking duct tape on the

JOANN SUBER - DIRECT

1 trash can and in the trash can and wherever I could
2 but --

3 Q Miss Wilson, if I can show you State's
4 Exhibit 5 for identification and ask you if you
5 recognize State's Exhibit 5 for identification?

6 THE COURT: Let's ask the jury to look at the
7 scene behind them.

8 A Yes, sir.

9 Q And what is State's Exhibit 5 for
10 identification?

11 A That's the duct tape I put on the trash can
12 and in the trash can.

13 Q What is that right there?

14 A Duct tape.

15 Q Is that the duct tape that you put on the
16 trash can?

17 A Yes, sir. Yes.

18 Q Why did you do that?

19 A I was trying to leave some clues because he
20 gave me my clothes, he was obviously going to take
21 me away.

22 Q Now, Miss Wilson, do you use duct tape?

23 A No, sir, I do not use duct tape.

24 Q Did you have any duct tape in your house that
25 night?

JOANN SUBER - DIRECT

1 A No, sir, I did not. I don't have any duct
2 tape.

3 Q Now, what happened after that, Miss Wilson?
4 Excuse me just one minute.

5 MR. PEACE: Your Honor, I would move State's
6 Exhibit 5 for identification be admitted as State's
7 Exhibit 5.

8 MR. SHEEK: No objection.

9 THE COURT: Number 5 is evidence in the case.
10 (Photograph marked and received in evidence
11 as State's Exhibit Number 5).

12 BY MR. PEACE:

13 Q What happened after you put the duct tape on
14 the trash can?

15 A I put some on the trash can, he had told me
16 to put that on my mouth, he told me to shut up and
17 put it on my mouth. I was trying to moist it down
18 like it was up there so if he took me around some
19 people where I could get loose and scream, but I
20 didn't want the duct tape on me because it was
21 hurting. And he came in the bathroom and caught me
22 spitting on it and when he came in the bathroom and
23 caught me spitting on it he took it from me and he
24 just began to wrap it around my head, he just
25 started wrapping it, wrapped it all the way down to

JOANN SUBER - DIRECT

1 my neck.

2 Q Okay. Miss Wilson, I show you what has been
3 marked State's Exhibit 8 for identification and ask
4 you if you recognize State's Exhibit 8?

5 MR. PEACE: Your Honor, if I could ask the
6 jury to please look at the picture?

7 Q Do you recognize State's Exhibit 8 for
8 identification?

9 A Yes, sir.

10 Q What is State's Exhibit 8?

11 A A picture of my mouth, how it was that night.

12 Q Is that your mouth as at appeared on November
13 the 4th?

14 A Yes, sir.

15 Q Of 2004?

16 A Yes, sir.

17 Q Okay.

18 MR. PEACE: Your Honor, I move State's
19 Exhibit 8 be admitted as State's Exhibit 8.

20 MR. SHEEK: No objection.

21 THE COURT: Without objection Number 8 is
22 part of the evidence in the case.

23 (Photograph marked and received in evidence
24 as State's Exhibit Number 8).

25 BY MR. PEACE;

JOANN SUBER - DIRECT

1 Q I show you what has been marked State's
2 Exhibit 6 for identification and ask you if you
3 recognize that photograph?

4 A Yes, sir.

5 Q And what is that photograph, Mrs. Wilson?

6 A That's my face and nose that was swollen and
7 I had scratches on the outside of my face.

8 Q All right. Is that an injury to your nose?

9 A Yes, sir.

10 Q Where did you receive that injury to your
11 nose?

12 A I had to receive it when he had his hand over
13 my mouth and I was trying to tussel and get loose,
14 going back and forth like this, that is when I
15 received it.

16 Q All right. From whom did you receive that
17 injury?

18 A Charles Vandross.

19 Q Where did you receive the injury to your
20 mouth?

21 A It had to be either on the bed or when he
22 slammed me on the floor.

23 MR. PEACE: Your Honor, I move State's
24 Exhibit 6 for identification be admitted as State's
25 Exhibit 6.

JOANN SUBER - DIRECT

1 THE COURT: Mr. Sheek?

2 MR. SHEEK: No objection.

3 THE COURT: Without objection Number 6 is
4 part of the evidence in the case.

5 (Photograph marked and received in evidence
6 as State's Exhibit Number 6).

7 BY MR. PEACE:

8 Q Now, Miss Wilson, I show you what has been
9 marked State's Exhibit 7 for identification and ask
10 you if you recognize that?

11 A Yes, sir.

12 Q And what is that?

13 A That's a picture of my neck.

14 Q Is that how your neck appeared on November
15 the 4th, 2004?

16 A Yes, sir.

17 Q Where did you receive those injuries to your
18 neck?

19 A It had to be either on the bed or on the
20 floor when I was tusseling with Charles.

21 MR. PEACE: All right. Your Honor, I move
22 State's Exhibit 7 be admitted as State's Exhibit 7.

23 MR. SHEEK: No objection.

24 THE COURT: Without objection Number 7 is
25 admitted in evidence.

JOANN SUBER - DIRECT

1 (Photograph marked and received in evidence
2 as State's Exhibit Number 7).

3 BY MR. PEACE:

4 Q I now show you what has been marked State's
5 Exhibit 9 for identification and ask you if you
6 recognize that?

7 A Yes, sir.

8 Q What is that photograph, Miss Wilson?

9 A A picture of my eye and nose.

10 Q Where did you receive those injuries?

11 A It had to be from Charles Vandross when we
12 were tusseling on the bed or on the floor.

13 MR. PEACE: Thank you. Your Honor, I move --
14 is that number 9? I move State's Exhibit 9 for
15 identification be admitted as State's Exhibit 9.

16 MR. SHEEK: No objection.

17 THE COURT: Number 9 is part of the evidence
18 in the case.

19 (Photograph marked and received in evidence
20 as State's Exhibit Number 9).

21 BY MR. PEACE:

22 Q All right, Miss Wilson, what happened after
23 the defendant duct taped you?

24 A After he put the duct tape around, he had
25 like one nostril was down and the other one was

JOANN SUBER - DIRECT

1 open and he had the duct tape all the way down
2 there, then he came in the bathroom and he pushed
3 me out of the bathroom into the bedroom.

4 Q Now, could you breathe after he duct taped
5 you?

6 A Barely, I could barely breathe.

7 Q What happened after he pushed you into the
8 bedroom?

9 A He got behind me and he pushed me hard
10 through the bedroom and I was kind of like falling,
11 you know, stumbling through the bedroom because I
12 lost my balance because I didn't know he was going
13 to push me. And -- is it okay to show them? Can I
14 show them where I was --

15 Q Yes, please use the diagram and show them
16 where you were when he pushed you.

17 A I was right here in the bathroom and he got
18 behind me and pushed me straight through there and
19 I stumbled through there and then I came through
20 that door.

21 Q Now, did you see Mr. Best when he pushed you
22 through the bedroom?

23 A When he pushed me through the bedroom
24 everything happened so fast but out of the corner
25 of my eye I could have sworn I saw Sanford with a

JOANN SUBER - DIRECT

1 pillow over his head.

2 Q All right. Now, what happened after you got
3 pushed into the living room?

4 A After I got pushed into the living room,
5 then, you know, I kind of had to catch my balance
6 right here, and then he came out of the bedroom
7 and --

8 Q How long, excuse me for interrupting, how
9 long after he pushed you into the living room did
10 he come out of the bedroom?

11 A He wasn't right behind me but, you know, he
12 came out behind me. He wasn't like, he wasn't like
13 right there up on me. It may have been a few
14 seconds.

15 Q A few seconds?

16 A I'm not sure how long it was, I'm really not
17 sure.

18 Q Do you know what he was doing after he pushed
19 you out of the bedroom?

20 A No, sir, I don't know what he was doing. All
21 I know is when he came out he closed the door.

22 Q Okay. All right, and what happened after he
23 closed the door?

24 A Then he took me around here and because he
25 used to live with me he knew where I kept my car

JOANN SUBER - DIRECT

1 keys. I used to keep my car keys, that's the
2 kitchen, I used to keep my car keys right in that
3 cabinet drawer right there and he went around and
4 got the keys out of the drawer.

5 Q All right. What happened after he got the
6 keys?

7 A Then we went out the back door.

8 Q All right. Could you show the jury, using
9 the diagram, where the back door is?

10 A Here.

11 Q All right. Was the back door opened or
12 closed?

13 A The back door was open. It wasn't all the
14 way open but he pulled it open, so, you know, it
15 wasn't locked or anything.

16 Q Now, do you also have a storm door?

17 A Yes, sir. In the back of my house it's dark
18 and there is woods back there and when he opened
19 that back wooden door you could see the storm door
20 was propped open, you know, the little thing that
21 you prop it open with, the storm door was propped
22 open, there was a flashlight down on the back deck,
23 on the on position, and he stepped out and he put
24 on his shoes back there.

25 Q Had you noticed earlier that he did not have

JOANN SUBER - DIRECT

1 shoes on?

2 A I didn't notice.

3 Q Now, do you have any type of covering on your
4 floors?

5 A Yes, sir.

6 Q And what kind of covering do you have on your
7 floors?

8 A I have carpet, nice carpet and padding.

9 Q Okay. Is the padding and carpet thick?

10 A Yes, sir.

11 Q Okay. All right, what happened after he put
12 on his shoes? Did he retrieve the flashlight from
13 the back porch?

14 A Yes, sir.

15 Q And what happened after he put on his shoes
16 and retrieved the flashlight?

17 A Then he took me out the back door, these are
18 steps on my deck, down those steps, around to my
19 garage.

20 Q Was your automobile in your garage?

21 A My car was in the garage and Sanford's car
22 was in the garage.

23 Q What happened after that?

24 A He opened the door, this one is my car, he
25 opened the door, that is where really the garage

JOANN SUBER - DIRECT

1 is, he opened the garage door, I mean, not the
2 garage door, he opened the car door and put me in
3 it and then he went around and got on the passenger
4 side.

5 Q All right. Where was the gun at this time?

6 A In his hand, drawn, pointed at me.

7 Q All right. And what happened after he put
8 you in the car?

9 A He put me in the car and he told me I was
10 going to drive, and I was, the whole time I was
11 still begging, you know, I had duct tape, I was um,
12 um, you know, I was trying to talk but I had duct
13 tape on, so I was still begging and he told me to
14 shut up, and we backed out of the yard, we had to
15 back out of my garage and then come around, we
16 backed out of my garage and then you have to come
17 around the yard, the front of the house this way.

18 Q What time was this?

19 A When he was straddling across me and had my
20 hair pulled back I can remember seeing out of the
21 corner of my eye, I have a VCR up on top of my
22 television, it said 12:00 something. That was when
23 he was straddled across me and pushed me into the
24 bathroom, it said 12:00 something, I remember
25 seeing the green light say 12:00 before he pushed

JOANN SUBER - DIRECT

1 me into the bathroom. What time it was when we
2 left, I have no idea.

3 Q Do you know if the TV was on?

4 A I don't remember whether it was on but I know
5 when I fell asleep it was on.

6 Q All right. Now, what happened after he got
7 you to the driveway?

8 A When we got to the driveway coming out of my
9 yard he told me to go right and I had to do what he
10 said because he was sitting there with a gun drawn
11 on me, and I turned right. Well, I was nervous and
12 crying and couldn't hardly breathe and I normally
13 drive fast but I was driving slow because my
14 girlfriend Jan lives like seven houses down from
15 me, even though it was late in the morning, I was
16 driving slow hoping that somebody might see me, and
17 that's when he told me that I better drive like I
18 been driving.

19 Q All right. And where did you go?

20 A We went all the way down Highway 10 where it
21 comes to a stop sign and he make me take a right on
22 221 going toward McCormick.

23 Q Okay. What did you do after that?

24 A Okay. Where the intersection bears to the
25 left like you going to McCormick on 221, he told me

JOANN SUBER - DIRECT

1 to turn there, so we turned that way, and the whole
2 time from my house to that point we hadn't seen any
3 cars on the road, there were no other cars on the
4 road, and what happened was, I saw a car was
5 coming, I saw a car coming and I'm thinking I'm
6 going to die anyway, so I figured I may as well go
7 ahead and do it, so I'm thinking in my mind, maybe
8 it was the wrong thing to think but that's the way
9 I was thinking because I didn't know what to do, I
10 figured if I turn my wheel over in that lane when
11 this car is coming, he was sitting on the passenger
12 side, maybe the car hit him and give me a chance to
13 get away. But of course it didn't work because I
14 was crying and the car wasn't close enough when I
15 did it, and when I turned the car was way back
16 there and he jerked the steering wheel and he
17 called me, "Stupid bitch, I can't believe you did
18 that."

19 Q All right.

20 MR. PEACE: Your Honor, I would move that
21 State's Exhibit 16 for identification be admitted
22 as State's Exhibit 16.

23 THE COURT: Motion for the diagram, Number
24 16, be admitted.

25 MR. SHEEK: No objection.

JOANN SUBER - DIRECT

1 THE COURT: Without objection Number 16 is
2 part of the evidence in the case.

3 (Diagram marked and received in evidence
4 as State's Exhibit Number 16).

5 MR. PEACE: Thank you, Your Honor.

6 BY MR. PEACE:

7 Q Now, Mrs. Wilson, I show you State's Exhibit
8 18 for identification and ask if you recognize that
9 diagram?

10 A Yes, sir.

11 Q What is that diagram?

12 A It's like an aerial view of the route he made
13 me drive that night.

14 Q All right. Using the pointer, could you
15 please show the jury the route that you took from
16 your house?

17 A My house?

18 Q Where did you go from your house?

19 A I took a right out of my driveway, straight
20 down Highway 10, right there at the stop sign where
21 it branches off into 221, and then right here --

22 Q Which way did you turn onto 221?

23 A Left. You turn to the left. I mean, when we
24 got down at the stop sign on Highway 10 we turned
25 to the right.

JOANN SUBER - DIRECT

1 Q Okay.

2 A And then where we turn right here to the
3 right, and then where it branches off we went left.

4 Q Okay. All right, where did you go after you
5 turned left on 221?

6 A When we turned on 221, like I said, I saw the
7 car coming and I tried to do that and he jerked the
8 steering wheel back and by this time we were up by
9 Tranquil A.M.E. Church and he told me to turn in
10 that parking lot. Well, when I turned in that
11 parking lot, Charles is not from Greenwood, he's
12 from Greenville, so the only people he knew in
13 Greenwood pretty much was, you know, people that I
14 had introduced him to and people that he had met,
15 so I knew the pastor of this church and introduced
16 him to him, so when I pulled in, in the church,
17 there were two houses next to the church. One of
18 them had a light on, one of them had a light on,
19 small porch light on, and Charles saw me look over
20 there at the house, so he asked me, he said,

21 "JoAnn, is that the parsonage?" Well, at that
22 point in time I didn't know whether to nod yes or
23 shake no because I was still duct taped, and my
24 thinking was if, it wasn't the parsonage, it was
25 not the parsonage but my thinking was if I nodded

JOANN SUBER - DIRECT

1 yes, then he would make me drive somewhere else and
2 maybe I could try and do the same thing again or
3 maybe I could meet a cop or something, that's what
4 my thinking was, so I nodded yes.

5 Q Did he still have the gun during this time?

6 A He had the gun, sitting over there pointing
7 it at me just like this the whole time I was
8 driving.

9 Q And what happened at the new Tranquil A.M.E.
10 Church?

11 A Since I nodded that was the parsonage, he
12 told me to drive, and we had pulled up under the
13 little vestibule thing, but he told me to leave
14 because I nodded that was the parsonage. Then we
15 pulled back out on, I guess that is still 221, we
16 pulled back out and made a right coming out of the
17 church yard and he told me to drive. We drove down
18 a little farther and then he told me to take a
19 left.

20 Q All right. Miss Wilson, if I could interrupt
21 just one minute and show you State's Exhibit 10 for
22 identification, if I could ask the jury please to
23 turn around and look.

24 Do you recognize this photograph?

25 A Yes, sir.

JOANN SUBER - DIRECT

1 Q And what is depicted in that photograph?

2 A That is the new Tranquil A.M.E. Church and
3 that little drive up under the little shed right
4 there is where we drove up under there.

5 Q Is that the church where you drove to on the
6 early morning hours of November the 4th?

7 A Yes, sir.

8 MR. PEACE: Your Honor the State would move
9 that State's Exhibit 10 for identification be
10 admitted as State's Exhibit 10.

11 THE COURT: Motion to admit Exhibit 10.

12 MR. SHEEK: No objection, Your Honor.

13 THE COURT: Without objection Number 10 is
14 part of the evidence in the case.

15 (Photograph marked and received in evidence
16 as State's Exhibit Number 10).

17 BY MR. PEACE:

18 Q Mrs. Wilson, what happened after you left the
19 new Tranquil A.M.E. Church?

20 A After we left the new Tranquil A.M.E. Church
21 he told me to take a left. Well, when you turn
22 left there is like a little deserted road and the
23 old Tranquil A.M.E. Church was down there and
24 that's where he made me go.

25 Q Miss Wilson, I show you what has been marked

JOANN SUBER - DIRECT

1 State's Exhibit 11 for identification and ask you
2 if you recognize State's Exhibit 11?

3 A Yes, sir. That's the old Tranquil A.M.E.
4 Church.

5 Q Is that the church to which you went on the
6 early morning hours of November 4th of 2004?

7 A Yes, sir, it is.

8 MR. PEACE: Your Honor, I move State's
9 Exhibit 11 for identification be admitted as
10 State's Exhibit 11.

11 MR. SHEEK: No objection.

12 THE COURT: Without objection Number 11 is
13 admitted into evidence.

14 (Photograph marked and received in evidence
15 as State's Exhibit Number 11).

16 BY MR. PEACE:

17 Q All right, what happened when you got to the
18 old Tranquil A.M.E. Church, Miss Wilson?

19 A When I got to the old Tranquil A.M.E. Church
20 I pulled in there, Charles told me to back in
21 beside the church. Okay, in my mind I'm going to
22 die, so there was, like when you pull up there is
23 like a little tank beside the church, because its
24 an old church, like a silver tank, so in my mind
25 I'm thinking I'm going to die, and maybe it was

JOANN SUBER - DIRECT

1 stupid but that's the way I was thinking but I
2 caught myself going to back back into the tank and
3 blow both of us up. That is what I tried to do, I
4 tried to back into the tank. Of course he put his
5 foot over on the brake and stopped the car and put
6 it in park.

7 Q I show you what is marked State's Exhibit 12
8 for identification and ask you if you recognize
9 State's Exhibit 12?

10 A Yes, sir.

11 Q What is that, Miss Wilson?

12 A That is the tank I tried to back into at old
13 Tranquil A.M.E. Church.

14 MR. PEACE: Your Honor, we move State's
15 Exhibit 12 for identification be admitted as
16 State's Exhibit 12.

17 MR. SHEEK: No objection.

18 THE COURT: Without objection Number 12 is
19 admitted into evidence.

20 (Photograph marked and received in evidence
21 as State's Exhibit Number 12).

22 MR. PEACE: All right. Excuse me, Your
23 Honor, thank you.

24 BY MR. PEACE:

25 Q Now, what happened after you tried backing

JOANN SUBER - DIRECT

1 into the gas tank?

2 A Like I said, he put his foot over there and
3 stopped the car and put the car in park, grabbed
4 the keys out and he just was ranting and raving and
5 he said, "Now, this is what's going to happen. I'm
6 going to talk and you're going to shut up and
7 listen." And then he ripped the duct tape off of
8 me and I was hollering because it was hurting real
9 bad and he just ripped it off.

10 Q Did he continue to talk to you as he ripped
11 off the duct tape?

12 A He was ranting and raving, he went on and on
13 and on. He went on on just about every argument
14 that we had ever had. Another one of the things
15 with Charles was that he was jealous, but not only
16 that, is the fact that I could never meet any of
17 his friends and his family. He moved down here all
18 in my world and meeting all my friends and all my
19 family but I could never meet none of his friends
20 or all of his brothers and sisters that he had
21 claimed that he had, and so he went through all
22 that, he went through this thing that aggravated
23 him with me, he talked about the clothes thing, he
24 talked about the fact that there was one thing I
25 used to do that aggravated him real bad, about

JOANN SUBER - DIRECT

1 walking through the house with my bra and my
2 panties on in front of my sons. He just really
3 hated that. And, I mean, I don't know why. He
4 said that his dad would have never allowed that,
5 that they didn't even, his dad didn't even let him
6 look at women in a magazine with swim suits on, and
7 he was just ranting and raving, going on and on
8 about how I ruined his life and how how he loved me
9 and gave up this, gave up the best job in
10 Greenville to move down here. I mean, he was
11 ranting and raving out of control and he brought up
12 Sanford. He brought up how I didn't love him, and
13 he just went on and on and on.

14 Q Were you scared during this time?

15 A I was terrified. I was sitting out there, I
16 didn't know whether I was going to see my children
17 again, I didn't know if I was going to make it from
18 out there. I thought I was going to die.

19 Q What were you doing while he was having this
20 conversation?

21 A I was shutting up and listening just like he
22 said.

23 Q Did you say anything to him?

24 A At one point in time he was talking about --
25 I'm sorry. I'm sorry. He was just ranting and

JOANN SUBER - DIRECT

1 raving and I was terrified and when he got finished
2 talking he told me, he was ranting and raving and
3 it was like 3:00 something, because the windows was
4 fogged up and he put the key in the ignition and
5 turned it on, you know, he didn't crank up the car
6 but he flipped it over so that the windows could
7 get unfogged, because all that ranting and raving
8 he was doing, the windows was up and it got fogged.
9 When he flipped it the car said 3:00 something,
10 that's the time that was on it, 3:00 something. I
11 don't remember 3:00 what but it was 3:00 something.
12 And he was ranting and raving, said I didn't love
13 him, I ruined his life. Then he said, "My life is
14 ruined, I've killed a man." And it was at that
15 point in time where I understood why when I
16 screamed, I was trying to scream when his hand was
17 over my mouth, that that's why Sanford couldn't
18 answer, because he killed him. He told me, he
19 looked at me and he said, "My life is ruined, I've
20 killed a man." Well, at that point I wanted to ask
21 about my children but I was terrified, I was
22 supposed to shut up and listen. Then he said, "I'm
23 tired of talking," he told me to get out.
24 Q Did he, did he still have the gun during this
25 time?

JOANN SUBER - DIRECT

1 A He still had the gun pointed at me the whole
2 time he was ranting and raving.

3 Q And what happened after that?

4 A I couldn't get out. I was out of breath, I
5 was numb, I was scared. He got out of the car and
6 came around and opened the door and pulled me out.
7 Well, I thought that was it. He pulled me around
8 to the front of my car and I was leaning on the
9 front of my car. When he got out he was just
10 ranting and raving, he was going over the same
11 thing again about how I didn't love him and all of
12 these arguments, I didn't appreciate him and how
13 his life was ruined now, and he was just getting
14 worse and worse.

15 When he got out of the car he was worse than
16 what he was when he was in the car, and that's when
17 I said, "Charles, how could you say I didn't love
18 you? I did love you." I said, "Remember you said
19 our hugs was special," I said, "Can we see if our
20 hugs are special now?"

21 At this point I'm thinking I'm going to die,
22 I said, "Can we see if our hugs are special now,
23 you're going to kill me anyway." So, because in
24 the back of my mind I know when somebody is ranting
25 and raving like that you are supposed to try and

JOANN SUBER - DIRECT

1 calm them down and that's what I was trying to do.
2 And I could tell it was working because he put the
3 gun in the back of his pants and then he walked up
4 to me and he hugged me. I don't know how long it
5 lasted but it was a quick hug and then it was like
6 he snatched away from me, pulled the gun back out
7 and he started ranting and raving and walking in
8 circles and had the gun waving up like this, and
9 the next thing I know he fell on his knees, he was
10 quoting some scripture from Corinthians about love
11 and he had the gun like in his hand pointed up, he
12 was doing his head like this.

13 At this point in time I'm leaning on my car
14 and I'm repenting, making sure my soul was right
15 with God and I'm repeating the 23rd Psalm because I
16 didn't want to see it come, because I'm thinking
17 he's going to kill me. At one point in time I
18 thought about if he's down on his knees, because
19 he's a big man, I'm figuring, well, maybe I can hit
20 him with something but if I hit him with something,
21 I had to knock him out because there is no houses,
22 there was nowhere to run, he had the keys in his
23 pocket, I couldn't get them out. So, I just stood
24 there and repeated the 23rd Psalm because I thought
25 I was going to die.

JOANN SUBER - DIRECT

1 Then like suddenly somebody took a remote
2 control and switched his mind to another channel.
3 When he got up I'm thinking, okay, this is it, I
4 don't want to see it coming.

5 Q Was this after he was repeating Corinthians?

6 A Yes, when he was down on the ground, then he
7 gets up and I'm like this, I'm like this, I'm
8 praying and --

9 Q Are you standing?

10 A I'm standing, leaning on my car. I have this
11 little angel on the front that says too blessed to
12 be stressed, and one of my legs was on the front of
13 my tag and I was just shaking and repeating the
14 23rd Psalm because I didn't want to see the gun
15 coming at me, and that is when he, just like
16 somebody flipped his mind to another channel.

17 He walked up to me and he lifted up my head,
18 my head was down and I was shaking, he lifted up my
19 face like this and he said, "JoAnn, why are you
20 crying? Are you scared of me, JoAnn? Don't you
21 know I never would do nothing to hurt you?" And
22 I'm just in shock because, no, I don't know he
23 wouldn't do nothing to hurt me because he done hurt
24 me already. And then he took a step back from me
25 and when he said that he never would do nothing to

JOANN SUBER - DIRECT

1 hurt me, he pulled the clip out of the gun. He
2 pulled the clip out of the gun and he put it in his
3 pocket. I can't remember if it was a jacket pocket
4 or his pants pocket, but that's when he said that,
5 "Let's get back in the car." When we got in the
6 car.

7 Q Mrs. Wilson, what did he do with the gun
8 after he took the clip out of it?

9 A He put it in his pocket. I don't know if it
10 was his jacket pocket or a pants pocket but he put
11 it in his pocket.

12 Q Okay.

13 A And then he took me around to the car and
14 opened the passenger, I mean opened the driver's
15 side for me and put me back in the car and he came
16 around and got back in the car. He stuck the key
17 in the ignition and he said, "JoAnn, it's 5:50,"
18 because that is what time the clock said, he said,
19 "It's 5:50," he said, "It's time for the kids to
20 get up," and it was then that I knew my kids wasn't
21 dead because all the whole time after he told me he
22 killed Sanford I thought my kids were dead, too,
23 because they didn't hear me screaming either. But
24 it was at that point I realized my kids wasn't
25 dead, and he said, "Before I take you back you got

JOANN SUBER - DIRECT

1 to promise that you are going to do these things
2 for me," and he gave me a list of things to do.

3 Q What was that list of things?

4 A The first thing was, he took me back to the
5 house, he knew because he used to live with me, he
6 knew the bus came between 7:00 and 7:30, he told me
7 I had to go to the house, get the kids up and get
8 them out of the house before 7:30, that if I wasn't
9 out in the back yard by 7:30 he was going to come
10 in and include the children in it. The next thing
11 he told me to promise him, of course I was nodding
12 to everything he said, the next thing he told me to
13 promise was, he said, "JoAnn, this is my first
14 offense," he said, "I won't get but eight to ten
15 years for this and you can wait on me that long,
16 can't you, JoAnn?" I nodded, I just nodded.

17 Then he said, "JoAnn, you can't tell the
18 police that I duct taped you and took you out of
19 the house at gunpoint because that's another charge
20 and you've got to promise me you won't tell the
21 police that." And I just nodded my head.

22 Everything he said I was nodding my head to. He
23 said, "Okay, JoAnn?" And I would nod my head.

24 Then he said that he had some things in
25 storage, he wanted me to divide it with his

JOANN SUBER - DIRECT

1 children and his baby's mama, and I nodded my head
2 that I would do that. Then he said he wanted me to
3 take him to get his car and he told me that he
4 wanted me to drive him to Greenville so that he
5 could go and see his kids and give his kids all the
6 money out of his pocket, because he was behind in
7 child support, and then he was going to turn
8 himself in. That's what he told me, to promise
9 that I would do it, and I nodded my head on
10 everything.

11 Q Did you tell the defendant anything?

12 A I just nodded my head to everything he said,
13 I didn't say anything. I didn't say anything right
14 then but after he got finished I said, "Well,
15 Charles," I said, "why don't we just stop somewhere
16 and call the police because Sanford might not be
17 dead and you won't be in a whole lot of trouble."
18 And that's when he looked at me with his crazy
19 stare that he has like this and he says, "Trust me,
20 he's dead."

21 Q What happened after that?

22 A Then after I promised to do all that, then he
23 told me to drive home, so I cranked up the car and
24 we came, came down from the woods, came from down
25 there and I drove back to my house at McCormick

JOANN SUBER - DIRECT

1 Highway.

2 Q What did you do once you got back to your
3 house?

4 A Once I got back to my house on McCormick
5 Highway -- you see, Charles and I had broken up, I
6 had told all my girlfriends, that is what
7 girlfriends do, talk on the phone and tell each
8 other what is going on in their personal life, and
9 Sanford was there, they knew Sanford was there, and
10 Charles, when we got back Charles told me to drive
11 around back because he didn't want anybody to see
12 him because if somebody had been coming, you know,
13 up and down McCormick Highway and saw him they
14 would have wondered what's going on because, "I
15 know JoAnn told them we was broke up." So, he made
16 me pull around to the back part of the house.

17 Q If I could interrupt just a minute and put
18 State's Exhibit 17 back up. If you would, please
19 show the jury where he had you park when you got
20 back?

21 A We came in my driveway, went around past my
22 drive, and that's where I stopped the car.

23 Q All right.

24 Q I will also show you State's Exhibit 3 for
25 identification, if I can ask the jury to please

JOANN SUBER - DIRECT

1 look. Do you recognize State's Exhibit 3 for
2 identification?

3 A Yes, sir.

4 Q What is State's Exhibit 3 for identification?

5 A That is a picture of my white Mercury
6 Marquis, where I parked it that morning.

7 Q Is that where you parked it on the morning of
8 November the 4th, 2004?

9 A Yes, sir.

10 Q What are the other vehicles in the
11 photograph?

12 A That is my old van, that's a car Charles had
13 that wasn't working, he was supposed to have it
14 moved out of my yard.

15 MR. PEACE: Your Honor, we move State's
16 Exhibit 3 for identification be admitted as State's
17 Exhibit 3.

18 MR. SHEEK: No objection.

19 THE COURT: Without objection Number 3 is
20 evidence in the case.

21 (Photograph marked and received in evidence
22 as State's Exhibit Number 3).

23 MR. PEACE: Thank you, Your Honor.

24 BY MR. PEACE:

25 Q Mrs. Wilson, what happened after you parked

JOANN SUBER - DIRECT

1 the car?

2 A After I pulled around back, everybody --
3 well, most people in the neighborhood know I either
4 parked in the front yard or under my garage. I
5 never park in the back yard because like I said, it
6 is woods back there and I'm kind of scary, so even
7 though it was morning I tried to pull out far
8 enough where if a car was coming from Greenwood
9 towards Bradley, you know, towards Promise Land, if
10 you were coming down that highway, then you could .
11 see my car in the back yard. Normally on my car
12 the lights stay on auto and they always stay on
13 auto but when he got out of the car and came around
14 to get me out of the car I flipped the lights on
15 on, thinking that might, somebody coming down the
16 road might see my lights were still in the on
17 position and wonder what was going on.

18 Q And what happened after you left the lights
19 on?

20 A He got me out of the car and we had to move
21 close to the back of the house because we couldn't
22 be out there because cars coming down would see him
23 out there, so we moved closer to the back part of
24 the house and he made me take off my Regency Park
25 shirt. So, I had to take off my Regency Park

JOANN SUBER - DIRECT

1 shirt, and I had on a green sweatshirt that I had
2 wore to my son's game because his color was green,
3 and he took the Regency Park shirt, then he took
4 his, you know, I guess my face had blood and stuff
5 on it, he took his fingers and combed my hair
6 because it was sticking up all over the place, he
7 combed my hair back with his fingers and then he
8 did like you do your little kids, he wet his finger
9 and he cleaned my face, because I had to go in the
10 house and he told me I had to go in there and not
11 let my kids know what was going on.

12 Q And what was your condition at the time he
13 was doing this?

14 A I was hysterical, I couldn't hardly breathe,
15 I was terrified, I was crying, I knew I had to wipe
16 my tears because I had to go in the house and get
17 my babies out.

18 Q All right. I show what you has been marked
19 State's Exhibit 49 for identification and ask you
20 if you recognize State's Exhibit 49 for
21 identification?

22 A Yes, sir.

23 Q What is State's Exhibit 49 for
24 identification?

25 A That is me and what I was wearing on the

- JOANN SUBER - DIRECT

1 morning of November 4th.

2 Q Is that what you were wearing when he cleaned
3 you up?

4 A Yes, sir.

5 MR. PEACE: I move State's Exhibit 49 for
6 identification be admitted as State's Exhibit 49.

7 MR. SHEEK: No objection.

8 THE COURT: Without objection 49 is admitted.
9 (Photograph marked and received in evidence
10 as State's Exhibit Number 49).

11 BY MR. PEACE:

12 Q Miss Wilson, what happened after he cleaned
13 you up?

14 A Well, when we were out there in the woods he
15 had told me that, you know, when he was going to
16 take me back, that I shouldn't try to use the phone
17 or anything because he had taken care of that. So,
18 I got to go in there, in my mind I got to go in
19 there and I got to get my babies out of there by
20 7:30 because, like he said, he's going to include
21 the children in that if I didn't get my children
22 out of the house.

23 Q What did you do when you went in the house?

24 A I went into the back door and, because I knew
25 Sanford was over there dead in my room, I had to

JOANN SUBER - DIRECT

1 run around over here and get my children up and I
2 went in my, he was, I went in my nine year old and
3 thirteen year old, they were nine and thirteen, I
4 think, I went in their room first and I woke up my
5 nine year old. Well, I was trying to be as cool as
6 I could but I was, I mean, I had been held out in
7 the woods all night at gunpoint and I'm shaking my
8 kid, I'm like, "John, you got to get up, you got to
9 get up, get your clothes."

10 As soon as he opened his eyes he looked at me
11 and said, "Mama, what's wrong?" I kept saying,
12 "Nothing, nothing." Then I ran over to the other
13 bed and woke up Jeremy and he opened his eyes and
14 looked at me and knew something was wrong with me
15 but I just kept telling him nothing, nothing,
16 nothing. Then I ran out of their room --

17 Q Mrs. Wilson, if you could, use the pointer to
18 show which room that John and Jeremy were in.

19 A They were in this room.

20 Q Okay. You ran out of that room and went
21 where?

22 A I ran out of that room and I think I thought
23 I heard something, because it is in the morning now
24 and cars are traveling up and down the highway,
25 sometimes when they hit outside it kind of feels

JOANN SUBER - DIRECT

1 like your house is vibrating or you hear something,
2 so I ran back through the living room and den, and
3 I have a bay window, I have a bay window that's in
4 this section, my back door, and I ran over there
5 and looked out to see if Charles was still out
6 there leaning up against the house, because the
7 back door wasn't locked, he could have, it wasn't
8 even closed, he could have came in at anytime and
9 went up the steps. I have an upstairs, he could
10 have been standing up there listening to me, so I
11 just wanted to make sure he wasn't in there. So, I
12 ran back, he was still out there leaning against
13 the house and I ran back through to my son Raheim's
14 room.

15 Q What did you do in Raheim's room?

16 A I woke Raheim up and he took one look at me
17 and he said, "Mama, what's wrong?" And I grabbed
18 him by his face or head or neck, I can't remember
19 exactly, but I told him, I said, "Raheim, Mr.
20 Charles has killed Mr. Sanford, Mr. Sanford is dead
21 over there in my room." I said, "I need you to
22 help mama, I need you to help me, I need you to do
23 what I tell you," and he just kind of went down and
24 he was upset and he turned and looked for his
25 phone, his cordless phone, you know, the receiver

JOANN SUBER - DIRECT

1 wasn't there, and then by that time I ran back out
2 and ran through there again because I thought I
3 heard something, I just wanted to make sure he
4 didn't come in the back door and go upstairs and
5 heard me tell my son Raheim what to do.
6 So, I ran back in the room and I said,
7 "Raheim, mama needs you, you got to do this for
8 me." I said, "When the bus comes," I said, "You
9 got to help me get Jeremy and John ready." I said,
10 "When the bus comes I want you all to get on the
11 bus, tell the bus driver that your mama is in
12 trouble. If she has a cell phone, tell her to let
13 you use it. If she doesn't, then there is a store,
14 it's Promise Land Grocery right down the street, on
15 the corner, tell the bus driver to let you all off
16 at Promise Land Grocery and call 911 and you and
17 your brothers either stay up there or go down to
18 pop's house."

19 Q Miss Wilson, how old is Raheim?

20 A Raheim, he's nineteen now, he was seventeen
21 then.

22 Q Now, what did Raheim do?

23 A Raheim, you know, he was like, "Where he at,"
24 you know, he was upset but he wanted to know where
25 he was but he couldn't go get him, I had to tell

JOANN SUBER - DIRECT

1 him, "No, I need you to do this for me."

2 Q And what happened after you told him he
3 needed to do those things for you?

4 A Then I think I ran back, I ran through so
5 many times, I don't remember exactly how many times
6 it was, but I kept thinking I heard something so I
7 run to the back door, not the actual door, but the
8 bay window, and peep out, and one of those times I
9 peep out and he wasn't leaning against the house no
10 more and immediately I turned my head and looked
11 upstairs because it's like, it's a stairwell and an
12 open room upstairs, to look and see if he was up
13 there, and I didn't see him up there, and I looked
14 again. What had happened was, he had figured out
15 my lights were on too long because he knew they
16 supposed to be on automatic, too, so he was in the
17 car turning off the lights. And then I ran back
18 through the house.

19 Q What did you do after you saw him in the car?

20 A I saw him in the car, then I ran back through
21 the house and I started trying to grab my sons
22 Jeremy and John because they didn't really know
23 what was going on, I didn't tell them, they were
24 ironing and playing around like they normally did
25 in the morning, and I just went and was fussing at

JOANN SUBER - DIRECT

1 them and grabbing the iron from them and I just
2 went, you know, snatched on their shirt and stuff
3 because we had to get out of there by a time limit
4 or else he was going to include my kids in that,
5 and I didn't want that.

6 Q What did you do after you helped your boys?

7 A After I helped the boys get ready, Raheim
8 helped them get ready, then I ran through one more
9 time to make sure he was still out there, and he
10 was out there leaning against the back part of the
11 house so nobody would see him, and as I was running
12 back through there to grab them and their bookbags
13 and stuff, I have two chairs, two mauve wingback
14 chairs in my living room. I completely forgot all
15 about my cell phone, I didn't think about it until
16 I ran through there and I saw the black cord coming
17 down over the back of my mauve chair.

18 Q Miss Wilson, could you use State's Exhibit 16
19 and show the jury where the chair was located?

20 A I was running through here to go over there
21 and I saw this chair right here.

22 Q What did you see?

23 A I saw the black cord from my cell phone
24 coming over the back of the mauve chair and that
25 made me remember my cell phone and I ran over there

JOANN SUBER - DIRECT

1 and sure enough it was in the chair because that's
2 where I charge my cell phone, in my living room.

3 Q Miss Wilson, excuse me just one second. Was
4 there a phone in the bedroom where the two boys
5 share the bedroom, was there a phone in there?

6 A No, sir.

7 Q Was there a phone in Raheim's room?

8 A There was supposed to be a phone in there but
9 it wasn't in there.

10 Q All right. Please continue.

11 A So, I picked up the cell phone and ran over
12 into that side of the house and I immediately
13 called 911.

14 Q All right. What happened after you called
15 911?

16 A I called 911 and I was, like I said, when I
17 get excited and scared and nervous I have a nervous
18 stomach and I had a shortness of breath, I couldn't
19 hardly breathe, and going through what I went
20 through that whole night, it's a wonder I could
21 barely talk, but I called 911 and the first thing I
22 wanted to get out of my mouth was my address. Now,
23 keep in mind Charles could have came in the back
24 door at anytime and I didn't want him to hear me so
25 I said, I whispered my address, 3938 McCormick

JOANN SUBER - DIRECT

1 Highway.

2 Q And what happened after you whispered your
3 address?

4 A They put me on hold.

5 Q They put you on hold?

6 A Yes, sir.

7 Q How long were you on hold?

8 A I don't know but it seemed like forever.

9 Q Did they ever come back on the line?

10 A Yes, sir, they finally came back and what
11 they said to me was, I think they said what county
12 am I in, and I don't even remember saying the
13 county, I think I said Promise Land, I may have
14 said Greenwood, I don't know, but then they
15 transferred me to, that is what she said in the
16 beginning, she said, "What county are you in," and
17 when I said Greenwood or Promise Land, then they
18 put me on hold. I guess they had to switch me
19 somewhere.

20 Q All right. Just one moment.

21 Mrs. Wilson, I show you what has been marked
22 State's Exhibit 56 for identification and ask you
23 if you recognize that exhibit?

24 A Yes, sir.

25 Q What is that exhibit, Miss Wilson?

JOANN SUBER - DIRECT

1 A It's the 911 tape where I put my initials on
2 it.

3 Q Do your initials appear on that?

4 A Yes, sir.

5 MR. PEACE: Your Honor, with the Court's
6 permission I would like to play State's Exhibit 56
7 for identification.

8 THE COURT: Motion to publish the tape.

9 MR. SHEEK: Your Honor, I would like some
10 foundation. I know they may not have that on the
11 witness list. May we approach one moment?

12 THE COURT: Yes, sir. Madam witness, if you
13 will come down, Mr. Bolton, let her step down just
14 a minute and step over there near your station.

15 (Recorded bench conference out of the hearing
16 of the jury and witness).

17 THE COURT: What is it?

18 MR. PEACE: Well, what we did last time, she
19 listened to the tape and she initialed it. She
20 listened to it and initialed it so she can identify
21 it.

22 MR. SHEEK: I just wondered if we could get
23 someone from 911 up here to establish when it came
24 in, that period of time.

25 MR. PEACE: She made the phone call, her

JOANN SUBER - DIRECT

1 voice is on there, she listened to it. She can
2 testify this is a call she made to 911.

3 THE COURT: What's the objection?

4 MR. SHEEK: Actually I guess validation. If
5 it's 911's tape they ought to be the one to put it
6 in.

7 THE COURT: If she's party to this
8 conversation she can verify it. You are sure she's
9 a party?

10 MR. PEACE: Yes, sir.

11 MR. SHEEK: I don't object if she was a party
12 to it.

13 THE COURT: If she's a party to it, then she
14 can state that is the tape, her voice and the other
15 person's voice.

16 MR. SHEEK: I withdraw my objection anyway.
17 That's fine.

18 THE COURT: All right, thank you.

19 MR. PEACE: Okay.

20 (Bench conference concluded).

21 MR. SHEEK: Your Honor, the defense withdraws
22 any objection to the tape.

23 THE COURT: Thank you, sir.

24 MR. PEACE: Your Honor, with the Court's
25 permission I will play State's Exhibit 56 for

JOANN SUBER - DIRECT

1 identification.

2 (State's Exhibit 56 was played to the jury).

3 BY MR. PEACE:

4 Q Is that the conversation that you had with
5 911?

6 A Yes.

7 Q On the morning of November 3rd, excuse me,
8 November the 4th?

9 A Yes, sir.

10 MR. PEACE: Your Honor, I move State's
11 Exhibit 56 for identification be admitted as
12 State's Exhibit 56.

13 MR. SHEEK: No objection.

14 THE COURT: Without objection 56 is part of
15 the evidence in the case.

16 (911 audio tape marked and received in
17 evidence as State's Exhibit Number 56).

18 BY MR. PEACE:

19 Q Now, what happened after you called 911?

20 A After I called 911, then I called my
21 girlfriend Jan.

22 Q All right. And what conversation did you
23 have? What, if anything, did you tell Jan?

24 A I told Jan to please call my mama and tell my
25 mama to come.

JOANN SUBER - DIRECT

1 Q All right. What did you do after that?

2 A I think Jan didn't know the number, so I told
3 her the number and I was scared Charles was going
4 to come in and catch me on the phone and I, and I
5 tried to get to a clock so I could see what time it
6 was, I didn't want 7:30 to catch us in the house.

7 Q What time was it?

8 A I don't know. I don't remember. I don't
9 remember. I just know it wasn't quite 7:30. And I
10 closed the cell phone back and I ran back over to
11 the chair and I put it back because just like I
12 didn't think about the cell phone until I saw it, I
13 didn't know if he was going to be back there and he
14 remembered I had the cell phone and come in the
15 house and catch me on it or get it, so I put it
16 back over there on the charger and me and my son
17 Raheim grabbed my youngest two and we went out the
18 front door to wait on the bus.

19 Q I show you what has been marked State's
20 Exhibit 2 for identification and ask you if you
21 recognize State's Exhibit 2 for identification?

22 A Yes, sir.

23 Q What is State's Exhibit 2?

24 A That's a picture of my house.

25 Q All right. And can you use the pointer and

JOANN SUBER - DIRECT

1 show the jury where you went out on the porch with
2 your boys?

3 A That's the front door and we was like
4 standing right there on that walkway, kind of the
5 porch area and on the walkway right there.

6 Q Okay, thank you.

7 MR. PEACE: Your Honor, I move State's
8 Exhibit 2 for identification be admitted as State's
9 Exhibit 2.

10 MR. SHEEK: No objection.

11 THE COURT: Without objection Number 2 is
12 part of the evidence in the case.

13 (Photograph marked and received in evidence
14 as State's Exhibit Number 2).

15 BY MR. PEACE:

16 Q All right. What happened, Mrs. Wilson, after
17 you and the boys went out on the porch?

18 A Well, whoever got there first, that's where I
19 was going to put my babies because I wanted to get
20 them out of danger, but the bus hadn't come yet and
21 I could hear the sirens coming down the road, I
22 couldn't see them but I could hear them. So, as
23 they got, you know, the sound got closer and
24 finally we saw one coming up I told Raheim, I said,
25 "Let's run," and I grabbed my babies by the arms

JOANN SUBER - DIRECT

1 and we all ran up my driveway and down Highway 10
2 to meet the cops.

3 Q Did you meet the police?

4 A Yes, sir. It was two carloads, two cars of
5 cops.

6 Q And what happened when you got to the police?

7 A We was standing in the road, standing in the
8 middle of the road, they kind of pulled over to the
9 side, we were standing in the road, I was like,
10 "He's in the back, he's in the back."

11 Q All right. What did you do after you told
12 them he was in the back?

13 A They, I think, I don't remember how many, but
14 some went around that way, a couple went that way
15 and a couple went that way. I opened the police
16 door and I shoved my babies in the back seat of the
17 police car.

18 Q And what happened after you put them in the
19 police car?

20 A By this time the bus was coming and, you
21 know, you got blue lights flashing and it was some
22 more cop cars pulling up, I just wanted to get them
23 children out of danger because I didn't know if
24 Charles was going to, he had heard the sirens, too,
25 I didn't know if he was going to come through the

JOANN SUBER - DIRECT

1 back door and come out the front and start
2 shooting. I didn't know what was going to happen
3 so I'm trying to wave the bus, you know, to go on
4 by because the bus was stopping, you know, they
5 didn't know, the bus was stopping and I'm standing
6 out there waving, and then the other two cops,
7 carloads of cops, I think it was like four of them,
8 they got out and they start, I think one of them
9 start directing traffic, and before I got in the
10 cop car my girlfriend Jan was coming down the
11 street and she rolled down the window and she took
12 one look at me, she said, "JoAnn, what happened,"
13 because I didn't tell her what happened on the
14 phone, and she was passing by, I was standing by
15 the police car, I told her, "Charles has killed
16 Sanford."

17 Q And what did you do after that?

18 A Then I got in the police car, in the back of
19 the police car with my babies.

20 Q Miss Wilson, I show you what has been marked
21 State's Exhibit 44 for identification and ask you
22 if you recognize State's Exhibit 44?

23 A Yes, sir.

24 Q Now, what is depicted in that photograph?

25 A That is my Regency Park shirt.

JOANN SUBER - DIRECT

1 Q Is that the shirt you were wearing on the
2 evening of November 3rd and morning of November
3 4th?

4 A Yes, sir.

5 MR. PEACE: Your Honor, I move State's
6 Exhibit 44 for identification be admitted as
7 State's Exhibit 44.

8 MR. SHEEK: No objection.

9 THE COURT: Without objection Number 44 is
10 admitted into evidence.

11 (Photograph marked and received in evidence
12 as State's Exhibit Number 44).

13 BY MR. PEACE:

14 Q All right, what happened after your friend
15 drove by?

16 A I got in the police car, I don't think I had
17 closed the door all the way yet, and then that's
18 when they were bringing Charles from around the
19 house in handcuffs.

20 Q All right. Now, Mrs. Wilson, what woke you
21 up that morning?

22 A Charles woke me up.

23 Q The gunshot, did the gunshot wake you up?

24 A No, sir.

25 Q Did you hear the gunshot?

JOANN SUBER - DIRECT

1 A No, sir.

2 MR. PEACE: Thank you. I have no further
3 questions. Please answer any questions that Mr.
4 Sheek may have.

5 THE COURT: We're going to take a very short
6 recess. We have been in session an hour and 15
7 minutes, the jurors might need to take a break.

8 Madam Witness, you may not discuss the case
9 with anyone, you may not discuss any questions
10 asked or any answers you have given to those
11 questions. You may not discuss any questions you
12 expect you could be asked or answers you might give
13 to those anticipated questions. It is the best
14 policy not to discuss anything with anyone and stay
15 with the bailiff.

16 Mr. Higgenbotham, will you accompany her,
17 please, at all times until she regains the stand?

18 BAILIFF: Yes, sir.

19 THE COURT: Ladies and gentlemen, do not
20 discuss the case by, between and among yourselves
21 and take a short recess.

22 (The jury was excused from the courtroom).

23 THE COURT: We stand in recess, please.

24 (Recessed at 5:30 p.m.).

25 (Reconvened at 5:56 p.m.).

JOANN SUBER - DIRECT

1 THE COURT: We are coming into session and
2 opening the record, ladies and gentlemen, in the
3 case of State of South Carolina versus Charles
4 Nemon Vandross, indictment 2004-1187.

5 Madam Witness, you are on the stand, good.
6 Ask the jurors in, please.

7 (The jury returned to the courtroom).

8 THE COURT: Ladies and gentlemen, the jury
9 has elected Richard Terry, juror number 128, as
10 your foreperson. Mr. Terry, you will occupy that
11 seat during the balance of the trial.

12 JUROR: Yes, sir.

13 THE COURT: As aforesaid, our alternates will
14 occupy those seats until your services may be
15 needed. Everybody else will sit where you are
16 comfortable.

17 This will be made a court's exhibit
18 momentarily.

19 (Juror note marked Court Exhibit Number 1).

20 THE COURT: Ladies and gentlemen, we are
21 going to take the unusual step because of the hour,
22 it's about three minutes until 6:00 in the evening,
23 cross-examination of this witness would take a good
24 deal of time and we know that you have other things
25 to do this evening and you hadn't planned on

JOANN SUBER - DIRECT

1 working this late and indeed we try not to work
2 this late. It is unusual to break up direct and
3 cross-examination of any witness but we're going to
4 take that unusual step this evening.

5 And with that in mind, Madam Witness, you are
6 instructed that under no circumstances may you
7 discuss this case with anyone. You may not talk
8 about any of the things you have been asked or any
9 answers you have given to the questions you have
10 been asked, or any questions you expected possibly
11 could be asked of you or answers that you perhaps
12 could give to those anticipated questions.

13 Again, it is as if we are not taking a break,
14 we are going forward without interruption, but you
15 of course are weary and you need a break just like
16 this jury needs a break at this hour of 6:00 in the
17 evening. We'll start the case in the morning at
18 9:00 o'clock. We generally don't start that early
19 but we want to get some important witnesses out of
20 the way who thought that they would testify today.

21 Now, do you understand the instructions
22 clearly?

23 THE WITNESS: Yes, sir.

24 THE COURT: Do not discuss the case with
25 anyone.

JOANN SUBER - DIRECT

1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you. You may come down.

3 Watch your step, take your time.

4 (Witness excused from the stand).

5 THE COURT: Mr. Foreman, ladies and
6 gentlemen, we'll recess, as you have now been
7 informed. Do not discuss the case by, between and
8 among yourself nor with any other person. The
9 Court is not oblivious, of course, of the natural
10 curiosity that human beings possess and that you
11 will be asked about what you're doing at the
12 courthouse as a juror, if you are a juror, what is
13 the case about, and all sorts of things, and you
14 will be asked by people whose questions will be
15 difficult not to answer, such as spouses, parents,
16 children, close friends, neighbors, all of them or
17 some of them will want to know the answer to those
18 questions and under no circumstances can you
19 respond with anything other than, "Yes, I am a
20 juror and I'm continuing to be a juror and I can't
21 talk with you about the case."

22 Now, you already know the example that the
23 Court gave you at the onset, and that is if you had
24 an interest in one side or the other of any case
25 being tried you would not feel it proper for any

1 juror to talk with anyone or allow anyone to talk
2 with him or her about the case being tried because
3 that wouldn't be fair. So, don't allow anyone to
4 speak to you about this case and indeed do not
5 speak to anyone about the case.

6 Were anyone to persist in trying to talk with
7 you or ask you about this case after you alert them
8 and make them aware that you are a juror, that
9 would be highly improper, suspicious, wrong and
10 illegal and you should use every measure at your
11 disposal, as we have already discussed, to identify
12 that person or persons and tell one of the bailiffs
13 as soon as you come back in. Indeed, you may make
14 notes on what you observe and learn about the
15 identity of any such person or persons. Tell one
16 of the bailiffs when you return in the morning,
17 without sharing that information with anyone else,
18 and it will be investigated and dealt with
19 effectively and with dispatch.

20 Do not read, hear or look at anything having
21 to do with this case if there were to be any media
22 coverage. It has no value, it has no weight, it is
23 not evidence. Ignore completely and disabuse your
24 mind absolutely of anything that you see, hear or
25 read outside this courtroom, such as television,

1 newspaper or radio. All the evidence upon which
2 you will use to find the facts of this case will be
3 revealed to you within the walls of this courtroom
4 and nowhere else and under no other circumstances
5 whatsoever.

6 Please have a pleasant evening and be back in
7 the jury room at 9:00 o'clock in the morning. All
8 others will please remain seated. Leave by the
9 door behind you.

10 Thank you.

11 (The jury was excused from the courtroom).

12 THE COURT: Is there anything from the State
13 before the record is closed for the evening?

14 MR. PEACE: Nothing from the State.

15 THE COURT: Thank you. Anything from the
16 defense?

17 MR. SHEEK: Nothing, Your Honor.

18 THE COURT: Thank you. We are in recess
19 until 9:00 a.m., ladies and gentlemen.

20 Thank you.

21 (Recessed at 6:02 p.m.)

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4 I, the undersigned Henry P. Young, Official
5 Court Reporter for the Eighth Judicial Circuit of
6 the State of South Carolina, do hereby certify that
7 the foregoing is a true, accurate, and complete
8 transcript of record of all the proceedings had and
9 evidence introduced in the trial of the captioned
10 case in the Circuit Court for Greenwood County,
11 South Carolina, on the 19th day of June, 2006.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14 August 26, 2006

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18 Henry P. Young
19 Court Reporter
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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

2004-GS-24-1147

COUNTY OF GREENWOOD

STATE OF SOUTH CAROLINA,

-vs-

CHARLES NEMON VANDROSS,

Defendant.

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

JERRY W. PEACE, Esquire
Attorney for the State

C. LANCE SHEEK, Esquire
Attorney for the Defendant

Henry P. Young
Court Reporter

VOLUME II of III

June 20, 2006

P-R-O-C-E-E-D-I-N-G-S

(Reconvened at 9:15 a.m.).

THE COURT: The record will open, please,
State of South Carolina versus Charles Nemon
Vandross, indictment 2004-GS-24-1187.

Let the record show that counsel for the
State and for the defendant had a very short
conference in chambers and there will be a proffer
of testimony in order for the Court to rule on
whether or not it is proper or not for the
testimony to be admitted before the jury.

The witness will take the stand.

JOANN WILSON - PROFFER

1 JOANN SUBER WILSON,
2 having been duly sworn testified as follows:

3 THE COURT: Thank you, be seated.
4 Mr. Sheek.

5 MR. SHEEK: Thank you, Your Honor.

6 QUESTIONS BY MR. SHEEK:

7 Q Mrs. Suber, you testified on direct that you
8 and Mr. Best had always had a good relationship,
9 always remained friends, I think is your word. Is
10 that correct?

11 A Yes, sir.

12 Q That even when you all had broken up you
13 always remained good friends?

14 A We always stayed in touch with each other but
15 when we were together we had a rocky relationship.

16 Q Okay, but I believe your testimony was,
17 correct me if I'm wrong, that you are crazy about
18 him and you all always remained good friends?

19 A We did remain friends, we've always stayed in
20 communication no matter who he talked to or who I
21 talked to.

22 Q In fact previously, back in 2002 Mr. Best had
23 put you on trespass notice from his residence, is
24 that correct?

25 A Yes, sir.

JOANN WILSON - PROFFER

1 Q And the reason he put you on trespass notice,
2 ma'am, was because you were going to his house
3 upset that he was seeing another woman?

4 A He was dating me, he was dating me and when I
5 went over there, there was somebody else over
6 there.

7 Q And you got upset?

8 A Yes, sir.

9 Q And he called the police?

10 A Yes, sir.

11 Q And as a matter of fact there was a previous
12 incident where he called the police for the same
13 type incident?

14 A Yes, sir. I believe it was in 2001.

15 Q Okay. So, it's really actually fair to say
16 that jealousy problems between Best and anybody was
17 between Best and you?

18 A No, it wasn't jealousy. I was hurt, I wanted
19 to know why he was cheating on me.

20 Q Not jealous but simply you found out he was
21 seeing someone else, got upset and he had to call
22 the police?

23 A Yes, sir, because I wanted to know why. He
24 wouldn't open the door and let me in.

25 Q You were banging on the door trying to get

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1 in, right?

2 A At one point. At one point he had the door
3 open to let me see who was in there.

4 Q I believe you also previously testified
5 between you and Mr. Best there was some pushing and
6 shoving but never any blood drawn?

7 A He pushed me out the door when he got ready
8 to close the door.

9 Q All right.

10 MR. SHEEK: Thank you, Your Honor. That's
11 the testimony.

12 MR. PEACE: Just one.

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JOANN WILSON - PROFFER

1 QUESTIONS BY MR. PEACE:

2 Q Now, was Mr. Best dating anybody else on
3 November the 4th of 2004?

4 A Not that I know of.

5 Q All right.

6 MR. PEACE: Your Honor, the State would
7 object to the testimony offered by the defense.
8 This testimony is just not relevant, it's something
9 that happened in 2001 and 2002. We're in 2004. I
10 mean, first of all there is no basis for the
11 testimony. Secondly, it is just not relevant
12 testimony.

13 THE COURT: Mr. Sheek?

14 MR. SHEEK: Your Honor, we believe it's
15 relevant, actually under two different theories.
16 One, her testimony was clear on direct to this jury
17 she painted the picture of her and Mr. Best having
18 a great relationship, always remained good friends.
19 First, for impeachment I should be allowed to show
20 that is an incorrect characterization, which will
21 go to the other incident of impeachment we intend
22 to introduce.

23 Secondly, it's our contention obviously that
24 my client did not kill that gentleman, that he was
25 killed by the other person in the house, and that

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1 would be the person who has the blood on their
2 shirt, was with him that night and in fact it
3 happened as result of the violence between her and
4 Best that historically is shown by these incident
5 reports. Under State v. Holmes, which is a May
6 1st, 2006 Supreme Court opinion, the Supreme Court
7 has said the defendant cannot bring any evidence of
8 third-party guilt unless there is substantial
9 evidence of the other party and tends to show his
10 innocence. The Supreme Court did away with that
11 and said the Court should not do anything to limit
12 a defendant's ability to present a full and
13 complete defense, there is no requirement of any
14 substantiality. The weight of it goes to the jury.
15 And this certainly plays into it.

16 Then my last point would be, in the last
17 trial when the issue of jealousy came up the State
18 argued in closing argument very strongly by sitting
19 on the witness stand and saying nobody came in this
20 courtroom and ever pointed a finger at JoAnn and
21 said that she had any jealousy problems, obviously
22 going to the heart of our contention that it was.
23 That alone shows the relevance of the testimony.
24 The fact is there is documented evidence of
25 jealousy and violence between her and the decedent

JOANN WILSON - PROFFER

1 that plays into our theory of how this case
2 actually occurred.

3 THE COURT: Solicitor, any response?

4 MR. PEACE: Yes, Judge. Her testimony on
5 direct about her relationship with Mr. Best was
6 that it was a rocky relationship.

7 THE COURT: It was what?

8 MR. PEACE: That it was a rocky relationship.
9 She admitted on direct examination that her
10 relationship with Mr. Best was a rocky
11 relationship, so she's admitted that. These
12 incidents from 2001, 2002, number one, is not
13 relevant. If the Court decides it's relevant, then
14 you have the 403 issue.

15 Your Honor, if I may, I will hand up Holmes
16 versus South Carolina. What Holmes versus South
17 Carolina actually does is apply it to that
18 particular case because they can't allow evidence
19 of third-party guilt because of the strength of the
20 forensic evidence. In Holmes the Court actually
21 had to make a determination on the strength of the
22 evidence. It did not overrule or change the law in
23 South Carolina on third-party guilt set out by
24 State versus Gregory, and if Your Honor will note
25 on page three of the case I landed up it says that

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1 State versus Gregory, which held that such evidence
2 is admissible if it raises a reasonable inference
3 or presumption as to the defendant's own innocence
4 but it is not admissible if it merely casts a bare
5 suspicion on another or raises a conjectural
6 inference as to the commission of the crime by
7 another.

8 Now, Holmes dealt specifically with forensic
9 evidence and the Court reversed Holmes, it did not
10 reverse Gregory. And on page six of Holmes versus
11 South Carolina, the opinion I held up, Your Honor,
12 in the middle of the page it says that well
13 established rules of evidence permit trial judges
14 to exclude evidence if its probative value is
15 outweighed by certain other factors such as unfair
16 prejudice, confusion of the issues or potentially
17 can mislead the jury.

18 On page seven it says evidence tending to
19 show the commission by another person of the crime
20 charged may be introduced by the accused when it is
21 inconsistent with or raises a reasonable doubt of
22 his own guilt but frequently matters offered in
23 evidence for this purpose are so remote and lack
24 such connection with the crime that they are
25 excluded.

JOANN WILSON - PROFFER

1 And, Your Honor, that would be the State's
2 position in this case, that these incidents
3 occurred in 2001, 2002, two years before this.
4 There is absolutely no evidence before the Court
5 that at this particular time Mrs. Wilson and Mr.
6 Best had anything but a good relationship. I mean,
7 Mr. Best had been there since Sunday, he had been
8 spending the night, I mean, he was there.

9 And it continues on page seven. Such
10 evidence may be excluded where it does not
11 sufficiently connect the other person to the crime,
12 as for example, where the evidence is speculative
13 or remote or does not tend to prove or disprove a
14 material fact in issue at the defendant's trial.

15 And, Your Honor, that's the State's position,
16 that the information is not relevant and even under
17 State v. Holmes that the evidence should not be
18 admitted.

19 THE COURT: Thank you, Solicitor.

20 How do you respond to that, Mr. Sheek?

21 MR. SHEEK: Clearly, Your Honor, relevance is
22 defined as any matter that makes a fact at issue
23 more or less likely. The testimony of this witness
24 is the only thing the State is going to bring into
25 this court to point to this defendant to say he did

JOANN WILSON - PROFFER

1 this crime. There is no blood on the defendant, no
2 gunshot residue, no fingerprints in the house, none
3 of these issues. There is no documented history
4 anywhere of a problem between this gentleman and
5 Mr. Best. Quite to the contrary, I submit there
6 will be testimony and there has been sworn
7 testimony that there was times when they were
8 together before with this woman and there was no
9 problems between Mr. Best and him.

10 But we do have a documented problem with her,
11 we do have the decedant's blood on her, we have her
12 in the room with this prior history of having
13 violence with the decedant, and to not allow the
14 defendant to go into that testimony takes any
15 relevant matters that this jury should be able to
16 know and limits his ability to present a defense.

17 THE COURT: The witness did testify not that
18 they had a good relationship, but that it was a, I
19 believe she used the term rocky relationship.
20 That's written in the Court's notes. So she was,
21 in keeping with the rather generic term rocky, you
22 now want to ask her about these incidents that
23 happened at least two years or more than two years
24 before the alleged incident with which we're now
25 concerned. The Court sustains the objection by the

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1 State as it being remote in time and not probative
2 of what happened on the date in question.

3 MR. PEACE: Thank you, Your Honor.

4 THE COURT: Anything further before the
5 jurors come out?

6 MR. PEACE: Not from the State.

7 THE COURT: From the defense?

8 MR. SHEEK: Not from the defense, Your Honor.

9 THE COURT: Show the jury in.

10 (The jury returned to the courtroom).

11 THE COURT: All the jurors are present, with
12 the foreman and alternates properly seated. The
13 matter lies in cross-examination.

14 Madam Witness, you have been sworn to tell
15 the truth. Do you understand that?

16 THE WITNESS: Yes, sir.

17 THE COURT: That was done before the jurors
18 came in.

19 THE WITNESS: Yes.

20 THE COURT: Have you talked to anyone at all
21 about the testimony you gave on yesterday in
22 response to any questions that were asked of you or
23 have you talked with anyone about any answers that
24 you may give to any questions you expect may be
25 asked of you?

JOANN WILSON - PROFFER

1 THE WITNESS: No, sir.

2 THE COURT: This witness is with you on
3 cross-examination, Mr. Sheek.

4 MR. SHEEK: Thank you, Your Honor.
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JOANN SUBER - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Miss Suber, when did Charles Vandross move to Greenwood?

A I don't remember exactly when he moved. I think it was like mid to late August, I don't remember the exact date.

Q Mid to late August of what year?

A 2003.

Q Okay. You all met in July of 2003, right?

A Yes, sir.

Q In November of 2003 you all went together and bought engagement rings, right?

A He proposed to me on Thanksgiving Day.

Q Did you accept?

A Yes, sir, I did.

Q And he lived with you until September of 2004?

A I believe that's when it was.

Q All right. And he actually didn't take this job at McDonald's until the summer of 2004, did he?

A I don't remember. I said when he first moved there he was driving back and forth to Greenville, then he took a job here in Greenwood.

Q I understand what you said. I'm asking you

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1 isn't it true he took a job at McDonald's in the
2 summer of 2004?

3 A I don't remember when it was, sir.

4 Q You have no idea when he took that job?

5 A No, sir, I don't remember.

6 Q You testified to this jury about how he would
7 sit there and watch you and hound you but you have
8 no idea when that started?

9 A You are asking me two different things right
10 now. You were just talking about when he took a
11 job at McDonald's and now you're saying when
12 something started. I'm not understanding.

13 Q Did you testify on direct that he took the
14 job at McDonald's so he could watch you?

15 A Yes, sir.

16 Q Okay. And that he would see you going to
17 make a deposit and call you, if you didn't get back
18 at a certain time he would call you. That is what
19 you testified to, wasn't?

20 A Yes, sir.

21 Q Now you are telling the jury you have no idea
22 when that happened?

23 A No, sir, I don't remember the date or the
24 month, no, sir.

25 Q Do you remember if it happened for a long

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1 period of time or short period of time?

2 A It happened for a long period of time but I
3 don't remember what month, sir. I have gone
4 through a lot, I'm doing good to remember anything.

5 Q So, are you saying your memory is not real
6 good about what happened?

7 A I'm saying this has been two years ago, sir,
8 I have been traumatized and I'm racking my brain to
9 remember everything I possibly can.

10 Q Well, that's fine and I appreciate that and I
11 want you to remember everything you can but you sat
12 on that stand and told this jury that from the
13 beginning when he moved in with you he became
14 jealous and possessive. Isn't that what you said?

15 A No, sir, that's not what I said.

16 Q Okay, tell me what you said.

17 A I said in the beginning everything was fine.

18 Q But when he moved in with you he began to
19 change. Wasn't that your testimony?

20 A Yes, later on, yes, sir.

21 Q How much later on, ma'am?

22 A I don't remember, sir. I don't remember.
23 Months, days, I don't remember.

24 Q Well, you can remember the specific incident
25 you were in Greenville and waved at somebody, he

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1 wanted to know who that was, you could remember
2 that, right?

3 A That's in my memory.

4 Q You can't tell this jury a rough estimate of
5 what month he began working at McDonald's that was
6 such a problem?

7 A No, sir, I can't.

8 Q You described your relationship with Mr. Best
9 as rocky?

10 A Yes, sir.

11 Q Describe to the jury what you mean by that.

12 A We had problems like couples do.

13 Q What kind of problems?

14 A Cheating issues.

15 Q Cheating issues?

16 A Yes, sir.

17 Q You were cheating on him, he was cheating on
18 you?

19 A No, sir. He was seeing more than me.

20 Q How did you feel about that?

21 A I had gone over to his house and seen
22 somebody else there.

23 Q Well, how did you feel about that?

24 A I was hurt.

25 Q Did it make you mad?

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1 A I was hurt, my heart was --

2 MR. PEACE: Objection, Your Honor, relevance.
3 May we approach?

4 THE COURT: Well, yes, and ask the witness to
5 step aside, please, so we can speak outside her
6 hearing.

7 (Bench conference out of the hearing of
8 the jury and witness).

9 MR. PEACE: Judge, this is the same issue I
10 objected to, this is the same testimony that I
11 objected to.

12 MR. SHEEK: I'm just going by the description
13 on direct, Your Honor.

14 THE COURT: We're touching on it but we're
15 not going into the fact that the police were called
16 and it got to the apparent point that it did. That
17 was the part that the Court felt was prejudicial
18 and had no probative value as to who may have
19 committed the crimes with which we're now
20 concerned. That she may have had problems with his
21 going out with another woman or her going out with
22 another man, if you stay within the confines of
23 those conflicts, rather than the police coming and
24 all that kind of stuff, that may lead on up to the
25 time this defendant entered the picture.

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1 MR. SHEEK: I think what is going to happen
2 is she's going to say, "I didn't get upset and I
3 can't say the police were called out." I mean,
4 she's going to lie to me about the answer.

5 MR. PEACE: But that's not -- something that
6 happened two years ago, Judge, is not relevant.

7 THE COURT: Well, I agree.

8 MR. SHEEK: If she lies about it?

9 THE COURT: Based upon the issue of guilt and
10 innocence in this case on this day?.

11 MR. SHEEK: It is actually her credibility,
12 she's trying to paint a picture that's not
13 accurate.

14 THE COURT: And that's been ruled upon.

15 MR. SHEEK: Yes, sir.

16 THE COURT: Where you wish to impeach her
17 with something that happened two years ago, she's
18 already said that the relationship between the two
19 of them was rocky, which certainly could
20 incorporate some difficulties and misunderstanding,
21 but the Court feels that your going into what we
22 have already discussed outside the presence of the
23 jury is not relevant to who, including this
24 defendant, may or may not have perpetrated the
25 crime in question, the crimes in question.

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1 So, are we clear?

2 MR. SHEEK: Yes, sir.

3 MR. PEACE: I mean, the information that I
4 objected to is coming out based on the questions by
5 the defense counsel. I'm objecting to this
6 information coming out. Now, I understand your
7 ruling that my objection is sustained, that that
8 information can't --

9 MR. SHEEK: I'm not going into it, you have
10 made that clear.

11 THE COURT: Good. But let's, while we're
12 here and outside the hearing of the jury and on the
13 record let's outline what you may and may not go
14 into. How far do you intend to go down this road?

15 MR. SHEEK: I'm pretty much at the end of it,
16 as far as I can go.

17 THE COURT: Okay. If that's the case --

18 MR. SHEEK: I mean, my question was, "What do
19 you mean by rocky?" That was a direct question in
20 her direct testimony. I won't go any further.

21 THE COURT: Well, whatever she says you're
22 stuck with it.

23 MR. SHEEK: I understand.

24 THE COURT: And if you're about at the end of
25 it, then she's explained her definition of rocky.

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1 Okay?

2 MR. SHEEK: Thank you.

3 MR. PEACE: Thank you, Judge.

4 THE COURT: All right.

5 (Bench conference concluded).

6 THE COURT: All right, Mr. Sheek and Madam
7 Witness, both of you need to speak a little louder.

8 MR. SHEEK: Yes, Your Honor.

9 BY MR. SHEEK:

10 Q Now, ma'am, you and Mr. Best were engaged
11 also at one time?

12 A At one point in time, yes, sir.

13 Q Okay. Were you engaged to anybody between
14 Mr. Best and Mr. Vandross?

15 A No, sir.

16 Q Okay. Now, you testified about these times
17 that you would put Charles out of the house?

18 A That's correct.

19 Q It was not uncommon for you at that time to
20 have Mr. Best at your house, was it?

21 A I have called him over, sometimes I have gone
22 over to his house.

23 Q Right. And Charles knew that you were doing
24 that, didn't he?

25 A Yes, because whenever we got back together I

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- 1 told him and sometimes he would ride by Sanford's
2 house himself.
- 3 Q That's right. And as a matter of fact there
4 was an incident where Charles came to your house
5 while Sanford Best was there, didn't he?
- 6 A Yes, sir.
- 7 Q And he talked to you?
- 8 A Yes, he came and talked to me.
- 9 Q And there was no problems between him and Mr.
10 Best, was there?
- 11 A Well, he wanted to stay too long, talk too
12 long, and Sanford walks over and spoke to him and
13 asked him to leave.
- 14 Q What else did they ask you?
- 15 A Before they did that they asked me who do I
16 want.
- 17 Q So, they both asked you that?
- 18 A Yes, sir.
- 19 Q I believe there was never any threats between
20 Mr. Vandross and Mr. Best, was there?
- 21 A No, sir.
- 22 Q No licks thrown, no punching, yelling?
- 23 A No, sir, because in my opinion --
- 24 Q I'm not asking for your opinion, I'm asking
25 did that ever happen?

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1 A He may shoot somebody there in their sleep
2 rather than in the parking lot.

3 MR. SHEEK: Judge, if I could ask the witness
4 be responsive.

5 THE COURT: Just a minute, Madam Witness.
6 Pose the question.

7 Q There were no punches thrown, were there?

8 A No, sir.

9 Q Mr. Best, to your knowledge, never went and
10 tried to get a trespass notice on this man, did he?

11 A No, sir.

12 Q No reason to, was there?

13 A No, sir. Like I said, he wouldn't punch him.

14 Q Now lets talk about this story you told the
15 jury. According to you, you are awakened by Mr.
16 Vandross on top of you, you're in the bed, right?

17 A I couldn't hear you.

18 Q According to you, you were awakened by Mr.
19 Vandross being over you with his hand over your
20 mouth and a gun to your head?

21 A That's correct.

22 Q That's what you told this jury?

23 A Yes, sir.

24 Q Did he keep the gun to your head the whole
25 time in there that day, that morning?

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- 1 A The whole time?
- 2 Q Did he put it down at some point?
- 3 A When he pushed me in the bathroom and I was
- 4 in the bathroom the gun wasn't to my head.
- 5 Q Was it to your head before that?
- 6 A While we were tusseling on the bed and on the
- 7 floor, yes, sir.
- 8 Q So, when he, as you say, body slammed you he
- 9 did that holding the gun in one hand and body
- 10 slammed you with the other?
- 11 A Mr. Vandross is a big man, I'm a little
- 12 woman, yes, sir.
- 13 Q Is that yes, he body slammed you with one
- 14 hand?
- 15 A Yes, sir.
- 16 Q Okay. And you have seen your shirt you were
- 17 wearing that night, right?
- 18 A Yes, sir.
- 19 Q Do you have any idea how all that blood got
- 20 on your shirt?
- 21 A No, sir, I do not. I was asleep, I do not.
- 22 Q Do you think it may have happened while you
- 23 were sleeping?
- 24 A Sir, I don't know when it happened.
- 25 Q Because it is your testimony you were laying

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1 in the bed right beside the decedant, right?

2 A Yes, sir.

3 Q You said he was laying in the middle of the
4 bed, as a matter of fact?

5 A When I went to sleep that's where he was. If
6 he moved over in the night I don't know, but when I
7 went to sleep he was in the middle of the bed.

8 Q And you never heard anybody come in the room?

9 A No, sir.

10 Q You never heard a gunshot?

11 A No, sir.

12 Q You never felt anybody lean over you, did
13 you?

14 A No, sir.

15 Q As a matter of fact you are laying, on your
16 own diagram, on the side of the bed closest to the
17 door that according to your story Mr. Vandross
18 would have had to come in, right?

19 A Yes, sir. I sleep in a fetal position, I was
20 right over there on that side.

21 Q So, if he had, as you allege, shot Mr. Best
22 from that side of the bed he would have had to lean
23 all the way across you to do it. What size bed is
24 it?

25 A I had a king size bed.

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- 1 Q So, to get to Mr. Best without leaning across
2 he would have had to walk around and get to the
3 other side?
- 4 A I have no idea, sir.
- 5 Q You have no idea?
- 6 A No, sir.
- 7 Q It's your bed. Do --
- 8 A I don't know how he did it, I was asleep.
- 9 Q I understand you were asleep. Did you feel
10 anybody lean over you?
- 11 A I just said no, sir.
- 12 Q Okay. So, it's now your testimony, is it
13 not, that you go into the bathroom and you have
14 blood coming out your face?
- 15 A Yes, sir.
- 16 Q Where is the blood coming from?
- 17 A Out of my nose and my mouth.
- 18 Q Okay. And you look in the mirror and saw
19 this?
- 20 A When I was passing by the mirror I saw this.
- 21 Q Okay. You didn't see any of this blood on
22 your shirt?
- 23 A No, sir.
- 24 Q Okay. Was the blood coming from a scratch on
25 the outside of your nose or was it bleeding from

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1 the inside?

2 A It was coming from the scratch and from here.

3 Q Was it a good bit of blood?

4 A Enough blood for me to write on that wall.

5 Q You wrote Charles V, help me. Right?

6 A That is what I was trying to write.

7 Q You wrote that really because you wanted

8 Charles V to help you, that is why you wrote

9 Charles V, help me?

10 A No, sir. That is what came to my mind to
11 write for the police.

12 Q Okay. When you had had problems with Mr.
13 Best in this rocky relationship you would want
14 Charles to help you out, wouldn't you?

15 A No, sir. There was no reason for Charles to
16 help me with anything.

17 Q Okay. So, you see all this blood and you are
18 coming up with these plans to spit on the tape and
19 things like this, right? Do you wash your face?

20 A No, sir.

21 Q As a matter of fact you testified that when
22 you come back with Mr. Vandross at about 6:00 in
23 the morning, according to your testimony, he takes
24 his finger and he is wiping the blood off your
25 face. That is what you have testified to, wasn't

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1 it?

2 A Yes, sir. He spit on his thumb and he wiped
3 the --

4 Q When he comes in and wraps this tape around
5 and around your head you're bleeding still?

6 A I don't know.

7 Q You don't know?

8 A No, sir. I didn't look in the mirror while
9 he was wrapping the tape around me, I don't know if
10 I was still bleeding or not.

11 Q The blood was still on your face, you hadn't
12 washed it off?

13 A It would have had to be, yes.

14 Q Okay. So, there would be no reason for that
15 blood to be gone at that point?

16 A I don't have any idea, sir.

17 Q Well, how long were you in the bathroom
18 between the time you wrote Charles V, help me, or
19 tried to write that, and the time he wrapped the
20 tape around your head?

21 A Sir, I honestly have no idea.

22 Q More than ten minutes?

23 A I don't know. I don't want to sit here and
24 guesstimate and guesstimate a wrong time. I don't
25 know. It seemed like forever.

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1 Q When you are testifying to the Solicitor you
2 can be extremely specific about everything that
3 happened, can't you?

4 A Certain things are real strong in my memory.

5 Q But when I ask you questions you have no
6 idea, do you?

7 A No, sir, not all the time. I answered your
8 questions.

9 Q Well, let's talk about that. You testified,
10 I want to talk about your testimony for a few
11 minutes so this jury can understand what we're
12 dealing with, You testified that you called 911
13 first?

14 A Yes, sir. That's what I remember, yes, sir.

15 Q And that tape that was played you identified
16 as the 911 call you made, correct?

17 A Yes, sir.

18 Q Now, you have had an opportunity to
19 previously give sworn testimony in this matter,
20 haven't you?

21 A I don't understand what you're saying.

22 Q Have you previously, prior to today, had an
23 opportunity to swear to tell the truth, the whole
24 truth and nothing but the truth and testify about
25 what happened this night?

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1 A Yes, sir, but every time you turn around that
2 way your voice kind of goes out that way and I
3 can't hardly hear you.

4 Q Yes, ma'am, I understand and I will try to be
5 loud for you. But you have given sworn testimony
6 about that before?

7 A Yes, sir.

8 Q Okay. Ma'am, I'm going to hand you a copy of
9 a transcript, your sworn testimony, and on page 61
10 when you were testifying about those phone calls,
11 do you see what I'm talking about?

12 A Yes, sir.

13 Q When you were asked about the phone call,
14 read your answer, the highlighted part?

15 A It says, "After I called 911 I hung up
16 because I heard something, I thought it was Charles
17 coming in the house so I slammed the phone closed
18 and I ran, looked up to see if he was in there and
19 I put the phone back over, back over in the chair
20 just in case he thought about my cell phone and
21 came in the house."

22 Q Nothing in there about calling Jan, is there?

23 A Sir, when you're up here on the stand you're
24 under tremendous pressure and I'm sorry I didn't
25 remember everything then but, you know, just like

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1 yesterday, from my testimony yesterday, when you go
2 home you can think more clearly and you think, oh,
3 I should have said this. Well, it's not that I
4 wasn't telling the truth, it just didn't pop in my
5 mind right then.

6 Q So, your testimony to this jury is that,
7 "Yes, it's not correct testimony but that was just
8 a mistake on my part"?

9 A No, it was correct testimony at that time.
10 That's what I remembered at that time.

11 Q But your memory was wrong, is what you are
12 saying now, correct?

13 A No. Now I have remembered more about it as
14 far as the phone call. I called 911 and I called
15 Jan.

16 Q But, ma'am, your testimony was, "I made a
17 call," and then it stops. Your testimony was, "I
18 heard something I thought was Charles coming, I
19 slammed the phone down and ran and put it on the
20 charger." That is what you said, isn't it?

21 A Yes, sir, back then that is what I said
22 because that's what I remembered.

23 Q According to your testimony now that is not
24 what happened, is it?

25 A Now I remember more so I testified as to I

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1 remember calling Jan but at that time when I was on
2 the stand I couldn't remember that, so that is what
3 I said. I did hear something at one point in time
4 and closed the phone down.

5 Q Are you sure it's not because calling Jan
6 doesn't make a whole lot of sense in that
7 situation?

8 A Sir, this doesn't make sense, for Charles to
9 shoot Sanford for no reason.

10 Q Okay. Why did you call Jan?

11 A I have no idea why I called Jan but that is
12 what popped into my mind.

13 Q You have no idea why you called Jan?

14 A She was closer, that's the only thing I know,
15 she popped into my mind and that's who I called, I
16 can't explain why I did it.

17 MR. SHEEK: Beg the Court's indulgence one
18 moment.

19 THE COURT: Take your time, counsel.

20 Q Okay, I hand you a copy of your previous
21 testimony again. Starting at the very bottom of
22 page 101, the second question, read to the jury
23 what the question was and what your answer was.

24 A "What did you call Jan for?" "I told her to
25 please call my mama and tell my mama to come."

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1 Q Okay. Read the next question and answer, if
2 you will.

3 A Okay. "Now, I believe you have already
4 testified as to where Jan lives. It's there close
5 to your house, right?" My answer was, "Yes, sir."

6 Q Okay. Now, when you were asked why you
7 called Jan what was your answer? Because you
8 wanted her to call your mama?

9 A "I told her to please call my mama and tell
10 my mama to come."

11 Q When you were asked why you didn't just go
12 ahead and call your mama yourself what was your
13 answer?

14 A I believe it was, I don't see it on here but
15 I believe it was something to the effect it was
16 more numbers to dial, my mama didn't pop into my
17 mind, Jan popped into my mind, it was my
18 girlfriend, I can't explain why it did, but that's
19 what happened.

20 Q Can you explain to the jury why you couldn't
21 remember today why you called Jan?

22 A Why I couldn't remember today?

23 Q Yes, ma'am. Your answer to my question?

24 A Like I said, when you are up here things pop
25 into your mind. I mean, I really don't know why I

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1 called Jan. It could have been because she was
2 closer, but that was my girlfriend and at that time
3 I couldn't control my thinking, I was upset, I had
4 a long traumatic night and Jan popped into my mind
5 and that's who I called.

6 Q Okay. But last time you said it was to have
7 her call your mama?

8 A Yes, I did tell her to call my mama and tell
9 my mama to come.

10 Q And you said because, the reason you called
11 Jan, "My mom lives long distance and that is like
12 three more whole numbers I would have to dial."
13 That was your testimony, right?

14 A That was my answer then, yes, sir.

15 Q Okay. I hand you this document, ma'am, and
16 ask you if you recognize that?

17 A I have never seen it before but it has my
18 cell phone number on here.

19 Q You don't recognize that as a copy of your
20 own telephone bill?

21 A It wasn't my own telephone bill.

22 Q Whose cell phone is that?

23 A This was my work cell phone.

24 Q Okay. How long had you had that cell phone?

25 A I don't know, sir, but that was the Regency

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1 Park cell phone.

2 Q Can you give us a rough estimate of how long
3 you have had a cell phone, period?

4 A With Regency Park?

5 Q With anybody?

6 A I had a cell phone for a long time.

7 Q Okay. And it's your testimony yesterday that
8 you were telling your kids to get on the bus and if
9 the bus driver had a cell phone to make a call on
10 the cell phone, right?

11 A Yes, sir.

12 Q Or if not, to stop at the grocery store and
13 use the pay phone?

14 A Yes, sir.

15 Q But at that time you still hadn't thought of
16 your own cell phone?

17 A No, sir. I didn't see it over there.

18 Q Okay. You didn't even think of your own cell
19 phone until you saw the cord, right?

20 A Sir, I had been through a traumatizing night,
21 I ran in there, my mission was to get my babies out
22 of danger, and as I was running through the house,
23 if I hadn't of seen that black cord coming over the
24 back of that mauve chair, no, sir, I wouldn't have
25 thought about my cell phone, but I thank God I saw

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1 it.

2 Q Okay. As a matter of fact, on your diagram
3 that you have got, your bedroom is here, right?

4 A Yes, sir.

5 Q The boys' rooms are over here?

6 A Yes, sir.

7 Q This is the chair right here that you say the
8 cell phone was in?

9 A Yes, sir.

10 Q Now, on that cell phone record you have got
11 there do you see a notation of a phone call to Jan?

12 A Can you come point it out to me? There are a
13 lot of things on here.

14 Q All right. I refer you to the one that's
15 highlighted, right there.

16 A Yes, sir.

17 Q Okay. What time was that phone call?

18 A It says 6:56 a.m.

19 Q Okay. Would there have been any reason for
20 you to place a call to Jan prior to calling 911?

21 A I don't remember, sir.

22 Q So, are you saying you may have called Jan
23 first?

24 A In my memory I thought I called 911 first.

25 Q All right. I'll take that back. Now, you

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1 have also testified, according to your story, you
2 are out at old Tranquil Church, right?

3 A Yes, sir.

4 Q And Mr. Vandross says, "It's 5:50, we need to
5 go back and get your kids ready"?

6 A Yes, sir.

7 Q Is that your testimony?

8 A Yes, sir.

9 Q And you all leave there and go back to the
10 house?

11 A Yes, sir.

12 Q Okay. This drive from old Tranquil Church
13 back to your house is how long, ten minutes?

14 A I don't remember how long it is, sir.

15 Q Well, ma'am, can you give the jury an idea
16 how long, just a rough guess of how long it takes
17 to get from your house on Number 10 to the old
18 Tranquil Church?

19 A Sir, I don't know. I don't know how long it
20 takes to get from there to my house.

21 Q How far was the old Tranquil Church from the
22 new Tranquil Church?

23 A Not far. I don't know. I don't know about
24 miles, I don't know.

25 Q Did you testify before that you had gone to

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1 the new Tranquil Church before, you knew the pastor
2 there?

3 A Yes, sir.

4 Q Okay. Since it's not far from the new
5 Tranquil Church, let's tell the jury how long it
6 takes you to get to the new Tranquil Church?

7 A I don't know how long it takes to get there.

8 Q Well, if you were going to church how long
9 before the service would you leave so you knew you
10 would be there on time?

11 A Sir, I have no idea. I don't know. I don't
12 know. I don't know how far it is from my house.

13 Q Well, let's make an assumption, then,
14 hypothetical. If it were a 15 minute drive and you
15 leave at 5:50 like your testimony says, you're back
16 at your house, what, 6:05?

17 A I guess, if the math is right I guess.

18 Q Is it your testimony that you were in the
19 house for some fifty minutes, almost an hour before
20 making any phone calls?

21 A Sir, I don't know. You keep wanting me to
22 say something, I don't know what you want me to say
23 but I don't know.

24 Q Well, ma'am, you understand that you have
25 come in today and are testifying in a murder trial,

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1 right?

2 A Yes, sir, because he did it.

3 Q But you can't represent how far it takes you
4 to get to this church that you have gone to in the
5 past, how long you were at your house, who you
6 called first, you can't remember any of those
7 things, is that what you are telling me?

8 A Yes, sir.

9 Q Okay. What about the pillow? You testified
10 when you were coming out of your room, your story
11 was Mr. Vandross was right behind you, you said, "I
12 saw a pillow over Sanford Best's head." Isn't that
13 what you said?

14 A Out of the corner of my eye that is what I
15 thought I saw, yes, sir.

16 Q Now, previously you and I have actually
17 talked about this, haven't we?

18 A Yes, sir.

19 Q And you spoke to Lieutenant, Investigator
20 Tony Davis about this case, didn't you?

21 A Yes, sir.

22 Q And he took a statement from you about what
23 happened?

24 A Yes, sir.

25 Q Okay. Since that last trial you have had a

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1 time to look at his statement, haven't you?

2 A No, sir.

3 Q Do you remember hearing me question some
4 differences?

5 A I remember you saying something.

6 Q That's right, and you come in here today to
7 fix that part of your testimony, to change what you
8 have said, isn't that right?

9 A No, sir. I came in here because I remember
10 some more. Back then I couldn't remember that when
11 I was on the stand.

12 Q Okay. I'm going to hand you again a copy of
13 the transcript of your prior sworn testimony,
14 beginning on page 91. At the bottom I specifically
15 asked you about that pillow, didn't I?

16 A Yes, sir.

17 Q Okay. And what was the question I asked you
18 about the pillow?

19 A It says, "And I believe you told them that as
20 you were going through the room you saw Mr. Best
21 with a pillow over his head?"

22 Q And your answer?

23 A My answer was, "No, sir, because everything
24 happened so fast, I was pushed out of there."

25 Q My next question?

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1 A "Is it your testimony you never said I saw
2 Sanford Best with a pillow over his head?" "Sir,
3 when he pushed me out I was stumbling and he pushed
4 me on out." "Yes, ma'am. I'm asking did you tell
5 the officers that that is what you did?" "I told
6 them I was pushed."

7 Q You absolutely flat refuted that you ever saw
8 a pillow over his head in your previous testimony,
9 didn't you?

10 A I said at that time I had blocked it out of
11 my memory and I didn't remember that.

12 Q Okay. Do you have any idea what else you may
13 have blocked out when you testified before?

14 A Sir, when you are up here on the stand all
15 the pressure is on you to try to remember what
16 happened, and this is two years old, I'm doing my
17 best to try to remember it on one hand and on the
18 other hand I'm trying to block it out because I
19 want some closure. I have been through a
20 traumatizing experience, me and my children, and
21 this has drag on long enough.

22 Q When you try to remember something that
23 happened in your past, simply telling the truth,
24 you can remember details, can't you?

25 A Some you can, some you can't.

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1 Q Keeping details straight on a fabricated
2 story gets a lot harder, doesn't it?

3 A Sir, I can't even remember everything that
4 was said yesterday and I was telling the truth.

5 Q Your testimony before wasn't, "I don't
6 remember," was it, it was, "No, I never said it"?

7 A Because that's what I remember.

8 Q So, we can have as much confidence in your
9 memory today as we could have had in your memory at
10 the last trial?

11 A Sir, I don't care how much confidence you
12 have in me but I know and God knows I'm telling the
13 truth. There is no way I would have stuck my
14 finger in my own eye. Do you have any idea how
15 painful that injury was? I don't have fingernails,
16 I wouldn't scratch myself. A man is dead and
17 Charles did it and he knows he did it.

18 Q Are you sure it wasn't someone else, part of
19 this rocky relationship you just described, that
20 put these injuries on you?

21 A Sir, you are trying to bring up stuff on me
22 from 2001 and 2002.

23 Q What are you referring to now, ma'am?

24 A 2001 and 2002.

25 MR. PEACE: Object, Your Honor. May we

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1 approach?

2 THE COURT: Yes, sir.

3 (Recorded bench conference out of the hearing
4 of the jury and the witness).

5 MR. SHEEK: She brought it up, I never asked
6 her about that. I didn't get close to it but it's
7 out there now.

8 THE COURT: Well, we certainly don't want to
9 get into it any deeper than is necessary, as the
10 courts has already ruled that it has no probative
11 value on what happened on this day.

12 MR. SHEEK: Yes, sir.

13 THE COURT: So, here again, how far are you
14 going with it?

15 MR. SHEEK: Judge, I really didn't even ask
16 her that question. She brought up the 2001, 2002
17 incidents, I wasn't asking her about that.

18 MR. PEACE: Well, but then he continued to
19 ask the question about it.

20 THE COURT: Yes.

21 MR. SHEEK: I mean, I asked what she was
22 talking about.

23 MR. PEACE: Yes, and that's the testimony
24 that you have sustained my objection to, number
25 one, and number two, Mr. Sheek also mentioned the

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1 last trial in the question before that.

2 THE COURT: Did you say trial?

3 MR. PEACE: Yes.

4 THE COURT: We're getting close to prior
5 testimony. You mentioned prior, previous
6 testimony?

7 MR. SHEEK: Yes.

8 THE COURT: Let's don't refer to anything
9 being testimony. You can say sworn statement,
10 which you were careful to say.

11 MR. SHEEK: I will make sure I say that.

12 THE COURT: Sworn statement is acceptable.

13 MR. SHEEK: Right.

14 THE COURT: But don't mention anything about
15 testimony.

16 MR. SHEEK: I won't. That's my mistake.

17 THE COURT: And let's steer away from the
18 events of 2001, 2002.

19 MR. SHEEK: I will.

20 THE COURT: Concentrate on what happened
21 here.

22 Thank you.

23 (Bench conference concluded).

24 THE COURT: Continue cross-examination,
25 please.

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1 MR. SHEEK: All right, sir, thank you.

2 BY MR. SHEEK:

3 Q Now, ma'am, how did you know where to tell
4 the police Charles Vandross' car was parked?

5 A I didn't know where Charles Vandross' car was
6 parked. I didn't know.

7 Q It's your testimony you didn't know and you
8 never told Tony Davis or anyone else at the
9 Sheriff's Department that that car was parked on
10 Cedar Springs Road?

11 A Not that I remember, no, sir.

12 Q Okay. Because it wouldn't look good if you
13 knew where it was parked, like maybe --

14 A Sir, I have no idea where he parked his car.

15 Q Okay. You do remember giving a statement to
16 the police, though?

17 A Yes, sir.

18 Q Okay. Do you remember telling the police or
19 did you tell the police that this duct tape was
20 torn off at the new Tranquil Church, not the old
21 Tranquil Church?

22 A I don't remember.

23 Q Well, can you remember which one it was torn
24 off at?

25 A I thought it was torn off at the old Tranquil

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1 Church.

2 Q Do you think maybe now that is incorrect?

3 A No, that's what I'm remembering, it was torn
4 off at the old Tranquil Church.

5 Q You said your memory, you tried to block
6 things out, it's hard to remember. Do you think
7 your memory is better now, or when you spoke to the
8 officer back then?

9 A Sir, whenever it was, he tore the duct tape
10 off my face, that he put on there.

11 Q You said that morning you, in the picture you
12 were wearing a green sweatshirt, right?

13 A I didn't see the picture.

14 Q Did you see the picture up here when you were
15 testifying, that the Solicitor asked you about?

16 A Yes, sir.

17 Q I'm not trying to play games with you.

18 A You're trying to confuse me.

19 Q Did you see the shirt, yes or no?

20 A Yes, sir.

21 Q Is it your testimony you had that shirt on
22 all night?

23 A Yes, sir.

24 Q Okay. When did you put that shirt on?

25 A Put it on when, I think when he threw

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1 everything to me, when he threw me the clothes,
2 because it was in November, it was kind of cool.

3 Q Do you remember testifying that you put the
4 shirt on in the yard with Charles after you all
5 came back?

6 A After he had made me pull off the Regency
7 Park shirt, then I had to put the green shirt back
8 on.

9 Q Okay.

10 MR. SHEEK: Beg the Court's indulgence one
11 moment.

12 THE COURT: Take your time, counsel.

13 Q Do you remember in your previous sworn
14 statement Mr. Peace asking you when you put the
15 shirt on, do you remember that?

16 A Sir, can you repeat that?

17 Q Do you remember in your previous sworn
18 statement Mr. Peace asked you when you put that
19 sweatshirt on?

20 A No, sir, I don't remember.

21 Q Okay. Are you disputing, then, that your
22 answer was, "When we were standing out back in the
23 yard"?

24 A No, I'm not disputing anything. I just said
25 I don't remember him asking me.

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1 Q Now, also according to your story, you said
2 the first time when you realized your children
3 weren't dead was when?

4 A When he said that he was going to let me go
5 back home because it was time for the children to
6 be getting up.

7 Q Okay. And you quit fighting at the house
8 why?

9 A Because he said he was going to include my
10 children.

11 Q Okay. So, you actually knew there at the
12 house?

13 A No, sir, I didn't know there at the house.

14 Q Have you been shown pictures of the bedroom
15 after the police got there the next day?

16 A Yes, sir.

17 Q Have you seen photos of these papers laying
18 on the foot of the bed?

19 A Yes, sir.

20 Q Do you know what those papers are?

21 A Yes, sir.

22 Q What are they?

23 A They are the papers that I got from the lady
24 at the Greenwood City Police Department when I went
25 down there to get a no trespassing notice or

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1 restraining order, order of protection.

2 Q Spread out on the bed beside Mr. Best's body?

3 A That's correct, they are on the pictures.

4 Q I believe it's your testimony you don't know
5 who put them there?

6 A No, sir, I do not. Before I went to sleep
7 they were not there.

8 Q Okay. Do you have any idea who would have
9 went in and basically altered the scene, placed
10 those papers there in prominent view?

11 A Sir, all I can testify to is what I saw.
12 Before I went to sleep those papers were not at the
13 foot of my bed.

14 Q So, according to your testimony somebody, we
15 don't know who but somebody placed those papers
16 there and it wasn't you?

17 A It wasn't me.

18 Q If the pillow is not on Mr. Best's head when
19 the police get there someone, not you, moved it?

20 A That's correct.

21 Q But you don't know who would have been
22 altering this scene?

23 A No, sir, I don't.

24 Q Do you have any idea why someone might want
25 to alter the scene?

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1 A No, sir, I do not.

2 Q When you left the ballgame that Monday night,
3 you testified you and Mr. Best went back to your
4 house.

5 A We didn't go straight back to my house.

6 Q Where else did you go?

7 A We went over to that cul-de-sac.

8 Q Okay. Besides the cul-de-sac, where else did
9 you go?

10 A I don't remember.

11 Q You're confident of that?

12 A That's what I remember.

13 Q Do you remember telling the police you went
14 to Mr. Best's residence?

15 A We may have on the way but I don't remember
16 telling them.

17 Q There's details you just can't remember?

18 A I don't remember. It's a possibility because
19 his house is right coming from the Civic Center but
20 I don't remember.

21 Q Do you remember telling the officers that you
22 saw the time on the VCR clock and it was 12:59?

23 A I remember it was 12:00 something.

24 Q Now, what time was it the first time that you
25 realized Mr. Best was dead?

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1 A I know it was 3:00 something, I don't
2 remember the exact time, sir.

3 Q Before that did you know something had
4 happened to him?

5 A No, sir.

6 Q You had no idea?

7 A No, sir, I really had no idea.

8 Q When you were back at the house, according to
9 your story, and you take this white shirt off what
10 was the reason for taking it off?

11 A When I was back at the house?

12 Q Yes. You testified that Mr. Vandross and you
13 came back to the house.

14 A We were outside in the back yard.

15 Q Yes.

16 A I thought you was talking about in the house.

17 Q No, ma'am. Outside and you have taken the
18 shirt off.

19 A When you turn your voice that way I can
20 hardly hear you.

21 Q Okay.

22 A That is why I keep saying that.

23 Q Back at the house you testified you took the
24 white shirt off from under the sweatshirt.

25 A I testified that Charles took the white shirt

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- 1 off when we were standing in the back yard, up
2 against the house, yes, sir.
- 3 Q Do you know why?
- 4 A No, sir, I don't.
- 5 Q Do you know what he did with it?
- 6 A No, sir, I don't.
- 7 Q Do you remember telling the detective that
8 while you and Mr. Vandross were standing in the
9 back yard prior to you going in the house that he
10 said, "I want you to have the gun"? Do you
11 remember telling the detective that?
- 12 A I vaguely remember that.
- 13 Q Yes. My question is this. On the scene you
14 said you were looking for a stick, maybe you could
15 hit him over the head with it, right?
- 16 A Yes, sir.
- 17 Q Looking for some way out?
- 18 A Yes, sir.
- 19 Q Scared?
- 20 A Yes, sir.
- 21 Q Getting ready to go in the house and get your
22 kids ready?
- 23 A Yes, sir.
- 24 Q He offers you the gun, you don't take it?
- 25 A You remember my testimony, he took the clip

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1 out of the gun when we were out there in the woods.

2 Q Okay. But I think you testified you were
3 afraid he was going to come in and start shooting,
4 or come around and start shooting?

5 A Sir, I didn't want somebody to put the clip
6 back in and shoot me and my children.

7 Q Didn't you say he offered you the gun? With
8 just the clip he would have a hard time doing that,
9 wouldn't he?

10 A Sir, in the back yard I remember him saying
11 something about giving me the gun but exactly what
12 it was, I don't remember, sir.

13 Q He had been living with you, according to
14 your own testimony, for a year prior to him ever
15 getting an apartment at Pinetree, right?

16 A From what I remember, yes, off and on. He
17 lived in Greenville and lived in Greer also.

18 Q And in fact, and in fact after he got this
19 apartment at Pinetree near the end of September you
20 all started, as you said, trying to work it out?

21 A Yes, we were trying to work it out but he was
22 still living at his place.

23 Q And staying with you, wasn't he?

24 A He would come and spend the night every now
25 and then, yes, sir.

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1 Q And he actually had things still at your
2 house, didn't he?

3 A He had the things that he brought, like his
4 uniform. He was trying to gradually move back in
5 but I wouldn't let him.

6 Q Do you remember him bringing an action after
7 this happened trying to get back part of his
8 properties, called a claim and delivery?

9 A Bringing an action?

10 Q A claim and delivery in magistrate court to
11 try to get his property back?

12 A No, sir, I don't remember that.

13 MR. PEACE: Objection, Your Honor.

14 THE COURT: Sustained.

15 Q Okay. Routinely one of the things he wanted
16 you to have at that house was that gun, is that
17 right?

18 A This was on November 4th. I never knew he
19 had a gun prior to November the 4th.

20 Q You never knew it?

21 A No, sir, I didn't.

22 Q Isn't it true in fact that gun was brought to
23 keep at your house for your protection?

24 A No, sir, that is not true at all. I never
25 knew Charles even owned a gun.

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1 Q Now, this new Tranquil Church where you say
2 he told you to pull up under the cover, that was
3 your testimony, right?

4 A That's what I remember, when we pulled in
5 under the little -- I don't that what you call it.

6 Q And that little carport cover is actually
7 facing the main road, isn't it?

8 A When you pull under on the side you go around
9 and go back out.

10 Q The church points toward the main road,
11 correct?

12 A Yes, sir.

13 Q And that carport is on the front, correct?

14 A Yes, sir.

15 Q When you pulled in to that carport, as you
16 are testifying, you are parked at the front of the
17 church, next to the main road?

18 A Yes, sir.

19 Q Okay. And then when you go to old Tranquil
20 Church, according to your story, you tried to back
21 into this propane tank?

22 A Yes, sir.

23 Q So, I'm assuming you were going to try to
24 back into it fairly quick and hit it and blow you
25 up, right?

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1 A Sir, it might not have been the brightest
2 thing in the world but that's what popped into my
3 mind at the time because I thought I was going to
4 die anyway.

5 Q I understand. My question was you were
6 trying to back up quickly, you weren't trying to
7 sneak back real slow, were you?

8 A We couldn't go too fast because you got, when
9 you pull in the church you got to pull up and stop
10 to come to a complete stop and then put the car in
11 reverse and back up. As you saw in the picture,
12 there is not a whole lot of space.

13 Q Back to my question. Were you trying to back
14 up quickly?

15 A I was trying to back up and hit the tank,
16 yes.

17 Q This was on dirt, grass, gravel, that type
18 things, it's not a paved area there, is it?

19 A I don't know if all of it is dirt and grass
20 but I think some of it is likely paved.

21 Q Okay. Now, you testified you had Mr. Best
22 parking down at Jan's house?

23 A Yes, sir.

24 Q And Jan's house, her property is right next
25 to the construction company where Mr. Vandross' car

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1 was parked, right?

2 A No, sir, it's not right next to it.

3 Q Okay. Let's look on the aerial photo and see
4 that. Why don't you show the jury on that what's
5 been marked at State's Exhibit 17, which house is
6 Jan's house?

7 MR. PEACE: Your Honor, if I may, I have the
8 pointer, it may assist the witness.

9 THE COURT: Yes, sir.

10 A That looks like Jan's house, that looks like
11 Jan's house right there.

12 Q Is this the construction company property
13 right here where we see all this stuff?

14 A That's Jan's house. There is a bunch of
15 woods, that's Jan's house, there is a bunch of
16 woods and trees right here and then I guess that's
17 the construction company right there, but there is
18 a bunch of woods and trees right here.

19 Q And that's the area you would have people
20 park when you didn't want people to know they were
21 at your house, isn't it?

22 A No, sir, that's not true.

23 Q That's never happened before, this was the
24 first time you had somebody park down at Jan's
25 house --

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1 A Yes, sir.

2 Q -- so others wouldn't know? What about the
3 other times you had Mr. Best over to your house,
4 did you do it then?

5 A Mr. Best was right there in the yard.

6 Q Okay. You are saying this is the first time
7 you ever had Mr. Best park somewhere else?

8 A Yes, sir.

9 Q Well, if you had done this prior and it
10 wasn't uncommon for you to be seeing Mr. Best when
11 Mr. Vandross was out of the house, why this time
12 did you feel the need to hide the car?

13 A Because we didn't want any trauma from
14 Charles. Charles would come and ring the doorbell
15 and try to get me out of the house to come talk on
16 the porch, and you don't understand, when he talk
17 it be forever and forever. You try to be nice and
18 talk but he would want to go on and on and on and
19 on, so to avoid all that, then Sanford and I both
20 agreed to park his car down at Jan's house and Jan
21 let us.

22 MR. SHEEK: Beg the Court's indulgence.

23 THE COURT: Take your time, counsel.

24 Q Do you recall, you testified that at this
25 game you are sitting on the top bleacher and there

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1 is Charles on the other end?

2 A Yes, sir.

3 Q Do you recall telling Tony Davis that
4 actually Mr. Best was somewhere else?

5 A Mr. Best was somewhere else?

6 Q I'm sorry, Mr. Vandross was actually sitting
7 behind you?

8 A At one point I was sitting on the top
9 bleacher and then at one point in time I got down.

10 Q Okay. And you moved why, because Mr.
11 Vandross was threatening you somewhat?

12 A No, it's just the way he looks at you.

13 Q Okay. He actually was at the game before you
14 got there, right?

15 A Yes, sir.

16 Q It wasn't uncommon for him to go to your
17 son's games?

18 A I wouldn't say it was uncommon but he would
19 come, in my opinion, not to see the game, but to
20 watch me and see what I was doing.

21 Q Well, you all had been engaged and living
22 together for a year?

23 A But the engagement had gone off.

24 Q When did the engagement go off?

25 A I don't remember exactly but when he moved

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1 out, when we started breaking up and him moving
2 back to Greenville one time and then back to Greer
3 somewhere and then he took an apartment, we were
4 not engaged.

5 Q Okay. So, the wedding was off?

6 A There was never a wedding date, period.
7 There was an intended wedding to come sometime but
8 not until we worked out problems.

9 Q So, you had gave him the engagement ring
10 back?

11 A At one time I gave it back to him.

12 Q Actually you didn't, you ended up what,
13 selling that?

14 A I ended up keeping the engagement ring.

15 Q Okay. Do you remember writing a letter
16 stating that that ring had been sold?

17 MR. PEACE: Objection, Your Honor, relevance.
18 I mean, this is just not relevant to this case.

19 THE COURT: How is it relevant, counsel?

20 MR. SHEEK: I was just following up on her
21 answer she had kept it but that's fine, we can move
22 on.

23 THE COURT: Very well, thank you.

24 BY MR. SHEEK:

25 Q Now, originally in your sworn statement you

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1 said that you told Mr. Vandross that you needed to
2 go to the bathroom and he allowed you to go,
3 correct?

4 A Yes, sir.

5 Q When you gave a second sworn statement about
6 it you testified that he shoved you into the
7 bathroom and you struggled to keep your balance?

8 A Sir, he was straddled across my back, had my
9 hair pulled back like this and the gun to my head
10 and he lifted me up by my hair up to my knees and
11 then lifted me on up and pushed me into the
12 bathroom.

13 Q Okay. So, that's what I'm saying, I mean,
14 which was it, did he push you in the bathroom or
15 did he allow you to go?

16 A It was both. He pushed me into the bathroom
17 to let me go to the bathroom.

18 Q I believe you testified you're writing this
19 Charles V, help, or attempted to write it and you
20 see him through the doorway, correct?

21 A Yes, sir.

22 Q When he starts back toward the bathroom you
23 jump up around the little half wall and in front of
24 the mirror?

25 A Yes, sir, sideways in front of the mirror.

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1 Q Where were you standing when you were
2 spitting on the duct tape and doing all these
3 things?

4 A In the same spot.

5 Q In front of the mirror?

6 A Sideways facing the door so I could see him
7 when he was coming.

8 Q Okay. What were you wearing at that time?

9 A Sir?

10 Q What were you wearing at that time?

11 A What was I wearing?

12 Q Yes, ma'am.

13 A I was putting on clothes. I had put on the
14 clothes that he had thrown to me.

15 Q But you never noticed standing in front of
16 that mirror all that blood?

17 A Sir, I wasn't standing, the mirror is right
18 here, I wasn't standing straight looking in the
19 mirror, I had my body sideways toward the door,
20 putting on clothes. So, no, sir, I wasn't looking
21 in the mirror.

22 Q Okay. And you testified that going down the
23 road you saw a car and you thought about swerving
24 in front of it?

25 A Yes, sir.

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1 Q When you got to this propane tank you started
2 to back into it?

3 A Yes, sir.

4 Q You thought about hostage situations and
5 trying to calm him down?

6 A Yes, sir.

7 Q Telling him, "Our hugs are special," to keep
8 him calm?

9 A Yes, sir.

10 Q Looked for a stick to hit him over the head?

11 A Yes, sir.

12 Q Got back to the house, was inside with your
13 boys for about an hour but it didn't occur to you
14 to use your cell phone?

15 A Sir, I was upset, I couldn't hardly breathe,
16 my main mission was to get my babies to safety. I
17 did not think about a cell phone. He had told me
18 he had taken care of everything out in the woods.
19 When I ran through the house and saw that black
20 cord, that is when it hit me to run over there and
21 see if my cell phone was in the chair.

22 Q Well, your answer in your prior sworn
23 statement, you said that one of the things you were
24 doing this time while you were getting the boys
25 ready, you were ironing?

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- 1 A No, sir. We went through this. No, sir,
2 that's not what I testified to.
- 3 Q Is that what the transcript of your testimony
4 indicates?
- 5 A That's what the transcript read but that's
6 human and there are errors in that.
- 7 Q Okay. So, what was happening?
- 8 A I said -- it says in the transcript that I
9 said I was ironing and they were playing around. I
10 didn't say that. I said they were ironing and they
11 were playing around.
- 12 Q Who was ironing?
- 13 A My two small children, the nine year old and
14 the thirteen year old.
- 15 Q Okay. So, you were letting them iron?
- 16 A I wasn't letting them iron. When I saw them
17 ironing and messing around it was no time for
18 ironing and playing like they were doing. You got
19 to understand they didn't know what was going on,
20 they thought something was wrong with me but I kept
21 saying, "Nothing is wrong, you got to hurry and get
22 dressed." I was frantic, I was trying to get them
23 dressed so they can get out of the house.
- 24 Q What else were you doing all this time prior
25 to making phone calls at 6:57?

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1 A Running back and forth looking out the bay
2 window to make sure Charles was still out there and
3 trying to tell Raheim what to do.

4 Q That goes on for about an hour?

5 A I don't know how long, sir. I don't know how
6 long.

7 Q Well, I mean, do you dispute that it went on
8 for about an hour? Can you give this jury any
9 idea?

10 A Sir, I have no idea. I was terrified out of
11 my mind, I don't know how long it took me, I don't.
12 All I know is I had to get my babies to safety.

13 Q Now, you testified also that he took this
14 duct tape and he wrapped and wrapped, that's your
15 words, from here down to your neck?

16 A From here down to here, yes, sir.

17 Q Okay, and that was done in the bathroom, by
18 your story, prior to you all leaving?

19 A Sir?

20 Q That was done in the bathroom, according to
21 your story, prior to you all leaving?

22 A Yes, sir.

23 Q Do you know who locked the bedroom door?

24 A I didn't.

25 Q Okay. Have you ever stated in a sworn

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1 statement he pulled the door closed behind you all
2 when leaving?

3 A Yes, sir.

4 Q That was your story, right?

5 A Yes, sir.

6 Q Did anybody go in the room after you got
7 back?

8 A No, sir.

9 Q Did you check it?

10 A No, sir.

11 Q Did you check the door to see if it was
12 locked?

13 A No, sir. I wasn't going in that door.

14 Q You never thought for any reason you needed
15 to go check on Mr. Best?

16 A No, sir. I wasn't going in that door. The
17 man told me he was dead.

18 Q You knew that there was no need to check on
19 him, didn't you?

20 A No, I did not. He told me he's killed a man,
21 he told me Sanford was evil and I had to be
22 delivered from him.

23 Q I believe you said on direct you were crazy
24 about Mr. Best, right?

25 A At one point in time, yes, I was.

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1 Q How about November of '04?

2 A He was my friend, I loved him, yes, I did.

3 Q Did you go to his funeral?

4 A No, sir, I did not.

5 MR. PEACE: Objection, Your Honor. That has
6 absolutely no relevance to this case.

7 THE COURT: I'm sorry, I did not hear the
8 question although I was trying to.

9 MR. SHEEK: My question was did she go to Mr.
10 Best's funeral. I withdraw the question, Your
11 Honor.

12 THE COURT: All right. The question will be
13 disregarded by the jury, as the answer also will be
14 disregarded by the jury.

15 MR. SHEEK: Beg the Court's indulgence.

16 THE COURT: Take your time.

17 MR. SHEEK: Your Honor, may we approach one
18 moment?

19 THE COURT: Yes.. Madam Witness, if you will
20 step down, please.

21 (Recorded bench conference out of the
22 hearing of the jury and the witness).

23 MR. SHEEK: Your Honor, it is kind of hard to
24 control ourselves in these cases, I think Mr.
25 Strickland is making a lot of motions and facial

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1 expressions to some of the questions.

2 MR. PEACE: I will talk to him.

3 THE COURT: You speak to him.

4 MR. PEACE: He's been talking to me.

5 THE COURT: Sometimes he has a natural
6 tendency to do those sort of things and always has,
7 but instruct him.

8 MR. PEACE: Yes, sir.

9 THE COURT: Thank you.

10 (Bench conference concluded).

11 THE COURT: Continue cross-examination,
12 please.

13 BY MR. SHEEK:

14 Q Now, you said when you got back you parked in
15 the back yard?

16 A Yes, sir.

17 Q And you left your lights on hoping somebody
18 would see and know something was wrong?

19 A Yes, sir.

20 Q Okay. Actually coming from Greenwood toward
21 Bradley you can see all the back yard and the
22 garage, right?

23 A No, sir, that's not correct.

24 Q You can't see in your garage coming from that
25 direction?

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1 A You can't see all the back yard, no, sir.

2 Q How much of the back yard can you see?

3 A I don't know how much of it but you can't see
4 all of it.

5 Q I believe you testified you hoped somebody
6 would know something was wrong because your car was
7 back there and you never parked in the back?

8 A Yes, sir, because I was parked far enough
9 back from the house where somebody could see it.

10 Q There is two cars already in that back yard
11 at that time, correct?

12 A Two cars that didn't work.

13 Q I understand that, but there were already two
14 cars parked in that back yard, weren't there?

15 A Yes, sir.

16 Q Now, do you remember stating that you were
17 too weak and he had to get you out of the car?

18 A Out there at the church, yes, sir. I didn't
19 say I was too weak, I said I was numb.

20 Q Okay. But you also said that you got out of
21 the car at another place?

22 A Yes, sir.

23 Q Okay. Well, did he have to pull you out?

24 A He came around and opened the door and got me
25 out of the car when we got back to the house.

JOANN SUBER - CROSS

1 Q Now, on State's Exhibit Number 17, the red
2 marks your house, correct?

3 A Yes, sir.

4 Q And this is the garage on this end, right?

5 A Yes, sir.

6 Q And coming down from Greenwood you have a
7 straight view all the way through this area, don't
8 you?

9 A No, sir, you do not have a straight view.

10 Q What blocks that view?

11 A Sir?

12 Q What blocks that view?

13 A My van that was in the yard and the other
14 car, and if they weren't there you still can't see
15 all the way up, you know, everything in my back
16 yard.

17 Q Okay. Do you remember what prompted you to
18 leave new Tranquil Church?

19 A What prompted me to leave?

20 Q What prompted both of you all to leave?

21 A I didn't have a choice to drive where I
22 wanted to.

23 Q According to your testimony, what was the
24 reason for leaving there?

25 A What was the reason? He told me to.

JOANN SUBER - CROSS

1 Q Okay. Do you remember why?

2 A Because I nodded and told him, you know,
3 nodded in reference to his question, he asked me if
4 that was the parsonage and I said, I said he wasn't
5 from Greenwood originally so he didn't know if that
6 was the parsonage or not, so I'm thinking if I nod
7 yes, then he will make me move and perhaps I could
8 meet a cop or something on the road.

9 Q I hand you a copy of this photo and ask you
10 if you recognize that?

11 A Yes, sir, that's the back of my house.

12 Q Is that the van where he was standing,
13 according to your testimony, that morning?

14 A He was standing against the back of the
15 house.

16 Q Okay. And that's where you were running back
17 and forth and checking on him?

18 A Yes, sir.

19 Q He didn't come up on the deck, stand by the
20 back door or anything of that nature?

21 A No, sir. If he did I didn't see him.

22 MR. SHEEK: Your Honor, would it be all right
23 if we take a five minute recess?

24 THE COURT: Any objection, Solicitor?

25 MR. PEACE: No objection.

JOANN SUBER - CROSS

1 THE COURT: Madam Witness, we will take a
2 recess, and you are expected to relax and take a
3 recess as well. However, it is as if we're not
4 taking a break. You may not speak with anyone
5 about any questions you have been asked or answers
6 you have given to those questions or any questions
7 you anticipate could be asked of you or any answers
8 you may give to those anticipated questions. We
9 will ask Mr. Higgenbotham, Mr. Higgenbotham, Mr.
10 Riddle, will you escort her, please, and walk
11 around and relax a little bit, okay?

12 THE WITNESS: Yes, I'll try.

13 THE COURT: Come down, please, and you can
14 meet Mr. Riddle there at the back door there, just
15 go right over there.

16 Mr. Foreman, ladies and gentlemen, we'll take
17 a few minutes break, about ten minutes, so that all
18 of you will have an opportunity to relax and make a
19 rest stop. Please do not discuss the case by,
20 between and among yourselves and retire to the jury
21 room.

22 Thank you.

23 (The jury was excused from the courtroom).

24 THE COURT: We stand in recess.

25 (Recessed at 10:34 a.m.).

- JOANN SUBER - CROSS

1 (Reconvened at 10:51).

2 THE COURT: The record is open and we are in
3 session. State of South Carolina versus Charles
4 Nemon Vandross, indictment 2004-1187.

5 Show the jury in, please.

6 (The jury returned to the courtroom).

7 THE COURT: All the jurors are present, with
8 the foreman and the alternates properly seated.

9 Mr. Sheek, the witness is with you. She has
10 a question.

11 THE WITNESS: Can you ask the defendant not
12 to make his mouth move toward me, because he said
13 something to me.

14 THE COURT: All right. As to all who are
15 present, do not gesticulate in any way for the
16 witness or for any other person other than your
17 attorney.

18 Cross-examination.

19 MR. SHEEK: No further questions, Your Honor.

20 THE COURT: That is the cross-examination.
21 Will there be redirect?

22 MR. PEACE: Thank you, Your Honor, if I could
23 have a moment.

24 THE COURT: Take your time.
25

JOANN WILSON - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. PEACE:

Q All right, Mrs. Wilson, Mr. Sheek asked you about an incident that occurred when the defendant came and Mr. Best was at your house?

A Yes, sir.

Q And he asked you if Sanford Best asked the defendant to leave?

A Yes, sir.

Q Did Mr. Best ask the defendant to leave?

A He pretty much told him to leave. He said, "You talked like you wanted to, now you can leave."

Q Mr. Sheek asked you if any punches were thrown at that time?

A Yes, sir, that's what he asked me but, no, sir, there were not.

Q Were there any punches thrown on November the 4th of 2004?

A I have no idea.

Q Mr. Sheek also asked you how the blood got on the white shirt?

A Yes, sir.

Q Now, when you were in the bathroom, if we could, I'll refer you to State's Exhibit 16, when you were in the bathroom could you see everything

JOANN WILSON - REDIRECT

1 that the defendant was doing?

2 A No, sir, not everything.

3 Q And where was the defendant when you were in
4 the bathroom?

5 A He was right there by the bed.

6 Q Is that next to the bed?

7 A Yes, sir. His body was facing this way
8 toward the bed.

9 Q All right. Now, Mrs. Wilson, how much space
10 is between the wall and the bed?

11 A This wall right here?

12 Q Let me get another pointer. How much space
13 is between this wall and the bed?

14 A Enough for you to walk around.

15 Q I'm sorry?

16 A Enough for you to walk around on the other
17 side.

18 Q Okay. Is there enough room for somebody the
19 size of Mr. Vandross to walk?

20 A Yes, sir.

21 Q I show you State's Exhibit 6, Mrs. Wilson.
22 What is that in State's Exhibit 6?

23 A That's a scratch on the outside of my nose.

24 Q Did you put the scratch on the outside of
25 your nose?

JOANN WILSON - REDIRECT

1 A No, sir. I don't have any fingernails.

2 Q Who inflicted that scratch on the outside of
3 your nose?

4 A Charles Nemon Vandross.

5 Q I show you State's Exhibit 8. Did you
6 inflict that cut on your lip?

7 A No, sir. The one at the bottom nor the top,
8 no, sir.

9 Q Did you inflict that cut on your lip?

10 A No, sir, I did not.

11 Q Did you inflict the injuries up here?

12 A No, sir, I did not.

13 Q Mrs. Wilson, who inflicted those injuries on
14 you?

15 A Charles Nemon Vandross.

16 Q I show you State's Exhibit 7.

17 MR. SHEEK: Your Honor, at this point I
18 object. Redirect is proper to address issues on
19 cross-examination not brought out on direct. The
20 Solicitor is repeating his direct examination at
21 this point.

22 THE COURT: How is this proper redirect?

23 MR. PEACE: Your Honor, counsel for the
24 defendant has tried to make it seem like that the
25 witness committed this offense and so this is a

JOANN WILSON - REDIRECT

1 proper response to show that the witness did not
2 commit the offense.

3 THE COURT: This was brought out on original
4 direct examination.

5 MR. PEACE: Yes, sir, it was.

6 THE COURT: Will there be a follow-up?

7 MR. PEACE: Yes, sir, there will be a
8 follow-up.

9 THE COURT: It will be permitted. Follow it
10 up. The objection is overruled.

11 BY MR. PEACE:

12 Q Mrs. Wilson, who inflicted that injury to
13 your neck?

14 A Charles did.

15 Q I now show you State's Exhibit 9. What is
16 that injury there?

17 A Where we were tusseling and his finger went
18 in my eye.

19 Q Did you inflict that injury to yourself?

20 A No, sir. That was a very painful injury, no,
21 sir, I did not.

22 Q Who inflicted that injury?

23 A Charles Vandross.

24 Q I now show you what has been marked State's
25 Exhibit 60 for identification. Mrs. Wilson, what

JOANN WILSON - REDIRECT

- 1 was your cell phone number on November the 4th of
2 2004?
- 3 A My work cell phone number was 864 377-0080.
- 4 Q And what is that document that I just handed
5 you?
- 6 A It's a printout of phone calls.
- 7 Q And are those phone calls made from your cell
8 phone?
- 9 A Yes, sir.
- 10 Q Does that document indicate a cell phone call
11 made from you to your friend Jan?
- 12 A Yes, sir.
- 13 Q All right, what number, what is the number of
14 the call on that document?
- 15 A Number 89.
- 16 Q All right. And what is Jan's phone number
17 that you called that day?
- 18 A 864 227-1371.
- 19 Q Okay. Does that document reflect you made
20 that phone call?
- 21 A Yes, sir.
- 22 Q All right. What time did you make that phone
23 call?
- 24 A It says 6:56 a.m.
- 25 Q Thank you.

JOANN WILSON - REDIRECT

1 MR. PEACE: Your Honor, I would move State's
2 Exhibit 60 for identification be admitted as
3 State's Exhibit 60.

4 THE COURT: How says the defense?

5 MR. SHEEK: No objection.

6 THE COURT: Without objection Number 60 will
7 become part of the evidence in the case.

8 (Phone bill marked and received in evidence
9 as State's Exhibit Number 60).

10 BY MR. PEACE:

11 Q Do you recall how long you talked when you
12 made that phone call?

13 A No, sir. Just long enough to tell her to
14 tell my mama to come and she didn't know the number
15 and I told her the telephone number and I told her
16 please tell my mama to come.

17 Q All right. Now, Mr. Sheek asked you about
18 the pillow that covered Mr. Best. Did you see a
19 pillow covering Mr. Best when you were pushed out
20 of the room?

21 A Yes, sir.

22 Q Did you take that pillow off Mr. Best's head?

23 A No, I did not.

24 Q Did Mr. Vandross have time to take the pillow
25 off the head after he pushed you out of the room?

JOANN WILSON - REDIRECT

1 A Yes, he did at that time.

2 Q Did he have time to check to see if Mr. Best
3 was dead?

4 A The whole time, I don't know what he was
5 doing when I was in the bathroom but I know he was
6 standing right there doing something because all I
7 could see was the bottom, you could tell he was
8 doing something.

9 Q All right. Now, Mr. Sheek asked you why Mr.
10 Vandross would take your white shirt off?

11 A Yes, sir.

12 Q Would he take it off because there was blood
13 on it?

14 A I don't know why he would take it off but
15 there was blood on it.

16 Q Mrs. Wilson, did you kill Mr. Best?

17 A No, sir, I didn't.

18 Q Can you look that jury in the eye?

19 A I can look every one of them in the eye and
20 tell you all I did not kill Sanford. I loved
21 Sanford and I could not sit there next to his mama
22 and his family if they even thought I committed a
23 crime against her son. I did not kill him, I did
24 not ask for any of this. Charles said God said we
25 were supposed to be together. If God said we were

JOANN WILSON - REDIRECT

1 supposed to be together he was supposed to stand on
2 God's word and believe that no matter how the
3 circumstances looked he wasn't supposed to try to
4 play God and take a man's life.

5 MR. PEACE: Thank you. I have no further
6 questions.

7 THE COURT: Recross?

8 MR. SHEEK: Just one moment, Your Honor.

9 THE COURT: Take your time.
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JOANN WILSON - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Ma'am, you just looked at this jury and told them that when you came out of the bathroom and saw that pillow over Mr. Best's head, that Charles Vandross had time to go back and move it. Isn't that what you just said?

A Yes, sir, he did.

Q All right. Referring you again to your sworn statement. You swore to tell the truth when you gave this statement, right?

A Yes, sir.

Q The whole truth?

A Yes, sir.

Q Okay. Referring you to page 91, the very first question, why don't you start reading that?

A "Right," this was the question from you, you said, "Right, he pushes you, you say at that point you're in the living room?" My answer was, "Yes, sir." "He's there with you?" "Yes, sir."

That was after he came out and closed the door.

Q Ma'am, I'm not asking you to editorialize, I'm asking you to read that transcript.

A Well, this is what it says but it's not

JOANN WILSON - RECROSS

1 right.

2 Q Well, just read what it says. We understand
3 that someone else must have changed it for you, but
4 just read what it says.

5 A "Yes, sir," is my answer. "So, he comes out
6 of the bathroom and you all go straight through the
7 bedroom and out the living room?" "Yes, sir."

8 Q And that's not the same thing you just told
9 this jury, is it?

10 A Sir, from right here --

11 Q Ma'am?

12 A -- he pushed me out.

13 Q That's a yes or no question.

14 A No, it's not a yes or no.

15 MR. PEACE: Your Honor, I object.

16 THE COURT: Hold it.

17 THE WITNESS: It's not a yes or no.

18 THE COURT: Wait just a minute, Madam
19 Witness. The witness may explain her answer. I'm
20 certain that's the point the Solicitor is making.

21 MR. SHEEK: Yes, sir. If I could ask for no
22 comments from the gallery. We're getting all the
23 comments out here.

24 THE COURT: All right. I didn't hear them
25 but please, anyone in the gallery please remain

JOANN WILSON - RECROSS

1 silent.

2 Thank you. Continue.

3 BY MR. SHEEK:

4 Q My question is, your testimony in that
5 statement you just read was that he came out of the
6 bathroom right behind you and you all went straight
7 through to the living room?

8 A Sir, he pushed me out of the bathroom, I
9 stumbled through, he pushed me again, I'm out here
10 and I don't know what he did behind me coming out,
11 but he was the last one out and closed the door, so
12 did he have time to take a pillow off, yes, he did.

13 Q Okay. That's not what you said before.

14 A Sir, that is what I said.

15 Q I'll take that from you. Do you remember
16 when we talked before you heard me make an issue of
17 the fact that pillow was moved? Do you remember
18 that?

19 A Yes. You did it again, you turned around and
20 I didn't hear the full question.

21 Q Do you remember me raising a question of how
22 that pillow could have got moved, do you remember
23 that?

24 A Yes, sir.

25 Q That was after that statement we just read?

JOANN WILSON - RECROSS

1 A I don't understand, sir.

2 Q You gave that statement before you heard me
3 raising an issue about how that pillow got moved,
4 right?

5 A I don't know, I didn't read everything on
6 there.

7 Q You don't know?

8 A I didn't read everything. Maybe I don't
9 understand what you are saying.

10 Q The fact is you have come in here today
11 prepared to try to change your story to fit the
12 evidence, isn't that true?

13 A No, sir, that's not true. I came in here to
14 tell the truth and make sure this man is convicted
15 for killing a man that was sleeping.

16 Q That's right, ma'am, you have come in here to
17 make sure that man is convicted, that's your point?

18 A Because he did it, I know he did it, God
19 knows he did it and he knows he did it.

20 Q Because you stood in that house for an hour,
21 according to your testimony, you got back and
22 thought of how you were going to point your finger?

23 A Sir, that was not my testimony, because I
24 don't know how long I was in there.

25 MR. SHEEK: I've got nothing further.

JOANN WILSON - RECROSS

1 THE COURT: Redirect?

2 MR. PEACE: No redirect.

3 THE COURT: Thank you. Come down, please.
4 (Witness excused).

5 THE COURT: Call your next witness,
6 Solicitor.

7 MR. PEACE: Thank you, Your Honor. If it
8 please the Court, the State would like to next call
9 Chris Hammett to the stand.

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CHRIS HAMMETT - DIRECT

1 CHRIS HAMMETT,
2 after being first duly sworn testified as follows:

3 THE COURT: You may examine, Solicitor.

4 MR. PEACE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. PEACE:

7 Q Please state your name for the record.

8 A Yes, sir. Chris Hammett, last name is
9 spelled H-a-m-m-e-t-t.

10 Q Thank you. And where are you employed?

11 A I'm employed with the Greenwood County
12 Sheriff's office.

13 Q Were you employed at the Greenwood County
14 Sheriff's office on November the 4th of 2004?

15 A I was. I was serving as a uniformed patrol
16 deputy on the road.

17 Q All right. Did you have occasion as part of
18 your duties to go to 3938 McCormick Highway in
19 Greenwood County?

20 A I did. We received a call that a person had
21 been shot at 3938 McCormick Highway. It was right
22 around 7:00 a.m., which is the time our third shift
23 and first shift change out. I was on first shift
24 and I responded to the call. When I got there, I
25 got there shortly after my captain, who was Larry

CHRIS HAMMETT - DIRECT

1 Scott, at the time. I got there a few seconds
2 after he did, as well as my lieutenant, Jimmy
3 Boggs. He was either bumper to bumper in front of
4 me or behind me, I can't really remember which, but
5 we got there about the same time.

6 When we got there Miss Wilson was out in the
7 driveway with three children, right there at the
8 driveway and the corner of Highway 10, McCormick
9 Highway as it's commonly referred to. She was
10 visibly upset and hysterical. Like I said, she had
11 three children there with her and Captain Scott
12 looked at me and said, "The guy is behind the
13 house, he's got a gun." He said, "Jimmy and I," or
14 Lieutenant Boggs, "will take left and you take
15 right." I said okay. So, we started moving toward
16 the house at that point. I went around to the
17 right side of the house.

18 Q If I could interrupt just a minute?

19 A Yes, sir.

20 Q Is the pointer up there?

21 A Yes, sir.

22 Q Would you please use State's Exhibit 16 and
23 as you testify show the jury what action you took?

24 A Yes, sir.

25 Q Thank you.

CHRIS HAMMETT - DIRECT

1 A Like we were saying, this area here is
2 McCormick Highway, these are where our cars were
3 parked, Captain Scott said, "Lieutenant Boggs and I
4 will go to the left side of the house," he said,
5 "You take the right side." So, I went around to
6 the right side.

7 In this area here was the garage, like an
8 open carport area with a vehicle parked in there.
9 I had my weapon drawn, I cleared this garage first
10 to make sure no one was in there and no one was
11 around that vehicle. From there I went to this
12 corner of this wall here and still had my weapon
13 drawn. I did a quick peek down this wall, and this
14 is a blue van, minivan type vehicle. This being
15 the back wall of the house, this being the back
16 deck.

17 I could see Mr. Vandross was standing here
18 between this van and the back deck and about that
19 same time the captain and lieutenant had come
20 around this side of the deck and the lieutenant
21 called out to him to step out with his hands up so
22 we could see him. So, I started moving up a little
23 closer as Mr. Vandross stepped out.

24 We got him in this little open area here and
25 he had his hands up, he was complying with every

CHRIS HAMMETT - DIRECT

1 order we gave him. Lieutenant Boggs asked him to
2 raise his hands a little higher so we could see
3 there was no gun around his waist area between his
4 shirt and his pants. Again he did that. All this
5 was going on right here in this cleared area with
6 Captain Scott and Lieutenant Boggs behind him. I
7 was directly face on Mr. Vandross.

8 I closed in a little more. As Captain Scott
9 and Lieutenant Boggs secured their weapons to put
10 hands on him I kept my weapon at a little angle to
11 keep a tactical angle on him. He looked at me, he
12 said, "The gun is in my pocket, it's unloaded." He
13 nodded down to his right side. I nodded okay.
14 Captain Scott reached in the right front pants
15 pocket, pulled out a small semiautomatic handgun
16 and Captain Scott handed it to me. With my left
17 hand I took it and put it in my back pocket.

18 Q Mr. Hammett, if I could interrupt, I'm
19 showing you a Bursa Fire Storm semiautomatic
20 pistol, serial number 604772. Do you recognize
21 that pistol?

22 A Yes, sir, I do. This is the one was taken
23 out of the right front pants pocket of Mr.
24 Vandross.

25 Q Okay. Is that the pistol that Captain Scott

CHRIS HAMMETT - DIRECT

1 took from Mr. Vandross?

2 A This is the pistol that was handed to me from
3 Captain Scott and I put it in my back pocket for
4 secure reasons.

5 Q What happened after that?

6 A After that Lieutenant Boggs went and put
7 handcuffs on Mr. Vandross, behind his back, and
8 Captain Scott looked at me, he said, "You take him,
9 we're going to go in the house and check on the
10 victim." I said okay, so I went ahead and secured
11 my weapon, went around behind Mr. Vandross and
12 continued the pat-down search of him.

13 In his right pocket I found a loaded magazine
14 that appeared to be one that would fit this size
15 weapon. I also found a loose bullet in his right
16 pocket, pants pocket. In his left pocket I found a
17 small little purple flashlight, a green utility
18 knife, one looked like an extendable razor on it,
19 several other loose bullets in his left pocket, as
20 well as a set of keys that had a little blue
21 keychain on it.

22 All this stuff I took and put in my pants
23 pocket to keep on me. When I started walking Mr.
24 Vandross out, like I said, we were behind the
25 house, I started walking him out and he said, "My

CHRIS HAMMETT - DIRECT

1 black jacket is behind the van," and I said, "Okay,
2 I'll get it in just a second." We went ahead and
3 walked, I walked him all the way around here to my
4 vehicle and put him in the back seat of my patrol
5 vehicle.

6 By that time Lieutenant Boggs and Captain
7 Scott come out the front door of the house and I
8 told Captain Scott, "Stay here with him, I'm going
9 to run back and get his jacket real quick." So, I
10 went back and I found a black jacket around here
11 behind this van, it was on the ground and had dirt
12 on it. I picked it up and there was a few loose
13 bullets there on the ground underneath that jacket,
14 so I collected those as well and brought all that
15 stuff to the trunk of my vehicle, and I had
16 evidence bags in the trunk, I put all the stuff
17 from his pockets as well as the jacket and those
18 loose bullets in some evidence bags in my trunk. I
19 told Captain Scott, "I'm going to go ahead and run
20 him up to the detention center and I'll be back to
21 help you with whatever you need in just a minute."

22 I took my car and left and went to the county
23 detention center and on the way Mr. Vandross said,
24 "Will I get to make a phone call?" I said, "Sure,
25 you'll get to make one, just give us a little time

CHRIS HAMMETT - DIRECT

1 to sort things out, we'll let you make a phone
2 call." That was the only discussion I had with him
3 at all on the way to the jail.

4 I dropped him off at the county detention
5 center and had them put him in a holding cell. I
6 contacted Major Tony Davis and let him know what we
7 had, he was the Major of criminal investigations at
8 that time. I let him know what was going on, what
9 the address was, and I headed on back out to the
10 house.

11 When I got there I met with Captain Marc
12 Cromer, who was the detective who had responded.
13 He asked me if I didn't mind, would I ride the area
14 of Highway 10 and Cedar Springs Road to see if I
15 could locate a burgundy Toyota Corolla, Camry, that
16 type vehicle that possibly belonged to Mr.
17 Vandross. I started down Highway 10, and Cedar
18 Springs Road is not far from this house, I took a
19 right on Cedar Springs Road, and right when I took
20 the right that corner property is A. M. Tuck
21 Construction Company and I noticed there was a
22 burgundy Toyota Corolla parked right up against
23 their bar gate that blocks their back maintenance
24 yard, so I pulled in behind that vehicle and went
25 up and asked the secretary, you know, if it was any

CHRIS HAMMETT - DIRECT

1 of their employees' or anything like that, and I
2 explained to her it was involved in an
3 investigation, if they didn't mind, could they just
4 kind of maneuver around it for the day, we would
5 probably be there for awhile.

6 Q Corporal Hammett, if I could interrupt a
7 minute and show you State's Exhibit 17. Do you
8 recognize State's Exhibit 17?

9 A I do. It's an aerial view of the Highway 10
10 and Cedar Springs Road.

11 Q All right. Can you show the jury on that
12 diagram where 3938 McCormick Highway is?

13 A Yes, sir. It would be, this is the house
14 here.

15 Q All right. Can you show the jury on the
16 diagram where you discovered the vehicle?

17 A Yes, sir. This being McCormick Highway, that
18 is Cedar Springs Road there. Like I say, at this
19 corner is A. M. Tuck, they build bridges,
20 construction company. The vehicle was right here
21 at the front entrance, right when you turn on Cedar
22 Springs Road.

23 Q All right, thank you. Please continue.

24 A Like I said, I let the secretary know that we
25 would need to stay there for awhile and I called

CHRIS HAMMETT - DIRECT

1 Marc to let him know I had found the vehicle. I
2 ran the tag and it came back in Vandross, and Marc
3 came down to verify. He was going to get a search
4 warrant for the vehicle, he asked if I didn't mind
5 just staying with the vehicle to secure it until he
6 got there with the search warrant. So, he returned
7 shortly after the search with the search warrant
8 and I gave him that set of keys that I had taken
9 from Mr. Vandross' pocket.

10 Q If I could interrupt, I show you State's
11 Exhibit 50 for identification and ask you if you
12 recognize State's Exhibit 50?

13 A I do. This is the key chain and keys that I
14 took from Mr. Vandross' pocket.

15 Q All right. And what did you do with the keys
16 and key chain after you took them?

17 A These were placed into evidence with Sergeant
18 Eric Inks who at that time was our crime scene
19 technician, evidence custodian, but prior to that I
20 had given them to, I had given the keys to Marc
21 Cromer. The reason for that is there was a Toyota
22 key on the key ring and it was my hunch that Toyota
23 key probably fit the Toyota that belonged to Mr.
24 Vandross. That way they would not have to force
25 entry into the trunk or any other parts of the

CHRIS HAMMETT - DIRECT

1 vehicle that was locked, with the search warrant.

2 Q Did the key fit the vehicle?

3 A It did.

4 Q All right.

5 A After Marc got there with the search warrant
6 I stood by with him for a couple minutes, then I
7 left and returned on my normal duties for the rest
8 of the day.

9 Q All right. Now, Corporal Hammett, I show you
10 State's Exhibit 15 for identification and ask you
11 if you recognize State's Exhibit 15 for
12 identification?

13 A All right.

14 Q Do you recognize State's Exhibit 15 for
15 identification?

16 A Yes, I do. That's a picture of the back of
17 the house at 3938 McCormick Highway, and that's the
18 carport I was speaking of with the vehicle inside
19 it, and that corner of the wall where the blue van
20 is is basically the vantage point I was standing
21 and saw Mr. Vahdross come out.

22 Q Using the pointer could you show the jury on
23 that photograph where you were standing?

24 A Okay. Right here is where I was standing and
25 could look down this wall between the wall and the

CHRIS HAMMETT - DIRECT

1 van there and saw Mr. Vandross between the van and
2 the back porch there.

3 Q And did you approach from that direction?

4 A I approached between the van and the other
5 vehicle. As he came out I went between these two
6 and met him in the center.

7 Q While you were approaching him where were
8 Lieutenant Boggs and Captain Scott?

9 A You can't really see from this picture but
10 they were on the other side of that back deck, they
11 came around this side of the back deck from the far
12 side of the house.

13 Q Okay.

14 MR. PEACE: Your Honor, I move State's
15 Exhibit 15 for identification be admitted as
16 State's Exhibit 15.

17 MR. SHEEK: No objection.

18 THE COURT: Without objection Number 15 is
19 part of the evidence in the case.

20 (Photograph marked and received in evidence
21 as State's Exhibit Number 15).

22 MR. PEACE: We also move State's Exhibit 50
23 for identification be admitted as State's Exhibit
24 50.

25 THE COURT: The keys?

CHRIS HAMMETT - DIRECT

1 MR. SHEEK: Yes. I apologize.

2 THE COURT: Number 50 is part of the evidence
3 in the case, ladies and gentlemen.

4 (Keys and key ring marked and received
5 in evidence as State's Exhibit Number 50).

6 BY MR. PEACE:

7 Q Corporal Hammett, what did you do after that?

8 A After I left there I returned to my normal
9 duties of the day. I turned all my evidence in to
10 Eric Inks who at that time, like I said, was our
11 evidence technician, and everything was in evidence
12 bags, I turned everything over to him.

13 Q All right.

14 MR. PEACE: Your Honor, I would also move
15 that State's Exhibit 1 for identification be
16 admitted as State's Exhibit 1.

17 MR. SHEEK: No objection.

18 THE COURT: Without objection Number 1 is
19 part of the evidence in the case, ladies and
20 gentlemen.

21 (Firearm marked and received in evidence
22 as State's Exhibit Number 1).

23 MR. PEACE: That's all the questions I have,
24 Corporal Hammett. Please answer any questions Mr.
25 Sheek has.

CHRIS HAMMETT - CROSS

1 THE WITNESS: Yes, sir.

2 THE COURT: Cross-examination, Mr. Sheek.

3 CROSS EXAMINATION

4 QUESTIONS BY MR. SHEEK:

5 Q Corporal Hammett, do you know what time the
6 call came in for you all to respond?

7 A It was maybe a few minutes after 7:00 a.m.

8 Q And when you responded did you respond with
9 full lights and siren?

10 A Yes, I did.

11 Q And we probably all have heard those sirens
12 at time. Are they fairly loud?

13 A They are.

14 Q Was there more than one car responding?

15 A There was.

16 Q When you come down Highway 10, as you pass
17 the treeline reflected on State's Exhibit 17 are
18 you able to see into that back yard area where the
19 car was parked?

20 A I don't really recall if I was looking, I
21 don't recall looking in that area because I saw
22 Captain Scott standing out in the road and that was
23 my focal point when I pulled in.

24 Q When you went around the corner of the house
25 Mr. Vandross, was he standing?

CHRIS HAMMETT - CROSS

1 A When I saw him he was standing up between
2 that van and the back porch.

3 Q Was there any indication that he had made an
4 effort to run?

5 A No. As I said, he complied with all our
6 orders, he raised his hands just as we asked him
7 to.

8 Q He wasn't crawling under the deck or a car or
9 anything of that nature?

10 A No, he wasn't.

11 Q In fact you can see on State's Exhibit 17
12 that treeline is not real far from the back of the
13 house, is it?

14 A No, it's not.

15 Q Now, I believe you also testified that the
16 gun, when you retrieved it the magazine was out of
17 it?

18 A The gun was handed to me. When I conducted
19 my pat-down search of him I found the magazine in
20 his right front pants pocket.

21 Q Do you know if there was ever any other
22 magazines located on Mr. Vandross or anywhere
23 around there?

24 A I never located any other ones.

25 Q So, from all indications that magazine was

CHRIS HAMMETT - CROSS

1 the only one he had for that gun?

2 A I can't testify to that. The only thing I
3 can testify to is that I only located one in his
4 pants pocket.

5 Q You don't know who had taken it out or when?

6 A No, I don't.

7 Q Do you know if that gun's action is designed
8 where it will even work without a magazine in it?

9 A I don't know.

10 Q Okay. Now, was Mr. Vandross ordered to raise
11 his hands or put his hands behind his neck?

12 A He was ordered to raise his hands and then
13 ordered to raise them a little higher.

14 Q I assume all of you going around the house
15 had drawn your own service weapon?

16 A Yes, we had.

17 Q Did you take hold of him when you handcuffed
18 him?

19 A No, sir, I did not handcuff him.

20 Q Do you know who handcuffed him?

21 A It was Lieutenant Boggs and Captain Scott,
22 both were directly behind him. As I said, I was
23 face-on with him. I acted as a cover unit while
24 they were the apprehension unit.

25 MR. SHEEK: Thanks. That's all the questions

CHRIS HAMMETT - CROSS

1 I have, Your Honor.

2 THE COURT: Redirect?

3 MR. PEACE: No redirect, Your Honor.

4 THE COURT: Thank you, sir. Come down, take
5 your time, watch your step.

6 MR. PEACE: Your Honor, may Corporal Hammett
7 be excused?

8 THE COURT: Any objection?

9 MR. SHEEK: No objection, Your Honor.

10 THE COURT: Thank you. You may stay with us
11 or you may leave the building.

12 THE WITNESS: Thank you.

13 (Witness excused).

14 THE COURT: Call your next witness, please,
15 Solicitor.

16 MR. PEACE: Thank you, Your Honor. If it
17 please the Court, the State next calls Raheim Suber
18 to the stand.

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DAHAD RAHEIM SUBER - DIRECT

1 DAHAD RAHEIM SUBER,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you,
4 Solicitor.

5 MR. PEACE: Thank you, Your Honor. If it
6 please the Court.

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. PEACE:

9 Q Would you please state your full name for the
10 record?

11 A Dahad Raheim Suber.

12 Q Mr. Suber, will you please spell your name
13 for the court reporter?

14 A D-a-h-a-d, R-a-h-e-i-m, S-u-b-e-r.

15 Q All right. Mr. Suber what name do you go by?

16 A Raheim.

17 Q Are you related to Miss JoAnn Wilson?

18 A Yes, sir.

19 Q And how are you related to her?

20 A My mother.

21 Q Where did you live on November 4th, 2004?

22 A 3938 McCormick Highway.

23 Q All right. Did you see your mother in the
24 early morning hours of November 4th, 2004?

25 A Yes, sir.

DAHAD RAHEIM SUBER - DIRECT

- 1 Q Will you please tell the jury what, if
2 anything, happened that particular morning?
- 3 A Okay. I remember like it was yesterday. Mom
4 came in, got me up, she had on a green shirt, a
5 green sweatshirt like she had on coming from the
6 game, they had went to a game the night before, my
7 little brother's game.
- 8 Q Mr. Suber, let me just interrupt.
- 9 A Yes, sir.
- 10 Q Slow down so the jury can understand what
11 you're saying, okay?
- 12 A Yes, sir.
- 13 Q Are you nervous?
- 14 A Sir?
- 15 Q Are you a little bit nervous?
- 16 A A little bit.
- 17 Q Just relax, slow down and tell the jury what
18 you know.
- 19 A Yes, sir. She came and got me up. The first
20 time she called my name she ran back, I guess she
21 was going to get, wake up my other brothers. She
22 came back the second time, she said, "Raheim, I
23 need you to get up." By me looking at her, her
24 hair was all messed up, I wasn't out of my bed yet,
25 you know what I'm saying, you know what I'm saying,

DAHAD RAHEIM SUBER - DIRECT

1 but she came, she got me up, she ran back again,
2 she ran through the corridor toward the living
3 room, I guess.

4 Q Let me interrupt you just a minute. Let me
5 show you State's Exhibit 16. Is there a pointer up
6 there?

7 A Yes, sir.

8 Q If you would, please use the pointer and show
9 the jury where your bedroom is.

10 A Okay, right here.

11 Q Where was your mother running to?

12 A Through this door, out this door. I didn't
13 see where she went.

14 Q Okay. What happened after she did that?

15 A She came back in my room and by that time I
16 was standing up, you understand, she came toward
17 me, she grabbed my face like this, you know what
18 I'm saying. Me, when she grabbed my face I seen
19 her eye was bloodshot, one of her eyes was
20 bloodshot red. She had scars on her nose, scars, a
21 scar right there on the side of her nose, scars on
22 her chin, you know what I'm saying. She grabbed my
23 face and said, "Raheim," she said, she was shaking
24 and trembling, I'm trying to sound just like that,
25 "Raheim, Charles has killed Mr. Sanford." I was

DAHAD RAHEIM SUBER - DIRECT

1 like, "Mom, right," you understand, I didn't
2 believe it, waking up out of my sleep, you
3 understand, I'm asking like, "Mom, you're lying,
4 right?" She said, "Baby, Charles has shot and
5 killed Sanford." And I fell to my knees, you
6 understand what I'm saying, I fell to my knees, I
7 was like, "Mom," I was like, "Where is Charles
8 now?" She said, "Baby, I need you to get the boys
9 ready, I need to get the boys, I need you to do
10 this for me, I need you to do this for me."

11 By that time, I looked at the phone, I said,
12 "You hadn't called the police yet?" I looked at
13 the phone, my phone wasn't there on my charger, it
14 wasn't on my bed either. By that time I was out of
15 my bed. She ran back through the corridor, she
16 came back again after that while I was getting my
17 brothers ready, you know, I got my brothers ready,
18 I went in the bathroom, started ironing their
19 clothes a little bit. Then she came back that last
20 time, went and got a phone, I saw her get her phone
21 from over here and she came to my room, back to my
22 room and called the cops.

23 Q What kind of phone did she bring back in your
24 room?

25 A Her cell phone.

DAHAD RAHEIM SUBER - DIRECT

1 Q Her cell phone?

2 A Yes, sir.

3 Q All right, please continue.

4 A She used the cell phone, called the cops.

5 After she called the cops I could hear her, she

6 called her friend Jan.

7 Q I'm sorry?

8 A After that she called her friend Jan.

9 Q Called who?

10 A Jan.

11 Q Jan?

12 A Yes, sir.

13 Q Okay. I'm sorry, I just couldn't hear.

14 A Yes, sir. She called Jan and told Jan to

15 call mama, my grandmother, and tell her to come to

16 Greenwood, come to the house. At that point I got

17 my brothers ready and she came and grabbed all of

18 us and we ran, ran outside, ran outside to our

19 front porch right here and we stayed right there

20 until we seen the sirens come and then when the

21 sirens come we ran to the front.

22 Q Okay. What happened after you ran to the
23 front?

24 A We ran to the front, the cops came and they

25 all hopped out of the car and told us to stay right

DAHAD RAHEIM SUBER - DIRECT

1 here, they went around the two sides of the housed.

2 Q All right. Did you see Jan while you were
3 out there?

4 A Yes, sir. Later on, while they was back
5 there Jan passed by in her Jeep, in her white Jeep
6 and mama told her what happened.

7 MR. PEACE: All right, thank you. Those are
8 all the questions I have. Please answer any
9 questions Mr. Sheek may have.

10 THE COURT: Cross-examination, please.

11 MR. SHEEK: Thank you.
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DAHAD RAHEIM SUBER - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. SHEEK:

3 Q When your mom told you what had happened what
4 did you do to get your little brothers ready?

5 A Say again.

6 Q What was it that you did to get your little
7 brothers ready when you found out what had
8 happened?

9 A What did you do to get them ready?

10 Q Yes.

11 A I got their clothes and I ironed them a
12 little bit.

13 Q Okay.

14 A Yes, sir.

15 Q It was you that was ironing?

16 A Yes.

17 Q Not your little brothers?

18 A I was ironing.

19 Q Okay. But any statement that your little
20 brothers were doing the ironing, that would be
21 incorrect?

22 A I have no idea. I might have been asleep.

23 Q Okay. Where were you doing this ironing?

24 A In the bathroom.

25 Q Okay. Is that where you were, in the

DAHAD RAHEIM SUBER - CROSS

1 bathroom, when she was making her cell phone calls?

2 A Yes.

3 Q And she called and said what to Jan?

4 A She called Jan and said to call my mom, call
5 her mom and to come to Greenwood.

6 Q Now, sir, you have had an opportunity to give
7 a sworn statement in this matter before, haven't
8 you?

9 A Yes.

10 Q And at that time, in that sworn statement you
11 said she said, "Please call my grandmother and tell
12 her what happened"?

13 A Uh-huh (Affirmative).

14 Q Do you remember saying that?

15 A Yes, I do, right. You are trying to confuse
16 me. You asked the same question over and over
17 again trying to confuse me about that question.

18 Q I understand. I tell you what, I'll hand you
19 a copy of the transcript, sir, you just read to the
20 jury the part where I confused you.

21 A The yellow part?

22 Q No, sir, you can look at the transcript of
23 that prior sworn statement. You said the reason
24 you said that was I was confusing you?

25 A Yes, sir.

DAHAD RAHEIM SUBER - CROSS

1 Q Please take your time and find the question
2 where I confused you.

3 A Yes, sir, I found it.

4 Q Okay, tell it to the jury.

5 A Okay. "Like what did she talk to Jan about?"
6 She said, "Please call my grandmother and tell her
7 what happened."

8 Q My question to you, what did she call Jan
9 about, that's what confused you?

10 A Say it again.

11 Q My question to you, what did she call Jan
12 about, that's what confused you?

13 A I mean, first off you asked questions about
14 would she be talking nervous, you were trying to
15 switch me out a little bit here.

16 Q That's what I'm asking you to point out to
17 the jury, if I'm trying to switch you out, point
18 out the questions I asked you that was doing it.

19 A Anyway, right here you didn't try to switch
20 me out, change it, you asked me the same question
21 again. Then it was like you wanted me to say yes,
22 sir, so you got it all out --

23 Q I tell you what, you start reading with that
24 question, you read the next two questions there.

25 A Okay. "Were there any other conversations?"

DAHAD RAHEIM SUBER - CROSS

1 "No, sir."

2 "She must have told Jan what happened,
3 right?"

4 And I said, "No, sir."

5 "Do you understand, you say she asked Jan to
6 call your grandmother to tell her what happened?"

7 "Jan, yes, sir, Jan didn't know what happened
8 until she pulled up in front of us at the stop."

9 THE COURT: Mr. Witness, speak a little
10 slower.

11 THE WITNESS: Yes, sir.

12 THE COURT: A good deal slower. Just take
13 your time, I know you're nervous.

14 THE WITNESS: Yes, sir.

15 THE COURT: Speak slower. Some of the jurors
16 can't understand you.

17 THE WITNESS: Okay.

18 THE COURT: You may want to speak towards the
19 jury.

20 BY MR. SHEEK:

21 Q I'll take that transcript. So, it's your
22 testimony today that when I said what did she talk
23 to Jan about that confused you?

24 A I'm not saying that, sir. Like other
25 questions before that you confused me, plus I was

DAHAD RAHEIM SUBER - CROSS

1 already nervous. This is hard, standing up here
2 doing this in front of all these people.

3 Q Okay. I asked you were you there when she
4 called 911. Did that confuse you?

5 A No, sir.

6 Q The next question, were you there when she
7 called Jan, did that confuse you?

8 A No, sir.

9 Q The next question; what did she talk to Jan
10 about, did that confuse you?

11 A No, sir.

12 Q Then, she must have told Jan what happened,
13 right? Did that confuse you?

14 A Say again.

15 Q She must have told Jan what happened, right?

16 A That's what I said, yes, sir. You can also
17 see after that I was trying to change it because
18 you tried to change it on me and I said, "No, sir,
19 she told Jan when Jan pulled up in front of the
20 house."

21 Q Wait a second, Mr. Suber. You are saying I'm
22 trying to change it. All I said, she called,
23 wanted her to call her mother and tell her what
24 happened. A Say that again.

25 Q I'm not the one that said she called Jan and

DAHAD RAHEIM SUBER - CROSS

1 said tell mom what happened. That was your answer,
2 not mine, right?

3 A Right, yes, sir.

4 Q And you can't point to anything in that
5 transcript that I said to confuse you or mislead
6 you about that, can you?

7 A No, sir.

8 MR. SHEEK: I've got no further questions,
9 Your Honor.

10 THE COURT: Anything in redirect?

11 MR. PEACE: Yes, sir, Your Honor, there is.
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DAHAD RAHEIM SUBER - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. PEACE:

Q All right, Mr. Suber, would you please read from line 12 through the next page and read it slowly.

A Yes, sir.

Q And speak so we can understand you.

A The question, "Were you there when --"

Q Louder so we can hear.

A "Question: Were you there when she called 911?"

Q Okay. Is that Mr. Sheek asking you that question?

A Yes, sir.

Q And what's the question?

A "Were you there when she called 911?"

Q And what is your answer?

A "Yes, sir."

Q All right. What happens next?

A "And were you there when she called Jan?"

Q And what is your answer?

A "Yes."

Q What's the next question?

A "Okay, what did she talk to Jan about?"

Q What's your answer?

DAHAD RAHEIM SUBER - REDIRECT

- 1 A "She told Jan please call, please call my
2 grandmother and tell her what happened."
- 3 Q What's the next question?
- 4 A "Were there any other conversations?"
- 5 Q What's your answer?
- 6 A "No, sir."
- 7 Q What's the next question?
- 8 A "Well, she must have told Jan what happened,
9 right?"
- 10 Q What's your answer?
- 11 A "No, sir."
- 12 Q Thank you. Now, did you previously give a
13 sworn statement about this incident?
- 14 A Yes, sir.
- 15 Q I now hand you this and ask -- may I see it
16 back just a minute? Read line 13, please.
- 17 A "So, I'm in there ironing my brothers'
18 clothes and getting them ready. My mom, she ran
19 back twice, and the second time she came back she
20 got her phone off the wall, off the wall."
- 21 "She got her phone off the wall?"
- 22 "Well, she said it was --"
- 23 "What kind of phone was this?"
- 24 I said, "Cell phone."
- 25 Q So, in that previous sworn statement you said

DAHAD RAHEIM SUBER - REDIRECT

1 that you were ironing your brother's clothes?

2 A Yes, sir.

3 MR. PEACE: All right, thank you. I have no
4 further questions.

5 MR. SHEEK: Nothing further, Your Honor.

6 THE COURT: Thank you, sir. Come down. Take
7 your time, watch your step.

8 (Witness excused).

9 THE COURT: Call your next witness,
10 Solicitor.

11 MR. PEACE: The State would next call Tony
12 Davis to the stand.

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CARLTON TONY DAVIS - DIRECT

- 1 CARLTON TONY DAVIS,
2 after being first duly sworn testified as follows:
3 DIRECT EXAMINATION
4 QUESTIONS BY MR. PEACE:
5 Q Would you please state your name for the
6 record?
7 A Carlton Tony Davis.
8 Q Mr. Davis, where were you employed on
9 November the 4th of 2004?
10 A At the Greenwood Sheriff's Department.
11 Q What was your position at the Sheriff's
12 Department?
13 A I was a major in charge of investigations.
14 Q Where are you employed now?
15 A I am presently, I'm home on leave from Iraq,
16 I have been over there for the past thirteen
17 months.
18 Q And are you going back to Iraq?
19 A In just a few days I go back for another six
20 or seven months.
21 Q Now, would you prefer to be called Major, or
22 Mr.?
23 A Well, since I'm retired, I guess Tony will be
24 fine.
25 Q Mr. Davis, were you involved in an

CARLTON TONY DAVIS - DIRECT

1 investigation involving a death at 3938 McCormick
2 Highway?

3 A Yes, sir, I was.

4 Q Would you please tell the jury what, if any,
5 action you took in regard to that investigation?

6 A That morning we called 1041, that means we're
7 coming on duty, I called 1041 shortly after 7:00
8 a.m. At the time Corporal Hammett told me on the
9 radio that he had a death at the address and that
10 they had an individual in custody and were in the
11 process of transporting him to the law enforcement
12 center, or the county jail.

13 I responded to the area but while being
14 enroute there I notified Corporal Eric Inks, who
15 was our crime scene technician, to respond to the
16 jail to meet with the suspect and to do what we
17 call a GSR on his hands to try to see if he had
18 shot a weapon or handled a weapon. I also told him
19 to photograph him and to take his clothing and
20 then, upon doing that, to come down to the location
21 of the incident and to process the crime scene.

22 I also told Detective Cromer to meet me at
23 the crime scene and to assist the officers that
24 were there. Shortly after I got to the crime scene
25 I did walk into the residence, but shortly after

CARLTON TONY DAVIS -- DIRECT

1 being inside the residence I received a call from
2 Lieutenant Boggs informing me that the, that JoAnn
3 Wilson was enroute to the Sheriff's Department. I
4 told Detective Cromer to stay at the scene, make
5 sure the crime scene was secure and upon Corporal
6 Inks arriving there to assist him any way he could.
7 I departed that area and went to the Law
8 Enforcement Center to meet with Miss Wilson.

9 Q Did you do anything else in relation -- did
10 you gather any evidence in the investigation?

11 A No, sir.

12 Q Were your primary duties directing the other
13 investigators?

14 A Yes, sir. At the time we didn't know a whole
15 lot about what had happened. That's why I left the
16 crime scene to go talk with Miss -- JoAnn, to try
17 to determine what did happen, which direction we
18 needed to go in.

19 MR. PEACE: Thank you, Mr. Davis. I have no
20 further questions. Please answer any questions Mr.
21 Sheek may have.

22 THE COURT: Cross-examination, Mr. Sheek.

23 MR. SHEEK: Thank you.
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25

CARLTON TONY DAVIS - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. SHEEK:

3 Q Mr. Davis, as part of your investigation did
4 you interview Miss JoAnn Wilson?

5 A I did.

6 Q And did she give you a statement as to what
7 occurred?

8 A She did.

9 Q And you made, I believe, handwritten notes of
10 those conversations and transferred it to an
11 incident report?

12 A I did.

13 Q And do you have that with you today, sir?

14 A Yes, sir.

15 Q Okay. Do you recall if she related to you
16 that several times when she and Mr. Vandross would
17 break up that she would have Mr. Best come over?

18 A She did.

19 Q And do you recall her telling you where Mr.
20 Vandross' car could be located?

21 A I believe she told me that it was on Cedar
22 Springs Road.

23 Q And I believe you relayed that information to
24 Mr. Cromer?

25 A I did.

CARLTON TONY DAVIS - CROSS

1 Q So that they could go and check and see if it
2 was where she said it was?

3 A I did.

4 Q And I believe she also related to you, isn't
5 it correct that she, when coming out of the room,
6 noticed Mr. Best lying with a pillow on top of him?

7 MR. SHEEK: Objection, Your Honor, this is
8 hearsay. We have had Mrs. Wilson testify.
9 Information being related is nothing more than
10 hearsay.

11 THE COURT: The objection is sustained.
12 Major, would you remove your chewing gum?

13 THE WITNESS: Yes, sir.

14 MR. SHEEK: Your Honor, if I may address
15 that. We're asking for the basis of his
16 investigation and going into the issues of prior
17 inconsistent statements, which actually would be a
18 hearsay exception. It's inconsistent with the
19 testimony she's previously given in this court. I
20 believe he can testify to that inconsistent
21 statement.

22 THE COURT: Do you wish to be heard?

23 MR. PEACE: Your Honor, the question he just
24 asked is something she testified to.

25 MR. SHEEK: Actually, Your Honor, it is my

CARLTON TONY DAVIS - CROSS

1 recollection she specifically denied ever knowing
2 where the car was parked.

3 THE COURT: The jury will recall that as they
4 will and he in fact did answer the question, so
5 let's move along.

6 MR. SHEEK: Okay.

7 BY MR. SHEEK:

8 Q Do you recall she told you at which church he
9 supposedly tore this duct tape off her?

10 A I don't recall exactly which church. I know
11 that she told me they went to two. Both of them
12 were probably five or six miles or so from her
13 residence.

14 Q Okay. I refer you to page five of the
15 narrative.

16 MR. PEACE: Your Honor, I object. This
17 document is just pure hearsay. The document itself
18 is hearsay.

19 MR. SHEEK: Your Honor --

20 THE COURT: Well, the Court is not now
21 familiar with what the question to be posed is.

22 MR. SHEEK: Your Honor, let me lay some
23 foundation for the document. I believe he can use
24 it to refresh his memory if it's a document in fact
25 prepared by him.

CARLTON TONY DAVIS - CROSS

1 THE COURT: All right.

2 BY MR. SHEEK:

3 Q Did you in fact prepare this portion of the
4 narrative in the incident report?

5 A Yes, I wrote it.

6 Q Okay. I'm going to ask you, then, to review
7 what you prepared in that paragraph to see if that
8 refreshes your memory as to where she alleged that
9 occurred?

10 A Looking on page five?

11 Q Yes, sir, the top paragraph.

12 MR. PEACE: Your Honor, if I may, there has
13 been no testimony that he doesn't remember. I mean
14 the question, if the question is asked and he says,
15 "I don't remember," then you can lay a foundation
16 and ask for the memory to be refreshed, but he has
17 not testified that he doesn't remember.

18 THE COURT: Well, that's not necessarily
19 true. The objection might be in the nature of an
20 observation. Continue your cross-examination.

21 MR. SHEEK: Thank you.

22 BY MR. SHEEK:

23 Q If you would review that, Mr. Davis.

24 A Okay. My notes --

25 MR. PEACE: Your Honor, I object, it's

- CARLTON TONY DAVIS - CROSS

1 hearsay.

2 MR. SHEEK: It's his own notes, Your Honor.

3 THE COURT: Mr. Foreman, ladies and
4 gentlemen, do not talk about the case and let us
5 take up a matter of law outside your presence.

6 (The jury was excused from the courtroom).

7 THE COURT: So the Court will be able to
8 understand the thrust of the cross-examination and
9 the basis for the objection, where are you going
10 with this, Mr. Sheek, and what is this all about?

11 MR. SHEEK: Well, simply, Your Honor, her
12 testimony was that this tearing of the duct tape,
13 she explained that occurred at the old Tranquil
14 Church, the second church they went to. As relayed
15 to this investigator, it happened at the first
16 church. It's a prior inconsistent statement she
17 gave him the day this alleged incident happened,
18 inconsistent with her testimony in this courtroom,
19 his incident report, his notes, his recollection of
20 what she told him. I don't believe him reading his
21 own incident report is hearsay.

22 THE COURT: Well, as the Solicitor pointed
23 out, he didn't say he didn't recall but he
24 certainly can use his notes to refresh his memory,
25 if that's your point. Any objection to that

CARLTON TONY DAVIS - CROSS

1 question? She said she didn't remember where it
2 was, which one it was.

3 MR. PEACE: I mean, if the question is, "Mr.
4 Davis, did she tell you X," and he says, "No, she
5 told me Y," or, "I don't remember." If he doesn't
6 remember, then he can use his notes to refresh his
7 recollection.

8 THE COURT: Well --

9 MR. SHEEK: But just to directly go into an
10 incident report which is hearsay is not proper.

11 THE COURT: The Court now understands. We
12 are maybe splitting hairs slightly here, Mr. Sheek,
13 but the Solicitor is correct. If he doesn't
14 remember, then he can use any notes or any other
15 writings that he may have made contemporaneously to
16 refresh his memory. But if he remembers he doesn't
17 have to refer to anything.

18 MR. SHEEK: Yes, sir. That's fine.

19 THE COURT: You can just ask a straight
20 question, "Did she or did she not tell you this?"

21 MR. SHEEK: I believe when I posed that
22 question the objection was hearsay as to what she
23 was saying.

24 THE COURT: The Court doesn't precisely
25 understand exactly where that came from, since we

CARLTON TONY DAVIS - CROSS

1 have been on the point for some time, but if you
2 will just ask him a direct question, if he says, "I
3 don't remember," and you know that it's in those
4 notes, then you can direct him to a place there.

5 MR. SHEEK: Yes, sir.

6 THE COURT: Anything further at this time
7 from anybody?

8 MR. PEACE: Not from the State.

9 MR. SHEEK: No, sir.

10 THE COURT: Thank you. Mr. Bolton, show the
11 jury back in.

12 (The jury returned to the courtroom).

13 THE COURT: Continue cross-examination.

14 MR. SHEEK: Thank you.

15 BY MR. SHEEK:

16 Q Mr. Davis, do you recall if she told you
17 whether or not this tape was supposedly torn off at
18 the new Tranquil Church or the old Tranquil Church?

19 A According to my notes written right about the
20 time or shortly after the incident happened, she
21 stated that the duct tape was torn off at the new
22 Tranquil A.M.E. Church on Greenwood-McCormick
23 County line.

24 Q And I believe you testified that these two
25 churches were about how far from her residence?

CARLTON TONY DAVIS - CROSS

1 A I'm going to say probably no more than six or
2 eight miles.

3 MR. SHEEK: Thank you. That's all I have,
4 Your Honor.

5 THE COURT: Redirect?
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CARLTON TONY DAVIS - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. PEACE:

Q Mr. Davis, do you know how far it is from the new Tranquil Church to the old Tranquil Church?

A Go out of the parking lot, turn right, to give you an exact mileage, I do not know.

Q Can you give an approximate mileage?

A You turn out of the driveway, you go down toward McCormick just a little ways, make a left turn, and the church is down on your right. I'm going to say probably no more than a mile, mile and a half.

Q All right. Now, Mr. Davis, how long did you talk to Mrs. Wilson on the morning of November the 4th?

A On November the 4th, once I was notified she was at the Sheriff's Department I responded there, I met with her, she was very, very upset, she had her children with her. I tried to get her to calm down, tried to get her some water, coffee, anything to try to calm her down. I spent a good bit, probably most of that morning, on up until into the afternoon talking with her trying to determine what happened, trying to direct the officers at the scene.

CARLTON TONY DAVIS - REDIRECT

1 Q Would you describe her as distraught?

2 A Very, very.

3 MR. PEACE: Thank you, Mr. Davis. No further
4 questions.

5 THE COURT: Anything further, Mr. Sheek?

6 MR. SHEEK: Nothing further, Your Honor.

7 THE COURT: Thank you, sir. Come down. Take
8 your time, watch your step.

9 (Witness excused).

10 THE COURT: How long will the next witness
11 be, Solicitor?

12 MR. PEACE: Your Honor, if I may, could Mr.
13 Davis be excused?

14 THE COURT: Any objection to the witness who
15 just testified being excused?

16 MR. SHEEK: No objection, Your Honor.

17 THE COURT: Thank you. You may stay with us
18 or leave the building.

19 MR. PEACE: The next witness will probably
20 take 30 to 45 minutes.

21 THE COURT: All right. Ladies and gentlemen,
22 we will take a recess now. We have been in session
23 for about an hour and five minutes. We want
24 everybody to be comfortable, make a rest stop if
25 you need to. Do not discuss the case by, between

1 and among yourselves and we'll take a short recess.

2 Thank you. Retire to the jury room.

3 (The jury was excused from the courtroom).

4 THE COURT: We'll be in recess.

5 (Recessed at 11:55 a.m.).

6 (Reconvened at 12:12 p.m.).

7 THE COURT: Open the record, the State of
8 South Carolina versus Charles Nemon Vandross,
9 2004-1187.

10 Call your next witness, please -- well, ask
11 the jury in, excuse me.

12 (The jury returned to the courtroom).

13 THE COURT: All the jurors are present and
14 properly seated. Call your next witness, please,
15 Solicitor.

16 MR. PEACE: Thank you, Your Honor. If it
17 please the Court, the State would next call
18 Lieutenant Jimmy Boggs to the witness stand.

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JAMES ALTON BOGGS, JR. - DIRECT

1 JAMES ALTON BOGGS, JR.,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you,
4 Solicitor.

5 MR. PEACE: Thank you, Your Honor. If it
6 please the court.

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. PEACE:

9 Q Mr. Boggs, will you please state your full
10 name for the record?

11 A James Alton Boggs, Jr.

12 Q And, Mr. Boggs, where are you employed?

13 A I'm employed with the Greenwood Sheriff's
14 Department.

15 Q And how long have you been employed there?

16 A I've been employed with the Sheriff's
17 Department for 22 years.

18 Q What is your position in the sheriff's
19 office?

20 A I am a lieutenant on one of the shifts,
21 responding to calls, work the road.

22 Q Were you a lieutenant on November 4th of
23 2004?

24 A Yes, sir, I was.

25 Q All right. As part of your duties did you

JAMES ALTON BOGGS, JR. - DIRECT

1 respond to an incident at 3938 McCormick Highway?

2 A Yes, sir, I did respond.

3 Q And what did you do in response to that?

4 A I had received a call from all the way at the
5 office, we were just changing shifts from third to
6 first, that there had been a shooting on McCormick
7 Highway, saying somebody had been shot. Myself as
8 a first responder, there were two other cars with
9 me, we were responding to the Promise Land area to
10 try to locate this address that had been reported
11 where a shooting was.

12 We responded down Highway 10, Captain Scott,
13 myself and Corporal Hammett. Captain Scott was the
14 first one on the scene, myself and Corporal Hammett
15 were moments behind him. He had already made first
16 contact with Miss Wilson. As myself and Corporal
17 Hammett pulled up to the scene it was relayed to us
18 by Captain Scott that there was a shooting suspect
19 in the back yard of the house we were parked in
20 front of and he was supposedly armed with a
21 handgun. At that time Captain Scott and myself
22 went to this side of the building, this side of the
23 house, Corporal Hammett came around this way. I
24 think I was the first one who made eye contact with
25 Mr. Vandross. When I first seen him all I could

JAMES ALTON BOGGS, JR. - DIRECT

1 see was the top of his head over the top --

2 Q Lieutenant Boggs, if I can interrupt, do you
3 have a radio?

4 A I'm sorry, I apologize. That's a habit.

5 Q That's all right.

6 A I could see the top of the head over the
7 bottom of the deck. The male I was looking at was
8 in a squatted position slightly behind this van,
9 more or less in this corner position right here.

10 Q Okay.

11 A Once I seen there was a male squatted down on
12 the side of the deck I asked him to stand up, raise
13 his hands. Myself and Captain Scott with guns
14 drawn, Corporal Hammett, I could just see the edge
15 of his gun coming around the side of this corner
16 here as he was peeping around the building back
17 toward Mr. Vandross. I give more command for Mr.
18 Vandross to walk out, raise his hands. I
19 emphasized that probably two times or more, "Raise
20 your hands high."

21 Q If I could interrupt just a minute and show
22 you State's Exhibit 14 for identification.
23 Lieutenant Boggs, do you recognize State's Exhibit
24 14 for identification?

25 A Yes, sir. That was the general area where

JAMES ALTON BOGGS, JR. - DIRECT

1 Mr. Vandross was standing when I first saw him.

2 Q All right. If you would, please, using the
3 pointer, would you please show the jury where the
4 defendant was standing when you encountered him?

5 A He would have been in this area right here.

6 Q All right. Okay, thank you. Please
7 continue.

8 A At that time I asked Mr. Vandross to raise
9 his hands, raise them high. I took a better
10 vantage point where I could see more, came around
11 to the side of the deck this way, Captain Scott
12 came with me, Corporal Hammett still had this
13 vantage right here of him. I asked him to walk
14 out. Mr. Vandross walked out. I asked him to turn
15 around. When he got turned around to where his
16 back was to me and Captain Scott, it would have
17 been up on this area, I asked him to stop. At that
18 time I asked him to place his hands on the back of
19 his head and lace his fingers. He did, and then me
20 and Captain Scott approached him, holstered up, I
21 reached up and grabbed Mr. Vandross' hand on the
22 back of his head, made contact with him, and
23 Captain Scott came up to my right side and started
24 doing a patdown. As soon as first contact Mr.
25 Vandross made a statement about the gun being in

"JAMES ALTON BOGGS, JR. - DIRECT"

1 his front pocket.

2 Q Okay. Do you recall what he said?

3 A "The gun's in my front pocket." I don't
4 recall him saying right or left, I can just
5 remember him saying, "The gun is in my front
6 pocket."

7 Q Had you said anything about a gun?

8 A No, sir.

9 Q Had Captain Scott said anything about a gun?

10 A No, sir.

11 Q Had Corporal Hammett said anything about a
12 gun?

13 A No, sir.

14 Q And he said, "The gun is in my pocket"?

15 A Yes, sir.

16 Q Okay. Please continue.

17 A After the gun was removed from his pocket by
18 Captain Scott a patdown was continued on his, on
19 his other three pockets. There was items removed
20 that I can remember seeing, flashlight, keys.

21 After his pockets were cleared, down both legs were
22 searched, I brought one hand around from the back
23 of his head and cuffed it and I brought the other
24 hand back around to the back and cuffed it.

25 Q Okay. Now, Lieutenant Boggs, do you see the

JAMES ALTON BOGGS, JR. - DIRECT

1 person that you're referring to in the courtroom
2 today?

3 A Yes, sir.

4 Q Would you please point him out?

5 A Mr. Charles Vandross, yellow tie, sitting
6 there at the defense table.

7 MR. PEACE: Your Honor, I would ask the
8 record reflect that the witness has properly
9 identified the defendant.

10 THE COURT: The record will so reflect.

11 BY MR. PEACE:

12 Q Okay, what happened after you handcuffed Mr.
13 Boggs?

14 A Chris Hammett then took control of Mr.
15 Vandross and Captain Scott told him to take him
16 around front to the patrol car. He turned to me
17 and the conversation was, "Let's clear the house
18 for the victim,, or just, "Let's clear the house."

19 Q And did you do that?

20 A Yes, sir, we did.

21 Q And how did you do that?

22 A We come up on this porch here, deck, the back
23 deck. This door here had a screen door. The
24 screen door was closed, the wooden door was
25 probably two foot open.

JAMES ALTON BOGGS, JR. - DIRECT

1 Q Was the screen door locked?

2 A No, sir.

3 Q Okay. What did you do next?

4 A Myself and Captain Scott, we came into the
5 house, we started clearing the main room here. We
6 cleared it around to one side, and then when we got
7 to these hallways here, two bedrooms on both sides,
8 we cleared those, back around, the kitchen area.
9 As we come around through here this door here to
10 the bedroom was a locked door. There was a TV
11 blaring on the inside of the room, the door was
12 locked. After moving past it to this area, it
13 being cleared, we went back to the locked door. I
14 knocked and announced who I was. No one answered.
15 I immediately backed up and kicked the door in.

16 Q All right.

17 MR. PEACE: Lieutenant Boggs, if I could
18 interrupt you for just one moment.

19 Your Honor, the State would move State's
20 Exhibit 14 for identification be admitted as
21 State's Exhibit 14.

22 MR. SHEEK: No objection.

23 THE COURT: Without objection Number 14 is
24 part of the evidence in the case.

25 (Photograph marked and received in evidence

JAMES ALTON BOGGS, JR. - DIRECT

1 as State's Exhibit Number 14).

2 BY MR. PEACE:

3 Q I now show you what has been marked as
4 State's Exhibit 13 for identification and ask you,
5 Lieutenant Boggs, if you recognize State's Exhibit
6 13 for identification?

7 A Yes, sir. That would be the door frame to
8 the bedroom door, where it was locked. The picture
9 you are looking at is the result of the damage from
10 me kicking the door open.

11 Q Did you personally kick that door in?

12 A Yes, sir, I did.

13 Q All right. And what happened? What, if
14 anything, happened after you went into the bedroom?

15 A As soon as the door swung open the first
16 thing you could see, the bed was just right inside
17 the door, there was a male laying on the bed, with
18 a wound to his head. They had a TV at the foot of
19 the bed, a preacher was preaching, turned up very
20 loud.

21 Myself and Captain Scott, we entered the
22 room, the bedroom. You could just about see the
23 whole room as you come in. There is one area here
24 had just about a four foot high partition wall and
25 it was like a half bath. We cleared this room,

JAMES ALTON BOGGS, JR. - DIRECT

1 walked around the bed. I looked at Mr. Best. Mr.
2 Best was not breathing, his wound seemed to be a
3 fatal shot. I then called for the investigators
4 and I treated the incident then as a crime scene
5 and it was secured.

6 Q Okay. Could you describe the appearance of
7 Mr. Best?

8 A Mr. Best was laying on his back, his head was
9 on a pillow, there was a Bible in close proximity
10 to his body. I can't remember if it was laying on
11 him or just off to the side. Another pillow laying
12 beside Mr. Best. It was touching the shoulder,
13 body of Mr. Best.

14 MR. PEACE: If I could interrupt just one
15 moment, Your Honor. The State would move State's
16 Exhibit 13 for identification be admitted as
17 State's Exhibit 13.

18 MR. SHEEK: No objection.

19 THE COURT: Without objection Number 13 is
20 part of the evidence in the case, ladies and
21 gentlemen.

22 (Photograph marked and received in
23 evidence as State's Exhibit Number 13).

24 BY MR. PEACE:

25 Q I now show you what has been marked State's

JAMES ALTON BOGGS, JR. - DIRECT

1 Exhibit 57 for identification and ask you if you
2 recognize State's Exhibit 57?

3 A That would be the bed area, the pillow.

4 Q All right. Would you mind using your pointer
5 and showing the jury where the pillow is?

6 A The pillow is right here, then Mr. Best, and
7 I think there is a pillow right here.

8 Q Thank you. Please continue. What did you do
9 after that?

10 A There was not a lot other than just securing
11 the house, the room. I stayed on the scene, in the
12 house until investigators did arrive, until the
13 scene was turned over to our crime scene
14 investigator personnel.

15 Q Lieutenant Boggs, if I could direct your
16 attention back to State's Exhibit 57 for
17 identification, can you tell us what that is on the
18 pillow?

19 A All this is blood saturation, it's a head
20 wound, a lot of blood.

21 Q All right, thank you.

22 MR. PEACE: Your Honor, the State would move
23 State's Exhibit 57 for identification be admitted
24 as State's Exhibit 57.

25 MR. SHEEK: No objection.

JAMES ALTON BOGGS, JR. - DIRECT

1 THE COURT: Number 57 is admitted into
2 evidence, ladies and gentlemen.

3 (Photograph marked and received in
4 evidence as State's Exhibit Number 57).

5 BY MR. PEACE:

6 Q All right. Did you find anything in the
7 bathroom when you checked the bathroom?

8 A As I was going back, the room was secured,
9 back in here, the first initial search, you go
10 through, you are looking obviously for either
11 victims or suspects, and after not seeing a person,
12 when this area here was quarantined off, on this
13 wall right here, the partition wall, on this side
14 there was bloody markings and I could make out the
15 word Charles, and like I said, there was other
16 writing but it was mostly scribbled and it was a
17 lot of distortion to it.

18 Q Now, Lieutenant Boggs, you have testified
19 about being with Captain Scott?

20 A Yes, sir.

21 Q Where is Captain Scott today?

22 A Captain Scott is retired from the Sheriff's
23 Department and doing a term in Iraq.

24 Q Now, were you with Captain Scott the whole
25 time that you were in and around the house?

JAMES ALTON BOGGS, JR. - DIRECT

1 A Yes, sir. Me and Captain Scott was together
2 when we cleared the house.

3 Q All right.

4 MR. PEACE: Thank you, Lieutenant Boggs. I
5 have no further questions. Please answer any
6 questions Mr. Sheek may have.

7 THE COURT: Cross-examination.

8 MR. SHEEK: Thank you, Your Honor.

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JAMES ALTON BOGGS, JR. - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Good afternoon, Lieutenant Boggs.

A Mr. Sheek.

Q Now, as I understand it, you were not the investigator on this particular incident, were you.

A No, sir, I was not.

Q So, your duties would not have included taking statements, gathering evidence or anything of that nature?

A No, sir. That's not my duty.

Q Once Mr. Vandross was taken into custody and you went in the house, obviously to secure it, correct?

A Yes, sir.

Q You kicked in the door to the bedroom?

A Yes, sir.

Q Once you had checked on Mr. Best you said you considered it a crime scene so you secured the scene?

A Yes, sir.

Q From that point on would there have been anyone allowed to alter, move, change anything prior to the evidence technician getting there?

A No, sir, absolutely not.

JAMES ALTON BOGGS, JR. - CROSS

1 Q And the evidence technician at this time
2 would have been Deputy Inks, is that correct?

3 A Eric Inks.

4 Q And the decision on what evidence to gather
5 and how to gather it, preservation, all that was
6 left up to Inks, not your decision?

7 A No, sir, it wouldn't be my decision and I
8 wouldn't have knowledge to tell you it was
9 primarily Eric Inks' decision.

10 Q Okay. When you kicked the door in to the
11 bedroom could you see Mr. Best's body laying there?

12 A Yes, sir.

13 Q And there was no pillow over his head when
14 you went in, was there?

15 A No, sir.

16 Q Did you see this paperwork laying on the bed
17 beside Mr. Best?

18 A I did notice some paperwork that was laying,
19 I think, toward the bottom of the bed.

20 Q But that wasn't placed or moved or changed by
21 you, was it?

22 A No, sir, it wasn't.

23 MR. SHEEK: Thank you. That's all.

24 THE COURT: Anything on redirect?

25 MR. PEACE: No redirect, Your Honor. I would

JAMES ALTON BOGGS, JR. -- CROSS

1 ask that Lieutenant Boggs be allowed to continue
2 his duties. He is on duty today.

3 MR. SHEEK: No objection.

4 THE COURT: Any objection?

5 MR. SHEEK: No, sir.

6 THE COURT: Thank you, Lieutenant. Come
7 down, please. You may stay with us or leave the
8 building, as you wish.

9 THE WITNESS: I would like to leave, I've got
10 to get back to work.

11 (Witness excused).

12 THE COURT: Call your next witness, please.

13 MR. PEACE: Thank you, Your Honor. If it
14 please the Court, the State would next call Jan
15 Owens to the stand.

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JAN OWENS - DIRECT

1 JAN OWENS,
2 after being first duly sworn testified as follows:

3 THE COURT: You may examine, Solicitor.

4 MR. PEACE: Thank you Your Honor.

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. PEACE:

7 Q Would you please state your name for the
8 record?

9 A Jan Owens.

10 Q Would you please spell it for the court
11 reporter?

12 A J-a-n, O-w-e-n-s.

13 Q All right. Miss Owens, do you know JoAnn
14 Suber Wilson?

15 A Yes, sir.

16 Q And how do you know her?

17 A She's my friend.

18 Q And how long has she been your friend?

19 A For about seven or eight years.

20 Q Do you know the defendant in this case?

21 A Yes, I do.

22 Q And who is the defendant?

23 A He at one time was --

24 Q Who is he, what is his name?

25 A Charles Vandross.

JAN OWENS - DIRECT

1 Q How do you know him?

2 A I knew Charles before I knew that him and
3 JoAnn were dating.

4 Q Okay. Where did you meet him?

5 A I met Charles in Columbia at a case
6 management training for the job.

7 Q Okay. And how did you come to find out that
8 he was dating Miss Wilson?

9 A JoAnn had went to a church function, some
10 type of thing that her children were in, and she
11 came back and she was talking about this guy that
12 she had met and she mentioned the name and I said,
13 "Well, that seems like the person that I know," and
14 so she was going to his church, I think it was the
15 following Sunday, and she asked me to go with her
16 and I told her, I said, "Yes, I want to go because
17 I want to see if it's the same person that I know."
18 And when we got there it was.

19 Q And where was this church?

20 A In Greenville.

21 Q Did you speak with the defendant at that
22 time?

23 A Yes, I did.

24 Q Okay. What did you say to him?

25 A Just asked him how he was doing and, you

JAN OWENS - DIRECT

1 know, we had a casual conversation.

2 Q Did he recognize you?

3 A Yes, he did.

4 Q All right. What contact did you have with
5 the defendant after that?

6 A After that he started, I guess, visiting
7 JoAnn and I would see him often when he came to
8 visit her.

9 Q Where would you see him?

10 A At her house.

11 Q Would you have any contact with him; did you
12 talk to him?

13 A Yes, when he came to the house.

14 Q All right. And how many times would you say
15 that you saw him at JoAnn's house?

16 A Oh, numerous times.

17 Q I'm sorry?

18 A Numerous times, oh, ten, twenty.

19 Q Okay. All right. Did you continue to be
20 friends with JoAnn?

21 A Yes, I did.

22 Q Did you ever have dinner at JoAnn's house,
23 with the defendant?

24 A We had a small cookout one time.

25 Q All right. What kind of relationship would

JAN OWENS - DIRECT

1 you say Mrs. Wilson had with the defendant?

2 MR. SHEEK: Objection.

3 A I was scared --

4 MR. SHEEK: Objection, Your Honor. We have a
5 matter.

6 THE COURT: The objection is grounded on?

7 MR. SHEEK: Rule 404 of the rules.

8 THE COURT: How says the State?

9 MR. PEACE: I'm sorry?

10 THE COURT: What say you, Solicitor?

11 MR. PEACE: Well, she knows the defendant,
12 she knows Mrs. Wilson, she's had contact with both
13 of them, she's had exposure to the relationship and
14 if she can tell the Court what type relationship
15 they had, then she can tell the Court what type
16 relationship.

17 THE COURT: The objection is overruled. Of
18 course it's subject to cross-examination, counsel.

19 MR. SHEEK: Yes, sir.

20 BY MR. PEACE:

21 Q If you can, Mrs. Owens, would you tell the
22 Court what kind of relationship Mrs. Wilson had
23 with the defendant?

24 A I would say that it was a very tedious and
25 scared relationship because Charles had to have

JAN OWENS - DIRECT

1 control. He wanted control of not only JoAnn, he
2 wanted control of everybody that was around and if
3 you didn't follow his rules or what he wanted, then
4 he had this little stand-offish attitude.

5 Q Did his relationship with Mrs. Wilson affect
6 your relationship with Mrs. Wilson?

7 A Yes, it did.

8 Q And how did it do that?

9 A After a while, you know, it was like when
10 JoAnn and myself would go, we would go a lot of
11 times to the yard sales, to shopping, I have boys,
12 JoAnn has boys, we would do a lot of things
13 together and when we would leave it was just a
14 constant telephone call, "Where are you, what are
15 you doing, who are you talking to," and eventually
16 I just told her, I said, "JoAnn, you know, I think
17 I need to back off," because it was like he thought
18 I was maybe getting her involved in something else
19 or meeting somebody, and I eventually backed off.

20 Q Would you describe the defendant as being
21 jealous?

22 A Yes, I would.

23 MR. SHEEK: Your Honor, again I object.
24 Under Rule 404 clearly character evidence is
25 inadmissible unless the defendant testifies.

JAN OWENS - DIRECT

1 THE COURT: Solicitor?

2 MR. PEACE: Your Honor, this situation shows
3 motive, so that's an exception to 404.

4 MR. SHEEK: Absolutely not an exception to
5 404.

6 THE COURT: The objection is overruled.

7 BY MR. PEACE:

8 Q Now, Miss Owens, did Mrs. Wilson call you
9 about going to the football game on November the
10 3rd, 2004?

11 A Yes, she did.

12 Q Did you go to that football game with her?

13 A Not with her.

14 Q Okay. Why did you not go with her?

15 A Because I had to go pick my son up from home.

16 Q Did you go to the football game?

17 A Yes, I did.

18 Q What, if anything, happened at the football
19 game?

20 A I don't understand.

21 Q All right. Did you see the defendant at the
22 football game?

23 A Yes, I did.

24 Q Would you please tell the jury the
25 circumstances surrounding your seeing the defendant

JAN OWENS - DIRECT

1 at the football game?

2 A Okay. On November 4th I was at the football
3 game, JoAnn was there, my son was playing, her son
4 was playing. I went outside of the gate to go to
5 the restroom and on my way back I saw Charles
6 walking from the parking lot. I was talking to
7 another friend standing right at the entrance to go
8 back into the football field and he came and he
9 stood where I was with the other person that I was
10 talking with and he spoke. I spoke, he spoke
11 again, I spoke again. He got in my face and said,
12 "I said hello," and I said, "I spoke twice
13 already." He left from where I was standing, went
14 inside the gate, he stood at the corner of the
15 riser and begged for JoAnn, she shook her head.

16 Q What do you mean he begged for JoAnn?

17 A Like come here.

18 Q Okay.

19 A And she shook her head. He did it again.
20 She shook her head. He dropped his head and walked
21 off with his hands in his pockets and left.

22 Q Now, Mrs. Owens, had you allowed Sanford Best
23 to park his automobile at your house?

24 A Yes, I did.

25 Q And when did you do that?

JAN OWENS - DIRECT

1 A That was on that Monday and that Tuesday.

2 Q Okay. Now, if you will bear with me just one
3 second, I show you State's Exhibit 17 and ask if
4 you recognize that?

5 A Yes, sir.

6 Q And what is that diagram?

7 A It's Highway 10, Promise Land.

8 Q If you would, please, take the pointer that's
9 available and if you could show the jury where your
10 house was located on that aerial photograph.

11 A Right there.

12 Q All right. And if you would, show the jury
13 where Mrs. JoAnn Wilson's house is located.

14 A There.

15 Q Okay, thank you. Now, Mrs. Owens, why did
16 you allow Mr. Best to park his automobile at your
17 house?

18 A Because I knew of past incidents of how
19 Charles reacted and things he did, that she was not
20 going to get any rest, it was a constant, "Can I
21 talk to you," so that's the reason that I let him
22 park there, because I knew she wasn't going to get
23 any rest.

24 Q Now, did he park there on Wednesday night,
25 November the 3rd?

JAN OWENS - DIRECT

1 A No, he did not.

2 Q And why did he not park there?

3 A He did not park there because I received a
4 phone call from another friend, Mrs. Sherry
5 McCauley, that stated that Charles had been --

6 MR. SHEEK: Objection, hearsay.

7 THE COURT: Sustained.

8 Q Without telling us what Mrs. McCauley told
9 you, please tell us what you did.

10 A Okay. Upon receiving the phone call I in
11 turn called JoAnn and I said, "JoAnn, I don't think
12 it's a good idea for Sanford to park his car at my
13 house."

14 Q And why did you do that?

15 A Why?

16 Q Yes.

17 A Because of the phone call, because of the
18 conversation that was delivered to me.

19 Q What were your feelings as a result of that
20 phone call?

21 A Scared. I was scared for my life.

22 Q Now, did you talk to JoAnn Wilson on the
23 morning of November the 4th?

24 A Yes, I did.

25 Q About what time was that?

JAN OWENS - DIRECT

1 A Around 7:00 o'clock.

2 Q Okay. What was the nature of that phone
3 call?

4 A JoAnn called; I answered my phone and she
5 said, "Call my mother and tell her to come." I
6 said, "JoAnn, I do not have your mother's phone
7 number." She rattled the phone number off and hung
8 the phone up.

9 Q Was that the extent of the conversation?

10 A That was it.

11 Q Did you call her mother as a result?

12 A Yes, I did.

13 Q And what did you tell her mother?

14 A I said, "Miss Loretta, this is Jan, I'm
15 calling you because JoAnn called me and told me to
16 call you and tell you to come."

17 Q And what did you do after that?

18 A I proceeded to get ready for work and take my
19 children to school.

20 Q All right. Did you pass by 3938 McCormick
21 Highway?

22 A Yes, I did.

23 Q And what did you see at that time?

24 A At that time I saw a lot of lights, the
25 sheriff's cars, and I slowed down, I wound my

JAN OWENS - DIRECT

1 window down and JoAnn was inside of the sheriff's
2 car with the door open and I said, "What happened,"
3 and she said, "He killed him," and I said, "Who,"
4 and she said, "Charles killed Sanford."

5 MR. PEACE: Thank you, Mrs. Owens. I have no
6 further questions. Please answer any questions Mr.
7 Sheek may have.

8 THE COURT: Cross-examination, counsel.
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JAN OWENS - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Miss Owens, the night of the football game where was it you said you saw Mr. Vandross?

A I was standing outside of the gate from the football field.

Q Was this the beginning of the game, end of the game, when was this?

A Right at probably, probably the middle.

Q And you saw Mr. Vandross walking from where?

A The parking lot.

Q Did it appear he was just coming into the game?

A Yes.

Q Okay. And you saw him motioning to JoAnn?

A Not from the parking lot.

Q No, ma'am. Where did you see him motion to JoAnn from?

A He went inside the gate where the football field was, where the risers are.

Q Yes, ma'am.

A And he stood beside the risers and he begged for her.

Q JoAnn was already there when he got there, according to your testimony?

- JAN OWENS - CROSS

1 A Correct.

2 Q And he motioned for her to come down?

3 A Correct.

4 Q She shook her head no?

5 A Correct.

6 Q He motioned again?

7 A Yes.

8 Q She shook her head no again?

9 A Correct.

10 Q Where did he go after that?

11 A He left.

12 Q Okay. No sitting up there in the stands
13 staring at her, that kind of stuff, was it?

14 A No, but he stared at her when he was at the
15 riser.

16 Q No sitting up there in the bleachers, he
17 never did that, according to your testimony?

18 A No, I don't remember that, sir.

19 Q Will, I mean, after that second motion,
20 according to your testimony, he hung his head and
21 left. I mean, how long transpired between the
22 second motion and him leaving?

23 A I'm going to say maybe, maybe three to four
24 minutes.

25 Q You are going to say how long?

JAN OWENS - CROSS

- 1 A Maybe three to four minutes.
- 2 Q And what was the date of this again?
- 3 A Excuse me?
- 4 Q What was the date of that again?
- 5 A That Monday:
- 6 Q The date?
- 7 A Excuse me?
- 8 Q What was the date of that game again?
- 9 A The 4th.
- 10 Q Okay. Now, you say Jan called you that
- 11 morning and told you to call her mother?
- 12 A No, Jan didn't call me, I'm Jan.
- 13 Q JoAnn called you that morning?
- 14 A Yes.
- 15 Q Did you ask her why?
- 16 A No, I didn't.
- 17 Q Did you ask her anything?
- 18 A No.
- 19 Q You didn't call her back, did you?
- 20 A No.
- 21 Q Now, in getting ready for this testimony what
- 22 have you done to prepare?
- 23 A What do you mean, what have I done?
- 24 Q I will -- I mean, just about 30 or 45 minutes
- 25 ago were you standing downstairs with Mr.

JAN OWENS - CROSS

1 Strickland from the Solicitor's office and JoAnn
2 going over JoAnn's testimony?

3 A No, sir.

4 Q Oh, really? What were you all talking about?

5 A In general?

6 Q No, ma'am, specific.

7 A In specific what were we talking about?

8 Q Yes, ma'am.

9 A Mr. Strickland asked me how was my daddy. He
10 asked me did I go to work.

11 Q And it's your testimony that conversation
12 about the testimony never came up?

13 A No, sir, it did not.

14 MR. SHEEK: I've got nothing further.

15 THE COURT: Redirect?

16 MR. PEACE: Just a couple questions, Your
17 Honor.

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JAN OWENS - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. PEACE:

Q Now, Mrs. Owens, do you know how long JoAnn Wilson had been at the football game when you got there?

A No, sir, I do not.

Q Do you know how long the defendant had been at the football game when you got there?

A The defendant was not there before I got there. I was already at the football game and he came.

Q All right.

MR. PEACE: Thank you. No further questions.

THE COURT: Recross?

MR. SHEEK: Nothing further, Your Honor.

THE COURT: Thank you. Come down, please. Watch your step, take your time.

(Witness excused).

THE COURT: Call your next witness if you have a short witness.

MR. PEACE: I don't have one ten minutes or less, Your Honor.

THE COURT: All right. Mr. Foreman, ladies and gentlemen, we will take a luncheon recess at this time. Please do not discuss the case by,

1 between and among yourselves nor with any other
2 person. If anyone does innocently ask you about
3 the case or discuss the case please tell them that
4 you are a juror and you may not discuss the case
5 and ask them not to talk around you about the case,
6 of course. Disregard anything that they may
7 innocently say.

8 If after you alert or make aware anyone that
9 you are a juror in this case they persist or
10 continue to talk with you or ask you about the
11 case, then that would be highly irregular and wrong
12 and illegal and you should use every measure that
13 we have already discussed to identify any such
14 person or persons and report that to one of the
15 bailiffs immediately upon your return to the
16 courtroom.

17 If there were to be any media coverage of the
18 trial, such as newspaper, television or radio, as
19 soon as you recognize and are cognizant that such
20 newspaper or radio or television coverage involves
21 this trial it's your responsibility to disregard
22 such information completely and absolutely, as you
23 must decide the facts of this case only and
24 exclusively upon the evidence that's revealed to
25 you in the walls of this courtroom and upon nothing

1 else whatsoever.

2 Have a pleasant lunch and be back at 2:30.

3 We do have some other business. Now, if you come
4 in and if you see or hear something going on when
5 you re-enter just quietly come along the wall and
6 go into the jury room and enjoy some refreshments
7 and/or fellowship with your fellow jurors. Do not
8 discuss the case but whatever might be going on
9 when you return does not involve this matter, so if
10 you hear any words said that you think could
11 involve this case it does not involve this case, we
12 have something completely different to do before we
13 reconvene at 2:30.

14 Thank you very much, Mr. Foreman, ladies and
15 gentlemen. You are excused, everybody else remain
16 seated.

17 (The jury was excused from the courtroom).

18 THE COURT: Is there anything from the State
19 before the record is closed for lunch?

20 MR. PEACE: Nothing from the State, Your
21 Honor.

22 THE COURT: From the defense?

23 MR. SHEEK: Nothing from the defense, Your
24 Honor.

25 THE COURT: Thank you. We're in recess in

1 this case until 2:30, please.

2 (Recessed at 12:52 p.m.).

3 (Reconvened at 2:33 p.m.).

4 THE COURT: Is the State ready?

5 MR. PEACE: The State's ready, yes.

6 THE COURT: Is the defense ready? Take your
7 time in conference.

8 MR. SHEEK: Sir?

9 THE COURT: Is the defense ready?

10 MR. SHEEK: The defense is ready.

11 THE COURT: The record is open, State of
12 South Carolina versus Charles Nemon Vandross,
13 indictment 2004-1187.

14 Is there anything from the State before the
15 jurors are shown in, please?

16 MR. PEACE: No, sir.

17 THE COURT: From the defense?

18 MR. SHEEK: No, sir.

19 THE COURT: Thank you. Show the jury in.

20 (The jury returned to the courtroom).

21 THE COURT: All the jurors are present, with
22 the foreman and alternates properly seated. The
23 matter lies with the State. Call your next
24 witness.

25 MR. PEACE: Thank you, Your Honor. If it

1 please the Court, the State would next call Loretta
2 Benson to the stand.

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LORETTA BENSON - DIRECT

1 LORETTA BENSON,
2 after being first duly sworn testified as follows:

3 THE COURT: You may examine.

4 MR. PEACE: Thank you, Your Honor. If it
5 please the Court.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. PEACE:

8 Q Would you please state your name for the
9 record?

10 A Loretta Benson.

11 Q Mrs. Benson, where are you employed?

12 A I'm not employed, I'm retired.

13 Q Where are you retired from?

14 A From the State of South Carolina, Whitten
15 Center, as a nurse.

16 Q Are you related to JoAnn Wilson?

17 A Yes, I am.

18 Q How are you related?

19 A She's my daughter.

20 Q Mrs. Benson, on the morning of November the
21 4th, 2004, did you receive a telephone call from
22 Jan Owens?

23 A Yes, I did.

24 Q And about what time was that telephone call?

25 A I don't remember but I know it was, it seems

LORETTA BENSON - DIRECT

1 like it was after 7:00 o'clock, maybe after 7:00,
2 somewhere later after 7:00, about 7:15, before
3 7:30.

4 Q And what was the nature of that telephone
5 call?

6 A Jan called me and she said, "Miss Loretta --"
7 MR. SHEEK: Objection to the hearsay.

8 THE COURT: Sustained.

9 MR. PEACE: Your Honor, if I may, under 803,
10 803(1) the State would maintain it's an admissible
11 utterance made while the declarant was perceiving
12 the event or condition or immediately thereafter.
13 Mrs. Owens testified that she received the phone
14 call from Mrs. Wilson and that after she received
15 that phone call that she immediately called the
16 witness, and so it was immediately thereafter.

17 THE COURT: The objection is sustained. As
18 to the events related to her by another party, she
19 did not perceive it.

20 MR. PEACE: Thank you, Your honor.

21 BY MR. PEACE:

22 Q Did you receive a phone call from Jan Owens?

23 A Yes, I did.

24 Q Was that on the morning of November 4th,
25 2004?

LORETTA BENSON - DIRECT

1 A Yes, it was.

2 MR. PEACE: Thank you. I have no further
3 questions.

4 THE COURT: Cross-examination?

5 MR. SHEEK: No questions, Your Honor.

6 THE COURT Thank you. Come down.

7 (Witness excused).

8 THE COURT: Call your next witness, please.

9 MR. PEACE: Thank you, Your Honor. If it
10 please the Court, the State would next call Sherry
11 McCauley to the stand.

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SHERRY McCAULEY - DIRECT

1 SHERRY McCAULEY,
2 after being first duly sworn testified as follows:

3 THE COURT: You may examine, Solicitor.

4 MR. PEACE: Thank you, Your Honor. If it
5 please the Court.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. PEACE:

8 Q Would you please state your name for the
9 record?

10 A My name is Sherry McCauley.

11 Q All right. Miss McCauley, do you have
12 laryngitis today?

13 A I've got a cold.

14 Q Okay. Would you please pull that microphone
15 up to you, we'll see if that will carry your voice
16 better.

17 Could you spell your name for the court
18 reporter?

19 A S-h-e-r-r-y, M-c-C-a-u-l-e-y.

20 Q All right. Miss McCauley, where are you
21 employed?

22 A Self Regional Healthcare.

23 Q Do you know JoAnn Wilson?

24 A Yes, sir, I do.

25 Q How do you know her?

SHERRY MCCAULEY - DIRECT

1 A She's my friend.

2 Q Do you know Charles Vandross?

3 A Yes, I do.

4 Q How do you know him?

5 A He was at one time JoAnn's boyfriend.

6 Q If you see him in the courtroom would you
7 please point him out?

8 A Right there.

9 MR. PEACE: Your Honor, the State would ask
10 for the record to reflect the witness has
11 identified the defendant.

12 THE COURT: The record shall reflect. Lean
13 up as closely as you can, your voice is not in good
14 shape at all. We're all sorry and empathetic of
15 that.

16 MR. PEACE: Thank you, Your Honor.

17 BY MR. PEACE:

18 Q Miss McCauley, how do you know the defendant?

19 A He was once JoAnn's boyfriend.

20 Q Did you have an opportunity to speak with the
21 defendant in November of 2004?

22 A Yes, I did.

23 Q Okay. Exactly when did you speak with him?

24 A I spoke with him the day before he killed
25 Sanford.

SHERRY McCAULEY - DIRECT

1 MR. SHEEK: Objection, move to strike.

2 THE COURT: That's well appreciated but the
3 Court couldn't understand what she said.

4 MR. SHEEK: I believe the answer was when did
5 she speak to him, she said the day before he killed
6 Sanford Best. Is that correct?

7 THE WITNESS: That's correct, he came to my
8 house.

9 THE COURT: "He came to my house,"
10 that's admissible. Anything other than that the
11 jury will disregard completely and absolutely, it
12 is not evidence.

13 BY MR. PEACE:

14 Q Miss McCauley, can you give us a date he came
15 by your house?

16 A I don't remember the date but it must have
17 been November the 3rd.

18 Q All right. Where do you live?

19 A 203 Morton Road, Promise Land.

20 Q Has he ever been to your house before?

21 A One time when JoAnn brought him and
22 introduced him to me and my mother-in-law.

23 Q Are you okay?

24 A Yes.

25 THE COURT: Would water be of help?

SHERRY McCAULEY - DIRECT

1 THE WITNESS: Huh-uh (negative). I can write
2 it down.

3 THE COURT: All right. If there is any
4 difficult she can write it down and it will be
5 repeated by a disinterested party.

6 MR. PEACE: Okay.

7 BY MR. PEACE:

8 Q Now, Miss McCauley, did the defendant call
9 you before he came by your house on November the
10 3rd?

11 A No.

12 Q Did he just show up?

13 A He just showed up at the door.

14 Q What happened after he showed up?

15 A He asked me could I come outside and talk to
16 him a minute and I told him I would, and I went
17 outside and sat on the porch and talked to him.

18 Q Okay. What was the subject of the
19 conversation?

20 A He told me that JoAnn had put him out again.

21 Q I'm sorry, JoAnn had done what?

22 A Had put him out again, and I told him, he
23 said she had caused him to lose all the man in him,
24 that he didn't know why she didn't love him no
25 more, and I told him, I said, "Charles, if JoAnn

SHERRY McCAULEY - DIRECT

1 don't love you, then you need to go on back to
2 Greenville and be with your family."

3 Q Okay. And what else happened after that
4 conversation?

5 A I told him, I said, "Charles, I got to go
6 finish cooking my husband's dinner and don't do
7 nothing rash," I said, "If you need to talk to me,"
8 I gave him my work number and told him to call me
9 at work and when he left he told me he didn't know
10 what he was going to do, and I didn't hear from him
11 no more.

12 Q Did he seem to be upset when he was speaking
13 with you?

14 A He seemed to be upset. He mainly talked
15 about how he had watched JoAnn every morning to
16 take Sanford to catch his ride and how he knewed
17 ever move she make.

18 Q Okay. Now, what if anything did you do after
19 the defendant left your house?

20 A I called JoAnn and told her I was scared for
21 her life.

22 Q And why were you scared for her life?

23 A It was just the look in his eyes. Charles
24 was very jealous and very controlling of JoAnn, he
25 don't want her to fool with none of us, he wanted

SHERRY McCAULEY - DIRECT

1 JoAnn completely to himself. When she would fool
2 with someone he would always stand back and fold
3 his arms and look real, look real, like if you
4 don't come on I'm going to do something to you. He
5 was a very scary person; I was afraid of him.

6 He would even do the same thing at church.
7 All of us sings in the choir, she would be leading
8 a song in the choir, sometimes he would even stop
9 singing and just stand back there with arms folded
10 and look at her like, you know. Something is wrong
11 with him.

12 MR. PEACE: Thank you, Miss McCauley. Those
13 are all the questions I have. Please answer any
14 questions Mr. Sheek may have.

15 THE COURT: Cross-examination.

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SHERRY MCCAULEY - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Miss McCauley --

THE COURT: Let's let her have a little water, please.

Are you ready?

All right.

Q You said he had come to your house one time before?

A One time JoAnn brought him to introduce him to me and my mother-in-law.

Q How long did he stay that day?

A Not very long.

Q And how long was he there the day that you're testifying about today?

A Twenty to thirty minutes.

Q And other than that, the only time you ever saw him other than that was at church?

A At church, yes, and sometimes on Saturday with JoAnn.

Q Well, actually you had never had a conversation with Charles until the day you are testifying about when he came to your house, right?

A Charles would never have a conversation with me. He always thought I was mean and hateful.

- SHERRY McCAULEY - CROSS

1 Q Okay. This is information being relayed to
2 you by somebody else, not by Charles, right?

3 A He told me his self he thought I was mean.

4 Q Did he tell you that on the 3rd?

5 A Huh-uh (negative), no.

6 Q Did he tell you that when he came to your
7 house before with JoAnn?

8 A No.

9 Q Well, I mean, you have had an opportunity to
10 give a sworn statement in this matter before,
11 hadn't you?

12 A We would have like general conversation but
13 just to sit down and talk with Charles like you
14 would sit down and talk with one of your friends,
15 no, I didn't talk to Charles like that.

16 Q In fact your previous sworn statement is, "I
17 had never had a conversation with Charles until he
18 came to my house that day." Is that correct?

19 A Not a conversation, conversation, no, I
20 haven't.

21 Q Okay. Now, you also just testified to Mr.
22 Peace that on that day Charles told you he had been
23 watching every move she made, he had been watching
24 everything she did?

25 A Yes.

SHERRY MCCAULEY - CROSS

1 Q I'm going to hand you a copy of your
2 transcript from your prior sworn statement. Can
3 you point to anywhere in that statement where you
4 ever said that?

5 A That stuff didn't come out in the last
6 testimony because you wouldn't let me say no more,
7 you said it was hearsay, you didn't want to hear
8 about that.

9 Q Wait a second. You are saying that Charles
10 told you this, correct?

11 A But you wouldn't let me talk--

12 Q No, ma'am.

13 A -- at the last testimony, at the last trial.

14 Q No, ma'am. That's a yes, then, there is
15 nowhere in the prior statement that you --

16 A I don't understand what you are asking me.

17 Q What --

18 MR. SHEEK: I've got no more questions, Your
19 Honor.

20 MR. PEACE: Your Honor, if I may.
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SHERRY McCAULEY - REDIRECT

REDIRECT EXAMINATION

2 QUESTIONS BY MR. PEACE:

3 Q Miss McCauley, I hand you that document and
4 ask you if you recognize that document?

5 A It's my handwriting.

6 Q I'm sorry?

7 A I wrote this.

8 Q You wrote that?

9 | A Uh-huh (Affirmative).

10 Q When did you write that?

11 | A On the 3rd.

12 Q The 3rd of what?

13 A November, when Charles came to my house.

14 Q Of what year?

15 | A 2004.

16 Q Would that be November 3rd of 2004?

17 A Uh-huh (Affirmative).

18 Q Okay. Would you please read the last
19 paragraph? Is that a statement made by you,
20 written by you?

21 | A Okay.

22 Q Is that a statement written by you?

23 | A Uh-huh (Affirmative).

24 Q If you would, please read the bottom of the
25 first page, that last paragraph on the bottom of

SHERRY McCAULEY - REDIRECT

1 the first page.

2 A Here?

3 Q No, ma'am. Beginning right there, yes,
4 ma'am, if you would read that to the jury, please?

5 A "In the conversation he also talked about
6 JoAnn leaving at 5:30 to take Sanford to catch his
7 ride, he was watching her. He also talked about he
8 knows what she is doing and follows her and she
9 cheats on him with Sanford."

10 Q And did you write that statement on November
11 the 3rd, 2004?

12 A Yes, I did.

13 MR. PEACE: Okay, thank you, Miss McCauley.
14 I have no further questions.

15 THE COURT: Recross?
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SHERRY MCCAULEY - RECROSS

RECROSS EXAMINATION

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QUESTIONS BY MR. SHEEK:

Q You wrote that on the 3rd?

A Yes.

MR. SHEEK: Okay, I have no further questions.

THE COURT: Thank you. Come down. Watch your step, take your time.

(Witness excused).

THE COURT: Call your next witness, please.

MR. PEACE: Thank you, Your Honor. If it please the Court, the State would call Marc Cromer to the stand.

MARCUS TODD CROMER - DIRECT

1 MARCUS TODD CROMER,
2 after being first duly sworn testified as follows:

3 THE COURT: You may examine.

4 MR. PEACE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. PEACE:

7 Q Would you please state your name for the
8 record?

9 A My name is Marcus Todd Cromer.

10 Q Would you please spell your name for the
11 courtreporter?

12 A First name is M-a-c-r-c-u-s, middle name is
13 T-o-d-d, last name is C-r-o-m-e-r.

14 Q And, Mr. Cromer, where are you employed?

15 A I work at Greenwood County Sheriff's office.

16 Q And do you have a rank at the sheriff's
17 office?

18 A Yes, sir. I'm a captain, assigned to
19 investigations.

20 Q Were you employed by the sheriff's office on
21 November 4th of 2004?

22 A Yes, sir, I was.

23 Q What were your duties at that time?

24 A At that time I was just an investigator in
25 investigations, with a rank of sergeant. Basically

MARCUS TODD CROMER - DIRECT

1 what I did was investigate any criminal complaints
2 that were filed with the sheriff's office that
3 occurred in Greenwood County.

4 Q Did you have occasion to investigate an
5 incident that happened at 3938 McCormick Highway?

6 A Yes, I did.

7 Q What did you do in relation to that
8 investigation?

9 A On that morning when I called on duty I
10 received a phone call from Major Tony Davis to
11 respond to 3938 McCormick Highway. My instructions
12 was to assist with uniformed patrol maintaining the
13 perimeter until the criminal, until the crime scene
14 technician responded, as well as to wait for
15 further instructions from him in case he needed me
16 to do something while he was up at the sheriff's
17 office.

18 Q All right. Did you do that?

19 A Yes, sir. While I was standing by at the
20 location I received a phone call from Major Davis
21 with some information where Mr. Charles Vandross'
22 vehicle could possibly be located in the area of
23 Highway 10 and Cedar Springs Road. Corporal
24 Hammett was also on the scene and I asked for him
25 to ride the area of Cedar Springs Road and see if

MARCUS TODD CROMER - DIRECT

1 he could locate the vehicle, which was a burgundy
2 Toyota. Shortly after he left the scene he
3 contacted me and advised he had found a burgundy
4 Toyota parked at A. M. Tuck, Incorporated, off
5 Cedar Springs Road, at the entrance.

6 Q What did you do when you got that
7 information?

8 A I met with him at the location and ran the
9 license plate through the Department of Motor
10 Vehicle files and verified that vehicle was in fact
11 registered to Charles Vandross. At that time
12 Corporal Hammett give me the set of keys that he
13 retrieved off Mr. Vandross' person earlier, it was
14 a blue key chain with three keys on it, one
15 appearing to be a car key that fit that car, as
16 well as two what appeared to be house keys. I just
17 basically inspected the exterior of the vehicle,
18 did not make entry into the vehicle at that time.
19 I could tell by looking through the windows the two
20 doors on the driver's side was unlocked. I left
21 that location with Corporal Hammett and Lieutenant
22 Evans standing by the vehicle and went up to the
23 sheriff's office to write a search warrant to have
24 it signed to go back and search the vehicle.

25 Q Captain Cromer, if I could direct your

MARCUS TODD CROMER - DIRECT

1 attention to State's Exhibit 17 and ask you if you
2 recognize that diagram?

3 A Yes, sir. That's an aerial photograph
4 showing the incident location of 3938 McCormick
5 Highway, or Highway 10, as well as the location
6 where Mr. Vandross' vehicle was found at A. M.
7 Tuck, Incorporated.

8 Q Okay. Is the pointer up there?

9 A Yes, sir.

10 Q Would you please use the pointer and show the
11 jury where the vehicle was located?

12 A The vehicle was located right there.

13 Q Do you know how far that is from 3938
14 McCormick Highway?

15 A It's approximately .5 miles, half a mile.

16 Q All right. I show you State's Exhibit 20 for
17 identification and ask you if you recognize that?

18 A Yes, sir. That's a photograph of Mr.
19 Vandross' vehicle there the way we found it where
20 it was parked.

21 Q All right. Did you take that photograph?

22 A Yes, sir, I did.

23 Q Okay. I will show you State's Exhibit 21 for
24 identification and ask you if you recognize that?

25 A Yes, sir. It's a picture of the same

MARCUS TODD CROMER - DIRECT

1 vehicle, the way it was parked, from a different
2 angle.

3 Q All right. Did you take that photograph?

4 A Yes, sir.

5 Q I show you what has been marked as State's
6 Exhibit 22 for identification and ask you if you
7 recognize that?

8 A Yes, sir. That's a photograph of the
9 contents located in the back seat and the back
10 floorboard of that vehicle, specifically a
11 multi-colored, I believe dark brown and light brown
12 sweater on the back seat, as well as a pair of
13 sneakers and socks that was in the floorboard
14 behind the driver's side.

15 Q I show you what has been marked as State's
16 Exhibit 24 for identification and ask you if you
17 recognize that photograph?

18 A Yes, sir. That's a Social Security card in
19 the name of Charles Nemon Vandross that I located
20 out of the glove compartment of his vehicle.

21 Q I show you what has been marked State's
22 Exhibit 25 for identification and ask you if you
23 recognize that photograph?

24 A Yes, sir. I also retrieved this document out
25 of the glove compartment of Mr. Vandross' vehicle.

MARCUS TODD CROMER - DIRECT

1 It is a receipt which appears to be from Pinetree
2 Apartments, it states for the October rent of 2004
3 and the name of Charles Vandross, and it appears to
4 be apartment number 111-H, hotel.

5 MR. PEACE: All right. Your Honor, the State
6 would move State's Exhibits 20, 21, 22, 24 and 25
7 for identification be admitted as State's Exhibits
8 20, 21, 22, 24 and 25.

9 MR. SHEEK: No objection.

10 THE COURT: Without objection, the exhibits
11 numbered and stated by the Solicitor will become
12 evidence in the case, ladies and gentlemen..

13 (Photographs marked and received in evidence
14 as State's Exhibits 20, 21, 22, 24 and 25).

15 BY MR. PEACE:

16 Q All right. Captain Cromer, you testified
17 that you obtained some keys from Corporal Hammett?

18 A Yes, sir.

19 Q I show you State's Exhibit 50 and ask you if
20 you recognize State's Exhibit 50?

21 A Yes, sir. This is going to be the set of
22 keys that Corporal Hammett gave to me, that he
23 retrieved off Mr. Vandross. The only thing that is
24 missing is the vehicle, the key to the vehicle,
25 which I left with the county shop where we had the

MARCUS TODD CROMER - DIRECT

1 vehicle towed, so it would stay with the vehicle,
2 but the two remaining house keys and the blue key
3 chain are still on there.

4 Q All right. What else, if anything, did you
5 do in relation to this investigation?

6 A Well, after I had the vehicle towed to the
7 county shop I returned back to the incident
8 location located at 3938 McCormick Highway, I took
9 the two remaining keys off the key chain, that was
10 attached to the key chain, and checked them with
11 the locks to the residence, to the doors on the
12 outside, checked the locks. I found the silver
13 colored key which appears to be fairly new, in fact
14 it's still rigid on the edges, it's not smooth and
15 it's pretty shiny, the silver colored key actually
16 locked and unlocked the back door of Miss Wilson's
17 residence.

18 Q All right.

19 MR. PEACE: Thank you, Captain Cromer.
20 That's all the questions I have. Please answer any
21 questions Mr. Sheek may have.

22 THE COURT: Cross-examination.
23
24
25

MARCUS TODD CROMER - CROSS

CROSS EXAMINATION

1
2 QUESTIONS BY MR. SHEEK:

3 Q Detective Cromer, other than what you
4 testified, you didn't take part in investigating
5 this incident?

6 A No, sir.

7 Q Did you ever go down to either one of the
8 churches, look at the scenes down there, do
9 anything of that nature?

10 A Myself and Eric Inks went down to both
11 locations. I think it was, might have been on
12 November the 5th or late November the 4th, I'm not
13 sure.

14 Q Well, at the old Tranquil Church did you see
15 the area where this propane tank is --

16 A Yes, sir.

17 Q -- on the side of the church? Were you ever
18 able to see if there were any tire marks, skid
19 marks, marks where tires had spun or anything in
20 that area?

21 A You could see what looked like a vehicle had
22 driven onto the grass area in front of the propane
23 tank. It was not able to be picked up well with
24 pictures, with photographs. However, as far as
25 skid marks, no, sir.

MARCUS TODD CROMER - CROSS

1 Q Now, you have testified regarding the key.

2 Do you still have that?

3 A I sure do.

4 Q Okay. And I believe you said the one you
5 tried in the door appeared fairly new?

6 A Yes, sir.

7 Q Now, do you have a way of telling if it's new
8 or just hadn't been used a lot?

9 A Just like I said, it appears fairly new in
10 that the edges were still kind of rough and wasn't
11 worn smooth, was shiny.

12 Q If someone were to have a key made and keep
13 it for even a year or so, just never used it in the
14 lock, it is actually putting it in and out that
15 wears a key down?

16 A Oh, yes.

17 Q You don't know if Miss JoAnn Suber ever had
18 a key made for Mr. Vandross, do you?

19 A I do not know.

20 Q Or when they lived together how he got a key
21 or where it came from or anything of that nature?

22 A I do not, no.

23 MR. SHEEK: Thank you.

24 THE COURT: Redirect?

25 MR. PEACE: No redirect, Your Honor.

MARCUS TODD CROMER - CROSS

1 THE COURT: Thank you, sir. Come down.

2 THE WITNESS: Thank you.

3 (Witness excused).

4 THE COURT: Call your next witness, please.

5 MR. PEACE: Yes, sir. If it please the
6 Court, the State would next call Eric Inks to the
7 stand.

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ERIC INKS - DIRECT

1 ERIC INKS,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you,
4 Solicitor.

5 MR. PEACE: Thank you, Your Honor. If it
6 please the Court.

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. PEACE:

9 Q Mr. Inks, where are you employed?

10 A I'm employed with the Greenwood County
11 Sheriff's office.

12 Q And how long have you been employed there?

13 A Since September of 1993, approximately
14 thirteen years this fall.

15 Q What were your duties at the sheriff's office
16 on November the 4th of 2004?

17 A I was an evidence collection technician
18 working with the investigative division.

19 Q Did you have the opportunity as the evidence
20 collections technician to collect evidence at 3938
21 McCormick Highway?

22 A Yes, I did.

23 Q Would you please tell the jury what you did
24 at that location.

25 A Upon arrival at the incident location I met

. ERIC INKS - DIRECT

1 with Investigator Cromer and Lieutenant Boggs. We
2 did what is called and referred to as a preliminary
3 walk-through. They advised me what they understood
4 about the case so far, and after speaking with them
5 briefly I photographed the interior and exterior of
6 the residence and did what is commonly referred to
7 as a crime scene search and began collecting
8 evidence as I found it.

9 Q Okay. Did you see the defendant that day?

10 A Yes, I did.

11 Q When did you see him?

12 A While I was enroute to the incident location
13 I received a call from Major Davis, my supervisor,
14 requesting that I go directly to the Detention
15 Center because a defendant was, the defendant was
16 in custody at that time and he requested that I
17 collect a gunshot residue collection kit from him,
18 which I did upon arriving at about 7:45 at the
19 detention center. I collected the gunshot residue
20 kit from the defendant and I also took two
21 photographs of the defendant prior to collecting
22 the kit.

23 Q I show you what has been marked State's
24 Exhibit 28 for identification and ask you if you
25 recognize that photograph?

ERIC INKS - DIRECT

1 A Yes, I do.

2 Q What is that photograph?

3 A That is a photograph I took of the defendant
4 in custody that morning prior to collecting a
5 gunshot residue collection kit from that
6 individual.

7 MR. PEACE: Your Honor, we would move State's
8 Exhibit 28 for identification be admitted as
9 State's Exhibit 28.

10 MR. SHEEK: No objection.

11 THE COURT: Without objection 28 is evidence
12 in the case.

13 (Photograph marked and received in
14 evidence as State's Exhibit Number 28).

15 BY MR. PEACE:

16 Q All right, what did you do after that?

17 A Upon completing the gunshot residue
18 collection and taking those photographs I left the
19 detention center and proceeded to 3938 McCormick
20 Highway, the incident location, and as I said, I
21 met with Investigator Cromer and Lieutenant Boggs
22 and did a walk-through and began processing and
23 photographing the crime scene.

24 Q Sergeant Inks, I'm going to show you a number
25 of photographs and ask you if you can identify

ERIC INKS - DIRECT

1 these photographs. I show you what has been marked
2 as State's Exhibit 29 for identification and ask
3 you if you recognize State's Exhibit 29?

4 A Yes, I do.

5 Q What is that photograph?

6 A That is a photograph I took in the master
7 bedroom of the incident location. It's a
8 photograph of a shell casing I located on the floor
9 next to the baseboard of the wall at the head of
10 the bed.

11 Q All right. If I could direct your attention
12 to State's Exhibit 16. If you will, please take
13 the pointer and could you show the jury on State's
14 Exhibit 16 where you found that shell casing?

15 A Yes. This is the master bedroom here and I
16 located the shell casing approximately here, right
17 at the head of the bed, at the base of the wall.

18 Q If you would, use the pointer to point out
19 the shell casing on the photograph.

20 A The shell casing is this item right here.

21 MR. PEACE: All right Your Honor, we move
22 State's Exhibit 29 for identification be admitted
23 as State's Exhibit 29.

24 MR. SHEEK: No objection.

25 THE COURT: Without objection number 29 is

ERIC INKS - DIRECT

1 admitted.

2 (Photograph marked and received in evidence
3 as State's Exhibit Number 29).

4 BY MR. PEACE:

5 Q Now I show you what has been marked State's
6 Exhibit 30 for identification and ask you if you
7 recognize that photograph?

8 A Yes, sir, I do.

9 Q And what is depicted in that photograph?

10 A This is a crumpled up section of duct tape
11 that I located and photographed and collected from
12 the passenger's seat, front seat, passenger front
13 seat of Miss Wilson's vehicle.

14 Q And where was that vehicle located?

15 A Upon my arrival at the crime scene it was
16 located in the back yard.

17 MR. PEACE: Your Honor, I move State's
18 Exhibit 30 be admitted as State's Exhibit 30.

19 MR. SHEEK: Without objection.

20 THE COURT: Without objection Number 30 is
21 part of the evidence, ladies and gentlemen.

22 (Photograph marked and received in evidence
23 as State's Exhibit Number 30).

24 BY MR. PEACE:

25 Q I show you what has been marked State's

ERIC INKS - DIRECT

1 Exhibit 31 for identification and ask you if you
2 recognize that?

3 A This is a photograph I took at a different
4 angle of the front passenger seat that contains the
5 duct tape photographed in the other picture.

6 Q Thank you.

7 MR. PEACE: Your Honor, I move State's
8 Exhibit 31 for identification be admitted as
9 State's Exhibit 31.

10 MR. SHEEK: Without objection.

11 THE COURT: Number 31 is part of the
12 evidence, ladies and gentlemen.

13 (Photograph marked and received in
14 evidence as State's Exhibit Number 31).

15 BY MR. PEACE:

16 Q Now I show you what has been marked State's
17 Exhibit 32 for identification and ask you if you
18 recognize State's Exhibit 32 for identification?

19 A Yes, sir, I do.

20 Q And what is depicted in that photograph?

21 A That's a photograph I took of the rear door
22 of the residence at 3938 McCormick Highway and the
23 deck that is immediately adjacent to it.

24 MR. PEACE: Your Honor, I move State's
25 Exhibit 32 for identification be admitted as

ERIC INKS - DIRECT

1 State's Exhibit 32.

2 MR. SHEEK: Without objection.

3 THE COURT: Motion granted.

4 (Photograph marked and received in evidence
5 as State's Exhibit Number 32).

6 MR. PEACE: Your Honor, may we approach?

7 THE COURT: You may. Mr. Witness, if you
8 will step down. Watch your step, please.

9 (Bench conference out of the hearing of
10 the witness and the jury).

11 MR. PEACE: The next photographs are rather
12 graphic, this is the first time I have used this
13 apparatus and I just want the Court to warn people
14 they are rather graphic so they can turn their head
15 if they want.

16 MR. SHEEK: We obviously object to the
17 photographs. Nobody has contested Mr. Best was
18 shot in the head.

19 THE COURT: It is assumed that a pathologist
20 will testify?

21 MR. PEACE: Yes, sir.

22 THE COURT: And will connect these
23 photographs to his findings?

24 MR. PEACE: Yes, sir, that is correct.

25 THE COURT: So, it will become necessary that

ERIC INKS - DIRECT

1 a witness who observed this situation will testify
2 this is the manner in which the person appeared.
3 It is, it is graphic and it is certainly alarming
4 in its appearance but we're trying a murder case
5 here and the Court will warn the jurors that the
6 pictures may be graphic. Are all of them -- if you
7 don't mind?

8 MR. PEACE: No, sir, not at all.

9 THE COURT: All right. Place your objection
10 on the record, if you have one.

11 MR. SHEEK: Your Honor, our objection is we
12 think the prejudicial value of the graphic photos
13 outweighs any probative value.

14 THE COURT: The objection is overruled. It
15 is impossible for a proper foundation to be laid
16 for testimony which you say will be linked up to
17 these photographs without a witness who observed
18 this deceased, this human body in a deceased state
19 and/or will be described by an expert?

20 MR. PEACE: Yes, sir.

21 THE COURT: That is what you represent?

22 MR. PEACE: Yes, sir.

23 THE COURT: The objection is overruled.
24 Yes, sir?

25 MR. SHEEK: While we're here, Judge, I have

ERIC INKS - DIRECT

1 moved to where I am because I can't see the screen
2 because of the camera, if you are wondering why I
3 moved away, I wanted to let you know why I'm
4 sitting over there.

5 THE COURT: Be comfortable.

6 MR. SHEEK: Okay.

7 MR. PEACE: Should I warn, or does the Court
8 want to do that, about the graphic nature?

9 THE COURT: The question from the Solicitor
10 was should he warn the jury of the graphic nature
11 of the photographs or should the Court? It's the
12 Court's opinion, the Court having viewed them, the
13 Court should take it on for both of you, either you
14 having to say something or you having to say
15 something, that the photographs will be graphic,
16 the Court has already ruled on them.

17 MR. SHEEK: Yes, sir.

18 THE COURT: All right.

19 (Bench conference concluded).

20 THE COURT: Ladies and gentlemen, certain
21 photographs will be shown to you and offered in
22 evidence and and they may be graphic. They are
23 graphic and you may wish to observe them for a
24 sufficient period of time for you to understand
25 what you're looking at but you don't have to

ERIC INKS - DIRECT

1 continue to view them if they are distasteful to
2 you.

3 The witness will regain the stand.

4 You may continue, Solicitor.

5 MR. PEACE: Thank you, Your Honor. If it
6 please the Court

7 BY MR. PEACE:

8 Q Sergeant Inks, I show you what has been
9 marked as State's Exhibit 33 for identification and
10 ask you if you recognize this photograph?

11 A Yes, sir, I do.

12 Q And what is depicted in that photograph?

13 A This is a photograph I took of the victim Mr.
14 Sanford Best at the incident location.

15 Q Did you actually see his body in the bed and
16 take the photograph?

17 A Yes, sir, I did.

18 MR. PEACE: Your Honor, I move State's
19 Exhibit 33 for identification be admitted as
20 State's Exhibit 33.

21 THE COURT: The record will reflect the on
22 the record and out of the hearing of the jury
23 and/or the witness conference with counsel by the
24 Court, and would you go forward, please, unless
25 there is an objection, counsel, and display all of

ERIC INKS - DIRECT

1 them and move them all in at one time?

2 MR. PEACE: Yes, Your Honor.

3 THE COURT: Is there any objection to that?

4 MR. SHEEK: No, sir.

5 THE COURT: So that this process will move
6 along quickly.

7 MR. PEACE: Yes, sir.

8 BY MR. PEACE:

9 Q I show you what has been marked State's
10 Exhibit 35 for identification and ask you if you
11 recognize that?

12 A Yes, sir, I do.

13 Q All right. What is depicted in that
14 photograph?

15 A This is another photograph I took of the
16 victim Mr. Best at the incident location. It's a
17 different angle.

18 Q I show you one marked State's Exhibit 36 for
19 identification and ask you if you recognize that?

20 A Yes, sir, I do.

21 Q And what is depicted in that photograph?

22 A This is another photograph I took of the
23 victim Mr. Sanford Best at the incident location.

24 Q I show you what has been marked State's
25 Exhibit 38 for identification and ask you if you

ERIC INKS - DIRECT

1 recognize that?

2 A Yes, sir, I do.

3 Q What is depicted in that photograph?

4 A This is a picture, a photograph I took of the
5 victim Mr. Sanford Best. It's a closer angle and
6 view of the bullet wound.

7 Q I show what you has been marked State's
8 Exhibit 34 and ask you if you recognize that?

9 A Yes, sir, I do.

10 Q What is depicted in that photograph?

11 A This is a photograph of a Bible that was
12 laying in close proximity to the victim's right
13 hand at the incident location.

14 Q Can you tell from looking at that photograph
15 whose name is on that Bible?

16 A From memory, it was Sanford Best. I can't
17 read it from here.

18 Q I show you State's Exhibit 37 for
19 identification and ask you if you recognize that?

20 A Yes, sir.

21 Q What's depicted in that photograph?

22 A This is a photograph I took of the same Bible
23 from a slightly different angle.

24 Q Thank you.

25 MR. PEACE: Your Honor, the state would move

ERIC INKS - DIRECT

1 that Exhibits 33, 34, 35, 36, 37 and 38 for
2 identification be admitted as those numbered
3 exhibits.

4 MR. SHEEK: No objection, Your Honor.

5 THE COURT: Without objection the numbered
6 exhibits stated by the Solicitor will become part
7 of the evidence in the case.

8 (Photographs marked and received in evidence
9 as State's Exhibits 33, 34, 35, 36, 37 and
10 38).

11 ~~BY MR. PEACE:~~

12 Q Sergeant Inks, what else did you do in
13 relation to this investigation?

14 A After completing collection of evidence at
15 the incident location I proceeded back to the
16 sheriff's office and did record these items into
17 evidence and placed them in secure storage. I also
18 did late in the afternoon meet with Mrs. Wilson and
19 a victims assistance advocate where I took
20 photographs of injuries sustained by Miss Wilson.
21 The following day I did proceed to the Greenwood
22 County maintenance shop where Mrs. Wilson's vehicle
23 had been impounded and did process that for any
24 evidence. And also on that same day, excuse me, I
25 did accompany Investigator Cromer when he went to

ERIC INKS - DIRECT

1 the two churches mentioned earlier and did
2 photograph those areas.

3 MR. PEACE: If I can have one moment, Your
4 Honor.

5 THE COURT: Take your time, counsel.

6 Q Sergeant Inks, I show you what has been
7 marked State's Exhibit 40 for identification and
8 ask you if you recognize State's Exhibit 40?

9 A Yes, I do.

10 Q And what is State's Exhibit 40 for
11 identification?

12 A This is a small evidence box wherein I placed
13 the shell casing I located at the incident location
14 on the previous pictures. I sealed this casing in
15 this evidence box with evidence tape, placed my
16 initials and case number and date on it and
17 submitted it into evidence and later submitted it
18 to the state forensic lab.

19 Q Thank you.

20 MR. PEACE: Your Honor, I move State's
21 Exhibit 40 for identification be admitted as
22 State's Exhibit 40.

23 MR. SHEEK: No objection.

24 THE COURT: Without objection the motion is
25 granted.

ERIC INKS - DIRECT

1 (Evidence box and shell casing marked and
2 received in evidence as State's Exhibit 40).

3 BY MR. PEACE:

4 Q I now show you what has been marked State's
5 Exhibit 39 for identification and ask you if you
6 recognize that?

7 A Yes, I do.

8 Q What is State's Exhibit 39?

9 A This is a container which through my
10 experience is used at autopsy, and in this plastic
11 bag is a projectile, and this was submitted to me
12 into evidence by Deputy Strickland. As I
13 understand, he attended the autopsy.

14 Q Okay, thank you.

15 MR. PEACE: Your Honor, in that regard we
16 have entered into a stipulation between the State
17 and the defense and with the Court's permission I
18 would like to have this stipulation published.

19 THE COURT: Madam Clerk.

20 Ladies and gentlemen, there is a stipulation.
21 Please listen to the stipulation.

22 It is hereby stipulated between the State and
23 the defense, with the expressed consent of the
24 defendant Charles Vandross, that on November 4,
25 2004, Deputy Brandon Strickland of the Greenwood

ERIC INKS - DIRECT

1 County Sheriff's office attended the autopsy of
2 Sanford Best. At this autopsy Deputy Strickland
3 received a plastic vial containing a bullet
4 fragment, State's Exhibit number 39. Deputy
5 Strickland turned this vial with a fragment over to
6 Eric Inks, then evidence custodian of the Greenwood
7 County Sheriff's office.

8 . Is there anyone who wishes to hear the
9 stipulation again, please?

10 There is no indication. The stipulation has
11 been read to the jury on the record.

12 MR. PEACE: Thank you, Your Honor.

13 BY MR. PEACE:

14 Q Sergeant Inks, I show you State's Exhibit 1
15 and ask you if you recognize State's Exhibit 1?

16 A Yes, sir, I do.

17 Q And what is State's Exhibit 1, Sergeant Inks?

18 A This is the firearm, semiautomatic pistol
19 that was submitted to me by Corporal Hammett of the
20 Greenwood County Sheriff's office and entered into
21 evidence, wherein I placed it in a firearms box,
22 sealed it, placed it in secure evidence collection
23 and later submitted it to the state forensic lab
24 for analysis.

25 MR. PEACE: Thank you. Your Honor, I don't

ERIC INKS - DIRECT

1 remember if I moved State's Exhibit 39 for
2 identification to be admitted as State's Exhibit
3 39.

4 THE COURT: That's the bullet fragment?

5 MR. PEACE: Yes, sir.

6 THE COURT: Any objection?

7 MR. SHEEK: No objection, Your Honor.

8 THE COURT: Number 39 is evidence in the
9 case, ladies and gentlemen.

10 (Bullet fragment marked and received in
11 evidence as State's Exhibit Number 39).

12 BY MR. PEACE:

13 Q I show you what has been marked State's
14 Exhibit 41 for identification and ask you if you
15 recognize State's Exhibit 41?

16 A Yes, sir, I do.

17 Q And what is State's Exhibit 41?

18 A It's two pieces of silver duct tape I
19 collected at the incident location from the
20 wastebasket in the master bedroom bath area.

21 Q And what did you do with the tape, Exhibit 41
22 for identification?

23 A Upon collecting this I placed it in this
24 paper bag here, sealed it with evidence tape,
25 returned it to the sheriff's office, entered it,

ERIC INKS - DIRECT

1 logged it into evidence, placed it in secure
2 storage and later submitted it to the state
3 forensic lab for analysis.

4 MR. PEACE: Your Honor, I move State's
5 Exhibit 41 for identification be admitted as
6 State's Exhibit 41.

7 MR. SHEEK: No objection.

8 THE COURT: Without objection the motion is
9 granted.

10 (Duct tape marked and received in evidence
11 as State's Exhibit Number 41).

12 BY MR. PEACE:

13 Q Now I show you what has been marked State's
14 Exhibit 42 for identification and ask you if you
15 recognize State's Exhibit 42 for identification?

16 A Yes, I do.

17 Q What is State's Exhibit 42 for
18 identification, Sergeant Inks?

19 A This is a piece duct tape that I collected
20 from Miss Wilson's vehicle at the incident
21 location, from the front passenger seat, and I
22 placed it in this paper bag, labeled it, sealed it
23 with evidence tape, later returned it to the
24 sheriff's office, locked it into evidence, placed
25 it in secure holding and later submitted it to the

ERIC INKS - DIRECT

1 state forensic lab for analysis.

2 MR. PEACE: Your Honor, I move State's
3 Exhibit 42 for identification be admitted as
4 State's Exhibit 42.

5 MR. SHEEK: No objection.

6 THE COURT: The motion is granted.

7 (Duct tape marked and received in evidence
8 as State's Exhibit Number 42).

9 BY MR. PEACE:

10 Q I show you what has been marked State's
11 Exhibit 43 for identification and ask if you
12 recognize State's Exhibit 43 for identification?

13 A Yes, sir, I do.

14 Q What is State's Exhibit 43 for
15 identification?

16 A This is a roll of duct tape I recovered from
17 Miss Wilson's vehicle, on the front passenger
18 floorboard of her vehicle located at the incident
19 location. I collected this, placed it in this
20 evidence bag, sealed it, logged it into evidence at
21 the Greenwood County Sheriff's office, placed it in
22 secure holding and later submitted it to the state
23 forensic lab for analysis.

24 MR. PEACE: Your Honor, I move State's
25 Exhibit 43 for identification be admitted.

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1 MR. SHEEK: No objection.

2 THE COURT: Motion is granted.

3 (Duct tape marked and received in evidence
4 as State's Exhibit Number 43).

5 BY MR. PEACE:

6 Q Sergeant Inks, I give you a pair of gloves to
7 handle the next items --

8 A Thank you.

9 Q -- that I will be handing you. Now I will
10 hand you what has been marked State's Exhibit 52
11 for identification and ask you if you recognize
12 this?

13 A Yes, sir, I do.

14 Q And what is State's Exhibit 52 for
15 identification?

16 A This is the shirt that the defendant was
17 wearing when I met with him at the detention center
18 when I was asked to collect a gunshot residue
19 collection kit from him; this is the shirt he was
20 wearing in a photograph I took of him.

21 Q What did you do with this shirt?

22 A I received this shirt from Sergeant Lark, who
23 was the, who was the supervisor at the detention
24 center that morning. I placed it into evidence,
25 logged it into evidence, placed it in secure

ERIC INKS - DIRECT

1 holding and later submitted it to the state
2 forensic lab for analysis.

3 MR. PEACE: Your Honor, I move State's
4 Exhibit 52 be admitted as State's Exhibit 52.

5 MR. SHEEK: No objection.

6 THE COURT: Motion is granted.

7 (Shirt marked and received in evidence as
8 State's Exhibit Number 52).

9 BY MR. PEACE:

10 Q Now I hand you what has been marked State's
11 Exhibit 51 for identification and ask you if you
12 recognize that?

13 A Yes, sir, I do.

14 Q And what is State's Exhibit 51 for
15 identification?

16 A These are the pants the defendant was wearing
17 when I met with him at the detention center. I
18 photographed him wearing these pants, I later
19 collected them from Sergeant Lark at the detention
20 center, logged them into evidence, placed them in
21 secure holding for later submission to the state
22 forensic lab for analysis.

23 MR. PEACE: In that regard, Your Honor, we
24 also have a stipulation entered into by the
25 defendant and the State.

ERIC INKS - DIRECT

1 THE COURT: Mr. Foreman, ladies and
2 gentlemen, the stipulation is it is hereby
3 stipulated between the State and the defense, with
4 the expressed consent of the defendant Charles
5 Vandross, that Luke Lark took possession of the
6 shirt and pants worn by Mr. Vandross and turned
7 them over to Eric Inks.

8 Is there anyone who wishes that the
9 stipulation be re-read?

10 Thank you. Return this to the Solicitor.

11 MR. PEACE: Thank you, Your Honor. We would
12 move that State's Exhibit 51 for identification be
13 admitted as State's Exhibit 51.

14 MR. SHEEK: No objection.

15 THE COURT: Without objection, granted.

16 (Pants marked and received in evidence
17 as State's Exhibit Number 51).

18 BY MR. PEACE:

19 Q I show you what has been marked State's
20 Exhibit 58 for identification and ask you if you
21 recognize that?

22 A Yes, sir, I do.

23 Q What is State's Exhibit 58?

24 A These are two swabs I used to collect the
25 blood from the bathroom where the testimony has

ERIC INKS - DIRECT

1 been that Miss Wilson had wrote a name, the
2 defendant's name on the wall. I collected that
3 using these swabs, sealed them in these evidence
4 boxes, did take them back to the sheriff's office,
5 logged them into evidence, placed them in secure
6 holding for future analysis if needed.

7 Q Thank you very much, Sergeant Inks. Now I
8 direct your attention to the screen and show you
9 what has been marked State's Exhibit 23 for
10 identification and ask if you recognize that?

11 A Yes, sir, I do.

12 Q What is that?

13 A That is a photograph of a stocking cap that
14 was located on the rear deck, the rear entrance to
15 the residence at 3938 McCormick Highway. I
16 photographed them.

17 Q Thank you.

18 MR. PEACE: Your Honor, I move State's
19 Exhibit 23 for identification be admitted as
20 State's Exhibit 23.

21 MR. SHEEK: No objection.

22 THE COURT: Without objection the motion is
23 granted.

24 (Photograph marked and received in
25 evidence as State's Exhibit Number 23).

ERIC INKS - DIRECT

1 MR. PEACE: Just in case I forgot, Your
2 Honor, I move that State's Exhibit 58 be admitted
3 as State's Exhibit 58.

4 MR. SHEEK: No objection.

5 THE COURT: Motion granted.

6 (Two cotton swabs marked and received
7 in evidence as State's Exhibit Number 58).

8 MR. PEACE: Your Honor, if I may have just
9 one moment?

10 THE COURT: Take your time.

11 MR. SHEEK: Sergeant Inks, thank you very
12 much. Those are all the questions I have. Please
13 answer any questions Mr. Sheek may have.

14 THE COURT: Cross-examination, please,
15 counsel.

16 MR. SHEEK: Thank you.
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ERIC INKS - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Deputy Inks, are you still the evidence technician?

A No, sir, I'm not.

Q What do you do now?

A I have been reassigned to school resource officer duty which I did this past school year and I'm now on unassigned summer duties, as school is not in session.

Q At the time when you were acting as the evidence technician was it your job to gather all the evidence at the scene, or was there someone assisting you? Did you do it all? How did that work?

A I was the only evidence technician or collection technician at the time and, yes, I collected the evidence at the scene.

Q Was there anyone there directing you, or did you observe the scene and decide what evidence did or did not need to be collected?

A As I testified earlier, we did a preliminary walk-through. Of course I viewed things as we walked through and after photographing I collected things that I believed were pertinent to the case

ERIC INKS - CROSS

1 as we understood at the time and searched for any
2 evidence that would help prove the case.

3 Q Okay. About how long did you spend there
4 that day?

5 A I arrived at the incident location
6 approximately 9:00 o'clock and I was there
7 approximately until 4:00 o'clock, roughly.

8 Q And the scene, was it maintained secure while
9 you were there? In other words, was there anyone
10 else allowed access to the scene, change,
11 manipulate, moving things?

12 A Not until I completed evidence collection. I
13 did remain there a little longer to keep the scene
14 secure, to be there until I received instructions
15 to release the scene.

16 Q I hand you what has been marked and entered
17 as State's Exhibit Number 44 and ask you if you
18 recognize that?

19 A Yes, sir, I do.

20 Q And did you collect that white shirt depicted
21 in that picture?

22 A Yes, sir, I did.

23 Q Were you able to observe on that white shirt
24 any smudges, marks, stains, anything of that
25 nature?

ERIC INKS - CROSS

1 A There were some what appeared to be stains of
2 red or brown color on the shirt, yes, sir.

3 Q Did you maintain that shirt as evidence, did
4 you collect it?

5 A Yes, sir, I did.

6 Q Do you know who has it today?

7 A No, sir, I don't today.

8 Q Do you know if there was any type of analysis
9 done on it?

10 A No, sir.

11 Q As evidence technician, would you send it to
12 have analysis done?

13 A If it was determined or if I was asked to
14 after discussing the case. I was just one part of
15 the investigation. I would, if requested to submit
16 it to SLED, yes, I would.

17 Q All right. I'm handing you this item. Do
18 you recognize that?

19 A Yes, sir.

20 Q Is that actually the white shirt collected
21 that day?

22 A Yes, sir, it appears to be the same shirt.

23 Q And do you know if any analysis was done to
24 determine whose blood that might be on the shirt if
25 in fact it is blood?

ERIC INKS - CROSS

1 A I do not know personally. I did not submit
2 that to the state forensic lab nor did I receive a
3 copy of any forensic analysis.

4 Q Do you know where it was collected from?

5 A I collected that shirt from the front seat
6 passenger floorboard of Miss Wilson's vehicle.

7 Q I'm handing you that again. I'm going to ask
8 you, that smudge on the bottom, as evidence
9 technician were you able to determine what that
10 was?

11 A No, sir. I'm not qualified to analyze.

12 Q Well, I'm not asking you what the substance
13 is. The shape of it, can you tell what it might
14 be? Does it appear to be a handprint or anything
15 to you?

16 A It's possible.

17 Q Well, do you know if there were any tests
18 done to try to determine whose, if anybody's,
19 handprint that could be?

20 A No, sir, I do not know, myself. I did not
21 submit that item to the state forensic lab.

22 Q Okay. How about the interior of the house,
23 was it checked for fingerprints?

24 A No, sir, I did not process anything in the
25 house for fingerprints.

ERIC INKS - CROSS

1 Q Not the doorknob linked to the, coming in
2 from the back of the house, the doorknob going to
3 the bedroom, anything like that?

4 A No, sir.

5 Q And were you ever asked to do so by any
6 investigators at your department?

7 A I wasn't asked to, sir, but my experience is,
8 in a residence that has multiple occupants I have
9 never been able to collect any identifiable
10 fingerprints from a doorknob simply because of
11 their nature. Oftentimes it's print placed upon

12 print placed upon print as the door is used, and so
13 I have never been successful in lifting any prints
14 like that.

15 Q What about from what has been marked and
16 entered as State's Exhibit Number 1?

17 A No, sir, I did not process that for
18 fingerprints.

19 Q The white Mercury Marquis parked in the back
20 yard, was it processed for fingerprints?

21 A I did process that vehicle the next day for
22 fingerprints.

23 Q Okay. Were you able to identify any of Mr.
24 Charles Vandross' fingerprints on that vehicle?

25 A I obtained no identifiable fingerprints from

ERIC INKS - CROSS

1 that vehicle.

2 Q What's different about the nature of that
3 vehicle, than the doorknob, that you would think
4 you would get prints off the vehicle but not from
5 inside the house?

6 A Discussions, the fact that in our early part
7 of the investigation we understood that the
8 defendant had been a resident there, it would not
9 be unusual for his fingerprints to be in the house
10 prior to this incident and therefore it was
11 believed that that, in conjunction with multiple
12 prints being on a doorknob and things like that, we
13 felt we would have no identifiable prints.

14 Q Were you able to identify any blood from the
15 decedent on the clothing worn by the defendant Mr.
16 Charles Vandross?

17 A I did no such analysis, I'm not qualified to
18 do so.

19 Q Did you -- let me ask you this. In regard
20 to, say, burglary, entry into a dwelling, were you
21 able to identify any physical evidence, whether it
22 be a fingerprint, footprint, fiber, hair, anything
23 in your collection of evidence those hours you were
24 there that day that placed Mr. Charles Vandross
25 inside that house?

ERIC INKS - CROSS

1 A I collected no fiber, no fingerprint
2 evidence, no, sir.

3 Q Now, the evidence that you have actually
4 tested is sent to the State Law Enforcement
5 laboratory for DNA, that kind of testing, correct?

6 A As I understand it, yes, sir.

7 Q And as far as you know from your training and
8 experience as evidence technician, our state crime
9 lab certainly has the ability to do those type of
10 analysis, don't they?

11 A Yes, sir.

12 Q Like the stocking cap that you got a picture
13 of, was it ever checked to see if there was any
14 hair in it that would match Mr. Charles Vandross?

15 A No, sir, not to my knowledge. I did not
16 submit that item to the state forensic lab.

17 Q From your experience as evidence technician,
18 if someone wears a stocking cap you would expect
19 some hair probably would come off inside it, right?

20 A It would be possible.

21 Q Was it your decision to do a gunshot residue
22 test on Mr. Vandross?

23 A I was requested to do so by Major Davis prior
24 to my arrival at the incident location.

25 Q Were you ever requested to do a gunshot

ERIC INKS - CROSS

1 analysis on anyone else?

2 A No, sir.

3 Q So, there was never any, to your knowledge,
4 gunshot residue testing on Miss JoAnn Wilson?

5 A No, sir. If I may explain?

6 Q Sure.

7 A Gunshot residue analysis, the type of
8 collection kit that is used, in my training and
9 experience, needs to be administered or collected
10 somewhere no later than six hours but ideally four
11 hours after the incident, and in the early part of
12 our investigations we determined, or from what we
13 were told, that this incident occurred around
14 midnight or within that midnight hour and so it
15 would be beyond the six hour maximum limitation to
16 collect any gunshot residue, but at the time I was
17 requested to get a gunshot residue kit from the
18 defendant we didn't know the exact time, the
19 inferred time of this incident.

20 Q Well, about what time were you requested to
21 take it from Mr. Vandross?

22 A Approximately 7:30, 7:30 in the morning when
23 I was enroute to the incident location.

24 Q And at that time you didn't know if you were
25 within or outside this six hour window that your

ERIC INKS - CROSS

1 training told you?

2 A I did not know that.

3 Q And despite not knowing that, you weren't
4 requested to do one of anyone else, were you?

5 A Not at that time. First I was asked to go
6 meet with the defendant and do that first and then
7 I reported to the incident location, as I said
8 earlier, approximately 9:00 a.m.

9 Q Well, you said not at that time. Were you
10 ever requested to do a gunshot residue test on
11 anyone else?

12 A No, sir, because it would be outside the
13 allowable time frame.

14 Q But you agree with me at 7:30 you did not
15 know that?

16 A I did not know.

17 Q Whoever told you to go take Mr. Vandross I
18 assume did not know that?

19 A Yes, that's what I understand.

20 Q And any information we have about inside or
21 outside the six hour window is solely what was
22 relayed to the sheriff's department, that is what
23 you were told?

24 A I had no interview with anyone to know that.

25 Q Well, how long have you been in law

ERIC INKS - CROSS

1 enforcement now?

2 A I have been with the sheriff's office
3 approximately 13 years.

4 Q I'm sure in that time you have had to make
5 arrests, haven't you?

6 A Yes, sir.

7 Q Have you ever had people lie to you?

8 A On occasion.

9 Q Don't you think it would be good to go ahead
10 and do the test to gather as much information as
11 possible?

12 A Possible, but I was at the incident location
13 doing that work and Miss Wilson or anyone else was
14 not there at that time. My being the only evidence
15 collection technician, I couldn't be in two places
16 at one time.

17 Q Referring you again to this shirt, I know you
18 said you can't do an analysis to tell what those
19 spots are?

20 A That's correct.

21 Q Does it appear to be heavy spotting, or
22 light?

23 A The shirt is white and the stain is dark, so
24 it would appear that there would be more than just
25 a tiny drop of whatever that substance is.

ERIC INKS - CROSS

1 Q Would you agree with me that hypothetically
2 if those dark spots were blood there's a good bit
3 on that shirt?

4 A There is a reasonable amount, yes, sir.

5 MR. SHEEK: Thank you. That's all the
6 questions I have.

7 THE COURT: Redirect?

8 MR. PEACE: No redirect, Your Honor.

9 THE COURT: Thank you. Come down.

10 (Witness excused).

11 THE COURT: Solicitor, we will give everybody
12 a short break now. We have been in session for an
13 hour and five minutes. Take about ten minutes,
14 ladies and gentlemen. Do not talk about the case
15 by, between and among yourselves, take a short
16 break. Retire to the jury room.

17 (The jury was excused from the courtroom).

18 THE COURT: We're going to be in recess just
19 a few minutes.

20 (Recessed at 3:44 p.m.).

21 (Reconvened at 4:13 p.m.).

22 THE COURT: The record will open, State of
23 South Carolina versus Charles Nemon Vandross,
24 indictment 2004-1187.

25 Is there anything from the State before the

1 jurors come in?

2 MR. PEACE: Yes, Your Honor. During the
3 break Mr. Cheek and I spoke. I actually had two
4 photographs that I did not put into evidence when
5 Sergeant Inks was testifying, State's Exhibits 62
6 and 63 for identification. Mr. Sheek and I have
7 agreed that I will not call Sergeant Inks back but
8 I would move that State's Exhibits 62 and 63 for
9 identification be admitted as State's Exhibits 62
10 and 63.

11 THE COURT: Before you speak on the potential
12 consent, do you intend to publish them to the jury
13 as others were?

14 MR. PEACE: No, sir. I intend for them to go
15 back to the jury room when they deliberate. At
16 this point I don't see any necessity to publish
17 them.

18 THE COURT: All right, how says the defense?

19 MR. SHEEK: No objection to the State's
20 moving them into evidence, Your Honor.

21 THE COURT: Very well. They will be admitted
22 into evidence on motion, without objection.

23 MR. PEACE: Thank you, Your Honor.

24 (Photographs marked and received in evidence
25 as State's Exhibit Number 62 and 63).

1 MR. SHEEK: We have one other matter for the
2 Court before the next witness.

3 THE COURT: Yes, sir, counsel.

4 MR. SHEEK: And again it is anticipatory, if
5 the State intends to call Dr. Sexton we can take it
6 up now. Your Honor, the defense is willing to
7 stipulate to Dr. Sexton's expertise in the field of
8 forensic pathology. At the last trial the
9 Solicitor, there was testimony regarding firearms,
10 sound travel, silencing and things of this nature.
11 We do object to any opinion testimony in regard to
12 firearms, silencing firearms or anything of that
13 nature without the opportunity to question the
14 witness about any qualifications.

15 THE COURT: Will this potential expert
16 witness to whose expertise in the field of forensic
17 pathology will be stipulated, will he be questioned
18 concerning those subjects?

19 MR. PEACE: Yes, Your Honor, he will.

20 THE COURT: Do you intend to lay a
21 foundation?

22 MR. PEACE: Yes, Your Honor, we do. I mean,
23 the State's position is that is part of forensic
24 pathology.

25 THE COURT: If you lay a foundation on his

1 voir dire, then the defense will be able to
2 question him on his voir dire and the Court will
3 rule on such a motion as may or may not be made
4 after we hear it. The Court doesn't know what he
5 may testify to.

6 Anything further?

7 MR. PEACE: Not from the State, no, sir.

8 MR. SHEEK: No, sir.

9 THE COURT: All right, ask the jury in.

10 (The jury returned to the courtroom).

11 THE COURT: All the jurors are present, the
12 foreman and the alternatures are properly seated.
13 The matter lies with the government. Call your
14 next witness.

15 MR. PEACE: Thank you, Your Honor. If it
16 please the the Court, the State next calls Dr. Joel
17 Sexton to the stand.

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DR. JOEL SEXTON - DIRECT

1 DR. JOEL STEPHEN SEXTON,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you,
4 Solicitor.

5 MR. PEACE: Thank you, Your Honor. If it
6 please the Court.

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. PEACE:

9 Q Would you please state your name for the
10 record?

11 A ~~Dr. Joel Stephen Sexton.~~

12 Q Dr. Sexton, are you licensed to practice law,
13 practice medicine in the State of South Carolina?

14 A Yes, I am.

15 Q Okay. When were you licensed to practice law
16 in this state?

17 A 1968.

18 Q Dr. Sexton, what is your educational
19 background?

20 A I graduated from the University of Virginia
21 with a Bachelor's in chemistry, and served in the
22 Navy for three years as a line officer, since I was
23 there on a Naval scholarship. I then attended the
24 Medical College of South Carolina, where I received
25 a Master's in chemistry from the analytical

DR. JOEL SEXTON - DIRECT

1 chemistry department there. And then I entered the
2 Medical University in 1964 and graduated in 1968
3 with an M.D. Degree.

4 I then studied in the field of pathology,
5 which is a specialized field of medicine, again
6 there at the Medical University, and when I
7 finished that in 1972 I took national board
8 certifying exams and became nationally board
9 certified in anatomic pathology, clinical pathology
10 and forensic pathology.

11 I then stayed on at the university and taught
12 in the field of, all of those areas, particularly
13 forensic pathology because I was the section head
14 of the forensic pathology portion of the Medical
15 University's pathology department, from 1968 until,
16 I'm sorry, from, yes, 1972 when I finished my
17 residency, until 1983 when I moved to Newberry,
18 South Carolina to become the director of the
19 pathology department at the Newberry County
20 Memorial Hospital.

21 I was also appointed county medical examiner
22 in Charleston County and therefore saw all the
23 deaths that occurred, along with the coroner, to
24 determine which ones needed to have an autopsy and
25 which ones could be determined without the autopsy.

DR. JOEL SEXTON - DIRECT

1 We also were the consulting portion of the
2 department for all 46 of the county coroners, we
3 did about 650 autopsies a year, forensic autopsies
4 for the various coroners of the state. In Newberry
5 we do currently about 850 for approximately 26
6 county coroners in the upper end of the State.

7 Q Dr. Sexton, how many autopsies have you
8 performed personally?

9 A Over 8,000.

10 Q How many autopsies have you supervised?

11 A Probably an equal number or more. There was
12 three of us pathologists in Charleston at one time
13 and there have been three with me in Newberry and
14 each of the cases, before it goes out I would
15 review the case with the person who did the autopsy
16 to make sure we have all our dots and T's crossed.

17 Q Dr. Sexton, how many times have you testified
18 in court?

19 A Well over 700 times.

20 Q And how many times have you been qualified as
21 an expert in testifying?

22 A On all those occasions.

23 MR. PEACE: Your Honor, I would now submit
24 Dr. Sexton as an expert in the field of forensic
25 pathology.

DR. JOEL SEXTON - DIRECT

1 THE COURT: He's offered as an expert in the
2 field of forensic pathology. Are there any
3 questions on his voir dire?

4 MR. SHEEK: No, sir. We stipulate he's an
5 expert in the field of forensic pathology.

6 THE COURT: Thank you. Ladies and gentlemen,
7 this witness is an expert in the field of forensic
8 pathology.

9 MR. PEACE: Thank you, Your Honor.

10 BY MR. PEACE:

11 Q Dr. Sexton, did you have an occasion to
12 perform an autopsy on Sanford Best on November 4th
13 of 2004?

14 A Yes, I did.

15 Q Could you please describe to the jury what
16 you found at this autopsy?

17 A We ask that bodies be brought to us just as
18 they are found after they're pronounced dead. Mr.
19 Best arrived wearing a pair of undershorts and
20 socks, and the only injury we noted was in the
21 region of the head where there was blood on either
22 side of the head and there was a gunshot wound here
23 above the right eye. We then examined that wound,
24 unclothed him and checked after we washed up to
25 make sure there was no other injuries and then took

DR. JOEL SEXTON - DIRECT

1 close-up photographs of that head wound before
2 doing an internal exam, which involves collecting
3 various samples for toxicology as well as examining
4 all the organs to see if there are any diseases or
5 any other injuries, and retrieving in this case the
6 bullet from the head.

7 Q Dr. Sexton, I show you what has been marked
8 State's Exhibit 61 for identification and ask you
9 if you recognize that photograph?

10 A Yes. That matches the photograph that I
11 took, which is a copy of the photograph I took.
12 You might want to push the automatic focus so that
13 the wound itself is clearer.

14 Q Did that help?

15 A It does. You can see that there is a wound
16 here. That hole is the actual hole that the bullet
17 came through, this portion right here. Around it
18 is an abraided area, a little more abraided here,
19 and then a little bit of soot outside of that,
20 indicating that the gun was against the skin at the
21 time this occurred, causing this abrasion from the
22 Imprint of the gun on the skin at the time the
23 blast was fired and some of the soot that leaked
24 out around that.

25 Q Okay. Dr. Sexton, I show you State's Exhibit

DR. JOEL SEXTON - DIRECT

1 1 and ask you to examine State's Exhibit 1.

2 A Okay.

3 Q Is State's Exhibit 1 a weapon consistent with
4 inflicting that type wound?

5 A It is. If you notice, this one for safety
6 purposes has a device through the barrel so you
7 cannot, I cannot close the slide completely, but on
8 the face of the slide, on the muzzle of the gun,
9 around the barrel itself is a round projection that
10 is the forward most portion of the gun and the size
11 of this one is consistent with the size of the one
12 there. You can see a ruler below it. So, it's
13 very consistent with the muzzle of this gun causing
14 the marks you see around the entrance wound on the
15 deceased's head.

16 Q Dr. Sexton, in forming an opinion as to the
17 cause of death and the characteristics of gunshot
18 wounds do you have to be familiar with firearms?

19 A Yes. Part of our training deals with wound
20 ballistics. Wound ballistics has nothing to do
21 with the projectile leaving the gun and how it
22 travels before it hits the target. Wound
23 ballistics has to do with what it causes when it
24 does hit the target. And not only in our training
25 and in our textbooks, one of which by Demile is

- DR. JOEL SEXTON - DIRECT

1 exclusively on gunshot wound and wound ballistics,
2 but there are also seminars I have been to where we
3 do hands on type of tests to understand the various
4 aspects of how wounds are inflicted, plus I'm a
5 master pistol shot and rifleman, having done that
6 in the service and becoming distinguished with both
7 high powered rifle and the .45, and have shot since
8 1954, when I first started college, on various
9 teams and has coached teams, I still currently
10 coach the Citadel pistol team, I have for the last
11 34 years, as well as a junior team in Newberry
12 since 1983 when I moved there. So, I do a lot of
13 competitive shooting and have training in that area
14 in the field of forensic pathology.

15 Q Thank you, Dr. Sexton. Based on your opinion
16 this is a close contact wound, would it be unusual
17 for somebody not to be able to hear the shot?

18 MR. SHEEK: Objection, outside the realm of
19 this witness' expertise.

20 THE COURT: The objection is sustained until
21 foundation is further laid.

22 MR. PEACE: Your Honor, I think Dr. Sexton
23 has testified as part of forensic pathology he has
24 to be aware of the characteristics of injuries and
25 he specifically said that he has studied ostensibly

DR. JOEL SEXTON - DIRECT

1 gunshot wounds and with his expertise since 1954
2 with firearms the State would submit him as having
3 the ability and the expertise to answer this
4 particular question.

5 THE COURT: Connect his training, knowledge,
6 expertise and experience to that which you seek to
7 elicit from him in this case.

8 MR. PEACE: All right.

9 BY MR. PEACE:

10 Q Dr. Sexton, as part of your training for
11 forensic pathology, what physical characteristics
12 for gunshot wounds do you have to be aware of in
13 order to issue an opinion?

14 A Well, we're particularly concerned about when
15 we examine a gunshot wound how far away, how far
16 the muzzle of the gun is from the person, the part
17 of the body that is struck by the bullet, and we do
18 that by seeing if there are any characteristics to
19 indicate the distance. When the gun is shot at
20 least about a foot and a half to two field away
21 nothing from the gun other than the bullet strikes
22 the individual. When it's right against the skin,
23 as in this case, it abraids the skin, it chars the
24 edge of the wound, it causes carbon monoxide changes
25 inside the wound and it deposits some soot around

DR. JOEL SEXTON - DIRECT

1 the wound. As it gets farther away you start
2 seeing powder particles hitting the skin in a
3 larger and larger pattern to indicate somewhat the
4 distance, as well as more soot. When it finally
5 gets far enough away, like I say, a foot and a half
6 to two feet we see none of those.

7 In this case, as I mentioned, the gun was
8 right against the skin, indicating that it, that
9 most everything went into the wound, and what we're
10 trained to do is to recognize that and we're also
11 trained to recognize what that does as far as sound
12 characteristics because we hear multiple histories
13 from people who have been in the room with, in the
14 next room with someone --

15 MR. SHEEK: Objection to hearsay at this
16 point.

17 THE COURT: Overruled.

18 A They are in the room with a person or the
19 next room and do not hear the shot because the gun
20 is directly against the skin. Guns, if you have a
21 silencer on a gun it's simply a tube that has
22 baffles in it or in some cases sound dispersing
23 material such as, one thing is easy to use is steel
24 wool because it can be penetrated and it has so
25 many different surfaces on it. You can use things

DR. JOEL SEXTON - DIRECT

1 like a plastic bottle. I have personally shot
2 through a plastic bottle to see the difference --

3 MR. SHEEK: Your Honor, if I may object
4 again. He's testifying now as to manufacturing
5 silencers, way outside his field of pathology.

6 THE COURT: The objection is overruled. He
7 can testify from his own personal experience.

8 A Some of the seminars that we went to,
9 silencers were used so we could shoot those and see
10 how that sound was different from a sound without
11 the silencer on the gun. And as I mentioned, I
12 personally put things like a quart size or more,
13 commonly a half gallon size coke bottle or any type
14 of bottle of that sort and you put it over the
15 muzzle of the gun and fire it as opposed to firing
16 it without anything on the muzzle, you see a great
17 difference in the sound. So, it tends to deafen
18 that or silence that because of the characteristic
19 of that particular structure.

20 Here we've got a skull that's solid and
21 inside of which we've got brain issue that is the
22 consistency of cold toothpaste. It's very soft, it
23 tends to absorb that sound so that the sound comes
24 back out of that same hole with time but the
25 majority of it is captured inside the head and

DR. JOEL SEXTON - DIRECT

1 that's why we often hear people say they didn't
2 hear the gunshot and people nearby who have had the
3 gun against their head at the time the shot was
4 fired.

5 Q Dr. Sexton, is it your opinion, based on this
6 particular wound, it would be usual, or unusual for
7 a person not to hear the shot?

8 A It would not be unusual.

9 Q Okay. Dr. Sexton, did you prepare, I'm
10 sorry, did you prepare a report in regards to this
11 autopsy?

12 A Yes, I did.

13 Q And when you prepared the report did you
14 actually refer to this wound as a distant
15 penetrating wound?

16 A There was a typographical error on the front
17 sheet where it lists distant and a description of
18 the wound, and in the case summary it indicates it
19 is a contact wound, which in my opinion it clearly
20 is from the photograph.

21 Q Thank you, Dr. Sexton. Give me one second, I
22 would like to show you some photographs and ask
23 you.

24 Now, Dr. Sexton, based upon your experience
25 and expertise, is this photograph helpful to you in

DR. JOEL SEXTON - DIRECT

1 making a determination in regards to Sanford Best?

2 A It tells me facts about what happened after
3 he was shot, based on the distribution of the blood
4 streaming from the nose, part of the mouth, as well
5 as from the wound.

6 Q And what does this photograph tell you, Dr.
7 Sexton?

8 A As you notice, the blood streams from the top
9 of the forehead, streams from here toward the back
10 and streams down the side of the face. At no point
11 is it going upward. All of it is consistent with
12 him being in that position at the time he was shot
13 and staying in that position after he was shot.

14 People who are shot in the head with a fatal
15 wound like this invariably are unconscious
16 immediately. Their heart may not stop immediately
17 but they are essentially unconscious, and a gunshot
18 wound of this type going back through the
19 ventricles which are fluid spaces inside the brain
20 that transmits that fluid, transmits the energy
21 down to the base of the brain where the medulla is,
22 that controls your heartbeat and respiration, so
23 that type of gunshot wound is almost invariably
24 fatal, whereas a gunshot wound across the front of
25 the brain where the higher centers of knowledge are

DR. JOEL SEXTON - DIRECT

1 sometimes are not fatal. The ones going back
2 through those ventricles, as this did, are
3 uniformly fatal in most cases and cause a person
4 to be pretty much immediately unconscious, and
5 that's what this demonstrates, that he did not move
6 after being shot.

7 Q Dr. Sexton, can you tell us how long it would
8 have taken Mr. Best to die as a result of this?

9 A I really cannot, although generally speaking
10 from the history we receive these people do not
11 live long, just a matter of minutes because of the
12 devastating effect I saw in the brain internally,
13 but as I say, there are some people who are shot
14 across the front of the brain, usually with a
15 smaller caliber, that may survive.

16 Q Dr. Sexton, what does this photograph tell
17 you about the death of Sanford Best?

18 A Again, it puts him in that position. You can
19 see the blood streaming down the other side of the
20 face, as you see here, from the nose and mouth,
21 indicating he did not move from that position after
22 he was shot.

23 Q Thank you. Dr. Sexton, one last photograph.
24 What does this photograph tell you about the death
25 of Sanford Best?

DR. JOEL SEXTON - DIRECT

1 A Again, you can see more carefully the blood
2 streaming up across the top of the forehead. This
3 is the gunshot wound right there and it's a nice
4 round pattern, as you can see, on the bottom of
5 that wound, consistent with what we saw after we
6 cleaned it up.

7 Q Thank you, Doctor.

8 MR. PEACE: Your Honor, if I have not done
9 so, I move State's Exhibit 61 for identification to
10 be admitted as State's Exhibit 61.

11 THE COURT: How says the defendant?

12 MR. SHEEK: No objection.

13 THE COURT: Without objection.

14 (Photograph marked and received in evidence
15 as State's Exhibit Number 61).

16 BY MR. PEACE:

17 Q Dr. Sexton, based on this autopsy you
18 performed, within the bounds of medical certainty
19 have you formed an opinion concerning the death of
20 Sanford Best?

21 A Yes, I have.

22 Q And what is that opinion, Dr. Sexton?

23 A In my opinion within reasonable medical
24 certainty the cause of death was the injury to the
25 brain, the laceration and contusion to the brain

DR. JOEL SEXTON - DIRECT

1 due to the gunshot wound to the head.

2 Q Thank you, Dr. Sexton.

3 THE COURT: The Court may not have spoken
4 fully. Number 61 is admitted into evidence.

5 Q Dr. Sexton, I show you what has been marked
6 State's Exhibit 39 and ask you if you recognize
7 State's Exhibit 39?

8 A What I have are two plastics containers, one
9 of which is hard and one is soft. The soft one has
10 our label on the outside and my initials. The hard
11 ~~one has our label and my initials.~~ The bullet
12 inside matches the three photographs I took of the
13 bullet. When the bullet goes into the body, if it
14 hits something rigid it oftentimes has numerous
15 damaged areas on the surface that are similar to a
16 fingerprint in that they are unique to that
17 particular bullet. It also has on its face my
18 label, so this is the bullet that I removed from
19 the head of Sanford Best.

20 Q And what did you do with that bullet, Dr.
21 Sexton?

22 A It was transferred to Brandon Strickland from
23 the Greenwood County Sheriff's office.

24 Q Thank you, Dr. Sexton.

25 MR. PEACE: Your Honor, at this time it may

DR. JOEL SEXTON - DIRECT

1 be appropriate to publish another stipulation which
2 the State and defense has entered into, and this is
3 concerning the body of Sanford Best.

4 THE COURT: Ladies and gentlemen, there is
5 another stipulation as follows.

6 It is hereby stipulated between the State and
7 the defense, with the expressed consent of the
8 defendant Charles Vandross, that on November 4,
9 2004, the body of Sanford Best was transported by
10 EMS attnedants Scott Delano and Chris Ricketts from
11 3938 McCormick Highway to the morgue. From there
12 the body was transported by Deputy Coroner Steve
13 Owens to the offices of Dr. Joel S. Sexton in
14 Newberry, South Carolina, where the autopsy was
15 performed.

16 If there is any juror who would prefer to
17 hear the stipulation read again, raise your hand.

18 There are none. Thank you.

19 MR. PEACE: Thank you, Your Honor. Dr.
20 Sexton, those are all the questions I have. Please
21 answer any questions that Mr. Sheek may have.

22 THE COURT: Previous objections are noted on
23 the record.

24 MR. SHEEK: Yes, sir.
25

DR. JOEL SEXTON - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Dr. Sexton, it's your testimony your training as a forensic pathologist makes you an expert in the sound characteristics of a firearm, correct?

A The combination of my shooting experience and the training that we receive in forensic pathology gives me the knowledge, particularly of contact wounds, how they differ from just a firearm that's fired without being against something.

Q What kind of shooting experience are we talking about, competitive shooting?

A Competitive shooting.

Q Do you shoot in the IDPA?

A I have. I'm primarily an international shooter, shoot the Olympic style distances.

Q What is it when you shoot that, do you shoot at targets?

A We shoot at targets.

Q Really your discipline, training and expertise is pointing a gun in the right direction in that particular discipline, correct?

A That's true.

Q You don't use silencers in this Olympic type shooting, do you?

- DR. JOEL SEXTON - CROSS

1 A No, we do not.

2 Q The IDPA or International Pistol Association
3 is where you actually go to the stations and have
4 to shoot designated targets while not shooting the
5 other targets, right?

6 A That's correct.

7 Q Again that is pointing the gun in the right
8 direction?

9 A That's correct.

10 Q So, that's what you have been doing for these
11 thirty something years so that makes you an expert
12 in the sound characteristics of a gun?

13 A I'm familiar with the way normal firearms
14 sound when they are not muffled by silencers or, in
15 this case, being fired in someone's head.

16 Q Do you have a federal firearms license?

17 A I do not.

18 Q What class of federal firearms license would
19 you have to have to even possess a silencer in this
20 state?

21 A I'm not aware of that.

22 Q But it would be illegal for you to even
23 possess one?

24 A I'm not aware of that.

25 Q Do you have a silencer?

DR. JOEL SEXTON - CROSS

1 A I do not have one.

2 Q Have you ever owned or possessed a silencer?

3 A I have not, if you consider a silencer
4 something commercially made. As I mentioned, you
5 can use a plastic bottle to make a silencer.

6 Q So, it's your testimony to this jury if I go
7 out for one of these pistol shoots and I'm shooting
8 a regular firearm, something like this .380, part
9 of the rules is I would have to wear ear
10 protection, right?

11 A Yes, sir.

12 Q Because medically the sound is so loud
13 shooting without ear protection could actually
14 damage the hearing?

15 A I can verify to that because I shot M1's and
16 used cotton in my ears and I have reduced hearing.
17 in my left ear.

18 Q If I took this gun and fired it without ear
19 protection and stuck it in an empty plastic bottle
20 suddenly it's silenced?

21 A It is. It's not silent to the point there is
22 no sound but there is a much much reduced sound.

23 Q How much reduced?

24 A I would say about 80 to 90 percent.

25 Q 80 to 90 percent, wow. So, it's kind of

DR. JOEL SEXTON - CROSS

1 surprising more criminals don't just stick them in
2 a bottle when they use them, isn't it?

3 A Well, when you do it, it's a little awkward.
4 You can tape them but a bottle is pretty big, it's
5 not as easy to use as a regular silencer.

6 Q Now, when you fire this gun, being a
7 semiautomatic, the gas pressure actually works this
8 action, correct?

9 A Yes, that's correct.

10 Q How much sound comes from that?

11 A Are you talking about the slide going back?

12 Q The slide going back, yes.

13 A It's sort of a clicking sound. I usually
14 have earmuffs on when I hear that sound, so it's
15 not very loud.

16 Q But it's loud enough to hear it even with the
17 earmuffs on?

18 A When I'm, you know, using my hand to move the
19 slide back and forth it's a clicking sound that
20 would, similar like that, it wouldn't be that loud
21 because this is magnified because of the
22 microphone, but it's a clicking sound that if you
23 have ever heard it it's distinctive.

24 Q So, actually this gun has a spring mechanism
25 so that when the gas pressure pushes this slide

DR. JOEL SEXTON - CROSS

1 back the spring then slides it back forward and
2 puts the next shell into the chamber, correct?

3 A Yes.

4 Q Now, are you familiar with what a decibel
5 meter is?

6 A Yes.

7 Q What is the decibel level of that slide?

8 A I'm not familiar with that decibel level.

9 Q What is the decibel level of a gun going off
10 without sticking it in an empty bottle for a
11 silencer?

12 A I have never measured it.

13 Q Surely with your expertise you know the
14 decibel level before and after it is silenced,
15 right?

16 A I just gave you an estimate of what I thought
17 it would be as far as reduction.

18 Q And that estimate is based on the mere fact
19 you have shot for some thirty years, right?

20 A No, that's based on shooting it through a
21 plastic bottle and comparing that with a shot
22 that's fired not through the plastic bottle. As I
23 mentioned earlier, I went to seminars in Texas, one
24 in Texas by Dr. Richard Petty who gave seminars for
25 about a week where we test fired various guns under

DR. JOEL SEXTON - CROSS

1 various conditions. Dr. Demile, who has written a
2 book on gunshot wound, wound ballistics, was at
3 that seminar and has continued that sort of work in
4 cases like that. We fired into various objects to
5 see what the difference would be as far as sound
6 characteristics.

7 Also I have gone to SLED and they in the past
8 used to use a cotton box, they had a box that was
9 about eight feet long and about the size of a
10 rabbit gun, about this big, with cotton in it. You
11 shoot in one end by putting the gun part way into
12 the hole at one end and it will go down a little
13 ways and the cotton will track that shot, usually
14 about a foot for a .45. He could reach in there
15 and find the ball of cotton that had the bullet in
16 it and pull it out. On those occasions that was
17 very muffled compared to what it would sound like
18 if you shot it without putting it in some sort of
19 container as he did in that case.

20 Q Have you ever been to the lab at the State
21 Law Enforcement Division where they fire the gun
22 into the water tank to get the bullet for
23 ballistics testing?

24 A No, I haven't seen the new water tank.

25 Q Have you seen the old water tank method?

DR. JOEL SEXTON - CROSS

1 A I'm only aware of one water tank method.

2 Q Okay. Have you ever observed whether or not
3 they stick the gun into this opening in the water
4 tank and test fire it? Do you know anything about
5 that?

6 A I'm not familiar with the water tank they are
7 currently using.

8 Q Okay. How long have you been driving?

9 A Been driving?

10 Q Yes.

11 A I got my license when I was 15, I'm 70 now,
12 so I guess about 55 years.

13 Q Are you an expert in automobiles, too?

14 A In automobiles?

15 Q Yes.

16 A I used to work on my Volkswagen but I don't
17 consider myself an automotive mechanic.

18 MR. SHEEK: Thank you. That's all I have.

19 MR. PEACE: No redirect, Your Honor.

20 THE COURT: Thank you, Doctor. Come down.

21 THE WITNESS: You're welcome, sir.

22 (Witness excused.

23 MR. PEACE: Your Honor, we ask that Dr.
24 Sexton be allowed to leave.

25 THE COURT: Any objection?

DR. JOEL SEXTON - CROSS

1 MR. SHEEK: No objection.

2 THE COURT: Dr. Sexton, you may stay with
3 with us if you wish but of course you may leave the
4 building.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Do you have a short witness,
7 Solicitor?

8 MR. PEACE: Yes, sir, I do.

9 THE COURT: All right, sir.

10 MR. PEACE: Your Honor, the State would next
11 call Connie Moody.

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CONNIE MOODY - DIRECT

1 CONNIE MOODY,
2 after being first duly sworn testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. PEACE:

5 Q Would you please state your name for the
6 record?

7 A My name is Connie Moody.

8 Q Miss Moody, where are you employed?

9 A I'm the Director of Voter Registration and
10 Elections of Greenwood County.

11 Q How long have you been in that position?

12 A Seven years.

13 THE COURT: Don't get quite so close to that
14 microphone.

15 A Okay.

16 Q Miss Moody, do you know the defendant in this
17 case?

18 A I have met Mr. Vandross.

19 Q Would you please point to him? Describe what
20 he is wearing.

21 A A blue shirt, yellow tie.

22 MR. PEACE: Your Honor, the State would ask
23 the record reflect that the witness has identified
24 the defendant Mr. Vandross.

25 THE COURT: Let the record reflect.

CONNIE MOODY - DIRECT

1 BY MR. PEACE:

2 Q Miss Moody, when did you meet Mr. Vandross?

3 A Mr. Vandross came by the office on August the
4 23rd of 1994 -- 2004. He came in and registered to
5 vote and at that time asked if he could be a poll
6 worker.

7 Q And did you see him subsequent to that?

8 A I didn't actually register him, my staff did.
9 He had asked if he could work the polls and we took
10 his information, we mailed a letter to him about
11 the training session and the letter was returned.
12 He came in again on October 4th and changed his
13 address.

14 Q Did you see him after October the 4th?

15 A No -- well, I did when the equipment was
16 picked up the day prior to the election. He
17 actually thought that he was supposed to pick up
18 the equipment so he came to the basement of the
19 courthouse and I saw him briefly at that time.

20 Q Did you have a conversation with him on
21 October the 4th?

22 A I did. His last name was unique, Vandross, I
23 had asked him if he was related to Luther and he
24 said that was his uncle, and I made the comment
25 that my husband and I had played his uncle's music

CONNIE MOODY - DIRECT

1 at our wedding when we were married, and he had
2 stated that he had broken up with his girlfriend or
3 they had broken up and he had hoped that they would
4 get married but since they had broken up and he had
5 moved into town, that he hoped that they could get
6 back together.

7 Q Okay. Could you describe his demeanor when
8 he was speaking with you about this?

9 A He seemed distressed, a little distraught.
10 You could tell he was really down because he and
11 his girlfriend weren't together.

12 MR. PEACE: Thank you Mrs. Moody. Please
13 answer any questions Mr. Sheek has.

14 THE COURT: Cross-examination.
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CONNIE MOODY - CROSS

CROSS EXAMINATION

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QUESTIONS BY MR. SHEEK:

Q When he changed his address on October 4th
what did he change it to?

A When he initially registered he registered at
3938 McCormick Highway in Bradley. When he came in
to change his address he changed his address to 106
Barkwood Drive, Apartment 111-H.

Q That was in October of '04, correct?

A That was in October of '04.

Q Would there have been a check or any money
for working the polls, anything of that nature?

A There was. The check was mailed to the
Barkwood Drive address and it was returned, of
course, because Mr. Vandross was not there.

MR. SHEEK: Thank you, ma'am. That's all.

THE COURT: Anything further?

MR. PEACE: Can I have a moment?

THE COURT: Take your time.

MR. PEACE: No redirect.

THE COURT: Come down. Watch your step.

(Witness excused).

MR. PEACE: Your Honor, I have another short
witness.

THE COURT: Yes, sir.

CONNIE MOODY - CROSS

1 MR. PEACE: The State would next call Ronnie
2 Perry to the stand.
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RONNIE PERRY - DIRECT

1 RONNIE KEITH PERRY,
2 after being first duly sworn testified as follows:

3 THE COURT: You may examine, Solicitor.

4 MR. PEACE: Thank you, Your Honor. If it
5 please the Court.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. PEACE:

8 Q Mr. Perry, would you state your name for the
9 record, please?

10 A Ronnie Keith Perry.

11 Q All right. Would you spell your name for the
12 court reporter?

13 A R-o-n-n-i-e, K-e-i-t-h, P-e-r-r-y.

14 Q Okay. Mr. Perry, where are you employed?

15 A Apache Pawn and Gun.

16 Q I'm sorry?

17 A Apache Pawn and Gun.

18 Q Okay. How long have you been employed there?

19 A Four years.

20 Q Okay. Do you know the defendant in this
21 case?

22 A Yes, I do.

23 Q Okay. Would you please point to him and
24 state his name?

25 A Mr. Vandross.

RONNIE PERRY - DIRECT

- 1 Q All right.
- 2 THE COURT: The record will show that he
- 3 identified the defendant.
- 4 Q Okay. Now, how do you know Mr. Vandross?
- 5 A Mr. Vandross purchased a pistol from us.
- 6 Q Okay. And when did he do that?
- 7 A Without looking at the forms I can't
- 8 remember.
- 9 Q I'm sorry?
- 10 A I need to see the forms, sir.
- 11 Q If I can direct your attention to the screen,
- 12 I show you what has been marked State's Exhibit 27
- 13 for identification and ask you if you recognize
- 14 that document?
- 15 A Yes, I do.
- 16 Q And what is that document?
- 17 A It's a firearms application.
- 18 Q I'm sorry?
- 19 A It's a firearms application.
- 20 Q Okay. Have you seen that document before?
- 21 A Yes, I have.
- 22 Q Okay. Did you fill out that document, did
- 23 you prepare that paperwork?
- 24 A Portions of it.
- 25 Q All right. Does it bear your signature?

RONNIE PERRY - DIRECT

1 A On the reverse side.

2 Q Okay. Would there be a second page?

3 A Yes, sir.

4 Q Does that document bear your signature?

5 A Yes, there on the very bottom.

6 Q Okay. All right, and when did you prepare
7 that paperwork?

8 A I can't see the date, the lower right corner.

9 Q Can you see it now?

10 A Yes. 7/30/04.

11 Q All right. Now, what is that particular
12 document, Mr. Perry?

13 A Excuse me?

14 Q What is that particular document?

15 A Firearms transaction request.

16 Q Now I hand you State's Exhibit 26 for
17 identification. Will you explain to the jury how
18 that particular document is filled out?

19 A First of all the individual comes into the
20 shop and they pick out a firearm. It's paid for
21 and then there is a form, this form, application
22 for transaction is filled out. The individual
23 fills out the front side, I fill out the back, it
24 has driver's license information, date of birth,
25 social security number. Once it is completed, then

RONNIE PERRY - DIRECT

- 1 I call it in to at that time it was SLED to do a
2 background check on the individual.
- 3 Q Did he fill that document out in your
4 presence?
- 5 A Yes, he did.
- 6 Q Is he required to sign the document?
- 7 A Yes, he is.
- 8 Q Did he sign that document in your presence?
- 9 A Yes.
- 10 Q All right. Let's see if we can show State's
11 Exhibit 27 for identification. I ask you if you
12 recognize State's Exhibit 27 for identification?
- 13 A Yes, I do.
- 14 Q What is that document?
- 15 A That's the second part to the transaction for
16 a handgun.
- 17 Q Who fills out that document?
- 18 A He fills out the top portion, I fill out the
19 bottom.
- 20 Q Okay. Did Mr. Vandross do that in your
21 presence?
- 22 A Yes, he did.
- 23 Q Did you sign it?
- 24 A Yes, I did.
- 25 Q And what is that document for?

RONNIE PERRY - DIRECT

1 A That document asks you different questions,
2 have you ever been convicted of a felony, different
3 questions likes that, and at the very bottom of it
4 there is a description of the handgun being
5 purchased.

6 MR. PEACE: Your Honor, I move State's
7 Exhibits 26 and 27 for identification be admitted
8 as State's Exhibits 26 and 27.

9 MR. SHEEK: No objection, Your Honor.

10 THE COURT: Without objection 26 and 27 are
11 admitted into evidence.

12 (Transaction for handgun documents marked
13 and received in evidence as State's Exhibit
14 Numbers 26 and 27).

15 BY MR. PEACE:

16 Q Mr. Perry, I show you State's Exhibit 1 and
17 ask you if you recognize this?

18 A Yes, I do.

19 Q All right. Now, what is State's Exhibit 1?

20 A This is a Bursa Fire Storm .380 pistol.

21 Q Have you seen this pistol before?

22 A Yes, I have.

23 Q Is this the pistol you sold to Mr. Vandross?

24 A Yes, it is.

25 Q All right. And when did you sell that pistol

RONNIE PERRY - DIRECT

1 to him?

2 A On 7/30/04.

3 MR. PEACE: All right, thank you, Mr. Perry.

4 Those are all the questions I have. If you would,
5 answer any questions that Mr. Sheek might have.

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RONNIE PERRY - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Good afternoon, Mr. Perry.

A Good afternoon, Mr. Sheek.

Q As part of your job at Apache Pawn, to purchase a firearm you have to complete these forms?

A Correct.

Q Before you can actually release the gun to them you have to contact SLED so they could do that background check?

A Correct.

Q Because one of the things SLED is concerned about is, obviously, they don't have a criminal record?

A Correct.

Q And I believe even in South Carolina if you have a CDV conviction, restraining order, order of protection, you can't possess a firearm, correct?

A Right.

Q You made all those checks against Mr. Vandross?

A Yes.

Q Mr. Vandross fills it out and once you call it in they do the background, SLED at that time?

RONNIE PERRY - CROSS

1 A SLED does the background check.

2 Q And you were cleared by SLED to sell him the
3 gun?

4 A Correct.

5 MR. SHEEK: Thank you. That's all I have
6 got.

7 MR. PEACE: No redirect, Your Honor.

8 THE COURT Thank you. Come down. Watch
9 your step.

10 MR. PEACE: Your Honor, may we approach?

11 THE COURT: Yes, sir.

12 (Bench conference out of the hearing of
13 the jury).

14 MR. PEACE: Your Honor, with the Court's
15 permission Mr. Perry would like to be excused.

16 THE COURT: Any objection?

17 MR. SHEEK: None.

18 THE COURT: Mr. Perry, you may stay with us
19 or leave the building if you wish.

20 THE WITNESS: Thank you, sir.

21 (Witness excused).

22 MR. PEACE: Judge, I have Adrienne Riley who
23 is a DNA analyst from SLED who has another
24 appointment tomorrow.

25 THE COURT: Let's get her. If you have

1 somebody sitting here that needs to go somewhere
2 else -- has anybody else traveled here?

3 MR. PEACE: They will be back tomorrow.

4 THE COURT: This will be our last one?

5 MR. PEACE: Yes.

6 THE COURT: I'm sure this jury is tired at
7 this point.

8 MR. PEACE: Yes, sir.

9 (Bench conference concluded).

10 MR. PEACE: The State would next call
11 Adrienne Riley.

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ADRIENNE RILEY - DIRECT

1 ADRIENNE RILEY,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you,
4 Solicitor.

5 MR. PEACE: Thank you, Your Honor. If I can
6 have just one moment?

7 THE COURT: Take your time.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. PEACE:

10 Q Mrs. Riley, would you state your name for the
11 record, please?

12 A Yes. Adrienne Riley.

13 Q And where are you employed?

14 A With the South Carolina Law Enforcement
15 Division, commonly known as SLED.

16 Q Okay. In what capacity are you employed with
17 SLED?

18 A As a forensic DNA analyst.

19 Q What are your duties as a forensic DNA
20 analyst?

21 A My primary duty is the analysis of biological
22 evidence that was left behind at a crime scene and
23 also comparison and interpretation of the evidence.
24 What we compare it to are known standards that were
25 collected from the victim or subject in the case.

ADRIENNE RILEY - DIRECT

1 My secondary duties include training law
2 enforcement personnel in the collection and
3 preservation of DNA evidence as well as training
4 sexual assault nurse examiners on collection
5 procedures, training other DNA analysts and also
6 performing audits of other laboratories as a DNA
7 advisory board auditor.

8 Q Now, Mrs. Riley, what educational background
9 do you have that prepares you for your particular
10 position?

11 A I have a Bachelor of Science Degree in
12 biology from the University of South Carolina.
13 Also I received on-the-job training from a court
14 qualified DNA analyst, as well as attended numerous
15 symposiums to stay abreast in the field of DNA. I
16 have also taken postgraduate courses in the field
17 of molecular biology, genetics and statistics.

18 Q Now, Miss Riley, what is DNA?

19 A DNA stands for deoxyribonucleic acid.
20 Basically what that is, it's the genetic material
21 that makes us who we are. It's passed along from
22 generation to generation and we receive our DNA
23 from each one of our parents. Half of our DNA will
24 come from our mother and the other half of our DNA
25 will come from our father. A lot of us have the

ADRIENNE RILEY - DIRECT

1 same DNA. It's DNA that gives us two arms and two
2 legs and two eyes and a nose, but of course when we
3 look around this courtroom we will notice that
4 everyone looks different, so therefore our DNA is
5 different from person to person. The only two
6 people that would have the same DNA would be
7 identical twins.

8 Q All right. And how is DNA used for forensic
9 purposes?

10 A Because DNA is unique from person to person,
11 what we do in forensics, any evidence that was left
12 behind the scene, say if it's blood or semen that
13 was left at a rape site or blood left at a burglary
14 site, we develop a DNA profile from the biological
15 evidence that was left and we also develop a DNA
16 profile from the known standard. What I mean by
17 known, it's usually blood that was drawn from the
18 vein of the victim and/or the subject, but we can
19 also use saliva or swabs from inside the cheek as a
20 known standard, and we develop a DNA profile from a
21 known, also develop a DNA profile from an unknown
22 and compare the two.

23 Q Now, have you testified in court before?

24 A Yes sir, I have.

25 Q Okay. How many times have you testified as

ADRIENNE RILEY - DIRECT

1 an expert in court?

2 A Approximately 26 times, I believe.

3 MR. PEACE: Your Honor, I would submit Agent
4 Riley as an expert in DNA.

5 THE COURT: Questions on voir dire?

6 MR. SHEEK: No objection.

7 THE COURT: Ladies and gentlemen, this
8 witness is an expert in the field of forensic DNA
9 analysis.

10 BY MR. PEACE:

11 Q All right, Agent Riley, what specific types
12 of human body fluids or tissue can DNA be obtained
13 from?

14 A DNA can pretty much be obtained from any type
15 of human tissue or body fluid, such as blood, skin
16 cells, saliva, bone, teeth, hair and skin. I said
17 skin cells. Sweat, sometimes we can get a DNA
18 profile from sweat as well.

19 Q Did you have occasion to examine or analyze
20 evidence related to the case before the Court
21 today?

22 A Yes, sir, I did.

23 Q What type of evidence was submitted to you?

24 A In this case I received a blood standard from
25 Sanford Best, I received swabs from a gun, I

ADRIENNE RILEY - DIRECT

1 received cuttings from subject's pants, I received
2 hair from a piece of silver duct tape, swabs from a
3 piece of silver duct tape, pulled head hairs from
4 JoAnn Wilson which were used as her known standard,
5 swabs from outside and inside of a duct tape roll
6 and cuttings from a shirt as well as swabs from
7 bathroom.

8 Q All right. Miss Riley, I will show you
9 State's Exhibit 53 for identification and ask you
10 if you recognize State's Exhibit 53.

11 A Yes. These are different swabs and cuttings,
12 these are swabs from the gun as well as cuttings
13 from the subject's pants, and the swab from the
14 duct tape roll.

15 Q Are those the swabs that you examined in
16 relation to this particular case?

17 A That's correct.

18 Q All right. As a result of analyzing those
19 particular items of evidence what were the results
20 of your analysis?

21 A The DNA profile developed from items 14.1,
22 which were cuttings from the subject's pants, and
23 19.1, which was a swab from the duct tape, matches
24 the DNA profile of JoAnn Wilson. The probability
25 of randomly selecting an unrelated individual from

.ADRIENNE RILEY - DIRECT

1 the population having a DNA profile matching these
2 items is approximately one in 600 trillion.

3 Q Were those particular items that you
4 analyzed, was that blood?

5 A Both of these items, item 14.1 was too small
6 to actually do a presumptive test for blood so I
7 went straight to DNA, so I cannot say that was
8 blood. There was another cutting from the
9 subject's pants that I did indicate blood for. And
10 19.1 would not be blood, it would more than likely
11 be skin cells from the swab of a piece of silver
12 duct tape.

13 Q And did you have other findings in relation
14 to your analysis?

15 A Yes. The partial DNA profiles developed from
16 item 14.2, which was another cutting from the
17 subject's pants; 18.2, which was another swab from
18 the duct tape; 20.1, which was another swab from
19 the duct tape; and 22.2, which was inside, a swab
20 from inside the duct tape roll, also matches JoAnn
21 Wilson.

22 And the last finding for this report, DNA
23 profile developed from item 9.1, which was a swab
24 from the gun, is too weak to reliably interpret.

25 Q All right. Did you analyze any swabs from

ADRIENNE RILEY - DIRECT

1 the bathroom?

2 A Yes, sir.

3 Q What was the result of your analysis of those
4 particular swabs?

5 A There was blood indicated on the swab from
6 the bathroom, and the DNA profile developed from
7 item 25, these swabs matched the DNA profile of
8 JoAnn Wilson. Again, the probability of randomly
9 selecting an unrelated individual having a DNA
10 profile matching these items is one in 600
11 trillion.

12 MR. PEACE: Thank you, Agent Riley. Those
13 are all the questions I have. Please answer any
14 questions Mr. Sheek may have.

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ADRIENNE RILEY - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Miss Riley, as part of your testing in this case did you test this item?

A Yes, sir, I did. I tested cuttings from that item.

Q Okay. And the light pink areas on this item, is that the ninhydrin that is used to make the blood show up?

A I'm not sure what the bright areas are. I have never seen this actual item. I received a cutting where there are cuttings from this, it appears to be blood.

Q All the cuttings that you received off that shirt, DNA, that blood matched Sanford Best, correct?

A That is correct.

Q Did you find anything or were you submitted anything off this shirt, from any of these areas of blood, matching anyone else?

A Well, there was one item and I will read directly from our report regarding these cuttings from the shirt. The DNA profile developed from items 24.1, 24.2 and the major contributor to 24.3 matched the DNA profile of Sanford Best. The

ADRIENNE RILEY - CROSS

1 probability of randomly selecting an unrelated
2 individual from the population having a DNA profile
3 matching these items is one in 27 trillion. JoAnn
4 Wilson can not be excluded as the minor contributor
5 to item, to the mixture on item 24.4. There is a
6 partial DNA profile developed on item 24.3 that
7 also matches Sanford Best.

8 Q Now, you said you also did DNA analysis on
9 these items, correct?

10 A These are swabs from the duct tape roll.

11 Q I noticed on your report on all the items
12 like the pants, the shirt, anywhere there was blood
13 you marked blood indicated, correct?

14 A Yes, sir, unless there was a small amount
15 that I could not do a presumptive test for blood,
16 so instead of sacrificing the item I went straight
17 to DNA.

18 Q Okay. No blood indicated on that particular
19 item I just handed you, is there?

20 A The duct tape?

21 Q Yes, ma'am.

22 A Usually we don't do, unless we see blood or
23 see something like blood we don't do a presumptive
24 test, we go straight to DNA, because on duct tape
25 you would expect to find skin cells if it was taped

ADRIENNE RILEY - CROSS

1 to someone.

2 Q I understand that, ma'am. In your analysis
3 of that you did not discover anything that
4 appeared, in your expertise, to be blood, did you?

5 A On the duct tape swabs, no, sir.

6 Q And actually because you are looking for skin
7 cells, you can get a DNA analysis from a single
8 skin cell?

9 A Yes, sir.

10 Q All you need is one complete cell to get that
11 DNA?

12 A Yes, sir.

13 Q Duct tape is actually very sticky, right?

14 A Right.

15 Q You would expect to find the skin cells of
16 anybody that handled it on that duct tape?

17 A Correct.

18 Q You did not find any DNA of Charles Vandross
19 on that duct tape, did you?

20 A No, sir, I did not.

21 Q Well, did I hear you right that you found the
22 DNA profile of JoAnn Suber Wilson on the inside of
23 what has been marked as State's Exhibit Number 43,
24 the inside of the duct tape roll?

25 A Item 22.2 there was a partial DNA profile

ADRIENNE RILEY - CROSS

1 that also matched JoAnn Wilson.

2 Q What about any DNA of Charles Vandross
3 anywhere on that duct tape roll?

4 A I did not have any foreign DNA that did not
5 match JoAnn and/or Sandford Best and I did not have
6 a standard from Charles Vandross.

7 Q But you had no foreign DNA, so it didn't
8 matter, right?

9 A Right.

10 Q I'm going to hand you what has been marked
11 State's Exhibit Number 23 and ask you did you ever,
12 were you ever asked to do any testing on that
13 particular item?

14 A I can't tell from this picture what this
15 particular item is.

16 Q Were there any items submitted to you in this
17 case other than the duct tape and the shirt and
18 pants alleged to be Mr. Vandross' and the shirt
19 worn by Miss JoAnn Wilson?

20 A And the swab from the gun, that's all the
21 items that were submitted to me.

22 MR. SHEEK: Okay, thank you, ma'am. Beg the
23 Court's indulgence one moment.

24 THE COURT: Take your time.

25 MR. SHEEK: That's all the questions I have,

ADRIENNE RILEY - CROSS

1 Your Honor.

2 THE COURT: Redirect?

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ADRIENNE RILEY - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. PEACE:

Q Now, did you say that you analyzed the swab from the gun?

A Yes, sir.

Q And what was your result from that?

A They were too weak to reliably interpret.

Q Would you expect if someone handled this gun to have DNA on the gun?

A Not unless they handled it for awhile and were able to sluff off skin cells and it was collected pretty much with a swab shortly thereafter. It is questionable whether you will get DNA from it or not. All those parameters would have to be in place first.

MR. PEACE: Thank you. No further questions.

THE COURT: Anything further, Mr. Sheek?

MR. SHEEK: No recross, Your Honor.

THE COURT: Thank you. Come down, madam. Watch your step, please.

Any objection to this witness' being excused?

MR. PEACE: No, sir.

THE COURT: Any objection to this witness' being excused?

MR. SHEEK: Absolutely not, Your Honor.

ADRIENNE RILEY - REDIRECT

1 THE COURT: Thank you, madam. You may stay
2 with us if you wish, of course, but you may leave
3 the building.

4 (Witness excused).

5 THE COURT: We will recess at this time,
6 Solicitor.

7 MR. PEACE: Yes, sir.

8 THE COURT: Any objection?

9 MR. PEACE: No, sir.

10 THE COURT: Any objection to recessing?

11 MR. SHEEK: No, sir.

12 THE COURT: All right. Mr. Foreman, ladies
13 and gentlemen, we will recess at this time. I'm
14 certain that you are tired, as are all the
15 participants in the trial. Do not speak about the
16 case by, between and among yourselves nor with any
17 other person. Do not permit anyone to talk with
18 you about this case. If anyone does innocently
19 mention to you something about the case or question
20 you about what you are doing at the courthouse and
21 if you are a juror what the case is about or
22 something innocuous and innocent of such a nature,
23 please tell that person immediately that you are a
24 juror and you are not permitted to discuss the case
25 with them at all.

1 Now, again, the Court is not oblivious that
2 people are very curious about things that go on at
3 the courthouse, particularly when they're close to
4 you, such as parents, siblings, close friends,
5 children, things of that nature. They are very
6 curious and they naturally want to know and they
7 naturally want you to tell them. But it's not fair
8 to either side that you tell them even what the
9 case is about. Please tell them that you may not
10 discuss the case with them and you may not even
11 tell them the subject of the case but know now that
12 when the case is over and a verdict is reached you
13 may discuss the case from out front of the
14 courthouse with anyone you wish. You can stop
15 every car that comes by and talk with them but you
16 can't talk with anyone until then.

17 Now, on the other hand, if someone pesters
18 you and/or you don't want to talk about the case
19 after a verdict is reached, then you call the
20 sheriff and the sheriff will contact this judge and
21 that will be stopped immediately because you have
22 the right after the verdict is reached in any case.
23 as a juror to discuss it on the one hand or to
24 refuse to discuss it on the other. That's your
25 right. But until a verdict is reached you are not

1 to discuss it at all with anyone and most will
2 understand that immediately, but if anyone persists
3 after you alert them and make them aware that you
4 are a juror, you already know that you are to bring
5 to bear all measures and forces at your disposal
6 and identify those persons or that person in any
7 way possible and report that to one of the bailiffs
8 privately and it will be investigated and dealt
9 with as quickly as possible.

10 Were there to be any media coverage that
11 comes to your attention, such as newspaper,
12 television or radio, it's your responsibility to
13 disregard completely what you may see, hear or read
14 outside this courtroom, as all the evidence with
15 which you will use, which you will use to decide
16 the facts of this case will be revealed to you in
17 this courtroom and nowhere else, so disregard
18 anything that you may see, hear or read outside the
19 courtroom.

20 Thank you very much. Be back in the jury
21 room at 9:30 in the morning. Everyone else remain
22 seated, the jury is excused, leave by the door
23 behind you.

24 Thank you, ladies and gentlemen.

25 (The jury was excused from the courtroom).

1 THE COURT: Is there anything from the State,
2 excuse me, anything from the State before we recess
3 for the evening?

4 MR. PEACE: No, sir, not from the State.

5 THE COURT: Anything from the defense?

6 MR. SHEEK: I would only ask that I be given
7 a couple minutes with my client and his family
8 before they take him back to the jail. I don't
9 mean to inconvenience security, but just a few
10 minutes.

11 THE COURT: Sheriff, will you see to it that
12 that is arranged?

13 DEPUTY SHERIFF: Yes, sir.

14 THE COURT: And you have additional security
15 here available to you, and that request is granted.
16 Anything further?

17 MR. PEACE: No, sir.

18 THE COURT: We are in recess until 9:30 a.m.
19 Could I see counsel before you go?

20 MR. SHEEK: Yes, sir.

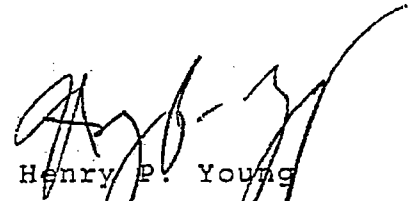
21 (Recessed at 5:18 p.m.).
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I, the undersigned Henry P. Young, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case in the Circuit Court for Greenwood County, South Carolina, on the 20th day of June, 2006.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 26, 2006


Henry P. Young
Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
2004-GS-24-1147

COUNTY OF GREENWOOD

STATE OF SOUTH CAROLINA,)

-vs-)

CHARLES NEMON VANDROSS,)

Defendant.)

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

JERRY W. PEACE, Esquire
Attorney for the State

C. LANCE SHEEK, Esquire
Attorney for the Defendant

Henry P. Young
Court Reporter

VOLUME III of III
June 21, 2006

1 (Reconvened at 9:52 a.m.)

2 THE COURT: The record will open, please.
3 State of South Carolina versus Charles Nemon
4 Vandross, Indictment 2004-1187.

5 Is there anything from the State before the
6 jurors come in?

7 MR. PEACE: Your Honor, we would like to
8 introduce State's Exhibit 59 for identification.

9 THE COURT: Any objection to 59?

10 MR. SHEEK: No objection, Your Honor.

11 THE COURT: Okay. When the jury comes in, if
12 you will make that motion we'll cover that.

13 MR. PEACE: Yes, sir.

14 THE COURT: Anything from the defense before
15 the jurors come in?

16 MR. SHEEK: No, sir.

17 THE COURT: Thank you. Show the jury in
18 please.

19 (The jury returned to the courtroom).

20 THE COURT: All the jurors are present, with
21 the foreman and the alternates properly seated.

22 The matter lies with the State. Call your
23 next witness.

24 MR. PEACE: Thank you, Your Honor. If it
25 please the Court, before I call a witness, Your

1 Honor, the State would move that State's Exhibit 59
2 for identification be admitted as State's Exhibit
3 59.

4 THE COURT: How says the defense.

5 MR. SHEEK: No objection, Your Honor.

6 THE COURT: Thank you. Exhibit 59 for the
7 State is part of the evidence in the case.

8 (Shirt marked and received in evidence as
9 State's Exhibit Number 59).

10 MR. PEACE: Thank you, Your Honor. The State
11 would next call Agent Tracy Thrower to the stand.

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TRACY THROWER - DIRECT :

1 TRACY J. THROWER,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you,
4 Solicitor.

5 MR. PEACE: Thank you, Your Honor. If it
6 please the Court.

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. PEACE:

9 Q Would you please state your name for the
10 record?

11 A Tracy J. Thrower, T-h-r-o-w-e-r.

12 Q And for the court reporter would you please
13 spell Tracy?

14 A T-r-a-c-y.

15 Q Thank you. Mr. Thrower, where are you
16 employed?

17 A I'm employed by the South Carolina Law
18 Enforcement Division, also known as SLED, in the
19 forensic services building, in the firearms
20 department.

21 Q And how long have you been employed at SLED?

22 A A little over seven years.

23 Q Do you do firearms identification?

24 A I do.

25 Q And what is firearms identification?

TRACY THROWER - DIRECT

1 A. Firearms identification is a discipline of
2 forensic science in which a firearms examiner
3 attempts to determine if an ammunition component
4 such as a bullet or a cartridge casing was fired by
5 a particular firearm. This is done through the
6 evaluation of class, subclass and individual
7 characteristics, and there are also a number of
8 other related examinations in the firearms
9 identification process.

10 Q Agent Thrower, what is your educational
11 background?

12 A I have a four year degree, a Bachelor of
13 Science, a major in biology. I attended the South
14 Carolina Criminal Justice Academy, I'm a certified
15 police officer. I have also completed the SLED
16 course of instruction on firearms identification.
17 This was a three year course of instruction that
18 was supervised by court qualified firearm
19 examiners. During this course of instruction I had
20 to perform extensive reading and studying, perform
21 extensive microscopic comparison, I had to assist
22 examiners in preparing of their cases. I also had
23 the opportunity to attend various schools and
24 seminars during this time. After completing this
25 course of instruction I was given a caseload. I

TRACY THROWER - DIRECT

1 have also completed the Federal Bureau of
2 Investigation course on specialized techniques in
3 firearm identification. I have completed the
4 Bureau of Alcohol, Tobacco and Firearms course on
5 serial number restoration, and I have completed a
6 course on scientific defensible criteria for
7 identification of tool marks which is taught by
8 Murdock Duran.

9 Q Are you a member of any professional
10 organizations associated with your work?

11 A I am. I'm a member of the Association of
12 Firearms and Toolmark Examiners, also known as
13 AFTE. I'm also a member of the South Carolina
14 chapter of the International Association for
15 Identification or SCIAI.

16 Q Have you testified previously in court about
17 firearms identification?

18 A Yes, sir, I have.

19 Q And approximately how many times have you
20 done this?

21 A I believe I have now testified eighteen
22 times.

23 Q Okay. Were you ever qualified as an expert
24 in your testimony?

25 A Yes, sir, all eighteen times.

TRACY THROWER - DIRECT

1 Q Thank you.

2 MR. PEACE: Your Honor, at this time we would
3 move for Agent Thrower to be classified as an
4 expert in firearms identification.

5 THE COURT: Motion as to qualification of the
6 witness as an expert in firearms identification.
7 Are there questions on his voir dire?

8 MR. SHEEK: No, sir, no objection to his
9 qualification.

10 THE COURT: Thank you. Ladies and gentlemen,
11 this witness is an expert in the field of firearms-
12 identification.

13 Continue direct examination.

14 MR. PEACE: Thank you, Your Honor. If it
15 please the Court.

16 BY MR. PEACE:

17 Q Agent Thrower, I show you State's Exhibit 1
18 and ask you if you recognize State's Exhibit 1?

19 A Yes, sir, I do recognize this. It is a
20 Bursa, model Firestorm, .380 auto caliber, serial
21 number 604772. I recognize this firearm because it
22 bears my case number, item number and my initials
23 where I scribed them on this firearm.

24 Q I now show you State's Exhibit 40 and ask if
25 you recognize State's Exhibit 40?

TRACY THROWER - DIRECT

1 A State's Exhibit 40 is one fired .380 auto
2 caliber cartridge case. It also bears my case
3 number, item number and initials.

4 Q I now show you State's Exhibit 39 and ask if
5 you recognize State's Exhibit 39?

6 A State's Exhibit 39 is one fired bullet. It
7 also bears my case number, item number and
8 initials.

9 Q Agent Thrower, would you please relate to the
10 jury how State's Exhibits 1, 39 and 40 came into
11 your possession?

12 A They were submitted by an agency to the
13 forensic services building at SLED and they were
14 transferred to the firearms department and placed
15 into what is known as firelock, which is a secured
16 common evidence storage area in the firearms
17 department. I recovered this evidence from
18 firelock.

19 Q All right. After you received these items
20 did you examine, make an examination of the items?

21 A Yes, sir, I did examine these three items.

22 Q Would you please explain in detail to the
23 jury what examinations you made of those particular
24 items?

25 A As I said, I recovered this evidence from

TRACY THROWER - DIRECT

1 firelock, I took it to my office, opened the
2 evidence, viewed the evidence and verified,
3 compared the evidence to my paperwork to ensure
4 that the evidence that I had in my hands was what
5 was described on the evidence intake documents, and
6 it was. I then looked for any kind of trace
7 evidence. I took the departmental worksheets and
8 took various measurements and observations of each
9 piece of evidence and documented the evidence on
10 these departmental worksheets.

11 I performed certain examinations such as
12 testing the safeties that were present on the
13 firearm, measured the trigger pull weight to see
14 how much pressure had to be applied to the trigger
15 of the firearm to cause it to fire, and did a
16 general function test to make sure the firearm
17 functioned.

18 I then took the firearm, took some ammunition
19 from our reference collection and test fired the
20 firearm in our bullet recovery room. The way we
21 test fire a firearm is we have about a three foot
22 in diameter steel tank, a tube that goes down two
23 stories, it has a big funnel in the bottom of it
24 and it's full of water. We can test fire the
25 firearm down into this tank full of water. The

TRACY THROWER - DIRECT

1 water slows the bullet to a safe speed and then the
2 bullet is collected in this funnel at the bottom.

3 We can then haul up a little basket which
4 sits in the bottom and pour it out in our hand and
5 we now have our test specimens. I now have bullets
6 and cartridge cases that I know where fired by this
7 firearm because I fired them. I scribe on the test
8 specimens which test, the item number, case number
9 and my initials so that I cannot confuse my test
10 specimens with the evidence specimens.

11 Likewise I scribe on each of these items of
12 evidence case number, item number and my initials.
13 I then place the test specimens under my comparison
14 microscope. My comparison microscope is simply two
15 microscopes that sit side by side. Each microscope
16 has a stage. You can place a cartridge case or a
17 bullet on each of the stages.

18 The first thing I do is take the cartridge
19 cases, my test specimens, I place one test fired
20 cartridge case under each side of the microscope.
21 This microscope, as I said, there are two of them,
22 they are connected by what is known as an ocular
23 bridge. On that ocular bridge is a pair of eye
24 pieces. When I look in these eye pieces I can see
25 an image of each of these two pieces of evidence

TRACY THROWER - DIRECT

1 side by side with simply a hairline separating them
2 under magnification. I can manipulate these two
3 pieces of evidence simultaneously.

4 When I'm looking at these pieces of evidence
5 I try to find a certain set of markings on one of
6 them that looks like it may stand out, and when I
7 find these markings I look at the image of the
8 piece of evidence and I try and find those same
9 markings. And based on finding those markings I
10 can phase them, I put them together, then I look at
11 all the patterns of all the markings that are on
12 both and determine if they were fired by the same
13 firearm. Since I'm first looking at test
14 specimens, I'm looking to see how many markings are
15 there, are they good markings, are they something I
16 can use to identify, can I identify these two
17 cartridge casings that I know were fired by the
18 same firearm as being fired by one gun. If I can,
19 I then take one of those down and I place my
20 evidence cartridge case on one side of the
21 microscope and a test specimen on the other side of
22 my microscope and I look for those same markings.
23 If I can find them, then I can state that I know
24 that a particular cartridge case was fired by a
25 particular firearm and by no other firearm.

TRACY THROWER - DIRECT

1 I do the same thing with the bullet. A
2 bullet, the barrel of the firearm has what is known
3 as rifling, which is a series of spiral grooves
4 that go down the barrel. The manufacturer places
5 these spiral grooves inside the barrel for the
6 purpose of -- they want the bullet to spin as it
7 travels through the air. The reason we want the
8 bullet to spin as it travels through the air is it
9 causes the bullet to have stability so that the
10 bullet will travel farther and more accurately when
11 it goes from the gun to the target. It's much like
12 if you have ever seen a professional quarterback
13 throw a football. When they throw the football it
14 has that nice tight spiral and it goes farther and
15 it can travel where the quarterback wants to throw
16 the football. If you see a ball that is thrown,
17 that tumbles end over end it typically will not
18 travel as far or as accurate because it's not
19 stable during flight. A manufacturer can place a
20 different number of these grooves, and the raised
21 portions between the grooves known as lands inside
22 the barrel. This is what makes up rifling.

23 As the bullet travels down the barrel this
24 rifle will scrape the outside of the bullet, and by
25 looking at these scratches, these microscopic

TRACY THROWER - DIRECT

1 scratches on the bullet and comparing those to the
2 scratches that are on the outside of the bullet of
3 my test specimens once again I'm able to determine
4 if a particular bullet was fired by a particular
5 firearm.

6 Q Agent Thrower, did you take State's Exhibit
7 40 and take the cartridges that you fired and make
8 a comparison?

9 A I did. I compared State's Exhibit 40 to test
10 specimens fired by State's Exhibit 1, and I was
11 able to determine that State's Exhibit 40, this
12 cartridge case, was fired by State's Exhibit 1.

13 Q Did you take State's Exhibit 39, which is the
14 fired bullet, and make comparisons to the bullet
15 you fired out of State's Exhibit 1?

16 A Yes, sir. Likewise, I compared the scratches
17 that are left on the outside of State's Exhibit 39
18 to test specimens fired by State's Exhibit 1 and
19 was able to determine that State's Exhibit 39 was
20 fired by State's Exhibit 1.

21 MR. PEACE: Thank you, Agent Thrower. Those
22 are all the questions I have. Please answer any
23 questions Mr. Sheek may have.

24 THE COURT: Cross-examination.

25 MR. SHEEK: Thank you.

TRACY THROWER - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. SHEEK:

Q Agent Thrower, as part of your testing of these firearms, I believe you testified obviously you have to fire them?

A Yes, sir.

Q And the particular weapon that you have been talking about, State's Exhibit Number 1, is what we call a semiautomatic, correct?

A Yes, sir.

Q So that when you fire it, it automatically ejects the spent cartridge and reloads the next?

A Typically, yes, sir.

Q Okay. And that gun is designed so that when it ejects that cartridge it's going to eject it slightly up and toward the right, correct?

A It is designed to eject the cartridge case, if fired, as you can see here, the ejection port, that it will eject slightly up and to the right. However, that is not a steadfast rule.

Q Yes, sir. Well, did you find anything during your use, examination or firing of that gun to indicate that that gun does not fire exactly as it is designed to?

A During my testing of the firearm I was in the

TRACY THROWER - CROSS

1 bullet recovery room which I said has this tank.
2 On top of this tank there is a lid, on top of the
3 lid I place a paper bag right next to the hole
4 where I'm going to shoot down, so this cartridge
5 from this gun, all guns typically eject the
6 cartridge case directly into that bag, so I can't
7 say where it's going to eject. I did not perform a
8 particular test to note the exact ejection pattern
9 but during my test firing it did fire as designed.
10 It fired every time.

11 Q Would it be fair for you to tell this jury
12 that during your use of it, it appeared to eject to
13 the right?

14 A Like I said, I placed the bag right next to
15 the gun and it literally, there is maybe six inches
16 between the gun and the bag, it can eject straight
17 up and it would go in the bag. If it ejects
18 straight to the right it would still hit the bag.
19 All I can state is that it ejected into the bag.

20 Q You and I have previously discussed this,
21 right?

22 A I believe so, yes, sir.

23 Q Back the first week of May?

24 A Yes, sir.

25 Q And I believe you gave sworn statement about

TRACY THROWER - CROSS

1 that?

2 A Okay, yes, sir.

3 Q I'm going to hand you a copy of that
4 transcript and point you to line 24. When I asked
5 you based on your dealings with that gun and the
6 ejection what was your answer?

7 A I said it appeared to go to the right.

8 Q Thank you. Since that time has anybody
9 requested you to do any testing on that gun to
10 confirm or see exactly how that would occur?

11 A No, sir.

12 Q Do you know if anybody else at SLED, your
13 agency, has been asked to do that?

14 A No, sir, I'm not aware of anybody else who
15 was asked to perform any additional testing on this
16 firearm.

17 Q Now, when you fired this test bullet, you say
18 you fire into a metal tube filled with water?

19 A Yes, sir.

20 Q And what do you do, you walk up a ladder and
21 stand, how does that work?

22 A The bullet recovery tank is actually, it sits
23 on the second floor, the top of it is about waist
24 high and it travels through the floor and the
25 bottom of it sits on the first floor in the

TRACY THROWER - CROSS

1 building.

2 Q Do you hold the gun in the opening of this
3 tank or do you just shoot at a round hole? What do
4 you do?

5 A Well, on this three foot diameter tank there
6 is a large lid that comes down and in the center of
7 that lid there is a small hole, and I placed the
8 firearm, the muzzle of the firearm into the hole
9 approximately this deep and there is a paper bag
10 that sits right next to where I fire so that when I
11 fire these spent cartridge cases land in the bag.

12 Q Filling that container is water?

13 A Yes, sir.

14 Q Now, when you do that do regulations require
15 you to wear ear protection?

16 A Well, in our policy and procedures we do wear
17 eye protection and ear protection, yes, sir.

18 Q I believe you previously stated when you
19 placed that gun in the opening to fire it, it is
20 very loud?

21 A It is loud in that room. It's a concrete
22 room and I'm firing into a steel tank. The echo is
23 loud in that room, yes, sir.

24 MR. SHEEK: Thank you. That's all I have.

25 THE COURT: Redirect?

TRACY THROWER - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. PEACE:

3 Q Agent Thrower, you say this gun is designed
4 to eject up and to the right?

5 A Yes, sir, that is its design, yes, sir.

6 Q A design like that, will it do that every
7 time?

8 A Without testing it I can't say for sure but
9 in general I have test fired numerous guns that
10 have this same design and I have had them eject
11 straight up, I have had them sometimes eject to the
12 left. The other thing is, depending on how the gun
13 is being held. If it's held in a standard position
14 it may eject up and to the right. What happens if
15 you turn the gun sideways? Where is it going to
16 eject now? What happens if you point it down?
17 What happens if it's pointed up? What if it's held
18 like this? Depending on how the firearm is held
19 can adversely affect how it ejects and where the
20 cartridge case will be found.

21 Q At first you said when you hold the gun over
22 the tank and fire it it's loud?

23 A Yes, sir.

24 Q Okay. If you had a watermelon over the tank
25 and fired would that make it less loud?

TRACY THROWER - REDIRECT

1 A If the firearm was pressed hard against the
2 watermellon it would reduce the noise because the
3 gases that are exiting the muzzle of the firearm,
4 instead of now being exiting into the open air,
5 they will be funneled into the watermellon and the
6 watermellon will serve to reduce the noise, yes,
7 sir.

8 Q Well, can you tell us what causes the noise?

9 A The combustion of the gun powder and the
10 cartridge or the piece of ammunition as it burns
11 rapidly and it is compressed and is being
12 controlled because it cannot escape except through
13 the barrel or through the ejection port, when all
14 those gases come out they come out very quickly and
15 that causes the typical gunshot or noise that you
16 hear.

17 Q Okay. Is this crack that you hear when you
18 fire a gun caused by the breaking of the speed of
19 sound?

20 A There are two different types of noises you
21 can hear. One is like I just described, due to the
22 burning of the gunpowder forming the typical
23 gunshot you hear. And there is also the
24 possibility if the bullet that is coming out of the
25 gun is traveling faster than the speed of sound the

TRACY THROWER - REDIRECT

1 bullet breaking the sound barrier can also cause
2 the crack you may hear.

3 Q Would the velocity of that gun, would that
4 break the speed of sound?

5 A No, sir. Typically a .380 auto with a
6 standard load bought at a store travels somewhere
7 around 950 feet per second, where the sound barrier
8 is around I believe 1,116 feet per second. So,
9 .380 autos do not break the sound barrier
10 typically.

11 MR. PEACE: Thank you, Agent Thrower. I have
12 nothing further.

13 THE COURT: Recross?

14 MR. SHEEK: No, sir, Your Honor.

15 THE COURT: Thank you, sir. Come down, watch
16 your step, take your time.

17 Is there any objection to this witness being
18 excused? From the state?

19 MR. PEACE: No, sir.

20 THE COURT: From the defense?

21 MR. SHEEK: No, sir.

22 THE COURT: Thank you, sir. You may stay
23 with us if you wish.

24 (Witness excused).

25 THE COURT: Call your next witness.

JENNIFER STONER - DIRECT

1 MR. PEACE: If it please the Court, the State
2 would next call Jennifer Stoner.

3 JENNIFER STONER,
4 after being frist duly sworn testified as follows:

5 THE COURT: This witness is with you,
6 Solicitor. You may examine.

7 MR. PEACE: Thank you, Your Honor. If it
8 please the Court.

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. PEACE:

11 Q Miss Stoner, would you please state your name
12 for the record?

13 A Jennifer Stoner.

14 Q Would you please spell it for the court
15 reporter?

16 A The last name, S-t-o-n-e-r.

17 Q Okay. Miss Stoner, where are you employed?

18 A I'm employed by the South Carolina Law
19 Enforcement Division, in the trace evidence
20 section.

21 Q And how long have you been employed there?

22 A I have been employed at SLED for nine years.
23 and I have been in trace evidence for eight years.

24 Q What are your duties with SLED?

25 A My duties at SLED in the trace evidence lab

JENNIFER STONER - DIRECT

1 include different types of analysis on forensic
2 evidence. I perform gunshot residue examinations,
3 I perform gunpowder examinations, I analyze paint
4 from hit and run cases or burglaries, I look at
5 duct tape analysis, we analyze fibers from
6 homicides or sexual assault cases, and we do
7 explosive residue, like bombs and such.

8 Q And how long have you been involved in this
9 particular work?

10 A For nine years total but eight in the trace
11 lab.

12 Q All right. What special training or studies
13 do you have to make you a specialist in your work?

14 A I have a Bachelor of Science Degree in
15 chemistry, which I obtained in 1997 from California
16 University of Pennsylvania. That's a small state
17 school in the town of California, Pennsylvania.
18 Upon completion of my degree I did an internship in
19 the trace lab for the summer. I was then hired in
20 the drug analysis department where I performed
21 examinations on controlled substances and poisons.
22 After a year of working drug cases I transferred to
23 trace evidence. Once I was in that department I
24 began a three year training program under the
25 lieutenant of the department and under the other

JENNIFER STONER - DIRECT

1 senior analysts in that department. This program
2 included in-house training and training outside of
3 SLED which was given by different universities,
4 different instrument vendors and different
5 associations, training on the analysis that we do,
6 the instrumentation that we use and the recording
7 of it.

8 Q Excuse me, Miss Stoner, let me get back some
9 evidence from in front of you, get it out of your
10 way.

11 Now, Miss Stoner, how much of your time is
12 spent doing gunshot residue?

13 A Gunshot residue is the majority of the
14 evidence we receive in our department. We receive
15 so much of it that we go on a rotation for
16 approximately three months that that's all we do,
17 because we can't take other cases while we're doing
18 gunshot residue because it's so overwhelming.
19 Right now I haven't done them for I think six
20 months. There is someone in training right now,
21 when they are in training they start off in that
22 and they take it for almost a year, year and a
23 half. But while I'm not, while I'm not currently
24 in gunshot residue cases, I am reviewing a majority
25 of the cases that they are sending out, so even if

JENNIFER STONER - DIRECT

1 I'm not actually actively working them I have to do
2 a technical review on cases before they are sent
3 out.

4 Q Have you testified in court before about
5 gunshot residue?

6 A I have.

7 Q And how many times have you done that?

8 A I think the gunshot residue testing has been
9 about twenty.

10 Q How many times have you testified?

11 A Almost sixty.

12 Q How many times have you been qualified as an
13 expert in gunshot residue?

14 A Every time I have testified in gunshot
15 residue.

16 MR. PEACE: Thank you. Your Honor, the State
17 would submit Miss Stoner as an expert in gunshot
18 residue.

19 THE COURT: Questions on her voir dire?

20 MR. SHEEK: No questions. No objection to
21 her qualifications.

22 THE COURT: Ladies and gentlemen, this
23 witness is an expert in the field of gunshot
24 residue.

25 MR. PEACE: Thank you, Your Honor.

JENNIFER STONER - DIRECT

1 BY MR. PEACE:

2 Q Miss Stoner, can you tell us what trace
3 evidence is?

4 A As I explained earlier, we do a variety of
5 things in the department in South Carolina for
6 trace evidence if any evidence is left behind at
7 the crime that we are certified to analyze. In
8 this case I analyzed gunshot residue which is
9 evidence from the shooting of a gun. Other trace
10 evidence can be if you have a hit and run and the
11 vehicle leaves the scene we look for microscopic
12 paint chips on the victim's clothing we can match
13 to that car. Literally what we deal with is tiny
14 microscopic evidence. Some stuff we deal with is
15 larger but the majority of our stuff is small
16 evidence.

17 Q What is gunshot residue?

18 A Gunshot residue is a term that we use to
19 describe the components that exit the gun when you
20 discharge a firearm. Whenever you shoot a weapon
21 you actually perform a small explosion inside that
22 weapon. When the firing pin hits the primer
23 composition you have a lot of heat and pressure
24 generated. That heat and pressure causes the
25 inorganic material in your primer and bullet in the

JENNIFER STONER - DIRECT

1 barrel of the gun to vaporize, and as it exits the
2 gun it forms somewhat of a cloud around the gun.
3 All of these metallic components are in that cloud,
4 so this gunshot residue is what exits that gun
5 whenever it is fired.

6 Q And do you call it GSR?

7 A We call it GSR, short for gunshot residue.

8 Q All right. Can you tell us in what ways this
9 GSR can be deposited on a person's hands?

10 A First and foremost if you fire a weapon your
11 hands are going to be in close proximity to that
12 gun, so it's deposited on your hands. If you are
13 standing next to somebody, in close proximity to
14 them and they fire a weapon you can potentially
15 have gunshot residue on your hands from that cloud
16 getting on your hands. If you pick up a fired
17 weapon, if the weapon has been recently fired and
18 has not been cleaned you can get gunshot residue
19 normally on your palms because you touch it and
20 there is a large amount on that gun. It can be
21 found if you handle a bullet, you can sometimes get
22 it on your hand.

23 Normally you have to be in that cloud when
24 that gun is discharged, to have that gunshot
25 residue deposited on you. If you are a victim, of

JENNIFER STONER - DIRECT

1 course if you are in close proximity to that gun,
2 that gun is pointed at you, so you will have it
3 deposited on you if you are a shooting victim.

4 Q Can you tell us how GSR can be deposited on
5 clothing?

6 A In the same manner. When you fire a gun and
7 your hands are out, if that cloud comes in contact
8 with your clothing it will deposit it on your
9 clothing. So, you have to be in the cloud of that
10 gun, you have to have fired the weapon or been very
11 close to that gun when it was fired, to have it
12 deposited on your clothing, or if you are a
13 shooting victim and the gun is pointed at you it
14 can be deposited on your clothing.

15 Q All right. Miss Stoner, how fragile is this
16 GSR?

17 A Gunshot residue evidence is extremely
18 fragile. The policy at our lab is if you fire a
19 weapon, if we want to collect a gunshot residue
20 collection kit to collect that evidence it has to
21 be collected within six hours of that shooting
22 because after six hours there is no reason or
23 expectation to find it on your hands. You can't
24 see it but it's like flour, if you brush your hand
25 you are going to remove it, if you wash your hands