

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

Brian M. Gibbons, Circuit Court Judge

RECEIVED

AUG - 9 2016

SC SUPREME COURT

JOHNNIE FRAZIER

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000387

APPENDIX

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1	<u>E X H I B I T S</u>				
	<u>STATE'S</u>				
3	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
4	1	PHOTOGRAPH	X	X	38, 75
5	2	PHOTOGRAPH	X	X	38, 75
6	3	PHOTOGRAPH	X	X	38, 77
7	4	PHOTOGRAPH	X	X	38, 77
8	5	PHOTOGRAPH	X	X	38, 77
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24	21	PHOTOGRAPH		X	113
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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
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24	PICTURE	X	X	330,336
25	ID CARD REDACTED	X	X	330,336
26	GLOVES	X	X	330,336
27	BOOK BAG SWAB	X	X	366,385
28	CIGARETTE BUTT	X	X	367,385
29	STATEMENT REDACTED		X	402
30	PHOTOGRAPH - CAR		X	476
31	PHOTOGRAPH - CAR		X	476

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2	TRANSCRIPT	X		112
3	POLYGRAPH REPORT	X		280
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6	POPULATION	X		438
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8	JURY NOTE	X		548
9	JURY NOTE	X		552
10	JURY NOTE	X		557
11	JURY NOTE	X		557
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13	JURY NOTE	X		559
14	JURY NOTE	X		558
15	JURY NOTE	X		559

Lexington County Courthouse

RANDOM STRIKE SHEET

Joy

13

JUDGE NAME : Johnson, James W.

TRIAL TYPE : Criminal

PANEL ID : 06-667

COURTROOM CTR

DESCRIPTION : The State v. Johnny Frazier

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	GRT	REMARKS
1 Johnson, Troy K JR	76	Foreman	M	(✓)	(✓)	()	#1
2 Mccarty, Susan P	100	W	F	(✓)	(X)	()	-
3 Mccarter, William W	99	Excused	W	()	()	()	Excused
4 Caro, Ruben M	28	W	M	(✓)	(✓)	()	2
5 Jones, Elizabeth B	77	W	F	(✓)	(✓)	()	3
6 Lewis, Shelbie J	87	W	F	(✓)	(X)	()	-
7 Dorman, Chadwick B	47	W	M	(✓)	(X)	()	-
8 Sellers, John B	143	W	M	(✓)	(X)	()	-
9 Willing, Scotty M	180	W	M	(✓)	(✓)	()	4
10 Smith, Brandie B	152	W	F	(✓)	(✓)	()	5
11 Camit, Syed K	26	W	M	(X)	()	()	-
12 Peterson, Lisa A	119	W	F	(✓)	(✓)	()	6
13 Williams, Julie E	177	W	F	(X)	()	()	-
14 Fraley, Summer E	52	W	F	(✓)	(✓)	()	7
15 Avinger, James M	6	W	M	(✓)	(X)	()	-
16 Richter, Thomas A	138	W	M	(✓)	(X)	()	-
17 Wiggins, Susan P	175	W	F	(✓)	(X)	()	-
18 Poole, Roxanne G	125	W	F	(✓)	(✓)	()	8
19 Owens, Ellen P	115	W	F	(✓)	(X)	()	-
20 Raines, Donald H JR	131	W	M	(X)	()	()	-
21 Chisolm, Lawanda M	31	B	F	(✓)	(✓)	()	9
22 Asbill, Janice K	5	W	F	(✓)	(X)	()	-
23 Gullede, Jerry K	63	W	M	(✓)	(X)	()	-
24 Tebeau, Christian R	164	W	M	(✓)	(✓)	()	10

Lexington County Courthouse RANDOM STRIKE SHEET

JUDGE NAME : Johnson, James W.

TRIAL TYPE : Criminal

PANEL ID : 06-667

COURTROOM CTR

DESCRIPTION : The State v. Johnny Frazier

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	GRT	REMARKS
25 Gollwitzer, Sharon	58	W	F	(✓)	(✓)	()	11
26 Livingston, Curtis M	89	W	M	(✓)	(✓)	()	12 alternates
27 Smith, Alice E	151	W	F	(✓)	(X)	()	
28 Byrd, Harold A	24	W	M	(✓)	(✓)	()	#1 (Alt)
29 Spires, Kim H	157	W	F	(✓)	(✓)	()	#2 (Alt)
30 Williams, Peggy D	179	W	F	()	()	()	
31 Pike, Tawnya S <i>Excused</i>	~~120~~	W	F	()	()	()	
32 Wells, Guerry J	174	W	M	()	()	()	
33 Mahrer, Matthew D	93	W	M	()	()	()	
34 Dixon, Rayford III	46	W	M	()	()	()	
35 Stallings, Grace E	158	W	F	()	()	()	
36 Stevens, Tracey A	159	W	F	()	()	()	
37 Desai, Nehal T	44		M	()	()	()	
38 Crosby, Cheryl W	37	W	F	()	()	()	
39 Wilson, David L JR	181	W	M	()	()	()	
40 Deitering, Jane F	43	W	F	()	()	()	

Total Number of Jurors:

40

** END OF REPORT **

1 THE COURT: ALL RIGHT, MR. FLOYD, SOLICITOR, CAN YOU
2 APPROACH, PLEASE?

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
4 PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING OF
5 THE JURY PANEL.)

6 THE COURT: LADIES AND GENTLEMEN, WE ARE GOING TO GO
7 THROUGH THE PROCESS THAT I DESCRIBED TO YOU EARLIER. MR.
8 RIDDLE, IF YOU WILL CALL YOUR CASE FOR TRIAL, PLEASE.

9 MR. RIDDLE: IT IF PLEASE THE COURT, YOUR HONOR, THE
10 STATE CALLS INDICTMENT 2006-GS-32-668, THE STATE VERSUS
11 JOHNNIE RANDOLPH FRAZIER, JR. IT IS A TRUE BILLED
12 INDICTMENT FOR MURDER. 2006-GS-32-670, STATE VERSUS
13 JOHNNIE RANDOLPH FRAZIER, JR. HE IS INDICTED FOR ARMED
14 ROBBERY. 2006-GS-32-671, YOUR HONOR, THE STATE VERSUS
15 JOHNNIE RANDOLPH FRAZIER, IT IS AN INDICTMENT FOR BURGLARY
16 IN THE FIRST DEGREE. 2006-GS-32-667, THE STATE VERSUS
17 JOHNNIE RANDOLPH FRAZIER, JR., INDICTED FOR POSSESSION OF
18 A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME. I
19 WILL HAND UP THE INDICTMENTS AS WELL AS A POTENTIAL
20 WITNESS LIST FOR THE STATE.

21 THE COURT: LADIES AND GENTLEMEN, THE INDICTMENTS
22 THAT HAVE BEEN HANDED UP AND ANNOUNCED BY THE SOLICITORS
23 OFFICE, LET ME GO OVER THEM BRIEFLY WITH YOU AGAIN.
24 AGAIN, KEEP IN MIND, AS I HAVE INDICATED TO YOU EARLIER,
25 THESE DOCUMENTS, THE INDICTMENTS THAT I AM HOLDING, THEY

1 DO CONTAIN THE CHARGES OR THE ALLEGATIONS THAT ARE MADE IN
2 THIS CASE, THEY ARE NOT EVIDENCE AND THEY CANNOT BE
3 CONSIDERED BY THE JURY AS EVIDENCE OF THE CHARGES THAT
4 THEY CONTAIN. THE INDICTMENTS IS 06-668, THE STATE VERSUS
5 JOHNNIE RANDOLPH FRAZIER, THE CHARGE IN THIS INDICTMENT IS
6 MURDER. IT IS ALLEGED IN THIS INDICTMENT THAT THIS
7 OFFENSE OCCURRED IN LEXINGTON COUNTY ON OR ABOUT AUGUST
8 THE 14TH OF 2003. IT IS ALLEGED THAT THE VICTIM IS ONE
9 CAROL HURSEY.

10 INDICTMENT 06-670, THE STATE VERSUS JOHNNIE RANDOLPH
11 FRAZIER, JR. THE CHARGE OR THE ALLEGATION MADE IN THIS
12 CASE IS ONE OF ARMED ROBBERY. IT IS ALLEGED THAT THE
13 INDICTMENT OF THIS OFFENSE ALSO OCCURRED IN LEXINGTON
14 COUNTY ON OR ABOUT AUGUST THE 14TH OF 2003. THAT THE
15 VICTIM IN THIS CASE ALLEGEDLY WAS ONE CAROL HURSEY OR
16 BUTCH HURSEY. THAT IS THE ALLEGATION THAT IS MADE IN THIS
17 CASE.

18 THE NEXT INDICTMENT, 06-671, THE STATE VERSUS JOHNNIE
19 RANDOLPH FRAZIER. THIS A CHARGE OF BURGLARY IN THE FIRST
20 DEGREE AND IT IS ALLEGED THAT THIS INDICTMENT, THIS
21 OFFENSE OCCURRED IN LEXINGTON COUNTY ON OR ABOUT AUGUST
22 THE 14TH OF 2003. THE ALLEGATION, THAT THE DEFENDANT
23 ENTERED THE DWELLING OF ONE BUTCH HURSEY AT 1509 BUSBEE
24 ROAD IN GASTON, SOUTH CAROLINA. AGAIN, THAT IS THE
25 ALLEGATIONS MADE IN THAT CHARGE.

1 AND THE FINAL INDICTMENT, 06-667, THE STATE VERSUS
2 JOHNNIE RANDOLPH FRAZIER, JR. THE CHARGE OR THE
3 ALLEGATION MADE IN THIS INDICTMENT IS POSSESSION OF A
4 FIREARM OR A KNIFE DURING THE COMMISSION OF A VIOLENT
5 CRIME. IT IS ALLEGED IN THE INDICTMENT THAT THIS OFFENSE
6 OCCURRED IN LEXINGTON COUNTY ON OR ABOUT AUGUST THE 14TH
7 OF 2003. THOSE ARE THE CHARGES OR THE ALLEGATIONS THAT
8 ARE MADE IN THIS CASE. THERE IS A NUMBER OF WITNESSES AND
9 IT IS A PRETTY LENGTHY LIST OF POTENTIAL WITNESSES IN THIS
10 CASE. I AM GOING TO READ THESE NAMES TO YOU. IF THESE
11 INDIVIDUALS, SOME OF WHOM I WOULD IMAGE ARE PRESENT, SOME
12 OF THEM ARE NOT YET PRESENT. BUT YOU DO NEED TO PAY
13 ATTENTION TO THESE NAMES. IF THESE INDIVIDUALS ARE
14 PRESENT, AS I READ THEIR NAMES I WOULD ASK THEM TO STAND
15 AND BRIEFLY FACE YOU SO THAT YOU CAN PUT A NAME WITH A
16 FACE. POTENTIAL WITNESSES IN THE CASE, OWEN AVANTS, WAYNE
17 BIRCHMORE, TERRY BOLTIN, B-O-L-T-I-N. ELBERT BOLTON, JOHN
18 BOSWELL, CECIL BRADSTREET WHO IS EMPLOYED BY THE STATE LAW
19 ENFORCEMENT DIVISION. JACQUELINA BURKE, JOHN DAVID
20 BURROUGHS, SCOTTIE CARSON, ASHLEY STARR COUGAR, WILLIAM
21 ECKHART, LUKE FOSSUM WITH THE SHERIFFS OFFICE. JONATHAN
22 BAGERT, STANLEY GLEATON, LAURA GRIMES-GOULD WITH LEXINGTON
23 COUNTY SHERIFFS OFFICE. SIDNEY BUTCH HURSEY, TAMMI
24 INABINET, CHARLES INGLE, JIM JOY WITH THE SHERIFFS OFFICE
25 OF LEXINGTON COUNTY. BRAD KOON, CANDY KYZER ALSO WITH THE

1 LEXINGTON COUNTY SHERIFFS OFFICE. CHRIS LORICK WITH THE
2 LEXINGTON COUNTY CORONERS OFFICE. LEVOID LUCAS, LEE
3 MARSHALL WITH THE SHERIFFS OFFICE. DAVID MCCLURE WITH THE
4 STATE LAW ENFORCEMENT DIVISION. BARBARA MCMULLEN WITH THE
5 SHERIFFS OFFICE, JEFF PALKOWSKI WITH THE SHERIFFS OFFICE,
6 MIKE PHIPPS WITH THE SHERIFFS OFFICE, DAVID PRITCHARD ALSO
7 WITH THE SHERIFFS OFFICE. SHERRI QUARLES, LINDA RAINES
8 WITH THE SHERIFFS OFFICE. MATT RICHBOURG, DR. JOEL
9 SEXTON, RAY CHARLES OR IS THAT CHARLES RAY?

10 MR. FLOYD: CHARLES RAY.

11 THE COURT: CHARLES RAY, CASSIDY DAVIS, GARY DAVIS,
12 GARY RAWLS, HATTIE RIGGS, HOPE PHILLIPS, GENE KNIGHT, JIM
13 POWERS, JOE EDWARDS, JOE EDWARDS PAYNE, JOHN T. CAMPBELL,
14 JOY HURSEY, SOME OF THESE NAMES MAY BE OVERLAPPING, AND I
15 WOULD ASK THEM TO STAND AGAIN IF THEY HAVE ALREADY STOOD.
16 JUANITA INABINET, MARK MAYERS, MARY FRANCIS COOPER,
17 MELISSA BOLTON, MINNIE LENEVE, PAUL BEST, RODNEY RICHBURG,
18 RONALD YONCE, SUSAN CAMPBELL, TAMMIE INABINET, TIM
19 THOMPSON, TINA DAVIS, WOODROW DAVIS, DOROTHY DRAWDY,
20 CAROLYN SHARPE, CHARLES ENLOW, DONNA COOK, FAYE GUNTER,
21 JONATHAN GABERT, W.D. JOHNSON, JOHN DAVID BURROUGHS,
22 TOMMIE JACO, ROCKY RUSSELL, LISA RUSSELL, JENNIFER
23 RUSSELL, ROBERT HURSEY, DAVID MCCLURE WITH THE STATE LAW
24 ENFORCEMENT DIVISION AND NANCY SKRABA, ALSO WITH THE STATE
25 LAW ENFORCEMENT DIVISION. THOSE ARE THE POTENTIAL

1 WITNESSES WHO MAY BE CALLED TO TESTIFY IN THIS CASE. LET
2 ME ASK, IS THERE ANYONE ON THE JURY PANEL RELATED BY BLOOD
3 OR CONNECTED BY MARRIAGE EITHER TO THE DEFENDANT, MR.
4 FRAZIER OR FIRST OF ALL, I HAVEN'T INTRODUCED THE
5 ATTORNEYS. THE STATE IN THIS CASE IS REPRESENTED BY MR.
6 RIDDLE AND MR. STUMBO. MR. RIDDLE, IF YOU WILL INTRODUCE
7 YOURSELF AND MR. STUMBO TO THE JURY PANEL, PLEASE.

8 MR. RIDDLE: MY NAME IS DAYTON RIDDLE, I AM DEPUTY
9 SOLICITOR HERE IN LEXINGTON. THIS IS DAVID STUMBO, HE IS
10 ANOTHER LAWYER IN OUR OFFICE.

11 THE COURT: THE DEFENDANT, MR. FRAZIER, IS PRESENT.
12 HE IS REPRESENTED BY MR. FLOYD. MR. FLOYD, IF YOU WILL
13 INTRODUCE YOURSELF AND YOUR CLIENT, PLEASE, SIR.

14 MR. FLOYD: THIS IS JOHNNIE FRAZIER, HE IS THE
15 DEFENDANT IN THIS CASE. MY NAME IS WAYNE FLOYD AND I
16 PRACTICE ON HIGHWAY 1 IN WEST COLUMBIA.

17 THE COURT: THANK YOU, MR. FLOYD. IF ANYONE ON THE
18 JURY PANEL IS RELATED BY BLOOD OR CONNECTED BY MARRIAGE TO
19 THE DEFENDANT, MR. FRAZIER OR ANY OF THESE POTENTIAL
20 WITNESSES WILL YOU PLEASE STAND AT THIS TIME. YOUR NAME,
21 PLEASE, SIR.

22 JUROR: JIMMY YONCE, NUMBER 184. ONE OF THE LAST
23 WITNESSES THAT YOU CALLED IS MY FIRST COUSIN.

24 THE COURT: ALL RIGHT. WHICH WITNESS?

25 JUROR: RONALD YONCE.

1 THE COURT: COUNSEL, I THINK THAT RELATIONSHIP
2 PROBABLY IS CLOSE ENOUGH SO THAT INDIVIDUAL IS EXCUSED.
3 YA'LL NEED TO BE HEARD ON IT?

4 MR. RIDDLE: NO, SIR.

5 THE COURT: YOU WILL BE EXCUSED FROM THE TRIAL OF
6 THIS CASE. YOU CAN HAVE A SEAT RIGHT THERE. THANK YOU,
7 SIR. IF ANY MEMBER OF THE JURY PANEL HAS ANY TYPE OF
8 BUSINESS, PERSONAL OR SOCIAL RELATIONSHIP EITHER WITH THE
9 DEFENDANT, MR. FRAZIER OR ANY POTENTIAL WITNESS I AM GOING
10 TO ASK YOU TO STAND. SOMETIMES I AM ASKED WHAT DO YOU
11 MEAN BY SOCIAL OR PERSONAL RELATIONSHIP. ESSENTIALLY IF
12 YOU ARE FRIENDS WITH OR CLOSE FRIENDS WITH, IF YOU
13 TRANSACT BUSINESS WITH, IF YOU BELONG TO THE SAME CIVIC
14 ORGANIZATIONS, GO TO THE SAME CHURCH, ANY RELATIONSHIP
15 WITH THE DEFENDANT OR ANY POTENTIAL WITNESS, THAT IS WHAT
16 WE ARE ASKING ABOUT AT THIS TIME. YOUR NAME, PLEASE.

17 JUROR: CHERYL CROSBY, NUMBER 37.

18 THE COURT: AND, MS. CROSBY, WHAT I AM GOING TO ASK
19 YOU IS IF YOU WILL TELL ME WHO IT IS AND JUST GENERALLY
20 DESCRIBE THE NATURE OF THAT RELATIONSHIP, PLEASE.

21 JUROR: CECIL BRADSTREET, I AM A MEMBER OF THE SAME
22 CHURCH.

23 THE COURT: IS THE NATURE OF THAT RELATIONSHIP, IS IT
24 GOING TO HAVE ANY AFFECT ON YOUR ABILITY TO BE A FAIR AND
25 IMPARTIAL JUROR IF YOU ARE SELECTED IF THAT INDIVIDUAL

1 DOES TESTIFY IN THIS CASE. IS THAT GOING TO AFFECT YOUR
2 ABILITY TO BE FAIR AND IMPARTIAL?

3 JUROR: NO, SIR.

4 THE COURT: YOU MAY HAVE A SEAT. THAT IS NUMBER 37.
5 YOUR NAME, PLEASE, SIR.

6 JUROR: NUMBER 99.

7 THE COURT: MR. MCCARTER, WHO AND WHAT IS THE NATURE
8 OF THE RELATIONSHIP, PLEASE.

9 JUROR: LUKE FOSSUM.

10 THE COURT: IS THE NATURE OF THAT RELATIONSHIP GOING
11 TO AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IF THAT
12 INDIVIDUAL TESTIFIES IN THE CASE?

13 JUROR: YES, IT WOULD.

14 THE COURT: BASED ON THAT, SIR, YOU WILL BE EXCUSED
15 FROM THE TRIAL OF THIS CASE AND IF YOU WILL PLEASE NOT
16 DISCUSS THAT. JUST HAVE A SEAT THERE WHERE YOU ARE. THAT
17 IS JUROR NUMBER 99. YES, SIR.

18 JUROR: WAYNE BIRCHMORE, I AM JUROR NUMBER 174. IT
19 COULD BE A CLIENT OF OURS.

20 THE COURT: AND, MR. WELLS, IF THAT IS YOUR CLIENT IS
21 THAT IN ANY WAY GOING TO AFFECT YOUR ABILITY TO BE A FAIR
22 AND IMPARTIAL JUROR IN THIS CASE IF THAT INDIVIDUAL
23 TESTIFIES IN THE CASE?

24 JUROR: NO, IT WILL NOT.

25 THE COURT: ALL RIGHT, YOU MAY HAVE A SEAT. THAT IS

1 NUMBER 174, MR. WELLS. YES, SIR.

2 JUROR: JUROR NUMBER 76, KENNETH JOHNSON. I MAY KNOW
3 MATT RICHBOURG, HE WORKS FOR SCDOT?

4 THE COURT: I HAVE NO IDEA. LET ME ASK YOU THIS, MR.
5 JOHNSON, IF THAT IS THE INDIVIDUAL WHO WORKS FOR DOT IS
6 THAT GOING TO AFFECT YOUR ABILITY TO BE FAIR AND
7 IMPARTIAL?

8 JUROR: NO, IT WOULD NOT.

9 THE COURT: YOU CAN HAVE A SEAT, NUMBER 76, MR.
10 JOHNSON. IS THERE ANYONE ON THE JURY PANEL WHO HAS READ
11 OR HEARD OR FROM ANY SOURCE AT ALL KNOWS ANYTHING ABOUT
12 THE ALLEGATIONS THAT ARE MADE IN THIS CASE. IF SO WILL
13 YOU PLEASE STAND.

14 (NO RESPONSE.)

15 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
16 IS SENSITIVE TO OR AWARE OF ANY KIND OF BIASED OR
17 PREJUDICE THAT YOU MIGHT HAVE THAT WOULD PREVENT YOU FROM
18 BEING A FAIR AND IMPARTIAL JUROR IF YOU ARE SELECTED IN
19 THIS CASE. IF SO, PLEASE STAND.

20 (NO RESPONSE.)

21 THE COURT: IS THERE ANY MEMBER OF THIS JURY PANEL
22 FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR THE
23 INNOCENCE OF THE DEFENDANT IN THIS CASE. IF SO WILL YOU
24 PLEASE STAND.

25 (NO RESPONSE.)

1 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
2 IS EITHER CURRENTLY OR IN THE PAST BEEN REPRESENTED BY ANY
3 OF THE ATTORNEYS INVOLVED IN THE CASE OR IF YOU HAVE ANY
4 OTHER KIND OF PERSONAL, SOCIAL OR PERSONAL RELATIONSHIP
5 WITH THE ATTORNEYS IN THE CASE, WILL YOU PLEASE STAND.
6 YOUR NAME, PLEASE, SIR.

7 JUROR: ROBERT BRASINGTON.

8 THE COURT: YES, SIR.

9 JUROR: MR. FLOYD IS A CLIENT OF MINE.

10 THE COURT: THE FACT THAT YOU DO PLUMBING WORK ON
11 SOME OF HIS PROPERTY, IS THAT GOING TO AFFECT YOUR ABILITY
12 TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

13 JUROR: NO, IT WOULD NOT.

14 THE COURT: ALL RIGHT, SIR. YOU CAN HAVE A SEAT.
15 YES, MA'AM.

16 JUROR: I AM CAROLYN COATS. I DON'T SEE THE PERSON
17 THAT I THINK THAT I KNOW, BUT I WORK AT THE SOUTH CAROLINA
18 LABOR AND LICENSING, LEXINGTON COUNTY.

19 THE COURT: IS THAT IN ANY WAY GOING TO AFFECT YOUR
20 ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

21 MR. FLOYD: NO, SIR.

22 THE COURT: I HAVE ASKED A NUMBER OF QUESTIONS, DOES
23 ANY MEMBER OF THE JURY PANEL KNOW OF ANY REASON WHETHER IT
24 IS CONNECTED TO ANY QUESTION THAT I HAVE PREVIOUSLY ASKED
25 YOU OR IF THERE IS ANY OTHER REASON TOTALLY UNCONNECTED

1 WITH ANYTHING THAT I HAVE GONE OVER WITH YOU, IF YOU KNOW
2 OF ANY REASON THAT YOU COULD NOT GIVE BOTH THE DEFENDANT
3 AND THE STATE A FAIR AND IMPARTIAL TRIAL IF YOU ARE
4 SELECTED IN THIS CASE, WILL YOU PLEASE STAND. COME UP
5 HERE AND LET ME TALK TO YOU.

6 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH A JUROR
7 AND THE ATTORNEYS.)

8 THE COURT: 120 WILL BE EXCUSED FROM THE TRIAL OF
9 THIS CASE. ANYONE ELSE KNOW OF ANY REASON THAT YOU COULD
10 NOT BE FAIR AND IMPARTIAL TO BOTH THE DEFENDANT AND TO THE
11 STATE, IF SO PLEASE STAND.

12 (NO RESPONSE.)

13 THE COURT: MR. RIDDLE, ANYTHING FURTHER?

14 MR. RIDDLE: NO, SIR.

15 THE COURT: MR. FLOYD?

16 MR. FLOYD: NOTHING FURTHER, YOUR HONOR.

17 THE COURT: LADIES AND GENTLEMEN, WE ARE GOING TO GO
18 THROUGH THE PROCESS THAT I DESCRIBED TO YOU EARLIER, YOUR
19 NAMES ARE GOING TO BE SELECTED ONE AT A TIME. IF YOUR
20 NAME IS CALLED IF YOU WILL COME UP AND JUST STAND AND FACE
21 THE ATTORNEYS. THEY WILL BE ASKED IF THEY WOULD LIKE FOR
22 YOU TO BE SEATED OR WHETHER THEY WOULD LIKE TO EXCUSE YOU
23 FROM THIS PARTICULAR CASE. IF EITHER SIDE INDICATES THAT
24 THEY WOULD LIKE FOR YOU TO BE EXCUSED IF YOU WILL RETURN
25 TO YOUR SEAT. MADAM CLERK, IF YOU WILL STRIKE A JURY,

1 PLEASE. THE STRIKES WILL BE 10 AND 5.

2 (WHEREUPON, THE JURY WAS IMPANELED LOCATED BEHIND
3 INDEX.)

4 THE COURT: ANY MOTIONS, ANY MATTERS OF LAW
5 CONCERNING THE STRIKING OF THE JURY. ANYTHING FROM THE
6 STATE?

7 MR. RIDDLE: NOT AT THIS TIME, YOUR HONOR.

8 THE COURT: FROM THE DEFENSE?

9 MR. FLOYD: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THOSE
11 OF YOU WHO HAVE BEEN SELECTED WILL MAKE UP THE JURY FOR
12 THIS TRIAL. BEFORE WE GET STARTED WITH THIS TRIAL I AM
13 GOING TO START BY SENDING YOU TO YOUR JURY ROOM, THE
14 BAILIFF WILL TAKE YOU BACK TO YOUR JURY ROOM PRIMARILY FOR
15 ONE PURPOSE. IN SOUTH CAROLINA THERE ARE TWO DIFFERENT
16 WAYS OF HAVING A JURY FOREPERSON SELECTED. ONE IS FOR ME
17 TO SIMPLY PICK ONE OF YOU AND APPOINT THAT PERSON TO SERVE
18 AS THE FOREMAN OR THE FORELADY OF THE JURY. THE OTHER IS
19 TO LET THE JURY DECIDE AFTER TALKING AMONG YOURSELVES WHO
20 YOU WOULD LIKE FOR THAT PERSON TO BE. IN THE PAST, TWELVE
21 OR THIRTEEN YEARS I HAVE LET THE JURY DETERMINE WHO THEY
22 WOULD LIKE FOR THEIR FOREPERSON TO BE. YOU NEED TO
23 UNDERSTAND THAT THE FOREPERSON'S VOTE IS NO MORE
24 IMPORTANT, IT DOES NOT COUNT ANY MORE THAN ANY OTHER
25 MEMBER OF THE JURY BUT THAT PERSON WILL PRESIDE IN THE

1 JURY ROOM AND BE THE SPOKESPERSON FOR THE JURY HERE IN THE
2 COURTROOM. SO, BEFORE WE GET STARTED WITH THE TRIAL I AM
3 GOING TO HAVE THE BAILIFF TAKE YOU BACK TO THE JURY ROOM
4 AND ASK YOU TO DISCUSS AMONG YOURSELVES WHO YOU WOULD LIKE
5 FOR THAT PERSON TO BE. AND WHEN YOU COME BACK INTO THE
6 COURTROOM, FIRST I WILL ASK YOU TO WRITE THAT NAME ON A
7 SLIP OF PAPER AND HAND IT OUT TO THE BAILIFF. AND WHEN
8 YOU COME BACK INTO THE COURTROOM I WILL APPOINT THAT
9 PERSON THAT YOU HAVE SELECTED TO SERVE AS YOUR FOREMAN OR
10 YOUR FORELADY AND THAT PERSON WILL SIT IN THE FIRST SEAT
11 ON THE FRONT ROW AND KEEP THAT SEAT THROUGHOUT THE TRIAL.
12 AND THEN MY TWO ALTERNATES IN THE CASE, LET ME SEE, MR.
13 BYRD AND MS. SPIRES, IF YOU FOLKS WILL KEEP THE SEATS THAT
14 YOU HAVE THROUGHOUT THE TRIAL SO I WILL KNOW WHERE YOU ARE
15 AND THEN THE REST OF YOU CAN SIT WHERE EVER YOU WOULD LIKE
16 TO IN THE JURY BOX AS WE CONTINUE WITH THE TRIAL. WE ARE
17 NOT GOING TO SWEAR YOU IN YET, WE WILL DO THAT WHEN YOU
18 COME BACK IN TO THE COURTROOM. AT THIS TIME, AGAIN, DON'T
19 DISCUSS ANYTHING ABOUT THE CASE. I JUST WANT YOU TO GO
20 BACK AND SIT FOR A FEW MINUTES, DISCUSS WHO YOU WOULD LIKE
21 FOR YOUR FOREPERSON TO BE, WRITE THAT NAME DOWN AND I WILL
22 APPOINT THAT PERSON WHEN YOU COME BACK IN THE COURTROOM IN
23 A FEW MINUTES TO START THE TRIAL. EVERYONE ELSE STAY
24 SEATED. THE JURY IS EXCUSED.

25 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT.)

1 THE COURT: THOSE OF YOU WHO WERE NOT SELECTED, RIGHT
2 NOW THE PLAN FOR THE WEEK, THE OTHER JUDGE HOLDING COURT
3 THIS WEEK WILL NOT BE CONDUCTING JURY TRIALS. THIS TRIAL
4 MAY TAKE MOST IF NOT ALL THE WEEK TO TRY. SO, YOU MAY NOT
5 HAVE TO COME BACK UP HERE THIS WEEK. I CAN'T GUARANTEE
6 YOU THAT RIGHT NOW. WHAT YOU WILL NEED TO DO IS CALL THAT
7 NUMBER ON YOUR CARD AND YOU CAN CALL THAT NUMBER OR CHECK
8 THE WEBSITE AFTER 6:00 O'CLOCK AND FOLLOW THOSE
9 INSTRUCTIONS. THANK YOU AND YOU ARE EXCUSED.

10 (WHEREUPON, THE JURY PANEL WAS EXCUSED FROM OPEN
11 COURT AT APPROXIMATELY 11:45 A.M.)

12 THE COURT: ALL RIGHT, ANYTHING BEFORE WE BRING THE
13 JURY IN FROM THE STATE, ANYTHING WE NEED TO PUT ON THE
14 RECORD BEFORE WE GET STARTED.

15 MR. RIDDLE: I WANT TO PUT ON THE RECORD WHAT WE
16 DISCUSSED IN CHAMBERS PREVIOUSLY REGARDING MR. FLOYD'S
17 MOTION TO SUPPRESS THE BOOK BAG AND THE CONTENTS OF THE
18 BOOK BAG. YOUR HONOR, WE HAD PREVIOUSLY, THIS CASE WAS
19 CALLED FOR TRIAL BACK IN NOVEMBER OF '07, IT ENDED UP
20 RESULTING IN A MISTRIAL. BUT AS FAR AS THE SUPPRESSION
21 MOTION GOES, THE STATE HAD PUT UP A NUMBER OF WITNESSES ON
22 THAT ISSUE AND I BELIEVE MR. FLOYD HAS AGREED THAT WE
23 COULD JUST INCORPORATE THE PRIOR TESTIMONY THAT WE HAVE A
24 TRANSCRIPT OF AND I HAVE MADE A COPY AND MADE IT A COURT
25 EXHIBIT AS OPPOSED TO REHEARING ALL OF THAT EXACT SAME

1 TESTIMONY.

2 THE COURT: MY UNDERSTANDING FROM DISCUSSIONS IN
3 CHAMBERS, IS THAT WILL BE THE BASIS FOR THE MOTION, THE
4 MOTION WILL STILL HAVE TO BE MADE AND THE COURT WILL STILL
5 HAVE TO MAKE A RULING. THAT WOULD TAKE THE PLACE OF
6 HAVING THE IN-CAMERA HEARING ON THE MOTION TO SUPPRESS.
7 IS THAT CORRECT?

8 MR. FLOYD: THAT IS CORRECT, YOUR HONOR. WE WOULD OF
9 COURSE RENEW OUR MOTION TO SUPPRESS, SAME ARGUMENT THAT
10 WAS MADE.

11 THE COURT: AT THE APPROPRIATE TIME.

12 MR. FLOYD: YES, SIR.

13 THE COURT: THAT IS FINE. THAT IS SIMPLY MADE THAT
14 THAT WILL BE THE RECORD FOR THAT PURPOSE WHEN THE MOTION
15 IS MADE THEN. ANY OTHER PRETRIAL MATTERS FROM THE STATE?

16 MR. RIDDLE: YOUR HONOR, THERE WAS ONE OTHER MATTER
17 AND IT CAME UP HERE WITH THE FIRST WITNESS LAST TIME, THAT
18 BEING THE WITNESS OF MR. HURSEY. MR. FLOYD HAD BEEN
19 PROVIDED WITH A NUMBER OF DOCUMENTS AND REPORTS AND THINGS
20 IN DISCOVERY WHICH HE ATTEMPTED TO CROSS MR. HURSEY ABOUT.
21 I OBJECTED TO IT, YOUR HONOR HAD INITIALLY RULED IN A
22 FURTHER PROCEEDING THAT THE MATTERS WERE IRRELEVANT AS I
23 RECALL THE RULING FROM THE BENCH. THE PRIMARY REASON AS I
24 RECALL FOR RULING WAS IS THAT THEY WERE REMOTE IN TIME,
25 NUMBER ONE AND DIDN'T EVEN INVOLVE THE SAME VICTIM. IT

1 HAD TO DO WITH SOME PRIOR DIFFICULTIES WITH ONE OF HIS
2 EX-WIVES AND ALSO A CIVIL DISPUTE ABOUT A SIGN AT A
3 NIGHTCLUB LOCATED HERE IN LEXINGTON COUNTY. I WOULD
4 SUBMIT, YOUR HONOR, THAT THOSE ARE IRRELEVANT AND AM
5 MAKING A MOTION IN LIMINE THAT THEY NOT BE ALLOWED TO
6 CROSS-EXAMINE MR. HURSEY ABOUT THOSE MATTERS.

7 THE COURT: MR. FLOYD.

8 MR. FLOYD: YOUR HONOR, I THINK RATHER THAN HANDLING
9 THAT ON A MOTION IN LIMINE, FOR A RECORD STANDPOINT, I
10 THINK, WELL PRESUMABLY THE COURT IS GOING TO BE CONSISTENT
11 BUT IF THERE WAS SOMETHING NEW OR DIFFERENT ARGUED I THINK
12 BOTH PARTIES SHOULD BE PERMITTED THE OPPORTUNITY TO MAKE
13 AN ARGUMENT. SO, RATHER THAN HANDLE THAT ON A MOTION IN
14 LIMINE LET'S JUST, WHEN WE GET THERE WE GET THERE. IF IT
15 IS THE SAME TESTIMONY, THE SAME ARGUMENT, THE COURT WILL
16 RULE THE SAME WAY THE FIRST TIME. BUT IF IT IS SOMETHING
17 DIFFERENT OR NEW I THINK BOTH PARTIES SHOULD BE GIVEN AN
18 OPPORTUNITY TO BE HEARD ON THAT. I AM DENYING THAT MOTION
19 WITHOUT HEARING FROM THE DEFENSE WITHOUT PREJUDICE TO
20 RAISE WHATEVER OBJECTIONS YOU WANT TO RAISE AT THAT TIME.

21 MR. RIDDLE: THANK YOU, YOUR HONOR.

22 THE COURT: MR. FLOYD, ANY PRETRIAL MATTERS?

23 MR. FLOYD: JUST ONE, YOUR HONOR. YOUR HONOR, WE
24 WOULD MOVE THAT THE CHARGES BE DISMISSED. OUR POSITION
25 THAT AFTER TRYING MR. FRAZIER ON THESE CHARGES AT THIS

1 TIME WOULD CONSTITUTE DOUBLE JEOPARDY AS WE TRIED THIS
2 CASE BACK IN NOVEMBER AND OF COURSE IT ENDED IN A
3 MISTRIAL.

4 THE COURT: MR. RIDDLE.

5 MR. RIDDLE: YOUR HONOR, WITHOUT GETTING INTO WHETHER
6 OR NOT THE MISTRIAL SHOULD OF BEEN GRANTED, THE MISTRIAL
7 WAS GRANTED AND THE STATE HAS NO PROBLEM WITH THAT. BUT
8 WE DON'T BELIEVE THE STATE SHOULD BE PENALIZED AT THIS
9 POINT BECAUSE MR. FLOYD MADE A MOTION WHICH YOUR HONOR
10 GRANTED. I DON'T THINK IT IS DOUBLE JEOPARDY, YOUR HONOR.

11 THE COURT: WELL, MY RECLINATION IS THIS, THAT
12 NORMALLY WHEN A DEFENDANT MOVES FOR A MISTRIAL THEY ARE
13 WAVING THE RIGHT TO INVOKE DOUBLE JEOPARDY UNLESS IT WAS
14 SOME INTENTIONAL MISCONDUCT BY THE STATE THAT LED TO THE
15 MISTRIAL. AND I DON'T KNOW THAT IT WAS FOUND ON THE
16 RECORD, I WILL PUT ON THE RECORD RIGHT NOW THAT I DID NOT
17 FIND ANY INTENTIONAL MISCONDUCT BY THE STATE. WHEN IT
18 OCCURRED, JUST FOR THE RECORD, THE BOOK BAG THAT HAS BEEN
19 BRIEFLY DISCUSSED HERE WAS ADMITTED INTO EVIDENCE, MOTION
20 TO SUPPRESS WAS DENIED, THERE WAS SOME DOCUMENTS IN THE
21 BOOK BAG OR IN A WALLET THAT WAS IN THE BOOK-BAG AND WHEN
22 THAT WAS TESTIFIED TO, AN IDENTIFICATION CARD THAT WAS
23 IDENTIFIED AS A PRIOR INMATE WITH THE SOUTH CAROLINA
24 DEPARTMENT OF CORRECTIONS WITH HIS ADMISSION DATE AND HIS
25 RELEASE DATE. THE MOTION WAS MADE AT THAT TIME AND IT WAS

1 GRANTED BUT THERE WAS NO INTENTIONAL MISCONDUCT BY THE
2 STATE AT THAT POINT AND TIME. NOW, HAVING MADE THAT
3 DETERMINATION THE MOTION TO DISMISS ON THE GROUNDS OF
4 DOUBLE JEOPARDY IS DENIED. COUNSEL, WE DID DISCUSS IN
5 CHAMBERS, I UNDERSTAND, BOTH OF YOU ARE TO INSTRUCT YOUR
6 WITNESSES, THERE IS TO BE NO MENTION OF THE FIRST TRIAL,
7 OF A FIRST TRIAL AND MAYBE MENTION OF ANY PRIOR SWORN
8 TESTIMONY OR PRIOR PROCEEDING WITHOUT IDENTIFYING IT AS A
9 PRIOR TRIAL. MY UNDERSTANDING, BOTH OF YOU HAVE
10 INSTRUCTED YOUR WITNESSES OF THAT, IS THAT RIGHT?

11 MR. RIDDLE: YES SIR, I HAVE AND I WOULD CONTINUE TO
12 DO SO BEFORE THEY TAKE THE STAND.

13 THE COURT: OKAY. BRING THE JURY IN, PLEASE.

14 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
15 APPROXIMATELY 11:55 A.M.)

16 THE COURT: MR. JOHNSON HAS BEEN SELECTED AS THE
17 FOREMAN, I WILL APPOINT YOU AS THE FOREMAN OF THE JURY.
18 YOUR VOTE DOES NOT COUNT ANY MORE THAN ANY OTHER MEMBER OF
19 THE JURY, YOU WILL PRESIDE IN THE JURY ROOM AND BE THE
20 SPOKESMAN FOR THE JURY HERE IN THE COURTROOM. THE CLERK
21 WILL SWEAR YOU IN FOR THE JURY IN THIS CASE, MADAM CLERK.

22 (WHEREUPON, THE JURY WAS SWORN AT 11:57 A.M.)

23 THE COURT: LADIES AND GENTLEMEN, I AM GOING TO MAKE
24 SOME BRIEF COMMENTS TO YOU AND EXPLAIN WHAT YOU CAN
25 ANTICIPATE AS FAR AS THE PROCEDURE OF THE TRIAL IN THIS

1 CASE. AGAIN, THIS IS A CRIMINAL CASE THAT HAS BEEN
2 COMMENCED BY THE STATE AGAINST THE DEFENDANT, MR. FRAZIER.
3 WHAT I AM ABOUT TO GO OVER WITH YOU IS CERTAINLY NOT
4 INTENDED TO BE A SUBSTITUTE OF THE DETAILED INSTRUCTIONS
5 OF LAW THAT I WILL BE GIVING YOU AT THE END OF THE CASE.
6 AGAIN, THIS IS A CRIMINAL CASE BROUGHT BY THE STATE
7 AGAINST MR. FRAZIER WHO HAS BEEN INTRODUCED TO YOU. I MAY
8 REFER TO THE STATE DURING THE COURSE OF THE TRIAL AS THE
9 SOLICITOR OR THE PROSECUTION. THE CASE IS BASED ON THE
10 INDICTMENTS THAT I HAVE BRIEFLY GONE OVER WITH YOU.
11 AGAIN, THE INDICTMENTS ARE THE WRITTEN DOCUMENTS THAT HAVE
12 PROCESSED THE CASE THROUGH THE COURT SYSTEM. AND WHILE
13 THEY DO CONTAIN THE CHARGES OR THE ALLEGATIONS THAT HAVE
14 BEEN MADE IN THIS CASE, THOSE INDICTMENTS ARE NOT EVIDENCE
15 AND THEY CANNOT BE CONSIDERED BY THE JURY AS EVIDENCE OF
16 THE CHARGES THAT THEY CONTAIN. THE DEFENDANT IN THIS CASE
17 HAS PLEAD NOT GUILTY TO THOSE CHARGES AND THEREFORE THE
18 STATE HAS THE BURDEN OF PROVING EACH OF THE ESSENTIAL
19 ELEMENTS OF THOSE CHARGES BEYOND A REASONABLE DOUBT. THE
20 PURPOSE OF THIS TRIAL IS TO DETERMINE WHETHER THE STATE
21 HAS MET THAT BURDEN. YOUR PURPOSE AS JURORS AS I HAVE
22 INDICATED TO YOU, YOU ARE NOW JUDGES, YOU ARE THE JUDGES
23 OF THE FACTS OF THE CASE. I AM THE JUDGE OF THE LAW BUT
24 YOU ARE THE JUDGES OF THE FACTS. YOU NEED TO UNDERSTAND
25 THAT UNDER THE LAW OF THIS STATE, AS A TRIAL JUDGE I AM

1 NOT PERMITTED TO HAVE AN OPINION AS TO WHAT THE FACTS ARE.
2 ONLY THE JURY MAKES THE DETERMINATION OF WHAT THE FACTS
3 ARE. DURING THE COURSE OF THE TRIAL IF I DO OR SAY
4 ANYTHING THAT YOU THINK IS A REFLECTION ON WHAT I THINK
5 ABOUT THE FACTS, FIRST OF ALL IT WILL BE MY INTENTION NOT
6 TO DO THAT. AND SECONDLY, YOU SHOULD COMPLETELY DISREGARD
7 THAT BECAUSE AGAIN YOU ARE THE SOLE JUDGE OF THE FACTS OF
8 THE CASE. THE SAME LAW THAT MAKES YOU THE JUDGES OF THE
9 FACTS, IT MAKES ME THE JUDGE OF THE LAW. AND UNDER THE
10 OATH THAT YOU HAVE JUST TAKEN YOU HAVE AGREED TO ACCEPT
11 THE LAW AND APPLY THE LAW AS I WILL INSTRUCT IT TO YOU AT
12 THE END OF THE CASE. YOU MAKE YOUR DETERMINATION OF WHAT
13 THE FACTS OF THIS CASE ARE BASED ON THE EVIDENCE THAT WAS
14 PRESENTED HERE IN THE COURTROOM. FROM TIME TO TIME THERE
15 MAY BE AN OBJECTION THAT IS MADE BY ONE OF THE ATTORNEYS
16 IN THE CASE. DON'T HOLD THAT AGAINST THE LAWYER. IF HE
17 MAKES AN OBJECTION DON'T HOLD THAT AGAINST THE LAWYER'S
18 CLIENT. IF ONE OF THE LAWYERS OBJECTS TO A QUESTION OR IF
19 THEY OBJECT TO AN EXHIBIT THAT IS OFFERED INTO EVIDENCE
20 AND THE COURT SUSTAINS THAT OBJECTION YOU CANNOT TRY TO
21 GUESS AT WHAT THE ANSWER OF THAT QUESTION MIGHT OF BEEN IF
22 I HAD PERMITTED THE QUESTION TO BE ASKED. IF IT IS AN
23 EXHIBIT AND IT IS OBJECTED TO AND I SUSTAIN THAT OBJECTION
24 YOU ARE NOT PERMITTED TO TRY TO GUESS AT WHAT THAT EXHIBIT
25 MIGHT OF BEEN IF IT HAD BEEN ADMITTED INTO EVIDENCE. YOU

1 CAN ONLY RELY ON THE TESTIMONY AND THE OTHER EVIDENCE THAT
2 IS ADMITTED INTO THE RECORD HERE IN THE COURTROOM. AGAIN,
3 I WILL INSTRUCT YOU NOT TO DISCUSS THE CASE WITH ANYONE,
4 THAT WOULD INCLUDE YOUR FELLOW JURORS DURING THE COURSE OF
5 THE TRIAL. AGAIN, DON'T READ ANYTHING OR WATCH OR LISTEN
6 TO ANYTHING ABOUT THE CASE AND DURING THE COURSE OF THE
7 TRIAL FROM TIME TO TIME I MAY ASK WHETHER ANYONE HAS
8 EITHER PURPOSELY OR NOT ON PURPOSE VIOLATED THAT
9 INSTRUCTION OF THE COURT. ALSO, FROM TIME TO TIME DURING
10 THE COURSE OF THE TRIAL WHEN AN EXHIBIT HAS BEEN ADMITTED
11 INTO EVIDENCE THE ATTORNEYS MAY ASK PERMISSION TO PUBLISH
12 THAT EXHIBIT TO THE JURY, THAT SIMPLY MEANS TO TAKE THAT
13 EXHIBIT, IF IT IS A PHOTOGRAPH OR SOME SMALL DOCUMENT,
14 HAND IT TO THE FOREMAN AND LET HIM TAKE A LOOK AT IT AND
15 PASS IT AROUND THE JURY WHILE THE TRIAL IS GOING ON.
16 THERE IS NOTHING WRONG WITH THAT, YOU NEED TO UNDERSTAND
17 THAT THE TESTIMONY WILL CONTINUE AND YOU NEED TO CONTINUE
18 TO PAY ATTENTION TO THE TESTIMONY THAT IS GOING ON. I
19 HAVE HAD JURORS TO EXPRESS TO ME THAT THEY DIDN'T HAVE
20 LONG ENOUGH TO TAKE A LOOK AT THAT EXHIBIT WHILE IT WAS
21 BEING PASSED AROUND IN THE JURY BOX. AND I SAY THAT ONLY
22 TO POINT OUT TO YOU THAT ALL OF THE EXHIBITS THAT ARE
23 ADMITTED INTO EVIDENCE IN THIS CASE ARE GOING TO BE WITH
24 YOU IN THE JURY ROOM WHEN YOU GO TO DELIBERATE. SO, YOU
25 CAN LOOK AT THEM AS LONG AND AS CLOSELY AS YOU WANT BACK

1 IN THE JURY ROOM WHEN YOU ARE DELIBERATING. PROCEDURALLY
2 WHAT IS GOING TO HAPPEN IN A MINUTE WHEN I CONCLUDE THESE
3 REMARKS IS I AM GOING TO RECOGNIZE THE ATTORNEYS TO MAKE
4 BRIEF OPENING STATEMENTS TO YOU. THE ATTORNEYS, YOU DO
5 NEED TO UNDERSTAND, WHEN THE ATTORNEYS ARE MAKING THEIR
6 STATEMENT TO YOU THEY ARE NOT TESTIFYING. THE TESTIMONY
7 IS GOING TO COME FROM THE SWORN WITNESSES. THE PURPOSE OF
8 THESE OPENING STATEMENTS IS FOR THE ATTORNEYS TO OUTLINE
9 TO YOU THEIR POSITION IN THIS CASE. THE STATE IS
10 RECOGNIZED FIRST, THE BURDEN OF PROOF IS ON THE STATE AS I
11 PREVIOUSLY STATED AND AS I WILL EXPLAIN TO YOU WHEN I AM
12 GIVING YOU THE INSTRUCTIONS OF LAW. THAT IS WHY THE STATE
13 WILL BE RECOGNIZED FIRST IN THEIR OPENING STATEMENT. THE
14 DEFENSE IS THEN GIVEN THE SAME OPPORTUNITY TO MAKE A BRIEF
15 OPENING STATEMENT TO YOU. ONCE THE ATTORNEYS HAVE MADE
16 THEIR OPENING STATEMENTS THEN WE WILL CONTINUE WITH THE
17 PRESENTATION OF THE TESTIMONY AND THE OTHER EVIDENCE.
18 WHEN ALL OF THAT HAS BEEN PRESENTED TO YOU THEN THE
19 ATTORNEYS WILL COME BACK AND MAKE WHAT WE CALL THE CLOSING
20 ARGUMENTS TO YOU AND THEN I WILL INSTRUCT OR CHARGE YOU
21 WITH WHAT THE LAW IS IN THE CASE AND THEN YOU WILL BE SENT
22 BACK TO DELIBERATE AND TO REACH A VERDICT. WE WILL TAKE A
23 BREAK ABOUT EVERY HOUR OR EVERY HOUR AND FIFTEEN MINUTES.
24 IF YOU HAVE TO TAKE A BREAK BEFORE THEN JUST LET ME KNOW
25 AND WE WILL TAKE A BREAK AT THAT POINT. AND IF YOU ARE

1 UNABLE TO HEAR OR UNDERSTAND THE TESTIMONY OF ANY WITNESS
2 PLEASE GET MY ATTENTION AND WE WILL BE SURE THEY SPEAK
3 LOUDLY AND CLEARLY ENOUGH FOR YOU TO UNDERSTAND WHAT THEY
4 ARE TESTIFYING TO. GIVE YOUR FULL ATTENTION TO THE
5 ATTORNEYS, WE WILL HAVE THE OPENING STATEMENTS AT THIS
6 TIME. MR. STUMBO.

7 MR. STUMBO: THANK YOU, YOUR HONOR, MAY IT PLEASE THE
8 COURT. AUGUST THE 14TH OF 2003, CAROL HURSEY WOKE UP, SHE
9 HAD NO WAY OF KNOWING THAT WOULD BE THE LAST TIME. A
10 LITTLE WHILE EARLIER HER HUSBAND, BUTCH, HAD LEFT THE
11 HOUSE ON HIS JOB AT RICHLAND COUNTY. SHE WASN'T FEELING
12 WELL THAT MORNING, SHE HEARS A KNOCK AT THE DOOR. GOES TO
13 THE DOOR AND LOOKS OUT AND SEES A FAMILIAR FACE, SHE OPENS
14 THE DOOR. WHAT STARTED AS A VERY FRIENDLY ENCOUNTER HERE
15 TURNED INTO A NIGHTMARE. THE FAMILIAR FACE AT THE DOOR
16 PULLS OUT A GUN, GOES IN THE HOUSE AND FORCES HER INTO THE
17 BACK BEDROOM OF THE HOUSE, DEMANDS THE CASH THAT HE KNOWS
18 THAT IS IN THAT HOUSE BECAUSE OF THE WORK HE HAS DONE
19 BEFORE FOR HER HUSBAND, BUTCH. FORCES CAROL DOWN TO HER
20 KNEES, TAKES THAT GUN, PUTS IT UP TO HER HEAD AND PULLS
21 THE TRIGGER. HE STARTS LOOKING FOR THE KEYS SO HE COULD
22 GO OUT AND TAKE CAROL'S CAR AND LEAVE IN THE CAR. NOW,
23 WHAT THIS CASE IS GOING TO BE ABOUT IS PUTTING TOGETHER
24 FOR YOU LIKE PIECES OF A PUZZLE, A PICTURE OF WHO THE
25 PERSON IS BEHIND THE GUN AND THE PERSON WHO IS BEHIND THE

1 WHEEL OF CAROL HURSEY'S CAR. MR. RIDDLE AND I HAVE THE
2 BURDEN OF PROOF IN THIS CASE, THE JUDGE HAS TOLD YOU ABOUT
3 THAT. IT IS A BURDEN THAT WE BEAR GLADLY IN THIS CASE.
4 THE EVIDENCE IS GOING TO SHOW THAT THE PIECES ARE LAID
5 BEFORE YOU ON THIS WITNESS STAND AND ONE PERSON IS BEHIND
6 THAT GUN THAT DAY, ONE PERSON IS BEHIND THE WHEEL OF THAT
7 CAR AND THAT IS JOHNNIE FRAZIER. YOU ARE FIRST GOING TO
8 HEAR FROM THE INVESTIGATORS THAT RESPONDED TO THE SCENE
9 THAT DAY, THE INVESTIGATORS FROM LEXINGTON COUNTY SHERIFFS
10 DEPARTMENT, ABOUT THE EVIDENCE THAT THEY COLLECTED AT THE
11 SCENE THAT DAY, PEOPLE THAT THEY TALKED TO. NEXT WE ARE
12 GOING TO HAVE ON THIS WITNESS STAND ARE PEOPLE THAT WERE
13 HANGING AROUND JOHNNIE FRAZIER AT THE TIME OF THIS MURDER.
14 IT IS GOING TO BE ONE COMMON DENOMINATOR THAT YOU ARE
15 GOING TO HEAR FROM ALL OF THESE PEOPLE HANGING OUT WITH
16 JOHNNIE AND THAT IS THAT THEY WERE BASICALLY AT THE BOTTOM
17 OF THE BARREL THAT THEY WERE HANGING OUT WITH. AS YOU
18 HEAR, LISTEN TO THE WITNESS, I WANT YOU TO LISTEN TO THE
19 MOTIVE THAT JOHNNIE HAD TO GO TO CAROL'S HOUSE THAT DAY,
20 TO SHOOT HER THROUGH THE HEAD. NEXT YOU ARE GOING TO HEAR
21 FROM A NEIGHBOR OF THE PERSON, THE NEIGHBOR THAT SAW
22 JOHNNIE BEHIND THE WHEEL OF CAROL HURSEY'S CAR THE
23 AFTERNOON AFTER SHE WAS MURDERED. LASTLY YOU ARE GOING TO
24 HEAR ABOUT A PIECE OF EVIDENCE IN THIS CASE, A PERSONAL
25 ITEM THAT BELONGED TO JOHNNIE FRAZIER THAT WOULD FOREVER

1 LINK HIM TO THE DEATH OF CAROL HURSEY. YOU ARE GOING TO
2 GET TO HEAR FROM CRIME SCENE FOLKS, YOU ARE GOING TO GET
3 TO HEAR FROM CHEMICAL ANALYST, DNA ANALYST FROM THE STATE
4 LAW ENFORCEMENT DIVISION, THEY ARE GOING TO SHOW YOU THAT
5 CONNECTION. AND WHEN ALL OF THE PIECES OF THE PUZZLE HAVE
6 BEEN LAYED OUT IT IS GOING TO BECOME CRYSTAL CLEAR WHO THE
7 MAN BEHIND THE GUN WAS, THAT IS JOHNNIE FRAZIER, THERE
8 WILL BE ONE VERDICT THAT YOU WILL HAVE TO REACH IN THIS
9 CASE AND THAT IS GUILTY. THANK YOU.

10 THE COURT: MR. FLOYD.

11 MR. FLOYD: THANK YOU. MR. FOREMAN AND LADIES AND
12 GENTLEMEN OF THE JURY, THIS IS JOHNNIE FRAZIER. JOHNNIE
13 IS THE DEFENDANT IN THIS CASE, HE IS A MAN THAT YOU WILL
14 MAKE ONE OF THE MOST IMPORTANT DECISIONS YOU WILL EVER
15 MAKE. AND YOU ARE GOING TO DECIDE WHETHER BASED UPON THE
16 EVIDENCE THAT YOU HEAR IN THIS COURTROOM WHETHER OR NOT
17 JOHNNIE FRAZIER IS GUILTY OF THIS CRIME. IF YOU HAVE
18 NEVER SERVED ON A CRIMINAL JURY BEFORE, YOU HAVE TO SET
19 ASIDE HUMAN NATURE. AND BECAUSE HE NOW SITS AT THAT TABLE
20 ON THIS CHARGE, HE HAS THE SAME RIGHTS THAT WE ALL HAVE,
21 ONE OF THOSE RIGHTS IS THE PRESUMPTION OF INNOCENCE. SO,
22 WHEN YOU LOOK AT JOHNNIE FRAZIER YOU MUST SAY AND IN YOUR
23 HEART JOHNNIE FRAZIER IS INNOCENT AND JOHNNIE FRAZIER
24 CLAIMS THAT INNOCENCE UNLESS THE STATE PROVES TO EACH ONE
25 OF YOUR SATISFACTIONS. NOW, WE ASK YOU TO LISTEN CLOSELY

1 BECAUSE I SUGGEST TO YOU THAT IN THIS CASE, YOU LISTEN TO
2 WHAT THE WITNESSES SAY. THERE ARE A LOT OF PIECES FOR THE
3 STATE'S CASE TO WORK, YOU HAVE GOT TO MOVE SOME OF THOSE
4 PIECES. ALL PIECES OF EVIDENCE ABOUT THIS CASE IN THIS
5 COURTROOM, THEY DON'T FIT TOGETHER TO SATISFY YOU. THE
6 STATE GETS TO PUT UP ALL OF THEIR EVIDENCE BEFORE THE
7 DEFENSE GETS TO PUT UP THEIRS. ALL WE ARE ASKING IN THIS
8 CASE IS TO LISTEN CAREFULLY. THANK YOU.

9 THE COURT: ALL RIGHT, MR. FOREMAN AND LADIES AND
10 GENTLEMEN, AT THIS TIME WE WILL BREAK FOR LUNCH. BE BACK
11 IN YOUR JURY ROOM AT 1:45, DON'T DISCUSS THE CASE WITH
12 ANYONE AND WHEN YOU DO COME BACK COME STRAIGHT TO YOUR
13 JURY ROOM. YOU ARE EXCUSED AND EVERYONE ELSE STAY SEATED,
14 PLEASE.

15 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
16 A LUNCH BREAK.)

17 THE COURT: WE WILL SEE YOU ALL AT 1:45.

18 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

19 THE COURT: ANYTHING FROM THE STATE?

20 MR. STUMBO: NOTHING FROM THE STATE OTHER THAN THE
21 FACT THAT HE DID PRE-MARK SOME OF THE EXHIBITS.

22 THE COURT: ARE THEY GOING INTO EVIDENCE AT THIS TIME
23 OR ARE YOU GOING TO BE PUTTING THEM IN AS YOU GO THROUGH.

24 MR. STUMBO: YOUR HONOR, WE WILL LAY THE FOUNDATION
25 THROUGH THE WITNESSES.

1 THE COURT: ALL YOU HAVE DONE IS MARK THEM FOR
2 IDENTIFICATION AT THIS TIME. HOW MANY ARE THERE?

3 COURT REPORTER: THERE IS 17.

4 THE COURT: STATE'S 1 THROUGH 17 HAVE BEEN MARKED
5 ONLY FOR IDENTIFICATION AT THIS TIME.

6 (WHEREUPON, STATE'S EXHIBIT NOS. 1-17 WERE MARKED FOR
7 IDENTIFICATION ONLY.)

8 THE COURT: ANYTHING FROM THE DEFENSE, MR. FLOYD?

9 MR. FLOYD: NO, YOUR HONOR.

10 THE COURT: BRING THE JURY IN.

11 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
12 APPROXIMATELY 1:50 P.M.)

13 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN,
14 THERE HAS BEEN AN INQUIRY OF IF YOU COULD TAKE NOTES. IT
15 USED TO BE THAT ALL JUDGES FORBID YOU TO TAKE NOTES BUT WE
16 HAVE RELAXED THAT IN RECENT YEARS. I ALLOW NOTES TO BE
17 TAKEN BUT THERE ARE SIMPLE RULES ABOUT TAKING NOTES.
18 ANYONE WHO IS TAKING NOTES, WE WILL PROVIDE PAD AND PENCIL
19 FOR YOU AND ON THE TOP PAGE YOU NEED TO WRITE YOUR NAME.
20 AND THE NOTES ARE YOUR PERSONAL NOTES, THEY ARE NOT TO BE
21 SHARED WITH OTHER MEMBERS OF THE JURY AND THEY WILL STAY
22 HERE WHEN YOU GO HOME FOR THE EVENING. YOU WILL GET THEM
23 BACK THE NEXT DAY. ALL RIGHT, MR. RIDDLE.

24 (WHEREUPON, COURT'S EXHIBIT NO. 1 WAS MARKED FOR
25 IDENTIFICATION ONLY.)

1 MR. RIDDLE: THE STATE CALLS SIDNEY HURSEY TO THE
2 STAND.

3 SIDNEY HURSEY, AFTER BEING DULY SWORN, TESTIFIED
4 AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. RIDDLE:

7 Q DO YOU GO BY SIDNEY?

8 A I GO BY BUTCH.

9 Q HOW LONG HAVE YOU BEEN KNOWN BY BUTCH, MR. HURSEY?

10 A SINCE I WAS A BABY.

11 Q AND YOU LIVE HERE IN LEXINGTON COUNTY?

12 A YES, SIR.

13 Q HOW LONG HAVE YOU BEEN HERE, BUTCH?

14 A 47 YEARS.

15 Q HOW OLD ARE YOU NOW?

16 A 65.

17 Q WHERE DO YOU LIVE HERE IN LEXINGTON, SIR?

18 A ON BUSBEE ROAD IN GASTON.

19 Q DOWN IN THE SOUTHERN PORTION OF THE COUNTY?

20 A YES, SIR.

21 Q AND HOW LONG HAVE YOU BEEN LIVING OUT ON BUSBEE ROAD?

22 A 18 YEARS, 20 YEARS.

23 Q 20 YEARS?

24 A YES.

25 Q NOW, BUTCH, WERE YOU EMPLOYED AT A REGULAR FULL TIME

1 JOB?

2 A I WAS, I RETIRED AFTER CAROL DIED.

3 Q AFTER CAROL DIED?

4 A YES, SIR.

5 Q WHERE WERE YOU EMPLOYED UP UNTIL THE TIME THAT CAROL
6 DIED?

7 A RICHLAND COUNTY PUBLIC WORKS.

8 Q WHAT DID YOU DO AT THE PUBLIC WORKS?

9 A I SUPERVISED.

10 Q HOW LONG DID YOU DO THAT IN RICHLAND COUNTY?

11 A 17 YEARS.

12 Q AND YOU RETIRED FROM THERE?

13 A YES, SIR.

14 Q BUTCH, DID YOU ALSO HAVE SOME OTHER WAYS THAT YOU
15 GENERATED INCOME FOR YOU AND YOUR FAMILY?

16 A I WAS INVOLVED IN AUCTIONS.

17 Q NOW, YOU LIVED DOWN ON BUSBEE ROAD FOR 20 YEARS, I
18 BELIEVE YOU SAID?

19 A YES, SIR.

20 Q DO YOU HAVE ANY CHILDREN THAT LIVE DOWN THERE WITH
21 YOU?

22 A I HAVE GOT TWO BOYS.

23 Q HOW OLD ARE THEY?

24 A ONE IS 21 AND ONE IS 18.

25 Q AND THEY GREW UP IN THAT LOCATION?

1 A YES, SIR.

2 Q NOW, LET'S TALK ABOUT THE AUCTION FOR JUST A MINUTE,
3 IF YOU CAN, ALL RIGHT?

4 A YES, SIR.

5 Q WHERE IS THAT AUCTION LOCATED?

6 A BESIDE MY HOUSE.

7 Q IMMEDIATELY NEXT DOOR?

8 A JOINT PROPERTY, YES SIR.

9 Q BUTCH, IF I COULD, LET ME GET YOU TO STEP DOWN FOR
10 JUST A SECOND. LET ME SHOW YOU WHAT HAS BEEN PREVIOUSLY
11 MARKED AS STATE'S EXHIBIT NUMBER 14, DO YOU RECOGNIZE WHAT
12 THAT IS?

13 A YES, THAT IS WHERE I LIVE RIGHT HERE, THAT IS MY
14 PROPERTY RIGHT THERE.

15 MR. RIDDLE: YOUR HONOR, AT THIS TIME I WOULD OFFER
16 STATE'S 14 INTO EVIDENCE.

17 THE COURT: ANY OBJECTION, IS IT TO SCALE?

18 MR. RIDDLE: YES SIR, IT IS A PHOTOGRAPH.

19 THE COURT: ANY OBJECTION?

20 MR. FLOYD: NO OBJECTION.

21 THE COURT: STATE'S 14 IS ADMITTED WITHOUT OBJECTION.

22 (WHEREUPON, STATE'S EXHIBIT NO. 14 WAS ADMITTED INTO
23 EVIDENCE.)

24 Q NOW, KEEP YOUR VOICE UP, WHAT ROAD IS THIS THAT RUNS
25 DOWN THROUGH HERE, MR. HURSEY?

1 A THAT IS BUSBEE ROAD.

2 Q AND WHAT ROAD IS THIS RIGHT HERE?

3 A THAT IS ATTWOOD, (PHONETIC), DRIVE, THAT BORDERS MY

4 PROPERTY.

5 Q BORDERS YOUR PROPERTY?

6 A I HAVE GOT LAND ON THIS ROAD AND THIS ROAD HERE.

7 Q SO, YOU ARE ON THE CORNER THERE?

8 A YES.

9 Q AND WHERE IS YOUR HOUSE LOCATED ON THIS MAP, MR.

10 HURSEY?

11 A RIGHT THERE, THE AUCTION BARN IS RIGHT THERE.

12 Q YOU INDICATED YOUR HOUSE IS RIGHT THERE, IS THAT

13 CORRECT?

14 A YES, SIR.

15 Q AND THEN YOU SAID SOMETHING ABOUT THE AUCTION BARN IS

16 RIGHT THERE?

17 A RIGHT THERE. THE AUCTION BARN IS RIGHT THERE AND A

18 LITTLE DOUBLEWIDE RIGHT THERE, ON THAT BACK THERE.

19 Q IF YOU WOULD JUST TAKE THAT RED MARKER AND CIRCLE

20 AROUND YOUR PROPERTY THERE?

21 A (WITNESS DRAWS ON DIAGRAM.)

22 Q NOW, DID YOU ALSO OWN SOME RENTAL PROPERTY?

23 A YES.

24 Q WHERE WAS THAT PROPERTY LOCATED?

25 A ON WAYNE STREET, ON DOWN BUSBEE ROAD.

1 Q AND SHOW US WHERE WAYNE STREET IS, MR. HURSEY?

2 A RIGHT HERE.

3 Q RIGHT IN THIS AREA HERE?

4 A YES, SIR.

5 Q AND SHOW US WHERE THE RENTAL PROPERTY THAT YOU OWNED
6 ON WAYNE STREET WAS?

7 A LET'S SEE, OKAY, HERE WE GO. RIGHT THERE.

8 Q SO, YOU LIVED HERE?

9 A YES.

10 Q AND YOU OWN SOME RENTAL PROPERTY DOWN HERE?

11 A YES, SIR.

12 Q YOU CAN HAVE A SEAT. NOW, BUTCH, I HAD YOU GO AHEAD
13 AND MARK THE RENTAL PROPERTY BUT I WANT TO BACK UP AND
14 TALK ABOUT THE AUCTION BUSINESS FOR JUST A MINUTE BEFORE
15 WE GET TO THE RENTAL PROPERTY. THE AUCTION BUSINESS IS
16 LOCATED DIRECTLY BESIDE YOUR HOUSE?

17 A YES.

18 Q AND DESCRIBE TO THE JURY HOW THAT BUSINESS WORKED,
19 WHAT YOU DO, HOW YOU RAN IT?

20 A PEOPLE GOT EXTRA STUFF THEY DON'T NEED, THEY BRING IT
21 DOWN AND SELL IT, BUY STUFF AND RESELL IT, STORAGE BINS,
22 ESTATE SALES, GROCERY SALES.

23 Q DID YOU BUY THE PROPERTY YOURSELF AND THEN RESELL IT
24 OR WOULD YOU SELL IT ON CONSIGNMENT?

25 A I BOUGHT SOME AND SOLD IT AND SOME WERE CONSIGNMENTS.

1 Q AND YOU MENTIONED SOMETHING ABOUT STORAGE BINS, TELL
2 THE JURY WHAT YOU ARE REFERRING TO?

3 A PEOPLE WHO LEFT TOWN OR CHANGED THEIR LOCATION AND
4 THEY TAKE THEIR GOODS TO PUT THEM UNTIL THEY FIND A NEW
5 LOCATION AND SOMETIMES THEY DON'T COME BACK AND GET THEM
6 AND SOMETIMES THEY DO. AND WE PUT THEM UP FOR AUCTION.

7 Q SO, YOU WOULD BUY THE CONTENTS OF STORAGE BUILDINGS
8 WHEN PEOPLE DIDN'T PAY THEIR STORAGE BILLS?

9 A AND ALSO PEOPLE WHO WOULD MOVE, A WHOLE HOUSEHOLD,
10 WHEN THEY WOULD MOVE TO CALIFORNIA OR SOMETHING.

11 Q AND THEN YOU SELL THEM AT YOUR OWN BUSINESS?

12 A YES, SIR.

13 Q DID YOU ALSO DO SOME CONSIGNMENTS THERE?

14 A YES.

15 Q AND HOW DO THOSE WORK?

16 A PEOPLE BRING THEIR THINGS AND WE SELL IT FOR THEM.

17 Q AND THEN HOW DO YOU GET PAID?

18 A COMMISSION.

19 Q A COMMISSION?

20 A YES, A COMMISSION FOR.

21 Q AND HOW LONG HAVE YOU BEEN RUNNING THAT AUCTION
22 BUSINESS DOWN THERE?

23 A JUST MAYBE TEN YEARS.

24 Q WERE YOU RUNNING THAT AUCTION BACK IN 2003, BUTCH?

25 A YES, SIR.

1 Q NOW, HOW MUCH MONEY WOULD YOU USE OR GENERATE ON A
2 WEEKLY BASIS ON THAT AUCTION BUSINESS?

3 A GENERALLY ABOUT \$5,000.00 DOLLARS A WEEK, ABOUT WHAT
4 IT IS, SOME OF THEM WERE \$3,000.00. SOME PEOPLE WOULD
5 BRING A CAR AND WE WOULD SELL.

6 Q AND THAT WAS SORT OF THE WORKING CAPITAL, IS THAT
7 RIGHT?

8 A YES, SIR.

9 Q NOW, WHERE DID YOU KEEP THAT MONEY?

10 A IN A BRIEFCASE, YOU KNOW, BANK BAGS.

11 Q BANK BAGS?

12 A BANK BAGS IN THE BRIEFCASE.

13 Q AND WHERE WOULD YOU KEEP THE BRIEFCASE?

14 A IN THE BEDROOM.

15 Q THAT IS THE PROPERTY THAT YOU CIRCLED RIGHT HERE ON
16 BUSBEE ROAD?

17 A YES, SIR.

18 Q NOW, LET'S TALK ABOUT THE RENTAL PROPERTIES FOR A
19 MINUTE. BACK IN 2003 DID YOU HAVE A NUMBER OF RENTAL
20 PROPERTIES?

21 A YES.

22 Q APPROXIMATELY HOW MANY DID YOU HAVE THEN?

23 A SIX, SEVEN.

24 Q WHAT KIND OF PROPERTIES WERE THEY, WERE THEY
25 RESIDENTIAL OR COMMERCIAL OR WHAT?

1 A ALL RESIDENTIAL.

2 Q AND WERE THEY ALL LOCATED SOMEWHERE NEAR YOUR
3 PROPERTY?

4 A EVERYTHING WAS WITHIN A HALF MILE OF MY HOUSE.

5 Q SO, YOU HAD SEVEN LITTLE RESIDENTIAL PROPERTIES, DOWN
6 THERE NEAR BUSBEE ROAD?

7 A YES, SIR.

8 Q DOES THE NAME OF JOHNNIE FRAZIER MEAN ANYTHING TO
9 YOU?

10 A YES, SIR.

11 Q IS JOHNNIE FRAZIER HERE IN THIS COURTROOM?

12 A YES, I CAN'T SEE WITH THAT BOARD BUT HE IS RIGHT OVER
13 THERE.

14 Q THE DEFENSE TABLE?

15 A YES, SIR.

16 Q HOW DO YOU KNOW JOHNNIE FRAZIER, MR. HURSEY?

17 A WELL, JOHNNIE JUST, HE DID HANDYMAN WORK FOR ME.

18 CAROL, ALL THE TIME NEEDED HELP TO MOVE FURNITURE, HE
19 WORKED WITH HER, WE BUY THINGS AND SHE WOULD GO AND GET
20 THEM AND SHE WOULD GO AND SELL THEM. AND SHE HAD TO GET A
21 LITTLE HELP, HE BUILT A DECK ON MY HOUSE, HE DID REPAIRS.

22 Q DID JOHNNIE WORK FOR YOU?

23 A YES, ON A COMMISSION BASIS.

24 Q DID HE WORK FOR CAROL?

25 A YES, SIR.

1 Q CAROL WAS YOUR WIFE, CORRECT?

2 A YES, SIR.

3 Q DID HE EVER RENT PROPERTY FROM YOU, ONE OF THOSE
4 RENTAL PROPERTIES THAT YOU HAVE?

5 A YES, SIR.

6 Q AND WHEN WAS THAT, MR. HURSEY?

7 A THAT HAS BEEN FIVE YEARS.

8 Q WHEN WAS IT IN RELATION--

9 A THREE OR FOUR MONTHS BEFORE CAROL DIED.

10 Q BEFORE SHE WAS KILLED?

11 A YES, SIR.

12 Q AND WHEN HE WAS LIVING AT THAT PROPERTY, WAS HE ON
13 ONE OF THE PROPERTIES DOWN OFF OF WAYNE STREET?

14 A YES SIR, THE HOUSE TO THE RIGHT THERE, WHEN YOU TURN
15 THERE IT IS THE FIRST HOUSE ON THE POINT.

16 Q WAS HE LIVING AT THE TIME THAT CAROL GOT KILLED?

17 A HE HAS JUST BEEN EVICTED ABOUT TWO WEEKS BEFORE,
18 MAYBE EVEN A WEEK BEFORE SHE WAS KILLED.

19 Q AND WHY WAS HE EVICTED, MR. HURSEY?

20 A WELL, HE GOT RUNNING WITH THIS GIRL AND MOVED IN AND
21 ALL OF SUDDEN HE JUST QUIT WORKING AND HE DIDN'T HAVE NO
22 WAY TO PAY THE RENT. WHEN HE WAS WORKING HE WAS PAYING
23 HIS RENT BUT HE WOULDN'T WORK.

24 Q AND WHEN YOU SAY HE WAS WORKING, WAS HE WORKING AT
25 THE AUCTION FOR YOU GUYS?

1 A WELL, HE WAS WORKING, NOT IN THE AUCTION BUT HE WAS
2 WORKING BACK AND TO THE AUCTION. EVERYTHING HAD TO GO TO
3 THE AUCTION AND WE BUY BINS AND STUFF AND HE WOULD DELIVER
4 THEM TO THE MIDDLE BUILDING TO FIX IT AND WENT TO THE BIG
5 BUILDING TO SELL.

6 Q HE MOVED FURNITURE FOR YOU?

7 A HE DID EVERYTHING.

8 Q DID MR. FRAZIER KNOW ABOUT THE MONEY THAT YA'LL KEPT
9 AT YA'LL'S HOUSE?

10 A YES.

11 Q DID HE KNOW ABOUT HOW MUCH IT WAS?

12 A HE KNEW A LOT, IT IS NOT A LOT OF MONEY BUT IT SEEMED
13 TO BE A LOT OF MONEY TO HIM.

14 Q HE KNEW IT WAS THOUSANDS OF DOLLARS?

15 A OVER THOUSANDS, YES. THEY WOULD NOT TAKE PLASTIC AND
16 AT THAT TIME IT WAS A DONE DEAL. A LOT OF PLACES LET YOU
17 WRITE A CHECK OR USE A CHARGE CARD.

18 Q DID MR. FRAZIER KNOW WHERE YA'LL KEPT THE MONEY AT
19 YOUR HOUSE?

20 A HE KNEW IT WAS IN THE BRIEFCASE, WHEN SHE WOULD GO TO
21 THE SELL AND SHE WOULD HAVE THE BRIEFCASE UP THERE.

22 Q WOULD IT BE FAIR TO SAY, BUTCH, THAT YA'LL PRETTY
23 MUCH RAN THAT AUCTION BUSINESS CASH WISE OUT OF THAT
24 BRIEFCASE?

25 A YES.

1 Q AND MR. FRAZIER KNEW THAT IS WHERE THE MONEY WAS?

2 A YES, SIR.

3 Q NOW, YOU MENTIONED THAT MR. FRAZIER GOT EVICTED
4 SHORTLY BEFORE CAROL WAS KILLED, IS THAT CORRECT?

5 A YES.

6 Q WHO EVICTED HER, BUTCH, OR EVICTED HIM RATHER, I AM
7 SORRY.

8 A WELL, I ADVISED CAROL NOT TO MENTION THE RENTAL STUFF
9 WITH HIM BEFORE. AND SHE SAID, NO, JOHNNIE IS OKAY. HE
10 WILL PAY BY THE WEEK, HE PAID BY THE WEEK. AND SO I HAVE
11 BEEN KIND OF, TWO AND THREE WEEKS HE HADN'T MADE, HE QUIT
12 WORKING. SO, I TOLD CAROL THAT SHE HAD TO EVICT HIM. SHE
13 CAME BACK AND TOLD HIM THAT AND HE WAS VERY UNPLEASANT.

14 Q LET'S TALK ABOUT CAROL FOR A FEW MINUTES IF YOU CAN,
15 BUTCH. HOW LONG HAD YOU KNOWN HER?

16 A 15 YEARS, WHEN SHE DIED.

17 Q IT WOULD BE 20 YEARS NOW?

18 A YES. SHE WORKED THE FLOOR.

19 Q THE FLOOR OF THE AUCTION?

20 A YES, SHE HAD THE RUN OF THE AUCTION.

21 Q AND WHEN DID YOU AND CAROL GET MARRIED?

22 A A YEAR AFTER HER HUSBAND HAD DIED.

23 Q SO, SHE WAS MARRIED AND YOU KNEW HER, YOU WERE
24 MARRIED BEFORE TOO?

25 A YES.

1 Q AND THEN AFTER YOU GOT DIVORCED AND HER HUSBAND DIED
2 YA'LL ENDED UP TOGETHER?

3 A YES, SIR.

4 Q WHAT ALL DID CAROL DO WITH THE AUCTION BUSINESS?

5 A EVERYTHING.

6 Q NOW, WHEN YOU SAY EVERYTHING--

7 A EVERYTHING BUT AUCTIONEERING. SHE WAS GOING TO GO TO
8 AUCTIONEERING SCHOOL THE DAY AFTER SHE WAS KILLED. AND
9 OTHER THAN THAT SHE DID EVERYTHING INCLUDING COOKING,
10 KITCHEN, RUNNER, TICKET WRITER, CASHIER, BOSS, WORKED
11 EVERYTHING.

12 Q AND SHE ALSO HELPED OUT WITH THE RENTAL PROPERTIES,
13 CORRECT?

14 A YES, SHE USED TO WORK AT SOMETHING BUT SHE QUIT AND
15 HELPED ME TAKE CARE OF BUSINESS.

16 Q LET ME GO TO AUGUST THE 14TH OF 2003, BUTCH, DO YOU
17 RECALL THAT DAY?

18 A YES.

19 Q IS THAT THE DAY THAT CAROL DIED?

20 A YES.

21 Q WHAT DID YOU DO THAT MORNING, SIR?

22 A GOT UP AND WENT TO WORK.

23 Q AND WHAT TIME WOULD YOU ORDINARILY LEAVE YOUR HOUSE
24 AND GO TO WORK?

25 A 6:00 O'CLOCK.

1 Q WHERE DID YOU WORK, I KNOW WHERE BUT WHERE WAS IT
2 LOCATED?

3 A 35 MILES FROM MY HOUSE TO RICHLAND COUNTY PUBLIC
4 WORKS, POWELL ROAD.

5 Q POWELL ROAD?

6 A POWELL ROAD, YES SIR.

7 Q AND IS THAT OFF OF FARROW ROAD OVER IN RICHLAND
8 COUNTY?

9 A YES, SIR.

10 Q NOW, WHAT HAPPENED THAT DAY?

11 A I TRIED TO CALL HER.

12 Q WERE YOU ABLE TO REACH HER?

13 A NO, SIR.

14 Q WHAT ALL NUMBERS DID YOU TRY TO REACH HER ON?

15 A I CALLED HER, I CALLED THE HOUSE FIRST AND DIDN'T GET
16 NO ANSWER. AND THEN I CALLED MAMA'S HOUSE AND SHE HADN'T
17 SEEN HER.

18 Q THAT IS YOUR MOM HADN'T SEEN HER?

19 A MY MOM HADN'T SEEN HER. SO, I KEPT CALLING THE HOUSE
20 AND I CALLED HER ON HER CELL PHONE. BECAUSE CAROL HAD A
21 HABIT OF LEAVING HER CELL PHONE AT THE HOUSE. BUT ANYWAY
22 I CALLED MY SISTER-IN-LAW, TINA TO GO CHECK AND SEE IF
23 CAROL WAS ALL RIGHT AT THE HOUSE. AND I THINK TINA WAS AT
24 A WEDDING SOME TIME THERE. AND SHE CALLED ME AND SAID SHE
25 HADN'T SEEN HER BUT HER CAR WAS GONE. SO, I KEPT CALLING

1 HER AND COULDN'T GET HER ON THE CELL PHONE, NEVER SHOWED
2 UP AT MOM'S HOUSE. CALLED HER MAMA'S HOUSE, COULDN'T FIND
3 HER THERE. AND I GOT UPSET WHEN I WAS TRYING TO FIND HER.
4 I TOLD THEM I WAS GOING TO LEAVE WORK AND GO TRY TO FIND
5 HER, SHE COULD OF HAD A HEART ATTACK OR SOMETHING.

6 Q WHAT TIME DID YOU LEAVE WORK THAT DAY, BUTCH?

7 A NOON, SOMETIME AFTER LUNCH, BEFORE 2:00 O'CLOCK.

8 Q ABOUT WHAT TIME DO YOU THINK YOU GOT HOME?

9 A 2:30 OR 3:00 O'CLOCK, IT IS A 45 MINUTE DRIVE.

10 Q TELL THIS JURY WHAT YOU FOUND WHEN YOU GOT HOME,
11 BUTCH?

12 A YOU WANT THE WHOLE THING OR WHAT I SEEN FIRST IN THE
13 YARD.

14 Q WELL, YOU PULLED UP--

15 A WHEN I PULLED UP TO MY HOUSE, I DIDN'T PULL IN THE
16 GATE LIKE I ALWAYS DID BECAUSE THE GATE WAS HIT. AND THE
17 POST WAS LEANED OVER AND THE GATE. SO, HER PLACE FOR HER
18 PARKING SPOT WAS THE FRONT OF THE HOUSE AND MY PARKING
19 SPOT WAS THE SIDE OF THE HOUSE, INSIDE THE YARD. SO, I
20 WENT UP TO THE DOOR AND OPENED THE DOOR UP AND LOOKED IN
21 AND A LITTLE PUPPY CAME UP JUST FRANTIC. AND I WALKED
22 BACK TO THE BACK BEDROOM AND FOUND HER LAYING ON THE FLOOR
23 DEAD.

24 Q WHEN YOU PULLED UP THE GATE WAS MESSED UP?

25 A YES, SIR.

1 Q WAS HER CAR THERE?

2 A NO, SIR.

3 Q WHAT KIND OF CAR DID SHE HAVE, BUTCH?

4 A A MAZDA, MAROON.

5 Q DO YOU RECALL WHAT YEAR IT WAS?

6 A 2002.

7 Q MAROON IN COLOR?

8 A YES, SIR.

9 Q YOU WENT TO THE FRONT DOOR, DID YOU HAVE TO UNLOCK
10 IT?

11 A YES.

12 Q WHEN YOU WENT INSIDE THE HOUSE THE DOG APPROACHED
13 YOU?

14 A WHEN I OPENED THE DOOR, THE PORCH, THE FRONT DOOR, HE
15 WAS JUST CRAZY.

16 Q AND WHAT DID YOU DO AT THAT POINT?

17 A I WENT BACK TO THE BEDROOM TO SEE, YOU KNOW, TO SEE
18 WHAT WAS GOING ON. WHEN I GOT TO THE BACK BEDROOM I SEEN
19 HER LAYING THERE.

20 Q DO YOU RECALL WHETHER OR NOT SHE WAS CLOTHED?

21 A YES, SIR.

22 Q WHAT WAS SHE WEARING?

23 A THE SAME NIGHTGOWN THAT SHE HAD ON WHEN I LEFT, IT
24 WAS A NIGHTGOWN. AND HER HAND WAS HOLDING HER NIGHTGOWN
25 TOGETHER.

1 Q DID SHE HAVE A BATHROBE ON?

2 A NO SIR, JUST A NIGHTGOWN.

3 Q BUTCH, WHEN YOU SAW HER DID YOU CHECK HER FOR SIGNS
4 OF LIFE?

5 A YES, SIR.

6 Q DID YOU FIND ANY?

7 A THERE WASN'T NONE.

8 Q DID YOU NOTICE ANY BLOOD?

9 A I SEEN THE BLOOD ON HER HEAD AFTER I STARTED CHECKING
10 HER. WELL, FIRST OFF I THOUGHT SHE HAD FELL AND I DIDN'T
11 KNOW THAT SHE WAS SHOT THEN. I KNEW HER CAR WAS GONE AND
12 GOT THERE TO WHERE SHE WAS LAYING AT, IT IS JUST LIKE SHE
13 WAS ASLEEP ON THE FLOOR. WHEN I FELT HER I KNEW SHE WAS
14 COLD, I COULD FEEL SOMEBODY COLD.

15 Q AFTER YOU CHECKED HER FOR SIGNS OF LIFE WHAT DID YOU
16 DO AT THAT POINT, BUTCH?

17 A I CALLED 911 AND WE HAD THREE PHONES IN THE HOUSE AND
18 I HAD A CELL PHONE. I CALLED TINA TO TELL HER TO COME, I
19 CALLED HER SISTER ON THE OTHER PHONE AND TO COME AND HELP
20 ME. I ALSO CALLED MY WORK AND TOLD THEM WHAT WAS GOING
21 ON.

22 Q NOW, BUTCH, WHEN YOU WENT INTO THAT BEDROOM DID YOU
23 SEE THE BRIEFCASE THAT YOU RAN THE AUCTION BUSINESS OUT
24 OF?

25 A YES.

1 Q WHERE WAS THAT BRIEFCASE?

2 A AS YOU ARE WALKING IN MY BEDROOM, CAROL WAS OVER HERE
3 AND THE BRIEFCASE WAS ON THE BED, OPENED UP ON THE BED.

4 Q WHAT SHOULD THAT BRIEFCASE HAD HAD IN IT?

5 A THE BANK BAGS, CHANGE.

6 Q WHAT WOULD OF BEEN IN THE BANK BAGS?

7 A SOME WHERE AROUND \$5,000.00 DOLLARS.

8 Q AND WERE THE BAGS THERE?

9 A YES, SIR. SOME BAGS WERE THERE BUT THE MONEY WAS
10 MISSING.

11 Q THE MONEY WAS GONE?

12 A YES, SIR.

13 Q HER VEHICLE WAS GONE?

14 A YES.

15 Q THE KEYS TO THAT VEHICLE, DID YOU EVER SEE THOSE
16 AGAIN?

17 A THOSE, WHEN WE FOUND THE LOCKED CAR, HER KEYS WERE IN
18 THE LOCKED CAR, I HAVEN'T SEEN THEM, THEY WERE IN EVIDENCE
19 OR SOMETHING.

20 Q MY POINT IS, WERE THE KEYS HER KEYS, CAROL'S KEYS,
21 WERE THEY STILL AT YOUR HOUSE?

22 A NO SIR, THE KEY AT THAT SPECIFIC TIME, IT WAS LATER
23 SHOWN NOT BEING THERE.

24 Q BUT HER KEYS WERE GONE?

25 A HER KEYS WERE GONE.

1 Q AND DID SHE HAVE CAR KEYS ON THAT RING?

2 A CAR KEYS, LOCKED BOX SET OF KEYS.

3 Q WERE THE KEYS TO YOUR HOUSE ALSO ON THERE?

4 A YES. NOW SHE HAD A KEY RING THAT SHE KEPT ON A
5 DIFFERENT CAR IN THE HOUSE.

6 Q OKAY. WHERE DID SHE KEEP HER KEYS, BUTCH?

7 A ON THE NIGHTSTAND RIGHT BESIDE THE BED.

8 Q THE SAME BED SHE WAS NEAR WHEN SHE WAS KILLED?

9 A YES.

10 Q AFTER YOU CALLED THE SHERIFFS DEPARTMENT DID THEY
11 RESPOND DOWN THERE?

12 A YES, SIR.

13 Q DID THEY ASK YOU ABOUT PEOPLE THAT YOU THOUGHT MIGHT
14 BE INVOLVED?

15 A YES.

16 Q DID YOU TELL THEM ABOUT MR. FRAZIER?

17 A HE IS THE ONE ON THE LIST THAT I CALLED, YES.

18 Q AND HE EVEN INSTALLED THE FRONT DOOR ON YOUR HOUSE?

19 A YES, A DOOR LOCK, BAR, EVERY KIND OF HANDY WORK THAT
20 HAD TO BE DONE.

21 Q BEEN AROUND YOU A GOOD BIT?

22 A NOT AS MUCH AS ME AS IT HAD BEEN CAROL. I WOULD SEE
23 JOHNNIE WHEN I GOT BACK TO HOME.

24 Q BEEN AROUND CAROL A LOT?

25 A YES.

1 MR. RIDDLE: I BEG THE COURT'S INDULGENCE.

2 Q THANK YOU, MR. HURSEY, PLEASE ANSWER MR. FLOYD'S
3 QUESTIONS.

4 THE COURT: MR. FLOYD.

5 CROSS-EXAMINATION

6 BY MR. FLOYD:

7 Q MR. HURSEY, IS CAROL YOUR FIFTH WIFE?

8 A YES.

9 Q HAD YOU HAD PROBLEMS WITH PREVIOUS WIVES?

10 A WE WEREN'T TOGETHER ANY MORE.

11 Q WHO ELSE DID YOU TELL THE POLICE WAS A POSSIBLE
12 SUSPECT OF JOHNNIE FRAZIER?

13 A JEFF SPIGNER, BRAD KOON, THESE ARE PEOPLE OF
14 INTEREST, SOME OF THESE PEOPLE MAY OF KNOWN OR THOUGHT OF
15 WHO KILLED CAROL.

16 Q AND DID YOU NAME SOME WOMEN ALSO?

17 A WOMEN.

18 Q OF INTEREST?

19 A I COULDN'T HEAR YOU.

20 Q DID YOU NAME WOMEN OF INTEREST?

21 A I MADE, I CAN'T THINK OF EVERYBODY, I NAMED EVERYBODY
22 THAT I THOUGHT THAT CAROL MIGHT HAVE SOME CONTACT WITH,
23 POSSIBLY BEEN A ROBBER. STARR WHO WAS LIVING WITH JOHNNIE
24 ABOUT THAT TIME. I CAN'T REMEMBER THE NAME OF ANOTHER
25 NAME, I CAN'T THINK OF HER NAME, A TALL GIRL.

1 Q WHY DID YOU NAME STARR?

2 A SHE WAS LIVING WITH JOHNNIE AT THE TIME.

3 Q SHE WAS A TALL GIRL, WAS THAT JACQUELINE BURKE?

4 A YES, JACQUELINE BURKE.

5 Q HAD YOU HAD A PHYSICAL CONFRONTATION WITH YOUR WIVES?

6 MR. RIDDLE: OBJECTION TO RELEVANCE, YOUR HONOR.

7 THE COURT: COME ON UP.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE

9 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE

10 JURY.)

11 THE COURT: WE WILL MAKE THOSE RECORDS AS A COURT

12 EXHIBIT AND YOUR OBJECTION IS SUSTAINED AND I WILL MAKE

13 REFERENCE TO THE COURT RECORD THAT WILL BE SUPPLEMENTED AT

14 A LATER TIME.

15 Q NOW, MR. HURSEY, YOU SAY YOU LEFT THE HOUSE AROUND

16 6:00?

17 A YES.

18 Q AND FROM THAT POINT, WHEN IS THE NEXT TIME THAT YOU

19 TRIED TO MAKE CONTACT WITH CAROL?

20 A PROBABLY AROUND 10:00.

21 Q AND I BELIEVE YOU TESTIFIED THAT YOU WERE UNABLE TO

22 MAKE CONTACT WITH HER ANYMORE?

23 A YES, SIR.

24 Q NOW, YOU HAD SOME CONVERSATIONS WITH TINA DAVIS, IS

25 THAT CORRECT?

1 A YES.

2 Q AND TINA IS, WHAT IS HER RELATIONSHIP?

3 A SHE IS AN EX-SISTER-N-LAW, BUT SHE IS STILL A
4 SISTER-N-LAW.

5 Q AND DOES SHE LIVE CLOSE BY?

6 A YES, SIR.

7 Q AND WHAT TIME DID YOU ASK TINA TO GO CHECK ON HER?

8 A AFTER I COULDN'T FIND CAROL, IT MUST OF BEEN ABOUT
9 10:00 OR 11:00 O'CLOCK.

10 Q AND IT IS YOUR TESTIMONY THAT SHE CHECKED AND SAID
11 THAT HER CAR WAS GONE?

12 A YES, SAID THAT SHE WAS ALL RIGHT.

13 Q SO, IT IS YOUR UNDERSTANDING THAT TINA JUST SAW THE
14 CAR, SHE DIDN'T GO IN THE HOUSE?

15 A YES.

16 Q NOW, THIS GENTLEMEN, JEFF SPIGNER, YOU MENTIONED AS A
17 PERSON OF INTEREST. HOW CLOSE DID HE LIVE TO YOUR HOUSE?

18 A HE STAYED IN THE DOUBLEWIDE RIGHT BESIDE THE BARN IN
19 FRONT OF MY HOUSE.

20 Q HE WAS AROUND 200 FEET FROM YOUR HOUSE?

21 A 200 FEET.

22 Q AND DID HE KNOW CAROL ALSO?

23 A YES.

24 Q DID HE SOMETIMES DO SOME WORK FOR HER ALSO?

25 A HE NEVER DID ANY WORK FOR CAROL, HERSELF. HE DID A

1 LITTLE WORK FOR ME, SOME REPAIR WORK.

2 Q AND DID HE ATTEND THE AUCTION SOMETIMES?

3 A WELL, HE WORKED AT THE AUCTION FOR A WHILE AS A
4 RUNNER.

5 Q SO, JEFF SPIGNER WOULD OF KNOWN THE CASH NATURE THAT
6 WAS THERE?

7 A YES, SIR.

8 Q AND ANYBODY AT THE AUCTION WOULD OF SEEN THE
9 BRIEFCASE?

10 A NOT ANYBODY AT THE AUCTION. WHEN WE GO TO THE
11 AUCTION WE HAVE MONEY WITH US, WE DON'T PUT THE MONEY IN
12 FRONT OF EVERYBODY. THE MONEY IS IN A CASH BOX.

13 Q BUT ANYBODY THAT GOES THERE KNOWS IT IS A CASH
14 BUSINESS?

15 A BASICALLY, YES SIR.

16 Q AND JEFF WORKED FOR THE AUCTION, IS THAT CORRECT?

17 A YES, SIR. IF WE HAD A NIGHT THAT WE DIDN'T HAVE
18 NOBODY TO SHOW UP, HE WORKED IN A CASUAL WAY. SOMETIMES
19 HE WOULD BE THERE AND SOMETIMES HE WOULDN'T BE THERE. HE
20 WOULD MAKE A FEW DOLLARS.

21 Q WOULD HE SOMETIMES GO AND COLLECT THE VANS ALSO?

22 A FROM TIME TO TIME.

23 Q WHEN HE WOULD GO AND COLLECT THE BINS AND CAROL WOULD
24 TAKE THE BRIEFCASE AND PAY THE PEOPLE FOR THE BINS OUT OF
25 THE BRIEFCASE?

1 A SHE NORMALLY WOULD GO TO THE BINS AND BUY THE BINS
2 SEPARATELY AND PICK THEM UP. VERY SELDOM WOULD SHE GET
3 THEM THE SAME DAY, ABOUT 24 HOURS OR 48 HOURS TO GIVE THEM
4 TIME TO GET THE STUFF OUT.

5 Q AND ANOTHER NAME BRAD KOON?

6 A BRAD KOON, YES.

7 Q DOES BRAD KOON LIVE CLOSE BY?

8 A I REALLY DON'T KNOW WHERE BRAD LIVES, I THINK HE
9 LIVES SOMEWHERE UP ON WISE STREET, I AM NOT SURE.

10 Q AND HAD BRAD EVER WORKED WITH YOU, DID BRAD EVER WORK
11 WITH YOU AND CAROL?

12 A NO, SIR.

13 Q DID HE COME TO YOUR HOUSE THE NIGHT BEFORE?

14 A YES, SIR.

15 Q THE NIGHT BEFORE CAROL--

16 A THE NIGHT BEFORE CAROL DIED. HE CALLED AND WANTED TO
17 BORROW SOME MONEY, HE WANTED TO BORROW \$20.00 DOLLARS.
18 PAM DUNBAR HAD SOME FENCE THAT SHE WANTED TO SELL. BUT
19 SHE HAD SOME FENCING THAT SHE WANTED TO SELL AND BRAD SAID
20 HE WOULD TAKE IT AND PUT IT ON MY PROPERTY, I WAS FENCING
21 IN THE REST OF MY PROPERTY AT THAT TIME. AND I SAID WE
22 WILL GET IT AND I WILL BUY IT FROM YOU. HE WANTED TO
23 BORROW \$20.00 DOLLARS TO GET SOME GAS MONEY TO PUT THE
24 FENCE ON THE TRAILER. HE WANTED TO COME THAT NIGHT AND I
25 SAID, NO, YOU CAN'T COME TO MY HOUSE THAT TIME OF NIGHT.

1 SO, I TOLD HIM I WILL PUT \$20.00 DOLLARS UNDER THE FLOWER
2 ON THE FRONT PORCH. AND HE CAME AND GOT IT SOME TIME THAT
3 NIGHT.

4 Q AND DO YOU KNOW WHAT TIME THAT WAS?

5 A IT WAS AFTER 10:00 O'CLOCK, IT WAS TOO LATE TO COME
6 TO MY HOUSE.

7 Q AND WASN'T HE SCHEDULED TO BE BACK AT YOUR HOUSE THE
8 NEXT MORNING AT 10:00 O'CLOCK TO GET WITH CAROL ABOUT THE
9 FENCE?

10 A TO BRING THE FENCE.

11 Q AND YOU KNOW IF HE CAME THE NEXT MORNING AT 10:00
12 O'CLOCK BECAUSE HE WAS SUPPOSE TO?

13 A APPARENTLY NOT BECAUSE THE FENCE WASN'T THERE AND SHE
14 WASN'T THERE.

15 Q YOU DON'T KNOW WHETHER SHE SHOWED UP OR NOT?

16 A NO, SIR. THAT IS THE REASON HIS NAME WAS GIVEN. ONE
17 GIRL, JACQUELINA WAS SUPPOSE TO BRING A REFRIGERATOR, SHE
18 WAS MOVING TO ANOTHER STATE. SHE WAS SUPPOSE TO BRING A
19 REFRIGERATOR SOME TIME THAT DAY.

20 Q WHAT TIME WAS SHE SCHEDULED TO BRING THE
21 REFRIGERATOR?

22 A THAT MORNING, THE MAIN THING WAS CAROL WAS SUPPOSE TO
23 BE AT MY MAMA'S HOUSE AT 10:00. SO IT HAD TO BE EARLY OR
24 AFTERNOON.

25 Q OKAY. SO, WHAT YOU DO REMEMBER WAS THAT BRAD KOON

1 WAS SCHEDULED TO MEET CAROL THAT MORNING, JACQUELINE BURKE
2 WAS SUPPOSE TO MEET CAROL THAT MORNING. THAT WAS THE
3 MORNING THAT SHE WAS KILLED, IS THAT CORRECT?

4 A YES.

5 Q JOHNNIE FRAZIER WASN'T SUPPOSE TO MEET HER THAT
6 MORNING, WAS HE?

7 A NO, SIR.

8 Q NOW, YOU TOLD JOHNNIE HE HAD TO LEAVE BUT YOU DIDN'T
9 HAVE TO GO TO THE MAGISTRATE TO ACTUALLY SERVE PAPER WORK?

10 A NO.

11 Q IN FACT, HE WAS NICE AND PLEASANT ABOUT IT, WASN'T
12 HE?

13 A AND THEY LEFT A CAR ON THE PROPERTY, I BELIEVE IT WAS
14 FOR RENT. I AM OKAY.

15 THE COURT: ARE YOU ALL RIGHT?

16 A YES, SIR.

17 Q DO YOU NEED A BREAK?

18 A NO, I AM FINE, LET'S GET IT DONE.

19 Q WHAT KIND OF CAR DID THEY LEAVE THERE AS PARTIAL
20 PAYMENT FOR THE RENT?

21 A IT WAS A '65 OLDSMOBILE.

22 Q DIDN'T THE POLICE, THE SHERIFFS DEPARTMENT RATHER,
23 COME OUT THERE IN 2001 WHEN CAROL ATTEMPTED SUICIDE?

24 A SHE DID NOT ATTEMPT SUICIDE. WHEN I CALLED 911, I
25 GOT TO THE HOUSE WHEN CAROL HAD PASSED OUT. I COULDN'T

1 GET HER UP, I CALLED 911 TO GET AN AMBULANCE. I DIDN'T
2 KNOW IF SHE NEEDED ATTENTION. SO, WHEN THEY GOT THERE, I
3 CALLED HER SISTER THERE TOO, THE AMBULANCE GOT THERE. I
4 HAD FOLLOWED THEM TO THE HOSPITAL AND THE SUICIDE, I TOLD
5 THEM WHEN I CALLED THEM, I TOLD THEM THAT SHE TOOK ALL
6 KINDS OF MEDICINE. AND THE BOTTLES WERE ON THE BED. WHEN
7 THEY GOT THERE, WHEN SHE GOT TO THE EMERGENCY ROOM IT WAS
8 ABOUT TWO HOURS WHEN THEY TALKED TO HER. AND THE
9 TECHNICIAN AT THE HOSPITAL AT THE TIME ASKED HER A
10 QUESTION AND SHE HAD TOLD THEM THE TRUTH. SHE WANTED TO
11 GO HOME RIGHT THEN, SHE WAS READY TO GO HOME. BUT HE
12 AGREED AND CONFIRMED THAT SHE HAD AN OVERDOSE OF ALCOHOL.
13 AND SHE WAS RECOVERING FROM ALCOHOL.

14 Q WAS THE AUCTION BUSINESS HAVING SOME FINANCIAL
15 DIFFICULTIES BACK IN 2004?

16 A NOT AS THAT I KNOW OF. I HAD A BUNCH OF CARS AND WE
17 HAD BILLS AND TO PAY FOR, WE WERE MAKING MONEY, I HAD A
18 GOOD JOB AT THE COUNTY. WE DID OKAY.

19 Q AND WERE YOU THE BENEFICIARY OF ANY LIFE INSURANCE
20 POLICIES?

21 A ALL OF THEM.

22 Q AND HOW MUCH WERE THEY?

23 A I DON'T KNOW EXACTLY, CAROL WOULD TAKE OUT POLICIES,
24 SHE WOULD TAKE OUT A \$10,000.00 DOLLAR POLICY AND I HAD A
25 POLICY AT WORK, MY INSURANCE POLICY.

1 Q SO \$100,000.00?

2 A PROBABLY AROUND \$100,000.00.

3 Q NOW, WHEN YOU CAME HOME THAT DAY WAS THERE ANY SIGN
4 OF FORCED ENTRY?

5 A NO, SIR. I THOUGHT THAT SEVERAL TIMES, WHEN I OPENED
6 UP THAT DOOR, I JUST WAS ASTOUNDED TO WHAT I FOUND.

7 Q DO YOU REMEMBER WHETHER OR NOT THE BEDROOM WAS OPENED
8 OR CLOSED?

9 A HAD TO BE PARTIALLY OPENED, IT IS A DOUBLE GLASS
10 DOOR. I DO NOT REMEMBER IT BEING CLOSED. IT HAD TO BE
11 PARTIALLY OPENED BECAUSE A PUPPY OF MINE WAS THERE.

12 Q AND SO SINCE HE WAS FREE TO COME TO YOU YOU ASSUME
13 THE DOOR WAS OPEN?

14 A YES.

15 Q NOW, JUST FOR, WAS THERE ANYTHING ELSE MISSING FROM
16 THE HOUSE?

17 A AT THAT MOMENT, THERE WAS STUFF MISSING, AT THAT TIME
18 WE HAD POLICE COMING, AMBULANCES, EVERYTHING COMING.

19 Q DID YOU LATER DO AN INVENTORY TO DETERMINE WHAT YOU
20 THOUGHT WAS MISSING?

21 A THERE WAS A LOT OF JEWELRY MISSING, AND SOME OF HER
22 STUFF SHE WORE EVERY DAY.

23 Q IF I COULD GET A LIST OF THAT, COLLECTION, WHAT IS
24 THAT?

25 A IT IS SOMETHING LIKE DIAMONDS, IT IS TO SET ROCKS,

1 LIKE EMERALDS.

2 Q AND HOW MANY WERE THERE?

3 A ABOUT 100.

4 Q WHERE WAS THAT COLLECTION KEPT?

5 A IF YOU WENT TO THE BATHROOM DOOR, ON THE OTHER SIDE
6 OF THE BEDROOM AT THE BATHROOM DOOR AT THAT CABINET THERE.

7 Q THE CABINET IN THE BATHROOM?

8 A YES, SIR.

9 Q WHAT ELSE DID YOU NOTICE LATER THAT WAS MISSING?

10 A SOME OF THE GOLD THAT SHE WORE ON HER ARMS, SOME OF
11 THEM ARE CHAINS.

12 Q SOME WERE CHAINS?

13 A YES.

14 Q HOW MANY CHAINS WERE MISSING?

15 A I HAVE NO IDEA.

16 Q SO, A LOT OF STUFF WAS LEFT AND SOME STUFF WAS
17 MISSING?

18 A YES.

19 Q ANYTHING ELSE THAT YOU CAN THINK OF THAT WAS MISSING?

20 A I CAN'T THINK THAT FAR BACK.

21 Q WERE THERE, DID YA'LL KEEP ANY GUNS IN THE BEDROOM?

22 A YES, SIR.

23 Q HOW MANY GUNS DID YOU KEEP IN THE BEDROOM?

24 A THREE.

25 Q WHAT KIND OF GUNS WERE THEY?

1 A A DERRINGER, .45 CALIBER AND SHOTGUN SHELLS IN THERE.
2 SMITH AND WESSON, .38, REVOLVER AND COLT, .2 CALIBER.

3 Q WHERE WERE THOSE GUNS KEPT?

4 A EVERY ONE OF THEM WAS PLACED BY CAROL SO SHE COULD
5 GET TO THEM IF SHE HAD TO, RIGHT BESIDE THE BED. SHE PUT
6 THEM IN THERE IF SHE HAD AN EMERGENCY, THE DOOR TO THE
7 BEDROOM.

8 Q AND WERE THEY STILL THERE?

9 A YES, SIR.

10 Q THEY WERE UNDISTURBED?

11 A THEY WERE STILL THERE, RIGHT BESIDE THE BED.

12 Q NOW, YOU ARE FAMILIAR, OF COURSE, WITH YOUR WIFE'S
13 HABIT OF CLOTHING AND SO FORTH?

14 A YES.

15 Q WOULD YOU AGREE THAT SHE WOULD NEVER ALLOW ANYONE
16 THAT SHE DIDN'T KNOW VERY WELL IN THE HOUSE DRESSED THE
17 WAY SHE WAS DRESSED?

18 A NO, SIR.

19 Q SHE WOULDN'T, WOULD SHE?

20 A NO, SIR.

21 Q CERTAINLY WOULDN'T LET A MAN IN IF SHE WAS DRESSED
22 LIKE THAT, WOULD SHE?

23 A I WOULD NOT THINK SO, SHE WAS SHY.

24 Q MR. HURSEY, WHO ALL WAS LIVING IN THE HOUSE AT THAT
25 TIME?

1 A JUST ME AND CAROL AND THE BOYS.

2 Q WERE YOUR TWO BOYS STAYING WITH YA'LL THAT NIGHT, THE
3 NIGHT BEFORE SHE DIED?

4 A NO, SIR. ONE OF THEM WAS OFF WITH SOME GIRL AND
5 STAYED THE NIGHT AT HER HOUSE. AND MY YOUNGEST BOY STAYED
6 WITH HIS MOTHER AT MY SISTER-N-LAW'S HOUSE.

7 Q SO, JUST THE TWO OF YOU THERE SPENDING THE NIGHT
8 THERE?

9 A YES, THAT IS CORRECT.

10 Q NOW, WHEN YOU GOT BACK, WHAT TIME YOU SAY YOU GOT
11 BACK HOME THAT AFTERNOON?

12 A BETWEEN 2:00 AND 3:00 O'CLOCK, I DON'T KNOW EXACTLY.

13 Q AND WHEN YOU DISCOVERED CAROL AT THAT TIME, WAS SHE
14 COLD TO THE TOUCH?

15 A YES, SIR.

16 Q THANK YOU, I HAVE NO FURTHER QUESTIONS.

17 THE COURT: ANY REDIRECT?

18 MR. RIDDLE: NO SIR, YOUR HONOR.

19 THE COURT: MR. HURSEY, YOU MAY STEP DOWN, WATCH YOUR
20 STEP. CALL YOUR NEXT WITNESS, PLEASE, SOLICITOR.

21 MR. STUMBO: DETECTIVE LAURA GRIMES-GOULD.

22 LAURA GRIMES-GOULD, AFTER BEING DULY SWORN,
23 TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. STUMBO:

1 Q DETECTIVE GRIMES, WHERE ARE YOU CURRENTLY EMPLOYED?

2 A I AM CURRENTLY EMPLOYED AT ROCKINGHAM REGIONAL IN
3 STAFFORD, VIRGINIA AS A PRETRIAL OFFICER.

4 Q HOW LONG HAVE YOU BEEN THERE?

5 A ABOUT A MONTH.

6 Q AND WHERE WERE YOU BEFORE?

7 A BEFORE I TOOK THAT JOB I WAS A CRIME SCENE
8 INVESTIGATOR AT LEXINGTON COUNTY SHERIFFS DEPARTMENT.

9 Q AND HOW LONG WERE YOU WITH THE SHERIFFS DEPARTMENT?

10 A I WAS WITH THE SHERIFFS DEPARTMENT FOR NINE YEARS.

11 Q DO YOU STILL HAVE A HOUSE HERE IN LEXINGTON?

12 A I DO, I AM IN THE PROCESS OF TRYING TO SELL IT.

13 Q IF YOU COULD JUST GIVE THE JURY A BRIEF DESCRIPTION
14 OF YOUR LAW ENFORCEMENT BACKGROUND.

15 A I WAS HIRED ON WITH LEXINGTON COUNTY IN 1999 WHERE I
16 WAS A PATROL DEPUTY. FROM THERE I WAS BROUGHT IN AS A
17 SCHOOL RESOURCE OFFICER WHERE I WORKED IN THE SCHOOL AND
18 DID ROAD PATROL DEPUTY FUNCTIONS IN THE SUMMER. THEN I
19 WAS TRANSFERRED TO CRIME SCENE INVESTIGATIONS WHERE I WAS
20 AN INVESTIGATOR AND I DID THAT FOR ABOUT FIVE YEARS.

21 Q DO YOU HAVE ANY SPECIALIZED TRAINING?

22 A I HAVE 120 HOURS ON THE JOB TRAINING WITH THE
23 SHERIFFS DEPARTMENT. I DID AND 120 HOUR INTERNSHIP WITH
24 SLED, I WAS SENT TO SEVERAL CLASSES ON CONCERNING
25 DIFFERENT TYPES OF CRIME SCENE INVESTIGATIONS, LATENT

1 PRINT EXAMS, BLOOD SPATTER CLASSES, COURTROOM TESTIMONY
2 AND THOSE TYPE OF CLASSES.

3 Q SO, YOU HAVE BEEN INVESTIGATING CRIMES SINCE 2003?

4 A YES.

5 Q HOW MANY CRIMES DO YOU THINK THAT YOU HAVE
6 INVESTIGATED IN YOUR CAREER?

7 A I HAVE INVESTIGATED APPROXIMATELY 400 CRIME SCENES
8 THROUGHOUT THE FIVE YEARS.

9 Q HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT IN THE
10 COURTS HERE IN SOUTH CAROLINA IN CRIME SCENE
11 INVESTIGATION?

12 A YES, I HAVE.

13 MR. STUMBO: YOUR HONOR, AT THIS TIME WE WOULD OFFER
14 DETECTIVE GRIMES AS AN EXPERT IN CRIME SCENE
15 INVESTIGATIONS.

16 THE COURT: ANY OBJECTION, ANY CROSS-EXAMINATION AS
17 TO QUALIFICATIONS?

18 MR. FLOYD: JUST A COUPLE OF QUESTIONS.

19 THE COURT: YOU MAY CROSS-EXAMINE ONLY AS TO THE
20 QUALIFICATIONS RIGHT NOW.

21 CROSS-EXAMINATION

22 BY MR. FLOYD:

23 Q MS. GRIMES, WHEN DID YOU FIRST WORK AS A CRIME SCENE
24 INVESTIGATOR IN LEXINGTON COUNTY?

25 A FEBRUARY OF 2003.

1 Q SO, YOU HAD BEEN WORKING FOR APPROXIMATELY, IN THAT
2 POSITION, FOR APPROXIMATELY SIX MONTHS WHEN THIS OCCURRED?

3 A YES, SIR.

4 Q AND UP TO THAT POINT AND TIME HOW MANY MURDER SCENES
5 HAD YOU INVESTIGATED?

6 A I BELIEVE THAT WOULD OF BEEN MY SECOND ONE.

7 Q AND WERE YOU THE LEAD INVESTIGATOR ON THE OTHER ONE
8 ALSO?

9 A YES, SIR.

10 Q THIS WAS YOUR SECOND ONE?

11 A YES, SIR.

12 Q HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT BEFORE THE
13 2003 CASE?

14 A NO.

15 Q NO MORE QUESTIONS.

16 THE COURT: ANY ARGUMENT, ANYTHING ADDITIONAL ON
17 QUALIFICATIONS?

18 MR. FLOYD: YES, YOUR HONOR, THIS WAS ONLY HER SECOND
19 CRIME SCENE AND SHE HAD NEVER BEEN QUALIFIED AS AN EXPERT
20 PRIOR TO 2003. WE UNDERSTAND THE STANDARD FOR
21 QUALIFICATIONS.

22 THE COURT: I OVERRULE THE OBJECTION AND FIND THE
23 WITNESS TO BE QUALIFIED AS AN EXPERT. THE OBJECTION IS
24 MADE TO GO MORE TOWARD THE WEIGHT AND THE ADMISSIBILITY.
25 MR. FOREMAN AND LADIES AND GENTLEMEN, LET ME BRIEFLY

1 EXPLAIN TO YOU THAT GENERALLY WITNESSES ARE NOT PERMITTED
2 TO TESTIFY OF THEIR OPINIONS. ONE EXCEPTION TO THAT
3 GENERAL RULE IS THAT IF A WITNESS IS QUALIFIED AS AN
4 EXPERT THAT GIVES THAT WITNESS THE RIGHT TO VOICE HIS OR
5 HER OPINION IN THAT PARTICULAR FIELD. THE COURT HAS FOUND
6 THAT THIS WITNESS IS QUALIFIED AS AN EXPERT IN THE FIELD
7 OF CRIME SCENE INVESTIGATION. ALL RIGHT, SOLICITOR, YOU
8 MAY CONTINUE.

9 MR. STUMBO: THANK YOU, YOUR HONOR.

10 CONTINUE DIRECT EXAMINATION

11 BY MR. STUMBO:

12 Q DETECTIVE GRIMES, WE WILL GET TO MORE SPECIFICS NOW,
13 SO IF YOU NEED TO REFER BACK TO YOUR REPORTS FEEL FREE TO
14 TAKE YOUR TIME. DID YOU HAVE THE OCCASION TO BE INVOLVED
15 IN A MURDER ON BUSBEE ROAD?

16 A I DID.

17 Q AND WHEN WAS THIS?

18 A AUGUST THE 14TH OF 2003.

19 Q AND BRIEFLY, I AM GOING TO PUT THIS, WHAT HAS BEEN
20 MARKED AS STATE'S EXHIBIT 14 FOR IDENTIFICATION PURPOSES,
21 DO YOU RECOGNIZE THIS AREA HERE?

22 A YES, SIR. THAT IS WHAT I WOULD CALL A PART OF GASTON
23 IN LEXINGTON, SOUTH CAROLINA. FISH HATCHER ROAD, WESLEY
24 ROAD, GLENN ROAD AREA.

25 Q AND WHERE THIS IS CIRCLED HERE, YOU WERE HERE FOR MR.

1 HURSEY'S TESTIMONY?

2 A YES SIR, I WAS.

3 THE COURT: LET ME CLARIFY THAT, YOU SAID FOR
4 IDENTIFICATION, IT IS IN EVIDENCE. IS THAT CORRECT, MADAM
5 COURT REPORTER?

6 COURT REPORTER: YES, SIR.

7 THE COURT: GO AHEAD.

8 Q ON STATE'S 14 WHERE IT IS CIRCLED HERE IN RED, THAT
9 IS THE LOCATION THAT YOU RESPONDED TO?

10 A THE LOCATION WAS 1509 BUSBEE ROAD.

11 Q AND THAT IS IN LEXINGTON COUNTY?

12 A YES, IT IS.

13 Q IF YOU COULD JUST GIVE US A VIEW, WHEN YOU DID THE
14 CRIME SCENE, WHAT IS YOUR PROCEDURE, WHAT DO YOU DO FIRST?

15 A MY PROCEDURE, WHEN I AM REQUESTED TO COME TO A CRIME
16 SCENE, EITHER A ROAD DEPUTY OR A ROAD SUPERVISOR, WHEN I
17 RESPOND THERE, I TRY TO GET A FIELD OR SUMMARY OF WHAT THE
18 CRIME SCENE MAY BE. AT THAT POINT I WAS TOLD THAT THEY
19 HAD FOUND A WHITE FEMALE INSIDE THE HOUSE, THERE APPEARED
20 TO BE SOME TYPE OF TRAUMA AND WE ARE NOT SURE WHAT TYPE.
21 I DID A BRIEF WALK THROUGH THE HOUSE TO SEE WHAT WE HAD
22 AND IT WAS DETERMINED THAT WE DID NEED A SEARCH WARRANT IN
23 ORDER TO PROCESS THE CRIME SCENE. AT THAT TIME WE WAITED
24 FOR THE SEARCH WARRANT, WHILE I WAITED FOR THE SEARCH
25 WARRANT I WENT AHEAD AND STARTED DOING AN OVERALL PHOTOS

1 OF THE OUTSIDE OF THE HOUSE SUCH AS ALL THE WAY AROUND THE
2 HOUSE, PHOTOGRAPHS, PHOTOGRAPHED THE VEHICLE THAT MIGHT BE
3 IN THE YARD AREA, THAT TYPE.

4 Q SO YOUR METHODOLOGY IS FROM THE OUTSIDE IN?

5 A YES. WHAT WE DO, WE GO AHEAD AND WORK FROM THE
6 OUTSIDE IN. ONCE WE HAVE A SEARCH WARRANT SIGNED BY THE
7 JUDGE THAT IS WHEN WE GO INSIDE THE HOUSE AND START
8 WORKING THE INTERIOR OF THE HOUSE.

9 Q AND YOU SAID YOU TOOK SOME PICTURES?

10 A YES, SIR.

11 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS ID
12 PURPOSES AS STATE'S EXHIBIT 1 AND STATE'S EXHIBIT 2. DO
13 YOU RECOGNIZE THOSE PICTURES?

14 A YES SIR, I DO.

15 Q AND CAN YOU TELL THE JURY WHAT IS IN THOSE PICTURES?

16 A YES, SIR. STATE'S EXHIBIT 1 WOULD BE A PHOTOGRAPH OF
17 THE FRONT DOOR AT THE RESIDENCE AT 1509 BUSBEE ROAD.

18 Q STATE'S EXHIBIT 2.

19 A STATE'S EXHIBIT 2 IS THE FRONT PORCH AREA OF 1509
20 BUSBEE ROAD AND THIS IS WHERE THE FRONT DOOR IS.

21 Q AND DID YOU TAKE THOSE PICTURES?

22 A I DID.

23 Q AND DETECTIVE GRIMES, IS THAT A FAIR AND ACCURATE
24 REPRESENTATION OF THE CRIME SCENE THAT YOU OBSERVED THAT
25 DAY?

1 A YES SIR, IT IS.

2 MR. STUMBO: YOUR HONOR, AT THIS TIME THE STATE WOULD
3 MOVE STATE'S 1 AND 2 INTO EVIDENCE.

4 THE COURT: ANY OBJECTION, MR. FLOYD?

5 MR. FLOYD: NO OBJECTION, YOUR HONOR.

6 THE COURT: STATE'S 1 AND 2 ARE ADMITTED.

7 (WHEREUPON, STATE'S EXHIBIT 1 AND 2 WERE ADMITTED
8 INTO EVIDENCE.)

9 MR. STUMBO: PERMISSION TO PUBLISH, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 Q I WILL PUT UP STATE'S EXHIBIT 2, DETECTIVE GRIMES.
12 IS THIS THE FRONT DOOR OF THE HURSEY RESIDENCE?

13 A YES, THAT IS THE FRONT PORCH, THAT LEADS TO THE FRONT
14 DOOR OF THE HURSEY RESIDENCE.

15 Q I AM GOING TO SHOW YOU STATE'S 1 NOW. WHAT IS THIS
16 PICTURE?

17 A THAT IS A PICTURE OF THE FRONT DOOR OF THE HURSEY
18 RESIDENCE, THE LOCKING PART, THE DEADBOLT AND THE HANDLE
19 PART OF THE DOOR, JUST SHOWING THAT WHEN WE CAME INTO THE
20 RESIDENCE THERE WAS KEYS STILL IN THE DEADBOLT OF THE
21 DOOR.

22 Q DID YOU DETERMINE WHO KEYS THOSE WERE?

23 A I BELIEVE THEY WERE MR. HURSEY'S.

24 Q DID YOU OBSERVE ANY SIGN ON THIS FRONT DOOR AREA OF
25 FORCED ENTRANCE?

1 A THERE WAS NO FORCED ENTRY TO THE DOOR.

2 Q I AM GOING TO PASS UP TO YOU NOW WHAT HAS BEEN MARKED
3 AS ID PURPOSES STATE'S 3, 4, 5, 6 AND 7. CAN YOU DESCRIBE
4 THEM FOR ME.

5 A STATE'S EXHIBIT 4 IS A MORE INTERIOR PICTURE OF THE
6 HURSEY RESIDENCE. YOU WILL SEE THE BED AND THE CURTAINS
7 AND SOME OTHER FURNITURE IN THE BEDROOM. STATE'S EXHIBIT
8 5 IS THE, IF YOU ARE LOOKING AT THE BED DIRECTLY IT IS
9 LOOKING TO THE RIGHT SIDE OF THE BED WHERE MR. HURSEY'S
10 NIGHTSTAND WAS LOCATED.

11 Q DETECTIVE GRIMES, LET ME STOP YOU THERE, ARE THESE
12 FIVE PICTURES OF THE SAME AREA OF THE HOUSE?

13 A YES.

14 Q WHAT AREA OF THE HOUSE WERE THOSE?

15 A THE MASTER BEDROOM.

16 Q AND AFTER REVIEWING THEM DO THEY FAIRLY AND
17 ACCURATELY REFLECT WHAT YOU SAW THAT DAY?

18 A YES SIR, IT IS.

19 Q DID YOU TAKE THOSE PICTURES?

20 A YES SIR, I DID.

21 MR. STUMBO: YOUR HONOR, AT THIS TIME THE STATE WOULD
22 MOVE STATE'S EXHIBIT 3, 4, 5, 6 AND 7 INTO EVIDENCE.

23 THE COURT: ANY OBJECTION?

24 MR. FLOYD: NO OBJECTION.

25 THE COURT: 3, 4, 5, 6 AND 7 ARE ADMITTED WITHOUT

1 OBJECTION.

2 (WHEREUPON, STATE'S EXHIBIT NOS. 3, 4, 5, 6 AND 7
3 WERE ADMITTED INTO EVIDENCE.)

4 MR. STUMBO: PERMISSION TO PUBLISH, YOUR HONOR.

5 THE COURT: ALL RIGHT.

6 Q WE WILL GO THROUGH THEM ONE AT A TIME, DETECTIVE
7 GRIMES. FIRST, STATE'S EXHIBIT 3, IF YOU COULD JUST
8 DESCRIBE THE CONDITION OF THE BEDROOM AS YOU FOUND IT THAT
9 DAY?

10 A STATE EXHIBIT 3 IS A PICTURE OF THE MASTER BEDROOM
11 LOCATED AT 1509 BUSBEE ROAD. THIS IS AN ENTRANCE TO THE
12 BEDROOM, STANDING ON THE OUTSIDE OF THE BEDROOM TAKING
13 THAT PICTURE INSIDE.

14 Q AND STATE'S EXHIBIT 4?

15 A THIS PICTURE IS THE MASTER BEDROOM, I AM STANDING ON
16 THE INSIDE OF THE LEFT OF THE BED. THE PICTURE THAT YOU
17 ARE SEEING WAS CONCLUDED THAT THAT WAS MS. HURSEY'S SIDE
18 OF THE BED WITH THE NIGHTSTAND.

19 Q WHAT IS THAT ON THE BED?

20 A IT IS THE BRIEFCASE THAT WAS LOCATED ON THE BED.

21 Q AND STATE'S 5?

22 A STATE'S 5 IS, NOW I AM ON THE RIGHT SIDE OF THE BED
23 AND THIS IS A PICTURE OF MS. HURSEY'S NIGHTSTAND, IN THAT
24 AREA.

25 Q IS THERE ANYTHING IN THE LOWER CORNER THERE THAT IS

1 VISUAL?

2 A MAY I LOOK AT IT A LITTLE CLOSER?

3 Q SURE.

4 A YES, SIR. THAT WOULD BE MS. HURSEY AND THE BOTTOM
5 CORNER YOU CAN SEE THE NIGHT SHIRT OR NIGHT PAJAMAS THAT
6 SHE HAD ON ALONG WITH THE LITTLE HOUSECOAT SHE HAD ON.

7 Q WHAT YOU JUST DESCRIBED AS BEING HER NIGHTGOWN, WHERE
8 IS THAT IN THAT PICTURE?

9 A RIGHT THERE IN THE BOTTOM CORNER.

10 Q STATE'S EXHIBIT 6?

11 A STATE'S EXHIBIT 6 IS THE CASE THAT WAS ON THE BED
12 ALONG WITH THE AUCTION CHECKBOOK TO THE RIGHT.

13 Q WAS IS THAT WHITE THING?

14 A IT WAS A BANK BAG.

15 Q WAS THERE ANYTHING IN THE BANK BAG?

16 A NO, SIR.

17 Q THIS IS STATE'S EXHIBIT 7.

18 A STATE'S EXHIBIT 7 IS A PHOTOGRAPH OF MS. HURSEY, THE
19 DECEASED. SHE IS LAYING TO THE RIGHT SIDE OF THE BED
20 WHICH WOULD OF BEEN HER SIDE OF THE BED ALONG WITH, I
21 BELIEVE IT WAS A RECEIPT BOOK THAT IS LAYING ACROSS HER
22 LEGS.

23 Q IS THIS THE CONDITION THAT YOU FOUND HER IN WHEN YOU
24 ARRIVED?

25 A YES SIR, IT IS.

1 Q AND WHAT WAS THE CONDITION OF HER HEAD REGION?

2 A AT THAT POINT AND TIME WE COULDN'T FIGURE OUT EXACTLY
3 WHAT TYPE OF TRAUMA SHE HAD ENCOUNTERED. THERE WAS SOME
4 BLOOD ON THE RECEIPT BOOK, THERE WAS BLOOD THAT WAS AROUND
5 HER HEAD REGION AND SHE ALSO HAD TWO BLACK EYES. THE BACK
6 OF HER HEAD WAS MATTED IN BLOOD. BUT LIKE I SAID BEFORE,
7 AT THAT POINT AND TIME WE COULD NOT DETERMINE WHAT TYPE OF
8 TRAUMA SHE HAD ENCOUNTERED.

9 Q WHAT COURSE OF ACTION DID YOU TAKE ON MS. HURSEY'S
10 BODY AT THAT TIME?

11 A ON MS. HURSEY'S BODY, WHAT WE DID WAS WE MADE SURE WE
12 BAGGED HER HANDS IN BROWN PAPER BAGS IN ORDER TO PRESERVE
13 ANY TYPE OF TRACE EVIDENCE THAT COULD OF BEEN FOUND ON HER
14 HANDS. THEN WE PHOTOGRAPHED HER BODY ENTIRELY, FRONT AND
15 BACK THAT THE CONDITION THE BODY WAS IN AT THE TIME. FROM
16 THERE WE HAD THE CORONERS OFFICE COME IN SINCE THEY ARE
17 RESPONSIBLE FOR THE DECEASED. THEY DID THE WORK THAT THEY
18 NEEDED TO DO, SHE WAS PLACED INTO A BAG AND TRANSPORTED BY
19 THE BODY REMOVAL SERVICE WHERE SHE STAYED AT LEXINGTON
20 MEDICAL CENTER UNTIL THE AUTOPSY THE NEXT DAY.

21 Q DID MS. HURSEY'S BODY APPEAR TO BE COLD AT THE TOUCH?

22 A YES, MS. HURSEY WAS VERY COLD TO THE TOUCH, THERE WAS
23 WHAT WE CALL LIVIDITY IN THE BACK PART OF THE BODY. AND
24 WHAT LIVIDITY IS, IS WHEN YOU DIE, OF COURSE YOUR BODY
25 STOPS PUMPING BLOOD AND THE BLOOD THAT IS ALREADY

1 CIRCULATING THROUGH YOUR BODY HAS TO FALL SOME PLACE. AND
2 IN PHYSICS IT FALLS TO THE GRAVITY. SO, THERE WAS
3 LIVIDITY PRESENT ON THE BACK OF HER ARMS, THE BACK OF HER
4 UPPER BACK AND HER LEGS.

5 Q YOU SAID THE CORONER CHECKED THE BODY?

6 A YES, THE CORONERS OFFICE CHECKED THE BODY AS WELL.

7 Q THIS WAS BEFORE SHE WAS REMOVED FROM THE SCENE?

8 A YES.

9 Q DID THE CORONERS OFFICE MAKE ANY FINDINGS AT THAT
10 TIME?

11 A AS TO WHAT HAPPENED TO MS. HURSEY?

12 Q AS TO WHETHER SHE WAS DECEASED OR NOT.

13 A YES.

14 Q AND WHAT WERE THOSE FINDINGS?

15 A THAT SHE WAS DECEASED.

16 Q WERE YOU ABLE TO OBSERVE WHETHER THERE WAS ANY TRAUMA
17 TO THE HEAD, ANY SORT OF TRAUMA TO HER HEAD?

18 A WELL, AS I HAD MENTIONED BEFORE, WE DID SEE SOME
19 BLOOD THAT HAD BEEN MATTED IN MS. HURSEY'S HAIR, SHE HAD
20 VERY LONG HAIR, SHE HAD IT UP IN A PONYTAIL. AND ON THE
21 LEFT SIDE THERE WAS LIKE CONGEALED BLOOD IN HER HEAD. AND
22 LIKE I SAID BEFORE, SHE HAD HAD, SHE HAD TWO BLACKENED
23 EYES.

24 Q AT THAT TIME AND BASED ON YOUR TRAINING AND
25 EXPERIENCE, WAS THERE ANY EVIDENCE ON THE SCENE TO SUGGEST

1 SUICIDE?

2 A NO SIR, THERE WAS NOT.

3 Q WHY WAS THAT, WHY IS THAT YOUR OPINION?

4 A MY OPINION ON THAT AT THE TIME WAS, GENERALLY WITH A
5 SUICIDE SCENE THE WEAPON IS THERE. EVEN THOUGH THE
6 HURSEY'S DID HAVE SEVERAL WEAPONS IN THE HOUSE, THERE WAS
7 NOT A WEAPON, YOU KNOW, IN HER HAND OR CLOSE WITHIN A
8 REACH FOR HER TO USE.

9 Q DID YA'LL TAKE ANY GUNSHOT RESIDUE TEST?

10 A YES. LIKE I SAID BEFORE, I WENT AHEAD AND BAGGED HER
11 HANDS IN PAPER BAGS BEFORE THE CORONER HAD HER REMOVED
12 FROM THE HOUSE. THE NEXT DAY AT THE AUTOPSY WHICH I
13 ATTENDED IN NEWBERRY COUNTY, I DID A GUNSHOT RESIDUE TO
14 MS. HURSEY AND HAD IT SENT TO SLED TO FIND OUT IF THERE
15 WAS ANY TYPE OF TRACE EVIDENCE.

16 Q WAS THERE ANY POSITIVE FINDINGS ON THE--

17 MR. FLOYD: OBJECTION, THAT CALLS FOR--

18 THE COURT: SUSTAINED, SHE CAN'T TESTIFY TO THAT.

19 Q AT THAT TIME DID YOU EXAMINE, AFTER YOU BAGGED HER
20 HANDS, DID YOU EVER MAKE ANY FINDINGS AS TO GUNSHOT
21 EVIDENCE?

22 A AT THAT MOMENT AND TIME THEN I DETERMINED WHAT THE
23 CAUSE OF DEATH WAS.

24 Q DID YOU DO ANY FINGERPRINT TEST?

25 A YES, WE DUSTED FOR FINGERPRINTS THROUGHOUT THE HOUSE.

1 Q ANY OTHER PHYSICAL EVIDENCE YOU TOOK FROM THE HOUSE?

2 A IF YOU WILL BEAR WITH ME FOR JUST ONE MOMENT.

3 Q TAKE YOUR TIME.

4 A I AM GOING TO READ WHAT I HAVE IN MY REPORT IF THAT
5 IS OKAY.

6 Q THAT IS FINE.

7 A WE TOOK SCRAPINGS FROM OUTSIDE, WINDOW CURTAINS, A
8 COUPLE OF .9 MILLIMETER MAGAZINE, TWO SWABS FROM THE
9 BEDROOM FLOOR AT THE WINDOW WHICH WAS THE SIDE THAT MS.
10 HURSEY WAS LOCATED ON, TWO SWABS FROM THE BEDROOM CURTAIN
11 AT THE WINDOW, TWO LATENT PRINT CARDS FROM THE FRONT DOOR,
12 TEN LATENT PRINT CARDS FROM THE MASTER BEDROOM AND TWO
13 PIECES OF PAPER WITH HANDWRITTEN NOTES.

14 Q YOU SAID YOU TOOK SWABS OF THE CURTAIN?

15 A YES, SIR.

16 Q DID YOU FIND ANYTHING?

17 A THERE WERE BLOOD SWABS, WE SENT THOSE TO SLED TO BE
18 TESTED FOR DNA.

19 Q SO, YOU FOUND BLOOD ON THE CURTAINS?

20 A YES.

21 Q WHAT ABOUT THE WINDOW, WHAT KIND OF CONDITION WAS IT
22 IN?

23 A THE WINDOW HAD A HOLE IN IT AND I BELIEVE IT WAS THE
24 TOP, IT WAS A WINDOW WITH THREE PANES AND THE MIDDLE PANE
25 HAD A HOLE GOING THROUGH THE WINDOW.

1 Q WHAT PROXIMITY WAS THAT TO THE BLOOD SWABS THAT YOU
2 TOOK ON THE CURTAINS?

3 A YOU HAD YOUR MAIN CURTAIN, YOUR DRAPE AND THEN A
4 SHEER TYPE CURTAIN AND THEN THE WINDOW.

5 Q YOU SAY YOU WENT TO NEWBERRY THE NEXT DAY?

6 A YES, SIR.

7 Q AND WHAT WAS THAT FOR?

8 A I WENT TO NEWBERRY HOSPITAL TO WITNESS THE AUTOPSY
9 THAT DR. SEXTON PERFORMED.

10 Q WERE YOU PRESENT DURING THE AUTOPSY?

11 A YES SIR, I WAS.

12 Q WAS DR. SEXTON ABLE TO GET, IN TERMS OF BLOOD, WAS HE
13 ABLE TO TAKE A SAMPLE?

14 A YES SIR, HE WAS.

15 Q AND WHERE DID HE PLACE THAT BLOOD SAMPLE?

16 A THE BLOOD SAMPLES ARE PLACED INTO TEST TUBES.

17 Q WERE THOSE TEST TUBES SEALED IN ANY WAY?

18 A THEY WERE, ALL OF THE TEST TUBES ARE SEALED IN A
19 PLASTIC BAG AND THEN IT IS HEAT SEALED AND INITIALED WITH
20 DR. SEXTON'S INITIALS ON THEM.

21 Q DID YOU TAKE CUSTODY OF THOSE TUBES?

22 A YES SIR, I DID.

23 Q WHERE DID YOU TAKE THEM?

24 A FROM NEWBERRY HOSPITAL I WENT BACK TO THE SHERIFFS
25 DEPARTMENT WHERE I PLACED THEM INTO OUR EVIDENCE IN ORDER

1 TO CONTINUE A CHAIN OF CUSTODY.

2 Q DID YOU BREAK THE SEAL ON THOSE TUBES?

3 A NO SIR, I DID NOT.

4 Q WHEN DID YOU LOG THOSE IN AT THE SHERIFFS DEPARTMENT?

5 A THAT AFTERNOON ON THE 15TH.

6 Q AND AFTER YOU LOGGED THIS EVIDENCE IN DID YOU EVER
7 RETURN TO THE CRIME SCENE?

8 A YES SIR, I DID.

9 Q WHAT WAS THE PURPOSE OF THAT?

10 A ONE OF OUR PROCEDURES, ONCE WE DETERMINE THE CAUSE,
11 OR ONCE THE PATHOLOGIST DETERMINED THE CAUSE OF DEATH WE
12 HOLD OUR CRIME SCENE UNTIL THE AUTOPSY IS OVER. IT WAS
13 DETERMINED THAT THIS CAUSE OF DEATH WAS A HOMICIDE. THE
14 CRIME SCENE INVESTIGATORS ARE ALREADY BACK AT THE SCENE
15 LOOKING FOR ADDITIONAL EVIDENCE, DOING A EVEN MORE
16 THOROUGH SEARCH FROM THE RESULTS FROM THE AUTOPSY.

17 Q I AM GOING TO HAND YOU, DETECTIVE GRIMES, WHAT HAS
18 BEEN MARKED AS STATE'S 8 THROUGH 12. IF YOU COULD JUST
19 REVIEW THOSE AND IDENTIFY THOSE FOR THE JURY.

20 A ONCE THE AUTOPSY DETERMINED THAT MS. HURSEY WAS
21 KILLED WITH A GUNSHOT WOUND TO THE HEAD I FELT IT WAS VERY
22 IMPORTANT TO DO WHAT WE CALL A TRAJECTORY LINE. AN
23 APPROXIMATE LINE OF WHAT A BULLET PATH WOULD OF TAKEN IN
24 ORDER TO LINE UP WITH THE VICTIM'S INJURIES AND THAT IS
25 WHAT THESE PICTURES DEPICT.

1 Q DID YOU TAKE THOSE PHOTOS?

2 A YES SIR, I DID.

3 Q AND DO THEY FAIRLY AND ACCURATELY REPRESENT THE SCENE
4 AS YA'LL HAVE RECONSTRUCTED IT THAT DAY?

5 A YES SIR, IT DOES.

6 Q THIS IS ON THE 15TH?

7 A YES, SIR.

8 MR. STUMBO: YOUR HONOR, AT THIS TIME THE STATE WOULD
9 OFFER STATE'S 8, 9, 10, 11 AND 12 INTO EVIDENCE.

10 THE COURT: ANY OBJECTION?

11 MR. FLOYD: NO OBJECTION.

12 THE COURT: STATE'S 8, 9, 10, 11 AND 12 ARE ADMITTED
13 WITHOUT OBJECTION.

14 (WHEREUPON, STATE'S EXHIBIT NOS. 8, 9, 10, 11 AND 12
15 WERE ADMITTED INTO EVIDENCE.)

16 MR. STUMBO: PERMISSION TO PUBLISH THOSE TO THE JURY,
17 YOUR HONOR.

18 THE COURT: ALL RIGHT.

19 Q DETECTIVE, WE WILL GO THROUGH THESE ONE AT A TIME SO
20 WE CAN DESCRIBE WHAT IS DEPICTED IN THE PICTURE.

21 A AS YOU CAN SEE, WE HAVE THESE, WE HAVE THESE
22 TRAJECTORY LINES ANCHORED. AND WHAT THAT IS IS THE END OF
23 ONE OF OUR LINES OR ROBES AND IT IS DUCT TAPED TO A TV IN
24 THE HURSEY'S BEDROOM.

25 Q STATE'S EXHIBIT 9.

1 A THIS IS THE OUTSIDE OF THE HURSEY'S HOME. YOU WILL
2 SEE ONE TRAJECTORY LINE THAT IS UP IN THE CEILING AREA
3 WHERE THE LADDER IS. THERE IS ANOTHER TRAJECTORY LINE
4 THAT IS GOING THROUGH THE WINDOW.

5 Q IF YOU COULD USE THE LASER POINTER TO HIGHLIGHT.

6 A THE ONE GOING THROUGH THE ROOF AREA IS RIGHT HERE AND
7 THEN OF COURSE YOU HAVE THE LADDER AND THE UPPER ONE GOING
8 THROUGH THE WINDOW IS RIGHT HERE.

9 Q IS THAT THE HOLE IN THE WINDOW CLOSE TO THE CURTAINS
10 WHERE THE BLOOD WAS FOUND?

11 A YES SIR, IT IS.

12 Q STATE'S 10.

13 A ONCE AGAIN, THIS IS THE TRAJECTORY, APPROXIMATE
14 TRAJECTORY LINE. IT STARTS OVER HERE, COMES ACROSS THE
15 ROOM AND THIS IS THE CURTAIN, THE ROD IS RIGHT HERE AND
16 THIS IS THE ROD THAT YOU SAW IN THE PREVIOUS WINDOW THAT
17 EXITS THE WINDOW TO THE OUTSIDE.

18 Q STATE'S 11, I BELIEVE IT IS A CLOSER LOOK AT THE
19 WINDOW?

20 A YES, SIR. THIS IS A CLOSER PICTURE, THIS IS THE
21 TRAJECTORY LINE, THIS IS THE ROD, THE ROD GOES THROUGH THE
22 CURTAIN, THIS SHEER AND THEN OUT THE WINDOW ON THE OTHER
23 SIDE.

24 Q STATE'S 12.

25 A THIS IS A FORMER CRIME SCENE INVESTIGATOR THAT IS

1 TRYING TO SHOW THE HEIGHT OF THE TRAJECTORY LINE. AS YOU
2 CAN SEE ONCE AGAIN THERE IS A LINE, ONCE AGAIN IT IS GOING
3 THROUGH THE CURTAIN, THE SHEER AND THEN OUT THE WINDOW.

4 Q AND WHAT POSITION IS THAT LADY IN IN THAT PICTURE?

5 A SHE IS KNEELING.

6 Q NOW, THE TRAJECTORY LINE AND WHAT ARE POINTS OF
7 REFERENCE YOU USE TO APPROXIMATE THE TRAJECTORY LINE?

8 A WE HAVE THREE POINTS OF REFERENCE. OF COURSE, WHERE
9 EVER THE LINE IS ANCHORING, A POINT WHERE SHE IS AT AND
10 THEN THE POINT, THE HOLE IN THE WINDOW WHERE IT EXITS.

11 Q AND IT IS CONSIDERED DR. SEXTON'S RESULTS IN
12 SOMETHING LIKE THIS?

13 A YES, SIR.

14 Q OKAY, HOW IS THAT RELEVANT?

15 A CAN I LOOK BACK AT MY DIAGRAM FROM THE AUTOPSY?

16 Q SURE.

17 A IT WAS DETERMINED DURING AUTOPSY THAT THE VICTIM WAS
18 SHOT IN THE EAR WITH A LINE THAT CAME DOWN IN THIS
19 DIRECTION INTO THE, BASICALLY COMING OUT OF THE BACK OF IT
20 RIGHT HERE.

21 Q DID YOU USE THOSE TWO POINTS AS POINTS OF REFERENCE?

22 A YES SIR, WE DID.

23 Q IS THIS AN EXACT TRAJECTORY LINE?

24 A NO SIR, IT IS AN APPROXIMATE.

25 Q BASED ON YOUR TRAINING AND EXPERIENCE AND THE WORK

1 THAT YA'LL DID HERE ON THE RECONSTRUCTION WHAT IS YOUR
2 OPINION OF CAROL'S BODY POSITION WHEN SHE WAS SHOT?

3 A I THINK IT WAS THAT SHE WAS KNEELING OR EVEN POSSIBLY
4 KIND OF BENT OVER IN FRONT OF THE BRIEFCASE ON HER SIDE OF
5 THE BED WHEN SHE WAS SHOT.

6 Q DID YOU EVER FIND ANY BULLETS OUTSIDE OF THE HOUSE?

7 A NO, WE DID NOT. WE USED A METAL DETECTOR, OTHER
8 DEPUTIES DID GROUND SEARCHES AND WOULD OF TRIED TO RECOVER
9 THE PROJECTILE.

10 Q NEVER FOUND ONE?

11 A NO, SIR.

12 MR. STUMBO: I BEG THE COURT'S INDULGENCE, YOUR
13 HONOR.

14 Q THAT IS ALL WE HAVE AT THIS TIME.

15 THE COURT: MR. FLOYD, YOU MAY CROSS-EXAMINE.

16 CROSS-EXAMINATION

17 BY MR. FLOYD:

18 Q MS. GRIMES, WHAT TIME DID YOU GET TO THE HURSEY
19 RESIDENCE THAT AFTERNOON?

20 A MY TIME OF ARRIVAL WAS 16:30 OR 4:30 P.M..

21 Q AND WHAT TIME WAS THE 911 CALL MADE?

22 A I AM NOT SURE, I RECEIVED THE CALL AROUND 15:15 HOURS
23 OR 3:15 P.M.

24 Q SO, YOU GET OUT THERE AN HOUR AND FIFTEEN MINUTES
25 LATER?

1 A APPROXIMATELY, YES.

2 Q HOW MANY PEOPLE HAD BEEN IN THE HOUSE IN THAT HOUR
3 AND FIFTEEN MINUTES?

4 A FOUR.

5 Q AND WHO WERE THEY?

6 A I HAVE ON MY CRIME SCENE LIST, A PARAMEDIC OR EMT, AN
7 EMT AND TWO SHERIFF DEPUTIES.

8 Q AND HOW MANY CIVILIANS?

9 A I DON'T HAVE ANY CIVILIANS ON MY CRIME SCENE SIGN IN
10 SHEETS.

11 Q CIVILIANS DON'T SIGN IN IF THEY GET THERE BEFORE YOU
12 GET THERE, DO THEY?

13 A NO, SIR.

14 Q BECAUSE YOUR CRIME SCENE SIGN IN LOG DOESN'T START
15 UNTIL YOU GET THERE, DOES IT?

16 A IT STARTS WHEN THE FIRST DEPUTY ARRIVES AND
17 DETERMINES THAT THERE IS A CRIME SCENE.

18 Q AND THEN YOU LATER DISCOVERED THAT IN FACT SEVERAL
19 CIVILIANS HAD BEEN IN THERE BEFORE THE EMT'S GOT THERE?

20 A I AM NOT SURE ON SEVERAL, I KNOW MR. HURSEY HAD BEEN
21 INSIDE.

22 Q SO, DO YOU HAVE, THE BODY, WHEN YOU GOT THERE WAS IT
23 IN THE SAME POSITION IT WAS WHEN THE CRIME OCCURRED?

24 A I JUST STATE WHAT I KNOW FROM MY EXPERIENCE THAT THE
25 LIVIDITY ON THE BODY WAS CONCURRENT WITH WHERE SHE WAS

1 POSITIONED.

2 Q DID YOU HEAR MR. HURSEY SAY THAT SHE HAD HER HAND
3 LIKE SHE WAS GRASPING HER GOWN?

4 A YES SIR, I DID.

5 Q THIS IS THE WAY YOU SAW THE BODY?

6 A YES SIR, IT IS.

7 Q THERE IS NO HAND GRASPING THE GOWN, IS IT?

8 A NO, SIR.

9 Q SO, WE KNOW THAT THE BODY HAD BEEN MOVED, IS THAT
10 CORRECT?

11 A MR. HURSEY WITNESSED HER HAND ON HER CHEST THEN AT
12 LEAST HER HAND HAD BEEN MOVED.

13 Q AT LEAST HER HAND HAD BEEN MOVED, IT IS NO LONGER
14 GRASPING THE GOWN, IS IT?

15 A NO SIR, IT IS NOT.

16 Q ONE OF THE REASONS YOU SAID YOU RULED OUT SUICIDE WAS
17 BECAUSE THERE WAS NO WEAPON AROUND?

18 A YES, SIR.

19 Q THE HAND WAS MOVED, A WEAPON COULD OF BEEN REMOVED,
20 COULDN'T IT?

21 A POSSIBLY, YES SIR.

22 Q YOU WERE THE LEAD CRIME SCENE INVESTIGATOR, IS THAT
23 CORRECT?

24 A FOR THIS CRIME SCENE INVESTIGATION, YES SIR I WAS.

25 Q AND UNDER YOUR AUTHORITY OR IF I AM USING THE RIGHT

1 WORD, CONTROL--

2 A DIRECTION.

3 Q DIRECTION.

4 A YES, SIR.

5 Q UNDER YOUR DIRECTION, SOMEONE DUSTED FOR
6 FINGERPRINTS, IS THAT CORRECT?

7 A YES, SIR.

8 Q AND WHERE YOU DUST FOR FINGERPRINTS IF THERE IS
9 SOMEBODY THAT IS IN HERE THAT SHOULDN'T BE IN THERE AND
10 LEFT A FINGERPRINT YOU CAN IDENTIFY THEM, IS THAT CORRECT?

11 A POSSIBLY, IF THE FINGERPRINT, IF THE LATENT PRINT HAD
12 SOME VALUE IT CAN BE IDENTIFIED, YES.

13 Q ISN'T IT TRUE THAT YOU FOUND, OR WHOEVER DID IT,
14 FOUND 17 LATENT PRINTS IN THE HOUSE?

15 A LET ME REFER BACK TO THE LATENT PRINT REPORT. I DO
16 NOT HAVE THAT REPORT IN MY NOTES.

17 Q YOU DO?

18 A I DO NOT HAVE THAT REPORT IN MY NOTES.

19 Q DO YOU HAVE IT AVAILABLE FOR YOU?

20 A I AM NOT SURE.

21 Q DO YOU RECALL IF THERE WERE--

22 A THERE WERE LATENT PRINTS LIFTED AND IF I RECALL IT
23 WAS DETERMINED THAT THE LATENT PRINTS CAME BACK TO THE
24 PEOPLE WHO WERE LIVING AT THE HOUSE AT THE TIME.

25 Q ISN'T IT TRUE THAT THEY COULD NOT ESTABLISH THAT THEY

1 BELONGED TO A FAMILY ROOM?

2 A I CAN'T ANSWER THAT QUESTION WITHOUT THE REPORT IN
3 FRONT OF ME, SIR.

4 Q WELL, YOU DO REMEMBER THAT THEY DIDN'T FIND ANY OF
5 JOHNNIE FRAZIER'S PRINTS IN THERE, DID THEY?

6 A NOT THAT I AM AWARE OF.

7 Q IS THAT YOUR BOOK THAT YOU ARE LOOKING AT THERE, THE
8 CRIME SCENE BOOK?

9 A YES, SIR.

10 Q AND IS THAT THE LATENT PRINT REPORT IN THERE
11 SOMEWHERE?

12 A NOT AT THE SECTION THAT I AM LOOKING AT, NO.

13 Q COULDN'T FIND THEM?

14 A NO SIR, I CAN NOT.

15 Q WHO DID THE FINGERPRINTS?

16 A I BELIEVE DWAYNE JOHNSON DID THEM.

17 Q HE IS WITH THE LEXINGTON COUNTY SHERIFFS DEPARTMENT?

18 A YES.

19 Q SO, HE COULD COME IN AND TELL US WHICH ONES WERE
20 FAMILY MEMBERS AND WHICH ONES COULDN'T IDENTIFY THEM TO
21 ANYBODY?

22 A YES, SIR.

23 Q THERE IS NO QUESTION THAT JOHNNIE FRAZIER'S
24 FINGERPRINTS WEREN'T IN THE HOUSE, WERE THEY?

25 A UNTIL I HAVE A REPORT IN FRONT OF ME I AM NOT GOING

1 TO ANSWER THAT QUESTION.

2 Q MS. GRIMES, THAT IS A PRETTY CRUCIAL PIECE OF
3 EVIDENCE, ISN'T IT?

4 A YES SIR, I AGREE.

5 Q ISN'T IT TRUE THAT JOHNNIE FRAZIER'S FINGERPRINTS
6 WERE NOT FOUND IN THE HOUSE?

7 A WELL, MR. FLOYD, LIKE I SAY, I DO NOT HAVE THAT
8 REPORT IN FRONT OF ME.

9 Q MS. GRIMES, DON'T YOU THINK THAT IF JOHNNIE FRAZIER'S
10 FINGERPRINTS WERE IN THAT HOUSE THAT YOU WOULD KNOW ABOUT
11 IT?

12 A YES, SIR.

13 Q YOU WOULD TESTIFY ABOUT IT A WHILE AGO, WOULDN'T YOU?

14 A YES, IF I HAD THE REPORT IN FRONT OF ME, I WOULD,
15 SIR.

16 Q WELL, THEY WOULD OF PUT IT IN FRONT OF YOU IF IT HAD
17 OF SAID THAT, WOULDN'T THEY?

18 A IF I HAD THE REPORT IN FRONT OF ME, SIR, I COULD
19 TESTIFY TO THE FINDINGS.

20 Q OKAY. WERE THERE FOOT IMPRESSIONS TAKEN?

21 A YES SIR, THERE WAS.

22 Q AND ISN'T IT TRUE THERE WERE SOME FOOT IMPRESSIONS,
23 WHERE DID THEY TAKE THEM, FIRST OF ALL?

24 A THEY WERE OUTSIDE.

25 Q IT IS A SANDY DRIVEWAY AND YARD, ISN'T IT?

1 A YES SIR, IT IS.

2 Q AND THE KIND OF SOIL SURFACE THAT IS VERY RECEPTIVE
3 TO FOOT PRINTS?

4 A POSSIBLY, YES, THEY CAN.

5 Q AND DO YOU RECALL HAVING ANY FOUND?

6 A I HAVE HERE 11 SHOE IMPRESSIONS.

7 Q NOW, SOME OF THEM TURNED OUT TO BE LIKE DETECTIVES
8 AND PEOPLE LIKE THAT, IS THAT CORRECT?

9 A YES, SIR.

10 Q HOW MANY OF THEM TURNED OUT TO BE UNKNOWN?

11 A THE RESULTS THAT I HAVE ARE THE FOOTWEAR IMPRESSIONS
12 WERE COMPARED TO SHOES THAT WE HAD, I CAN NOT TELL YOU HOW
13 MANY WERE KNOWN AND UNKNOWN BY THE REPORT.

14 Q DOES IT SAY ALL OF THEM MATCHED OR DOES IT SAY SOME
15 OF THEM DIDN'T MATCH?

16 A IT SAYS MOST OF THEM DID NOT MATCH TO THE KNOWN
17 FOOTWEAR THAT WE HAVE.

18 Q LET'S LOOK. B, C, D, E, F, THAT IS FIVE, RIGHT?

19 A YES, SIR.

20 Q WERE NOT MADE BY KOON, GABERT, FINCH, BUTCH OR ROBERT
21 HURSEY?

22 A YES SIR, THAT IS WHAT I HAVE ON MY REPORT.

23 Q THEY COULDN'T MATCH THOSE WITH ANYBODY?

24 A YES.

25 Q AND THE OTHER, L THROUGH M. THAT WAS NOT MADE BY

1 ANYBODY THERE EITHER?

2 A NOT MADE BY KOON, FINCH, CHANDLER, GABERT, PRITCHARD,
3 BUTCH HURSEY OR ROBERT HURSEY.

4 Q AND THEN THEY HAD THREE, THEY REALLY COULDN'T SAY BUT
5 THEY WERE SIMILAR IN SIZE TO SOME OF THOSE STANDARDS THAT
6 YOU WOULD USE?

7 A YES, THE SAME SHAPE, SIZE.

8 Q THERE WERE ACTUALLY SEVEN THAT WERE BEING STRANGER
9 PRINTS, IS THAT CORRECT?

10 A YES, SIR.

11 Q AND ISN'T IT ALSO TRUE THAT LATER JOHNNIE FRAZIER'S
12 SHOES WERE COMPARED?

13 A WHAT TYPE OF SHOES WERE THOSE, SIR?

14 MR. STUMBO: YOUR HONOR, AT THIS POINT IT IS ASKING
15 HER TO TESTIFY AS TO HEARSAY.

16 THE COURT: I CAN'T HEAR YOU.

17 MR. STUMBO: WE WOULD OBJECT TO HEARSAY, ANSWER CALLS
18 FOR HEARSAY.

19 THE COURT: IS SHE KNOWS, SHE KNOWS, I DON'T KNOW
20 THAT IT IS HEARSAY. IF SHE DOESN'T KNOW SHE DOESN'T KNOW,
21 I DON'T KNOW THE ANSWER TO THE QUESTION. I MEAN, IT
22 DOESN'T CALL FOR HEARSAY. THE LAST QUESTION WAS WHETHER
23 SOME OF THE DEFENDANT'S SHOES WERE TESTED. EITHER SHE
24 KNOWS OR SHE DOESN'T, I DON'T SEE HOW IT CALLS FOR
25 HEARSAY. I OVERRULE THE OBJECTION.

1 Q WERE SOME SHOES OF JOHNNIE FRAZIER'S TESTED AGAINST
2 THOSE IMPRESSIONS?

3 A WHERE THE ADIDAS SHOES, WERE THOSE THE SHOES THAT YOU
4 ARE TALKING ABOUT, SIR?

5 Q YES.

6 A YES, THE IMPRESSIONS THAT WE DID IN THE PHOTOGRAPHS
7 WERE NOT MADE BY THE KNOWN SHOES WHICH WERE THE ADIDAS
8 SHOES.

9 Q THANK YOU. SO, JOHNNIE FRAZIER'S FINGERPRINTS AREN'T
10 THERE, JOHNNIE FRAZIER'S FOOTPRINTS AREN'T THERE EITHER?

11 A YES SIR, BUT LIKE I SAID BEFORE, I CANNOT SAY FOR
12 SURE WHAT THE REPORTS FOR THE FINGERPRINTS WERE BECAUSE I
13 DO NOT HAVE THAT REPORT IN FRONT OF ME.

14 Q NOW, WERE THERE ANY BLOOD SAMPLES TAKEN FROM THE
15 RESIDENCE THAT WERE NOT CAROL HURSEY'S.

16 A I CANNOT DETERMINE AT THE TIME THAT THE BLOOD SWABS
17 WERE TAKEN IF THEY ARE THE VICTIM'S OR NOT. THEY HAVE TO
18 BE SENT TO SLED.

19 Q WERE THERE SOME THAT TURNED OUT NOT TO BE CAROL
20 HURSEY'S?

21 A I CAN'T ANSWER THAT QUESTION.

22 MR. STUMBO: IT CALLS FOR HEARSAY, YOUR HONOR.

23 THE COURT: I SUSTAIN THAT OBJECTION, GO AHEAD.

24 Q THAT IS BECAUSE SLED DOES ALL OF THAT ANALYSIS?

25 A YES, SIR. WHEN WE NEED A DNA ANALYSIS OR THAT TYPE

1 OF THING, THE SHERIFFS DEPARTMENT ISN'T EQUIPPED WITH THAT
2 TYPE OF LAW EQUIPMENT TO DO THAT SO WE SEND IT TO SLED
3 BECAUSE THEY ARE A STATE POLICE AGENCY.

4 Q AND IS IT LEXINGTON COUNTY SHERIFFS DEPARTMENT THAT
5 SENDS IT TO SLED OR IS IT THE DEFENDANT PERSONALLY WHO
6 SENDS IT TO SLED?

7 A WE SEND THE SWABS THAT WE COLLECT FROM THE CRIME
8 SCENE ALONG WITH THE, I CALL IT THE TOXICOLOGY BAG WHICH
9 INCLUDES THE VICTIM'S BLOOD AND OTHER THINGS THAT THE
10 DOCTOR SEES, THAT HE COLLECTED, ALL OF THAT GOES TO SLED.

11 Q AND WHEN SLED DOES THE EXAMINATION, THEY DO REPORTS?

12 A YES, SIR.

13 Q DO THEY SEND YOU THE REPORTS OR DO THEY SEND THEM TO
14 JOHNNIE FRAZIER?

15 A I BELIEVE THE REPORT GOES BACK TO THE INVESTIGATOR
16 THAT I PUT ON THE PAPER WORK FOR THE REPORT TO GO BACK TO.

17 Q DID YOU FIND ANY GUNS IN THE HOUSE?

18 A YES, SIR.

19 Q HOW MANY GUNS DID YOU FIND?

20 A IF YOU CAN GIVE ME A MINUTE SO I CAN COUNT THEM.
21 APPROXIMATELY 11 GUNS.

22 Q 11 GUNS?

23 A YES, SIR.

24 Q AND WOULD YOU TELL US WHAT THOSE GUNS WERE?

25 A I HAVE A SMITH AND WESSON REVOLVER .38 CALIBER, ONE

1 SMJ MODEL D .45 CALIBER DERRINGER, ONE 55 MODEL 51
2 SHOTGUN, ONE BRADY 10 1100 SHOTGUN, ONE .12 GAUGE DOUBLE
3 BARREL, ONE AL REVOLVER, ONE .22 CALIBER REVOLVER, A BLACK
4 POWDER PISTOL, AN UNKNOWN BRAND .22 CALIBER, A LONG BRAID
5 RIFLE, H&R SINGLE SHOTGUN, ONE JC HIGGINS MODEL 1011 .20
6 GAUGE SHOTGUN, ONE JENNINGS FIREARM MODEL BRYCO .9
7 MILLIMETER, AND THAT IS IT, SO THERE WAS 12.

8 Q 12?

9 A YES.

10 Q WERE THEY ALL IN THE BEDROOM?

11 A NO SIR, THEY WERE THROUGHOUT THE BEDROOM AND LOCATED
12 IN THE RESIDENCE.

13 Q NOW, JUST TO CLARIFY ONE OTHER ISSUE. I AM GOING TO
14 ASK YOU A QUESTION, A COUPLE OF QUESTIONS ABOUT EXHIBIT 9.
15 I WILL GIVE IT TO YOU TO REFRESH YOUR MEMORY.

16 A YES, SIR.

17 Q NOW, THAT SHOWS TWO BULLET HOLES, DOES IT NOT?

18 A YES, SIR. WHAT WE BELIEVED TO BE TWO BULLET HOLES.

19 Q TWO HOLES WHICH YOU BELIEVED TO BE BULLET HOLES?

20 A YES, SIR.

21 Q BUT ISN'T IT TRUE THAT YOU ONLY TAKE ONE OF THEM IN
22 THIS INCIDENT?

23 A YES SIR, BECAUSE OF THE VICTIM'S INJURY ONLY BEING
24 ONE SHOT, ONE GUNSHOT TO THE HEAD.

25 Q SO, THAT OTHER HOLE, IF IT WAS A BULLET HOLE OCCURRED

1 SOME OTHER TIME?

2 A POSSIBLY, I CANNOT SAY FOR SURE. WE CANNOT
3 DETERMINE, YOU KNOW, WHEN A GUNSHOT OCCURRED IN THE
4 RESIDENCE. WE CAN'T SAY, YES, THIS ONE OCCURRED TODAY AND
5 THIS ONE OCCURRED TWO WEEKS AGO.

6 Q IS THERE NO WAY TO GET SOME INFORMATION FROM THE
7 FAMILY THAT THE OTHER ONE OCCURRED A LONG TIME AGO OR SOME
8 TIME AGO?

9 A I BELIEVE--

10 MR. STUMBO: IT CALLS FOR HEARSAY, YOUR HONOR,
11 OBJECTION.

12 THE COURT: SUSTAINED.

13 Q AND THE LADDER IS IN THERE, THAT IS THE LADDER BY THE
14 POLICE TO GET UP TO THE ROOF, ISN'T IT, TO PUT THE HOLES?

15 A YES, TO PUT THE TRAJECTORY ROD UP THERE, NOT THE
16 HOLES.

17 Q OKAY, THAT IS RIGHT, TRAJECTORY. SO, THE LADDER HAD
18 NOTHING TO DO WITH THIS PARTICULAR INCIDENT.

19 A YES, SIR. SO, WE CAN GET UP HIGH ENOUGH IN ORDER TO
20 PUT THE RODS IN.

21 Q OKAY. JUST WANTED TO CLARIFY. YOU WERE OUT THERE AT
22 4:30, IS THAT CORRECT?

23 A YES, SIR.

24 Q AND WAS THE BODY WARM, COOL, COLD?

25 A THE BODY WAS COLD TO THE TOUCH.

1 Q AND RIGAMORTUS SET IN?

2 A ACCORDING TO MY NOTES, YES.

3 Q AND WHERE DID YOU FIND RIGAMORTUS?

4 A I JUST FELT HER EXTREMITIES, SUCH AS HER ARMS, I
5 TRIED TO LIFT HER ARMS AND HER FINGERS.

6 Q DID YOU DETERMINE WHETHER IT WAS FULL BODY RIGAMORTUS
7 AT THAT TIME?

8 A I HAVE IN MY NOTES, THE VICTIM WAS PLACED IN A BAG
9 FOR TRANSPORTATION, SHE APPEARED TO BE IN FULL RIGAMORTUS.

10 Q NOW, WHAT TIME WOULD THAT HAVE BEEN?

11 A I BELIEVE IT WAS AROUND 10:00 O'CLOCK THAT EVENING.

12 Q WHAT DID YOU SAY ABOUT RIGAMORTUS AT 4:30, DID YOU
13 SAY ANYTHING ABOUT RIGAMORTUS AT 4:30?

14 A NO, I DID NOT.

15 Q ISN'T IT TRUE THAT WHEN SOMEONE IS SHOT THE BULLET
16 ENTERS THE BODY AND LEAVES THE BODY, THAT YOU HAVE BLOOD
17 SPATTER IN BOTH THE ENTRANCE AND THE EXIT WOUND?

18 A USUALLY, YES BUT THERE IS THREE DIFFERENT TYPES OF
19 BLOOD SPATTER. YOU HAVE LOW VELOCITY, MEDIUM VELOCITY AND
20 HIGH VELOCITY. LOW VELOCITY WOULD BE CONSISTENT WITH A
21 PUNCH TO THE FACE, YOU WILL HAVE BIG SPOTS OF BLOOD.
22 MEDIUM VELOCITY WOULD BE MORE LIKE USING A CHAINSAW,
23 ACTUALLY LIKE TO CUT OFF YOUR FINGER, THAT TYPE OF THING.
24 THE BLOOD, THE PATTERN GETS SMALLER. HIGH VELOCITY IS
25 CONSISTENT WITH GUNSHOT WOUNDS. LIKE A SPRAY BOTTLE, I

1 GUESS TO SPRAY DOWN YOUR WINDOW, IT IS A REAL FINE MIST
2 THAT IS HARD TO SEE. YOU NORMALLY FIND, WHAT YOU ARE
3 GOING TO FIND IN YOUR LOW VELOCITY MORE TOWARDS THE EXIT
4 OF THE WOUND THAN THE ENTRANCE OF THE WOUND.

5 Q SO, THE ANSWER TO MY QUESTION IS YES, THE SPATTER IS
6 BOTH IN THE ENTRANCE AND EXIT, IS THAT CORRECT?

7 A WE HAD MORE SPATTER TOWARDS THE EXIT OF THE WOUND
8 THAT WAS FOUND ON THE CURRENT AREA OF WHERE WE DID OUR
9 TRAJECTORY ROD THAT YOU SAW EARLIER. THE AREA ON THE
10 FLOOR WAS WHERE WE FOUND THE LOW VELOCITY SPATTER.

11 Q IN YOUR OPINION, WAS THERE SPATTER FROM THE INJURY
12 WOUND?

13 A IN MY OPINION, NO, THERE WAS SPATTER FROM THE EXIT
14 WOUND.

15 Q WHY WAS THERE NO SPATTER IN THE ENTRANCE WOUND?

16 A YOU HAVE TO HAVE A SOURCE OF BLOOD FLOW. ACCORDING
17 TO THE AUTOPSY THERE WAS A HARD CONTACT WOUND INTO THE EAR
18 WHERE YOU COULD SEE THE CHARRING OF WHERE THE GUN HAD BEEN
19 FIRED AND THE BLOOD SPATTER COMING OUT OF THE BACK OF THE
20 EAR THIS WAY WHICH WOULD GIVE YOU THE BLOOD SPATTER COMING
21 OUT OF THE EXIT WOUND.

22 Q MS. GRIMES, ARE YOU SAYING THAT FIRING A WEAPON INTO
23 SOMEBODY'S HEAD AND IT NOT CAUSE BLEEDING ON THE ENTRANCE
24 WOUND?

25 A THERE WAS BLEEDING ON THIS SIDE OF HER EAR AND BLOOD

1 IN HER HAIR. BUT THE BLOOD SPATTER THAT WAS FOUND WAS ON
2 THE RIGHT SIDE OF MS. HURSEY.

3 Q WHAT YOU FOUND WAS ON THE RIGHT SIDE BECAUSE IF IT
4 WAS SOMEBODY STANDING ON THE LEFT SIDE THAT FIRED THE GUN
5 THE SPATTER WOULD OF BEEN ON THAT PERSON, WOULDN'T IT?

6 A NOT NECESSARILY.

7 Q THAT IS ALL.

8 THE COURT: ANY REDIRECT?

9 MR. STUMBO: JUST A FEW ON REDIRECT.

10 REDIRECT EXAMINATION

11 BY MR. STUMBO:

12 Q TALKING ABOUT THE BLOOD SPATTER, WHEN YOU SAY BLOOD
13 SPATTER, YOU ARE TALKING ABOUT THE MIST THAT YOU WERE
14 TALKING ABOUT THAT COMES OUT OR JUST ANY BLOOD THAT MAY
15 COME OUT OF THE WOUND?

16 A NO, I AM TALKING WHERE, I AM TALKING ABOUT THE BLOOD
17 SPATTER CONCERNING MS. HURSEY, IT WAS A HIGH VELOCITY
18 WHICH WOULD BE THAT MIST LOOK. LIKE I EXPLAINED BEFORE,
19 LOW VELOCITY OF BLOOD SPATTER WOULD BE, BECAUSE OF THE
20 BIGGER DROPLETS, IF ANYBODY WATCHED TV AND YOU SEE SOMEONE
21 GET PUNCHED AND THEY HIT THE WALL OR AN OBJECT THE BLOOD
22 SPATTER IS BIG. THE MEDIUM, IT IS MORE KIND OF A SPRAY
23 LIKE YOU WOULD SPRAY WITH YOUR GARDEN HOSE AND THE HIGH IS
24 MORE LIKE WHEN YOU USE A BOTTLE AND SPRAY WITH A WASHER.

25 Q ON AN ENTRANCE WOUND COULD THERE BE BLOOD ON THE

1 FRONT?

2 A FROM THE ENTRANCE WOUND?

3 Q YES.

4 A YES, SIR.

5 Q WOULD THAT BE DIFFERENT FROM A SPRAY SPATTER?

6 A IN MY OPINION, YES, THE WAY THAT ALL, THE GUN WAS
7 WHAT THEY CONSIDER TO BE A CONTACT WOUND INTO MS. HURSEY'S
8 EAR WHERE THE TRAUMA STARTS HERE, THE BULLET HAS TO HAVE
9 SOME PLACE TO EXIT. SO, WHEN IT EXITS IT EXITS HERE WHICH
10 GIVES YOU THE BLOOD SOURCE TO MAKE THE BLOOD SPATTER.

11 Q YOU SAID YOU FOUND 11 GUNS IN THE HOUSE?

12 A IT WAS 12.

13 Q ANY OF THOSE 12 GUNS FOUND CLOSE IN PROXIMITY TO MS.
14 HURSEY'S BODY?

15 A THERE WAS ONE SMALL DERRINGER, I BELIEVE THAT WAS IN
16 THE DRAWER OF MS. HURSEY'S BEDSIDE TABLE.

17 Q WAS THAT DRAWER CLOSED WHEN YOU GOT THERE?

18 A I BELIEVE IT WAS CLOSED.

19 Q I AM GOING TO PASS YOU UP STATE'S NUMBER 5. YOU TOOK
20 THAT PICTURE?

21 A YES.

22 Q WHERE DID YOU FIND THE DERRINGER IN THAT DRAWER?

23 A IT WAS SOMEWHERE IN HERE, THE DRAWER, THERE IS A LOT
24 OF PAPER WORK AND STUFF. I BELIEVE IT WAS UP UNDERNEATH
25 THE PAPER WORK, I CAN'T SAY FOR SURE.

1 Q MR. FLOYD ASKED YOU ABOUT RIGAMORTUS, IS RIGAMORTUS A
2 PROCESS OR IS IT SOMETHING THAT JUST HAPPENS
3 INSTANTANEOUSLY?

4 A IT IS A PROCESS. BASICALLY IS ONCE YOU DIE YOUR
5 MUSCLES START STIFFENING AND TIGHTENING. IT IS THE
6 UNDERSTANDING FROM THE TRAINING THAT I HAVE GONE TO.
7 RIGAMORTUS, IT IS USUALLY WITHIN A 12 HOUR TIME LIMIT,
8 YOUR BODY HAS GONE INTO FULL RIGOR BUT IT ALSO, IT DEPENDS
9 ON THE PERSON'S HEIGHT, THEIR WEIGHT, WHAT THE TEMPERATURE
10 IS IN THE HOUSE, YOU KNOW THE WEATHER CONDITIONS, THERE IS
11 A WHOLE BUNCH OF DIFFERENT FACTORS WHEN YOU DETERMINE A
12 TIMELINE FOR RIGAMORTUS.

13 Q THIS APPEARS TO BE A BULLET HOLE COMING OUT OF THE
14 CEILING OF THE HOUSE. DID YOU FIND ANY BLOOD SPATTER
15 AROUND THAT HOLE?

16 A NO, THAT HOLE WAS FOUND IN THE CEILING PART OF THE
17 HOUSE. AND IT WENT THROUGH, I GUESS, THE ATTIC AND THEN
18 EXITED THE HOUSE.

19 Q MR. FLOYD ASKED YOU A QUESTION ABOUT MS. HURSEY'S
20 HOLDING HER GOWN, YOU DIDN'T OBSERVE THAT SCENE?

21 A NO SIR, I DID NOT.

22 Q I BELIEVE YOU TESTIFIED EARLIER THERE WAS BLOOD
23 AROUND HER HEAD, HER HAIR WAS IN THE BLOOD?

24 A YES, SIR.

25 Q DID THAT POOL OF BLOOD AROUND HER HEAD APPEAR TO BE

1 DISTURBED IN ANY WAY?

2 A NO SIR, IT DID NOT.

3 Q IN YOUR OPINION WAS HER BODY MOVED FROM ONE PLACE TO
4 ANOTHER?

5 A NO, IT WAS NOT.

6 Q AND WHY IS THAT?

7 A WITH HER HAVING THE BLOOD IN HER HAIR AND THERE IS
8 CALLED, LIKE A BLOOD TRANSFER YOU SHOULD BE ABLE TO SEE
9 WHEN A VICTIM IS INJURED, WALK THROUGH THE HOUSE OR MOVED,
10 YOU SHOULD BE ABLE TO SEE WHERE HER BLOOD IS TRANSFERRED
11 THROUGH THE HOUSE. ALSO, BACK TO THE LIVIDITY THAT I
12 SPOKE ABOUT EARLIER, HER LIVIDITY WAS CONSISTENT WITH
13 BEING ON HER BACK AND THAT IS THE WAY WE FOUND HER WHEN WE
14 ENTERED THE HOUSE.

15 Q I AM GOING TO PASS TO YOU, IF YOU CAN IDENTIFY THIS
16 DOCUMENT, DO YOU RECOGNIZE IT, FIRST OF ALL.

17 A YES, THIS IS THE LATENT PRINT REPORT THAT WAS DONE BY
18 MR. JOHNSON, HE WORKS AT THE SHERIFFS DEPARTMENT.

19 Q IS THAT THE REPORT THAT MR. FLOYD WAS TRYING TO GET
20 YOU TO FIND?

21 A YES, IT IS.

22 Q OKAY. YOU WERE ABLE TO REVIEW THAT REPORT?

23 A YES, SIR.

24 Q THAT WAS PART OF YOUR CRIME SCENE INVESTIGATION?

25 A IT WAS. WHAT I DO OR THE LEAD INVESTIGATOR AT THE

1 TIME DOES A LIVE REQUEST THROUGH THE SHERIFFS DEPARTMENT
2 WHICH COMES TO THE CRIME SCENE UNIT. SINCE MR. JOHNSON IS
3 OUR LATENT PRINT EXAMINER FOR THE SHERIFFS DEPARTMENT HE
4 WAS ASSIGNED THE LAB TO COMPARE THE LATENT PRINTS THAT
5 WERE LIFTED AT THE CRIME SCENE.

6 Q YOU TESTIFIED EARLIER THAT NO FINGERPRINTS WERE FOUND
7 AT THE SCENE?

8 A I BELIEVE SO, YES.

9 Q IS THAT CONSISTENT WITH THE REPORT DONE BY MR.
10 JOHNSON?

11 A YES SIR, THERE WERE 13 LATENT FINGERPRINTS AND ONE
12 LATENT IMPRESSION, THE FINGERPRINTS WERE PRESENT ON 8 OF
13 THE LIFTS. NO LATENT PRINTS ARE PRESENT ON THE REMAINING
14 LIFTS.

15 Q AS FAR AS FINGERPRINTS GO, IS THERE ANYTHING IN YOUR
16 INVESTIGATION THAT YOU FOUND IN THE ANALYSIS?

17 A NO.

18 Q THAT IS ALL I HAVE.

19 THE COURT: ANY RECROSS, MR. FLOYD?

20 RECROSS-EXAMINATION

21 BY MR. FLOYD:

22 Q NOW, MS. GRIMES, YOU HAVE NO WAY OF KNOWING WHETHER
23 OR NOT HER ARMS WOULD MOVE, DO YOU?

24 A DO I HAVE ANY WAY OF KNOWING?

25 Q WHETHER HER ARMS WERE MOVED AFTER.

1 A WELL, THERE WOULD OF BEEN SOME LIVIDITY, I GUESS,
2 RIGHT HERE WHICH IT WAS THERE. I MEAN, OTHER THAN THAT,
3 NO I WAS NOT THERE AT THE TIME OF DEATH.

4 Q IT WOULDN'T MATTER TO ANYTHING IF THE ARMS WERE MOVED
5 UP AND MOVED BACK, THAT WOULDN'T CHANGE WHAT YOU SAW,
6 WOULD IT?

7 A NO, SIR. I SAW WHAT I SAW.

8 Q OR SOMEBODY LIFTED HER HEAD UP AND PUT IT RIGHT BACK
9 DOWN, THAT WOULDN'T CHANGE ANYTHING, WOULD IT AS FAR AS
10 THE SCENE GOES?

11 A NO, SIR.

12 Q IF SOMEBODY HAD TOOK A GUN OUT OF HER HAND OR NEXT TO
13 HER BODY, YOU WOULDN'T KNOW THAT, WOULD YOU?

14 A THAT IS WHY WE DID THE GSR ON HER AT THE AUTOPSY AND
15 I CAN'T TESTIFY TO THAT SINCE I DID NOT PERFORM THE TRACE
16 PART OF THE GSR.

17 Q NOW, THIS FINGERPRINT REPORT, OKAY, DOESN'T IT SAY
18 THE REMAINING LATENT PRINTS ARE NOT IDENTICAL WITH THE
19 FINGERPRINTS AND PALM PRINTS OF SIDNEY HURSEY, FRAZIER.

20 A AND THAT IS WHAT THE REPORT SAYS, IT IS WHAT IT IS.

21 Q IT IS WHAT IT IS.

22 A YES SIR, THAT IS WHAT IT SAYS.

23 Q SO, THERE WAS FINGERPRINTS THAT WERE USABLE BUT THEY
24 WEREN'T JOHNNIE FRAZIER'S AND THEY WEREN'T HURSEY'S, WERE
25 THEY?

1 A RIGHT.

2 Q CAN YOU TELL HOW MANY PRINTS WERE NOT IDENTIFIED?

3 A IT JUST SAYS 13 LATENT FINGERPRINTS, 8 LIFTS--

4 Q SO, THERE ARE 8 LIFTS WITH 13 OR 14 USABLE PRINTS?

5 A YES.

6 Q AND THEY WEREN'T JOHNNIE FRAZIER'S, WERE THEY?

7 A NO SIR, THEY WEREN'T.

8 Q MAYBE I MISUNDERSTOOD YOUR TESTIMONY, DID YOU SAY
9 THAT THIS HOLE IN THE ROOF, DID YOU SAY IT DID OR DID NOT
10 HAVE ANYTHING TO DO WITH THIS INCIDENT OR YOU DIDN'T KNOW.
11 I AM SORRY, WHAT DID YOU SAY WHEN MR. STUMBO ASKED YOU
12 ABOUT THAT?

13 A I SAID I WAS NOT SURE IF IT DID, BUT WE CANNOT GIVE A
14 TIMELINE OF WHEN, YOU KNOW, IN BETWEEN, WHETHER IT WAS
15 INVOLVED OR NOT.

16 Q DID YOU DO ONE OF THE STRING THINGS LIKE YOU DID
17 HERE?

18 A WE DID A TRAJECTORY LIKE THAT BUT WE DID NOT ATTACH
19 THE STRING TO IT. IN ONE OF THE PHOTOS YOU CAN SEE THE
20 PINK ROD STICKING OUT OF THE CEILING.

21 Q OKAY, THAT MIGHT HELP. YOU DON'T REMEMBER WHICH ONE
22 IT WAS, MS. GRIMES?

23 A NO, SIR. IF YOU LET ME SEE THEM I CAN SEE IF I CAN
24 FIND IT.

25 Q OKAY.

1 A IT IS NOT IN ANY OF THESE PHOTOS.

2 Q COULD IT BE THIS?

3 A I DON'T SEE IT IN ANY OF THE PHOTOS.

4 Q IS IT THIS ONE?

5 A NO.

6 Q YOU DID THIS THING YOU DID WITH THE STRING, THAT IS
7 AN ESTIMATION OR APPROXIMATION?

8 A YES SIR, IT IS.

9 Q BECAUSE YOU REALLY DON'T KNOW THE TRAJECTORY THE
10 BULLET TOOK?

11 A WE USE THAT AS AN APPROXIMATION WITH KNOWING THE, HOW
12 THE PATH THAT TRAVELED THROUGH MS. HURSEY AND THE HOLE IN
13 THE WINDOW.

14 Q BUT YOU DON'T REALLY KNOW WHETHER SHE WAS STANDING,
15 KNEELING, STOOPING, WHAT SHE WAS DOING WHEN THIS BULLET
16 HIT?

17 A ACCORDING TO THE BULLET TRAJECTORY FROM THE AUTOPSY
18 AND WHAT THE ESTIMATION OF THE STRING WAS, IT WAS OUR
19 CONCLUSION THAT SHE WAS KNEELING AT THE TIME.

20 Q HOW TALL IS THIS LADY?

21 A I BELIEVE SHE IS 5'5", SHE IS SHORTER THAN I AM.

22 Q SHE IS ABOUT CLOSE IN HEIGHT TO CAROL HURSEY?

23 A THE CLOSEST THAT WE HAD AT THE TIME, YES.

24 Q YET THE STRING IS SEVERAL INCHES ABOVE HER EAR, IS IT
25 NOT?

1 A YES, SIR.

2 Q AND THE ENTRY WAS THROUGH THE EAR, WASN'T IT?

3 A YES, SIR.

4 Q MS. GRIMES, DO YOU RECALL GIVING SOME TESTIMONY AT AN
5 EARLIER TIME IN THIS MATTER?

6 A SURE, YES.

7 Q I AM GOING TO REFER YOU TO PAGE 86.

8 A GO AHEAD.

9 Q WEREN'T YOU ASKED, SO, REALITY WAS IT CORRECT THAT
10 THE APPROXIMATION COULD OF ENTERED HER SKULL, ANYWHERE
11 ALONG THAT STRING, COULDN'T IT. WHAT DID YOU SAY?

12 A I SAID, YES SIR.

13 Q AND WEREN'T YOU ASKED, SO, SHE COULD OF BEEN
14 STANDING. WHAT DID YOU SAY?

15 A POSSIBLY, YES.

16 Q AND YOU WERE THEN ASKED, SHE COULD OF BEEN SITTING.
17 WHAT DID YOU SAY?

18 A YES, SIR.

19 Q SHE COULD OF BEEN KNEELING?

20 A YES, SIR.

21 Q BUT SHE COULD OF ALSO BEEN STANDING?

22 A I SAID YES, SIR. AND IF YOU REMEMBER BEFORE I SAID
23 SHE COULD OF BEEN KNEELING OF BENDING OVER AT THE TIME.

24 Q NOTHING FURTHER.

25 THE COURT: ANYTHING FURTHER?

1 MR. STUMBO: JUST TWO QUICK QUESTIONS, YOUR HONOR.

2 FURTHER REDIRECT EXAMINATION

3 BY MR. STUMBO:

4 Q WAS THERE ANY BLOOD AROUND THE CEILING?

5 A ON THE CEILING AREA, NO SIR.

6 Q WAS THERE ANY BLOOD ON THE CURTAINS?

7 A YES SIR, THERE WAS.

8 Q IS THAT WHY YOU FOCUSED ON THE HOLE IN THE WINDOW AND
9 NOT THE HOLE IN THE CEILING?

10 A YES SIR, IT IS.

11 Q NOTHING FURTHER.

12 THE COURT: YOU CAN STEP DOWN. COUNSEL, STEP UP FOR
13 A MOMENT, PLEASE.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
15 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
16 JURY.)

17 THE COURT: LADIES AND GENTLEMEN, WE ARE GOING TO
18 BREAK FOR THE DAY. WE WILL START BACK AT 9:30 IN THE
19 MORNING. PLEASE DON'T DISCUSS THE CASE WITH ANYONE OR
20 READ OR WATCH ANYTHING ABOUT THE CASE. PLEASE BE BACK AT
21 9:30 IN YOUR JURY ROOM. EVERYONE ELSE REMAIN SEATED.
22 THANK YOU.

23 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
24 THE DAY.)

25 THE COURT: WE WILL SEE YOU ALL AT 9:30 TOMORROW

1 MORNING.

2 (WHEREUPON, THE TRIAL WILL RESUME THE NEXT MORNING AT
3 9:30.)

4 THE COURT: MR. FLOYD, WE NEED TO GET A CLEAN COPY OF
5 THE TRANSCRIPT FROM THE FIRST TRIAL THAT RESULTED IN A
6 MISTRIAL. I THINK WE WILL MAKE IT A COURT EXHIBIT SO IT
7 IS A PART OF THE RECORD OF THIS. SO, WHEN WE HAVE A
8 SITUATION LIKE YESTERDAY WHEN YOU OBJECTED OR THE STATE
9 OBJECTED ON YOUR CROSS-EXAMINATION, THAT WILL BE IN THIS
10 RECORD. I MADE REFERENCE TO IT AND I THINK TO BE SAFE
11 THAT IS GOING TO BE THE EASIEST WAY TO HANDLE IT. DO YOU
12 HAVE ANY OBJECTION TO THAT? WE WILL GET A CLEAN COPY OF
13 THE TRANSCRIPT FROM THE FIRST TRIAL.

14 MR. FLOYD: I WOULD ASSUME, HAS SHE FILED THE
15 ORIGINAL UNDER SEAL?

16 THE COURT: THERE WOULD BE NO REQUIREMENT FOR THAT TO
17 BE DONE THAT I AM AWARE OF.

18 MR. FLOYD: I HAVE GOT NO PROBLEM.

19 THE COURT: THAT WILL BE COURT EXHIBIT NUMBER 2. AND
20 THAT WAY THE RECORD WILL BE ASSURED AND HAVE EVERYTHING
21 THAT HAPPENED THE FIRST TIME, THE REFERENCE THAT WAS MADE,
22 THE ARGUMENTS THAT WERE MADE, THE RULINGS THAT THE COURT
23 MADE, IT IS ALL THERE.

24 (WHEREUPON, COURT'S EXHIBIT NO. 2 WAS MARKED FOR
25 IDENTIFICATION ONLY.)

1 THE COURT: ANYTHING ELSE, MR. RIDDLE?

2 MR. RIDDLE: NO SIR, BUT DR. SEXTON IS OUR NEXT
3 WITNESS AND I JUST WANTED TO PUT THE COURT ON NOTICE THAT
4 WE MARKED FOUR PICTURES, 18, 19, 20 AND 21. MR. FLOYD
5 INDICATED TO ME THAT THOSE WOULD BE ADMITTED WITHOUT
6 OBJECTION.

7 THE COURT: IS THAT CORRECT, MR. FLOYD?

8 MR. FLOYD: THAT IS CORRECT, YOUR HONOR.

9 THE COURT: WE WILL GO AHEAD, THOSE ARE MARKED AND
10 WILL BE PUT INTO EVIDENCE AND CAN BE USED. ANYTHING
11 FURTHER?

12 MR. RIDDLE: NO, YOUR HONOR.

13 THE COURT: ANYTHING FOR THE DEFENSE TO PUT ON THE
14 RECORD RIGHT NOW?

15 MR. FLOYD: NO, YOUR HONOR.

16 THE COURT: LET'S GET THE JURY IN, PLEASE.

17 (WHEREUPON, STATE'S EXHIBIT NOS. 18, 19, 20 AND 21
18 WERE ADMITTED INTO EVIDENCE.)

19 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
20 APPROXIMATELY 9:40 A.M.)

21 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN,
22 GOOD MORNING. I APPRECIATE YOU BEING HERE ON TIME.
23 BEFORE WE START, LET ME TELL YOU THERE HAVE BEEN FOUR
24 ADDITIONAL EXHIBITS, STATE'S EXHIBITS 18, 19, 20 AND 21
25 THAT HAVE BEEN INTRODUCED INTO EVIDENCE. I THINK THEY ARE

1 GOING TO BE REFERRED TO BY THE NEXT WITNESS. I DID NEED
2 TO TELL YOU THOSE, I THINK THOSE ARE PHOTOGRAPHS AND ARE
3 IN EVIDENCE. WE WILL CONTINUE WITH THE TESTIMONY, CALL
4 YOUR NEXT WITNESS.

5 MR. RIDDLE: THE STATE WOULD CALL DR. JOEL SEXTON TO
6 THE STAND.

7 DR. JOEL SEXTON, AFTER BEING DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. RIDDLE:

11 Q DR. SEXTON, WHERE DO YOU LIVE?

12 A IN NEWBERRY, SOUTH CAROLINA.

13 Q AND HOW LONG HAVE YOU LIVED IN THE NEWBERRY AREA?

14 A SINCE 1983.

15 Q AND WHAT IS YOUR PROFESSION NOW?

16 A I AM A PATHOLOGIST AND I HAVE A INDEPENDENT CONTRACT
17 WITH THE HOSPITAL TO SUPERVISE THEIR LABORATORY AND I DO
18 THEIR SURGICAL PATHOLOGY. WE ALSO HAVE A PRIVATE PRACTICE
19 THAT DOES FORENSIC PATHOLOGY FOR APPROXIMATELY 25 OF THE
20 COUNTY CORONERS.

21 Q DOCTOR, CAN YOU TELL US WHAT YOUR BACKGROUND
22 EDUCATION IS, PLEASE, SIR.

23 A I GRADUATED FROM THE UNIVERSITY OF VIRGINIA BACK IN
24 1958, ENTERED THE NAVY. AND SINCE I WAS ON A NARY
25 SCHOLARSHIP I WAS ON A CRUISER FOR THREE YEARS BEFORE

1 GOING BACK TO GRADUATE SCHOOL. I FINISHED A MASTERS IN
2 CHEMISTRY IN CHARLESTON, THEN ENTERED THE MEDICAL SCHOOL
3 AND FINISHED IN 1968 AND STUDIED THE FIELD OF PATHOLOGY
4 WHICH IS A SPECIALIZATION AND FINISHED THAT IN 1972 ALSO
5 AT THE MEDICAL, AT THAT TIME THE MEDICAL UNIVERSITY OF
6 SOUTH CAROLINA. STAYED THERE AND TAUGHT FROM 1972 UNTIL
7 1983 WHEN I MOVED TO NEWBERRY. I WAS ALSO THE APPOINTED
8 CHARLESTON COUNTY MEDICAL EXAMINER WHICH IS THE MEDICAL
9 EQUIVALENT OF A CORONER AND THE CORONERS OFFICE AND THE
10 OFFICE THAT I SUPERVISED WAS IN CHARLESTON. I WAS ALSO
11 HEAD OF THE FORENSIC PATHOLOGY SECTION, THE DEPARTMENT OF
12 PATHOLOGY AND WE HAD CASES COME TO US FROM ALL OVER THE
13 STATE. SO, THAT DURING THE FIRST OF THE YEAR WE MIGHT
14 HAVE AS MANY AS 500 TO 600 AUTOPSIES TO DO FOR THE STATE
15 AS WELL AS PART OF THOSE WERE ABOUT 125 OF LOCAL COUNTIES.
16 PLUS WE INVESTIGATED ABOUT 625 DEATHS THAT OCCURRED IN THE
17 COUNTY.

18 Q ONCE YOU MOVED TO NEWBERRY, I BELIEVE YOU SAID 1982,
19 DID YOU CONTINUE IN THE PRACTICE OF PATHOLOGY THERE?

20 A I DID. IT WAS 1983 ACTUALLY.

21 Q DOCTOR, ARE YOU BOARD CERTIFIED IN PATHOLOGY?

22 A IN 1972, WELL FIRST IN 1968 I BECAME LICENSED TO
23 PRACTICE MEDICINE IN THE STATE. I HAVEN'T FINISHED MY
24 MEDICAL DEGREE AND THEN IN 1972 I TOOK THE NATIONAL BOARD
25 EXAMINATION AND WAS CERTIFIED IN ANATOMIC PATHOLOGY,

1 CLINICAL PATHOLOGY AND FORENSIC PATHOLOGY.

2 Q AND BRIEFLY, DOCTOR, TELL THE JURY WHAT ANATOMIC
3 PATHOLOGY IS?

4 A ANATOMIC PATHOLOGY IS BASICALLY THE STUDY OF DISEASES
5 BY EXAMINING TISSUE. IF A PERSON HAS SURGERY THEN THE
6 SURGICAL TISSUE REMOVED IS BROUGHT TO THE LABORATORY WHERE
7 IT WILL BE EXAMINED TO TELL THE SURGEON DURING THE SURGERY
8 WHAT TYPE OF ILLNESS OR DISEASE WE SEE. GENERALLY WHAT WE
9 ARE MOST CONCERNED IS WHETHER IT IS CANCER PRESENT.
10 SOMETIMES WE DO THAT OVER A PERIOD, IN A PROCESS ROOM. WE
11 ALSO SUPERVISE THE LABORATORY AS WE REFER TO AS CLINICAL
12 PATHOLOGY WHERE THE VARIOUS TEST ARE RUN ON BLOOD, TO MAKE
13 SURE THAT THE TEST ARE DONE ACCURATELY AND THE RESULTS ARE
14 PROPERLY INTERPRETED. ANOTHER ASPECT OF ANATOMIC
15 PATHOLOGY IS DOING AUTOPSIES ON PERSONS THAT ARE IN THE
16 HOSPITAL SETTING TO LEARN MORE ABOUT THAT DISEASE OR
17 ILLNESS WHERE THE PHYSICIAN REQUEST THE AUTOPSY AND THE
18 FAMILY WANTS THE AUTOPSY.

19 Q AND YOU JUST EXPLAINED THE ANATOMIC AND CLINICAL
20 PATHOLOGY WHICH IS SUPERVISING THE LAB. WHAT IS FORENSIC
21 PATHOLOGY?

22 A FORENSIC PATHOLOGY IS MEDICAL LEGAL PATHOLOGY. IN
23 FORENSIC, WE EXAMINE BODIES AND TO SEE IF THERE IS
24 INJURIES TO DETERMINE WHAT CAUSED THOSE INJURIES. AND TO
25 DETERMINE WHETHER THAT WAS A FATAL INJURY OR SIMPLY A

1 MINOR TYPE INJURY. WE ALSO STUDY TOXICOLOGY TO UNDERSTAND
2 WHETHER THE DRUG OR CHEMICAL IN THE SYSTEM HAS AFFECTED
3 THE PERSON'S ABILITY TO REASON OR BEING THE CAUSE OF THEIR
4 DEATH. WE ARE SCHOOLED ON HOW TO EXAMINE BODIES AT THE
5 SCENES OF THE DEATH. ONE OF THE MOST IMPORTANT THINGS
6 OTHER THAN THE CAUSE OF DEATH IS TO DETERMINE THE MANNER
7 OF DEATH WHICH HINGES ON THE CIRCUMSTANCES ON HOW THAT
8 DEATH OCCURRED. WAS THE PERSON ABLE TO SHOOT THEMSELVES
9 AND HAD THE MOTIVATION TO DO THAT, A WOUND, HOW TO
10 UNDERSTAND THE SCENE AND THE PERSON TO UNDERSTAND THE
11 CIRCUMSTANCES OF THAT DEATH. SO, FORENSIC PATHOLOGY TO
12 INTERPRET WHAT IS FOUND IN AUTOPSIES AND TO UNDERSTAND
13 MORE ABOUT THE CAUSE OF DEATH, INJURY, DISEASE. BUT THE
14 CIRCUMSTANCES SURROUNDING HOW THAT IS OCCURRED.

15 Q AND ARE YOU BOARD CERTIFIED?

16 A YES.

17 Q AND WHEN DID YOU RECEIVE YOUR CERTIFICATION IN THAT,
18 DOCTOR?

19 A IT WAS ACTUALLY IN 1973.

20 Q AND YOU HAVE BEEN PERFORMING AUTOPSIES ON SUDDEN
21 DEATHS SINCE THAT TIME?

22 A YES, SIR.

23 Q DOCTOR, COULD YOU GIVE US A RUN ESTIMATE ON THE
24 NUMBER OF AUTOPSIES YOU PERFORMED OVER THE COURSE OF YOUR
25 CAREER?

1 A OVER 80,000 AND SINCE I WAS HEAD OF THE FORENSIC
2 SECTION I HAD THE SENIOR PATHOLOGIST IN OUR GROUP. I AM
3 SURE I SUPERVISED MORE THAN THAT, A NUMBER OF CASES.

4 Q DOCTOR, HAVE YOU EVER TESTIFIED IN A COURT OF LAW
5 BEFORE?

6 A OVER 700 TIMES.

7 Q BEEN QUALIFIED AS AN EXPERT IN FORENSIC PATHOLOGY
8 THAT NUMBER OF TIMES?

9 A YES.

10 MR. RIDDLE: YOUR HONOR, AT THIS TIME I WOULD OFFER
11 DR. SEXTON HAS AN EXPERT IN THE AREA OF FORENSIC
12 PATHOLOGY.

13 THE COURT: ANY OBJECTION OR CROSS-EXAMINATION FOR
14 THE QUALIFICATIONS?

15 MR. FLOYD: NO OBJECTION, YOUR HONOR.

16 THE COURT: THIS WITNESS IS AN EXPERT IN THE FIELD OF
17 FORENSIC PATHOLOGY AND MAY EXPRESS HIS OPINIONS IN THAT
18 FIELD. YOU MAY CONTINUE, SOLICITOR.

19 MR. RIDDLE: THANK YOU, YOUR HONOR.

20 Q DOCTOR, WHEN YOU DO AN AUTOPSY IN A CASE LIKE THIS DO
21 YOU HAVE SORT OF A STANDARD PROTOCOL OR A STANDARD
22 PROCEDURE THAT YOU GO THROUGH A PARTICULAR INDIVIDUAL THAT
23 YOU ARE ASKED TO AUTOPSY?

24 A IN GENERAL, WE DO. WE ASK THE BODY TO BE BROUGHT
25 JUST AS IT IS TO BE EXAMINED EXTERNALLY, PHOTOGRAPHED AND

1 THEN DOCUMENT WHAT WE SEE ON DIAGRAMS AND CHARTS. WE THEN
2 UNDRESS THE BODY, LOOK FOR ANY INJURIES THAT MIGHT BE
3 PRESENT OR ANY EVIDENCE THAT MAY BE ON THE CLOTHING OR ON
4 THE BODY ITSELF. AND THEN IF THERE IS BLOOD OR OTHER
5 SUBSTANCES ON THE SURFACE THAT MIGHT HIDE SOMETHING AND WE
6 REMOVE THAT BY WASHING THE BODY AND THEN TAKE ADDITIONAL
7 PHOTOGRAPHS OF ANY INJURIES THAT MIGHT BE FOUND. THEN WE
8 DO AN INTERNAL EXAMINATION, COLLECT TISSUE FROM EACH OF
9 THE ORGANS TO MAKE SURE THE PERSON IS HEALTHY. LOOK AT
10 THOSE UNDER A MICROSCOPE LATER, WE ALSO COLLECT FLUIDS TO
11 BE ANALYZED BY THE TOXICOLOGY DEPARTMENT THAT WE USE FOR
12 DNA ANALYSIS. AND IF THERE IS ANY PART OF MATERIAL, ALL
13 OF THAT IS TURNED OVER TO THE INVESTIGATOR THAT COMES WITH
14 THE BODY AND THEN WE COMPLETE A WRITTEN REPORT AND SEND
15 THAT TO THE CORONER OF WHO HAS REQUESTED AND AUTHORIZED
16 THE AUTOPSY.

17 Q IN THIS PARTICULAR CASE, DOCTOR, DID YOU FOLLOW THAT
18 PROTOCOL THAT YOU JUST OUTLINED?

19 A I DID, YES.

20 Q DOCTOR, LET ME SHOW YOU THESE AND ASK YOU IF YOU
21 RECOGNIZE WHAT THEY ARE AND FOR THE RECORD THAT IS STATE'S
22 18, 19, 20 AND 21 THAT I AM SHOWING THE DOCTOR.

23 A YES, THESE ARE COPIES OF THE PHOTOGRAPHS THAT I TOOK
24 WITH THE EXCEPTION OF TWO OF THEM, THEY ARE IN THE SAME
25 AREAS OF THE BODY BUT THEY DON'T HAVE MY LABEL ON THERE SO

1 THEY ARE TAKEN, I AM SURE, BY THE POLICE OFFICER AT THE
2 AUTOPSY. THESE ARE COPIES OF PHOTOGRAPHS THAT WERE TAKEN
3 EITHER BY MYSELF OR THE OFFICER PRESENT BUT THEY ARE
4 IDENTICAL TO MY PHOTOGRAPHS.

5 Q AND, DOCTOR, WILL THESE PHOTOGRAPHS HELP YOU TO
6 EXPLAIN THE FINDINGS THAT YOU MADE IN THIS PARTICULAR CASE
7 TO THE JURY?

8 A YES, THEY WILL.

9 Q DOCTOR, IF WE COULD, HOW MANY SIGNIFICANT INJURIES
10 DID CAROL HURSEY SUFFER?

11 A REALLY ONLY TWO. A GUNSHOT WOUND IN THAT OF THE LEFT
12 EAR, NEAR THE HEARING CANAL, JUST ABOVE IT AND ACTUALLY
13 BEHIND THE RIGHT EAR. HAD AN ABRASION ON HER LEFT ARM
14 THAT IS CALLED THE HOLDER ASPECT OF THE ARM OR THE SIDE
15 WHERE YOUR LITTLE FINGER IS LOCATED, JUST A SUPERFICIAL
16 ABRASION ON THAT PART OF THE ARM.

17 Q DOCTOR, CAN YOU STEP DOWN, PLEASE SIR.

18 A OKAY.

19 Q DOCTOR, REFERRING TO STATE'S EXHIBIT NUMBER 21, CAN
20 YOU DESCRIBE THAT TO THE JURY AND SHOW THEM WHAT THAT
21 DEPICTS.

22 A I WILL START DOWN AT THIS END. THIS IS THE
23 INDIVIDUALS LEFT ARM, YOU CAN SEE THE ELBOW TO YOUR BODY,
24 THE WRIST IS BEING HELD HERE. HERE IS THE SCRAPE OR
25 ABRASION ON THE OUTER ASPECT OF THE LEFT ARM. AGAIN, THIS

1 IS THE ELBOW, THE WRIST DOWN HERE.

2 COURT REPORTER: I CAN'T HEAR.

3 MR. RIDDLE: SPEAK UP A LITTLE BIT, THE COURT
4 REPORTER NEEDS TO HEAR YOU.

5 A AS I WAS SAYING, THIS IS THE LEFT ELBOW, THE LEFT
6 WRIST IS HERE TO YOUR LEFT, THERE IS A SCRAPE IN THE
7 MIDDLE OF THE LEFT FOREARM THAT IS VERY SUPERFICIAL.

8 Q STAND RIGHT DOWN HERE, STATE'S EXHIBIT NUMBER 18 AND
9 19, DOCTOR, CAN YOU DESCRIBE TO THE JURY WHAT THOSE
10 DEPICT?

11 A NUMBER 18 SHOWS THE LEFT SIDE OF THE HEAD, YOU CAN
12 EASILY SEE THE EAR HERE AND THE CENTER OF THE EAR NEAR
13 YOUR EAR CANAL IS THE ENTRANCE GUNSHOT WOUND. NUMBER 19
14 IS A CLOSEUP OF THAT SAME AREA SO YOU CAN SEE THE RULER
15 AND IT IS A ONE-INCH RULER, IT HAPPENS TO BE A FOURTH INCH
16 ON THAT RULER, WE CUT ON THESE ONE-INCH RULERS WITH OUR
17 CASE NUMBER UNDER IT. AND HERE YOU SEE A CLOSER VIEW OF
18 THE SAME AREA BEFORE WE CLEANED IT UP, YOU CAN SEE THE
19 SOOT AND THE POWDER AROUND THE FRONT OF THAT WOUND,
20 TOWARDS THE NOSE, YOU SEE THE HOLE IN THE EAR AND YOU CAN
21 SEE THAT THERE IS SOME BURNING OF THE EDGE OF THE HOLE
22 AROUND THIS ENTRANCE WOUND WHICH IS FROM THE FLAMES THAT
23 COME OUT WHEN THE GUN IS FIRED. IF YOU HAVE EVER SEEN A
24 GUN FIRED AT NIGHT YOU WILL SEE THE FLAMES COMING OUT.
25 THE FLAMES COME OUT WHICH IS COMPLETELY BURNED POWDER, THE

1 POWDER GRAINS COME OUT SO IT IS FAR ENOUGH AWAY WHERE YOU
2 ACTUALLY SEE HOW IT IS EMBEDDED IN THE SKIN. COMPLETELY
3 BURNED POWDER COMES OUT WHICH IS A FORM OF SOOT AND THAT
4 IS WHAT WE ARE SEEING HERE ON THE WOUND TOWARDS THE NOSE
5 PART OF THE WOUND AND IT IS SOME BACK HERE ON THE CORNERS
6 OF THE EAR. AND THERE IS SOME CHANGE AS FAR AS CARBONIZED
7 CHANGE UNDERNEATH THE SKIN IF IT IS IN CONTACT WITH THE
8 SKIN BECAUSE THE BURNED POWDER GETS RID OF ALL THE OXYGEN
9 AND SO YOU GET SOME CARBONIZED PRESENT. ALL OF THIS IS
10 CHARACTERISTIC OF THE GUN BEING VERY CLOSE TO THE SKIN AND
11 IN THIS CASE NOT REALLY TOUCHING IT.

12 Q AND NOW IF YOU WOULD SHOW THOSE CHARACTERISTICS TO
13 THIS END OF THE JURY AND THEN I AM GOING TO ASK YOU WHAT
14 YOUR INTERPRETATION OF THAT IS, DOCTOR.

15 A THIS IS THE VIEW OF THE LEFT SIDE OF THE HEAD SHOWING
16 THE ENTRANCE WOUND IN THE LEFT EAR. HERE IS A CLOSER VIEW
17 OF JUST THE WOUND ITSELF WITH A RULER, A ONE-INCH RULER
18 WITH OUR LABEL ON IT. HERE YOU SEE THE SOOT AROUND THE
19 WOUND, PARTICULARLY CLOSER TOWARDS THE NOSE AS WELL AS
20 BEHIND THE WOUND. AND YOU CAN SEE THE HOLE HERE AND HERE
21 JUST ABOVE OR NEAR THE UPPER PART OF THE EAR CANAL.

22 Q AND, DOCTOR, YOU MENTIONED SOOT AND POWDER AND
23 BURNING, THOSE TYPE OF THINGS. TELL THE JURY WHAT THAT
24 SIGNIFIES TO YOU IN YOUR FIELD, WHAT DOES THAT TELL YOU
25 ABOUT THE GUNSHOT WOUND?

1 A IF YOU TAKE A FIREARM AND FIRE IT SAY INTO A WATER
2 PAPER AT VARIOUS DISTANCES YOU WILL SEE CHANGES THAT
3 REFLECT HOW CLOSE THE GUN IS TO THAT PARTICULAR WATER
4 PAPER. AND IN THIS CASE WHERE IT IS RIGHT AGAINST THE
5 PAPER YOU GET A TEAR IN THE PAPER BECAUSE THE GAS IS GOING
6 IN SUCH FORCE IT ACTUALLY DISRUPTS THE PAPER AS IT
7 SOMETIMES DOES IN THE BOTTOM IF THERE IS BONE DIRECTLY
8 UNDER THE SKIN. IF IT IS BACK JUST A LITTLE WAYS, IN
9 ADDITION TO THE SOOT AND THE POWDER PARTICLES YOU WILL
10 SOMETIMES SEE THE FLAMES ACTUALLY BURNING THE EDGE OF THE
11 PAPER AS IN THIS CASE BURNS THE EDGE OF THE SKIN PLUS SOME
12 OF THAT SOOT IS DEPOSITED BECAUSE IT IS BILLOWING OUT, IT
13 IS A GAS. THE POWDER GRAINS HAVE WEIGHT TO THEM SO YOU
14 HAVE TO BE BACK AN INCH OR SO BEFORE THE POWDER GRAINS
15 SPREAD ENOUGH, JUST LIKE WATER COMING OUT OF THE HOLES
16 THAT HAS A NOZZLE ON IT SO THAT IT DEEPENS THE SPRAY WIDER
17 AND WIDER AS IT GETS FURTHER FROM THE NOZZLE IN THE HOSE.
18 THE SAME IS TRUE IN POWDER GRAINS, THE FURTHER THEY ARE
19 FROM THE SKIN THE WIDER THE PATTERN IS. IF IT IS GOING
20 STRAIGHT IN WE SEE A CIRCULAR PATTERN, IN THIS CASE WE SEE
21 NO POWDER GRAINS. THE ONLY THING THAT IS PRESENT IS SOOT,
22 I AM SORRY, NO POWDER TATTOOING, YOU DO SEE A FEW GRAINS
23 OF POWDER THAT IS STUCK TO THE SKIN BUT NONE THAT ARE
24 GOING IN STRAIGHT AS OPPOSED TO BE THROWN OUT TO THE SIDE
25 WITH THE GAS AND SOOT. ONCE GOING IN STRAIGHT WILL

1 ACTUALLY TATTOO THE SKIN BUT IT CAN'T BE WASHED AWAY. AND
2 THE ONES THAT ARE NOT BURNING WILL CAUSE A LITTLE
3 INDENTATION THAT WE REFER TO AS STIFLING. AND NONE OF
4 THAT WAS PRESENT INDICATING THAT THE MUZZLE WAS VERY CLOSE
5 TO THE SKIN, PROBABLY LESS THAN AN INCH TO THE SKIN BUT
6 NOT TOUCHING THE SKIN BECAUSE WE DO HAVE THE SOOT AND WE
7 DO NOT HAVE THE TEARING OF THE SKIN THAT WE WOULD GET IF
8 IT WERE IN CONTACT.

9 Q DOCTOR, IF IT WAS IN CONTACT YOU WOULD HAVE TEARING,
10 IS THAT CORRECT?

11 A YES.

12 Q WHAT YOU SEE HERE WOULD BE A DISTANCE CONSISTENT WITH
13 LESS THAN AN INCH, IS THAT YOUR TESTIMONY?

14 A LESS THAN AN INCH AWAY WHICH NEARLY TOUCHING THE SKIN
15 BUT NOT TOUCHING THE SKIN.

16 Q IS THERE A TERM THAT YA'LL USE FOR THAT?

17 A WELL, WE SOMETIMES REFER TO IT AS LIGHT CONTACT OR
18 NEAR CONTACT, RIGHT UP CLOSE TO THE SKIN BUT NOT ACTUALLY
19 TOUCHING IT.

20 Q AND IF YOU WERE TO PULL THE MUZZLE OF THAT GUN
21 FARTHER AND FARTHER AWAY WHAT WOULD YOU EXPECT THE CHANGES
22 TO BE AS THE GUN WENT FURTHER AND FURTHER AWAY?

23 A AS YOU WOULD GET FURTHER AWAY YOU WOULD, AN INCH OR
24 TWO, YOU DON'T SEE THE BURNING OF THE EDGE OF THE SKIN. A
25 LITTLE FURTHER AWAY THE SOOT WOULD DISAPPEAR BECAUSE IT

1 BILLOWS OUT AND ONLY GOES ABOUT EIGHT INCHES AS FAR, FROM
2 THE MUZZLE TOWARD WHATEVER IS BEING FIRED AT. THE POWDER
3 GRAINS WILL GO SOMETIMES UP TO A FOOT AND A HALF TO TWO
4 FEET AND WOULD HAVE A LARGER SPREAD, MAYBE OVER THE WHOLE
5 SIDE OF THE FACE. SO THERE ARE THINGS THAT YOU WOULD SEE
6 IF IT WERE FURTHER AWAY.

7 Q DOCTOR, AS PART OF YOUR PROCEDURE DO YOU X-RAY THE
8 INDIVIDUAL?

9 A YES, WE DO.

10 Q DID YOU DO THAT IN THIS PARTICULAR CASE?

11 A YES.

12 Q AND THE BULLET ASSOCIATED WITH THIS ENTRANCE WOUND,
13 WAS IT LODGED IN MS. HURSEY'S SKULL?

14 A NO, IT CAME IN THE LEFT EAR, EXITED BEHIND THE RIGHT
15 EAR AND NOTHING WAS LEFT BEHIND THERE. THE ENTIRE BULLET
16 WENT ALL THE WAY THROUGH.

17 Q WHAT DO YOU SOMETIMES SEE DURING THE COURSE OF AN
18 AUTOPSY ON THE X-RAY?

19 A THE GUNSHOT WOUND SOMETIMES, THE BULLET WILL
20 PRIMARILY LEAD AND AS IT GOES THROUGH ON A PORTION OF THAT
21 LEAD GETS DISRUPTIVE AND PULLS AWAY FROM THE PRIMARY
22 PORTION OF THE BULLET AND WE WILL SEE LITTLE LEAD
23 PARTICLES ALONG THE INITIAL TRACK. WHEN WE DON'T SEE THAT
24 WE CONCLUDE THAT IT WAS PROBABLY FULLY JACKETED MEANING IT
25 HAD A COPPER COATING SIMILAR TO A CUP WHICH THE LEAD IS

1 POURED AND IT SOLIDIFIES AS OPPOSED TO JUST SOME SORT OF A
2 ELECTRO PLAYING, IT WAS ACTUALLY SOLID COPPER JACKET ON
3 THE BULLET TO PREVENT THAT. IN THIS CASE THERE WAS
4 NOTHING FOUND INSIDE, SOMETIMES IN HOLLOW POINTS THE
5 BULLET WILL EXPAND AND THAT COPPER JACKET WILL COME OFF
6 AND THE LEAD WILL CONTINUE ON SINCE IT IS HEAVIER AND IT
7 HAS THE MOST MAX. AND, OF COURSE, THE COPPER JACKET IS
8 WHERE THE LINES AND GROOVES ARE AND THE STRIA THAT ARE
9 USED TO MATCH IT WITH A FIREARM. BUT IN THIS CASE NONE OF
10 THAT WAS PRESENT IN THE BRAIN.

11 Q DID YOU FIND AN EXIT WOUND WITH CAROL HURSEY?

12 A YES.

13 Q AND WHERE WAS THAT LOCATED?

14 A BEHIND THE RIGHT EAR.

15 Q AND STATE'S EXHIBIT NUMBER 20, DOES THAT DEPICT THAT?

16 A EXHIBIT NUMBER 20 SHOWS THE DECEASED RIGHT EAR AND
17 YOU SEE A SNITCH SHAPED LACERATION BEHIND THE RIGHT EAR.
18 AS THE BULLET ENTERS THE BODY, THE SKIN IS HELD IN PLACE
19 AND IT IS VERY TIGHT, SO THE BULLET TENDS TO PRODUCE A
20 ROUND HOLD. AS IT EXITS IT IS PULLING THE SKIN AWAY FROM
21 THE BODY AND THE BODY TEARS ON THROUGH. SO, GENERALLY
22 WHEN WE PUSH ALL THE SKIN BACK TOGETHER AND FIND THAT IT
23 IS NOT REALLY A HOLE THERE AT THE POINT OS EXIT, IT IS
24 MORE OF A TEAR. SOMETIMES IT IS SORT OF LIKE THIS, IT
25 LOOKS LIKE A CROWS FOOT IN IT IS TORN IN FOUR DIRECTIONS.

1 BUT THIS IS TYPICAL IN AN EXIT WOUND, THERE IS NOT
2 STRAIGHTENING OF THE EDGE OF THE WOUND THAT WE SEE WHEN
3 THE BULLET ENTERS AND WE ONLY SEE A TEAR. IN THIS CASE,
4 THIS IS EXHIBIT 20 AND YOU SEE THAT IT IS A RIGHT EAR AND
5 BEHIND THE RIGHT EAR IS A CLEAN AREA WITH A TEAR IN THE
6 MIDDLE OF IT. AND WHEN WE PROBED AS WELL AS EXAMINED THE
7 BRAIN YOU CAN SEE THE PATH OF THE ENTRANCE IN THE LEFT EAR
8 THROUGH THE BASE OF THE SKULL AND OUT THE OCCIPITAL AREA
9 ON THE RIGHT BEHIND THIS RIGHT AREA THROUGH THAT BONE AND
10 COMING THROUGH THE SKIN WHERE YOU SEE THE EXIT.

11 Q YOU CAN HAVE A SEAT NOW. THANK YOU. DOCTOR, WHEN
12 YOU WERE EXAMINING THIS GUNSHOT WOUND TO CAROL HURSEY'S
13 HEAD WERE YOU ABLE TO FORM ANY CONCLUSIONS ABOUT THE TYPE
14 OF WEAPON THAT WAS USED TO INFLICT THAT GUNSHOT WOUND?

15 A YES.

16 Q CAN YOU EXPLAIN TO THE JURY HOW YOU ARRIVED AT THOSE
17 CONCLUSIONS AND WHAT THEY ARE?

18 A BASICALLY WHEN WE MEASURE THE WOUND WITH A RULER, WE
19 HAVE A AMATEUR THAT GIVES US AN INDICATION OF ROUGHLY THE
20 SIZE OF THE BULLET. I RECOGNIZE THE BODY, THE SKIN IS
21 VERY ELASTIC AND SO THE HOLE MAY BE MUCH SMALLER THAN THE
22 ACTUAL BULLET. IN THIS CASE WHEN YOU HAVE GOT CARTILAGE
23 JUST UNDER THE SKIN, THE SKIN TENDS TO STAY IN THE SHAPE
24 THAT IT WAS IN AT THE TIME THE BULLET PENETRATED. IN THIS
25 CASE THE MEASUREMENT WAS .351 WHICH WAS A NARROW DIAMETER,

1 IT IS ABOUT 3/8'S OF AN INCH. AND SO THAT PUTS IT IN THE
2 CATEGORY OF WHAT WE CALL MEDIUM CALIBER BULLETS. A SMALL
3 CALIBER WILL BE SOMETHING LIKE 22 OR 25, 22 IS .22 INCHES
4 IN DIAMETER. A 25 IS .25 WHERE AS THE DIAMETER OF THE
5 BULLET IN HUNDREDS OF AN INCH IS GENERALLY THE CALIBER BUT
6 WHEN YOU GET TO THE MEDIUM CALIBER IT IS SORT OF CONFUSING
7 BECAUSE A THIRD CALIBER IS ACTUALLY .358, .359, .356., IT
8 IS CALLED A .38. I KNOW THAT THESE ARE ABOUT THE SAME
9 CALIBER. .32 IS A SMALLER. WHEN YOU GET TO THE .40
10 CALIBERS AND THE .45'S, THEY ARE .40 AND .45. USUALLY
11 THEY ARE BETWEEN THAT, LIKE .451, .452, THEY ARE MUCH
12 LARGER THAN THIS HOLE. THAT IS NOT TO SAY THAT A .45
13 COULDN'T HAVE PRODUCED THIS HOLE BUT IT MIGHT OF BEEN
14 WITHIN MEDICAL CERTAINTY THAT BECAUSE OF THE DIAMETER AND
15 BECAUSE OF THE LOCATION IT WOULD BE IMMEDIATE CALIBER GUN
16 PRODUCING THIS HOLE THROUGH THE SKIN OF THE EAR WHICH
17 STAYED VERY UNIFORM AND THROUGH THE HOLE. AND SO IT IS
18 NOT, IN MY OPINION, A .22 OR A .25, IT IS NOT A .40 OR .41
19 CALIBER MAGNUM OR A .45. IT IS MORE LIKE A .38 OR .9
20 MILLIMETER OR A .32.

21 Q DOCTOR, BASED ON THE DISTANCE THAT THIS GUNSHOT WOUND
22 WAS INFLICTED FROM WERE YOU ABLE TO FORM ANY CONCLUSIONS
23 REGARDING THE MANNER OF DEATH THAT YOU TESTIFIED TO
24 EARLIER?

25 A YES, I WAS.

1 Q CAN YOU EXPLAIN THOSE CONCLUSIONS TO THE JURY AND WHY
2 YOU ARRIVED AT THAT?

3 A I RECOGNIZE THAT THIS IS CLOSE ENOUGH THAT IT COULD
4 OF INFLICTED THE GUN ITSELF, SO IN THAT SENSE IT COULD BE
5 A SUICIDE. WE TAKE OTHER THINGS IN CONTEXT WHEN YOU
6 DETERMINE SOMEONE WHO WAS SELF INFLICTED. IN THIS CASE
7 THERE WERE A NUMBER OF THINGS THAT HAPPENED AT THE SCENE,
8 THE INDIVIDUALS VEHICLE NOT BEING PRESENT, MONEY BEING
9 MISSING, ALL OF THIS POINTS AWAY FROM SUICIDE AND TOWARD
10 DEATH BY THE HANDS OF ANOTHER BEING THAT WHAT WE CALL A
11 HOMICIDE MEANING THAT SOMEONE ELSE INFLICTED THIS INJURY.
12 IN THAT CASE SOMEONE ELSE INFLICTED THIS INJURY, IT IS
13 MORE TYPICAL OF A DELIVERED INFLICTED INJURY, ALMOST LIKE
14 AN EXECUTION BECAUSE THE GUN WAS AGAINST THE SKIN. IT IS
15 NOT IN A SITUATION WHERE THE GUN MIGHT OF BEEN FIRED
16 DURING A STRUGGLE.

17 Q AND, DOCTOR, HAVE THERE BEEN STUDIES DONE REGARDING
18 SUICIDES?

19 A YES, SIR.

20 Q IS THERE, I GUESS GENDER DIFFERENCES IN THE SAY MALES
21 AND FEMALES COMMIT SUICIDE?

22 A THERE ARE STUDIES THAT DO INDICATE THAT.

23 Q CAN YOU EXPLAIN TO THE JURY THE NORMAL METHOD OF
24 SUICIDE FOR FEMALES AS IT INVOLVES DISFIGUREMENT OF THEIR
25 OWN PERSON?

1 A IT IS RARE FOR A FEMALE TO INJURE THEIR FACE. AS YOU
2 SEE MALES ALL THE TIME SHOOTING THEMSELVES IN THE HEAD BUT
3 WE NEVER SEE A FEMALE DO THAT. THEY USUALLY TAKE
4 MEDICATION OR DO SOMETHING OTHER THAN SHOOT THEMSELVES IN
5 THE HEAD, THEY MAY SHOOT THEMSELVES IN THE CHEST. THE
6 OTHER THING IS THAT WE ARE, IN THIS CASE, THE FACT THAT
7 THE PERSON WAS SHOT IN THE EAR, I HAVE BEEN DOING THIS FOR
8 35 YEARS AND HUNDREDS OF GUNSHOT WOUND CASES AND I HAVE
9 NEVER SEEN IN A CASE WHERE A PERSON ACTUALLY SHOT
10 THEMSELVES IN THE EAR. I HAVE SEEN AT LEAST FIVE, THAT I
11 CAN REMEMBER, THAT WERE HOMICIDES WHERE THEY WERE SHOT IN
12 THE EAR. THE LITERATURE THAT WE GET ONCE A YEAR AND
13 ANOTHER ONE FOR FORENSIC PATHOLOGIST, WE ARE ALWAYS
14 COMPARING NOTES AND SHOWING EACH OTHER CASES AND THIS IS
15 NOT, IT IS EXTREMELY RARE FOR SOMEONE TO SHOOT THEMSELVES
16 IN THE EAR AND IN THOSE CASES IT IS A SUSPECT AS BEING
17 HOMICIDES.

18 Q SO, THE INVOLVEMENT IN THE EAR KICKS IT OUT OF THE
19 SUICIDE ROUND IN YOUR OPINION?

20 A THAT IS CORRECT.

21 Q DOCTOR, I BELIEVE YOU ALSO TESTIFIED EARLIER THAT YOU
22 COLLECTED SOME SAMPLES FROM CAROL HURSEY AT THE TIME YOU
23 PERFORMED THAT AUTOPSY?

24 A YES, WE ALWAYS COLLECT VARIOUS BODY FLUIDS AND ALL OF
25 THESE WERE COLLECTED AT THIS TIME. AND ALSO AN

1 EXAMINATION WAS TAKEN, THE FLUIDS WERE TURNED OVER TO
2 LAURA GRIMES.

3 Q YOU COLLECTED THE BLOOD SAMPLES IN THIS CASE?

4 A THAT IS CORRECT.

5 Q THE ONES THAT WERE COLLECTED, ARE THEY INTENDED TO BE
6 USED FOR DNA ANALYSIS?

7 A YES, SOME FOR ANALYSIS AND SOME FOR TOXICOLOGY
8 ANALYSIS.

9 Q AND, DOCTOR, DID YOU TAMPER WITH THOSE SAMPLES IN ANY
10 WAY WHILE YOU WERE COLLECTING THEM?

11 A NO, I DIDN'T.

12 Q DID YOU SEAL THEM UP?

13 A YES, THEY WERE SEALED AND WE PUT THEM IN A HEAT
14 SEALED BAG AFTER EACH SAMPLE HAD BEEN SEALED AND INITIALED
15 THAT AND WAS SENT BY THE OFFICER, THE INVESTIGATOR AT THE
16 SCENE WHICH WAS LAURA GRIMES.

17 Q THIS RIGHT HERE?

18 A YES.

19 Q DOCTOR, THAT IS ALL I HAVE. PLEASE ANSWER ANY OF MR.
20 FLOYD'S QUESTIONS.

21 THE COURT: MR. FLOYD.

22 CROSS-EXAMINATION

23 BY MR. FLOYD:

24 Q GOOD MORNING, DR. SEXTON.

25 A GOOD MORNING.

1 Q DR. SEXTON, DID YOU CONCLUDE IN YOUR AUTOPSY REPORT
2 THAT THE TIME OF DEATH WAS 8:00 O'CLOCK A.M.

3 A WHAT WE DO AS FAR AS TIME OF DEATH IS USE THE TIME
4 GIVEN TO US BY THE CORONERS OFFICE TO GENERALLY CONFER
5 WITH THE POLICE AT THE SCENE UNLESS WE SEE SOMETHING THAT
6 IS TOTALLY INCONSISTENT. SINCE WE DON'T GO TO THE SCENE,
7 WE ARE NOT THE ONES EXAMINING THE RIGAMORTUS OR THE
8 LIVIDITY OR THE TEMPERATURE OF THE BODY. SO, WE DID PUT
9 THAT TIME OF DEATH ON OUR REPORT BUT IT IS NOT ONE THAT WE
10 DETERMINE.

11 Q BUT YOU PUT IT ON YOUR REPORT, DID YOU NOT?

12 A YES, SIR.

13 Q AND WHEN YOU ARE DETERMINING THE TIME OF DEATH, WHAT
14 ARE YOU LOOKING FOR, WHAT ARE YOU LOOKING AT?

15 A THERE ARE A LOT OF DIFFERENT THINGS THAT WE EXAMINE
16 AT THE TIME OF DEATH. IT IS THE GREATER TIME BETWEEN
17 DEATH AND THE BODY BEING DISCOVERED AND EXAMINED BY
18 SOMEONE FOR RIGAMORTUS, LIVIDITY, BODY TEMPERATURE, ALL OF
19 THIS VARIES GREATLY, DEPENDING ON HOW LONG IT HAS BEEN AND
20 WHAT THE ENVIRONMENT IS. IF YOU HAVE GOT 70 DEGREE ROOM
21 TEMPERATURE AND A PERSON JUST LASHES AND DIES THERE IS
22 SOME CORRELATION BETWEEN THE FINDINGS OF RIGAMORTUS, THE
23 TEMPERATURE OF THE BODY WITH THE ACTUAL TIME OF DEATH
24 WITHIN A RANGE. BUT IF A PERSON HAS BEEN INJURED IN SUCH
25 A WAY AS IN THIS CASE IT MIGHT BRING ON A SEIZURE OR IF

1 THEY HAVE HAD A HEART ATTACK THEY MIGHT OF GONE INTO A
2 SEIZURE THEN THEY WOULD GO INTO RIGAMORTUS ALMOST
3 IMMEDIATELY. IN FACT, WHEN PEOPLE HAVE BEEN USING UP ALL
4 OF THEIR ENERGY THEY COULD GO INTO RIGAMORTUS IMMEDIATELY
5 AND END UP DEAD STANDING UP. SO, A PERSON'S RIGAMORTUS IS
6 QUITE VARIABLE DEPENDING ON THE TEMPERATURE AND THE AMOUNT
7 OF EXERTION THAT OCCURRED JUST PRIOR TO DEATH, BODY
8 TEMPERATURE ALSO CAN VARY. SO, THERE IS NOT REALLY A GOOD
9 WAY OF DETERMINING THE TIME OF DEATH VERY ACCURATELY EVEN
10 IF SOMEONE EXPERIENCED AND IS AT THE SCENE OF DEATH.

11 Q HOW LONG DOES IT USUALLY TAKE RIGAMORTUS TO SET IN?

12 A IT STARTS DEPENDING ON THE PERSON'S CONDITION. IF
13 THEY ARE HEALTHY AND THEY JUST LASH AND DIE SAY FROM A
14 HEART ATTACK WITHOUT A SEIZURE THEN A MATTER OF A FEW
15 HOURS THEY GET RIDGED, THEY DON'T CONTRACT, THEY GET
16 RIGID. AND THEN THEIR WRIST JOINT, BECAUSE THESE MUSCLES
17 IN THE FOREARM GET RIGID IN ANOTHER HOUR OR SO. AND THEN
18 THE UPPER PART OF THE ARM GETS RIGID SO THAT THE ELBOW
19 DOESN'T LIVE ANY LONGER. AND THEN IT MIGHT TAKE ANOTHER
20 COUPLE OF HOURS DEPENDING ON THE TEMPERATURE. AND THEN
21 THEIR SHOULDERS GETS RIGID BECAUSE THE LARGER MUSCLES IN
22 THE SHOULDER BECOME RIGID, THEN THE CHEST AND YOUR ABDOMEN
23 AND YOUR BACK GET COMPLETELY RIGID AND STARTS IN AN HOUR
24 OR TWO. AND THEN THE HANDS WORKS UP THE ARMS, THE TOES
25 WORKS UP THE LEGS. AND IN ABOUT EIGHT TO ABOUT TWELVE

1 HOURS, SAY ROOM TEMPERATURE, THE WHOLE BODY MAY BE RIGID
2 ENOUGH AND THE HEAD AND THE ANKLES AND WHY YOU WOULD NOT
3 BEND WHEN YOU SIT. AGAIN, THAT IS UNDER CIRCUMSTANCES
4 WITHOUT THINGS THAT MIGHT HASTEN THAT PROCESS.

5 Q DID YOU SEE ANY EVIDENCE OF HEART DISEASE?

6 A NO, WE DID NOT. HER HEART WAS NORMAL SIZE AND DID
7 NOT HAVE ANY WHAT WE CALL HARDENING OF THE ARTERIES OR ANY
8 CHANGES IN CORONARY ARTERIES.

9 Q SO, THE HEART CONDITION CERTAINLY WOULD NOT HAVE SPED
10 RIGAMORTUS, WOULD IT?

11 A THE ONLY HEART IS, THE HYPOXIA OF THE HEART WOULD
12 CAUSE A SEIZURE.

13 Q AND THERE WAS NO HEART ATTACK?

14 A CORRECT.

15 Q NOW, ANOTHER THING THAT MIGHT SPEED UP RIGAMORTUS YOU
16 SAY IS LIKE IN A COMBAT SITUATION?

17 A RIGHT, WHEN SOMEBODY IS DOING A LOT OF STRUGGLING OR
18 FIGHTING AND USING UP ALL OF THEIR ENERGY.

19 Q AND THERE WAS NO EVIDENCE OF ANYTHING LIKE THAT IN
20 THIS CASE, WAS THERE?

21 A RIGHT, JUST A SCRAPE ON THE ARM THAT COULD OF
22 OCCURRED WHEN SHE FELL AGAINST SOMETHING AT THE TIME SHE
23 WAS SHOT.

24 Q AND DID YOU SEE ANY INDICATIONS WHATSOEVER OF SEIZURE
25 ACTIVITY?

1 A WE DID NOT. BUT RECOGNIZE THAT THERE ARE SOME PEOPLE
2 THAT HAVE SEIZURE AND DO NOT BITE THEIR TONGUE WHICH IS
3 ONE INDICATION, DO NOT URINATE OR DEFECATE OR EJACULATE.
4 AND NONE OF THAT WAS PRESENT, BUT IN HER CASE SHE WOULD
5 NOT EJACULATE BUT THERE WAS NO EVIDENCE OF URINATION OR
6 DEFECATION. BUT WE HAVE CASES WHERE PEOPLE ARE KNOWN TO
7 HAVE SEIZURES AND THERE IS A WITNESS AND NONE OF THIS
8 OCCURS. SO, I CAN'T EXCLUDE SEIZURE BUT THERE WAS NO
9 EVIDENCE OF SEIZURE ACTIVITY.

10 Q AND THERE WAS NO EVIDENCE OF IT, WAS THERE?

11 A THAT IS CORRECT.

12 Q AND SO IN YOUR MEDICAL OPINION, IF THERE IS NO
13 EVIDENCE OF SEIZURE, DO YOU HAVE AN OPINION OF WHETHER OR
14 NOT A SEIZURE OCCURRED?

15 A UNLESS IT IS WITNESSED AND WE CANNOT INDICATE
16 MEDICALLY AN OPINION IF A SEIZURE OCCURRED.

17 Q WHAT I AM ASKING YOU, IF YOU HAVE A SEIZURE ISN'T
18 THERE INVOLUNTARY MUSCULAR ACTIVITY AT THAT POINT?

19 A USUALLY, YES.

20 Q AND IF YOU HAD A SEIZURE AND UNDERWENT INVOLUNTARY
21 MUSCULAR ACTIVITY THAT WOULD HAVE DISTURBED THE BLOOD
22 PATTERN, WOULDN'T IT?

23 A I AM NOT SURE WHAT YOU MEAN BY DISTURBING THE BLOOD
24 PATTERN.

25 Q IF A BODY IS LAYING IN A BLOOD SPATTER PATTERN, BLOOD

1 COMING FROM THEM, HAVE INVOLUNTARY MUSCULAR ACTIVITY, IT
2 WOULD DISTURB THAT PATTERN, WOULDN'T IT?

3 A IT COULD, WE HAVE HAD CASES WHERE THE PERSON WAS
4 MOVING IN THE BLOOD. I REMEMBER DISTINCTLY ONE WHO CUT
5 THEIR NECK ON A BOWL AFTER THE SEIZURE, THEY DROPPED THE
6 BOWL, THE BOWL BROKE, THEY FELL ON THE BOWL, CUT THEIR
7 NECK AND BLED TO DEATH. WE SEE WHERE THEY ARE SEIZING IN
8 THAT BLOOD. I DID NOT SEE THE SCENE, I DID NOT GET ANY
9 INFORMATION THAT THAT WAS PRESENT AT THE SCENE. SO,
10 AGAIN, THAT DOESN'T SUPPORT THERE BEING A SEIZURE.

11 Q CORRECT. NOW, DOCTOR, ASSUMING THERE WAS NO SEIZURE,
12 ASSUMING NORMAL AROUND 70 DEGREES, ROOM TEMPERATURE, WHEN
13 IN YOUR OPINION WOULD RIGAMORTUS BEGIN?

14 A YOU SAY BEGIN, IT NORMALLY BEGINS IN THE HANDS IN A
15 FEW HOURS.

16 Q IN A FEW HOURS, HOW MANY HOURS BEFORE THE START WITH
17 THE HANDS?

18 A USUALLY ONE OR TWO HOURS, DEPENDING ON THE
19 CIRCUMSTANCES.

20 Q AND THEN HOW LONG DID IT TAKE TO GO THROUGH THE
21 LIMBS?

22 A TO BE COMPLETE ALL THE WAY THROUGH THE LIMBS AND ON
23 INTO THE CHEST AND ABDOMEN, WE ARE TALKING EIGHT TO TEN
24 HOURS BUT THAT VARIES, SOMETIMES IT IS SIX TO FIFTEEN
25 HOURS. IT DEPENDS ON THE TEMPERATURE AND IT DEPENDS ON

1 THE CONDITION OF THE BODY.

2 Q AND DO YOU RECALL WHAT TIME THE LEXINGTON COUNTY
3 AUTHORITIES FIRST VIEWED THE BODY?

4 A THE AFTERNOON ON THE 14TH OF AUGUST.

5 Q AND DID THEY INDICATE TO YOU THAT THEY OBSERVED
6 RIGAMORTUS?

7 A THEY DID.

8 Q DID THEY DESCRIBE THE RIGAMORTUS TO YOU, DID THEY USE
9 THE TERM TO DESCRIBE IT?

10 A THEY CHECKED ALSO ON THE AUTHORIZATION FORM, I DON'T
11 KNOW THAT WAS AN EXAMINATION AT THAT TIME OR WHEN THE BODY
12 WAS VIEWED LATE THAT EVENING.

13 Q WHAT DID THE FORM INDICATE?

14 A THAT THERE WAS RIGAMORTUS IN THE ARMS AND THE, HANDS,
15 ARMS, NECK, ALL THE WAY DOWN INTO THE ABDOMEN, SUGGESTED
16 IT WAS PRETTY MUCH COMPLETE. AGAIN, I DON'T KNOW WHETHER
17 THEY LIFTED THAT BODY AND THEY SAW RIGAMORTUS IT WAS
18 COMPLETE ENOUGH FOR IT TO BE FULLY RIGID. BUT CERTAINLY
19 IT WAS WELL SET IN ACCORDING TO THEIR INFORMATION.

20 Q SO, IF THEIR INFORMATION WAS CORRECT HOW LONG BEFORE
21 THAT WOULD YOU ESTIMATE THE TIME OF DEATH TO HAVE BEEN?

22 A WELL, NOT KNOWING IF THE BODY WAS COMPLETELY RIGID, I
23 WOULD SAY AT LEAST AROUND FIVE TO SIX HOURS OR MAYBE
24 LONGER. I RECOGNIZE THAT ONCE RIGAMORTUS IS COMPLETE IT
25 STAYS IN THE BODY FOR A MATTER OF A DAY OR SO. BUT

1 CERTAINLY IT WOULD BE AT LEAST FOUR TO SIX HOURS,
2 ACCORDING AS FAR, BUT NOT ONLY FEEL THAT PARTICULAR JOINT
3 TO SEE IF IT IS MOBILE OR NOT BUT TO SEE HOW MUCH PRESSURE
4 IT TAKES TO BREAK THE RIGOR. BUT WHEN IT FIRST SETS IN
5 THE MUSCLES ARE ACTUALLY SOLIDIFIED, THE PROTEIN, JUST THE
6 WAY THAT EGG WHITE DOES IN A FRYING PAN ONLY IT IS
7 SUBJECTED TO HEAT. AND IN THIS CASE IT IS BEING SUBJECTED
8 TO CHEMICALS RELEASED IN EACH CELL AFTER DEATH. AND SO IT
9 IS A PROCESS THAT STARTS AND TAKES TIME SO WHEN YOU MOVE
10 IT WITH A LITTLE BIT OF RESISTANCE BUT LATER ON MORE
11 RESISTENCE. SO, THERE IS A LOT OF SKILL INVOLVED IN
12 DETERMINING RIGAMORTUS AND UNFORTUNATELY OUR AUTHORIZATION
13 FORM THAT I RECEIVED DOESN'T, JUST WHAT IS PRESENT.

14 Q DR. SEXTON, WHY DID YOU SAY BACK THEN THAT THE TIME
15 OF DEATH WAS ESTIMATED TO BE 8:00 O'CLOCK IN THE MORNING?

16 A WE SIMPLY READ THE CORONERS ESTIMATION BASED ON THEIR
17 FINDINGS AT THE SCENE WITH EXAMINING THE RIGAMORTUS. AND
18 ALL I KNOW, THE BODY WASN'T MOVED UNTIL LATE THAT EVENING,
19 THAT MEANS WHEN THEY FIRST CHECKED HER, OFTEN TIMES WHEN
20 SLED IS INVOLVED AND THEY LEAVE THE BODY UNTOUCHED UNTIL
21 SLED HAS COMPLETED THEIR EXAMINATION AND THEN THE CORONERS
22 OFFICE EXAMINES THE BODY. AND SO, THEY COULD OF BEEN, IT
23 COULD OF BEEN FROM 10:00 IN THE EVENING BACK TO SOME TIME
24 EARLIER THAT MORNING OR EVEN LATER. SO, NOT BEING SEEN,
25 NOT HAVING THAT INFORMATION, DETAIL, I WOULD SIMPLY ACCEPT

1 THEIR STATEMENT.

2 Q WHAT ADDITIONAL INFORMATION DO YOU HAVE TODAY TO
3 CHANGE THAT TIME, THAT YOU DIDN'T HAVE BACK THEN?

4 A I DON'T HAVE ANY ADDITIONAL INFORMATION.

5 Q SO, IS 8:00 O'CLOCK IN THE MORNING YOUR ESTIMATED
6 TIME OF DEATH OR WHEN IS IT?

7 A IT WAS LISTED AS 8:00 O'CLOCK IN THE MORNING,
8 CORRECT.

9 Q YOU ACCEPT THAT?

10 A I DO BUT IT HAS TO BE A RANGE. THERE IS NO WAY TO
11 PINPOINT A TIME OF DEATH THAT MUCH AHEAD WHEN A BODY WAS
12 FIRST EXAMINED, EXACTLY AT A CERTAIN TIME BASED ON JUST
13 THE FINDINGS OF THE BODY. SO, IT HAD TO BE A RANGE FROM
14 SOMEWHERE LATER IN THE DAY TO EARLIER IN THE DAY.

15 Q AND WHAT WOULD THAT RANGE BE, DR. SEXTON, IN YOUR
16 OPINION?

17 A SINCE I HAD NOT SEEN THE BODY I CAN'T TELL YOU WHAT
18 THAT RANGE WOULD BE. CERTAINLY IT COULD BE SOMETIME
19 ROUGHLY, SAY EARLY A.M. TO EARLY P.M., AS FAR AS SOME TIME
20 AFTER LUNCH, EARLIER IN THE MORNING.

21 Q 1:00 O'CLOCK IN THE MORNING, 2:00 O'CLOCK IN THE
22 MORNING?

23 A CONCEIVABLY, MORE LIKELY FROM WHAT THEY HAVE GOT
24 HERE, PROBABLY LATER IN THE MORNING, LIKE 5:00 OR 6:00,
25 4:00. AGAIN, THERE IS NO WAY TO PINPOINT EXACTLY.

1 Q DR. SEXTON, WAS THE BODY EXAMINED AT APPROXIMATELY
2 4:00 O'CLOCK?

3 A I DON'T KNOW IF IT WAS EXAMINED FOR RIGOR AT THAT
4 TIME.

5 Q DID YOU SPEAK WITH THE CRIME SCENE INVESTIGATOR, DO
6 THEY NOT TELL YOU WHEN THEY EXAMINED HER FOR RIGOR?

7 A I AM SURE AT THE TIME WE PROBABLY DISCUSSED THAT, BUT
8 I HAVE NOTHING AT THIS TIME, THAT WAS IN 2003. IN 2008 I
9 HAVE NO NOTES HERE THAT INDICATED A CONVERSATION, JUST THE
10 INFORMATION THAT WAS IN WRITING.

11 Q HOW LONG DOES IT TAKE FOR A BODY TO BECOME COLD?

12 A TO BECOME COLD, IT COULD BE COLD TO THE TOUCH
13 EXTERNALLY. IT DEPENDS WHERE THE PERSON IS EXAMINING THE
14 BODY. IF THEY PUT THEIR HAND UNDER THE BODY THERE IS
15 STILL SOME WARMTH. AND THE BEST WAY IS TO ACTUALLY PUT A
16 THERMOMETER INSIDE THE BODY TO CHECK, IT HAS TO BE A
17 CERTAIN TYPE OF THERMOMETER USED FOR THAT PURPOSE TO CHECK
18 THE TEMPERATURE AND SEE HOW MANY DEGREES IT HAS DECREASED.

19 Q BUT YOUR ORIGINAL FINDING WAS 8:00 O'CLOCK IN THE
20 MORNING AS THE TIME OF DEATH, ISN'T THAT CORRECT?

21 A THE TIME GAVE TO US BY THE CORONER WAS 8:00 O'CLOCK
22 IN THE MORNING, BUT WE FOUND NOTHING TO STATE THAT IT
23 WASN'T AT THAT TIME.

24 Q IN FACT THE CORONER IS GIVING YOU AT 8:00 O'CLOCK IN
25 THE MORNING, THAT WOULD INDICATE TO YOU, DID IT NOT, THAT

1 IT WAS A PRETTY FULL RIGAMORTUS ALREADY?

2 A YOU WOULD EXPECT FULL RIGAMORTUS PARTICULARLY IF THE
3 EXAMINED BODY, SAY EVEN AT 4:00, THAT IS AN EIGHT HOUR
4 PERIOD.

5 Q NOW, WERE YOU AWARE THAT THERE WAS A PERIOD OF TIME
6 BETWEEN THE POINT OF THE DEATH AND THE ARRIVAL OF THE
7 CRIME SCENE INVESTIGATION?

8 A YES.

9 Q DID YOU RECEIVE ANY TYPE OF INFORMATION THAT PARTS OF
10 THE BODY HAD ACTUALLY BEEN MOVED?

11 A NO, I DON'T RECALL THAT.

12 Q NOW, THE ONLY REASON THAT YOU THINK THAT IT IS NOT
13 SUICIDE IS THAT IT DOESN'T APPEAR TO BE CONSISTENT WITH
14 OTHER FEMALE SUICIDES, AS YOU SAY?

15 A WELL, SUICIDE IS GENERALLY MALE AND FEMALE. ANY TIME
16 SOMEBODY IS SHOT IN THE EAR OR THE EYE, WE FEEL LIKE IT IS
17 HOMICIDE UNLESS WE CAN PROVE OTHERWISE.

18 Q DO YOU KNOW, IN YOUR OPINION THE GUN WAS AN INCH
19 AWAY?

20 A A LITTLE LESS THAN A INCH AWAY.

21 Q A LITTLE LESS THAN AN INCH AWAY. NOW, WHEN THE
22 BULLET GOES INTO THE BODY, DOESN'T IT IMMEDIATELY DESTROY
23 ALL OF THE CAPILLARIES AND BLOOD VESSELS AND SO FORTH IN
24 ITS PATH?

25 A IT TENDS TO DISRUPT THOSE AND IT PRODUCES A HOLE LIKE

1 A COOKIE CUTTER.

2 Q AND DOESN'T THAT CREATE SOME TYPE, I DON'T KNOW IF
3 THIS IS THE RIGHT TERM, SPLASH BACK OR SOMETHING OF BLOOD
4 OR FLUID FROM THE IMPACT OF THE ENTRY?

5 A IF YOU HAVE A GUNSHOT WOUND, THE FORCE IS SO GREAT
6 THAT IT ITEMIZES THE BLOOD, THE BLOOD THAT IS THERE AT THE
7 POINT OF ENTRY JUST IMMEDIATELY BECOMES LITTLE TINY
8 DROPLETS, THEY ONLY TRAVEL A FOOT OR TWO. THEY ARE VERY
9 DIFFICULT TO SEE. AT THE POINT OF EXIT WHERE YOU HAVE
10 GONE THROUGH THE BRAIN AND PICKED OTHER THINGS THAT ARE
11 BEING CARRIED BY THE SHOCK WAVE, AT THE POINT OF EXIT YOU
12 HAVE A FAIR AMOUNT OF BLOOD SPEWING OUT AT THE EXIT WOUND.
13 AND SOME THAT I HAVE SEEN THAT HAVE BEEN SHOT IN THE HEAD,
14 BECAUSE IT HIT A ARTERY PRESUMABLY, THERE WILL BE BLOOD
15 COMING IN A STREAM AT THE HOLE OF ENTRY. BUT THAT IS
16 RARE, IT HAS TO HIT A CERTAIN PART OF THE BRAIN FOR THAT
17 TO OCCUR. AND THE HEART, OFTEN TIMES THE HEART, WHERE IT
18 STRUCK THE HEART AND IN THIS CASE IT WAS DOWN NEAR THE
19 BASE OF THE BRAIN THAT IT WENT THROUGH, THE PART THAT
20 CONTROLS YOUR HEART BEAT AND YOUR RESPIRATION. SO, IT
21 PROBABLY STOPPED THE HEART. BUT I DON'T EXPECT BLOOD
22 COMING OUT OF THE EXIT TO BE VISIBLE. THE BLOOD COMING
23 OUT OF THE ENTRANCE WOULD PROBABLY BE TOO TINY TO BE SEEN
24 UNLESS SOMEBODY HAD A MICROSCOPE.

25 Q IT WOULD COME OUT BOTH THE ENTRANCE AND THE EXIT

1 WOUND?

2 A AT THE POINT OF EXIT IT WOULD BE VERY TINY.

3 Q DID YOU TAKE FINGERNAIL SCRAPINGS?

4 A I RECALL, I THINK WE DID. YES, WE DID. WE CLIPPED
5 THE FINGERNAILS OF EACH HAND TO PRESERVE ANYTHING THAT
6 MIGHT BE UNDER THE, THE END OF THE FINGERNAIL.

7 Q AND WAS THOSE TURNED OVER TO LEXINGTON COUNTY?

8 A AGAIN, THEY WERE TURNED OVER TO LAURA GRIMES.

9 Q NOW, DID YOU RECOVER ANY HAIRS FROM HER CLOTHING?

10 A WE TURNED CLOTHING OVER, I DON'T SEE ANYTHING HERE
11 INDICATING THAT WE FOUND ANY LOOSE HAIRS. WE HAVE A BLANK
12 WITH THAT OR WE HAVE A TRANSFER SHEET, WE DID TURN OVER A
13 RAPE KIT BUT THERE WAS NO LOOSE HAIRS FOUND.

14 Q AND DID YOU EXAMINE THE CLOTHING OR ARE YOU JUST
15 REMOVING IT AND GIVE IT TO LEXINGTON COUNTY?

16 A WE REMOVE IT AND TRANSFER IT TO LAURA GRIMES TO
17 TRANSFER TO SLED.

18 Q DID THE ABRASION TO THE ARM MEAN ANYTHING TO YOU?

19 A THERE WERE A NUMBER OF WAYS SHE COULD OF RECEIVED
20 THAT ALONG WITH FALLING ON A SURFACE. SO, IF HER ARM
21 SCRAPPED THAT SURFACE AS SHE FELL COULD HAVE BEEN HURT IN
22 A STRUGGLE. BUT IT WOULD OF HAD TO HIT SOMETHING FAIRLY
23 ABRASIVE. AND HERE IT COULD OF HAPPENED BEFORE SHE WAS
24 SHOT, OR BEFORE SOMEONE CAME INTO THE RESIDENCE.

25 Q MIGHT NOT BE RELATED AT ALL?

1 A THAT IS CORRECT.

2 Q NOW, THE FIRST THING YOU DO IS PHOTOGRAPH THE BODY
3 WHEN IT COMES IN?

4 A THAT IS CORRECT.

5 Q AND THEN YOU WASH THE BODY?

6 A FIRST, WE UNCLOTHE THE BODY AND PHOTOGRAPH IT,
7 REPHOTOGRAPH IT, AND THEN WE CLEANSE THE BODY.

8 Q THANK YOU, NO FURTHER QUESTIONS.

9 THE COURT: ANY REDIRECT?

10 MR. RIDDLE: NO SIR, YOUR HONOR, I WOULD ASK THAT THE
11 DOCTOR BE EXCUSED.

12 THE COURT: ANY OBJECTION?

13 MR. FLOYD: NO OBJECTION.

14 THE COURT: DOCTOR, YOU ARE EXCUSED. CALL YOUR NEXT
15 WITNESS.

16 MR. STUMBO: YOUR HONOR, THE STATE CALLS LEE MARSHALL
17 TO THE STAND.

18 LEE MARSHALL, AFTER BEING DULY SWORN, TESTIFIED
19 AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. STUMBO:

22 Q DETECTIVE MARSHALL, GOOD MORNING.

23 A GOOD MORNING.

24 Q WILL YOU TELL US WHERE YOU WORK?

25 A I AM EMPLOYED BY LEXINGTON COUNTY SHERIFFS OFFICE.

1 Q AND WHAT IS YOUR CURRENT ROLE THERE AT THE SHERIFFS
2 DEPARTMENT?

3 A CURRENTLY I AM A SERGEANT.

4 Q AND HAVE YOU ALWAYS BEEN AT THAT DEPARTMENT AT THE
5 SHERIFFS DEPARTMENT?

6 A NO, I STARTED AS A ROAD DEPUTY RESPONDING TO SERVICE
7 CALLS AND THEN I SERVED AS A DETECTIVE FOR A NUMBER OF
8 YEARS.

9 Q HOW LONG HAVE YOU BEEN THERE?

10 A THIRTEEN AND A HALF YEARS.

11 Q AND HOW MANY OF THOSE YEARS WERE YOU AN INVESTIGATOR
12 IN MAJOR CRIME?

13 A MAJOR CRIMES, ABOUT A YEAR AND A HALF. MOST OF MY
14 TIME AS A DETECTIVE WERE PROPERTY CRIMES, BURGLARIES,
15 THINGS LIKE THAT.

16 Q BACK IN AUGUST OF 2003, DID YOU INVESTIGATE MAJOR
17 CRIMES AT THAT TIME?

18 A THAT IS CORRECT.

19 Q ABOUT HOW MANY MAJOR CRIMES DID YOU INVESTIGATE IN
20 YOUR LAW ENFORCEMENT DEGREE.

21 A AT LEAST 800, MAYBE A THOUSAND, I WAS AT TIMES DOING
22 200, 250 BURGLARIES A YEAR.

23 Q WHEN DID YOU START YOUR CAREER AS AN INVESTIGATOR?

24 A NOVEMBER OF 1995.

25 Q BACK IN AUGUST OF 2005 DID YOU HAVE OCCASION TO BE

1 INVOLVED IN THE INVESTIGATION OF THE DEFENDANT, JOHN
2 FRAZIER?

3 A I DID.

4 Q AND WHERE DID YOU RESPOND TO INITIALLY WHEN YOU WERE
5 ASSIGNED TO THAT CASE?

6 A I RESPONDED TO THE HOME OF MR. BUTCH HURSEY ON BUSBEE
7 ROAD.

8 Q WAS THAT THE DAY OF THE MURDER?

9 A WHAT I CAN TELL YOU IS THIS, THIS IS MY RECOLLECTION.
10 I BELIEVE THAT ON THE DAY OF THE INCIDENT AND IT MAY OF
11 BEEN IN THE EARLY EVENING I WENT TO THE PROPERTY ITSELF.
12 I DID NOT GO INSIDE THE HOUSE AT THAT POINT. I WENT
13 AROUND THE AUCTION AREA WHERE STATEMENTS WERE BEING TAKEN.
14 I DID NOT GO INSIDE OF THE RESIDENCE.

15 Q YOU WERE HERE FOR DETECTIVE GRIMES' TESTIMONY
16 YESTERDAY?

17 A I WAS.

18 Q WHERE SHE IDENTIFIED ON THAT MAP WHERE THE INCIDENT
19 LOCATION WAS, IS THAT WHERE YOU RESPONDED TO THAT DAY ON
20 BUSBEE ROAD.

21 A ON BUSBEE ROAD, CORRECT.

22 Q NOW, WERE YOU ONE OF THE LEAD INVESTIGATORS ON THIS
23 CASE?

24 A INITIALLY NOT, THERE WAS QUITE A FEW OFFICERS,
25 DETECTIVES AND THOSE WERE ON THE SCENE THAT AFTERNOON. I

1 WAS ONE OF MANY, LATER SEVERAL DAYS INTO IT, I CAN'T TELL
2 YOU EXACTLY WHEN, I WAS BASICALLY RELIEVED OF A LOT OF MY
3 OTHER RESPONSIBILITIES AND GIVEN TO CAPTAIN PRITCHARD TO
4 HELP HIM OUT.

5 Q IS THAT TYPICAL OF A MURDER CASE TO HAVE A LOT OF
6 INVESTIGATORS?

7 A IT IS BECAUSE AFTER, THE SUPERVISORS HAVE TO
8 DETERMINE WHAT SCHEDULES ALLOW FOR IT.

9 Q THAT DAY AT BUSBEE ROAD, ON THE AFTERNOON WHERE YOU
10 FIRST RESPONDED. WHO DID YOU, WHO DID THE INVESTIGATOR
11 TEAM SPEAK TO THAT DAY ON THE SCENE?

12 A A NUMBER OF PEOPLE. OBVIOUSLY, IMMEDIATE FAMILY
13 MEMBERS OF THE DECEASED STARTING THERE AT THE HOUSE, MR.
14 HURSEY, HIS SONS, YOU HAVE NEIGHBORS WALKING UP, YOU HAD
15 PEOPLE COMING TO THE SCENE AND CALLING ON THE TELEPHONE.
16 QUITE A FEW PEOPLE, PEOPLE WERE COMING TO THE SCENE.

17 Q WHAT WERE YOUR OTHER OBSERVATIONS AT THE SCENE THAT
18 AFTERNOON?

19 A I CAN'T BE MORE SPECIFIC.

20 Q FOR EXAMPLE, WAS THERE ANYTHING TAKEN FROM THE SCENE?

21 A I WAS THERE FOR A VERY GENERAL BRIEFING ON WHAT HAD
22 HAPPENED. I KNEW THE VEHICLE WAS MISSING FROM THE
23 RESIDENCE. AGAIN, I DIDN'T GO INSIDE, I SPENT MOST OF MY
24 TIME AROUND THE OTHER SIDE OF THE HOUSE AT THE AUCTION.
25 THERE WAS NO VEHICLE THERE.

1 Q AFTER SPEAKING, YOU SAID YOU WERE ONE OF THE ONES
2 THAT SPOKE WITH MR. HURSEY--

3 A ACTUALLY I JUST WALKED BY, I SPOKE TO CAPTAIN QUIG
4 WHO I BELIEVE TOOK THE STATEMENT.

5 Q INITIALLY WHO WERE THE INITIAL SUSPECTS WITH THE
6 INVESTIGATIVE TEAM THAT DAY?

7 A THE INFORMATION THAT WE RECEIVED, BRAD KOON AND IT
8 WAS A LITTLE BIT OF CONFUSION AS TO HIS LAST NAME, WE ALSO
9 HAD BRAD HOLIDAY, IT TURNED OUT TO BE THE SAME INDIVIDUAL,
10 JOHNNIE FRAZIER.

11 Q WHAT ABOUT JEFF SPIGNER?

12 A JEFF SPIGNER WAS, MEMBERS OF THE INVESTIGATIVE TEAM
13 SPOKE TO HIM THERE.

14 Q SO, JEFF SPIGNER--

15 A HE WAS NEARBY BEHIND THE AUCTION AND CAME OVER, THERE
16 WAS A LOT OF POLICE CARS THERE, HE CAME OVER AND SPOKE TO
17 AN OFFICER THERE.

18 Q ABOUT BRAD KOON, DID THE INVESTIGATIVE TEAM FOLLOW-UP
19 ON THE INVESTIGATION OF HIM?

20 A HE WAS LOCATED LATER THAT EVENING.

21 Q AND AFTER THAT INVESTIGATION WAS DONE, WAS BRAD KOON
22 STILL A SUSPECT?

23 A FOR A WHILE, YES. EVENTUALLY, NO.

24 Q YOU SAID YOU HAD THE NAME OF JOHNNIE FRAZIER, WAS
25 JOHNNIE FRAZIER ANY WHERE AROUND THE CRIME SCENE THAT

1 AFTERNOON?

2 A NOT FROM MY OBSERVATION.

3 Q DID YOU EVER FIND HIM THAT DAY?

4 A NO, THE INVESTIGATION TEAM MADE EFFORTS BUT HE WAS
5 NOT LOCATED.

6 Q WHO WAS STARR COUGAR?

7 A STARR COUGAR WAS A GIRLFRIEND OF MR. FRAZIER'S. SHE
8 RESIDED WITH HIM AT A HOME THAT BELONGED TO MR. HURSEY.

9 Q AND WERE YA'LL ABLE TO LOCATE STARR COUGAR?

10 A THAT EVENING THE INVESTIGATORS DID LOCATE HER.

11 Q DID THEY ACQUIRE HER KNOWLEDGE WHERE JOHNNIE FRAZIER
12 MAY BE?

13 A THEY DID SPEAK TO HER.

14 Q INVESTIGATION TEAM EVER LOCATE JOHNNIE FRAZIER BASED
15 ON ANYTHING THAT STARR TOLD?

16 A NOT THAT EVENING.

17 Q DID THE INVESTIGATIVE TEAM INTERVIEW ANYONE ELSE AT
18 STARR COUGAR'S RESIDENCE?

19 A HER SON SCOTTIE CARSON WHO WAS RESIDING THERE AS
20 WELL.

21 Q DID STARR AND SCOTTIE GIVE YA'LL STATEMENTS THAT
22 NIGHT?

23 A STATEMENTS WERE TAKEN.

24 Q YOU SAID THERE WAS A CAR MISSING FROM THE SCENE, WERE
25 YOU ABLE TO GATHER WHAT KIND OF CAR WAS MISSING FROM THE

1 SCENE THAT DAY?

2 A I WAS BRIEFED THAT IT WAS A 2002 MAZDA.

3 Q AT THAT POINT DID THE INVESTIGATIVE TEAM MAKE AN
4 ATTEMPT TO FIND A VEHICLE?

5 A YES. THAT WAS A BIG FOCUS AT THAT POINT.

6 Q WERE YOU ABLE TO GATHER ANY SORT OF LEADS ON WHO MAY
7 BE IN POSSESSION OF THAT CAR AT THAT POINT?

8 A NO.

9 Q WHAT STEPS DID THE INVESTIGATIVE TEAM TAKE TO LOCATE
10 THAT VEHICLE?

11 A WE HAD A CERTAIN AMOUNT OF TIME, OTHER LAW
12 ENFORCEMENT, PLUS OUR OWN PEOPLE WERE NOTIFIED THROUGH LAW
13 ENFORCEMENT COMMUNICATION CHANNELS THAT THIS VEHICLE WAS
14 AN ARTICLE OF INTEREST AND THERE IS AN INVESTIGATION, A
15 BOLO, BE ON THE LOOK OUT FOR THIS VEHICLE. AND THE BOLO
16 WENT OUT TO A LARGE DISTANCE. INITIALLY AS TIME WENT ON
17 FLYERS WERE PRODUCED, A PICTURE OF A LIGHT VEHICLE AND
18 THEN EVENTUALLY CRIME STOPPERS POSTERS WERE PRODUCED.

19 Q ANY RESPONSES TO THE CRIME STOPPERS POSTERS THAT WERE
20 PERTINENT?

21 A OVER A PERIOD OF TIME, STARTED IN A FEW DAYS AND THEN
22 DURING THE INVESTIGATION.

23 Q WHO IS SHERRI QUARLES?

24 A SHERRI QUARRELS IS THE INDIVIDUAL WHO CONTACTED THE
25 SHERIFFS DEPARTMENT A FEW DAYS AFTER THE INCIDENT.

1 Q AND WHERE DID SHERRI QUARLES LIVE?

2 A SHE RESIDED IN A COUPLE OF HUNDRED YARDS, I BELIEVE,
3 FROM MR. HURSEY'S RESIDENCE.

4 Q I AM GOING TO SHOW YOU STATE'S EXHIBIT 14. AND I
5 WILL GIVE YOU THIS POINTER AND IF YOU NEED TO COME DOWN
6 AND LOOK AT IT CLOSER FEEL FREE TO. CAN YOU SEE THIS. I
7 BELIEVE YESTERDAY WE HEARD WHERE THIS CIRCLE, MR. HURSEY
8 CIRCLED THIS AS BEING HIS RESIDENCE AND THE AUCTION HOUSE?

9 A CORRECT.

10 Q AND THIS IS BUSBEE ROAD HERE CURVING DOWN IN FRONT OF
11 IT?

12 A CORRECT.

13 Q WHERE ON HERE DID SHERRI QUARLES LIVE?

14 A THERE IS A COUPLE OF DRIVEWAYS, A DRIVEWAY AND A ROAD
15 RIGHT UP HERE IN THIS AREA RIGHT HERE AND I CANNOT TELL
16 YOU THE EXACT TRAILER, I CAN JUST TELL YOU IN THIS AREA
17 RIGHT HERE. YOU WOULD OF TAKEN ONE OF THESE DRIVEWAYS TO
18 GET BACK TO HER TRAILER. IT WOULD OF BEEN IN THIS AREA.

19 Q ABOUT HOW FAR IS THE DRIVEWAY TO THE HURSEY RESIDENCE
20 TO THE DRIVEWAY?

21 A IT IS JUST A COUPLE OF MINUTES WALK AT MOST.

22 Q COULD YOU SEE IT WITH THE NAKED EYE, IF YOU WERE
23 STANDING IN THE DRIVEWAY AT THE HURSEY'S, COULD YOU SEE
24 THAT DRIVEWAY?

25 A YOU COULD SEE THE DRIVEWAY, I DON'T KNOW IF YOU COULD

1 SEE THE TRAILER.

2 Q YOU CAN RETURN TO THE STAND. AFTER SHERRI QUARLES
3 MADE CONTACT WITH THE INVESTIGATIVE TEAM DID YA'LL SPEAK
4 TO HER?

5 A YES.

6 Q DID SHE GIVE YA'LL A STATEMENT?

7 A YES.

8 Q IT WAS SAID, YA'LL WERE LOOKING FOR JOHNNIE FRAZIER
9 AT THAT TIME, IS THAT CORRECT?

10 A CORRECT.

11 Q YOU COULDN'T FIND HIM LATER EARLY ON?

12 A COULD NOT LOCATE HIM.

13 Q AND AT WHAT POINT WAS CONTACT FIRST MADE WITH JOHNNIE
14 FRAZIER?

15 A I BELIEVE THE 20TH OF THAT SAME MONTH.

16 Q AT THAT POINT THE INVESTIGATIVE TEAM INTERVIEWED MR.
17 FRAZIER?

18 A CORRECT.

19 Q WERE YA'LL EVER ABLE TO FIND THE 2002 MAZDA THAT YOU
20 WERE LOOKING FOR?

21 A IT WAS LOCATED THE FIRST OF NOVEMBER.

22 Q WHERE DID YA'LL FIND IT?

23 A IN A WOODED AREA, CASSIDY ROAD AND HAPPY TOWN ROAD,
24 BETWEEN THE GASTON AND SWANSEA AREAS OF LEXINGTON COUNTY.

25 Q WAS IT FOUND BY LAW ENFORCEMENT OR SOMEONE ELSE?

1 A BY SOMEONE ELSE.

2 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED FOR
3 IDENTIFICATION PURPOSES AS STATE'S EXHIBIT 15. WERE YOU
4 ABLE TO REVIEW THIS MAP BEFORE COURT TODAY?

5 A I HAVE REVIEWED IT.

6 Q AND IF YOU COULD IDENTIFY FOR THE JURY WHAT THIS AREA
7 IS, IDENTIFY BY ROADS?

8 A I BELIEVE THIS IS CASSIDY ROAD RIGHT OVER HERE, THIS
9 IS FIREBREAK AND THIS IS HAPPY TOWN ROAD, IT IS THE DIRT
10 PORTION OF HAPPY TOWN ROAD AND GEORGE DERRICK ROAD.

11 Q THIS CURVED AREA?

12 A YES.

13 Q WHO IS WAYNE BIRCHMORE?

14 A WAYNE BIRCHMORE CONTACTED THE SHERIFFS DEPARTMENT AND
15 A DEPUTY MET HIM AND HE SHOWED US WHERE A VEHICLE WAS
16 LOCATED.

17 Q WHOSE PROPERTY IS THIS RIGHT HERE, THERE IS A POND
18 DOWN HERE, WHO OWNS THIS PROPERTY DOWN HERE?

19 A I CANNOT TELL YOU THE INDIVIDUALS NAME. I NEVER DID
20 SPEAK TO HER, I CANNOT TELL YOU HER NAME.

21 Q WHAT IS MR. BIRCHMORE'S RELATIONSHIP TO THIS
22 PROPERTY?

23 A BASICALLY A CARETAKER OF THAT PROPERTY.

24 Q WAS HE THE ONE THAT GAVE THE TIP TO THE SHERIFFS
25 DEPARTMENT ON THE PHONE?

1 A HE WAS.

2 Q THE ENTRANCE TO THE PROPERTY TO WHERE THE POND IS AND
3 THE HOUSE, IS THAT WHERE MR. BIRCHMORE WAS THE CARETAKER?

4 A THAT IS CORRECT, PROBABLY HAS A CASSIDY ROAD ADDRESS.

5 Q YOU SAID THIS IS CASSIDY ROAD ON THIS SIDE?

6 A CORRECT.

7 Q THIS OPEN AREA RUNNING STRAIGHT THROUGH, WHAT IS
8 THAT?

9 A A FIRE BREAK.

10 Q POWER LINES, THAT SORT OF THING?

11 A EXACTLY.

12 Q APPROXIMATELY AND YOU CAN USE THE LASER POINTER TO
13 SHOW THIS, WHERE DID YA'LL, WHERE WAS YOUR ENTRANCE POINT
14 TO GO FIND THE BURNED CAR THAT DAY?

15 A I BELIEVE IN THIS AREA RIGHT IN HERE, OVER HERE, ON
16 THIS ROAD RIGHT HERE.

17 Q WERE THERE ANY ACCESS POINTS INTO THE WOODS HERE?

18 A THIS WHOLE AREA IS STREWN WITH TRAILS AND THERE WAS
19 ONE PLACE WHERE WE COULD GET OFF THE ROAD AND A COUPLE OF
20 VEHICLES COULD GET BACK THERE. I ACTUALLY PARKED MINE UP
21 THERE BUT WE WERE ABLE TO ENTER AT THE TREE LINE IN THE
22 WOODS AROUND THIS AREA.

23 MR. STUMBO: YOUR HONOR, AT THIS TIME WE WOULD OFFER
24 STATE'S 15 INTO EVIDENCE.

25 THE COURT: ANY OBJECTION?

1 MR. FLOYD: NO OBJECTION, YOUR HONOR.

2 THE COURT: STATE'S 15 IS ADMITTED WITHOUT OBJECTION.

3 (WHEREUPON, STATE'S EXHIBIT NO. 15 WAS ADMITTED INTO
4 EVIDENCE.)

5 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
6 STATE'S 13 FOR IDENTIFICATION PURPOSES. IF YOU COULD
7 IDENTIFY THAT PHOTO?

8 A THIS APPEARS TO BE AN AREA, A PHOTOGRAPH TAKEN OF THE
9 AREA WHERE THE VEHICLE WAS FOUND.

10 Q AND DOES THAT PHOTO APPEAR TO FAIRLY AND ACCURATELY
11 REPRESENT THE AREA OF WHERE THE CAR WAS FOUND ON, IT WAS
12 NOVEMBER OF 2003?

13 A IT DOES, THIS IS A WOODED AREA, TRAILS.

14 Q IS THE VEHICLE IN THAT PICTURE?

15 A RIGHT IN THE CENTER.

16 MR. STUMBO: YOUR HONOR, AT THIS TIME THE STATE WOULD
17 OFFER STATE'S 13 INTO EVIDENCE.

18 THE COURT: ANY OBJECTION?

19 MR. FLOYD: NO OBJECTION.

20 THE COURT: STATE'S 13 IS ADMITTED.

21 (WHEREUPON, STATE'S EXHIBIT NO. 13 WAS ADMITTED INTO
22 EVIDENCE.)

23 Q IF YOU COULD STEP DOWN. IF YOU COULD SHOW THIS TO
24 THE JURY AND THE CAR WAS FOUND IN THE MIDDLE PICTURE. IF
25 YOU COULD SHOW THE JURY WHERE THAT IS ON THAT PHOTO?

1 A JUST THE POINT HERE, THIS TREE RIGHT HERE. AT THE
2 BOTTOM OF IT, THE VERY BOTTOM OF IT, YOU CAN SEE A GRAY
3 OBJECT DOWN THERE.

4 Q COULD YOU SHOW THIS TO THE JURY HERE THE SAME WAY.

5 A AGAIN, THE CENTER OF THE PHOTOGRAPH, THERE IS A GRAY
6 TREE HERE AND AT THE BOTTOM YOU SEE A GRAY OBJECT, IT IS
7 THE VEHICLE.

8 Q IS THERE ANY OTHER REFERENCE POINTS ON STATE'S 132.

9 THE COURT: HOLD ON ONE SECOND. MR. FLOYD HAS
10 STEPPED OUT, WE WILL GO AHEAD AND TAKE A BREAK. MR.
11 FOREMAN AND LADIES AND GENTLEMEN, DON'T DISCUSS THE CASE.
12 WE WILL TAKE ABOUT TEN MINUTES, STRETCH YOUR LEGS AND USE
13 THE RESTROOM AND WHATNOT, WE WILL HAVE YOU BACK IN A FEW
14 MINUTE. ONCE THE JURY IS OUT YOU CAN STEP DOWN AND DON'T
15 DISCUSS YOUR TESTIMONY DURING THE BREAK.

16 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
17 A BREAK.)

18 THE COURT: WE WILL TAKE A SHORT BREAK.

19 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

20 THE COURT: IS THE STATE READY?

21 MR. STUMBO: YES, YOUR HONOR.

22 THE COURT: THE DEFENSE?

23 MR. FLOYD: YES, YOUR HONOR.

24 MR. STUMBO: YOUR HONOR, I HAVE TALKED TO MR. FLOYD
25 OVER THE BREAK AND EXHIBIT 16 AND 17, HE HAS AGREED WE CAN

1 GO AHEAD AND PUT THOSE INTO EVIDENCE.

2 THE COURT: IS THAT CORRECT?

3 MR. FLOYD: YES, YOUR HONOR.

4 THE COURT: 16 AND 17 ARE IN EVIDENCE WITHOUT
5 OBJECTION.

6 (WHEREUPON, STATE'S EXHIBIT NOS. 16 AND 17 WERE
7 ADMITTED INTO EVIDENCE.)

8 THE COURT: LET'S GET THE JURY IN, PLEASE.

9 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
10 APPROXIMATELY 11:20 A.M.)

11 THE COURT: YOU MAY COME BACK ON THE STAND, PLEASE.

12 MR. FOREMAN AND LADIES AND GENTLEMEN, WE WILL CONTINUE. I
13 CAN TELL YOU THAT STATE'S EXHIBIT 16 AND 17 HAVE NOW BEEN
14 ADMITTED INTO EVIDENCE DURING THE BREAK. MR. STUMBO, YOU
15 MAY CONTINUE.

16 CONTINUE DIRECT EXAMINATION

17 BY MR. STUMBO:

18 Q I BELIEVE WE STOPPED, YOU HAD POINTED OUT HERE ON THE
19 PICTURE, IS THERE ANY REFERENCE POINTS IN THIS PICTURE
20 THAT WOULD TELL ME APPROXIMATELY THE LOCATION?

21 A I BELIEVE THIS IS THE FIRE BREAK, THIS AREA HERE.

22 Q IF YOU COULD STEP OVER TO THE LARGER MAP, AND STILL
23 WITH STATE'S 13 IN YOUR HAND, IF YOU WANT TO COME OVER
24 HERE TO THIS SIDE. IF YOU COULD MARK WITH THIS RED MARKER
25 APPROXIMATELY WHERE IN THIS AREA ON THAT MAP THAT CAR WAS

1 FOUND THAT DAY?

2 A I BELIEVE IT WOULD BE IN THE AREA HERE, OBVIOUSLY
3 BETWEEN HAPPY TOWN ROAD WHERE WE GOT OUT OF OUR CARS AND
4 THEN MOVED INTO THIS WAY. I KNOW WE DIDN'T GET TO THE
5 FIRE BREAK, MAYBE GOT CLOSE TO IT BUT THIS AREA BEING, MY
6 BEST ESTIMATE.

7 Q WAS IT LOCATED ON ONE OF THOSE ACCESS PATHS THAT YOU
8 WERE REFERRING TO EARLIER?

9 A YES, IT WAS. WE ENTERED ALL THE WAY THROUGH IT, YOU
10 COULDN'T HARDLY GO VERY FAR WITHOUT CROSSING ONE OF THOSE
11 PATHS.

12 Q YOU CAN RETURN TO THE STAND, DETECTIVE MARSHALL.
13 NOW, WHAT CONDITION WAS THAT VEHICLE IN WHEN YA'LL FOUND
14 IT?

15 A IT APPEARED TO BE BURNED, JUST KIND OF A BURNED
16 VEHICLE.

17 Q WAS THERE, WHAT WAS LEFT OF THE VEHICLE AT THAT TIME?

18 A JUST A GRAY BURNED METAL. IF I REMEMBER CORRECTLY
19 THE SEATS AND OTHER THINGS LIKE THAT WERE COMPLETELY
20 BURNED, GRAY METAL.

21 Q NO WINDOWS LEFT IN IT?

22 A I DON'T RECALL.

23 Q WERE YOU ABLE TO FIND ANY IDENTIFYING MARKS ON THE
24 VEHICLE?

25 A THE PATROL OFFICERS WHO INITIALLY RESPONDED DID.

1 Q AND WERE YOU ABLE TO IDENTIFY WHOSE VEHICLE THAT WAS?

2 A WE WERE ABLE TO IDENTIFY BY USING THE VEHICLE
3 IDENTIFICATION NUMBER.

4 Q I AM GOING TO REFER YOU BACK TO THE MAP AND YOU CAN
5 USE THE POINTER IF YOU WOULD LIKE TO. I BELIEVE YOU
6 IDENTIFIED THIS EARLIER AS GEORGE DERRICK ROAD?

7 A THIS IS HAPPY TOWN AND THIS IS GEORGE DERRICK RIGHT
8 HERE.

9 Q WERE THERE, WAS THERE ANYBODY LIVING IN THAT AREA
10 THAT WAS RELATED TO THIS INVESTIGATION IN ANY WAY?

11 A WE HAD HEARD THAT MR. FRAZIER'S FATHER, RUDY WAS
12 LIVING ON GEORGE DERRICK ROAD, A RESIDENCE LOCATED HERE.

13 Q AND IF YOU WILL POINT TO IT, THIS RESIDENCE RIGHT
14 HERE?

15 A CORRECT.

16 Q YOU SAY JOHNNIE FRAZIER'S FATHER LIVED IN THAT
17 RESIDENCE?

18 A CORRECT.

19 Q AFTER YOU FOUND THE CAR WHERE IT WAS LOCATED WHO WAS
20 YOUR PRIMARY SUSPECT IN THIS CASE?

21 A JOHNNIE FRAZIER.

22 Q NO FURTHER QUESTIONS AT THIS TIME.

23 THE COURT: MR. FLOYD, CROSS-EXAMINE.

24 CROSS-EXAMINATION

25 BY MR. FLOYD:

1 Q DETECTIVE MARSHALL, ROCKY AND LISA RUSSELL ALSO LIVED
2 WITH RUDY FRAZIER, DIDN'T THEY?

3 MR. RIDDLE: YOUR HONOR, I AM SORRY, CAN MR. FLOYD
4 SPEAK UP BECAUSE I CAN'T HEAR HIM.

5 THE COURT: THAT IS FINE, MR. FLOYD, SPEAK A LITTLE
6 MORE LOUDLY, PLEASE, SIR.

7 Q DID ROCKY AND LISA RUSSELL ALSO LIVE WITH RUDY
8 FRAZIER?

9 A THAT IS MY UNDERSTANDING.

10 Q AND WEREN'T THEY THE MOTHER AND FATHER-IN-LAW OF JEFF
11 SPIGNER?

12 A I DO NOT KNOW THAT TO BE THE CASE.

13 Q NOW, WASN'T THERE ALSO A LEXINGTON COUNTY DEPUTY THAT
14 LIVED WITHIN A 150 YEARS OR SO OF WHERE THE CAR WAS FOUND?

15 A I AM NOT AWARE OF THAT.

16 Q WASN'T THAT BROUGHT TO YOUR ATTENTION SEVERAL MONTHS
17 AGO?

18 A IT WAS.

19 Q AND DID YOU CHECK THAT OUT?

20 A NO.

21 Q WHEN DID YOU PUT A FLYER OUT THAT HAD JOHNNIE
22 FRAZIER'S PICTURE ON IT?

23 A IT WAS RELEASED WITHIN A DAY OR TWO INITIALLY WHEN IT
24 WAS CREATED.

25 Q AND SO WHEN YOU PUT THAT FLYER OUT ALL YOU KNEW IS HE

1 WAS ONE OF THE NAMES GIVEN AND YOU COULDN'T FIND HIM, IS
2 THAT CORRECT?

3 A THAT IS CORRECT.

4 Q BUT YOU PUT HIS PICTURE OUT THAT HE IS A PERSON OF
5 INTEREST IN THIS CRIME, IS THAT RIGHT?

6 A IF I AM NOT MISTAKEN THERE WERE TWO FLYERS, THE
7 INTIAL ONE DID NOT HAVE MR. FRAZIER ON IT, I DO NOT
8 BELIEVE. ONE WAS INITIALLY DONE NOT TOO LONG AFTER THAT,
9 ABOUT A COUPLE OF DAYS WITH HIM ON IT AS WELL.

10 Q SO, WITHIN THREE OR FOUR DAYS YA'LL HAD FOCUSED ON
11 JOHNNIE FRAZIER, CORRECT?

12 A YES.

13 Q AND WHAT OTHER SUSPECTS DID YOU STILL HAVE THERE FOUR
14 DAYS LATER?

15 A A NUMBER OF, THE POLICE CONTINUED TO FOLLOW UP ON MR.
16 KOON AND SOME OTHER PEOPLE.

17 Q WELL, YOU DIDN'T PUT MR. KOON'S PICTURE OUT THERE?

18 A NO.

19 Q HOW MANY MURDERS OCCURRED BACK IN 2003 IN LEXINGTON
20 COUNTY?

21 A I AM NOT SURE.

22 Q IN A TYPICAL YEAR HOW MANY MURDERS OCCUR IN LEXINGTON
23 COUNTY?

24 A I ESTIMATE SEVEN OR EIGHT, PLUS OR MINUS.

25 Q AND WOULD YOU AGREE WITH ME THAT ONE OF THE RAREST IS

1 A HOME INVASION BY A STRANGER?

2 A THEY DO OCCUR.

3 Q NOT FREQUENTLY?

4 A I SUPPOSE NOT.

5 Q THERE IS A LOT OF PRESSURE ON THE DEPARTMENT TO SOLVE
6 THIS CASE, WASN'T IT?

7 A THERE ALWAYS IS.

8 Q PARTICULARLY WHEN IT IS A HOME INVASION?

9 A WE DO OUR BEST TO SOLVE THEM ALL.

10 Q DID YOU ALSO OBTAIN AT SOME POINT AND TIME MR.
11 FRAZIER'S FOOTWEAR?

12 A I BELIEVE SO, YES.

13 Q AND WERE THEY SUBMITTED FOR COMPARISON WITH THE
14 FOOTPRINTS THAT WERE TAKEN FROM THE SCENE?

15 A MY UNDERSTANDING IS THAT THEY WERE.

16 Q AND THEY CAME BACK NEGATIVE, DIDN'T THEY?

17 A THAT IS CORRECT.

18 Q DID YOU INTERVIEW A GENTLEMAN OF THE NAME OF JOE
19 PAYNE IN CONNECTION TO THIS?

20 MR. STUMBO: YOUR HONOR, WE HAVE A MATTER OF LAW TO
21 TAKE UP OUT OF THE JURYS PRESENCE.

22 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN,
23 FROM TIME TO TIME THERE ARE MATTERS THAT COME UP THAT HAVE
24 TO BE TAKEN UP OUTSIDE OF THE JURYS PRESENCE. I WILL DEAL
25 WITH THIS AND HAVE YOU BACK IN JUST A FEW MINUTES. DON'T

1 DISCUSS THE CASE. STEP BACK TO YOUR JURY ROOM, PLEASE,
2 AND EVERYONE ELSE STAY SEATED.

3 (WHEREUPON, THE JURY WAS EXCUSED FROM THE COURTROOM.)

4 THE COURT: ALL RIGHT, MR. STUMBO.

5 MR. RIDDLE: YOUR HONOR, IT WAS ACTUALLY ME IF THAT
6 IS ALL RIGHT. MR. FLOYD HAS ASKED THE INITIAL QUESTION
7 ABOUT AN INDIVIDUAL NAMED JOE EDWARD PAYNE. JOE EDWARD
8 PAYNE WAS INTERVIEWED BY THE SHERIFFS DEPARTMENT. JOE
9 EDWARD PAYNE GAVE A STATEMENT, IN THAT STATEMENT HE
10 ALLEGEDLY INDICATES THAT JACKIE BURKE WHO WILL BE A
11 WITNESS IN THIS CASE FURTHER ON INTO THE PROCEEDING, TOLD
12 HIM THAT AN INDIVIDUAL NAMED ELBERT BOO BOLTON COMMITTED
13 THIS CRIME ACCORDING TO THE STATEMENT THAT MR. PAYNE GAVE
14 THE SHERIFFS DEPARTMENT. THIS IS COMPLETELY IMPROPER
15 UNDER STATE V. HOLMES, THE THIRD PARTY GUILT CASES. IN
16 ADDITION, YOUR HONOR, IT IS NOT RELEVANT TO THE GUILT OR
17 INNOCENCE OF JOHNNIE FRAZIER BECAUSE MS. BURKE HAS NOT
18 EVEN BEEN ASKED YET WHETHER OR NOT SHE MADE THE STATEMENT.
19 I WOULD BELIEVE THAT HE WOULD BE ENTITLED TO ASK MS. BURKE
20 IF SHE MADE THAT STATEMENT BUT HE IS NOT ENTITLED TO TRY
21 TO ELICIT HEARSAY TESTIMONY FROM THIS WITNESS ABOUT
22 SPECULATIVE THIRD PARTY GUILT. AND I JUST DON'T THINK IT
23 IS RELEVANT AT THIS TIME TO THE GUILT OR INNOCENCE OF MR.
24 FRAZIER. ADDITIONALLY, YOUR HONOR, IT IS NOT ADMISSIBLE
25 UNDER SATE VERSUS HOLMES.

1 THE COURT: I DON'T KNOW EXACTLY, QUITE HONESTLY,
2 WHAT MR. FLOYD WAS GOING TO QUESTION, I WAS GOING BACK AND
3 LOOKING AT MY NOTES FROM THE PRIOR OCCASION, HE DID GO
4 INTO CONVERSATIONS, IN ANY CONVERSATIONS THAT A WITNESS
5 WHOSE STATEMENT HE TOOK HAD FROM SOMEONE ELSE WOULD SEEM
6 TO ME TO BE HEARSAY. BUT I DON'T KNOW, I DON'T KNOW WHERE
7 YOU ARE GOING WITH IT, MR. FLOYD. MAYBE YOU CAN HELP ME
8 OUT SO WE WON'T HAVE TO SEND THE JURY OUT AGAIN.

9 MR. FLOYD: YOUR HONOR, WHILE I ADMIT THE STATEMENT
10 IS HEARSAY, I THINK IT IS, I AM NOT OFFERING IT FOR THE
11 TRUTH OF THE MATTER SO THAT MEANS IT IS NOT HEARSAY IN THE
12 CONTEXT IN WHICH I SEEK TO ADMIT IT. ONE OF THE THINGS OF
13 OUR DEFENSE IS THAT THIS MATTER WAS NOT PROPERLY
14 INVESTIGATED BY THE SHERIFFS DEPARTMENT. AND THEY FOCUSED
15 ON MR. FRAZIER WITH TUNNEL VISION AND ELIMINATED ALL OTHER
16 SUSPECTS EXCEPT MR. FRAZIER WITH INADEQUATE INVESTIGATION.
17 SO, I THINK I AM ENTITLED TO GET INTO THE INVESTIGATION TO
18 SHOW THE JURY HOW INADEQUATE AND INEFFICIENTLY IT WAS.
19 SO, I WOULD ADMIT THE STATEMENT AT THIS POINT NOT FOR THE
20 TRUTH OF IT.

21 THE COURT: YOU WANT TO ASK HIM ABOUT A STATEMENT
22 GIVEN BY THIS BURKE, THIS PAYNE FELLOW AND I ASSUME THAT
23 THE ANSWER WOULD BE AS INDICATED BY THE SOLICITOR THAT
24 THIS BURKE PERSON TOLD PAYNE THAT A THIRD PERSON HAD
25 COMMITTED THE CRIME. IS THAT WHAT YOU ARE TALKING ABOUT.

1 MR. FLOYD: YES, SIR.

2 THE COURT: IS THAT NOT IN THE DOUBLE, TRIPLE
3 HEARSAY?

4 MR. FLOYD: WELL, EXCEPT IT IS NOT BEING ADMITTED FOR
5 THE TRUTH OF THE MATTER.

6 THE COURT: IT IS TOO CLOSE TO IT, I WILL SUSTAIN THE
7 OBJECTION ON THAT GROUNDS. ANYTHING ELSE THAT WE NEED TO
8 GO INTO WHILE THE JURY IS STILL OUT?

9 MR. RIDDLE: NO, YOUR HONOR.

10 THE COURT: GET THE JURY BACK IN, PLEASE.

11 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
12 APPROXIMATELY 11:35 A.M.)

13 THE COURT: MR. FLOYD, YOU MAY CONTINUE WITH YOUR
14 CROSS-EXAMINATION.

15 MR. FLOYD: THANK YOU, YOUR HONOR.

16 CONTINUE CROSS-EXAMINATION

17 BY MR. FLOYD:

18 Q DETECTIVE MARSHALL, WAS THAT STATEMENT TAKEN
19 SEPTEMBER THE 25TH OF '03, IF YOU RECALL?

20 A I DON'T RECALL.

21 Q DID YOU ALSO TAKE A STATEMENT FROM A MINNIE LENEVE?

22 A YES.

23 Q DETECTIVE MARSHALL, DO YOU RECALL WHICH ONE OF THESE
24 HAS ON IT THE STORE?

25 A AS TO THE NUMBER I DO NOT. IT WOULD HAVE HIGHWAY 6

1 ON IT.

2 Q IT WOULD HAVE HIGHWAY 6 ON IT. WOULD YOU KNOW FROM
3 LOOKING AT THEM WHICH ONE IT WOULD BE?

4 A I CAN'T TELL UNLESS YOU GET CLOSER.

5 Q COULD YOU FIND ME THE ONE THAT HAS GOT THE STORE ON
6 IT?

7 A THIS IS CORRECT.

8 Q THIS ONE RIGHT HERE?

9 A YES, SIR.

10 Q DETECTIVE MARSHALL, DID YOU DISCOVER IN YOUR
11 INVESTIGATION WHERE ELBERT OR BOO BOLTON LIVED?

12 A YES.

13 Q AND WHERE IS THAT IN RELATION TO THE STORE?

14 A IT IS ON AVON COURT, DEPENDING ON HOW YOU WERE
15 TRAVELING, HALF OF A MILE, THREE QUARTERS IS AS LONG AS I
16 THINK.

17 Q WHERE WOULD THE STORE BE ON THIS ONE?

18 A HIGHWAY NUMBER 6 AND THE CONVENIENT STORE, AS I OFTEN
19 REFERRED TO AS THE STORE IS RIGHT HERE.

20 Q NOW, AVON COURT ON THAT ALSO?

21 A IT WOULD HAVE TO BE.

22 Q OKAY. BECAUSE IT IS ONLY--

23 A FROM THIS PICTURE, RIGHT.

24 Q WHAT WOULD YOU SAY THE DISTANCE BETWEEN THE TWO WAS?

25 A IT IS NOT FAR AT ALL, LESS THAN A MILE I WOULD THINK.

1 Q NOW, ARE YOU FAMILIAR WITH 1509 BUSBEE ROAD?

2 A I AM.

3 Q NOW, IS THAT ON THIS AERIAL PHOTOGRAPH?

4 A NO, SIR.

5 Q HOW FAR AWAY IS 1509 BUSBEE FROM AVON COURT?

6 A I THINK A GOOD WORKING NUMBER WOULD BE NINE AND A
7 HALF, TEN AND A HALF MILES, SOMEWHERE AROUND THERE.

8 Q NOW, IS THERE SOME TYPE OF A SHORTCUT THAT SOMEONE
9 WALKING COULD CUT OFF THAT DISTANCE?

10 A I SUPPOSE THAT SOMEONE WHO KNEW THE AREA VERY WELL
11 MIGHT BE ABLE TO SHAVE SOME OFF OF THAT. HOWEVER IT IS
12 STILL GOING TO BE ON UP THERE, NINE, EIGHT AND A HALF,
13 NINE MILES, I WOULD SAY.

14 Q NOW, DO YOU KNOW WHERE JOHNNIE FRAZIER'S SISTER
15 LIVED?

16 A I DO.

17 Q AND WHERE WAS THAT?

18 A CLOSER TO SWANSEA ON HIGHWAY 6 IN THIS DIRECTION.

19 Q WHICH DIRECTION?

20 A THIS DIRECTION, HEADED SOUTH.

21 Q HOW FAR WOULD HER PLACE BE FROM BUSBEE, 1509 BUSBEE?

22 A FURTHER YET STILL THAN THIS AREA. SO, I AM GOING TO
23 SAY 14, 15 MILES.

24 Q AND THIS, AND I DON'T WANT TO PUT WORDS IN YOUR
25 MOUTH, DID YOU SAY 8 TO 10, WHAT FIGURE DID YOU USE?

1 A I AM THINKING 8 TO 10.

2 Q DETECTIVE MARSHALL, DID YA'LL EVER CONSIDER THAT THE
3 MURDER COULD OF BEEN COMMITTED BY SOMEONE WHO DIDN'T KNOW
4 HER?

5 A SIR?

6 Q DID YOU EVER CONSIDER THAT THE MURDER COULD HAVE BEEN
7 COMMITTED BY SOMEONE WHO DID NOT KNOW CAROL HURSEY?

8 A IT COULD OF BEEN.

9 Q OR SOMEONE THAT KNEW HER BUT WAS NOT ONE OF THE NAMES
10 THAT YOU WERE GIVEN?

11 A IT COULD OF BEEN.

12 Q THANK YOU. NO FURTHER QUESTIONS.

13 THE COURT: ANY REDIRECT?

14 MR. STUMBO: YES, YOUR HONOR, JUST BRIEFLY.

15 REDIRECT EXAMINATION

16 BY MR. STUMBO:

17 Q DETECTIVE MARSHALL, BETWEEN THIS INCIDENT DATE THAT
18 WAS AUGUST OF 2003, WHEN DID YOU FIND THE BURNED VEHICLE?

19 A THE FIRST OF NOVEMBER.

20 Q DURING THAT TIMEFRAME APPROXIMATELY HOW MANY
21 WITNESSES DID YA'LL CONTACT IN REGARDS TO THIS CASE, JUST
22 APPROXIMATELY, 75, 50?

23 A I DON'T KNOW, DOZENS, I GUESS. DIFFERENT PEOPLE WE
24 SPOKE TO RANGING FROM PEOPLE WHO LIVED IN THE IMMEDIATE
25 AREA, THE AUCTION, PEOPLE WHO WERE FAMILY MEMBERS, PEOPLE

1 WHO JUST CALLED US WITH SOME TYPE OF LEAD TO BE FOLLOWED
2 UP.

3 Q ANY NAME THAT YOU RECEIVED YA'LL FOLLOWED UP ON?

4 A YES, SIR.

5 Q TO THE BEST OF YOUR KNOWLEDGE?

6 A AS FAR AS WE COULD GO WITH IT.

7 Q NOW, TWO PEOPLE THAT YOU TALKED TO EARLIER WAS
8 SCOTTIE CARSON AND STARR COUGAR, CORRECT?

9 A CORRECT.

10 Q AND THE INVESTIGATIVE TEAM TOOK STATEMENTS FROM THEM,
11 WHEN DID THE INVESTIGATIVE TEAM TAKE STATEMENTS FROM STARR
12 AND SCOTTIE?

13 A I KNOW THEY WERE INITIALLY APPROACHED LATER ON THAT
14 NIGHT OR EARLY IN THE MORNING ON THE 14TH INTO THE 15TH.
15 SO, IMMEDIATELY THEY WERE TALKED TO.

16 Q THE INFORMATION THAT THEY GAVE, WAS THAT RELEVANT TO
17 WHOSE NAMES WERE GOING ON THE WANTED POSTER.

18 MR. FLOYD: YOUR HONOR, I OBJECT, HE IS ASKING FOR
19 HEARSAY.

20 THE COURT: WELL, HE HASN'T ASKED WHAT THEY SAID,
21 THAT OBVIOUSLY WOULD BE HEARSAY AND I WILL PERMIT THE LAST
22 QUESTION AS FAR AS IS RELEVANT. BUT YOU CAN'T GET INTO
23 IT, SOLICITOR. I OVERRULE AT THIS POINT AND TIME.

24 Q THE STATEMENTS THAT YOU DID GET FROM SCOTTIE AND
25 STARR, WERE THOSE RELEVANT TO THE DECISION MAKING PROCESS

1 OF WHOSE PICTURE WAS GOING ON THAT WANTED POSTER?

2 A WE THOUGHT THAT.

3 Q DID YOU TAKE STATEMENTS FROM ANYONE RELATED TO BRAD
4 KOON?

5 A WE DID OVER A PERIOD OF TIME.

6 Q WERE THOSE STATEMENTS RELEVANT AS TO WHOSE PICTURE
7 WAS GOING ON THE WANTED POSTER?

8 MR. FLOYD: YOUR HONOR, I OBJECT.

9 THE COURT: I SUSTAIN, I SUSTAIN THE OBJECTION.

10 Q DID YOU FOLLOW UP WITH WITNESSES THAT KNEW ABOUT BRAD
11 KOON?

12 A YES.

13 Q THAT WERE WITH HIM DURING THIS TIMEFRAME?

14 A YES.

15 Q DID YOU FOLLOW UP WITH PEOPLE WHO KNEW JEFF SPIGNER?

16 A YES.

17 Q DID YOU TALK WITH JEFF SPIGNER?

18 MR. FLOYD: YOUR HONOR, I OBJECT, WHEN I TRIED TO GO
19 INTO THIS THEY OBJECTED.

20 THE COURT: I SUSTAIN THE OBJECTION, MR. FLOYD.

21 MR. FLOYD: THANK YOU, YOUR HONOR.

22 Q AT WHAT POINT DID YA'LL CREATE THE WANTED POSTER, DO
23 YOU REMEMBER THE DATE OF THAT, DID YOU SAY THERE WERE TWO
24 POSTERS?

25 A I BELIEVE SO, ONE INITIALLY AND THEN ONE LATER WITH

1 MR. FRAZIER'S PICTURE ON IT AND SAID SOMETHING TO THE
2 EFFECT OF WANTED FOR QUESTION, I BELIEVE.

3 Q THE SECOND ONE WITH MR. FRAZIER'S PICTURE ON IT, WHEN
4 WAS THAT?

5 A THREE TO FOUR DAYS, MAYBE FIVE AFTER THE INCIDENT.

6 Q THAT IS ALL WE HAVE.

7 THE COURT: ANY FURTHER CROSS?

8 MR. FLOYD: NO, SIR.

9 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
10 WITNESS, PLEASE.

11 MR. RIDDLE: THE STATE CALLS ASHLEY STARR COUGAR TO
12 THE STAND.

13 ASHLEY STARR COUGAR, AFTER BEING DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MR. RIDDLE:

17 Q YOU ARE THE ASHLEY COUGAR THAT MR. MARSHALL JUST
18 MENTIONED?

19 A YES, I AM.

20 Q DID THE DETECTIVE COME AND TALK TO YOU AFTER CAROL
21 WAS MURDERED?

22 A YES, HE DID.

23 Q WAS THAT ON THE NIGHT THAT SHE WAS KILLED?

24 A I THINK IT WAS.

25 Q DID THEY ASK YOU WHETHER OR NOT YOU KNEW JOHNNIE

1 FRAZIER?

2 A YES, THEY DID.

3 Q AND DO YOU KNOW HIM?

4 A YES, I DO.

5 Q DO YOU SEE HIM IN THIS COURTROOM TODAY?

6 A YES, I DO.

7 Q CAN YOU POINT HIM OUT, PLEASE, MA'AM?

8 A RIGHT THERE IN THE WHITE SHIRT.

9 MR. RIDDLE: YOUR HONOR, I WOULD LIKE THE RECORD TO
10 REFLECT THAT SHE POINTED TO THE DEFENDANT.

11 THE COURT: ALL RIGHT. YOU MAY CONTINUE.

12 Q BACK IN AUGUST OF 2003 WHEN THIS MURDER OCCURRED,
13 WHERE WERE YOU LIVING, MS. COUGAR?

14 A ON FISH HATCHERY ROAD.

15 Q AND WHAT AREA OF THE COUNTY IS THAT, IS IT GASTON,
16 SWANSEA?

17 A GASTON.

18 Q HOW LONG HAD YOU BEEN LIVING IN THE GASTON AREA BACK
19 IN 2003, DO YOU THINK?

20 A AT FISH HATCHERY?

21 Q NO, MA'AM. JUST IN THE AREA ITSELF, SEVERAL YEARS?

22 A YES.

23 Q NOW, YOU KNEW JOHNNIE FRAZIER BACK THEN, DID YOU KNOW
24 JOHNNIE FRAZIER BACK THEN?

25 A NO, I MEAN--

1 Q BACK IN 2003 WHEN THIS MURDER OCCURRED?

2 A YES.

3 Q DID YOU KNOW JOHNNIE FRAZIER THEN?

4 A YES.

5 Q HOW LONG PRIOR TO CAROL HURSEY'S MURDER HAD YOU KNOWN
6 HIM?

7 A A FEW MONTHS.

8 Q DO YOU RECALL WHERE YOU MET HIM?

9 A AT PAT DUNBAR'S HOUSE.

10 Q THAT IS SOMEBODY THAT BOTH OF YA'LL KNEW?

11 A YES.

12 Q AFTER YOU MET HIM AND DID A RELATIONSHIP DEVELOP
13 BETWEEN THE TWO OF YA'LL?

14 A YES, AFTER A WHILE, YES.

15 Q CAN YOU DESCRIBE TO THE JURY WHAT KIND OF
16 RELATIONSHIP THAT WAS?

17 A WELL, AT FIRST IT WAS SUPPOSE TO BE JUST, YOU KNOW,
18 ROMANTIC THING. AND HE WENT OVER THIS SO WE ENDED UP IN A
19 RELATIONSHIP.

20 Q DID YA'LL EVER STAY TOGETHER?

21 A YES, WE DID.

22 Q WHEN WAS THAT IN RELATION TO THE TIME THAT CAROL WAS
23 KILLED?

24 A IT WAS ABOUT TWO OR THREE MONTHS.

25 Q AND HOW LONG DID YA'LL LIVE TOGETHER, MS. COUGAR?

1 A ABOUT TWO OR THREE MONTHS.

2 Q OKAY. WHERE DID YA'LL LIVE?

3 A FIRST WAYNE STREET.

4 Q WAYNE STREET IN GASTON?

5 A YES.

6 Q AND IS THAT NEAR BUSBEE ROAD?

7 A YES, IT IS.

8 Q AND WHO LIVED AT THAT RESIDENCE ON WAYNE STREET?

9 A JOHNNIE AND ME.

10 Q AND DID YA'LL OWN THAT PLACE OR WERE YOU RENTING IT?

11 A RENTING IT.

12 Q AND WHO WERE YOU RENTING IT FROM?

13 A BUTCH.

14 Q BUTCH HURSEY?

15 A YES.

16 Q AND DID YOU KNOW CAROL BACK THEN?

17 A YES.

18 Q NOW, WERE YA'LL LIVING ON WAYNE STREET AT THE TIME

19 THAT CAROL GOT KILLED?

20 A NO.

21 Q WHERE WERE YOU LIVING AT THE TIME THAT CAROL GOT

22 KILLED?

23 A FISH HATCHERY.

24 Q AND WHEN DID YOU MOVE TO FISH HATCHERY?

25 A I DON'T REMEMBER THE DATE.

1 Q HOW LONG BEFORE CAROL GOT KILLED DID YOU LIVE AT FISH
2 HATCHERY?

3 A ABOUT A WEEK.

4 Q STATE'S EXHIBIT NUMBER 17 IS A CALENDAR OF AUGUST OF
5 2003. IF CAROL WAS KILLED ON THE 14TH, ABOUT WHEN DO YOU
6 THINK YOU MOVED TO FISH HATCHERY ROAD?

7 A I THINK IT WAS THAT WEEKEND.

8 Q THE WEEKEND, SOMEWHERE HERE?

9 A YES.

10 Q AND WHEN YOU MOVED TO FISH HATCHERY ROAD, WHO MOVED
11 THERE WITH YOU?

12 A JOHNNIE FRAZIER AND MY SON, SCOTTIE CARSON.

13 Q WHY DID YA'LL MOVE FROM THE WAYNE STREET ADDRESS?

14 A BECAUSE JOHNNIE WAS MAD BOTH AT CAROL AND BUTCH.

15 Q WHY?

16 A HE SAID THEY EXPECTED HIM TO WORK TOO MUCH FOR THE
17 MONEY THEY OWED HIM.

18 Q DID YA'LL HAVE AN ARRANGEMENT ABOUT HOW THE RENT WAS
19 TO BE PAID?

20 A YES.

21 Q CAN YOU TELL THE JURY WHAT THAT ARRANGEMENT WAS?

22 A YES, I PAID FIRST AND THEN JOHNNIE WAS SUPPOSE TO GO
23 THERE AND DO WORK FOR THEM.

24 Q AT THE TIME YA'LL MOVED OUT, JUST PRIOR TO THAT DID
25 JOHNNIE FRAZIER TALK TO EITHER BUTCH OR CAROL HURSEY ABOUT

1 RENT MONEY?

2 A YES.

3 Q WHO DID HE SPEAK WITH?

4 A CAROL.

5 MR. FLOYD: YOUR HONOR, THERE IS A LEGAL MATTER THAT
6 I THINK WE NEED TO DISCUSS AT THIS POINT.

7 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN,
8 STEP BACK TO YOUR JURY ROOM AND WE WILL HAVE YOU BACK IN A
9 FEW MINUTES. DON'T DISCUSS THE CASE AND EVERYONE ELSE
10 STAY SEATED.

11 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT.)

12 THE COURT: MR. FLOYD.

13 MR. FLOYD: YOUR HONOR, I ANTICIPATE THAT THE
14 SOLICITOR IS ABOUT TO, INTEND TO ELICIT A STATEMENT THAT
15 WAS TESTIFIED TO AT THE PAST PROCEEDING AND ALSO WAS
16 OBTAINED IN A WRITTEN STATEMENT OF MS. COUGAR. YOUR
17 HONOR, THE STATEMENT IS TO THE EFFECT, ONE OF THESE DAYS
18 THAT BITCH IS GOING TO GET WHAT SHE WAS ASKING FOR. AND I
19 ASSUME THEY WERE GOING TO TRY TO ELICIT THAT STATEMENT.
20 YOUR HONOR, IT IS OUR POSITION THAT THAT STATEMENT IS NOT
21 RELEVANT, FOR ONE IT IS NOT VERY CLOSE IN TIME TO WHEN THE
22 ACTUAL KILLING TOOK PLACE. NUMBER TWO, IT IS NOT A
23 SPECIFIC THREAT OF THE KILLING AND NUMBER THREE, IT IS NOT
24 RELEVANT, ITS PROBATIVE VALUE FAR OUTWEIGHS THE
25 PREJUDICIAL VALUE INADMISSIBLE UNDER RULE 403.

1 THE COURT: MR. RIDDLE.

2 MR. RIDDLE: YOUR HONOR, MR. FLOYD DOES ANTICIPATE
3 RIGHT. THAT IS PART OF WHAT I AM FIXING OR PREPARING TO
4 ELICIT FROM THIS WITNESS. BUT I AM NOT FINISHED LAYING
5 THE FOUNDATION. THE FURTHER FOUNDATION OF IT WOULD BE
6 THAT THE STATEMENT WAS MADE JUST BEFORE THEY MOVED FROM
7 THE RESIDENCE ON WAYNE STREET DOWN TO FISH HATCHERY ROAD
8 WHICH PLACES IT TIME WISE APPROXIMATELY A WEEK TO MAYBE
9 TEN DAYS PRIOR TO THE HOMICIDE TAKING PLACE.
10 ADDITIONALLY, WHAT I HAVE NOT YET ELICITED FROM THIS
11 WITNESS BUT I AM GOING TO ASK THE WITNESS IS, THE
12 CIRCUMSTANCES UNDER WHICH THAT STATEMENT WAS MADE BY MR.
13 FRAZIER. WHAT OCCURRED, YOUR HONOR, IS THAT MS. HURSEY
14 CAME OVER TO THE WAYNE STREET ADDRESS. MR. FRAZIER WENT
15 OUTSIDE AND TALKED TO HER, IMMEDIATELY UPON COMING INTO
16 THE HOUSE AFTER THEY HAD A DISCUSSION ABOUT RENT MONEY AND
17 WHETHER OR NOT THEY COULD REMAIN AT THE WAYNE STREET
18 ADDRESS MR. FRAZIER COMES IN AND SAYS, ONE OF THESE DAYS
19 THAT BITCH IS GOING TO GET WHAT SHE IS LOOKING FOR OR
20 ASKING FOR. SO, I INTEND TO IN FACT ELICIT THAT
21 INFORMATION FROM THIS PARTICULAR WITNESS. BASED ON THOSE
22 CIRCUMSTANCES, THE PROXIMITY TO THE HOMICIDE AS WELL AS
23 THE CIRCUMSTANCES THAT THE STATEMENT IS MADE IMMEDIATELY
24 FOLLOWING A CONVERSATION BETWEEN THIS DEFENDANT AND CAROL
25 HURSEY IS CERTAINLY RELEVANT TO THESE PROCEEDINGS HERE

1 TODAY. I AGREE IT IS PREJUDICIAL, YOUR HONOR, BUT IT IS
2 PREJUDICIAL EXACTLY BECAUSE IT IS SO PROBATIVE. IF IT
3 WASN'T SO PROBATIVE IT WOULD NOT BE PREJUDICIAL AND I DO
4 NOT THINK THAT THE PREJUDICIAL VALUE OF THIS STATEMENT
5 OUTWEIGHS ITS PROBATIVE.

6 THE COURT: ANYTHING IN RESPONSE, MR. FLOYD?

7 MR. FLOYD: YES, YOUR HONOR. FIRST OF ALL THE
8 STATEMENT IS NOT A PERSONAL THREAT. HE DOESN'T SAY THAT
9 HE WANTS TO DO ANYTHING TO HER AT ALL. AND AS FAR AS TIME
10 LIMITS, TEN DAYS IS A LIFETIME AWAY FROM A MURDER. SO,
11 HOW CAN YOU SAY THAT IS A TIMED STATEMENT. IF THE MURDER
12 HAD BEEN AN HOUR BEFORE OR A DAY BEFORE, BUT THE MAIN
13 THING IT IS NOT EVEN A PERSONAL THREAT BY THIS DEFENDANT.
14 HE DOESN'T SAY HE IS GOING TO DO ANYTHING.

15 THE COURT: THE OBJECTION MADE BY THE DEFENDANT IS
16 OVERRULED ON ALL GROUNDS INCLUDING THE 403. 403 AND I
17 SPECIFICALLY FIND THAT THE PROBATIVE VALUE OUTWEIGHS ANY
18 PREJUDICIAL EFFECT OF THE ALLEGED STATEMENT. I WILL
19 PERMIT IT TO COME IN. ANYTHING FURTHER WHILE THE JURY IS
20 OUT AT THIS TIME. MR. FLOYD, SOLICITOR?

21 MR. FLOYD: NO, YOUR HONOR.

22 MR. RIDDLE: NO, SIR.

23 THE COURT: GET THE JURY BACK IN.

24 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
25 APPROXIMATELY 12:00 P.M.)

1 THE COURT: SOLICITOR, YOU MAY CONTINUE.

2 Q MS. COUGAR, YOU INDICATED THAT WHEN YA'LL MOVED IN TO
3 THE TRAILER ON WAYNE STREET THAT INITIALLY YOU PAID THE
4 RENT?

5 A YES.

6 Q AND THE ARRANGEMENT WAS, HOW WAS THAT SUPPOSE TO
7 CHANGE?

8 A JOHNNIE WAS SUPPOSE TO DO SOME WORK.

9 Q SOME WORK?

10 THE COURT: CAN YOU GET CLOSER TO THAT MICROPHONE,
11 PULL IT DOWN AND SPEAK INTO IT.

12 A JOHNNIE WAS SUPPOSE TO DO SOME WORK FOR CAROL.

13 Q OKAY. AND WHERE WAS THAT WORK SUPPOSE TO TAKE PLACE?

14 A AT THE AUCTION AT THEIR HOUSE.

15 Q REFERRING TO STATE'S NUMBER 14, THE AUCTION HERE ON
16 BUSBEE ROAD?

17 A YES.

18 Q OKAY. AND WERE YA'LL LIVING, WHERE WERE YA'LL LIVING
19 AGAIN?

20 A ON WAYNE STREET.

21 Q AND ABOUT HOW FAR WAS THAT FROM BUTCH AND CAROL'S
22 HOUSE, DISTANCE WISE?

23 A A MILE.

24 Q A MILE?

25 A IT WASN'T VERY FAR.

1 Q COULD YOU WALK THERE?

2 A YES.

3 Q NOW, THE WORK THAT HE WAS SUPPOSE TO BE DOING WAS FOR
4 CAROL?

5 A MOST OF IT WAS FOR CAROL, YES.

6 Q OKAY. AND DID THERE COME A TIME WHEN MR. FRAZIER
7 BECAME DISSATISFIED ABOUT THAT ARRANGEMENT?

8 A YES, HE SAID HE GOT TIRED OF GOING DOWN THERE.

9 Q AND DID HE TELL YOU WHY THAT WAS?

10 A HE SAID THAT SHE WANTED MORE WORK OUT OF HIM THAN HE
11 WAS GOING TO DO.

12 Q DID THERE COME A TIME SHORTLY BEFORE YA'LL MOVED FROM
13 THE WAYNE STREET ADDRESS TO FISH HATCHERY THAT CAROL CAME
14 OVER TO THE HOUSE?

15 A YES.

16 Q WHO WAS WITH HERE?

17 A ROBERT, BUTCH'S SON.

18 Q OKAY. AND DID MR. FRAZIER GO OUTSIDE?

19 A YES, HE DID.

20 Q AND WHO DID HE SPEAK WITH OUT THERE?

21 A CAROL.

22 Q DO YOU KNOW WHAT THEY TALKED ABOUT?

23 A I WASN'T OUT THERE BUT I KNOW WHAT HE SAID.

24 Q DID HE TELL YOU WHAT THEY DISCUSSED WHEN HE CAME BACK
25 IN?

1 A YES.

2 Q WHAT DID HE INDICATE TO YOU THAT THEY HAD TALKED
3 ABOUT?

4 A HE SAID SHE WANTED MONEY AND THEY WANTED HIM DOWN
5 THERE TO DO THE WORK.

6 Q AND WHAT WAS HIS STATE OF MIND LIKE AT THAT TIME, MS.
7 COUGAR?

8 A HE WAS MAD.

9 Q AND WHAT, IF ANYTHING, DID HE SAY ABOUT CAROL HURSEY
10 AT THAT TIME?

11 A HE SAID ONE DAY THAT BITCH IS GOING TO GET WHAT SHE
12 IS ASKING FOR.

13 Q NOW, I AM NOT ASKING FOR A SPECIFIC DATE BUT
14 APPROXIMATELY HOW LONG BEFORE CAROL WAS KILLED DID THAT
15 TAKE PLACE?

16 A TWO WEEKS, SOMETHING LIKE THAT.

17 Q AND DID YA'LL MOVE FROM THAT RESIDENCE SHORTLY AFTER
18 THAT?

19 A YES, WE DID.

20 Q OKAY. AND THAT IS WHEN YOU MOVED DOWN TO WHERE?

21 A FISH HATCHERY ROAD.

22 Q NOW, HAD YOU AND MR. FRAZIER EVER DISCUSSED THE
23 AUCTION BUSINESS?

24 A NOT REALLY.

25 Q DID HE TELL YOU ANYTHING ABOUT HOW BUTCH AND CAROL

1 RAN THAT BUSINESS?

2 A BUT YOU KNOW A LITTLE BIT.

3 Q DID HE MENTION ANYTHING TO YOU ABOUT MONEY
4 SPECIFICALLY?

5 A YES.

6 Q WHAT DID HE TELL YOU ABOUT BUTCH AND CAROL'S AUCTION
7 BUSINESS, ABOUT THE MONEY THAT WAS ASSOCIATED WITH THAT?

8 A HE SAID THAT CAROL KEPT A LOT OF MONEY IN THE HOUSE.

9 Q DID HE TELL YOU WHERE SHE KEPT IT?

10 A HE DIDN'T TELL ME WHERE SHE KEPT IT, HE SAID IT WAS
11 JUST IN THE HOUSE, HE HAD ALREADY SEEN IT BECAUSE SHE, HE
12 WAS IN THERE WHEN SHE OPENED IT UP AT ONE TIME.

13 Q WAS THIS BEFORE OR AFTER HE MADE THE STATEMENT ABOUT
14 CAROL GETTING WHAT SHE WAS ASKING FOR?

15 A HE HAD MADE THAT STATEMENT SEVERAL TIMES ABOUT THAT
16 MONEY.

17 Q HE MADE THE STATEMENT ABOUT THE MONEY SEVERAL TIMES?

18 A YES.

19 Q OKAY. AND WAS THAT WHILE YA'LL WERE LIVING ON WAYNE
20 STREET OR WERE YOU SOMEWHERE ELSE AT THAT POINT?

21 A HE SAID IT AT WAYNE STREET AND FISH HATCHERY.

22 Q AND DID HE EVER TELL YOU AN ESTIMATE OF HOW MUCH
23 MONEY HE THOUGHT HE HAD SEEN?

24 A HE SAID, I THINK HE SAID THOUSANDS.

25 Q THOUSANDS?

1 A YES.

2 Q NOW, AFTER YA'LL MOVED FROM WAYNE STREET DOWN TO FISH
3 HATCHERY, WHO WENT TO FISH HATCHERY WITH YOU?

4 A JOHNNIE FRAZIER AND MY SON, SCOTTIE CARSON.

5 Q YOUR SON, SCOTTIE?

6 A YES.

7 Q HAD HE LIVED WITH YA'LL UP ON WAYNE STREET?

8 A ONE NIGHT.

9 Q ONE NIGHT?

10 A THE LAST NIGHT THERE.

11 Q THE LAST NIGHT THERE HE STAYED WITH YOU AND THEN HE
12 MOVED IN WITH YA'LL DOWN AT FISH HATCHERY?

13 A YES.

14 Q OKAY. AND HOW LONG WAS MR. FRAZIER WITH YOU AT FISH
15 HATCHERY ROAD?

16 A THREE NIGHTS AND THEN HE STOLE MY CAR WITH EVERYTHING
17 IN IT.

18 Q AND DID HE LEAVE AFTER THAT?

19 A HE STOLE MY CAR, AND YOU KNOW.

20 Q AFTER CAROL GOT KILLED DID YOU PROVIDE THIS
21 INFORMATION TO LAW ENFORCEMENT?

22 A YES, I DID, I CALLED THE POLICE AND TOLD THEM MY CAR
23 WAS STOLEN.

24 Q NO, I AM NOT TALKING ABOUT THE CAR, I AM TALKING
25 ABOUT THE DISCUSSION WITH JOHNNIE FRAZIER ABOUT CAROL

1 HURSEY GETTING WHAT SHE HAD ASKED FOR?

2 A YES, I DID.

3 Q AND DID YOU DO THAT WHEN THEY FIRST CONTACTED YOU THE
4 DAY OF THE MURDER?

5 A YES.

6 Q AND DID YOU PROVIDE THE INFORMATION ABOUT JOHNNIE
7 FRAZIER KNOWING ABOUT THE THOUSANDS OF DOLLARS AT CAROL
8 HURSEY'S RESIDENCE, DID YOU PROVIDE THAT TO THE POLICE THE
9 NIGHT OF THE MURDER AS WELL?

10 A YES, I DID.

11 Q DID YOU AND JOHNNIE FRAZIER, WERE YA'LL ASKED TO
12 LEAVE THE WAYNE STREET ADDRESS?

13 A YES, BECAUSE HE WOULDN'T WORK OR PAY THE LAST MONTH.

14 Q AND WAS HE UPSET ABOUT THAT?

15 A YES, HE WAS.

16 Q DID YOU TELL THAT TO LAW ENFORCEMENT AS WELL?

17 A YES.

18 Q THE NIGHT OF THE MURDER?

19 A YES.

20 Q THANK YOU. PLEASE ANSWER ANY QUESTIONS THAT MR.
21 FLOYD HAS.

22 THE COURT: MR. FLOYD.

23 CROSS-EXAMINATION

24 BY MR. FLOYD:

25 Q MS. COUGAR, DID YOU SAY THAT YOU KNEW JOHNNIE FRAZIER

1 APPROXIMATELY THREE MONTHS BEFORE THE INCIDENT WITH CAROL
2 HURSEY?

3 A YES, SOMETHING LIKE THAT.

4 Q AND WHEN DID YOU MOVE IN WITH HIM?

5 A ABOUT TWO WEEKS, THREE WEEKS AFTER.

6 Q AND WAS THAT THERE AT THE WAYNE STREET ADDRESS?

7 A YES, IT WAS.

8 Q WAS HE ALREADY LIVING THERE?

9 A NO.

10 Q THE TWO OF YOU MOVED IN TOGETHER THERE?

11 A YES.

12 Q WHAT MONTH DID THE TWO OF YOU MOVE IN?

13 A I DON'T REMEMBER.

14 Q WELL, YOU SAID YOU KNEW HIM THREE MONTHS, SO WOULD
15 THAT BE JUNE, JULY, AUGUST, THREE MONTHS?

16 A JUNE.

17 Q AND YOU DIDN'T MOVE IN THE FIRST DAY, DID YOU,
18 TOGETHER. THE FIRST DAY YOU MET HIM YOU DIDN'T MOVE WITH
19 HIM, DID YOU?

20 A NO.

21 Q HOW LONG DID YOU KNOW HIM BEFORE YOU MOVED IN WITH
22 HIM?

23 A ABOUT THREE WEEKS.

24 Q SO, WOULD YOU SAY THAT YA'LL MOVED IN AROUND JULY?

25 A SOMEWHERE IN THERE, THE LAST OF JUNE.

1 Q AND DID YOU TESTIFY THAT YOU MADE THE FIRST FEW
2 MONTHS RENT?

3 A YES.

4 Q HOW MANY MONTHS RENT DID YOU PAY?

5 A TWO OF THEM.

6 Q TWO?

7 A YES.

8 Q AND YA'LL MOVED OUT TO, DID YOU SAY THIS WEEKEND, IS
9 THAT WHAT YOU SAID A WHILE AGO?

10 A NO.

11 Q WHICH WEEKEND DID YOU SAY?

12 A AROUND THE 16TH.

13 Q ARE YOU SAYING THAT YOU DID NOT MOVE OUT UNTIL AFTER
14 CAROL HURSEY WAS KILLED?

15 A NO, BEFORE.

16 Q BEFORE, OKAY, AND HOW LONG BEFORE?

17 A IT WASN'T VERY LONG, A FEW DAYS, A MONTH, A WEEK.

18 Q A WEEK, TWO WEEKS?

19 A SOMETHING LIKE THAT.

20 Q WELL, IF YOU MOVED IN ON THE END OF JUNE OR THE FIRST
21 OF JULY AND YOU PAID TWO MONTHS RENT THEY WOULD OWE YOU
22 SOME MONEY BACK, WOULDN'T THEY?

23 A NO, I MEAN I MADE A DEPOSIT TO.

24 Q PARDON?

25 A SHE WAITED ON THE DEPOSIT.

1 Q YOU TESTIFIED THAT YOU PAID TWO MONTHS RENT, DIDN'T
2 YOU?

3 A YES.

4 Q SO, IF YOU MOVED IN THE END OF JUNE, THE FIRST OF
5 JULY, THE FIRST MONTHS RENT WOULD OF BEEN FOR JULY AND THE
6 SECOND MONTHS RENT WOULD OF BEEN FOR AUGUST, RIGHT?

7 A I AM NOT SURE.

8 Q YOU ARE NOT SURE OF WHAT?

9 A I AM NOT SURE EXACTLY.

10 Q YOU ARE NOT SURE EXACTLY, HOW MUCH TIME THERE WAS
11 BETWEEN YOU MOVING OUT AND CAROL HURSEY'S DEATH, ARE YOU?

12 A NO, BECAUSE I WAS GOING THROUGH A BAD TIME, HE STOLE
13 MY CAR, I HAD MY MONEY LOCKED UP IN THE CAR SO HE WOULDN'T
14 STEAL IT AT THE HOUSE. HAD EVERYTHING, MY AND MY SON'S
15 WAS IN THERE THAT WAS VALUABLE.

16 Q LET'S TALK ABOUT THAT FOR A MINUTE. HE LEFT WITHIN
17 TWO TO THREE DAYS TO YOUR MOVE TO FISH HATCHERY?

18 A SOMETHING LIKE THAT, YES SIR.

19 Q SO, THAT WOULD OF BEEN A WEEK OR MORE, TEN DAYS OR
20 SOMETHING LIKE THAT BEFORE CAROL HURSEY'S DEATH, IS THAT
21 CORRECT?

22 A YES, SOMETHING LIKE THAT, YES.

23 Q AND YOU HAD AN ARGUMENT WITH HIM BECAUSE HE GOT A
24 WORKERS COMP SETTLEMENT AND HE DIDN'T SHARE IT WITH YOU,
25 ISN'T THAT TRUE?

1 A EXCUSE ME.

2 Q DIDN'T HE GET A WORKERS COMP SETTLEMENT AND NOT SHARE
3 IT WITH YOU?

4 A HE GOT A WORKERS COMP SETTLEMENT AND THAT IS WHEN HE
5 LEFT, YES.

6 Q AND WASN'T IT ABOUT \$4,500.00, \$5,000.00 DOLLARS?

7 A SOMETHING LIKE THAT.

8 Q THAT MADE YOU MAD, DIDN'T IT?

9 A NO, BECAUSE I WANTED HIM TO LEAVE. I MEAN, I HAD
10 MORE MONEY THAN THAT, I HAD \$3,000.00 IN MY CAR.

11 Q SO, YOU HAD \$3,000.00 IN THE CAR?

12 A YES.

13 Q SO, WHEN HE LEFT HE WOULD OF HAD \$7,500.00, \$8,000.00
14 DOLLARS IN CASH?

15 A YES, MORE THAN THAT, IT WAS A JAR OF CHANGE IN THERE,
16 THERE WAS, IT WAS BRAND NEW CLOTHES, MY SON'S AND MINE.

17 Q WELL, HE HAD \$9,000.00 OR \$10,000.00 DOLLARS THEN,
18 WOULDN'T HE, WHEN HE LEFT, COUNTING THAT STUFF?

19 A COUNTING ALL OF THAT STUFF HE HAD MORE THAN THAT THAT
20 WAS IN THERE.

21 Q AND THAT WAS WITHIN A WEEK OR TEN DAYS BEFORE CAROL
22 HURSEY WAS KILLED?

23 A YES.

24 Q YOU GOT YOUR CAR BACK, DIDN'T YOU?

25 A YES, STRIPPED.

1 Q BUT YOU WERE VERY ANGRY WITH JOHNNIE FRAZIER WHEN YOU
2 TALKED WITH THE COPS, WEREN'T YOU?

3 A I WAS MAD ABOUT MY CAR BUT I MEAN I TOLD THE TRUTH.

4 Q HAVE YOU EVER SAID TO ANYONE OR IN ANYONES PRESENCE
5 THAT YOU WANTED TO KILL THAT BITCH, REFERRING TO CAROL
6 HURSEY?

7 A EXCUSE ME.

8 Q HAVE YOU EVER SAID IN ANYONES PRESENCE THAT YOU
9 WANTED TO KILL THAT BITCH, REFERRING TO CAROL HURSEY?

10 A NO, I NEVER DID.

11 Q AND DID YOU GET A MONTHLY CHECK?

12 A YES.

13 Q HOW MUCH WAS YOUR MONTHLY CHECK?

14 A \$990.00.

15 Q \$990.00, WERE YOU GETTING IT BACK IN 2003?

16 A YES.

17 Q THAT IS ALL I HAVE.

18 THE COURT: ANY REDIRECT.

19 REDIRECT EXAMINATION

20 BY MR. RIDDLE:

21 Q YOU ARE NOT SURE THE DATES WHEN YOU MOVED INTO THE
22 TRAILER ON WAYNE STREET?

23 A NO, I AM NOT.

24 Q COULD IT OF BEEN MAY THAT YOU MOVED IN?

25 A IT COULD OF BEEN.

1 Q JUNE, YOU JUST DON'T REALLY KNOW, DO YOU?

2 A NO, I DON'T. I REALLY DON'T, I MEAN, I WAS SO UPSET.

3 Q YOU KNOW WHY YOU MOVED OUT, YOU KNOW WHY YA'LL MOVED
4 OUT OF WAYNE STREET?

5 A YES.

6 Q YOU KNOW THAT JOHNNIE FRAZIER WAS MAD ABOUT IT?

7 A YES.

8 Q HE MADE A THREAT TO CAROL RIGHT BEFORE HE DID?

9 A YES.

10 Q AND YOU KNEW THAT JOHNNIE FRAZIER KNEW THAT CAROL
11 HURSEY HAD THOUSANDS OF DOLLARS IN HER HOUSE, RIGHT?

12 A YES, HE TOLD ME HE HAD SEEN IT AND SHE TRUSTED HIM.

13 Q THAT IS ALL.

14 THE COURT: ANY RECROSS?

15 RECROSS-EXAMINATION

16 BY MR. FLOYD:

17 Q YOU WANTED TO MOVE TOO, DIDN'T YOU, STARR. DIDN'T
18 YOU WANT TO MOVE AT THAT TIME?

19 A YES, WE HAD TO.

20 Q YOU WANTED TO ALSO, DIDN'T YOU?

21 A NOT REALLY, I LIKED THAT PLACE BETTER THAN WHERE WE
22 MOVED.

23 Q NO FURTHER QUESTIONS.

24 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
25 WITNESS.

1 MR. RIDDLE: THE STATE CALLS SCOTTIE CARSON TO THE
2 STAND.

3 SCOTTIE CARSON, AFTER BEING DULY SWORN,
4 TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. RIDDLE:

7 Q MR. CARSON, THAT LADY THAT JUST TESTIFIED, DO YOU
8 KNOW HER?

9 A YES, SIR.

10 Q AND HOW DO YOU KNOW HER?

11 A THAT IS MY MOM.

12 Q WERE YOU LIVING WITH HER BACK IN 2003?

13 A AS IN, WHEN THIS OCCURRED?

14 Q YES, SIR.

15 A YES, SIR.

16 Q NOT THE WHOLE YEAR BUT AT THIS TIME YOU WERE?

17 A YES.

18 Q DID YOU EVER STAY AT THAT ADDRESS ON WAYNE STREET?

19 A I STAYED ONE NIGHT THERE, THE LAST NIGHT.

20 Q AFTER YA'LL LEFT WAYNE STREET WHERE DID YOU GO?

21 A WE WENT TO FISH HATCHERY.

22 Q WAS MR. FRAZIER STAYING WITH YOUR MOM AT THE WAYNE
23 STREET ADDRESS WHEN YOU WERE THERE?

24 A YES, SIR.

25 Q AND HE MOVED DOWN TO FISH HATCHERY WITH YOU?

1 A YES, SIR.

2 Q AND MR. CARSON, YOU HAVE A PRIOR CONVICTION FOR A
3 CONSPIRACY CHARGE, DO YOU NOT?

4 A YES, SIR.

5 Q THAT WAS RELATED TO SOME MARIJUANA?

6 A YES, SIR.

7 Q NOW, DO YOU RECALL MR. FRAZIER DOWN AT THE FISH
8 HATCHERY ROAD ADDRESS?

9 A YES, SIR.

10 Q AND DID YOU TALK WITH HIM THERE?

11 A WE TALKED EVERY NOW AND THEN, YES.

12 Q AND APPROXIMATELY--

13 A WE DIDN'T TALK LIKE WE WERE FRIENDS OR NOTHING BUT WE
14 TALKED.

15 Q DID YOU KNOW HIM WELL?

16 A NO, I DIDN'T KNOW HIM.

17 Q YOU ONLY KNEW HIM THROUGH YOUR MOTHER?

18 A THROUGH MY MOM.

19 Q WHEN WAS THE FIRST TIME YOU MET HIM?

20 A IT WAS WHEN I WENT TO GET SOME MONEY FROM MY MOM AT
21 THE RESTAURANT, AT RYANS ON 321, I MET THEM THERE.

22 Q WAS THAT WHEN YOUR MOM WAS STILL LIVING AT WAYNE
23 STREET?

24 A YES, SIR.

25 Q WAS THAT BEFORE YOU MOVED INTO WAYNE STREET?

1 A YES, SIR.

2 Q WHEN YOU MOVED DOWN TO FISH HATCHERY ROAD DID YOU AND
3 MR. FRAZIER EVER TALK ABOUT BUTCH CAROL'S AUCTION?

4 A WE NEVER REALLY TALKED ABOUT THE AUCTION BUT HE, YOU
5 KNOW, HE TOLD ME THAT HE WANTED, IF YOU WANT TO KNOW THE
6 TRUTH, HE WANTED ME TO GET A GUN FOR HIM. AND I TOLD HIM,
7 YOU KNOW, I COULDN'T GET NO GUN FOR HIM. HE TOLD ME THAT
8 SHE KEPT A LOT OF CASH, THAT HE HAD SEEN A LOT OF CASH IN
9 HER HOUSE IN HER ROOM BUT HE DIDN'T TELL ME WHERE OR
10 NOTHING LIKE THAT.

11 Q LET ME BACK UP FOR JUST A MINUTE AND THEN WE WILL GET
12 TO THE REST OF IT. HE TALKED TO YOU ABOUT CASH MONEY?

13 A YES.

14 Q WHO HAD THE CASH MONEY ACCORDING TO MR. FRAZIER?

15 A BUTCH'S WIFE HAD IT IN, I RECKON HIM AND HIS WIFE HAD
16 IT IN THEIR ROOM.

17 Q AND THAT WAS THE ROOM ON BUSBEE STREET?

18 A YES, SIR.

19 Q OKAY. DID HE TELL YOU HOW MUCH MONEY IT WAS, MR.
20 CARSON?

21 A HE JUST TOLD ME THERE WAS PLENTY OF MONEY IN THERE,
22 HE DIDN'T REALLY TELL ME THE AMOUNT. HE JUST SAID IT WAS
23 PLENTY OF MONEY.

24 Q WHERE WERE YOU WHEN YOU HAD THAT CONVERSATION WITH
25 HIM?

1 A WE WERE IN THE KITCHEN AT FISH HATCHERY.

2 Q THE KITCHEN AT FISH HATCHERY?

3 A YES, SIR.

4 Q AND HOW LONG WAS MR. FRAZIER THERE TOTAL?

5 A I SAY ABOUT UP TO THREE OR FOUR DAYS AT THE MAX AND
6 HE TOOK MY MOM'S CAR, HE WAS GONE.

7 Q NOW, YOU MENTIONED PREVIOUSLY THAT HE ASKED YOU ABOUT
8 A GUN?

9 A YES.

10 Q WHAT SPECIFICALLY DID HE ASK YOU ABOUT A GUN?

11 A HE ASKED ME ABOUT GETTING HIM A GUN THAT WAS CLEAN
12 AND I TOLD HIM, NO, I COULD NOT GET A GUN.

13 Q YOU TOLD HIM YOU COULD NOT?

14 A YEAH, I TOLD HIM I COULD NOT.

15 Q AND WHEN HE SAID A GUN THAT WAS CLEAN WHAT DOES THAT
16 MEAN TO YOU?

17 A SOMETHING THAT WOULD BE EASIER TO, AS FAR AS NOTHING
18 ON IT OR NOTHING, EVEN, I AM NOT SURE.

19 Q BUT HE SPECIFICALLY SAID HE WANTED A CLEAN GUN?

20 A YES, THAT IT WASN'T REGISTERED, THAT IS WHAT I
21 FIGURED WHAT HE WAS TALKING ABOUT, EASY TO GET RID OF.

22 Q WHERE DID THAT CONVERSATION TAKE PLACE?

23 A IN THE KITCHEN.

24 Q AT THE SAME TIME AS HE WAS TALKING ABOUT THE MONEY OF
25 CAROL HURSEY'S?

1 A THE SAME TIME I HEARD ABOUT THE CASH, YES. WHEN HE
2 WAS THERE I HEARD ABOUT THE CASH.

3 Q SAY THAT AGAIN, MR. CARSON.

4 A YES, SIR. AT THE SAME TIME HE TALKED ABOUT THAT,
5 THEN IT WASN'T LIKE HE, RIGHT AFTER WE TALKED ABOUT THAT,
6 HE WENT AHEAD AND TALKED ABOUT THE GUN AND IT WAS LIKE A
7 WHILE.

8 Q BOTH OF THOSE CONVERSATIONS TOOK PLACE IN THE
9 KITCHEN?

10 A IN THE KITCHEN.

11 Q AT FISH HATCHERY ROAD?

12 A YES, SIR.

13 Q DO YOU RECALL WHETHER OR NOT THEY WERE ON THE SAME
14 DAY?

15 A IT IS POSSIBLE.

16 Q BUT HE WAS ONLY THERE FOR A COUPLE OF DAYS, CORRECT?

17 A YES, SIR.

18 Q NOW, WHEN YOU SAID HE ASKED FOR A CLEAN GUN THAT HE
19 COULD GET RID OF, WHAT DO YOU MEAN BY GET RID OF?

20 MR. FLOYD: YOUR HONOR, I OBJECT, HE DIDN'T SAY THAT,
21 HE SAID A CLEAN GUN, HE DIDN'T SAY ANYTHING ABOUT GETTING
22 RID OF IT. PUTTING WORDS IN THE WITNESS'S MOUTH.

23 THE COURT: I CAN'T COMMENT ON WHAT THE TESTIMONY IS
24 OR HAS BEEN, IT HAS BEEN CHARACTERIZED AND IT SHOULD BE
25 STRAIGHTENED OUT. AND QUITE FRANKLY, I DON'T KNOW, YOU

1 CAN COUCH HIS QUESTIONS AS HE RECALLS THE TESTIMONY. I
2 WILL INSTRUCT THE JURY THAT THEY RELY ON THEIR MEMORY OF
3 WHAT THE TESTIMONY HAS BEEN. GO AHEAD, SOLICITOR.

4 Q MR. CARSON, AND IF I AM WRONG CORRECT ME, DID YOU SAY
5 THAT HE WANTED A GUN HE COULD GET RID OF?

6 A YES, I DID.

7 Q OKAY. WHAT DID THAT MEAN TO YOU?

8 A I FIGURED THAT HE WANTED TO DO SOMETHING BAD AND
9 PROBABLY SOMETHING THAT HE COULD EASILY GET RID OF. AND
10 ABOUT A WEEK LATER THAT FROM SOMEBODY ELSE THAT--

11 MR. FLOYD: YOUR HONOR, I OBJECT, I DON'T KNOW WHAT
12 IS COMING OUT HERE WITH THAT, IT SOUNDS LIKE HEARSAY.

13 Q YOU CAN'T SAY WHAT SOMEBODY ELSE SAYS.

14 THE COURT: I SUSTAIN THE OBJECTION. SOLICITOR, ASK
15 QUESTIONS, PLEASE.

16 Q MR. CARSON, DO YOU RECALL WHEN CAROL HURSEY WAS
17 KILLED, NOT THE SPECIFIC DAY BUT DO YOU REMEMBER THAT
18 HAPPENING?

19 A YES, I REMEMBER WHEN THE POLICE WENT OUT TO THE
20 HOUSE.

21 Q DID THEY COME OUT THERE THAT SAME DAY SHE WAS KILLED?

22 A YES, SIR.

23 Q AND THE NIGHT THAT CAROL HURSEY WAS KILLED DID YOU
24 TELL LAW ENFORCEMENT ABOUT YOUR DISCUSSIONS WITH MR.

25 FRAZIER ABOUT ALL OF THE MONEY AT BUTCH AND CAROL'S HOUSE?

1 A YES, SIR.

2 Q AND DID YOU ALSO TELL LAW ENFORCEMENT ABOUT THE
3 DISCUSSIONS THAT YOU HAD WITH MR. FRAZIER ABOUT THE GUN?

4 A YES SIR, I DID.

5 Q YOU TOLD THEM THAT THAT NIGHT?

6 A YES SIR, I DID.

7 Q OKAY. AND THOSE CONVERSATIONS TOOK PLACE--

8 A AT FISH HATCHERY IN THE KITCHEN.

9 Q OKAY. WAS THAT SHORTLY BEFORE THE POLICE CAME TO SEE
10 YA'LL ABOUT THE MURDER?

11 A I DON'T UNDERSTAND, I GUESS.

12 Q I WAS JUST ASKING, WAS IT A LONG TIME BETWEEN THE
13 TIME THE CONVERSATIONS TOOK PLACE AND THE POLICE CAME IN
14 TERMS OF WEEKS OR MONTHS OR WAS IT PRETTY CLOSE TOGETHER?

15 A IT WAS PRETTY CLOSE TOGETHER.

16 Q THANK YOU, MR. CARSON, PLEASE ANSWER MR. FLOYD'S
17 QUESTIONS.

18 CROSS-EXAMINATION

19 BY MR. FLOYD:

20 Q MR. CARSON, YOU ALREADY KNEW JOHNNIE FRAZIER FOR A
21 SHORT TIME, IS THAT CORRECT?

22 A YES, SIR.

23 Q YOU HAD KNOWN HIM FOR TWO OR THREE DAYS WHEN YOU SAY
24 YOU HAD THESE CONVERSATIONS WITH HIM?

25 A ABOUT FOUR DAYS I KNEW HIM, FOUR OR FIVE DAYS MAYBE.

1 Q NOW, MR. CARSON, YOU HAVE BRAIN DAMAGE, DON'T YOU?

2 A YES, SIR.

3 Q AND HOW LONG HAVE YOU HAD BRAIN DAMAGE?

4 A ALL OF MY LIFE.

5 Q AND YOU ARE ON DISABILITY BECAUSE OF THAT BRAIN
6 DAMAGE?

7 A YES, SIR.

8 Q WHAT WAS IT ABOUT YOUR BACKGROUND OR YOUR HISTORY
9 THAT JOHNNIE FRAZIER OR WHAT YOU TOLD HIM THAT WOULD MAKE
10 HIM THINK YOU COULD FIND HIM A CLEAN GUN?

11 A PROBABLY JUST BECAUSE OF THE PEOPLE I HUNG OUT WITH.

12 Q WHY, WHO DID YOU HANG OUT WITH?

13 A I MEAN, I HAD BAD FRIENDS THAT SMOKE AND YOU KNOW
14 THAT DOES STUFF LIKE THAT, YOU KNOW, THAT HAS GOT WEAPONS
15 AND I KNOW FRIENDS LIKE THAT.

16 Q YOU TOLD HIM THAT?

17 A NO, I DIDN'T TELL HIM THAT, I MEANT WHEN HE CAME OVER
18 TO MY MOM'S ONE DAY, WHEN MY MOM WAS OVER AT MY BROTHER'S
19 HOUSE AND I HAD MY FRIENDS AND STUFF OVER, I HANG AROUND
20 WITH THAT PEOPLE. I RECOMMEND THAT HE WAS ASSUMING THAT I
21 COULD GET ONE FROM THEM.

22 Q IN FACT, DIDN'T YOU TELL THE POLICE THAT HE WANTED
23 THE GUN FOR HIS PROTECTION?

24 A NO, I DID NOT.

25 Q YOU DIDN'T TELL THEM THAT. OKAY. YOU KNEW YOUR MAMA

1 WAS MAD AT HIM, DIDN'T YOU?

2 A I KNEW SHE WAS UPSET.

3 Q BECAUSE HER CAR WAS MISSING?

4 A I AM PRETTY SURE.

5 Q DID YOU COMPLAIN TO YOU ABOUT THAT?

6 A SHE SAID SHE WAS UPSET ABOUT HER CLOTHES AND HER CAR,
7 YOU KNOW, SHE WAS, SHE HAD PUT A LOT OF MONEY INTO IT AND
8 IT WAS JUST GONE.

9 Q AND SHE WAS MAD BECAUSE HE TOOK HIS WORKERS COMP.
10 SETTLEMENT AND DIDN'T GIVE HER ANY OF IT, ISN'T THAT TRUE?

11 A I DON'T KNOW NOTHING ABOUT THAT.

12 Q YOU DON'T KNOW ABOUT THAT.

13 A I DON'T KNOW NOTHING ABOUT THAT.

14 Q ISN'T IT TRUE THAT THE TRAILER ON WAYNE STREET, IT
15 JUST HAD ONE BEDROOM, DIDN'T IT?

16 A YES SIR, IT DID.

17 Q AND THE NIGHT, YOU WERE COMING--

18 A I DIDN'T.

19 Q TO LIVE WITH--

20 MR. RIDDLE: YOUR HONOR, HE HAS GOT TO LET HIM FINISH
21 HIS ANSWERS.

22 THE COURT: I THOUGHT HE WAS.

23 A I THINK IT ONLY HAD ONE ROOM BUT I AM NOT FOR SURE
24 BUT I THINK IT DID.

25 Q IN FACT, THE ONE NIGHT THAT YOU WERE THERE YOU SLEPT

1 ON THE COUCH?

2 A YES, SIR.

3 Q BECAUSE IT DIDN'T HAVE A SEPARATE BEDROOM, DID IT?

4 A YES, SIR.

5 Q AND YOU WERE COMING TO LIVE WITH THEM, YOU WERE GOING
6 TO COME STAY WITH THEM FOR A WHILE?

7 A YES.

8 Q BECAUSE THE FISH HATCHERY ROAD TRAILER HAD THREE
9 BEDROOMS, DIDN'T IT?

10 A YES, SIR.

11 Q NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: ANY REDIRECT?

13 MR. RIDDLE: NO, SIR.

14 THE COURT: YOU CAN STEP DOWN, SIR. CALL YOUR NEXT
15 WITNESS, PLEASE.

16 MR. RIDDLE: THE STATE CALLS SHERRI QUARLES TO THE
17 STAND.

18 SHERRI QUARLES, AFTER BEING DULY SWORN,
19 TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. RIDDLE:

22 Q MS. QUARLES, WHERE ARE YOU FROM?

23 A FROM GASTON.

24 Q AND DID YOU GROW UP DOWN THERE?

25 A YES, SIR.

1 Q HAVE YOU LIVED IN LEXINGTON COUNTY ALL OF YOUR LIFE?

2 A YES, SIR.

3 Q WHERE DID YOU GO TO SCHOOL?

4 A AIRPORT HIGH.

5 Q MS. QUARLES, WHO DID YOU GROW UP WITH, WHO RAISED

6 YOU, YOUR MOM AND DAD?

7 A JUST MY DAD.

8 Q YOUR DAD?

9 A YES.

10 Q DO YOU KNOW JOHNNIE FRAZIER?

11 A YES, SIR.

12 Q HOW DO YOU KNOW HIM?

13 A HIS FATHER RENTED A TRAILER FROM MY DAD.

14 Q HIS FATHER--

15 A RENTED A TRAILER FROM MY FATHER.

16 Q HOW LONG AGO WAS THAT?

17 A IT HAS BEEN YEARS, WHEN I WAS LITTLE.

18 Q YOU WERE LITTLE?

19 A YES, SIR.

20 Q DID YOU KNOW BUTCH AND CAROL HURSEY?

21 A YES, SIR.

22 Q HOW DID YOU KNOW THEM?

23 A THEY HAVE AN AUCTION.

24 Q THE AUCTION WAS ON WHAT ROAD?

25 A BUSBEE.

1 Q AND DID YOU LIVE ON BUSBEE?

2 A YES, SIR.

3 Q AND ABOUT HOW FAR FROM BUTCH AND CAROL'S HOUSE DID
4 YOU LIVE?

5 A BESIDE THEIR DRIVEWAY, DRIVEWAY TO DRIVEWAY, THAT
6 CLOSE.

7 Q DRIVEWAY TO DRIVEWAY?

8 A YES, SIR.

9 Q NOW, DID YOU LIVE RIGHT ON BUSBEE ROAD OR WAS IT BACK
10 OFF THE ROAD A LITTLE BIT?

11 A BACK OFF THE ROAD A LITTLE BIT, DOWN THE DRIVEWAY AND
12 THEN INTO A TRAILER PARK.

13 Q OKAY. AND YOUR TRAILER, WHERE WAS IT LOCATED IN THE
14 TRAILER PARK?

15 A THE LAST ONE ON THE LEFT.

16 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER 14, IF I
17 COULD. I WANT YOU TO KEEP YOUR VOICE UP, IF THIS IS BUTCH
18 AND CAROL'S HOUSE AND THIS IS SANDWOOD ROAD HERE, WHERE IS
19 YOUR TRAILER PARKED THERE?

20 A IS THIS BUSBEE?

21 Q NO, THIS IS BUSBEE HERE AND THIS IS SANDWOOD ROAD,
22 THIS IS BUTCH AND CAROL'S ON THIS SIDE?

23 A YES, OVER THERE.

24 Q AND DOES THAT SHOW SOME TRAILERS BACK IN THERE?

25 A YES, SIR.

1 Q WHICH TRAILER DID YOU LIVE IN?

2 A THE LAST ONE ON THE LEFT.

3 Q THE LAST ONE ON THE LEFT?

4 A YES, SIR.

5 Q HOLD ON ONE SECOND. THE LAST TRAILER ON THE LEFT

6 HERE?

7 A YES, SIR.

8 Q IS THAT IT?

9 A YES, SIR.

10 Q NOW, THE DRIVEWAY WAS HERE, IS THAT RIGHT?

11 A YES, SIR.

12 Q AND THAT IS PRETTY CLOSE TO BUTCH AND CAROL'S?

13 A YES, SIR.

14 Q WERE YOU LIVING AT THAT ADDRESS WHEN CAROL GOT

15 KILLED?

16 A YES, SIR.

17 Q HOW LONG DO YOU THINK YOU HAD BEEN LIVING THERE AT

18 THAT TIME?

19 A A LITTLE OVER A YEAR.

20 Q AND DID YOU HAVE ANY NEIGHBORS THERE AT THE BACK OF

21 THAT TRAILER PARK?

22 A VERY FEW.

23 Q MOSTLY EMPTY?

24 A YES, SIR.

25 Q DO YOU RECALL WHEN YOU FOUND OUT ABOUT CAROL'S

1 MURDER?

2 A YES, SIR.

3 Q WHEN WAS THAT?

4 A THAT NIGHT.

5 Q THE SAME DAY IT HAPPENED?

6 A YES, SIR.

7 Q ALL RIGHT. AND DO YOU RECALL HOW YOU FOUND OUT ABOUT
8 CAROL'S MURDER?

9 A IT CAME ACROSS THE NEWS AND I WAS IN THE SHOWER AND I
10 WENT TO THE LIVING ROOM, THEY CALLED ME IN THERE--

11 Q SLOW DOWN JUST A LITTLE BIT.

12 A OKAY. AND I WENT TO THE LIVING ROOM, I THOUGHT MAYBE
13 ONE OF THE KIDS GOT HURT OR SOMETHING ELSE. AND I SAW
14 WHAT IT WAS.

15 Q AND YOU KNEW THAT BUTCH HAD SOME SONS?

16 A YES, SIR.

17 Q AND THAT IS WHO YOU THOUGHT IT WAS?

18 A YES, SIR.

19 Q INITIALLY?

20 A YES, SIR.

21 Q NOW, DID YOU KNOW WHAT KIND OF CAR CAROL DROVE?

22 A YES, SIR.

23 Q WHAT COLOR WAS IT?

24 A LIKE A BURGUNDY OR A MAROONED.

25 Q HAD YOU SEEN THAT CAR BEFORE?

1 A YES, SIR.

2 Q CAN YOU GUESS HOW MANY TIMES YOU HAD SEEN IT?

3 A EVERY DAY.

4 Q EVERY DAY?

5 A YES, SIR.

6 Q DID YOU GO UP AND DOWN BUSBEE ROAD A FAIR AMOUNT?

7 A YES, SIR.

8 Q PAST THE HURSEY'S PROPERTY?

9 A YES, SIR.

10 Q IF YOU WERE TO LEAVE YOUR HOUSE TO GO TO WORK WOULD

11 YOU GO PAST IT?

12 A NO SIR, I WOULD HAVE TO GO TO THE RIGHT.

13 Q IF YOU WERE TO LEAVE YOUR HOUSE TO GO TO THE

14 CONVENIENT STORE WOULD YOU GO PAST IT?

15 A YES, SIR.

16 Q DO YOU HAVE ANY CHILDREN, SHERRI?

17 A YES, SIR.

18 Q BOY, GIRL?

19 A GIRL.

20 Q WHAT IS HER AGE?

21 A 14.

22 Q BACK IN 2003, HOW OLD WAS SHE?

23 A ABOUT NINE.

24 Q DID YOU TAKE HER TO SCHOOL?

25 A YES, SIR.

1 Q DID YOU PICK HER UP?

2 A YES, SIR.

3 Q SO, YOU WERE OUT AND ABOUT UP AND DOWN BUSBEE ROAD A
4 FAIR AMOUNT?

5 A YES, SIR.

6 Q THE CAR THAT YOU SAID YOU RECOGNIZED AS CAROL'S?

7 A YES, SIR.

8 Q YOU HAD SEEN HER BEFORE IN THAT CAR?

9 A YES, SIR.

10 Q CAN YOU GUESS HOW MANY TIMES YOU HAVE SEEN CAROL
11 DRIVING IT BEFORE?

12 A I GUESS ABOUT ONCE A DAY OR ONCE EVERY OTHER DAY.

13 Q HAD SHE HAD THAT CAR FOR A WHILE?

14 A I WOULD SAY A COUPLE OF MONTHS, YES, IT HAS BEEN A
15 WHILE.

16 Q OKAY. THE DAY THAT YOU FOUND OUT THAT CAROL HAD BEEN
17 KILLED DID YOU SEE THAT VEHICLE?

18 A I SEEN IT, ACTUALLY THAT MORNING, I HAD SEEN IT THAT
19 AFTERNOON WHEN I WAS COMING IN.

20 Q THAT MORNING DID YOU SEE THAT CAR?

21 A YES, SIR.

22 Q AND WHERE WAS IT AT THAT TIME?

23 A IN MS. CAROL'S YARD.

24 Q AT THE BUSBEE ROAD ADDRESS?

25 A YES, SIR.

1 Q WAS IT BEING DRIVEN AT THAT POINT OR WAS IT PARKED?

2 A IT WAS PARKED.

3 Q AND YOU INDICATED THAT YOU SAW IT AGAIN LATER THAT
4 DAY?

5 A YES SIR, THE AFTERNOON.

6 Q AND WHERE DID YOU SEE IT LATER THAT DAY?

7 A COMING OUT OF BUTCH AND CAROL'S AUCTION, THE AUCTION
8 YARD IS HERE AND IT WAS COMING OUT TO THE RIGHT.

9 Q IF YOU HAVE GOT THE AUCTION HERE AND THEIR HOUSE
10 HERE, WHERE IS THE DRIVEWAY?

11 A IT IS RIGHT IN THE MIDDLE OF IT.

12 Q BETWEEN THOSE TWO BUILDINGS?

13 A YES.

14 Q OKAY. AND IS THAT WHERE YOU SAW THE CAR THAT
15 AFTERNOON?

16 A YES, SIR.

17 Q AND WHEN YOU SAW THE CAR WHAT WERE YOU DOING?

18 A THAT AFTERNOON?

19 Q YES?

20 A I WAS PICKING MY DAUGHTER UP FROM SCHOOL AND DOING
21 HOMEWORK.

22 Q AND WERE YOU,--

23 MR. RIDDLE: YOUR HONOR, EXCUSE ME FOR JUST A MOMENT.

24 Q YOU WERE DRIVING YOUR CAR?

25 A YES, SIR.

1 Q AND WERE YOU TRAVELING AT ANY PARTICULAR RATE OF
2 SPEED WHEN YOU SAW CAROL'S CAR?

3 A YES SIR, I WAS STOPPED.

4 Q AND WHAT WERE YOU TRYING TO DO?

5 A TO TAKE A LEFT-HAND TURN INTO MY DRIVEWAY.

6 Q NOW, REFERRING BACK TO STATE'S EXHIBIT NUMBER 14, MS.
7 QUARLES, YOUR HOUSE IS HERE?

8 A YES, SIR.

9 Q SO, YOU WERE COMING DOWN BUSBEE AND MAKE A LEFT AND
10 TURN INTO THAT DRIVEWAY?

11 A YES, SIR.

12 Q WHERE WAS THE CAR WHEN YOU SAW IT, CAROL'S CAR?

13 A RIGHT HERE.

14 Q COMING OUT FROM BUTCH AND CAROL'S RESIDENCE BETWEEN
15 THE HOUSE AND THE AUCTION?

16 A YES, SIR.

17 Q YOU HAD STOPPED, IS THAT CORRECT?

18 A YES, SIR.

19 Q WHAT DID THAT CAR DO, CAROL'S CAR?

20 A KIND OF LIKE DROVE BESIDE ME AND KIND OF LIKED
21 STOPPED A LITTLE BIT AND DROVE BY.

22 Q DID YOU RECOGNIZE THE INDIVIDUAL DRIVING THAT CAR?

23 A YES, SIR.

24 Q WHO WAS THAT INDIVIDUAL?

25 A MR. FRAZIER.

1 Q HOW DID YOU KNOW HIM, WAS THERE ANYTHING DISTINCTIVE
2 ABOUT HIM THAT YOU RECALL?

3 A HIS EARS AND NOSE.

4 Q HIS EARS AND HIS NOSE?

5 A YES.

6 Q DID YOU SUBSEQUENTLY SEE A FLYER THAT HAD BEEN PUT
7 OUT BY LAW ENFORCEMENT?

8 A YES, SIR.

9 Q AFTER YOU SAW THAT WHAT ACTIONS DID YOU TAKE?

10 A I CALLED THE NUMBER THAT WAS ON THE FLYER AND LEFT A
11 MESSAGE AND THEN I CALLED BACK AND FINALLY TALKED TO
12 SOMEBODY AND GOT SOMEBODY TO CALL ME.

13 Q DID YOU GO IN AND SEE THEM?

14 A YES, I DID.

15 Q WHEN YOU TALKED TO LAW ENFORCEMENT DID YOU TELL THEM
16 ABOUT SEEING MR. FRAZIER DRIVING CAROL'S CAR?

17 A YES, SIR.

18 Q DID YOU TELL THEM THE COMPLETE TRUTH AT THAT TIME?

19 A NO, SIR.

20 Q TELL THE JURY WHY NOT.

21 A BECAUSE I WAS A SINGLE PARENT WITH A SMALL CHILD AND
22 I WANTED TO PROTECT HER AND I TOLD THE POLICE SOMEONE
23 TRIED TO BREAK INTO MY HOME WHEN I WASN'T THERE.

24 Q THE HOME RIGHT DOWN FROM BUTCH AND CAROL'S HOUSE?

25 A YES, SIR.

1 Q ALL RIGHT. YOU RECOGNIZED JOHNNIE FRAZIER DRIVING
2 CAROL'S CAR?

3 A YES, SIR.

4 Q DO YOU KNOW IF HE RECOGNIZED YOU?

5 A I BELIEVE SO.

6 Q WHAT KIND OF CAR WERE YOU DRIVING BACK THEN?

7 A A PURPLE PROBE.

8 Q A PURPLE--

9 A FORD PROBE.

10 Q FORD PROBE?

11 A YES, SIR.

12 Q HOW MANY PURPLE PROBES LIVED IN GASTON BACK IN 2003,
13 MS. QUARLES?

14 A HONESTLY, I THINK I WAS THE ONLY ONE.

15 Q ONLY ONE?

16 A YES, SIR.

17 Q THE LOCATION WHERE YOU PASSED MS. HURSEY'S CAR, WHAT
18 ROAD WERE YOU TRYING TO TURN INTO?

19 A IT WAS, IT IS NOT A ROAD IT IS JUST RIGHT THERE, IT
20 IS ONE ROAD RIGHT BESIDE IT, THERE IS NO NAME ON IT.

21 Q IT WAS YOUR DRIVEWAY?

22 A YES, SIR.

23 Q AND YOU WERE DRIVING A PURPLE FORD PROBE?

24 A YES, SIR.

25 Q AND SOMEBODY TRIED TO BREAK INTO YOUR TRAILER?

1 A YES, SIR.

2 Q AND THIS WAS ALL IN THAT TIMEFRAME RIGHT THERE?

3 A YES, SIR.

4 Q SO, WHEN YOU WENT TO THE COPS WHAT DID YOU DO?

5 A I TOLD A STORY, I WAS MAKING THE STORY UP TO SAVE MY
6 LITTLE GIRL AND PROTECT HER.

7 Q WHAT WERE YOU WORRIED ABOUT TELLING THE TRUTH?

8 A THAT IF THEY WANTED TO COME AND HARM MY DAUGHTER OR
9 ME, WHOEVER IT WAS TRYING TO BREAK INTO MY HOME, I WAS
10 PROTECTING HER.

11 Q DID THE POLICE SHOW YOU A LINEUP AT THAT TIME?

12 A YES, SIR.

13 Q WAS MR. FRAZIER IN IT?

14 A YES, SIR.

15 Q DID YOU PICK HIM OUT?

16 A NO, SIR.

17 Q WAS IT BECAUSE YOU COULDN'T PICK HIM OUT OR DID YOU
18 INTENTIONALLY NOT PICK HIM OUT?

19 A I INTENTIONALLY DID NOT PICK HIM OUT.

20 Q WHY WAS THAT?

21 A I WAS SCARED FOR MY DAUGHTERS LIFE AND MINE.

22 Q MS. QUARLES, DID YOU SEE CAROL HURSEY'S CAR THE DAY
23 SHE WAS KILLED?

24 A YES, SIR.

25 Q DID YOU SEE WHO WAS DRIVING?

1 A YES, SIR.

2 Q DID YOU GET A CLEAR LOOK AT HIM?

3 A YES, SIR.

4 Q WHO WAS DRIVING THE CAR?

5 A MR. FRAZIER.

6 Q WHERE WAS THAT CAR COMING FROM?

7 A BUTCH AND CAROL'S DRIVEWAY.

8 Q PLEASE ANSWER ANY OF MR. FLOYD'S QUESTIONS.

9 THE COURT: BEFORE WE START, MR. FLOYD, THIS IS A
10 GOOD BREAKING POINT. WE WILL TAKE OUR LUNCH BREAK, MR.
11 FOREMAN AND LADIES AND GENTLEMEN, DON'T DISCUSS THE CASE
12 WITH ANYONE INCLUDING YOUR FELLOW JURORS. WE WILL START
13 BACK AT 2:15, BE BACK AT 2:15 IN YOUR JURY ROOM, PLEASE.
14 EVERYONE STAY SEATED, THE JURY IS EXCUSED.

15 (WHEREUPON, THE JURY IS EXCUSED FROM OPEN COURT FOR A
16 LUNCH BREAK.)

17 THE COURT: YOU CAN STEP DOWN AND DON'T DISCUSS YOUR
18 TESTIMONY DURING THE LUNCH BREAK. WE WILL BREAK UNTIL
19 2:15.

20 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

21 THE COURT: IS THE STATE READY?

22 MR. RIDDLE: YES, YOUR HONOR.

23 THE COURT: THE DEFENSE READY?

24 MR. FLOYD: READY, YOUR HONOR.

25 THE COURT: YOU CAN COME BACK UP, PLEASE. BRING THE

1 JURY IN, PLEASE.

2 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
3 APPROXIMATELY 2:20 P.M.)

4 CROSS-EXAMINATION

5 BY MR. FLOYD:

6 Q MS. QUARLES, YOU SAY THAT YOU SAW MR. FRAZIER AND MS.
7 HURSEY'S CAR THE DAY OF THE MURDER?

8 A YES, SIR.

9 Q NOW, DID YOU TELL ANYBODY WITH THE SHERIFFS
10 DEPARTMENT ON THE DAY OF THE MURDER ABOUT THAT?

11 A NO, SIR.

12 Q DID YOU TELL ANYBODY AT THE SHERIFFS DEPARTMENT ON
13 THE DAY AFTER THE MURDER ABOUT THAT?

14 A YES, SIR.

15 Q WHO DID YOU TELL?

16 A I CALLED THE NUMBER ON THE FRONT OF THE FLYER.

17 Q ON THE FRONT OF THE WHAT?

18 A ON THE FRONT OF THE FLYER.

19 Q THE ONE THAT HAD JOHNNIE FRAZIER'S PICTURE ON IT?

20 A HAD A CAR.

21 Q HAD A CAR AND WHO DID YOU SPEAK TO THEN?

22 A IT WAS A MACHINE AND I LEFT MY NAME AND NUMBER.

23 Q SO, THEN DIDN'T YOU SEE A FLYER WITH JOHNNIE
24 FRAZIER'S PICTURE ON IT?

25 A A DAY OR TWO LATER I DID.

1 Q AND THAT IS WHEN YOU CONTACTED THE SHERIFFS
2 DEPARTMENT?

3 A AGAIN, YES.

4 Q AND SOMEBODY CAME OUT THERE THEN?

5 A YES, SIR.

6 Q BUT THAT WAS FOUR DAYS LATER?

7 A ABOUT THREE OR FOUR.

8 Q NOW, ON THAT TIME YOU TOLD THEM YOU SAW THE CAR ABOUT
9 2:30 IN THE AFTERNOON OR 3:00?

10 A YES, SIR.

11 Q WERE YOU BRINGING YOUR CHILD HOME FROM SCHOOL?

12 A YES, SIR.

13 Q AND WHAT TIME DID YOUR CHILD GET OUT OF SCHOOL?

14 A AT 2:20, BETWEEN 2:20 AND 2:25. THAT DAY I GOT THERE
15 AT 2:15.

16 Q AND WHERE DID SHE GO TO SCHOOL?

17 A PINE WOOD ELEMENTARY.

18 Q AND HOW FAR IS THAT FROM YOUR PLACE?

19 A PROBABLY ABOUT FOUR MILES.

20 Q HOW LONG DID IT TAKE YOU TO TRAVEL?

21 A ABOUT TEN MINUTES.

22 Q SO, YOU SAY IT WAS ABOUT 2:30?

23 A YES, SIR.

24 Q DID YOU SEE MR. HURSEY WHEN HE ARRIVED ABOUT 3:00
25 O'CLOCK?

1 A NO, SIR.

2 Q NOW, YOU MADE A DIFFERENT STATEMENT ON NOVEMBER THE

3 4TH, DID YOU NOT?

4 A YES, SIR.

5 Q IN FACT, THEY CAME AND TALKED TO YOU ABOUT THE TIME

6 IN YOUR STATEMENT, DIDN'T THEY?

7 A YES, SIR.

8 Q AND THEY DIDN'T LIKE THE 2:30 IN THE AFTERNOON, DID

9 THEY?

10 A ACTUALLY, THAT WAS A STORY THAT I HAD GIVEN THEM, I

11 HAD LIED, AND I THINK THEY KNEW I WAS LIEING BECAUSE I WAS

12 PROTECTING MY DAUGHTER.

13 Q IN FACT, ONCE YOU GAVE THE FIRST STATEMENT THEY

14 BROUGHT YOU OUT A PHOTO LINEUP AND YOU LIED ABOUT IT?

15 A YES, SIR.

16 Q BECAUSE YOU SAW JOHNNIE FRAZIER'S PICTURE IN THERE?

17 A YES, SIR.

18 Q BUT YOU LIED AND SAID YOU DIDN'T?

19 A YES, SIR.

20 Q IS THAT CORRECT?

21 A YES, SIR.

22 Q NOW, THEN NOVEMBER THE 9TH, ON NOVEMBER THE 4TH WHEN

23 THEY CAME BACK OUT FOR THAT SECOND STATEMENT DIDN'T YOU

24 SAY AT THAT TIME THAT YOU SAW THE CAR LEAVING IN THE

25 MORNING ABOUT 10:00 O'CLOCK?

1 A YES, SIR.

2 Q DID YOU LIE IN THAT STATEMENT?

3 A YES SIR, I DID.

4 Q DID YOU LIE IN THE FIRST STATEMENT?

5 A I THINK THE TIME, THE TIMEFRAME IS WHEN I STARTED
6 LIEING.

7 Q NOW, WHY WOULD LIEING ABOUT THE TIMEFRAME MAKE YOU
8 FEEL SAFER?

9 A BECAUSE I DIDN'T WANT, I WANTED HIM TO KNOW I WAS
10 STAYING OUT OF IT.

11 Q BUT YOU VOLUNTARILY CALLED, DID YOU NOT?

12 A BUT WHEN, THAT IS WHEN I STARTED CHANGING MY STORY.

13 Q WHEN DID YOUR HOUSE GET BROKEN IN TO?

14 A IT WAS LIKE THE NEXT NIGHT, SOMEBODY TRIED TO BREAK
15 IN.

16 Q THAT WOULD BE THE NIGHT AFTER CAROL HURSEY'S MURDER,
17 IS THAT CORRECT?

18 A YES, SIR.

19 Q YOU DON'T HAVE ANY KNOWLEDGE OR PROOF THAT JOHNNIE
20 FRAZIER HAD ANYTHING TO DO WITH THAT?

21 A NO SIR, I DON'T.

22 Q IN FACT, IF A STRANGER IS THE ONE THAT KILLED CAROL
23 HURSEY, THAT SAME STRANGER MIGHT OF COME TO YOUR HOUSE
24 NEXT, IS THAT CORRECT?

25 A YES.

1 Q NOW, MS. QUARLES, DO YOU KNOW STARR COUGAR?

2 A YES SIR, I DO.

3 Q IN FACT, YOUR FATHER WAS RANDY QUARLES?

4 A YES SIR, HE WAS.

5 Q AND DIDN'T RANDY LIVE WITH HER MOTHER?

6 A YES SIR, HE LIVED WITH BOTH OF THEM.

7 Q BUT AT ONE POINT AND TIME HE LIVED WITH STARR

8 COUGAR'S MOTHER, DID HE NOT?

9 A YES SIR, HE DID.

10 Q AND YA'LL KNEW EACH OTHER WELL, DIDN'T YOU?

11 A YES, SIR.

12 Q DID YOU TELL THE POLICE ABOUT THAT RELATIONSHIP?

13 A NO, SIR.

14 Q THE POLICE CAME TO SEE YOU IN NOVEMBER BECAUSE THEY

15 DIDN'T LIKE THE 2:30 TIME, DID THEY?

16 A I DON'T THINK THAT IT WASN'T THEY DIDN'T LIKE THE

17 2:30 TIME, THEY KEPT COMING OUT THERE INVESTIGATING AND

18 ASKING QUESTIONS AND STUFF.

19 Q WELL, THEY TOLD YOU THEY DIDN'T LIKE THE 2:30 TIME,

20 DIDN'T THEY?

21 A THEY ASKED ME IF I WAS POSITIVELY SURE.

22 Q IN FACT, DIDN'T THEY SAY, AREN'T YOU SURE WASN'T IT

23 IN THE MORNING WHEN YOU SAW IT, DIDN'T THEY ASK YOU

24 SOMETHING LIKE THAT?

25 A I DON'T KNOW WHAT YOU ARE SAYING, NO SIR, THEY DIDN'T

1 LIKE PUT WORDS IN MY MOUTH. THAT WAS JUST ASKING IF I WAS
2 SURE ABOUT THE TIMEFRAME.

3 Q AND SO YOU CHANGED IT FOR THEM?

4 A NO SIR, I KEPT, I KEPT LIEING.

5 Q ARE YOU SAYING THAT YOU DIDN'T GO BACK TO 10:00
6 O'CLOCK?

7 A YES SIR, I DID LATER ON, YES SIR.

8 Q THEY COME OUT THERE CONCERNED ABOUT THE TIME SO YOU
9 CHANGED IT FOR THEM TO 10:00, IS THAT CORRECT?

10 A YES, SIR.

11 Q AND OF COURSE NOW YOU ARE CHANGING IT BACK TO 2:30?

12 A I AM TELLING YOU THE TRUTH, MY DAUGHTER IS 14 NOW.

13 Q BUT YOU DIDN'T HAVE ANY CONCERN ABOUT TELLING THE
14 TRUTH BACK IN AUGUST OR NOVEMBER OF '03, DID YOU?

15 A I WAS PROTECTING MY DAUGHTER.

16 Q DID YOU LIE BACK THEN?

17 A YES, I DID.

18 Q THAT IS ALL I HAVE.

19 REDIRECT EXAMINATION

20 BY MR. RIDDLE:

21 Q DID YOU SEE A STRANGER DRIVING CAROL HURSEY'S CAR?

22 A NO, SIR.

23 Q WHO DID YOU SEE?

24 A I SEEN JOHNNIE FRAZIER.

25 Q NOTHING FURTHER.

1 THE COURT: YOU CAN STEP DOWN. CALL YOUR NEXT
2 WITNESS.

3 MR. RIDDLE: THE STATE CALLS WAYNE BIRCHMORE TO THE
4 STAND.

5 WAYNE BIRCHMORE, AFTER BEING DULY SWORN,
6 TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. RIDDLE:

9 Q MR. BIRCHMORE, WHERE DO YOU LIVE, SIR?

10 A GILBERT, SOUTH CAROLINA.

11 Q AND HOW LONG HAVE YOU BEEN IN THE GILBERT AREA?

12 A 23 YEARS.

13 Q AND DO YOU WORK?

14 A GOLDEN STATE FOODS IN LEXINGTON, SOUTH CAROLINA.

15 Q WHAT DO YOU DO WITH THOSE GUYS?

16 A I AM A MAINTENANCE ENGINEER FOR THEM.

17 Q HOW LONG HAVE YOU BEEN WITH THEM?

18 A TWELVE YEARS THIS AUGUST.

19 Q DO YOU HAVE OTHER JOBS THAT YOU DO AS KIND OF
20 MOONLIGHTING SO TO SPEAK?

21 A YES SIR, I DO.

22 Q WHAT ELSE DO YOU DO BESIDES WORK AT GOLDEN STATE
23 FOODS, MR. BIRCHMORE?

24 A I PAINT, I RUN TILE, PLUMBING, ELECTRICAL, YOU NAME
25 IT I DO IT.

1 Q DO YOU ALSO TAKE CARE OF SOME LAND FOR A LADY?

2 A YES SIR, I DO.

3 Q AND WHERE IS THAT LOCATED?

4 A THAT LAND IS LOCATED IN SWANSEA ON CASSIDY ROAD.

5 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER 15 AND ASK YOU
6 IF YOU RECOGNIZE WHAT THIS IS?

7 A YES SIR, THAT IS THE LAND THAT I TAKE CARE OF.

8 Q ALL OF THIS AREA?

9 A YES SIR, 217 ACRES.

10 Q LET'S TALK ABOUT THAT LAND FOR A MINUTE. WHO OWNS
11 THAT PARTICULAR PIECE OF PROPERTY?

12 A THE LADY THAT OWNS THAT PARTICULAR PIECE OF PROPERTY,
13 HER NAME IS WANNELLE WITT.

14 Q AND DID SHE, HOW DID SHE ACQUIRE THE LAND?

15 A THE LAND BELONGED TO HER FAMILY, HER FATHER'S LAST
16 NAME WAS A WIT, IT HAD BEEN IN HIS FAMILY FOR A LONG TIME
17 SO HE HAD WENT DOWN THERE PROBABLY 45 OR 50 YEARS AGO AND
18 BUILT HIM WHAT HE CALLED A CABIN ON THE POND. AND HE
19 STAYED DOWN THERE A LITTLE BIT AND THEN HE COME UP HERE
20 FOR A LITTLE BIT AND THAT IS THE WAY IT IS.

21 Q AND THAT LAND HAS BEEN IN THAT FAMILY, FOR HOW LONG
22 WOULD YOU GUESS?

23 A AT LEAST 70 TO 75 YEARS.

24 Q HOW DID YOU COME TO BE THE CARETAKER FOR THAT
25 PROPERTY?

1 A MS. WANNELLE CALLED ME BACK IN 1984, SHE HAD SOME
2 WORK SHE WANTED DONE. I WENT DOWN THERE IN JANUARY WHEN
3 IT WAS SNOWING AND MET HER, HER SON ANDY AND HIS WIFE, SHE
4 TOLD ME WHAT HE WANTED DONE, I DID WHAT SHE WANTED DONE.
5 SHE LIKED IT AND SHE ASKED ME, SHE SAID, AT THE TIME SHE
6 WASN'T MARRIED, HER NAME THEN WAS HEDGEPATH AND SHE ASKED
7 ME IF I WOULD COME DOWN THERE PERIODICALLY AND TAKE CARE
8 OF THE LAND AND JUST CUT THE GRASS, KEEP THE POND AND KEEP
9 EVERYTHING UP. AND I TOLD HER SURE, SO I DID.

10 Q YOU HAVE BEEN DOING IT EVER SINCE?

11 A I HAVE BEEN DOING IT EVER SINCE, STILL DOING IT
12 TODAY.

13 Q NOW, ON STATE'S EXHIBIT NUMBER 15, THIS BIG POND,
14 THIS CORNER, WHO DOES THAT BELONG TO?

15 A THAT BELONGS TO MS. WANNELLE.

16 Q AND THAT IS A--

17 A A PIER.

18 Q A PIER?

19 A YES.

20 Q AND IS THIS THE CABIN?

21 A THAT IS THE HOUSE RIGHT THERE.

22 Q AND IS THE HOUSE THAT YOU ORIGINALLY DID THE WORK ON
23 BACK THEN?

24 A YES, SIR.

25 Q DOES THAT HOUSE STILL EXIST?

1 A NO SIR, BACK ABOUT TWO YEARS AGO, BACK IN NOVEMBER
2 SOMEBODY OR WE REALLY DON'T KNOW, IT CAUGHT FIRE AND IT
3 BURNED TO THE GROUND. BUT WE ARE TAKING IT DOWN AND WE
4 ARE GOING TO BUILD DOWN THERE FOR HER TO BRING HER
5 GRANDKIDS TO THE POND.

6 Q DO YOU FISH IN THAT POIND?

7 A YES SIR, I DO.

8 Q ARE YOU A GOOD FISHERMAN?

9 A YEAH, A PRETTY GOOD FISHERMAN.

10 Q NOW, AS THE CARETAKER DO YOU HAVE FULL ACCESS TO THAT
11 PROPERTY?

12 A YES SIR, I DO.

13 Q DO YOU HAVE KEYS?

14 A YES SIR, I DO.

15 Q AND HOW OFTEN DO YOU GO DOWN THERE?

16 A I GO DOWN THERE AT LEAST TWICE A MONTH, IF I DON'T GO
17 DOWN THERE TWICE A MONTH I DO HAVE MY SON GO DOWN THERE,
18 HE OPENS THE GATE, HE GOES IN AND MAKES SURE THAT NOBODY
19 IS FISHING IN THE POND, NOTHING HAS BEEN DESTROYED OR
20 ANYTHING LIKE THAT AND WE CHECK IT PERIODICALLY.

21 Q I BELIEVE YOU SAID IT IS 217 ACRES?

22 A 217 ACRES. WE DEER HUNT DOWN THERE AND WE DOVE HUNT
23 DOWN THERE AND WE FISH DOWN HERE OFF AND ON. SO, WHEN
24 DEER SEASON IS IN WE ARE DOWN THERE EVERY WEEKEND. DOVE
25 SEASON IS IN WE ARE DOWN THERE DOVE HUNTING. FISHING, IF

1 I DECIDE TO TAKE MY WIFE FISHING WE GO FISHING.

2 Q NOW, BACK IN AUGUST OF 2003 WERE YOU DOWN THERE AT
3 THAT PROPERTY?

4 A YES SIR, I WAS.

5 Q DO YOU REMEMBER ANYTHING HAPPENING AT THAT TIME WHILE
6 YOU WERE DOWN THERE?

7 A YES SIR, I DO. AUGUST THE 21ST OF THAT YEAR I WAS ON
8 THE PIER FISHING, IT WAS ON A THURSDAY, I NOTICED A BIG
9 BLACK FIRE OVER IN THE WOODS.

10 Q LET ME STOP YOU FOR JUST A SECOND, YOU SAID IT WAS
11 AUGUST THE 21ST?

12 A YES, SIR.

13 Q HOW DO YOU KNOW IT WAS THAT DATE, MR. BIRCHMORE?

14 A MY ANNIVERSARY IS AUGUST THE 15TH AND I JUST WENT TO,
15 SIX DAYS PAST MY ANNIVERSARY AND I KNOW IT WAS THE 21ST,
16 IT WAS MY LAST DAY OF WORK FOR THE WEEK BECAUSE I WORK
17 MONDAY THROUGH THURSDAY, I CLOCKED OUT AND WENT DOWN THERE
18 AND I WENT FISHING.

19 Q SO, YOU KNOW IT WAS THE THURSDAY PAST YOUR
20 ANNIVERSARY?

21 A THE THURSDAY PAST MY ANNIVERSARY WHICH WAS AUGUST THE
22 21ST.

23 Q ABOUT WHAT TIME OF THE DAY WAS IT?

24 A IT WAS PROBABLY 5:30, QUARTER TO 6:00, SOMETHING LIKE
25 THAT.

1 Q WHAT, IF ANYTHING, DID YOU SEE WHILE YOU WERE DOWN
2 THERE THAT DAY?

3 A A BIG FIRE.

4 Q DID YOU ACTUALLY SEE THE FIRE?

5 A I ACTUALLY SAW THE SMOKE, I NEVER SAW THE ACTUAL
6 FIRE, I JUST SAW ALL THE SMOKE.

7 Q NOW, LET ME SHOW YOU THIS EXHIBIT AGAIN, YOU WERE
8 STANDING ON THE END OF THIS PIER?

9 A YES, SIR.

10 Q AND APPROXIMATELY WHICH DIRECTION WAS THE SMOKE AT?

11 A OVER IN THIS DIRECTION.

12 Q WHAT HAS BEEN MARKED IN THE RED PEN?

13 A WHAT HAS BEEN MARKED IN THE RED, YES.

14 Q AND WHAT, IF ANYTHING, DID YOU DO AT THAT TIME?

15 A I DIDN'T DO ANYTHING BECAUSE RIGHT HERE IS THE POWER
16 LINE, IT WAS OVER HERE WHERE ABIGAIL ROAD COMES IN, THEY
17 WERE PUTTING A BUNCH OF MOBILE HOMES IN HERE AND THEY WERE
18 CLEANING THE LAND UP AND WHEN THEY GOT THE LAND BULLDOZED
19 UP IT SET IT AFIRE SO IT HAD BEEN BURNING LIKE THAT FOR
20 ABOUT A MONTH. IF YOU LOOKED OVER THERE ON A SATURDAY OR
21 LOOK OVER THERE ON A SUNDAY THERE WOULD BE A BONFIRE OVER
22 THERE BURNING ALL THIS TRASH UP SO I DID NOT PAY ANY
23 ATTENTION TO THAT FIRE.

24 Q BUT YOU SAW THE SMOKE?

25 A I SAW THE SMOKE.

1 Q DID YOU SUBSEQUENTLY GO OVER TO THE GENERAL DIRECTION
2 THAT YOU SAW THE SMOKE FROM?

3 A YES SIR, I WENT OVER THERE AUGUST THE 23RD.

4 Q AND WHY DID YOU GO OVER THERE THAT DAY?

5 A I CAUGHT TWO FELLOWS FISHING IN THE POND AND I WALKED
6 AROUND THE POND AND ASKED THEM TO LEAVE BECAUSE THEY WERE
7 TRESPASSING AND THEY LEFT THEIR ROD AND REEL AND THEIR
8 BAIT, THEY LEFT EVERYTHING AND I PICKED THEM UP AND KEPT
9 ON WALKING AROUND AND CAME IN THE BACK SIDE AND THAT IS
10 WHEN I WALKED UP ON THE VEHICLE.

11 Q OKAY. WHAT WAS THE CONDITION OF THE VEHICLE THAT YOU
12 WALKED UP ON?

13 A IT WAS BURNT PRETTY BAD.

14 Q DID THERE APPEAR TO BE ANYTHING LEFT OTHER THAN
15 METAL?

16 A NO, SIR.

17 Q ANYTHING THAT WOULD BURN DID BURN?

18 A ANYTHING THAT WOULD BURN IN THAT VEHICLE BURNT.

19 Q WHEN YOU FOUND THAT CAR ON THE 23RD, WHAT DID YOU DO
20 AT THAT POINT?

21 A I CAME BACK HOME TO GILBERT AND I CALLED MS. WANNELLE
22 AND I TOLD HER WHAT I HAD FOUND. I SAID IT IS PRETTY
23 CLOSE TO THE OTHER GUYS, I SAID I NEED TO GET A PLAT FROM
24 YOU AND LET ME LOOK AND SEE IF THAT CAR IS ON YOUR LAND
25 AND IF IT IS I NEED TO GET IT REMOVED.

1 Q DID YOU DO ANYTHING ON THE 23RD WHEN YOU FOUND IT?

2 A NO SIR, I DID NOT.

3 Q AND WERE YOU UNSURE ABOUT WHO OWNED THE PROPERTY?

4 A I WAS UNSURE ABOUT WHO OWNED THE PROPERTY AND I
5 WANTED TO MAKE SURE IT WAS ON MS. WANNELLE'S LAND BEFORE I
6 HAD ANYTHING DONE TO THAT CAR.

7 Q AND ULTIMATELY WHAT WERE YOU ABLE TO FIGURE OUT AFTER
8 YOU GOT A PLAT OF THE LAND?

9 A I FIGURED OUT THE CAR WAS ON HER LAND AND THAT IS
10 WHEN I CALLED THE LEXINGTON COUNTY SHERIFFS DEPARTMENT AND
11 ASKED THEM TO COME GET THE CAR OFF THE LAND.

12 Q AND WHEN YOU CALLED THE SHERIFFS DEPARTMENT, ABOUT
13 WHEN WAS THAT?

14 A THAT WAS ON OR ABOUT THE, IT WAS AROUND THE 30TH OR
15 31ST OF AUGUST IS WHEN I ACTUALLY CALLED THEM.

16 Q AND DID THEY COME DOWN THERE AT THAT TIME?

17 A THEY TRIED TO COME DOWN AND FIND ME BUT THEY COULD
18 NOT FIND THE ROAD THAT CAME IN OFF OF HAPPY TOWN SO THEM
19 AND I DIDN'T HOOK UP THAT DAY.

20 Q DID ANYTHING HAPPEN WITH THE CAR AT THE END OF
21 AUGUST?

22 A NO, SIR.

23 Q OKAY.

24 A THE END OF AUGUST I HAD TO GO TO PORTLAND, OREGON FOR
25 TWO WEEKS SO I WAS OUT OF TOWN SO NOTHING HAPPENED.

1 Q AND AFTER YOU GOT BACK INTO TOWN WHAT HAPPENED AT
2 THAT POINT?

3 A AT THAT POINT I DID NOT GO DOWN TO THE CABIN BECAUSE
4 I SPENT SOME TIME WITH MY FAMILY. FINALLY ON OCTOBER THE
5 31ST WHICH WAS HALLOWEEN NIGHT ON A FRIDAY, I CALLED
6 LEXINGTON COUNTY, TOLD THEM WHO I WAS, WHAT I HAD FOUND
7 AND THE DISPATCHER IN LEXINGTON TOLD ME, MR. BIRCHMORE,
8 WHEN ARE YOU GOING TO THE PROPERTY. AGAIN, I SAID I AM
9 GOING IN THE MORNING AND HE SAID WHEN YOU GET TO THE STORE
10 ON NUMBER 6 HIGHWAY IF YOU WILL CALL ME I WILL HAVE A
11 DEPUTY MEET YOU THERE. I SAID, YES SIR, OKAY. ABOUT
12 8:30, QUARTER TO 9:00 THAT SATURDAY MORNING I WAS AT THE
13 STORE, I CALLED THE DISPATCHER. PROBABLY TEN MINUTES
14 LATER LEXINGTON COUNTY DEPUTY WAS THERE AND I SHOWED HIM
15 HOW TO GET INTO THE PLACE AND EVERYTHING LIKE THAT.

16 Q AND DID YOU TAKE THE DEPUTY TO THE CAR?

17 A I TOOK THE DEPUTY TO THE CAR, HE LOOKED AROUND, HE
18 TOLD ME IT LOOKED LIKE AN INSURANCE JOB. HE GOT THE BIN
19 NUMBER OFF, TOOK HIS WALKIE TALKIE THING AND GAVE THE LADY
20 AT LEXINGTON COUNTY THE BIN NUMBER AND SHE TOLD ME TO ROPE
21 OFF AND HOLD EVERYBODY THERE.

22 Q DID THAT IN FACT TAKE PLACE?

23 A OH, YES.

24 Q APPROXIMATELY HOW MANY COPS SHOWED UP?

25 A PROBABLY ABOUT 50 OR 60, THEY HAD BLOOD HOUNDS, THEY

1 HAD ALL TERRAIN VEHICLES, SLED CAME DOWN, YOU NAME IT WE
2 HAD IT. I THINK THE ONLY THING THAT WAS MISSING WAS A
3 PASTOR AND EVERYTHING ELSE WAS THERE.

4 Q MR. BIRCHMORE, THE ENTRANCE TO THAT PROPERTY, IS IT
5 WELL MARKED?

6 A NO SIR, IT IS NOT. WE HAD TO STAND BY THE ROAD TO
7 SHOW THE DEPUTIES HOW TO GET INTO THE BACK OF THE LOT. IF
8 YOU DO NOT KNOW THAT ROAD IS THERE YOU AIN'T GOING TO FIND
9 IT, THE BOTTOM LINE.

10 Q HOW WOULD YOU DESCRIBE THE AREA WHERE THAT CAR WAS
11 FOUND, IS IT HEAVILY WOODED, IS IT SPARSELY WOODED?

12 A ONCE YOU GET PAST THE POWER LINES AND SOUTH CAROLINA
13 ELECTRIC GAS DOES NOT DO A GOOD JOB OF KEEPING THE POWER
14 LINES CUT, I MEAN THE TREES ON IT WERE ABOUT THAT HIGH.
15 SINCE THEN I HAVE GOT THEM TO CUT IT FOR ME BUT ONCE YOU
16 GET OFF THAT, IT IS HEAVILY WOODED. IT IS BIG ENOUGH FOR
17 A CAR TO FIT BUT YOU ARE GOING TO TEAR YOUR CAR UP BECAUSE
18 YOU HAVE GOT LIMBS HANGING OVER AND HANGING OUT AND YOU GO
19 AROUND A BUNCH OF CURVES AND BOOM, THERE IT IS.

20 Q IT IS PRETTY MUCH OUT IN THE WOODS?

21 A YES, IT IS PRETTY MUCH OUT IN THE WOODS, WE HAD QUITE
22 A FEW VEHICLES GET STUCK DOWN THERE WHEN THEY WERE DOWN
23 THERE LOOKING AT THE CAR. A LOT OF PEOPLE WILL COME OUT
24 THERE AND DUMP, THEY WILL DUMP SHINGLES OUT BY THE ROAD,
25 OLD REFRIGERATORS, WASHING MACHINES AND STUFF LIKE THAT

1 BUT WE TRY TO KEEP IT CLEANED UP.

2 Q DO YOU NEED TO KNOW WHERE THAT ROAD IS TO GO TO THAT
3 PROPERTY?

4 A YES.

5 Q TO THAT LOCATION?

6 A YES, SIR.

7 Q THANK YOU, MR. BIRCHMORE, PLEASE ANSWER ANY QUESTIONS
8 THAT MR. FLOYD HAS FOR YOU.

9 THE COURT: MR. FLOYD.

10 MR. FLOYD: NO QUESTIONS, YOUR HONOR.

11 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
12 WITNESS.

13 MR. STUMBO: DETECTIVE DAVID PRITCHARD.

14 DAVID PRITCHARD, AFTER BEING DULY SWORN,
15 TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. STUMBO:

18 Q MR. PRITCHARD, HOW ARE YOU DOING.

19 A FINE, SIR, HOW ARE YOU.

20 Q GOOD. WHERE ARE YOU CURRENTLY EMPLOYED?

21 A LEXINGTON COUNTY SHERIFFS DEPARTMENT.

22 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFFS DEPARTMENT?

23 A A LITTLE OVER TEN YEARS.

24 Q WOULD YOU GIVE US JUST A BRIEF DESCRIPTION OF WHAT
25 YOUR ROLES HAVE BEEN AT YOUR TIME AT THE SHERIFFS

1 DEPARTMENT?

2 A WHEN I FIRST STARTED OUT I SPENT ABOUT TWO YEARS ON
3 ROAD PATROL, I BASICALLY RESPONDED TO CALLS FOR SERVICE.
4 THEN I GOT PROMOTED TO A RESIDENCE DEPUTY AND I WAS
5 ASSIGNED TO CERTAIN AREAS OF THE COUNTY WHICH I WAS
6 RESPONSIBLE FOR. I SPENT ABOUT TWO YEARS THERE AND THEN
7 GOT PROMOTED TO MAJOR CRIME DETECTIVE, SPENT ABOUT SIX
8 YEARS THERE. AND A LITTLE OVER SIX MONTHS GOT PROMOTED TO
9 TRAINING SERGEANT.

10 Q DID YOU HAVE ANY PRIOR LAW ENFORCEMENT BACKGROUND
11 BEFORE THE SHERIFFS DEPARTMENT?

12 A NO, SIR.

13 Q HOW LONG HAVE YOU BEEN AN INVESTIGATOR, ABOUT SEVEN
14 YEARS, IS THAT WHAT YOU SAID?

15 A I BELIEVE SLIGHTLY OVER SIX YEARS.

16 Q HOW MANY CASES, DETECTIVE, DURING THAT SIX YEAR
17 PERIOD DID YOU INVESTIGATE?

18 A PROBABLY 700 OR 800.

19 Q DID YOU HAVE AN OCCASION ON ONE OF THOSE INVOLVING
20 THE DEFENDANT, JOHNNIE FRAZIER?

21 A YES SIR, I DID.

22 Q AND WHERE DID YOU RESPOND TO INITIALLY, DO YOU RECALL
23 THAT ON THAT CASE?

24 A 1509 BUSBEE ROAD WHICH IS IN THE GASTON AREA OF
25 LEXINGTON COUNTY.

1 Q WILL YOU GIVE THE JURY, BRIEFLY, SOME OF YOUR
2 OBSERVATIONS OF THE CRIME SCENE THAT DAY?

3 A SURE. I WAS OBVIOUSLY NOT THE FIRST ONE THERE. I
4 WAS CALLED AFTER THE RESPONDING OFFICERS HAD GOTTEN THERE.
5 EMS PERSONNEL HAD ALREADY ARRIVED AND ONCE THEY HAD GOTTEN
6 THERE AND KIND OF ACCESSED THE SITUATION THEY MADE THE
7 DECISION TO CALL A MAJOR CRIME DETECTIVE AT WHICH TIME I
8 WAS CALLED TO RESPOND. AND WHEN I GOT THERE, THERE WAS, I
9 THINK THE AMBULANCE WAS STILL THERE, EMS PERSONNEL WAS
10 STILL THERE, NUMEROUS LAW ENFORCEMENT PERSONNEL WAS THERE,
11 ANYWHERE FROM ROAD DEPUTIES TO ROAD SERGEANTS,
12 LIEUTENANTS, CAPTAINS AND ALSO NUMEROUS FAMILY MEMBERS AND
13 NEIGHBORS HAD ALREADY ARRIVED ON THE SCENE AS WELL.

14 Q WERE YOU ABLE TO OBSERVE THE BODY OF MS. HURSEY?

15 A NOT AT THAT TIME BUT LATER ON, YES SIR.

16 Q WERE YOU ABLE TO INTERVIEW SOME OF THE WITNESSES AT
17 THE SCENE THAT DAY?

18 A YES, SIR.

19 Q AND BETWEEN THE TIME OF THE INCIDENT, IT WAS AUGUST
20 THE 14TH AND THE TIME THAT MR. BIRCHMORE WAS REFERRING TO
21 WHEN YA'LL CAME OUT AND FOUND THAT BURNT CAR,
22 APPROXIMATELY HOW MANY WITNESSES DID YOU TALK TO IN THAT
23 TIMEFRAME IN REGARDS TO THIS CASE?

24 A WE TALKED WITH NUMEROUS, I DON'T HAVE ANY EXACT
25 NUMBER, WE TALKED TO MANY PEOPLE. AS A GENERAL COURSE OF

1 MY INVESTIGATION EVERYBODY IS LISTED AS A SUSPECT SO EVERY
2 NAME THAT CAME UP WHETHER THEY WERE ASSOCIATED AS A FAMILY
3 MEMBER, FRIEND, NEIGHBOR, ANY KIND OF ASSOCIATION,
4 BUSINESS WISE OR OTHER WE INTERVIEWED THEM AND
5 INVESTIGATED THEM.

6 Q YOU SAY YOU TALKED TO 50 WITNESSES, 75?

7 A I WOULD SAY EASY, YES SIR.

8 Q WITNESSES THAT WE HAVE SEEN THIS AFTERNOON, STARR
9 COUGAR, SCOTTIE, WERE YOU FAMILIAR WITH THEM?

10 A YES, SIR.

11 Q SHERRI QUARLES?

12 A YES, SIR.

13 Q OKAY, AROUND THE TIME OF THE INCIDENT OR SHORTLY
14 THEREAFTER DID THE INVESTIGATIVE TEAM MAKE CONTACT WITH
15 ANYBODY WHO HAD BEEN WITH JOHNNIE FRAZIER SINCE THE
16 MURDER?

17 A YES.

18 Q AND WHO WERE THOSE PEOPLE?

19 A A COUPLE OF THEM WAS TAMMI INABINET AND MATT
20 RICHBOURG.

21 Q AND WHO WERE THEY?

22 A THEY WERE ASSOCIATES OF JOHNNIE FRAZIER, SOME
23 FRIENDS.

24 Q DID YOU GET A STATEMENT FROM TAMMI?

25 A YES, SIR.

1 Q WERE YOU ABLE TO LOCATE JOHNNIE AFTER SPEAKING WITH
2 THEM?

3 A NOT IMMEDIATELY AFTER, IT WAS STILL SOMETIME AFTER.

4 Q WERE THERE ANY, WAS THERE ANYTHING THAT YOU WERE
5 AWARE OF AT THAT POINT THAT YOU WERE LOOKING FOR IN
6 REGARDS TO JOHNNIE FRAZIER, AFTER SPEAKING WITH TAMMI AND
7 MATT.

8 MR. FLOYD: YOUR HONOR, I OBJECT, THIS IS HEARSAY.

9 THE COURT: I SUSTAIN.

10 MR. STUMBO: I CAN REPHRASE, YOUR HONOR.

11 Q AFTER YOU HAD SPOKEN WITH TAMMI AND MATT, AT ANY
12 POINT LATER WAS THERE ANY KIND OF VEHICLE THAT YOU WERE
13 AWARE OF, MADE AWARE OF REGARDING JOHNNIE FRAZIER.

14 MR. FLOYD: I OBJECT TO HEARSAY.

15 THE COURT: THE QUESTION WAS AFTER SPEAKING TO WHOM,
16 I DIDN'T UNDERSTAND YOU, YOU ARE GOING TO HAVE TO SPEAK
17 UP.

18 Q AFTER SPEAKING WITH THE WITNESSES THAT WE WERE JUST
19 TALKING TO WAS THERE A VEHICLE--

20 THE COURT: WHAT WITNESSES ARE YOU TALKING ABOUT,
21 THERE MAY BE HEARSAY AND THERE MAY NOT BE HEARSAY
22 DEPENDING ON WHETHER OR NOT THEY TESTIFIED. I CAN'T RULE
23 UNLESS I KNOW.

24 MR. STUMBO: YES SIR, YOUR HONOR. I WILL REPHRASE
25 THE QUESTION.

1 THE COURT: AT THIS TIME THE OBJECTION IS SUSTAINED.

2 Q DID YOU OBTAIN A SEARCH WARRANT AT THAT POINT FOR A
3 VEHICLE?

4 A SHORTLY THEREAFTER, YES SIR.

5 Q WHAT VEHICLE WAS THAT?

6 A IT WAS FOR A STORAGE VAN, I BELIEVE IT WAS A VAN,
7 STORAGE VAN.

8 Q AND WHAT ABOUT THAT VAN WAS RELEVANT IN THIS CASE?

9 A TAMMI INABINET HAD BEEN DRIVING THE VAN.

10 MR. FLOYD: YOUR HONOR, I OBJECT, THAT IS HEARSAY
11 INFORMATION THERE.

12 THE COURT: SUSTAINED.

13 Q YOU DID OBTAIN A SEARCH WARRANT FOR A MOVING VAN?

14 A YES, I DID.

15 Q DID YOU RECOVER ANY ITEMS FROM THAT MOVING VAN?

16 A YES, WE DID.

17 Q AND WHAT DATE WAS THAT, DO YOU RECALL?

18 A I BELIEVE IT WAS AUGUST THE 18TH.

19 Q WHAT DID YOU RECOVER OUT OF THAT VAN?

20 A A BOOK BAG, WHAT WE CALL A BOOK BAG, IT WAS A BLACK
21 BAG.

22 Q DID YOU PERSONALLY EXECUTE THAT SEARCH WARRANT, WHO
23 WAS PRESENT FOR IT?

24 A I WAS PRESENT FOR IT.

25 Q WHO ELSE WAS PRESENT AT THAT TIME?

1 A ONE OF OUR CRIME SCENE INVESTIGATORS, INVESTIGATOR
2 MIKE PHIPPS, ANOTHER ONE OF OUR INVESTIGATORS, JONATHAN
3 GABERT AND I THINK, SERGEANT BARBARA MCMULLEN WITH OUR ID
4 SECTION.

5 Q WERE YOU EVER ABLE TO LOCATE JOHNNIE FRAZIER?

6 A LATER ON WE DID.

7 Q DID YOU GET A STATEMENT FROM HIM?

8 A YES, SIR.

9 Q AND YOU WERE HERE FOR DETECTIVE MARSHALL'S TESTIMONY
10 EARLIER, WERE YOU NOT?

11 A YES.

12 Q WERE YOU THERE WHEN THE BURNED UP CAR WAS FOUND DOWN
13 ON HAPPY TOWN ROAD?

14 A YES, SIR.

15 Q WAS THAT AT THE LOCATION HE IDENTIFIED ON THE MAP?

16 A THAT IS CORRECT.

17 Q AND WHAT WAS THE CONDITION OF THAT VEHICLE?

18 A IT WAS COMPLETELY BURNED UP.

19 Q THE BACKPACK THAT YOU JUST REFERRED TO, WHERE WAS
20 THAT PLACED AFTER IT WAS FOUND IN THE VAN?

21 A WE PLACED IT INTO EVIDENCE.

22 Q THAT IS ALL I HAVE FOR THIS WITNESS AT THIS TIME.

23 THE COURT: CROSS-EXAMINE, MR. FLOYD.

24 CROSS-EXAMINATION

25 BY MR. FLOYD:

1 Q DETECTIVE PRITCHARD, WERE YOU THE LEAD INVESTIGATOR
2 ON THIS CASE?

3 A YES, SIR.

4 Q NOW, THE PICTURE OF JOHNNIE FRAZIER WAS PUT OUT, WAS
5 IT AUGUST THE 19TH OF '03, IS THAT WHEN YA'LL PUT THE
6 FLYER WITH JOHNNIE FRAZIER'S PICTURE ON IT?

7 A ACTUALLY I HAD A FLYER DATED AUGUST THE 15TH WHICH
8 WAS THE DAY AFTER.

9 Q OKAY, YOU ALREADY HAD HIS PICTURE OUT AUGUST THE
10 15TH?

11 A YES, SIR.

12 Q SO, BASICALLY THE DAY AFTER THE MURDER YOU HAD A
13 PICTURE OF JOHNNIE FRAZIER CIRCULATING THROUGH THE
14 COMMUNITY?

15 A I AM GOING ON THE DATE OF THE FLYER, BASED ON THAT,
16 YES.

17 Q AND THEY WERE PLACED OUT IN THE COMMUNITY AT VARIOUS
18 PUBLIC LOCATIONS?

19 A YES.

20 Q NOW, I THINK THE TESTIMONY WAS THAT THE CAR WAS SEEN,
21 WAS FIRST OBSERVED ABOUT A WEEK AFTER THE MURDER, IS THAT
22 CORRECT?

23 A I BELIEVE THAT IS WHAT HE TESTIFIED TO, YES SIR.

24 Q AND THAT WOULD OF BEEN SEVERAL DAYS AFTER JOHNNIE
25 FRAZIER'S PICTURE WAS CIRCULATED THROUGH THE COMMUNITY, IS

1 THAT CORRECT?

2 A BASED ON THE DAY HE GAVE, YES SIR.

3 Q NOW, IF A PERSON WAS IN POSSESSION OF THAT CAR AND
4 KNEW THAT THE POLICE WERE LOOKING FOR JOHNNIE FRAZIER THE
5 WAY TO KEEP YOU RIGHT ON TRACK OF THAT IS TO PUT THAT CAR
6 SOMEWHERE CLOSE TO HIS DADDY'S PLACE, WOULDN'T IT?

7 A I AM NOT SURE WHERE YOU ARE GETTING AT.

8 Q IF THE COMMUNITY KNEW THAT YOU WERE LOOKING FOR
9 JOHNNIE FRAZIER AS A SUSPECT IN THIS MURDER, NOW IF
10 SOMEONE WANTED YOU TO CONTINUE TO THINK THAT JOHNNIE
11 FRAZIER WAS A SUSPECT A GOOD WAY TO DO THAT WOULD BE TO
12 PUT THE VICTIMS CAR OVER THERE CLOSE TO WHERE HIS FATHER
13 LIVED, WOULDN'T IT.

14 MR. STUMBO: OBJECTION, CALLS FOR SPECULATION.

15 THE COURT: SUSTAINED.

16 Q NOW, THE HOUSE IS 100 TO 150 YARDS TO WHERE THE
17 VEHICLE WAS FOUND?

18 A I DON'T KNOW THAT FOR A FACT, SIR.

19 Q YOU HAVE HEARD THAT MENTIONED BEFORE, HAVEN'T YOU?

20 A I HAVE HEARD IT MENTIONED BEFORE, YES.

21 Q HAVE YOU CHECKED IT OUT SINCE YOU HEARD IT MENTIONED?

22 A NO, SIR.

23 Q WOULDN'T YOU THINK IT WOULD BE RELEVANT?

24 A WE HAD DEPUTES ALL OVER THE PLACE.

25 Q YOU DON'T THINK IT WOULD BE RELEVANT IF JOHNNIE

1 FRAZIER'S DADDY LIVED THERE AND A LEXINGTON COUNTY
2 SHERIFFS DEPUTY WAS WITHIN A 100 OR 150 YARDS, THAT HE
3 WOULD PUT THE CAR THERE AND BURN IT, WITHIN A 150 YARDS OF
4 THE SHERIFFS DEPUTY.

5 A I DON'T KNOW.

6 Q NOTHING FURTHER.

7 THE COURT: ANY REDIRECT AT THIS TIME?

8 MR. STUMBO: JUST ONE, YOUR HONOR.

9 REDIRECT EXAMINATION

10 BY MR. STUMBO:

11 Q AT THE TIME THAT YOU FOUND THE BURNED UP CAR WERE
12 THERE ANY DEPUTIES OF THE SHERIFFS DEPARTMENT SUSPECTS OF
13 THIS INVESTIGATION?

14 A NO, SIR.

15 Q NO FURTHER QUESTIONS AT THIS TIME, YOUR HONOR.

16 THE COURT: YOU MAY STEP DOWN.

17 MR. RIDDLE: YOUR HONOR, MAY WE APPROACH?

18 THE COURT: SURE.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
21 JURY.)

22 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN,
23 THERE IS A MATTER I NEED TO TAKE UP OUTSIDE OF YOUR
24 PRESENCE, DON'T DISCUSS THE CASE AND STEP BACK TO YOUR
25 JURY ROOM. EVERYONE ELSE STAY SEATED, PLEASE.

1 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT.)

2 THE COURT: SOLICITOR.

3 MR. RIDDLE: YOUR HONOR, IF IT PLEASE THE COURT, WE
4 ARE FIXING TO GET INTO THE MEAT OF THE TESTIMONY ABOUT
5 THIS BOOK BAG THAT DETECTIVE PRITCHARD JUST MENTIONED.
6 WHEN WE DID THIS CASE BEFORE WE ACTUALLY NEVER GOT TO THE
7 POINT THAT I WANTED TO ADDRESS WITH THE COURT BUT I WANTED
8 TO DO IT NOW BEFORE WE HAD THIS BOOK BAG MARKED. YOUR
9 HONOR, THE BOOK BAG WAS ULTIMATELY TIED TO THE VICTIM IN
10 THIS CASE THROUGH DNA ANALYSIS, THE BOOK BAG WAS ALSO TIED
11 TO MR. FRAZIER BY TWO METHODS, ONE WAS A WALLET THAT
12 BELONGED TO HIM CONTAINING ID MATERIALS THAT WAS FOUND
13 INSIDE OF THE BOOK BAG. THE SECOND METHOD, YOUR HONOR, IS
14 ALSO THROUGH DNA, THERE WAS A CIGARETTE FOUND INSIDE OF
15 THIS BOOK BAG, THE CIGARETTE WAS TESTED AGAINST THE CODIS
16 DATA BASE OUT AT SLED. THEY GOT A HIT ON CODIS THAT
17 MATCHED, THAT IS C-O-D-I-S, THEY GOT A HIT ON THE CODIS
18 DATA BASE THAT MATCHED MR. FRAZIER. AS A RESULT OF THE
19 CODIS HIT, YOUR HONOR, WE WENT AND GOT A SEARCH WARRANT TO
20 GET A SAMPLE OF MR. FRAZIER'S BLOOD OR EXCUSE ME, NOT
21 BLOOD BUT JUST A DNA SAMPLE FROM MR. FRAZIER. YOUR HONOR,
22 I WANTED TO GO AHEAD AND ADDRESS AT THIS TIME WITH THE
23 COURT IS THAT I DISCUSSED THIS MATTER WITH FLOYD AND I
24 THINK THERE IS ONLY TWO WAYS THAT THE STATE CAN HANDLE
25 THIS. NUMBER ONE IS TO TALK ABOUT THE CODIS DATA BASE,

1 THE FACT THAT WE GOT A HIT AND THEN WE GOT A SEARCH
2 WARRANT. OR NUMBER TWO, JUST TO GLOSS OVER THE CODIS HIT
3 AND JUST TELL THIS JURY THAT WE OBTAINED A SAMPLE OF MR.
4 FRAZIER'S DNA AND THAT WE MATCHED THE CIGARETTE BUTT TO
5 THAT. MY UNDERSTANDING IS THAT MR. FLOYD WOULD PREFER THE
6 SECOND METHOD, THAT WE JUST GLOSS OVER IT AND COMPLETELY
7 OUT THE ISSUE OF THE CODIS DATA BASE HIT. BUT I WANT THE
8 RECORD TO REFLECT THAT THAT ISSUE HAS BEEN ADDRESSED
9 BETWEEN MR. FLOYD AND MR. FRAZIER SO THAT IT WILL BE CLEAR
10 SHOULD THAT EVER BECOME NECESSARY.

11 THE COURT: SO RATHER THAN TALK ABOUT THE CODIS OR
12 JUST GO INTO THE FACTS THAT WE HAVE GOT A SAMPLE, WE HAVE
13 GOT DNA FROM HIS BOOK BAG, WE HAVE GOT A SAMPLE THAT
14 IDENTIFIES TO THE DEFENDANT IN THE RESULT OF A SEARCH
15 WARRANT, THAT IS WHAT--

16 MR. RIDDLE: I WASN'T EVEN GOING TO GET INTO A SEARCH
17 WARRANT, I CAN, BUT WE OBTAINED THE SAMPLE FROM JOHNNIE
18 FRAZIER, PERIOD. IT WAS WHAT I INTENDED TO DO BECAUSE I
19 WANT TO KEEP IT AS CLEAN AS I CAN.

20 THE COURT: ANY PROBLEM WITH THAT APPROACH, MR.
21 FLOYD?

22 MR. FLOYD: NO, YOUR HONOR. WE ARE ACCEPTABLE WITH
23 THE PROCEDURE.

24 THE COURT: I SEE YOUR CLIENT NODDING SO YOU
25 OBVIOUSLY DISCUSSED IT.

1 MR. FLOYD: YES, SIR.

2 THE COURT: ANYTHING ELSE WE NEED TO DO AT THIS TIME.

3 MR. RIDDLE: YOUR HONOR, I WANT TO MARK THE BOOK BAG
4 FOR IDENTIFICATION AT THIS POINT.

5 (WHEREUPON, STATE'S EXHIBIT NO. 22 WAS MARKED FOR
6 IDENTIFICATION ONLY.)

7 THE COURT: WE WILL TAKE A FIVE MINUTE BREAK.

8 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

9 THE COURT: IS THE DEFENDANT READY?

10 MR. FLOYD: YES, SIR.

11 THE COURT: IS THE STATE READY?

12 MR. RIDDLE: WE ARE READY, YOUR HONOR.

13 THE COURT: GET THE JURY IN, PLEASE.

14 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
15 APPROXIMATELY 3:22 P.M.)

16 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

17 MR. RIDDLE: THE STATE CALLS STANLEY GLEATON TO THE
18 STAND.

19 STANLEY GLEATON, AFTER BEING DULY SWORN,
20 TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. RIDDLE:

23 Q MR. GLEATON, YOU ARE OBVIOUSLY INCARCERATED RIGHT
24 NOW, IS THAT CORRECT?

25 A YES, SIR.

1 Q WHERE ARE YOU BEING HELD?

2 A BROAD RIVER.

3 Q BROAD RIVER ROAD?

4 A YES, SIR.

5 Q WHAT KIND OF INSTITUTION IS THAT, IS THAT A MAXIMUM,
6 MINIMUM, MEDIUM, WHAT IS IT?

7 A IT IS A WORK CAMP.

8 Q MINIMUM SECURITY?

9 A YES, SIR.

10 Q AND HOW LONG HAVE YOU BEEN THERE?

11 A NOT ON THAT, ABOUT SIX MONTHS NOW.

12 Q YOU WERE SOMEWHERE ELSE PRIOR TO THAT?

13 A YES, SIR.

14 Q WHEN DID YOU GET INCARCERATED, SIR?

15 A 2005.

16 Q NOW, YOU GOT SOME OTHER CONVICTIONS IN YOUR PAST, IS
17 THAT CORRECT?

18 A YES, SIR.

19 Q AND I NEED TO ASK YOU ABOUT SOME OF THAT, OKAY?

20 A ALL RIGHT.

21 Q IN '93 YOU HAD TWO CHARGES OF PWID, COCAINE, THAT YOU
22 WERE CONVICTED OF?

23 A YES, SIR.

24 Q IN '94 YOU HAD A SHOPLIFTING?

25 A YES, SIR.

1 Q AND IN '98 YOU HAD ANOTHER COCAINE CHARGE, PWID?

2 A YES, SIR.

3 Q AND IN 2001 YOU HAD A POSSESSION OF COCAINE?

4 A YES, SIR.

5 Q AND AT THE SAME TIME YOU HAD A FAILURE TO STOP FOR A
6 BLUE LIGHT AND AN ASSAULT CHARGE, CORRECT?

7 A YES, SIR.

8 Q THEN YOU HAD A COCAINE CHARGE, A GRAND LARCENY,
9 CONSPIRACY AND RECEIVING STOLEN GOODS, CORRECT?

10 A YES, SIR.

11 Q AND THAT IS THE SENTENCE YOU ARE SERVING RIGHT NOW?

12 A YES, SIR.

13 Q HOW MUCH TIME IS THAT FOR, THAT SENTENCE?

14 A I GOT SIX YEARS FOR ALL OF IT.

15 Q ABOUT HOW MUCH HAVE YOU GOT LEFT, MR. GLEATON?

16 A THREE MONTHS.

17 Q HOW MUCH?

18 A THREE MONTHS.

19 Q LET ME ASK YOU THIS, MR. GLEATON, BACK IN AUGUST OF
20 2003 WERE YOU IN OR OUT OF JAIL AT THAT TIME?

21 A I WAS OUT.

22 Q AND WHERE DID YOU LIVE AT THAT TIME?

23 A AT THAT TIME I WAS STAYING WITH MY COUSIN, ELBERT
24 BOLTON WHICH WE CALL BOO OVER ON AVON COURT DOWN ON
25 HIGHWAY 6.

1 Q WHAT COUNTY IS THAT IN?
2 A THAT IS IN LEXINGTON COUNTY.
3 Q AND IF YOU HAD TO TAKE A PART OF THE COUNTY TO CALL
4 THAT WHAT WOULD YOU CALL THAT AREA?
5 A GASTON.
6 Q GASTON?
7 A YES.
8 Q NOW, YOU SAY YOUR COUSIN'S NAME WAS ELBERT?
9 A YES.
10 Q BOLTON?
11 A YES.
12 Q AND WHAT DID YOU CALL HIM?
13 A BOO.
14 Q NOW, DO YOU KNOW JOHNNIE FRAZIER?
15 A YES, SIR.
16 Q HOW DID YOU MEET JOHNNIE FRAZIER?
17 A THROUGH MY COUSIN, BOO BOLTON.
18 Q OKAY. NOW BACK IN 2003 WERE YOU USING COCAINE?
19 A YES, SIR.
20 Q WAS BOO SELLING SOME COCAINE?
21 A YES, SIR.
22 Q WERE YOU SELLING SOME COCAINE?
23 A NO.
24 Q NOW, WHERE WAS BOO LIVING AT THAT TIME SPECIFICALLY?
25 A AVON COURT.

1 Q AND HOW FAR IS THAT FROM THE STORE?

2 A IT DEPENDS IF YOU DRIVE OR WALK.

3 Q HOW WOULD YOU GET THERE IF YOU WERE DRIVING TO AVON
4 COURT?

5 A COME OUT OF AVON COURT TO HIGHWAY 6, TAKE A RIGHT
6 AND GO AROUND THE CURVE AND THE DRIVE IS ON THE RIGHT.

7 Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS STATE'S
8 EXHIBIT NUMBER 16 AND ASK YOU IF YOU RECOGNIZE THIS, HAVE
9 YOU EVER SEEN THAT BEFORE?

10 A YES.

11 Q IS THAT THE STORE RIGHT OVER THERE?

12 A YES, SIR.

13 Q AND IT IS HIGHWAY 6 COMING DOWN HERE?

14 A YES, SIR.

15 Q AND THIS IS AVON COURT?

16 A THAT IS AVON COURT.

17 Q WHERE ABOUTS DID BOO LIVE ON AVON COURT, HOW FAR
18 DOWN?

19 A HE WAS BACK, THE FURTHEREST DRIVEWAY ON THE LEFT,
20 WHEN YOU GET TO AVON COURT, IT IS THE FURTHEREST DRIVEWAY
21 ON THE LEFT.

22 Q DOWN HERE AT THE END?

23 A YES.

24 Q OKAY. SO, WHEN YOU SAY, IT DEPENDS ON IF YOU WERE
25 WALKING OR DRIVING, BOO'S HOUSE WAS RIGHT HERE, YOU CAN

1 CUT THROUGH THESE FIELDS AND GET TO THE STORE QUICKER THAN
2 THE ROADS?

3 A YES.

4 Q BUT TO DRIVE IT YOU WOULD HAVE TO COME BACK DOWN AVON
5 AND THEN ALL THE WAY UP 6?

6 A YES, SIR.

7 Q NOW, YOU SAID YOU MET JOHNNIE FRAZIER THROUGH BOO
8 BOLTON, CORRECT?

9 A YES, SIR.

10 Q DO YOU REMEMBER WHERE YOU MET JOHNNIE FRAZIER?

11 A AT BOO'S HOUSE ON AVON COURT.

12 Q THE ONE THAT WE JUST TALKED ABOUT?

13 A YES, SIR.

14 Q AND DO YOU REMEMBER WHEN CAROL HURSEY WAS KILLED?

15 A KIND OF SORT OF, YES.

16 Q NOT EXACTLY THE DATE BUT YOU REMEMBER WHEN IT WAS?

17 A YES, I REMEMBER.

18 Q DO YOU REMEMBER HOW YOU FOUND OUT ABOUT CAROL GETTING
19 KILLED?

20 A YES, I JUST HEARD THEM TALK ABOUT IT AT THE STORE,
21 THERE WAS PEOPLE THERE TALKING ABOUT IT.

22 Q DID YOU SEE ANY NEWS OR RADIO OR ANYTHING ABOUT IT
23 LIKE THAT?

24 A NO.

25 Q DO YOU REMEMBER BEING AT BOO'S HOUSE ON THE 13TH OF

1 AUGUST OF 2003?

2 A YES.

3 Q WHEN YOU WERE THERE THEN WHO WAS THERE WITH YOU?

4 A HIM AND ME, MY COUSIN BOO, A WHITE GUY NAMED TERRY,
5 JOHNNIE FRAZIER AND IT WAS SOME OTHER GUY, BUT I DON'T
6 KNOW WHO HE WAS.

7 Q AND THAT WAS THE NIGHT BEFORE CAROL GOT KILLED?

8 A YES, SIR.

9 Q DO YOU REMEMBER HIM HAVING ANYTHING WITH HIM THAT
10 PARTICULAR NIGHT, MR. GLEATON?

11 A HE, WHO?

12 Q HE, MR. FRAZIER, I AM SORRY.

13 A YES SIR, HE HAD A TOTE BAG WITH HIM.

14 Q WHEN YOU SAY A TOTE BAG, WHAT ARE YOU DESCRIBING?

15 A IT WAS SORT OF LIKE A BOOK SACK, A BOOK SACK.

16 Q WHAT PART OF YOUR BODY WOULD YOU WEAR IT ON?

17 A YOU WOULD PUT IT ON YOUR BACK.

18 Q AND DO YOU REMEMBER WHAT COLOR IT WAS?

19 A IT WAS BLACK AND RED OR BLACK, IT WAS DARK WHEN I
20 SEEN IT. IT WAS A BLACK BOOK BAG, IT WAS TWO-TONED, I
21 CAN'T REALLY SAY IF IT WAS BLACK AND RED OR BLACK OR WHAT.

22 Q THE MAIN COLOR WAS BLACK?

23 A BLACK.

24 Q WHEN DID YOU SEE THAT BOOK BAG?

25 A THAT NIGHT.

1 Q WHERE ABOUTS?

2 A AT BOO'S HOUSE, HE HAD IT IN THE LIVING ROOM ON THE
3 FLOOR.

4 Q LET'S TALK ABOUT BOO'S HOUSE THAT NIGHT FOR JUST A
5 MINUTE, IF YOU CAN, OKAY. WAS IT A HOUSE, WAS IT A MOBILE
6 HOME, WHAT KIND OF HOUSE STRUCTURE WAS IT?

7 A IT WAS A DOUBLE WIDE TRAILER.

8 Q WAS HE LIVING THERE AT THE TIME?

9 A YES, WE WERE WORKING ON IT FOR HIM TO GET TO START
10 LIVING IN IT, WE WERE REMODELING IT FOR HIM.

11 Q AND WHEN YOU SAY REMODELING, WHAT ALL KIND OF WORK
12 WERE YA'LL DOING, MR. GLEATON?

13 A WE WERE PUTTING IN FLOORS, PAINTING, PUTTING DOWN
14 CARPET, THE WHOLE NINE YARDS, JUST THE INSIDE.

15 Q THE INSIDE?

16 A YES, THE WHOLE INSIDE.

17 Q AND WHAT AREA OF THAT MOBILE HOME WERE YA'LL WORKING
18 ON?

19 A AT THAT TIME WE WERE DOING ONE BACK ROOM AND THE
20 DINING ROOM FROM THE LIVING ROOM, THERE WAS A DINING ROOM
21 BACK THERE FROM THE KITCHEN, WE WERE WORKING IN THOSE TWO
22 SECTIONS.

23 Q AND WHERE DID MR. FRAZIER HAVE THAT BOOK BAG OR BACK
24 PACK THAT YOU DESCRIBED?

25 A IN THE LIVING ROOM.

1 Q OKAY. DO YOU REMEMBER WHAT, IF ANYTHING, MR. FRAZIER
2 HAD IN THE BACK PACK THAT NIGHT BEFORE MS. HURSEY WAS
3 KILLED?

4 A YES, HE HAD A LITTLE .22 AUTOMATIC PISTOL HE WAS
5 TRYING TO SELL TO MY COUSIN, BOO.

6 Q DID YOUR COUSIN BUY IT?

7 A NO, HE TOLD HIM THAT IT WAS A LITTLE TOO SMALL, HE
8 DIDN'T NEED NOTHING THAT SMALL.

9 Q WHO ALL WAS THERE THAT NIGHT WHEN YA'LL WENT TO BED?

10 A IT WAS ME, JOHNNIE, TERRY, BOO AND SOME, WHOEVER THE
11 OTHER GUY THAT WAS THERE, I CAN'T REMEMBER HIS NAME.

12 Q AND DID YOU END UP STAYING THERE THAT WHOLE NIGHT?

13 A YES, SIR.

14 Q DID ANY OTHER PEOPLE COME DOWN THERE THAT NIGHT?

15 A HE HAD A FEW PEOPLE COMING IN AND OUT TO SPEND MONEY.

16 Q TO SPEND MONEY?

17 A YES.

18 Q WHEN YOU SAY TO SPEND MONEY WHAT DO YOU MEAN?

19 A TO BUY DOPE.

20 Q WHO WAS SELLING?

21 A BOO.

22 Q ALL RIGHT. NOW, WHEN YA'LL WERE RENOVATING THAT
23 TRAILER ON THAT WEDNESDAY NIGHT WAS BOO PAYING YA'LL?

24 A YES, SIR.

25 Q HOW WAS HE PAYING YOU?

1 A BEER, FOOD, DOPE, WHATEVER THEY DECIDED THEY WANTED,
2 YOU KNOW, HE WOULD GIVE THEM WHATEVER THEY ASKED FOR.

3 Q DID YOU GET PAID THAT NIGHT?

4 A YES, SIR.

5 Q WHAT DID HE PAY YOU WITH?

6 A I GOT BEER, COKE, LIQUOR, FOOD, YOU KNOW, WHATEVER I
7 ASKED HIM FOR.

8 Q HOW ABOUT MR. FRAZIER?

9 A THE SAME THING TO HIM, YOU KNOW, WHATEVER HE TOLD BOO
10 HE WANTED, HE GAVE US THAT CHOICE.

11 Q YA'LL WERE DOING DRUGS THAT NIGHT?

12 A YES SIR, EVERYBODY IN THE HOUSE WAS HIGH ON
13 SOMETHING.

14 Q NOW, DID YOU STAY THERE ALL NIGHT LONG?

15 A YES, SIR.

16 Q ABOUT WHAT TIME DO YOU THINK YOU WENT TO BED, MR.
17 GLEATON?

18 A IT WAS BREAKING DAY BECAUSE ME AND JOHNNIE AND THE
19 REST OF US, THEY WERE WORKING, WE WORKED ALL THAT NIGHT.

20 Q WHEN YOU GOT UP, ABOUT WHAT TIME DID YOU GET UP THE
21 NEXT DAY?

22 A IT WAS SOMEWHERE BETWEEN 10:00 AND 12:00 O'CLOCK THAT
23 NEXT MORNING.

24 Q AND WHEN YOU GOT UP WHO WAS STILL THERE?

25 A JUST ME AND MY COUSIN, BOO.

1 Q JUST THE TWO OF YOU?

2 A YES.

3 Q WAS MR. FRAZIER STILL THERE?

4 A NO, EVERYBODY WAS GONE.

5 Q AND WAS TERRY, THE WHITE GUY THAT YOU KNEW, WAS HE
6 STILL THERE?

7 A NO. JUST ME AND MY COUSIN, BOO.

8 Q NOW, THE BOOK BAG THAT YOU TALKED ABOUT, DID MR.
9 FRAZIER, HAD YOU EVER SEEN IT PRIOR TO THAT WEDNESDAY
10 NIGHT?

11 A NO, SIR.

12 Q BUT YOU SAW A DARK COLORED BOOK BAG WITH HIM?

13 A YES.

14 Q LET ME SHOW YOU THIS ITEM, WHAT HAS BEEN MARKED AS
15 STATE'S NUMBER 22 FOR IDENTIFICATION, HAVE YOU EVER SEEN
16 THIS BEFORE?

17 A IT WAS A BOOK BAG LIKE THAT ONE BUT I CAN'T SEE THAT
18 THAT IS THE BOOK BAG, IT WAS ONE LIKE THAT.

19 Q SIMILAR TO THIS ONE?

20 A YES, SIR. BUT I CAN'T SAY THAT IS THE ONE, I CAN'T
21 SAY THAT AIN'T THE ONE BUT IT WAS A BOOK BAG JUST LIKE
22 THAT ONE.

23 Q LIKE THIS ONE?

24 A YES.

25 Q THAT MR. FRAZIER HAD THE NIGHT BEFORE THE HOMICIDE?

1 A YES, SIR.

2 Q DARK WITH SOME DIFFERENT COLOR ACCENTS ON IT?

3 A THE WAY IT LOOKED IN THE DARK, I CAN'T REALLY SAY.

4 Q OKAY. AND WHERE HE HAD THAT BOOK BAG IN THE HOUSE,
5 WAS WHAT PART OF THE HOUSE?

6 A THE LIVING ROOM WHICH WAS DARK.

7 Q WHAT WERE YA'LL DOING IN THE LIVING ROOM THAT NIGHT?

8 A WE WEREN'T DOING NOTHING IN THE LIVING ROOM, WE WERE
9 WORKING IN THE DINING ROOM SO WE HAD THE LIGHT ON IN THE
10 KITCHEN SO WE COULD SEE INTO THE DINING ROOM.

11 Q BUT THE LIVING ROOM SECTION, WAS IT WELL LIT OR NOT?

12 A NO, YOU COULDN'T SEE IN THERE, IT WAS OFF FROM THE
13 DINING ROOM.

14 Q NOW, DID YOU SEE MR. FRAZIER ON THURSDAY?

15 A YES, HE CAME BACK THAT THURSDAY TO FINISH UP TO DO
16 THE JOB.

17 Q AND WHEN HE CAME BACK THAT THURSDAY WHERE DID YOU SEE
18 HIM THEN?

19 A AT BOO'S, HE CAME BACK AT BOO'S HOUSE.

20 Q AND DID HE STILL HAVE THAT BOOK BAG WITH HIM?

21 A YES, SIR.

22 Q AND DID IT APPEAR TO YOU TO BE THE SAME ONE HE HAD
23 THE NIGHT BEFORE?

24 A I DIDN'T PAY IT NO MIND NO MORE, YOU KNOW, I SEEN IT
25 AND I DIDN'T EVEN PAY IT NO ATTENTION.

1 Q AND DID IT APPEAR TO BE A DIFFERENT BOOK BAG?

2 A FROM LOOKING, FROM PAYING ATTENTION TO IT IT WAS THE
3 SAME BAG TO ME, YOU KNOW.

4 Q WHEN HE CAME BACK THAT THURSDAY NIGHT, BESIDES THE
5 BOOK BAG DID HE HAVE ANYTHING ELSE WITH HIM AT THAT TIME?

6 A HE HAD SOME DOPE AND SOME CASH MONEY.

7 Q LET'S TALK ABOUT THEM SEPARATELY, OKAY. WHEN YOU SAY
8 HE HAD SOME DOPE, WHAT KIND OF DOPE WAS IT?

9 A CRACK.

10 Q AND HOW WAS HE CARRYING THAT DOPE, MR. GLEATON?

11 A IN A MATCH BOX.

12 Q WHEN YOU SAY A MATCH BOX, ARE YOU TALKING A THING
13 THAT STICK MATCHES COME IN?

14 A YES, SIR.

15 Q AND HOW MANY OF THOSE DID HE HAVE?

16 A TWO.

17 Q THE MATCH BOXES THAT HE HAD, WELL LET ME ASK YOU
18 THIS, YOU ARE PRETTY FAMILIAR WITH CRACK COCAINE, AREN'T
19 YOU?

20 A YES, SIR.

21 Q AND YOU SAW WHAT WAS IN THOSE MATCH BOXES?

22 A YES, SIR.

23 Q CAN YOU TELL THE JURY ABOUT HOW MUCH DOPE YOU THINK
24 THAT WAS, STREET VALUE?

25 A PROBABLY ABOUT \$400.00 DOLLARS, ALL OF IT TOGETHER.

1 Q OKAY. AND HE HAD THAT IN THE MATCH BOXES?

2 A YES, SIR.

3 Q AND YOU SAY HE HAD SOME MONEY AS WELL, CORRECT?

4 A YES, SIR.

5 Q HOW MUCH MONEY DID YOU SEE?

6 A THE ONLY MONEY I SEEN WAS HE HAD SPENT \$100.00

7 DOLLARS WORTH OF DOPE FROM MY COUSIN, BOO.

8 Q THAT WAS MORE DOPE IN ADDITION TO WHAT HE HAD?

9 A YES, SIR.

10 Q THE TIME THAT HE BOUGHT DOPE FROM YOUR COUSIN, BOO,
11 HOW MANY TIMES DID YOU SEE HIM BUY DOPE THAT NIGHT?

12 A THAT WAS ONE TIME RIGHT THERE BUT HE TALKED TO MY
13 COUSIN, BOO, TWO MORE TIMES BUT I CAN'T REALLY SAY HE
14 BOUGHT NO DOPE BECAUSE THE NEXT TWO TIMES THEY WENT INTO
15 THE BEDROOM OFF TO THEIR SELF.

16 Q AND AFTER JOHNNIE FRAZIER CAME BACK FROM THE BEDROOM
17 DID HE HAVE MORE DOPE?

18 A YES, SIR.

19 Q NOW, WHEN HE WAS THERE ON THAT THURSDAY NIGHT HE HAD
20 TWO MATCH BOXES FULL OF CRACK, RIGHT?

21 A YES.

22 Q AND THEN HE BOUGHT \$100.00 DOLLARS WORTH THAT YOU
23 SAW?

24 A YES, SIR.

25 Q AND THEN WENT INTO THE BEDROOM A COUPLE OF MORE TIMES

1 AND CAME BACK WITH MORE DOPE?

2 A YES, SIR.

3 Q NOW, WAS HE SMOKING ALL OF THIS HIMSELF OR WHAT WAS
4 HE DOING WITH IT?

5 A NO, HE WAS SMOKING WITH EVERYBODY THERE.

6 Q AND ABOUT HOW MANY PEOPLE WERE THERE THAT NIGHT THAT
7 YOU RECALL, MR. GLEATON?

8 A ABOUT, I DON'T KNOW, FROM 9 TO 12 PEOPLE.

9 Q HE WAS TREATING PEOPLE WITH DOPE THAT NIGHT?

10 A YES. THERE WAS ONE THAT DIDN'T HAVE MONEY TO BUY HIS
11 OWN, SOME PEOPLE WAS ALREADY GETTING THEIR OWN.

12 Q AND DID HE TREAT YOU?

13 A YES, WE WAS HANGING TOGETHER, WE WAS LOOKING OUT FOR
14 EACH OTHER, YOU KNOW.

15 Q DID HE TREAT YOU WITH THE DOPE THAT HE BROUGHT?

16 A NOT REALLY BECAUSE THE DOPE THAT HE CAME IN IT WASN'T
17 REALLY NO DOPE THAT YOU WOULD GET HIGH OFF OF. HE GOT ME
18 TO TRY TO COOK IT BACK UP FOR HIM, WE TRIED TO COOK AND TO
19 TRY TO MAKE IT A LITTLE BETTER DOPE BUT IT WASN'T TOO MUCH
20 TO IT.

21 Q DID HE TREAT YOU WITH THE DOPE THAT HE BOUGHT FROM
22 BOO THE FIRST TIME?

23 A YES.

24 Q AND THE DOPE THAT HE GOT FROM BOO THE SECOND TIME?

25 A YES.

1 Q HOW ABOUT THE THIRD TIME?

2 A THE WHOLE TIME THAT WE WERE THERE.

3 Q AND ABOUT HOW MANY HOURS DID THIS GO ON, MR. GLEATON,
4 THAT HE WAS TREATING EVERYBODY WITH DOPE?

5 A PROBABLY THREE OR FOUR HOURS.

6 Q THIS ON THURSDAY NIGHT?

7 A YES.

8 Q NOW, LET ME ASK YOU THIS. WE TALKED ABOUT THE NIGHT
9 BEFORE THE MURDER, RIGHT?

10 A YES.

11 Q AND THE NIGHT AFTER THE MURDER. DO YOU REMEMBER
12 TALKING TO MR. FRAZIER ABOUT A WEEK BEFORE THE MURDER?

13 A YEAH, WE HAD A LITTLE CONVERSATION ABOUT SOMETHING.

14 Q AND WHAT WAS THAT ABOUT, MR. GLEATON?

15 A WELL, HE SAID HE HAD RUN ACROSS A NICE LITTLE LICK.
16 HE WAS THINKING ABOUT GOING AND MAKING. AND I ASKED HIM
17 WHAT KIND OF LICK HE WAS TALKING ABOUT.

18 Q TIME OUT, LET ME STOP YOU RIGHT THERE. HE SAID
19 SOMETHING ABOUT A NICE LITTLE LICK?

20 A YES, SIR.

21 Q EXPLAIN TO THE JURY WHAT A NICE LITTLE LICK IS.

22 MR. FLOYD: YOUR HONOR, I AM GOING TO OBJECT TO THAT,
23 HOW CAN HE INTERPRET SOMEONE ELSE'S WORDS.

24 THE COURT: HE CAN INTERPRET WHAT IT MEANT TO HIM.

25 Q WHAT DOES A NICE LITTLE LICK MEAN TO YOU, MR.

1 GLEATON?

2 A WELL, ON THE STREET WE CALL IT A NICE LITTLE LICK

3 GOING, IT IS SOME MONEY, MAKE A NICE LITTLE LICK WITH SOME

4 DOPE, YOU KNOW. EITHER WAY, THAT IS THE WAY WE TRANSLATE.

5 Q THAT IS WHAT A LICK IS?

6 A YES.

7 Q AND HE TOLD YOU ABOUT A NICE LITTLE LICK ABOUT A WEEK

8 BEFORE CAROL GOT KILLED?

9 A YES.

10 Q DID YOU ASK HIM WHAT KIND OF LICK IT WAS?

11 A YES, SIR.

12 Q AND DID HE TELL YOU?

13 A NO SIR, HE TOLD ME HE COULDN'T TELL ME RIGHT NOW,

14 RIGHT THEN.

15 Q DID YOU ASK HIM IF IT WAS A BANK?

16 A YEAH.

17 Q AND WHAT DID HE SAY ABOUT THAT?

18 A HE SAID NO, IT WASN'T A BANK.

19 Q BUT WOULDN'T TELL YOU ANYTHING MORE?

20 A SO, AFTER THAT HE JUST LEFT IT ALONE.

21 Q BUT HE DESCRIBED IT AS A NICE LICK?

22 A YES, SIR.

23 Q WHAT IS A NICE LICK AS OPPOSED TO JUST A REGULAR

24 LICK?

25 A MONEY, I MEAN A NICE LITTLE LICK OF MONEY, YOU KNOW.

1 Q THAT IS A GOOD LICK?

2 A YES.

3 Q A LOT OF MONEY?

4 A MORE THAN I IMAGINE YOU GOT WHEN YOU GO TO MAKE THE
5 LICK.

6 Q OKAY. SO ABOUT A WEEK BEFORE CAROL GETS KILLED HE
7 TELLS YOU ABOUT A LICK?

8 A YES.

9 Q AND WEDNESDAY NIGHT BEFORE CAROL GETS KILLED YOU SEE
10 HIM WITH THIS BOOK BAG?

11 A YES, SIR.

12 Q THEN THURSDAY NIGHT YOU SEE HIM WITH THE BOOK BAG
13 AGAIN?

14 A YES, HE CAME BACK THURSDAY NIGHT, HE WAS RIDING A
15 BICYCLE WHEN HE CAME BACK TO FINISH UP ON THE TRAILER.

16 Q AND HE HAD THE BOOK BAG?

17 A YES, SIR.

18 Q AND HE HAD SOME CRACK COCAINE?

19 A YES, SIR.

20 Q TWO MATCH BOXES FULL?

21 A YES.

22 Q AND HE ALSO HAD SOME MONEY?

23 A YES, SIR.

24 Q HAD HE HAD MONEY THE NIGHT BEFORE WEDNESDAY NIGHT?

25 A HE HAD SOME, I DON'T KNOW HOW MUCH BECAUSE WHEN BOO

1 TOOK CARE OF US HE TOOK CARE OF US ONE BY ONE, YOU KNOW.

2 SO, BOO HAD A LITTLE CASH TOO.

3 Q BUT NOT ENOUGH TO BUY THAT COCAINE?

4 A I CAN'T SAY.

5 Q DID HE GIVE YOU THAT MUCH?

6 A WELL, THAT IS MY COUSIN, YOU KNOW.

7 Q MR. GLEATON, PLEASE ANSWER MR. FLOYD'S QUESTIONS.

8 THE COURT: CROSS-EXAMINE, MR. FLOYD.

9 MR. FLOYD: YOUR HONOR, I WOULD REQUEST A COPY OF HIS
10 RECORD.

11 MR. RIDDLE: YOUR HONOR, THIS HAS PREVIOUSLY BEEN
12 PROVIDED TO MR. FLOYD BUT I WILL GIVE IT TO HIM AGAIN.

13 CROSS-EXAMINATION

14 BY MR. FLOYD:

15 Q MR. GLEATON, WHEN YOU GAVE YOUR FIRST STATEMENT TO
16 THE POLICE WERE YOU INCARCERATED AT THAT TIME?

17 A NO, SIR.

18 Q AND AT THAT TIME YOU DIDN'T SAY ANYTHING ABOUT
19 ANYTHING TO DO WITH A LICK OR A SCORE OR ANYTHING LIKE
20 THAT, DID YOU?

21 A NO, SIR.

22 Q NOW, WERE YOU, WHO ALL WAS THERE THAT NIGHT, THE
23 NIGHT BEFORE THE MURDER?

24 A ME, JOHNNIE, TERRY, MY COUSIN BOO, AND THERE WAS ONE
25 MORE GUY, I CAN'T RECALL HIS NAME.

1 Q WERE THERE ANY WOMEN THERE?

2 A THAT NIGHT, THEY CAME, ONE OR TWO MIGHT OF CAME LATER
3 ON IN THE NIGHT, MELISSA LATER ON THAT NIGHT BUT SHE LEFT.

4 Q AND WHAT TIME DID ANY OTHER WOMAN COME BY?

5 A THAT WAS ABOUT IT, ALL OF THAT HAPPENED BETWEEN THE
6 TIME WE WERE THERE.

7 Q WHAT TIME DID YOU SAY IT STARTED?

8 A WHAT STARTED.

9 Q WHAT TIME DID YA'LL ALL GET TOGETHER THAT NIGHT?

10 A IT WAS DURING THE DAY.

11 Q WHAT TIME DURING THE DAY?

12 A IT WAS PROBABLY 6:00 AND 7:00 THAT EVENING.

13 Q AND SO MR. FRAZIER WOULD OF BEEN CONTINUOUSLY IN YOUR
14 PRESENCE UNTIL DAYBREAK?

15 A YES, SIR.

16 Q WHAT TIME WOULD YOU SAY DAYBREAK WOULD BE?

17 A PROBABLY ABOUT BETWEEN 7:00 AND 8:00 O'CLOCK THAT
18 NEXT MORNING.

19 Q DID YOU SEE HIM WHEN HE LEFT?

20 A NO, SIR.

21 Q YOU HAD ALREADY GONE TO BED?

22 A YES, SIR.

23 Q SO, YOU DON'T KNOW IF HE LEFT WALKING OR RIDING?

24 A I DON'T KNOW HOW HE LEFT.

25 Q BUT IT WOULD BE ABOUT 7:00 OR 8:00 O'CLOCK A.M.

1 A YES, BETWEEN THERE.

2 Q NOW, AFTER YOU MADE THAT FIRST STATEMENT YOU WERE
3 THEN INCARCERATED AT SOME POINT, WEREN'T YOU?

4 A YES, SIR.

5 Q AND THAT IS WHEN YOU MADE A SECOND STATEMENT, IS THAT
6 CORRECT?

7 A THAT IS RIGHT.

8 Q AND THIS PART ABOUT THE LICK THAT YOU TALK ABOUT,
9 THAT WAS MADE JANUARY THE 21ST OF '04, IS THAT RIGHT?

10 A YES.

11 Q NOW, AT THAT TIME YOU WERE IN JAIL FOR SOME SERIOUS
12 CHARGES, WEREN'T YOU?

13 A I DON'T KNOW, I DON'T REMEMBER WHAT THE CHARGES WAS.

14 Q YOU DON'T REMEMBER ANY BURGLARY FIRST CHARGES?

15 A YEAH, YEAH.

16 Q THOSE ARE SERIOUS, BURGLARY FIRST?

17 A THEY WERE SERIOUS CHARGES BUT THEY WEREN'T THAT
18 SERIOUS TO ME BECAUSE IT WAS A MISTAKE FROM THE BEGINNING
19 OF IT.

20 Q AND AFTER YOU SPOKE WITH THEM AT THIS TIME YOU HAD A
21 PR BOND, DIDN'T YOU?

22 A YES, SIR.

23 Q THAT IS WHERE YOU JUST SIGN YOUR NAME TO GET OUT?

24 A YES, SIGN SOME PAPERS.

25 Q ALSO SOMETHING ELSE HAD HAPPENED, HADN'T IT, ISN'T IT

1 TRUE THAT IN EARLY JANUARY THAT SOMEBODY ELSE HAD MADE A
2 STATEMENT AGAINST YOU?

3 A THAT IS RIGHT.

4 Q SAYING THAT YOU WERE THE ONE THAT WAS INVOLVED IN
5 THIS HURSEY MURDER, ISN'T THAT TRUE?

6 A WHAT?

7 Q SOMEBODY ACCUSED YOU OF BEING INVOLVED IN THE HURSEY
8 MURDER IN EARLY JANUARY, DIDN'T THEY?

9 A NO.

10 Q NOBODY SAID ANYTHING ABOUT THAT?

11 A NO, NOT TO ME.

12 Q NOW, THEY ALSO BROUGHT YOU A PICTURE OF THE BOOK BAG
13 IN JAIL, DID THEY NOT?

14 A YES.

15 Q AND DID YOU TELL THEM THAT THAT WAS NOT, YOU DIDN'T
16 RECOGNIZE THE BOOK BAG?

17 A I TOLD THEM THAT I THOUGHT IT WAS BLACK AND RED, THAT
18 IS WHAT I PUT ON MY STATEMENT.

19 Q IN FACT YOU DIDN'T PAY ANY ATTENTION TO IT AT ALL,
20 DID YOU?

21 A NOT REALLY, IT WAS DARK.

22 Q DID YOU KNOW, HOW LONG HAVE YOU KNOWN MR. FRAZIER?

23 A WELL, WE HAD TO KNOW EACH OTHER QUITE WELL WHILE WE
24 WERE HANGING OUT.

25 Q DID YOU KNOW A FEMALE NAMED TIGER?

1 A YES, SIR.

2 Q SHE WASN'T THERE THAT NIGHT, WAS SHE?

3 A NOT THAT I CAN RECALL, I THINK IT WAS THE NEXT NIGHT
4 THAT SHE CAME BY.

5 Q THAT WOULD BE THE NIGHT OF THE MURDER, THE NIGHT
6 AFTER THE MURDER?

7 A AFTER, YEAH.

8 Q NO FURTHER QUESTIONS.

9 THE COURT: ANY REDIRECT?

10 MR. RIDDLE: NO, SIR.

11 THE COURT: YOU CAN STEP DOWN, SIR. CALL YOUR NEXT
12 WITNESS, PLEASE.

13 MR. RIDDLE: THE STATE CALLS JACKIE BURKE.

14 JACKIE BURKE, AFTER BEING DULY SWORN, TESTIFIED
15 AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. RIDDLE:

18 Q MS. BURKE, ARE YOU CURRENTLY LIVING IN SOUTH
19 CAROLINA?

20 A NO, SIR.

21 Q DID I SEND A SUBPOENA OUT OF STATE FOR YOU?

22 A YES, YOU DID.

23 Q DID YOU ASK TO COME HERE TODAY?

24 A NO, I DID NOT.

25 Q WHAT DO YOU DO FOR A LIVING?

1 A LET'S JUST SAY I AM A SUCCESSFUL BUSINESS WOMAN.

2 Q YOU SELL CARS?

3 A YES.

4 Q DO YOU HANDLE ANY PARTICULAR KIND OF ACCOUNT?

5 A I HANDLE ALL MAJOR CORPORATIONS.

6 Q FOR A CAR DEALERSHIP?

7 A YES.

8 Q BACK IN 2003 WOULD IT BE FAIR TO SAY THAT YOU WEREN'T

9 AS SUCCESSFUL AT THAT TIME?

10 A I WAS AT A VERY LOW POINT IN MY LIFE, YES.

11 Q YOU HAD GOTTEN INVOLVED IN SOME DRUGS?

12 A YES.

13 Q YOU HAD A CONVICTION IN 1998?

14 A YES.

15 Q A DRUG CHARGE?

16 A YES, IT WAS.

17 Q BACK IN 2003 WHERE WERE YOU LIVING?

18 A I WAS LIVING IN GASTON, SOUTH CAROLINA.

19 Q WERE YOU USING COCAINE BACK THEN?

20 A YES, I WAS.

21 Q WAS IT POWDERED COCAINE OR CRACK COCAINE?

22 A IT WAS BOTH, BUT MOSTLY CRACK COCAINE.

23 Q THE FELLOW THAT JUST TESTIFIED, STANLEY GLEATON, DO

24 YOU KNOW HIM?

25 A I HAVE SEEN HIM A FEW TIMES.

1 Q WHAT DID YOU KNOW HIM AS?
2 A GATOR.
3 Q GATOR?
4 A YES.
5 Q THAT WAS HIS NICKNAME?
6 A I GUESS, THAT IS WHAT I CALLED HIM.
7 Q DID YOU HAVE A NICKNAME BACK THEN?
8 A I STILL DO.
9 Q AND IT IS?
10 A TIGER, GIVEN TO ME BY MY GRANDFATHER.
11 Q DID YOU KNOW JOHNNIE FRAZIER BACK THEN?
12 A BRIEFLY.
13 Q HOW DID YOU MEET HIM?
14 A FROM GOING TO BOO'S HOUSE, I CALL HIM BOO.
15 Q YOU KNOW HIM AS BOO?
16 A YES.
17 Q AND WHY WOULD YOU GO TO BOO'S HOUSE?
18 A TO BUY STUFF.
19 Q BOO WAS THE DEALER?
20 A YES.
21 Q DID YOU MEET GATOR THERE?
22 A YES.
23 Q DID YOU MEET JOHNNIE FRAZIER THERE?
24 A YES.
25 Q NOW, MS. BURKE, DID YOU KNOW BUTCH HURSEY?

1 A VERY WELL.

2 Q HOW ABOUT CAROL?

3 A VERY WELL.

4 Q HOW DID THEY TREAT YOU?

5 A THEY TOOK CARE OF ME AND MY FAMILY BY PUTTING ME AT
6 THEIR AUCTION AT ONE POINT IN MY LIFE WHEN I WAS A SINGLE
7 MOM.

8 Q WHAT DID YOU DO AT THE AUCTION?

9 A THEY HAVE A LITTLE KITCHENETTE.

10 Q IS THAT FOR THE CUSTOMERS?

11 A YES.

12 Q ABOUT WHEN DID YOU WORK AT THE AUCTION HOUSE?

13 A I BELIEVE IT WAS 1999, SOMEWHERE IN THAT AREA.

14 Q AND HOW LONG DID YOU SAY YOU WORKED FOR THEM OR DID
15 YOU?

16 A IT WAS ABOUT A YEAR, I GUESS MAYBE EIGHT MONTHS,
17 SOMETHING TO THAT EFFECT BUT I ALWAYS KEPT UP WITH BUTCH
18 AND CAROL.

19 Q HOW LONG HAD IT BEEN SINCE YOU WORKED THERE AT THE
20 TIME THAT CAROL GOT KILLED?

21 A YEARS, MAYBE FOUR OR FIVE YEARS, JUST AN ESTIMATE.

22 Q NOW, WHAT WERE YOU DOING DURING THE TIMEFRAME THAT
23 CAROL GOT KILLED?

24 A IT WAS A VERY CHAOTIC TIME BECAUSE WE WERE PREPARING
25 TO MOVE OUT OF STATE. AND WE WERE KIND OF LIQUIDATING, I

1 WAS TRYING TO GET RID OF A LOT OF THINGS SO I DIDN'T HAVE
2 TO TAKE THEM WITH ME.

3 Q AND WAS BUTCH HELPING YOU DO THAT?

4 A YES, HE WAS.

5 Q AND WAS THIS AT OR NEAR THE TIME OF CAROL'S DEATH?

6 A YES. THAT TIMEFRAME, ACTUALLY.

7 Q HOW DID YOU FIND OUT ABOUT CAROL'S DEATH?

8 A I CALLED BUTCH BECAUSE HE WAS PREPARING TO COME PICK
9 UP A REFRIGERATOR FROM MY HOUSE AND I GUESS IT WAS
10 SOMEWHERE AROUND NOON, MAYBE, I AM NOT SURE OF THE TIME.
11 AND HE WAS REAL FRANTIC AND TOLD ME HE DIDN'T HAVE TIME TO
12 TALK, THAT CAROL HAD BEEN KILLED AND I ABOUT DROPPED THE
13 PHONE.

14 Q SO, YOU ACTUALLY FOUND OUT ABOUT CAROL'S DEATH
15 THROUGH BUTCH?

16 A YES. BUT, NO, I DIDN'T KNOW THE CIRCUMSTANCES OR
17 ANYTHING LIKE THAT.

18 Q OKAY. NOW, THE NIGHT AFTER YOU FOUND OUT, EXCUSE ME,
19 THE DAY BEFORE THAT YOU FOUND OUT CAROL WAS KILLED HAD YOU
20 GONE ANYWHERE THE EVENING BEFORE?

21 A OH, YES.

22 Q WHERE HAD YOU GONE?

23 A THE NORMAL PLACE, BOO'S HOUSE.

24 Q AND WHAT DID YOU DO AT BOO'S HOUSE?

25 A SCORED OR GOT SOME DRUGS TO TAKE HOME.

1 Q AND DID YOU NORMALLY GO THERE AND STAY FOR EXTENDED
2 PERIODS OF TIME?

3 A IT DEPENDED IF BOO WAS BUSY, IF HE WAS OUT GETTING
4 SOME OR, YOU KNOW, IF HE WAS THERE. NORMALLY HE WAS OUT
5 RUNNING AROUND AND YOU WOULD HAVE TO WAIT ANYWHERE FROM 15
6 TO 20 MINUTES TO AN HOUR.

7 Q AND WHEN YOU GOT TO BOO'S HOUSE THE NIGHT BEFORE DO
8 YOU REMEMBER ANYBODY BEING THERE?

9 A YES, THERE WAS A BUNCH OF PEOPLE WERE THERE BUT
10 JOHNNIE FRAZIER AND GATOR CAME OVER BY MY CAR, I HAD A
11 TAURUS STATION WAGON AND WE JUST STARTED TALKING AND YOU
12 KNOW, I WAS WAITING FOR BOO.

13 Q AND THAT WAS BEFORE CAROL WAS KILLED?

14 A YES.

15 Q NOW, THE NIGHT BEFORE THE HOMICIDE DO YOU REMEMBER IF
16 JOHNNIE FRAZIER HAD ANYTHING WITH HIM AT THAT POINT?

17 A YES, HE HAD A BAG WITH HIM.

18 Q WHEN YOU SAY A BAG, WHAT KIND OF BAG ARE YOU TALKING
19 ABOUT?

20 A IT WAS A BOOK BAG TYPE THING, YOU KNOW, THAT KIDS
21 TAKE TO SCHOOL.

22 Q DO YOU REMEMBER WHAT COLOR IT WAS?

23 A IT WAS BLACK, IT SAT ON THE BACK OF MY CAR, THAT IS
24 HOW I REMEMBER BECAUSE THE LIGHT WAS ON IN THE BACK OF MY
25 CAR.

1 Q LET'S TALK ABOUT THAT CAR FOR A MINUTE. YOU SAID IT
2 WAS A TAURUS STATION WAGON?

3 A YES.

4 Q AND YOU SAID YOU WERE SITTING AROUND TALKING TO GATOR
5 AND TO JOHNNIE FRAZIER?

6 A CORRECT.

7 Q WHERE WERE YA'LL?

8 A IN THE BACK OF THE CAR IN THE TAURUS, I DON'T
9 REMEMBER WHAT YEAR IT WAS BUT THE BACK SEAT FOR THE KIDS
10 WOULD FACE THE OPPOSITE WAY OF SITTING IN THE DRIVERS
11 SEAT. SO, YOU COULD ACTUALLY LOOK OUT THE BACK WINDOW
12 WHILE YOU WERE RIDING.

13 Q IT WAS REAR FACED?

14 A YES.

15 Q AND WHERE WERE YA'LL SITTING AT THAT TIME?

16 A IN THE BACK ON THE LITTLE, GATOR WAS SITTING INSIDE
17 ON THE SEAT, I AM NOT EXACTLY SURE BUT WE WERE RIGHT THERE
18 ON THE BACK.

19 Q AND DOES THAT CAR HAVE LIKE A TAILGATE THAT LIFTS UP?

20 A YES.

21 Q AND WAS THAT OPEN OR CLOSED?

22 A YES, IT WAS OPENED.

23 Q SO, YOU WERE SITTING SORT OF HALF IN AND HALF OUT OF
24 THE CAR, IS THAT RIGHT?

25 A ON THE LITTLE LEDGE.

1 Q AND MR. FRAZIER HAD A BACK PACK WITH HIM?

2 A YES.

3 Q WHAT COLOR WAS THE BACK PACK?

4 A IT WAS BLACK.

5 Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS STATE'S
6 NUMBER 22 FOR IDENTIFICATION. DOES THIS LOOK FAMILIAR TO
7 YOU?

8 A YES, IT DOES.

9 Q DOES IT APPEAR TO BE THE SAME BACK PACK THAT MR.
10 FRAZIER HAD?

11 A YES, IT DOES.

12 Q WAS THE LIGHT ON IN THE BACK OF YOUR VEHICLE?

13 A YES, IT WAS.

14 Q WHAT ALL DO YOU REMEMBER MR. FRAZIER HAVING IN THE
15 BAG THAT NIGHT?

16 A HE HAD A LOT OF THINGS IN THAT BAG. ONE THING THAT
17 STOOD OUT WAS LIKE A SHAVING KIT TYPE, YOU KNOW, LIKE
18 LEATHER ZIPPED BAG INSIDE THERE.

19 Q A SMALLER BAG?

20 A YES. THERE WAS SOME KIND OF CLOTH IN THERE, THERE
21 WAS A GUN IN THERE, I DON'T KNOW WHAT KIND. CRACK
22 COCAINE, PARAPHERNALIA TO SMOKE IT WITH, I DON'T RECALL
23 ANYTHING ELSE.

24 Q AND ABOUT HOW LONG DO YOU THINK YOU STAYED AT BOO'S
25 HOUSE THAT NIGHT?

1 A I WOULD SAY AN HOUR TO AN HOUR AND A HALF BECAUSE MY
2 HUSBAND AND I, WE CHECK IN WITH EACH OTHER AND I KNEW I
3 HAD BEEN GONE FOR A PERIOD OF TIME AND HE WOULD BE GETTING
4 WORRIED SO HE CALLED ME, I CALLED HIM ONE OF THE TWO.

5 Q AND DO YOU KNOW ABOUT WHAT TIME YOU LEFT BOO'S THAT
6 NIGHT TO GO HOME?

7 A IT WAS LATE, I AM NOT EXACTLY SURE WHAT TIME IT WAS.

8 Q NOW, THAT WAS WEDNESDAY, CORRECT?

9 A CORRECT.

10 Q THURSDAY MORNING, WHAT DID YOU DO?

11 A WELL, THERE WAS A BUNCH OF THINGS, I WAS GETTING
12 READY TO MOVE, TAKING THE KIDS TO SCHOOL, TAKING THE OTHER
13 ONES TO THE BUS, IT WAS JUST REALLY A CRAZY DAY ALL IN
14 ITSELF, IT IS KIND OF HARD TO REMEMBER THINGS.

15 Q AND YOU TALKED TO BUTCH AT SOME POINT THAT DAY?

16 A IT WAS MORE TOWARDS LUNCH TIME I BELIEVE, YOU KNOW,
17 SOMEWHERE ABOUT NOON, 11:30, SOMEWHERE IN THAT AREA.

18 Q AND WERE YOU TRYING TO MAKE SOME ARRANGEMENTS TO SELL
19 SOMETHING?

20 A ACTUALLY BUTCH AND I WERE COMMUNICATING FOR A WHILE,
21 HE WAS HELPING ME TO LIQUIDATE THINGS AND HE WAS SUPPOSE,
22 ACTUALLY CAROL WAS SUPPOSE TO GET UP WITH ME THAT
23 AFTERNOON AND I CALLED BUTCH BECAUSE SHE WAS SUPPOSE TO
24 COME GET THIS REFRIGERATOR TO TAKE TO THE AUCTION FOR, I
25 BELIEVE, IT WAS FRIDAY NIGHT.

1 Q SO, YOU WERE SUPPOSE TO MEET WITH CAROL THAT
2 AFTERNOON BUT WHEN YOU DIDN'T GET HER YOU CALLED BUTCH
3 AFTER THAT?

4 A RIGHT.

5 Q AND IS THAT WHEN BUTCH TOLD YOU ABOUT CAROL?

6 A YES, RIGHT.

7 Q NOW, DID YOU SUBSEQUENTLY MOVE?

8 A YES.

9 Q AND WHERE DID YOU MOVE TO AT THAT TIME?

10 A AT THAT TIME WE WENT OFF TO INDIANA IN WHICH MY
11 COUSIN LIVED IN INDIANA SO WE WENT OUT THERE AND STAYED
12 WITH HER A VERY SHORT TIME UNTIL I COULD FIND A PLACE.

13 Q AND WHILE YOU WERE IN INDIANA DID DETECTIVE PRITCHARD
14 SEND YOU A PHOTOGRAPH OF THIS BOOK BAG AND ASKED YOU IF
15 YOU RECOGNIZED THAT?

16 A AFTER THEY CAME UP THERE A COUPLE OF TIMES, YES.

17 Q THEY CAME UP THERE TO TALK TO YOU?

18 A OH, YES, QUITE A FEW TIMES.

19 Q AND WHEN THEY SENT YOU THE PHOTOGRAPH OF THE BOOK BAG
20 DID IT APPEAR TO BE THE SAME BOOK BAG THAT YOU HAD SEEN
21 JOHNNIE FRAZIER WITH?

22 A YES, SIR.

23 Q AND DID HE ALSO SEND YOU A BLANK STATEMENT FORM AND
24 JUST ASK YOU TO WRITE A STATEMENT?

25 A YES, BUT I WASN'T A VERY COOPERATIVE WITNESS AS FAR

1 AS THAT GOES, IT WAS VERY BRIEF BECAUSE I WAS AGGRAVATED
2 AT THAT POINT.

3 Q DOES THAT APPEAR TO BE THE BOOK BAG THAT YOU SAW ON
4 THE BACK OF YOUR TAURUS THE NIGHT BEFORE CAROL WAS KILLED?

5 A YES, SIR.

6 Q THANK YOU, PLEASE ANSWER ANY OF MR. FLOYD'S
7 QUESTIONS.

8 CROSS-EXAMINATION

9 BY MR. FLOYD:

10 Q THIS IS THE BOOK BAG THAT YOU ARE TALKING ABOUT?

11 A AS FAR AS I CAN RECALL, YES.

12 Q AS FAR AS YOU CAN RECALL. WOULD YOU AGREE THAT IT IS
13 THE SAME BAG PROBABLY MADE FIVE HUNDRED THOUSAND MILLION
14 TIMES, PROBABLY?

15 A MAYBE MORE.

16 Q IS THERE A WAY THAT YOU CAN DISTINGUISH THIS FROM ANY
17 OF THE OTHER ONES?

18 A I JUST RECALL THE WRITING, BUT I DON'T.

19 Q THIS WRITING HERE?

20 A NO.

21 Q THIS WRITING?

22 A I DON'T BELIEVE SO.

23 Q THIS WRITING?

24 A I DON'T BELIEVE SO.

25 Q SO, WHAT WRITING?

1 A RIGHT THERE.

2 Q THIS WRITING?

3 A YES. BUT AS FAR AS I RECALL THIS WRITING HERE.

4 Q WELL, THAT IS THE SAME THING EVERY ONE OF THEM HAVE
5 BEEN MADE WOULD HAVE ON THEM, RIGHT?

6 A THEY COME IN A LOT OF DIFFERENT COLORS TOO.

7 Q DO YOU THINK THIS IS THE ONLY BLACK ONE?

8 A I AM NOT SURE.

9 MR. RIDDLE: YOUR HONOR, IF HE IS GOING TO STAND THAT
10 CLOSE CAN I ASK HIM TO SPEAK UP JUST A LITTLE BIT.

11 THE COURT: SPEAK UP, I HAVE BEEN HAVING TROUBLE
12 HEARING, I AM GOING TO GET YOU FOLKS TO TALK INTO THE
13 MICROPHONE.

14 Q NOW, MS. BURKE, YOU WERE OVER THERE AT BOO'S ON THE
15 WEDNESDAY NIGHT, YOU SAY?

16 A CORRECT.

17 Q AND WHAT TIME DID YOU LEAVE BOO'S ON WEDNESDAY NIGHT?

18 A ALL I CAN SAY IS LATE, I DON'T RECALL.

19 Q WHEN YOU LEFT WHO WAS ALL STILL THERE?

20 A VARIOUS PEOPLE COMING IN AND OUT, I DON'T RECALL
21 NAMES, THIS IS FOUR YEARS AGO.

22 Q DID YOU LEAVE BEFORE MIDNIGHT OR AFTER MIDNIGHT?

23 A I BELIEVE IT WAS BEFORE.

24 Q AND WHAT TIME DID YOU GO BACK OVER THERE THE NEXT
25 DAY?

1 A I DON'T RECALL GOING THE NEXT DAY, I MIGHT HAVE,
2 EVERYTHING WAS VERY CHAOTIC FOR ME AT THAT TIME IN MY
3 LIFE.

4 Q WELL, IN FACT DIDN'T YOU LEAVE TOWN THE NEXT DAY?

5 A ACTUALLY I LEFT OUT FRIDAY MORNING.

6 Q OKAY, SO THE DAY AFTER THE MURDER YOU LEFT TOWN?

7 A YES, SIR. WHICH WAS PLANNED.

8 Q DID YOU NOT SELL ALL OF YOUR STUFF QUICKLY ON
9 THURSDAY?

10 A ACTUALLY, NO, I WAS LIQUIDATING QUITE A BIT AND WHEN
11 I WENT TO DRIVE MY HUSBAND AND MY KIDS TO MY COUSIN'S
12 HOUSE I WAS PREPARING TO COME BACK AND MY HOUSE WAS
13 STRIPPED BARE. SO, IT WAS NOTHING TO COME HOME TO.

14 Q DID YOU SELL A BUNCH OF STUFF TO MELISSA BOLTON?

15 A I MIGHT HAVE.

16 Q IN FACT, DIDN'T YOU CONTACT HER AND TELL HER TO COME
17 OVER AND GET EVERYTHING BECAUSE YOU WERE LEAVING TOWN IN A
18 HURRY?

19 A I DON'T RECALL THAT.

20 Q WHY DID YOU LEAVE TOWN?

21 A I DON'T THINK THAT IS ANY OF YOUR, ANY OF YOUR
22 CONCERN FOR RIGHT NOW.

23 Q YOU DON'T WANT TO KNOW WHY YOU LEFT TOWN SO QUICK?

24 A IT WAS A PERSONAL THING FOR MY HUSBAND IF YOU DON'T
25 MIND.

1 Q SO, FOR ALL WE KNOW LEAVING TOWN HAD SOMETHING TO DO
2 WITH CAROL HURSEY'S DEATH?

3 A ACTUALLY IT DOESN'T, I WAS INVESTIGATED AND
4 EVERYTHING ELSE TOO AND HARASSED IN INDIANA.

5 MR. FLOYD: YOUR HONOR, MAY WE APPROACH.

6 THE COURT: SURE.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
8 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
9 JURY.)

10 Q SO, YOU WERE THERE THE NIGHT BEFORE, YOU WERE THERE
11 THE NIGHT BEFORE THE MURDER, IS THAT CORRECT?

12 A YES.

13 Q YOU WERE THERE TO AROUND MIDNIGHT OR SOMETHING IN
14 THAT RANGE?

15 A I BELIEVE IT WAS BEFORE MIDNIGHT.

16 Q BEFORE MIDNIGHT.

17 THE COURT: WHEN YOU SAY THERE, WHERE ARE YOU TALKING
18 ABOUT?

19 Q THERE I WAS SPEAKING, OF COURSE, OF BOO'S HOUSE?

20 A YES.

21 Q TO YOUR RECOLLECTION WERE YOU AT BOO'S HOUSE THE DAY
22 OF THE MURDER OR THE NIGHT OF THE DAY OF THE MURDER?

23 A I DON'T RECALL. EVERYTHING WAS VERY CHAOTIC AT THAT
24 TIME FOR ME MOVING.

25 Q AND WHAT TIME DID YOU LEAVE FRIDAY MORNING OR FRIDAY?

1 A IT WAS ABOUT 4:00 OR 5:00 O'CLOCK IN THE MORNING, I
2 WAS TRYING TO PACK UP.

3 Q WHERE DID YOU TELL PEOPLE YOU WERE GOING?

4 A MOSTLY I TOLD THEM IT WAS NONE OF THEIR BUSINESS BUT
5 THE PEOPLE THAT I CARED ABOUT THAT I KEPT IN TOUCH WITH, I
6 TOLD THEM I WAS GOING NORTH.

7 Q WHERE DID YOU GO, OHIO?

8 A INDIANA.

9 Q DIDN'T YOU TELL PEOPLE YOU WERE GOING TO OHIO?

10 A I MIGHT HAVE.

11 Q BECAUSE YOU DIDN'T WANT TO BE ABLE TO BE FOUND, DID
12 YOU?

13 A WELL, MY HUSBAND HAD ISSUES, LIKE I SAID BEFORE, THEY
14 WERE PERSONAL ISSUES.

15 Q DID YOU TELL DETECTIVE PRITCHARD THAT YOU SAW JOHNNIE
16 FRAZIER AT, AROUND 10:30 IN THE MORNING ON THE DAY OF
17 CAROL HURSEY'S DEATH OUT ON OLD WIRE ROAD?

18 A I DON'T RECALL.

19 Q YOU KNOW A GENTLEMAN BY THE NAME OF JOE PAYNE?

20 A YES, I DO.

21 Q AND DID YOU HAVE SOME CONVERSATIONS WITH JOE PAYNE ON
22 YOUR WAY NORTH?

23 A I SURE DID, I BOUGHT MY CAR FROM HIM.

24 Q AND HE WAS LOOKING FOR YOU, WAS HE NOT?

25 A NO, HE WASN'T LOOKING FOR ME, I CALLED HIM AND TOLD

1 HIM WHERE I WAS GOING.

2 Q AND ISN'T, DID YOU HAVE A CONVERSATION WITH HIM IN
3 WHICH YOU TOLD HIM THAT ELBERT HAD SOMETHING TO DO WITH
4 THE MURDER OF CAROL HURSEY?

5 A NO, I DID NOT, I TOLD HIM THAT BOO ROBBED MY HOUSE
6 BECAUSE BOO WAS SEEN AT MY HOUSE TAKING THINGS OUT OF IT
7 WHILE I WAS GONE.

8 Q ARE YOU DENYING THAT YOU TOLD THAT ELBERT AND HIS
9 BROTHER, ISODORE MACK DID THE MURDER?

10 A I DON'T REMEMBER SAYING ANYTHING LIKE THAT, SO YES.

11 Q NO FURTHER QUESTIONS, YOUR HONOR. AT THE APPROPRIATE
12 TIME I NEED TO PUT SOMETHING ON THE RECORD.

13 THE COURT: THAT WILL BE FINE, ANY REDIRECT?

14 MR. RIDDLE: YES, YOUR HONOR.

15 REDIRECT EXAMINATION

16 BY MR. RIDDLE:

17 Q MS. BURKE, THE ISSUES THAT YOUR HUSBAND WAS HAVING,
18 THAT HAD TO DO WITH CHILD SUPPORT AND HIS EX-WIFE?

19 A YES, IT DID.

20 Q THANK YOU, THAT IS ALL I HAVE.

21 THE COURT: YOU MAY STEP DOWN. MR. FOREMAN AND
22 LADIES AND GENTLEMEN, THERE IS A MATTER I NEED TO PUT ON
23 THE RECORD, PLEASE STEP BACK TO YOUR JURY ROOM AND DON'T
24 DISCUSS THE CASE, EVERYONE ELSE STAY SEATED, PLEASE.

25 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR

1 A BREAK.)

2 THE COURT: MR. FLOYD, YOU DID REQUEST TO PUT
3 SOMETHING ON THE RECORD, GO AHEAD.

4 MR. FLOYD: THAT IS CORRECT, YOUR HONOR, DURING MY
5 CROSS-EXAMINATION OF MS. BURKE SHE CLAIMED THAT SHE HAD
6 BEEN INVESTIGATED AND LIEING THAT SHE HAD BEEN CLEARED OF
7 ANY SUSPICION IN THIS MURDER. I APPROACHED THE BENCH AT
8 THAT TIME AND ASKED YOUR HONOR IF I WOULD BE ALLOWED TO
9 INTRODUCE INTO EVIDENCE OR QUESTION HER ABOUT THE FACT
10 THAT SHE FAILED A POLYGRAPH EXAMINATION ABOUT THIS MURDER
11 AND OF COURSE YOUR HONOR DENIED ME TO PURSUE THAT LINE OF
12 QUESTIONING.

13 THE COURT: RIGHT.

14 MR. FLOYD: I WOULD LIKE TO PUT ON THE RECORD AND
15 MAKE A COURT'S EXHIBIT THE RESULTS OF THE OCTOBER 16TH OF
16 2003 POLYGRAPH EXAMINATION GIVEN TO MS. BURKE BY THE CITY
17 OF COLUMBUS, OHIO POLICE DEPARTMENT, A COPY WHICH WAS
18 FORWARDED TO DETECTIVE PRITCHARD OF THE LEXINGTON COUNTY
19 SHERIFFS DEPARTMENT. SHE WAS ASKED, DO YOU KNOW FOR SURE
20 WHO KILLED CAROL HURSEY, SHE SAID NO. NUMBER TWO, DID YOU
21 YOURSELF FIRE THE SHOT THAT RESULTED IN THE DEATH OF CAROL
22 HURSEY. SHE SAID NO. NUMBER THREE, REGARDING THE DEATH
23 OF CAROL HURSEY, ARE YOU LIEING TO COVER FOR SOMEONE ELSE.
24 AND SHE SAID NO. THE FINAL DETERMINATION WAS, DECEPTION
25 INDICATED TO QUESTION NUMBER TWO WHICH WAS, DID YOU

1 YOURSELF FIRE THE SHOT THAT RESULTED IN THE DEATH OF CAROL
2 HURSEY. THE OTHER TWO WERE INCONCLUSIVE. I WOULD LIKE TO
3 MARK THIS AS A COURT'S EXHIBIT.

4 MR. RIDDLE: NO OBJECTION TO IT BEING A COURT
5 EXHIBIT.

6 THE COURT: COURT EXHIBIT 3.

7 MR. RIDDLE: DO I NEED TO MAKE ANY ARGUMENT ON THIS,
8 YOUR HONOR.

9 (WHEREUPON, COURT'S EXHIBIT NO. 3 WAS MARKED FOR
10 IDENTIFICATION ONLY.)

11 THE COURT: IT IS NOT COMING IN, MY UNDERSTANDING OF
12 THE LAW IS THAT POLYGRAPHS ARE NOT ADMISSIBLE ON ANYBODY
13 FOR ANY PURPOSE AND I DON'T BELIEVE THAT IT IS ANY MORE
14 ADMISSIBLE FOR THIS PURPOSE THAT MR. FLOYD IS SEEKING THAN
15 IF THE STATE WANTED TO PUT IT IN. YOU WANT TO PUT
16 SOMETHING ELSE ON THE RECORD GO AHEAD.

17 MR. RIDDLE: I WAS GOING TO PUT ON THE RECORD THAT
18 THAT IS NOT THE PROPER WITNESS TO ASK THAT TO.

19 THE COURT: ALL RIGHT. IT IS A COURT EXHIBIT, IT IS
20 A PART OF THE RECORD.

21 MR. RIDDLE: YOUR HONOR, I GUESS I NEED TO PUT
22 SOMETHING ON THE RECORD AS WELL.

23 THE COURT: SURE.

24 MR. RIDDLE: THIS CAME UP DURING THE FIRST TRIAL.
25 DURING THE FIRST TRIAL WHEN MR. GLEATON AND MS. BURKE

1 TESTIFIED ABOUT MR. FRAZIER'S DRUG USE SURROUNDING THE
2 MURDER CASE, MR. FLOYD HAD MADE A MISTRIAL MOTION BASED ON
3 THE STATEMENTS REGARDING MR. FRAZIER'S DRUG USE
4 SURROUNDING THE MURDER. YOUR HONOR, IN THE FIRST TRIAL,
5 DENIED THAT MOTION BASED, I ARGUED THE STATE VERSUS ADAMS,
6 THE RICHLAND COUNTY CASE THAT DEALT WITH THE ARMED ROBBERY
7 AND THE MURDER AT THE CONVENIENT STORE THAT HAD DRUG USE
8 IMMEDIATELY BEFORE IT AND IMMEDIATELY AFTER THE HOMICIDE
9 AS THE STATE SUBMITS THIS CASE DID TOO. I NOTED THAT MR.
10 FLOYD DID NOT MAKE THAT MOTION AT THIS POINT AND TIME, I
11 PRESUME THAT WAS A STRATEGIC DECISION BASED ON THE COURT'S
12 RULING IN THE PREVIOUS TRIAL BECAUSE THE TESTIMONY WAS
13 VIRTUALLY IDENTICAL REGARDING THE DRUG USE.

14 THE COURT: YOU MADE YOUR STATEMENT ON THE RECORD, I
15 DON'T KNOW WHAT TO DO WITH IT. I NEED TO LEAVE AROUND
16 4:45 AND I DON'T KNOW IF WE HAVE TIME FOR ANOTHER WITNESS.

17 MR. RIDDLE: BEG THE COURT'S INDULGENCE FOR TWENTY
18 SECONDS. YOUR HONOR, THE NEXT TWO WITNESSES ARE NOT HERE,
19 WE ARE NOT GOING TO BE ABLE TO GET THEM BOTH DONE.

20 THE COURT: MR. FLOYD.

21 MR. FLOYD: YOUR HONOR, I JUST WANTED TO ASK THE
22 STATE IF THEY THINK THEY WILL BE FINISHED TOMORROW.

23 THE COURT: IS THERE ANY OBJECTION FROM THE DEFENSE
24 OR FROM THE STATE MY PERMITTING THE BAILIFF TO SIMPLY TELL
25 THE JURY THAT WE ARE RECESSING, NOT TO DISCUSS THE CASE

1 AND BE BACK AT 9:30 IN THE MORNING. ANY OBJECTION, RATHER
2 THAN BRINGING THEM IN THE COURTROOM.

3 MR. RIDDLE: NONE.

4 MR. FLOYD: NO, YOUR HONOR.

5 THE COURT: IF YOU WILL GIVE THAT INSTRUCTION TO THE
6 JURY AND WE WILL SEE THEM AT 9:30 IN THE MORNING. WE WILL
7 RECESS UNTIL THEN. AND, COUNSEL, YA'LL COME UP AND WE
8 WILL TALK ABOUT WHERE WE ARE.

9 (WHEREUPON, THE JURY WAS EXCUSED FROM THE JURY ROOM
10 AT 4:20 P.M. AND THE TRIAL WILL RESUME THE NEXT
11 MORNING AT 9:30 A.M.)

12 THE COURT: LET THE RECORD REFLECT THAT WHEN WE BROKE
13 YESTERDAY THERE WAS A MATTER THAT WAS BROUGHT TO THE
14 COURT'S ATTENTION THAT GREW OUT OF DEFENSE COUNSEL'S
15 INDICATION THAT THERE WAS A POTENTIAL WITNESS WHO MIGHT
16 HAVE TO BE OR HE WOULD LIKE TO BE CALLED OUT OF ORDER AND
17 IN THE COURSE OF THAT DISCUSSION THE STATE WAS CHALLENGING
18 BASED ON WHAT THEY PERCEIVE THE PURPOSE OF THAT WITNESS'S
19 TESTIMONY BEING IS WHETHER OR NOT HE SHOULD EVEN BE
20 PERMITTED TO TESTIFY. SO, I ASKED COUNSEL TO BE HERE A
21 LITTLE EARLIER SO WE CAN PUT THE ARGUMENTS ON THE RECORD
22 AND I COULD MAKE A RULING AT THE APPROPRIATE TIME. WHAT
23 IS THE WITNESS'S NAME, MR. FLOYD.

24 MR. FLOYD: JOE EDWARD PAYNE.

25 THE COURT: PAYNE, P-A-Y-N-E?

1 MR. FLOYD: YES, SIR.

2 THE COURT: AND AS I RECALL, THE PURPOSE OF HIS
3 TESTIMONY IS BASED ON BRIEF CONVERSATION THAT COUNSEL HAD
4 HERE YESTERDAY WAS TO IMPEACH THE, I THINK THE LAST
5 WITNESS WHO TESTIFIED FOR THE STATE WHO DENIED MAKING A
6 STATEMENT TO SOMEONE ELSE, ACCUSING SOMEONE ELSE OF HAVING
7 COMMITTED THE HOMICIDE, IS THAT RIGHT?

8 MR. FLOYD: THAT IS CORRECT, YOUR HONOR, I PASS YOU
9 UP A COPY OF THE STATEMENT.

10 THE COURT: MR. FLOYD HAS HANDED UP A STATEMENT MADE
11 BY JOE EDWARD PAYNE TO DETECTIVE LEE MARSHALL. AND,
12 SOLICITOR, ANY ARGUMENTS TO THAT. AND IT IS MR. PAYNE WHO
13 HAS GOT A TIMING PROBLEM, AND WE WERE TALKING ABOUT TAKING
14 HIM OUT OF ORDER.

15 MR. FLOYD: RIGHT.

16 THE COURT: GO HEAD, MR. RIDDLE.

17 MR. RIDDLE: YOUR HONOR, PRIMALLY MY ARGUMENT IS
18 UNDER 401 RELEVANCE. THE JURY IS HERE TO DECIDE WHETHER
19 OR NOT MR. FRAZIER COMMITTED THIS MURDER, THEY ARE NOT
20 HERE TO, "SOLVE A HOMICIDE INVESTIGATION." THIS IS NOT
21 RELEVANT OF THE ISSUE OF DID MR. FRAZIER OR DID MR.
22 FRAZIER AND I COMMIT THE MURDER OF CAROL HURSEY AND THE
23 RELATED CRIMES THAT HE IS CHARGED WITH. SO, MY FIRST
24 POSITION IS BEING RELEVANT. MY SECOND POSITION IS THAT
25 UNDER 403 IT LEADS TO THE CONFUSION OF THE ISSUES OR

1 MISLEADS THE JURY. YOUR HONOR, IT ALSO RUNS AFOUL OF
2 STATE V. HOLMES, STATE V. GREGORY, THE CASE IS DEALING
3 WITH THIRD PARTY GUILT WHICH ACTUALLY AS I UNDERSTAND THAT
4 LAW IS SORT OF A SUBSET OF THE 403 ANALYSIS BECAUSE ALL
5 THIS DOES IS CAST, BEAR A SUSPICION ON SOMEBODY ELSE BUT
6 IT DOESN'T HAVE ANYTHING TO DO WITH WHETHER OR NOT MR.
7 FRAZIER HAS COMMITTED THESE CRIMES HIMSELF. IT JUST CAST
8 BEAR SUSPICION ON ELBERT BOLTON AND ISODORE MACK WHOSE
9 NAME, OTHER THAN IN THIS STATEMENT, I DON'T THINK IT IS
10 RELEVANT IN THIS CASE. SO, PRIMARILY MY ARGUMENT IS THAT
11 UNDER STATE V. HOLMES, 401, 403 AND I MISQUOTED, YOUR
12 HONOR, TO THE COURT YESTERDAY THE ISSUE OF THE RULES IN
13 THE 600'S. BECAUSE I THINK THAT THE RULES IN THE 600 MAY
14 ALLOW THIS BUT I WILL WITHDRAW THAT PORTION OF THE
15 ARGUMENT.

16 THE COURT: I WENT AND PULLED IT UP THIS MORNING AND
17 I SAID, WAIT A MINUTE. IT IS RULE 613.

18 MR. RIDDLE: I MISQUOTED ON THAT. AND I THINK SHE
19 EXPLAINED THE STATEMENT THAT WHAT HE SAYS HERE IS A
20 MISUNDERSTANDING OF THAT CONVERSATION THAT SHE DID HAVE
21 ABOUT THE VANDALIZATION OF HER HOUSE IS WHAT I THINK THE
22 TESTIMONY WAS WHEN SHE WAS ASKED ABOUT THIS STATEMENT. I
23 FRANKLY SHOULD HAVE OBJECTED AT THE TIME THE QUESTION WAS
24 ASKED BECAUSE UNDER 403, STATE V. HOLMES, STATE V. GREGORY
25 IT CLEARLY IS JUST QUESTIONS REGARDING THIRD PARTY GUILT.

1 AND DOES NOT HAVE ANYTHING TO DO, IT IS NOT RELEVANT ON
2 THE ISSUES OF WHETHER OR NOT JOHNNIE FRAZIER IS GUILTY OF
3 THESE CRIMES. AND IT DOES MISLEAD THE JURY AND IS IN, IN
4 MY OPINION AND WHAT I WOULD SUBMIT TO THE COURT IS
5 VOLITIVE OF HOLMES AND GREGORY. AND I HAVE GOT A COPY OF
6 THE HOLMES CASE.

7 THE COURT: IS THE HOLMES CASE THE SOUTH CAROLINA
8 CASE THAT WENT TO THE U.S. SUPREME COURT?

9 MR. RIDDLE: YES, SIR.

10 THE COURT: AND IT CAME BACK THAT THEY OVERRULED, A
11 THIRD PARTY GUILT RULE AND SENT IT BACK TO THE SUPREME
12 COURT. IS THAT RIGHT?

13 MR. RIDDLE: YES SIR, BUT WHAT HAPPENED IS THAT IN
14 THE STATE VERSUS GREGORY WAS THE RULE IN SOUTH CAROLINA
15 AND IT SAYS, THE LAW THAT I JUST QUOTED TO YOU THAT ALL IT
16 DOES IS CAST BEAR SUSPICION ON SOMEBODY ELSE THEN IT IS
17 NOT ADMISSIBLE. THEN STATE VERSUS GAY EXPANDED THAT RULE
18 AND AS IT APPLIED IN HOLMES, THEY SAID THEY FOCUSED ON THE
19 FORENSIC STRENGTH OF THE STATE'S CASE. AND WHAT HOLMES,
20 THE U.S. SUPREME COURT IN HOLMES DID WAS VACATE GAY
21 ESSENTIALLY AND VACATE THE HOLMES DECISION AS IT STOOD
22 THERE BUT THE U.S. SUPREME COURT HOLMES' DECISION SAID
23 THAT THE RULE THAT THE STATE HAD IN STATE VERSUS GREGORY
24 WAS FINE, NOBODY WAS CHALLENGING THAT WHICH WAS THE PRIOR
25 LAW, THEY SAID IF ALL IT DOES IS CAST SUSPICIONS ON

1 SOMEBODY ELSE IT IS NOT ADMISSIBLE. SO, WHAT THEY SAID IN
2 U.S. VERSUS HOLMES OR IN THE U.S. VERSION OF HOLMES AND IN
3 THE LATER SUPREME COURT VERSION OF HOLMES IS WE ARE GOING
4 BACK TO THE GREGORY RULE AND THE GREGORY RULE WAS DEEMED
5 FINE BY THE U.S. SUPREME COURT IN THE HOLMES DECISION.
6 SO, THE U.S. SUPREME COURT DECISION IN HOLMES AND THE
7 SUBSEQUENT STATE'S DECISION IN HOLMES ESSENTIALLY WITHDREW
8 THE HOLMES' OPINION, WITHDREW GAY AND WE ARE BACK AT THE
9 STANDARD THAT IT WAS BEFORE WHICH WAS GREGORY. AND THE
10 GREGORY STANDARD, YOUR HONOR, ALL IT DOES IS CAST
11 SUSPICION ON SOMEBODY ELSE, IT IS NOT ADMISSIBLE UNDER
12 403, THE PREJUDICE, THE MISLEADING THE JURY, CONFUSION OF
13 THE ISSUES.

14 THE COURT: MR. FLOYD.

15 MR. FLOYD: YOUR HONOR, WHAT WE ARGUE, THERE IS
16 CERTAIN DEVELOPMENTS OF WHO KILLED MS. HURSEY, BASICALLY
17 IF THE STATEMENT RAISES A REASONABLE INFERENCE THAT IS ALL
18 THE STANDARD THAT YOU NEED TO MEET. AND HERE YOU HAVE A
19 STATEMENT OF A LADY THAT IS FLEEING AT NIGHT, FLEEING IN
20 THE DARK OF THE NIGHT ON THE DAY AFTER THE MURDER WHO
21 CANDIDLY WHO KNEW ALL PARTIES ALLEGEDLY INVOLVED IN THIS
22 SITUATION AND SHE FREELY ADMITS TO SOMEONE WHO HAS A
23 BUSINESS RELATIONSHIP WITH THAT SHE KNEW WHO DID IT AND IT
24 WASN'T JOHNNIE FRAZIER, IT WAS SOMEBODY ELSE. SO, IT IS
25 CERTAINLY ADMISSIBLE AND I THINK UNDER 801(D)(1), IT IS

1 NOT HEARSAY, SHE IS HERE AND SHE TESTIFIED, IT IS A TYPE
2 OF STATEMENT THAT THIS RULE CONTEMPLATES AND ALLOWS TO
3 CROSS-EXAMINE BECAUSE IT GOES TO CREDIBILITY ALSO ON THE
4 WITNESS, YOUR HONOR. IT IS ADMISSIBLE FOR TWO REASONS,
5 ONE, IT IS AN ADEQUATE EXPRESSION OF THIRD PARTY GUILTY.
6 AND TWO, IT IS ADMISSIBLE ON HER CREDIBILITY. THE
7 STATEMENT IS IN, IT CAME IN WITHOUT OBJECTION AND NOW TO
8 NOT ALLOW US TO SHOW SHE WAS NOT TELLING THE TRUTH ON THE
9 STAND WOULD BE PREJUDICIAL.

10 THE COURT: ANYTHING ELSE, MR. RIDDLE.

11 MR. RIDDLE: NO SIR, I WOULD DISPUTE THE FACT THAT IT
12 IS NOT HEARSAY UNDER 801. I STAND ON THE 401 AND THE 403
13 ANALYSIS THAT THE COURT HAS EXPANDED, NOT EXPANDED BUT HAS
14 ANNOUNCED IN GREGORY AND LATER ON REAFFIRMED IN THE
15 HOLMES.

16 THE COURT: THIS IS WHAT I AM GOING TO RULE. I DO
17 NOT THINK THAT IT IS ADMISSIBLE UNDER HOLMES AND GREGORY,
18 THE ISSUE OF THIRD PARTY GUILT. HOWEVER, I THINK IT IS
19 CLEARLY ADMISSIBLE ON THE WITNESS'S CREDIBILITY AND SHOULD
20 BE ADMITTED FOR IMPEACHMENT PURPOSES ONLY. AND I WOULD
21 GATHER THE STATE WILL REQUEST OR DOES REQUEST A LENGTHY
22 INSTRUCTION TO THE JURY THAT THAT IS THE ONLY REASON THAT
23 TESTIMONY IS BEING ADMITTED, IS NOT ON THE ISSUE OF GUILT,
24 THE WHOLE ISSUE OF THE CREDIBILITY OF THAT PARTICULAR
25 WITNESS. SHE WAS ASKED IF SHE HAD EVER MADE THAT

1 STATEMENT TO, I DON'T KNOW IF IT WAS TO DETECTIVE MARSHALL
2 OR TO MR. PAYNE AND SHE DENIED MAKING IT. AND UNDER 613,
3 I THINK IT IS CLEAR THAT THE DEFENSE IS ENTITLED TO OFFER
4 EXTRINSIC EVIDENCE THAT THAT DENIAL, THAT SHE APPARENTLY
5 MADE THAT STATEMENT AT SOME POINT AND TIME AND THAT IS
6 WHAT THEY ARE GOING TO ATTEMPT TO PUT IN. SO, I AM GOING
7 TO PERMIT THAT QUESTIONING BUT NOT FOR THE PURPOSE OF
8 ESTABLISHING THIRD PARTY GUILT BUT FOR THE PURPOSES OF
9 IMPEACHING THIS PARTICULAR OR THAT PARTICULAR WITNESS.
10 AND, AGAIN, I WILL GIVE THE JURY A LENGTHY INSTRUCTION AT
11 THAT POINT AND TIME. ANY QUESTION ABOUT THAT.

12 MR. RIDDLE: DO I NEED TO MAKE A DECISION AT THIS
13 MOMENT ABOUT WHETHER OR NOT I WANT A LIMITING INSTRUCTION
14 OR CAN I JUST LET YOU KNOW BEFORE THE WITNESS--

15 THE COURT: BEFORE WE GET THERE YOU CAN MAKE YOUR
16 REQUEST OR TELL ME.

17 MR.. RIDDLE: I JUST NEED TO PONDER THAT A LITTLE BIT,
18 IF I COULD.

19 THE COURT: IS THE STATE READY TO PROCEED?

20 MR. RIDDLE: YOUR HONOR, CAN WE APPROACH.

21 THE COURT: YES.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

23 THE COURT: BRING THE JURY IN, PLEASE.

24 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
25 APPROXIMATELY 9:35 A.M.)

1 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

2 MR. RIDDLE: THE STATE CALLS TAMMI INABINET TO THE
3 STAND.

4 TAMMI INABINET, AFTER BEING DULY SWORN,
5 TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION

7 BY MR. RIDDLE:

8 Q MS. INABINET, GOOD MORNING.

9 A GOOD MORNING.

10 Q ARE YOU NERVOUS HERE TODAY?

11 A YES, SIR.

12 Q WHERE DO YOU LIVE?

13 A SWANSEA.

14 Q AND HAVE YOU ALWAYS BEEN FROM THE LEXINGTON COUNTY
15 AREA?

16 A YES, SIR.

17 Q WHERE WERE YOU BORN?

18 A CAYCE.

19 Q GROW UP HERE?

20 A YES.

21 Q DID YOU ATTEND SCHOOLS HERE?

22 A YES, SIR.

23 Q WHO DO YOU LIVE WITH?

24 A MATT RICHBOURG.

25 Q AND IS HE RELATED TO YOU?

1 A FIANCEE, I HAVE BEEN WITH HIM FOR LIKE 15 YEARS.

2 Q IS THAT THE MAN SEATED HERE IN THE BLUE SHIRT?

3 A YES, SIR.

4 Q BEEN THROUGH A LOT WITH HIM?

5 A YES, SIR.

6 Q TAMMI, ARE YOU WORKING?

7 A NO, SIR.

8 Q WHAT DO YOU DO?

9 A STAY HOME.

10 Q TAKE CARE OF THE HOUSE?

11 A YES.

12 Q DOES MATT WORK?

13 A YES, SIR.

14 Q WHAT KIND OF WORK DOES HE DO?

15 A RIGHT NOW HE CUTS TREES ON THE SIDE.

16 Q TAMMI, DO YOU USE DRUGS RIGHT NOW, TAMMI?

17 A NO, SIR.

18 Q HOW LONG HAVE YOU BEEN CLEAN?

19 A OVER A YEAR.

20 Q DID YOU DO IT IN THE PAST?

21 A OH, YES.

22 Q WHAT WAS YOUR DRUG OF CHOICE?

23 A CRACK COCAINE.

24 Q DID MATT USE WITH YOU?

25 A YES, SIR.

1 Q DO YOU KNOW STANLEY GLEATON?

2 A I HAVE SEEN HIM.

3 Q GATOR?

4 A YES.

5 Q DO YOU KNOW HIM?

6 A YES.

7 Q DO YOU KNOW BOO?

8 A YES, SIR.

9 Q HOW DO YOU KNOW BOO?

10 A HE IS A DRUG DEALER, WAS, I DON'T KNOW WHAT HE IS

11 NOW.

12 Q DID YOU GET SOME OF YOUR DRUGS FROM HIM?

13 A YES, I DID.

14 Q WHERE DID BOO LIVE?

15 A IN GASTON ON AVON COURT.

16 Q DO YOU KNOW JOHNNIE FRAZIER?

17 A YES SIR, I DO.

18 Q TELL THIS JURY HOW YOU KNOW JOHNNIE FRAZIER?

19 A HE IS MY EX-HUSBAND'S COUSIN.

20 Q LET ME BACK UP TO YOUR EX-HUSBAND FOR A MINUTE. YOU

21 WERE MARRIED BEFORE?

22 A YES, SIR.

23 Q WHEN DID YOU GET DIVORCED?

24 A IN '97, '98, SOMEWHERE ALONG IN THERE.

25 Q A LONG TIME AGO?

- 1 A YES.
- 2 Q MR. FRAZIER IS RELATED TO YOUR EX-HUSBAND?
- 3 A YES.
- 4 Q AND YOU HAVE KNOWN HIM THAT LONG?
- 5 A YES.
- 6 Q NOW, TAMMI, IN 2003, AUGUST OF 2003 WERE YOU USING
- 7 COCAINE THEN?
- 8 A YES, SIR.
- 9 Q WHAT KIND?
- 10 A CRACK.
- 11 Q AND WHERE WERE YOU MOSTLY GETTING YOUR CRACK COCAINE
- 12 FROM AT THAT POINT AND TIME?
- 13 A GASTON, SWANSEA AREA.
- 14 Q DID YOU EVER GET ANY FROM BOO BOLTON AT THAT POINT
- 15 AND TIME?
- 16 A YES, SIR.
- 17 Q AT THE AVON COURT ADDRESS?
- 18 A YES, SIR.
- 19 Q DO YOU KNOW A PLACE CALLED THE STORE, TAMMI?
- 20 A YES, SIR.
- 21 Q HOW FAR IS THAT FROM BOO'S HOUSE?
- 22 A MAYBE A MILE.
- 23 Q BY ROAD?
- 24 A YES.
- 25 Q NOW, TAMMI, DO YOU REMEMBER WHEN CAROL HURSEY GOT

1 KILLED?

2 A YES, SIR.

3 Q AFTER SHE WAS KILLED DID THE POLICE COME AND TALK TO
4 YOU?

5 A YES SIR, THEY DID.

6 Q DID THEY ASK YOU ABOUT MR. FRAZIER?

7 A YES, SIR.

8 Q AND DID YOU TALK TO THEM AT THAT TIME?

9 A YES SIR, I DID.

10 Q NOW, DO YOU RECALL WHERE YOU WERE THE NIGHT THAT
11 CAROL WAS KILLED, THE NIGHT AFTER SHE WAS KILLED, THURSDAY
12 AUGUST THE 14TH?

13 A YES SIR, I DO.

14 Q WHERE WERE YOU THAT NIGHT?

15 A AVON COURT.

16 Q AT WHOSE RESIDENCE?

17 A BOO BOLTON.

18 Q AND HOW DID YOU ARRIVE AT BOO BOLTON'S HOUSE THAT
19 NIGHT?

20 A I DROVE A WORK VAN.

21 Q A WORK VAN. AND WHERE WERE YOU WORKING AT THAT POINT
22 AND TIME?

23 A MAYFLOWER.

24 Q AND WHAT KIND OF BUSINESS IS THAT, MAYFLOWER VAN
25 LINES?

1 A YES, SIR.

2 Q AND WHERE WERE YOU WORKING, WHERE DID YOU GO TO WORK?

3 A COLUMBIA.

4 Q WAS ANYBODY IN YOUR FAMILY WORKING THERE WITH YOU?

5 A MY MOTHER.

6 Q AND WAS SHE A SUPERVISOR TO YOU?

7 A YES, SIR.

8 Q AND YOU SAY YOU WERE DRIVING A WORK VAN, HOW DID YOU

9 COME TO BE IN POSSESSION OF THAT WORK VAN?

10 A SHE LET ME, GAVE ME PERMISSION TO USE THE WORK VAN SO

11 I CAN MOVE.

12 Q AND YOU WERE SUPPOSE TO DO THAT ON THAT THURSDAY

13 NIGHT?

14 A YES, SIR.

15 Q WHAT DID YOU DO INSTEAD?

16 A WENT TO THE CRACK HOUSE.

17 Q DID YOU HAVE ANY MONEY THAT NIGHT?

18 A YES, SIR.

19 Q HOW DID YOU HAVE MONEY?

20 A I GOT PAID THAT THURSDAY.

21 Q YOU GOT PAID ON THURSDAYS?

22 A YES, SIR.

23 Q WHEN YOU WENT TO BOO BOLTON'S HOUSE, DO YOU KNOW

24 ABOUT WHAT TIME IT WAS?

25 A I WOULD SAY BETWEEN 5:00, 6:00, ABOUT 5:30.

1 Q WHAT TIME HAD YOU GOTTEN OFF OF WORK THAT DAY?

2 A ABOUT 3:00 OR 3:30.

3 Q AND WHEN YOU GOT OFF OF WORK YOU WERE IN COLUMBIA?

4 A YES.

5 Q AND THEN WHERE DID YOU GO FROM THERE?

6 A I WENT TO MY DAD'S IN LEXINGTON AND I LEFT THERE AND
7 WENT AND PICKED UP MR. RICHBOURG.

8 Q YOUR FIANCEE?

9 A YES IN SWANSEA AND THEN WENT STRAIGHT TO BOO
10 BOLTON'S.

11 Q AND WHO WAS DRIVING, YOU OR MR. RICHBOURG?

12 A I WAS.

13 Q WHEN YOU GOT TO BOO BOLTON'S ON THAT THURSDAY, THE
14 THURSDAY OF THE MURDER, WHO WAS THERE?

15 A A BUNCH OF PEOPLE.

16 Q DID YOU KNOW ANY OF THEM?

17 A JOHNNIE FRAZIER WAS THERE, BOO BOLTON WAS THERE, AND
18 I CAN'T REMEMBER THE NAMES OF EVERYBODY ELSE.

19 Q A GOOD NUMBER OF PEOPLE THERE?

20 A OH, YES SIR.

21 Q AFTER YOU ARRIVED THERE DID YOU EVER LEAVE?

22 A NO, SIR.

23 Q YOU STAYED THERE ALL NIGHT?

24 A YES, SIR.

25 Q WHAT DID YOU DO?

1 A SMOKED CRACK.

2 Q AND MR. RICHBOURG SMOKED CRACK?

3 A YES, SIR.

4 Q MR. FRAZIER SMOKING CRACK?

5 A YES, SIR.

6 Q HOW MUCH CRACK DID YA'LL SMOKE THAT DAY?

7 A PROBABLY \$200.00 OR \$300.00 DOLLARS WORTH.

8 Q DID YOU SMOKE UNTIL YOU RAN OUT OF MONEY?

9 A YES, SIR.

10 Q DID MR. FRAZIER HAVE ANY CRACK THAT NIGHT?

11 A YES SIR, HE DID.

12 Q DID HE SHARE ANY OF THAT WITH YOU?

13 A YES SIR, HE DID.

14 Q ABOUT HOW MANY TIMES DID HE GIVE YOU CRACK THAT

15 NIGHT?

16 A PLENTY OF TIMES.

17 Q PLENTY OF TIMES?

18 A YES, SIR.

19 Q THAT WAS AFTER YOU WERE OUT OF MONEY?

20 A YES, SIR.

21 Q WHEN DID YOU END UP LEAVING BOO BOLTON'S HOUSE?

22 A AROUND 10:00 A.M. FRIDAY MORNING.

23 Q SO, YOU GOT THERE AT 5:00 O'CLOCK THURSDAY NIGHT AND

24 STAYED ALL NIGHT LONG?

25 A STAYED ALL NIGHT LONG.

1 Q WHEN YOU LEFT THERE WHO LEFT WITH YOU?
2 A IT WAS ME, MR. RICHBOURG AND MR. FRAZIER.
3 Q AND HOW DID YOU LEAVE THERE, TAMMI?
4 A WORK VAN.
5 Q AND WHO WAS DRIVING AT THAT TIME?
6 A I WAS.
7 Q YOU WERE?
8 A YES, SIR.
9 Q HOW DID MR. FRAZIER COME TO LEAVE WITH YA'LL?
10 A I THINK HE NEEDED A RIDE, I MEAN, I DON'T KNOW, WE
11 ALL JUST LEFT AT ONE TIME.
12 Q AND AS YOU WERE LEAVING WHO GOT IN THE DRIVERS SEAT?
13 A I DID.
14 Q WHO GOT IN THE PASSENGER SEAT?
15 A MR. RICHBOURG.
16 Q WHAT WAS THE BACK OF THAT VAN LIKE?
17 A IT WAS JUST OPENED SPACE.
18 Q WHAT DID YA'LL USE IT FOR?
19 A TO PUT BOXES IN.
20 Q WAS THERE ANY BACK SEATS IN IT?
21 A NO, SIR.
22 Q SO, IT WAS JUST TWO SEATS?
23 A YES, SIR.
24 Q AND AN EMPTY BACK?
25 A YES, SIR.

1 Q WHERE DID MR. FRAZIER GO?

2 A IN THE BACK.

3 Q DID HE BRING ANYTHING WITH HIM WHEN HE GOT INTO THAT
4 VAN?

5 A NOT THEN.

6 Q TELL US WHAT HAPPENED?

7 A HE GOT IN THE VAN, WE WENT TO LEAVE AND HE SAID, WAIT
8 A MINUTE, I FORGOT SOMETHING. HE GOT OUT OF THE VAN AND
9 WENT TOWARD THE HOUSE AND BROUGHT BACK A BOOK BAG AND A
10 WORK TOOL, I THINK IT WAS A NAIL GUN.

11 Q A NAIL GUN?

12 A YES, SIR.

13 Q NOW, THE BOOK BAG THAT HE BROUGHT BACK, DID YOU SEE
14 IT?

15 A I JUST GLANCED AT IT, YOU KNOW.

16 Q LET ME SHOW YOU WHAT HAS BEEN MARKED STATE'S EXHIBIT
17 NUMBER 22, DOES THAT APPEAR TO BE THE SAME TYPE BOOK BAG
18 HE HAD?

19 A YES, SIR.

20 Q MR. FRAZIER BROUGHT THAT WITH HIM?

21 A YES, SIR.

22 Q WHERE DID HE PUT THAT IN THE VAN, DO YOU REMEMBER?

23 A NO, HE JUST, WHEN HE GOT IN IT WAS RIGHT BESIDE HIM.

24 Q AND WHERE WAS HE IN THE VAN?

25 A IN THE BACK.

1 Q WAS HE SITTING ON ANYTHING?

2 A I DON'T THINK THERE WAS ANYTHING ELSE IN THERE. IT
3 WAS JUST OPEN, I DON'T KNOW IF THERE WAS A CHAIR,
4 SOMETIMES WE PUT A CHAIR IN THE BACK, YOU KNOW, SOMETIMES
5 WE DIDN'T, I CAN'T REMEMBER.

6 Q WHEN YA'LL LEFT BOO BOLTON'S HOUSE WHERE DID YOU GO?

7 A WE WENT TO CALVARY CHURCH ROAD TO GET MR. RICHBOURG'S
8 CAR.

9 Q AND WHEN YOU GOT TO CALVARY CHURCH ROAD DID ANYBODY
10 GET OUT?

11 A MR. RICHBOURG.

12 Q YOUR FIANCEE?

13 A YES.

14 Q WHO WAS IN THE VAN AT THAT POINT AND TIME?

15 A ME AND MR. FRAZIER.

16 Q AND WHAT, IF ANYTHING, DID YA'LL DO?

17 A WE WENT DOWN TO THE END OF THE ROAD AND WAITED ON MR.
18 RICHBOURG, THE CAR WOULDN'T CRANK SO WE HAD TO TURN AROUND
19 AND GO BACK AND PUSH ON THE CAR AND THEN WE LEFT. AND MR.
20 FRAZIER THEN GOT IN THE CAR WITH MR. RICHBOURG.

21 Q SO, AFTER MATT GOT HIS CAR STARTED MR. FRAZIER GOT IN
22 THE CAR WITH HIM?

23 A YES, SIR.

24 Q WHAT WAS YA'LL'S PLAN AT THAT POINT AND TIME?

25 A WE DIDN'T HAVE A PLAN, YOU KNOW, WE JUST, AT THAT

1 POINT I WANTED TO GET RID OF THE VAN BECAUSE I WASN'T
2 SUPPOSE TO HAVE IT. SO, I TOOK IT TO MY EX-INLAW'S AND
3 DROPPED IT OFF.

4 Q YOUR EX-INLAW, HER NAME IS WHAT?

5 A JUANITA INABINET.

6 Q AND DO YOU STILL GET ALONG WITH HER?

7 A YES, SIR.

8 Q YOU ARE THE MOTHER OF HER GRANDCHILDREN?

9 A YES, SIR..

10 Q DO YOU LIVE AT HER PROPERTY NOW?

11 A YES SIR, I DO.

12 Q SO, YOU LEFT AND DROPPED THE VAN OFF AT YOUR
13 EX-INLAW'S?

14 A YES, SIR. I DIDN'T WANT ANY PART OF THAT VAN.

15 Q DIDN'T WANT ANY PART OF THAT VAN AT THAT POINT?

16 A NO, SIR.

17 Q DID MR. RICHBOURG AND MR. FRAZIER COME UP TO YOUR
18 MOTHER-N-LAW'S HOUSE?

19 A NO, SIR.

20 Q WHERE DID THEY STAY?

21 A THEY WAS AT THE DRIVEWAY, AT THE END OF THE DRIVEWAY
22 WAITING ON ME.

23 Q SO, IS IT A LONG DRIVEWAY?

24 A YES.

25 Q SO, YOU WENT UP TO THE HOUSE AND LEFT THE VAN?

1 A YES, SIR.

2 Q DID YOU TALK TO YOUR MOTEHR-N-LAW AT THAT POINT?

3 A YES, SIR.

4 Q AND THEN WHAT DID YOU DO?

5 A I LEFT THERE AND WENT TO THE END OF THE DRIVEWAY AND

6 GOT IN THE CAR.

7 Q MR. RICHBOURG'S CAR?

8 A YES, SIR.

9 Q AND WHO WAS IN THE CAR AT THAT POINT AND TIME?

10 A MR. RICHBOURG AND MR. FRAZIER.

11 Q AND WHERE DID YA'LL GO FROM THAT POINT AND TIME?

12 A WE WENT TO JERRY'S BAR IN SWANSEA TO TRY TO SELL THE

13 NAIL GUN THAT MR. FRAZIER HAD.

14 Q AND WHO WENT INTO JERRY'S BAR?

15 A MR. FRAZIER.

16 Q DID HE TAKE THE NAIL GUN IN WITH HIM?

17 A YES SIR, HE DID.

18 Q DID HE COME BACK OUT WITH IT?

19 A NO, SIR.

20 Q NOW, DID MR. FRAZIER HAVE THAT BOOK BAG WITH HIM AT

21 THAT TIME?

22 A NO, SIR.

23 Q WHAT HAPPENED TO THE BOOK BAG?

24 A HE LEFT IT IN THE VAN.

25 Q AND HOW DO YOU KNOW THAT?

1 A BECAUSE RIGHT BEFORE WE GOT TO THE END OF BASIL ROAD,
2 WHICH IS THE ROAD THAT MY EX-MOTHER-IN-LAW LIVES ON HE SAID
3 HE FORGOT HIS BOOK SACK IN THE VAN. AND MR. RICHBOURG
4 THEN TOLD HIM, WE AREN'T GOING TO TURN AROUND AND GO BACK.
5 SO, HE WAS A LITTLE UPSET.

6 Q DID YA'LL OFFER TO LET HIM OUT OF THE CAR?

7 A YES SIR, WE DID.

8 Q AND WHAT DID HE SAY WHEN THAT HAPPENED?

9 A HE SAID, NO.

10 Q SO, HE HAD THE NAIL GUN WITH HIM BUT HE HAD LEFT THE
11 BOOK BAG IN THE VAN?

12 A YES, SIR.

13 Q DID YOU END UP SPENDING MOST OF THE DAY WITH JOHNNIE
14 FRAZIER THAT DAY?

15 A YES SIR, WE DID.

16 Q AND WHAT TIME DID YOU AND MR. FRAZIER PART COMPANY
17 THAT DAY?

18 A IT WAS DARK, ALMOST DARK, DUST DARK.

19 Q AFTERNOON TIME?

20 A YES, EVENING.

21 Q EVENING. AND DID YA'LL TAKE HIM TO A PARTICULAR
22 PLACE TO DROP HIM OFF?

23 A YES, SIR.

24 Q WHERE DID YA'LL TAKE HIM TO?

25 A IN GASTON, HAPPY TOWN ROAD.

1 Q AND DID HE TELL YOU WHERE THAT WAS?
2 A THAT WAS HIS DAD'S PLACE.
3 Q TAMMI, WHEN MR. FRAZIER GOT INTO THAT VAN HE HAD THAT
4 BOOK BAG?
5 A YES, SIR.
6 Q BUT HE LEFT THAT IN THE VAN AT YOUR MOTHER-N-LAW'S?
7 A YES SIR, HE DID.
8 Q THAT IS ALL I HAVE, PLEASE ANSWER ANY QUESTIONS THAT
9 MR. FLOYD MAY HAVE.
10 CROSS-EXAMINATION
11 BY MR. FLOYD:
12 Q GOOD MORNING, MS. INABINET.
13 A GOOD MORNING.
14 Q HOW MANY PEOPLE WOULD YOU SAY, THAT YOU RECALL WERE
15 IN BOO'S HOUSE THAT NIGHT?
16 A PLENTY.
17 Q MORE THAN TEN?
18 A NOT MORE THAN TEN, MAYBE EIGHT BUT THEY WERE IN AND
19 OUT.
20 Q NOW, THAT WHOLE NIGHT THAT YOU WERE THERE DID YOU
21 EVER SEE JOHNNIE FRAZIER'S BOOK BAG?
22 A NO SIR, I DIDN'T.
23 Q SO, WHEN YA'LL WERE DOING THE CRACK ARE YA'LL IN ONE
24 ROOM, TELL US HOW THAT WORKS?
25 A WELL, MOST OF US WAS IN ONE ROOM, YES.

1 Q AND IS THIS SOMETHING THAT YOU SMOKE IT, IS THAT WHAT
2 YOU DO WITH IT?

3 A YES, SIR.

4 Q SO, WHEN YA'LL WERE IN THAT ROOM TOGETHER DID YOU
5 EVER SEE JOHNNIE FRAZIER'S BOOK BAG?

6 A NO SIR, I DID NOT.

7 Q NOW, IS THIS SOMETHING, WHEN YOU ARE DOING CRACK, DO
8 YOU STOP LIKE AND TAKE A SHOWER OR ANYTHING LIKE THAT?

9 A NO, SIR.

10 Q DO YOU STOP AND WASH YOUR CLOTHES OR ANYTHING LIKE
11 THAT?

12 A NO, SIR.

13 Q YOU JUST DO THE CRACK?

14 A YOU JUST DO THE CRACK.

15 Q AND THAT WHOLE NIGHT THAT YOU WERE THERE YOU NEVER
16 SAW WHERE JOHNNIE FRAZIER'S BOOK BAG WAS?

17 A NO, SIR.

18 Q NOW, YOU HAVE KNOWN JOHNNIE A GOOD WHILE?

19 A NO.

20 Q AND YOU SPENT ALL DAY WITH HIM THAT DAY OF THE 15TH,
21 IS THAT CORRECT?

22 A THURSDAY.

23 Q I DON'T WANT TO PUT, WELL YOU WENT OVER THERE
24 THURSDAY NIGHT, RIGHT?

25 A THURSDAY EVENING.

1 Q SO, YOU WERE IN HIS PRESENCE, FIRST OF ALL, WAS HE
2 THERE WHEN YOU GOT THERE?

3 A YES, SIR.

4 Q SO, YOU WERE IN HIS PRESENCE FROM 5:00 OR 6:00
5 THURSDAY NIGHT UNTIL DARK THE NEXT DAY, FRIDAY?

6 A RIGHT, YES SIR.

7 Q A GOOD 24 HOURS?

8 A YES, SIR.

9 Q AND ACTED NORMAL?

10 A YES, SIR.

11 Q THANK YOU. NO FURTHER QUESTIONS.

12 THE COURT: ANY REDIRECT?

13 MR. RIDDLE: NO SIR, YOUR HONOR.

14 THE COURT: YOU CAN STEP DOWN. CALL YOUR NEXT
15 WITNESS.

16 MR. RIDDLE: THE STATE CALLS MATT RICHBOURG.

17 MATT RICHBOURG, AFTER BEING DULY SWORN,
18 TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MR. RIDDLE:

21 Q YOUR FIRST NAME IS RODNEY?

22 A YES.

23 Q WHAT IS YOUR MIDDLE NAME?

24 A MATT.

25 Q THAT IS WHAT YOU GO BY?

1 A YES, SIR.

2 Q MATT, WHAT DO YOU DO FOR A LIVING?

3 A CLIMB TREES.

4 Q WHAT DO YOU DO WHEN YOU CLIMB THEM?

5 A PUT THEM DOWN ON THE GROUND.

6 Q CUT THEM?

7 A YES, SIR.

8 Q HOW LONG HAVE YOU BEEN DOING THAT?

9 A PROBABLY ABOUT 15 AND A HALF YEARS, WORKED FOR MY OLD

10 MAN FOR 13 YEARS, BEEN ON MY OWN MESSING AROUND EVER

11 SINCE.

12 Q THE LAST COUPLE OF YEARS?

13 A YES, SIR.

14 Q MATT, DO YOU HAVE SOME EXPERIENCE WITH DRUGS?

15 A YES.

16 Q WERE YOU USING DRUGS BACK IN 2003?

17 A YES, SIR.

18 Q ARE YOU USING THEM TODAY?

19 A NO, SIR.

20 Q HOW LONG HAVE YOU BEEN CLEAN, MATT?

21 A FOR OVER A YEAR.

22 Q TAMMI WITH YOU WHILE YOU WERE HAVING YOUR PROBLEMS

23 WITH DRUGS?

24 A EVERY DAY.

25 Q DID SHE GO THROUGH THE SAME THING?

1 A YES SIR, SHE DID.

2 Q ROUGH TIME IN YOUR LIFE?

3 A VERY ROUGH.

4 Q HOW ARE YOU FEELING TODAY?

5 A PRETTY GOOD, I WOULD RATHER BE AT WORK.

6 Q I CAN UNDERSTAND THAT. MR. RICHBOURG, DO YOU

7 REMEMBER WHEN CAROL HURSEY GOT KILLED?

8 A YES SIR, I DO.

9 Q DID YOU KNOW CAROL?

10 A NO, SIR. I HAVE GOT SOME FAMILY THAT LIVED DOWN THE

11 ROAD FROM HER.

12 Q BUT YOU DON'T KNOW HER?

13 A NO, SIR.

14 Q DID YOU KNOW BUTCH?

15 A NO, SIR.

16 Q DO YOU REMEMBER THE DAY THAT TAMMI SHOWED UP IN THE

17 WORK VAN?

18 A YES.

19 Q IS THAT THE SAME DAY THAT CAROL GOT KILLED?

20 A I BELIEVE IT WAS, YES SIR.

21 Q WHERE DID YOU FIRST SEE TAMMI IN THE WORK VAN THAT

22 DAY, MATT?

23 A SHE CAME TO MY COUSIN'S HOUSE TO PICK ME UP WHILE I

24 WAS CUTTING GRASS FOR RONNIE.

25 Q YOUR COUSIN, RONNIE?

1 A MY COUSIN'S NAME IS LYNN, SHE MARRIED RONNIE, HE HAD
2 HAD A STROKE AND I WAS HELPING HIM CUT GRASS.
3 Q SO, THIS IS YOUR COUSIN'S HUSBAND THEN?
4 A YES, SIR.
5 Q YOU HAD BEEN OVER AT RONNIE'S HOUSE?
6 A YES, SIR.
7 Q TAMMI COMES AND PICKS YOU UP?
8 A YES, SIR.
9 Q WAS SHE BY HERSELF WHEN SHE PICKED YOU UP?
10 A YES, SIR.
11 Q AND WHERE DID YA'LL GO FROM THERE?
12 A STRAIGHT TO THE CRACK HOUSE.
13 Q AND WHOSE HOUSE WAS THAT?
14 A BOO'S.
15 Q DID YOU BUY A LOT OF CRACK FROM BOO?
16 A EVERY DIME SHE HAD.
17 Q YOU WERE SMOKING ON TAMMI'S MONEY?
18 A YES SIR, I WAS.
19 Q HAD YOU BEEN TO BOO'S BEFORE?
20 A OH, YES.
21 Q IS IT FAIR THAT YOU WERE A REGULAR CUSTOMER?
22 A I WAS BECOMING A REGULAR FOR HIM.
23 Q DID YOU KNOW JOHNNIE FRAZIER?
24 A NO, SIR.
25 Q DID YOU MEET JOHNNIE FRAZIER THAT DAY?

1 A YES, SIR.

2 Q WHO INTRODUCED YOU TO HIM?

3 A TAMMI.

4 Q DID SHE TELL YOU HOW SHE KNEW HIM?

5 A YES, SIR.

6 Q THAT WAS THROUGH HER EX-HUSBAND?

7 A YES, SIR.

8 Q WHAT DID YA'LL DO THAT NIGHT AT MR. BOLTON'S?

9 A SMOKED DOPE.

10 Q AND WHAT TIME HAD YOU GOTTEN THERE, ROUGHLY?

11 A 6:00 O'CLOCK, SOMEWHERE AROUND THERE.

12 Q WHAT WAS YOURS AND TAMMI'S HABIT REGARDING DRUGS, DID

13 YA'LL SHARE?

14 A WE SHARED.

15 Q YOU SHARED WITH EACH OTHER?

16 A YES, SIR.

17 Q DID YA'LL BUY SOME CRACK THAT NIGHT?

18 A YES, SIR.

19 Q AND SMOKED IT?

20 A SMOKED IT ALL.

21 Q WAS ANYBODY ELSE BUYING CRACK THAT NIGHT?

22 A EVERYBODY THAT COME IN THAT HOUSE BOUGHT CRACK.

23 Q DID MR. FRAZIER HAVE ANY CRACK THAT NIGHT?

24 A YES SIR, HE HAD SOME CRACK.

25 Q HOW DID HE HAVE HIS CRACK?

1 A IN A MATCH BOX.

2 Q A LITTLE SMALL BOX?

3 A YES, SIR.

4 Q DO YOU RECALL HOW MANY BOXES HE HAD?

5 A I BELIEVE IT WAS TWO.

6 Q WAS HE SHARING CRACK?

7 A YES SIR, HE SMOKED SOME DOPE WITH US.

8 Q WHEN YOU SMOKED WITH HIM WHOSE CRACK WERE YOU

9 SMOKING?

10 A HIS.

11 Q HE WAS GIVING YA'LL CRACK?

12 A RIGHT.

13 Q IS THAT UNUSUAL IN A CRACK HOUSE?

14 A MOST OF THE TIME, YES SIR, IT IS VERY UNUSUAL TO GET

15 ANYBODY TO SHARE CRACK WITH YOU.

16 Q IS THE STUFF PRETTY EXPENSIVE?

17 A WELL A CRACK HEAD DON'T LET ANOTHER CRACK HEAD JUST

18 SMOKE HIS CRACK, THEY DON'T LIKE TO SHARE.

19 Q IS THAT HOW YOU DESCRIBED YOURSELF AT THE TIME, A

20 CRACK HEAD?

21 A I WAS VERY GREEDY WITH MINE.

22 Q MR. FRAZIER SHARED WITH YOU?

23 A YES, SIR.

24 Q AND WHEN YOU USE CRACK YOU CALL THAT A HIT?

25 A YES, SIR.

1 Q ABOUT HOW MANY HITS DID MR. FRAZIER SHARE WITH YOU
2 GUYS THAT NIGHT?

3 A I DON'T REMEMBER, I WASN'T COUNTING.

4 Q MORE THAN ONCE?

5 A OH, YES.

6 Q MORE THAN A COUPLE?

7 A OH, YES. IT WAS THE REST OF THE NIGHT UNTIL HE RUN
8 OUT, WE LEFT. HE DIDN'T HAVE ANY MORE ON HIM THERE.

9 Q DID YOU SEE MR. FRAZIER GET ANY MORE THAT NIGHT?

10 A I KNOW HE HAD, HE ENDED UP WITH MORE BECAUSE THERE
11 WAS NO WAY WE COULD OF SMOKED THAT LONG ON THAT, THERE WAS
12 NO WAY POSSIBLE, THREE OR FOUR PEOPLE SMOKING CRACK IT
13 GOES KIND OF FAST.

14 Q WAS HE SHARING WITH JUST YOU AND TAMMI OR WAS HE
15 SHARING WITH OTHER PEOPLE TOO?

16 A I THINK HE MIGHT OF BEEN SHARING WITH OTHER PEOPLE, I
17 AM NOT SURE, I KNOW HE SHARED WITH ME AND TAMMI.

18 Q AFTER HE RAN OUT OF CRACK WHAT DID YA'LL DO?

19 A THAT NEXT MORNING WE LEFT, WE GOT MY CAR, DITCHED THE
20 VAN, SOLD A NAIL GUN--

21 Q HOLD ON, LET ME TALK ABOUT LEAVING FIRST. WHEN YA'LL
22 LEFT HOW DID YA'LL LEAVE?

23 A IN THE VAN.

24 Q WHO WAS DRIVING?

25 A TAMMI.

1 Q WHERE WERE YOU?
2 A IN THE PASSENGER SEAT.
3 Q AND WHERE WAS MR. FRAZIER?
4 A IN THE BACK.
5 Q AND DID HE HAVE TO DO ANYTHING AT BOO'S HOUSE BEFORE
6 YA'LL COULD LEAVE?
7 A YES SIR, HE HAD TO GET OUT AND GET HIS BAG.
8 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER 22 AND ASK YOU
9 IF YOU RECOGNIZE WHAT IT IS?
10 A YES SIR, THAT IS IT.
11 Q THAT IS IT?
12 A YES, SIR.
13 Q AND WHERE DID HE TAKE THAT BAG, MR. RICHBOURG?
14 A HE GOT IN THE VAN WITH IT.
15 Q AND DID HE HAVE ANYTHING ELSE WITH HIM AT THAT TIME?
16 A A NAIL GUN.
17 Q AFTER YA'LL LEFT WHERE DID YA'LL GO?
18 A OUT TO SWANSEA TO PICK UP MY CAR.
19 Q WHERE WAS YOUR CAR?
20 A IN THE BACK YARD OF MY COUSIN'S HOUSE.
21 Q THE SAME ONE THAT YOU HAVE BEEN CUTTING GRASS FOR?
22 A YES, SIR.
23 Q FROM THERE WHERE DID YA'LL GO?
24 A WELL, WE RUN OUT OF GAS RIGHT THERE AT THE END OF THE
25 ROAD AND WE STOPPED AND GOT IT CRANKED BACK UP AND TOOK

1 THE VAN AND DROPPED IT OFF AT MS. JUANITA'S AND PROCEEDED
2 TO THE CAR AND SOLD THE NAIL GUN?

3 Q MS. JUANITA, IS THAT TAMMI'S MOTHER-N-LAW,
4 EX-MOTHER-N-LAW?

5 A YES, SIR.

6 Q YA'LL TOOK THE VAN THERE?

7 A YES, SIR.

8 Q WHEN YA'LL WENT TO MS. JUANITA'S HOUSE, WHO WAS IN
9 WHICH VEHICLE AT THAT POINT AND TIME?

10 A JOHNNIE WAS WITH ME AT THAT POINT AND TAMMI DROPPED
11 THE VEHICLE OFF AND CAME BACK DOWN THE DRIVEWAY.

12 Q DID YOU GO UP TO JUANITA'S HOUSE?

13 A NO.

14 Q WHEN YOU SAY, NO, WHY DIDN'T YOU?

15 A BECAUSE I DIDN'T WANT ANY PART OF IT.

16 Q YOU DIDN'T WANT ANY PART OF IT?

17 A NO, SIR.

18 Q SO, TAMMI TOOK IT UP THERE?

19 A YES, SIR.

20 Q WHEN SHE CAME BACK DOWN WHAT DID SHE DO?

21 A JUMPED IN THE CAR, PROCEEDED TO THE CAR, RIGHT THERE
22 AT 321.

23 Q DID MR. FRAZIER HAVE THE BOOK BAG AT THAT TIME?

24 A NO, IT GOT LEFT IN THE VAN. NO SIR, IT GOT LEFT IN
25 THE VAN.

1 Q HOW DO YOU KNOW IT WAS LEFT IN THE VAN?

2 A BECAUSE HE WANTED THE BOOK BAG, SAID SOMETHING ABOUT
3 CIGARETTES, I BELIEVE, I WASN'T GOING BACK FOR THAT BAG.

4 Q YOU DIDN'T WANT ANY PART OF GOING UP THERE?

5 A THERE WAS NO WAY I WAS GOING BACK.

6 Q FOLKS AT THAT HOUSE MAD AT YOU?

7 A THEY WERE MAD, WE WERE BRINGING A VEHICLE UP THERE IN
8 THERE YARD, IT WAS CAUSING PROBLEMS, YOU KNOW. WE WERE
9 OUT DOING WRONG, YES, THEY WERE MAD.

10 Q DID YOU OFFER TO LET MR. FRAZIER OUT OF THE VEHICLE?

11 A I TOLD HIM THAT HE COULD GO GET IT BUT I WASN'T TO GO
12 GET IT.

13 Q FROM THERE YOU WENT TO THE BAR?

14 A YES, SIR.

15 Q DID YOU END UP SPENDING THE MAJORITY OF THE DAY WITH
16 MR. FRAZIER?

17 A ALL DAY.

18 Q ALL DAY?

19 A YES, SIR.

20 Q ABOUT WHAT TIME DID YOU PART WAYS WITH JOHNNIE
21 FRAZIER?

22 A IT WAS DARK, AUGUST, IT HAD JUST GOT DARK WHEN I PUT
23 HIM OUT AT HIS DADDY'S, HE SAID THAT WAS HIS DAD'S PLACE
24 WHERE I PUT HIM OUT AT.

25 Q AND WHERE WAS THAT, SIR?

1 A GASTON, BACK OFF OF HAPPY TOWN, BACK IN THE PINES
2 BACK THERE.

3 Q WHEN MR. FRAZIER GOT IN THE VAN HE HAD THAT BOOK BAG?
4 A WHEN HE GOT IN THE VAN HE HAD THAT BOOK BAG.

5 Q BUT WHEN YOU DROPPED HIM OFF HE DIDN'T HAVE IT?
6 A NO, HE DIDN'T HAVE IT NO MORE.

7 Q HE DIDN'T HAVE IT WHEN HE WAS IN YOUR CAR?
8 A NOT IN MY CAR, NO SIR.

9 Q IS THAT THE FIRST DAY YOU HAD MET JOHNNIE FRAZIER?
10 A THAT IS THE FIRST I EVER MET HIM, YES SIR.

11 Q THANK YOU, PLEASE ANSWER ANY OF MR. FLOYD'S
12 QUESTIONS.

13 THE COURT: CROSS, MR. FLOYD.

14 CROSS-EXAMINATION

15 BY MR. FLOYD:

16 Q THAT NIGHT AT THE CRACK HOUSE THERE WAS PROBABLY 30
17 OR 40 PEOPLE THAT CAME THROUGH, WASN'T THERE?

18 A IT WAS A BUNCH AROUND THERE.

19 Q WOULD YOU AGREE WITH ME 30 TO 40?
20 A YES SIR, THERE ALL NIGHT.

21 Q AND WERE SOME PEOPLE DOING THINGS OTHER THAN SMOKING
22 CRACK IN THE HOUSE?

23 A I COULDN'T TELL YOU WHAT EVERYBODY ELSE WAS DOING, I
24 WAS SMOKING CRACK, TAMMI WAS SMOKING CRACK, I IMAGINE
25 THERE WAS SOME MARIJUANA AND A BUNCH OF DRINKING GOING ON.

1 Q WERE THERE PEOPLE IN THERE LIKE PAINTING AND STUFF
2 LIKE THAT?

3 A YES, I WAS HELPING PAINT TOO.

4 Q SO, THERE WERE PEOPLE IN ALL OF THE ROOMS IN THE
5 HOUSE, BASICALLY?

6 A THE LIVING ROOM, DINING ROOM, ONE BIG ROOM. THERE
7 WAS PEOPLE SITTING ON THE FIREPLACE, PEOPLE SITTING ON THE
8 FLOOR, BUCKETS, CHAIRS, UP ON THE BAR, IN AND OUT. PEOPLE
9 SITTING IN CARS IN THE YARD SMOKING CRACK.

10 Q AND SO PEOPLE WOULD ACTUALLY LIKE PAINT OR SOMETHING
11 LIKE THAT AND MAKE A LITTLE MORE CRACK?

12 A THERE WAS PEOPLE THERE PAINTING AND I BELIEVE HE HAD
13 ANOTHER FELLOW IN THERE DOING SOME CARPENTER WORK.

14 Q NOW, THAT, YOU STAYED THE ENTIRE NIGHT THERE?

15 A ALL NIGHT, YES SIR.

16 Q AND THAT ENTIRE NIGHT THAT YOU WERE THERE DID YOU
17 EVER SEE JOHNNIE FRAZIER'S BOOK BAG?

18 A NO, SIR.

19 Q SO, THE FIRST TIME THAT YOU KNEW IT EVEN EXISTED WAS
20 AS YA'LL WERE LEAVING AND HE SAID I HAVE GOT TO GO BACK
21 AND GET IT?

22 A YES, SIR.

23 Q THANK YOU, NO FURTHER QUESTIONS.

24 THE COURT: ANY REDIRECT?

25 MR. RIDDLE: NO, SIR.

1 THE COURT: YOU CAN STEP DOWN. CALL YOUR NEXT
2 WITNESS.

3 MR. STUMBO: YOUR HONOR, THE STATE CALLS JUANITA
4 INABINET.

5 JUANITA INABINET, AFTER BEING DULY SWORN,
6 TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. STUMBO:

9 Q MS. INABINET, HOW ARE YOU.

10 A GOOD.

11 Q MS. INABINET, THE PEOPLE THAT WERE JUST ON THE STAND,
12 DO YOU KNOW THEM?

13 A YES, I DO.

14 Q YOU ARE TAMMI'S EX-MOTHER-N-LAW?

15 A EX-MOTHER-N-LAW.

16 Q SHE WAS MARRIED TO YOUR SON?

17 A YES.

18 Q AND YOU STILL GET ALONG WITH TAMMI?

19 A YES, SIR.

20 Q SHE IS THE MOTHER OF YOUR GRANDCHILDREN?

21 A GRANDCHILDREN, YES.

22 Q AND WHERE DOES SHE LIVE?

23 A SHE LIVES ON THE PROPERTY.

24 Q ARE YOU RELATED TO JOHNNIE FRAZIER?

25 A YES, I AM.

1 Q AND WHAT RELATION ARE YOU TO HIM?

2 A I AM HIS AUNT.

3 Q HIS MOTHER--

4 A HIS MOTHER IS MY SISTER.

5 Q I WILL TAKE YOU BACK TO TWO YEARS AGO. DO YOU EVER
6 REMEMBER A TIME WHEN TAMMI BROUGHT A GREEN MOVING VAN OVER
7 TO YOUR HOUSE?

8 A YES.

9 Q HOW MANY TIMES DID SHE BRING OVER A GREEN MOVING VAN
10 TO YOUR HOUSE?

11 A ONE TIME.

12 Q DO YOU REMEMBER THAT DAY PRETTY CLEARLY?

13 A YES.

14 Q WERE YOU HAPPY WITH TAMMI THAT DAY?

15 A NO, I WASN'T HAPPY WITH HER.

16 Q DID SHE LEAVE THAT VAN AT YOUR HOUSE?

17 A YES, SHE DID.

18 Q DID SHE GET IN THE CAR AND LEAVE AFTER THAT?

19 A SHE RAN DOWN THE DRIVEWAY AND GOT IN A CAR.

20 Q WHAT DID YOU KNOW ABOUT THAT GREEN VAN?

21 A NOTHING. WELL, HER MOTHER CALLED ME AND TOLD ME IT
22 HAD BEEN STOLEN.

23 Q HER MOTHER ASSUMED THAT TAMMI HAD IT?

24 A YES, SHE KNEW TAMMI HAD IT.

25 Q AND AFTER TAMMI LEFT THE VAN AT YOUR HOUSE WHAT DID

1 YOU DO WITH IT AT THAT POINT?

2 A I CALLED MELISSA AND TOLD HER THE VAN WAS THERE. AND
3 I CALLED LEXINGTON COUNTY AND TOLD THEM THE VAN IS HERE.

4 Q AT THAT POINT DID YOU KNOW THAT JOHNNIE FRAZIER HAD
5 ANYTHING TO DO WITH THAT VAN?

6 A NO, SIR.

7 Q AND YOU CALLED THE SHERIFFS DEPARTMENT?

8 A YES.

9 Q WHY, BECAUSE IT WAS STOLEN?

10 A BECAUSE IT WAS STOLEN.

11 Q DID THE SHERIFFS DEPARTMENT COME OUT EVENTUALLY AND
12 GET THE VAN?

13 A YES, SIR.

14 Q AND WHEN WAS THAT?

15 A IT WAS A COUPLE OF HOURS LATER SOMEONE CAME OUT.

16 Q OKAY, WHO REMOVED IT FROM YOUR PROPERTY?

17 A I DON'T KNOW, THEY TOLD ME IT WAS A TOW MAN.

18 Q A TOW MAN?

19 A A TOW MAN FROM SWANSEA.

20 Q IN THE COUPLE OF HOURS THAT VAN WAS AT YOUR HOUSE DID
21 YOU EVER GO INSIDE OF THAT VAN?

22 A NO, SIR.

23 Q DID YOU EVER PUT ANYTHING INSIDE OF IT?

24 A NO, SIR.

25 Q DID YOU EVER TAKE ANYTHING OUT OF IT?

1 A NO, SIR.

2 Q DO YOU KNOW IF IT WAS LOCKED OR NOT?

3 A NO, SIR.

4 Q AFTER THE TOW MAN TOOK THE VAN AWAY DID YOU EVER SEE
5 THE VAN AGAIN?

6 A NO, SIR.

7 Q THAT IS ALL I HAVE.

8 THE COURT: CROSS-EXAMINE.

9 MR. FLOYD: NO QUESTIONS, YOUR HONOR.

10 THE COURT: YOU MAY STEP DOWN, WATCH YOUR STEP,
11 PLEASE. CALL YOUR NEXT WITNESS.

12 MR. RIDDLE: THE STATE CALLS CHARLES INGLE TO THE
13 STAND.

14 CHARLES INGLE, AFTER BEING DULY SWORN, TESTIFIED
15 AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. RIDDLE:

18 Q MR. INGLE, WHERE ARE YOU EMPLOYED?

19 A BEN SATCHER FORD.

20 Q WHAT DO YOU DO WITH BEN SATCHER?

21 A I WORK IN THE BODY SHOP.

22 Q YOU WORK IN THE BODY SHOP?

23 A CORRECT.

24 Q AND WHAT DO YOU DO FOR THEM?

25 A PAINT, PAINT AUTOMOBILES.

- 1 Q HOW LONG HAVE YOU BEEN WITH BEN SATCHER?
- 2 A 20 MONTHS.
- 3 Q 20 MONTHS, WHAT DID YOU DO PRIOR TO THAT, MR. INGLE?
- 4 A I OPERATED A PAINT AND BODY SHOP IN SWANSEA.
- 5 Q AND WHAT WAS THE NAME OF THAT BUSINESS?
- 6 A ELITE PAINT AND BODY.
- 7 Q AND DID YA'LL LIMIT YOURSELF TO DOING PAINT AND BODY
- 8 WORK OR WERE THERE OTHER ASPECTS OF THAT BUSINESS AS WELL?
- 9 A WE ALSO RUN A WRECKER SERVICE.
- 10 Q AND WOULD YOU DRIVE THE WRECKERS?
- 11 A YES, SIR.
- 12 Q DO YOU RECALL WORKING FOR ELITE PAINT AND BODY IN
- 13 AUGUST IN 2003?
- 14 A YES, SIR.
- 15 Q AND DID YOU GET A CALL TO RESPOND OUT TO BASIL ROAD
- 16 IN REFERENCE TO A PARTICULAR VEHICLE ON AUGUST THE 15TH OF
- 17 2003?
- 18 A YES, SIR.
- 19 Q WHAT KIND OF CAR WAS THAT?
- 20 A A VAN.
- 21 Q A VAN?
- 22 A YES, SIR.
- 23 Q WAS IT A, LIKE A PERSONAL VAN OR A WORK VAN?
- 24 A A WORK VAN.
- 25 Q AND DID YOU IN FACT RESPOND OUT THERE WITH YOUR

1 WRECKER?

2 A YES, SIR.

3 Q AND HOW DID YOU COME TO BE CALLED OUT THERE?

4 A FROM LEXINGTON COUNTY DISPATCH.

5 Q WERE YOU PART OF THE COUNTY WRECKER ROTATION?

6 A YES, SIR.

7 Q AND CAN YOU TELL THE JURY HOW THAT WORKS, JUST A
8 LITTLE BIT?

9 A THE LEXINGTON COUNTY COMES UP WITH A ROTATION THAT
10 EVERYBODY THAT OWNS A WRECKER SERVICE WOULD BE PUT ON THIS
11 LIST THAT THEY CALL DIFFERENT SERVICES EACH TIME.

12 Q AND WOULD THAT TO ENSURE THAT ALL THE WRECKER
13 COMPANIES GOT A FAIR SHARE OF THE BUSINESS?

14 A YES, SIR.

15 Q AND IT JUST HAPPENED YOU WERE AT THE TOP OF THE LIST
16 ON THAT PARTICULAR DAY?

17 A YES, SIR.

18 Q AND SO THEY CALLED YOU OUT TO BASIL ROAD?

19 A CORRECT.

20 Q WHAT DID YOU DO WHEN YOU GOT OUT TO BASIL ROAD?

21 A I DON'T KNOW WHAT THE RECOVERY WAS, TOWED IT BACK TO
22 MY SHOP.

23 Q AND WHEN YOU GOT TO BASIL ROAD, YOU MENTIONED A
24 RECOVERY, WHAT WAS YOUR IMPRESSION OF WHAT WAS GOING ON?

25 A I WAS UNDER THE IMPRESSION THAT IT WAS JUST AN

1 ABANDONED VEHICLE.

2 Q AND YOU RECOVERED IT?

3 A CORRECT.

4 Q AND WHEN YOU RECOVER SUCH VEHICLES, WHAT DO YOU DO
5 WITH THAT?

6 A TAKE IT BACK TO THE SHOP AND STORE IT UNTIL THE
7 SHERIFFS DEPARTMENT INQUIRES ABOUT IT.

8 Q SO, THAT IS WHAT YOU DID IN THIS PARTICULAR CASE?

9 A YES, SIR.

10 Q AND THAT WAS ON FRIDAY THE 15TH?

11 A CORRECT.

12 Q WHEN YOU GOT BACK TO YOUR SHOP WHAT DID YOU DO WITH
13 THE VAN?

14 A I STORED IT IN THE SHOP AND I WAS IN THE PROCESS OF
15 CLOSING WHEN I GOT THE CALL AND SO I JUST STORED IT IN THE
16 SHOP AND WENT HOME.

17 Q WHEN YOU SAY, IN THE SHOP, IS THAT INSIDE A BUILDING?

18 A INSIDE A LOCKED BUILDING.

19 Q WAS THAT BUILDING SECURED?

20 A YES, SIR.

21 Q AND DID THE VAN STAY IN THAT LOCKED BUILDING?

22 A YES, SIR.

23 Q DID YOU SUBSEQUENTLY GET ANOTHER CALL ABOUT THAT
24 PARTICULAR VAN?

25 A YES, SIR.

1 Q AND WHERE DID THAT CALL COME FROM?

2 A LEXINGTON COUNTY DISPATCH.

3 Q AND WHAT, IF ANYTHING, DID YOU DO WITH THE VAN AS A
4 RESULT OF THAT CALL?

5 A I WAS TO MEET AN OFFICER BACK OUT THERE, THAT THEY
6 WERE INQUIRING ABOUT THE VAN AND OPEN UP THE SHOP.

7 Q AND SO YOU MET SOMEBODY DOWN AT YOUR SHOP?

8 A YES.

9 Q AND AFTER YOU MET THAT OFFICER THERE WHAT DID YOU DO
10 WITH THE VAN?

11 A HE REQUESTED THAT I TOW IT TO THE LEXINGTON COUNTY
12 SHERIFFS DEPARTMENT IMPOUND LOT ON GIBSON ROAD.

13 Q NOT TOO FAR FROM BEN SATCHER?

14 A CORRECT.

15 Q AND DID YOU IN FACT DO THAT?

16 A YES, SIR.

17 Q WHEN YOU GOT IT TO THE IMPOUND LOT WHAT DID YOU DO
18 WITH THE VAN AT THAT POINT?

19 A I UNLOADED IT AND TURNED IT OVER TO THE GENTLEMAN
20 THAT WAS IN CHARGE THERE.

21 Q NOW, DURING THE TIME THAT THAT VAN WAS IN YOUR
22 POSSESSION DID YOU PUT ANYTHING IN THE VAN?

23 A NO, SIR.

24 Q DID YOU TAKE ANYTHING OUT?

25 A NO, SIR.

1 Q DID YOU ALTER THAT VAN IN ANY WAY?

2 A NO, SIR.

3 Q YOU JUST PUT IT ON YOUR WRECKER AND TOOK IT TO YOUR
4 SHOP?

5 A CORRECT.

6 Q DID YOU UNLOAD IT OR NOT AT THE SHOP?

7 A YES, I UNLOADED IT.

8 Q SO, YOU PUT IT ON THE WRECKER, TOOK IT TO THE SHOP,
9 UNLOADED IT AND THEN YOU LOCKED IT UP, HOOKED IT BACK UP
10 AND TOOK IT TO THE SHERIFF?

11 A CORRECT.

12 Q NOTHING ELSE?

13 A NOTHING ELSE.

14 Q THAT IS ALL I HAVE.

15 THE COURT: CROSS-EXAMINE, MR. FLOYD.

16 CROSS-EXAMINATION

17 BY MR. FLOYD:

18 Q MR. INGLE, THE SHERIFFS DEPARTMENT ASKED YOU TO TAKE
19 THE VAN TO THEM?

20 A YES, SIR.

21 Q AND AT THEIR REQUEST YOU TOOK THE VAN?

22 A YES.

23 Q THANK YOU, NO FURTHER QUESTIONS.

24 THE COURT: ANY REDIRECT?

25 MR. RIDDLE: NO, SIR.

1 THE COURT: YOU CAN STEP DOWN. CALL YOUR NEXT
2 WITNESS.

3 MR. STUMBO: THE STATE CALLS DETECTIVE MIKE PHIPPS TO
4 THE STAND.

5 MIKE PHIPPS, AFTER BEING DULY SWORN, TESTIFIED
6 AS FOLLOWS:

7 MR. FLOYD: YOUR HONOR, MAY WE APPROACH.

8 THE COURT: YES.

9 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
10 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
11 JURY.)

12 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN, I
13 HAVE A MATTER TO GO OVER WITH THE ATTORNEYS. STEP BACK TO
14 YOUR JURY ROOM AND WE WILL HAVE YOU BACK IN JUST A FEW
15 MINUTES.

16 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT.)

17 MR. FLOYD: YOUR HONOR, THE SOLICITOR AND I HAVE
18 REACHED KIND OF AN AGREEMENT ON SOME OF THE TESTIMONY THAT
19 IS RELEVANT AS TO THE QUESTIONS, WE MOVE TO SUPPRESS ANY
20 EVIDENCE SEIZED AS A RESULT OF THE SEARCH OF BOTH THIS VAN
21 AND THE BOOK BAG THAT WAS CONTAINED THEREIN. AT THE
22 PERVIOUS PROCEEDING IN THIS MATTER THERE WAS SEVERAL
23 WITNESSES THAT TESTIFIED FOR THE SHERIFFS DEPARTMENT
24 CONCERNING THIS MATTER AND WE AGREED THAT YOUR HONOR CAN
25 JUST REVIEW THAT TESTIMONY AND THEN WE WOULD INCORPORATE

1 THAT TESTIMONY INTO THE RECORD FOR THIS PROCEEDING. YOUR
2 HONOR, IT IS OUR POSITION AS IT WAS AT THE FIRST TRIAL
3 THAT THE SEARCH WAS ILLEGAL AND THAT IT WAS DONE WITHOUT A
4 WARRANT. WE ALSO RAISE THE QUESTION AT THE FIRST TRIAL
5 AND MAYBE I SHOULD MAKE THAT ANOTHER COURT'S EXHIBIT THAT
6 THERE WAS A DOCUMENT FROM THE SHERIFFS DEPARTMENT
7 INDICATING THAT THE INVENTORY AS EARLY AS AUGUST THE 15TH,
8 THE SEARCH WARRANT WAS ISSUED IF MY RECOLLECTION IS
9 CORRECT AT AUGUST THE 18TH OR THE 19TH. YOUR HONOR, IT IS
10 OUR POSITION THAT THE SEARCH WAS ILLEGAL AND THAT ALL
11 CONTENTS OF THE SEARCH, ALL THE RESULTS OF THE SEARCH TO
12 BE SUPPRESSED. AND I THINK THAT OUR AGREEMENT WAS THAT
13 YOU WOULD REVIEW THE TESTIMONY THAT WAS GIVEN AT THAT
14 TIME.

15 THE COURT: SOLICITOR, DO YOU NEED TO ADD ANYTHING TO
16 THE RECORD CONCERNING THAT?

17 MR. STUMBO: YOUR HONOR, WE WOULD REST ON OUR PRIOR
18 ARGUMENT ON THE SUPPRESSION MOTION AS TO THE VAN, I
19 BELIEVE WE ARGUED THAT MR. FRAZIER DIDN'T HAVE A
20 REASONABLE EXPECTATION OF PRIVACY OF THE MOVING VAN. AND
21 AS TO THE BOOK BAG ITSELF, I BELIEVE WE ARGUED PRIMARILY
22 THAT HE HAD ABANDONED IT. BUT AS A BACKUP OBVIOUSLY TO
23 THAT, YOUR HONOR, THE SHERIFFS DEPARTMENT DID OBTAIN A
24 SEARCH WARRANT SUPPORTED BY PROBABLE CAUSE AS A BACKUP, WE
25 FIRST AND FOREMOST ARGUE THAT MAY NOT OF BEEN NECESSARY IN

1 THIS CASE BUT EVEN IF IT WAS THEY DID OBTAIN A SEARCH
2 WARRANT AND THE SEARCH WAS LAWFUL.

3 THE COURT: THE TRANSCRIPT OF THE PRIOR TRIAL IS A
4 COURT EXHIBIT AND GENERALLY EVEN WITH THIS ISSUE MOTION TO
5 SUPPRESS, I THINK IT IS PRETTY CLEAR WHY THAT MOTION WAS
6 MADE AND THE TESTIMONY THAT WAS TAKEN OUTSIDE OF THE
7 PRESENCE OF THE JURY, BEGINNING SOMEWHERE AROUND PAGE 320
8 OR THAT BALLPARK, EXTENDING TO 361 OR 362 AND THAT IS A
9 COURT EXHIBIT. I DON'T THINK ANY NEW ARGUMENT HAS BEEN
10 PRESENTED TO THE COURT AT THIS TIME. AT THAT TIME, JUST
11 PRIOR TO GRANTING A MOTION OF MISTRIAL HAD DENIED THE
12 MOTION TO SUPPRESS, THE SEARCH OF THE VAN, THE SEARCH OF
13 THE BOOK BAG. THE COURT'S RULING IS THE SAME ON THOSE
14 ISSUES AND FOR REASONS THAT ARE STATED IN THAT TRANSCRIPT,
15 I THINK IT IS FAIRLY CLEAR. I HAVE ALREADY HAD AN
16 OPPORTUNITY TO GO BACK THROUGH THAT TESTIMONY. I AM
17 FAMILIAR WITH IT AND I DO HAVE AN INDEPENDENT RECOLLECTION
18 ALSO. BUT I THINK YOU ARE PROTECTED ON THE RECORD AS FAR
19 AS THE MOTION IS CONCERNED.

20 MR. FLOYD: I HAVE GOT ANOTHER ISSUE ABOUT SCDC CARD.

21 THE COURT: I ASSUME THAT ISSUE WILL COME BACK UP.

22 MR. RIDDLE: IT IS AN ID CARD WITH HIS NAME ON IT AND
23 WE HAVE TO OFFER AT LEAST A REDACTED VERSION.

24 THE COURT: BE SURE IT IS A REDACTED VERSION.

25 MR. FLOYD: WE WOULD HAVE A PROBLEM WITH THAT.

1 THE COURT: LET ME TAKE A LOOK AT IT. BE SURE IT IS
2 REDACTED. WE WILL TAKE ABOUT FIVE MINUTES.

3 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

4 THE COURT: IS THE STATE READY OR DO YOU WANT TO WAIT
5 ON MR. RIDDLE.

6 MR. STUMBO: I WOULD LIKE TO WAIT ON HIM BUT I CAN GO
7 AHEAD AND TAKE THIS ISSUE UP, YOUR HONOR. WHAT WE HAVE
8 DONE IS WE HAVE GONE AHEAD AND PREMARKED FOR ID PURPOSES
9 THE REDACTED COPY AS STATE'S EXHIBIT 25 FOR ID. AND I
10 BELIEVE MR. FLOYD HAS SEEN THAT.

11 MR. FLOYD: THAT IS THE SAME AS THIS ONE.

12 THE COURT: NOT WAIVING ANY OTHER OBJECTION, WHEN IT
13 COMES IN YOU DON'T HAVE A PROBLEM WITH THIS REDACTED COPY,
14 IS THAT RIGHT, MR. FLOYD?

15 MR. FLOYD: THAT IS CORRECT, YOUR HONOR.

16 MR. STUMBO: I HAVE THE ORIGINAL CARD AND IF WE CAN
17 GET THAT MARKED AS A COURT'S EXHIBIT FOR COMPARISON
18 PURPOSES.

19 THE COURT: IT WILL BE MADE A COURT EXHIBIT, THAT
20 WILL BE NUMBER 4. THE ORIGINAL IDENTIFICATION CARD WILL
21 BE MARKED AS A COURT'S EXHIBIT NUMBER 4 SO IT WILL BE MADE
22 A PART OF THE RECORD. AND STATE'S EXHIBIT 25 FOR
23 IDENTIFICATION IS THE REDACTED PORTION OF THAT CARD THAT,
24 I HAVE ALREADY RULED ON THE MOTION TO SUPPRESS. THAT IS
25 THE PORTION THAT IS ADMITTED TO COME IN.

1 (WHEREUPON, STATE'S EXHIBIT NO. 25 WAS MARKED FOR
2 IDENTIFICATION ONLY.)
3 (WHEREUPON, COURT'S EXHIBIT NO. 4 WAS MARKED FOR
4 IDENTIFICATION ONLY.)
5 (WHEREUPON, STATE'S EXHIBIT NOS. 23, 24, AND 26 WERE
6 MARKED FOR IDENTIFICATION ONLY.)
7 THE COURT: IS THE STATE READY, MR. STUMBO?
8 MR. STUMBO: THE STATE IS READY, YOUR HONOR.
9 THE COURT: THE DEFENSE READY, MR. FLOYD?
10 MR. FLOYD: THE DEFENSE IS READY, YOUR HONOR.
11 THE COURT: BRING THE JURY IN, PLEASE.
12 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
13 APPROXIMATELY 10:50 A.M.)

14 DIRECT EXAMINATION

15 BY MR. STUMBO:
16 Q WHERE ARE YOU CURRENTLY EMPLOYED?
17 A LEXINGTON COUNTY SHERIFFS DEPARTMENT.
18 Q AND HOW LONG HAVE YOU BEEN WITH THE SHERIFFS
19 DEPARTMENT?
20 A IT WILL BE 11 YEARS THIS SEPTEMBER.
21 Q IF YOU COULD JUST GIVE THE JURY AN OVERVIEW OF WHAT
22 YOUR ROLES HAVE BEEN AT THE SHERIFFS DEPARTMENT?
23 A I WAS INITIALLY A SERGEANT OUT ON THE ROADS, PROMOTED
24 TO A SUPERVISOR AND THEN I WAS PROMOTED TO CRIME SCENE AND
25 THAT IS WHERE I STILL AM.

1 Q HOW LONG HAVE YOU BEEN A CRIME SCENE INVESTIGATOR?

2 A A LITTLE OVER FIVE YEARS.

3 Q HAVE YOU RECEIVED ANY SPECIALIZED TRAINING IN CRIME
4 SCENE?

5 A YES.

6 Q IF YOU COULD, JUST GIVE ME YOUR TRAINING?

7 A MOST OF OUR TRAINING IS ON THE JOB, WE ARE SENT TO
8 VARIOUS SCHOOLS THROUGHOUT THE AREA AND THROUGHOUT THE
9 COUNTRY ON VARIOUS SPECIALITIES SUCH AS FINGERPRINT
10 DEVELOPMENT, FINGERPRINT EXAMINATION.

11 Q APPROXIMATELY HOW MANY CRIME SCENES DO YOU THINK YOU
12 THINK YOU HAVE INVESTIGATED IN YOUR TIME AS A CRIME SCENE
13 INVESTIGATOR?

14 A HUNDREDS.

15 Q IS ONE OF THOSE INVESTIGATIONS INVOLVE THE DEFENDANT,
16 JOHNNIE FRAZIER?

17 A YES, SIR.

18 Q AND DID YOU RESPOND TO THE INCIDENT LOCATION THE
19 FIRST DAY?

20 A YES, SIR.

21 Q AND DO YOU REMEMBER WHERE THAT WAS?

22 A IT WAS ON BUSBEE ROAD.

23 Q AND WERE YOU THE LEAD INVESTIGATOR?

24 A AS I RECALL THERE WERE SEVERAL OTHER CRIME SCENE
25 INVESTIGATORS ALREADY ON THE SCENE, I WENT DOWN THERE TO

1 GIVE SOME ASSISTANCE, I HAD A SECONDARY ROLE SORT OF ON
2 THE EXTERIOR OF THE HOUSE.

3 Q DID YOU ALSO GO BACK THE NEXT DAY TO THE CRIME SCENE?

4 A YES SIR, THE NEXT DAY WE WENT BACK AND THEY WERE
5 PULLING SOME STRINGS TO SALVAGE TRAJECTORIES AND I JUST
6 ASSISTED THEM WITH THAT.

7 Q LET ME TAKE YOU FORWARD TO A FEW DAYS AFTER THAT. DO
8 YOU REMEMBER EXECUTING A SEARCH WARRANT ON A GREEN VAN?

9 A YES, SIR.

10 Q AND WHERE DID YOU CONDUCT THAT INVESTIGATION?

11 A THAT WAS BACK AT HEADQUARTERS ON GIBSON ROAD AT THE
12 SHERIFFS DEPARTMENT.

13 Q WHERE?

14 A ON GIBSON ROAD AT OUR IMPOUND LOT, IT IS A SECURED
15 FACILITY.

16 Q WHO HAS ACCESS TO THAT IMPOUND LOT?

17 A EVIDENCE CUSTODIANS.

18 Q DO YOU HAVE THE DATE THAT YOU EXECUTED THAT SEARCH
19 WARRANT?

20 A AUGUST THE 18TH OF 2003.

21 Q I WILL HAND YOU WHAT HAS BEEN MARKED FOR ID PURPOSES,
22 STATE'S EXHIBIT 22. DO YOU RECOGNIZE THAT?

23 A YES SIR, I DO.

24 Q DID YOU FIND THAT BAG SOME WHERE?

25 A THIS BLACK BAG WAS LOCATED IN THE REAR CARGO AREA OF

1 THE VAN WHEN I EXECUTED THE SEARCH WARRANT.

2 Q WHEN YOU CONDUCTED THE SEARCH WARRANT WHO WAS THERE
3 WITH YOU?

4 A DETECTIVE GABERT, THERE WAS A REPRESENTATIVE, I DON'T
5 RECALL EXACTLY WHO FROM OUR EVIDENCE UNIT BECAUSE THEY
6 WERE THE ONES THAT ALLOWED US ACCESS TO THE VAN. AND
7 THERE WERE A COUPLE OF OTHER INVESTIGATORS THERE.

8 Q DID ANYONE ELSE GO INTO THE VAN OR WAS THAT JUST YOU?

9 A JUST ME.

10 Q STATE'S 22, WHEN YOU REMOVED THAT FROM THE VAN DID
11 YOU SEARCH THE BAG ITSELF?

12 A EVEN BEFORE REMOVING IT WHILE IT WAS STILL PHYSICALLY
13 SITTING IN THE VAN WE OBSERVED SEVERAL ITEMS IN THERE, IN
14 CONDUCTING A SEARCH WARRANT YOU HAVE TO INVENTORY ITEMS
15 YOU ARE REMOVING OR SEIZING AS PART OF THAT SEARCH
16 WARRANT. SO, I WAS VERBALLY DESCRIBING WHAT I WAS SEEING
17 AND SOMEONE ELSE WAS STANDING OUTSIDE OF THE VAN WRITING
18 IT DOWN FOR ME.

19 Q WHEN YOU DO A SEARCH WARRANT, IN PARTICULAR THIS
20 SEARCH WARRANT, DID YOU HAVE AUTHORITY WITH THE SEARCH
21 WARRANT TO GO INTO THAT BAG ITSELF OR IS IT JUST THE VAN?

22 A THE, I DON'T RECALL THE EXACT LANGUAGE, IT IS
23 IDENTIFYING ANY PROPERTY BELONGING TO A SPECIFIC PERSON.
24 AS FAR AS OPENING THAT BAG, WE DID ULTIMATELY FIND AN
25 INDICATION REFERENCING THAT PERSON'S NAME.

1 Q IF I COULD HAVE YOU STEP DOWN FOR JUST A MOMENT.

2 OKAY. OPEN UP THE BAG AND WHATEVER IS INSIDE IDENTIFY
3 THAT FOR ME, PLEASE.

4 A THERE IS A COUPLE OF SOCKS HERE, BROWN SOCKS. THERE
5 IS SOME ZIP TIES LIKE YOU USE FOR ELECTRICAL WORK. THERE
6 IS SEVERAL PACKAGES OF UNOPENED CIGARETTES, MARLBORO.
7 THAT IS ALL THAT IS IN THERE RIGHT NOW, THE REST OF THE
8 ITEMS HAVE ALREADY BEEN REMOVED.

9 Q THE THINGS THAT YOU JUST PULLED OUT, WERE THEY IN THE
10 BAG AT THE TIME YOU TOOK THE INVENTORY?

11 A YES SIR, THEY WERE.

12 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS ID
13 PURPOSES AS STATE'S EXHIBIT 26, DO YOU RECOGNIZE THOSE?

14 A YES SIR, I DO.

15 Q WHERE DID YOU FIND THOSE?

16 A THESE WERE ALSO LOCATED IN THE BAG, THEY ARE SORT OF
17 A RUBBERIZED GLOVE LIKE YOU USE FOR DISH WASHING, THEY
18 WEREN'T TURNED WRONG SIDE OUT LIKE THERE ARE NOW, THEY
19 WERE JUST SITTING IN THE BAG. THEY WOULD OF BEEN LEFT
20 THERE, ALL OF THIS MATERIAL WOULD OF ULTIMATELY BEEN
21 PACKAGED AND SUBMITTED FOR ANALYSIS.

22 Q LET ME SHOW YOU WHAT HAS BEEN MARKED FOR ID PURPOSES
23 STATE'S EXHIBIT 23. DO YOU RECOGNIZE THAT?

24 A I DO.

25 Q AND WHERE DID YOU FIND THAT ITEM?

1 A THIS WALLET WAS ALSO LOCATED IN THE BACK PACK.

2 Q WERE THERE ITEMS THEREIN?

3 A VARIOUS PAPER ITEMS AND IDENTIFICATION.

4 Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS ID PURPOSES,
5 STATE'S 24, DO YOU RECOGNIZE THAT?

6 A YES SIR, IT WAS A PHOTOGRAPH ALSO LOCATED IN THE
7 WALLET OF A CHILD WITH A HANDWRITTEN INSCRIPTION ON THE
8 BACK.

9 Q AND WHAT IS THE WRITING ON THE BACK?

10 A THE BACK IS INSCRIBED JOHNNIE RANDOLPH FRAZIER, III
11 WITH BUBBA IN BRACKETS, AGE 3, TO GRANNY. AND THE EXHIBIT
12 DECAL IS COVERING UP A PORTION OF THAT, I THINK IT SAYS,
13 FROM BUBBA.

14 Q WHERE WAS THIS PICTURE FOUND?

15 A THAT PHOTOGRAPH WAS IN THE WALLET ITSELF.

16 Q NOW, I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
17 ID PURPOSES AS STATE'S NUMBER 25. DO YOU RECOGNIZE THAT?

18 A YES SIR, I DO.

19 Q AND IS THAT A COPY OF A CARD THAT WAS FOUND IN THE
20 BAG?

21 A YES SIR, THIS IS AN ENLARGED PHOTO COPY OF AN
22 IDENTIFICATION CARD THAT WAS ALSO LOCATED IN THE WALLET.

23 Q AND WHOSE NAME IS ON THAT ID CARD?

24 A JOHNNIE FRAZIER.

25 Q AND WHERE DID YOU FIND THIS AGAIN?

1 A IT WAS IN THE WALLET WHICH THE WALLET WAS IN THE BOOK
2 BAG.

3 Q YOU CAN RETURN TO THE STAND.

4 MR. STUMBO: YOUR HONOR, AT THIS TIME WE WOULD OFFER
5 THE ITEMS THAT HAVE BEEN MARKED FOR ID PURPOSES INTO
6 EVIDENCE.

7 THE COURT: THAT WOULD BE STATE'S 23, 24 AND 25 AND
8 26?

9 MR. STUMBO: THAT IS CORRECT, YOUR HONOR.

10 THE COURT: THE SAME OBJECTION PREVIOUSLY HEARD, MR.
11 FLOYD?

12 MR. FLOYD: THAT IS CORRECT, YOUR HONOR.

13 THE COURT: THE COURT'S RULING WOULD BE THE SAME.
14 THOSE ITEMS ARE ADMITTED, STATE'S 23, 24 25 AND 26 ARE
15 ADMITTED.

16 MR. STUMBO: YOUR HONOR, ALSO I BELIEVE 22 HAS JUST
17 BEEN IN FOR ID PURPOSES.

18 THE COURT: 22 IS THE BAG, ITSELF, IS THAT RIGHT?

19 MR. STUMBO: THAT IS CORRECT, YOUR HONOR.

20 THE COURT: THE SAME OBJECTION, MR. FLOYD?

21 MR. FLOYD: YES, SIR.

22 THE COURT: OVERRULED, STATE'S 22 IS ALSO ADMITTED.

23 (WHEREUPON, STATE'S EXHIBIT NOS 22, 23, 24, 25 AND 26
24 WERE ADMITTED INTO EVIDENCE.)

25 Q DETECTIVE PHIPPS, AFTER YOU LAID ALL OF THESE ITEMS

1 OUT WHAT DID YOU DO AT THAT POINT?

2 A WE ARE VERY CAREFUL NOT TO DISTURB ITEMS AS MUCH AS
3 POSSIBLE BECAUSE THESE ITEMS WILL ULTIMATELY REBOUND AT
4 THE LAB. SO, GOING THROUGH WE MERELY OPEN THE ZIPPERS,
5 PEEK DOWN IN THERE AND THEN LOOK AT THE ITEMS TO THE
6 EXTENT WE NEED TO BE ABLE TO SEE WHAT WE ARE SEEING. I
7 NEVER PHYSICALLY REMOVED THE ITEMS.

8 Q DID YOU USE GLOVES?

9 A YES, I DID.

10 Q WHERE WERE THESE ITEMS PLACED, I MEAN STATE'S 22, 23,
11 24, 25 AND 26, WHERE WERE THOSE PLACED AFTER YOU WERE DONE
12 DOING YOUR INVENTORY.

13 A EVERYTHING WAS LEFT IN THE BAG, THE BAG WAS REMOVED
14 FROM THE VAN AND IT WAS PACKAGED PROBABLY IN A BROWN PAPER
15 BAG, I DON'T RECALL AND THE BAG AND ITS CONTENTS WERE THEN
16 ITEMIZED ON A PROPERTY SHEET AND THEN THOSE ITEMS WERE
17 TURNED INTO OUR EVIDENCE UNIT.

18 Q WHEN YOU TURN SOMETHING INTO YOUR EVIDENCE UNIT, WHAT
19 IS THE PROTOCOL FOR THAT?

20 A WE HAVE TO DESCRIBE WHAT WE ARE SUBMITTING TO THEM
21 AND IN THE CASE OF ITEMS LIKE THIS, THEY CAN GO IN AND SAY
22 THAT IT IS A BROWN BAG OR A BOOK BAG CONTAINING AND LIST
23 THE ITEMS THAT ARE CONTAINED WITHIN THAT BAG.

24 Q OKAY AND AFTER YOU PUT THOSE, BEFORE YOU PUT THOSE
25 INTO YOUR EVIDENCE, GAVE THOSE TO THE EVIDENCE CUSTODIAN

1 DID YOU EVER MANIPULATE THEM IN ANY WAY?

2 A NO, SIR.

3 Q DID YOU PUT ANYTHING ON THESE ITEMS?

4 A NO, SIR.

5 Q DID YOU ALTER?

6 A NO, SIR.

7 Q DO YOU REMEMBER WHO IN YOUR EVIDENCE DEPARTMENT YOU
8 TURNED THOSE OVER TO?

9 A NO SIR, I DON'T. THE FORM THAT I USED AT THAT TIME
10 IS AN OLDER VERSION AND IT DIDN'T HAVE THAT INFORMATION OF
11 WHETHER IT WAS TURNED INTO THE LOCKER OR TO A PARTICULAR
12 PERSON.

13 Q BUT YOU DID PLACE THOSE INTO THE EVIDENCE LOCKER?

14 A THE ONLY TWO WAYS TO SUBMIT EVIDENCE, ONE OF THEM IS
15 TO PLACE IT INTO A SECURED LOCKER AND ONCE IT IS CLOSED
16 ONLY THE EVIDENCE CUSTODIAN CAN COME BEHIND AND OPEN IT
17 AGAIN. OR DURING NORMAL BUSINESS HOURS WE SIMPLY WALK UP
18 TO THE WINDOW AND PASS IT THROUGH.

19 Q NO FURTHER QUESTIONS AT THIS TIME.

20 THE COURT: CROSS-EXAMINE, MR. FLOYD.

21 CROSS-EXAMINATION

22 BY MR. FLOYD:

23 Q SO, DETECTIVE PHIPPS, WERE THESE ITEMS ALL SUBMITTED
24 TO SLED OR TO LEXINGTON COUNTY SHERIFFS DEPARTMENT FOR
25 ANALYSIS?

1 A IT IS MY UNDERSTANDING THAT THEY DID GO TO SLED, I
2 WASN'T RESPONSIBLE FOR THAT PORTION.

3 Q OKAY. THAT IS ALL I HAVE.

4 THE COURT: ANY REDIRECT?

5 MR. STUMBO: NOTHING ON REDIRECT, YOUR HONOR.

6 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
7 WITNESS.

8 MR. STUMBO: THE STATE RECALLS DETECTIVE DAVID
9 PRITCHARD TO THE STAND.

10 THE COURT: MR. PRITCHARD, YOU WERE SWORN PREVIOUSLY
11 AND YOU ARE STILL UNDER OATH. WE WON'T SWEAR YOU A SECOND
12 TIME, YOU MAY COME UP AND HAVE A SEAT.

13 DIRECT EXAMINATION

14 BY MR. STUMBO:

15 Q GOOD MORNING, DETECTIVE PRITCHARD.

16 A GOOD MORNING, SIR.

17 Q WERE YOU HERE THIS MORNING WHEN TAMMI INABINET AND
18 MATT RICHBOURG TESTIFIED?

19 A YES, SIR.

20 Q AND DID THEY GIVE STATEMENTS BACK AT THE TIME YOU
21 WERE INVESTIGATING THIS CASE?

22 A YES, SIR.

23 Q AND THE STATEMENTS THEY GAVE ARE SUBSTANTIALLY THE
24 SAME AS THEY GAVE AT THE TIME?

25 MR. FLOYD: YOUR HONOR, I OBJECT, I THINK IMPROPER.

1 MR. STUMBO: I WILL MOVE ON, YOUR HONOR.

2 THE COURT: I SUSTAIN THE OBJECTION. GO AHEAD AND
3 ASK YOUR NEXT QUESTION, PLEASE.

4 Q DETECTIVE PRITCHARD, AFTER YOU RECEIVED STATEMENTS
5 FROM THE INDIVIDUALS THAT TOOK THE STAND THIS MORNING, AT
6 THAT POINT WHAT WERE YOU LOOKING FOR IN REGARDS TO JOHNNIE
7 FRAZIER'S CASE?

8 A THE BAG THAT WAS LEFT IN THE VAN.

9 Q OKAY. DID THE INVESTIGATIVE TEAM OBTAIN A SEARCH
10 WARRANT FOR THAT VAN?

11 A YES, SIR.

12 Q AND WERE YOU PRESENT WHEN DETECTIVE PHIPPS EXECUTED
13 THE SEARCH WARRANT AT THE IMPOUND LOT?

14 A YES SIR, I WAS.

15 Q STATE'S 22, I WANT TO PASS THAT UP TO YOU. IS THAT
16 THE BAG THAT DETECTIVE PHIPPS PULLED OUT OF THE VAN THAT
17 DAY?

18 A YES, IT IS.

19 Q DID YOU EVER MANIPULATE THAT BAG IN ANY WAY?

20 A NO, SIR.

21 Q WHERE DID DETECTIVE PHIPPS PLACE THAT BAG AND THE
22 ITEMS THEREIN THAT DAY?

23 A HE PLACED THEM IN EVIDENCE, THAT WOULD OF BEEN HIS
24 JOB TO DO SO.

25 Q ULTIMATELY WHERE WAS THIS BAG IN EVIDENCE, WHERE WERE

1 THESE ITEMS SENT?

2 A ALL OF THEM WERE SENT TO SLED FOR ANALYSIS.

3 Q WAS THAT AT YOUR REQUEST?

4 A YES, SIR.

5 Q AND WERE THOSE ITEMS ULTIMATELY ANALYZED BY SLED?

6 A YES, SIR.

7 Q DID YOU HAVE A CHANCE TO REVIEW THE RESULTS OF THEIR
8 ANALYSIS?

9 A YES, LET ME EXPLAIN SOMETHING. NOT ALL OF THE ITEMS
10 WERE SENT. I HAD TO LOOK BACK AT MY NOTES BUT THE BAG WAS
11 SENT TO SLED.

12 Q DID YOU HAVE A CHANCE TO REVIEW THEIR RESULTS?

13 A YES, I DID.

14 Q AND WHEN WAS THAT?

15 A WHEN I REVIEWED THE RESULTS?

16 Q CORRECT.

17 A IT WAS LATE IN DECEMBER OF 2003 WHEN I GOT THE
18 RESULTS BACK FROM SLED.

19 Q AND AFTER YOU RECEIVED THOSE RESULTS BACK FROM SLED
20 WHAT ACTION, WHAT IS THE NEXT ACTION YOU TOOK IN THIS
21 CASE?

22 A BASED ON THE RESULTS THAT I GOT PRESENTED HERE THE
23 FACTS OF THE CASE--

24 Q WAS JOHNNIE FRAZIER AT THAT POINT CHARGED WITH THE
25 MURDER OF CAROL HURSEY?

1 A THAT IS CORRECT.

2 Q AND WHEN WAS THE TIMEFRAME OF THAT?

3 A WHEN HE WAS ACTUALLY CHARGED?

4 Q YES, SIR.

5 A AROUND JANUARY THE 10TH, IT WAS AFTER THE FIRST OF
6 THE YEAR OF 2004.

7 Q AFTER MR. FRAZIER WAS CHARGED, WERE THERE ANY OTHER
8 WITNESSES THAT CAME FORWARD AFTER THAT WITH INFORMATION
9 REGARDING THE CASE, DID YA'LL TAKE STATEMENTS AFTER HE WAS
10 CHARGED OR WAS THE CASE FINISHED AT THAT POINT?

11 A I THINK THERE WERE STILL SOME THINGS THAT WE WERE
12 WORKING ON TRYING TO TIE UP LOOSE ENDS AND THEN OF COURSE
13 AS IS NORMAL IN A CASE LIKE THIS, STILL WE HAD OTHER LEADS
14 THAT WERE COMING IN WHICH WE WERE STILL FOLLOWING UP ON.
15 AS I ALREADY MENTIONED WE SENT OUT FLYERS, WE HAD REPORTS
16 FROM CRIME STOPPERS AND REPORTS ON TV. SO, PEOPLE WERE
17 STILL CALLING IN.

18 Q WERE THERE ANY OTHER INDIVIDUALS WHO CAME FORWARD
19 WITH ANY INFORMATION SPECIFICALLY ABOUT JOHNNIE?

20 A I DON'T RECALL.

21 Q WAS THERE ANYBODY THAT WAS AROUND HIM THAT GAVE A
22 STATEMENT TO YA'LL, DID YA'LL TAKE ANY STATEMENTS AT THAT
23 POINT OF ANYBODY THAT WAS AROUND HIM AFTER HE WAS CHARGED?

24 A YES.

25 Q THAT IS ALL I HAVE AT THIS TIME.

1 THE COURT: CROSS-EXAMINE?

2 MR. FLOYD: NO QUESTIONS AT THIS TIME, YOUR HONOR.

3 THE COURT: YOU MAY STEP DOWN.

4 MR. STUMBO: THE STATE RECALLS LEE MARSHALL TO THE
5 STAND.

6 THE COURT: YOU ARE STILL UNDER OATH ALSO, WE WON'T
7 SWEAR YOU A SECOND TIME EITHER.

8 DIRECT EXAMINATION

9 BY MR. STUMBO:

10 Q INVESTIGATOR MARSHALL, AFTER MR. FRAZIER WAS CHARGED
11 WITH THIS MURDER DID YOU OBTAIN ANY OTHER PHYSICAL
12 EVIDENCE IN THIS CASE REGARDING MR. FRAZIER?

13 A YES, WE DID.

14 Q AND WHO DID YOU TAKE THAT EVIDENCE FROM?

15 A DETECTIVE PRITCHARD PROVIDED ME WITH A COURT ORDER
16 AND DIRECTED ME IN ACCORDANCE WITH THAT ORDER TO ESCORT
17 MR. FRAZIER TO A MEDICAL FACILITY AND TO HAVE BLOOD DRAWN
18 FOR DNA TO BE CONDUCTED.

19 Q WHERE WAS THAT BLOOD DRAWN?

20 A AT THE OCCUPATIONAL HEALTH FACILITY BY LEXINGTON
21 MEDICAL CENTER, ON DUNBAR ROAD IN LEXINGTON COUNTY.

22 Q WERE YOU PRESENT IN THE BUILDING WHEN THE BLOOD WAS
23 DRAWN?

24 A I WAS.

25 Q WHERE WAS THAT BLOOD PLACED AT THAT TIME, PUT IN A

1 CONTAINER OR WHAT KIND OF A CONTAINER WAS IT PUT IT?

2 A IT WAS PACKAGED AND I DON'T EVEN RECALL WHAT THAT
3 PACKAGE LOOKED LIKE. BUT I TOOK IT DIRECTLY FROM
4 DETECTIVE CHEVET, DREW THE BLOOD AND PACKAGED IT AND IT
5 REMAINED IN MY POSSESSION UNTIL I TURNED IT OVER.

6 Q WAS IT SEALED?

7 A IT WAS SEALED, IT WAS PROPERLY PACKAGED, I DIDN'T
8 KNOW WHAT IT WAS SUPPOSE TO LOOK LIKE BUT IT WAS IN A
9 SEALED PACKAGE THAT I TOOK FROM HER AND TRANSPORTED IT
10 BACK TO THE SHERIFFS DEPARTMENT.

11 Q AND DID YOU BREAK THAT SEAL AT ANY POINT WHILE IT WAS
12 IN YOUR POSSESSION?

13 A NO.

14 Q DID YOU ADD ANYTHING TO THAT CONTAINER?

15 A NO.

16 Q MANIPULATE IT IN ANY WAY?

17 A NO.

18 Q ONE OTHER QUESTION, WHO WAS WILLIAM ECKHART?

19 A WILLIAM ECKHART WAS AN INDIVIDUAL THAT I HAVE KNOWN
20 FOR SEVERAL YEARS, HE HAD SOME INFORMATION ABOUT THE CASE.

21 Q DID HE GIVE YOU A STATEMENT?

22 A HE DID.

23 Q REGARDING MR. FRAZIER'S CASE?

24 A REGARDING THIS CASE.

25 Q THAT IS ALL I HAVE, THANK YOU.

1 THE COURT: CROSS-EXAMINE.

2 CROSS-EXAMINATION

3 BY MR. FLOYD:

4 Q DETECTIVE MARSHALL, MR. FRAZIER FULLY COOPERATED WITH
5 YOU ON THAT BLOOD DNA SAMPLE, DIDN'T HE?

6 A I BELIEVE SO, YES SIR.

7 Q THANK YOU. NOTHING FURTHER.

8 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
9 WITNESS.

10 MR. RIDDLE: YOUR HONOR, THE STATE CALLS WILLIAM
11 ECKHART TO THE STAND.

12 MR. FLOYD: YOUR HONOR, MAY WE APPROACH THE BENCH.

13 THE COURT: SURE.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
15 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
16 JURY.)

17 THE COURT: THERE IS AN OBJECTION MADE, TO ANTICIPATE
18 THE TESTIMONY OF THE NEXT WITNESS AND IT HAS BEEN
19 OVERRULED AND WE WILL PUT IT ON THE RECORD AT THE
20 APPROPRIATE STAGE. SWEAR THE WITNESS.

21 WILLIAM ECKHART, AFTER BEING DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. RIDDLE:

25 Q MR. ECKHART, I AM GOING TO START TALKING ABOUT YOUR

1 PRIOR RECORD, IF THAT IS ALL RIGHT?

2 A SURE.

3 Q IN 1995 YOU GOT CONVICTED OF BURGLARY, TWO COUNTS OF
4 GRAND LARCENY, IS THAT CORRECT?

5 A YES SIR, IT IS.

6 Q AND IN 1997 YOU GOT CONVICTED FOR BREACH OF TRUST?

7 A CORRECT.

8 Q YOU GOT FOUR WEEKENDS FOR THAT?

9 A YES, SIR.

10 Q 2002 YOU HAD THREE COUNTS OF FORGERY?

11 A YES, SIR.

12 Q AND THEN ALSO IN 2003 YOU WERE CHARGED WITH TWO
13 COUNTS OF BURGLARY AND ONE COUNT OF FORGERY, CORRECT?

14 A YES, SIR.

15 Q YOU WERE ARRESTED ON THOSE CHARGES?

16 A YES, SIR.

17 Q AND PLACED IN THE DETENTION CENTER, CORRECT?

18 A YES, SIR.

19 Q AND YOU ENDED UP GOING TO COURT ON THOSE CHARGES IN
20 DECEMBER OF 2004, IS THAT CORRECT?

21 A YES SIR, IT IS.

22 Q YOU WERE CONVICTED OF THOSE?

23 A YES, SIR.

24 Q WHEN YOU WERE ARRESTED ON THAT LAST CHARGE DID YOU
25 REMAIN IN JAIL FOR A PERIOD OF TIME?

1 A YES, SIR.

2 Q AND IN FEBRUARY OF 2004, AFTER MR. FRAZIER WAS
3 CHARGED WITH CAROL HURSEY'S MURDER DID YOU ENCOUNTER HIM
4 IN THE JAIL?

5 A YES, SIR.

6 Q AT THAT TIME DID YOU DISCUSS WITH HIM THE MURDER THAT
7 HE WAS CHARGED WITH?

8 A YES SIR, BRIEFLY.

9 Q AND WHERE DID THAT DISCUSSION TAKE PLACE?

10 A I BELIEVE IT WAS IN A WING, FIRST FLOOR OF THE
11 LEXINGTON COUNTY DETENTION CENTER.

12 Q THAT IS A PART OF THE JAIL WHERE YOU WERE BEING
13 HOUSED?

14 A YES, SIR.

15 Q AND MR. FRAZIER WAS IN CLOSE PROXIMITY TO YOU?

16 A YES, SIR.

17 Q DID YOU ASK HIM ABOUT THE MURDER OF CAROL HURSEY?

18 A I ASKED HIM WHAT HAPPENED.

19 Q AND WHAT DID HE SAY TO YOU IN RESPONSE TO THAT?

20 A HE SAID THAT HE WAS FUCKED UP ON CRACK AND THAT HE
21 NEEDED MORE MONEY.

22 Q DID HE INDICATE TO YOU THAT HE HAD BEEN THE ONE THAT
23 DID IT?

24 A YES, SIR.

25 Q AFTER HE TOLD THAT TO YOU DID YOU CONTACT LAW

1 ENFORCEMENT?

2 A YES SIR, I DID.

3 Q DID YOU TELL THEM ABOUT THAT STATEMENT?

4 A YES SIR, I DID.

5 Q RIGHT AFTER IT HAPPENED?

6 A I BELIEVE IT WAS THE NEXT DAY.

7 Q THANK YOU, PLEASE ANSWER ANY OF MR. FLOYD'S
8 QUESTIONS.

9 CROSS-EXAMINATION

10 BY MR. FLOYD:

11 Q MR. ECKHART, YOU NEVER EVEN MET JOHNNIE FRAZIER, HAVE
12 YOU?

13 A YES, SIR.

14 Q IN A WING, IS THAT WHAT YOU SAID?

15 A YES, SIR.

16 Q A WING, THAT IS PROTECTIVE CUSTODY, ISN'T IT?

17 A YES, SIR.

18 Q AND YOU HAVE SEPARATE CELLS, DON'T YOU?

19 A YES, SIR.

20 Q NOW, WHAT IS A JAIL HOUSE SNITCH?

21 A SOMEONE WHO HAS SOME INFORMATION ON ANOTHER
22 INDIVIDUAL.

23 Q IN FACT, THEY ALL DO, EVERYBODY OVER THERE DOES IT TO
24 TRY TO IMPROVE THEIR SITUATION, DON'T THEY?

25 A NO, SIR.

- 1 Q THEY DON'T, WELL YOU DID, DIDN'T YOU?
- 2 A NO SIR, I DIDN'T.
- 3 Q YOU DIDN'T TRY TO IMPROVE YOUR SITUATION WITH THIS
- 4 INFORMATION?
- 5 A NO SIR, I DIDN'T.
- 6 Q YOU DIDN'T?
- 7 A NO, SIR.
- 8 Q YOU JUST SAID I AM A GOOD CITIZEN, THAT IS IT?
- 9 A NO SIR, I DIDN'T SAY THAT EITHER.
- 10 Q SO, THEN WHY DID YOU PASS THE INFORMATION ON?
- 11 A BECAUSE I THOUGHT IT WAS THE RIGHT THING TO DO.
- 12 Q RIGHT THING TO DO. JUST LIKE WHAT YOU WERE IN JAIL
- 13 FOR, WAS THAT THE RIGHT THING TO DO?
- 14 A YOU KNOW, IT HAPPENS.
- 15 Q WHAT WERE YOU CHARGED WITH AT THE TIME?
- 16 A BURGLARY.
- 17 Q FIRST DEGREE?
- 18 A NO, SIR.
- 19 Q SECOND DEGREE?
- 20 A YES, SIR.
- 21 Q HOW MANY COUNTS?
- 22 A I DON'T RECALL.
- 23 Q YOU DON'T RECALL?
- 24 A NO, SIR.
- 25 Q WHEN DID YOU GET OUT OF JAIL?

1 A I DON'T RECALL THE DATE EITHER.

2 Q I BET IT WAS SOON AFTER YOU TALKED TO THEM, WASN'T
3 IT?

4 A NO, SIR.

5 Q DID YOU MAKE A BOND?

6 A NO SIR, I DIDN'T.

7 Q YOU DIDN'T MAKE A BOND?

8 A NO, SIR.

9 Q NEVER MADE A BOND?

10 A NO, SIR.

11 Q AND WHAT WAS YOUR SENTENCE WHEN YOU WERE FINED AND
12 WENT TO COURT?

13 A I WAS SENTENCED TO FIVE YEARS OF PROBATION.

14 Q PROBATION?

15 A YES, SIR.

16 Q LET'S SEE, YOU HAD A BURGLARY SECOND ON THE RECORD,
17 BREACH OF TRUST ON YOUR RECORD, THREE COUNTS OF FORGERY ON
18 YOUR RECORD AND HERE YOU WERE WITH TWO MORE COUNTS OF
19 BURGLARY AND ANOTHER COUNT OF FORGERY AND YOU GOT
20 PROBATION?

21 A THAT IS CORRECT.

22 Q AND THE MAIN REASON YOU GOT PROBATION IS BECAUSE YOU
23 GAVE A STATEMENT, ISN'T THAT CORRECT?

24 A THE STATEMENT HAD NOTHING TO DO WITH IT, IT WAS HERE
25 A FEW MONTHS AGO WHEN ALL OF THIS RESURFACED AND MY

1 STATEMENT I MADE HAD NOTHING TO DO WITH THIS, MY SENTENCE.

2 Q YOUR STATEMENT HAD NOTHING TO DO WITH IT?

3 A YES, SIR.

4 Q BUT YOU GOT PROBATION, MULTIPLE PROPERTY OFFENDER AND
5 YOU GOT PROBATION?

6 A YES, SIR.

7 Q HAD YOU EVER GOT JAIL TIME?

8 A RIGHT AFTER THAT I DID GO DO 18 MONTHS ON THOSE
9 CHARGES.

10 Q ON WHICH CHARGES?

11 A THE SAME CHARGES, I WENT, I WAS LIKE IN FOR 3 MONTHS
12 AND I DID 18 MONTHS.

13 Q BECAUSE YOU VIOLATED YOUR PROBATION, BEFORE THAT HAD
14 YOU EVER DONE JAIL TIME?

15 A YES, SIR.

16 Q DID YOU DO JAIL TIME IN 2002 FOR THE FORGERY?

17 A I DON'T RECALL.

18 Q DID YOU DO JAIL TIME IN '95 FOR THE BURGLARY SECOND.

19 MR. RIDDLE: OBJECTION, YOUR HONOR, HE IS ONLY
20 ENTITLED TO ASK HIM ABOUT THE PRIOR CONVICTIONS AS THEY
21 RELATE TO HIS CREDIBILITY, THE JAIL TIME ON A PRIOR
22 SENTENCE IS, IT HAPPENED BEFORE ANYTHING INVOLVED WITH MR.
23 FRAZIER IS REALLY NOT RELEVANT.

24 MR. FLOYD: OH, YES IT IS, YOUR HONOR.

25 THE COURT: HE IS ON CROSS-EXAMINATION, THERE HAS

1 BEEN SOME TESTIMONY THAT HASN'T BEEN OBJECTED TO AND I AM
2 GOING TO PERMIT IT. GO AHEAD, I OVERRULE THE OBJECTION.

3 Q SO, BEFORE YOU WENT TO COURT IN 2004 AND GOT
4 PROBATION YOU HAD IN THE PAST GONE TO COURT AND GOT JAIL
5 TIME, HADN'T YOU?

6 A YES, SIR.

7 Q WHEN YOU GAVE THEM THIS STATEMENT THEN YOU GOT
8 PROBATION, DIDN'T YOU?

9 A NO, SIR.

10 Q OH, YOU DIDN'T GET PROBATION OR YOU DID?

11 A MY SENTENCE HAD NOTHING TO DO WITH THE STATEMENT THAT
12 I GAVE.

13 Q YOUR SENTENCE HAD NOTHING TO DO WITH IT?

14 A NO, SIR.

15 Q YOU ARE JUST A GOOD CITIZEN?

16 A YOU ARE RIGHT, I AM.

17 Q A-WING, YOU ARE NOT EVEN IN THE SAME UNIT, YOU ARE
18 NOT EVEN IN THE SAME CELL WITH HIM, ARE YOU?

19 A NO, SIR. BUT WE ARE ALLOWED TO CONGREGATE IN THE
20 HALLWAY TO CARRY ON CONVERSATIONS THROUGH THE DOORS OF THE
21 INMATES.

22 Q AND HAD YOU EVER MET HIM BEFORE?

23 A YES, SIR.

24 Q YOU HAD MET HIM BEFORE AND HE JUST COME UP TO YOU AND
25 SAY, HEY, I DID IT. THAT IS WHAT YOU SAY?

1 A HE DIDN'T COME UP TO ME, WE GOT INTO A CONVERSATION
2 THROUGH THE DOOR.

3 Q FOR WHICH YOU WERE PROMISED NOTHING?

4 A NO, SIR.

5 Q AND YOU JUST HAPPENED TO GET PROBATION?

6 A THAT IS CORRECT.

7 Q NO FURTHER QUESTIONS.

8 THE COURT: ANY REDIRECT?

9 MR. RIDDLE: BRIEFLY.

10 REDIRECT EXAMINATION

11 BY MR. RIDDLE:

12 Q YOU GOT CHARGED IN JANUARY OF 2003 WITH THOSE CRIMES,
13 CORRECT?

14 A THAT IS CORRECT, SIR.

15 Q AND YOU TALKED TO THE POLICE IN FEBRUARY OF 2004?

16 A YES, SIR.

17 Q AND YOU SAT IN JAIL FOR ANOTHER TEN MONTHS BEFORE
18 YOUR CASE CAME UP?

19 A YES, SIR.

20 Q SO, YOU SERVED ALMOST TWO YEARS BY THE TIME YOU WENT
21 TO COURT?

22 A YES, SIR.

23 Q THANK YOU, I AM DONE.

24 THE COURT: YOU MAY STEP DOWN.

25 MR. RIDDLE: YOUR HONOR, I ASK THAT MR. ECKHART BE

1 EXCUSED.

2 THE COURT: ANY OBJECTION?

3 MR. FLOYD: NO, SIR.

4 THE COURT: THE WITNESS IS EXCUSED.

5 MR. STUMBO: YOUR HONOR, THE STATE CALLS CANDY KYZER
6 TO THE STAND.

7 CANDY KYZER, AFTER BEING DULY SWORN, TESTIFIED
8 AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. STUMBO:

11 Q GOOD MORNING, MS. KYZER.

12 A GOOD MORNING.

13 Q WHERE DO YOU CURRENTLY WORK?

14 A AT THE LEXINGTON COUNTY SHERIFFS DEPARTMENT.

15 Q AND WHAT IS YOUR ROLE THERE AT THE SHERIFFS
16 DEPARTMENT?

17 A I AM AN EVIDENCE CUSTODIAN.

18 Q AND AS PART OF YOUR JOB AS EVIDENCE CUSTODIAN WHAT DO
19 YOU DO THERE IN THAT DEPARTMENT?

20 A WE GET IN EVIDENCE FROM ALL DIFFERENT KIND OF CASES
21 AND THEN WE HAVE TO SIGN THEM, LOG THEM INTO THE COMPUTER
22 AND THEN BOX THEM UP UNTIL THEY ARE READY TO GO TO COURT.

23 Q THE PLACE WHERE THE EVIDENCE IS KEPT AT THE SHERIFFS
24 DEPARTMENT, IS THAT A SECURE AREA?

25 A YES, IT IS.

1 Q WHO HAS ACCESS TO THAT AREA?

2 A JUST THE THREE EVIDENCE CUSTODIANS.

3 Q AND WHO ARE THEY CURRENTLY?

4 A MYSELF, SERGEANT MCMULLEN AND BETH HARMON.

5 Q BACK IN 2003 WHO WERE THE THREE CUSTODIANS?

6 A SERGEANT MCMULLEN, MYSELF AND LINDA BRANTON.

7 Q JUST YOU THREE?

8 A YES.

9 Q DID YOU TAKE ANY EVIDENCE IN THE INVESTIGATION OF MR.

10 FRAZIER?

11 A YES, I DID.

12 Q I AM GOING TO REFER YOU TO ITEM NUMBER 13. WOULD YOU

13 IDENTIFY WHAT THAT ITEM WAS?

14 A IT IS A TEST TUBE.

15 Q AND DID IT HAVE ANY IDENTIFICATION, WHAT WAS IT

16 IDENTIFIED AS?

17 A THAT IS COMING FROM THE AUTOPSY.

18 Q WHAT WAS INSIDE OF THAT TEST TUBE, WAS THERE ANY

19 PAPER WORK TO THAT EFFECT?

20 A I THINK IT WAS BLOOD.

21 Q AND THAT WAS COMING FROM THE AUTOPSY?

22 A YES.

23 Q OF THE VICTIM IN THIS CASE?

24 A YES.

25 Q WHEN YOU LOG IN AN ITEM OF EVIDENCE IN THERE AT THE

1 SHERIFFS DEPARTMENT, WHAT IS THE PROTOCOL FOR THAT IN LOG
2 IN?

3 A WE GO IN AND MAKE SURE THAT WHAT WE HAVE IS LISTED ON
4 THE PAPER WORK AND EVERYTHING. ONCE I DO THAT I WOULD
5 SIGN THE PAPER WORK IN AND ENTER IT INTO THE COMPUTER AND
6 IT IS GIVEN A ITEM NUMBER AND FROM THERE WE PACKAGE IT AND
7 THEN STORE IT UNTIL IT IS TIME TO BE TESTED OR WHATEVER.

8 Q WHO DID YOU RECEIVE THE LEXINGTON COUNTY ITEM NUMBER
9 13 FROM?

10 A LAURA GRIMES.

11 Q YOU RECEIVED IT DIRECTLY FROM HER?

12 A YES, I DID.

13 Q AND DID SHE SIGN THAT ITEM INTO EVIDENCE?

14 A SHE TURNED IT IN TO US.

15 Q WHERE DO YOU PLACE THOSE ITEMS ONCE THEY COME IN FOR
16 EVIDENCE?

17 A THAT PARTICULAR ITEM WAS PLACED INTO OUR
18 REFRIGERATOR, ALL OF THE AUTOPSY THAT WE GET IN ON CASES
19 ARE PUT IN THE REFRIGERATOR UNTIL THEY ARE READY TO GO TO
20 THE LAB.

21 Q DID YOU DO THAT IN THIS CASE, ITEM NUMBER 13?

22 A YES.

23 Q AND THAT WAS IDENTIFIED AS A VIAL COMING FROM THE
24 AUTOPSY?

25 A YES, THAT IS CORRECT.

1 Q I AM GOING TO PASS YOU UP STATE'S EXHIBIT 22. DO YOU
2 RECOGNIZE THAT, STATE'S 22?

3 A YES, I DO.

4 Q WHAT IS STATE'S 22?

5 A IT IS A BLACK BOOK BAG OR BACK PACK.

6 Q DID YOU TAKE THAT ITEM INTO EVIDENCE AT THE SHERIFFS
7 DEPARTMENT?

8 A YES, I DID.

9 Q WHAT NUMBER WAS IT GIVEN?

10 A ITEM NUMBER 90.

11 Q IS THAT THE SAME NUMBER THAT STAYS WITH IT?

12 A YES.

13 Q THROUGHOUT THE CASE?

14 A YES.

15 Q WERE THERE OTHER ITEMS IN THE BOOK BAG AT THAT TIME?

16 A YES, IT WAS.

17 Q WAS THAT, WERE THOSE ITEMS INVENTORIED AND MARKED
18 SEPARATELY?

19 A YES, THEY WERE.

20 Q WHO TURNED IN THOSE ITEMS INTO EVIDENCE?

21 A MIKE PHIPPS.

22 Q WHAT WAS THE DATE OF THAT?

23 A HE TURNED IT IN, IT LOOKS LIKE ON THE 18TH, I SIGNED
24 IT IN ON THE 19TH.

25 Q AND WHERE WERE THOSE ITEMS PLACED AFTER THEY WERE

1 LOGGED IN IN THE EVIDENCE ROOM?

2 A IN OUR EVIDENCE WAREHOUSE, WE HAVE CERTAIN LOCATIONS
3 THAT WE STORE THE BOXES AND EVERYTHING AND THEY WERE PUT
4 IN A LOCATION IN THE EVIDENCE WAREHOUSE.

5 Q WERE THEY HELD THERE TO BE TURNED OVER TO SLED
6 SOMETIME LATER?

7 A YES.

8 Q WHAT ITEM NUMBERS WERE THE ITEMS THAT WERE FOUND IN
9 THE BOOK BAG, WHAT ITEM NUMBERS WERE THOSE GIVEN?

10 A 91 THROUGH 100.

11 Q STATE'S 23, DO YOU RECOGNIZE THAT?

12 A YES.

13 Q WAS THAT ONE OF THE ITEMS TURNED IN?

14 A YES, IT IS.

15 Q THIS PICTURE, STATE'S 24, WAS THAT TURNED IN?

16 A YES.

17 Q THE GLOVES?

18 A YES.

19 Q DID YOU EVER ALTER OR MANIPULATE ANY OF THESE ITEMS?

20 A NO.

21 Q AT ANY TIME?

22 A NO, I DIDN'T.

23 Q WOULD THAT VIOLATE PROTOCOL?

24 A YES.

25 Q WHY DO YOU HAVE THOSE PROTOCOLS AT THE SHERIFFS

1 DEPARTMENT?

2 A WE HAVE POLICIES AND EVERYTHING BUT WE HAVE TO GO BY
3 PROCEDURES TO MAKE SURE THAT CASES, THAT ITEMS THAT ARE
4 TURNED IN THAT WE ARE NOT ACTUALLY JEOPARDIZING A CASE.

5 Q DOES THAT PRESERVE THE INTEGRITY OF THE EVIDENCE?

6 A YES.

7 Q THAT IS ALL I HAVE.

8 THE COURT: MR. FLOYD?

9 MR. FLOYD: NO QUESTIONS, YOUR HONOR.

10 THE COURT: YOU MAY STEP DOWN.

11 MR. STUMBO: THE STATE CALLS BARBARA MCMULLEN.

12 BARBARA MCMULLEN, AFTER BEING DULY SWORN,

13 TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. STUMBO:

16 Q GOOD MORNING, MS. MCMULLEN.

17 A GOOD MORNING.

18 Q I TAKE IT BY THAT SHIRT YOU ARE WEARING YOU WORK FOR
19 THE SHERIFFS DEPARTMENT?

20 A YES, I DO.

21 Q HOW LONG HAVE YOU BEEN THERE?

22 A EIGHT YEARS THE FIRST OF MAY.

23 Q AND WHERE DO YOU WORK AT THE SHERIFFS DEPARTMENT?

24 A I AM THE MANAGER OF THE EVIDENCE ROOM AND THE
25 ACCREDITATION MANAGER.

1 Q AND NOW LONG HAVE YOU BEEN IN THE EVIDENCE
2 DEPARTMENT?

3 A NEARLY SEVEN YEARS.

4 Q YOU WORK WITH MS. KYZER THAT JUST TESTIFIED?

5 A YES.

6 Q DID YOU WORK AT ONE TIME WITH MS. RAINES?

7 A YES.

8 Q I WILL SHOW YOU ITEM 13, IS ITEM 13 IN REGARDS TO
9 JOHNNIE FRAZIER'S INVESTIGATION AND I BELIEVE THAT MS.
10 KYZER HAS TESTIFIED THAT THAT WAS A LAB TUBE OF BLOOD?

11 A YES.

12 Q DID YOU DO ANYTHING WITH THAT, WITH ITEM 13?

13 A I DELIVERED IT TO SLED ON AUGUST THE 21ST.

14 Q DID ANYBODY HANDLE THAT TUBE BETWEEN THE TIME MS.
15 KYZER PUT IT INTO EVIDENCE AND THE TIME YOU TOOK IT OUT TO
16 TAKE IT OVER TO SLED?

17 A NO.

18 Q WAS THAT ITEM SEALED?

19 A YES.

20 Q DID YOU EVER TAMPER WITH IT IN ANY WAY?

21 A NO.

22 Q ALTER OR MANIPULATE IT?

23 A NO.

24 Q DID YOU BREAK THAT SEAL?

25 A NO.

1 Q WHAT WOULD HAPPEN IF YOU BROKE THE SEAL ON A PIECE OF
2 EVIDENCE THAT YOU HANDLED?

3 A YOU WOULD VIOLATE PROTOCOL.

4 Q WHAT DAY DID YOU TAKE THAT OVER TO SLED?

5 A AUGUST THE 21ST.

6 Q AND DID YOU LOG, WERE YOU THERE PRESENT WHEN SLED
7 LOGGED ITEM 13 IN?

8 A YES.

9 Q AND WHO AT SLED LOGGED THAT ITEM IN?

10 A I DON'T HAVE A NAME, I DON'T KNOW.

11 MR. STUMBO: IF I MAY APPROACH THE WITNESS, YOUR
12 HONOR.

13 Q THIS MAY REFRESH YOUR MEMORY.

14 A M.L. FITZPATRICK.

15 Q IS SHE THE PERSON AT SLED LOG IN?

16 A YES.

17 Q AND WHEN YOU PUT SOMETHING OR LOG SOMETHING IN AT
18 SLED WHAT DO THEY DO WITH THAT EVIDENCE AT THAT TIME?

19 A THEY WILL TAKE OUR SEALED PACKAGE AND RESEAL IT IN
20 THEIR OWN PACKAGE AND AT THAT TIME THEY WOULD HAND IT BACK
21 TO ME AFTER WRITING AND INITIALS THE SEALS AND I PLACE IT
22 IN A BOX, A SECURE BOX, MAILBOX WHERE THE LAB WILL COME
23 PICK IT UP.

24 Q DID YOU INTIAL THE SEAL IN THIS CASE?

25 A YES.

1 Q AND THAT WAS PUT IN THEIR BOX?

2 A YES.

3 Q AND WAS THE SEAL BROKEN AT THAT TIME?

4 A NO.

5 Q BY MS. FITZPATRICK?

6 A NO.

7 Q AS PART OF THE EVIDENCE AREA AT THE SHERIFFS
8 DEPARTMENT, DO YA'LL HAVE AN IMPOUND LOT?

9 A YES.

10 Q AND DO YOU REMEMBER TAKING A GREEN VAN INTO EVIDENCE
11 IN THIS CASE?

12 A YES, SIR.

13 Q AND DO YOU HAVE A DATE ON THAT?

14 A AUGUST THE 17TH.

15 Q WERE YOU PRESENT WHEN THE VAN WAS LOGGED INTO THE
16 IMPOUND LOT?

17 A YES.

18 Q WHO BROUGHT IT INTO THE IMPOUND LOT?

19 A A TOWING COMPANY, ELITE TOWING COMPANY.

20 Q DID ANYBODY GO INSIDE THAT VAN AT THAT TIME?

21 A NO.

22 Q WAS IT SECURED IN THE IMPOUND LOT AFTER THAT?

23 A YES, SIR.

24 Q AND AFTER THAT DID SOMEBODY EVENTUALLY GO INTO THE
25 VAN?

1 A THEY SERVED A SEARCH WARRANT ON IT AT A LATER DATE.

2 Q AND THAT WAS DETECTIVE PHIPPS?

3 A YES.

4 Q WHILE IT WAS IN THE IMPOUND LOT DID YOU GO INSIDE
5 THAT VAN?

6 A NO.

7 Q DID YOU PUT ANYTHING INSIDE?

8 A NO.

9 Q TAKE ANYTHING OUT?

10 A NO.

11 Q THAT IS ALL I HAVE.

12 THE COURT: CROSS-EXAMINE.

13 MR. FLOYD: NO QUESTIONS, YOUR HONOR.

14 THE COURT: YOU MAY STEP DOWN.

15 MR. STUMBO: THE STATE CALLS LINDA RAINES TO THE
16 STAND.

17 LINDA RAINES, AFTER BEING DULY SWORN, TESTIFIED
18 AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MR. STUMBO:

21 Q MS. RAINES, GOOD MORNING.

22 A GOOD MORNING.

23 Q I TAKE IT FROM YOUR LAPEL THERE THAT YOU WORK AT THE
24 SHERIFFS DEPARTMENT?

25 A I DO.

1 Q AND WHAT IS YOUR CURRENT JOB AT THE SHERIFFS
2 DEPARTMENT?

3 A I AM THE HUMAN RESOURCES ASSISTANT.

4 Q WERE YOU THERE AT THE SHERIFFS DEPARTMENT BEFORE YOU
5 WENT TO HUMAN RESOURCES?

6 A I WAS AN EVIDENCE CUSTODIAN.

7 Q YOU WERE IN EVIDENCE IN AUGUST OF 2003?

8 A I WAS.

9 Q WHEN DID YOU MOVE OVER TO HUMAN RESOURCES?

10 A JANUARY OF 2005.

11 Q DID YOU HANDLE ANY ITEMS OF EVIDENCE IN THE CASE
12 INVOLVING MR. FRAZIER, THE DEFENDANT?

13 A YES, I DID.

14 Q I AM GOING TO REFER YOU TO STATE'S 22, WHAT ITEM
15 NUMBER, DID YOU HANDLE THAT EVIDENCE IN THIS CASE?

16 A YES, I DID. I DELIVERED THAT TO SLED FOR FURTHER
17 TESTING.

18 Q WHERE DID YOU TAKE IT FROM?

19 A FROM THE EVIDENCE WAREHOUSE.

20 Q AND DID ANYBODY HANDLE IT IN THE MEANTIME BETWEEN THE
21 TIME MS. KYZER PUT THAT BACK PACK AND ITS CONTENTS IN
22 EVIDENCE AND THE TIME THAT YOU TOOK THOSE OVER TO SLED?

23 A NO, SIR.

24 Q DID YOU TAMPER WITH THIS EVIDENCE AT ANY TIME WHILE
25 YOU HAD IT IN YOUR POSSESSION?

1 A I DID NOT.

2 Q WAS IT SEALED?

3 A IT WAS.

4 Q WHEN YOU GOT TO SLED WHO LOGGED THE BOOK BAG AND THE

5 ITEMS THERE AT SLED?

6 A BETTY BUTLER LOGGED IT IN.

7 Q WERE YOU PRESENT AT THE TIME OF LOG IN?

8 A I WAS, YES.

9 Q AND THE PROCESS THAT MS. MCMULLEN JUST DESCRIBED,

10 WHERE THEY RESEAL IT AGAIN AND YA'LL INITIAL IT, DID YOU

11 DO THAT IN THIS CASE?

12 A THAT IS CORRECT, THE EVIDENCE TAPE ON THERE AND THERE

13 IS A PLACE FOR THE DATE AND YOUR INITIALS AND I WOULD OF

14 INITIALED IT.

15 Q AND WHY IS THAT PROCESS, WHY IS IT TAPED AGAIN AND

16 INITIALED IT?

17 A TO MAKE SURE THE CHAIN OF CUSTODY IS KEPT.

18 Q DID YOU RECEIVE THAT BACK PACK BACK INTO EVIDENCE AT

19 THE SHERIFFS DEPARTMENT?

20 A I DID, I PICKED IT FROM SLED ON DECEMBER THE 31ST OF

21 2003.

22 Q STATE'S 23, WAS THAT PART OF THIS BOOK BAG?

23 A YES, IT IS.

24 Q THIS PICTURE, IS THAT PART OF IT?

25 A YES.

1 Q GLOVES?

2 A YES.

3 Q I AM GOING TO REFER YOU TO, ITEM NUMBER 153. COULD
4 YOU TELL THE JURY WHAT WAS IN ITEM 153?

5 A ITEM 153, WAS THE EVIDENCE THAT WAS BROUGHT BACK FROM
6 SLED, IT WAS TAKEN FROM THE BACK PACK INCLUDED A SWAB FROM
7 THE BACK PACK, CUTTINGS AND ALSO A CIGARETTE BUTT.

8 Q I AM HANDING YOU, DO YOU RECOGNIZE THAT?

9 A YES SIR, THAT WOULD BE THE SWAB THAT SLED TOOK FROM
10 THE BACK PACK.

11 Q WHAT IS THE ITEM NUMBER ON THAT?

12 A THAT WOULD BE THEIR ITEM, 36.1.

13 Q DID YOU PICK THAT UP FROM SLED?

14 A I DID, I PICKED IT FROM M.L. FITZPATRICK ON FEBRUARY
15 THE 11TH OF 2004.

16 MR. STUMBO: YOUR HONOR, THE STATE AT THIS TIME WOULD
17 MARK THE SWAB, LABELED ITEM NUMBER 36.1 AS THE SWAB FROM
18 THE BOOK BAG FOR IDENTIFICATION PURPOSES.

19 THE COURT: WILL BE MARKED AS THE NEXT STATE'S
20 EXHIBIT FOR IDENTIFICATION ONLY AT THIS TIME, NUMBER 27.

21 (WHEREUPON, STATE'S EXHIBIT NO. 27 WAS MARKED FOR
22 IDENTIFICATION ONLY.)

23 Q I AM GOING TO HAND YOU ANOTHER ITEM, DO YOU RECOGNIZE
24 THAT ITEM?

25 A YES SIR, THAT WOULD OF BEEN SLED'S ITEM 77 WHICH WAS

1 A CIGARETTE BUTT WHICH WAS REMOVED FROM THE BACK PACK.

2 Q HAD THAT ITEM BEEN FOUND IN THE BACK PACK PRIOR TO IT
3 GOING TO SLED?

4 A IT WAS NOT.

5 Q WAS IT ASSIGNED A NEW NUMBER WHEN YA'LL TOOK IT BACK
6 IN AT THE SHERIFFS DEPARTMENT?

7 A IT WAS INCLUDED IN ITEM 53.

8 MR. STUMBO: YOUR HONOR, WE WOULD LIKE TO MARK
9 STATE'S NUMBER 28 MARKED FOR IDENTIFICATION ONLY.

10 THE COURT: STATE'S 28 FOR IDENTIFICATION ONLY.

11 (WHEREUPON, STATE'S EXHIBIT NO. 28 WAS MARKED FOR
12 IDENTIFICATION ONLY.)

13 Q AND STATE'S 27 AND STATE'S 28 THAT HAVE BEEN MARKED
14 FOR ID PURPOSES, DID YOU PICK THESE ITEMS UP FROM SLED?

15 A YES SIR, I DID.

16 Q WHAT DATE WAS THAT?

17 A THAT WAS ON FEBRUARY THE 11TH OF 2004.

18 Q AND WHO DID YOU PICK THOSE ITEMS UP FROM?

19 A M.L. FITZPATRICK.

20 Q WERE THEY SEALED WHEN YOU PICKED THEM UP?

21 A YES, SIR.

22 Q DID THEY APPEAR TO BE TAMPERED WITH IN ANY WAY?

23 A NO, THEY WERE NOT.

24 Q WHERE DID YOU PLACE THOSE ITEMS WHEN YOU GOT BACK
25 FROM THE SHERIFFS DEPARTMENT?

1 A I LOGGED THEM BACK IN THE COMPUTER AND PLACED THEM IN
2 OUR EVIDENCE STORAGE BUILDING.

3 Q THEY WERE LABELED AS ITEM 153?

4 A YES, SIR.

5 Q ONE OTHER ITEM, ITEM 79. TELL US WHAT SLED ITEM 79
6 WAS, I BELIEVE IT WAS SHERIFFS DEPARTMENT ITEM NUMBER 162?

7 A THAT WAS THE BLOOD SAMPLE FROM THE SUSPECT.

8 Q DID YOU LOG THAT ITEM INTO THE SHERIFFS DEPARTMENT?

9 A I DID, I RECEIVED THAT FROM DETECTIVE LEE MARSHALL.

10 Q WHERE DID YOU PLACE THAT ITEM WHEN YOU TOOK IT INTO
11 EVIDENCE?

12 A I PLACED IT IN THE REFRIGERATOR.

13 Q AND IS THAT, IS THAT WHERE YOU PUT THOSE SORT OF
14 ITEMS IN, IN THE REFRIGERATOR.

15 A ANY ITEMS LIKE BLOOD WE DO PLACE THEM IN THE
16 REFRIGERATOR.

17 Q WAS IT IN A SEALED CONTAINER?

18 A YES, SIR.

19 Q DID YOU BREAK THAT SEAL?

20 A NO, SIR.

21 Q ULTIMATELY DID YOU TAKE THAT ITEM TO SLED?

22 A I DID. I SIGNED IT IN ON JUNE THE 1ST, JUNE THE 2ND
23 I CARRIED IT TO SLED AND I TURNED IT OVER TO M.L.
24 FITZPATRICK.

25 Q WAS IT RESEALED WHEN YOU GOT TO SLED?

1 A THEY WOULD OF PUT IT IN ANOTHER PLASTIC CONTAINER BAG
2 AND I WOULD OF INITIALED IT AND PUT IT IN THE REFRIGERATOR
3 WHICH THEY HAVE WHICH GOES UP FOR BEING PROCESSED FOR DNA.

4 Q WAS THE BLOOD TAMPERED WITH IN ANY WAY?

5 A NO, SIR.

6 Q WAS THAT SEAL BROKEN?

7 A NO.

8 Q DID YOU RECEIVE THAT ITEM BACK IN EVIDENCE AT THE
9 SHERIFFS DEPARTMENT?

10 A I DID, I PICKED UP FROM SLED ON JULY THE 19TH OF 2004
11 FROM LAURA CORLEY.

12 Q DO YA'LL KEEP THOSE ITEMS OF BLOOD AFTER THEY HAVE
13 BEEN ANALYZED?

14 A WELL, WE KEEP WHAT IS LEFT OF IT, THERE MAY NOT BE
15 ANY BLOOD BUT WE WOULD OF HAD THE TUBE LISTED WITH THE
16 SAMPLES.

17 Q THAT IS ALL I HAVE.

18 THE COURT: CROSS-EXAMINE.

19 JUROR: JUST A FEW, YOUR HONOR.

20 CROSS-EXAMINATION

21 BY MR. FLOYD:

22 Q MS. RAINES, YOU SAY THERE WAS A CIGARETTE BUTT THAT
23 WAS FOUND IN THE BAG?

24 A IT WAS FOUND AT SLED.

25 Q SO, LEXINGTON COUNTY DIDN'T FIND IT, THEY TAKE THE

1 BAG OVER THERE AND SLED CALLS BACK AND SAYS THAT THERE IS
2 A CIGARETTE BUTT IN THERE, IS THAT WHAT HAPPENED?

3 A I ASSUME SO, THEY DIDN'T CALL ME.

4 Q NOW, THESE ITEMS, YOU TOOK THOSE TO SLED TO BE
5 ANALYZED, IS THAT CORRECT?

6 A THEY WERE LOGGED IN.

7 Q SO, EVERYTHING IN THE BACK PACK WAS TAKEN FOR
8 ANALYSIS?

9 A YES.

10 Q THANK YOU.

11 THE COURT: ANY REDIRECT?

12 MR. STUMBO: NOTHING, YOUR HONOR.

13 THE COURT: YOU MAY STEP DOWN.

14 MR. STUMBO: WE WOULD CALL CECIL BRADSTREET TO THE
15 STAND.

16 CECIL BRADSTREET, AFTER BEING DULY SWORN,
17 TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION

19 BY MR. STUMBO:

20 Q GOOD MORNING, MR. BRADSTREET.

21 A GOOD MORNING.

22 Q DO YOU WORK FOR SLED?

23 A YES, SIR.

24 Q HOW LONG HAVE YOU BEEN AT SLED?

25 A 14 YEARS THIS FEBRUARY.

1 Q AND WHAT IS YOUR CURRENT ROLE AT SLED?

2 A MY CURRENT POSITION IS I AM A STATISTICAL RESEARCH
3 ANALYST FOR HOMELAND SECURITY IN THE INTELLIGENCE
4 DEPARTMENT FOR SLED.

5 Q BEFORE YOU WENT TO THAT DEPARTMENT WHERE DID YOU
6 WORK?

7 A I WAS A FORENSIC TECHNICIAN IN THE EVIDENCE
8 PROCESSING DEPARTMENT AT SLED.

9 Q BACK IN 2003, 2004?

10 A YES, SIR.

11 Q IN THE EVIDENCE AREA THERE AT SLED, YA'LL HAVE
12 PROCEDURES AND PROTOCOLS?

13 A YES SIR, THAT IS CORRECT.

14 Q AND WHO IS ABLE TO HANDLE THE EVIDENCE THERE, THE
15 EVIDENCE PROCESSING UNIT?

16 A WITHIN THE EVIDENCE PROCESSING DEPARTMENT THERE WERE
17 THREE TECHNICIANS. MYSELF AND TWO OTHER INDIVIDUALS, AND
18 OUR SUPERVISOR, WE WERE THE ONLY ONES THAT HAD ACCESS FOR
19 THE EVIDENCE PROCESSING DEPARTMENT.

20 Q WHEN YOU WERE TO TAKE A PIECE OF EVIDENCE IN TO
21 ANALYZE IT OR PROCESS IT WOULD IT BE SEALED?

22 A YES SIR, THAT IS CORRECT.

23 Q WHO WOULD BREAK THE SEAL ON THAT CONTAINER?

24 A DEPENDING ON WHO WAS WORKING THE CASE. ANY CASE, THE
25 TECHNICIAN THAT TOOK THE EVIDENCE, THEY WOULD BE THE ONE

1 TO BREAK THE SEAL.

2 Q DID YOU HANDLE, PROCESS ANY EVIDENCE ON JOHNNIE
3 FRAZIER?

4 A YES SIR, THAT IS CORRECT.

5 Q I AM GOING TO REFER YOU TO WHAT HAS BEEN MARKED AS
6 ITEM, WHAT IS IN AS ITEM 22, DO YOU RECOGNIZE THAT?

7 A YES SIR, I DO.

8 Q WHAT IS THAT ITEM?

9 A THIS IS A BLACK BACK PACK.

10 Q DID YOU PROCESS THAT BACK PACK?

11 A YES SIR, I DID.

12 Q DID YOU TAKE IT OUT OF THE SEALED CONTAINER?

13 A YES, SIR.

14 Q DID YOU NOTE WHAT WAS IN THE BACK PACK AT THE TIME?

15 A YES SIR, I DID.

16 Q DO YOU RECOGNIZE THIS WALLET?

17 A YES SIR, I DO.

18 Q WAS THAT IN THE BACK PACK?

19 A YES, SIR.

20 Q ABOUT THIS PICTURE?

21 A YES SIR, THAT IS CORRECT.

22 Q WHEN YOU TAKE A PIECE OF PHYSICAL EVIDENCE LIKE YOU
23 HAVE BLOOD IN THERE, WHAT IS THE FIRST STEP YOU TAKE IN
24 THE PROCESSING PROCEDURE?

25 A THE EXAMINATION WAS FOR ANY POTENTIAL HAIR EVIDENCE

1 AND FOR BLOOD. WHEN WE PREPARE, WE WOULD LAY OUT A PIECE
2 OF WHITE BUTCHER BLOCK PAPER, SCRAPE IT DOWN USING A
3 SPATULA. ONCE THAT IS DONE WE WILL SET THINGS ASIDE, SEAL
4 THAT IN A NEW BUTCHER BLOCK LAID DOWN. WHEN THE BLOOD
5 EXAMINATION WAS FIRST DONE, THE VISUAL EXAMINATION, THE
6 PINK AREAS THAT ARE NOTED ARE THEN TESTED USING A CHEMICAL
7 TEST. A CHEMICAL TEST IS KNOWN AS PHENOPHALINE, YOU TAKE
8 A SALINE SWAB, SWAB THE AREA AND THEN GO BACK WITH ANOTHER
9 SWAB, SWAB THAT AREA AGAIN AND TAKE THE PHENOPHALINE WHICH
10 YOU DROP THAT ON THE SWAB, TO PRODUCE A CHEMICAL REACTION,
11 YOU USE HYDROGEN PEROXIDE. THE CHEMICAL REACTION WILL
12 MAKE THE SWAB TURN BRIGHT PINK, THAT IS THE PRESUMPTIVE
13 POSITIVE FOR BLOOD, PHENOPHALINE REACTS TO A HEMOGLOBIN
14 WHICH IS FOUND IN BLOOD. SO, ONCE THAT IS DONE, IF IT IS
15 A PRESUMPTIVE POSITIVE THEN WE CAN EITHER TAKE A CUTTING
16 OR A SWAB, FORWARD THAT TO DNA FOR FURTHER ANALYSIS. THE
17 SWAB DOES NOT TURN COLORS, IT JUST STAYS THE SAME, THE
18 DEFINITIVE TESTING IS NEGATIVE FOR BLOOD.

19 Q BEFORE YOU DID YOUR ANALYSIS ON STATE'S 22 DID YOU
20 ADD ANYTHING TO IT?

21 A MY INITIALS WILL BE ON THE BAG, OTHER THAN THAT
22 NOTHING HAS BEEN ADDED.

23 Q DID YOU ALTER THE BAG IN ANY WAY?

24 A NO, SIR.

25 Q DID YOU USE GLOVES WHEN YOU ARE DOING THIS PROCESS?

1 A I WEAR GLOVES.

2 Q DID YOU FIND ANY BLOOD ON STATE'S 22?

3 A THERE WAS A PRESUMPTIVE POSITIVE FOR BLOOD ON THE
4 BACK PACK, I FORWARDED A SAMPLE TO DNA FOR FURTHER
5 ANALYSIS.

6 Q HOW MUCH BLOOD WAS ON THIS BACK PACK?

7 A IT WAS NOT A VERY LARGE SAMPLE.

8 Q DID YOU SEE IT WITH THE NAKED EYE?

9 A YES SIR, I DID.

10 Q DID YOU DO A CHEMICAL TEST THAT YOU JUST EXPLAINED?

11 A YES SIR, I DID.

12 Q WHAT KIND OF RESULT DID YOU GET FROM THE CHEMICAL
13 TEST?

14 A IT WAS A POSITIVE, WHICH AGAIN THE PRESUMPTIVE
15 POSITIVE FOR BLOOD AND WAS FORWARDED TO DNA.

16 Q AS YOU WERE PROCESSING THE BAG DID YOU FIND ANYTHING
17 ELSE IN THIS BAG THAT WASN'T ALREADY LOGGED INTO EVIDENCE?

18 A YES SIR, THAT IS CORRECT.

19 Q WHAT WAS THAT?

20 A SLED ITEM NUMBER 77 WHICH WAS A CIGARETTE BUTT, I DID
21 NOT DO ANY ANALYSIS, I ACTUALLY JUST PACKAGED IT UP AND
22 FORWARDED IT TO DNA FOR A SALIVA SAMPLE.

23 Q I WANT TO SHOW YOU WHAT HAS BEEN MARKED FOR ID
24 PURPOSES AS STATE'S 28?

25 A THIS IS A GOLD COIN ENVELOPE THAT WE USE TO PUT ANY

1 EVIDENCE THAT IS BEING FORWARDED TO DNA FOR FURTHER
2 ANALYSIS. THIS HAS SLED LAB NUMBER, WHAT THE ITEM IS, THE
3 ITEM NUMBER AND ON THE BACK MY INITIALS.

4 Q DID YOU SEAL THAT?

5 A YES SIR, WE SEAL WITH SCOTCH TAPE AND PUT OUR
6 INITIALS ACROSS THE TAPE.

7 Q WHERE DID SLED ITEM 77 GO WHICH IS STATE'S 28, WHERE
8 DID IT GO AFTER YOU SEALED IT UP?

9 A I PLACE EVERYTHING IN A HEAT SEALED POUCH, SEAL THE
10 HEAT SEAL POUCH, SIGN ACROSS THE SEAL WITH MY INITIALS AND
11 THE DATE AND FORWARD IT TO DNA FOR FURTHER ANALYSIS.

12 Q BETWEEN THE TIME YOU SEAL IT AND PUT IT IN AND THE
13 TIME IT ACTUALLY GETS TO ANALYSIS IN THE DNA DEPARTMENT
14 DOES ANYBODY HANDLE THAT PACKAGE?

15 A I HAND DELIVER IT TO A LOCKED REFRIGERATOR IN THE
16 EVIDENCE CONTROL DEPARTMENT. ONCE I BROUGHT IT THERE IT
17 IS THEN, A TECHNICIAN IS ABLE TO PICK IT UP.

18 Q WHO PICKED ITEM 77 UP FOR DNA, ACCORDING TO THE
19 RECORDS?

20 A IT WAS RECEIVED BY DAVID MCCLURE.

21 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS ID
22 PURPOSES AS STATE'S 27, DO YOU RECOGNIZE THAT?

23 A YES SIR, I DO. IT IS THE SWAB THAT I TOOK FROM THE
24 BOOK BAG THAT HAS A LOT NUMBER, WHICH IS SLED'S NUMBER,
25 THE ITEM NUMBER WHICH IS 36.1 AND IT IS ITEM OFF OF THIS

1 NUMBER WHICH WAS ASSIGNED BY OUR LAB FOR REQUEST FOR BLOOD
2 AND MY INITIALS AND DATE ACROSS THE BACK OF THE ENVELOPE.

3 Q DID YOU PERSONALLY SEAL THAT?

4 A YES, SIR.

5 Q DID YOU ALTER OR MANIPULATE THAT SWAB IN ANY WAY
6 BEFORE YOU SEALED IT UP?

7 A NO SIR, I DID NOT.

8 Q WAS IT SENT TO DNA?

9 A YES SIR, THAT IS CORRECT.

10 Q WHO RECEIVED IT FROM DNA?

11 A ONCE I BROUGHT IT INTO DNA, THE EVIDENCE DEPARTMENT,
12 IT WAS RECEIVED BY DAVID MCCLURE.

13 Q THE BACK PACK AND THE ITEMS THERE, WHAT DID YOU DO
14 AFTER YOU WERE DONE PROCESSING?

15 A ONCE I AM DOING PROCESSING WE WRAP EVERYTHING BACK
16 UP, PLACE IT BACK IN THE BOX THAT IT, IN WHICH THE WAY I
17 RECEIVED IT, SEAL IT BACK UP WITH BOX TAPE, PUT EVIDENCE
18 TAPE BACK ACROSS IT, INTIAL AND DATE THAT, SEND IT BACK TO
19 OUR SECURED REFRIGERATOR AND RETURN IT BACK TO THE
20 SUBMITTING AGENCY.

21 Q DID YOU FIND ANYTHING ON THE BOOK BAG OR IN THE BOOK
22 BAG OF EVIDENTIARY VALUE OTHER THAN THE CIGARETTE BUTT AND
23 THE BLOOD ON TOP OF THE BACK PACK?

24 A THE POTENTIAL HAIR EVIDENCE WAS COLLECTED, THAT IS
25 SET ASIDE IN CASE THERE IS DNA NEEDED FOR FURTHER

1 ANALYSIS. THERE IS NO DETERMINATION ON THE BIOLOGICAL
2 VALUE.

3 Q IF YOU COULD STEP DOWN, PLEASE. I AM GOING TO SHOW
4 YOU THIS LITTLE CUT OUT HERE IN THE TOP OF THE BAG, CAN
5 YOU TELL THE JURY WHAT THAT IS?

6 A THIS IS MY VISUAL EXAMINATION WHERE I FOUND THE
7 POTENTIAL FOR BLOOD, THIS IS WHERE I SWABBED THE AREA, DID
8 MY CHEMICAL TEST AND THEN SET MY OTHER SWAB ASIDE, CAME
9 BACK AND DID ANOTHER SWAB I POURED IT IN MY SAMPLE FOR
10 DNA.

11 Q WHAT IS THAT NUMBER WRITTEN THERE?

12 A THIS IS 36.1, THIS IS SUBITEM, THE SAMPLE THAT WENT
13 TO DNA.

14 Q THAT ITEM WENT INSIDE OF THIS?

15 A YES SIR, THAT IS CORRECT.

16 Q STATE'S 27 IS WHERE THE CUTTING WENT TO?

17 A YES, SIR.

18 Q YOU CAN RETURN TO THE WITNESS STAND, MR. BRADSTREET.
19 BETWEEN THE TIME YOU DID YOUR PROCESSING AND SENT THESE
20 ITEMS OVER TO DNA, DID YOU EVER TAMPER WITH THIS EVIDENCE?

21 A NO SIR, I DID NOT.

22 Q DID YOU ADD ANYTHING TO IT?

23 A NO SIR, I DID NOT.

24 Q TAKE ANYTHING OFF OF IT?

25 A NO, SIR.

1 Q THAT IS ALL I HAVE.

2 THE COURT: CROSS-EXAMINE.

3 MR. FLOYD: THANK YOU.

4 CROSS-EXAMINATION

5 BY MR. FLOYD:

6 Q MR. BRADSTREET, THIS THAT YOU JUST SHOWED THE JURY,
7 THAT IS THE SAMPLE YOU CUT OUT OR THAT IS A PATCH THAT YOU
8 CUT OUT, IS THAT CORRECT?

9 A YES, SIR.

10 Q NOW, THE SPOT OF PRESUMPTIVE BLOOD THAT YOU FOUND
11 CERTAINLY WASN'T THAT LARGE, WAS IT?

12 A NO, SIR. IT WAS NOT A VERY LARGE SAMPLE.

13 Q IN FACT WAS IT AS LARGE AS A DIME?

14 A TRUTHFULLY I CAN'T REMEMBER, IT HAS BEEN SEVERAL
15 YEARS AGO, I JUST REMEMBER SEEING A STAIN.

16 Q WAS IT AS SMALL AS THE END OF A PEN?

17 A I WOULD SAY IT WAS A LITTLE BIT BIGGER, IT WAS CALLED
18 A DOT.

19 Q AND CAN YOU TELL US ASSUMING FOR THE PURPOSE OF THIS
20 QUESTION THAT THIS WAS BLOOD, COULD YOU TELL US HOW LONG
21 IT HAD BEEN ON THE BAG?

22 A NO SIR, I CAN NOT.

23 Q COULD IT OF BEEN ON THE BAG FOR MONTHS?

24 A IT IS VERY POSSIBLE.

25 Q YEARS?

1 A IT IS POSSIBLE, I CAN'T TELL YOU THAT.

2 Q YOU PROCESSED ALL THE OTHER ITEMS IN THE BAG, DID YOU
3 NOT?

4 A SOME OF THEM, NOT ALL OF THEM.

5 Q BUT WE HAVE THESE GLOVES, IS THAT CORRECT, RUBBER
6 GLOVES?

7 A YES, SIR.

8 Q AND ISN'T IT TRUE THAT THERE WAS NO BLOOD ON THE
9 GLOVES?

10 A YES SIR, THAT IS CORRECT.

11 Q THE SOCKS, THERE WAS NO BLOOD ON THE SOCKS EITHER,
12 WERE THERE?

13 A NO SIR, THERE WAS NOT.

14 Q IN FACT, THERE WAS NO OTHER BLOOD FOUND ANY WHERE IN
15 ANY OF THE ITEMS OR THE INTERIOR OF THE BAG, ANY WHERE
16 OTHER THAN THE SMALL LITTLE DOT THAT YOU FOUND?

17 A THAT IS CORRECT.

18 Q NOW, DID YOU FIND SOME HAIR EVIDENCE?

19 A YES SIR, I DID.

20 Q AND DID YOU SEND THAT FOR ANALYSIS ALSO?

21 A IT IS SET ASIDE, WE DID PACKAGE HAIR EVIDENCE UP.

22 Q NOW, YOU ALSO PROCESSED SOME OTHER ITEMS, DID YOU
23 NOT, THAT CAME FROM THE HOUSE?

24 A I AM NOT SURE WHERE THEY CAME FROM, I DID PROCESS
25 SOME BED LINENS.

1 Q AND DID YOU FIND SOME HAIR ON THE FLAT SHEET, ITEM
2 71.2?

3 A ITEM 71.2 WAS A FLAT SHEET, THERE WAS HAIR EVIDENCE
4 THAT WAS COLLECTED.

5 Q AND ON 71.3, THE FITTED SHEET?

6 A YES SIR, 71 WAS A BOX CONTAINING BED LINENS, ITEM
7 71.1, 71.5 WERE ALL PACKAGED TOGETHER SO WE WOULD JUST
8 SEND THE HAIR WITH ALL OF THAT, WE PACKAGED IT ALL OUT
9 TOGETHER.

10 Q ANY BLOOD ON THOSE ITEMS?

11 A THERE WAS PRESUMPTIVE POSITIVES ON 71.2, THE FLAT
12 SHEET AND ON 71.5 WHICH WAS A BEDSPREAD.

13 Q AND THOSE WERE SENT FOR ANALYSIS ALSO?

14 A YES SIR, THAT IS CORRECT.

15 Q BUT WITH THE EXCEPTION OF THE PRESUMPTIVE BLOOD STAIN
16 AND THE CIGARETTE BUTT THERE WAS NO EVIDENCE OF ANY VALUE
17 FOUND?

18 A THERE WAS NO OTHER BIOLOGICAL EVIDENCE FOUND WITHIN
19 THE BOOK BAG.

20 Q OKAY. DO YOU RECALL WHERE IN THE BOOK BAG THE
21 CIGARETTE BUTT WAS?

22 A NO SIR, I DO NOT.

23 Q THANK YOU. NO FURTHER QUESTIONS.

24 THE COURT: ANY REDIRECT?

25 MR. STUMBO: JUST BRIEFLY, YOUR HONOR.

REDIRECT EXAMINATION

BY MR. STUMBO:

Q MR. FLOYD REFERRED YOU TO THE SIZE OF THE BLOOD OF THE AREA THAT YOU FOUND, WOULD THAT BE CONSIDERED LIKE A MISTING OR A SPATTER?

A IT LOOKED LIKE IT WAS DROPPED, LIKE I HAVEN'T SEEN THE STAIN FOR A FEW YEARS SO I COULDN'T TELL YOU HOW BIG IT WAS, BUT YOU KNOW IT WAS ENOUGH OF A SIZE THAT IT WAS CAUGHT BY THE NAKED EYE. ANY ITEM THAT IS DARK COLORED, IF WE CAN NOT SEE IT WITH THE NAKED EYE, THEN WE PUT IT UNDER A MAGNIFYING GLASS WITH A LIGHT BEHIND IT SO IT CAN ACTUALLY BE EXAMINED SIDE BY SIDE, VERY SLOWLY.

Q THAT FLAT SHEET CUTTING THAT MR. FLOYD WAS REFERRING TO, THAT WASN'T IN THE BOOK BAG, WAS IT?

A NO, SIR.

Q IT WAS IN A DIFFERENT CONTAINER?

A IT WAS IN A DIFFERENT CONTAINER.

Q THAT IS ALL I HAVE.

THE COURT: RECROSS.

RECROSS-EXAMINATION

BY MR. FLOYD:

Q SO, YOU CAN'T TELL US HOW THE SPOT GOT ON THE BAG, CAN YOU?

A NO SIR, I CANNOT.

Q DID IT APPEAR TO BE LIKE A DROP?

1 A I HAVEN'T SEEN THE STAIN IN FOUR YEARS SO I COULDN'T
2 TELL YOU.

3 Q THANK YOU.

4 THE COURT: YOU MAY STEP DOWN. MR. FOREMAN AND
5 LADIES AND GENTLEMEN, WE WILL TAKE A BREAK. DON'T DISCUSS
6 THE CASE AND WE WILL TAKE FIVE MINUTES. EVERYONE ELSE
7 STAY SEATED, PLEASE, THE JURY IS EXCUSED.

8 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
9 A BREAK.)

10 THE COURT: WE WILL TAKE ABOUT FIVE MINUTES.

11 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

12 THE COURT: IS THE STATE READY?

13 MR. RIDDLE: YES, YOUR HONOR.

14 THE COURT: MR. FLOYD, THE DEFENSE READY?

15 MR. FLOYD: YES, YOUR HONOR.

16 THE COURT: BRING THE JURY IN, PLEASE.

17 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
18 APPROXIMATELY 12:20 P.M.)

19 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

20 MR. RIDDLE: THE STATE CALLS DAVID MCCLURE TO THE
21 STAND.

22 DAVID MCCLURE, AFTER BEING DULY SWORN, TESTIFIED
23 AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. RIDDLE:

1 Q MR. MCCLURE, WHERE ARE YOU EMPLOYED, SIR.

2 A WITH THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

3 Q AND IN WHAT CAPACITY DO YOU WORK FOR SLED?

4 A THE SUPERVISOR OF THE DNA DATA BASE.

5 Q AND HAVE YOU ALWAYS BEEN IN THAT CAPACITY?

6 A YES SIR, I HAVE.

7 Q YOU ARE A DNA ANALYST BY TRADE?

8 A YES, SIR.

9 Q CAN YOU GIVE THE JURY YOUR EDUCATIONAL BACKGROUND,
10 PLEASE, SIR?

11 A I HAVE GOT A BACHELOR OF SCIENCE DEGREE IN
12 MICROBIOLOGY FROM CLEMSON UNIVERSITY. I HAVE ATTENDED THE
13 API DNA ANALYSIS SCHOOL WHICH IS ACCREDITED IN THE
14 UNIVERSITY OF VIRGINIA AS A GRADUATE OF A CLASS. I HAVE
15 ALSO ATTENDED GRADUATE LEVEL GENETICS CLASS AT THE
16 UNIVERSITY OF SOUTH CAROLINA. I HAVE ATTENDED WITH THE
17 FBI, IN THE RESEARCH OF DNA ANALYSIS.

18 Q HOW LONG HAVE YOU BEEN WORKING IN THE FIELD OF DNA,
19 AGENT MCCLURE?

20 A SINCE MARCH OF 1990, SO 18 YEARS.

21 Q AND IN THIS TIME YOU ARE SUPERVISING THE DNA DATA
22 BASE OUT AT SLED?

23 A THAT IS CORRECT.

24 Q AND BACK IN 2003 WERE YOU ALSO CONDUCTING DNA
25 ANALYSIS ON ACTIVE CASES.

1 A YES SIR, I WAS.

2 Q AND WERE YOU INVOLVED AS A ANALYST IN THIS PARTICULAR
3 CASE?

4 A YES SIR, I WAS.

5 Q MR. MCCLURE, HAVE YOU EVER BEEN QUALIFIED AS AN
6 EXPERT IN THE AREA OF FORENSIC DNA IN SOUTH CAROLINA?

7 A YES SIR, MORE THAN 40 TIMES.

8 Q MORE THAN 40 TIMES?

9 A YES, SIR.

10 Q YOU HAVE BEEN QUALIFIED ANY WHERE ELSE?

11 A JUST SOUTH CAROLINA.

12 Q JUST SOUTH CAROLINA.

13 MR. RIDDLE: YOUR HONOR, AT THIS TIME I WOULD OFFER
14 AGENT MCCLURE AS AN EXPERT IN THE AREA OF FORENSIC DNA
15 ANALYSIS.

16 THE COURT: ANY OBJECTION OR CROSS-EXAMINATION AS TO
17 THE WITNESSES QUALIFICATIONS?

18 MR. FLOYD: NO, YOUR HONOR.

19 THE COURT: THE COURT FINDS THE WITNESS TO BE
20 QUALIFIED AS AN EXPERT IN THE FIELD OF FORENSIC DNA
21 ANALYSIS. YOU MAY CONTINUE.

22 Q AGENT MCCLURE, DID YOU RECEIVE SOME ITEMS IN THE
23 CONNECTION WITH THE HOMICIDE OF CAROL HURSEY AND IN THE
24 INVESTIGATION OF MR. JOHNNIE FRAZIER?

25 A YES SIR, I DID.

1 TERMS OF DOING A DNA COMPARISON AND HOW YOU ARRIVE AT THE
2 RESULTS THAT WE ARE GOING TO TESTIFY TO A LITTLE LATER?

3 A ONCE WE DEVELOP A DNA PROFILE FROM THE EVIDENCE THAT
4 IS SUBMITTED TO US, AT THAT POINT WE HAVE NO IDEA WHO
5 CONTRIBUTED THAT EVIDENCE. WE WOULD THEN TAKE THAT
6 PROFILE AND COMPARE IT TO ANY STANDARDS THAT ARE SUBMITTED
7 TO US IN THAT CASE. IF THE DNA PROFILE FROM THE EVIDENCE
8 IS THE SAME AS THE DNA PROFILE FROM THE STANDARDS THEN THE
9 CONTRIBUTOR TO THAT EVIDENCE WOULD BE THE PERSON WHO
10 PROVIDED THAT BLOOD STANDARD.

11 Q NOW, AGENT MCCLURE, IF I COULD DIRECT YOUR ATTENTION
12 YOUR ITEM 8.34, FINGERNAIL SCRAPINGS?

13 A YES, SIR.

14 Q DID YOU RECEIVE THOSE ITEMS IN CONJUNCTION WITH THIS
15 CASE?

16 A YES, I DID.

17 Q AND DID YOU DO A DNA TYPING ON THAT MATERIAL?

18 A YES SIR, I DID.

19 Q AND THEN DID YOU COMPARE IT WITH ANY KNOWN STANDARDS
20 WHICH YOU HAVE?

21 A YES, WE COMPARED IT TO ALL THE STANDARDS THAT WE HAD
22 AT THAT TIME.

23 Q AND AS A RESULT OF THE COMPARISON, WHAT WERE YOU ABLE
24 TO CONCLUDE ABOUT THE DNA THAT WAS PRESENT ON THE
25 FINGERNAILS OF CAROL HURSEY?

1 A DNA PROFILE FROM THOSE FINGERNAIL SCRAPINGS WAS THE
2 SAME AS THE VICTIM, CAROL HURSEY.

3 Q DID YOU FIND ANY EXTRANEIOUS DNA THERE?

4 A YES, WE DID.

5 Q SO EVERYTHING THAT YOU FOUND YOU COULD ATTRIBUTE TO
6 MS. HURSEY?

7 A THAT IS CORRECT.

8 Q LET ME ASK YOU ABOUT ANOTHER ITEM, YOUR ITEM 77 WHICH
9 I BELIEVE WE JUST ENTERED INTO EVIDENCE AS STATE'S EXHIBIT
10 NUMBER 28. DO YOU RECOGNIZE THAT?

11 A YES, SIR.

12 Q AND IS THAT ITEM IDENTIFIED ON THAT?

13 A IT IS IDENTIFIED, THE DESCRIPTION IS A CIGARETTE
14 BUTT.

15 Q AND DOES YOUR PAPER WORK INDICATE THAT THAT CIGARETTE
16 BUTT AS RECOVERED FROM THE BOOK BAG?

17 A YES, SIR.

18 Q AND IS THAT, STATE'S EXHIBIT NUMBER 22, THE BOOK BAG
19 IN QUESTION?

20 A IT SEEMS SO, I NEVER DID SEE THE BOOK BAG.

21 Q THAT IS FINE. DID YOU DO A DNA ANALYSIS ON ITEM 77?

22 A YES SIR, I DID.

23 Q WHY DO YOU TEST IT ON A CIGARETTE BUTT, AGENT
24 MCCLURE?

25 A WHEN PEOPLE SMOKE A CIGARETTE THEY ARE PUTTING THE

1 Q I AM GOING TO SHOW YOU TWO ITEMS THAT HAVE BEEN
2 MARKED STATE'S 27 AND 28, ARE THOSE TWO OF THE ITEMS IN
3 WHICH YOU RECEIVED?

4 A YES SIR, THEY ARE. THEY HAVE SLED'S LAB NUMBER AND
5 MY INITIALS.

6 MR. RIDDLE: YOUR HONOR, I WOULD OFFER THESE INTO
7 EVIDENCE AT THIS TIME, 27 AND 28.

8 THE COURT: ANY OBJECTION?

9 MR. FLOYD: NO OBJECTION.

10 THE COURT: WITHOUT OBJECTION STATE'S 27 AND 28 ARE
11 ADMITTED.

12 (WHEREUPON, STATE'S EXHIBIT NOS. 27 AND 28 WERE
13 ADMITTED INTO EVIDENCE.)

14 Q NOW, AGENT MCCLURE, WHAT I WOULD LIKE TO DO IS JUST
15 DIRECT YOUR ATTENTION TO SOME SPECIFIC ITEMS WHICH YOU
16 RECEIVED IN YOUR POSSESSION AND THEN I AM GOING TO GET YOU
17 TO EXPLAIN THE RESULTS, OKAY.

18 A OKAY.

19 Q IF I COULD, ITEM NUMBER 1, SLED ITEM NUMBER 1, WHAT
20 IS THAT?

21 A THAT WAS A BLOOD STANDARD FROM CAROL HURSEY.

22 Q AND WOULD THAT HAVE BEEN COLLECTED AT THE AUTOPSY?

23 A THAT WOULD BE CORRECT.

24 Q AND THAT WAS BROUGHT INTO SLED?

25 A YES SIR, IT WAS.

1 Q WHAT IS THE PURPOSE OF HAVING A BLOOD STANDARD, WHAT
2 DO YOU DO WITH THAT?

3 A WE RECEIVE BLOOD STANDARDS FROM ANYBODY WHO MAY BE
4 INVOLVED IN A CASE, TO USE AS COMPARISON PURPOSES FOR ANY
5 EVIDENCE THAT IS FOUND IN THE CASE.

6 Q SO DO YOU DO A DNA TYPING ON THOSE?

7 A THAT IS CORRECT.

8 Q LET ME DIRECT YOUR ATTENTION, IF I COULD, TO ITEM
9 79.4, DID YOU RECEIVE THAT ITEM?

10 A YES SIR, I DID.

11 Q WHAT WAS THAT ITEM, AGENT MCCLURE?

12 A THAT IS A BLOOD STANDARD FROM JOHNNIE FRAZIER.

13 Q IS THAT SOMETIMES REFERRED TO AS A SUSPECT KIT?

14 A THAT IS CORRECT.

15 Q AND IS THE PURPOSE OF THAT TO GIVE A KNOWN DNA
16 PATTERN ON THAT MATERIAL AS WELL?

17 A THAT IS CORRECT, WE USE IT FOR COMPARISON PURPOSES.

18 Q AND DID YOU DNA TEST ITEM 79.4 BLOOD STANDARD OF
19 JOHNNIE FRAZIER?

20 A YES SIR, WE DID.

21 Q NOW, AGENT MCCLURE, IN CONNECTION WITH A CRIMINAL
22 CASE, DO YOU ALSO GET THINGS THAT YOU DON'T EXACTLY KNOW
23 WHAT THE DNA SOURCE OF IT IS, UNKNOWN ITEMS?

24 A YES, SIR.

25 Q AND TELL THE JURY THE PROCESS THAT YOU GO THROUGH IN

1 BUTT OF THE CIGARETTE AGAINST THEIR LIPS AND YOU PICK UP
2 SKIN CELLS FROM THIS OFF OF THE PAPER THAT IS ON A
3 CIGARETTE.

4 Q YOU CAN TEST A SAMPLE THAT YOU REALLY CAN'T EVEN SEE?

5 A YES.

6 Q YOU DID A TEST ON ITEM 77, WERE YOU ABLE TO DEVELOP A
7 DNA PROFILE ON THAT CIGARETTE BUTT?

8 A YES SIR, I DID.

9 Q AND WERE YOU ABLE TO MATCH THAT DNA PROFILE TO ANY
10 STANDARDS WHICH YOU HAD IN THIS PARTICULAR CASE?

11 A YES SIR, ITEM 77, THE CIGARETTE BUTT MATCHED THE DNA
12 PROFILE THAT COME FROM ITEM 79.4 WHICH WAS THE STANDARD
13 FOR JOHNNIE FRAZIER.

14 Q SO, THE DNA ON THE CIGARETTE BUTT MATCHED THE
15 DEFENDANT'S?

16 A THAT IS CORRECT.

17 Q AND THE CIGARETTE BUTT WAS FOUND IN THE BOOK BAG?

18 A YES, SIR.

19 Q NOW, LET'S ALSO TALK ABOUT YOUR ITEM 36.1. EXPLAIN
20 TO THE JURY, IF YOU WOULD, HOW SLED NUMBERS ITEMS?

21 A WHEN AN ITEM COMES INTO THE DOOR FROM A SUBMITTING
22 AGENCY OUR LOG IN DEPARTMENT LOGS THAT ITEM IN WITH A
23 DESCRIPTION AND GIVES IT AN ITEM NUMBER. THE FIRST ITEM
24 THAT COMES IN IS ITEM NUMBER 1, THE SECOND IS ITEM NUMBER
25 2. DURING OUR ANALYSIS IF WE MAKE A CUTTING OR MAKE A

1 SWABBING FOR AN ITEM WE GIVE THAT ITEM A SUB-NUMBER. SO,
2 IF I TOOK A CUTTING OFF OF ITEM NUMBER 1 THAT CUTTING
3 WOULD THEN BE ITEM 1.1, THAT WOULD BE THE FIRST CUTTING I
4 TOOK OFF THAT ITEM. IF I MADE A SECOND CUTTING, THAT
5 SECOND CUTTING WOULD BE ITEM NUMBER 1.2.

6 Q THE BOOK BAG IN THIS PARTICULAR CASE WAS ITEM NUMBER
7 WHAT?

8 A ITEM NUMBER 36.

9 Q AND WAS A CUTTING OR A SWAB MADE FROM THAT BOOK BAG?

10 A I RECEIVED A CUTTING FROM THE BAG, IT IS ITEM NUMBER
11 36.1.

12 Q AND DID YOU DEVELOP A DNA PROFILE FROM ITEM 36.1?

13 A YES SIR, I DID.

14 Q AND WERE YOU ABLE TO MATCH THAT TO ANY KNOWN
15 STANDARDS?

16 A YES, SIR. THE DNA PROFILE DEVELOPED FROM THE CUTTING
17 ON ITEM NUMBER 36.1 MATCHED THE DNA PROFILE DEVELOPED FROM
18 THE VICTIM, CAROL HURSEY.

19 Q NOW, IN CONDUCTING DNA ANALYSIS ARE YOU ABLE TO
20 DEVELOP SOME STATISTICAL NUMBERS REGARDING THE LIKELIHOOD
21 OF A RANDOM MATCH FOR DNA?

22 A YES SIR, WE DID.

23 Q AND IN COMPARISON TO THE MATCH BETWEEN ITEM NUMBER 1,
24 CAROL HURSEY'S BLOOD AND THE CUTTING FROM THE BOOK BAG,
25 36.1, WHAT IS THE PROBABILITY THAT A RANDOM INDIVIDUAL WHO

1 CONTRIBUTES THE DNA OR BLOOD THAT WAS FOUND ON THAT
2 PARTICULAR BOOK BAG?

3 A PROBABILTY OF RANDOMLY SELECTING AN INDIVIDUAL,
4 UNRELATED INDIVIDUAL FROM THE POPULATION THAT WOULD MATCH
5 ITEM 36.1 IS APPROXIMATELY 1 IN 910 TRILLION.

6 Q DO YOU KNOW IF THERE ARE A TRILLION PEOPLE LIVING IN
7 THE WORLD?

8 A I BELIEVE THE ESTIMATE FROM NOVEMBER OF 2007, THERE
9 ARE APPROXIMATELY 6.6 BILLION PEOPLE IN THE WORLD.

10 Q AND THIS IS 910 TRILLION?

11 A THAT IS CORRECT, 910 TRILLION.

12 Q DID YOU LIKEWISE DEVELOP A STATISTICAL PROBABILTY
13 THAT A BLOOD STANDARD FROM MR. FRAZIER ON THE CIGARETTE
14 BUTT COULD BE GENERATED BY RANDOMLY?

15 A THE PROBABILITY OF RANDOMLY SELECTING AN UNRELATED
16 INDIVIDUAL FROM THE POPULATION HAVING A DNA PROFILE
17 MATCHING THE CIGARETTE BUTT WOULD BE APPROXIMATELY 1 AND
18 1.2 QUADRILLION.

19 Q QUADRILLION?

20 A CORRECT.

21 Q YOU HAVE GOT MILLIONS, BILLIONS, TRILLIONS AND THEN
22 QUADRILLIONS, IS THAT CORRECT?

23 A YES.

24 Q AND THERE IS ONLY 6.6 BILLION PEOPLE IN THE WORLD?

25 A YES, SIR.

1 Q THANK YOU. PLEASE ANSWER ANY OF MR. FLOYD'S
2 QUESTIONS.

3 THE COURT: MR. FLOYD.

4 CROSS-EXAMINATION

5 BY MR. FLOYD:

6 Q AGENT MCCLURE, THE BOOK BAG SWAB THAT WAS 36.1, HOW
7 LARGE WAS THAT STAIN?

8 A I COULD SEE THE ENTIRE STAIN IN THE ANALYSIS.

9 Q THERE IS NO MORE FOR US TO LOOK AT?

10 A NO SIR, IT IS NOT.

11 Q LESS THAN A PEN HEAD?

12 A IT WAS PROBABLY GREATER THAN A PEN HEAD, I DON'T
13 REMEMBER EXACTLY WHAT SIZE THE STAIN WAS.

14 Q CAN YOU TELL US WHEN IT WAS PLACED ON THE BAG?

15 A NO, SIR.

16 Q COULD IT OF BEEN THERE FOR QUITE SOME TIME?

17 A WE CANNOT DATE BLOOD.

18 Q AND YOU CAN'T TELL US HOW IT GOT THERE?

19 A NO SIR, I CANNOT.

20 Q AND IT WAS SO SMALL THAT THE TEST CONSUMED IT?

21 A THAT IS CORRECT.

22 Q AND IT WAS JUST ONE SPOT?

23 A THAT'S ALL THAT WAS FORWARDED TO ME.

24 Q NOW, DO YOU HAVE YOUR REPORT THERE THAT YOU WERE
25 REFERRING TO?

1 A YES, SIR.

2 Q DID YOU ALSO DO SOME BLOOD TESTING ON YOUR ITEMS
3 NUMBER 10, 11 AND 12, SOME SWABS FROM AN AUTOMOBILE?

4 A YES SIR, I DID.

5 Q AND DID YOU TEST SOME BLOOD SWABS FROM A DOOR UNDER A
6 PASSENGER WINDOW?

7 A YES SIR, I DID.

8 Q AND WHAT DID YOU DETERMINE FROM THERE?

9 A THERE WAS HUMAN BLOOD IDENTIFIED FROM THAT CUTTING
10 AND IT DID NOT MATCH ANY OF THE STANDARDS THAT WAS
11 SUBMITTED TO ME IN THIS CASE.

12 Q THEN NUMBER 11, THAT WAS A SWAB FROM A PASSENGER
13 INTERIOR ARM REST, IS THAT CORRECT?

14 A THAT IS CORRECT.

15 Q AND DID YOU DETECT HUMAN BLOOD IN THAT CUTTING?

16 A YES SIR, I DID. AND THE DNA PROFILE MATCHED THAT OF
17 THE PREVIOUS ONE FROM THE SWAB ON THE DOOR, THE PASSENGER
18 DOOR.

19 Q AND HOW ABOUT NUMBER 12, THE SIDE OF THE PASSENGER
20 SEAT?

21 A THE SAME RESULTS.

22 Q SO, WOULD I BE CORRECT WHEN I SAY YOU FOUND BLOOD,
23 HUMAN BLOOD IDENTIFIED ON THESE THREE SWABS FROM THE SAME
24 TYPE OF PASSENGER VEHICLE AND THEY WERE NOT JOHNNIE
25 FRAZIER'S?

1 A THAT IS CORRECT.

2 Q IN FACT, YOU DON'T KNOW WHOSE?

3 A THAT IS CORRECT.

4 Q BUT IT IS DEFINITELY NOT JOHNNIE FRAZIER'S?

5 A IT DOES EXCLUDE JOHNNIE FRAZIER AS A CONTRIBUTOR.

6 Q AND THAT WAS SENT TO YOU IN CONNECTION WITH THIS
7 CASE, WAS IT NOT?

8 A YES SIR, IT WAS.

9 Q NO FURTHER QUESTIONS.

10 THE COURT: RECROSS.

11 REDIRECT EXAMINATION

12 BY MR. RIDDLE:

13 Q DO YOU HAVE ANY IDEA WHAT THE SOURCE OF 10, 11 AND 12
14 WAS?

15 A ONLY THAT THEY WERE SWABS FROM SOME SORT OF PASSENGER
16 VEHICLE.

17 Q CAN YOU DRAW ANY CONCLUSION ABOUT WHEN THOSE WERE
18 COLLECTED TO SEND TO SLED BASED ON THEIR ITEM NUMBERS?

19 A NO SIR, I CANNOT. THEY WERE, I CAN LOOK AND SEE WHAT
20 DATE THEY WERE SUBMITTED TO SLED.

21 Q WOULD YOU DO THAT FOR ME?

22 A YES, SIR. THEY WERE SUBMITTED TO SLED ON AUGUST THE
23 21ST OF 2003.

24 Q OKAY. THAT IS ALL I HAVE.

25 THE COURT: ANYTHING FURTHER?

1 MR. FLOYD: NOTHING FURTHER.

2 THE COURT: YOU MAY STEP DOWN.

3 MR. RIDDLE: THE STATE RECALLS LAURA GRIMES.

4 THE COURT: MS. GRIMES, YOU ARE STILL UNDER OATH, WE
5 WILL NOT SWEAR YOU AGAIN.

6 DIRECT EXAMINATION

7 BY MR. RIDDLE:

8 Q MS. GRIMES, THE SWABS THAT AGENT MCCLURE JUST
9 TESTIFIED TO, 10, 11 AND 12?

10 A YES, SIR.

11 Q DO YOU KNOW THE SOURCE THAT THOSE WERE COLLECTED?

12 A YES, SIR.

13 Q WHO COLLECTED THEM?

14 A I DID.

15 Q AND THEY WERE ULTIMATELY SENT TO SLED?

16 A YES, SIR.

17 Q WHERE DID YOU COLLECT THEM FROM?

18 A THE NEXT DAY ON THE 15TH WHILE WE WERE CONTINUING TO
19 PROCESS THE HOUSE, IF YOU WILL GIVE ME A MINUTE I BELIEVE
20 I HAVE THE CONSENT TO SEARCH IN MY NOTES.

21 Q WELL, WHAT ARE THE CIRCUMSTANCES, YOU WERE OUT AT THE
22 HOUSE, CORRECT?

23 A YES, SIR.

24 Q AND WHAT HAPPENED AT THAT TIME?

25 A A FEMALE DROVE UP IN A BLACK TRANS AM AND STATED THAT

1 SHE HAD SOME BLOOD IN HER CAR. I AM NOT SURE EXACTLY WHO
2 SHE SAID WAS IN HER CAR AT THE TIME BUT SHE WAS AWARE OF
3 THE HOMICIDE AND WAS CONCERNED ABOUT THE BLOOD IN HER CAR.

4 Q SOMEBODY JUST PULLS UP AT THE CRIME SCENE AND SAYS I
5 HAVE GOT BLOOD IN MY CAR?

6 A YES, SIR.

7 Q AND YOU SWABBED IT?

8 A YES SIR, AFTER CONSENT TO SEARCH.

9 Q DO YOU KNOW WHERE THE CAR WAS PRIOR TO HER COMING BY
10 THE CRIME SCENE?

11 A IF I RECALL I BELIEVE THE CAR WAS AT PELHAM OR HOWELL
12 ROAD, IF RECALL CORRECTLY, THAT WAS SEVERAL YEARS AGO.

13 Q AND WHAT IS THE APPROXIMATE BETWEEN THAT AND THE
14 CRIME SCENE?

15 A A FEW MILES, BUSBEE ROAD IS ON 321 AND HOWELL ROAD IS
16 ON THE OPPOSITE SIDE OF 321.

17 Q DO YOU HAVE ANY REASON TO BELIEVE THAT IS IN ANY WAY
18 CONNECTED TO THE HOMICIDE OF CAROL HURSEY?

19 A NO SIR, I DO NOT.

20 THE COURT: CROSS-EXAMINE.

21 CROSS-EXAMINATION

22 BY MR. FLOYD:

23 Q MS. GRIMES, WHERE DID YOU SAY THAT CAR HAD BEEN, WHAT
24 ROAD?

25 A IT WAS PELHAM ROAD.

1 Q PELHAM ROAD?

2 A IF I RECALL CORRECTLY, YES SIR.

3 Q YOU ARE GOING FROM YOUR MEMORY?

4 A YES SIR, I AM.

5 Q DID THE VEHICLE HAVE A LOT OF BLOOD ON IT?

6 A IT DEPENDS, I CAN LOOK BACK TO MY PHOTOGRAPHS.

7 Q NO FURTHER QUESTIONS.

8 THE COURT: ANY REDIRECT?

9 MR. RIDDLE: NONE, YOUR HONOR.

10 THE COURT: YOU CAN STEP DOWN.

11 MR. RIDDLE: AT THIS TIME THE STATE REST ITS CASE IN

12 CHIEF, YOUR HONOR.

13 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN, THE

14 STATE HAS RESTED, IT MEANS THAT THEY HAVE PRESENTED THEIR

15 EVIDENCE IN THEIR CASE IN CHIEF. THERE MAY BE SOME LEGAL

16 MATTERS THAT WE NEED TO TAKE UP AT THIS TIME AND IN

17 ADDITION TO THAT WE ARE CLOSE TO THE LUNCH HOUR, WE WILL

18 BREAK FOR LUNCH AND LET YOU GO TO LUNCH WHILE I DEAL WITH

19 THESE OTHER MATTERS. I WILL NEED YOU BACK IN YOUR JURY

20 ROOM AT 2:15 IF YOU WOULD. PLEASE DON'T DISCUSS THE CASE

21 DURING LUNCH. THE JURY IS EXCUSED AND EVERYONE ELSE STAY

22 SEATED.

23 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR

24 A LUNCH BREAK.)

25 THE COURT: MR. FLOYD, ANY MOTIONS?

1 MR. FLOYD: YES, YOUR HONOR, AT THIS TIME THE DEFENSE
2 WOULD MOVE FOR A DIRECTED VERDICT OF ACQUITTAL. YOUR
3 HONOR, IT IS OUR POSITION THAT EVEN CONSIDERING THIS
4 EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE WHICH I
5 APPRECIATE IS THE STANDARD IN THIS PROCEEDING, THIS
6 EVIDENCE FAILS TO ESTABLISH BY ANY, BEYOND ANY REASONABLE
7 DOUBT THE GUILT OF THE DEFENDANT IN THIS MATTER. ALL THEY
8 HAVE, YOUR HONOR, IS PURE SPECULATION. MR. FRAZIER'S NAME
9 WAS GIVEN AS A POSSIBLE SUSPECT ALONG WITH OTHERS, ALL
10 THEY HAVE BEYOND THAT, YOUR HONOR, IS A SMALL SPOT OF
11 BLOOD, DON'T KNOW WHEN IT GOT ON THAT BAG, HE USED TO WORK
12 FOR HER, HE USED TO WORK RIGHT WITH HER, COULD OF GOTTEN
13 ON THERE AT ANY TIME. AND IT CERTAINLY IS NOT A LARGE
14 SPLATTER, DOESN'T SEEM TO HAVE ANY RELATIONSHIP TO HER
15 DEATH OTHER THAN IT IS JUST HER BLOOD. AFTER THAT ALL
16 THEY HAVE, YOUR HONOR, THEY HAVE NO WAY TO TIE THAT TO HER
17 DEATH AND ALL THEY HAVE IS SOME JAIL HOUSE SNITCH SAYING
18 HE SAID HE DID IT, YOUR HONOR. AND OUR POSITION WOULD BE
19 THAT A JAIL HOUSE SNITCH, WHEN THAT IS ALL YOU HAVE GOT
20 THAT IS NEVER ENOUGH. AND THEREFORE WE WOULD ASK FOR A
21 DIRECTED VERDICT FOR AN ACQUITTAL.

22 THE COURT: IN ORDER TO GRANT THAT MOTION IT WOULD
23 REQUIRE TWO THINGS THAT THE COURT IS NOT PERMITTED TO DO.
24 NUMBER ONE, IT WOULD REQUIRE ME TO WEIGH THE EVIDENCE.
25 AND NUMBER TWO, IT WOULD REQUIRE THE COURT TO IGNORE SOME

1 OF THE EVIDENCE THAT IF IT IS BELIEVED BY THE JURY IT
2 WOULD BE SUFFICIENT TO SUPPORT THE STATE'S OBLIGATIONS IN
3 THIS CASE. FOR THAT REASON THE MOTION FOR THE DIRECTED
4 VERDICT IS DENIED.

5 MR. FLOYD: THANK YOU, YOUR HONOR.

6 THE COURT: ANYTHING FURTHER AT THIS TIME.

7 MR. RIDDLE: NO, YOUR HONOR.

8 MR. FLOYD: NO, YOUR HONOR.

9 THE COURT: WE WILL START BACK AT 2:15.

10 MR. RIDDLE: IF IT PLEASE THE COURT, I WOULD LIKE TO
11 BE ABLE TO RUN RAP SHEETS ON SOME OF THESE INDIVIDUALS
12 BECAUSE IF THEY ARE ANYTHING LIKEWISE OF THE STATE'S
13 WITNESSES THERE IS GOING TO BE RECORDS AND I WOULD LIKE TO
14 BE PROVIDED WITH DATES OF BIRTH, THE WITNESSES THAT ARE
15 GOING TO TESTIFY IN ADVANCE SO WE DON'T STOP COURT EVERY
16 TIME TO RUN A RAP SHEET ON THEM.

17 THE COURT: LET'S TALK ABOUT THAT. WE WILL STAND IN
18 RECESS UNTIL 2:15.

19 (WHEREUPON, A LUNCH BREAK WAS.

20 THE COURT: IS THE STATE READY?

21 MR. RIDDLE: YES, YOUR HONOR.

22 THE COURT: THE DEFENSE?

23 MR. FLOYD: YES, YOUR HONOR.

24 THE COURT: BRING THE JURY IN, PLEASE.

25 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT

1 APPROXIMATELY 2:20 P.M.)

2 MR. FLOYD: THE DEFENSE CALLS JONATHAN GABERT TO THE
3 STAND.

4 JONATHAN GABERT, AFTER BEING DULY SWORN,
5 TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION

7 BY MR. FLOYD:

8 Q MS. GABERT, WHERE WERE YOU EMPLOYED BACK IN 2003?

9 A FOR LEXINGTON COUNTY SHERIFFS DEPARTMENT.

10 Q AND WHAT WAS YOUR POSITION WITH THEM?

11 A I WAS AN INVESTIGATOR WITH MAJOR CRIMES UNIT.

12 Q AND HOW LONG DID YOU WORK FOR LEXINGTON COUNTY?

13 A IT WAS OVER FIVE YEARS, SIR.

14 Q NOW, DID YOU DO ANY WORK IN CONNECTION WITH THE CASE
15 CONCERNING THE DEATH OF CAROL HURSEY?

16 A YES, I DID.

17 Q AND IN CONNECTION WITH YOUR INVESTIGATION DID YOU
18 CONDUCT AN INTERVIEW WITH AN INDIVIDUAL BY THE NAME OF
19 SCOTTIE CARSON?

20 A YES SIR, I DID.

21 Q AND DID YOU ACTUALLY WRITE A STATEMENT DOWN AS HE
22 GAVE IT TO YOU?

23 A I DID, SIR.

24 Q HAVE YOU HAD A CHANCE TO REVIEW THIS STATEMENT?

25 A YES, I HAVE.

1 Q AND IS IT TRUE THAT MR. CARSON TOLD YOU THAT MR.
2 FRAZIER WANTED A GUN FOR SELF PROTECTION?

3 A YES SIR, THAT IS IN THE STATEMENT.

4 Q NOW, DID YOU INVESTIGATE AN INCIDENT AT 1509 BUSBEE
5 ROAD.

6 MR. RIDDLE: YOUR HONOR, EXCUSE ME, BEFORE HE MOVES
7 ON I WOULD OFFER THE STATEMENT.

8 MR. FLOYD: YOUR HONOR, I WILL PUT THE STATEMENT IN.

9 THE COURT: ANY OBJECTION TO THAT?

10 MR. FLOYD: I DON'T THINK IT WOULD BE APPROPRIATE,
11 YOUR HONOR, I WOULD PUT THE STATEMENT IN.

12 MR. RIDDLE: HE ASKED HIM ABOUT A PORTION OF THE
13 STATEMENT.

14 MR. FLOYD: IT IS NOT HIS STATEMENT.

15 MR. RIDDLE: IT IS ADMISSIBLE, YOUR HONOR.

16 MR. FLOYD: IT IS NOT HIS STATEMENT, YOUR HONOR.

17 THE COURT: I UNDERSTAND THAT, HOLD ON JUST A MINUTE.
18 STEP UP FOR JUST A MINUTE, COUNSEL.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
21 JURY.)

22 THE COURT: PURSUANT TO RULE 106, THE OBJECTION IS
23 OVERRULED AND THE COURT'S INSTRUCTIONS, A COPY OF THE
24 ENTIRE STATEMENT WILL BE ADMITTED. WHAT IS THE NUMBER,
25 HAS IT BEEN NUMBERED YET?

1 MR. RIDDLE: NO, YOUR HONOR.

2 THE COURT: WHAT IS THE NUMBER.

3 COURT REPORTER: THAT WOULD BE NUMBER 29.

4 THE COURT: STATE'S 29 IS ADMITTED.

5 (WHEREUPON, STATE'S EXHIBIT NO. 29 WAS ADMITTED INTO
6 EVIDENCE.)

7 Q DID YOU HAVE OCCASION TO GO OUT TO 1509 BUSBEE ROAD
8 BACK IN 2001 IN CONNECTION WITH AN INVESTIGATION?

9 A YES SIR, I DID.

10 Q WHAT WAS THE DATE OF THAT?

11 A JUNE 17TH OF 2001.

12 Q AND WHAT ADDRESS DID YOU GO TO?

13 A 1509 BUSBEE ROAD.

14 Q AND WHAT WAS THE OCCASION OF YOU GOING THERE?

15 A IT WAS DISPATCHED AS A SUICIDE THREAT.

16 Q THANK YOU, NOTHING FURTHER.

17 THE COURT: CROSS-EXAMINE.

18 CROSS-EXAMINATION

19 BY MR. RIDDLE:

20 Q REFERRING TO STATE'S EXHIBIT NUMBER 29, HALF WAY DOWN
21 THE PAGE, IF YOU WOULD AGREE WITH ME THAT HE EVEN TRIED TO
22 GET ME TO TAKE HIM TO AN UNKNOWN FRIEND'S HOUSE TO PICK UP
23 THE GUN ABOUT ONE AND A HALF WEEKS AGO WHILE MY MOM WAS
24 SLEEPING?

25 A YES, SIR.

1 Q AND THAT IS SCOTTIE CARSON?

2 A YES, SIR.

3 Q HE SAID THE GUN WAS CLEAN MEANING IT WAS STOLEN OR
4 REGISTERED AND HE COULD GET RID OF IT IF NECESSARY?

5 A THAT IS CORRECT, SIR.

6 Q HE ALSO TALKED ABOUT HOW MUCH MONEY HE HELPED THE
7 HURSEY'S MAKE, \$50,000.00 PLUS DOLLARS AND THAT THEY KEPT
8 THOUSANDS OF IT AT THEIR HOME?

9 A YES.

10 Q MR. CARSON GAVE YOU THAT STATEMENT WHAT DAY?

11 A THAT WAS THE 14TH OF AUGUST OF 2003.

12 Q THANK YOU, THAT IS ALL I HAVE.

13 THE COURT: ANY REDIRECT?

14 MR. FLOYD: NO, YOUR HONOR. WE WOULD ASK THAT THIS
15 WITNESS BE EXCUSED.

16 THE COURT: WITHOUT OBJECTION THE WITNESS IS EXCUSED.

17 MR. FLOYD: WE CALL JOE PAYNE TO THE STAND.

18 JOE PAYNE, AFTER BEING DULY SWORN, TESTIFIED AS
19 FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. FLOYD:

22 Q JOE, WHAT TYPE OF WORK DO YOU DO?

23 A I OWN A USED CAR LOT.

24 Q IS THAT HERE IN LEXINGTON COUNTY?

25 A YES, SIR.

1 Q DID YOU DO BUSINESS WITH A JACQUELINE BURKE?

2 A YES, SIR.

3 Q WHAT DID YOU CALL MS. BURKE AS, WHAT DID YOU KNOW HER
4 AS?

5 A I KNEW HER AS TIGER.

6 Q AND WHAT TYPE OF BUSINESS DID YOU HAVE WITH HER?

7 A I SOLD HER A USED TAURUS STATION WAGON, USED CAR.

8 Q AND DO YOU RECALL WHAT YEAR THAT WAS YOU ACTUALLY DID
9 THAT?

10 A NO, SIR.

11 Q WAS THERE AN OCCASION THAT SHE LEFT TOWN?

12 A YES, SIR.

13 Q AND DID YOU HAVE ANY CONVERSATIONS WITH HER ONCE SHE
14 LEFT TOWN?

15 A YES, SIR.

16 Q AND DO YOU KNOW WHY SHE LEFT TOWN OR WHEN SHE LEFT
17 TOWN?

18 A WELL, SHE SAID SHE HAD TO GET OUT OF TOWN, THERE WAS
19 SOME WARRANTS ON HER HUSBAND AND WAS BECAUSE SOMEONE SHE
20 KNEW HAD BEEN KILLED.

21 Q AND DID YOU, WERE YOU AWARE THAT THERE HAD BEEN SOME
22 TYPE OF MURDER IN THE COMMUNITY, SOME TYPE OF DEATH?

23 A NO.

24 Q NOT UNTIL SHE TOLD YOU?

25 A NO SIR, I DIDN'T.

1 Q NOW, DID YOU DISCUSS WHETHER SHE WAS INVOLVED IN THE
2 MURDER?

3 A YES, LATER WHEN SHE CALLED ME I ASKED HER DID SHE DO
4 IT AND SHE SAID, NO.

5 Q AND DID YOU ASK HER IF SHE KNEW WHO DID IT?

6 A YES.

7 Q AND WHAT DID SHE SAY TO THAT?

8 A SHE SAID, YES.

9 Q AND WHO DID SHE SAY THAT WAS?

10 A THERE WAS SEVERAL NAMES, SHE HAD, I REMEMBER ONE OF
11 THE GUYS NAMES WAS BOO, I REMEMBER THERE WAS A GENTLEMAN
12 BY THE NAME OF BLACKY, I AM REALLY NOT GOOD WITH NAMES BUT
13 I HAVE EVERYTHING WRITTEN DOWN WHEN I CALLED THE SHERIFFS
14 DEPARTMENT AND GAVE MY REPORT TO THEM.

15 Q AND WHAT YOU REMEMBER IS THE ONE NAMED BOO AND ONE
16 NAMED BLACKY?

17 A YES, I CAN'T REMEMBER THE OTHER NAMES, THEY DON'T
18 STRIKE ME RIGHT NOW.

19 Q THANK YOU, ANSWER ANY QUESTIONS THAT MR. RIDDLE HAS.

20 CROSS-EXAMINATION

21 BY MR. RIDDLE:

22 Q HOW MANY TIMES DID SHE CALL YOU ON THE PHONE?

23 A SHE CALLED FIRST TO LET ME KNOW WHERE SHE WAS AT AND
24 LET ME KNOW THAT THE CAR WASN'T STOLEN, SHE KNEW I WAS
25 LOOKING FOR HER, SHE WAS BEHIND ON HER PAYMENTS. AND I

1 WAS TRYING TO GET IN TOUCH WITH HER.

2 Q SHE CALLED YOU?

3 A YES, SIR. SHE CALLED ME BECAUSE I WAS THE ONE, I HAD
4 CALLER ID AND THAT IS HOW I FOUND OUT SHE WAS IN BEDFORD,
5 INDIANA. SHE CALLED ME A COUPLE OF TIMES.

6 Q MORE THAN ONCE?

7 A YES, SIR.

8 Q AND AT WHAT POINT DID SHE TELL YOU THAT SHE HAD LEFT
9 TOWN BECAUSE A FRIEND HAD GOTTEN KILLED?

10 A THE FIRST TIME SHE CALLED ME, SHE ACTUALLY CALLED ME,
11 I CAN'T RECALL WHEN SHE CALLED AND LEFT A MESSAGE ON MY
12 CELL PHONE OR ON THE CAR LOT PHONE. SOME HOW OR ANOTHER I
13 GOT A MESSAGE AND I DIDN'T TALK TO HER, I GOT A MESSAGE
14 TELLING ME THAT SHE HAD TO LEAVE BECAUSE SOMEONE HAD DIED
15 AND I ALMOST WANT TO SAY IT WAS A LANDLORD OR, I CAN'T
16 REMEMBER. I REMEMBER HER TELLING ME THAT AND THEN ANOTHER
17 BUDDY OF MINE CALLED ME--

18 Q WHOA, WHOA, I DON'T WANT TO KNOW WHAT ANOTHER BUDDY
19 OF YOURS SAID. I WANT TO KNOW WHAT MS. BURKE SAID?

20 A THAT IS WHEN SHE CALLED ME AND TOLD ME THAT SHE HAD
21 TO LEAVE TOWN BECAUSE SOMEONE HAD BEEN MURDERED, AND HER
22 HUSBAND HAD WARRANTS.

23 Q DID SHE SAY ANYTHING ABOUT CHILD SUPPORT WARRANTS?

24 A WHEN I FINALLY TALKED TO HER, SHE SAID THAT THEY
25 WOULD NOT EXPEDITE HER HUSBAND FROM INDIANA, THAT IS WHY

1 THEY CHOSE THAT SPOT.

2 Q SO, WHEN DID SHE CALL YOU AND TELL YOU SHE WAS
3 LEAVING TOWN ABOUT SOMEBODY BEING KILLED, WAS THAT BEFORE
4 OR AFTER SHE LEFT TOWN?

5 A THAT WAS THE FIRST PHONE CONVERSATION AND SHE WAS
6 ALREADY GONE.

7 Q SHE WAS ALREADY GONE?

8 A YES SIR, SHE WAS IN THE PROCESS OF LEAVING OR GONE.

9 Q WELL, WAS SHE IN THE PROCESS OF LEAVING OR WAS SHE
10 GONE?

11 A I DON'T KNOW, SIR, I DON'T KNOW IF SHE CALLED ME FROM
12 HER CELL PHONE AS SHE WAS LEAVING OR SHE CALLED ME
13 WHENEVER SHE GOT THERE.

14 Q SO, WHEN DID SHE CALL THE SECOND TIME?

15 A THAT HAD TO BE WHEN SHE WAS THERE IN BEDFORD,
16 INDIANA.

17 Q NOW, YOU SAY YOU WROTE IT ALL DOWN AND GAVE IT TO THE
18 SHERIFFS DEPARTMENT, CORRECT?

19 A I WROTE IT ALL DOWN ON A NOTEPAD AND I CALLED DEPUTY
20 HACHELL.

21 Q AND HOW MANY TIMES DID YOU TELL THE SHERIFFS
22 DEPARTMENT THAT SHE HAD CALLED?

23 A I DON'T RECALL.

24 Q YOU DON'T RECALL?

25 A NO, SIR.

1 Q AND DID YOU TELL THE SHERIFFS DEPARTMENT THAT SHE
2 SAID THAT SHE WAS LEAVING TOWN BECAUSE SOMEBODY WAS
3 KILLED?

4 A YES, SIR.

5 Q YOU DID?

6 A YES, SIR.

7 Q AND THEY WROTE THAT DOWN FOR YOU, YOU GAVE THEM A
8 STATEMENT, RIGHT?

9 A YES, SIR.

10 Q HOW MANY PHONE CALLS?

11 A I AM SHOWING ONE PHONE CALL.

12 Q ONE?

13 A YES.

14 MR. FLOYD: YOUR HONOR, WE WOULD LIKE TO INTRODUCE
15 THE STATEMENT AT THIS POINT.

16 MR. RIDDLE: I AM ASKING WHAT IS NOT IN IT, NOT WHAT
17 IS IN IT.

18 MR. FLOYD: UNDER THE SAME RULE I THINK WE WOULD BE
19 ENTITLED TO PUT THE WHOLE STATEMENT IN.

20 THE COURT: THE MOTION FROM THE DEFENSE TO PUT IT IN,
21 THE STATE OBJECTED. I OVERRULE, IT WILL BE MARKED AS A
22 DEFENSE EXHIBIT NUMBER 1.

23 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 1 WAS ADMITTED
24 INTO EVIDENCE.)

25 THE COURT: THAT IS THIS WITNESS'S STATEMENT TO LAW

1 ENFORCEMENT, CORRECT.

2 MR. RIDDLE: CORRECT.

3 Q ONE PHONE CALL?

4 A IT SAYS THAT I RECEIVED ONE PHONE CALL ON HERE, YES.

5 Q NOW, ANYWHERE IN THAT STATEMENT DO YOU TALK ABOUT HER
6 TELLING YOU THAT SHE WAS LEAVING TOWN BECAUSE SOMEBODY HAD
7 BEEN KILLED?

8 A NO, SIR.

9 Q DIDN'T DO THAT. OKAY. AS A MATTER OF FACT IN THIS
10 STATEMENT SHE TALKS ABOUT OR YOU TALK ABOUT THAT THE
11 REASON SHE CALLED YOU IS BECAUSE SHE ASKED YOU TO CALL
12 LEXINGTON COUNTY SHERIFFS DEPARTMENT, RIGHT?

13 A THAT IS CORRECT.

14 Q BECAUSE HER HOUSE HAD BEEN VANDALIZED, RIGHT?

15 A THAT IS CORRECT.

16 Q THE ONE WHERE SHE WAS STAYING?

17 A THAT IS CORRECT.

18 Q AND SHE WANTED YOU TO CALL THE SHERIFF ABOUT THAT AND
19 YA'LL TALKED ABOUT HOW DESTROYED THE HOUSE WAS, RIGHT?

20 A WELL, TIGER USUALLY CALLED ME A LOT OF TIMES AND SHE
21 WOULD LIKE BE TALKING OFF THE WALL AND STUFF.

22 Q LET ME JUST ASK YOU THIS, WOULD YOU AGREE WITH ME
23 THAT SHE ASKED IF I WOULD CALL THE SHERIFFS DEPARTMENT AND
24 SEE WHAT THEY COULD DO ABOUT HER HOUSE BEING VANDALIZED,
25 THAT IS WHAT YOU SAID, RIGHT?

1 A YES, SIR.

2 Q AND THE NEXT SENTENCE SAYS I TOLD HER I WOULD LOOK
3 INTO IT FOR HER, CORRECT?

4 A CORRECT.

5 Q AND THE NEXT SENTENCE SAYS, WE TALKED ABOUT WHO SHE
6 THOUGHT DESTROYED HER HOUSE.

7 A THAT IS CORRECT.

8 Q AND THEN YA'LL TALKED ABOUT ELBERT AND BOO?

9 A THEN I ASKED HER DID SHE DO IT.

10 Q RIGHT.

11 A AND SHE SAID, NO.

12 Q BUT YA'LL WENT THROUGH ALL OF THAT AT THAT TIME?

13 A WELL, THERE WAS A COUPLE OF DIFFERENT PHONE CALLS.
14 LEXINGTON COUNTY EVEN PUT A TAP, THEY PUT A TAP ON MY CELL
15 PHONE AND MADE ANOTHER PHONE CALL THAT IS NOT ON THIS.

16 Q I AM ASKING ABOUT YOUR STATEMENT TO LAW ENFORCEMENT,
17 MR. PAYNE.

18 A LAW ENFORCEMENT WROTE THIS STATEMENT, LEXINGTON
19 COUNTY SHERIFFS DEPARTMENT WROTE THIS, IF YOU WILL READ AT
20 THE VERY TOP SENTENCE OF IT, THEY WROTE IT FOR ME AND I
21 SIGNED OFF TO IT. AND THESE EVENTS DID HAPPEN BUT THERE
22 WAS A LOT MORE THAT HAPPENED ALSO.

23 Q BUT YOU DIDN'T THINK YOU NEEDED TO PUT ALL OF THAT IN
24 THERE, DID YOU?

25 A THEY DIDN'T THINK I NEEDED TO PUT ALL OF THAT IN

1 THERE.

2 Q DETECTIVE MARSHALL WROTE THE STATEMENT?

3 A I DON'T REMEMBER DETECTIVE MARSHALL.

4 Q IS THAT CORRECT, THAT IS WHAT IT SAYS.

5 A I DON'T REMEMBER DETECTIVE MARSHALL, THAT IS WHAT IT
6 SAYS AT THE TOP, YES SIR. AND IT HAS MY SIGNATURE AT THE
7 BOTTOM OF IT.

8 Q DETECTIVE MARSHALL IS RECORDING MY STATEMENT AS I
9 TELL HIM WHAT HAPPENED, CORRECT?

10 A YES.

11 Q IN THAT STATEMENT YOU ONLY TALK ABOUT ONE PHONE CALL?

12 A YES SIR, AND A STATEMENT. BUT LEADING UP TO THIS
13 STATEMENT YOU PROBABLY HAVE THREE OR FOUR PHONE CALLS.

14 Q THAT IS ALL I HAVE.

15 THE COURT: REDIRECT.

16 REDIRECT EXAMINATION

17 BY MR. FLOYD:

18 Q SO, YOU HAD THREE OR FOUR PHONE CALLS WITH HER?

19 A YES SIR, I HAD SEVERAL WITH HER.

20 Q AND THERE IS NO QUESTION THAT BETWEEN THE TALKING
21 ABOUT HER HOUSE, DIDN'T YOU TELL THEM ABOUT THE
22 CONVERSATION ABOUT THE MURDER?

23 A YES, SIR. IT ALL STARTED OUT, THE SITUATION WITH HER
24 HOUSE WAS A SITUATION TO WHERE SOMEONE HAD VANDALIZED HER
25 PROPERTY AND SHE WAS TRYING TO FIGURE OUT WHO HAD DONE IT

1 AND I WAS GOING TO GO OVER THERE, SHE HAD A FEW ITEMS THAT
2 SHE WAS WANTING TO SELL. AND THERE WAS A TOOL BOX WITH
3 SOME WRENCHES AND STUFF IN IT THAT I BOUGHT FROM HER AND
4 THEN TURNED AROUND, SHE EVEN SAID ON THE PHONE TO ME THAT
5 SOMEBODY STOLE THEM. AND I HAVE GOT A RECEIPT SOMEWHERE
6 IN MY OFFICE IN MY PAPER WORK WHERE I BOUGHT ALL OF THAT
7 STUFF FROM HER. SO, EVERY TIME SHE WOULD SAY SOMETHING
8 LIKE THAT I WOULD JUST BLOW IT OFF, SHE WOULD TALK OUT OF
9 THE TOP OF HER HEAD.

10 Q AND MR. PAYNE, YA'LL HAD A CONVERSATION ABOUT THE
11 MURDER, DID YOU NOT?

12 A YES, SIR.

13 Q AND THAT IS YOUR RECOLLECTION OF IT?

14 A YES, SIR.

15 Q THANK YOU.

16 MR. RIDDLE: NOTHING ELSE, YOUR HONOR.

17 THE COURT: YOU CAN STEP DOWN.

18 MR. FLOYD: YOUR HONOR, WE WOULD ASK MR. PAYNE TO BE
19 EXCUSED.

20 THE COURT: ANY OBJECTION?

21 MR. RIDDLE: NONE WHATSOEVER.

22 THE COURT: YOU ARE EXCUSED. CALL YOUR NEXT WITNESS.

23 MR. FLOYD: WE CALL CHASITY DAVIS TO THE STAND.

24 CHASITY DAVIS, AFTER BEING DULY SWORN, TESTIFIED
25 AS FOLLOWS:

DIRECT EXAMINATION

1
2 BY MR. FLOYD:

3 Q MS. DAVIS, WHERE DO YOU LIVE?

4 A 146 WAYNE STREET.

5 Q HOW OLD ARE YOU?

6 A I AM 22.

7 Q DID YOU KNOW CAROL HURSEY?

8 A VERY WELL.

9 Q HOW DID YOU HAPPEN TO KNOW HER?

10 A SHE BECAME MY UNCLE'S WIFE.

11 Q SO, IS YOUR UNCLE BUTCH, BUTCH HURSEY IS YOUR UNCLE?

12 A YES.

13 Q AND DID YOU KNOW THE WHOLE FAMILY, THE CHILDREN AND
14 ALL OF THAT?

15 A YES.

16 Q AND DO YOU RECALL WHEN CAROL DIED?

17 A YES, I DO.

18 Q DID YOU HAVE THE OCCASION TO GO AROUND HER HOUSE THAT
19 DAY?

20 A YES, SIR.

21 Q AND WHAT WAS THE PURPOSE OF YOU GOING TO HER HOUSE
22 THAT DAY?

23 A MY COUSIN, ROBERT, HE WAS TAKING SOME MEDICINE AT
24 THAT TIME AND HE HAD SPENT THE NIGHT AT MY HOUSE. AND HE
25 LEFT HIS MEDICINE AT HOME AND HE HAD TO GO PICK UP HIS

1 MEDICINE BEFORE HE WENT TO SCHOOL.

2 Q YOUR COUSIN, ROBERT, IS THAT LIKE AS ROBERT HURSEY,
3 BUTCH'S SON?

4 A YES, SIR.

5 Q AND DID ROBERT LIVE WITH HIS DAD THERE AT 1509 BUSBEE
6 ROAD?

7 A YES, SIR.

8 Q WHAT TIME DID YOU GO OVER TO 1509 BUSBEE THAT
9 MORNING?

10 A WE LEFT THE HOUSE USUALLY AT 7:30, IT WAS PROBABLY
11 AROUND 7:30 WHEN WE GOT THERE.

12 Q NOW, HOW OLD WERE YOU BACK THEN, 2003, WERE YOU STILL
13 IN SCHOOL?

14 A I WAS IN SCHOOL THEN, I BELIEVE 16.

15 Q AND WAS ROBERT AT SCHOOL ALSO?

16 A YES, SIR.

17 Q SO, THE TWO OF YA'LL HEADED OVER TO THE SCHOOL?

18 A YES, SIR.

19 Q WHAT SCHOOL DID YA'LL GO TO?

20 A I THINK HE WENT TO PINE RIDGE AND I WENT TO AIRPORT.

21 Q OKAY. NOW, SO YOU DROVE UP TO THE HURSEY HOME?

22 A YES.

23 Q AND WHAT TIME DO YOU SAY YOU THOUGHT IT WAS?

24 A AROUND 7:30.

25 Q DID YOU GET OUT AT THAT TIME?

1 A NO, SIR.

2 Q DID ROBERT GET OUT?

3 A YES, SIR.

4 Q DID ROBERT GO IN THE HOME?

5 A YES, SIR.

6 Q HOW LONG WAS HE IN THE HOME?

7 A MAYBE, JUST LONG ENOUGH TO GO IN AND GET THE MEDICINE
8 AND COME BACK OUT, FIVE MINUTES AT THE LONGEST.

9 Q AND FROM THERE DID YA'LL GO ON TO SCHOOL?

10 A YES, SIR.

11 Q NOW, DID YOU HAPPEN TO GO BY THE HURSEY HOME ANY MORE
12 THAT DAY?

13 A NOT UNTIL I WAS COMING HOME.

14 Q AND THAT WAS FROM SCHOOL?

15 A YES, SIR.

16 Q AND WHAT TIME WOULD THAT HAVE BEEN?

17 A THAT WAS AROUND 4:00 O'CLOCK, MAYBE 3:30 OR 4:00.

18 Q AND WHEN YOU CAME HOME WAS ROBERT WITH YOU AT THAT
19 TIME OR WERE YOU BY YOURSELF?

20 A NO, I ACTUALLY HAD ANOTHER PERSON IN MY CAR THAT I
21 WAS BRINGING HOME FROM SCHOOL.

22 Q SO, BY THE TIME YOU GOT HOME WERE THE POLICE AND ALL
23 THERE?

24 A OH, YES.

25 Q THANK YOU, ANSWER ANY QUESTIONS THAT MR. RIDDLE HAS.

1 MR. RIDDLE: NO QUESTIONS.

2 THE COURT: YOU CAN STEP DOWN.

3 MR. FLOYD: WE CALL TINA DAVIS TO THE STAND.

4 TINA DAVIS, AFTER BEING DULY SWORN, TESTIFIED AS
5 FOLLOWS:

6 DIRECT EXAMINATION

7 BY MR. FLOYD:

8 Q TINA, WHERE DO YOU LIVE?

9 A AT 146 WAYNE STREET IN GASTON.

10 Q AND WHAT IS YOUR RELATIONSHIP SAY TO BUTCH AND CAROL
11 HURSEY?

12 A BUTCH IS MY SISTER'S EX-HUSBAND.

13 Q SO, DID YOU KNOW THEM WELL?

14 A YES, SIR.

15 Q AND YOU LIVED OUT THERE CLOSE BY?

16 A YES, SIR.

17 Q AND YOU, DO YOU RECALL THE DAY THAT CAROL DIED?

18 A YES, SIR.

19 Q DID YOU KNOW BUTCH'S SON, ROBERT?

20 A YES, SIR.

21 Q DID ROBERT STAY AT YOUR HOUSE THE NIGHT BEFORE?

22 A YES SIR, HE DID.

23 Q WHEN CHASITY TOOK HIM TO SCHOOL THAT DAY YOU DIDN'T
24 GO WITH THEM, DID YOU?

25 A NO, SIR.

1 Q DID YOU RECEIVE A TELEPHONE CALL FROM BUTCH THAT
2 MORNING?

3 A YES, SIR.

4 Q AND WHAT TIME DID YOU RECEIVE A TELEPHONE CALL?

5 A 9:00 OR 9:30 WHEN THEY FIRST STARTED CALLING MY
6 HOUSE.

7 Q AND WAS THAT, THAT WAS BUTCH CALLING?

8 A YES, SIR.

9 Q WHAT WAS HE CALLING ABOUT?

10 A HE WAS CALLING ME TO SEE IF I HAD SEEN OR TALKED TO
11 CAROL BECAUSE WE WERE SUPPOSE TO DO SOME SHOPPING FOR THE
12 AUCTION ON THAT NIGHT, WE WENT TOGETHER ABOUT EVERY DAY.

13 Q YOU SPENT A LOT OF TIME WITH CAROL?

14 A YES, SIR.

15 Q AND DID YOU WORK IN THE AUCTION WITH THEM ALL TOO OR
16 DID YOU HELP OUT?

17 A YES, SIR.

18 Q NOW, TINA, DID YOU EVENTUALLY GO OVER TO CHECK ON
19 HER?

20 A YES SIR, I DID.

21 Q WHAT TIME DID YOU GO OVER TO CHECK ON CAROL?

22 A BETWEEN 10:00 AND 11:00 O'CLOCK, I WENT TO SEE IF SHE
23 WAS HOME BECAUSE BUTCH HAD WANTED ME TO GO SEE AND I
24 PULLED IN HER DRIVEWAY AND HER CAR WASN'T THERE AND I JUST
25 WENT STRAIGHT OUT THE OTHER DRIVEWAY, I MEAN I HADN'T EVEN

1 STOPPED BECAUSE THE CAR WAS GONE.

2 Q I GOT YOU. NOW, TELL THE JURY KIND OF WHERE YOU
3 LIVED IN RELATION TO WHERE CAROL AND BUTCH LIVED?

4 A WELL, THEY LIVE ON BUSBEE ROAD, YOU PULL OUT OF THEIR
5 DRIVEWAY AND GO UP AND JUST, I SAY MAYBE A BLOCK OR TWO IS
6 WAYNE STREET AND I JUST STAY AROUND THE LANE.

7 Q SO, HOW FAR ARE YOU FROM THEIR HOUSE?

8 A MAYBE A BLOCK OR TWO.

9 Q SO, THAT DAY YOU JUST WENT DOWN AND SAW THE CAR WAS
10 GONE?

11 A I CALLED BUTCH BACK AT WORK AND I TOLD HIM, I SAID,
12 WELL SHE MUST BE GONE TO GET THE STUFF FOR THE SALE
13 BECAUSE HER CAR IS GONE AND THAT WAS IT.

14 Q NOW, WHEN IS THE NEXT CONTACT WITH HER HOUSE OR WITH
15 ANYTHING ELSE THAT DAY?

16 A IT WAS PROBABLY AROUND 3:00 O'CLOCK WHEN BUTCH CALLED
17 ME BACK FROM THE HOUSE.

18 Q IS THAT WHEN YOU FOUND OUT ABOUT CAROL?

19 A YES, SIR.

20 Q TINA, DID YOU HAVE ANYTHING TO DO WITH ROBERT GETTING
21 HOME FROM SCHOOL THAT DAY?

22 A YES, SIR. I PICKED HIM UP AT SCHOOL.

23 Q AND WHAT TIME DID YOU PICK HIM UP?

24 A I DON'T REALLY RECALL WHAT TIME IT WAS, I DON'T KNOW,
25 I WANT TO SAY IT WAS PROBABLY BEFORE I WENT DOWN TO THE

1 HOUSE. BUT IT MAY NOT HAVE BEEN, I JUST KNOW I PICKED HIM
2 UP.

3 Q AND WHERE DID YOU TAKE HIM AT THAT TIME?

4 A I TOOK HIM BY HIS HOUSE.

5 Q AND THAT IS WHERE CAROL AND BUTCH LIVED?

6 A YES, SIR.

7 Q AND HOW LONG WAS HE IN THE HOUSE AT THAT TIME?

8 A MAYBE FIVE MINUTES, HE JUST RUN IN AND GOT A PAIR OF
9 SHORTS.

10 Q DO YOU REMEMBER WHETHER OR NOT THE AT THAT TIME THE
11 CAR WAS THERE OR NOT?

12 A NO SIR, IT WAS NOT THERE.

13 Q SO, BUT YOU DON'T REMEMBER WHETHER IT WAS BEFORE OR
14 AFTER YOU CHECKED ON THE CAR?

15 A I DON'T KNOW.

16 Q THANK YOU.

17 THE COURT: CROSS-EXAMINE.

18 CROSS-EXAMINATION

19 BY MR. RIDDLE:

20 Q BUTCH WAS CALLING YOU THAT DAY?

21 A YES, SIR.

22 Q AND YOU SAID IT STARTED ABOUT 9:30 IN THE MORNING?

23 A YES, SIR.

24 Q WERE YOU WORRIED?

25 A YES, SIR.

1 Q CONCERNED ABOUT CAROL?

2 A YES, SIR.

3 Q HE ASKED YOU TO GO DOWN THERE AND CHECK ON HER,
4 DIDN'T HE?

5 A YES SIR, HE TOLD ME TO TAKE A BRICK AND KNOCK THE
6 WINDOW OUT IF I NEEDED TO.

7 Q BUT YOU WENT DOWN THERE AND YOU DROVE THROUGH THE
8 DRIVEWAY AND THE CAR WASN'T THERE?

9 A RIGHT.

10 Q AND YOU CALLED HIM BACK AND TOLD HIM THE CAR WASN'T
11 THERE?

12 A YES, SIR.

13 Q AND WHEN YOU PICKED UP BUTCH'S SON, ROBERT FROM
14 SCHOOL?

15 A YES, SIR.

16 Q AND YOU RAN HIM BY THE HOUSE AND HE RAN IN AND RAN
17 OUT?

18 A YES, SIR.

19 Q WASN'T IN THERE BUT JUST A SECOND?

20 A YES, SIR.

21 Q BUT YOU STILL DIDN'T KNOW ANYTHING WAS WRONG?

22 A NO, SIR.

23 Q AND THEN LATER THAT AFTERNOON BUTCH CALLED YOU AGAIN?

24 A YES, SIR.

25 Q AND HE TOLD YOU THAT CAROL WAS DEAD?

1 A YES, SIR.
2 Q WAS HE UPSET?
3 A YES, SIR.
4 Q AND YOU OBVIOUSLY WERE UPSET?
5 A YES, SIR.
6 Q YOU AND CAROL PRETTY CLOSE?
7 A YES, SIR.
8 Q A GOOD WOMAN?
9 A YES, SHE WAS.
10 Q WHEN ROBERT GOT BACK IN THE CAR AFTER YOU RAN HIM BY
11 HE HADN'T SEEN ANYTHING IN THAT HOUSE, HAD HE?
12 A NO, SIR.
13 Q WAS ROBERT WITH YOU WHEN YOU FOUND OUT?
14 A HE WAS AT MY HOUSE WAITING OUTSIDE.
15 Q THANK YOU, THAT IS ALL.
16 THE COURT: REDIRECT.

17 REDIRECT EXAMINATION

18 BY MR. FLOYD:

19 Q TINA, YOU KNEW CAROL WELL, DID YOU NOT?

20 A YES, SIR.

21 Q AND YOU KNEW THE WAY SHE HANDLED HER THINGS?

22 A YES, SIR.

23 MR. RIDDLE: NOT RESPONSIVE TO CROSS, YOUR HONOR.

24 THE COURT: THERE WERE QUESTIONS ASKED ABOUT HOW
25 CLOSE THEY WERE, AND HOW MUCH SHE KNEW HER, I OVERRULE

1 THAT OBJECTION. GO AHEAD.

2 Q AND DID YOU KNOW JOHNNIE FRAZIER?

3 A YES, SIR.

4 Q DID YOU SEE HIM AROUND THE AUCTION AND THAT TYPE OF
5 THING?

6 A YES SIR, I HAVE SEEN HIM DOWN THERE LIKE AT FURNITURE
7 SALES, I SAW HIM A COUPLE OF TIMES AND HE LIVED ACROSS THE
8 STREET FROM ME.

9 Q DID YOU EVER SEE HIM DO WORK FOR CAROL?

10 A YES, SIR.

11 Q WOULD CAROL HAVE LET A MAN IN HER HOUSE WHEN SHE WAS
12 DRESSED THE WAY SHE WAS?

13 A NO, SIR.

14 Q THANK YOU.

15 RECROSS-EXAMINATION

16 BY MR. RIDDLE:

17 Q SHE WOULD IF SHE HAD A GUN POINTED AT HER, WOULDN'T
18 SHE?

19 A PROBABLY SO, I WOULD TOO.

20 Q THANK YOU, THAT IS ALL I HAVE.

21 THE COURT: YOU MAY STEP DOWN.

22 MR. FLOYD: WE WOULD CALL MINNIE LEVENE TO THE STAND.

23 MINNIE LENEVE, AFTER BEING DULY SWORN, TESTIFIED
24 AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. FLOYD:

2 Q MS. LENEVE, WHERE DO YOU LIVE?

3 A HERE.

4 Q AND DID YOU KNOW CAROL HURSEY?

5 A YES SIR, I DID.

6 Q HOW DID YOU HAPPEN TO KNOW HER?

7 A WE WERE FRIENDS.

8 Q AND HOW LONG HAVE YOU BEEN FRIENDS?

9 A YEARS.

10 Q AND WHERE WERE YOU WHEN YOU HEARD THAT SHE HAD DIED?

11 A I WAS IN NEESES, SOUTH CAROLINA AND A MAN NAMED BOB

12 CAME THERE AND TOLD ME THAT CAROL WAS DEAD.

13 Q AND WHEN YOU HEARD THAT WHAT DID YOU DO?

14 A I GOT IN MY CAR, STARTED DOWN 321, GOING BACK TO

15 BUTCH'S TO SEE WHAT HAPPENED.

16 Q AND DID YOU PASS A VEHICLE ON THE WAY THAT MADE YOU

17 NOTICE IT?

18 A YES, SIR. IT WAS CAROL'S CAR, THERE WAS A WHITE MAN

19 AND A BLACK MAN IN IT. THEN I SAID, NO, I MEAN CAROL'S

20 WASN'T TORE UP. AND THEN WHEN THE COPS QUESTIONED ME THEY

21 SAID IT WAS.

22 Q SO, YOU SAW WHAT YOU THOUGHT WAS HER CAR AND WHO WAS

23 DRIVING IT?

24 A A WHITE MAN.

25 Q AND THEN YOU SAW IT WAS DAMAGE TO IT, WHAT PART DID

1 YOU NOTICE THE DAMAGE?

2 A IT WAS ON THE LEFT, INSIDE OF IT AND I SAW IT WAS
3 DAMAGED ON THERE.

4 Q AND SO, THAT MADE YOU THINK THAT MAYBE IT WASN'T
5 HERS?

6 A YES SIR, BUT WHEN THEY SAW ME LOOKING THEY TOOK A
7 QUICK RIGHT.

8 Q AND THEN LATER YOU FOUND OUT THAT THE VEHICLE HAD
9 BEEN DAMAGED UP THERE?

10 A YES, I DID. BUTCH TOLD ME.

11 Q WHAT TIME OF DAY WAS IT?

12 A IT WAS BETWEEN 6:00 AND 7:00, IT WAS JUST GETTING
13 DARK.

14 Q THIS WOULD BE AUGUST SO IT WAS STILL LIGHT ENOUGH TO
15 SEE, IS THAT CORRECT?

16 A YES.

17 Q HOW CLOSE WOULD YOU HAVE BEEN TO THE CAR?

18 A FROM SIDE TO SIDE TO IT.

19 Q AND IT WAS ABOUT 6:00 OR 7:00 O'CLOCK AT NIGHT?

20 A I WAS SO TERRIFIED WHEN THEY TOLD ME, I WENT TO
21 NEESES AT 5:00 O'CLOCK.

22 Q NOW, WERE YOU FAMILIAR WITH CAROL'S CAR?

23 A YES.

24 Q AND YOU HAD SEEN IT MANY TIMES?

25 A YES.

1 Q AND YOU HAVE BEEN IN IT?

2 A YES.

3 Q THANK YOU.

4 THE COURT: CROSS-EXAMINE.

5 CROSS-EXAMINATION

6 BY MR. RIDDLE:

7 Q THE CAR YOU SAW, THERE WAS A BLACK GUY AND A WHITE
8 GUY IN IT?

9 A YES SIR, IT WAS.

10 Q BUT YOU CAN'T ID ANY ONE OF THEM?

11 A NO SIR, BECAUSE I WAS COMING UP BESIDE THEM AND WHEN
12 I GOT RIGHT AT THEM I TOLD MY GRANDSON, I SAID, THAT IS
13 CAROL'S CAR. LET'S SEE WHO IS DRIVING IT BUT CAROL WASN'T
14 DRIVING IT.

15 Q THE DAMAGE TO THE CAR WAS ON WHICH SIDE?

16 A I ONLY SAW THE LEFT SIDE AND IT WAS DAMAGE OVER
17 THERE.

18 Q DAMAGED ON THE LEFT?

19 A YES.

20 Q FRONT OR BACK?

21 A BOTH.

22 Q AND THIS CAR, WHEN YOU SAW IT YOU WERE BEHIND IT
23 INITIALLY?

24 A YES SIR, IT WAS ON 321, YOU KNEW WHERE IT GOES INTO
25 THE DOUBLE LANE AND I, ALL OF A SUDDEN THEY TOOK A QUICK

1 RIGHT.

2 Q THEY TURNED OFF?

3 A YES.

4 Q NOW, IF I TOLD YOU THERE WAS TEN BURGUNDY CARS OUT IN
5 THE PARKING LOT RIGHT NOW WOULD YOU BELIEVE THAT?

6 A PROBABLY WOULD.

7 Q IF I TOLD YOU THAT THEY HAD MADE 50,000 OF THESE BAGS
8 WOULD YOU BELIEVE THAT?

9 A YES.

10 Q IF I TOLD YOU THEY MADE MORE THAN ONE MAZDA MILLENIUM
11 THAT WAS BURGUNDY WOULD YOU BELIEVE THAT?

12 A YES, SIR.

13 Q DID YOU GET A LICENSE PLATE NUMBER ON THAT CAR?

14 A NO, I DIDN'T.

15 Q AND IT WAS DAMAGED WHICH WAS NOT LIKE CAROL'S CAR,
16 CORRECT, THE LAST TIME YOU SEEN IT?

17 A NO, IT WAS NOT DAMAGED THE LAST TIME I SAW IT.

18 Q DO YOU KNOW WHEN THE CAR YOU SAW WAS DAMAGED?

19 A NO.

20 Q OKAY. THANK YOU.

21 THE COURT: ANY REDIRECT?

22 MR. FLOYD: NO, THANK YOU, MINNIE.

23 THE COURT: YOU MAY STEP DOWN.

24 MR. FLOYD: WE CALL ROBERT HURSEY TO THE STAND.

25 ROBERT HURSEY, AFTER BEING DULY SWORN, TESTIFIED

1 AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MR. FLOYD:

4 Q MR. HURSEY, WHAT IS YOUR RELATIONSHIP TO CAROL
5 HURSEY?

6 A STEP-SON.

7 Q AND ARE YOU MR. BUTCH HURSEY'S SON?

8 A YES, SIR.

9 Q HOW OLD ARE YOU?

10 A 17.

11 Q AND DO YOU STILL GO TO SCHOOL?

12 A YES, SIR. I WORK FOR MY DAD.

13 Q BACK IN 2003 DO YOU RECALL CAROL DIEING?

14 A YES, SIR.

15 Q WERE YOU GOING TO SCHOOL AT THAT TIME?

16 A YES, SIR.

17 Q WHERE WERE YOU GOING TO SCHOOL AT THAT TIME?

18 A PINE RIDGE SCHOOL.

19 Q AND HOW OLD WERE YOU BACK THEN?

20 A 13, 14 MAYBE.

21 Q DO YOU RECALL THE DAY THAT CAROL DIED?

22 A YES, SIR.

23 Q DO YOU RECALL GOING TO SCHOOL THAT MORNING?

24 A YES, SIR.

25 Q NOW, HAD YOU SPENT THE NIGHT AT HOME THE NIGHT

1 BEFORE?

2 A NO, SIR.

3 Q AND WHERE DID YOU SPENT THE NIGHT?

4 A AT MY AUNT TINA'S HOUSE WITH MY MOTHER.

5 Q AND WHEN YOU LEFT YOUR AUNT TINA'S WHERE DID YOU GO,
6 FIRST OF ALL WHO BROUGHT YOU TO SCHOOL?

7 A CHASTITY.

8 Q AND WHERE DID YA'LL GO?

9 A TO MY HOUSE.

10 Q WHAT DID YOU DO AT YOUR HOUSE?

11 A I WALKED IN THE DOOR AND WE HAVE A CHIFFEROBE KIND OF
12 DEAL FOR GLASSES. I SAT MY MEDICINE ON TOP OF IT AND I
13 WALKED IN AND, THE DOOR WAS CLOSED TO HER ROOM SO I DON'T
14 GO BACK THERE WHEN THE DOOR IS CLOSED. SO, I GOT MY
15 MEDICINE AND WALKED OUT THE DOOR.

16 Q AND SO YOU DIDN'T SEE CAROL AT THAT TIME?

17 A NO, SIR.

18 Q DO YOU REMEMBER WHETHER OR NOT THE VEHICLE WAS STILL
19 IN THE DRIVEWAY?

20 A YES, SIR.

21 Q IT WAS?

22 A YES, SIR.

23 Q WHAT TIME WAS THAT?

24 A 7:30.

25 Q DID YOU GO BACK BY THE HOUSE LATER THAT DAY?

1 A YES, SIR. I HAD CALLED MY FATHER SO I COULD GET OUT
2 OF SCHOOL EARLIER BUT I HAD TO GO BACK TO FOOTBALL
3 PRACTICE. SO, HE WAS COMING TO GET ME AND I NEEDED SHORTS
4 AT MY HOUSE AND HE WAS GOING TO PICK ME UP AT MY AUNT'S
5 HOUSE.

6 Q WHO BROUGHT YOU HOME AT THAT TIME?

7 A MY AUNT, TINA.

8 Q TINA BROUGHT YOU HOME. WHAT TIME WAS THAT?

9 A I IMAGINE, IT WAS AROUND 12:00.

10 Q AROUND 12:00?

11 A YES, SIR.

12 Q AND WHEN YOU GOT HOME THAT TIME WAS THE CAR IN THE
13 YARD?

14 A NO, SIR.

15 Q AND DID YOU GO INSIDE AT THAT TIME?

16 A YES, SIR.

17 Q HOW LONG WERE YOU INSIDE AT THAT TIME?

18 A I RAN INSIDE AND GRABBED MY SHORTS AND JUST RIGHT
19 OUT.

20 Q AND DID SEE YOUR MOM AT THAT TIME?

21 A MY STEP-MOTHER.

22 Q YOUR STEP-MOTHER?

23 A NO SIR, THE DOORS ACTUALLY WERE STILL CLOSED.

24 Q ON BOTH TIMES THAT YOU WENT IN THE HOUSE THAT DAY DID
25 YOU HEAR ANYTHING?

1 A NO SIR, I ACTUALLY DID NOT EVEN HEAR OUR DOG.

2 Q WOULD THAT BE KIND OF UNUSUAL NOT TO HEAR THE DOG?

3 A WE HAD A REALLY YELPING DOG.

4 Q ROBERT, DID YOU KNOW JOHNNIE FRAZIER?

5 A YES, SIR.

6 Q DID YOU EVER SEE HIM AROUND?

7 A YES, SIR.

8 Q DID HE SOMETIMES WORK WITH YOUR MOM?

9 A HE DID A LOT OF WORK AROUND THE HOUSE, HE PUT A DOOR
10 ON OUR FRONT DOOR, OUR STORM DOOR FOR US.

11 Q PUT YOUR STORM DOOR ON?

12 A YES.

13 Q AND DID YOU EVER SEE HIM, DID HE EVER BRING STUFF FOR
14 YOUR MOM TO THE AUCTION?

15 A I MEAN IT IS POSSIBLE, WE HAD A LOT OF PEOPLE GO
16 THROUGH. HE MAY OF BROUGHT A COUPLE OF THINGS FROM HIS
17 HOUSE AND EVERYTHING.

18 Q DO YOU REMEMBER SPECIFICALLY HIM BRINGING A LOAD OF
19 GLASS AT ONE TIME, ANTIQUE GLASS?

20 A NO SIR, NOT PARTICULARLY.

21 Q DID YOU REMEMBER WHEN JOHNNIE LEFT FROM OVER THERE?

22 A WHERE HE WAS RENTING FROM US?

23 Q YES, DO YOU REMEMBER THAT.

24 A YES, SIR.

25 Q DID YOU GO OVER THERE WITH YOUR MOTHER AT ANY TIME

1 RIGHT BEFORE HE LEFT?

2 A WE WOULD CHECK ON THE HOUSES, I GUESS.

3 Q WERE THEY CORDIAL TO EACH OTHER, WERE THEY FRIENDLY
4 TO EACH OTHER?

5 A NOBODY WAS OUT OF LINE TO HER.

6 Q SO, AS FAR AS YOU KNOW JOHNNIE'S RELATIONSHIP WITH
7 YOUR MOM WAS A GOOD ONE, I MEAN, THEY WERE FRIENDLY TO
8 EACH OTHER?

9 A WELL, I GUESS, IT IS HARD TO TRUST SOMEBODY BUT HE
10 CAME IN AND THEY WOULDN'T THINK NOTHING OF IT.

11 Q I UNDERSTAND. DID YOU EVER HEAR ANYONE MAKE THREATS
12 TOWARDS YOUR MOM?

13 A WELL, IT WAS--

14 MR. RIDDLE: YOUR HONOR, I AM GOING TO OBJECT TO 401
15 AND 403, STATE VERSUS HOLMES.

16 THE COURT: SUSTAINED TO THE FORM OF THAT QUESTION.

17 MR. FLOYD: YOUR HONOR, MAY WE APPROACH.

18 THE COURT: YES, YOU MAY.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
21 JURY.)

22 THE COURT: THE OBJECTION IS SUSTAINED. WE NEED TO
23 PUT ANYTHING ON THE RECORD WE WILL DO IT AT THE
24 APPROPRIATE TIME.

25 Q ROBERT, DID YOU MEET STARR ALSO?

1 A YES SIR, SHE CAME BY WHILE HE WAS PUTTING UP A STORM
2 DOOR, THAT IS THE FIRST TIME I HAD EVER MET HER.

3 Q DID YOU KNOW JOHNNIE LONGER THAN YOU DID STARR?

4 A I GUESS, YES SIR.

5 Q THAT IS ALL I HAVE.

6 THE COURT: CROSS, MR. RIDDLE.

7 CROSS-EXAMINATION

8 BY MR. RIDDLE:

9 Q YOU ARE 17, IS THAT RIGHT?

10 A YES, SIR.

11 Q AND YOU WERE ROUGHLY 13 WHEN CAROL GOT KILLED?

12 A YES, SIR.

13 Q HOW YOUNG WERE YOU WHEN YOU FIRST REMEMBER MEETING
14 CAROL?

15 A MAYBE 7, 8.

16 Q SHE HAD BEEN AROUND A GOOD WHILE IN YOUR LIFE?

17 A YEAH, SECOND MOTHER.

18 Q SECOND MOTHER?

19 A YES.

20 Q DID SHE TREAT YOU GOOD?

21 A YEAH, JUST LIKE ANY OTHER STEP-MOTHER.

22 Q DID SHE COOK FOR YOU?

23 A YES.

24 Q WASH YOUR CLOTHES?

25 A YES, SIR.

1 Q MAKE UP YOUR BED?

2 A I DON'T SLEEP IN A BEDROOM.

3 Q OKAY. A LOT OF TEENAGERS ARE COUCH SLEEPERS, AREN'T
4 THEY?

5 A YES, SIR.

6 Q BUT SHE TREATED YOU WELL?

7 A YES, SIR.

8 Q WHEN YOU WENT IN THE HOUSE THAT MORNING, THE DAY SHE
9 WAS KILLED, HER CAR WAS STILL THERE?

10 A YES, SIR.

11 Q TO GET YOUR MEDICINE?

12 A YES.

13 Q AND YOU DIDN'T KNOW ANYTHING WAS WRONG, DID YOU?

14 A NO, SIR.

15 Q AND WHEN YOU WENT BACK THAT AFTERNOON HER CAR WASN'T
16 THERE AT THAT TIME, IS THAT CORRECT?

17 A YES, SIR.

18 Q BUT YOU DIDN'T GO IN HER BEDROOM?

19 A NO SIR, I DIDN'T. THAT IS THEIR PRIVATE AREA.

20 Q AND YOU DIDN'T KNOW WHETHER ANYTHING WAS WRONG AT
21 THAT POINT OR NOT?

22 A NO, SIR.

23 Q THE SECOND TIME YOU WENT IN, WAS IT LIKE THE FIRST
24 TIME, DID YOU JUST GO IN AND GRAB SOMETHING AND COME RIGHT
25 BACK OUT?

1 A YES, SIR. THE SECOND TIME I HAD TO GO ALL THE WAY TO
2 MY ROOM.

3 Q RIGHT. OKAY. BUT YOU DIDN'T NOTICE ANYTHING WRONG?

4 A NO, SIR.

5 Q THANK YOU, THAT IS ALL I HAVE.

6 THE COURT: REDIRECT?

7 MR. FLOYD: NO REDIRECT, YOUR HONOR. MAY WE
8 APPROACH?

9 THE COURT: YOU MAY STEP DOWN.

10 MR. FLOYD: YOUR HONOR, I ASK THAT MR. HURSEY STAY
11 FOR JUST A MOMENT.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
13 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
14 JURY.)

15 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN, I
16 HAVE A MATTER THAT HAS COME UP, STEP BACK TO YOUR JURY
17 ROOM AND DON'T DISCUSS THE CASE. EVERYONE STAY SEATED.

18 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT.)

19 THE COURT: THIS IS REALLY A PROFFER MADE BY MR.
20 FLOYD CONCERNING THE SUBJECT THAT HE WAS GOING TO ASK
21 ABOUT, A MINUTE AGO THE COURT SUSTAINED THE STATE'S
22 OBJECTION TO GOING INTO TO WHETHER THREATS HAD BEEN MADE
23 AGAINST THE VICTIM BY SOMEONE ELSE. THE COURT SUSTAINED
24 THAT UNDER THE STATE VERSUS HOLMES AND HE IS WANTING TO
25 GET SOMETHING ON THE RECORD WITH THAT. THIS IS WITH THE

1 WITNESS THAT IS ON THE STAND.

2 MR. FLOYD: THAT IS CORRECT.

3 Q ROBERT, DID YOU HEAR ANYONE ELSE EVER THREATEN CAROL?

4 A WELL, LIKE IN MY STATEMENT, WHEN I SAID STARR HAD
5 THREATENED BEFORE I WAS TALKING ABOUT, I NEVER HEARD,
6 CAROL, DIRECTLY. I HEARD, THIS IS EXACTLY WHAT SHE SAID,
7 I AM GOING TO KILL THAT BITCH ONE DAY.

8 Q WHERE WERE YOU WHEN YOU HEARD THOSE COMMENTS?

9 A THE FRONT PORCH.

10 Q OF YOUR HOME?

11 A YES, SIR. WHILE JOHNNIE WAS INSIDE WORKING.

12 Q WHILE JOHNNIE WAS INSIDE WORKING?

13 A HE WAS WORKING ON THE STORM DOOR.

14 Q THE STORM DOOR. AND WAS CAROL IN THE AREA, AROUND
15 THERE?

16 A I THINK SHE MIGHT OF BEEN IN THE ROOM, SHE MIGHT OF
17 LEFT.

18 Q BUT SHE THOUGHT SHE WAS REFERRING TO CAROL?

19 A YES, SIR. THAT IS WHAT I TOOK IT FOR.

20 Q HOW SOON IN TIME WOULD THAT OF BEEN WHEN CAROL DIED?

21 A TWO OR THREE WEEKS.

22 Q DID YOU HEAR IT ON ONE OCCASION OR MORE THAN ONE
23 OCCASION?

24 A ONLY ONCE.

25 Q THANK YOU, ROBERT.

1 MR. FLOYD: YOUR HONOR, THAT WOULD BE OUR PROFFER.

2 THE COURT: THE COURT'S RULING WILL REMAIN THE SAME
3 AS YOU HAVE PUT ON THE RECORD WHICH YOU HAVE REQUESTED TO.

4 MR. FLOYD: THANK YOU, YOUR HONOR, CAN MR. HURSEY BE
5 EXCUSED.

6 THE COURT: YOU ARE EXCUSED. ANY PROFFER?

7 MR. RIDDLE: NO, YOUR HONOR.

8 THE COURT: YOU ARE EXCUSED. LET'S TAKE A BREAK.

9 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

10 THE COURT: WHAT IS SCOTTIE CARSON'S STATEMENT
11 NUMBER, WHAT NUMBER IS THAT, JOY.

12 COURT REPORTER: NUMBER 29.

13 THE COURT: STATE'S 29 IS A REDACTED COPY OF SCOTTIE
14 CARSON'S STATEMENT. THE NEXT COURT EXHIBIT NUMBER WILL BE
15 THE UN-REDACTED COPY OF IT. JUST SO THE RECORD WILL BE
16 CLEAR.

17 COURT REPORTER: AND THAT WILL BE NUMBER 5.

18 (WHEREUPON, COURT'S EXHIBIT NO. 5 WAS MARKED FOR
19 IDENTIFICATION ONLY.)

20 THE COURT: ARE YOU READY?

21 MR. FLOYD: JUDGE, THAT IS ALL THE WITNESSES THAT I
22 HAVE HERE THIS AFTERNOON. I DO HAVE SOME MORE IN THE
23 MORNING.

24 THE COURT: I WILL BRING THE JURY IN AND TELL THEM WE
25 WILL BREAK FOR THE DAY AND WE WILL HAVE ADDITIONAL

1 WITNESSES THAT WILL BE AVAILABLE. BRING THE JURY IN,
2 PLEASE.

3 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
4 APPROXIMATELY 3:30 P.M.)

5 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN,
6 THAT IS ALL THE WITNESSES THAT WE WILL HAVE TODAY, WE WILL
7 BREAK FOR THE DAY AND CONTINUE TOMORROW MORNING AT 9:30.
8 BE BACK IN YOUR JURY ROOM AT 9:30 AND WE WILL CONTINUE
9 WITH THE CASE. DON'T DISCUSS THE CASE AND SEE YOU IN THE
10 MORNING.

11 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
12 THE DAY.)

13 THE COURT: I WILL SEE YOU ALL AT 9:30 IN THE
14 MORNING. HAVE YOUR REQUEST TO CHARGE FOR ME IN THE
15 MORNING SO I CAN TAKE A LOOK AT IT. WE WILL SEE YOU IN
16 THE MORNING.

17 (WHEREUPON, THE TRIAL WILL RESUME THE NEXT MORNING AT
18 9:30 A.M.)

19 THE COURT: IS THE DEFENSE READY?

20 MR. FLOYD: YES, YOUR HONOR.

21 THE COURT: THE STATE?

22 MR. RIDDLE: YES, YOUR HONOR.

23 THE COURT: IS THERE ANYTHING WE NEED TO PUT ON THE
24 RECORD BEFORE THE JURY COMES IN.

25 MR. RIDDLE: BRIEFLY, YOUR HONOR, MR. FLOYD AND I

1 SPOKE THIS MORNING AND I DON'T KNOW HOW THE COURT WANTS TO
2 HANDLE THIS BUT HE HAS AGREED TO ALLOW THE COURT TO TAKE
3 JUDICIAL NOTICE THAT THE 2000 CENSUS POPULATION IN
4 LEXINGTON COUNTY WAS 216,014 PEOPLE. THE SOURCE FOR THAT
5 MATERIAL IS THE U.S. CENSUS BUT THE COPY THAT I HAVE IS
6 FROM THE 2007-2008 SOUTH CAROLINA BAR LAWYERS DESK BOOK
7 WHICH I HAVE MARKED AS A COURT'S EXHIBIT.

8 THE COURT: GIVE ME THE NUMBER AGAIN.

9 MR. RIDDLE: 216,014.

10 THE COURT: 216,014.

11 MR. RIDDLE: POPULATION OF THIS COUNTY, YES SIR,
12 LEXINGTON.

13 THE COURT: THAT WILL BE A COURT EXHIBIT AND WE WILL
14 SIMPLY ADVISE THE JURY THE COURT IS TAKING JUDICIAL NOTICE
15 OF THE FACT THAT YOU ARE AGREEING TO THAT, MR. FLOYD, IS
16 THAT RIGHT?

17 MR. FLOYD: YES, SIR.

18 (WHEREUPON, COURT'S EXHIBIT NO. 6 WAS MARKED FOR
19 IDENTIFICATION ONLY.)

20 THE COURT: ANYTHING ELSE?

21 MR. RIDDLE: NO SIR, WE ARE READY TO GO.

22 THE COURT: BRING THE JURY IN, PLEASE.

23 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
24 APPROXIMATELY 9:40 A.M.)

25 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN, LET

1 ME TELL YOU BEFORE WE GET STARTED BACK WITH TESTIMONY THAT
2 THE STATE AND THE DEFENSE HAS AGREED OR STIPULATED TO A
3 FACT THAT WILL REQUIRE NO ADDITIONAL PROOF. THAT FACT IS
4 THAT THE POPULATION OF LEXINGTON COUNTY IS 216,014 PEOPLE.
5 THAT IS AGREED TO BY THE PARTIES. ALL RIGHT, MR. FLOYD,
6 CALL YOUR NEXT WITNESS, PLEASE.

7 MR. RIDDLE: WE CALL MARY FRANCIS COOPER TO THE
8 STAND.

9 MARY FRANCIS COOPER, AFTER BEING DULY SWORN,
10 TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. FLOYD:

13 Q MS. COOPER, DID YOU KNOW CAROL HURSEY?

14 A YES, I DID.

15 Q AND DID YOU KNOW BUTCH HURSEY?

16 A YES, I DID.

17 Q HOW DID YOU HAPPEN TO KNOW THEM?

18 A I WAS MARRIED TO BUTCH AND I KNEW CAROL THROUGH HIM.

19 Q NOW, DID YOU HAVE THE OCCASION TO GO BY THEIR HOUSE
20 ON THE DAY THAT CAROL DIED?

21 A YES, SIR.

22 Q WHAT TIME DID YOU GO BY?

23 A IT WAS AROUND 7:00 O'CLOCK THAT MORNING.

24 Q WHAT WAS THE REASON THAT YOU WENT BY?

25 A I HAVE MY SON'S FOOTBALL IN MY CAR AND I TOOK IT BY

1 AND THREW IT ACROSS THE FENCE SO HE COULD HAVE IT WHEN HE
2 GOT HOME FROM SCHOOL.

3 Q IS ROBERT YOUR SON?

4 A ROBERT IS MY SON.

5 Q AND WHAT HAPPENED AFTER YOU THREW IT OVER THE FENCE?

6 A IT LANDED ON THE GROUND AND STUCK UP UNDERNEATH THE
7 BACK OF THE CAR AND I GOT OUT AND MOVED IT SO SHE WOULDN'T
8 RUN OVER IT.

9 Q SO, HER CAR WAS IN THE DRIVEWAY AT 7:00 O'CLOCK?

10 A YES, IT WAS.

11 Q THANK YOU, ANSWER ANY QUESTIONS THAT MR. RIDDLE HAS.

12 MR. RIDDLE: NONE, YOUR HONOR.

13 THE COURT: YOU MAY STEP DOWN, AND UNLESS THERE IS AN
14 OBJECTION TO THE WITNESS BEING EXCUSED THEY ARE EXCUSED.

15 MR. FLOYD: WE CALL MARK MAYERS TO THE STAND.

16 MARK MAYERS, AFTER BEING DULY SWORN, TESTIFIED
17 AS FOLLOWS:

18 DIRECT EXAMINATION

19 BY MR. FLOYD:

20 Q NOW, MR. MAYERS, ARE YOU AWARE OR FAMILIAR WITH THE
21 HURSEY RESIDENCE AND THE AUCTION THERE?

22 A YES.

23 Q DID YOU HAVE THE OCCASION TO GO BY THERE ON THE DAY
24 THAT CAROL HURSEY DIED?

25 A YES, I DID.

1 Q AND HOW DID YOU HAPPEN TO BE GOING BY THERE?

2 A I WAS HEADED TO TRAFFIC COURT DURING THAT TIME AND I
3 JUST RODE BY.

4 Q AND WHAT TIME DID YOU GO?

5 A APPROXIMATELY 10:30 A.M.

6 Q AND AT 10:30 A.M. ON THE DAY THAT SHE DIED DID YOU
7 NOTICE WHETHER HER CAR WAS IN THE DRIVEWAY?

8 A YES, IT WAS.

9 Q AND HAD YOU SEEN THAT CAR THERE BEFORE?

10 A YES.

11 Q AND THAT WAS THE CAR THAT YOU HAD SEEN THERE BEFORE?

12 A YES.

13 Q AND THAT WAS ABOUT 10:30?

14 A YES.

15 Q THANK YOU, ANSWER ANY QUESTIONS THAT MR. RIDDLE HAS.

16 MR. RIDDLE: NO QUESTIONS.

17 THE COURT: YOU MAY STEP DOWN.

18 MR. FLOYD: WE CALL TOMMY JACO.

19 TOMMY JACO, AFTER BEING DULY SWORN, TESTIFIED AS
20 FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. FLOYD:

23 Q MR. JACO, WHERE DID YOU WORK BACK IN AUGUST OF 2003?

24 A I WAS EMPLOYED BY LEXINGTON COUNTY.

25 Q WHAT WAS YOUR POSITION?

1 A I WAS SENIOR DEPUTY CORONER.

2 Q AND HOW LONG DID YOU SERVE IN THAT POSITION?

3 A I SERVED THERE FROM JULY OF '01 TO JUNE OF '05.

4 Q FOR ABOUT FOUR YEARS OR SO?

5 A YES.

6 Q WHAT WAS YOUR DUTIES AS A SENIOR DEPUTY CORONER?

7 A I CAME TO THE OFFICE AND WE WERE CHARGED WITH TAKING
8 CARE OF CALLS COMING IN.

9 Q AND YOU WERE SERVING IN THAT OFFICIAL CAPACITY BACK
10 IN AUGUST OF 2003?

11 A I WAS.

12 Q AND IN THAT OFFICIAL CAPACITY DID YOU HAVE THE
13 OCCASION TO GO TO 1509 BUSBEE IN THE GASTON AREA ON AUGUST
14 THE 14TH OF 2003?

15 A I DID.

16 Q AND WHAT TIME DID YOU ARRIVE THERE?

17 A I THINK IT WAS NEAR 4:30 IN THE AFTERNOON.

18 Q AND CAN YOU TELL THE JURY WHAT YOU FOUND WHEN YOU
19 ARRIVED?

20 A I FOUND A LADY, FEMALE, LIEING ON HER BACK IN A POOL
21 OF BLOOD AT HER HEAD. AT THAT TIME SHE HAD A INCOMPLETE
22 RIGOR, RIGAMORTUS SETTING IN HER NECK, DOWN THE JAW, BACK
23 MUSCLES. I CAN TELL SHE HAD NOT BEEN MOVED BECAUSE
24 RIGAMORTUS, BLOOD PRESENTS A PATTERN WHERE SOMEONE HAS
25 DIED AND THE PRESENTATION OF A POOL. THE POOL COMES TO

1 THE BOTTOM, AND SHE HAD NOT BEEN MOVED AT THE TIME OF
2 DEATH.

3 Q AND YOU FOUND RIGAMORTUS IN HER EXTREMITIES, HER JAW,
4 ABDOMINAL MUSCLES AND HER BACK AND THE NECK?

5 A I DID, RIGAMORTUS IS NOT A SITUATION, IT CAN BEGIN
6 EVERY THREE HOURS OR SHORTER AND DOESN'T COMPLETE FOR
7 HOURS.

8 Q AND WHAT PERCENTAGE COMPLETENESS DID YOU OBSERVE?

9 MR. RIDDLE: YOUR HONOR, HE HASN'T BEEN QUALIFIED AS
10 AN EXPERT IN ANY OF THIS AT THIS POINT AND TIME. BUT I
11 DON'T KNOW THAT HE CAN GIVE A PERCENTAGE ANSWER ON
12 SOMETHING LIKE THAT.

13 THE COURT: ONE THING HE CAN GIVE A PERCENTAGE BASED
14 ON RESEARCH AND WHATNOT, THE OTHER THING HE CAN GIVE A
15 PERCENTAGE BASED ON HIS EXPERIENCE. AND I WOULD ASK
16 COUNSEL TO CLARIFY AND WE WILL SEE WHERE WE GO WITH THAT.
17 AT THIS TIME I SUSTAIN THE OBJECTION ON THAT GROUND.

18 Q WHAT TYPE OF EXPERIENCE HAVE YOU HAD IN CONNECTION
19 WITH RIGAMORTUS?

20 A I HAVE BEEN A CORONER SINCE '67, AND POST MORTEM, I
21 HAVE DONE INVESTIGATIONS FOR 30 YEARS. THE PERCENTAGE WAS
22 NOT FULL, IT WOULD OF BEEN FORMING THE EARLY MIDRANGE.

23 Q AND DID YOU COME UP WITH WHAT YOU ESTIMATED TO BE THE
24 TIME OF DEATH?

25 A THE TIME OF DEATH WAS BASED ON MY PHYSICAL FINDINGS

1 ALSO QUESTIONING WITNESSES, STATEMENTS THAT WERE TAKEN BY
2 LAW ENFORCEMENT, SPEAKING WITH THE HUSBAND, THE LAST TIME
3 HE HAD TALKED TO HER WAS 6:30 A.M. AND SHE DIDN'T ANSWER
4 THE PHONE CALL AROUND 8:00. AND THAT COINCIDES WITH MOST
5 OF THE INFORMATION THAT I HAD THAT ESTABLISHES HER LAST
6 SIGHTING AT ABOUT 8:00. WHICH POST MORTEM TIME OCCURRED
7 WAS MY FINDINGS, I ALSO DISCUSSED THIS WITH THE
8 PATHOLOGIST.

9 Q SO, DID YOU FEEL 8:00 O'CLOCK WAS CONSISTENT WITH THE
10 PHYSICAL FINDINGS THAT YOU HAD?

11 A I THOUGHT IT WAS CONSISTENT BUT IT WAS THE
12 UNDERSTANDING THAT THE PHYSICAL FINDINGS OF VARIABLES IN
13 MANY AREAS, TEMPERATURE, IF IT WAS COLD, IF IT WAS HOT.

14 Q DO YOU HAVE A RANGE THAT YOU ARE PLACING?

15 A A RANGE?

16 Q BEFORE OR AFTER 8:00?

17 A NO.

18 Q THANK YOU, ANSWER ANY QUESTIONS THAT MR. RIDDLE MAY
19 HAVE.

20 CROSS-EXAMINATION

21 BY MR. RIDDLE:

22 Q I THINK YOU INDICATED THAT THE TIME OF DEATH
23 PRIMARILY WAS BASED ON THE FACT THAT SHE HAD LAST BEEN
24 SEEN BY MR. HURSEY ALIVE AT 6:00 OR 6:15, SOMETHING LIKE
25 THAT?

1 A LIKE A SAY, THAT WOULD BE MY DECISION.

2 Q AND THE FACT THAT SHE MISSED A PHONE CALL AT 8:00?

3 A THAT IS WHAT I WAS INFORMED.

4 Q I THINK THAT YOU TESTIFIED THAT WHEN YOU GOT THERE
5 SHE WAS IN INCOMPLETE RIGOR, IS THAT WHAT YOU TESTIFIED
6 TO?

7 A WELL, WHEN I SAY INCOMPLETE RIGOR, COMPLETE RIGOR AT
8 THIS TIME.

9 Q SHE WAS IN INCOMPLETE RIGOR?

10 A IT HAD NOT FINISHED, HAD NOT COMPLETED THE PROCESS.

11 Q RIGHT, BECAUSE RIGAMORTUS, AS YOU UNDERSTAND IT, IT
12 STARTS AND THEN IT IS A PROGRESSIVE THING THAT TAKES ABOUT
13 12 WHOLE HOURS TO GET COMPLETE?

14 A IN MOST CASES.

15 Q A LOT OF VARIABLES AS YOU SAID?

16 A YES.

17 Q NOW, YA'LL DIDN'T MOVE MS. HURSEY UNTIL 10:00 O'CLOCK
18 THAT NIGHT?

19 A I BELIEVE SO.

20 Q BUT YOU DIDN'T MOVE HER UNTIL THE CRIME SCENE FOLKS
21 WERE DONE, YOU DIDN'T PICK HER UP AND MOVE HER AT THAT
22 POINT AND TIME?

23 A RIGHT.

24 Q AND SO THAT WOULD OF BEEN AT 10:00 WHEN YOU NOTICED
25 THAT THE ABDOMINAL RIGOR WAS PRESENT AT THAT TIME?

1 A I WOULD CHECK THE ABDOMINAL RIGOR AGAIN.

2 Q NOW, SHE DID NOT APPEAR TO HAVE BEEN MOVED IN ANY
3 SIGNIFICANT FASHION, IS THAT YOUR TESTIMONY?

4 A THERE WAS NOT ANY EVIDENCE OF THE BODY BEING MOVED.

5 Q IF HER ARM HAD MOVED YOU WOULDN'T NECESSARILY KNOWN
6 THAT UNLESS IT DISTURBED THE BLOOD PATTERN THAT WAS
7 UNDERNEATH HER HEAD?

8 A IT WOULD OF AFFECTED THE PATTERN.

9 Q THE EMT'S CHECKED HER THEY MIGHT OF MOVED HER, TO GET
10 A STETHOSCOPE?

11 A THEY WOULD RUN A EKG.

12 Q THAT IS WHAT THEY DO, WHEN THE EMT'S COME SOMEBODY IS
13 PRESUMABLY DEAD THEY WILL CONFIRM IT, WON'T THEY?

14 A RIGHT, THEY ARE INSTRUCTED NOT TO MOVE THE BODY.

15 Q BUT THEY STILL HAVE TO TOUCH HER AND RUN THE EKG AND
16 DETERMINE THAT SHE IS NO LONGER, HER HEART ISN'T BEATING?

17 A RIGHT.

18 Q AND THAT IS EVEN BEFORE YOU GET CALLED, CORRECT?

19 A YES.

20 Q I THINK THAT IS IT, THANK YOU.

21 THE COURT: ANY REDIRECT?

22 REDIRECT EXAMINATION

23 BY MR. FLOYD:

24 Q MR. JACO, THE EMT'S ARE TAUGHT NOT TO DISTURB THE
25 BODY AT ALL, CORRECT?

1 A RIGHT.

2 Q AND IF A BODY WAS COLD TO THE TOUCH, WAS IT COLD TO
3 THE TOUCH?

4 A IT WAS DAMP, IT WAS IN NORMAL STAGE.

5 Q AND HOW LONG AFTER THAT IS IT BEFORE RIGAMORTUS
6 STARTS?

7 A I AM SORRY?

8 Q HOW LONG AFTER DEATH DOES RIGAMORTUS START?

9 A RIGAMORTUS IS KNOWN TO START IN FIFTEEN MINUTES BUT
10 GENERALLY IT BEGINS IN ABOUT THREE HOURS.

11 Q THANK YOU.

12 THE COURT: ANYTHING FURTHER?

13 MR. RIDDLE: NO, SIR.

14 THE COURT: YOU CAN STEP DOWN.

15 MR. FLOYD: WE CALL MELISSA BOLTON TO THE STAND.

16 MELISSA BOLTON, AFTER BEING DULY SWORN,
17 TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION

19 BY MR. FLOYD:

20 Q MS. BOLTON, WHERE DO YOU LIVE?

21 A IN GASTON.

22 Q AND WHERE DID YOU LIVE BACK IN 2003?

23 A 435 AVON COURT IN GASTON.

24 Q WHO DID YOU LIVE WITH AT THAT TIME?

25 A MY HUSBAND, ELBERT BOLTON.

1 Q NOW, DID YOU KNOW A LADY BY THE NAME OF TIGER?

2 A YES.

3 Q AND HOW LONG HAD YOU KNOWN HER BACK THEN?

4 A I WOULD SAY SIX MONTHS OR SO.

5 Q NOW, DO YOU RECALL WHEN CAROL HURSEY DIED?

6 A YES, SIR.

7 Q DID YOU HAVE ANY CONTACT WITH TIGER ABOUT THAT?

8 A YES, SIR.

9 Q WOULD YOU TELL THE JURY WHAT THAT WAS.

10 MR. RIDDLE: YOUR HONOR, CAN WE APPROACH.

11 THE COURT: SURE.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE

13 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE

14 JURY.)

15 THE COURT: WE WILL PROCEED.

16 A I THINK SHE CAME TO THE HOUSE THAT WEDNESDAY AROUND

17 10:00 OR WHATEVER. AS I RECALL HER AND JOHNNIE WERE

18 REALLY CLOSE OR WHATEVER AND THEY LIVED TOGETHER OR AT THE

19 SAME PERIOD OF TIME. I LEFT THE BACK OF MY HOUSE AT THE

20 BACK OF MY PARENTS HOUSE AND WENT TO BED. AND CAME BACK

21 THE NEXT DAY WHICH WAS THURSDAY AND ABOUT 5:00 OR 5:30

22 P.M. SHE WAS AT THE HOUSE TRYING TO SELL US EVERYTHING

23 THAT WAS IN HER HOUSE, BEDDING, REFRIGERATOR, STOVE,

24 EVERYTHING. SHE SAID SHE WAS LEAVING TOWN, SHE HAD TO

25 LEAVE IMMEDIATELY. AND I SAID SOMETHING ABOUT THE MURDER,

1 IT CAME ON THE NEWS OR SOMETHING. AND SHE SAID, YES, THAT
2 IS COWBOY'S WIFE. AND, YOU KNOW, I DIDN'T KNOW COWBOY OR
3 I DIDN'T KNOW ANY OF THE PEOPLE. AND SHE SAID SHE HAD
4 TRIED TO CALL THE HOUSE--

5 MR. RIDDLE: OBJECTION, YOUR HONOR, THIS IS NOT ABOUT
6 SELLING--

7 THE COURT: I SUSTAIN THERE, JUST REPHRASE YOUR
8 QUESTION, MR. FLOYD.

9 Q AND WAS SHE DESPERATE TO SELL ALL OF HER THINGS?

10 A YES, SIR.

11 Q AND THAT WAS EVERY SINGLE THING THAT WAS IN THE
12 HOUSE?

13 A EVERY THING THAT WAS IN THE HOUSE.

14 Q AND THAT WAS SAY ABOUT 5:00 O'CLOCK ON THE DAY THAT
15 CAROL DIED?

16 A YES, SIR.

17 Q AND SHE WAS LEAVING TOWN?

18 A SHE SAID SHE WAS LEAVING TOWN IMMEDIATELY.

19 Q AND BEFORE THAT TIME HAD SHE CONTACTED YOU ABOUT
20 BUYING ANY OF HER STUFF?

21 A NO, SIR.

22 Q THANK YOU. NO FURTHER QUESTIONS.

23 THE COURT: ANY CROSS, MR. RIDDLE.

24 CROSS-EXAMINATION

25 BY MR. RIDDLE:

1 Q MS. BOLTON, ISN'T IT TRUE THAT TIGER, JACKIE BOURKE
2 TOLD YOU THAT SHE WAS LEAVING THE STATE BECAUSE HER
3 HUSBAND, JIM, HAD TO LEAVE BECAUSE OF CHILD SUPPORT?

4 A YES, SIR.

5 Q AND THAT HE WAS GOING TO OHIO TO STAY WITH HER SISTER
6 AND SHE WAS GOING THERE ALSO?

7 A YES, SIR.

8 Q THAT IS ALL I HAVE.

9 THE COURT: ANYTHING FURTHER, MR. FLOYD?

10 MR. FLOYD: NOTHING FURTHER, YOUR HONOR.

11 THE COURT: YOU CAN STEP DOWN.

12 MR. FLOYD: WE CALL ELBERT BOLTON TO THE STAND.

13 ELBERT BOLTON, AFTER BEING DULY SWORN, TESTIFIED
14 AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MR. FLOYD:

17 Q MR. BOLTON, WHERE WERE YOU LIVING BACK IN AUGUST OF
18 2003?

19 A 435 AVON COURT.

20 Q NOW, DID YOU KNOW A GENTLEMAN BY THE NAME OF JOHNNIE
21 FRAZIER?

22 A YES, SIR.

23 Q DID YOU KNOW A GENTLEMAN BY THE NAME OF TERRY BOLTIN?

24 A YES, SIR.

25 Q AND DID YOU KNOW A LADY NAMED TIGER?

1 A YES, SIR.

2 Q A MAN BY THE NAME OF GATOR?

3 A YES, SIR.

4 Q HOW DID YOU KNOW ALL OF THOSE PEOPLE?

5 A GATOR IS CLOSE FAMILY, TERRY I HAVE BEEN WORKING WITH
6 FOR A LONG TIME NOW SINCE ABOUT '98, '99, SOMETHING LIKE
7 THAT.

8 Q AND WERE ANY OF THEM FREQUENT VISITORS TO YOUR HOME?

9 A YES, SIR.

10 Q NOW, DO YOU RECALL, DO YOU RECALL THE DEATH OF CAROL
11 HURSEY?

12 A YES, SIR.

13 Q NOW, THE NIGHT BEFORE THAT DID YOU HAVE THE OCCASION
14 TO SEE JOHNNIE FRAZIER?

15 A YES, SIR.

16 Q AND WHERE DID YOU SEE HIM?

17 A HE WAS AT MY HOUSE AND HE WAS REMODELING THE HOME, HE
18 WAS THERE WORKING.

19 Q AND WHAT TIME DID HE GET THERE THAT EVENING?

20 A I AM NOT, I WOULD SAY, AROUND 4:30.

21 Q AND WHAT TIME DID HE LEAVE YOUR HOME?

22 A I THINK HE STAYED FOR ABOUT THREE OR FOUR HOURS AND
23 LEFT, I AM THINKING AROUND ABOUT 9:30 OR 10:00 O'CLOCK.

24 Q DID HE COME BACK LATER THAT EVENING?

25 A THE NEXT DAY, THE NEXT MORNING.

1 Q WHEN WAS THE NEXT TIME YOU SAW HIM?

2 A THAT WAS THURSDAY ABOUT 10:00.

3 Q WHERE DID YOU SEE HIM THAT NEXT MORNING?

4 A AT MY HOUSE.

5 Q HOW DID HE GET THERE THAT MORNING?

6 A I THINK HIM AND JERRY GOT TOGETHER.

7 Q SO, HE WAS AT YOUR HOUSE ABOUT 10:00 O'CLOCK ON THE

8 MORNING OF THE 14TH?

9 A YES.

10 Q AND HOW LONG DID HE STAY AT YOUR HOUSE THAT DAY?

11 A HE DIDN'T STAY TOO LONG THAT NEXT DAY BECAUSE I HAD

12 BEEN UP AND WENT TO THE STORE AND WHEN I CAME BACK HE WAS

13 ACTING A LITTLE NERVOUS AND HE HAD LEFT AND I HADN'T SEEN

14 HIM AFTER THAT.

15 Q WHAT TIME IS THE LAST TIME YOU REMEMBER SEEING HIM AT

16 YOUR HOUSE THAT DAY?

17 A THAT THURSDAY, I AM NOT SURE, IT WAS IN THE EVENING

18 TIME.

19 Q IN THE EVENING TIME, YOU MEAN LIKE--

20 A 2:00 OR 3:00.

21 Q 2:00 OR 3:00 IN THE AFTERNOON?

22 A YES.

23 Q DID YOU OFTEN SEE JOHNNIE WITH THIS BAG?

24 A I AM NOT SURE THAT IS THE BAG BUT I DID SEE HIM WITH

25 A BOOK BAG.

1 Q HE HAD IT WITH HIM A LOT, DIDN'T HE?

2 A JUST THOSE COUPLE OF DAYS THAT I SEEN HIM.

3 Q NOW, MR. BOLTON, WERE THERE A LOT OF PEOPLE IN YOUR
4 HOUSE?

5 A WE HAD A FEW OVER, THERE WAS FOUR OR FIVE OF US,
6 TERRY AND GATOR AND JOHNNIE AND THERE WAS A COUPLE, WE
7 WERE TRYING TO GET THE HOUSE READY TO MOVE IN SO THERE WAS
8 A BUNCH OF WORK GOING ON AT THAT TIME.

9 Q ANYBODY DOING ANY DRUGS IN THE HOUSE?

10 A NOT MY OWN BUT THEY HAD THE DRUGS.

11 Q THANK YOU, ANSWER ANY QUESTIONS THAT MR. RIDDLE HAS.

12 THE COURT: ALL RIGHT, SOLICITOR.

13 CROSS-EXAMINATION

14 BY MR. RIDDLE:

15 Q STANLEY IS YOUR COUSIN, RIGHT?

16 A YES, SIR.

17 Q YES, SIR. AND PEOPLE WERE AT YOUR HOUSE AND THEY
18 WERE DOING SOME WORK FOR YOU, RIGHT?

19 A YES, SIR.

20 Q AND YOU ARE TELLING THIS JURY IT WASN'T A CRACK
21 HOUSE?

22 A OH, NO SIR.

23 Q YOU WEREN'T SLINGING CRACK AT THEM?

24 A YES SIR, I WAS. BUT WE WERE THERE BASICALLY TO WORK
25 BUT THEY, I DID DO SOME CRACK.

1 Q YOU WERE SLINGING CRACK, YOU WERE PAYING YOUR WORKERS
2 WITH CRACK, WEREN'T YOU?

3 A SOME, CASH INVOLVED ALSO.

4 Q CASH INVOLVED ALSO BUT SOME OF THEM WERE BEING PAID
5 WITH CRACK COCAINE?

6 A YES.

7 Q RIGHT, THEY WERE GETTING IT FROM YOU?

8 A YES, SIR.

9 Q AND THEY WERE SMOKING IT THERE?

10 A YES.

11 Q WHILE THEY WERE WORKING?

12 A YES, SIR.

13 Q DID YOU JUST TELL THIS JURY THAT SOME PEOPLE--

14 A I AM SORRY, THEY DIDN'T, I JUST DIDN'T LET THEM WORK
15 AND DO IT AT THE HOUSE, NO SIR. THEY WOULD WALK OUT AND
16 DO IT ON THEIR OWN TIME BUT YES THEY WERE AND YES I WAS,
17 YES SIR.

18 Q SO YOU ARE SELLING CRACK OUT OF THIS LOCATION?

19 A YES.

20 Q RIGHT?

21 A YES, SIR.

22 Q STANLEY IS THERE, YOUR COUSIN?

23 A YES, SIR.

24 Q AND HE IS SMOKING CRACK WHILE HE IS THERE, RIGHT?

25 A YES, SIR.

1 Q JOHNNIE FRAZIER AND HE IS SMOKING CRACK WHILE HE IS
2 THERE, RIGHT?
3 A NOT IN THE HOME THOUGH.
4 Q NOT IN YOUR HOUSE?
5 A NO, SIR.
6 Q OKAY. HOW ABOUT JACKIE BURKE?
7 A WHO IS THAT?
8 Q TIGER, IS SHE SMOKING CRACK?
9 A YES, SIR.
10 Q GETTING IT FROM YOU?
11 A NOT ONLY ME.
12 Q NOT ONLY YOU?
13 A NOT ONLY ME.
14 Q BUT YOU SOME?
15 A YES, SIR.
16 Q OKAY. AND JOHNNIE HAS GOT A BOOK BAG, RIGHT?
17 A YES, SIR.
18 Q THAT IS HIS BOOK BAG, ISN'T IT, BLACK?
19 A I AM NOT SURE, I KNOW IT WAS A BOOK BAG.
20 Q AND IT WAS A BLACK ONE TOO, RIGHT?
21 A MAY OF BEEN, I AM NOT SURE.
22 Q HE TOTED THAT WITH HIM ALL THE TIME, DIDN'T HE?
23 A YES, SIR.
24 Q OKAY. NOW, DO YOU REMEMBER DETECTIVE PRITCHARD?
25 A YES, SIR.

1 Q THIS GENTLEMAN RIGHT HERE?

2 A YES, SIR.

3 Q HE CAME TO SEE YOU ONE TIME WHEN YOU WERE IN THE JAIL
4 HOUSE, RIGHT?

5 A YES, SIR.

6 Q AND HE SHOWED YOU A PICTURE OF THAT BOOK BAG, DIDN'T
7 HE?

8 A YES, SIR.

9 Q AND ISN'T IT TRUE THAT YOU TOLD DETECTIVE PRITCHARD
10 AT THAT TIME THAT WAS THE BOOK BAG THAT YOU REMEMBERED
11 SEEING FRAZIER WITH THE DAY BEFORE THE HOMICIDE AND AFTER
12 THE HOMICIDE?

13 A YES, SIR. WHEN HE TALKED TO ME THEN I REMEMBERED
14 SEEING THE BAG BUT I DON'T KNOW.

15 Q YOU WANT TO LOOK AT IT?

16 A OH, I SEE IT.

17 Q AND WHAT TIME DID YOU SAY THAT WAS THE LAST TIME YOU
18 SAW JOHNNIE FRAZIER ON THE DAY CAROL WAS KILLED?

19 A I DON'T KNOW THE EXACT DATE THAT SHE WAS KILLED BUT I
20 AM THINKING THAT THURSDAY WAS THE LAST TIME THAT I DID SEE
21 HIM.

22 Q WHAT TIME THAT DAY?

23 A I WANT TO SAY IN THE AFTERNOON.

24 Q ABOUT WHEN, WHAT DID YOU TESTIFY TO JUST A FEW
25 MINUTES AGO?

1 A I AM THINKING AROUND 3:00, 4:00, IT WAS IN THE
2 EVENING.

3 Q OKAY. DO YOU REMEMBER TALKING TO THE DETECTIVES ON
4 THE 20TH OF AUGUST OF 2003?

5 A YES, SIR.

6 Q AND THEY TOOK A STATEMENT FROM YOU?

7 A YES, SIR.

8 Q YOU SIGNED IT, RIGHT?

9 A YES, SIR.

10 Q DO YOU SEE THAT RIGHT THERE?

11 A YES, SIR.

12 Q WHAT TIME?

13 A 1:30.

14 Q 1:30, WAS THE LAST TIME I SAW JOHNNIE?

15 A YES, SIR.

16 Q SO, IT WASN'T 3:00 OR 4:00, IT WAS 1:30 BACK IN '03,
17 RIGHT?

18 A YES, I WASN'T SURE THEN.

19 Q ARE YOU SURE NOW?

20 A IT WAS IN THE EVENING, THAT IS ALL I KNOW.

21 Q NOW, DO YOU REMEMBER A GUY NAMED MATT RICHBOURG?

22 A YES, SIR.

23 Q HE CAME TO YOUR HOUSE AND WOULD SMOKE SOME CRACK TOO,
24 WOULDN'T HE?

25 A YES, SIR.

1 Q AND DO YOU REMEMBER A GIRL NAMED TAMMI INABINET, HIS
2 GIRLFRIEND?

3 A YES, SIR.

4 Q SHE WOULD COME THERE AND SMOKE SOME CRACK TOO,
5 WOULDN'T THEY?

6 A YES, SIR.

7 Q WERE THEY WORKING FOR YOU?

8 A MATT WAS.

9 Q MATT WAS?

10 A YES, SIR.

11 Q HOW ABOUT TAMMI?

12 A SHE DID BASICALLY LIKE SOME LITTLE HOUSE CLEANING TO
13 GET THE STUFF OUT OF THE WAY, HELPING HIM BASICALLY WITH
14 SHEETROCK.

15 Q HE WAS DOING SHEETROCK?

16 A YES, TRYING TO DO SHEETROCK.

17 Q THIS HOUSE WAS AT AVON COURT, RIGHT?

18 A YES, SIR.

19 Q AND THAT IS NOT TOO FAR FROM THE STORE, RIGHT?

20 A THAT IS RIGHT.

21 Q AND YOU HADN'T MOVED IN THERE YET, RIGHT?

22 A THAT IS RIGHT.

23 Q SO, YOU WERE RENOVATING THIS HOUSE AND USING IT AS A
24 CRACK HOUSE AT THE SAME TIME?

25 A BASICALLY.

1 Q SO, WHEN YOU TESTIFIED EARLIER THAT IT WASN'T A CRACK
2 HOUSE THAT WASN'T TRUE, WAS IT?

3 A I MEAN, DRUGS MAY OF SOLD OUT OF IT BUT THE HOUSE WAS
4 BASICALLY WAS THERE TO BE RENOVATED FOR MY FAMILY TO MOVE
5 IN THERE.

6 Q AND YOU WERE FINANCING THAT WHOLE THING OFF THE DRUG
7 TRADE, RIGHT?

8 A NO, I HAD A JOB.

9 Q YOU HAD ANOTHER JOB TOO, DIDN'T YOU?

10 A YES, CRACK HOUSE.

11 Q MR. BOLTON, YOU SERVED SOME TIME BACK IN 2004 FOR
12 ASSAULTING THE POLICE?

13 A YES, SIR.

14 Q AND ANOTHER TIME, RIGHT?

15 A SAY THAT AGAIN.

16 Q ANOTHER TIME, RIGHT?

17 A JUST ONE TIME I DID TIME.

18 Q ALL RIGHT. IF THIS BAG HAS CAROL HURSEY'S BLOOD ON
19 IT AND JOHNNIE FRAZIER HAD THAT BAG WERE YOU WITH JOHNNIE
20 FRAZIER AT CAROL HURSEY'S HOUSE?

21 A OH, NO SIR, NO SIR, NO SIR.

22 Q BUT THAT IS JOHNNIE'S BAG?

23 A I AM PRETTY SURE, I KNOW HE HAD A BOOK BAG.

24 Q AND IF IT HAS GOT THE VICTIM'S BLOOD ON IT HE WASN'T
25 WITH YOU WHEN THAT HAPPENED, WAS HE?

1 A NO, SIR.

2 Q BUT HE HAD THE DAY BEFORE THE HOMICIDE?

3 A YES, SIR.

4 Q AND HE HAD THE DAY AFTER THE HOMICIDE?

5 A YES, SIR.

6 Q THAT IS ALL I HAVE GO.

7 THE COURT: REDIRECT?

8 MR. FLOYD: NO FURTHER QUESTIONS.

9 THE COURT: YOU MAY STEP DOWN.

10 MR. FLOYD: WE CALL TERRY BOLTIN TO THE STAND.

11 TERRY BOLTIN, AFTER BEING DULY SWORN, TESTIFIED
12 AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MR. FLOYD:

15 Q TERRY, WHAT KIND OF WORK DO YOU DO?

16 A I DO ALL KIND OF WORK, I AM IN THE IRON BUSINESS,
17 PAINT AND BODY.

18 Q DO YOU KNOW JOHNNIE FRAZIER?

19 A YES.

20 Q HOW LONG HAVE YOU KNOWN JOHNNIE?

21 A NOT LONG.

22 Q DID YOU KNOW HIM BACK IN AUGUST OF 2003?

23 A YES, THAT IS WHEN I MET HIM.

24 Q NOW, DID YOU HAPPEN TO BE WITH JOHNNIE, YOU REMEMBER
25 CAROL HURSEY DIED, YOU REMEMBER THAT?

- 1 A I REMEMBER IT, YES.
- 2 Q WERE YOU WITH JOHNNIE THE NIGHT BEFORE THAT AND THE
3 DAY OF?
- 4 A YES, SIR.
- 5 Q THE NIGHT BEFORE WHAT TIME DID YOU SEE HIM?
- 6 A THE NIGHT BEFORE, I CAN'T REALLY TELL YOU EXACTLY
7 WHAT TIME BUT IT WAS LIKE IN THE AFTERNOON, THAT WAS THE
8 NIGHT BEFORE.
- 9 Q WHERE DID YA'LL GO THAT NIGHT BEFORE?
- 10 A THE NIGHT BEFORE, WE DIDN'T ACTUALLY GO ANYWHERE. WE
11 WENT TO MR. BOLTON'S HOUSE.
- 12 Q AND DID YA'LL DO DRUGS THE NIGHT BEFORE?
- 13 A YES.
- 14 Q WHAT TIME DID YOU LEAVE MR. BOLTON'S HOUSE THAT NIGHT
15 OR EARLY MORNING?
- 16 A I DIDN'T LEAVE.
- 17 Q YOU STAYED ALL NIGHT?
- 18 A I STAYED OVER THERE, I HAD DONE A LOT OF WORK ON HIS
19 HOUSE.
- 20 Q NOW, DID JOHNNIE LEAVE AT SOME POINT?
- 21 A YES, AT SOME POINT.
- 22 Q DO YOU KNOW WHAT TIME HE LEFT?
- 23 A I DON'T KNOW, THE NIGHT TIME.
- 24 Q HE DIDN'T LEAVE WITH YOU?
- 25 A NO, SIR.

1 Q DID YOU SEE JOHNNIE THE NEXT MORNING?

2 A THE NEXT MORNING, I WENT TO THE STORE, IT WAS RIGHT
3 BEHIND WHERE MR. BOLTON LIVED, I WENT TO THE STORE. WHEN
4 I LEFT THE STORE, I WAS COMING BACK DOWN SHARON CHURCH
5 ROAD BEARS OFF. I SAW JOHNNIE AND HE GOT IN MY TRUCK AND
6 JOHNNIE, WE WAS IN MY PICKUP TRUCK AND IT WAS ANYWHERE
7 FROM 8:30 TO 10:00 O'CLOCK. I CAN'T TELL YOU EXACTLY WHAT
8 TIME BECAUSE AT THAT TIME, I DIDN'T HAVE A VALUE OF TIME.

9 Q SO IT WAS SOMEWHERE BETWEEN 8:30 AND 10:00?

10 A YES, SIR.

11 Q AND WHEN HE GOT OUT OF THE VEHICLE WAS HE WALKING?

12 A WHEN HE HAD GOT OUT HE HAD TO WALK FROM HIS TRUCK TO
13 MY BACK YARD.

14 Q YOU GAVE HIM A RIDE?

15 A I GAVE HIM A RIDE.

16 Q AND WHERE DID YOU GO FROM THERE?

17 A I WENT BACK DOWN TO MR. BOLTON'S HOUSE BECAUSE I HAD
18 MORE WORK TO DO.

19 Q AND HOW LONG DID JOHNNIE STAY THERE AT MR. BOLTON'S
20 HOUSE?

21 A SOMEWHERE UNTIL AFTER LUNCH.

22 Q DID HE LEAVE WITH YOU?

23 A I TOOK JOHNNIE, IT SEEMED LIKE, IT WAS A LONG TIME
24 AGO, I TOOK JOHNNIE TO HIS FATHER'S HOUSE OR MOTHER'S
25 HOUSE. I TOOK HIM SOMEWHERE AND DROPPED HIM OFF AND IT

1 WAS, THAT MIGHT OF BEEN 1:00, 2:00 OR 3:00 O'CLOCK,
2 SOMETHING LIKE THAT.

3 Q IN THE AFTERNOON?

4 A YES.

5 Q AND DO YOU RECALL WHERE THAT WAS LOCATED, WHERE YOU
6 TOOK HIM?

7 A DOWN CLOSE TO HAPPY TOWN, I CAN'T REMEMBER THE NAMES
8 OF THE ROAD.

9 Q SO, YOU WERE WITH JOHNNIE FROM, BETWEEN 8:30 AND
10 10:00 TO 3:00 OR 4:00 IN THE AFTERNOON?

11 A RIGHT.

12 Q AND THEN YOU TOOK HIM DOWN TO HAPPY TOWN?

13 A I THINK THAT WAS HIS FATHER'S HOUSE, I CAN'T
14 REMEMBER.

15 Q THANK YOU, TERRY. ANSWER ANY QUESTIONS MR. RIDDLE
16 HAS?

17 THE COURT: ALL RIGHT, SOLICITOR.

18 CROSS-EXAMINATION

19 BY MR. RIDDLE:

20 Q YOU SEEN THIS BEFORE, HADN'T YOU?

21 A AS FAR AS I KNOW THAT IS THE SAME ONE.

22 Q WHOSE IS IT?

23 A IT BELONGED TO MR. FRAZIER.

24 Q HE TOTED THAT THING WITH HIM EVERY WHERE HE WENT,
25 DIDN'T HE?

1 A YES.

2 Q YOU SAW HIM WITH THAT THE NIGHT BEFORE THE MURDER AT
3 BOO BOLTON'S HOUSE, RIGHT?

4 A RIGHT.

5 Q AND YOU SAW HIM WITH IT THE NIGHT AFTER THE MURDER,
6 THE DAY AFTER THE MURDER?

7 A THE DAY, YES.

8 Q WHEN YOU PICKED HIM UP ON THE SIDE OF THE ROAD,
9 RIGHT?

10 A RIGHT.

11 Q RIGHT NEAR BOO BOLTON'S HOUSE?

12 A RIGHT.

13 Q BECAUSE YOU PICKED HIM UP, DID YOU NOT, ABOUT AT THE
14 INTERSECTION OF, THAT IS THE STORE?

15 A RIGHT.

16 Q STATE'S EXHIBIT NUMBER 16?

17 A RIGHT.

18 Q YOU CAN TURN AROUND AND LOOK, THAT IS THE STORE,
19 RIGHT?

20 A RIGHT.

21 Q THIS IS HIGHWAY 6 COMING DOWN HERE, RIGHT?

22 A YES.

23 Q AND THAT ROAD GOES STRAIGHT OFF RIGHT THERE, SHARON
24 CHURCH ROAD?

25 A YES.

1 Q AND AVON COURT, THAT IS IT RIGHT THERE, ISN'T IT,
2 JUST A LITTLE PAST SHARON CHURCH WHEN YOU MAKE A LEFT ON
3 AVON?

4 A IT MIGHT BE LEFT ON AVON.

5 Q BOO'S HOUSE IS BACK HERE, IT IS NOT ON THIS PICTURE,
6 RIGHT, ALL THE WAY AT THE END OF THE ROAD ON THE LEFT?

7 A ALL THE WAY AT THE END OF THE ROAD.

8 Q RIGHT THERE BACK IN THAT FIELD?

9 A RIGHT.

10 Q AND WHERE DID YOU PICK JOHNNIE UP?

11 A RIGHT THERE.

12 Q RIGHT THERE?

13 A RIGHT THERE AT THE ROAD, AS A MATTER OF FACT YOU TURN
14 IN AND I WAS GOING AND I TURNED RIGHT THERE AND PICKED HIM
15 UP AND WE LEFT.

16 Q AND WENT TO BOO'S HOUSE?

17 A CORRECT.

18 Q THAT WAS ON THE DAY OF THE MURDER, RIGHT?

19 A I AM PRETTY SURE IT WAS, THE 14TH OR SOMEWHERE IN
20 THERE.

21 Q THE 14TH.

22 A RIGHT.

23 Q AND JOHNNIE HAD THAT BOOK BAG WITH HIM, DIDN'T HE?

24 A CORRECT.

25 Q NOW, I BELIEVE YOU TESTIFIED THAT YOU HAD BEEN

1 SMOKING A LOT OF CRACK, RIGHT?

2 A YES.

3 Q YOU WERE WORKING FOR BOO, RIGHT?

4 A I WAS WORKING FOR BOO.

5 Q BOO WAS PAYING YOU WITH CRACK, WASN'T HE?

6 A NO, BOO PAID ME WITH CASH TOO.

7 Q WITH CASH TOO AND CRACK?

8 A IF I WANTED IT I ASKED FOR IT.

9 Q OKAY. SO, YOU WERE WORKING FOR CASH AND CRACK?

10 A YES.

11 Q WERE YOU DRINKING TOO?

12 A YES, I WAS DRINKING.

13 Q SMOKING MARIJUANA?

14 A NO.

15 Q JUST CRACK AND BEER, WAS IT BEER?

16 A BEER, LIQUOR, WHATEVER I WANTED.

17 Q WHATEVER YOU WANTED, BOO PROVIDED?

18 A NO, SIR.

19 Q WHERE DID YOU GET IT?

20 A I WOULD BUY MY BEER AT THE STORE.

21 Q NOW, YOU SAID I THINK ON THE RECORD THAT TIME MEANT
22 NOTHING?

23 A TIME DIDN'T MEAN NOTHING, WHY I KEEP UP WITH THE
24 TIME, I HAVE WORK TO DO, I DIDN'T HAVE NOTHING ELSE TO DO.

25 Q ALL RIGHT. NOW, JOHNNIE GOT WITH YOU ON THE DAY OF

1 THE MURDER?

2 A THE DAY OF THE MURDER.

3 Q ON SHARON CHURCH ROAD?

4 A RIGHT.

5 Q AND YA'LL WENT TO BOO'S FOR A LITTLE WHILE?

6 A YES.

7 Q AND NOW MR. BOLTON JUST SAID THAT JOHNNIE WAS REAL
8 NERVOUS THAT DAY, DO YOU REMEMBER THAT?

9 A YES, WHEN I TOOK HIM TO HIS PARENTS HOUSE, HIS
10 FATHER, I DON'T KNOW WHOSE HOUSE IT WAS, FATHER, MOTHER.

11 Q BUT HE WAS REAL NERVOUS, WASN'T HE?

12 A YES.

13 Q ACTING STRANGE?

14 A YES.

15 Q HE WAS WORRIED?

16 A I DON'T KNOW WHAT WAS WRONG WITH HIM, HE WAS NERVOUS.

17 Q HE WAS LOOKING OUT THE WINDOW?

18 A YES.

19 Q THE NIGHT BEFORE OR A COUPLE OF NIGHTS BEFORE THAT
20 YA'LL HAD BEEN AT BOO'S HOUSE, JOHNNIE HAD BEEN SPENDING A
21 LOT OF MONEY, HADN'T HE?

22 A YES, I THINK THAT IS WHEN HIM AND TIGER HAD COME
23 OVER.

24 Q AND THEN THAT DAY THAT YOU PICKED HIM UP, WHATEVER
25 TIME IT WAS, HE HAD SOME MORE MONEY, DIDN'T HE?

1 A AS FAR AS I CAN REMEMBER.

2 Q DO YOU NEED TO LOOK AT YOUR STATEMENT?

3 A I DON'T NEED TO LOOK AT, THAT HAS BEEN FIVE YEARS
4 AGO.

5 Q BUT HE HAD SOME MORE MONEY, DIDN'T HE?

6 A YES.

7 Q BUT HE DIDN'T TELL YOU WHERE HE HAD GOTTEN IT?

8 A WELL, HE SAID THAT HIS BROTHER, SAID THAT HE HAD GOT
9 OUT OF TROUBLE, IT WAS HIS BROTHER OR BROTHER-N-LAW, HE
10 WAS WORKING WITH HIM.

11 Q SO, NOW YOU ARE SAYING HE TOLD YOU WHERE HE GOT IT?

12 A I DIDN'T TELL YOU THAT.

13 Q SO, YOU ARE JUST MAKING AN EXCUSE FOR MR. FRAZIER?

14 A I AM JUST LETTING YOU KNOW THAT HE SAID THAT HE DID,
15 HE WAS WORKING WITH HIS BROTHER.

16 Q BUT HE DIDN'T TELL YOU WHERE HE HAD GOTTEN THE MONEY
17 FROM, DID HE, MR. BOLTIN?

18 A NO, HE DIDN'T TELL ME WHERE HE GOT THE MONEY.

19 Q SO, YOU ARE JUST SPECULATING THAT HE MIGHT OF GOTTEN
20 IT FROM HIS BROTHER, RIGHT?

21 A RIGHT.

22 Q NOW, A NIGHT OR TWO BEFORE THIS HOMICIDE HAPPENED YOU
23 SAW JOHNNIE FRAZIER AT BOO'S, RIGHT?

24 A CORRECT.

25 Q DO YOU REMEMBER HIM PULLING A GUN OUT OF THAT BOOK

1 BAG AND TRYING TO SELL IT TO BOO?

2 A I REMEMBER HIM HAVING A GUN.

3 Q AND THAT WAS BEFORE THE HOMICIDE TOOK PLACE?

4 A I GUESS.

5 Q WELL, DO YOU NEED TO LOOK AT YOUR STATEMENT?

6 A IF THAT IS WHAT IS ON THE PAPER THAT IS WHAT I SAID,
7 THAT IS THE WAY IT WAS.

8 Q OKAY. AND YOU REMEMBER THAT IT WAS A SMALL CALIBER
9 GUN?

10 A I REMEMBER IT WAS A SMALL GUN.

11 Q AND HE TRADED THAT ONE TO BOO FOR SOME CRACK, RIGHT?

12 A YES, AS FAR AS I KNOW.

13 Q THIS BOOK BAG RIGHT HERE, JOHNNIE ALWAYS HAD IT WITH
14 HIM?

15 A CORRECT.

16 Q IF THAT BOOK BAG HAS GOT CAROL HURSEY'S BLOOD ON IT
17 WERE YOU WITH JOHNNIE FRAZIER WHEN THAT HAPPENED?

18 A ONLY IF YOU WERE THERE.

19 Q I DON'T UNDERSTAND THAT ANSWER, SIR, WERE YOU WITH
20 JOHNNIE--

21 A NO SIR, I WASN'T.

22 Q IF THIS BOOK BAG HAS CAROL HURSEY'S BLOOD ON IT AND
23 JOHNNIE CARRIED THIS BOOK BAG EVERY WHERE MY QUESTION IS,
24 WERE YOU WITH JOHNNIE FRAZIER WITH CAROL HURSEY?

25 A NO, SIR.

1 Q AND YOU, NO QUESTION, WERE NOT WITH HIM ALL THE DAY
2 ON THE DAY THAT THIS KILLING TOOK PLACE?

3 A NO SIR, NOT ALL DAY.

4 Q NOT ALL DAY?

5 A ON THE 14TH?

6 Q RIGHT.

7 A NO, SIR.

8 Q AND YOU DON'T KNOW WHAT HAPPENED DURING THE TIMES
9 THAT YOU WEREN'T WITH HIM?

10 A CORRECT.

11 Q BUT YOU WEREN'T WITH HIM WHEN THE BLOOD GOT ON THAT
12 BOOK BAG?

13 A NO, SIR.

14 Q THANK YOU, THAT IS ALL I HAVE.

15 THE COURT: REDIRECT.

16 MR. FLOYD: JUST A COUPLE.

17 REDIRECT EXAMINATION

18 BY MR. BOLTIN:

19 Q SO, MR. BOLTIN, YOU WORKED WITH JOHNNIE FRAZIER FROM
20 MIDNIGHT UNTIL AROUND 8:30 IN THE MORNING THAT DAY,
21 WEREN'T YOU?

22 A NO, SIR.

23 Q AND YOU WORKED WITH JOHNNIE FRAZIER FROM ABOUT 4:00
24 OR 5:00 IN THE AFTERNOON TO MIDNIGHT THAT NIGHT?

25 A NO, SIR.

1 Q BUT OTHER TIMES YOU WERE WITH HIM?

2 A RIGHT.

3 Q AND THIS SMALL PISTOL YOU SAY HE TRADED IT TO BOO FOR
4 SOME CRACK?

5 A RIGHT.

6 Q AND THE WHOLE TIME YOU KNEW JOHNNIE, JOHNNIE ALWAYS
7 HAD THAT BOOK BAG WITH HIM, DIDN'T HE?

8 A YES.

9 Q THANK YOU.

10 THE COURT: ANY RECROSS?

11 MR. RIDDLE: NO, SIR.

12 THE COURT: YOU CAN STEP DOWN.

13 MR. FLOYD: CALL DONNA COOK.

14 DONNA COOK, AFTER BEING DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. FLOYD:

18 Q MS. COOK, WHERE DO YOU LIVE?

19 A I LIVE AT 115 ANDERSON DRIVE IN GASTON.

20 Q AND DO YOU KNOW FAYE GUNTER?

21 A YES.

22 Q HOW DO YOU KNOW HER?

23 A SHE IS MY AUNT.

24 Q IS SHE THE LADY SITTING RIGHT THERE?

25 A YES, SIR.

1 Q NOW, DONNA, YOU RECALL WHEN THIS MURDER OCCURRED ON
2 BUSBEE?

3 A YES, I KNEW IT HAPPENED.

4 Q IS THERE SOMETHING THAT YOU NOTICED THE FALLING DAY?

5 A I AM ASSUMING IT WAS THE FOLLOWING DAY, I AM NOT
6 SURE. IF YOU ARE REFERRING TO WHEN WE WENT TO GET MY
7 AUNT'S CAR, YES.

8 Q AND WHERE DID YOUR AUNT LIVE?

9 A SHE LIVES AT 238 LELAND DRIVE IN GASTON.

10 Q AND THAT IS LESS THAN TWO MILES FROM--

11 MR. RIDDLE: OBJECTION TO LEADING.

12 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

13 Q AND HOW FAR IS THAT 1509 BUSBEE?

14 A TWO OR THREE MILES.

15 Q AND WHAT HAPPENED WHEN YOU GOT IN THE TRANS AM THAT
16 DAY?

17 A WHEN I GOT IN THE CAR AND WENT DOWN THIS LITTLE DIRT
18 ROAD AND WHEN MY AUNT GOT IN THE CAR AND WE PROCEEDED DOWN
19 THE ROAD SHE LIFTED HER ARM UP AND SHE HAD BLOOD ON HER
20 SHIRT AND I THOUGHT SHE HAD GOTTEN CUT. AND SO WE PULLED
21 ACROSS THE STREET TO THE STORE, I WENT TO GET PAPER TOWELS
22 TO CHECK HER OUT.

23 Q AND WHAT DID YOU SEE?

24 A WHEN I GOT BACK TO THE CAR AND OPENED THE DOOR IT WAS
25 ON THE PASSENGER SIDE, I SEEN, I WIPED IT OFF OF HER FIRST

1 AND THEN I SEEN BLOOD ON THE DOOR PANEL OF THE CAR AND ON
2 THE SEAT, ON THE SEAT.

3 Q AND ONCE YA'LL SAW THE BLOOD WHAT DID YA'LL DO AT
4 THAT POINT?

5 A WELL, I WAS IN THE STORE, I WAS GETTING PAPER TOWELS,
6 I WAS TELLING THE GIRL IN THE STORE THAT WORKED THERE WHAT
7 WAS ON THE CAR AND SHE HAD TOLD ME ABOUT A--

8 MR. RIDDLE: OBJECTION TO HEARSAY, YOUR HONOR.

9 THE COURT: SUSTAINED, CAN'T GO INTO THAT KIND OF
10 STUFF.

11 Q AFTER YOU SPOKE WITH THE CLERK WHAT DID YOU DO THEN?

12 A SHE SUGGESTED THAT WE GO AROUND WHERE THE CRIME HAD
13 BEEN COMMITTED BECAUSE OF THE BLOOD BEING IN THE CAR.

14 Q AND DID YOU DO THAT?

15 A YES, SIR.

16 Q AND DID YOU MEET WITH SOMEBODY WITH THE LEXINGTON
17 COUNTY SHERIFFS DEPARTMENT?

18 A YES, SIR.

19 Q SHOW THEM THE BLOOD AND SO FORTH?

20 A YES, SIR.

21 Q AND THEY TOOK SAMPLES OF IT?

22 A YES, SIR.

23 Q NOW, WHERE FAYE LIVED, IS THAT LIKE KIND OF AT A DEAD
24 END ROAD?

25 A IT IS AS FAR AS THROUGH TRAFFIC BUT SHE DOES HAVE A

1 NEIGHBOR ON THE OTHER SIDE.

2 Q ISOLATED OUT THERE?

3 A YES.

4 Q THANK YOU, ANSWER ANY QUESTIONS THAT MR. RIDDLE MAY
5 HAVE.

6 THE COURT: CROSS-EXAMINE.

7 CROSS-EXAMINATION

8 BY MR. RIDDLE:

9 Q YOU ARE MS. COOK, IS THAT RIGHT?

10 A YES, SIR.

11 Q MS. COOK AND MAKE SURE I HAVE GOT THIS STRAIGHT, YOU
12 WERE WITH YOUR AUNT, IS THAT CORRECT?

13 A YES.

14 Q WAS IT YOUR HOUSE OR HER HOUSE?

15 A HER HOUSE.

16 Q HER HOUSE. AND THAT IS SOME THREE MILES FROM BUSBEE
17 ROAD?

18 A TWO OR THREE MILES, YES SIR.

19 Q AND YA'LL FOUND SOME BLOOD IN YOUR CAR AT HER
20 RESIDENCE?

21 A YES, AS WE WERE PULLING OFF, AS SHE MOVED HER ARM.

22 Q WAS IT YOUR CAR OR HER CAR?

23 A HER CAR.

24 Q HER CAR?

25 A YES, SIR.

1 Q OKAY. AND SO YOU STOPPED AT A GROCERY STORE?

2 A A CONVENIENT STORE.

3 Q A CONVENIENT STORE, I AM SORRY. AND FROM THERE YOU
4 DECIDED TO GO LET THE POLICE LOOK AT IT?

5 A WELL, THERE WAS PEOPLE SPEAKING OF A CRIME THAT HAD
6 HAPPENED AND THEY SAID--

7 Q RIGHT.

8 A YES, I WANTED TO DO THE RIGHT THING.

9 Q OKAY. DO YOU KNOW JOHNNIE FRAZIER?

10 A NO, SIR.

11 Q NEVER SEEN HIM BEFORE?

12 A NO, SIR.

13 Q DID YOU KNOW CAROL HURSEY?

14 A NO, SIR.

15 Q DID YOU KNOW BUTCH HURSEY?

16 A NO, SIR.

17 Q THE WITNESSES, HAVE YOU BEEN IN HERE THIS MORNING?

18 A I WAS IN A WHILE, YES SIR.

19 Q HAVE YOU KNOWN ANY OF THOSE WITNESSES WHO TESTIFIED?

20 A NO, SIR.

21 Q LET ME SHOW YOU THESE AND ASK YOU IF YOU RECOGNIZE
22 WHAT THEY ARE.

23 A YES, SIR.

24 MR. RIDDLE: I WILL SHOW THESE TO MR. FLOYD.

25 MR. FLOYD: I HAVE NO OBJECTION.

1 THE COURT: ARE YOU OFFERING THOSE?

2 MR. RIDDLE: YES, SIR. DO YOU HAVE AN OBJECTION IF I
3 JUST MARK THEM AS TWO EXHIBITS.

4 THE COURT: THEY ARE PLASTIC SHEETS OF SEVERAL
5 PHOTOGRAPHS IN THEM INSIDE THE PLASTIC SHEET, THE PLASTIC
6 SHEET WILL BE MARKED AS A STATE EXHIBIT WITHOUT OBJECTION.
7 IS THAT RIGHT, MR. FLOYD?

8 MR. FLOYD: THAT IS RIGHT.

9 THE COURT: WHAT NUMBER IS THAT?

10 COURT REPORTER: NUMBER 30 AND 31.

11 THE COURT: STATE'S 30 AND 31 ARE ADMITTED.

12 (WHEREUPON, STATE'S EXHIBIT NOS. 30 AND 31 WERE
13 ADMITTED INTO EVIDENCE.)

14 Q MS. COOK, YOU ARE NOT EVEN EXACTLY SURE WHAT DAY THIS
15 WAS, ARE YOU?

16 A RIGHT.

17 Q OTHER THAN WHAT YOU HEARD ABOUT A CRIME BEING
18 COMMITTED WHEN YOU WENT TO THE CONVENIENT STORE, DO YOU
19 HAVE ANY REASON TO SUSPECT THAT THIS WAS RELATED TO THIS
20 HOMICIDE?

21 A NO, SIR.

22 Q THANK YOU.

23 THE COURT: ANY REDIRECT?

24 REDIRECT EXAMINATION

25 BY MR. FLOYD:

1 Q WHEN YOU DROVE TO BUSBEE ROAD WERE THE POLICE THERE?

2 A YES, SIR.

3 Q NO FURTHER QUESTIONS.

4 THE COURT: YOU MAY STEP DOWN.

5 MR. FLOYD: WE CALL FAYE GUNTER, YOUR HONOR.

6 FAYE GUNTER, AFTER BEING DULY SWORN, TESTIFIED
7 AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. FLOYD:

10 Q MS. GUNTER, WHERE DO YOU LIVE?

11 A AT 238 LELAND DRIVE.

12 Q AND IS THAT OVER AT THE GASTON AREA?

13 A YES, IT IS.

14 Q DID YOU OWN BACK IN AUGUST OF 2003 A BLACK TRANS AM?

15 A STILL HAVE IT.

16 Q AND DO YOU RECALL A TIME WHEN YOU FOUND BLOOD IN IT?

17 A YES SIR, I DO.

18 Q WHEN WAS THAT OR HOW DID YOU HAPPEN THAT THERE WAS
19 BLOOD IN IT?

20 A WELL, DONNA CAME OVER, SHE HAD BEEN RIDING WITH ME

21 AND SHE USED TO TAKE ME OUT TO GO TO THE STORE. AND WE

22 WENT OVER TO THE STORE AND AS I GOT IN THE CAR I PULLED

23 THE DOOR SHUT WITH THIS HAND AND I DIDN'T KNOW UNTIL I

24 MOVED MY ARM, MY ARM WAS STICKY. AND THEN WHEN I GOT AND

25 IT LOOKED, IT WAS SO MUCH BLOOD AND IT WAS BLOOD IN THE

1 CAR AND IT WAS ON MY SEAT AND IT WAS IN THE BACK FLOOR
2 MATS. SO, I KNEW SOMETHING BAD, I SAID, DONNA GET SOME
3 WET PAPER TOWELS. AND SO SOMEBODY AT THE DOOR SAID
4 SOMETHING HAD HAPPENED AND SO WE TOOK THE CAR IMMEDIATELY.
5 AND THE PEOPLE TOOK US IN THE TRAILER AND WENT OVER THE
6 CAR FOR SEVERAL HOURS. AND WE THOUGHT WE DID THE RIGHT
7 THING.

8 Q I THINK YOU DID. THANK YOU, MS. GUNTER.

9 THE COURT: CROSS-EXAMINE.

10 MR. RIDDLE: I DON'T HAVE ANYTHING.

11 THE COURT: YOU MAY STEP DOWN.

12 MR. FLOYD: WE CALL DOROTHY DRAWDY TO THE STAND.

13 DOROTHY DRAWDY, AFTER BEING DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MR. FLOYD:

17 Q DOROTHY, DO YOU KNOW JOHNNIE FRAZIER?

18 A YES, I DO.

19 Q HOW DO YOU KNOW HIM?

20 A HE IS MY BROTHER.

21 Q NOW, WHERE DO YOU LIVE, DOROTHY?

22 A I LIVE IN THE SWANSEA AREA.

23 Q HOW FAR, DO YOU KNOW WHERE A PLACE CALLED THE STORE
24 IS?

25 A YES.

1 Q AND HOW FAR DO YOU LIVE FROM THE STORE?

2 A FOUR OR FIVE MILES, MAYBE SIX.

3 Q NOW, DID YOU HAVE THE OCCASION TO SEE JOHNNIE OR DO
4 YOU RECALL WHEN CAROL HURSEY WAS KILLED, DO YOU RECALL
5 THAT DAY?

6 A YES.

7 Q DID YOU SEE JOHNNIE FRAZIER THAT MORNING?

8 A YES.

9 Q WHAT TIME DID YOU SEE JOHNNIE FRAZIER THAT MORNING?

10 A JOHNNIE WAS LATE, HE WAS SUPPOSE TO GO TO WORK, HE
11 SHOULD OF BEEN THERE AROUND 6:30. JAMES WAS A LITTLE
12 UPSET SO I WOULD SAY HE GOT THERE AROUND 15 MINUTES TO
13 7:00.

14 Q ABOUT FIFTEEN TO 7:00?

15 A YES.

16 Q WHO WAS JAMES?

17 A MY HUSBAND.

18 Q DID JOHNNIE SOMETIMES WORK WITH HIM?

19 A JOHNNIE WORKED WITH HIM A LOT.

20 Q IS JAMES STILL AROUND?

21 A NO.

22 Q AND WHERE DID JAMES GO?

23 A HE DIED.

24 Q SO, HOW DID JOHNNIE GET TO YOUR HOUSE THAT MORNING?

25 A ON A BICYCLE.

1 Q AND HE ROAD UP ON THE BICYCLE ABOUT 6:45?

2 A YES.

3 Q AND WHAT TIME DID HE LEAVE WITH JAMES?

4 A ANYWHERE BETWEEN, I SAY RIGHT AT 7:00 OR SO, ABOUT
5 FIFTEEN MINUTES BEFORE 7:00, RIGHT ABOUT 7:00.

6 Q AND WHAT KIND OF A VEHICLE DID JAMES HAVE BACK THEN?

7 A A WHITE CHEVROLET.

8 Q WAS JOHNNIE WITH JAMES WHEN JAMES GOT HOME FROM WORK
9 THAT DAY?

10 A NO.

11 Q HAD JOHNNIE WORKED WITH HIM THAT DAY?

12 A HE WAS SUPPOSE TO BUT THEY HAD AN ARGUMENT.

13 Q DOROTHY, DO YOU KNOW WHERE YOUR FATHER LIVES, WAS
14 LIVING BACK IN AUGUST OF 2003?

15 A HE WAS LIVING ON HAPPY TOWN ROAD.

16 Q AND CAN YOU TELL US IF ANYONE LIVED THERE WITH HIM?

17 A ROB AND LISA RUSSELL AND THEY HAD TWO KIDS.

18 Q THANK YOU.

19 THE COURT: CROSS-EXAMINE.

20 CROSS-EXAMINATION

21 BY MR. RIDDLE:

22 Q MS. DRAWDY, MR. FRAZIER IS YOUR BROTHER?

23 A YES.

24 Q AND YOU SAW HIM THE MORNING THAT CAROL HURSEY WAS
25 KILLED?

1 A I GUESS, HE CAME BY MY HOUSE, SO YES.

2 Q AND IT WAS ABOUT 6:45 IN THE MORNING?

3 A YES, HE WAS RUNNING LATE.

4 Q HE COMES IN YOUR HOUSE, RIGHT?

5 A HE COMES INSIDE OF THE HOUSE, YES.

6 Q AND HE IS FIGHTING WITH YOUR HUSBAND?

7 A NO, THEY ARE NOT FIGHTING.

8 Q I DON'T MEAN FIGHTING, I MEAN--

9 A THEY WERE ARGUING, THEY WEREN'T FIGHTING, JAMES WAS
10 UPSET BECAUSE HE WAS RUNNING LATE.

11 Q OKAY. AND DO YOU RECALL JOHNNIE GETTING ANYTHING TO
12 DRINK AS SOON AS HE WALKED INSIDE THE HOUSE THAT MORNING?

13 A HE ASKED FOR SOMETHING TO DRINK AND I SAID I DON'T
14 HAVE ANYTHING HERE, I HAVE A BEER IN THE FRIG AND HE COULD
15 HAVE IT.

16 Q AND HE GOT HIMSELF A BEER?

17 A YES.

18 Q THAT IS AT QUARTER TO 7:00 IN THE MORNING?

19 A YES.

20 Q THEN HE GETS IN THE TRUCK TO GO WITH JAMES?

21 A THEY WALK OUT OF THE HOUSE, I DIDN'T WATCH THEM GET
22 IN THE TRUCK.

23 Q AND YOU DIDN'T SEE HIM ANY AFTER THAT?

24 A NO.

25 Q NOW, JOHNNIE HAD BEEN LIVING WITH YOU FOR A WEEK OR

1 TEN DAYS, HADN'T HE?

2 A SOMEWHERE IN THERE, MAYBE THREE OR FOUR DAYS, HIM AND
3 ASHLEY HAD GOT IN A ARGUMENT.

4 Q ASHLEY COUGAR?

5 A YES.

6 Q AND HE HAD MOVED OUT FROM HER?

7 A NO, HE RUN AWAY FROM HER.

8 Q GOT AWAY FROM HER?

9 A YES.

10 Q THEY WENT LIKE THAT?

11 A NO, HE WENT LIKE THAT.

12 Q AND HE WAS STAYING WITH YOU GUYS?

13 A HE WAS HANGING OUT IN MY GARAGE, I HAD A LITTLE
14 GARAGE.

15 Q SOME NIGHTS HE WOULD BE THERE?

16 A YES, HERE AND THERE.

17 Q AND SOME NIGHTS HE WOULD BE WITH BOO BOLTON?

18 A I CAN'T SAY WHERE HE WAS.

19 Q WASN'T WITH YOU THOUGH?

20 A RIGHT.

21 Q BUT YOU KNEW HE WAS ON CRACK?

22 A I HAD HEARD A STORY ABOUT THE CRACK. THEY HAVE THEIR
23 DAYS, THEY HAVE THEIR DAYS, IF THEY CAN GET IT THEY GET
24 IT, IF THEY CAN'T, THEY CAN'T.

25 Q BUT MY QUESTION WAS, RIGHT BEFORE THIS HOMICIDE TOOK

1 PLACE YOU KNEW THAT YOUR BROTHER WAS ON A CRACK BINGE, DID
2 YOU NOT?

3 A NO, I CAN'T NECESSARILY SAY THAT.

4 Q AND YOU KNEW HE HAD GOTTEN AN INSURANCE SETTLEMENT A
5 WHILE BACK AND HAD RUN COMPLETELY THROUGH THAT, DIDN'T
6 YOU?

7 A I KNOW HE HAD INSURANCE MONEY, HE GAVE ME \$200.00
8 DOLLARS OF IT.

9 Q BUT HE DIDN'T HAVE ANY LEFT THE DAY THAT CAROL GOT
10 KILLED, DID HE?

11 A I KNOW HE DIDN'T HAVE ANY MONEY ON HIM BECAUSE MY
12 HUSBAND GAVE HIM SOME.

13 Q HE HAD TO GET SOME FROM YOUR HUSBAND THAT MORNING?

14 A YES, THAT IS WHY JAMES GOT UPSET.

15 Q BECAUSE HE WANTED MONEY?

16 A HE WANTED MONEY, YES. JAMES WAS ALREADY MAD BECAUSE
17 HE WAS LATE.

18 Q AND THEN MONEY ON TOP OF IT, IT JUST ADDS INSULT TO
19 INJURY, RIGHT.

20 A IT DIDN'T MATTER, HE ALWAYS ASKED FOR MONEY.

21 Q NOW, FROM THE TIME HE LEFT ASHLEY OR STARR OR
22 WHATEVER YOU WANT TO CALL HER, FROM THE TIME HE LEFT HER
23 HE WAS STAYING OFF AND ON WITH YOU, RIGHT?

24 A HE STAYED FOR ABOUT TWO OR THREE DAYS.

25 Q UP UNTIL THE MORNING OF THE HOMICIDE, THAT MORNING

1 THAT HE WAS LATE, FROM THE TIME HE LEFT ASHLEY STARR
2 COUGAR UNTIL THAT MORNING THAT HE WAS LATE MY QUESTION IS,
3 HE WAS STAYING PRETTY MUCH WITH YOU OFF AND ON?

4 A OFF AND ON, YES.

5 Q AND THEN AFTER HE LEAVES WITH YOUR HUSBAND THAT DAY--

6 A THAT MORNING.

7 Q YOU DON'T SEE HIM ANY MORE FOR A LONG TIME, DO YOU?

8 A NOT NECESSARILY, I WENT LOOKING FOR HIM.

9 Q BUT YOU DIDN'T SEE HIM?

10 A NO.

11 Q HE DIDN'T COME BACK TO WHERE THESE OFFICERS KNEW HE
12 WAS STAYING, DID HE?

13 A THEY DIDN'T KNOW HE WAS STAYING THERE.

14 Q YOU DIDN'T TELL THESE OFFICERS THAT HE WAS STAYING
15 WITH YOU?

16 A I HADN'T TOLD THEM AND THEY DIDN'T ASK MUCH OF ME
17 ANYWAY, THEY SPOKE TO JAMES. I TOLD THEM HE WAS THERE ON
18 AND OFF.

19 Q RIGHT.

20 A BUT SO THEY DIDN'T KNOW BEFOREHAND THAT HE WAS EVEN
21 THERE, I DON'T EVEN KNOW HOW THEY FOUND ME. BECAUSE THEY
22 WERE THERE SHORTLY AFTER WE HEARD IT ON THE NEWS THAT
23 NIGHT.

24 Q BUT YOU TOLD THOSE OFFICERS THAT JOHNNIE HAD BEEN
25 LIVING WITH YOU PRIOR TO THE HOMICIDE?

1 A YES.

2 Q AND AFTER THE HOMICIDE YOUR BROTHER NEVER CAME BACK
3 TO THE ADDRESS WHERE THESE OFFICERS KNEW HE WAS STAYING?

4 A YES, THEY DIDN'T KNOW HE WAS STAYING THERE.

5 Q YOU HAD TOLD THEM THAT, HADN'T YOU?

6 A YES, THAT DAY. THEY DIDN'T KNOW IT BEFOREHAND, DID
7 THEY. DID YA'LL--

8 Q I ASK YOU--

9 A THEY DIDN'T--

10 THE COURT: WAIT, WAIT A MINUTE. OKAY.

11 A I DON'T UNDERSTAND--

12 THE COURT: WAIT A MINUTE, JUST HOLD YOUR HORSES,
13 OKAY. THIS LADY RIGHT HERE HAS GOT TO TAKE DOWN
14 EVERYTHING YOU SAY IN THIS COURTROOM, SHE HAS GOT TO TAKE
15 DOWN THE QUESTION AND ANSWER. WHEN YOU TWO TALK OVER ONE
16 ANOTHER SHE CAN'T TAKE DOWN WHAT EITHER ONE OF YOU ARE
17 SAYING. YOU LISTEN TO THE QUESTION AND THEN MR. RIDDLE IS
18 GOING TO BE QUIET AND THEN YOU ARE GOING TO ANSWER THE
19 QUESTION AND THEN HE CAN ASK YOU ANOTHER QUESTION.

20 Q DID YOU TELL THESE OFFICERS WHEN THEY CAME TO SEE YOU
21 THAT JOHNNIE FRAZIER HAD BEEN STAYING WITH YOU OFF AND ON
22 UP UNTIL THE TIME THAT THIS HOMICIDE OCCURRED?

23 A THAT NIGHT THEY COME BY, YES I DID.

24 Q NOW, AFTER JOHNNIE FRAZIER LEFT WITH YOUR HUSBAND,
25 THAT MORNING HE CAME IN LATE, DRANK THE BEER AND GOT IN

1 THE TRUCK AND LEFT, HE NEVER CAME BACK TO YOUR HOUSE, DID
2 HE?

3 A NO, HE DID NOT.

4 Q THANK YOU, THAT IS ALL I HAVE.

5 THE COURT: REDIRECT?

6 MR. FLOYD: NOTHING FURTHER.

7 THE COURT: YOU CAN STEP DOWN. WE ARE GOING TO BREAK
8 AT THIS TIME, PLEASE GO TO YOUR JURY ROOM AND DON'T
9 DISCUSS THE CASE. EVERYONE ELSE STAY SEATED WHILE THE
10 JURY IS EXCUSED, PLEASE.

11 (WHEREUPON, THE JURY IS EXCUSED FROM OPEN COURT FOR A
12 BREAK.)

13 THE COURT: WE WILL TAKE ABOUT TEN OR FIFTEEN
14 MINUTES.

15 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

16 THE COURT: MR. FLOYD AND THE SOLICITOR CAME IN AND
17 MR. FLOYD, YOU HAVE INDICATED THAT THE DEFENSE HAS RESTED
18 AT THIS TIME, IS THAT RIGHT?

19 MR. FLOYD: THAT IS CORRECT.

20 THE COURT: AND THE STATE INDICATED THAT THEY DO NOT
21 HAVE ANY REBUTTAL, IS THAT CORRECT?

22 MR. RIDDLE: THAT IS CORRECT.

23 THE COURT: I HAVE BEEN ADVISED BY THE CLERK THAT THE
24 LUNCH WILL BE HERE ABOUT 12:30 AND UNLESS THERE IS SOME
25 OBJECTION I AM GOING TO LET THE JURY TAKE A BREAK. I AM

1 NOT GOING TO KEEP THEM IN THE ROOM BACK HERE AND ORDER
2 THEM TO BE BACK AT 12:15 AND THEN THEY CAN EAT. WE WILL
3 GO OVER THE CHARGES, WE WILL START THE ARGUMENTS AT 1:15,
4 1:30. IS THERE ANY OBJECTION TO THAT PROCESS. ANYTHING
5 FROM THE STATE?

6 MR. RIDDLE: NO, SIR.

7 THE COURT: FROM THE DEFENSE?

8 MR. FLOYD: NO, SIR.

9 THE COURT: LET'S BRING THE JURY IN, PLEASE.

10 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
11 APPROXIMATELY 11:30 A.M.)

12 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN, LET
13 ME ADVISE YOU THAT DURING THE BREAK I WAS ADVISED THAT THE
14 DEFENSE RESTED IN THEIR CASE AND THERE WILL BE NO
15 ADDITIONAL EVIDENCE FROM THE STATE. SO, THAT MEANS ALL
16 THE EVIDENCE IN THIS CASE HAS BEEN PRESENTED. AND LET ME
17 TELL YOU WHERE WE ARE, ONCE WE REACH THE END OF THE
18 EVIDENCE THERE IS SOME LEGAL MATTERS THAT I HAVE TO TAKE
19 UP WITH THE ATTORNEYS. I AM GOING TO DO THAT WHILE YOU
20 TAKE YOUR LUNCH BREAK. YOU CAN TAKE YOUR LUNCH BREAK AND
21 COME BACK TO EAT YOUR LUNCH HERE AT 12:15 AND WE WILL LET
22 YOU EAT THEN AND THEN WE WILL CONTINUE WITH THE CLOSING
23 ARGUMENTS. BE BACK IN YOUR JURY ROOM AT 12:15, DON'T
24 DISCUSS THE CASE. YOU ARE EXCUSED AND EVERYONE ELSE STAY
25 SEATED. THANK YOU.

1 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
2 A LUNCH BREAK.)

3 THE COURT: ALL RIGHT, MR. FLOYD, ANY MOTIONS AT THIS
4 TIME?

5 MR. FLOYD: YOUR HONOR, WE WOULD RENEW THE MOTION
6 MADE AT THE CONCLUSION OF THE STATE'S CASE WHERE WE MOVED
7 FOR A DIRECTED VERDICT OF ACQUITTAL. WE WOULD SUGGEST
8 THAT BROUGHT TO THIS MATTER BY THE DEFENSE IN CONJUNCTION
9 WITH THE EVIDENCE PRESENTED BY THE STATE LEAVES, AS A
10 MATTER OF LAW, A REASONABLE DOUBT AS TO THE DEFENDANT'S
11 GUILT AND WE WOULD MOVE FOR A DIRECTED VERDICT.

12 THE COURT: FOR THE SAME REASON STATED PREVIOUSLY
13 WHEN THAT MOTION WAS MADE AT THE CLOSE OF THE STATE'S
14 CASE, THAT MOTION IS DENIED. WE WILL STAND IN RECESS, WE
15 WILL BE BACK AT 1:30. I WILL MEET COUNSEL IN CHAMBERS AND
16 WE WILL TALK ABOUT CHARGES. ANYTHING ELSE WE NEED TO PUT
17 ON THE RECORD.

18 MR. FLOYD: NO, SIR.

19 MR. RIDDLE: NO, SIR.

20 THE COURT: WE WILL STAND IN RECESS UNTIL 1:30.

21 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

22 THE COURT: IS THE STATE READY?

23 MR. RIDDLE: YES, YOUR HONOR.

24 THE COURT: THE DEFENSE?

25 MR. FLOYD: YES, YOUR HONOR.

1 THE COURT: BRING THE JURY IN, PLEASE.

2 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
3 APPROXIMATELY 1:35 P.M.)

4 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN, WE
5 HAVE EVERYONE BACK. YOU ARE NOW GOING TO HEAR THE CLOSING
6 ARGUMENTS OF THE ATTORNEYS. THE STATE WILL MAKE THE FIRST
7 ARGUMENT TO YOU ON THE LAW AND THEN THE DEFENSE ATTORNEY
8 WILL MAKE HIS ARGUMENT. AND THEN THE STATE WILL HAVE THE
9 RIGHT TO MAKE THE FINAL ARGUMENT. I NEED TO POINT OUT ONE
10 THING TO YOU AND THAT IS THAT I AM SURE THAT THE ATTORNEYS
11 IN MAKING THEIR ARGUMENTS TO YOU ARE GOING TO GO OVER AND
12 REVIEW WITH YOU THEIR RECOLLECTION OF WHAT THE TESTIMONY
13 HAS BEEN, THEY HAVE A RIGHT TO DO THAT. I WOULD SIMPLY
14 POINT OUT THAT IF YOUR MEMORY DIFFERS WITH THEIRS YOU RELY
15 ON YOUR MEMORY. YOU ARE THE JUDGES OF THE FACT. AFTER
16 YOU HEAR FROM BOTH ATTORNEYS THEN I WILL INSTRUCT YOU OR
17 CHARGE YOU WITH THE LAW THAT APPLIES TO THIS CASE AND THEN
18 YOU WILL BE SENT BACK TO DELIBERATE AND TO REACH A VERDICT
19 IN THE CASE. I WILL ASK YOU TO GIVE BOTH OR ALL OF THE
20 ATTORNEYS YOUR FULL ATTENTION WHILE THEY ARE MAKING THEIR
21 CLOSING ARGUMENTS TO YOU. MR. RIDDLE.

22 MR. RIDDLE: THANK YOU, YOUR HONOR. IT IS ABOUT
23 TWENTY UNTIL 2:00 ON THURSDAY, YA'LL HAVE BEEN IN THIS
24 JURY BOX OFF AND ON SINCE MONDAY MORNING. AND I HAVE
25 WATCHED YOU, THAT IS MY JOB, THAT IS WHAT I DO. I AM

1 DAYTON RIDDLE AND I AM THE DEPUTY SOLICITOR FOR LEXINGTON,
2 I TRY CASES AND I TRY CRIMINAL CASES FOR LEXINGTON COUNTY.
3 I HAVE BEEN WITH YA'LL SINCE MONDAY MORNING ON THE STATE
4 VERSUS JOHNNIE FRAZIER. I HAVE WATCHED YOU GUYS AND YA'LL
5 HAVE LISTENED AND VERY ATTENTIVE, PAID VERY CLOSE
6 ATTENTION TO WHAT WAS GOING ON. AND THAT IS WHAT YOU DO,
7 YA'LL TOOK AN OATH AT THE VERY BEGINNING WHEN THE CLERK
8 TOLD YA'LL TO RAISE YOUR RIGHT HAND, YOU STOOD UP, I DON'T
9 KNOW IF YOU REMEMBER WHAT SHE SAID, I WANT TO TELL YOU A
10 LITTLE BIT ABOUT WHAT SHE SAID. THE OATH HAS TWO PARTS TO
11 IT, YOU SHALL WELL AND TRULY TRY, THAT IS THE FIRST PART,
12 WELL AND TRULY TRY. AND THAT IS WHAT YOU HAVE DONE,
13 LISTENED AND YOU HAVE FULFILLED THE FIRST PART OF YOUR
14 OATH THAT YOU TOOK. AND THE SECOND PART OF THAT OATH IS
15 TRULY DELIVERANCE IN A VERDICT MADE AND THAT IS WHAT WE
16 ARE GOING TO ASK YOU TO DO. AFTER I SPEAK AND MR. FLOYD
17 DOES AND THEN I GET TO GO AGAIN, AFTER WE DO THAT THE
18 JUDGE IS GOING TO TELL YOU WHAT THE LAW IS. IN THIS PART
19 I GET TO TALK ABOUT THE LAW A LITTLE BIT BUT I WILL TELL
20 YOU THIS, IF I SAY SOMETHING DIFFERENT THAN WHAT THAT MAN
21 RIGHT THERE SAYS I AM WRONG, HE IS RIGHT. SO, YOU ARE
22 GOING TO GO BACK AND YA'LL WILL HANDLE THE SECOND PART OF
23 YOUR OATH. AND THE STATE OF SOUTH CAROLINA THANKS YOU FOR
24 THAT, THAT IS IMPORTANT. THIS SYSTEM DOESN'T WORK WITHOUT
25 THE JURY, IT DOESN'T WORK WITHOUT YA'LL. BECAUSE AS HE

1 TOLD YOU, HE IS THE JUDGE OF THE LAW, YA'LL ARE THE JUDGES
2 OF THE FACTS. YOU HAVE TO TAKE THE LAW AS IT IS CHARGED
3 TO YOU, WE ARE, EVERYONE IN THIS COURTROOM TAKES THE LAW
4 AS IT IS. THAT IS A GREAT SYSTEM. NOW, DURING THIS PART
5 I GET TO TALK TO YOU ABOUT THE LAW AND I KIND OF LIKE TO
6 BREAK IT DOWN INTO PARTS AND WHAT I CALL THE GENERAL LAW
7 AND THEN THE SPECIFIC LAW. AND THE GENERAL LAW IS THE LAW
8 THAT APPLIES IN ANY KIND OF CRIMINAL CASE, IT COULD BE A
9 SHOPLIFTING, IT COULD BE A RAPE CASE, IT COULD BE MURDER,
10 ARMED ROBBERY LIKE THIS ONE. BUT THESE PRINCIPLES APPLY
11 NO MATTER WHAT, I WANT TO TALK JUST BRIEFLY ABOUT THE
12 GENERAL PRINCIPLES. THE FIRST THREE ALL REALLY KIND OF GO
13 TOGETHER. THE FIRST ONE IS THE STATE HAS THE BURDEN OF
14 PROOF, THAT IS WHY WE WENT FIRST WITH OUR EVIDENCE, THAT
15 IS WHY I ARGUE LAST WITH YOU. WE HAVE THE BURDEN OF PROOF
16 IN THIS CASE, WE ACCEPT THAT, WE SHOULD. THE SECOND SIDE
17 OF THAT SAME TRIANGLE IS CALLED THE PRESUMPTION OF
18 INNOCENCE. WELL, WE JUST TALKED ABOUT THAT, YOU DON'T
19 HAVE TO PROVE THAT YOU ARE INNOCENT, YOU ARE PRESUMED
20 INNOCENT AND THE STATE HAS THE BURDEN OF PROVING YOU
21 GUILTY. AND THE THIRD IS WHAT IS KNOWN AS THE STANDARD OF
22 PROOF, BEYOND A REASONABLE DOUBT. NOW, WHAT IS A
23 REASONABLE DOUBT. AND THE JUDGE IS GOING TO CHARGE AND I
24 URGE YOU TO PAY ATTENTION TO THAT WHEN HE IS CHARGING IT,
25 HE IS GOING TO TELL YOU THAT A REASONABLE DOUBT IS THE

1 KIND OF DOUBT THAT GIVES YOU A HESITATION TO ACT, A STRONG
2 DOUBT, A SUBSTANTIAL DOUBT. BECAUSE NOTHING CAN
3 ABSOLUTELY BE PROVED IN A COURT OF LAW BEYOND ANY DOUBT.
4 BUT THAT IS NOT THE BURDEN OF PROOF, THE BURDEN OF PROOF
5 IS BEYOND A REASONABLE DOUBT. YOU MIGHT DOUBT THAT IF YOU
6 WENT DOWN TO MYRTLE BEACH THE OCEAN WATER WOULD BE SALTY.
7 AND YOU COULD DOUBT THAT, I WOULD SUBMIT THAT IT IS NOT A
8 REASONABLE DOUBT. YOU MIGHT DOUBT THAT THE SUN IS GOING
9 TO COME OUT TOMORROW, I WOULD SUBMIT TO YOU THAT THAT IS A
10 DOUBT BUT IT IS NOT A REASONABLE DOUBT. SO, THOSE ARE THE
11 FIRST THREE ITEMS THAT I WANTED TO TALK TO YOU ABOUT IN
12 THE GENERAL LAW. THE LAST ONE DEALS PRECISELY WITH WHAT
13 YOUR JOB IS, JUDGES OF THE FACTS, JUDGES OF THE FACTS.
14 AND YA'LL HAVE HEARD A NUMBER OF PEOPLE COME UP TO THIS
15 WITNESS STAND, SIT DOWN, TAKE AN OATH AND SWEAR TO TELL
16 THE TRUTH. AND YA'LL KNOW THAT NOT EVERY WORD FROM EVERY
17 WITNESS WHO TESTIFIED ON THAT WITNESS STAND IS THE TRUTH.
18 AND I WILL SUBMIT THIS TO YOU, EVERY SINGLE WORD WAS
19 EVIDENCE. AND IT ALL KIND OF GOES INTO A SPONGE AND THE
20 TWELVE OF YA'LL AS JUDGES OF THE FACTS ARE GOING TO
21 SQUEEZE THE TRUTH OUT OF THAT SPONGE, THAT IS YOUR JOB,
22 SQUEEZE THE TRUTH OUT OF IT. YOU HEARD A LOT OF EVIDENCE
23 BUT IT ISN'T TRUTH TO ALL OF THAT EVIDENCE. NOW, HOW YOU
24 JUDGE WHETHER IT IS TRUE OR NOT, YOU HAVE TO JUDGE THE
25 CREDIBILITY OR THE BELIEVABILITY OF THE WITNESSES. AND I

1 SUBMIT TO YOU THAT IS NOTHING MORE THAN USING YOUR GOOD
2 COMMON SENSE. THAT IS WHY WE GET TWELVE INSTEAD OF JUST
3 ONE. BECAUSE I CAN PROMISE YOU THIS, THERE IS NOT ONE
4 PERSON THAT EXIST IN THIS WORLD THAT IS SMARTER, OR HAS
5 MORE INSIGHT, MORE ABILITY THAN THE TWELVE OF YA'LL
6 TOGETHER. YA'LL HAVE GOT TWELVE SETS OF EYES, TWELVE SETS
7 OF EARS, TWELVE SETS OF LIFE EXPERIENCE AND TWELVE SETS OF
8 BACKGROUNDS, TWELVE SETS OF COMMON SENSE. AND PLEASE,
9 LADIES AND GENTLEMEN, DON'T CHECK YOUR COMMON SENSE AT THE
10 DOOR. USE ALL OF THOSE THINGS YOU USE WHEN MAKING AN
11 IMPORTANT DECISION, COULD THEY HAVE SEEN WHAT THEY SAID
12 THEY SAW, DID THEY HAVE ENOUGH OPPORTUNITY, DID THEY HAVE
13 A REASON TO LIE, DID THEY HAVE SOMETHING TO GAIN OR LOSE.
14 ALL OF THOSE THINGS YOU NEED TO THINK ABOUT WHEN DECIDING
15 WHETHER TO DO SOMETHING WITH YOUR PERSONAL LIVES, PLEASE
16 DON'T CHECK THAT, DON'T CHECK THAT AT THE JURY ROOM DOOR.
17 BECAUSE THAT IS WHY WE PICK TWELVE OF YOU, THAT IS WHY WE
18 MEET ALL TOGETHER BECAUSE THERE AIN'T A SINGLE PERSON THAT
19 EXIST IN THIS WORLD THAT IS SMARTER THAN THE TWELVE OF
20 YA'LL TOGETHER OR MORE CAPABLE OF ARRIVING AT THE TRUTH.
21 AND WHEN YOU HAVE SQUEEZED THE TRUTH OUT OF THAT SPONGE
22 WHAT THE JUDGE IS GOING TO TELL YOU TO DO IS APPLY THE
23 FACTS TO THE LAW THAT HE GIVES TO YOU AND HE IS GOING TO
24 TELL YOU WHAT THE LAW IS. THE WORD, VERDICT, COMES FROM
25 THE LATIN, THE VERDICT COMES FROM TWO WORDS, DICT LIKE

1 DICTAPHONE, DICTOGRAPH, IT MEANS TO SPEAK. AND FROM THE
2 WORD, VERUS, LIKE VERIFY THE TRUTH. SO WHAT IS A VERDICT,
3 TO SPEAK THE TRUTH, YOU ARE GOING TO SQUEEZE THAT SPONGE
4 AND GET THE TRUTH AND THE EVIDENCE COMES OUT. NOW, WHAT
5 IS THE SPECIFIC LAW IN THIS CASE. I AM GOING TO BE PRETTY
6 BRIEF ABOUT THAT, THERE IS FOUR CHARGES. MURDER, THE
7 KILLING OF ANOTHER INDIVIDUAL WITH MALICE AFORETHOUGHT.
8 WHAT IS MALICE, WICKEDNESS. HOW DO YOU ARRIVE AT MALICE,
9 WELL THERE IS TWO WAYS. YOU CAN HAVE EXPRESSED MALICE OR
10 IMPLIED OR INFERRED MALICE. WHAT IS EXPRESSED MALICE,
11 EXPRESSED MALICE IS I AM GOING TO KILL HIM, I HAVE
12 EXPRESSED MY MALICE. WHAT IS INFERRED MALICE, WHETHER YOU
13 JUDGE WHETHER OR NOT THERE IS MALICE, THE JUDGE IS GOING
14 TO TELL YOU IN THIS CHARGE THAT YOU CAN INFER MALICE
15 SIMPLY FROM THE USE OF A DEADLY WEAPON. YOU CAN INFER
16 MALICE FROM THE CIRCUMSTANCES OF HOW THIS KILLING TOOK
17 PLACE. YOU CAN INFER MALICE FROM THE, ALL THE
18 CIRCUMSTANCES, THE STEALING OF THE CAR, YOU CAN INFER
19 MALICE THAT WAY. IT IS ALSO GOING TO TELL YOU THAT MALICE
20 HAS TO BE AFORETHOUGHT, SOMETHING THAT IS A PREMEDITATION.
21 BUT IT IS NOT LIKE YOU GOT TO THINK ABOUT IN ADVANCE.
22 WHAT THE JUDGE IS GOING TO TELL YOU IS THAT MALICE HAS TO
23 EXIST IMMEDIATELY BEFORE AND AT THE TIME THE FATAL BLOW IS
24 ADMINISTERED. THAT IS ALL, AFORETHOUGHT, IMMEDIATELY
25 BEFORE AND AT THE TIME OF THE FATAL BLOW. SO, THAT IS

1 MURDER. THE NEXT ONE IS ARMED ROBBERY, WELL THERE IS A
2 COUPLE OF ELEMENTS TO THAT. ONE OF THEM IS LARCENY, THAT
3 IS STEALING. THEN YOU HAVE ROBBERY, THAT IS LARCENY PLUS
4 STEALING FROM THE PRESENCE OF ANOTHER. SO, LET'S SAY I
5 WAS TO WALK OVER AND STEAL THAT COFFEE PITCHER THAT IS
6 SITTING ON THE CLERK'S DESK, THAT WOULD BE A LARCENY. IF
7 I WAS TO WALK OVER THERE AND SNATCH IT OUT OF THE CLERK'S
8 HAND THAT WOULD BE A ROBBERY, BECAUSE I WOULD BE STEALING
9 IT FROM THE PRESENCE OF ANOTHER. AND WHAT IS AN ARMED
10 ROBBERY, JUST WHAT IT SAYS, IT IS A ROBBERY THAT INVOLVES
11 THE USE OF A WEAPON. AND THAT IS WHAT THE JUDGE IS GOING
12 TO TELL YOU THAT THE ELEMENTS OF ROBBERY IS, BURGLARY,
13 ENTERING A DWELLING HOUSE OF ANOTHER, THE PLACE WHERE THEY
14 LIVE WITH THE INTENT TO COMMIT A CRIME THEREIN. NOW, THE
15 ENTRY CAN BE THROUGH FORCE, IT CAN BE THROUGH A TRICK, IT
16 CAN EVEN BE REFUSING TO LEAVE WHEN YOU ARE ASKED TO DO SO.
17 AND WHILE YOU ARE IN THAT DWELLING HOUSE AND YOU HAVE AN
18 INTENT TO COMMIT A CRIME, ENTERING A DWELLING HOUSE WITH
19 THE INTENT TO COMMIT A CRIME. IN THIS CASE THE STATE
20 ALLEGES THAT IS LARCENY. WE ALSO ALLEGE THAT THE CRIME
21 THAT WAS INTENDED TO BE COMMITTED WAS MURDER. MR. FRAZIER
22 WENT TO CAROL HURSEY'S FOR MONEY, AND WHILE HE WAS IN THAT
23 DWELLING HOUSE WITH THE INTENT TO COMMIT A CRIME HE WAS
24 ARMED WITH A DEADLY WEAPON. THOSE ARE THE ELEMENTS OF
25 MURDER. THE LAST CHARGE IS A CHARGE CALLED POSSESSION OF

1 A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME. I
2 WANT TO TELL YOU THIS, MURDER IS DEFINED AS A VIOLENT
3 CRIME, ARMED ROBBERY IS DEFINED AS A VIOLENT CRIME,
4 BURGLARY IN THE FRIST DEGREE IS DEFINED AS A VIOLENT
5 CRIME. SO, YOU WILL DECIDE THOSE THREE CHARGES FIRST AND
6 IF YOU FIND HIM NOT GUILTY OF THOSE THREE THEN BY
7 THEMSELVES HE WILL NOT BE GUILTY OF THE FORTH. BUT IF YOU
8 FIND HIM GUILTY OF ANY ONE OF THOSE FIRST THREE AND YOU
9 FIND THAT HE POSSESSED A GUN DURING THAT VIOLENT CRIME
10 THAT WOULD BE THE ELEMENTS. SO, I SUBMIT TO YOU THAT THE
11 LAST CHARGE THAT YOU WILL CONSIDER AND THE JUDGE WILL TELL
12 YOU THAT YOU HAVE TO CONSIDER EACH ONE SEPARATELY BUT THE
13 LAST ONE YOU SHOULD CONSIDER IS THE POSSESSION OF A
14 FIREARM CHARGE BECAUSE YOUR VERDICT ON THAT CHARGE DEPENDS
15 ON WHAT YOUR VERDICT IS ON THE FIRST ONE. THOSE ARE THE
16 ELEMENTS, THAT IS THE SPECIFIC LAW IN THIS CASE. IF I
17 SAID ANYTHING DIFFERENT ABOUT WHAT THE LAW IS THAN WHAT
18 YOU HEAR FROM HIM IN A FEW MINUTES PLEASE DISREGARD WHAT I
19 AM SAYING BECAUSE YOUR OATH REQUIRES YOU TO TAKE THE LAW.
20 I AM GOING TO SIT DOWN NOW, MR. FLOYD IS GOING TO HAVE A
21 CHANCE TO GET UP AND HE IS GOING TO GET TO ARGUE ABOUT THE
22 FACTS IN THIS CASE AS HE SEES THEM AND HOW HE SEES HOW IT
23 APPLIES TO HIS CLIENT. AND THEN I WILL GET TO COME BACK
24 AND MAKE THE LAST ARGUMENT TO YOU BECAUSE WE HAVE THE
25 BURDEN OF PROOF. AND AT THAT TIME I WILL ADDRESS THE

1 EVIDENCE AND THE TESTIMONY THAT YOU HAVE HEARD IN THIS
2 CASE AND TELL YOU WHY I BELIEVE THE STATE HAS MET THE
3 BURDEN. THANK YOU.

4 THE COURT: MR. FLOYD.

5 MR. FLOYD: THANK YOU, YOUR HONOR. MR. FOREMAN AND
6 LADIES AND GENTLEMEN OF THE JURY, ON BEHALF OF JOHNNIE
7 FRAZIER I WANT TO THANK YOU FOR THE ATTENTION THAT YOU
8 HAVE SHOWN IN THIS MATTER. IT IS THE MOST IMPORTANT DAY
9 IN THE LIFE OF JOHNNIE FRAZIER BECAUSE YOU ARE GOING TO
10 DECIDE TODAY, WHETHER BASED UPON THE EVIDENCE THAT YOU
11 HAVE HEARD IN THIS COURTROOM THIS WEEK WHETHER OR NOT
12 JOHNNIE FRAZIER SHOULD 'BE GRANTED A MURDER. A MURDER IS A
13 CRIME IN OUR SOCIETY. NOW, I AM GOING TO REPEAT SOMETHING
14 TO YOU, SOMETHING THAT I TOLD YOU WHEN THIS CASE FIRST
15 STARTED. IT IS NOT THAT I THINK YOU FORGOT IT BECAUSE I
16 KNOW YOU HAVE BEEN LISTENING BUT IT IS BECAUSE IT IS SO
17 IMPORTANT BECAUSE IT IS WHAT YOU, THE JURY, HAVE TO
18 DECIDE. REMEMBER THIS, JOHNNIE FRAZIER COMES BEFORE YOU
19 WITH WHAT WE CALL THE PRESUMPTION OF INNOCENCE. SO, WHEN
20 YOU LOOK AT JOHNNIE FRAZIER YOU MUST SAY IN YOUR MIND AND
21 YOUR HEART THAT JOHNNIE FRAZIER IS INNOCENT. AND JOHNNIE
22 FRAZIER REMAINS INNOCENT UNLESS THE STATE PROVES HIS GUILT
23 TO EACH ONE OF YOUR SATISFACTIONS BEYOND A REASONABLE
24 DOUBT. WHAT DO I MEAN BY THAT. IF YOU COULD SOMEHOW TAKE
25 ALL THE EVIDENCE THAT YOU HEARD IN THIS CASE, AND PUT IT

1 ALL TOGETHER AND YOU WOULD HESITATE THEN IT IS YOUR DUTY
2 TO FIND JOHNNIE FRAZIER NOT GUILTY, EVEN IF OTHER EVIDENCE
3 IN THE CASE MAKES YOU SUSPICIOUS OF THE GUILT. YOU LISTEN
4 TO WHAT THE JUDGE SAYS ABOUT REASONABLE DOUBT, REASONABLE
5 DOUBT IS THAT DOUBT THAT WOULD CAUSE A REASONABLE PERSON
6 TO HESITATE TO ACT, THAT DOUBT WOULD CAUSE A REASONABLE
7 PERSON TO HESITATE TO ACT. SO, WHEN YOU GO ON WHETHER OR
8 NOT JOHNNIE FRAZIER IS TO BE FOUND GUILTY OR NOT GUILTY,
9 YOU ARE NOT VOTING ON WHETHER OR NOT YOU THINK HE DID IT,
10 WHAT YOU ARE VOTING ON IS DOES THE EVIDENCE THAT I HAVE
11 HEARD IN THIS COURTROOM PROVE HIS GUILT BEYOND A
12 REASONABLE DOUBT. NOW, LET'S TALK ABOUT SOME OF THE
13 EVIDENCE YOU HEARD. WHAT DO WE HAVE, WHAT DID YOU HEAR.
14 WELL, I AM GOING TO TALK TO YOU ABOUT THE STATE'S CASE.
15 WE KNOW THAT CAROL HURSEY WAS FOUND DEAD IN HER BEDROOM ON
16 AUGUST THE 14TH OF 2003. WE KNOW THAT THE POLICE
17 QUESTIONED MR. HURSEY AND HE GAVE THEM, WELL WHO DO YOU
18 KNOW. HE NAMED THREE OR FOUR GUYS, HE NAMED SEVERAL
19 WOMEN, AND WE KNOW THE NEXT DAY ONE OF THOSE PEOPLES NAME
20 THAT USED TO LIVE THERE HAD LEFT. THEN THE POLICE TALKED
21 WITH, A GIRLFRIEND AND HER BRAIN DAMAGED SON, THEY FOCUSED
22 ON JOHNNIE FRAZIER. AND WE KNOW AUGUST THE 15HT, THE NEXT
23 DAY, JOHNNIE FRAZIER IS ALL THROUGH THE GASTON COMMUNITY
24 AS A PERSON OF INTEREST IN THE MURDER OF CAROL HURSEY. ON
25 THAT DAY PEOPLE PUSHED TO ACCUSE JOHNNIE FRAZIER OF THAT