

RECEIVED

FEB - 9 2016

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 IV OF V**

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

RUTLEDGE JOHNSON
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211

Counsel for Respondent

ELIZABETH FRANKLIN-BEST
SC Bar No. 72555
Blume Norris & Franklin-Best, LLC
900 Elmwood Ave., Suite 200
(803) 765-1044

E. CHARLES GROSE, JR.
The Grose Law Firm
404 Main Street
Greenwood, SC 29646

Counsel for Petitioner

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 , UNPUBLISHED OP.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) IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENWOOD) 8TH JUDICIAL CIRCUIT

THE STATE) TRANSCRIPT OF RECORD

-VS-) 04-GS-24-1187

CHARLES NEMON VANDROSS,)

DEFENDANT.)

JANUARY 18-20, 2006

GREENWOOD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JAMES R. BARBER, JUDGE; AND A JURY.

A P P E A R A N C E S:

JERRY PEACE, SOLICITOR

ATTORNEY FOR THE STATE

ADAM S. BACOT, ESQUIRE

ATTORNEY FOR THE DEFENDANT

SHARON L. VIZER-HANKS

CIRCUIT COURT REPORTER

I N D E X

(SW) - DENOTES STATE'S WITNESS

(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

WEDNESDAY, JANUARY 18, 2006

OPENING STATEMENT BY THE STATE ---9

OPENING STATEMENT BY THE DEFENSE --19

WITNESSESJOANNE SUBER-WILSON (SW):

DIRECT EXAMINATION BY MR. PEACE --22

CROSS-EXAMINATION BY MR. BACOT --75

REDIRECT EXAMINATION BY MR. PEACE -123

RE-CROSS-EXAMINATION BY MR. BACOT -129

DAHAD RAHEIM SUBER (SW):

DIRECT EXAMINATION BY MR. PEACE -133

CROSS-EXAMINATION BY MR. BACOT -137

SHERRY MACAULEY (SW):

DIRECT EXAMINATION BY MR. PEACE -139

CROSS-EXAMINATION BY MR. BACOT -143

LT. JIMMY BOGGS (SW):

DIRECT EXAMINATION BY MR. PEACE -145

CROSS-EXAMINATION BY MR. BACOT -151

I N D E XCAPTAIN LARRY SCOTT (SW):

DIRECT EXAMINATION BY MR. PEACE	-153
CROSS-EXAMINATION BY MR. BACOT	-157
REDIRECT BY MR. PEACE	-159

CORPORAL CHRIS HAMMETT (SW):

DIRECT EXAMINATION BY MR. PEACE	-160
CROSS-EXAMINATION BY MR. BACOT	-170

LT. MARC CROMER (SW):

DIRECT EXAMINATION BY MR. PEACE	-171
CROSS-EXAMINATION BY MR. BACOT	-179

RONNIE PERRY (SW):

DIRECT EXAMINATION BY MR. PEACE	-181

CORPORAL BRANDON STRICKLAND (SW):

DIRECT EXAMINATION BY MR. PEACE	-185
CROSS-EXAMINATION BY MR. BACOT	-188

SERGEANT ERIC INKS (SW):

DIRECT EXAMINATION BY MR. PEACE	-189
CROSS-EXAMINATION BY MR. BACOT	-201
REDIRECT EXAMINATION BY MR. PEACE	-216

DR. JOEL SEXTON (SW):

DIRECT EXAMINATION BY MR. PEACE	-217
CROSS-EXAMINATION BY MR. BACOT	-222
REDIRECT EXAMINATION BY MR. PEACE	-226

I N D E XAGENT ADRIENNE RILEY (SW):

DIRECT EXAMINATION BY MR. PEACE	-227
CROSS-EXAMINATION BY MR. BACOT	-232
REDIRECT EXAMINATION BY MR. PEACE	-235
RECROSS-EXAMINATION BY MR. BACOT	-237

AGENT TRACY THROWER (SW):

DIRECT EXAMINATION BY MR. PEACE	-245
CROSS-EXAMINATION BY MR. BACOT	-255

AGENT JENNIFER STONER (SW):

DIRECT EXAMINATION BY MR. PEACE	-261
CROSS-EXAMINATION BY MR. BACOT	-265
REDIRECT EXAMINATION BY MR. PEACE	-280
RECROSS-EXAMINATION BY MR. BACOT	-280

LT. JIMMY BOGGS (SW):

DIRECT EXAMINATION BY MR. PEACE	-284
CROSS-EXAMINATION BY MR. BACOT	-283

REVEREND NELSON HOWARD (DW):

DIRECT EXAMINATION BY MR. BACOT	-292
MOTIONS	-298
CLOSING ARGUMENT BY THE STATE ON THE LAW	-301
CLOSING ARGUMENT BY THE DEFENSE	-305
CLOSING ARGUMENT BY THE STATE	-323
JURY CHARGE	-336
CERTIFICATE OF REPORTER	-371

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
<u>FOR THE COURT:</u>			
1 -	STIPULATION OF ATTORNEYS REGARDING MORGUE	--69	
2 -	STIPULATION OF ATTORNEYS REGARDING CLOTHING	--69	
3 -	STIPULATION OF ATTORNEYS REGARDING KEYS	--69	
4 -	STIPULATION OF ATTORNEYS REGARDING GUN	--69	
5 -	NOTE FROM JURY	-354	
6 -	NOTE FROM JURY	-357	
7 -	NOTE FROM JURY	-365	

**STATE'S EXHIBIT NUMBERS 1 THROUGH 43 WERE PREMARKED BEFORE TRIAL FOR IDENTIFICATION ONLY.

FOR THE STATE:

1 -	GUN	-159
2 -	PHOTOGRAPH OF HOUSE	--71
3 -	PHOTOGRAPH OF CARS	--71
4 -	PHOTOGRAPH OF BATHROOM	--41
5 -	PHOTOGRAPH OF BATHROOM	--42
6 -	PHOTOGRAPH OF VICTIM SUBER-WILSON'S FACE	--41
7 -	PHOTOGRAPH OF VICTIM SUBER-WILSON'S NECK	--43
8 -	PHOTOGRAPH OF VICTIM SUBER-WILSON'S MOUTH	--40
9 -	PHOTOGRAPH OF VICTIM SUBER-WILSON'S EYE	--43

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
10	- PHOTOGRAPH OF CHURCH		--72
11	- PHOTOGRAPH OF CHURCH		--73
12	- PHOTOGRAPH OF SIDE OF CHURCH		--73
13	- PHOTOGRAPH OF BEDROOM DOOR		-150
14	- PHOTOGRAPH OF CARS NEXT TO HOUSE		-156
15	- PHOTOGRAPH OF HOUSE/GARAGE		-165
16	- LARGE DIAGRAM OF INSIDE OF HOUSE		-124
17	- LARGE DIAGRAM OF AERIAL VIEW OF HOUSE/VEHICLES		-168
18	- LARGE DIAGRAM OF AERIAL VIEW OF HOUSE/CHURCH		--74
19	- LARGE DIAGRAM OF AERIAL VIEW OF HOUSE		
20	- LARGE PHOTOGRAPH OF NEIGHBORHOOD/STREET		-179
21	- LARGE PHOTOGRAPH OF CAR		-179
22	- LARGE PHOTOGRAPH OF INSIDE OF CAR		-179
23	- PHOTOGRAPH OF HAT ON DECK		-179
24	- PHOTOCOPY OF SOCIAL SECURITY CARD		-179
25	- PHOTOCOPY OF RECEIPT		-179
26	- DOCUMENT - ATF 4473 FORM		-184
27	- DOCUMENT - PISTOL PURCHASE/APPLICATION		-184
28	- PHOTOGRAPH OF DEFENDANT		-193
29	- PHOTOGRAPH OF SHELL CASING		-193
30	- PHOTOGRAPH OF DUCT TAPE		-193
31	- PHOTOGRAPH OF DUCT TAPE AND ROLL IN CAR		-193

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
32 -	PHOTOGRAPH OF DECK		-193
33 -	PHOTOGRAPH OF VICTIM BEST		-193
34 -	PHOTOGRAPH OF BIBLE AND VICTIM BEST		-193
35 -	PHOTOGRAPH OF VICTIM BEST		-193
36 -	PHOTOGRAPH OF VICTIM BEST		-193
37 -	PHOTOGRAPH OF BIBLE AND VICTIM BEST		-193
38 -	PHOTOGRAPH OF VICTIM BEST		-193
39 -	CARTRIDGE		
40 -	CARTRIDGE		-254
41 -	DUCT TAPE		-198
42 -	DUCT TAPE		-199
43 -	ROLL OF DUCT TAPE		-199
44 -	PHOTOGRAPH OF WHITE SHIRT	-123	-124
45 -	PHOTOGRAPH OF WHITE SHIRT	-123	
46 -	PHOTOGRAPH OF WHITE SHIRT	-123	-124
47 -	PHOTOGRAPH OF WHITE SHIRT	-123	-124
48 -	PHOTOGRAPH OF WHITE SHIRT	-123	-124
49 -	PHOTOGRAPH OF MS. SUBER-WILSON	-123	-124
50 -	SET OF KEYS	-164	-165
51 -	PAIR OF PANTS	-196	-199
52 -	SHIRT	-196	-199
53 -	SEALED BAG CONTAINING SIX SWABS	-230	-237

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
<u>FOR THE DEFENDANT:</u>			
1 -	PHOTOGRAPH OF VICTIM BEST IN BED	--89	--90
2 -	PHOTOGRAPH OF DOCUMENTS ON BED	--89	-215
3 -	PHOTOGRAPH OF SIDE OF CHURCH	--99	-109
4 -	PHOTOGRAPH OF BATHROOM WALL	--99	-100
5 -	PHOTOGRAPH OF COUCH AND LIVING ROOM	--99	
6 -	PHOTOCOPY OF WHITE SHIRT	-116	-117
7 -	PHOTOCOPY OF WHITE SHIRT	-116	-117
8 -	PHOTOCOPY OF WHITE SHIRT	-116	-117
9 -	PHOTOCOPY OF WHITE SHIRT	-116	
10 -	PHOTOCOPY OF WHITE SHIRT	-116	-117
11 -	PHOTOGRAPH OF BED WITH BIBLE	-119	-120

1 Wednesday, January 18, 2006

2 THE COURT: My understanding is that all the jurors
3 are here?

4 THE BAILIFF: Yes, sir, they are.

5 THE COURT: Let's bring the jury in.

6 (WHEREUPON, the jury enters the courtroom at
7 approximately 9:35 a.m.)

8 THE COURT: Good morning, ladies and gentlemen.
9 Nice to see you this morning. Let me ask you, did anyone have
10 any conversation about this case with anyone last night?

11 (There was no response.)

12 THE COURT: Were you approached by anyone to discuss
13 the case?

14 (There was no response.)

15 THE COURT: Ladies and gentlemen, as you recall,
16 when we broke yesterday I told you the first thing that we
17 would do here this morning is have opening statements by the
18 attorneys, and they have indicated that they are ready to go.
19 So I'll call on the Solicitor.

20 Solicitor, if you would, please.

21 MR. PEACE: Thank you, Your Honor. If it please the
22 Court.

23 THE COURT: Yes, sir.

24 MR. PEACH: Mr. Bacot.

25 Ladies and gentlemen of the jury, Mr. Foreman or

(1) 1 Madam Forelady, whoever that might be at a later time. It's
2 my honor and privilege to be the Solicitor of the Eighth
3 Circuit. It's my responsibility today to present this case to
4 you. It's The State vs. Charles Vandross.

5 Now, let me dispel any notions you might have. This
6 is not C. S. I. This is not Law and Order. We're not going
7 to do this in an hour with 20 minutes of commercials. It's
8 going to take longer than that.

9 What I want to do right now is just talk to you
10 about where we are, where we're going and how we're going to
11 get from here to there.

(1) 12 Now, where are we? You have the defendant, Charles
13 Vandross. Mr. Vandross is charged with several things. He's
14 charged with burglary first, kidnapping, murder and possession
15 of a weapon during the commission of a violent crime.

16 Burglary first, what is it? Burglary first is
17 entering the dwelling without permission with the intent to
18 commit a crime. That's burglary, and burglary has degrees.
19 He's charged with first degree, and because he's charged with
20 first degree we have to show some aggravating factor, some
21 aggravating circumstance.

(1) 22 And among those circumstances are he entered the
23 dwelling in the nighttime, he entered the dwelling with a gun,
24 he injured somebody who wasn't a participant in the crime
25 while he was in there, and he also used a gun during the

1 commission of a burglary. Those are the four aggravating
2 factors that you can use to make a determination if this is
3 burglary in the first degree.

4 Kidnapping, what is that? Kidnapping -- and the
5 Judge will give you the legal definition, and he talks about
6 inveigling somebody or abducting somebody. It's taking
7 somebody, abducting somebody and carrying them away by any
8 means, by any means without the authority of law.

9 That's kidnapping, the taking of somebody, carrying
10 them away by any means. You know, you can carry them, take
11 them in a car, however. You have to carry them away without
12 the authority of law, and that's kidnapping.

13 Murder. Murder is the unlawful killing of another
14 human being with malice aforethought expressed or implied.
15 Unlawful means it was done without any justification. It
16 wasn't an accident, it wasn't self defense. Killing of
17 another human being is easy, somebody is dead. You got a
18 human, a person who's dead.

19 With malice. Malice -- and the Judge will talk
20 about depraved heart. Malice is just meanness. It's
21 meanness. Aforethought means that the person thought about it
22 before they did it. It wasn't done in the heat of passion.
23 They thought about it.

24 You don't have to think about it long. You can just
25 think about it for a second and it would be murder. Or you

1 can plan it for two weeks or a week. But malice aforethought
2 just means that you thought about it.

3 Expressed or implied. That's not two different
4 types of malice. It's just two different ways that the malice
5 can be shown. Express malice is easy. If somebody points a
6 gun and says I'm going to kill you and pulls a trigger, and
7 does, that's expressed malice. Implied malice is a little bit
8 different. You look at all the facts and circumstances
9 surrounding the killing and you decide based on those facts
10 and circumstances if that's malice.

11 The possession of a weapon during the commission of
12 a crime is easy. Burglary, kidnapping and murder are all
13 three classified as violent crimes under the law. So if you
14 find the defendant guilty of any or all of those then you can
15 decide that he's guilty of possession of a weapon during the
16 commission of a violent crime, if you decide that he had a gun
17 when he did this.

18 So that's where we are. We start here at 9:30 on
19 Wednesday, the defendant is charged with those crimes. Where
20 are we going? Well, we're going where you go back into the
21 jury room and deliberate and you decide if this defendant is
22 guilty of all those crimes or any of those crimes. That's
23 where we are, that's where we're going.

24 How are we going to get from here to there? The
25 State has the burden of proof. The Judge told you that

1 yesterday. The State has the burden of proof. We've got to
2 prove that that man sitting over there is guilty. We've got
3 to prove that, and we're going to do that by presenting
4 evidence.

5 And I won't go over what every witness is going to
6 say or every document or piece of evidence but I do kind of
7 want to give you a guide or a roadmap so you can follow along.
8 I mean, we're going to call witnesses. The witnesses are
9 going to come up here and they are going to testify about
10 certain things within their knowledge. And I want to give you
11 that guide or roadmap so you can follow along.

12 These crimes happened on November the 4th of 2004.
13 November the 4th of 2004. Sanford Best is the victim of the
14 murder. Sanford Best was killed that night. Joanne
15 Suber-Wilson is the victim of the kidnapping and the burglary
16 and the possession of a weapon. Sanford is also a victim of
17 the possession of the weapon.

18 November the 4th of 2004, Joanne Suber-Wilson was at
19 her house down on McCormick Highway, 3938 McCormick Highway in
20 Promise Land. She was in her house and Sanford Best was
21 there, and Sanford Best and Ms. Wilson had a relationship and
22 they had had an off-and-on relationship for several years.

23 Ms. Wilson had also had a relationship with
24 Mr. Vandross, and that relationship had been going on for
25 awhile. They met at a church function and started dating and

1 having a relationship. Mr. Vandross moved down to Greenwood
2 and took a job at McDonald's.

3 For awhile he lived with Ms. Wilson. He lived with
4 Ms. Wilson, then he got an apartment. He had an apartment.
5 On October 31st Mr. Vandross was staying with Ms. Wilson, and
6 Ms. Wilson will tell you they talked about marriage and, you
7 know, she had some concerns.

8 They got in an argument on Sunday, August 31st,
9 Halloween. They got in an argument that morning and she told
10 him to leave. She told him to get out of her house, that she
11 didn't want him in her house, and so he left. He left. That
12 was Sunday morning.

13 By suppertime Sunday evening Sanford Best was over
14 at Ms. Wilson's house, by Sunday evening, suppertime. And
15 Ms. Wilson will tell you, she says, look, I just hate being
16 lonely. I need a man. So I called Sanford up and asked him
17 to come over.

18 So that whole week Sanford -- between October 31st
19 and November 4th, Sanford Best had been spending the night
20 with Ms. Wilson, and the first three nights he parked his car
21 down the road at somebody else's house so that Mr. Vandross
22 wouldn't know. Well, as the week went along, Mr. Vandross
23 visited Ms. Wilson, gave her -- ostensibly gave her her key
24 back to her house.

25 Ms. Wilson and Mr. Best went to a ball game, and

1 while they were at the ball game Mr. Vandross was there and
2 the whole time he was staring at Mr. Best and Ms. Wilson. On
3 the night of the murder Ms. Wilson, Mr. Best go back down to
4 3938 McCormick Highway and they decide, well, Mr. Vandross
5 knows I'm staying there based on the conversation he had with
6 Ms. Wilson so you might as well park your car here. So he
7 parked his car in the garage.

8 That evening Ms. Wilson and Mr. Best are in bed.
9 They are in Ms. Wilson's bedroom, and you'll see a diagram of
10 the house. Ms. Wilson had three sons who were there, and the
11 house is kind of divided up so you have a master bedroom and a
12 living room and then the other side of the house are the boys'
13 bedrooms. So there are doors that shut it off.

14 They are in bed. Mr. Sanford is reading his Bible,
15 watching TV and reading his Bible. Ms. Wilson goes to sleep.
16 When she goes to sleep Mr. Best is reading his Bible and
17 watching TV. Sometime later she's awakened by somebody
18 grabbing her and saying, You better not scream, you better not
19 scream. He jerks her off the bed into the floor, scratches
20 her, bruises her. She has injuries.

21 Joanne, I'm telling you, you better not scream or
22 I'll kill the kids. She doesn't know what's going on, and she
23 realizes it's Mr. Vandross. And she's saying, Sam -- she
24 calls Mr. Sanford Sam. Sam, Sam, and he doesn't answer.

25 So Mr. Vandross has her down, tells her to get

1 dressed. She said, I've got to go to the bathroom. And
2 there's a master bathroom right off the master bedroom. I've
3 got to go to the bathroom. So he lets her up and she goes to
4 the bathroom. He throws her clothes in the bathroom. He
5 tells her to get dressed, throws in a roll of duct tape and
6 tells her to tape herself up.

7 As you can imagine, this is very upsetting to
8 Ms. Wilson. She goes, sits on the toilet. And there is a
9 divide next to the toilet that kind of divides the toilet from
10 the rest of the bathroom, and it comes up about this high, and
11 it also gives you privacy because you can see there from in
12 the rest of the bedroom.

13 She takes her own blood where she's been injured and
14 marks on that wall, and she faintly writes Charles in her own
15 blood. And she's scared. She's scared. She takes the tape,
16 and he had told her to tape herself up. So she's spitting on
17 it to put it on so it won't be so uncomfortable, and he comes
18 in. She goes out of the bathroom. He rips it off and then he
19 tapes her up. Her eyes are showing. She can see and she can
20 breathe, but he tapes her up.

21 He takes her out. They go out the back door. The
22 back door is open. When they go out the back door there is a
23 flashlight there next to the door. He gets her in her car,
24 takes her down to Tranquil A. M. E. Church, the new one down
25 the road, and they are there awhile. Then they go down to the

1 old Tranquil Church, which is just over the line in McCormick
2 County.

3 Now, he comes in, and she will say that she looked
4 at the clock on the TV and it was around midnight, a little
5 bit later. So they spend this time at these churches and, you
6 know, he's going over their relationship.

7 And she will tell you that he's angry and then he'll
8 settle down, and he's angry again and he'll settle down. She
9 thinks she's going to die. And she'll tell you what happened
10 over those hours.

11 He finally takes her back home about time for the
12 kids to go to school and says okay, you know, I'm going to
13 take you back. I'm going to give you my gun for protection
14 and I'm going to go turn myself in.

15 He takes her back. She goes in, wakes up the kids.
16 They know something is wrong because she's so upset. And so
17 over a period of time they are getting ready to go to school.
18 She calls 911. She takes them out. Meanwhile, Mr. Vandross
19 is in the backyard. She calls 911, and she takes the kids out
20 and hears the sirens from the police cars. They come down the
21 road. She and the boys run out and meet them.

22 The police come. Mr. Vandross is in the backyard.
23 The police come around each side of the house, two around one
24 side and one around the other. They come around, tell him to
25 raise his hands. He raises his hands and says the gun is in

1 my pocket. So they get the gun out.

2 They go inside and they find Mr. Best laying there
3 in bed dead. They had to kick the door in because the bedroom
4 door has been locked. They find Mr. Best there in bed dead.

5 Now, there will be some other stuff. The weapon
6 went off to be analyzed. The pathologist took the bullet out
7 of Mr. Sanford's head, Mr. Sanford Best's head.

8 They did an analysis. The bullet -- the ballistics
9 expert will testify that bullet came from this gun. There
10 will be some D. N. A. There was some blood of the victim,
11 Joanne Wilson, found on Mr. Vandross's pants. There's some
12 gunshot residue on Mr. Vandross's shirt.

13 So that's the case in a nutshell. That's the case
14 in a nutshell. So that's where we are, that's where we are
15 going, and that's how we're going to get from here to there.
16 That's how we are going to get from here to there.

17 You are the finder of the facts. There's not
18 anything in this case that's a fact unless you find it. The
19 Judge is the Judge of the law. He tells you everything that
20 you need to know about the law, and one of the things he'll
21 tell you about is reasonable doubt.

22 The State has the burden of proof. I mean, that's
23 the way our society has set our court system up. The State
24 has the burden of proof. Mr. Vandross doesn't have to do
25 anything, and that's the way we want it, isn't it, that the

1 State has to prove it? The State has to prove it, and we have
2 to prove it beyond a reasonable doubt. The Judge is going to
3 tell you what reasonable doubt is. He's going to give you
4 that legal definition of reasonable doubt. He'll define it
5 for you.

6 I just want to leave you with this thought.
7 Regardless of how he defines that, regardless of what the
8 Judge tells you reasonable doubt is when you go back in that
9 deliberation room, when you go back there after you've heard
10 all the evidence you won't have any problem finding this
11 defendant guilty beyond a reasonable doubt of burglary in the
12 first degree, kidnapping, murder, and possession of a weapon
13 during the commission of a violent crime.

14 I want to thank you for your time and attention. I
15 want to thank you for being responsible citizens and for
16 showing up to be selected for this case and do your duty, and
17 I look forward to representing the State and I look forward to
18 presenting the State's case. Thank you.

19 THE COURT: Okay. Mr. Bacot.

20 MR. BACOT: Thank you, Your Honor.

21 Good morning, ladies and gentlemen. I'm going to be
22 a little shorter than Mr. Peace because I'm ready to go on and
23 get started with this case.

24 My name is Adam Bacot, and I do represent and am
25 proud to represent Mr. Vandross today who's seated to my left.

1 I practice law in Greenwood right across the street. I've
2 been here for several years now and I've been involved with
3 this case for a good long while and have had the pleasure of
4 representing Mr. Vandross in this case and face these charges.

5 I'm going to ask you a couple things a little bit
6 different from Mr. Peace in his opening statement. He's kind
7 of giving you his slam on where we are, where we're going and
8 how we're going to get there. I would suggest to you that
9 that is his road map. Those are the things that he
10 anticipates happening.

11 And I will tell you this, that he gave you a
12 synopsis of the facts that he believes will be presented by,
13 in my opinion, one key witness, and that is Joanne
14 Suber-Wilson. He referred to her also as Joanne Wilson, a
15 primary witness in their case.

16 I would simply stress though that any ideas of the
17 elements of the crimes, the burden of proof, which is clearly
18 on the State, and what they have to do in order to prove my
19 client guilty of these crimes is going to be defined to you
20 and explained to you by the Judge at the close of the case.

21 So I'm not going to go into the elements of the
22 crime and where we are and how we're going to get there
23 because when it's all said and done, after all of the
24 witnesses have testified and after all of the evidence is in
25 what I'm telling you right now is not the law of the case and

1 what Mr. Peace just told you is not the law of the case. This
2 Judge is going to be the one who is going to tell you the law
3 of the case, what you consider, how you consider it, what they
4 have to prove.

5 When you are considering all of that I want to also
6 add one other thing, kind of as my very brief road map. I
7 believe that you will find that the vast majority of the
8 evidence that's presented today by the State, whether it is
9 the relationship between Mr. Best and Ms. Suber-Wilson or
10 Ms. Wilson, the relationship between Ms. Suber-Wilson and my
11 client, the living arrangements, where cars were parked,
12 whether doors were opened or doors were locked, whether keys
13 were exchanged, whether people were awake or asleep or in bed,
14 blood on the walls, all of these facts that Mr. Peace got
15 into, Solicitor Peace just mentioned to you, I would suggest
16 to you to listen very carefully, because you will find the
17 vast majority of them are going to come from one person, and
18 that's Ms. Joanne Suber-Wilson or Ms. Wilson, as he's also
19 referred to her as. Therefore, I would suggest to you that
20 her credibility is of the utmost importance, and you listen to
21 her testimony very, very carefully.

22 Thank you very much for your attention in this
23 matter, for showing up today. I know you all have busy
24 schedules, and hopefully we'll get done with this in a timely
25 manner. Thank you very much for your attention.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 THE COURT: Okay. Mr. Solicitor, you ready to call
2 your first witness?

3 MR. PEACE: Yes, sir. The State would first call
4 Joanne Suber-Wilson.

5 JOANNE SUBER-WILSON, after having been duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. PEACE:

9 Q. Would you state your name, please.

10 A. My name is Joanne Suber-Wilson.

11 Q. And, Ms. Wilson, what's your address?

12 A. 3938 McCormick Highway, Bradley, South Carolina.

13 Q. Do you know the defendant?

14 A. Yes, sir.

15 Q. What's the defendant's name?

16 A. Charles Nemon Vandross.

17 Q. If he is in the courtroom, would you point him out.

18 A. (Indicated). Right there in the middle.

19 THE COURT: You are pointing to the man sitting next
20 to --

21 A. Next to Adam Bacot, in the middle.

22 THE COURT: The defense counsel, Mr. Bacot.

23 All right. Let the record reflect she has
24 identified the defendant.

25 BY MR. PEACE:

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 Q. Ms. Wilson, how do you know the defendant?

2 A. I used to date Charles Vandross.

3 Q. And when did you start dating him?

4 A. I started dating him in July of '03.

5 Q. And where did you meet him?

6 A. I met him in May -- I believe it was May of '03 at a
7 church function.

8 Q. And how did you begin to start dating him?

9 A. He had -- my boys had a gospel rap group and they
10 were ministering on that particular program. And as other
11 people do, after the program he came up to us and asked us for
12 information on how to contact us, and we exchanged information
13 and we eventually went to his church in Greenville so my boys
14 could minister on their men's day program at his church in
15 Greenville.

16 Q. Did your boys perform at the church in Greenville?

17 A. Yes, sir. They ministered on the program.

18 Q. And did anything happen after that?

19 A. After that, we contacted each other on the phone,
20 talked on the phone awhile. And I had just purchased a home
21 in June of '03, and while he and I were talking on the phone
22 he asked me if I wanted him to come and help me move, and I
23 said yes. And he came and helped me move and we started
24 dating in July '03.

25 Q. And how long did you date?

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 A. We dated off and on for about 12 to 14 months.

2 Q. And what kind of relationship did you have with
3 Mr. Vandross?

4 A. In the beginning it was fine, but shortly after he
5 moved from Greenville and moved in with me, he moved in with
6 us, I think it was mid -- I think it was mid to late August of
7 '03 he moved in with me and the boys, and it wasn't long after
8 that I started observing how jealous and self righteous he
9 was, in my opinion. That's in my opinion.

10 Q. Where did you work at the time?

11 A. I was a property manager at Regency Park, and he
12 eventually moved from Greenville -- left his apartment in
13 Greenville and left his job in Greenville and moved here, and
14 eventually he took a job at the McDonald's right up the street
15 from Regency Park in front of Wal-Mart in the corner up there.

16 Q. Can you see Regency Park from McDonald's?

17 A. Oh, yes, sir.

18 Q. And how did your relationship develop?

19 A. How did it develop? I mean, he was living with us
20 and we -- you know, we went through as normal couples do, and
21 it was a series of things. Like I said, in the beginning it
22 was fine but after a short period of time he started
23 complaining about the way I dress.

24 If I had on a shirt that was -- I had a button loose
25 he would complain to me about he could see my bra or I was

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 showing too much. I needed to button it up all the way to my
2 neck. He would complain that my jeans were too tight, that my
3 skirts was too short.

4 He was just -- I mean, just stupidly jealous. And I
5 would tell him, Charles, these are the same clothes I was
6 wearing when you met me, and they were good enough for you
7 then why aren't they good enough for you now? And it would
8 just be a bunch of things where we would just argue
9 continuously about -- for example, if my girlfriends would
10 call me on the telephone and we talked on the phone too long,
11 in his opinion, he would be like [indicated noises]. You
12 know, he would just do things like that.

13 If they came to visit and they stayed too long, in
14 his opinion, he would come out of the room, because he
15 wouldn't hardly be out there when they were there, he would
16 come out of the room and be pouting, you know, and make
17 everybody uncomfortable. And my girlfriends, you know, would
18 say, okay, well, we're getting ready to go, and they would
19 usually leave.

20 If I went -- like, I have a joke with my kids. My
21 bedroom is on one side of the house and the kids' room on the
22 other side of the house. I say that's my part of the house
23 and that's their part of the house. If I would go over to
24 their side of the house and maybe play Play Station with them,
25 look at TV or dance or clown, whatever it is that I do with my

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 boys, instead of him coming to join us he'd tip across the
2 house and peep around the corner to see what we are doing like
3 we are in there doing something wrong. And it became very
4 aggravating. It agitated me and it agitated the boys also.
5 So he was just really outrageously jealous.

6 Q. How long did he live with you?

7 A. From August of '03 -- I know it was for a year, but
8 we kept arguing off and on, and we'd break up and he'd go live
9 somewhere in Greer for awhile, then we'd try to get back
10 together and he would come back and stay. Then he'd go again
11 -- I'd put him out again because I couldn't take it anymore.
12 Then the last argument we had he left -- I don't remember the
13 month that he left, but he went and got an apartment at Pine
14 Tree Apartments, and it was September of '04.

15 Q. Okay. All right. Did you see the defendant in
16 October of '04?

17 A. Yes, sir, I did.

18 Q. And where did you see him?

19 A. On October the 30th, Charles and I, we were trying
20 to give our relationship one last go at it. We were in
21 counseling. We had met some counselors and we were in
22 Greenville. We went to a counseling session in Greenville.
23 It was a husband and wife, a Dr. Jackie Howard and Reverend
24 Nelson Howard. We went and counseled with them. It was a
25 four plus hour session. It was like four hours and some

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 minutes we stayed there.

2 And we had a long counseling session, and they had
3 an exercise that they did with us. They told us whatever we
4 talked about there we had to put it in a tissue and ball it up
5 and throw it in the trash can and when we left we had to
6 promise not to bring it up anymore. If we did then there
7 would be no need for counseling, because if we're not going to
8 do what they tell us to do then there's no need for us to come
9 to counseling.

10 And shortly after we left, it wasn't 15 good
11 minutes, we got to a red light and some man pulled up. I
12 don't know who he was. But I'm just a friendly person. I
13 waive at everybody. He waived, I waived. And Charles is
14 like, as he usually does, Who is that, Joanne? Did you know
15 him Joanne?

16 Things like that he would do if we were in Wal-Mart.
17 And I've been working in Greenwood in the public for a long
18 time, whether it was in a retail store or a property manager
19 job. I know a lot of people by their face. I know them by
20 their name. But we would be in Wal-Mart and somebody would
21 speak to me and we would go, Who is that, Joanne? How do you
22 know him, Joanne? Did you ever date him before, Joanne?

23 So it was very, very aggravating. And that's what
24 he did on October 30th, that day. And I'm like, here we go
25 again. So we argued all the way back down to Greenwood

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 because he wasn't supposed to do that. We had discussed that
2 in the counseling session. He wasn't supposed to do that.

3 Q. And what happened after you got back?

4 A. After we got back he had to go to work. He had to
5 work that afternoon on over into the night. On October 31st
6 he was -- he still had his place at Pine Tree but he was
7 gradually trying to move back in with me.

8 So whatever -- we had argued all from Greenville,
9 and on October 31st he brought up Sanford's name again. And I
10 said, Look, that's it. I can't take it no more. I knew it
11 was a waste of time. I knew it was going to be a waste of
12 time. And I told him, Get your stuff and get out. I can't do
13 it anymore. I'm sick of it. Get your stuff and get out.

14 I asked him to give me my key. He wouldn't give me
15 my key. I begged him to give me my key. I said, Please put
16 it on the front porch and back away from it then I will give
17 you your apartment key. He would not do it. He refused to do
18 it. Then --

19 Q. Excuse me. What time was this on October 31st?

20 A. This was Sunday morning. This was Sunday morning
21 before church. He wouldn't do it.

22 Q. Did he leave?

23 A. He left, yes, sir. On -- it was October 31st. On
24 that night -- well, that afternoon Sanford had called me, and
25 we talked on the phone and I told him how everything went and

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 what had happened.

2 Q. When did Sanford call you? When does Mr. Best call
3 you?

4 A. It was that afternoon like --

5 Q. October 31st?

6 A. Yes, sir, October 31st. And we talked on the phone
7 and I told him about what had happened between us. And he
8 said, Jo, are you all right? I said, Yeah, I'm all right but
9 I'm just scared he going to try to come back down here and be
10 aggravating like he normally is.

11 He would always want to try and talk, and talk, and
12 talk, and talk, and there was no more to talk about. So Sam
13 say -- that's what I call him. Sam say --

14 MR. BACOT: Your Honor, I object to any hearsay from
15 Mr. Best.

16 THE COURT: All right. Well, I don't think --

17 MR. BACOT: She was just about to say Mr. Best said,
18 and that's when my objection came in.

19 THE COURT: Well, you can't testify as to what he
20 said.

21 A. Mr. Best asked me --

22 MR. BACOT: I would object. Same objection, Your
23 Honor.

24 BY MR. PEACE:

25 Q. Just tell us what you did.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 A. He came down to the house.

2 Q. Okay. Yeah. Just tell us what happened, based on
3 your conversation.

4 A. He came down to the house. He came down to the
5 house with me.

6 Q. And what time was that?

7 A. It was that evening like -- I don't know, five, six
8 that evening. And because of the fact that Charles had just
9 left that morning -- you know, even though we wasn't living
10 together he had his things that he was trying to move back in
11 and he took them, you know, with him because he still had his
12 apartment in Pine Tree. I told him, Sanford, I said, Sam, you
13 know, he won't give me my key and it don't make any sense.

14 So to keep down confusion Sam and I both agreed so
15 nobody would see his car there to cause more confusion we
16 agreed to park his car down at my girlfriend's, Jan's house,
17 who lived down the street. She has a big house, and it's like
18 a U-shaped drive and you can park behind her house and nobody
19 can see the car.

20 Q. Is that also on McCormick Highway?

21 A. Yes, sir, it's like seven houses down. So he parked
22 his car back there and, of course, you know, I got him and we
23 brought him back to the house. That was on the 31st. On --
24 and then Sanford had just started a new job. So in the
25 morning I had to get up early in the morning, like five

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 something, and take him down to his car and then come back
2 and --

3 Q. Did you have a previous relationship with Mr. Best?

4 A. Yes, sir. I met Sanford in 1999 and we dated from
5 1999 to '03, and we dated off and on, too, but we always
6 remained friends, no matter who he dated or no matter who I
7 dated and we always kept in touch with each other and checked
8 on each other.

9 Q. Please continue.

10 A. So I took Sanford that morning down to his car on
11 October 31st and, you know, and then I came back to the house
12 because I didn't have to be at work until nine o'clock.

13 On November 1st, November the 1st I was at my office
14 at Regency Park and Charles just walked in. He walked in like
15 we hadn't been arguing, like we hadn't broke up. He walked in
16 with a cinnamon and raisin biscuit from Hardee's because he
17 knew I liked those. And he walked in, put the bag on my desk
18 and he said here is your key, Joanne, now give me mine.

19 Well, that is too easy because he was just adamant
20 about not giving me my key on October the 31st. He gave me my
21 house key and then I gave him his apartment key. That was it.
22 He left. Okay.

23 On November the 2nd, I don't remember hearing from
24 Charles on November 2nd. And then on November the 2nd Sanford
25 was down to the house also and we did the same thing. We did

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 the same thing on the night of November the 1st. Sanford was
2 at my house. We parked the car down at Jan's house. On
3 November the 2nd we did the same thing, parked the car down at
4 Jan's house.

5 On November the 3rd I got a phone call at my office
6 from my girlfriend named Sherry. She called me, and as a
7 result of that conversation I was afraid. I went straight
8 down, took an early lunch break. I went straight down to the
9 City of Greenwood Police Department. I forget the lady's name
10 I talked to, but I went there to get a restraining order.

11 She explained to me that I could get a no
12 trespassing notice at my job but that since I lived in the
13 county, the county worked different from the city and that I
14 had to -- since I -- as a result of that conversation, I was
15 thinking Charles was going to be at my son's ball game that
16 night. She instructed me as to what I needed to do. She said
17 I needed to --

18 MR. BACOT: Objection, Your Honor, as to the
19 hearsay.

20 THE COURT: Well, I'm going to overrule it. I don't
21 think she's testifying based on the truth of the matter but
22 basically as to what it led her to do. So I'm going to
23 overrule the objection.

24 A. As a result of that -- well, she told me that I
25 needed to document whatever happened at the game that night.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 That if Charles said anything to me, if he did anything to me
2 I needed to document it, and I needed to have a witness with
3 me. That's what she told me I needed to do. And then I
4 needed to send a certified letter and then I could get a
5 restraining order. Those were the instructions she gave me.

6 Based on that I left, went back to work. I got on
7 the phone and I did call Sanford at his job and I told him
8 what the lady said down there, down at the police station.
9 Okay. I said I was going to try to call a couple of my
10 girlfriends to see if they could go with me. November the 3rd
11 was on Wednesday. I called my girlfriends. They either had
12 Bible study that night or they had other obligations and they
13 couldn't go.

14 So I called Sam back and told him I couldn't get
15 anybody to go with me. He said, Jo, I will go with you. He
16 said, I'm supposed to teach Bible study that night. I'm
17 supposed to teach Bible study tonight but I will call around
18 and get somebody else to take my place and I will go with you.
19 He said, That man ain't going to bother you.

20 That's what he told me. So after I got off work my
21 -- at that time, he was 17. He was having basketball
22 try-outs, and Sanford went to my house, because I didn't get
23 off work until six o'clock, he went to my house, picked up my
24 other two boys and brought them and met me at Emerald High
25 School so I could leave my car for my oldest son to get

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 home -- for my next to oldest son to get home. And so he and
2 I, and the boys went to the game together.

3 When we got to the game, apparently Charles was
4 already there. I said apparently because when we walked up
5 and sat down on the bench we didn't -- we had saw his car but
6 we didn't see him. So it was, like, when we got on the bench
7 we were sitting -- I always like to sit at the back bleacher,
8 you know, at the very high, at the very top one, and that's
9 where we sat.

10 Well, watching the football game, the football
11 play-offs at the civic center, watching my son play football,
12 you know, he would look that way and then he would look this
13 way. Well, when we looked down this way that's when Sam
14 nudged me on my leg and said, Look, Jo, and there was Charles.
15 He just happened to be on the same row.

16 He was sitting on one end and we were sitting on
17 other end, and he was staring at us. And it was just this
18 stare like -- you know, it was an uncomfortable stare. And he
19 didn't say anything to us but he just stared at us a whole
20 lot, you know, and it was very uncomfortable.

21 We left the game. We went home. Based on what --
22 based on the result of the conversation I had with my
23 girlfriend we decided -- Sam and I both decided it was no need
24 in parking down the street at Jan's house this time. We may
25 as well park the cars under the garage like we would normally

1 do. So we parked the cars under the garage.

2 We went in the house, and it was a regular night.
3 We was in the living room playing -- we was all playing tag
4 team, wrestling with the boys. We had a good night. And we
5 were both supposed to go and take showers before we went to
6 sleep but we didn't get to make it. We were tired. Sam fell
7 asleep. I have a king size bed. Sam fell asleep like in the
8 middle of the bed --

9 MR. PEACE: If I could interrupt just a moment, and
10 I need to put a diagram up. I guess the best place to do it
11 would be here. Judge, if I could ask the witness to step
12 down, please.

13 THE COURT: You may step down.

14 (The witness stepped down from the witness stand.)

15 BY MR. PEACE:

16 Q. Ms. Wilson, I ask you to look at State's Exhibit 16
17 for identification and ask you if you recognize that?

18 A. Yes, sir.

19 Q. And what is that diagram?

20 A. That's a diagram of my house.

21 Q. Is that an accurate representation of your house as
22 it appeared on November the 4th of 2004?

23 A. Yes, sir.

24 Q. If you would take this pointer, please, and show the
25 jury where your bedroom is located in the house.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 A. This is my bedroom right there (indicated).

2 Q. And where is your bed located in that bedroom?

3 A. My bed is right here (indicated).

4 Q. Now, what happened after you and Mr. Best went to
5 bed?

6 A. Sanford fell asleep right there (indicated). His
7 head was about right there (indicated) and his feet were
8 hanging off the bed, and he fell asleep reading his Bible. He
9 was reading, going over the Bible study lesson that he didn't
10 get to teach that night.

11 So he fell asleep right there (indicated). I fell
12 asleep right there because I sleep curled up in, like, a fetal
13 position (indicated). So he was right here and I was right
14 there facing that way like (indicated).

15 Q. And then what happened?

16 A. And somewhere over in the night we fell asleep
17 because I had -- I fell asleep with my Regency Park shirt on
18 and he had his boxers on, and that's what he fell asleep in,
19 and the Bible was like -- I believe it was right there
20 (indicated), like right across his chest, because he was
21 watching E. S. P. N. and he fell asleep with the Bible right
22 here (indicated).

23 Sometime during the night I was right here and I was
24 awakened with a hand over my mouth and the gun at my head.

25 And I was awakened by Mr. Vandross right there and he said,

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 Bitch, you better not scream. He jerked me and woke me up and
2 I'm like -- I woke up like that. I was terrified.

3 Immediately -- I knew Sanford was right here
4 (indicated). Immediately, he had his hand pressed down hard
5 over my mouth. So immediately I started tussling with him
6 trying to get loose so I could scream.

7 I was tussling. I managed to get my mouth loose and
8 I said, Sam, Sam. Help me, Sam. I yelled his name but, of
9 course, he didn't say anything.

10 He picked me up. He said, Joanne, you better stop
11 screaming. Stop fighting me, Joanne. Stop fighting me.
12 That's what he said.

13 He picked me up and he body slammed me right down,
14 like facedown (indicated). And he straddled across the back
15 of me and he had my hair pulled to the back and the gun to my
16 head, and he said, Bitch, you better stop fighting me. If you
17 don't stop fighting me I'm going to include the children in
18 this. Of course, I had to stop fighting.

19 He lifted me up, because we was like in this
20 section of my bedroom (indicated). He grabbed me by my hair
21 and he picked me up. I got up on my knees. I told him -- I
22 was like, Please, Charles, don't do this. Don't do this.
23 Please, Charles.

24 He kept telling me, Shut up. Shut up. And he
25 pushed me into the bathroom where I went in here (indicated).

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

(I) 1 Okay. When I passed by the mirror, apparently from where we
2 was scuffling, I was trying to fight, apparently my nose and
3 lip were busted, and when I passed by -- this is my sink
4 (indicated). When I passed by the mirror blood was coming
5 down my face.

6 I was shaking and nervous and I had to go to the
7 bathroom really bad. So I went right here (indicated). Right
8 here in this little section right here (indicated). That's
9 the toilet and you can see that little -- when you're sitting
10 on the toilet it's like a little wall, a half a wall right
11 here (indicated).

12 Well, I'm on the toilet and he is out here in the
(I) 13 bedroom, and, see, from the bathroom door all you can see is a
14 straight across view. You can't see my bed from there. So I
15 could just see him standing right here (indicated).

16 While he's standing right there I'm thinking the man
17 is going to kill me. So I take the blood from my nose and
18 from my mouth and I write Charles -- I try to write Charles V,
19 so they'll know -- when the cops come they'll know what
20 happened to me. They'll know who did this to me.

21 And I think I tried to write Charles V. Help me.
22 But it wasn't very clear. I know I took blood and tried to
23 smear it all over so that when the police got there they'll
24 see that it was foul play. Okay.

(I) 25 He came -- I saw him coming toward the bathroom so I

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 had to jump so he couldn't see that, because, you see, he
2 couldn't see that wall. So I had to jump up and jump over
3 here in front of the sink (indicated). That's when he threw
4 me my clothes. I already had on a shirt. He through me my
5 pants and my shoes and told me to put this on. And I was
6 like, Please, Charles. Please don't do this.

7 He said, Shut up. Shut up. And he threw me some
8 duct tape and told me to put it on, a big roll of duct tape,
9 gray duct tape, and told me to put it on.

10 Well, I proceeded putting my clothes on and the
11 whole time I was begging, Charles, please. He went back out,
12 back out the bathroom door and I could see him standing right
13 there. I'm there putting on my shoes and in the meantime I am
14 looking around trying to see what other clues I could leave.

15 So I start ripping the duct tape off with my teeth.
16 I ripped it off and I stuck some on the trash can in my
17 bathroom so that people would know, when the cops got there
18 they'll know that something wasn't right.

19 So I stuck duct tape on the trash can. I wadded up
20 duct tape and stuck it in the trash can. I was trying to do
21 whatever I can to leave some type of clue because he told me
22 to put my clothes on. I knew he was taking me away and I
23 didn't think I was coming back.

24 Q. Ms. Wilson, if I could interrupt. I show you what's
25 been marked State's Exhibit 8 for identification and ask you

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

(11) 1 if you recognize that?

2 A. Yes, sir.

3 Q. And what is that?

4 A. That's photos of how my mouth was busted up.

5 Q. Is that how your mouth appeared on November 4th of
6 2004?

7 A. Yes, sir.

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

10 THE COURT: Any objection?

11 MR. BACOT: May I, Your Honor, just one moment.

12 [PAUSE.]

(11) 13 MR. BACOT: No objection, Your Honor.

14 THE COURT: So admitted without objection.

15 (WHEREUPON, State's Exhibit No. 8, 'a Photograph, was
16 admitted into evidence.)

17 BY MR. PEACE:

18 Q. Ms. Wilson, I now show you State's Exhibit 6 for
19 identification and ask you if you recognize that?

20 A. Yes, sir.

21 Q. And what is that?

22 A. That is how my nose and face area was scratched up.

23 Q. Is that a photograph?

24 A. Yes, sir.

(11) 25 Q. Is that how your nose and face appeared on November

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 4th of 2004?

2 A. Yes, sir.

3 MR. PEACE: Your Honor, I now move that State's
4 Exhibit 6 for identification be admitted as State's Exhibit 6.

5 MR. BACOT: Without objection.

6 THE COURT: So admitted without objection.

7 (WHEREUPON, State's Exhibit No. 6, a Photograph, was
8 admitted into evidence.)

9 BY MR. PEACE:

10 Q. Now I show you what's been marked State's Exhibit 4
11 for identification and ask you if you recognize that?

12 A. Yes, sir.

13 Q. And what is State's Exhibit 4, Ms. Wilson?

14 A. It is this little wall right here with my blood
15 smeared on it and where I tried to write Charles V, help me on
16 it.

17 Q. Is that how that wall appeared on November the 4th,
18 2004?

19 A. Yes, sir.

20 MR. PEACE: Your Honor, I now move State's Exhibit 4
21 for identification be admitted as State's Exhibit 4.

22 MR. BACOT: Without objection.

23 THE COURT: So admitted.

24 (WHEREUPON, State's Exhibit No. 4, a Photograph, was
25 admitted into evidence.)

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 BY MR. PEACE:

2 Q. I now show you what's been marked State's Exhibit 5
3 for identification and ask you if you recognize that?

4 A. Yes, sir.

5 Q. Ms. Wilson, what is that?

6 A. That's the trash can where I tried to stick the duct
7 tape on and put duct tape in my bathroom.

8 Q. Does duct tape appear in that photograph?

9 A. Yes, sir.

10 MR. PEACE: Your Honor, I'd move State's Exhibit 5
11 for identification be admitted as State's Exhibit 5.

12 MR. BACOT: Without objection.

13 THE COURT: So admitted.

14 (WHEREUPON, State's Exhibit No. 5, a Photograph, was
15 admitted into evidence.)

16 BY MR. PEACE:

17 Q. Now I show you what's been marked State's Exhibit 7
18 for identification and ask you if you recognize that?

19 A. Yes, sir.

20 Q. And what is State's Exhibit 7?

21 A. It's scratches on my neck.

22 Q. Is that how your neck appeared on November 4th,
23 2004?

24 A. Yes, sir.

25 MR. PEACE: Your Honor, I now move State's Exhibit 7

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 for identification be admitted as State's Exhibit 7.

2 MR. BACOT: Without objection.

3 THE COURT: So admitted.

4 (WHEREUPON, State's Exhibit No. 7, a Photograph, was
5 admitted into evidence.)

6 BY MR. PEACE:

7 Q. Now I show you what's been marked State's Exhibit 9
8 for identification and ask you if you recognize that?

9 A. Yes, sir.

10 Q. And what is that?

11 A. It's my eye on how it looked that night.

12 Q. Is that how it looked on November the 4th of 2004?

13 A. Yes, sir.

14 MR. PEACE: I now move that State's Exhibit 9 for
15 identification be admitted as State's Exhibit 9.

16 MR. BACOT: Without objection.

17 THE COURT: So admitted.

18 (WHEREUPON, State's Exhibit No. 9, a Photograph, was
19 admitted into evidence.)

20 MR. PEACE: Your Honor, with the Court's permission
21 I'd like to publish these photographs to the jury.

22 THE COURT: Yes, sir. No problem.

23 Ladies and gentlemen, the Solicitor has asked that
24 these photographs be published, which means letting you look
25 at them, and I have no problem with you passing them around

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 and looking at them.

2 I would tell you, however, that those photographs
3 will be in the jury room with you when you are deliberating.
4 If you get so engrossed in the photographs you miss the
5 testimony you will miss something that will not be with you in
6 the jury room, and that's the testimony. So don't miss what
7 is being said. Thank you.

8 BY MR. PEACE:

9 Q. Ms. Wilson, if you'll continue, please.

10 A. And like I said, I was putting the duct tape on the
11 trash can and everything, trying to leave some clues. Then I
12 was also -- he told me to put the duct tape over my mouth,
13 because he kept telling me to shut up, shut up, because I was
14 begging the whole time.

15 And the duct tape was real tight, and so I kept
16 spitting on it trying to make it loose on my mouth so, you
17 know, I could possibly get it loose and be able to scream
18 again. And he caught me doing it when he walked back into the
19 bathroom, and then he snatched it out of my hand and he
20 started -- he took it and started wrapping it around and
21 wrapping it around me, and he wrapped it from like here down
22 to my neck (indicated).

23 Then after he wrapped me with the duct tape then he
24 got behind me with the gun and he pushed me out like that
25 (indicated). So when he pushed me out of the bathroom I went

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 out fumbling and falling right here. Right, you know, right
2 here in this area of my bedroom (indicated). Then he pushed
3 me again, and it happened so fast I was out of the bedroom
4 into the living room.

5 Q. Do you know what time this occurred?

6 A. Before -- when he had me behind my head on the floor
7 and he was straddled over me and had the gun to my head, when
8 he pushed me into the bathroom, I have a V. C. R. on top of my
9 television, and I remember seeing -- I believe it was 12:49.
10 It was 12:40 something. But it happened so quick I remember
11 seeing the 12 when he pushed me into the bathroom.

12 Q. Please continue.

13 A. Well, by this time, like I said, he pushed my right
14 here and I was falling out like that (indicated). Then he
15 pushed me again and I was into the living room. Okay.

16 From the living room, he took me around to my
17 kitchen right here (indicated). He knew that when he stayed
18 with me we also keep our keys in this little drawer right here
19 (indicated). So he went in the drawer and got my car keys
20 out. And I'm standing there, you know. The whole time I'm
21 just shaking because I'm in duct tape and I'm terrified.

22 He took me out the back door. He opened the back
23 door, and when he opened the back door the storm door -- I
24 noticed that the storm door was propped open. We went out
25 this door right here (indicated) onto a deck because I have a

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 deck at my house. I noticed that the storm door was propped
2 open.

3 There was a flashlight on the deck in the on
4 position because it was real dark. It is just woods. It's
5 another house over here but it's just a wooded area. I don't
6 have a light. I just have a floodlight on one side of the
7 house. So it was real dark back there. That's how I could
8 see the light was on the on position.

9 We went on the back deck and he put on his shoes,
10 and he took me down the steps, around this side of the house
11 (indicated) and into the garage where he put me in my car. I
12 have a white Mercury Marquee, and he put me in the car. And
13 he got in the passenger side and he told me to drive. He had
14 the gun -- sitting on the passenger side had the gun pointed
15 at me and told me to drive. Okay.

16 Crank up, backed out of here (indicated) and I went
17 -- you had to come around this way to get out my yard because
18 I only have one way in and one way out, and as we were leaving
19 out of my driveway he told me to go right. He said go this
20 way (indicated). That way would be going -- that's Highway
21 10. We were going toward Bradley, toward the Town of Bradley.

22 And we were going that way -- and remember I said my
23 girlfriend lives seven houses down. Well, I was going real
24 slow because I was nervous and shaky and I was terrified, and
25 I just wanted somebody the see us.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 So I'm driving real slow. And normally I do drive
2 fast, and everybody that knows me knows that I drive fast, but
3 I was driving slow. I was driving around 40 miles per hour.
4 And he said, Bitch, you better drive this car like you
5 normally drive. Drive faster.

6 But I was going slow hoping that when we passed by
7 Jan's house somebody would see me, but nobody saw me.

8 Q. Ms. Wilson, if I could just interrupt one moment and
9 show you what's been marked State's Exhibit 18 for
10 identification and ask you if you recognize that?

11 A. Yes, sir.

12 Q. And what is State's Exhibit 18 for identification?

13 A. That's my house and this is the road that we took
14 (indicated).

15 Q. But before we get that far, what is State's Exhibit
16 18?

17 A. It looks like a map of the route that we took on
18 that night.

19 Q. Does State's Exhibit 18 include the route that you
20 took that night?

21 A. Yes, sir.

22 Q. All right. Where is your house located on State's
23 Exhibit 18?

24 A. Right there (indicated).

25 Q. And what route did you take?

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 A. We came out of my driveway and we took Highway 10,
2 which is coming this way (indicated).

3 Q. Please continue.

4 A. Okay. So we're driving along. He has -- he's
5 sitting over there in the passenger side with a gun pointed at
6 me. And he told me to drive faster, and I speeded up a little
7 bit. Maybe I did 45 or 50, but I was shaking and nervous.

8 And so we drove, and by the time we got to that
9 intersection -- I'm not good with highways. I think it's 225
10 or 221 where it intersects. You come to like a little yield
11 sign. He told me to go right, which would have been going
12 toward McCormick, Troy area. That's where he told me to go.

13 So we came down, and I guess right here, that's
14 where we bear off to the right (indicated). He's still
15 pointing the gun at me and even though I got duct tape on I'm
16 like (indicating noises). You know, I'm just begging. And
17 when we got to -- it's a little intersection where I guess you
18 could keep straight to Troy or you can go left toward
19 McCormick. He pointed and told me to go that way (indicated)
20 which would have been -- I don't know the name of the highway.

21 Q. Well, which way did you go, right or left?

22 A. He told me to go to the left.

23 Q. Okay.

24 A. So we turned -- I turned that way, and we are
25 driving along. And I'm thinking the man is going to kill me.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 That's what I'm thinking, because he's got a gun pointed at
2 me, I'm duct taped. We're driving along. So I'm thinking I'm
3 going to die anyway. So what I did was -- we didn't pass any
4 cars that whole way until I bear off to the left. There was a
5 car coming.

6 Keep in mind, I was crying, I was terrified. I was
7 just trying to get away. I'm thinking I'm going to die
8 anyway. So there was a car coming. I saw the lights coming.
9 So I'm thinking he's sitting on the passenger side. If I cut
10 over in front of the car then that car hits us on the
11 passenger side and maybe I'll have a chance to get away. I
12 just thought of that. I mean, whether it was going to work or
13 not, that's what I was thinking because I'm thinking I'm
14 desperate, I'm going to die, I need to get out of here.

15 So when the car came it was way back there, but it
16 looked closer than it did, you know, and I cut the car over in
17 the left lane and closed my eyes. Well, the car was way -- it
18 wasn't even close enough. It was way back there. And he
19 snatched the wheel over and he said, You stupid bitch. I
20 ought to shoot you now.

21 And he put the gun up to my head and I just cringed,
22 but we were straight on the road. And by that time, we were
23 up to the new Tranquil A. M. E. Church. It was on that
24 highway, and he told me to turn right there. So we pull over
25 in the Tranquil A. M. E. Church yard.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 Q. Is that on the map?

2 A. Yes, sir. I don't know if that represents the new
3 Tranquil or the old Tranquil. If that represents the new
4 Tranquil Church then we were right there (indicated).

5 When we pulled in -- keep in mind, Charles is not
6 from Greenwood. He's from Greenville. And I knew the pastor
7 there at that church. We had been there before. So he didn't
8 know where the pastor lives. So when we turned in there were
9 like a couple of houses to the right of the church and one of
10 them had a light on, and I guess he saw me look over there
11 because I was trying to look at my surroundings.

12 I guess he saw me look over there. And we pulled,
13 like, kind of under the little drive of the church, and he saw
14 me look over there. And he said, Joanne, does Pastor Scott
15 live there? That was the pastor's name. He said, Joanne, is
16 that the parsonage? Does Pastor Scott live there?

17 Well, at that time I'm thinking, okay, you know, I'm
18 still in duct tape and I tried to think before I answered the
19 question. And I said, (nodded). But Pastor Scott didn't live
20 there, but I'm thinking if he thinks Pastor Scott lives there
21 he'll let me drive somewhere else and maybe I can try the same
22 thing again if I meet another car. So that's why I said -- I
23 nodded my head. And he said, Well, drive.

24 And we pulled out of the new Tranquil Church yard
25 and coming out of that yard he made me take a right, which is

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 still going toward McCormick. And we took a right right
2 there, then shortly after that he told me to take a left, and
3 I was thinking, Oh, my God, because that road is -- I call it
4 a deserted road, and it's the road where the old Tranquil
5 Church used to be. So he made me drive down there and made me
6 pull in that church yard of the old Tranquil A. M. E. Church.

7 When we got there he made me pull in the yard. And
8 there was like a little gas tank that the church had on the
9 side of it. Keep in mind, I'm thinking I'm going to die
10 anyway so figure I might as well go ahead and blow us up.

11 So I pull my car up and I back in next to the
12 church. I put my foot in the tank and just close my eyes
13 because I'm going to back into the tank and blow us up.
14 That's what I was thinking.

15 I tried to do that. I tried to put my foot on the
16 tank. Of course, he snatched -- put his foot over there and
17 snatched -- put his foot on the brake and jerked the car in
18 park and he said, Joanne, you need to stop doing that. You
19 need to stop doing that. He was very angry.

20 Okay. So we are backed in next to the old Tranquil
21 Church. He was -- oh, my God. He was just angry and waving
22 the gun. We went over -- he must have went over every
23 argument that we ever had. But he said, This is what's going
24 to happen. I'm going to talk and you're going to shut up and
25 listen. Just like that.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 Then he snatched the duct tape. I mean, it just
2 snatched and snatched, and I was hollering because it was
3 hurting. He snatched it all off. I don't know what he did
4 with it, but he snatched it all off.

5 Then he started talking about how much he loved me,
6 and that I wouldn't act right, and I just couldn't leave
7 Sanford alone, and every argument we must have had.

8 He talked about how -- there was one particular
9 thing that I did that he just couldn't stand. I would walk
10 through the house with my bra and panties on. He thought that
11 was just the terriblest thing for me to walk with my bra and
12 panties on in front of my boys. Well, we would argue all the
13 time. I was like, I don't know what went on in your family
14 but in my family this is just like a bikini. My boys don't
15 look at their momma like that. You know, that's not perverted
16 in our family. We don't do that.

17 But he just thought that was the worst thing in the
18 world. And that night he went through the whole speech about
19 how I walked through the house with my bra and panties on in
20 front of my boys, and his daddy and his momma wouldn't have
21 never have done that, and how his daddy wouldn't even let them
22 look in magazines at girls in underwear, and you just don't do
23 that, and I tried to tell you, I tried to help you because you
24 needed help and you just wouldn't listen. He just went on,
25 and on, and on all through the night.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 Then finally he said, You know, Joanne, you know
2 this is all your fault, don't you? And I'm like, What? He
3 said, This is all your fault. I left my job. I left my good
4 paying desk job in Greenville and I came down here, and I
5 moved down here with you all because I loved you. I did this
6 for you, I did that for you, and I loved you, Joanne. And you
7 ain't appreciated it. You just wouldn't leave Sanford alone.
8 I just wasn't good enough. And he said, I've killed the man
9 and it's all your fault. That's what he said.

10 And I was like, Woah, because I didn't know. I had
11 no idea whatsoever that when I screamed, Sam, help me, that he
12 couldn't answer. But he said, I killed the man and it's all
13 your fault. Then he said -- I didn't know how to respond
14 because if I showed emotion then he was going to kill me.

15 So I just took a deep breath, because I know I
16 screamed that night and my kids didn't hear me either. So at
17 this time I'm thinking, Oh, my God, my kids are dead. But I
18 was too scared to ask.

19 And then he said get out. Before that I think he
20 reached over and turned the car on because we had the windows
21 up and it was like muggy and you couldn't see anything out of
22 the window. So he had turned -- took the key out of his
23 pocket and turned the defrost on, and that's when I saw it was
24 three something. So that's when I found out that he had
25 killed a man, at three something in the morning.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 Then he told me to get out. He was tired of
2 talking, get out. We get out of the car. Well, I couldn't
3 get out. I was just numb. He had to come out and get me out,
4 and he brought me around to the front of the car.

5 Well, I'm thinking this is it for me. So I'm
6 leaning on the car, and he's up there. He's just ranting and
7 raving. And he's just going on about love and quoting some
8 scripture of Corinthians something, says something, and he
9 just kept going on while he was like waiving the gun going
10 around and around in circles.

11 And I was leaning on my car with my head down, and I
12 was praying and repenting trying to get my soul right with the
13 Lord because I just knew he was going to kill me, and I didn't
14 want to see it coming.

15 So while he was doing that, he was just ranting and
16 raving, and ranting and raving, and I said, Charles, how can
17 you say I never loved you? How can you say I never loved you?
18 I did love you. And I just remembered thinking that in a
19 hostage situation you're supposed to try to calm the person
20 down. And I didn't know what to do.

21 I said, Charles, how can you say I didn't love you?
22 I did love you. And I said, Remember how in the counseling
23 session you said that our hugs was special? I said, Charles,
24 will you please come and hug me. See if our hugs is special.
25 You're going to kill me anyway. Can you see if our hugs are

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 still special.

2 And so he stopped ranting. I could tell it was
3 working. I was trying to calm him down. He put the gun in
4 the back of his pants and he walked up to me and he hugged me.
5 I don't know how long the hug was. It wasn't long.

6 He hugged me for a brief moment and then he snatched
7 the gun out and he just started ranting and raving back in
8 circles again and he starts quoting some Corinthians
9 scripture. I don't remember what it was. All I know is I was
10 crying and praying.

11 Then all of a sudden he fell on his knees like this
12 (indicated). And the gun was in this hand, and he had his
13 hand up to his head like this (indicated), and he was down
14 there. And while he was down there -- you know, it was dark
15 at that little country church.

16 I'm looking around on the ground trying to see if
17 there's a stick or something I could hit him with. But if I
18 hit him with the stick I got to knock him out, then I got to
19 get the gun and try to run somewhere, and I didn't see any
20 houses around. So it was just too much. But I still was
21 looking for a stick on the ground while he was down.

22 Then all of a sudden he got up from doing all this
23 right here (indicated) and he was talking -- I don't know
24 exactly what he was saying the whole time, but when he got up
25 I'm there shaking like this with my head down (indicated). I

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 don't want to see the bullet coming, and I'm like this.

2 And the next thing I know he walks up to me like
3 nothing happened. He walks up to me and he goes, Joanne, why
4 are you shaking? Joanne? Are you scared of me, Joanne? He
5 said, I wouldn't do nothing to hurt you, Joanne. I love you,
6 Joanne. And I lift my head up, because he grabbed me by my
7 face, and I lift my head up and I'm like, I don't understand.
8 I didn't say I don't understand but I'm looking like that.

9 Then he takes a step back and he said, Joanne, don't
10 you know I'd never do nothing to hurt you?

11 No, I didn't know that, but I didn't say that. So
12 he steps back and he takes the clip out of the gun. He puts
13 it in his pocket. I don't know whether it was his pants
14 pocket or shirt pocket. I believe it was his pants pocket.
15 I don't know, but he put it somewhere.

16 And he said, I'd never do nothing to hurt you,
17 Joanne. And then he said -- he grabbed me by my hand and led
18 me back around to the car. He said, Come on. Let's get back
19 in the car because it's almost time for the boys to be getting
20 up. And at that point, that's when I knew -- I think he said
21 it's 5:50. I think that's what he said. He said, It's 5:50.
22 It's time for the boys to be getting up.

23 And at that point, after all night long, that's when
24 I realized my children wasn't dead. We get in the car. And
25 he said, Joanne, I got to tell you some things before I take

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 you back to the house.

2 And I'm just nodding and listening because, you
3 know, I'm back in the car now and he didn't shoot he.

4 He said, Joanne, I need you to do some things for
5 me, Joanne. I need you to do some things for me. He said,
6 Sanford was evil. I had to deliver you from Sanford, Joanne.
7 That's what he said.

8 He said, I need you to not -- he said, This is my
9 first offense. That's what he said to me. This is my first
10 offense. I won't get but eight or ten years. That's what he
11 said. And you can wait on me that long, can't you, Joanne?

12 So I just nodded my head. I mean, I'm not going to
13 disagree. The man has got a gun, even though it was in his
14 pocket at this time, and I nodded my head.

15 And he said, Joanne, I need you not to tell the cops
16 that I duct taped you and took you out of the house because if
17 you do that's another charge, Joanne. He said, Don't tell the
18 cops that I duct taped you. Just say that I grabbed you by
19 the hand and you came on out behind me.

20 That was two things. The third thing he told me to
21 do was that I had to put the children on the bus and get them
22 out of the house and that he knows -- I know that he knows
23 what time the bus comes, and if they wasn't out by a certain
24 time he was going to have to come in and include the children
25 in this, so I better get them out of the house.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 The next thing he told me to do, he had some things
2 in storage, in a storage warehouse. He said, Joanne, I want
3 you to divide the things between the children and their mother
4 that's in the warehouse. That's what he said. He said then I
5 want you to take me to Greenville to see my children and let
6 me give them all the money out of my pocket and say good-bye
7 to them because I'm behind in child support.

8 Then after that we was supposed to go to another
9 counseling session in Greenville with the counselors, and then
10 after that he said -- somewhere in there he said we was going
11 to go get his car and take it to his apartment, too. Then
12 after that, finally after the counseling session, he told me
13 he was going to turn himself in.

14 Well, at that point in time I said, Well, can you
15 not call the cops to go and check on Sanford, because he could
16 not be dead. And he looked at me straight in the eye and he
17 said, Trust me, he's dead.

18 So now I'm supposed to drive. We drive back to my
19 house. We go back to my house, back down that same route that
20 we came. It's getting daylight now. I'm on one mission, to
21 get back to my house to get my children out of the house.

22 He told me, he said, Joanne, don't try nothing.

23 I said, What if the kids get up and go in the
24 bedroom?

25 And he said, You ain't got to worry about that.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 So we get back to my house, and normally I park my
2 car either in my front yard or either in the garage. Okay.
3 When we got back to the house -- keep in mind, people knew --
4 well, my girlfriend knew, that lived down the street, that
5 Charles and I wasn't together no more, that I had ended it
6 because I told them --

7 Q. If I could interrupt you just a minute. State's
8 Exhibit 16, back up, and if you would use that diagram to
9 show.

10 A. So Charles knew that he could have his car in my
11 yard and he knew nobody would see him when we got back to the
12 house. So when we got back to the house, instead of me
13 pulling in around here going back up under the garage where
14 Sanford's car was he made me go around the house. Okay.

15 Well, going around the house, I'm like, okay, I know
16 why he's doing this. So I was driving. So I tried to make
17 sure I stopped the car to where if you were coming from
18 Greenwood on Highway 10 going toward Bradley that you could
19 see. My car would be out far enough that you could see my car
20 in the backyard. So when my girlfriend came by she would
21 know, what is Joanne doing in the backyard? She don't park in
22 the backyard. So I stopped the car right there.

23 Normally, my lights are on automatic on my Mercury,
24 and they were on automatic that day. He got out on this side,
25 came around and opened the door for me and got me out. Well,

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 while he went around the front of the car I turned the lights
2 on on because I knew they were on a timer and they were going
3 to go off soon. So now I'm thinking somebody will see my car
4 parked in the backyard and they'll see my lights on on, you
5 know, and that might let somebody know something was wrong.

6 So I get out of the car. He got me out of the car.
7 And, like, there's an old van I have in the back of my yard
8 and that was his old car that was parked in the back of my
9 yard (indicated). We had to move close to the back of the
10 house so people coming down Highway 10 from Greenwood wouldn't
11 see us standing back there.

12 So this is what he did. You know, I have blood all
13 over my face. He says, Joanne, I need you to go in there and
14 I need you to put the kids on the bus. You know, I know that
15 bus comes by 7:30, Joanne. If you don't have the kids out of
16 the house by 7:30 I'm going to include the kids in this.

17 So he stands there, and he's like a mother would do
18 her child. He spits on his thumb and wipes my face off trying
19 to clean the blood off my face. He takes his fingers and he
20 combs my hair down because, you know, my hair is sticking out
21 all over my head. I was a nervous wreck. He takes his
22 fingers and combs my hair down trying to make me presentable
23 to my children.

24 Okay. So now I've got to go back in the house and
25 get my children out of there knowing that Sanford is dead in

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 my room, and I got to go past that door in order to get to my
2 kids' room. So I run in the house, and, I mean, I'm running,
3 I'm in fast motion. And I go and I wake up -- I believe it
4 was my nine year old at that time, I wake him up first. And
5 I'm like, You got to get up, and I'm talking real fast --

6 Q. Ms. Wilson, can you show them the diagram where you
7 are going?

8 A. Okay. I came in this back door (indicated). I had
9 to come around here because it's like one big great room.
10 This side of the room is the living room and that side is the
11 den. So I come in the back door and I run. I got to run over
12 here (indicated).

13 So I got to run -- that's my room right there
14 (indicated). I got to run -- and that door was closed. I got
15 to run around here to get -- it's like a little -- that's the
16 doorway, then it's like a little hall, square-type hall, then
17 this room is two of my boys' room, and this side is the other
18 two (indicated).

19 Okay. So I run in the back, and I run over this
20 way, and I run to this room first (indicated). That's the
21 blue room. And I wake up my -- at that time was 9 and 13. I
22 wake up my youngest two first, and the first thing they said
23 to me is, Momma, what's wrong?

24 There's nothing wrong. You got to hurry up. You
25 got to hurry up. Get your clothes on. The bus is coming. I

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 was just going in fast motion. Then I woke up my other son
2 and did the same thing to him, and he asked me first thing,
3 Momma, what's wrong?

4 Then I ran out of their room across into my other
5 son's room. I have four sons but one of them was away at
6 college, and then this one, he was in the room by himself,
7 Raheim. So I go in there -- and this was the oldest one, at
8 the time, this was the 17 year old, and I wake him up. And
9 I'm like, Raheim, you got to help me get the boys out of here.
10 You got to help me get their clothes on, help them get
11 dressed, help them get out of here.

12 I think at that time I heard like a vibration, a car
13 going down the road and made the house vibrate. So I'm
14 thinking Charles has come in the back door. So I immediately
15 run out of Raheim's room back through here, back to the back
16 door and I peek out the blind (indicated).

17 I have a bay window right here (indicated) and I
18 peep out of the blind to see if he's still out there. Then I
19 have an upstairs, and I looked upstairs to see, make sure he
20 hadn't tipped in and went upstairs so he could hear what I was
21 saying. So I ran back again and I grabbed my oldest son by
22 his head and I said, Raheim? I said, Mr. Sanford is dead. I
23 said, Mr. Charles has killed Mr. Sanford and he's dead in the
24 bedroom now.

25 I said, I need you to put the kids on the bus, help

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 me get the kids out of here because if you all are not out of
2 here by a certain time he's going to include all of you all in
3 it, and you got to help me get the little ones dressed.

4 I said, I need you to get on the bus, tell the bus
5 driver your momma is in trouble. I said, If the bus driver
6 don't have a cell phone then they had -- the bus goes towards
7 Greenwood and there's a store called Promise Land Grocery up
8 on the corner.

9 I said, Tell the bus driver your momma is in trouble
10 and to stop, let you all off at Promise Land Grocery. You all
11 three got to get off and you use that pay phone to call 911.
12 That was the original plan. Okay.

13 And I know he was going crazy. He was going down
14 and trying, and I was like, I need you to help me. I need you
15 to help me. I need you to do this for me.

16 So then I thought I heard him come back in the back
17 door again and I ran back through. I must have ran back
18 through about four or five times trying to make sure he was
19 still out there. One time I ran out there and I didn't see
20 him leaning up against the house, and I looked for him. He
21 had -- at that time, he had figured out that the car lights
22 were on. They were still on. They hadn't gone off.

23 And I looked this way, he wasn't at the back of the
24 house. He was in the car turning the lights off. So then I
25 ran back again, and in the course of me running back through

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 there there was a chair at my house right here beside my
2 bedroom door (indicated). I have two wing chairs. One was
3 right there and one was over there (indicated).

4 Well, I always charge my cell phone in the living
5 room, right here (indicated). There's an outlet over there,
6 and at that time I have some mauve chairs, and I saw the black
7 cord coming down over the back of the chair. Okay.

8 Q. Why didn't you use your regular telephone?

9 A. Because he had told me out there that -- when he
10 asked me -- when I asked him about the door, whenever the kids
11 go to the door, he told me and don't try and use the telephone
12 either because I've taken care of all that. So we wasn't
13 trying to use the telephone. I was trying to go in there and
14 get my baby out, and I didn't check it to see if what he was
15 saying was true. I just took his word for it.

16 But I saw the cord coming over the back of the chair
17 and I ran to the chair and there was my cell phone. So, of
18 course, I snatched it and I ran this way back over to my son's
19 room, and I used the telephone to dial 911 (indicated).

20 Okay. When I dialed 911 they put me on hold. I
21 don't know how long it was but it was too long to me. They
22 asked me what county I was in, and I had to tell them.
23 Greenwood then they transferred me over to somebody. But the
24 first thing that came out of my mouth was the address, because
25 I wanted them to know the address just in case he came in the

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 back door and caught me on the cell phone. I wanted them to
2 hear my address.

3 Okay. After I called 911, I called my girlfriend
4 Jan that lives down the street several houses down and I said,
5 Please tell my momma to come. Please call my momma and tell
6 my momma to get to my house. That's what I told her.

7 Okay. And then I ran back through because I'm
8 watching the clock and time is running out. I'm watching the
9 clock and I run back through and just in case he thought about
10 my cell phone I put the cell phone back on the charger.

11 So now I'm running through the house. I'm trying to
12 get my sons out because two little ones, they are taking their
13 time. I'm trying to iron. They're playing around, and we're
14 snatching them around. And finally we snatched them out and
15 went out the front door.

16 And we were -- we went out the front door right here
17 (indicated). We all went out right here, and it's like a
18 little walkway right here (indicated). The kids usually wait
19 on the porch and catch the bus. Especially if it's raining
20 they wait on the porch and catch the bus, and when the bus
21 pulls up they run out.

22 But we all were standing right here, and they had
23 their book bags. And my two little ones kept asking me,
24 Momma, what's wrong? And I kept doing like that (indicated)
25 because we were outside because I didn't want Charles to come

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 and be standing on the side of the house and hear -- you know,
2 find out that I've told them what's wrong. All I wanted to do
3 is get them out of the way, get them out of harms way.

4 So we are standing --

5 THE COURT: Solicitor, I'm going to go ahead and
6 take a break at this point in time. I don't know how long --

7 MR. PEACE: She's probably ten minutes.

8 THE COURT: Well, we've been in here about an hour
9 and 30 minutes.

10 Ladies and gentlemen, I'll let you step back to the
11 jury room, relax for a few minutes and have a break and some
12 refreshments. Please don't discuss the case while you're
13 there, and we'll bring you back in about 15, 20 minutes.

14 (WHEREUPON, the jury leaves the courtroom at
15 approximately 11:02 a.m.)

16 THE COURT: All right. We're going to take about a
17 15, 20 minute break.

18 Ms. Wilson, you may step down but don't discuss your
19 testimony while you're off the stand.

20 We'll be back in a little bit.

21 (WHEREUPON, a brief recess was taken.)

22 THE COURT: Are you all ready?

23 MR. PEACE: Yes, sir, I am. Just one matter. I
24 mentioned to the Court yesterday that we had four stipulations
25 to enter into evidence.

1 THE COURT: All right.

2 MR. PEACE: At the appropriate time, if now is the
3 appropriate time --

4 THE COURT: Now.

5 MR. BACOT: That's fine, Your Honor.

6 THE COURT: All right.

7 MR. PEACE: The first stipulation, it is hereby
8 stipulated between the State and Defense, with the express
9 consent of the Defendant, Charles Vandross, that on November
10 4th, 2004, the body of Sanford Best was transported by EMS
11 Attendants, Scott Delano and Chris Ricketts, from 3938
12 McCormick Highway to the morgue.

13 From there, the body was transported by Deputy
14 Coroner Steve Owens to the offices of Dr. Joel Sexton in
15 Newberry, South Carolina, where the autopsy was performed.
16 That's one stipulation.

17 The second, is it is hereby stipulated between the
18 State and the Defense, with the express consent of the
19 Defendant, Charles Vandross, that Luke Lark took possession of
20 the shirt and pants worn by Mr. Vandross and turned them over
21 to Eric Inks.

22 The third one, it is hereby stipulated between the
23 State and the Defense, with the express consent of the
24 Defendant, Charles Vandross, that Ralph Evans took possession
25 of keys from Marc Cromer and a short time later returned the

1 keys to Marc Cromer.

2 The fourth is, it is hereby stipulated between the
3 State and the Defense, with the express consent of the
4 Defendant, Charles Vandross, that the following items of
5 evidence were properly processed by SLED Agent Cecil
6 Bradstreet: Bersa Firestorm .380 pistol, Serial Number
7 604772; fired cartridge casing; bullet from Sanford Best, duct
8 tape; pants and shirt of Charles Vandross. These items were
9 sent to the respective laboratories for testing.

10 Those are the four stipulations that we have entered
11 into. And, Your Honor, just a point of order. I don't know
12 to mark these as State exhibits or Court's exhibits.

13 THE COURT: Well, we can mark them as Court
14 exhibits. What I would normally do is read them to the jury
15 at the time that they would be appropriate in terms of where
16 they fit in the chronology of the testimony. And, normally, I
17 would not send the stipulations back to the jury room, unless
18 you all --

19 MR. BACOT: That's the way I prefer it, Your Honor,
20 just reading them to the jury at the appropriate time.

21 MR. PEACE: Well, probably the appropriate time
22 would be at the end of the State's case because there's so
23 many items --

24 THE COURT: Well, unless you are going to call a
25 witness who's going to testify without something -- you just

1 want to enter the stipulation to show the chain or whatever.

2 But, I mean, I'll do whatever you all want to do.

3 MR. BACOT: I'd rather the Court read it at the
4 appropriate time.

5 THE COURT: All right. We'll just mark them as
6 Court's exhibits, and if you tell me when that witness is
7 going to come up we'll let the jury know at that time or if
8 there's no witness that would be related to that then we can
9 do it at the end of the State's case.

10 MR. PEACE: Yes, sir, okay.

11 (WHEREUPON, Court's Exhibit Numbers 1 through 4,
12 Stipulations, were marked and made a part of the record.)

13 MR. BACOT: Your Honor, may we approach just a
14 minute?

15 (WHEREUPON, a bench conference was had.)

16 THE COURT: Okay. Let's bring back the jury.

17 Where's Ms. Wilson? Come on back up here, if you
18 would, please.

19 (WHEREUPON, Ms. Wilson returned to the witness
20 stand.)

21 THE COURT: All right. Let's bring the jury in.

22 (WHEREUPON, the jury enters the courtroom at
23 approximately 11:30 a.m.)

24 THE COURT: Okay, Solicitor. If you would, please,
25 sir.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 MR. PEACE: Thank you, Your Honor.

2 BY MR. PEACE:

3 Q. Ms. Wilson, after you and the boys went on the front
4 porch what happened?

5 A. We stood out there and we was pretty much waiting
6 for the police or the bus to come, whichever one came first,
7 and the police came first. And we heard the sirens and I
8 grabbed my boys and we ran toward the driveway, start running
9 toward the police car.

10 Q. And what happened when you got to the police?

11 A. I told them -- I said, he's in the back. He's in
12 the back. And two of them got there -- two cars got there
13 first and I think two cars -- two cops went one way and one
14 went the other, and me and the boys -- I opened the cop car
15 door and shoved my boys in there and we all got down.

16 Q. All right. Ms. Wilson, this may sound like a silly
17 question, but did these incidents occur in Greenwood County,
18 South Carolina?

19 A. Yes, sir.

20 Q. Ms. Wilson, I show you what's been marked State's
21 Exhibit 2 for identification and ask you if you recognize that
22 photograph?

23 A. Yes, sir.

24 Q. And what is that photograph?

25 A. It's a picture of my house with my car in the

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 backyard.

2 Q. Is that how your house appeared on November 4th of
3 2004?

4 A. Yes, sir.

5 MR. PEACE: Your Honor, I move State's Exhibit 2 be
6 admitted as State's Exhibit 2.

7 MR. BACOT: Without objection.

8 THE COURT: So admitted.

9 (WHEREUPON, State's Exhibit No. 2, a Photograph, was
10 admitted into evidence.)

11 BY MR. PEACE:

12 Q. I show you what's been marked State's Exhibit 3 for
13 identification and ask you if you recognize that?

14 A. Yes, sir.

15 Q. And what is that photograph?

16 A. My car parked in the backyard of my house.

17 Q. Is that where you parked your car the night that
18 these incidents occurred?

19 A. Yes, sir.

20 MR. PEACE: Your Honor, move State's Exhibit 3 for
21 identification be admitted as State's Exhibit 3.

22 MR. BACOT: No objection.

23 THE COURT: So admitted.

24 (WHEREUPON, State's Exhibit No. 3, a Photograph, was
25 admitted into evidence.)

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 BY MR. PEACE:

2 Q. I show you what's been marked State's Exhibit 10 for
3 identification and ask you if you recognize that?

4 A. Yes, sir.

5 Q. And what is that photograph?

6 A. This is a new Tranquil A. M. E. Church.

7 Q. And is that the church, first church where the
8 defendant took you?

9 A. Yes, sir.

10 Q. On November 4th?

11 A. Yes, sir.

12 MR. PEACE: Your Honor, I move State's Exhibit 10 be
13 admitted as State's Exhibit 10.

14 MR. BACOT: No objection.

15 THE COURT: So admitted.

16 (WHEREUPON, State's Exhibit No. 10, a Photograph,
17 was admitted into evidence.)

18 BY MR. PEACE:

19 Q. Now I show you what's been marked State's Exhibit 11
20 for identification and ask you if you recognize that?

21 A. Yes, sir.

22 Q. And what is that photograph?

23 A. A picture of the old Tranquil A. M. E. Church.

24 Q. Is that the second church that you spoke about in
25 your testimony?

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 A. Yes, sir.

2 MR. PEACE: I move State's Exhibit 11 for
3 identification be admitted as State's Exhibit 11?

4 MR. BACOT: No objection.

5 THE COURT: So admitted.

6 (WHEREUPON, State's Exhibit No. 11, a Photograph,
7 was admitted into evidence.)

8 BY MR. PEACE:

9 Q. I show you now what's been marked State's Exhibit 12
10 for identification and ask you if you recognize that
11 photograph?

12 A. Yes, sir.

13 Q. And what is that photograph?

14 A. It's a picture of that gas tank on the side of the
15 church that I was trying to back into.

16 MR. PEACE: Thank you, Ms. Wilson.

17 Your Honor, I move State's Exhibit 12 for
18 identification be admitted as State's Exhibit 12.

19 MR. BACOT: No objection.

20 THE COURT: So admitted.

21 (WHEREUPON, State's Exhibit No. 12, a Photograph,
22 was admitted into evidence.)

23 MR. PEACE: Your Honor, We'd also move that State's
24 Exhibit 16 for identification be admitted as State's Exhibit
25 16.

JOANNE SUBER-WILSON - DIRECT BY MR. PEACE

1 MR. BACOT: Your Honor, may I have just a moment
2 with counsel?

3 THE COURT: Sure.

4 [PAUSE]

5 MR. PEACE: Your Honor, I'll withdraw my motion to
6 admit this exhibit, subject to Mr. Bacot's cross-examination.

7 THE COURT: Say that again now.

8 MR. PEACE: I'll withdraw my motion to admit this
9 exhibit, at this time, subject to Mr. Bacot's
10 cross-examination.

11 THE COURT: I'm not sure what subject to his
12 cross-examination means, but you are withdrawing your request
13 to admit it?

14 MR. PEACE: Yes, sir. Yes, sir. But I do move that
15 State's Exhibit 18 for identification be admitted as State's
16 Exhibit 18.

17 MR. BACOT: That's without objection, Your Honor.

18 THE COURT: So admitted.

19 (WHEREUPON, State's Exhibit No. 18, a Photograph,
20 was admitted into evidence.)

21 MR. PEACE: Your Honor, if I may, I'd like to
22 publish the photographs to the jury.

23 THE COURT: Again, ladies and gentlemen, no problem
24 with that but don't get so engrossed you miss the testimony.

25 MR. PEACE: If I may have just a moment, Your Honor.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 THE COURT: Yes, sir.

2 [PAUSE]

3 MR. PEACE: Thank you, Ms. Wilson. Please answer
4 any questions Mr. Bacot may have.

5 CROSS-EXAMINATION

6 BY MR. BACOT:

7 Q. Ms. Wilson, during the course of your questioning
8 and through Mr. Peace's opening statement he's referred to you
9 in several different names, Ms. Suber-Wilson and Ms. Wilson.
10 Could you tell this jury what name you go by.

11 A. Joanne Suber-Wilson.

12 Q. And is this hyphenated?

13 A. It's hyphenated on my Social Security card.

14 Q. And what appears on your driver's license?

15 A. Joanne Benson Suber-Wilson.

16 Q. Is it hyphenated on your drive's license?

17 A. I don't know.

18 Q. How did you come by the name of Suber-Wilson?

19 A. Because I've been married two times before. One of
20 them I thought I was married but I actually wasn't.

21 Q. All right. Well, who were you actually married to
22 in the past?

23 A. I was actually married to Mr. Suber.

24 Q. Daryl Suber?

25 A. Yes.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. When did you marry Mr. Suber? Just a year will be
2 fine.

3 A. In 1983.

4 Q. And when did you divorce Mr. Suber?

5 A. Well, we were supposed to have a divorce in -- I
6 don't remember the year.

7 Q. Are you divorced from Mr. Suber?

8 A. I found out that I'm not.

9 Q. You are not divorced from Mr. Suber?

10 A. No. I found out that I'm not, but I thought I was.

11 Q. So as of today you're still married to Daryl Suber?

12 A. Yes.

13 Q. Who was your second marriage that you were married
14 to that you knew you were really married?

15 A. I thought I was --

16 MR. PEACE: Objection, Your Honor. This is not
17 relevant to this case.

18 THE COURT: What is the relevance of her prior
19 marriage?

20 MR. BACOT: Your Honor, she has already testified
21 that she was married to Mr. Daryl Suber but was not married to
22 Mr. Jeremiah Wilson, who is the Wilson namesake. I'm prepared
23 to enter evidence in a moment that will contradict that in its
24 entirety. It goes to her credibility.

25 THE COURT: All right. You may proceed.

1 MR. BACOT: Thank you, Your Honor.

2 BY MR. BACOT:

3 Q. Who else were you married to other than Mr. Suber?

4 A. I thought I was married to Reverend Jeremiah Wilson.

5 Q. Okay. Is that the second marriage that you were
6 referring to?

7 A. Yes, sir.

8 Q. And when did you think you were married to
9 Mr. Jeremiah Wilson?

10 A. For a long time. It was several years we thought --
11 well, I thought I was married. I didn't know I was being
12 deceived.

13 Q. Who were you being deceived by?

14 A. Pastor Jeremiah Wilson.

15 Q. And when did you find out that you were not married
16 to Mr. Jeremiah Wilson?

17 A. In 19 -- I don't now. 1998, when he left.

18 Q. Why do you still use the name Joanne Suber-Wilson
19 today?

20 A. Because even though -- well, I don't have any money
21 to go and get it changed. I don't have the money to get
22 everything changed. And Suber-Wilson, Suber, I have two sons
23 that are Suber and two sons that are Wilson. And when we went
24 through the motion and I thought I was married all of that was
25 changed, supposedly, legally, on my Social Security card and

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 my driver's license.

2 Q. So all of that was done without a court, just as a
3 matter of convenience to you; is that right?

4 A. I don't understand the question.

5 Q. Okay. When you went from Joanne Suber to Joanne
6 Suber-Wilson you did that just as a matter of convenience to
7 you and without any court's authority; is that right?

8 MR. PEACE: Your Honor, I object.

9 A. No, I went --

10 THE COURT: Ma'am, there is an objection.

11 Again, what is the relevance of this?

12 MR. BACOT: Your Honor, the relevance is I don't
13 believe that she's being honest as to her own name, which goes
14 right to her credibility.

15 THE COURT: Well, I don't know what you mean you
16 don't believe she's being honest. You don't have the decision
17 of making credibility calls, but the fact that she did
18 something for her convenience or with a court order, tell me
19 how that's relevant?

20 MR. BACOT: Because if she's going by the name of
21 Joanne Suber-Wilson or Joanne Wilson, whichever the case may
22 be, it goes to the essence of her misleading from the very
23 beginning.

24 THE COURT: Well, I'm going to sustain the
25 objection.

1 BY MR. BACOT:

2 Q. Ma'am, were you engaged to Mr. Vandross?

3 A. Yes, sir.

4 Q. And when did you become engaged to Mr. Vandross?

5 A. On Thanksgiving of '03.

6 Q. Did he give you a ring?

7 A. Yes, sir.

8 Q. And I believe in direct you just testified that you
9 all were dating, but indeed you were engaged? You all had set
10 a date for marriage?

11 A. No, we didn't set a date but we were engaged.

12 Q. Had you made preparations for a marriage?

13 A. We were shopping and buying things, yes, sir, but we
14 didn't have a date.

15 Q. And as a part of you all's engagement, Mr. Vandross
16 was in your home and lived in your home, I believe your
17 testimony was, from August of '03 until September of '04; is
18 that right?

19 A. Off and on, yes.

20 Q. His residence in your home led him to do things like
21 apply for the registration to his vehicle using your home
22 address. Would that be a true statement?

23 A. I don't know if he did that or not. I don't know.

24 Q. Do you believe that he claimed your house to be his
25 residence?

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 A. Yes, sir.

2 Q. And he had a key to it and free access to it?

3 A. Yes, sir.

4 Q. Your relationship with Mr. Best was simply dating?

5 Were you all engaged? How did that -- what was your term for
6 that?

7 A. We were dating and we were engaged at one time.

8 Q. When were you engaged to Mr. Best?

9 A. I don't remember, sir. It was a long time ago.

10 Q. But you dated him off and on since 1999; is that
11 right?

12 A. Yes.

13 Q. And when you reference to these times off and on
14 with Mr. Vandross were those off and on periods interrupted by
15 the times that you were dating Mr. Best?

16 A. I was not dating Mr. Best at the time where I was
17 dating or engaged, or whatever you say, to Charles because we
18 had broke up. But we always communicated. We always remained
19 friends. And during the times -- there was several times
20 Charles and I broke up, and yes, Sanford and I went places
21 together.

22 Q. Did he live with you? Mr. Best live with you
23 between August '03 and September '04?

24 A. No, sir, he always had his own house.

25 Q. He had his own house but did he ever spend the night

1 with you?

2 A. Yes.

3 Q. So he didn't live with you but he spent the night
4 with you during the times that you and Mr. Vandross were
5 broken up; is that right?

6 A. Not all the time.

7 Q. Some of the time?

8 A. Yes, sir.

9 Q. So based upon your testimony that you are giving
10 thus far you were married to Mr. Suber-Wilson -- Mr. Suber,
11 excuse me, you are engaged to Mr. Vandross, and the day you
12 moved Mr. Vandross out of the house, October 31st, Mr. Best
13 moved in; is that right?

14 A. Yes, sir.

15 Q. During the course of your relationship with Mr. Best
16 had there ever been any violence between the two of you?

17 A. Yes, sir, in the beginning. There wasn't violence.
18 There was a lot of arguing.

19 Q. There was not any violence. There was a minor
20 argument. Were the police ever called?

21 A. There was some pushing but, you know, nobody had any
22 black eyes or nobody brought blood or anything.

23 MR. PEACE: Objection, two grounds, relevance and
24 not proper impeachment.

25 MR. BACOT: Background into their relationship, Your

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Honor, and it's going to be proper because she didn't bring
2 any up on direct. I mean, it didn't come up.

3 THE COURT: Her relationship with Mr. Best, the
4 background is proper?

5 MR. BACOT: Yes, sir.

6 THE COURT: Let me get the jury -- you all step back
7 out. Don't discuss the case while you are there, please. You
8 all step back to the jury room.

9 (WHEREUPON, the jury leaves the courtroom at
10 approximately 11:40 a.m.)

11 THE COURT: All right. Tell me how her relationship
12 with Mr. Best comes into play in this matter, Counsel?

13 MR. BACOT: Your Honor, as we spoke with Mr. Peace
14 briefly in chambers about this concept of us pointing the
15 finger and the standard that we might have to achieve, at that
16 point I've got to be able to cross-examine her to elicit
17 information that will cause reasonable doubt to exist in the
18 minds of the jurors, as it relates to the relationship between
19 the two of them.

20 THE COURT: Well, the relationship between them is
21 not an issue in this case.

22 MR. BACOT: The relationship between the two of
23 them, if she comes out on cross-examination with evidence,
24 statements to this jury that causes them to doubt her word as
25 it was given on direct and her word as it was given to the

1 police about their relationship then I think it goes to
2 reasonable doubt. I think it gives them the reason not to
3 believe that her story is credible and give them the ability
4 to decide if there's reasonable doubt.

5 THE COURT: Well, where is the credibility issue?

6 MR. BACOT: Where is it?

7 THE COURT: If she had a bad relationship with
8 Mr. Best at some point in time tell me how that goes to
9 credibility.

10 MR. BACOT: Because during the course of direct she
11 didn't indicate that at all. It was just we had a good
12 relationship, we dated, we always remained friends. And if
13 I've got evidence to show that it was not a good relationship
14 then that goes right to her credibility.

15 THE COURT: Have you got something that says they
16 weren't friends?

17 MR. BACOT: Well, she's made reference to the
18 incident reports, the ones that talk about the altercations
19 that occurred between them. That's what I was about to get
20 into before the objection.

21 THE COURT: You mean long before this incident?

22 MR. BACOT: Before, yes, sir, and I'll even say long
23 before this incident.

24 THE COURT: Well, I don't see where that has
25 anything to do with anything. You know, if you ask her

1 whether they a relationship -- they ever had difficulty in
2 their relationship and she said no, that might be one thing.
3 But to go into the fact that she may have called the police
4 some time on him in the past, I don't see how that has
5 anything to do with anything.

6 MR. BACOT: And maybe I'm being unclear. It's not
7 that she called the police. In these incident reports he
8 would be the victim.

9 THE COURT: Well, whoever called the police. I
10 don't know how that has anything to do with anything.

11 MR. BACOT: It goes to the fact that Mr. Best is
12 deceased, Your Honor, and she was the last one in the house.

13 THE COURT: I still don't see how that has to do
14 with credibility.

15 MR. BACOT: I understand. I argued my point.

16 THE COURT: All right. I have no problem if you ask
17 her did they ever have rocky times in their relationship over
18 the course of their time. If she says no, we had a perfect
19 time, then you might be able to cross-examine.

20 MR. BACOT: Thank you.

21 THE COURT: But she's acknowledged that at some
22 point in time that they may have had some pushing or they
23 argued a lot. She said that.

24 MR. BACOT: And so that we don't have to do this
25 again in just a minute, can I go into those details with her

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 about the arguments and what the cause of them were and how
2 that all played out?

3 THE COURT: Well, what is it you are trying to do,
4 show that she was in fact telling the truth when she said they
5 argued or they had pushing incidents?

6 MR. BACOT: Well, to go into the details of the
7 incidents and to find out how severe they were.

8 THE COURT: You are trying to get something in that
9 is not relevant, as opposed to attack her credibility, in my
10 opinion, based on that. If she's acknowledged that they had
11 bad times then, you know, the specifics of that does not go to
12 her credibility.

13 MR. BACOT: And, Your Honor, again, I've expressed
14 my point. If that's the Court's ruling then I'm done.

15 THE COURT: All right. Let's bring the jury back
16 in.

17 (WHEREUPON, the jury enters the courtroom at
18 approximately 11:45 a.m.)

19 THE COURT: All right, Counsel.

20 MR. BACOT: Thank you, Your Honor.

21 BY MR. BACOT:

22 Q. Ma'am, during your testimony on direct to Mr. Peace
23 your statement was that the first time -- and I'm speaking
24 specifically on the night of October 3rd, the morning of
25 October -- excuse me, November 4th, November 3rd when you said

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 you were lying in bed. You were first brought to by
2 Mr. Vandross with his hand over your mouth; is that correct?

3 A. Yes, sir.

4 Q. And you also testified that subsequent to you being
5 awakened by Mr. Vandross that, whether it be in the car or
6 some later point, you found out that Mr. Best was deceased
7 lying next to you; is that right?

8 A. Later on, yes.

9 Q. And you are aware that the allegations that have
10 been made against Mr. Vandross are that it happened by
11 gunshot; do you understand?

12 A. Yes, sir.

13 Q. Now, is it also your testimony that while you were
14 lying there asleep next to Mr. Best in that bed that somehow
15 Mr. Vandross shot Mr. Best in the head and you didn't wake up
16 at the sound of that gunshot?

17 A. I could not hear a gunshot.

18 Q. And is your testimony not that you didn't hear it
19 but that it did not wake you up?

20 A. It did not wake me up.

21 Q. On your diagram over here, what's State's Exhibit
22 16, has been labeled and has not yet been admitted, you drew
23 kind of an outline on the bed to where you were asleep; is
24 that right?

25 A. Yes, sir.

1 Q. And as part of that outline, using your best guess,
2 how far do you believe that your head would have been away
3 from Mr. Best's head at the time that the shooting occurred?

4 A. Sir, I can't -- I don't know what inches or feet but
5 I just know that my head was up to the end of the bed. I have
6 a king size bed and I was curled up in the fetal position, and
7 his head was probably down where my behind was when I was
8 curled up like that.

9 Q. Okay.

10 A. That's the best guesstimation I can give.

11 Q. We agree you all were both in the same bed?

12 A. Yes, sir.

13 Q. Same room?

14 A. Yes, sir.

15 Q. And that gunshot did not wake you up?

16 A. No, sir, it did not.

17 Q. Ma'am, you've also made reference to this concept of
18 Mr. Vandross stating that you didn't have a need to worry
19 about your children coming into the room where Mr. Best was.
20 Did he give you any reason why you didn't have to worry about
21 that?

22 A. He took care of it. I don't know why.

23 Q. All right. Subsequent to what happened on that
24 night, did you realize and find out that the door had been
25 kicked in, the door to the bedroom?

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 A. I don't understand the question.

2 Q. Your bedroom door, right now, does it have evidence
3 of being kicked in, busted in?

4 A. Yes, sir.

5 Q. And do you agree with me that that event occurred on
6 the night in question?

7 A. It wasn't kicked in before we went to sleep. I
8 thought EMS kicked it in.

9 Q. You thought EMS kicked it in?

10 A. Yes. That was my understanding.

11 Q. So is it your position that -- well, let me ask it
12 to you this way. Did you lock the door?

13 A. No, sir.

14 Q. Do you believe that Mr. Vandross locked the door?

15 A. I don't know how else it would have gotten locked
16 because I didn't.

17 Q. So based upon that, do you also agree with me that
18 from the time that you allegedly left your bedroom, I believe
19 by your testimony around 12:50 in the morning, that you did
20 not enter that bedroom again until well after this crime scene
21 had been completed?

22 A. I didn't say we left the house at 12 something. I
23 said that's when I was pushed into the bathroom. I don't know
24 what time we left the house, but I hadn't been in that bedroom
25 since I was pushed out.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. Okay. So regardless of the time, when you left you
2 didn't re-enter the bedroom until some time later that day or
3 the next day or --

4 A. Oh, I didn't enter that bedroom for a few days
5 because I was taken away.

6 (WHEREUPON, Defendant's Exhibit Numbers 1 and 2 were
7 marked for identification only.)

8 BY MR. BACOT:

9 Q. Ma'am, I'm going to hand to you what's been marked
10 as Defendant's Number 1 and Defendant's Number 2, and if you
11 would, please, identify what's on those photos. You can hold
12 them.

13 A. Sanford laying in bed.

14 Q. Is this an accurate reflection of the way the scene
15 looked that night when you were, according to you, forced out
16 of the room?

17 A. Yes, sir.

18 Q. And if you would, please, look at Defendant's Number
19 2 and tell me if you can identify those, what's in that
20 picture.

21 A. No, I don't know what that is. I'm not sure what
22 that is. I can't really tell what this is. It looks like --
23 I don't know what that is.

24 Q. Referring to Defendant's 1, can you look at
25 Defendant's 2 and tell that those are the documents lying on

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 the bed?

2 A. It looks like the same.

3 Q. All right. And you believe that that represents the
4 true and accurate condition of the scene when you left the
5 room that night?

6 A. I don't remember these, sir.

7 Q. Okay.

8 A. I don't remember these. It's hard to see.

9 MR. BACOT: Your Honor, I would move to have what's
10 been marked Defendant's 1 into evidence.

11 THE COURT: Any objection?

12 MR. PEACE: No objection.

13 THE COURT: So admitted, without objection.

14 MR. BACOT: Thank you, Your Honor.

15 (WHEREUPON, Defendant's Exhibit No. 1, a Photograph,
16 was admitted into evidence.)

17 BY MR. BACOT:

18 Q. Ma'am, in this particular picture, do you agree with
19 me that that shows the position of Mr. Best's body as you all
20 were sleeping?

21 A. It wasn't like that when I fell asleep. He was down
22 a little bit further. Now, whether he moved while he was
23 sleeping I don't know, but he was a little -- down a little
24 bit further when I last saw him. Now, what happened when I
25 went to sleep I don't know.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. You would agree with me, though, that while you were
2 in the bed the same time Mr. Best was in the bed that was his
3 position?

4 A. No, sir, because when I last saw him, before I
5 turned over and went to sleep he was down a little bit further
6 in the bed. Now, like I said, when I was asleep if he moved I
7 don't know because I was asleep.

8 Q. You would agree that at the time of you all going to
9 sleep there were these documents on the side of the bed right
10 here?

11 A. Unless those were the papers that I had went down to
12 the police department about, I don't know what papers they
13 are. I don't remember.

14 Q. I understand. The question is, though, were these
15 papers on the bed when you all went to sleep that night?

16 A. I don't remember, sir.

17 Q. Okay. You would agree with me, though, that if this
18 is a true and accurate picture of the crime scene that they
19 were there in the morning? Would you agree with that, in the
20 morning?

21 A. Sir, when I was awakened I don't know what was
22 there. I don't remember what those were. When I was awakened
23 I don't know what papers were on the bed or whether somebody
24 put some papers there or what. All I know is when Sanford was
25 asleep and I last looked at him before I went to sleep he was

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 down a little bit further in the bed and I was -- I turned
2 over and I fell asleep, too.

3 Q. Okay. You remember going to the city police
4 department; is that right, and talking to a victim's advocate?

5 A. Yes, sir.

6 Q. And you don't remember her name; is that right?

7 A. I don't remember the lady's name, but I know I went
8 to talk to somebody.

9 Q. And did she give you some paperwork to fill out at
10 that time?

11 A. She gave me a little package of stuff, paperwork,
12 yes, sir.

13 Q. Did you fill any of it out?

14 A. I don't remember. I just know I listened to her
15 instructions and took them with me.

16 Q. I'm going to hand you again what's been marked as
17 Defendant's Exhibit 2 and see if I can identify the paperwork
18 in this photo as the paperwork that the victim's advocate gave
19 you, and more specifically, if you can identify your
20 handwriting on those documents.

21 A. It is really hard to see what this paperwork says.
22 I don't know if it's the paperwork the lady gave me. It could
23 very well be, but I can't sit here and swear to that because
24 it's hard for me to read what's on here.

25 Q. So you don't recognize that document?

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 A. No, sir.

2 Q. And you don't recognize your handwriting?

3 A. Where would my handwriting be, right here?

4 Q. Yes, ma'am.

5 A. That looks like I wrote that.

6 Q. That looks like you wrote that?

7 A. Uh-huh.

8 MR. BACOT: Your Honor, I'd like to publish
9 Defendant's 1 to the jury.

10 THE COURT: Sure.

11 Ladies and gentlemen, again, I caution you, don't
12 miss the testimony. The exhibit will go with you into the
13 jury room.

14 BY MR. BACOT:

15 Q. Ma'am, between the time that you and Mr. Best left
16 the ball game what time, approximately, would that have been?

17 A. I have no idea, sir.

18 Q. Was it an evening game, an afternoon game, a night
19 game?

20 A. It was an evening game.

21 Q. Had you all already eaten dinner?

22 A. I don't remember.

23 Q. Who was in the vehicle when you all drove back from
24 the ball game to your house?

25 A. Me, and Sam, and Jeremy, and John.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. And it would have been a school night; is that
2 right?

3 A. Yes, sir.

4 Q. When you arrived back at home, family met for a
5 little while, the kids went to bed; is that right?

6 A. We played around in the living room and den, yes,
7 sir?

8 Q. At any point, did you and Mr. Best discuss your
9 relationship with Mr. Vandross?

10 A. We discussed it coming up the road from the game.
11 We was talking about it then.

12 Q. So you discussed Mr. Vandross' relationship with you
13 in the car in front of your kids with Mr. Best?

14 A. Of course, but they knew what was going on.

15 Q. What did you all talk about in the car on the way
16 home?

17 A. We talked about what my girlfriend had called me at
18 my office and told me, and in that conversation she said that
19 Charles was watching the house and saw me leave early in the
20 morning. And I'm like, Where would he have been watching me
21 at? So, you know, Sanford -- I had told Sanford all this over
22 the phone, and Sanford took me and showed me where he had been
23 watching me at, and it was from across the street. You have
24 to cross over the track and go around and there's a little
25 cul-de-sac. I had been living there and I didn't even know

1 that was over there.

2 Q. Mr. Best took you and showed you where he believed
3 Mr. Vandross had been watching you?

4 A. Yes, sir, because I had talked to him on the phone
5 earlier and told him everything that was going on.

6 Q. You agree with me that you testified on direct that
7 you attempted to hide Mr. Best's car at your friend's house to
8 avoid a confrontation; is that right?

9 A. Because we both knew if Charles saw Sanford's car
10 there then he would come and be ringing the doorbell and
11 saying that he wants to talk. So we didn't want to be
12 bothered. We didn't want to be aggravated. So me and Sanford
13 -- well, he had been parking the car down there.

14 But on November the 3rd, based on the conversation
15 that Sherry had with me that Charles saw me leaving early
16 every morning going to the right because he had been watching
17 the house, me and Sanford said there was no need in parking
18 there. He knows I'm here so we might as well park up under
19 the carport.

20 Q. But during the term of you all's relationship during
21 these break-ups you agree that he knew you were dating Best;
22 is that right?

23 A. Say that again.

24 Q. During the term of your relationship with
25 Mr. Vandross when you all would have these break-ups, you're

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 not suggesting to this jury that Mr. Vandross didn't know you
2 were dating Best, are you?

3 A. Me and Best wasn't dating. I said me and Best had
4 gone to several places together. We wasn't actually dating
5 during the time of me and Charles. We wasn't dating. We had
6 been seen at several places together. We would go to games
7 and stuff like that together.

8 Q. Then you also testified that he lived somewhere else
9 but he would stay over night with you from time to time during
10 these break-ups?

11 A. Who?

12 Q. Mr. Best.

13 A. Yes. When Charles would leave and go live somewhere
14 else in Greer, yes.

15 Q. So during those times you didn't find it necessary
16 for him to park his car in other places?

17 A. No, sir, because he was gone living in Greer. He
18 was living in Greenwood at that time in Pine Tree Apartment
19 when we found it necessary to do that.

20 Q. If anything, what did you and Mr. Best talk about
21 just prior to him beginning to read his Bible and watch TV and
22 you going off to sleep?

23 A. I don't remember. We talked about a lot of things.
24 My sister had called me on the phone. We were talking about
25 what college my son was going to go to. We talked about

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 several things. Talked about what was going on on E. S. P. N.
2 I don't remember exactly our last conversation.

3 Q. Did the documents at the foot of the bed ever come
4 into conversation?

5 A. We had already talked about those that day on the
6 phone, that I was going down there to do that, and then when
7 we were coming back from the game. Before we went to the game
8 we talked about them. So we had already talked about those.

9 Q. What prompted you to get these documents out on this
10 particular night and put them on the bed?

11 A. On this particular night? I had just got them that
12 day and I hadn't been home from work. So my first time coming
13 home from work was when we were coming from the game. And so
14 everything I had with me I brought it in, and I probably did
15 put it down on the bed.

16 Q. Now, ma'am, my recollection of your direct was that
17 Mr. Best came to your office on 11-1 and exchanged keys with
18 you; is that right?

19 A. No, sir. Mr. Vandross came to my --

20 Q. I apologize. Mr. Vandross came to your house 11-1
21 to exchange keys with you; is that right?

22 A. Yes, sir.

23 Q. And as a result of that intrusion into your job with
24 him acting like everything was okay, you said that was too
25 easy, is what you said on direct, you felt like something was

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 up so you called the city police department; is that right?

2 A. No, sir.

3 Q. Okay.

4 A. No. That's not correct.

5 Q. All right. What happened?

6 A. I think you got it kind of mixed up.

7 Q. Go ahead.

8 A. That was on 11-1 when he came to my office and gave
9 me my keys. After October 31st he wouldn't -- he refused to
10 give them to me. On the 3rd is where Sherry, who is sitting
11 right there, she called me and told me she had a visit from
12 Charles. And the things that she told me he said scared her
13 and it scared me, and that prompted me to go down on November
14 3rd to the city police office.

15 Q. And pick up these documents and bring them home with
16 you?

17 A. No. I didn't pick them up. I went and talked to
18 the lady because I didn't know what I could do. I wanted to
19 know could I have a trespassing notice and a restraining order
20 and all that stuff against him.

21 Q. And she gave you these documents and you took them
22 home?

23 A. I didn't take them home first because I wasn't at
24 home. I went back to my office, and I didn't go home until
25 that night. So everything I had with me went home with me

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 that night, yes.

2 Q. All right. And from your car, into your house and
3 then ultimately on your bed where you and your boyfriend were
4 sleeping that night?

5 A. Apparently they did if those are them.

6 Q. Okay.

7 A. I don't remember what I did with them. I know I
8 brought them into the house, brought them out of the car in
9 the house.

10 Q. And based on that, would you agree with me that you
11 are the one that put them on the foot of the bed?

12 A. I can't swear to it because I don't remember doing
13 it.

14 Q. You don't remember putting these on the bed?

15 A. No, sir.

16 (WHEREUPON, Defendant's Exhibit Numbers 3, 4 and 5
17 were marked for identification only.)

18 BY MR. BACOT:

19 Q. Ma'am, I'm going to show you what's been marked as
20 Defendant's Number 4 and ask if you can identify that?

21 A. Yes, sir.

22 Q. What is that?

23 A. That's the wall in my bathroom where I tried to
24 write on it in my blood.

25 Q. And that's an accurate picture of what it looked

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 like at the time; is that right?

2 A. Yes, sir.

3 MR. BACOT: Move to admit Defendant's 4.

4 MR. BACOT: Without objection.

5 THE COURT: So admitted.

6 (WHEREUPON, Defendant's Exhibit No. 4, a Photograph,
7 was admitted into evidence.)

8 BY MR. BACOT:

9 Q. And, ma'am, I'm going to show you State's Exhibit
10 Number 8, and that's your mouth; is that right?

11 A. Yes, sir.

12 Q. And State's Number 6, is that your nose?

13 A. Yes, sir.

14 Q. And is that mark on State's 6 where you were
15 bleeding from your nose?

16 A. And inside my nose, also.

17 Q. And State's 8, is this where your mouth was
18 bleeding?

19 A. My lips and inside my nose, too.

20 MR. BACOT: Permission to publish Defendant's 4,
21 Your Honor.

22 THE COURT: You may.

23 BY MR. BACOT:

24 Q. And is also your testimony that from these injuries
25 that you sustained in the State's exhibits that I previously

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 explained to you that you bled a sufficient amount to put this
2 much blood on the wall that's described in Defendant's 4?

3 A. I got the blood from my nose and from my mouth.

4 Q. Got all that blood from your nose and from your
5 mouth, no other source?

6 A. On my face.

7 Q. No other source?

8 A. No, sir.

9 Q. Ma'am, you said that when Mr. Vandross was leading
10 you out of the home there was a situation that one of the
11 doors or both of the doors at the back were open. Was it the
12 wooden door or was it the screen door that was open?

13 A. The screen door.

14 Q. And how was that held open?

15 A. With a little -- it was dark. It looked like it was
16 held open with the little prong thing that opens the
17 stormdoors.

18 Q. At the foot or at the top or where?

19 A. I believe it was at the foot. That's what it looked
20 like to me.

21 Q. Okay. Was it dark in the house this whole time?
22 Were there any lights on?

23 A. I don't remember, sir.

24 Q. You don't remember if there were any lights on?

25 A. No, sir. I can't say yes or no because I don't

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 know.

2 Q. Was the TV still on?

3 A. I don't know. Last I saw it was on.

4 Q. Was the TV on when allegedly Mr. Vandross put his
5 hand on your mouth?

6 A. I don't remember. He was right there in my face.
7 All I was concentrating on was getting loose.

8 Q. And your testimony is you don't remember if the
9 light came on in the bathroom or not; is that right?

10 A. You never asked me about the light in the bathroom,
11 but, no, I don't remember who cut the light on in the
12 bathroom.

13 Q. So somebody did turn the light on in the bathroom?

14 A. Yes, sir -- or it was already on. I don't know. I
15 don't know which one.

16 Q. At the time the two of you all were in the bathroom
17 the light was on in the bathroom?

18 A. Yes, sir.

19 Q. And it's been your testimony that after he grabbed
20 you and you rolled onto the floor you insisted that you needed
21 to go to the restroom; is that right?

22 A. No, sir. I didn't say I rolled onto the floor.

23 Q. Tell me what you said.

24 A. I said he picked me up and body slammed me on the
25 floor.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. And your first instinct is to say I need to go to
2 the bathroom?

3 A. Yes, sir, because he literally scared the shit out
4 of me. Yes, sir, and I had to go to the bathroom.

5 Q. So you went to the bathroom?

6 A. Yes, sir.

7 Q. The light was on?

8 A. It was on when I was in there.

9 Q. And that's when you proceeded to obviously use the
10 bathroom and take this blood from your mouth and nose and wipe
11 it over the half wall; is that right?

12 A. I got blood from my mouth, my nose. It was all over
13 my face, and that's what I took -- and while I was having a

14 B. M. I wrote that right there?

15 Q. And then while that was going on your testimony was
16 that he gathered up duct tape and some clothes and threw them
17 at you; is that right?

18 A. No, I didn't say he gathered up duct tape because he
19 had a big roll of duct tape and threw it at me.

20 Q. He threw some duct tape at you and threw some
21 clothes at you?

22 A. Some pants and shoes.

23 Q. And what pants did he throw at you?

24 A. At that time, my uniform was a white shirt that
25 buttoned up with Regency Park on it, and I had that on

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 already, and we had to wear black pants with it. So there was
2 some black pants. And my son's color of his team was the jets
3 and they were green, and it was a green sweatshirt that I had
4 wore that night, and he threw that at me, and my shoes.

5 Q. All right. And at this point your testimony, as I
6 recall, is that he was standing by the bedroom door and you
7 were on the toilet in the bathroom?

8 A. Yes, sir.

9 Q. When he threw this stuff to you?

10 A. No. He wasn't standing by the bedroom door. He was
11 standing by the bathroom door.

12 Q. Okay. He was a good ways away from you?

13 A. It's not a good ways. It's a small bathroom. You
14 were there. You saw it.

15 Q. He didn't hand it to you?

16 A. No, sir. He threw it, and I caught it.

17 Q. Also, your testimony was in State's Number 5 -- I'll
18 show you that picture. This is the picture of the duct tape
19 that's in the toilet -- or in the garbage can; is that right?

20 A. That's on the garbage can and in the garbage can.

21 Q. All right. And when you took this duct tape off was
22 this before or after he had come in and wrapped the duct tape
23 around you, as you claim?

24 A. When I took it off it had to be before because I
25 could use my mouth to tear the tape off and stick it on there

1 and put it in the trash can.

2 Q. You get thrown off onto the bed, as you claim. You
3 claim you have to go to the bathroom. He sends you to the
4 bathroom. While you are in the bathroom --

5 A. He didn't send me to the bathroom.

6 Q. You go to the bathroom. You wipe your nose and your
7 mouth, put this blood on the wall. He throws the duct tape to
8 you, and your pants, and this sweatshirt?

9 A. Yes, sir.

10 Q. Tells you to get dressed and put the duct tape
11 around your mouth?

12 A. Yes.

13 Q. You tried to put this duct tape on from State's
14 Number 5 -- or put this clue in the garbage can; is that
15 right?

16 A. Yes, sir.

17 Q. While you are sitting there on the toilet?

18 A. No, sir, because during that time he had walked back
19 to the bathroom door and he was in the bathroom with me
20 watching what I was doing. So I had to get up off the toilet
21 and get in front of the bathroom sink so that he wouldn't come
22 and see what I had written on the wall.

23 Q. So that was part of you plan, too, to keep him from
24 seeing what you had written on the wall?

25 A. Of course it was.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. Part of the plan because you knew if he saw that he
2 would be angry with you?

3 A. It wasn't a plan. It's what I thought of right then
4 at the moment while I was upset, while I was sitting there
5 having a bowel movement. I wrote it on there trying to leave
6 a clue so somebody would know what happened to me.

7 Q. Ma'am, do you sleep with your bedroom door open or
8 shut?

9 A. At that time?

10 Q. Rephrase that. On the night in question when you
11 went to bed and you're laying next to Mr. Best is your bedroom
12 door open or shut?

13 A. Back then we all slept with our doors shut. We
14 sleep with them open now?

15 Q. So in addition to you sleeping through this firing
16 of a gun less than a king size bed away from you that didn't
17 wake you up you also slept through Mr. Vandross allegedly
18 coming through that door, walking, according to your
19 description, right past where you are sleeping all the way
20 around to the other side of the bed; is that right?

21 A. I never said that. I don't know where he walked
22 because I was asleep. But, yes, the door was closed. And,
23 no, I didn't hear it open. Yes, I was a sleep.

24 Q. All right. Well, is it your story that he came,
25 took out a window or something?

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 A. I didn't say that. I said I did not hear him come
2 in the door.

3 Q. And it didn't wake you up?

4 A. No, sir.

5 Q. Now, during your direct you testified that your
6 V. C. R. was showing 12:50 or 12 -- I believe you exactly said
7 I saw the 12. I think it was 12:50. You agree with that,
8 right?

9 A. I said 12:49, but I know I saw the 12.

10 Q. 12:49. All right. And then at some point during
11 the conversation that you had with Mr. Best it was three
12 something; is that right?

13 A. You keep saying Mr. Best. I didn't have a
14 conversation with Mr. Best.

15 Q. Ma'am, and I do apologize. Mr. Vandross. Thank you
16 for correcting me. Thank you for correcting me.
17 Mr. Vandross, when you had that conversation at some point at
18 these churches and on the road, or wherever you might have
19 been, you saw your clock say three something?

20 A. Yes, sir. We were in the car. He turned the switch
21 on because all the windows were fogged up, and I saw it said
22 three something. Yes, sir.

23 Q. And then as this whole car ride was wrapping up you
24 saw that it said or he said to you it was five something and
25 it was time for the kids to get up and go to school; is that

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 right?

2 A. No. We wasn't in the car ride when he said that.
3 We were sitting -- we got back in the car, and that's when he
4 said -- that he turned the ignition and we saw that it was
5 5:50. He said it's 5:50.

6 Q. You would agree with me that we are talking roughly
7 five hours took place?

8 A. It was a long time. It seemed like longer than
9 that.

10 Q. And how much of this time was driving, in your
11 estimation?

12 A. I have no idea, sir. However long it takes you to
13 get from my house to that Tranquil A. M. E. Church. I can't
14 guesstimate the time.

15 Q. Is it more or less than 30 minutes?

16 A. I don't think so.

17 Q. Which is it, more or less?

18 A. I don't think it's more than 30 minutes.

19 Q. During the time that you were driving you made all
20 of these -- you had all these ideas in your head and these
21 plans to keep him from harming you, that you testified about,
22 and I'm referring to the driving slow past Jan's house and
23 then swerving close at this car, and at one point backing into
24 the tank at this church and blowing both of you up?

25 A. Yes, sir.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. I'm going to show you what's been marked as
2 Defendant's Number 3. Is that a true and accurate reflection
3 of the church yard where you stopped when you said you were
4 going to back into the tank and blow both of you up?

5 A. Yes, sir.

6 MR. BACOT: Move to admit Defendant's 3.

7 MR. PEACE: Without objection.

8 THE COURT: So admitted.

9 (WHEREUPON, Defendant's Exhibit No. 3, a Photograph,
10 was admitted into evidence.)

11 BY MR. BACOT:

12 Q. And, ma'am, if you could, on Defendant's 3 --

13 And, Your Honor, I would ask to publish it to the
14 jury.

15 THE COURT: You may.

16 Q. If you could show on Defendant's 3 where exactly on
17 that photo this car was parked.

18 A. I don't remember exactly where it was parked. All I
19 know is I tried to back back and that's when he reached over
20 and stepped on the brake and we stopped the car. So I don't
21 know exactly how close we came to it.

22 Q. Okay. Were you on the -- what is the surface of
23 that area right there?

24 A. I have no idea, sir.

25 Q. Well, it is grass?

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 A. I don't know. I don't remember. I know it was a
2 bunch of leaves around.

3 Q. Looking at the picture that's marked Defendant's
4 Number 3 --

5 A. Looking at that picture it's grass.

6 Q. Well, you've also testified that this is a true and
7 accurate picture of the church at the time that you remember;
8 is that right?

9 A. Well, I was looking at the tank and the church when
10 I stated that.

11 Q. Is the area around the tank a true and accurate
12 depiction of the way it looks?

13 A. I guess so, sir.

14 Q. Is it grass, is it dirt, is it gravel, is it
15 concrete?

16 A. It's grass and leaves and sand, and looks like some
17 pavement.

18 Q. And you, I believe, just pointed out that you were
19 parked over here on the grass and on the dirt; is that right?

20 A. It was somewhere back in there. Sir, I'm backing
21 back and the man snatched the car. I don't remember. I was
22 upset, nervous and scared. I don't remember how close or how
23 far we were from it?

24 Q. During all of these things that were going on -- let
25 me ask you this way. Is this the church where you got out of

1 the car and walked around to the front?

2 A. Yes, sir.

3 Q. When you got out of the car did you notice any kind
4 of track marks or anything that you would have left on the
5 surface by the church with your car tires?

6 A. Sir, first of all, I didn't get out of the car. He
7 came and got me out of the car. He took me around to the
8 front. I'm sorry, but I'm not looking down for track marks,
9 I'm pleading for my life. I don't remember.

10 Q. Later in your statements you told the police about
11 all of these trips to the churches and that kind of thing; is
12 that right? That's part of your statement to the police?

13 A. We had been there before.

14 Q. Who is we?

15 A. Maybe I didn't understand the question. Repeat it.

16 Q. Okay. In your statement that you made to the -- let
17 me ask it this way. Back up a little bit. You made a
18 statement to the police about this case in general; is that
19 right?

20 A. Yes, sir.

21 Q. Talked to Tony Davis?

22 A. Yes, sir.

23 Q. And a variety of different people, including the
24 Solicitor's Office?

25 A. Yes, sir.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. And during part of that statement you told them
2 about all of these trips down the country roads and the dirt
3 roads and down to this church -- and these two churches,
4 actually; is that right, as part of your statement?

5 A. You're saying all these trips. It was one trip.
6 But, yes, I told them everything that I've repeated here
7 today.

8 Q. Do you know if they did an investigation or went out
9 to the church?

10 A. I have no idea, but I'm sure they probably did.

11 Q. Sure they probably did or did not?

12 A. I mean, I don't know. I'm not a police officer,
13 sir. I don't know.

14 Q. And I'm not trying to say that. What I'm asking you
15 is do you know if they went down to the church? Did you go
16 with them to the church?

17 A. No, sir.

18 Q. Have you ever told anyone at all a story contrary to
19 the one that you just told on direct examination?

20 A. Not to my knowledge.

21 Q. You wouldn't do that intentionally?

22 A. Not to my -- I may have said -- I mean, the story I
23 told here wasn't the long, drawn out version. I mean, I
24 didn't include everything, but I may have told some people I
25 don't know if a train was coming or why I didn't hear the

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 gunshot.

2 Q. All right. Now, let me make sure I'm clear. This
3 was or was not the long, drawn out version?

4 A. Sir, when you are talking to your friends and people
5 are asking you why didn't you hear the gunshot this was me
6 trying to guess maybe why I didn't hear the gunshot.

7 Q. At this point, I'm not referring to the gunshot.
8 You said that -- something about the long and drawn out
9 version. Was this discourse between you and Solicitor Peace
10 the long, drawn out version or was this the short version?

11 A. No. The long drawn out version is going to be when
12 we met, and what we did and going basically day-by-day and
13 month-by-month. That's the long, drawn out version.

14 Q. And then you said there might have been some things
15 that I left out. Did you mean on your direct exam or do you
16 mean talking to your friends?

17 A. I'm taking about left out here. I didn't say that
18 about the train and that I didn't hear the gunshot because he
19 didn't ask me. I mean, none of that didn't come up. He did
20 ask me about the gunshot.

21 But me saying I don't know why I didn't hear it,
22 maybe there was a train coming, or maybe he used the pillow to
23 put over his head, I don't know what the man did. At that
24 particular time I didn't know. I know now because everybody
25 has informed me, but at that time I didn't know.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. Do you believe that you did not hear this gunshot
2 because a train was going by your house?

3 A. Sir, I don't know why I didn't hear it, but I know
4 and God know I didn't hear it.

5 Q. Have you ever told anybody else other than law
6 enforcement or the Solicitor's Office about any other reason
7 why you would not have heard the gunshot?

8 A. There were my family and my friends, we were all
9 trying to guesstimate as to why I wouldn't have heard it.

10 Q. Okay. So the answer to that is yes, and here's why
11 I didn't; is that right?

12 A. No. I don't understand exactly what you want me to
13 say.

14 Q. This is what I'm trying to say. It's very
15 important. You've just described in detail to this jury
16 everything that happened that night; is that correct?

17 A. Yes, sir.

18 Q. And when Mr. Peace sat down that was the end of your
19 direct testimony; do you understand that?

20 A. Yes, sir.

21 Q. My question to you is this. Have you ever told
22 anybody outside of this courtroom, and I don't want to limit
23 it to outside, I want to limit it to outside of law
24 enforcement and outside of the Solicitor's Office, any other
25 manner in which the events that occurred on that night

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 happened?

2 A. No, sir.

3 Q. Well, then what did you mean when you said yeah, I
4 talked to my family and it was just us trying to explain what
5 happened?

6 A. No. I didn't say we were trying to explain what
7 happened. I said we were trying to guess at why I didn't hear
8 the gunshot.

9 Q. All right. And what is this about a pillow? You
10 said something about a pillow over his head.

11 A. Sir, there was a lot that I didn't know because I
12 was asleep. There was a lot about the case and what happened.
13 I didn't even know that Mr. Best was shot in the head until
14 later. So there was a lot I didn't know. So I'm going back
15 and forth to the police trying to find out information because
16 it's worrying me why I didn't hear the gunshot.

17 So between me and my family members, my friends, we
18 were guesstimating; well, maybe it was a train coming, maybe
19 he had a silencer. Maybe. Maybe he put a pillow over his
20 head. We didn't know what. So that's what I'm talking about.

21 Q. Why does it bother you that you didn't hear the
22 gunshot?

23 A. It just bothers me. Why didn't I hear the gunshot?

24 Q. Does it bother you because you think somebody might
25 not believe you?

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 A. No, sir. I would like to know why I didn't hear the
2 gunshot because maybe if I had maybe I would have woke up and
3 maybe the outcome would have been different.

4 Q. After all of these events during the week of
5 November the 1st did you call and speak to Reverend Nelson
6 Howard?

7 A. Yes, sir, Reverend and Doctor Howard. Yes, sir.

8 Q. And what was the nature of that discussion?

9 A. I told them -- I called them and told them what had
10 happened.

11 Q. Do you remember specifically what you told them?

12 A. It was the same thing I just said here.

13 Q. It was the same thing you just said here?

14 A. Yes, sir.

15 Q. Ma'am, you testified you had on your white Regency
16 Park shirt that was part of your uniform when all this
17 happened; is that right?

18 A. Yes, sir.

19 Q. And did that shirt have any blood or dirt or
20 anything else on it?

21 A. I don't remember.

22 (WHEREUPON, Defendant's Exhibits 6 through 10,
23 Photographs, were marked for identification only.)

24 BY MR. BACOT:

25 Q. Ma'am, I'm going to show you what's been marked

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Defendant's 6 through 10. See if you can identify each one of
2 those for me, please.

3 A. That's my Regency Park shirt.

4 Q. All of these exhibits, 6 through 10, are pictures of
5 your Regency Park shirt?

6 A. I don't know what that one is, but I know these are.

7 Q. Okay. So you cannot identify this Defendant's
8 Number 9; is that right? Defendant's 6, 7, 8 and 10 you can
9 identify, the pictures of your Regency work shirt; is that
10 right?

11 A. Yes, sir.

12 Q. And this is the shirt you had on that night?

13 A. Yes, sir.

14 MR. BACOT: Your Honor, I would move to have these
15 admitted as Defendants 6, 7, 8 and 10.

16 MR. PEACE: Without objection.

17 THE COURT: So admitted.

18 (WHEREUPON, Defendant's Exhibit Numbers 6, 7, 8 and
19 10, Photographs, were admitted into evidence.)

20 MR. BACOT: And permission to publish them to the
21 jury.

22 BY MR. BACOT:

23 Q. Ma'am, that shirt is white in the color; is that
24 right?

25 A. Yes, sir.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. And when you were looking at those pictures did you
2 see those smudges and the print and things that were on those?
3 Did you see those?

4 A. Yes, sir.

5 Q. What is that substance?

6 A. I guess it's blood. I don't know.

7 Q. Did --

8 A. I had on -- see, I couldn't see my shirt. I had on
9 a green shirt that he had thrown to me on top of that.

10 Q. All right. Well, again, you allegedly got thrown
11 off the bed and pushed to, allowed to use the bathroom, the
12 lights were on in the bathroom?

13 A. Yes, sir.

14 Q. At that point you just had on your white shirt?

15 A. Yes, sir.

16 Q. You testified that you didn't realize you had blood
17 on your white shirt?

18 A. No, sir, I did not.

19 Q. So you don't know when that blood got on there?

20 A. No, sir, I don't.

21 Q. Do you know whose blood it is?

22 A. No, sir, I don't.

23 Q. All right. Did you ever get any blood on your
24 pants?

25 A. I don't know. They were black.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 Q. Did you ever get any blood on your green sweatshirt?

2 A. I don't that either, sir.

3 Q. Do you know where the current location of Mr. Best's
4 Bible is?

5 A. Current location of his Bible?

6 Q. Yes, ma'am.

7 A. No, sir.

8 Q. The one that he was reading at the time he was
9 watching E. S. P. N.?

10 A. No, sir, I don't.

11 (WHEREUPON, Defendant's Exhibit No. 11, a
12 Photograph, was marked for identification only.)

13 BY MR. BACOT:

14 Q. I'm going to show you what's been marked as
15 Defendant's Exhibit 11. Tell me if you can identify if that's
16 the Bible.

17 A. Yes, sir.

18 Q. And you believe that that's the Bible in the
19 position that it was laying in at the time he stopped reading
20 it?

21 A. No, sir.

22 Q. Where was the Bible when he stopped reading it?

23 A. The last time I saw Sanford he had the Bible open
24 and it was across his chest, like stomach area.

25 Q. Do you agree with me that that Bible is in your bed

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 though?

2 A. Yes, sir.

3 MR. BACOT: Move to have it admitted, Your Honor.

4 It's Defendant's 11.

5 MR. PEACE: Without objection.

6 THE COURT: So admitted.

7 (WHEREUPON, Defendant's Exhibit No. 11, a

8 Photograph, was admitted into evidence.)

9 BY MR. BACOT:

10 Q. Ma'am, right next to that Bible, what is that

11 substance on the bed right there next to the Bible?

12 A. It looks like blood.

13 MR. BACOT: All right. Permission to publish it,

14 Your Honor.

15 THE COURT: You may.

16 BY MR. BACOT:

17 Q. To your knowledge, ma'am, did that Bible have any

18 blood on it?

19 A. Sir, I have no idea.

20 Q. And you've already testified that you don't know

21 where that Bible is now; is that right?

22 A. No, sir, I don't.

23 MR. BACOT: Your Honor, I'm probably getting pretty

24 close. If I could have just a moment.

25 THE COURT: You can have a moment.

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 MR. BACOT: Thank you.

2 [PAUSE]

3 BY MR. BACOT:

4 Q. Ma'am, did you cooperate with law enforcement during
5 their investigation of this crime?

6 A. Yes, sir.

7 Q. And as part of their investigation do you ever
8 remember having any officer, whether it be a SLED agent,
9 police officer, county, take a sample of what might have been
10 on your hand, a swab, if you will?

11 A. No, sir.

12 Q. Do you remember them taking any samples or doing any
13 of that type of thing from your children?

14 A. No, sir.

15 Q. And at this time, are you aware of any time that the
16 police officers, the Solicitor's Office had the opportunity to
17 talk to your children about what happened on that night?

18 A. Yes, sir.

19 Q. They did talk to them?

20 A. Yes, sir.

21 Q. When did they talk to your children?

22 A. I think when we all went down to the police station
23 right after we left the crime. I don't know if they talked to
24 them then, but I know they also talked to me about a couple
25 weeks ago. Maybe a couple weeks ago. I'm not sure, but it

JOANNE SUBER-WILSON - CROSS BY MR. BACOT

1 was recently they talked to them. And I don't know if they
2 talked to them that day we were at the station because we
3 wasn't in the same rooms.

4 THE COURT: Anything further?

5 MR. BACOT: Just one more line of questioning, Your
6 Honor, and I apologize.

7 BY MR. BACOT:

8 Q. Ma'am, you were in love with Charles Vandross; is
9 that right?

10 A. At one point in time.

11 Q. At one point in time while he was living with you
12 all, you loved him?

13 A. Yes, sir.

14 Q. And you loved him because you believed he was a good
15 man; is that right?

16 A. In the beginning.

17 Q. Took care of his family, his kids?

18 MR. PEACE: Objection, Your Honor, relevance.

19 THE COURT: What's the relevance of whether he took
20 care of his children?

21 MR. BACOT: Well, it goes into the reasons as to why
22 she felt the way she did for him.

23 THE COURT: That's not relevant. She said she loved
24 him.

25 MR. BACOT: Thank you. That's all I have.

JOANNE SUBER-WILSON - REDIRECT BY MR. PEACE

1 THE COURT: All right. Anything on cross -- I mean
2 on redirect?

3 MR. PEACE: Yes, sir.

4 REDIRECT EXAMINATION

5 BY MR. PEACE:

6 Q. Now, Ms. Wilson, before today have you ever seen any
7 of the photographs that had Mr. Best's body?

8 A. No, sir.

9 Q. Did that upset you?

10 A. Yes, sir.

11 (WHEREUPON, State's Exhibit Numbers 44 through 49,
12 Photographs, were marked for identification only.)

13 BY MR. PEACE:

14 Q. Ms. Wilson, I show you what's been marked State's
15 Exhibit 49 for identification and ask you if you recognize
16 that photograph?

17 A. Yes, sir.

18 Q. And what is that photograph?

19 A. Me in that green sweatshirt and the black pants at
20 the hotel they took me to.

21 Q. Is that how you were dressed on November the 4th?

22 A. Yes, sir.

23 Q. Do you have your white shirt on underneath that
24 photograph -- underneath that sweatshirt?

25 A. Yeah, I believe I did.

JOANNE SUBER-WILSON - REDIRECT BY MR. PEACE

1 Q. Now I show you what's been marked as State's Exhibit
2 45 through 48 for identification and ask you if you recognize
3 those photographs?

4 A. Yes, sir. I don't really know what this one is.

5 Q. All right. Are those items depicted in State's
6 Exhibits 44, 46, 47 and 48 merely color photographs of the
7 defense exhibits that you identified?

8 A. They look like copies, yes, sir.

9 MR. PEACE: Your Honor, I'd move that State's
10 Exhibits 44, 46, 47, 48 and 49 be admitted as State's
11 exhibits.

12 THE COURT: Any objection?

13 MR. BACOT: No objection.

14 THE COURT: All right. So admitted.

15 (WHEREUPON, State's Exhibit Numbers 44, 46, 47, 48
16 and 49, Photographs, were admitted into evidence.)

17 MR. PEACE: Your Honor, I'd also move that State's
18 Exhibit 16 for identification be admitted as State's Exhibit
19 16.

20 MR. BACOT: That's fine. That's without objection.

21 THE COURT: All right. So admitted.

22 (WHEREUPON, State's Exhibit No. 16, a Large Diagram,
23 was admitted into evidence.)

24 BY MR. PEACE:

25 Q. Ms. Wilson, do you hide your relationship with men

1 from your sons?

2 A. No, sir.

3 Q. How many sons lived with you?

4 A. I have four sons.

5 Q. How many lived with you on the evening of November
6 4th?

7 A. Three.

8 Q. Now, State's Exhibit 16, is the door going into the
9 hallway to the son's bedroom, was that open or closed?

10 A. We always kept all doors closed. So it was closed.

11 Q. So was it closed on November 4th of 2004?

12 A. The last time I saw it, yes, sir.

13 Q. And you stated that you and Mr. Vandross lived
14 together between late of 2003 and into 2004. Did you live
15 together continuously?

16 A. No, sir.

17 Q. Did you split up occasionally?

18 A. Yes, sir.

19 Q. How many times during this several month period did
20 you split up?

21 A. I have no idea. I'm guesstimating, say, three or
22 four. It was several times.

23 Q. Okay. Now, would Mr. Vandross stay in Greenwood
24 when you split up?

25 A. He -- you know, he would tell me that he was staying

JOANNE SUBER-WILSON - REDIRECT BY MR. PEACE

1 in some shelter in Greer, South Carolina.

2 Q. Now, when you would split up with Mr. Vandross would
3 Mr. Best visit your home?

4 A. Not all the time, but sometimes he would.

5 Q. Did he move into your home?

6 A. No, sir.

7 Q. Was Mr. Best living in your home at the time this
8 occurred?

9 A. No, sir.

10 Q. Did he have his own place to live?

11 A. Yes, sir.

12 Q. During these times that you were split up from
13 Mr. Vandross was there ever any occasion where Mr. Best was
14 there that Mr. Vandross appeared at your home?

15 A. Yes, sir.

16 Q. How many times did that happen?

17 A. I think it was two.

18 Q. Did Mr. Vandross live at 3938 McCormick Highway on
19 November 4th of 2004?

20 A. No, sir.

21 Q. Why did he not live there?

22 A. Because he had an apartment at Pine Tree Apartments
23 that he started leasing, I believe it was in September of '04.

24 Q. Did he give your key to your house back to you?

25 A. On November the 1st he did.

1 Q. When was your house built?

2 A. It's kind of funny. It started being built in 2000.
3 But the person that was building it, he got Alzheimer and they
4 had to sell it to another contractor, and that contractor
5 finished it up in 2003, and that's when I purchased it.

6 Q. Were you the first family to occupy the house?

7 A. Yes, sir.

8 Q. Did you have any problems with your doors in the
9 house?

10 A. No. No, sir.

11 Q. Do you know what Mr. Vandross did while you were in
12 the bedroom -- excuse me. Do you know what Mr. Vandross did
13 while you were in the bathroom?

14 A. No, sir.

15 Q. Now, if I may, I show you State's Exhibits 6 and 8.
16 Now, what are those exhibits, Ms. Wilson?

17 A. Those are pictures of my scratches on my nose and
18 all in my mouth.

19 Q. How long after these injuries were inflicted were
20 those photographs taken?

21 A. Like right after. I mean, because he had his hands
22 over my mouth and I was doing like this trying to fight with
23 him and get them loose (indicated). Then that's when he
24 picked me up and slammed me onto the floor. Then that's when
25 I told him I had to go to the bathroom, and he picked me up

JOANNE SUBER-WILSON - REDIRECT BY MR. PEACE

1 and pushed me right into the bathroom.

2 Q. When were the pictures taken?

3 A. Oh. The pictures were taken after we had went to
4 the police department and sat there for a long time while I
5 was giving statements, and then they took us to a hotel and
6 then the lady took those.

7 Q. About what time do you think the pictures were
8 taken?

9 A. It was later on that day. I mean, it was like -- I
10 don't remember if it was afternoon or evening time.

11 Q. How many hours after the injuries were inflicted
12 were the pictures taken?

13 A. I have no idea because they were there -- when I was
14 awakened, and then held out in the woods all night, then when
15 we got back, then I had to wait on the cops, then we went down
16 to the police station, then they took us away from there and
17 took us to a hotel.

18 Q. Was it more than eight hours?

19 A. I would say so, yes, sir.

20 Q. More than ten?

21 A. I really don't know. It was a long time.

22 Q. Were those photographs taken after he washed your
23 face?

24 A. Yes, sir, after he took his fingers and spit on his
25 finger and washed my face.

JOANNE SUBER-WILSON - RECROSS BY MR. BACOT

1 Q. So he washed the blood off your face?

2 A. Yes, sir.

3 Q. And those photographs were taken sometime after
4 that?

5 A. Yes, sir.

6 Q. Was the duct tape used your duct tape?

7 A. No, sir.

8 Q. Do you keep duct tape in your house?

9 A. No, sir. We use wide clear plastic tape, like
10 boxing tape.

11 Q. At any time did you see Mr. Best in the bed?

12 A. No, sir, I did not.

13 Q. Do you know if Mr. Vandross put a pillow over his
14 head?

15 A. I don't know.

16 Q. Do you know how long after Mr. Vandross shot
17 Mr. Best that Mr. Vandross pulled you off the bed?

18 A. No, sir, I don't.

19 MR. PEACE: Okay. Thank you. I have no further
20 questions.

21 THE COURT: All right. Anything further?

22 MR. BACOT: Yes, sir. Just a few.

23 RECROSS-EXAMINATION

24 BY MR. BACOT:

25 Q. Ma'am, you said that on at least two times

JOANNE SUBER-WILSON - RECROSS BY MR. BACOT

1 Mr. Vandross came to your house while Mr. Best was there; is
2 that right?

3 A. Two times that I can remember, yes, sir.

4 Q. And was one of those occasions approximately a month
5 before this incident happened?

6 A. I don't remember when it was. I just know we were
7 out in the yard cutting grass and he pulled in the yard and
8 wanted to talk.

9 Q. And at that particular time was Mr. Best living in
10 the home with you?

11 A. No, sir, Mr. Best did not live in the home with me.

12 Q. At that particular time was Mr. Best spending the
13 night at your home?

14 A. Yes, sir, but not every night.

15 Q. And Mr. Vandross came to talk to you about what?

16 A. About us trying to get back together, as he would
17 always try.

18 Q. And how did Mr. Best react to that conversation?

19 A. Sanford was on the riding lawnmower cutting the
20 grass and me and the boys were doing other work, yard work in
21 the yard, and Charles pulled in and he wanted to talk. And
22 Sam said, Go on and talk to him.

23 So we stood at the car and we talked a minute. When
24 I say a minute, you know, a few minutes, and there was nothing
25 else to say. And then I went back to doing the yard work and

JOANNE SUBER-WILSON - RECROSS BY MR. BACOT

1 he walked behind me still trying to talk and trying to talk.
2 And then Sanford just came over to him and told him, Look,
3 Man, she says she don't want to talk no more. I think you
4 need to leave.

5 Q. At that point, did you ever consider calling the
6 police on Mr. Vandross?

7 A. No, sir, because it looked like everything was all
8 directed toward, you know, at me, that it was all Charles
9 wanting to talk to me. That he wasn't really paying Sanford
10 any attention. But the looks that he was giving Sanford, you
11 know, he would look at you like this (indicated).

12 Q. At that point did either one of these gentlemen give
13 you an ultimatum to make a choice between the two of them?

14 A. After Charles wouldn't leave and we went up under
15 the garage and talked, then that's when Charles said that -- I
16 mean, that's when Charles said, Who do you want, Joanne? Who
17 you want? And then Sam said the same thing. So, yeah, at
18 that particular time it was.

19 Q. They both made ultimatums at different times?

20 A. Yes, sir. Yes, sir. And during that time then I
21 think Sanford left. Sanford left, and Charles was still
22 there. But the last time, then Charles left, and that's when
23 Sanford told him, Man, she don't want to talk to you, and to
24 leave. That was the last time where we were all in the house
25 together.

1 MR. BACOT: Thank you, Your Honor.

2 THE COURT: All right. Thank you.

3 You may step down.

4 Ladies and gentlemen, we're going to go ahead and
5 break for lunch. I'm going to ask you to be back here -- I
6 got nine minutes until one. I'm going to ask you to be back
7 here at nine minutes until two. That will give you one hour.
8 Please don't discuss the case while you're gone. You all have
9 a nice lunch and we'll see you in an hour.

10 (WHEREUPON, the jury leaves the courtroom at
11 approximately 12:51 p.m.)

12 THE COURT: Okay. You all ready to go when we get
13 back from lunch?

14 MR. PEACE: Yes.

15 THE COURT: You all have a nice lunch and we'll see
16 you in an hour.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: Are we ready?

19 MR. PEACE: The State is ready, Your Honor.

20 THE COURT: You all ready?

21 MR. BACOT: Yes, sir, Your Honor.

22 THE COURT: Let's bring the jury in now.

23 (WHEREUPON, the jury enters the courtroom at
24 approximately 2:00 p.m.)

25 THE COURT: All right. We got all the jurors.

DAHAD RAHEIM SUBER - DIRECT BY MR. PEACE

1 Okay, ladies and gentlemen, I hope you had a nice lunch.

2 Solicitor, you ready to call your next witness?

3 MR. PEACE: The State is ready, Your Honor.

4 THE COURT: If you would.

5 MR. PEACE: The State would next call Raheim Suber
6 to the stand.

7 DAHAD RAHEIM SUBER, after having been duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. PEACE:

11 Q. Would you state your name, please.

12 A. Dahad Raheim Suber.

13 Q. Okay. Would you please spell your name for the
14 court reporter.

15 A. Dahad Raheim Suber.

16 Q. Mr. Suber, what do you go by?

17 A. Raheim.

18 Q. Raheim?

19 A. Yes, sir.

20 Q. Now, Mr. Suber, are you related to Ms. Wilson,

21 Ms. Joanne Wilson?

22 A. Yes, sir.

23 Q. How are you related?

24 A. My mother.

25 Q. Do you live at 3938 McCormick Highway?

DAHAD RAHEIM SUBER - DIRECT BY MR. PEACE

1 A. Yes, sir.

2 Q. Did you live there on November 4th of 2004?

3 A. Yes, sir.

4 Q. Did you have occasion to see your mother during the
5 early morning on November 4th, 2004?

6 A. Yes, sir.

7 Q. Could you please tell the jury what, if anything,
8 happened that morning.

9 A. Well, my mom came in the room, you know, and woke me
10 up like usual on school days, and I could tell as soon as she
11 came to the door that something is wrong with her. She
12 doesn't act like that. Early in the morning she'll be
13 fussing, Raheim, get up. You know what I'm saying? But this
14 time it was like, Hurry up. Hurry up.

15 I could see scars on her face. You know, what I'm
16 saying? Her hair was messed up and she still had on the same
17 stuff she had on the night before.

18 Q. What do you mean like scars on her face?

19 A. Like blood scars around her mouth and on her chin.
20 I seen that on her face.

21 Q. And how did her hair look?

22 A. It was wild. It wasn't how, you know, she would do
23 it normally. You know what I'm saying? It was wild. No
24 makeup, nothing. You know what I'm saying?

25 Q. Is that out of the ordinary for your mother?

DAHAD RAHEIM SUBER - DIRECT BY MR. PEACE

1 A. Yes, sir.

2 Q. Please continue.

3 A. So I got up. I was like, Momma, what's wrong?
4 What's wrong with you?

5 THE COURT: You need to slow down. It's hard to
6 understand you.

7 BY MR. PEACE:

8 Q. Are you a little bit nervous today?

9 A. Yeah. Yeah.

10 Q. Calm down. Slow down and speak so the jury can
11 understand what you're saying.

12 A. Like I was saying, I automatically knew when I woke
13 up something is wrong with her, you know. So I asked, Mom,
14 what's wrong? She was like, Nothing, babe. I just need you
15 to hurry up and get ready, get your clothes. Get the boys
16 ready. And I seen her leave, and she'll come right back.

17 When she came back this next time I stood up, and
18 she came to my face and she held my face like this. She said,
19 Dahad. She said, Raheim. She said, Charles -- Mr. Charles --
20 she said, Sanford is dead. She said Charles has killed
21 Sanford. I was like, you were lying. You was lying.

22 She's like, No, babe. I need you to get the boys
23 ready. I need you to do this for me. She said, Charles said
24 if you don't do this for me he's going to include you all.

25 Q. If you don't do this what?

DAHAD RAHEIM SUBER - DIRECT BY MR. PEACE

1 A. Charles is going to include us too in the act.

2 Q. Just slow down. I mean, the jury needs to
3 understand what you are saying. Just slow down.

4 A. So I looked at the phone. I said, Mom, did you call
5 the police? And I looked at my phone. My phone was not
6 there. You know what I'm saying? I didn't have a phone in my
7 bed or anything. She was like, I just need to get ready.

8 So I proceeded to get ready. So I got my things.
9 You know what I'm saying? I got my brothers ready. And I
10 went in the bathroom to get the ironing board and I could see
11 across the hall that my mom's door was closed. It was not
12 open. It was closed, like it was locked.

13 So I'm in there ironing my brother's clothes,
14 getting ready, and my mom, she's running back. She ran back
15 twice. And the second time -- third time she came back she
16 got her phone off of the -- well, she said it was --

17 Q. And what kind of phone was this?

18 A. A cell phone.

19 Q. Okay.

20 A. And she came to my room to see if the car -- cops,
21 and called her friend up the street. And she was like --
22 every time -- I guess I was going slow. She was like, Baby, I
23 need you to hurry up. Just hurry up.

24 I'm like, Mom, I am. But in the meantime, I was
25 trying to be like a hero, and I was like, Where he at? Where

1 you at?

2 She's like, He's in the backyard. I don't need you
3 to do nothing crazy. She said, I need you to get ready. Get
4 your brothers ready and leave.

5 So I got my brothers ready and we all went outside
6 and stood like on the front of our porch, like a walkway. We
7 stood there and waited. And I was like, Mom, where is he, in
8 the back? In the back?

9 She was like, Yes, baby, just stay right here. But
10 she wouldn't tell my little brothers what happened. But I
11 already knew. So we waited out there for awhile. I would say
12 a good five -- five to six minutes. And then the cops came,
13 and she grabbed us and we ran up to the top of the driveway.
14 And that was basically it.

15 Q. Did you at any time go in the bedroom where Mr. Best
16 was?

17 A. No, sir.

18 Q. Did you ever go and look to see if Mr. Vandross was
19 out back?

20 A. No, sir.

21 MR. PEACE: Thank you, Mr. Suber. Please answer any
22 questions that Mr. Bacot may have.

23 CROSS-EXAMINATION

24 BY MR. BACOT:

25 Q. Sir, you said something on your direct about a phone

DAHAD RAHEIM SUBER - CROSS BY MR. BACOT

1 in your bedroom. Did you have a phone in your bedroom?

2 A. Yes.

3 Q. Is that a cell phone or a landline.

4 A. A cordless phone.

5 Q. A cordless. And you didn't try to call the police
6 from your bedroom?

7 A. The phone is not in my room. It was not on the
8 charger.

9 Q. It was not on the charger?

10 A. No, sir.

11 Q. Okay. Well, did you have any access to any phone on
12 that side of the house?

13 A. No, sir.

14 Q. Is there a phone located on that side of the house?

15 A. Yes.

16 Q. Where is it?

17 A. In my room. I'm the only one on this side that has
18 a phone. My little brothers do not have a phone in their
19 room.

20 Q. But it was not on the charger at that time?

21 A. It was not.

22 Q. And you also testified that you looked out in the
23 hallway and your momma's door was closed. It looked like it
24 was locked, or like it was locked.

25 A. It was completely closed, yes, sir.

SHERRY MCCAULEY - DIRECT BY MR. PEACE

1 Q. Did somebody tell you that door was locked?

2 A. Say what?

3 Q. Did somebody tell you the door was locked?

4 A. At that time?

5 Q. Uh-huh.

6 A. No.

7 Q. You found out after the fact that it was locked?

8 A. Uh-huh.

9 Q. So a moment ago when you made that statement it
10 looked like it was locked, that's based on the information
11 that you received after the fact; is that correct?

12 A. Yes.

13 MR. BACOT: That's all I have, Your Honor.

14 THE COURT: Anything further?

15 MR. PEACE: No redirect, Your Honor.

16 THE COURT: You may step down.

17 MR. PEACE: The State would next call Sherry
18 McCauley.

19 SHERRY B. MCCAULEY, after having been duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. PEACE:

23 Q. Would you state your name, please.

24 A. Sherry B. MaCauley.

25 Q. Would you please spell your name for the court

SHERRY MCCAULEY - DIRECT BY MR. PEACE

1 reporter.

2 A. S-h-e-r-r-y B-r-o-w-n M-c-C-a-u-l-e-y.

3 Q. All right. Ms. McCauley, do you know Ms. Joanne
4 Suber-Wilson?

5 A. Yes.

6 Q. And how do you know her?

7 A. She's my friend.

8 Q. And do you know Mr. Charles Vandross?

9 A. I knew him for a short period of time.

10 Q. And how do you know him?

11 A. At one time Joanne dated him.

12 Q. I'm sorry?

13 A. Joanne dated him for one time.

14 Q. If you see Mr. Vandross in the courtroom would you
15 please point him out.

16 A. (Indicated) there he is right there.

17 Q. Are you pointing to --

18 A. Right there (indicated).

19 Q. -- the middle gentleman?

20 A. Uh-huh.

21 MR. PEACE: Please let the record reflect the
22 witness has properly identified the defendant.

23 BY MR. PEACE:

24 Q. Did you have an opportunity to speak with
25 Mr. Vandross?

SHERRY MCCAULEY - DIRECT BY MR. PEACE

1 A. Yes, I did.

2 Q. When was that?

3 A. On the day before he killed Sanford.

4 Q. And where did that conversation occur?

5 A. He came to my house.

6 Q. And where do you live?

7 A. At 302 Morton Road in the Promise Land Community.

8 Q. Had he ever been to your house before?

9 A. Only one time when Joanne had brought him to
10 introduce him to me and my mother-in-law.

11 Q. Did he call you before he came?

12 A. No. He just showed up on the doorstep.

13 Q. And what happened when he showed up?

14 A. He asked me could he talk to me for a little while.
15 He asked me to come outside on the porch, and I proceeded to
16 go outside on the porch and sit outside on the porch and we
17 talked. He stated to me, he said, Sherry, you know, Joanne
18 has put me out again.

19 Q. If I could interrupt just a minute. If you'll just
20 go a little bit slower so everybody can hear and understand
21 what you are saying.

22 A. He stated to me, he said, You know, Joanne she put
23 me out again yesterday. He say, You know, she has caused me
24 to lose everything I got.

4 25 I said, But, Charles, if Joanne don't want you then

SHERRY MCCAULEY - DIRECT BY MR. PEACE

(1) 1 you need to go ahead on and get on with your life.

2 He said, Maybe I shouldn't tell you this, he said,
3 but the course says -- they had gone to some kind of
4 counseling. It came out in counseling that he was jealous of
5 her, and they had told him that he needed to move away from
6 the McDonald's that he was working at and maybe he should get
7 a job at the other McDonald's.

8 And I told him before he left, I said, Charles, if
9 Joanne don't want you then you need to get on with your life.

10 He said, But, Sherry, she has caused me to lose all
11 the man in me.

12 Q. I'm sorry?

(1) 13 A. She has caused me to lose all the man in me.

14 Q. What did that mean?

15 A. I don't know what he meant by that. So I told him I
16 had go pick up my husband's dinner and I had to go to work.
17 And I told him if he needed to talk to me I gave him my work
18 number, and I never heard from him no more until after he had
19 killed Sanford when Jan called me that morning.

20 Q. Did he seem to be upset at the time he was speaking?

21 A. He had this look on his face. My mother-in-law
22 said, Sherry, he didn't look right. I'm worried about Joanne.
23 Maybe you need to call her and tell her that he had been here.

24 So I called Joanne and told her I was afraid for
(1) 25 her. She might need to try to go get some protection and get

SHERRY MCCAULEY - CROSS BY MR. BACOT

1 away from Charles because I was afraid of what he might do.

2 Q. Did you ever find out what it meant to -- what was
3 the term that you used?

4 A. Lose all the man in me.

5 Q. Did you ever find out what that meant?

6 A. I asked my husband what it meant, and he said he
7 thought --

8 MR. BACOT: Objection, Your Honor. It's hearsay
9 what her husband might have said.

10 THE COURT: You can't testify to what someone else
11 said.

12 MR. PEACE: That's fine.

13 Thank you. That's all the questions I have. If
14 you'll answer any questions Mr. Bacot might have.

15 CROSS-EXAMINATION

16 BY MR. BACOT:

17 Q. Ms. McCauley, when he asked you when this event
18 occurred or this thing you were just talking about you said
19 the day after he shot him?

20 A. The day before.

21 Q. Excuse me, the day before he shot him; is that
22 right?

23 A. Uh-huh.

24 Q. Ma'am, the only thing that you know about this case
25 is what you've heard; is that right?

SHERRY MCCAULEY - CROSS BY MR. BACOT

1 A. I know that I was told that Charles killed Sanford.

2 Q. You were told that?

3 A. Uh-huh.

4 Q. But that's it. You didn't see anything, did you?

5 A. No.

6 Q. You weren't there at the scene of the crime?

7 A. No.

8 Q. So you don't know indeed that that event actually
9 occurred; is that right?

10 A. I know from the newspapers what the newspapers said.

11 MR. BACOT: I object to that, Your Honor.

12 THE COURT: Yeah. You can't testify -- only to what
13 you know you can testify. All right.

14 BY MR. BACOT:

15 Q. So, ma'am, it's true that everything that you just
16 said about knowing he, that Mr. Vandross, shot Mr. Best is
17 what you've been told and had nothing to do with personal
18 knowledge?

19 A. Yes. I didn't see him do anything.

20 Q. All right. Ma'am, you also stated that you were a
21 friend to Ms. Suber-Wilson but that you knew Charles because
22 they dated; is that right?

23 A. Charles was never really friendly to me. He had
24 very few words to say to me. He never really fooled with me
25 that much.

JIMMY BOGGS - DIRECT BY MR. PEACE

1 Q. But it's true that not only did they date they were
2 engaged to be married; is that right?

3 A. Yeah, at one time.

4 MR. BACOT: That's all I have, Your Honor.

5 THE COURT: All right. Anything further?

6 MR. PEACE: No redirect, Your Honor.

7 THE COURT: Thank you. You can step down.

8 MR. PEACE: Your Honor, the State would next call
9 Lieutenant Jimmy Boggs.

10 JIMMY BOGGS, after having been duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. PEACE:

14 Q. Lieutenant Boggs, where are you employed?

15 A. Employed with the Greenwood Sheriff's Department.

16 Q. And how long have you been employed there?

17 A. For about 22 years.

18 Q. Were you employed there on November 4th, 2004?

19 A. Yes, sir, I was.

20 Q. What are your duties at the sheriff's office?

21 A. I am a lieutenant on a rotating shift. I work
22 patrol duties, answering calls, respond to emergency
23 situations, alarms, things such as that.

24 Q. Did you respond to a call at 3938 McCormick Highway
25 on November 4th of 2004?

JIMMY BOGGS - DIRECT BY MR. PEACE

1 A. Yes, sir. I, along with a couple other officers,
2 did respond.

3 Q. And what did you do once you got there?

4 A. The call come out as someone had been shot and that
5 the location was somewhere on McCormick Highway. I think the
6 call originated by cell phone to McCormick County and was
7 being related to us. Information was more or less given to us
8 a little clearer once we got there, but we found the location
9 to be just on the other side of Promise Land Grocery going
10 toward Bradley on Highway 10.

11 Upon getting there, Ms. Wilson was standing out next
12 to the driveway. My captain had done pulled up and exited his
13 car and he was talking with the victim. She had told us that
14 the subject who had shot someone in the house was in the
15 backyard. Without getting any more information myself,
16 Captain Scott went to the left side of the house. Deputy
17 Chris Hammett went to the right side of the house.

18 Upon viewing into the backyard, there was a deck and
19 a couple of vehicles. You could see the top part of a man's
20 head that was kneeling down just on the other side of the deck
21 from the side I was on beside -- a van was pulled relatively
22 close to the house approximately five, six feet from the
23 house. You could see the top of a man's head squatting down
24 beside the car -- the van.

25 I immediately called to him to stand, show his

JIMMY BOGGS - DIRECT BY MR. PEACE

1 hands. He did. He stood, he showed his hands. I asked him
2 to walk out. He walked out. I asked him to turn around with
3 his hands high. I could see his torso.

4 As he got his back to me I asked him to stop, place
5 his hands on the back of his head. Chris Hammett was facing
6 the suspect, I believe, and he had the better advantage point.
7 He held cover on him as myself and Captain Scott advanced up
8 to him. I made contact by grabbing his hands on top of his
9 head and grasped him tight enough to where he couldn't undue
10 them. He made the statement that the gun was in his pocket.
11 Captain Scott patted him down. There was a gun in his pocket.

12 Q. Did Captain Scott take the gun out of his pocket?

13 A. Yes, sir. He took it out of his pocket and secured
14 it in his belt line, I believe. I'm not sure about what he
15 did. I had contact with the suspect. So I was in the midst
16 of trying to cuff him.

17 Once we got him cuffed, Chris Hammett, I believe,
18 took him to a vehicle or around the front of the car, and
19 myself and Captain Scott went in through the back door looking
20 for a shot victim in the house.

21 Q. Was the door locked or unlocked?

22 A. It wasn't locked. It was sort of -- I remember, I
23 think it was either a little bit open or had been closed, but
24 there was a storm door on the door.

25 Q. Was that storm door open or closed?

JIMMY BOGGS - DIRECT BY MR. PEACE

1 A. To my knowledge, I believe it was closed.

2 Q. Please continue.

3 A. We went into the house. We cleared every room in
4 the house. It has an upstairs that's more or less just like a
5 balcony, like with a couple rooms. We cleared everything
6 except for the bedroom door. The bedroom door on the front of
7 house, a wooden door was locked. It was the only door that
8 was locked.

9 Q. Lieutenant, if I could direct your attention to
10 State's Exhibit 16?

11 MR. PEACE: And, Your Honor, with the Court's
12 permission I'll ask him to step down.

13 THE COURT: You may step down.

14 (The witness stepped down from the witness stand.)

15 BY MR. PEACE:

16 Q. Lieutenant Boggs, if you wouldn't mind, on the
17 diagram -- do you recognize this diagram?

18 A. Yes, sir. This is the deck we're talking about
19 (indicated). Myself and Captain Scott had approached from
20 this side. Chris Hammett had come from this side around the
21 garage area, and this is the vehicle I was talking about. The
22 head we could see was across the deck. You could see the head
23 of a man standing here (indicated).

24 And this is the area we took the suspect down right
25 here when we cuffed him and found the gun on him (indicated).

JIMMY BOGGS - DIRECT BY MR. PEACE

1 And we came through here, cleared this room. We worked our
2 way around to this side. The upstairs is slightly above this
3 area here and over the living room area (indicated).

4 This door here was the locked door, the only door we
5 found locked and was closed to this room. There we had a shot
6 victim that maybe still we could get attention to him. We
7 immediately kicked the door.

8 Q. Did you kick the door?

9 A. Yes, sir. I kicked the door breaking it open.

10 Q. Okay.

11 A. And as it swung open, the victim was -- I could see
12 the victim laying in the bed with a lot of blood pooled around
13 him (indicated). And do you want me to go on?

14 Q. Please.

15 A. Well, at that time, I called for EMS anyway because,
16 you know, I thought that he should be checked out. My
17 experience is that it looked like it had been something that
18 had happened hours beforehand by the way the blood was clotted
19 and dried. Still, I thought it best for EMS to come in and
20 give me a professional opinion as far as any reviving or
21 anything like that.

22 After they come in and made the determination that
23 he was gone we then cleared out and waited for -- other than
24 securing anything on the crime scene, any evidence, we called
25 for investigators.

JIMMY BOGGS - DIRECT BY MR. PEACE

1 Q. Thank you. So you didn't gather any evidence?

2 A. No, sir, I didn't gather any evidence.

3 Q. All right. You can return to the witness chair.

4 A. (The witness complied).

5 Q. I show you what's marked State's Exhibit 13 and ask
6 you if you recognize that photograph?

7 A. Yes, sir. This is the framework of the bedroom
8 door, the damage as a result of me having to force it open.

9 MR. PEACE: Thank you.

10 Your Honor, I would ask that State's Exhibit 13 for
11 identification be admitted as State's Exhibit 13.

12 MR. BACOT: Without objection.

13 THE COURT: So admitted.

14 (WHEREUPON, State's Exhibit 13, a Photograph, was
15 admitted into evidence.)

16 BY MR. PEACE:

17 Q. Lieutenant Boggs, if you saw the suspect again would
18 you recognize him?

19 A. Saw the suspect again?

20 Q. If you saw him again would you recognize him?

21 A. Yes, sir.

22 Q. Okay. Do you see the suspect in the courtroom?

23 A. Yes, sir. (Indicated). Charles Vandross, sitting
24 at the defense attorney's table there.

25 Q. Okay. Can you tell us which person he is?

JIMMY BOGGS - CROSS BY MR. BACOT

1 A. Mr. Vandross is sitting in the middle beside his
2 attorney and another gentleman in a gray suit.

3 MR. PEACE: Thank you.

4 Let the record reflect the witness has properly
5 identified the defendant.

6 Thank you, Mr. Boggs. That's all the questions I
7 have. Please answer any questions Mr. Bacot may have.

8 THE WITNESS: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. BACOT:

11 Q. Is it Lieutenant Boggs?

12 A. Yes, sir.

13 Q. Lieutenant Boggs, first of all, Mr. Peace had asked
14 you if you had anything to do with the collection of evidence.
15 Is it your role, primarily, at this scene, to secure the crime
16 scene and that's it?

17 A. My primary is first responder. Once I get there I
18 make any arrests or anything like that then I secure the
19 scene, yes, sir.

20 Q. So you wouldn't have done anything as far as
21 gathering clothing or the gun or any of that? That's not
22 within your responsibility of that scene?

23 A. No, sir, not collecting any evidence.

24 Q. That would rely on the investigator?

25 A. Yes, sir, it would have.

JIMMY BOGGS - CROSS BY MR. BACOT

1 Q. When you arrived, didn't Mr. Vandross already have
2 his hands in the air when you first saw him?

3 A. No, sir. When I first saw him I couldn't see hands
4 at. All I could see was from his shoulders -- the top of his
5 shoulders up to the top of his head.

6 Q. And you mentioned that you took him down. Did he
7 resist you in any way?

8 A. No, sir. He obeyed my commands as I gave them to
9 him.

10 Q. Fully complying?

11 A. Yes, sir.

12 Q. And did you have an opportunity to see the victim
13 other than the time you saw her up the street?

14 A. No, sir, just a brief moment just before we pulled
15 up.

16 Q. Did you notice any physical injuries on
17 Ms. Suber-Wilson when you arrived?

18 A. If I noticed anything it would have been her
19 hysteria. She was -- you could tell she was stressed or in a
20 high order of distress.

21 Q. Thank you.

22 A. Yes, sir.

23 THE COURT: Anything?

24 MR. PEACE: No redirect.

25 THE COURT: All right. Thank you.

LARRY SCOTT - DIRECT BY MR. PEACE

1 THE WITNESS: Yes, sir. Thank you.

2 MR. PEACE: Your Honor, the State would next call
3 Captain Scott to the stand.

4 LARRY SCOTT, after having been duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. PEACE:

8 Q. Captain Scott, where are you employed?

9 A. Greenwood County Sheriff's Office.

10 Q. And how long have you been employed at the sheriff's
11 office?

12 A. For 18 years.

13 Q. And what are your duties at the sheriff's office?

14 A. I'm a shift supervisor on uniform patrol.

15 Q. As part of your duties did you have an opportunity
16 to respond at 3938 McCormick Highway on November 4th, 2004?

17 A. Yes, I did.

18 Q. All right. Please tell the jury what you
19 encountered at that place on that date.

20 A. Upon my arrival, I observed Ms. Wilson. She was in
21 her driveway at the corner of the driveway near the road with
22 three kids. The scene was pretty hysterical. Everyone was
23 upset, screaming, crying. And she indicated to me that there
24 was a friend of hers in the house that had been shot, and the
25 person that had shot him was in the backyard and that he had a

LARRY SCOTT - DIRECT BY MR. PEACE

1 gun in his possession.

2 Q. Did you observe any injuries to her?

3 A. I did not observe. I didn't take time to really
4 look at her. I was trying to get the information to what was
5 going on, of course, as far as the incident.

6 Q. And what did you do next?

7 A. Myself and Lieutenant Boggs went around the house
8 toward the backyard. Corporal Chris Hammett went to the
9 right-hand side.

10 Q. Okay. If I can interrupt just a minute. Captain,
11 would you mind stepping down.

12 MR. PEACE: Your Honor, with your permission?

13 (The witness stepped down from the witness stand.)

14 BY MR. PEACE:

15 Q. And if you will use the diagram, State's Exhibit 16,
16 and the pointer, and point out to the jury what you did.

17 A. Myself and Lieutenant Boggs went around to this
18 corner of the house (indicated). Mr. Hammett went around
19 here. As we were coming around we encountered Mr. Vandross.
20 I didn't see him at first. Lieutenant Boggs, I heard him call
21 out to him to let us see his hands.

22 At that time, I observed him with his hands up.
23 Lieutenant Boggs gave him voice commands. He come to us with
24 his back. We approached him and Lieutenant Boggs gave him
25 voice commands, as far as putting his hands behind his back,

LARRY SCOTT - DIRECT BY MR. PEACE

1 behind his head.

2 At that time, we proceeded -- we started to search
3 him, pat him down, and he made the statement that he had a gun
4 in his pocket. And at that time, I patted him down on the
5 right-hand side. There was a small caliber automatic-type
6 pistol in his right front pocket.

7 I recovered the weapon, and at that time I was still
8 holding onto him with one hand while Lieutenant Boggs had him
9 down on the left-hand side, and I handed the pistol to
10 Corporal Hammett and he secured it at that time.

11 Q. Okay. And if you'll retake the stand, please.

12 A. (The witness complied).

13 Q. And what did you do after that?

14 A. After Mr. Vandross was handcuffed, Corporal Hammett
15 took him and they went around to the front of the house.
16 Lieutenant Boggs and I entered the residence to look for the
17 person that had been shot.

18 We cleared the house, all the rooms except for the
19 one bedroom. We found the door locked. Lieutenant Boggs
20 forced the door open and that's where we found the victim in
21 the bed, and he appeared to be deceased.

22 We asked for EMS to come in. They checked him, and
23 then at that time we backed out and secured the house until
24 the investigators and crime scene officers arrived.

25 Q. Captain Scott, I now show you what's been marked

LARRY SCOTT - DIRECT BY MR. PEACE

1 State's Exhibit 14 for identification and ask you if you
2 recognize that photograph?

3 A. Yes, sir, I do.

4 Q. And what's depicted in that photograph?

5 A. This is the back of the house in the area where we
6 first took custody of Mr. Vandross.

7 Q. Is that an accurate depiction as it appeared on
8 November 4th, 2004?

9 A. Yes, sir.

10 Q. And where -- if you could turn the photograph around
11 and show the jury where you encountered the defendant.

12 A. It was somewhere near the back of these two cars in
13 this area (indicated).

14 Q. All right. Thank you, Captain Scott.

15 MR. PEACE: Your Honor, I'd move State's Exhibit 14
16 be admitted -- 14 for identification be admitted as State's
17 Exhibit 14?

18 MR. BACOT: No objection.

19 THE COURT: So admitted, without objection.

20 (WHEREUPON, State's Exhibit No. 14, a Photograph,
21 was admitted into evidence.)

22 MR. PEACE: Your Honor, the next thing I want to do
23 is hand Captain Scott State's Exhibit 1 for identification,
24 which is a weapon. It has been cleared by my investigator but
25 I'd hand it to him and ask Captain Scott to insure the weapon

LARRY SCOTT - CROSS BY MR. BACOT

1 is clear, with the Court's permission.

2 THE COURT: If you would, please, Captain.

3 THE WITNESS: Yes, sir.

4 BY MR. PEACE:

5 Q. Is that weapon clear, Captain?

6 A. Yes, sir.

7 Q. Okay. I've handed you State's Exhibit 1 for
8 identification, a Bersa Firestorm semiautomatic pistol, .380
9 caliber, Serial Number 604772. I ask you if you recognize
10 that pistol?

11 A. Yes, sir. This is the pistol that come from his
12 pocket.

13 Q. Is that the pistol that you took from Mr. Vandross
14 on November 4th, 2004?

15 A. Yes, it is.

16 Q. And what did you do with that pistol?

17 A. At the time I removed it from his pocket I handed it
18 to Corporal Chris Hammett to secure while I had Lieutenant
19 Boggs secure Mr. Vandross.

20 MR. PEACE: Thank you, Captain Scott. That's all
21 the questions I have. Would you please answer any questions
22 Mr. Bacot may have.

23 CROSS-EXAMINATION

24 BY MR. BACOT:

25 Q. Captain, do you recall whether sirens were operating

LARRY SCOTT - CROSS BY MR. BACOT

1 when you responded to this call?

2 A. We did activate blue lights and sirens while in
3 route.

4 Q. And when you arrived, would you agree with me that
5 Mr. Vandross was compliant and obeyed your request?

6 A. I would agree with you, sir.

7 Q. And was the weapon that you recovered from
8 Mr. Vandross in the same condition as it is in today, as in it
9 was unloaded at the time?

10 A. I couldn't tell you whether it was unloaded at the
11 time. I didn't check the weapon. I immediately handed it to
12 Corporal Chris Hammett when I recovered it from his pocket.

13 Q. Did you have any involvement in any other crime
14 scene investigation, whether it be collection of evidence or
15 otherwise?

16 A. I did not.

17 MR. BACOT: That's all I have, Your Honor.

18 THE COURT: All right. Thank you, Captain.

19 MR. PEACE: Your Honor, I have just a couple more
20 questions --

21 THE COURT: Okay.

22 MR. PEACE: -- if I may. First of all, I'd move to
23 admit State's Exhibit 1 for identification as State's Exhibit
24 1.

25 MR. BACOT: I'm sorry?

LARRY SCOTT - REDIRECT BY MR. PEACE

1 THE COURT: They are moving State's Exhibit 1 into
2 evidence.

3 MR. BACOT: Yes, sir. No objection.

4 THE COURT: All right. So admitted, without
5 objection.

6 MR. PEACE: Thank you, Your Honor.

7 (WHEREUPON, State's Exhibit No. 1, a Gun, was
8 admitted into evidence.)

9 REDIRECT EXAMINATION

10 BY MR. PEACE:

11 Q. Now, Captain Scott, when you and Lieutenant Boggs
12 went around the side of the house and encountered Mr. Vandross
13 did you have your weapons drawn?

14 A. We did..

15 Q. Okay. Do you know if Corporal Hammett had his
16 weapon drawn?

17 A. I can't testify to the fact that he did.

18 Q. All right. But you and Lieutenant Boggs have your
19 weapons drawn?

20 A. We did.

21 MR. PEACE: Thank you. I have no further questions,
22 Your Honor.

23 MR. BACOT: Nothing, Your Honor.

24 THE COURT: Thank you, Captain. You may step down.

25 MR. PEACE: Your Honor, the State would next call

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 Corporal Chris Hammett to the stand.

2 CHRISTOPHER M. HAMMETT, after having been duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PEACE:

6 Q. Corporal Hammett, please state your full name for
7 the record.

8 A. Yes, sir. Christopher M. Hammett.

9 Q. And are you a corporal with the sheriff's office?

10 A. I am.

11 Q. How long have you been at the sheriff's office?

12 A. I've been employed with the Greenwood County

13 Sheriff's Office since May of 2000.

14 Q. Now, what are your duties at the sheriff's office?

15 A. I have served in uniform patrol and am currently a
16 narcotics investigator vice in the illegal drugs and organized
17 crime unit.

18 Q. What were your duties on November 4th, 2004?

19 A. I was a uniformed patrol deputy.

20 Q. Did you have occasion to respond to an incident at
21 3938 McCormick Highway on November 4th, 2004?

22 A. I did.

23 Q. What did you do when you responded to that location?

24 A. We received a call of a person being shot. It was
25 right at the time of shift change, and I responded with lights

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 and siren to the house that was just beyond Promise Land
2 Grocery off of Highway 10. I arrived just a few seconds
3 behind Captain Scott.

4 When we arrived, Ms. Wilson was out in the street at
5 the corner of her driveway with three young children. She was
6 visually hysterical, very upset and scared, and Captain Scott
7 turned to me and he said the guy is behind the house with the
8 gun. And he said, Lieutenant Boggs and I will go to the left,
9 you go to the right. And looking at the front of the house, I
10 went around the right side --

11 Q. Lieutenant, if I could just interrupt a minute.

12 A. Yes.

13 Q. With the Court's permission, if you would please
14 step down to the diagram and show the jury the route that you
15 took and what you did.

16 A. Yes, sir. (The witness stepped down from the
17 witness stand.)

18 Okay. With this being the front of the house, I
19 went around here to the right (indicated). And this being the
20 garage, I did have my weapon drawn. I cleared this garage
21 first. There was a vehicle in the garage. I cleared this
22 area first to make sure no one was there.

23 As I came around this wall here there was a blue van
24 parked right here where this square is, and that being the
25 back deck (indicated). And from here, I could look down

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 beside this wall, and I saw Lieutenant Boggs called someone
2 out and had them with their hands raised.

3 He asked them to step out where we could get a
4 better view of him. As he did that, I moved up from the
5 front, again, still weapon drawn. I had a better shot on the
6 suspect. That's why I kept face-on with him. He was face to
7 me. Captain Scott and Lieutenant Boggs were on the rear.
8 They approached him from behind. I approached from the front.

9 Lieutenant Boggs asked him again, raise your hands
10 higher so we can clear your waistband, make sure there was no
11 gun around his waistband. Mr. Vandross did. He did
12 everything we asked him to do.

13 We continued to close in on him. I kept my weapon
14 drawn. Lieutenant Boggs and Captain Scott secured theirs and
15 put hands on him. Mr. Vandross at that time said, The gun is
16 in my right pocket, and he nodded down with his head. He had
17 his hands up on top of his head but he nodded down with his
18 head, The gun is in my right pocket and it's unloaded.

19 Captain Scott reached in and pulled the small
20 handgun out of his right pocket. He handed it to me while
21 they still had hands on him. I put the gun in my back pocket,
22 where it was secured.

23 Q. At the time, did you check to see if it was lowed?

24 A. I did not, no. I took the gun straight from Captain
25 Scott and put it back in my back pocket and kept my weapon

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 drawn while they continued to secure him.

2 Q. Continue.

3 A. They put handcuffs on him. And Captain Scott said,
4 You've got him. We're going to go in the house and check on
5 the victim.

6 So at that point, I went around behind Mr. Vandross
7 and I continued patting him down. I found a magazine, a
8 loaded magazine in his right pocket, as well as a loose bullet
9 in his right pants pocket.

10 In his left pocket I found a small, little purple
11 flashlight, a green utility knife, one like you would use with
12 a razor on it. One that you can extend out with a razor on
13 it. I also found a few loose bullets in his left pants
14 pocket, and I also found his wallet with his contents in his
15 back pocket.

16 I began walking Mr. Vandross out and he said, My
17 jacket is behind the van.

18 And I said, Okay, I'll get it.

19 So we continued walking out to place him in the car,
20 and I came back and got a black jacket that was laying behind
21 the blue van. It had dirt on it. I picked it up, secured my
22 vehicle, and there was some more loose bullets there on the
23 ground beside that jacket. I also collected those, put those
24 all in evidence bags in my vehicle. I transported
25 Mr. Vandross to the county detention center.

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 Q. Okay. Corporal Hammett, if you'll retake your seat
2 please.

3 A. Yes, sir.

4 (The witness returned to the witness stand.)

5 Q. At the time that you searched Mr. Vandross did you
6 find any keys?

7 A. I also did find a set of keys in his pocket as well,
8 yes, sir.

9 (WHEREUPON, State's Exhibit No. 50, a Set of Keys,
10 was marked for identification only.)

11 BY MR. PEACE:

12 Q. I now show you what's been marked State's Exhibit 50
13 for identification and ask you if you recognize that?

14 A. I do.

15 Q. And what is State's Exhibit 50?

16 A. It's a blue key ring with two keys on it that I took
17 out of his pocket.

18 Q. Are those the keys that you took from him?

19 A. Yes, sir, they are.

20 MR. PEACE: Your Honor, the State would move State's
21 Exhibit 50 for identification be admitted as State's Exhibit
22 50.

23 MR. BACOT: Without objection.

24 THE COURT: All right. So admitted, without
25 objection.

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 (WHEREUPON, State's Exhibit No. 50, a Set of Keys,
2 was admitted into evidence.)

3 BY MR. PEACE:

4 Q. I now show you State's Exhibit 15 for identification
5 and ask you if you recognize that photograph?

6 A. I do.

7 Q. And what is that photograph?

8 A. This is a photo from the rear of the house, which is
9 basically the vantage point that I had coming from the garage
10 to the van.

11 Q. And can you turn that photograph around and show the
12 jury where you saw Mr. Vandross when you came around the side
13 of the house.

14 A. Okay. When I came around I cleared this garage area
15 here (indicated). I'm standing right there on the corner, and
16 Mr. Vandross was just past this van, between it and the back
17 deck there (indicated).

18 Q. Thank you, Corporal Hammett.

19 A. Yes, sir.

20 MR. PEACE: Your Honor, the State would move State's
21 Exhibit 15 for identification be admitted as State's Exhibit
22 15.

23 MR. BACOT: Without objection.

24 THE COURT: So admitted.

25 (WHEREUPON, State's Exhibit No. 15, a Photograph,

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 was admitted into evidence.)

2 BY MR. PEACE:

3 Q. Now, what did you do after you apprehended the
4 defendant?

5 A. Like I said, I escorted him to my vehicle, let
6 Captain Scott know I was going to go ahead and transport him
7 to the county detention center. On the way to the detention
8 center Mr. Vandross said, Would I get to make a phone call?

9 And I said, Sure. I said, It's going to take us
10 awhile to sort some things out. Just give us some time to let
11 you make a phone call.

12 And that's all the conversation I had with him. I
13 put him in the detention center and returned back out to the
14 scene where I began talking with the detectives who arrived.
15 Lieutenant Marc Cromer was there, as well as Major Tony Davis.

16 And Marc asked me, he said, Do you mind just riding
17 there and see if you can't find his vehicle. He said, It
18 should be a burgundy Toyota Corolla, Camry, that sort of
19 older model Toyota.

20 And I said, Not at all. I'll ride down there and
21 see if I can find it.

22 I rode down Highway 10 towards Cedar Springs Road
23 where A. M. Tuck Bridge Company is. I took a right On Cedar
24 Springs and I saw a red Toyota Corrola matching the
25 description Lieutenant Cromer had given to me, parked at the

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 entrance of A. M. Tuck. It was up against one of the pole
2 gates they use to secure their back lot.

3 Q. Corporal, if I can interrupt you just a moment and
4 ask you, with the Court's permission, to step down.

5 A. Yes, sir.

6 (The witness stepped down from the witness stand.)

7 Q. And I ask you if you recognize State's Exhibit 16
8 for identification?

9 A. I do.

10 Q. And what is State's Exhibit 16?

11 A. This is McCormick Highway, commonly referred to as
12 Highway 10. This is 3938 McCormick Highway.

13 Q. Is that an aerial photograph?

14 A. It is.

15 Q. Okay. Please continue.

16 A. The distance from here to where Cedar Springs Road
17 veers off is probably half a mile, if that much. This is
18 A. M. Tuck Bridge Company here (indicated). Actually, this
19 whole area here is A. M. Tuck (indicated).

20 When you turn off, that's their main entrance here
21 (indicated). Their office is right up here, and that's where
22 the vehicle was, parked against that gate right there at the
23 entrance (indicated).

24 And I went in and I talked to the secretary there
25 and asked her, Do you know anything about this car parked

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 here --

2 MR. BACOT: Objection to any hearsay from the
3 secretary, Your Honor.

4 THE COURT: You can't testify to what she told you.
5 You can testify to what you told her.

6 A. Okay. I asked her if they knew anything about the
7 vehicle. And I told her that the vehicle was going to be
8 involved in an investigation and we would appreciate it if
9 they didn't move anything around it or if they could just kind
10 of maneuver around it for the day.

11 Q. And what did you do after this?

12 A. I stood by the car. I let Lieutenant Cromer know
13 that I had found the vehicle. I ran the tag and it did come
14 back to Mr. Vandross. I didn't open the doors or anything
15 else. I just stood by the vehicle and let him know. He came
16 down and verified it, as well as another detective.

17 MR. PEACE: Now, Your Honor, I would move that
18 State's Exhibit 17 for identification be admitted as State's
19 Exhibit 17.

20 MR. BACOT: Without objection, Your Honor.

21 THE COURT: All right. So admitted.

22 (WHEREUPON, State's Exhibit No. 17, a Diagram, was
23 admitted into evidence.)

24 BY MR. PEACE:

25 Q. Did you do anything else after that?

CHRIS HAMMETT - DIRECT BY MR. PEACE

1 A. When Marc came down I gave him the set of keys that
2 I had taken out of Mr. Vandross's pocket.

3 Q. Now, these set of keys, would that be State's
4 Exhibit 50?

5 A. That's correct.

6 Q. Okay.

7 A. There was a Toyota key on that key ring, and it was
8 my inkling that that Toyota key probably fit the Toyota that
9 belonged to Mr. Vandross. So I gave them to Marc in case he
10 needed them and he was going to go get a search warrant for
11 the vehicle. So rather than try to force a way into a trunk I
12 gave him the set of keys to where he would have access to it
13 if they did indeed fit?

14 Q. Did they fit?

15 A. They did.

16 Q. Now, Corporal Hammett, I show you State's Exhibit 1,
17 a Bersa Firestorm .380, Serial Number 604772, and I ask you if
18 you recognize that pistol?

19 A. I do.

20 Q. And how do you recognize that pistol?

21 A. This is the pistol that Captain Scott took out of
22 Mr. Vandross's right front pocket and handed it to me as we
23 were placing Mr. Vandross in custody.

24 Q. And what did you do with that pistol?

25 A. That pistol, as I said, was put in my rear pants

CHRIS HAMMETT - CROSS BY MR. BACOT

1 pocket first until I could get him to my vehicle, and at that
2 time put in an evidence bag.

3 Q. Okay. And then what did you do with it?

4 A. I turned all of the evidence from the scene over to
5 Sergeant Eric Inks who, at that time, was over crime scene and
6 evidence.

7 Q. Thank you, Corporal Hammett. Please answer any
8 questions that Mr. Bacot may have.

9 A. Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. BACOT:

12 Q. Mr. Hammett, when -- Corporal Hammett, excuse me.
13 When you ran the tag, do you recall if the address came back
14 as the same as Suber-Wilson's address?

15 A. The address came back to 3938 McCormick Highway
16 under the name Charles Vandross.

17 Q. And you testified that you had got possession of
18 this gun at the scene. Did you ever actually confirm my
19 client's statement that it was unloaded?

20 A. I did not. I did not check the gun. Due for
21 evidence safekeeping I did not pull the slide back or anything
22 else. I placed it in the bag just as it had been taken out of
23 his pocket.

24 Q. Did Mr. Vandross ever ask you while he was in your
25 custody as to the condition of Mr. Best?

MARC CROMER - DIRECT BY MR. PEACE

1 A. He did not. The only question he asked me is if he
2 could make a phone call.

3 Q. Did you notice any physical injuries on
4 Ms. Suber-Wilson when you arrived at the scene?

5 A. I did not. I briefly saw her. At the time I saw
6 her was the same time Captain Scott was telling me we are
7 going to go around the back of the house.

8 Q. Did you have anything to do with crime scene
9 investigation or collection of evidence?

10 A. I did not, nothing more than the jacket and the
11 things I took out of his pocket.

12 Q. And did you do an inventory on the items of his car
13 or anything like that?

14 A. I did not.

15 MR. BACOT: That's all I have, Your Honor.

16 THE COURT: Anything on redirect?

17 MR. PEACE: No redirect, Your Honor.

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

19 MR. PEACE: Your Honor, the State would next call
20 Marc Cromer to the stand.

21 MARC CROMER, after having been duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. PEACE:

25 Q. Mr. Cromer, where are you employed?

MARC CROMER - DIRECT BY MR. PEACE

(1) 1 A. I work with the Greenwood County Sheriff's Office.

2 Q. And what's your position at the sheriff's office?

3 A. Now I'm a supervisor with the investigative
4 division. At the time, I was just an investigator.

5 Q. And did you hold a particular rank?

6 A. I'm a lieutenant now. At that time, I was a
7 sergeant.

8 Q. What were your duties on November 4th, 2004?

9 A. I was an investigator assigned to investigative
10 division, basically to give assistance and investigate crimes
11 that occurred in the County of Greenwood.

12 Q. Did you have occasion to investigate an incident at
(1) 13 3938 McCormick Highway?

14 A. Yes, sir, I did.

15 Q. And what did you do in relation to that
16 investigation?

17 A. That morning, I was instructed to respond to 3938
18 McCormick Highway to aid and assist in the securing the
19 perimeter until our crime scene investigator, Mr. Eric Inks,
20 arrived on the scene.

21 When I arrived on the scene, I maintained perimeter
22 until I received further instructions. We were given a
23 description of the suspect's vehicle being a burgundy Toyota.
24 I believe I relayed that information onto Corporal Hammett to
(1) 25 try to locate that vehicle in the area.

MARC CROMER - DIRECT BY MR. PEACE

1 I was informed by Corporal Hammett that the vehicle
2 was parked at A. M. Tuck off of Cedar Springs Road not too far
3 from the incident -- or crime scene location. I left 3938
4 McCormick Highway, went down there to where he was at A. M.
5 Tuck, verified that that was the car. The registration had
6 come back to Mr. Vandross.

7 Q. If I could interrupt just one moment and show you
8 what's been marked State's Exhibit 20 for identification and
9 ask you if you recognize that?

10 A. Yes, sir. That is the burgundy or red Toyota, 1988,
11 I believe it was, that was registered to Mr. Vandross that was
12 parked at A. M. Tuck on Cedar Springs Road.

13 Q. I show you what's been marked State's Exhibit 21 for
14 identification and ask you if you recognize that?

15 A. Yes, sir, it's the same vehicle just different
16 angle.

17 Q. I show you what's been marked State's Exhibit 22 for
18 identification and ask you if you recognize that?

19 A. Yes, sir. This is going to be the interior of the
20 back seat, the back area of Mr. Vandross's vehicle.

21 Q. Okay. After you located the vehicle did you
22 personally open the vehicle?

23 A. Once I located the vehicle I did not. I just
24 visually inspected the exterior of it and found that both the
25 latches on the driver's side, the front and back door were

MARC CROMER - DIRECT BY MR. PEACE

1 unlocated. I left the scene and drew up a search warrant and
2 had the search warrant signed and came back and executed it
3 and searched the car then. That's where I made entry.

4 Q. Did you search the car at the location where you
5 found it?

6 A. Yes, sir.

7 Q. What did you find, if anything, during the search?

8 A. Inside the vehicle I located some personal
9 documentation that belonged to Mr. Vandross out of his glove
10 compartment.

11 Q. Now I show you what's been marked State's Exhibit 25
12 for identification and ask you if you recognize that?

13 A. Yes, sir. This is a receipt to Pine Tree
14 Apartments, address is 106 Barkwood Drive. It looks like it's
15 going to be for Apartment Number 111-H, hotel, that has
16 Mr. Vandross' name. It says it's for October rent of 2004.
17 This I recovered out of his glove compartment of this vehicle
18 here.

19 Q. Now I show you what's been marked State's Exhibit 24
20 and ask you if you recognize that?

21 A. Yes, sir, I do. This is the Social Security card
22 belonging to Mr. Vandross that was recovered out of the glove
23 compartment of the Toyota.

24 Q. All right. And what else did you do in searching
25 the vehicle?

MARC CROMER - DIRECT BY MR. PEACE

1 A. I believe I also found a checkbook and the vehicle
2 registration to the vehicle that was also in the glove
3 compartment. Other than that, he had some -- looks like
4 clothing that was on the back seat of the car, a multicolored
5 sweater, a pair of black leather sneakers and some white socks
6 that was on the floorboard.

7 I did take the sneakers and the white socks into
8 evidence, but that was the only thing they took out of the
9 vehicle as far as evidence. After that, I had the vehicle
10 towed to the county shop where I left the vehicle key with the
11 vehicle at the county shop.

12 Q. Was there anything in the back seat that caught your
13 attention?

14 A. Well, the multicolored sweater caught my attention.
15 At the time, I didn't know if it had anything to do with the
16 crime so I left it with the vehicle, which is documented with
17 photographs with the interior of the vehicle.

18 Once I left the county shop I returned to 3938
19 McCormick Highway at the incident location and just checked
20 the key, the two remaining keys that was on the key chain. It
21 had a blue key chain and a silver colored key and a copper
22 colored key. They both appeared to be house keys.

23 I tried both keys at Ms. Suber-Wilson's residence to
24 see if they fit the doors. I found that the silver colored
25 key actually worked both the dead bolt and the doorknob lock

MARC CROMER - DIRECT BY MR. PEACE

1 to the back door off the deck.

2 Q. Had those keys remained in your possession since you
3 took them from Chris Hammett, from Corporal Hammett?

4 A. From Corporal Hammett, those keys at a brief time
5 were left with Ralph Evans, then they were with me since then.

6 MR. PEACE: Your Honor, if I may. We have a
7 stipulation that concerns the keys from Marc Cromer actually
8 going to Ralph Evans for a period of time. I'm sorry, that's
9 not right. They went from -- my mistake. I'll withdraw that,
10 Your Honor. I'll cover that later.

11 THE COURT: There's a stipulation relating to Ralph
12 Evans.

13 MR. PEACE: Yes, sir. Mr. Cromer gave the keys to
14 Mr. Evans.

15 BY MR. PEACE:

16 Q. Did you get the keys back from Mr. Evans?

17 A. Yes, sir. Yes, sir.

18 MR. PEACE: Okay. That is a stipulation.

19 THE COURT: Ladies and gentlemen, as I told you at
20 the beginning of the trial when I made some opening remarks to
21 you one type of evidence is what is known as a stipulation,
22 and that's where the parties agree or stipulate as to some
23 fact or some matter. The parties have agreed to several
24 stipulations in this case and we have determined that the
25 Court would advise you of those stipulations in relation to

MARC CROMER - DIRECT BY MR. PEACE

1 the testimony or the evidence that's being presented.

2 One of the stipulations that the parties have
3 reached is that it's hereby stipulated between the State and
4 the Defense, with the express consent of the Defendant,,
5 Charles Vandross, that Ralph Evans took possession of keys
6 from Marc Cromer, and a short time later returned the keys to
7 Mr. Cromer.

8 Now, this stipulation is agreed to by the parties.
9 You are to accept this stipulation as though that fact has
10 been proven here in the courtroom.

11 MR. PEACE: Thank you, Your Honor.

12 THE COURT: And that has been introduced as Court's
13 Exhibit Number 3.

14 BY MR. PEACE:

15 Q. I show you State's Exhibit 50 and ask you if you
16 recognize that?

17 A. Yes, sir, I do. These are the set of keys with the
18 remaining two keys that I left on there after leaving the car
19 key with the vehicle at the county shop. I recognize it by
20 the blue key chain, as well as the silver color and copper
21 colored key, as well as it being packaged in the evidence bag
22 that I packaged it in myself on the 4th of November.

23 Q. Thank you. Now did you -- you testified you found a
24 sweater in the back of the car?

25 A. Yes, sir, I did.

MARC CROMER - DIRECT BY MR. PEACE

1 Q. Was there any significance to that sweater?

2 A. When I returned to the crime scene and checked the
3 keys with the doors in the back I noticed on the deck outside,
4 on the back deck, there was a cotton cap similar to a stocking
5 cap that had the same pattern as the sweater that was in the
6 back seat, and that's when I realized that, hey, I remember
7 seeing a picture or I remember seeing the sweater in the back
8 seat of this vehicle that matched this stocking cap that I
9 took a picture of.

10 Q. Now, is that sweater depicted in one of the
11 photographs you took?

12 A. Yes, sir.

13 Q. In which photograph would that be?

14 A. State's Exhibit 22.

15 Q. I know somehow you what's been marked State's
16 Exhibit 23 for identification and ask you if you recognize
17 that?

18 A. Yes, sir. This is the stocking cap that I saw on
19 the back deck of the crime scene that matches the sweater
20 that's in the back of his car.

21 Q. Thank you, Lieutenant Cromer.

22 A. Yes, sir.

23 MR. PEACE: Your Honor, I would move that State's
24 Exhibits 23, 22, 24, 25, 21 and 20 for identification be
25 admitted as State's Exhibits with the corresponding numbers.

MARC CROMER - CROSS BY MR. BACOT

1 MR. BACOT: No objection, Your Honor.

2 THE COURT: So admitted, without objection.

3 (WHEREUPON, State's Exhibit Numbers 20 through 25
4 were admitted into evidence.)

5 MR. PEACE: Thank you, Lieutenant Cromer. Please
6 answer any questions Mr. Bacot may have.

7 THE WITNESS: Sure.

8 CROSS-EXAMINATION

9 BY MR. BACOT:

10 Q. Thank you, sir. What does Mr. Inks rank?

11 A. I believe he is a sergeant.

12 Q. Is he the one that's in charge of the crime scene
13 investigation and collection of all the evidence?

14 A. At the time that this incident occurred he was.

15 Q. And other than the information that you've given
16 about the car and the inventory, the pictures that you put
17 into evidence you didn't have anything to do with the actual
18 crime scene itself; is that right?

19 A. No, sir, I didn't.

20 Q. Did Ms. Suber-Wilson ever advise you personally as
21 to what to do with this vehicle that belonged to Mr. Vandross?

22 A. Are you referring to the Toyota?

23 Q. Yes, sir.

24 A. No, sir.

25 Q. You didn't have any discussions with her about

MARC CROMER - CROSS BY MR. BACOT

1 taking that to salvage or anything?

2 A. No, sir.

3 Q. Did you have any discussions with Ms. Suber-Wilson
4 about taking any of the vehicles to salvage?

5 A. I believe that there was a vehicle that was
6 registered to her -- I mean, excuse me, registered to
7 Mr. Vandross that was left at her residence. I cannot even
8 tell you the make or model.

9 I had a discussion with her probably several months
10 after this incident happened. A good while afterwards she
11 came up to the sheriff's office wanting to know if his family
12 or who was going to make arrangements to pick up his vehicle.

13 I think this is something that she had been working
14 on with Tony before he retired from the sheriff's office, and
15 he had left. Therefore, they directed her to me. There was
16 supposed to be arrangements made of some sort. I cannot tell
17 you -- I wasn't privy to that information at the time, to pick
18 up the vehicle, but it wasn't followed through with.

19 And I think she was just wanting to get that
20 vehicle out of her yard because it belonged to him. And I
21 told her that if his family didn't come and get it that she
22 could have it towed. Now, towed at the salvage, no. I didn't
23 say towed at the salvage. But I said that she could have it
24 towed from her property.

25 MR. BACOT: Thank you. That's all I have.

RONNIE PERRY - DIRECT BY MR. PEACE

1 THE COURT: Is there anything further?

2 MR. BACOT: That's all I have, Your Honor.

3 MR. PEACE: No redirect, Your Honor.

4 THE COURT: Thank you, sir. You may step down.

5 MR. PEACE: Your Honor, if I may, Sherry McCauley
6 needs to get to work. If there's no objection I would ask
7 that she be excused.

8 THE COURT: Do you all have any objection?

9 MR. BACOT: I don't have any objection at this
10 point.

11 THE COURT: All right. You're free to leave, Ma'am.
12 Thank you, ma'am.

13 MR. PEACE: Your Honor, the State would next call
14 Ronnie Perry to the stand.

15 RONNIE PERRY, after having been duly sworn,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. PEACE:

19 Q. Mr. Perry, where are you employed?

20 A. Apache Pawn and Gun.

21 Q. And how long have you been employed there?

22 A. A little over three years.

23 Q. Do you know the defendant in this case?

24 A. Yes, I do.

25 Q. Would you please point to him if he's in the

RONNIE PERRY - DIRECT BY MR. PEACE

1 courtroom and state his name?

2 A. He's Mr. Vandross in the middle chair at defense
3 counsel table.

4 MR. PEACE: Let the record --

5 THE COURT: He's identified the defendant.

6 BY MR. PEACE:

7 Q. How do you know the defendant?

8 A. He purchased a handgun from us.

9 Q. And when did he do that?

10 A. I believe it was July of '04.

11 Q. Are you required to prepare any documentation --

12 A. Yes, I am.

13 Q. -- with a purchase?

14 I show you what's been marked State's Exhibit 26 for
15 identification and ask you if you recognize that?

16 A. Yes, I do. It bears my signature.

17 Q. And what is that document?

18 A. This is an application for a firearm.

19 Q. And who filled out that document?

20 A. Mr. Vandross.

21 Q. Were you present when he filled out that document?

22 A. Yes, I was.

23 Q. Were you required to sign that document?

24 A. Yes, I am.

25 Q. Did you sign that document?

RONNIE PERRY - DIRECT BY MR. PEACE

1 A. Yes, I did.

2 Q. Did Mr. Vandross sign that document?

3 A. Yes, he did.

4 Q. Did he sign that document in your presence?

5 A. Yes, he did.

6 Q. I show you what has been marked State's Exhibit 27
7 for identification and ask you if you recognize that document?

8 A. Yes, sir. This is a pistol purchase application
9 that goes to SLED.

10 Q. Who fills that document out?

11 A. The customer who is the purchaser.

12 Q. And who filled that particular document out?

13 A. Charles Vandross.

14 Q. Did he do that in your presence?

15 A. Correct.

16 Q. Did he sign it?

17 A. Correct.

18 Q. Did you sign it?

19 A. Yes, I did.

20 Q. Did he sign it in your presence?

21 A. Yes, he did.

22 Q. I now show you State's Exhibit 1, which is a Bersa
23 Firestorm .380, Serial Number 604772, and ask you if you
24 recognize that pistol?

25 A. Yes, I do.

RONNIE PERRY - DIRECT BY MR. PEACE

1 Q. And how do you recognize that pistol?

2 A. By verifying the serial number of the pistol on the
3 application.

4 Q. Did you sell that pistol to Mr. Vandross?

5 A. Yes, I did.

6 Q. And when did you do that?

7 A. It was 7-30-04.

8 MR. PEACE: Thank you, Mr. Perry.

9 Your Honor, the State would move that State's
10 Exhibit 25 -- I'm sorry, 26 and 27 for identification be
11 admitted as State's Exhibits 26 and 27.

12 MR. BACOT: That's without objection, Your Honor.

13 THE COURT: So admitted.

14 (WHEREUPON, State's Exhibit Numbers 26 and 27,
15 Documents, were admitted into evidence.)

16 MR. PEACE: Thank you, Mr. Perry. Please answer any
17 questions Mr. Bacot may have.

18 MR. BACOT: I have no questions of this witness,
19 Your Honor.

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

21 MR. PEACE: Your Honor, with the Court's permission.
22 Mr. Perry is missing work. I'd ask that he be --

23 THE COURT: Do you all have any objection to his
24 leaving?

25 MR. BACOT: No objection.

BRANDON STRICKLAND - DIRECT BY MR. PEACE

1 THE COURT: You're free to leave. Thank you, sir.

2 MR. PEACE: Your Honor, the State would next call
3 Corporal Strickland to the stand.

4 BRANDON RICHARD STRICKLAND, after having been
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. PEACE:

8 Q. Corporal Strickland, would you please state your
9 name for the record.

10 A. Brandon Richard Strickland.

11 Q. And where are you employed?

12 A. At the Greenwood County Sheriff's Office.

13 Q. And how long have you been employed there?

14 A. Since May of 1999.

15 Q. What were your duties on November 4th of 2004?

16 A. I was a corporal with uniformed patrol division.

17 Q. As part of your duties did you participate in an
18 investigation involving the death of Sanford Best?

19 A. I did.

20 Q. And what did you do?

21 A. I attended the autopsy of Mr. Best.

22 Q. And where was that autopsy held?

23 A. At the Newberry Hospital.

24 MR. PEACE: Your Honor, it may be appropriate at
25 this time to offer the stipulation regarding the chain in

BRANDON STRICKLAND - DIRECT BY MR. PEACE

1 custody of the body of Mr. Sanford Best.

2 THE COURT: All right. Ladies and gentlemen,
3 another stipulation that has been entered into by Mr. Peace
4 and Mr. Bacot on behalf of his client states that it's hereby
5 stipulated between the State and the Defense, with the express
6 consent of the Defendant, Charles Vandross, that on November
7 4th of 2004, the body of Sanford Best was transported by EMS
8 Attendant Scott Delano and Chris Ricketts from 3938 McCormick
9 Highway to the morgue. From there, the body was transported
10 by Deputy Coroner Steve Owens to the offices of Dr. Joel S.
11 Sexton in Newberry, South Carolina where the autopsy was
12 performed.

13 This has been entered as Court's Number 1. It is
14 stipulated by and between the parties. Ladies and gentlemen,
15 again, I tell you, you are to accept this information as
16 though the facts have been proven here in the courtroom.

17 If you will, please.

18 MR. PEACE: Thank you, Your Honor.

19 BY MR. PEACE:

20 Q. Corporal Strickland, what did you do at the autopsy?

21 A. I observed the autopsy take place and then was
22 turned over evidence by Dr. Sexton and transported it back to
23 our evidence technician.

24 Q. And who is your evidence technician?

25 A. Eric Inks.

BRANDON STRICKLAND - DIRECT BY MR. PEACE

1 Q. And what items were turned over to you?

2 A. A plastic bag containing a container with a bullet
3 inside the container.

4 Q. I now show you what's been marked State's Exhibit 39
5 for identification and ask you if you recognize that?

6 A. Yes, sir, I do.

7 Q. And what is State's Exhibit 39, Corporal Strickland?

8 A. It's a bullet fragment and a container that's
9 labeled from the autopsy, and that is what I transported back
10 from the autopsy.

11 Q. Is that the container that you received from
12 Dr. Sexton at the autopsy?

13 A. That is the container, yes, sir.

14 MR. PEACE: Your Honor, I'd move State's Exhibit 39
15 be admitted as State's Exhibit 39.

16 Your Honor, I'll withdraw moving it into evidence at
17 this point.

18 BY MR. PEACE:

19 Q. All right. Corporal Strickland, did you see
20 Dr. Sexton remove any items from the body of Sanford Best?

21 A. Yes, sir.

22 Q. And what did you see him remove?

23 A. I saw him remove a bullet fragment from his head.

24 Q. And what did he do with that fragment?

25 A. He placed it in a labeled container, that is in the

BRANDON STRICKLAND - CROSS BY MR. BACOT

1 same plastic bag as the bullet.

2 Q. Is that State's Exhibit 39 for identification which
3 you just identified?

4 A. Yes, sir.

5 Q. And I believe -- and did you testify you gave that
6 to Eric Inks?

7 A. I did, yes, sir.

8 MR. PEACE: Thank you, Corporal Strickland. That's
9 all the questions I have. If you will please answer any
10 questions that Mr. Bacot has.

11 CROSS-EXAMINATION

12 BY MR. BACOT:

13 Q. Who else was present at the autopsy, Corporal?

14 A. From my agency?

15 Q. Who was in the room when the autopsy was being
16 performed, everybody?

17 A. I remembered it being, without referring to my
18 report, Steve Owens from the coroner's office, as well as
19 Dr. Sexton, and if I can remember correct, Dr. Ross. It was
20 three total doctors, but Dr. Sexton was the administering
21 doctor.

22 Q. And you're referred to Mr. Inks as the one who was
23 handling all the evidence, collecting all the evidence for
24 this particular crime; is that right?

25 A. That is who I turned the evidence that I received,

ERIC INKS - DIRECT BY MR. PEACE

1 that's who I turned it over to.

2 Q. You didn't have anything else to do with this case
3 other than your responsibility at the autopsy?

4 A. No, sir.

5 MR. BACOT: That's all I have, Your Honor.

6 THE COURT: Anything further?

7 MR. PEACE: No redirect, Your Honor.

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

9 MR. PEACE: Your Honor, the State would next call
10 Eric Inks to the stand.

11 ERIC INKS, after having been duly sworn,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. PEACE:

15 Q. Mr. Inks, where are you employed?

16 A. I am employed with the Greenwood County Sheriff's
17 Office.

18 Q. And how long you been employed there?

19 A. Since September of 1993.

20 Q. What were your duties at the sheriff's office on
21 November the 4th, 2004?

22 A. I was assigned to crime scene investigations.

23 Q. Did you have an opportunity to conduct the crime
24 scene investigation at 3938 McCormick Highway?

25 A. Yes, sir, I did.

ERIC INKS - DIRECT BY MR. PEACE

1 Q. Please tell the jury what you did at that location.

2 A. The morning of November 4th I received a telephone
3 call from Greenwood dispatch advising the incident, shooting
4 incident occurring at 3938 McCormick Highway. I proceeded
5 towards that location, and while in route I was notified and
6 requested to go to the Greenwood County Detention Center
7 because a suspect in this incident was in custody.

8 I was directed to perform a gunshot residue
9 collection kit on this suspect and I also took two photographs
10 of the suspect and did collect his outer clothing that had
11 been taken from him and placed in property.

12 At that time, finishing those duties there, I
13 proceeded onto the incident location at 3938 McCormick
14 Highway. I was advised and briefed by sheriff's office
15 personnel there of the incident.

16 I performed a preliminary walk-through, photographed
17 the exterior and interior of the residence and proceeded to
18 collect pertinent information and evidence, took that evidence
19 into my control. And upon leaving the crime scene at
20 approximately 1600 hours I proceeded back to the sheriff's
21 office to enter these items into evidence to later be
22 submitted to SLED for forensic analysis, as needed.

23 Q. All right. Now, I'm going to show you a number of
24 State's exhibits for identification and ask you if you
25 recognize them. State's Exhibit 28 for identification, I ask

ERIC INKS - DIRECT BY MR. PEACE

1 you if you recognize that photograph?

2 A. Yes, I do.

3 Q. And what is that photograph?

4 A. This is a photograph I took that morning at the
5 Greenwood County Detention Center of the suspect in custody at
6 this time.

7 Q. Are those clothes that he had on at this time?

8 A. Yes, it is.

9 Q. I show you what's been marked State's Exhibit 38 for
10 identification and ask you if you recognize that?

11 A. Yes, sir, I do.

12 Q. And what is that photograph? What is depicted in
13 that photograph?

14 A. This is a photograph depicting the head wound
15 received by the victim in this case that I did take at the
16 incident location crime scene.

17 Q. I now show you what's been marked State's Exhibit 33
18 for identification and ask you if you recognize that?

19 A. Yes, sir, I do. This is another photograph I took
20 of the victim at the crime scene.

21 Q. I show you what's been marked State's Exhibit 34 for
22 identification and ask you if you recognize that?

23 A. Yes, sir, I do. This is a photograph of a Bible
24 laying beside the victim's right hand taken at the crime
25 scene, 3938 McCormick Highway.

ERIC INKS - DIRECT BY MR. PEACE

1 Q. Now I show you what's been marked State's Exhibit 35
2 for identification and ask you if you recognize that?

3 A. Yes, sir, I do. This is another photograph of the
4 victim I took at the crime scene, 3938 McCormick Highway.

5 Q. I show you what's been marked State's Exhibit 36 for
6 identification and ask you if you recognize that photograph?

7 A. Yes, sir, I do. This is a photograph taken by
8 myself at the crime scene, 3938 McCormick Highway, of the
9 victim.

10 Q. Now I show you what's been marked State's Exhibit 37
11 for identification and ask you if you recognize that
12 photograph?

13 A. Yes, sir. This is a photograph I took at the crime
14 scene, 3938 McCormick Highway. It is another angle of a Bible
15 laying by the victim's right hand.

16 Q. I now show you what's been marked State's Exhibit 29
17 for identification and ask you if you recognize that?

18 A. Yes, sir, I do. This is a photograph taken by
19 myself at the crime scene, 3938 McCormick Highway, of a shell
20 casing which was located next to the baseboard on the wall
21 immediately adjacent to the headboard of the bed that the
22 victim was laying in at the time.

23 Q. Now I show you what's been marked State's Exhibit 30
24 for identification and ask you if you recognize that?

25 A. Yes, I do. This is a photograph taken by myself of

ERIC INKS - DIRECT BY MR. PEACE

1 some crumbled up duct tape that was located in the passenger
2 seat, front passenger seat of Ms. Suber-Wilson's vehicle that
3 was parked outside the residence at 3938 McCormick Highway.

4 Q. I now show you what's been marked State's Exhibit 31
5 for identification and ask you if you recognize that?

6 A. Yes. This is another angle of the duct tape located
7 in the front passenger seat of Ms. Suber-Wilson's vehicle
8 parked outside the residence at 3938 McCormick Highway, and
9 this angle also shows a roll of duct tape on the floorboard in
10 front of the front passenger seat.

11 Q. Thank you. I now show you what's been marked
12 State's Exhibit 32 for identification and ask you if you
13 recognize that?

14 A. Yes, sir. This is the rear entrance of the
15 residence located at 3938 McCormick Highway, and it shows
16 items on the deck outside of that door.

17 MR. PEACE: Thank you.

18 Your Honor, I'd move that State's Exhibits for
19 identification 32, 31, 30, 29, 37, 36, 35, 34, 33, and 38, and
20 28 be admitted as State's Exhibits with the corresponding
21 numbers.

22 MR. BACOT: Without objection, Your Honor.

23 THE COURT: All right. So admitted, without
24 objection.

25 (WHEREUPON State's Exhibit Numbers 28 through 38,

ERIC INKS - DIRECT BY MR. PEACE

1 Photographs, were admitted into evidence.)

2 BY MR. PEACE:

3 Q. Now I show you State's Exhibit 1, Mr. Inks, and ask
4 you if you recognize that?

5 A. Yes, sir, I do.

6 Q. How do you recognize that?

7 A. This is the firearm submitted to me by Corporal
8 Chris Hammett into evidence, the item recovered from the
9 incident location.

10 Q. Thank you. And what did you do with this pistol?

11 A. I packaged that pistol in a secured cardboard gun
12 box container that we use for evidence, sealed the container
13 and later submitted it to SLED forensics services for forensic
14 analysis.

15 Q. I now show you State's Exhibit 39 for identification
16 and ask you if you recognize that?

17 A. Yes, sir, I do.

18 Q. And what is State's Exhibit 39?

19 A. This is a plastic vial that had contained a bullet
20 fragment that was submitted to me, Corporal Strickland, that
21 came from the autopsy of the victim, and this item was logged
22 into evidence and later submitted to SLED forensic services
23 for forensic analysis.

24 Q. I now show you what's been marked State's Exhibit 42
25 for identification and ask you if you recognize that?

ERIC INKS - DIRECT BY MR. PEACE

1 A. Yes, I do.

2 Q. And what is State's Exhibit 43?

3 A. This is a portion of crumbled duct tape that I
4 recovered from the front passenger seat of Ms. Suber-Wilson's
5 vehicle at 3938 McCormick Highway. I packaged this evidence
6 in this paper bag. I sealed it, logged it into evidence and
7 later submitted it to SLED forensic services for analysis?

8 Q. Now I show you what's been marked State's Exhibit 41
9 for identification and ask you if you recognize that?

10 A. Yes, I do. These are two pieces of duct tape that I
11 recovered from the incident location at 3938 McCormick Highway
12 from the master bathroom. These items were contained or stuck
13 to the trash can in the bathroom.

14 I collected them, placed them in this paper bag and
15 sealed it, labeled them, logged this into evidence and later
16 submitted it to SLED forensic services for analysis.

17 Q. I now hand you what's been marked State's Exhibit 43
18 for identification and ask you if you recognize that?

19 A. Yes, sir, I do.

20 Q. And what is State's Exhibit 43?

21 A. This is a roll of duct tape that I recovered from
22 Ms. Suber-Wilson's vehicle at 3938 McCormick Highway. It was
23 located in the front passenger floorboard of the vehicle.

24 I placed this item in this plastic evidence
25 container, sealed it, logged it into evidence at the Greenwood

ERIC INKS - DIRECT BY MR. PEACE

1 County Sheriff's Office and later submitted it to SLED
2 forensic services for analysis.

3 MR. PEACE: Thank you.

4 Your Honor, if I may have just a moment.

5 (WHEREUPON, State's Exhibit 51, Pants, were marked
6 for identification only.)

7 BY MR. PEACE:

8 Q. I now show you what's been marked as State's Exhibit
9 51 for identification and ask you if you recognize that?

10 A. Yes, I do.

11 Q. And what is State's Exhibit 51?

12 A. This is a pair of pants that I recovered from
13 Greenwood County Detention Center, Sergeant Lark, the
14 detention officer in charge at that time, and these were items
15 taken from the defendant at the time of his booking, and he
16 was wearing these items in the photograph.

17 (WHEREUPON, State's Exhibit No. 52, a Shirt, was
18 marked for identification only.)

19 BY MR. PEACE:

20 Q. I now show you what's been marked State's Exhibit 52
21 for identification and ask you if you recognize State's
22 Exhibit 52?

23 A. Yes, sir, I do.

24 Q. And what is State's Exhibit 52?

25 A. This is the shirt worn by the defendant that I

ERIC INKS - DIRECT BY MR. PEACE

1 collected, received from Sergeant Lark at the Greenwood County
2 Detention Center, and this is the same shirt worn by the
3 defendant in the photograph I took.

4 Q. Thank you. Now I hand you what has been marked
5 State's Exhibit 40 for identification and ask you if you
6 recognize State's Exhibit 40?

7 A. Yes, sir, I do.

8 Q. And what is that?

9 A. This is the shell casing that I located and
10 recovered from the incident location at 3938 McCormick
11 Highway. The shell casing was recovered from the floor
12 immediately beside the baseboard on the wall adjacent to the
13 headboard of the bed that the victim was lying in.

14 I collected this item. I placed it in this evidence
15 box, sealed it with tape. It has my initials on it. I logged
16 it into evidence at the Greenwood County Sheriff's Office and
17 later submitted it to SLED for forensic analysis.

18 Q. Now, Sergeant Inks, is that the casing depicted in
19 State's Exhibit 29 for identification?

20 A. Yes, sir, it is.

21 MR. PEACE: Your Honor, I think this may be the
22 appropriate time to publish the remaining two stipulations,
23 the one dealing with the pants and the shirt.

24 THE COURT: All right. Ladies and gentlemen, the
25 stipulation that has been marked as Court's Exhibit Number 2,

ERIC INKS - DIRECT BY MR. PEACE

1 stipulation between the Solicitor and the Defendant, and his
2 attorney states that it is hereby stipulated between the State
3 and the Defense, with the express consent of the Defendant,
4 Charles Vandross, that Luke Lark took possession of the shirt
5 and pants worn by Mr. Vandross and turned them over to
6 Mr. Inks.

7 And the stipulation that has been marked as Court's
8 Exhibit Number 4 stipulates that it is hereby stipulated
9 between the State and the Defense, with the express consent of
10 the Defendant, Charles Vandross, that the following items of
11 evidence were properly processed by SLED Agent Cecil
12 Bradstreet; one, a Bersa Firestorm .380 caliber pistol, Serial
13 Number 604772, a fired cartridge casing, a bullet from Sanford
14 Best, duct tape, and pants and a shirt of Charles Vandross.

15 Again, I tell you that these matters have been
16 stipulated and agreed upon by the parties and you are to
17 accept them as though those items have been proven here in the
18 courtroom.

19 MR. PEACE: Your Honor, at this time, the State
20 would move that State's Exhibit 41 for identification be
21 admitted as State's Exhibit 41.

22 MR. BACOT: 41 without objection, Your Honor.

23 (WHEREUPON, State's Exhibit No. 41, Duct Tape, was
24 admitted into evidence.)

25 MR. PEACE: State's Exhibit 42 for identification.

ERIC INKS - DIRECT BY MR. PEACE

1 MR. BACOT: Without objection on 42.

2 (WHEREUPON, State's Exhibit No. 42, Duct Tape, was
3 admitted into evidence.)

4 MR. PEACE: State's Exhibit 43 for identification.

5 MR. BACOT: Without objection on 43.

6 (WHEREUPON, State's Exhibit No. 43, a Roll of Duct
7 Tape, was admitted into evidence.)

8 THE COURT: So admitted, without objection.

9 MR. PEACE: Your Honor, the State would move State's
10 Exhibit 52 for identification be admitted as State's Exhibit
11 52.

12 MR. BACOT: Without objection.

13 (WHEREUPON, State's Exhibit 52, a Shirt, was
14 admitted into evidence.)

15 MR. PEACE: The State would move State's Exhibit 51
16 be admitted -- for identification be admitted as State's
17 Exhibit 51.

18 MR. BACOT: Without objection.

19 THE COURT: So admitted, without objection.

20 (WHEREUPON, State's Exhibit 51, a Pair of Pants, was
21 admitted in evidence.)

22 BY MR. PEACE:

23 Q. Did you do anything else in relation to the
24 investigation in this case, Sergeant?

25 A. I, the following day, did go with Lieutenant Cromer

ERIC INKS - DIRECT BY MR. PEACE

1 to take the photographs of the churches, and that's all I was
2 involved with.

3 MR. PEACE: Thank you, Sergeant Inks. That's all
4 the questions I have. Please answer any questions Mr. Bacot
5 has.

6 THE COURT: Do you have a lot of questions?

7 MR. BACOT: I'm going to have a few.

8 THE COURT: Let's take a break at this time.

9 Ladies and gentlemen, I'll let you step back to the
10 jury room. Please don't discuss the case while you're back
11 there. We'll take about a 15, 20 minute break and bring you
12 back out in just a few minutes.

13 (WHEREUPON, the jury leaves the courtroom at
14 approximately 3:30 p.m.)

15 THE COURT: We'll take about a 15, 20 minute break.

16 You can sit down, but don't discuss your testimony
17 while you are on break.

18 (WHEREUPON, a brief recess was taken.)

19 THE COURT: All right. Are we ready to go?

20 MR. PEACE: The State is ready, Your Honor.

21 THE COURT: Let's bring the jury in, if we could,
22 please.

23 (WHEREUPON, the jury enters the courtroom at
24 approximately 4:04 p.m.)

25 THE COURT: All right. You ready?

ERIC INKS - CROSS BY MR. BACOT

1 MR. BACOT: Yes, sir.

2 THE COURT: If you would, please, sir.

3 CROSS-EXAMINATION

4 BY MR. BACOT:

5 Q. Mr. Inks -- I apologize. What is your correct rank?
6 What is your correct title?

7 A. Sergeant.

8 Q. Sergeant Inks. It's your job with this crime scene
9 to go to the scene and collect evidence; is that correct?

10 A. That's right.

11 Q. And you are doing that as you've been trained
12 through your experience with the department. They train you
13 in how to do it and you go out and do your job; is that right?

14 A. Yes, sir.

15 Q. And you follow guidelines both from the department
16 and from SLED in the collection of evidence and how you
17 process it and what you decide to collect and what you don't;
18 is that right?

19 A. Yes, sir.

20 Q. As part of your investigation we talked about
21 several things that you did take, the duct tape and sent that
22 off to SLED, and other items, and we'll get to those in a
23 minute. I want to focus first on D. N. A. testing. Tell the
24 jury, if you will, every single item that you collected a
25 sample, specifically for SLED to do a D. N. A. test on?

ERIC INKS - CROSS BY MR. BACOT

1 A. D. N. A. is basically derived from, obviously, body
2 fluids and things pertaining to the body where D. N. A. is
3 located. I collect, or had collected, on this case I
4 collected, I took a swab of blood sample of the writing in
5 blood that was testified to earlier.

6 I take that into evidence and then as I'm directed
7 by the investigation division to submit what is needed to
8 either prove identity or a link in the case.

9 Q. In this case, did you take a sample of the blood
10 that was written on the half wall in the bathroom?

11 A. Yes, I did. I took two swabs.

12 Q. Did you properly submit those swabs to SLED for
13 testing?

14 A. No, I did not.

15 Q. Why not?

16 A. In the course of the investigation it was determined
17 by my superiors that it wasn't necessary at the time, and I
18 was never directed to submit it to SLED.

19 Q. So you were not directed -- let me ask you this way.
20 Were you specifically instructed by your superiors not to
21 submit the blood from the half wall in bathroom to SLED for
22 D. N. A. testing?

23 A. I advised my superiors what I had collected.
24 Obviously, in the investigation things were discussed, and I
25 told them what I had, and they advised, yes, let's submit

1 that, let's submit this, let's submit that. But whatever it
2 was I followed their instructions.

3 Q. And because it was not submitted to SLED we do not
4 know today whose blood is actually on the half wall in the
5 bathroom; is that right, through D. N. A. testing?

6 A. Through D. N. A. testing. Not through forensic
7 analysis, to my knowledge.

8 Q. The only evidence that we have is the word of
9 Ms. Joanne Suber-Wilson, to your knowledge; is that right?

10 A. I believe so, from the testimony heard earlier.

11 Q. And I'm going to show you Defendant's Exhibit Number
12 8. Do you recognize that as the shirt that Ms. Suber-Wilson
13 was wearing?

14 A. This is a photograph I took of a shirt from
15 Ms. Suber-Wilson's vehicle. I don't know what time she was
16 wearing it. I did not see her wearing this at the time it was
17 requested to be taken from her.

18 Q. I understand, but you are familiar with this shirt
19 though?

20 A. Yes. It looks exactly like the one that I --

21 Q. And you agree that these blemishes on the shirt --
22 is that blood? Does it look like blood?

23 A. It was a darker brownish. As I said, I did not
24 field -- any kind of field analysis to determine if it was
25 blood, and to my knowledge, I did not submit that to

ERIC INKS - CROSS BY MR. BACOT

1 forensics.

2 Q. No field analysis. So you do not know as of today
3 whether or not it was blood or not?

4 A. I do not know.

5 Q. And you did not independently turn that over to SLED
6 for analysis to determine one, if it were blood, and two,
7 whose blood it might have been?

8 A. No.

9 Q. You don't have any other evidence to determine what
10 that substance might be and if indeed it is blood, whose blood
11 it might be, other than the testimony of Ms. Suber-Wilson, do
12 you?

13 A. I do not. I do not.

14 Q. Now, let's talk about fingerprints for a minute.
15 Where all did you gather fingerprints from this crime scene?

16 A. From Ms. Wilson's vehicle. There were smudges. I
17 did process the vehicle. Nothing came out with enough ridge
18 detail, which is an identifying characteristic of
19 fingerprints, therefore, none of them were of good enough
20 quality, in my experience, to submit to SLED.

21 Q. Did you perform any fingerprint testing on the
22 weapon?

23 A. No, I did not.

24 Q. And why is that?

25 A. Because I knew the evidence would be submitted to

ERIC INKS - CROSS BY MR. BACOT

1 SLED, and it's SLED policy that if you are going to submit
2 something to them they do all the forensic testing on them.

3 Q. Did you request that SLED do a fingerprint analysis
4 on the gun?

5 A. I would have to look at the submission form.

6 Q. Do you have those here?

7 A. I believe the Solicitor's Office has --

8 (WHEREUPON, some documents were handed to the
9 witness.)

10 Q. If you could, please, sir, tell me if those are the
11 documents you need to answer that question.

12 A. Yes, sir, they are.

13 Q. From those documents that I've given to you -- well,
14 first of all, what did I just hand you? What are those
15 documents?

16 A. Sir? Could you repeat it.

17 Q. Yes, sir. I apologize. I did not speak loudly
18 enough. What is that document that I just handed to you?

19 A. This document is a SLED laboratory forensic services
20 request. This form is filled out by the submitting agency to
21 be sent to the State Law Enforcement Division with any
22 evidence submitted for forensic analysis.

23 Q. And if you would, please, sir, take a moment to
24 review that and then answer the question whether or not you
25 requested from SLED that they perform fingerprint analysis on

ERIC INKS - CROSS BY MR. BACOT

1 the weapon in this case?

2 A. No, I did not request latents on the firearm.

3 Q. What did you request fingerprints on?

4 A. I did request latent processing on the duct tape,
5 both items of duct tape, and also on the roll of duct tape.

6 Q. Now, let's be clear. Latents means what?

7 A. Latent would be a latent invisible fingerprint
8 impression until it's processed, then it becomes visible in
9 one shape, way or another, depending on the process used.

10 Q. So from your report that you got there and your
11 recollection did you submit this item -- let me rephrase that.
12 From that report and your recollection on the duct tape, do
13 you submit the duct tape to SLED and say SLED, please tell me
14 in any way that you all see fit if any evidence remains on
15 this duct tape, or do you tell them I want you to do
16 fingerprint analysis, or I want you to do D. N. A. analysis,
17 or I want you to do this kind of analysis?

18 A. Your request can be specific, as you mentioned. On
19 the roll of duct tape I did request latents, which is to see
20 if there's any fingerprints on the item, and also to request
21 to see if there is a match on the roll of duct tape to the
22 three pieces submitted with the torn off crumpled pieces that
23 were collected also.

24 Q. So in this particular case, from the evidence that
25 you've seen subsequently to your request SLED performed

ERIC INKS - CROSS BY MR. BACOT

1 D. N. A. testing as opposed to any type of fingerprint testing
2 on the duct tape; is that right?

3 A. Yes, that's correct.

4 Q. Let's go back to fingerprints for a minute before we
5 get back to the duct tape. Was there any fingerprint analysis
6 performed on the shells that were found either in
7 Mr. Vandross's pocket or around the ground that's been
8 testified to, the spent shell casing, any fingerprints on any
9 of those?

10 A. No. No latents were requested.

11 Q. All right. So not only did they not perform it for
12 you, in that particular instance you didn't request that any
13 fingerprint analysis be performed; is that right?

14 A. That's correct. Due to my knowledge and experience
15 with firearms often times when a firearm is discharged there's
16 an expansion of gas in the chamber and through the process of
17 a gun being fired and the shell casing being ejected I've been
18 told that the majority of the time latent impressions are not
19 obtainable from those things.

20 Q. And you are speaking of the ejected bullet, the
21 ejected shell casing?

22 A. The ejected and the case of the other cartridges,
23 intact cartridges, the fact that they were outside in the wet
24 ground. The probability of intact latent prints diminishes
25 over time and as they are affected on by environmental

1 conditions.

2 Q. Well, now, isn't it true that not all the bullets
3 were on the ground? The clip and some of the other shells
4 were in his pocket; is that right?

5 A. Yes, according to the information I have some of the
6 shells were on the defendant's person.

7 Q. So it's possible that those shells would not have
8 been disturbed by these environmental factors that you are
9 referring to; isn't that right?

10 A. Often times they can be disturbed by basic friction
11 within a container, in this case the defendant's pocket, has a
12 tendency to have a probability of destroying latent prints due
13 to their fragile nature.

14 Q. As the investigating officer in this case wouldn't
15 it have been useful to you and this jury now to know that the
16 shells in that pistol and the clip in that pistol were free of
17 fingerprints from anybody else other than Mr. Vandross?
18 Wouldn't that have been a useful piece of information?

19 A. It was something that could be considered but we
20 were focussing on the ballistic forensics of the weapon and
21 the spent cartridge and the projectile, the fact that the
22 pistol was already recovered from the defendant and wasn't
23 found elsewhere.

24 Q. And that also falls right in line with the testimony
25 and statements made by Ms. Joanne Suber-Wilson; is that right?

ERIC INKS - CROSS BY MR. BACOT

1 A. And which statements were those?

2 Q. The fact that he had the gun, that he had been
3 handling the gun, that he had used the gun, and all those.
4 The fact that you didn't test it you were essentially assuming
5 that what she said was correct? Is that a safe presumption?

6 A. I never spoke with Ms. Wilson as far as the evidence
7 and her story. That was done by the investigative division.
8 But as testimony was here today that could be probable?

9 Q. Did you do any fingerprinting on any of the
10 furniture or the door in her bedroom?

11 A. No, sir.

12 Q. And why didn't you perform any of that testing?

13 A. We were mainly focussing on the ballistic forensic
14 evidence and what I was directed, and as the investigation
15 proceeded as I was informed by the investigative division
16 things that they were feeling that they learned were kind of
17 relevant to the case this was the evidence that we submitted
18 for analysis.

19 Q. You agree with me, though, it would be relevant if
20 you tested the doorknob into her bedroom and it revealed his
21 fingerprints? That would be relevant, wouldn't it?

22 A. It could be relevant.

23 Q. But instead of performing that test your superiors
24 determined we're just not going to get into that. Is that the
25 way it happened?

ERIC INKS - CROSS BY MR. BACOT

1 A. Well, the door had damage to it, as I became
2 familiar with it when I arrived on the scene. The door had
3 damage to it, the door frame and the door, and I felt, you
4 know, that it was possible that certain fragile fingerprint
5 evidence may not be there.

6 Q. Let's move to G. S. R. for a moment. When you
7 submitted the gun and you requested this latent processing, if
8 SLED performed a -- excuse me. On D. N. A. on the weapon
9 itself, when you request a latent process on the weapon and
10 SLED comes back and they do a D. N. A. test, is that what they
11 did in this case?

12 A. I did not request latents on the firearm.

13 Q. At all?

14 A. No, I did not.

15 Q. Okay. Let's go to the G. S. R., gunshot residue.
16 Please explain the process in collecting specimens for that.

17 A. Gunshot residue, as I stated earlier, when a firearm
18 is discharged there are gases and gunpowder residue that will
19 exit the weapon, and normally it can be found in particle form
20 on the individual's hand that fired the gun.

21 And this is a process where that residue is not
22 always visibly seen on the skin is collected through an
23 adhesive type device, and it's submitted to SLED which is then
24 tested to see if this material on that is consistent with
25 gunpowders, primer, residue, things like that.

ERIC INKS - CROSS BY MR. BACOT

1 Q. Who did you perform a G. S. R. test on in this case?

2 A. I did perform one on the defendant, and from the
3 information submitted to me by Corporal Strickland, I believe
4 one was done on the victim, and that's often done at autopsy?

5 Q. And was one performed on Ms. Joanne Suber-Wilson?

6 A. No.

7 Q. And why is that?

8 A. Well, through the investigation it was determined
9 that the actual event of the gunshot could have happened as
10 early as midnight or around that time, and I did not come in
11 contact with Ms. Wilson until several hours.

12 Normally, there's a six hour -- six to eight hour
13 window where the residue that would be on the hand would
14 either rub off incidentally, or could be washed off, or things
15 like this. So if there is a period of time that has elapsed
16 on a living individual it is not probative. They can't be
17 definite in the assumption that that individual would have
18 fired a gun, and I later found this out after I had performed
19 the G. S. R. on the defendant.

20 At that time, I was directed to do that. We didn't
21 really know at the time exactly if we had an idea when the
22 incident of the gunshot actually occurred.

23 Q. Did you already have some assumptions in your mind
24 made up as to certain facts when you arrived at this crime
25 scene as to what had happened?

ERIC INKS - CROSS BY MR. BACOT

1 A. No, sir, I did not.

2 Q. Is it true that the basis for not testing Ms. Wilson
3 is because under this six hour theory that the G. S. R. would
4 have rubbed off or brushed off, is that the reason why you are
5 saying it was not tested, it was not collected?

6 A. I personally did not come in contact with Ms. Suber
7 until probably at least eight hours after I arrived on the
8 crime scene. She was no longer there when I arrived.

9 Q. Does either the sheriff's department or SLED not
10 have some policy that would instruct an investigating officer,
11 whether it be you or some other member of your agency, that
12 when you come to a crime scene that there's been a murder by a
13 shooting that you investigate by swabbing every living person
14 in the home? Does a policy exist to that affect?

15 A. As far as policy, not to my knowledge.

16 Q. Would that make sense? As a matter being the
17 investigating officer, would that make sense to you?

18 A. If there was living individuals it could, you know,
19 be probative. Like I said, at the time I arrived on the crime
20 scene I didn't know at the time what window we were looking at
21 from the time of the gunshot until the time of coming in
22 contact with the living individuals involved.

23 Q. And you don't have any other evidence other than the
24 statement given by Ms. Wilson or what you were told by your
25 superiors as to the time of the alleged shooting; is that

1 right?

2 A. Not one -- it was awhile after I arrived at the
3 crime scene as the interviews proceeded that we had a better
4 idea of the window.

5 Q. But my question is, the source of that information
6 stems from Ms. Suber-Wilson; is that right?

7 A. To my knowledge, but as I said, I never interviewed
8 Ms. Wilson.

9 Q. And there was no G. S. R. test performed on the
10 children; is that right?

11 A. No.

12 Q. Did you go to the scene of Defendant's Number 3?

13 A. Yes, sir, I did.

14 Q. And did you take that photo?

15 A. Yes, sir, I did.

16 Q. And can you indicate on this photo where
17 Ms. Suber-Wilson informed you that the car was parked?

18 A. She never informed me where it was parked, but in
19 her interviews with investigative division staff I was told
20 that she had attempted to back into this propane tank here.
21 So I looked at that -- saw that area. I photographed that
22 area because -- that's why I took the photograph, because it
23 depicts the tank that was there, the propane tank.

24 Q. Did you attempt to search for any clues that might
25 lead to a tire track analysis?

ERIC INKS - CROSS BY MR. BACOT

1 A. We did look for tire tracks. Normally, the tire
2 track itself is impression-type evidence, and the area
3 encompassing that propane tank was grass. The majority of it
4 was grass closest to the tank and probably for a radius of 20
5 or 30 feet, you know, out from it.

6 We did look for any evidence, impression evidence of
7 tire tracks in any softer material, such as sand and dirt, but
8 as this was -- it was the following day when these photographs
9 were taken. We did not discern any identifiable tire
10 impressions.

11 Q. Let me show you what's previously been marked but
12 not admitted as Defendant's Number 2. Do you recognize that
13 photo?

14 A. Yes, I do.

15 Q. And tell the jury, if you will, what that photo
16 depicts.

17 A. These are some documents that were on the bed. I
18 photographed them because they were on the bed at the time
19 that I entered the scene and basically recorded them and
20 collected them and held them for evidence pending
21 investigation or analysis or relation to the investigation.

22 MR. BACOT: Thank you.

23 Your Honor, I would move to have Defendant's Number
24 2 admitted.

25 MR. PEACE: Without objection.

ERIC INKS - CROSS BY MR. BACOT

1 THE COURT: So admitted.

2 (WHEREUPON, Defendant's Exhibit No. 2, a Photograph,
3 was admitted into evidence.)

4 BY MR. BACOT:

5 Q. Discussing G. S. R. and the particles that exist
6 after firing the weapon, does that happen to any person that
7 fires a weapon?

8 A. With my training, in theory it does, but it can be,
9 like I said, acted upon by various things, depending on
10 garments worn. But in theory it is a test that can be
11 administered to see if there is any gunshot residue on the
12 hands.

13 Q. Does the residue also remain on the weapon itself?

14 A. It can. As I explained earlier, on the discharge of
15 a weapon, gases and gunpowder particles, primer, residue,
16 things like that, it's an explosion, basically, is what the
17 discharge of a firearm is. It's a controlled explosion. And
18 there is residue within the gun, within the firearm. And as I
19 said, you know, submitted it to SLED for testing.

20 Q. So if you come into contact with someone who has
21 recently fired a weapon or with the recently fired weapon then
22 that residue can come from either one of those sources and
23 come on your body?

24 A. In theory it can. If you pick up a weapon that's
25 been recently fired the residue would probably be on your palm

ERIC INKS - REDIRECT BY MR. PEACE

1 or surface of your hand as you pick up the weapon, and often
2 times gunshot residue can be found on all surfaces.

3 You know, obviously, as you are holding a weapon and
4 you discharge it it can also get on the -- you know, the back
5 part of your hand and the web of your thumb, things like that.

6 Q. Is this invisible to the naked eye, you can't see it
7 with the naked eye?

8 A. Yes. It's mainly invisible, yes, with modern
9 firearms.

10 MR. BACOT: That's all the questions I have.

11 THE COURT: Anything?

12 MR. PEACE: Just a couple of questions, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. PEACE:

15 Q. Sergeant Inks, do you know how many people handled
16 the pistol before you got it?

17 A. According to the chain of custody submitted to me
18 the firearm was recovered by Captain Scott, passed off to
19 Corporal Hammett. Corporal Hammett submitted it to me. I
20 repackaged it in the evidence container, as it was submitted
21 to me in a bag. I repackaged it in an evidence container and
22 submitted it to SLED for forensic analysis. At that time, I
23 don't know how many people touched it after I submitted it.

24 Q. Would you normally request latent print examination
25 on an item that you knew had been handled so much?

DR. JOEL SEXTON - DIRECT BY MR. PEACE

1 A. Normally not. And as I said, especially since it
2 was recovered off of the defendant he obviously had been in
3 possession of it because it was taken from the defendant.

4 Q. All right. The doorknob to the bedroom, would it be
5 unusual to find a fingerprint on a doorknob from someone who
6 had stayed at the residence?

7 A. No, it's not unusual. Anyone that could have come
8 in contact with the residence could have left latent
9 impressions there.

10 MR. PEACE: Thank you. I have no further questions.

11 THE COURT: All right. Thank you. You may step
12 down.

13 MR. PEACE: Your Honor, if I may. Sergeant Inks is
14 a school resource officer and he has some other obligations
15 this afternoon.

16 THE COURT: All right. You're free to leave. Thank
17 you.

18 MR. PEACE: Thank you, sir. The State would next
19 call Dr. Joel Sexton to the stand.

20 DR. JOEL STEVEN SEXTON, after having been duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. PEACE:

24 Q. Dr. Sexton, would you please state your full name
25 for the record.

DR. JOEL SEXTON - DIRECT BY MR. PEACE

1 A. Dr. Joel Steven Sexton.

2 Q. Are you licensed to practice medicine in the State
3 of South Carolina?

4 A. Yes, sir.

5 Q. What is your educational background?

6 A. I attended the University of Virginia on a Naval
7 scholarship. I spent three years in the Navy as a line
8 officer. Then I attended the Medical College of South
9 Carolina to receive a masters in chemistry, then went on to
10 the Medical University of South Carolina to receive in 1968 an
11 M. D. degree and become licensed in the state.

12 I then trained at the Medical University in the
13 field of pathology, and in 1972 when I completed that I became
14 national board certified in anatomic pathology, clinical
15 pathology and forensic pathology.

16 I then taught at the Medical University until 1983
17 when I moved to Newberry where I am the director of the
18 pathology department at the Newberry County Hospital.

19 During the time that I taught at the Medical
20 University I was also the Charleston County Medical Examiner,
21 which is the coroner's medical equivalent of a coroner, and
22 myself and the coroner had the responsibility to determine
23 which cases were autopsied and to find a cause and manner of
24 death in those cases.

25 In addition, I was the consulting forensic

DR. JOEL SEXTON - DIRECT BY MR. PEACE

1 pathologist and head of the forensic section of pathology at
2 the Medical University and we handled cases from all over the
3 state at that time.

4 Currently, myself and my associate do forensic cases
5 for about 26 of the county coroners, which number over 800
6 each year, and we do that in Newberry.

7 Q. Dr. Sexton, how many autopsies have you performed?

8 A. Well over eight thousand, and I've also supervised
9 at least that many or more.

10 Q. How many times have you testified in court?

11 A. Over seven hundred times.

12 Q. How many times have you been qualified as an expert?

13 A. On all of those occasions.

14 MR. PEACE: Your Honor, I would submit Dr. Sexton as
15 an expert in forensic pathology.

16 MR. BACOT: We have no objection to his
17 qualifications.

18 THE COURT: Ladies and gentlemen, if scientific,
19 technical or other scientific knowledge will assist you, the
20 trier of the facts, in understanding any evidence or
21 determining any issue that is in controversy a witness may be
22 qualified as an expert by virtue of his or her knowledge,
23 skill, experience, training or education, and by virtue of
24 being qualified as expert the witness can offer an opinion in
25 his or her areas of expertise.

DR. JOEL SEXTON - DIRECT BY MR. PEACE

1 I find Dr. Sexton to be qualified as an expert in
2 forensic pathology and as such he can offer opinions in this
3 area. You are to give his testimony such weight and
4 credibility as you deem appropriate, as you will with any and
5 all witnesses that will testify in this trial. Thank you.

6 BY MR. PEACE:

7 Q. Dr. Sexton, did you have an occasion to perform an
8 autopsy on Sanford Best on November the 4th, 2004?

9 A. Yes. We did that around two in the afternoon on
10 that day.

11 Q. Could you describe to the jury what you found during
12 this autopsy.

13 A. At the time of autopsy we ask that the body be
14 brought just as it is at the time it's pronounced dead. In
15 this case, Mr. Best came to us wearing a pair of undershorts,
16 socks and having only one external injury, which was a gunshot
17 wound here above his right eyebrow, and the bullet passed to
18 the rear, straight back through the brain.

19 The entrance wound had findings consistent with a
20 light contact wound, meaning that the gun was right against
21 the skin lightly at the time the gun was fired.

22 When a gun is fired, in addition to the bullet
23 coming out, you have powder particles and flames and
24 completely burned powder in the form of soot or a gas. The
25 soot that can be there can be easily wiped away or washed

1 away. The powder particles can stipple and tattoo the skin
2 and require surgery to remove, like other tattoos.

3 The flames can actually char the edge of the skin,
4 and this wound had charring, as well as a very small area of
5 powder tattooing as it came out of the gun because it wasn't
6 that hard against the skin, and some soot, indicating it was
7 very close touching the skin at the time of discharge.

8 Q. Now, Dr. Sexton, based on that being a close
9 contact, would it be unusual for somebody not to hear the
10 shot?

11 A. No, it's actually not. People can make silencers
12 for guns by simply shooting through an empty quart size drink
13 bottle. Because the glass inside there, that sound sort of
14 reverberates inside. It doesn't get out when the bullet comes
15 out the other end. And certainly the head, which is an
16 enclosed structure, acts the same way.

17 I've heard many cases of people who have been shot
18 with a gun against their head and people near them did not
19 hear the gunshot. A lot of that depends on how easily a
20 person is awakened by noise. But it is a very quite sound
21 compared to what you would expect from a gunshot that did not
22 go directly into a closed area.

23 Q. So would it be surprising to you to hear someone who
24 was in close proximity to say they didn't hear the shot?

25 A. No, it would not.

DR. JOEL SEXTON - DIRECT BY MR. PEACE

1 Q. Based on the autopsy and within the bounds of
2 reasonable certainty have you formed an expert opinion
3 concerning the cause of death of Mr. Best?

4 A. Yes, I have.

5 Q. And what is that opinion?

6 A. The laceration and other damage to the brain, in my
7 opinion, was the cause of death, due to the gunshot wound.

8 Q. Now, Dr. Sexton, I show you what's been marked
9 State's Exhibit 39 for identification and ask you if you
10 recognize that exhibit? And if you need to open that,
11 Dr. Sexton, you may do so.

12 A. This is a heated Ziploc that's been heat-sealed with
13 my initials on it and our label on it. Inside is a vial that
14 has our label on it and my initials, and also a flattened
15 jacketed bullet that matches the photographs that I took,
16 three views of the bullet. This is the bullet that I removed
17 from the head of Sanford Best at the time of autopsy.

18 Q. And, Dr. Sexton, do you recall what you did with
19 that bullet?

20 A. Yes. It was transferred to Officer Strickland, who
21 was at the autopsy.

22 MR. PEACE: Dr. Sexton, thank you very much. That's
23 all the questions I have. If you'll answer any questions
24 Mr. Bacot may have.

25 CROSS-EXAMINATION

DR. JOEL SEXTON - CROSS BY MR. BACOT

1 BY MR. BACOT:

2 Q. Thank you, Doctor. You testified that you would
3 like to have the body presented to you in the same position it
4 was at the time of death; is that correct?

5 A. The same condition. It's not the same position.

6 Q. Condition, excuse me.

7 A. Yes.

8 Q. Do you have any reason to believe, based upon your
9 analysis of the body, how it's presented to you, that a pillow
10 was placed over Mr. Best's head?

11 A. I was not given a pillow so I don't know whether
12 there was a hole in a pillow or soot or anything around a hole
13 in a pillow. The entry wound did have charring and soot
14 around it which usually is prevented from reaching the skin if
15 it's a usual type pillow. There are some very thin pillows
16 that certainly could allow that through.

17 Q. I'm going to hand you a document. Do you recognize
18 that?

19 A. I do.

20 Q. Could you tell the jury what that is, please.

21 A. This is the initial history that we were given at
22 the time of the autopsy.

23 Q. And what is the source of the information on that
24 history, if you will, please?

25 A. Marcia Kelly from Greenwood Coroner's Office.

DR. JOEL SEXTON - CROSS BY MR. BACOT

1 Q. And that information would have been received by
2 Ms. Kelly by?

3 A. I have no idea.

4 Q. Okay. Thank you. So it's not necessarily
5 consistent with the ultimate findings of the autopsy -- excuse
6 me. I'll rephrase that. The information that you ultimately
7 decide, the information that's included in this history that's
8 taken is not necessarily consistent with the ultimate result
9 of the autopsy; is that correct?

10 A. In this case, it may be inconsistent. As I
11 mentioned, I have not seen a pillow to know if there was a
12 pillow with a hole through it, and I don't know where it would
13 have been at that time. But we were given a history earlier
14 that there was a pillow at the scene that had been shot
15 through.

16 Q. And we also talked about this being a contact shot.
17 I believe that's in your report as well. Contact, and you
18 describe that as being either gently pressed on the skin or
19 close to it; is that right?

20 A. Right. Gently pressed is what we refer to as
21 contact, either hard or light contact. Hard contact often
22 results in splitting of the skin when there's bone directly
23 underneath, where soft contact you get the charring and the
24 little bit of soot but you don't get the splitting.

25 Q. How would you define a fatal distant penetrating

1 shot?

2 A. As a typo that I didn't catch the first time I
3 looked at the report; and I corrected it on my copy.

4 Q. So you agree with me that part of your report
5 submitted indicates that this was a distant shot?

6 A. On the front sheet there is a typographical error
7 that indicates a distant shot. In the body of the text and
8 the photographs that I'm looking at from having done the
9 autopsy and looking at those photographs and in the rest of
10 the autopsy it all refers to as contact.

11 Q. Did you do any tests to indicate a time of death?

12 A. All we do is evaluate the body when we see it after
13 it has been moved, sometimes refrigerated and handled by
14 others to see if there is anything inconsistent with the time
15 that we are given.

16 In order to be at all accurate in determining time
17 of death we would have to be at the scene of death to examine
18 that body for rigor mortis, lividity and temperature, and
19 we're unable to do that because of our obligation to the
20 living patients because we have a surgical pathologist service
21 as well as a forensic service. So we are unable to pinpoint a
22 time of death. We simply indicate the time given unless
23 there's some inconsistency to it.

24 Q. So, essentially, you performed no test to determine
25 the time of death. You rely on the information that's been

DR. JOEL SEXTON - REDIRECT BY MR. PEACE

1 given to you to establish the time of death?

2 A. That's accurate. Correct.

3 MR. BACOT: That's all I have, Your Honor.

4 THE COURT: Anything?

5 REDIRECT EXAMINATION

6 BY MR. PEACE:

7 Q. Dr. Sexton, was Sanford Best shot in the head?

8 A. Yes, he was.

9 Q. Did you recover a bullet from Sanford, from Sanford
10 Best's head?

11 A. Yes, I did.

12 Q. Was that a close or a light contact wound?

13 A. In my opinion, yes, it was.

14 Q. In your opinion, did he die from that, being shot in
15 the head?

16 A. Yes, he did.

17 MR. PEACE: Thank you. No further questions.

18 THE COURT: Anything, Mr. Bacot?

19 MR. BACOT: No, sir.

20 THE COURT: Thank you, Doctor.

21 MR. PEACE: Your Honor, the State would next call
22 Adrienne Riley.

23 THE COURT: Do you all have any objection to
24 Dr. Sexton returning to Newberry?

25 MR. BACOT: Sir?

ADRIENNE RILEY - DIRECT BY MR. PEACE

1 THE COURT: Any objection to Dr. Sexton --

2 MR. BACOT: No, sir, not at all.

3 THE COURT: Thank you, sir. Thank you for coming.

4 ADRIENNE RILEY, after having been duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. PEACE:

8 Q. Ms. Riley, where are you employed?

9 A. I'm employed with the South Carolina State Law
10 Enforcement Division, more commonly known as SLED.

11 Q. And how long have you been employed there?

12 A. Since November of 1997.

13 Q. What are your duties at SLED?

14 A. My primary duty at SLED is to serve as a forensic
15 D. N. A. analyst.

16 Q. What educational background do you have that
17 prepared you for your position at SLED?

18 A. I have a bachelor of science degree in biology from
19 the University of South Carolina. I have done post-graduate
20 work in the field of genetics in cell molecular biology as
21 well as statistics. I have attended different symposiums on
22 an annual basis to stay abreast of any changes in the field of
23 D. N. A. analysis, as well as being taught on the job by a
24 court qualified examiner.

25 Q. Have you testified as an expert in General Sessions

ADRIENNE RILEY - DIRECT BY MR. PEACE

1 Court before?

2 A. Yes, sir, I have.

3 Q. How many times?

4 A. Approximately 17 times.

5 MR. PEACE: Your Honor, I would submit Ms. Adrienne
6 Riley as an expert in forensic D. N. A. analysis.

7 MR. BACOT: No objection.

8 THE COURT: All right. Again, ladies and gentlemen,
9 if scientific, technical or other specialized knowledge will
10 assist you, the trier of the fact, in understanding any
11 evidence or in determining any fact that may be an issue the
12 witness is qualified as an expert by virtue of his or her
13 knowledge, skill, experience, training or educations and may
14 testify as an expert and may offer an opinion in his or her
15 areas of expertise. I find this witness to be qualified as an
16 expert in D. N. A. analysis.

17 MR. PEACE: Yes, sir. Forensic D. N. A. analysis.

18 THE COURT: Forensic D. N. A. analysis. As such she
19 can offer opinions in her area of expertise. You all can give
20 her testimony such weight and credibility as you deem
21 appropriate.

22 MR. PEACE: Thank you, Your Honor.

23 BY MR. PEACE:

24 Q. Ms. Riley, what is D. N. A.?

25 A. D. N. A., it stands for deoxyribonucleic acid. It

ADRIENNE RILEY - DIRECT BY MR. PEACE

1 is basically the genetic material that we receive from each
2 one of our parents. We receive half of it from our mother and
3 half of it from our father, and it's contained in all nucleic
4 cells of our body.

5 Now, we all have some of the same D. N. A., the
6 D. N. A. that codes to give us two arms, and two legs, and a
7 nose, two eyes. But if we look around this courtroom we can
8 tell that everyone looks different. So we each have different
9 D. N. A. that makes us unique. The only two people that have
10 the same D. N. A. would be identical twins.

11 Q. What type of -- or how is D. N. A. used for forensic
12 purposes?

13 A. Sure. Having said that about how D. N. A. --- how we
14 all look different and we are unique, we use that tool, that
15 knowledge in forensics to compare biological samples that may
16 have been left at a crime scene and we compare it to known
17 standards that were collected from the victim or the subject
18 -- and/or the subject.

19 Q. What type of D. N. A. analysis do you perform at
20 SLED?

21 A. The type of D. N. A. analysis that we perform is
22 known as P. C. R. or polymerase chain reaction and S. T. R.'s.
23 What that is, is we can take a small amount of D. N. A., and
24 where as we used to require a large stain, it's a small stain
25 and we can, if you think of it as a xerox copier, multiply it

ADRIENNE RILEY - DIRECT BY MR. PEACE

1 into enough D. N. A. that we are able to develop a D. N. A.
2 profile from it.

3 Q. From what specific types of human bodily fluids or
4 tissue can D. N. A. be obtained?

5 A. D. N. A. can be obtained from any biological fluid.
6 It can be obtained in blood, semen, saliva, hair, skin cells,
7 and the D. N. A. that's in your hair would be the same
8 D. N. A. that's in your skin cells or in your saliva or in
9 your blood.

10 Q. And as a D. N. A. analyst at SLED did you have
11 occasion to analyze any evidence related to the case against
12 Mr. Vandross?

13 A. Yes, sir, I did.

14 Q. Okay. And what type of evidence was submitted?

15 A. I received a blood standard, a known blood standard
16 from Sanford Best. I received swabs from a gun, I received
17 cuttings from subject's pants, I received hair from a piece of
18 silver duct tape, and as well as swabs from pieces of silver
19 duct tape. I received the pulled head hairs from Joanne
20 Wilson, which was used as a known standard, and swabs from the
21 outside and inside of a duct tape roll.

22 (WHEREUPON, State's Exhibit No. 53, a Sealed Bag,
23 was marked for identification only.)

24 Q. I now hand you what's marked as State's Exhibit 53
25 for identification and ask you if you recognize State's

ADRIENNE RILEY - DIRECT BY MR. PEACE

1 Exhibit 53 for identification?

2 A. Yes, sir. This is a heat-sealed pouch. The seal
3 contains the date that I opened it and posted my initials on
4 it.

5 Q. Can you tell the jury what's in the pouch. And if
6 you need to open the pouch, feel free to do so. Do you need
7 scissors?

8 A. Yes, sir.

9 In this heat-sealed pouch contained coin envelopes
10 and these coin envelopes were labeled item 9.1, which were
11 swabs from the gun; item 14.1, which were cuttings from pants;
12 item 14.2 and 14.3, which were also cuttings from the same
13 pair of the pants; item 22.1 and 22.1, which were swabs from
14 a duct tape roll with 22.1 being the outside and 22.2 being
15 the inside.

16 Q. Are those all the items that you had to analyze?

17 A. Yes, sir. I analyzed all of them except item 14.3,
18 which was the third cutting from the same pair of pants.

19 Q. And what were the results of your analysis of these
20 items?

21 A. I'll read directly from my report. The D. N. A.
22 profile developed from item 14.1 and 19.1, which were the
23 cuttings from suspect pants and the swabs from the piece of
24 duct tape, matches the D. N. A. profile of Joanne Wilson. The
25 probability of randomly selecting an unrelated individual from

ADRIENNE RILEY - CROSS BY MR. BACOT

1 the population having a D. N. A. profile matching these items
2 is approximately one in six hundred trillion.

3 Q. Is it safe to say that the blood on Mr. Vandross's
4 pants and the material found on the duct tape came from Joanne
5 Wilson?

6 A. The D. N. A. on the duct tape and the D. N. A. on
7 the pants came from Joanne Wilson.

8 Q. Did you have any other results from the items that
9 you analyzed?

10 A. Yes, sir. I received partial D. N. A. profiles,
11 which means there was a limited amount of D. N. A., too
12 limited to get a complete profile. But the partial D. N. A.
13 profiles developed from items 14.2, which was another pair --
14 another cutting from the pair of suspects pants; 18.2, swab
15 from the duct tape; 20.1, which is another swab from the duct
16 tape; and 22.2 also matches Joanne Wilson.

17 MR. PEACE: All right. Thank you, Ms. Riley. Those
18 are all the questions I have. Please answer any questions
19 that Mr. Bacot may have.

20 THE COURT: Mr. Bacot?

21 MR. BACOT: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BACOT:

24 Q. Ma'am, you also received swabs from the gun; is that
25 right?

1 A. Yes, sir.

2 Q. And the results of the swab of the gun indicate
3 what?

4 A. The D. N. A. profile developed from item 9.1, which
5 was the swabs from the gun, is too weak to reliably interpret,
6 which means, again, I have very limited amount of D. N. A.
7 And whereas before I could say it also matches because I had
8 enough to say it also matches, this one was too weak to
9 interpret.

10 Q. When someone handles a gun is that when the D. N. A.
11 actually comes off onto, whether it be the handle or the
12 barrel or wherever they've touched it?

13 A. Yes, sir, most likely.

14 Q. In your expert opinion, does it have to be a
15 particular period of time that they have to handle it, or a
16 manner or the tightness of the grip or --

17 A. Well, it can. Once handling the gun, you can swab
18 off skins cells on it or maybe sweat that could also leave a
19 D. N. A. print on the gun as well.

20 Q. So time is not relatively necessarily a factor in
21 determining whether or not D. N. A. will come off of your body
22 and onto a particular item?

23 A. Well, it depends on -- more so, it depends on the
24 condition as whether over time this gun or any particular item
25 of evidence was kept at optimal conditions, which means it

ADRIENNE RILEY - CROSS BY MR. BACOT

1 wasn't exposed to moisture or extreme heat, then the D. N. A.
2 should remain intact.

3 Q. Again, based on your expert opinion is there
4 anything that could have happened during the transfer of this
5 weapon from the scene to your office that would have caused
6 the deterioration of the D. N. A. sample?

7 A. Well, the more that evidence is handled it could
8 lead to evidence transfer to other places. I think -- is that
9 what you are asking, basically?

10 Q. But based on your analysis of this gun there was not
11 enough, or any, for that matter, D. N. A. of Charles Vandross
12 to determine that he had handled that gun; is that right?

13 A. Well, the D. N. A. profile that I developed from the
14 gun was too weak to draw any type of interpretation from.

15 Q. So you can't say Mr. Vandross handled that gun?

16 A. I cannot.

17 Q. Ma'am, are you familiar with the polymerase chain
18 reaction?

19 A. Yes, sir, that's the PCR test that we do at SLED as
20 I explained before.

21 Q. And did you perform that particular test on 9.1,
22 which is the gun swab?

23 A. Yes, sir, I did.

24 Q. And what is -- the purpose of that test is to do
25 what?

ADRIENNE RILEY - REDIRECT BY MR. PEACE

1 A. It's to amplify D. N. A. or to, like what I said
2 before, we have a small amount of D. N. A. to amplify it so we
3 can get a D. N. A. profile.

4 Q. So you did everything that you possibly could to try
5 to determine whose D. N. A. was on this gun, but even despite
6 your best efforts you could not say that Mr. Vandross handled
7 it; is that right?

8 A. I could not develop a D. N. A. profile that's
9 suitable for interpretation from the gun?

10 MR. BACOT: That's all I have.

11 THE COURT: All right. Anything?

12 REDIRECT-EXAMINATION

13 BY MR. PEACE:

14 Q. Ms. Riley, do you know where this swab came from on
15 the gun?

16 A. According to Cecil Bradstreet's notes, who is the
17 person who swabbed the gun, he swabbed the entire gun.

18 Q. Was there any human material submitted to you for
19 analysis?

20 A. I'm sorry, could you --

21 Q. Was there any skin, or any --

22 A. Well, the request that I received from the duct tape
23 rolls as well as the pieces of duct tape was a request for
24 skin cells or D. N. A. from skin cells on it.

25 Q. Did you find that?

ADRIENNE RILEY - REDIRECT BY MR. PEACE

1 A. Well, I did develop a D. N. A. profile from the duct
2 tape.

3 Q. And who was that from?

4 A. Joanne Wilson.

5 Q. Did you find the D. N. A. of Chris Hammett on the
6 gun?

7 A. I'm sorry?

8 Q. Did you find the D. N. A. from Chris Hammett on the
9 gun?

10 A. There was -- the D. N. A. that -- the D. N. A.
11 profile that was developed from the gun was too weak to offer
12 any type of interpretation.

13 Q. Did you find the D. N. A. from Chris Hammett on the
14 gun?

15 A. I didn't.

16 Q. Did you find the D. N. A. from Captain Scott on the
17 gun?

18 A. No.

19 Q. Did you find the D. N. A. from Eric Inks on the gun?

20 A. It was too weak to interpret, sir.

21 MR. PEACE: Your Honor, the State would move that
22 State's Exhibit 53 for identification be admitted into
23 evidence as State's Exhibit 53.

24 MR. BACOT: No objection, Your Honor.

25 THE COURT: So admitted.

ADRIENNE RILEY - RECROSS BY MR. BACOT

1 (WHEREUPON, State's Exhibit No. 53, a Bag Containing
2 Swabs, was admitted into evidence.)

3 MR. PEACE: I have no further questions, Your Honor.

4 THE COURT: Anything?

5 MR. BACOT: Yes, sir, just a couple.

6 RECROSS-EXAMINATION

7 BY MR. BACOT:

8 Q. On the duct tape you found skin cells?

9 A. I found D. N. A. Now, whether it came from skin
10 cells, I would assume so.

11 Q. And the only D. N. A. profile that matched what you
12 had was for Joanne Suber-Wilson; is that right?

13 A. That is correct.

14 Q. You didn't find any of Mr. Vandross's D. N. A. on
15 the duct tape either?

16 A. No, sir, I did not.

17 MR. BACOT: That's all I have, Your Honor.

18 THE COURT: Thank you, ma'am. You may step down.

19 MR. PEACE: Your Honor, if there's no objection, I'd
20 like for Ms. Riley to be excused.

21 THE COURT: You may leave. Thank you, ma'am.

22 MR. PEACE: Your Honor, the only two witnesses that
23 the State has left at this time are the two SLED agents.

24 THE COURT: Those are the ones that have been
25 summonsed for tomorrow?

1 MR. PEACE: Yes, sir. I asked them to come
2 tomorrow. I didn't know that we would get this far along
3 today.

4 THE COURT: All right. Ladies and gentlemen, that
5 means we get to break a little earlier than we anticipated.
6 Again, you've invested now a day and a half. I'm going to ask
7 that you not discuss the case with anybody while you are gone
8 tonight. And if anybody contacts you, get their name, let me
9 know who it is if anybody tries to talk about the case with
10 you. We will start tomorrow morning at 9:30. You all have a
11 nice evening and you are free to leave for the night. See you
12 tomorrow morning.

13 (WHEREUPON, the jury leaves the courtroom at
14 approximately 5:02 p.m.)

15 THE COURT: Okay. Anything we need to take up this
16 evening?

17 MR. PEACE: Not from the State.

18 MR. BACOT: No, sir.

19 THE COURT: You all have a nice evening. See you
20 tomorrow morning.

21 I guess if you've got any charges that you want me
22 to look at let me look at them in the morning since we thought
23 we'd be here a little later. But I'll be happy to go over
24 what I'm going to charge with you before we start, or I'll do
25 it right now. If you want to do that so you can decide

1 whether you want to --

2 MR. BACOT: I'll be prepared in the morning.

3 THE COURT: -- go get me some more charges because
4 you don't think I'm giving you enough.

5 You all have a nice evening and thank you. See you
6 tomorrow morning.

7 (WHEREUPON, the trial of this case was recessed for
8 the day.)

9 Thursday, January 19, 2006

10 THE COURT: It's my understanding the first witness
11 the State intends to call is a witness related to some
12 testimony about the ballistic.

13 Is that correct, Mr. Solicitor?

14 MR. PEACE: That is correct, Your Honor.

15 THE COURT: And the defense counsel has a motion you
16 wish to make prior to that testimony being offered.

17 MR. BACOT: That's correct. If I may, I would like
18 to renew my motion to suppress that evidence under the theory
19 that Judge Maddox ordered that Solicitor Peace give me all of
20 the evidence that he intended to submit at this trial no later
21 than 30 days prior to the first day of trial, and also that I
22 was prejudiced by not receiving that report until Wednesday of
23 last week, two business days before going to trial.

24 THE COURT: Anything you'd like to say?

25 MR. PEACE: Your Honor, my response is the response

1 I had the other day. He had it on Wednesday. On Friday, he
2 asked for more information for an expert, to review. He had
3 adequate time to do whatever review on the ballistics report
4 that he needed to do.

5 As you said, I could very well be in hot water with
6 Judge Maddox for not doing it within 30 days. But again, you
7 read the cases. The cases give a continuance during the trial
8 for the defense, if they need it, to do whatever they need to
9 do, but I'm not aware of any case where any evidence has been
10 suppressed because of this.

11 THE COURT: Of course, again, I'd go back to Judge
12 Maddox's order. I think that if the State failed to comply
13 with that order that that's a matter that you need to take up
14 with the State. My understanding is Judge Maddox didn't order
15 that if it wasn't that the testimony or the evidence was to be
16 suppressed, or whatever remedy. He didn't offer any remedy if
17 it wasn't.

18 MR. BACOT: This is true, Your Honor.

19 THE COURT: In addition to, my understanding of the
20 order, I've reviewed Rule 5 again and, of course, Rule 5
21 requires that it be -- the information be provided, I think 30
22 days prior to trial. But the remedy in that instance is, one,
23 the Court can continue it, the Court can suppress the
24 evidence, if it wants.

25 I mean, if the defendant had indicated to me that

1 they wished to have a continuance or had moved for a
2 continuance prior to this trial starting, based on what I know
3 my inclination would have been to grant the continuance. I'm
4 not going to say absolutely, because I didn't hear any
5 arguments about that, so that both Rule 5 and Judge Maddox's
6 order can be complied with. That was not done.

7 In fact, the defendant indicated that that was a
8 decision that defense counsel and defendant made jointly to
9 specifically not ask for a request. They didn't want a -- I
10 mean, a continuance. They didn't want a continuance.

11 They indicated at the time after the jury was sworn
12 and this matter was brought before the Court. If the defense
13 wanted a mistrial I was certainly willing to consider that.
14 But, again, that motion was never made. So apparently the
15 defendant wanted to go forward with the trial.

16 And the defense asked about what prejudice and the
17 defendant indicated, well, I may not have called another
18 ballistics expert. I don't know. I just know that I had 30
19 days and I didn't get this information before 30 days.

20 I do believe you had some time that you could have
21 at least contacted somebody to see whether it could be
22 reviewed or not be reviewed within the time for trial, or if
23 additional time was necessary. I think you did not do that;
24 is that correct?

25 MR. BACOT: As far as an expert?

1 THE COURT: As far as an expert.

2 MR. BACOT: Yes, sir, an expert was not contacted
3 regarding the ballistics.

4 THE COURT: No effort was ever made to secure an
5 expert and I think you all decided that you weren't going to
6 do that. You were going to ask that the evidence be
7 suppressed as opposed to try and have somebody look at it and
8 maybe come to a different conclusion to whatever the State's
9 conclusion is; is that correct?

10 MR. BACOT: And then prejudice I brought up the
11 other day when I made the motion with the fact that the theory
12 of the case had been developed on the concept that they could
13 not match the bullet to the weapon, and that's the only
14 additional things I brought up.

15 THE COURT: Of course, again, I don't know what --
16 tell me how you would have changed the tactics of your trial
17 here. That would have just been one less piece of the
18 evidence that the State would have offered, but how would your
19 strategy have changed?

20 MR. BACOT: Well, Your Honor, it did not change
21 because it didn't have the ability to change.

22 THE COURT: Well, what if you had 30 days, how would
23 your strategy have changed?

24 MR. BACOT: Your Honor, I cannot say. I cannot tell
25 you --

1 THE COURT: I mean --

2 MR. BACOT: -- with any specificity.

3 THE COURT: All this is, is additional evidence to
4 the strategy that the State has set forth all along; is that
5 correct?

6 MR. BACOT: I'll agree that this is additional
7 evidence for the State, yes, sir.

8 THE COURT: So apparently it doesn't change your
9 strategy. It just may be one more nail that the State is
10 trying to put into the board. All right. But, again, I'm
11 going to deny your motion, Counsel.

12 Now, you had indicated, is it necessary for you to
13 make a continuing objection as we go along, and I'm going to
14 tell you it's not. My understanding is your having done so
15 here today and once the trial got started and the evidence is
16 about to be presented that that is sufficient for your
17 purposes to protect your interest in this regard.

18 MR. BACOT: Yes, sir.

19 THE COURT: And I am treating it as that, that it is
20 sufficient. And, in fact, you know, the Court is not willing
21 to entertain an ongoing objection because you have let it be
22 known that your objection is ongoing.

23 MR. BACOT: Thank you, Your Honor.

24 THE COURT: All right. Are we ready to go?

25 MR. PEACE: The State is ready, Your Honor.

1 MR. BACOT: Yes, sir.

2 THE COURT: All right. Let's bring the jury in.

3 (WHEREUPON, the jury enters the courtroom at
4 approximately 9:43 a.m.)

5 THE COURT: All right. Good morning to you, ladies
6 and gentlemen. Sorry to keep you waiting for a few minutes
7 but we had a matter that we needed to take up, a matter of law
8 that I needed to take up.

9 Now, let me ask you something. Has anybody had any
10 discussion or been approached by anyone about this case?

11 (There was no response.)

12 THE COURT: The Solicitor and defense counsel have
13 indicated -- you know, I reside in Columbia so I don't have
14 access to you all's media, but they have indicated that there
15 was some report in the newspaper, your local paper here today.
16 I've not seen it, but I need to inquire, have you all read
17 anything or looked at anything, heard anything, listened to
18 any TV reports or radio reports or anything about this case?

19 (There was no response.)

20 THE COURT: Does that mean nobody has? Has anybody?

21 (There is no response.)

22 THE COURT: All right. Good. And I'm going to
23 encourage you, if for some reason this case goes beyond today,
24 and there's a possibility that it may not, don't read anything
25 or listen to anything on the radio or watch anything on

TRACY THROWER - DIRECT BY MR. PEACE

1 television. We don't want to do anything to jeopardize the
2 efforts that you put forth in this regard.

3 All right. Anything with respect to that inquiry of
4 the jury, Mr. Solicitor?

5 MR. PEACE: Not from the State.

6 THE COURT: Anything from the defendant?

7 MR. BACOT: No, sir.

8 THE COURT: They've indicated that they have not had
9 any media contact with the matter, and not discussed the case
10 with anybody or been approached by anybody.

11 So if you would call your first witness here this
12 morning, Mr. Solicitor.

13 MR. PEACE: Yes, sir. Thank you, Your Honor. If it
14 please the Court. The State would next call Tracy Thrower.

15 TRACY J. THROWER, after having been duly sworn,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. PEACE:

19 Q. Would you please state your name for the record.

20 A. Tracy J. Thrower, T-h-r-o-w-e-r.

21 Q. And how do you spell Tracy?

22 A. T-r-a-c-y.

23 Q. Mr. Thrower, where are you employed?

24 A. I'm employed by the South Carolina Law Enforcement
25 Division, also known as SLED, in the Forensic Services

TRACY THROWER - DIRECT BY MR. PEACE

1 Building in the Firearms Department.

2 Q. Are you a special agent --

3 A. I am, yes, sir.

4 Q. -- for SLED? Okay.

5 How long have you been employed by SLED?

6 A. It will be seven years this March.

7 Q. And what are your duties at SLED?

8 A. I am a firearm and toolmark examiner.

9 Q. Do you do firearms identification?

10 A. I do.

11 Q. What is firearms identification?

12 A. Firearm identification is a discipline of forensic
13 science in which a firearm examiner attempts to determine if a
14 fired bullet or fired cartridge case or other ammunition
15 component was fired from a particular firearm. This is
16 accomplished through the examination of class characteristic
17 and individual characteristics to determine if the components
18 were fired by a particular firearm.

19 There are also other similar examinations that we do
20 such as serial number restoration, muzzle to target distance
21 determination for shot pellets, fracture matches, toolmarks,
22 weapons destruction for the State of South Carolina, and other
23 physical examinations as necessary. We also do limited crime
24 scene response.

25 Q. What is your educational background?

TRACY THROWER - DIRECT BY MR. PEACE

1 A. I have a bachelor of science degree with a major in
2 biology. I have also attended the South Carolina Criminal
3 Justice Academy, and I am a certified police officer. I have
4 completed the SLED firearm and toolmark identification course
5 of instruction which was approximately a three year course
6 that was supervised by court qualified firearm examiners.

7 During this course of instruction I had to perform
8 extensive reading and extensive studying. I had to assist
9 examiners with preparing of cases. I was given written exams,
10 practical problems, practical exams. I had to attend various
11 schools and conferences. I also had to perform extensive
12 microscopic comparison. After this training was complete I
13 was allowed to start working cases on my own.

14 I have also attended the Federal Bureau of
15 Investigations course and specialized techniques in firearm
16 investigation. I have attended the Bureau of Alcohol, Tobacco
17 and Firearms course, and serial number restoration, and I have
18 also attended the scientifically defensible criteria for
19 identification of toolmarks put on Bruce Moran and Paul
20 Murdock.

21 Q. Are you a member of any professional organizations
22 associated with your work?

23 A. Yes, sir. I am a member of the Association of
24 Firearm and Toolmark Examiners, also known AFTE; and a member
25 of the South Carolina chapter of the International Association

TRACY THROWER - DIRECT BY MR. PEACE

1 for Identification, also know as SCIAI.

2 Q. Have you testified previously in court about
3 firearms identification?

4 A. Yes, sir, I have.

5 Q. And in what courts have you testified?

6 A. I know -- let's see. I've testified in York.

7 Q. Let me rephrase that. Has your testimony been in
8 General Sessions Court?

9 A. Yes, sir.

10 Q. How many times have you testified?

11 A. 14 times.

12 Q. Were you ever qualified as an expert?

13 A. Yes.

14 Q. How many times?

15 A. All 14.

16 MR. PEACE: Your Honor, at this time, the State
17 would submit Special Agent Thrower as an expert in firearms
18 identification.

19 MR. BACOT: Without objection.

20 THE COURT: All right. Ladies and gentlemen, again,
21 if specialized knowledge will assist the trier of fact,
22 scientific, technical or other specialized knowledge will
23 assist the trier of fact in understanding the matter that may
24 be in controversy or any fact in issue a witness qualified as
25 an expert by virtue of his or her knowledge, skill,

TRACY THROWER - DIRECT BY MR. PEACE

1 experience, training or education may offer an opinion in his
2 or her areas of expertise. I'm going to find this witness to
3 be qualified as an expert in the field of ballistics --

4 Forensic ballistics; is that correct?

5 MR. PEACE: Yes, sir.

6 THE COURT: And as such he can offer opinions in his
7 area of expertise. You are to give his testimony such weight
8 and credibility as you deem it appropriate.

9 BY MR. PEACE:

10 Q. Agent Thrower, I now show you State's Exhibit 1.
11 It's a Bersa Firestorm .380 caliber pistol, Serial Number
12 604772, and I'd ask you if you recognize that pistol?

13 A. First of all, ladies and gentlemen of the jury, I
14 have just checked this firearm both by sight and by feel. It
15 is not loaded. It is safe for me to handle.

16 This firearm is a Bersa model Firestorm in .380
17 auto caliber with a Serial Number of 604772, and it bears my
18 case number, my item number and my initials where I scribed
19 on the firearm.

20 Q. Thank you. I now show you State's Exhibit 40 for
21 identification and ask you if you recognize that?

22 A. Yes, sir. State's Exhibit Number 4 is one fired
23 .380 auto caliber cartridge case, C. B. C. or Magtech brand.
24 It also bears my case number, item number and initials.

25 Q. Now I show you what's been marked as State's Exhibit

TRACY THROWER - DIRECT BY MR. PEACE

1 39 and ask you if you can identify State's Exhibit 39?

2 A. State's Exhibit 39 is one fired bullet that also
3 bears my case number, item number and initials.

4 Q. Under what circumstances did these items, the
5 pistol, the shell casing and the fired bullet, come into your
6 possession?

7 A. They were submitted to the laboratory through the
8 evidence log-in process. The evidence log-in, I assume,
9 brought them to my department or somehow the evidence that
10 went through another department, it came to the firearms
11 department. I received that evidence from a fire lock, which
12 is a secured common evidence storage area in the firearms
13 department. It's where typically the evidence comes in to the
14 department.

15 Q. After you received these items of evidence did you
16 make any examination of these items?

17 A. I did, yes, sir.

18 Q. Could you please describe in detail for the jury
19 your examinations of these items.

20 A. I'll start with the cartridge case, the fired
21 cartridge case. A cartridge case is simply the container of a
22 piece of ammunition that holds the primer or the ignition
23 component, the powder, gunpowder, which is the propellant, and
24 the bullet. It 's what's left in the gun or is ejected from
25 the gun during firing.

TRACY THROWER - DIRECT BY MR. PEACE

1 My examination of this is I opened the container, I
2 viewed the evidence and compared the evidence with the
3 paperwork that I received with the evidence to make sure the
4 evidence is described as I received it.

5 I then took a departmental worksheet and took -- you
6 know, noted various aspects of this piece of evidence, such as
7 caliber, manufacturer, type of markings that I found that were
8 on the cartridge case from the firing process, and then I put
9 it aside for this point in time.

10 The bullet, I did the same thing. I received the
11 evidence, verified that the evidence was accurate as I
12 received it, took various measurements on the bullet, which is
13 the piece of ammunition that goes down the barrel towards the
14 target, and documented it on the departmental worksheet.

15 With the firearm, once again, received it, saw that
16 it was described correctly and filled out departmental
17 worksheets on various aspects of the firearm. But
18 additionally, I also had to check the function of the firearm
19 to make sure it was functioning properly.

20 I checked the safeties to make sure the safeties
21 were functioning properly, and they were. I tested trigger
22 pull, which is the amount of pressure that must be applied to
23 the trigger to cause it to fire.

24 I then took some ammunition from our reference
25 collection, test fired the firearm in our bullet recovery

TRACY THROWER - DIRECT BY MR. PEACE

1 tank, which is about a three foot in diameter large piece of
2 pipe that's about two stories tall. It's got a funnel at the
3 bottom and it's full of water.

4 When we test fire the firearm down into the pipe the
5 water slows the bullet, and as the bullet comes to a safe
6 speed it is collected by that funnel and dumped into a basket.
7 We can simply pull the basket up and now we have a test
8 specimen. We have a test fired bullet.

9 I also recovered the fired cartridge case at the
10 same time. Now I have test bullets and test cartridge cases
11 that I know were fired by this firearm because I fired them.
12 I take the test cartridge cases, the test bullets, I engrave
13 on them so they cannot be confused with the evidence, and then
14 I place them underneath a comparison microscope.

15 A comparison microscope is simply two microscopes
16 that sit side-by-side that are connected by an ocular bridge
17 so that when I look through the eyepieces I can see two
18 objects simultaneously sitting side-by-side, and as I view
19 these images I can see them under the same magnification and I
20 can rotate them or manipulate them simultaneously so I'm
21 looking at the same areas at the same time.

22 When I'm looking through the microscope I'm looking
23 for either impression evidence, as if, you know, you are
24 pushing your finger into the sand and pulling it out, you see
25 an impression of your finger, or I may be looking for

TRACY THROWER - DIRECT BY MR. PEACE

1 scratches or striations.

2 As two objects slide past each other the harder
3 object will scratch or mark the softer object. In this case,
4 the barrel of the firearm marking the bullet as it slides
5 through the barrel.

6 I examined the test fired components. If I see
7 enough similarities and see that the markings from these two
8 test fires I'm looking at, test bullets or test fired
9 cartridge cases, if I see enough similarity there then I can
10 say that they are good test specimens, that I can use them for
11 identification of a particular firearm or a particular bullet
12 or cartridge case to a firearm.

13 After I've done that, I then take the evidence
14 bullet, place it on one side of the microscope, a test
15 specimen, our test bullet and place it on the other side of
16 the microscope and I can look at these two items side-by-side
17 and see if there's enough markings there, if they are
18 consistent, if they are reliable markings to see if I can
19 match the bullet to the gun.

20 I do the same thing with the cartridge case. I look
21 at an evidence cartridge case versus a test cartridge case to
22 see if I can match it to the gun, if it was the gun that fired
23 them or not.

24 Q. Okay. Now, in this case -- I just don't remember
25 these numbers. In this case, did you take State's Exhibit 40

TRACY THROWER - DIRECT BY MR. PEACE

1 and take the cartridge that you fired to make a comparison?

2 A. I did. I did compare State's Exhibit 40, the fired
3 cartridge case, to test specimens from State's Exhibit 1, the
4 Bersa Firestorm pistol.

5 Q. Did you take State's Exhibit 39, the fired bullet,
6 and make comparisons to the bullet that you fired out of
7 State's Exhibit 1?

8 A. Yes, sir. I also compared the fired bullet, State's
9 Exhibit 39, to a test bullet fired from State's Exhibit 1.

10 Q. What conclusions did you reach as a result of the
11 examination?

12 A. That State's Exhibit 39, the fired bullet, and
13 State's Exhibit 40, the fired cartridge case, were both fired
14 by State's Exhibit 1, the Bersa Firestorm pistol.

15 MR. PEACE: Thank you, Agent Thrower.

16 Your Honor, we would move State's Exhibit 40 --
17 State's Exhibit for identification Number 40 be admitted as
18 State's Exhibit 40.

19 MR. BACOT: Without objection.

20 THE COURT: All right. So admitted.

21 (WHEREUPON, State's Exhibit No. 40, a Cartridge
22 Casing, was admitted into evidence.)

23 MR. PEACE: Agent Thrower, those are all the
24 questions I have. Please answer any questions Mr. Bacot may
25 have.

TRACY THROWER - CROSS BY MR. BACOT

1 MR. BACOT: Thank you.

2 CROSS-EXAMINATION

3 BY MR. BACOT:

4 Q. Sir, when you fired this weapon -- and you did test
5 fire this particular weapon; is that right?

6 A. Yes, sir.

7 Q. And when you say test fire, you take ammunition of
8 the same caliber that's alleged in the crime and use it when
9 you test fire the weapon?

10 A. Yes, sir. Whenever I do perform my test firing what
11 I attempt to do is figure out what brand of ammunition was
12 used in the crime or was submitted to me, and then I try to
13 get the -- I have to fire the same caliber. But I also try to
14 use the same manufacturer and type of ammunition as was
15 submitted too that I can most closely replicate what happened
16 during the incident.

17 Q. And when you perform these tests you are doing it at
18 the SLED site with a two-story tall apparatus with water in
19 the bottom; is that right?

20 A. Yes, sir.

21 Q. As part of your normal testing procedure are you
22 required to wear hearing protection when you fire this weapon?

23 A. Yes, sir.

24 Q. And is that because when a weapon fires it's loud?

25 A. It can be, yes, sir.

TRACY THROWER - CROSS BY MR. BACOT

1 Q. And when this weapon fired it was loud?

2 A. When it's fired in a water tank it echoes, so, yeah
3 it's loud.

4 Q. Have you ever fired a weapon similar to this caliber
5 without firing into this particular tank?

6 A. Yes, sir.

7 Q. And it sounds just like any other gunshot that you
8 ever heard before; is that right, it's loud?

9 A. Yes, sir.

10 Q. If you would, please, do you still have the weapon?

11 A. Yes, sir.

12 Q. Do you need the clip inserted into that weapon to
13 proceed with a test fire, obviously without ammunition today?

14 A. Yes, sir. This firearm has what is known as a
15 magazine safety. Basically what happens is if the magazine is
16 removed from the firearm the trigger is deactivated, you
17 cannot fire it if there's no magazine in the firearm.

18 Q. And you would agree with me from examination of that
19 clip it is empty at this time?

20 A. It is not loaded. It is empty, yes, sir.

21 Q. Please insert that clip into the weapon.

22 A. (The witness complied).

23 Q. And if you would, please demonstrate how you would
24 test fire that weapon. Obviously, it's unloaded.

25 A. If I had ammunition in it you would pull the slide

TRACY THROWER - CROSS BY MR. BACOT

1 back, let it go back forward to load one into the chamber, and
2 there are two different ways that you can test fire this
3 firearm. One is in a double action mode of fire, which means
4 that the trigger has to perform two functions. First, as you
5 pull the trigger you'll notice the hammer is being cocked.
6 That is the first thing that the trigger must do.

7 After the trigger is pulled, pull it to rear, the
8 hammer will be released. That is when it is fired. That is
9 the second function. It must then release the trigger -- or
10 release the hammer.

11 If you fire it in a single action mode of fire the
12 trigger only must perform one action. The hammer is either
13 first cocked by thumb cocking it, like I just did, or during
14 the loading process when you pull the slide to the rear and
15 let it go forward, then the trigger must only perform one
16 function, and that is simply to release the hammer.

17 Q. And when that hammer releases it makes that clicking
18 noise that we just heard; is that right?

19 A. Yes, sir.

20 Q. The hammer comes in contact with the ammunition,
21 ammunition fires?

22 A. Well, the hammer, actually, in this case, it has a
23 separate firing pin. The hammer strikes the firing pin, the
24 firing pin strikes the primer, which starts the firing
25 sequence.

TRACY THROWER - CROSS BY MR. BACOT

1 Q. Now, if there were actually ammunition in that clip,
2 obviously multiple shells, and you fired one round, what other
3 activity would be involved with that gun sliding back and
4 forth or what else would it do after that first round were
5 fired?

6 A. As part of the cycle of fire, when the hammer falls,
7 strikes the primer, the primer causes -- explodes, lights off
8 the gunpowder, hot gases form. Those hot gasses form a lot of
9 pressure. They push the bullet down the barrel towards the
10 target.

11 At the same time, all these hot gases are expanding
12 and they are putting equal pressure at the rear. Since the
13 cartridge case can't go rearward it puts all that pressure on
14 the slide on what are known as the breech face, which is that
15 portion of the firearm in here that supports the head of the
16 cartridge case, being that area right there (indicated).

17 All that pressure then causes the slide to come to
18 the rear. During this process, the cartridge case is pulled
19 out -- normally, the cartridge is up in this portion of the
20 barrel. When the slide comes to the rear the extractor pulls
21 that fired cartridge case into the rear. It hits an ejector
22 which then causes that fired cartridge case to be ejected from
23 the firearm.

24 When all this has occurred, the slide goes fully to
25 the rear. The spring tension in the firearm causes the slide

TRACY THROWER - CROSS BY MR. BACOT

1 to go back forward. As the slide is going forward it picks
2 the next cartridge out of the magazine, slides it up the feed
3 ramp then into the barrel and therefore loads the next
4 cartridge to be ready to fire a second time.

5 Also during this process it causes the hammer to
6 become cocked again. So that in order to fire a second shot
7 all you have to do is pull the trigger (indicated).

8 Q. Let's assume for a minute that there is absolutely
9 zero noise emitted from that weapon when it fires, assuming
10 that to be true you've got the noise of the trigger being
11 pulled, the hammer coming forward hitting the firing pin which
12 hits the ammunition, the slide coming back, the shell being
13 ejected and then the slide coming forward again; is that
14 right?

15 A. Yes, sir. The pulling of the trigger, though,
16 really doesn't make any noise but the rest of those will, in
17 fact, make some noise.

18 Q. Now, based upon my assumption can you say in your
19 expert opinion, do you know of any muffling device or silencer
20 or any contraption that would completely eliminate any noise
21 that might be attributed to this gun by the firing of this
22 gun?

23 A. Not to completely eliminate all noise.

24 Q. Can you give some example of things that might act
25 to contribute to eliminating that noise?

TRACY THROWER - CROSS BY MR. BACOT

1 A. Well, this firearm is not -- the barrel is not
2 threaded. It's not designed for a silencer, that I am aware
3 of. And something else is if the muzzle of the firearm was
4 placed against an object all the pressure, all those gases
5 that come out that make the typical cracker, the noise you
6 hear when a gunshot goes off, all those gases may be funneled
7 into an object which could cause the noise to be considerably
8 less, but you would still have the noise of the -- some noise
9 just simply from the slide working.

10 Q. And this considerable lessening of the amount of
11 sound that you are talking about, that does not reduce it, in
12 your opinion, to zero under any circumstances?

13 A. No, it would not be to zero.

14 Q. So regardless -- and you mentioned this wasn't
15 equipped for a silencer, but regardless of what other method
16 that you might use to attempt to reduce the sound emitted you
17 are not going to be able to reduced it to zero?

18 A. Not to the zero, no, sir.

19 Q. So there's going to be some sound resulting from the
20 gunshot itself?

21 A. Yes, there would be some noise.

22 MR. BACOT: That's all I have, Your Honor.

23 THE COURT: Anything further?

24 MR. PEACE: No redirect, no, sir.

25 THE COURT: Thank you, sir. You may step down.

JENNIFER STONER - DIRECT BY MR. PEACE

1 MR. PEACE: Your Honor, the State would next call
2 Jennifer Stoner to the stand.

3 JENNIFER M. STONER, after having been duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. PEACE:

7 Q. Ms. Stoner, would you please state your name for the
8 record.

9 A. Jennifer M. Stoner.

10 Q. And where are you employed?

11 A. I'm employed by the South Carolina Law Enforcement
12 Division in the forensic lab in the Trace Evidence Department.

13 Q. And how long have you been employed there?

14 A. I've been employed at SLED -- it will be nine years
15 this year, and eight of those years in trace evidence.

16 Q. Are you a senior agent at SLED?

17 A. I'm considered a senior agent, but we're now
18 forensic scientists, we're classified.

19 Q. What are your duties at SLED?

20 A. My duties at SLED are basically, they entail lab
21 work. Evidence comes into the lab and I am responsible for
22 analyzing it, contacting investigators, if I need more
23 evidence, generating reports and testifying in court.

24 Q. How long have you been involved in this work?

25 A. Nine years.

JENNIFER STONER - DIRECT BY MR. PEACE

1 Q. What special studies or training do you have to make
2 you a specialist in your work?

3 A. I have a bachelor of science degree in chemistry
4 from California University of Pennsylvania, which I obtained
5 in 1997. After I received my degree, I was hired at SLED in
6 the drug analysis department where I went through an in-house
7 training program there and analyzed drug and poison cases for
8 a year. I also attended the Criminal Justice Academy where I
9 became a certified police officer.

10 After a year in drug analysis, I transferred to the
11 trace evidence department. At that time, I began -- it's
12 approximately a three year training program where I work
13 underneath the lieutenant of the department and other senior
14 analysts who are trained in the disciplines that we analyze
15 for. I worked with them in that training program.

16 I also took outside courses that were given by the
17 National Forensic Academy, by the American Academy, by the
18 Southern Associations of Forensic Scientists. I've taken my
19 spectroscopy [ph] courses from McCrone Research Institute in
20 Chicago, from Lehigh University in Pennsylvania, and I've also
21 taken numerous workshops that are offered within the field.

22 Q. How much of your time is spent doing gunshot
23 residue?

24 A. I constantly review gunshot residue cases because of
25 the majority of cases we receive. We are on a rotation.

JENNIFER STONER - DIRECT BY MR. PEACE

1 Usually every two months I come on a rotation for a month or
2 so where I have to go receive these gunshot residue cases to
3 analyze.

4 Q. Have you testified in court before about gunshot
5 residue?

6 A. Yes, I have.

7 Q. And how many times?

8 A. I've testified in court approximately 45 times, and
9 about 25 of those were in gunshot residue or gunpowder
10 examinations.

11 Q. How many times were you qualified as an expert in
12 gunshot residue?

13 A. About 25 times.

14 MR. PEACE: Your Honor, the State would submit Agent
15 Stoner as an expert in gunshot residue.

16 MR. BACOT: Without objection.

17 THE COURT: All right. Ladies and gentlemen, I've
18 explained to you on a number of occasions what an expert is
19 and the purpose of an expert. I'm going to find Ms. Stoner
20 qualified as an expert in the field of gunshot residue. As
21 such, she can offer opinions in her areas of expertise. You
22 are to give her testimony such weight and credibility as you
23 deem it appropriate.

24 MR. PEACE: Thank you, Your Honor.

25 BY MR. PEACE:

JENNIFER STONER - DIRECT BY MR. PEACE

1 Q. Agent Stoner, I show you what's been marked as
2 State's Exhibit 52 and ask you if you recognize that shirt?

3 A. Yes. This shirt bears my initials. It's the shirt
4 that I collected samples from for this case.

5 Q. Did you make examinations as a result of collecting
6 samples from that shirt?

7 A. I did.

8 Q. And what type of examinations did you conduct?

9 A. I performed a gunshot residue examination on the
10 samples that I collected from the sleeves and the cuff area of
11 the shirt?

12 Q. What equipment did you use to make these
13 examinations?

14 A. For this examination I used what we call a scanning
15 electron microscope which magnifies particles of metallic
16 nature that I can look at to identify them as if they can be
17 associated with gunshot residue or if they are gunshot
18 residue.

19 Q. Did you reach any conclusion as a result of your
20 examination?

21 A. The examination on the shirt?

22 Q. The examination on the shirt.

23 A. On the shirt, I found round lead particles on both
24 sleeves or the garment and round lead particles are considered
25 one of the components of gunshot residue.

JENNIFER STONER - CROSS BY MR. BACOT

1 Q. So based on your examination what was your
2 conclusion?

3 A. My conclusion was that this shirt was worn when a
4 gun was fired or it was in the near vicinity of a gun when it
5 was fired to have gotten this residue on the sleeve area.

6 MR. PEACE: Thank you, Your Honor. I have no
7 further questions.

8 Please answer any questions Mr. Bacot may have.

9 MR. BACOT: Thank you.

10 CROSS-EXAMINATION

11 BY MR. BACOT:

12 Q. You testified that this shirt was either held by the
13 person that fired the weapon or near the weapon when it was
14 fired; is that right?

15 A. That's correct. Also, if we have something on
16 someone's hands it can be from them handling a weapon, firing
17 a weapon or being in that cloud that's formed when a weapon is
18 fired, they would receive the gunshot residue. It will
19 deposit on them.

20 Q. And would you refer to that as contamination?

21 A. No, it's just the cloud of gunshot residue that's
22 formed when a gun is fired. Anything in the near vicinity it
23 can deposit on.

24 Q. When a gun is fired does gunshot residue remain on
25 the weapon?

JENNIFER STONER - CROSS BY MR. BACOT

1 A. Yes, it does.

2 Q. If a gun is fired and it's handled by someone else
3 that did not fire the weapon do they get gunshot residue on
4 their hands?

5 A. They can get it on their hands, yes.

6 Q. If someone who's recently handled the weapon that
7 has been fired and then touches articles of clothing can the
8 gunshot residue rub off onto the clothing?

9 A. It can, but that's a secondary transfer. You don't
10 expect as much to be transferred. You may find one or two
11 particles that can be transferred, but it can. It's a
12 possibility?

13 Q. Did you also have an opportunity to perform a test
14 on a jacket that was provided?

15 A. I had an item 23, which was a black jacket, and I
16 did perform a test on it.

17 Q. And you said did perform a test?

18 A. I did.

19 Q. And what were the results of that test?

20 A. On the jacket I also collected particle lifts to
21 analyze for gunshot residue, and the results were the left
22 sleeve of the jacket were inconclusive, which means I found
23 nothing on the right sleeve. The only thing I found on the
24 left sleeve was one round particle, and if we don't have any
25 other thing to back it up we have to report it inconclusive.

JENNIFER STONER - CROSS BY MR. BACOT

1 Q. Now, on the jacket you said it was inconclusive; is
2 that right?

3 A. The left sleeve was inclusive, yes.

4 Q. Of the jacket?

5 A. Yes.

6 Q. And it was inconclusive because all you found was
7 one round lead particle?

8 A. That's correct.

9 Q. But on the sleeves of the shirt you also found just
10 round lead particles; is that right?

11 A. I found numerous round lead particles, not just one.

12 Q. But just round lead particles?

13 A. I found round lead particles on the shirt, I found a
14 nonround gunshot residue particle, a round lead antimony
15 particle and eight round lead particles.

16 Q. What other components are included in gunshot
17 residue other than round lead particles and other items you
18 referred to?

19 A. Gunshot residue is considered as a particle that
20 contains barium, antimony and lead, but you also have round
21 lead particles that you can get when you fire a weapon. So in
22 order to call it gunshot residue I have to have barium,
23 antimony and lead. All I had was the round lead and a
24 nonround particle that contained these elements. That's why I
25 couldn't say it was gunshot residue, but what I found was

JENNIFER STONER - CROSS BY MR. BACOT

1 consistent with what we see when we have gunshot residue.

2 Q. So what you are really telling this jury is you
3 can't say that this is gunshot residue? You're saying it's
4 consistent with what you normally see as gunshot residue?

5 A. That's correct. I can't say that it is gunshot
6 residue because I did not have that round particle that
7 contained all three elements. But in the in-house studies
8 that we've done in our lab we see round lead the majority of
9 the time when we have these cases. We always see round lead.
10 We don't necessarily always see the round gunshot residue
11 particles. So, in my opinion, this is consistent with gunshot
12 residue but I can't tell you it is beyond a shadow of a doubt?

13 Q. Cannot tell us that?

14 A. I cannot tell you it is.

15 Q. As an expert I want to put a hypothetical to you, if
16 I may. If this weapon was removed from an individual's pocket
17 after it had been recently fired and then the individual that
18 handled this weapon when he removed it from the person's
19 pocket then touched the individual's clothing could gunshot
20 residue from that recently fired weapon transfer onto the
21 individual's clothing?

22 A. If it was in his pocket, removed from his pocket by
23 another person and that person touched his clothing?

24 Q. Yes, ma'am.

25 A. There's a possibility of transfer. I wouldn't

1 expect to see a lot of particles like I did see on this one.
2 I would have expected a less amount of particles. But it is a
3 possibility.

4 Q. Now, did you also receive a request to perform
5 gunshot residue analysis on a swab taken from the defendant?

6 A. On a swab?

7 Q. Let me rephrase the question. If a gunshot residue
8 sample is taken from an individual how is that taken from the
9 individual themselves?

10 A. It's a combination gunshot residue kit. It contains
11 particle lifts and swabs.

12 Q. And was a G. S. R. kit performed on the defendant in
13 this case?

14 A. There was a G. S. R. kit that was performed on a
15 Charles Nemon Vandross.

16 Q. And were the items included in that kit tested as
17 part of your analysis?

18 A. They were not tested because this gunshot residue
19 kit was collected six hours after the incident. Gunshot
20 residue is very fragile evidence. It will not remain on your
21 hands if you are a living person or a living suspect beyond
22 six hours because the residue -- it's somewhat like if you
23 bake and you get flour on your hands.

24 You can't see the gunshot residue like you can see
25 the flour, but if you brush your hands off you are going to

JENNIFER STONER - CROSS BY MR. BACOT

1 remove it, if you sweat you are going to remove that residue,
2 if you wash your hands you're going to remove that residue,
3 and your body will naturally absorb this residue, also.

4 So after six hours there's no reasonable expectation
5 to find any residue on their hands so we do not look at the
6 kits after this time. If we look at a kit that was taken
7 beyond six hours we cannot associate it with the incident that
8 occurred. So we do not look at those kits if they are
9 collected beyond the six hour timeframe.

10 Q. And what's the source of your information as to the
11 time of the information?

12 A. We received a gunshot residue analysis form that's
13 in with the gunshot residue kit and the collecting officer
14 fills out this information, and we have a date and time of the
15 shooting and a date and time of the collection.

16 Q. And the date and time, do you know in this case that
17 the date and time came from Ms. Joanne Suber-Wilson?

18 A. I have no knowledge of where it came from. I just
19 have the sheet that's filled out and submitted to our
20 laboratory.

21 Q. This six hour rule, is that a guideline? Is there
22 some policy that you are following on that six hour rule?

23 A. It's a policy that we have in our lab. The F. B. I.
24 also has a policy. Theirs is a shorter timeframe. We
25 extended it to include larger caliber weapons so the officer

1 doesn't have to decide in the field what kind of gun was used,
2 can I collect it at three hours or six hours. We just have a
3 six hour cutoff.

4 Q. And do other states vary in their timeline
5 between --

6 A. The F. B. I. is the only one that I'm aware of that
7 varies. I don't have any knowledge of the other states'
8 timeframe, but we went off the F. B. I.'s guideline, added a
9 little bit to it and that's what we have.

10 Q. How exact -- when we say six hours. If you get this
11 report in and it came in at 6:05 after the alleged incident
12 happened, is that close enough or does it really matter?

13 A. We have been cutting it off at six hours.

14 Q. Exactly?

15 A. Exactly. In the past we have wavered a little bit
16 but we've recently had a policy put in at six hours so we're
17 consistent. We cut it off. So if it's 6:01 we don't look at
18 it.

19 Q. Well, isn't it true that if we would have tested the
20 G. S. R. from Mr. Vandross's kit that it would have given us
21 some results, even if that result is inconclusive?

22 A. It could have given you some result. It could have
23 been a negative, which I couldn't have explained did he not
24 fire a weapon or was the residue gone because of the six hour
25 timeframe. If it had been a positive I couldn't have

JENNIFER STONER - CROSS BY MR. BACOT

1 associated it with that incident. He may have gone down the
2 road three hours prior to when it was collected and shot the
3 gun again. So I couldn't associate it with the incident for
4 which we want the information on so it really had no value.

5 Q. Was there a gunshot residue kit performed on
6 Ms. Suber-Wilson?

7 A. I only received two gunshot residue kits. One from
8 the suspect, Charles Nemon Vandross, and one from Sanford D.
9 Best.

10 Q. Hypothetically, if a test would have been drawn from
11 Ms. Suber-Wilson could you have studied the results of
12 Ms. Suber-Wilson's results and compared them to the test from
13 Mr. Vandross to determine the relative amounts of G. S. R., if
14 any, on those two tests?

15 A. Who is Joanne Suber? What is her connection in the
16 case? When would they have gunshot residued her, two hours
17 after the incident, six hours after? When would that kit have
18 been taken on her?

19 Q. Well, in this case it wasn't taken.

20 A. But I'm asking you, if it had been taken what was
21 the timeframe?

22 Q. In my hypothetical, let's assume for a moment that
23 it was taken within hours of Mr. Vandross's?

24 A. So it's also beyond the six hour timeframe?

25 Q. Beyond the six hour timeframe.

JENNIFER STONER - CROSS BY MR. BACOT

1 A. I would not have looked at that evidence. Even if I
2 had found something I couldn't have related it to the case.
3 So that evidence is not even looked at. At six hours, we
4 don't do anything with it.

5 Q. I understand the six hour rule. I will come into
6 contact with items that could be part of gunshot residue as a
7 part of my daily life in certain circumstances; would you
8 agree with that?

9 A. You can come in contact with barium. Barium is in
10 makeup. You can come in contact with antimony. It's used as
11 a fire retardant, and lead, which is less and less in the
12 environment. You can come in contact with these elements.

13 But when you have the heat and pressure generated
14 from a weapon these particles become molten, very small and
15 very round particles, and that's what we look at. We don't
16 just look at the fact that we have these elements present.
17 That's the first part of our test. But we look at the second
18 part to verify that they are molten and that they actually
19 look like gunshot residue particles.

20 Q. And you have a threshold level for you to determine
21 that this is G. S. R. from a weapon as opposed to
22 environmental contaminants; is that right?

23 A. In this case I did not -- I used the I. C. P. M. S.,
24 which is an inductively coupled plasma mass spectrometer for
25 the kit on Sanford Best. There was a threshold that we look

JENNIFER STONER - CROSS BY MR. BACOT

1 for on these elements to see how much we have. His did not
2 meet that threshold. So therefore there was nothing on his
3 hands that I could associate with gunshot residue.

4 On the clothing, I did not run that test on it. The
5 only thing that I did was look on a scanning electron
6 microscope to look for actual particles of gunshot residue or
7 particles of lead.

8 Q. You would agree with me that if gunshot residue is
9 on someone's hands that over time, as you stated, it will
10 gradually reduce in its amount?

11 A. That's correct.

12 Q. All right. At some point, initially after the
13 firing of a weapon, we have to assume it will be above your
14 threshold level so you can say this is gunshot residue from a
15 fired weapon?

16 A. If you fire a weapon and you don't do anything with
17 your hands, you don't sweat, the kit is taken right after it,
18 yes, you should have something on your hands to verify that
19 you have fired a weapon.

20 Q. Now, you've also testified that from the time of
21 this firing to six hours later is all that your lab will test
22 because of the policy change?

23 A. That's correct, because of the policy and testing we
24 have done on how long the residue can stay on our hands when
25 we've test fired weapons.

JENNIFER STONER - CROSS BY MR. BACOT

1 Q. All right. After that six hour timeframe has
2 elapsed will there potentially be gunshot residue on
3 somebody's hands that is below the threshold level for you to
4 conclusively say it's gunshot residue but also be above any
5 environmental contaminant level?

6 A. There is a possibility but I would not expect to see
7 it because of the testing we've done and research that's out
8 there on gunshot residue don't expect to see it.

9 Now, if someone had fired a weapon, eight hours
10 passes and they have a weapon in their pocket and they touch
11 it again, they are going to recontaminate their hands. So
12 once again, it cannot be associated with that shooting. It
13 could just be associated with them having a weapon. Because
14 what they are looking for, for us, is to associate it with a
15 certain shooting. If I go beyond that six hours there's
16 nothing I can tell them about that incident.

17 Q. So again under that same statement, if the gun was
18 fired eight hours before your hands could conceivably be
19 clean, you touch the weapon again and your hands are
20 contaminated again?

21 A. That's correct.

22 Q. Wipe it off on your clothing and particles are now
23 on your clothing?

24 A. You can transfer it, yes.

25 Q. Or if a third individual, somebody else had removed

JENNIFER STONER - CROSS BY MR. BACOT

1 it from your pocket and touched your clothing could
2 contaminate it as well?

3 A. There's a possibility but that's a triple transfer
4 and you don't expect to see a lot of that.

5 Q. Did you ever come in contact with the duct tape from
6 this case?

7 A. I did. There were several items of duct tape that
8 were submitted. When I was out on maternity leave I had not
9 completed this case, and I came back and there was a note they
10 had spoken to someone and there was no need to do the analysis
11 on the duct tape. So I returned it with no analysis done on
12 the duct tape?

13 Q. So based upon that, it's your testimony that someone
14 from the Sheriff's Department or Solicitor's Office in
15 Greenwood contacted SLED and said there's no need to run
16 gunshot residue on the duct tape?

17 A. No. It wasn't a gunshot residue request. It was a
18 duct tape comparison.

19 Q. Duct tape comparison, what does that mean?

20 A. That means that if we have the roll of duct tape
21 that's not found at the scene that is found on a victim and
22 you say you found the roll at a suspect's residence and you
23 need to tie the two together, if you have nothing else to tie
24 them together we can look at the duct tape and do an analysis
25 depending on the state of the duct tape.

JENNIFER STONER - CROSS BY MR. BACOT

1 If it's used to bind somebody normally it gets so
2 congealed together from tape we can't get it apart to do
3 enough of an analysis on it. I did not look at this so I
4 don't know. I was just told I did not need to do a comparison
5 between the duct tape.

6 Q. Was there ever any request made to perform a gunshot
7 residue test on the duct tape?

8 A. There was not.

9 Q. Can you perform a G. S. R. test on an inanimate
10 object?

11 A. We can perform them on inanimate objects. On duct
12 tape it would have to be on the flat silver side or whatever
13 colored side it is. You cannot do it on the adhesive side.
14 I've never done a gunshot residue examination on duct tape,
15 but it is something we could do.

16 Q. And it's not -- wouldn't have been an outrageous
17 request? You wouldn't have called the solicitor back and
18 said, sir, we can't run a G. S. R. on this duct tape?

19 A. I could have run it. I mean, I don't know what
20 information it would have gleaned or given them, just there's
21 gunshot residue present on it or not, but I could have done
22 it.

23 Q. Well, if a person -- if I take this firearm right
24 now and load it and fire it and then I come over here and grab
25 the State's evidence, which is a roll of duct tape, after I've

JENNIFER STONER - CROSS BY MR. BACOT

1 just fired that weapon, wouldn't you agree with me that it's
2 highly likely that the G. S. R. that I've received from this
3 gunshot is going to go onto that duct tape?

4 A. You can transfer it, yes.

5 Q. And under that scenario, fire the weapon, grab the
6 duct tape, it's highly likely that there's going to be some
7 gunshot residue on that tape?

8 A. There would be, but again, we have a problem here
9 because I think the duct tape had a latents request. I'm not
10 certain. What if our duct tape comes in, we do comparisons on
11 it or if they request something else? Normally they want to
12 get somebody's fingerprints on this duct tape to place them as
13 using that duct tape.

14 Well, it's a toss up. If I analyze it for gunshot
15 residue I'm going to ruin the fingerprint evidence. If they
16 analyze it for fingerprint evidence they are going to ruin my
17 evidence. So you have to make a call on what you need, what
18 is most important to the case. You can't do both, normally,
19 with trace evidence and either latent prints or the crime
20 scene unit.

21 Q. Well, could you do D. N. A. and G. S. R.?

22 A. If I swab it first I could potentially take D. N. A.
23 off of it, or if I take my samples. They can take the gunshot
24 residue off when they do their swabs. So, again, it's another
25 issue of which one is more important.

1 Q. But you would agree with me that fingerprinting
2 would add many more contaminants to the subject item than a
3 D. N. A. testing; is that right?

4 A. I'm assuming all they would do in D. N. A. is swab
5 it. I'm not certain what they would do but fingerprinting
6 when they actually put the black powder on it does interfere
7 with our comparison test and would interfere with analyzing
8 for gunshot residue.

9 Q. Did you receive for analysis any items of bedding,
10 such as sheets, pillows or linens?

11 A. I received two beige pillow cases.

12 Q. Were any tests performed on those?

13 A. Yes. They wanted a gunpowder analysis done on it,
14 and a gunpowder analysis is different from a gunshot residue.
15 A gunpowder analysis is when we look at an item of clothing or
16 an article to see if there is a bullet hole in it, and we test
17 that bullet hole to find out possibly how close a gun was to
18 that object when it was fired. And in this case, I did not
19 find any holes or physical effects that indicated there was a
20 bullet hole in these pillow cases.

21 Q. No hole in the pillows?

22 A. No.

23 MR. BACOT: Nothing further, Your Honor.

24 THE COURT: All right, anything on redirect?

25 MR. PEACE: Just a couple of questions, Your Honor.

JENNIFER STONER - REDIRECT BY MR. PEACE

REDIRECT EXAMINATION

BY MR. PEACE:

Q. Agent Stoner, how many requests have you had for G. S. R. on duct tape?

A. I have not had any.

Q. And you've been working there how long?

A. Eight years.

Q. Now, the shirt that you identified, the material that was consistent with gunshot residue, could that have been a secondary transfer, based on your analysis?

A. In my opinion, it was not, due to the amount of particles that I did find, and the reason that the jacket was inconclusive is because I found one particle. That is inconclusive because it could have been from a transfer. I had one particle, that's all I have. So in my opinion, it's not from a transfer.

MR. PEACE: Thank you, Agent Stoner. I have no further questions.

CROSS-EXAMINATION

BY MR. BACOT:

Q. Ma'am, just briefly. Just because you've never received a request for a G. S. R. test on duct tape I think you testified earlier that you could have performed that test if you were requested to do so?

A. We could have, yes.

JENNIFER STONER - REDIRECT BY MR. PEACE

1 MR. BACOT: Thank you.

2 THE COURT: All right. Thank you, ma'am. You may
3 step down.

4 MR. PEACE: Your Honor, may we approach.

5 THE COURT: Sure.

6 (WHEREUPON, a bench conference was had.)

7 MR. PEACE: Your Honor, if I may. The State had
8 intended to --

9 MR. BACOT: Mr. Peace, just one second. I
10 apologize.

11 MR. PEACE: May we approach, Your Honor?

12 (WHEREUPON, a bench conference was had.)

13 THE COURT: Ladies and gentlemen, apparently the
14 State has one witness that they wish to call and the witness
15 is just a few minutes away from being here to testify. So
16 we're going to give him a couple minutes to let that witness
17 get here. I'll let you step back to the jury room. But I'm
18 going to ask you to do something for me while you are back
19 there. I need you to select a foreperson of the 12 members of
20 the jury.

21 So if you all would step back there you can discuss
22 the case for that purpose only, and if you select a foreperson
23 let me know who that is when we bring you back out.
24 Otherwise, don't discuss anything about the case while you are
25 back there. All right. Thank you. If you all would step

1 back to the jury room.

2 (WHEREUPON, the jury leaves the courtroom at
3 approximately 10:36 a.m.)

4 THE COURT: We will take a couple minutes and see
5 whether your witness gets here.

6 (WHEREUPON, a brief recess was taken.)

7 THE COURT: All right. You all ready to go?

8 MR. PEACE: Yes, sir.

9 THE COURT: You all ready to go?

10 MR. BACOT: Yes, sir.

11 THE COURT: I've been told Juror Number 105, Danita
12 Powell [sic], has been selected as forelady of the jury. So
13 let's bring the jury in.

14 (WHEREUPON, the jury enters the courtroom at
15 approximately 10:46 a.m.)

16 THE COURT: All right. Ladies and gentlemen, thank
17 you very much for selecting your foreperson.

18 Are you Ms. Powell [sic]? I appreciate your
19 willingness to do this.

20 All right. Mr. Solicitor, it's my understanding you
21 wish to recall a witness for a very limited purpose, and my
22 understanding is the defendant has no objection to this. So
23 if you would please call your witness.

24 MR. PEACE: Yes, Your Honor, thank you. If it
25 please the Court. The State would recall Lieutenant Jimmy

JIMMY BOGGS - DIRECT BY MR. PEACE

1 Boggs to the stand.

2 THE COURT: Lieutenant, I remind you you're
3 previously under oath from your testimony, I think yesterday.

4 THE WITNESS: Yes, sir.

5 THE COURT: Thank you.

6 DIRECT EXAMINATION

7 BY. MR. PEACE:

8 Q. Lieutenant Boggs, yesterday you testified that you
9 went into the bedroom at 3938 McCormick Highway?

10 A. Yes, sir, that's correct.

11 Q. When you went into the bedroom was the television
12 on?

13 A. Yes, sir. The television was on. The volume was
14 turned up, I'd say above average. When I knocked on the door,
15 first went to door, I checked if it was locked. I gave a
16 quick knock. I could hear the TV but I didn't hear anybody
17 answer me when I knocked. That's when I backed up, kicked the
18 door. When I went in the TV was at the foot of the bed and
19 was playing. It was -- you know, I would say it was turned up
20 more than it would have been just on average laying in the bed
21 watching the TV.

22 MR. PEACE: Thank you, Lieutenant Boggs. Please
23 answer any questions Mr. Bacot has.

24 THE COURT: Anything?

25 CROSS-EXAMINATION

JIMMY BOGGS - CROSS BY MR. BACOT

1 BY MR. BACOT:

2 Q. Lieutenant Boggs, you didn't perform any tests on
3 this television to see how loud it was turned up, did you?

4 A. Sir?

5 Q. You didn't perform any tests on this television to
6 see how loud it was turned up?

7 A. No, sir, I did not.

8 Q. So this concept of it being up louder than someone
9 would normally watch is based solely on your perception?

10 A. Yes, sir, on my observation.

11 Q. And what you would do in your normal course of
12 watching television?

13 A. Yes, sir.

14 MR. BACOT: Thank you.

15 THE COURT: All right. Thank you, sir. You my step
16 down.

17 MR. PEACE: Your Honor, at this time the State
18 rests.

19 THE COURT: All right. Ladies and gentlemen, the
20 State has rested, which means the State has now completed its
21 presentation of its evidence and its case in chief. I need to
22 take up some matters of law with the parties. I'm going to
23 let you step back. So we'll take probably -- this will
24 probably take 15, 20 minutes or so. If you all step back and
25 relax and we'll bring you back out just as soon as we can

1 after I take these matters up. Thank you very much. Don't
2 discuss the case while you are there.

3 (WHEREUPON, the jury leaves the courtroom at
4 approximately 10:50 a.m.)

5 THE COURT: All right. Yes, sir, anything from the
6 defense?

7 MR. BACOT: Your Honor, at this time, the defense
8 would move for a directed verdict. Even when the Court would
9 take the evidence in the light most favorable to the State
10 that it is insufficient to submit this matter to the jury.
11 I'd ask the Court to make a finding of not guilty.

12 We had argued case law that supports the concept
13 that evidence that presents mere suspicion of guilt is not
14 sufficient, and certainly, Your Honor, in light of the facts,
15 that we do not have anybody who can testify that my client was
16 there to do this act. The only evidence related to him
17 actually being at the scene, not even in the house, it's
18 outside, back of the house.

19 We do not have a gunshot residue on my client's
20 hands. We do not have any explanation at this point that he
21 was involved in any way, shape or form with the incident
22 itself but for the testimony, which I would argue, Your Honor,
23 not credible, from Ms. Joanne Suber-Wilson. Because of that
24 I'd ask for a directed verdict.

25 THE COURT: Anything from the State?

1 MR. PEACE: Well, Your Honor, we would ask that you
2 deny the motion. The evidence in the case is overwhelming.
3 You have the testimony of Ms. Joanne Suber-Wilson who, I
4 disagree with the defense, was actually a very credible
5 witness. She had injuries. We have photographs of those
6 injuries. You have the defendant being there outside the
7 house --

8 THE COURT: Excuse me. I assume your directed
9 verdict is only as to the murder charge?

10 MR. BACOT: At this point, that's correct, Your
11 Honor.

12 MR. PEACE: Okay. As to the murder charge, you
13 have the testimony of Joanne Suber-Wilson who said she was in
14 bed and she was accosted by the defendant. She is taken off
15 by the defendant. They come back later and Mr. Best is found
16 dead in bed.

17 The gun that's used for the killing, that is
18 identified ballistically as doing the killing, is taken from
19 the defendant. The defendant has what is consistent with the
20 gunshot residue on his shirt. I think the State has more than
21 adequately met its burden to avoid a directed verdict on the
22 murder charge.

23 THE COURT: All right. Anything further you want to
24 say?

25 MR. BACOT: No, sir.

1 THE COURT: All right. Anything else on any other
2 charges?

3 MR. BACOT: Not at this time, Your Honor.

4 THE COURT: So no directed verdict on the other
5 three charges?

6 MR. BACOT: At this particular time, that's correct,
7 Your Honor.

8 THE COURT: Well, when is it you intend to offer a
9 directed verdict?

10 MR. BACOT: At the close of the defense case.

11 THE COURT: All right. Well, the standard is taking
12 everything in the light most favorable to the nonmoving party
13 in a criminal case, is there any direct evidence or any
14 substantial circumstantial evidence that the defendant may
15 have committed this offense.

16 I'm going to deny this motion. I'm going to find
17 that taking everything, all the testimony, including the fact
18 that Ms. Wilson testified that at some point in time during
19 the process that the defendant told her that he had -- trust
20 him, that the defendant -- I mean, the deceased was deceased.

21 There is at least circumstantial evidence that he
22 had a gun. The gun was the gun that was used to kill the
23 defendant -- I mean, the victim. He did have residue on him.
24 So I think there's at least sufficient evidence to send the
25 matter to the jury. So I'm going to deny that motion.

1 Anything else at this point?

2 MR. BACOT: No, sir.

3 THE COURT: All right. Mr. Vandross, let me get you
4 to stand and raise your right hand, if you would, please.

5 CHARLES NEMON VANDROSS, after having been duly
6 sworn, testified as follows:

7 THE COURT: Mr. Vandross, I'm going to talk to you a
8 little bit about some of your rights that you have, your case.
9 Your lawyer now has the opportunity on your behalf to present
10 any evidence that you may wish to offer. I'm not going to go
11 into the facts of the matter or anything like that I'm just
12 going to relate this matter to your rights.

13 You understand you have a right to testify at this
14 trial?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: And you understand you also have a right
17 not to testify in this trial?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Every defendant is afforded the
20 constitutional right of remaining silent, and that includes
21 the right of not having to testify at a trial. If you elect
22 not to testify, of course, I would instruct the jury that they
23 could not even consider the fact that you elected not to
24 testify during the course of their deliberations.

25 Of course, if you elect to testify you have a right

1 to get up and tell your story, tell the Court anything or the
2 jury anything that you want to tell them. If you do that you
3 are subject to being cross-examined by the State; you
4 understand that?

5 THE DEFENDANT: I do.

6 THE COURT: This Solicitor would have the right to
7 ask you questions as well. The Solicitor would have the right
8 to attempt to impeach you in any way that he wishes to impeach
9 your testimony.

10 Now, my understanding, I think, in conversations
11 with your attorney that you don't have a prior criminal
12 record, at least that would be one for impeachable purposes;
13 is that correct, Mr. Defense Counsel?

14 MR. BACOT: That's my understanding, yes, sir.

15 THE COURT: But if you did they have the right to
16 bring that up; do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Of course, if don't they're not going to
19 be able to do that. Do you understand all these rights?

20 THE DEFENDANT: Yes, I do, Your Honor.

21 THE COURT: At this time, have you made a decision
22 as to whether you are going to testify or not?

23 THE DEFENDANT: Yes, sir, I have.

24 THE COURT: And what is that decision?

25 THE DEFENDANT: At this time, no.

1 THE COURT: You do not intend to testify?

2 THE DEFENDANT: That's correct, Your Honor.

3 THE COURT: Now, this decision, you've discussed
4 this with your attorney?

5 THE DEFENDANT: Yes, I have, Your Honor.

6 THE COURT: And you've been advised of your rights
7 by your attorney as well as by the Court here today; is that
8 correct?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And nobody is forcing you or threatening
11 you or coercing you or making you make this decision that you
12 elect not to testify, are they?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: You're making this decision freely and
15 voluntarily?

16 THE DEFENDANT: Absolutely.

17 THE COURT: And you're making the decision knowingly
18 and intelligently, in light of your constitutional rights; is
19 that correct?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you need any further time to discuss
22 this matter with your attorney?

23 THE DEFENDANT: No, Your Honor, I do not.

24 THE COURT: Counsel, is there anything that you wish
25 to inquire of your client at this time with respect to his

1 rights?

2 MR. BACOT: No, sir.

3 THE COURT: Anything you want me to further inquire
4 with your client with respect to his rights?

5 MR. BACOT: No, sir.

6 THE COURT: Mr. Vandross, my understanding is you
7 are not going to testify, that you understand your right, that
8 you've had full access to your attorney about this matter and
9 your decision is being made freely and voluntarily, knowingly
10 and intelligently.

11 Now, if you change your mind between now and the
12 time your lawyer rests your case let me know and we'll revisit
13 this issue, okay?

14 THE DEFENDANT: Thank you, Your Honor.

15 THE COURT: Thank you, sir.

16 All right. They ready to go?

17 THE BAILIFF: Yes, sir. I think so.

18 THE COURT: You all ready?

19 MR. PEACE: Yes, Your Honor. Just one point of
20 order. If there's no objection I would ask that Agent Thrower
21 be given permission to leave.

22 MR. BACOT: No objection.

23 THE COURT: All right. Let's bring the jury in.

24 (WHEREUPON, the jury enters the courtroom at
25 approximately 11:00 a.m.)

NELSON HOWARD - DIRECT BY MR. BACOT

1 THE COURT: All right. Ladies and gentlemen, as I
2 told you, the has State rested. The defense now has the right
3 the offer any evidence the defense wishes to offer.

4 Counselor, you all ready to go forward?

5 MR. BACOT: Yes, sir. Thank you.

6 THE COURT: All right.

7 MR. BACOT: We call Reverend Nelson Howard.

8 REVEREND NELSON HOWARD, after having been duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BACOT:

12 Q. Reverend, if you would please state your name for
13 the record.

14 A. My name is Nelson Howard.

15 Q. And, Reverend, where do you reside?

16 A. In Greenville, South Carolina.

17 Q. And who do you reside with in your home in
18 Greenville?

19 A. My wife.

20 Q. And what does she do for a living?

21 A. She's a pastor.

22 Q. As being a pastor, from time to time do you marry
23 people?

24 A. Yes, we do.

25 Q. Do you know Mr. Charles Vandross?

NELSON HOWARD - DIRECT BY MR. BACOT

1 A. I've met him, yes.

2 Q. And do you know Ms. Joanne Wilson, sometimes known
3 as Suber-Wilson?

4 A. I met her, also.

5 Q. If you would, please, explain to the jury how you
6 first came in contact with the two of them.

7 A. I came in contact with them on October 16th at my
8 daughter's wedding. And they were invited by my daughter
9 because they met, I believe, in a flower shop, and my daughter
10 had said to them that her mother and father were pastors, and
11 my wife makes the flowers for weddings, and they were
12 interested also in the flowers. So they came to the wedding
13 and we met them then.

14 And after that, upon talking with them, they wanted
15 to come over for us to marry them, also, but we don't marry
16 anyone, not unless we've talked with them first. I mean, you
17 don't do anything unless you know someone. So that's what --
18 we invited them over on a Saturday, October 30th, I believe it
19 was, and we talked for, I guess about an hour or so.

20 Q. And what was the nature of that conversation?

21 A. Just to get to know them.

22 Q. Was that to make you feel more comfortable so you
23 could marry them?

24 A. Yes, it was.

25 Q. What types of things did you all talk about?

NELSON HOWARD - DIRECT BY MR. BACOT

1 A. Well, how they met, that sort of thing, were they in
2 love. We talked about ourselves and our family, and those
3 sort of, you know, just basic things, us to get to know
4 someone, a feeling on an adjustment period, that sort of
5 thing.

6 Q. Did at any time you tell either one of them that the
7 issues and items that came up in your discussion should be
8 kept secret until the next time you all met?

9 A. I don't recall saying that.

10 Q. Did you ever tell them that if they discuss these
11 items outside of you all's presence that it might cause
12 problems in their relationship?

13 A. I don't recall saying that.

14 Q. That meeting occurred in your home?

15 A. Yes, it did.

16 Q. On October 30th, which is Saturday, of 2004?

17 A. That's correct.

18 Q. Tell us what the next contact that you had with
19 either Mr. Vandross or Ms. Wilson was.

20 A. The next contact I had was from Ms. Wilson, was
21 Saturday after the incident had happened. I was -- it was a
22 Saturday evening, I think afternoon or towards the evening,
23 and my phone rang, and it was Ms. Wilson on the phone. She
24 called and she sounded a little disturbed, and she said to me
25 I guess you --

NELSON HOWARD - DIRECT BY MR. BACOT

1 MR. PEACE: Objection, Your Honor. It's hearsay.

2 THE COURT: Sustained.

3 MR. BACOT: Your Honor, it's not being offered for
4 the truth, and it's also being offered as impeachment.

5 THE COURT: Well, I'm not sure what that means,
6 offered for impeachment.

7 MR. BACOT: Well, she's already testified in this
8 Court as to what her recollection of the events that occurred
9 were.

10 THE COURT: Well, then it is being offered for the
11 truth.

12 MR. BACOT: It's not being offered that the event
13 that she's -- I intend to present evidence as to a different
14 statement that she has made and that's to be used to impeach
15 her. I'm not trying to say that what she said to him is
16 actually what happened. I'm trying to say that what she said
17 to him was different from what she said on the stand.

18 THE COURT: Well, you can ask him what she said on
19 the stand, if she said that, but we're not going into what she
20 said back then. That's hearsay.

21 MR. BACOT: I can ask him if he recalls what she
22 said on the stand?

23 THE COURT: Well, I don't know that he heard what
24 she said on the stand. I don't know that he was here. If he
25 was here and he said that he heard her testimony you can ask

NELSON HOWARD - DIRECT BY MR. BACOT

1 him if he heard her testimony.

2 MR. BACOT: I'll ask him and if Solicitor Peace has
3 an objection --

4 THE COURT: It's hearsay in terms of what you are
5 asking, my understanding, from a prior conversation that
6 occurred.

7 MR. BACOT: Yes, sir.

8 THE COURT: But I've sustained the objection.

9 BY MR. BACOT:

10 Q. Sir, did Ms. Suber-Wilson tell you in that
11 conversation that Mr. Vandross came into her home and snuck
12 into her bedroom and shot Mr. Best?

13 MR. PEACE: Objection. It would still be hearsay.

14 THE COURT: It's hearsay. Sustained.

15 BY MR. BACOT:

16 Q. Did you ever have any other meetings with either one
17 of these individuals, sir?

18 A. No, I didn't.

19 Q. And how do you characterize the meeting, if you
20 will, that you had, as counseling or as otherwise?

21 MR. PEACE: Objection, Your Honor. That's not
22 relevant.

23 THE COURT: Well, I'm going to overrule the
24 objection.

25 A. As just, as I said, a feeling out point.

NELSON HOWARD - DIRECT BY MR. BACOT

1 MR. BACOT: Please answer any questions Solicitor
2 Peace might have.

3 MR. PEACE: No questions.

4 THE COURT: Thank you, sir. You may step down.

5 MR. BACOT: Your Honor, if there's not an objection,
6 I would ask to release the Reverend.

7 MR. PEACE: No objection.

8 THE COURT: All right. Thank you, sir. You are
9 free the leave.

10 THE COURT: All right.

11 MR. BACOT: That's all the witnesses we intend to
12 call, Your Honor.

13 THE COURT: All right. Is there anything in reply?

14 MR. PEACE: No reply, Your Honor, but I would ask
15 that I be allowed to release Agent Stoner.

16 THE COURT: Any objection?

17 MR. BACOT: No, sir.

18 THE COURT: All right. You may do that.

19 Ladies and gentlemen, I need, again, to take up a
20 matter of law with the parties. I'm going to let you step
21 back to the jury room. I don't think it's going to be very
22 long. When we come back I think what we'll do is go into the
23 arguments and the charge.

24 I've just spoken to the clerk about getting lunch
25 for you and I may have her -- I don't know how they do it.

1 I've got to find out how you do it in Greenwood County. In
2 Richland County we find the finest restaurant we have in the
3 county because nothing is too good for our jurors.

4 Now, in Greenwood I'm not sure what you all do up
5 here. Probably that's why your taxes are fairly reasonable
6 compared to ours.

7 All right. If you all will step back to the jury
8 room we'll be with you in just a minute.

9 (WHEREUPON, the jury leaves the courtroom at
10 approximately 11:08 a.m.)

11 THE COURT: You going to open and reply?

12 MR. PEACE: Yes, sir.

13 THE COURT: Open on the law then reply?

14 MR. PEACE: Yes, sir.

15 MR. BACOT: I will need the renew and make --

16 THE COURT: Sure. Go ahead.

17 MR. BACOT: Your Honor, I would renew my motion for
18 a directed verdict on the murder charge as argued earlier. I
19 would also move for a directed verdict on the kidnapping,
20 burglary, possession of a firearm and again incorporate those
21 facts that I argued before.

22 And also, Your Honor, in this particular case,
23 again, with the, I propose incredible testimony of
24 Ms. Suber-Wilson, it's not credible as to the events that
25 occurred that night when it happened, how it happened.

1 There's no scientific evidence to back it up. There's --

2 THE COURT: Well, isn't credibility solely an issue
3 for the jury?

4 MR. BACOT: Your Honor, I'm simply making my motion
5 for directed verdict on the grounds that I have available,
6 Judge.

7 THE COURT: Well, I understand, but I think
8 credibility goes -- it's what the jury is to decide. So if
9 credibility is the basis of it, I think that's a jury issue.

10 With respect to your other, I'm going to deny your
11 motion on the murder charge on the same basis that I denied it
12 earlier. On your other charges of kidnapping --

13 MR. BACOT: Burglary and possession.

14 THE COURT: Burglary first and possession of a
15 firearm or knife during the commission of a violent crime, you
16 know, again, whether the evidence is sufficient or not or
17 credible or not is really an issue, I think, for the jury.

18 The question I've got to decide is there any
19 evidence, any direct evidence or any substantial
20 circumstantial evidence, and just based on the testimony of
21 the alleged victim, Ms. Wilson, she's alleged that she was
22 forcibly removed from the home, that the defendant had a gun
23 to her head when he did so, and that he came into the home
24 without permission and did so at night and did so with a gun.

25 So I think that based on her testimony alone there

1 is sufficient evidence to send it to the jury. Again, the
2 weight of that evidence, the believability of that evidence is
3 a jury question. I'll deny it.

4 MR. BACOT: Thank you, Your Honor.

5 THE COURT: All right. Now, anything else?

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

7 THE COURT: Well, if you will, give us a couple of
8 minutes. Let this jury do what they are going to do in terms
9 of ordering their food then we'll come back and begin.

10 I'll be happy to let you look at the verdict form.
11 What I've done, you all are a little unusual here in that you
12 all in this case there's one indictment with four counts, and
13 I've just done one verdict sheet but count one, count two,
14 count three and count four and did it based on the counts in
15 the order that you set forth in your indictment. We'll have
16 it in just a second for you all to look at if you want to look
17 at it prior to your arguments to the jury.

18 (WHEREUPON, a brief recess was taken.)

19 THE COURT: We're ready to go forward. Let's bring
20 the jury in, if I could.

21 (WHEREUPON, the jury enters the courtroom at
22 approximately 11:30 a.m.)

23 THE COURT: Okay. Ladies and gentlemen, as I told
24 you when we broke just a minute ago, that we would now be at
25 the stage of the trial where the lawyers have their final

1 opportunity to talk to you about this case, and this stage is
2 called the closing arguments. Actually, the State gets to
3 make two closing arguments because they get to open on the
4 law, then they have a chance to close after the defense
5 counsel makes his closing argument.

6 So with that said, I'll ask the Solicitor, are you
7 ready to go forward?

8 MR. PEACE: Yes, Your Honor.

9 THE COURT: If you please, sir.

10 MR. PEACE: Thank you, Your Honor, may it please the
11 Court.

12 Mr. Bacot.

13 Ladies and gentlemen of the jury, Madam Forelady,
14 the State has the burden of proof in this case. We have the
15 burden of proof so I get to address you twice. This time will
16 be a short presentation of the law. I just want to refresh
17 your memory of what I talked about yesterday, about what the
18 law is in the case.

19 You have the defendant who is charged with burglary
20 first. Just to remind you, burglary first is entering a
21 dwelling without permission, with the intent to commit a
22 crime. That's burglary.

23 Burglary in the first degree has to have some
24 aggravating circumstance, some aggravating factor. It can be
25 going in the house with a gun, it can be using a gun in the

1 house, it could be injuring somebody in the house who is not a
2 participant in the burglary. It can also be in the nighttime.
3 These are some of the aggravating factors that the Judge will
4 give to you when he tells you what burglary first is.

5 Murder, the unlawful killing of another human being
6 with malice aforethought expressed or implied. Unlawful means
7 there's no justification, no excuse. It wasn't an accident,
8 it wasn't a matter of self defense. Killing of another human
9 being is easy, somebody is dead.

10 With malice. Remember I told you malice, the Judge
11 will talk about depraved heart. Malice is really meanness.
12 It's just plain old meanness. Aforethought means you thought
13 about it before you did it. You thought about it before you
14 did it. It doesn't have to be a long time. It can be a
15 second you decide to kill somebody and you do it, and it could
16 be murder in the first degree.

17 Expressed or implied. That's not two different
18 kinds of malice just two different ways of showing malice.
19 Expressed, I'm going to kill you. You pull the trigger, you
20 tell them, that's express malice. That's easy. That's easy.

21 Implied malice is a little bit different. You look
22 at all the facts and circumstances surrounding the situation
23 and then you decide based on those facts and circumstances is
24 that malice. So that's burglary and that's murder.

25 Kidnapping you abduct -- and the Judge is going to

1 give you a bunch of terms. There will be abduct, inveigle,
2 but really, abducting somebody or taking somebody and carrying
3 them away by any means. You can carry them in your arms, you
4 can take them in your car, you can fly them in a plain, by any
5 means without the authority of law, and that's kidnapping.

6 The possession of a weapon during the commission of
7 a violent crime is easy. If you commit a violent crime, and
8 remember murder, kidnapping and burglary first are all violent
9 crimes. If you commit one or all of those crimes then you can
10 be found guilty of possession of a weapon during the
11 commission of a crime.

12 So those are the offenses. Those are the offenses
13 and those are the definitions of the offenses, which you'll
14 review when you go back into the deliberation room.

15 Remember yesterday I told you where we are, where we
16 are going and how we are going to get from here to there.
17 Now, I know when I address you the second time I'm going to
18 get up and say this is a fact, this is a fact, this is a fact.
19 I'm assuming that Mr. Bacot when he gets up he 's going to say
20 this is a fact, this is a fact, this is a fact.

21 The truth of the matter is, there's not anything,
22 there's not anything in this case that's a fact unless you say
23 it is. You are the finder of fact. If you decide it is a
24 fact that these walls are blue and mauve then they would be
25 blue and mauve because you would find them that way. Now, I

1 don't have a clue what color mauve is but my daughter tells me
2 I should wear it. I don't know.

3 But you find the facts. You find the facts. And
4 what I would ask you to do in making that determination of
5 what the facts are in this case, if I get up and say this is a
6 fact in this case, I want you to think back. I want you to
7 think back about what that witness said and you remember, is
8 that what the witness said? Is that what the witness said or
9 is that what the Solicitor wanted him to say?

10 If it's what the witness said you can find that as a
11 fact. But if it's just what I wanted the witness to say and
12 the witness didn't say it, don't find that as a fact. Don't
13 find that as a fact.

14 Same thing when Mr. Bacot gets up here. If he says
15 something is a fact, I'm asking you, you think back, you think
16 back. Is that what that witness said or is that what Mr.
17 Bacot wanted the witness to say? And if it's what the witness
18 said you use that as a fact in making your determination of
19 the guilt of the defendant. If it's not what the witness said
20 then you just discard that. I think if you use that as a
21 guide, if you do that you are going to come to the right
22 decision in this case.

23 Now, again, I want to thank your for you attention.
24 I have watched you folks as we've done the testimony.
25 Sometimes we have jurors who kind of nod off. You guys have

1 given your wrapped attention to this case and I appreciate
2 that, because if you give your wrapped attention you are going
3 to make the right decision in this case. Whatever decision
4 you make is going to be the right decision because that's what
5 you are supposed to do. That's what you are supposed to do.

6 Now, again, I appreciate your time and attention and
7 I will address you again in just a few minutes. Thank you
8 very much.

9 THE COURT: Mr. Bacot?

10 MR. BACOT: Thank you, Your Honor. May it please
11 the Court.

12 THE COURT: Yes, sir.

13 MR. BACOT: Mr. Peace.

14 Ladies and gentlemen, I'd like to thank you as well
15 for your service on this jury. I know we've taken some time
16 out of your valuable time with your family and friends and at
17 work and we appreciate your service. It's all part of your
18 civic duty, and we're glad to have you here and glad you
19 participated and gave my client the right to have his jury
20 trial. That's what we've been doing the last couple of days,
21 and appreciate that.

22 Mr. Peace has again given you a breakdown of the law
23 of the case, as he did in his opening statement. And as I did
24 in my opening before I'm going to remind you, as he did in a
25 way, that this Judge in a few moments after Mr. Peace gets to

1 speak again, he's going to charge you. He's going to tell you
2 what the crimes are, the elements of those crimes.

3 So if during any of Mr. Peace's description of these
4 crimes or the elements of those crimes or anything that I
5 might say today in my closing is inconsistent with what the
6 Judge says he is the one that tells you what the law is. You
7 listen to the Judge and apply what the Judge says.

8 Now, Mr. Peace has hit on several important points.
9 First of all, the burden is clearly on the State in the case.
10 My client is not required to do anything. I think the Judge
11 will agree with that and instruct you accordingly.

12 He's not required to present any evidence, present
13 any testimony. The presumption of innocence; he's not guilty
14 until you make a finding that he is. Not guilty; one of the
15 most important things in this country is that you are not
16 guilty until the State proves that you are guilty beyond a
17 reasonable doubt.

18 Now, this Judge will also instruct you on reasonable
19 doubt. What is this strange concept? I believe he is going
20 to tell you that reasonable doubt is a doubt that causes a
21 person to hesitate to act in their everyday life. If you
22 hesitate to do an act that's a reasonable doubt, it's what
23 caused you to do that.

24 Mr. Peace also pointed out that when I'm talking
25 about things up here, when he comes up and describes the facts

1 during his second closing that he wants you to recall to the
2 witness stand and remember is that the way I heard the facts
3 delivered from the stand?

4 I agree with that. That's very important. But I
5 would also add that it's also your position as jurors to
6 decide the credibility of witnesses and decide whether or not
7 their story is a believable story, whether it matches all of
8 the other facts in the case.

9 It's very important that you analyze it, study it,
10 use your common sense to determine whether or not it makes
11 good sense that it could have happened the way it's been
12 described from the stand.

13 So what I'm saying is just because it was delivered
14 from this stand you get to weigh how much of an influence it
15 has on your decision today. Was the person being honest?
16 Were they not? Did they have a reason not to be? All of
17 those questions come into play before you determine whether
18 you believe them.

19 Now, during the course of this trial the State has
20 presented a whole lot of evidence. We've got evidence
21 probably up into State's Exhibit 60. They presented a pile of
22 evidence. And I would suggest to you that, ladies and
23 gentlemen of the jury, there could have been and should have
24 been a whole lot more.

25 Sergeant Inks takes the stand. You all remember

1 Sergeant Inks. He was the crime scene investigator. He sat
2 right here and told you that he swabbed the half wall in the
3 bathroom that had blood on it. I asked him, Did you send that
4 swab off to SLED for testing?

5 Uh-uh. Didn't do that. Wasn't important to the
6 case.

7 Well, ladies and gentlemen, it is important to the
8 case. We would have shed a whole lot of light if we would
9 have known whose blood was on the half wall, and they could
10 have found that out.

11 What else? I think that Officer Inks also showed up
12 at that scene, and I would argue to you that they had a

13 concept of how this event occurred. And why do they say that?

14 Well, did they perform a gunshot residue test on
15 Ms. Suber-Wilson? Not according to Officer Inks.

16 Why didn't they? Well, because I didn't have any
17 direct contact with her. I would suggest to you that in order
18 to rule her out that would have been the appropriate thing to
19 do. She's in the house, by her own statement. She's in the
20 bed next to the deceased, by her own statement.

21 There are three other individuals in this house.

22 Sergeant Inks, did you perform G. S. R. on any of them?

23 Didn't perform G. S. R. on any of those as well.

24 Let's talk about some other G. S. R. issues for a
25 minute. We talked about the six hour rule with the State's

1 expert from SLED. What's the six hour rule? Well, our
2 guidelines and the F. B. I. has some guidelines that basically
3 say that after a certain period of time a gunshot residue test
4 is no longer conclusive, so we just don't run it.

5 Well, what do you base the time of the incident on
6 in a case like this? Now, she couldn't identify the exact
7 source, but I believe other testimony will show that the only
8 person that suggested any time as to the event itself is
9 Ms. Joanne Suber-Wilson.

10 Now, we all know that Mr. Vandross had a G. S. R.
11 test done. It wasn't analyzed because it was outside the six
12 hours. That in and of itself tells me that they believed that
13 this event happened around midnight or one.

14 Did they even attempt to run the test? No. Did
15 they ask anybody else? Did they bring in any witnesses who
16 could support any other theory in the case? No. They are
17 relying exclusively on Ms. Joanne Suber's credibility and her
18 testimony to that effect.

19 I even asked the coroner who did the autopsy. Did
20 you all do anything to determine time of death? No. What's
21 the source of you all's information? Well, we get a criminal
22 history that's attached to the file and we reviewed it and we
23 just look at it and see if it's inconsistent with the time of
24 death. But did you run anything from time of death?

25 Absolutely not. And I would suggest to you that again we're

1 going right back to her story.

2 Sergeant Inks, you took the picture of the church.

3 You went out and took the picture next to the gas tank next to
4 the church where Ms. Suber-Wilson testified that she was going
5 to back into this tank and blow it up and kill them both, and
6 that she tried to get the car into gear and my client stopped
7 her, as she testified, as I recall. Sergeant Inks, did you go
8 to that scene, did you look for tire tracks?

9 Well, I did. I went out to the scene and we looked
10 around but we didn't find anything that would have justified
11 doing tire tread analysis.

12 They didn't find any tire tracks, is what that
13 basically means.

14 Another issue. Were they really there? Did it
15 really happen? Made all these references to the 911 tapes and
16 the 911 call. I argue that it could have been very useful for
17 you to hear that 911 tape, hear the tone of her voice, hear
18 what she said, how she handled herself. They didn't present
19 that.

20 I believe it's correct that Ms. Joanne Wilson
21 testified that she called a neighbor of hers, immediately
22 after hanging up with 911. Neighbor is not here to testify.
23 It would have been very useful, I believe, to you.

24 The expert on G. S. R. also testified that there was
25 not a request done, a request for a G. S. R. examination on

1 this tape. Now, you all heard me ask her if under the
2 allegations that we have today, if I am standing over this
3 deceased that I've just shot and I take my hand that is on
4 that gun that is contaminated with gunshot residue and put it
5 in my pocket and grab this duct tape will there be G. S. R.
6 gunshot residue on this duct tape, and could you have tested
7 that duct tape?

8 Yes, we could have tested it, but it wasn't
9 requested.

10 Do you believe that there could have been G. S. R.
11 on that duct tape?

12 Yes.

13 Didn't test it. Under their statement it was the
14 next thing that he touched. Remember her allegation is they
15 had the altercation, she got slammed, I believe, onto the
16 floor. Asked to go to the bathroom, goes to the bathroom and
17 he throws the duct tape to her.

18 Now, I would argue to you, if we're talking about
19 contamination, the next morning outside the back of the house
20 we certainly should have some gunshot residue on that tape,
21 but we'll never know.

22 You've seen pictures of a photo of a shirt. It's
23 white in color, and I believe it says Regency Park Apartments
24 or Regency Apartments on it. I'll just grab one, it's
25 Defendant's 8. You all remember this? And you all also

1 remember that I'm the one that admitted this shirt.

2 The State didn't put pictures of this shirt in.

3 They did after the fact. After I admitted it they came in and
4 say, Oh, yeah, we've got pictures of that shirt and here they
5 are. Let's put some color photos of that in.

6 Ms. Wilson couldn't even testify that she knew she
7 had blood on her. She didn't remember that.

8 All right. I think you'll remember Sergeant Inks
9 testifying, Well, when I got the shirt, you know, it was kind
10 of a dark in color and whatnot.

11 Well, did you test it to see if it was blood?

12 Uh-uh.

13 It could have made a difference. Was it blood?

14 Whose blood was it? Was it her blood, was it the deceased
15 blood? Whose blood?

16 We've talked about all this evidence of D. N. A. and
17 G. S. R., and Mr. Peace, I think he mentioned in his opening
18 statement, this is not C. S. I. This is not Crime Scene
19 Investigation on television. That's not what we expect, but
20 fingerprint analysis is not state-of-the-art.

21 You've got a weapon, you've got bullets, you've got
22 a clip. Run the D. N. A. all that you want, which by the way
23 you'll recall it came back inconclusive. I believe the SLED
24 expert on D. N. A. as to the weapon said, I can't put the gun
25 in your client's head.

1 At first it was something along the lines of I
2 cannot reasonably create a D. N. A. profile that would provide
3 conclusive evidence, but then added that I can't put the gun
4 in your client's hand. There wasn't enough D. N. A. It just
5 wasn't conclusive.

6 But fingerprint analysis. He didn't request.
7 fingerprint analysis from SLED. His position was we send the
8 stuff in and then they determine the analysis that they are
9 going to perform. Did you run anything on the bullets? Did
10 you run anything on the clip?

11 Well, no. Probably because it was contaminated by
12 the environment. It being wet on the ground and getting
13 dirty, and that kind of stuff.

14 The clip was in his pocket. Run fingerprints. Why
15 is that important? The fingerprints could have had -- the
16 fingerprints on that clip could have been somebody else's
17 other than my client.

18 It's the State's case to prove to you all. It's the
19 State's case. They didn't provide any fingerprints of
20 anything. Forget the gun for a minute. The door, the
21 doorknob going into the bedroom, any of that. Nothing.

22 Made reference from time to time to a Tony Davis who
23 is now retired, I believe, Marc Cromer testified to. Tony
24 Davis didn't come back in here and testify today, or any time
25 during this trial. Where is Tony Davis's testimony?

1 Did not call the city's victim advocate that Joanne
2 Suber-Wilson testified that she talked to. She testified that
3 she picked up these papers, Defendant's 2 on the bed. She
4 couldn't remember that.

5 And, ladies and gentlemen, I would suggest to you
6 and argue to you that this is a perfect example of why I would
7 suggest to you that her statements are not credible. If
8 you'll recall, during her direct testimony she sat up on this
9 stand, right here in this seat, and at times she was up and
10 was using the pointer and ran the show.

11 Solicitor Peace would ask a question every once in a
12 while but she had her story and she was going to get out, and
13 she had those facts down. She had them down. It was 12:50
14 something on the V. C. R. At some point I saw 3 something on
15 the car clock. Then Mr. Vandross said to me that, you know,
16 it's time for your kids to go to school.

17 At some point, I drove real slow by my neighbor's
18 house so that she might see me, and boy, I was driving real
19 slow. Everybody knows I drive fast though. So he said, You
20 better drive.

21 Then I thought about swerving and hitting another a
22 car, maybe injuring him and I could get away. And we went
23 down exact street names, exact locations, where they were and
24 how they got there and how long they were there and all the
25 strange things they talked about.

1 Cross-examination; ma'am, what are these?

2 I'm really not sure.

3 Well, are they on the bed at the scene?

4 Well, I mean, that looks like my bed but I don't
5 know how they got there. I don't remember. And then we got
6 into this tussling match, if you'll recall earlier.

7 Well, did you pick them up that day and take them to
8 the house?

9 Well, I didn't go right back to the house first.

10 I suggest to you that these documents -- and again,
11 I'm going to pass this around. Look at this picture. Look at
12 Defendant's Number 2. These documents were on the bed at the
13 time of the alleged incident.

14 But worse than that, if they were in this bed asleep
15 what you are telling me is if you'll look closely at this
16 picture that this business card that's sitting on top of these
17 documents was just bounced perfectly while they were asleep on
18 the corner of the bed right there by his foot. But she didn't
19 remember all that.

20 Were the lights on in the bathroom? Was the TV on?

21 No.

22 Did you have blood on your shirt? All of these
23 items she was kind of fuzzy on, didn't quite remember. How
24 did the door get locked? I mean, these are very important
25 items of the case.

1 Now, when Solicitor Peace came up, again, she stood
2 right here and she gave her story. But when those questions
3 came up on cross, wait a minute, I'm really not sure. I think
4 that goes to her credibility.

5 I even asked her, Have you told different versions
6 of this story to different people? What was her response?
7 Something along the lines of do you mean the long version or
8 the short version.

9 The long version or the short version? This needs
10 to be the only version, because if it's not then her statement
11 is inconsistent. It's an inconsistent statement. It goes to
12 her credibility.

13 Well, I might have told somebody that a train went
14 by the house, maybe that's why I didn't hear the gun.

15 And I don't know if you noticed or not but on the
16 direct somehow that whole concept of the gun going off and her
17 not hearing it and not waking up got overlooked, and now we
18 got concepts from, well, the forensic expert Dr. Sexton said
19 that if you press a gun up to somebody's head and pull the
20 trigger it can muffle the sound significantly.

21 Well, when you heard the expert from SLED come up
22 and testify about that weapon, without ammunition in it you
23 still have sounds that the gun makes that I would argue when
24 they are three feet, four feet, within a king size bed from
25 your head you are going to hear.

1 And he couldn't say that no matter what she did --
2 excuse me. What my client allegedly might have done to this
3 weapon to make it silent, whether it be a silencer or any
4 other device that he could think of would cause that weapon to
5 be totally silent.

6 In other words, hear exactly what you just heard,
7 which is the clicking of that hammer striking the firing pin.
8 He couldn't say that, and he admitted that there would be some
9 noise. When he fired that weapon at SLED what did he tell you
10 what he had to do? They require us to wear hearing devices to
11 muffle the sound, that she didn't hear.

12 Not to mention that she didn't hear him come in the
13 door, allegedly. Which if you remember the diagram that the
14 State submitted of the house you got to walk right by her head
15 to get in the bedroom. Didn't hear that either. It just
16 doesn't make sense, ladies and gentlemen.

17 They've got this issue of a hat that they found on
18 the back deck. Say it's Charles's because it matches. Mr.
19 Peace joked a moment ago about not knowing what mauve is.
20 I've got dividers in my sock drawers because I can't tell what
21 blue and black is.

22 So I'm not hear to tell you what matches and what
23 doesn't, but when you got the resources of SLED and the
24 resources of the State of South Carolina behind you we are
25 going to say this hat is his because it matches the sweater

1 that was in his car.

2 Even if it was his hat, which we are not saying that
3 it is, she also said, well, from time to time when he would
4 get put out of my house he would leave belongings there, hat,
5 clothes, whatever it might be. I would suggest to you that is
6 a possibility.

7 Let's go to some evidence that was submitted by
8 other folks. You've got a car parked at A. M. Tuck
9 Construction that's registered to my client at McCormick
10 Highway, Ms. Suber-Wilson's address, where they all lived
11 until October 31st, Sunday morning. He was a resident there,
12 lived there, engaged to be married. I think even her
13 testimony would suggest that they were engaged.

14 You've got the fact that my client is standing
15 behind the house. We got three officers to say that, in
16 addition to what Ms. Suber-Wilson said. You got Boggs, Scott
17 and Hammett all came around the corner. They also said that
18 when they got around the corner my client was fully compliant.
19 He didn't argue with them, didn't fuss with them.

20 They also testified that when they came to the scene
21 lights and sirens blared. Ladies and gentlemen, I would
22 suggest to you that that also does not make sense. Not from
23 the standpoint that they came with lights and sirens. I'll
24 agree. They testified to that. And not from the standpoint
25 that they came around the corner and he was standing there.

1 But the allegations are that my man committed a
2 violent crime, murder, broke into this woman's house,
3 kidnapped her, took her on a joyride and threatened to kill
4 her and kill her children, but their position also appears to
5 be he hears the lights and sirens coming and he stands there.
6 The guilty man that they claim he is hears the lights and
7 sirens coming and he's standing at the back door with the gun
8 in his pocket. It's not credible.

9 We've got the gun in his pocket. The gun had,
10 evidently, based upon their expert testimony, a test bullet
11 that was fired from that weapon, matched the bullet. You've
12 got absolutely no proof, however, that that weapon was fired
13 by my client, especially in light of the other statements that
14 Ms. Suber-Wilson made in her lack of credibility. But even
15 she can't say I saw it because she was asleep, allegedly. She
16 didn't wake up, didn't know what was going on.

17 Another fact that comes in through independent
18 witnesses, and not through Ms. Suber-Wilson, is that there is
19 a person involved in this crime that's deceased, and we cannot
20 avoid the fact that there is a body.

21 We also do not deny, cannot, the evidence is in,
22 that Mr. Vandross at Apache Gun and Pawn bought a handgun, a
23 380 Bersa Firestorm, and Mr. Ronnie Perry came in. I think
24 you all remember he came in and testified that he's the one
25 that sold it to him, signed his name on the form. I'm talking

1 about State's Exhibit Number 26.

2 So look at State's Exhibit Number 26, because it's
3 going to say something to you. In addition to the fact that
4 he bought this gun, think about if you know of anybody who's
5 ever bought a gun. They are going to run some checks on you.
6 First of all, they're going to make you fill out this form
7 that says you don't have --

8 MR. PEACE: Objection, Your Honor. Counsel is
9 testifying.

10 MR. BACOT: I'm talking about evidence that's been
11 admitted, Your Honor. It's their document.

12 MR. PEACE: He's talking about evidence that's been
13 submitted but he's talking about the way that that evidence
14 was handled after the document --

15 MR. BACOT: I'll rephrase it, Your Honor.

16 THE COURT: Woah, woah, woah. We're not going to
17 have an argument within an argument. You know, stick to the
18 record.

19 MR. BACOT: Yes, sir.

20 I would have you carefully read this document for
21 the questions that my client was asked on this document and
22 how he answered them.

23 You've got some independent testimony from these
24 officers that talks about Ms. Joanne Wilson and her physical
25 injuries. All three of these guy have responded, although

1 they did say, and I'll be the first one to point out, we
2 didn't spend a whole lot of time with her but we couldn't tell
3 if she had any physical injuries.

4 That's very important because what she had testified
5 to is that these injuries to her nose and her mouth, and these
6 pictures have been submitted, the State did that, her nose and
7 her lip, that is what produced the blood sufficient to mark on
8 this half wall. It's up to you all to decide that. Again,
9 this half wall of blood wasn't tested so we'll never know
10 whose blood it is.

11 Ladies and gentlemen, I would suggest to you that
12 the State has not met its burden of proof, based upon the lack
13 of credibility of Ms. Suber-Wilson's statement; based upon
14 their own experts saying that you cannot put the gun in my
15 client's hand, based upon D. N. A. They didn't do any
16 fingerprinting.

17 You've got a gun, some round lead particles on some
18 sleeves that even their own expert said could have been
19 contaminated from someone else that handled the weapon that
20 had been fired; regardless of whom they might have been.

21 I think you heard Captain Scott testify he removed
22 it from his pocket, gave it directly to Deputy Chris Hammett.
23 Chris Hammett put it in his back pocket. What I would suggest
24 to you, and I believe the expert agreed, but you all think
25 back if you think the expert agreed with me, that

1 contamination on Chris Hammett's hand. He escorts
2 Mr. Vandross back to the car, particles transferred. I don't
3 think that they have come in here and met the standard of a
4 reasonable doubt.

5 Let me talk about that for a minute. A doubt that
6 would cause a person to hesitate to act. You go to the
7 doctor. The doctor performs 10 of 20 tests he could possibly
8 perform before he diagnoses you with something. And he comes
9 to you and says, I think we need to do surgery. But he's only
10 performed half the tests that he could. Do you want him to
11 perform the other half of those tests or do you get a second
12 opinion? I would argue that that's what requires you to get
13 that second opinion is a good example of reasonable doubt.

14 This Judge in a moment, after Mr. Peace speaks and
15 he charges you, he's going to give you a jury form. And it's
16 going to have on there all of the charges that Mr. Vandross is
17 charged with and it's going to have guilty or not guilty.

18 I would suggest to you that not proven in your
19 minds is the same as not guilty, that reasonable doubt.
20 That question, could it have happened that other way? Do we
21 believe Ms. Joanne Suber-Wilson? That's the reasonable doubt
22 that I believe can require you to find my client not guilty of
23 these charges.

24 Put it all together. Her testimony, along with the
25 testimony of the State's witnesses, the relationship between

1 Mr. Best, Mr. Vandross and Ms. Suber-Wilson. I think if all
2 of those items are put together then there is ample evidence
3 to find my client not guilty.

4 In a moment Mr. Peace is going to talk to you, and I
5 apologize for being a little lengthy than I was in my opening.
6 I've tried to do everything that I possibly can to represent
7 my client, and I've been privileged to do so.

8 Thank you so very much for your time and your
9 service today on this jury. You are going to have an
10 opportunity to deliberate and I ask you to use your common
11 sense in doing so. Listen carefully to what I've said, what
12 Mr. Peace has said, what the witnesses have said, and
13 obviously, what the Judge is going to instruct you.....

14 I ask you to seriously look at these facts and come
15 back with a finding of not guilty for my client. He's charged
16 with murder, burglary, kidnapping and possession of a firearm.

17 Thank you.

18 THE COURT: All right. Mr. Peace?

19 MR. PEACE: Thank you, Your Honor. May it please
20 the Court.

21 Mr. Bacot.

22 Ladies and gentlemen of the jury, Madam Forelady,
23 once upon a time there was a father bear, a mother bear. --
24 wait a minute. You guys already have heard a fairy tale. You
25 just heard a fairy tale from Mr. Bacot.

1 Why is Joanne Suber-Wilson not credible in this
2 case? Why is Joanne Suber-Wilson not credible in this case?
3 What evidence other than Mr. Bacot saying she's not credible
4 has been presented to you saying that Joanne Wilson-Suber
5 [sic] is not a credible witness? Did anybody come up here,
6 sit down, and say I know Joanne Suber-Wilson and she's a liar?
7 No, they didn't.

8 So where does that leave us? You've got a defendant
9 charged with murder, burglary first, kidnapping and possession
10 of a weapon. Now, what is the evidence? Not conjecture, not
11 conjecture, what is the evidence that this defendant committed
12 those crimes? What is the evidence that this defendant
13 committed those crimes?

14 Is he a jealous guy? Is Mr. Vandross a jealous guy?
15 Did we hear somebody say he was jealous? Did we? Joanne
16 Suber-Wilson came up and said what? Their relationship had
17 problems because of his jealousy.

18 Sherry McCauley comes in and says what?
19 Mr. Vandross is jealous. He even came and talked to her about
20 their relationship. Talked to her about this is a jealous
21 man. This is a jealous man.

22 And what do jealous men do? What do jealous men do?
23 On October 31st, the defendant was asked by Joanne
24 Suber-Wilson to leave. She had had enough. He had been
25 staying there off and on. She told him to just leave. That

1 was on Sunday. That was before lunch.

2 By dinnertime Sanford Best, who she had known for
3 several years and had an off-and-on relationship came, and he
4 did what? He parked his car down the road. He parked his car
5 at a friend's house. And why? Because this defendant is a
6 jealous man. This defendant is a jealous man.

7 Joanne Suber-Wilson says, Give me my keys to the
8 house. On Sunday she says, Give me my keys to the house.
9 Here's your key to your apartment. Here's your keys to your
10 apartment. Give me my keys to my house. And he does what?
11 He doesn't do that. He doesn't do it. When does he do it?
12 Later in the week. He goes over to her business and gives her
13 a key back.

14 But what happens on November 4th? What do the
15 deputies find in his pocket? A set of keys. One of the keys
16 does what? It goes to his car that's parked down the road.
17 The other key does what? It opens the door.

18 Now, when you come in here and you are selected, you
19 take your oath, you don't leave your common sense outside that
20 door. You bring your common sense in here and you use it.
21 Look at that key. Look at that key. See if that key looks
22 new. See if that key looks new.

23 We would submit to you that the defendant didn't
24 give her her key back because he wanted to have a key made,
25 and he had a key made. And this is that key.

1 Before November 1st Sanford Best, who can't speak
2 for himself because Sanford Best is dead, Sanford Best and
3 Ms. Wilson were at a ball game, and who is there? The
4 defendant. The defendant. And what's he doing? Is he
5 watching the ball game? No. What did she say? He's staring.
6 He's staring at me and Sanford. So what do they do? They go
7 home. Sanford parks his car in the garage.

8 Ms. Wilson went into a great deal about what
9 happened, about this event, about this life altering event
10 that occurred to her. It occurred to her children, it
11 occurred to Sanford Best, it occurred to Sanford Best's
12 family.

13 And what did she say? She is in her bed, and she is
14 in her bed asleep. And she's is awakened. She's awakened by
15 somebody grabbing her. She's in her bed and she's awakened by
16 somebody doing this, and does what? Jerks her off the bed.
17 Don't scream, Joanne. Don't scream. Don't scream. And then
18 what happens? He body slams her.

19 Now, Mr. Bacot talked about no injuries. You'll
20 take these back with you. And these were taken when? Several
21 hours later is what the testimony is, is as much as ten hours
22 later. See where that injury is? That's on your nose.

23 Now, you can use your common sense in ways of the
24 world. Have you ever scratched your nose? Do you know how it
25 bleeds? When you scratch your nose it will bleed. You'll

1 bleed like a stuffed pig. Same thing with your mouth. And
2 you'll take this back. Her mouth is busted and her nose is
3 busted. And you can use your common sense, and you know how
4 those bleed.

5 And so what happens? He's telling her he's going to
6 kill her kids. She tells him she has to go to the bathroom.
7 So she goes in the bathroom. She's on the toilet, he throws
8 her clothes in. And what was her response to Mr. Bacot's
9 question? What was her response? He literally scared the
10 shit out of me.

11 This lady is in her house in her bed and this
12 defendant comes in, and how does he do it? He has
13 surreptitiously made a key. He comes in the back door, he
14 uses that key. What was the testimony? What was the
15 testimony? The testimony was Marc Cromer used that key and
16 that key opened the door. That key opened the door.

17 Ms. Wilson said what? When we went out there was a
18 flashlight. What did they find on the defendant? A
19 flashlight in his pocket. They found keys, they found the
20 flashlight.

21 He takes her from her house. She goes in, she
22 writes in blood, Charles. Bless her heart. Bless her heart
23 she had the forethought to do that, to do something, to do
24 something. Her boys are over here and he's threatening to
25 kill her boys. He's threatening to kill her boys.

1 Did he have permission to go in her house? No. He
2 was kicked out October 31st. He wasn't even living there
3 then. He had spend the night. He had an apartment somewhere
4 else. October 31st he's kicked out. Did he have permission
5 to be there on November the 4th? No. He didn't have
6 permission to be there.

7 Did he go inside with intent to commit a crime?
8 You'll have these photographs back with you. Did he go inside
9 with the intent to commit a crime? You're doggone right he
10 did. You got a jealous defendant, he killed a man. Put the
11 gun up to his head, up to his head and pulled the trigger and
12 killed him.

13 Killed him when he was doing what? Sanford Best had
14 gone to sleep reading his Bible. This defendant goes in a
15 house, sneaks in and kills somebody who fell asleep reading
16 their Bible. Sanford Best didn't know what hit him.

17 Joanne Wilson didn't hear a gunshot. Joanne Wilson
18 didn't hear a gunshot. If she was making this up, if she was
19 making this up why wouldn't her story be yeah, I heard a
20 gunshot and then Vandross pulled me off the bed. If she's
21 making this up why wouldn't she say that? Why wouldn't she
22 say that?

23 What's the testimony about the gunshot? Dr. Sexton,
24 who's been doing this since 1968, he's been doing this since
25 1968, sat up here and said what? Said what? What did he say

1 about the gunshot? Question; Dr. Sexton, would it be unusual
2 or strange for someone not to hear a gunshot?

3 And what was the answer? How many autopsies has he
4 done? Thousands. His answer was no. No, that wouldn't be
5 strange. That wouldn't be a surprise. That wouldn't be
6 strange, that wouldn't be a surprise.

7 The sound would be what? It would be muffled.

8 And what about Tracy Thrower, the SLED agent today,
9 the cross-examination. What did he tell you? Well, no, the
10 sound would be muffled if it was up against something. The
11 sound would be muffled if it was up against something. So
12 that's the explanation about why she didn't hear the gunshot.

13 What did Lieutenant Boggs tell you? The TV was on.
14 The TV was on loud. The TV was on loud. If she was going to
15 make this up she would have said man, I heard the gunshot. I
16 woke up and there he was. There he was. But the testimony is
17 I woke up and somebody did this (indicated). I woke up and
18 somebody did that.

19 Now, what happened? What happened after that? He
20 takes her out, puts her in her car and they start going down
21 the road. She lives here on McCormick Highway. They go down
22 this road, eventually going to the Tranquil Church, and you'll
23 have all the diagrams. You will have all the diagrams.

24 What a nightmare of a night. They go first to the
25 new Tranquil Church then they go to the old Tranquil Church.

1 I mean, she's in fear. I mean, she thinks she's going to die.
2 She thinks she's going to die. That's what she tells you. I
3 thought I was going to die. I thought I was going to die. I
4 thought I was going to die.

5 She's duct taped. She's duct taped. Where do they
6 find the duct tape? Where do they find the duct tape? In the
7 car. The duct tape is in the car. They find a roll of duct
8 tape in the car. They find the duct tape that's taken off of
9 her in the car.

10 The defendant threatens to kill her several times.
11 I mean, she's there five hours, six hours. I mean, she's
12 going through an experience that she's never gone through
13 before. Now, are you are going to fuss at her because she
14 doesn't know the exact time? I can't tell you at 2:14 he
15 threatened to do something to my kids. I can't tell you at
16 2:18 he said something else.

17 I mean, she's going through a nightmare. She's
18 there duct taped in the middle of the night in the middle of
19 nowhere, old Tranquil Church. What was the testimony? She
20 thought it was a deserted road. It's out in the country, and
21 she just thinks she's going to die. And she's doing whatever
22 she can not to die. She's doing whatever she can not to die.

23 He tells her to get out of the car. She can't do
24 it. She can't move. So he comes around and gets her out. He
25 comes around and gets her out. And what does he do? He's

1 threatening, he's threatening, he's threatening.

2 All of a sudden it's like a light turns on. He
3 tells her that he killed Sanford. She doesn't know up to this
4 point because she didn't see him. The defendant tells her
5 that he killed Sanford Best, and then what? He decided to
6 give it up.

7 He takes her back home, but what does he do when he
8 takes her back home? He said all right, you call the police
9 and I'm going to kill you and I'm going to kill the kids. I'm
10 going to kill you and I'm going the kill the kids.

11 What does Raheim Suber say? Momma came in and I
12 immediately knew that something was wrong. I immediately
13 ~~knew that something was wrong.~~ What's wrong, momma? What's
14 wrong, momma?

15 Mr. Charles done killed Mr. Sanford. You need to
16 get the boys. You need to get the boys. You need to get the
17 boys and get out. You need to get the boys and get out. She
18 didn't use the phone why? Why didn't she use the phone when
19 she went back to the house? Because he told her that he had
20 fixed that. But she had the luck, the good sense or whatever
21 it was to see her cell phone and calls 911.

22 The police come and what happens? The police come
23 and what happens? They tell the police he's out back. He's
24 out back. The police find him around the back of the house,
25 and I think the defense's presentation was he was compliant.

1 The defendant was compliant.

2 Well, let me ask you this. If you had three guns
3 pointed at you, if you had one gun on this side and Chris
4 Hammett is over here with a gun pointed at you, Lieutenant
5 Boggs, Captain Scott over here with a gun pointed at you,
6 wouldn't you be compliant? Wouldn't you be compliant? You're
7 doggone right you would.

8 He puts up his hands, and he says what? The gun,
9 the gun is in my pocket. The gun is in my pocket. Had
10 anybody said anything to him about a gun? The gun is in my
11 pocket. Has anybody said anything to him about a gun? The
12 gun is in my pocket.

13 So what happened? Captain Scott takes the gun and
14 does what? Gives it to Corporal Hammett. Corporal Hammett
15 puts it in his pocket. Then it goes where? It goes to
16 Sergeant Inks. Several people have handled the gun. Use your
17 common sense. How many fingerprints are you going to get with
18 four or five people handling the gun? What possible good
19 could fingerprinting a gun handled by several people do?
20 None. None.

21 The door to the bedroom. The door to the bedroom is
22 locked. Lieutenant Boggs said he kicked it in. Why didn't he
23 fingerprint the doorknob? Why didn't you fingerprint the
24 doorknob? You didn't fingerprint the doorknob.

25 Remember Sergeant Inks? Sergeant Inks, would it do

1 any good to fingerprint the doorknob if somebody had lived
2 there, had been there? What possible good could it do to
3 fingerprint a doorknob when the defendant had been there on
4 Sunday, he had been there on Saturday? What good is that
5 going to do? What good is that going to do?

6 So what do you have? What do you have? You've got
7 a jealous defendant, a jealous defendant, The testimony shows
8 he's a jealous defendant. You got his gun purchased by him.
9 His gun purchased by him in his pocket and he's at this
10 residence with his car parked where? With his car parked
11 where? Well, his car is parked a half mile away. With his
12 car parked a half mile away.

13 And what's in his car? There's a sweater, and
14 you'll have a picture of the sweater. There's a picture of
15 the sweater in his car, the back seat of his car. And what?
16 A hat. A hat on the deck.

17 Now, Mr. Bacot said well, you know, he left some of
18 his stuff over there. He left some of his stuff over there.
19 Would you leave it on the back deck? You know, do you guys
20 keep your clothes on the back deck? Do you keep it on the
21 back deck?

22 Gunshot residue. Items consistent with gunshot
23 residue where? Items consistent with gunshot residue on the
24 sleeve of his shirt, and you'll have that in there with you.
25 You won't be able to see it, but the testimony is what? Items

1 consistent with gunshot residue on his shirt, not conclusive.

2 Well, could you possibly get gunshot residue from
3 handling something and then somebody (indicated)? Yeah, it's
4 possible. It's possible. It's possible. But what did Agent
5 Stoner say? Agent Stoner, your examination of this shirt, did
6 that appear to you to be secondary, a secondary transfer?

7 No. No, not a secondary.

8 So what happened on November the 4th of 2004? This
9 is what happened. You got a jealous defendant, a jealous
10 defendant in the middle of the night who drives and parks his
11 car. He drives and parks his car.

12 He walks up with his flashlight to the back door.
13 He uses a key that he had had made to enter the back door. He
14 goes into the bedroom, he takes his gun and he puts it up to
15 the head of Sanford Best and he fires a shot.

16 He then grabs Joanne Wilson, duct tapes her, puts
17 her in her car, takes her away. Who knows what his intent
18 was. Who knows what his intent was. Joanne Wilson said it
19 was to kill her. He threatened to kill her and he threatened
20 to kill her children. He brings her back and he's found with
21 his gun, gunshot residue and he's told Joanne Wilson that he
22 killed Sanford Best. And that's what happened in this case.

23 Murder, the unlawful killing of another human being
24 with malice aforethought, express or implied. Unlawful
25 killing of another human being with malice aforethought,

1 express or implied.

2 This defendant sits there and his mother can say,
3 Charles, how you doing? How you doing?

4 Fine, momma. I'm doing just fine.

5 But you know what? Sanford Best's family, his momma
6 says, Sanford? Sanford? Silence. There's silence. Sanford
7 can't answer because Sanford is dead, and Sanford was killed
8 by this defendant. Sanford Best was killed by this defendant.

9 Now, the State has to prove this case beyond a
10 reasonable doubt. What is that? What is a reasonable doubt?
11 The Judge is going to tell you it's to hesitate to act. Does
12 that mean that we have to come in here and prove him guilty
13 one hundred percent? One hundred percent? No. No.

14 Use your common sense. Are you a hundred percent
15 convinced of anything? Are you a hundred percent convinced of
16 anything? Is it 50 percent? No. What is it? It's what you
17 say it is. It's what you say it is.

18 But I would submit to you that whatever, whatever
19 the Judge tells you reasonable doubt is the State has met that
20 standard. The State has met that standard.

21 You've had witnesses come in here and testify and
22 give you evidence, and give you evidence that requires you to
23 find this defendant guilty, and I would ask that you do that.
24 I would ask that you do that.

25 Now, I thank you for your time and attention and I

1 know that you'll go back, you'll consider the evidence and
2 you'll do what's right in this case. Thank you.

3 THE COURT: All right. Madam Forelady, ladies and
4 gentlemen of the jury, the indictment charges the defendant
5 with four separate counts. The first indictment charges the
6 defendant with burglary in the first degree, it charges the
7 defendant with murder, it charges the defendant with
8 kidnapping and it charges the defendant with possession of a
9 firearm or knife during the commission of a violent crime.

10 I remind you that the fact that the defendant was
11 arrested, charged and indicted in this case is not evidence in
12 the case and cannot be considered by you as evidence of guilt
13 in this case, nor does it create any presumption or inference
14 of guilt. The indictment is simply the formal written
15 instrument which contains the charges made against the
16 defendant. It is the formal document by which this case is
17 brought into court.

18 Now, as I have told you, the indictments allege
19 several different offenses against the defendant. The charges
20 are burglary in the first degree, murder, kidnapping, and
21 possession of a firearm or knife during the commission of a
22 violent crime.

23 Each count charges a separate and distinct offense.
24 You must decide each count separately on the evidence and the
25 law applicable to that particular count, uninfluenced by your

1 decision as to any other count. The defendant may be
2 convicted or acquitted on any or all of the offenses charged.
3 You will be asked to write a separate verdict of guilty or not
4 guilty for each count.

5 Now, to the counts of the indictment the defendant
6 has entered a plea of not guilty which places upon the State
7 the burden of proving the defendant guilty of each and every
8 charge. A person charged with committing a criminal offense
9 in South Carolina is never required to prove himself innocent.

10 I charge you that it is a vital, important rule of
11 the law of evidence that the defendant in a criminal trial, no
12 matter how greater or serious may be the offense for which he
13 is charged, must always be presumed innocent until his guilt
14 has been proven beyond a reasonable doubt.

15 This presumption of innocence remains with the
16 defendant at all times, from the moment of his appearance in
17 this Court throughout the trial and until the jury has, upon
18 the testimony and the evidence presented, reached a verdict of
19 guilty beyond a reasonable doubt.

20 For it is the solemn duty of this jury if not
21 clearly convinced of the defendant's guilt beyond a reasonable
22 doubt as to any charge to acquit the defendant. So the burden
23 of proof is upon the State to establish by evidence to your
24 satisfaction the guilt beyond a reasonable doubt of this
25 defendant here on trial for the charges against him.

1 Now, what is a reasonable doubt? A reasonable doubt
2 is the kind of doubt that would cause a reasonable person to
3 hesitate to act. If you have such a doubt as to the guilt of
4 the defendant then the defendant would be entitled to a
5 verdict of not guilty. Reasonable doubt may arise from the
6 evidence which is in the case or from the absence or lack of
7 evidence in the case.

8 You alone must make the determination of whether or
9 not reasonable doubt exists as to the guilt of the defendant
10 on the four charges against him. Now, the State has the
11 burden of proving the defendant, beyond a reasonable doubt,
12 as I told you.

13 Now, ladies and gentlemen, there are two types of
14 evidence which are generally presented during a trial, direct
15 evidence and circumstantial evidence. Direct evidence is the
16 testimony of a person who claims to have actual knowledge of a
17 fact, such as an eyewitness. It is evidence which immediately
18 establishes the main fact to be proved.

19 Circumstantial evidence is proof of a chain of
20 facts and circumstances indicating the existence of a fact.
21 It is evidence which immediately establishes collateral facts
22 from which the main fact may be inferred. Circumstantial
23 evidence is based on inference and not on personal knowledge
24 or observation.

25 The law makes absolutely no distinction between the

1 weight or value to be given to either direct or circumstantial
2 evidence. Nor is a greater degree of certainty required of
3 circumstantial evidence than of direct evidence.

4 You should weigh all of the evidence in this case.
5 After weighing all the evidence if you are not convinced of
6 the guilt of the defendant beyond a reasonable doubt you must
7 find the defendant not guilty.

8 Now, ladies and gentlemen, I often use as an example
9 for jurors as to direct evidence and circumstantial evidence
10 the following. If you go to bed at night and you look outside
11 and there's snow coming down you have direct evidence of it
12 snowing. But if you go to bed at night and you look outside
13 and it's not snowing but you wake up in the morning and
14 there's snow on the ground then there is circumstantial
15 evidence that it snowed during the evening.

16 Now, Madam Forelady, members of the jury, under the
17 constitution and laws of South Carolina you are the finders of
18 facts in this case. I do not have the right to pass upon the
19 facts or even to express any opinion I may have as to those
20 facts. Nor may I intimate in any way what I may think about
21 the guilt or the innocence of the defendant.

22 Now, you are also the judges and the sole judges of
23 the credibility, and by this I mean the believability of the
24 witnesses who have testified in this case. In passing upon
25 their credibility you may take into consideration many things

1 such as the demeanor or the manner of the witness testifying.

2 You can consider whether the witness has reason to
3 be bias or prejudice. You can consider whether a witness's
4 testimony was contradicted on the one hand or supported and
5 corroborated on the other hand.

6 Now, you certainly do not determine this credibility
7 or believability by counting the number of witnesses who may
8 have testified for either side. You may believe a small
9 portion of a witness's testimony and disregard the larger or
10 vice versa. You may believe one witness against many or many
11 against one.

12 Now you've heard the testimony of witnesses who have
13 special knowledge, skill, experience, training or education in
14 particular professions or occupations who have given their
15 opinions as experts as to matters in which they are skilled.

16 In determining the weight to be given such an
17 opinion you should consider the qualifications and the
18 credibility of the expert and the reasons given for the
19 opinion. You are not bound by such an opinion. Give it the
20 weight, if any, to which you deem it is entitled. All of
21 these things you will consider bearing in mind that you should
22 give the defendant the benefit of a reasonable doubt.

23 Now, ladies and gentlemen, I instruct you and
24 emphasize that the fact that the defendant did not testify is
25 not a fact to be considered by you in any way in your

1 deliberation and in your consideration on the question of the
2 guilt or innocence of the defendant as to any particular
3 charge. It must not be considered by you in any manner
4 whatsoever.

5 A defendant has the constitutional right to remain
6 silent and the assertion of this right must not be considered
7 by you in your deliberations. I repeat, under your oath you
8 are to draw no conclusion whatsoever from the fact that the
9 defendant in this case did not testify.

10 The fact that this defendant did not testify should
11 not even be discussed in the jury room. The burden of proof,
12 as I've stated to you, is on the State. The defendant is not
13 required to prove his innocence. The burden of proof remains
14 on the State to prove his guilt beyond a reasonable doubt.

15 Now, the same constitution and laws which make you
16 the finders of facts and the evidence, as I discussed with
17 you, make me the sole and only instructor of the law. You
18 must accept as correct the law which I charge and apply it to
19 the evidence as you find it and reach your verdict.

20 I charge you in this regard, ladies and gentlemen,
21 that you should not be concerned about what you wish the law
22 were or what you think the law ought to be but rather only
23 what I charge you the law to be.

24 Now, as I told you, ladies and gentlemen, the
25 defendant has been charged with four separate offenses. The

1 defendant is charged with first degree burglary. Now, the
2 State must prove beyond a reasonable doubt that the defendant
3 entered a dwelling without consent.

4 A dwelling is any building or portion of a building
5 in which a person ordinarily sleeps. A building constructed
6 as a dwelling that has never been occupied cannot be
7 considered a dwelling for purposes of burglary, but a building
8 is a dwelling even if the residents are temporarily absent
9 from the building.

10 In order to prove the defendant entered the dwelling
11 the State does not have to show that the defendant's entire
12 body entered the dwelling, the smallest entering is
13 sufficient, but it may be any part of the body such as a hand
14 or a foot or even an instrument.

15 In addition, the State does not have to prove that
16 force was used to gain entry. If a person enters a dwelling
17 by using conception, artifice, trick or misrepresentation to
18 get consent to enter than this is entry without consent.

19 Next the State must prove beyond a reasonable doubt
20 that the defendant intended to commit a crime, either a felony
21 or a misdemeanor, at the time of the entry. The mere entry
22 into a dwelling without consent is not burglary.

23 If the intent to commit a crime is formed after the
24 entry it is not burglary. On the other hand, if the defendant
25 intended to commit a crime at the time of the entry it is

1 burglary, even if the intent was abandoned after the entry.

2 It does not matter that the intended crime was not
3 completed. Intent may be shown by acts and conduct of the
4 defendant and other circumstances by which you may naturally
5 and reasonably infer intent.

6 Finally, the State must prove beyond a reasonable
7 doubt that when entering, while in the dwelling or when
8 fleeing the defendant or accomplice was armed with a deadly
9 weapon or explosive.

10 Now, a deadly weapon is any article, instrument or
11 substance which is likely to cause death or great bodily harm.
12 Whether an instrument has been used as a deadly weapon depends
13 on the facts and the circumstances of each case.

14 The following are examples of instruments which may
15 be deadly weapons; a pistol, a shotgun, a rifle, a dirk, a
16 dagger, a knife, a slingshot, gasoline, a firebomb or molotov
17 cocktail. A gun may be a deadly weapon even if it's not
18 operating. Or the State must prove that when entering, while
19 in the dwelling or when fleeing, the defendant or an
20 accomplice caused physical injury to anyone not participating
21 in the crime; or the State must prove when entering, while in
22 the dwelling or when fleeing the defendant or an accomplice
23 used or threatened to use a dangerous weapon; or the State
24 must prove when entering or while in the dwelling or when
25 fleeing the State [sic] or an accomplice displayed what was or

1 appeared to be a knife, a pistol, a revolver, a rifle, a
2 shotgun, a machine gun or other firearm; or when entering the
3 defendant entered or remained in the dwelling in the
4 nighttime. Nighttime is the period between sunset and sunrise
5 during which there is not enough daylight to recognize a
6 person's face except by artificial light or moonlight.

7 Now, the defendant has been charged with murder.

8 The State must prove beyond a reasonable doubt that the
9 defendant killed another person with malice aforethought.

10 Malice is hatred, ill will or hostility towards another
11 person. It is the intentional doing of a wrongful act without
12 just cause or excuse and with an intent to inflict an injury
13 or under circumstances that the law will infer an evil intent.

14 Malice aforethought does not require that the malice
15 exists for any particular time before the act is committed,
16 but malice must exist in the mind of the defendant just before
17 and at the time the act is committed. Therefore, there must
18 be a combination of the previous evil intent and the act.

19 Malice aforethought may be expressed or inferred.
20 These terms expressed and inferred do not mean different kind
21 s of malice but merely the manner in which malice may be shown
22 to have existed. That is, either by direct evidence or by
23 inference from the facts and circumstances which are proved.

24 Express malice is shown when a person speaks words
25 which express hatred or ill will for another, or when the

1 something, to entice a person into a trap. Kidnap is to
2 remove a person against his will by unlawful force or fraud.
3 Abduct means to carry off secretly or by force for an illegal
4 purpose. Carry away means to remove.

5 The State does not have to prove that the defendant
6 did all of these things, instead if you find beyond a
7 reasonable doubt that the State did any of these things you
8 may find the defendant guilty of kidnapping.

9 Something done without authority of law is something
10 which the State does not sanction, permit, allow or condone or
11 provide justification for.

12 The kidnapping does not have to be for any personal
13 or monetary gain, for any illegal purpose, but may be for any
14 reason whatsoever.

15 And finally, ladies and gentlemen, the defendant is
16 charged with possession of a weapon during the commission of a
17 violent crime. The State must prove beyond a reasonable doubt
18 that the defendant was in possession of a firearm or visibly
19 displayed what appeared to be a firearm during the commission
20 of a violent crime. A firearm means any machine gun,
21 automatic rifle, revolver, pistol or any weapon which is
22 designed to or may be readily converted to expel a projectile.

23 In order to find the defendant guilty of possession
24 of a weapon during the commission of a violent crime you must
25 first find the defendant guilty of either committing a violent

1 crime or attempting the crime. In South Carolina, burglary in
 2 the first degree, kidnapping and murder are all violent
 3 crimes. Now, ladies and gentlemen, if you find that no

4 violent crime was committed you cannot find the person used a
 5 firearm while in the commission of a violent crime.

6 Now, Madam Forelady and members of the jury, you
 7 have been selected as impartial jurors sworn to impartially
 8 try and determine the facts of this case, and when you comply
 9 with your oath to do so then no one will have a right to
 10 criticize your verdict and you will fully have discharged your
 11 duty as jurors.

12 You are to decide this case according to the
 13 testimony that has been heard from the lips of the sworn
 14 witnesses along with any other evidence that has been
 15 introduced. I charge you that as jurors you must decide these
 16 issues in this proceeding without any bias and without any
 17 prejudice to any party. You cannot allow yourself to be
 18 governed by sympathy, by prejudice, by passion, by public
 19 opinion or by any other arbitrary factor.

20 Both the State and the defendant have the right to
 21 expect that each of you will carefully and impartially
 22 consider all the evidence.

1 each of the counts for which the defendant has been charged.

2 There are two possible verdicts that you can reach for each

3 count. You are not to infer anything by what goes first and

4 what goes second with respect to the verdict form. Something

5 has to go first and something has to go second.

6 The two possible verdicts that you can find are with

7 respect to each count, we, the jury, unanimously find the

8 defendant guilty of the particular crime or we, the jury,

9 unanimously find the defendant not guilty.

10 Now, as I told you, if you do not find the defendant

11 guilty of either burglary or murder or kidnapping you cannot

12 find the defendant guilty of possession of a firearm during

13 the commission of a violent crime because there has to be a

14 violent crime before one can be in possession of a firearm

15 during the commission of a violent crime.

16 Ladies and gentlemen, your verdict must be a

17 unanimous verdict. It has to be the verdict as to each count

18 of all 12 jurors. It cannot be 11-1, 7-5, 8-4. It's got to

19 be the unanimous verdict of all 12 jurors.

20 Now, Madam Forelady, members of the jury, what I'm

21 going to ask you to do, when you have reached a verdict as to

22 a respective count, Madam Forelady, I'm going to ask that you

23 circle whatever that verdict is as to the count. When you

24 have reached a verdict as to all four counts, each of which

25 has been circled by you, as the foreperson, I'm going to ask

1 that you sign the verdict as foreperson of the jury and date
2 the verdict as foreperson of the jury.

3 If you will then have someone, or you, whoever,
4 knock on the door here. There will be a bailiff seated
5 outside the jury room. Advise the bailiff that you all have
6 reached a unanimous verdict as to all four counts. We will
7 then bring you back into the jury room so that your verdict
8 can be published.

9 Now, at this time I am going to ask everyone but the
10 two alternates to retire back to the jury room, but do not
11 begin your deliberations. I must review with the attorneys to
12 determine whether they believe I either failed to instruct you
13 something that they think I should have instructed you or
14 whether they believe I incorrectly instructed you as to
15 something. If additional instructions are necessary I will
16 bring you back quickly and give you those instructions.

17 If there are no additional instructs to be given the
18 bailiff will bring this verdict form along with all the
19 exhibits that have been introduced. At that time, you can
20 begin your deliberations.

21 Now, the lunch, we had asked for it to be here at
22 one o'clock, and I assume it will be here around this time. I
23 will have it brought into the jury room. You can stop and eat
24 your lunch and not talk about it or you can eat your lunch and
25 deliberate, whatever you all choose to do.

1 All right. If all of you would step back into the
2 jury room. Do not begin your deliberations. We will be with
3 you momentarily.

4 The alternates will need to stay with me.

5 (WHEREUPON, the jury leaves the courtroom at
6 approximately 12:58 p.m.)

7 THE COURT: All right. Ms. Brandt and Mr. McBride,
8 apparently your 12 colleagues survived the process of getting
9 this far and they appear to be healthy and they are going to
10 be able to go forward with their deliberations, so I am going
11 to release you from service on this jury.

12 I assume we ordered lunch for them as well?

13 Your lunch is here. You're welcome to stay here and
14 eat your lunch and wait and see what the jury does or you're
15 welcome to take your lunch and leave, or whatever pleases you.

16 I assume, Mr. Solicitor, we're not going to have any
17 more trials this week?

18 MR. PEACE: We will not, Your Honor.

19 THE COURT: So we can turn these jurors loose upon
20 this conclusion. So you all will be finished with your jury
21 service. I certainly want to thank you on behalf of all who
22 have been involved in this process, for your willingness to
23 make yourselves available and go through this.

24 I hope that you found this to be somewhat
25 informative and maybe that if you have the opportunity to do

1 it again that you will readily make yourself available,
2 because hopefully you found out how important you, as members
3 of this community, are to the whole process. But I do thank
4 you and we will turn you loose.

5 (WHEREUPON, the alternate jurors were released.)

6 THE COURT: Is there anything from the State with
7 respect to the instructions?

8 MR. PEACE: Not from the State.

9 THE COURT: Anything from the defendant?

10 MR. BACOT: No, sir.

11 THE COURT: All right. Let's, if you will, get with
12 the court reporter and make sure we gather up all of the
13 evidence to go back to the jury room, and here is the verdict
14 form. And we'll stand in recess.

15 (WHEREUPON, the jury was given all the exhibits and
16 the verdict form and instructed to begin their deliberations
17 at approximately 1:05 p.m., and the trial of this case was in
18 recess while awaiting a verdict from the jury.)

19 (WHEREUPON, the following occurred at approximately
20 3:35 p.m.)

21 THE COURT: You all be seated, if you would.

22 Let's bring the jury in.

23 (WHEREUPON, the jury enters the courtroom at
24 approximately 3:50 p.m.)

25 THE COURT: Madam forelady, I assume this is your

1 note?

2 THE FORELADY: Yes, sir.

3 THE COURT: I've got your note. I've reviewed it
4 with the attorneys, and I'm going to go through and tell you
5 what I can and can't do.

6 First of all, we don't have a transcript of the
7 trial. This is not -- we don't have the equipment that allows
8 it to be typed as it's being given. So to get a transcript
9 would probably take us 30 days. What we could do is we can
10 let you listen again to any of the testimony that you might
11 want to listen to.

12 Written definitions of each offense. I can't give
13 you that but I can recharge you as to the particular offenses
14 if that's what you want.

15 Of course, your clarification of malice for murder;
16 is that the same as premeditation? I can't answer that
17 question but I can recharge you. That will include the
18 definition of malice or any other offense that may be
19 applicable.

20 If gunshot residue is on the arms after six hours
21 does that still count? I can't answer that question. I can
22 let you listen to testimony. If you want to listen to
23 testimony and see if that will answer your questions.

24 If you have a key to the house and have mail going
25 to the house is it implied that you have permission to enter

1 the house? The only thing I can do is you are going to have
2 to rely on your understanding of what the facts are and I'll
3 give you the charge of burglary again, if that will help you.

4 And which side of the casing was the bed at? Again,
5 I can't answer that question. The only thing you can consider
6 is the evidence that's been presented, which means you can
7 listen to the testimony again or review the photographs or
8 such. Of course, you understand, if you listen to the trial
9 again that will take you as long as you've been here since
10 Tuesday afternoon. So you're going to have to decide what you
11 want, and if you need something additional from the Court
12 either in terms of letting you listen to testimony or
13 recharging you anything you'll have to let me know that.

14 So if you all would step back to the jury room, and
15 if you need something additional write me a little note and
16 tell me what it is and we'll accommodate you in any way we
17 can. All right. Thank you.

18 (WHEREUPON, the jury leaves the courtroom at
19 approximately 3:52 p.m.)

20 THE COURT: All right. Anything from the State with
21 respect to the responses to the questionnaire?

22 MR. PEACE: Not from the State.

23 THE COURT: Anything from the defense?

24 MR. BACOT: No, sir.

25 THE COURT: All right. I'm going to make that

1 Court's Exhibit Number 5.

2 (WHEREUPON, Court's Exhibit No. 5, a Note from the
3 Jury, was marked and made a part of the record.)

4 THE COURT: We'll wait and see if we get anything
5 back from them. If we do we'll attempt to respond to that,
6 but I will review what we get from them and what response we
7 give to them before we bring the jury back out with the two
8 attorneys. And we'll stand in recess.

9 (WHEREUPON, the trial of this case was in recess
10 while awaiting a verdict from the jury.)

11 THE COURT: I have received a note, second note.
12 I've reviewed the note with counsel for both the State and the
13 defendant, and I'm going to bring the jury out and see if we
14 can get some clarification.

15 If you'll bring them out.

16 (WHEREUPON, the jury enters the courtroom at
17 approximately 4:55 p.m.)

18 THE COURT: Okay. Madam Forelady, ladies and
19 gentlemen of the jury, I received your note, and the first
20 question is if we want to hear one specific person's testimony
21 can we hear just that testimony or do we have to hear
22 everyone's testimony?

23 Again, you can hear whatever you want to hear. If
24 you just want to hear one testimony, if you want to hear a
25 portion of one person's testimony, if you know specifically

1 what the subject is you want the hear about we will have to
2 find it on the tape and it will take the court reporter a few
3 minutes to do that but you can hear whatever you want to hear.

4 The second question; the counsel, Reverend testified
5 this morning that he was counselor. Was he the counselor that
6 Ms. Wilson testified she had seen on 10-30-04?

7 I cannot answer your question, but if you want to
8 listen to the testimony of the counselor who testified or
9 testimony of the portion of Ms. Wilson, or whatever you want
10 to hear we can play that. I specifically cannot answer your
11 question. So what is your pleasure, or do you all need to
12 talk about it?

13 THE FORELADY: We want to hear the testimony of the
14 firearms -- not the firearms specialist. We want to hear the
15 SLED agent that talked about the gunshot residue. We'd like
16 to hear her testimony, and then the counselor's testimony from
17 this morning.

18 THE COURT: Okay. And we will do that. If whatever
19 question you have, you hear that portion of the testimony and
20 that answers your questions if you will tell me and we'll stop
21 that testimony and go on to the next testimony, or you can
22 hear it all. Whatever you want to do. But if your questions
23 have been answered and you're ready to conclude that testimony
24 let me know that.

25 All right. Madam Court Reporter, can we find the

1 ballistics -- I mean this is the gunshot residue --

2 MR. PEACE: Jennifer Stoner.

3 THE COURT: I'm going to let you all step back to
4 the jury room because it's going to take her a few minutes to
5 find it. We will bring you right back as soon as we get the
6 testimony.

7 (WHEREUPON, the jury leaves the courtroom at
8 approximately 4:50 p.m., and a brief recess was taken.)

9 THE COURT: Let's bring the jury in.

10 (WHEREUPON, the jury enters the courtroom at
11 approximately 5:12 p.m.)

12 THE COURT: Okay, ladies and gentlemen,
13 Ms. Vizer-Hanks has found the two witnesses' testimony and
14 we're going to start with Agent Jennifer Stoner. I think
15 that's the agent that was the gunshot residue agent; is that
16 correct?

17 MR. PEACE: Yes, sir, that's correct.

18 THE COURT: And we will, when she finishes that
19 testimony -- as you all recall, the State called the
20 lieutenant back. We'll stop it there, skip ahead. The next
21 witness was the defense witness. You may recall that there
22 was some discussion about relevancy and some testimony, I'm
23 going to skip that rather than you hearing the arguments from
24 the counsel to me.

25 All right, Madam Vizer-Hanks.

1 (WHEREUPON, the testimony of Agent Jennifer Stoner
2 and Nelson Howard was played for the jury.)

3 THE COURT: Ladies and gentlemen, that's the
4 testimony of the witnesses that you asked to listen to again.
5 So I'll ask you to step back to the jury room and resume your
6 deliberations, please.

7 (WHEREUPON, the jury leaves the courtroom at
8 approximately 5:45 p.m.)

9 THE COURT: All right. Anything from the State with
10 respect to the responses to the questions that we were posed
11 by the jury?

12 MR. PEACE: None.

13 THE COURT: Anything from the defense?

14 MR. BACOT: No, sir.

15 THE COURT: I'm going to make this Court Exhibit
16 Number 6.

17 (WHEREUPON, Court's Exhibit No. 6, a Note from the
18 Jury, was marked and made a part of the record.)

19 THE COURT: Let's bring the jury in.

20 (The following occurred at approximately 6:18 p.m.)

21 THE COURT: All right. For the record, we had a
22 request by one or more of the jurors through our bailiff that
23 they wanted to go smoke cigarettes.

24 And I got the lawyers in and talked to them a little
25 bit about where we were with the deliberations and indicated

1 that we weren't going to be here all night for them to say
2 that they want to come back in the morning.

3 So with the permission of the Solicitor and
4 Mr. Bacot I went into the jury room and told them that I would
5 be happy to let them go smoke a cigarette if that's what they
6 wanted to do and come back and begin their deliberations
7 again, that they could not deliberate while the smokers were
8 gone, or if it looked like they believed that they needed an
9 extensive period of time before they were going to be able to
10 reach any kind of a verdict I would consider letting them go
11 home at this time and come back in the morning.

12 They indicated that they were going to need much
13 more time, that they would like to be able to retire for the
14 night and begin their deliberations again in the morning.
15 That they did not think that it was something that they were
16 going to be able to resolve quickly.

17 So I think what I'm going to do is bring them back
18 in and caution them about discussing the case or reading or
19 listening or watching anything about it.

20 Who was in charge of the security for the
21 courthouse?

22 THE DEPUTY: Right here.

23 THE COURT: My understanding is, it was pointed out
24 that there is a newspaper box that you can buy newspapers out
25 front of the courthouse.

1 THE DEPUTY: Yes, sir.

2 THE COURT: And I guess, as most of them, it has a
3 glass panel that you can look in there and see. Apparently,
4 in the paper today it was on the front page. What I'd like to
5 do, when I have the jury come in the morning I'd like to have
6 a deputy stationed there at that newspaper box so that he can
7 shield or block it so that it won't be staring them in the
8 face as they walk in the courthouse, and once all the 12
9 jurors are here if he or she -- I mean, they can go about
10 whatever duties you have with them at that time. But just so
11 they don't stop and look in case it's on the front page again.
12 Would that be something we can do?

13 THE DEPUTY: Yes, sir. I'll take care of it.

14 THE COURT: I'm going to ask the jury to come in,
15 probably before I get here, because when they get their 12
16 they can begin their deliberations.

17 Anything from the State with respect to what our
18 plans are for the evening?

19 MR. PEACE: No, sir.

20 THE COURT: Anything, Mr. Bacot?

21 MR. BACOT: No, sir.

22 THE COURT: All right. Let's bring the jury in.

23 (WHEREUPON, the jury enters the courtroom at
24 approximately 6:22 p.m.)

25 THE COURT: All right. Madam Forelady, ladies and

1 gentlemen of the jury, I just put on the record that I had had
2 a discussion with you, with the permission of the Solicitor
3 and Mr. Bacot about where you are in your deliberations
4 tonight and where we needed to go from here, and that Madam
5 Forelady and members of the jury had indicated that you would
6 like to recess for the night and resume tomorrow. That you
7 felt like your discussions were going to take some additional
8 time and that you would like to begin that again in the
9 morning, and I have no objection to that.

10 So I'm going to let you go at this time. I'm going
11 to ask you -- what time do you all want to come tomorrow,
12 8:30 or 9:00? I'll let you be here at 9:00.

13 Madam Forelady, when you get here do not let any
14 discussions begin until you get all 12 jurors. I don't want
15 any discussions with some number less than 12.

16 I again tell you, ladies and gentlemen, do not
17 discuss this case with anybody tonight while you are gone. We
18 are now finishing the third day. You've worked hard. So do
19 not discuss the case. Do not discuss the case with each other
20 when you come in until you have all 12 jurors here.

21 Do not read anything about it in the paper. I
22 don't know that it will be in the paper tomorrow, apparently
23 it was today, but do not read the newspaper. Do not listen to
24 anything on the radio. Do not watch anything on television,
25 if there is anything. We do not want to do anything that

1 would jeopardize this trial or do something that would not
2 insure that both the State and Mr. Vandross get a fair and
3 impartial trial.

4 So you all are free to go. Have a nice evening.
5 We'll see you tomorrow. And, again, do not begin
6 deliberations until you get all 12 jurors in the courtroom.
7 See you at nine o'clock. Thank you.

8 (WHEREUPON, the jury leaves the courtroom at
9 approximately 6:24 p.m.)

10 THE COURT: All right. Anything from the State?

11 MR. PEACE: Nothing from the State.

12 THE COURT: Anything from the defendant?

13 MR. BACOT: No, sir.

14 THE COURT: We're again, with Mr. Bacot's
15 permission, going to turn over the handgun to you or your
16 office for safekeeping until tomorrow morning, if that's okay.

17 MR. BACOT: Yes, sir.

18 THE COURT: Otherwise, you all have a nice evening.
19 I'll be here at 9:30.

20 If you'll have that deputy downstairs at probably --
21 I don't know what time. I guess by 8:30 until 9:00. Whoever
22 that you're going to have do it I'd appreciate it.

23 I'm going to be here at 9:30. Do you all plan on
24 being here at 9:30?

25 MR. BACOT: Yes, sir.

1 THE COURT: You're not planning on coming earlier,
2 are you?

3 MR. BACOT: I'll be here whenever you want me to,
4 Your Honor. 9:30 is fine.

5 THE COURT: Is there any reason you want to be over
6 here and see your client earlier than that?

7 MR. BACOT: If he could be here at 9:00 that would
8 be great, yes, sir.

9 THE COURT: Can you all have him here by 9:00?

10 THE DEPUTY: Yes, sir.

11 THE COURT: Good. If you'll have him here by 9:00.

12 You all have a nice evening. See you then.

13 (WHEREUPON, the trial of this case was recessed for
14 the evening.)

15 Friday, January 20, 2006

16 (WHEREUPON, the jury arrived at approximately 9:00
17 a.m. and resumed their deliberations.)

18 THE COURT: Just for you all's information, the jury
19 has wrote me a note saying they are all hung.

20 (WHEREUPON, the jury enters the courtroom at
21 approximately 10:35 a.m.)

22 THE COURT: Good morning, ladies and gentlemen.
23 Nice to see you all this morning.

24 Just for the record, you all didn't discuss the case
25 with anybody while you were gone after you left yesterday

1 until you got back in this morning to began your
2 deliberations? You didn't read anything, listen to anything,
3 watch anything about the case?

4 (There was no response.)

5 THE COURT: All right. Thank you.

6 Madam Forelady, I've gotten your note where you
7 indicated that you have not been able to reach a verdict on
8 any of the charges that you are considering. In that regard,
9 I need to give you some further instructions, if we could.
10 Ladies and gentlemen, you have stated that you have
11 been unable to agree on a verdict in this case. As I
12 instructed you earlier, the verdict of the jury must be
13 unanimous. When a matter is in dispute it isn't always easy
14 for even two people to agree. So when 12 people must agree it
15 becomes even more difficult.

16 In most cases absolute certainty cannot be reached
17 or expected. However, you have a duty to make every
18 reasonable effort to reach a unanimous verdict. In doing
19 this, you should consult with one other, express your own
20 views and listen to the opinions of your fellow jurors. Tell
21 each other how you feel and believe and why you believe that
22 way. Discuss your differences with an open mind.

23 Although the verdict of the jury must be unanimous
24 each one of you has the right to your own opinion. The
25 verdict you agree to must be your own verdict, the result of

1 your own convictions and you should not give up your firmly
2 held beliefs merely to be in agreement with your fellow
3 jurors. The majority should consider the minority's position
4 and the minority should consider the majority's position.

5 You should carefully consider and respect the
6 opinions of each other and reevaluate your position for
7 reasonableness, correctness and impartiality. You must lay
8 aside all outside matters and re-examine the questions before
9 you based on the law and the evidence in this case.

10 If you do not agree on a verdict in this case I must
11 declare a mistrial. In that case, it does not mean anybody
12 wins. It just means that at some future time I or some other
13 judge will try this case with some other jury sitting where
14 you now sit. The same participants will come and the same
15 lawyers will ask basically the same questions and get
16 basically the same answers, and we will go through the whole
17 process again.

18 You were selected in the same manner and from the
19 same source as any future jury will be, and there is no reason
20 for me to suppose that the case will ever be submitted to 12
21 more intelligent, impartial, conscientious and competent
22 jurors than you, or that more or clearer evidence will be
23 produced on one side or the other. I therefore ask you to
24 return to your deliberations with the hope that you can arrive
25 at a verdict within a reasonable time.

1 So if you all would step back to the jury room so
2 you can resume your deliberations. If you get to the point
3 where you can't, advise me. I thank you.

4 (WHEREUPON, the jury leaves the courtroom at
5 approximately 10:38 a.m.)

6 THE COURT: Anything from the State with respect to
7 the instructions given to the jury?

8 MR. PEACE: Nothing from the State.

9 THE COURT: Anything from the defendant?

10 MR. BACOT: No, sir.

11 THE COURT: We'll make this a Court's Exhibit.

12 (WHEREUPON, Court's Exhibit No. 7, a Note from the
13 Jury, was marked and made a part of the record.)

14 THE COURT: We'll wait and see what happens.

15 (WHEREUPON, the trial of this case was recessed
16 while awaiting a verdict from the jury.)

17 (The following occurred at approximately 11:38 a.m.)

18 THE COURT: All right. As I told you all, I've
19 received two notes from the jurors, the forelady, one of which
20 indicates that she believes two of the jurors have personal
21 feelings which are affecting their decisions and that they may
22 not be impartial.

23 Well, as I told you all, what one side thinks is
24 partial the other side may think is impartial, and that may
25 mean that they just can't get everybody to agree to the same

1 verdict. So I have some hesitancy about trying to interpret
2 exactly what that means, and I've spoken to the lawyers and I
3 think they might concur with that as well.

4 The other one is the forelady asked to speak to me
5 by myself. And that would be highly unusual and only would do
6 it if everybody agreed to it, and that's not going to be the
7 case, and probably rightfully so, at least the way this jury
8 seems to be.

9 What I've told the lawyers that I would do is call
10 the jury in and ask them if they believe that they are going
11 to be able to reach a verdict, and if they are not then I
12 think that they basically have been given two opportunities to
13 do that and that there would be a manifest necessity to grant
14 a mistrial in that instance and you all would have to deal
15 with respect to all four charges at some point in time in the
16 future.

17 Is there anything you want to say, Mr. Solicitor?

18 MR. PEACE: No, sir.

19 THE COURT: Anything?

20 MR. BACOT: No, sir.

21 THE COURT: All right. Let's bring the jury in, if
22 we could, please.

23 (WHEREUPON, the jury enters the courtroom at
24 approximately 11:42 a.m.)

25 THE COURT: Madam Forelady, I received your notes,

1 and I apologize for the delays. You all caught me in the
2 midst of trying to do something else. I've been doing some
3 pleas and I had some civil matters that I've taken today, and
4 it's just sort of hard to stop and deal with you.

5 I've gotten your notes and I've reviewed your notes
6 with the counsel for both the State and the defendant. One of
7 them you indicate that there may be some concerns that
8 personal feelings may be involved and that it may affect
9 people's ability to be impartial.

10 Of course, you know, as I explained to the lawyers I
11 have a hard time trying to get into that because what one
12 person may think is impartiality another person may think is
13 partiality because they don't agree on what the position is.

14 The other one is about your speaking with me, and
15 that's really -- I never had that come before me before and
16 would think it would -- unless everybody agreed that that
17 would be the appropriate thing to do, I would be very hesitant
18 about doing that. And I can tell you that everybody doesn't
19 agree with that anyway.

20 So what my question is, do you believe you all have
21 reached a point where you're not going to be able to reach a
22 verdict in this case?

23 THE FORELADY: Yes, sir. We have the people that
24 have said that they can't be impartial in their decision.

25 THE COURT: Well, I'm just curious, do you believe

1 the jury is at such a point where you are not going to be able
2 to reach a verdict, for whatever reason?

3 THE FORELADY: I do.

4 THE COURT: With that said, I think you have
5 indicated to me in a note one time that the jury is not going
6 to be able to reach a verdict, and you have indicated to me
7 here today, moments ago orally that you believe that you are
8 not going to be able to reach a verdict. And I assume that's
9 on all four charges?

10 THE FORELADY: All four charges, yes, sir.

11 THE COURT: All right. Well, based on that, ladies
12 and gentlemen, I'm going to find that there is a manifest
13 necessity to grant a mistrial in this case because the jury
14 had gotten to a point where it's not going to be able to go
15 forward and ultimately reach a verdict.

16 So as I told you earlier, because I granted a
17 mistrial this case will have to be dealt with at some point in
18 time in the future with me or some other judge and everybody
19 else that's involved in it.

20 I'm sorry that you all weren't able to reach a
21 verdict in this case because, again, we're going to have to do
22 it twice, but this is not something that -- it's not the usual
23 situation but it's not a rare situation where the parties
24 can't agree. But it does require in South Carolina that all
25 12 jurors be of the same opinion as to each and every matter

1 that's before the jury.

2 Now, I'll tell you two things. One, if you don't
3 want to talk about this case with anybody you don't have to
4 talk about it. So if you are approached by the lawyers or the
5 press or your neighbors or anybody that might want to talk to
6 you about it you don't have to talk to them.

7 Now, you are free to talk to anybody that you want
8 to talk to, if you want to talk to them about it. I tell you
9 if you are bothered by somebody that wants to talk to you
10 about it and you don't want to, you tell them you don't want
11 to talk about it.

12 If they continue to make an issue of the thing if
13 you will get their name, give them to the clerk or the
14 Solicitor or somebody. They will get them to me and I will
15 make a point of dealing with them. I'm going to be in
16 Abbeville County next week, and I guess if some problem
17 developed I guess I can mosey on down to Greenwood. I've got
18 to go through it at least twice, one to come and once to go
19 home. So just do that.

20 Ladies and gentlemen, I do thank you for your
21 service. I know this has been difficult for you and I hope
22 you do understand how important you are to this whole process
23 of both civil and criminal.

24 The civil side requires the unanimous verdict. It's
25 a little lower standard because it's just by the preponderance

1 of the evidence in civil cases as opposed to the beyond a
2 reasonable doubt.

3 If you all will wait out in the hallway. Ms. Hall
4 will come out and meet with you and give you your checks. I
5 guess if you need an excuse for work she can give that to you.

6 If you would like to speak to me afterwards, once
7 this jury has been disbanded I'd be happy to do so. Or if
8 anybody wants to -- I know these lawyers are probably going to
9 want to talk to you. So they'll probably try to track you
10 down somewhere.

11 But you all have a nice weekend, and thank you again
12 very much for your service. You're free to leave.

13 (WHEREUPON, the jury was dismissed, and the trial
14 was concluded.)
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

1
2
3 I, Sharon L. Vizer-Hanks, Official Court Reporter
4 for the 8th Judicial Circuit of the State of South Carolina,
5 do hereby certify that the foregoing is a true, accurate and
6 complete transcript of record of all the proceedings had and
7 the evidence introduced in the trial of the captioned case in
8 Circuit Court on the 18th, 19th and 20th day of January 2006.

9 I do further certify that I am neither of kin,
10 counsel nor have an interest to any party hereto.

11

12

April 14, 2006

13

14


SHARON L. VIZER-HANKS

15

CIRCUIT COURT REPORTER

16

17

18

19

20

21

22

23

24

25