

VOL. II of VI

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2013-CP-40-00233

Melinda Richmond, #331874,

Petitioner,

v.

State of South Carolina,

Respondent.

APPELLATE CASE NO. 2015-001289

APPENDIX

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1 Q And did you tell them everything you knew?

2 A Yes, ma'am.

3 Q And did you give a written statement?

4 A No, ma'am, they didn't ask me for one.

5 Q Why not?

6 A They didn't ask me for one.

7 Q And while Frank was still there, before you went
8 back in the house, did you do anything to help him?

9 A 9-1-1 told me to get some towels and put a towel on
10 his chest to try to cover it up a little bit. So I
11 put a towel on his chest. And my daughter actually
12 had a sweat top and she had a little shirt
13 underneath it, and the blood was coming out of his
14 neck so bad she actually took her sweat top and
15 tied it around his neck, tried to put it around his
16 neck.

17 (WHEREUPON, State's Exhibit No. 8 was
18 marked for identification only.)

19 Q This 9-1-1 call you made, you just testified that
20 you have listened to it?

21 A Yes, ma'am.

22 Q And it accurately represents everything that
23 happened that night?

24 A Yes, ma'am.

25 MS. GOOD: At this time, Your Honor, we would

1 I like to enter into evidence State's Exhibit Number
2 8.

3 THE COURT: Subject to the previous objection.

4 MR. O'NEIL: Foundation and Crawford
5 objection, Your Honor.

6 THE COURT: Okay. Same ruling.

7 MS. GOOD: At this time we would like to
8 publish it for the jury.

9 THE COURT: Okay.

10 (WHEREUPON, State's Exhibit No. 8 was
11 admitted into evidence.)

12 (WHEREUPON, the 9-1-1 tape was played in
13 open court.)

14 Q Ms. Brown, on that tape there was a male voice that
15 was speaking. Whose voice was that?

16 A Frank West.

17 Q And the answers that you were giving to the 9-1-1
18 operator, who was telling you the answers to those
19 questions?

20 A Frank West.

21 Q And after he answered the last question that you
22 asked him, what did he do?

23 A He laid down.

24 Q Did he go unconscious?

25 A Yes, ma'am. Because I remember looking at him

1 saying, please don't lay down. And he laid down
2 and never moved again.

3 (WHEREUPON, State's Exhibit No. 9 was
4 marked for identification only.)

5 (WHEREUPON, State's Exhibit No. 10 was
6 marked for identification only.)

7 MR. O'NEIL: Your Honor, I would object to 9
8 and 10.

9 MS. GOOD: Your Honor, they are photographs
10 of --

11 THE COURT: Don't--

12 (Judge views exhibits.)

13 THE COURT: What is your basis?

14 MR. O'NEIL: Your Honor, I -- they are not
15 probative of anything. They would only inflame --

16 THE COURT: Approach, please.

17 (WHEREUPON, a bench conference was held
18 in the presence of the jury but out of
19 the hearing of the jury.)

20 Q Ms. Brown, I'm going to show you what is marked as
21 State's Exhibit Number 10. Do you recognize that?

22 A Yes, ma'am.

23 Q And what is that picture?

24 A That picture is of the house.

25 Q And whose house?

1 A Mine.

2 Q And is it the inside or outside?

3 A That is the outside.

4 Q And does it fairly and accurately represent the way
5 it looked that night?

6 A Yes.

7 Q On May 5th, 2007?

8 A Yes, ma'am.

9 Q Don't show it to the jury just yet.

10 MS. GOOD: At this time, Your Honor, we would
11 like to enter State's Exhibit Number 10.

12 THE COURT: All right, subject to the
13 Defense's objection.

14 (WHEREUPON, State's Exhibit No. 10 was
15 admitted into evidence.)

16 Q In this picture, can you show the jury which
17 apartment is yours?

18 A (Indicates.)

19 Q And which wall was Frank leaning against when you
20 first saw him?

21 A He was standing there, and he just -- his back was
22 like this and he was holding his head like that,
23 and when I opened the door after I shut it, he had
24 slid down.

25 Q And this article of clothing there, do you

1 recognize that?

2 A This is the towel that I had put on him. This is
3 the towel I had put on him. And I believe that is
4 my daughter's sweat top.

5 Q That she had tied around his neck?

6 A (Nods affirmatively.)

7 MS. GOOD: No further questions, Your Honor.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MR. O'NEIL: (OUTSIDE PRESENCE OF THE JURY)

11 Q Good afternoon, Ms. Brown.

12 A How you doing?

13 Q I just have a few questions for you. You wasn't
14 inside Frank's apartment that night, were you?

15 A No, sir.

16 Q And you didn't see who attacked Frank, did you?

17 A No, sir.

18 Q Were you aware that there were two other
19 individuals inside of Frank's apartment that night?

20 A All I know is what Frank told me when he came to my
21 house.

22 Q Do you know whether or not there was a black male
23 and black female there also?

24 A I know earlier that day we saw Melinda and a black
25 male and a black female together.

1 Q I notice sometime in the tape you used the word
2 *they* left. That is who you were referring to when
3 you said *they*?

4 A Uh-huh.

5 Q Now, were you aware that Frank didn't know Tenisha
6 McClinton's name at that point?

7 A Sir, I don't know.

8 Q Do you know whether or not Frank knew Bruce
9 Thompson's name?

10 A I don't know.

11 Q Okay.

12 MR. O'NEIL: Beg the Court's indulgence, Your
13 Honor.

14 (Pause.)

15 MR. O'NEIL: No further questions, Your Honor.

16 THE COURT: All right. Redirect?

17 MS. GOOD: No further questions. We would ask
18 that this witness be excused.

19 THE COURT: All right. Any objection?

20 MR. O'NEIL: No objection.

21 THE COURT: Okay. Thank you. You are
22 excused, ma'am.

23 THE WITNESS: Thank you.

24 (Witness steps down and is excused.)

25 MS. SHIPLEY: The State calls Macey Dylan

1 Nichols.

2 (Witness enters courtroom.)

3 THE BAILIFF: Place your left hand on the
4 Bible, raise your right hand, and face the clerk.

5 (Witness complies.)

6 THE CLERK: Do you swear or affirm the
7 testimony you are about to give in this case to be
8 the truth, the whole truth, and nothing but the
9 truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Have a seat in the witness box,
12 and state your full name for the record, please.

13 (Witness seated.)

14 THE WITNESS: Macey Dylan Nichols.

15 MACEY DYLAN NICHOLS,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SHIPLEY:

19 Q Good afternoon, Mr. Nichols.

20 Mr. Nichols, can you tell this jury where
21 you're from?

22 A Newberry, South Carolina.

23 Q And do you live there now?

24 A Yes, ma'am.

25 Q Did you at one point live in Richland County?

- 1 A Yes, ma'am.
- 2 Q And what was your address, do you remember?
- 3 A 1417 Farrington Way.
- 4 Q Okay. Who lived with you at that apartment?
- 5 A My mother-in-law, wife, father-in-law and
- 6 sister-in-law.
- 7 Q Okay. And was that your mother-in-law that you
- 8 just passed --
- 9 A Yes, ma'am.
- 10 Q -- coming in here? Ms. Brown?
- 11 A Yes, ma'am.
- 12 Q When was it that you were living at 1417 Farrington
- 13 Way?
- 14 A It has been over a year ago, I believe.
- 15 Q Okay. And, in fact, are you going through a
- 16 divorce now?
- 17 A Yes, ma'am.
- 18 Q Okay. Also, just to ask a few more personal
- 19 questions about you, how far did you go in school?
- 20 A GED.
- 21 Q GED? And what do you do for a living?
- 22 A Work on cars, mechanic.
- 23 Q And who do you work for?
- 24 A My grandfather.
- 25 Q And how long have you been married?

- 1 A Six years.
- 2 Q And do you have any children?
- 3 A Two.
- 4 Q Now, currently do you have some charges pending in
- 5 Richland County?
- 6 A Yes, ma'am.
- 7 Q And that is -- what are your charges?
- 8 A Burglary second.
- 9 Q Burglary second degree?
- 10 A Yes, ma'am.
- 11 Q And is Ms. Brown and her husband the victims of
- 12 that?
- 13 A Yes, ma'am.
- 14 Q Do you have an attorney for those charges?
- 15 A Yes, ma'am.
- 16 Q And was it originally the Public Defender's Office?
- 17 A Yes, ma'am.
- 18 Q And they had -- is it true they had to conflict it
- 19 out --
- 20 A Yes, ma'am.
- 21 Q -- because you were going to testify in this case?
- 22 A Yes, ma'am.
- 23 Q Do you know who your new attorney is?
- 24 A I do not.
- 25 Q Okay. You have not discussed your charges with me,

1 correct?

2 A Oh, no, ma'am. No.

3 Q Have any promises been made to you about the
4 disposition of your pending charges?

5 A No, ma'am.

6 Q Okay. And then you have also had a couple of
7 brushes with the law, is that correct?

8 A Oh, yes, yes, ma'am.

9 Q And I'm going to bring your attention to a 2001 use
10 of vehicle without owner's permission. Is that
11 right?

12 A Yes, ma'am.

13 Q And then you also had a drug conviction, I believe
14 possession of --

15 A Controlled substance.

16 Q -- controlled substance. And a shoplifting. Is
17 that right?

18 A Yes, ma'am.

19 Q All right. Do you have a substance abuse problem?

20 A Yes, ma'am. I have in the past.

21 Q In the past?

22 A Well, I'm still working on it, you know.

23 Q Are you an addict? I'm sorry, I didn't hear you.

24 A I'm still working on it, you know.

25 Q Are you going through drug treatment and

- 1 counseling?
- 2 A Not at the time. I mean, I attend NA meetings, you
- 3 know, but no like inpatient or outpatient type
- 4 stuff.
- 5 Q And how long have you been clean?
- 6 A Probably about seven months.
- 7 Q Okay. Back on May 5th, 2007, do you remember going
- 8 over to Frank West's house that day?
- 9 A Yes, ma'am.
- 10 Q Or early morning -- or May 4th, I guess?
- 11 A Yes, prior, yes, ma'am.
- 12 Q The day before he was killed?
- 13 A Yes.
- 14 Q May 4th, 2007. Tell this jury why it is that you
- 15 went over to Frank's house.
- 16 A I went over there to borrow a pipe.
- 17 Q And was that pipe for the use -- what -- for what?
- 18 A For crack. Crack cocaine.
- 19 Q All right. When you went over to his house, tell
- 20 this jury who was present.
- 21 A It was a white female and a black female.
- 22 Q And did you know the white female?
- 23 A I didn't know her name, but, you know --
- 24 Q Had you seen her with Frank before?
- 25 A Yes, ma'am. Yes, ma'am. I mean, I know her to be

1 his girlfriend.

2 Q Okay. So that was his girlfriend?

3 A Yes.

4 Q Do you see her in the courtroom?

5 A Yes, ma'am.

6 Q And can you point her out for the jury?

7 A Right there(indicating).

8 Q Okay.

9 MS. SHIPLEY: Your Honor, let the record
10 reflect he has identified Ms. Richmond.

11 THE COURT: All right.

12 MS. SHIPLEY: Thank you.

13 Q And you indicated there was a black female there as
14 well?

15 A Yes, ma'am.

16 Q And had you ever seen the black female?

17 A No, I never seen her before.

18 Q Never seen her before?

19 A No, ma'am.

20 Q Were you introduced to the black female?

21 A Probably was, but it has been so long ago I
22 couldn't tell you her name or anything like that,
23 so --

24 Q Okay. Can you describe her for the jury?

25 A I really -- to be honest with you, I really

1 couldn't.

2 Q Okay.

3 A I mean, it has been so -- and I never met her
4 before prior to that.

5 Q Okay. And were you -- you were under the
6 influence, correct?

7 A Yes, ma'am.

8 Q Now, after you borrowed the pipe, did you borrow it
9 and smoke it at his house or did you take the pipe
10 and smoke it at home and return the pipe? How did
11 that work out?

12 A I smoked it there.

13 Q Smoked it there?

14 A Yes, ma'am.

15 Q And at that point where did you go after you smoked
16 the crack at Frank's house?

17 A Went back to my apartment.

18 Q And what did you do when you got back to your
19 apartment?

20 A I'm not really sure exactly. I mean, I'm not
21 exactly sure what I did, you know, but I probably
22 watched TV or something.

23 Q Okay. But you remained at your mother-in-law's
24 house?

25 A Yes, ma'am. Yes, ma'am.

1 Q At the apartment -- is that Apartment D?

2 A Yes, ma'am, Apartment D.

3 Q All right. Let me show you a map just to orient
4 the jury real quick.

5 (WHEREUPON, State's Exhibit No. 11 was
6 marked for identification only.)

7 Q I am going to ask you if you recognize this
8 diagram?

9 A Yes, ma'am.

10 Q And what is it?

11 A It is a diagram of the Farrington Apartments.

12 Q Okay. Does it accurately depict the layout of all
13 the buildings and the apartment complex?

14 A Oh, yes, ma'am.

15 MS. SHIPLEY: Your Honor, at this time the
16 State seeks to introduce Number 11 into evidence.

17 MR. O'NEIL: No objection.

18 THE COURT: All right, without objection.

19 (WHEREUPON, State's Exhibit No. 11 was
20 admitted into evidence.)

21 MS. SHIPLEY: And for the record I will remove
22 this irrelevant map on the back, it is not
23 pertinent to this case.

24 Q All right, let's use this pointer right here. And
25 if you could, orient this jury. To arrive to this

1 apartment complex, what main road would you take to
2 get there?

3 A Straight down this road right here.

4 Q Okay. And where does that road lead to?

5 A Well, it leads to the end of the Farrington
6 Apartments down to the swimming pool area, but, I
7 mean, you can -- it also leads to our apartments
8 again, so --

9 Q Is there a main road nearby just to orient the
10 jury?

11 A Broad River Road.

12 Q Broad River Road?

13 A Yes, ma'am.

14 Q And is that in Richland County?

15 A Yes, ma'am.

16 Q Point to this map and show the ladies and gentlemen
17 of this jury which building is your building, 1417?

18 A It would be that building right there.

19 Q Okay.

20 A The reason why I know that is because the mailbox
21 is located right here and it is right there at our
22 building, so that's how I know it is our building.

23 Q So am I pointing to the mailbox?

24 A Yes, ma'am.

25 Q And then that building right there is yours?

- 1 A Yes, ma'am.
- 2 Q Tell the jury about the layout of the building.
- 3 Which apartment comes first, and so forth?
- 4 A Frank's apartment was the first apartment, A, and
- 5 then --
- 6 Q Okay.
- 7 A -- there was another lady that stayed in B -- she
- 8 worked at Applebee's -- and then a guy James stayed
- 9 in C, and we stayed in D.
- 10 Q Okay. And so if I marked it correctly, it is A, B,
- 11 C and D, is that correct?
- 12 A Yes, ma'am.
- 13 Q The order?
- 14 A Yes, ma'am.
- 15 Q Tell this jury which doorways one would use and be
- 16 considered the front door?
- 17 A Well, that is considered the front door right here.
- 18 Q Okay.
- 19 A But everybody always parked around back here and
- 20 walked in this way, so the cars were always parked
- 21 through here.
- 22 Q All right. And, again, which one was Frank's
- 23 apartment?
- 24 A Apartment A.
- 25 Q Apartment A. And your apartment is D, correct?

1 A Yes, ma'am.

2 Q Tell the jury where your bedroom was, where you
3 stayed in Apartment D.

4 A My bedroom would be facing right here on the
5 outside.

6 Q Facing the parking lot?

7 A Yes, ma'am.

8 Q And that would be considered the back of the
9 apartment?

10 A Yes, ma'am.

11 Q And is there a way to get from Apartment A to
12 Apartment D from the front side?

13 A Yes, ma'am. I mean, there is a walkway straight
14 down here right in front of all the doors.

15 Q Okay.

16 A You know, there are doors there too.

17 Q All right. Tell the jury when you got back to your
18 apartment -- and did you -- do you recall hearing
19 anything coming from the parking lot later on that
20 night?

21 A Yes, ma'am. Early -- yes, early in the morning I
22 heard, you know, come on, let's go.

23 Q Okay. And describe how they were saying, come on,
24 let's go.

25 A You know, like frantic, you know.

1 Q And was it a man or a woman's voice?

2 A A woman's voice.

3 Q A woman's voice?

4 A Yes.

5 Q Did you ever hear a man's voice saying, come on,
6 let's go?

7 A No. No, ma'am.

8 Q I am going to show you what is marked States Number
9 9 and ask you if you recognize that photograph?

10 A Yes, ma'am, that is where -- that is our apartment
11 door right here.

12 Q Okay.

13 A That is where Frank was lying.

14 Q Okay. And can you see Frank's apartment door in
15 that photograph?

16 A Yes. It would be down here.

17 Q Okay. Does this accurately depict the order of the
18 apartments --

19 A Yes, ma'am.

20 Q -- at 1417 Farrington Way?

21 A Yes, ma'am.

22 MS. SHIPLEY: Your Honor, at this time the
23 State seeks to introduce Number 9.

24 MR. O'NEIL: Your Honor, may we approach?

25 THE COURT: All right.

1 (WHEREUPON, a bench conference was held
2 in the presence of the jury but out of
3 the hearing of the jury.)

4 MS. SHIPLEY: Your Honor, the State seeks to
5 introduce Number 9 into evidence.

6 THE COURT: All right, subject to objection.

7 MS. SHIPLEY: Thank you, Your Honor.

8 (WHEREUPON, State's Exhibit No. 9 was
9 admitted into evidence.)

10 Q And I'm just going to, to make this a little
11 quicker, am I pointing to your door right there?

12 A Yes, ma'am.

13 Q Okay. So that is your door. And Frank's door,
14 where would that be on this photograph?

15 A It would be located down here.

16 Q At the end of this building?

17 A Beginning of the building.

18 Q At the beginning? Okay. Am I pointing to the
19 correct location with my pen?

20 A Yes, ma'am. Yes, ma'am.

21 Q So Frank would not have had to go very far to get
22 help?

23 A Oh, no, ma'am.

24 Q And on the other side of the building is where the
25 cars were parked?

1 A Yes, ma'am.

2 Q Were you familiar with what kind of vehicles Frank
3 West drove?

4 A Yes, ma'am.

5 Q What kind of vehicles?

6 A He had a Toyota Camry.

7 Q Do you remember what color it was.

8 A I think it was blue.

9 Q Blue. After you heard the voice, female voice
10 saying, let's go, let's go, did you look outside
11 the window?

12 A Yes, ma'am.

13 Q Did you see Frank West's light blue Toyota Camry in
14 the parking lot?

15 A It was leaving.

16 Q It was leaving?

17 A Yes, ma'am.

18 Q Did you see who was in the car?

19 A No, ma'am. I couldn't see who was in the car.

20 Q Did you see Frank -- did Frank drive any other
21 vehicles?

22 A Yes, ma'am, he had a white work van.

23 Q A work van? What kind of work did he do?

24 A I'm not exactly sure. I think something to do with
25 cable or something maybe. I'm not exactly sure.

1 Q Okay. So he had a job?

2 A Yes, ma'am.

3 Q And he had -- was he entrusted with a work van?

4 A Yes, ma'am.

5 Q And did anyone take that work van?

6 A No, ma'am.

7 MS. SHIPLEY: Beg the Court's indulgence, Your
8 Honor?

9 THE COURT: All right.

10 (Pause.)

11 Q Thank you, Mr. Nichols. Please answer any
12 questions from the Defense.

13 CROSS-EXAMINATION

14 BY MR. O'NEIL:

15 Q So, Mr. Nichols, back on May 5th, 2007, I think
16 your testimony is you were a crack addict back
17 then?

18 A Yes, ma'am -- yes, sir, excuse me.

19 Q And right now I understand today you have a pending
20 burglary charge?

21 A Yes, sir.

22 Q And when you went inside Frank's apartment on
23 May 4th, did you see a black male in there?

24 A No, sir.

25 Q You just saw a black female and a white female?

1 A Yes.

2 Q And you were not in Frank's apartment when he was
3 assaulted, were you?

4 A No, sir.

5 Q And you didn't see who assaulted Frank, did you?

6 A No, sir.

7 Q And I think you said you came over that previous
8 day to borrow a crack pipe?

9 A Yes, sir.

10 Q And you came into contact with law enforcement on
11 the early morning hours of May 5th?

12 A Yes, sir.

13 Q And you didn't give law enforcement a statement,
14 did you?

15 A No, but, I mean, I told them what I had heard.

16 Q But you didn't reduce what you heard down to
17 writing?

18 A No, sir.

19 Q And you say you heard a female voice?

20 A Yes, sir.

21 Q What time of morning was this?

22 A Probably -- I'm not sure. I mean, it was early.
23 It was still dark. It was like probably 4:45, I
24 guess. I'm not real sure. I didn't look at --

25 Q And you were up at 4:45 in the morning?

1 A Yes, sir.

2 Q And prior to hearing the female voice, how far
3 prior had you smoked crack cocaine?

4 A The previous day.

5 Q Previous day?

6 A Yes, sir.

7 Q And what did you give in exchange for the crack
8 pipe that you got that day?

9 A I think I might have gave him a Xanax.

10 MR. O'NEIL: Beg the Court's indulgence.

11 THE COURT: All right.

12 (Pause.)

13 MR. O'NEIL: One more question, Judge.

14 Q Do you remember hearing the doorbell ring that
15 morning?

16 A The doorbell ringing?

17 Q Yeah, the doorbell to your apartment ringing?

18 A No, sir.

19 Q You stay in the same apartment as Ms. Brown did?

20 A Sir?

21 Q You stay in the same apartment as Teresa Brown?

22 A Yes, sir.

23 Q You didn't hear the doorbell ring that morning?

24 A No, sir, I don't think so. I mean, I think he
25 knocked on the door or beat on it, really.

1 Q Do you remember hearing the door, somebody beat on
2 the door that morning?

3 A Well, actually I was upstairs at the time and she
4 screamed, and we -- I came downstairs because she
5 had screamed and shut the door because it scared
6 her, you know, so --

7 Q So you went back from upstairs -- your room is
8 upstairs in the apartment?

9 A Yes, sir.

10 Q Did you have your window open?

11 A Sir?

12 Q Did you have your window open?

13 A I don't know if it was open or not.

14 Q This was around May of 2007. Did you have the air
15 on, do you remember?

16 A Sir?

17 Q Did you have the air conditioning on back then, May
18 of 2007?

19 A It might have been on. I'm not sure.

20 Q Would you have -- would you have had the window
21 open?

22 A I mean, it is possible, yes. To be honest, it is
23 possible, yes.

24 Q How much time passed between when you heard the
25 voices till you heard somebody knock on the door?

1 A Probably 30 minutes or so.

2 Q Thirty minutes?

3 MR. O'NEIL: No further questions, Your Honor.

4 THE COURT: All right.

5 MS. SHIPLEY: Brief redirect.

6 THE COURT: Okay.

7 MS. SHIPLEY: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. SHIPLEY:

10 Q Explain to this jury what on earth you are doing up
11 at 4:45 in the morning.

12 A I go to the methadone clinic and get up really
13 early to go.

14 Q For treatment?

15 A Yes. Yes, ma'am.

16 Q And you indicated that you did not hear a doorbell,
17 correct?

18 A Yes, ma'am.

19 Q What brought your attention to go downstairs to the
20 first floor?

21 A My mother-in-law was screaming.

22 Q And did you go downstairs and help her?

23 A Yes, ma'am.

24 Q Did you see Frank that night, that early morning
25 hours?

1 A Yes, ma'am.

2 Q What did you observe?

3 A Frank outside of the door with no shirt on, just
4 blood all over him, just bleeding everywhere.

5 Q And by the time you got down there, was Frank
6 speaking?

7 A Not really. I mean, he was just -- I mean, it
8 happened so fast, I mean, it was just --

9 Q And do you recall the police coming to the scene?

10 A Yes, ma'am.

11 Q And did you talk to some police officers?

12 A Yes, ma'am.

13 Q Describe for the jury what was going on with you
14 after witnessing all of this.

15 A I mean, it scared me, you know. I had never seen
16 anything like that before. I was real upset, you
17 know. I mean, of course anybody in their right
18 mind would be, you know.

19 Q Thank you.

20 MS. SHIPLEY: No further questions, Your
21 Honor.

22 THE COURT: All right.

23 MR. O'NEIL: Nothing further, Your Honor.

24 THE COURT: Okay. Thank you. You can step
25 down.

1 THE WITNESS: Thank you.

2 MS. SHIPLEY: May this witness be excused,
3 Your Honor?

4 MR. O'NEIL: Without objection.

5 THE COURT: All right, without objection, you
6 are excused.

7 (Witness excused.)

8 THE COURT: It is 5:30, ladies and gentlemen.
9 Do you have a short witness?

10 MS. SHIPLEY: No.

11 THE COURT: Okay. What we're going to do,
12 ladies and gentlemen, is break for the evening.
13 I'm sure that makes y'all happy. And we are not
14 working tomorrow. Tomorrow is a federal holiday.
15 And so we will reconvene at 9:30 on Wednesday
16 morning.

17 Let me remind you again, you are under oath
18 and you all have been selected to hear this case.
19 We want you all and no one else to be the judges of
20 the facts in this case. So please don't talk about
21 the case. Please don't go visit the scene. Please
22 don't get on the internet and look something up or
23 talk to anybody about the case. I hope you
24 understand why. It is imperative, it is important
25 that the only information you base your decision on

1 comes from this courtroom.

2 And with that, I will wish y'all a happy
3 evening and look forward to seeing you on Wednesday
4 morning.

5 Thank you very much.

6 (WHEREUPON, the jury is excused for the
7 evening at 5:23 p.m.)

8 THE COURT: Mr. O'Neil, I believe we had a
9 bench conference at which Mr. O'Neil objected to
10 the introduction of Exhibits 9 and 10. And I
11 overruled his objection and told him that we would
12 allow him to put on the record the basis for his
13 objection at a break.

14 MR. O'NEIL: Yes, Your Honor. Our position
15 would be under 403. At this point I think State's
16 9 and 10 are more prejudicial than they are
17 probative. The location and proximity of the
18 apartments are not in issue in this case. They
19 don't need any more corroboration beyond the
20 testimony, and any further corroboration by State's
21 9 and 10 becomes cumulative at this point, Your
22 Honor. The only basis for them introducing these
23 photos at this time would be to inflame the
24 passions and prejudice of the jury.

25 THE COURT: Okay. Well, did y'all want to say

1 anything?

2 MS. SHIPLEY: No, sir.

3 THE COURT: Okay. All right. Thank you very
4 much. We will see y'all Wednesday morning.

5 Is there anything we can do now that might --
6 anything that needs to be addressed that y'all can
7 think of?

8 MS. SHIPLEY: No, sir, I think we spent quite
9 enough time on that.

10 THE COURT: Anything from the Defense,
11 anything we need to talk about?

12 MS. GRIPP: Nothing, Your Honor.

13 THE CLERK: Okay. All right, see y'all
14 Wednesday morning.

15 Thank you.

16 (WHEREUPON, court adjourned for the evening.)

17 (WHEREUPON, court reconvened.)

18 NOVEMBER 12, 2008

19 THE COURT: How is everybody?

20 MS. SHIPLEY: Fine, Your Honor.

21 MR. O'NEIL: Your Honor, we do have one issue
22 to take up with the Court.

23 THE COURT: All right.

24 MR. O'NEIL: We would request of the Court for
25 a mistrial or a continuance.

1 The lead counsel in this, Ms. Carolyn Gripp,
2 yesterday informed me by text message that she was
3 unable to speak anything above a whisper, Your
4 Honor.

5 If it is necessary I guess by way of
6 background, Ms. Carolyn Gripp has been lead
7 counsel. This case was assigned to her since
8 May 7th of 2007, Your Honor. I was asked to be
9 co-counsel -- I was not the original co-counsel in
10 this case, the original co-counsel in this case was
11 Greg Collins of our office. He has actually -- he
12 has since gone into private practice. I was asked
13 to be lead counsel -- I'm sorry, co-counsel in this
14 case September of this year. And later on around
15 mid to late September we asked Mr. Secor to be our
16 third chair in this case.

17 Essentially, Ms. Carolyn Gripp has been
18 assigned the duty of essentially handling the bulk
19 of witnesses in this case. I -- the witnesses I
20 have been assigned essentially, Your Honor, were
21 just the lay witnesses and Mr. Secor was
22 essentially assigned the forensic and chain
23 witnesses. Ms. Gripp, on the other hand, has the
24 bulk of all the State's potential witnesses, all
25 the investigators and the main witnesses on the

1 State's behalf, and also the Co-Defendant. She
2 also has almost the entirety of the duty of having
3 the witnesses that the Defense would call in this
4 case, Your Honor.

5 Ms. Gripp has had almost the entirety of the
6 contact with our client, Ms. Richmond, in this
7 case. She has had extensive hours to talk to
8 Ms. Richmond. I think I only talked to Ms.
9 Richmond for about 30 minutes on one occasion. And
10 Mr. Secor probably only met Ms. Richmond actually
11 on the day of trial, Monday, Your Honor.

12 Me or Mr. Secor are not in a position to carry
13 on in Ms. Gripp's stead at this point because we're
14 not as familiar or in any way are prepared to
15 cross-examine the witnesses that Ms. Gripp intends
16 to cross-examine.

17 So what we would ask is the Court to declare a
18 mistrial at this point, or in the alternative grant
19 a continuance.

20 MS. SHIPLEY: Thank you, Your Honor. Your
21 Honor, we received a voice mail from -- Ms. Good
22 received a voice mail from Mr. Casey Secor
23 yesterday indicating that the Defense was intending
24 to request a continuance due to Ms. Gripp's
25 inability -- that her voice had gone, lost her

1 voice.

2 And then I also got a voice mail from Mr. Deon
3 O'Neil at 12:45 yesterday indicating that because
4 she did not have -- she had lost her voice, that
5 they were all at work and that she was unable to
6 speak, that they would be asking for a continuance
7 this morning.

8 I don't know how they would know that --
9 whether or not she would regain her voice or not by
10 this morning, but, anyhow, Your Honor, at that
11 point I did some legal research. I'd like to hand
12 up some case law.

13 THE COURT: Laryngitis case law?

14 MS. SHIPLEY: Even worse, Your Honor.

15 (Pause.)

16 MS. SHIPLEY: Your Honor, I handed up to the
17 bench State versus Hawkins, cited at 425 S.E.2d 50,
18 and also State versus Kennedy, which is cited at
19 181 S.E. 35.

20 State versus Hawkins is a 1992 South Carolina
21 Court of Appeals decision, Your Honor. It is still
22 good law according to Westlaw.

23 In that case, Your Honor, the Defendant had
24 two attorneys assigned to his case. And one was
25 lead counsel and the other one was an associate

1 co-counsel.

2 On the day that the case was called, the State
3 called the case for trial, they hadn't even begun
4 the trial, Your Honor -- and I make that -- I want
5 to emphasize, they hadn't even begun the trial --
6 one of the attorneys was ill the day the case was
7 called for trial, and co-counsel sought a
8 continuance, just as Mr. O'Neil has done.

9 Co-counsel indicated in that case that he was
10 familiar with the facts of the case and
11 participated in the filing of the pretrial motions.

12 The Court denied the motion for continuance,
13 and the other attorney later on joined the trial by
14 participating in questioning witnesses and
15 presentation of legal arguments to the Court.

16 And the Court of Appeals of South Carolina
17 said that they found no abuse of discretion by the
18 judge's decision to deny the motion for a
19 continuance, as it is in the sound discretion of
20 the Court and they will not second-guess a trial
21 judge unless there is a clear abuse of discretion.

22 Now, that case law, Your Honor, has been on
23 the books since 1935. That is when Kennedy was
24 decided. And in that case, Your Honor, a
25 co-counsel appeared indicating that his chief

1 counsel was not well, there was a letter submitted
2 by a doctor stating, physically unable to attend
3 court at this term.

4 And so I don't know if there is a doctor's
5 note in this case, but, Your Honor, the Defense
6 attorney in that case, the judge found that he was
7 fully capable of managing the Defendant's case and
8 basically at that point denied the motion by
9 co-counsel in that case for a continuance.

10 And the Court also held that there was no
11 abuse of discretion on the part of the trial judge
12 in refusing the continuance asked for.

13 Now, I'd like to distinguish those two cases
14 with our case at hand. In this case, Your Honor,
15 we spent an entire day on pretrial. We swore in
16 the jury and we also presented opening statements
17 and the State called two witnesses. We are well
18 into this trial. We can wrap this up tomorrow,
19 Your Honor. We were going to make a lot of
20 progress.

21 Your Honor, this is also one thing I wanted to
22 bring to your attention. In the pretrial there
23 were six witnesses called by the State. Those are
24 all going to be called in our case in chief. The
25 attorneys that are co-counsel, Mr. Secor and

1 Mr. O'Neil, were present for that. They heard
2 everything these witnesses had to say, what the
3 context was of their testimony, what issues
4 Ms. Gripp cross-examined them on. So they are
5 clearly familiar with what those six witnesses have
6 to say.

7 Also the Defense called two additional
8 witnesses in their own case, in the Jackson versus
9 Denno hearing, and they heard from Tenisha
10 McClinton, the Co-Defendant, who the State intends
11 on calling. The clear issue they wanted to bring
12 up with her was brought up in Jackson versus Denno
13 that she -- that they were trying to use her as an
14 example of how maybe she wasn't Mirandized before
15 her statements were rendered. But they clearly
16 heard from her and they have an idea of what she is
17 going to testify to in the State's case in chief.

18 So right there, Your Honor, there are seven
19 witnesses that we have covered. We only have 22
20 witnesses to call in this case. It is a very short
21 murder trial, Your Honor. So, I mean, we have
22 almost reached half of the witnesses just at
23 pretrial alone.

24 Also, Your Honor, I would like to reiterate
25 that in this case the jury has been sworn. The

1 other cases the jury hadn't even been sworn yet and
2 the judge denied their motion for continuance.

3 I argue under judicial economy that an entire
4 day would be wasted for this court if you were to
5 grant a continuance.

6 I also want to reiterate that the family
7 members of Frank West have driven down from
8 Virginia to attend this trial. They have blocked
9 an entire week of their life to be here. Yesterday
10 they had to go to Charleston, they didn't have
11 anything else to do on Veteran's Day. It would be
12 a complete inconvenience to the victim's family.

13 The attorneys themselves admit that they have
14 been on this case since September of 2008.

15 THE COURT: Let me interrupt you.

16 MS. SHIPLEY: Yes, sir.

17 THE COURT: I'm not inclined to grant the
18 continuance.

19 MS. SHIPLEY: Okay.

20 THE COURT: What are you -- I mean, is the
21 issue -- I mean, I don't want to ask the theory of
22 the case, but is there any -- is there a lot of
23 forensic evidence in the case?

24 MS. SHIPLEY: Your Honor, my understanding is
25 Mr. Secor is going to be responsible for all the

1 crime scene investigators. And I'll go ahead and
2 tell the Court, we have one, two, three crime scene
3 investigators that are testifying.

4 THE COURT: Well, what I gathered, because I
5 don't know anything about the case, is you are
6 going to have a Co-Defendant testify?

7 MS. SHIPLEY: That's correct. And then also a
8 DNA expert that is going to testify.

9 THE COURT: Okay.

10 MS. SHIPLEY: That he examined 140 items'
11 worth of evidence, but that has all been collected
12 by the three witnesses that Mr. Secor is already
13 prepared to cross-examine.

14 THE COURT: Okay. Is there a murder weapon?

15 MS. SHIPLEY: Yes, sir, there is a murder
16 weapon.

17 THE COURT: All right. What -- and just the
18 State is alleging -- what DNA evidence do you have?

19 MS. SHIPLEY: Your Honor, there is blood found
20 on both -- the women were caught with the murder
21 weapon in the victim's car and the clothes they
22 were wearing during the murder.

23 THE COURT: Okay.

24 MS. SHIPLEY: They admit that they were
25 wearing those clothes during the murder. And

1 Mr. West's clothes -- blood is all over those
2 clothes.

3 And to corroborate that the set of clothes
4 that Ms. Richmond was wearing, it was in a separate
5 bag from the clothes Ms. Tenisha McClinton was
6 wearing, and her underwear was in there with her
7 DNA, so we can connect those clothes to her.

8 THE COURT: Okay. All right. Anything?

9 MR. O'NEIL: Your Honor, what I would say, the
10 heart of this case is both the investigator's
11 tactics when they got what the State determined as
12 confession from Ms. Richmond. Ms. Gripp has had
13 the sole responsibility of preparing for those
14 witnesses. Me nor Mr. Secor have prepared, are
15 prepared to cross-examine those witnesses, Your
16 Honor.

17 THE COURT: Okay, let me interrupt. When do
18 you intend to call those witnesses?

19 MS. SHIPLEY: Tomorrow. We have all day today
20 to get ready.

21 MR. O'NEIL: And, Your Honor, the other
22 potential -- the other heart of the State's case is
23 the Co-Defendant's testimony's, which Ms. Gripp is
24 also going to be cross-examining that witness. She
25 has had the sole responsibility over the last 18

1 months of preparing cross-examining that witness,
2 Your Honor. I have not prepared and am not
3 prepared to cross-examine the Co-Defendant in this
4 case.

5 THE COURT: When do you intend to call her?

6 MS. SHIPLEY: The Co-Defendant is tomorrow
7 morning. And also, Judge, they have had access to
8 her statements. She gave two written statements.

9 THE COURT: Okay.

10 MS. SHIPLEY: And I also provided a copy of
11 the transcript from her guilty plea. So, I mean,
12 there is literally -- it will take 20 minutes to
13 read all that.

14 MR. O'NEIL: Your Honor, I mean, I would say
15 that this is a murder case, and I know this is an
16 inconvenience to the Court and to the victim's
17 family, but it also, it is our job to try to
18 maintain the rights of Ms. Richmond here. And not
19 to prepare to cross-examine the State's key witness
20 in a day or in a couple of days I think would allow
21 me to do injustice for Ms. Richmond in her defense
22 and give her a vigorous defense, Your Honor.

23 We also -- the Defense also plans to put up
24 their own witnesses in this case, Your Honor, at
25 least about maybe anywhere from five to ten of

1 their own witnesses with whom Ms. Gripp would be
2 handling all those witnesses herself except
3 potentially one, Your Honor.

4 I mean, and the cases that the State cites, it
5 was just whether or not the Court abused their
6 discretion in those cases in refusing to grant the
7 continuance.

8 I think one of the cases in which Ms. Shipley
9 cited stated that the Court found that the
10 co-counsel were able to handle the client's case in
11 that case, Your Honor.

12 And to be completely candid with the Court,
13 I'm telling you, just to be honest with the Court,
14 that me nor Mr. Secor have prepared to
15 cross-examine the witnesses that were -- that
16 Ms. Gripp intends to cross-examine in this case.

17 THE COURT: Okay. Well, they are not calling
18 them until to tomorrow, the key ones.

19 MS. SHIPLEY: That's right, Your Honor.

20 MR. O'NEIL: I just want Ms. Gripp maybe to
21 whisper to the Court essentially what she thinks of
22 this, but I don't think Ms. Gripp's voice is going
23 to come back within the next day or so, Your Honor.

24 THE COURT: I understand. Anything else? I'm
25 not going to continue it. You have already

1 impressed me with your diligence, intelligence,
2 perseverance and advocacy skills, and so we're
3 going to plow on. Okay?

4 MR. O'NEIL: Yes, sir.

5 THE COURT: All right.

6 MS. SHIPLEY: And I would just like the record
7 to reflect that Ms. Gripp is present today, and
8 also that Mr. O'Neil did the opening statement.

9 THE COURT: Okay. I know. I know.

10 MS. SHIPLEY: And so he is familiar with the
11 facts. And participated in pretrial.

12 THE COURT: All right.

13 MR. SECOR: May I make one brief request, Your
14 Honor?

15 THE COURT: Sure.

16 MR. SECOR: As we proceed, I anticipate the
17 need to at times consult with Ms. Gripp. I was
18 wondering if Your Honor would be inclined to allow
19 us a brief recess if we needed to speak with --

20 THE COURT: Yes, we'll watch out for you.
21 We'll make sure.

22 MR. SECOR: Thank you, sir.

23 THE COURT: Okay. Anything else?

24 MR. O'NEIL: One minute, Your Honor.

25 (Pause.)

1 MS. SHIPLEY: Oh, and, Your Honor, the next
2 witness the State is calling is Larry Scheper. He
3 has no prior record. I'll present that to the
4 Defense. And that is the last lay witness who was
5 there.

6 MR. O'NEIL: And, Your Honor, just one thing,
7 so the record is clear on which witnesses Ms. Gripp
8 was responsible for, those witnesses would be, Your
9 Honor: Investigator Rob Martin, Deputy Michael
10 Leahy, Corporal Michael Mazerolle, Deputy Warren
11 Cavanah, Investigator John Baker, Corporal Gerardo
12 Swall, Investigator Wendell Harris, Investigator
13 Brien Gwyn, Becky Roberson, Heidi Scott,
14 Dr. Grayson Amick, Tenisha McClinton, Joli Rish,
15 Grayson Amick, Dr. David Ford, Dr. Raymond Bynoe,
16 Patricia Rickborn, Brian Redmond, Tina Boyd, Wendy
17 Evans, Investigator Harris. I think that is -- I
18 think that is it, Your Honor.

19 THE COURT: Okay. All right, ready?

20 MS. SHIPLEY: Your Honor, we were going to
21 call the responding officers. I was not aware that
22 she was going to be doing their direct examination,
23 but there is a two-page incident report that
24 Michael Leahy prepared for this. And Cavanah
25 didn't even prepare a report, he just showed up on

1 the scene. He is just going to say what he saw and
2 heard.

3 THE COURT: Okay.

4 MS. SHIPLEY: But these are, according to
5 them, are Ms. Gripp's witnesses.

6 And then lastly, Corporal Mazerolle, who
7 testified yesterday in pretrial.

8 THE COURT: All right. Well, if my
9 understanding of what is going on is correct, I
10 could be wrong, this is a credibility case, and so
11 it is not complicated issues, I don't believe. It
12 is going to come down to who the jury believes.

13 MR. O'NEIL: Well, Your Honor, I guess our
14 contention that Ms. Gripp, as Your Honor knows,
15 Ms. Gripp did all of the Denno hearing, so I think
16 key -- one of the key issues -- part of our case,
17 Your Honor, is we contend that Ms. Richmond's
18 statement is a false confession. And Ms. Gripp has
19 done extensive research on that issue. I have not
20 done any research on that issue. The only time,
21 when it comes to various times Ms. Richmond has
22 been interviewed, we have an investigator on this
23 case, I have not even -- I have only spoken to her
24 on two occasions for probably about 30 minutes,
25 Ms. Patty Rickborn. And Ms. Gripp has done

1 meticulous research and investigation on that
2 issue, Your Honor.

3 THE COURT: Okay.

4 MR. O'NEIL: And, Your Honor, we would ask
5 that Ms. Rickborn be allowed to be in the courtroom
6 actually during --

7 THE COURT: You ask what?

8 MR. O'NEIL: That our investigator,
9 Ms. Rickborn, be allowed to be in the courtroom
10 during the testimony.

11 MS. SHIPLEY: All witnesses have been
12 sequestered, Your Honor. We're abiding by it.

13 MR. O'NEIL: She is our, I guess our
14 equivalent of a lead investigator in our case, Your
15 Honor.

16 THE COURT: Is she going to be a witness?

17 MR. O'NEIL: Yes, Your Honor.

18 MS. SHIPLEY: A potential witness.

19 MR. O'NEIL: The same as the State's lead
20 investigator gets to stay on their case in chief to
21 assist their counsel in any way.

22 THE COURT: Why do you think you need her
23 here?

24 MR. O'NEIL: So she can be aware of any
25 discrepancies in the testimony of particularly

1 Ms. McClinton, who she actually talked to on a
2 particular occasion.

3 THE COURT: Well, that is just the reason why
4 we sequestered everyone. So, no, I think we will
5 just leave her out.

6 All right, let's go. Are you ready?

7 MS. SHIPLEY: Yes, sir.

8 MS. GRIPP: (Whispering) I would like to
9 cross-examine the witnesses using the microphone.

10 THE COURT: I'm sorry?

11 MR. SECOR: Your Honor, Ms. Gripp requests
12 permission to cross-examine the witnesses using the
13 microphone.

14 THE COURT: Sure, if she is able to do that,
15 absolutely.

16 Okay. Are we ready?

17 MS. SHIPLEY: Yes, sir.

18 (WHEREUPON, the jury came into open
19 court at approximately 9:57 a.m.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: All right, thank you very much.

22 Good morning, ladies and gentlemen, welcome
23 back. I hope y'all had a pleasant Veteran's Day.

24 We're about to resume the trial. And I want
25 to tell you that it is a little bit of a snag,

1 Ms. Gripp, with the Defense, has developed
2 laryngitis. So you are going to -- she is going to
3 participate as best she can. But y'all please keep
4 that in mind. And if you can't hear what she is
5 saying, if you all will just raise your hand when
6 she does work, just raise your hand, let us know,
7 and we'll make sure that you can hear it. Okay?

8 All right.

9 MS. SHIPLEY: Thank you, Your Honor. The
10 State calls Larry Scheper to the stand.

11 THE COURT: All right.

12 (Witness enters courtroom.)

13 THE BAILIFF: Place your left hand on the
14 Bible, raise your right hand, and face the clerk.

15 (Witness complies.)

16 THE CLERK: Do you swear or affirm the
17 testimony you are about to give in this case to be
18 the truth, the whole truth, and nothing but the
19 truth, so help you God?

20 THE WITNESS: Yes.

21 THE CLERK: Have a seat in the witness box,
22 and state your full name for the record, please.

23 (Witness seated.)

24 THE WITNESS: Larry Dewayne Scheper.

25 LARRY D. SCHEPER,

1 after being duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. SHIPLEY:

4 Q Good morning, Mr. Scheper.

5 A Good morning.

6 Q Mr. Scheper, can you tell the jury a little bit
7 about yourself? Where are you from?

8 A I'm from Beaufort, South Carolina.

9 Q How long have you lived in Columbia?

10 A Oh, about nine or ten years.

11 Q And are you married?

12 A Yes.

13 Q How long have you been married?

14 A Six years.

15 Q Okay. Where do you reside in Richland County?

16 A 1413-A Farrington Way Apartments.

17 Q And those are Farrington Way Apartments?

18 A Yes.

19 Q Okay. I'm going to -- what do you do for a living?

20 A Professional tennis instructor.

21 Q And is that why you are dressed for work?

22 A Yes.

23 Q And I notice you have Benedict College. Are you
24 working them?

25 A Also head tennis coach at Benedict College.

1 Q Fantastic. Mr. Scheper, can you tell the jury
2 where your apartment, 1413-A, is in relation to
3 1417-A?

4 A Right across the sidewalk, right in front of my
5 apartment.

6 Q Okay. And you are what -- what apartment are you
7 in, which one?

8 A 1413-A.

9 Q A? Okay. I'm going to show you a diagram that is
10 already in evidence and ask you if you could point
11 it out to the jury to orient them. If this is
12 1417-A, where is your apartment in relation to
13 1417?

14 A Where is 1417?

15 Q This is what has been marked 1417.

16 A Okay. And 1417 -- mine is 1413 -- would probably
17 be right across.

18 Q Okay. Is there a grassy area between your building
19 or a parking lot?

20 A Small little grass and sidewalk.

21 Q Okay. All right. So is this 1413?

22 A Yes.

23 Q And the grass, and then 1417?

24 A That's right.

25 Q So your front of your apartment faces the front of

1 these apartments?

2 A Exactly.

3 Q Okay. Thank you, sir.

4 A You're welcome.

5 Q Do you -- as part of your job, do you have to get
6 up early at times?

7 A Yes, ma'am, I do.

8 Q Okay. On May 5th, 2007, tell this jury what time
9 you believe you woke up that morning.

10 A I believe I woke up around ten minutes to 4:00
11 because my wife suffers from insomnia and she is up
12 a lot. And she asked me to get up to help -- kind
13 of help her out.

14 And on that morning we heard some noise on the
15 outside and --

16 Q Can you describe those noises for the jury?

17 A Yes. It was -- sounded like three people kind of
18 running towards the outside saying, let's go.

19 And --

20 Q And did you hear what sex the voice was?

21 A Yes, it was a lady's voice.

22 Q Okay. And what happened next? Did you look
23 outside and see them?

24 A Yes, we both looked out and --

25 Q And what floor were you in in your apartment?

1 A The second floor.

2 Q Did you have a good vantage point of the grassy
3 area --

4 A Oh, yes --

5 Q -- of 1417?

6 A -- I could see everything.

7 Q Okay. And tell -- is there lighting around there?

8 A Yes, it is.

9 Q And did you have any difficulty seeing these
10 people?

11 A No, ma'am.

12 Q Tell the jury what you observed of those three
13 people. What did they look like?

14 A It was two females and a male.

15 Q And can you tell them, the jury, what race these
16 individuals were?

17 A One white female, a black female, and a black male.

18 Q Black male?

19 A Yes.

20 Q Okay. And you indicated you heard -- you heard
21 some noises. Can you describe the noises?

22 A It sounded like a lot of fighting, like, just like
23 trying to get -- almost like just trying to run
24 out, you know, let's go, let's get out of here
25 before it is too late, you know.

1 Q Okay.

2 A And that is what I heard. And as I was looking out
3 the window, I saw three people running to the back
4 of the parking lot where the cars are parked at.
5 And I noticed the man coming out asking for help.
6 And as he stumbled to the left side, which is the
7 apartment to the end, he knocked on the lady's door
8 and asked for help, can you help me. And she was
9 asking, who did this to you. And --

10 Q Did you notice what -- anything peculiar about the
11 man walking out after the three people left?

12 A I noticed he was staggering and holding his chest
13 looking like he needed some help, and he was trying
14 to ask someone for help.

15 Q And at that point, did you ever see a vehicle
16 leave?

17 A I did hear the vehicle driving off very fast where
18 I --

19 Q You did not actually see it?

20 A No, I didn't actually see it, but I did hear it
21 leaving very fast.

22 Q Okay. Now, had you ever seen the black female
23 before?

24 A No, I -- no, I haven't seen her, but I did -- have
25 seen the guy maybe about three weeks before that.

1 I have seen the young lady a few times before that
2 as well.

3 Q And which young lady are you referring to?

4 A The young lady that I saw come out of the
5 apartment.

6 Q And would that be the white female?

7 A Yes, ma'am.

8 Q And do you recognize that white female here today?

9 A I think that is her right there(indicating).

10 Q Okay. But you don't know her name or anything?

11 A No, I don't know her name at all.

12 MS. SHIPLEY: Beg the Court's indulgence.

13 (Pause.)

14 Q Did you see these individuals carrying anything
15 with them?

16 A No, I just saw them running out of the house.

17 Q Okay.

18 A I mean, out of the apartment, I'm sorry.

19 Q And once the victim made it to the neighbor's
20 apartment across from you --

21 A Uh-huh.

22 Q -- did you remain there till the police got there?

23 A Yes, me and my wife both.

24 Q All right. And did you talk to the police and tell
25 them what you saw?

1 A Yes.

2 Q Did you also provide the police with a written
3 statement of what you saw?

4 A Yes.

5 Q And have you had an opportunity to review that
6 statement?

7 A Yes, ma'am.

8 Q Did you notice whether or not the man who was
9 stumbling to the neighbor's house, whether he was
10 bleeding or not?

11 A Yes, he was bleeding. And holding his chest.

12 Q And holding his chest? Okay. Thank you,
13 Mr. Scheper.

14 A You're welcome.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MR. O'NEIL:

18 Q Mr. Scheper, just a few questions.

19 A Yes, sir.

20 Q Did you know Frank West personally?

21 A No, sir. I have just seen him in the apartment
22 complex a few times and we spoke in general.

23 Q Were you inside Frank West's apartment when he was
24 assaulted?

25 A No.

1 Q Did you see who assaulted Frank West?

2 A No, I didn't.

3 MR. O'NEIL: No further questions.

4 THE WITNESS: Thank you.

5 THE COURT: All right. Thank you.

6 MS. SHIPLEY: Nothing further, Your Honor.

7 THE COURT: All right. Thank you, sir. You
8 can step down.

9 THE WITNESS: Thank you, sir.

10 (Witness steps down.)

11 MS. SHIPLEY: Your Honor, may Mr. Scheper be
12 excused?

13 MR. O'NEIL: No objection, Your Honor.

14 THE COURT: Okay, without objection.

15 THE WITNESS: Thank you, sir.

16 (Witness excused.)

17 MS. SHIPLEY: The State calls Deputy Warren
18 Cavanah.

19 (Witness enters courtroom.)

20 THE BAILIFF: Place your left hand on the
21 Bible, raise your right hand, and face the clerk.

22 (Witness complies.)

23 THE CLERK: Do you swear or affirm the
24 testimony you are about to give in this case to be
25 the truth, the whole truth, and nothing but the

1 truth, so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Have a seat in the witness box,
4 and state your full name for the record, please.

5 (Witness seated.)

6 THE WITNESS: Deputy Warren Cavanah, Richland
7 County Sheriff's Department.

8 WARREN CAVANAH,
9 after being duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SHIPLEY:

12 Q Deputy Cavanah, can you tell this jury where you
13 are employed?

14 A Richland County Sheriff's Department on the K-9
15 Division.

16 Q Have you always been on the K-9 Division?

17 A Three months after I was employed.

18 Q Okay. And explain for the jury what your duties
19 are.

20 A On a day-to-day basis we are classified as a
21 support unit. We respond to the high priority
22 calls with the use of the dog. And we also respond
23 to traffic calls, missing elderly, missing
24 children, premises, and we also respond to
25 narcotics as well.

1 Q And is there a particular region of Columbia or
2 Richland County that you monitor?

3 A Well, because we have the dogs we are able to go
4 from one end of the county to the other. We have
5 to be able to respond to all of the other regions.

6 Q And back on May 5th of 2007, were you working with
7 the K-9 Unit?

8 A That's correct.

9 Q And did you have your dog with you that day?

10 A That's correct.

11 Q Were -- are you familiar with where Farrington
12 Apartments are?

13 A Broad River Road.

14 Q And do you live in that general proximity?

15 A Close to it. Probably two, three miles from that
16 actual area.

17 Q Okay. I'm going to show you a map and ask you if
18 you can recognize this map?

19 A Yes, ma'am.

20 Q And does that map actually depict the region of
21 Richland County?

22 A Yes, ma'am.

23 MS. SHIPLEY: Your Honor, at this time the
24 State would seek to introduce State's Number 22.

25 MS. GRIPP: (Whispering) Without objection.

- 1 THE COURT: No objection.
2 (WHEREUPON, State's Exhibit No. 22/81
3 was marked for identification and
4 received into evidence.)
- 5 Q I am going to ask you to identify certain areas
6 just to orient the jury, okay?
- 7 A Okay.
- 8 Q Can you tell the jury where Farrington Apartments
9 is located?
- 10 A Farrington Apartments is right here off of
11 Farrington Way. This is Broad River Road. This is
12 I-20.
- 13 Q Where is downtown Columbia?
- 14 A Downtown should be in this direction from 126.
- 15 Q Okay. It is not on the map?
- 16 A Um --
- 17 Q It is off the map?
- 18 A Yes, it is off the map, not that I can see.
- 19 Q All right. Are you familiar with the Western Inn?
- 20 A I am.
- 21 Q And do you see where the Western Inn would be
22 located on that map?
- 23 A This is 827 Bush River Road. Right here, it is
24 right at the intersection of Bush River Road and 26
25 where the exit towards Charleston is off of 26

1 right there.

2 Q Okay. And are you familiar with Latonea Drive?

3 A That should be directly across the street from 827
4 Bush River Road. You actually go out of the
5 parking lot of this establishment directly across
6 Bush River and you are on Latonea.

7 Q And do you know who lives at 205 Latonea Drive?

8 A I don't know the individual's last name, but it was
9 a residence that we have dealt with many times in
10 the past, and the guy who was occupying it's name
11 is Will.

12 Q Okay. And are you familiar with Rembert Martin
13 Park -- Parkway?

14 A It should be off of Beatty Road. It is a trailer
15 park off of Beatty Road right there.

16 Q All right. How far is Rembert Martin Parkway from
17 Bush River Road, the Western Inn?

18 A You could actually get there straight down the
19 frontage road. Time-wise with normal traffic, I'd
20 say less than ten minutes.

21 Q Does it matter what time of day it would be?

22 A Not unless it was 5:00 o'clock traffic coming out
23 of downtown Columbia, you wouldn't make it there
24 that quick if you got on the interstate. Other
25 than that, it is real easy to get there.

1 Q How about at about 6:00 o'clock on a Saturday
2 morning May 5th, 2007?

3 A You could definitely be there in less than ten
4 minutes.

5 Q Thank you, sir.

6 THE COURT REPORTER: What number was that?
7 I'm sorry, I don't remember marking that.

8 MS. SHIPLEY: Which number?

9 THE COURT REPORTER: The exhibit number.

10 MS. SHIPLEY: Oh. It is State's 22.

11 Q Deputy Cavanah, do you recall hearing a dispatch
12 about a residence at 1417-A Farrington --

13 A Yes, ma'am.

14 Q -- Way? Can you tell the jury what you were doing
15 around that time?

16 A My shift is a 12-hour shift on K-9. I work from
17 6:00 p.m. to 6:00 a.m. And I was actually on my
18 way to the area where I live. I try to get over
19 there because the traffic in the morning, I like to
20 be over in the same area that I live fairly close
21 to the time. I was on my way down Broad River Road
22 when I heard the call go out.

23 Like I said, we worked all of the regions, so
24 we're pretty close with all the deputies that work
25 those regions and we try to help them out any time

1 we can if we are not having to respond to a call.

2 And a call for a domestic dispute went out in
3 that apartment complex. And I was within a block
4 of the entrance of the apartment complex, so I went
5 ahead and told the central dispatch that I would
6 take that call and I would advise if I needed
7 anybody else.

8 Q Okay. And when you indicated the call came out as
9 domestic dispute, what does that tell you as an
10 officer responding?

11 A Well, it can be a couple of different things:
12 Husband/wife, mother/child, father/child, you know,
13 family members. That is what I was expecting when
14 I got there was it to be a, you know, early morning
15 Saturday dispute between a husband and wife.

16 Q People living together?

17 A That's correct.

18 Q Do you recall any other details being dispatched by
19 the central dispatch concerning the events at
20 1417-A?

21 A Not that I can remember, not when I was on my way
22 home, and I don't remember hearing anything once I
23 was responding to the scene itself.

24 Q So did you ever hear the suspect's name?

25 A No, ma'am.

1 Q Did you ever hear a vehicle description?

2 A No, ma'am.

3 Q Did you ever hear a possible location of that
4 vehicle?

5 A No, ma'am.

6 Q All right. Tell this jury when you got to 1417-A
7 Farrington Way what you observed.

8 A Once I --

9 Q And I will switch maps for you so you can show the
10 jury.

11 A Once I pulled up on -- here is Broad River Road in
12 this area over here. Once I pulled in, there is
13 a -- right here there is a set of mailboxes for
14 this area of the complex. And just past that is
15 where I pulled in on this sidewalk area right here.
16 I pulled up right there and got out of my patrol
17 car and started walking down this middle area here.
18 And saw an individual -- the actual apartment was
19 here, but prior to me getting to the apartment,
20 down in this area here I saw an individual kind of
21 slumped over leaning up against the wall. I don't
22 really know how to explain it, not standing
23 straight up, just leaning there, you know, as if we
24 were having an early morning cigarette or something
25 like that, but really kind of --

1 Q I'm going to stop you right there. State's Number
2 10, do you recall if that is where you saw this
3 individual leaning?

4 A That is definitely where I saw him.

5 Q All right. And is that Apartment D? I don't know
6 if you can tell.

7 A I can't tell, but I would believe so.

8 Q That he was leaning up against the wall to the
9 front door?

10 A That's correct.

11 Q All right.

12 MS. SHIPLEY: Your Honor, may this witness
13 step down to demonstrate what he observed?

14 THE COURT: Sure.

15 MS. SHIPLEY: Thank you.

16 (Witness steps down.)

17 Q Tell the jury how you observed this man leaning
18 against the wall.

19 A If this was the wall here, and here is the door of
20 the apartment, he was kind of in this position like
21 this when I approached from back here.

22 Q And what did you observe him do when you approached
23 him?

24 A I walked up, and at that point I couldn't really
25 tell what was going on. What I saw a majority of

1 was his back. And he actually had on a jacket at
2 the time.

3 Q Are you sure about that, that he had a jacket?

4 A I'm pretty sure, yes.

5 Q Okay. I'm going to show you this object right
6 here. Do you see that?

7 A I do.

8 Q Is that what you are describing?

9 A Yes. The bluer part right there was the jacket
10 that was on him.

11 Q Okay. Now, what did you observe the man do?

12 A When I walked up and he was in this position here,
13 I just wanted to make contact with him, speak to
14 him.

15 And when I did, he basically I would say slid
16 down the wall, would be the best thing I could tell
17 you, he slid down the wall and kind of crumbled
18 into the fetal position right at my feet.

19 And when he did that, he kind of looked up at
20 me and he told me a couple of times, he said, I
21 can't breathe, I can't breathe. And it was very
22 gurgley, very raspy, more like, I can't breathe,
23 that type of speech. And --

24 Q And I'm going to stop you right there. Was all
25 this blood over here on the sidewalk there when you

1 arrived and saw the man leaning against the wall?

2 A No, not at all.

3 Q Tell the jury how that came.

4 A Once he crumbled down to my feet and said that he
5 couldn't breathe, there were some areas around his
6 back and neck area, I'm guessing due to the way he
7 was laying, there was a slight incline there on
8 that sidewalk area and that amount of blood poured
9 out of his body at my feet, quick enough where I
10 had to get out of the way.

11 Q Okay. Thank you. Please have a seat.

12 (Witness returns to witness stand.)

13 Q You indicated to the jury that you heard him
14 repeat, I can't breathe, I can't breathe. And did
15 he say anything else after that?

16 A No.

17 Q Did you remain on the scene for the ambulance?

18 A I did.

19 Q Did he say anything to the ambulance, the EMT's?

20 A I don't believe so. And I was there standing over
21 him most of the time.

22 Q Okay. Do you recall whether you and other deputies
23 observed -- were trying to figure out where this
24 man came from?

25 A That's correct. Deputy Leahy responded shortly

1 after I did, probably within three minutes of when
2 I got there.

3 Q And so you were the first person on the scene from
4 law enforcement?

5 A I was the first, yes, ma'am.

6 Q Okay. And when Leahy showed up, Deputy Leahy, can
7 you tell the jury what happened next?

8 A He came over to me, and as he was walking to me he
9 was -- the individual still was leaning up against
10 the wall at the time as he was walking up to me.
11 He wasn't all the way up to me when he fell at my
12 feet, but he did get to see that.

13 And at that point I knew who that was coming,
14 and I turned to him and I said, get on the radio,
15 you need to tell the ambulance they need to hurry
16 up.

17 Q And did any other officers show up after Leahy?

18 A I believe the ambulance was next.

19 Q The ambulance showed up next? Okay.

20 A They were there quite quickly.

21 Q And then any other officers? Corporal Mazerolle?

22 A I believe he responded after the ambulance was
23 there.

24 Q Okay. And did you make any observations about the
25 sidewalk?

1 A The --

2 Q I'm going to show you State's Number 9.

3 A Yes. This is where he was laying, and I was
4 standing in this area here. And if you look you
5 can see blood going down the sidewalk here.

6 It wasn't until after the ambulance took him,
7 myself and Leahy, Corporal Mazerolle were able to
8 follow the blood back to the door of an apartment
9 that was cracked open.

10 Once we pushed open the door to the apartment,
11 we were very certain that that is where the
12 incident had taken place.

13 Q What made you so certain?

14 A To be honest with you, it looked like something you
15 would only see on TV.

16 Q Can you explain that?

17 A There was blood all over the walls, all over the
18 ceiling, going up the stairs, upstairs. Honestly,
19 it was everywhere.

20 Q Did you -- why did you go into that house?

21 A We had to clear the house to make sure there was no
22 other threats there. Seeing what we saw when we
23 pulled up, knowing that, you know, somebody had
24 obviously done this to this person, we didn't know
25 if they were still inside the residence, if they

1 had left, if they had a weapon inside, if they
2 didn't. We didn't know, and we had to go in and
3 find out.

4 Q And at this point did you know who the suspect was?

5 A Not any names. The neighbor that he was leaned up
6 against the wall, she actually came out at one
7 point and gave a brief description of a white
8 female and a light-skin black female and a really
9 dark black male.

10 Q Describe the demeanor of this woman, the neighbor.

11 A She was -- she was actually very frantic. She --
12 even with me there in my presence it didn't really
13 calm her at all. The jacket that you saw was
14 actually a jacket that she had given him, I
15 believe, to actually put around himself to stop
16 some of the bleeding.

17 Q And did she provide any descriptions to you about a
18 vehicle at this point?

19 A She did. At this time I cannot remember what it
20 was, but she did. Leahy was actually standing
21 there at the same time, and he radioed it to the
22 other officers. He would be able to tell you
23 probably exactly what that description was, but one
24 was given.

25 Q All right. And did she indicate to you where this

1 vehicle might be located?

2 A That she did not.

3 Q At that point that was not disclosed?

4 A No.

5 Q Okay. And, again, you never heard any information
6 over the radio?

7 A I did not, no.

8 Q Now, did you write a report about your involvement
9 in this case?

10 A I did not. Once Leahy pulled up, like I say, it
11 was only minutes -- minutes after, he took over as
12 the head or lead officer on that and he did all the
13 reporting.

14 Q Okay. And explain for the jury the protocol, the
15 procedures that responding officers have.

16 A Typically the first responder is the one who takes
17 the report. As I said, because we work the entire
18 county, we go region to region, we don't shun away
19 reports, but it is pretty common practice that the
20 region that the incident takes place in, their
21 first responding officer normally takes over and
22 writes the report versus one of us writing the
23 report.

24 Q And is it customary with the Richland County
25 Sheriff's Department for every single officer that

1 responds to the scene to write a report?

2 A Depending on the involvement that you have, they
3 sometimes will ask for, you know, a supplemental of
4 just your work involvement in the case, but if you
5 are able to be included, you know, in the initial
6 incident report, you know, you can do that.

7 Q Okay.

8 A And I believe that is -- I was included in the
9 initial report just because of mine and Leahy's
10 involvement pretty much immediately.

11 Q Now, after you -- did you at one point then leave
12 the scene?

13 A I did. As I stated, Leahy was able to give the
14 brief description of what the neighbor gave. And
15 to my knowledge, there were some region deputies
16 who were familiar with the vehicle and familiar
17 with the people who were possibly occupying it and
18 would possibly know where the vehicle was.

19 Q And did you ever respond to the Western Inn on Bush
20 River Road?

21 A I did. After the apartment where the incident took
22 place was cleared --

23 Q And, by the way, was anyone in the apartment?

24 A There was not, no. I'm not sure of who it was that
25 made contact with the vehicle, but the vehicle was

1 found driving in the parking lot of the Western
2 Inn.

3 Q And when you arrived on the scene at the Western
4 Inn, describe for the jury what you observed.

5 A I observed the vehicle -- if I can remember
6 correctly, it was a dark color vehicle, small body,
7 I think. The individuals who were occupying the
8 vehicle were at this time in the back of Corporal
9 Mazerolle's car.

10 Q And do you recall who those individuals -- what
11 they looked like?

12 A One was a white female and one was, if I can
13 remember correctly, she was a lighter-skinned black
14 female.

15 Q Did you ever -- at that point did you gain
16 information about a third possible suspect?

17 A Two -- apparently they had mentioned that the third
18 suspect who was involved, I believe it was his
19 brother was staying at the Western Inn, I think. I
20 believe a brother.

21 Q The suspect's brother?

22 A Correct. The one that we didn't know who it was.

23 Q Okay.

24 A Brother, cousin, I'm not sure exactly what
25 relationship, but there was a family tie. That

1 information was given that he was staying and what
2 room he was in.

3 And myself and some other officers actually
4 made contact with him. And he came outside and
5 spoke with a couple of the officers.

6 Q And were you able to find out where the third
7 suspect was being -- was located?

8 A From me -- it was not from him.

9 Q Oh.

10 A I actually sat down in Corporal Mazerolle's
11 vehicle. I don't remember what it was I was doing,
12 I believe it was something on his computer because
13 at the time I don't believe I had a computer in my
14 car.

15 And the white female who was sitting in the
16 back, very loud to me, was giving information of
17 who the third party was and where he probably was.

18 Q And you indicated you were familiar with a guy
19 named Will that lives at Latonea Drive?

20 A Yes, very familiar.

21 Q Did you eventually go there?

22 A I did. What the white female told me was is that
23 the third individual's nickname, and --

24 Q And what was the nickname?

25 A The nickname was Bird.

1 Q And are you familiar with a Bird?

2 A I'm actually very familiar with Bird. The only
3 Bird I knew was a Bruce Thompson that I grew up
4 with from about nine years old from when I was
5 still in day care.

6 Q And are you from Columbia?

7 A I am. I am.

8 Q Okay.

9 A Originally from Aiken. We moved up here in '85, so
10 I was only six or seven.

11 And I asked when the information was given to
12 me Bird, I said, you mean Bruce Thompson?

13 And she said, yes, I mean Bruce Thompson.

14 Q And at what point then did you go to Latonea Drive?

15 A She -- she specifically said, you mean to check
16 Will's house?

17 Q And were you familiar with Will?

18 A Very familiar with Will's house.

19 Q And what does Will do for a living?

20 A I am not sure. The house that he occupied was a
21 very problem residence in that region. The
22 majority of the time it was used for a crack house.

23 Q Okay. And when you got to the crack house on
24 Latonea Drive, did you make contact with Will?

25 A I -- I -- he actually made contact with me.

1 Q And not going into what he said to you --

2 A Right.

3 Q -- because that would be hearsay, were you able to
4 make contact with Bird?

5 A Absolutely.

6 Q Did Bird then -- was he placed under arrest?

7 A He was.

8 Q All right. Bird being Bruce Thompson?

9 A Bruce Thompson, yes.

10 Q And at that point did you have any more involvement
11 in this case?

12 A I did not. We were -- the night shift crew was
13 working on 16 hours, and the majority of us were
14 actually asked to go on home.

15 Q All right. And did you ever know Frank West?

16 A I -- I -- I never had any -- any prior dealings
17 with him, no.

18 MS. SHIPLEY: No further questions, Your
19 Honor.

20 THE COURT: Okay. Cross?

21 CROSS-EXAMINATION

22 BY MS. GRIPP:

23 (WHISPERING):

24 Q Deputy Cavanah, can you hear me?

25 A Yes, ma'am.

- 1 Q How long have you been with Richland County?
- 2 A Since August of 2006, so a little over two years.
- 3 Q And you typically respond to major scenes, is what
- 4 you say?
- 5 A Typically, as I stated, we are more of a support
- 6 unit, high priority calls, the regional deputies
- 7 will also call us for narcotic searches of vehicles
- 8 that they have stopped, and stuff of that nature.
- 9 Q Because you are a K-9 officer?
- 10 A That's correct.
- 11 Q When you heard the initial call go out, how long
- 12 did it take you to get to the location?
- 13 A I would say less than a minute, maybe two minutes
- 14 tops. I was only a block or two away.
- 15 Q Did you see anybody leaving the incident location?
- 16 A I did not.
- 17 Q Nobody passed you on the way?
- 18 A No, sir.
- 19 Q Okay. What type of First Aid did you render to
- 20 Frank West?
- 21 A To be honest with you, the type of injuries that I
- 22 saw once he fell over at my feet, you know, we are
- 23 trained in basic First Aid and CPR, that is it.
- 24 That was out of my league as far as knowing --
- 25 knowing what to do. I didn't believe at the time

1 that anything I would do would help. If I touched
2 I felt like I would hinder.

3 Q Did anybody give him First Aid?

4 A Not any deputies. As I stated, the ambulance was
5 very quick, within minutes of my arrival. They
6 were on the scene and took over quite quickly, were
7 attempting to help.

8 Q And when the initial call came out to dispatch you,
9 when was that?

10 A What type of call?

11 Q No, what did the dispatch tell you about, not just
12 about a domestic dispute, obviously, but what else
13 did they say?

14 A That was it. That was all I got was a domestic.

15 Q Information about who the suspect is, that would
16 have been helpful?

17 A Would have that been helpful? I would assume. I
18 mean, nobody knew what the actual call was other
19 than a domestic until I actually got there and was
20 able to see, you know, to -- you know, normally,
21 you know, a domestic in Richland County is a pretty
22 common call in any region.

23 Q Would it have been helpful for you to know what the
24 suspect looked like?

25 A I'm sure it would have had we known what actually

1 had taken place.

2 And, as I stated, it only came out as a
3 domestic dispute until -- it wasn't until I arrived
4 did I know that there was more to it than just a
5 domestic dispute, so, you know, a suspect in a
6 domestic, you know, I mean, sure the information
7 would have been helpful, but, like I said, at the
8 time we didn't even know what we were dealing with,
9 other than what dispatch gave us.

10 Q Would it have been helpful to know where they were
11 going?

12 A Who is *they*?

13 Q The suspect.

14 A Again, as I stated, I didn't know what it was until
15 I got there.

16 Q My question is, would it have been helpful for you?

17 A Well, I wouldn't say me necessarily because, you
18 know, as I stated, I just responded to the call as
19 a -- from a domestic to help out the regional
20 officers. And, you know, I was going to take the
21 call on my own. Nobody said anything about anybody
22 leaving an incident location or anything of that
23 nature. Like I said, it was a pretty common call.
24 There wasn't anything that drew my attention to
25 where I felt like I needed to know a suspect. It

1 would have been nice to know what happened, but
2 other than that, I mean, I didn't -- nothing was
3 really needed to know at the time and -- you know,
4 to my opinion.

5 Q Okay. Part of your responding to calls is
6 collecting information?

7 A Part of responding to my duty -- as I said, I was
8 just helping out the officers, taking a call. The
9 domestic disputes that I have responded to have not
10 been any major domestic disputes, and I have been
11 able to settle the situation down on my own to
12 where no other officers were needed.

13 Q Part of your responsibilities is to gather
14 information and find out what happened?

15 A Strictly just to relay to the officer who would be
16 coming as well from the region.

17 Q Okay. Who else did you speak to while you were
18 there?

19 A Who else -- while I was at the incident location?

20 Q Yes?

21 A Just the neighbor and the other deputy.

22 Q Okay. There was nobody else around?

23 A Not that I spoke to. Not that I saw. I mean,
24 there was obviously people who came outside after
25 we got there, but not initially.

1 Q Okay. And did she give you a description of the
2 suspect?

3 A A brief -- when I say brief, I mean very brief. A
4 white female, a light-skinned black female, and a
5 darker-skinned black male. She was familiar with
6 him. The neighbor was familiar with one or more of
7 those people she gave the description of.

8 Q Okay. When you went to the Western Inn, how long
9 did it take you to get there?

10 A The individuals who were already detained at the
11 Western Inn had been detained for, you know, a
12 couple of minutes.

13 As I stated, once -- it wasn't until the
14 ambulance left with the victim did we clear the
15 house. And, you know, due to the severity of what
16 took place, we thoroughly went through the house
17 making sure nobody was hiding anywhere.

18 And then once -- once I came back outside, you
19 know, we roped off the crime scene with crime scene
20 tape, a crime scene log was started. You know,
21 again, I stayed to help Deputy Leahy do this stuff.
22 And it was at that point when they stated that they
23 had possible suspects in custody.

24 Q What time was that?

25 A Say again?

1 Q What time was that?

2 A I wouldn't have any idea to tell you.

3 Q Approximately how long did it take from the time
4 you arrived --

5 THE COURT REPORTER: I'm sorry, you need to
6 repeat it.

7 Q Approximately what -- how long did it take from the
8 time you arrived at the scene to the time you went
9 to the Western Inn?

10 A This was one of the most serious things that I have
11 seen, and time was really not on my mind at the
12 time. If I threw a guess out there, it would be 20
13 minutes, but I'm really not sure.

14 Q And you describe the demeanor of Teresa Brown as
15 frantic?

16 A Who is Teresa Brown?

17 Q The neighbor.

18 A Yes.

19 Q And you described the scene as something you would
20 see on TV?

21 A That's correct.

22 Q So would you categorize it as -- did it disturb
23 you?

24 A More of wanting to know what happened, you know,
25 and why. I wouldn't necessarily say it disturbed

1 me, no.

2 Q So it didn't bother you?

3 A No. No.

4 Q Okay.

5 A It is definitely one of the worst ones that I have
6 seen, but, I mean, the bothering part was catching
7 the people who did this. That was where I was
8 bothered.

9 Q So that is where the information would have been
10 helpful?

11 A And, again, as I stated, I didn't know what I was
12 going to other than a domestic. I mean, that type
13 of information wouldn't have been -- that is not a
14 normal information that is given on a domestic
15 dispute.

16 Q Okay. Did you have a camera in the car?

17 A That car I did not, no. That was a 1999 with
18 140,000 miles on it. I was the new guy at the
19 time.

20 Q And you said Corporal Mazerolle had a computer in
21 his car, is that right?

22 A That's correct, yes.

23 Q Did he have a camera in his car?

24 A No, ma'am, definitely.

25 Q Would his camera have been on at the time?

1 A That I don't know. You will have to ask him. That
2 was his car. I don't know.

3 Q What triggers a camera to come on?

4 THE COURT REPORTER: I'm sorry, I didn't hear.

5 Q What triggers a camera to come on?

6 A It comes on when you turn on your blue lights or
7 you can manually turn them on to record.

8 MS. GRIPP: Beg the Court's indulgence.

9 (Pause.)

10 MS. GRIPP: No further questions.

11 MS. SHIPLEY: No redirect, Your Honor.

12 THE COURT: All right. Thank you, Officer.

13 You can step down.

14 (Witness steps down.)

15 MS. SHIPLEY: May he be excused, Your Honor?

16 MR. O'NEIL: Yes, sir.

17 MR. SECOR: Yes, Your Honor.

18 THE COURT: Without objection.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 MR. SECOR: Your Honor, can we approach?

22 THE COURT: Yes.

23 (WHEREUPON, a bench conference was held
24 in the presence of the jury but out of
25 the hearing of the jury.)

1 MS. GOOD: The State calls Michael Leahy.

2 (Witness enters courtroom.)

3 THE BAILIFF: Place your left hand on the
4 Bible, raise your right hand, and face the clerk.

5 (Witness complies.)

6 THE CLERK: Do you swear or affirm the
7 testimony you are about to give in this case to be
8 the truth, the whole truth, and nothing but the
9 truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Have a seat in the witness box,
12 and state your full name for the record, please.

13 (Witness seated.)

14 THE WITNESS: My name is Michael Leahy.

15 MICHAEL LEAHY,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. GOOD:

19 Q Good morning. Where are you employed?

20 A I was employed with the Richland County Sheriff's
21 Department. I am no longer there.

22 Q And when did you leave the Sheriff's Department?

23 A Approximately four, about four months ago, give or
24 take a week.

25 Q And while you were at the Sheriff's Department, how

1 long did you work there?

2 A Five years.

3 Q And what were your duties?

4 A I was patrol unit reaching forward to the Broad
5 River Road area.

6 Q And as a patrol officer, what do you do?

7 A Investigate calls, both initiated and respond to
8 domestic disputes ranging anything from vandalism
9 to homicide.

10 Q And let me bring your attention to May 5th, 2007.
11 Did you respond to a call at 1417 Farrington Way?

12 A Yes, ma'am, I did.

13 Q And what county is that?

14 A I apologize?

15 Q What county is that?

16 A Richland.

17 Q And when you responded to that scene, how did you
18 come to know about 1417 Farrington Way?

19 A Dispatch had given a call on the radio stating that
20 there was a domestic dispute in progress between a
21 male and a female, his girlfriend, and that there
22 was a knife involved. En route dispatch had also
23 stated that the victim -- excuse me, the male, had
24 also been stabbed.

25 Q And were you given any other information?

1 A From the dispatch, no, ma'am.

2 Q And so you responded to 1417 Farrington Way. What
3 did you observe when you arrived?

4 A When I arrived, I observed Deputy Cavanah on scene
5 for approximately 30 seconds or a minute.

6 When I got there, part of Apartment D, delta,
7 I noticed a gentleman leaning against a brick wall.
8 And at about five seconds after I got there, he
9 slid down. He was covered in blood. He wasn't
10 speaking. He was more groaning than anything.

11 And the neighbor, I believe her name was
12 Ms. Brown, Ms. Brown was very frantic, you know,
13 stating he had been stabbed several times.

14 Q And did you observe any injuries on him?

15 A I observed quite a few injuries. Both -- he wasn't
16 wearing a shirt, so he had multiple stab wounds in
17 the front, including a gash in the neck going
18 straight down, a very large gash, and tremendous
19 amounts of blood were pouring out.

20 Q Let me show you State's Exhibit 10. Does that
21 accurately reflect where you were?

22 A It is very accurate. Very accurate.

23 Q And when you got up on the scene with Deputy
24 Cavanah, what did you do?

25 A Sat there. We called EMS immediately to make sure

1 they would respond. We had tried talking to Mr.
2 West, at the time we had found out his name -- Mr.
3 West. We had tried talking to him, but he couldn't
4 speak, he was more groaning.

5 The neighbor who had called 9-1-1, we started
6 talking to her to see if she knew anything.

7 Q And what was her demeanor?

8 A She was extremely frantic. She was -- she was just
9 emotional, extremely emotionally distressed, very
10 frantic, just saying things. You know, you would
11 ask her a question, and she gave the best possible
12 explanation she could, but at one point, you know,
13 she had asked for a cigarette. She just wasn't
14 thinking clearly, but she was -- she was lucid.

15 Q Did you have to keep her away from you and the
16 scene in any manner?

17 A Yes. Several times she had -- like I said, she was
18 acting strangely because she wanted a cigarette,
19 but in order to get the cigarette she wanted to
20 step over the victim, which we couldn't allow her
21 to, but she asked that several times. Like I said,
22 she was very frantic. She didn't understand the
23 situation, what she did, that type of situation.

24 Q And was she able to give you any information?

25 A She had stated -- well, we had asked her, you know,

1 does she know who did this. And she stated his
2 girlfriend did it.

3 Q And did she give you a name or a description of
4 anyone?

5 A She gave us a white female. She didn't give us
6 anything else, no.

7 Q And did the EMS eventually arrive?

8 A Yes, they did.

9 Q And what did they do?

10 A They looked at him, observed his injuries. They
11 immediately carted him off and brought him over to
12 the hospital because he was in serious condition
13 with the amount of blood that was lost.

14 Q At the time that EMS arrived, did you ever hear him
15 say anything to EMS?

16 A Mr. West?

17 Q Yes?

18 A No, ma'am. He was just -- the most he said was, I
19 can't breathe, but he said it so low and in a
20 gurgley voice. Like I tell you, he had a huge gash
21 on his throat, he was just bleeding profusely.

22 Q And after the EMS left the scene, what was your
23 next course of action?

24 A Next course of action, we ended up clearing
25 Mr. West's residence.

1 Q And how did you know which one was his?

2 A Blood trail.

3 Q And where did you see a blood trail?

4 A Well, where didn't we see a blood trail? I mean,
5 it was very evident from -- Mr. West was in the
6 front of, like I said, Ms. Brown's residence, and
7 that was Apartment D. The blood trail went from D
8 all the way to Apartment A. leading into A.

9 Q And when you went to clear the apartment, what is
10 the purpose of clearing the apartment? What does
11 that do?

12 A Basically we're looking for any danger in there,
13 make sure the scene is secure, securing the scene,
14 make sure if there is any, so to speak, suspects or
15 evidence. Everything -- you know, if there are
16 suspects inside we take them into custody, detain
17 them. If there is evidence, we make sure it is
18 secure and uncontaminated.

19 Q And when you went to that apartment, Apartment A --

20 A Yes.

21 Q -- what did you observe?

22 A Blood all over the place, upstairs, going
23 downstairs. I also observed the Defendant's
24 driver's license on a little ottoman chair, a
25 little chair right in front of the fireplace just

1 sitting pretty.

2 Q When you say Defendant, who do you mean?

3 A I mean Ms. Richmond.

4 Q And you actually saw her ID in there?

5 A Yes, ma'am.

6 Q And approximately how long were you inside the
7 apartment?

8 A Maybe 10 to 15 minutes to make sure everything was
9 good. Yeah, 10 to 15 minutes, that was it.

10 Q And after you cleared the apartment, what did you
11 do?

12 A Immediately roped off the crime scene from
13 Apartment A to D in the front to make sure that no
14 one stepped in or out of the crime scene to
15 contaminate anything.

16 Q I show you State's 9. Is that the crime scene tape
17 you are talking about?

18 A Yes. I put that up myself.

19 Q And, again, what was the purpose for roping off the
20 crime scene?

21 A To make sure no one contaminated it, no evidence
22 was lost in any type of way or contaminated or
23 destroyed.

24 Q And once you roped off the crime scene, did anybody
25 go in there without it being documented?

1 A No, ma'am, no one entered into that area without it
2 being documented.

3 Q And how did it become documented? What did you do?

4 A Crime scene log. I started it myself. Whoever
5 steps in the scene, asking -- either EMS, coroners,
6 someone involved in the investigation, get their
7 name, their rank, if any, write it down. Plus the
8 time they walked in to the minute they stepped out.

9 Q And when you started the crime scene log, did you
10 call for any back-up, any help, or anybody in
11 particular?

12 A Yes, I called anyone I could come by off the -- I
13 called for the crime scene investigator, I called
14 for an actual investigator to come over to the
15 scene and talk to the witnesses to make sure they
16 got their statements as quickly as possible while
17 they were still fresh in their mind.

18 Q And why wouldn't you take their statement?

19 A Basically I didn't take their statements because it
20 is their job. I don't want to end up stepping on
21 his toes. I don't want to miss any questions I
22 could be asked.

23 Q And did an investigator come?

24 A Yes, ma'am, Investigator Baker.

25 Q And he came and got statements from people?

1 A Yes, ma'am.

2 Q And did a crime scene investigator show up?

3 A Yes, Investigator Livingston.

4 Q And did you have any other role in this particular
5 murder other than being at the crime scene?

6 A I was there when Mr. Thompson, a/k/a Bird, was
7 arrested. We detained him at a different location.

8 Q And before you left this location at 1417
9 Farrington Way, did you give the crime scene to
10 somebody else or did you just leave?

11 A Yes, I turned it over to Deputy Guirau.

12 Q Okay. And did you write an incident report
13 about --

14 A Yes, I did.

15 Q -- your involvement there? And what is the purpose
16 for writing an incident report?

17 A It is a report to document the events, and also, if
18 it comes to trial, detailed as possible to refresh
19 memory, more or less just to document everything.
20 It becomes, you know, a legal document.

21 Q And what time were you dispatched to the scene?

22 A Dispatch gave out the call at 0518 hours, 5:18 a.m.

23 Q How long did it take you to arrive?

24 A I got on the scene at 5:24 a.m.

25 Q And approximately how far away were you when you

1 got the dispatch call?

2 A Four to five miles.

3 Q So it took you a couple of minutes to get there,
4 you weren't right on top of it?

5 A Yes, ma'am.

6 Q I show you what is marked as State's Exhibit 23 and
7 26. Do you recognize these two photographs?

8 A Yes, ma'am. This is the driver's license at the
9 scene, at the crime scene, inside the victim's
10 apartment in front of the fireplace.

11 Q And do those photographs accurately represent how
12 you observed those pictures?

13 A Yes, ma'am. Just pristine, just like that, never
14 touched it.

15 MS. GOOD: At this time I would like to
16 introduce State's Exhibits 23 and 26.

17 MS. GRIPP: (Whispering) Without objection.

18 THE COURT: Without objection.

19 (WHEREUPON, State's Exhibit No. 23 was
20 marked for identification and received
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 26 was
23 marked for identification and received
24 into evidence.)

25 Q The first photograph, can you tell the jury what is

1 in that photograph?

2 A This is in front of the fireplace, victim's
3 fireplace.

4 That right here is the Defendant's ID that was
5 left in plain sight just sitting on the chair.

6 Q I'm going to show you State's Exhibit 26. Is this
7 a closer up view of that?

8 A Yes, ma'am.

9 Q And whose identification is that?

10 A Melinda Richmond's, the Defendant.

11 Q And you were discussing the injuries that you
12 observed on Mr. West's body when you arrived.
13 Approximately what type of injuries were they?

14 A Very deep --

15 Q That you could tell?

16 A Very deep stab wounds. When I arrived on the scene
17 he had started slinking down the wall and he sat
18 down against the wall. His body just went down.
19 His body gave out on him. Very clearly you could
20 see three stab wounds without -- and it was very
21 dark at the time, there was no light out there.
22 And you could clearly see three stab wounds.
23 Mostly you could see where the blood was coming
24 from, it was pouring out quickly and heavily.

25 Q Where were those stab wounds that you saw?

1 A Chest area. The most evident one was the one on
2 the throat.

3 Q Okay. And did you ever see any on his back?

4 A Yes, ma'am. At one point Mr. West's body gave out
5 further, he just collapsed over on his right side.
6 And multiple stab wounds to the point where I
7 didn't want to count any more after several, six or
8 seven, were all over his back. He had -- then it
9 was just pouring out like a river almost. And I
10 hate to describe it that way, but there was a large
11 pool of blood that was left on the scene after Mr.
12 West was removed that wasn't there when I got
13 there.

14 MS. GOOD: No further questions.

15 THE COURT: Cross?

16 CROSS-EXAMINATION

17 BY MS. GRIPP: (WHISPERING)

18 Q Officer Leahy, how long have you been with the
19 department?

20 A With the department for approximately five years.

21 Q Okay. You are a patrol officer?

22 A Yes, ma'am.

23 Q How were you trained as a patrol officer? What is
24 your training?

25 A I went to the Police Academy. Richland County,

1 Sheriff Lott has his officers go to training twice,
2 two times yearly to make sure we're kept up both on
3 crime scene, you know, areas, defense tactics,
4 gauge the scenes, safeguarding evidence to make
5 sure it is not contaminated. A wide variety of
6 training, just endless.

7 Q Investigative techniques?

8 A Initial investigative. We leave the actual
9 investigation to the specialists, like Crime Scene
10 Investigator Livingston and Investigator Baker that
11 takes the statements and procures them.

12 Q When you initially responded --

13 THE COURT REPORTER: I'm sorry, I can't hear
14 you.

15 Q When you initially responded you heard dispatch say
16 there was a stabbing?

17 A Yes, ma'am.

18 Q Between a male and female?

19 A Yes, ma'am.

20 Q Okay. Did you know which one was the victim?

21 A Did I know who the victim was?

22 Q Did they tell you who the victim was?

23 A They told me while I was en route saying that there
24 was a male victim had been stabbed.

25 Q Okay. They didn't tell you anything about who it

1 was?

2 A No name came across the radio from a suspect name,
3 no, ma'am.

4 Q There was no car associated with it?

5 A No, ma'am, we found that information out while on
6 the scene.

7 Q When you were on the scene, who told you that?

8 A One of neighbors -- Deputy Cavanah and myself were
9 on the scene. Deputy Cavanah arrived approximately
10 30 seconds or a minute before I did. And after Mr.
11 West was brought away by the ambulance, we again
12 talked to the neighbors. And it came out that, the
13 information came out that, Number One, Mr. Green's
14 vehicle was taken; and, Two, that Ms. Richmond was
15 driving it along with two other people.

16 Q Did you find out where they were going?

17 A No.

18 Q How long does it take for the ambulance to get
19 there?

20 A It took EMS about 15 to 20 minutes -- actually,
21 excuse me, 10 to 15. We had to make sure the crime
22 scene, the area was secure before we let them in.
23 We didn't want to give them any injury. We had to
24 make sure everything was secure. That is why it
25 took them a couple of minutes to get there.

1 Q And Frank West never told you --

2 A I apologize, ma'am.

3 Q Frank West never said anything to you other than, I
4 can't breathe?

5 A No, ma'am, he didn't say anything else.

6 Q You saw the driver's license of the Defendant.
7 What else did you see in that house?

8 A Blood.

9 Q Blood?

10 A Yes, ma'am.

11 Q Was it disturbing?

12 A It was the bloodiest crime scene I ever been to
13 and, yes, disturbing, obviously, yes.

14 Q And the neighbors were frantic?

15 A Yes.

16 Q Emotional?

17 A Yes, highly emotional.

18 Q Not thinking clearly?

19 A Not thinking clearly? They weren't -- they -- like
20 I said, they weren't -- she wasn't thinking clearly
21 because all she wanted was a cigarette, but in
22 order to get that she wanted to step over Mr. West,
23 but, like I said, she was lucid to the point where
24 she knew what was going on around her. She knew
25 her neighbor had been stabbed. She had said it was

1 his girlfriend. She had said it was a white
2 female. She never stated it to me, but she said it
3 was a white female and it was his girlfriend that
4 stabbed him. That information ended up proving
5 accurate too, 100 percent.

6 Q That -- I'm sorry?

7 A The information she had given, very vague
8 information, his girlfriend, a white female, ended
9 up proving accurately, 100 percent.

10 Q Okay. And the information she gave you about the
11 other suspects, was that 100 percent accurate too?

12 A She never -- she didn't give us information on
13 that, the neighbors did. The neighbors gave very
14 vague information also: Black male, black female.
15 I guess -- at the moment we didn't have any names,
16 we just knew the type of people we were looking
17 for. Mostly it was the car.

18 Q Then who did you turn the crime scene over to?

19 A I turned the crime scene over to Deputy Guirau.

20 Q Okay. It was really dark out there?

21 A Yes, ma'am, it was -- at 5:18 in the morning it was
22 very dark.

23 Q There weren't any lights out?

24 A Just the front door lights.

25 Q Okay. And you said that you were present when

- 1 Bruce Thompson was arrested, is that correct?
- 2 A Yes. When Mr. Thompson was arrested, yes.
- 3 Q What time was that?
- 4 A Mr. Thompson was arrested -- I can't remember
- 5 accurately, but about 9ish in this morning.
- 6 Q And where was that?
- 7 A That was on Latonea Drive. I forget the exact
- 8 address. I think I have it in my paperwork here.
- 9 205 Latonea Drive.
- 10 Q Okay. And when you are looking at your paperwork,
- 11 you are just looking at your incident report?
- 12 A Yes, ma'am.
- 13 Q You don't have any other notes?
- 14 A No, ma'am, just my incident report.
- 15 Q Okay. Is your vehicle equipped with a camera?
- 16 A Yes, ma'am, at the time -- at the time it was
- 17 equipped with a camera, but it was not working, it
- 18 was not functional at the time, so I don't have any
- 19 tape.
- 20 Q Okay. And when Deputy Cavanah arrived, did he have
- 21 his blue lights on?
- 22 A I couldn't tell you. I got there after him. I got
- 23 there 30 seconds or a minute after he did.
- 24 Q How about when Deputy Mazerolle arrived?
- 25 A Once again, I was more concerned with the area and

1 finding information out than I was about someone
2 running blue lights and a camera.

3 Q Okay.

4 MS. GRIPP: Beg the Court's indulgence.

5 (Pause.)

6 MS. GRIPP: No further questions.

7 THE COURT: All right.

8 REDIRECT EXAMINATION

9 BY MS. GOOD:

10 Q Two questions. Did you document in your incident
11 report what time EMS arrived?

12 A I don't have down exactly the time EMS arrived, but
13 I have their EM number as well as their names.

14 Q So you aren't sure exactly when EMS arrived?

15 A No, not exactly sure. I guess I ballparked it
16 around 10 or 15.

17 Q And you said you had gotten a description of the
18 vehicle. What description did you get of the
19 vehicle?

20 A It was a -- I don't have it right here. Hold on a
21 second. It was a green vehicle with Tennessee
22 tags. That is mainly -- I didn't look for the
23 vehicle at the moment because I was in charge of
24 the crime scene, but I gave out green vehicle,
25 Tennessee tags, and --

1 Q And who did you get this description from?

2 A We ended up getting it from a neighbor.

3 MS. GOOD: No further questions.

4 A But all the other officers in the area were working
5 to locate that vehicle.

6 Q While you stayed at the crime scene?

7 A Yes, I was -- my responsibility was the crime
8 scene.

9 MS. GOOD: No further questions.

10 MS. GRIPP: (Whispering) Nothing further.

11 THE COURT: Okay. Thank you, officer. You
12 can step down.

13 (Witness steps down.)

14 MS. SHIPLEY: May he be excused, Your Honor?

15 THE COURT: No objection. Thank you, sir.

16 THE WITNESS: Thank you, sir.

17 (Witness excused.)

18 THE COURT: Y'all want to take a little --
19 let's take a little short morning break. Okay?
20 All right.

21 Don't talk about the case. We will get back
22 with you in 15 minutes or so. Thank you.

23 (WHEREUPON, the jury retires to the jury
24 room at 10:59 a.m.)

25 THE COURT: All right, I would like everybody

1 to stay in the courtroom until the jury is gone.

2 All right, Mr. Secor, I believe you want to
3 put something on the record?

4 MR. SECOR: May it please the Court? Yes,
5 Your Honor. I understand that Your Honor has
6 already ruled with regard to the Defense's motion
7 for a mistrial or a continuance.

8 I do feel it necessary that we put on the
9 record that Ms. Gripp is doing the
10 cross-examinations that she was intending to do as
11 best she possibly can.

12 I think that her voice could be best described
13 as a whisper. She is using a microphone in front
14 of the bench. Even through the microphone, on at
15 least two or three occasions the court reporter has
16 said that she could not hear what she was saying,
17 the court reporter being the person whose Number
18 One job is to hear exactly what is going on in the
19 courtroom.

20 Also, Your Honor, when Deputy Cavanah stepped
21 down from the witness stand, Ms. Gripp said she had
22 no objection to him being dismissed, and I noticed
23 that Your Honor didn't hear her say that.

24 I just bring that up to show that people in
25 the courtroom --

1 THE COURT: Well, she wasn't speaking into the
2 microphone at that time. And I want to say that I
3 finally figured out how this works. I have got
4 controls up here and I had not turned up the right
5 microphone. And I don't think the court reporter
6 is having any trouble since I found the right
7 microphone, increased the volume. But we'll keep
8 track of it.

9 MR. SECOR: One other thing, Your Honor, if I
10 may, just in terms of -- as Your Honor pointed out,
11 when she is close to the microphone it is certainly
12 better; however, in the event she feels as though
13 she needs to make an objection, I have a concern
14 about whether or not the Court would be able to
15 hear if she did and when she needed to do that.

16 So, again, I understand that Your Honor has
17 ruled on this issue, but we would at this time
18 renew those motions for a mistrial or a
19 continuance.

20 THE COURT: Okay. I would just maybe suggest
21 that -- and I would certainly allow objections to
22 come from one of the other counsel.

23 MR. SECOR: One more question, Your Honor. If
24 there are tapes, audio tapes of the trial, could we
25 just make those part of the record? We would

1 request that Your Honor do that.

2 THE COURT: Well, they are already part of the
3 record.

4 MR. SECOR: Okay. Thank you.

5 THE COURT: Okay.

6 MS. SHIPLEY: And also, Your Honor, you told
7 the jury if they had any trouble hearing to raise
8 their hand, and none of the jurors have done that.

9 THE COURT: All right.

10 MS. SHIPLEY: Thank you.

11 THE COURT: Let's take a short break. Thank
12 you.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: Are you ready? I turned up all
15 the microphones in the whole place.

16 MS. SHIPLEY: Judge, just to -- if we could go
17 over some photographs that will come through one of
18 our witnesses. They have objection to some.

19 MS. GOOD: Your Honor, I can go ahead, before
20 we start going through the individual ones, State's
21 Exhibit 32, 35 and 76, the State will agree not to
22 enter those. They are duplicate, cumulative
23 photographs, and we agree not to enter those.

24 MR. SECOR: Do you want to hear about the list
25 of the ones that I objected to, Your Honor, at this

1 time?

2 THE COURT: Well, the ones that they haven't
3 consented to -- yes, don't include those three.
4 Tell me whatever it is. I haven't seen them, so I
5 don't know what we are talking about.

6 MS. GOOD: May I approach, Your Honor?

7 THE COURT: Uh-huh.

8 MS. GOOD: These are the photographs that they
9 are objecting to.

10 THE COURT: Okay. All right, let's do them as
11 I'm looking at them. Number 33.

12 MR. SECOR: Your Honor, my objection to them
13 all is pretty much on the same basis.

14 THE COURT: Okay.

15 MR. SECOR: The objection -- well, I will just
16 list them for purposes of the record, Your Honor.
17 State's 33, 34, 36, 37, 38, 39, 40, 42, 46, 49, 50,
18 52, 53, 57, 58, 61, 62, 63, 66, 67, 68, 69, 72, 73,
19 74, 75, 77 and 80.

20 Your Honor, the objection to those pictures
21 being admitted into evidence would be based on Rule
22 403. I think that a number of them are cumulative.
23 They show far away pictures taken close-ups of the
24 same area or just from a different angle. And I
25 also think that they are in addition prejudicial,

1 certainly more prejudicial than probative. The
2 crime scene has been described by I believe two
3 officers as, I think one of the words used was
4 disturbing, another officer described it as it
5 being the bloodiest or worst crime scene he had
6 ever seen.

7 There is certainly no dispute about that. The
8 fact that it was a disturbing and bloody crime
9 scene is not at issue. The Defense has seen the
10 pictures and knows that.

11 I understand the State is entitled to give the
12 jury some semblance of an idea about the appearance
13 of the scene, but I do think that those are
14 cumulative, and I do think they are prejudicial,
15 certainly more prejudicial than probative.

16 And I believe that their main purpose -- the
17 main purpose they would serve would be to inflame
18 the prejudice and passion of the jury, which
19 certainly is inadmissible under Rule 403.

20 THE COURT: All right, what do y'all want to
21 tell me?

22 MS. GOOD: Thank you, Your Honor. These
23 pictures, they are different angles. It is showing
24 the entire layout of the apartment. While there is
25 a good bit of blood in these pictures, Your Honor,

1 later on when the statements from Tenisha McClinton
2 and Melinda Richmond come into evidence it is going
3 to show -- they are going to have parts of their
4 statement saying where people were when things were
5 happening, and it just shows -- corroborates their
6 stories and their testimony and their statement as
7 to what is going on.

8 There is also a couple of those pictures, Your
9 Honor, that blood swabs were taken in front of, I
10 think actually numbered, they have -- I can't
11 remember, four or five, which ones he had picked
12 out, but it shows where the crime scene
13 investigator went through and picked swabs, blood
14 swabs from the wall and from the splatters showing
15 where he was collecting evidence.

16 It also shows, Your Honor, where certain parts
17 of evidence are that were collected that were not
18 blood swabs. And I think it just goes to show that
19 the crime scene investigator went through it
20 thoroughly and he took pictures and it explains how
21 everything occurred in the crime scene and how the
22 victim was able to come down the stairs and get out
23 of the apartment.

24 THE COURT: Well, there are a number of these
25 that are cumulative. I don't know why, unless

1 there is something -- some other significance to
2 them. But they are not -- I mean, it does show the
3 amount of blood, but they are not particularly -- I
4 presume you have other photographs you are going to
5 talk about later or not?

6 MS. GOOD: Your Honor, basically the
7 photographs they picked out are the photographs
8 that have blood in them. Most of the photographs
9 that are here that they do not object to have no
10 blood in them whatsoever and it doesn't show really
11 the crime scene where it happened.

12 MR. SECOR: Your Honor, we request that you do
13 view the pictures that I have not objected to so
14 Your Honor can make your own judgment about whether
15 the pictures that are not being objected to will
16 give the jury an idea of whether or not -- or give
17 the jury an idea of what the scene looked like.

18 THE COURT: When are you going to put these
19 in? Or when do you want to put these in?

20 MS. GOOD: It would be our -- it would be our
21 crime scene investigator, which is in three
22 witnesses, Your Honor. The first two witnesses are
23 fairly --

24 THE COURT: Well, whose blood is it?

25 MS. GOOD: Victim's. And it also shows part

1 of Tenisha McClinton, where she was bleeding at the
2 time.

3 THE COURT: Okay. I mean, there are several
4 that do depict the same scene. I don't know why.
5 You know, there is no reason to put all that in.

6 MS. GOOD: We can pull the cumulative ones
7 out, Judge. If we can just go through and know
8 which ones we are talking about.

9 THE COURT: Why don't y'all pare them down a
10 little bit and then show me what it is you want
11 to --

12 (Pause.)

13 MR. O'NEIL: And, Your Honor, I guess while we
14 are doing that, I guess, not to keep beating a dead
15 horse, I wanted to make sure the record is clear,
16 our basis for the mistrial and continuance motion
17 was under the Fifth Amendment, due process, and
18 Sixth Amendment, effective assistance of counsel.

19 And we would ask that, if at all possible, for
20 the State to push any witnesses aside for
21 Ms. Carolyn Gripp until tomorrow in hopes that her
22 voice is where she would have improved at that
23 point in time, Your Honor.

24 THE COURT: Well, I can't tell them how to --
25 I'm not going to tell you how to try your case and

1 I'm not going to tell them how to try their case.

2 But hopefully she is going to get better.

3 Let's go buy her a -- what do you call those --

4 MS. SHIPLEY: Ricola?

5 THE COURT: No. Anyway, she'll figure out how
6 to -- were you out cheering on the Gamecocks or
7 something? I mean--

8 MS. GRIPP: No, Your Honor, I was just sick
9 all last week.

10 (Pause.)

11 MR. O'NEIL: Your Honor, if I may?

12 THE COURT: Yes.

13 MR. O'NEIL: Just one or two scheduling
14 matters by the Court, Your Honor.

15 Out of an abundance of caution, we have
16 secured our own private court reporter. They will
17 be arriving at 12:30 today. And Ms. Gripp has a
18 doctor's appointment with Dr. Michelle Archer at
19 3:30 to try to address her speaking problems, Your
20 Honor.

21 THE COURT: Okay. Well, I'm not sure I am
22 going to let you have your own court reporter in
23 here. Why would I do that?

24 MR. NEIL: Just out of an abundance of caution
25 to make sure that the audio --

1 THE COURT: No, sir. I'm not -- she's
2 taking -- we've got the official transcript up
3 here. There is no provision for what you are
4 suggesting, unless you show me some law to the
5 contrary. I'm not going to allow a separate
6 recording of the proceedings.

7 MR. O'NEIL: Yes, Your Honor.

8 THE COURT: All right.

9 MR. O'NEIL: We would ask for Ms. Gripp to be
10 able to go to the 3:30 doctor appointment.

11 THE COURT: That's fine.

12 MR. O'NEIL: Thank you, Your Honor.

13 THE COURT: I'm not talking about -- you'll be
14 here, I mean, right? Maybe we can arrange so
15 Ms. Gripp can go, maybe you all can get together
16 for the witnesses you would call this afternoon so
17 that it wouldn't --

18 MS. SHIPLEY: Your Honor, this afternoon we're
19 just calling -- hopefully if we can get a few more
20 witnesses done this morning, we'll be calling the
21 crime scene investigator, which are Mr. Secor's
22 witnesses, and chain of custody witnesses. And I
23 pretty much -- I have got everyone lined up. We'll
24 stop if you want so we won't go into the
25 investigators that she is doing cross-examination

1 of.

2 THE COURT: Well, that what I'm trying to do,
3 put up other witnesses that she is not going to
4 be -- even though it is probably not prejudicial
5 error, we'd like to be as accommodating as
6 possible.

7 MS. SHIPLEY: Absolutely. I agree, Your
8 Honor.

9 THE COURT: Just think about it. You can do
10 it over lunch.

11 MS. SHIPLEY: My only -- I'm trying to figure
12 out a way to call the witnesses, but she is also
13 doing Dr. Gray Amick, who is not available until
14 tomorrow anyhow.

15 THE COURT: Okay.

16 MS. SHIPLEY: Dr. Nichols is not available
17 until Thursday also. So I think this afternoon
18 there is a good bet we will be doing witnesses that
19 won't involve her, that would involve Mr. Secor.

20 THE COURT: Okay.

21 MS. SHIPLEY: And then if we get done with
22 witnesses, we'll just have to stop.

23 THE COURT: Well, maybe she'll be back.

24 MS. SHIPLEY: Okay.

25 THE COURT: All right.

1 MS. GOOD: And, Your Honor, for the record the
2 State has agreed to take out 36, 38, 40, 46, 50,
3 61, 63, 66, 57, 52 and 80. We would seek to
4 introduce the other photographs, Your Honor, which
5 they still object to those.

6 THE COURT: Okay. Any new objections to
7 those?

8 MR. SECOR: Your Honor, I still have the same
9 objection under 403 that they are more prejudicial
10 than probative.

11 I think the crime scene has been described
12 pretty extensively by officers that responded to
13 it, and I assume it is going to be described in
14 more detail by the investigating officers who --

15 THE COURT: Well, let me ask you this. You
16 have looked at them. Are the duplicative
17 photographs the ones that they seek to introduce?
18 Are any of them cumulative?

19 MR. SECOR: There are some that I believe are
20 cumulative. Ms. Good did take out a majority of
21 the ones that are cumulative. We can go through
22 them number by number for the record if Your Honor
23 would like.

24 THE COURT: No, I'm just -- I'll take a look
25 at them in a minute, but, I mean, if there are

1 others -- other than your previously stated
2 objections, do you have any other objections to
3 these?

4 MR. SECOR: The objection to all the crime
5 scene photographs, Your Honor, would be pursuant to
6 Rule 403 as previously stated.

7 THE COURT: All right.

8 MS. SHIPLEY: These are marked but not going
9 in evidence.

10 THE COURT REPORTER: Thank you.

11 (Pause.)

12 THE COURT: Okay. Well, I am going to
13 overrule your objection. I don't know if you all
14 want to make Court's Exhibits of the ones that are
15 not being admitted, whatever you want to do.

16 MS. GOOD: They have already been marked, Your
17 Honor, as State's Exhibits, and the court reporter
18 has those.

19 THE COURT: All right, well, they are not
20 admitted as State's Exhibits.

21 MS. GOOD: Or marked as State's Exhibits. She
22 has those away separate so we know not to introduce
23 them.

24 THE COURT: Okay. All right.

25 MS. SHIPLEY: And, lastly, Your Honor, when I

1 was introducing this diagram of the Richland
2 County -- the map, there was an evidence sticker
3 from another case from January of '05 that I was
4 referring to as State's Exhibit Number 22.
5 Ms. McCurdy caught that and has assigned it State's
6 Number 81.

7 So I just want to put that on the record that
8 the map that was referred to as 22 is really
9 State's 81.

10 THE COURT: All right. Any objection to that
11 by the Defense? I don't know how that would be --

12 MS. GRIPP: (Whispering) No objection.

13 THE COURT: That is just a clerical issue.
14 Okay.

15 MS. SHIPLEY: Thank you, Your Honor.
16 (WHEREUPON, State's Exhibit No. 81 was
17 marked for identification and received
18 into evidence.)

19 THE COURT: All right. Are we ready?

20 MS. SHIPLEY: Yes, sir.

21 THE COURT: Okay.

22 (WHEREUPON, the jury came into open
23 court at approximately 11:36 a.m.)

24 THE BAILIFF: The jury is seated, Your Honor.

25 THE COURT: All right. Thank you very much.

1 Yes, ma'am.

2 MS. SHIPLEY: Thank you, Your Honor. The
3 State calls Christine Benson.

4 THE COURT: All right.

5 (Witness enters courtroom.)

6 THE BAILIFF: Place your left hand on the
7 Bible, raise your right hand, and face the clerk.

8 (Witness complies.)

9 THE CLERK: Do you swear or affirm the
10 testimony you are about give in this case to be the
11 truth, the whole truth, and nothing but the truth,
12 so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Have a seat in the witness box,
15 and state your name for the record, please.

16 (Witness seated.)

17 THE WITNESS: My name is Christine Benson.

18 CHRISTINE BENSON,

19 after being duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. SHIPLEY:

22 Q Good morning, Ms. Benson.

23 A Good morning.

24 Q Ms. Benson, can you tell the jury where it is that
25 you work?

1 A Richland County Coroner's Office.

2 Q And what are your duties there?

3 A Deputy coroner.

4 Q And what exactly do you do as a deputy coroner?

5 A Respond to scenes, attend autopsies.

6 Q And do you also participate in the collection of
7 evidence from deceased victims?

8 A Correct.

9 Q I'm going to bring your attention to the case at
10 hand where the deceased is Frank West.

11 Were you involved in the collection of some
12 evidence in Frank West's case?

13 A Yes.

14 Q Can you tell the jury how it is you came involved
15 with some of the evidence?

16 A I am over the evidence, and I picked up a DNA card
17 and took it to the Richland County Sheriff's
18 Department.

19 Q Okay. I'm going to show you what has been marked
20 State's Number 82 and ask you if you can recognize
21 that object?

22 A That is the item I took to the Sheriff's
23 Department.

24 Q Can you tell the jury what day it was that you
25 collected that item and from where?

1 A I collected it on May 7th of 2007 from --

2 Q Where did your collect it from?

3 A From the morgue.

4 Q From the morgue?

5 A Uh-huh.

6 Q And explain the procedures used when a person's --
7 by the way, what is that object?

8 A That is actually half of the DNA card.

9 Q Okay. DNA card belonging to whom?

10 A Belonging to Frank West.

11 Q And can you tell the jury if it is documented in
12 your paperwork for the chain of custody of this
13 item of evidence who collected the DNA from Mr.
14 West?

15 A The DNA was collected by Dr. Clay Nichols.

16 Q And who is Dr. Nichols?

17 A He is a forensic pathologist.

18 Q And is he the one that conducts the autopsy?

19 A He is.

20 Q And when Dr. Nichols collects the card, why isn't
21 it that you just take the card from him right then
22 and there?

23 A He puts it in a locked cabinet for drawing.

24 Q And so how long does it remain in a locked cabinet?

25 A Overnight.

1 Q When you picked it up -- do you have access to the
2 locked cabinet?

3 A I do.

4 Q Can anyone just walk into this cabinet?

5 A No.

6 Q How secured is it?

7 A Myself and the pathologist have a key.

8 Q And that's it?

9 A Some of the other deputies might have access to it
10 if they are covering the autopsy.

11 Q Now, when you arrived on May 7th to correct this
12 item, what time did you collect it?

13 A I collected it at 8:00 o'clock in the morning.

14 Q All right. When was it documented that it was
15 taken from Mr. West?

16 A It was taken from Mr. West on May 6th, 2007, at
17 8:00 o'clock in the morning.

18 Q And is that the date and time of his autopsy?

19 A That was the date and time.

20 Q Now, what did you do with it from May 7th, 2007,
21 until you turned it in to the Richland County
22 Sheriff's Department on August 3rd, 2007?

23 A I retrieved it from down in the morgue and placed
24 it into evidence at the Richland County Coroner's
25 Office.

1 Q Now, can you tell the jury how secure the evidence
2 room is at the Coroner's Office?

3 A I'm the only one that has access to it.

4 Q And when you collected this item from the morgue,
5 did it appear to be tampered with in any way?

6 A Not at all.

7 Q And when you turned it in to your evidence room,
8 did you properly log it in under the proper name so
9 you won't confuse it with other victims?

10 A Yes.

11 Q And how is it that you did that?

12 A It is placed in its own little envelope, which is
13 placed inside another envelope, and then filed.

14 Q Now, why is it that you then turn it over to the
15 Richland County Sheriff's Department?

16 A They asked for a sample, so I submitted half of the
17 card to them.

18 Q Okay. And can you explain for the jury when you --
19 how you did it -- how you took it from -- what
20 procedures you have to follow to log it in at the
21 Richland County Sheriff's Department.

22 A I have to present it and package it and submit it
23 into their evidence room.

24 Q Would they accept anything from you unless you seal
25 it properly?

- 1 A No.
- 2 Q And did you do that in this case?
- 3 A I did.
- 4 Q And do you see your name and your handwriting on
- 5 that envelope?
- 6 A I do.
- 7 Q And is that the clear plastic envelope you are
- 8 holding right now?
- 9 A Yes.
- 10 Q State's Number 82. Can you tell this jury what
- 11 date and time you turned that item of evidence over
- 12 to the Richland County Sheriff's Department?
- 13 A I turned that August 3rd, 2007, at 1433.
- 14 Q And to whom?
- 15 A It was to William -- I'm not sure how to --
- 16 Cederstaff.
- 17 Q Cederstaff?
- 18 A Yes.
- 19 Q And is he custodian of property or evidence at the
- 20 Sheriff's Department?
- 21 A He is, at the Richland County Sheriff's Department.
- 22 Q And while this item of evidence was in your custody
- 23 and control, did you tamper with it in any way?
- 24 A No.
- 25 Q Thank you.

1 A You're welcome.

2 THE COURT: Cross?

3 MR. SECOR: Thank you, Ms. Benson. I have no
4 questions.

5 THE COURT: All right. Thank you, ma'am. You
6 can step down.

7 (Witness steps down.)

8 MS. SHIPLEY: The State calls Corporal Michael
9 Mazerolle.

10 Your Honor, may she be excused?

11 MR. SECOR: Without objection.

12 THE COURT: Okay.

13 (Witness excused.)

14 (Witness enters courtroom.)

15 THE BAILIFF: Place your left hand on the
16 Bible, raise your right hand, and face the clerk.

17 (Witness complies.)

18 THE CLERK: Do you swear or affirm the
19 testimony you are about to give in this case to be
20 the truth, the whole truth, and nothing but the
21 truth, so help you God?

22 THE WITNESS: I do.

23 THE CLERK: Have a seat in the witness box,
24 and state your name for the record, please.

25 (Witness seated.)

1 MICHAEL MAZEROLLE,
2 after being duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SHIPLEY:

5 Q Please state your name for the record, sir.

6 A Corporal Michael Mazerolle, Richland County
7 Sheriff's Department.

8 Q Corporal Mazerolle, how long have you worked with
9 the Sheriff's Department?

10 A Little over eight years.

11 Q Eight years? And did you have law enforcement
12 experience prior to that?

13 A Yes, I did.

14 Q And where?

15 A For seven years I was in the Marine Corps as a base
16 military policeman.

17 Q Can you pull that microphone up to your mouth a
18 little bit closer? Thanks. I was having trouble
19 hearing you.

20 A I spent seven years in the Marine Corps as a base
21 military policeman. After that, seven years on a
22 nuclear team as a Swat member. I spent four years
23 with the City of Columbia. And since then I have
24 been with the Richland County Sheriff's Department.

25 Q And tell the jury what your title is with the

1 Sheriff's Department and what your duties are.

2 A I am a corporal with the Sheriff's Department. I'm
3 in charge of a unit. That unit is in the Region 4
4 sector of Richland County. I am in charge of six
5 to seven men, depending on what the manpower is at
6 the time. Our unit's responsibilities are to
7 respond to crimes in progress, crimes that have
8 already taken place, go ahead and take the reports
9 and the actual complaints, and actively seek out
10 and look for criminal activity that is active in
11 progress, and traffic enforcement.

12 Q I'm going to bring your attention to May 5th, 2007.
13 Do you recall being dispatched to 1417 Farrington
14 Way?

15 A Yes, ma'am, I do.

16 Q And approximately what time were you dispatched?

17 A I was approximately -- dispatched at approximately
18 5:18 in the morning. That is a.m.

19 Q And when you got there, were there other officers
20 already on the scene?

21 A Yes. I recall that Deputy Michael Leahy was on the
22 scene.

23 Q And do you recall if Deputy Warren Cavanah was
24 present?

25 A I do not recall that, that he was present. He may

1 have been, but I do not recall if he was present.

2 Q Okay. When you arrived, did you see the victim?

3 A At that point EMS was on the scene and they were
4 actually taking the victim to the back of the
5 ambulance to put him in the ambulance.

6 Q And did you have any contact with the victim,
7 Mr. West?

8 A No. I had no actual direct contact with him at the
9 scene. Negative.

10 Q And after the ambulance took him, did you go and
11 secure the residence of Mr. West?

12 A The ambulance was actually still there and they
13 were putting him inside the ambulance.

14 And I observed that the door to Mr. West's
15 apartment was cracked and it was open. It wasn't
16 open the whole way, but it was cracked open. And
17 also observed there was blood around the immediate
18 area.

19 Myself, Deputy Swall and Deputy Cavanah, with
20 the K-9 Unit, went to that apartment and went ahead
21 and cleared it for any suspects that may be inside
22 that apartment or any other dangerous element that
23 might have been inside that apartment.

24 Q Other than the call of the dispatch, I don't know
25 if you already said this, did you say what type of

1 call it was that you were responding to?

2 A The actual call that was put out with dispatch was,
3 it was put out as a domestic dispute. And they
4 also stated that the person who was calling it in
5 stated that the victim in this case, Mr. West, had
6 been stabbed.

7 Q All right. Did you -- do you recall hearing on the
8 radio when you were en route to the scene, do you
9 recall hearing anybody's name being mentioned as a
10 suspect?

11 A No.

12 Q Do you recall any vehicle descriptions being
13 provided over the radio?

14 A No, ma'am.

15 Q And do you recall hearing anything about where this
16 vehicle might be located?

17 A No, ma'am.

18 Q All right. Now, based on that, did you and other
19 officers have contact with witnesses at the scene?

20 A Yes, ma'am.

21 Q And did you -- were you able to get descriptions of
22 potential suspects from these witnesses?

23 A I got basic descriptions. After we went up --
24 well, went into Mr. West's apartment and went ahead
25 and cleared the apartment, at that point we came

1 back out, there were several people standing around
2 since this was a freshly committed crime.

3 I talked to a white female and a black male.
4 And at this point I wasn't interested in actually
5 gathering their names saying who are you and
6 writing all this information down because I wanted
7 to make an attempt to find the people who did this.

8 And I was informed by them that it was a white
9 female. They described it that they had seen in
10 the area a white female, she was skinny, described
11 as having sandy blond, dirty blond hair, and very
12 light-complected. They also said that there was a
13 black female in the area and a dark-complected
14 black male that they had seen in the area.

15 Q Now, the description of the white female, did that
16 ring a bell to you?

17 A Yes, it did.

18 Q Were you -- do you have personal knowledge of
19 whether there was a relationship between Mr. West
20 and Ms. Richmond?

21 A Yes, I do.

22 Q Okay. And so you were familiar that they were
23 indeed acquaintances, correct?

24 A Yes.

25 Q At that point, when you got this information, where

1 did you go to look for the vehicle?

2 A What we actually did, since I knew that Mr. West,
3 from previous contacts, drove a Toyota Camry, and
4 it had a Tennessee tag on it.

5 Q And what kind of -- can you describe this vehicle,
6 the victim's vehicle for the jury?

7 A It was actually a 1994 Toyota Camry with a
8 Tennessee tag of 6-3-4 Charlie-Whiskey-Father. It
9 was also a -- sort of a teal green in color.

10 Q At that point, with the information you have,
11 vehicle description, suspect information or
12 description, where did you go next?

13 A We actually canvassed right around the buildings
14 and parking lot area, and his vehicle was not
15 there.

16 Q Mr. West's vehicle was gone?

17 A That Camry was not there.

18 Q And where did you go from there?

19 A At that point, myself and other units started to go
20 to different areas because, based on the
21 description that they had given me --

22 Q Sir, just where did you go next? Which hotel did
23 you go to next?

24 A We actually started canvassing the different areas.
25 I went to the Scottish Inn, which was located at

1 127 Morninghill Drive, which runs right off of Bush
2 River Road. That was the first one I went to.

3 Q Did you have any luck there?

4 A No.

5 Q Okay. And where is the next place you went?

6 A The next place I went is to the Western Inn, which
7 is located at 827 Bush River Road.

8 Q When you were -- describe for the jury this hotel
9 on Bush River Road, the Western Inn. What does it
10 look like? Do the rooms face the street, or where
11 do the rooms face?

12 A The actual way this hotel is located, if you are
13 looking at it from out on Bush River Road, you have
14 an office in the front, then you have one building,
15 and they have apartments on the front side, the
16 building goes around, and apartments on the back
17 side of that. There is also -- also rooms on the
18 top. It is a double-decker. Then there is a
19 driveway between that building and then there is
20 another building with rooms on the bottom, and also
21 rooms on the top. And then you can drive around
22 the back side of that building also.

23 Q Now, when you pulled into the Western Inn on Bush
24 River Road, tell the jury what you observed and
25 where exactly it was on the premises of the hotel.

1 A When I pulled in to the Western Inn, I started to
2 do what is a serpentine. When I initially pulled
3 in, I pulled around the front side, looking at the
4 vehicles, I pulled around to the middle section
5 between the two buildings looking at the vehicles,
6 looking for Mr. West's vehicle.

7 I pulled around to the back side. As I'm
8 pulling around to the back side, I observed Mr.
9 West's vehicle coming towards me with the
10 Defendant, Melinda Richmond, actually driving the
11 vehicle.

12 Q And you were familiar with Ms. Richmond?

13 A Yes.

14 Q Did you see anyone in the passenger's seat of that
15 car?

16 A Yes. There was a black female in the passenger
17 side of that car.

18 Q Were you familiar with the black female seated in
19 the passenger seat?

20 A I was not familiar with her, no.

21 Q When you observed the vehicle -- and I am going to
22 show you a photograph and ask you if this is
23 approximately where you spotted the vehicle at the
24 hotel?

25 A Yes.

1 Q And what is -- what am I showing you? What does
2 that picture show?

3 A This is the --

4 Q Without showing it to the jury.

5 A This is the back side of the Western Inn.

6 Q Okay. Thank you, sir. And do you see Mr. West's
7 car in this picture?

8 A Yes.

9 (WHEREUPON, State's Exhibit No. 83 was
10 marked for identification only.)

11 (WHEREUPON, State's Exhibit No. 84 was
12 marked for identification only.)

13 MS. SHIPLEY: Your Honor, at this time the
14 State seeks to introduce State's Exhibit 83 into
15 evidence.

16 MS. GRIPP: (Whispering) No objection.

17 THE COURT: Without objection.

18 (WHEREUPON, State's Exhibit No. 83 was
19 admitted into evidence.)

20 Q All right. Please show the jury what exactly is
21 shown in that photograph.

22 A This is Mr. Frank West's vehicle.

23 Q And is that the position the car was in when you
24 stopped it?

25 A Yes, it was.

1 Q And explain for the jury where your patrol car was
2 located when you pulled the car over.

3 A My patrol car -- as you can see from here, this
4 building here, this is the back parking lot, as I
5 explained before. I came around this way. As I
6 came around this way, the vehicle was coming
7 towards me this way.

8 I immediately stopped my vehicle to block the
9 vehicle itself from going any further.

10 Q Thank you.

11 A So my vehicle is parked -- if the picture was
12 extended out here, my vehicle would be parked right
13 here at a slight angle.

14 Q To block the vehicle?

15 A Yes.

16 MS. SHIPLEY: And may I publish this to the
17 jury, Your Honor?

18 THE COURT: Yep.

19 (Exhibit published to the jury.)

20 Q When you blocked the vehicle in the back parking
21 lot of the Western Inn, exactly -- describe for the
22 jury exactly what happened at that point from there
23 on.

24 A I immediately exited the vehicle. I told
25 Ms. Richmond to get out of the vehicle.

1 THE COURT: Hang on one second.

2 MS. GRIPP: At this time I am going to renew
3 all objections related to the --

4 THE COURT REPORTER: I'm sorry, I can't hear
5 you.

6 MS. SHIPLEY: May I move the microphone in
7 front of her, Your Honor?

8 THE COURT: Yes.

9 MS. SHIPLEY: Thank you.

10 MS. GRIPP: We renew all objections.

11 THE COURT: Okay. All right. Same ruling.
12 Go ahead.

13 Q Mr. -- Corporal Mazerolle, please continue. You I
14 believe left off saying you ordered Ms. Richmond
15 out of the car?

16 A Yes. I exited my vehicle and ordered Ms. Richmond
17 to get out of the vehicle.

18 And as she got -- got out of the vehicle, I
19 went ahead and detained her. I grabbed her by the
20 arm and detained her. And I placed her in
21 handcuffs and put her in the back of my vehicle.

22 At the same time I was indicating, because
23 there was supposed to be a black female involved in
24 this, I was indicating to the passenger that was in
25 the vehicle, which I later identified as Tenisha

1 McClinton, to stay in the vehicle, not to move.

2 She did comply with that. She did not try to run.

3 I went ahead and once I got Ms. Richmond
4 inside my vehicle, I went back and detained
5 Ms. McClinton. I also placed her in the back of my
6 vehicle.

7 Q Did you also cuff her?

8 A I don't recall if I placed handcuffs on her or not.
9 I believe I did, but I cannot recall that.

10 Q Okay. And, Corporal Mazerolle, is it a good idea
11 to put two suspects in the same patrol car after
12 they have been leaving the scene of a freshly
13 committed crime?

14 A No, it is not.

15 Q Explain to the jury why it is you had to do that in
16 this situation.

17 A In this situation, because of the type of incident
18 that we had, and because I was the only unit on the
19 scene at this time, I had detained both of these
20 individuals myself. And it took approximately ten
21 minutes for another unit to arrive to me. So I had
22 to detain both of these individuals within my
23 vehicle.

24 Had there been two units, had I had another
25 unit with me as we were going around there, then

1 they would have been put in different vehicles
2 immediately, but due to the circumstances, they
3 were both placed in my vehicle.

4 Q Did you have to initiate your blue lights at all
5 when you confronted them in the back parking lot?

6 A Yes, I did.

7 Q Okay. At that point, did you go back to the
8 victim's vehicle for any reason?

9 A Yes, I did, because any time you remove anybody
10 from a vehicle, you are not positive whether it is
11 actually clear or not.

12 When I went back to that vehicle, I observed
13 on the back seat of that vehicle on a blanket on
14 the back seat of that vehicle a black in color,
15 what I would refer to as a steak knife with a black
16 handle and a silver blade, laying on that blanket
17 with what I clearly make out to be a knife.

18 At this point I returned to my vehicle, went
19 ahead and gloved up, and immediately seized that
20 knife, since a knife was supposed to have been used
21 in this crime. The knife had blood both on the
22 handle and also had blood on the blade. I then
23 placed it in a bag and brought it immediately back
24 to my vehicle.

25 Q All right. I'm going to stop you right there. I

1 am going to show you State's Number 84. Can you
2 describe what this photograph depicts?

3 A That is the back seat of Mr. West's vehicle. And
4 that is the blanket right there where I actually
5 saw the knife laying on.

6 MS. SHIPLEY: Your Honor, at this time the
7 State would seek to introduce State's Number 84
8 into evidence.

9 MS. GRIPP: (Whispering) Without objection.

10 THE COURT: Already, without objection.

11 (WHEREUPON, State's Exhibit No. 84 was
12 admitted into evidence.)

13 Q Bear with me one second, Corporal Mazerolle.
14 (Pause.)

15 (WHEREUPON, State's Exhibit No. 85 was
16 marked for identification only.)

17 Q Corporal Mazerolle, can you show the jury that
18 picture and explain where it is you observed the
19 knife?

20 A This is the back seat of Mr. West's vehicle. The
21 knife was laying in this general area right here.

22 Q And so you saw it in plain view, I believe is the
23 term you used?

24 A Yes.

25 Q Okay. I'm going to show you State's Number 85 and

1 ask you if you recognize that?

2 A Yes, that is the knife that I seized from the back,
3 back seat of the vehicle.

4 Q Okay. And does it appear to be in the same
5 condition as it was when you found it?

6 A Yes. It does appear to have blood on the handle,
7 though in the picture I cannot see -- or I mean
8 blood on the blade, but I cannot see the blood on
9 the handle in the picture, but it may just be
10 because of the picture quality itself.

11 Q Okay.

12 MS. SHIPLEY: Your Honor, at this time the
13 State would seek to introduce Number 85 into
14 evidence.

15 MS. GRIPP: (Whispering) Without objection.

16 THE COURT: Okay. Without objection.

17 (WHEREUPON, State's Exhibit No. 85 was
18 admitted into evidence.)

19 MS. SHIPLEY: May I publish it to the jury?

20 THE COURT: Yes, ma'am.

21 (Exhibit published to the jury.)

22 Q Now, you indicated that when you saw the knife you
23 collected it. Explain how you collected it.

24 A At that point I went ahead and, as I explained
25 before to you, I went ahead and gloved up with my

1 protective latex gloves so I wouldn't contaminate
2 anything. I went ahead and went to the vehicle. I
3 seized the knife.

4 At that point I brought it back in the
5 vehicle, initially putting it in a paper bag, okay,
6 so it could be boxed and taken care of properly
7 later, keeping it in a safe location in the front
8 of my vehicle with me.

9 Q Okay. Tell the jury what it is that happened when
10 you brought the knife back to your vehicle.

11 A When I brought the knife back to my vehicle, I
12 noticed that both Defendants that were in the back
13 of my vehicle at this time were talking very
14 loudly.

15 As I got in the front -- front seat of my
16 vehicle Ms. Richmond stated that she --

17 MR. SECOR: Objection, Your Honor.

18 THE COURT: Basis?

19 MR. SECOR: Hearsay. The same arguments that
20 were made during the Denno hearing.

21 MS. SHIPLEY: I believe Ms. Gripp already put
22 that objection on the record, Your Honor.

23 THE COURT: Yes.

24 MR. SECOR: Just trying to do it in a timely
25 manner.

1 THE COURT: Same ruling.

2 MR. SECOR: Thank you.

3 THE COURT: Okay.

4 Q Please proceed.

5 A Ms. Richmond actually stated that she tried to stop
6 Bird when he started to attack Mr. West with the
7 knife because basically Mr. Bird had done this
8 supposedly because Mr. West had stole some of his
9 crack cocaine.

10 Q And what area of Richland County do you patrol?

11 A Region 4, which --

12 Q Would that include Farrington Way Apartments?

13 A Yes, it would.

14 Q The Bush River Road where the hotel is located?

15 A Yes.

16 Q Are you familiar with who Bird is?

17 A Yes, I am. I have had many contacts with him in
18 the past.

19 Q Okay. And tell this jury the context of your
20 contacts with Mr. Bird -- or Mr. Thompson.

21 A Mr. -- I know Mr. -- I know that street name Bird
22 as Mr. Thompson. And I arrested him on several
23 different occasions for various things.

24 Q And is he a drug dealer?

25 A He does use drugs. He has been arrested for that

1 before. Loitering for the purpose. And on several
2 different other type of warrants.

3 Q All right. After you -- Ms. Richmond made the
4 statement, did you then try to find out where
5 Mr. Thompson was located?

6 A At -- at this point -- and I'm not sure because
7 both -- at this point both of the individuals in
8 the back of my vehicle, Ms. Richmond and McClinton,
9 were beginning to talk. And they started saying
10 that -- after Ms. Richmond had come out with all
11 the statements about Bird -- started saying that
12 Bruce Thompson was in his brother's room right
13 there at the Western Inn, Room 118.

14 I don't know which individual actually stated
15 that first, okay, but I do -- I do remember both of
16 them making that statement. I just -- I do not
17 recall who exactly made that statement first.

18 Q Okay. And going back to when you were putting the
19 knife in your patrol car, did you ask either
20 Melinda Richmond or Tenisha McClinton any questions
21 about this knife?

22 A No, I did not.

23 Q So they blurted out to you as you came in with the
24 knife?

25 A Yes. Once -- once -- once I started getting into

1 the vehicle, that is when they were talking to me
2 through the glass cage.

3 Q Okay. Now, did you then --

4 A Started making those statements.

5 Q I'm sorry to interrupt you.

6 A Okay.

7 Q Next question, did you end up going -- finding out
8 where Bruce Thompson was located?

9 A Yes. I went to Room 118. I parked my vehicle
10 directly in front of Room 118. That is after
11 other units that actually responded had gotten
12 there. So I had plenty of officers with me, okay,
13 made contact with Mr. Frederick Thompson, which is
14 Bruce Thompson's brother.

15 Q Okay.

16 A Okay.

17 Q And you can't go into what Mr. Thompson tells you,
18 that is hearsay. Where did you go after you left
19 the hotel? Where did you take these two women to?

20 A Okay. At this -- this point I went ahead and
21 transported both Ms. Richmond and Ms. McClinton to
22 headquarters located on Two Notch Road. I took
23 them inside the building and secured them in the
24 CID area.

25 Q And what is CID?

1 A It is the Criminal Investigation Division.

2 Q Okay. And did you then log the knife into
3 evidence?

4 A After I turned -- turned over both the Defendants,
5 I went ahead and I turned them over to Investigator
6 Martin. I went ahead and took the knife and
7 properly sealed it and put it in Locker Number 4
8 and locked the locker.

9 Q Okay. I am going to show you State's Number 13 and
10 ask you to identify that, please.

11 (Pause.)

12 Q Do you recognize your handwriting on there?

13 A Just a minute, ma'am. I want to completely inspect
14 it.

15 Q Yes, sir.

16 A Yes, ma'am, that is my handwriting.

17 Q Okay. Can you open it up and confirm its contents,
18 please? And be careful. You don't have to pull
19 anything out, just look inside the box.

20 A Yes, that is the knife that I seized.

21 Q Okay. And do you put it into the lock -- which
22 locker in the Sheriff's Department?

23 A Locker Number 4.

24 Q And describe for the jury how it is that the locker
25 operates. Once you are done sealing it, boxing it

1 up, sealing it and putting it in the box in the
2 Locker Number 4, can anyone else get to this item
3 once it is locked in there by you?

4 A No.

5 Q Describe the locking mechanism, please, for the
6 jury.

7 A The actual locking mechanism, the way it works, it
8 is a handle you turn. Once you put the item in and
9 you close it and push a button, that locks the
10 locker and it cannot be opened. It can't be opened
11 by anybody except for the evidence technicians
12 inside the evidence room.

13 Q And what time does it say that you -- the date and
14 time that you submitted it into that locker?

15 A It actually says 0920, 9:20 a.m. in the morning.

16 Q Okay. And what time was it that you first
17 encountered Melinda Richmond and Tenisha McClinton
18 in Frank West's car at the Best Western -- or
19 Western Inn?

20 A At 6:29 a.m. in the morning.

21 Q Okay. For this three-hour period did you keep this
22 knife in your possession and control?

23 A This knife was in my possession the whole time.

24 Q And did you tamper with it in any way?

25 A No.

1 Q Did you swipe it against some other items in the
2 vehicle?

3 A No, it stayed inside the bag in a secure area in
4 the front seat of my vehicle.

5 Q Okay. And it stayed in your control until you put
6 it in Locker Number 4?

7 A Yes. Yes.

8 MS. SHIPLEY: Your Honor, at this time the
9 State seeks to introduce Number 13 in evidence.

10 MS. GRIPP: (Whispering) Without objection.

11 THE COURT: Okay. No objection.

12 MS. SHIPLEY: And just for the record, Your
13 Honor, it is the murder weapon, the knife.

14 (WHEREUPON, State's Exhibit No. 13 was
15 marked for identification and received
16 into evidence.)

17 MS. SHIPLEY: Beg the Court's indulgence.
18 (Pause.)

19 MS. SHIPLEY: Thank you. No further
20 questions, Your Honor.

21 THE COURT: Cross-examination?

22 CROSS-EXAMINATION

23 BY MS. GRIPP:

24 (WHISPERING):

25 Q Corporal Mazerolle, do you remember testifying

- 1 yesterday -- I'm sorry, Monday?
- 2 A Yes, ma'am.
- 3 Q Okay. You had an opportunity to testify about
- 4 pretty much the same facts that we're talking about
- 5 today?
- 6 A Yes, pretty much the same facts today, yes.
- 7 Q Okay. And I notice that you have -- you are
- 8 reading off a document. What document is that?
- 9 A This is my supplemental report.
- 10 Q Okay. What does that consist of?
- 11 A That consists of pretty much my actions of what
- 12 took place.
- 13 Q Those are basically notes?
- 14 A Excuse me?
- 15 Q They are basically your notes?
- 16 A Yes, ma'am.
- 17 Q When did you write these notes?
- 18 A Excuse me, ma'am?
- 19 Q When did you write out those notes?
- 20 A This report was actually written the day of the
- 21 event.
- 22 Q Okay. And the reason that you wrote those down is
- 23 because --
- 24 A Excuse me, ma'am?
- 25 Q The reason you wrote down those notes is because

1 you want to make sure you remember everything?

2 A Yes, ma'am, that certain actions that I took that
3 on this particular incident, and also it is a true
4 document of -- yes.

5 Q You want to make sure that there is a record of it?

6 A Excuse me, ma'am?

7 Q You want to make sure there is a record of it?

8 A Yes, ma'am.

9 Q Okay. You want to make sure that a year and a half
10 later when we do go to trial you have access to
11 these documents, right?

12 A Excuse me, ma'am? I'm sorry, ma'am, I do not mean
13 to be rude, I just -- I'm not hearing you. I --

14 Q It's okay. I'll repeat the question. You want to
15 make sure that you have accurate notes because it
16 might take a year and a half to get to trial?

17 A Relatively, yes.

18 Q Okay. You don't remember everything you do every
19 day, right?

20 A No, I don't recall everything that happens,
21 especially when it is years later, I don't recall
22 every single thing.

23 Q Okay. Now, you testified that you were familiar
24 with both Frank West and Melinda Richmond, correct?

25 A Yes.

1 Q Okay. You testified that -- yesterday you
2 testified that you were -- had encountered Frank
3 West on at least two prior occasions?

4 A Excuse me, ma'am?

5 Q Yesterday you testified that you had encountered
6 Frank West on at least two prior occasions?

7 A Yes.

8 Q Okay. And that those were traffic stops?

9 A Yes, as a back-up unit, coming to back up another
10 unit who was actually making a traffic stop on Mr.
11 West, yes.

12 Q Okay. So you weren't actually involved in pulling
13 him over?

14 A Excuse me?

15 Q You were not actually involved with pulling him
16 over?

17 A Not to the best of my knowledge. I did come in as
18 a back-up unit.

19 Q Okay. And yesterday you stated that Melinda
20 Richmond was with Mr. West on those previous
21 encounters?

22 A Yes, she was, to the best of my knowledge, yes.

23 Q She was a passenger?

24 A Yes.

25 Q Okay. And how many people do you pull over on an

1 average day when you are patrolling?

2 A Excuse me, ma'am?

3 Q How many traffic stops do you encounter on an
4 average day?

5 A Quite a few.

6 Q Five, 10, 20?

7 A I couldn't give you an exact amount, ma'am.

8 Q Ten, would you say that is fair?

9 A It all depends on the given day, ma'am. I can't
10 pin it down for you.

11 Q And you had pulled over Frank West approximately
12 five or six months prior to this incident, correct?

13 A It was approximately maybe a four-month period
14 prior to this that I can relatively recall because
15 the other deputy involved was a Deputy Hodges that
16 I was backing up on the scene.

17 Q Okay. And you never wrote any tickets or anything
18 like that as a result of these traffic stops?

19 A Excuse me, ma'am?

20 Q You didn't write any tickets or anything to that
21 nature?

22 A I'm not sure if Deputy Hodges did write a ticket or
23 not.

24 Q You didn't write any, did you?

25 A No, I didn't write a ticket, no.

- 1 Q Okay. When you arrived at the scene at 1417
2 Farrington Way, did you have your blue lights on?
- 3 A Excuse me?
- 4 Q Did you have your blue lights on?
- 5 A I believe I did have my blue lights on, ma'am, yes.
- 6 Q And is your car equipped with a Dash Cam?
- 7 A Excuse me, ma'am?
- 8 Q Is your car equipped with a Dash Cam?
- 9 A Yes, ma'am, it is.
- 10 Q Okay. And your Dash Cam automatically starts as
11 soon as your blue lights are initiated?
- 12 A If your system is actually activated. In other
13 words, if you do not have your mobile vision
14 actually turned on, then, no, it will not actually
15 activate the mobile vision inside the vehicle.
- 16 Q Okay. Did you have yours turned on?
- 17 A I didn't have my car mobile vision system turned
18 on.
- 19 Q And why is that?
- 20 A Excuse me?
- 21 Q Why is that?
- 22 A I still didn't hear you.
- 23 Q Why is that?
- 24 A Sometimes when you are at the region because
25 batteries will go dead in your vehicle if you leave

1 that system on, you come back out to get in your
2 vehicle, then your battery will be dead. And to
3 the best of my recollection, I was at Region 4 when
4 this call came out, and I had been there for a
5 while because as a corporal I also have
6 administrative duties, and I had the system off, to
7 the best of my recollection.

8 Q And the description that you obtained from the
9 neighbors is that it was a white female, correct?

10 A It was a white female and then there was also a
11 black male there. You are talking about the
12 witnesses that I talked to outside?

13 Q Yes.

14 A Yes.

15 Q Okay. And this white female had long hair?

16 A Excuse me?

17 Q The white female had long hair?

18 A I do not recall their exact descriptions because I
19 did not write their exact descriptions down.

20 Q Okay. Do you remember whether they told you she
21 was pale or not?

22 A No, I cannot remember that because it is not a well
23 lit area right there where I was talking to them.

24 Q Okay. So a white female and black male made you
25 automatically assume, based on your prior encounter

1 four months previously, that Melinda Richmond was a
2 suspect?

3 A Based on the description that they had given me,
4 yes.

5 Q The white female description?

6 A Excuse me?

7 Q The description that you obtained was white female,
8 correct?

9 A Ma'am, I'm very sorry. Please, please understand
10 me, I really do not want to be rude, I'm just --

11 Q I understand. The description that you received
12 was that you were looking for a white female?

13 A Yes.

14 Q Okay. There wasn't anything else to go along with
15 that description?

16 A Yes, there was. The fact that I had had previous
17 contacts with Ms. Richmond and the fact that they
18 described her as she looked at that time. And she
19 had looked on those previous occasions as skinny,
20 dirty, sandy blond hair, and also very pale
21 complexion.

22 Q They did tell you those things?

23 A Excuse me?

24 Q You did receive that information from the
25 neighbors?

1 A Yes.

2 Q Okay. You stated that when you were dispatched you
3 didn't receive a name of the suspect, correct?

4 A Excuse me?

5 Q You stated that when you were dispatched from 9-1-1
6 you didn't receive the name of the suspect,
7 correct?

8 A No. To the best of my knowledge, I didn't hear
9 anything in reference to dispatch releasing the
10 name of a suspect.

11 Q Or the type of car that was driven?

12 A No, ma'am.

13 Q Or where they had gone?

14 A No, ma'am.

15 Q And that information would have been helpful to
16 you, correct?

17 A If I had -- yes, it would be very helpful had --
18 had they put that out. If they did, I do not
19 recall them putting that out.

20 Q Okay. Because you said you were trying to locate
21 the suspect, correct, to find out who did this,
22 what happened? That was your primary goal?

23 A Yes, ma'am.

24 Q Let's talk about the Western Inn, okay.

25 (Pause.)

1 Q Corporal Mazerolle, I'm going to have you draw a
2 diagram of the Western Inn, okay?

3 A Yes, ma'am.

4 MS. GRIPP: May the witness step down?

5 THE COURT: Sure.

6 (Witness steps down.)

7 A Your feature question?

8 Q I'd like you to draw a diagram of the Western Inn.
9 And I'd like you to denote where your cars were.

10 A Okay.

11 (Witness complies.)

12 Q Okay, thanks.

13 A You'll have to excuse me, I'm not an artist, I do
14 the best I can.

15 Q That's quite all right.

16 (Witness continues.)

17 MS. SHIPLEY: Your Honor, may Ms. Gripp and I
18 approach for scheduling matters while he draws?

19 THE COURT: Yes, ma'am.

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

23 A Thank you.

24 Q Corporal Mazerolle, can you explain for the jury
25 where the room was at, Room 118?

1 A To the best of my recollection, Room 118 is located
2 here on the back side of Building 1.

3 Q Okay. And how long did it take -- thank you, you
4 may be seated.

5 (Witness returns to witness stand.)

6 Q How long did it take for other officers to arrive
7 to assist you?

8 A At least ten -- ten minutes. It could have been
9 more, give -- give or take a minute, but about ten
10 on this.

11 Q Okay. During that time you were sitting in the car
12 with Tenisha McClinton and Melinda Richmond?

13 A Was I what?

14 Q During that time you were sitting in the car?

15 A Yes, around the back side here until the other
16 units arrived.

17 Q Okay. And when those other units arrived, then
18 what did you do?

19 A Excuse me?

20 Q Once the other units arrived --

21 A I had one unit stand by the vehicle at this point
22 right here. Went ahead and came back around here
23 with other units, parked directly in front of Room
24 118. And at that point knocked on the door and
25 made contact with a -- I believe it was Frederick

1 Thompson.

2 Q Okay. Did you --

3 A Yes.

4 Q -- at any point separate Tenisha McClinton from
5 Melinda Richmond?

6 A Excuse me?

7 Q Once the other officers were there, at that point
8 did you separate the two suspects?

9 A Not at this point. Let me sit back down, I'm
10 sorry. Not at this point, because this was --
11 because of the time of the morning and because of
12 the limited amount of units that I had, no, because
13 I went ahead and got the information where
14 Mr. Bruce Thompson, alias Bird, was supposed to be
15 staying. And due to the fact that it was a
16 residence, I sent all existing units over there to
17 go ahead and take out the perimeter around that
18 house at that point.

19 Q That is after you spoke with Bruce Thompson, right?

20 A Not Bruce Thompson.

21 Q I'm sorry, Frederick?

22 A Frederick Thompson, yes.

23 Q Okay. So prior to that there were units there.
24 Why did you not separate the suspect?

25 A Excuse me, ma'am? I'm sorry.

1 Q Prior to taking the units to 205 Latonea Drive,
2 correct, you had other units at the Western Inn?

3 A I'm sorry, ma'am, I apologize. Like I said, I just
4 want to apologize again, I'm not trying to be rude,
5 ma'am.

6 Q I understand. You had multiple units at the
7 Western Inn, correct?

8 A Yes, that I had to send at that point, once I was
9 told by Mr. Frederick Thompson that he believed his
10 brother was at 205 Latonea Drive, I sent all those
11 existing units, okay, at that point over there.

12 Q Prior to that point did you not separate the
13 suspects?

14 A Based on the fact that 205 Latonea is quite a big
15 house, there is also woods to the back of it, I had
16 to send enough units to make sure that I could
17 secure completely around that house with no escape
18 routes.

19 Q Prior to speaking with Frederick Thompson, why did
20 you not separate the suspects?

21 A They were -- at this point they were still in the
22 back seat of my vehicle. They were secure. They
23 weren't going anywhere. And at this point I wasn't
24 interested in separating them, I was interested in
25 finding out in reference to if we could find the

1 location on Bruce Thompson.

2 Once I got that information, they were not
3 separated because I had to use all available units
4 to go over to 205 Latonea to actually surround that
5 house in such a fashion that anybody trying to flee
6 from that house, such as himself or anybody else
7 who may have been involved in it, would have not
8 been able to get away.

9 Q Okay. How long did it take you from the time that
10 the other units went to 205 to return the suspects,
11 or take the suspects to headquarters?

12 A Actually, once I dispatched all those units over to
13 205 Latonea, I went ahead and immediately
14 transported both the Defendant and a Co-Defendant,
15 Ms. McClinton, to headquarters on Two Notch Road.

16 Q Okay. You initially detained them at 6:29 in the
17 morning?

18 A Yes, ma'am, that is -- yes, ma'am, that is what I
19 have in my report.

20 Q Okay. And how long did it take you to log in the
21 knife?

22 A I would have to look at the evidence again.

23 Q It stated 9:21.

24 A What's that?

25 Q 9:21 in the morning?

1 A Is that what that -- the evidence says? I
2 believe -- I thought it was 9:20. It may have been
3 9:21, but I believe it was 9:20. I just want to be
4 sure.

5 (Pause.)

6 A 9:20.

7 Q Just backing up briefly, when you approached the
8 car, you told Melinda Richmond to get out of the
9 car, correct?

10 A Excuse me, ma'am?

11 Q When you initially approached the car that Melinda
12 Richmond was driving, you told her to get out of
13 the car?

14 A Yes, I did.

15 Q She got out of the car?

16 A Yes, she did.

17 Q Okay. And you took her by the arm?

18 A Yes, I did.

19 Q And you twisted it?

20 A I put her arm behind her back to escort her back by
21 my vehicle so I could keep my eye on the other
22 individual that was in the vehicle.

23 Q So her arm was like this(indicating)?

24 A To the best of my knowledge, yes.

25 Q Then you handcuffed her?

1 A Yes, I did.

2 Q Okay. Did you put her in the car at that point or
3 was she standing outside the car?

4 A No, at that point she was placed in the vehicle.

5 Q Okay.

6 MS. GRIPP: Beg the Court's indulgence.

7 (Pause.)

8 MS. GRIPP: I have no further questions.

9 REDIRECT EXAMINATION

10 BY MS. SHIPLEY:

11 Q Corporal Mazerolle, did you take the female
12 suspects to headquarters and then book in the
13 evidence at the property room?

14 A Yes, ma'am.

15 Q Is that the proper sequence of events?

16 A Yes, ma'am. And also when I took them -- I would
17 like to -- I would like to elaborate a little bit
18 on that.

19 Q Okay.

20 A Okay. Because I want -- I want the jury to
21 understand something very clearly. When I took
22 both of the Defendants to headquarters, I also took
23 inside with me as I escorted them inside there the
24 evidence with me. At no time was that not in a
25 secure area in my vehicle or in my physical hands

1 in my possession. But once I got inside and had to
2 have a short conference with Investigator Martin,
3 after having that short conference with
4 Investigator Martin, the knife was still in my
5 possession at all times, I went down to the
6 evidence room and properly sealed it up and boxed
7 everything and placed it in a secure locker.

8 Q Approximately how long did your brief interview or
9 briefing with Investigator Martin last?

10 A Now, that I cannot give you a definite time frame
11 on that.

12 Q Not definite, just approximate minutes?

13 A I'd say we talked for about maybe 20 minutes -- 20
14 minutes, give or take a few -- few minutes here or
15 there.

16 Q Okay. And I noticed that you did a thorough job of
17 documenting the evidence in this case. How long
18 did it take you to prepare this item of evidence to
19 put it in the evidence locker?

20 A I couldn't give you a definite time frame.

21 Q Just an approximation is fine.

22 A But I can tell you from other evidence I have had
23 to place in to make sure that it is properly boxed
24 and taken care of, it takes a good, if it is done
25 properly and it is done correctly, it takes a good

1 10 to 15 minutes, if not more, depending on what
2 you are placing in to make sure that everything is
3 done correctly and is placed in a secure area.

4 Q Okay. And so when you dropped this item of
5 evidence in that locker at 9:20 a.m., you had
6 already been at the Sheriff's Department for
7 approximately 40 minutes, is that fair and
8 accurate?

9 A I'd say approximately, yes, if not a little more.

10 Q Okay. Now, when you handcuff people, suspects of
11 crimes, do you -- where do you typically handcuff
12 them?

13 A Usually in the back.

14 Q So do you have to then as a result put their hands
15 behind their back to cuff them behind their back?

16 A Yes, you do.

17 MS. SHIPLEY: No further questions, Your
18 Honor.

19 THE COURT: All right. Any redirect?

20 MS. GRIPP: None.

21 THE COURT: All right, ladies and gentlemen,
22 it is 12:40.

23 MS. SHIPLEY: Your Honor, may I approach one
24 second, please?

25 THE COURT: Yes.

1 (WHEREUPON, a bench conference was held
2 in the presence of the jury but out of
3 the hearing of the jury.)

4 THE COURT: Officer, you can step down. Thank
5 you very much.

6 THE WITNESS: Thank you, Your Honor. Thank
7 you, ladies and gentlemen.

8 (Witness steps down.)

9 MS. SHIPLEY: May this witness be excused,
10 Your Honor?

11 MS. GRIPP: Without objection.

12 THE COURT: Without objection.

13 THE WITNESS: Thank you, Your Honor.

14 (Witness excused.)

15 MS. SHIPLEY: The State would call Sergeant
16 Kenneth Gerald.

17 (Witness enters courtroom.)

18 THE BAILIFF: Place your left hand on the
19 Bible, raise your right hand, and face the clerk.

20 (Witness complies.)

21 THE CLERK: Do you swear or affirm the
22 testimony you are about to give in this case to be
23 the truth, the whole truth, and nothing but the
24 truth, so help you God?

25 THE WITNESS: I do.

1 THE CLERK: Have a seat in the witness box,
2 and state your name for the record, please.

3 (Witness seated.)

4 THE WITNESS: Sergeant Kenneth Gerald,
5 Sheriff's Department.

6 KENNETH GERALD,
7 after being duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. GOOD:

10 Q And what do you do at the Sheriff's Department?

11 A Right now I am a desk sergeant.

12 Q And what were you doing back in May of 2007?

13 A I was the shift supervisor on the road.

14 Q And how long have you been with the Sheriff's
15 Department?

16 A Fifteen years.

17 Q And I'll bring your attention to May 5th, 2007.

18 Did you become involved in the investigation
19 against Melinda Richmond?

20 A Yes.

21 Q And did you receive information about a trailer at
22 125 Rembert Martin Parkway?

23 A Yes, I did.

24 Q And did you go to that trailer?

25 A Yes, I did.

1 Q When you arrived at that trailer, who did you make
2 contact with?

3 A A male subject and a female subject that lived at
4 that address.

5 Q And for what purpose were you going to this
6 trailer? What information had you gotten about
7 what could have possibly happened there?

8 A That the suspects in this case may have went to
9 that location.

10 Q And when you got there and made contact with the
11 residents, can you describe these two residents for
12 me?

13 A One is a male named Abraham, he is white mixed with
14 Indian, a male subject about 50 years old. His
15 wife was a white female about 50 years old.

16 Q And when you arrived and made contact with them,
17 did they allow -- did they give you consent to go
18 into their home?

19 A Yes, they did.

20 Q And when you went in their home, what did you see?

21 A I saw in the bathroom there was like a red, like
22 spots of red on the floor.

23 Q And what did you do when you saw these spots of
24 red? Did that concern you?

25 A Yes. I asked them if they mind if the lab unit

1 come and look in the bathroom, which they said yes.

2 Q And did you call the lab unit?

3 A Yes, I did.

4 Q Did one come?

5 A Yes.

6 Q Do you remember who it was?

7 A Enzor.

8 (Pause.)

9 (WHEREUPON, State's Exhibit Nos. 86 - 89
10 were marked for identification and
11 received into evidence.)

12 Q I want to show you what has been marked as State's
13 86 through 89. Do you recognize these photographs?

14 A Yes, I do.

15 Q And do those photographs depict the residence that
16 day as you saw it?

17 A Yes, it does.

18 MS. GOOD: At this time, Your Honor, I would
19 like to enter into evidence State's Exhibits 86
20 through 89.

21 MR. O'NEIL: No objection.

22 THE COURT: Okay, without objection.

23 (WHEREUPON, State's Exhibit Nos. 86 - 89
24 were admitted into evidence.)

25 Q I show you these -- can you step down for me?

1 (Witness steps down.)

2 Q I show you first State's Exhibit 86. What does
3 this photograph depict?

4 A This is the trailer of Brenda Martin.

5 Q Okay. This is the front?

6 A This is the front.

7 Q And State's Exhibit 87?

8 A This is the hallway. And then on the left, like
9 here you see a bathroom.

10 Q Okay. State's Exhibit 88?

11 A That is the bathroom.

12 Q And did you actually go in the bathroom?

13 A I just kind of looked in there.

14 Q Okay. And this drop of something that you saw,
15 where was it?

16 A It was like on the floor.

17 Q State's Exhibit 89?

18 A Yes, right there.

19 Q Okay. Can you point to the spot again?

20 A (Indicates.)

21 Q And where is that in relation to the bathroom?

22 A It is like right at the -- if you come into the
23 bathroom, it is like right -- somewhere around
24 here, that area.

25 Q Thank you.

1 (Witness returns to the witness stand.)

2 MS. GOOD: No further questions, Your Honor.

3 THE COURT: All right. Cross?

4 CROSS-EXAMINATION

5 BY MR. O'NEIL:

6 Q Deputy Gerald, did you get any statements from
7 anybody that night?

8 A No, I didn't take any statements.

9 Q Were you aware whether or not Abraham and his wife
10 knew anyone of the three people that came to the
11 house that night?

12 A He mentioned he did know them.

13 Q He said he knew Bruce in particular?

14 A Yes.

15 MR. O'NEIL: Beg the Court's indulgence, Your
16 Honor?

17 (Pause.)

18 MS. GOOD: No further questions, Your Honor.

19 THE COURT: Well, he --

20 MR. O'NEIL: No further questions, Your Honor.

21 THE COURT: Oh, okay.

22 MS. GOOD: I would ask that this witness be
23 excused, Your Honor.

24 MR. O'NEIL: No objection.

25 THE COURT: Okay. Thank you.

1 (Witness steps down and is excused.)

2 THE COURT: All right, Madam Forelady, ladies
3 and gentlemen of the jury, it is now quarter of
4 1:00. I'm going to ask you to break for lunch now
5 and ask you to be back at 2:15. That will give you
6 an hour and a half. It should give you plenty of
7 time to take care of your -- get something to eat
8 and maybe take care of a little business.

9 Please remember not to talk about the case and
10 don't do any independent investigation. We will
11 see you back at 2:15.

12 Thank you.

13 (WHEREUPON, the jury is excused for
14 lunch at 12:43 p.m.)

15 THE COURT: Okay. Anything we can do before
16 we break?

17 MS. SHIPLEY: Nothing from the State, Your
18 Honor.

19 THE COURT: All right. Are you okay? How are
20 you feeling?

21 MS. GRIPP: Hoarse.

22 THE COURT: Hoarse?

23 MS. GRIPP: Yes, Your Honor.

24 THE COURT: All right. Well, maybe that is an
25 improvement, I don't know.

1 All right, well, y'all have a pleasant lunch
2 and we will see you back at 2:15.

3 Did you get hold of your witnesses? You told
4 them 2:30, but I guess --

5 MS. SHIPLEY: Yes, I'll call them during the
6 lunch break, Judge.

7 MR. O'NEIL: Judge, what time are we resuming
8 after lunch? I'm sorry, what time will we resume?

9 THE COURT: 2:15.

10 (Lunch Break.)

11 THE COURT: Okay. All right. How are you
12 feeling? Better?

13 (WHEREUPON, Court's Exhibit No. 5 was
14 marked for identification only.)

15 (Ms. Gripp approaches judge to give him
16 a copy of Court Exhibit 5.)

17 (Court reads document.)

18 THE COURT: Okay. Anything you want to say?

19 MS. SHIPLEY: Your Honor, we leave it entirely
20 in the Court's discretion. My understanding we're
21 calling crime scene investigators and they are
22 Mr. Secor's witnesses. We'll gladly stop for the
23 day if Ms. Gripp is not back in time to do Heidi
24 Scott, who would be her witness that would come --
25 I have no idea how long it is going to take to go

1 through all these witnesses. She is on standby.
2 If she is not back from her doctor's appointment we
3 will just wait until tomorrow to call her. We will
4 accommodate her in any way we can.

5 THE COURT: Okay.

6 MR. SECOR: If I just may respond?

7 THE COURT: Yes.

8 MR. SECOR: Briefly, Your Honor. As much as
9 we appreciate the State not calling witnesses that
10 Ms. Gripp was going to cross-examine, I just want
11 to reiterate it is her case, it has been her case
12 for over a year. It is certainly her intention to
13 give the closing argument in this case. Closing
14 arguments are often times made up from things that
15 occur -- are concocted from things that come out
16 during testimony.

17 I think that she would be at a distinct
18 disadvantage were she to not be here for portions
19 of the trial.

20 Your Honor, I think that given the
21 circumstances and the ruling of the Court, she has
22 no choice but to leave because there will be no
23 continuance or will be no mistrial, so she will
24 have to be here tomorrow. So the only time she can
25 go to the doctor is at 3:30 today.

1 I just wanted to put that on the record.

2 THE COURT: Okay. Where is her doctor?

3 MR. SECOR: Harbison.

4 THE COURT: Okay. And what -- that is out
5 north up 26?

6 MR. SECOR: Yes, Your Honor.

7 THE COURT: Okay. Well, who are the witnesses
8 you are going to call?

9 MS. GOOD: Investigator Ray Livingston,
10 Investigator Patricia Reed-Enzor, Investigator Stan
11 Richards and Curtis Burnett and Will Cederstaff.
12 Those are the three crime scene investigators and
13 then two chain witnesses. And then after that we
14 would intend to call Heidi Scott if there is time,
15 but we will hold off on her if she is not here.

16 THE COURT: Okay. Well, all right, you put it
17 in the record, and I'm going to -- I will be happy
18 to tell the jury what is going on. And as a matter
19 of fact, I'd be happy to let you tell them if you'd
20 like to, whatever you want to do. I am sensitive
21 to your position and -- but the crime scene
22 investigators are just going to talk about what
23 they found at the scene. You have been through all
24 of their evidence, haven't you, I mean, all of
25 their reports?

1 MS. GRIPP: I have seen their reports, yes,
2 sir.

3 THE COURT: Okay. I can't imagine it will
4 vary much from that. But if they -- if something
5 comes up that you are -- and your co-counsel would
6 be aware of what the reports -- if something varies
7 in what they say from what their reports indicate,
8 I will be happy to make -- to allow you to listen
9 to the tapes of the proceedings. Okay?

10 MS. GRIPP: Yes, sir.

11 THE COURT: All right, well, let's try --
12 let's -- I mean, these are not significant -- I
13 mean, they are significant, all witnesses are
14 significant, but they are certainly not -- I
15 would -- my understanding of what the theory of the
16 Defense is, these witnesses aren't going to be
17 that -- they are kind of down the food chain.

18 MR. SECOR: I understand, Your Honor. One
19 thing I just want to state on the record is that we
20 are concerned, at least to some degree, about the
21 impression that will be given to the jury if
22 Ms. Gripp is not here.

23 I understand that Your Honor said we are
24 welcome to tell the jury that, and I appreciate
25 that. The only thing I would request is that we be

1 allowed to tell the jury that Ms. Gripp has
2 requested that the trial be postponed until
3 tomorrow.

4 THE COURT: I'll tell them that. I don't mind
5 telling them that.

6 MS. SHIPLEY: As long as you explain that it
7 was your decision not to.

8 THE COURT: Oh, yeah, I'm going to tell them.

9 MS. SHIPLEY: So we don't look like the bad
10 guy. Thank you.

11 THE COURT: Don't worry. Don't worry. I'm
12 the bad guy.

13 MS. SHIPLEY: Thank you, judge.

14 THE COURT: From the red clay hills. Okay.
15 Anything else before we bring them?

16 MR. SECOR: With all due respect to Your
17 Honor's opinion, I understand, we would submit that
18 the forensic evidence in this case is actually
19 vital, so I just want to put that on the record.

20 THE COURT: Okay. All right. It became more
21 vital today.

22 (WHEREUPON, the jury came into open
23 court at approximately 2:26 p.m.)

24 THE BAILIFF: The jury is seated, Your Honor.

25 THE COURT: Thank you very much.

1 All right, ladies and gentlemen, I hope y'all
2 had a pleasant lunch.

3 One thing I want to tell you before we start
4 back. As you all may recognize, Ms. Gripp is the
5 lead counsel in this case, and she is suffering
6 from a case of laryngitis. She has a doctor's
7 appointment at 3:30 this afternoon.

8 So I'd actually -- and one thing we are
9 worried about is, we could stop the trial, but I
10 think that we have it arranged so that none of the
11 witnesses that she would be responsible for
12 questioning will be presented during her absence.

13 We -- one thing I don't want y'all to do is
14 take any kind of adverse or negative inference if
15 she has to -- if she leaves during the course of
16 the trial. She is not deserting her client in any
17 fashion. She is trying to get to the doctor and
18 get a little better so she can come back much
19 stronger.

20 If there is anyone on the jury who feels that
21 this is -- it would be inappropriate for her to be
22 here, if you think at any time during the course of
23 the trial that we should stop and wait for her to
24 get back, y'all just let me know and we'll do that.
25 Okay? She wants to be here. She can't be two

1 places at the same time.

2 All right. Anything?

3 MS. GRIPP: Thank you, Your Honor.

4 THE COURT: All right. Please call your next
5 witness.

6 MS. GOOD: Thank you, Your Honor. The State
7 calls Investigator Ray Livingston.

8 (Witness enters courtroom.)

9 THE BAILIFF: Place your left hand on the
10 Bible, raise your right hand, and face the clerk.

11 (Witness complies.)

12 THE CLERK: Do you swear or affirm the
13 testimony you are about to give in this case to be
14 the truth, the whole truth, and nothing but the
15 truth, so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Have a seat in the witness box,
18 and state your name for the record.

19 (Witness seated.)

20 THE WITNESS: Ray A. Livingston.

21 RAY A. LIVINGSTON,
22 after being duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. GOOD:

25 Q Investigator Livingston, where are you employed?

- 1 A Richland County Sheriff's Department.
- 2 Q And what do you do there?
- 3 A I'm a forensic investigator.
- 4 Q And exactly what does that mean?
- 5 A You go out and process the crime scene. All
- 6 forensic investigators are crime scene
- 7 investigators all in the same. Go out and process
- 8 the crime scene. They process the crime scene,
- 9 photograph, collect evidence, process the evidence
- 10 at the scene.
- 11 Q And how long have you been a crime scene
- 12 investigator?
- 13 A Since 2000.
- 14 Q And how long have you been with the Sheriff's
- 15 Department?
- 16 A Since '95.
- 17 Q And what did you do with the Sheriff's Department
- 18 before you became a crime scene investigator?
- 19 A I was a road deputy.
- 20 Q And what training have you had in crime scene
- 21 investigation and as a deputy in general?
- 22 A Okay. All training starts at the South Carolina
- 23 Criminal Justice Academy. My training starts
- 24 there. At the South Carolina Criminal Justice
- 25 Academy I was going through the basic courses of

1 the jail. Also went through the basic crime scene
2 investigation course, fingerprint course. I have
3 been through the photography course, which I have
4 been through two of those.

5 I did additional training outside of the
6 Criminal Justice Academy, some at the University of
7 Louisville, in homicide investigations; the
8 University of Maryland, homicide investigations. I
9 have been through blood pattern analysis at the
10 South Carolina Criminal Justice Academy. Blood
11 pattern stain analysis, which is the advanced
12 course at the South Carolina Criminal Justice
13 Academy. I have been through the application of
14 DNA at the South Carolina Criminal Justice Academy.
15 And other training that I have been through has
16 also been through the South Carolina Criminal
17 Justice Academy. And the IAI, which is the
18 International Association for Identification.

19 Q And did you just recently get back from a
20 conference?

21 A Yes. I just completed a conference down in
22 Jacksonville, Florida, at the North Florida College
23 down there.

24 Q And you had approximately eight years' experience
25 as a crime scene investigator?

1 A Yes, ma'am.

2 Q And in those eight years have you ever testified
3 before a court?

4 A I have.

5 Q Approximately how many times?

6 A I really can't tell you. It was more than 25.

7 MS. GOOD: At this time, Your Honor, we would
8 like to offer Investigator Livingston as an expert
9 in crime scene investigation.

10 MR. SECOR: No objection.

11 THE COURT: Okay. Without objection.

12 Q Investigator Livingston, before we exactly get into
13 this case, can you describe a little bit what you
14 do when you first come upon a crime scene?

15 A Well, when you come on a crime scene, we are called
16 there by the road officer, we call it a line
17 officer, they tell us what they have, whether it be
18 a shooting, a burglary, or any type of disturbance.

19 What we do is get with that deputy once we
20 arrive on the scene. He will then in turn explain
21 to us what he has seen, what his findings are. We
22 will again walk through the scene with him and try
23 to assess what happened at the scene there.

24 We will take and I will make little mental
25 notes there or write little notes on a pad that I

1 carry with me until I get back out to my truck.

2 Q Okay. And on May 5th of 2007, did you respond to a
3 crime scene at 1417 Farrington Way?

4 A I did.

5 Q And when you arrived, what was your -- what was the
6 first thing that you did?

7 A Well, the first thing I did was met with the
8 deputies. They told us that the scene was pretty
9 gruesome. So I asked them to explain what they
10 did.

11 We went in. I stopped at the front door. I
12 seen where they were talking about. They weren't
13 kidding me at all, it was blood everywhere.

14 So I told them all we were going to back out
15 and that I was going to have to put on protective
16 gear.

17 Q And what protective gear did you put on, and what
18 was the purpose for that protective gear?

19 A Protective gear is to protect us from any antivirus
20 or HIV or Hepatitis C, any type of airborne
21 viruses. I put on a mask and I put on what we call
22 booties. I had short booties and I also had long
23 booties. For the amount of blood that was in the
24 area I put on long booties that came up to my
25 ankles.

1 Q And when you first went into the apartment, what
2 did you do?

3 A The first thing I did when I went into the
4 apartment was look around. And there was a
5 large -- there was a lot of blood. And so I looked
6 around.

7 I went down -- as you enter the apartment,
8 turn to the right and go around into the living
9 room area, and that is what I did, I went around
10 into the living room area. There was a little bit
11 of blood, not much in that area. So I went back,
12 went to the stairs, went up the stairs. That is
13 where I found the blood on the stairwell, on the
14 walls, on the handrails. I went up the top of the
15 stairs and turned right. Once you turn to the
16 right, you come into a hallway. There was lots of
17 blood in the hallway, blood on the walls.

18 If you look to the left bedroom, a lot of
19 blood in the left bedroom. If you look in the
20 right bedroom, there was a lot of blood in the
21 right bedroom.

22 Upon that, also you had busted furniture. The
23 TV was turned over. Facings was broken up. And,
24 again, blood was all over them.

25 Q And on this first walk-through, do you take any

1 pictures or do you just walk through?

2 A I just did a walk-through.

3 Q And after you do the walk-through, what is your
4 next course of action?

5 A The next course of action, I come down and get my
6 camera, and I started photographing.

7 Q And did you photograph this scene?

8 A I did.

9 Q Approximately how many photographs did you take?

10 A 131.

11 Q And do you start upstairs and work down or do you
12 start downstairs and work up?

13 A I start downstairs and work up.

14 Q And what is the purpose for that?

15 A Show the entranceway from the start going into the
16 apartment and going around from the apartment
17 upstairs and coming back downstairs. I even took a
18 photograph upstairs, down the stairs.

19 Q I show you first what is marked State's Exhibit 28
20 and 29 and 30. Do you recognize those photographs?

21 A Yes, ma'am.

22 Q And what do those photographs depict?

23 A 29 depicts blood on the threshold of the apartment.

24 30 also depicts blood at the threshold of the
25 doorway there.

1 28 just gives you a photograph of the
2 stairwell as you look through it, looking straight
3 out -- looking straight in and you see the
4 stairwell.

5 Q Okay.

6 A And 31 also depicts the blood as you enter the
7 stairwell at the bottom of the stairwell, blood
8 trail.

9 Q And I also show you what is marked State's Exhibit
10 14 through 22, and then State's Exhibit 24, 25. Do
11 you recognize those photographs?

12 A Yes, ma'am.

13 Q And do those photographs depict the downstairs
14 area --

15 A Yes, ma'am.

16 Q -- that you photographed?

17 A Yes, ma'am.

18 Q Do these photographs accurately reflect the way the
19 scene looked that night or early morning hours when
20 you arrived?

21 A Yes, ma'am.

22 MS. GOOD: At this time we would like to enter
23 into evidence State's Exhibits 28 through 31, 14
24 through 22, and State's Exhibits 24, 25 and -- 24
25 and 25.

1 MR. SECOR: Without objection, Your Honor.

2 THE COURT: Okay.

3 (WHEREUPON, State's Exhibit Nos. 14 - 22
4 were marked for identification and
5 received into evidence.)

6 (WHEREUPON, State's Exhibit Nos. 24 -25
7 were marked for identification and
8 received into evidence.)

9 (WHEREUPON, State's Exhibit Nos. 28 - 31
10 were marked for identification and
11 received into evidence.)

12 MS. GOOD: May I ask the witness to step down,
13 Your Honor?

14 (Witness steps down.)

15 THE COURT: What were the numbers again?

16 MS. GOOD: 29 through 31 -- or 28 through 31,
17 and then 14 through 22, and 24 and 25.

18 THE COURT: Okay. Thank you.

19 MS. GOOD: You're welcome.

20 BY MS. GOOD:

21 Q Switch places with me so the court reporter can see
22 you.

23 Let's first start with this photograph right
24 here, State's Exhibit 30. Can you explain to the
25 jury what that photograph shows?

1 A This is the entranceway to the door. I wanted to
2 get the blood in that is right down in here. The
3 blood -- the blood drops are down here, here, and
4 over here.

5 Q State's Exhibit 28?

6 A The entranceway to the -- that is stairwell. As
7 you look through the door you can see the entrance
8 of the stairwell going up to the two bedrooms.

9 Here on the side you will see there is just a
10 little bit of blood there. I wasn't intending to
11 get the blood, I wanted to just get the stairwell.

12 Q And can you show the jury where the downstairs area
13 is that was photographed?

14 A Yes. Turn to the right here.

15 Q State's Exhibit 29?

16 A That is the start of the large portion of blood on
17 the threshold there. Blood here, here and here.

18 Q State's Exhibit 31.

19 A This is leading to the right of the stairs going
20 into the living room area where the blood trail --
21 I followed the blood trail going around in that
22 area.

23 Q State's Exhibit 14?

24 A This is the living room area. I don't know if it
25 was kept that way or whether it happened during the

1 attack, but that is the conditions we found it.

2 Q And is this the living area to the right that you
3 walked through the door?

4 A Yes.

5 Q Downstairs?

6 A Yes, ma'am.

7 Q State's Exhibit 15?

8 A This is also in the downstairs area of the living
9 room area. Blood on the carpet here. There is
10 spots here. I guess he just moved here and hadn't
11 had a chance to unpack yet.

12 Q State's 16 and 17?

13 A The same. Downstairs.

14 Q And was there anywhere to sit really downstairs?

15 A No, ma'am.

16 Q Exhibit 18?

17 A This is the doorway of the twin doors. There was
18 blood on that side there. I wanted to get a
19 photograph of that, plus the other areas with the
20 clothes in it.

21 Q State's Exhibits 21 and 22, are those also the
22 downstairs?

23 A Yes, ma'am.

24 Q Then State's Exhibit 19. And can you explain where
25 that is in the downstairs area?

1 A That is in the living room area also. And it is
2 more or less where the twin doors are in that area
3 there where the blood is.

4 Q And are those drops of blood or --

5 A Droplets of blood.

6 Q State's Exhibit 20?

7 A Again, the same place. There is blood on the bag
8 here, plus also over here on this window sill.

9 Q State's Exhibits 24 and 25?

10 A The same downstairs area, and the blood is found --
11 this is the trail right here.

12 Q Take a seat.

13 (Witness returns to witness stand.)

14 Q And before you went in, did you also take some
15 pictures of the outside where the victim had been
16 laying?

17 A I did.

18 Q I show you what has been entered as State's
19 Exhibits 9 and 10. Those --

20 A Yes, those are.

21 Q And were those the only pictures you took of the
22 outside where the victim was?

23 A Where the victim was there. The officers told me
24 that he had managed to walk out and walk down to
25 the neighbor's house.

1 Q After you photographed the downstairs area, where
2 did you go next?

3 A After I photographed the downstairs area, I went
4 upstairs.

5 Q And did you go up the hallway? Did you take any
6 pictures of the hallway?

7 A I took pictures of the stairwell, the walls of the
8 stairwell, upstairs, as you enter in the hallway
9 after you get up to the top of the stairs, and to
10 the left and right of the bedrooms there.

11 Q Okay. And before I get to the stairwell, I show
12 you what is marked as State's Exhibits 23 and 26.
13 Do you recognize those two photographs?

14 A Yes, ma'am.

15 Q And what do those photographs depict?

16 A The ID of Melinda Richmond and --

17 Q And where was that ID found?

18 A It was found downstairs.

19 Q Okay. Did you actually collect that
20 identification?

21 A I did.

22 Q I show you now what is marked as State's Exhibits
23 33, 34 and 37. Do you recognize those three
24 photographs?

25 A Yes, ma'am.

1 Q And what do those three photographs depict?

2 A The photographs depict the stairwell, hallways,
3 upstairs.

4 Q And do they accurately represent the scene as you
5 saw it that night?

6 A Yes.

7 MS. GOOD: At this time, Your Honor, we would
8 like to introduce into evidence State's Exhibit 33,
9 34, and 37.

10 MR. SECOR: Your Honor, we have no objection
11 to 33. We would object to 34 and 37 pursuant to
12 Rule 403.

13 THE COURT: All right. I believe I have
14 already viewed these, so I will overrule your
15 objection.

16 MR. SECOR: Thank you.

17 (WHEREUPON, State's Exhibit Nos. 33 - 34
18 were marked for identification and
19 received into evidence.)

20 (WHEREUPON, State's Exhibit No. 37 was
21 marked for identification and received
22 into evidence.)

23 Q And State's 33, what does that photograph depict?

24 A The handrailing of the stairs and blood on the
25 handrailing and the walls.

1 Q And which side of the stairwell was that?

2 A That is going up to your left side.

3 Q State's 34?

4 A It is on the right-hand side of the wall going up.
5 Blood is on the handrailings and the walls.

6 Q State's Exhibits 37?

7 A It is at the top of the stairs where blood -- there
8 are two little steps there where the blood started
9 to pool on the carpet.

10 Q And when you go up the stairs, I guess you turn
11 right and that is -- you are upstairs at that
12 point?

13 A Yes, ma'am.

14 Q Once you turn the corner and got upstairs, can you
15 explain the layout a little bit to the jury as to
16 how the apartment is set up?

17 A Yes, ma'am. As you got to the top of the stairs
18 and looked straight ahead is a bathroom. To the
19 right was a bedroom and to the left was a bedroom.
20 I guess the one to the left was used more or less
21 for storage. But that is the way the layout went
22 upstairs.

23 Q Okay. And did you photograph both of those rooms?

24 A I did.

25 Q And about approximately how long did it take you to

1 photograph this entire scene?

2 A I got there at 5:30 and I left at 9:30.

3 Q It took approximately four hours?

4 A Yes, ma'am.

5 Q To go through the scene?

6 A And two officers came after me.

7 Q I show you what is marked as State's Exhibit 39,
8 41, 42, 43, 44, 45, 47, 48, 49, 51, 53, 54, 55, 56,
9 58, 59, 60, 62, 64, 65, 67, 68, 69, 77, 78 and 79.

10 Do you recognize these three photographs -- or
11 those photographs?

12 A Yes, ma'am.

13 Q And those are photos you took of the upstairs area?

14 A Yes, ma'am.

15 Q Do they fairly and accurately represent what the
16 crime scene looked like upstairs?

17 A Yes, ma'am.

18 MS. GOOD: At this time, Your Honor, we would
19 like to enter those exhibits into evidence.

20 MR. SECOR: Your Honor, same objection under
21 Rule 403 to all those photographs.

22 THE COURT: All right. Same ruling.

23 (WHEREUPON, State's Exhibit No. 39 was
24 marked for identification and received
25 into evidence.)

1 (WHEREUPON, State's Exhibit Nos. 41 - 45
2 were marked for identification and
3 received into evidence.)
4 (WHEREUPON, State's Exhibit Nos. 47 - 49
5 were marked for identification and
6 received into evidence.)
7 (WHEREUPON, State's Exhibit No. 51 was
8 marked for identification and received
9 into evidence.)
10 (WHEREUPON, State's Exhibit Nos. 53 - 56
11 were marked for identification and
12 received into evidence.)
13 (WHEREUPON, State's Exhibit Nos. 58 - 60
14 were marked for identification and
15 received into evidence.)
16 (WHEREUPON, State's Exhibit No. 62 was
17 marked for identification and received
18 into evidence.)
19 (WHEREUPON, State's Exhibit Nos. 64 - 65
20 were marked for identification and
21 received into evidence.)
22 (WHEREUPON, State's Exhibit Nos. 67 - 69
23 were marked for identification and
24 received into evidence.)
25 (WHEREUPON, State's Exhibit Nos. 77 - 79

1 were marked for identification and
2 received into evidence.)

3 MS. GOOD: May I ask the witness to step down,
4 Your Honor?

5 (Witness steps down.)

6 Q We will go through each of these one by one so you
7 can kind of orient the jury as to what you
8 observed. State's Exhibit 39?

9 A State's Exhibit 39 is the -- you get to the top of
10 the stairwell. Just as you get to the top of the
11 stairwell, and it is the bedroom here and bedroom
12 over here. This is the area where you start to see
13 a lot of blood there.

14 Q State's Exhibit 41?

15 A 41 is on inside of the main bedroom. That is where
16 you start seeing busted up furniture, blood, TV
17 turned over with blood on it.

18 Q State's Exhibit 42?

19 A Again, busted up furniture, beer bottle, and a TV
20 being overturned.

21 Q You said beer bottle?

22 A Right here.

23 Q Is it broken or?

24 A It is broken up.

25 Q Okay. State's Exhibit 43?

1 A State's Exhibit 43 is more or less out in the
2 hallway area. And this is the bathroom here. This
3 is where we found a vase busted up, and we found a
4 lot of blood out there.

5 Q State's Exhibit 44 and 45?

6 A This is the bed -- the main bedroom area. Found
7 blood here. Again, it is depicted here and around
8 that area there.

9 Q And are the sheets completely on the bed in these
10 photographs?

11 A Partially off.

12 Q State's Exhibit 47, 48?

13 A That is blood up against the walls there. Again,
14 blood up against the wall here. This is in the --
15 if I'm correct, ma'am, this right here, this is in
16 the left bedroom.

17 Q And you make it a practice to take photographs of
18 every spot of blood that you see?

19 A Yes, ma'am.

20 Q And why do you do that?

21 A For court.

22 Q State's Exhibit 49?

23 A 49 is -- that is the other bedroom. You see
24 looking out of the main bedroom looking over into
25 the other bedroom, you see the blood on the walls

1 here and on the floor.

2 Q State's Exhibit 51?

3 A This is blood on the door of the main bedroom.

4 Q State Exhibit 53?

5 A 53 again is the main bedroom where blood is on the
6 television and on the furniture and light that was
7 in there.

8 Q And what other item in particular do you see?

9 A Trash can, keys and bed.

10 Q So the keys were on the floor?

11 A Yes, ma'am.

12 Q State's Exhibit 54?

13 A 54 is the letter that had blood droplets on the
14 chest and around the letter area.

15 Q And who is the letter addressed to?

16 A Frank West.

17 Q State's Exhibit 55?

18 A 55, broken vase we found in the main bedroom, and
19 it was broken.

20 Q 56?

21 A 56 is the vase, the big part of the vase that we
22 found in the bedroom. The reason we took this
23 photograph is because here, here and here was
24 indication that there may have been latent prints
25 there, so I wanted to check for latent prints, but

1 it ended up not being latent prints.

2 Q And how did you check for latent prints?

3 A With a light, a UV light.

4 Q And what is UV light?

5 A Ultraviolet light.

6 Q And does that help you see --

7 A It helps you see a little better to see the detail
8 of the print, yes. You use a UV light and a
9 flashlight, all both helped me determine that it
10 wasn't latent prints.

11 Q 58 and 59?

12 A Again, going back to the hallway area here, this is
13 the blood out here. We took that, blood up against
14 the wall and floors.

15 Q State's 62?

16 A Pretty much the same photograph outside. You can
17 see the blood along here, on the floor and on the
18 door.

19 Q Was there pretty much blood everywhere upstairs or
20 was it concentrated in one area?

21 A It was blood everywhere.

22 Q State's Exhibits 64 and 65?

23 A That is in the opposite bedroom. That is the blood
24 out here. And this is I guess a storage area that
25 he had stuff stored in.

1 Q And boxes and it seemed to be unpacked?

2 A No, it seemed to still be packed up.

3 Q Okay. State's Exhibits 68 -- or 67, 68 and 69?

4 A Again, that is -- in that area we found blood
5 against the walls, the doors and against the walls.

6 Q State's 77?

7 A This is coming down the railings on the stairwell.

8 Q State's 78?

9 A Again, that is the keys and the trash container
10 with blood on it.

11 Q State's 79?

12 A This is an ashtray with blood on it. Also what
13 looks like to be a crack pipe.

14 Q Did you collect that crack pipe?

15 A We did.

16 Q Have a seat.

17 (Witness returns to witness stand.)

18 Q And after you photograph the scene, what is your
19 next course of action when doing crime scene
20 investigations?

21 A Well, start collecting evidence. And the evidence
22 that I wanted to collect mostly was, looking at
23 that amount of blood, I wanted to take samples of
24 the blood just to make sure that if it was his or
25 someone else's there, because at that time I knew

1 nothing of the suspects in this case.

2 Q And how do you get samples of the blood?

3 A With a Q-tip or cotton swab. You take and put it
4 inside of a -- you take a swab of it and put it
5 inside of a carton. And then I sent it over to DNA
6 for analysis.

7 Q And when you collect this swab, how do you make
8 sure that it is not tampered with or altered or
9 contaminated in any way?

10 A We take them and place them into a sealed bag, a
11 sealed container. We'll tape it. We have two
12 types that we have to use, the brown envelope and
13 then we have the plastic container there, which
14 both are sealed with adhesive.

15 Q And do you do anything -- do you photograph where
16 you are taking these swabs from or document it in
17 any way?

18 A I do. Taking the -- use a number so we will know
19 where we collected it from in the case. Number the
20 area and photograph it and collect it.

21 Q And how many swabs did you take in this case?

22 A Six.

23 Q And where did you take these swabs from?

24 A Took one blood swab from the front door, from the
25 left side of the stairwell, the top of the

1 stairwell, wall, from the bedroom door, the left
2 side, on the stairwell hallway right side, and from
3 the bottom of the television set.

4 Q I show you what is marked as State's Exhibit 70
5 through 75. Do you recognize those photographs?

6 A Yes, ma'am.

7 Q And what are those photographs?

8 A Depicts the areas where I collected blood from.

9 MS. GOOD: At this time, Your Honor, I would
10 like to enter into evidence State's 70 through 75.

11 MR. SECOR: Same objection under Rule 403,
12 Your Honor.

13 THE COURT: Okay.

14 (WHEREUPON, State's Exhibit Nos. 70 - 75
15 were marked for identification and
16 received into evidence.)

17 Q State's Exhibit 70, what does that picture show?

18 A That is the front door.

19 Q Okay. And there is a number in that picture,
20 Number 1, why is that?

21 A That is the Number 1 because that is the Number 1
22 position I started off with right here.

23 Q And did you take a swab?

24 A I took a swab from that area.

25 Q State's Exhibit 71?

1 A Number 2 is on the stairwell wall. I took a sample
2 from that area.

3 Q State's Exhibit 73?

4 A 73 is on the -- up at top of the stairwell wall
5 going into the left bedroom. I wanted to make sure
6 I got that.

7 Q 73 -- that was 72, excuse me. That is 73 that you
8 are holding.

9 A Okay. And this is pretty much the same. I think
10 it is on the other side.

11 Q Did you also take a swab from there?

12 A Yes, ma'am, I took a swab.

13 Q And then 5 and 6 -- or State's Exhibit 74 and 75,
14 your two other swabs?

15 A Yes, ma'am.

16 Q And these swabs, what did you do with them once you
17 collected them and put them in the little box that
18 you said?

19 A I turned them in to evidence. Evidence will send
20 them up to DNA. What we do is turn them in to
21 evidence and then put a request in to DNA to come
22 collect them and to analyze them.

23 Q And when you go to turn them in to the evidence
24 room, have they been in your possession the entire
25 time?

1 A Yes, ma'am.

2 Q And what is the process for turning them in to the
3 evidence room? How do you document that?

4 A Have a receipt there, use the bag, make a copy of
5 the bag, make sure that our report is there. Once
6 we get down to the evidence room, it has to be
7 notated on the evidence room and the evidence log.
8 It is logged in. And any time that piece of
9 evidence is moved out, it is logged out.

10 Q And in this case did you turn these in to evidence,
11 these swabs into evidence?

12 A Yes, ma'am.

13 Q And how is each case, how do they keep it separate
14 from another case, for example, you could be
15 working on? Do y'all have case numbers?

16 A We have a case number, yes, ma'am.

17 Q And what is the case number in this particular
18 case?

19 A 07050421-05.

20 Q Is that correct?

21 A Yes, ma'am.

22 Q And is each piece of evidence given a particular
23 number within that lab number?

24 A Yes, ma'am.

25 Q I show you what has been marked as State's Exhibit

1 12. Do you recognize this?

2 A Yes, ma'am. This is a container with the swabs in
3 it.

4 Q And is your handwriting on that bag?

5 A Yes, ma'am.

6 Q And what does your handwriting indicate?

7 A It indicates that these are blood swabs from the
8 area, 1417-A Farrington Way.

9 Q And what time did you turn those in to the evidence
10 room?

11 A I turned those in at -- here he has 0800.

12 Q And is that on May 5th?

13 A It says on May 5th, yes, ma'am.

14 Q And what number is that particular piece of
15 evidence given?

16 A State's Exhibit 12.

17 Q Or under the lab numbers?

18 A It says 19, 20, 21, 22, 23 and 4.

19 Q So 19 -- who did you turn those in to?

20 A I cannot read this writing here. I want to say
21 Ms. Tena, but I don't think it was her.

22 Q Could it be Curtis Burnett?

23 A Curtis Burnett, yes, ma'am.

24 Q And are your initials on that bag?

25 A Yes, ma'am.

1 MS. GOOD: At this time, Your Honor, I would
2 like to enter into evidence State's Exhibit 12.

3 MR. SECOR: No objection.

4 (WHEREUPON, State's Exhibit No. 12 was
5 marked for identification and received
6 into evidence.)

7 Q And what day did you turn these is in?

8 A On the 5th.

9 Q And after you took the blood swabs, did you collect
10 any other evidence?

11 A Yes, ma'am.

12 Q And what evidence is that?

13 A Where we collected one green towel, one blue sheet,
14 one gray T-shirt -- correction, one gray shirt, one
15 blue and white shirt, one white shirt, one crack
16 pipe, and the ID of Melinda Richmond.

17 Q And when you collected those, how did you go about
18 collecting each piece of evidence?

19 A We collect each piece of evidence separately by
20 itself and then package it separately and by itself
21 there and labeled it, then turn it in to evidence.

22 Q And in this case did you do that?

23 A Yes, ma'am.

24 Q And with each piece of evidence, was it in your
25 possession the entire time until you turned it in

1 to evidence?

2 A Yes, ma'am. The only time it was out of my
3 possession is the towel and the -- all the clothing
4 was placed inside of a dryer. The dryer is sealed.
5 And all of us, the crime scene investigators, no
6 one could touch that until the clothing is dry.
7 You have to check it to see if it is dry, but in
8 this instance all the people that work with me on
9 the team, they were the ones that did all the
10 checking there. So it is never out of our control.

11 Q And what do you mean by *dryer*?

12 A It is a dryer, a dry dryer. No humidity is in
13 there. Where it dries the blood out so the
14 clothing can be packaged and not mildew, so to
15 speak.

16 Q I show you what has been marked as State's Exhibit
17 90 and 91. Do you recognize these two?

18 A Yes, ma'am.

19 Q And what are those two pieces of evidence?

20 A One is the pipe we found upstairs and one is the ID
21 of Melinda Richardson -- Richmond.

22 Q And whose handwriting is on those envelopes?

23 A Mine.

24 Q And when did you turn those in to evidence?

25 A On the 5th.

1 Q And did you turn -- who did you turn them in to?

2 A It would be Curtis also.

3 MS. GOOD: At this time, Your Honor, we would
4 like to enter into evidence State's Exhibits 90 and
5 91.

6 MR. SECOR: No objection, Your Honor.

7 THE COURT: All right, without objection.

8 (WHEREUPON, State's Exhibit No. 90 was
9 marked for identification and received
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 91 was
12 marked for identification and received
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 92 was
15 marked for identification only.)

16 Q I show you what is marked as State's Exhibit 92.
17 Do you recognize this bag and what is in this bag?

18 A Yes, ma'am.

19 Q And what is that?

20 A Gray shirt.

21 Q And where did you collect that from?

22 A From the crime scene.

23 Q And the entire time after you collected it from the
24 crime scene did it leave your possession or did you
25 tamper with it any way?

1 A No. The only thing I did is put it in the dryer to
2 be dried and then take it out and seal it in the
3 bag.

4 Q And did you turn that piece in to evidence?

5 A Yes, ma'am.

6 Q And what day was that?

7 A It doesn't say on here. It will say on the box
8 here.

9 Q Did you turn everything in in a box or did you turn
10 it in each like this?

11 A No, we turn them in in a box there.

12 Q Okay. I show you the box if that would help you
13 determine when you turned it in.

14 A This thing here is dated on the 20th of May.

15 Q Okay.

16 A And again by Curtis.

17 Q I show you State's 93, 94 and 95. Do you recognize
18 these three bags?

19 A Yes, ma'am. This is the blue and white shirt.
20 This is the other gray shirt. This is the other
21 shirt.

22 I can tell that because of my initials. Once
23 we seal it we have to initial and date it here.

24 Q And what date did you write on there?

25 A It should have been the 20th.

1 Q Same as the others?

2 A Right.

3 Q And did you turn this all in to the evidence room?

4 A Yes, ma'am.

5 Q Did you tamper with it in any way?

6 A No, ma'am.

7 Q And was it in your possession the entire time other
8 than the dryer?

9 A Yes, ma'am.

10 Q And who has access to this dryer?

11 A Just the crime scene personnel.

12 MS. GOOD: At this time, Your Honor, we would
13 like to enter into evidence State's Exhibits 92,
14 93, 94 and 95.

15 THE COURT: I think you have already got 92.
16 But maybe I am mistaken. Any objection?

17 MR. SECOR: Under 403, Your Honor.

18 THE COURT: Okay. Overruled.

19 MR. SECOR: Thank you.

20 (WHEREUPON, State's Exhibit No. 92 was
21 admitted into evidence.)

22 (WHEREUPON, State's Exhibit No. 93 was
23 marked for identification and received
24 into evidence.)

25 (WHEREUPON, State's Exhibit No. 94 was

1 marked for identification and received
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 95 was
4 marked for identification and received
5 into evidence.)

6 Q And all this evidence we just discussed, each one
7 has a particular number as we were discussing up
8 here.

9 A Yes.

10 Q Can you explain to the jury what number each one
11 has?

12 A Melinda Richards, 75.

13 Q Okay. Is that her identification card?

14 A Yes, that is her identification. The crack pipe
15 was 76.

16 Q Slow down for me.

17 A Excuse me.

18 Q Okay. Crack pipe?

19 A Yes, ma'am.

20 Q What number is that?

21 A 76.

22 Q Okay.

23 A The blue shirt, 77. The blue and white shirt, 78.
24 And the white shirt, 79. The green towel was 80.
25 The gray shirt was 81.

- 1 Q And what day did you turn all these in?
- 2 A The 20th.
- 3 Q And all of this was to Curtis Burnett?
- 4 A Yes, ma'am.
- 5 Q Approximately what time did you turn that in?
- 6 A 1400 hours, 2:00 o'clock.
- 7 Q And when you were coming up the stairs in the
- 8 apartment, are you able to see the bedroom from the
- 9 stairs into the bedroom?
- 10 A From the bottom of the stairs, from anywhere on the
- 11 staircase?
- 12 Q Yes?
- 13 A No, not until you get to the top of the staircase
- 14 can you see them.
- 15 Q Okay. And you have to look into the room and go a
- 16 little each way to look into each one?
- 17 A Yes, ma'am, you have got to turn to the right and
- 18 take two more steps up and look to the left or
- 19 right.
- 20 Q Again, it took you almost four hours to complete
- 21 this crime scene?
- 22 A Yes, ma'am.
- 23 MS. GOOD: No further questions, Your Honor.
- 24 MR. SECOR: May it please the Court?
- 25 THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. SECOR:

Q How are you doing, Investigator Livingston?

A All right. How are you doing?

Q Good. How was Jacksonville?

A It was good.

Q I used to live there.

A Did you?

Q I went to law school there; they wouldn't let me
into Carolina.

You told the jury you have got extensive
experience in law enforcement. That is fair to
say, right?

A Yes, sir.

Q But given the fact that you are employed by the
Richland County Sheriff's Department doesn't affect
how you do your job, does it, in terms of what
you -- how you conduct yourself?

A You conduct yourself in a professional manner and
abide the rules that are laid out --

Q Well, of course.

A -- for us, yes.

Q And I might have been a little bit vague on that, I
apologize. You are still -- you are still totally
objective in your investigations?

1 A Oh, totally objective --

2 Q Yes.

3 A -- in your investigation. You are not trying to
4 pin anything on anyone personally, you just want to
5 get the -- the objective is to find out what
6 happened at the crime scene.

7 Q Because you have -- I mean, the fact that you are
8 getting paid by them doesn't mean that you are
9 trying to look for certain types of evidence, you
10 look for all the evidence?

11 A I look for all evidence.

12 Q One thing I just wanted to clear up, were the
13 dimensions a little bit, if you can tell us, of
14 Mr. West's apartment, and particularly the area
15 when you get to the top of the stairs, if you
16 can -- do you have a recollection of approximately
17 what that area was -- what the size of that area
18 was?

19 A The size of the area was just -- the top of the
20 stairs and you turn to the left -- I mean, turn to
21 the right and go up two stairs, you take two steps
22 up and you see the left bedroom and the right
23 bedroom.

24 Q Okay. So if you are at the top of the stairs
25 between the two doorways, is that area as big as,

1 say, the witness box where you are right now?

2 A It wasn't a very big area, no.

3 Q Would you say it is smaller than that or bigger
4 than that?

5 A It is about the size of this.

6 Q Okay. And if you turned right or left you would
7 take one or two steps and you'd be in a bedroom?

8 A If you'd take a right you'd be in the hallway.

9 Q Oh, in the hallway. I'm sorry. And can you give
10 me an idea of the dimensions of the actual rooms
11 upstairs?

12 A I guess any average apartment size rooms.

13 Q Okay. Can you give me any idea in terms of feet?

14 A No, sir.

15 Q No? When you were talking to Ms. Good, you talked
16 about the swabs that you took.

17 A Uh-huh.

18 Q You swabbed some areas where there was blood that
19 you saw?

20 A Right.

21 Q And you photographed it as well?

22 A Uh-huh.

23 Q And I just want to make sure, you swabbed what
24 looked like blood on the front door, right?

25 A Yes, sir.

1 Q Left side stair wall?

2 A Yes, sir.

3 Q Top of the stairs -- top of the stairs hallway?

4 A Right.

5 Q Bedroom door, left side?

6 A Yes, sir.

7 Q Stair hallway, right side?

8 A Right.

9 Q Bottom of TV?

10 A Uh-huh.

11 Q Okay. And the reason you collected these is you
12 are collecting evidence, right?

13 A Right.

14 Q And you would agree with me that physical evidence
15 in any kind of crime scene investigation that you
16 are -- like you have done for at least eight years
17 now, any type of physical evidence, the physical
18 evidence in and of itself can tell a story. Is
19 that true? And not always, but in some cases?

20 A In some cases it can, yes, sir.

21 Q Okay. And isn't it also true that physical
22 evidence can -- it can contradict potentially what
23 somebody says happened?

24 A Sometimes it can.

25 Q Okay. And it can also support what somebody says

1 happened, right?

2 A Right.

3 Q Okay. It is unbiased like your investigation
4 approach is?

5 A Uh-huh. Right.

6 Q Is that true?

7 A Right.

8 Q So, for instance, if someone told police that they
9 were somewhere and that they were never bleeding,
10 okay, and you find their blood at that scene, that
11 could potentially be a problem for them, right?

12 A For them?

13 Q Yes? And you take these swabs for that purpose?

14 A Right.

15 Q To collect physical evidence, hopefully get some
16 results from it, and then try to piece together
17 what actually happened?

18 A Correct.

19 Q Okay. And you would agree with me that the main
20 purpose of your job is collecting evidence to solve
21 crimes?

22 A Collecting evidence to solve a crime.

23 Q Okay. Of the six swabs you took, you submitted all
24 of them into evidence with the request that they be
25 tested, right?

1 A I did.

2 Q Okay. Of the six swabs that you submitted to be
3 tested for DNA, do you know how many were tested?

4 A No, sir, I don't.

5 Q Okay. Would it surprise you if none of them were?

6 A No. That is up to the DNA personnel. That is up
7 to them to test those.

8 Q Okay. But you certainly collected them with the
9 intention that they would be tested?

10 A I did.

11 Q Okay. I wanted to talk to you just briefly about
12 one of these photographs that you took. Forgive me
13 for a moment while I flip through to find it.

14 (Pause.)

15 Q I would just like to talk to you a little bit about
16 State's Exhibit 56. Do you recognize that?

17 A Yes.

18 Q You took that picture?

19 A I did.

20 Q Okay. Tell the jury what that picture is of again?

21 A It is pieces of broken vase there, large pieces of
22 broken vase there, ones where I explained to you
23 earlier were these three I thought were
24 fingerprints, latent prints, which it turned out
25 not to be.

1 Q Okay. Taking pictures of potential evidence or
2 taking pictures of things at a crime scene, that
3 would be called documenting, would it not?

4 A When you are taking a photograph, that is
5 documenting.

6 Q Documenting. Okay. Yes. And you certainly -- you
7 document things that you think are potentially
8 important?

9 A Right. On this piece right here because I thought
10 those were latent prints there.

11 Q Bloody fingerprints are potentially very important?

12 A Uh-huh. Yes.

13 Q For instance, like we were talking about before, if
14 someone said they were never in a location and you
15 found their bloody fingerprints there, that would
16 be a serious problem for them?

17 A It would be.

18 Q Okay. So you documented the fingerprints on the
19 piece of the vase?

20 A No, there was no need to because they weren't
21 fingerprints.

22 Q But you did document, right?

23 A No.

24 Q By taking a picture of it?

25 A By taking a picture of it?

1 Q Yes?

2 A I did. But not written documents, no.

3 Q You documented, but they weren't collected? It
4 wasn't taken into evidence?

5 A No, they wasn't.

6 Q Okay. Now, you said that you tested it to try to
7 see if the fingerprints were useable, is that
8 right?

9 A No. Again, they weren't fingerprints.

10 Q Oh, they weren't fingerprints at all?

11 A They weren't fingerprints, no.

12 Q And were you able to discern at all what they were?

13 A No.

14 Q Not whatsoever?

15 A Huh-uh.

16 Q And do you remember in terms of recording your
17 activities, do you remember recording the test that
18 you conducted on that to see if there were
19 fingerprints?

20 A No, I didn't. It was just using lighting.

21 Q Okay. So the fact that you did that test is not
22 documented anywhere?

23 A No, it is not.

24 Q Okay. You would agree with me that one pretty
25 important aspect of police work in crime scene

1 investigation is documentation of what occurs at
2 the crime scene, right?

3 A Documentation, which my photograph, like I say, is
4 documentation.

5 Q Right. But the test, the test that was conducted
6 was not recorded anywhere?

7 A It was just -- it was using a flashlight, was all
8 it was, and a magnifier, something that people look
9 at. We look at -- every time we go to a crime
10 scene and you think you have prints, you use a
11 flashlight called peak lighting, you shine it
12 across the print and using a magnifier you can tell
13 if it is a print or not. And it wasn't.

14 Q And was that same piece of evidence, that piece of
15 the vase, was it swabbed?

16 A No.

17 MR. SECOR: Beg the Court's indulgence just a
18 moment.

19 (Pause.)

20 Q Thank you, Investigator Livingston. I appreciate
21 it.

22 A Yes, sir.

23 REDIRECT EXAMINATION

24 BY MS. GOOD:

25 Q Very briefly. Mr. Secor was discussing whether you

1 are objective or not. Do you know Melinda
2 Richmond?

3 A No, I don't.

4 Q Do you know Tenisha McClinton?

5 A No.

6 Q Do you know Bruce Thompson?

7 A No.

8 Q And just talking about those fingerprints, can
9 fingerprints be seen with the naked eye?

10 A If they have got good ridge lines, good detail,
11 yes, they can.

12 Q And you actually used extra lighting and
13 magnifiers --

14 A I did.

15 Q -- to look in this case? And you are trained in
16 looking for fingerprints?

17 A I am.

18 Q And did you see any in this case?

19 A No, ma'am.

20 Q Is that unusual to not find fingerprints?

21 A No, ma'am, it is not unusual.

22 Q And why is that?

23 A Because some people won't -- you know, you won't
24 find any fingerprints anywhere.

25 Q And is there certain surfaces that are conducive to

1 fingerprints and some that people don't leave
2 fingerprints on?

3 A Right. Certain surfaces you won't leave
4 fingerprints on, and certain surfaces you will
5 leave fingerprints on.

6 Q And, necessarily, if I just touch something, would
7 I necessarily leave a fingerprint there?

8 A Depending on the surface.

9 Q But it is possible that no fingerprints could be
10 left at all, even if I sit here and you watch me
11 touch it?

12 A Yes, ma'am.

13 Q And if somebody -- talking about the swabs that you
14 took as to helping stories out one way or the
15 other, if somebody cuts themselves during a struggle
16 of some sort and admits to being there, would there
17 be any need to test that?

18 A I would.

19 Q Would you necessarily have to if they admit and
20 confessed being there?

21 A I still would.

22 Q And whose decision -- is it your decision what to
23 test?

24 A Yes, ma'am.

25 Q And how does the DNA analyst decide what to test?

1 A He can test because depending on the amount of
2 bloody items that we have, he can choose what he
3 chooses to test.

4 Q So you really don't have any say when it comes to
5 what exactly is being tested, you just turn it in
6 hoping it will be?

7 A Right. What items are to be tested. I can turn it
8 in and say, test these items, and he chooses which
9 one he wants to test.

10 Q And talking about the scene that you photographed,
11 all, I think you said 131 photographs, is that
12 consistent with a struggle?

13 A Yes, ma'am.

14 Q And what about those photographs and what you saw
15 was consistent with a struggle?

16 A The television being turned over, the bedding being
17 where it was, the broken vase was broken, beer
18 bottles, the condition of the bedroom, both
19 bedrooms. Downstairs not so much because it was
20 already like it was being used as a storage area,
21 but upstairs in the bedrooms and in the hallway,
22 consistent with a struggle of some type.

23 MS. GOOD: No further questions.

24 MR. SECOR: Just briefly, Your Honor.

25 THE COURT: All right.

RECROSS-EXAMINATION

BY MR. SECOR:

Q Investigator Livingston, when I was talking to you about being objective, I wasn't trying to be smart, I was trying to talk comparison between your investigation and the fact that physical evidence is objective.

A Okay.

Q If I offended you, I apologize. I didn't mean that at all.

A Okay.

Q With regards to the swab that you took, you took six swabs. That is all the swabs you took?

A Right.

Q Okay. And you submitted them all with a request that they be tested?

A Yes, sir.

Q Okay. And you assumed that they would be tested?

A I did.

Q Okay. Thank you, sir.

A You're welcome.

THE COURT: All right.

MS. GOOD: No further questions.

THE COURT: Thank you, sir. You can step down.

1 (Witness steps down.)

2 MS. GOOD: We would ask that this witness be
3 excused, Your Honor.

4 MR. SECOR: No objection.

5 (Witness excused.)

6 MS. GOOD: The State calls Investigator
7 Patricia Reed-Enzor.

8 (Witness enters courtroom.)

9 THE BAILIFF: Place your left hand on the
10 Bible, raise your right hand, and face the clerk.

11 (Witness complies.)

12 THE CLERK: Do you swear or affirm the
13 testimony you are about give in this case to be the
14 truth, the whole truth, and nothing but the truth,
15 so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Have a seat in the witness box,
18 and state your name for the record, please.

19 (Witness seated.)

20 THE WITNESS: Patricia Reed-Enzor.

21 PATRICIA REED-ENZOR,
22 after being duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. GOOD:

25 Q Where are you employed?

1 A Richland County Sheriff's Department.

2 Q And in what capacity?

3 A I'm currently an investigator with the Sheriff's
4 Department.

5 Q And how long have you been with Sheriff's
6 Department?

7 A Seven years.

8 Q And how long have you been an investigator?

9 A I have been an investigator -- well, two -- about
10 three years now.

11 Q And are you particularly in crime scene
12 investigation?

13 A I was an investigator with -- crime scene
14 investigator for two and a half years, and I
15 transferred to an investigator back in April of
16 2008.

17 Q And what training have you had, what background
18 with crime scene investigation?

19 A In order to become a crime scene investigator with
20 the Sheriff's Department you have to have basic law
21 enforcement at the academy.

22 I also had special courses that I had to
23 attend. I had crime scene reconstruction, blood
24 pattern analysis, advance crime scene, photography
25 techniques, forensic photography and forensic art,

1 expert witness testimony.

2 Also within the Sheriff's Department there is
3 an extensive specialized training program we must
4 undergo. And it is very extensive. It was about a
5 two-year program. And it involved blood pattern
6 analysis, crime scene processing, development and
7 documentation of recording of prints, which include
8 finger, palm and sole prints, which is the bottom
9 of your feet. Also footwear and tire track print
10 and documentation.

11 I'm also a member of the International
12 Association for Identification and the South
13 Carolina International Association for
14 Identification.

15 Q And you had specific classes in blood pattern
16 analysis also?

17 A Yes, ma'am.

18 MS. GOOD: At this time, Your Honor, we would
19 like to offer Investigator Reed-Enzor as an expert
20 in crime scene investigation as well as blood
21 pattern analysis.

22 MR. SECOR: No objection, Your Honor.

23 THE COURT: Okay, without objection.

24 Q Investigator Reed-Enzor, what exactly is your job
25 as a crime scene investigator?

1 A My job as a crime scene investigator was to respond
2 to all type of crime scenes. It could be from what
3 some people call like a simple crime scene, a
4 larceny, like a shoplifting, a vandalism, all the
5 way up to a robbery, rape, or a homicide.

6 It can be a small crime scene like an enclosed
7 room all the way up to a larger type crime scene,
8 to an outdoor crime scene.

9 It could be a building or it could be a person
10 that was in the crime scene, an individual.

11 Q I want to take you back to May 5th of 2007. What
12 was your first involvement with this case against
13 Melinda Richmond?

14 A My first involvement that morning when I went 1041,
15 which basically means I got my first call for the
16 morning when I came on duty, was at 6:30 in the
17 morning. I received a call from Investigator Baker
18 that a vehicle had been discovered at the Western
19 Inn, which is on Bush River Road, a light blue
20 Camry, and that it was at that business.

21 Q And what time did you arrive at that scene?

22 A I arrived at that scene at 7:15 in the morning.

23 Q And when you first arrived, what was the weather
24 like that day?

25 A It had light rain. It had been raining. At this

1 time it was very light.

2 Q And what was the first thing that you did when you
3 arrived and saw the car?

4 A The first thing I did is, because of the rain
5 conditions, my first concern was to try to document
6 the condition it was in when I first got there. So
7 I did a very, very quick just walk-around, and then
8 I photographed it.

9 Q And after you photographed that vehicle, what did
10 you do?

11 A I called -- well, actually before I had
12 photographed it, my first concern is I wanted to
13 try to get it out of the elements so none of the
14 evidence was destroyed. So I called to get a
15 wrecker en route. When the wrecker was en route,
16 that is when I did the walk-around and photographed
17 it.

18 Q Okay. And when you say a walk-around, what is a
19 walk-around?

20 A To see what I could see, to see if I saw any
21 evidence that I needed to collect there on the
22 scene before the tow truck were to come.

23 So I basically just put my hands in my pocket
24 and just actually walked physically around and just
25 looked at it.

1 Q And after you walked around and looked at it, did
2 you take photographs?

3 A Yes, ma'am, I did.

4 Q What parts of the car did you take photographs of?

5 A The inside and the -- excuse me, the outside of it
6 and the inside without moving anything, which just
7 means I put my gloves on and opened up the car
8 doors and just photographed it from the outside of
9 it.

10 Q And other than photographing the vehicle, did you
11 do anything other than that?

12 A No, ma'am, I did not.

13 Q And why not?

14 A Because I wanted to get to a secure location as
15 quickly as possible.

16 Q And the secure location -- did the wrecker
17 eventually come?

18 A Yes, ma'am, it did.

19 Q And did it take the vehicle to a secure location?

20 A It did. At headquarters we have a forensic garage,
21 which is an enclosure that only has access to our
22 crime scene personnel, and that is where it is
23 secured.

24 I did follow the wrecker driver, so there was
25 no chain of custody issues, meaning I had visual on

1 the vehicle from the time it was attached to the
2 tow truck to the time that they actually put it
3 into the garage. I physically shut the door so it
4 was secure.

5 MS. GOOD: Beg the Court's indulgence.

6 (Pause.)

7 (WHEREUPON, State's Exhibit Nos. 96 -
8 109 were marked for identification
9 only.)

10 Q I show you what is marked State's Exhibits 96
11 through 109. Do you recognize those photographs?

12 THE COURT: Ms. Good?

13 MS. GOOD: Yes, sir.

14 THE COURT: I tell you what, we have been
15 going for a while, let's take a short break before
16 we go any farther.

17 MS. GOOD: Okay.

18 THE COURT: And so, ladies and gentlemen,
19 we'll just take about a 15-minute break. Y'all
20 please don't talk about the case. We'll get right
21 back with you.

22 (WHEREUPON, the jury retires to the jury
23 room at 3:32 p.m.)

24 THE COURT: All right, Ms. -- Investigator,
25 you can stand down if you want to. Just don't talk

1 about your testimony, please.

2 THE WITNESS: All right, thanks.

3 (Witness steps down.)

4 (WHEREUPON, a break was taken.)

5 THE COURT: Are you ready? Any text message
6 from Ms. Gripp?

7 MR. O'NEIL: Actually, yes, Your Honor. I was
8 just texting her. I'm in the process of texting
9 her back.

10 THE COURT: Not in the courtroom, of course.

11 MR. O'NEIL: No, sir.

12 THE COURT: Okay, are you ready? Here we go.
13 (Witness returns to witness stand.)

14 (WHEREUPON, the jury came into open
15 court at approximately 3:53 p.m.)

16 THE BAILIFF: The jury is seated, Your Honor.

17 THE COURT: Ms. Good?

18 BY MS. GOOD:

19 Q We left off, I just showed you some photographs.

20 A Yes, ma'am.

21 Q Taken at the Western Inn. I will show you what is
22 also marked as State's Exhibit 83 and 84. Are
23 those also photographs you took that day?

24 A Yes, ma'am. I recognize those photographs. Those
25 are the photographs I took that day.

1 MS. GOOD: At this time, we would like to
2 enter into evidence State's Exhibits 96 through
3 109.

4 MR. SECOR: No objection, Your Honor.

5 THE COURT: All right.

6 (WHEREUPON, State's Exhibit Nos. 96 -
7 109 were admitted into evidence.)

8 Q I will come up here you won't have to step down on
9 your crutches. State's Exhibit 96, is that the
10 car?

11 A That is the front of the vehicle.

12 Q And State's Exhibit 97, what is the purpose for
13 taking that photograph?

14 A That is to show the overall passenger side of the
15 vehicle and to show the blood transfer, stain.

16 Q And right where I'm pointing, is that the blood
17 that you are discussing?

18 A Yes, ma'am.

19 Q State's Exhibit 98?

20 A That is on the passenger front side, also a blood
21 transfer stain as well.

22 Q And that blood stain, does that indicate anything
23 to you?

24 A It just -- it is hard to see with actually -- it is
25 just a blood transfer stain. It looks like blood

1 came off of something, either a person's hand, it
2 is hard to tell, or the clothing, but it did look
3 like it came close to the handle area.

4 Q State's Exhibit 99?

5 A That is closer up. It also shows blood, same
6 location here and further down.

7 Q And is 100 a closer up of the tire area of the car?

8 A Yes, ma'am.

9 Q State's Exhibit 101?

10 A That is the back of the vehicle. It also shows the
11 registration of the vehicle.

12 Q And what type of tag is on that vehicle?

13 A It is a Tennessee tag.

14 Q State's Exhibit 102?

15 A It shows also a blood transfer stain. It is the
16 front driver's side of the vehicle.

17 Q And is that where the blood stain is?

18 A Yes, ma'am, that is a blood stain right there.

19 Q State's Exhibit 103?

20 A That's also another blood transfer stain.

21 Q And where is that on the vehicle?

22 A If I remember straight, I'll have to look at the
23 other photograph, but this should be on the
24 driver's side.

25 Q Okay. State's Exhibit 104?

1 A That is going to be looking inside the passenger
2 side front area of the car.

3 Q And what is this here in the center console?

4 A That is a Mountain Dew.

5 Q State's Exhibit 106?

6 A That is from the driver's side of the vehicle also
7 showing the Mountain Dew in the center console.

8 Q State's Exhibit 84?

9 A That is the back seat car area from the passenger's
10 side of the vehicle back area showing the
11 belongings that were just laying in the back of the
12 vehicle.

13 THE COURT REPORTER: I'm sorry, showing the
14 what in the back?

15 A Belongings in the back of the vehicle.

16 Q State's 107?

17 A It is from the driver's side back rear passenger
18 area, belongings thrown in there as well. It
19 shows, it looks like there is electronic equipment
20 also.

21 Q Okay. And what is this right here?

22 A That is a plastic bag. I wasn't aware of the
23 contents of the bags, so I'm not sure what was
24 inside of those plastic garbage bags.

25 Q State's Exhibit 105?

1 A Is a close-up of that electronic equipment.

2 Q And why did you take a close-up of the electronic
3 equipment?

4 A Because there was what appeared to be blood stains
5 on the equipment.

6 Q State's Exhibit 109?

7 A Garbage bags, like -- like the small garbage bags,
8 grocery bags you get at Wal-Mart or Kmart,
9 something like that, with belongings in them. It
10 was also behind the seat rear area.

11 Q Last one, State's 108.

12 A 108 was a wallet.

13 Q Were you aware --

14 A A black wallet.

15 Q -- of whose wallet that was?

16 A I believe it was the victim's wallet, but I'm not
17 100 percent certain.

18 Q After you followed the vehicle back to the secure
19 compound, did you have any other contact with that
20 vehicle?

21 A No, ma'am.

22 Q After you -- what time did you leave that scene
23 after you left the car with the secure garage?

24 A At 8:15.

25 Q Okay. And after that, did you have some more

1 involvement with this case?

2 A Yes, ma'am, I did.

3 Q And what was that?

4 A At 9:00 o'clock that same day, on May 5th, at
5 headquarters, at 5623 Two Notch Road, Investigator
6 Heidi Scott requested that I assist with the
7 collection of the evidence at headquarters.

8 Q Okay. And what time was this?

9 A This was at 9:00 o'clock in the morning.

10 Q And what was she asking that you assist with?

11 A On this instance she requested that I do on Tenisha
12 McClinton -- let me make sure this is the right one
13 at 9:00 o'clock -- one moment. Yes. It was in the
14 -- on the --

15 Q And what did you do with Ms. McClinton?

16 A They requested that I do nail scrapings on both of
17 her hands, that I swab apparent blood stains on her
18 left foot. They were red stains, I should say.
19 Red stains on her left foot. Collect her clothing.
20 And photograph several lacerations on her right
21 finger and a broken nail on her right little
22 finger.

23 Q And when you go to take nail scrapings from
24 somebody, how do you do that?

25 A It is a kit that we have. It is similar to like a

1 small wooden dowel, I guess is the same way to put
2 it. It is very similar to when you give yourself a
3 manicure -- gentlemen, if y'all have ever given
4 yourself a manicure, some of you ladies might
5 have -- it is just something that you would scrape
6 underneath your fingernail. And when we do it, we
7 hold the hand, and we just simply kind of scrape
8 underneath your nail bed. And the paper is what is
9 called pharmacy fold, but it is very simple. We --
10 it is just folded a certain way that when we take
11 the scrapings we put it in the center of the paper
12 and it is folded so that it would not come out.

13 And then we would take that and put it in an
14 envelope and then submit it to our DNA lab where
15 they can make analysis on the scrapings.

16 Q And did you document anything about Ms. McClinton?

17 A Okay, on her I did document in her photographs that
18 she did have lacerations on her fingers and a
19 broken nail.

20 And also -- one moment. I documented
21 something else about her hands. One moment.

22 (Pause.)

23 A That is what I remarked about her hands.

24 Q And you took photographs?

25 A Yes, I photographed, yes.

1 (WHEREUPON, State's Exhibit Nos. 110 -
2 113 were marked for identification
3 only.)

4 Q I show you what is marked as State's Exhibits 110
5 through 113. Do you recognize those photographs?

6 A Yes, ma'am. These are the photographs that I took
7 that morning.

8 Q Of?

9 A Of Ms. McClinton.

10 MS. GOOD: At this time, Your Honor, we would
11 like to enter into evidence State's Exhibits 110
12 through 113.

13 MR. SECOR: No objection, Your Honor.

14 THE COURT: Okay.

15 (WHEREUPON, State's Exhibit Nos. 110 -
16 113 were admitted into evidence.)

17 Q Show the jury, what is State's 113?

18 A That is the photograph I took of Tenisha McClinton.

19 Q 110?

20 A That is the photograph I took of her hands that
21 shows the abrasions, the lacerations on her palm,
22 her finger, and the broken fingernail.

23 Q 111?

24 A That is a closer up photograph of the fingernail
25 and the laceration.

1 Q And where is the laceration in this picture?

2 A It would be on her -- it would be, on my hand, on
3 the outside here and some abrasions right here on
4 her hand.

5 Q And State's Exhibit 112?

6 A On her feet, it was this red stain, a red spot here
7 on her feet.

8 Q When you took the swab from her foot, how do you
9 take a swab?

10 A It is very simple. It is a sterile cotton swab,
11 not what you go out and buy at the Wal-Mart, but it
12 is a Q-tip brand. It is a sterile swab. I put a
13 sterile distilled water on it, swab it on it, put
14 it in a box and put it also into evidence in a DNA
15 kit to get the DNA off of it.

16 Q And after you completed that task for Sergeant
17 Scott, what was the next course of action that you
18 took involving this case?

19 A Next involvement in the case that I had was at
20 10:20 that same morning. I had a request from
21 Investigator Martin, and I had contact with
22 Ms. Richmond, Melinda Richmond, and Bruce Thompson.

23 Q And what contact -- what -- why were you having
24 contact with them?

25 A I had requests to do nail scrapings from

1 Ms. Thompson's hands -- Mr. Thompson's hands.

2 Let's see, make sure I have this right. For Bruce
3 Thompson I was requested to do nail scrapings, and
4 I swabbed his hands for the presence of blood with
5 phenolphthalein.

6 Q And what is that?

7 A What phenolphthalein is, is it is a presumptive
8 test which tests for the presence of blood. What
9 it is, is it is an agent that actually tests for
10 the protein that is present in blood. It doesn't
11 test for DNA or anything like that, just the
12 proteins that are present in blood.

13 And it is a chemical agent. We have to add a
14 few different chemicals to it. But once you do the
15 chemical test, you swab it on the hand, you add a
16 couple more chemicals to it.

17 If the protein that is present in blood is
18 present in your sample, which would have been the
19 sample that is present on the swab, it will turn a
20 certain color, and with phenolphthalein it is a
21 bright pink or purplish type color, then it tests
22 positive for the presence of the protein that is in
23 blood. And it did test positive for Bruce
24 Thompson's hand.

25 Q And after you got Bruce Thompson's nail scrapings

1 and did this test on his hands, where did you go
2 next?

3 A Okay. I also took a -- I didn't take a swab, I
4 apologize. I then went and did the nail scrapings
5 for Melinda Richmond.

6 Q And was this is first contact you had with Melinda
7 Richmond?

8 A Yes, ma'am, it is.

9 Q I want to show you what is marked as State's
10 Exhibits Number 1 and Number 2. Do you recognize
11 those pieces of paper?

12 A Yes, ma'am.

13 Q And what are those?

14 A These are consent to search forms for DNA evidence,
15 and specifically for the buccal swab, and then
16 another consent to search for evidence for the DNA
17 and fingernail scrapings.

18 Q And they consent to search for whom?

19 A For Melinda Richmond.

20 Q And were you present during the reading of those
21 forms?

22 A Yes, ma'am.

23 Q And did you see Ms. Richmond sign them?

24 A Yes, ma'am.

25 MS. GOOD: At this time, Your Honor, I would

1 like to enter into evidence State's Exhibits Number
2 1 and 2.

3 MR. SECOR: Beg the Court's indulgence for
4 just a moment, please.

5 (Pause.)

6 MR. SECOR: Without objection, Your Honor.

7 THE COURT: Okay.

8 (WHEREUPON, State's Exhibit No. 1 was
9 admitted into evidence.)

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

12 Q Let's take first State's Exhibit Number 1. What
13 date was that consent done?

14 A May 5th, 2007.

15 Q And does it have a time on there?

16 A No, ma'am.

17 Q Okay. And who was present for that consent form?

18 A Myself and Melinda Richmond.

19 Q And is your signature on there?

20 A Yes, it.

21 Q And can you read to the jury what that consent form
22 the asking for and what it says?

23 A You want me to read the entire --

24 Q Please.

25 A The date is May 5th, 2007. Location is 5623 Two

1 Notch Road. It states:

2 I, Melinda Richmond, do hereby consent to the
3 search of my person without a search warrant by
4 Investigator Reed-Enzor, investigator for the
5 Richland County Sheriff's Department. This
6 investigator is authorized by me to take from my
7 person any materials or other property which he or
8 she may desire. This search shall be made of my
9 person for the purpose of obtaining DNA,
10 fingerprints as evidence. I am aware that any
11 evidence obtained as a result of this search can be
12 used against me in a court of law. This written
13 permission is given by me to the above-named
14 investigator freely, voluntarily and without
15 threats or promises of any kind.

16 Signed, Melinda Richmond. Witness, P.
17 Reed-Enzor, with my initials on the bottom, and the
18 case number.

19 Q And State's Exhibit Number 2. We won't read
20 through that one, but is that essentially the same
21 form?

22 A Yes, ma'am, it just states specifically on there
23 for the obtaining of buccal, which is an oral swab
24 for DNA evidence.

25 Q And who was present for that?

1 A Myself and Investigator Heidi Scott.

2 THE COURT REPORTER: Investigator who, I'm
3 sorry?

4 A Heidi Scott.

5 Q During the reading of these two forms to
6 Ms. Richmond, did she seem to understand everything
7 that was happening?

8 A Yes, ma'am.

9 Q Did she respond to you appropriately?

10 A Yes, ma'am.

11 Q And was she you upset in any way?

12 A No, ma'am.

13 Q Okay. After you got the consent to get the
14 evidence from Ms. Richmond's body, can you explain
15 to the jury what happened and how you went about
16 doing that?

17 A Yes, ma'am. After the consent was done we went
18 to -- the way our lab is set up, we have individual
19 offices, and then we have a hallway that we kind of
20 go into and we have an area where we take
21 fingerprints, but we also have an area where we
22 used to do fingerprints the older way, we have the
23 inked way, but we have a little bit more modern way
24 where we kind of do a live scan, it is not quite as
25 messy and it is easier to take fingerprints, but we

1 kind of use that old way more as a work table. So
2 that is where I was taking Ms. Richmond in order to
3 do fingernail scrapings.

4 So I brought her over there and I was
5 explaining the process to her, that, you know, it
6 is not painful or anything like that, I just simply
7 hold your hand so I can take control of your hand,
8 scrape underneath the nails, and place it onto the
9 paper, that type thing. At which time, you know, I
10 explained the process to her, and she said she
11 understood. And I took her hand and I began
12 scraping her nails.

13 At that time when I was beginning, I did
14 observe that her nails -- I did write this in my
15 report, that her nails appeared to be clean, hands
16 and nails were clean.

17 While collecting the evidence, I did notice at
18 that time Ms. Richmond seemed to be shaking and
19 swaying on her feet, so I was concerned for her
20 well being, so I did ask at that time if she was
21 okay. She did state at that time --

22 MR. SECOR: Objection, Your Honor. Hearsay
23 and the arguments made during the Denno hearing.

24 THE COURT: All right. Same ruling.

25 Q Before we get to that part, before you started

1 collecting the evidence, was she swaying and
2 shaking?

3 A No, ma'am.

4 Q Okay. At this point when you started collecting
5 the evidence and you asked her if she was all
6 right, what was her response to you?

7 A That she was hungry, and, I keep seeing what I did.

8 Q She said she keeps seeing what she did?

9 A Yes.

10 Q And did you follow up with any questions?

11 A No, ma'am.

12 Q About that? And why not?

13 A Because that wasn't my position. I was making sure
14 that she was okay.

15 Q And did you tell anybody about what she said?

16 A Yes, I did.

17 Q And who did you tell?

18 A The lead investigator, Investigator Martin.

19 Q And at that time when you asked if she was all
20 right, did she ever ask for any medical attention?

21 A No, ma'am.

22 Q And after you had this contact with Ms. Richmond,
23 did you go on to have contact with Ms. McClinton
24 again?

25 A Yes, I did. I was requested to take her major case

1 prints.

2 Q And did you do that?

3 A Yes, I did.

4 Q About how long did it take you to do all three of
5 those things?

6 A I completed with this assignment at 11:00 o'clock.
7 So from start to finish it took 40 minutes.

8 Q And Ms. Richmond was the second person you did?

9 A Yes.

10 Q What was your next involvement with this case?

11 A My next involvement was at 11:34 that same day when
12 I got a request to respond to Number 24 Rembert
13 Martin Parkway.

14 Q Okay. And what was the reason for responding to
15 that scene?

16 A I was requested by Investigator Martin to respond
17 to that location reference to the Defendant's going
18 to that location and cleaning up after the --

19 MR. SECOR: Objection, Your Honor. Hearsay.

20 THE COURT: Say again?

21 MR. SECOR: May we approach?

22 MS. GOOD: She was just explaining why she had
23 to be there.

24 THE COURT: What is the hearsay?

25 MR. SECOR: May we approach?

1 THE COURT: Yes.

2 (WHEREUPON, a bench conference was held
3 in the presence of the jury but out of
4 the hearing of the jury.)

5 Q Were you requested to go process the scene at 24
6 Rembert Martin Parkway --

7 A Yes, ma'am.

8 Q And when you arrived at that scene, what did you
9 do?

10 A When I arrived at that scene, I obtained a written
11 consent form from Mr. -- and I'm probably going to
12 mispronounce his last name -- it is
13 M-I-Y-A-K-A-Z-I.

14 Q And was he the property owner of that home?

15 A As far as I was aware, yes, ma'am.

16 Q Okay. And he gave you consent to go in. When you
17 went in what did you do?

18 A When I went in I was told --

19 MR. SECOR: Objection, Your Honor.

20 Q Just go into what you did evidence-wise, how you
21 went about collecting evidence.

22 A Okay. I went into the trailer, photographed from
23 the front entrance of the trailer into the
24 bathroom, which is -- I'm not sure how many
25 bathrooms were in the trailer, but I was told --

1 MR. SECOR: Objection.

2 Q But you went to that one particular bathroom?

3 A I went to a bathroom that I was told to process.

4 MR. SECOR: I object.

5 THE COURT: Just tell her what you did.

6 Don't --

7 MS. GOOD: She was just saying she was being
8 told to process that bathroom.

9 THE COURT: Don't tell -- just what you did.

10 Q Once you went to the bathroom, how did you document
11 the evidence?

12 A Okay. In the bathroom that I processed, I
13 photographed that bathroom. The first thing I did
14 is similar to the car. Any crime scene I get to I
15 have them processed the exact same way.

16 The first thing I do is walk through.
17 Bathrooms are kind of harder because they are
18 smaller. I can't really do a walk-around, they are
19 a little bit more limited, but I just look to see
20 what I see.

21 When I first went into the bathroom, I
22 observed several drops of blood in the bathroom.
23 There was two that I could see up front.

24 When I first went into the bathroom -- and it
25 was one of the small trailer, it seemed like

1 trailer size, it would seem like trailer size, if I
2 remember correctly. When I walked into the
3 bathroom, when you first walk into the bathroom, in
4 the right-hand corner I saw a blood drop right in
5 the corner. So I saw that to begin with.

6 And then in the sink area on the front of the
7 cabinet, I saw another drop there.

8 So I noticed those two drops of blood.

9 And then I kind of did a visual inspection
10 throughout the rest of the bathroom. So after I
11 looked around, then I photographed what I saw.

12 But after I photographed, I then went back and
13 then I collected the DNA samples.

14 Q Okay. Before we get into that --

15 A Yes, ma'am.

16 (WHEREUPON, State's Exhibit Nos. 114 -
17 119 were marked for identification
18 only.)

19 Q I show you what is marked as -- I show you what is
20 marked as -- or already entered as 86, 87, 88 and
21 89. Do you recognize those photographs?

22 A Yes. Those are photographs that I took at that
23 address on Rembert Parkway.

24 Q Also I show you what is marked as State's Exhibit
25 114 through 119.

1 A Those are also photographs I took at that address.

2 MS. GOOD: At this time I would like to enter
3 into evidence State's Exhibits 114 through 119.

4 MR. SECOR: No objection, Your Honor.

5 THE COURT: Okay. Received.

6 (WHEREUPON, State's Exhibit Nos. 114 -
7 119 were admitted into evidence.)

8 Q I first show you State's 114. What does that show?

9 A That is when you walk into the trailer and you are
10 looking down the hallway and that is the doorway to
11 the bathroom that I processed.

12 Q State's Exhibit 88?

13 A That is when you first walk in into the doorway
14 into that small bathroom looking through the
15 doorway.

16 Q State's Exhibit 89?

17 A 89, when you first walk into the door, that is the
18 corner where that blood droplet -- drop, excuse me,
19 is right there.

20 Q State's Exhibit 115?

21 A That is a close-up of that blood drop.

22 Q And what does the blood drop indicate to you?

23 A That is a gravitational drop, just a drop -- when
24 blood drops, gravity is just -- it drops down.

25 Q It is basically like a 90-degree angle?

1 A From the spines, it appeared to be a 90-degree
2 drop, yes, ma'am.

3 THE COURT REPORTER: I'm sorry, could you
4 repeat that, please?

5 A By the spines, it appears to be a 90-degree drop,
6 yes, ma'am.

7 Q State's Exhibit 116?

8 A 116 is a close-up of the sink.

9 Q 117?

10 A Is the bathtub.

11 Q 118 and 119?

12 A Is a close-up of the -- a larger view, a close-up
13 of the blood droplet -- drop, excuse me, blood drop
14 of the front of the cabinet.

15 Q And where was this cabinet?

16 A At the sink.

17 Q And what did this particular blood drop indicate to
18 you?

19 A Another gravitational drop. It appears, like I
20 say, I don't want to stand on my crutches, but if
21 you, for example, were washing or standing in front
22 of a sink and gravity, if you have blood on you, if
23 gravity were to come down, the blood would fall,
24 hit the surface, like that surface here, if it were
25 in front of you, it would fall. It would just be a

1 passive drop because there is no force behind it
2 other than gravity.

3 Q After you photographed that scene, you said that
4 you took some swabs.

5 A Yes, ma'am.

6 Q What type of swabs did you take?

7 A I took four swabs total. I took swabs of the two
8 blood drops that I located. And I also took swabs
9 of the sink, the drain of the sink, and the drain
10 of the bathtub.

11 Q And with each of these swabs, how did you keep
12 these swabs -- how did you collect them
13 specifically, and how did you package them?

14 A I took them separately, similar to the -- as I was
15 explaining before, the swabs, when I took of the
16 stain on the foot, it is similar to each way. The
17 individual swab, which is sterile, so it is
18 packaged separately, I took the distilled water, I
19 opened it up. We use gloves so you don't have any
20 cross-contamination of my own. Don't cough, don't
21 breathe on it, that type thing, so you don't get
22 your DNA mixed up with anyone else's.

23 You take it, you put it straight into a box,
24 which is a sterile box as well. Then you put it in
25 an envelope, a container, and let it dry, so it is