

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

DeAndrea G. Benjamin, Circuit Court Judge

Case Nos. 2012GS1040032 and 2012GS1040033

The State, ... Respondent,

v.

Brett D. Parker, ... Appellant.

**RECORD ON APPEAL
VOLUME II**

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Other Materials and Documents

State's Exhibits

2 - Statement of Defendant	on file with this Court
484 - X-ray of Bryan Capnerhurst	on file with this Court
486 - Diagrams	on file with this Court
487 - Diagrams	on file with this Court
490 - Diagram	on file with this Court

Defendant's Exhibits

4 - Transcript of Audio Call	on file with this Court

1 A It's on the opposite side of the house.

2 Q And as part of your duties, y'all just generally
3 photograph the general exterior of the front of the
4 house?

5 A Yes.

6 Q I want to show you State's Exhibit Numbers 11 and
7 12. What do those show?

8 A That is beginning to go around the right side of
9 the house, exterior. And that is going to be
10 between the porch and the garage on the right side
11 of the house. That depicts a door into the
12 residence.

13 Q And in the door into the residence, as shown in
14 State's Exhibit Number 12, what kind of door is
15 that? And what can you see?

16 A It is a single door with blinds. Those blinds are
17 in between two panes of glass, those types of
18 blinds.

19 Q And I believe you can see that better in State's
20 Exhibit Number 14?

21 A Yes, the same door.

22 Q And 15?

23 A The same door.

24 Q And finally, State's Exhibits 17 and 18 starts to
25 wrap around into what area?

1 A To the garage area.

2 Q And were those the automobiles -- you can actually
3 see one automobile in this one. Is that the
4 automobile that was parked there that day when you
5 got there?

6 A Yes.

7 Q Moving on to the garage area, State's Exhibits 19
8 through 26, specifically 19 and 20, what does that
9 show?

10 A That is the three automobiles that were there that
11 day in front of the garage, and they were
12 photographed to depict their locations.

13 Q And what are the makes of those vehicles? Do you
14 know?

15 A I would have to look closely to see.

16 Q (Hands to witness.)

17 A I can't -- one is a Ford, and I can't tell the
18 other one.

19 Q And that is how they were parked that day when you
20 got there?

21 A Yes.

22 Q On the other side of the drive in State's Exhibit
23 Number 21, what does that show?

24 A Those are automobiles backed into the right side of
25 the top of the driveway into the wood line or near

1 the wood line.

2 Q And that is how it was when you got there that day?

3 A Yes.

4 Q I show you finally State's Exhibit Number 22 and
5 23. Again?

6 A Again, that was the vehicles that were parked in
7 front of the garage at the top of the driveway.

8 Q And there were no photographs done by you that day
9 of the backyard?

10 A No.

11 Q That wasn't an issue in this case?

12 A No.

13 Q Going on to State's Exhibits 27 through 31, do you
14 recognize those?

15 A Yes. That is the vehicle that was just described
16 that was backed into the right side top of the
17 driveway.

18 Q And during the course of your investigation, did
19 you determine who owned that or who had driven that
20 vehicle?

21 A Yes. Mr. Capnerhurst.

22 Q I want to show you State's Exhibits Number 32
23 through 37, the garage area that is depicted where
24 the cars were parked. Does this show the interior
25 of the garage?

1 A Yes.

2 Q And specifically in State's Exhibit Number 32, is

3 there a stairwell?

4 A Yes, that is a stairwell. That's to the entrance

5 to the residence.

6 Q And where is that shown on the blueprint there,

7 404?

8 A Right here (indicating). You go up those stairs,

9 go upstairs from the garage, and this is the

10 doorway that is depicting into the residence.

11 Q And when you got there that day, was the garage

12 door actually opened?

13 A Yes.

14 Q And then later on did y'all secure that with some

15 evidence tape?

16 A Yes. We secured it the first night when we left so

17 it could be depicted that it had stayed secure.

18 Our initials and dates were on it. And we only

19 opened that door when we arrived the next day to

20 continue processing.

21 Q And these were then taken at the end of your duties

22 that evening?

23 A That's correct.

24 Q You mentioned the front door is shown in State's

25 Exhibit Number 404?

- 1 A Yes, ma'am.
- 2 Q I show you State's Exhibits 38 and 39. What do
- 3 those show?
- 4 A It shows the front entrance of the foyer and the
- 5 stairs that are coming up to the second floor at
- 6 that point.
- 7 Q And the stairs are actually shown here in State's
- 8 Exhibit Number 39?
- 9 A Yes.
- 10 Q And this shot, State's Exhibit 38, is looking at
- 11 the front door from a hallway?
- 12 A Right, from the interior of the house looking at
- 13 the front door.
- 14 Q And then, conversely, State's Exhibit 40 is looking
- 15 into what area as shown on State's Exhibit 404?
- 16 A That's looking from the front door into the family
- 17 room.
- 18 Q So if you were to come in the front door and went
- 19 straight ahead, this would be what you would see?
- 20 A That's correct.
- 21 Q Off to the side of State's Exhibit Number 41 shows
- 22 what?
- 23 A The dining room.
- 24 Q And where is that located on State's Exhibit Number
- 25 404?

1 A The dining room is right here (indicating). As you
2 come down the hallway -- if you are coming in from
3 the garage area through the door that we talked
4 about down the hallway, the dining room is off to
5 the left. It's in the front of the house.

6 Q The stairwell that leads up to the second floor,
7 State's Exhibit Number 42, what does that show?

8 A That is the first stairwell that leads up to the
9 second floor. The one that is depicted right here
10 (indicating), that is the entrance to the family
11 room at the top of the stairs that you would see.

12 Q And I'm going to show you State's Exhibit Number
13 43. Do you recognize that?

14 A Yes.

15 Q And was this significant as far as what the
16 Defendant was saying happened that day?

17 A Yes. That is the bathroom on the first floor.
18 That is next to the front entrance. And that is
19 depicting the toilet seat up.

20 Q And we have more pictures of that in a minute. Is
21 that how it was when you got there that day?

22 A Yes, it was.

23 Q And that is the bathroom that the Defendant
24 indicated he was in?

25 A Yes.

1 MR. WHITLARK: Objection, Your Honor. I would
2 move to have that stricken.

3 THE COURT: What is the objection?

4 MR. WHITLARK: It is a leading question, first
5 of all.

6 THE COURT: All right. Rephrase the question,
7 please.

8 BY MS. CAMPBELL:

9 Q How was that significant in your investigation?

10 THE COURT: The objection is sustained.

11 Please rephrase the question.

12 BY MS. CAMPBELL:

13 Q How was the bathroom and its condition significant
14 to your investigation?

15 A Any time a toilet seat is up, it is significant.
16 Anything that looks like it might be out of place
17 we photograph. And we photograph it any way
18 throughout the house. We take multiple
19 photographs.

20 And that is significant because during our
21 assessment period and things that -- information
22 that we are receiving from the investigators on
23 scene --

24 MR. WHITLARK: Objection, Your Honor.

25 Objection.

1 THE COURT: All right. Let me see you all one
2 second.

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

6 THE COURT: Sustained. Disregard the last
7 line of questioning. And it is not to be
8 considered -- the answer is not to be considered by
9 you in your deliberation.

10 BY MS. CAMPBELL:

11 Q That's how the bathroom appeared when you took that
12 photograph that day?

13 A It was.

14 Q I want to you show you State's Exhibits Number 46
15 and 48. What area does this show?

16 A This is the dining room area.

17 Q And where, again, is that on State's Exhibit Number
18 404?

19 A The dining room is off to the left of the hallway,
20 and it runs the center of the house.

21 Q I want to show you State's Exhibits Number 49
22 through 55. What area does that show?

23 A That is the bathroom that we have been talking that
24 is just off the foyer area.

25 Q And, again, in 48 through 49, is this how the

1 bathroom and the toilet specifically was when you
2 got there that day?

3 A It is.

4 Q And how is the toilet seat in this?

5 A It is in the up position.

6 Q Again, in State's Exhibit Number 52 and 55?

7 A It's showing the same bathroom.

8 Q Showing you State's Exhibits 56 through 64,
9 specifically State's Exhibit 56, what is that
10 looking into?

11 A That's looking into the family room in the
12 downstairs area.

13 Q Into the family room?

14 A Yes.

15 Q And where would the powder room be on this exhibit?

16 A Right there (indicating).

17 Q Have I got that right (indicating)?

18 A Yes.

19 Q That would be the doorway to the powder room?

20 A Yes.

21 Q And what room is that looking into?

22 A Into the family room.

23 Q State's Exhibit Numbers 58 and 57, what areas do
24 they show?

25 A That is the family room.

- 1 Q And in State's Exhibit Number 57, is there an item
2 there that was later collected as evidence?
- 3 A Yes. It was a gun.
- 4 Q And is that how you found it that day?
- 5 A It is.
- 6 Q And what type of gun was that? Do you recall?
- 7 A It was called a Judge. It was a .410 revolver.
- 8 Q A .410 revolver?
- 9 A Yes.
- 10 Q And I show you State's Exhibit Numbers 61 and 62.
11 Does that again show that same item in relation to
12 the kitchen?
- 13 A It is.
- 14 Q Moving on to the kitchen area, State's Exhibits
15 Number 65 through 78. State's Exhibit 65 and 66,
16 what areas do they show?
- 17 A That's the countertop in the kitchen.
- 18 Q And is that how it appeared when you got there that
19 day?
- 20 A Yes, it is.
- 21 Q And those were the items that were actually on
22 there?
- 23 A Yes.
- 24 Q And then in State's Exhibit Number 67, does that
25 show something that you later collected as

- 1 evidence?
- 2 A Yes, it's a Firehouse Sub bag.
- 3 Q And that is how it appeared that day?
- 4 A Yes, it is.
- 5 Q And I show you another angle, State's Exhibit 68.
- 6 Is that the same countertop?
- 7 A It is a continuation of the countertop, yes.
- 8 Q And then just general overview of the kitchen area
- 9 in State's Exhibit 70 and 71?
- 10 A That's correct. That's the kitchen taken from a
- 11 different location.
- 12 Q And then State's Exhibit Number 72, is that same
- 13 countertop?
- 14 A Yes.
- 15 Q State's Exhibit 73 on State's Exhibit 404, where is
- 16 that looking into?
- 17 A It's looking through the kitchen into the hallway
- 18 area by the kitchen.
- 19 Q And then finally State's Exhibit 77 and 76, what
- 20 does that show?
- 21 A That is off of the kitchen with the countertop area
- 22 and the chairs that would have been outside there.
- 23 Q And the area behind the chairs, what is that room?
- 24 A This room is the breakfast room.
- 25 Q Moving on to specific items that were collected

1 from the kitchen. 79 and 80 show what items on the
2 kitchen counter?

3 A That's the Firehouse Sub receipt.

4 Q And y'all actually collected that that day?

5 A Yes.

6 Q And where was that found?

7 A On top of the counter.

8 Q 81 through 84 show generally -- 83, excuse me --
9 what area of the house?

10 A Let me see.

11 Q I'm sorry.

12 A That's the breakfast room itself, and it's looking
13 into what is called the keeping room.

14 Q The keeping room?

15 A Yes, ma'am.

16 Q And I will show you State's Exhibit Number 84. Is
17 that the room we are talking about?

18 A That is the room, the keeping room.

19 Q Off the kitchen, State's Exhibit 85, looking into
20 the dining room, was there another area?

21 A Yes, that's the dining room, that other area that
22 we talked about by the kitchen.

23 Q And I believe in State's Exhibit Number 86, you can
24 actually see the dining room chairs in the
25 background?

1 A Yes.

2 Q And where is that located on here?

3 A Looking through the area, the dining room area.

4 And then the keeping room is over here
5 (indicating).

6 Q You mentioned before that when you come in the back
7 door, you go into what area of the house?

8 A From the garage?

9 Q From the garage.

10 A There was a mudroom, what I call a mudroom, right
11 as you step inside the residence. I would call it
12 a mudroom. And then adjacent to that is the
13 laundry room.

14 Q And I'm showing you State's Exhibit Number 87. Do
15 you recognize that?

16 A Yes, that is the mudroom. And you can see entrance
17 to the laundry room.

18 Q And State's Exhibit 88, the same?

19 A Same.

20 Q State's 90 through 94 show the interior of what
21 room?

22 A That is the laundry room, ma'am.

23 Q And in this one do you see some -- a window?

24 A Yes.

25 Q And what is on those windows?

- 1 A Blinds.
- 2 Q State's Exhibit 93 and 94?
- 3 A Also inside the laundry room.
- 4 Q And state's Exhibit 91 specifically shows --
- 5 A The blinds.
- 6 Q -- the windows?
- 7 A Well, windows, yes.
- 8 Q And when you look out the laundry room, what area
- 9 can you see outside that window?
- 10 A The laundry room looking out these rooms? The
- 11 front of the house.
- 12 Q And the driveway would be where, over here
- 13 (indicating)?
- 14 A Yes, in this area.
- 15 Q So then if you looked out that window, would you be
- 16 able to see anyone coming up the driveway?
- 17 A Yes.
- 18 Q And I show you what has been marked State's Exhibit
- 19 Number 95. Do you recognize that?
- 20 A Yes.
- 21 Q And which set of stairs is this, sir?
- 22 A That is the set of stairs that is right inside the
- 23 entrance that you come in from the garage inside
- 24 the mudroom. That's the stairs that go up to the
- 25 second floor.

- 1 Q And where my fingers are, what doorway does that
- 2 show?
- 3 A To the garage.
- 4 Q So that's looking actually from inside outside into
- 5 the garage?
- 6 A Correct.
- 7 Q And then this (indicating) is what we refer to as
- 8 the back stairwell?
- 9 A Correct.
- 10 Q And then I believe you said that you go up the
- 11 stairs -- actually on State's Exhibit 42?
- 12 A Yes, that is at the top of the stairs.
- 13 Q State's Exhibits Number 100 through 103 show -- I
- 14 show you State's Exhibit Number 101 and 102 first.
- 15 A That's a hallway downstairs.
- 16 Q That's a hallway downstairs? And where is that
- 17 hallway depicted on there?
- 18 A It's right through here (indicating).
- 19 Q Right through there (indicating)?
- 20 A Yes.
- 21 Q From the mudroom into?
- 22 A To the family room or the foyer area.
- 23 Q And State's Exhibit 100 is a photograph?
- 24 A A photograph on the wall, yes, in the hallway.
- 25 Q Also, downstairs were there any bedrooms?

- 1 A Yes.
- 2 Q And where was the master bedroom located?
- 3 A The master bedroom was -- if you are looking at the
4 house, it is the extreme left rear area of the
5 corner of the house.
- 6 Q Okay. And where is that in relation to the powder
7 room and the stairs?
- 8 A The powder room is right here (indicating). The
9 stairs go up this way (indicating) and this way
10 (indicating) from the family room. And this is the
11 foyer (indicating). The stairs go up from the
12 foyer. Here is the master bedroom.
- 13 Q And where was the entrance to the master bedroom in
14 relation to the stairs that are in the family room?
- 15 A Right here (indicating). It comes in right here
16 (indicating), and then you have an entrance into
17 the master bathroom.
- 18 Q And this (indicating) is the master bedroom?
- 19 A Yes.
- 20 Q And this (indicating) is the master bathroom?
- 21 A Yes.
- 22 Q And then this (indicating) was like a master
23 retreat here. That is actually what type of room?
- 24 A A workout room.
- 25 Q A workout room?

- 1 A Yes.
- 2 Q And as you come into the master bedroom, you can
- 3 turn directly into the master bath?
- 4 A Yes.
- 5 Q I show you State's Exhibits Number 104 and 105.
- 6 What does that show?
- 7 A That's a photograph of the master bathroom --
- 8 master bedroom, I'm sorry.
- 9 Q And is that how it was when y'all got there that
- 10 day?
- 11 A Yes, ma'am.
- 12 Q And, again, prior to doing any processing at the
- 13 crime scene, y'all go through and photograph
- 14 anything and document it, is that correct?
- 15 A Yes.
- 16 Q State's Exhibits 107 and 108?
- 17 A Same, master bedroom.
- 18 Q State's Exhibit 110 through 118, is this looking
- 19 into the master bath?
- 20 A Yes, it is.
- 21 Q And State's Exhibit Number 111, what area of the
- 22 master bath is that?
- 23 A Inside you can see the toilet area off to the
- 24 right.
- 25 Q What is this (indicating)?

- 1 A That's a shower, large shower.
- 2 Q State's Exhibit Number 112 shows what area?
- 3 A The vanity area inside the master bath.
- 4 Q State's Exhibits 113 and 114?
- 5 A Again, the shower area.
- 6 Q State's Exhibit Number 115?
- 7 A That's the tub, and it depicts a linen closet.
- 8 Q State's Exhibit Number 116?
- 9 A That's the tub again.
- 10 Q 117?
- 11 A A picture of the floor area.
- 12 Q Finally, off of the master bath on State's Exhibit
- 13 118?
- 14 A The master closet.
- 15 Q In the master bathroom, was there a closet -- at
- 16 least one or more, actually -- linen closets?
- 17 A Yes, with respect to this, there is the bathtub
- 18 there and you walk in, there is some in this area,
- 19 general area, yes, a linen closet. That would be
- 20 what is depicted there.
- 21 Q And in State's Exhibit Number 119, is that the
- 22 linen closet as it appeared to you that day?
- 23 A Yes.
- 24 Q And at a later time after photographing this -- and
- 25 there other photographs taken of this, right?

- 1 A Correct.
- 2 Q Did you go back and collect any evidence from this
- 3 linen closet in the downstairs master bathroom?
- 4 A Yes..
- 5 Q And what evidence did you collect?
- 6 A It was a handgun.
- 7 Q A handgun in the closet?
- 8 A Yes, ma'am.
- 9 Q And can you actually see the butt of the gun in
- 10 this picture?
- 11 A Yes.
- 12 Q And I am putting my finger there, or trying to. Is
- 13 it right there (indicating)?
- 14 A Yes.
- 15 Q What is it next to?
- 16 A Next to a gold bottle, a gold-plated bottle.
- 17 THE COURT REPORTER: I'm sorry, I didn't hear
- 18 you.
- 19 A A gold-plated bottle.
- 20 Q And that is actually where that gun was located?
- 21 A Yes.
- 22 Q And, again, what part of the house was that in?
- 23 A The master bathroom.
- 24 Q Finally, a room adjacent to the master bedroom?
- 25 A Yes, right here (indicating).

1 Q It's called the master retreat on here. State's
2 Exhibit 125 and 126, what kind of equipment was in
3 there?

4 A Exercise equipment.

5 Q And these are all photographs of the downstairs,
6 correct?

7 A Correct, yes.

8 Q And the outside?

9 A And outside, yes.

10 MS. CAMPBELL: Your Honor, may he take the
11 stand again?

12 THE COURT: Yes. You can take your seat, sir.

13 (Witness returns to witness stand.)

14 THE COURT: Are y'all done with the board?

15 MS. CAMPBELL: For now. I'm sorry, Your
16 Honor.

17 (Moves board.)

18 THE COURT: Thank you.

19 BY MS. CAMPBELL:

20 Q Moving upstairs, did you also photograph pertinent
21 areas up there?

22 A Yes.

23 Q And upstairs are there a number of bedrooms as
24 well?

25 A Yes, there are.

1 Q And approximately how many bedrooms were there
2 upstairs? Do you recall?

3 A I don't recall. A number.

4 Q And was one of those bedrooms being used for
5 another purpose?

6 A Yes.

7 Q What was that purpose?

8 A As a storage room.

9 Q Okay. And was there also an office area up there
10 in one of the bedrooms?

11 A Yes.

12 Q Okay. I am going to show you State's Exhibits
13 Number 127 through 137 and first ask, do you
14 recognize those?

15 A Yes, I do.

16 Q And do those fairly and accurately depict the
17 upstairs area?

18 A Yes.

19 Q And while I'm showing these to him, will you look
20 at State's Exhibits 138 through 140?

21 (Pause.)

22 MR. WHITLARK: Your Honor, I have one
23 objection. May we approach the bench, Your Honor?

24 THE COURT: Yes, sir.

25 (WHEREUPON, a bench conference was held

1 in the presence of the jury but out of
 2 the hearing of the jury.)
 3 THE COURT: What numbers are those?
 4 MS. CAMPBELL: Those are 127 through 137.
 5 MR. WHITLARK: No objection from the
 6 Defendant.
 7 (WHEREUPON, State's Exhibit Nos. 127-137
 8 were marked for identification and
 9 received into evidence.)
 10 BY MS. CAMPBELL:
 11 Q State's Exhibits 138 and 140, do those fairly and
 12 accurately depict a certain area of the upstairs
 13 family room?
 14 A Yes.
 15 THE COURT: Can I see y'all one second,
 16 please?
 17 MS. CAMPBELL: Yes, ma'am.
 18 (WHEREUPON, a bench conference was held
 19 in the presence of the jury but out of
 20 the hearing of the jury.)
 21 MS. CAMPBELL: Thank you, Your Honor.
 22 MR. WHITLARK: No objection to 138 through
 23 140.
 24 THE COURT: 138 through 140, without
 25 objection.

1 (WHEREUPON, State's Exhibit Nos. 138-140
2 were marked for identification and
3 received into evidence.)

4 BY MS. CAMPBELL:

5 Q And, Your Honor, I would hand up 141 through 162
6 and 163 to 169. Do those fairly and accurately
7 depict scene, the upstairs, as you saw it that day?

8 A Yes.

9 Q Specifically the upstairs where Ms. Parker's office
10 was, as well as some shell casings in the upstairs
11 office?

12 A Yes.

13 (Attorneys conferred.)

14 MR. WHITLARK: Beg the Court's indulgence,
15 Your Honor. We have a number of objections for
16 Photographs 141 through 162.

17 THE COURT: All right. And it is probably a
18 good time to break for lunch instead of sending you
19 all back in the room. We will go ahead and take a
20 break for lunch.

21 I have got to deal with those objections. I
22 am going to give you an extended -- we will come
23 back about 2:30 -- extended lunch. And we'll go
24 over this during the break so we won't have to --
25 hopefully we can start up at 2:30 and get

1 started -- get back with you all and move on with
2 this witness.

3 All right. Thank you. Have a great lunch.
4 Remember, do not talk to anyone during your lunch
5 break. If anyone tries to speak with you, please
6 let me know.

7 Thank you.

8 (WHEREUPON, the jury is excused for
9 lunch at 12:46 p.m.)

10 THE COURT: Sir, you may step down. I will
11 remind you, you cannot speak with anyone regarding
12 your testimony during the break.

13 THE WITNESS: Yes, ma'am.

14 (Witness steps down.)

15 THE COURT: All right. Do y'all want to deal
16 with these after lunch?

17 MR. WHITLARK: Yes, Your Honor. I should be
18 back here hopefully by 1:30, and that will give us
19 a give good hour maybe.

20 THE COURT: We will go ahead and break for
21 lunch. So about 2:15 I can meet y'all back here in
22 the courtroom?

23 MS. CAMPBELL: Yes, Your Honor. And I can go
24 ahead and go over with him, if he wants to meet
25 back in here at 2:00, the rest of the photographs

1 that we intend to offer in order just to expedite
2 things.

3 And, for the record, they have all been
4 provided to him in discovery, but as far as which
5 ones specifically he has objections to.

6 MR. WHITLARK: And I will be glad to be here
7 even earlier than that so we can get that done.

8 THE COURT: All right, well, let's say 2:00,
9 and I'll be back in here about 2:15, and they'll be
10 back at 2:30.

11 MR. WHITLARK: Thank you, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, a lunch break was taken at
14 12:47 p.m.)

15 THE COURT: There were some pictures that you
16 all couldn't agree on?

17 MS. CAMPBELL: Yes, Your Honor. Over the
18 break, Your Honor, Mr. Whitlark and I were able to
19 review the remaining pictures that are going to be
20 introduced today, I think pretty much in its
21 entirety.

22 I think there are two sets of pictures he has
23 general objections to, and then I pulled the ones
24 he has specific objections to.

25 Your Honor, I did over the break e-mail to

1 Mr. Whitlark and to your office some case law on
2 photographs, but I can hand it up.

3 THE COURT: I have not looked at my e-mail.

4 MS. CAMPBELL: Sorry. Thank you.

5 (Hands to Court.)

6 MS. CAMPBELL: Specifically, Your Honor, I
7 would hand up -- the ones that were objected to
8 before the break were State's Exhibits 141 through
9 162.

10 Just so you know, Your Honor, these are the
11 ones of the crime scene as it was that day in the
12 office area and in that bathroom area immediately
13 adjacent to it.

14 They do -- several of them do depict the
15 victim's body and its placement there, Your Honor.
16 We have -- he has objected to specifically
17 Number 147, Number 160, Number 162, and Number 161.

18 Did you want to look at these, Mr. Whitlark?

19 MR. WHITLARK: Yeah, I need to look at those.

20 THE COURT: What are the numbers, one more
21 time?

22 MS. CAMPBELL: It's 147, 160, 162, and 161
23 were the specific ones he objected to, Your Honor.

24 THE COURT: Okay.

25 MS. CAMPBELL: And, Your Honor, we would be

1 glad to withdraw those if he has specific
2 objections to those.

3 THE COURT: You are withdrawing them?

4 MS. CAMPBELL: Yes, we're withdrawing them.
5 And I would hand up the remainder of the
6 photographs which he has a general objection to.

7 THE COURT: These are withdrawn: 160, 161,
8 162, and 147.

9 MR. WHITLARK: All right. It's 160, 161, 162,
10 and then 147, Your Honor?

11 THE COURT: Are withdrawn by the State. And
12 then these are?

13 MS. CAMPBELL: The ones he has a general
14 objection to, and I don't know the basis of his
15 objection.

16 MR. WHITLARK: First of all --

17 MS. CAMPBELL: Those were the ones -- those
18 were the specific ones he thought were too
19 prejudicial, the ones we have already withdrawn.

20 MR. WHITLARK: May it please the Court, Your
21 Honor? We feel that the probative value of these
22 photographs is substantially outweighed by their
23 prejudicial effect.

24 Naturally, any picture depicting a deceased
25 human being is going to be substantially

1 prejudicial.

2 However, I don't see any relevant issue,
3 except for the ones that -- I have agreed to some
4 subsequent photographs in another set that I think
5 might cover what it is that they're wanting to
6 prove.

7 However, I don't see any relevance at this
8 point. I'll leave it to Ms. Campbell to explain to
9 you what they are and what the relevance is, but we
10 would object generally that the probative value is
11 substantially outweighed by the prejudicial effect.

12 MS. CAMPBELL: Your Honor, as you are probably
13 aware of -- just in the short time we have been in
14 trial -- it is extremely probative as far as the
15 placement of the bodies, how they were found, how
16 they were placed, how they were shot, how they were
17 found at the crime scene.

18 What has already come up in this case, as just
19 an initial thing, is that the first officer on the
20 scene was able to testify that in his experience
21 when he first came upon the body, it was unusual to
22 him because it was obvious it had not been moved.
23 It had not been tampered with in any way. No one
24 had tried to render any aid to her in that manner.

25 That is extremely important to the State's

1 case to show the manner in which Ms. Parker died
2 and how she actually was laying there when it is.

3 The Defendant, in later conversations with
4 family members and with other people, described how
5 she was killed. It just happened to coincide with
6 exactly how her body ended up placed on the ground
7 and exactly how -- the medical examiner is going to
8 talk about how these series of shots led to her
9 death, the final shot being to her head, Your
10 Honor, which is extremely crucial to the State's
11 case because that is the actual fatal shot. The
12 other four or five that hit her were not actually
13 fatal in and of themselves without treatment.

14 The fact that she falls down face-down and
15 sustained a bruise to her forehead and then she
16 goes down face-down and stays there, there was a
17 number of accounts the Defendant gives to various
18 family members, various co-workers, and different
19 people about how these things happened.

20 At one point he even walks family members and
21 friends of the family through a reenactment of how
22 Tammy Parker died while she was -- quote, unquote
23 -- sitting in her chair and how these events
24 occurred while he still maintains in his initial
25 statement that he was not present when Tammy Parker

1 was killed, so therefore how would he know how
2 these events occurred.

3 So, Your Honor, in this case, perhaps more
4 than any other, when the Defense has already been
5 that this man did not kill Tammy Parker, therefore
6 he could not know how she was killed, and that
7 subsequent to that that he shot in self-defense
8 Bryan Capnerhurst, the angle of the wounds and
9 everything -- and, Your Honor, we'll do whatever we
10 can.

11 Another key thing in this case, Your Honor, is
12 this Defendant supposedly went to his wife's aid,
13 checked her pulse. And depending on which one of
14 the statements you want to believe, either she was
15 already dead, he didn't feel a pulse, or she was
16 gurgling and leaned over her body.

17 The placement of the blood in and around her
18 body would somewhat dispute that since it is pretty
19 obvious that nothing was disturbed there at the
20 scene.

21 I think the jury has to have some type of
22 ability to review that themselves in order to
23 corroborate either what our experts -- and they are
24 bringing in their own set of experts -- say or what
25 their experts say either to corroborate or dispute

1 that.

2 So, how she appeared at the scene -- and even
3 though there is some blood in those pictures -- and
4 I submit the majority of them aren't really as
5 offensive -- there are some close-ups.

6 In addition to that, he also at one point, I
7 believe, described the gunshot wound to the back of
8 her head.

9 As you can see from the pictures, Your Honor,
10 it is extremely hard to see exactly where her
11 wounds were on her body.

12 She is riddled with bullet wounds to the left
13 side of her body, but in addition to that, the one
14 fatal shot is to her head. However, that is not
15 readily apparent if you just look at her in those
16 pictures because of the hair covering the actual
17 entry wound itself.

18 Your Honor, these pictures are crucial to the
19 State's ability to be able to disprove in this case
20 every single assertion of how this Defendant says
21 this occurred.

22 MR. WHITLARK: May it please the Court? Your
23 Honor, first of all, I dispute that Mr. Parker has
24 given evidence or testimony or statements that when
25 she died she was in a chair. What he says is she

1 was in her chair when he walked down -- back
2 downstairs. And he did not say when she died she
3 was in her chair. I don't recall that. However,
4 that is where she was when he last saw her alive.

5 Regarding any need to have these in to
6 disprove his testimony, Your Honor, you don't need
7 a picture like that when you've got -- they have
8 schematics of everything. They know where she is.
9 They can describe this in words instead of highly
10 prejudicial and substantially prejudicial
11 photographs.

12 We have a carte blanche objection to them for
13 that reason. And I don't think that they are
14 relevant in order to prove their case.

15 I know that they have made that argument, but
16 the truth is, Your Honor, that I don't see how it
17 adds anything to what they can describe in words.

18 And for that reason, first of all, I would
19 object to the introduction of those pictures.

20 THE COURT: I'm looking for the case, the
21 Court of Appeals case, the dog bite case.

22 MS. CAMPBELL: The most recent one?

23 THE COURT: The one that came out last year.

24 MS. CAMPBELL: Yes, Your Honor. That case was
25 specifically an involuntary manslaughter case. And

1 the reason they said that those photographs would
2 not come in in that case was because the State
3 didn't have the duty to prove malice.

4 In this case, of course, it is up to the State
5 to prove malice, and therefore they would be
6 relevant and probative.

7 In that case, I believe it was a case -- was
8 it a dog biting case?

9 THE COURT: Yes, the dog biting case.

10 MS. CAMPBELL: The dog biting case. I handed
11 it up to Your Honor.

12 THE COURT: Yes, I have it. I have it.

13 MS. CAMPBELL: And that is distinguishable.
14 They said that basically that there was no logical
15 relation or any element that needed to be proved in
16 that case. And specifically they talk about the
17 fact of the definition of involuntary manslaughter,
18 which is basically -- well, you know, the
19 definition is before you. And they distinguish
20 that, Your Honor, I think it is distinguishable
21 from in a murder case. And the reason they
22 included that language in that case is because they
23 don't have the elements of malice to have to prove.
24 We do have to prove malice.

25 In addition to that, and beyond that, Your

1 Honor, even in this case, I think it is even more
2 probative because there is a dispute over the
3 manner of death, how this occurred, who did it,
4 things of that nature.

5 For this jury to be able to have some basis
6 which to evaluate what is going to be extensive
7 expert testimony on these issues, they have got to
8 have at least some idea of how the body was
9 positioned and what happened there at the scene.

10 Specifically in this case, Your Honor -- I
11 know I keep going back to this -- is the fact of
12 the Defendant's initial statement, then his
13 subsequent statement, then his subsequent
14 reenactment to family friends about how this
15 happened and what he observed and what he was able
16 to observe.

17 In addition to that is what he did after this
18 when he went to check his wife, who was down on the
19 ground, like I said, either gurgling or dead,
20 depending on which one of his statements you
21 believe.

22 So those are all reasons -- and it is not that
23 we are just trying to prejudice this jury. This is
24 actually evidence that will be necessary for them
25 to be able to evaluate and for the State to be able

1 to prove that in fact the Defendant's story simply
2 is not true. It simply cannot be true.

3 And, therefore, what the State is able to
4 prove, using those photographs, as well as other
5 evidence, is that the Defendant killed his wife and
6 then staged it and killed his friend to cover it.

7 MR. WHITLARK: May it please the Court? Your
8 Honor, I would suggest, if you would allow me, that
9 we could take the photographs -- I have -- I
10 don't -- I'm not going to object to the one that
11 shows the positioning of Ms. Parker.

12 THE COURT: I was going to say. I do --
13 Ms. Campbell, there is a case that came out last
14 year, year before, two years ago that talks about
15 the number of photos. And I have Jessica --

16 MS. CAMPBELL: We can narrow it down, Your
17 Honor.

18 THE COURT: Where the Court says -- I can't
19 remember the name of the case, but there is a case.
20 I know you know what I'm talking about.

21 MS. CAMPBELL: I understand. And he hasn't
22 objected yet to cumulative. But if we get to that
23 point, I think we can narrow it down.

24 MR. WHITLARK: Right.

25 THE COURT: I think he is just objecting to

1 them all together, is that right?

2 MR. WHITLARK: But, Your Honor, I understand
3 that her final positioning there, that would be
4 relevant. I wouldn't object to the one photograph
5 that I looked at. If the Court will allow us to
6 look at each one of them.

7 THE COURT: And what about the photograph
8 where she is saying the fatal shot photograph. I
9 think the positioning may be probative.

10 MR. WHITLARK: I wouldn't object to that. I
11 would not object to that.

12 THE COURT: You would not?

13 MS. CAMPBELL: It only shows half the body.

14 MR. WHITLARK: Well, I understand that, but, I
15 mean, to show the final positioning of her.

16 (Pause.)

17 MR. WHITLARK: I disagree, Your Honor, with
18 counsel regarding the need to show any of these to
19 prove what she has said. I have just looked
20 through them. I understand the need for this
21 (indicating), Your Honor, and we do not object --
22 well, we object to it on the grounds that any
23 pictures showing this (indicating), there is going
24 to be a danger, a substantial danger of prejudice.

25 THE COURT: What about the ones that show

1 the --

2 MR. WHITLARK: Do not object to 144.

3 THE COURT: What about 143 that shows the
4 casings?

5 MR. WHITLARK: No objection to -- well, no.

6 THE COURT: You object to that one?

7 MS. CAMPBELL: Well, I mean, obviously the
8 casings are very important to show where the person
9 was.

10 MR. WHITLARK: We can do that through
11 drawings, Your Honor, her positioning of it. There
12 is no dispute from the Defense --

13 MS. CAMPBELL: Because of the --

14 THE COURT: What is your position again
15 regarding showing the fatal wound?

16 MS. CAMPBELL: The position is that at one
17 point the Defendant talks about the head wound. It
18 is essential for the jury to be able to see because
19 it is not readily apparent where her wounds are.
20 That is the reason we want to show the entire body.

21 When he goes in there, according to him, he
22 takes -- he reaches over and checks her pulse.
23 That is the extent of his aid to his wife as she
24 is -- and depending on which one you take, either
25 gurgling or not breathing -- he said he then goes

1 and calls 9-1-1.

2 MR. WHITLARK: I don't see how that has
3 anything to do with what he says he did, Your
4 Honor.

5 MS. CAMPBELL: The other thing that is
6 essential is because of the first responding
7 officer's testimony that when he went to check
8 Ms. Parker, he looked down, and it was obvious to
9 him because of the placement of the shell casings,
10 as well as the blood that had not been disturbed,
11 that no one had attempted to render her aid or do
12 anything to help her.

13 MR. WHITLARK: Well, I would vehemently object
14 to that, Your Honor, for that reason. I mean,
15 regarding --

16 THE COURT: All right.

17 MS. CAMPBELL: And I understand if his
18 objection is cumulative, Your Honor. I will be
19 glad to pick out a few --

20 MR. WHITLARK: I don't see the need for it,
21 Your Honor. They have got testimony. Now, I do
22 not object -- well, I object to it, first of all --
23 I do object to 141 on the grounds it is -- any
24 photograph like that, there is a substantial danger
25 of prejudice.

1 THE COURT: All right, this is what I'm going
2 to do. I will allow -- the pictures of the fatal
3 shot to the head, your experts are going to come in
4 and talk about where the shot was. I mean, I think
5 that can be established with them. I think the
6 picture of the positioning of the body, that may
7 be -- I do find that on the shot to the head that
8 the unfair prejudice, I mean, the probative value
9 is substantially outweighed by the unfair
10 prejudice. As to the positioning, there is --

11 MS. CAMPBELL: One or two?

12 THE COURT: I mean, there are several photos,
13 but of course it is like 15 total. And I'm pretty
14 clear on that. I don't remember the case name, but
15 I do remember reading it, and it talks about it
16 being cumulative and too many photos. And I think
17 that was the reason why the Court in this case that
18 I was referring to -- I think it was reversed, but
19 the Court noted that it was the number of photos
20 that made it unfairly prejudicial to the Defendant.

21 MS. CAMPBELL: Okay.

22 THE COURT: He said 141.

23 MR. WHITLARK: Yes.

24 MS. CAMPBELL: 141 he doesn't have a problem
25 with?

1 MR. WHITLARK: Well, I have got a problem. I
2 have got a problem with all of them.

3 THE COURT: For purposes only for showing the
4 position of the body.

5 MS. CAMPBELL: Only showing the position of
6 the body, Your Honor, I will narrow it down to 142,
7 145, and 148.

8 MR. WHITLARK: Well, Your Honor, I do have an
9 objection to that photo there, the one with the
10 casing.

11 MS. CAMPBELL: And therefore we would
12 eliminate, Your Honor --

13 THE COURT: I think 148 is going to be -- I
14 have got some concerns about that one.

15 MR. WHITLARK: Your Honor, State's 141,
16 although we object to it, you know, it is hard to
17 say that that is not relevant regarding the final
18 positioning.

19 The ones that the Court is reviewing right now
20 are extremely graphic pictures. And I don't see
21 anything in there that they could use to counter
22 the statements that Mr. Parker has given. They
23 claim that it does. However, the truth is that
24 looking at those photographs and looking at what he
25 said -- and the Court is not yet aware of what his

1 testimony will be regarding that, I don't think.

2 THE COURT: Other than what the officers are
3 saying.

4 MR. WHITLARK: Yes. But as far as checking
5 her pulse or checking her neck -- or checking the
6 things that he said -- they are saying he said he
7 checked -- those pictures show that in fact that is
8 the way she was positioned. He could have done
9 that with all three. And to put it in there to
10 say, well, we are putting this in there to show he
11 couldn't have done that, that would be -- it is not
12 congruous, Your Honor, it doesn't fit, because her
13 neck is exposed, her wrist is exposed, and her nose
14 is exposed are the things that he was talking
15 about.

16 So it doesn't counter anything that he said.
17 And I don't -- just to put it in for the reason
18 that they say he couldn't have done it, they are
19 just saying that. It is not true. You can look at
20 the photograph and see that the three things that
21 they advanced as, he checked the, he checked her
22 nose, or her breathing, and all that, the Court can
23 see that there is nothing in there that would
24 counter his testimony that would refute that.

25 And, again, our first general objection --

1 THE COURT: Yes, sir.

2 MR. WHITLARK: Yes, Your Honor.

3 THE COURT: It is on the record.

4 MR. WHITLARK: Thank you, Your Honor.

5 THE COURT: All right. Anything in response?

6 MS. CAMPBELL: No, Your Honor. I have the
7 numbers ready for the ones you are not allowing me
8 to mark.

9 THE COURT: All right. Well, I am going to
10 allow -- 142 is the only one. 141 and 145 are
11 partial -- if you are talking about position,
12 because I'm only allowing it in for the probative
13 value of being able to show the position of the
14 body based on what you said. This is 142, is the
15 only one of the ones that handed up to me that
16 shows --

17 MS. CAMPBELL: You are allowing 142 or 141?

18 THE COURT: 142. 141 and 145 is partial.

19 MS. CAMPBELL: 141, Your Honor, is the one
20 from the office. I think we have already agreed to
21 that one.

22 THE COURT: So 141 and 142.

23 MS. CAMPBELL: 148 and 145 are the ones you
24 just disallowed.

25 THE COURT: And then these right here are the

1 ones that you all I think agreed that --

2 MS. CAMPBELL: We have withdrawn those. Those
3 are the ones he initially objected to.

4 THE COURT: All right. So it will be 141 and
5 142.

6 MR. WHITLARK: Right, Your Honor.

7 THE COURT: All right. Thank you.

8 MR. WHITLARK: Thank you, Your Honor.

9 (WHEREUPON, State's Exhibit Nos. 141-142
10 were marked for identification and
11 received into evidence.)

12 MS. CAMPBELL: Do you want me to go through
13 the numbers on the record? It is 155, 156, 157,
14 158, 148, 145, 149, 150, 151, 152, 154, 153, and
15 159.

16 (WHEREUPON, State's Exhibit Numbers 145
17 and 148-159 were not admitted.)

18 THE COURT: And those are the ones I did not
19 allow on the objection of Mr. Whitlark for the
20 Defense.

21 MS. CAMPBELL: Your Honor, as far as any of
22 his other objections, I believe he objected --
23 well, I am assuming this is now -- Capnerhurst's
24 body?

25 MR. WHITLARK: Yes. I don't think there is

1 any evidence in this case that Mr. Capnerhurst --
2 oh, I'm sorry, may it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 MR. WHITLARK: I don't think that there is any
5 evidence in this case that anyone has moved
6 Mr. Capnerhurst's body, first of all. And I don't
7 see -- they are going to have a coroner that is
8 going to testify, as Your Honor has already
9 indicated, that will show where the wounds were on
10 a drawing rather than his body.

11 I don't know of any relevant issue. His body
12 wasn't moved. There is no evidence of it. I can't
13 think of any other relevant reason that they could
14 get it in. And so I would ask that the schematics
15 that are drawn by the coroner be the evidence of
16 where the wounds are on his body, in particular.
17 So.

18 MS. CAMPBELL: Your Honor, as to his body, it
19 is even more probative because there is a total
20 dispute over what happened in that attic that day,
21 including distances, including the way the shots
22 were done, how it was done, the final shots being
23 as he was down, things of that matter.

24 I would hand up for the Court 262 to 282, and
25 if can take this up while they are out.

1 THE COURT: So are we going to get into that
2 today?

3 MS. CAMPBELL: I hope.

4 THE COURT: All right.

5 MS. CAMPBELL: This is the same officer.

6 MR. WHITLARK: If I may, Your Honor? While
7 the Court is reviewing those, Your Honor, they keep
8 saying there is a dispute about things. The point
9 I think the Court is getting from the Defendant is
10 that from our side, no, there is not a dispute
11 about what happened up there.

12 I don't see how just saying that there is a
13 dispute about where his body fell -- they know
14 exactly where his body was found. And as far as
15 the distances between Mr. Parker and
16 Mr. Capnerhurst, Your Honor, they don't need to
17 show a picture of a deceased's body in order to
18 tell us how far apart they. I mean, clearly they
19 have those measurements. And so it is absolutely
20 unnecessary to put a picture of his body in there
21 to show where they rested in the final place he
22 fell.

23 So -- and they have plenty evidence of that,
24 Your Honor, people measuring from every -- from the
25 bottom of his foot, from where his head was, from

1 all those things. All that is going to be
2 testified to, Your Honor.

3 THE COURT: All right. Now that I have had a
4 chance to take a look at them, if you can tell me
5 again what the probative value is.

6 MS. CAMPBELL: The Defendant's story is that
7 he goes in there, that the victim in this case,
8 Bryan Capnerhurst, has a gun on him, he was in the
9 process of robbing him, that he marches him into
10 the safe area where he is instructing him to get
11 the money out of the safe. I believe he used more
12 explicit terms than that.

13 Then they are, according to the Defendant, he
14 is in front of the safe, and depending on which
15 story you believe, either leaning down or in front
16 of the safe, he reaches on top of the safe, he is
17 able to get the drop on the victim in the case,
18 Bryan Capnerhurst. He is then able to reel
19 around -- and he gives different versions of how
20 that happened to law enforcement, to family
21 members, to co-workers about how that happened and
22 how the shooting actually occurred. And he manages
23 to shoot Bryan Capnerhurst multiple times.

24 Capnerhurst is shot in the body area and
25 ultimately shot to the face, which we would submit

1 happened when he was down. He is even shot through
2 the bottom of his foot, because one of the initial
3 shots actually throws his -- or his body goes up
4 into the air and he shot through the bottom of his
5 foot at one point.

6 Your Honor, for this jury, they have already
7 heard extensive cross-examination about how the
8 body was positioned, what the police officers did
9 when they got there, whether or not the gun was in
10 the hand, which of course they dispute. I think
11 the jury has to have some idea of how his body was
12 positioned when police first saw it.

13 There was extensive cross-examination
14 yesterday about why these officers had to move the
15 gun, wasn't that against policy, why were they
16 scared, he was dead, I believe was the quote, when
17 in fact -- and you can see how the body was
18 positioned. When you walk into the attic, all you
19 can see is the top of the head and the positioning
20 and the gun would have been further down.

21 There was then extensive cross-examination --
22 this was just in the first day of trial -- about
23 whether or not the gun was really in the hand, why
24 they took it out, how the hand was positioned, Your
25 Honor.

1 So all those matters are extremely crucial to
2 the State's case, as well as the pattern of shot
3 and how the body was actually placed at the scene
4 would be crucial to the State's case. Again, as
5 they have represented to the Court, they are
6 bringing in experts to dispute what our experts say
7 happened as far as the manner of death in this
8 case.

9 In addition, they are bringing in experts that
10 are going to do distance testing that would dispute
11 what our experts say as far as distances goes.

12 So anything as far as where the body was
13 located in relation to the safe, in relation to
14 this attic area would be crucial to the State's
15 case.

16 MR. WHITLARK: Your Honor, if I may, Your
17 Honor? First of all, there is no dispute regarding
18 the gun being in his hands. The State's first two
19 or three witnesses have stated that they saw it in
20 his hand and dislodged it. So there isn't an issue
21 as to whether the gun was in his hand or not. It
22 was in his hand.

23 There is no issue about -- there is no need
24 for our expert to have photographs. He knows where
25 they are based on the distances that are -- that he

1 was presented with in his preparatory materials.
2 He doesn't -- he is not asking me for pictures of
3 the bodies. He doesn't need that. That is all
4 scientific testing that is done pursuant to the
5 data collected that day by CSI.

6 As far as any need at all for these pictures,
7 I do not see one at all except, Your Honor, there
8 is one photograph that -- I believe it is in the
9 next set that -- you know, it is a photograph of
10 his hands. I don't think I'm going to --

11 THE COURT: I pulled that one out because I
12 didn't know if you were objecting to that. That
13 one is 267; I'm sorry, Debbie.

14 MR. WHITLARK: The left hand is the one I
15 don't think I have an objection to.

16 MS. CAMPBELL: I don't think that there is a
17 single picture of his left hand.

18 MR. WHITLARK: Your Honor, I don't object to
19 Picture 266, State's Exhibit.

20 THE COURT: What about 267?

21 MR. WHITLARK: I don't see any need for it,
22 Your Honor. It is a picture of his right hand,
23 which is not something that is being contested here
24 as having a role in this.

25 THE COURT: Okay. I can tell you that --

1 because this doesn't go to the position again --
2 269, 270, 271, 272, 273, 275, 276, 277, 279, and
3 281, I am going to exclude those. I think that the
4 danger of the unfair prejudice substantially
5 outweighs the probative value.

6 In talking for purposes of positioning, it
7 will be the same ruling. There is a picture -- if
8 you can come up one second. Ms. Campbell?

9 (WHEREUPON, a bench conference was held
10 in the presence of the jury but out of
11 the hearing of the jury.)

12 THE COURT: So my ruling will be only as to
13 the probative value as to the position of the body
14 when they found it. I will allow 262 and 263. All
15 the rest of them are excluded.

16 MS. CAMPBELL: That would be 264 through 282.

17 MR. WHITLARK: Thank you, Your Honor.

18 THE COURT: All right. Anything else before
19 we bring them in?

20 MS. CAMPBELL: Oh, the guns under the -- Your
21 Honor, under the master bedroom bed, there were a
22 number of guns that were recovered, long guns, that
23 have been marked as 362 to 366.

24 And at this point, Your Honor, I have no -- he
25 objects to those. They weren't used -- I mean,

1 they didn't have any probative value in this case
2 other than just to show the general condition.
3 They may become relevant at a later time depending
4 on testimony, but we would withdraw those, based on
5 his objection.

6 THE COURT: All right.

7 MS. CAMPBELL: Is that right, Mr. Whitlark?

8 MR. WHITLARK: Yes, that is correct. That is
9 correct, Your Honor.

10 MS. CAMPBELL: And, Your Honor, if you can
11 just give me a second to put this all back
12 together.

13 THE COURT: All right.

14 MS. CAMPBELL: And, Mr. Whitlark, in your
15 review of the rest of these photos, do you have any
16 objection, because you reviewed --

17 MR. WHITLARK: I would like to just go through
18 them. I believe I am going to be able to breeze
19 through them, Your Honor, fairly -- I have reviewed
20 them.

21 MS. CAMPBELL: He has reviewed --

22 MR. WHITLARK: And I just want to take one
23 last look before I say yes, but I don't think there
24 will be -- I don't think we are going to have a
25 problem.

1 (Pause.)

2 MS. CAMPBELL: We did go through these on the
3 break.

4 MR. WHITLARK: We have only got a couple of
5 objections, Your Honor.

6 (Pause.)

7 MR. WHITLARK: We're finished, Your Honor.

8 MS. CAMPBELL: No, you are not.

9 THE COURT: Let's deal with those -- are there
10 objections?

11 MR. WHITLARK: There is only just a couple of
12 objections. And this is 202 to 208. Let's see,
13 first of all, no objection to 181; 170 to 173, no
14 objection; 174 and 175, no objection; 202 to 208,
15 no objection; 209 to 217, no objection. We object
16 to 179, 180, and 185, Your Honor.

17 THE COURT REPORTER: I'm sorry, what were
18 those again?

19 MR. WHITLARK: We object to 179 and 180. And
20 on 185, Your Honor, that picture is already in
21 evidence, I believe, 185.

22 The only one -- let's see here -- no objection
23 to 218 to 224. And between -- no objection to 283
24 to 290, except Number 289. It has got a photograph
25 in it on the side of it that we would object on the

1 grounds that it is a depiction of something that we
2 shouldn't have in evidence.

3 So 289 we do object to, but nothing else
4 between 283 and 290.

5 THE COURT: All right. So, while you have
6 that there, it is 181, 170 through 173, 174 through
7 175, 202 through 208, 209 through 217, there is no
8 objection, is that correct?

9 MR. WHITLARK: Correct, Your Honor.

10 THE COURT: Those are entered without
11 objection.

12 (WHEREUPON, State's Exhibit No. 181 was
13 marked for identification and received
14 into evidence.)

15 (WHEREUPON, State's Exhibit Nos. 171-172
16 were marked for identification and
17 received into evidence.)

18 THE COURT: 218 through 224 is entered without
19 objection?

20 MR. WHITLARK: Right.

21 THE COURT: 283 through 288 is entered without
22 objection?

23 MR. WHITLARK: Right.

24 THE COURT: 290 is entered without objection?

25 MR. WHITLARK: That's correct, Your Honor.

1 THE COURT: And then I need to see 179, 180,
2 185, and 289.

3 MR. WHITLARK: Yes, Your Honor.

4 (Pause.)

5 MR. WHITLARK: Now, Your Honor, there is
6 another set in here of pictures, 195 through 201,
7 and we object to them on the grounds of relevance
8 on those. We think they are irrelevant. 195 to
9 201.

10 MS. CAMPBELL: I can just hand up the whole
11 folder.

12 (Complies.)

13 THE COURT: So 179 and 180 they are objecting
14 to. What is the objection to 179 and 180?

15 MR. WHITLARK: One second, please, Your Honor.

16 (Pause.)

17 MS. CAMPBELL: I don't know what their
18 objection is.

19 MR. WHITLARK: It is cumulative. There is
20 three pictures of the exact same thing. They don't
21 need them. I mean, I don't understand why -- I
22 mean, they only need one. I'm sorry? Yes. I may
23 have gotten it backwards. I may have had it
24 backwards, Your Honor.

25 THE COURT: So the objection is --

1 MS. CAMPBELL: I have to see the pictures.
2 These three.

3 MR. WHITLARK: I don't object to this. I
4 meant to say 179 I don't object to.

5 MS. CAMPBELL: I will just cut that out of the
6 picture because I would like to show it in context
7 how it is in the office, and I will choose one of
8 them. I don't have a problem with that. I will
9 just cut that little part out of the pictures.

10 THE COURT: So 179 and -- those three?

11 MS. CAMPBELL: 181. And he doesn't have a
12 problem with 179, I don't think.

13 THE COURT: He said one, he just doesn't want
14 two.

15 MR. WHITLARK: Yes, 179 we don't object to.

16 MS. CAMPBELL: And then of these two, I will
17 pick one and just cut that out of the picture if
18 you have an objection to it.

19 MR. WHITLARK: Well, I mean, I don't see why
20 we have to have three of them, Your Honor.

21 MS. CAMPBELL: I just said I would withdraw
22 one, and just cut out the others.

23 MR. WHITLARK: I still don't --

24 MS. CAMPBELL: Well, it shows the relation
25 where -- to the office. And that is the gun box.

1 MR. WHITLARK: That's fine.

2 THE COURT: So --

3 MR. WHITLARK: You know what, Your Honor? I
4 tell you what, we will withdraw our objection to
5 180.

6 MS. CAMPBELL: And then I will withdraw the
7 other one.

8 THE COURT: So 181 is taken out.

9 MS. CAMPBELL: Can I staple them together so
10 we can submit them?

11 THE COURT: For the record, it is objected to.
12 179 and 180 are in without objection, is that
13 correct?

14 MS. CAMPBELL: Yes, Your Honor.

15 MR. WHITLARK: Yes.

16 THE COURT: All right. And then I have more
17 pictures up here. 185. And then he said 289.

18 MR. WHITLARK: Yes, 289, Your Honor.

19 MS. CAMPBELL: Here is 289. There is one in
20 that other folder I gave you, Your Honor.

21 MR. WHITLARK: Over to the left side of the
22 picture.

23 MS. CAMPBELL: That is pretty crucial, Your
24 Honor, because that is the placement of the gym bag
25 when they got there, which is really crucial.

1 THE COURT: You can cut it out.

2 MS. CAMPBELL: Do you want to just cut that
3 out?

4 MR. WHITLARK: That's fine, Your Honor.

5 THE COURT: Okay.

6 MR. WHITLARK: That solves it.

7 THE COURT: 289-A.

8 MS. CAMPBELL: 289-A. And that is not going
9 in.

10 MR. WHITLARK: And, again, we have a general
11 objection to 195 to 201. I don't know what the
12 relevance is. I don't think they are relevant.

13 THE COURT: 182 is what I have, 182 to 194.

14 MS. CAMPBELL: And there was just one out of
15 that they objected to. What is the other number,
16 Your Honor?

17 MR. WHITLARK: I don't know what the relevance
18 of 195 to 201. I would object on relevance
19 grounds.

20 MS. CAMPBELL: Beg the Court's indulgence.

21 (Pause.)

22 MS. CAMPBELL: 195 to 201?

23 THE COURT: Why are these relevant?

24 MS. CAMPBELL: Your Honor, the officers talk
25 about how they entered the house and they went into

1 a room where there were decorations, and things of
2 that nature, and basically there are two rooms that
3 are closely connected, and those lead directly into
4 the attic area where the testimony was the lights
5 were off in those rooms. They went in. They saw
6 the light at the far end of one of the rooms. You
7 have to go through the first room to get to the
8 second room. And that is where they found
9 Mr. Capnerhurst's body in the attic area. So those
10 are relevant as far as what the officers did.

11 In addition to that, Your Honor, in some of
12 these photographs, too, we're putting in because
13 Mr. -- the Defendant in this case at one point
14 shows family members and friends in his reenactment
15 when he is talking about what happened that day, he
16 then starts ridiculing the police for not doing
17 their job because he pulls out a T-shirt, which he
18 says was relevant to the investigation, but they
19 were generally so stupid they didn't get it, so in
20 every case such as this, we have to show that the
21 police thoroughly did their job.

22 The Defense chose to bring out in opening
23 statement, Your Honor -- and under State v. Dunlap,
24 in opening statement he said that there were 1,760
25 something, or else in cross-examination of one of

1 the witnesses, I can't remember which one it was,
2 but I remember a 1,700 and something number of
3 photographs taken. And the police did do their job
4 in this case. They did thoroughly document
5 everything. And I think the jury has a right to
6 observe the general conditions of the entire house
7 as much as was documented, and also refute any
8 claim by the Defense that the police did not do
9 their job.

10 MR. WHITLARK: Your Honor, the point in a case
11 of this nature, to say that the Defense is saying
12 that the police didn't do their job, I mean,
13 probably fit every single case, but, Your Honor, as
14 far as showing the interior, they have got a video
15 of every single bit of this. And so, you know, for
16 them to say --

17 THE COURT: Are y'all going to show the video?

18 MS. CAMPBELL: We're going to show the general
19 thing, so it is coming in anyway that way. I mean,
20 if he is objecting because he wants us to pick or
21 choose just a few relevant ones, we'll be glad to.

22 THE COURT: I'm not sure how all of these --

23 MS. CAMPBELL: I will be glad to narrow the
24 scope down.

25 THE COURT: I just don't know how this --

1 MS. CAMPBELL: And it is hard for you to rule
2 in a vacuum.

3 THE COURT: In any way or form.

4 MS. CAMPBELL: Your Honor, like 195, that is
5 the door to the attic.

6 THE COURT: Let me see that.

7 MS. CAMPBELL: And 196 shows one room that
8 leads into the other room through the door to the
9 attic.

10 THE COURT: So you need both of those?

11 MS. CAMPBELL: Yes, ma'am, we need both of
12 those. Again, 198 is the door to the attic.

13 THE COURT: How are they prejudicial to your
14 client?

15 MR. WHITLARK: Wait a minute. I'm sorry, Your
16 Honor.

17 (Pause.)

18 MR. WHITLARK: All right, Your Honor, if they
19 are saying there is something to it, then we won't
20 object to 195, 196, and 198 then.

21 MS. CAMPBELL: Okay.

22 THE COURT: She is saying that they are going
23 to use them to show where they went -- I mean,
24 where the attic was and how you got -- the route to
25 get there, I guess, is what she is saying.

1 MS. CAMPBELL: And the only other one shows
2 the doorway that leads into that one. And I
3 withdraw these. I will withdraw 197, 199, and 200.

4 MR. WHITLARK: You are saying it is the
5 doorway that leads --

6 MS. CAMPBELL: That leads from the family
7 room. The officers talked about how they had to go
8 through a series of rooms.

9 MR. WHITLARK: Right. That's fine. I won't
10 object to 201, as long as, as you previously
11 represented, that there is not something that is
12 hidden in the myriad of things that are on the
13 floor.

14 MS. CAMPBELL: Not that I know of.

15 THE COURT: All right. Would you place that
16 on the record, Ms. Campbell?

17 MS. CAMPBELL: Yes, ma'am. We would be
18 offering 195, 196, 198 and 201.

19 THE COURT: And withdrawn?

20 MS. CAMPBELL: Are 197, 199, and 200.

21 THE COURT: So 195, 196, 198, and 201 are
22 admitted without objection.

23 MR. WHITLARK: That's correct, Your Honor.

24 THE COURT: And then the others are withdrawn.
25 Are there more photos?

1 MS. CAMPBELL: He is looking at those. We
2 looked at these in the break, Your Honor, I
3 promise.

4 THE COURT: You know what? I am going to
5 bring the jury out. Are you going to get to those?
6 Because it is almost 4:00 o'clock.

7 MS. CAMPBELL: I can go through -- and he
8 doesn't object to any of the others that are in my
9 possession here, and I can just put on the record
10 real quick all the ones coming in.

11 THE COURT: The jurors have been back there
12 for some time.

13 MS. CAMPBELL: I understand.

14 THE COURT: I need to get them back in here.
15 Mr. Whitlark?

16 MR. WHITLARK: Yes, ma'am.

17 THE COURT: What I may do is, in your
18 presentation or your questioning, are you going to
19 get to those today?

20 MS. CAMPBELL: I was hopeful I would, Your
21 Honor, but it is not looking optimistic. But I can
22 get to all these, and these are the ones that I
23 need to put the numbers, because some of them
24 haven't been talked about yet that he doesn't have
25 a problem with.

1 THE COURT: Okay.

2 MR. WHITLARK: We have no problem with an
3 entire stack here except for 226 and 300. 226 and
4 300, Your Honor.

5 THE COURT: All right. I will take a look at
6 those. If those are the only two.

7 Any objection, for the record?

8 MR. WHITLARK: I object to 300, Your Honor,
9 and object to 226.

10 Your Honor, we have already indicated to the
11 Prosecution that we would stipulate that swabs were
12 taken. They are saying that they are putting that
13 in for purposes of -- to show the swab was taken.

14 MS. CAMPBELL: I have no problem, Your Honor,
15 with both of those. We talked about it beforehand.

16 THE COURT: All right, they are withdrawn.

17 MR. WHITLARK: Thank you, Your Honor.

18 THE COURT: And here is your folder.

19 All right, can we bring them in?

20 MR. WHITLARK: Yes, Your Honor. The Defense
21 is ready, Your Honor. We have not looked at that
22 stack right there, Ms. Campbell.

23 THE COURT: Take that and look at it while she
24 is questioning.

25 MS. CAMPBELL: And I will need a moment to put

1 it back together somehow.

2 THE COURT: Yes, ma'am.

3 MS. CAMPBELL: Thank you, Your Honor.

4 (Pause.)

5 THE COURT: And then my suggestion would be
6 that after the jury leaves that y'all get the rest
7 of the photos straight so we won't take up the
8 court's time.

9 MS. CAMPBELL: We're ready, Your Honor.

10 THE COURT: You're ready?

11 MS. CAMPBELL: Yes, ma'am. We are also
12 offering 404 -- 405, excuse me, and 400, which he
13 has reviewed, and I do not believe he has any
14 objection.

15 THE COURT: Any objection?

16 MR. WHITLARK: Your Honor, I don't -- it is
17 not an objection; however, one of them is a
18 schematic. They say it is drawn to scale, and I
19 want the right to be able to dispute that. I don't
20 want to give my stamp of approval to it.

21 THE COURT: So you are going to object in
22 front of the jury?

23 MS. CAMPBELL: Okay, we'll let him do that.

24 THE COURT: All right. You can --

25 MR. WHITLARK: Okay, that's fine, Your Honor.

1 THE COURT: And make your argument. And then
2 I will go from there.

3 MR. WHITLARK: Thank you, Your Honor.
4 (WHEREUPON, the jury came into open
5 court at 3:47 p.m.)

6 THE BAILIFF: The jury is present, Judge, Your
7 Honor.

8 THE COURT: All right. Ladies and gentlemen
9 of the jury, I apologize for having you sit back
10 there for that amount of time. I assure you that
11 we were out here working hard. And we are ready to
12 begin.

13 I will ask Ms. Campbell to continue with her
14 direct examination of the witness.

15 MS. CAMPBELL: Your Honor, for the record, on
16 the break I believe we have admitted certain ones,
17 and if I can put those on the record and move to
18 have these admitted.

19 127 through 137; 138 through 140; 141 through
20 144; 262 and 263; 163 and 169; 170 and 173; 174 and
21 175, 176, 177, and 178; 179 through 180; 182
22 through 194; 195, 196, 198, and 201; 202 through
23 208; 209 through 217; 218 through 224; and 283
24 through 290.

25 THE COURT: And those are without -- those

1 were --

2 MS. CAMPBELL: Some of them were with
3 objections that you ruled were admissible and some
4 were without objection.

5 THE COURT: All right.

6 MS. CAMPBELL: Thank you.

7 (REPORTER'S NOTE: State's Exhibits
8 127-137, 138-140, and 141-142 were
9 previously entered.)

10 (WHEREUPON, State's Exhibit No. 143-144
11 were marked for identification and
12 received into evidence.)

13 (WHEREUPON, State's Exhibit No. 163 was
14 marked for identification and received
15 into evidence.)

16 (WHEREUPON, State's Exhibit Nos. 169-170
17 were marked for identification and
18 received into evidence.)

19 (WHEREUPON, State's Exhibit Nos. 173-180
20 were marked for identification and
21 received into evidence.)

22 (WHEREUPON, State's Exhibit Nos. 182-196
23 were marked for identification and
24 received into evidence.)

25 (WHEREUPON, State's Exhibit No. 198 was

1 marked for identification and received
2 into evidence.)
3 (WHEREUPON, State's Exhibit Nos. 201-224
4 were marked for identification and
5 received into evidence.)
6 [REPORTER'S NOTE: State's Exhibits 204
7 and 206 were previously entered.]
8 (WHEREUPON, State's Exhibit Nos. 262-263
9 were marked for identification and
10 received into evidence.)
11 (WHEREUPON, State's Exhibit Nos. 283-290
12 were marked for identification and
13 received into evidence.)

14 DIRECT EXAMINATION CONTINUES

15 BY MS. CAMPBELL:

16 Q I want to show you what is marked State's Exhibit
17 Number 405 and first ask you if you recognize this.

18 A Yes, a blueprint for the upstairs of the residence.

19 Q And this wasn't something that was prepared, so you
20 aren't sure the measurements are right, but this
21 does fairly and accurately depict, maybe not to
22 scale, the upstairs area?

23 A Pretty close, yes.

24 Q Pretty close? And then finally I show you what has
25 been marked as State's Exhibit Number 400. Do you

1 recognize that?

2 A Yes, I do.

3 Q And did you actually prepare this?

4 A I did.

5 Q And tell the Court how you prepared this.

6 A This was from a ScanStation system that we use. It
7 does measurements throughout the house, and it was
8 done in this partial area here. This is not to
9 scale; however, I used that in order to depict and
10 show areas that are important to the events that
11 happened on the second floor.

12 Q And specifically right here (indicating) in the
13 area you have labeled as media room, is there an
14 attic door indicated?

15 A Yes, there is.

16 Q As well as a safe?

17 A Yes.

18 Q And does that show approximately the area, those
19 areas under that crawl space?

20 A Approximately.

21 MS. CAMPBELL: Your Honor, at this time we
22 would offer State's Exhibit 405 and 400.

23 MR. WHITLARK: Your Honor, we object to it
24 because of what he just said.

25 THE COURT: Which one is 4-0 -- the little

1 one?

2 MR. WHITLARK: Yes, Your Honor, the smaller
3 one.

4 THE COURT: And which one is the small one?

5 MS. CAMPBELL: That would be 400, Your Honor.

6 THE COURT: All right. And he objects. All
7 right, yes, sir?

8 MR. WHITLARK: Yes. May it please the Court?
9 Your Honor, we would object to it because he just
10 now said it's not to scale -- and I believe that is
11 what he said?

12 THE COURT: He did.

13 MR. WHITLARK: For that reason, we would
14 object to it. He says it is not to scale. We do
15 not have an objection to the prior exhibit, I don't
16 know the number, I'm not sure of the number of the
17 larger blueprint, right here.

18 MS. CAMPBELL: 405.

19 MR. WHITLARK: 405, there is no objection to
20 405.

21 THE COURT: All right. Yes, ma'am?

22 MS. CAMPBELL: Your Honor, because he stated
23 it was not to scale and is his work product, then
24 it would be admissible for purposes of
25 demonstrative evidence for the jury.

1 THE COURT: All right. The objection will be
2 overruled. I think you stated it for the record.

3 MR. WHITLARK: Yes, ma'am.

4 (WHEREUPON, State's Exhibit No. 400 was
5 marked for identification and received
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 405 was
8 marked for identification and received
9 into evidence.)

10 MS. CAMPBELL: Your Honor, may the witness
11 step down?

12 THE COURT: Yes, ma'am.

13 (The witness steps down.)

14 MS. CAMPBELL: And if you will come over on
15 this side.

16 (Witness complies.)

17 BY MS. CAMPBELL:

18 Q I show you State's Exhibit Number 405, sir. What
19 area of the house does that depict?

20 A The second floor to the residence.

21 Q And, again, there are two staircases that are
22 referenced -- that we have been referencing -- the
23 back staircase, as well as the two front staircases
24 adjoining and coming up to one. Are those shown in
25 this map?

1 A Yes, they are.

2 Q And where are they shown, sir?

3 A This is the one (indicating) that comes up from the
4 garage area that we talked about, and in turn comes
5 to what is depicted as the playroom, which is a
6 large room that both -- the one on the right and
7 the stairs on the left would enter.

8 Q And the playroom that is depicted on there, does it
9 have a big piece of furniture that distinguishes it
10 when we are looking on this photograph?

11 A Yes, it's a large sofa.

12 Q And what color was that sofa?

13 A Red.

14 Q And the other sets of stairwells, where did those
15 come up?

16 A These come up from either side. Those were two
17 that was down -- come off the foyer in the family
18 room that was shown on the first floor. They come
19 together and then stairs come up and also come into
20 the playroom area, one on both sides.

21 Q Okay. And the area of the two bedrooms here
22 (indicating) with a bathroom in between them, this
23 first bedroom is labeled as Bedroom Three on this
24 diagram. What was that being used for?

25 A For an office.

1 Q And that is the office area where we refer to where
2 Ms. Parker was shot?

3 A It is.

4 Q And that is right there as you get off this
5 staircase, right?

6 A Yes.

7 Q Is that the door right there (indicating)?

8 A Yes.

9 Q And I want to show you what has been marked as
10 State's Exhibit 400. Can you tell the jury
11 generally what area this shows?

12 A This shows basically the same area. I'm showing
13 the stairs here (indicating) that come up from the
14 garage area and come into the family room, which is
15 a big open room that both the stairs on this side
16 (indicating) and the stairs on this side
17 (indicating) come to that has that big red couch in
18 it.

19 So it is an open family game room. These are
20 the two bedrooms that are annotated on the
21 blueprint, which this one (indicating) is used for
22 the office with the bathroom in between when you
23 come up these stairs (indicating) into the
24 entranceway to the office. That will be the door
25 to the office.

1 Q Okay. And as far as the attic area and the safe,
2 which are significant in this case, where are those
3 denoted on your drawing?

4 A From the family room, after you come up either
5 stairs on either side of the family room, you come
6 to a small hallway into a spare room which was used
7 for storage, into an adjoining second spare room
8 which is used for storage. And the door to the
9 attic was at the far right-hand corner of this
10 room. The attic space will run along this area
11 (indicating) of the house.

12 Q And I believe there was testimony earlier that
13 these rooms, there was a light on in the attic area
14 when you got there?

15 A Yes.

16 Q And on this State's Exhibit 405, are these areas
17 shown that is labeled, I believe, as the media
18 room?

19 A They are. This (indicating) is the playroom, the
20 large playroom or game room, and two bedrooms.
21 This (indicating) is a small hallway that comes in,
22 but this media room (indicating) on this blueprint
23 doesn't indicate how large it is, which it runs up
24 to this area here (indicating) in the second room,
25 that is down here (indicating). So the first

- 1 room --
- 2 Q If you go in there --
- 3 A -- if you go in here (indicating), then you come
4 into the other room and then the attic door is
5 right in this area here (indicating).
- 6 Q So the attic door would be right in here
7 (indicating)?
- 8 A Yes, it would really come out to right here
9 (indicating). The reason I had to draw this was
10 attempting to show how it actually is. The
11 blueprint doesn't actually show --
- 12 Q How it was modified?
- 13 A How it started and then modified the house.
- 14 Q But it does show the general area, it's just
15 this --
- 16 A Yes.
- 17 Q -- Exhibit 400 shows the accurate, more accurate
18 how these things run as far as where the media room
19 is?
- 20 A That's correct. It shows the general area, the
21 blueprint.
- 22 Q Okay. I am going to show you State's Exhibit
23 Number 127 through 137. First of all, where is
24 this area showing?
- 25 A This is at the top of the stairs coming from the

1 stairs that come from the bottom at the garage area
2 on the right-hand side.

3 Q So those would be the back stairs?

4 A Yes, it would be the back stairs here (indicating)
5 at the top of the stairs.

6 Q And that is looking up as you are coming up the
7 stairs?

8 A Yes, into what is depicted here (indicating) as the
9 playroom.

10 Q And I show you State's Exhibit Number 128. What
11 does that show?

12 A That depicts the playroom that is indicated on the
13 blueprint here (indicating) with that large red
14 sofa.

15 Q And is that kind of the central area upstairs?

16 A Yes.

17 Q At one end of the room is what type of furniture?

18 A That was a large TV.

19 Q And then at the other end of the room, you can see
20 the back hallway, things of that nature?

21 A Yes.

22 Q And then State's Exhibit Number 132 and 133 are
23 also different angles in that same main room?

24 A It is.

25 Q In State's Exhibit 134, you actually see a

1 stairwell?

2 A Yes.

3 Q Coming up?

4 A Yes.

5 Q And is that the front or the back stairwell?

6 A That is the back stairwell.

7 Q State's Exhibit Number 135, there is a room back

8 here (indicating)?

9 A Yes.

10 Q What room is that?

11 A That is the office area.

12 Q And that would be office area where Ms. Parker was

13 shot?

14 MR. WHITLARK: Objection, Your Honor. I don't

15 mind moving this along fast, Your Honor, but she is

16 leading the witness. I don't mind it, but I will

17 object to that last question.

18 THE COURT: All right. Objection sustained.

19 Please rephrase.

20 MS. CAMPBELL: I'm sorry, Your Honor.

21 BY MS. CAMPBELL:

22 Q What room is that, sir?

23 A That is the office area.

24 Q And, finally, State's Exhibits 137 and 131. What

25 do those show?

1 A That is just other views of the playroom.

2 Q Significantly in the family room, were there
3 certain items of evidence reflected there?

4 A Yes, there was.

5 MR. WHITLARK: Objection again, Your Honor.
6 Objection to the commentary describing significance
7 or anything else by the Prosecution.

8 THE COURT: Sustained. Please rephrase the
9 question.

10 BY MS. CAMPBELL:

11 Q Did you collect any evidence in the family room
12 that proved to be significant?

13 A Yes. On the floor of the family room, when we
14 first got there, there was two plastic cups that
15 the First Responders marked, two shell casings that
16 was right behind the large red sofa.

17 Q And in your experience as a crime scene
18 investigator, how do shell casings get left at a
19 scene?

20 A From a weapon that is fired. They eject from an
21 automatic weapon, and the casings are usually left,
22 if not picked up.

23 Q And these were found in what area of the house?

24 A It was in the playroom right outside the office
25 behind the big red sofa, the large red sofa; but it

1 was consistent with the door that went into the
2 office room from the play area.

3 Q And on State's Exhibit 138, that door to the
4 office, is that shown there in relation to the
5 shell casings?

6 A That's the door to the office.

7 Q I want to show you State's Exhibits 141 through
8 144. First of all, 141, what does that picture
9 show?

10 A The picture shows the office from the entrance.

11 MR. WHITLARK: Your Honor, excuse me. For
12 purposes of the record, I object to that on the
13 previous grounds stated to Your Honor, Number 141,
14 on Exhibit 141.

15 THE COURT: All right. The objection is
16 overruled.

17 MR. WHITLARK: Thank you, Your Honor.

18 BY MS. CAMPBELL:

19 Q And what do you see in this photograph?

20 A That is the office stuff. If you go around the
21 room, you can see the desk in the right-hand
22 corner. You can also see the bottom torso and the
23 legs of Ms. Parker.

24 MS. CAMPBELL: Your Honor, may we approach?

25 THE COURT: Yes, ma'am.

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

4 BY MS. CAMPBELL:

5 Q State's Exhibit Number 141, what does that show?

6 A It shows the office area and the view from the
7 door. It shows the desk in the rear right corner.
8 It also shows the lower torso of Ms. Parker and
9 legs.

10 Q And her legs?

11 A Yes.

12 Q And that's where she was when you got there that
13 day?

14 A Yes.

15 Q There are two cups here on the floor. What do
16 those signify from those marks?

17 A Those two cups were marked by First Responders.
18 One was a -- both were shell casings.

19 THE COURT REPORTER: I'm sorry?

20 THE WITNESS: Both were shell casings.

21 MS. CAMPBELL: Your Honor, permission to
22 publish and let the jury pass these around.

23 THE COURT: All right. Let me -- can I see
24 the photos?

25 MS. CAMPBELL: Yes, ma'am.

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

4 MR. WHITLARK: Your Honor, please note the
5 Defense's objection on the grounds that -- the
6 inflammatory nature of the pictures, Your Honor.
7 Thank you. I understand the Court's ruling.

8 THE COURT: All right. And I'm going to ask
9 the -- she is going to pass the pictures around, so
10 they are going to have them in their hands. I am
11 going to ask the press not to film these photos.

12 All right. Thank you.

13 MS. CAMPBELL: Do you want me to have them
14 pass them around, or can I show them?

15 THE COURT: Pass them.

16 MS. CAMPBELL: Okay.

17 BY MS. CAMPBELL:

18 Q State's Exhibit Number 142, which I am getting
19 ready to hand to the jury, what does that show?

20 A That shows the body in the photograph of Ms. Parker
21 in the entranceway between the office and the back
22 stairs.

23 Q State's Exhibit Number 143, what does that show?

24 A That is the lower half of the legs of Ms. Parker
25 which shows the cups that is next to the shell

1 casings on the floor.

2 Q Right next to her tennis shoes?

3 A Yes.

4 Q And then finally, State's Exhibit Number 144?

5 A That is a partial projectile that was found on the
6 floor. It was on the right side of Ms. Parker's
7 legs.

8 Q What is the difference between a projectile and a
9 shell casing?

10 A The projectile is the actual bullet that comes out
11 of the shell casing --

12 COURT REPORTER: I'm sorry. You are going to
13 have to speak up, please.

14 A The projectile is actually the bullet that comes
15 out of the gun that is fired. The cartridge casing
16 holds all of the primers, the powders, and things
17 of that nature, that force the bullet out of the
18 muzzle of the gun.

19 Q And it's ejected out of the side of a
20 semi-automatic gun?

21 A The cartridge casing, the fired cartridge casing,
22 is ejected out of the side of the muzzle of the
23 gun.

24 Q Thank you.

25 (Exhibits published to jury.)

1 Q I am going to show you State's Exhibits 163 through
2 169. Specifically 163, what does that show?

3 A That shows particularly the area of the office
4 where the desk is in the corner, the right-hand
5 corner.

6 Q And how many desks were actually in this office?

7 A Two.

8 Q And this shows which desk, the first one you come
9 upon or the second one, or which one?

10 A The second one, the farthest one.

11 Q And I show you State's Exhibit Number 164. What
12 does that show?

13 A That's also the desk in the far right-hand corner.

14 Q And is there anything significant on that?

15 A Yes. There is an impact point to the side, what I
16 call the side, because looking into the corner from
17 the front area, the side area that goes toward the
18 back and toward the window, that is the side area,
19 and there is an impact point in that position.

20 Q I show you State's Exhibit Number 165. Do you
21 recognize that?

22 A That's the second desk that is in the area. It's
23 right as you come inside the office through the
24 doorway to the immediate right.

25 Q So as you're coming in the door to the office,

1 where is it?

2 A To the right.

3 Q Right to the right?

4 A Right.

5 Q Against the wall when you are coming through?

6 A Against the wall.

7 Q I show you State's Exhibit Number 166. Do you
8 recognize that?

9 A Yes. This is a cartridge casing that was also
10 marked, and that is right in front of the desk that
11 is against the wall as you come in the door on the
12 right.

13 Q So that would be in front of this desk, 165?

14 A Yes.

15 Q State's Exhibit Number 167?

16 A That shows from the position of the desk that is in
17 the corner towards the entrance to the office.

18 Q And there are some cups in this one as well?

19 A Yes, it's the same cups. There should be three
20 cups. The three cups indicate the three fired
21 cartridge casings that was on the floor or on top
22 of substances that are on the floor right in front
23 of that desk.

24 Q State's Exhibit Number 168 shows what?

25 A It shows -- let me make sure of what it shows. It

1 shows at least two of the cups, again, that is
2 cartridge casings on the floor, one as you come in
3 to the right towards the desk against the wall and
4 one to the left of Ms. Parker's legs.

5 Q A close-up view of that in 169?

6 A Yes. That is a close-up view of three plastic cups
7 that were placed there by First Responders with the
8 cartridge casings on the floor.

9 Q I show you what has been marked as State's Exhibits
10 Number 170 through 173. Do you recognize that?

11 A Yes. This will be the desk that is in the corner.
12 When you walk into the entryway, you see it in the
13 right-hand corner. It is a distant picture, but
14 you can make out some impact points, one that is on
15 the left side of the desk and two on the front.

16 Q And in this photograph on that desk, do you see any
17 telephones?

18 A Yes.

19 Q And a close-up of 171 shows at least one of those
20 phones?

21 A Yes.

22 Q And was that how they appeared when you got there
23 that day?

24 A Yes, that would have been the way it was when we
25 arrived to take -- to start documenting.

1 Q And these telephones that are in these photographs,
2 were they in the same area where Ms. Parker's body
3 was?

4 A They were in the same room.

5 Q I show you State's Exhibit Number 172. Do you
6 recognize that? And 173 is a close-up?

7 A Yes. That is a projectile. That's one of the
8 projectiles that was found on the floor behind the
9 desk next to the trash can.

10 Q 174 and 175?

11 A Yes. That is a receipt that was on the desk. It
12 was photographed for the possibility of future
13 investigative work.

14 Q And this area (indicating) next to the receipt,
15 what does that show?

16 A That next to it is also an impact point to the top
17 of the desk. As we were looking initially that
18 night, it appeared to be a ricochet off the top of
19 the desk and a possibility of being consistent with
20 impact points to the corner of the wall.

21 Q And when you say impact points, would you explain
22 those to the jury, what do you mean by that?

23 A An impact point is either a defect where something
24 has penetrated or perforated a wall, or whatever
25 the target might be in order -- say, if a gun is

1 fired, the projectile moves out of the muzzle and
2 hits a target. If it goes to a target and does not
3 go all the way through, it penetrates, it goes all
4 the way through, it perforates the target. But
5 that becomes an impact point at that -- there are
6 many types of impact points. When we are talking
7 about a shooting reconstruction or a shooting
8 incident, it usually means a fired weapon.

9 Q State's Exhibit Number 176, what does that show?

10 A That's a calendar that was on top of the desk.

11 Q And was that later collected?

12 A Yes.

13 Q Also in there, State's Exhibit 177 and 178?

14 A A Staples receipt that was on the top of a plastic
15 bag on the floor as you come in in front of the
16 desk against the wall. It was photographed and I
17 believe it was later collected.

18 Q And the Staples receipt, is there a time and a
19 date?

20 A Yes, 04/13/12 at 11:37.

21 Q At 11:37?

22 A Yes.

23 Q And that was the date of this incident?

24 A That's the date of the incident, yes.

25 Q Okay. 179 and 180, do you recognize those?

1 A Yes, it's Taurus gun boxes. They were taken out
2 from underneath this little cabinet that was in the
3 corner. I will say as you come in the far right
4 corner, the gun box was underneath the cabinet. We
5 pulled it out and photographed it and it was later
6 collected.

7 Q And as far as which -- how many guns did you
8 collect upstairs that day? How many guns did you
9 collect?

10 A Are you talking about upstairs?

11 Q Upstairs.

12 A Upstairs? One.

13 Q And then downstairs you collected?

14 A The Taurus -- I mean, downstairs we collected two.

15 Q Okay. And of those three guns that were in the
16 house that you collected, which gun did the box
17 belong to, if any?

18 MR. WHITLARK: Objection, Your Honor. It's a
19 leading question again, Your Honor.

20 THE COURT: I didn't hear the question.

21 MS. CAMPBELL: I said: Which gun, if any, did
22 this belong to?

23 MR. WHITLARK: Excuse me, Your Honor. That is
24 not the question that I was objecting to. He could
25 not remember the number of guns, and she told him

1 what the number was that he collected.

2 THE COURT: All right. Objection sustained.
3 Please rephrase the question. Which question are
4 you objecting --

5 MS. CAMPBELL: I didn't say that, but I will
6 rephrase the question.

7 THE COURT: All right. Just rephrase the
8 question. Thank you.

9 BY MS. CAMPBELL:

10 Q This gun box, was it significant as to any of the
11 guns you recovered that day?

12 A Yes, I believe it was.

13 Q And which one?

14 A The Taurus .38.

15 Q After you initially photographed the general area
16 of the office, did you go back and then put out --
17 or what do you do?

18 A We put evidence markers by a piece of evidence that
19 we feel is going to be necessary to collect, and
20 then we photograph them again.

21 Q I show you State's Exhibit Number 183.

22 A Yes. That is Evidence Markers A and B, A being the
23 projectile to the right of Ms. Parker's legs, B
24 being the fired cartridge casings that was to the
25 left of her legs.

1 Q And in relation to this, you also do close-ups of
2 the marker you place there?

3 A Yes.

4 Q And what is this, State's Exhibit Number 184?

5 A That's Marker A. That was the partial projectile
6 to the right of Ms. Parker's legs.

7 Q In that same relation, State's Exhibit Number 185?

8 A Yes. That would be the fired cartridge casing to
9 the left of Ms. Parker's legs.

10 Q In other parts of the room, did you also mark
11 certain cartridge casings, in State's Exhibits 187
12 and 186?

13 A Yes. These were D and C also, fired cartridge
14 casings that were to the left -- I mean, excuse me,
15 to the right as you entered the room at the front
16 of the desk against the wall.

17 Q And I will show you State's Exhibit 182, sort of
18 out of order. Does that show the general area of
19 these close-ups?

20 A Yes, it does.

21 Q State's Exhibit Number 188 shows which markers?

22 A Marker E and Marker D, both fired cartridge
23 casings.

24 Q And, again, where was this desk located?

25 A As you come in, it's to your immediate right

- 1 against the wall.
- 2 Q I show you what is marked State's Number Exhibit
- 3 189. Did you place markers in that one?
- 4 A Yes. That's Marker F in front of the desk.
- 5 Q And which desk is this?
- 6 A That was the desk as you come in. It is at the far
- 7 right side of the room in the corner.
- 8 Q And I show you State's Exhibit Number 190.
- 9 A Yes, that is a projectile that was lying in front
- 10 of the desk.
- 11 Q This is a projectile, not a shell casing?
- 12 A Yes.
- 13 Q State's Exhibit Number 191 shows what?
- 14 A This is also a projectile. This was a projectile
- 15 that was marked as G behind the desk next to the
- 16 small refrigerator underneath the desk.
- 17 Q State's Exhibit Number 192 shows what?
- 18 A That's the calendar marked J that was on top of the
- 19 desk that was in the far corner of the room.
- 20 Q State's Exhibits 193 and 194?
- 21 A That's the receipt that was on the plastic on the
- 22 floor in front of the desk to the right against the
- 23 wall as you walk in the room.
- 24 Q As you walked from the main family room that you
- 25 referred to, with what piece of furniture?

- 1 A The large red sofa.
- 2 Q In order to get -- I show you State's Exhibit
- 3 Number 201. Does that show these adjoining rooms?
- 4 A Yes, it does. It shows the doorway into the first
- 5 large room that was being used as a storage room,
- 6 coming from the family room or the playroom they
- 7 had depicted here.
- 8 Q As you walk in in State's Exhibit 196?
- 9 A Yes, that shows the adjoining room.
- 10 Q And then back here where my finger is, what does
- 11 that show?
- 12 A That would be the door to the attic.
- 13 Q Which is displayed in State's Exhibit Number 198?
- 14 A Correct.
- 15 Q And the attic area is where who was found?
- 16 A Mr. Capnerhurst.
- 17 Q Finally, State's Exhibit Number 195?
- 18 A That is another picture of the door to the attic.
- 19 Q I'll show you State's Exhibit Number 284. What
- 20 does that show?
- 21 A That is the door to the attic looking in from the
- 22 storage room outside with a blue and black bag that
- 23 was on the floor just inside the entranceway.
- 24 Q And that is how it appeared when y'all first got
- 25 there to do these photographs?

- 1 A That is how it appeared when I took that
2 photograph, yes.
- 3 Q And that is where it was located at first before
4 y'all moved it?
- 5 A Yes.
- 6 Q And State's Exhibit 283, is that another shot?
- 7 A Yes, it is.
- 8 Q After you did your photographing that night, at
9 some point did y'all have an opportunity to inspect
10 that bag?
- 11 A Yes, we did.
- 12 Q And I'm showing you State's Exhibit 286 -- 286 and
13 287. What do those show?
- 14 A That shows the bag, the blue and black bag. And we
15 marked it with Evidence Marker O. And the top one
16 is the bag closed, and the lower one is the bag
17 open.
- 18 Q And obviously it had been moved at this point?
- 19 A Yes, it had.
- 20 Q And at that point did you examine what was inside?
- 21 A Yes.
- 22 Q And I show you State's Exhibits 285 and 290.
- 23 A Yes. That was a cartridge box that was laying on
24 top of some clothing items inside the bag.
- 25 Q Inside that bag?

1 A Yes.

2 Q And that is how they were facing when y'all opened
3 it?

4 A Yes.

5 MR. WHITLARK: Objection, Your Honor.

6 THE COURT: Yes, sir, the objection?

7 MR. WHITLARK: Objection, Your Honor. Again,
8 another leading statement to the witness telling
9 him how he found certain evidence. And I object to
10 it.

11 THE COURT: All right, objection sustained.

12 Please rephrase the question.

13 BY MS. CAMPBELL:

14 Q Is that how you found it?

15 A That is how I found it.

16 Q Okay. I show you what has been marked as State's
17 Exhibits 205 and 202. Do you recognize those?

18 A Yes. Those are evidence bags that were sitting
19 right outside the doorway, the entrance to the
20 attic itself on the right, inside the bag with the
21 9-millimeter that Lieutenant Odom had placed in the
22 evidence bag and placed the evidence bag there.

23 Q And State's Exhibit Number 208, what does that
24 show?

25 A That shows the 9-millimeter that I took out of the

1 bag and photographed on the scene.

2 Q Again, when you went to the upstairs area -- excuse
3 me, let me back up. Looking from State's Exhibit
4 Number 263, what does this show?

5 A This shows Mr. Capnerhurst as he was laying in the
6 attic as depicted from the doorway.

7 Q 263 is from the doorway?

8 A Yes.

9 Q And then 264, is from what angle?

10 A Is from the angle of the safe.

11 MR. WHITLARK: Objection, Your Honor, of the
12 prejudicial nature of -- and the inflammatory --

13 THE COURT: And these are the ones I have
14 already ruled on?

15 MR. WHITLARK: Yes.

16 THE COURT: All right. And the objection is
17 overruled.

18 But, once again, to members of the media or
19 the press, I will ask out of respect to the
20 Defendants that you not -- I mean, the victims,
21 that you do not film those.

22 Thank you.

23 Yes, ma'am?

24 MS. CAMPBELL: Permission to publish?

25 THE COURT: Yes.

1 BY MS. CAMPBELL:

2 Q And, again, the first one I'm handing up is 263.

3 That is from what angle?

4 A That is from the position of the doorway into the
5 attic.

6 Q And then 262?

7 A Is from the direction going towards the doorway
8 from the safe.

9 Q And what is that right there in the middle of it?
10 What is that?

11 A The door?

12 Q Yes. And the evidence upstairs is just as you had
13 done in the office. Did you do anything to mark
14 and then rephotograph certain pieces of evidence
15 that you collected?

16 A Yes.

17 Q I show you State's Exhibit Number 209. What does
18 that show?

19 A These are the fired cartridge casings that I
20 alluded to that were out in the media room behind
21 the red sofa, large red sofa. Those were marked
22 and photographed for collection also.

23 Q And 211 shows the same thing from a different
24 angle?

25 A Yes.

1 Q And then 210 would be a close-up of one of those
2 shell casings?

3 A Yes.

4 Q 214, what is that mark?

5 A It is the mark of the blue and black bag, another
6 photograph of it with it opened up and the
7 cartridge box inside.

8 Q And, again, when you got there, was the bag opened
9 or shut?

10 A Shut.

11 Q Zipped?

12 A Zipped.

13 Q 215, what does that show?

14 A That shows the evidence bag with a 9-millimeter
15 inside at the door of the attic.

16 Q And finally, 217.

17 A 217 shows the evidence bag where I had taken the
18 9-millimeter out for photography.

19 Q I show you 218 through 224. Was there certain
20 evidence that you collected in the attic area?

21 A Yes.

22 Q I show you 218. What does that show?

23 A That shows part of the wadding from a shotgun-type
24 shell casing. Usually in shotgun-type shells
25 themselves they have wadding inside and they blow

1 out also when the weapon is fired or the projectile
2 or the pellets or whatever it is comes out.

3 These are waddings that also come out from the
4 weapon itself. And these were found -- some of
5 these, a few of them were found in the attic also.
6 We marked them and photographed them and collected
7 them also.

8 Q And I show you 222 and 219.

9 A Those are marked R and Q are the two that we
10 located in the attic space. We marked and
11 photographed for collection.

12 Q Thank you, sir. If you can please go back up on
13 the stand.

14 (Witness returns to witness stand.)

15 Q Can you tell the jury basically what your
16 observations were of the office area when you first
17 walked in how you noted it in your report?

18 A I started at the entertainment room, which is right
19 outside of the two fired cartridge casings that
20 were right outside the office area, and notated
21 that, that there were two casings there that had
22 been marked with plastic cups adjacent to the
23 office.

24 At the entranceway between the office and the
25 bathroom, a female dressed in a red jogging top and

1 black pants and black shoes, lying face-down on the
2 floor in what appeared to be blood.

3 I observed fired cartridge casings to the left
4 of the victim's leg and a partial projectile to the
5 right of the victim's leg, which had been marked by
6 the plastic cup by the First Responders.

7 I observed a male -- and that is in the
8 office.

9 Q In the office?

10 A Yes.

11 Q And then as you proceeded into the other areas of
12 the house, what did you observe?

13 A I went on through photographing and documenting in
14 the second level, and I made my way to the attic
15 area at that time through those two rooms that were
16 being used for storage and through the doorway that
17 was depicted on the photographs into the attic
18 area.

19 At that time I observed a male dressed in a
20 black fleece jacket, black shorts, white tennis
21 shoes lying partially on his back and partially on
22 his right side with what appeared to be blood on
23 his face and torso area.

24 I also observed one shotgun-type wad that was
25 observed on the fleece jacket of the victim and one

1 on a nearby cardboard box.

2 I continued then with the initial
3 documentation of the interior of the residence,
4 which is what I was doing at the time.

5 Q And while you were there, did personnel from the
6 Coroner's Office come to the scene?

7 A Eventually, yes.

8 Q And did a pathologist also come to the scene as
9 well?

10 A Yes. As we were going through all this and
11 finishing these type things and I was documenting
12 with photographs, Lieutenant Cavanagh and
13 Investigator Bouknight was documenting portions of
14 the upstairs using a Leica ScanStation system that
15 we employ.

16 After these things were done and the scanning
17 was finished, myself and Lieutenant Cavanagh
18 escorted the Coroner's Office, which at that time
19 was the coroner, Mr. Watts, and Dr. Marcus, who is
20 a pathologist, into the scene for a consultation
21 reference the victim, Ms. Parker, in the office.

22 Q Okay. Once that had been done, once you had
23 finished photographing and everything, prior to any
24 further analyzation at the crime scene, did you
25 collect certain evidence in this case?

- 1 A Yes.
- 2 Q You and Investigator Holdorf, I believe, were
- 3 working together?
- 4 A We did.
- 5 Q I want to show you certain items first, and first
- 6 ask you if you recognize these?
- 7 A Yes, these are fired cartridge casings marked B, C,
- 8 D, E, H, and I from the office and the family room.
- 9 Six. Six of them.
- 10 This was submitted eventually to evidence by
- 11 Investigator Holt, but collected by he and I.
- 12 Q And those were collected that night from the scene
- 13 in the office?
- 14 A They were.
- 15 Q And I show you what has been marked as State's
- 16 Exhibit Number 381. Do you recognize that?
- 17 A Yes. These are shot cups from Mr. Capnerhurst's
- 18 coat, Projectiles A and F and G from the office,
- 19 Shot Cups Q and R from the attic. These were
- 20 eventually entered into evidence by Investigator
- 21 Holt, but collected by the two of us.
- 22 Q And when you say shot cup, what do you mean by
- 23 that?
- 24 A That is the wadding that I was showing you and
- 25 depicted in the photographs.

1 Q And so these are the items that were depicted in
2 the photographs we have just shown to the jury?

3 A Yes. Yes.

4 Q Some from the office and some from the attic area?

5 A Yes.

6 MS. CAMPBELL: Your Honor, at this time we
7 would offer those two into evidence.

8 THE COURT: Any objection?

9 MR. WHITLARK: No objection, Your Honor.

10 THE COURT: All right. And the numbers again
11 are?

12 MS. CAMPBELL: Your Honor, it is 383 and then
13 381.

14 THE COURT: 381 and 383 will be entered
15 without objection.

16 (WHEREUPON, State's Exhibit No. 381 was
17 marked for identification and received
18 into evidence.)

19 (WHEREUPON, Defendant Exhibit No. 383
20 was marked for identification and
21 received into evidence.)

22 BY MS. CAMPBELL:

23 Q I want to show you the gym bag that you just showed
24 that was found in what area?

25 A Initially found just inside the door to the attic.

1 Q And showing you what has been marked as State's
2 Exhibit 371 and then State's Exhibit Number 375.
3 First, do you recognize those?
4 A Yes, it is my handwriting on the outside. This is
5 a box of UMC cartridge casings that were found
6 inside the bag.
7 Q And that night, were all these items collected, as
8 well as some other toiletry and clothing that were
9 inside the bag?
10 A Yes.
11 Q And did you actually take possession of those and
12 later process some of these items?
13 A Yes.
14 MS. CAMPBELL: Your Honor, at this time we
15 would offer 371 and 375 into evidence.
16 THE COURT: Any objection?
17 MR. WHITLARK: Let me take a look, Your Honor.
18 THE COURT: All right.
19 (Pause.)
20 MR. WHITLARK: No objection to Exhibit Number
21 375.
22 THE COURT: What about 371?
23 MR. WHITLARK: No objection.
24 THE COURT: All right, 371 and 375 would be
25 entered without objection.

1 (WHEREUPON, WHOSE Exhibits
2 NO or NOS NO
3 WAS or WERE admitted into
4 evidence.)
5 (WHEREUPON, WHOSE
6 Exhibits NO or NOS
7 NO WAS or WERE
8 marked for identification and received
9 into evidence.)

10 BY MS. CAMPBELL:

11 Q And I show you what has been marked as State's
12 Exhibits 373, 389, and 390.

13 A Okay, this is the -- 373 is the 9-millimeter Smith
14 & Wesson that I collected. I processed it and
15 eventually packaged this myself and entered this
16 into evidence.

17 Q And where was that found, sir?

18 A 9-millimeter.

19 Q Where was it found?

20 A Oh, it was found in the evidence bag just outside
21 the attic door that had been placed there by
22 Lieutenant Odom.

23 Q The next item that I show you is State's
24 Exhibit Number 389.

25 A 389 is the Taurus Judge, Marker M. It was in the

1 downstairs sitting area. It was collected and
2 eventually entered into evidence by Investigator
3 Holt.

4 Q And finally, sir, 390. Was that also collected
5 that night?

6 A Rossi .38, yes. It was collected from the master
7 bathroom closet and eventually entered into
8 evidence by Investigator Holt.

9 MS. CAMPBELL: Your Honor, at this time we
10 would offer these three into evidence.

11 MR. WHITLARK: Your Honor, we have no
12 objection to Exhibit 373 or 389. However, we do
13 have an objection to Exhibit 390.

14 THE COURT: Which one is 390?

15 MS. CAMPBELL: 390, Your Honor, is the Rossi
16 .38 caliber with five unfired cartridges, which was
17 found in the bathroom downstairs.

18 THE COURT: Is it the objection you had
19 earlier?

20 MR. WHITLARK: Well, Your Honor, it is in
21 addition to the objection I previously had about
22 the picture. Now they are trying to put the weapon
23 itself into evidence, and I object to it on
24 relevance grounds and on the grounds of the
25 prejudicial nature of it, as we previously

1 discussed on the record.

2 THE COURT: All right. Yes, ma'am?

3 MS. CAMPBELL: Your Honor, we are offering it
4 because it is relevant to this case, specifically
5 as to the Defendant's actions that day and the
6 actions he said he took. And this is integral to
7 the State's position. This gun was found in his
8 house in his bedroom where he had access to it.

9 THE COURT: All right. The objection is
10 overruled. I think I stated the reasons earlier on
11 the record. If not, we'll do that during the
12 break, when we take a break.

13 MR. WHITLARK: All right. Thank you, Your
14 Honor.

15 (WHEREUPON, State's Exhibit No. 373 was
16 marked for identification and received
17 into evidence.)

18 (WHEREUPON, State's Exhibit No. 389 was
19 marked for identification and received
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 390 was
22 marked for identification and received
23 into evidence.)

24 BY MS. CAMPBELL:

25 Q Showing you State's Exhibit Number 389, which gun

- 1 is that as depicted by the label on the box?
- 2 A It is the Taurus Judge. That was the weapon that
- 3 was found in the family room downstairs on the
- 4 floor on the carpet.
- 5 Q And what is the name brand on that? Taurus?
- 6 A Taurus Judge.
- 7 Q And you found a gun box which we showed pictures of
- 8 earlier. What was the name brand on that?
- 9 A Taurus.
- 10 Q Okay. And this was found where?
- 11 A That was found in the family room downstairs just
- 12 inside -- as you come into the front door and go
- 13 through the foyer, there is a family room back
- 14 there, that was found on the corner of a rug right
- 15 as you enter the family room.
- 16 Q And once you collected this, did you check to see
- 17 whether or not it had any ammunition in it?
- 18 A Yes, I did.
- 19 Q As indicated here on the label?
- 20 A It had four fired cartridges and one unfired
- 21 cartridge inside the weapon.
- 22 Q And when you say a fired cartridge versus an
- 23 unfired cartridge, what does that mean?
- 24 A A fired cartridge means the cartridge where the
- 25 projectile had been expended and had been fired. A

1 unfired cartridge, of course, is one that is intact
2 and has not been fired.

3 Q And are you aware of the difference between a
4 revolver or a semi-automatic handgun?

5 A Yes.

6 Q And what type of gun was the Judge?

7 A Revolver.

8 Q And, as such, talking about shell casings found at
9 the scene upstairs, what happens to the shell
10 casings to the revolver?

11 A They stay in the cylinder.

12 Q Does the same thing happen with a semi-automatic?

13 A No, they are ejected.

14 Q The next gun I am going to show you is State's
15 Exhibit Number 373. Do you recognize that?

16 A Yes, it is a 9-millimeter Smith & Wesson with one
17 magazine and one unfired cartridge, 9-millimeter
18 cartridge.

19 Q And before I do anything else, will you check and
20 make sure the safety is --

21 (Complies.)

22 MS. CAMPBELL: I am having him check the guns
23 to make sure they are --

24 THE COURT: Do you have gun locks?

25 MS. CAMPBELL: They have got the straps on

1 them, Your Honor, the zip ties.

2 THE COURT: Yes.

3 MS. CAMPBELL: And I can get a gun lock as
4 well. I'll get that.

5 THE COURT: I had some, but I think I used
6 them the last time.

7 BY MS. CAMPBELL:

8 Q And without pointing this at anybody, if you can
9 just show the jury what this looks like?

10 A This is the part of the gun that fires the
11 cartridges. It is a revolver. This is a cylinder.
12 I was talking about the cartridges go in the
13 cylinder. And once it is fired, cartridge casings
14 stay in there. They are not ejected anywhere.

15 Q And with that strap on it, it is not operable, is
16 it?

17 A No. We have the cylinder out and with the strap
18 ties inside the cylinder itself, so it will not
19 close.

20 THE COURT: One second. I can't hear him.
21 I'm not sure if Mr. Whitlark can hear him.

22 MR. WHITLARK: I can't hear him either, Your
23 Honor.

24 THE COURT: All right. If you can speak up
25 for us, sir, that would be great.

1 THE WITNESS: Yes, ma'am.

2 MS. CAMPBELL: I have got him leaning over.

3 I'm sorry.

4 BY MS. CAMPBELL:

5 Q And you mentioned that it had certain ammunition in

6 it?

7 A Yes, ma'am.

8 Q I show you just one of them. Is that one of the

9 pieces of ammunition you got out of that gun?

10 A Yes, it is.

11 Q And what type of ammunition is that, sir?

12 A That was depicted as being a .410 type of

13 ammunition, which I am not real familiar with, but

14 that is what was in the weapon.

15 Q This right here?

16 A Yes.

17 Q And how many does that gun actually hold?

18 A This gun holds five.

19 Q How many did you find in it?

20 A Four fired cartridges, one unfired cartridge.

21 Q Put that back in the case.

22 (Complies.)

23 Q The next gun I'm handing you is State's Exhibit

24 Number 373. Do you recognize that?

25 A Yes, this is the 9-millimeter.

1 Q And, again, where did you recover that?

2 A The 9-millimeter was from the evidence bag just
3 outside the entrance to the attic.

4 Q And what type of gun is that, sir?

5 A It is an automatic.

6 Q And can you check to make sure it is not --

7 MS. CAMPBELL: It has also got a zip tie on
8 it, Your Honor.

9 THE COURT: Okay.

10 (Complies.)

11 A Yes, this means it is safe.

12 Q And what kind -- when you collected it, in the
13 magazine did it have any ammunition?

14 A No, it did not.

15 Q Showing you this, what is this, sir?

16 A That is the magazine that holds the projectile, the
17 cartridges, until they are fired.

18 Q Put that back in.

19 (Complies.)

20 Q You mentioned also that you collected -- what is
21 that, the left side?

22 A One magazine -- one unfired cartridge from the
23 weapon, from the gun.

24 Q And I show you that. Is that what you recovered
25 from that gun?

1 A Yes, it was in the chamber of the gun.

2 Q And finally I show you State's Exhibit Number 390.

3 Do you recognize that?

4 A Yes. Rossi .38 which was collected from the master
5 bathroom with five unfired cartridges from it.

6 Q And can you open that, sir, to make sure it --

7 MR. WHITLARK: Objection, Your Honor.

8 THE COURT: Same objection?

9 MR. WHITLARK: Well, Your Honor, it has gone
10 beyond that now. Now they are wanting to pull it
11 out and show it to them. And there is no relevance
12 to it. They already -- it has been described.

13 There is a photograph of it. And it is for the
14 reasons I am telling the Court now, another weapon
15 is being pulled out here, and I am objecting to it.

16 THE COURT: All right. Let me see you all one
17 second.

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

21 THE COURT: Mr. Whitlark, your continuing
22 objection to 390 is preserved for the record.

23 MR. WHITLARK: Thank you, Your Honor.

24 BY MS. CAMPBELL:

25 Q You can open it now.

1 (Complies.)

2 A There is a zip tie in place also.

3 Q And what type of weapon is that?

4 A This is the Rossi .38 revolver.

5 Q Revolver?

6 A Yes.

7 Q And how many -- what did you find in it, sir?

8 A There was five unfired cartridges inside the Rossi

9 .38.

10 Q And how many cartridges actually fit in that gun?

11 A Five.

12 Q And you found five?

13 A Yes.

14 Q Thank you. Can you put it back in the box with

15 the -- is this the ammunition?

16 A That is the cartridges that were found inside the

17 gun.

18 (Complies.)

19 Q That day were you also requested to collect certain

20 evidence from the Defendant in this case?

21 A I will follow my thing and tell you what we

22 collected in that first day.

23 Q Uh-huh.

24 A What was collected by -- starting with the very

25 beginning, and I'll go through it rapidly.

1 Investigator Holt and I collected things that
2 we have previously gone through:

3 The fired cartridge casings; a projectile on
4 the floor of that office, A; fired cartridge
5 casings, B, C, D and E; F from the floor of the
6 media room and the office itself, a projectile on
7 the floor in front of the front desk, in front of
8 the desk, marked F; marked G, projectile on the
9 floor from behind the desk; marked H and I,
10 cartridges in the media room -- yes, fired
11 cartridge casings in the media room; marked J,
12 calendar on the desk; marked K, Staples receipt on
13 the floor; marked 1, 2, 3, 4, and 5, possible
14 impact points on and around the desk.

15 Now, we used a trajectory rod in order to show
16 the general directionality of those impact points.
17 And then we escorted some individuals into the
18 room. And then we further collected other items.
19 And those were Firehouse -- if you want me to get
20 into that -- Firehouse receipts from downstairs.

21 Q Uh-huh.

22 A The Taurus, of course, the Judge that was marked M
23 in the formal living room; marked N, the Rossi .38
24 revolver. Then we collected the marked O, blue and
25 black bag in the garage; marked P, S&W 9-millimeter

1 auto in the evidence bag at the entrance; marked Q
2 and R, shotgun wads in the attic. One additional
3 wad from the fleece of the jacket from
4 Mr. Capnerhurst. One wallet, one cellphone were
5 collected from Mr. Capnerhurst by Investigator Holt
6 prior to body removal.

7 And I observed and collected in the presence
8 of Investigator Holt a house phone, which was
9 located in the driveway just outside of the
10 residence.

11 Q And you collected those and Investigator Holt
12 collected some of those as well?

13 A Yes.

14 Q And that day, you mentioned that you tried to do
15 some general directionality as far as trajectory
16 rod?

17 A Right.

18 Q Can you explain that to the jury?

19 A I was talking about the impact points at the
20 beginning that were in the desk. And I explained
21 that those came from impact in a shooting incident
22 situation from projectiles where a gun had been
23 fired.

24 Now, what we try to do is to find a general
25 direction from where the gun was fired by using

1 what we call trajectory rods. Those are rods that
2 we place in the hole if those holes or impact
3 points are conducive enough to use a trajectory
4 rod. What that will in turn do for us is to back
5 extrapolate where that bullet came from or we are
6 able to follow the bullet path back from where it
7 was fired from.

8 That is what I attempted to do that night by
9 putting those trajectory rods in four areas around
10 the desk in order for Investigator Bouknight to
11 bring in the ScanStation and in turn scan that room
12 once again, helping us try to determine what the
13 trajectory actually was in that room from the fired
14 casings.

15 Q And when you say the ScanStation, what type of
16 machine is that? What does it do?

17 A It scans the areas that you put it into. It could
18 be a room or open area. Based on the scales that
19 you are using, it gives you certain measurements
20 and can help calculate certain angles, and things
21 of that nature. Also showing you and depicting a
22 true -- what we call a true view or ordinary
23 picture of what was in that room.

24 And then when we go into the other areas of
25 calculation of measurements, and things of that

1 nature, we use what we call a point cloud, which is
2 kind of -- it is kind of floating where you can
3 float around through it. It is three dimensional,
4 in other words. But it is a system that we use.
5 It is another way of documenting the scene.

6 Q Okay. And Investigator Bouknight was the one
7 actually in charge of that machine there at the
8 scene?

9 A He is the one that runs the ScanStation, yes.

10 Q Once that you had determined the general
11 directionality that night, and did you also -- were
12 you also present when the victims' bodies were
13 removed?

14 A Yes.

15 Q And did y'all collect some evidence from them?

16 A Yes, we did. I escorted Deputy Coroner Powell and
17 Dozier into the crime scene at that point, and we
18 went to Ms. Parker, Tammy Parker. And the victim's
19 hands, her hands were processed for possible
20 gunshot residue at that time by Investigator Holt
21 and myself.

22 Q And I show you what has been marked as State's
23 Exhibit 408. When you are processing someone's
24 hands for gunshot residue, tell this jury exactly
25 what you did in this case and what you are trying

1 to seek to achieve.

2 A At that time the process is this. You take some
3 sticky tabs, just regular tabs with sticky --

4 MR. WHITLARK: I'm sorry, I can't hear the
5 witness, Your Honor.

6 THE COURT: All right, sir, if you can speak
7 up for us, please. Thank you. You can pull the
8 mic up.

9 (Complies.)

10 THE WITNESS: Is that better?

11 MR. WHITLARK: Yes, it is.

12 A You take sticky tabs and you tab the back and front
13 of a person's hands: Left hand, right hand, the
14 palm, and the back side of those.

15 What you are trying to do first is collect any
16 type of particle that might be on the hand that is
17 consistent with gunshot residue. (And they are very
18 small microscopic particles that you can't see.
19 But we're attempting to find any that may be there,
20 or they may not be there.

21 After that, at this particular time, we also
22 swab the hand with a swab with nitric acid on it.
23 It is just a secondary way of trying to collect
24 anything that the sticky tabs might not have picked
25 up at that time.

1 So that is the procedure. And it is, like I
2 said, it is a system or a procedure, a process used
3 to try to find those particles that are consistent
4 with gunshot residue on a person's hands.

5 Q Okay. And that was done to both of the deceased
6 individuals, Ms. Parker, Tammy Parker, and Bryan
7 Capnerhurst?

8 A That's correct.

9 Q And as well was Brett Parker also --

10 A Yes. When we first got there, Mr. Brett Parker was
11 processed, his hands also, by Investigator Holt.

12 Q By Investigator Holt?

13 A Yes.

14 Q So I show you for ID at this point State's Exhibit
15 Number 408. Does that include the three separate
16 gunshot residue kits that were collected?

17 A Yes, it does.

18 Q And one from each of the victims, as well as from
19 Mr. Parker?

20 A One from Tammy Parker, one for Brett Parker, and
21 one for Bryan Capnerhurst.

22 Q And were those collected and do they remain
23 separate from each other?

24 A They were separated, yes, by envelopes and put in a
25 plastic bag at the time that they were being ready

- 1 to be submitted to SLED to actually do the
2 analysis, yes.
- 3 Q And when you collect gunshot residue, what parts of
4 the hands do you collect from specifically?
- 5 A The palms and the back of the hands.
- 6 Q On one or both hands?
- 7 A Both hands.
- 8 Q So the palm and the back of each hand?
- 9 A Yes.
- 10 Q And are those collected separately?
- 11 A Yes.
- 12 Q Packaged separately?
- 13 A Yes.
- 14 Q And submitted?
- 15 A Yes.
- 16 Q Thank you.
- 17 (Pause.)
- 18 Q Did y'all take any measurements of the office area
19 that night?
- 20 A Yes. After we finished collecting those items that
21 I just went through, myself and Investigator Holt
22 measured some approximate location of evidence
23 inside the office itself. And then we took all the
24 evidence that had been collected that night, the
25 list that I just went through with you, and it was

1 brought to me at a collection point that we have
2 set up right outside the office in the media room,
3 and at that time all this evidence was chained over
4 to Investigator Bouknight, who took it back to
5 headquarters at that time, also following a vehicle
6 that we had towed back to our headquarters for the
7 possibility of both processing, which was an '04
8 Dodge Stratus.

9 Q And that was the vehicle that was actually parked
10 off the driveway?

11 A It is.

12 Q And approximately how late were y'all there that
13 night doing this initial processing of this scene?

14 A We completed the processing about 9:40 that night.

15 Q 9:40 that night?

16 A For that first day, yes.

17 Q Once you completed your initial processing that
18 night, was the scene secured?

19 A It was. It was secured. Deputies stayed on the
20 scene with the crime scene log. One of those
21 evidence tapes that you saw in one of those
22 photographs was put across the open door or the
23 unlocked door at the garage. It was initialed and
24 dated. And it was sealed for the night until we
25 returned for further process.

1 Q I want to turn your attention to the next day,
2 April the 14th of 2012. Did you return to the
3 scene?

4 A Yes, I did.

5 Q And what time of day did you return back to
6 Tackeria Court?

7 A I arrived there about 8:49 in the morning.

8 Q And what was the purpose of you returning to the
9 scene that morning?

10 A Continue to process the scene.

11 Q And specifically what area were you focused on that
12 day initially?

13 A The office area mainly.

14 Q And what type of evidence were you attempting to
15 retrieve that you had not been able to retrieve the
16 night before?

17 A There was three impact points to the wall behind
18 the desk that was consistent with some of the
19 impact points to the desk.

20 So we wanted to retrieve the projectiles out
21 of the wall if we could, and we did.

22 The projectile from Marker 4, that was to the
23 right, in the wall to the right of the desk.
24 Projectile Marker Number 5, which was from the
25 ricochet off the top of the desk that went into the

1 corner of the wall. And a projectile from Marker 6
2 which came from that very first Marker Number 1 on
3 the side of the desk and went into the wall itself.
4 And we retrieved all three projectiles from the
5 wall.

6 MS. CAMPBELL: And, Your Honor, at this point
7 we are getting into those photographs which
8 Mr. Whitlark, I believe -- I don't know.

9 THE COURT: All right. He needs to take a
10 break?

11 MS. CAMPBELL: He's seen them.

12 THE COURT: All right.

13 MR. WHITLARK: I need to know the numbers,
14 Your Honor, that's all.

15 THE COURT: Do you know which ones you object
16 to?

17 MR. WHITLARK: I haven't heard what the
18 exhibit --

19 THE COURT: What are the numbers? I think
20 that is the stack that --

21 MS. CAMPBELL: They still have -- they haven't
22 given me back my pictures.

23 MR. FEDOR: We haven't gone over them yet, but
24 you can have them back.

25 THE COURT: All right. Do you want to go over

1 them?

2 MR. WHITLARK: Yes, we do, Your Honor.

3 THE COURT: Let me see y'all one second.

4 MS. CAMPBELL: I'm sorry.

5 (WHEREUPON, a bench conference was held
6 in the presence of the jury but out of
7 the hearing of the jury.)

8 THE COURT: All right, ladies and gentlemen,
9 there are some matters of law that I need to take
10 up outside of your presence. And instead of
11 sending you back to the jury room -- I was planning
12 on working a little bit later, but I'm not sure how
13 long it is going to take, and I'm not going to have
14 you all sit back there and wait on us when you all
15 could be at home or in your cars on the way home or
16 wherever it is that you have to go. So I am going
17 to excuse you for the afternoon.

18 I will warn you again against -- that you are
19 not to talk with anyone. You are not to discuss
20 this case with anyone. You are not to do any
21 independent research. You are not to do any social
22 networking regarding your service on the jury. You
23 are not to watch any of the news media outlets,
24 which would include any of the printed media, and
25 also the printed press, and also the internet.

1 I am going to -- we will start back -- and
2 I'll tell you, I think I said yesterday, tomorrow
3 is a state employee holiday. And so therefore,
4 while I don't necessarily have a problem working,
5 state employees are off tomorrow. And so therefore
6 we will not work on tomorrow. We will start back
7 on Monday morning at 9:30.

8 I believe the one juror that may have had an
9 issue Monday morning was able to work it out or
10 rearrange it, so I appreciate you doing that.

11 And so we'll start back at 9:30 on Monday
12 morning.

13 If anyone tries to contact you over the
14 weekend, please let them know that you are on the
15 jury and that you cannot discuss the case with
16 them. And please bring it to my attention
17 immediately upon your return at 9:30 on Monday
18 morning.

19 All right, ladies and gentlemen of the jury,
20 you have only heard a portion of the evidence. I
21 will instruct you also that you can't talk to each
22 other. And it also would be improper for you to
23 form an opinion in your mind until you have heard
24 all of the evidence, the arguments of the parties,
25 and the charge on the law from the Court.

1 Have a great weekend. For those of you who
2 are mothers, Happy Mother's Day. And I will see
3 you Monday morning at 9:30.

4 And if we can do one thing. Is my clerk in
5 here?

6 MS. CAMPBELL: No, ma'am.

7 MR. WHITLARK: No, Your Honor.

8 THE COURT: If you can give the bailiff if you
9 have -- I usually do this and I forgot, and they
10 will have it and no one else will have it -- your
11 cellphone numbers, if you have a cellphone. If you
12 do not have one, don't worry about it. But if
13 something comes up now -- if something comes up,
14 the easiest way sometimes to catch people, I know
15 for me, is on my cellphone.

16 So we will take that. The clerk will have it
17 in her position. No one else will have it. But if
18 you can just give that to the bailiff. If
19 something comes up we will have your cellphone.

20 All right. Thank you. Have a great weekend.

21 THE JURY: Thank you.

22 (WHEREUPON, the jury is excused at 4:59
23 p.m.)

24 MR. FEDOR: Your Honor, I have to put
25 something on the record, if you would, while

1 everybody is present.

2 THE COURT: Okay.

3 MR. FEDOR: On the expulsion of Jack Parker
4 from the courthouse, we have contacted, and he will
5 be back in here Monday morning, a Victor Jordan,
6 and I have his telephone number, who will state to
7 the Court he is the one that talked about
8 sequestration to the jury members.

9 THE COURT: All right.

10 MR. FEDOR: I will bring him up here Monday
11 morning before you start anything at 9:00 o'clock
12 or whatever.

13 THE COURT: And my concern about that is the
14 juror described Mr. Parker, his shirt, his hair, as
15 you know from being back there. But he -- and the
16 jurors also stated that there were two people
17 together.

18 MR. FEDOR: I understand that, Judge.

19 THE COURT: But if he -- if Mr. I think Jordan
20 wants to come down here, he is more than welcome to
21 do so. Until then -- but Mr. Parker is not to be
22 here. I will think about it and talk to y'all on
23 Monday morning as to what needs to be done.

24 But they said it was two -- I believe they
25 said there was two men together, and they

1 specifically gave the color of the shirt and the
2 color of their hair, description of the hair.

3 MR. FEDOR: I will have him bring their
4 clothing.

5 THE COURT: And the location of the -- well,
6 as to the clothing, I believe that that can be
7 easily obtained.

8 MR. FEDOR: Yes. I'll have it with us.

9 THE COURT: Everything in here has been
10 videoed, so.

11 MR. FEDOR: Reason being --

12 MR. WHITLARK: No doubt about that, Your
13 Honor.

14 MR. FEDOR: We're at a handicap because Brett
15 Parker is confined. Jack Parker is our main other
16 source. And we need him during the trial. I
17 understand your ruling.

18 THE COURT: I understand, sir. I understand.
19 And I'll be glad -- but you do understand the
20 problem is --

21 MR. FEDOR: Yes.

22 THE COURT: I can bring -- if you would like
23 me to bring those two ladies in here and have them
24 point him out, then I can do that.

25 MR. FEDOR: Okay. That will be fine.

1 THE COURT: But you do understand that they
2 are two people on the jury and you are saying that
3 he is going to testify as a witness?

4 MR. FEDOR: Well, I'm going to ask you to
5 listen to the testimony we have from both these
6 people and do not bring the jurors in until that
7 has been heard by Your Honor.

8 THE COURT: All right, yes, sir.

9 MR. FEDOR: Okay.

10 THE COURT: All right. Thank you.

11 MR. FEDOR: Thank you, Your Honor.

12 THE COURT: And I don't need to hear from
13 Mr. Parker. You said the other person --

14 MR. FEDOR: He will be downstairs in the car
15 outside.

16 THE COURT: All right. Because they are not
17 going to let him in the building.

18 MR. FEDOR: Okay. One further thing, Your
19 Honor.

20 THE COURT: Yes, sir?

21 MR. FEDOR: I hate to keep clogging the
22 record. Down at the jail they only let Mr. Parker
23 shave on Tuesday and Sunday. I like him
24 clean-shaven. If he goes three or four days, like
25 for instance now, it has been two days since he has

1 had a chance to shave.

2 THE COURT: He is trying to say something.

3 THE DEFENDANT: Thursday and Sunday.

4 THE COURT: Thursday?

5 THE DEFENDANT: Thursday mornings and Sunday
6 night.

7 THE COURT: I will check into that. I will
8 check into that.

9 MR. FEDOR: Okay. Thank you, Judge.

10 THE COURT: Yes, ma'am?

11 MS. CAMPBELL: Your Honor, Mr. Whitlark at the
12 bench indicated that he would promise to come and
13 look -- finish looking at these pictures tomorrow.
14 If he would please promise so we won't have any
15 further delays for this jury.

16 THE COURT: You can step down, sir. I'm
17 sorry.

18 (Witness steps down.)

19 MR. WHITLARK: I promise, Your Honor, I will
20 come look at the pictures tomorrow.

21 THE COURT: All right. Yes, Mr. Whitlark,
22 please look at the pictures.

23 And if there is any other evidence or anything
24 that y'all need to discuss on tomorrow, please do
25 so so we will not --

1 MS. CAMPBELL: We will, Your Honor.

2 THE COURT: -- slow down on Monday.

3 MS. CAMPBELL: That's fine.

4 THE COURT: 9:30. And if there is any
5 issues --

6 MS. CAMPBELL: Meet at 9:15 if there are any
7 issues.

8 MR. WHITLARK: I don't think there will be.
9 That's fine with us, Your Honor.

10 THE COURT: I will try to get here at 9:00.
11 All right.

12 MS. CAMPBELL: Thank you, Judge.

13 THE COURT: See you Monday morning. Y'all
14 have a great weekend.

15 MR. WHITLARK: Thank you, Your Honor.

16 (WHEREUPON, the proceedings concluded at
17 5:37 p.m.)

18 MAY 13, 2013

19 THE COURT: Are we ready to proceed?

20 MS. CAMPBELL: Your Honor, as far as the
21 photographs, we were able to get together on Friday
22 and go through those.

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: And I want to go through them
25 for the record. Photographs 229 through 256, no

1 objection.

2 THE COURT: Hold on one second.

3 MR. WHITLARK: Let me get on the right page.

4 (Pause.)

5 MS. CAMPBELL: 229 through 256, there was no

6 objection.

7 MR. WHITLARK: Right.

8 MS. CAMPBELL: 257 through 259, no objection.

9 MR. WHITLARK: That's right.

10 MS. CAMPBELL: 260 through 261, no objection.

11 MR. WHITLARK: That's right.

12 MS. CAMPBELL: 291 through 297, no objection.

13 MR. WHITLARK: No objection.

14 MS. CAMPBELL: 298 through 299, no objection.

15 MR. WHITLARK: No objection.

16 MS. CAMPBELL: 228, no objection. We have

17 narrowed it down. We withdrew two.

18 MR. WHITLARK: That's right, 228, there is no

19 objection.

20 MS. CAMPBELL: Excuse me, 227 and 228, no

21 objection.

22 MR. WHITLARK: No objection.

23 MS. CAMPBELL: Under -- 339 to 341, he was

24 objecting to 341.

25 MR. WHITLARK: That's right. We object to

1 341, Your Honor.

2 THE COURT: All right. And what is 341?

3 MS. CAMPBELL: Your Honor, we will withdraw
4 341 and 340.

5 THE COURT: All right.

6 MS. CAMPBELL: And 409 to 428, there was no
7 objection.

8 THE COURT: All right.

9 MS. CAMPBELL: 301 to 305, no objection.

10 MR. WHITLARK: That's right, no objection to
11 301 to 305.

12 MS. CAMPBELL: And 306 to 318?

13 MR. WHITLARK: We object to 306 and 316.

14 MS. CAMPBELL: And we can withdraw everything
15 but 306.

16 MR. WHITLARK: We object to 306.

17 MS. CAMPBELL: Excuse me, 307.

18 MR. WHITLARK: All right. No objection to
19 307.

20 THE COURT: So you are withdrawing 306 and
21 316?

22 MS. CAMPBELL: 306 to 318, we are withdrawing
23 everything except 307, which he has no objection
24 to.

25 MR. WHITLARK: That's correct, Your Honor.

1 MS. CAMPBELL: 319 to 329, no objection.
 2 MR. WHITLARK: No objection.
 3 MS. CAMPBELL: 330 to 338, no objection.
 4 MR. WHITLARK: No objection.
 5 MS. CAMPBELL: 342 to 352, and then 430 and
 6 431, he objects to one photograph. And I think I
 7 might have withdrawn that. I'll just look at it
 8 again.
 9 MR. WHITLARK: I have objections to 341 and
 10 342, Your Honor.
 11 (Attorneys conferred.)
 12 MR. WHITLARK: Okay, no objection to 342.
 13 THE COURT: What about 341?
 14 MS. CAMPBELL: It's in a different batch. Do
 15 you object to any of the rest of these, 342 through
 16 352?
 17 MR. WHITLARK: 342 through 352, no objection.
 18 MS. CAMPBELL: Beg the Court's indulgence.
 19 (Pause.)
 20 MS. CAMPBELL: And finally, Your Honor, 353
 21 through 361, there is no objection.
 22 MR. WHITLARK: No objection to 353 to 361,
 23 Your Honor.
 24 THE COURT: All right. Anything else before I
 25 bring the jury in?

1 MS. CAMPBELL: Nothing from me, Your Honor.

2 MR. WHITLARK: May it please the Court, Your
3 Honor? I believe that we, as we discussed about
4 the scheduling for Sunday and Monday, as we
5 explained to your law clerk, it will be Monday,
6 Tuesday, and Wednesday next week. And I have
7 already discussed it with the Solicitor.

8 THE COURT: Before he can do the?

9 MR. WHITLARK: He is coming in Sunday night.
10 And he is going to do it on Monday, Tuesday -- he
11 doesn't think he will use Wednesday, but we better,
12 out of an abundance of caution, put it in Monday,
13 Tuesday, and Wednesday of next week.

14 THE COURT: Let me see y'all a second.

15 (WHEREUPON, a bench conference was
16 held.)

17 THE COURT: All right. And, Mr. Richards, you
18 can take the stand.

19 (Witness returns to witness stand.)

20 THE COURT: All right, you can bring them in.

21 (WHEREUPON, the jury came into open
22 court at 10:20 a.m.)

23 THE BAILIFF: The jury is all present, Your
24 Honor.

25 THE COURT: Good morning, ladies and gentlemen

1 of the jury. I hope that you all had a wonderful
2 weekend. We are ready to continue with the
3 testimony of Mr. Richards in his direct examination
4 by Ms. Campbell.

5 Yes, ma'am.

6 MS. CAMPBELL: May it please the Court?

7 DIRECT EXAMINATION CONTINUES

8 BY MS. CAMPBELL:

9 Q Sergeant Richards, you were testifying last week
10 basically on April the 14th, that Saturday, you
11 returned back to Tackeria Court?

12 A That's correct.

13 Q And when you got there, was the scene still
14 secured?

15 A It was.

16 Q And how had it been secured overnight?

17 A The night before when we left, which we had been
18 there for about nine hours that first day, we
19 secured the garage door, and the rest of the doors
20 in the house were already secured.

21 We secured the garage door that we were making
22 entry into to do our processing by closing it,
23 putting evidence tape across the opening of the
24 door, initialing that, dating it, photographing it.
25 And also a deputy was there all night at the

1 entrance at the top of the driveway close to the
2 entrance with the crime scene log, making sure no
3 one entered the residence until we returned the
4 following morning.

5 Q And who was with you when you returned the
6 following morning?

7 A Lieutenant Cavanagh.

8 Q When you got there that day, what additional
9 processing or what additional evidence were you
10 looking for?

11 A Well, we were continuing the search and
12 documentation that we had started the previous day.

13 COURT REPORTER: I'm sorry. I'm sorry, you
14 need to speak up.

15 THE WITNESS: Okay. I'm sorry.

16 A We were continuing the search and the processing
17 that we had started the previous day. And in so
18 doing, we collected -- I was looking for the
19 projectiles that were in the wall. I'm talking
20 about the projectiles in the wall that was behind
21 the desk the first day.

22 So I looked and collected those projectiles.
23 That was one of the things that we were trying to
24 get done.

25 Also, we made another search of the office

1 room itself, another search of the attic itself and
2 looking for any additional evidence that there
3 might have been of value to the investigation as
4 far as we were concerned in the area of processing.

5 And we did collect in the office a Taurus gun
6 box, a black gun bag, a black holster; and I took a
7 swab from the possible -- what we perceived to be a
8 blood stain from where Ms. Tammy Parker had been
9 laying before the body was removed the previous
10 day.

11 Also, after those things were done, we
12 asked -- requested and had Mr. Brett Parker to come
13 to the residence to open the safe that was in the
14 attic.

15 Q Had you been provided a combination to the safe?

16 A We had.

17 Q Had you all been able to access the safe based on
18 that combination?

19 A We could not.

20 Q And as a result of that, what did you do?

21 A Mr. Brett Parker came to the residence, I believe
22 escorted by Major Smith and some others, and came
23 to the residence and opened the safe for us.

24 Q And were you present when he actually went into the
25 attic area and opened the safe?

1 A Yes.

2 Q And at this point the next day when y'all returned
3 to the scene, are Ms. Parker or Mr. Capnerhurst's
4 bodies still there?

5 A No. No, the bodies had been removed the previous
6 day during processing. Those things were done.
7 Everything was collected that we had marked the
8 previous day and photographed. All that evidence
9 had been collected. Now, the markers had been left
10 there for me to use, particularly in the office,
11 for possible trajectory analysis.

12 Q And I'll get to that in a minute. When Mr. Parker,
13 Mr. Brett Parker, came to the scene, was he
14 escorted into the safe area?

15 A Yes, he was.

16 Q And, again, where was the safe located?

17 A In the attic.

18 Q Once you got in the attic area, what, if anything,
19 did he do?

20 A He opened the safe.

21 Q Once he opened the safe, what did you do?

22 A He moved aside. Lieutenant Cavanagh and I looked
23 in the safe, and we saw some denominations of
24 monies that were in the safe; and they were
25 photographed before we got them out.

1 Q And how did the money appear in the safe when you
2 opened it that day?

3 A I saw two stacks of currency inside the safe. And
4 after we started taking it out, there was one piece
5 of a one-dollar bill that was by itself. There
6 were two stacks of currency inside the safe.

7 Q And what denominations were actually included in
8 those stacks of currency that you observed in the
9 safe?

10 A Well, we counted -- we opened it up, brought those
11 out, and they were counted by myself and Lieutenant
12 Cavanagh. And the first stack had a \$100 bill on
13 top, and everything underneath were one-dollar
14 bills. So there was one \$100 bill and 87
15 one-dollar bills underneath. That was in the first
16 stack.

17 In the second stack, again, there was a \$100
18 bill on top of the stack, and then there was 95
19 one-dollar bills underneath. All told, in the
20 safe -- and that single dollar bill that we found
21 in there -- all told there was \$383 in the safe.

22 Q So \$383 was the total amount in the safe?

23 A Correct.

24 Q And when you first looked into the safe, as you
25 looked down as to the way the money was stacked,

1 how was it stacked? Was it secured in any way?

2 A It was stacked side-by-side with a band around it.

3 Q With a band. What did it appear to be a stack of
4 if you just looked at it on its face?

5 A Well, one might think it was a stack of \$100 bills
6 just by looking at it.

7 Q And there were two stacks that were like that?

8 A Yes.

9 Q And one of them had how many 100s and how many
10 ones?

11 A The first stack had a single \$100 bill and 87
12 one-dollar bills.

13 Q And the second stack had?

14 A The second stack had a single \$100 bill and 95
15 one-dollar bills.

16 Q And, again, the total amount of money that was
17 actually in that safe that day was how much?

18 A \$383.

19 Q Based on the information you received, was that
20 significant to you?

21 A Based on --

22 MR. WHITLARK: Objection, Your Honor.

23 THE COURT: What is the objection?

24 MR. WHITLARK: He is giving an opinion about
25 the significance or not of evidence, and his job is

1 to objectively collect evidence, not to say whether
2 or not something was significant.

3 MS. CAMPBELL: I can rephrase it, Your Honor.

4 THE COURT: Yes, ma'am, please rephrase the
5 question. The objection is sustained.

6 BY MS. CAMPBELL:

7 Q Was there a certain amount of money you were
8 looking for in that safe?

9 A Yes.

10 Q Was it in the safe?

11 A No.

12 Q You also mentioned that in the office area you
13 collected certain additional evidence, including
14 some gun bags and holsters, is that correct?

15 A That's correct.

16 Q In addition to that, did y'all recover any
17 additional firearms evidence in this case, as far
18 as projectiles or shell casings, or anything of
19 that nature?

20 A The projectile kits was taken from the wall that
21 had been embedded in the wall behind the desk.
22 Those were extracted that day and collected.

23 Q And in addition to that, did you also find another
24 projectile fragment?

25 A Yes.

1 Q In addition to the three --

2 A Yes, there was. Later on, after we extracted those
3 from the wall, there was a fragment that was found,
4 because we were searching diligently through the
5 office space, again, to make sure there was nothing
6 else there that we might have overlooked, and there
7 was a fragment that was on the floor that had been
8 underneath a chair after the chair was moved. It
9 was seen of course. And it was a projectile
10 fragment. We marked that as U, and that was also
11 collected.

12 Q And photographed?

13 A And photographed, yes.

14 Q You mentioned earlier in your testimony that that
15 day too you were attempting to perform some
16 trajectory analysis?

17 A Yes, ma'am.

18 Q Explain to the jury how, if any way, you can do
19 that in a crime scene such as this?

20 A Well, it involves a lot of different things.
21 Number One, you look for anything that might have
22 to do with a gunshot incident. It would include
23 fired cartridge casings, unfired cartridges,
24 projectiles, of course, impact points, which we
25 talked about sort of on Thursday.

1 That's any defects that you might see anywhere
2 in a shooting incident area, which in this case was
3 the office. If we found something in the desk, on
4 the other side of the room, or the wall, those
5 defects could possibly be impact points.

6 And we are talking about an impact point being
7 a defect from a force, particularly a projectile,
8 if you are associating it with a shooting
9 reconstruction.

10 Q And in this case were you able to associate certain
11 impact points with certain projectiles?

12 A Yes. To start with, in a trajectory analysis, not
13 a total reconstruction, but a trajectory analysis,
14 like I said, you look at the things that are
15 associated with a shooting.

16 So we started first, or I started first with
17 looking at where the fired cartridge casings were
18 in the office to tell me something about where you
19 would locate the possible origin of a gun being
20 fired.

21 Well, as you enter the office through the
22 entranceway from the media room on the outside,
23 immediately as you go into the right, that is where
24 we found three unfired or three fired cartridge
25 casings. We talked about that on Thursday. And

1 they were collected then.

2 So there was three fired cartridge casings on
3 the floor just to the right after you enter the
4 room. To the rear of the room, standing at the
5 entrance of the room, there was two fired cartridge
6 casings.

7 They were on the floor in the media room just
8 outside the entranceway and right behind the big
9 red sofa that we talked about on Thursday. So
10 there's five to the right or to the rear.

11 That is significant to us because of a thing
12 called ejection patterns. And we talked, I
13 believe, a little bit about what an automatic
14 weapon, how it would eject. It ejects, most of
15 them, slightly to the right and to the rear.

16 So that is telling me something right there,
17 that if you have an ejection pattern to the right,
18 slightly to the right or to the rear, and that is
19 where you are finding the fired cartridge casings,
20 most likely you're going to have a forging of the
21 gun being fired somewhere in the vicinity of the
22 entranceway. That's the first step.

23 Q So the first things you observed with the spent
24 cartridge casings would be consistent with someone
25 having shot from where?

- 1 A In the area of the entranceway to the office.
- 2 Q To the office?
- 3 A Yes.
- 4 Q And that would be the doorway to the office?
- 5 A The doorway to the office, yes.
- 6 Q And if you are looking in that doorway, the
- 7 bathroom area is over to what area?
- 8 A To the left. Okay, now wait -- to continue,
- 9 looking still for fired cartridge casings, there is
- 10 one to the left at the entranceway to the bathroom
- 11 where the victim, Ms. Parker, had been laying in
- 12 the entranceway between the bathroom and the
- 13 office.
- 14 There was a fired cartridge casing there,
- 15 along with a projectile there. That was over to
- 16 the left by itself, three on the right, two in the
- 17 rear on the floor outside of the office. So that
- 18 is where the fired cartridge casings were.
- 19 So what does that tell me at the beginning? A
- 20 gun that fires to the right and to the rear
- 21 predominantly, most of the fired cartridge casings
- 22 are in that area. And that will tell me that
- 23 most -- most, not all -- of the shots fired based
- 24 on the cartridge casings themselves were fired from
- 25 the location around the entranceway to the office.

1 Q You mentioned -- go ahead.

2 A To continue now -- that is the cartridge casings --
3 then we start looking at projectiles. Now, I
4 counted seven projectiles that had been fired in
5 that room.

6 There was one in the body still of Ms. Parker,
7 and that was retrieved at autopsy.

8 There was a projectile on the floor beside her
9 leg to the left as you entered the room. If you
10 can get that in your mind, to the left, along with
11 a fired cartridge casing. So that is two.

12 To the right and to the rear of the room in
13 the corner where the desk was, now we start talking
14 about the remainder of the projectiles. There was
15 one laying on the floor in the carpet in front of
16 the desk.

17 There was one laying on the floor on the
18 carpet behind the desk.

19 Now, that's four.

20 We had three projectiles in the wall: One in
21 the lower left, one in the corner of the room, and
22 one to the right wall to the right of the desk.

23 So that is seven projectiles that were found
24 that we knew of and that we located.

25 Based on the magazine that came from the

1 9-millimeter, that was a 7-round magazine, which
2 was emptied, I took a look at it, and I
3 photographed it, I observed that it had been
4 emptied the night before, with an unfired round in
5 the chamber, but there was an empty magazine that
6 held seven rounds.

7 And we had seven projectiles in the office.
8 So that was the lead that I began with looking for
9 a projectile in continuing on my quest for
10 trajectory analysis.

11 Q You mentioned that with the fired cartridge
12 casings, that the majority of them were right there
13 at the entrance to the office or out actually in
14 the media room?

15 A That's correct.

16 Q And those would be consistent with someone having
17 shot from what area?

18 A Shot in the area of the entrance to the office.

19 Q And then you mentioned that one spent shell casing
20 was found in a different area, is that correct?

21 A That's correct. It was found over to the left
22 around the entrance to the bathroom where the
23 victim, Ms. Parker, was laying. It was found just
24 to the left of her leg laying on the floor.

25 Q And what would that be consistent with? What area

1 having shot from?

2 A Somewhere around Ms. Parker where she was laying.

3 Now, you've got to take into consideration
4 that I said, just said, that an ejection pattern
5 from most automatic weapons goes slightly to the
6 right and to the rear.

7 So without any other defects or impact points
8 over on the left side of the room where Ms. Parker
9 was laying between the bathroom and the office,
10 then she -- you would have to think or assume at
11 that point, with the elimination of any other type
12 of defects in that area, that that projectile and
13 that fired cartridge casing came from a shot at
14 Ms. Parker somewhere in that vicinity right at the
15 entrance to the bathroom.

16 Q And are there furniture and walls and other things
17 that may interfere with exactly where an ejected
18 shell casing may land?

19 A Well, sure there is. If you've got a weapon --
20 well, we'll talk predominantly about the three
21 cartridge casings that were to the right as you
22 first entered the office. And I thought they were
23 in a pattern of being laying there right in front
24 of the wall in front of the desk that was against
25 the wall immediately to the right as you enter.

1 Now, if an ejection happens slightly to the
2 right and to the rear, well, it can be slightly to
3 the right so it doesn't go out so far to the right;
4 but when it ejects back to the rear, you have some
5 force behind it.

6 So it can eject in a pattern anywhere from
7 three, five, seven or more feet to the rear. But
8 if you're inside a doorway, particularly a couple
9 of feet or so, and it ejects slightly to the right
10 and to the rear, then it's going to hit whatever is
11 there, unless there is nothing there, and then
12 bounce back onto the floor.

13 Once it bounces to the floor, particularly if
14 there is carpet there, it's no longer going to
15 continue to roll, bounce, or whatever once it hits,
16 or something similar to that matter.

17 But no matter that fact, when it is there or
18 the wall is there, it's going to hit the wall where
19 that ejection pattern is. It is going to tell you
20 it ejected to the right. It didn't eject to the
21 right and to the front. It ejected to the right
22 side predominantly to the rear. So it was there
23 (indicating).

24 That tells someone who looks at trajectory
25 analysis that the shots were predominantly fired,

1 most of them, save one, from that area; and that is
2 the entrance to the office.

3 Q As far as trajectory analysis in this case, were
4 you able to make any determinations using impact
5 points and where projectiles were recovered?

6 A Yes. There was four impacts now we talked about to
7 the desk itself. Now, what was in the wall behind
8 the desk was followed on because we talked a little
9 bit about penetrating and perforating bullets into
10 the substrate or a target of any kind. They either
11 go through or they get lodged in or sometimes they
12 hit something and bounce back. Okay?

13 I had four impacts into the desk: One to the
14 side; two to the immediate front; and one at the
15 top. So those four is what we're talking about
16 now.

17 We started with seven. We had two -- one is
18 lying by Ms. Parker and one in Ms. Parker -- one to
19 the front, one to the rear on the floor, and then
20 three in the wall.

21 Now, I'm talking about we have -- that was two
22 around Ms. Parker, two lying on the floor. We are
23 talking about the three impacts that are there.
24 The impact that is behind the desk is going to be
25 involved with the impact that goes through.

1 So if we eliminate three or we put the three
2 aside, the two around Ms. Parker and the one in
3 front of the desk, because the one in front of the
4 desk laying on the floor didn't hit anything, not
5 the desk itself, not the wall. It probably hit an
6 intervening target, which would have had to have
7 been Ms. Parker.

8 It probably went in and out maybe a couple of
9 times before it fell out onto the floor, but it did
10 not make a defect into the desk itself. So now we
11 not talking about that one as far as trajectory
12 analysis.

13 When I say trajectory analysis, we're trying
14 to follow a preflight bullet path back to where it
15 originated from. That's what we're trying to
16 accomplish. So we are looking at four now.

17 So we take the one that I marked Number 1, and
18 that's as if you're looking into the office, the
19 desk is in the back right-hand corner. It's on the
20 left side of the desk.

21 Q And this is a picture you took the night before
22 that is already into evidence. Is that State's
23 Exhibit Number 170?

24 A Yes, ma'am.

25 Q And does that show the general area we are talking

1 about now?

2 A Yes, it does.

3 Q And, go ahead. You talked about the impact points
4 and things that were significant in your analysis.

5 A Okay. If you will look to the left, extreme left
6 of that desk, you can see a discoloration or kind
7 of a hole there. That is the impact that I marked
8 Number 1. That is the first one we are going to
9 deal with.

10 I put at one point -- the day before or the
11 13th when we were there making most of our
12 collection and looking at making the markers for
13 the evidence that was around through the residence,
14 I put trajectory rods in those three along the left
15 side and the front of the desk.

16 I marked them and placed trajectory rods in
17 those so they could be scanned by our ScanStation
18 system that day before we had left.

19 Now, if you put -- talking about Number 1,
20 which is actually the extreme left. It entered
21 that desk, exited the side of the desk, and went
22 into the wall directly behind it straight as an
23 arrow.

24 A trajectory rod is a straight metal or rod --
25 it can be a wooden rod, but it has to be

1 straight -- that you place into an impact point and
2 try to find a second reference point. You need
3 two. That is important. You need two reference
4 points in order to back extrapolate or follow a
5 path back to where the origin is, where the gun was
6 fired, to make that bullet go where it went.

7 So if you place a trajectory rod from the side
8 of that desk at Number 1 and followed it to the
9 impact point behind the desk in the wall, it was a
10 straight line.

11 Not only that, the hole around the impact at
12 Number 1 was symmetrical, very small, just enough
13 to get the trajectory rod in, and it was oval.

14 So there was nothing there that would give
15 me -- that would make me believe that the bullet
16 was destabilized as it hit that impact, when it hit
17 that desk. So that means it wasn't yawing or it
18 wasn't tumbling, it was a straight shot.

19 So more than likely with that type of straight
20 shot, it may have not hit an intervening target at
21 that time, this particular projectile. It may have
22 been a straight shot. We'll talk about that a
23 little more in a minute, but that is the first one
24 and that was at Number 1.

25 Now, we're going into Number 2 and Number 3.

1 Number 2 -- and I will have to keep looking at that
2 photograph -- but Number 2 -- 2 and 3 was at the
3 front of the desk.

4 Q I show you State's Exhibit Number 170. Is this the
5 area we are talking about now?

6 A Yes. And you can see two defects at the very front
7 of that desk. Now, we're going to talk about the
8 defect to the far right. That is the one that I
9 marked as Number 2 on the front of the desk. Okay.

10 Now, what I saw when we took a look at that
11 and we placed the trajectory rod in it, we could
12 continue, again, to have a symmetrical shaped hole
13 in order to put the trajectory rod in. The
14 straight trajectory rod had no problem going in.

15 But you've got to have a second reference
16 point to make it true. So that trajectory rod, as
17 I placed it and put it in, went to a refrigerator,
18 a small refrigerator, that was underneath the desk.
19 It had an impact point on it also.

20 However, that impact point was a ricochet,
21 which is totally different. It does not go
22 straight in. The bullet hits something that makes
23 it slide along the edge and eventually ricochet off
24 of that. But, when you have a ricochet, sometimes
25 or most of the time, you have a lead-in to that

1 link before the bullet travels along.

2 You can use that as a second reference point
3 because that is exactly where the bullet hit.
4 That's why it's called a lead-in.

5 So we have the trajectory rod in Number 2
6 hole, went straight to where the ricochet began in
7 the refrigerator, on the refrigerator, and that led
8 us to being able to back extrapolate or follow
9 back, again, Number 2 probably to where the origin
10 of the bullet, the firing of the gun that produced
11 that bullet happened. That is Number 2.

12 Now we go to Number 3, like 2 did. This is
13 really not that complicated. Number 3 now,
14 however, we look at the hole again. We always
15 start looking at the hole and see if we can
16 determine what might have happened.

17 That hole is much larger. It was irregular
18 around the edges. So it was asymmetrical. That
19 means I cannot put a trajectory rod in that hole
20 and have it be stable on its own. I would have to
21 figure out some way to try to stabilize the
22 trajectory rod in there.

23 So in doing that, I go and take a look at the
24 back of the desk to see if there is a second
25 reference point, which I have got to have.

1 This particular impact point had a second
2 reference point -- no matter how you tried to turn
3 the trajectory rod -- going to a rubber-type trash
4 can sitting on the floor beside the refrigerator
5 with a slit in it, the bullet laid in front of that
6 on the floor.

7 Okay, a trash can, a rubber trash can, laying
8 on the floor is not a stationary object. It can be
9 turned, knocked over, twisted. It is not a solid
10 second reference point; so I don't have one.

11 When I come back around, I look again at the
12 hole in front of the desk, the asymmetrical hole,
13 the large hole, and what could have caused that.

14 Now, once a bullet hits an intervening target,
15 that means it hits something before it hit that
16 desk, a lot of things can happen to it.

17 It can hit something inside a body. It could
18 be an organ. It could even be tissue. It could
19 destabilize that bullet. It could hit something
20 where that bullet comes out tumbling because it's
21 destabilized. And when it hits the desk, in front
22 of the desk, it's tumbling; and the hole is going
23 to be much larger.

24 And that's the reason that I couldn't use --
25 or I did not use that because there's too many

1 verticals, too many things that are unknown about
2 it. You could not use Number 3.

3 Number 4. Number 4 was a ricochet at the top
4 of the desk. Now, when you have a ricochet and it
5 hits, just like it was on the refrigerator
6 underneath the desk, when you have a ricochet and
7 it hits the target itself, the ricochet angle comes
8 out, depending on what kind of target it is, what
9 material it's made out of, is how large the angle
10 is going to be.

11 So in the desk, really just like the
12 refrigerator was, because it was very thin material
13 on the side of the refrigerator, the material that
14 the desk was made of, or the desktop was frangible
15 at best and yieldy. So we are going to have a
16 larger angle when it comes out.

17 So it was directly in front of the impact that
18 was in the corner of the wall. You could see that
19 with your eyes. We had a ricochet. And plus you
20 had some of the desk particles on the chair that
21 was behind the desk. So it was obviously a
22 ricochet.

23 So, now, can you use that? We had a ricochet,
24 if you recall, from one that was at the front of
25 the desk, went through, hit the refrigerator.

1 It has a whole first, a symmetrical hole that
2 I could use, and I used the beginning of the
3 ricochet on the refrigerator as my second reference
4 point.

5 Now I have a first impact that is the
6 ricochet, and the second point is the impact to the
7 corner of the wall.

8 So can I use that? Well, I say probably not.
9 You can use -- there's people that can use some
10 calculations, in its trigonometric type calculations,
11 in order to do a geometric back-line assumption in
12 order to get some angles from just the ricochet
13 itself.

14 But most experts will tell you that if you're
15 going to try to do -- or run a back extrapolation
16 or do any type of angles for the ricochet, you need
17 to do empirical testing.

18 And that means getting out and using the same
19 gun, using the same ammunition, using the same
20 substrate to try to recreate -- because that's what
21 it is, it's a scientific method of trying to
22 recreate what you are seeing and see if that
23 actually happened.

24 So without doing that and not doing that, I
25 did not use that meter.

1 So now I'm using two. I'm using the one on
2 the side of the desk, which I think is really,
3 really good. I'm using Number 2 in front of the
4 desk, which I have two reference points also, and
5 that is the next best.

6 The other two I can't use.

7 So that's where I'm at so far.

8 Q Okay. Once you were able to make this analysis,
9 you mentioned that the scan actually comes in and
10 records that?

11 A Yes.

12 Q And that was done in this case?

13 A It was done in this case. Once we had the
14 trajectory rods in place -- and that was on the
15 13th, the day before. We had the scan or had
16 Investigator Bouknight come in a second time and
17 run the scan for any measurements and angles that
18 we might need inside of the room, and he did that.

19 Q And using the two -- you mentioned two of these
20 were actually useful as far as directionality?

21 A That's correct. What I determined for myself is
22 that there were seven shots again -- and we went
23 over that -- inside that room. Ms. Parker had five
24 entry wounds to her body. So that means there was
25 two that missed.

1 Now, I'm looking at two of the best ones that
2 I can use from the desk, or the four from the desk,
3 to pull back from that desk in a direction where
4 the projectiles may have originated. I did that
5 with Number 1. I did that with Number 2. And that
6 was using the ScanStation system that we use.

7 When we pulled that back, they intersected
8 about three feet just inside the entranceway to the
9 office, and they intersected about 4 foot 4 inches
10 approximately from the floor.

11 Q So 4 foot 4 inches approximately from the floor?

12 A Correct.

13 Q I'm going to show you some photographs, State's
14 Exhibits Number 229 through 256. Do those show
15 basically the work that you did that day as far as
16 trajectories?

17 A Yes, ma'am, they do.

18 MS. CAMPBELL: Your Honor, at this time we
19 would offer 229 through 256, I believe without
20 objection.

21 THE COURT: Is that correct?

22 MR. WHITLARK: No objection, Your Honor.

23 THE COURT: All right, thank you. They will
24 be entered without objection.

25

1 (WHEREUPON, State's Exhibit Nos. 229-256
2 were marked for identification and
3 received into evidence.)
4 MS. CAMPBELL: Your Honor, may the witness
5 step down?

6 THE COURT: Yes.

7 MS. CAMPBELL: Thank you.

8 (Witness steps down.)

9 BY MS. CAMPBELL:

10 Q I am going to show you what has been marked -- or
11 take these in the order that would be best to show
12 the jury.

13 A Okay, I talked to you about --

14 Q And that's 229.

15 A Okay. I talked to you about the impact points on
16 the desk; so I won't go through those again
17 hopefully.

18 State's Exhibit 229, this is a photograph of
19 the trajectory rod in the symmetrical hole. You
20 have to look at it real closely, and you can see
21 how well it fits, the trajectory rod. I marked it
22 Number 1. That is on the extreme left side of the
23 desk. That's the first one I used.

24 Q And, again, using State's Exhibit Number 170, where
25 is that on this?

1 A That would be this one right here (indicating),
2 the extreme left side.

3 Q Okay. And you actually placed a rod in there?

4 A Yes, I did.

5 Q Go ahead.

6 A State's Exhibit Number 230 shows the same thing, a
7 little different angle, how that rod looks pretty
8 straight on.

9 State's Exhibit 231, same thing, a little
10 different perspective of it.

11 Same with State's Exhibit 232.

12 Then we get the State Exhibit 233. This is
13 still, again, Number 1. You can see a symmetrical
14 hole that that trajectory rod was placed into. It
15 was not blown out. This is blowing out, of course,
16 with the initial entry, but I'm talking about the
17 hole perforated through the desk itself, held that
18 rod. And this is the one that went straight to the
19 back wall behind the desk where I had a very, very
20 good second reference point.

21 And, here again, I'm looking for two that
22 probably missed, or did miss Ms. Parker.

23 Now, we look at the front of the desk. This
24 is 2 and 3 that I talked about.

25 Q And those are?

1 A This is State's Exhibit 234.

2 Q Is that where they are?

3 A Yes, in front of the desk. You can see the
4 defects.

5 Okay. Number 2, that is the next one I looked
6 at. I talked about this one having the same
7 symmetrical type hole, not asymmetrical, but it was
8 a round hole. It was snug against the trajectory
9 rod.

10 So I had a good -- at that time, not thinking
11 about or not talking about intervening targets
12 before it got here, but starting here (indicating)
13 I had a good first impact point to put the
14 trajectory rod in.

15 This is the one that went through and now has
16 a separate reference point, which is the start of
17 the ricochet on the refrigerator underneath the
18 desk.

19 This is State's Exhibit 242. And that's what
20 the ricochet looked like on the refrigerator.

21 Now, this refrigerator, like I said, was
22 very -- the outlying area of it, the surface of it,
23 was very a thin type of -- I don't know if you can
24 call it metal, but very, very thin. However, since
25 it's thin enough where a bullet can break through

1 that very easily --

2 Q (Indicating on photograph.)

3 A Yes, yes, that's the refrigerator she is pointing
4 to there in the exhibit.

5 This is another look of the -- State
6 Exhibit 243 -- of the ricochet to the refrigerator.

7 What I'm trying to show you is, the outside
8 surface of that refrigerator is not very hard. The
9 inner portion of it is foam and some gel-like
10 substances.

11 The more yielding an area is or a substrate
12 is, the more angle you get when the ricochet comes
13 off of the surface. And the ricochet angle will be
14 greater. Okay?

15 Now, what we had here -- and I didn't get to
16 that, but I will explain it to you now -- is this
17 ricochet come off of the refrigerator as it was
18 sitting under the desk like this. It came off the
19 side. And as it ricocheted, it had a larger angle
20 because of the material that it hit. So it came
21 off at a larger angle laterally.

22 Okay. As it did that, there was a small
23 defect to the chair that was behind the desk at
24 that time.

25 Now there is an impact point to the wall.

1 We'll get to that later. Just remember that. And
2 we're going to talk about the impact point in the
3 wall, Number 4, because it has to do with this
4 ricochet.

5 But continuing with this, this is State's
6 Exhibit Number 241. This shows Number 2. We're
7 talking about Number 2 still, the second impact
8 point in front of the desk, but it's marked as
9 Number 3 behind the desk. Okay?

10 This is the one -- oh, I'm sorry. I'm sorry.
11 Let me back up. This is State's Exhibit Number
12 241. That is Impact Point Number 3 in the front of
13 the desk.

14 MR. WHITLARK: Excuse me, Your Honor. I just
15 want to note for the record that the Solicitor
16 handed him the photograph when he had a difficulty
17 remembering. I'd like to note that for the record.
18 That exhibit was handed to him after he had
19 difficulty recalling.

20 THE COURT: Is that an objection?

21 MR. WHITLARK: Yes, it is, Your Honor.

22 MS. CAMPBELL: Your Honor, we would object to
23 speaking objections.

24 THE COURT: All right. Yes. What is the
25 objection?

1 MR. WHITLARK: That she is leading the witness
2 by giving him a photograph that he needed then.

3 MS. CAMPBELL: Your Honor, may we approach?

4 THE COURT: Yes.

5 (WHEREUPON, a bench conference was held
6 in the presence of the jury but out of
7 the hearing of the jury.)

8 MR. WHITLARK: Thank you, Your Honor.

9 THE COURT: All right. The objection is
10 sustained. Can you rephrase the question?

11 MS. CAMPBELL: Yes.

12 THE COURT: As to the exhibit.

13 BY MS. CAMPBELL:

14 Q Can you explain what you were talking about? And
15 Which exhibit did you use?

16 THE WITNESS: We were talking about Exhibit
17 241 at that time, Your Honor.

18 A Exhibit 241 will be Number 3. That's Impact Point
19 Number 3 in front of the desk. Okay? And we will
20 get to that shortly.

21 State's Exhibit 235 shows the front of the
22 desk again, Impact Number 2 and Number 3 that I
23 talked about.

24 Okay, State's Exhibit 238 is behind the desk.
25 It's marked as Number 2. It came from Number 3 in

1 front of the desk. This is the one that's in the
2 front of the desk.

3 On State's Exhibit 235, you'll see Number 2
4 and Number 3. Okay? Number 2 I call at the far
5 left because it is a little more left than Number
6 3. Okay? So that's all I'm going to use. I am
7 going to tell you this is the one that entered the
8 desk at the far right, and this is the one that
9 entered the desk left of that. Okay? And I'll
10 call them 2 and 3 so you can understand where they
11 are from.

12 This is the same 2 and 3 that entered the desk
13 on the front. Look at it in reverse. Number 3
14 came from the impact point that was Number 2 on the
15 front, okay? The far right of the desk. It goes
16 through the desk to the refrigerator. From the
17 refrigerator there was a ricochet off of that onto
18 or against the defect that was found on the chair
19 that was behind the desk.

20 Now, to continue with that so we don't have to
21 return to it and go over it again, once the
22 ricochet was off the chair, it ricocheted to the
23 wall to the right of the desk.

24 Now, when a ricochet happens, particularly
25 when there is two of them, you loose velocity in

1 the bullet.

2 So when it entered the wall -- and this is
3 State's Exhibit 246 and 247 -- when it entered the
4 wall at the right of the desk, of course, anybody
5 that knows about your walls at home knows there's
6 two panels of drywall, one on the inside, one on
7 the other side that goes into another room.

8 You can punch through that drywall very
9 easily, but a ricochet on its own, one ricochet
10 loses velocity. When it ricochets twice, now
11 you're losing a great deal of velocity.

12 So what happened is this projectile went
13 through the first layer of drywall, could not get
14 through the second layer. There was a small defect
15 back there.

16 We sawed it out and took a look at it, but it
17 couldn't get through that one, and fell down in
18 between the two pieces of drywall down at the
19 bottom. We had to cut a hole down at the bottom,
20 where we found it.

21 That was the only projectile on that side of
22 the room with the major deformity to it. You are
23 going to have deformity when you have ricochet,
24 whether it's a yielding, frangible type substance
25 it hits, wood, or whatever it might be,

1 particularly metal. That's all I want to add. But
2 talking about those ricochets back there and all
3 these projectiles, the numbers add up.

4 All right. 239, State's Exhibit 239 shows the
5 back of the desk again.

6 State's Exhibit 237 shows you the trajectory
7 rods in the front of the desk, again, through and
8 through.

9 And State's Exhibit 240 gives you a clear view
10 of the trajectory rods to the front of the desk
11 with a little further back view, or the mid-range.

12 Q So those two points, were you able to use either of
13 those points to determine direction of --

14 COURT REPORTER: I'm sorry, Ms. Campbell?

15 MS. CAMPBELL: I'm sorry.

16 BY MS. CAMPBELL:

17 Q With those two points, were you able to use either
18 of those points in order to determine direction?

19 A In these particular two points, I used one double,
20 and that is because I had two reference points.
21 And that is Number 2 that you're looking at, the
22 front of the desk. I used Number 2. Number 2 is
23 an impact that had a symmetrical hole that the
24 trajectory rod fit in. I had a second reference
25 point, which was the beginning of the ricochet into

1 the refrigerator.

2 Q And I show you State's Exhibit Number 229. Were
3 you also able to use that one?

4 A 229 was one at the side of the desk, the extreme
5 side, the very first one that I put the trajectory
6 rod in, which had the perfect alignment between it
7 and the second reference point to the back of the
8 wall. That was the second one that was used.

9 Q However, in this one, State's Exhibit 240, were you
10 able to use one marked Number 3?

11 A No, could not use that. That is the one that I
12 talked about that had the asymmetrical hole, the
13 larger hole. It had -- the second impact was to a
14 rubber trash can which was not stationary and could
15 not be used for a second reference point, so I did
16 not use that item.

17 Q Okay. Go ahead.

18 A And these are shots or photographs of Number 4.
19 And that is what was marked on the wall at the
20 right of the desk to indicate the impact point to
21 the wall. This is the one I'm talking about. This
22 is State's Exhibit 244. This is the one I'm
23 talking about that did the ricochet and eventually
24 wound up in the wall. That's the one that fell
25 down between the two pieces of drywall and we

1 extracted from the wall.

2 Q And I show you State's Exhibit Number 170. Where
3 is the general area that I need to locate?

4 A Okay. This is the extreme left side. I call it
5 the front side. The wall is to the right. This
6 wall, if you're looking at the desk, in the corner,
7 it's the wall to the right of the desk, extreme
8 right of the desk. It would be right in this
9 corner here (indicating).

10 Q Okay.

11 A State's Exhibit 245 also shows the hole after we
12 cut a viewing window to see if there was a second
13 reference point in the other piece of drywall and
14 maybe it had punched through and went into a
15 different room where we may have to look for that
16 one.

17 This is a continuation of sawing out and
18 taking drywall out because we did not see a
19 perforated impact point to the second set of
20 drywall. So we knew it was down there somewhere.
21 So we continued to look. And that is State's
22 Exhibit Number 248.

23 Q Thank you.

24 A Now, State Exhibit 249, this is the projectile I
25 talked about from all of that ricochet, the one

1 that come off of the refrigerator. It hit the
2 metal piece of the chair behind the desk,
3 ricocheted in the wall to the right of the desk,
4 lost velocity, could not puncture through two
5 drywalls, and fell down between two pieces of
6 drywall. We extracted it from the wall. This is
7 what it looked like.

8 And notice the deformity in that projectile.
9 That is what one looks like usually through one
10 ricochet. This one went through two.

11 State Exhibit 250, notice I said -- I talked
12 about another ricochet at the top of the desk. It
13 ricocheted off the top and went straight into the
14 corner of the room. And that is where --

15 Q State's 170?

16 A State's 170 shows how this desk was situated in the
17 corner. So we're talking about the corner of the
18 room now, right back here (indicating). It came
19 off the top of the desk here (indicating),
20 ricocheted, and went straight to the corner of the
21 room here (indicating), and embedded in the wall.
22 And it was extracted from the wall by me.

23 This is -- State Exhibit Number 250 shows a
24 cutout in the wall at the corner. It came off the
25 top of the desk. And this was marked as Number 5.

1 This just depicts where we cut the wall and
2 collected the projectile that was embedded inside
3 that cut.

4 State Exhibit 251 shows the top of the desk.
5 This is what the ricochet looked like.

6 Now, when a ricochet leads in, especially in a
7 yielding type of substrate or a surface where it
8 can embed, it can scoot along; and then you can
9 tell as it came out the front, it blasted some of
10 the top of the substrate or the desk itself off.
11 We found those pieces, again, in the chair that was
12 behind the desk. And this is in direct proportion
13 of where the projectile was found in the corner of
14 the wall.

15 State's Exhibit Number 252. Now, I talked a
16 lot about -- and I will take you back to Impact
17 Number 1, which is that extreme left side of the
18 desk, the very first one, right here (indicating)
19 on the left side, extreme left side.

20 When I ran the trajectory rod through that --
21 and I keep talking about a second reference point
22 in the back behind the desk in the wall that
23 exactly led to the impact at Number 1 in the desk.
24 I marked it Number 6. This is State's Exhibit 252.
25 And that is what it looked like underneath the

1 desk.

2 So it went from Number 1, which is the extreme
3 left of the desk, perforated through the desk,
4 embedded or impacted into the wall below the desk
5 at Number 6 here (indicating), and that is where it
6 was extracted and recovered.

7 State Exhibit Number 253 is just another
8 photograph of the same, maybe a little different
9 view, slightly.

10 Number 6. This is a photograph of the
11 projectile that was collected from the trajectory
12 that went through Number 1, all the way to the back
13 wall, underneath the desk. And I marked that
14 Number 6. And that is what it looked like. It was
15 in pretty good shape.

16 The intervening materials that it went through
17 was this flimsy thing on the side of the desk,
18 plywood maybe. It perforated and went through it
19 into the drywall -- which is not all that steady in
20 itself if anybody has messed with drywall before --
21 into and embedded into the wall behind the drywall.
22 And that is what it looked like when we took it
23 out.

24 Q That's after you removed it?

25 A That's after I removed it, yes. Very clean.

1 Now, this is Number 5. This is Projectile
2 Number 5 that came out of the corner of the wall,
3 the ricochet that come off the top of the desk.
4 That is still pretty clean too, even though it is a
5 ricochet.

6 Now, you have to take into consideration what
7 the desk is made out of on top, how easy it is to
8 go through the top of that desk without tearing the
9 bullet up very much. You are still probably going
10 to have some striations, and things of that nature,
11 into the bullet because of that. But it ricocheted
12 out and impacted the wall, and it was recovered in
13 that shape.

14 Q And it was recovered in the wall?

15 A From the wall, yes.

16 Q And that's after you removed it?

17 A Yes, that's after I removed it.

18 State's Exhibit 256 is marked Number 5, and
19 that is the cut place, again, where it was
20 extracted from the wall in the corner from the
21 ricochet off the top of the desk.

22 Q You can take a seat.

23 (Witness returns to witness stand.)

24 Q Once you were able to do your trajectory analysis,
25 was that consistent with what you observed from the

1 spent shell casings on the floor?

2 A Yes, it was. The two that we pulled back of course
3 made it consistent with that -- with the shell
4 casings, the ejection pattern to the right that we
5 discussed -- that I discussed when I first started
6 this.

7 Q I want to turn your attention -- you mentioned also
8 in the office at some point you collected certain
9 pieces of evidence?

10 A Yes.

11 Q And was one of those I believe you mentioned a gun
12 case?

13 A Yes.

14 Q And I show you what is marked as State's Exhibit
15 257 and 259.

16 MS. CAMPBELL: Your Honor, we would offer
17 these, I believe without objection.

18 THE COURT: Is that correct?

19 MR. WHITLARK: No objection, Your Honor.

20 THE COURT: No objection. Those will be
21 entered without objection.

22 (WHEREUPON, State's Exhibit No. 257 was
23 marked for identification and received
24 into evidence.)

25

1 (WHEREUPON, State's Exhibit No. 259 was
2 marked for identification and received
3 into evidence.)

4 BY MS. CAMPBELL:

5 Q And what do those show, sir?

6 A The first one, State's Exhibit 257, shows a bag
7 which is -- came eventually through a search from
8 the trash inside the office of clippings or a
9 shredder, actually, that had a gun oil can inside
10 it. That is what that one is.

11 State Exhibit 258 is from a black gun bag that
12 was found on the floor. It was beside that trash
13 bag, and it was on the extreme -- well, it was in
14 the corner where the desk was.

15 Q And that's in State's 258?

16 A Correct.

17 Q And that was something you found the second day
18 when you continued your processing?

19 A The black gun bag was, yes. That's when it was
20 collected. Now, the bag that had the trash in it
21 and the gun oil can and the things from the
22 shredder was there, but these are things that were
23 collected the second day. And that black gun bag
24 was collected the second day. And State's Exhibit
25 259 is another photograph of the black gun bag.

1 Q And, again, this was collected from which room?

2 A The office.

3 Q I show you State's Exhibits 260 and 261.

4 MS. CAMPBELL: Your Honor, we would offer
5 those at this time, I believe without objection.

6 MR. WHITLARK: No objection, Your Honor.

7 THE COURT: All right. They will be entered
8 without objection.

9 (WHEREUPON, State's Exhibit Nos. 260-261
10 was marked for identification and
11 received into evidence.)

12 BY MS. CAMPBELL:

13 Q Do you recognize that?

14 A Yes. This is a holster, a black holster, that was
15 located just underneath the desk and was behind it
16 in the corner of the desk, being in the corner of
17 the room.

18 And these are two photographs, Exhibits 260
19 and 261, both of the holster, which was
20 photographed and collected.

21 Q And, again, this was located in which part of the
22 house?

23 A In the office.

24 Q I show you what has been marked as State's Exhibits
25 227 and 228.

1 MS. CAMPBELL: I believe without objection.

2 THE COURT: Is that correct? Without
3 objection?

4 MR. WHITLARK: No objection, Your Honor.

5 THE COURT: All right. They will be entered
6 without objection.

7 (WHEREUPON, State's Exhibit Nos. 227-228
8 were marked for identification and
9 received into evidence.)

10 A 227 and 228 both depict a marker U that we used
11 that second day when we found a fragment on the
12 floor as we were searching for any other additional
13 evidence that might be in the office. And this was
14 marked, photographed, and the fragment was
15 collected.

16 Q And, again, this is in what room?

17 A In the office.

18 Q So that day you recovered how many projectiles from
19 the wall area, in the wall?

20 A Three projectiles from the wall area. They were
21 marked as Number 4 and Number 5 and Number 6.

22 Q And then this additional?

23 A Additional fragment on the floor marked with Marker
24 U.

25 Q There in the office area I show you what has been

1 marked as State's Exhibit 339. What is that, sir?

2 A This is a photograph of a smoke alarm that was
3 collected at a point in time -- another search that
4 we came back and did at the residence. And it's a
5 smoke alarm that is in the office on the ceiling.
6 It was photographed and collected.

7 Q You also mentioned that Brett Parker actually
8 showed up and opened the safe for y'all that day?

9 A Correct, yes, ma'am.

10 Q I show you State's Exhibits 291 through 297.

11 MS. CAMPBELL: Your Honor, we would offer
12 them, I believe without objection.

13 THE COURT: Any objection to 291 through 297?

14 MR. WHITLARK: No, Your Honor. No objection.

15 THE COURT: They will be entered without
16 objection.

17 (WHEREUPON, State's Exhibit Nos. 291-297
18 were marked for identification and
19 received into evidence.)

20 BY MS. CAMPBELL:

21 Q What do those show, sir?

22 A Exhibit 291 shows the safe in the attic area with
23 an afghan or a blanket draped over it and the way
24 we found it. And that's the way it was
25 photographed before we removed the blanket.

1 Q Is this as it was when you approached it that day
2 before you removed the blanket?

3 A That's correct.

4 Q State's Exhibits ...

5 A 292 and 293 shows -- depicts the safe after the
6 blanket was removed.

7 294 depicts the safe with the door open.

8 295, 296, and 297 shows the money that was
9 found inside the safe and how it was packaged.

10 Q I show you 296 and 297. And 297 is actually once
11 it had been removed?

12 A Yes.

13 Q You also mentioned that you actually counted the
14 money once it had been photographed?

15 A That's correct.

16 Q I show you what has been marked as State's Exhibits
17 298 and 299.

18 MS. CAMPBELL: We would offer them at this
19 time, Your Honor, without objection.

20 THE COURT: Is that correct?

21 MR. WHITLARK: No objection, Your Honor.

22 THE COURT: All right. They will be entered
23 without objection.

24 (WHEREUPON, State's Exhibit Nos. 298-299
25 were marked for identification and

1 received into evidence.)

2 A These photographs depict the money that was counted
3 several times, both at the residence itself and
4 then back at our laboratory.

5 Q Finally, were there also pictures taken of a
6 child's room there at the residence?

7 A Yes.

8 Q I show you --

9 MS. CAMPBELL: Your Honor, at this time we
10 would offer State's Exhibits 409 through 428.

11 MR. WHITLARK: I'm sorry, I didn't hear the
12 numbers?

13 MS. CAMPBELL: 409 through 428.

14 MR. WHITLARK: There is no objection, Your
15 Honor.

16 THE COURT: Entered without objection.

17 (WHEREUPON, State's Exhibit Nos. 409-428
18 were marked for identification and
19 received into evidence.)

20 A Yes, all these photographs depict additional rooms
21 that was to the far right, second floor, one being
22 a child's room. And the reason that was
23 photographed so extensively is that we thought we
24 were going to have to go into that room to try and
25 collect the projectile that went through the wall

1 to the right of the desk.

2 Q Was anything of evidentiary value found in this
3 child's room --

4 A No.

5 Q -- or wall or thereabouts?

6 A No.

7 Q I show you what has been marked as State's Exhibit
8 Number 384. First, do you recognize this?

9 A Yes, this is my handwriting. On the evidence label
10 it has projectile from the office wall, Number 6;
11 Projectile office wall, Number 5; projectile office
12 wall, Number 4; and jacket fragments from the
13 office wall marked U.

14 Q And those were items you collected that day?

15 A Yes, ma'am.

16 MS. CAMPBELL: Your Honor, at this time I'd
17 offer State's Exhibit 384 into evidence.

18 THE COURT: Any objection?

19 MR. WHITLARK: No objection, Your Honor.

20 THE COURT: It will be entered.

21 (WHEREUPON, State's Exhibit No. 284 was
22 marked for identification and received
23 into evidence.)

24 BY MS. CAMPBELL:

25 Q I want to show you what has been marked as State's

1 Exhibits 391, 396, and 392. Do you recognize those
2 items?

3 A Yes.

4 This State Exhibit 391 is the Taurus gun box
5 that was located, photographed, and collected from
6 the office area.

7 State Exhibit 392 is the black gun bag that
8 we've been talking about, also collected from the
9 office.

10 State Exhibit Number 396 is the black holster
11 that was also collected from the office.

12 MS. CAMPBELL: Your Honor, at this we would
13 offer them.

14 MR. WHITLARK: Your Honor, the Defense does
15 object to this, Your Honor.

16 THE COURT: All right. And the objection?

17 MR. WHITLARK: My objection is it's cumulative
18 evidence. They've already got numerous photographs
19 of these into evidence. And, I mean, either/or.
20 It's something that is becoming cumulative at this
21 point.

22 Thank you, Your Honor.

23 THE COURT: Yes, ma'am?

24 MS. CAMPBELL: Your Honor, we think they are
25 very probative in this case. They belong to the

1 guns.

2 THE COURT: All right. The objection is
3 overruled.

4 MS. CAMPBELL: Thank you, Your Honor.

5 (WHEREUPON, State's Exhibit No. 391 was
6 marked for identification and received
7 into evidence.)

8 (WHEREUPON, State's Exhibit No. 392 was
9 marked for identification and received
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 296 was
12 marked for identification and received
13 into evidence.)

14 BY MS. CAMPBELL:

15 Q I show you State's Exhibit Number 380. Do you
16 recognize that, sir?

17 A Yes, ma'am. This is the evidence labeled in my
18 handwriting of the currency that was collected from
19 the safe in the attic on the second day that we
20 continued our processing. It contains a one-dollar
21 bill, two \$100 bills, and 182 one-dollar bills; for
22 a total of \$383.

23 MS. CAMPBELL: Your Honor, at this time we
24 would offer into evidence, 380.

25 MR. WHITLARK: No objection, Your Honor.

1 THE COURT: All right. It will be entered
2 without objection.

3 (WHEREUPON, State's Exhibit No. 380 was
4 marked for identification and received
5 into evidence.)

6 BY MS. CAMPBELL:

7 Q Once you had recovered the projectiles and done
8 your trajectory analysis and other things there at
9 the scene that day, did you then turn the office
10 area over to other investigators who were
11 conducting additional searches?

12 A Yes, I did.

13 Q And was Major Smith one of those?

14 A He was.

15 Q And Investigator Holdorf?

16 A Yes.

17 Q And was that the extent, what we have just gone
18 over, pretty much the extent of your involvement on
19 the 14th?

20 A On the 14th it was, yes.

21 Q I want to turn your attention to April the 15th,
22 that Sunday. Excuse me, let me back up. On the
23 14th, approximately how many hours were you on the
24 scene that day?

25 A I arrived at the scene about 8:49 in the morning

1 and left about 2:57 that afternoon.

2 Q The next day, did you do some additional
3 investigation in this case?

4 A Yes. At my lab -- at our lab at 5623 Two Notch
5 Road, on the 15th, starting about 9:00 o'clock in
6 the morning, I received all the evidence that was
7 transported from the incident location the
8 previous -- the first night or the first day that
9 we was there on the 13th by Investigator Bouknight.
10 And I received that on the chain of custody.

11 I retrieved out of there -- and these were
12 brought back by myself, so I retrieved the three
13 gunshot residue kits that was prepared and
14 processed on the first day we were there.

15 That would have been from Mr. Brett Parker,
16 from Tammy Parker, and from Mr. Capnerhurst for
17 gunshot residue kits. I retrieved those and I
18 prepared the paperwork that is involved in entering
19 those into evidence so they could be forwarded to
20 SLED for analysis.

21 Q Once you had done that, did you then retrieve
22 another piece of evidence?

23 A Yes. I retrieved the blue-black Rock bag that
24 contained clothing items, toiletries, and things of
25 that nature, that was collected on the 13th. And

1 one UMC cartridge box with 35 unfired cartridges
2 and one empty magazine that was all inside the Rock
3 bag. And I did retrieve those for processing.

4 Q And I show you what is already in evidence as 375,
5 as well as State's Exhibit 371. Do you recognize
6 these items?

7 A Yes.

8 Exhibit 375 is the cartridge box, UMC
9 cartridge box, that I retrieved from out of the
10 blue-black Rock bag.

11 Exhibit 371 is the box that I placed the
12 blue-black Rock bag in and entered it into
13 evidence. I retrieved it, again, of course, on the
14 morning of the 15th.

15 Q Okay. What, if any, processing did you do with
16 those items, sir?

17 A I processed the empty 8-round magazine at that
18 time, one UMC cartridge box. Both of those were
19 processed with a fuming type cyanoacrylate fuming
20 process and black powder. And I had two lifts,
21 which means two latent print lifts, from the
22 cartridge box.

23 Q I am going to show you what has been marked as
24 State's Exhibit 375. When you say you had two
25 lifts from that box, what does that mean? And when

1 you say process, what do you mean?

2 A Process, trying to see if there is any latent
3 prints on an item. Latent means invisible. Most
4 of the time, you can't see a latent print. A
5 latent print -- when you discuss a latent print on
6 something, on an item, on a substrate, you have to
7 start thinking about how a latent print is left and
8 developed afterwards.

9 You can leave a latent print like -- if you
10 look on your fingers, you've got little ridges all
11 over. I think everybody has probably done it one
12 time in their life. You see the ridges. On those
13 ridges are pores. You sweat through your pores on
14 the ridges of your fingers.

15 Now, that is about 97 or 98 percent water, but
16 it's some salt, some amino acids, and different
17 things of that nature.

18 That's what is left sometimes when you touch
19 an item. It depends. And I say sometimes.
20 Sometimes you can leave an impression; sometimes
21 you won't. Sometimes it's smeared because you go
22 across an item like this (indicating) trying to
23 pick it up, and it smears, and that makes it
24 unreadable. I can tell if there is something
25 there, but there is no ridge detail. I can't see

1 enough to use it. But sometimes you can.

2 Not being able to see what is or may not be on
3 an item, we have to process it or develop it so we
4 can see it. We do that with a variety of ways, one
5 being a chemical, cyanoacrylate, which is
6 superglue.

7 We heat it up, put it in a fuming tank, put
8 some water vapors in there. It goes into the air
9 like a vapor. And if there is anything on an item
10 that we place in there along with it, it will
11 adhere to and maybe will let us see a latent print
12 or a fingerprint. Then we can continue to enhance
13 that using powder so we can see it even better.

14 Once we get to that stage, we can lift it off
15 with lifting tape, which is just sticky tape, that
16 we can place on the item.

17 And the powders and the things we use for
18 development will lift off with the tape. We will
19 place that tape on a card stock or a card which
20 contrasts the black tape maybe with a white card;
21 and we can see the results even better.

22 That's the way you process and develop and
23 elicit a print.

24 Q So if I walk up and touch this box like this with
25 my finger (indicating), am I necessarily going to

1 leave a print?

2 A It depends on how much oil, how much oils you might
3 have on your finger at the time. You may not have
4 enough. You may have just washed your hands. You
5 may have too much oil, and therefore we can't get
6 anything off of that either because it's too much
7 and it smears. So there's a lot of things that
8 goes into a fingerprint. It really is a fragile
9 piece of physical evidence.

10 Q That's where I was going next. Even if I were to
11 walk up and touch this and say I did leave my
12 fingerprint there, is it -- are there conditions
13 that may affect its ability to be found later?

14 A Yes, a lot of conditions.

15 Q And what type of conditions or handling can affect
16 whether or not my fingerprint may be able to be
17 lifted?

18 A Just the handling it alone could make it where you
19 find no usable latent prints because you'll be
20 wiping things off. Leaving it there, the
21 environment, where it's at, what it touches. All
22 kinds of different things will make you either be
23 able to lift it and see it or not.

24 So that is why we have to look at it in a
25 multitude of ways to see if there is a latent print

1 there that we can use.

2 Q And how an item is handled after the print is left
3 can also affect whether or not you may be able to
4 get a print?

5 A Sure.

6 Q In this case, when you processed that box of
7 ammunition -- well, let me start with this first.
8 When you processed the magazine, were you able to
9 get any usable prints from that?

10 A No.

11 Q And is that unusual?

12 A No.

13 Q Why not?

14 A For the same reason, the same reasons we just went
15 over. Sometimes you leave them; sometimes you
16 don't. And there is -- it depends on where the
17 item has been, how long it has been, a multitude of
18 reasons where you can or can't. Like I said,
19 they're very fragile. And it's not as easy to lift
20 and develop a print as most people think.

21 Q When you processed this box of ammunition that was
22 found in the gym bag found in the attic, were you
23 able to lift two possible usable prints?

24 A Yes. I lifted two prints or two impressions that
25 had ridge detail.

1 Q And on this box can you tell -- are there any
2 markings approximately where you did those --
3 lifted those prints?

4 A Yes. On the side of the box, linear side of the
5 box, you can see two marks, marked Number 1 and
6 Number 2. Those are where -- to that side of the
7 box, is where the two impressions were lifted.

8 Q And, again, the writing on this box was put there
9 by whom?

10 A I don't know who the top writing was put there by.

11 Q The one on the side? I'm sorry, on the side.

12 A The one on the side was me -- was put by me.

13 Q And that was before or after you lifted the print?

14 A Before.

15 Q I show you State's Exhibit Number 406. Do you
16 recognize that? And you can open it.

17 A Yes. These are the latent cards, what they look
18 like, when we lift a print. And the print is then
19 lifted with the print tape that I was talking about
20 and put on the card for contrast. That's what it
21 looks like on the rear side. These two were lifted
22 by me marked 1 and 2.

23 MS. CAMPBELL: Your Honor, at this time we
24 would offer 406 into evidence.

25 THE COURT: Any objection?

1 MR. WHITLARK: One second, please, Your Honor,
2 if it please the Court?

3 MS. CAMPBELL: Do you want to take a look at
4 them?

5 MR. WHITLARK: Sure.

6 (Pause.)

7 MR. WHITLARK: No objection, Your Honor.

8 THE COURT: All right, 406 will be entered
9 without objection.

10 (WHEREUPON, State's Exhibit No. 406 was
11 marked for identification and received
12 into evidence.)

13 BY MS. CAMPBELL:

14 Q Looking at the two cards, is there some writing, as
15 well as a diagram, on the back?

16 A Yes, it's a diagram as best as I can diagram or
17 draw. This says the UMC cartridge box and where
18 Number 1 in this particular card was located on the
19 box.

20 Q And Number 2 on that one?

21 A Number 2, the same.

22 Q And that just shows the general area where you
23 lifted it for prints?

24 A That's correct.

25 Q And then on the other side is the actual impression

1 you lifted?

2 A Correct.

3 Q Did you do any further analysis on these items?

4 A I swabbed the cartridge box and the zipper from the
5 bag and also the bag strap from the bag for
6 possible DNA. And those were submitted to our
7 evidence room for DNA analysis.

8 Q And in that case, as far as the bag is concerned,
9 was there any evidence of any bloodstain or
10 anything of that nature on the bag itself?

11 A Not that I saw, no.

12 Q So when you're swabbing, you're swabbing for what
13 is known as touch DNA?

14 A That's correct.

15 Q Did you actually process the bag itself for any
16 fingerprints?

17 A Not the bag, no.

18 Q And why not?

19 A Because the bag is made of a cloth-like item. I
20 did look at the bag, of course, looking for
21 particularly blood or anything of that kind or
22 nature; but it was not processed per se for latent
23 prints.

24 Looking at a bag with an alternate light
25 source, sometimes you might see something that will

1 give you an impression of a latent print, and
2 sometimes you won't. And it's very, very difficult
3 to come up with a latent print of any kind on
4 cloth-type items. You have to use a ULV or an
5 alternate light source in order to do that.

6 Q And in this case there was no blood and it wasn't
7 suitable for processing?

8 A No.

9 Q And as far as -- other than taking some swabs, was
10 that the extent of what you did with those items
11 that day?

12 A It is.

13 Q I want to turn your attention to February 6th --
14 excuse me, April 16th of 2012. Did you turn over a
15 certain piece of evidence to Investigator Holt?

16 A I did. I turned over one Verizon cellphone in
17 reference to chain of custody to him for what I
18 call further investigation. I believe it was
19 further chained over to one of the investigators by
20 Investigator Holt.

21 Q Also on the 16th, did you take possession of the
22 three gunshot residue kits again?

23 A Yes, I did. For a second time I took possession of
24 those. They had been placed for log-in in our
25 evidence room; however, I went down and I retrieved

1 those three GSR kits from evidence before they were
2 logged in in an effort to try to -- or to retrieve
3 the swabs that were used from Mr. Capnerhurst's
4 right and left palm in order to maybe see or just
5 swab the blood that was on both of his palms at
6 that time.

7 I was using the swab that had been swabbed
8 that were used on his hands for the GSR kit. So
9 actually what I took out of the kits was only from
10 Mr. Capnerhurst's kit itself. The other two were
11 not opened.

12 I took out a swab for the palm of the left and
13 right hand, sealed it back up. Those three GSR
14 kits were then re-entered into evidence and logged
15 in and sent to SLED for analysis.

16 Q And through the course of your testimony, sir, when
17 you're talking about having evidence in your
18 possession, at any time when you have any evidence
19 in your possession, do you alter or change it or do
20 anything to it, other than what you test on the
21 item?

22 A Nothing.

23 Q Would anyone else have access to alter or change
24 any of the evidence as you handle it?

25 A No, not when it's in my possession, no.

1 Q Once you retrieved those items, did you also
2 process additional firearms?

3 A Yes. To continue, I processed a Smith & Wesson
4 9-millimeter auto for latent prints, like we do,
5 and I got negative results for any latent prints or
6 unusual prints off of that item.

7 I processed the magazine and one 9-millimeter
8 unfired cartridge that was taken from the chamber
9 of the 9-millimeter Smith & Wesson by me. I
10 processed it also for latent prints, which was
11 negative.

12 Now, in addition, I swabbed the reddish-brown
13 stains that I found and photographed on the Smith &
14 Wesson 9-millimeter weapon. I swabbed that, and I
15 swabbed the remainder of the 9-millimeter weapon
16 that did not have any reddish-brown stains on it.

17 So two swabs were taken from the gun, from the
18 9-millimeter gun, one from the reddish-brown stains
19 and one without. I swabbed the magazine. I
20 swabbed the 9-millimeter unfired cartridge that had
21 been retrieved from that gun also by me. And then
22 the two swabs that I had retrieved from
23 Mr. Capnerhurst's GSR kit, and all of those were
24 packaged and sent to evidence for our DNA analysis.

25 Q And you don't actually do the DNA analysis in your

1 lab, do you?

2 A No.

3 Q And, again, during the time period these items,
4 these swabs and everything else we are talking
5 about were in your possession, no one altered them
6 or tampered with them in any way?

7 A No.

8 Q I want to show you -- and I am going to back up for
9 one second from the 15th. I want to show you
10 State's Exhibits 301 through 305.

11 MS. CAMPBELL: And, Your Honor, at this time
12 we would offer them, I believe without objection.

13 THE COURT: What are the numbers again?

14 MS. CAMPBELL: 301 through 305.

15 THE COURT: Any objection?

16 MR. WHITLARK: No objection, Your Honor.

17 THE COURT: All right. they will be entered
18 without objection.

19 (WHEREUPON, State's Exhibit Nos. 301-305
20 were marked for identification and
21 received into evidence.)

22 A Yes, ma'am. 301 through 305 depicts the cartridge
23 box that was processed by me for latent prints.

24 Q And in 301, what area does that show?

25 A That's the side of the box where the two

1 impressions with ridge detail were lifted from.

2 Q And 303, I believe, is a close-up?

3 A Yes, it is.

4 Q And that is the actual impression prior to you
5 lifting it?

6 A It is.

7 Q As well as 304.

8 You mentioned that you swabbed the gun then on
9 the 16th for some reddish stains?

10 A Yes. I photographed and swabbed the 9-millimeter
11 automatic. On the left side of the gun, there was
12 reddish-brown stains; and those were swabbed by me
13 and submitted to evidence for DNA analysis.

14 And the remainder of the gun that had no
15 reddish-brown stains, which involved most of the
16 handle or what is called the cartridge well -- or
17 magazine well, I'm sorry -- and the right side of
18 the gun on the opposite side of this photograph had
19 no reddish-brown stains.

20 MS. CAMPBELL: Your Honor, at this time we
21 would offer 307, without objection I believe.

22 MR. WHITLARK: No objection, Your Honor.

23 THE COURT: All right. It will be entered
24 without objection.

25

1 (WHEREUPON, State's Exhibit No. 307 was
2 marked for identification and received
3 into evidence.)

4 BY MS. CAMPBELL:

5 Q And, again, we see the reddish stains you are
6 talking about on this side (indicating) of the gun?

7 A Yes, on the left side of the gun, going along the
8 chamber area and the side of the muzzle area; and
9 some, if you will notice, in the right and the
10 front of the magazine well at the magazine release
11 button.

12 Q Right there (indicating)?

13 A Right here (indicating). This area around the
14 trigger well along the magazine well, along the
15 chamber itself, and the bore area. But there was
16 none around the magazine well, or what I call the
17 handle, or on the opposite side of the weapon
18 itself, which would have been the right side.

19 Q So there was no blood where you would hold this
20 actual gun to shoot it?

21 A No.

22 MR. WHITLARK: Objection, Your Honor. It's a
23 leading question.

24 THE COURT: Sustained.

25 BY MS. CAMPBELL:

1 Q Was there any -- where -- was there a lack of
2 blood?

3 A No blood was found on the handle area right here
4 (indicating).

5 Q Once you collected those swabs from that gun after
6 photographing it, did you then put those -- what
7 did you do with them?

8 A Yes. On the 17th, all these things that I had been
9 working with and processing within the lab were
10 placed into evidence. And that included the Rock
11 bag, the UMC cartridge box with 35 cartridges,
12 unfired cartridges, the empty magazine, three
13 projectiles, the projectile jacket, fragments, and
14 the currency. All of these items were placed into
15 evidence on the 17th.

16 Q I want to turn your attention to the 18th of April
17 of 2012. Did you retrieve certain evidence from
18 your evidence room?

19 A Yes. I retrieved a fleece jacket that had been
20 removed from Mr. Capnerhurst. And I was looking at
21 the jacket, particularly for stains of a
22 reddish-brown nature. I used an alternate light
23 source in order to do that, looking at the
24 different areas inside and outside of the jacket
25 itself.

1 During the search I marked on the outside of
2 the jacket areas in the upper portion of the jacket
3 in the left sleeve, A through D.

4 I photographed those areas and marked areas on
5 the lower portion of the jacket and tested all of
6 these areas with phenolphthalein.

7 Now, that is a solution that is a presumptive
8 test for blood that we use. It doesn't mean it is
9 blood. It means it could be blood. So that's what
10 we follow up on after we use the phenolphthalein.
11 So I used the phenolphthalein.

12 And one area was positive, which was marked E;
13 and this was along the outside portion of the
14 jacket.

15 I marked possible blood using arrows on the
16 interior portion of the left sleeve.

17 And the item was returned to evidence after
18 photographing and marking those reddish-brown
19 stains and using phenolphthalein.

20 I submitted the forensic report then to DNA
21 for analysis of the swabs that I had taken from the
22 cartridge box and made sure that those were -- got
23 the DNA and an analysis was performed from the
24 cartridge box, from the straps, and from the Rock
25 bag zipper and the bag strap. So that was just a

1 follow-up to make sure that those were taken to DNA
2 and analyzed.

3 Q The next day, on April the 19th, did you do further
4 testing in this case on the clothes?

5 A Yes. On the 19th, at our lab again, I retrieved
6 clothing from evidence that had been collected from
7 Mr. Brett Parker by Sergeant Robinson.

8 Per request I got from Major Smith, I looked
9 and examined a pair of black shoes, a pair of dark
10 pants, and a red shirt for possible blood.

11 I searched these items again using an
12 alternate light source, marking areas for testing
13 on all the items. I tested these areas that I had
14 marked for possible blood, using, again,
15 phenolphthalein, which is a presumptive test for
16 blood, with negative results.

17 I also then took these items that I just
18 mentioned and used what we call BLUESTAR, which is
19 a reagent, again. And instead of doing one stain
20 or one real small area at a time, what you have to
21 do, using phenolphthalein, I can use a spray, which
22 is the BLUESTAR, which is also a reagent for a
23 presumptive test only for blood.

24 And I did. And I sprayed these items that I
25 collected. And they were -- the results for those

1 were negative also. And I returned those items to
2 evidence.

3 Q I want to show you what has been marked as State's
4 Exhibits 319 through 329.

5 MS. CAMPBELL: I think we would offer those
6 without objection.

7 THE COURT: Any objection?

8 MR. WHITLARK: I'm sorry, Your Honor?

9 THE COURT: 319 through 329?

10 MS. CAMPBELL: You had no objection.

11 MR. WHITLARK: Those are photos?

12 MS. CAMPBELL: Photos.

13 MR. WHITLARK: No objection, Your Honor.

14 THE COURT: All right. They will be entered
15 without objection.

16 MS. CAMPBELL: Thank you, Your Honor.

17 (WHEREUPON, State's Exhibit Nos. 319-329
18 were marked for identification and
19 received into evidence.)

20 BY MS. CAMPBELL:

21 Q Do you recognize those photos, sir?

22 A Yes. These are the clothing items and shoes that
23 were collected from Mr. Brett Parker that I looked
24 at and processed through alternate light sources
25 and phenolphthalein and BLUESTAR reagent and all

1 presumptive tests for blood.

2 And I have marked several areas that had --
3 that I felt may be of some interest while using the
4 alternate light source, but everything on the
5 clothing and the shoes that I tested were negative.

6 Q Negative for what?

7 A For blood.

8 Q And you even tested the shoes?

9 A Yes.

10 Q Top and bottom?

11 A Yes.

12 Q Was there any -- and I show you State's Exhibit 328
13 and 329. Was there any blood found?

14 A No.

15 Q I show you State's Exhibit 432, the clothing that
16 was shown in the photographs you just viewed. Does
17 that reflect that?

18 A Yes. The evidence label reflects what I just went
19 over in testimony.

20 MS. CAMPBELL: Your Honor, at this time we
21 would offer 432 into evidence.

22 THE COURT: Any objection?

23 MR. WHITLARK: May it please the Court, Your
24 Honor?

25 THE COURT: Yes.

1 (Attorneys conferred.)
 2 MR. WHITLARK: No objection, Your Honor.
 3 THE COURT: All right. It will be entered
 4 without objection.
 5 (WHEREUPON, State's Exhibit No. 432 was
 6 marked for identification and received
 7 into evidence.)
 8 BY MS. CAMPBELL:
 9 Q So in doing the testing on the 19th for the
 10 evidence of blood, there was none on any of the
 11 clothing?
 12 A No, not by using the reagents that I used. They
 13 were negative.
 14 Q And that is typically the first step you take
 15 before you collect for DNA?
 16 A Yes. I would process those for that, yes.
 17 Q I want to turn your attention to April the 24th of
 18 2012. Did you request certain items be tested by
 19 another part of your laboratory?
 20 A Yes. Well, Major Smith asked me to submit a
 21 request for two firearms within the forensic
 22 division for gunpowder particle examination of the
 23 clothing, of the clothing collected from Ms. Tammy
 24 Parker, and I did so.
 25 Q On May the 3rd of 2012, did you also receive

1 another request to inventory and photograph certain
2 items?

3 A Yes. I was requested by Major Smith also to
4 inventory and photograph the items that were found
5 in the Rock bag, besides those that we have already
6 talked about. That would have been the cartridges
7 and box and the magazine.

8 I did so. And I did this in the presence of
9 Ms. Terri Gleason, which is a firearms examiner.
10 She had taken these items out of evidence herself,
11 and she had them in her possession. So I went to
12 her. And while she kept these items in her
13 possession, I photographed them and made an
14 inventory of the items inside the bag.

15 Q And I show you State's Exhibits 330 through 338.

16 MS. CAMPBELL: Your Honor, we would offer them
17 at this time, I believe without objection.

18 THE COURT: Is that correct?

19 MR. WHITLARK: 338?

20 MS. CAMPBELL: 330 through 338.

21 MR. WHITLARK: No objection.

22 THE COURT: All right. They will be entered
23 without objection.

24 (WHEREUPON, State's Exhibit Nos. 330-338
25 were marked for identification and

1 received into evidence.)

2 BY MS. CAMPBELL:

3 Q Go ahead.

4 A These photographs depict the items that were inside

5 the bag.

6 Q Other than, you said, what items were not

7 photographed that day?

8 A Well, the cartridge box, which I had processed, and

9 the empty magazine.

10 Q And where were those items found at the scene,

11 these two items?

12 A Inside the bag.

13 Q Inside the bag?

14 A Yes.

15 Q And where were they located inside the bag?

16 A Sitting on top of the items that were inventoried,

17 clothing items.

18 Q Clothing items?

19 A Yes.

20 Q As well as certain toiletries?

21 A Yes.

22 Q And I show you State's Exhibit 335. Is that how

23 they appeared?

24 A Yes, it was.

25 Q I want to turn your attention to May the 23rd, I

1 believe. Did you return to the scene at Tackeria
2 Court?

3 A I did.

4 Q And who was with you that day when you went back
5 there?

6 A I responded there, as requested by Major Smith and
7 Lieutenant McDonald. And there were some, I
8 believe, some other CID investigators there at the
9 same time. But this was to assist in the execution
10 of a search warrant.

11 Q And was it unusual for you to go back to a scene,
12 even after you do initial testing?

13 A No, not at all.

14 Q And at this point we are -- how many days after --
15 how far out are you from the initial testing that
16 you did?

17 A From the first time that we arrived? That was on
18 the 13th of April, and now we're talking about the
19 23rd of May.

20 Q When you responded there that day with a lawful
21 search warrant, were you requested to photograph
22 certain areas?

23 A Yes, I was. I photographed, in the office again,
24 the photograph that you saw of the smoke alarm on
25 the ceiling. I photographed it and I collected

1 that that day.

2 In the attic area, I was looking at different
3 things and making sure, seeing if there was
4 anything else that may have been -- may have
5 been -- in terms of value.

6 There was another shotgun -- and I call it
7 shotgun wad. People want to call it shotgun cuff,
8 but there was an additional wad found in the attic.
9 So that made four.

10 So we had three that was collected originally
11 when we processed the residence, and this one made
12 four. That was also collected.

13 I collected a Winchester ammo box with two
14 unfired .410 cartridges from the desk in the
15 office.

16 And also, that's when I collected the black
17 plastic bag that had a -- with gun oil inside, and
18 it was taken from the office shredder, and that was
19 brought back for processing.

20 Q I'm going to show you what has been marked as
21 State's Exhibits 430 and 431, and then 342 through
22 352.

23 MS. CAMPBELL: Your Honor, at this time we
24 would offer these into evidence.

25 THE COURT: Any objection? That's 341 through

1 352?

2 MS. CAMPBELL: 342 through 352, and then 430
3 and 431.

4 MR. WHITLARK: I'd like to take -- no
5 objection to 342 and 352, Your Honor.

6 THE COURT: All right. And you need to see
7 those?

8 (Pause.)

9 THE COURT: No objection?

10 MR. WHITLARK: No objection, Your Honor.

11 THE COURT: All right. They will be entered
12 without objection.

13 (WHEREUPON, State's Exhibit Nos. 342-352
14 were marked for identification and
15 received into evidence.)

16 (WHEREUPON, State's Exhibit Nos. 430-431
17 were marked for identification and
18 received into evidence.)

19 BY MS. CAMPBELL:

20 Q 430 and 431, what do those show, sir?

21 A This is another photograph of the black holster
22 that was underneath the desk in the office.

23 Q Specifically on that desk is there a key anywhere
24 hanging off of that desk?

25 A Yes, there was a key to the side of the desk,

1 underneath the desk to the side. It looks like a
2 key to a -- possibly a key to some drawers.

3 Q Looking in that drawer -- I will show you State's
4 Exhibit Number 343. You can see the key kind of
5 over here (indicating) to the side. What did you
6 find of significance in Exhibit 342?

7 A Yes. That's what I was talking about I collected.
8 It was a cartridge box with two .410 cartridges
9 inside from the drawer in the desk in the office.

10 Q And is this 343 how the door appeared before you
11 removed the actual items?

12 A Yes.

13 Q And I show you State's Exhibit Numbers 345 and 347.
14 What do they show?

15 A And that's a calendar that was sitting on top of
16 the desk.

17 Q And these show what kind of amounts, dollar
18 amounts?

19 A I photographed these at the request of the
20 investigators. And it appeared to be, I would
21 assume, dollar amounts, but they were in the
22 thousands.

23 MR. WHITLARK: I object, Your Honor. That
24 photograph --

25 THE COURT: All right. Let me see you all.

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: The objection is sustained.

5 BY MS. CAMPBELL:

6 Q I show you what has been marked as State's Exhibit
7 Numbers 348 and specifically a close-up of 349.

8 A Yes.

9 Q What does that show?

10 A 349 shows a check.

11 Q And, finally, 351 and 352?

12 A That is the black plastic bag from the shredder
13 that had trash in it and shredded items in it, and
14 also a gun oil inside. That was collected by me
15 and brought back to my lab for processing.

16 Q The items we just talked about -- I show you
17 State's Exhibit Number 376. Do you recognize that?

18 A Yes. This is the cartridge box from the desk
19 drawer with the two .410 cartridges, unfired
20 cartridges in it.

21 Q And when you collected that, were they fired or
22 unfired?

23 A Unfired.

24 Q Item 377?

25 A This is the fourth wad or shotgun cuff that was

1 collected from the attic on that day.

2 Q And, finally, 386?

3 A Is the black plastic bag that held the shredder
4 parts from the shredder that had the oil in it, the
5 oil can.

6 MS. CAMPBELL: Your Honor, at this time we
7 offer State's Exhibits 376, 377, and 386.

8 THE COURT: The last one was 386?

9 MS. CAMPBELL: 386, yes, ma'am.

10 MR. WHITLARK: We do have an objection, Your
11 Honor.

12 THE COURT: Which one, to all three?

13 MR. WHITLARK: Yes, Your Honor. I would like
14 to explain what it is, but I ...

15 THE COURT: All right. And I'm thinking,
16 ladies and gentlemen of the jury, this is probably
17 a good time for a break. So we'll take about ten
18 minutes, a ten-minute break at this time, and we'll
19 have you back in about ten minutes.

20 Thank you.

21 (WHEREUPON, the jury retires to the jury
22 room at 12:06 p.m.)

23 THE COURT: All right. Yes, sir?

24 MR. WHITLARK: May it please the Court, Your
25 Honor?

1 Your Honor, it's the same objection we
2 previously made. They have got photographs of all
3 this stuff into evidence. It's becoming
4 cumulative.

5 And, again, I made an objection the other day
6 that they are stacking up boxes of bullets and
7 holsters, and everything else, and they've got
8 pictures of them in. And it's cumulative, Your
9 Honor.

10 And it's getting to the point, in my opinion
11 and the Defense opinion, that it's going to start
12 unduly prejudicing my client. There is so much of
13 it. It's like, you know, they're putting in
14 holsters for guns that aren't even involved in this
15 case.

16 And they are irrelevant, first of all. And,
17 second of all, they are cumulative. And they're
18 unduly prejudicial to Mr. Parker. And I would ask
19 the Court to exclude them.

20 They have got the stuff in front of the jury.
21 They just -- they don't need a whole warehouse full
22 of stuff. And that is our objection.

23 Thank you, Your Honor.

24 THE COURT: All right. Thank you.

25 Yes, ma'am?

1 MS. CAMPBELL: If he is objecting to the
2 ammunition, which I assume what his objection is,
3 Your Honor, it couldn't be more probative. This is
4 the ammunition that goes to the gun that supposedly
5 he gave to Mr. Capnerhurst and Mr. Capnerhurst
6 ultimately brings back and supposedly shoots -- I'm
7 sorry, Your Honor. This is the ammunition that
8 goes to the gun he used that day, the Judge, that
9 is found in the safe.

10 THE COURT: All right. And that is number?

11 MS. CAMPBELL: Number 376, with two live
12 rounds, Your Honor, which would be significant.

13 MR. WHITLARK: Well, Your Honor, I will
14 withdraw my objection to that exhibit.

15 THE COURT: Okay. And then 377 is what?

16 MS. CAMPBELL: 377 -- and it's just -- Your
17 Honor, we are trying to show that we collected
18 things in the manner he has testified to. 377 is
19 the shotgun wad from the attic area that was found
20 subsequent.

21 THE COURT: All right. And if you'd just put
22 the relevance for that one in.

23 MS. CAMPBELL: That's where Mr. Capnerhurst
24 was shot with the type -- where wadding would have
25 been with the ammunition that was used to shoot

1 him.

2 THE COURT: Any position regarding that?

3 MR. WHITLARK: Yes, Your Honor. I object to
4 it. They have got a photograph of it into
5 evidence.

6 MS. CAMPBELL: No, we don't have a photograph
7 of this.

8 MR. WHITLARK: Of the wadding on his arm?

9 MS. CAMPBELL: The wadding -- this is what was
10 found when they went back a month later. There is
11 wadding of his arm. I think you objected to that
12 one too, though.

13 MR. WHITLARK: Your Honor, we don't dispute
14 that there was wadding out there. But, again, Your
15 Honor, it's getting to the point now where we are
16 just lining up everything that they've got there.

17 I mean, the jury -- Your Honor, our objection
18 is that it is cumulative. They've already got
19 photographs of stuff in evidence. I'm sure they
20 have a photograph of that in evidence.

21 THE COURT: Do you know if there is anything?

22 MS. CAMPBELL: Not of the wad, Your Honor.
23 There is no photograph.

24 THE COURT: All right. That objection will be
25 overruled. And then what about --

1 MS. CAMPBELL: 386?

2 THE COURT: -- 386? What about that?

3 MS. CAMPBELL: We have photographs of that.

4 THE COURT: What is that?

5 MS. CAMPBELL: It's the shredder bag and the
6 oil that was found in the shredder bag.

7 THE COURT: All right. And the objection is
8 sustained as to that.

9 And is there -- how much more do you have
10 that -- because he is saying it's cumulative.
11 That's his argument is that --

12 MS. CAMPBELL: As far as this witness?

13 THE COURT: Yes.

14 MS. CAMPBELL: We are almost to the end. I
15 mean, the only additional --

16 THE COURT: I mean exhibits regarding the --
17 he is saying it's cumulative as to the guns, the
18 bullets, and --

19 MS. CAMPBELL: Yes, ma'am. We don't have any
20 further as far as the ballistics is concerned, as
21 far as the guns and stuff. I mean, he did do some
22 -- he collected gunshot residue tests from inside
23 the house, but that's it.

24 THE COURT: All right.

25 MR. WHITLARK: I'm not going to object to

1 that, Your Honor.

2 THE COURT: All right. Let's take about --
3 well, she says she doesn't have anything else.

4 MR. WHITLARK: That's why I didn't object,
5 Your Honor.

6 THE COURT: She doesn't have anything else.
7 So the oil from the shredder will stay out, 386.

8 376, I believe there is no objection. That's
9 what you said.

10 MR. WHITLARK: That's correct, Your Honor.

11 THE COURT: And 377 will be entered over the
12 objection of the Defendant.

13 MR. WHITLARK: The objection to 376 was
14 withdrawn, Your Honor.

15 THE COURT: All right.

16 (WHEREUPON, State's Exhibit No. 376 was
17 marked for identification and received
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 377 was
20 marked for identification and received
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 386 was
23 marked for identification and received
24 into evidence.)

25 THE COURT: Let me take about a ten-minute

1 break. Yes, we've been going for about two hours
2 now. Let's take about ten minutes.

3 MR. WHITLARK: Thank you, Your Honor.

4 (WHEREUPON, a break was taken.)

5 THE COURT: Let's bring them in.

6 (WHEREUPON, the jury came into open
7 court at 12:37 p.m.)

8 THE BAILIFF: The jury is all present, Your
9 Honor.

10 THE COURT: Yes, ma'am. You may continue.

11 MS. CAMPBELL: Thank you, Your Honor.

12 DIRECT EXAMINATION CONTINUES

13 BY MS. CAMPBELL:

14 Q I show you what has been marked as State's Exhibit
15 Number 376, which has been admitted. Do you
16 recognize that?

17 A Yes, this is the box that was inside of the desk
18 drawer in the office.

19 Q And then State's Exhibit 377, do you recognize
20 that?

21 A Yes, it was marked by me as the fourth wad in the
22 attic.

23 Q And State's Exhibit Number 376, when you recovered
24 this or collected this, how many rounds were in it?

25 A Two.

- 1 Q And were those fired or unfired?
- 2 A Unfired.
- 3 Q Two unfired rounds?
- 4 A Yes.
- 5 Q And, again, where was that located when you found
- 6 it?
- 7 A In the desk drawer of the desk in the office.
- 8 Q And there has also been mention in some testimony
- 9 of some photographs of some oil that was found in
- 10 the shredder?
- 11 A Yes.
- 12 Q Is that oil -- it's called gun oil -- but is it
- 13 actually used for guns?
- 14 A It's called gun oil. That's the way I indicated
- 15 it.
- 16 Q While there that day on May the 23rd, did you also
- 17 do any -- collect any other evidence inside the
- 18 house?
- 19 A Yes. I photographed and collected some possible
- 20 gunshot residue from the interior door blinds of
- 21 the residence, side entrance, garage side door, and
- 22 interior laundry room window blinds.
- 23 Q And when you say you collected evidence, what type
- 24 of evidence are you trying to get?
- 25 A Possible gunshot residue.

1 Q And in this case gunshot residue is what comes out
2 of the gun when it's fired?

3 A It can come out of the barrel, come out of the
4 revolver cylinder areas, different areas, the sides
5 of the cylinders. It's the particles that is made
6 up of the powder and the residue when a gun is
7 fired.

8 Q And I show you what has been marked as State's
9 Exhibit Number 433. Do you recognize that?

10 A Yes. This states, GSR kit, interior of residence,
11 in my handwriting.

12 Q And is that the actual test or the lifts that you
13 made that day?

14 A Yes, it is.

15 MS. CAMPBELL: Your Honor, at this time we
16 offer 433 in evidence.

17 THE COURT: What is the number?

18 MS. CAMPBELL: 433.

19 THE COURT: Have you seen it?

20 MR. WHITLARK: Yes. Objection, Your Honor. I
21 object to it.

22 THE COURT: What is 433?

23 MS. CAMPBELL: It's the gunshot residue kit
24 that was collected by him in the interior residence
25 from the blinds.

1 THE COURT: All right. Is that the objection
2 you had earlier?

3 MR. WHITLARK: Your Honor, I would like to put
4 on the record a rather extensive objection to this.

5 THE COURT: All right. What is the objection?

6 MR. WHITLARK: All right, Your Honor. That it
7 was over 40 days, I believe, between the time that
8 this --

9 MS. CAMPBELL: Your Honor, if we can approach?

10 THE COURT: State the objection.

11 MR. WHITLARK: It's a contaminated -- the
12 scene has been contaminated.

13 THE COURT: All right. Let me see y'all one
14 second.

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

18 THE COURT: The objection will be overruled.

19 MS. CAMPBELL: Thank you, Your Honor.

20 BY MS. CAMPBELL:

21 Q I show you what has been marked as State's Exhibits
22 353 to 361.

23 MS. CAMPBELL: Your Honor, at this time we
24 would offer them, I believe without objection.

25 THE COURT: Those are photos?

1 MS. CAMPBELL: Those are photos.

2 MR. WHITLARK: Your Honor, I would object on
3 relevance grounds.

4 THE COURT: Same grounds?

5 MR. WHITLARK: Relevance grounds and the other
6 grounds, Your Honor.

7 THE COURT: All right. What are these?

8 MS. CAMPBELL: These are the ones, Your Honor,
9 we went through before the jury came in that he
10 said were fine.

11 MR. WHITLARK: What numbers are those?

12 MS. CAMPBELL: 353 to 361.

13 MR. WHITLARK: No objection to those.

14 THE COURT: Okay. Those are without
15 objection. And 433 is entered over the objection
16 of the Defendant.

17 MR. WHITLARK: Thank you, Your Honor.

18 (WHEREUPON, State's Exhibit Nos. 353-361
19 were marked for identification and
20 received into evidence.)

21 (WHEREUPON, State's Exhibit No. 433 was
22 marked for identification and received
23 into evidence.)

24 BY MS. CAMPBELL:

25 Q I show you what has been marked as State's Exhibit

1 Number 429. Do you recognize that?

2 A Yes. Those are the six areas that I tabbed for
3 possible gunshot residue.

4 (Attorneys conferred.)

5 MR. WHITLARK: Same objection, Your Honor.

6 THE COURT: Are you entering these?

7 MS. CAMPBELL: Yes..

8 THE COURT: You are trying to introduce it?

9 MS. CAMPBELL: Yes, ma'am. It just shows --
10 it just memorializes the areas where the swabs were
11 collected.

12 MR. WHITLARK: I object to it, Your Honor.

13 THE COURT: Same objection?

14 MR. WHITLARK: Well, and I have an additional
15 objection to that because that is a demonstrative
16 piece of evidence there. They have official
17 documentation that they have made showing the same
18 thing. And that is a demonstrative piece of
19 evidence there. It has been blown up.

20 MS. CAMPBELL: We will mark it for ID and use
21 it for demonstrative purposes then.

22 THE COURT: All right, that's fine.

23 MS. CAMPBELL: How about that?

24 THE COURT: All right, that will be marked for
25 ID purposes.

1 (WHEREUPON, State's Exhibit No. 429 was
2 marked for identification only.)

3 THE COURT: Now, are you going to enter the --

4 MS. CAMPBELL: The gunshot residue kit is in
5 and the photographs are in, and I'm getting ready
6 to talk about those. So I am just using this as a
7 reference point in front of the jury.

8 THE COURT: All right.

9 MS. CAMPBELL: Thank you.

10 MR. WHITLARK: Thank you, Your Honor.

11 MS. CAMPBELL: Your Honor, may the witness
12 step down one more time?

13 THE COURT: Yes, you may step down.

14 (Witness steps down.)

15 BY MS. CAMPBELL:

16 Q Can you come over on this side and if you will
17 speak up. It's hard to hear down here. The
18 gunshot residue kit, State's Exhibit Number 433,
19 were those collected from the interior of the home
20 when you went back on May the 23rd, I believe?

21 A Yes, they were.

22 Q And does this show the areas where the gunshot
23 residue lifts were taken?

24 A Yes. These are six particle lifts that I took from
25 the interior of the residence.

1 Q And I'm going to show you what has been marked as
2 State's Exhibit Number 353. Do you recognize that?

3 A Yes. That is the interior side of the door where
4 the particle lifts were taken.

5 Q And that day did y'all -- you took certain lifts
6 from that door?

7 A Yes.

8 Q And specifically were you focused on the blinds?

9 A Yes, and the rods that moved the blinds back and
10 forth, horizontally and vertically.

11 Q And I show you what has been marked as State's
12 Exhibit Number 355, 356, and 357. Do those show
13 the areas of the door where you took them?

14 A Yes, it does. It shows -- Number 1 shows the top
15 right-hand side of the blind.

16 What is marked Number 2 is the side, hand side
17 of the blinds.

18 And Number 3, the interior door handle.

19 What those are is the top handle that moves
20 the blinds horizontally across the top, and that
21 was processed for possible gunshot residue.

22 The little handle that moves the blinds on the
23 side of the blinds vertically, that was processed
24 for possible gunshot residue.

25 And then the interior doorknob itself was

1 processed for gunshot residue.

2 Q And those were three lifts that were taken
3 separately?

4 A Yes.

5 Q And how were those actually taken from those areas?

6 A Okay. Those are lifts that were taken, not swabs,
7 but the particle lifts. And we talked a little bit
8 about this before. It's a little small cylinder,
9 pieces of equipment, that have sticky side tape or
10 sticky tape on the ends of them.

11 And all that's for is to lift whatever
12 particles you're trying to lift onto the sticky
13 side tape so they, in turn, can be analyzed. So
14 you dab or you tab whatever the item that you are
15 trying to see if there is gunshot residue, you tab
16 those. You put a cap back on the top of it so it
17 is ready to cure, and then you move on to the next
18 one. You do each area like that. It uses a tab
19 and a tab only. No swabs were used for this.

20 Q And this doorway where you took these gunshot
21 residue kits, where is that located in the home?

22 A That's on the side of the house, the same side of
23 the garage as the entryway where you walk up, the
24 walkway to it.

25 MS. CAMPBELL: Beg the Court's indulgence.

1 (Pause.)

2 BY MS. CAMPBELL:

3 Q And I show you State's Exhibit Number 14. Do you
4 recognize that?

5 A Yes, that is the door. That is the exterior side
6 of the door. We processed the interior side of the
7 door itself.

8 Q So the two of these, 354 and 14, those show the
9 same door?

10 A They do.

11 Q Did you also move to a second room, an interior
12 laundry room?

13 A Yes. Just off from that room is the laundry room.
14 There is a window that faces the front of the
15 house, and that window -- areas of that window was
16 also tabbed for possible gunshot residue.

17 Q And I show you State's Exhibit Number 358. Do you
18 recognize that?

19 A Yes, I do.

20 Q And what does that show, sir?

21 A The interior of the window in the laundry room
22 facing the front of the house.

23 Q Did you then take certain lifts labeled with
24 Numbers --

25 A Yes.

1 Q -- 4, 5, and 6.

2 A 4, 5, and 6. GSR Lift Number 4 was from the right
3 blind screen handle, the little screen that comes
4 down on a regular blind, and there is a handle at
5 the bottom of this. There was a lift taken from
6 the screen handle. There was a lift taken from the
7 left side blind screen handle, and then there was
8 the interior of the blinds themselves.

9 I took a tab, a single tab, and tabbed along
10 the blinds, the interior of the blinds itself using
11 those. Those was capped and placed into envelopes.

12 Q Thank you. You can go back up.

13 (Witness returns to witness stand.)

14 Q You're familiar with gunshot residue a little bit?

15 A Yes.

16 Q And you didn't do the actual testing for the
17 presence of gunshot residue in the case, did you?

18 A No.

19 Q Would it be fair to say that gunshot residue is a
20 fairly fragile material?

21 A It is.

22 Q Are you familiar with -- can it be transferred,
23 say, from someone's hands to another area?

24 A It's possible.

25 Q That day did you also participate in memorializing

1 about these same areas, as far as the blinds
2 opening and closing?

3 A Yes. I also assisted in videotaping the opening
4 and the shutting of the blinds of the side door
5 that you were just shown in the photographs.

6 Q Finally, turning your attention to the next day,
7 May the 24th, did you do any processing in this
8 case?

9 A Yes. When I -- on the 24th I processed the black
10 plastic bag that was collected the day prior at the
11 residence that had the gun oil for latent prints,
12 and they were negative. It was negative.

13 I swabbed that same black plastic bag and
14 submitted the swabs to evidence to be forwarded to
15 DNA.

16 I packaged the videotape that I had where I
17 videoed the side doors.

18 The one wad or cuff that was also found in the
19 attic, I packaged it and submitted it to evidence
20 for holding.

21 I packaged the FireX smoke alarm that was
22 taken from the ceiling in the office that day and
23 submitted that to evidence.

24 The Winchester box with two unfired .410
25 cartridges, that was packaged and submitted to

1 evidence.

2 And the black plastic bag with the gun oil
3 from the office shredder was packaged and submitted
4 to evidence.

5 Q And, again, in all your collection of evidence,
6 packaging of evidence, and submitting it for
7 further testing, was anything ever altered or
8 changed while it was in your possession?

9 A No.

10 Q Any evidence in this case?

11 A No.

12 Q Once you submitted that evidence -- let me back up
13 for a second. You're familiar with the entrance
14 into the attic area where Mr. Capnerhurst was
15 found?

16 A Yes.

17 Q And do you recall whether or not that door had a
18 lock on it?

19 A I looked at it in our photographs and tried to
20 enlarge it to see if I could see if it was, but I
21 saw no lock on the door.

22 Q Thank you, sir.

23 MS. CAMPBELL: I don't have anything further.

24 THE COURT: All right. Ladies and gentlemen
25 of the jury, at this time it's about eight minutes

1 until 1:00 o'clock. This would probably be a good
2 time to take a lunch break because I'm sure
3 Mr. Whitlark is going to be longer than eight
4 minutes. So we'll go ahead --

5 MR. WHITLARK: You can count on that, Your
6 Honor.

7 THE COURT: So we are going to go ahead and
8 take a lunch break at this time.

9 You all are to be back -- there is one matter
10 of law I have to take up, I believe, around 2:00.
11 So if you all can be back at 2:30 instead of
12 sitting back in the jury room. I'll try to get to
13 you as soon as possible.

14 Have a great lunch. Remember not to discuss
15 the case with anyone. If anyone tries to speak
16 with you, let us know upon your return. Thank you.

17 (WHEREUPON, the jury is excused for
18 lunch at 12:53 p.m.)

19 THE COURT: All right. And you said Scott
20 Hayes will be here at 2:00 o'clock?

21 MS. CAMPBELL: We requested that he be here,
22 Your Honor. I can go confirm.

23 THE COURT: All right. Let's say 2:15.

24 MS. CAMPBELL: 2:15.

25 THE COURT: And then that way, that shouldn't

1 take very long. But we can talk to him. In the
2 interim are you going to talk to your expert?

3 MR. WHITLARK: Yes, I am, Your Honor.

4 THE COURT: All right.

5 MR. WHITLARK: Your Honor, may I make a
6 request to the Court to instruct the witness he is
7 not to be speaking to anyone during lunch about his
8 testimony?

9 THE COURT: Oh, yes.

10 MS. CAMPBELL: He knows that.

11 THE COURT: And, sir, you understand you can't
12 discuss your testimony with anyone until you are,
13 you know, until you are off the stand.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: And I'm not sure when that is
16 going to be.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: But you may step down right now.

19 (Witness steps down.)

20 THE COURT: All right. So we will see you all
21 back at 2:15.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: Yes, ma'am?

24 MS. McDUFFIE: Thank you, Your Honor. Joanna
25 McDuffie for the State. It has been brought to our

1 attention that the Defendant's expert wishes to
2 analyze all of the evidence in Terri Gleason's
3 report, with the exception of Items 85 through 91
4 and 135 and 137.

5 He also wishes to have access to -- full
6 access, and I believe his exact words, Your Honor,
7 were unfettered access to the equipment and
8 chemical used in the testing at the Richland County
9 lab.

10 Your Honor, I have spoken with Sheriff Leon
11 Lott. He is opposed to an outside expert being
12 allowed access to the Richland County Sheriff's
13 Department lab for numerous reasons.

14 I have Assistant Laboratory Director, Dr. Gray
15 Amick, here. Your Honor, he can provide you with
16 whatever information you need to know. Also
17 present is Investigator David Collins, who is a
18 firearms and tool mark examiner at the Sheriff's
19 Department. And he can talk to you about the
20 disruptions that this would cause for the Sheriff's
21 Department in this matter, Your Honor.

22 THE COURT: All right. And what exhibits,
23 again, does he want to examine?

24 MS. McDUFFIE: Your Honor, he says that he
25 wants to examine all of the items listed on Pages 1

1 through 4 of Terri Gleason's report, which I
2 believe is dated January of 2013, with the
3 exceptions of 85 to 91, 135, and 137.

4 THE COURT: Okay. I don't have that.

5 All right. Yes, sir?

6 MR. WHITLARK: May it please the Court, Your
7 Honor?

8 Your Honor, I have had lengthy discussions
9 with Mr. Ernest during lunch. He is going to
10 attempt to be here earlier on Sunday. He tells me
11 it's impossible for him to ship his equipment.
12 He's got heavy equipment and very delicate
13 equipment. It says it would be ridiculous for him
14 to have to bring it all here.

15 Your Honor, again, if the Richland County
16 Sheriff's Department can show how fair and
17 even-handed they were in this thing, I don't see
18 why it would be such a big problem for them to do
19 this, other than logistics.

20 They've had an investigation and they did
21 forensic work for eight months in this case. Eight
22 months they worked on the very thing.

23 And we're trying to get it done within less
24 than 30 days after they put -- they gave us this
25 470-page report, Your Honor.

1 My expert tells me he can get it done. He
2 says he thinks he can do it in less than three
3 days. And we're asking out of fairness and to give
4 him a fair trial, Your Honor, the most important
5 evidence in the case is this forensic evidence.

6 The preliminary report from our expert is that
7 it is overwhelming that the hand of Bryan
8 Capnerhurst is covered in particulate matter that
9 proves he fired a handgun. There are some other
10 matters regarding distances, and so forth, that he
11 needs to test as well, and he has some issues with
12 the manner in which it's done and the equipment.

13 We have a great need, Your Honor, to do this.
14 We're willing to pay for it. We understand there
15 is a cost involved. We're willing to pay for the
16 use of the lab. They have a week to do a schedule
17 on this. And, Your Honor, without this -- I mean,
18 this man, he is not going to get his chance to tell
19 the truth in this case. Again, Your Honor, this is
20 hard evidence here.

21 THE COURT: All right. And I'm sure this is
22 not the first time that an expert has looked at
23 evidence. What is the normal procedure?

24 MS. McDUFFIE: Your Honor, the normal protocol
25 is, as in all cases, we make the evidence available

1 to the Defense.

2 Your Honor, in terms of this type of evidence,
3 apparently their expert is saying that he cannot
4 bring his equipment here.

5 It has been our experience in other cases that
6 the experts either bring their equipment to a
7 mutually agreeable location, Your Honor -- I have
8 done this at the Sheriff's Department in conference
9 rooms on the fourth floor where they're allowed
10 access to the evidence.

11 We have even had cases where Investigator
12 Collins has taken the evidence and flown with it to
13 that person's laboratory. I think the last time he
14 went, he went to Wisconsin with the evidence. He
15 had custody and control of the evidence. And the
16 Defense expert was allowed to analyze it in that
17 fashion.

18 Your Honor, the area of concern in this
19 particular case, Mr. Whitlark just talked about the
20 levels of -- I believe he said antimony on the
21 hands. That testing was not done by Terri Gleason.
22 The equipment to do that testing is not in the
23 Sheriff's Department lab.

24 So having access to the Sheriff's Department
25 lab would not assist their expert in that regard,

1 first of all, Your Honor.

2 Secondly, Your Honor, there are liability
3 issues that the Sheriff's Department is very
4 concerned with.

5 You have a person who is not an employee of
6 the Sheriff's Department, who is not trained on
7 their equipment, who has not done a proficiency
8 test on their equipment, and he is not an employee
9 who would have access to firearms and ammunition in
10 the Sheriff's Department.

11 You are talking about having the lab shut down
12 for a period of days. I believe he said two -- in
13 another e-mail it was three days. Even if it was
14 two days, no further testing can be done in the
15 lab. They have to clear out all the ongoing
16 projects, Your Honor, and then allow him access to
17 the lab for those two days, which would stop their
18 ability to continue processing on other cases.

19 Your Honor, there is also costs associated
20 with this. I believe because we don't fully know
21 what equipment he needs to use or what testing he
22 wants to use -- that information hasn't been told
23 to us -- based on what we do know, Demi Garvin, who
24 is the Director of the lab, estimated the costs
25 associated with that anywhere from 3 to \$4,000 a

1 day, depending upon the chemicals and other things
2 that he needs to use. So potentially \$12,000, Your
3 Honor, we're talking about a three-day period.

4 I believe Mr. Whitlark's other concern was
5 about the equipment itself and whether it may have
6 malfunctioned or something in that regard, Your
7 Honor.

8 It's my understanding that this equipment is
9 calibrated and it is tested; and that is
10 documentation that we can provide to them should
11 they need that.

12 THE COURT: That's what I was going to say.
13 There should be some -- I'm guessing they have to
14 keep records with the equipment, probably for SLED.

15 MS. McDUFFIE: Your Honor, if I can get
16 Investigator Collins. He can better address what
17 documentation there is.

18 MR. COLLINS: Your Honor, as part of
19 accreditation process, we are required to maintain
20 records of calibration checks on all our equipment,
21 which is done periodically. We do maintain those
22 records in the laboratory.

23 THE COURT: All right. So that resolves the
24 issue, Mr. Whitlark, regarding the equipment or at
25 least -- how soon can we get those to Mr. Whitlark?

1 MR. COLLINS: Your Honor, as soon as I know
2 which items of equipment are in question, I can get
3 that information to him within a matters of hours.

4 THE COURT: All right.

5 MR. WHITLARK: May it please the Court, Your
6 Honor?

7 Your Honor, regardless of that, our expert has
8 a great need to get this done. And we're willing
9 to pay the costs associated with it, Your Honor.

10 And, again, Your Honor, I mean, if they want
11 to show how fair and even-handed they are in this
12 investigation, you know, with a week's notice, and
13 he is going to try to get here earlier on Sunday to
14 get it done, I mean, in the interest of justice,
15 Your Honor, and the fact that this is the most
16 important evidence in this case.

17 THE COURT: And I understand that, but I don't
18 want to -- I understand the Sheriff's concerns
19 about an outside person coming in to -- I won't say
20 his lab, but the lab for the Sheriff's Department.

21 You said normally Mr. Collins will either go
22 there with the evidence?

23 MS. McDUFFIE: Your Honor, in the past when it
24 has been necessary, Mr. Collins or some custodian
25 of evidence or representative from the Sheriff's

1 Department would accompany the evidence to be
2 tested.

3 Your Honor, at this point, though, the
4 evidence is in the Clerk of Court's custody or a
5 large chunk of it. I mean, that is another issue.

6 THE COURT: But what is the possibility of
7 that if we sign -- if I sign an order directing the
8 clerk to release it to some custodian? I'm just
9 throwing that out there.

10 MS. McDUFFIE: Your Honor, I'd have to get
11 with the lab; and they'd have to coordinate
12 scheduling. I can get back to you, hopefully in an
13 hour or two regarding that.

14 THE COURT: And what is the other way that
15 it's normally done? I mean, the other alternative
16 would be for the Defendant's expert to bring his
17 equipment and you all would set it up. He is
18 saying he cannot?

19 MR. WHITLARK: He says that he has heavy
20 equipment, but also extremely delicate equipment.
21 He says it would be virtually impossible for him to
22 get it done between now and next Monday.

23 However, Your Honor, I will speak to what the
24 Court just said. He was wanting in the beginning
25 of this to have the evidence sent out to his lab.

1 And, you know, they were saying that we were in the
2 trial at that point and that they couldn't do it
3 for some reason. So he said the alternative would
4 be to come here --

5 THE COURT: Because they introduced it.

6 MR. WHITLARK: I noticed that, yes, ma'am.

7 THE COURT: They needed it, I guess, for
8 presentation of their case.

9 MR. WHITLARK: Well, Your Honor, yes, I
10 understand that.

11 THE COURT: But he would need to let them
12 know -- and I don't have a list of what evidence
13 you're referring to, and I can't -- the difficult
14 part is trying to -- and I don't know if there is
15 anybody in the Sheriff's Department that wants to
16 go to Texas to take it.

17 MR. WHITLARK: I will say this, Your Honor.
18 Regarding what appears -- this implied idea that
19 because he's going to be in their lab that
20 something is going to happen. This man was in law
21 enforcement for 30 years. He was with the Georgia
22 Bureau of Investigation, and he worked at the
23 forensic lab in Fort Worth, Texas, for 14 years.
24 So he's got 30 years of law enforcement behind him.
25 So he is not going to -- you know, I don't know

1 what it is they are implying about he is going to
2 be there with their equipment. He is an expert
3 extraordinary, Your Honor. He knows --

4 THE COURT: I don't think they are questioning
5 anything about your expert.

6 MR. WHITLARK: Yes, ma'am.

7 THE COURT: I just think that it's a
8 concern -- it appears to be that the concern is
9 just having an outside person in the lab. It could
10 be me or you. They probably wouldn't want us in
11 there either.

12 MR. WHITLARK: I understand that, Your Honor,
13 but that should not be an impediment to us -- to
14 the administration of justice in this case, Your
15 Honor.

16 THE COURT: I understand that. And we are
17 going to figure it out one way or the other.
18 Either your guy is going to have to figure out a
19 way to get his equipment here or we are going to
20 have to figure out a way to get the evidence to him
21 in Texas.

22 MS. McDUFFIE: Your Honor, if we could have an
23 hour, and I can go coordinate that, or, Your Honor,
24 just a brief period of time to see if we can
25 coordinate that. But I think that in terms of the

1 trial of the case, it would be easier if that was
2 taken over the weekend.

3 MS. CAMPBELL: I was going to say, if he can
4 test it over the weekend.

5 THE COURT: You mean, if they take it to him?

6 MS. CAMPBELL: (Nods affirmatively.)

7 THE COURT: Well, that's what we would have to
8 do anyway.

9 MS. CAMPBELL: That would work out.

10 THE COURT: Yes. We've just got to find a
11 willing body that wants to go to Texas.

12 MS. McDUFFIE: Assuming we can find a willing
13 body, I think that might be the best resolution.

14 THE COURT: I don't see Mr. Collins jumping up
15 and down for that.

16 MR. WHITLARK: Your Honor, I'd offer to do it,
17 but I know there is no way they are going to give
18 all that evidence to me to fly out to Texas.

19 THE COURT: No, they are not going to give it
20 to you. And, of course, you all would have to pay
21 the costs of having the person go to -- what part
22 of Texas is it?

23 MR. WHITLARK: It's in Fort Worth, Texas, Your
24 Honor.

25 MS. McDUFFIE: Your Honor, if you could give

1 us time to see if we can arrange that.

2 THE COURT: Yes.

3 MS. McDUFFIE: I think that maybe that would
4 be a solution.

5 MS. CAMPBELL: And if Mr. Whitlark -- if they
6 can get there, say, if they left Friday afternoon,
7 they can be back here perhaps by Monday morning
8 with the evidence.

9 MR. WHITLARK: Well, I'll have to wait to
10 hear.

11 MS. CAMPBELL: If your guy can do it.

12 MR. WHITLARK: If he can do it.

13 THE COURT: He is going to have to. If they
14 go to that extent to get somebody to fly to Texas
15 then he is going to have to clear his calendar to
16 get it done.

17 MR. WHITLARK: I understand that. Your Honor,
18 I need to point out again that I informed the Court
19 previously when we discussed trying to get him here
20 earlier, that he has a longstanding obligation on
21 Saturday and I believe on part of Sunday is what he
22 is telling me. I mean, I can ask him if he can
23 reschedule that.

24 THE COURT: Well, tell him the options are
25 this weekend. I can't -- I mean, we are talking

1 about Monday. The evidence will need to be back in
2 Columbia Monday. So his options are to either pack
3 his stuff up, which he says he can't do. I'm sure
4 he could probably get it packaged and safely
5 packaged between now and this weekend. Or -- I
6 mean, those are the only two options we have.

7 MR. WHITLARK: Well, Your Honor, again, I
8 would point out to the Court that their lab is
9 sitting right here. I mean, and he is not going
10 to -- I don't understand why he can't have -- I
11 know they don't want somebody in there, Your Honor;
12 but these are the choices we're left with at this
13 point.

14 THE COURT: But he is not just talking about
15 just using the lab -- I mean, about just going in
16 the lab -- he is talking about using the equipment
17 to test, to do whatever testing. And I think that
18 is the objection is him in there using their
19 equipment.

20 MR. WHITLARK: I understand that, Your Honor,
21 but, I mean, with somebody present supervising, to
22 be with him, I don't see why --

23 THE COURT: Is he trained to use their
24 equipment? I mean, I don't know. All of those
25 questions come up. Is he trained to use their

1 equipment? I'm guessing the equipment is probably
2 very expensive and he is not trained on that.

3 I mean, I'm guessing there's different types
4 of equipment that probably do the same thing. I
5 mean, we just don't know any of that. It seems it
6 would be easier -- and that's what he asked for in
7 the beginning -- is for him to --

8 MR. WHITLARK: Right. Well, he did, Your
9 Honor.

10 I will say this, Your Honor. The man is adept
11 at the use of this. He knows what equipment
12 they're using there. So he does -- I mean, he is
13 an expert. He knows how to use it. There is no
14 question about that.

15 I mean, he has already told me. He is
16 extremely familiar with everything that they used
17 in the testing they've done.

18 And by the way, Your Honor, in their testing
19 they took eight months to complete. And we're, you
20 know, asking for a couple of days.

21 THE COURT: Can you call him and see what he
22 tells you? I'm not inclined to allow him to go in
23 the lab unless they are going to consent to it.
24 And just tell him the other two options that we
25 have and see what he has to say.

1 MR. WHITLARK: All right, Your Honor.

2 MS. McDUFFIE: Your Honor, if they could also
3 get us the list of the specific items of equipment,
4 and we get those -- the calibration results that he
5 mentioned earlier.

6 MR. WHITLARK: Yes, that's fine. That's fine.
7 That is a minor issue, Your Honor. That's a minor
8 issue.

9 So let me understand the Court. He needs to
10 come out here -- I'm sorry -- he needs to be
11 prepared for someone to come out there with the
12 selected evidence that he wants to look at to his
13 laboratory this weekend?

14 THE COURT: Potentially, yes.

15 MR. WHITLARK: Is that it?

16 THE COURT: That's what they are going to try
17 to work out.

18 MR. WHITLARK: Okay. All right. Well, we
19 will go check on it.

20 THE COURT: Or he needs to be prepared to
21 bring his equipment here. That is like A or B.

22 MR. WHITLARK: He tells me that would be
23 logistically impossible for him to do, Your Honor.
24 He says he's got heavy equipment and he has other
25 equipment.

1 THE COURT: Yes, but the evidence has to be --
2 and I haven't even talked to the Clerk's Office
3 about the evidence being checked out. So, I mean,
4 this is a lot of --

5 MR. WHITLARK: Well, Your Honor...

6 THE COURT: I will need to talk to them about
7 it. I don't know if they have ever done that
8 before. I'll have to get in touch with Mr. Truitt
9 because technically it is in evidence now.

10 MR. WHITLARK: Well, yes, I understand, Your
11 Honor. So, again, the two options he has are to
12 ship all of his equipment out here or be prepared
13 to meet somebody from Richland County with the
14 selected evidence?

15 THE COURT: In Texas.

16 MR. WHITLARK: In Fort Worth, Texas. Okay.
17 All right. If you will give me about 15 minutes,
18 Your Honor.

19 THE COURT: All right.

20 MR. WHITLARK: Thank you.

21 THE COURT: You need to talk to him now?

22 MR. WHITLARK: Yeah, I was going to talk to
23 him right away. They're checking.

24 THE COURT: And I'll go ahead and talk to
25 Mr. Truitt and find out if that is a possibility.

1 MR. WHITLARK: Thank you, Your Honor. Your
2 Honor, permission to leave?

3 THE COURT: Yes. Y'all go ahead and see what
4 you can work out.

5 (WHEREUPON, a break was taken.)

6 THE COURT: Yes, sir?

7 MR. WHITLARK: Your Honor, I have spoken to
8 Mr. Ernest. And he says that he can have -- that
9 he will -- he is cutting his obligation this
10 weekend short. He can meet with two of his lab
11 personnel at noon on Sunday, and he says that he
12 thinks he can have it all done. He says they are
13 just going to work around the clock to get it done
14 by Monday, by sometime early Monday, is what he
15 tells me. He says that he will have his entire lab
16 waiting for them.

17 THE COURT: On Sunday?

18 MR. WHITLARK: On Sunday at noon. He is
19 cutting -- he had an obligation, Your Honor, he
20 said. But he says he will cut short the allegation
21 that he has and come and be ready for them with his
22 entire lab staff, ready to go at noon on Sunday.

23 THE COURT: Do you all have someone available
24 to go on Sunday?

25 MS. CAMPBELL: We will.

1 MS. McDUFFIE: Yes, Your Honor, we do.

2 THE COURT: All right. And so we need to
3 coordinate that person's travel plans, because I'm
4 guessing that they have to make some arrangements
5 with the airlines if they are taking firearms and
6 ammunition.

7 MS. McDUFFIE: Your Honor, we'll get that, and
8 also all the expenses associated on the Sheriff's
9 Department end, and hopefully we will have that at
10 the close of business today to Mr. Whitlark.

11 THE COURT: So you are going to get him an
12 itinerary, that person will get there, I guess,
13 Saturday and come back Monday?

14 MS. McDUFFIE: Yes, Your Honor.

15 THE COURT: Okay. And then I need to --

16 MS. McDUFFIE: I can also draft an order about
17 releasing evidence and somebody staying with the
18 evidence, and things of that nature, and get it to
19 Your Honor.

20 THE COURT: And what we'll do is have the
21 person that will release it from the Sheriff's
22 Department sign it, similar to what they do with
23 the chain of custody. So that signature will be on
24 there. And they'll have to sign it checking it
25 back in Monday when they get back.

1 MS. McDUFFIE: Thank you, Your Honor.

2 MS. CAMPBELL: Thank you, Your Honor.

3 THE COURT: All right. It sounds like a plan.
4 Are we ready to bring the jurors in?

5 MR. WHITLARK: Your Honor, one matter of
6 evidence. We have -- we wish to introduce the
7 Vonage records of James Morgan that we have
8 previously discussed, and we would ask the Court to
9 introduce that as Defense Exhibit Number 2 at this
10 time.

11 THE COURT: What is it, again?

12 MR. WHITLARK: It's the Vonage telephone
13 records of this bookie in Greensboro, North
14 Carolina.

15 THE COURT: Is it related to this witness?

16 MR. WHITLARK: Yes, Your Honor, I believe it
17 is.

18 THE COURT: All right. Do you have an
19 objection to it?

20 MS. CAMPBELL: Your Honor, could we do a
21 proffer of this witness as to how it could possibly
22 be related to him? It's phone records from whom?

23 MR. WHITLARK: From James Morgan.

24 MS. CAMPBELL: James Morgan?

25 MR. WHITLARK: Yes.

1 THE COURT: And this witness will be able to
2 authenticate them?

3 MR. WHITLARK: Well, Your Honor, I believe he
4 had some knowledge of this.

5 THE COURT: All right. Well, they want you to
6 proffer the testimony as to what --

7 MS. CAMPBELL: We may not have an objection if
8 I see the proffer.

9 THE COURT: All right. Do you want to proffer
10 it?

11 MR. WHITLARK: May it please the Court? Yes.

12 THE COURT: Yes, sir.

13 IN CAMERA EXAMINATION

14 BY MR. WHITLARK:

15 Q Hello, Mr. Richards.

16 A Yes, sir.

17 Q It's Sergeant, right? Sergeant Richards?

18 A Yes, sir.

19 Q Hey, Sergeant. Sergeant, when you got there that
20 day, you went straight into the -- did you go
21 straight into the house when you got there?

22 A No, sir, I did not.

23 Q Okay. Do you know exactly what time you got in
24 there?

25 A Yes, sir. I can pull the crime scene log.

1 Q Sure. That's fine.

2 A According to the crime scene log, I arrived on

3 scene, sir, at 12:45.

4 Q Okay.

5 A In the afternoon. And according to the crime scene

6 log, the four CSIs, myself, Lieutenant Cavanagh,

7 Investigator Bouknight, and Investigator Holt

8 entered the crime scene at 2:54.

9 Q At?

10 A 2:54.

11 Q At 2:54?

12 A Or 1454.

13 MR. WHITLARK: Okay, Your Honor. We won't

14 need it for this witness.

15 THE COURT: All right.

16 MR. WHITLARK: All right.

17 THE COURT: Okay. All right. Are you ready

18 to bring them in?

19 MR. WHITLARK: Yes, Your Honor.

20 THE COURT: All right.

21 (WHEREUPON, the jury came into open

22 court at 3:06 p.m.)

23 THE BAILIFF: The jury is all present, Your

24 Honor.

25 THE COURT: All right. Ladies and gentlemen

1 of the jury, I hope that you had a good lunch. At
2 this time we will continue with the
3 cross-examination by Mr. Whitlark.

4 MR. WHITLARK: May it please the Court, Your
5 Honor?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. WHITLARK:

9 Q Good afternoon, Sergeant.

10 A Sir.

11 Q Sergeant, just for openers, would you agree with me
12 that by the time you got to this house, that there
13 had been contamination of the scene?

14 A No.

15 Q You don't agree with that?

16 A I can't say that.

17 Q Okay. Well, you know that Bryan Capnerhurst had a
18 pistol wrapped in his hand when the reporting
19 officers got there, don't you?

20 A Yes, sir.

21 Q Okay. And not only one officer, but two officers
22 saw his fingers wrapped around the nomenclature,
23 the handle of that weapon, didn't they?

24 A Yes, sir.

25 Q That weapon was removed, was it not, sir?

- 1 A It was.
- 2 Q And when it was removed, they did so by giving him
3 three shakes on his arm as demonstrated, correct?
- 4 A Yes, sir.
- 5 Q Would you agree with that?
- 6 A Yes, sir.
- 7 Q Okay. Now, when you got there, the gun was in a
8 bag outside that room, right?
- 9 A In an evidence bag, correct.
- 10 Q Okay. And you don't consider the fact that --
11 those facts there, that weapon, and the allegations
12 that y'all are making in this case, you don't
13 consider that to be contamination of the scene?
- 14 A No.
- 15 Q Okay. All right. Well, what about the bag? You
16 said that there was a bag in the attic with him?
- 17 A Yes, sir.
- 18 Q And would you agree that that is the bag that has
19 been identified as the bag that he carried in
20 there, isn't it?
- 21 A Yes, sir.
- 22 Q Okay. Now, that bag, before the contents were
23 photographed, was moved, wasn't it?
- 24 A Yes, sir.
- 25 Q Okay. Well, that wouldn't be the perfect

1 conditions under which to take photographs, would
2 it? Moving the evidence and photographing it?

3 A The bag was photographed where it was in the attic
4 first.

5 Q Right.

6 A And then after it was moved, it was photographed
7 again.

8 Q I understand that, sir. But isn't it true that one
9 of the allegations that y'all are making in this
10 case is that the clip and the bullets, the box of
11 bullets right there, the one in front of you there,
12 were placed in there by Mr. Parker? Is that
13 basically what you are saying?

14 A That's not what I'm saying. I don't know how they
15 got there.

16 Q You are aware of the facts of this case, are you
17 not, sir?

18 A I am.

19 Q Okay. Well, it wouldn't be a good idea to move
20 something like that and take a photograph of it.
21 The better practice would be to take a picture
22 right where it was, wouldn't it?

23 A To my knowledge we did not know what was inside the
24 bag. The bag had to be moved for us to do our job.
25 So it was brought out to one of the larger storage

- 1 rooms, and at that point it was photographed again
2 and then opened.
- 3 Q Well, sir, would you agree with me -- you're a CSI
4 expert, aren't you?
- 5 A Yes, sir.
- 6 Q Would you agree with me that the best practice, the
7 best thing to do, is not to touch anything?
- 8 A Yes, sir.
- 9 Q I mean, that would be ideal, wouldn't it?
- 10 A Yes, sir.
- 11 Q But that is not what happened here, is it?
- 12 A It is not.
- 13 Q Okay. All right. Now, you gave some testimony
14 about fingerprints that were taken off of this box
15 right here (indicating), right?
- 16 A That's correct.
- 17 Q And how many fingerprints did you find or did y'all
18 take off the box?
- 19 A I took two impressions.
- 20 Q Okay. And one of them was Mr. Brett Parker's,
21 right?
- 22 A Yes.
- 23 Q Okay. And, of course, Mr. Parker has stated openly
24 to the police and investigators that he gave that
25 box of ammunition to Bryan Capnerhurst, didn't he?

- 1 You know that, right?
- 2 A Yes, sir, I've heard that.
- 3 Q Okay. Now, you said you had a smudge, another
- 4 fingerprint, right, that you looked at?
- 5 A Another impression.
- 6 Q Okay. Now, you can't rule out Bryan Capnerhurst as
- 7 the person who put that smudge there, can you?
- 8 A I did not do the comparison for the prints, no,
- 9 sir.
- 10 Q Okay. But you can't rule him out as to having put
- 11 that smudge there, can you?
- 12 A When I develop a print and there are ridge details
- 13 on that impression and I lift those prints in order
- 14 to turn them in for comparison, I don't rule out
- 15 anybody, sir.
- 16 Q All right. So the answer is you can't rule him out
- 17 as having touched that box, right?
- 18 A I don't rule out anybody because I'm not doing the
- 19 comparison, sir.
- 20 Q Okay. I gotcha. He had to buy these bullets at a
- 21 store, didn't he?
- 22 A I would assume so, yes, sir.
- 23 Q Okay. All right. So somebody at the store had
- 24 their hands on it probably, right?
- 25 A Yes, sir.

1 Q And then the person who purchased them, who was not
2 Mr. Parker, that is the second person, right?

3 A Yes, sir.

4 Q And then if the bullets were given after -- do you
5 know about how the bullets came into the possession
6 of Mr. Parker?

7 A No, sir.

8 Q Okay. Well, if you assume hypothetically that he
9 had an uncle who died and he had bought those
10 bullets and then he gave those bullets to someone
11 else, it's a third person, right?

12 A Yes, sir.

13 Q And then if that person gave them to someone else
14 in their family before they gave them to Brett
15 Parker, you would have four people there. And the
16 minimum, based on the facts of this case, the fifth
17 person to have touched this would have been Brett
18 Parker. And then, according to Mr. Parker's
19 relation of the facts of this case, the sixth
20 person was Bryan Capnerhurst, right?

21 A Yes, sir, if you say so.

22 Q So -- but y'all only found one fingerprint, right?

23 A One usable, one identifiable, yes, sir.

24 Q And, again, sir, you know, you cannot testify right
25 now that Bryan Capnerhurst never touched those

1 bullets, can you?

2 A No, sir.

3 Q Okay. All right. Now, you had -- you remember
4 this exhibit right here (indicating), this blow-up?

5 A Yes, sir.

6 Q Tell the jury what the results of all of those
7 lifts were. What was the official results?

8 MS. CAMPBELL: Objection, Your Honor. I don't
9 think it's the proper witness to elicit that
10 information since he didn't do the testing.

11 THE COURT: All right.

12 MR. WHITLARK: If he knows, he knows, Your
13 Honor.

14 A I don't know. I don't think I even have a copy of
15 the report, sir.

16 THE COURT: He doesn't know.

17 MR. WHITLARK: Okay.

18 BY MR. WHITLARK:

19 Q Let me ask you this: Do you recall testifying to
20 this earlier?

21 A Yes, sir.

22 Q Do you recall that every one of your lifts on this
23 thing was inconclusive or showed no evidence of
24 gunpowder?

25 A Am I aware of that?

- 1 Q Yes, sir.
- 2 A No.
- 3 Q You are not aware of that?
- 4 A No.
- 5 Q Okay. All right. Brett Parker cooperated with you
- 6 fully in this investigation, didn't he?
- 7 A The only involvement I had with Mr. Parker is when
- 8 he came and opened the safe, sir.
- 9 Q Okay. Well, he showed up there and he opened it
- 10 for you, right?
- 11 A He did.
- 12 Q Did you take a DNA sample from Mr. Parker?
- 13 A From Mr. Parker? I did not, no, sir.
- 14 Q But you handled those, though, didn't you? Didn't
- 15 you handle the DNA samples?
- 16 A Most of -- yes, sir, a lot of it. Some of it --
- 17 the items that were collected, I processed. And
- 18 when I process I usually -- it is procedure that we
- 19 take a DNA swab from those items also.
- 20 Q Okay. Now, you took the 9-millimeter Smith &
- 21 Wesson that was found by the officers in Bryan
- 22 Capnerhurst's hand, and you looked at it every way
- 23 you can, didn't you?
- 24 A Yes, sir, I looked at it and processed it.
- 25 Q Okay. Now, of course Brett Parker told the police

1 investigators that, Yes, I loaded the weapon, and I
2 gave it to him in that condition. You know that,
3 right?

4 A No, I don't know that.

5 Q You don't? Okay. All right. How many meetings
6 have you had about this case regarding your
7 testimony today?

8 A Regarding my testimony?

9 Q Yes, sir.

10 A Two.

11 Q Okay. Now, are you aware of the results of the DNA
12 testing off of the bag straps?

13 A Yes, sir.

14 Q Okay. And Brett Parker's DNA is not on that bag,
15 is it?

16 A There was no DNA associated with those two areas.

17 Q Okay. So the answer?

18 A No.

19 Q Okay. All right. Now, you took some swabs of DNA
20 off of the zipper of that bag, right?

21 A Correct.

22 Q And when you got there, that bag was closed, wasn't
23 it?

24 A It was.

25 Q Okay. Tell the jury what the results of that were.

- 1 A It was negative.
- 2 Q Off of the zipper?
- 3 A Off the zipper, yes, sir.
- 4 Q All right. What are the results? What were the
- 5 results of that?
- 6 A There was no DNA profiles available on the zipper,
- 7 as far as I know.
- 8 Q Okay. All right. Now, you know the procedure when
- 9 police first get to a scene is to sweep the area --
- 10 sweep the house, right?
- 11 A Yes, sir.
- 12 Q And do you know that they did that in this case?
- 13 A Yes, sir.
- 14 Q All right. How do you know that?
- 15 A Because that's what they told me they did.
- 16 Q Okay. But nobody else told you any of this other
- 17 stuff I was talking to you about?
- 18 A Sir, I get pertinent information that's given to me
- 19 based on what I need to process, what maybe I need
- 20 to look for, if anything. I take in context what I
- 21 see in there.
- 22 Q Okay.
- 23 A And I develop my processing procedure from that.
- 24 Q All right. I gotcha. But would you agree with me
- 25 there were multiple officers going room to room,

1 weren't there?

2 A Yes, sir.

3 Q And, sir, when that happens, you have the danger or
4 the risk or the chance for them to move evidence
5 around while they're doing their searching through
6 the house, right?

7 A There is always a chance, yes, sir.

8 Q Okay. And, by the way, sir, this test that you did
9 here, these lifts, were done how many days after
10 April 13th?

11 A They were done on the 23rd.

12 Q Okay. When was the house released back to the
13 Parkers?

14 A My involvement in it was finished, and the search
15 warrant that I used to do our processing was
16 finished on the afternoon of the 14th.

17 Q That's the next day, isn't it?

18 A Yes, sir.

19 Q All right. Now, in between the 13th of April and
20 the 14th of April, y'all very meticulously sealed
21 this house, didn't you?

22 A Yes, sir.

23 Q And tell the jury the reason that you do that.

24 A So no one can enter the house and contaminate or
25 move or take anything, and we can continue our

1 processing as if it was pristine.

2 Q Okay. All right. And it's a serious situation,
3 though? You don't want to allow that to happen, do
4 you?

5 A Yes, sir.

6 Q But, again, sir, this test that y'all did on these
7 blinds was over, what, 40 days later?

8 A It was on the 23rd, yes, sir.

9 Q Do you have any information or any evidence or any
10 knowledge of how many people were in and out of
11 that house between the 14th of April and then 40
12 days later?

13 A No, sir, I don't. I was requested to do that
14 procedure, and that's what I did.

15 Q Okay. And you didn't have one of your security
16 tapes across there for those 40 days, did you?

17 A No, sir.

18 Q Twenty-four hours later the house was reopened,
19 opened up too, wasn't it?

20 A We were finished with it, CSI.

21 Q Well, apparently you weren't.

22 Now, you talked about in your testimony that
23 there were shell casings from the 9-millimeter
24 pistol, the Smith & Wesson, were found out in a
25 room, which was in a doorway. Would you agree with

- 1 that? You let me know if I'm wrong about this.
2 Tammy Parker was sitting over this way
3 (indicating), wasn't she, from the doorway of the
4 room where she was shot?
5 A From the doorway that enters the office?
6 Q Yes, sir.
7 A She was lying to the left.
8 Q I realize that.
9 A Okay.
10 Q But your investigation has shown, has it not, sir,
11 that when the event began, she was over at that
12 desk, wasn't she, probably --
13 A Originally. Originally. There was, yes, at least
14 five impact points in that general area, yes, sir.
15 Q Okay.
16 A And she then finally ended up in the doorway to the
17 bathroom.
18 Q All right. I've gotcha. Meaning she got up and
19 was moving probably?
20 A Probably in motion, yes, sir.
21 Q Okay. Now, sir, I believe you testified that you
22 found some shell casings out there in that room
23 that is outside this doorway, is it not?
24 A Two. Two shell casings.
25 Q And you correct me if I'm wrong, but your testimony

1 was that you estimate, based on your findings
2 there, that somebody was shooting from that general
3 area right in that doorway where the office is? Do
4 you agree with that?

5 A Yes, sir.

6 Q Now, that would be -- you are familiar with that
7 house, right?

8 A Yes, sir.

9 Q From that point in that doorway, holding a pistol,
10 it would be a good place to, while you're shooting
11 this gun, to look and see who is coming up the
12 stairs or what is going on, wouldn't it? That
13 would be a good spot to see who is coming up the
14 steps, wouldn't it?

15 A If you had it in your head that you needed to be
16 looking around and not concentrating on what you
17 were doing, like firing a weapon.

18 Q Well, my point to you is, sir, is that we have no
19 evidence that somebody walked right up to
20 Ms. Parker and shot her this close, right? That
21 didn't happen. You say your investigation showed
22 that? That they didn't walk right up, until the
23 last shot, and shoot her like this, did they?

24 A No.

25 Q They shot her from some distance, didn't they?

1 A Yes.

2 Q And the area where the gun was fired was in that
3 doorway?

4 A Yes, sir.

5 Q And that doorway is in a vantage point where you
6 can see who is coming up those stairs?

7 A It seemed that at least two was fired in the area
8 of the doorway because you had the two fired
9 casings outside. Then you had three on the inside
10 that was to the right, slightly to the right. So
11 most probably those three were fired inside the
12 doorway.

13 Q Okay. But you do agree with me, sir, that whoever
14 you're saying did it, did not walk right up and
15 shoot her, did they?

16 A I'm not saying who did it, sir. I'm giving -- I
17 processed the physical evidence.

18 Q Okay. Now, you did some -- on the gun that was
19 found in Bryan Capnerhurst's hand -- you don't deny
20 that there was a gun in his hand when the officer
21 arrived, do you?

22 A That is the officer's testimony; so I do not deny
23 it, no.

24 Q Two officers testified?

25 A Yes, sir.

- 1 Q You did some testing on that to see whether or not
2 Bryan Capnerhurst's DNA was on the weapon?
- 3 A I did two swabs from that weapon, yes, sir.
- 4 Q Okay. And those came back and said, yes, indeed,
5 his DNA was on that weapon, wasn't it?
- 6 A From the blood stains, yes, sir.
- 7 Q Okay. Now, how about the fingerprints on the
8 weapon? Did you test for that?
- 9 A I did. I processed it for prints, yes, sir.
- 10 Q Okay. Well, would you agree with me that there is
11 a connection between some of this evidence that you
12 gathered here and Bryan Capnerhurst, right?
- 13 A Which evidence?
- 14 Q The DNA?
- 15 A On?
- 16 Q On the pistol.
- 17 A Yes, sir.
- 18 Q Okay. So we know we have two officers who saw him
19 holding the gun, right?
- 20 A Uh-huh.
- 21 Q We know your DNA evidence proves that he had been
22 in contact with the gun, right?
- 23 A That was his blood on it, yes, sir.
- 24 Q Yes, sir. Okay. All right. And we can't tell
25 whether or not, based on this smudge on this box,

1 you can't rule him out as touching this either?

2 A I don't know whose impression that is, no, sir.

3 Q But you can't testify that he didn't touch it, can
4 you?

5 A No, sir.

6 Q All right. Now, you checked all of the clothing of
7 Mr. Parker, didn't you, sir, for blood?

8 A I checked the clothing that I was given to check.

9 Q Okay.

10 A And I was informed that that was the clothing he
11 was wearing that day.

12 Q Do you have any reason to doubt that?

13 A No.

14 Q Okay. So would it be safe to assume that that is
15 what he was wearing that day?

16 A That is what I did assume, yes, sir.

17 Q Okay. And tell the jury what you found when you
18 were looking for this?

19 A I found no evidence of blood.

20 Q Okay. All right. Can you tell me why y'all only
21 tested one of the samples that was taken from that
22 9-millimeter pistol? You took some samples from
23 it, right?

24 A DNA samples or swabs?

25 Q Yes, sir.

- 1 A Took two, yes, sir.
- 2 Q Well, why didn't you test the other one?
- 3 A I don't do the testing, sir.
- 4 Q Okay. All right. Are you aware that they only
- 5 tested one?
- 6 A No, sir.
- 7 Q Okay. All right. But it did come back positive
- 8 for Bryan Capnerhurst's, did it not, the DNA test
- 9 you did?
- 10 A The -- not that I did. I don't do --
- 11 Q Well, I understand. I gotcha. I gotcha.
- 12 A All right, sir.
- 13 Q I'm not trying to provoke you, Sergeant.
- 14 A I understand, yes, sir.
- 15 Q Okay. Were you present -- I notice that you had
- 16 some interaction with the cellphone that was found
- 17 on Bryan Capnerhurst. Would you agree with that?
- 18 A Yes, I did.
- 19 Q Okay. Tell me again what your interaction with
- 20 that cellphone was.
- 21 A I received the cellphone from Investigator Holt,
- 22 who had collected it from the area Mr. Capnerhurst
- 23 was in, which is the attic. He was back there with
- 24 the Coroner's Office and the body. He did the GSR
- 25 on Mr. Capnerhurst's hands.

1 Q Okay.

2 A And then the coroner went through, I understand the
3 pockets, which is protocol for them to see what is
4 in it. That cellphone was taken at that point by
5 the coroner, given to Investigator Holt, who was
6 there with her.

7 Q Right.

8 A He, in turn, gave it to me in the chain of custody
9 because I was collecting evidence.

10 Q Right. All right. Where were you when he gave it
11 to you?

12 A Probably in the media room.

13 Q And I know this was a while ago.

14 A Yes, sir.

15 Q I understand that.

16 A Yes, that's where --

17 Q I know you do a lot of cases. And I'm not fussing
18 at you.

19 A That's where the majority of the question was made,
20 at a focal point.

21 Q Okay. I'm going to hand you this document and ask
22 you if you can identify it for the jury.

23 A It is an analysis report from April 16th, 2012,
24 that I rendered.

25 Q Okay. Would you -- what was the subject? What was

1 the object of that?

2 A The narrative portion of it? Is that what you
3 wanted?

4 Q Yes, sir.

5 A It states --

6 THE COURT: Hold on one second. It has been
7 marked as what?

8 MR. WHITLARK: I haven't introduced it yet,
9 Your Honor.

10 THE COURT: Okay. All right.

11 MR. WHITLARK: I'm sorry, Your Honor.

12 BY MR. WHITLARK:

13 Q Go ahead.

14 A I turned over to Investigator Holt: One Verizon
15 cellphone, reference the chain of custody form for
16 further investigation..

17 Q Okay. All right. So you gave it back to
18 Investigator Holt?

19 A I did.

20 Q And the purpose of that was what?

21 A For him to probably -- I believe turn it over to
22 one of the investigators who needed the phone for
23 further investigation.

24 Q All right. So are you aware that Investigator Holt
25 says that that phone was taken out of the right

1 pocket of Mr. Capnerhurst? Are you aware of that?

2 A I know it was taken out of one of the pockets. I
3 wasn't back there. I'm not sure which one it was.

4 Q Well, I'm asking: Are you aware that Investigator
5 Holt said that it was in his right pocket?

6 A No, I'm not aware of that.

7 Q Okay. Did you hear the testimony of Ms. Powell,
8 the investigator for the Coroner's Office?

9 A Yes.

10 Q And which pocket did she say she got it out of?

11 A I believe she said left.

12 Q Okay.

13 MR. WHITLARK: Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 (Pause.)

16 BY MR. WHITLARK:

17 Q Now, when you tested or had lifts done for
18 particulate matter, which means gunpowder coming
19 off guns?

20 A Yes, sir.

21 Q Off of Brett Parker?

22 A Yes, sir.

23 Q Do you remember that?

24 A Yes, sir.

25 Q There was powder on his hands, wasn't there?

- 1 A Yes, sir.
- 2 Q Okay. And, of course, if you wash your hands after
3 you do that, that is going to make it unlikely,
4 isn't it, to find some if you wash your hands?
- 5 A It's very difficult for particles to remain on the
6 hands after they've been washed, yes, sir.
- 7 Q All right. Would you agree with me, based on what
8 y'all found, that Brett Parker didn't wash his
9 hands off, did he?
- 10 A I would assume he did not.
- 11 Q Okay. All right. But he was there by himself and
12 could have? Are you aware of that? He was there
13 for a matter of time after that. If he had wanted
14 to do that, he could have probably, would you agree
15 with that?
- 16 A Not from the time I arrived, no, sir.
- 17 Q Okay. Now, you reopened some swabs you took,
18 didn't you?
- 19 A Yes.
- 20 Q Now, you had already taken them, and we've got the
21 chain -- tell the jury what chain of custody is, if
22 you don't mind.
- 23 A Chain of custody is a form that shows whoever has
24 the evidence in their possession and they turn it
25 over to someone else, it is signed for or released

1 by the person that originally had it and signed for
2 by the person who is now receiving it.

3 Q Okay. Now, tell the jury the reason you have a
4 chain of custody. What is the main reason you have
5 it?

6 A So that you know that the evidence does not leave
7 the custody of a person it's supposed to be with,
8 and it's not tampered with or destroyed, or
9 anything of that nature.

10 Q There you go. To make sure there's no tampering
11 with it or some actions or something else getting
12 on it or something else, right?

13 A Yes, sir.

14 Q All right. Now, this phone, again, sir, was given
15 back and forth from -- we've got Ms. Powell gave it
16 to Holt, who gave it to you, and then you gave it
17 back to Holt?

18 A (Nods affirmatively.)

19 Q Okay. Let me ask you something. Do you remember
20 exactly what day it was that you got the telephone
21 in your hand?

22 A That it was given to me?

23 Q Yes, sir.

24 A It was given to me the night of the 13th.

25 Q Okay. Was the telephone on?

1 A I don't know. It was in an envelope at the time.

2 Q Okay. All right. Did you ever -- have you ever
3 done any testing on that phone or looked at it?

4 A No, sir.

5 Q Do you know anything about that?

6 A No, sir.

7 Q Okay. I looked on the log-in sheet for that day.

8 A Yes, sir.

9 Q Do you have a copy?

10 A/ I do have a copy.

11 Q Okay, good. And I believe you told me you got
12 there right around about 4:00 o'clock or so?

13 A I arrived on the scene at 1340. That is 1:40 in
14 the afternoon.

15 Q Okay. And you left at what time?

16 A That night at 2140, which is 9:40 in the evening,
17 pretty close to nine hours.

18 Q Yeah. You were there for a long time.

19 Sir, while you were out there that day, you
20 heard about a fellow calling up from North Carolina
21 talking about that Brett Parker had told this man
22 to come over there with a bag, and that the guy was
23 expecting trouble or to call 9-1-1. You heard that
24 by the time you left there that night, hadn't you?

25 A Are you talking about Mr. Capnerhurst?

1 Q No. Yeah -- no, I'm talking about a gentleman in
2 North Carolina had talked to some investigators for
3 Richland County.

4 A No, sir.

5 Q You did not -- you don't know about that?

6 A No, sir.

7 Q How did you know, if you don't mind, to take a
8 picture of the toilet in the up position? How did
9 you know about that?

10 A We take pictures of all rooms. We go through the
11 rooms, and we take photographs of it.

12 Q Well, sir, you thought it was significant during
13 your direct testimony, did you not?

14 A Yes, after the fact. While we was taking the
15 photographs to begin with, we take photographs of
16 every room, trying to depict everything we possibly
17 can in the way it is when we arrive.

18 Q Okay.. And you were going -- you were -- and
19 throughout the house, right?

20 A Yes, sir.

21 Q You were in that bathroom, weren't you?

22 A Yes, sir.

23 Q Now, the exhaust fan, the odor fan exhaust, was on,
24 wasn't it?

25 A I believe so.

- 1 Q Okay. Did you turn it off or on? Did you touch
2 it?
- 3 A No, sir.
- 4 Q Okay. All right. Now, there is no way to tell how
5 long gunpowder has been on a surface, is there,
6 sir?
- 7 A No, not that I'm aware of, no.
- 8 Q Okay. And, again, it's easy -- is gunpowder
9 something that is easy to transfer?
- 10 A Easy to transfer?
- 11 Q Yes, sir.
- 12 A It can be transferred, yes, sir.
- 13 Q Okay. Now, did you change gloves? Did you change
14 gloves? You went through a lot of evidence that
15 day, would you agree with that?
- 16 A I did.
- 17 Q That was a big job?
- 18 A Yes, sir.
- 19 Q And I commend you for that. But did you change
20 gloves every time you started handling a different
21 piece of evidence?
- 22 A I changed gloves a lot of times.
- 23 Q Okay. Can you tell us right now exactly how many
24 times you changed your gloves that day?
- 25 A No, I cannot.

1 Q Do you carry a box of gloves with you?

2 A Yes, sir, several.

3 Q Okay. And the procedure is you probably need --
4 should, ideally, again -- and, again, I'm not
5 fussing at you, and I understand the reality --

6 A I understand.

7 Q -- versus textbook ideal, but it's a good idea to
8 do that, isn't it? If you could ideally change
9 your gloves every time you move from one item of
10 evidence to the next? Wouldn't you agree?

11 A In an ideal world, yes, sir.

12 Q Okay. Now, did you touch the clothing of
13 Mr. Capnerhurst when you were at the scene and were
14 making your findings and your examinations?

15 A The first day at the scene?

16 Q Yes, sir.

17 A I don't believe I did, no, sir.

18 Q Okay. But we know that the officers, the first two
19 that were there, Odom and I believe Harvel, is that
20 right? Is that the first two?

21 A I don't remember his name, sir.

22 Q They did touch his clothes, didn't they?

23 A I know Odom would have had to, yes, sir, according
24 to his testimony. I'm not sure that the second
25 officer did.

- 1 Q All right. And, again, sir, that is not ideal?
2 The best thing to do is not touch anything, right?
- 3 A The best thing is not to touch anything, yes, sir.
- 4 Q Now, you took a lot of pictures that day?
- 5 A Yes, sir.
- 6 Q And there's stacks of them, right?
- 7 A Yes, sir.
- 8 Q But we don't have a picture, do we, of the pistol
9 in Mr. Capnerhurst's hand, right?
- 10 A No, sir.
- 11 Q And that would be a very important thing to have in
12 this type of investigation with these allegations
13 being made, wouldn't you agree?
- 14 A As a CSI we would liked to have had that, yes, sir.
- 15 Q Probably would have been Number 1 on the list,
16 wouldn't it?
- 17 A I would have liked to have had it, yes, sir.
- 18 Q Okay. But we don't?
- 19 A No, sir.
- 20 Q The gun was moved? We know that, right?
- 21 A Yes, sir.
- 22 Q And the bag has no DNA from Brett Parker on it?
- 23 A Not that I'm aware of, no, sir.
- 24 Q Okay. That was moved and then opened and
25 photographed?

1 A Yes, it was.

2 Q Okay. And we had a lot of officers in here
3 beforehand running around. I mean, do you have any
4 specific proof that the two shell casings you found
5 in that family room, we are calling it, the room
6 outside the office, in the doorway -- again, in
7 this doorway -- do you have any proof that those
8 shell casings weren't kicked?

9 A The only proof -- the only thing that I do have is
10 they were marked by the First Responders with
11 plastic cups when they arrived. And that is what
12 they usually do, and that's what we ask them to do,
13 if they can mark evidence as they see it as they're
14 going through a particular scene. That way we can
15 tell pretty much where it was at one time.

16 Q Okay. All right. And also in the room where I
17 believe shell casings were found in an area -- and,
18 again, is it your belief that she was over here
19 (indicating) when she first was shot and then moved
20 this way (indicating) across?

21 A From the desk to the entry of the bathroom, yes,
22 sir.

23 Q It appeared that way, did it not?

24 A Yes, sir.

25 Q Okay. And that doorway, from the pathway she took,

1 would have been about, what, three feet maybe?

2 Four feet? What do you think?

3 A Three, four, five, somewhere in the area.

4 Q Okay. All right. And, again, based on your
5 experience as a CSI and law enforcement -- and I
6 believe you were in the military as well?

7 A Yes, sir.

8 Q Standing in that doorway and firing, you could
9 still have a view of those stairways, couldn't you?

10 A If you were standing in the doorway, you could
11 probably make that view available, yes.

12 Q Okay.

13 MR. WHITLARK: Beg the Court's indulgence,
14 Your Honor.

15 (Pause.)

16 BY MR. WHITLARK:

17 Q Sir, y'all did a lift off of the back of Bryan
18 Capnerhurst's hands for gunpowder particulates and
19 the stuff that comes out of the explosion of the
20 shells, didn't you?

21 A Both of his hands, yes, sir.

22 Q Okay. And you're aware that he had a large amount
23 on there, did he not, sir?

24 A I'm aware that he had GSR on his hands, yes, sir.

25 Q Well, it was a lot, wasn't it, sir?

1 A The volume, I don't know, sir. I'm aware that he
2 had GSR on his hands.

3 Q Okay. Well, let me ask you something: You were
4 heavily involved in this case, were you not?

5 A Yes, sir.

6 Q And you were there for nine hours and you did
7 subsequent work, did you not?

8 A Yes, sir.

9 Q And you're telling me that you're not aware that he
10 had a large amount of gunpowder on the back of his
11 hand?

12 A I'm aware, according to the report that was
13 rendered from SLED, that he had GSR on his hand.

14 Q Have you seen the evidence that was given to the
15 Defense in April of this year?

16 A By whom?

17 Q There was 470 pages of information that was given
18 to the Defense. Are you aware of the contents of
19 it?

20 A I guess not.

21 Q Okay. Are you telling me you have never seen the
22 findings of the laboratories at SLED over at
23 Richland County about the amount that was on the
24 back of his hand?

25 A The report that was rendered by SLED and given to

- 1 me about the conclusions of the GSR on the hands of
2 Mr. Capnerhurst or Tammy Parker and Mr. Brett
3 Parker all said that he had GSR on his hands.
- 4 Q Okay. Again, sir, you were heavily involved in
5 this case, were you not?
- 6 A Yes, sir.
- 7 Q You were there for nine hours that day. Are you
8 telling me that you have no knowledge of the large
9 amount of gunpowder -- of an extraordinarily large
10 amount of gunpowder that was found on Bryan
11 Capnerhurst's hand? Are you telling me you have
12 never heard that?
- 13 A Those type of works are done separate from us.
14 And, no, I have not seen any report that would
15 indicate that at all.
- 16 Q Okay. And, sir, is it also your testimony that
17 while you were there for nine hours, nobody
18 mentioned a word to you about talking to a bookie
19 in North Carolina?
- 20 A Absolutely not.
- 21 Q You heard nothing about that?
- 22 A No, sir.
- 23 Q Was Don Robinson there when you were there early in
24 the afternoon?
- 25 A Early in the afternoon?

1 Q Yes, sir.

2 A He probably was, but he did not sign in to come
3 into the residence until later that evening, I
4 believe.

5 Q If you don't mind, let me ask: What are you
6 looking at there?

7 A Crime scene log.

8 Q Do you mind if I take a look at that?

9 A Absolutely. I don't know if it's the last page.

10 (Pause.)

11 MS. CAMPBELL: It's in evidence.

12 BY MR. WHITLARK:

13 Q I am going to ask you to take a look at Page 3 of
14 what has been marked as Defense Exhibit 1. This is
15 a copy of it.

16 A Uh-huh.

17 Q I am going to ask you to take a look at that.

18 A Okay.

19 Q All right. You see Don Robinson's sign-in right
20 there, right?

21 A Yes, I see the third one down, Sergeant D. Robinson
22 with no time entered. And it says, Did not enter,
23 with initials.

24 Q All right. And Lindler is right down below there,
25 isn't he?

- 1 A He is.
- 2 Q It's the same thing with him, isn't it?
- 3 A No time is entered by his name. It says, Did not
4 enter, with initials.
- 5 Q So I guess that means they were there, right?
- 6 A Yes, sir.
- 7 Q And they signed to get in the house and just
8 decided not to go in, or something, right?
- 9 A Or something happened and they were not allowed in,
10 because I was already there.
- 11 Q Okay. Well, do you have any specific knowledge
12 that they weren't allowed in?
- 13 A Nobody got in unless we said so after we arrived,
14 without being escorted.
- 15 Q Don Robinson was in charge of the scene when you
16 got there that day, wasn't he?
- 17 A I conversed and my information gathering was with
18 Major Smith once I got there.
- 19 Q Okay. And again, what time did you get there?
- 20 A I arrived on scene at 1:40 in the afternoon.
- 21 Q Okay. Did you see anybody near the body of Bryan
22 Capnerhurst between 1:40 in the afternoon and 2:45
23 in the afternoon?
- 24 A From the time I got there to the time I entered the
25 residence?

1 Q Did you see -- yes. Let me rephrase it and make it
2 easier for you.

3 A Okay. All right.

4 Q Did you see any officers near the body of Bryan
5 Capnerhurst between 1:40 in the afternoon and 2:45
6 in the afternoon?

7 A No.

8 Q All right.

9 MR. WHITLARK: Beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 (Pause.)

12 BY MR. WHITLARK:

13 Q And, again, sir, this is not an exhibit; but it is
14 demonstrative, right? Did you make this, by the
15 way?

16 A That is a copy of my -- off my report, yes, sir, I
17 believe.

18 Q Okay. I mean, did you -- I'm asking --

19 A Oh, I did not make that, no.

20 Q Okay. All right. But you are aware, are you not,
21 that all of these things were either negative or
22 inconclusive? You are aware of that?

23 A Either/or, yes. Either/or.

24 Q And, again, about 40 days later, or something like
25 that?

- 1 A Yes, sir.
- 2 Q And, of course, Brett Parker wasn't arrested until
- 3 July? Isn't that your understanding?
- 4 A I wouldn't know the date he was arrested, no, sir.
- 5 Q It was a long time after this happened, wasn't it,
- 6 sir?
- 7 A I know my role in this ended around the 25th of
- 8 May. That was the last report that I rendered. I
- 9 had to move on to other things. So I'm not sure
- 10 when he was arrested, sir.
- 11 Q Well, other than a cold case, is the longest
- 12 investigation you have ever seen in your life?
- 13 A Not for us. I don't know about totality.
- 14 Q Okay. Have you ever been in a case where the FBI,
- 15 the Secret Service, the State Law Enforcement
- 16 Division, Richland County, and the Coroner's
- 17 investigators were all involved?
- 18 A Yes, sir.
- 19 Q You have?
- 20 A Yes, sir.
- 21 Q What kind of case was it?
- 22 A A missing persons.
- 23 Q A missing person?
- 24 A Yes, sir.
- 25 Q And was that an ongoing, cooperative effort y'all

1 did?

2 A Yes, sir.

3 Q Or was it a long time and all that?

4 A Yes.

5 Q You do know the Secret Service investigated this
6 case, right?

7 A I had information that I heard, yes, sir. I was
8 never involved with them myself.

9 Q I understand. I understand. And the FBI too?

10 A Yes, sir.

11 Q Coroner's investigators?

12 A Well, of course, the Coroner is involved, yes, sir.

13 Q Absolutely, yes. And the State Law Enforcement
14 Division?

15 A Yes. They had to be involved too because they did
16 some analysis, sure.

17 Q And, of course, a very large number of Richland
18 County investigators on this case? You know that?

19 A Well, we have -- we do the best we can.

20 Q I know they are. I know they are.

21 MR. WHITLARK: That's all I have, Your Honor.

22 Thank you.

23 THE COURT: All right. Yes, ma'am.

24 **REDIRECT EXAMINATION**

25 **BY MS. CAMPBELL:**

1 Q Is it unusual for a large number of agencies to be
2 involved when there is a double homicide involved?

3 A No, because it expands a lot of territory. And so
4 it is not unusual, no.

5 Q And when multiple crimes are occurring at the same
6 residence such as in addition to the homicide, do
7 other agencies become involved because that is
8 their purview, their role?

9 A Yes. If it crosses different jurisdictions, I
10 would expect there would be a lot of different
11 agencies involved.

12 Q He asked you about the fact that there was
13 absolutely no blood found on Brett Parker's
14 clothing?

15 A Yes, ma'am.

16 Q Were you aware that it had been washed before it
17 was given to you --

18 A Yes.

19 Q -- for processing?

20 A Yes, I was. But I insisted on taking a look anyway
21 just to see, because there is sometimes blood that
22 I'm aware of can get down into the cloth inside a
23 person's clothing into the weave. So I wanted to
24 take a look at it. And it was negative.

25 Q It had been washed?

1 A It had.

2 Q He asked you about the DNA from the gun, again.

3 And one photograph that was allowed into evidence
4 that I showed you where the blood was on that gun,
5 that 9-millimeter?

6 A Yes, ma'am.

7 Q Whose blood did it come back to be?

8 A Mr. Capnerhurst's.

9 Q Mr. Capnerhurst's own blood on that gun that was
10 taken from his hand?

11 A Correct.

12 Q But in the area where he was holding it with his
13 hand --

14 MR. WHITLARK: Objection, Your Honor. She is
15 leading her own witness, and I have to object to
16 that.

17 THE COURT: All right. Objection sustained.
18 Please rephrase the question.

19 BY MS. CAMPBELL:

20 Q What did you observe about the gun or lack of blood
21 on the gun where it was being held?

22 A I did not observe any blood that was on the handle
23 or the magazine well, whichever you prefer to call
24 it, of that weapon.

25 Q He asked you about fingerprint evidence in this

1 case?

2 A Yes, ma'am.

3 Q And he went through a hypothetical involving five
4 different people having handled this?

5 A Yes, ma'am.

6 Q DNA evidence, how would you characterize it, as far
7 as staying on an item for a long period of time?

8 A It can stay there for quite a while. You may --
9 you can get different profiles for different people
10 of DNA --

11 Q I'm sorry, I meant fingerprint.

12 A Fingerprints. We are talking fingerprints.

13 Q I'm sorry, I'm talking fingerprints. Fingerprints.

14 A Fingerprints are very fragile also. These are
15 fragile type pieces of evidence we're talking
16 about. Whether it's GSR or fingerprints, they can
17 be destroyed very easily. If you've got an item
18 over a period of time and it's been handled by
19 numerous people, you're going to have people
20 destroying other fingerprints that might have been
21 placed there by the first person to have touched
22 it. It's just, you have to deal with what you have
23 when you process it.

24 Q And, say, if an item of evidence has a fingerprint
25 on it, but it is in a bag moved around, jostled,

- 1 thrown over a shoulder, could that impede your
2 ability to get a usable fingerprint?
- 3 A It's possible.
- 4 Q And, again, DNA evidence, he asked you about the
5 zipper on the -- if I necessarily walk up and grab
6 the zipper to a bag, am I necessarily going to
7 leave DNA?
- 8 A No.
- 9 Q He asked you about the fan that was on in the
10 bathroom?
- 11 A Uh-huh.
- 12 Q And we are talking about the powder room
13 downstairs?
- 14 A Yes, ma'am.
- 15 Q The one in the hall?
- 16 A Yes, ma'am.
- 17 Q What was the light?
- 18 A On.
- 19 Q Was it on or off?
- 20 A I did not see a light. It was turned on when I
21 took the photograph. Of course, I had people in
22 front of me taking photographs also.
- 23 Q Okay. Lieutenant Elsey was there with you that
24 day, or Lieutenant Cavanagh?
- 25 A Yes, and Investigator Holt also.

1 Q He also asked you about how you handled the
2 evidence. Are you aware and in your training is it
3 important to avoid any cross-contamination?

4 A Sure, it is.

5 Q And did you take the proper steps there at the
6 scene that day to make sure that nothing got
7 cross-contaminated?

8 A I always do.

9 Q And do you also make sure that no one went down
10 there, having handled Mr. Capnerhurst's clothing or
11 anything, and then touched those blinds right where
12 you later went back and took them --

13 MR. WHITLARK: Your Honor, objection. It's a
14 leading question again.

15 THE COURT: Sustained. Please rephrase the
16 question.

17 BY MS. CAMPBELL:

18 Q Did anyone, while you were there, cross-contaminate
19 those blinds that you later went back and --

20 A To the best of my knowledge, there was no
21 cross-contamination any time by any CSI in that
22 residence.

23 Q And the evidence there at the scene, such as
24 Mr. Capnerhurst, his body, Ms. Parker, the guns,
25 when were those all removed?

1 A That night.

2 Q The first night?

3 A The first night, yes, ma'am.

4 Q He also asked you about whether or not you saw
5 anyone near Mr. Capnerhurst's body between 1:40 and
6 2:45. Where were you?

7 A Those are the times that I was outside of the
8 residence waiting for the search warrant.

9 Q As was everyone?

10 A Yes.

11 Q Was the scene secured?

12 A Yes.

13 Q But everyone was outside?

14 A Yes.

15 MS. CAMPBELL: I don't have anything further.

16 Thank you.

17 MR. WHITLARK: Briefly, Your Honor.

18 THE COURT: Yes, sir.

19 **RECROSS-EXAMINATION**

20 BY MR. WHITLARK:

21 Q Sergeant Richards, you took a swab off that zipper,
22 but you didn't even test it. It wasn't tested, was
23 it?

24 A I don't do the testing, sir.

25 Q I understand that. But are you aware there was no

1 tests done?

2 A I am not aware of that, no, sir.

3 Q All right. But does it surprise you that there was
4 no test done?

5 A Sometimes we test and sometimes we don't. It
6 depends on the investigation and what is asked of
7 our DNA section.

8 Q Okay. But the bag -- the bag -- was moved by the
9 police before the contents of it were photographed,
10 wasn't it?

11 A The bag was moved by CSI personnel.

12 Q Y'all are police, right?

13 A We are.

14 Q And before you opened it and took a picture, y'all
15 moved it, didn't you?

16 A It was moved. It was moved by one of us, yes, sir.

17 Q Now, you testified that nobody from CSI in your
18 opinion cross-contaminated anything?

19 A In my opinion, yes, sir.

20 Q I gotcha. I gotcha. But, of course, y'all left
21 the next day, about 24 hours, or something like
22 that, after this happened, right? Y'all weren't
23 there anymore? You released the scene?

24 A After the second day we were finished, yes, sir,
25 with the search warrant that we had, yes, sir.

1 Q Yeah, I gotcha. I gotcha. And, again, before you
2 went back for this, this negative or inconclusive
3 test, it was about 40 days, or something like that?

4 A It was quite a few days, yes, sir.

5 Q Okay. Well, what proof do you have that nothing
6 was contaminated during that time?

7 A I do not know what happened between the time we
8 left and when we came back there.

9 Q All right. Well, you certainly, you know, can't
10 say that there was not a chance for transfer or
11 cross-contamination at that point, could you? You
12 wouldn't feel very good about that, would you?

13 A I can't say that, no.

14 Q Well, you sure would have some doubts about that
15 for that length of time, wouldn't you?

16 A Well, I was not there, sir, so I would not know
17 what happened.

18 Q Well, you came back, though, right, to take a test,
19 right? You came back and took a test, didn't you?

20 A I was requested to come back and process those
21 items for possible GSR, and that's what I did.

22 Q Okay. Well, you came back?

23 A I did.

24 Q And we know a long time afterwards. And we don't
25 know what happened in between there, do we?

1 A I do not.

2 Q But we do know that there were large numbers of
3 people in and out of that house, don't we?

4 A I do not know that.

5 Q Okay. Where did you go to the bathroom? You were
6 there for nine hours. Did you use the restroom
7 while you were there?

8 A No.

9 Q Okay. All right. And, by the way, about the
10 fingerprint mentioned by counsel.

11 A Yes, sir.

12 Q You know for a fact that Brett Parker told the
13 police right off the bat that he gave that
14 ammunition, handed it to Bryan Capnerhurst, and the
15 pistol?

16 A I wasn't privy to that information.

17 Q Okay. And you can't testify today or at any time
18 that the smudge that you found is not Bryan
19 Capnerhurst's, can you?

20 A The unidentifiable lift was not identified to
21 anyone, as far as I know. I did not do the
22 comparison.

23 Q The question is this, sir: You cannot sit here
24 today as a CSI expert and testify that the smudge
25 on that box is not Bryan Capnerhurst's, can you?

1 A No.

2 MR. WHITLARK: That's all I have, Your Honor.

3 Thank you.

4 THE COURT: Sir, you may step down.

5 THE WITNESS: Thank you.

6 (Witness steps down.)

7 THE COURT: Any objection to this witness
8 being excused?

9 MS. CAMPBELL: Thank you, Your Honor.

10 MR. WHITLARK: One moment, please, Your Honor.

11 (Pause.)

12 MR. WHITLARK: No problem, Your Honor.

13 THE COURT: I mean, I can release him for the
14 day and not release him from the subpoena, or
15 whatever, and have him here, if you need to call
16 him back.

17 MR. WHITLARK: We would like to do that, Your
18 Honor.

19 THE COURT: Okay. All right. So you will
20 just be on standby, but you are free to leave now.
21 Thank you.

22 (Witness on standby.)

23 THE COURT: All right. Call your next
24 witness.

25 MS. SIMPSON: The State calls Investigator

1 Trevor Holt.

2 (Witness approaches.)

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 will
8 be 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 (Witness complies.)

13 THE CLERK: State your full name for the
14 record, please.

15 THE WITNESS: Trevor Holt, H-O-L-T.

16 TREVOR HOLT,
17 after being duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SIMPSON:

20 Q Investigator Holt, where are you employed?

21 A Richland County Sheriff's Department.

22 Q And what is your position at the Sheriff's
23 Department?

24 A I am a crime scene investigator.

25 Q And how long have you been a crime scene

1 investigator with Richland County?

2 A I've been with Richland County for about 19 years,
3 and the last five of which as a crime scene
4 investigator.

5 Q And what were you doing prior to that?

6 A I was a road supervisor, a senior corporal road
7 supervisor as a uniformed patrol officer.

8 Q Okay. Can you tell the jury just a little bit
9 about your educational background and training with
10 respect to crime scene investigation?

11 A Yes, ma'am. Again, I have been with the Richland
12 County Crime Scene Unit for about five years now.
13 During that time I have received the listed
14 training, in addition to in-house competency
15 testing and yearly proficiency testing. I received
16 crime scene investigation, blood pattern analysis,
17 DNA overview and forensic pathology, advanced crime
18 scene photography and techniques, advance blood
19 pattern analysis, crime scene processing workshop,
20 fingerprint recognition and comparison, forensic
21 anthropology and archeology, shooting incident
22 documentation and reconstruction, advanced Leica
23 C10 ScanStation, blood pattern analysis, crime
24 scene reconstruction, ethics in forensic science.

25 I'm also a member of the International

1 Association of Identification and the South
2 Carolina Division of International Association of
3 Identification. I am also certified as a crime
4 scene investigator with the International
5 Association of Identification.

6 Q And I believe you said you're proficiency tested
7 yearly?

8 A Correct, yes, ma'am.

9 Q Do you also participate in continuing education
10 courses with respect to your field?

11 A Yes, ma'am.

12 Q Tell us a little bit about your duties as a crime
13 scene investigator. What do you do?

14 A As a crime scene investigator, I'm part of a shift
15 rotation. During my 12-hour rotation, I'm
16 responsible for primary on-call during six hours of
17 that rotation.

18 During that time I may do something as simple
19 as answer the telephone, answer a forensic question
20 for a uniformed patrol officer that is at a scene,
21 to responding out into the field to process
22 something as simple as a car break-in, all the way
23 up to burglaries, aggravated assaults, or
24 homicides.

25 Q And earlier you named off a number of areas that

1 you have been trained in. That includes
2 fingerprints, blood pattern analysis, pretty much
3 any aspect of crime scene investigation?

4 A Yes, ma'am, several different disciplines.

5 MS. SIMPSON: Your Honor, at this time -- oh,
6 let me back up.

7 BY MS. SIMPSON:

8 Q Have you been qualified as an expert before?

9 A I have not.

10 MS. SIMPSON: Your Honor, at this time the
11 State would offer Investigator Trevor Holt as an
12 expert in crime scene investigation.

13 MR. WHITLARK: I would like to voir dire the
14 witness, please, Your Honor.

15 THE COURT: Yes, sir.

16 **VOIR DIRE EXAMINATION**

17 BY MR. WHITLARK:

18 Q What is your rank, sir?

19 A I am a CSI, crime scene investigator.

20 Q Okay. Are you a sergeant or --

21 A No, sir.

22 Q You don't have a rank? You are a CSI?

23 A I'm a CSI.

24 Q Okay. Can you tell me what cross-contamination is?

25 A Sure. It's when one piece of evidence or the

1 contact off that evidence comes in contact with
2 another piece of potential evidence and
3 contaminates it.

4 Q Okay. What is an easier surface to have
5 contamination off of? Is it cloth or, let's say,
6 leather or vinyl? Which one is easier to transfer?

7 A To transfer?

8 Q Let's talk about gunpowder, GSR.

9 A Okay.

10 Q Which one is easier, off of cloth, off of clothing,
11 or off of leather or vinyl or something?

12 A If the powder or residue is on the surface to begin
13 with, it could potentially be transferred from
14 either surface.

15 Q Okay. They are equally transferable, easily
16 transferable, either one?

17 A The potential is there for either one, yes.

18 Q Okay. Well, who are you accredited through again,
19 the International?

20 A The International Association of Identification,
21 the South Carolina Chapter of International
22 Association of Identification.

23 Q Can you tell me what the textbook procedure is when
24 you come to a crime scene where there's multiple
25 deaths involved, and one of the subjects -- one of

1 the subjects has a handgun in his hand? What would
2 be the textbook procedure to follow in that case?

3 MS. SIMPSON: Your Honor, at this time I'm
4 just going to object because this is his voir dire.
5 So I think the questions should be related to
6 Investigator Holt's qualifications as an expert.
7 Cross-examination of course is separate.

8 THE COURT: And what is your question?

9 MR. WHITLARK: My question is: What is the
10 textbook procedure if you come to a homicide scene
11 and one of the deceased's is holding a handgun?
12 What's the textbook procedure? That's all I asked,
13 Your Honor. It's a matter of testing and his
14 knowledge about what you are supposed to do.

15 THE COURT: All right, the objection is
16 overruled. I'm going to let him ask the question,
17 but it needs to be as to his qualifications.

18 MR. WHITLARK: All right. Well, that's what
19 I'm asking for, Your Honor.

20 THE COURT: All right.

21 BY MR. WHITLARK:

22 Q Please tell me what the textbook procedure is if
23 you come to a death scene and one of the subjects
24 is holding a gun with his fingers wrapped around
25 it, what are you supposed to do? How do you do it?

1 A As a CSI, we always want the scene as pristine as
2 possible. As a previous uniformed patrol officer,
3 that is not always the case. Officer safety is
4 utmost important in any case where there is a
5 shooting involved.

6 At that point the officer needs to do whatever
7 they feel they need to do for their safety. We
8 then, as a CSI, just have to move forward with that
9 information.

10 Q Okay. Again, sir, the question is this: What is
11 the textbook procedure if you come upon a death
12 scene, as I've described to you, and there is a
13 pistol in the hand of a decedent there? Can you
14 please tell me step by step what the proper CSI
15 procedure is? What do you do?

16 A Sure. Document it through photography, extensive
17 documentation through photography, before moving
18 the pistol.

19 Q Okay. Do you do anything else? Just take
20 pictures?

21 A Well, you've got to clear the weapon after you
22 retrieve it from their hand, yes. I mean, during
23 the photography you're going to notate whether what
24 finger is on the trigger, what fingers are around
25 the grip of the pistol.

1 After that is all documented through
2 photography, the weapon is going to be taken from
3 the individual that is deceased. It's going to be
4 made safe. Then it's going to be secured or
5 packaged for transport for further processing.

6 Q Okay. And you would take pictures from every angle
7 around where that pistol was?

8 A Correct. Overall, mid-range, and close-up.

9 Q Okay. A number of them would be taken and from
10 different sides too?

11 A Sure.

12 MR. WHITLARK: That's all I have, Your Honor.
13 Thank you.

14 THE COURT: All right. Any objection to this
15 witness being entered as an expert in the area of
16 crime scene investigation?

17 MR. WHITLARK: No objection, Your Honor.

18 THE COURT: All right. Ladies and gentlemen
19 of the jury, as I explained to you earlier, that an
20 expert witness is a person who can give opinion
21 testimony in certain areas if the Court qualifies
22 them that way.

23 This witness will be qualified in the area of
24 crime scene investigation.

25 Yes, ma'am, you may continue.

1 MS. SIMPSON: Thank you, Your Honor.

2 DIRECT EXAMINATION CONTINUES

3 BY MS. SIMPSON:

4 Q Let's just back up a little bit with Defense
5 counsel's last line of questioning.

6 As far as photographing and documenting, that
7 is with respect to your role as a crime scene
8 investigator, correct?

9 A Correct.

10 Q That would be ideal?

11 A Correct.

12 Q But as a responding officer, you said what was one
13 of the main concerns?

14 A Officer safety is paramount, yes, ma'am.

15 Q Officer safety.

16 Investigator Holt, back on Friday, April 13th,
17 2012, did you become involved in this case?

18 A I did. I was the on-call crime scene unit for
19 Richland County that day. I was engaged with a
20 domestic violence incident. A victim had walked
21 into our lobby area with injuries. I was requested
22 to respond to photograph and document the victim's
23 injuries.

24 While I was downstairs, I was notified by our
25 desk sergeant that there was a shooting incident in

1 the Ascot subdivision, Region 4 area of Richland
2 County, and that there were two individuals
3 deceased on the scene.

4 Q And what time did you receive that call?

5 A Approximately 12:55 in the afternoon.

6 Q And where did you respond?

7 A I responded from our main office on headquarters,
8 5623 Two Notch Road, after completing the task at
9 hand.

10 Q And the location of the incident?

11 A 12 Tackeria Court.

12 Q I'm going to show you what has been marked as
13 State's Exhibit 368.

14 (Attorneys conferred.)

15 MR. WHITLARK: No objection, Your Honor.

16 THE COURT: All right. It will be entered
17 into evidence. It's number?

18 MS. SIMPSON: Actually it's three, Your Honor,
19 State's 368, 369, and 370.

20 THE COURT: Without objection to all three?

21 MR. WHITLARK: I don't object to them, no,
22 Your Honor.

23 THE COURT: All right. They are entered
24 without objection.

25

1 (WHEREUPON, State's Exhibit Nos. 368-370
2 were marked for identification and
3 received into evidence.)

4 BY MS. SIMPSON:

5 Q So you responded to 12 Tackeria Court?

6 A Correct.

7 Q Who did you make contact with when you responded?

8 A Sergeant Richards.

9 Q And I'm going to show you State's 368. Can you
10 just tell the jury what view and what we're looking
11 at in this exhibit?

12 A Yes. This would be the T-intersection on this end
13 (indicating). This is Tackeria Court. The first
14 driveway on the right would be 12 Tackeria.

15 Q Okay. So the driveway --

16 A Correct.

17 Q -- is noted here. And then I'm also going to show
18 you State's Exhibit 369. What are we seeing here?

19 A A little bit closer view of 12 Tackeria Court.
20 Again, the T-intersection would be down in this
21 area (indicating), and the driveway would be on the
22 right.

23 Q Okay. And the area where the house is located,
24 does the street keep going? Or what type of area
25 is it?

- 1 A It's a cul-de-sac.
- 2 Q Cul-de-sac. And let me show you State's Exhibit
- 3 370. What do we see here?
- 4 A Overhead view of Tackeria Court. And, again, this
- 5 (indicating) would be the driveway for 12 Tackeria
- 6 and the cul-de-sac.
- 7 Q Okay. Can you describe this location area for the
- 8 jury?
- 9 A Wooded, underdeveloped. As you see, just a few
- 10 houses right in the general area, but it's very off
- 11 the beaten path.
- 12 Q Okay. And the driveway, it goes fairly off the
- 13 road?
- 14 A Correct. It goes a ways back and up an incline
- 15 also.
- 16 Q And so this area is somewhat secluded?
- 17 A Yes.
- 18 Q Okay. And when you contacted -- when you make
- 19 contact with Sergeant Richards, what was your
- 20 first -- what did you first do?
- 21 A I made contact with Sergeant Richards and I was
- 22 asked to collect a gunshot residue kit from the
- 23 Defendant, at which time I identified myself to the
- 24 Defendant by name and title.
- 25 I advised the Defendant that due to the fact

1 this was a shooting incident, I needed to collect a
2 gunshot residue kit from him. And in order to do
3 that, I asked him to sign a consent allowing me to
4 do that, at which time he was presented with a
5 Richland County Sheriff's Department consent to
6 search for gunshot residue form.

7 The Defendant was asked to review the form, to
8 ask any questions prior to signing. He reviewed
9 the form and signed the form with no questions
10 asked.

11 Q Okay. So he did, in fact, give you consent?

12 A Yes.

13 Q Tell the jury -- and we have heard a little bit
14 about it -- but exactly what is a GSR kit and how
15 is it collected?

16 A A gunshot residue kit comes from Tri-Tech Company
17 to us. It's a sealed envelope. And in that
18 envelope there are a couple of different things.
19 There are some white cotton swabs, some empty
20 tubings that the cotton swabs go into after the
21 collection has been done.

22 There's a small container of nitric acid and
23 little cylinders of what we refer to as sticky
24 tabs. And the sticky tabs are, of course, used to
25 collect -- it's just a tacking method over the

1 backs of hands and the palms of the hands.

2 And then you come back and follow-up with the
3 cotton swabs and nitric acid for the swabbing the
4 palms and backs of the hand. And then those are
5 placed in their proper tubes that are pre-labeled
6 from Tri-Tech Company. And all that is packed back
7 in the bag.

8 There is also an instruction sheet in the bag
9 explaining how the GSR kit is to be collected and a
10 brief questionnaire in the package that just asks
11 simple things, like the case number, the officer's
12 name collecting it, from whom the kit was
13 collected, et cetera, and things of that nature.

14 Q And did you, in fact, collect a kit from the
15 Defendant, Brett Parker?

16 A I did.

17 Q And was it properly collected?

18 A It was.

19 Q And did you package and seal it?

20 A It is closed at that point. It was then placed
21 into a manila envelope. On the exterior of that
22 manila envelope, the Defendant's name was written,
23 the case number was written; and the envelope was
24 placed in a lock box in the rear of my marked crime
25 scene unit.

1 Q And while it was in your custody, was it tampered
2 or altered with in any way?

3 A No, ma'am.

4 Q After collecting the GSR kit from Brett Parker,
5 what did you do?

6 A Once the search warrant arrived on scene, myself
7 and other members of the forensic unit --
8 Lieutenant Cavanagh, Sergeant Richards, and
9 Investigator Bouknight -- we conducted a
10 walk-through of the incident location.

11 The walk-through allows us to see exactly what
12 we're dealing with, see if additional personnel may
13 be needed, if additional equipment is needed; and
14 those decisions are made during that walk-through.

15 Q And backing up, you said a search warrant had been
16 obtained. Was there some delay --

17 A Yes.

18 Q -- while y'all were waiting on the search warrant?

19 A Yes, ma'am.

20 Q Okay. So upon arriving at the incident location,
21 you didn't necessarily enter the crime scene at
22 that point?

23 A No, ma'am. It was a while later before I actually
24 entered.

25 Q Okay. And after the walk-through, was that done of

1 the entire home?

2 A Yes, it was.

3 Q What did you do?

4 A After the walk-through, myself and Sergeant
5 Richards started documenting the scene through
6 photography. I was using a 35-millimeter camera.
7 Sergeant Richards was -- we were going either ahead
8 or behind each other.

9 He was using a digital camera. We were trying
10 to stay out of each other's photographs. So while
11 he was photographing upstairs, I was photographing
12 downstairs, and then we would switch.

13 Q So y'all were working together, though, pretty much
14 in tandem throughout this process?

15 A Correct.

16 Q And what is the importance of documenting a scene?

17 A It's always great to have visual aids. I can come
18 in here and explain to the jury what something
19 looked like, but it's a lot easier for the jury to
20 understand it if they have something that they can
21 actually look at, something tangible they can look
22 at; and then they will know with their own eyes
23 what I'm speaking of.

24 Q Okay. And so you photograph the items as you see
25 them when you initially --

1 A Correct.

2 Q -- approach the scene?

3 A We will go through and do just general overall
4 photographs. We'll go to every room and photograph
5 everything. If something stands out as potential
6 evidence, we'll then do a mid-range shot of that
7 item and then an up-close shot of that item.

8 Once the overall photographs are collected, we
9 then place evidence markers, the yellow markers you
10 guys have been seeing; and then we'll do all the
11 photography again.

12 We will do an overall, showing where that
13 marker is in the room, a mid-range photograph
14 showing what it's relation to in the room; and then
15 a close-up showing what the item is itself.

16 Q Okay. And were markers utilized in this case?

17 A Yes, ma'am.

18 Q And did you assist Sergeant Richards in marking
19 evidence or other crime scene investigators?

20 A Myself and Sergeant Richards pretty much did all
21 the photography and all the markings.

22 Q Okay. Tell the jury about what you observed when
23 you went through the scene.

24 A Yes, ma'am. In the upstairs entertainment room
25 area, I observed two plastic cups that were placed

1 there by responding units. The cups marked the
2 location of two fired cartridge casings, which were
3 later marked as H and I.

4 In the upstairs office area, I observed Tammy
5 Parker wearing black shoes, black pants, red coat,
6 and a white shirt. Ms. Parker was lying on the
7 floor face-down in the doorway that divides the
8 bathroom and the office. Ms. Parker had what
9 appeared to be several impact points about her
10 upper body and head.

11 I observed several plastic cups on the floor
12 in the office area, which were also placed there by
13 responding units. These cups marked the location
14 of fired cartridge casings and projectiles; and
15 they were later marked as A through G.

16 I observed what appeared to be several impact
17 points to the desk located in the office, in
18 addition to the interior walls of the office; and
19 those were marked as 1 through 5.

20 I observed a datebook that was open on the
21 desktop that was marked as J. I observed a Staples
22 bag with receipt on the floor of the office that
23 was marked as K.

24 Q And, Investigator Holt, we just heard Sergeant
25 Richards testify. Are you referring to the same

1 items of evidence and markings that he was
2 testifying to?

3 A I am. I am. And I can go through and list them
4 for you if you would like.

5 Q That would be great.

6 A Marker A was a projectile; Marker B was a fired
7 cartridge casing; C, fired cartridge casing; D,
8 fired cartridge casing; E, fired cartridge casing;
9 F, projectile; G, projectile; K, Staples receipt;
10 and J was the datebook.

11 Q Okay. And as you go through a scene, do you
12 necessarily know what the relevance or importance
13 of an item might be at that time?

14 A Not all the time, no, ma'am.

15 Q After documenting and photographing the office
16 area, where did you go?

17 A I then moved to the attic area. In the attic area
18 I observed a blue in color gym bag that was later
19 marked as O. And it was sitting just inside the
20 attic door on the floor.

21 I observed Bryan Capnerhurst lying on the
22 floor in the attic area wearing a gray pullover
23 type coat, blue shorts, unknown type running shoes.

24 I observed that Bryan Capnerhurst had what
25 appeared to be several impact points about his body

1 and head.

2 I observed what appeared to be two shot cup
3 wads, which were marked as Q and R, and a third on
4 Bryan Capnerhurst's coat next to his left arm.

5 I observed a Smith & Wesson 9-millimeter that
6 was marked as P, which had been placed in a RCSD
7 evidence bag by Lieutenant Odom. And this bag was
8 sitting just outside the attic room door on the
9 floor.

10 Q And with respect to the gym bag, was it marked
11 prior to being moved or after?

12 A After.

13 Q Was it photographed in its original location?

14 A Yes, ma'am.

15 Q And where was that located?

16 A It was sitting just inside the attic door on the
17 floor.

18 Q And when you, as a crime scene investigator, handle
19 an item of evidence, how do you handle it?

20 A With gloves.

21 Q And is it carefully moved and handled?

22 A Yes, ma'am.

23 Q And after leaving the area where Bryan
24 Capnerhurst's body was found, where did you go?

25 A I went to the downstairs area. In the downstairs

1 sitting area, I observed a Taurus revolver that was
2 marked as M. It was lying on the rug in the
3 sitting area. I observed a Rossi .38, Marker N, in
4 the master bathroom closet.

5 On the kitchen counter, I observed a Firehouse
6 Sub bag with receipt. That was marked as L. I
7 observed that the vent fan was on in the downstairs
8 guest bathroom. The bathroom light was in the off
9 position, and both the toilet seats were in the up
10 position.

11 Q And backing up, the .38 Rossi pistol, that was
12 located where?

13 A In the master bathroom closet.

14 Q And where -- I am going to show you what is in
15 evidence as State's 390. Is this the gun that you
16 observed? I better let you handle it.

17 A Yes, ma'am, it is.

18 Q And the master bathroom in relation to the powder
19 room or the bathroom, I guess the guest bath
20 downstairs, where is that?

21 A You would have to come out of the guest bathroom --
22 as you come out of the guest bathroom and walk
23 towards the back of the house where the -- I would
24 say the main staircase is -- you would actually
25 pass the master bedroom doorway.

1 Q Okay. So you would pass the bedroom?

2 A Yes.

3 Q From the bathroom?

4 A Yes.

5 Q Where this gun was located?

6 A Yes.

7 Q Downstairs?

8 A Yes, ma'am.

9 Q And I think I may have interrupted you. After you
10 observed, I believe, the lights off in both the
11 guest bath, as well as the master bedroom and the
12 bathroom?

13 A Correct. I noted that the lights and power
14 switches in the master bathroom and bedroom were
15 all in the off position.

16 Q And after this initial assessment of the scene,
17 what did you do?

18 A I collected -- or myself and Sergeant Richards
19 collected gunshot residue kits from Tammy Parker
20 and Bryan Capnerhurst. And myself and Sergeant
21 Richards also collected measurements of Tammy
22 Parker in relation to the office area.

23 After the measurements were collected, I
24 assisted Investigator -- Deputy Coroner Jane
25 Powell -- with the inspection of Tammy Parker. And .

1 I noted that no personal property was removed from
2 the body of Tammy Parker.

3 I also assisted Deputy Coroner Jane Powell
4 with the inspection of Bryan Capnerhurst and noted
5 that I received a Verizon cellphone and a wallet
6 from Deputy Coroner Jane Powell, which were
7 removed from the pants pocket of Bryan Capnerhurst.

8 Q And on the GSR kit -- of course, Tammy Parker and
9 Bryan Capnerhurst were deceased. Are their kits
10 collected in a similar fashion as you did with
11 Brett Parker?

12 A Yes, ma'am.

13 Q And I am going to show you what is already
14 introduced as State's Exhibit 408. Are these the
15 three GSR kits that you collected?

16 A It's a RCSD evidence label showing the indication
17 of GSR kit for Tammy Parker, Brett Parker, and
18 Bryan Capnerhurst.

19 Q And as far as assisting Deputy Coroner Jane Powell
20 in documenting, I guess, the injuries, exactly what
21 did you do?

22 A Utilizing Sergeant Richards' digital camera at that
23 time, as Deputy Coroner Jane Powell moved the
24 clothing to expose the victims' injuries, I would
25 document it through photography as to what the

1 injury looked like at that time and where it was
2 located on the individual.

3 Q Okay. And so you were documenting with a camera
4 while Deputy Coroner Powell was actually kind of
5 moving and adjusting and handling the body?

6 A Correct, yes.

7 Q I'm going to show you what is already introduced as
8 State's 262 and 263. What are those?

9 A These are photographs depicting the location where
10 Bryan Capnerhurst was located in the attic area.

11 Q And subsequent to seeing him, I guess, in the attic
12 area, is this where you actually documented his
13 injuries, in that area?

14 A No, ma'am. The overall photographs were done --
15 the initial photographs were done as he laid there.

16 Q Okay.

17 A Further documentation of injuries were after the
18 Coroner's Office placed him on a white sheet and
19 moved him out of the office area. That is at the
20 point in time that the bag was moved from -- the
21 gym bag -- was moved from the attic area to a safe
22 location in the storage room to prevent any
23 cross-contamination of moving Bryan Capnerhurst's
24 body at that time out of the attic because we had
25 to go past the gym bag to get out of the door.

1 Q Okay. So y'all removed him and then you began
2 documenting?

3 A Correct. He was taken out of the attic area and
4 placed on a body bag, and that is where further
5 inspection was done, further documentation.

6 Q And what did you observe just as generally --
7 general injuries to his body?

8 A I observed that Mr. Capnerhurst had several impact
9 points about the face area. They were small impact
10 points. At the initial time, I did not know what
11 the cause of the injuries came from.

12 I didn't know at that time that the Taurus had
13 been used and that the Taurus had been loaded with
14 a .410 shotgun shell. So I documented the injuries
15 about his face and about his person, his upper body
16 and arms, through photography.

17 Q And then you stated that Deputy Coroner Powell
18 actually removed some items from Capnerhurst's
19 body?

20 A Yes, ma'am.

21 Q I am going to show you State's 378 and 394, which
22 have been introduced for identification purposes.
23 Do you recognize those?

24 A Yes, ma'am. This is the LG cellphone that was
25 collected from Bryan Capnerhurst, and also his

1 wallet.

2 Q Okay. And so Deputy Coroner Powell actually
3 removed these from Mr. Capnerhurst's body?

4 MR. WHITLARK: Objection, Your Honor.
5 Objection to the leading question, Your Honor.

6 THE COURT: Sustained.

7 BY MS. SIMPSON:

8 Q Who removed these from Mr. Capnerhurst's body?

9 A Deputy Coroner Jane Powell.

10 Q Okay. And what did she do once she removed them?

11 A Once she removed them, she then handed them to me,
12 and they were placed inside envelopes.

13 MS. SIMPSON: Your Honor, at this time the
14 State would offer State's 394 and 378 into
15 evidence.

16 MR. WHITLARK: Without objection, Your Honor.

17 THE COURT: All right. Three?

18 MS. SIMPSON: I'm sorry. 394 is the wallet
19 from Capnerhurst, and 378, the cellphone.

20 THE COURT: So 394 and 378 will be entered
21 without objection.

22 (WHEREUPON, State's Exhibit No. 378 was
23 admitted into evidence.)

24 (WHEREUPON, State's Exhibit No. 394 was
25 admitted into evidence.)

1 BY MS. SIMPSON:

2 Q And did you observe anything in particular about
3 Bryan Capnerhurst's hands?

4 A I noted that Bryan Capnerhurst had brownish-red
5 stains on the palm of both of his hands.

6 Q And those are generally consistent with possible --
7 with what?

8 A These appear just to be transfer stains, indicating
9 that at some point his hand came in contact with
10 something, some blood-bearing object.

11 Q And after -- I believe you said you also collected
12 some measurements in this case?

13 A Yes, ma'am. I collected measurements of Tammy
14 Parker's location in reference to the office, in
15 addition to projectiles, fired cartridge casings
16 that were in the office area.

17 Q And, again, what is the purpose of obtaining
18 measurements at the scene?

19 A The measurements are due for -- if we need to go
20 back and do crime scene reconstruction, we can go
21 back into the scene, shoot those measurements in
22 reverse and place that item of evidence back into
23 the scene, if necessary.

24 Q And with respect to the items of evidence that you
25 collected, what did you do with the phone once you

1 collected it?

2 A It was placed in the envelope. It was then taken
3 into the entertainment area where the collection
4 area was, and it was placed in a bag.

5 Q Okay. And was it subsequently turned over to
6 another investigator?

7 A Yes, ma'am, it was, Sergeant Richards.

8 Q And was that the same with the wallet?

9 A Yes.

10 Q As well as the GSR kit?

11 A Yes.

12 Q Was that the extent of your involvement that day on
13 the scene?

14 A Yes, ma'am.

15 Q On April 16th did you handle some additional items
16 of evidence?

17 A On April 16th I noted that I received a Verizon
18 cellphone from Sergeant Richards via a signed chain
19 of custody at approximately 0800 hours or 8:00 a.m.
20 in the morning.

21 Q And I want to back up to the day before just a
22 moment.

23 A Okay.

24 Q Did you collect some additional items? And
25 actually let me show you State's 393. Do you

1 recognize that?

2 A This is the house phone that was in the driveway.

3 Q And did you collect that?

4 A Yes.

5 Q Did you understand what this phone was at the time?

6 A At the time all I knew is that the Defendant was on
7 the phone with 9-1-1. Officers made contact with
8 him in the driveway. And that was the phone that
9 he had in his hand at that time.

10 MS. SIMPSON: Your Honor, at this time the
11 State would offer 393.

12 MR. WHITLARK: No objection, Your Honor.

13 THE COURT: All right. It is entered without
14 objection.

15 (WHEREUPON, State's Exhibit No. 393 was
16 marked for identification and received
17 into evidence.)

18 BY MS. SIMPSON:

19 Q Once you retrieved this phone, what did you do with
20 it?

21 A It was placed in a bag and it was secured in the
22 back of my lock box.

23 Q And you didn't observe any type of blood or
24 anything on it?

25 A No, ma'am.

1 Q And moving back -- and I apologize -- on the 16th,
2 what did you do with respect to -- or did you make
3 contact with Lieutenant McDonald?

4 A Yes. After receiving the cellphone from Sergeant
5 Richards, I had previously been contacted by
6 Lieutenant McDonald in reference to the phone,
7 which is why I received the phone back from
8 Sergeant Richards so I could then turn it over to
9 Lieutenant McDonald, which was also done via a
10 signed chain of custody at approximately 0840 or
11 8:40 a.m. that same morning on the 16th.

12 Q And later that day did you actually process some
13 items of evidence in this case?

14 A Yes, ma'am, I did.

15 Q Please tell the jury what items you received?

16 A I received via a signed chain of custody from
17 Sergeant Richards the wallet of Bryan Capnerhurst;
18 Taurus gun box that was collected from the office
19 area; house phone that was collected from the
20 driveway; a Staples receipt that was marked as K
21 and collected from the office area; Firehouse Sub
22 receipt marked as L and collected from the kitchen;
23 a datebook that was marked as J collected from the
24 office desk; a black gun bag that was collected
25 from the office area; a black holster that was

1 collected from the office area; a shot cup wadding
2 that was collected from Bryan Capnerhurst's coat; a
3 shot cup wadding marked as Q from the attic area;
4 shot cup wadding marked as R, attic area; a
5 projectile marked as A from the office area; a
6 projectile marked as F, office area; a projectile
7 marked as G, office area.

8 And these items were packaged accordingly and
9 placed into evidence to be held pending further
10 investigation or processing.

11 I also received several fired cartridge
12 casings that were collected from the office area.
13 And they were Markers B, C, D, E, H, and I.

14 I received a Taurus, the Judge, marked as M
15 that was collected from the sitting room area
16 downstairs. The Taurus contained four fired
17 cartridge casings and one unfired cartridge casing
18 when it was made safe at the scene.

19 I also received a Rossi .38 caliber that was
20 marked as N. It was collected from the master
21 bathroom. And it contained five unfired cartridges
22 at the time it was made safe at the scene.

23 These items were processed in our laboratory
24 with a method referred to as cyanoacrylate fuming,
25 or superglue fuming.

1 After being fumed, they were processed with
2 black powder to see if any enhancement of any
3 latent or invisible prints, and they all met with
4 negative results.

5 Q And tell the jury just a little bit about the
6 fuming process.

7 A Yes, ma'am.

8 Q And what it is.

9 A We heat up cyanoacrylate, or superglue. We turn it
10 into a fume inside of a controlled tank. In that
11 tank we can add humidity back to the air, and the
12 superglue will then adhere to any of the latent or
13 hidden prints or ridge detail that is contained on
14 the item that we may be fuming or suspect may
15 contain fingerprints.

16 Q And the black powder?

17 A The black powder is just ground graphite. It's
18 applied with a fingerprint brush, which can be made
19 out of camel hair or fiberglass, different
20 materials. And it's brushed onto the surface. It
21 then adheres to the superglue, or cyanoacrylate, on
22 the surface, making the ridge detail or latent
23 print even more visible to us.

24 Q And so both of those procedures you performed on
25 those items you just spoke of?

1 A Yes, ma'am.

2 Q In addition to processing for possible prints --
3 and I'm sorry, what were the results?

4 A Negative results on all items.

5 Q Okay. Does that -- what does a negative result
6 mean?

7 A There was nothing collected as far as latent
8 prints. There were no print cards collected, no
9 ridge detail found.

10 Q And in addition to processing for fingerprints,
11 what else did you do?

12 A Yes, ma'am. After completing the superglue or
13 cyanoacrylate fuming and black powder with negative
14 results, I then swabbed the items. I collected a
15 swab from a fired cartridge casing, Marker I; I
16 swabbed from fired cartridge casing Marker H; I
17 swabbed from fired cartridge casing Marker E; I
18 swabbed from fired cartridge casing marker D; I
19 swabbed from fired cartridge casing Marker C; I
20 swabbed from fired cartridge casing Marker B.

21 I collected a swab from the Rossi .38 caliber
22 handgun. I collected a swab from the five unfired
23 cartridges that were collected from the Rossi. I
24 collected a swab from the Taurus, the Judge
25 handgun. And I collected a swab from the four

1 fired cartridges and one unfired cartridge.

2 And these swabs were then placed into evidence
3 for DNA analysis.

4 Q And how do you go about collecting a swab from an
5 item?

6 A You would place distilled water on a sterile Q-tip
7 or cotton swab. You then rub it over the surface
8 that you're attempting the collection from. It is
9 then placed into a buccal swab box, a small
10 cardboard-type box, and on that box is indicated
11 the case number, the date of collection, and what
12 item the swab was collected from.

13 Q Okay. And in this case once you collected the
14 swabs, were they properly sealed and packaged?

15 A They were properly sealed and packaged with
16 evidence tape and placed into our evidence room.

17 Q And while they were in your custody, were they
18 altered or tampered with in any way?

19 A No, ma'am.

20 Q And as a crime scene investigator, do you actually
21 determine which swabs will be tested or will not be
22 tested?

23 A No, ma'am.

24 Q And do you actually perform the DNA testing on an
25 item?

1 A I do not.

2 Q And in that same vein, with respect to the gunshot
3 residue kits, do you actually test those items?

4 A No, ma'am, I do not.

5 Q And was that the extent of your involvement in this
6 case?

7 A Yes, ma'am.

8 Q Thank you.

9 THE COURT: All right, we'll take about a
10 five-minute stretch, bathroom break, and start back
11 up with Mr. Whitlark. Okay.

12 (WHEREUPON, the jury retires to the jury
13 room at 4:32 p.m.)

14 THE COURT: We'll take about five minutes.

15 (WHEREUPON, a break was taken.)

16 MR. WHITLARK: Excuse me, Your Honor.

17 THE COURT: Yes, sir?

18 MR. WHITLARK: Again, I've made an agreement
19 with Solicitor's Office about the introduction of
20 these phone records. This witness here is involved
21 with this telephone. And I would like to be able
22 to question him just briefly about it. If he
23 knows, he knows. If he doesn't, he doesn't.

24 THE COURT: Do you want to proffer the
25 testimony again?

1 MR. WHITLARK: Well, Your Honor, see, I'm not
2 going to -- the problem I've got is we're getting
3 deeper in this trial. We had an agreement to go
4 ahead and just -- you know, we don't have to bring
5 the records keeper.

6 THE COURT: Do you just want to stipulate to
7 having them placed into the record?

8 MS. SIMPSON: Your Honor, we would like to
9 proffer --

10 THE COURT: Well, you can object to it. He
11 just wants to enter them.

12 MS. SIMPSON: Well, at the appropriate time in
13 his case, that would be the appropriate time for
14 him to enter the records.

15 MR. WHITLARK: I don't see what is wrong with
16 right now after we have an agreement, because I
17 have got a New Jersey -- if they are not going to
18 do it, it's going to cut us off -- it's going to
19 cut me off from getting this records keeper down
20 here. It's very important evidence in this case,
21 Your Honor. I have got enough to worry about, I
22 guess, is what I'm saying to the Court.

23 THE COURT: All right, we can just let him
24 enter them. Then you can object if it doesn't
25 qualify, if it doesn't --

1 MS. SIMPSON: Well, Your Honor, if I may, just
2 briefly. With respect to his argument on the
3 custodian, the State has agreed he doesn't need to
4 fly a custodian down here.

5 MR. WHITLARK: That's fine.

6 MS. SIMPSON: But, Your Honor, the Defense
7 would not be able to call the custodian of records
8 in our case in chief.

9 MR. WHITLARK: All right.

10 MS. SIMPSON: He will be able to do that at
11 the appropriate time in his case in chief.

12 THE COURT: All right.

13 MS. SIMPSON: I mean, the reality, I will
14 object if he seeks to introduce them through this
15 witness who --

16 THE COURT: Well, do you want him to
17 proffer --

18 MS. SIMPSON: But I'll be happy for him to
19 proffer.

20 THE COURT: Do you want to proffer this
21 witness regarding the records?

22 MR. WHITLARK: Your Honor, I can say this. I
23 can't -- it would be improper at this point for
24 this man. And, of course, I need them in as an
25 exhibit so that I can cross-examine some of the

1 officers about it that are coming up.

2 THE COURT: All right. What will happen is if
3 you need to use them for -- I mean, for
4 cross-examining or impeachment purposes, you can
5 enter them at that point, and just ask that you'd
6 like to enter them and that they have been
7 previously stipulated to by the State. When you
8 get ready to impeach or --

9 MR. WHITLARK: I gotcha, Your Honor. All
10 right, Your Honor. Since the Solicitor said they
11 are going to stipulate to it, I feel better about
12 it.

13 THE COURT: And I'll just let the jury know
14 that they have stipulated, that both sides have
15 agreed that these records will be entered into the
16 record and that therefore there is no need to have
17 a custodian of records come and authenticate them,
18 I guess.

19 MR. WHITLARK: Thank you, Your Honor.

20 MS. SIMPSON: Your Honor, and just with
21 respect to the stipulation, I agree with that. But
22 as far as utilizing and introducing the records
23 through a witness who knows nothing about them, we
24 would ask -- we agree that he can mark them for
25 identification purposes at that time. However, it

1 would not be the appropriate time to actually
2 introduce them into evidence unless that witness
3 says, Yes, I know what you're talking about.

4 THE COURT: He can mark them for ID and then
5 he can ask the witness about it. And if they know
6 something about it, they can answer it. If they
7 don't, they don't. And then if they do, he can go
8 ahead and ask that they be moved it into evidence.

9 MS. SIMPSON: Thank you, Your Honor.

10 THE COURT: And I will ask if there is any
11 objection, and that it was previously stipulated
12 to, or something like that.

13 MR. WHITLARK: Thank you, Your Honor.

14 THE COURT: All right. But you don't have to
15 worry, Mr. Whitlark, about bringing that custodian
16 of records here from New Jersey.

17 MR. WHITLARK: I have got enough stuff going
18 on out of state right now, Your Honor. I am trying
19 to keep up with all of it.

20 THE COURT: All right.

21 MR. WHITLARK: Thank you.

22 THE COURT: Yes, sir, bring them in.

23 (WHEREUPON, the jury came into open
24 court at approximately 4:52 p.m.)

25 THE BAILIFF: The jury is present, Your Honor.

1 THE COURT: All right. We will continue with
2 the cross-examination of Investigator Holt by
3 Mr. Whitlark.

4 Yes, sir?

5 MR. WHITLARK: May it please the Court, Your
6 Honor?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. WHITLARK:

10 Q Officer -- it is officer, right?

11 A Investigator. Investigator Holt.

12 Q Investigator Holt. Investigator Holt, you had
13 mentioned in your statement to the jury and on
14 direct examination that it's extremely important to
15 have a variety of photographic evidence because
16 you -- a visual aid is probably one of the top
17 pieces of evidence you can have in a case. Isn't
18 that what you said?

19 A Yes.

20 Q But we don't have, of course, as we know, a
21 photograph of the 9-millimeter pistol that was in
22 Mr. Capnerhurst's hand when the officers got there,
23 do we?

24 A Correct.

25 Q Would you -- and that would be the number --

- 1 probably the number one picture you would want in
2 this case, isn't it, sir?
- 3 A I'd like to have a photograph of it, yes.
- 4 Q Did you ever hear a description of how it was held?
- 5 A Through testimony, yes.
- 6 Q Okay. Did you actually interview any of the
7 officers that went -- did you interview Odom or
8 Harvel?
- 9 A I did not.
- 10 Q Did you hear them saying what had happened?
- 11 A No, sir, I did not.
- 12 Q When did you find out the pistol had been moved?
- 13 A I believe Sergeant Richards informed me of that
14 during our walk-through. He made mention of the
15 location of the pistol and the evidence bag outside
16 the door.
- 17 Q Do you remember specifically what he told you about
18 the gun being moved?
- 19 A I do not.
- 20 Q Did he express to you that that was not good?
- 21 A No, sir, just made mention that that was the
22 pistol.
- 23 Q Uh-huh. All right. And you didn't interview
24 anybody about that?
- 25 A No, sir.

1 Q Okay. Now, the gym bag was also moved before the
2 contents were photographed, correct?

3 A Correct.

4 Q Okay. And do you have -- I'm sorry. I will ask
5 you a little background. Do you have children?

6 A I do.

7 Q Five years old or so?

8 A A little older.

9 Q Do you have boys?

10 A No, sir.

11 Q Okay. Well, I'm not going to ask you if you put
12 your toilet seat up then after you get finished
13 with it.

14 Let's see. Now, Brett Parker consented to
15 everything y'all wanted as far as you know, right?

16 A He consented to the GSR collection to me, yes.

17 Q Okay. And, again, do you know the results of the
18 GSR?

19 A I don't.

20 Q I mean, have you heard, you know, that there was
21 GSR found?

22 A Just through testimony.

23 Q Okay. All right. Have you had -- now, you were
24 present when the cellphone was taken by Ms. Powell
25 from the Coroner's Office, right?

- 1 A Correct.
- 2 Q Now, it's your recollection that it was in the
- 3 right pocket, isn't it?
- 4 A No, sir.
- 5 Q That's not?
- 6 A No, sir.
- 7 Q Okay. You never said that to Lieutenant McDonald?
- 8 A I don't believe I did.
- 9 Q Do you recall being questioned by Lieutenant
- 10 McDonald or Major Smith asking you which pocket
- 11 that cellphone was in?
- 12 A I don't recall having that conversation.
- 13 Q Okay. Could you have said that? That I saw the --
- 14 that the phone was in the right pocket of Bryan
- 15 Capnerhurst? Could you have said that?
- 16 A No, sir.
- 17 Q Are you saying you didn't say that?
- 18 A I couldn't have said that. I don't know what
- 19 pocket it came out of. I can only tell you that
- 20 Investigator Powell was on the left side of Bryan
- 21 Capnerhurst when the phone and wallet were
- 22 collected.
- 23 Q Okay. You don't know what pocket it came out of?
- 24 A I don't. I can't tell you.
- 25 Q All right. I gotcha.

- 1 A All I can tell you is that she was on the left
2 side.
- 3 Q I hear you. I hear you. Okay. Well, you were
4 right there with her, right?
- 5 A Yes.
- 6 Q When did she give it to you?
- 7 A When she removed it. She removed the phone and the
8 wallet and handed it to me.
- 9 Q And you didn't see her take it out of the pocket or
10 which pocket it was?
- 11 A No, sir. All I know is that she was on his left
12 side. I was on his right side. He was on his
13 back.
- 14 Q Had y'all moved the body?
- 15 A Yes, he had been removed from the attic area --
- 16 Q Okay.
- 17 A -- and placed on the sheet and taken out into
18 the -- I guess what has been called the storage
19 area -- and placed in the body bag.
- 20 Q But you were in there before -- well, you were in
21 there before the bodies were moved, right?
- 22 A Yes.
- 23 Q You were inside, right? And you were taking
24 pictures, and so forth, right?
- 25 A Yes.

- 1 Q Now, y'all didn't move those bodies while you were
2 taking pictures, did you?
- 3 A No, sir, I did not.
- 4 Q Okay. That would be -- that wouldn't be proper,
5 right?
- 6 A Correct.
- 7 Q Okay. Now, you took measurements?
- 8 A Of Ms. Parker, yes.
- 9 Q Did you take any measurements in the attic?
- 10 A I did not.
- 11 Q Do you remember -- do you remember being in the
12 attic?
- 13 A Yes.
- 14 Q About how far away was -- could you see the safe
15 from where Mr. Capnerhurst was?
- 16 A From which end of Mr. Capnerhurst? I don't know
17 from --
- 18 Q From standing and looking into the room?
- 19 A If he were standing upright?
- 20 Q Right.
- 21 A I would say -- I don't know if you could see the
22 safe because there was something there.
- 23 Q Right.
- 24 A A headboard or something.
- 25 Q Right. And there was also -- there was like

- 1 Halloween decorations and stuff, right?
- 2 A Yes.
- 3 Q And do you remember this?
- 4 A Yes.
- 5 Q Yeah, it's pretty scary, wasn't it?
- 6 A Correct.
- 7 Q I saw that in your eyes just now. But it was
- 8 obstructing the safe more or less? It was kind of
- 9 shading it, wasn't it?
- 10 A Yes.
- 11 Q Okay. All right. How far away did you -- about
- 12 how far away was Bryan Capnerhurst from the doorway
- 13 into the attic when you first got there?
- 14 A I would have to guess. If he were in a standing
- 15 position, eight to ten feet.
- 16 Q But you didn't measure it?
- 17 A No. No, sir.
- 18 Q Okay. All right. Now, the bag was right inside
- 19 the door, wasn't it?
- 20 A Yes.
- 21 Q And then tell the jury where you moved it to to
- 22 take a picture?
- 23 A Out into the storage area away from the attic door.
- 24 Q I believe you said you went downstairs and you
- 25 found the receipt from the sub -- Firehouse Subs.

- 1 is that right?
- 2 A Yes, it was on the counter.
- 3 Q Do you remember what time it had on there?
- 4 A I do not.
- 5 Q Okay. All right. In fact, you are the one that
- 6 took pictures of it, though, right?
- 7 A I believe we both did.
- 8 Q You took the close-up of it?
- 9 A I don't recall.
- 10 Q Okay. All right. Do you do blood pattern
- 11 analysis? Is what you said?
- 12 A I have had several classes in blood pattern
- 13 analysis, yes.
- 14 Q Do you consider yourself an expert in that?
- 15 A No, sir, I have not been qualified as an expert.
- 16 Q Okay. Now, were you anywhere around the body of
- 17 Mr. Capnerhurst from about 2:00 o'clock to
- 18 3:00 o'clock that day? And take your time.
- 19 A I don't have a copy -- I would have to see the
- 20 crime scene logs. I can tell you I arrived on
- 21 scene at 1345, which is 1:45 in the afternoon.
- 22 Q Okay.
- 23 A I don't know -- I entered the same time as Sergeant
- 24 Richards and Lieutenant Cavanagh --
- 25 Q Y'all all went in together? All four of you went

1 in together?

2 A Correct.

3 Q Did y'all fan out, or how did you do it? Do you
4 remember?

5 A We followed each other.

6 Q Okay. So everybody was together?

7 A Correct.

8 Q Okay. All right. And so when y'all found the
9 shell casings in the upstairs room, it was right
10 outside that doorway, right?

11 A By the couch.

12 Q With cups --

13 A Yes.

14 Q -- cups on them, right?

15 A The two that were out behind the couch?

16 Q Yes.

17 A Yes.

18 Q Do you agree with what Sergeant Richards says about
19 it looked like they were standing in the doorway
20 perhaps when this happened?

21 A I did not do the analysis on the trajectory.

22 Q Okay. Did y'all ever discuss that?

23 A He and I? No, sir, we did not.

24 Q Okay. Did you ever look and see if that telephone
25 was on?

- 1 A I'm sorry, which phone?
- 2 Q Mr. Capnerhurst's telephone. Was it on when you
- 3 got it?
- 4 A I don't recall it being on. I don't know.
- 5 Q Well, can you say one way or the other, off or on?
- 6 A I cannot.
- 7 Q Okay. Was it a flip phone or a face phone? What
- 8 was it?
- 9 A I don't know. I would have to look at it again.
- 10 Q It has been marked as Exhibit Number 378. Go ahead
- 11 and take a look at that.
- 12 A The numbers are exposed on the front, and it
- 13 appears to maybe slide or open in some manner.
- 14 Q Okay.
- 15 A I'm not familiar with this phone.
- 16 Q Do you recollect whether that phone was on? Right
- 17 as we sit here today, do you have a distinct
- 18 recollection of that telephone being on when you
- 19 got it?
- 20 A I do not.
- 21 Q Okay. Just as a matter of protocol, it would be
- 22 grossly improper for you to take that and to turn
- 23 it on and look at it or use it, wouldn't it, at the
- 24 time that you received it?
- 25 A Correct. No, I would not have done any searching

1 through this phone at the initial time I received
2 it, no, sir.

3 Q That would be a gross violation of your protocol,
4 your rules, and the warrants, wouldn't it?

5 A Well, it's outside of my description. What is on
6 the phone doesn't pertain to me and what I do.

7 Q I gotcha. I gotcha. Do you know whether or not
8 y'all had a warrant for the search of his person?

9 A We had a search -- a warrant for the search of the
10 house.

11 Q Okay.

12 A And he is deceased.

13 Q All right. I gotcha.

14 A So he has no right to privacy at that point.

15 Q All right. And you know that for a fact?

16 A Yes.

17 Q Okay. That is because you're a CSI, right?

18 A Correct.

19 Q All right. But, again, it would be grossly
20 improper for somebody to use that telephone at the
21 time that y'all took it out or at the time it was
22 taken off of him, whatever time that was?

23 A Correct. It was placed in an envelope. The
24 envelope was taken to the staging area, and it was
25 placed in a bag.

1 MR. WHITLARK: That's all I have, Your Honor.
2 Thank you.

3 THE COURT: All right. Yes, ma'am?

4 MS. SIMPSON: Brief redirect, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. SIMPSON:

7 Q Now, with respect to the phone, who removed the
8 phone from Bryan Capnerhurst?

9 A Investigator Jane Powell.

10 Q And what side was she on at the time it was
11 removed?

12 A She was on his left side.

13 Q And you actually did a report with respect to what
14 you did in this case, right?

15 A Yes, ma'am.

16 Q And in that report you --

17 MR. WHITLARK: Objection, Your Honor. She is
18 leading the witness again.

19 THE COURT: Sustained. Just rephrase the
20 question.

21 MS. SIMPSON: I apologize. I will rephrase.

22 BY MS. SIMPSON:

23 Q What pocket do you indicate? Or do you indicate
24 that it came out of a specific pocket?

25 A I just put pants pocket.

1 Q Okay. And on the shell casing, I believe counsel
2 asked you about the two you found outside of the
3 room?

4 A Yes.

5 Q Who marked those or who put the cups over those?

6 A Responding units. I don't know which unit.

7 Q Okay. And that was two that were outside the door?

8 A Correct.

9 Q Were there other shell casings found inside the
10 door?

11 A Yes. In the office area, yes.

12 Q Do you recall how many shell casings were found
13 inside the door?

14 A I don't recall the exact number.

15 Q Around three?

16 A I want to say three or four.

17 Q But there were shell casings found inside the door?

18 A Correct.

19 Q As well as outside?

20 A Yes, ma'am.

21 Q Thank you.

22 THE COURT: Yes, sir?

23 MR. WHITLARK: May it please the Court?

24 Briefly, Your Honor.

25 RECROSS-EXAMINATION

1 BY MR. WHITLARK:

2 Q Investigator Holt, you don't remember what pocket
3 that phone was in, do you?

4 A No, sir, I don't know what pocket it came out of.

5 Q Okay.

6 A All I can say is she was on the left side.

7 Q But you can't -- as we sit here today -- and you
8 are sworn to tell the truth under oath -- the truth
9 is you don't remember, right?

10 A I don't know.

11 Q All right, thank you, sir.

12 MR. WHITLARK: That's all I have, Your Honor.

13 THE COURT: All right, sir. You may step
14 down.

15 (Witness steps down.)

16 MS. SIMPSON: Your Honor, may this witness be
17 excused?

18 THE COURT: Any objection to this witness
19 being excused? The same as the last one?

20 MR. WHITLARK: Yes, Your Honor.

21 THE COURT: All right. We'll release you for
22 the day, but you'll still be, I guess, under the
23 subpoena. We'll call you if we need you.

24 THE WITNESS: Thank you.

25 THE COURT: Thank you.

1 (Witness to be on standby.)

2 THE COURT: Call your next witness.

3 MS. WALKER: Your Honor, may we approach?

4 THE COURT: Yes.

5 (WHEREUPON, a bench conference was held
6 in the presence of the jury but out of
7 the hearing of the jury.)

8 THE COURT: All right, ladies and gentlemen of
9 the jury, we have one more witness this afternoon.
10 They tell me -- and I'm hoping that we'll be able
11 to stop around 6:00. But he has some video or
12 something that he needs to set up. So I will send
13 you all out while he is setting that up, and then
14 we will bring you back in. If you need to call,
15 make any phone calls, but hopefully about 6:00 or a
16 little bit after. We have one more witness for
17 this afternoon. All right. Thank you.

18 (WHEREUPON, the jury retires to the jury
19 room at 5:08 p.m.)

20 THE COURT: We will take about five minutes to
21 let him set up.

22 (WHEREUPON, a break was taken.)

23 THE COURT: It's the same thing about the
24 bodies with the press. Out of respect for the
25 deceased, you may end up getting film on it, but if

1 you could not air it, that would be appreciated.

2 MR. WHITLARK: May it please, Your Honor? May
3 the Defendant be positioned so that he can also
4 view the evidence?

5 MS. WALKER: Can he bring the deputies with
6 him?

7 THE COURT: Yes.

8 MR. WHITLARK: Thank you, Your Honor.

9 THE COURT: All right. Are you ready?

10 MR. BOUKNIGHT: Yes, ma'am.

11 (WHEREUPON, the video was played.)

12 MR. BOUKNIGHT: This is photographs from the
13 position that the scanner was whenever we placed it
14 in position. And it's all stitched together with a
15 3D view from that position. We have this position
16 (indicating). That's the other side, and the
17 bedroom (indicating).

18 THE COURT: You can just show it on the photo.

19 MS. WALKER: I think, Your Honor, it is not
20 from the angle of the other one.

21 THE COURT: The second one that he clicked.
22 It has already been -- the position of the photos,
23 the previous photos that were entered. Does he
24 know?

25 MS. CAMPBELL: And, Your Honor, one of the

1 reasons that he had for us not being able to enter
2 more photos was that we were putting this in
3 because it was cumulative. That was part of his
4 objection to my photos.

5 MR. WHITLARK: I never had any idea that there
6 was a videotape of the two bodies in it, Your
7 Honor. They told me -- they described to me as a
8 video, a 3D video of the upstairs. I said okay.

9 MR. BOUKNIGHT: I have -- would you like to
10 see other one?

11 THE COURT: I guess so.

12 (WHEREUPON, the video was played.)

13 MR. BOUKNIGHT: This side.

14 THE COURT: Is there -- do you have a picture?

15 MS. CAMPBELL: Uh-huh.

16 MR. WHITLARK: That one is in right there,
17 Your Honor.

18 THE COURT: Yes. I mean, if it is consistent
19 with the two photos that I allowed in.

20 MR. WHITLARK: And the other one from the --
21 of Ms. Parker is in. And this one is in.
22 (indicating).

23 MR. WHITLARK: I have no problem with either
24 of them. It is the same thing.

25 MR. BOUKNIGHT: Not the video.

1 THE COURT: So the ones that -- this is
2 State's Exhibit Number 142 and 262. Those angles,
3 I think that --

4 MR. WHITLARK: Yes.

5 THE COURT: The State said the probative value
6 was to be able to show the positioning of the
7 bodies, is that correct?

8 MS. WALKER: And, Your Honor, there are
9 measurements that are taken using the screen that
10 shows the distances, which are very relevant when
11 you compare it to the multitudes of statements that
12 Mr. Parker gives in terms of how this played out.

13 MR. WHITLARK: Your Honor, I would point out
14 to the Court something here. They have got
15 schematics and photographs, numerous photographs,
16 numerous schematics. They have blueprint diagrams,
17 and they have very exact measurements of all these
18 things. And we object. We object to it because it
19 is getting -- again, it is cumulative, Your Honor,
20 as far as the -- and it is just -- it is unduly
21 prejudicial. I mean, it is going to be the third
22 time -- and they have already got the photographs
23 in, Your Honor. But without that, I mean, I have
24 no problem.

25 THE COURT: Are y'all trying to send this

1 back? Are you sending this back? Are you trying
2 to send the video?

3 MS. CAMPBELL: I don't even have a problem,
4 Judge, if we put into evidence that you indicate to
5 them that they have to come out and we can show it
6 to them if they want to see it again, and that
7 would limit their ability to get one part of it,
8 Your Honor.

9 MR. WHITLARK: Your Honor, if I could, I would
10 like to be heard on this for one reason.

11 THE COURT: Okay. Give me one second.

12 MR. WHITLARK: Yes, ma'am.

13 THE COURT: All right. Is this it?

14 MS. WALKER: Your Honor, those are the ones
15 that have the -- there are other rooms that have
16 the victim in it.

17 THE COURT: All right. I guess we need to
18 deal with a matter. There is a juror that is sick.
19 Juror Number 305 is suffering with an unknown
20 illness. She is having chills and feeling faint.

21 Is she the one -- she's been covered up with,
22 I think -- oh, she was asking for a blanket. She
23 is not feeling well. We can stop today and send
24 her home and see if she feels better, or we have
25 five alternates. I mean, if she is having chills

1 and feeling faint, I'm sure y'all don't want her
2 here.

3 MR. WHITLARK: Your Honor, the Defense would
4 suggest to the Court that we break for today and
5 let -- I'd like to -- I want some further research
6 done on this issue here to give the Court tomorrow
7 morning or this evening regarding this.

8 Because of the nature of the case, this case
9 is substantially a circumstantial evidence case.
10 That is what it is. And so you could tip it --
11 something like this, too much of this -- could
12 influence the minds of the jury in a case where
13 they have got what we consider to be some shaky
14 circumstantial evidence, Your Honor.

15 And if it's going to come down to the
16 balance -- and you will hear from us, of course, at
17 the end of the State's case about this -- but this
18 kind of thing here, I think it goes to what the
19 rule is.

20 Is it unduly prejudicial? Does the probative
21 value -- is the probative value outweighed by the
22 prejudicial effect?

23 And when you're in a case with circumstantial
24 evidence that is this close, Your Honor, too much
25 of this, there is a great risk that this man will

1 be -- the prejudicial value of it could tip, and I
2 object to it on that grounds and would ask the
3 Court to give us --

4 THE COURT: And y'all can argue afterwards.
5 Let me -- but I'm going to go ahead and release
6 them. If you can turn that screen to blank, I'll
7 bring them back out. I'll have her call. If she's
8 not feeling any better, I'll just have her call in
9 the morning. I'll tell them 9:30. We'll start at
10 9:00. I'll have her call in the morning, and then
11 we can put one of the alternates on.

12 MR. WHITLARK: Your Honor, if I could say one
13 thing.

14 THE COURT: Yes, sir.

15 MR. WHITLARK: Your Honor, I've been in some
16 cases previously where a juror did get ill. As a
17 matter of fact, it was a murder case in Kershaw.
18 And it was amazing when they released her how fast
19 three or four other ones suddenly got ill.

20 So I have got some concerns with it. We've
21 got a good jury. So I want to make sure we keep
22 them. If they see her getting sick like that and
23 being released -- the only other time I have been
24 involved in it, it became a contagion, Your Honor.
25 We lost like five jurors, so.

1 THE COURT: Well, I mean, that is highly
2 possible, depending on what it is. But that's why
3 I'm trying to get her out of here instead of back
4 there in that room.

5 MR. WHITLARK: Just out of an abundance of
6 caution, Your Honor --

7 THE COURT: Before she has the opportunity to
8 get everybody else sick. So you can bring them in.

9 MR. WHITLARK: That's true, Your Honor. I
10 didn't think about that. The case that I was
11 thinking about was not medical, Your Honor.

12 THE COURT: I know. But I think she is sick.

13 MR. WHITLARK: Okay.

14 (WHEREUPON, the jury came into open
15 court at 5:33 p.m.)

16 THE BAILIFF: The jury is all present, Your
17 Honor.

18 THE COURT: All right. I'm back here for
19 those of you who can't see me. I'm hidden by the
20 screen.

21 But they tell me, Juror Number 305, that you
22 don't feel well, is that correct?

23 THE JUROR: No, ma'am, I don't.

24 THE COURT: All right. What I'm going to do
25 is, we are going to send you -- I'm going to go

1 ahead and break for the evening. It's about 5:30.
2 I will send you home. I hope that you will feel
3 better in the morning. We'll start back at 9:30.

4 If for some reason, you can't make it here in
5 the morning, y'all make sure she has a number to
6 call, Mr. Bowen. Make sure she has a number to
7 call.

8 THE BAILIFF: It is on the badge.

9 THE COURT: All right, the jury coordinator.
10 That is not the call-in number, the coordinator?

11 THE BAILIFF: No, I don't know that one.
12 Christine will give it to her.

13 THE COURT: All right. And just give us a
14 call if for some reason you can't -- if you're not
15 feeling any better in the morning. And we will
16 decide then what to do. All right. I hope you
17 feel better.

18 Y'all have a great evening. Remember, do not
19 look at -- no recording -- reading, watching, or
20 listening to the news on the TV, radio, or
21 internet; no social media; no talking to anyone
22 about the case, including other jurors.

23 And also, once again, it would be improper for
24 you to form an opinion in your own mind until you
25 have all of the evidence, the arguments of the

1 parties, and the charge of the law from the Court.

2 All right. Have a great evening.

3 And, ma'am, I hope you feel better.

4 THE JUROR: Thank you.

5 THE COURT: Thank you. And 9:30. I'm not
6 sure I said that. 9:30.

7 (WHEREUPON, the jury is excused at 5:36
8 p.m.)

9 THE COURT: All right, now, so I'm clear, is
10 the video a -- it is not a video, he called it
11 something else -- is it the photos that have
12 already been entered into evidence?

13 MS. CAMPBELL: This is an independent machine
14 that comes in and it actually takes everything to
15 scale. It is used, in other words, to record at a
16 later date so that you can kind of recreate the
17 scene. It gives you accurate measurements, such as
18 you have heard what they are testing about. This
19 is in the case very important to both the State and
20 the Defense. It gives an accurate portrayal of
21 what the scene looks like in 3D form, Your Honor.

22 We are introducing it. It was referenced in
23 the Defense's opening statement. I believe it was
24 also referenced in some of his arguments on why you
25 only allowed two pictures in when we were offering

1 like 12.

2 Part of his argument was that we were going to
3 put this in and it would be cumulative, Your Honor.
4 We did not object. We understand, you know, that
5 we weren't inclined to put in too many.

6 At this point there are two distance photos of
7 Mr. Capnerhurst's body, which were similar to what
8 we used here. In addition to that, Your Honor,
9 there was one photo of Ms. Parker that is similar
10 to what would be portrayed here from the one room
11 scene that you allowed.

12 THE COURT: All right. So I'm clear -- and
13 I'm not ruling on --

14 MS. CAMPBELL: It shows the position of the
15 evidence and everything else that is in.

16 THE COURT: And how is this different from the
17 photos? What extra does this add as far as your
18 photos?

19 MS. CAMPBELL: Also, and you heard something
20 about the trajectory evidence and you heard
21 Sergeant Richards reference the fact that you could
22 actually see the trajectory point and where it
23 intersects. And one mode of this machine is able
24 to actually show that so that the jurors could have
25 an actual reference point as to where those

1 trajectory points he was able to determine came
2 back, and I believe he estimated about three feet
3 in the door, but even in his testimony he said he
4 would be able to see it better in this.

5 MR. WHITLARK: May it please the Court, Your
6 Honor?

7 THE COURT: Yes, sir.

8 MR. WHITLARK: With all due respect to the
9 Solicitor, I didn't know they had bodies inside
10 this thing. And I have never viewed this before.

11 And I thought -- my understanding of it was it
12 was a 3D, but it was a scan done after they had
13 already taken the bodies out. That is what I
14 thought.

15 And so I'm not --- this is news to me, that
16 they are going to have one with these bodies in it.

17 And, again, we have the same objection, Your
18 Honor, that this case is basically a circumstantial
19 evidence case on their part. Bringing up bad
20 conduct of the Defendant is a pig part of their
21 case.

22 And, you know, with this kind of evidence
23 here, with what -- we have already got enough
24 through photographs, and so forth. And question
25 object to it on the grounds the Court knows

1 already.

2 MS. CAMPBELL: This isn't any type of prior
3 bad act evidence as far as this Defendant goes.

4 And as far as who has introduced more
5 evidence, in Mr. Whitlark's opening he is the one
6 that repeatedly referred to his client as a bad,
7 bad man. That wasn't the State that did that, Your
8 Honor.

9 We are only attempting to bring forth the
10 relevant evidence that actually can aid this jury
11 in making a determination based on the facts and
12 the evidence, Your Honor. And that is the only
13 we're attempting to do.

14 We are allowed to show motive, but this has
15 nothing to do with any of that type evidence. I
16 don't know why he is referencing this at this
17 point.

18 Simply, Your Honor, we're trying to admit this
19 for multiple reasons, Your Honor, most specifically
20 as far as distances, trajectory points.

21 This also is an independent way for the jury
22 to actually -- in this house there are so many
23 different pictures -- but for them to actually be
24 able to see an entire scene with the evidence as it
25 appeared is -- Your Honor, I don't know how that

1 could be more probative in this case.

2 We aren't trying to say we don't have any
3 close-up shots of any of the bodies, or anything of
4 that nature, Your Honor. We aren't seeking to
5 introduce that.

6 We are simply introducing probative evidence
7 as far as, what this crime scene, how it appeared.
8 And you have heard from the vigorous
9 cross-examination that much of this is being
10 challenged.

11 Based on that, Your Honor, part of the State's
12 case and part of the Defense's attack is that we
13 didn't do our job thoroughly, that it is police
14 misconduct, that the scene was contaminated, that
15 things weren't done properly, that police procedure
16 wasn't followed.

17 This is yet another tool for the State to show
18 and to try to disprove the attacks that the
19 Defense, as they often do, make on the police and
20 what they did there at the scene.

21 You have heard things about
22 cross-contamination, things of that nature, who
23 would have different things to do at the scene; how
24 the police didn't do their job correctly.

25 We're simply attempting to show relevant,

1 probative, and, yes, prejudicial evidence as far as
2 distances, Your Honor, towards this Defendant.
3 But, Your Honor, we do think that it is extremely
4 probative and should be admitted as such.

5 And we're aren't -- it is not cumulative. It
6 is a whole different animal. It is a whole
7 different thing. We should, however, be able to
8 introduce it because it is probative. It is what
9 that crime scene looked like. And this jury's
10 ability to evaluate whether or not the police did
11 their job, whether or not the evidence is where
12 they said it was, whether or not it actually shows
13 that, if the trajectory point makes sense.

14 Mr. Whitlark in his cross-examination has gone
15 on and on about how somebody is standing out in the
16 hall looking down some stairwell. That simply is
17 not true. And this evidence will show -- all we
18 are trying to do is show that.

19 THE COURT: All right.

20 MR. WHITLARK: Your Honor --

21 THE COURT: Give me one second. Is there a
22 way to -- I'm guessing there is a way he can zoom
23 in and zoom out where it is not --

24 MR. BOUKNIGHT: You can zoom in and out, Your
25 Honor, but it is limited as to how much it can zoom

1 in and out.

2 THE COURT: All right.

3 MS. CAMPBELL: We will not be zooming in and
4 out.

5 MR. WHITLARK: Your Honor, if I could, I will
6 tell you this, I have no problem putting in without
7 the bodies, you know. Again, you know --

8 THE COURT: All right. Well, let me say this.
9 I'm going to think about it tonight. But he can go
10 ahead -- and there was one I think you probably
11 heard me say that that can't come in. The only
12 angles that if -- and I'm not ruling on that yet --
13 if I am to allow it, it would only be the angle
14 consistent with the photos that have already been
15 entered.

16 MS. WALKER: And, Your Honor, just so
17 Investigator Bouknight and I are both clear about
18 this, the angle that you don't want to come in is
19 the angle looking from the other side of the
20 bathroom to Ms. Parker?

21 THE COURT: Exactly.

22 MS. WALKER: Okay.

23 THE COURT: And then on Mr. Capnerhurst --

24 MS. CAMPBELL: Both angles are in.

25 MS. WALKER: Both angles are in, Your Honor.

1 MR. WHITLARK: I don't object. We will
2 withdraw our objection on that one, Your Honor, but
3 not on Ms. Parker.

4 THE COURT: Which one? To both angles?

5 MR. WHITLARK: We are talking about -- the
6 pictures are already in evidence, Your Honor. I
7 believe it is from both their feet towards the
8 head.

9 THE COURT: Now, on him she is saying there
10 are two of them in evidence. The only thing that I
11 will consider is the cumulative effect of having
12 the photos and the -- but it has to be the exact
13 same one.

14 MS. WALKER: They are the same angles, Your
15 Honor. I mean, the angles are the same, but they
16 are done by two different methods, if that makes
17 sense.

18 So, Your Honor, State's Exhibit 263 shows one
19 angle, and State's Exhibit 262 shows the other.

20 MR. WHITLARK: They have got that in.

21 MS. WALKER: And he doesn't object to that.

22 MR. WHITLARK: I mean, we've got it in. I am
23 saying we put it in, but I may have objected to
24 those, but they are in evidence now.

25 THE COURT: What is the objection on the video

1 to the one with the angle -- are you objecting to
2 any of the photos coming in on the video?

3 MR. WHITLARK: Yes, Your Honor.

4 THE COURT: As your overall objection?

5 MR. WHITLARK: Yes, overall objection is it is
6 cumulative. It is -- again, it is duplicitous, it
7 is cumulative. Without the bodies in it I have no
8 problem with it, Your Honor. But, again, it is too
9 much. I think it is too much for the jury.

10 THE COURT: All right. And I'll make a
11 decision as to -- but you can go ahead and tell
12 them and he can redact any of the angles if they
13 not consistent with the ones that are already in
14 evidence.

15 MS. WALKER: And that would only be, Your
16 Honor, the one from -- with Ms. Parker, is the one
17 that you spoke about.

18 THE COURT: Okay. All right. And we'll start
19 up at 9:00.

20 MS. WALKER: Thank you, Your Honor.

21 MR. WHITLARK: Did you say 9:00, Your Honor?

22 THE COURT: Yes.

23 MR. WHITLARK: Okay.

24 THE COURT: I'll do some -- and I'll look over
25 this order and get it signed. Do y'all need me to

1 sign it today?

2 MR. WHITLARK: Your Honor, may we be heard on
3 that?

4 THE BAILIFF: Quiet, please.

5 THE COURT: One second.

6 MR. WHITLARK: May it please the Court, Your
7 Honor? Your Honor, we would have -- we are fine
8 with everything until he gets to the point that
9 Parker says they are going to pay \$300 an hour. I
10 don't know what that man is -- we don't have a
11 problem paying what his normal rate of pay is, but,
12 I mean, I don't understand why he is going to get
13 \$300 an hour. We would -- I don't mind paying him
14 what his salary would be for, you know, whatever
15 the county would have incurred.

16 THE COURT: I mean, you are not paying him,
17 you are paying -- I'm guessing you are reimbursing
18 the county, right?

19 MS. McDUFFIE: Reimbursing the county, Your
20 Honor. And that is the rate the county charges for
21 Mr. Collins' time. And that is not what -- that is
22 not an arbitrary number they come up with for this
23 case. That is in all cases that Mr. Collins' time
24 is used by an outside agency, or things of that
25 nature.

1 For instance, if CPD requests testing to be
2 done, that is the rate charged CPD, that is the
3 rate the Sheriff Department charges for his time.

4 THE COURT: Do you have a contract to that
5 effect showing something like that?

6 MS. McDUFFIE: Yes, Your Honor, the rates are
7 published online. And I can print that off for
8 you.

9 THE COURT: All right. Well, you can share
10 them with Mr. Whitlark and Mr. Fedor.

11 MR. WHITLARK: \$2400 a day, Your Honor? That
12 seems pretty high.

13 THE COURT: How many days is he going to be
14 here?

15 MR. WHITLARK: 54 hours, I believe is what
16 they estimate, Your Honor.

17 MS. McDUFFIE: Your Honor, that is from the
18 plane leaves Columbia until touches down. And that
19 would be the maximum amount of time. If anything
20 changes obviously it would reduce that amount, but
21 that would be the maximum amount as calculated by
22 myself.

23 THE COURT: Then y'all are considering sending
24 him out there on Saturday and bringing him back on
25 Monday?

1 MS. McDUFFIE: Your Honor, my understanding is
2 that they needed him there I think by noon on
3 Sunday.

4 MR. WHITLARK: Right.

5 MS. McDUFFIE: There is only one direct
6 flight, which I think we both agreed --

7 MR. WHITLARK: We agree to that.

8 MS. McDUFFIE: -- with the chance of the
9 evidence getting lost. And that flight leaves -- I
10 have the flight number, Your Honor, I believe it is
11 Saturday at noon, and then it would return here
12 Monday at 5:55 p.m.

13 MR. WHITLARK: Are you done? Your Honor, I
14 mean, just ballpark, we are looking at a cost being
15 incurred of \$16,000, Your Honor. I just don't --

16 THE COURT: Not including the plane?

17 MR. WHITLARK: Well, I don't mind paying that.

18 THE COURT: No, I'm just saying, I don't even
19 know how much that is.

20 MR. WHITLARK: \$987.

21 MS. McDUFFIE: Your Honor, we have -- our
22 Victim Witness Unit who frequently books
23 reservations has looked in to this. The cost of
24 the plane ticket and the rental car, Your Honor --
25 and this is without tax, is my understanding --

1 is -- beg the Court's indulgence.

2 (Pause.)

3 MR. WHITLARK: It was a reasonable figure,
4 Your Honor, as well as I remember.

5 THE COURT: She said about \$1700.

6 MS. McDUFFIE: The cost of the plane ticket is
7 \$983.80, without tax, and then the hotel is \$199 a
8 night. And that is before tax as well.

9 MR. WHITLARK: Your Honor, I have a problem
10 paying somebody \$2400 to get a good night's sleep.

11 THE COURT: Oh, and it is for the time he is
12 going to be sleeping also?

13 MS. McDUFFIE: Your Honor, we can structure
14 however Your Honor --

15 MR. WHITLARK: Well, that is -- where do I
16 sign up for this job?

17 THE COURT: Isn't there some case out there
18 that says even travel time to and from you can't --
19 maybe that is a lawyer's billing case, you can't
20 bill travel time to and from, or something like
21 that. I have to look at it. You will have to work
22 on the amount.

23 MS. McDUFFIE: Yes, Your Honor, we can get
24 them a copy of those rates.

25 THE COURT: Yes. I mean, paying \$300 an hour

1 while he is sleeping -- not that sleep is not
2 valuable, but --

3 MS. McDUFFIE: Your Honor, they can always
4 have their expert bring the equipment here.

5 THE COURT: Well, I mean, he needs to see how
6 much it is going to cost to ship it. But I will
7 consider the \$300.

8 MS. McDUFFIE: I will get that documentation
9 from the Sheriff's Department, Your Honor.

10 THE COURT: Thank you.

11 MR. WHITLARK: Thank you, Your Honor.

12 MS. WALKER: Thank you, Your Honor.

13 THE COURT: Oh, one of the -- someone from the
14 media has asked for copy of the witness list. Is
15 there any objection? I don't have one. Is there
16 any objection? It is in the record, it is public
17 information. But there is not one concise witness
18 list, is there?

19 MR. WHITLARK: Your Honor, I don't have a
20 problem with it.

21 MS. WALKER: Whatever -- it is up to Your
22 Honor.

23 THE COURT: Y'all don't care?

24 MS. WALKER: I don't have a position.

25 MR. WHITLARK: Just as long as we are not

1 responsible for anybody mistaking it for a phone
2 book, Your Honor.

3 THE COURT: For what?

4 MR. WHITLARK: I don't want anybody to mistake
5 it for a phone book when they look at the State's
6 witness list.

7 THE COURT: Okay.

8 MR. WHITLARK: We have no problem with it,
9 Your Honor.

10 THE COURT: All right, 9:00 o'clock. Thank
11 you.

12 (WHEREUPON, the proceedings concluded
13 at 5:49 p.m.)

14 MAY 14, 2013

15 THE COURT: Are we ready to bring them in?
16 Oh, one thing. And I guess I'm saying -- one quick
17 thing. There was apparently on the news last night
18 from the video on one of the stations -- at least
19 one of them, I don't know -- it looks like -- and
20 it appears to be unintentional -- but one of the
21 bodies or part of the bodies was shown on the TV
22 station.

23 I am going to instruct you all again that
24 there will probably be throughout this trial -- the
25 pictures are in evidence, and I have to make my

1 ruling as to the aerial view -- but the bodies of
2 the decedents are not to be placed on the news at
3 any point in time.

4 I'm not sure if the general public could tell
5 what it was, but I could tell. It's a video of the
6 video. I could tell because -- or my law clerk
7 could tell -- when we reviewed it because we knew
8 what it was.

9 I'm not sure if the general public could tell,
10 it did not seem intentional, it seemed like it was
11 cut off, but please be very careful out of respect
12 to the deceased not to put the bodies on the news.

13 All right. And just for the record -- and
14 I'll tell the jurors when they come out -- Juror
15 305 is still sick. So we will replace her with an
16 alternate. And Christine will let us know. That
17 is Alternate 170, is that correct?

18 THE CLERK: Yes, ma'am.

19 THE COURT: Alternate 170. Okay.

20 MR. WHITLARK: Excuse me, Your Honor?

21 THE COURT: And she is the first alternate, I
22 think.

23 THE CLERK: Yes, ma'am.

24 MR. WHITLARK: I didn't know if the Court had
25 made a decision regarding the video and what we

1 were doing with that.

2 THE COURT: Oh, yes, I've got to do that,
3 right. Thank you for reminding me, Mr. Whitlark.

4 MR. WHITLARK: You're welcome.

5 THE COURT: All right, in looking at the case
6 law last night, the Defendant argues that the
7 admission of the video is cumulative and
8 prejudicial. So I looked at the cumulative effect
9 of it and the prejudicial effect.

10 As to it being cumulative, the video presents
11 the issue of trajectory and distance. Both of
12 these issues have been brought up by the Defense in
13 opening and have continued to be brought up during
14 cross-examination.

15 For that reason, I find that the evidence is
16 not cumulative.

17 As to the prejudice, all of the evidence --
18 all evidence, in most of these cases, is
19 prejudicial. The real issue is whether or not the
20 evidence tends to suggest a decision on an improper
21 basis.

22 I find that the general position of the bodies
23 is already admitted into evidence and that
24 photographs have been admissible to support the
25 State's position on trajectory and distance and do

1 not find that it rises to the level of unfair
2 prejudice.

3 However, I do find that the video contained
4 images of Ms. Parker. The images I think I
5 referenced yesterday are unfairly prejudicial to
6 the Defendant and are therefore inadmissible.

7 As to that portion of the video, the
8 Defendant's motion is granted.

9 So, in other words, the angle, for purposes --
10 the only reason that I'm letting it in is for the
11 probative value of the trajectory and the distance.
12 And that is what he needs to testify to. That is
13 the only reason it is coming in.

14 And it needs to be consistent with the angles
15 from the photographs that have already been entered
16 into evidence. And I think we put those numbers on
17 the record yesterday.

18 MS. WALKER: Thank you, Your Honor. With that
19 ruling, can we just have a few minutes to set up?

20 THE COURT: Yes.

21 MR. WHITLARK: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (Pause.)

24 THE COURT: All right. We're ready to bring
25 them in.

1 (WHEREUPON, the jury came into open
2 court at approximately 9:47 a.m.)

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

4 THE COURT: All right. Good morning, ladies
5 and gentlemen of the jury:

6 THE JURY: Good morning.

7 THE COURT: I hope you had a restful evening.
8 Juror Number 305 is still not feeling well, as you
9 all probably could tell last evening. So I am
10 going to release her at this time.

11 And I am going to ask that Juror Number 170
12 take a seat right here (indicating).

13 (Complies.)

14 THE COURT: All right. And you will now be on
15 the -- to serve as a juror as opposed to an
16 alternate. And I'll give you further instructions
17 later.

18 At this time -- I'm trying to remember if
19 there was anything else that I needed to discuss
20 with you all -- at this time we'll continue with
21 the State's case and ask the State to call their
22 next witness.

23 MS. WALKER: Thank you, Your Honor. The State
24 calls Harold Bouknight to the stand.

25 (Witness approaches.)

1 THE BAILIFF: Place your left hand on the
2 Bible, and raise your right hand, please.

3 (Witness complies.)

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

8 THE WITNESS: I swear.

9 THE CLERK: Have a seat in the witness box.
10 (Witness complies.)

11 THE CLERK: State your full name for the
12 record, and spell your last name, please.

13 THE WITNESS: Investigator Harold Bouknight,
14 B-O-U-K-N-I-G-H-T.

15 HAROLD BOUKNIGHT,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. WALKER:

19 Q Investigator Bouknight, where are you currently
20 employed?

21 A Richland County Sheriff's Department in the crime
22 scene unit.

23 Q And how long have you been at the Sheriff's
24 Department?

25 A At the Sheriff's Department for almost ten years.

1 and in crime scene for almost eight.

2 Q Can you please tell us about your educational
3 training and background as it relates to crime
4 scene investigation?

5 A I have an associate's degree in criminal justice.

6 And in crime scene I have gone through our
7 internal training program, which is reading,
8 written test, and proficiency and practical
9 testing.

10 I have gone through weeks of Leica Geosystems
11 user training, a class in crime scene
12 reconstruction.

13 I've been through a 40-hour course in shooting
14 incident reconstruction.

15 And a week-long worldwide user's conference in
16 San Francisco that included a class in shooting
17 incident reconstruction using the scanner.

18 I'm certified as a crime scene investigator by
19 the International Association for Identification
20 and as a blood stain pattern examiner.

21 Q And have you been qualified as an expert before?

22 A Yes, ma'am.

23 MS. WALKER: Your Honor, at this time the
24 State submits Investigator Bouknight as an expert.

25 MR. WHITLARK: May it please the Court? Short

1 voir dire with the witness?

2 THE COURT: Yes, sir.

3 **VOIR DIRE EXAMINATION**

4 BY MR. WHITLARK:

5 Q Investigator Bouknight, how many times have you
6 been qualified as an expert before?

7 A May I check my notes?

8 Q Sure. Sure.

9 (Complies.)

10 A Eight in crime scene investigation, five in latent
11 prints, three in footwear evidence, two in tire
12 track evidence, and five in bloodstain pattern
13 analysis.

14 Q Okay. And can you tell me when that was?

15 A No, sir.

16 Q Just about. Has it been in the last couple of
17 years?

18 A I would say the last four to five years.

19 Q Have you taken any courses, recent courses and
20 refresher courses, or anything like that?

21 A I took last year -- October, November of last year,
22 I took a course in crime scene reconstruction.

23 Q Okay. And what does that involve? I mean, can you
24 tell me what that involves when you say crime
25 scene?

1 A Crime scene reconstruction is one of the things
2 that we do in crime scene. And it involves
3 different areas. The crime scene processing comes
4 into play, the bloodstain analysis, and shooting
5 incident reconstruction.

6 All of those things together make a crime
7 scene reconstruction, where if we have the proper
8 amount of evidence and the information from the
9 autopsy reports, and things like that, that we may
10 be able to put together a reconstruction of the
11 events of a crime scene.

12 We can't tell a lot of times exactly what
13 happened, but we can order the events and maybe
14 place, you know, victims, witnesses, and suspects
15 in a scene.

16 Q Okay. I mean, did you take geometry or
17 trigonometry, or anything like that, to do this?

18 A In high school, yes, sir.

19 Q I mean, is that involved in this?

20 A Trigonometry?

21 Q Yes.

22 A Yes, sir. It's involved in bloodstain pattern
23 analysis. The way it's involved, if we're trying
24 to determine the impact angle of a stain from
25 impact spatter, we can take the width and divide it

1 by the length and then take the inverse sign of
2 that and it gives us our impact angle.

3 And then if we want to find our area of
4 origin, we can measure from that impact stain to
5 our area of convergence. And then using the
6 tangent of that angle and the height, divided by
7 the distance, we can determine that area of origin
8 above the area of convergence.

9 Q Okay. But does that include the obstructions,
10 clothing? Do you know about -- I mean, have you
11 studied all that stuff? I mean, about blood
12 splatter, and so forth?

13 A Blood spatter? Yes, sir.

14 Q And about various things being in the way, or
15 things like that?

16 A Yes, sir. Clothing, of course, can affect, back
17 spatter or forward spatter, hair, anything that is
18 in the way distance has to be taken into
19 consideration because the blood stain is only going
20 to fly so far before it starts a downward
21 trajectory.

22 When it reaches the end of its parabolic arc
23 and it impacts the wall or the surface, you have to
24 take that into consideration. It could give you a
25 false angle reading.

1 MR. WHITLARK: No objection to the
2 qualification of the expert, Your Honor.

3 THE COURT: All right. Ladies and gentlemen,
4 Officer Bouknight -- or is it Investigator?

5 THE WITNESS: Investigator Bouknight; yes,
6 ma'am.

7 THE COURT: -- will be qualified as an expert
8 in the area of crime scene investigation to give
9 opinion testimony in that area. Thank you.

10 Yes, ma'am.

11 DIRECT EXAMINATION CONTINUES

12 BY MS. WALKER:

13 Q Investigator Bouknight, again, for the jury, would
14 you tell us what you do as a crime scene
15 investigator?

16 A We have different roles that we do, depending on
17 the scene. We can -- it can just be processing for
18 fingerprints. We have all seen that on TV. You
19 know, using black powder, and things like that.

20 We can, as I said before, bloodstain analysis,
21 shooting incident reconstruction, anything
22 involving crime scene reconstruction, footwear
23 analysis and tire tread analysis. And we can use
24 our 3D scanner to document crime scenes.

25 Q And on April 13th of last year, Investigator, did

1 you respond to the crime scene at 12 Tackeria
2 Court?

3 A Yes, ma'am, I did.

4 Q And when you responded to that crime scene, what
5 was your purpose for responding to that crime
6 scene?

7 A I responded there specifically to document the
8 crime scene with our 3D scanner, which, if I could
9 explain --

10 Q Please do.

11 A -- what it is and what it does. It's based on
12 survey equipment that has been moved over to the
13 forensic analysis portion of law enforcement.

14 We have all seen those guys on the side of the
15 road taking measurements. It is based on that,
16 which is Total Stations, except this is
17 self-contained in one unit.

18 It takes a 360-degree laser measurement
19 scan -- 360 degrees around and a 270-degree arc.
20 And it will take millions of measurements within
21 just a few minutes, something that would take us
22 days and days to accomplish.

23 And it's a line of sight, meaning if the
24 scanner can see it, it can measure it. And
25 whenever it goes through and takes all of those

1 measurements, it will go through and take digital
2 photographs also and overlay them over that scene.

3 So we can basically have a 3D model of the
4 crime scene as it was when we were there. And then
5 later on we can go back, if a question arises about
6 distances or angles, or anything like that, we can
7 go back in and check those distances. And it is
8 just like we were there.

9 Even if something happened to the crime scene
10 and it was completely destroyed, we'd still have
11 that data that we can go in and check later. And
12 we can go in and model trajectory tones based on
13 trajectory rods, and it can give us an idea of
14 where a shot came from.

15 Q When you arrived at 12 Tackeria Court, what, if
16 anything, did you observe?

17 A Whenever I arrived, the scene was secured and a
18 crime scene log was being maintained.

19 And there was a female victim in an office
20 area, a bathroom between two rooms; and then
21 another subject in an attic area.

22 And there were some impact points in the desk
23 and some fired cartridge casings on the floor in
24 the office and media room.

25 Q And were you able to set up the ScanStation?

1 A Yes, ma'am.

2 MS. WALKER: Your Honor, may the witness step
3 off the stand?

4 THE COURT: Yes, ma'am.

5 MS. WALKER: Thank you.

6 (Witness steps down.)

7 BY MS. WALKER:

8 Q Investigator Bouknight, could you show the jury
9 where you set up the ScanStation inside the
10 residence?

11 A Yes, ma'am. This is a site map of the top floor of
12 the area, and --

13 Q This is the second floor of the house?

14 A Correct.

15 Q Okay.

16 A And this is the first station that we set up. This
17 is in the office area, and this is outside of that
18 office area in the media room, and these are over
19 in the -- I believe it was referred to as the
20 entertainment room, and then the attic
21 area(indicating).

22 Q Can you walk us through, with the way you set up
23 the ScanStation, with ScanStation Number 1?

24 A Yes, ma'am. Basically we have to -- it's up to the
25 operator for them to make a determination of where

1 they place it. You have to look at the totality of
2 the scene and think, Where is my next scan going to
3 come from?

4 Because I have to be able to see, you know,
5 both sides of an area, or we have what we call
6 targets that we put up. So whenever we take all
7 these different scans using our software, we can
8 put them all together to make a 3D walk-through.

9 And we have to have those targets to help line
10 everything up. You don't have to have them, but it
11 does make it easier where the software can help us
12 out with it.

13 And whenever we set it up, we try to find
14 something in the middle that we can see the most of
15 what we're looking for.

16 Q Okay. What are we looking at here?

17 A This is the office area(indicating). And whenever
18 we first arrived, this is the way it was found,
19 with the office chair and desk, television, and the
20 victim.

21 Q And using the ScanStation, were you able to look at
22 the trajectory?

23 A Yes. The trajectory is a different --

24 Q A different ScanStation?

25 A Correct.

1 Q Will you take us to that one, please, Investigator?

2 A You can see this. That explains why this doesn't
3 look as pretty. This is what I told you. The
4 colors from the photographs are laid over those
5 points.

6 Those points, whenever they are taken, it's
7 called a point cloud. And it can look kind of
8 rough, but those are the points that we need to do
9 our measurements and make our selections.

10 And we had gone through the home, or the upper
11 level, and taken all of our scans while the other
12 investigators were doing the trajectory rods and
13 doing the analysis.

14 I came back and scanned it with the trajectory
15 rods in place. And in that way I could register
16 that with a whole other scan so we could see how
17 those trajectory rods looked inside that office.

18 And this is -- these are the trajectory tones
19 that were modeled(indicating), and we can see their
20 position within the office and in relation to that
21 desk.

22 Q What were you able to learn using these trajectory
23 rods?

24 A That they intersected right here (indicating). And
25 it's just over four feet from the floor and three

1 feet in from the doorway. And that is the general
2 area of where the trajectories would cross.

3 Now, is it saying that they came from right
4 here (indicating)? No, that is just saying that
5 those two trajectory rods crossed right here
6 (indicating).

7 Q And this is the same desk -- is this the same desk
8 that we were looking at in the other picture?

9 A Yes, ma'am. There is the office chair and the same
10 desk with the impact points.

11 Q And can you rotate this image, or do you need to go
12 back to the other image?

13 A It depends on what you want to see.

14 Q Will you go back to the other image? And this is
15 the office chair right here (indicating)?

16 A Yes, ma'am.

17 Q Okay. Will you go back to the other image of that
18 chair?

19 (Complies.)

20 A There is the office chair(indicating).

21 Q And can you see the impact point from the desk
22 using this?

23 A You can kind of make them out. It's not as clear
24 as if a trajectory rod was in place.

25 Q Okay. Can you -- is there an angle that shows the

1 family room that has been discussed in this case?

2 A Yes, ma'am.

3 Q And where is this room in relation to the office
4 that we just saw?

5 A I can show you.

6 Q Okay.

7 A There (indicating) is the office and the desk.

8 This (indicating) is what we call the media room.

9 And you can see from this entryway here
10 (indicating) through the doorway.

11 That's that target pole I was telling you
12 about that we put up for registering later. And
13 from here (indicating) you can see down this
14 hallway (indicating) where we have another target
15 pole which is used for registering this scan to the
16 rest of them.

17 Q And where is this room in relation to the attic
18 where the male victim was found?

19 A The male victim is going to be over in this area
20 (indicating) from here.

21 Q Can you take us to the entertainment room?

22 A And this is -- I'll show you the -- you can see
23 this (indicating) is that target pole I told you
24 about earlier where it was in that corner, the same
25 target pole.

1 And then this (indicating) is the attic
2 entryway. And, once again, another target pole.
3 And then this (indicating) leads to the attic area.
4 And you can see that there is that same target
5 pole, and this (indicating) is the attic area where
6 the other subject was found.

7 Q And when you were in this room, did you observe the
8 safe?

9 A Yes, ma'am.

10 Q Okay. Is there -- and where in this room is the
11 safe?

12 A It is right back here (indicating). I can show you
13 better from the scan.

14 Q Thank you.

15 A See, the safe is right in this area (indicating),
16 and there is the target pole (indicating) from the
17 earlier scans.

18 Q Were you able to take certain distance and
19 measurements in this room?

20 A Yes, ma'am. Using our point cloud data, we were
21 able to measure from the safe to Mr. Capnerhurst,
22 the bottom of his feet. And it was approximately
23 10.18 feet.

24 Q 10.18 feet from the safe to the bottom of
25 Mr. Capnerhurst's feet?

1 A Yes, ma'am.

2 Q Was there another ScanStation that was set up too?

3 A This is the --

4 Q This is the last one?

5 A Yes, this is the last one that we did that would be
6 on this. The only other one that we did was the
7 one I talked about when we went back after the
8 trajectory rods were in place, and I have shown you
9 that.

10 Q Can you take us back again to the overview of the
11 second floor of the home?

12 A (Witness complies.)

13 Q And just point out on this, please, where the
14 female victim was found.

15 A Right in here (indicating).

16 Q And the male victim was found?

17 A Right in here (indicating).

18 Q Would you please go back on the stand?

19 A Yes, ma'am.

20 (Witness returns to witness stand.)

21 Q Thank you. When you were in the attic, were you
22 also able to determine the height of the safe that
23 is in that room?

24 A I determined it later from our scan data. It was
25 approximately two feet.

1 Q The safe was two feet high?

2 A Yes, ma'am.

3 Q In addition to setting up the ScanStation and
4 taking those images on April 13th, what else did
5 you do?

6 A On April 13th?

7 Q Yes, sir.

8 A I received some items from Sergeant Richards and
9 brought them back to headquarters and placed them
10 in a locker for safekeeping in our lab area where
11 only the investigator that places the items in
12 there and the supervisors have access to them. And
13 I followed the vehicle from the scene to our
14 headquarters and placed it in our forensic garage
15 for processing later.

16 Q And how long were you at 12 Tackeria Court on the
17 13th?

18 A Almost seven hours.

19 Q And that was the time you were doing the
20 ScanStation?

21 A We were waiting on a search warrant. And then once
22 we got that, I was doing the ScanStation, yes,
23 ma'am.

24 Q Moving your attention, sir, to April 17th, did you
25 have involvement with this case again on that day?

1 A Yes, ma'am.

2 Q And what was your involvement then?

3 A The only thing I did on the 17th was, as I told
4 you, we have to register the scans together. That
5 means just combine them all. I have to download
6 all of the information that was scanned and then
7 use our software to connect all of the dots
8 together to make one scene.

9 Q And you made a DVD of that?

10 A Yes, ma'am, I made a backup of it and placed it
11 into evidence.

12 Q And on the 18th, were you again involved in the
13 investigation of this case?

14 A Yes, ma'am. I collected an elimination DNA swab
15 and fingerprints from Brett Parker. An elimination
16 DNA swab is they take a swab and brush it on the
17 inside of your cheek. And then that can be used to
18 eliminate or compare a person's DNA profile to it.

19 Q I want to show you -- and you did that with the
20 Defendant's consent?

21 A Yes, ma'am.

22 Q I want to show you what has been marked as State's
23 Exhibit 374, 434, and 407, and ask if you recognize
24 these items?

25 A Yes, ma'am.

1 (Attorneys confer.)

2 MR. WHITLARK: No objection, Your Honor.

3 THE COURT: May I have the numbers again?

4 MS. WALKER: Your Honor, at this time the
5 State seeks to admit Exhibit 374, 434, and 407 into
6 evidence.

7 THE COURT: Without objection. They will be
8 entered without objection.

9 (WHEREUPON, State's Exhibit No. 374 was
10 marked for identification and received
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 434 was
13 marked for identification and received
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 407 was
16 marked for identification and received
17 into evidence.)

18 BY MS. WALKER:

19 Q And there is one more exhibit I want you to show,
20 please. Would you mind stepping down here?

21 A (Witness steps down.)

22 Q Can you show from the family room -- is there an
23 additional staircase in the residence, other than
24 the one we saw?

25 A Yes, ma'am. There's two separate staircases on

1 (Attorneys confer.)

2 MR. WHITLARK: No objection, Your Honor.

3 THE COURT: May I have the numbers again?

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5 State seeks to admit Exhibit 374, 434, and 407 into
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16 marked for identification and received
17 into evidence.)

18 BY MS. WALKER:

19 Q And there is one more exhibit I want you to show,
20 please. Would you mind stepping down here?

21 A (Witness steps down.)

22 Q Can you show from the family room -- is there an
23 additional staircase in the residence, other than
24 the one we saw?

25 A Yes, ma'am. There's two separate staircases on

1 opposite sides of the media room. There is the one
2 staircase here (indicating) next to the office and
3 then another staircase over here (indicating) on
4 the opposite corner.

5 Q And do you know where the staircase is?

6 A This one (indicating) leads down to the garage or
7 the door near the garage.

8 Q Is there a -- is this a split staircase on the
9 side, or do you know?

10 A I can't remember.

11 Q Okay. Thank you, sir.

12 A You're welcome.

13 (Witness returns to witness stand.)

14 MS. WALKER: Beg the Court's indulgence, Your
15 Honor.

16 (Pause.)

17 MS. WALKER: No further questions, Your Honor.

18 THE COURT: Yes, Mr. Whitlark or Mr. Fedor.

19 MR. WHITLARK: May it please the Court, Your
20 Honor?

21 THE COURT: Yes, sir.

22 MR. WHITLARK: Your Honor, if they have no
23 further use of this --

24 MS. WALKER: Would you like us to take that
25 down?

1 MR. WHITLARK: Yes.

2 MS. WALKER: Sorry, Mr. Whitlark.

3 THE COURT: You don't need it?

4 MR. WHITLARK: No, I don't need it, Your

5 Honor.

6 (Pause.)

7 MR. WHITLARK: May it please the Court, Your

8 Honor?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. WHITLARK:

12 Q Investigator Bouknight, now, when you did this

13 scan, you knew at that point that the scene had

14 been changed some, right?

15 A Yes, sir, I was aware that there was a weapon that

16 had been moved.

17 Q Okay. And his arm, I guess, you were also aware,

18 his arm had been moved and his hand had been moved?

19 Are you aware of that?

20 A Yes, sir.

21 Q Okay. Now, you said, I believe, when you got

22 there, I think you had -- you had something to do

23 with Mr. Capnerhurst's car he was driving that day?

24 A It was -- I followed it to our forensic garage.

25 Q Well, you saw it when you got there, did you not,

- 1 sir?
- 2 A Yes, sir.
- 3 Q Was it a state vehicle?
- 4 A Yes, sir -- or it's a county vehicle.
- 5 Q Okay, I'm sorry, county vehicle. Yes, you're
- 6 right. That car was backed in, wasn't it?
- 7 A Yes, sir.
- 8 Q And the keys were still in the ignition, weren't
- 9 they?
- 10 A I don't remember.
- 11 Q You don't remember? Okay. You were here
- 12 yesterday, right?
- 13 A Yes, sir.
- 14 Q Okay. And you heard Investigator Richards
- 15 testifying?
- 16 A No, sir.
- 17 Q You didn't? Okay. Would you agree with me that
- 18 the doorway that led into the office where
- 19 Ms. Parker was -- you know what I'm talking about
- 20 because we just looked at it, right?
- 21 A Yes, sir.
- 22 Q From that doorway you could keep your eye and you
- 23 could see both stairways, can't you, if you're
- 24 standing in front of that -- not in the room, but
- 25 right in the doorway? You can see -- if somebody

- 1 comes up the stairs, you can see either way, can't
2 you?
- 3 A I don't know, sir. I haven't looked from that
4 perspective, if you're in the doorway. If you were
5 outside of it, then, yes.
- 6 Q Okay. Because both those stairways come up on that
7 wall that is right there where that doorway is,
8 isn't that right?
- 9 A The entryway?
- 10 Q Yes.
- 11 A Or the door?
- 12 Q In other words, you could see both those -- if
13 somebody is coming up either one of them, you could
14 have seen from standing at that doorway, couldn't
15 you?
- 16 A Yes, sir.
- 17 Q Okay. Did you make a determination that the person
18 who fired this gun was left handed?
- 19 A No, sir.
- 20 Q Okay. All right. When you talked with Mr. Parker,
21 he signed several consents, did he not? He didn't
22 have a problem with doing that, right?
- 23 A No, sir, not from what I remember.
- 24 Q Did you speak with him at all, other than asking
25 him to sign a consent to search and take samples

1 off of him, and so forth?

2 A No, sir.

3 Q Okay. You're aware that Brett Parker's DNA was not
4 found on that bag, right?

5 A I don't know.

6 Q Do you know anything about the results of any of
7 the lab testing on powder on hands, or anything
8 like that?

9 A No, sir.

10 Q Okay. You said you towed the county vehicle back
11 to the forensic lab?

12 A Yes, sir.

13 Q Did you have anything to do with the testing on
14 that vehicle or any of that?

15 A No, sir.

16 Q Just chain of custody?

17 A Yes, sir.

18 Q Okay. And chain of custody is very important in a
19 case like this, isn't it?

20 A Yes, sir.

21 Q Are you aware of the location of the cartridges
22 from the 9-millimeter pistol that were found?

23 A In the office and in the media room.

24 Q Right. Do you agree with what Richards said about
25 that?

1 A I don't know what he said, sir.

2 Q Oh, okay, I'm sorry. I thought you said you were
3 here yesterday.

4 A I was here, but I was outside.

5 Q Oh, okay. All right. It appeared to be whoever
6 fired the gun, they were standing somewhere in the
7 area of that doorway, weren't they?

8 A I would say, yes, sir.

9 MR. WHITLARK: That's all I have, Your Honor.

10 THE COURT: Yes, ma'am.

11 REDIRECT EXAMINATION

12 BY MS. WALKER:

13 Q Investigator Bouknight, Mr. Whitlark asked you
14 several questions about the stairs, the stairways
15 in that home, and about standing in the doorway to
16 the office?

17 A Uh-huh.

18 Q If you're looking into the office, is one of those
19 staircases going to be behind you?

20 A Correct.

21 Q And one of them is going to be to your right?

22 A Correct.

23 Q So you can't see them both if you are standing in
24 front into -- looking into the office?

25 A In you're looking in -- if you are looking straight

1 ahead inside it, no, ma'am.

2 MR. WHITLARK: Just briefly, Your Honor.

3 MS. WALKER: Hold on one second.

4 MR. WHITLARK: Oh, I'm sorry.

5 (Pause.)

6 MS. WALKER: I have no further questions.

7 THE COURT: Yes, sir, Mr. Whitlark.

8 MR. WHITLARK: Yes, briefly, Your Honor.

9 RECROSS-EXAMINATION

10 BY MR. WHITLARK:

11 Q So cartridges were found in that room, the main
12 room that we did the scan through, wasn't it, the
13 family room?

14 A The media room?

15 Q Yes, sir.

16 A Yes, sir.

17 MR. WHITLARK: That's all I have. Thank you,
18 Your Honor.

19 THE COURT: All right, sir, you may step down.

20 THE WITNESS: Thank you.

21 (Witness steps down.)

22 THE COURT: Any objection to this witness
23 being excused?

24 MS. WALKER: None from the State, Your Honor.

25 MR. WHITLARK: No objection from the Defense,

1 Your Honor.

2 THE COURT: All right, sir. You are free to
3 leave.

4 (Witness excused.)

5 THE COURT: All right, call your next witness.

6 MS. CAMPBELL: May it please the Court? The
7 State calls Lieutenant Anna Cavanagh.

8 (Witness approaches.)

9 THE BAILIFF: Place your left hand on the.
10 Bible, and raise your right hand, please,

11 (Witness complies.)

12 THE CLERK: Do you swear or affirm the.
13 testimony you give in this case will be the truth,
14 the whole truth, and nothing but the truth, so
15 help you God?

16 THE WITNESS: I do.

17 THE CLERK: Have a seat in the witness box.

18 (Witness complies.)

19 THE CLERK: State your full name for the
20 record. Spell your last name, please.

21 THE WITNESS: Anna Elsey Cavanagh,

22 C-A-V-A-N-A-G-H.

23 ANNA ELSEY CAVANAGH,

24 after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. CAMPBELL:

2 Q Lieutenant Cavanagh, where are you employed?

3 A The Richland County Sheriff's Department.

4 Q What do you do there, ma'am?

5 A I am a lieutenant over the crime scene latent print
6 section. I am one of two assistant laboratory
7 directors.

8 Q Okay. You need to speak up just a little. For
9 some reason it is difficult to hear in here.

10 You mentioned that you're the lieutenant over
11 what unit?

12 A The crime scene latent print section.

13 Q And you're also a director over?

14 A I am one of two assistant laboratory directors.

15 Q And can you tell this jury a little bit about your
16 duties as a lieutenant over the crime scene
17 investigations, as well as the director?

18 A Yes. My primary duties are administrative at this
19 point. I do a lot of the budgeting and ordering
20 supplies, scheduling. In addition to that, I
21 review reports that other investigators write prior
22 to them being signed.

23 And I also am responsible for making sure that
24 we stay in compliance with our standards and
25 requirements for our preservation.

1 Q How many years have you been in the crime scene
2 investigative unit?

3 A I was promoted in October of 1998.

4 Q And since that time have you responded to numerous
5 crime scenes?

6 A I have.

7 Q Can you tell this jury a little bit about your
8 training and your experience in the crime scene
9 investigative field?

10 A I can. I got a bachelor of science in biology, in
11 psychology, I have a master's in forensic DNA and
12 serology.

13 When I was first hired by the Sheriff's
14 Department, I attended the Criminal Justice
15 Academy.

16 And when I was promoted to crime scene
17 investigator, I completed our internal training
18 programs and have attended numerous courses related
19 to crime scene investigation.

20 Some of those courses are: Crime scene
21 reconstruction, ID technician, advanced palm print
22 identification, law enforcement photography, crime
23 scene investigation, footwear and tire track,
24 chemical development of latent prints, basic arson,
25 forensic aspects of investigation, blood pattern

1 analysis, advanced blood pattern analysis, complex
2 latent print examinations, forensic anthropology
3 and archeology, digital photography, shooting
4 incident documentation and reconstruction.

5 I have had training on the Leica ScanStation
6 that you were just introduced to, forensic
7 shooting, scene reconstruction taught my Mike Haag,
8 blood pattern analysis and crime scene
9 reconstruction taught by Bevel and Gardner.

10 I also graduated from the ASCLD National
11 Academy in June of 2011. And I am certified as a
12 crime scene investigator through the IAF.

13 Q And have you been qualified before as an expert in
14 crime scene investigation?

15 A I have.

16 Q On approximately how many times?

17 A If I can go back to my...

18 (Pause.)

19 A In crime scene investigations, approximately 15
20 times.

21 MS. CAMPBELL: Your Honor, at this time we
22 would offer her as an expert in crime scene
23 investigation.

24 THE COURT: All right. Any objection?

25 MR. WHITLARK: Yes, I do have some voir dire.

1 THE COURT: Okay.

2 VOIR DIRE EXAMINATION

3 BY MR. WHITLARK:

4 Q What did you say you had your degree in, Officer --
5 is it Sergeant?

6 A Lieutenant.

7 Q Lieutenant Cavanagh? What was it?

8 A The bachelor's degree? I have a bachelor's degree
9 in biology and one in psychology, along with a
10 master's degree in forensic DNA and serology.

11 Q Okay. And what is your expected testimony today
12 regarding? What subject are you testifying to?

13 A I am testifying to my role on the scene as far as
14 assisting with the Leica ScanStation and being one
15 of the supervisors on the scene.

16 Q For the film we just saw you mean?

17 A Yes, sir. It is the 3D of the scene.

18 Q And that's what your opinion is today, or is going
19 to be about today, that?

20 A And any other questions that may come up. I was at
21 the scene as far as processing of the scene.

22 MR. WHITLARK: No objection, Your Honor.

23 THE COURT: All right.

24 MR. WHITLARK: I'm sorry, Your Honor, one
25 thing.

1 BY MR. WHITLARK:

2 Q You have been qualified as an expert previously,
3 right?

4 A Yes, sir, I have.

5 Q Okay.

6 MR. WHITLARK: No problem, Your Honor.

7 THE COURT: All right. Ladies and gentlemen
8 of the jury, Lieutenant Cavanagh will be qualified
9 as an expert in the area of crime scene
10 investigation to give opinion testimony in that
11 area.

12 Yes, ma'am.

13 MS. CAMPBELL: Thank you, Your Honor.

14 DIRECT EXAMINATION CONTINUES

15 BY MS. CAMPBELL:

16 Q You mentioned that one of your duties as a
17 lieutenant over the crime scene investigative unit
18 is that you supervise and make sure that you stay
19 within the regulations for your accreditation?

20 A Yes, ma'am.

21 Q Can you tell this jury a little bit about your
22 laboratory and how it is accredited and the
23 standards that you keep?

24 A Yes, ma'am. We are the only laboratory in South
25 Carolina to be ASCLD internationally accredited.

1 ASCLD is the accrediting body for forensic science.

2 And basically what they do is make sure that
3 you have a quality program and that you're doing
4 your testing properly, that you are using quality
5 and control, that the people that are doing the
6 testing maintain that they are deemed competent in
7 the fields that they are doing their testing in,
8 and that they maintain proficiency in that field.

9 Like I said, we're the only in South Carolina
10 to be accredited with this accreditation. Our lab
11 is the 15th internationally to be accredited. And
12 there are currently 266 other laboratories
13 accredited. Only 57 of those are accredited in
14 crime scene.

15 Q And as part of your duties of your accreditation,
16 do your crime scene people, as well as other lab
17 members -- does that include DNA?

18 A It does.

19 Q And it includes ballistics?

20 A The firearm section, yes.

21 Q And also latent print comparison?

22 A Yes.

23 Q As well as crime scene investigation?

24 A That's correct.

25 Q Do y'all comply with certain standards to make sure

1 that your proficiency and everything else is what
2 it should be?

3 A We do. In addition to those, the standards that
4 ASCLD requires, there is over 400 standards that
5 must be met for them. For our investigators
6 themselves, they also maintain a proficiency. They
7 are proficiency tested every year in the
8 disciplines that they practice.

9 So it is crime scene, latent print, latent
10 print processing, bloodstain pattern analysis, and
11 imprint impressions. So every year they're tested
12 to make sure that they are maintaining their
13 proficiency.

14 Q And currently you are in compliance with all the
15 ASCLD standards that this requires?

16 A Yes, ma'am. We have an annual surveillance from
17 ASCLD where they come in and again review our
18 system annually.

19 Q And over the course of your career, ma'am, have
20 you -- approximately how many crime scenes have you
21 responded to? Can you estimate?

22 A Hundreds.

23 Q And in a homicide, especially a double homicide
24 involving a shooting, when you get there, is it
25 unusual for, say, a body to have been moved or a

1 piece of evidence to be collected for safety
2 purposes?

3 A No, it's not. That is part of -- for us, you know,
4 obviously we would like for absolutely nothing to
5 be moved prior to us getting there. That
6 unfortunately is not a reality.

7 You have First Responders that respond to a
8 scene, and their primary duty when they get on the
9 scene is rendering aid to victims, to victims on
10 the scene.

11 After that it is safety for those on the scene
12 and officers.

13 And then after that it is preservation of
14 evidence.

15 Q And is it unusual at all in some cases involving a
16 shooting -- that may end up being a homicide --
17 for, as you just mentioned, the health of the
18 person, for the body to actually be removed prior
19 to you getting there?

20 A Yes. If they are -- again, rendering aid to the
21 victims comes first. So if EMS or other medical
22 personnel arrive on the scene and they deem that
23 the person has a life -- there is a life-saving
24 chance, obviously that victim is going to be
25 removed and that is going to come first.

1 Q In addition to First Responders and/or EMS people,
2 is it unusual, say, if someone's loved one gets
3 shot for them to try to render aid?

4 A No, it is not unusual.

5 Q And can that affect the position of the body, or it
6 would?

7 A Yes, it can.

8 Q But not in this case as far as that's concerned?

9 A Not to my knowledge.

10 Q And as far as officer safety, as you've just
11 explained to this jury, it is essential for the
12 officers and anyone else that may be there?

13 A Yes.

14 Q What is essential? That they are --

15 A That if there is a weapon, as in this case, if
16 there is a weapon on the scene and there is the
17 potential for an officer safety issue, that that
18 would come first.

19 Q And in a case, say, if someone does respond, such
20 as EMS, to try to save someone or if someone tries
21 to render aid to someone, or if a gun is moved as a
22 safety precaution, does that mean that you can't
23 process the crime scene and find evidence?

24 A No, it does not.

25 Q And, in fact, that is taken into account every day,

1 is that correct?

2 A Yes. It's very important for us to, when we get on
3 the scene, to get as much information from those
4 responders that were there before us to find out
5 what has been moved so that we don't come to
6 conclusions based on evidence that was not that way
7 when the First Responders got there.

8 So it is imperative for us to interview and
9 talk to those that were there to find out what was
10 done, what might have been done prior to us getting
11 there.

12 Q And in certain cases when you're called to a crime
13 scene, say, if a piece of evidence is stashed
14 somewhere or not found for a period of time, do you
15 still process that crime scene and try to save it,
16 even if it has been days, weeks, or months since
17 the event occurred?

18 A Yes.

19 Q And in some cases, in fact, a person's body may be
20 missing for a period of time? In a homicide?

21 A That we may process the scene prior to finding the
22 body? Yes, that has happened.

23 Q And then if the body is found in another location
24 at a separate time, can you still go and process
25 the scene and find evidence that may be pertinent?

1 A Yes.

2 Q I want to turn your attention to this case. On the
3 13th of April, that Friday, did you respond to the
4 scene?

5 A I did.

6 Q And when you got there, what did you observe?

7 A Upon my arrival, which was 1400 hours, about 2:00
8 o'clock in the afternoon -- I was actually off that
9 day. And I heard about the incident, talked with
10 Sergeant Richards, responded to the scene.

11 At that time the scene had been secured. A
12 crime scene log had been initiated, and everyone
13 was waiting outside the scene for the search
14 warrant for us to go in and begin processing.

15 Q And do you remember approximately what time it was
16 that y'all made entry?

17 A I believe it was 2:54 in the afternoon.

18 Q And the reason that you were waiting outside for
19 that period of time was what?

20 A Waiting for the search warrant.

21 Q And is that the standard to wait on the search
22 warrant before you go into someone's home?

23 A It is.

24 Q Once the search warrant -- you all found out the
25 search warrant had been obtained, what did you do

1 initially?

2 A I then entered the house, myself, Sergeant
3 Richards, who was the supervisor on-call and on
4 scene, Investigator Holt, and Investigator
5 Bouknight. Investigator Holt and Sergeant Richards
6 began photographing the scene. Myself and
7 Investigator Bouknight, our primary responsibility
8 on the scene was going to be the Leica ScanStation.
9 So we waited for the initial photographs to be
10 taken prior to starting our responsibilities there.

11 Q And, most important, you said you waited until what
12 happened?

13 A Until they photographed the scene.

14 Q And those would be the photographs that were
15 entered in with Sergeant Richards, that have
16 been -- some of them at least --

17 A Correct.

18 Q -- that were allowed in. And the reason that you
19 wait until that initial photography is done is
20 what?

21 A To preserve the scene as we -- as it was when we
22 actually entered the scene.

23 Q Once the initial documentation had occurred in this
24 case, did you then, along with Investigator
25 Bouknight, start setting up the -- what is it

- 1 called?
- 2 A The Leica ScanStation.
- 3 Q The Leica?
- 4 A ScanStation.
- 5 Q And is that the evidence that just came -- or some
- 6 of the evidence that just came before this jury?
- 7 A That's correct.
- 8 Q Approximately how long were you there on scene that
- 9 day assisting Investigator Bouknight in that
- 10 process?
- 11 A When I departed the scene?
- 12 Q Yes, approximately?
- 13 A At 9:50 that evening, 2150.
- 14 Q 2150, 9:50?
- 15 A Uh-huh.
- 16 Q While you were there, did you take some general
- 17 photographs as well?
- 18 A I did..
- 19 Q And were you also relaying this information from
- 20 and to investigators there at the scene?
- 21 A I did. When we are photographing and documenting
- 22 evidence like this, we knew it was going to be an
- 23 extended period of time before we were at a point
- 24 where we felt like we could walk the investigators
- 25 through the scene.

1 So I took just some general photographs of the
2 area where the victims were located and took the
3 camera outside and just reviewed those general
4 photographs with the investigators so they would
5 kind of have an idea of what it was that we were
6 working with.

7 Q Okay. And at that point were you aware that they
8 were interviewing Brett Parker?

9 A I knew that he was on the scene when I got there.

10 Q During the course of your investigation that day,
11 do y'all get certain information that may have been
12 related by the only surviving witness in this case?

13 A As they are doing the interviews of witnesses or
14 subjects, they -- they being the investigators --
15 will relay information to us.

16 Q And so you can locate or look for certain evidence
17 that may be probative?

18 A That's correct.

19 Q Such as what ended up being the gym bag in this
20 case?

21 A Correct.

22 Q In addition to that, at some point did you come
23 across some information that was given to you that
24 you actually made contact with Major Smith about,
25 about the downstairs bathroom?

1 A Yes. Once they did interview Brett Parker, he --
2 he being Major Smith -- contacted myself and
3 Sergeant Richards and told us what had occurred
4 according to Mr. Parker.

5 In that statement was the restroom and what we
6 would assume would be a seated position. And I
7 notated that at this time that the seat to the
8 toilet was up when we went into the scene.

9 Q And why did you contact Major Smith with that
10 information?

11 A I contacted him to confirm with him what he had
12 initially told me and told him that that did not
13 appear to be consistent with what he had said.

14 Q And that would be the downstairs powder bathroom
15 and what you found there?

16 A Yes, ma'am.

17 Q The next day did you return back to the scene?

18 A I did.

19 Q And when you returned back to the scene,
20 approximately what time was it when you got there?

21 A 9:22.

22 Q And what was the purpose in you going back the next
23 morning, ma'am?

24 A I was going to assist Sergeant Richards and
25 continue processing the scene and looking for any

1 additional evidence.

2 Q What specifically were you assisting him with?

3 A Looking for additional projectiles and shell /
4 casings.

5 Q In what area?

6 A The office area, media room.

7 Q The office area?

8 A And we also searched the media room.

9 Q And were y'all able to recover any additional
10 projectiles from the wall area, as well as, I
11 think, a partial projectile from the floor?

12 A Yes.

13 Q And that was done the next morning?

14 A Yes, ma'am.

15 Q During the course of that evening, had y'all
16 received certain information in an attempt to get
17 into the safe itself?

18 A We did. We had been given a couple of different
19 combinations to open up the safe ourselves, which
20 we were not able to do.

21 Q And who relayed the information about the safe and
22 the combination that was supposed to open it?

23 A Major Smith did.

24 Q And who was Major Smith having contact with when he
25 related this information to you?

1 A It's my understanding he was with Brett Parker or
2 speaking with him to get the combination.

3 Q With the combination that was provided to you, were
4 y'all able to open the safe?

5 A We were not.

6 Q That morning on the 14th, that Saturday, the 14th,
7 while you were there, was Brett Parker escorted
8 into the attic area?

9 A That morning or afternoon at some point while I was
10 there he was.

11 Q I'm sorry. At some point that day?

12 A Yes.

13 Q And who actually escorted him up into the attic
14 area where Mr. Capnerhurst's body was found?

15 A Major Smith brought him in the house, and myself
16 and Sergeant Richards took him into the attic area
17 where he opened the safe.

18 Q And were you present when he was opening the safe?

19 A Yes.

20 Q And once he opened the safe, what, if anything, did
21 you observe inside?

22 A As described by Sergeant Richards, two bundles of
23 currency and one single 1 was in the safe.

24 Q And I want to show you --

25 MS. CAMPBELL: Beg the Court's indulgence.

1 (Pause.)

2 BY MS. CAMPBELL:

3 Q -- State's Exhibit Number 380. Do you recognize
4 that?

5 A This is the currency that was submitted into
6 evidence by Sergeant Richards from the safe.

7 Q And is that the actual currency that y'all found
8 that day? You can pull it out.

9 A Yes, it is.

10 Q And is this how it appeared when y'all pulled it
11 out?

12 A Yes, it is.

13 Q So when you looked into the safe, show me how the
14 money was approximately in the safe?

15 A It was stacked like this (indicating) with the \$100
16 bill on top and the ones under it in a bundle.

17 Q And, again, the total amount of money that was in
18 that safe is how much?

19 A Three hundred and eighty-three dollars.

20 Q Then was a single dollar bill that was separate, is
21 that correct?

22 A That's correct.

23 Q And on these, there is a wrapper around these?

24 A Yes.

25 Q And what does it indicate as far as the

1 denomination of the amount of money that was in
2 here?

3 A Ten thousand.

4 Q That's what the wrapper actually says?

5 A That's what the wrapper indicates.

6 Q Once you had opened up the safe and assisted
7 Sergeant Richards that day, did you then leave the
8 scene with other investigators who were still doing
9 some searches?

10 A Yes. We turned the scene over to Major Smith,
11 Sergeant Robinson, and Investigator Holdorf for
12 them to complete the additional search.

13 Q As the lieutenant over the crime scene unit, you're
14 aware of the investigation in this case?

15 A Some of it.

16 Q And on May the 23rd, investigators responded back
17 to the scene, I believe, Sergeant Richards?

18 A Yes.

19 Q Is that unusual if evidence is developed for
20 someone to go back to the scene and search for
21 additional evidence?

22 A No. As the investigation continues, there are
23 times where something may come up where we may need
24 to search an additional location or search a
25 previous location for additional evidence that at

1 the time we didn't know was pertinent or relevant.

2 Q There has also been testimony and you were aware
3 that there were certain trajectory points that were
4 able to be calculated in this case?

5 A Yes.

6 Q And there has also been some question about blood
7 spatter reconstruction. Was that appropriate in
8 this case?

9 A Blood pattern analysis in reference to area of
10 origin, that was not able to be done in this case.

11 Q Because of distances?

12 A Because that type of stain was not present on the
13 scene for us to be able to do it in this case.

14 Q There has also been some questions about the number
15 of officers that were on the scene. In a double
16 homicide, is it unusual for there to be a lot of
17 people at the scene?

18 A No. And, again, prior to our arrival, it is my
19 understanding there were numerous officers there to
20 clear the residence and make sure everything was
21 secure.

22 Q Thank you, ma'am.

23 MS. CAMPBELL: I don't have anything further.

24 MR. WHITLARK: May it please the Court, Your
25 Honor?

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. WHITLARK:

4 Q Did you get married?

5 A I did.

6 Q Congratulations.

7 A Thank you.

8 Q And on these reports you're listed as Elsey, you
9 know that, right?

10 A I decided not to change my name at that point.

11 Q Okay. All right. Congratulations. Anyway, you
12 can go back and process a scene any time you want
13 to, right? I mean, you know, I mean, you could
14 go -- you could go a day later, you could go 40
15 days or 50 days later? You can always go back and
16 process a scene, right?

17 A Yes, sir.

18 Q Okay.

19 A Depending on the conditions.

20 Q Right. But ideally you want to get there right
21 when it happens, ideally, right?

22 A Ideally.

23 Q Okay. And ideally you want to make sure things
24 haven't been moved. We know the weapon was moved
25 in this case. But you want to get there before

1 things are moved and before people, you know, have
2 gone through the house before you, right?

3 A Ideally.

4 Q Okay. Now, in this case y'all did some tests on
5 some blinds about 40 days later, didn't you?

6 A Sergeant Richards collected the evidence from --

7 Q You know about that, right?

8 A Yes, sir.

9 Q But y'all didn't test any other blinds in that
10 house, did you? Just those two that y'all --

11 A No, sir. And, again, I did not do that testing,
12 but it's my understanding that those were the
13 blinds that came in question based on some other
14 information that came available.

15 Q Did you test the blinds in the room where
16 Ms. Parker was found?

17 A I didn't test any of the blinds.

18 Q Okay. Actually, the truth is no other blinds were
19 tested in the whole house, were they?

20 A All I know is the ones that were identified
21 yesterday.

22 Q Well, you would know about it if they did it,
23 wouldn't you?

24 A I would assume that I would, but I don't assume
25 much.

1 Q Okay. Well, would you believe me if I told you no
2 other blinds were tested?

3 A It's my understanding that those were the only
4 blinds tested.

5 Q All right. All right. So you don't know about
6 that either. All right.

7 Now, you said you didn't do any kind of
8 blood -- what was it you said that y'all didn't do
9 in this case?

10 A We did not do any blood pattern analysis in
11 reference to area of origin.

12 Q Okay. Why didn't you do that?

13 A The stains that were described a little bit
14 earlier, where we take certain stains and measure
15 the angles, measure the size of the stain and come
16 back to angles, we can use that to come back to an
17 area where a blood source was actually impacted.

18 Those types of stains were not present on the
19 scene based on the environment, the types of
20 wounds, and the distances.

21 Q Well, the truth is, ma'am, y'all couldn't find
22 anything to help you prosecute Brett Parker with
23 it? That's why you didn't do it, right?

24 MS. CAMPBELL: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MR. WHITLARK:

2 Q You said you spoke to Major Smith by telephone?

3 A We spoke several times.

4 Q Okay. And at that time you said you went and
5 looked in the bathroom, right? Is that right?

6 A As he was relaying the statement to me, I indicated
7 to him that the toilet seat was up in the bathroom.

8 Q And he told you to go check that, Smith did? Or
9 did you tell him?

10 A I don't recall.

11 Q Okay. Well, you did talk to him on the phone,
12 right?

13 A Yes.

14 Q And he related to you -- they were down there
15 taking a statement from Brett, right, a written --
16 a typed statement, sworn statement?

17 A I don't know that.

18 Q You didn't know that is where they went?

19 A I don't know where they were. I know that he was
20 talking with Brett Parker in reference to what had
21 happened.

22 Q Well, do you know or don't you know that they took
23 him directly from the scene to go give a sworn
24 typed statement?

25 A I don't know that, no, sir.

- 1 Q Okay. Well, did you wonder where Smith went?
- 2 A No, sir. I was inside the residence processing the
- 3 scene.
- 4 Q Okay. What time did you go in the house again?
- 5 A At 2:54.
- 6 Q Okay. And you're the one that was -- y'all got the
- 7 safe open, right?
- 8 A I was in there when Brett Parker opened the safe,
- 9 yes, sir.
- 10 Q Okay. All right. And you've looked at that money
- 11 right there, right?
- 12 A Yes, sir.
- 13 Q Okay. Are you aware that the Parker house was
- 14 robbed previously before this?
- 15 A Someone may have mentioned that there was a
- 16 burglary there prior, but I don't have any
- 17 knowledge of the incident.
- 18 Q Okay. All right. Is this the first time you've
- 19 ever seen somebody put a hundred dollar bill with
- 20 ones underneath it? Is this the first time you
- 21 have ever seen that?
- 22 A Yes, sir. I don't know that I have much contact
- 23 with that type of currency, so.
- 24 Q Okay. Glad to know that, Lieutenant Cavanagh. All
- 25 right.

1 Now, you said that you arrived. Did you stand
2 outside the residence or did y'all go right in?
3 How did you -- what happened?

4 A I arrived at 2:00 o'clock, and then went in the
5 residence at 2:54.

6 Q Okay. Now, one of the things you're aware of,
7 based on your training and your background, is
8 that, you know, first of all, you want to get a
9 scene -- ideally, a pristine scene, right, first of
10 all?

11 A In an ideal world.

12 Q Right.

13 A But that is not reality.

14 Q But we know that didn't happen here, right?

15 A There were some items that were moved in the scene,
16 yes.

17 Q Okay. And also -- and this other -- tell the jury
18 what cross-contamination is.

19 A Cross-contamination is the transfer of material
20 from one item of physical evidence to another item
21 of physical evidence.

22 Q And that means like when you're there, although
23 it's difficult to do, you should -- ideally you are
24 supposed to change gloves every time you mess with
25 a different piece of evidence, isn't that true?

- 1 A You should attempt to change your gloves if there
2 is any point where you might have
3 cross-contamination, yes.
- 4 Q Okay. And you know there was a lot of officers in
5 that house before y'all ever got there, right?
- 6 A According to the crime scene log, yes.
- 7 Q Okay. Well, that's natural. There is nothing
8 wrong with that. I'm just saying, these guys swept
9 through this house and were going from room to room
10 and touching stuff, and doing stuff like that,
11 weren't they?
- 12 A I know that they went through the house and secured
13 the house and looked for victims.
- 14 Q Okay. And you took pictures?
- 15 A I took a few overall pictures to show the
16 investigators outside.
- 17 Q Okay. What was purpose of that, to show the
18 investigators outside?
- 19 A To give them an idea of what the scene looked like
20 inside where the victims were located in
21 relationship to each other as best I could with the
22 photographs because I knew it would be a period of
23 time before they could actually have a walk-through
24 of the scene.
- 25 Q Would you agree with me -- oh, by the way, did you

- 1 see Don Robinson or Chris Lindler? Do you know
2 them?
3 A I do.
4 Q They work for Richland County?
5 A They do.
6 Q Did you see both of them there?
7 A I believe I saw both of them outside.
8 Q Okay. Did you ever see them inside the house?
9 A Not until we walked Sergeant Robinson in the house
10 later that evening.
11 Q Later that evening?
12 A Yes, sir.
13 Q Like when?
14 A May I refer to my crime scene log?
15 Q Sure. Sure.
16 (Complies.)
17 A It looks like -- I believe that's Sergeant
18 Robinson's handwriting. It's kind of hard to see.
19 2108. And then Sergeant Lindler at 2105.
20 Q Okay. Do you actually have a log with you?
21 A I have a copy of the crime scene log.
22 Q Do you keep that as a normal course of your work?
23 A The crime scene log was turned over to Sergeant
24 Richards.
25 Q Okay. When was it given to him?

- 1 A After the scene was cleared.
- 2 Q Okay. Would you turn to Page 3 of that log,
- 3 please?
- 4 A Yes, sir.
- 5 Q Come down to the third name on Page 3 and tell the
- 6 jury whose name is there, if you don't mind.
- 7 A That is Sergeant Robinson.
- 8 Q Okay. And Gary Watts, the Coroner, was there above
- 9 him, right?
- 10 A Yes, sir.
- 11 Q And that was about 3:00 in the afternoon?
- 12 A Yes, sir.
- 13 Q You were there, right?
- 14 A Yes, sir.
- 15 Q And Robinson was there, wasn't he?
- 16 A Yes, sir.
- 17 Q Okay. Now, come down, one, two -- come down to
- 18 where you see Sergeant Lindler's name. Do you see
- 19 his name?
- 20 A Yes, sir.
- 21 Q He was there too, wasn't he?
- 22 A He was on the outside of the scene, yes, sir.
- 23 Q But both their names are scratched through, aren't
- 24 they?
- 25 A There is a single line through the name so that you

1 can still see what it says. It is my understanding
2 that the officer that was -- if I can explain why
3 that is there?

4 Q Sure, yes.

5 A The officer that was on the scene was relatively
6 new maintaining a crime scene log, and as he saw
7 officers come into the driveway, not just the
8 scene, but come to the location in the driveway, he
9 would put their names on the log in anticipation of
10 them entering the scene, not knowing what time.

11 So he has them listed initially. They were
12 instructed to do a single cross-through and
13 initial, but they actually did not enter the scene,
14 so to maintain a documentation.

15 Q Uh-huh. Well, when did you have the meeting where
16 y'all went over all the stuff you just told me?
17 When was that meeting, yesterday?

18 A I'm not sure what you are talking about.

19 Q Well, your explanation. You just gave a detailed
20 explanation as to why both of these men's names
21 were crossed through and what was going on. I'm
22 just wondering, did you have a recent meeting about
23 that?

24 A No, I did not.

25 Q Okay. All right. Well, you would agree with me

1 that both their names were crossed through, and
2 specifically it said, Did not enter, Did not enter,
3 right?

4 A Yes, sir.

5 MR. WHITLARK: That's all the questions I
6 have, Your Honor.

7 THE COURT: All right. Yes, ma'am?

8 MS. CAMPBELL: Your Honor, I don't have
9 anything further.

10 THE COURT: All right, ma'am, you may step
11 down.

12 (Witness steps down.)

13 THE COURT: Any objection to this witness
14 being excused?

15 MR. WHITLARK: No objection.

16 THE COURT: All right. You are free to leave,
17 ma'am.

18 (Witness excused.)

19 THE COURT: All right, call your next witness.

20 MS. WALKER: Your Honor, the State calls
21 Investigator Brian Metz.

22 (Witness approaches.)

23 THE BAILIFF: Place your left hand on the
24 Bible, and raise your right hand, please.

25 (Witness complies.)

1 THE CLERK: Do you swear or affirm the
2 testimony you are about to give in this case will
3 be the truth, the whole truth, and nothing but the
4 truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Have a seat in the witness box.

7 (Witness complies.)

8 THE CLERK: State your full name for the
9 record. Spell your last name, please.

10 THE WITNESS: Brian Metz, M-E-T-Z.

11 BRIAN METZ,

12 after being duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. WALKER:

15 Q Good morning.

16 A Good morning.

17 Q Investigator Metz, where do you work?

18 A At the Richland County Sheriff's Department.

19 Q And what do you do at the Sheriff's Department?

20 A I'm assigned to the technical services unit, which
21 is part of the criminal investigative division.

22 Q And what does the technical services unit do?

23 A We do several things. First is computer forensics
24 and cellphone forensics. We also collect videos
25 from various locations when requested by

1 investigators.

2 We also on a temporary basis install video
3 and alarm systems at locations that the
4 investigators have requested because of an ongoing
5 crime problem.

6 Q And did you become involved in the investigation of
7 the murder that took place at 12 Tackeria Court?

8 A I did.

9 Q And that involvement began, in fact, on April 13th?

10 A It did.

11 Q And what did you do?

12 A I was requested by Major Smith to go to the scene
13 on Tackeria Court and to stand by until I was
14 allowed entry. It had become known that there was
15 a video system at the residence, and they were
16 going to request me to pull the video from that
17 system.

18 Q And you said until -- what were you waiting on to
19 gain entry into the home?

20 A We were waiting on a search warrant to arrive.

21 Q And when you entered the home, what, if anything,
22 did you do, Investigator Metz?

23 A I was escorted into the home by Sergeant Richards
24 of the crime scene investigative unit. I followed
25 him to an upstairs office room where the DVR was

1 located.

2 Q What DVR are you talking about?

3 A It was a Tyco ADT DVR that was attached to a
4 monitor in the house.

5 Q It was a Tyco what?

6 A I can tell you the exact number. It was an ADT
7 Security, it is a Model SDR-403-E DVR.

8 Q What did you do regarding that security system?

9 A The first thing I did was make sure that the time
10 and date was correct on it, and then accessed the
11 DVR.

12 Q And was the time and date correct?

13 A It was. I confirmed that through both the phones
14 that I carry and also had called dispatch and got a
15 time check from dispatch, which confirmed the time
16 was correct.

17 Q And then -- I'm sorry. Continue.

18 A I then accessed the DVR and started looking at the
19 video.

20 Q And did you watch the video from the home that day?

21 A I did.

22 Q And did you record -- in some way record that
23 video?

24 A At that time I had made several attempts to record
25 it and did not, but later did record video from

1 that DVR.

2 Q And how did you do that?

3 A Like most DVRs, that one included, it downloads to
4 a USB or thumb drive. Then I would take that --
5 those files, and place them on a CD or DVD for
6 safekeeping.

7 Q And did you do that in this -- you did that with
8 those videos?

9 A I did.

10 Q I want to show you what has been marked as State's
11 Exhibit 435 and 437. Do you recognize these?

12 A I do.

13 Q And how do you recognize them?

14 A First of all, the handwriting on both DVDs is mine.
15 I made both of these DVDs. They also have my
16 initials.

17 Q And do those reflect the security footage?

18 A They do.

19 (Attorneys conferred.)

20 MR. WHITLARK: No objection, Your Honor.

21 THE COURT: All right. There is no objection
22 to 435 and 437, is that correct?

23 MS. WALKER: Yes, Your Honor.

24 THE COURT: All right, they will be entered
25 without objection.

1 (WHEREUPON, State's Exhibit No. 435 was
2 marked for identification and received
3 into evidence.)

4 (WHEREUPON, State's Exhibit No. 437 was
5 marked for identification and received
6 into evidence.)

7 BY MS. WALKER:

8 Q And while you were watching the videos on the 13th,
9 was there certain -- were there certain images on
10 those videos that were significant to you?

11 A There were.

12 Q And what were those?

13 A I had been asked to look at the position of the
14 vehicle that was in the driveway. While doing so,
15 and mainly to see what times and all the vehicle
16 had arrived that Mr. Capnerhurst was driving, I saw
17 that when Mr. Capnerhurst exited the vehicle
18 walking towards the garage, he was carrying a bag.

19 Q And did you notify other investigators about the
20 bag?

21 A I did. I contacted Sergeant Richards, who was in
22 charge of the scene at that time. He actually came
23 and looked at the video.

24 Q And was that the extent of your involvement on the
25 13th?

1 A That was.

2 Q Moving forward a week later to April 20th, were you
3 again involved in the investigation of this case?

4 A I was.

5 Q And what did you do on the 20th?

6 A I had been asked by Major Smith to go to the
7 Executive Inn on 1107 Harbor Drive, which is in
8 West Columbia, to pull video there.

9 Q What is the Executive Inn?

10 A It's a motel.

11 Q Did you know what video you were looking for?

12 A They had already looked at it with the manager.
13 And when I got there, the manager was aware of what
14 it was. They just didn't know how to download it.

15 Q Were you able to download that video?

16 A I was.

17 Q Sir, let me show you what has been marked as
18 State's Exhibit 436. Do you recognize that?

19 MR. WHITLARK: Excuse me, Your Honor.

20 THE COURT: Yes, sir?

21 MR. WHITLARK: We have a matter of law to take
22 up with the Court regarding this current evidence
23 that is being offered here.

24 THE COURT: All right. Ladies and gentlemen
25 of the jury, at this time I am going to send you

1 all out for a brief moment. And we'll have you
2 back in in about five or ten minutes.

3 Thank you.

4 (WHEREUPON, the jury retires to the jury
5 room at 10:57 a.m.)

6 THE COURT: All right.

7 MR. WHITLARK: Your Honor, they are about to
8 offer into evidence the video surveillance or
9 recordings that were at a hotel where one of these
10 adulterous affairs is alleged to have occurred.

11 Previously, Your Honor, we had talked, or we
12 had discussed this with the Court. And I believe
13 that there is the affair with a different woman
14 that was closer in time to this event, the Court
15 was going to allow that in.

16 But regarding all these other extramarital
17 affairs, my understanding was that, you know, based
18 upon the fact that they are unduly prejudicial and
19 they don't go to any issue in this case, Your
20 Honor, they are irrelevant, and they are certainly
21 unduly prejudicial. No question about that. And
22 so we would object to it on that ground, Your
23 Honor.

24 I mean, there has already been admissions by
25 him that he has had extramarital affairs. But to

1 have them bringing in a visual aid, I mean, you
2 know, even talking about it is prejudicial enough,
3 but showing him going in and out of a hotel
4 absolutely adds nothing to this case. It is just
5 highly prejudicial, and we object to it.

6 Thank you, Your Honor.

7 THE COURT: How is it relevant?

8 MS. WALKER: Your Honor, I think Mr. Whitlark
9 is confused. There are multiple women that Brett
10 Parker was having affairs with. The woman on this
11 video is the one that is closest in time to the
12 first, the one that you said -- the one lady that
13 you said we would limit it to. The one from the
14 Executive Inn is the same one from Friday morning
15 that you said we would limit it to.

16 THE COURT: All right. But how is it
17 relevant?

18 MS. WALKER: Your Honor, well, initially
19 Mr. Whitlark opened the door for it in his opening
20 when he talked about all the tawdry affairs that
21 the Defendant was having.

22 It corroborates -- you know, initially he said
23 he hasn't had any relationships with any women.
24 That's what the Defendant said. And this video,
25 Your Honor, shows him having a relationship with a

1 woman three days before the murders. And this is
2 the one that Your Honor already said we could get
3 into.

4 THE COURT: The testimony of the witness. I
5 didn't -- I don't know anything about a video. The
6 testimony of the witness as to her contact with him
7 that morning. Her contact -- I believe my ruling
8 was as to the probative value, because the witness
9 is going to testify to something about the desk and
10 him telling her that that is where the bullets and
11 the gun would be, and that is where you all said
12 they found the bullets.

13 But, I mean, I just don't see how a video of
14 him -- I'm guessing it is a video of him and a
15 female going into a hotel. I'm not sure how
16 relevant, the actual video. I'm not sure. He is
17 objecting to the testimony that there is a -- they
18 received the video, but I'm not sure how that is
19 relevant to show it to the jury, why it is relevant
20 to show to the jury.

21 MS. WALKER: Well, Your Honor, because the
22 Defendant's initial statement, when he is talking
23 to investigators, is that he hasn't had any of
24 those adulterous relationships, everything is fine
25 between he and his wife. And this evidence refutes

1 what he is telling the investigators.

2 THE COURT: All right. I guess what I'm
3 saying is --

4 MS. WALKER: And at this point, Your Honor --
5 I'm sorry.

6 THE COURT: Go ahead.

7 MS. WALKER: At this point, Your Honor, he has
8 made no admissions of adulterous affairs. None of
9 that is in front of the jury. This video would be
10 at this point what is in front of the jury.

11 THE COURT: All right. But why is it that --
12 why do we need to show the video to the jurors? He
13 can testify to what he found during his
14 investigation. But why is it necessary to show
15 them the video of him and this lady going into a
16 hotel? I can't figure out how that is relevant,
17 how it is --

18 MS. WALKER: He can testify -- the witness can
19 testify that he sees the Defendant enter the hotel
20 room with -- or entering the hotel with the young
21 lady three days before Ms. Parker's murder, but you
22 just don't want us to show the video?

23 THE COURT: I think that is his objection is
24 to the --

25 MR. WHITLARK: That's right, Your Honor.

1 THE COURT: -- actual him and the lady going
2 into the hotel.

3 MS. WALKER: That's fine, Your Honor.

4 MR. WHITLARK: That's correct, Your Honor.

5 THE COURT: All right.

6 MS. CAMPBELL: Your Honor, we will have
7 argument later under State versus Rice and State
8 versus Dunlap that he has opened the door.

9 In his opening argument, he repeatedly talked
10 about torrid affairs, in the plural, everything of
11 this nature, that it was just sex and stuff.

12 This may become more relevant later in our
13 case when you start hearing the Defendant's
14 statement. We would just ask that you -- and I
15 will hand up those cases, Your Honor, at a break,
16 as far as reviewing that, because the Defendant
17 clearly opened the door. He talked about, He's a
18 bad man, he was a man you won't like, he had torrid
19 affairs, he said plural, over and over.

20 As this case goes on, we may seek to introduce
21 that. At this point we would just ask to mark that
22 for ID, but it may become more relevant later in
23 the proceedings.

24 THE COURT: And I'll have to have Debbie go
25 back and look at it over lunch. I think he -- I'm

1 not sure if he said affairs or an affair.

2 MS. CAMPBELL: I specifically wrote it down as
3 soon as he said it.

4 MR. WHITLARK: Your Honor, I can tell you one
5 thing. Their description of it is inaccurate. I
6 haven't said a torrid affair or a tawdry affair. I
7 just simply said the man made -- you know, he had
8 stepped outside of the bounds of his marriage.

9 MS. CAMPBELL: The record will --

10 MR. WHITLARK: Well, let me finish. When I
11 was discussing it, I said, They said he was a bad
12 man because of this. I mean, I'm not -- I didn't
13 say he was a bad man.

14 MS. CAMPBELL: You said, You are going to hate
15 him.

16 THE COURT: All right. Well, we'll listen.
17 We'll have Ms McCurdy pull it up over lunch, and
18 then we can take a look at it. But for purposes of
19 right now, I don't find that the -- I'm not going
20 to allow the actual video from the hotel in. It's
21 not relevant.

22 He can testify to what he found from his
23 investigation. I think that was in my ruling
24 earlier as to that one, because I think you all
25 said that there are some other affairs, but they

1 were so remote in time as to relevancy as to this
2 case. I'm not sure.

3 MS. WALKER: Your Honor, at this point in
4 time, we are just limiting it to this one female.

5 THE COURT: All right. Do y'all need to take
6 a break?

7 MR. WHITLARK: Yes, Your Honor.

8 THE COURT: All right. We will take about
9 five minutes.

10 MR. WHITLARK: Thank you, Your Honor.

11 (WHEREUPON, a break was taken.)

12 THE COURT: This is an order for
13 transportation of evidence.

14 MS. CAMPBELL: We have a separate order
15 releasing the evidence for purposes of this.

16 THE COURT: The stuff that is already entered.

17 MS. McDUFFIE: Your Honor, I am going to do
18 that, but I need to get with the clerk to get their
19 evidence numbers if they don't correspond with
20 those numbers, so I'll do that at lunch or this
21 afternoon.

22 THE COURT: Okay. That sounds good. Yes,
23 that one doesn't have to be done right away.

24 All right, are you ready to bring them in?

25 MS. WALKER: Yes, Your Honor.

1 THE COURT: All right. And your objection is
2 to 436, and that objection -- I'll put it on the
3 record.

4 MS. WALKER: Your Honor, we can go ahead and
5 mark it for ID.

6 THE COURT: All right.

7 MR. WHITLARK: Your Honor, I just want to put
8 something on the record, Your Honor.

9 THE COURT: Yes, sir.

10 MR. WHITLARK: I believe the Court misheard
11 one thing in regard to this about this testimony of
12 this lady, the one I call contemporaneous.

13 THE COURT: Yes.

14 MR. WHITLARK: She didn't -- he has not said
15 and neither has -- she never said that he told her
16 anything was in the desk. He has never said that.
17 And they'll agree to that, that she did not tell
18 them that.

19 THE COURT: Or he pointed to it.

20 MR. WHITLARK: Yeah, or something about the
21 allegation --

22 MS. WALKER: He called it nonverbal
23 communication.

24 MR. WHITLARK: I understand, but I keep
25 hearing something about he told her that. He did

1 not say that.

2 THE COURT: Okay. That is probably my
3 misunderstanding, but in the statement it just says
4 he tapped on the desk suggesting that the gun was
5 in the desk. But he is not going to testify to any
6 of that.

7 MS. WALKER: No, Your Honor.

8 THE COURT: Okay.

9 MR. WHITLARK: Thank you, Your Honor.

10 THE COURT: We'll have to deal with that one
11 when they get ready to call -- I don't know her
12 name.

13 Okay. All right. You can bring them in.

14 (WHEREUPON, the jury came into open
15 court at 11:30 a.m.)

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

17 THE COURT: All right. We will continue with
18 the direct examination by Ms. Walker of
19 Investigator Metz.

20 And for purposes of the record, State's
21 Exhibit Number 436 will be marked for ID purposes.
22 The objection to that exhibit is sustained.

23 (WHEREUPON, State's Exhibit No. 436 was
24 marked for identification only.)

25 **DIRECT EXAMINATION CONTINUES**

1 BY MS. WALKER:

2 Q You went to the Executive Inn?

3 A That's correct.

4 Q Which you stated before the break is a local motel?

5 A That's correct.

6 Q And when you were going to the Executive Inn, what
7 video were you going to download?

8 A It was requested by Major Smith to download the
9 video that showed the Defendant arriving at the
10 motel and staying at the motel.

11 Q What date was that, that arrival?

12 A That was on the 10th of April of 2012.

13 Q Three days before the murders?

14 A That's correct.

15 Q And was he alone? Was the Defendant alone?

16 A He was alone when he arrived.

17 Q Did someone else later join him?

18 A They did.

19 Q And can you describe the individual that joined
20 him?

21 A It was a female. I did not know her and did not
22 recognize her.

23 MS. WALKER: Your Honor, this is marked
24 State's Exhibit 436, marked for identification
25 purposes.

1 BY MS. WALKER:

2 Q Can you kind of describe for the jury what is on
3 that, what is on the video, the interaction between
4 the Defendant and the female that later met him?

5 A I can. There are multiple, what we call, channels,
6 multiple views of the video, so you have a lot to
7 view. You have views of the front and rear of the
8 motel.

9 At one point I saw the Defendant, it appeared
10 to be driving the same small white SUV that I had
11 seen at the residence before. He pulled up in
12 front of the residence [sic], came in, appeared to
13 be paying for the room, then pulled around to the
14 rear parking lot.

15 Shortly thereafter a female pulled up. They
16 went into a -- I'm assuming into a room. I didn't
17 see the door. And then sometime later came back
18 out and got in their individual cars and left.

19 Q Later that same day?

20 A That same day.

21 Q And when they exited that room, were they together?

22 A They were.

23 Q But then they left separately?

24 A In separate cars, yes.

25 MS. WALKER: No further questions.

1 THE COURT: All right.

2 MR. WHITLARK: May it please the Court, Your
3 Honor?

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. WHITLARK:

7 Q Investigator Metz?

8 A That's correct.

9 Q Investigator Metz, you said that you had a
10 conversation with Major Smith that day, the day of
11 the incident, right? Is that correct?

12 A That's correct.

13 Q Okay. Do you have your notes with you?

14 A I do.

15 Q All right. What time was that that you had that
16 conversation?

17 A I spoke with him at 1630, or 4:30 in the afternoon.

18 Q All right. And tell me -- tell us again what it
19 is -- what was in the conversation? What was he
20 asking you?

21 A He was directing me to go to the Tackeria Court
22 address and to stand by there.

23 Q Right. Well, didn't y'all have a conversation
24 about retrieving the security tape or the filming
25 on the house?

1 A Correct.

2 Q Right. Well, can you tell me what he asked you,
3 what Smith said to you about that? What did y'all
4 talk about?

5 A I don't recall the exact conversation. He directed
6 me -- I became aware from our conversation that he
7 was aware of the video in existence at the house,
8 and then directed me to go to the house and stand
9 by until I was able to view the video and download
10 it.

11 Q Did he have some specific questions for you about
12 the video and about what he wanted to see, see if
13 something was on there? About parking or
14 something?

15 A I'm not sure if it was during that conversation or
16 later while I was at the residence about where the
17 car was parked.

18 Q Okay. But you do specifically remember Major Smith
19 asking you where the car -- where Bryan
20 Capnerhurst's car was parked, right?

21 A I don't know that that was Major Smith, but it was
22 asked of me at some point before I went in.

23 Q Okay. Who else did you talk to other than Smith
24 about this, if you can recall?

25 A There were several officers there. I don't --

1 Q Do you remember?

2 A No, sir.

3 Q Okay. And what time was it again when he talked to
4 you about this?

5 A It was right at 4:30 in the afternoon.

6 MR. WHITLARK: That's all the questions I
7 have, Your Honor. Thank you.

8 MS. WALKER: No questions, Your Honor.

9 THE COURT: All right, sir. You may step
10 down.

11 (Witness steps down.)

12 THE COURT: Any objection to this witness
13 being excused?

14 MR. WHITLARK: None from the Defense, Your
15 Honor.

16 MS. WALKER: None from the State.

17 THE COURT: All right.

18 (Witness excused.)

19 THE COURT: Call your next witness.

20 MS. SIMPSON: The State calls William
21 Cedarstaff.

22 (Witness approaches.)

23 THE BAILIFF: Place your left hand on the.
24 Bible, and raise your right hand, please.

25 (Witness complies.)

1 THE CLERK: Do you swear or affirm the
2 testimony you are about to give in this case will
3 be the truth, the whole truth, and nothing but the
4 truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Have a seat in the witness box.

7 (Witness complies.)

8 THE CLERK: State your name for the record.
9 Spell your last name, please.

10 THE WITNESS: William Cedarstaff,
11 C-E-D-A-R-S-T-A-F-F.

12 WILLIAM CEDARSTAFF,
13 after being duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. SIMPSON:

16 Q Mr. Cedarstaff, where are you employed?

17 A Richland County Sheriff's Department.

18 Q And what do you do at the Sheriff's Department?

19 A I'm an evidence technician.

20 Q And as an evidence technician, what do you do?

21 A Whenever officers are on a scene, they collect
22 evidence. They bring it back to a processing room.
23 And once they finish getting it packaged, they
24 would turn it into the evidence room and to me.

25 Q And describe the evidence room for the jury.

1 A Our evidence room, it is like a warehouse, but
2 everything that is in there is documented into an
3 assigned place. We'll bring in items, depending on
4 if it is liquid or solid, where it has to be,
5 whether it has to be refrigerated or it has to be
6 climate controlled. And then we take these items
7 under each case number and we will log them in how
8 we receive them.

9 Q And do you have standards in place for which you
10 will take in a piece of evidence? Like, are there
11 requirements as far as packaging?

12 A Yes. When they turn it into evidence, they have
13 to -- everything has to be packaged and sealed
14 correctly. If it's not packaged or sealed
15 correctly or the wrong information is on it, we
16 will not take it. The officer will have to correct
17 it before we can bring it into the evidence room.

18 Q And did you actually take custody of some evidence
19 in this case?

20 A Yes, I did.

21 Q And did that include three GSR kits: One from a
22 Tammy Parker, one from Brett Parker, and one from
23 Bryan Capnerhurst?

24 A I did.

25 Q And when did you receive those items?

1 A I received those items on April 16th, 2012, at
2 12:47 p.m.

3 Q Okay. And were those collected from Sergeant
4 Richards?

5 A They were from -- yes, from Stan Richards.

6 Q And when you received them, were they properly
7 sealed and packaged?

8 A That is correct.

9 Q And while they were in your custody, were they
10 tampered or altered in any way?

11 A No, they were not.

12 Q I'm going to show you what has been marked as
13 State's Exhibit 408 for identification. Do you
14 recognize that?

15 A Yes, I do.

16 Q What is that?

17 A This is the packaging containing the three GSR kits
18 from Tammy Parker, Brett Parker, and Bryan
19 Capnerhurst. My initials and the date and time
20 that I received them are on the bottom.

21 Q Okay. And were these items subsequently
22 transported to another laboratory by you?

23 A Yes, they were.

24 Q And when was that done and where did you take them?

25 A That was on April 17th and it went into the SLED

1 lab room at 12:03 in the afternoon.

2 Q And, again, while you transported those items, were
3 they altered or tampered with in any way?

4 A No, they were not.

5 Q And they properly sealed and packaged while in your
6 custody?

7 A That is correct.

8 MS. SIMPSON: Your Honor, at this time the
9 State would introduce State's 408 in evidence.

10 THE COURT: Any objection?

11 MR. WHITLARK: No objection, Your Honor.

12 THE COURT: It will be entered without
13 objection.

14 (WHEREUPON, State's Exhibit No. 408 was
15 marked for identification and received
16 into evidence.)

17 MS. SIMPSON: Thank you. Nothing further from
18 this witness.

19 THE COURT: Yes, sir?

20 MR. WHITLARK: May it please the Court, Your
21 Honor?

22 CROSS-EXAMINATION

23 BY MR. WHITLARK:

24 Q I'm sorry, I didn't hear your last name, sir.

25 A Cedarstaff.

1 Q Hello, Officer Cedarstaff -- is it officer or
2 investigator?

3 A I'm an evidence technician.

4 Q How are you doing? Does it show on there that --
5 do you know who Sergeant Richards is?

6 A Correct.

7 Q Do you have your files with you?

8 A Yes, sir.

9 Q He came back in there before it was put into
10 evidence and reopened those three packages, didn't
11 he?

12 A I could not tell you that, sir. I got them when I
13 processed them in.

14 Q Okay. If somebody had given you these three
15 kits -- once you get them, that's it, then you took
16 them to SLED and nobody else has access to them, is
17 that right?

18 A I did not take them immediately to SLED, sir.

19 Q Oh, I gotcha. I gotcha.

20 A They were processed, put in a shelf bin, and then
21 on the 17th I took them to SLED.

22 Q I gotcha. All right. And, again, what date did
23 you get them again?

24 A I received them on the 16th of April.

25 Q Okay. Are you aware that they were reopened and

1 then submitted into evidence?

2 A Let me check my sheets. I'll tell you, sir.

3 Q Okay.

4 (Pause.)

5 A No, sir, I do not show that. From the time that

6 they were received to the time that I took them in,

7 they were not checked out.

8 Q Okay. Once you get them, nobody is supposed to

9 touch them, right? I mean, you maintain them?

10 A We maintain them unless they are called for.

11 Q Okay. And you don't have any evidence of that in

12 your record, your file?

13 A Not as far as my team has said, no, sir.

14 Q Thank you very much.

15 MR. WHITLARK: That's all I have, Your Honor.

16 THE COURT: Anything else from the State?

17 MS. SIMPSON: No, Your Honor.

18 THE COURT: You may step down.

19 (Witness steps down.)

20 THE COURT: Any objection to this witness

21 being excused?

22 MS. SIMPSON: None from the State.

23 MR. WHITLARK: I'm sorry, Your Honor. Yes,

24 please release him from the subpoena.

25 THE COURT: All right, thank you.

1 (Witness excused.)

2 THE COURT: All right, call your next witness.

3 MS. SIMPSON: The State would call Donald
4 McRea..

5 (Witness approaches.)

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

8 (Witness complies.)

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

13 THE WITNESS: I do.

14 THE CLERK: Have a seat in the witness box.

15 (Witness complies.)

16 THE CLERK: State your full name for the
17 record. Spell your last name, please.

18 THE WITNESS: Donald McRae, M-C-R-A-E.

19 DONALD McRAE,
20 after being duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. SIMPSON:

23 Q Investigator McRae, where are you employed?

24 A The Richland County Sheriff's Department.

25 Q And how long have you been with the Sheriff's

1 Department?

2 A Ten years.

3 Q And where do you work now within the Sheriff's
4 Department?

5 A I'm currently assigned to the evidence property
6 section.

7 Q And prior to that what were you doing?

8 A I was an investigator for the Sheriff's Department,
9 major crimes unit.

10 Q Okay. And in the property unit, what do you do?

11 A Log in and maintain evidence within the Sheriff's
12 Department within the evidence property section.

13 Q And do you work alongside with William Cedarstaff?

14 A I do.

15 Q And, again, tell the jury, what is the evidence
16 room?

17 A The evidence room is a location within the
18 Sheriff's Department where evidence and property is
19 stored and maintained throughout the duration of
20 the particular case.

21 Q And is that facility or area where the evidence is
22 stored, is it secured?

23 A It is. It is secured by a lock and alarm system.

24 Q And do you adhere to certain procedures or
25 standards with respect to receiving an item of

1 evidence before you log it in?

2 A Yes, we do.

3 Q And what are some of those?

4 A The evidence, before we will take it in, must be
5 properly packaged whether -- depending on the type
6 of evidence or property that it is, it must be
7 placed in the correct packing material, taped, and
8 sealed shut with evidence tape.

9 The officer that submits the evidence must
10 initial and date each side of the evidence tape or
11 any opening within the packaging. They must affix
12 their initials and the date that that evidence was
13 turned into the evidence room.

14 Q And if something is not properly sealed or
15 packaged, what do you do?

16 A If the officer is readily available, if the officer
17 is there at the door turning in the packaging, the
18 package will then immediately be refused. The
19 officer will be shown what he needs to correct or
20 fix.

21 Once the officer corrects or fixes that item,
22 then we will take the item in. If the evidence is
23 dropped in one of our secured locked lockers within
24 the evidence room outside of our normal working
25 hours, the next morning we'll pull it out, log it

1 in, if there are no mistakes within that packaging.

2 If there are errors, that evidence will be
3 placed back into that original locker that it was
4 dropped in. The officer will be contacted and then
5 the officer will come back, get the item out -- we
6 will get the item out of the locker for him, and he
7 or she will fix it at that point.

8 Q So you're not actually the person who collects the
9 evidence, correct?

10 A No, ma'am.

11 Q You just maintain and secure the evidence?

12 A Correct. I log it into our system of property, our
13 management system for property and evidence. All
14 the evidence is collected by officers or
15 investigators with the crime scene lab and brought
16 to the evidence room.

17 Q And, again, if it's not properly sealed or
18 packaged, you don't take that item of evidence?

19 A No, ma'am.

20 Q Did you handle some evidence in this case?

21 A I did.

22 Q And I want to direct your attention to State's
23 Exhibit 433. Do you recognize that?

24 A I do. It is a GSR kit of the interior residence.

25 Q And when did you receive that item of evidence?

- 1 A The evidence as brought into the evidence room?
- 2 Q Okay. So the evidence, you didn't directly receive
- 3 it --
- 4 A No, I did not.
- 5 Q -- when it was first submitted?
- 6 A No. Mr. Cedarstaff would have received this piece
- 7 of evidence as indicated by his initials, date, and
- 8 time, which are the date and time that he received
- 9 them.
- 10 Q Okay. And what was the date and time that they
- 11 were actually submitted to the Richland County
- 12 evidence room?
- 13 A They were submitted on 5/23/2012 at 1541, or 3:41
- 14 in the afternoon.
- 15 Q Okay. And at some point did you retrieve this item
- 16 of evidence?
- 17 A I did.
- 18 Q And what did you do with it?
- 19 A On 5/24/2012 at approximately 9:50 in the morning,
- 20 I checked this item out and transported it to SLED
- 21 for processing.
- 22 Q Okay. And that is the State Law Enforcement
- 23 Division?
- 24 A Yes, State Law Enforcement Division. Their
- 25 evidence section is where we turn it in. Then it

1 goes through their chain at SLED.

2 Q Okay. And so while this piece of evidence was in
3 the evidence room at Richland County, was it
4 altered or tampered with in any way?

5 A No.

6 Q And so it was at all times properly sealed and
7 packaged?

8 A Yes.

9 Q And while it was in your custody, was it tampered
10 or altered with in any way?

11 A No.

12 MS. SIMPSON: Your Honor, at this time the
13 State would offer State's 433 into evidence.

14 THE COURT: Any objection?

15 MR. WHITLARK: No objection, Your Honor.
16 Well, I'm sorry, Your Honor. I have a standard
17 objection to this whole series of evidence here,
18 and I objected to it once, and I guess if we can
19 maintain that objection to save time.

20 THE COURT: All right. Your objection is
21 preserved for the record. It will be entered over
22 the objection of the Defendant.

23 MR. WHITLARK: Thank you, Your Honor.

24 [REPORTER'S NOTE: State's Exhibit 433
25 was previously entered.]

1 BY MS. SIMPSON:

2 Q Thank you, Investigator.

3 A Yes, ma'am.

4 MR. WHITLARK: May it please the Court, Your
5 Honor?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. WHITLARK:

9 Q Investigator McRae, when you receive an item of
10 evidence from them, you don't know what has
11 happened to it before then, you are just taking --
12 you are basically taking it in and maintaining a
13 chain of custody on what you receive, right?

14 A As far as a new piece of evidence? I mean, you
15 know, it has never been in the evidence room before
16 packaged from an officer brought to me for the
17 first time?

18 Q Right.

19 A No, sir, I don't.

20 Q Okay. We don't know what has happened to it. What
21 type of investigations did you used to do?

22 A I have done investigations from simple larceny to
23 homicide.

24 Q Okay. Well, it's unusual, isn't it, sir, to have a
25 GSR kit closed and then reopened before submission

1 of the evidence, isn't it? Is that unusual?

2 A I've never worked crime scene. I can't in my
3 experience be able to answer that question.

4 Q I gotcha. I gotcha. Thank you.

5 MR. WHITLARK: No further questions, Your
6 Honor.

7 THE WITNESS: Yes, sir.

8 THE COURT: Anything else from the State?

9 MS. SIMPSON: No, Your Honor. Nothing else
10 from the State.

11 THE COURT: All right. You may step down,
12 sir.

13 (Witness steps down.)

14 THE COURT: Any objection to this witness
15 being excused?

16 MR. WHITLARK: No, no objection.

17 THE COURT: All right, you are free to leave.

18 (Witness excused.)

19 THE COURT: Call your next witness.

20 MS. SIMPSON: The State calls John Barron.

21 (Witness approaches.)

22 THE BAILIFF: Place your left hand on the.
23 Bible, and raise your right hand, please.

24 (Witness complies.)

25 THE CLERK: Do you swear or affirm the

1 testimony you are about to give in this case will
2 be the truth, the whole truth, and nothing but the
3 truth, so help you God?

4 THE WITNESS: Yes, I do.

5 THE CLERK: Have a seat in the witness box.

6 (Witness complies.)

7 THE CLERK: State your full name for the
8 record. Spell your last name, please.

9 THE WITNESS: My name is John Barron,
10 B-A-R-R-O-N.

11 JOHN BARRON,
12 after being duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. SIMPSON:

15 Q Mr. Barron, what is your profession?

16 A I'm a forensic scientist, presently a forensic DNA
17 analyst at the Richland County Sheriff's
18 Department.

19 Q Okay. And how long have you been with the
20 Sheriff's Department?

21 A Nine years.

22 Q And as a DNA analyst, what are some of your duties
23 and responsibilities?

24 A As a DNA analyst, my duty is to take evidence that
25 has been collected by other people, as well as

1 evidence that has been collected by myself, to
2 examine such evidence for biological material.

3 That could be blood. That can be hair. That
4 can be semen. That can be skin cells. That can be
5 saliva.

6 In many cases, such as the case of blood and
7 semen, I would identify it as such, and in all
8 cases to extract biological material and to get the
9 DNA from the material and to develop DNA profiles
10 for forensic comparisons.

11 Q And can you tell the jury about your educational
12 background and training?

13 A Yes. I have a Bachelor of Science degree in
14 microbiology from Clemson University. After a year
15 as an environmental scientist with DHEC or the
16 Department of Health and Environmental Control, I
17 went to SLED as a forensic scientist to be trained
18 there.

19 My first few years I was a forensic
20 serologist. A forensic serologist is involved with
21 the identification of biological materials I just
22 described, except it was the case when I first came
23 to SLED, DNA analysis did not exist. It was blood
24 typing. So we would type material to determine if
25 it was Blood Type A or B, or et cetera.

1 From that I went to the trace evidence
2 department and became an expert in hair and fiber
3 comparison, as well as gunshot residue and gun
4 primer analysis and paint comparisons.

5 Then in 1999 when SLED went from the old DNA
6 technology to the present, new DNA technology, I
7 came on board and became in the first group that
8 was trained in the new DNA technology at SLED and
9 became part of the first group of qualified DNA
10 analysts in that technology in the State of South
11 Carolina.

12 In 2004 I then subsequently came to the
13 Richland County Sheriff's Department, myself and
14 another DNA analyst from SLED, to establish the DNA
15 laboratory at Richland County.

16 During my career as a DNA analyst, I have
17 testified in court as a qualified DNA analyst about
18 40 times.

19 Q And that is an expert as a DNA analyst, correct?

20 A That's correct.

21 Q Have you testified as an expert in other fields as
22 well?

23 A Yes, I have. I have testified numerous times --
24 well, several hundred times in forensic serology,
25 which is the identification of biological material

1 and blood typing.

2 Q And do you participate in any continuing education
3 or course requirements?

4 A Yes. Subsequent to my DNA training at SLED, I also
5 attended the University of South Carolina and
6 received two -- or completed two graduate level
7 courses in molecular biology and statistics.
8 Statistics is essential -- plays a central role in
9 DNA analysis because it determines the weight of
10 the evidence.

11 Subsequent to that, being qualified yearly, I
12 attend continuing education in the updates in DNA
13 analysis and statistical analysis in regards to
14 DNA.

15 I complete -- in DNA we have to do two
16 proficiency tests every year instead of one, as
17 everyone else does, and I have successfully
18 completed proficiency testing every year since
19 becoming a DNA analyst.

20 MS. SIMPSON: Your Honor, at this time I would
21 offer John Barron as an expert in DNA analysis.

22 MR. WHITLARK: Voir dire the witness, please,
23 Your Honor?

24 THE COURT: Yes, sir, you may.

25 VOIR DIRE EXAMINATION

1 BY MR. WHITLARK:

2 Q Hello, Mr. Barron. Mr. Barron, now you went to
3 Clemson and got a degree in what?

4 A Microbiology.

5 Q Okay. And what did you do after that, after
6 Clemson?

7 A I spent a year at DHEC as an environmental
8 scientist doing environmental chemistry. Then I
9 went to SLED and began training as a forensic
10 serologist.

11 Q Okay. How long were you at SLED?

12 A I was at SLED 27 years.

13 Q Okay. And was DNA part of the thing that you
14 learned?

15 A Later on in 1999. DNA was the last thing I did at
16 SLED.

17 Q Okay. All right. And you did some work in this
18 case on the DNA? How many samples did you look at
19 in this case?

20 A I looked at several samples.

21 Q Can you tell me the total number of samples you
22 looked at?

23 A Yes. Including known buccal swabs from
24 individuals, I examined 11 samples.

25 Q Eleven samples?

1 A Uh-huh.

2 Q When you say 11 samples, that's 11 samples from
3 either people or objects, is that right?

4 A People or evidence, yes.

5 Q Okay. And can you tell me how many people versus
6 objects there are?

7 A I did three known DNA analyses. And that was from
8 Tammy Parker, Bryan Capnerhurst, and Brett Parker.

9 MR. WHITLARK: We'll stipulate to his
10 qualifications, Your Honor.

11 THE COURT: All right. Ladies and gentlemen
12 of the jury, Mr. Barron will be qualified as an
13 expert in the area of DNA analysis to give opinion
14 testimony in that area.

15 You may continue.

16 **DIRECT EXAMINATION CONTINUES**

17 BY MS. SIMPSON:

18 Q Can you tell me about the lab that you work in at
19 Richland County?

20 A Richland County has some DNA laboratories, as I
21 stated earlier. It is a certified DNA lab. It is
22 certified by the American Society of Crime
23 Laboratory Directors, as well as the FBI.

24 The FBI is in charge of housing the DNA,
25 natural DNA database, and we are qualified to do

1 so. We have been inspected by the FBI. We have
2 been inspected by ASCLD. We have been certified by
3 both.

4 We are allowed to then develop DNA profiles
5 from evidence and upload to the national DNA
6 database where they are compared to convicted
7 offenders.

8 And if any matches occur, then that match
9 comes back to me, and I report it to our
10 investigator.

11 Q Okay. And are all labs accredited, or is this
12 something that labs seek to attain?

13 A Any laboratory that submits DNA profiles to the
14 national DNA database has to be certified.

15 Q What exactly is DNA?

16 A DNA is a molecule that exists in most of the cells
17 of your body. It identifies who you are. It is
18 unique to you, unless you have an identical twin.
19 The majority of DNA does not really code for
20 anything. It's there. A lot of it we don't even
21 know what purpose it is.

22 But there are markers there that develop, you
23 know, all your characteristics, defining you as a
24 human being versus an animal or plant -- other
25 animals or plants.

1 And there are portions of the DNA molecule
2 that have been identified and used by scientists
3 originally at the FBI and other national
4 laboratories for human identification. And that
5 technology has been passed down to state
6 laboratories initially and now to local
7 laboratories as well.

8 But that portion of the DNA molecule used for
9 human identification is copied, and the profile is
10 developed. And then we can take the profiles we
11 get from the evidence and we can compare it to the
12 profiles we get from known individuals and
13 determine whether or not it's the same or not.

14 Q And the DNA, you said, I think, it comes from cells
15 within the body?

16 A Correct.

17 Q And is DNA the same no matter what cell it is?

18 A That's correct. Your DNA from your blood will be
19 the same as the DNA in your skin, the DNA in your
20 hair, the DNA in your mouth, et cetera.

21 Q And does the DNA vary from person to person?

22 A Yes, it does, with the exception, as I said, of
23 identical twins, not a fraternal twin, but an
24 identical twin. DNA in every individual is
25 different.

1 Q And what are some of the sources or different types
2 of sources where DNA may be collected from?

3 A DNA, like I said, is in most every cell in your
4 body, so therefore any tissue, any biological
5 material in your body. Your blood is the most
6 common source that we think of when we think of a
7 crime because blood may be shed.

8 It can also be in the root of your hair,
9 where, say, in a crime somebody pulls your hair
10 out, there can be DNA in the tissue that is
11 attached to the root of the hair.

12 There can be DNA in your mouth. So anything
13 you put your mouth on could leave your DNA. In
14 many burglary cases I've worked, you know, where
15 people break in, they will go in the refrigerator
16 and take a bite of an apple and leave it there, and
17 we can find the DNA. Or a cigarette you smoked.
18 Or a can of soda that you drank. All that can
19 leave DNA.

20 And the DNA technology has progressed to the
21 point where we don't need a whole lot of DNA from
22 you to find your DNA profile. So every skin cell
23 in your body also has a nucleus which contains DNA.
24 So you can actually now touch an object with your
25 hand and leave enough skin cells to develop DNA

1 profiles from it.

2 That is a different -- it's relatively new to
3 the DNA technology, we have been doing it for
4 several years now, and we have successfully
5 developed what we call touch DNA and compared it
6 and identified individuals with it.

7 Q Okay. And if I necessarily touch an item, are you
8 going to be able to collect DNA from that object?

9 A Well, we cannot see your skin cells, but we can see
10 a blood stain. So we can tell if blood is there.
11 We can tell if a semen stain is there because it
12 fluoresces a certain way.

13 The skin cells -- there is no specific
14 serological test for it -- so what we do is we
15 simply swab the object that is purported to be
16 touched by an individual, and we can then determine
17 if there is enough DNA present to develop a DNA
18 profile.

19 But we have found, or I have found by
20 experience, that some objects that are touched
21 leave -- the individual leaves a lot of DNA. And
22 some objects that are touched by an individual,
23 that we know are touched by an individual, for
24 instance, a burglary where somebody rummages
25 through the house and you can tell they have opened

1 up drawers, et cetera, touched things, where we
2 have found no DNA.

3 So it is kind of an individual thing. Some
4 people shed more of their cells than others, for
5 whatever reason. I don't know why. I just can
6 testify, comparatively speaking, that some people
7 leave more DNA than others when they touch objects.

8 Q And what type of testing methods are utilized with
9 respect to DNA?

10 A DNA, presently the technology is to extract the
11 swab or a cutting from a blood stain or semen stain
12 to strip away all the proteins and carbohydrates
13 and all the other material that binds DNA or that
14 might be packaged with DNA or might be contaminated
15 with the object.

16 As you can imagine, crime scenes there will be
17 a lot of dirt and soil and grass, and other
18 materials that could be attached as well. But we
19 strip it out with detergents and permeases, which
20 strip away proteins, leaving the raw DNA in
21 solution.

22 Then we purify it. We do a process by which
23 everything is removed except the DNA and a drop of
24 water, about 50 microliters, which is about, you
25 know, a few drops of water.

1 At that point we would run tests to determine
2 how much human DNA is present. We copy a certain
3 portion of DNA that is specific to human beings, as
4 opposed to bacteria or plants or other animals.
5 And we would determine exactly how much human DNA
6 is present.

7 Then we would, at that point, if we do have
8 enough DNA, we would then begin the copying
9 process, those portions of the DNA molecule that
10 are unique to individuals and use that to develop a
11 profile.

12 Q And do you have controls in place, I guess, to help
13 ensure the accuracy of your testing?

14 A Yes, we do. We run positive and negative controls
15 every time we amplify or copy -- the DNA term is
16 amplifying -- to make sure that all the chemicals
17 are working properly, that there is no
18 contamination present that would give us a false
19 DNA profile from a human being that may have
20 contaminated it. All of those are done, along with
21 each amplification, to ensure that the product we
22 get is the best product.

23 Q And does your lab conduct both serological testing,
24 as well as DNA?

25 A Yes, we do.

1 Q What is serological testing?

2 A Serological testing, as I think I sort of explained
3 before, is when you determine what type of body
4 fluid it is, that is a serological test. So we run
5 a test to determine if blood could be present or
6 semen could be present.

7 There's several tests that can be run. We
8 have chosen -- at Richland County we do a
9 presumptive test for blood, and then we confirm
10 that with the human DNA testing that we do.

11 We also do other testing for like semen stains
12 as well.

13 Q And can anything make a DNA sample change with
14 respect to from being one type or one person to
15 another person?

16 A No. There is nothing we do that would change my
17 DNA to, say, your DNA, no.

18 Q And if a DNA sample is properly collected and
19 stored, will it degrade over time?

20 A We have found that DNA is extremely stable,
21 actually. Unless some type of chemical is applied
22 or it is left in an extreme bad environmental
23 conditions, it could be stable for many years.

24 As a matter of fact, there is DNA typing --
25 DNA from mummies from Egypt, I mean, that's how

1 stable it can be.

2 Q And with respect to items that you actually test,
3 do they come to you properly sealed and packaged?

4 A Yes, they do.

5 Q And if they are not, do you test them?

6 A No, we return them back to the evidence room.

7 Q Briefly, what is a population frequency?

8 A Population frequency is how often something occurs
9 in the population. So any random event could have
10 a certain type of frequency.

11 For instance, just for an example, like when
12 dice that has one through six dots on it, on each
13 side, that is a frequency of one in six to roll a
14 one. Okay. So a frequency is simply a statistical
15 lab expressing how frequent something shows up in
16 the population.

17 Q And do you use population frequencies in your
18 testing?

19 A Yes, I do.

20 Q Do you always determine a population frequency, or
21 do you have standards in place for when one can or
22 cannot be reported?

23 A There are criteria that must be met before we can
24 apply statistical analysis to the DNA results we
25 receive on an object.

1 Q And did you examine some items of evidence in this
2 case?

3 A Yes.

4 Q What items were submitted to you and when did you
5 receive those items?

6 A I received buccal swabs from Tammy Parker, Bryan
7 Capnerhurst, a swab from the 9-millimeter Smith &
8 Wesson, GSR swabs from Bryan Capnerhurst, which
9 included a swab in nitric acid from the right palm
10 and a swab in nitric acid from the left palm.

11 I received another swab from the Smith &
12 Wesson, a swab from bag strips, a bag zipper. And
13 then a buccal swab from Brett Parker. And then one
14 item I received was collected in my presence by the
15 firearms examiner, Terri Gleason, at the Richland
16 County Sheriff's Department, when she brought the
17 9-millimeter Smith & Wesson into my laboratory,
18 opened it up, and pointed out some reddish-looking
19 stains inside of the chamber.

20 I asked her to swab those stains for me and
21 hand the swab to me, which she did. And then at
22 that point I began my testing.

23 Q Okay. And we heard of buccal swabs. Can you tell
24 the jury what a known standard is and why that is
25 important?

1 A A known standard could be any biological material
2 from your body that would be known to come from
3 you, that we collected from you, so as not to be
4 contaminated with anyone else.

5 We can use many different things for a known
6 sample. We used to require a blood sample to be
7 drawn. We discovered that the results from
8 swabbing the inside of your mouth, which is called
9 a buccal swab -- buccal simply is the physiological
10 term for the inside of your cheek area. So it's
11 just called a buccal swab.

12 That type of swab can be collected much more
13 easily and less painful to the individuals involved
14 and it gives us the same results. So simply now we
15 use a known standard as a buccal swab from an
16 individual.

17 Q Okay. And the known standard, or the buccal swab,
18 do you actually develop a profile for that person?

19 A That's correct.

20 Q And who all did you have in this case?

21 A Tammy Parker, Bryan Capnerhurst, and Brett Parker.

22 Q When you receive the items of evidence, is anything
23 done to them prior to you actually conducting your
24 testing? Is it handled or processed in any way
25 depending upon what the item can be?

1 A It can be. It can be. I mean, sometimes we
2 receive swabs that are collected from items that
3 have been fingerprinted already. I can tell
4 because there is fingerprint -- black fingerprint
5 dust on them.

6 There can be prior handling and testing prior
7 to getting to the DNA laboratory. But when it's
8 submitted to our laboratory, it's submitted in a
9 sealed, properly sealed container, so that I know
10 when I receive it, it has -- whoever has handled it
11 before has properly sealed it.

12 Q And did these items come to you properly sealed and
13 packaged?

14 A That's correct. They did.

15 Q And we talked about collecting a swab. How are
16 swabs collected, or how are they taken?

17 A The swabs are taken with, you know, a clean sterile
18 swab and applied with water, saline, it doesn't
19 matter, but it has to be clean and DNA-free. And
20 it is just moistened with that, and then the object
21 is swabbed.

22 We like to see them rotate the swab and try to
23 get as much DNA as possible. Sometimes we have to
24 use more than one swab, which we can combine and
25 put together and track it together.

1 Q On these items, what type of testing did you do?

2 A I did the serological testing for anything that
3 looked like it may have blood on it, and, of
4 course, I did the DNA testing as well.

5 Q And with respect to the serological testing, was
6 blood indicated on any of the items?

7 A Yes, it was.

8 Q What were those?

9 A Blood was indicated on Item 34, which was a swab
10 from the 9-millimeter Smith & Wesson.

11 It was indicated on Item 35.1, which is the
12 swab in nitric acid from the right palm of Bryan
13 Capnerhurst.

14 35.2, blood was indicated on the swab in
15 nitric acid of the left palm of Bryan Capnerhurst.

16 And Item 52, which was the swab that I was
17 talking about earlier from the inside of the
18 chamber of the 9-millimeter Smith & Wesson that
19 Terri Gleason, the firearms examiner, brought to my
20 laboratory.

21 Q With respect to your testing, both the serological
22 and DNA, do you formulate your findings into a
23 report?

24 A I do.

25 Q I'm going to show you what has been marked as

1 State's Exhibit 438 for identification. What does
2 that represent?

3 A That is a chart that someone developed indicating
4 the results of my report.

5 Q And does it fairly and accurately depict your
6 results?

7 A Yes. I was shown a copy of it earlier and it does.

8 Q And would this assist you in your testimony to the
9 jury?

10 A Sure.

11 MS. SIMPSON: Your Honor, at this time I would
12 like to use State's Exhibit 438 for demonstrative
13 purposes.

14 (Pause.)

15 MR. WHITLARK: Okay. No objection, Your
16 Honor.

17 MS. SIMPSON: Permission for the witness to
18 step down?

19 THE COURT: Yes, sir, you may.

20 438 is entered for demonstrative purposes.

21 (WHEREUPON, State's Exhibit No. 438 was
22 marked for identification only.)

23 (Witness steps down.)

24 BY MS. SIMPSON:

25 Q Stand on this side so the court reporter can hear

1 you.

2 (Complies.)

3 Q I'd like to go through the individual items and
4 what your findings were with respect to those
5 items. Again, Item 5 was just the buccal swab from
6 Tammy Parker?

7 A It was. Item 5 was Tammy Parker's buccal swab.
8 Item 14, the buccal swab from Bryan Capnerhurst.
9 And Item 105 was the buccal swab from Brett Parker.

10 Q And those were all the known standards that were
11 used for comparison?

12 A Yes, they were.

13 Q Let's talk about Item 34. What was that and what
14 kind of testing did you do?

15 A That was a swab from the 9-millimeter Smith &
16 Wesson.

17 Q And what type of testing did you do on that item?

18 A I tested it for blood. There were red stains on
19 the swab, and it tested positive, a presumptive
20 test for blood. Then I proceeded to do the DNA
21 analysis on it.

22 I did develop a complete DNA profile from it.
23 I found that by comparing it to the three
24 individuals involved, that it perfectly matched
25 Bryan Capnerhurst.

1 And I developed a statistical frequency from
2 seeing that profile in the population. I used the
3 Caucasian population since we were dealing with
4 white individuals.

5 I found that the frequency of that profile
6 was one in 850 quadrillion, which is probably a
7 number that you have never heard of because it's so
8 big.

9 The population of the earth is several
10 thousand times less than that. That tells us,
11 statistically speaking, that it is a unique DNA
12 profile, and it does belong to Bryan Capnerhurst.

13 Q And this DNA came from a swab where blood was
14 indicated?

15 A That's correct.

16 Q So the DNA was from a blood source?

17 A Yes. We also, when we have blood, it usually gives
18 us a lot of DNA, especially if you have plenty of
19 blood. There are some instances where we have very
20 trace amounts of blood, and that wouldn't be true.

21 But most of the time we get a lot of DNA from
22 blood. We actually dilute the DNA down to where we
23 would minimize any DNA from the background and get
24 the DNA from the blood sample.

25 Q Okay. And then Item 35 has been broken up into

1 Items 35.1 and 35.2. Can you tell us about 35.1?

2 A 35.1 was a swab that was originally collected to
3 run a gunshot residue analysis on it. It is put
4 into nitric acid where the gunshot residue is
5 dissolved and tested.

6 We do not do that testing at Richland County.
7 It is forwarded to SLED for analysis, but I was
8 asked to determine, since it appeared to have blood
9 on it by the investigator, to see if I could
10 identify that blood.

11 I did the presumptive test, which is extremely
12 sensitive. It detects blood at very dilute levels,
13 sometimes beyond levels that you can even see that
14 there was a stain.

15 I did find that the test was positive. I
16 tried to develop a DNA profile from it. I got a
17 very, very minimal amount of DNA. It is what we
18 call too weak to interpret, in other words, it is
19 so weak that I did not get a complete profile. And
20 the little bit of DNA I got was not enough to
21 comply with the statistical values to it.

22 I believe -- and subsequent research has found
23 that nitric acid would be something that would
24 destroy DNA. And I found that nitric acid is used
25 in research to divide or destroy DNA.

1 So although it looked like a lot of blood,
2 plenty of blood to get DNA from, I believe the
3 nitric acid destroyed it.

4 Q And that was on the right palm -- the swab from the
5 right palm of Bryan Capnerhurst's GSR?

6 A That's correct.

7 Q Indicating that blood was there, but you were just
8 unable to develop the DNA profile?

9 A There was an indication that blood was there. It
10 had the red appearance of blood. But when I did
11 the DNA testing, I was not able to get a sufficient
12 enough DNA result to determine if there was a
13 profile present.

14 Q And Item 35.2, what is that?

15 A 35.2 is a similar swab from the left palm of Bryan
16 Capnerhurst. Again, the blood test was positive.
17 Again, I distracted the DNA this time, and I didn't
18 get any DNA at all.

19 So the other, I got a very a minimal amount.
20 This one, I didn't get any at all. So the nitric
21 acid had definitely destroyed the DNA in my
22 opinion.

23 Q And, again, that's the swab from the left side of
24 Capnerhurst's palm?

25 A That's correct.

1 Q And that's from the GSR kit?

2 A That's correct.

3 Q Let's move to Item 46.

4 A 46 is another swab from the 9-millimeter Smith &
5 Wesson. This swab is not taken from an area that
6 had blood. This would be an attempt to determine
7 if there was any skin cells or touch DNA on the
8 weapon. I extracted it for DNA. There was no DNA
9 present.

10 Q Okay. And as far as result where no DNA is
11 extracted --

12 A Correct.

13 Q -- what happens with respect to your testing?

14 A It ends right there.

15 Q Okay. And then moving to Item 50, tell us what
16 that is and what your results were.

17 A Item 50, as far as I'm concerned, is a swab from
18 bag straps. Now, I don't know what bag or how that
19 is related to the case. I just received it and
20 this is how it was identified to me.

21 Always, in the case of objects people carry or
22 objects that you wear, the object is -- if there's
23 no stains on it, you look for DNA from your skin
24 cells that may be present on the object.

25 From the bag straps, that would be somebody