

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Chester County

R. Knox McMahon, Circuit Court Judge

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S.C. SUPREME COURT

CASEY RAYMOND PERKINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-000279

APPENDIX

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TESTIMONY OF MELISSA SKIPPER

1 Q From your conclusion, which is no conclusion, what
2 are you telling us about whether that's Casey Perkins or
3 not Casey Perkins?

4 A I can't tell you it is, I can't tell you it isn't.

5 THE COURT: Your Honor, at this time I offer Sled item
6 33, the latent lift, as a state's exhibit.

7 MR. DUNN: No objection.

8 THE COURT: All right. Thank you, motion is granted.

9 (The latent report was received as State's 35.)

10 Q Ms. Skipper, for your purposes as the professional,
11 where should we put the evidence sticker? On the open
12 white space there?

13 A Right there.

14 MR. BARFIELD: Thank you, ma'am. Answer anything
15 Mr. Dunn has, please.

16 THE COURT: Mr. Dunn?

17 MR. DUNN: Thank you, Your Honor. May it please the
18 Court?

19 CROSS EXAMINATION

20 BY MR. DUNN:

21 Q Just so that I'm clear, Ms. Skipper, you took the
22 cards that are in front of you, you actually took those
23 palm prints and fingerprints on November 13th of 2008 this
24 year, correct?

25 A Yes, I did.

TESTIMONY OF MELISSA SKIPPER

1 Q As far as you know the incident date was August 27th
2 of 2005 -- August 26th of 2005?

3 A That's correct.

4 Q Which is three years ago; is that correct?

5 A That's correct.

6 Q I'm going to hand to you what has been marked as
7 Exhibit Number 35. Does it tell you -- just looking at
8 that card, does it tell you who lifted it?

9 A Stewart?

10 Q Just so that we're clear, you're telling this jury --
11 let me say it this way, you can't tell this jury with any
12 degree of scientific reliability that the prints on this
13 card match the prints on the cards in front of you,
14 correct?

15 A That's correct.

16 MR. DUNN: No further questions, Your Honor.

17 MR. BARFIELD: Nothing else from the witness and ask
18 that she be excused.

19 THE COURT: Ms. Skipper, you may be excused. I think
20 it's time for a lunch break. Let me speak to the jury just
21 a minute, though. You remember the other day, ladies and
22 gentlemen, I asked you not to discuss the case or, of
23 course I have asked you that several times, not to let
24 anybody discuss the case with you and I asked you not to
25 read any newspaper articles or watch any television footage

TESTIMONY OF MELISSA SKIPPER

1 that may concern this trial. It has come to my attention
2 that since we began the trial there may have been one or
3 more of those such things out there. I would caution you
4 once again about doing that and ask if anyone has -- any
5 member of the jury panel has watched a television I guess
6 program for lack of a better word, or news footage,
7 television news footage or read any newspaper articles
8 concerning this trial, and that if you have I would ask you
9 to raise your right hand. Now, remember there are real
10 goods reasons for this. Just because let's say a newspaper
11 man so to speak might decide to write an article and put
12 something in a newspaper doesn't mean several things. It
13 doesn't mean, number one, it's true. Number two, it
14 doesn't mean it's admissible in court. So for all of those
15 reasons I'm going to ask you once again to be very careful
16 about that kind of thing. I really don't believe any of
17 you would be influenced by something that you saw or heard
18 outside of court because you all know that all you can
19 really consider is what you hear here, what you see here
20 and what happens in this courtroom. But the parties to
21 this; the State, the victim's family and the defendant,
22 once again, at the end of the day would -- one side or the
23 other would be very unhappy if they were to learn that
24 y'all had been -- you, y'all, one or more, had been
25 watching television programs about this event or reading

TESTIMONY OF MELISSA SKIPPER

1 articles in the newspaper or listening to the radio
2 programs. So I ask you once again to be very careful about
3 that and not to do it. I have a hearing scheduled at
4 2:00 that I think is only going to take about 15 minutes so
5 I'm going to ask you to be back in your jury room at about
6 2:15. Thank you so much.

7 (The jury left the courtroom.)

8 THE COURT: Anything from the defendant concerning
9 that conversation I just had?

10 MR. DUNN: No, that's fine, I just -- I don't think
11 anybody did, I just -- I wanted to make sure. I just
12 wanted to let them know at least we know if something does
13 happen just to come see us.

14 THE COURT: Anything else?

15 MR. BARFIELD: No, sir.

16 (A lunch recess was taken.)

17 THE COURT: Solicitor, is the State ready for the
18 jury?

19 MR. BARFIELD: I am, Your Honor.

20 THE COURT: Is the defense ready for the jury?

21 MR. DUNN: I am, Your Honor.

22 THE COURT: Bring in the jury.

23 (The jury returned to the courtroom.)

24 THE COURT: Welcome back once again, ladies and
25 gentlemen. And again, I believe we are ready to continue

TESTIMONY OF PATTY RUFF

1 receiving evidence from the State. Solicitor?

2 MR. BARFIELD: State calls Patty Ruff.

3 The witness, PATTY RUFF, was first duly sworn and
4 testified as follows, on:

5 DIRECT EXAMINATION

6 BY MR. BARFIELD:

7 Q Ms. Ruff, by whom are you employed?

8 A I'm employed by the South Carolina Law Enforcement
9 Division.

10 Q In what division or department of the State Law
11 Enforcement Division are you currently employed in?

12 A I am currently employed in the intelligence
13 department which is also known as the fusion center as a
14 criminal intelligence analyst.

15 Q How long have you been employed by Sled?

16 A Approximately 26 years.

17 Q Continuous employment?

18 A Yes, sir.

19 Q Prior to moving to the fusion side, what department
20 of Sled did you work in?

21 A I worked in the forensics building as an evidence
22 technician in the evidence processing department.

23 Q And generally speaking when you were working in the
24 evidence processing department, generally what was your
25 responsibility? What did you do?

TESTIMONY OF PATTY RUFF

1 A Evidence was submitted to our department and we were
2 responsible for doing presumptive testing for body fluids
3 and we collected hairs and fibers.

4 Q Did you do the final analysis of those items if you
5 found them among evidence submitted to Sled?

6 A No, sir.

7 Q Did you pass them along to another department within
8 Sled as indicated by whatever the evidence might be?

9 A Yes, sir, I would.

10 Q Have you been called upon prior to now to testify as
11 an expert witness in evidence processing in conjunction
12 with your employment at Sled?

13 A Yes, sir, I have.

14 Q Have you got any idea of how many times you have been
15 put on the witness stand and qualified as an expert in
16 evidence processing in this state?

17 A I have qualified approximately 60 times and been
18 qualified as an expert probably 50 percent.

19 Q Is there any reason on those 50 percent times that
20 you weren't qualified as an expert? Well, let me ask the
21 question a different way, has anybody tried to qualify you
22 as an expert in evidence processing and the judge denied
23 it?

24 A No, sir.

25 Q That 50 percent that you were not qualified, was it

TESTIMONY OF PATTY RUFF

1 not requested?

2 A Yes, sir, that's correct.

3 Q Okay. Did you receive training to process evidence?

4 A Yes, sir, I did.

5 Q Where did you get your training?

6 A A lot of it was actually trained by a DNA analyst who
7 was qualified as an expert witness and was also trained in
8 evidence processing. Originally the evidence processing
9 was done by the DNA analyst and now technicians actually
10 do the processing. I was just going to say, I attended
11 numerous workshops and seminars and even went to the FBI
12 crime lab in Washington, D.C. and observed there.

13 Q All right.

14 MR. BARFIELD: Your Honor, at this time I would offer
15 Ms. Ruff as an expert in evidence processing.

16 MR. DUNN: No objection, Your Honor.

17 THE COURT: Motion is granted.

18 Q Did you get called upon to process evidence in a case
19 which is identified by Sled lab number as L05-09885?

20 A Yes, sir, I did.

21 Q And does that -- do you have your paperwork -- your
22 file for what you did on this case with you today?

23 A Yes, sir, I do.

24 Q Does that file indicate a date of incident?

25 A Of the incident date?

TESTIMONY OF PATTY RUFF

1 Q The date of the incident.

2 A Yes, sir.

3 Q And what is the date?

4 A On the first sheet I have it says August 27th of
5 2005.

6 Q Does it indicate somebody delineated as victim by a
7 V?

8 A Yes, sir.

9 Q Who is the victim?

10 A Judith Hinson.

11 Q Does it indicate a defendant or subject identified by
12 an S?

13 A Yes, sir.

14 Q Who is that?

15 A That's Casey Perkins.

16 Q Did you process multiple items of evidence?

17 A Yes, sir, I did.

18 Q And did you prepare a report which indicates what you
19 processed and what your findings were through that
20 processing?

21 A Yes, sir, I did.

22 Q Do you have a copy of that report in front of you?

23 A Yes, sir.

24 Q As tedious as it might seem we're going to go through
25 that, at least some of it if that's okay with you.

TESTIMONY OF PATTY RUFF

1 A That's fine.

2 Q Did you process an item that you listed as 23 -- or
3 did Sled -- let me ask this question first of all. When
4 something -- is there a department at Sled that is
5 responsible for receipt of evidence from local law
6 enforcement agencies?

7 A Yes, sir. It's called the evidence log-in
8 department.

9 Q And when an item is brought to the evidence
10 processing department, is it given an item number?

11 A Yes, sir.

12 Q Does that number follow that item through all work
13 done on the item by agents at Sled in the labs?

14 A Yes, sir. If it's ever changed it's noted.

15 Q Okay. Did you process an item listed as number 23?

16 A Yes, sir, I did.

17 Q And what was that item?

18 A A pair of blue jeans.

19 Q Okay. And did you find anything on it that you
20 passed on along the chain?

21 A Yes, sir, possible fibers and hairs.

22 Q Was there anything else on that item?

23 A No, sir. I tested it to see if there was any
24 possible semen on the item and it tested negative.

25 Q Okay. Now, generally speaking did you test or

TESTIMONY OF PATTY RUFF

1 process items number 24 through 29?

2 A Yes, sir, I did test.

3 Q And generally speaking without listing each one of
4 them, what kind of stuff was 24 through 29?

5 A Also processed them for hairs and fibers and body
6 fluids. And I did find hair for possible fibers on item
7 24, the fitted sheet. Is that what you want me to do?

8 Q Yes, ma'am.

9 A Okay. On the pillow sham I did not find any hair and
10 there was no blood detected and no apparently seminal
11 stains present.

12 Q What is semen first of all?

13 A That's the male body fluid.

14 Q It comes out of a man's penis?

15 A Yes, sir.

16 Q What is seminal -- what would a seminal stain be?

17 A It's the same thing.

18 Q Go ahead, continue.

19 A Item 26 was a pillow sham, there was no hair found
20 and no apparent seminal stains present. The pillow case,
21 which is item 27, there was no hair found and no semen
22 detected. In item 28 it was a comforter and sock where
23 there was no hair found or no semen detected. On item 29
24 was a floral comforter, there was no hair found or semen
25 detected.

TESTIMONY OF PATTY RUFF

1 Q Now, what was item 30?

2 A Item 30 was a piece of carpet from the bedroom.

3 Q Was anything found on that item?

4 A That was an item that was -- I was asked to look for
5 possible semen on that. It was a lot of blood on that
6 carpet so I did a test for that, but no semen was detected
7 on that.

8 Q Item 35, what was that?

9 A It was a pair of tennis shoes.

10 Q Anything found?

11 A No hair found and no blood detected.

12 Q Item 36?

13 A It was a sole from the tennis shoe with green trim,
14 there was no hair found and no blood detected.

15 Q Item 37.

16 A Thirty-seven was a pair of green pants and it was

17 also processed for hairs and fibers and the potential
18 evidence was sent to the DNA department, and no blood
19 detected.

20 Q Let me ask you a question, when you say potential
21 evidence was sent to the DNA department -- and actually I
22 think your report says all potential hair evidence
23 collected was preserved, do you actually determine whether
24 it's hair?

25 A No, sir, I do not.

TESTIMONY OF PATTY RUFF

1 Q Okay.

2 A It just means it's a possibility. It could be a
3 fiber, it could be a hair.

4 Q Item 38, what was it?

5 A Black jeans and it was processed for hair and the
6 evidence was preserved and sent to the department and no
7 apparent blood stains present.

8 Q Item 39?

9 A It's a pair of blue jeans. This item was also
10 processed for hair or fibers and sent to the department
11 and no blood was detected.

12 Q Item 40.

13 A Item 40 is a sink drain pipe. I made a note that the
14 item was sent to the DNA department, it means that I did
15 not look at it.

16 Q Item 41.

17 A I have it labeled as a shirt and it was an item that
18 was processed for hair and all potential evidence was
19 collected and preserved and sent to the department and no
20 blood detected.

21 Q Forty-two?

22 A It was a pair of athletic shoes. I don't have that
23 on this report. There was no hair detected and no stains
24 detected on the shoes.

25 Q Forty-three.

TESTIMONY OF PATTY RUFF

1 A It's a pair of black jeans and there was possible
2 hair collected and no cuttings made from that.

3 Q Let me back you up just a minute, you just said
4 cuttings. If for example you have an item that comes to
5 you for evidence processing and you find presumptively
6 something on it, is there -- before you pass it along is
7 there anything ever done with it in your department?

8 A Yes, sir. If I see a stain that appears to be blood
9 I will do a presumptive test on it and if it has a color
10 reaction to it, if it comes up positive and turns a
11 certain color which it happens to be a fuchsia color, I
12 will take a sample of that area and send it to the DNA
13 department for further testing. And depending on what
14 type of item it was, for instance if it was a hard
15 surface, whether it be wood or leather or anything that
16 was hard, I would collect it with a swab. Or if it was a
17 fabric cloth, any kind of texture that possibly I could
18 cut I would just cut it with scissors and send a cutting.
19 So it's a possibility of a cutting or a swab that I
20 usually send to the DNA department.

21 Q Item 46, what was it?

22 A It was a blue short sleeved shirt.

23 Q Now, before you tell me about the shirt, do you have
24 any more description in your file about that shirt?

25 A Yes, sir. I made a note that there was a strong odor

TESTIMONY OF PATTY RUFF

1 of possible flammable substance.

2 Q Other than that odor of flammable substance, can you
3 further describe the shirt itself?

4 A It's a button down shirt with a Mercedes Benz logo
5 and name patch bearing Casey, and the brand was red cap,
6 it was size medium.

7 Q I'm going to show you State's Exhibit Number 1, and
8 you don't have to handle it unless you just want to. But
9 is there any way you can look at that and tell me if you
10 have ever seen that shirt before?

11 A Yes, sir, I have. That is my initials on the back.

12 Q And is this the shirt you referred to on your report
13 as item 46?

14 A Yes, sir.

15 Q And you said in your report samples collected and
16 sent to DNA for blood identification.

17 A Yes, sir.

18 Q What does that mean about your presumptive test on
19 this shirt?

20 A That means it was positive for my testing, which is
21 presumptive test.

22 Q For blood?

23 A Yes, sir. It means it's a possibility that it is
24 blood. It doesn't mean for sure, it's just a possibility.

25 Q Holes in this shirt, how did they get there?

TESTIMONY OF PATTY RUFF

1 A I made those. Those are cuttings that I made and
2 sent to the DNA department.

3 Q Item 47, what was it?

4 A It was a pair of blue jeans. And once again, they
5 were very soiled, I made a comment, and there was a very
6 strong odor of possibly flammable substance.

7 Q I'm showing you State's Exhibit number 32. Again,
8 handle it or ask me to take it out and handle it so that
9 you can see whether you can identify that.

10 A I can recognize that that's my handwriting right
11 there.

12 Q Okay. Is this what you identify in your report as
13 item 47?

14 A Yes, sir.

15 Q I'm showing you what appears to be the butt of these
16 britches and the back pocket which appear to have patches
17 cut out.

18 A Yes, sir.

19 Q Do you recall -- well, did you do a presumptive test
20 for anything on these jeans?

21 A No, sir. Those cuttings were made by Alex Layton in
22 my presence, and those were sent to him for testing for
23 flammables.

24 Q Now, explain to me -- well, did you make any sensory
25 observations about these jeans when you processed them?

TESTIMONY OF PATTY RUFF

1 A Are you talking about the odor?

2 Q Uh-huh.

3 A Yes, sir. I did recognize that there was a flammable
4 odor and I made a note in my work sheet.

5 Q And why did Alex Layton come down to you to make the
6 cuttings on the jeans?

7 A Because he is an expert in testing flammables.

8 Q Item 48, what is it?

9 A It's the sole from the bottom of the outside of a
10 shoe and it's white and green.

11 Q I'm showing you State's Exhibit number 29. Do you
12 recognize that?

13 A Yes, sir. That is my initials.

14 Q Is that item 48 on your report?

15 A Yes, sir, it is.

16 Q And what did you do with it?

17 A I collected one swab from the bottom of the shoe but
18 it was a very weak sample.

19 Q And passed it on?

20 A Yes, sir, I did.

21 Q That's it, isn't it?

22 A Yes, sir, it is.

23 Q That's the end of the line. All right. I'm handing
24 you what appears to be a six page document. Would you
25 take a look at that and tell me if you recognize it?

TESTIMONY OF PATTY RUFF

1 A This is my report that I issued.

2 Q Is that the report that you and I have been
3 discussing as you went through each of these items?

4 A Yes, sir, it is.

5 Q This is a copy of it?

6 A Yes, sir, it is.

7 Q Is it an accurate copy of it?

8 A Yes, sir, it is.

9 MR. BARFIELD: Your Honor, at this time I would offer
10 Ms. Ruff's report as the next state's exhibit.

11 MR. DUNN: No objection.

12 THE COURT: Motion granted.

13 (The Ruff report was received as State's 36.)

14 MR. BARFIELD: Thank you, ma'am. Answering anything
15 Mr. Dunn has.

16 MR. DUNN: May it please the Court, Your Honor?

17 THE COURT: Yes, sir.

18 MR. BARFIELD: Let me do one more things. Beg the
19 Court's indulgence.

20 Q I've got a series of little manila envelopes in my
21 hand. Take them in your hand for a minute. Flip through
22 them and tell me if you know what they are.

23 A These are the cuttings that I made from item 46, the
24 shirt.

25 Q All right. Thank you, ma'am. And I presume -- I'm

TESTIMONY OF PATTY RUFF

1 not going to ask you to look at all of them but I'm going
2 to open them up so you can see it. Is there anything in
3 that one?

4 A Yes, sir, there's a cutting in there.

5 Q Okay. Let me ask you again about 47 real quick. In
6 addition to -- I'm referring to 47, the blue jeans, you
7 indicated that Agent Layton came down and took some
8 cuttings from the blue jeans for flammables; is that
9 correct?

10 A That's correct.

11 Q Did you take some additional cuttings?

12 A Yes, sir, I did.

13 Q I'm handing you two envelopes and ask you if you can
14 identify them and what is in them?

15 A These are the two cuttings that I made and they are
16 cuttings from the blue jeans, item 47.

17 Q And these cuttings were made by you to be sent where
18 for analysis of what suspected substance?

19 A To the DNA department for possible blood.

20 Q Okay. And then finally 48.1, that envelope, can you
21 tell me what that was?

22 A Yes, sir. This is a swab from the sole of the green
23 and white sole of the possible blood sent to the DNA
24 department.

25 MR. BARFIELD: Thank you, ma'am. I don't have any

TESTIMONY OF PATTY RUFF

1 further questions. Please answer anything Mr. Dunn has.

2 THE COURT: Mr. Dunn?

3 MR. DUNN: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. DUNN:

6 Q 48.1 is a sole, correct?

7 A Yes, sir.

8 Q And it says on it it is 48.1, that's your writing,
9 isn't it?

10 A Yes, sir.

11 Q You said you took a swab?

12 A Yes, sir.

13 Q Where did you take the swab from?

14 A It should be in the area where I put 48.1.

15 Q I'm just going to hand this to you so you can look at
16 it.

17 A It's the whole area, the whole -- I swabbed the whole
18 shoe, from this direction to that direction so it is
19 anywhere on the bottom of this shoe.

20 Q I'm a layman. You took a cotton swab or something
21 and just sort of went down the --

22 A If there's not an obvious blood stain or anything
23 like that lots of times there will be a possible sample of
24 blood in the grooves so we'll just swab the shoe not
25 necessarily knowing exactly what area of the bottom of the

TESTIMONY OF PATTY RUFF

1 shoe other than it's from the bottom of the shoe, we'll do
2 the whole area.

3 Q You didn't do a presumptive test on this, did you?

4 A Yes, sir, I did.

5 Q Did you put phenolphthalein on this?

6 A No, I don't put phenolphthalein on that. What I do
7 is rub it with a -- well, first of all I get a swab and
8 put a drop of saline on the swab, then I rub the swab
9 usually two side by side, rub the swab on the bottom of
10 that area and test one of the swabs with phenolphthalein.
11 If it reacts it will turn a fuchsia color pink. Then I
12 will save the other sample that I took and that goes to
13 the DNA department. We test a certain area with the
14 phenolphthalein, we don't actually send that exact area.

15 Q Well, I guess my question was did you test this at
16 all for -- did you test it for blood or just take a swab

17 to see if there was DNA?

18 A I tested it for blood and sent a sample to DNA for
19 further testing.

20 Q In the testing that you did, did it come back
21 positive?

22 A It was a weak positive.

23 Q I don't think we talked about these shoes, Exhibit
24 Number 27. We may not have talked -- you may not have
25 done it, that's why I'm going to ask you. There's a lot

TESTIMONY OF PATTY RUFF

1 writing on it, is that your writing or is that somebody
2 else's writing?

3 A That is my writing. Those are areas that I tested
4 that were negative.

5 Q Okay. And all of these places have got -- it looks
6 like equal sign but I have since been told that's the way
7 of saying no, negative, correct?

8 A Right.

9 Q And next to all of that have you got the word or
10 letters phen phenal, that's phenolphthalein, correct?

11 A That's correct.

12 Q That let's you know and then know, those are the
13 sites that you tested --

14 A Right.

15 Q -- to see if there was any blood, correct?

16 A That's correct.

17 Q And all of your results on the two pairs -- on the
18 two shoes came back negative for blood, correct?

19 A That's correct.

20 Q Okay. All right. And the testing that you did --
21 when you tested the pants and the shirt, if you got an
22 indication of blood all you did was take a cutting off and
23 send it to someone else to test; is that correct?

24 A That's correct.

25 Q So the actual DNA results, you don't know those

TESTIMONY OF PATTY RUFF

1 because you didn't do the DNA results.

2 A That is correct.

3 Q You're just testing to see if what you have there is
4 blood or not.

5 A Yes.

6 Q And when we're looking at these shirts if we see an
7 equal sign and it's circled that means that that area is
8 tested and it came back negative, correct?

9 A Yes, sir.

10 Q And if we see a plus sign and it is circled that's
11 the area that was tested and it came back positive,
12 correct?

13 A Probably not a plus sign beside it, probably has a
14 sub-item.

15 Q A sub-item?

16 A Yeah. It won't have a number identified to it, for
17 example that --

18 Q I'm going to bring you the shirt.

19 MR. DUNN: If I may approach again, Your Honor?

20 THE COURT: Sure.

21 Q Basically where we have 46.8 here in the corner of
22 the shirt, that was probably positive, is that what you
23 are saying?

24 A Yes, sir. This is item 46, so if I make a cutting
25 off of it each cutting is given a sub-item. For example

TESTIMONY OF PATTY RUFF

1 46.1, two, three, four, five, six and this happens to be
2 46.8.

3 Q So you don't have to say positive or negative, the
4 fact that there's a hole says you got something to cut
5 away.

6 A Right.

7 Q Okay. You tested items from -- let me ask you this:
8 When you get the items, the shirts, the sheets, the shams,
9 the different pillow cases, are you told where they come
10 from or are you just given an item and told where to look
11 at it?

12 A Sometimes I am told where it's from and sometimes I
13 am not told where it's from. Each item is usually
14 isolated and containerized in a sealed container.

15 Q If I can direct your attention to your report. Item
16 24 is a fitted sheet, correct?

17 A Correct.

18 Q Were you told where that came from? Do you remember?

19 A No, sir.

20 Q Twenty-five is a pillow sham, do you remember where
21 that came from?

22 A No, sir.

23 Q Twenty-six is a pillow sham, do you remember where
24 that came from?

25 A No, sir.

TESTIMONY OF PATTY RUFF

1 Q Twenty-seven is a pillow case, do you remember where
2 that came from?

3 A No, sir.

4 Q All right. Twenty-eight is a comforter and a sock,
5 do you remember where that came from?

6 A No, sir.

7 Q And then twenty-nine is a floral comforter, do you
8 remember where that came from?

9 A No, sir.

10 Q But out of all of the items you did test, you didn't
11 find semen on any of the items, correct?

12 A No, sir, I did not.

13 Q And if you got hair you collected the hair and --
14 you've already said that you got some hair, but you
15 collected that and sent that to somebody else to test as
16 well, correct?

17 A That is correct.

18 MR. DUNN: Beg the Court's indulgence one second, Your
19 Honor.

20 THE COURT: Certainly.

21 (Break in proceedings.)

22 MR. DUNN: I don't have any further questions, Your
23 Honor.

24 THE COURT: Solicitor?

25 MR. BARFIELD: Nothing in redirect and I would ask

TESTIMONY OF ROBIN TAYLOR

1 that she be excused but I know that she can't leave until
2 the next witness is completed.

3 THE COURT: You may step down and you are excused from
4 your subject.

5 MR. BARFIELD: Call Robin Taylor.

6 The witness, ROBIN TAYLOR, was first duly sworn and
7 testified as follows, on:

8 DIRECT EXAMINATION

9 BY MR. BARFIELD:

10 Q Mrs. Taylor, by whom are you employed?

11 A I, too, am employed by Sled, the South Carolina Law
12 Enforcement Division.

13 Q How long have you worked at Sled?

14 A March will be 19 years.

15 Q What department of Sled do you currently work in?

16 A I work in the forensic DNA analysis department.

17 Q How long have you been in the forensic DNA analysis
18 department?

19 A All 19 years. Well, I started out actually in
20 serology but they were actually one department, and so
21 same department the whole 19 years.

22 Q All right. Now, we have trouble in this courtroom
23 hearing people and I know that you have been sick, so --

24 A Yes.

25 Q -- try to holler out to me.

TESTIMONY OF ROBIN TAYLOR

1 A Okay.

2 Q Where did you go to college?

3 A I have a bachelor of science degree in medical
4 technology from the University of South Carolina.

5 Q Have you received postgraduate -- do you have a
6 postgraduate degree?

7 A No, I do not.

8 Q Okay. Have you received specialized training in the
9 area within which you currently work at Sled and have for
10 some years?

11 A I have. I have received training from court
12 qualified analysts in both all forensic serology analysis,
13 forensic RFLP DNA analysis, and forensic PCR DNA analysis.
14 I'm also required to attend training annually to stay
15 abreast of new technologies in that department, and most
16 recently I was promoted and I am now actually supervisor
17 over the DNA laboratory.

18 Q How long have you been supervisor over the DNA lab at
19 Sled?

20 A That took affect September 2nd.

21 Q Of this year?

22 A Of this year.

23 Q Now, have you been called upon during your career
24 with Sled to testify in the courts of this state and
25 offered up as an expert witness in DNA analysis?

TESTIMONY OF ROBIN TAYLOR

1 A Yes. I have actually been qualified in DNA at least
2 50 times in this state.

3 Q Have you ever been offered up as an expert in DNA
4 analysis and been denied qualification as an expert? Has
5 any judge ever said, "You don't know enough," and not let
6 you testify?

7 A No, that's never happened.

8 Q All right. This is the school part of this
9 testimony. If you would, first of all, tell us what DNA
10 is?

11 A DNA stands for deoxyribonucleic acid, but that is not
12 the part that is that important. What's important is it
13 conveys genetic information from one generation to the
14 next. You get half of your DNA from your mom and half of
15 your DNA from your dad. We, in forensics, do not test all
16 of someone's DNA when we do that test. Actually, most

17 human DNA is alike from person to person, it makes us
18 human, it gives us two arms, a nose, two eyes, hair color,
19 et-cetera, et-cetera. Those are not the types of DNA that
20 we actually test. We test parts of the DNA that are
21 highly variable from one person to the next, and it's
22 actually a pretty small portion, but again, it's highly
23 variable from one person to the next.

24 Q Where in our bodies do we have DNA?

25 A You have DNA in the nucleated cells of your body in

TESTIMONY OF ROBIN TAYLOR

1 the nucleus, that's the type of DNA that I test. And, for
2 instance, in your blood, you don't have DNA in your red
3 blood cells, your DNA is in your white blood cells. A red
4 blood cell doesn't have a nucleus, the white does. You
5 have DNA in your skin cells, spermatozoa have DNA. We can
6 find DNA from saliva, hair roots contain DNA sometimes if
7 they are forcibly removed. There are various sources
8 throughout the body for the nuclear DNA that we test.

9 Q When you are testing an item -- let me just ask you
10 this, generally speaking, do any two humans on the face of
11 the earth have identical DNA profiles?

12 A Yes, they do. Identical twins would have the same
13 profile.

14 Q Is that the only way that two people could have
15 identical DNA profiles?

16 A That would be correct.

17 Q Now, I use the term DNA profile. Tell the jury what
18 a DNA profile is.

19 A Basically a DNA profile at this point in time
20 consists of 15 different locations, we call them loci, but
21 it's locations on the chromosomes that we look at. And
22 generally what I end up looking at is peaks, and it's
23 difficult to explain without something to look at. But I
24 take a known standard from people involved in a crime and
25 unknown evidence that is part of the crime, I run DNA on

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1 both of these and make a comparison looking at these
2 profiles all of the way across the profile.

3 Q Now, when you -- how do you develop the profile in
4 general terms? What -- do you use a machine? How do you
5 develop -- well, I'm going to ask you a two-part question
6 so that you can explain it all at once. How do you
7 develop a profile and is there something ultimately that
8 you look at, some hard copy of something that shows you
9 what the profile is? That is the question.

10 A Very generally speaking, for instance, a cutting, as
11 Ms. Ruff would have referred to earlier, I would take a
12 small portion of a stain from an item of clothing or a
13 portion of a swab and expose it to different chemicals and
14 what I want to do is pull that DNA off of there. Then the
15 next step is simply to purify it, clean it up and get it
16 ready for amplification. And the amplification step is

17 simply a step where I take a very small amount of DNA and
18 copy it over and over and over, and yes, there's a machine
19 that does that for me, and it's about a three hour process
20 to do just that. But it just makes copies of that DNA so
21 that I have the appropriate amount to enter into the final
22 machine, and then that DNA is just run through that
23 machine and separated by size and it gives me the raw
24 data. I apply that raw data, apply a computer program to
25 that raw data and it makes comparisons with what we call a

TESTIMONY OF ROBIN TAYLOR

1 ladder that contains most of the best known parts that I
2 would find in a profile. Like I said, it's somewhat
3 difficult to explain. But, yes, I do end up with first a
4 computer screen and then I print it, a piece of paper
5 where I'm looking at a known standard profile from a known
6 person who I know who this belongs to and then I'm looking
7 at another piece of paper that's an unknown profile. And
8 I'm very simply at each of the 15 locations that we test
9 making a comparison to see if it's a match or not a match
10 and I present those findings in a written report and when
11 required here in court.

12 Q When you're looking at what you have printed off from
13 the computer, is it like a EKG graph or what is it? Have
14 you got one in your file there?

15 A I do.

16 Q Just a representative sample of what you're talking
17 about that's the printout of a DNA profile?

18 A This is one example of one. And this is a good
19 representation, it is actually not our most recent but it
20 still basically looks quite the same. As you can see it's
21 just a sheet of paper -- I'm sorry, bear with me.

22 Q And you don't have anywhere to put stuff, that's my
23 fault, I'm sorry.

24 A Each one of these sets of peaks is a different
25 location that I'm looking at. This is actually an unknown

TESTIMONY OF ROBIN TAYLOR

1 item, this was not a known standard, but I can tell very
2 easily that it only came from one person because I have no
3 more than two peaks at any one of these locations.
4 Whoever this came from, one of these peaks came from mom,
5 the other one came from dad. Now, where you see only a
6 single peak and you'll see that in a couple of places,
7 several place on this profile, that means that mom and dad
8 both gave them the same peak, that same number. Okay.
9 That's not an uncommon instance, this is a very normal
10 looking profile to me, there's nothing about it that
11 raises any kind of questions. You will see here is a
12 location where the peaks are called -- and you can't see
13 it from there -- but they're called X and Y, that's where
14 I can tell the sex of the donor of this DNA. This is a
15 male donor. A female would only have one peak because
16 both of the female -- the female would only show a X.

17 Q Now, does that -- that is the profile of one DNA
18 sample, is that what you're telling us?
19 A This is one DNA sample that was extracted off of
20 whatever it was deposited on, and like I said, amplified
21 and put through another final machine. And these
22 numbers -- this 1518 is what -- if you ever saw a DNA
23 report that is what is reported on a chart. The number
24 below it refers to the height of that peak and that is
25 information that I need to know in assessing a profile but

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1 it's not probative to making the identification
2 necessarily.

3 Q Does that profile include the 15 areas that you look
4 at? Are there 15 separate areas on that profile?

5 A To be honest this is just a portion of one. In 2005
6 when this was run we ran actually two kits that made up 13
7 locations. Okay. And I guess I misspoke just a little
8 bit, right now when I run something now I run one kit that
9 has all 15 locations on it. It's just -- the technology
10 is the same, the way it gets me the profile is the same,
11 it's just a step up, a step forward in our technology in
12 that now we do actually two more locations and we only
13 have to do one kit to get a whole of all 15 of them. What
14 you are seeing here is actually a partial profile, it's
15 not all 13 locations as you can easily see. At the time
16 these were called profiler cofiler, that was the name of
17 the kits, and this is a profile portion of a profile.

18 Q Assume that's an unknown DNA profile, assume that you
19 have a known DNA profile and under today's technology you
20 have basically one piece of paper for the unknown and one
21 for the known. Do you compare the two pieces of paper to
22 see what they look like, is that part of how you do your
23 comparison?

24 A Yes. That's the very first step is looking at this
25 and then looking at my known -- what I would term a known

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1 standard and just comparing it, that's the first step.
2 And sometimes it's more complicated than the single
3 source, sometimes there are mixtures, sometimes it's very
4 low level DNA and that definitely is a complicating
5 factor. You know, this is a dream profile in DNA if I can
6 say so. That's an easy inconclusion or exclusion when I
7 am making a comparison to a known standard. But this is
8 the first step, looking at this profile and looking at the
9 known standard and deciding if they match.

10 Q Now, when you work with materials that have come to
11 you in the lab, are there times when you simply do not
12 have a enough of a profile to do anything with?

13 A Very much so. And, in fact, that's not an uncommon
14 instance at all. If I get only one or two of these peaks
15 and it is very low level, that's not enough for me to make
16 any kind of interpretation on because any one of these is

17 common. It's the profile itself as a whole that
18 determines the strength of the match. But, yes, there's
19 very often times where I would offer no interpretation
20 because there's not enough information.

21 Q Now, when you prepare a report and you're able to
22 make a match in narrative form on your report, how do you
23 describe the match? Does that question make any sense to
24 you?

25 A Yes. We would simply say that the DNA profile

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1 developed from a particular item, whatever the item is in
2 question matches this person. And then we attach -- most
3 of the time, not always, it's always necessary, but then
4 we attach a statistic. Then at that point what we have
5 done is put the information into a program that will
6 figure the rarity or the probability of that profile
7 occurring in another individual, and that's a statistic.

8 MR. BARFIELD: Your Honor, at this time I would offer
9 Ms. Taylor as an expert witness in DNA -- is it
10 identification or analysis?

11 THE WITNESS: DNA analysis.

12 MR. DUNN: No objection.

13 THE COURT: Motion is granted.

14 Q Did you work on a case identified by Sled lab numbers
15 L05-09885?

16 A Yes, I did.

17 Q Is that the same case that Ms. Ruff previously
18 testified about?

19 A Yes, it is.

20 Q Did you prepare a report?

21 A Yes, I did.

22 Q Did you prepare two reports actually?

23 A Yes, I did.

24 Q Do you have both of those reports with you?

25 A I do.

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1 Q And do you have in front of you pretty much your
2 complete file concerning your work on this case?

3 A I do.

4 Q I'm going to ask you about some specific things and
5 perhaps not everything that you worked with. But I'm
6 going to first refer to your first report, which I believe
7 was dated January 13th of 2006.

8 A That's correct.

9 Q Now, what is your item one on that report?

10 A Item one is a known blood standard from Judith
11 Hinson.

12 Q And did you analyze that standard to see if you could
13 develop a DNA -- let me back up. Do you know where that
14 blood standard would have come from specifically in this
15 case?

16 A Other than the fact that it was identified to me as
17 coming from Judith Hinson, that's all I know.

18 Q You don't know where or when it was collected?

19 A Not -- I have no personal knowledge of that, no.

20 Q That's fine. Were you able to develop a DNA profile
21 from the blood standard of Judith Hinson?

22 A Yes, I was.

23 Q Now, did you receive into your custody items that you
24 attempted to develop a DNA profile from to compare to the
25 blood standards from Judith Hinson?

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1 A Yes, I did.

2 Q I'm going to specifically refer to your items 18, 29
3 (sic) and 20, and I'm going to ask you a couple of
4 questions about that.

5 A Okay.

6 Q Eighteen was what? Let me interrupt you a minute.
7 I'm going to hand you an envelope which appears to be a
8 sealed envelope. Would you examine that and tell me if
9 you can identify the envelope and the smaller envelopes
10 within it and any writing that's on those items?

11 A This is what I would call a heat sealed pouch. This
12 is how I receive probably 99 percent of my evidence. The
13 reason it's a good way to receive it is I can easily tell
14 if any evidence has been tampered with. You have to cut
15 it open and then you seal it with a heat sealer and you
16 write your initials and the date across it. It is

17 identified with the labels that we used at Sled at that
18 time and the case number and all this is a return
19 sticker -- or return stamp letting the people down at
20 evidence know that I'm done with this evidence and they
21 can send it back. It has appropriate identifying
22 signatures and things on it. Inside, the best I can see
23 are there are some cuttings in here, they have the case
24 number on them, L059885, this one is item number 20 and it
25 says, "Swab from master bedroom sink."

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1 Q Do you mind if I open the envelope?

2 A Not at all.

3 Q Do you mind taking the smaller envelopes out so that
4 we can talk about them a little further? What have you
5 got in your hands now, Ms. Taylor?

6 A Okay. In order, this is item number 18. It has
7 identifying information on it as the case number L059885
8 and it is identified as a swab from the master bedroom
9 chest.

10 Q Does it tell you who took that swab?

11 A You know what? It says S. C. and if I am not
12 mistaken that might be Steven Curtis who worked crime
13 scenes at the time.

14 Q Thank you, ma'am.

15 A Item number 19 is also identified as L059885, swab
16 from exterior side of house beneath office window. And it

17 also has an S. C. on both the seal and next to the item
18 number. Item number 20 is L059885, swab from master
19 bedroom sink, also initialed by Agent Curtis.

20 Q Did you examine 18, 19 and 20 to determine if you
21 could determine a DNA profile from those items?

22 A I did.

23 Q Did you successfully develop a DNA profile from each
24 of those items?

25 A I did. On item 18 I developed a DNA profile that

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1 matched the DNA profile of Judith Hinson, and the
2 probability of selecting an unrelated individual having a
3 DNA profile matching that same sample is one in 54
4 trillion.

5 Q All right. Stop right there. That's the swab from
6 the chest in the master bedroom?

7 A I'm sorry, I misspoke, that's item number 20. And
8 the reason I came to that one first is on the results I'm
9 going to address a full profile first and that item gave
10 me a full profile, and then after that I addressed items
11 18 and 19 as partial profiles, and all I said about those
12 is that they also matched the DNA profile of Judith
13 Hinson. It wasn't quite as much information but there was
14 enough there for me to say, yes, it's still her.

15 Q Now, in a nutshell 18, 19 and 20 are blood samples
16 from this crime scene. What are you telling this jury

17 about whose blood that is?

18 A I am telling you that it is my opinion that that
19 blood is the blood of Judith Hinson.

20 Q Okay. Did you have occasion to process items 46.1
21 through 46.8?

22 A I did.

23 Q How did you identify those items in your file?

24 A The same. 46.1 through 46.8 are indicated in my file
25 as being cuttings from blue work shirt.

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1 Q And I'm showing you -- I'm showing you a blue work
2 shirt which is State's Exhibit Number 1 in this case. Can
3 you look at this and tell me if this is item 46?

4 A No, I can't. I never saw that item of evidence. All
5 I saw was cuttings from that evidence so I cannot identify
6 that shirt.

7 Q Never saw it?

8 A I never saw it.

9 Q Do you attach any significance to any of the blue
10 writing on this shirt? If you can't, that's fine.

11 A It is familiar to me, I have worked with Patty quite
12 a few years. Her writing is familiar and I see that she
13 marked it, as she should, as the item number and her
14 initials on the shirt, that's how we do that. But the
15 item itself I never saw.

16 Q That's fine. Is the number on the shirt consistent
17 with this being item 46 from which your cuttings came?

18 A Yes.

19 Q Okay. Did you -- when you first came into contact
20 with the cuttings from this shirt, not from a standpoint
21 of science or anything, but did you make any observations
22 about the cuttings from this shirt with your senses?

23 A I don't recall, and actually did not make note of any
24 actual observations along those lines. And again, like I
25 said, I don't recall from three years ago.

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1 Q That's fine. Now, with respect to items 46.1 through
2 46.8, the cuttings from the shirt, did you determine the
3 presence of any blood on any of those cuttings?

4 A Several of the cuttings -- and again, initially in my
5 testing I'm going to try to identify a body fluid and
6 basically what I did was repeat some of the same testing
7 that Patty had already done simply because I don't report
8 her results, I report my results. So I retest. It's very
9 quick and not a difficult thing to do, and on several of
10 the cuttings including 46.1, two, three, four, 46.6 and
11 seven I did get the presence of blood was indicated, and
12 that's as strong a statement as I can make about that.

13 Q Once you determined the presence of blood on those
14 numbered cuttings, did you attempt to develop a DNA
15 profile from what you determined to be blood on those
16 cuttings?

17 A I did.

18 Q Were you able to?

19 A Bear with me one moment.

20 Q Yes, ma'am.

21 A I did not detect -- there was no DNA detected or
22 insufficient DNA detected on items 46.1, two, three, four
23 and I did proceed with 46.6 and 46.7. 46.8 was no blood
24 indicated, and 46.5 was no blood indicated and I did not
25 carry those forward for DNA analysis. But in summary I

TESTIMONY OF ROBIN TAYLOR

1 did not -- was not able to extract DNA or enough DNA to
2 get a profile from any of these items.

3 Q Are you able to tell us -- well, let me back up. Are
4 there things or events or substances that can -- I'm going
5 to say degrade a sample and affect the DNA that you might
6 be able to find in a sample?

7 A Most certainly. DNA does not last forever and there
8 are certainly environmental insults that would very surely
9 effect any results. And, in fact, I do recall about this
10 case being surprised, it's somewhat unusual to have a
11 visible blood stain and not get a result. And upon a
12 further investigation, and it is part of my case file to
13 look at Patty Ruff's -- Ms. Ruff's results and where she
14 noted the strong odor of possibly flammables immediately I
15 knew I had an explanation for -- or a potential
16 ~~explanation -- there's no way to be positive, but most~~

17 certainly flammable liquids or even fumes would be enough
18 to interfere with my ability to get a DNA profile.

19 Q Is gasoline a flammable?

20 A Definitely.

21 Q Is gasoline the kind of a flammable that could -- do
22 you use the word degrade, what is the proper word?

23 A Degrade would be appropriate.

24 Q Would gasoline degrade a DNA sample if subjected to
25 that sample?

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1 A It would. I have actually had a number of cases
2 throughout my career where this was an issue and I have
3 basically gotten the same result each time.

4 Q All right. I'm going to move on to item 47. Before
5 we move on let me ask you this: I'm going to hand you
6 seven little envelopes. Can you identify what they are
7 and what is in them?

8 A These are all eight of the cuttings made from the
9 shirt by Patty Ruff. They're identified with the case
10 number on the front and the item -- the parent item number
11 being 46 and the appropriate number for the sub-item that
12 she created. And she -- as a practice our evidence
13 processing department will indicate what they believe the
14 body fluid is that we're looking for and the type of
15 sample, is it swabs or is it a cutting, and on the back
16 ~~they'll tape it shut and do their initials and the date.~~

17 You won't find my initials on these because I initial the
18 outside pouch that they presented to me and they came
19 inside one of these plastic pouches. But I can assure you
20 I'm the one that broke these seals and put the cutting
21 back into the envelope.

22 Q Are these the cuttings that you actually worked on
23 from the shirt?

24 A They are.

25 Q If we could move on to item 47, please, ma'am. What

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1 do you identify in your report as item 47?

2 A Blue jeans from Casey Perkins, and my sub-items
3 simply are noted as cutting from blue jeans.

4 Q What are your sub-item numbers?

5 A 47.3 and four.

6 Q I'm handing you two more envelopes. Can you identify
7 these envelopes and contents?

8 A These are again labeled with the appropriate case
9 number, L059885, parent item number 47 three and four, and
10 blood and cuttings. They are cuttings from the jeans that
11 I examined and attempted DNA analysis on.

12 Q Were you able to -- same question as with the shirt,
13 did you make any sensory observations that you recall
14 about the cuttings from the blue jeans that we are fixin'
15 to talk about, 47 three and four.

16 A Once again I don't recall anything and did not make
17 note.

18 Q All right. Did you determine the presence of blood
19 in the cuttings from the blue jeans, items 47 three and
20 four?

21 A I did indicate that blood was indicated by my testing
22 and attempted to do DNA analysis on those jeans.

23 Q Were you successful in developing a DNA profile from
24 the cuttings from the blue jeans?

25 A Once again, and again surprisingly no. I was unable

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1 to extract any DNA from these blue jeans.

2 Q And you said surprisingly, with respect to the jeans
3 for the same reason you said it for the shirt?

4 A For the very same reason, that it's very rare. If I
5 can visualize a blood stain it doesn't take much to get a
6 DNA profile. If I can visualize a blood stain most of the
7 time unless there is some outside problem that I can't
8 anticipate I'm going to get a profile.

9 Q Same question as with the shirt, would the
10 introduction of gasoline or some similar flammable degrade
11 the DNA sample which you perhaps could have listed from or
12 developed from a blood sample?

13 A Yes, it would.

14 Q If you would, we're going to go through your
15 January 26th report with respect to other things briefly.

16 And I'm just going to go through down the list and you

17 tell me when you are ready. Item two generally was what?

18 A Swabs from the autopsy of Judith Hinson.

19 Q And you have 2.1 and 2.2, what were they
20 specifically?

21 A Item 2.1 was vaginal swabs and item 2.2 was rectal
22 swabs.

23 Q Was there anything identified in those swabs that led
24 you to develop a DNA profile?

25 A No. No semen was identified, that was what was

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1 indicated to me to test for. No semen was identified and
2 I didn't carry it forward for any further testing.

3 Q Item three was what?

4 A Fingernail clippings from Judith Hinson.

5 Q Is that broken down further in your analysis.

6 A Yes, it is. They were separated into right and left
7 fingernail clippings and analysis.

8 Q Let me ask you this: Are you familiar with how crime
9 scene folks or perhaps a forensic pathologist would
10 collect fingernail clippings?

11 A Somewhat, I worked crime scenes for ten years.

12 Q Do they clip all of the fingers on the right hand and
13 put it all in one container and all of the fingernails on
14 the left and put it in one container, or do you have one
15 container for each finger for each hand?

16 A That will vary, sometimes it's all of one container
17 from one hand. I have never seen them from both hands put
18 together, but I have seen clippings from all five fingers
19 put together and I have seen them separated, it all
20 depends on that person's inclination.

21 Q In this particular case, do you recall whether all
22 rights were in one container and all lefts were in
23 another?

24 A I don't. But the way they were tested indicates to
25 me that they probably were all packaged together, or for

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1 some reason I had no reason to believe it wouldn't be okay
2 to test them all together. I want to give myself the best
3 chance possible of getting a profile and that is a quantum
4 issue with fingernail clippings, so I probably tested them
5 together.

6 Q Was the stuff you were working with separated by
7 right and left hand?

8 A Yes, they were.

9 Q Did you get anything from the fingernail clippings
10 from the right hand that you could do anything with?

11 A From the right hand?

12 Q Yes, ma'am.

13 A Yes, I did. But the DNA profile was insufficient for
14 me to accord any interpretation to it at all.

15 Q How about the left hand?

16 A The left hand I did not get any DNA from in order to
17 even attempt a profile.

18 Q Now, initially when you worked this case, did you
19 receive from Ms. Ruff's department potential hair
20 evidence?

21 A I'm not sure. There's been some transition into --
22 as to the way hair evidence is handled now, it most
23 certainly all would come to me. At that point in time it
24 may have come directly to me, I honestly don't recall.
25 There's been a changeover, it might have gone to trace

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1 department, but I'm not sure at that time how the hair
2 evidence was handled. It very well may have come to me
3 initially.

4 Q Does your January 13th of '06 report address
5 potential hair evidence from various locations?

6 A Actually, yes, it does, It would have come to me.
7 And at that time I did not perform any analysis on the
8 hair evidence.

9 Q Okay. That's fine, we're going to come back to that
10 shortly. Item 48 on your report is what?

11 A Item 48 is -- I actually only listed item 48.1 as a
12 swab from the sole of the shoes of Casey Perkins.

13 Q Okay. And I'm showing you State's Exhibit Number 29,
14 you don't need to handle it. But do you see anything on
15 there that identifies this sole of the shoe with what you
16 work a swab from?

17 A Yes. It says actually 48.1 and the arrows are
18 indicating where 48.1, I would assume where it was
19 collected.

20 Q Did you find any blood from the swabs that was taken
21 off of State's Exhibit 29?

22 A I didn't, my testing was negative.

23 Q Okay. Is this a copy of your initial report -- your
24 January 13, 2006 report in this case?

25 A Yes, it is. My signature is affixed and all six

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1 pages are present.

2 Q Before I go to the next step, let me show you one
3 little more envelope. Can you tell me what this is?

4 A This is the swab from the sole of a shoe, item 48.1.

5 MR. BARFIELD: Your Honor, at this time I would offer
6 the January 13, 2006 report as the next states exhibit.

7 MR. DUNN: I think I will make the same argument I
8 made last time, whether it's cumulative and she has already
9 testified to it. But if the Court is inclined to enter the
10 report then maybe her most recent report should be the one
11 they should have to put into evidence would be more suited.
12 I realize that's not what he is trying to do but she does
13 have a more recent report.

14 MR. BARFIELD: Let me ask her a few more questions and
15 if the Court wants me to explore it further and I will come
16 back to it.

17 THE COURT: All right.

18 Q Are you okay?

19 A Yes.

20 Q I'm going to jump way ahead. Much later in this case
21 did you get a request from -- actually from my office to
22 do some more work on it?

23 A I did. I was asked to revisit the hair evidence and
24 double check to make sure that there wasn't anything in
25 there that might could qualify for DNA testing.

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1 Q I'm going to jump way ahead, then we will come back
2 and talk about hair. Did you subsequently do a second
3 report?

4 A I did, and it's dated November 18th of this year,
5 just a few weeks ago. I went back and reopened the
6 packages that contained the -- what I would term trace
7 evidence, the hairs collected from pants, item number 23;
8 hair collected from a bed sheet, item number 24; trace
9 evidence collected from a shirt, item 41; and trace
10 evidence collected from jeans, item 43. And reopened
11 those and looked at the --

12 Q Let me stop you before we get --

13 A I'm sorry.

14 Q No, that's fine. Does your subsequent report, your
15 November 18, 2008 report, first of all address all of the
16 items in the analysis that you did which are reflected in
17 your January 13th of '06 report?

18 A It did.

19 Q Okay. So is it safe to say that the subsequent
20 report, the November 18th report, has everything that the
21 first report has in it plus the additional stuff about the
22 hair?

23 A Yes. And, in fact, that's easily noted in that where
24 there's a difference between the two reports. I bolded it
25 so that it is immediately apparent that there is some

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1 difference to these reports.

2 Q Okay. Now we'll talk about the hair. Did you
3 examine -- reexamine the potential hair evidence that was
4 submitted to Sled way back when it first arose?

5 A I did.

6 Q Is it sometimes possible to extract DNA sufficient to
7 develop a DNA profile from hair?

8 A Yes. And as I stated before for the type of DNA
9 analysis that we do at Sled, what I need is a root with a
10 little bit of tissue on it which generally means that a
11 hair has been somewhat forcibly removed. But that's what
12 I am looking for when I examine hair evidence for
13 potential DNA analysis.

14 Q In this case did you have any hairs that had roots
15 and tissue on them?

16 A In this case, no, I did not. None of the items had
17 hairs that would -- that I deemed appropriate to carry
18 forward. I didn't even attempt DNA on any of them.

19 Q No DNA could be can extracted from any of the hair
20 evidence in the case?

21 A No.

22 Q Other than work with the hair, did you readdress any
23 other stuff from your other report?

24 A No, I did not.

25 Q Was there any need to?

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1 A No, sir.

2 MR. BARFIELD: I withdraw my offer of the January 13,
3 2008 report.

4 Q Can you identify what that is, Ms. Taylor?

5 A This is a copy of my final report on this case dated
6 November 18th of 2008 and my signature is affixed.

7 MR. BARFIELD: Your Honor, at this time I would offer
8 this report, November 18th of 2008, as the next State's
9 Exhibit.

10 MR. DUNN: No objections, Your Honor.

11 THE COURT: Motion is granted.

12 (The Taylor report was received as State's 37)

13 MR. BARFIELD: Ms. Taylor, that's all of the questions
14 I have for you. Please answer anything Mr. Dunn may have,
15 Your Honor.

16 THE COURT: Cross examination, Mr. Dunn.

17 CROSS EXAMINATION

18 BY MR. DUNN:

19 Q Mrs. Taylor, there is a way to test -- a little while
20 ago you were talking about you are looking for the hair --
21 the root of the hair to test for DNA, correct?

22 A Yes.

23 Q There's is a way to test hair even when you don't
24 have a root, correct?

25 A If you have a sufficient length of human hair, yes,

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1 there is another alternative testing available called
2 mitochondrial DNA versus the nuclear DNA that we discussed
3 earlier. We don't perform it at Sled. It is performed
4 usually by the FBI or an independent for a profit
5 laboratory.

6 Q Sled doesn't do it, but if you really wanted to you
7 could ship it out to a private lab or FBI or somebody else
8 to test it for you to send you back the results?

9 A Yes. That decision is actually made by the
10 requesting agency or the solicitor's office, it's not
11 generally my decision.

12 Q I understand, I'm just getting it out in the open.

13 A That's correct.

14 Q Now, when you work in a laboratory and you are
15 handling all this stuff you're always wearing gloves,
16 correct?

17 A Yes.

18 Q And part of the reason for that is the technology for
19 this DNA is so sensitive that it's possible for you to
20 transfer some of your DNA onto the objects you are
21 touching if you weren't wearing your gloves.

22 A That potential is there, yes.

23 Q In fact, because that potential is there Sled has
24 taken the DNA profile of whoever works in the DNA
25 department, correct?

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1 A Yes.

2 Q Sled has got your DNA just in case something happens
3 so they know that, "Well, that was Robin's DNA, it's not a
4 big deal."

5 A It is incumbent for me to check my cases for my own
6 DNA and the other staff in the laboratory.

7 Q Now, DNA is transferred from a person's body to an
8 object just by touching it, correct?

9 A That potential is there.

10 Q If fact, if I pick up this picture and hold it a
11 second the potential exists that my DNA has now been
12 transferred to this picture, correct?

13 A The possibility exists.

14 Q If I pick up this shiny can and it has got a smooth
15 surface and I leave a fingerprint on it, the possibility
16 exists that you could test that fingerprint for DNA,

17 correct?

18 A Yes, that is possible.

19 Q Were you at any point during your testing of all of
20 the samples for this case, were you ever given any
21 fingerprints -- any swabs taken from any fingerprints?

22 A No, I wasn't. And to be honest in 2005 we didn't do
23 that testing as often as we might would do it today.

24 Q It's more prevalent today?

25 A It's definitely more prevalent, and actually the

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1 newer kits that we use are somewhat more sensitive in
2 picking up minute amounts of DNA.

3 Q The technology was available, though, in 2005.

4 A We use the same technology anybody else would have
5 used. The DNA lab is very advanced, we're cutting edge.
6 Again, that testing wasn't as prevalent in 2005. I was
7 not submitted any what we would term touch DNA testing or
8 testing from fingerprints then. And even now the rate of
9 success is somewhat limited, but it is a possibility and
10 that possibility, you know, does happen and does exist.

11 Q The possibility exists, you can at least test it to
12 try to see if it's there.

13 A Yes.

14 Q Do you recall ever being asked to test any swabs or
15 samples for DNA that were taken from a knife found at the
16 scene?

17 A Not that I recall.

18 Q Okay.

19 A No.

20 Q That's fair enough. Do you recall ever being asked
21 to take -- to test for swabs taken from a lighter found at
22 the scene?

23 A No.

24 Q Okay. Fair enough. Just so that we're all on the
25 same page, the possibility exists that if this lighter was

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1 in my pocket, put my hand on it, pulled it out and was
2 holding it, that my DNA could be transferred to this
3 lighter, correct?

4 A That possibility exists, yes.

5 Q And likewise, if I pulled a knife out of the drawer
6 of a kitchen the possibility exists that my DNA could be
7 transferred to the handle or wherever I'm holding the
8 knife, correct?

9 A Yes.

10 Q Okay. You had eight cuttings from the blue work
11 shirt, correct?

12 A Yes, I believe that is correct.

13 Q And none of those cuttings came back positive for the
14 victim's DNA, correct?

15 A I was unable to extract any DNA from any of those
16 cuttings.

17 Q I guess the answer to my question would be you didn't
18 get the victim's DNA off of it.

19 A I did not get the victim's DNA.

20 Q Out of those eight samples you took from the shirt
21 you are not able to extract any DNA from Mr. Perkins?

22 A That's correct. And actually, I would almost expect
23 a mixture from a shirt like that, I would expect to see
24 some of his DNA potentially in that. I got no DNA.

25 Q All right. Item number 47, I believe, is the blue

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1 jeans, correct?

2 A That's correct.

3 Q Did you ever test that for the victim's DNA?

4 A I did.

5 Q And it came back negative, correct?

6 A Item 47, again, I got no DNA.

7 Q In fact, it looks like you got 47.3 and 47.4, so you
8 had two different places that you checked for DNA?

9 A Exactly, yes.

10 Q All right. The swab that was taken from the bottom
11 of this sole, you weren't able to extract the victim's
12 DNA, correct?

13 A I didn't attempt to extract the victim's DNA on that.

14 Q You tried to see if there was any blood and you
15 didn't find any.

16 A Right. The swab I received tested negative.

17 Q And since you had no blood indicated you didn't even
18 test for the DNA.

19 A That's correct.

20 Q All right. So of all of the items that you tested
21 and all of the results that you got -- and I believe we
22 have it on our Exhibit Number 37, and I'll hand it up just
23 so you can look at it -- out of all the testing that you
24 did and out of all of the exhibits of the samples that you
25 took, you didn't get any of Mr. Perkins' DNA, correct?

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1 A Out of all of the items that I tested?

2 Q That you tested on there before.

3 A Or that we have discussed.

4 Q That we've discussed.

5 A His DNA, no, was not found on any of the items. And
6 again on quite a few of the items I got no DNA at all.

7 Q On all of those items that you tested as far as it
8 relates to the shirt or the blue jeans and the clothes --
9 the clothes that were not Mrs. Hinson's, you didn't find
10 any of her DNA of what was reported to be on his clothing?

11 A I didn't find anyone's DNA.

12 MR. DUNN: I don't have any further questions.

13 MR. BARFIELD: Nothing further from Ms. Taylor and I
14 would ask that she and Ms. Ruff both be excused if they
15 would like to.

16 THE COURT: You both may be excused from your
17 subpoena.

18 MR. DUNN: Your Honor, I would ask for a five minute
19 break.

20 THE COURT: This might be a good idea, a short break,
21 ladies and gentlemen.

22 (The jury left the courtroom and a recess was taken.)

23 MR. BARFIELD: Let me tell you what we have got. I am
24 at the point of my case where I intend to start offering
25 evidence of statements made by Mr. Perkins. After our

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1 Jackson v. Denno proceedings it came to my attention that
2 another witness perhaps from the detention center had heard
3 Mr. Perkins talking about this event. We investigated that
4 further, interviewed the witness who is a former jailer,
5 took a statement from him -- actually didn't take a
6 statement but I have a summary from Michael Green of
7 information of that witness. That witness is present and
8 that witness has not gone through the Jackson v. Denno
9 process. It's fairly brief but I have got to get him done
10 and he's a witness that I really need to get done today.

11 MR. DUNN: I'm going to ask for a Jackson v. Denno
12 hearing just because --

13 MR. BARFIELD: I know we're going to have to have a
14 Jackson v. Denno hearing.

15 THE COURT: Can't we put somebody else up, let the
16 jury go and send the jury home and then --

17 MR. BARFIELD: Yes, sir.

18 (The jury returned to the courtroom.)

19 THE COURT: Welcome back again, ladies and gentlemen.
20 I think we are continuing to receive evidence from the
21 State.

22 MR. BARFIELD: Recall Phillip Perry.

23 The witness, PHILLIP PERRY, remained under oath and

24 Testified as follows, on:

25 DIRECT EXAMINATION

TESTIMONY OF PHILLIP PERRY

1 BY MR. BARFIELD:

2 Q Mr. Perry, I think you previously testified and I
3 believe you're still under oath, I need to ask you some
4 additional questions about some things. When you became
5 involved in the investigation of the death of Judy Hinson,
6 at some point during that investigation did you have
7 conversations with Casey Perkins?

8 A Yes, sir.

9 Q At some point did he, in fact, become a suspect in
10 the case?

11 A Yes, sir, he did.

12 Q I'm going to hand you a document and ask you if you
13 can identify that as a copy of a written --

14 A Yes, sir. It's a copy of a statement that I took
15 from Casey Perkins.

16 Q What date did you take that statement from Casey
17 Perkins?

18 A August 27, 2005.

19 Q Would that have been the Saturday on later in the day
20 that Judy Hinson's body was found?

21 A Yes, sir. It was completed it says at 8:32 p.m.

22 Q Do you recall where you talked to Casey Perkins?

23 A We were at an office over at our office on Saluda
24 Street, I think this was in Major McNeil's office is where
25 we spoke with him.

TESTIMONY OF PHILLIP PERRY

1 Q Is that what has been referred to I think maybe by
2 others in this case as the substation?

3 A Yes, sir.

4 Q Do you recall how Casey Perkins got there?

5 A He was brought to the substation on Saluda Street by
6 a member of his family, I'm not sure which it was.

7 MR. DUNN: Your Honor, I can't hear.

8 THE COURT: You're going to have to ask the witness to
9 speak up, Mr. Barfield.

10 A He was brought there by a member of his family, I
11 believe. I don't remember exactly who it was, but he was
12 brought to the substation on Saluda Street.

13 Q At the time he was brought to the substation, first
14 of all, was he under arrest?

15 A No, sir. He was not under arrest.

16 Q Had any arrest warrant been issued for his arrest?

17 A No, sir.

18 Q When you saw him, where at the substation did you see
19 him?

20 A The first time I saw him was after he came in through
21 the door, and like I said, we took him back into Major
22 McNeil's office and talked with him back there.

23 Q When you say we, was somebody else present with you?

24 A Shane Stewart.

25 Q At any time how long did you spend with Casey Perkins

TESTIMONY OF PHILLIP PERRY

1 that afternoon? Do you recall what time of day it was?

2 A It was in the evening, later in the evening.

3 Q Daylight but in the evening?

4 A I believe it was getting close to dark when he got
5 there.

6 Q Okay. And about how long did he stay in your
7 presence?

8 A Probably no more than an hour.

9 Q And after he left -- how did he leave when he left
10 your presence?

11 A He left I assume the same way he came. I didn't
12 actually accompany him out into the parking lot but I
13 believe he left with the same person he arrived with.

14 Q Was he free to leave when you got through talking
15 with him?

16 A Yes, sir, he was.

17 Q Was he at anytime during his presence with you that
18 day placed under arrest?

19 A No, sir.

20 Q Was he at any time during his presence with you that
21 day -- were his movements restricted?

22 A No, sir.

23 Q At any time that day in the midst of your discussions
24 with him if he would have said, "I'm out of here, I'm
25 breaking camp," would you have allowed him to leave?

TESTIMONY OF PHILLIP PERRY

1 A Yes, sir. He could have gone at anytime.

2 Q Did you discuss with Mr. Perkins -- well, let me just
3 ask you this: What was your purpose in talking to him?

4 A We had identified that he was a person who was in the
5 area the night that this took place and we wanted to bring
6 him in just to ask him what he had done that night, what
7 his activities was. This was his first statement to us as
8 far as what his activities were on the night that this
9 incident took place.

10 Q Did you inform him of the reason that you wanted to
11 know -- well, first of all, did you make it clear to him
12 that you were talking to him in connection with the
13 investigation of the death of Judy Hinson, did he know
14 that?

15 A Yes, he knew that.

16 Q Did you tell him you wanted to know where he had been
17 and what he had been doing?

18 A Yes, sir.

19 Q Did you ask him questions?

20 A Yes, sir.

21 Q Did he answer your questions?

22 A Yes, sir.

23 Q At any time during that process -- I have asked this
24 three times -- was he ever under arrest?

25 A No, sir, he was not.

TESTIMONY OF PHILLIP PERRY

1 Q At any time during that process, did you read him his
2 Miranda warnings?

3 A No, sir, we did not.

4 Q At any time during -- did he agree to talk with you?

5 A Yes, sir, he did.

6 Q Did you ask him questions?

7 A Yes, sir.

8 Q Did he answer questions?

9 A He did.

10 Q Did that result in what we commonly refer to as a
11 written statement?

12 A Yes, sir, it did.

13 Q Who wrote the statement?

14 A I actually wrote the statement myself.

15 Q Is it question and answer form or is it narrative
16 form?

17 A It's narrative form.

18 Q Did you start writing as soon as he started talking
19 or did you do it in some -- with some other method?

20 A We discussed what his activities were. He went
21 through his activities with us verbally and to make sure
22 that we had everything the way he wanted it we went back
23 through and as I would start from the beginning and as he
24 would give me the first sentence of the statement I would
25 write that down and we would just progress in that fashion

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1 until we were finished with what he wanted written down on
2 the statement form, and then we reviewed that with him and
3 he signed the statement.

4 Q How did he review what you had written down?

5 A I believe he read the statement himself. Generally
6 we will let them read the statement themselves. If they ask
7 us to read it for them we will read it for them. If I
8 remember correctly I think he read that himself.

9 Q Did he indicate to you -- well, let me ask you a few
10 questions. Did you talk with him enough to get any feel
11 for his ability to communicate with you?

12 A Yes, sir.

13 Q Did you have any difficulty understanding Casey
14 Perkins' conversation with you?

15 A No. I didn't have any trouble.

16 Q Did his conversation make sense to you?

17 A Yes, sir.

18 Q Did he appear to have any difficulty understanding
19 the conversations you were having with him?

20 A No, sir.

21 Q At any time during this process -- well, first of
22 all, do you remember what you were wearing, or generally
23 what you would have been wearing?

24 A I don't remember specifically, but I had not changed
25 clothes since I was called out so it would have probably

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1 been something like my T-shirt and probably the -- we used
2 to wear some olive drab pants, like cargo type pants and
3 just my badge and gun on my belt.

4 Q Would it have been obvious to him that you were a
5 police officer?

6 A Yes, sir.

7 Q And I think you said earlier that McNeil was with
8 you. Now -- you said Shane Stewart was with you.

9 A Right.

10 Q Do you recall if Shane Stewart was similarly dressed
11 or differently dressed?

12 A I know that he did have his badge and gun. I think
13 he might have had on some khaki pants or something, it
14 wasn't exactly what I had on but he did have his badge and
15 gun.

16 Q At any time during that process, did any other

17 officers enter the room where y'all were talking to

18 Mr. Perkins?

19 A No, sir.

20 Q At any time during that process did you or Shane
21 Stewart unholster your weapons or use your weapons in any
22 sort of a threatening manner or threaten to do so with
23 Mr. Perkins?

24 A No, sir.

25 Q At any time during that process, did either you or

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1 Shane Stewart or anybody make any threats to Casey Perkins
2 to get him to talk?

3 A No, sir.

4 Q At any time during that process, did anybody make any
5 promises to Casey Perkins to get him to talk?

6 A No, sir.

7 Q Did Casey Perkins at any time during that process --
8 well, first of all, did he appear healthy?

9 A Yes, sir.

10 Q Did he appear to have any injuries to him?

11 A No, sir.

12 Q Did he appear to be in any kind of physical distress?

13 A No, sir.

14 Q Did he ask you for anything during that process? For
15 example, "Can, I go outside and smoke," or, "Can I get a
16 Coca Cola," or, "Can I go to the bathroom," or anything

17 like that?

18 A Not that I recall.

19 Q At any time during that process, did Casey Perkins
20 say, "I don't want to talk to you?"

21 A No, sir.

22 Q At any time during that process did Casey Perkins say
23 "I want to talk to a lawyer?"

24 A No, sir.

25 Q At any time during that process did Casey Perkins

TESTIMONY OF PHILLIP PERRY

1 say, "I want to call my mama or my daddy or anybody to be
2 here with me?"

3 A No, sir.

4 Q I'm going to show you a document and ask you if it's
5 the original of the document that you have a copy of in
6 your hand there?

7 A Yes, sir, it is.

8 Q After the statement was written out by you and
9 reviewed by Casey Perkins, did Casey Perkins sign it?

10 A Yes, sir, he did.

11 Q And did you sign as a witness?

12 A Yes, sir, I did.

13 Q And did Shane Stewart sign as a witness?

14 A Yes, sir, he did also.

15 Q And did Mr. Perkins sign actually -- it is a two page
16 statement; is that correct?

17 A Yes, sir.

18 Q Did he sign both pages?

19 A He did.

20 Q Does it bear a date and time?

21 A Yes, sir, it does.

22 Q What is the date and time?

23 A The date is the 27th day of August of 2005 at

24 8:32 p.m.

25 MR. BARFIELD: Your Honor, at this time I'm going to

TESTIMONY OF PHILLIP PERRY

1 offer this statement as the next state's exhibit.

2 MR. DUNN: Same objection as I had last time. I don't
3 think we need to go back through those, Your Honor.

4 THE COURT: The Court overrules the objection.

5 MR. BARFIELD: Your Honor, this has previously been
6 marked a Court's exhibit, do you want the sticker in a
7 separate place?

8 THE COURT: I think we have to.

9 (The 8-27-05 statement was received as State's 38.)

10 MR. DUNN: May it please the Court, Your Honor?

11 CROSS EXAMINATION

12 BY MR. DUNN:

13 Q How long have you been a detective, Officer Perry?

14 A Since 2003.

15 Q As part of your being a detective, do you get down to
16 Sled for special training, correct?

17 A Sometimes, yes, sir.

18 Q Okay. Well, were you sent down to Sled for some
19 special training to be a detective?

20 A Yes, sir, basic detective school.

21 Q Basic detective school?

22 A Uh-huh.

23 Q All right. Part of basic detective school is they
24 teach you how to do and train you in how to do
25 interrogations, correct?

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1 A Yes, sir.

2 Q All right. When I use the words interrogations and
3 interviews, in your mind are you hearing the same thing or
4 because of your training is it two different -- kind of
5 take two different things?

6 A It would be two different things.

7 Q Tell the jury what an interview is.

8 A A interview is basically a conversation that you have
9 to find facts. The interrogation is when you are actually
10 disputing facts with the person that you're talking with.
11 You, in other words, have evidence to contradict some of
12 the things that he may have said.

13 Q An interview is generally not confrontational,
14 correct?

15 A Correct.

16 Q The whole purpose of it is to find out what that
17 ~~person knows, right?~~

18 A Right.

19 Q Interrogation normally turns to the point where you
20 are accusing a person of whatever you think they did,
21 correct?

22 A Yes, sir.

23 Q Whether it be a murder case or a rape case or a
24 kidnapping case, whatever it is, you are accusing that
25 person of what you think they did.

TESTIMONY OF PHILLIP PERRY

1 A That's correct.

2 Q Is it fair to say that on August 27th when
3 Mr. Perkins came down to that substation it was an
4 interview process?

5 A Yes, sir.

6 Q You and Mr. Stewart weren't there to accuse him of
7 anything, correct?

8 A That's correct.

9 Q You were just doing a fact finding mission.

10 A Yes, sir.

11 Q Mr. Perkins came on his own accord, right?

12 A Correct.

13 Q In fact, I think his mother brought him, right?

14 A I'm not sure who brought him, but if that's who he
15 says it's probably accurate.

16 Q I mean, the reality is that once he came down there

17 ~~to the substation it was just you, him and Shane Stewart~~

18 in a room by yourselves.

19 A Yes, sir.

20 Q Nobody else was allowed in there.

21 A No, sir.

22 Q All right. In that statement that -- I think you
23 have a copy of it, correct?

24 A I did.

25 Q Well, I'll give you mine. I'll give you the Court's

TESTIMONY OF PHILLIP PERRY

1 Exhibit and I'll go get mine. All right. In this
2 handwritten statement, your handwriting, right?

3 A Yes, sir.

4 Q But things that he told you.

5 A Yes, sir.

6 Q All right. He told you that he was at Bob Rush's
7 house until about 10:30, correct? Or I think he says
8 Bob's house, but he says he was at Bob's house until about
9 10:30, correct?

10 A It stays he told John he would be at his house at
11 about 10:30 is what I said. He was at Bob's house
12 previous to that, said he would be at John's house until
13 about 10:30.

14 Q Maybe I should go back, I don't mean to
15 mischaracterize what you said. It says, "John called
16 Bob's house, I told John I would be at his house at about
17 10:30," correct?

18 A That's right.

19 Q Then it says he rode Donald's son's four-wheeler to
20 John's house, correct?

21 A Yes, sir.

22 Q Then it says he left John's house at about 1:30,
23 correct?

24 A That's right.

25 Q All right. And from there he told you that he walked

TESTIMONY OF PHILLIP PERRY

1 home, correct?

2 A That's right.

3 Q And that he never went to Ms. Hinson's house.

4 A Correct. He never mentioned that.

5 Q But he did say that he saw a couple of people that
6 night walking out in the neighborhood, right?

7 A Yes, sir.

8 Q One girl was I think he described her as a skinny
9 girl, she was skinny and looked like she was about 15,
10 right?

11 A Yes, sir.

12 Q And the other -- also said there was a man and woman
13 with two small animals?

14 A Yes, sir.

15 Q Okay. All right. I believe at some point in there
16 back on the first page it says that he had a solid silver

~~17 lighter shaped like with an eagle on the front of it and~~

18 the eagle eyes lit up when you strike the lighter, right?

19 He told you that he had a lighter that was silver and
20 looked like an eagle.

21 A Yes, sir.

22 Q All right. But nowhere in this statement does he
23 ever say he killed Mrs. Hinson.

24 A That's correct.

25 Q Now, the solicitor asked you whether or not

TESTIMONY OF PHILLIP PERRY

1 Mr. Perkins understood your questions, right?

2 A Yes, sir.

3 Q And he did -- Mr. Perkins -- y'all had a
4 conversation, correct?

5 A Yes, sir.

6 Q Isn't it also true to characterize Mr. Perkins'
7 intelligence as below average intelligence?

8 A Yes, sir, I think that's fair.

9 Q He's not a real smart guy and you can tell that just
10 by talking to him, correct?

11 A Yes, sir.

12 Q He understands you but it doesn't mean that he is --
13 his intelligence is average.

14 A Yes, sir. I would agree with that.

15 Q All right.

16 MR. DUNN: Beg the Court's indulgence for a second.

17 (Break in proceedings.)

18 MR. DUNN: Your Honor, I don't have any further
19 questions for Detective Perry.

20 MR. BARFIELD: Couple of follow-ups.

21 REDIRECT EXAMINATION

22 BY MR. BARFIELD:

23 Q Did Mr. Dunn asked you about Mr. Perkins and a
24 lighter. Did you -- what kind of lighter did you take
25 that to mean?

TESTIMONY OF PHILLIP PERRY

1 A Well, a cigarette lighter.

2 Q And did Mr. Perkins tell you what happened to his
3 lighter that night?

4 A He said he had lost it.

5 Q And again, you were asking him about his activities
6 when?

7 A Well, it was the evening that Ms. Hinson died.

8 Q Did you tell him any details about the investigation?

9 A No, sir, we did not.

10 Q Did you tell him how Ms. Hinson died?

11 A No, sir.

12 Q Did you tell him any of the evidence that had been
13 collected at the scene?

14 A No, sir.

15 Q Did you make any -- I asked you this a minute ago --
16 did you make any threats -- I asked you in a general
17 nature -- did you make any threats against Mr. Perkins.

18 Did you make any threats against any family members or
19 associates of his, for example, to arrest his parents or
20 anything?

21 A No, sir.

22 MR. BARFIELD: Okay. Thank you. That's all from this
23 witness.

24 MR. DUNN: No further questions, Your Honor.

25 THE COURT: All right. Thank you, sir. You may step

TESTIMONY OF PHILLIP PERRY

1 down. Ladies and gentlemen, due to some scheduling matters
2 this is going to conclude the testimony and evidence
3 presented today. We're going to excuse you, we have got
4 some business to take care of ourselves, ask you to be back
5 in tomorrow morning at 9:30. And, of course, remind you
6 not to let anybody talk to you about the case, you don't
7 talk to anybody about the case, don't read anything about
8 the case and don't watch anything on TV or listen to any
9 radio about the case. And we will see you tomorrow morning
10 at 9:30.

11 (The jury left the courtroom.)

12 MR. BARFIELD: For purposes of this proceeding we
13 agree that Casey Perkins was taken into custody on actually
14 a different charge than he is being tried for, but the day
15 was August 29th of 2005.

16 MR. DUNN: And I have no problem with that, I think
17 it's well established.

18 The witness, MICHAEL CARR, was first duly sworn and
19 testified as follows, on:

20 DIRECT EXAMINATION (No Jury)

21 BY MR. BARFIELD:

22 Q State your name, please.

23 A Michael Scott Carr.

24 Q Mr. Carr, do you live here in Chester County?

25 A Yes, sir.

TESTIMONY OF MICHAEL CARR

1 Q And back in August of 2007, where were you employed?

2 A At the Chester County Detention Center.

3 Q And you're going to have to speak loudly. I think
4 you're okay but don't let your voice drop. What was your
5 job at the Chester County Detention Center?

6 A At that time I was floor corporal second in command
7 of the shift.

8 Q And did you meet somebody who became known to you as
9 Casey Perkins in connection with your job as a
10 correctional officer --

11 A Yes, sir.

12 Q -- at the detention center?

13 A Yes, sir.

14 Q Prior to Casey Perkins being brought into the custody
15 of the detention center, did you know him?

16 A He had been brought in before, I knew him from that
~~17 but I did not know him outside of the jail.~~

18 Q Now tomorrow, if you testify tomorrow, don't say
19 that.

20 A Okay.

21 Q I will just ask you if you knew him.

22 A Okay.

23 Q Did you become aware that Casey Perkins got arrested
24 and we have agreed that the day was August 29th of 2005?

25 A Yes, sir.

TESTIMONY OF MICHAEL CARR

1 Q And was he in the Chester County Detention Center --
2 of course, he has been there since then -- but was he
3 there while you were there on many occasions after August
4 29, 2005?

5 A Yes, sir.

6 Q Did you know why Casey Perkins had been arrested?

7 A When he first came in, no, I didn't.

8 Q Did you subsequently learn why he had been arrested?

9 A Yes, sir.

10 Q Did you subsequently learn that he had been
11 eventually charged with the death of Judy Hinson?

12 A Yes.

13 Q Now, at some point did you have -- did you hear Casey
14 Perkins speak concerning the death of someone?

15 A Yes.

16 Q Can you give us a date when that occurred?

17 A ~~It was the date that he was brought in.~~

18 Q And on the date that he was brought in, I think we
19 can all agree that he was not charged with Judith Hinson's
20 murder on the day he was brought in, he was brought in for
21 something else. Do you know that? We know that, but do
22 you know that?

23 A I was not aware of what charge he was brought in for.

24 Q Did you know that he was a suspect in the death of
25 Judy Hinson?

TESTIMONY OF MICHAEL CARR

1 A I did not know -- I didn't know the details, I just
2 knew --

3 Q Let me just jump around real quick. There was a
4 conversation that you were present during; is that
5 correct?

6 A Yes, sir.

7 Q When that conversation occurred, did you know why
8 Casey Perkins was in jail?

9 A No, sir.

10 Q At all?

11 A No, sir.

12 Q Nobody told you?

13 A No, sir.

14 Q At the time that conversation occurred did you know
15 that there had been a homicide in Chester County and a
16 lady named Judy Hinson was dead?

~~17 A I knew that they were investigating a homicide.~~

18 Q Did you know any details about the investigation of
19 that homicide or the facts and circumstances of this
20 homicide?

21 A No, sir.

22 Q Now, how did you come to be in I assume face to face
23 contact with Casey Perkins?

24 A What I was told by my sergeant was that when Casey
25 was brought in he received a call from the sheriff asking

TESTIMONY OF MICHAEL CARR

1 us to take him outside and let him smoke a cigarette, see
2 if he would calm down and to see if he would say anything.

3 Q Was who was your -- you said a sergeant, I think.

4 A Yes, sir.

5 Q Who was your Sergeant?

6 A Sergeant Jerry Williamson.

7 Q Now, I'm going to ask you some real specific
8 questions about the things you just said. Were you asked
9 to try to get him to say something?

10 A No, sir.

11 Q What were you asked?

12 A To see if once he relaxed a little bit if he would
13 say something.

14 Q Okay. I'm going to jump ahead and we'll come back.
15 Did Casey Perkins say something out in the yard during a
16 smoke walk concerning a death?

17 A Yes, sir.

18 Q Was anybody else with you when you were outside with
19 Casey?

20 A Mash Control Corporal Fidel Byrd was with us.

21 Q Is he any longer with the sheriff's office?

22 A No, sir, not with the sheriff's office.

23 Q Or with the detention center?

24 A No, sir.

25 Q Before that conversation occurred, did you have a

TESTIMONY OF MICHAEL CARR

1 conversation with Casey, or with Casey yourself?

2 A No, sir, not at that time.

3 Q How did it come up? Just tell us what happened.

4 A I was told to take him out in the smoke area. As we
5 were walking to the smoke area I passed Corporal Byrd who
6 smokes, which I don't, so I asked him to join us. He gave
7 Casey a cigarette when we stepped out there and as soon as
8 Casey lit the cigarette he said, Byrd, I fucked --

9 Q He who said?

10 A Casey.

11 Q What did he say?

12 A He said, "Byrd, I fucked up."

13 Q At that point -- leading up to that point did either
14 you or Byrd talk to Casey about why he was in jail?

15 A No, sir.

16 Q Had either one of y'all asked him any questions?

~~17 A No, sir.~~

18 Q Had either one of y'all said anything or done
19 anything to try to provoke him into speaking?

20 A No, sir.

21 Q Gave him a cigarette, is that it?

22 A Yes, sir.

23 Q He said, "Byrd, I screwed up?"

24 A Yes, sir.

25 Q Was there further conversation?

TESTIMONY OF MICHAEL CARR

1 A Officer Byrd said, "It can't be that bad. What
2 happened," without knowing anything about what was going
3 on. And Casey turned.

4 Q Well, you didn't --

5 A At that time I still didn't know exactly what Casey
6 was being brought in for. I knew that we were told to
7 take him for a cigarette. Casey turned and looked at him
8 and said, "I killed her."

9 Q I killed her?

10 A Yes.

11 Q Did he say anything else? Did he say who her was?

12 A No, he did not. And --

13 Q Did he say when he killed her?

14 A No. He just said, "I killed her. There's no doubt
15 about it, I killed her." And at that point not knowing
16 the ramifications of him saying something to us, I told
17 him to be quiet. I didn't know what I was supposed to do
18 at that point.

19 Q You told who to be quiet?

20 A Casey.

21 Q Did Casey shut up?

22 A No, sir. He continued to say -- he asked me several
23 times if I felt that God could forgive him for what he had
24 done.

25 Q Did you answer those questions?

TESTIMONY OF MICHAEL CARR

1 A What I told him was if he was a religious person he
2 had to know that covering one sin with another by lying
3 that no, God would not forgive that. And he had to be
4 honest with the investigators and tell them what they
5 needed to know.

6 Q Okay. Any other conversation?

7 A There was a little small talk but he kept going back
8 to the, "Do you think I can be forgiven?"

9 Q Okay. Was there any detail discussed about --

10 A No, sir --

11 Q -- Casey's killing a woman and any knowledge you
12 might have had about Ms. Hinson's death.

13 A No, sir. I actually told Casey that I did not want
14 to know any details. Because the job I have is to deal
15 with him on a daily basis and if I know details of
16 people's crimes I can't treat them as fairly as I would
17 otherwise. So I told him not to say anything else.

18 Q All right. And eventually, did he shut up about it?

19 A Eventually.

20 Q Now obviously -- well, I don't know if it was obvious
21 or not. Was it significant to you that you now had
22 statements that Casey Perkins had made to you?

23 A Yes, sir.

24 Q What did do you about it?

25 A I wrote a statement. I can't recall at this time if

TESTIMONY OF MICHAEL CARR

1 it was a staff statement or an incident report, but I
2 filled out a report and gave it to my Sergeant.

3 Q Same Sergeant Williamson I think it was?

4 A Yes, sir.

5 Q Did you know what he did with it?

6 A No, sir, I don't.

7 Q Have you seen it from that day to this?

8 A No, I have not.

9 Q Did you -- how did you end up in that witness chair
10 today?

11 A Actually my wife was involved in a crime, she was
12 assaulted. And as the investigator was taking her
13 statement --

14 Q What investigator?

15 A Cathy Bell.

16 Q Where was Cathy Bell taking your statement?

17 A At our house.

18 Q Were you present?

19 A Yes, sir.

20 Q What happened -- when first of all, how recent?

21 A Just a few weeks ago.

22 Q Go ahead.

23 A She was assaulted on November 7th.

24 Q Go ahead.

25 A So it was right around that time. At that time we

TESTIMONY OF MICHAEL CARR

1 started talking and just chit-chat and I don't quite
2 recall how Casey's name came up, but I just mentioned that
3 he had talked to me about that. And I honestly had
4 thought when I was leaving the sheriff's department over a
5 year ago they were talking about Casey's trial coming up,
6 I thought it was over and done with, and I mentioned this
7 to her. And she pulled out a legal pad and began taking
8 notes and informed me that I would probably have to
9 testify because this case was coming up.

10 Q Did somebody else in law enforcement contact you?

11 A Yes, sir, a Sled officer.

12 Q Do you remember -- if I throw the name Michael Green
13 out there, is that familiar?

14 A Yes, that was it.

15 Q Is he the one that interviewed you?

16 A Yes, sir.

17 Q And subsequently did I contact you?

18 A Yes, sir.

19 Q Now, other than what you have related in your
20 testimony, let me ask you just a few other questions.

21 Did -- of course, Casey was in custody when this
22 conversation occurred; is that correct?

23 A Yes, sir.

24 Q Was he restrained in any fashion?

25 A While we were out on the smoke area he did have

TESTIMONY OF MICHAEL CARR

- 1 handcuffs on.
- 2 Q Did he have leg shackles on?
- 3 A No, sir.
- 4 Q Did anybody -- did you and Officer Byrd have weapons?
- 5 A No, sir.
- 6 Q Did y'all have billy clubs or mace or anything?
- 7 A I believe Officer Byrd had pepper spray but I did
- 8 not.
- 9 Q No physical weapons?
- 10 A No, sir.
- 11 Q Did anybody make any physical threats to Casey to get
- 12 him to talk?
- 13 A No, sir.
- 14 Q Did anybody -- did Casey appear -- did he appear
- 15 settled and calmed down?
- 16 A He seemed agitated at first but then as he smoked a
- 17 cigarette he calmed down.
- 18 Q Did he appear to have any physical discomfort?
- 19 A No, sir.
- 20 Q Any visible injuries?
- 21 A No, sir.
- 22 Q Any requests of Casey for creature comforts other
- 23 than the cigarette he was smoking, like a drink or a trip
- 24 to the bathroom or something to eat or anything like that?
- 25 A No, sir.

TESTIMONY OF MICHAEL CARR

1 Q Did he at any time during your presence during this
2 conversation ask to speak to anybody else?

3 A No, sir.

4 Q Anybody -- other than the conversations that you have
5 related, outside of those conversations or those words,
6 did anybody make any threats to Casey to try to get him to
7 talk?

8 A No, sir.

9 Q Did anybody make any promises to Casey to try to get
10 him to talk?

11 A No, sir.

12 Q No video or audio recording of this conversation, I
13 guess?

14 A No, sir.

15 MR. BARFIELD: Thank you, sir. Answer anything

16 Mr. Dunn has.

17 THE COURT: Mr. Dunn?

18 CROSS EXAMINATION (NO JURY)

19 BY MR. DUNN:

20 Q Just so that I am clear, Mr. Carr, this alleged
21 statement that he made to you was made the day he was
22 arrested?

23 A Yes, sir.

24 Q You gave a statement to Agent Green, right?

25 A Yes, sir.

TESTIMONY OF MICHAEL CARR

1 Q And in that statement he took some notes and I'm
2 going to ask you about what he wrote. I know you didn't
3 write it down, this is what he wrote down and you just
4 tell me if it is accurate or not. Now, my understanding
5 is you were -- that Sergeant Williamson was talking to
6 Sheriff Benson on the phone.

7 A Had he spoken to him.

8 Q Did you overhear any of that conversation?

9 A No, sir.

10 Q I know it was one-sided, but did you hear anything
11 that Williamson said?

12 A No, sir.

13 Q Williamson has a conversation with the sheriff, he
14 says, "Take him outside and see what you can get out of
15 him?"

16 A No, sir. He said, "Let him smoke a cigarette, see if
17 he calms down and if he says anything."

18 Q So you know that the whole purpose of what you were
19 doing was to take him outside to try to get him to talk,
20 right?

21 A The purpose was to see if he would volunteer any
22 information.

23 Q But as soon as he started talking you wanted him to
24 stop talking.

25 A Yes, sir.

TESTIMONY OF MICHAEL CARR

1 Q Why would you get him to start talking if you wanted
2 him to stop talking?

3 A Once he made the statement I didn't see any need to
4 hear anymore of it. Because again, like I've said, my job
5 at that time was to deal with the inmates on a daily basis
6 and I felt first off that if I knew details of anyone's
7 crime, whatever it was, I would have a harder time dealing
8 with them one on one as a person instead of because of
9 what they are accused of doing. Also, I didn't want to
10 have to testify to be honest, I didn't want to have to
11 testify. Because at that time you will lose some of your
12 credibility with the inmates because they feel they can't
13 be open and talk to you about what's going on in there if
14 they think you might turn around and tell and testify
15 against them.

16 Q But you're not working there anymore.

17 A No, sir.

18 Q So you don't have any worries about that part.

19 A No, sir. But I did write the incident report and
20 knew I would probably have to testify when it happened.

21 Q Now, you said it was either an incident report or --

22 A Staff statement.

23 Q But you can't remember which?

24 A No, sir. It has been over three years.

25 Q Any idea why -- if it was an incident report where

TESTIMONY OF MICHAEL CARR

1 would it have been put?

2 A It would have gone into his paperwork to turn into
3 administration.

4 Q I guess what I meant is if there's an incident report
5 involving Mr. Perkins, doesn't that get put in
6 Mr. Perkins' detention file.

7 A If it is an incident report -- whether it's an
8 incident report or a staff statement, if it involves an
9 inmate a copy of it should be placed in his file. Once I
10 turn it in it goes to administration and I have no idea
11 what happens to it from there.

12 Q I understand all of that, I'm just trying to get to
13 the point. Once you give it to somebody a copy of it
14 should make it to his file at some point, correct?

15 A Yes, sir.

16 Q Another copy or the original may make it to someone
17 else up the chain of command, but at least part of it is
18 going into Casey's file.

19 A Yes, sir.

20 Q Have you since then been able to look at -- did you
21 write -- handwrite it or did somebody else write it and
22 you sign it?

23 A I hand wrote it.

24 Q Have you since this incident actually seen it?

25 A No, sir.

TESTIMONY OF MICHAEL CARR

- 1 Q Have you asked to see it?
- 2 A No, sir.
- 3 Q Have you been told that they can't produce it for you
- 4 to see it?
- 5 A Yes, sir.
- 6 Q Who told you that?
- 7 A I believe Agent Green and also -- I believe he told
- 8 me that it couldn't be located.
- 9 Q Who is he?
- 10 A Green.
- 11 Q Okay. Part of what -- your conversation with him he
- 12 asked for forgiveness from God.
- 13 A He asked me if I thought that God could forgive him.
- 14 Q And you basically told him no?
- 15 A I basically told him that if he tried to cover one
- 16 sin with another, if you're a religious person you know
-
- 17 that you would not be forgiven for either.
- 18 Q Did he ask that question, "Can I be forgiven?" Then
- 19 your little reply, was that asked before or after he said,
- 20 "I think I killed her?"
- 21 A After.
- 22 Q So he said, "I think I killed her," first and then --
- 23 A He didn't say, "I think I killed her," he said, "I
- 24 killed her."
- 25 Q All right. Now, are you sure that that's what he

TESTIMONY OF MICHAEL CARR

- 1 said?
- 2 A Yes, sir.
- 3 Q No doubts in your mind?
- 4 A No, sir.
- 5 Q How long did that whole incident take?
- 6 A The smoking?
- 7 Q Uh-huh.
- 8 A Ten to 15 minutes.
- 9 Q So even after he told you what he told you, he
- 10 continued to smoke?
- 11 A I let him smoke the cigarette.
- 12 Q Is it normal for inmates to go outside and smoke
- 13 cigarettes?
- 14 A No, sir.
- 15 Q In fact, there's a no smoking policy for the inmates;
- 16 is that right?
-
- 17 A Yes, sir.
- 18 Q Unless the sheriff says otherwise?
- 19 A Yes, sir.
- 20 Q Had you heard about the Hinson murder?
- 21 A I had heard that there had been a murder.
- 22 Q Did you hear the details of how she was killed?
- 23 A No, sir.
- 24 Q You have no idea on how she died?
- 25 A No, sir, and I still haven't heard complete details.

TESTIMONY OF MICHAEL CARR

1 Like I said, I don't want to know the details because of
2 the time I had to deal with Casey one on one and now I
3 don't see the need to know.

4 Q When y'all -- so y'all never -- by y'all I mean you
5 and your co-workers when you were working your shift,
6 y'all never talked about the Hinson murder?

7 A There was a little talk about it, but at the same,
8 like I said, I usually did not want to know. If I heard
9 what was going on I would leave the room.

10 Q You said you left last year?

11 A Yes, sir.

12 Q By the time you left you knew what he was in there
13 for.

14 A I knew he was in there for murder.

15 Q You knew some of the details.

16 A A few.

17 Q And you knew it was not just your average somebody
18 got shot kind of murder.

19 A Yes.

20 Q Did you ever tell Casey that he should confess?

21 A What I told Casey that night was covering up a sin
22 with a lie, he can't -- that he would not be forgiven and
23 that he needed to be honest with anybody who asked him
24 from that point.

25 Q Do you remember where he was being housed at the

TESTIMONY OF MICHAEL CARR

- 1 time?
- 2 A At that time he was holding up in booking.
- 3 Q Do you know how long he stayed in holding?
- 4 A I don't recall.
- 5 Q Do you remember him or someone ever telling you that
- 6 he had talked to the sheriff and given a confession?
- 7 A No.
- 8 Q You don't remember that at all?
- 9 A No, sir. I didn't know he had given another
- 10 confession.
- 11 Q As a corporal are you around the front desk there?
- 12 A No. Mostly my job is in the back.
- 13 Q Back with the inmates?
- 14 A Yes, sir.
- 15 Q So you actually see them come and go?
- 16 A Yes, sir.
-
- 17 Q Do you remember officers going in and taking him out
- 18 to question him after that?
- 19 A Yes.
- 20 Q How many times?
- 21 A I did not keep count. I just -- whenever they told
- 22 me they needed him I brought him to them.
- 23 Q Was it a lot, a little?
- 24 A It was a good bit.
- 25 Q More than your -- he was being moved more than your

TESTIMONY OF MICHAEL CARR

1 average inmate was.

2 A Yes, sir.

3 Q More than a couple?

4 A Yes, sir.

5 Q And when somebody came and said, "I need to talk to
6 Mr. Perkins," were you ever there -- did that person come
7 to the back of the cell and say, "I need him," or did you
8 just get some kind of radio call from the front desk
9 saying, "We need Perkins brought up front?"

10 A The way the jail is set up there's a door -- a locked
11 door that goes from the jail housing area to the sheriff's
12 department area, and most of the time I would get a call
13 on the radio to meet somebody at the door with Casey.

14 Q And did you ever see the people who were requesting
15 Casey?

16 A Yes.

17 Q Do you remember who any of the people were?

18 A Just mostly the investigators from the sheriff's
19 department.

20 Q Do you remember whether or not any of the Sled
21 officers were looking for them, or talked to them, I mean?

22 A I don't know the Sled officers, so if it was them I
23 wouldn't have known who they were.

24 Q Anybody that you didn't recognize?

25 A A few times.

TESTIMONY OF MICHAEL CARR

1 Q All right. Was Sheriff Benson ever one of those
2 people looking for him?

3 A Not that I recall, not when I was there.

4 Q Do you know who Shane Stewart is?

5 A Yes, sir.

6 Q Do you remember him being one of the people talking
7 to him?

8 A I believe so.

9 Q Do you know who Detective Perry is?

10 A Not off the top of my head, I may know him if I see
11 him.

12 Q Jamie Mitchell?

13 A Yes.

14 Q Was he one of them?

15 A Yes.

16 Q Cathy Bell?

17 A I don't recall Cathy coming and asking.

18 Q Obviously you knew who she was, she came to your
19 house. Major McNeil.

20 A I believe so.

21 Q Anybody else?

22 A Not that I can remember offhand.

23 Q But there were one or two people and a couple of
24 people that you don't know who they were.

25 A Right.

TESTIMONY OF MICHAEL CARR

1 Q All right. And as far as you know they didn't work
2 for Chester.

3 A Right.

4 MR. DUNN: Your Honor, I don't have any further
5 questions for Mr. Carr.

6 MR. BARFIELD: Couple of follow-ups.

7 REDIRECT EXAMINATION (NO JURY)

8 BY MR. BARFIELD:

9 Q Did you ever hear any conversations in your presence
10 and also in the presence of Casey Perkins other than the
11 one you have testified about concerning any details of the
12 murder of Judy Hinson?

13 A Not at Casey's presence, no.

14 Q Okay. You told Mr. Dunn and the Court that people
15 would come in and out asking to get Casey out of a cell, I
16 guess, for one reason or another.

17 A Yes, sir.

18 Q Can you say when?

19 A No, sir.

20 Q Can you say how many times?

21 A No, sir, not exactly.

22 Q Can you say specifically whom?

23 A Not all of them.

24 Q Okay.

25 A I mean, when he asked who gave me names to the best

TESTIMONY OF ROBERT H. BENSON

1 of my recollection I told who it was.

2 Q And do you have any knowledge about why people would
3 come in and ask for Casey to be brought up or brought out
4 or brought to the front or whatever it might have been?

5 A No, sir.

6 MR. BARFIELD: Thank you, that's all.

7 THE COURT: Thank you, sir, you may step down.

8 MR. DUNN: Your Honor, before he makes his arguments
9 about why they should come in, I would like to be able to
10 elicit some testimony from Sheriff Benson. I'm not sure if
11 that's proper or not, but it's my request.

12 The witness, ROBERT H. BENSON, was first duly sworn
13 and testified as follows, on:

14 DIRECT EXAMINATION (NO JURY)

15 BY MR. BARFIELD:

16 Q State your full name.

17 A Robert H. Benson.

18 Q And you're sheriff of Chester County?

19 A Yes, sir.

20 Q Sheriff Benson, I am going to ask you some questions
21 limited to the issues that we are here for today. You sat
22 through Mr. Carr's testimony; is that correct?

23 A Yes, sir.

24 Q Did Casey Perkins get arrested on August 29th of
25 2005?

TESTIMONY OF ROBERT H. BENSON

1 A Yes, sir.

2 Q Did he get arrested I think technically for the
3 offense for failure to register as a sex offender?

4 A Yes, sir.

5 Q Or failure to change his address with the sex
6 offender registry?

7 A That's correct.

8 Q At the time he got arrested on that charge was he a
9 strong suspect in the murder of Judy Hinson?

10 A Yes, sir.

11 Q Had he been charged with the murder of Judy Hinson
12 when he was taken into custody on the failure to register
13 charge?

14 A No, sir.

15 Q Did your officers -- do you know who actually put
16 Casey in cuffs, took him into custody, who was present

17 when that occurred?

18 A I can't recall.

19 Q Do you remember where he was when he got arrested?

20 A No, sir.

21 Q Do you recall whether y'all had to go get him or
22 whether he was already in your company somewhere, your
23 officer's company? If you don't remember, that's fine.

24 A I can't recall.

25 Q But it's a fact he got arrested on August 29th.

TESTIMONY OF ROBERT H. BENSON

1 A Yes, sir.

2 Q Now, did you know Casey prior to his arrest?

3 A Yes, sir.

4 Q When he got arrested, did you have any conversations
5 with him -- were you present when he was in custody, I
6 guess is what I'm asking?

7 A Yes, sir. I spoke to him, I can't remember whether
8 it was in the detention center or where at the time that I
9 had a conversation when they brought him in.

10 Q And what was your conversation with Casey when he got
11 brought in?

12 A Nothing really. Main thing he brought up to me is
13 that if he could smoke a cigarette or anything like that
14 and I stated to the detention officer, "Anytime he wants
15 to go get a cigarette break, just let him have a cigarette
16 break."

17 Q Why would you let Casey have a cigarette break?

18 Would anybody else have gotten a cigarette break?

19 A I've done it for other people that have been arrested
20 for different things.

21 Q Do you recall specifically having a conversation
22 either in person or on the telephone or by radio or any
23 other electronic means with Sergeant Williamson?

24 A No, sir.

25 Q Do you recall having a conversation with somebody at

TESTIMONY OF ROBERT H. BENSON

1 the detention center?

2 A If I discuss anything I usually go through Major
3 Alley and he'll pass it on what needs to be taken care of.

4 Q Did you give some message to detention center
5 personnel about Casey and letting him smoke or letting him
6 do anything else?

7 A Yes, sir.

8 Q Can you recall who you communicated that to?

9 A No, sir, I can't recall.

10 Q And what was the nature of the communication again?

11 A That if he wants to take a cigarette break, take him
12 out on the rec. and let him have a cigarette.

13 Q Now, did you communicate to anybody in the detention
14 center, anything to the effect of, "send officers with him
15 and see if he will talk?"

16 A No, sir.

17 Q Did you communicate with detention center people,
18 "Send officers with him and see if they can get him to
19 talk?"

20 A No, sir, that's not their job. We don't send
21 detention officers to do any type interviews or try to get
22 any type information from them.

23 Q Did you ever think that it would be nice if he would
24 talk to somebody in the jail? Did that ever occur to you?

25 A Not really. There's been inmates in the past that

TESTIMONY OF ROBERT H. BENSON

1 have brought up things to correction officers and it is
2 brought to our attention. But no, we don't -- that's not
3 our policy to send someone out to get information from the
4 inmates or prisoners.

5 Q Let me ask you this: Do you have any recollection of
6 ever becoming aware -- this is December 17th of 2008,
7 Casey Perkins got arrested on August 29th of 2005.

8 A Uh-huh.

9 Q Did you at some point become aware that Michael Carr
10 had heard Casey Perkins talking about killing a lady?
11 Well, let me ask you this question first, before I brought
12 him in the courtroom a minute ago -- let me back up
13 further. Do you know Michael Carr?

14 A Yes, sir.

15 Q Did you know him as a correctional officer?

16 A Yes, sir.

17 Q Before I marched him in the courtroom a minute ago,
18 had you and I talked about Michael Carr?

19 A Yes, sir.

20 Q I can't remember, when did you and I talk about
21 Michael Carr having some information about this case?

22 A In the past several weeks.

23 Q Prior to that, did you know that Michael Carr had
24 some knowledge about this case?

25 A No, sir.

TESTIMONY OF ROBERT H. BENSON

1 Q Do you have any recollection of ever being informed
2 by the detention center, any personnel out there or
3 Michael Carr himself that Perkins admitted to killing a
4 lady?

5 A No, sir.

6 Q Do you ever recall seeing either an incident report
7 or I can't remember what else kind of report Carr said
8 there was, an incident report or a what report?

9 A It's usually -- what it is, correction officers do a
10 report of anything unusual that occurs in the detention
11 center and I forgot the name of the report.

12 Q Do you have any recollection of knowing that anything
13 like that existed from Michael Carr?

14 A No, sir.

15 Q Do you have any recollection of ever seeing anything
16 like that from Michael Carr about Casey Perkins in this

17 case?

18 A No, sir.

19 MR. BARFIELD: That's all, thank you.

20 MR. DUNN: Please the Court, Your Honor?

21 CROSS EXAMINATION (NO JURY)

22 BY MR. DUNN:

23 Q So you never had any conversation as far as you can
24 remember with Sergeant Williamson, correct?

25 A Not that I recall anything.

TESTIMONY OF ROBERT H. BENSON

- 1 Q It is Sergeant Williamson, am I pronouncing that?
- 2 A There was a Williams over there.
- 3 Q Williams or Williamson?
- 4 A I can't remember which.
- 5 Q You don't know if he's still there or not?
- 6 A No, sir.
- 7 Q I think you said normally your conversations go
- 8 through Major Alley?
- 9 A Either Major Alley or Ms. Dunnifer, whatever, if
- 10 there's anything that needs to be taken care of.
- 11 Sometimes I do call over to ask questions and get the
- 12 information about certain things, you know, who was at the
- 13 desk. But if I need something relayed to the rest of the
- 14 people in the detention center I let them know so it goes
- 15 from the top down to the bottom, so there's --
- 16 Q It goes through the chain of command?
-
- 17 A Goes through the chain of command.
- 18 Q But as of today, whatever today's date is,
- 19 December 17th, 2008, you have not seen that statement made
- 20 by Mr. Carr.
- 21 A No, sir.
- 22 Q You have not -- and until this couple of weeks ago
- 23 when the solicitor brought it to your attention you hadn't
- 24 even heard about it.
- 25 A No, sir.

TESTIMONY OF ROBERT H. BENSON

1 Q Doesn't that somewhat concern you that a major
2 suspect in a murder case told a detention officer that he
3 had killed a lady but it never came to your attention as
4 the Sheriff of Chester County?

5 A Does it disturb me?

6 Q Yes, sir.

7 A It's information I would have liked to have had but
8 then again there's a lot of conversations going back in
9 the jail that detention officers hear and they don't know
10 what's true and what is false and --

11 Q I understand that you can't always rely upon what's
12 being said back there. But you have a murder and you have
13 arrested who you think did it but you didn't arrest them
14 for the murder because you don't have the probable cause
15 for that murder, correct?

16 A Yes, sir.

17 Q You needed something else, this right here could have
18 been something else that you needed and you never heard
19 that and that doesn't disturb you?

20 A It bothers me. I wish I would have heard that
21 information beforehand.

22 Q In fact, I believe all of the times I have listened
23 to your conversations with Mr. Perkins you never actually
24 mentioned that to him during that conversation, did you?

25 A What's that? I'm sorry.

TESTIMONY OF ROBERT H. BENSON

1 Q That September 7th conversation you had with
2 Mr. Perkins that we all refer to as the three hour
3 confession or whatever it is, I don't believe you ever
4 mentioned Mr. Perkins' conversation with Mr. Carr in that
5 conversation, did you?

6 A No, sir.

7 Q Is it fair to say if you would have known about it
8 that you would have brought that up during that
9 conversation?

10 A Probably.

11 Q Okay. Specifically when Casey is not talking to you
12 and you have already told one officer to go ahead and tell
13 me again what you told him, that's a fair question to ask
14 during a conversation like that, isn't it?

15 A Sometimes it is. It all depends on what you want to
16 withhold sometimes.

17 Q ~~To the best of your knowledge has the detention~~
18 center administrative personnel, have they looked for that
19 statement in the last three weeks since this incident came
20 to light?

21 A Yes, sir.

22 Q To the best of your knowledge it still wasn't found?

23 A No, sir.

24 Q And I believe you heard him -- Mr. Carr testify that,
25 in fact, that statement would have been generated, that at

TESTIMONY OF ROBERT H. BENSON

1 least one copy of that would have gone into Casey's file,
2 correct?

3 A Yes, sir.

4 Q And I've got a copy of the file and there's all kinds
5 of things in there, but that would have been one of the
6 many things in there, correct?

7 A Yes, sir.

8 Q Maybe I should ask this, have you personally looked
9 in that file to see if that statement is in there?

10 A No. I have had other personnel, though.

11 Q You relied upon your other people to do it for you,
12 but it hasn't come back to your attention that it has?

13 A No, sir.

14 Q You also heard Mr. Carr, one copy would have gone
15 there but the other copy would have gone up the chain of
16 command into administration. Where would that copy have

17 gone?

18 A Through the chain of command.

19 Q Ultimately at the end of the day you have a piece of
20 paper, where would that piece of paper have been put?

21 A It all depends on who it is sent to. It would go
22 from there to Ms. Dunnifer to Major Alley or delivered to
23 me, or whichever --

24 Q I guess just for simplicity, would there have been
25 another file that the piece of paper would have gone into?

TESTIMONY OF ROBERT H. BENSON

1 A Most likely, yes, sir.

2 Q What is the name of the file where it should have
3 gone?

4 A I'm not really sure. I would have to have
5 Ms. Dunnifer and Major Alley come over here and tell you
6 how they process everything.

7 Q All right. As far as you know you've never seen it?

8 A No, sir.

9 MR. DUNN: I don't have any other questions.

10 MR. BARFIELD: I don't have any other questions. Let
11 me as an officer of the Court just say a couple of things
12 and then we'll argue whatever we need to argue. This came
13 to my attention some time before it actually got
14 investigated. It came to my attention and I requested -- I
15 actually told -- Cathy Bell brought it to my attention.
16 And I said, "Cathy, the sheriff's office doesn't need to go

17 investigate this issue, I'm going to call Michael Green
18 with Sled and see if he will do it." Michael Green did.
19 Michael Green talked to Mr. Carr. Michael Green prepared a
20 summary of that conversation, sent it to me and within a
21 few days of when I got it I sent it to Mr. Dunn. I have
22 been busy and it took me awhile to actually print it off,
23 but he got it a couple of weeks ago probably, week and a
24 half or whatever.

25 MR. DUNN: I got it.

TESTIMONY OF ROBERT H. BENSON

1 MR. BARFIELD: One of the things I asked Michael Green
2 to do before he went and talked to Carr is get them at the
3 jail to see if there is some written documentation of this
4 conversation because I don't want you to go take a
5 statement from Carr when has already given a statement and
6 now we have got statements that might say two different
7 things, that's just something I didn't want to happen. And
8 it's my understanding consistent with what the sheriff said
9 that the detention center people looked everywhere they
10 knew to look and were not able to produce any documentation
11 of the event that Mr. Carr testified about. There might be
12 some but it hasn't been located and I instructed that a
13 search be made. So with that said we will go from there.

14 THE COURT: Let me ask y'all about the statement
15 before you start arguing about I'm going to call it Carr's
16 statement.

17 MR. BARFIELD: Yes, sir.

18 THE COURT: Are there two components to this statement
19 or is it all either in or all out, or is it possible some
20 is in and some is it out?

21 MR. BARFIELD: Well, Your Honor, I think certainly you
22 can rule that some of what Perkins told Carr is admissible
23 and some not. I think -- and I'm arguing now, but I'm
24 pumped up, that was not solicited I would argue to you. "I
25 killed the lady," I think that was not solicited. I think

TESTIMONY OF ROBERT H. BENSON

1 certainly there's probably going to be more concern on the
2 part of the Court about any repeats of those kinds of
3 statements by Perkins after Carr said, "If you tell a lie
4 now to cover up a bad act God ain't going to forgive you
5 for any of it," that might be of some concern. To answer
6 your question, yeah, I don't think it's all or nothing.

7 THE COURT: Well, go ahead, then.

8 MR. BARFIELD: Well, the only other real argument I
9 have is, of course, obviously Mr. Dunn doesn't like for me
10 to refer to this stuff as confessions but I am going to
11 call it a confession just because it is an easy word to
12 say. I think I have got another confession now by Casey
13 Perkins three years and some months after this dad gum
14 crime occurred. I'm disturbed about it more than anybody
15 else probably because that would have been nice to know
16 when I started putting this case together for trial. I
17 think the Court might be concerned about lots of issues in
18 the Jackson v. Denno realm. Number one, did we send people
19 out there to try to get Perkins to talk? Well, Carr
20 says -- doesn't say they sent me out there to try to get
21 him to talk, he says they sent me out there with him to
22 report if he did talk. Even if you would take the view --
23 even if you analyze it from the standpoint of the sheriff,
24 the sheriff sending them out there with Perkins to try to
25 squeeze him and get information, of course, my own witness

TESTIMONY OF ROBERT H. BENSON

1 said that, but I don't think it's credible because I can't
2 imagine -- the sheriff clearly says he didn't know about
3 it. I've had the file of this case since -- it's a big old
4 file, there ain't nothing in there from Carr. Clearly I
5 believe if the sheriff's office had known that Carr had
6 heard Perkins confessing to killing a lady they would have
7 told us about it, it would have been in the file. So I
8 think that in and of itself tells us that, no, the sheriff
9 did not send correctional officers out there with Carr to
10 prompt a confession or a statement. With all of that said,
11 I think it's admissible. I don't have Fidel Williams or
12 Williamson, I have not run him down, don't intend to.

13 THE COURT: I'm not going to cut you off, I'm going to
14 let you say everything you want to say. Let me -- didn't
15 Carr say that the defendant said -- made those two
16 statements that you have just referred to, and then he --
17 Carr said the other officer, Williamson, then the other
18 officer --

19 MR. DUNN: Williams or Byrd?

20 MR. BARFIELD: Let me straighten that out. It's Fidel
21 Byrd and Carr who were outside, it's Sergeant Williamson
22 who allegedly set this whole thing up.

23 THE COURT: Byrd then said something to the defendant
24 that could be construed as a question.

25 MR. BARFIELD: And frankly I can't recall --

TESTIMONY OF ROBERT H. BENSON

1 THE COURT: I can't remember what he said.

2 MR. BARFIELD: I don't know if our court reporter can
3 tell us.

4 THE COURT: Something like it can't be that bad.

5 MR. BARFIELD: It might have been something like that.
6 And certainly it can be construed as something -- it
7 doesn't have a question mark on the end of it but an
8 invitation to speak.

9 THE COURT: Those are my thoughts I have about it.

10 MR. DUNN: This is my concern more anything else, Your
11 Honor. We have another detention officer who is going to
12 testify, we've already heard them back at the Jackson v.
13 Denno hearing, Shaun Cheek. He testified -- he also said
14 that he gave us a written statement, I've got a copy of
15 that written statement, I can check to make sure that what
16 he is testifying to now is what he said back then. I have
17 no way of making sure that his testimony, except for cross
18 examination, is changing between now and then. We've had a
19 lot of witnesses between today, yesterday and Monday and
20 even back at the Jackson v. Denno who have had to go back
21 and look at their notes to try to refresh their memories
22 about things that happened two or three years ago. It just
23 concerns me that we have a piece of paper that should be
24 there and it's not there. I've got a copy of the file, I
25 subpoenaed the file -- I subpoenaed Mr. Perkins' file once,

TESTIMONY OF ROBERT H. BENSON

1 I got a copy of it, and I had subpoenaed other records that
2 pertain to Mr. Perkins and I got those the other day and in
3 none of those things is the note ever brought up. The
4 reality is Shaun Cheeks' note is never brought up either in
5 the file that I subpoenaed so I have got questions about
6 where it's being housed, too, but that's neither here nor
7 there.

8 MR. BARFIELD: Let me interrupt real briefly about
9 that. That's why I'm not sure about the whole Carr thing.
10 The Cheek statement got put into the law enforcement
11 investigative file, not in some sheriff and some detention
12 center inmate records file. It got forwarded to law
13 enforcement, we knew about that when it happened.

14 MR. DUNN: And I got a copy. I'm not trying to
15 dispute that it never got written down because I got a copy
16 of it. My point is Shaun Cheek gave a statement and it
17 never made it to Perkins' file, Mr. Carr stated he did it
18 and it never made it to Mr. Perkins' file.

19 THE COURT: Isn't everything you're arguing now going
20 to the weight of the evidence as opposed to the
21 admissibility of the evidence?

22 MR. DUNN: I don't think the Jackson v. Denno says
23 that there has to be a written statement to accompany
24 whatever is going to be testified to on the stand, I don't
25 think it is there. Lots of people testify to what they

TESTIMONY OF ROBERT H. BENSON

1 here, that's certainly -- my concern, Your Honor, though is
2 we have an issue about credibility and that is what the
3 Court -- the Court has to make sure that it's credible
4 before it goes before the jury to allow the jury to give it
5 whatever weight it needs to be given, whether a lot of
6 weight or a little weight or no weight. But it still has
7 to be enough credible evidence for it to muster that
8 threshold to make it into the presence of the jury. I just
9 don't have any confidence that there is that credibility
10 there. Of course, I'm Mr. Perkins' lawyer and I'm going to
11 say that but we're hearing things that just, you know --
12 I'm going to leave it to the Court's discretion. But I
13 would say there's not an either/or or both, I would say it
14 is like we can do one without the other. I would say they
15 are hand and hand and they need to come in together, there
16 needs to be a written statement or a verbal statement. I
17 don't know how strong my argument is.

18 THE COURT: Here is what I think. I think it's up to
19 the jury to decide whether they believe that Carr is
20 telling the truth.

21 MR. DUNN: Assuming he's telling the truth?

22 THE COURT: I think the jury has the prerogative to
23 decide whether they believe that Carr is telling the truth
24 just like any other witness and give what weight they want
25 to to what Carr said. What I think is admissible -- this

TESTIMONY OF ROBERT H. BENSON

1 is the ruling of the Court absent somebody else --

2 MR. DUNN: Before you make your ruling can I make --

3 THE COURT: Okay.

4 MR. DUNN: The other problem I have with this is
5 Perkins said something, Carr heard it, then Byrd, who
6 hasn't testified, elicited more responses from Perkins and
7 he talked some more.

8 THE COURT: Right. Well, that was what I was getting
9 ready to say is that I think the first two statements that
10 Carr said he heard the defendant say unsolicited and it
11 would be admissible, it's not subject to Miranda, he's
12 solving that for you. So my question to you is is the
13 second part of it something you would want to try to keep
14 out or not? I don't know.

15 MR. DUNN: Are you talking about the God part or are
16 we talking about the --

17 THE COURT: Everything after the first two statements,
18 the first two statements being, "I screwed up and I killed
19 her," or what -- something along those two lines, and then
20 what followed is potentially a violation.

21 MR. DUNN: Going along the same line, or same trail we
22 are on now, Your Honor, my understanding based on the notes
23 and what was testified to was Casey said, "I fucked up."
24 Byrd then says, "It can't be that bad." Perkins then said
25 "I killed her "-- or, "I think I killed her."

TESTIMONY OF ROBERT H. BENSON

1 THE COURT: I think he made the two statements first
2 before Byrd said anything?

3 (A recess was taken.)

4 MR. BARFIELD: I screwed up, that's what he said.

5 THE COURT: My law clerk's recollection is the same.

6 MR. BARFIELD: I screwed up. That's what I'm getting
7 at.

8 THE COURT: That's what he said without any prompting
9 and then Byrd makes his statement. Now, so do y'all want
10 to -- is anybody -- does anybody want to do any research on
11 that between now and tomorrow morning?

12 MR. BARFIELD: Absolutely not, I don't. I'm reading
13 your mind and you're telling me I can offer evidence that
14 Perkins told Carr "I screwed up," and that's it.

15 THE COURT: That's what I think, unless somebody can
16 show me some law that says I'm wrong.

17 MR. BARFIELD: I'll take that.

18 THE COURT: Unless you want to go further than that,
19 unless you want anything else to come in and I'm sure you
20 don't.

21 MR. DUNN: No, sir, I don't. The only research I have
22 done on Jackson v. Denno unsolicited statements are fair
23 game, that's why you start trying to tell them to shut up
24 so you can Mirandize them, which they never did. There was
25 no Miranda given, so --

TESTIMONY OF ROBERT H. BENSON

1 THE COURT: That's the rule of the Court subject to
2 somebody trying to change my mind in the morning.

3 MR. DUNN: My only concern going back to the Miranda
4 issue is that assuming that everything that Carr said was
5 true, if, in fact, he was taking Perkins outside to get him
6 to talk, the whole point of that if you are giving someone
7 a cigarette to try to get them to talk, you're trying to
8 get some kind of conversation out of them, I think he maybe
9 should have been Mirandized before the cigarette was
10 offered.

11 MR. BARFIELD: I think that's a stretch.

12 MR. DUNN: If you're trying to loosen somebody up and
13 you want them to talk -- he was in custody, he was even
14 handcuffed if I remember correctly.

15 MR. BARFIELD: That's much akin to let him get a
16 goodnights sleep and let's see if he is fresh in the
17 morning and wants to get all chipper and drink a cup of
18 coffee and get wired up and start spilling his beans. I
19 think there's got to be some overt act or some comment to
20 actually elicit statements, and I don't think making
21 somebody comfortable and giving them a cigarette or
22 whatever is interrogation.

23 THE COURT: I understand your argument, I disagree
24 with you. I think the first statement unsolicited is
25 admissible. Taking this all a step further I'm not sure

TESTIMONY OF ROBERT H. BENSON

1 that -- but that the second part of the statement might not
2 be admissible for impeachment purposes potentially heading
3 down the road looking at a US Supreme Court case --

4 MR. DUNN: Are you talking about impeachment on
5 Mr. Perkins? We're talking about if he takes the stand.

6 THE COURT: Yeah, if he takes it.

7 MR. DUNN: Shouldn't that be a bridge we get to when
8 we get to?

9 THE COURT: Yeah, I just mention that in passing.

10 MR. DUNN: I just don't anticipate that being an
11 issue.

12 THE COURT: Anything else we can do?

13 MR. BARFIELD: No, sir.

14 MR. DUNN: No, sir.

15 THE COURT: Court is adjourned.

16 (Court adjourned for the evening and resumed at 9:30

17 A.m., on Thursday, December 18, 2009.)

18 THE COURT: Are we ready for the jury?

19 MR. DUNN: Yes, sir.

20 MR. BARFIELD: Yes, sir. Michael Carr is the first
21 witness.

22 (The jury returned to the courtroom.)

23 The witness, MICHAEL CARR, was first duly sworn and
24 testified as follows, on:

25 DIRECT EXAMINATION

TESTIMONY OF MICHAEL CARR

1 BY MR. BARFIELD:

2 Q Mr. Carr, you live here in Chester County?

3 A Yes, sir.

4 Q And back in August, specifically August 29th of 2005,
5 by whom were you employed?

6 A Chester County Detention Center.

7 Q What was your job at the Chester County Detention
8 Center?

9 A I was floor corporal.

10 Q And did you have some supervisory authority over
11 other officers in the detention center as a corporal?

12 A Yes, sir. I was second in command of the shift.

13 Q All right, sir. Did you become aware that an
14 individual named Casey Ray Perkins was arrested and
15 brought to the detention center to be housed on
16 August 29th of 2005?

17 A Yes, sir.

18 Q Were you present the day he was arrested and
19 incarcerated at the detention center?

20 A Yes, sir.

21 Q Did you have an occasion that day to have some
22 contact with Casey Perkins when he came in?

23 A Yes, sir.

24 Q Now, let me ask you a couple of questions on another
25 subject briefly. On August 29th of 2005, were you aware

TESTIMONY OF MICHAEL CARR

1 that there had been a homicide in Chester County that was
2 being investigated involving a lady named Judy Hinson?

3 A Yes, sir.

4 Q As a detention center employee, were you a sheriff's
5 office investigator?

6 A No, sir.

7 Q Were you deputy with the sheriff's office?

8 A No, sir.

9 Q Did you take any -- did you participate at all in the
10 investigation of the death of Judy Hinson on behalf of the
11 sheriff's office?

12 A No, sir.

13 Q Did you know any details about that investigation or
14 the event that led to Judy Hinson's death?

15 A No, sir.

16 Q When Mr. Perkins came in you said a minute ago that
17 you had some contact with him, where did you have contact
18 with Casey Perkins?

19 A I was told by my sergeant to take him from --

20 Q Don't quote anybody, just tell me what you did.

21 A From the booking area to a smoking area to have a
22 cigarette.

23 Q Was Casey Perkins allowed to smoke?

24 A Yes, sir.

25 Q How long were you -- well, forget that. Did Casey

TESTIMONY OF MICHAEL CARR

1 Perkins -- first of all, did you undertake to interrogate
2 Casey Perkins?

3 A No, sir.

4 Q He was in custody, I presume?

5 A Yes, sir.

6 Q Did he make any statement to you as y'all were out
7 there smoking a cigarette?

8 A Yes, sir.

9 Q What did he say? And say it loudly and slowly.

10 A Once he lit his cigarette he turned to me and said,
11 "I fucked up."

12 MR. BARFIELD: Okay. Thank you, sir. Answer anything
13 Mr. Dunn has.

14 THE COURT: Mr. Dunn, cross examination?

15 MR. DUNN: Thank you, Your Honor. May it please the
16 Court?

17 CROSS EXAMINATION

18 BY MR. DUNN:

19 Q At whose instructions did you take Casey out to the
20 court yard?

21 A Ultimately it was my sergeant told me to, but he had
22 said that he had --

23 Q You can't tell what he -- but just it was his
24 instruction that told you to take him out?

25 A Yes, sir.

TESTIMONY OF MICHAEL CARR

1 Q As far as you know was there anybody else involved in
2 that decision making to have you take Casey out to the
3 yard?

4 A I was told -- okay.

5 Q As far as you know?

6 A As far as I know, no.

7 Q It was just Sergeant Williams' decision?

8 A Yes, sir.

9 Q It wasn't anybody else's decision?

10 A As far as I know, yes.

11 Q Okay. At the time that he made the comment that you
12 just quoted him saying, was he handcuffed?

13 A Yes, sir.

14 Q All right. And is it fair to say that he was upset
15 at the time?

16 A Yes, he seemed agitated.

17 Q He had just been arrested, correct?

18 A Yes, sir.

19 Q Pretty recently after the time you -- it wasn't a
20 long time between the time he got to the jail when you
21 took him outside, correct?

22 A No, sir, it wasn't long.

23 Q Same day, correct?

24 A Yes, sir.

25 Q Probably within an hour or two maybe?

TESTIMONY OF MICHAEL CARR

1 A Yes.

2 Q All right. Now, you said you worked at the detention
3 center until last year.

4 A Yes, sir.

5 Q All right. During the -- do you remember Mr. Perkins
6 being in the jail the week after the statement he made to
7 you?

8 A Yes, sir.

9 Q During that time, did anybody come to see
10 Mr. Perkins?

11 A How do you mean?

12 Q You are a corporal -- you were a corporal, correct?

13 A Yes, sir.

14 Q And part of your job duties were staying back in the
15 detention center with the inmates, correct?

16 A Yes, sir.

17 Q And someone at the detention center is staying up
18 front at the front desk, right?

19 A Yes, sir.

20 Q And somebody stayed back with the inmates to watch
21 them, correct?

22 A Yes, sir.

23 Q From time to time, is it not, it is a practice for
24 people -- if somebody is coming to talk with an inmate
25 that somebody has to bring him from the back up to the

TESTIMONY OF MICHAEL CARR

1 front, correct?

2 A Yes, sir.

3 Q All right. Do you ever have any recollection of ever
4 having to take Mr. Perkins from the back up to the front
5 to meet with anybody?

6 A Yes, sir.

7 Q All right. And you don't know where he went once you
8 brought him up front, correct?

9 A No, sir.

10 Q All you know is somebody wanted to talk with him and
11 you would transport him, right?

12 A That's correct.

13 Q Did you ever have any opportunity to see who was up
14 there waiting on Mr. Perkins?

15 A Some of the time, yes, sir.

16 Q Do you remember any of those folks?

17 A Yes, sir.

18 Q Can you tell me who they were?

19 A Some of our investigators. There was I believe Cathy
20 Beck (sic) may have been there, I can't recall exactly who
21 off the top of my head.

22 Q Do you remember whether or not Detective Mitchell was
23 one of those folks?

24 A Yes, sir.

25 Q He was?

TESTIMONY OF MICHAEL CARR

1 A I believe so.

2 Q Detective Perry?

3 A I'm not sure.

4 Q Detective Stewart?

5 A Yes, sir.

6 Q Major McNeil?

7 A I believe so.

8 Q Sheriff Benson?

9 A I believe so.

10 Q Was there ever anybody up there that you didn't
11 recognize?

12 A There were a few times.

13 Q All right. Have you had any opportunity to see those
14 folks while you have been in the courthouse in the last
15 two days?

16 A Not that I remember. Once I brought them up there I
17 just hand him over.

18 Q Okay. At the time that you had brought him -- by the
19 time you took him outside to smoke a cigarette, where was
20 he being housed?

21 A He was being housed in the booking area.

22 Q Do you remember how long he had to stay in booking?

23 A I don't recall exactly, no, sir.

24 Q Generally after somebody is arrested how long do they
25 stay in the booking?

TESTIMONY OF MICHAEL CARR

1 A About 24 hours.

2 Q And then where do they go?

3 A To the back.

4 Q How many holding cells are back there, or how many
5 blocks or whatever y'all call them?

6 A Six and a maximum security area.

7 Q The blocks are actually lettered, right, A, B, C, D,

8 E --

9 A Yes, sir.

10 Q It goes all of the way through G, I believe, or does
11 it go higher than that?

12 A As long as I worked there you think I would know
13 but --

14 Q That's all right. I'm not trying to get you to say
15 something you can't remember. Do you remember at what
16 point Casey was taken back to general population?

17 A I don't know exactly, no, sir.

18 Q All right. During the week immediately after him
19 being arrested, was he ever transferred out of general
20 population and put somewhere else?

21 A Not that I know of.

22 MR. DUNN: I don't have any further questions, Your
23 Honor.

24 MR. BARFIELD: Just a couple of redirect briefly.

25 REDIRECT EXAMINATION

TESTIMONY OF MICHAEL CARR

1 BY MR. BARFIELD:

2 Q When an inmate comes in, are they normally wearing
3 what we would call street clothes?

4 A Yes, sir.

5 Q And do they get to wear their street clothes in the
6 detention center?

7 A They wear it up in booking, once they've been to see
8 a judge and they're put in the back and they are changed.

9 Q All right. Do you recall whether or not Casey
10 Perkins had been dressed out into the detention center
11 clothing?

12 A I believe he had.

13 Q Okay. That's fine. One other question. Mr. Dunn
14 was asking you about other people who from time to time
15 had contact with Casey Perkins while you were working
16 there and he was an inmate. Did you ever hear any of

17 those people talking to Casey and providing him any
18 details about the case that was under investigation?

19 A No, sir.

20 MR. BARFIELD: Thank you. That's all I have of
21 Mr. Carr and ask that he be excused.

22 MR. DUNN: No further questions.

23 THE COURT: Thank you, sir. You may be excused.

24 The witness, BUDDY WILKES, was first duly sworn and
25 testified as follows, on:

TESTIMONY OF BUDDY WILKES

1 DIRECT EXAMINATION

2 BY MR. BARFIELD:

3 Q Mr. Wilkes, by whom are you employed?

4 A South Carolina Law Enforcement Division.

5 Q How long have you been employed by Sled?

6 A Since 1990.

7 Q Were you employed by Sled in August of 2005?

8 A Yes, sir, I was.

9 Q Did you get assigned by whoever was over you at Sled
10 to assist with the investigation of the death of Judith
11 Hinson, which occurred on Debruhl Road in Chester County
12 on August 27th of 2005?

13 A Yes, sir, I did.

14 Q Do you recall whether you came up on Saturday,
15 August 27th, or was it some time later when you first came
16 up?

17 A I believe I came up the first time on the 28th.

18 Q All right. Now, I'm going to ask you a real general
19 question and then I'll ask you some detailed questions.
20 Did you at some point become aware that a person named
21 Casey Ray Perkins was a suspect in this case?

22 A Yes, sir, I did.

23 Q And do you see Casey Perkins in the courtroom today?

24 A Yes, sir. He's seated in the middle at the defense
25 table.

TESTIMONY OF BUDDY WILKES

1 Q All right, sir. Did you become aware that Casey
2 Perkins was arrested and taken into custody on August 29th
3 of 2005?

4 A Yes, sir.

5 Q Did you participate in and were you present and did
6 you participate in the arrest?

7 A Yes, sir, I did participate in it.

8 Q And over a couple of days surrounding your initial
9 involvement in this case, did you have some contact with
10 Casey Perkins?

11 A Yes, sir, I did.

12 Q And did some of that contact include conversations
13 with him?

14 A Yes, sir.

15 Q Did some of it actually include questioning him?

16 A Yes, sir.

17 Q Now, ask you some specific questions now. What was
18 the first day that you met Casey Perkins?

19 A That was on August 28th.

20 Q Of '05?

21 A Yes, sir.

22 Q Was anybody in your company in law enforcement when
23 you first met Casey?

24 A Yes, sir. Sheriff Benson and Special Agent Michael
25 Green with Sled were with me.

TESTIMONY OF BUDDY WILKES

- 1 Q Where was the initial contact with Perkins?
- 2 A It was at their home.
- 3 Q Who else was -- well, where at their home was it?
- 4 A It was in the front yard.
- 5 Q Other than Casey Perkins being in the front yard, was
- 6 any -- were any other none law enforcement people present?
- 7 A Yes, sir, his mother and father were also present.
- 8 Q Do you remember what his daddy's name is?
- 9 A Billy, I believe.
- 10 Q Do you remember what his mama's name is?
- 11 A No, sir, I don't.
- 12 Q At the time you arrived on August 28th prior to your
- 13 initial contact with Casey Perkins, had you been briefed
- 14 by one or more persons on the incident that was being
- 15 investigated, the death of Judy Hinson?
- 16 A Yes, sir.
-
- 17 Q Did you know some detail?
- 18 A Yes, sir, I did.
- 19 Q Was all detail known on August 28th of 2005 when you
- 20 first saw Casey?
- 21 A No, sir.
- 22 Q Do you know whether the autopsy had been -- had you
- 23 received any information about autopsy results yourself by
- 24 the time you first met Casey?
- 25 A Some information from the autopsy, yes, sir.

TESTIMONY OF BUDDY WILKES

1 Q Okay. On August 28th of 2005 when you first met
2 Casey Perkins, was he under arrest?

3 A No, sir, he was not.

4 Q Was there any intention at that time by you or to
5 your knowledge other law enforcement agents at that first
6 visit to arrest Casey Perkins?

7 A No, sir.

8 Q When you were talking to Casey Perkins in his yard
9 that day, did you read him any Miranda warnings?

10 A No, sir.

11 Q Why not?

12 A Well, it was just a conversation with them in the
13 yard, it was not a custodial situation so I didn't read
14 him his rights.

15 Q So during your conversations with Casey Perkins in
16 his yard on the 28th, was he ever restrained in any

17 fashion, meaning number one, handcuffs or leg shackles or
18 a belt with chains or just simply somebody's hand on his
19 shoulder keeping him from moving at all?

20 A No, sir.

21 Q At any time on the 28th was he detained --

22 A No, sir.

23 Q -- during that visit?

24 A No, sir.

25 Q On the 28th -- I'm going to quit saying the date,

TESTIMONY OF BUDDY WILKES

1 we're talking about the conversation in the yard under the
2 trees. Did anybody, the law enforcement agents, you
3 Michael Green and the sheriff, were y'all wearing
4 something that would identify you as law enforcement
5 agents?

6 A Yes, sir.

7 Q Did y'all identify yourselves verbally to Perkins as
8 law enforcement agents?

9 A Yes, sir, we did.

10 Q Gun and a badge, I presume?

11 A Yes, sir.

12 Q Did anybody use law enforcement implements in any
13 sort of a threatening manner with Perkins, meaning pull
14 out a pistol or hold it to his head or anything like that?

15 A No, sir.

16 Q Did anybody -- did Casey have any apparent physical
17 problems, injuries or illnesses or discomfort while you
18 were in his presence?

19 A No, sir.

20 Q Did he at any time while you were in his presence
21 make any requests like, "I need to go in and go to the
22 bathroom or smoke a cigarette or get a Coke," or anything
23 like that?

24 A No, sir.

25 Q Was he denied anything that he might have requested?

TESTIMONY OF BUDDY WILKES

1 A No, sir.

2 Q Did anybody during that conversation threaten Casey
3 Perkins or anybody else present with any kind of harm,
4 physical or legal or otherwise?

5 A No, sir.

6 Q Did anybody during that conversation make any
7 promises to Casey Perkins to get him to talk to y'all?

8 A No, sir.

9 Q Did you participate in some conversation with Casey's
10 dad?

11 A Yes, sir, I did.

12 Q Did his dad make any comments that you found
13 interesting or unusual?

14 A Yes, sir, he did.

15 Q What was his daddy talking about?

16 A Well, he was rambling about large sums of money.

17 Q Had you ever met Billy Perkins, the dad, before?

18 A No, sir, I had not.

19 Q Go ahead, please.

20 A And he was very animated and kind of hopping around
21 and he was real loud and he kept talking about large sums
22 of money --

23 MR. DUNN: Your Honor, I'm going to object to hearsay
24 if we are talking about Billy Perkins.

25 MR. BARFIELD: I'll withdraw the question and move

TESTIMONY OF BUDDY WILKES

1 onto something else.

2 THE COURT: Question withdrawn, sustained. The
3 objection is sustained.

4 Q Did y'all leave Casey Perkins' house?

5 A Yes, sir, we did.

6 Q Where was Casey Perkins when y'all left his house?

7 A In his yard.

8 Q He didn't get taken anywhere?

9 A No, sir.

10 Q When did you next see Casey Perkins?

11 A Later on that afternoon.

12 Q Same day?

13 A Or -- well, actually later on that morning, around
14 lunch time, yes, sir.

15 Q Do you remember -- August 28th would have been what
16 day, do you remember?

17 A No, sir, I don't remember.

18 Q That's fine. We're still talking about August 28th?

19 A Yes, sir.

20 Q Where did you next see Casey Perkins?

21 A At the Chester County Sheriff's Department.

22 Q At the main sheriff's office or at the substation?

23 A The main sheriff's office.

24 Q Were you expecting him to come?

25 A Yes, sir.

TESTIMONY OF BUDDY WILKES

- 1 Q How did he get there?
- 2 A He came with his mother.
- 3 Q And when you got there with Casey, did you have any
- 4 intention to question him in some detail, I guess, about
- 5 the homicide investigation that was ongoing?
- 6 A Yes, sir.
- 7 Q In that regard, did you read him his Miranda
- 8 warnings?
- 9 A Yes, sir, I did.
- 10 Q Mr. Wilkes, I'm going to show you a piece of paper
- 11 and ask you first if you can identify it?
- 12 A Yes, sir, I did.
- 13 Q What is that?
- 14 A This is the Sled Miranda warnings.
- 15 Q Is this the orange?
- 16 A Yes, sir.
-
- 17 Q Is any of the writing on there yours?
- 18 A Yes, sir.
- 19 Q Who else put writing on that?
- 20 A Casey Perkins.
- 21 Q What is the date on that document?
- 22 A August 28th of 2005.
- 23 Q Does it have a time on it?
- 24 A Yes, sir, it is 11:54 a.m.
- 25 Q All right. And did you go over that document

TESTIMONY OF BUDDY WILKES

1 basically word for word with Casey Perkins?

2 A Yes, sir, I did.

3 Q Does it contain his Miranda warnings?

4 A Yes, sir, it does.

5 Q Without reading the whole thing, what does it tell
6 him?

7 A Basically that he has the right to remain silent and
8 he doesn't have to talk to me if he doesn't want to. And
9 he has the right to have an attorney present then or at
10 any time and you can terminate the interview at any time,
11 it's all completely voluntary.

12 Q Did you read the whole thing to him?

13 A Yes, sir, I did.

14 Q Did he -- at the time you were doing that, had you
15 determined his age or anything like that?

16 A No, sir. I didn't have his exact age, I don't think.

17 Q That's fine. Do you recall asking him how far he had
18 gone in school or anything like that?

19 A I don't think so, not at that time. Later on I did.

20 Q I'm going to jump way ahead. From the moment he came
21 in and you started dealing with him at the sheriff's
22 office on August 28th until y'all were done on
23 August 28th, about how long was he in your presence?

24 A About six hours. But he was gone -- he actually left
25 the sheriff's department for about an hour or hour and a

TESTIMONY OF BUDDY WILKES

1 half and then he came back.

2 Q I'm going to ask you just a couple of real general
3 questions about that. When he left the sheriff's office
4 for an hour or hour and a half, did he leave on his own
5 accord with his own transportation?

6 A Yes, sir. He left with his mother.

7 Q And when he came back, did he come back of his own
8 accord, private transportation?

9 A Yes, sir.

10 Q So six hours less an hour or hour and a half.

11 A Yes, sir.

12 Q Now, during that -- or four and a half hours -- or
13 four and a half or five hours, was there a good bit of
14 conversation between you and Casey?

15 A Yes, sir.

16 Q Did you have any difficulty -- did you form any

17 opinion about whether he -- back up. Did you have any
18 difficulty understanding the words and phrases and
19 thoughts Casey Perkins was expressing to you?

20 A No, sir, I did not.

21 Q Did he appear to have any difficulty understanding
22 the words and phrases and thoughts you were expressing to
23 him?

24 A No, sir.

25 Q Any problems with communication at all?

TESTIMONY OF BUDDY WILKES

- 1 A No, sir.
- 2 Q As you read him his rights, did you ask him if he
- 3 understood those rights?
- 4 A Yes, sir, I did.
- 5 Q Did he indicate to you that he did or he did not?
- 6 A That he did.
- 7 Q Did he do or say anything that leads you to believe
- 8 he did not understand?
- 9 A No, sir.
- 10 Q Did he ask you any questions about his Miranda
- 11 rights?
- 12 A No, sir.
- 13 Q Did he waive his Miranda rights and talk to you?
- 14 A Yes, sir, he did.
- 15 Q Now, at the time you were with him, were other law
- 16 enforcement agents present?
-
- 17 A I talked to him by myself most of that time, and
- 18 Agent Green was in the area.
- 19 Q All right. Was he handcuffed or restrained in any
- 20 fashion at the sheriff's office?
- 21 A No, sir.
- 22 Q Where was he in the sheriff's office? Was he in the
- 23 detention center side or the sheriff's office side?
- 24 A Over on the sheriff's office side.
- 25 Q Was he in some secure room or cell or was he in a

TESTIMONY OF BUDDY WILKES

1 conference room or interview room or office?

2 A It was just an interview room.

3 Q If he would have at any point said, "I'm breaking
4 camp, I'm tired of this, I want to go home," could he have
5 gone home?

6 A Yes, sir, he could have, and, in fact, he did.

7 Q All right. Again, same question, any law enforcement
8 equipment used in any manner in a threatening manner
9 against Casey Perkins during the time you were talking to
10 him?

11 A No, sir.

12 Q Do you know where his mom was? You said, "I think
13 his mom brought him up there," do you know where she was
14 while all of this was going on?

15 A I know for some period of time she was in the waiting
16 area up front, I don't know the whole entire time, but --

17 Q At any time during that process, did Casey make any
18 requests, and I'll ask you some specifics. For example,
19 "Can my mama come back here?"

20 A No, sir.

21 Q "Can I use the telephone to call somebody?"

22 A No, sir.

23 Q "I don't want to talk to you anymore."

24 A No, sir.

25 Q "I want to call a lawyer and talk to a lawyer before

TESTIMONY OF BUDDY WILKES

1 I talk to you."

2 A No, sir.

3 Q "I want to go take a bathroom break."

4 A If he did then we let him.

5 Q Did he ask for anything y'all didn't give him?

6 A No, sir.

7 Q Did you make any promises of any nature to Casey

8 Perkins on August 28th at the sheriff's office to get him

9 to talk?

10 A No, sir.

11 Q Did you make any threats or do anything to coerce him

12 in any manner to get him to talk?

13 A No, sir.

14 Q And when I say you I'm talking about you and anybody

15 else who was present during any part of this process that

16 you recall, did you or anybody else present do anything to

17 coerce or make threats against anybody connected with

18 Casey Perkins, like a family member to get him to talk?

19 A No, sir.

20 Q During your conversation with Casey Perkins on

21 August 28th of '05 at the sheriff's office, did you give

22 him any details of the crime or the investigation or the

23 results of the investigation concerning the death of Judy

24 Hinson?

25 A No, sir.

TESTIMONY OF BUDDY WILKES

1 Q Did he talk to you?

2 A Yes, sir, he did.

3 MR. BARFIELD: Your Honor, at this time I would offer
4 the Miranda warnings as the next State's Exhibit.

5 MR. DUNN: I want to raise my objection from my
6 previous --

7 THE COURT: The Court notes the prior once but the
8 court will admit it into evidence.

9 (The Miranda warning was received as State's 39.)

10 Q At any time during your interview with Casey Perkins
11 at the sheriff's office, the one we're talking about now,
12 did he admit killing Judy Hinson?

13 A No, sir.

14 Q Did he admit to you that he had knowledge even that
15 Judy Hinson had died?

16 A He did.

17 Q Did he tell you the source of his knowledge?

18 A He said that Donald Wilson had told him about it and
19 he didn't know anything about it until Donald Wilson told
20 him.

21 Q Did he tell you whether he had heard anything about
22 the mechanics of Judy Hinson's death at all?

23 A Yes, sir, he did.

24 Q Generally speaking, what did he say about he heard
25 about how Ms. Hinson had died?

TESTIMONY OF BUDDY WILKES

1 A He said he had heard a lot of different rumors, he
2 said about 20 different rumors that she had been stabbed
3 and mutilated.

4 Q Did he tell you that he had heard any other mechanism
5 by which she died?

6 A No, sir, I don't think so.

7 Q Do you have your notes for this interview with you?

8 A Yes, sir, I do.

9 Q And I'm looking at page three, about the second line
10 at the bottom.

11 A Yes, sir. He also told me that another neighbor in
12 that neighborhood out there told him that she had
13 committed suicide.

14 Q All right. Other than what you just told the jury,
15 did he give you any details about his knowledge of
16 Ms. Hinson's death?

17 A No, sir.

18 Q Did you question him about whether he had ever been
19 to Judy Hinson's house?

20 A Yes, sir, I did.

21 Q Did he indicate yea or nay?

22 A He said he had been there one time.

23 Q Did he tell you about when that was?

24 A It had been some time, he said it was about six
25 months to a year prior to this.

TESTIMONY OF BUDDY WILKES

1 Q Did you question Casey Perkins -- did you know when
2 the crime is alleged to have occurred?

3 A Yes, sir.

4 Q What was the window that you understood the crime to
5 have occurred?

6 A It was on the -- I believe the 27th if I'm not
7 mistaken, late in the evening.

8 Q Okay. If I tell you that Friday was the 26th and
9 Saturday was the 27th, would you disagree?

10 A Then I believe -- seemed like it happened on a Friday
11 night.

12 Q Into Saturday morning?

13 A Yes, sir.

14 Q The body was discovered Saturday morning?

15 A Yes, sir.

16 Q Is that your understanding?

17 A Yes, sir.

18 Q Did you question Casey Perkins about where he had
19 been and his activities Friday night into Saturday
20 morning?

21 A Yes, sir.

22 Q Did he give you an explanation?

23 A Yes, sir.

24 Q What did he tell you first about his whereabouts
25 Friday night?

TESTIMONY OF BUDDY WILKES

1 A Well, he said he had been to a friend named Bob's
2 until about 10:30, and then another friend named John
3 called and that Zack and Bob's son drove Casey to John's
4 house, which is right below Ms. Hinson's house.

5 Q Did you become aware of the geography of Debruhl Road
6 and where various people lived?

7 A Yes.

8 Q Go ahead. He went to John's house. About what time
9 did he say he went to John's house?

10 A He said he was at Bob's until about 10:30 and then
11 went to John's house and stayed there until about 1:30
12 a.m.

13 Q Did he tell you whether or not at John's house he
14 had -- or did he tell you whether he drank anything that
15 night anywhere?

16 A Yes, sir, he did.

17 Q What did he say about drinking?

18 A He said he had drank some light beers at John's
19 house.

20 Q Okay. Did he tell you where he went after he left
21 John's house at about 1:30?

22 A He said he went straight home from John's.

23 Q Did he tell you about what time that was?

24 A He said he got home about 1:35 to 1:40 a.m.

25 Q Did he give you any details about his walk -- go back

TESTIMONY OF BUDDY WILKES

1 to the geography. Did you have any knowledge or
2 understanding of where Perkins lived when this interview
3 was ongoing?

4 A Yes, sir.

5 Q Where did you understand he lived, not necessarily an
6 address, but general area?

7 A Well, Ms. Perkins' (sic) house was in the middle of
8 Casey Perkins' house and John's house.

9 Q Okay. Now say that again, Miss whose house? I
10 think -- say that again.

11 A The victim's house.

12 Q Okay.

13 A Is in the middle, and then up the hill is Casey
14 Perkins' house, and on the other side of the victim's
15 house is John's house.

16 Q Did Perkins tell you anything about his walk home? _____

17 A Yes, sir.

18 Q What did he say about his walk home?

19 A Well, he said he walked up the road to his driveway.

20 Q Did he describe any events or occurrences or anything
21 that he made note of on his walk home?

22 A Yes, sir, he did.

23 Q What did he say?

24 A Well, he said he saw some people while he was walking
25 or partially saw some people while he was walking. He

TESTIMONY OF BUDDY WILKES

1 said he couldn't see anything but shadows, but he thought
2 he said a girl that was thin, 15 to 16 years old. He said
3 she acted like she was hiding from somebody and she ducked
4 into the thicket, and then two other people were together,
5 a muscular dude, not tall or short, and a woman. He said
6 "I guess it was a woman, looked like they had two dogs
7 with them." And he said they came down Judy's driveway
8 and walked down the road towards his house.

9 Q All right. Did he tell you anything else about his
10 walk home?

11 A Well, he said the girl that was hiding was not with
12 the other two and that he said they gave him a query
13 feeling.

14 Q Okay.

15 A And then he said he heard screaming.

16 Q Did he tell you anything about the screaming?

17 A Well, he said it sounded like it was coming from
18 Judy's.

19 Q Did he tell you he went on home?

20 A Yes, sir. He said it sounded like kids screaming or
21 a woman screaming and then he went home.

22 Q Did he indicate whether he saw any of these three
23 people any other time that night?

24 A He said that he later saw the man and the woman walk
25 back past his house.

TESTIMONY OF BUDDY WILKES

1 Q All right. Did you ask him whether he had any
2 involvement in Ms. Hinson's death?

3 A Yes, sir, I did.

4 Q What did he say?

5 A He told me he did not.

6 Q Did he say anything by way of explanation of why he
7 wouldn't kill somebody?

8 A Well, he just said, "There's no way I could kill
9 somebody." He said, "I can't stand the sight of blood."

10 Q Okay. Did you ask Casey Perkins during this
11 interview anything about clothing?

12 A Yes, sir. I asked him what he was wearing that
13 night.

14 Q Did you have any knowledge of specific clothing that
15 was of interest to law enforcement during this interview?

16 A Yes, sir, I did.

17 Q What in particular were you interested in?

18 A A Mercedes Benz mechanics shirt.

19 Q Did you ask Casey Perkins if he had such a shirt?

20 A Yes, sir, I did.

21 Q Did he respond?

22 A Yes, sir.

23 Q What did he say?

24 A He said that he had two such shirts but he had thrown
25 them both away.

TESTIMONY OF BUDDY WILKES

1 Q Did he indicate -- first of all, did he indicate why
2 he had Mercedes shirts?

3 A Well, he had worked at a Mercedes dealership in Rock
4 Hill in the past.

5 Q Did he describe the shirts in any detail?

6 A Yes, sir. He said they were medium blue and short
7 sleeved and had a Mercedes imblem on the left and the name
8 Casey on the right pocket.

9 Q Did he indicate when he disposed of the shirts? And
10 you are talking to him -- the 28th I guess is Sunday, is
11 that right? Friday 26th, Saturday 27th and Sunday 28th?

12 A Yes, sir.

13 Q Did he indicate what he did with the Mercedes shirts?

14 A He said that he had thrown one of them away the week
15 before that.

16 Q Did he say where he threw it away?

17 A He said he put it in the trash can in his kitchen and
18 that his mother had thrown the trash out.

19 Q All right. Did he tell you when he got rid of the
20 second Mercedes shirt?

21 A Yes, sir. He said he -- the Wednesday or Thursday
22 prior to this day he got rid of the second Mercedes shirt.

23 Q Did he tell you where he put it?

24 A Yes, sir. He said he threw it in a trash can in the
25 yard.

TESTIMONY OF BUDDY WILKES

- 1 Q Did he say whose trash can it was?
- 2 A He said it was Ed Devatt's trash can.
- 3 Q Did you know Ed Devatt to be a person that lived on
- 4 Debruhl Road?
- 5 A Yes, sir.
- 6 Q How did you take that comment? Ed Devatt had a trash
- 7 can at Perkins' house or he threw it in the Devatt's trash
- 8 can at Devatt's house? What did you take that to mean?
- 9 A I understood him to say it was at Casey's house.
- 10 Q Okay. Did you ask Casey what kind of shirt he was
- 11 wearing the Friday night into the Saturday morning?
- 12 A Yes, sir.
- 13 Q What did he say?
- 14 A He said he couldn't remember. He said he thought it
- 15 might have been a pullover with dark green and white or
- 16 maybe red up and down stripes.
-
- 17 Q Did you specifically question him about whether he
- 18 had been wearing the Mercedes shirt Friday night?
- 19 A Yes, sir.
- 20 Q What did he say?
- 21 A He said he had not. In other words, he knew he
- 22 wasn't wearing that shirt, the Mercedes shirt.
- 23 Q I'm going to skip over something and I'll come back
- 24 in a minute. Did you ask him about his shoes? Did you
- 25 ask him anything about shoes?

TESTIMONY OF BUDDY WILKES

- 1 A Yes, sir, I did.
- 2 Q What did you ask him about shoes?
- 3 A Well, I asked him about the shoes he was wearing at
- 4 that time, and I asked him -- well, I asked him which
- 5 shoes he was wearing the night this happened. And he said
- 6 these shoes right here, the ones he was wearing.
- 7 Q Did you look at his shoes?
- 8 A Yes, sir.
- 9 Q What do you remember about his shoes?
- 10 A Well, I looked at them to see if there was any blood
- 11 on the shoes and I did not see any.
- 12 Q Were they taken from him?
- 13 A No, sir.
- 14 Q Okay. Did he leave with his shoes, same shoes?
- 15 A Yes, sir.
- 16 Q Do you recall anything specific about the shoes? I
-
- 17 know it has been a long time.
- 18 A Well, let's see, they were dirty white tennis shoes
- 19 as I noted here.
- 20 Q All right. Did you see Casey Perkins? Do you know
- 21 what day Casey Perkins was arrested and taken into
- 22 custody?
- 23 A It was on the 29th.
- 24 Q And again, did you participate in that arrest?
- 25 A Yes, sir.

TESTIMONY OF BUDDY WILKES

1 Q Was there -- did you make any notation about Casey's
2 shoes the day he was arrested?

3 A Yes, sir, I did.

4 Q What shoes was he wearing the day he was arrested?

5 A Those same shoes.

6 Q Okay.

7 MR. BARFIELD: Beg the Court's indulgence for a
8 moment.

9 THE COURT: Yes, sir.

10 (Break in proceedings.)

11 Q You indicated to the jury that Casey denied any
12 involvement in Ms. Hinson's death. Did he make any
13 comments to you or statements to you or in your presence
14 during this process on August 28th at the sheriff's office
15 that you found unusual?

16 MR. DUNN: Your Honor, just for the record I'm going
17 to object again for same grounds as all of the last grounds
18 that we have objected to.

19 THE COURT: Say it one more time.

20 MR. DUNN: I'm going to object to what he said just to
21 make sure the record is clear, the same records we had
22 under Jackson.

23 THE COURT: I understand. And the Court notes the
24 prior objection and overrules the objection.

25 Q Did he say anything that struck you as odd?

TESTIMONY OF BUDDY WILKES

- 1 A Yes, sir.
- 2 Q What did he say?
- 3 A He told me that he didn't know whether he had done
4 this or not.
- 5 Q Just recount the entire part of -- that part of
6 conversations, if you would.
- 7 A Well, during the time in which I asked him if he had
8 killed the victim and he told me he didn't know whether he
9 did or not.
- 10 Q What else did he say?
- 11 A Well, he says that he did things that he later
12 wouldn't remember and that people would tell him that he
13 had done things but he wouldn't remember doing them. He
14 told me he was scared he was going to kill his own
15 parents. I asked him if that was something that happened
16 when he was drinking and he said that it happened when he
17 was drinking and when he was not drinking.
- 18 Q Was that the end pretty much, the -- is that pretty
19 much the sum of the interview with Casey on August 28th?
- 20 A Yes, sir.
- 21 Q Now, was Casey Perkins to be arrested on August 29th
22 of 2005?
- 23 A Yes, sir.
- 24 Q Did you participate in his arrest?
- 25 A Yes, sir, I did.

TESTIMONY OF BUDDY WILKES

1 Q Who else in law enforcement participated in the
2 arrest?

3 A Special Agent Michael Green and Lieutenant Tommy
4 Robertson and Sheriff Benson.

5 Q And where was the arrest effected?

6 A In Casey Perkins' front yard.

7 Q How many police cars went out?

8 A Two. And as I remember Agent Green and myself went
9 to the residence and sheriff and Lieutenant Robertson was
10 right nearby.

11 Q All right. And was Casey -- where was Casey when you
12 and Green got there?

13 A In the yard.

14 Q Did he know y'all were coming?

15 A No, sir.

16 Q Was this a blow up -- y'all were in an unmarked car I
17 presume, a Ford Crown Victoria probably?

18 A Yes, sir.

19 Q Did y'all blow up in there with blue lights flashing
20 or sirens whaling or anything like that?

21 A No, sir.

22 Q Was it a commando style raid or were y'all just going
23 to drive up in there and find him and take him into
24 custody?

25 A Yes, sir, just the two of us.

TESTIMONY OF BUDDY WILKES

- 1 Q Was he arrested in the yard?
- 2 A Yes, sir.
- 3 Q Was he handcuffed?
- 4 A Yes, sir.
- 5 Q Do you recall hands in front or hands behind?
- 6 A Behind.
- 7 Q Do you remember if it was your car or Green's car?
- 8 A I'm thinking it was my car because I was driving.
- 9 Q Okay. Y'all got cages in your car to separate the
- 10 front seat from the back seat?
- 11 A No, sir.
- 12 Q Was he taken into custody without incident at that
- 13 point?
- 14 A Yes, sir. He wrestled around a little bit but
- 15 nothing major.
- 16 Q No big deal?
-
- 17 A No, sir.
- 18 Q Was he put into your car?
- 19 A Yes, sir.
- 20 Q Where was he put in your car?
- 21 A In the back seat.
- 22 Q Where did Green ride?
- 23 A In the back seat.
- 24 Q Did y'all leave to head somewhere?
- 25 A Yes, sir.

TESTIMONY OF BUDDY WILKES

- 1 Q Where were you going?
- 2 A To the sheriff's office.
- 3 Q Anything happen on the way to the sheriff's office
- 4 that caused you to have to stop the car?
- 5 A Yes, sir.
- 6 Q What?
- 7 A Well, Casey was trying to get the handcuffs from
- 8 behind him to in front of him.
- 9 Q So what did y'all do?
- 10 A Well, we had to stop the car and get him untangled
- 11 and put him back in the seat and put the seatbelt back on.
- 12 Q Was that successful?
- 13 A Yes, sir.
- 14 Q Now, did anybody beat on Casey Perkins during the
- 15 trip to the detention center or the sheriff's office,
- 16 wherever y'all were going?
-
- 17 A No, sir.
- 18 Q Any force used other than to get his cuffs back where
- 19 they were supposed to be?
- 20 A No, sir.
- 21 Q Did he get any injuries or complain of any injuries
- 22 during the transport?
- 23 A No, sir.
- 24 Q When he got arrested in his yard, did anybody read
- 25 him his Miranda rights then?

TESTIMONY OF BUDDY WILKES

- 1 A No, sir.
- 2 Q Why not?
- 3 A We were going to do that when we got to the sheriff's
- 4 office.
- 5 Q Was it your intention to question him further when
- 6 you got him into custody?
- 7 A Yes, sir.
- 8 Q Did you have any intention to question him in the car
- 9 on the way to the sheriff's office?
- 10 A No, sir.
- 11 Q Did you read him his rights in the yard before he was
- 12 put into the car?
- 13 A No, sir.
- 14 Q Did you intend to question him in the car on the way
- 15 to the sheriff's office?
- 16 A No, sir.
-
- 17 Q Did Casey talk in the car on the way to the sheriff's
- 18 office?
- 19 A Yes, sir.
- 20 Q Don't tell me what he said, but what was he starting
- 21 to talk about?
- 22 A About being arrested.
- 23 Q And the reason for it?
- 24 A Yes, sir.
- 25 Q Okay. When he started talking about -- well, let me

TESTIMONY OF BUDDY WILKES

1 just point blank ask you this, did he start talking about
2 the death of Judy Hinson?

3 A Yes, sir.

4 Q What happened when he starts talking about the death
5 of Judy Hinson?

6 A Agent Green then read him his rights.

7 Q Was any paperwork generated from the reading of the
8 Miranda warnings -- did that occur in the car?

9 A Yes, sir.

10 Q Was any paperwork generated from the reading of the
11 Miranda warnings in the car?

12 A No, sir, that was just verbal.

13 Q And why not in the car? Was it the plan?

14 A No, sir.

15 Q Did you hear Green read him his Miranda warnings?

16 A Yes, sir I did.

17 Q And without getting to go through the whole nine
18 yards again, did you hear Green read Casey the same
19 warnings that you read him on the last state's exhibit
20 that we put in a minute ago?

21 A Yes, sir.

22 Q You read him all of the same stuff?

23 A Yes, sir.

24 Q Did Casey appear to have any -- again, I've got to do
25 this again, same general questions. Did he appear to

TESTIMONY OF BUDDY WILKES

1 understand all of his rights?

2 A Yes, sir.

3 Q Did he ask any questions about his rights?

4 A No, sir.

5 Q Did he give up his rights and continue to run his
6 mouth in the car?

7 A Yes, sir.

8 Q All right. In the car, do you recall whether he said
9 anything that incriminated him I guess is the best way to
10 ask it? Did he incriminate himself in the car on the way
11 to the sheriff's office?

12 A No, sir.

13 Q All right. How long did it take y'all to get from
14 his house to the sheriff's office?

15 A Probably ten minutes.

16 Q And when you got to the sheriff's office, had there

17 been any break in contact between y'all and him, anybody
18 else introduced into the mix or anything like that?

19 A No, sir.

20 Q Did anybody reread him his Miranda rights at the
21 sheriff's office?

22 A No, sir.

23 Q Where was he taken at the sheriff's office?

24 A To the -- over on the sheriff's side, the interview
25 room.

TESTIMONY OF BUDDY WILKES

- 1 Q Not the jail?
- 2 A No, sir.
- 3 Q Did the handcuffs stay on him?
- 4 A No, sir.
- 5 Q Was he allowed to sit down?
- 6 A Yes, sir.
- 7 Q Who was in the room when you got him into the
- 8 interview room?
- 9 A Agent Green and myself.
- 10 Q Okay. And handcuffs you said were taken off?
- 11 A Yes, sir.
- 12 Q Was he dressed in street clothes?
- 13 A Yes, sir.
- 14 Q During the interview in that interview room -- did
- 15 you and Green interview him in the interview room?
- 16 A Yes, sir.
-
- 17 Q Did anybody -- was he restrained in any fashion in
- 18 the interview room?
- 19 A I think for some period of time we had taken
- 20 handcuffs from behind him and put them in the front, and
- 21 then I believe later on that we took them off.
- 22 Q Now, if he would have gotten up from that interview
- 23 room and said, "I'm breaking camp, I'm going home," was he
- 24 going home?
- 25 A No, sir.

TESTIMONY OF BUDDY WILKES

1 Q He was under arrest?

2 A Yes, sir.

3 Q At any time during that process did he -- well, how
4 long were y'all in the interview room with Casey?

5 A I'm going to estimate maybe an hour or so.

6 Q Okay. At any time during that process did other
7 officers come in in any kind of a show of force?

8 A No, sir.

9 Q Did Casey at any time during that process make any
10 requests? For example, "I don't want to talk to you," did
11 he ever say that?

12 A No, sir.

13 Q Did he ever say, "I want to call my lawyer before I
14 talk to you anymore?"

15 A No, sir.

16 Q Did he ever say, "I want to call my mama or anyone
17 else to come be here with me?"

18 A No, sir.

19 Q Did he ever ask for anything that y'all denied him,
20 again, like a smoke break, a pee break, a cigarette,
21 telephone call or drink or anything like that?

22 A No, sir.

23 Q Was he in any physical discomfort or distress that
24 was apparent to you as a result of anything including the
25 little difficulty in the car on the way to the sheriff's

TESTIMONY OF BUDDY WILKES

1 office?

2 A No, sir.

3 Q Did anybody promise him anything during that process?

4 A No, sir.

5 Q Did anybody threaten him during that process?

6 A No, sir.

7 Q Did anybody promise him anything in connection with
8 any of his family members or threaten him in any way in
9 connection with any family members or others associated
10 with him?

11 A No, sir.

12 Q Did he give up his rights, waive his rights and talk
13 to you again about this investigation?

14 A Yes, sir.

15 Q Did he admit killing Judy Hinson during this
16 interview?

17 A No, sir.

18 Q Did he make any comments during this interview that
19 you found interesting?

20 A Yes.

21 Q What did he say?

22 A He told me that he had demons inside him that would
23 take over his body and did things of which he would have
24 no knowledge.

25 Q Did he say anything else that you found interesting?

TESTIMONY OF BUDDY WILKES

1 A He said that he deserved to die and he wanted the
2 death penalty.

3 Q Did the interview terminate?

4 A Yes, sir.

5 Q Do you have personal knowledge whether any other law
6 enforcement agent or agents or sheriff's office agent or
7 agents talked to him immediately after y'all did, you and
8 Green?

9 A Yes, sir.

10 Q Who talked to him?

11 A Lieutenant Tommy Robertson with Sled.

12 Q Did you observe any of that process, or were you able
13 to see where that was going on?

14 A I basically turned Casey over to Lieutenant
15 Robertson, and then I left after just a few seconds and
16 they talked.

17 Q Is that basically your last face-to-face dealings
18 with Casey Perkins on this case?

19 A Yes, sir.

20 MR. BARFIELD: Thank you. Answer anything Mr. Dunn
21 may have.

22 MR. DUNN: If it please the Court, Your Honor?

23 THE COURT: Yes, sir.

24 CROSS EXAMINATION

25

TESTIMONY OF BUDDY WILKES

1 BY MR. DUNN:

2 Q So at no time during any of the involvement that you
3 had with Mr. Perkins did he ever tell you that he killed
4 Mrs. Hinson, correct?

5 A That's correct.

6 Q And every time you asked him if he had done it he
7 denied it, correct?

8 A Yes, sir.

9 Q On August 29th when you went down to arrest Casey
10 with Agent Green and Sheriff Benson, y'all didn't arrest
11 him for the murder of Judy Hinson, did you?

12 A Yes, sir.

13 Q In fact, y'all arrested him for an unrelated
14 misdemeanor, correct? What I mean is it wasn't related to
15 the death of Ms. Hinson.

16 A No, sir.

17 Q Y'all were just looking for something to pick him up
18 on because he was your number one suspect.

19 A Well, it came to our attention that he was in
20 violation of another law.

21 Q All right.

22 A During this investigation.

23 Q But again, y'all were looking for something to try to
24 get him off the streets because of the death of

25 Mrs. Hinson.

TESTIMONY OF BUDDY WILKES

1 A Well, again, it came to our attention during this
2 investigation that he was in violation of another law.

3 Q All right. How long have you been a detective -- or
4 excuse me, a special agent with sled?

5 A Since 1990.

6 Q Before that you worked in Fairfield County, correct?

7 A Yes, sir.

8 Q And were you a detective with them or just on a
9 street patrol?

10 A Both.

11 Q Okay. Towards the end of it were you a detective?

12 A Yes, sir.

13 Q All right. So altogether you've been with law
14 enforcement 27 or 28 years or something like that?

15 A Yes, sir.

16 Q Okay. During that time, have you had training in
17 interrogation methods?

18 A No formal training, I've read.

19 Q You never took any classes down at the academy on how
20 to do interrogation or interviews of that sort of nature?

21 A They might have touched on it very briefly at the
22 academy and then I had -- I did have a brief course of
23 instruction.

24 Q Are you familiar with the Imbal and Reid?

25 A Yes, sir.

TESTIMONY OF BUDDY WILKES

1 Q That's a training manual on how for police to conduct
2 interrogations, correct?

3 A Yes, sir.

4 Q I think it's probably 30 or 40 years old by now,
5 isn't it?

6 A Yes, sir.

7 Q Actually they call it the Reid method, don't they?

8 A Yes, sir.

9 Q And part of the Reid method is for the detective
10 to -- or a law enforcement person to confront a suspect
11 with the facts that they knew that they were guilty of
12 whatever they were accusing them of, correct?

13 A Yes, sir.

14 Q Okay. When I use the words interview and
15 interrogation as it relates to police methods, same
16 connotation to you or two different things?

17 A Two different things.

18 Q What is an interview?

19 A Well, an interview is a fact finding conversation.

20 Q Generally not confrontational?

21 A Correct.

22 Q What about an interrogation?

23 A Well, an interrogation is when a police officer is
24 basically accusing somebody of committing a crime.

25 Q Interrogation is much more confrontational, correct?

TESTIMONY OF BUDDY WILKES

1 A Well, not the way we have always done it at Sled,
2 it's not confrontational. It's a repour based method that
3 we use.

4 Q It's not like TV where you're yelling or screaming
5 and you're throwing people up against walls, you're not
6 trying to physically intimidate them into giving a
7 confession, correct?

8 A Correct.

9 Q That sort of confession isn't going to do you any
10 good later on, is it?

11 A No, sir.

12 Q But at the same time what you're interrogating a
13 suspect, you are trying to get them to admit to something,
14 correct?

15 A Yes, sir.

16 Q And it's fair to say that you were trying to
17 overcome -- generally they're going to deny whatever you
18 were accusing them of, correct?

19 A Yes, sir.

20 Q So there is a certain amount of coercion involved,
21 maybe not a physical coercion but there is some emotional
22 or psychological coercion that you try to overcome the
23 suspect's will, correct?

24 A Well, we're just trying to get them to tell the
25 truth.

TESTIMONY OF BUDDY WILKES

1 Q When you do interrogations, do you generally do it by
2 yourself or is there other law enforcement officers in
3 there with you?

4 A Usually it's one on one.

5 Q Never two on one?

6 A Sometimes.

7 Q And when you do a two on one, do you generally do the
8 good cop, bad cop routine?

9 A No, sir.

10 Q You don't have one cop confront the suspect and the
11 other cop try to act more like the suspect's buddy to give
12 him some reassurance of the things they have been accused
13 of?

14 A I think that's mostly on TV.

15 Q So you're saying that at no time did you involve or
16 were involved in any kind of good cop, bad cop with Casey?

17 A Not that I recall, no, sir.

18 Q I know we haven't gotten this far into it yet, but
19 were you involved at all with -- observe any of Casey's
20 conversation with Sheriff Benson?

21 A Yes, sir.

22 Q Later on a couple of days after his arrest?

23 A No, sir.

24 Q All right. And by conversation I mean, like I said,
25 we haven't got into it yet, but September 7th when Casey

TESTIMONY OF BUDDY WILKES

1 spoke to the sheriff, you didn't observe any of that?

2 A No, sir. The last time I saw him was on the 29th, I
3 believe.

4 Q Okay. The first time you had any involvement with
5 Casey was on August 28th at Casey's house, correct, or
6 Casey's parents' house?

7 A Yes, sir.

8 Q And at that time it was you and Agent Green and
9 Sheriff Benson were there, right?

10 A Yes, sir.

11 Q And Casey was there, right?

12 A Yes, sir.

13 Q And his parents were there, Billy and Carolyn
14 Perkins, correct?

15 A Yes, sir.

16 Q Most of your conversation was with Billy and Casey,
17 right?

18 A Yes, sir.

19 Q Carolyn really wasn't hanging out, she wasn't part of
20 the conversation, she was at other parts of the house or
21 other parts of the yard, correct?

22 A Yes, sir.

23 Q I think y'all were in the front yard, correct?

24 A Yes, sir.

25 Q Do you remember telling Casey during that

TESTIMONY OF BUDDY WILKES

1 conversation or having a conversation in which Casey was
2 present that a sexual assault had occurred --

3 MR. BARFIELD: Objection. The question is going to
4 have to depend on hearsay, which Mr. Dunn had objected to
5 in my questioning of this witness. He can't ask a question
6 and get an answer without it being based upon hearsay.

7 MR. DUNN: I don't think that's the case, Your Honor.
8 Beg the Court's indulgence if I can pull out his notes.

9 (Break in proceedings.)

10 THE COURT: Did I understand the question was
11 withdrawn?

12 MR. DUNN: Yes, sir. I'll withdraw the question,
13 let's just move on.

14 Q During your course of investigation you went down to
15 Ms. Hinson's house to review the crime scene?

16 A Yes, sir.

17 Q During the course of your investigation you were up
18 at Mr. Perkins' house as well, correct?

19 A Yes, sir.

20 Q Can you see Mr. Perkins' house -- can you see
21 Mrs. Hinson's house from Mr. Perkins' house?

22 A Yes, sir, you can see part of it.

23 Q All right. There isn't any trees or there isn't any
24 trees blocking your view.

25 A Well, the way I remember it you could see like the

TESTIMONY OF BUDDY WILKES

1 top of Ms. Hinson's house from Casey's driveway.

2 Q You're talking actually sort of looking over the
3 trees and down into the house, or onto the roof of house I
4 guess?

5 A Yes, sir.

6 Q As opposed to looking through the trees or around the
7 trees?

8 A The way I remember it it was downhill a little bit
9 across the road.

10 Q During the conversation you had at Mr. Perkins' house
11 in the morning of the 28th, he denied any involvement with
12 Mrs. Hinson's death, correct?

13 A Yes, sir.

14 Q And you never read Casey his rights that day,
15 correct, at that time, correct?

16 A Correct.

17 Q You didn't have him sign anything?

18 A No, sir.

19 Q Is it fair to say that would be characterized as an
20 interview process?

21 A Yes, sir.

22 Q As opposed to an interrogation process?

23 A Yes, sir.

24 Q Okay. Now, after that he came up to see you at the
25 station at the sheriff's office, correct?

TESTIMONY OF BUDDY WILKES

1 A Yes, sir.

2 Q And I believe he got there -- the exhibit says that
3 he signed his waiver --

4 MR. DUNN: If I may approach the witness, Your Honor?

5 Q I'm going to hand you what's previously been marked
6 as Exhibit Number 39. That is the same Miranda sheet that
7 the solicitor just showed you a couple of minutes ago,
8 correct?

9 A Yes, sir.

10 Q The handwriting on it, whose handwriting is it?

11 A Mine and Casey Perkins.

12 Q Which part of the handwriting is Casey's?

13 A In the signature line and three different places.

14 Q And then everything else is your handwriting?

15 A Yes, sir.

16 Q Do you know the time on there that he signed it?

17 A 11:54.

18 Q A.m. correct?

19 A Yes, sir.

20 Q All right. How long had Casey been at the sheriff's
21 office at the time he signed this?

22 A He had just arrived.

23 Q Couple of minutes, three or four minutes?

24 A Yes, sir.

25 Q All right. And your notes indicate he left at 6:15,

TESTIMONY OF BUDDY WILKES

- 1 correct?
- 2 A Yes, sir.
- 3 Q Or that's about the time the interview concluded was
- 4 around 6:15, right?
- 5 A Yes, sir.
- 6 Q You previously testified that for a little while he
- 7 left, right?
- 8 A Yes, sir.
- 9 Q And I believe your notes indicate he left at 12:25?
- 10 A Yes, sir.
- 11 Q And he came back at 2:09, correct?
- 12 A Yes, sir.
- 13 Q Gone about an hour or hour and a half maybe?
- 14 A Yes, sir.
- 15 Q Your notes also indicate that when he left he didn't
- 16 go by himself.
-
- 17 A Yes, sir.
- 18 Q Who did he go with?
- 19 A His mother and the police.
- 20 Q Now, during that interview process down at the
- 21 sheriff's office his mother was never with him, right?
- 22 A No, sir.
- 23 Q It was just you and him?
- 24 A Most of the time, yes, sir.
- 25 Q The solicitor has already gone over a lot -- you

TESTIMONY OF BUDDY WILKES

1 asked him a bunch of questions at that time, correct?

2 A Yes, sir.

3 Q And the solicitor has gone over a lot of those
4 questions.

5 A Yes, sir.

6 Q Is it fair to say that at some point during that
7 process -- let me go back. When he first showed up at
8 11:50 or 12:00, was it an interview process or an
9 interrogation process?

10 A Interview.

11 Q Do you generally have people sign their Mirandas when
12 it is an interview?

13 A Not every time, no, sir.

14 Q Is it fair to say that at some point during that
15 process it was no longer an interview process?

16 A Yes, sir.

17 Q He was free to leave if he wanted to, correct?

18 A Yes, sir.

19 Q And he wasn't under arrest.

20 A Yes, sir.

21 Q But is it fair to say at some point it became an
22 interrogation?

23 A Yes, sir.

24 Q And at that time you became -- you started
25 confronting him with the idea that he killed Mrs. Hinson?

TESTIMONY OF BUDDY WILKES

- 1 A Yes, sir.
- 2 Q And the more you confronted him with the idea that he
3 killed Mrs. Hinson the more he started getting into the
4 ideas he couldn't remember what happened.
- 5 A Yes, sir.
- 6 Q He wasn't saying he couldn't remember what happened
7 back when it was just an interview process, right? Do I
8 need to reask that?
- 9 A Yes, sir, that's correct.
- 10 Q It was only as you became more confrontational with
11 him that he started giving doubtful answers, correct? By
12 that I mean he's not vehemently denying his involvement,
13 he is now saying, "I can't remember?"
- 14 A Yes, sir. But it's not confrontational in the sense
15 that there is yelling and screaming going on.
- 16 Q Kind of confrontational between me and you where I am
17 asking you questions you don't really want to answer but I
18 am not yelling at you.
- 19 A I don't mind answering anything you want to ask me.
- 20 Q He told you during that interview process that Donald
21 Wilson told him Ms. Hinson was murdered, right?
- 22 A Yes, sir.
- 23 Q During that interview on the 28th, didn't he also
24 tell you about a little red car that was on the road that
25 night, or that day?

TESTIMONY OF BUDDY WILKES

1 A He did tell me about a car that had been going back
2 and forth in the neighborhood, yes, sir.

3 Q Did you ever follow-up on that little red car?

4 A No, sir, I did not.

5 Q Did you ever interview anybody else that was a
6 suspect in this case?

7 A Well, we interviewed just about everybody on that
8 whole road, and initially, you know, I guess everybody in
9 that area was a suspect.

10 Q Did you interview anybody else that was a serious
11 suspect as opposed to just trying to eliminate folks?

12 A Well, actually that's what it was, it was kind of a
13 process of elimination: "Where were you during this time?
14 Can you account for your time? Know anything about it?"

15 Q Anybody else get the follow-up treatment that Casey
16 got?

17 A No, sir.

18 Q He was the only one, right?

19 A Yes, sir.

20 Q It was your opinion -- by yours I really mean just
21 the police opinion -- that pretty soon in the process it
22 was the police's opinion that Casey was a suspect, the
23 main suspect?

24 A Yes, sir.

25 Q Isn't it true that during that interview process on

TESTIMONY OF BUDDY WILKES

1 the 28th down at the sheriff's station you told him you
2 were going to make him confess one way or the other?

3 A No, sir.

4 Q Isn't that something you would say during a
5 confrontational interview with somebody -- interrogation
6 with somebody?

7 A No, sir.

8 Q Would it be fair so say that Casey is of below
9 average intelligence?

10 A I don't know.

11 Q Would you consider yourself average or above average?

12 A Average.

13 Q Do you think Casey is as smart as you are?

14 MR. BARFIELD: Your Honor, I don't think he -- I
15 object. I don't think he can answer the question, it's not
16 within the witness' knowledge.

17 MR. DUNN: I think he can give an opinion as to -- a
18 lay opinion as to whether or not he is as smart as he is.

19 THE COURT: I will overrule the objection.

20 A Is Casey as smart as me?

21 Q Yes.

22 A I don't know. I have no way of knowing that.

23 Q Now, on the 29th when you went down with Agent Green
24 and Sheriff Benson to arrest Casey, were his parents
25 present?

TESTIMONY OF BUDDY WILKES

1 A Yes, sir.

2 Q Is it fair to say they were upset by him being
3 arrested?

4 A Yes, sir.

5 Q Is it fair to say that you had to threaten them if
6 they didn't -- not to interfere with the arresting of
7 Casey?

8 A I had to tell them to step back, yes, sir.

9 Q Did you tell them -- when you told them to step back,
10 did you tell them they too could be looking at interfering
11 with a police officer or something similar to that idea if
12 they didn't step back?

13 A Well, we were busy wrestling with him and I wanted
14 them to move away from us for everybody's safety. So I
15 don't remember exactly what I told them, but I did tell
16 them to move back.

17 Q Before you said it was -- you and Agent Green had to
18 get him under control, correct?

19 A Yes, sir.

20 Q What was Benson doing?

21 A I think they -- the sheriff and Lieutenant Robertson
22 drove up about the time we were putting the handcuffs on
23 Casey.

24 Q Is there any reason why you arrested him as opposed
25 to the Chester County Sheriff's Office?

TESTIMONY OF BUDDY WILKES

1 A No, sir. I guess anybody could have arrested him.

2 Q Who gave you the go-ahead to go ahead and arrest him?

3 A Well, we had a warrant, we just went out there and
4 arrested him.

5 Q So you arrested him on a warrant that somebody else
6 had drafted.

7 A Yes, sir.

8 Q Who gave you the warrant to go arrest him?

9 A Agent Green had the warrant.

10 Q Do you know where Agent Green got the warrant from?

11 A No, sir.

12 Q Do you know whose call it was to go ahead and have
13 him arrested?

14 A No, sir.

15 Q And I think you testified to this, but in the car he
16 said he wanted the death penalty.

17 A He said that at some point during that day, yes, sir.

18 Q He said he wanted to die, right?

19 A Yes, sir.

20 Q Now, he never told you why he wanted to die, though,
21 did he?

22 A Well, he told me he had demons in his head that would
23 tell him to do things and he wouldn't remember doing them.

24 Q Besides the fact that he had demons and he would do
25 things he can't remember, there wasn't anything specific

TESTIMONY OF BUDDY WILKES

1 that he gave you as a reason for why he wanted to die.

2 A I thought that was the reason because of those
3 demons.

4 Q You arrest him on the 29th, correct?

5 A Yes, sir.

6 Q Are you aware of when the warrant for the murder was
7 issued?

8 A No, sir. It was a quite few days later.

9 Q If I told you it was the 2nd of September, does that
10 sound about right?

11 A That's about right, yes, sir.

12 Q Anything that happened as far as you know as it
13 relates to this case that happened between August 29th and
14 September 2nd that actually changed as to whether or not
15 y'all had probable cause to arrest Casey Perkins?

16 A My last dealings with him in this case was on the
17 28th and I went back to Columbia to work on other cases,
18 so what other agents did after I left you would have to
19 ask them.

20 Q So once you arrested Casey you were done with him.

21 A Yes, sir, that day, later on that day.

22 Q During the car ride back, did you ever tell him that
23 by the time you got back to the jail he would confess?

24 A No, sir.

25 Q Did you ever tell him that once you got back to the

TESTIMONY OF BUDDY WILKES

1 jail that he would confess one way or the other?

2 A No, sir.

3 MR. DUNN: Beg the Court's indulgence, Your Honor, one
4 second.

5 (Break in proceedings.)

6 MR. DUNN: Nothing further, Your Honor.

7 MR. BARFIELD: Just one -- a couple of quick
8 questions.

9 REDIRECT EXAMINATION

10 BY MR. BARFIELD:

11 Q On the day of the arrest you said Perkins' parents
12 were there in the yard when y'all were trying to take him
13 into custody?

14 A Yes, sir.

15 Q What were they doing to -- were they doing anything
16 or were they just too close?

17 A They were just too close and they were understandably
18 upset because we were arresting their son.

19 Q Were they talking? Don't tell me what they said, but
20 were they protesting?

21 A Yes, sir.

22 Q And did anybody lay any hands on Perkins' parents?

23 A No, sir. I asked them to move back and they did.

24 Q Did you have any other dealings in a hostile
25 environment with Perkins' parents during your involvement

TESTIMONY OF BUDDY WILKES

1 in this case?

2 A No, sir.

3 MR. BARFIELD: Thank you, sir, that's all.

4 MR. DUNN: Just one quick follow-up.

5 RECROSS EXAMINATION

6 BY MR. DUNN:

7 Q What exactly did you tell them at the time -- by them

8 I mean his parents -- at the time of the arrest?

9 A I told them in some fashion to move back.

10 Q That's all you told them, just to move. There wasn't

11 any kind of or else attached to it, any kind of threat

12 attached to the move back?

13 A I just told them to move back, you know, I don't

14 know.

15 Q You can't remember?

16 A I was wrestling with that fellow and I was telling

17 his mama and daddy to get back away from us for

18 everybody's safety so I don't remember exactly what. I

19 said I would have told them to move back, move back or you

20 might get arrested, something like that maybe, I don't

21 remember exactly what I told them. But they complied and

22 that was the end of it.

23 Q I understand.

24 MR. DUNN: No further questions, Your Honor.

25 MR. BARFIELD: That's all. I don't have anything

TESTIMONY OF TOMMY ROBERTSON

1 further from this witness, I would ask that he be excused
2 if he would like to.

3 THE WITNESS: Yes, sir.

4 THE COURT: You may be excused.

5 The witness, TOMMY ROBERTSON, was first duly sworn
6 and testified as follows, on:

7 DIRECT EXAMINATION

8 BY MR. BARFIELD:

9 Q Mr. Robertson, by whom are you employed?

10 A The South Carolina Law Enforcement Division commonly
11 known as Sled.

12 Q How long have you been employed by Sled?

13 A Twenty-three years.

14 Q What is your current job with Sled?

15 A I am a supervisory special agent. I'm a lieutenant
16 and I supervise Sled operations in half of the midlands

17 region which included Chester County.

18 Q About how many agents do you supervise?

19 A I think I've got about ten right now.

20 Q How long have you been a lieutenant in the midlands
21 region?

22 A About 12 years.

23 Q Were you a lieutenant in the midlands region back in
24 August of 2005?

25 A Yes.

TESTIMONY OF TOMMY ROBERTSON

1 Q Did you participate in the investigation of the
2 murder of Judy Hinson on Debruhl Road in Chester County on
3 August 27th of 2005?

4 A Yes, sir.

5 Q Do you recall whether you came up actually to Chester
6 County to begin your role in this on August 27th or was it
7 on some other day if you recall?

8 A I don't recall exactly the day, but that sounds
9 right.

10 Q Now, were you present in Chester County working on
11 this case on August 29th of 2005?

12 A Yes, sir.

13 Q Did you become aware first of all -- let me ask a
14 little bit of background. Did you have some knowledge of
15 the nature and circumstances of the event that led to Ms.
16 Hinson's death?

17 A Yes, sir.

18 Q When you got involved with this case?

19 A Yes, sir.

20 Q Did you become aware that Casey Perkins was a suspect
21 in the death of Judy Hinson?

22 A Yes.

23 Q Did you know that a warrant had been issued for the
24 arrest of Casey Perkins for something totally unrelated to
25 this case on or about August 29th of 2005?

TESTIMONY OF TOMMY ROBERTSON

- 1 A Yes, sir.
- 2 Q Did you participate to some degree in the arrest of
- 3 Casey Perkins on August 29th of '05?
- 4 A Yes, sir.
- 5 Q Did you visually observe the arrest or any part of
- 6 it?
- 7 A Yes, sir, I observed the arrest.
- 8 Q Who were you with if you recall?
- 9 A I think I had one of the guys from the Chester County
- 10 Sheriff's Department in the car with me, it may have even
- 11 been the sheriff, I don't remember.
- 12 Q Were you in your car?
- 13 A Yes, sir.
- 14 Q Was your car pulled up in front of the house or were
- 15 you somewhere else?
- 16 A It was pulled up in the driveway.
-
- 17 Q All right. And did you lay hands on Casey Perkins at
- 18 any time while he was being arrested?
- 19 A No.
- 20 Q Could you see and hear what was going on?
- 21 A Yes.
- 22 Q Now, did Casey Perkins get transported anywhere in
- 23 your car?
- 24 A No, sir.
- 25 Q Did he get transported anywhere in probably Buddy

TESTIMONY OF TOMMY ROBERTSON

1 Wilkes' car?

2 A Yes.

3 Q Did you observe the transport of Casey Perkins away
4 from his house to the Chester County Sheriff's Office?

5 A I saw him pull away from his house.

6 Q Did y'all go back to the sheriff's office together
7 or -- I mean one car right in front of other, or how did
8 y'all get back?

9 A In pretty close at the same time.

10 Q At the sheriff's office -- well, let me back up --
11 no. At the sheriff's office, did you at some point have a
12 conversation, an interview or interrogation, whatever we
13 want to call it, with Casey Perkins?

14 A Yes.

15 Q Do you know whether he had been interviewed or
16 interrogated by somebody immediately prior to you talking
17 to him?

18 A He had been.

19 Q Did you observe some of that process?

20 A No. I mean I knew they were in a room and I did not
21 observe any of that, but I knew that they were talking to
22 him.

23 Q And the room that they were in -- when you say they,
24 you're talking about Perkins and who else?

25 A That would have been Buddy Wilkes and Michael Green.

TESTIMONY OF TOMMY ROBERTSON

1 Q Did you participate in that interview at all?

2 A No.

3 Q Were you inside of that room at all?

4 A No.

5 Q Was the door closed into that room?

6 A As far as I know.

7 Q Where were you to be able to know -- where were you
8 in relation to that room?

9 A I was at the sheriff's department, I was down the
10 hall in an area that's kind of in between the sheriff's
11 department and the jail.

12 Q Did you hear any yelling or screaming, banging,
13 clanging, fisticuffs, did you hear any disturbance at all
14 during the time that you knew an interview was going on
15 with Perkins between Perkins, Wilkes and Green?

16 A No.

17 Q How did you come to talk to Casey Perkins?

18 A When Green and Wilkes brought him out of the room
19 that they were interviewing him or interrogating him in
20 and down the hall toward the jail area I was there and I
21 engaged him in a conversation and we sat down at a desk
22 and talked.

23 Q This desk that you sat down at, in a hallway or foyer
24 or in an office or room, or do you recall?

25 A It's kind of more in a foyer. It's in the area right

TESTIMONY OF TOMMY ROBERTSON

1 behind the dispatch area kind of where you go from the
2 sheriff's department on over to the jail.

3 Q Let me ask you this: Was that desk in an area that
4 Wilkes and Green were going to be walking Casey by? Did
5 he walk by you or did he have to get pulled aside and
6 taken into somewhere?

7 A No. They were walking him that way.

8 Q All right. When Casey came out of the room with
9 Wilkes and Green, did you see him after he was outside of
10 that room with Wilkes and Green?

11 A Yes, sir.

12 Q Did he appear to be -- did he appear to have any
13 physical injuries?

14 A No.

15 Q Did he appear to be in any state of physical
16 discomfort?

17 A No.

18 Q Was he pouring sweat?

19 A No.

20 Q Was he wincing like he was hurting or anything?

21 A No, sir.

22 Q Do you recall when he came out of that room whether
23 he had cuffs on or not?

24 A I don't recall. I don't think he did but I'm not
25 100 percent sure.

TESTIMONY OF TOMMY ROBERTSON

1 Q All right. Did you and Perkins sit down at a desk?

2 A Yes, sir.

3 Q Do you recall -- and how soon after you saw him come
4 out of the room did you and Perkins sit down at a desk?

5 A As soon as he walked down the hall.

6 Q All right. Did you know whether or not Casey Perkins
7 had been read his Miranda warnings before when you sat
8 down at the desk with him?

9 A Yes, sir. I verified that with Michael Green and
10 Buddy Wilkes.

11 Q Did you redo that process?

12 A No, sir.

13 Q Was there any interruption between him walking out of
14 the room and sitting down at the desk with you, any
15 substantial period of time pass between him coming out of
16 that room and sitting down at a desk with you?

17 A No, sir.

18 Q Do you recall whether Perkins had on handcuffs when
19 he was sitting at the desk with you?

20 A I'm not 100 percent sure but I don't think he did.

21 Q Did you do anything to restrain him while he was
22 being interviewed by you?

23 A No, sir.

24 Q Now, did you understand that he was in custody?

25 A Yes, sir.

TESTIMONY OF TOMMY ROBERTSON

1 Q If Casey Perkins had stood up from the chair at that
2 desk and said, "Mr. Robertson, I'm going home," was he
3 going home?

4 A No.

5 Q Okay. How long were you sitting at that table with
6 and talking to Casey Perkins?

7 A No longer than 15 minutes.

8 Q And during that 15 minute period, did you or anybody
9 in your presence make any show of police force in Perkins'
10 presence meaning draw guns, hold a badge in his face and
11 say, "We, the law, you have got to talk," or anything like
12 that?

13 A No, sir.

14 Q Were you wearing stuff to identify you as a police
15 officer --

16 A Yes, sir.

17 Q -- that day?

18 A Yes, sir.

19 Q When you and Casey were sitting at the table talking,
20 were there other people sitting around the table?

21 A No, sir.

22 Q Do you recall whether other people were back and
23 forth by it?

24 A I don't recall anybody else back and forth by it.

25 Now, Green and Wilkes were right there within -- they

TESTIMONY OF TOMMY ROBERTSON

1 could have probably heard the conversation, they were
2 standing right there.

3 Q Did anybody else participate in your conversation
4 with Casey?

5 A No, sir.

6 Q Did Casey at any time say, "I don't want to talk to
7 you?" Well, at the end -- before the end? We'll get to
8 that in a minute.

9 A No, sir.

10 Q During the interview itself -- during but not at the
11 very end, did Casey ever say, "I don't want to talk to you
12 anymore?"

13 A No, sir.

14 Q Again, same time frame, up to the very end did Casey
15 ever say, "I want to talk to a lawyer?"

16 A No, sir.

17 Q Did he at anytime say, "I want my mama to come in
18 here when I'm talking to you?"

19 A No, sir.

20 Q Did he request the presence of anybody else, anybody
21 friendly to him during your interview?

22 A No, sir.

23 Q Did he ask you to use the telephone?

24 A No, sir.

25 Q Did he ask you to go to the bathroom?

TESTIMONY OF TOMMY ROBERTSON

1 A No, sir.

2 Q Did he ask you to go smoke?

3 A No, sir.

4 Q Did he ask you for a Coca Cola?

5 A No, sir.

6 Q Did you deny him anything that he might have asked
7 for?

8 A No, sir.

9 Q At anytime during this process did he develop
10 anything that looked to you like some sort of physical
11 discomfort?

12 A No, sir.

13 Q Did you promise Casey Perkins anything to get him to
14 talk to you while y'all were sitting around that table?

15 A No, sir.

16 Q Did you make any -- did you coerce him or make any
17 threats of a physical nature or a legal nature against
18 Casey Perkins to get him to talk to you?

19 A No, sir.

20 Q Did you say anything of a coercive or threatening
21 nature to him concerning his family members or loved ones
22 or associates to get him to talk to you?

23 A No, sir.

24 Q Did you while you were talking to Casey Perkins
25 impart to him any of the details that you knew about the

TESTIMONY OF TOMMY ROBERTSON

1 investigation of the death of Judy Hinson?

2 A No, sir.

3 Q As a lieutenant with Sled -- of course, there were
4 several Sled agents involved in this case -- were you the
5 ranking Sled agent involved in this case?

6 A Yes, sir.

7 Q Is it unusual for Sled agents to work side by side
8 with local officers on an investigation like this?

9 A No, that's not unusual.

10 Q On behalf of Sled, was there any public release of
11 details of the facts and circumstances surrounding the
12 death of Judy Hinson at any time?

13 A Not that I'm aware of.

14 Q Did you read in the paper anything disclosing details
15 of that investigation?

16 A No, sir.

17 Q Did you publicly release any details of this
18 investigation?

19 A No, sir.

20 Q Are you aware of anybody in the Chester County
21 Sheriff's Office publicly disclosing details, the nitty
22 gritty of how this all happened?

23 A No, sir.

24 Q Was there any effort not to?

25 A Oh, yeah. You're always careful what information you

TESTIMONY OF TOMMY ROBERTSON

1 release.

2 Q All right. Did Casey talk to you?

3 A Yes, sir.

4 Q Did you ask him questions?

5 A Yes, sir.

6 Q First of all, did he ever admit to you killing Judy
7 Hinson or being involved in her death?

8 A No, sir. He denied it.

9 Q Did he say any stuff to you -- well, let me ask you a
10 couple of specifics. Did you talk to him about his
11 clothing on the time frame surrounding the discovery of
12 Ms. Hinson's body?

13 A Yes, sir.

14 Q Did you specifically ask him anything about --

15 MR. DUNN: Your Honor, I'm going to object to the
16 questioning, again, just renewing my previous objections

17 for the record, Your Honor.

18 THE COURT: Previous objection is noted and overruled.

19 Q Did you specifically ask Perkins about a shirt, a
20 particular shirt?

21 A Yes, sir.

22 Q Did you have knowledge -- what kind of shirt first of
23 all?

24 A It was a Mercedes Benz mechanics type shirt.

25 Q Why is this such a big deal about a Mercedes Benz

TESTIMONY OF TOMMY ROBERTSON

- 1 mechanics shirt? Not in any detail, but was that
2 significant to the investigation?
- 3 A Yes, sir, it was.
- 4 Q Did you ask Casey about a Mercedes shirt?
- 5 A Yes, sir.
- 6 Q What did he say?
- 7 A He told me that he had --
- 8 Q Did he ever admit to you that he had a Mercedes
9 shirt?
- 10 A Yes, sir. He told me he threw it in the trash can
11 near his car because it was dirty.
- 12 Q Did you ask him about shoes he was wearing
13 surrounding the discovery of Ms. Hinson's body?
- 14 A I didn't ask him about shoes.
- 15 Q Did he talk about shoes?
- 16 A He did, he brought it up.
-
- 17 Q What did Casey say about shoes?
- 18 A He told me that if he had been at the house he would
19 have blood all over his shoes and he says these are the
20 shoes that I'm wearing. And I thought that was
21 interesting because I didn't ask him about shoes, he
22 volunteered that to me.
- 23 Q Okay. Did he explain to you how he knew that they
24 had had blood all over them?
- 25 A No, sir.

TESTIMONY OF TOMMY ROBERTSON

1 Q Had you told him anything about the quantity of blood
2 at the scene of this crime?

3 A No, sir.

4 Q Do you know if anybody else had?

5 A No, sir.

6 Q Did he say anything that you found unusual or that
7 made you stop and think?

8 A Yes, sir.

9 Q What did he say?

10 A Casey told me that -- he told me several times that
11 he needed help, and he told me that sometimes something
12 comes over him that causes him to do things that he does
13 not remember, and he told me that he cannot control the
14 thing that comes over him, and the only way that he can
15 keep it from happening is to stay home with his mother and
16 father. And it disturbed me greatly when he told me that.

17 Q Did you specifically ask him or did he specifically
18 address whether he had done anything to Ms. Hinson?

19 A He never admitted doing anything to Ms. Hinson.

20 Q Did he say anything else that you thought unusual?

21 A No, sir, that was about it. It really struck me odd
22 as him telling me about this thing that comes over him
23 that causes him to do things.

24 Q Did he say anything to you about what he wanted?

25 A Oh, yeah. He told me, "Go ahead and put me in jail

TESTIMONY OF TOMMY ROBERTSON

- 1 and give me the death penalty," he did say that.
- 2 Q Now, at some point during your conversation with him,
3 did it dry up?
- 4 A Yes, sir.
- 5 Q What happened?
- 6 A I terminated the interview, he said he wanted to talk
7 to his lawyer.
- 8 Q Why did you do that?
- 9 A Well, that's the end of it. When he says that he
10 wants to talk to his lawyer then the interview is over.
- 11 Q Was there any further -- did you know whether he had
12 a lawyer?
- 13 A I did not know.
- 14 Q That's fine.
- 15 A I didn't think he did.
- 16 Q That's fine. And after he said, "I want to talk to
17 my lawyer "-- do you remember whether he said my lawyer or
18 a lawyer?
- 19 A I don't remember if he said a lawyer or my lawyer.
- 20 Q After he said that, though, did you ask him any other
21 questions?
- 22 A No, that terminated the interview.
- 23 Q Did he say anything else to you that we are using
24 against him?
- 25 A No, sir.

TESTIMONY OF TOMMY ROBERTSON

1 MR. BARFIELD: Thank you, sir. Answer anything
2 Mr. Dunn has.

3 THE COURT: Mr. Dunn?

4 CROSS EXAMINATION

5 BY MR. DUNN:

6 Q How long have you been with Sled?

7 A Twenty-three years.

8 Q Twenty-three years. And during that time you have
9 done training in interrogation methods.

10 A Yes, sir.

11 Q Questioning of a suspect, that kind of stuff?

12 A Yes, sir.

13 Q How many classes or training sessions do you think
14 you have had in that?

15 A Several.

16 Q All right. Ever been trained in the Imbal and Reid
17 Method?

18 A Yes, sir.

19 Q You know that when I say Imbal and Reid you know what
20 I'm talking about?

21 A I'm familiar with Reid's teachings.

22 Q And when I use the words interview and interrogation,
23 am I saying the same thing or two different things?

24 A Little bit different.

25 Q What's an interview in your --

TESTIMONY OF TOMMY ROBERTSON

1 A Well, if I'm interviewing somebody I'm trying to get
2 information from a person. If I'm interrogating somebody
3 that person is a suspect.

4 Q Is it fair to say that the interrogations are more
5 confrontational than the interviews?

6 A Sometimes.

7 Q And that by the time you get to an interview stage,
8 the suspect that you're questioning is somebody that you
9 think has done whatever you're accusing them of doing?

10 A If I'm interrogating them they're a suspect.

11 Q Interviewing you're just trying to gather facts and
12 stuff, right?

13 A That's correct.

14 Q Now, we have trouble hearing over there so some of
15 the questions I ask I don't mean to do it on purpose --

16 A I understand.

17 Q You didn't Mirandize Mr. Perkins on the 29th,
18 correct?

19 A That's correct, sir, I did not.

20 Q As far as you know Green and Wilkes had already done
21 that, one of those two?

22 A Yes, sir.

23 Q And when you went down to -- you went down to
24 Mr. Perkins' house, correct?

25 A Yes, sir.

TESTIMONY OF TOMMY ROBERTSON

1 Q By the time you got there, Wilkes and Green had
2 already shown up.

3 A They were in front of me, yes, sir.

4 Q How far in front of you, do you remember?

5 A Right in front of me. They pulled in the driveway
6 and I pulled in behind them.

7 Q So when you say right in front of them, when you're
8 driving you can actually see their car going down the
9 road.

10 A To the house, yes, sir.

11 Q All right. And when you left the Perkins' house, did
12 you follow them back to the station?

13 A Not directly behind them.

14 Q How long behind do you think?

15 A Just a few minutes.

16 Q At any point leaving and going back to the sheriff's
17 office, did you come across them on the side of the road?

18 A No.

19 Q Now, you never told Mr. Perkins a quantity of blood
20 but you did tell him there was blood at the scene,
21 correct?

22 A I don't recall telling him that, no.

23 Q In your 23 years of law enforcement, is it fair to
24 say you have questioned a lot of people?

25 A Yes.

TESTIMONY OF TOMMY ROBERTSON

- 1 Q Interrogated a lot of people?
- 2 A Yes.
- 3 Q Had a lot of people give you confessions over 23
- 4 years, right?
- 5 A Yes, sir.
- 6 Q Any of those confessions they have ever given to you
- 7 proven to be false?
- 8 A I know of cases where false confessions have been
- 9 given.
- 10 Q To you?
- 11 A Yes.
- 12 Q Can you give a ballpark about how many times that
- 13 happened?
- 14 A Very few, but it has happened.
- 15 Q More than one?
- 16 A Probably.
-
- 17 Q More than five?
- 18 A No.
- 19 Q So somewhere between one and five?
- 20 A I would say so. And I can't recall specifics as far
- 21 as numbers, but it wouldn't be many.
- 22 Q All right. Would it be fair to say Mr. Perkins
- 23 demeanor towards you while you were questioning him was
- 24 some time fatalistic?
- 25 A You will have to define that to me.

TESTIMONY OF TOMMY ROBERTSON

1 Q He was talking about wanting to die, he wanted the
2 death penalty.

3 A He said that, yes, sir.

4 Q If you get the death penalty you die, right?

5 A That's correct.

6 Q He said give him the death penalty and lock him up in
7 jail.

8 A That's correct.

9 Q Is it fair to say you never questioned anybody else
10 in this case as far as it being a strong suspect in the
11 death of Ms. Hinson?

12 A Not as strong as Casey.

13 Q Did you interview anybody else?

14 A Yeah.

15 Q Do you remember how many other people you
16 interviewed?

17 A I remember going around interviewing neighbors and
18 talking to a number of people, but nobody as strong a
19 suspect as Casey.

20 Q Casey was numero uno, right?

21 A Pretty much.

22 Q Did you interrogate anybody else?

23 A No, I don't think so.

24 MR. DUNN: Beg the Court's indulgence one minute, Your
25 Honor.

TESTIMONY OF TOMMY ROBERTSON

1 THE COURT: All right, sir.

2 (Break in proceedings.)

3 MR. DUNN: If I may approach the witness, Your Honor.

4 THE COURT: Yeah.

5 Q Lieutenant Robinson, that is a transcript of a
6 previous hearing that we had in this case several months
7 ago. Do you remember that hearing?

8 A Yes.

9 Q Okay. I have taken the liberty of circling some
10 stuff just so we can make it as quick as possible. At
11 that previous hearing -- I guess we'll need to go back.
12 My previous question is do you remember ever telling
13 Mr. Perkins at the time of that interview that there was
14 blood at the scene?

15 A I could have. I don't recall telling him that, but I
16 could have.

17 Q So you can't say no and you can't say yes?

18 A That's correct.

19 Q In fact, the last time you said probably, correct?

20 A I could have told him that.

21 Q Well, my question was the last time we had a
22 conversation under oath you told me that the answer was
23 probably.

24 A I probably told him some very limited stuff about
25 that but -- and it may have had something to do with blood

TESTIMONY OF TOMMY ROBERTSON

1 but I don't recall specifically telling him there was
2 blood at that crime scene.

3 Q That's fair enough.

4 MR. DUNN: Beg the Court's indulgence one minute.

5 (Break in proceedings.)

6 Q During your interrogation with Mr. Perkins he never
7 told about any blood on his shoes, did he?

8 A He told me that and he brought up the subject of
9 shoes and he said that if these are the shoes that I was
10 wearing and if I would have been in her house there would
11 have been blood all over my shoes.

12 Q When you looked at the shoes there wasn't any blood
13 on them, correct?

14 A No.

15 MR. DUNN: No further questions.

16 MR. BARFIELD: Nothing else from this witness and ask

17 that he be excused if he would like to.

18 THE COURT: Yes, sir. You may be excused.

19 The witness, SABRINA DUNIFER, was first duly sworn
20 and testified as follows, on:

21 DIRECT EXAMINATION

22 BY MR. BARFIELD:

23 Q Ms. Dunifer, by whom are you employed?

24 A Chester County Detention Center.

25 Q You have got lieutenant bars on; is that right?

TESTIMONY OF SABRINA DUNIFER

- 1 A Yes, sir.
- 2 Q How long have you been employed by the Chester County
3 Detention Center?
- 4 A Seven years.
- 5 Q And as a lieutenant at the detention center, are you
6 a boss lady?
- 7 A Yes.
- 8 Q You have supervisory capacity over folks out there?
- 9 A I do.
- 10 Q When you're there are you -- other than perhaps
11 Mr. Alley, and I don't know his rank, but other than Alley
12 are you the main person over a shift if you're there?
- 13 A Yes.
- 14 Q Okay. Do you know Casey Perkins?
- 15 A I do.
- 16 Q Do you see Casey Perkins in the courtroom today?
-
- 17 A I do.
- 18 Q Tell us where he is, where he is sitting position
19 wise and what he's got on?
- 20 A You want me to point?
- 21 Q Point him out but describe him so we'll know what you
22 are pointing at.
- 23 A Right there between Mr. Dunn and I don't know the
24 other fellow. He has on a sweater, brown shirt and tie.
- 25 Q Did he become an inmate at the Chester County

TESTIMONY OF SABRINA DUNIFER

1 Detention Center on August 29th of 2005?

2 A He did.

3 Q And were you employed there then?

4 A Yes, I was.

5 Q Did you from time to time -- well, I guess pretty
6 much any time you were working from his date of arrest
7 forward, did you have some contact with him?

8 A Sometimes, yes.

9 Q I'm going to show you a piece of paper and ask you
10 first if you can identify it?

11 A Yes, I can.

12 Q Without telling me anything about the writing that's
13 on the piece of paper, what is that form? What is it?

14 A It's an inmate request form.

15 Q Tell the jury what an inmate -- is that a standard
16 form of the Chester County Detention Center?

17 A Yes, it is.

18 Q What is an inmate request form used for?

19 A For inmates to write requests to administration,
20 judges, or any other agency within the sheriff's office.

21 Q Is there anything different if it's a medical or
22 dental thing?

23 A Yes.

24 Q So that has not got anything to do with medical or
25 dental stuff.

TESTIMONY OF SABRINA DUNIFER

1 A No.

2 Q Generally speaking when an inmate -- how do the
3 inmates get those things? Do they have to ask you for one
4 when they have a request or do they get them automatically
5 to keep with them to fill out if they need something?

6 A They ask for the request on passout days, which have
7 changed since then, but --

8 Q What are passout days?

9 A Days that they can request items that they will need
10 throughout the week, and at this time it's Monday. They
11 ask for requests, they are granted two and they are dated
12 and they can use them any time during the week.

13 Q So they get two a week?

14 A Right, uh-huh.

15 Q When they fill one out, how does it -- first of all,
16 who is it supposed to go to when they fill it out? Who

17 does it go to first?

18 A The officer fills out the form, puts their name on it
19 saying that they passed it out to the inmate and then when
20 it's picked up depending on who it's addressed to it goes
21 through the chain of command or directly to whoever it is
22 addressed to. If it is addressed to like a judge, then it
23 doesn't go through our chain of command, it goes directly
24 in a judge's box. But if it goes to someone in the
25 detention center, if it's a regular request just like

TESTIMONY OF SABRINA DUNIFER

1 asking for a meal change or something like that, it goes
2 through the chain of command.

3 Q Now, is that form itself, that particular form
4 itself, familiar to you?

5 A Yes.

6 Q Whose form is that? What inmate's form is that?

7 A Casey Perkins.

8 Q And whose hands did it come in to from Casey Perkins?

9 A Mine.

10 Q All right. What is the date of the form?

11 A September 7th of 2005.

12 Q Now, you said a minute ago -- let me look at it just
13 a minute. Is it written in pencil, all of it, is it --

14 A Yes, it is.

15 Q And did Casey Perkins put all of the pencil marks on
16 that paper or was some of it put on there by somebody

17 else?

18 A Some was put on there by somebody else.

19 Q And what part of it would have been put on there by
20 somebody else?

21 A My signature, which is officer passing out request,
22 officer taking up request, and the date at the bottom of
23 it.

24 Q Everything else is written by Casey?

25 A Yes.

TESTIMONY OF SABRINA DUNIFER

1 Q Read to the jury what Casey wrote on that piece of
2 paper?

3 A All of it, his name and everything?

4 MR. DUNN: Your Honor, just for the record I will
5 reobject to again on all of the old grounds that we've
6 already discussed.

7 THE COURT: The Court notes the objection and
8 overrules the objection.

9 Q Read for the jury the information next to type of
10 request and explanation of requests.

11 A Okay. Type of request, to talk with the sheriff.

12 Q Did Casey Perkins write that?

13 A Yes, he did.

14 Q Go ahead.

15 A Explanation of request, need to talk to you about the
16 murder case. I will cop a plea under one condition only,

17 I'll talk to you.

18 Q Did Casey write that?

19 A Yes, he did.

20 Q Did you get it?

21 A Yes, I did.

22 Q First of all, again, did Casey sign it?

23 A Yes, he did.

24 Q And does he put a date on it when he signs it?

25 A Up at the top. He doesn't put one on when he signs

TESTIMONY OF SABRINA DUNIFER

1 but up at the top is the day he got the request.

2 Q And did you sign it and date it?

3 A Yes, I did.

4 Q Same date that it was handed to you?

5 A Yes.

6 Q And do you recall specifically -- how did you know

7 Casey had a request? How does that come about? You're

8 walking by and he says, "Come here, Ms. Dunifer," or what?

9 A I don't recall on this particular instance. But
10 since I passed it out, he probably asked me for it.

11 Q When you got it, did you discuss it with him?

12 A No.

13 Q Did he actually hand it to you?

14 A Yes.

15 Q All right. Any discussions between you and him at

16 all about what he had written on that paper after he gave

17 it to you?

18 A No.

19 Q When you got it, where did you go or what did you do?

20 A I don't recall. I don't remember if I actually took
21 it to the sheriff myself or placed it in his box or placed
22 it under his door, I don't really remember what I did.

23 Q Do you have knowledge that it eventually ended up
24 with the sheriff?

25 A Yes.

TESTIMONY OF SABRINA DUNIFER

1 MR. BARFIELD: At this time, Your Honor, I would offer
2 this document, the Chester County inmate request slip as
3 the next state's exhibit.

4 MR. DUNN: Same objection.

5 THE COURT: Overruled, I'll admit it.

6 (The request slip was received as State's 40.)

7 Q Now, Lieutenant Dunifer, I am going to ask you some
8 very limited questions about a couple of other odds and
9 ins. Were you aware that the sheriff's office was
10 investigating a homicide?

11 A Yes.

12 Q When all of this was going on?

13 A Yes.

14 Q Did you know any details about any of that?

15 A No.

16 Q Did you at any time impart to or convey to or say to

17 Casey Perkins anything about the death of Judy Hinson?

18 A No, I did not.

19 Q Did you ever hear any of your officers, detention
20 center people, telling Casey all about Judy Hinson's
21 death?

22 A No.

23 Q Did you ever hear any sheriff's office employees,
24 investigators or deputies, talking to Casey Perkins and
25 telling him about Judy Hinson's death?

TESTIMONY OF SABRINA DUNIFER

1 A No, I did not.

2 Q Did you ever hear any other law enforcement agents,
3 including Sled agents, sitting down or under any other
4 circumstances telling Casey Perkins about Judy Hinson's,
5 death?

6 A No, I did not.

7 MR. BARFIELD: Thank you, ma'am. Answer anything
8 Mr. Dunn has.

9 MR. DUNN: May we have a front or side bar just real
10 quick.

11 (A bench conference was held.)

12 CROSS EXAMINATION

13 BY MR. DUNN:

14 Q Ms. Dunifer, I have served you with at least two
15 subpoenas in the last month or two, haven't I?

16 A Yes, I have.

17 Q One of them I wanted Casey Perkins' file, the
18 detention center file, correct?

19 A Yes?

20 Q And I subpoenaed you the other day because I wanted a
21 head count sheet, correct?

22 A Yes.

23 Q And you complied with both of those subpoenas and you
24 gave me the information that I asked for, correct?

25 A Yes, I did.

TESTIMONY OF SABRINA DUNIFER

1 Q I'm going to -- with the Court's permission --
2 approach the witness. Can you just look that over and
3 tell me what that is?

4 A These are copies of booking sheets, charging
5 documents.

6 Q Just in general, what is that in general?

7 A These would be things from Casey's file.

8 Q That's Casey's file, correct?

9 A Yes.

10 Q Does it look like the same thing that you provided to
11 me?

12 A Yes.

13 Q Just looking through it, does it look like there's
14 anything missing or did I alter anything? Can you tell?

15 A Not that I can tell, no.

16 Q If I told you I haven't taken anything out of there,
17 do you have any reason to disbelieve me?

18 A No, I wouldn't.

19 Q Contained in every one of the prisoner's file are
20 things like you said before, charging documents like
21 warrants and that kind of stuff, right?

22 A Yes.

23 Q There's warrants in there, there's a warrant in there
24 for Mr. Perkins, correct?

25 A Correct.

TESTIMONY OF SABRINA DUNIFER

1 Q There's things in there such as just holding
2 requests, right?

3 A Holding? Yes.

4 Q Just tell the jury what a holding request is.

5 A A holding request is when an officer has charges that
6 are pending that they are still investigating and need to
7 go in front of a judge to get the actual charging document
8 done, they are allowed to give us a document that replaces
9 a hold on a subject for 48 hours.

10 Q Do you remember what date Casey Perkins was brought
11 to the detention center for this charge for why we are
12 here today?

13 A August 29th.

14 Q And he was booked on something that was unrelated to
15 the murder charge not going into what it is but it is
16 unrelated to murder, correct?

17 A Yes.

18 Q Was there a hold placed on him -- there was a hold
19 placed on him on August 30th, correct?

20 A Yes, there was.

21 Q It doesn't tell you why when you get a hold request,
22 you just get it from another agency, isn't it? They tell
23 you, "We have a warrant for him, we want you to hold him."

24 A Yes.

25 Q That just basically means he can't get out of jail if

TESTIMONY OF SABRINA DUNIFER

- 1 he posts bond for whatever reason, he's in jail, correct?
- 2 A Correct.
- 3 Q Is there a hold on him for August 30th of 2005?
- 4 A There is.
- 5 Q What agency requested that hold?
- 6 A Chester County.
- 7 Q Does it say who the requesting officer was?
- 8 A Yes, it does.
- 9 Q Who is it?
- 10 A It actually has two and it would be Detectives Perry
- 11 and Mitchell.
- 12 Q And it just says for warrants, right?
- 13 A Yes.
- 14 Q Do you know who Shane Stewart is?
- 15 A I do.
- 16 Q Who is he? He used to work for the county, right?
-
- 17 A Yes.
- 18 Q He doesn't work for them anymore.
- 19 A No.
- 20 Q Do you know who Kim Carnes is?
- 21 A I do.
- 22 Q Who is she?
- 23 A She's a deputy with the Chester County Sheriff's
- 24 Office.
- 25 Q Is she still there?

TESTIMONY OF SABRINA DUNIFER

- 1 A Yes, she is.
- 2 Q Do you know who Mike Revels is?
- 3 A I do.
- 4 Q Who is he?
- 5 A I think he is still Chief of Police in Great Falls.
- 6 Q I believe he's going to Fort Lawn, isn't he?
- 7 A I'm not sure.
- 8 Q Okay. That's fair enough. I'm going to approach you
- 9 with something else. Earlier you said I gave you the
- 10 second subpoena and asked you for some head count sheets.
- 11 A Yes, sir.
- 12 Q Does this appear to be them?
- 13 A Yes.
- 14 Q In fact, I just asked for a specific time frame,
- 15 August 29th through September -- either the 7th or the
- 16 8th, right?
-
- 17 A Right.
- 18 Q And on those head count sheets for every date there's
- 19 one for each day of the week, for every single day there's
- 20 a head count sheet, right?
- 21 A Two.
- 22 Q There's an a.m. and p.m. right?
- 23 A Yes.
- 24 Q Does it start with the a.m. and go to the p.m. or
- 25 start --

TESTIMONY OF SABRINA DUNIFER

1 A It depends on which way you look at it. It starts
2 every shift so there's no start -- or there's one done
3 around 7:00, or a.m. and p.m.

4 Q Each one if those is dated, right?

5 A Yes.

6 Q I believe one of those days 8/27/05?

7 A It says August 29th of '05.

8 Q I'm sorry, it does say that, a.m. or p.m.?

9 A Day shift.

10 Q So that starts at what time?

11 A That starts at 7:00 a.m.

12 Q What time does it end?

13 A At 7:00 p.m.

14 Q So then if I see one that says August 29, p.m. that
15 means it starts on 7:00 on the 29th, right?

16 A I would like to backtrack. There's a little bit --

17 actually it starts a little bit before the shift change
18 because it has to be completed upon shift change. Shift
19 change is at 6:45 so the head count is closed out at
20 approximately about 6:30.

21 Q I'm just trying to make sure that I understand it and
22 that the jury should they look at the exhibits. So it's
23 just a.m. it means sometime around 7:00 in the morning on
24 the day that's provided, correct?

25 A Right.

TESTIMONY OF SABRINA DUNIFER

1 Q Then if it says 29th and it says p.m. that means it
2 starts some time around 7:00 of the date that's provided
3 on the document, correct? The shift goes into the next
4 morning but it starts on the day before.

5 A Right.

6 Q All right. On August 29th -- look throughout those
7 documents I gave you, they've been altered a little bit
8 since you gave them to me, correct?

9 A There's also one missing.

10 Q Which one is missing? This is the dock sheet that I
11 gave you showing where Mr. Perkins came into the facility.

12 A Yes.

13 Q Would this be it?

14 A Yes.

15 Q All right. I didn't think it was relevant, I didn't
16 mean to hide it from you. So everything is there that you
17 provided me with about three days ago.

18 A Right.

19 Q I have altered them a little bit though, haven't I?

20 A I see some highlighted areas.

21 Q I highlighted stuff for you, correct.

22 A Yes.

23 Q That is so we can get through this a little bit
24 faster so we're not here all day. On August 29, 2005, did
25 Casey show up on a head count sheet?

TESTIMONY OF SABRINA DUNIFER

- 1 A No, he does not.
- 2 Q On August 29th on the p.m. shift, did he show up on a
3 head count sheet?
- 4 A Yes, he does.
- 5 Q What block is he in?
- 6 A He's in holding cell number two.
- 7 Q Okay. We're just going to go through these down the
8 row. On August 30th a.m. where is he at?
- 9 A Holding cell number two.
- 10 Q P.m. where is he?
- 11 A Delta, D block.
- 12 Q D block. That's just one of the holding cells in the
13 back, right?
- 14 A It is, yeah.
- 15 Q It's one of the general population cells, right?
- 16 A Right.
-
- 17 Q How long does it generally take somebody to get out
18 of booking and out in general population?
- 19 A That can depend on a numerous amount of things.
- 20 Q D block. At what point is he transferred out of D?
- 21 A The 8th.
- 22 Q The 8th of September?
- 23 A Yes. It shows on the head count sheet that he was
24 transferred on the --
- 25 Q Are you sure it wasn't the 7th?

TESTIMONY OF SABRINA DUNIFER

- 1 A I am. He's in delta block on the a.m. count sheet.
- 2 Q Now, you generally work what shift?
- 3 A Then or now?
- 4 Q Then what shift were you generally working?
- 5 A Charlie shift.
- 6 Q Which is second shift?
- 7 A C shift, 7:00 a.m. to 7:00 p.m. shift.
- 8 Q So generally in the daytime?
- 9 A Yes.
- 10 Q When we are looking at the shift it would be a.m.
- 11 correct?
- 12 A Yes.
- 13 Q On the a.m. shift, or the 7:00, he is shown on delta
- 14 block.
- 15 A Uh-huh.
- 16 Q Going back to the exhibit that you signed for him or
- 17 that you signed or he gave you for request to speak to the
- 18 sheriff, it says on the sheet he was in holding cell four.
- 19 At what time was he put in the holding cell four, do you
- 20 know?
- 21 A There's not an exact time that he was moved, but it
- 22 was between probably 6:00 and 7:00 during the time the
- 23 head count sheet was being made.
- 24 Q Do you remember what time of the day he gave that
- 25 request to you?

TESTIMONY OF SABRINA DUNIFER

1 A I don't.

2 Q All right. You just know that he gave them to you
3 and you passed it up the chain of command, right?

4 A Yes, I do.

5 Q Now, the general population holding cells, the D
6 blocks and A blocks, one of them is maximum security, I
7 believe, right?

8 A Yes.

9 Q Is that A block? Which block is that?

10 A Yes.

11 Q All of the rest of them are general population?

12 A No, not quite. G and H block would be our more
13 general population for misdemeanors and things of that
14 nature. A, C and D blocks would be maximum and medium,
15 but due to the capacity of the jail and the small
16 classification is modified a lot based on disciplinary

17 action that's taken during the arrest, based on gang
18 activity, which is new to us in Chester County in the last
19 few years so we can't house people together and the things
20 of that nature. So classifications is not as specific as
21 maximum security and medium security.

22 Q Let me ask this question, holding block number four,
23 describe that for me.

24 A Four?

25 Q Number four, holding cell number four.

TESTIMONY OF SABRINA DUNIFER

1 A That is a booking area block. It is a cell that is
2 generally used for initial process, meaning when you first
3 come to jail. We also use the holding cells for medical
4 reasons, for disciplinary reasons, for a numerous amount
5 of reasons to house somebody in temporarily.

6 Q Describe it physically, though.

7 A It's just a small cement -- I don't know the exact
8 measurements, I would have gotten them if I would have
9 known.

10 Q Just generally, I'm not looking for --

11 A A cell with benches and a toilet and water fountain.

12 Q Eight by eight or nine by nine, something like that?
13 It is not real big.

14 A Yeah.

15 Q It has got a toilet in it and a concrete bench in
16 there, or not?

17 A It's not a -- but the cell is concrete, yes.

18 Q D block generally is bigger, correct?

19 A Yes.

20 Q When the inmates aren't on lock down in their
21 individual cells they're allowed to get out, there's
22 certainly more freedom involved in D block than there is
23 in number four, correct?

24 A Yes.

25 Q You can actually get up and walk around, you're not

TESTIMONY OF SABRINA DUNIFER

1 confined to a very small area, right?

2 A True.

3 Q Okay.

4 MR. DUNN: Your Honor, I would like to mark this.

5 MR. BARFIELD: No objection.

6 (The booking sheet was received as Defendant's 1.)

7 Q Whenever a corrections officer has to make an
8 incident report because of a specific inmate because of
9 something happening, does a copy of that incident report
10 go in an inmate's file?

11 A No.

12 Q No?

13 A No. It doesn't go into the inmate's folder.

14 Q Ever?

15 A Not usually, no.

16 Q If a statement is given -- so I think previously we

17 heard about an incident statement and an officer's

18 statement or a couple of --

19 MR. BARFIELD: Objection.

20 MR. DUNN: I withdraw the question, Your Honor, that's
21 fine. Beg the Court's indulgence.

22 (Break in proceedings.)

23 MR. DUNN: Nothing further, Your Honor.

24 MR. BARFIELD: Give me just a second, Your Honor,
25 before I decide whether I do or don't.

TESTIMONY OF SABRINA DUNIFER

1 REDIRECT EXAMINATION

2 BY MR. BARFIELD:

3 Q Tell me again, I might have been -- y'all do the head
4 count for the a.m. sheet about what time?

5 A Probably about 6:30.

6 Q In the morning?

7 A Yes.

8 Q And the head count for p.m. about 6:30 in the
9 evening?

10 A Yes. Original head counts are given out to the shift
11 supervisors of who is in your facility when you come to
12 work. Any changes are made --

13 Q I'm going to interrupt you a minute, I'm going to ask
14 you a specific question about that.

15 A Yes, sir.

16 Q Your shifts are 7:00A to 7:00P?

17 A Yes.

18 Q So when the guys come in at 7:00 in the morning, are
19 they given the a.m. head count which was done about 30
20 minutes before to say, "These are the guys that are
21 supposed to be in these places within this facility?"

22 A Yes.

23 Q Go ahead.

24 A Now, throughout the day people are coming and leaving
25 jail.

TESTIMONY OF SABRINA DUNIFER

1 Q Inmates?

2 A Inmates, right. Inmates are coming and leaving jail.
3 Those changes are made on a head count, a copy that just
4 the shift supervisor use to show any movement or where
5 inmates went throughout that day.

6 Q All right. Stop again. We ain't got all of them
7 copies for daily movement in that stuff you've got in your
8 hands.

9 A No. Because those copies are not kept. Those copies
10 shift supervisors throw away when they are finished with
11 them and the originals are kept to show who was there
12 when. The docket which I have -- this right here, the
13 docket, and releases show people inmates coming -- being
14 booked into the facility and released, but there's no need
15 to show where they went throughout the day.

16 Q All right. I was going to ask you -- you answered a
17 question I hadn't asked but I'm going to ask it again
18 because you answered it very well. The inmate docket --
19 and this is an exhibit, part of Exhibit 1 it shows on line
20 four, Casey Perkins, it shows time 14:09, does that mean
21 2:09 p.m.?

22 A Yes, it does.

23 Q It shows, docket 274. What does 274 mean?

24 A That's the docket number, that's the number that was
25 assigned to this case.

TESTIMONY OF SABRINA DUNIFER

1 Q Your detention center has docket numbers?

2 A Yes.

3 Q And it shows WM for white male it and shows arrest
4 source, sheriff's office.

5 A Yes.

6 Q Now, is there a separate inmate docket for people
7 coming in as opposed to an inmate docket for people who
8 are going out or being discharged?

9 A Yes.

10 Q So everybody on this sheet is coming into the jail
11 after being arrested presumably?

12 A Yes.

13 Q Okay. Is there -- you also answered another question
14 a minute ago that I have not yet asked but let me just ask
15 you again. Is there movement of inmates within the
16 detention center who are under arrest and being detained
17 on a daily basis?

18 A Yes.

19 Q Is there movement of inmates for various reasons --
20 background question, what is the address for the Chester
21 County Detention Center?

22 A 2740 Dawson Drive.

23 Q What is the address for the Chester County Sheriff's
24 Office?

25 A 2740 Dawson Drive.

TESTIMONY OF SABRINA DUNIFER

- 1 Q Is it a contiguous building?
- 2 A It is.
- 3 Q Are there distinct sides, the sheriff's office side
- 4 versus the jail side?
- 5 A Yes, there is.
- 6 Q Is there a secure point between?
- 7 A Yes, there is.
- 8 Q Is there from time to time movement of inmates from
- 9 the detention center side to the sheriff's office side?
- 10 A Yes, there is.
- 11 Q All right. Do you from time to time have inmates who
- 12 come out there with special needs?
- 13 A Yes.
- 14 Q Example, perhaps an inmate that is sick?
- 15 A Yes.
- 16 Q Or an inmate perhaps that is -- y'all are worried
- 17 about hurting himself?
- 18 A Yes.
- 19 Q Are the holding cells ever used for those purposes?
- 20 A Yes.
- 21 Q Where are the holding cells in relation to -- do you
- 22 call it the booking desk or front desk? What do you call
- 23 it?
- 24 A Booking desk.
- 25 Q Where are the holding cells in relation to the

TESTIMONY OF SABRINA DUNIFER

1 booking desk?

2 A Directly in front of them.

3 Q Are they visible to whoever might be at the booking
4 desk?

5 A Yes.

6 Q Are they monitored with video?

7 A Yes.

8 MR. BARFIELD: Thanks you, ma'am. That's all.

9 MR. DUNN: Nothing further, Your Honor.

10 THE COURT: Thank you, ma'am, you may step down and be
11 excused?

12 MR. BARFIELD: Please, sir.

13 MR. DUNN: Yes, sir.

14 THE COURT: You may be excused. Ten minutes? Take a
15 ten minute break and I remind you not to begin discussing
16 the case.

17 (The jury left the courtroom and a recess was taken.)

18 THE COURT: Are you ready for the jury?

19 MR. BARFIELD: Yes, sir.

20 MR. DUNN: Yes, sir.

21 THE COURT: Let's bring in the jury and bring in the
22 next witness.

23 (The jury returned to the courtroom.)

24 THE COURT: Welcome back once again, ladies and
25 gentlemen. Solicitor, are you ready to call your next

TESTIMONY OF MICHAEL GREEN

1 witness.

2 MR. BARFIELD: Yes, sir.

3 THE COURT: If my memory serves me correctly, this
4 witness has already been sworn?

5 The witness, MICHAEL GREEN, was first duly sworn and
6 testified as follows, on:

7 DIRECT EXAMINATION

8 BY MR. BARFIELD:

9 Q State your name for me, please, sir.

10 A Michael Green.

11 Q Mr. Green, by whom are you employed?

12 A South Carolina Law Enforcement Division, Sled.

13 Q How long have you been employed by Sled? I think I
14 have asked you all of this before, maybe not.

15 A Nine years.

16 Q And were you working for Sled on August -- excuse
17 me -- in August of 2005?

18 A Yes, sir.

19 Q Did you participate in the investigation of the death
20 of Judy Hinson, which occurred on August 27th of '07 (sic)
21 we allege on Debruhl Road in Chester County?

22 A Yes, sir.

23 Q Just some very general questions, if I might. Did
24 you, along with Buddy Wilkes and Sheriff Robby Benson,
25 meet with Casey Perkins and at least his dad and maybe his

TESTIMONY OF MICHAEL GREEN

1 mom, too, at their residence on Debruhl Road some time in
2 the afternoon?

3 A Yes, sir.

4 Q August 28th?

5 A Correct.

6 Q Which I believe would have been a Sunday?

7 A Yes, sir, I believe so.

8 Q And you have got to speak up.

9 A Yes, sir.

10 Q Did you later on August 28th meet with Mr. Perkins
11 and Agent Buddy Wilkes at the Chester County Sheriff's
12 Office?

13 A Yes, sir. I think that was actually on the 29th if
14 I'm not mistaken, but one of those two dates, yes, sir.

15 Q Well, let me back up. When is the first time you saw
16 Casey Perkins in connection with your work on this case?

17 A The first time I actually saw him was when he
18 initially came in for an interview at the sheriff's
19 office, which I think was on the 27th.

20 Q Did you see him the next day? The 27th would have
21 been Saturday, correct?

22 A Yes, sir.

23 Q Did you see him the next day at his house with Buddy
24 Wilkes and Robby Benson?

25 A Yes, sir.

TESTIMONY OF MICHAEL GREEN

1 Q Did you see him that same day later on at the
2 sheriff's office?

3 A I don't believe I saw him again on the 28th.

4 Q Okay. Were you present when Casey Perkins got
5 arrested on the 29th?

6 A Yes, sir.

7 Q Did you read Casey Perkins his Miranda warnings the
8 day he was arrested somewhere?

9 A Yes, sir.

10 Q How was Casey transported?

11 A Casey Perkins was transported in a Crown Vic. Buddy
12 was driving and I was riding in the back seat with him.

13 Q When I say Miranda warnings, did you do it on paper
14 or do it from an oral recitation?

15 A Right. I just read it to him orally. We were in the
16 vehicle at the time and Casey was talking and we needed to

17 Mirandize him before he did any talking and before we did
18 any talking to him.

19 Q And did you Mirandize him in full?

20 A Yes, sir.

21 Q Did you do it from reading a card or do you just know
22 it?

23 A Read a card.

24 Q Do you carry that card with you all the time?

25 A Yes, sir. I should have it in my bill fold now.

TESTIMONY OF MICHAEL GREEN

1 Q If you do pull it out and tell the jury exactly what
2 you told Casey. And while you're pulling it out let me
3 ask you a couple of questions. Why did you do it in the
4 back seat of your car from the card?

5 A Well, as we were driving to the sheriff's office we
6 were intending on speaking with Casey when we got to the
7 sheriff's office.

8 Q He was under arrest at that point?

9 A Yes, sir, he was.

10 Q Go ahead.

11 A And in the car he began talking about the case and we
12 stopped him and said, "Wait a minute, we have got to
13 Mirandize you before you say anything about this case."
14 And that's what we did.

15 Q Tell the jury what you told Casey in the car.

16 A I read him off the Miranda rights form or the Miranda
17 rights card. I said, "You have the right to remain
18 silent. Anything you say can and will be used against you
19 in a court of law. You have the right to talk to an
20 attorney and have him or her present with you while you
21 are being questioned. If you cannot afford to hire an
22 attorney one will be appointed to represent you before any
23 questioning if you wish. You can decide at any time to
24 exercise these rights and not answer any questions or make
25 any statements."

TESTIMONY OF MICHAEL GREEN

- 1 Q Did you read him all of that in the car?
- 2 A Yes, I did.
- 3 Q Did you ask him if he understood all of that?
- 4 A Yes, sir.
- 5 Q Did he indicate that he did or did not understand it?
- 6 A He said he did understand it.
- 7 Q Did he say anything or do anything to make you think
- 8 he did not understand it?
- 9 A No, sir, he did not.
- 10 Q Did he invoke his rights and tell you in the car, "I
- 11 don't want to talk?"
- 12 A No, sir, he did not. He told us he did want to talk.
- 13 Q Did he invoke his right to a lawyer while he was in
- 14 the car saying, "I want to talk to a lawyer before I talk
- 15 to y'all?"
- 16 A No, sir, he did not.
-
- 17 Q Did he continue to talk in the car after you read
- 18 Miranda?
- 19 A Yes, sir.
- 20 Q Did y'all interrogate him or question him or
- 21 interview him in the car? Who was doing most of the
- 22 talking in the car.
- 23 A Casey was doing most of the talking in the car. We
- 24 really wanted to wait until we got to the sheriff's
- 25 department when you can sit down face to face with.

TESTIMONY OF MICHAEL GREEN

1 somebody. In the car is not really the appropriate time
2 to be talking about this.

3 Q And was Casey -- did Casey have any visible injuries
4 to you from the point he got arrested on?

5 A No, sir.

6 Q Did he appear to be under any kind of physical
7 distress?

8 A He wasn't real happy about being handcuffed and we
9 had stopped the car at one point to just kind of get him
10 relaxed and calmed down and things like that. But no, he
11 didn't have any injuries or anything like that.

12 Q Was he hurt or sick?

13 A No, sir.

14 Q Okay. Did y'all get to the sheriff's office?

15 A Yes, sir.

16 Q Was any other Miranda done at the sheriff's office?

17 A No, sir.

18 Q The questions I'm asking you relate to the trip in
19 the car and at the sheriff's office.

20 A Okay.

21 Q Was he interviewed -- first of all, was he
22 interviewed at the sheriff's office?

23 A Yes, sir.

24 Q By whom?

25 A By myself and Special Agent Buddy Wilkes.

TESTIMONY OF MICHAEL GREEN

1 Q Where were y'all?

2 A We were in the interview room on the sheriff's office
3 side of the building.

4 Q Do you recall in the car was he handcuffed?

5 A Yes, sir.

6 Q At the sheriff's office, do you recall whether he was
7 handcuffed or not?

8 A If he was handcuffed at all it would have been his
9 handcuffs in front of him where he could move a little
10 bit.

11 Q Was he otherwise restrained at all in the sheriff's
12 office or in the car as far as you know?

13 A If had he any restraints on him at the sheriff's
14 office it would have been handcuffs in front, and I don't
15 recall if he had that or not. But that would have been
16 the most restraints that he had.

17 Q All right. At any time during your dealings with
18 Casey Perkins on August 29th of '05, did you have any
19 trouble understanding words and phrases and thoughts he
20 was expressing?

21 A No, sir.

22 Q Did he appear to have trouble understanding you or
23 others in your presence were expressing to him?

24 A Did he have any --

25 Q Did he have any trouble understanding what y'all were

TESTIMONY OF MICHAEL GREEN

1 saying --

2 A No, sir.

3 Q -- or expressing to him?

4 A No, sir.

5 Q Did he say anything or do anything to make you think
6 he did not understand the process, what was going on and
7 what was happening?

8 A No, sir, he did not.

9 Q Did he talk?

10 A Yes, sir.

11 Q Did he waive his right to be silent?

12 A Yes, sir, he did.

13 Q Did he waive his right to have a lawyer there?

14 A Yes, sir.

15 Q Did he answer questions?

16 A Yes, sir.

17 Q Do you know whether or not he was interviewed by or
18 questioned or interrogated by anybody else immediately
19 after anybody else got done with your interview?

20 A Yes, sir. After we finished talking with him we were
21 walking him back to the jail and Lieutenant Tommy
22 Robertson spoke to him briefly for a few minute.

23 Q Did you hear that conversation?

24 A As far as specifics, no. We were standing 25 feet
25 away I would guess and we may have heard a word or two,

TESTIMONY OF MICHAEL GREEN

1 but as far as listening to the conversation, no, sir.

2 Q That was my next question, was it visible to you from
3 where you were, the fact that he and Tommy were --

4 A We could see him but as far as hearing exactly what
5 he said, no, sir.

6 Q At any point during the ride to the jail, to the
7 sheriff's office, or the interview between Wilkes and you
8 and Perkins in the interview room, or the interview
9 between Robertson and Williams and Perkins after y'all,
10 was there any fisticuffs, any struggle, any physical
11 activity?

12 A No, sir.

13 Q Any yelling and screaming?

14 A The only problem we had with Casey at all was from
15 his house to the jail. We stopped the car at one point
16 because he was moving around way too much with handcuffs

17 behind him and just taking some movements that we didn't
18 like, we stopped the car, told him not to do that and we
19 proceeded onto the jail with no problem.

20 Q Now, at any time during this process, the transport,
21 your interview and Tommy Robertson's interview, did you
22 hear Casey ask for anything that he didn't get?

23 A No, sir.

24 Q And again, at any time during that process -- well,
25 are you aware that in Tommy Robertson's interview at some

TESTIMONY OF MICHAEL GREEN

1 point he said, "I want to talk to a lawyer?" Do you know
2 that?

3 A I have been told that, yes.

4 Q Other than that at any time did he say, "I don't want
5 to talk, I want to stop talking, I want to have a lawyer?"

6 A No, sir.

7 Q Now, at any point at any time when you were in the
8 presence of -- well, let me jump ahead just a minute. I'm
9 going to jump way ahead. Were you present in Chester
10 County on September 7th of 2005?

11 A No, sir.

12 Q Were you at the Chester County Sheriff's Office
13 Detention Center Complex at some point for several hours
14 that day?

15 A Yes, sir.

16 Q Did you become aware that Casey Perkins was going to
17 be or in the process of being interviewed by Sheriff Robby
18 Benson?

19 A Yes, sir.

20 Q Were you present during the first part of that
21 process?

22 A Yes, sir. I was present during the entire process.

23 Q Okay. Did you witness and observe the whole process?

24 A Yes, sir.

25 Q Were you actually in the room where it was going on?

TESTIMONY OF MICHAEL GREEN

1 A No, sir. I was outside the room looking through a
2 one-way mirror.

3 Q Did you have the ability to hear what was going on
4 inside of the room from you being outside of the room on
5 the other side of the glass?

6 A Yes, sir. You could hear and see what was going on.

7 Q Okay. Are you aware that an audiotape and actually a
8 short videotape was made of that process?

9 A Yes, sir.

10 Q And you had occasion over several months in the
11 course of preparation for this case to view and to hear
12 what was on those CD's, I guess we would call them, of the
13 audio and a little bit of video?

14 A Yes, sir.

15 Q Did you get requested to produce -- reproduce, I
16 guess -- copy on disc those two items actually yesterday

17 into last night?

18 A Yes, I did.

19 Q And I'm showing you two things, I'm going to hand
20 them to you real quick and ask you if you can identify --
21 well, tell me what that is first.

22 A This is a video of a part of the interview with Casey
23 Perkins and Sheriff's Benson.

24 Q When you say video, is some of it video but there's
25 more that's just audio on this tape?

TESTIMONY OF MICHAEL GREEN

1 A Yes, sir, some or both.

2 Q And about how long is this one?

3 A I want to say it's about 25 minutes.

4 Q What is this right here?

5 A This is an audio recording of the entire process from
6 beginning to end of the same interview that does begin on
7 video.

8 Q Is it accurate to say that this 25 minute or so is
9 just --

10 A A portion --

11 Q -- a portion of this?

12 A Yes, sir.

13 Q Okay. And do you know what's on these from hearing
14 and looking at them?

15 A Yes, sir.

16 Q And are they accurate recordings both some audio -- a
17 lot of audio and some video of the events that are
18 described on them?

19 A They are.

20 MR. BARFIELD: Your Honor, at this time I would offer
21 these two for identification, or I will go ahead and put
22 them in if you want me to. We're going that way later.

23 MR. DUNN: Of course I'm going to object, Your Honor,
24 to the same objections as before. I don't care which
25 witness they come in through, but my general objection is

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1 those things.

2 THE COURT: The Court notes the objection and
3 overrules them and admits them into evidence.

4 (The two CD's were received as State's 41 and 42.)

5 Q Couple more. I might have asked you this, if I did I
6 apologize. At anytime during the arrest of Mr. Perkins
7 and transport to his house, the interview of Mr. Perkins
8 by you and Agent Wilkes at the sheriff's office, any
9 portion of the interview between Tommy Robertson and
10 Mr. Perkins right after Mr. Wilkes' interview that you
11 heard and the interview contained on these CD's, did you
12 or -- did you hear anybody in your presence make any
13 threats or try to coerce Casey Perkins in to talking about
14 the matters that he was being questioned about?

15 A No, sir.

16 Q Did anybody make him any promise to get him to talk
17 about the events that y'all were interested in?

18 A No, sir.

19 Q Did anybody make any threats or take any coercive
20 position toward any members of his family or his friends
21 or associates to get him to talk?

22 A No, sir.

23 Q Did you at any time during those same events or any
24 time you were in the presence of Casey Perkins, did you
25 yourself or did you hear or observe anybody else impart to

TESTIMONY OF MICHAEL GREEN

1 Casey Perkins any details about the nature and
2 circumstances of the death of Judy Hinson or the results
3 of the investigation as it was going on? Did anybody feed
4 him details about this?

5 A No, sir.

6 MR. BARFIELD: Thank you, sir. Answer anything that
7 Mr. Dunn has.

8 THE COURT: Mr. Dunn.

9 MR. DUNN: May it please the Court?

10 CROSS EXAMINATION

11 BY MR. DUNN:

12 Q So when you were with Casey on the morning of the
13 28th of August he never said anything about killing Judy
14 Hinson, correct? He didn't say, "I killed Judy Hinson."

15 A No, he did not, not on the 28th.

16 Q And I think your name came up that you were present
17 at the sheriff's office when Agent Wilkes was interviewing
18 Mr. Perkins, weren't you?

19 A After the arrest.

20 Q So you didn't see him again until the arrest?

21 A I'm not following you.

22 Q We're both confused now. You saw Mr. Perkins in his
23 front yard, correct?

24 A Yes.

25 Q Did you see him later on that afternoon when he came

TESTIMONY OF MICHAEL GREEN

1 down to speak with Agent Wilkes? Were you present?

2 A I don't recall seeing him after -- on the 28th after
3 we spoke to him in the front yard. I don't recall seeing
4 him on the afternoon of the 28th.

5 Q Okay. The next time you saw him was Monday morning
6 when you and Wilkes and Benson and Robertson --

7 A The 29th, yes, sir.

8 Q -- came and arrested him, correct?

9 A Yes, sir.

10 Q When he was arrested he wasn't arrested for the
11 murder, correct?

12 A Correct.

13 Q He was arrested for something else.

14 A Correct.

15 Q Is it fair to say that when he was arrested at that
16 time there wasn't probable cause to arrest him for the

17 murder?

18 A We didn't --

19 Q Based on what you had at that point?

20 A At that point, no, we didn't feel like we had enough
21 to make an arrest at that point.

22 Q He was certainly a suspect, right?

23 A Yes, he was a suspect.

24 Q Just not enough to arrest him.

25 A Correct.

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1 Q On the transportation back from his house to the
2 station on the 29th when you said he was moving his hands
3 or whatever it was, Buddy Wilkes pulled the car over.

4 A Yes, sir.

5 Q He physically stopped the vehicle, correct?

6 A Yes, sir.

7 Q How long were y'all stopped?

8 A A minute, minute and a half, very short period of
9 time.

10 Q Then he got going again?

11 A Yes, sir.

12 Q Y'all went straight to the sheriff's office from
13 there.

14 A We did.

15 Q There wasn't any detours, stop for gas, stopping at a
16 store or anything like that, straight from point A to

17 point B, right?

18 A Correct.

19 Q In your time as a special agent with Sled -- you were
20 a police officer before you were with Sled, weren't you?

21 A Yes. I worked with the Lancaster Police Department
22 for ten years.

23 Q In all of the times that you have been with the law
24 enforcement you've been trained -- you have had training
25 courses or training opportunities on interrogation

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1 methods, correct?

2 A Yes, sir.

3 Q They just don't throw you out in the field and tell
4 you to go do it, they try to give you some idea of what
5 you are supposed to do, correct?

6 A I have some formal training and then, of course,
7 quite a bit of on-the-job training so to speak, observing,
8 watching.

9 Q You have been training on how to interrogate and how
10 to interview people?

11 A Yes, sir.

12 Q When I use the words interview and interrogation, I
13 am saying two different things, correct? From a police
14 perspective those are two different things, correct?

15 A You could be. Some people use those words
16 interchangeably. You interview everybody you speak with,

17 some people say I interrogate someone, some people say
18 interview witnesses, you would get different answers from
19 different people so it all depends on how you would look
20 at it. But yeah, you could make the argument two
21 different things.

22 Q I'm asking you from your perspective, two different
23 things?

24 A Could be, yeah, sure, could be.

25 Q When you first speak with somebody you're not putting

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1 them under pressure of an interrogation, correct?

2 A Correct. And let me say this: If you're asking me
3 from my perspective, I never use the word interrogation, I
4 just don't. You could but I don't, I just typically don't
5 say interrogation, not because it's a bad word, that's
6 just not a word I typically use. I typically would say
7 interview.

8 Q But there are times when you are speaking with
9 suspects that the atmosphere between you and that person
10 is less than friendly, correct?

11 A Sure, yeah. They're not always --

12 Q And there's times when you're speaking with suspects
13 that you're accusing them of having done something that
14 you suspected them of doing, correct?

15 A Absolutely.

16 Q And it's fair to say that during those times it's not
17 a friendly conversation between you and the suspect, is
18 it?

19 A It depends on the person. Sometimes it is very
20 friendly, sometimes it's not so friendly.

21 Q Not too many people like to be accused of doing
22 something that's illegal.

23 A No. I'm sure they don't like it, no, sir.

24 Q All right. During the -- we've discussed it, the
25 conversation or the interrogation that Mr. Perkins was

TESTIMONY OF MICHAEL GREEN

1 having with the sheriff on the 7th of September. At any
2 point did you walk into the interrogation room?

3 A I did speak with Casey on that day while they were in
4 a break, or it could have been at the very end, I don't
5 recall, but sometime either during a break or at the very
6 end of the interview.

7 Q Do you remember where you spoke with him?

8 A Yeah. He was still in the interview room and I
9 remember the door being open and I was standing in the
10 doorway.

11 Q Do you remember who else was in there at the time?

12 A I don't.

13 Q During that interrogation obviously Sheriff Benson
14 was in there, correct?

15 A No, this was during a break.

16 Q I'm talking about the interrogation as a whole,

17 Sheriff Benson was the lead interrogator, right?

18 A Correct.

19 Q Who else was involved in that?

20 A I recall Sheriff Benson and James McNeil being in the
21 room with him.

22 Q Anybody else in the room with him that you saw?

23 A I don't recall anybody else being in the room with
24 him. The door was opened a few times and they would take
25 breaks, somebody may stand there and be with Casey Perkins

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1 for a few minute. But as far as someone being in the room
2 while he was being questioned those are the only two I
3 recall.

4 Q Again, we had trouble hearing, did you watch the
5 whole thing or just parts of it, did you come and go?

6 A I was there pretty much the whole time. I may have
7 stepped to the restroom for two minutes, but basically I
8 was there A to Z.

9 Q So you weren't coming and going and doing other
10 things, your purpose that day was to be there to listen to
11 what was going on.

12 A Correct.

13 Q If you left it was just for a short period of time
14 because you had to heed the call of nature or something to
15 that affect.

16 A Correct. I was pretty much there the entire time.

17 MR. DUNN: No further questions, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. BARFIELD:

20 Q Mr. Dunn was asking you about your level of
21 participation in the September 7th of 2005 interview.
22 I've got to ask you some more detailed questions before I
23 get to the primary question I need to ask you. Who was
24 conducting the September 7th of 2005 interview? Who was
25 the primary law enforcement officer doing that interview?

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- 1 A Sheriff Benson.
- 2 Q And did you witness -- was Miranda read or was
- 3 Mr. Perkins advised of his Miranda rights before that
- 4 interview process started?
- 5 A Yes, sir.
- 6 Q Did you witness that?
- 7 A Yes, sir.
- 8 Q Does it appear on the videotapes, which are the
- 9 audio/videotapes which are State's Exhibits 41 and 42?
- 10 A Yes, sir.
- 11 Q You have seen them -- have you looked at it
- 12 subsequent to these tapes being created?
- 13 A Yes, sir, I have seen it.
- 14 Q And does it include the entire Miranda warning in
- 15 writing, the same information that you gave Perkins by
- 16 reading a card on August 29th?
-
- 17 A Same information.
- 18 Q Okay. Did Mr. Perkins waive his rights to remain
- 19 silent -- again, talking about September 7th -- did he
- 20 waive his rights to remain silent and to have a lawyer and
- 21 answer questions?
- 22 A He did.
- 23 Q Was there any promise made to Mr. Perkins during that
- 24 interview to get him to talk?
- 25 A No, sir.

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1 Q Was there any coercion or any threats used against
2 Mr. Perkins or anybody associated with him during that
3 interview to get him to talk?

4 A No, sir.

5 Q Now, at some point -- was it a start to stop,
6 everybody sitting in the same place process for three
7 hours and 15 minutes?

8 A No, sir.

9 Q Were there some breaks?

10 A Yes, sir.

11 Q Do you recall whether during any breaks you had a
12 separate conversation with Casey Perkins?

13 A Yes, sir. I did have some contact with him face to
14 face, us talking. And I don't recall if it was during a
15 break or at the very end of the interview but it was one
16 of those two.

17 Q Was there any particular subject that you made note
18 of that was the subject of one of your conversations
19 directly with Mr. Perkins?

20 A Yes, sir.

21 Q What was the subject of your conversation with
22 Perkins some time during that process?

23 A Casey and I were talking, and basically Casey was
24 telling me that he had some anger issues, that he gets
25 very angry and cannot control himself, and told me at one

TESTIMONY OF MICHAEL GREEN

1 point --

2 Q Don't -- let me direct the questions.

3 A Okay.

4 Q Did you have any conversation with Casey about -- let
5 me back up.

6 MR. DUNN: Your Honor, just for the record, I'm going
7 to, again, object to the line of questioning based on the
8 previous objection.

9 THE COURT: The Court notes the objection.

10 Q By the time the September 7th interview occurred, did
11 we know a lot about the crime scene itself?

12 A Yes, sir.

13 Q There is a knife which has been introduced into
14 evidence as an exhibit, I don't know the number. Were you
15 aware of the existence of that knife and where it was
16 found at the scene?

17 A I was.

18 Q Now, at anytime during the September 7th interview,
19 did anybody tell Casey Perkins that a knife was found
20 under a back window of Judy Hinson's house?

21 A No, sir.

22 Q At any point during your conversation with Casey on
23 September 7th, did you ask him specifically about -- did
24 y'all talk about weapons?

25 A Yes, sir.

TESTIMONY OF MICHAEL GREEN

1 Q How did that -- did you ask --

2 MR. DUNN: Your Honor, I just object to -- this is
3 redirect, the opportunity on direct, I don't think any
4 doors were opened up that go into weapons that were used
5 during the conversations about weapons were used during
6 that time.

7 MR. BARFIELD: Mr. Dunn asked Mr. Green if he -- and I
8 might not have been paying attention -- I think he asked
9 Mr. Green if he talked with Mr. Perkins himself I think
10 during that interview or what his level of participation
11 was, I don't recall exactly how that transpired. But I
12 think Mr. Dunn specifically got into with Mr. Green his
13 participation in the interview process.

14 MR. DUNN: There wasn't any subject matter broached,
15 just a question of whether or not he spoke with him and I
16 left it at that.

17 MR. BARFIELD: Well, I think that opens the door. You
18 spoke to him, I think that opens the door about what you
19 spoke to him about.

20 MR. DUNN: Actually I think my question was where he
21 spoke. But, I mean --

22 THE COURT: I'll overrule and permit it. Go ahead,
23 Solicitor.

24 Q You and Casey Perkins talked about weapons when you
25 were directly discussing things with him.

TESTIMONY OF MICHAEL GREEN

1 A Yes, sir.

2 Q And did you at that point tell him a knife was found
3 under the window on the back side of Judy Hinson's house?

4 A I did not.

5 Q Did you ask him a question?

6 A Yes, sir.

7 Q What was your question to Casey?

8 A I told Casey -- well, let me tell you specifically
9 what the question was. The question was, "Did you use any
10 weapons?"

11 Q What did he say?

12 A Or what type of weapon did you use, or something to
13 that affect.

14 Q What did he say?

15 A At first he denied it. And I don't know exactly what
16 I said, but I probably said something like, "Well, we know

17 a weapon was used, you're telling the truth about this,
18 you need to tell the whole truth." And Casey told me that
19 when he went in the house he removed a knife from the
20 kitchen. And I asked him if that was the same knife that
21 we found at the scene and he said he assumed it was. He
22 told me that he lost the knife, he didn't know what
23 happened to it.

24 Q Okay. Now, is there any -- did he tell you that he
25 used a knife violently against Ms. Hinson?

TESTIMONY OF MICHAEL GREEN

1 A No, sir. In fact, he denied that he used it in any
2 violent way towards Ms. Hinson.

3 Q And through your knowledge of the investigation, have
4 we alleged that he used a knife against Ms. Hinson?

5 A No, sir, we have not, didn't find any evidence of
6 that.

7 MR. BARFIELD: Thank you. Answer anything else
8 Mr. Dunn may have.

9 THE COURT: Mr. Dunn.

10 RECROSS EXAMINATION

11 BY MR. DUNN:

12 Q He never described the knife for you, did he, that
13 you can remember?

14 A I remember asking him where he got the knife from and
15 he told me he removed it from the kitchen, and he may have
16 described it, I don't recall. He described it as a

17 kitchen knife, I can tell you that.

18 Q By the time that had happened, September 7th, you
19 already knew that there was a knife, you already knew that
20 a knife had been found, correct?

21 A Yes, sir. I was at the scene the morning that it
22 occurred.

23 Q It was found that morning, that was my next question.

24 A Correct.

25 Q You never asked him to describe the knife to you just

TESTIMONY OF ROBERT BENSON

1 to see?

2 A I may have, I don't recall. I just know he told me
3 it was a kitchen knife that he removed from the kitchen.

4 MR. DUNN: I don't have any further questions, Your
5 Honor.

6 MR. BARFIELD: Nothing else from Agent Green.

7 THE COURT: Thank you, sir, you may step down.

8 The witness, ROBBY BENSON, was first duly sworn and
9 testified as follows, on:

10 DIRECT EXAMINATION

11 BY MR. BARFIELD:

12 Q State your name, please.

13 A Robert L. Benson.

14 Q What do you do for a living?

15 A Sheriff of Chester County.

16 Q And were you the sheriff of Chester County back in
17 August of 2005?

18 A Yes, sir.

19 Q Were you the chief law enforcement officer in charge
20 of the investigation in the death of Judy Hinson which we
21 allege occurred at her house on August 27th of 2005 on
22 Debruhl Road in Chester County?

23 A Yes, sir.

24 Q Did Casey Perkins get charged with that homicide?

25 A Yes, sir, he did.

TESTIMONY OF ROBERT BENSON

1 Q Do you see Casey Perkins in the courtroom here today?

2 A Yes, sir.

3 Q Where is he and what is he wearing?

4 A That's him sitting at the middle of the defense table
5 in a blue sweater and a tan shirt and a tie.

6 Q Prior to September 7th of 2005, had you -- prior to
7 September 7th of '05, did you yourself interview Casey
8 Perkins or interrogate him or question him about this
9 case, take any statements from him?

10 A No, sir.

11 Q I'm going to show you State's Exhibit Number 40. Do
12 you know what that is?

13 A Yes, sir. This is a letter I received from the
14 detention center from Casey Perkins asking to speak to me
15 about the murder case.

16 Q All right. Did you do anything yourself to prompt
17 Casey Perkins to send you this note saying he wanted to
18 talk to you?

19 A No, sir.

20 Q Did you send him a note saying, "Write me a note
21 saying you want to talk to me," or anything like that?

22 A No, sir.

23 Q Did you direct anybody else to?

24 A No, sir.

25 Q To your knowledge, did anybody in law enforcement do

TESTIMONY OF ROBERT BENSON

1 anything to prompt Mr. Perkins authoring State's Exhibit
2 Number 40 and send it to you?

3 A No, sir.

4 Q Prior to September 7th of 2005, had you become aware
5 that some lawyer had made some overtures either to the
6 solicitor's office or the sheriff's office or both on
7 behalf of Casey Perkins?

8 A That's information I had received.

9 Q All right. Was Todd Rutherford the lawyer?

10 A Yes, sir.

11 Q Had anybody in your department had any face to face
12 with Todd Rutherford about this case on behalf of
13 Mr. Perkins to your knowledge?

14 A Not that I knew of.

15 Q Had he sent any documents to your department to your
16 knowledge?

17 A Not that I recall.

18 Q When Casey Perkins -- did you get the note which Ms.
19 Dunifer testified was dated September 7th of '05, did you
20 get it on September 7th of '05?

21 A Yes, sir.

22 Q And when you got the note did you formulate some plan
23 for a response to it?

24 A Yes, sir.

25 Q What was your plan?

TESTIMONY OF ROBERT BENSON

1 A Get in touch with the investigators from the State
2 Law Enforcement Division and the investigators with the
3 sheriff's office, and I stated that he wanted to speak to
4 me about this case and put together what we're going to do
5 about his statement and how we're going to handle it. One
6 of the things is that we had information that he had had
7 an attorney, and I contacted then Solicitor John Justice
8 about --

9 Q Don't tell me what John said, but did you contact the
10 solicitor?

11 A Yes, sir, I contacted the solicitor.

12 Q Was some document prepared to address the issue of
13 whether Mr. Perkins was going to talk to you that day?

14 A Yes, sir. Solicitor Justice put together a form, a
15 letter.

16 Q I'm showing you two pieces of paper. Can you
17 identify those two pieces of paper?

18 A Yes, sir. Court's Exhibit 4 and Exhibit 5 are
19 duplicate letters of what -- of a statement from the
20 solicitor's office to convey to Casey Perkins.

21 Q Are those two pieces of paper except handwriting on
22 them, are they identical in content?

23 A Yes, sir, they are duplicates.

24 Q All right. And do -- are both of them originals,
25 meaning they both bear original signatures and dates?

TESTIMONY OF ROBERT BENSON

1 A They both do.

2 Q Are there signatures, in fact, on those pieces of
3 paper?

4 A Yes, sir.

5 Q Whose signatures are on them?

6 A Casey Perkins and my signature.

7 Q And was that document signed by you in the presence
8 of Casey Perkins?

9 A Yes, sir.

10 Q And did he sign it in your presence?

11 A Yes, sir.

12 MR. DUNN: Your Honor, can we have a side bar for just
13 a couple of minutes?

14 (A bench conference was held.)

15 THE COURT: Ladies and gentlemen, we're going to take
16 a lunch break until 2:15, I'll ask you to take a lunch

17 break until 2:15. I would remind you not to discuss the
18 case with anyone else and it's too early for you to begin
19 discussing the case amongst yourselves.

20 (The jury left the courtroom.)

21 MR. DUNN: Your Honor, as the Court is aware I have
22 filed a motion in limine at the beginning of the trial, I
23 don't have it in front you but basically --

24 THE COURT: Motion to determine the existence and the
25 admissibility of any and all --

TESTIMONY OF ROBERT BENSON

1 MR. DUNN: That's not it. It has to do with the
2 September 7th of 2005 statement and suppressing it under
3 the idea of it being secured during an unlawful arrest, I
4 don't remember what number that was.

5 THE COURT: Twelve and 13, unlawful arrest and
6 redaction concerning prior bad acts.

7 MR. DUNN: I think we have already -- I think the
8 redaction part, Your Honor, has already been taken care of
9 between the solicitor and I as far as we know, we have done
10 what we can with Sled to try to get it redacted. But as
11 far as the arrest -- motion number 12, Your Honor, this is
12 it -- the motion is this and I have documentation if the
13 Court wants to look at it just in case the Court just wants
14 to look at the paperwork. Mr. Perkins was arrested on
15 September (sic) 29th at about -- it was the late morning
16 hours from the testimony, he was booked some time --

17 according to the booking report he was booked in at 2:09 on
18 the 29th. He was arrested for the charge of failure to
19 register as a sex offender, which is a misdemeanor now, I
20 think it's a misdemeanor then too, I'm pretty sure it's a
21 30 day misdemeanor now. For that charge he was not given a
22 bond hearing until the 31st of August, which is almost --
23 it wasn't quite 48 hours, it was about 24 hours later or
24 something, but sometime on the 31st he was given a bond in
25 front of the Chester magistrate here, Judge Moore, he was

TESTIMONY OF ROBERT BENSON

1 given a \$5,000 bond at that time. On the 30th a hold was
2 placed on him by the Chester County Sheriff's Office for
3 murder, murder that so far the testimony has been didn't
4 have probable cause for, but the murder charge that he
5 was -- a hold was placed on him for that. Also on the 30th
6 a little bit later on in that day and according to what I
7 have here, the hold by Chester County was placed around
8 2:00. At 5:30 a hold was placed on him by Great Falls, the
9 city of Great Falls for what turned out to be a CSC charge,
10 I think it's a CSC 1st or 2nd. The significance of that,
11 Your Honor, is that is a charge -- that particular charge
12 had been a case that was brought earlier in the year of
13 2005, I want to say May of 2005, it originally was brought
14 as a kidnapping charge. Nothing changed as far as facts
15 go, just they changed it to the nature of the charges, they
16 were kidnapping and a charge of CSC. That was a Great

17 Falls warrant charged in May, Mr. Perkins sat in jail for
18 two months. In August -- I believe it was August 8th --
19 that charge was noll prossed at the request of the charging
20 agency. The solicitor's office dismissed it at the request
21 of the Great Falls Police Department on I want to say 8th,
22 I know it was the first week or two of August, and this is
23 the same August that Ms. Hinson died. Gets arrested on the
24 29th for the failure to register as a sex offender -- I
25 just want to make sure I get this accurate. I want to say

TESTIMONY OF ROBERT BENSON

1 on the 30th a hold was placed on him and on the 31st -- I
2 want to say it was the 31st -- yes, on the 31st that
3 warrant is served by Great Falls on my client, he was in
4 jail and he wasn't going anywhere. I believe he got a bond
5 hearing the same day, that bond was set at \$100,000, it was
6 either 100 or 150, I think it was \$100,000. I have it
7 right here, Your Honor.

8 THE COURT: That's when, on what date?

9 MR. DUNN: On the 31st. Like I said before, Your
10 Honor, it was the same charges that had previously been
11 brought, it was a different charge. On the 2nd of
12 September -- I don't know the days of the week at this
13 point once we get back past the 29th -- on the 2nd of
14 September he gets charged with murder by the York County --
15 or by the Chester County Sheriff's Office, it was served on
16 the 2nd, he never had a bond hearing on that charge. As
17 you know, murder charges and other capital offenses like --
18 capital offenses such as murder, anything that carries life
19 has to be set by a higher court judge, is generally set by
20 a higher court judge. We finally had a bond hearing on
21 that charge not that long ago, when it really wasn't an
22 issue by that point, the family never had any money to meet
23 any kind of bond that would have been set on a murder
24 charge. Your Honor, my argument is this, South Carolina
25 code of 22-5-51, says that a magistrates might admit a bail

TESTIMONY OF ROBERT BENSON

1 to a person charged with a definite offense, the punishment
2 is not death or imprisonment for life. Then it goes on for
3 other things, but the important part is subsection B, a
4 person charged with a bailable offense must have a bond
5 hearing within 24 hours of his arrest, it must be within a
6 reasonable time not to exceed 48 hours after the bond is
7 delivered to the incarcerated facility. Your Honor, he was
8 arrested on the 29th for a charge that certainly did carry
9 the idea of bond. It was a misdemeanor charge for failure
10 to register as a sex offender. I realize it is a serious
11 charge but our general assembly has seen fit to make it a
12 bailable offense. He didn't get a bond opportunity on that
13 charge until the 31st, a full 48 hours later. In the
14 meantime a bunch of other things were dumped on him hold
15 wise, not on him, but a bunch of other holds were placed on
16 him. It goes back to he was being held but he was held
17 unlawfully by the Chester County Detention Center and as
18 such we would ask that any statements that he made while he
19 was incarcerated be suppressed. And I believe, Your Honor,
20 I made most of those same arguments previously in the
21 Jackson v. Denno hearing we had in Lancaster. I just want
22 to make sure that the record is very clear of the time
23 frame involved going through now and down the road if it
24 should happen to be an issue.

25 THE COURT: All right. Thank you, Mr. Dunn.

TESTIMONY OF ROBERT BENSON

1 Solicitor?

2 MR. BARFIELD: Your Honor, couple of things. I don't
3 think I disagree with Mr. Dunn's chronology of the events
4 but I am fairly cursory looking at the documents he is
5 referring to. The primary argument I make is that there is
6 nothing that tells us in the statute that Mr. Dunn handed
7 up, which is 22-5-510, doesn't say what to do if the
8 statute is violated. I don't necessarily concede a
9 violation of the statute, I think the dates are what they
10 are but the statutes certainly warrant a dismissal of the
11 charge, for example, that he did not get a bond hearing on
12 or exclusion or suppression of evidence in the case for
13 which the case is brought, I just don't think that's the
14 remedy. It perhaps can go to the Court's consideration
15 under the Jackson v. Denno concerning the voluntariness of
16 the statement, and I submit to you that you considered that
17 in your ruling of the Jackson v. Denno issues at which time
18 Mr. Dunn basically made the argument without this detail
19 about the chronology, he basically made the argument that
20 he was arrested on August 29th of 2005, he was detained in
21 the Chester County Detention Center continuously until
22 September 7th of 2005, the date we allege he gave his
23 statement which we take as a confession. And the argument
24 was simply the fact that he was arrested and detained and
25 his freedom was restricted and he sat in jail should

TESTIMONY OF ROBERT BENSON

1 compel to Court to rule that because he confessed some
2 seven or eight days later, it was not a voluntary
3 confession. I don't think anything Mr. Dunn has presented
4 to you today by way of documentation or dates changes your
5 ruling, which we certainly agree with and think is correct
6 at the prior proceeding. In addition to that I would tell
7 you that in specific argument concerning the hold or notice
8 of hold submitted by the Great Falls Police Department from
9 a warrant, which the record can properly reflect is warrant
10 number I305382 charging him with criminal sexual conduct in
11 the first degree, the hold was placed on him on
12 August 30th. The warrant itself was issued on August 30th,
13 so the day after 24 hours -- of course, we don't have a
14 clock stamp on any of this stuff to say how many hours, but
15 August 29th he gets arrested, August 30 a warrant is issued
16 for him for criminal sexual conduct in the first degree.

17 When that warrant is issued on the same date -- again, I
18 don't -- it looks like 2:00 in the afternoon -- excuse me,
19 5:30 on the afternoon on the same date, apparently Great
20 Falls communicates to Chester County Detention Center,
21 place a hold on him because we have a warrant that was
22 issued earlier today that we need to serve on him. Again,
23 warrant is issued, he was arrested on one charge
24 August 29th. The Great Falls warrant is issued August
25 30th, the hold is placed on him for that warrant on August

TESTIMONY OF ROBERT BENSON

1 30th, which recently means we've got an active outstanding
2 warrant, we need to get up there and serve it on him, don't
3 let him go until we get up there and do that. I think
4 that's all valid procedure. Again, the argument is he
5 didn't get a bond hearing until 48 hours instead of 24, I
6 don't think it makes any difference. A hold had been
7 placed upon him for a validly issued warrant, which was, in
8 fact, subsequently served upon him. Now, going back to
9 the -- your consideration under Jackson v. Denno of the
10 voluntariness of the statement, I think you have to give
11 great weight to the nature and circumstances under which
12 the statement was obtained, the September 7th statement.
13 That statement was obtained pursuant to a document, which
14 is State's Exhibit Number 40 called Chester County
15 Detention Center Inmate Request Slip. Up to this point in
16 today's proceedings and throughout the proceedings under
17 Jackson v. Denno there is no evidence before the Court that
18 anybody did anything to initiate Mr. Perkins filling out
19 this inmate request slip and sending it to the sheriff.
20 That tells me that it is all voluntary and that it was
21 initiated by Perkins, not at the behest of law enforcement
22 and I submit that your prior ruling should stand, that
23 Perkins initiated contact with law enforcement voluntarily
24 of his own free will and accord which resulted in this
25 statement and therefore the statement should not be

TESTIMONY OF ROBERT BENSON

1 suppressed.

2 THE COURT: Let me ask Mr. Dunn a couple of questions
3 that I am not sure about. Are you asserting that the
4 arrest for failure to register was an illegal arrest?

5 MR. DUNN: I have not asserted that to this point and
6 the reason why --

7 THE COURT: I haven't heard it or --

8 MR. DUNN: What I'm trying to say is I have not
9 asserted it because I don't think -- I have not been able
10 to get the evidence I would need to try to assert it so I
11 have just sort of left it alone because -- we have enough
12 things to worry about without me bringing up things I can't
13 prove. I have looked into it to be sure, I just haven't
14 been able to get anything where I could rationally and with
15 a straight face be able to argue that he had not registered
16 as a sex offender.

17 THE COURT: Let me ask you another question. The
18 solicitor didn't mention this, but are you asserting that
19 the criminal sexual conduct charge was illegal?

20 MR. DUNN: I don't think I can say that.

21 THE COURT: That was --

22 MR. DUNN: It was a prior arrest they dropped and they
23 brought back. My problem is -- and I can see this if the
24 State dropped something without prejudice they can always
25 bring it back, it's not very -- it is very rarely ever done

TESTIMONY OF ROBERT BENSON

1 but it is -- I think it is something under our laws in
2 South Carolina, it is certainly something they could do.
3 As such again I haven't attacked it. Do I think I could
4 win that one at trial if I went to it? Probably, because I
5 don't think it was a very good case the first time but that
6 doesn't make it illegal.

7 THE COURT: See if I have got this right. The initial
8 arrest for failure to register for purposes of this hearing
9 would have to be considered to be a valid arrest?

10 MR. DUNN: Yes, the arrest itself would be valid. But
11 the bond --

12 THE COURT: I understand that bond issue is a separate
13 issue. You're saying it becomes illegal by virtue of the
14 failure to --

15 MR. DUNN: A continued incarceration becomes illegal.
16 I think it goes to admissibility and if it doesn't then I
17 think it goes to one of the criteria under Jackson v. Denno
18 to see if it was a coerced statement and if you are holding
19 somebody illegally then there is some coercion I think.

20 THE COURT: I understand the jury argument, but now
21 the -- we're going to have all of these facts --

22 MR. DUNN: Some of the facts have come in. I have
23 wrestled and entertained the idea of the CDC stuff but I'll
24 probably not bring that in for the jury's consideration for
25 obvious reasons.

TESTIMONY OF ROBERT BENSON

1 THE COURT: Yeah. But that statement -- but the very
2 next day, if I've got the time frames correct, on the 30th
3 there's a hold placed -- two holds come in on the 30th?

4 MR. BARFIELD: Yes, sir.

5 MR. DUNN: I believe so, Your Honor, from what I can
6 see in the paperwork wise.

7 THE COURT: That's what it sounded like. On the next
8 day after he's arrested on the failure to register charge
9 two separate holds go to the detention.

10 MR. DUNN: Yes, sir.

11 THE COURT: One for criminal sexual conduct.

12 MR. DUNN: Yes, sir.

13 THE COURT: And I've taken it through its logical
14 conclusion that warrant and therefore that hold are deemed
15 to be legal. Now, the question whether the -- you're
16 saying the murder warrant was without probable cause?

17 MR. DUNN: I still think the murder warrant was
18 obtained without probable cause, I won't concede that. I
19 think they didn't have the probable cause that they needed
20 for the murder charge until he gave his statement on the
21 7th.

22 THE COURT: But he had a bond hearing on the criminal
23 sexual conduct charge.

24 MR. DUNN: But -- it's like I tell anybody, what good
25 does it do -- you can get a PR bond but if you've got

TESTIMONY OF ROBERT BENSON

1 another hold on you that you can't get out on -- it was
2 \$100,000 bond but it could have been a PR bond, the fact of
3 the matter is at the time he had that bond issued by Judge
4 Lindsey he still had a hold on him placed by the Chester
5 County Sheriff's Office for a warrant -- I'm going to have
6 to speculate a little bit, it's for a murder warrant since
7 no other warrants were ever given to him by the Chester
8 County Sheriff's Office and I've never seen any other
9 warrants and I'm assuming it was for the murder charge.

10 THE COURT: Wait a minute, I thought there was -- was
11 there -- solicitor, was there a -- there was a warrant for
12 criminal sexual conduct.

13 MR. DUNN: That was by Great Falls.

14 THE COURT: Let me address that real quick. Again,
15 the chronology concerning the CSC charge from Great Falls,
16 hold sent from Great Falls to the detention center on the
17 30th for that warrant which was issued by a magistrate on
18 the 30th, which, in fact, was served on Perkins on the
19 31st.

20 MR. DUNN: Yeah.

21 THE COURT: There is no serious contention that that
22 was an illegal arrest.

23 MR. DUNN: No. I'm not disputing that he was
24 illegally arrested for the CSC, I think that they can bring
25 back warrants. I don't like it but I think it's plausible.

TESTIMONY OF ROBERT BENSON

1 MR. BARFIELD: And, you know, very briefly about that.
2 We weren't bringing back a warrant, apparently the prior
3 charge was a different charge based on a different warrant.
4 A new warrant was issued for another charge, it just
5 happened to be the same incident apparently. I wasn't over
6 here dealing with all of that stuff then but that's my
7 understanding.

8 MR. DUNN: I have been appointed on the CSC, my
9 understanding is that it was originally a kidnapping. I
10 have never been able to ascertain the warrant because to be
11 honest with you I have been using my time for the murder
12 charge because I knew this wasn't going anywhere. But even
13 if we assume it's all not illegal -- he has the potential
14 for making a bond for the CSC charge albeit a pretty large
15 one for \$100,000 but he has still got a hold on him for a
16 charge that is so far from all of our witnesses there
17 hasn't been any probable cause. They think he did it, they
18 know he did it -- by know I mean in quotations, they know
19 he did it but they can't have enough to actually get a
20 warrant for it. My position is they didn't get enough
21 until the 7th when he sits down with Benson for three hours
22 and starts talking. I don't think it would be a stretch to
23 say he implicates himself pretty good there that
24 September 7th and he gives them probable cause for the
25 arrest.

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1 MR. BARFIELD: Your Honor, let me say this, and we can
2 argue about this all day long. But, in fact, prior to
3 September 7th when he gave this statement he had been
4 served with a warrant charging him with murder, five days
5 before. He was charged with murder, he wasn't -- the
6 witnesses have said August 28th when we talked to him,
7 August 29th when we talked to him we didn't have enough for
8 murder. But by September 7th they thought they did and
9 they convinced a magistrate and a warrant was obtained and
10 served on him on that date for murder, this murder.

11 MR. DUNN: The best I'm going to say, Your Honor, is I
12 haven't heard any evidence from witnesses because I
13 specifically have asked the question for everybody that I
14 thought was appropriate to ask them with that additional
15 evidence they had between the 29th of August and the 2nd of
16 September when they went in and charged him, what is
17 different to give him the probable cause to go ahead and
18 issue the warrant. Everybody has conceded that the arrest
19 warrant was issued was for an unrelated charge when they
20 picked him up on something besides murder to hold on to.
21 And I understand why cops do that, they had to get him for
22 something so they picked him up for something. But what
23 changed between that date and the 2nd when the warrant was
24 originally -- was finally issued it said they were charging
25 Mr. Perkins, but what changed between that time frame and I

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1 haven't heard anything whether it be in the Jackson v.
2 Denno hearings that we have held, and we have held two of
3 them, three of them if you count yesterdays or the
4 Schmerber hearing that we held, which you weren't part of
5 the Schmerber hearing, Your Honor, it was something else
6 unrelated anyways, or any of the testimony for the last
7 four days from any of the officers that have taken the
8 stand. I haven't heard anything that anything has changed
9 in the nature of the case that would give them probable
10 cause to hold on to him for murder as of September 2nd. As
11 I said, I can see September 7th but my argument is as of
12 September 2nd we don't have it.

13 MR. BARFIELD: My short response to that is this is
14 not a hearing as to whether there was probable cause to
15 charge him with murder, this is a hearing about whether his
16 statement given on September 7th is admissible.

17 MR. DUNN: And I will concede just for the argument
18 against him the indictment was obtained down the road after
19 all on this one.

20 THE COURT: Let me ask y'all this question, suppose
21 that there had been no other warrants issued, no other
22 holds and law enforcement had merely arrested him without a
23 warrant on the charge of murder, suppose that had happened.

24 MR. DUNN: So you're saying -- supposing there's no
25 violation of the sex offender registry and there was no

TESTIMONY OF ROBERT BENSON

1 CSC.

2 MR. BARFIELD: And there was no warrant for the
3 murder? I haven't been able -- I didn't anticipate the
4 question and certainly I haven't gone to look up anything
5 to see how long --

6 THE COURT: You might have an illegal arrest under
7 those circumstances, you might, if there's no probable
8 cause.

9 MR. BARFIELD: There is a -- the Chief Justice does
10 have an administrative order which addresses holding
11 somebody without charge and without taking that person
12 before a magistrate but it's a different situation. It's
13 not a situation addressing somebody who is arrested on a
14 warrant who simply didn't get a bond hearing.

15 THE COURT: Let's just suppose that all of this other
16 stuff was out of the picture and law enforcement goes on
17 the 29th and obtained the warrant from a magistrate who
18 issues an arrest warrant for murder. Now, would we be here
19 looking over the magistrate's shoulder to see if there was
20 probable cause? I'm not talking about a search warrant
21 now, we're talking about an arrest warrant.

22 MR. DUNN: I think we would have to be from my
23 perspective. I can't speak for the State. I will even
24 make this argument, the stuff that we've heard in trial --
25 we have done a pretty good job of doing a chronological

TESTIMONY OF ROBERT BENSON

1 history during this trial, we have gone over a little bit
2 but we pretty much started from the beginning and worked
3 out way up through where we're at now, which is Sheriff
4 Benson taking the stand. I haven't heard a whole lot of
5 evidence to date as of right now at this time that would
6 say that Mr. Perkins is guilty of murder. We certainly
7 have some circumstantial stuff that is questionable, the
8 knife being there, the lighter being there, that was
9 similar to a couple of other people, couple of statements
10 made about wanting the death penalty, couple of statements
11 saying the demons in me or something to that effect,
12 certainly suspect statements, but nothing that says I did
13 it, nothing that directly ties him to it. We've got a lot
14 of circumstantial evidence and I would argue at this point
15 we don't have enough for a conviction, even have enough for
16 probable cause. But that would be my argument, Your Honor.

17 MR. BARFIELD: Let me respond to that briefly.
18 Probable cause is not a very high standard and I submit
19 that certainly as the days past, particularly through
20 September 7th, the date of statement, the case tightened
21 up. But I would simply argue to you that even though it is
22 largely circumstantial within 48 hours of the discovery of
23 Ms. Hinson's body there was, in fact, probable cause to
24 arrest Casey Perkins for it based on his whereabouts -- and
25 I don't want to argue the whole case, this is not a closing

TESTIMONY OF ROBERT BENSON

1 argument -- but his whereabouts the night of the event, the
2 dog tracking, the lighter, which would in -- and I don't
3 know the dates -- but within a day or two probably that
4 Saturday the Wilson's were talked to and the information
5 about the lighters was obtained. I don't want to
6 misrepresent anything, I could look up the dates but they
7 knew all of that within a day or two. And we've got a
8 lighter outside of the window, which is identical to a
9 lighter that Perkins himself had given a witness in the
10 case. I think just even that much is probable cause. I
11 don't think there's any validity to the argument that he
12 should never have been arrested on the murder before
13 September 7th.

14 THE COURT: Here is the way I see it and here is the
15 ruling of the Court. The section 22-5-510 does not in and
16 of itself invalidate the arrests, does not in and of itself
17 invalidate any statements that the defendant may have made.
18 That the arrest for failure to register on the 29th is and
19 the Court so finds that it was not invalid, that the hold
20 and arrest for the charge of criminal sexual conduct was
21 not illegal. And unless somebody wants to be heard further
22 on it the Court will find that what we have heard so far is
23 insufficient for the Court to find the confession or
24 statements were involuntarily given and/or in violation of
25 Miranda.

TESTIMONY OF ROBERT BENSON

1 MR. DUNN: My only question I guess is for
2 clarification then, because is there a ruling as far as to
3 the arrest then on the murder? Is there a -- the -- you
4 ruled on the first two arrests that really we're not even
5 here for the first two, is there a ruling, though, that the
6 arrest for the murder was illegal or is that -- I guess I'm
7 just trying to make sure. You said that Miranda wasn't --
8 Jackson v. Denno, Miranda, none of those were violated,
9 that's my understanding, correct?

10 THE COURT: Right.

11 MR. DUNN: For purposes of the statement coming in, I
12 guess -- all right.

13 (A lunch break was taken.)

14 THE COURT: Ready for the jury?

15 MR. BARFIELD: Yes, sir.

16 MR. DUNN: Yes, sir.

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

18 (The jury returned to the courtroom.)

19 THE COURT: Welcome back, ladies and gentlemen. I
20 believe we're ready to resume to the testimony from the
21 State and there was a witness on the witness stand,
22 Solicitor?

23 MR. BARFIELD: Yes, sir, Sheriff Benson.

24 CONTINUED DIRECT EXAMINATION

25

TESTIMONY OF ROBERT BENSON

1 BY MR. BARFIELD:

2 Q Sheriff, I frankly do not recall precisely where we
3 were so I'm probably going to back track just a little bit
4 with apologies to all. I believe I asked you about
5 State's Exhibit 40 which is the inmate request slip which
6 you identified as the note to Casey Perkins asking to talk
7 to you on September 7th.

8 A Yes, sir.

9 Q I think you were discussing -- we got to talking
10 about some knowledge you had that a lawyer named Todd
11 Rutherford had made some overtures to either your
12 office or my office or my former boss' office about
13 representing Perkins; is that correct?

14 A Yes, sir.

15 Q I think I had shown you these two pieces of paper and
16 I think you identified them as identical copies of the

17 same document with original signatures on both by you and
18 Perkins and the same date on both; is that correct?

19 A Yes, sir.

20 Q I think I was offering these as States Exhibits --
21 MR. DUNN: I think you already did that.

22 MR. BARFIELD: I at this time offer these two exhibits
23 as the next two states exhibits.

24 (The two attorney waivers were received as State's 43
25 And 44.)

TESTIMONY OF ROBERT BENSON

- 1 Q Sheriff, I think you were discussing at some point
2 contacting Sled and getting your folks together and coming
3 up with some sort of plan about conducting the interview
4 that Casey Perkins had requested; is that correct?
- 5 A Yes, sir.
- 6 Q Did that all get set up?
- 7 A Yes, sir, it did.
- 8 Q Where was that interview going to be conducted?
- 9 A It was going to be conducted at the sheriff's office
10 on Dawson Drive in the interview room.
- 11 Q On the jail side or sheriff's office?
- 12 A Sheriff's office side.
- 13 Q Did everybody gather up?
- 14 A Yes, sir.
- 15 Q Did Casey Perkins get brought in?
- 16 A Yes, sir.
-
- 17 Q Prior to him being brought in, did y'all make some
18 arrangements to audio and video record the proceedings
19 that were about to take place?
- 20 A Yes, sir, we did.
- 21 Q Was there some audio and video recording made of
22 those proceedings?
- 23 A Yes, sir.
- 24 Q And I put into evidence earlier today State's
25 Exhibits 41 and 42. Were those -- were there actually two

TESTIMONY OF ROBERT BENSON

1 separate recordings made, one of them is 30 minutes of the
2 larger one?

3 A Yes, sir. The initial recording, it was an
4 audio/video, the Miranda with myself and Casey Perkins.

5 Q Let me just ask you this question. By way of
6 explanation -- first of all, do the recordings -- there's
7 some video and there's a lot of audio, do the recordings
8 speak for themselves?

9 A Yes, sir, they do.

10 Q I'm not going to ask you a bunch of questions about
11 that stuff. But was there a discussion between -- is
12 there some video of the first part of those proceedings?

13 A Yes, sir, there is.

14 Q And does that part of the video show you going over
15 State's Exhibits 43 and 44 with Casey Perkins?

16 A Yes, sir, they do.

17 Q It shows him signing them and you signing them and
18 all of that?

19 A Yes, sir.

20 Q Let me go ahead and ask you this, can you identify
21 this document?

22 A Yes, sir. This is the Miranda warning that I
23 conveyed to Mr. Perkins.

24 Q On what date?

25 A It was on September 7th.

TESTIMONY OF ROBERT BENSON

- 1 Q Of '05?
- 2 A Yes, sir, '05.
- 3 Q Is that part of the same interview that we're talking
- 4 about right now?
- 5 A Yes, sir, it is.
- 6 Q Does the recording, the video and the audio, show
- 7 that process?
- 8 A Yes, sir. This is the one that is going to be in the
- 9 video.
- 10 Q Okay. Is that the original of the document?
- 11 A Yes, sir.
- 12 Q Did you go over everything on that document with
- 13 Casey Perkins?
- 14 A Yes, sir.
- 15 Q Did he put initials in blanks by each of his Miranda
- 16 warnings?
-
- 17 A Yes, sir, he put initials by each one.
- 18 Q And did he indicate to you that he wanted to waive
- 19 his rights and talk to you?
- 20 A Yes, sir.
- 21 Q Did he sign them?
- 22 A Yes, sir, he did.
- 23 Q Is it dated?
- 24 A Yes, sir.
- 25 Q Did you sign it as a witness?

TESTIMONY OF ROBERT BENSON

1 A Yes, sir, I did.

2 Q Did anybody else sign it as a witness?

3 A Yes, sir, Investigator Shane Stewart.

4 Q All right.

5 MR. BARFIELD: Your Honor, at this time I would offer
6 the Miranda warnings as the next State's Exhibit.

7 MR. DUNN: Same objections Your Honor.

8 THE COURT: Noted.

9 (The Miranda warnings were received as State's 45.)

10 Q Let me go ahead and ask you about this before I
11 forget it. Is the entire process videotaped?

12 A No, sir.

13 Q At whose -- why was it not videotaped?

14 A After speaking with Mr. Perkins he stated that he
15 didn't want the rest of the conversation videoed.

16 Q Did he have any objection to it being audio recorded?

17 A No, sir.

18 Q Is the entire interview audio recorded?

19 A Yes, sir.

20 Q I believe I asked you this earlier and if I did I
21 apologize to you and all concerned. The inmate request
22 slip, did you or to your knowledge anybody in your
23 department or with law enforcement do anything to initiate
24 this communication from Casey Perkins?

25 A No, sir.

TESTIMONY OF ROBERT BENSON

1 Q And I'm referring to State's Exhibit 40. Couple of
2 general questions. By the time you talked to Casey
3 Perkins on September 7th, was there a good bit of
4 information that had been gathered during this
5 investigation?

6 A Yes, sir. There was a good bit of information.

7 Q Had there been any public dissemination of details of
8 the facts and circumstances of Judy Hinson's death or the
9 results of that investigation?

10 A No, sir.

11 Q Did you at anytime in your dealings with Casey
12 Perkins or anyone in your department or any other law
13 enforcement agency to your knowledge impart to Casey
14 Perkins any of the details of the facts and circumstances
15 of Judy Hinson's death or the results of the investigation
16 up to the point that anybody might have talked to him?

17 A No, sir.

18 Q Did you have any difficulty understanding things
19 Casey was telling you during the interview process and
20 especially the first part of it?

21 A No, sir.

22 Q Did he appear to have any difficulty understanding
23 what you were saying to him and thoughts you were
24 conveying to him?

25 A No, sir, he didn't.

TESTIMONY OF ROBERT BENSON

1 Q Did he say or do anything that made you think that he
2 did not understand his Miranda warnings?

3 A No, sir.

4 Q Was he cuffed during the interview?

5 A Not during the interview.

6 Q Was he cuffed initially?

7 A Yes, sir.

8 Q Does the tape speak for itself on that point?

9 A Yes, sir.

10 Q From time to time -- well, let me ask it this way, in
11 the interview room itself for the length of the interview,
12 name the people including yourself who were present in the
13 interview room first at any given time as you recall.

14 A Investigator Stewart and Major James McNeil from what
15 I remember.

16 Q And you?

17 A Yeah, and me.

18 Q Were there other people in the sheriff's office in a
19 room adjacent to the interview room?

20 A Yes, sir.

21 Q Okay. Is Shane Stewart's voice on the tape from time
22 to time?

23 A Yes, sir.

24 Q Is James McNeil's voice on the tape from time to
25 time?

TESTIMONY OF ROBERT BENSON

1 A Yes, sir.

2 Q Is your voice on the tape?

3 A Yes, sir.

4 Q When you were talking to Casey, did he appear to be
5 under any type of physical distress, meaning injured or
6 ill?

7 A No, sir.

8 Q Did he have any visible injuries?

9 A No, sir.

10 Q Did he at any time make any requests for creature
11 comforts, like, "I've got to pee. I want something to
12 drink. I need to make a -- I want to go smoke." Did he
13 make requests during the interview?

14 A Yes, sir, he did. From time to time he wanted to
15 take a cigarette break or get something to drink or go to
16 the restroom, yes, sir.

17 Q Were those requests granted as far as feasible and
18 practicable?

19 A Yes, sir.

20 Q Do you recall any denial of any requests that he
21 might have made for any?

22 A No, sir.

23 Q Did you during the interview or anybody else in your
24 presence or to your knowledge coerce Casey Perkins or make
25 any threats against him to talk to you?

TESTIMONY OF ROBERT BENSON

1 A No, sir.

2 Q Did you or anybody else in your presence or to your
3 knowledge say anything to coerce Casey Perkins or issue
4 any threats toward members of Casey's family or people
5 close to him to get him to talk?

6 A No, sir.

7 Q Were any promises made to Casey to get him to talk?

8 A No, sir.

9 MR. BARFIELD: Thank you, sir. Answer anything
10 Mr. Dunn has.

11 THE COURT: Mr. Dunn?

12 MR. DUNN: Your Honor, that's all I have of Sheriff
13 Benson at this time. I just reserve my right to cross when
14 he takes the stand, Your Honor.

15 THE COURT: Sheriff, you can stand down.

16 The witness, JAMES MCNEIL, was first duly sworn and
17 testified as follows, on:

18 DIRECT EXAMINATION

19 BY MR. BARFIELD:

20 Q Mr. McNeil, back in August of 2005 were you employed
21 by the Chester County Sheriff's Office?

22 A Yes, sir.

23 Q Were you an investigator with the sheriff's office?

24 A Yes, sir, I was.

25 Q Did you participate in the investigation of the death

TESTIMONY OF JAMES MCNEIL

1 of Judy Hinson on Debruhl Road on August 27th of '05?

2 A Yes, sir, I was.

3 Q And you have got to speak up a little bit, holler at
4 me. Did you participate in the interview with Casey
5 Perkins by Sheriff Benson on September 7th of 2005?

6 A I did.

7 Q Were you present pretty much during the entire
8 interview with him?

9 A Pretty much so.

10 Q And did you actually participate in discussions and
11 interviewing or questioning or interrogating Casey
12 Perkins, whatever we're going to call it?

13 A Yes, sir, I did.

14 Q All right. I'll ask you a couple of very generic
15 questions. Did you or anybody in your presence at any
16 time that you had contact with Casey Perkins concerning

17 this investigation tell him any details of the facts and
18 circumstances of Ms. Hinson's death or the results of the
19 investigation?

20 A No, sir.

21 Q Did you or anybody in your presence or to your
22 knowledge at any time threaten Casey Perkins or any
23 members of his family to get him to talk to y'all about
24 this case?

25 A No, sir.

TESTIMONY OF JAMES MCNEIL

1 Q What kind of repour did you and Casey have during
2 your exchanges with him during this interview?

3 A We had a good repour.

4 Q Was there any yelling and screaming or pounding fists
5 on tables or anything?

6 A I can't recall that, no, sir.

7 MR. BARFIELD: Thank you. I don't have any further
8 questions, please answer anything Mr. Dunn has.

9 MR. DUNN: Just of couple of questions. Well, Your
10 Honor, with the same deal we have with Benson, I would like
11 to reserve my cross examination -- well, I can ask him one
12 question.

13 CROSS EXAMINATION

14 BY MR. DUNN:

15 Q Just to make sure, we're going to hear several voices
16 on this tape, Major. One is clearly I think we all will

17 be able to agree is Mr. Perkins, one I think we will all
18 be able to agree is Mr. Benson. Is the other voice going
19 to be yours as far as you know?

20 A As far as I know, yes, sir.

21 Q Is there anybody else's voice we're going to hear on
22 that tape?

23 A Detective Stewart, you may hear his voice on there as
24 well. I haven't heard the tape in a long time so I'm not
25 sure.

TESTIMONY OF JAMES MCNEIL

1 Q And I know that you don't hear yourself talk, but is
2 your voice similar to Detective Stewart's or is it
3 distinctively different? Anybody ever tell you you sound
4 like Shane Stewart?

5 A Nobody has never told me that before.

6 Q Just for purposes of when we listen to this tape to
7 make sure we figure out who the players are, any other
8 voices that we should hear on there besides the four of
9 y'all?

10 A I'm not sure, I think that's it.

11 Q That's fine.

12 MR. DUNN: I will reserve the rest of my cross
13 examination questions as a later point.

14 THE COURT: That's agreeable with the State?

15 MR. BARFIELD: Yes, sir. And in that regard I think
16 we probably need an order of the Court for reverse

17 sequestration to make sure the people he wants to recross
18 sits through the publication of the tape.

19 MR. DUNN: They're all sitting over there, that's not
20 going to be an issue, Your Honor, I just assumed that we
21 already had.

22 MR. BARFIELD: Trying to accommodate him, I don't want
23 to defeat the purpose of waiting on cross.

24 The witness, JAMIE MITCHELL, remained under oath
25 and testified as follows, on:

TESTIMONY OF JAMIE MITCHELL

1 DIRECT EXAMINATION

2 BY MR. BARFIELD:

3 Q Mr. Mitchell, we ain't going to rehash a whole bunch
4 of stuff, let me ask you a couple of questions, though.

5 Were you present on September 7th of 2005 when Casey
6 Perkins was being interviewed at the sheriff's office?

7 A I was.

8 Q Were you actually in the interview room or somewhere
9 else?

10 A Somewhere else.

11 Q Were you able to see and hear what was going on?

12 A I was.

13 Q And how could you see?

14 A Through a glass.

15 Q One way?

16 A One way glass.

17 Q How could you hear?

18 A Through a monitoring system through the room they
19 were in and the room adjacent behind that.

20 Q Couple of real generic questions, I've asked several
21 other people. Did you during that process or at any other
22 time that you dealt with Casey Perkins yourself, did you
23 or anyone else in your presence or to your knowledge
24 impart to Casey Perkins any details about the facts and
25 circumstances of Judy Hinson's death or the results of the

TESTIMONY OF JAMIE MITCHELL

1 investigation up to any point?

2 A No, sir.

3 Q Did you or anybody else in your presence or to your
4 knowledge make any threats against Casey Perkins or
5 members of his family to get him to provide information
6 about this case?

7 A No, sir.

8 MR. BARFIELD: Thank you. That's all I have.

9 CROSS EXAMINATION

10 BY MR. DUNN:

11 Q You were in the room through the glass. Were you
12 there the whole time or just sometimes?

13 A Most of time, but not all of time.

14 Q And when you weren't there, where were you?

15 A In a room next to it.

16 Q Doing what?

17 A Maybe talking to some other officers.

18 Q So you didn't watch the entire process from start to
19 finish.

20 A Not all of it.

21 Q The parts that you did watch Mr. Perkins was in
22 there, correct?

23 A He was.

24 Q Sheriff Benson was in there, correct?

25 A He was.

TESTIMONY OF JAMIE MITCHELL

1 Q Major McNeil at some point is in there coming in and
2 out, correct?

3 A He was.

4 Q I don't think he was in there the whole time, was he?

5 A No.

6 Q Shane Stewart ever in there?

7 A I can't remember. He was at one time but I can't
8 remember exactly when.

9 Q Anybody else in there?

10 A Not that I can think of.

11 Q Any reason to believe that any other voice that we
12 may hear in the next couple of hours would be anybody but
13 one of the four of those folks?

14 A I can't think of any reason.

15 Q Your voice is not on there, right?

16 A No.

17 Q Is it fair to say that the room they are in is a
18 small room?

19 A Very small.

20 Q Just big enough really for a table and couple of
21 chairs?

22 A Yes.

23 MR. DUNN: No further questions, Your Honor.

24 MR. BARFIELD: I think Mr. Dunn is not reserving the
25 right to recall --

TESTIMONY OF PHILLIP PERRY

1 MR. DUNN: I am not reserving the right to call, I can
2 always call him later if I have to.

3 THE COURT: You may be excused.

4 The witness, PHILLIP PERRY, remained under oath
5 and testified as follows, on:

6 DIRECT EXAMINATION

7 BY MR. BARFIELD:

8 Q You might want to just answer the questions before I
9 ask them because you know it's going to be the same ones
10 pretty much. Were you present on September 7, 2005 when
11 Casey Perkins was interviewed at the sheriff's office?

12 A Yes, sir, I was.

13 Q Were you in the interview room itself?

14 A No, sir, I was not.

15 Q Were you in the room adjacent to it with sight and
16 sound access?

17 A Yes, sir, I was.

18 Q Were you there the whole time?

19 A No, sir, just a portion of the time.

20 Q Did you participate in the interview at all yourself?

21 A No, sir.

22 Q Did you ever go in and ask Casey Perkins questions
23 during that process?

24 A No, sir.

25 Q Again, generic question, but did you or anybody else

TESTIMONY OF PHILLIP PERRY

1 in your presence or to your knowledge at any time during
2 contacts with Casey Perkins tell him details of this
3 crime?

4 A No, sir.

5 Q And did you or anybody else in your presence or to
6 your knowledge threaten Casey or members of his family to
7 get him to talk to y'all about this case?

8 A No, sir.

9 MR. DUNN: Thank you. Answer anything Mr. Dunn has.

10 CROSS EXAMINATION

11 BY MR. DUNN:

12 Q You didn't watch it from beginning to end, right?

13 A No, sir.

14 Q And you were also within the same room that Detective
15 Mitchell just said that he was in, right?

16 A Yes, sir.

17 Q How long do you think you were in there?

18 A Probably no more than maybe 15 or 20 minutes of the
19 whole interview.

20 Q The only players you saw were a part of it were
21 Mr. Perkins, right?

22 A Yes, sir.

23 Q The sheriff, right?

24 A That's correct.

25 Q Major McNeil?

TESTIMONY OF PHILLIP PERRY

1 A Yes, sir.

2 Q Shane Stewart?

3 A I don't believe I was present while Shane was in
4 there.

5 Q Anybody else?

6 A No, sir.

7 Q Is it fair to say that that room is a small room?

8 A Yes, sir, it is.

9 Q Really small room, just big enough for a table and a
10 couple of chairs, right?

11 A Yes, sir.

12 Q And there's no exterior windows in that room either,
13 is there?

14 A No, sir.

15 MR. DUNN: No further questions.

16 MR. BARFIELD: Nothing else from this witness, are you
17 done --

18 MR. DUNN: Yes, sir, I am done with him.

19 MR. BARFIELD: I would ask that Mr. Perry be excused
20 if he would like but he's welcome to stay. Your Honor, at
21 this time the State proposes to publish to the jury --
22 there are, in fact, two discs, one is less than 30 minutes.
23 My intention first is to publish the shorter disc, which is
24 the disc that contains video.

25 (At this time State's Exhibit 41 was played for the

TESTIMONY OF MICHAEL GREEN

1 Jury.)

2 MR. BARFIELD: That is the end of the first recording,
3 we can go right into the second which is just audio or
4 whatever the Court desires. I am prepared to make the
5 presentation whenever the Court wants to do it.

6 THE COURT: I was going to suggest a break. Let me
7 check with the jurors, are y'all okay with going ahead and
8 start listening and then take another break in maybe 30 or
9 45 minutes? That seems to be the way to go.

10 MR. BARFIELD: Well, I need to do one more thing.
11 The witness, MICHAEL GREEN, remained under oath and
12 testified as follows, on:

13 DIRECT EXAMINATION

14 BY MR. BARFIELD:

15 Q Agent Green, let me ask you at the request from me a
16 couple of weeks ago, did you assist in getting the audio
17 and visual stuff put together?

18 A Yes, sir.

19 Q And do you have a good understanding of first of all
20 the existence of two CD's in this case?

21 A Yes, sir.

22 Q Now, let's talk about -- let me just ask you this
23 question point blank, is everything that was just
24 presented to the jury contained within the longer CD that
25 they're going to simply hear after awhile?

TESTIMONY OF MICHAEL GREEN

1 A Yes, sir. The longer CD contains everything we have
2 heard and then everything else that was said.

3 Q Okay. And on the version that the jury just saw --
4 you might not be able to answer this, you might be able
5 to -- the video portion of the version the jury just saw,
6 where does it fall in the long version?

7 A The initial video portion where you can actually see
8 people in the video starts at the very beginning of the
9 audio recording as well, they're both started at the same
10 time.

11 Q And when you say the audio recording, you're saying
12 the video is the first part of the long tape?

13 A Correct. They both started at the same time.

14 Q What is the -- and where is the just audio portion of
15 what they just saw on the long version?

16 A The last part of this video where you see no one but
17 you can hear is at the very end of the audio that's
18 recording everything.

19 Q I'm going to recap it with you. The video that they
20 just saw is the first part of the long tape they haven't
21 heard?

22 A Correct.

23 Q And the audio of what they just saw is the last part
24 of long tape which they haven't heard?

25 A Correct.

TESTIMONY OF MICHAEL GREEN

1 MR. BARFIELD: Thank you.

2 MR. DUNN: I don't have anything else.

3 THE COURT: You can step down.

4 (At this time State's 42 was played.)

5 THE COURT: Let's take about a 10 minute break, ladies
6 and gentlemen.

7 (A recess was taken.)

8 MR. BARFIELD: I would like for Mr. Dunn to agree to a
9 stipulation that in review of the tape we all agree that
10 there were certain things that were not admissible and they
11 have been deleted from the tape. I have some fear that
12 this jury will get all hung up because there were obviously
13 breaks in the tape and it's something that's there because
14 of our mutual agreement and because of legal necessity and
15 instead of having a problem about that later on I would
16 like to just go ahead and see if we can stipulate to that.

17 MR. DUNN: I agree with him.

18 THE COURT: I also agree. I think that it was done at
19 the behest of the defendant.

20 (Break in proceedings.)

21 MR. DUNN: Yes, sir.

22 THE COURT: Ready for the jury?

23 MR. BARFIELD: Yes, sir.

24 MR. DUNN: Yes, sir.

25 (The jury returned to the courtroom.)

TESTIMONY OF MICHAEL GREEN

1 THE COURT: Welcome back again, ladies and gentlemen.
2 A couple of things before we begin listening to the audio
3 again. First, unless we stay a couple of more hours
4 there's no way to listen to it all today so I was thinking
5 perhaps 45 or 55 more minutes, conclude for today and then
6 come back and start listening again in the morning, and the
7 attorneys involved are okay with that, at least that's what
8 our plan is unless everybody over here wants to stay for
9 two more hours tonight, if y'all want to do that y'all let
10 me know. The other thing, the solicitor and the attorneys
11 for the defendant both asked me to tell you this, that on
12 the statements that you are listening to you will perhaps
13 be able to tell that there's some gaps, stop and start as
14 though something had been removed from the tape. That is,
15 in fact, true. By agreement of the State and of the
16 defense certain things were deemed by both sides to be
17 something that was said that was not proper evidence in
18 this case, and for that reason it has been removed, both
19 sides know it has been removed, both sides agreed for it to
20 be removed so that you won't think something is going on we
21 want to let you know. Now, I believe we are ready to hear
22 some more tape?

23 MR. BARFIELD: We are, thank you.

24 (State's 42 was continued.)

25 THE COURT: Okay. We will stop there for the evening,

TESTIMONY OF MICHAEL GREEN

1 tomorrow morning, 9:30. I've spoken with the attorneys and
2 I'm sure that one of the things that's been going through
3 your mind is when will you finally have the case and begin
4 deliberating, actually the attorneys and I have been
5 talking about that since Monday morning and we were
6 concerned that you may not be in a position to begin
7 deliberating even tomorrow. As best we can guess we think
8 that after tomorrow we're going to have one more day. What
9 I would like for y'all to think about and maybe discuss
10 when you gather up in the morning is whether y'all want to
11 do it on Saturday or on Monday, or whenever. Of course,
12 it's always possible that we finish tomorrow and that will
13 resolve the problem, but it looks like it may not happen so
14 I want y'all to have a chance to make your plans and be
15 thinking about what you prefer to do, collectively what you
16 prefer to do. And I -- the choices to me would seem to be
17 to come back Saturday to finish or Monday to finish, and
18 I'm going to let y'all decide that. I don't know how many
19 people have plans for Saturday that they've got to do, I
20 don't know. So at any rate, we're still going to do some
21 things here this evening after you leave. I remind you, as
22 I've been reminding you everyday, please don't discuss the
23 case with anybody, don't let anybody discuss the case with
24 you. If anybody tries to discuss the case with you you
25 report them to your bailiff. Don't read the newspapers,

TESTIMONY OF MICHAEL GREEN

1 listen -- watch any television or listen to any radio
2 programs that involve this case. I'll see you back in the
3 morning at 9:30, ladies and gentlemen.

4 (The jury left the courtroom.)

5 (Court recessed for the evening and resumed on
6 Friday, December 19, 2008.)

7 (The jury returned to the courtroom.)

8 THE COURT: Good morning, and welcome back again,
9 ladies and gentlemen. Let me ask before we begin, let me
10 ask our foreperson, Mr. Shepard, Mr. Shepard, was the jury
11 been able to discuss their desires in the event we are
12 required to go beyond today?

13 THE JUROR: Yes, sir, we have.

14 THE COURT: What is the feeling?

15 THE JUROR: We said that if we had to Saturday would
16 be fine.

17 THE COURT: Tomorrow?

18 THE JUROR: Yes, sir.

19 THE COURT: Okay. All right. At any rate yesterday
20 when we adjourned I believe we were listening to a
21 recording and --

22 MR. BARFIELD: That's correct. And we are ready to
23 resume that recording.

24 THE COURT: All right. Is the defense ready to
25 proceed?

TESTIMONY OF MICHAEL GREEN

1 MR. DUNN: Yes, sir.

2 (Exhibit 42 resumed being played.)

3 THE COURT: Do wall want to take a five? Let's take a
4 break.

5 (A recess was taken.)

6 THE COURT: Welcome back, ladies and gentlemen. If
7 you recall there was some testimony that I believe
8 indicated that this recording also concluded at the end of
9 it the prior recording. The parties have agreed and the
10 State has agreed and the defense have agreed that when this
11 recording reached the point that it overlaps the prior
12 recording that we will stop so that you will not be
13 required to listen to the same stuff twice, unless, of
14 course, that is your desire. When we get to that point I
15 believe we have agreed Mr. Dunn is going to stand up and
16 let me know when he believes we've reached that point then
17 we will stop it. So, let's go ahead.

18 (Exhibit 42 was played again.)

19 MR. DUNN: I believe we can end it.

20 THE COURT: And Solicitor?

21 MR. BARFIELD: Your Honor, I believe -- I think it is
22 probably appropriate at this time for Mr. Dunn to pick back
23 up with the cross examination that he deferred on. Your
24 Honor, again, I had called several witnesses and Mr. Dunn
25 deferred on cross examination and I have nothing further on

TESTIMONY OF ROBERT BENSON

1 direct for either one of them at this point, so -- I don't
2 know if we want to do them in the order they were called as
3 my witnesses or what, it doesn't matter to me. So it is up
4 to Mr. Dunn as to what he wants to call at this stage.

5 The witness, ROBERT L. BENSON, remained sworn and
6 testified as follows, on:

7 CROSS EXAMINATION

8 BY MR. DUNN:

9 Q Sheriff Benson, isn't it fair to say that even though
10 it appears that Mr. Perkins said that he did -- from the
11 tape at least say -- he did kill Mrs. Hinson, that he
12 didn't go over to her house with that intention?

13 A Based on what he's saying.

14 Q Based on what we've heard from that tape and your
15 conversation with him, that's a fair characterization,
16 correct?

17 A Well, let me ask you one more time to clarify it a
18 little bit more.

19 Q We have listened to three hours worth of recordings
20 in the last two days, right?

21 A Yes, sir.

22 Q You have been here for all of those recordings,
23 haven't you?

24 A Yes, sir.

25 Q And it appears at least at what we listened to

TESTIMONY OF ROBERT BENSON

1 yesterday that he says that he killed Mrs. Hinson,
2 correct?

3 A Yes, sir.

4 Q What I'm asking is, isn't it also fair to say that he
5 said that he never went over there with any intention of
6 killing Mrs. Hinson?

7 A That's what he stated.

8 Q And that's what I am trying to get, that's what he
9 told you, he never went over there with any intention of
10 hurting her.

11 A Yes, sir, that's what he said.

12 Q And he also told you numerous times throughout that
13 interview or that interrogation for that three hour
14 process that they were engaging in sexual activity,
15 correct?

16 A That's what he said.

17 Q And he told you that she was a willing participant in
18 that activity, correct?

19 A That's what he said.

20 Q Okay. Have you been a sheriff for what, almost eight
21 years, right?

22 A Yes, sir.

23 Q And prior to being a sheriff you were in law
24 enforcement?

25 A Yes, sir.

TESTIMONY OF ROBERT BENSON

- 1 Q For how long?
- 2 A Started with the sheriff's office in '86.
- 3 Q So 22 years?
- 4 A Yes, sir.
- 5 Q And during that time you've had an opportunity to be
- 6 trained in interrogation and interview methods.
- 7 A Yes, sir.
- 8 Q Taking classes with Sled and other -- FBI and
- 9 whatever and other agencies, correct?
- 10 A Yes, sir.
- 11 Q Were you ever trained in or were you told that you
- 12 were being trained in what's called the Reid method?
- 13 A Never heard it called the Reid method. I've been
- 14 trained in several ways of doing interviews. As far the
- 15 terminology of interview and interrogation, defining that
- 16 there's two different ways. Like you said, the interview
-
- 17 is a fact gathering type of way of getting information,
- 18 and the other one is when you have a known suspect. But I
- 19 have also been to other schools that stated that they
- 20 don't like using the term interrogation, it sounds like
- 21 something from the military that you're interviewing a
- 22 POW, so it varies who you talk to be about what an
- 23 interrogation and an interview is.
- 24 Q An interrogation has a negative connotation according
- 25 to those folks, I guess?

TESTIMONY OF ROBERT BENSON

1 A Sir?

2 Q According to the folks you don't call it an
3 interrogation because it has a negative connotation?

4 A Yes, sir.

5 Q But is it fair to so say that there are at least two
6 different ways of interviewing a suspect, one would be the
7 interview process and one would be more confrontational?

8 A Yes, sir. In an interview you're not just talking to
9 a potential suspect, you're speaking to witnesses and
10 victims and things like that. So that's basically what
11 you're interviewing is going to be.

12 Q And during an interrogation process, it's more
13 confrontational, correct?

14 A Not say confrontational.

15 Q Let me put it like this, you're not throwing a guy up
16 against a wall, you're not beating on them, you're not
17 physically trying to intimidate him just to tell you
18 something.

19 A No, sir.

20 Q You're not water boarding him or making him sit in
21 uncomfortable positions for hours on end or anything of
22 that nature, right?

23 A No, sir.

24 Q But you are confronting him with what you think has
25 happened and trying to get him to agree with you, correct?

TESTIMONY OF ROBERT BENSON

1 A Basically what we want to do is try to get the
2 information from them. We have a lot of facts and
3 sometimes we give them a little bit of information and see
4 where they go from there. But the majority of the time
5 you have information, you want to see what they tell you
6 and see if it matches up with the evidence that you do
7 have.

8 Q Sometimes you don't have any evidence but you will
9 try to see if they give you something, correct?

10 A If you have enough information that leads you to
11 believe that he is involved you do the interrogation, not
12 saying that he is the person involved but you have enough
13 information saying that he is.

14 Q And were you trained that during an interrogation
15 that there's several factors or several things that need
16 to be involved in it, including the idea of confronting a
17 suspect with his guilt in the process?

18 A Confronting him with his guilt?

19 Q With his guilt.

20 A In what manner are you saying?

21 Q I'm just saying it's part of the process where you --
22 I think I have already asked you this a little bit but I'm
23 just trying to make sure I understood your answer. Part
24 of the process is with a suspect that you think -- you
25 have enough evidence you think that he is a prime suspect

TESTIMONY OF ROBERT BENSON

1 for whatever crime it is that we're trying to say he
2 committed, whether it's Mr. Perkins here in a murder case
3 or another suspect in another case you tell him, "We've
4 got evidence, we think you did it, you need to go ahead
5 and confess."

6 A You can make that approach. It's left up to who is
7 going to do the interview.

8 Q And as part of the process at times is minimizing the
9 person's I don't want to say guilt but minimizing how bad
10 of a person that suspect is?

11 A Minimizing?

12 Q Minimizing.

13 A Basically what you want to do is build a repour with
14 that individual, and sometimes you cannot build a repour
15 with the individual.

16 Q Basically if you pull them in there and you tell them
17 that they're a worthless piece of crap over and over again
18 they're not going to have a repour with you, are they?

19 A No, sir.

20 Q If you are in there with them and you say, "I know
21 you did it, I don't think you're a bad person but you've
22 got to come clean." That is something that you often
23 would put in an interrogation process, correct?

24 A Not often, it depends on the individual.

25 Q But it is something that you could --

TESTIMONY OF ROBERT BENSON

1 A You can.

2 Q All right. And the purpose of that is you're trying
3 to let them know -- build a repour with them so they're
4 not alienated from you and just stop talking to you?

5 A Yes, sir.

6 Q And often times when you're having an interrogation
7 you're not doing it out in the public in the open, you
8 bring that person back to the police station, correct, or
9 the sheriff's office?

10 A That's the usual way it is. Sometimes if you're not
11 at the law enforcement center you pick a location that you
12 can have secured where you can do an interview.

13 Q And when you're confronting that person or
14 interrogating that person, you're not allowing his friends
15 and his family in there with him -- or her -- in there
16 with you, correct?

17 A No, sir.

18 Q Usually it is just you and that person or maybe you
19 and another officer and that person, correct?

20 A Yes, sir.

21 Q All right. You went with Agent Wilkes and Agent
22 Green on Sunday morning out to the Perkins house, didn't
23 you?

24 A Yes, sir.

25 Q I'm not sure if you were in here when they testified

TESTIMONY OF ROBERT BENSON

1 or not, that's what I'm trying to remember if you were
2 here.

3 A Yes, sir.

4 Q Would it be fair to characterize that interaction
5 with Mr. Casey Perkins as an interview process, not a
6 confrontational process?

7 A No, sir.

8 Q Was it a confrontational process?

9 A It wasn't confrontational.

10 Q It would be fair to say it wasn't a confrontational
11 process?

12 A No. It was -- as far as us going to the residence it
13 was to make an arrest.

14 Q No, not on Monday morning, I'm sorry, I think we're
15 crossing our wires. There's been testimony that's been
16 given that at some point Agent Green, Agent Wilkes and

17 yourself went out to Casey's house, spoke with Casey and
18 Billy and I think Carolyn was there, and I think the
19 purpose of it really was to see if Casey would come down
20 to the station and talk but there was some interaction
21 going on at that time.

22 A Yes, sir, as far as I remember.

23 Q And you remember that, right?

24 A Yes, sir.

25 Q Is it fair to say that that was not an interrogation

TESTIMONY OF ROBERT BENSON

1 setting?

2 A No, it wasn't an interrogation.

3 Q You weren't there to confront him with any kind of
4 guilt or involvement in Ms. Hinson's death at that point?

5 A No. What we want to do is like you said, we wanted
6 to gather facts.

7 Q Before you were a sheriff you were a detective,
8 weren't you?

9 A Yes, sir. I was an investigator and then chief
10 investigator.

11 Q For how long?

12 A Approximately eight years.

13 Q Was Don Wilson ever a suspect with this murder as far
14 as you can remember?

15 A At the time, no. I'm not saying he was a suspect, we
16 didn't really know who was involved in the case. We

17 pretty much canvassed the neighborhood. It was -- I
18 worked a lot of different murder cases in the county and
19 other cases in the county and it's a technique you call
20 canvassing the neighborhood.

21 Q You start asking everybody questions, right?

22 A And you go to the residents in the neighborhood and
23 start asking questions, see if they have any information,
24 see if they've seen anything and just gather the facts.
25 Basically you want to get a statement, what has occurred

TESTIMONY OF ROBERT BENSON

1 and build yourself a timeline.

2 Q All right. Maybe I should have asked the question
3 this way, because initially everybody is a suspect until
4 you start knocking people out, right?

5 A Yes, sir.

6 Q At any point was Don Wilson ever a person of interest
7 that was further investigated?

8 A Not that I recall.

9 Q All right. At any point was John Bernat a person of
10 interest that was further investigated?

11 A Not that I recall.

12 Q At any point was Brandon Stapleton a person of
13 interest that was further investigated?

14 A Not that I recall.

15 Q Besides Mr. Perkins, was there ever anybody else that
16 was a person of interest that was further investigated?

17 A Well, at the time after we spoke to the individuals
18 in the neighborhood, all of the facts were pointing in his
19 direction.

20 Q So the answer would be there wasn't anybody else
21 besides Mr. Perkins.

22 A No, sir, not at that time.

23 Q Prior to Mrs. Hinson's death, had you ever received
24 information at the sheriff's office that somebody had
25 threatened her life?

TESTIMONY OF ROBERT BENSON

1 A Sir?

2 Q Prior to Mrs. Hinson's death on the 27th of August,
3 had you at the sheriff's office ever received any
4 information that somebody had threatened Mrs. Hinson's
5 life?

6 A Not that I know of.

7 Q I think the solicitor has already introduced it and
8 I'm not going to pull that out. At some point you
9 received a note that was purportedly from Casey Perkins,
10 correct?

11 A Yes, sir.

12 Q That said, "I want to talk to you," or something
13 along those lines, correct?

14 A Yes, sir.

15 Q You made arrangements pretty quick once you made that
16 note to sit down and speak with Casey, would that be fair
17 to say?

18 A Yes, sir.

19 Q Your person of interest wants to talk to you and
20 you're going to do what you need to do to get that to
21 happen, right?

22 A I didn't immediately get over there to get them.
23 What I want to do is set up a situation if he wanted to
24 speak with me we could record it, that was my objective.

25 Q I guess what I -- you didn't drop everything

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1 immediately, but it happened that day.

2 A Yes, sir, from what I recall it did.

3 Q Okay. And yet when you started speaking with

4 Mr. Hinson -- or Mr. Perkins, he didn't immediately come
5 out and give you the details that you needed, did he?

6 A No one ever does.

7 Q He didn't give you the details that you needed
8 immediately, did he?

9 A No, sir.

10 Q In fact, listening to the tape it sounded like you
11 had to help pull those facts out.

12 A That's pretty much the way it always goes.

13 Q Fair to say that at some point he told you he will
14 tell you anything that you want to know as long as you can
15 promise him the death penalty.

16 A He asked that.

17 Q I'm not saying you promised anything at this point,
18 I'm just saying that's what he wanted, right?

19 A Yes, sir.

20 Q In fact, throughout the interview from beginning to
21 end he harped on wanting the death penalty.

22 A That was one of his --

23 Q Central themes, I guess.

24 A Yes.

25 Q And the first time he told you that he wanted the

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1 death penalty you actually left the room, correct?

2 A Yes, sir.

3 Q We can't see it on the tape because it is audio, it
4 sounds like you left the room, somebody else is brought in
5 to talk with him for awhile. You went to talk with the
6 solicitor, didn't you?

7 A Yes, sir.

8 Q And when you came back, isn't it true that you
9 basically said, well, I can't give you the death
10 penalty -- let me say it like this, when you came back you
11 told him in order for him to get the death penalty it
12 depended on certain circumstances, correct?

13 A Yes, sir.

14 Q Just because somebody is dead doesn't mean that they
15 can receive the death penalty from the State, right?

16 A Correct.

17 Q There's aggravating circumstances that are needed,
18 right?

19 A Yes, sir.

20 Q Kidnapping is an aggravating circumstance, correct?

21 A Yes, sir.

22 Q I believe sexual assault is an aggravating
23 circumstance.

24 A Yes, sir.

25 Q I think burglary is an aggravating circumstance but I

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1 can't remember correctly, does that sound right to you?

2 A Robbery.

3 Q Anything else that you're aware of?

4 A Most of your felonies.

5 Q All right. But in order for it to get bumped up one
6 stage, there has to be other things involved with it,
7 correct?

8 A Yes, sir.

9 Q And you went over all of those circumstances with
10 Casey, didn't you?

11 A I didn't go over all of the circumstances but I was
12 kind of giving him the idea of what it was. I wasn't
13 trying to insinuate we were going to give him the death
14 penalty in any way whatsoever. That's what he was seeking
15 and my objective was to contact the solicitor, who stated
16 what he wanted and what type of approach the solicitor

17 wanted to handle it, if that's the avenue he wanted to go.

18 But the only thing I did with Mr. Perkins was explain some
19 of the situation.

20 Q You really had two things that you were striving for
21 that day, one was maybe working with the solicitor to make
22 sure whatever you did he could use later on, right? You
23 didn't want to screw anything up. But the second thing
24 and maybe more important thing is you wanted Casey to give
25 you a confession on Mrs. Hinson's death.

TESTIMONY OF ROBERT BENSON

1 A Yes, sir. He wanted to speak to me, he stated he
2 would give me a statement, that's what our objective was
3 was to get information from him and that's what he called
4 and spoke to me about. And at one time I did explain to
5 him that if he didn't want to talk to me we would take him
6 back over to the jail.

7 Q And right after he talks about the death penalty --
8 at the beginning of the conversation, right, after he
9 talks about the death penalty, then he goes into talking
10 about maybe getting probation, doesn't he?

11 A Yes, sir.

12 Q And probation is generally just -- it's a none --
13 it's a sentence where you're not going to jail unless you
14 do something else later on, right?

15 A Yes, sir. There's a lot of people that are convicted
16 of murder they end up -- well, not probation, you can't
17 get probation for that, but --

18 Q I don't want to get into all of what you can and
19 can't get, I just -- generally probation though is the
20 judge says, "You're going home today but if you screw up
21 in the future you're coming back to jail." Is that a fair
22 basic characterization of probation?

23 A For probation. I didn't know whether you were
24 talking about bond hearing or not.

25 Q No, for probation.

TESTIMONY OF ROBERT BENSON

- 1 A Like I said, that's still left up to the judge.
- 2 Q Oh, I understand that.
- 3 A Yes, sir.
- 4 Q Fairly early on in the interview Casey asked you if
- 5 you've got evidence, right?
- 6 A From what I remember, yes, sir.
- 7 Q And he said -- and you said something to the affect
- 8 that we do have evidence or we have got evidence, or
- 9 something along those lines.
- 10 A Yes, sir.
- 11 Q The reality is on the 7th of September you have no
- 12 DNA, right?
- 13 A No.
- 14 Q That linked Casey to Ms. Hinson's death, correct?
- 15 A No, sir.
- 16 Q No, sir, you agree with me, or no, sir, you disagree
-
- 17 with me?
- 18 A No. We didn't have DNA results or anything.
- 19 Q Just trying to make sure we're on the same page here.
- 20 There wasn't any fingerprints that linked Casey to the
- 21 murder of Mrs. Hinson, correct?
- 22 A No, sir.
- 23 Q There wasn't any saliva or any other bodily fluids,
- 24 semen, that sort of stuff that linked Casey Perkins to the
- 25 murder, correct?

TESTIMONY OF ROBERT BENSON

- 1 A No, sir.
- 2 Q There wasn't any eye witness accounts that saw Casey
- 3 going into her house, right?
- 4 A No, sir.
- 5 Q No bloody footprints in the house, right?
- 6 A No, sir.
- 7 Q Nothing that would suggest that we have a shoe print
- 8 or something along those lines that we can match it up
- 9 against, right?
- 10 A Correct.
- 11 Q In fact, you didn't have any clothes or anything else
- 12 from the killer at this point, correct?
- 13 A No, sir, we didn't.
- 14 Q Okay. Really all you had was that you knew that she
- 15 died in a violent manner, right?
- 16 A Yes, sir.
-
- 17 Q You found the lighter, right?
- 18 A Yes, sir.
- 19 Q And you found a knife.
- 20 A Yes, sir.
- 21 Q But you don't really know if there was any DNA or
- 22 fingerprints or anything else on those two pieces of
- 23 evidence.
- 24 A I had no idea if there was or not.
- 25 Q And you had a K-9 dog that sort of gave you an in

TESTIMONY OF ROBERT BENSON

1 trail and an out trail, right?

2 A Yes, sir.

3 Q But didn't take you anywhere, correct?

4 A No, sir.

5 Q It took you back to John Bernat's house but didn't
6 take you anywhere the other way.

7 A That's correct.

8 Q So the reality is you didn't have any hard evidence
9 linking Casey to Mrs. Hinson's death, you only had your
10 police hunches or your police intuition at this point.

11 A I had those ideas and, I mean, he was our primary
12 suspect and this occurs in a lot of interviews. We would
13 lie to the suspect about a lot of things. The supreme
14 court ruled during the interview process we can lie to the
15 suspect to try to get a confession.

16 Q You're going to do what you have to do to try to get
17 him to confess to the crime apart --

18 A I wanted him --

19 Q When I say that I'm not saying -- you're not going to
20 throw him up against the wall because you're not allowed
21 to do that. But you're going to do what you can do within
22 the scope of what's been given to you to get what you need
23 from him, correct?

24 A I'm going to get the facts of that individual that
25 links it up to the case. I'm not going to throw

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1 information out to him -- for him to say this was what's
2 occurred. I want him to put himself -- or any individual
3 that I interview if I have information, I've got the
4 facts, we had some facts, we had some evidence at the
5 scene, and the main thing is getting that individual to
6 come across and say, "I was there, this is what I've lost
7 and this is what happened." Now, a lot of information was
8 not given to him and there was only certain privileged
9 information --

10 Q We'll get into all of that stuff here later on.

11 A Okay.

12 Q I just want to take it one question at a time, I
13 think.

14 A I'm sorry.

15 Q That's all right. Now, is it fair to say that his
16 first statement to you basically said, "I did it, lock me

17 up," but he doesn't give you any other details besides
18 that, right?

19 A Uh-huh.

20 Q That's fair to say?

21 A Yes, sir.

22 Q There wasn't anything there that you could actually
23 use against him if you had to in a court of law.

24 A Matter of fact, the most information he gave us in
25 the beginning didn't even link him to the case.

TESTIMONY OF ROBERT BENSON

1 Q Had very little if any kind of value to it, right?

2 A Correct.

3 Q In fact, after that first time he says that what he
4 said to you and you said, Casey -- something along the
5 lines that, "Casey, you've got to give me more than this
6 to put you in the jail."

7 A I'm sorry, I didn't understand.

8 Q Is it fair to say that after he gave you that first
9 statement, "I did it, lock me up," that you said, "Casey,
10 you're not giving me anything. I need you to give me
11 something in order for me to put you in jail?"

12 A No, not to put him -- well, as far as jail we had
13 made an arrest. You mean as far as getting a conviction?

14 Q He wanted the death penalty or something, right?

15 A Yes.

16 Q You were trying --

17 A My objective is if he's going to give us information
18 we've got to have information for the conviction.

19 Q Do you know what the word fatalistic means? I don't
20 mean to make it sound stupid, but someone else I asked and
21 they didn't know what the word fatalistic means. But do
22 you know what the word fatalistic means?

23 A After you defined it for Lieutenant Robertson, yes,
24 sir, I understand now.

25 Q Basically you don't have any reason to live and you

TESTIMONY OF ROBERT BENSON

1 want to die and that sort of stuff, right?

2 A Yes, sir.

3 Q Is it fair to say that Casey was fatalistic during
4 this interrogation with you?

5 A Based on some of the things he said, yes.

6 Q As the -- the second I'm going to call it the way I
7 look at it he gave you a number of versions during this
8 three hour confession, right?

9 A Yes, sir.

10 Q We will probably disagree as to how many versions
11 there were, but it's fair to say there were multiple,
12 probably even three or four different versions of how it
13 happened, right?

14 A Yes, sir.

15 Q All right. So the first one you went through it was
16 dismissed pretty quickly because there wasn't anything

17 there. You needed something more to work with, right?

18 A Yes, sir.

19 Q So then when we start talking about -- getting into
20 the second version he actually admits to going up to the
21 house, correct?

22 A He did.

23 Q And he said that he was -- that Ms. Hinson was inside
24 the house but he couldn't remember where she was, could
25 he?

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1 A No, sir.

2 Q All right. But at some point he said that she
3 invited him in and they started talking and -- right?

4 A That's what he said.

5 Q And then he said that they started -- talking led to
6 fooling around, correct?

7 A Yes, sir.

8 Q By fooling around I mean sexual activity?

9 A Yes, sir.

10 Q Initially he couldn't remember how he got out of the
11 house, could he?

12 A No, sir.

13 Q Eventually I think he said he went out the back
14 window, correct?

15 A Yes, sir?

16 Q I think at one point he said he went out the front
17 door maybe and then maybe the back door? He said he went
18 out multiple different entrances and exits?

19 A He said several times different ways he went out.

20 Q But at no time during any of this three hours did he
21 ever say he washed his hands, did he?

22 A He never did say that.

23 Q In fact, I believe in the last one he says that he
24 heard something that freaked him or flipped him out or
25 something along those lines and he jumped out the back

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1 window, correct?

2 A Yes, sir.

3 Q Did they ever find any blood on the back screen? I'm
4 sorry, let me ask you this: Did you ever find any
5 fingerprints on the back screen?

6 A No, not that I know of.

7 Q Really did you ever find any bloody fingerprints on
8 the curtains?

9 A I didn't check the curtains. And as far as the --

10 Q From what -- you're the sheriff, you supervise the
11 entire investigation?

12 A I supervise but I don't go over every piece of
13 evidence, I had a lead investigator. The reason I got
14 involved with it -- and I usually don't get involved with
15 any type of crimes, I have investigators do that and then
16 if I get involved with it it will put me in court. And

17 the reason that I did the interview is because he
18 requested me, and any time we have a suspect that wants to
19 talk to a particular person in the sheriff's office we
20 always get that person to come in. And it might be
21 another -- somebody else from another agency that they
22 would like to talk to.

23 Q Now, you were involved in this case somewhat before
24 the interrogation, right?

25 A Yes, sir. I always get involved -- I always show up

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1 to the scenes. I don't get involved with it as far as
2 doing the forensic work or anything like that.

3 Q You went to Casey's house Sunday morning with Wilkes
4 and Green.

5 A Yes, sir.

6 Q You were at the station Sunday afternoon at least for
7 a little bit of it when Wilkes interviewed or interrogated
8 Perkins, correct?

9 A Yes, sir.

10 Q I don't think you stayed at it the whole time, but
11 you were down there for a little while.

12 A Yes, sir.

13 Q You were at Casey's house the morning he was
14 arrested, right?

15 A Yes, sir.

16 Q So you did have some involvement in this case.

17 A Like a lot of the cases that we have in the county,
18 you will see me there and I will get involved in some way
19 or another.

20 Q But a part of your supervisory role is you are going
21 to look over the shoulders of your investigators and see
22 what they've got and what they don't got, right?

23 A If I looked over everything that they were doing I
24 wouldn't be able to take care of other obligations I had
25 with the sheriff's office.

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1 Q It's not everyday that you have a murder case in
2 Chester County, though, is it?

3 A No.

4 Q Would it suffice it to say that murder is probably
5 the worst crime that can be committed on the spectrum of
6 crimes? Murder is at the top, right?

7 A Yes, sir.

8 Q Is it fair to say, though, when the Sheriff of
9 Chester County gets a murder in his county he's going to
10 be at least watching the investigation and see what is
11 going on with it?

12 A Yes, sir. When I was an investigator the sheriffs
13 would show up to a scene. But as far as digging into
14 every aspect of the case or getting all of the
15 information, I haven't had any sheriff to really get that
16 involved with it.

17 Q I mean, you're not going to roll your sleeves up and
18 get out there and canvass --

19 MR. BARFIELD: Your Honor, I object. I know it's
20 cross examination but I don't see the relevance of these
21 questions.

22 MR. DUNN: I'm trying to let -- illicit a response
23 that I haven't gotten yet, Your Honor. I'm trying to lay a
24 foundation --

25 THE COURT: Overruled, I'll permit it. Go ahead.

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1 Q All right. The question was you don't canvass,
2 you're not going out there, you're not getting your hands
3 dirty so to speak rolling your sleeves up and doing what
4 the investigators are doing.

5 A Sometimes I do. We're a small agency and like a lot
6 of small sheriff's offices in the state -- and I've
7 discussed with a lot of sheriff's -- they have to get
8 involved with a lot of things, we just don't have the
9 manpower sometimes.

10 Q Would it be fair to say that if there would have been
11 bloody handprints on a white curtain going out of the exit
12 window of a crime scene, that you probably would have
13 heard about it in this case?

14 A Yes, sir.

15 Q Is it fair to say if there would have been bloody
16 palm prints smeared on the window indicating that someone
17 went out that way in a murder that you probably would have
18 heard about it in this case?

19 A Yes, sir.

20 Q We do know from testimony already that there was a
21 little bit of blood on the outside of the house, right?

22 A Yes, sir.

23 Q But other than this there wasn't any bloody palm
24 prints found anywhere in the house, was there?

25 A Not that I know of.

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1 Q Casey said he stuck his hand up inside of her, right?

2 A Yes, sir.

3 Q He said when he pulled it back out he felt the blood
4 come, right?

5 A Yes, sir.

6 Q But he never said he washed his hands off inside of
7 the house, did he?

8 A No, sir.

9 Q In fact, he said he jumped out of the window right
10 away.

11 A Yes, sir.

12 Q All right. Later on he told you that he wiped the
13 blood in the grass.

14 A Yes, sir.

15 Q Did y'all ever look for bloody grass?

16 A Never had any information about bloody grass.

17 Q Well, at the point that he told you did you ever go
18 and see if there were patches of bloody grass around?

19 A There would be some that transpired when he stated
20 that and when it occurred. The majority of the time --
21 every time I have dealt with the situation like that you
22 just don't go back and find it.

23 Q So what you're saying is y'all didn't go back and
24 look for bloody grass.

25 A I'm not saying I didn't do it, I'm not sure if the

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1 investigators did go back.

2 Q Who was the lead investigator in this?

3 A Shane Stewart.

4 Q Has Shane testified this week?

5 A No, sir. That's not saying he didn't get someone
6 else to check it, but I just don't know.

7 Q You just don't know?

8 A No, sir.

9 Q Okay. At some point during this interview it sounds
10 like -- I can't tell, that's why I'm asking you -- it
11 sounds like Casey was sketching out a diagram; is that
12 fair to say?

13 A Yes, sir.

14 Q Was it a diagram that he produced or was it a diagram
15 that you produced for him to look at?

16 A From what I recall we didn't have a diagram. If it
17 would have been anything it would have been something that
18 was sketched on a piece of paper.

19 Q Did y'all keep it?

20 A I don't know.

21 Q Did he write on it?

22 A I can't recall whether he did or not.

23 Q Casey repeatedly told you that he was neither a
24 rapist or a murderer, correct?

25 A Yes, sir.

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1 Q Several times throughout this interrogation you asked
2 Casey if he believed in God, right?

3 A Yes, sir.

4 Q You told him that he needed to come clean in front of
5 God?

6 A No, that's not the direction I was going in. I told
7 him what he needs to do is discuss things with me and if
8 he wants to get his heart right he needs to discuss that
9 with God, not with me. I'm not a priest, I can't take
10 confessions.

11 Q I understand you can't take confessions. But at some
12 point you did ask him if he believed in God, right?

13 A Yes, sir.

14 Q Now, isn't it true that you suggested to Casey that
15 he had blood on his hands before he actually told you he
16 had blood on his hands?

17 A I'm trying to think back. I might have asked him,
18 "Did you have blood on your hands?" I can't recall how
19 that question went.

20 Q Could it be something along the lines of, "When you
21 got blood on your hands what did you do to get it off?"

22 A Could have been.

23 Q And this was asked before he actually said, "I got
24 blood on my hands?"

25 A I can't recall right now.

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1 MR. DUNN: Your Honor, this is one of those instances
2 where I would like to somehow to refresh the witness'
3 memory at least --

4 A If you recall it that way and it has been played in
5 court I can go along with that.

6 MR. BARFIELD: My response to Mr. Dunn's statement to
7 the Court is that the video -- the audio and video
8 presentation speaks for itself.

9 MR. DUNN: And my response is for the record, Your
10 Honor, I would like to -- I don't think it's going to be
11 necessary at this point but in the event that we do need to
12 refresh the witness' memory that I should have the ability
13 and the right to play back the tape if I have to.

14 THE COURT: Now, let me make sure I understand, you're
15 saying on this question it's not necessary?

16 MR. DUNN: From the response I got from the sheriff it
17 sounds like he is agreeing with me.

18 MR. BARFIELD: I think the sheriff's agrees with me
19 that the tape speaks for itself.

20 THE WITNESS: Yes, sir.

21 MR. BARFIELD: I think we should all agree that the
22 tape speaks for itself.

23 MR. DUNN: I certainly disagree that the tape speaks
24 for itself. I'm just trying to make sure on my cross that
25 I'm allowed to ask the questions that needs to be asked.

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1 THE COURT: I am going to wait and see when it is you
2 wish to have, I will delay the ruling on it.

3 Q Let me ask the question like this, Sheriff Benson --

4 A Yes, sir.

5 Q -- if I told you that it sounded like you suggested
6 to him that he had blood on his hands before he had blood
7 on his hands, it sounded like to me like your response was
8 going to be the tape speaks for itself, is that basically
9 what you said? Did you have any reason to disbelieve me,
10 maybe I should ask that?

11 A No, sir.

12 Q Okay. At some point you asked Casey how she
13 hemorrhaged, right? I'm using the word hemorrhage was
14 your word, not mine.

15 A Yes, sir.

16 Q As far as you can remember had you gone over her
17 bleeding at this point with him?

18 A Prior to the interview?

19 Q Prior to that question.

20 A To be honest with you I can't remember listening to
21 so long of this.

22 Q I understand.

23 A If it's on the tape that way, yeah, that's the way it
24 occurred.

25 MR. BARFIELD: Your Honor, can we take a side bar for

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1 just a second?

2 (A bench conference was held.)

3 Q At some point during the interview -- or the
4 interrogation, excuse me -- Casey says that Carolyn -- too
5 many names to remember this week -- at some point during
6 the interview this week Casey says that Judy let him in,
7 correct?

8 A Yes, sir.

9 Q Invited him in, in fact, correct?

10 A Yes, sir.

11 Q At some point on the tape Casey said that she was
12 sitting on the couch and they were having a conversation
13 in the living room, right?

14 A Yes, sir.

15 Q At some point thereafter it led to the bedroom,
16 right?

17 A Yes, sir.

18 Q In fact, he told you that more than once. He told
19 you that multiple times that it started in the living room
20 and went to the bedroom.

21 A He also stated that she came out to the porch, too.

22 Q But at some point he said she came out on the porch,
23 correct?

24 A Yes, sir.

25 Q All right. Casey told you that Ms. Hinson had

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- 1 flirted with him in the past.
- 2 A That's what he stated.
- 3 Q In fact, I think he told you more than once that she
- 4 flirted, I think he told that maybe twice.
- 5 A Yes, sir.
- 6 Q Throughout this interview you told Casey -- he would
- 7 give you a version of the facts whether them coming in the
- 8 living room, them making out in the bedroom and then him
- 9 leaving and you would say, "Casey, you're not being
- 10 truthful with me," right?
- 11 A Yes, sir.
- 12 Q It got to the point where he wasn't giving you what
- 13 you wanted or what you needed that you, in fact, said,
- 14 "Casey, you know what? Maybe it's better" -- and I'm
- 15 paraphrasing you, I'm not quoting you word for word --
- 16 "but maybe it's better for you to go back over to the jail
-
- 17 for awhile and then come back and see me."
- 18 A Yes, sir. It wasn't for a punishment type thing.
- 19 Q But you did tell him that, correct? I think it
- 20 happened twice.
- 21 A Yes, sir. I have done that in other interviews
- 22 before if the individual -- the thing is when I do an
- 23 interview and it's like any investigator, if you want me
- 24 to talk to you we'll sit down and talk and we'll get the
- 25 information. But, you know, I've got other things to do,

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1 don't tie up my time. If you want to discuss it with me,
2 discuss it with me.

3 Q I understand all of that. I guess my question is at
4 some point that's what happened, you said, "Casey, maybe
5 it's better if you go back over to your cell."

6 A Yes, sir.

7 Q But he never actually went back over there, did he?

8 A No, sir.

9 Q Okay. And, in fact, one of the times when you said
10 maybe it's better for you to go back over there his
11 response was, "You don't believe me, do you?" And you
12 said something along the lines of, "No, I don't," or, "You
13 need to be more truthful with me," or some such response,
14 correct?

15 A Right.

16 Q And during one of such interchanges between you and

17 Mr. Perkins, when you said you were going to take him
18 back, didn't he say something along the lines of, "I'll
19 get it all lined up and straightened out the way you want
20 it and then we'll talk again?"

21 A I'm sorry, I couldn't understand.

22 Q Wasn't one of Mr. Perkins' response to one of those
23 interchanges about him having to go back to the other side
24 to think about it for awhile, wasn't his response that he
25 would go get it all lined up and straightened out and get

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1 it in line and that way you'll know what -- it sounded
2 like -- maybe you will hear what you want to hear,
3 something to that effect.

4 A It's not what I want to hear, it's putting the facts
5 together. And, I mean, if individuals don't come in there
6 and tell me something and he's just being misleading, I
7 don't know whether he's involved with it or not. If he's
8 not going to put the facts straight he -- it's like any
9 case that I have ever worked. An individual can come in
10 and say he can committed a crime and if he doesn't have
11 his facts together I can't say he committed the crime.

12 Q At some point during the interview you asked him how
13 he had grabbed her, correct?

14 A Yes, sir.

15 Q Up to this point he had only been talking about
16 rubbing on her and having sex with her -- sexual activity
17 with her, but he never said anything about grabbing her,
18 did he?

19 A No, sir.

20 Q And that was something that you prompted him with to
21 try to illicit information out of him.

22 A When you say grab, I didn't say how you were going to
23 be grabbing her.

24 Q You asked him how he grabbed her and his response
25 was, "I never grabbed her," right?

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1 A Yes, sir, up in the beginning.

2 Q Initially he says he never grabbed her, right?

3 A Yes, sir.

4 Q One of the disadvantages to having an audiotape, you
5 don't see what's going on, you can hear what's going on
6 and sometimes what you hear can deceive us, I think.

7 A Yes, sir.

8 Q What I mean is that at some point it sounds like
9 Major McNeil and Casey go into a long conversation and I
10 can't tell for the life of me if you were still in there
11 or if you weren't in there, if you had gone up and left to
12 go do something, do you remember?

13 A There would be times that I would take a break. If
14 there is a break that's going on we don't want to stop the
15 tape and if one of the investigators or one we are
16 interviewing is still in the room, we keep the recording

17 going. So if I need to get up and take a break or
18 something I will go, and the same way with Major McNeil or
19 Mr. Perkins if he wanted to take a break.

20 Q The reason why I asked you that is -- and these
21 questions I will ask Major McNeil at the appropriate
22 point, I just want to know if you were in there and if you
23 listened to the interchange between Casey and Major McNeil
24 or not or if he had gone off and you were there doing
25 something else.

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1 A I can't recall. I don't remember the conversation.
2 I know I was in there for part of the conversation but I
3 believe I said I was taking a break or was going somewhere
4 to get something, I can't put a recall on it.

5 Q At some point Casey said that -- and these are his
6 words, not mine -- I assure you that he hand fucked her,
7 meaning Mrs. Hinson?

8 A Yes, sir.

9 Q Do you remember those --

10 A Yes, sir.

11 Q Have you ever heard of the sexual practice of
12 fisting?

13 A Yes, sir.

14 Q It is something that can be done consensually and
15 voluntarily?

16 A Yes, sir.

17 Q All right. And not to get too graphic, but the idea
18 of fisting is one sticks one's hand in a lady's vagina.

19 A Not necessarily, it could be rectal. It occurs among
20 homosexuals and it was one of the things we studied in
21 homicide school.

22 Q It can be done on a woman's vagina and it can be done
23 in a man or woman's anus?

24 A Either one.

25 Q But it is something that can be practiced

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1 consensually either between man and a man or man and a
2 woman.

3 A Yes, sir. Or even with females.

4 Q Or even with two females, I guess.

5 A Right.

6 Q At one point it sounded like Casey said he wiped his
7 hands off in Ed's grass. Do you remember checking to see
8 if there was any blood found there?

9 A I remember going to Ed Devatt's residence and I can't
10 remember what we were there for. We had several people
11 that were looking and I can't even remember who was there.

12 Q You don't remember when it was?

13 A No, sir, I can't.

14 Q As far as you can remember -- I'm assuming you
15 personally weren't looking for blood on the grass, were
16 you?

17 A To be honest with you I can't recall.

18 Q Is it true during a number of times during this
19 interview that Casey was told by either you and other
20 folks in there that y'all were going to get help for him,
21 mental health help for him?

22 A Basically what we do is once someone asks for help is
23 convey to the detention center that he's needing some type
24 of help and they get in touch with mental health and they
25 have someone to come over and speak to them. But in any

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1 case like this -- a major case like this they always go to
2 be evaluated.

3 Q Eventually?

4 A Yes, sir, to make the determination.

5 Q It didn't happen right then and there, it happened
6 later on down the road. It really wasn't -- I guess --
7 that isn't where I was going with the question, I guess.

8 A Yes, sir.

9 Q He asked you a number of times along the lines of, "I
10 need help," and the response was, "We'll give you the help
11 you need. We're going to try to help you," something
12 along those lines.

13 A And like I stated before is that we give that
14 information to the detention center, usually someone from
15 mental health will come in and speak to them and make the
16 determination of what they need to do.

17 Q A number of times throughout the interview; the
18 beginning, the middle of it Casey told you that -- asks
19 you, doesn't tell you but he asks you what you need to
20 know or what you want to know, correct?

21 A Yes, sir.

22 Q All right. At some point you ask Casey did you
23 strangle her in any way?

24 A Yes, sir.

25 Q And his response was, no, he didn't do it, at least

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1 at that point, right?

2 A Yes, sir.

3 Q He told you that they had engaged in oral sex,
4 correct?

5 A Yes, sir.

6 Q That they were engaged in kissing and petting and
7 that sort of stuff.

8 A Yes, sir.

9 Q Did Casey tell you he was tired of living?

10 A Yes, sir, he sure did.

11 Q In fact, I think at some point he started crying,
12 too, didn't he?

13 A Yes, sir, I believe so.

14 Q He never had any problems giving you details of what
15 happened prior to the point he went to John Bernat's
16 house, did he?

17 A I don't believe so.

18 Q At some point you told her -- or told him that she
19 had been struck one time and she had strangulation marks
20 or had been strangled or something along those lines and
21 this was all done before death, correct?

22 A From what the --

23 Q This is what you told him I guess is what I'm asking.

24 A -- autopsy, yes, sir.

25 Q And you presented that information to Casey in a

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1 question form, "We know that she was hit, we know that she
2 was strangled. Did you ever strangle her?"

3 A I don't know whether she was struck or not, though.

4 Q I think he denied throughout the whole thing that he
5 ever struck her, correct?

6 A He says he never struck her. And like I said, from
7 the pathologist stated in his --

8 Q Well, I don't know if you can testify to what the
9 pathologist said.

10 MR. BARFIELD: I think he's entitled to fully answer
11 the question.

12 THE COURT: I'll sustain the objection, though, your
13 objection.

14 MR. DUNN: Thank you.

15 Q We'll move on.

16 A Yes, sir.

17 Q At some point after a bit of questioning from
18 yourself Casey gets -- sounds like Casey got to the point
19 where he says, you know what -- again, I'm going to use
20 his words, not mine -- he says, "Fuck it, I ain't got
21 nothing else to lose," or something along those lines,
22 correct?

23 A Yes, sir.

24 Q And then he goes off and he says -- he tells you
25 another version of how he thinks it happened, basically

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1 opens the front door, engaging in sexual activity, that
2 sort of stuff.

3 A As far as how he thinks it happens, no.

4 Q Or how he says that happened -- as far as how he says
5 it happened. You know what, I think it has been asked
6 enough times with your permission we will move on. I
7 think I have asked that question a number of times, your
8 response hasn't changed so if you want to we can move on.

9 A Yes, sir.

10 Q He never said he went in the house any other way than
11 the front door, correct?

12 A That's what he stated. He stated that the door
13 opened up one time and he said she opened the door, she
14 came out on the porch, that he walked in. There's been
15 several scenarios how that he got through the front door.

16 Q But every scenario of how he got into the house was
17 consistent as far as going through a front door.

18 A Yes, sir.

19 Q How he got out of the house did change over the
20 course of the interrogation.

21 A Yes, sir. He also stated that he went out the front
22 door at one time.

23 Q Right. But like I said, his exits changed, his
24 entrances were always the same.

25 A Yes, sir.

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- 1 Q You asked him about how the wires got torn, right?
- 2 A Yes, sir.
- 3 Q He vehemently denied anything about the telephone
- 4 wires, didn't he?
- 5 A Yes, sir.
- 6 Q He never ever said, "You know, I tore those wires out
- 7 of the house, I never tore the wires off the side of the
- 8 house" -- wherever the wires were torn he never gave you
- 9 any location of whether they were torn, right?
- 10 A I didn't know whether he did that or not.
- 11 Q And he denied it and has never told you that he ever
- 12 did that, correct?
- 13 A No. He never told me that.
- 14 Q Or never admitted to it, I guess.
- 15 A No, sir.
- 16 Q And, in fact, throughout the interview even getting
-
- 17 up to the last one, the last 20 minutes that we listened
- 18 to yesterday it was always, "I had permissions to come
- 19 into the house."
- 20 A That's what he stated. Not every time, like I said,
- 21 the one time it was the --
- 22 Q The door mysteriously opened.
- 23 A Yes, sir.
- 24 Q But when it mysteriously opened she was sitting on
- 25 the couch and she never said -- according to him she never

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1 said, "Get out," or anything of that nature, correct?

2 A That's correct.

3 Q He showed concern for his parents throughout this
4 interview, didn't he?

5 A Yes, sir.

6 Q He didn't want them to hear any of the details of
7 whatever was said, correct?

8 A Yes, sir.

9 Q He was trying to give them money, correct?

10 A Yes, sir.

11 Q Sounded like at some point he told you that his mom
12 had been threatened by some girls in the courtroom,
13 correct? Were you there for that or was that with another
14 officer?

15 A I can't recall.

16 Q You may have been there but there may have been

17 another conversation with another officer, that's why I
18 asked. I'm trying to remember everything of what's going
19 on with the audiotape and it's hard. The way an
20 interrogation works is you talk with the suspect, you get
21 them to tell you the story a number of times, correct?

22 A It varies, like I said, from one person to another
23 and how they do the interview.

24 Q I'm asking you about you I guess at this point.

25 A Basically what I do I want to hear the story first.

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1 I want to -- tell me the story, tell me what happened and
2 I want them to go from the beginning to end, and then I
3 will go through asking questions.

4 Q And once you get the -- once you get the version that
5 you want you either have them write it down or you write
6 it down and they sign it, or you record it, correct?

7 A Not getting the version I want, combining the facts
8 with what the individual states. It's not what I want,
9 it's what I need to put the case together that --

10 Q Is it safe to say that the final version of what we
11 heard beginning yesterday certainly helps the State's
12 case, correct?

13 A Yes. From that statement, yes, sir, just like any
14 statement.

15 Q And during that last -- I'm just going to call it the
16 final version, we all know what that is, the one that we

17 listened to yesterday that was on the videotape. Was that
18 an instance of the lense cap not being taken off of the
19 camera?

20 A I believe that's what it was. I can't remember
21 whether he didn't want to be videoed or something but
22 recording -- or we just didn't take it off, I can't
23 recall.

24 Q It's fair to say that even during that last version
25 that the sex between him and her was consensual?

TESTIMONY OF ROBERT BENSON

1 A As far as he continues stating that it was
2 consensual.

3 Q That as far as he could tell something happened to
4 her that he didn't intend to happen to her.

5 A That's what he stated.

6 Q And these are his words. These are his words.

7 A Yes, sir.

8 Q And during that final version he says that he
9 heard -- something spooked him and he jumped out the
10 window but he never washed his hands.

11 A Yes, sir, that's what he stated.

12 Q He told you during that final one that he was tired
13 of being locked up.

14 A Tired of being locked up?

15 Q Tired of being locked up. In fact, he said he was
16 talking with his mama and he was just tired of being

17 there, he was going to talk to you but he didn't tell her
18 he was going to talk to you and he didn't want her to know
19 that he had talked to you.

20 A Are you talking about on this conversation?

21 Q On the very last one, the one we heard yesterday.
22 Does that sound about right?

23 A I mean if that's what's there, yes, sir.

24 Q He told you during that last conversation that he
25 left John Bernat's house at about 1:30, right?

TESTIMONY OF ROBERT BENSON

1 A Yeah, I remember that.

2 Q And that he headed down John Bernat's driveway?

3 A Yes, sir.

4 Q And up to Judy Hinson's driveway.

5 A Yes, sir.

6 Q And he vehemently denied every time he ever talked to
7 you and as far as you know talking to anybody else that he
8 never cut through the grass, correct?

9 A That's what he said.

10 Q In fact, I think the reason he didn't cut through the
11 grass is he's scared of snakes or something, do you
12 remember that?

13 A I can't recall.

14 MR. DUNN: If may beg the Court's indulgence, it may
15 be a very good time to stretch for a second.

16 (Break in proceedings.)

17 Q Whose call was it, Sheriff Benson, to charge Casey
18 with the murder charge?

19 A Sir?

20 Q Whose call was it to charge Casey with murder on
21 September 2nd?

22 A Lead investigator. Usually when you have a case like
23 this a lot of people -- investigators get together with
24 Sled, our investigators, sit down, discuss it and see
25 which direction we need to go. If there's enough probable

TESTIMONY OF ROBERT BENSON

1 cause they would say go ahead and obtain a warrant.

2 Q If there's no probable cause to obtain a warrant or
3 you need probable cause?

4 A You have to have probable cause to obtain the
5 warrant.

6 Q Okay. Is it fair to say in a case of this magnitude
7 and these facts that this wasn't just a decision by an
8 investigator down the chain of command?

9 A I'm not saying that. I don't recall saying, "Go
10 ahead and get the warrant."

11 Q So you're saying you can't remember if it was your
12 call to arrest Casey for murder?

13 A I'll leave that up to the lead investigator to handle
14 those things.

15 Q Would you not have had conversations with your
16 work -- your investigators and Sled investigators and
17 maybe the solicitor's office, but ultimately somebody has
18 got to make a decision, don't they?

19 A Yes, sir.

20 Q And you can't have 15 chiefs and no Indians, right?

21 A Yes, sir.

22 Q Are you saying that you weren't the chief that made
23 the decision as to have the warrant issued?

24 A When I was an investigator if I investigated a
25 homicide and I needed a warrant and I had probable cause I

TESTIMONY OF ROBERT BENSON

1 would go to the magistrate, didn't always discuss it with
2 the sheriff and I didn't always discuss it with the
3 solicitor. If I had the probable cause I would go and
4 obtain a warrant.

5 Q I understand all of that. The question was were you
6 or were you not the person who made the final decision?

7 A No. I don't recall making the final decision on it.

8 Q All right. Were you the final -- were you the person
9 who made the decision to have the initial warrant -- the
10 initial warrant isn't the murder warrant -- is it fair to
11 say he got picked up for something besides murder on the
12 28th, correct?

13 A Yes, sir.

14 Q Were you the one who said got get him on that or was
15 that someone's else's decision?

16 A I can't recall.

17 Q Casey is not charged with burglary, is he?

18 A No, sir.

19 Q He's not charged with criminal sexual conduct.

20 A No, sir.

21 Q He's not charged with kidnapping.

22 A No, sir.

23 Q He's only charged with murder, correct?

24 A Yes, sir.

25 Q How long was he in jail before you talked with him?

TESTIMONY OF ROBERT BENSON

1 A Went in on the 27th, the interview was on --

2 Q He was arrested on the 29th.

3 A Okay. He was arrested on the 29th, this occurred on
4 the 27th, so it was on the 7th, I think is when it was,
5 wasn't it?

6 Q Ten days maybe, does that sound about right?

7 A Probably.

8 Q I'm assuming you have seen the jail cells at the
9 detention center, the holding cells, correct?

10 A Yes, sir.

11 Q Is it fair to say they are pretty small?

12 A Yeah, about average.

13 Q Six by six, eight by eight, something like that?

14 A A little bit bigger than that maybe. I don't think
15 it's six by six, it's going to be --

16 Q It's actually a rectangle, isn't it?

17 A Some of them rectangle and some of them are a little
18 bit square.

19 Q You've had conversations with Casey in the past,
20 right?

21 A Yes, sir.

22 Q Fair to say that Casey is below average intelligence
23 based on your conversations with him?

24 A How do you determine below average?

25 Q I'm not the one answering the question, my question

TESTIMONY OF ROBERT BENSON

1 was for you. Is it fair to say he was below average
2 intelligence?

3 MR. BARFIELD: I'm going to object, I don't think
4 that's within the witness' knowledge.

5 MR. DUNN: I think my response was the same as it was
6 yesterday or whenever it was with the last one, he can at
7 least give an opinion as to how his interactions were with
8 Mr. Perkins.

9 MR. BARFIELD: That's not the question. The question
10 is what is his level of intelligence. He's not a
11 psychologist or a psychiatrist or anything who can say
12 that.

13 THE COURT: Overruled, I'll permit an answer.

14 A Okay. Basically, from what I determined he was very
15 mechanically inclined. I've seen where he has worked on
16 automobile engines, he would discuss that in-depth that he
17 could work on it. And at times when I would see him in
18 the general public he would approach me and start asking
19 me questions about some things that involved him. So he
20 would go into detail about questions that sometimes I
21 wouldn't even think of.

22 Q Is it fair to say you can have a conversation with
23 somebody who is not -- that you can have conversations
24 with somebody who is below average intelligence but they
25 are going to understand your questions, aren't they?

TESTIMONY OF ROBERT BENSON

1 They're going to be able to converse with you and talk
2 with you.

3 A It all depends on what type of conversation you're
4 going to have.

5 Q As far as you can remember -- well, I withdraw the
6 question. Twenty-two years of -- 22 years, right, of
7 being a --

8 A Twenty-three years.

9 Q Twenty-three years of being in law enforcement. You
10 haven't had too many people ask you for the death penalty,
11 have you?

12 A Nope.

13 Q Casey is probably the only one. Is it fair to say
14 Casey is the only one?

15 A From what I recall I don't remember anybody asking
16 for the death penalty. I had people to ask if they were
17 going to get the death penalty.

18 Q There's a difference if you're going to get it and if
19 you want it, right?

20 A I agree.

21 Q He said he wanted it, right?

22 A That's what he said.

23 Q Pretty unusual, isn't it?

24 A From my perspective I have not had anyone ask me for
25 that.

TESTIMONY OF ROBERT BENSON

1 Q I already asked you about what kind of evidence you
2 had before you talked with Casey. But even after you
3 talked with Casey, you never got any DNA that linked him
4 to Judy Hinson's death; is that correct?

5 A No, sir.

6 Q You never got any saliva or semen or any other bodily
7 fluids that linked him to --

8 MR. BARFIELD: I'm going to object. I believe he
9 asked these questions at the beginning of his cross
10 examination.

11 THE COURT: Overruled, I'll permit it.

12 Q Bodily fluids, semen, saliva, did you find anything
13 after you talked with him that linked him to Ms. Hinson's
14 death?

15 A No, sir.

16 Q Can't find anymore fingerprints or any fingerprints
17 came back positive that identified him to the murder of
18 Ms. Hinson, correct?

19 A Not that I know of.

20 Q And you never found -- as far as you know you never
21 found her blood or any other DNA on his clothes, correct?

22 A Not that I know of.

23 Q It's fair to say that -- well, I withdraw the
24 question.

25 MR. DUNN: I have no further questions, Your Honor.

TESTIMONY OF ROBERT BENSON

1 THE COURT: Solicitor?

2 MR. BARFIELD: Just a couple.

3 REDIRECT EXAMINATION

4 BY MR. BARFIELD:

5 Q After you talked to Casey Perkins -- let me back up.

6 Prior to the September 7th interview, did you have
7 evidence of clothing; shirt, pants and shoes Casey Perkins
8 was said to have worn by witnesses in the hours before
9 Judy Hinson's dead body was found next to her bed, did you
10 have a clothing description?

11 A We had clothing described like that.

12 Q After interviewing Casey Perkins, did you -- did he
13 tell you that he was wearing clothing matching those
14 descriptions?

15 A Yes, sir, he sure did.

16 Q During the course of that interview did Casey Perkins
17 tell you where the clothing was?

18 A Yes, sir, he sure did.

19 Q During the course of that interview did Casey Perkins
20 tell you that he had hidden at least the pants and shirt?

21 A Yes, sir.

22 Q During the course of that interview did Casey Perkins
23 tell you he had washed up with gasoline?

24 A Yes, sir.

25 Q During the course of that interview did you instruct

TESTIMONY OF ROBERT BENSON

1 investigators to seek out a search warrant from the
2 magistrate -- or did somebody in your department decide to
3 seek out a search warrant for the location that Casey
4 Perkins in the interview had said he hid that stuff?

5 A Yes, sir, he did.

6 Q Was the Mercedes shirt, State's Exhibit Number 1,
7 found?

8 A Yes, sir.

9 Q Were you here through the course of the testimony of
10 the forensics people?

11 A Yes, sir.

12 Q Did you hear Ms. Ruff testify about the smell of
13 gasoline on the blue Mercedes shirt?

14 A Yes, sir, I did.

15 Q Did you hear both Ms. Ruff and Ms. Taylor testify
16 about the presence of blood on the blue Mercedes shirt?

17 A Yes, sir.

18 Q Did you hear -- Exhibit 32, a pair of blood jeans,
19 did you hear Ms. Ruff and Mrs. Taylor both testify about
20 the smell of gasoline on those blue jeans?

21 A Yes, sir.

22 Q Did you hear Agent Layton testify about
23 scientifically determining that there was gas on those
24 blue jeans?

25 A Yes, sir.

TESTIMONY OF ROBERT BENSON

1 Q Couple of more questions. The two discs that we have
2 played over the course of yesterday and today, do they
3 contain -- other than our agreement that there were
4 certain little pieces that are cut of those by agreement
5 of the parties, do those two tapes contain the entirety of
6 your interview with Casey Perkins on September 7th of
7 2005?

8 A Yes, sir. Everything except what the State and
9 defense agreed on.

10 Q Was there any 30 minute session between you and Casey
11 when the tape ain't rolling?

12 A No, sir.

13 Q Was there any 30 minute session between you and Casey
14 after the tape -- that's after the tape stopped?

15 A No, sir.

16 Q Okay. Was there any -- other than what we cut out by
17 agreement, at anytime during this process did you mash the
18 stop button or anybody with the sheriff's office mash the
19 stop button so some things could get worked out before it
20 got cut back on and the talk continued?

21 A No, sir.

22 Q Is that all of it?

23 A Yes, sir.

24 Q Did Casey Perkins at any time during that interview
25 say -- he kept calling you Benson by last name, right?

TESTIMONY OF ROBERT BENSON

1 A Yes, sir.

2 Q Did he ever say, "Benson, if I tell you what I did
3 will you be easy on me?"

4 A No, sir.

5 Q Did he ever say, "Benson, if I tell you what I did
6 will you charge me with something less than what it might
7 really be?"

8 A No, sir.

9 Q Did he ever say, "Benson, if I tell you what I did,
10 will you ask the solicitor to give me a plea deal and not
11 give me any time or not give me much time?" Did he ever
12 ask you for leniency by either way of charge or sentence?

13 A No, sir.

14 Q He asked you for the ultimate punishment, didn't he?

15 A Yes, sir, he did.

16 Q Did you promise him that you would get him the
17 ultimate punishment?

18 A I told him I couldn't promise him that.

19 Q A couple of points -- I think Mr. Dunn said and I
20 think I agree, at a couple of points you told Casey,
21 "Maybe we just need to take you back to the back;" is that
22 correct?

23 A Yes, sir.

24 Q How risky was that? From your perspective and your
25 effort to try to see if he would confess to this crime,

TESTIMONY OF ROBERT BENSON

1 how risky was that?

2 A Pretty risky. A lot of times they would get them to
3 the back and they'll say, "I've changed my mind, I'm not
4 going to talk to you."

5 MR. BARFIELD: Thank you, that's all.

6 MR. DUNN: Just a couple of more followups, Your
7 Honor.

8 THE COURT: All right, sir.

9 RECROSS EXAMINATION

10 BY MR. DUNN:

11 Q Again, it was so hard to hear over there, I just want
12 to make sure, so the only time you talked to Mr. Perkins
13 then was on the morning of the 28th and the 7th of
14 September, is that what you said?

15 A I can't really recall which dates I spoke with him.
16 You're speaking after August 27th, right?

17 Q Yes.

18 A Okay. I can't recall what other times I spoke with
19 him.

20 Q Besides the time -- once he was arrested ultimately
21 we know you talked to him on the 7th, did you talk to him
22 at any other point during the time he was incarcerated?

23 A Not that I recall. If I spoke to him in any way it
24 wasn't going to be pertaining to the case.

25 Q Did you ever send anybody to go talk to him during

TESTIMONY OF ROBERT BENSON

1 that time period?

2 A No, sir.

3 Q Did you ever call down to the jail to have him taken
4 out into the yard to see if he would talk -- to calm down
5 and see if he would talk?

6 A No.

7 Q Were you here when Officer Carr testified?

8 A Yes, sir.

9 Q So you are saying what he testified --

10 MR. BARFIELD: Objection, I think. Let me think a
11 minute. I object, Your Honor, I believe that's asking a
12 question that I -- let me think how to phrase the
13 objection.

14 (A bench conference was held.)

15 THE COURT: The question was withdrawn; is that
16 correct?

17 MR. DUNN: Withdrawn, we'll just move on.

18 Q On the 20th when you were at Casey's house with Agent
19 Wilkes and Agent Green, did you ever see any scrapes or
20 bruises on Casey Perkins' body?

21 A Not that I recall.

22 Q On the 7th of September when you talked to Casey
23 Perkins for three hours, did you ever see any scrapes or
24 bruises on Casey Perkins' body?

25 A None that I recall.

TESTIMONY OF SHAUN CHEEK

1 Q Do you remember him showing you his chest and saying,
2 "I don't have anything on my body?"

3 A I can't recall.

4 MR. DUNN: No further questions.

5 MR. BARFIELD: Nothing else from this witness.

6 The witness, SHAUN CHEEK, was first duly sworn and
7 testified as follows, on:

8 DIRECT EXAMINATION

9 BY MR. BARFIELD:

10 Q State your name again, please.

11 A Shaun Nelson Cheek.

12 Q Mr. Cheek, do you live here in Chester County?

13 A No, sir, I don't.

14 Q Did you used to live her in Chester County?

15 A No, sir.

16 Q Did you used to -- were you formerly employed by the

17 Chester County Sheriff's Office as a correctional officer
18 at the Chester County Detention Center?

19 A Yes, sir.

20 Q You are in other work now; is that correct?

21 A Yes, sir.

22 Q Were you employed as a correctional officer at the
23 Chester County Detention Center back on September 9th of
24 2005?

25 A Yes, sir.

TESTIMONY OF SHAUN CHEEK

1 Q Some time prior to that date, did you have occasion
2 to meet somebody named Casey Ray Perkins?

3 A Yes, sir.

4 Q And do you see Casey Ray Perkins in the courtroom
5 today?

6 A Yes, sir.

7 Q Where is he sitting and what is he wearing?

8 A Right over there with a blue shirt with a sweater on.

9 MR. DUNN: Having trouble hearing the witness, Your
10 Honor.

11 Q Speak up, you have got to talk loud.

12 A Blue shirt with a tie and sweater.

13 Q At the table over here?

14 A Yes, sir.

15 Q Was he an inmate at the Chester County Detention
16 Center?

17 A Yes, sir.

18 Q Did you know any -- did you know why he was an
19 inmate -- on September 9th -- I'm going to focus on
20 September 9th right now -- as of September 9th of 2005,
21 did you know what he was in jail for?

22 A Just when he was booked in, you know.

23 Q Okay. Did you know any details -- did you know that
24 the sheriff's office was investigating the death of Judith
25 Hinson? Were you aware of the existence of that case?

TESTIMONY OF SHAUN CHEEK

1 A I just knew what he was in there for, that's all.

2 Q Did you know any details about that case?

3 A No, sir.

4 Q On September 9th of 2005, did you and Casey Perkins
5 have face to face contact under some circumstances?

6 A Yes, sir.

7 Q Where did it occur?

8 A It was during rec. whenever he told me what he
9 stated.

10 Q Don't say what he said yet, but let me ask you some
11 preliminary questions. As a correctional officer, do you
12 have any role or responsibility investigating matters
13 brought to the attention of the sheriff's office?

14 A No, sir.

15 Q Prior to what Casey Perkins said to you that we are
16 going to discuss in a minute, did you discuss with him the
17 circumstances?

18 A No, sir.

19 Q Did you discuss with him the reason for him being in
20 the detention center?

21 A No, sir.

22 Q Did you ask him anything at all?

23 A No, sir.

24 Q Did Casey Perkins say something to you that you felt
25 was significant?

TESTIMONY OF SHAUN CHEEK

1 A Yes, sir.

2 Q What did Casey Perkins say?

3 A That he killed the female, that's when I told him
4 that he needed -- he said he needed help and I told him
5 that's the reason why we have Catawba Mental Health.

6 Q Break that down. What did he say again?

7 A That he killed the female.

8 Q What else did he say?

9 MR. DUNN: Your Honor, I'm going to renew my
10 objection, I probably should have done it.

11 THE COURT: The same objection as before?

12 MR. DUNN: Yes, sir.

13 THE COURT: The Court notes the objection.

14 Q Take it from the top again. What did Casey say and
15 what did you say in response?

16 A He said that he killed the woman and he needed help.

17 And that's when I said, "That's the reason why we have
18 Catawba Mental Health."

19 Q Did you get into any additional conversation about
20 what woman or when or how or anything else?

21 A No, sir.

22 Q Did you document what occurred?

23 A I wrote a statement.

24 Q Did you turn it in to somebody?

25 A Yes, sir.

TESTIMONY OF SHAUN CHEEK

1 Q And have you seen it subsequent to that? Was it
2 preserved I guess is what I'm asking.

3 A Yes, sir.

4 Q Did you get a copy of it before this case came?

5 A No, sir. Well --

6 Q Not today but at some point during the preparation
7 for this case, have you seen the statement that you wrote
8 out before?

9 A Yes, sir.

10 MR. BARFIELD: All right. Thank you. Answer anything
11 Mr. Dunn has.

12 MR. DUNN: May it please the Court, Your Honor?

13 CROSS EXAMINATION

14 BY MR. DUNN:

15 Q On September 7, 2005 when you worked in the detention
16 center, were you a sergeant or were you something?

17 A I was a sergeant.

18 Q So you were a supervisory role, correct?

19 A Yes, sir.

20 Q Did you hang out in the back -- I know how it works
21 but I don't think the jury knows how it works -- did you
22 hang out in the back with the inmates at that point or did
23 sergeants hang out usually up front at the --

24 A Up front in the booking area.

25 Q So you don't know what's going on in the back, do

TESTIMONY OF SHAUN CHEEK

1 you?

2 A We walk back there and make sure everybody is all
3 right, you know.

4 Q One of the things that y'all do is when people come
5 in and want to meet with an inmate, one of the things
6 y'all do is call back and have him brought forward, right?

7 A Correct.

8 Q Do you remember anybody wanting to speak with Casey
9 Perkins?

10 A I don't recall.

11 Q All right.

12 MR. DUNN: No further questions, Your Honor.

13 MR. BARFIELD: That's all. May I ask that the witness
14 be excused?

15 THE COURT: Yes, sir. You may be excused.

16 MR. BARFIELD: Thank you, Mr. Cheek.

17 THE COURT: Is there any reason why we shouldn't take
18 a lunch break?

19 MR. BARFIELD: None whatsoever.

20 MR. DUNN: I'm hungry, Your Honor.

21 THE COURT: Unless the jury wants to keep going and
22 skip lunch? Let's take about an hour lunch break, ladies
23 and gentlemen. I remind you don't let anybody discuss the
24 case with you during the lunch -- we have other matters at
25 2:00, until 2:15.

1 I, the undersigned Michael C. Watkins, Official Court
2 Reporter for the Sixth Judicial Circuit of the State of
3 South Carolina, do hereby certify that the foregoing is a
4 true, accurate and complete transcript of record of the
5 proceedings had and evidence introduced in the trial of
6 the captioned case, relative to appeal, in the Court of
7 General Sessions for Chester County, South Carolina, on
8 the 15th-19th days of December, 2008.

9 I do further certify that I am neither of kin,
10 counsel, nor interest to any party hereto.

11

12

April 29, 2009.

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Michael C. Watkins
Court Reporter

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHESTER) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 CASEY RAY PERKINS,) 2005-GS-12-438
7 DEFENDANT.) DECEMBER 19, 2008
Chester, SOUTH CAROLINA

8
9
10 B E F O R E:

11 THE HONORABLE BROOKS P. GOLDSMITH, JUDGE. ; And a Jury.
12

13
14 A P P E A R A N C E S:

15 DOUGLAS A. BARFIELD, JR., SOLICITOR
16 ATTORNEY FOR THE STATE

17 GEOFFREY M. DUNN, ESQUIRE
18 BRADLEY JORDAN, ESQUIRE
19 ATTORNEY FOR THE DEFENDANT

20 MICHAEL R. WATTS
21 CIRCUIT COURT REPORTER
22
23
24
25

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(DECEMBER 20, 2008)

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1 (PROCEEDINGS, DECEMBER 19, 2008)

2 MR. BARFIELD: ' Your Honor, I'm all for tidying
3 things up as much as we can. I have no objection to him
4 making that proffer out of order.

5 THE COURT: Are we going to need to take any kind
6 of break? How much more have you got, that you know of?

7 MR. BARFIELD: Probably cross of this witness.
8 One more witness and probably Mr. Amman, and then I'm
9 probably going to rest.

10 MR. DUNN: Probably -- how long did I go with the
11 sheriff? An hour?

12 MR. BARFIELD: Not quite.

13 THE COURT: A good while.

14 MR. DUNN: I'm only going to -- you know, probably
15 won't take fifteen minutes. He didn't have nearly as much
16 to talk about as Sheriff Benson did.

17 And then Al Amman, it would probably take me about
18 five.

19 MR. BARFIELD: Take me about twenty.

20 THE COURT: Let's do that. Then the State will
21 rest. We'll take a break. We've got to hear motions
22 anyway, and we'll go through that.

23 Ready for the jury?

24 MR. BARFIELD: Yes, sir.

25 THE COURT: All right.

1 (The following takes place in the presence of the
2 jury panel)

3 THE COURT: Welcome back again, ladies and
4 gentlemen.

5 Gentlemen, I have forgotten where we were
6 procedurally with witnesses and cross-examination of
7 witnesses.

8 MR. BARFIELD: I believe we had just finished --
9 well, we earlier finished the cross-examination of Sheriff
10 Benson.

11 I called another witness, who was direct and
12 crossed, and there is I think one remaining witness to be
13 crossed by Mr. Dunn, who is Mr. McNeil.

14 MR. DUNN: That's my understanding, Your Honor.

15 MR. BARFIELD: Cross of Mr. McNeil.

16 THE COURT: All right.

17 And I'll remind you, sir, you are still under
18 oath.

19 Since we have a new court reporter, we probably
20 should get for the record the witness' name.

21 MR. DUNN: Thank you. I can do that, Your Honor.

22 CROSS EXAMINATION BY MR. DUNN:

23 Q. Major McNeil, can you state your name and -- state your
24 name for the record and spell it.

25 A. James Preston McNeil. J-A-M-E-S M-C-N-E-I-L.

1 Q. Thank you. I believe that you testified yesterday,
2 right?

3 A. Yes, sir.

4 Q. All right. Just to refresh my memory and refresh the
5 jury's memory, how much involvement did you have with the
6 murder investigation of Judith Hinson?

7 A. I was there to the beginning and to the end.

8 Q. How much involvement did you have personally with Casey
9 Perkins?

10 A. I sit in on the interview.

11 Q. When you say the interview, you were talking about the
12 September 7th, 2005 interview?

13 A. That's correct.

14 Q. Did you interview him or interrogate him at any other
15 time?

16 A. No, sir.

17 Q. All right. Remind me again how long you -- you are not
18 currently with the sheriff's office, are you?

19 A. That's correct, I'm not. I'm between jobs at this
20 time.

21 Q. You are -- I think -- are you going to start up here
22 pretty soon?

23 A. I'll start with the Union County sheriff's office on
24 January the 6th.

25 Q. How long have you been with the cops, with law

1 enforcement?

2 A. Nineteen years.

3 Q. On September the 5th, you were a major with the
4 sheriff's office, correct?

5 A. That's correct.

6 Q. In charge of investigations?

7 A. That's correct.

8 Q. How long were you an investigator?

9 A. Twelve years. Criminal investigation. I had some
10 narcotic training before then.

11 Q. All of it with Chester?

12 A. Yes, sir.

13 Q. When I use the word interrogation and interview, is it
14 the same thing or different things, in your mind?

15 A. It's different.

16 Q. Tell me what an interview is.

17 A. An interview is general information, trying to find
18 facts to a particular incident that happened.

19 Q. It's non-confrontational?

20 A. In -- most of the time non-confrontational.

21 Interrogation, when you have facts already at hand and
22 you are trying to get -- basically get the information --
23 the truth out of the information to the incident, yes, sir.

24 Q. And oftentimes it can be confrontational?

25 A. Sometimes it can.

1 Q. Oftentimes the person you are speaking with doesn't
2 necessarily want to speak with you?

3 A. That's correct.

4 Q. And you have got to get them to talk with you?

5 A. Try to get the truth, yes, sir.

6 Q. It doesn't involve body slamming them, throwing them up
7 against lockers, beating on them, hitting them, slapping
8 them or threatening them with violence, does it --

9 A. No, sir.

10 Q. -- trying to get them to talk to you?

11 A. No, sir.

12 Q. It's more of a more subtle, more psychological than
13 that, isn't it?

14 A. I would agree with that, yes, sir.

15 ~~Q. Part of it is you are trying to get a good rapport with~~
16 the person that you are talking with?

17 A. That's correct.

18 Q. I think I asked you this yesterday, but, again, just to
19 make sure. During the interview with Casey on September
20 7th, you were in the room with Casey the whole time?

21 A. Not the whole time. I came in. I don't know,
22 it took -- it was a long time. I came in maybe halfway. I
23 was in and out.

24 Q. You weren't there from the beginning of it, were you?

25 A. No, sir.

1 Q. When you got there, was Shane Stuart already there, or
2 was it just Sheriff Benson?

3 A. Shane and the sheriff was in there.

4 Q. All right. And is it fair to say that Benson was the
5 primary interrogator?

6 A. Yes, sir.

7 Q. He was the one asking most of the questions?

8 A. Yes, sir.

9 Q. And in your course of -- I'm assuming that as an
10 investigator with law enforcement for the last --

11 A. Nineteen years.

12 Q. -- nineteen years --

13 A. Yes.

14 Q. -- that you have been trained in how to do
15 interrogations and interviews?

16 A. I have been to several classes.

17 Q. Put on I think by mostly SLED, right?

18 A. I have been to several. U.S. Department of Justice,
19 SLED, FBI. I have been to several.

20 Q. So a lot of -- is it fair to say that you have been
21 trained in the methods?

22 A. Yes, sir.

23 Q. Is it fair to say that one of the things that they
24 teach you that you have to do is you have to confront --
25 during an interrogation. We are not talking about

1 interviews. We are talking about interrogation. The theory
2 of interrogation, that part of your job is confront a
3 suspect with the suspect's guilt?

4 A. Yes, sir, I agree with that.

5 Q. You tell them things, such as "we know you did it," or,
6 "we have evidence," or, "you just need to come clean," or
7 something along those lines, right?

8 A. I agree with that, yes, sir.

9 Q. Is it also fair to say that part of the technique for
10 interrogation is that even if they do say something like "I
11 did it," or -- you know, "I did it," that the interrogator,
12 or maybe somebody else who was present helping with the
13 interrogation, will use words such as -- will try to
14 minimize the suspect's guilt?

15 A. Yes, sir, I agree with that.

16 Q. And really what I mean by that, for example, is he may
17 say "I killed her and I'm a bad person," and a cop may say
18 "well, you are not really a bad person"?

19 A. Yes, sir, I agree with that.

20 Q. And part of that, you are trying to build -- not
21 necessarily that you believe -- it's not necessarily that
22 you agree with the person he's not a bad person, you are
23 just trying to build a rapport with them, correct?

24 A. That's correct.

25 Q. I mean, the reality is the guy did whatever he said he

1 did and, you know, your job is try to get him to confess?

2 A. Try to get the truth, yes, sir.

3 Q. But you are trying to build a rapport with him so he
4 will tell you more and give you more details?

5 A. That's correct.

6 Q. All right. Is it fair to say that during the
7 conversation on September the 7th, 2005, between Casey
8 Perkins and Sheriff Benson, that you were playing the role
9 of the minimizer?

10 A. No, sir, I wouldn't agree with that.

11 Q. All right. Is it fair to say that most of the
12 conversation -- I think we have already established this,
13 that most of the conversation on that tape is not you?

14 A. That's correct.

15 Q. It's Casey, right?

16 A. That's correct.

17 Q. And a lot of the rest of it is Sheriff Benson?

18 A. Correct.

19 Q. At some point you do begin a rather lengthy process of
20 talking with Casey?

21 A. That's correct.

22 Q. Now, when you did that, had Sheriff Benson stepped out,
23 or had he just sat back and let you take over for a while?

24 A. I'm trying to remember. He left one time. I think he
25 did. The sheriff did leave one time.

OFFICER JAMES MCNEIL - CROSS BY MR. DUNN

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1 Q. All right. Do you ever recall the conversation going
2 along the lines, such as "Casey, let me ask you something.
3 You like sex, don't you?"

4 A. We did talk -- we did talk at length about sex. We
5 did.

6 Q. And basically the conversation went something along the
7 lines of "you're a man. I'm a man."

8 A. Yes, sir, if I recall right.

9 Q. You know, sex ain't a bad thing, basically?

10 A. That's correct.

11 Q. A lot of the facts that Casey was giving you were
12 things of sexual activity that he said had happened between
13 him and Judith Hinson, correct?

14 A. That's correct.

15 Q. Do you remember saying things, such as, you know, "you
16 got into it or you were getting into it with her and she was
17 getting it into with you," along those lines?

18 A. Yes, that's correct.

19 Q. I'm not mischaracterizing it. It was --

20 A. I understand.

21 Q. I think at some point you had said something about "you
22 were enjoying it. She was enjoying it. You were excited.
23 She was excited." Now, I think at -- something along those
24 lines, right?

25 A. I agree.

1 Q. Is it not fair to characterize that sort of talk with
2 him as minimization?

3 A. No, sir.

4 Q. Why not?

5 A. Basically that's what was -- what he said had happened.

6 Q. If what he said is true?

7 A. Yes, sir.

8 Q. I'm not saying it is or if it isn't, but if it was
9 true, what he said was true, what he did wasn't wrong,
10 correct? It wasn't illegal?

11 A. That's correct.

12 Q. I mean, it sounds like it would be consensual sexual
13 activity between two consenting adults, right?

14 A. That's correct.

15 Q. Do you remember telling Casey during this process that
16 y'all would get him help?

17 A. It was -- I remember it being said. I don't know that
18 I said it or not.

19 Q. I think at some point he says "I need help", right?

20 A. Yes, sir.

21 Q. And y'all said "we will get you the help that you
22 need," or, "you are going to get your help"?

23 A. I remember that being said, yes, sir.

24 Q. At some point during the conversation, I can't
25 remember, in my notes it looks like it's towards the end,

1 but I think he said several times that he talked about she
2 had flirted with him in the past, right?

3 A. That's correct.

4 Q. That she had -- in this particular -- at some point he
5 said that on that night that she was rubbing her breasts in
6 front of him, or something along that lines?

7 A. I recall that, yes, sir.

8 Q. And basically you started asking him questions to --
9 I'm going to characterize them as leading questions, because
10 you are trying to get him to say "yeah, that's what I was
11 doing." You asked him things, such as "she had been making
12 passes at you before, right?" Do you remember saying that?

13 A. I think I did, yes, sir.

14 Q. And, in fact, he really wouldn't say yes or no. So you
15 are like, "come on, listen. You did, didn't you? You did,
16 didn't you," until he finally agreed with you that that's
17 what he had done? Do remember saying that?

18 A. I recall we going back and forth there on the
19 conversation --

20 Q. And -- I'm sorry, I didn't mean to cut you off.

21 A. Yes, I recall me and him going back and forth.

22 Q. And then at some point you finally said "you see how
23 easy it is to tell the truth?"

24 A. Yes, sir.

25 Q. Do you remember saying that to him?

1 A. Yes, sir.

2 Q. But as far as the interrogation goes, you really
3 weren't there to -- I mean, you weren't the lead
4 interrogator? You were just there to help Sheriff Benson,
5 inasmuch as he needed help, right?

6 A. That's correct.

7 Q. You were there to try to put Casey at ease, correct? I
8 mean, you weren't going to go in there to intimidate Casey,
9 were you?

10 A. No.

11 Q. I mean, you were trying to act in such a way and
12 question him in such a way that he would feel comfortable
13 with you, right?

14 A. Yes, sir.

15 Q. That he would voluntarily talk with you?

16 A. Yes, sir.

17 Q. Do you remember Casey telling -- stating that he hates
18 life?

19 A. Yes, sir.

20 Q. Is it fair to characterize Casey -- and I have used
21 this with two other cops, and I'm going to use it with you.
22 Is it fair to say that he was fatalistic during that
23 interview?

24 A. Can you explain that to me?

25 Q. I don't mind explaining it to you. Casey wanted the

1 death penalty, right?

2 A. Right, yes, sir.

3 Q. In fact, numerous times he said he wanted to die, or
4 the death penalty, or some such, right?

5 A. Yes, sir.

6 Q. He said at some point that he started hating life and
7 he had nothing to live for?

8 A. That's correct.

9 Q. Basically it sounded like Casey was -- had no -- had no
10 reason or didn't feel like he had a reason to live?

11 A. That's correct.

12 Q. Okay. During your -- I think you said you were -- from
13 beginning to end you were part of the investigation, right?

14 A. Yes, sir.

15 Q. Did you ever interview anybody else, besides Casey
16 Perkins, that was a suspect in this case?

17 A. No, I did not.

18 Q. Did you ever hear about somebody else interviewing
19 somebody, another person that was a serious suspect in this?

20 A. No, sir, I didn't.

21 Q. Did you interrogate anybody else besides Casey Perkins?

22 A. No, I didn't.

23 Q. Did you hear anybody else being interrogated, besides
24 Casey Perkins, as it related to Mrs. Hinson's murder?

25 A. No, I didn't.

1 MR. DUNN: Bear with me one second, Your Honor. I
2 think I'm about done.

3 THE COURT: Okay.

4 (Off the record)

5 (Back on the record)

6 BY MR. DUNN:

7 Q. As far as you know, Donnie Wilson was never a suspect
8 in this?

9 A. As far as my understanding, no.

10 Q. Was John Bernat ever -- was John Bernat ever a suspect
11 in this murder?

12 A. No, sir.

13 Q. Was Ben Stapleton ever a suspect in this murder?

14 A. No, sir.

15 MR. DUNN: I have no further questions, Your
16 Honor.

17 THE COURT: No redirect.

18 THE COURT: Thank you. You may step down.

19 MR. BARFIELD: I ask that he be excused, if he
20 would like to be.

21 THE COURT: Yes, sir, you may be excused.

22 THE WITNESS: Thank you.

23 MR. BARFIELD: I call Mr. Amman.

24 ALBERT NIXON AMMAN, JR., having been first duly
25 sworn, testified as follows:

ALBERT NIXON AMMAN, JR. - DIRECT BY MR. BARFIELD

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1 THE CLERK: State your full name.

2 THE WITNESS: Albert Nixon Amman, Jr..

3 DIRECT EXAMINATION BY MR. BARFIELD:

4 Q. I apologize for mispronouncing your last name.

5 A. That's no problem.

6 Q. And did you pronounce it Amman?

7 A. Yes, sir.

8 Q. And where do you currently reside?

9 A. [REDACTED], Chester.

10 Q. You need speak louder.

11 A. All right.

12 Q. Did you know Judy Hinson?

13 A. Yes, sir.

14 Q. Do you know her daughters?

15 A. Yes, sir.

16 Q. And is one of her daughters in a relationship with you?

17 A. Yes, sir.

18 Q. Which daughter?

19 A. Danielle.

20 Q. How long have you and Danielle been I'm going to say
21 boyfriend-girlfriend, for lack of a better way to put it?

22 A. About fifteen years.

23 Q. Okay. Back in August of 2005, where did you reside?

24 A. I was staying at [REDACTED].

25 Q. With Judy and Danielle and Amanda?

1 A. And Jewel, her great-aunt.

2 Q. Now, were you -- I'm not going to rehash all of it, but
3 were you with the girls on that Friday evening, August --
4 actually August 26th of 2005?

5 A. Yes, sir.

6 Q. Did y'all leave the house?

7 A. Yes, sir.

8 Q. Was Judy Hinson there when you left the house?

9 A. Yes, sir.

10 Q. Where did y'all go?

11 A. We left and went to the football game, to start with.

12 Q. Okay.

13 A. Then we left from there and went to -- they had some
14 friends, Randy and Jennifer and Josh, which was Amanda's

15 age. He is about fifteen. They had a place in Richburg.

16 Q. Okay.

17 A. And we went out there.

18 Q. Generally speaking, what did y'all do out in Richburg?

19 A. They had a -- like a place out back and they had a pool
20 table and stuff like that.

21 Q. Did you drink anything that night?

22 A. Yes, sir.

23 Q. Beer, or liquor, or what?

24 A. Beer.

25 Q. A bunch, or a little bit?

1 A. A little bit.

2 Q. Were you driving yourself?

3 A. No, sir.

4 Q. Did y'all return home to Debruhl Road?

5 A. Yes, sir.

6 Q. And approximately what time do you recall that y'all
7 got back to Debruhl Road?

8 A. It was probably about quarter to two, something like
9 that.

10 Q. When you first got there, did you notice anything out
11 of the ordinary?

12 A. No. The lights were off. We thought Judy was asleep.

13 Q. All right. Did you go in the house?

14 A. Yes, sir.

15 Q. When you got in the house, was anything out of the
16 ordinary that you noticed?

17 A. Yeah, the dogs were out. They are usually gated.
18 When -- you know, when he left, Judy would have either put
19 them in the room with her or she would have gated them in
20 the laundry room.

21 Q. And prior to August of 2005, how long had you lived in
22 the Hinson home?

23 A. About five months.

24 Q. What happened after you got in the house and noticed
25 the dogs lose in the house?

1 A. We just -- basically Danielle thought her mom was kind
2 of mad because we got home kind of late and so she thought
3 she let the dogs out, you know, so maybe they would do
4 something and Danielle would have to clean it up. So --
5 that's what we thought. So -- you know, so she didn't go
6 bother her mom, so -- you know, we went in there and started
7 getting something to eat.

8 Q. Okay. Do you remember what you ate?

9 A. I think Danielle was like -- she was like putting
10 cheese -- she makes like a -- she puts cheese on a plate and
11 puts it in the microwave, kind of like a -- I don't know
12 what you call it. Cheese crunchie, I guess.

13 Q. You put the cheese on anything, or just eats it?

14 A. Yeah.

15 Q. Just the cheese?

16 A. Yeah, just the cheese.

17 Q. And what happened after that?

18 A. Well, actually -- I'm sorry, let me back up. We walked
19 the dogs first.

20 Q. Who walked the dogs?

21 A. Me and Danielle.

22 Q. And when you say walked the dogs, do you walk the dogs
23 on the leash or --

24 A. Yeah.

25 Q. -- do the dogs just go out with the --

1 A. No, we put them on a leash.

2 Q. Where did you go with the dogs?

3 A. We just went out actually into the yard.

4 Q. Did you go down on Debruhl Road?

5 A. No.

6 Q. Do you remember telling -- giving a statement
7 previously saying that y'all went down to Debruhl Road?

8 A. I can't recall. I -- I can't remember what I said that
9 night. I know we walked them out in the front yard.

10 Q. Okay. How long were you out with the dogs?

11 A. Probably like five or -- five, ten minutes, maybe.

12 Q. Do you know where Amanda was when you and Danielle were
13 out with the dogs?

14 A. Yeah, I think Amanda had went in her room and like laid
15 down, I think.

16 Q. Did you go back in the house with the dogs?

17 A. Yes, sir.

18 Q. What happened after you got back in the house?

19 A. We went in. Then that's when she made -- started
20 making the cheese crunchie. And --

21 Q. But the dog walking how soon after y'all got back to
22 the house?

23 A. Pretty much within five minutes.

24 Q. Okay. Then you ate. Then what?

25 A. Actually like the plate busted while it was in the --

1 like it got too hot or something and -- Danielle got it, and
2 then McKinley started like acting weird and started barking
3 at Judy's door.

4 Q. Is McKinley one of the dogs?

5 A. Yes, sir, I'm sorry.

6 Q. That's fine.

7 . Did you observe the dog at Ms. Hinson's door?

8 A. Yes, sir. I know the dog very well too. I mean, I
9 know what he's -- you know, he was acting weird.

10 Q. What happened next? Your observations. Not anybody
11 else's thoughts or conclusions, but your observations and
12 actions, what happened next?

13 A. Well, Danielle seen it also and she said "well, I'm
14 going to go in there, you know, because he's going to wake

15 mom up." She thought her mom was already mad at her
16 because, you know, we got home a little late. So Danielle
17 went in there. And I was like getting the plate out of the
18 microwave.

19 Q. Did you actually see Danielle open her mom's door and
20 go into the room?

21 A. Yes, sir.

22 Q. And what room are you talking about?

23 A. It's right -- it's right -- it's her bedroom right here
24 at the kitchen. There is the kitchen, a living room, and
25 kind of a den.

1 Q. Which room of the house -- does the bedroom share an
2 entrance door with some other room in the house?

3 A. The kitchen.

4 Q. Thank you.

5 Could you tell when Danielle opened her mom's bedroom
6 door whether the bedroom light was on? Could you tell, or
7 did you pay any attention at that point?

8 A. Oh, the lights were off. As soon as -- I mean, when we
9 got home, the lights were off. We thought Judy was asleep.

10 Q. Okay.

11 A. And they were always off.

12 Q. What happened after Danielle opened the door?

13 Did you observe the dog after Danielle opened the door?

14 A. Well, Danielle opened the door and McKinley took off in
15 there like a shot and went straight to the right, which is a
16 little like office room.

17 Q. What's in that room or was at the time?

18 A. Kind of miscellaneous stuff. It had a computer in
19 there, and, you know --

20 Q. All right.

21 A. Basically kind of like a little office room.

22 Q. What happened next?

23 A. Danielle went in there. I heard her call her mom a
24 couple of times. She said "mom", you know, "mom", and she
25 didn't respond.

1 Q. Where were you when you heard Danielle calling for her
2 mom?

3 A. I was in the kitchen.

4 Q. Go ahead.

5 A. I didn't real think anything of it. You know, I
6 thought, well, Judy will wake up.

7 Then the next thing I know, I mean Danielle -- I
8 remember kind of the lights -- she turned the light on and
9 then I remember Danielle screaming.

10 Q. What did you do when Danielle screamed?

11 Well, let me back up. You said something. You said
12 you remembered Danielle turning the light on. Could you
13 actually see the lights come on in the room?

14 A. Yes, sir.

15 Q. Okay. What did you do after Danielle screamed?

16 A. Excuse me.

17 Q. Do you need some water or something? Would you like
18 some water?

19 A. Yes.

20 (Off the record)

21 (Back on the record)

22 BY MR. BARFIELD:

23 Q. Let me ask you another question when you are ready.

24 I'm going to back up a minute.

25 A. I apologize.

1 Q. No, that's fine.

2 I think you said you and Danielle had been together for
3 fifteen years. Is that how long you said?

4 A. Yes, sir.

5 Q. And how long had you known Judy Hinson?

6 A. Fifteen years.

7 Q. Okay. Go ahead.

8 Danielle screams and what happened?

9 A. I ran in there and --

10 Q. Where was Danielle when you ran in there?

11 A. She was standing kind of right near Judy. Judy was
12 laying on her other side of her bed. When you walk in,
13 there is her bed. She was on the other side and you could
14 see her feet.

15 Q. Okay. What happened?

16 A. Danielle screamed, you know, "call 911," and she
17 grabbed the phone and the phone was dead.

18 Q. Now, did you grab the phone off the bed?

19 A. No, sir.

20 Q. Don't tell me about the phone, if you don't personally
21 know about that phone.

22 A. Okay.

23 Q. Did Danielle successfully make a phone call from the
24 phone on the bed?

25 A. No, sir.

1 Q. What happened next? And don't tell me what Danielle
2 said. Just tell me what happened.

3 A. She screamed and I walked over there. She said, you
4 know, "call 911." And then she said "I don't know CPR," so
5 I went over there -- I went over to Judy and I checked for a
6 pulse and everything.

7 And Amanda -- at that time Danielle was screaming. I
8 think Amanda was in the living room trying to call on
9 another phone.

10 Q. Okay. Let me ask you this question first. Did you,
11 yourself, ever pick up a telephone in the house while this
12 emergency was going on?

13 A. No, sir.

14 Q. Go ahead.

15 A. And I started trying to -- I started cleaning her -- I
16 started cleaning the vomit out of her mouth and --

17 Q. With what?

18 A. My fingers.

19 Q. Okay.

20 A. And at this time, though, pretty much Danielle --
21 should I say she -- Amanda had a friend on her cell phone.

22 Q. Okay.

23 A. And Danielle went around out on the porch and was
24 telling me through the window she got 911 on there and they
25 were explaining to me kind of how to do it.

1 Q. Were you trying it?

2 A. Yes, sir, but I couldn't get a response.

3 Q. Okay. What next?

4 A. That's -- I kept trying. And the next thing I remember
5 I was trying and then the sheriff was standing at the door.
6 I don't know, it must have been like maybe five minutes
7 later.

8 Q. A deputy sheriff was at the bedroom door or --

9 A. Yes, sir.

10 Q. -- at the front door of the house?

11 A. The bedroom door.

12 Q. From the point that you walked in the room after
13 Danielle screamed until the sheriff's deputy is standing in
14 the bedroom door, had you continuously been in the bedroom?

15 A. Yes, sir.

16 Q. What happened after the deputy came?

17 A. I just -- you know, he -- just basically, you know, he
18 was like saying, you know, I guess, you know, she's gone. I
19 didn't even realize -- I kept -- I mean, I didn't even
20 realize he was standing there. You know, I was screaming
21 her name and stuff and I was trying to, you know, wake her
22 up.

23 Q. Okay. Bear with me just a minute, please.

24 (Off the record)

25 (Back on the record).

1 BY MR. BARFIELD:

2 Q. Thank you, sir. Answer anything Mr. Dunn has.

3 MR. DUNN: May it please the court, Your Honor.

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION BY MR. DUNN:

6 Q. So Mr. Amman?

7 A. Amman.

8 Q. Amman. All right.

9 Mr. Amman, you were in Richburg, I think you testified,
10 until about one o'clock, right?

11 A. I don't remember what time we left. I remember -- I
12 remember getting home. The car we had, a clock in it, it
13 was like 1:40 -- more like 1:46, something like that, 1:45.

14 Q. So you actually -- when you walk in, you actually
15 remember seeing a clock and told you what time it was when
16 you got there?

17 A. No, the clock in the car.

18 Q. The clock in the car?

19 A. Yeah.

20 Q. So you remember looking at it and it said 1:45, 1:46,
21 somewhere in that neighborhood?

22 A. Yeah.

23 Q. Now, when you got home, I believe there was a light on
24 in the house, correct?

25 A. There was a light on, but -- yeah, yeah, there was a

1 light on. ,

2 Q. And not Judy's light, but there was a light on in the
3 house?

4 A. Right.

5 Q. When you got home, there was porch lights on, right?

6 A. I can't even remember if there was a porch light on.

7 MR. DUNN: Your Honor, I'm going to -- may I
8 approach the bench or approach the witness, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. DUNN:

11 Q. Mr. Amman, I'm going to hand you a document. Please
12 read over it. I'll give you a minute.

13 A. (Witness examining document).

14 I see where I wrote that -- I mean, if I wrote it then,
15 then that it was.

16 Q. Go ahead and read through the rest of it. Familiarize
17 yourself with that statement.

18 A. (Witness reviewing document).

19 Q. You have had a chance to look through that whole
20 statement, right?

21 A. Yes.

22 Q. Now, there is a signature on the bottom of it, correct?
23 It looks like somebody signed it. Is that your signature?

24 A. Yeah, I signed it.

25 Q. The handwriting in that statement, is the handwriting

1 yours or somebody else's?

2 A. I don't think it's mine.

3 Q. You don't think it's yours?

4 A. No. I mean, I remember speaking with a gentleman that
5 took my statement and I -- I didn't write anything -- yeah,
6 that's right, I was sitting in a chair and he would -- I was
7 sitting just like I'm talking to you and he was writing down
8 at a desk, yeah, because this was over three years ago, but
9 I remember it.

10 Q. I understand. He wrote it down and then he asked you
11 to review it and sign it, correct, something along those
12 lines?

13 A. Yeah. Yes, sir.

14 Q. What's the date on the bottom of that document?

15 A. August 27th, 2005.

16 Q. Okay. And the time -- is there a time indicated it
17 looks like it was signed?

18 A. 10:04 a.m..

19 Q. Okay. Now, let's go back to my last question. When
20 you got home, do you remember whether or not there were any
21 lights on at the house, porch lights on at the house?

22 A. Right now recalling, or the statement? I had -- what I
23 have got here is there was both porch lights were on and
24 there was a light on inside.

25 Q. Maybe I should ask that. You don't remember, but by

1 looking at that statement, does that help refresh your
2 memory any?

3 A. Actually, no.

4 Q. All right. That's fair enough.

5 Would you have written a statement or told somebody
6 something that wasn't true?

7 A. No.

8 Q. Okay. Would you have signed something as your own, if
9 it wasn't true?

10 A. No. But like I said, that night, I mean -- it was --
11 this was -- I had already -- it had been a crime scene for
12 eight hours and I was -- it was -- we -- me, Danielle, and
13 Amanda were in an ambulance. Sometimes we were in the yard.
14 I mean, it was --

15 Q. It was pretty crazy that day, right?

16 A. Yeah, it was very chaotic.

17 Q. I'm going to come back up to you. I'm going to switch
18 out this one with that one. It's the same thing.

19 MR. DUNN: A copy to the solicitor.

20 BY MR. DUNN:

21 Q. So, when y'all got home -- when you got home, was the
22 first thing that you did was it to eat -- was it to eat or
23 was it to take the dogs out?

24 A. No, the first thing we did -- like I said, I misspoke
25 earlier. We walked the dogs. The dogs were out, which was

1 unusual. We walked the dogs. We come back in. She made
2 the cheese crunchie. I remember that the plate busted. I
3 remember McKinley -- after the dogs were fed their treats,
4 McKinley started barking at the door, but Danielle had heard
5 like a noise or some kind of --

6 Q. Let me ask you this. You never heard any noise, did
7 you?

8 A. No, I didn't myself.

9 Q. I mean, you -- and that night, when you got back to the
10 house from the football game and gone to Richburg and
11 visited with friends, did you walk the dogs one time or two?

12 A. Once.

13 Q. Just once. Okay.

14 Now, in the statement that I believe you have in your
15 hands, it says -- and tell me if I'm saying this wrong. I'm
16 going to quote it. It says "we went inside and ate some
17 pizza. Me and Danielle walked the dogs on Debruhl Road. We
18 came back in around two a.m.." That's what the statement
19 says, right?

20 A. (No response)

21 Q. I took away your highlight. It's right in the middle.

22 A. Yeah.

23 Q. But you are telling us today that that's not what
24 happened? You didn't walk on Debruhl Road. You never made
25 it out of the side yard or back yard?

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1 A. No, no. Like I said, someone else -- somebody else
2 wrote this. I think it was detective -- I can't remember
3 who wrote it down, but what I'm stating to you right now is
4 what happened that night. We never -- I mean, we used to
5 walk the dogs -- and let me -- we used to walk the dogs down
6 the road, but one night -- if you want me to --

7 Q. I just -- my question was answered.

8 A. Okay.

9 Q. So if anybody else testifies that they saw you walking
10 your dogs that night that Judy died up on Debruhl Road, they
11 would be lying?

12 A. Yes, sir.

13 MR. DUNN: May I approach the witness once again,
14 Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. DUNN:

17 Q. I'm going to give another statement. You can keep both
18 of them.

19 Go ahead and just look it over, Mr. Amman.

20 A. (Witness reviewing document).

21 Q. You read through the whole thing, sir?

22 A. Yes, sir.

23 Q. Does it appear to be a signature on the bottom of this
24 one as well?

25 A. Yeah, that's mine.

1 Q. Again, it's your signature, correct?

2 A. Uh-huh.

3 Q. And a couple of places it looks like somebody initialed
4 at the beginning and the end, correct?

5 A. Yeah, that's me.

6 Q. Is that your initials?

7 A. Yeah.

8 Q. Is this your handwriting or is this somebody else's
9 handwriting?

10 A. I believe this is mine.

11 Q. Okay. So the reason why it looks different from one
12 page to the next one is because one is yours and one isn't?
13 Somebody else wrote one and you wrote one?

14 A. Yeah.

15 Q. All right. What's the time -- on the second one that I
16 just handed you, the one that is your handwriting, what's
17 the time given at the bottom, the time and the date?

18 A. 4:15 a.m., August 27th.

19 Q. So about -- not quite two hours after you found Ms.
20 Hinson's body, right?

21 A. Yeah.

22 Q. The other one is about seven, seven and a half hours
23 after you found Ms. Hinson's body, right, roughly?

24 A. Yeah.

25 Q. Now, in this -- in the first one, the 4:15 one, doesn't

1 it say, and I'm going to quote it again and tell me if I'm
2 quoting this inaccurately, "then we pulled in the driveway,
3 went inside, ate pizza, noodles, left and walked outside to
4 walk the dogs about twenty minutes later."

5 A. I'm going to be honest with you, if that's what I wrote
6 here two hours, then that's what we did. I mean, I'm going
7 to be totally honest with you.

8 Q. Is it fair to say that three years ago a lot of things
9 happened and it would be hard to remember everything that
10 happened three years ago?

11 A. Yeah.

12 Q. Especially with the circumstances in which you were in
13 at the time?

14 A. Yeah. I mean, I know -- I know exactly what happened
15 that night. But if you are trying to tell me -- like I
16 said, I mean, ten minutes here, did I eat a piece of pizza
17 or did I walk the dogs, I mean, really, I mean, if I wrote
18 this at two hours afterward, I would go with this.

19 Q. You would go with this, is that what you said?

20 A. Yeah.

21 Q. And just -- it also -- just one last question about the
22 two statements. It says "we walked the dogs for about
23 fifteen minutes and came inside and at that point Danielle
24 started calling," correct? That's what it says?

25 A. Yeah.

1 Q. So according to this first statement, you guys were
2 home for probably about thirty or thirty-five minutes before
3 you found the body, right?

4 A. I -- I guess, if that's what -- I mean -- that's what I
5 have got wrote down, sir, I guess -- I mean, that's -- I
6 mean, two hours after it happened, I would say that's, you
7 know, what happened, but I --

8 Like I said, we came in, walked the dogs. I mean, like
9 I said, the dogs weren't supposed to be out. And then, you
10 know, McKinley took off, you know, barking at the door, took
11 off running. And I mean, it's --

12 Q. I understand that.

13 A. I know what happened that night, but --

14 Q. And in your statement -- and I'm not trying to say
15 this. In your statement you have got that in there, "the
16 dogs started barking at some point," right, in one of them,
17 at least?

18 A. Yeah, I'm sure I did, yeah.

19 Q. Okay.

20 MR. DUNN: Your Honor, I'm going to -- I'm not
21 sure. I think it's Defendant's 2 and 3, maybe?

22 MR. BARFIELD: I'm not sure of the numbers, and
23 they have been identified by the witness as statements that
24 he gave and I don't object.

25 MR. DUNN: I think it's 2 and 3.

1 THE COURT: Admitted without objection.

2 (Defendant's Exhibit No. 2 marked for
3 identification)

4 (Defendant's Exhibit No. 3 marked for
5 identification)

6 BY MR. DUNN:

7 Q. By the time you got to Judy's body, she was already
8 dead, right?

9 A. Yeah.

10 Q. I mean, basically you never got a pulse or any kind of
11 response from her, correct?

12 A. Actually, at one point kind of -- we were -- well, it
13 really got me upset, because I thought I actually -- she
14 gurgled at one time when I was actually doing it. And then
15 that's when I went to really calling her and I -- because I
16 actually thought, you know, I was getting something.

17 Q. Did you ever feel for a pulse?

18 A. Yeah, I didn't, but I'm not a technician. I mean --

19 Q. I understand.

20 A. -- I didn't know where exactly to, but, you know, I was
21 just -- I -- you know, I noticed, you know, she had a little
22 vomit -- she had vomit in her mouth, and, you know --

23 Q. And you cleaned it out, right?

24 A. Yeah.

25 Q. You don't know how long she had been there, right?

1 A. No, she -- I mean, she didn't look --

2 MR. BARFIELD: Your Honor, I think he can -- he
3 cut the witness off.

4 THE COURT: Let the witness be allowed to answer
5 fully.

6 MR. DUNN: All right. I'm not trying to cut the
7 witness off. I just --

8 THE COURT: Go ahead and proceed.

9 BY MR. DUNN:

10 Q. You don't know how long she had been there?

11 A. No, but she -- she didn't -- I mean, I think someone is
12 dead and had been somewhere for awhile, I would think they
13 would be gray, or whatever. She wasn't gray. She was --
14 her eyes were open. She wasn't -- I mean -- you know, I
15 mean -- you know.

16 Q. Which gets to my next question. Were her eyes open?

17 A. Yes.

18 Q. Were they cloudy?

19 A. No.

20 Q. Mr. Amman, you have been convicted of cocaine
21 possession back in 2006, right? I think it was in North
22 Carolina?

23 A. 2006? No, 2000 -- it was actually a charge that was
24 five years before that.

25 Q. But it --

1 A. Yes, I did.

2 Q. You have been convicted of cocaine, right?

3 A. Yes, sir.

4 Q. Resisting arrest? I think during that whole thing was
5 resisting arrest and a couple drug charges, right?

6 A. Yes, sir.

7 Q. Last year you were convicted of giving false
8 information to the police?

9 A. Yeah, I was driving with a suspended license, yeah. I
10 got in a license check, which I have my license now.

11 MR. DUNN: If I may beg the court's indulgence for
12 one moment, Your Honor?

13 THE COURT: All right, sir.

14 (Off the record)

15 (Back on the record)

16 MR. DUNN: Your Honor, we don't have any further
17 questions for Mr. Amman.

18 MR. BARFIELD: I don't have any redirect.

19 THE COURT: Thank you, sir. You may step down.

20 MR. BARFIELD: Your Honor, I don't need a recess,
21 but could I take about thirty seconds to consult with the
22 principals in this case momentarily?

23 THE COURT: We will be at ease for just a second.
24 If you need to stretch, help yourself.

25 (Whereupon, proceedings were recessed)

1 (Whereupon, proceedings were reconvened)

2 MR. BARFIELD: May I check with the court
3 reporter?

4 THE COURT: Yes, sir.

5 (Off the record)

6 (Back on the record)

7 MR. BARFIELD: Your Honor, I was simply attempting
8 to confirm that there is no exhibit left out there marked
9 for identification which was not entered and the court
10 reporter tells me that his predecessor informed him that
11 everything was, in fact, was entered as an exhibit.

12 Having concluded that, that is the case for the
13 State of South Carolina.

14 THE COURT: Ladies and gentlemen, as you heard,
15 the State has now rested. I have to give you a ten minute
16 break again, because I'm required now to discuss some
17 matters of law with the attorneys. I hope to be with you
18 within ten minutes.

19 (The following takes place outside the presence of
20 the jury panel)

21 MR. DUNN: I have a directed verdict motion, Your
22 Honor, for the record.

23 THE COURT: All right.

24 MR. DUNN: For the record I would make a motion
25 for a directed verdict, that the State has failed to present

1 enough evidence to get this case to a jury for them to make
2 a decision as to whether or not Casey Perkins killed Judy
3 Hinson. That's it, Your Honor.

4 MR. BARFIELD: I believe we have. I believe we
5 have.

6 THE COURT: I think -- I think that this is a
7 matter for the jury. There is sufficient evidence for this
8 to go forward and would deny the motion.

9 MR. DUNN: Before we call the jury back, Your
10 Honor --

11 THE COURT: Sure.

12 MR. DUNN: -- now would be the best time to take
13 it up, if there's going to be an issue.

14 My first witness is going to be Yale Zamore. My
15 understanding that Yale Zamore is going to be opposed by the
16 State. We might as well hash it out now before we bring the
17 jury back in.

18 THE COURT: All right. I agree.

19 MR. DUNN: Your Honor, we are -- it is our
20 position to call Mr. Zamore for the limited purpose of
21 testifying to words he heard said by Casey Perkins on May
22 the 3rd, 2006, and July the 12th, 2006, in a setting in
23 which Casey Perkins was being interviewed by doctors with
24 the Department of Mental Health pursuant to a McNaghten and
25 pursuant to a Blair order, evaluating his mental competency

1 and his criminal responsibility in this matter, both of
2 which have already -- the Blair has already been introduced
3 into evidence, as far as the order goes, for purposes of a
4 Blair Hearing.

5 We have not raised self-defense -- excuse me,
6 insanity as a defense and we don't plan on doing that now.
7 It's not the reason why we would call Yale, or Mr. Zamore,
8 to the stand. The purpose of calling Mr. Zamore to the
9 stand would be to elicit what he heard Mr. Perkins say to
10 the doctor, specifically that -- let me see if I can't get
11 as close to a quote as possible.

12 MR. BARFIELD: Why don't we just let him look at
13 the report?

14 MR. DUNN: I can do that.

15 MR. BARFIELD: Are you talking about actually the
16 McNaghten report? I'll hand you my copy up.

17 MR. DUNN: The highlighted portions of his report
18 are really what I'm talking about.

19 MR. BARFIELD: That's my copy.

20 THE COURT: Okay.

21 MR. BARFIELD: And if we need to make a copy to
22 make that a part of the record, if it becomes an issue.
23 It's in the clerk's file.

24 MR. DUNN: In addition, I believe -- and I'll be
25 honest. I don't expect all the testimony to be favorable to

1 the defendant from Mr. Zamore's testimony. He will have to
2 testify to whatever he heard and some of it was not good for
3 us, but there is good in there, in fact.

4 I anticipate the solicitor saying how are you
5 going to get this in, this is hearsay. That's the
6 anticipation I hear from the solicitor.

7 My response would be as follows, Your Honor, if I
8 can find that. Under 403, there are exceptions that are
9 given. I'm sorry, not 403. 803. Specifically that --

10 Beg court's indulgence, Your Honor.

11 (Off the record)

12 (Back on the record)

13 MR. DUNN: I think possibly under two exceptions,
14 Your Honor, 803(3) and 803(4).

15 That 803(3) basically is a statement, as far as
16 then existing mental, emotional, or physical condition.

17 Or, Your Honor, for -- I'm not going to elaborate
18 on 803(3).

19 Or 804(4). He's given -- the purpose for why
20 Casey was down at the doctor's office was to be evaluated,
21 medical evaluation, where there were statements elicited
22 from my client that were given in the presence of numerous
23 people, including Yale, including the doctors, including
24 probably some staff, none of which are protected by
25 confidentiality in any way, shape or form, as the order

1 explicitly says numerous times. In fact, I think the
2 defendant is warned that anything he says at that meeting or
3 evaluation could be used later on in court.

4 Your Honor, admittedly we need that statement -- I
5 don't know if I need that statement or not, Your Honor, but
6 admittedly I want that statement, especially to lay the
7 foundation for my next witness. So I don't think that I
8 need that statement as a foundation for my next witness,
9 based on other rulings of courts in this state, that -- our
10 defense to the jury at this point is going be he gave a
11 false confession, that he gave statements to the police that
12 were not true.

13 He -- we have -- a myriad -- there's a number of
14 statements given my Mr. Perkins and some of them are
15 exculpatory. Some of them are incriminating. At the end of
16 this all of this, the court is going to tell this jury they
17 have got to sit down and look through all these statements
18 and find out which one is -- you know, which one they
19 believe, if any. And, you know, if it's one they believe
20 that is incriminating or, you know, or not. I think we
21 should be allowed to give the jury one last statement made
22 by this defendant in this case.

23 Well, I anticipate that the solicitor will say
24 that he will then have the opportunity to cross-examine my
25 client, cross-examine the statements that were made. He

1 doesn't really have the ability to cross-examine any other
2 statements made either by my client, if my client doesn't
3 take the stand. And at this point I think that the jury
4 should be -- quite frankly, the jury may not believe any of
5 it. They should be given that opportunity to at least hear
6 it.

7 You know, my only other option, Your Honor, is one
8 I'm trying to avoid for lots of reasons. We could subpoena
9 the doctor tonight and have him testify in the morning.

10 MR. BARFIELD: Let me address that issue first.

11 THE COURT: All right.

12 MR. BARFIELD: I will -- and in fairness to Mr.
13 Dunn, he and I discussed Mr. Zamore versus the doctor being
14 here. I never told him I would agree for either one of them
15 to testify.

16 MR. DUNN: No, he hasn't.

17 MR. BARFIELD: If you ruled that the statement
18 made -- that -- the highlighted portion that I handed you is
19 the doctor's narrative. If you agree -- if you rule that
20 that information is admissible, I'm not going to make him
21 bring the doctor to get it in. If Mr. Zamore can --
22 actually we could -- if you rule it's admissible, I will
23 stipulate that that language in that report is admissible,
24 without jerking him around and saying "I said bring Zamore,
25 don't worry about the doctor." I'm not going to play that

1 kind of game with him.

2 MR. DUNN: I think under 804 -- excuse me, 803(4),
3 that it's not even a question with the doctor if it's
4 admissible. It's only a question of really of Mr. Zamore if
5 it's admissible or not.

6 MR. BARFIELD: I'm making my argument as if the
7 doctor were going to be here to say that.

8 MR. DUNN: I think the doctor can testify, because
9 there is -- like I said, Your Honor, there were things that
10 were said in that interview that by no means helps us and
11 will probably hurt us, if properly asked from the statements
12 of Mr. Zamore.

13 THE COURT: I'm looking at (4). It doesn't --
14 wasn't this statement made after the commencement of
15 litigation?

16 MR. BARFIELD: It was, but I haven't -- it was.
17 Yes, sir, it was after he was arrested.

18 MR. DUNN: It was after he was arrested and
19 probably after he was indicted.

20 THE COURT: Doesn't that put you into the last
21 part of (4) that says there presented at the discretion of
22 the court? You said it's clearly admissible under (4). The
23 way I'm reading (4) is that if it occurred after the
24 commencement of this litigation.

25 MR. DUNN: Well --

1 MR. BARFIELD: Well, it might not be.

2 MR. DUNN: I will revise my language clearly and
3 say that I understand what the court is saying, that I
4 was obviously trying to get the parts that I would like in
5 out of 804(4).

6 THE COURT: But isn't that -- isn't this a prior
7 exculpatory statement?

8 MR. BARFIELD: Exactly.

9 MR. DUNN: A prior exculpatory statement?

10 MR. BARFIELD: It is clearly exculpatory.

11 Can I be heard briefly to kind of lay out my
12 theory?

13 THE COURT: Oh, I guess we can hear from the other
14 side. All right.

15 MR. BARFIELD: This is what's going on here, and
16 it's obvious and it's a fair effort, and my response, I
17 think, is a fair response. The defense in this case is
18 going to be "I gave this confession and now I'm recanting
19 that confession and it is a false confession."

20 There is an expert from Massachusetts who is going
21 to -- my understanding is not specifically address Perkins
22 confession and call it a false confession or render any
23 opinion about Perkins confession, but he's here for the
24 purpose, as I understand it, of educating the jury all about
25 the issue of false confessions.

1 MR. DUNN: And I would say that's correct, Your
2 Honor.

3 MR. BARFIELD: Now, at this point in this trial,
4 at this point in this trial, there is no evidence before the
5 jury that Perkins falsely confessed.

6 I do absolutely take the position that that issue
7 has to be on the record before Mr. Hirsch, the expert, would
8 be able to present any relevant testimony. They have got to
9 get before the jury some evidence of a false confession.

10 They are attempting -- they are in a pickle, but I
11 didn't make the pickle. They are in a pickle, because
12 the -- you know, the most logical way to do it is to have
13 Casey Perkins climb on that witness stand and say yeah, that
14 was me and I said all that stuff, but I said it because of
15 this, or that, or the other, and it's all false. He's got
16 the absolute right not to do that and I can't compel him to
17 do that and don't seek to compel him to do that, but this is
18 a back door effort to get that into the record without my
19 ability to cross-examine him and it's not fair.

20 Now, the rule, I submit, 803(4) has a purpose and
21 it's not to present substantive evidence of a defense in a
22 case. It is to allow doctors to come to court who have
23 examined folks and reached diagnoses, to be able to quote
24 the patient concerning information provided by the patient
25 to allow the doctor to make the diagnoses.

1 If this were a McNaghten Hearing and we were -- if
2 it were a hearing -- if it were an insanity defense case and
3 Dr. -- I can't pronounce his name, were here to testify that
4 Casey Perkins was insane when this crime occurred, then
5 certainly he would be allowed to say Casey Perkins told me
6 all this stuff, but that's not what we are here for. The
7 whole reason that information is sought to be introduced is
8 to create a defense in this case, which I have no ability at
9 all to cross-examine. It subverts the purpose of the rule.

10 MR. DUNN: He certainly has --

11 THE COURT: Just hold on one second. I'm reading
12 now footnotes two of that rule, and Rule 4 is the one I'm
13 talking about, and -- I haven't read the entire case, of
14 course. I'm looking at Gentry v. Watkins-Carolina Trucking,
15 a 1967 South Carolina case. And it says -- it seems to
16 support the position just stated by the solicitor.
17 "Statements of present condition and past symptoms made to a
18 physician consulted as a potential witness are admissible,
19 not as substantive evidence, but in the absence of fraud or
20 bad faith, as information from which the physician relied on
21 in reaching a professional opinion."

22 All right. I just -- I hadn't read the case. I
23 just saw that note.

24 MR. BARFIELD: And let me say one more thing about
25 that. I gave you an example with the doctor coming here to

1 testify in a McNaghten Hearing. He is, in fact, an M.D.,
2 which makes him a physician. I don't entirely concede that,
3 because he's a psychiatrist and an M.D., that this makes it
4 a statement given for medical purposes. The court might
5 disagree with me on that, but I haven't really conceded
6 that. I think this is a statement given for a mental health
7 diagnosis, which I distinguish from a medical diagnosis.

8 Your Honor, I, just as a novel argument, I would
9 point the court's attention to Rule 804(a)(1).

10 THE COURT: Which one?

11 MR. DUNN: 804(a)(1).

12 THE COURT: All right.

13 MR. DUNN: It's the rule concerning the
14 unavailability of a witness or a declarant. It says here
15 that -- these are exceptions to the hearsay rule. Number
16 one says "is exempted by ruling of the court on the ground
17 of privilege from testifying concerning the subject matter."

18 My argument to that would be that my client has a
19 privilege of the Fifth Amendment not to have to take the
20 stand.

21 MR. BARFIELD: I agree wholeheartedly with that.
22 I think 804, the unavailability is clearly there, but 804
23 deals with hearsay exceptions when a witness is unavailable,
24 and I don't believe that any of those exceptions apply to
25 the information being sought to be introduced to this jury.

1 The only one that's even close against statement
2 against interests under paragraph (b)(3), and clearly what
3 he's fixing to put into evidence, if it gets in, is not a
4 statement against his interests. His statement is
5 exculpatory.

6 MR. DUNN: What I'm looking for, and I'm sure on
7 cross-examination non-exculpatory information will come in.

8 MR. BARFIELD: I'm not trying a McNaghten report.
9 I'm not going to -- Mr. Zamore is not the person that I
10 questioned about the contents of a McNaghten report. I
11 don't think Mr. Zamore testifies in this case, if that's the
12 only purpose he is here for. And, therefore, I don't
13 believe Mr. Hirsch testifies in this case, if that's the
14 only purpose he's here for. That's another issue we'll deal
15 with after awhile.

16 THE COURT: Let me sort all of this out, Mr. Dunn.
17 Aren't there a series of cases dealing with out-of-court
18 exculpatory statements --

19 MR. DUNN: I'm sure there are, Your Honor.

20 THE COURT: -- as being inadmissible?

21 MR. DUNN: Off the top of my head --

22 THE COURT: They are similar to that particular
23 rule, but my recollection is -- I'm looking for it now.
24 804(b) -- 804 -- I'm looking at a case that I think
25 discusses it to some extent.

1 My recollection is that the exculpatory statements
2 are inadmissible, unless potentially made before the
3 declarant had any reason to think that there might be an
4 issue concerning the statements or when somebody who is not
5 a suspect and makes an exculpatory statement that might be
6 admissible, once someone is. Aren't there a series of cases
7 that deal with that issue?

8 MR. DUNN: To be honest, Your Honor, my brain is
9 so mushy right now, I couldn't tell you. Friday afternoon,
10 my brain is just mush.

11 MR. BARFIELD: Your Honor, while you are punching
12 buttons, let me state this to you. Clearly I called a lot
13 of witnesses to testify about a lot of things Casey Perkins
14 said, which were deemed admissible by the court, but I was
15 very careful in my introduction of that information to limit
16 it to things that were incriminating, not exculpatory. I
17 didn't put a bunch of exculpatory stuff that Perkins said in
18 the record of this case, on purpose.

19 MR. DUNN: There is at least certainly one item is
20 exculpatory, Your Honor, and that was his first statement
21 given on August 27th.

22 MR. BARFIELD: Well, I don't take that as
23 exculpatory, because he puts himself around the scene of the
24 crime. He puts himself at a neighbor's house and leaving at
25 ten o'clock and going to the next door neighbor's house and

1 being there until 1:30 and then leaving. It puts him in the
2 area near the scene of the crime, and I don't think that's
3 exculpatory. It's circumstantially incriminating.

4 MR. DUNN: Your Honor, I would point the court's
5 attention to State v. Jackson, which I'm trying to look for
6 a cite here, 265 S.C. 278. It has the idea that, yes,
7 normally non-exculpatory evidence is not admissible.
8 However, when part of a conversation is put into evidence,
9 an adverse party is entitled to prove the remainder of the
10 conversation, so long as it is relevant; i.e., we may get
11 some of this information that's helpful, but there is
12 certainly -- like I said, the rest of that conversation
13 should come in too that was held that day.

14 MR. BARFIELD: But that envisions calling --

15 THE COURT: That's plain conversation, right?

16 MR. BARFIELD: Yeah, but that envisions me calling
17 somebody to testify about the good stuff for me out of that
18 report and him calling -- asking the same witness about the
19 good stuff for him out of that report.

20 THE COURT: That's what I would say.

21 MR. BARFIELD: He can't play both sides of that
22 coin.

23 MR. DUNN: Well, it's a conversation. I'm not --

24 THE COURT: Isn't that what that case is talking
25 about?

1 MR. DUNN: A conversation I meant.

2 MR. BARFIELD: If I pull out a nugget for me, he's
3 got the right to pull out the nuggets for him, and he ain't
4 talking about that.

5 THE COURT: All right. We will be at ease for a
6 couple of minutes.

7 MR. BARFIELD: Thank you, judge.

8 (Whereupon, proceedings were recessed)

9 (Whereupon, proceedings were reconvened)

10 THE COURT: All right, one at a time.

11 Any further argument on the issue of Mr. Zamore
12 testifying about what he heard the defendant say when he was
13 being examined at the Department of Mental Health?

14 MR. DUNN: Not from the defense, Your Honor.

15 THE COURT: Anything else?

16 MR. BARFIELD: Nothing from the State.

17 THE COURT: Defense argues that it's admissible
18 under 608(4), and --

19 MR. DUNN: 803, Your Honor. I don't remember
20 stating 608. Maybe I did.

21 THE COURT: I think it's from 803, though.

22 MR. DUNN: It would have to have been 803, Your
23 Honor. That's the hearsay rule.

24 MR. BARFIELD: 803(4).

25 MR. DUNN: (4).

1 MR. BARFIELD: (3), (4), and --

2 MR. DUNN: Yeah, and 804, Your Honor.

3 MR. BARFIELD: 803, paragraph (3) and (4), and
4 804? --

5 MR. DUNN: Paragraph (a)(1).

6 MR. BARFIELD: -- (A)(1), but that's simply the
7 definition of unavailability. He didn't cite the specific
8 exception under the unavailability exception.

9 MR. DUNN: (A)(1) is an exception.

10 MR. BARFIELD: No, not in and of itself. It just
11 says these exceptions apply to witnesses unavailable. It
12 defines unavailability. You didn't cite an exception under
13 that rule.

14 MR. DUNN: Well, paragraph (1).

15 MR. BARFIELD: That's not an exception. It's just
16 a definition of unavailability.

17 MR. DUNN: 804 is the general rule, I think. I
18 don't think it's going to matter.

19 THE COURT: I don't think the statement is
20 admissible under either, or any, or all of the above.

21 MR. DUNN: Does that mean -- for clarification,
22 Your Honor, even if I called Dr. McCauley to testify, that
23 means he can't testify?

24 THE COURT: That would be true. Even if the
25 doctor were present, it would be my opinion and rule that

1 under (4), it's left to the discretion of the court.

2 And on -- and on 803(3), I don't think it applies.

3 MR. DUNN: All right.

4 THE COURT: And the other one was 804(1).

5 MR. DUNN: It would have to be (b)(3), I would
6 reckon.

7 THE COURT: 804(b). Was it (3), Mr. Dunn? I'm
8 sorry. I'll look at that again.

9 MR. DUNN: It's going to have to be, Your Honor.

10 THE COURT: Statement against interests?

11 MR. DUNN: Yeah.

12 MR. BARFIELD: And I would argue clearly it's not
13 against interests. It's exculpatory, clearly.

14 THE COURT: The court agrees. It's excluded under
15 that one also, or finds that does not exclude it and admit
16 it.

17 MR. BARFIELD: May I have that back, or does the
18 court need a copy of that for any purposes?

19 THE COURT: You probably do.

20 MR. BARFIELD: There is probably the original of
21 this report in the clerk's file. McNaghten should be in the
22 file.

23 MR. DUNN: We never made it an issue or never it
24 made it a court exhibit, but the Blair Hearing is.

25 MR. BARFIELD: It needs to be in the record, I

1 think.

2 THE COURT: It does. I thought it was. It's not.

3 MR. BARFIELD: We will get a copy.

4 MR. DUNN: Here is the certified original, Your
5 Honor. Will that work?

6 MR. BARFIELD: I think it probably ought to
7 specifically highlight the testimony that was going to be
8 brought.

9 THE COURT: Or identify it on the record as being
10 on page such and such.

11 MR. DUNN: I'll do that, Your Honor.

12 What page is that, Doug?

13 MR. BARFIELD: Page 9 of the report, the first
14 full paragraph.

15 MR. DUNN: Page 9, first full paragraph, Mr.

16 Perkins was questioned about his statement to the police,
17 and it goes down through the end of that paragraph.

18 THE COURT: All right. It's my understanding that
19 is the --

20 MR. DUNN: Conclusion number two.

21 THE COURT: That's the testimony that the defense
22 would propose?

23 MR. DUNN: That was the testimony that was fixing
24 to propose, Your Honor.

25 THE COURT: With Mr. Zamore? With Mr. Zamore

1 and/or the physician, as I understood it?

2 MR. DUNN: Yes. If I wasn't with Mr. Zamore, I
3 was going to make a motion for the physician.

4 MR. BARFIELD: And I have stipulated that the
5 court consider the issue as if the doctor were here to
6 testify.

7 THE COURT: Correct.

8 (Court's Exhibit No. 12 marked for identification)

9 THE COURT: What's next, folks?

10 MR. DUNN: Even despite the -- and I'm not going
11 to argue this motion, because Mr. Jordan is going to handle
12 the cross -- the direct examination. I'll let him stand up
13 here. Our next witness is going to be Alan Hirsch, which I
14 understand is going to be opposed by the State.

15 ~~MR. BARFIELD: Adamantly.~~

16 MR. DUNN: He's an expert in the area of false
17 confessions and interrogation -- false confessions and
18 interrogation, but, Your Honor, I would concede the floor to
19 Mr. Jordan. He's handling the examination.

20 MR. JORDAN: I beg the court's indulgence.

21 (Off the record)

22 (Back on the record)

23 MR. JORDAN: Your Honor, the defense would call
24 Alan Hirsch.

25 MR. BARFIELD: Your Honor, I mean, I certainly

1 can't object to them calling the witness, but I think the
2 whole issue is whether he should be allowed -- I know this
3 is a proffer and -- I know what he's here for, and I know
4 what his CV says, and I know what his area of expertise is.
5 I have read his literature. I know what he's here to say.
6 I'm not sure we have to hear him on the witness stand to
7 determine whether he should be allowed to testify.

8 MR. JORDAN: I disagree, Your Honor.

9 MR. BARFIELD: Let me state my position very
10 quickly and then I'll sit down.

11 MR. JORDAN: I understand the solicitor's
12 position.

13 MR. BARFIELD: The court might not.

14 There, again, is no evidence in the record of this
15 ~~case that the confession given by Casey Perkins is false.~~

16 And I'm anticipating, absent the testimony of Casey Perkins,
17 which they certainly can do, that there will be no evidence
18 in the record that the confession of Casey Perkins is false.

19 This witness is here to educate the jury about
20 false confessions. His testimony would be irrelevant,
21 because there is nothing for the jury to consider about
22 false confessions in this case. And the rule on experts
23 clearly says that an expert can testify if his knowledge is
24 above theirs and he can help the jury decide an issue.
25 There ain't no issue.

1 MR. JORDAN: Your Honor, if there was no issue, we
2 wouldn't be here today. By his pleading not guilty, that
3 certainly puts all these issues into play. And if he had
4 accepted this statement, we wouldn't be here today. He's
5 clearly not accepted the validity of that statement. He's
6 contesting it. He pled not guilty. He has a right not to
7 testify, but he's put all that into play. Simply I --

8 THE COURT: Mr. Jordan, where is it -- let's pick
9 apart what the solicitor is saying. He is saying there is
10 no evidence that the confession was false. So I guess what
11 I'm really asking for is, okay, how do you counter that?

12 MR. JORDAN: Well, Your Honor, first of all, there
13 was several statements that the solicitor put in by Mr.
14 Perkins where he said "I didn't do it." Okay.

15 He then put in this lengthy statement where, I
16 don't know, five, six, seven versions of "I did it, give me
17 the death penalty."

18 He's here today, Your Honor, with a trial,
19 pleading not guilty. I certainly think -- I think that that
20 puts all of these issues in play.

21 Your Honor, specifically, and I know this doesn't
22 have any precedential value, but I'll tell you that in a
23 case, a similar case up in York County, Judge Hayes in the
24 Cole case, which I have a transcript, where Dr. Cason was
25 admitted as an expert on this very issue. Phil Baity was

1 the defendant's attorney, and there had been no testimony
2 that it was a false confession. And the court said "I
3 understand that, but I believe a plea of not guilty at least
4 puts all those issues into play and it simply places the
5 burden on the State to prove him not guilty of these beyond
6 a reasonable doubt."

7 And I would submit to you that the fact that there
8 had been numerous statements that are inconsistent, the fact
9 that he's here today and he's pleading not guilty, he's
10 going through the trial process, Your Honor, certainly that
11 is an issue. He is contesting that statement, and I think
12 we have a right to go into, with our witness, the realm of
13 false confessions and educate the jury on those.

14 THE COURT: I'm reading State v. Myers, a case in
15 ~~which that was an issue as to whether or not testimony of an~~
16 expert should have been admitted concerning false
17 confessions.

18 MR. JORDAN: Your Honor, I believe that's a case
19 where Dr. Cason was admitted as an expert. And if I recall
20 correctly, they don't specifically address this issue
21 whether or not --

22 THE COURT: Let me look at that case.

23 MR. JORDAN: I have a copy of it here, Your Honor.

24 THE COURT: I'm reading it right now.

25 Well, now the court kept -- the court was the

1 same, the court did not allow the testimony, isn't that
2 correct? Are we talking about the same case?

3 MR. JORDAN: In Myers, they do.

4 ALAN HIRSCH: Your Honor?

5 MR. JORDAN: Beg the court's indulgence.

6 (Off the record)

7 (Back on the record)

8 MR. JORDAN: Your Honor, my reading of the case
9 that they allowed the testimony, but they limited the scope
10 of his testimony.

11 THE COURT: Okay. Let met just finish reading it
12 now.

13 (Off the record)

14 (Back on the record)

15 MR. JORDAN: It says --

16 THE COURT: Let me finish reading it.

17 MR. JORDAN: I'm sorry.

18 (Off the record)

19 (Back on the record)

20 THE COURT: I have read the case.

21 Now, where were we? Who was talking? Who was
22 arguing?

23 The solicitor objects --

24 MR. BARFIELD: Yes.

25 THE COURT: -- On the grounds there is no evidence

1 on the issue about which the expert will testify.

2 Mr. Jordan, you are saying that because there were
3 inconsistencies in the statements given, that that raises
4 the question?

5 MR. JORDAN: Your Honor --

6 THE COURT: Respond.

7 MR. JORDAN: -- if I may?

8 THE COURT: Yes.

9 MR. JORDAN: It would be our argument that the
10 validity of the confession is up to the trier of the fact.

11 With regard to the Myers case, I don't think that
12 specific issue came up as to whether or not there had been a
13 recanting of a confession before, but with regard to Dr.
14 Cason's testimony, he was allowed to testify about the
15 ~~psychological -- about the psychology of the confession, of~~
16 the false coerced confession, but he limited him on
17 testifying about specific case cites. I think that's the
18 question the court had.

19 But the issue before the court is whether or not,
20 absent -- the solicitor objects because Mr. Perkins hasn't
21 taken the stand and said, you know, "this confession was
22 false," that we shouldn't be allowed to bring in our expert
23 on false confessions. And I would submit that there has
24 been inconsistent testimony. He denied it in some of the
25 statements, and then, of course, the other. But the fact

1 that he is here today, the fact that he is pleading not
2 guilty, and the fact that the trier of the fact has to
3 determine if it was not a confession, the validity of the
4 confession, I think that all that puts it at issue and we
5 should be allowed to go into this area.

6 We are not going to be going into specifics of
7 this particular confession. Our goal with Mr. Hirsch is to
8 merely go into false confessions generally. We are not
9 going to go into specifics on this particular one.

10 THE COURT: Well, there is one difference is that
11 in the Myers case, the expert did go into the specifics of
12 that confession, didn't he? In other words, the expert in
13 that case reviewed the videotaped confession --

14 MR. JORDAN: I think he did.

15 THE COURT: -- And offered an opinion about why it
16 was coercive in nature.

17 MR. BARFIELD: And that is my next big problem.
18 We are going to have presumably jury argument at the end of
19 this case from the defense that he falsely confessed, after
20 the jury has heard an expert witness get on the witness
21 stand and tell them all about false confessions without
22 rendering any kind of an opinion about this confession. It
23 confuses the jury, because it gives them the opportunity to
24 reach conclusions about issues that theoretically have not
25 been addressed, other than thrown up there as smoke and

1 mirrors.

2 MR. JORDAN: Your Honor, Rule 702 provides that
3 "if scientific, technical, or other specialized knowledge
4 will assist the trier of fact to understand the evidence or
5 to determine a fact at issue, then a witness qualified as an
6 expert by knowledge, skill, experience, training, or
7 education, may testify thereto in the form of an opinion or
8 otherwise."

9 And, of course, it's our position that his
10 testimony would assist the trier of fact to understand the
11 evidence or to determine a fact in issue, and that fact
12 would be whether or not this particular confession or
13 statement is out there. And I think that's ultimately for
14 the trier of fact to decide.

15 THE COURT: All right, solicitor, I'm going to
16 overrule the objection and I'll permit the witness'
17 testimony.

18 MR. BARFIELD: I do object to the qualification of
19 the witness, so we are going to need to do that next.

20 THE COURT: All right. Well, counsel, do you want
21 to do that in-camera?

22 MR. BARFIELD: I think it probably should be.

23 THE COURT: What about it, Mr. Jordan?

24 MR. JORDAN: Your Honor, that's probably the best
25 way to do that. If he's going to object, I think we should

1 do it outside the presence of the jury.

2 THE COURT: Go ahead.

3 MR. JORDAN: Unfortunately we will have to do it
4 again in their presence.

5 THE COURT: All right. Go ahead and swear the
6 witness.

7 THE CLERK: State your full name.

8 THE WITNESS: Alan Hirsch.

9 ALAN HIRSCH, having been first duly sworn,
10 testified as follows:

11 MR. JORDAN: May it please the court?

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION BY MR. JORDAN:

14 Q. Will you state your full name, please?

15 A. Alan Hirsch.

16 Q. Okay. You are going to have to speak up so that the --

17 A. Alan Hirsch.

18 Q. Okay. And where do you live?

19 A. In Williamstown, Massachusetts.

20 Q. And what's your profession?

21 A. I am a visiting assistant professor at Williams
22 College.

23 Q. And Williams College is located where?

24 A. In the northwest corner of Massachusetts right next to
25 Vermont and New York.

1 Q. And what do you teach there?

2 A. Legal studies.

3 Q. Can you give me an example of what you teach in legal
4 studies?

5 A. Usually law. It's law for undergraduates.

6 Introduction to legal studies, which exposes students to all
7 aspects of the legal system, and I also teach senior
8 seminar, which is a course on law and other disciplines.

9 Q. And can you tell the court your educational background,
10 please?

11 A. Yeah. I graduated from Amhurst College in 1981, and
12 Yale Law School in 1985.

13 Q. And can you briefly go through your work history, if
14 you would?

15 A. Sure. After graduating from law school, I worked as a
16 law clerk for a judge on the United States Court of the
17 Appeals for the Third Circuit for one year.

18 I worked a few years as a court attorney for a state
19 court judge in New York in criminal and family court.

20 I spent several years at the Federal Judicial Center in
21 Washington as a senior attorney/writer.

22 And for roughly the last fifteen years, or so, most of
23 my law-related work has been teaching and writing about the
24 law and working as a trial consultant.

25 MR. JORDAN: Your Honor, I would like to mark this

1 for identification at this point until Your Honor makes a
2 ruling on it.

3 This would be Defense Exhibit No. 4 for
4 identification.

5 (Defense Exhibit No. 4 marked for identification)

6 BY MR. JORDAN:

7 Q. Mr. Hirsch, I show you what's been marked as Exhibit
8 No. 4 for identification. Would you tell me what that is?
9 What is that document?

10 A. This is my curriculum vitae.

11 Q. Okay. And I believe it indicates that you have been
12 consulted approximately twenty-one times?

13 A. It's out of date. The number is now actually
14 twenty-four.

15 Q. Is there anything else that needs to be changed about
16 your curriculum vitae?

17 A. I don't think so.

18 Q. Okay.

19 A. I think it's otherwise about right.

20 Q. Okay. And if you would just briefly go through in a
21 little more detail the law-related work that has acquainted
22 you with the American -- the America's Criminal Justice
23 System?

24 A. In general, it's the work I described, clerking for two
25 judges, teaching about the law in an interdisciplinary

1 fashion. I started to mention that the senior seminar at
2 Williams has to be law and, so I will teach law and
3 philosophy, law and psychology, law and art.

4 In the last five years, or so, I have devoted most of
5 my energy at the issue of false confessions in various
6 capacities, which I would be happy to describe.

7 Q. If you would.

8 A. Yeah. I have written quite a lot in the area both in
9 scholarly journals and mainstream publications.

10 I started the first website devoted to the subject and
11 I still maintain and operate and regularly post on that
12 website.

13 And I have indicated, I serve as a consultant and/or
14 witness and have done that quite a bit.

15 Q. Okay. Now, you say that you have spent most of your
16 time for the last five years studying false confessions?

17 A. Studying and writing about it and consulting on it.
18 Studying and contributing to the field.

19 Q. When you say studying about it, what do you mean by
20 that?

21 A. There is an extensive literature on false confessions,
22 literally dozens of books and articles. And in order to
23 contribute to that literature, which I have been determined
24 to do, and in which I have done, you have to be intimately
25 acquainted with that literature.

1 Q. Okay. And are you, in fact, intimately acquainted with
2 that literature?

3 A. Yes, I am.

4 Q. And you have written on the subject on false
5 confessions?

6 A. That's correct.

7 Q. And can you just inform the court on what you have
8 published on the issue?

9 A. Sure. In 1985, I published two pieces. At the moment
10 I'm just sticking to scholarly journals; one in Howard Law
11 Review, one in North Dakota Law Review.

12 The one in North Dakota Law Review pertained to DNA
13 exonerations and how matters were dealt with thereafter.

14 The one in Howard Law Review was more directly
15 grappling with what my principle area of concentration.
16 Although I do write about all areas of false confessions,
17 I'm particularly interested in the interrogation methods
18 known to correlate with them. And my piece for Howard Law
19 Journal delves into that.

20 I have subsequently wrote, in 2007, Berkeley's Criminal
21 Law Journal published a piece of mine relating to a
22 different aspect of false confessions.

23 And I have also been published primarily on
24 interrogation methods and false confessions in the Los
25 Angeles Times and Legal Times.

1 Q. And you mentioned that you had a website that's devoted
2 to false confessions?

3 A. That's correct.

4 Q. What's the name of the website?

5 A. Truth About False Confessions.Com.

6 Q. And specifically what do you do with that website?

7 A. I use that website as a vehicle to try to educate the
8 bar and the public about false confessions. So I am -- I
9 mean, there is a fashion in which people can get background
10 information. There is recommended literature. There are a
11 number of permanent links, but I'm also posting on an
12 ongoing basis, at least once a week, it used to be more, on
13 all aspects of false confessions; issues related to it,
14 recent cases, new literature, and so forth.

15 Q. And do you, in fact, keep up on new literature and on
16 recent cases, all that?

17 A. All that, yes, sir.

18 Q. Okay. And, in fact, was your website listed by the ABA
19 as a leading criminal law website?

20 A. Yeah, they actually put it as number one in their list
21 of top criminal law of websites in 2007.

22 Q. And you indicated, I believe, that you have been
23 retained on approximately twenty-four cases?

24 A. I think it's exactly twenty-four.

25 Q. And what area were you asked to consult or be an expert

1 witness in?

2 A. False confessions in general, but with an emphasis on
3 the interrogation methods known to correlate with them.

4 Q. And does that include both interviews and
5 interrogation, or does that --

6 A. Yeah, that would all be part of the Reid Method, which
7 is the umbrella method which I'm typically familiar with.

8 Q. And we have heard some testimony about the Reid Method
9 and the difference between interviews and interrogations.
10 Can you tell the court a little bit about the Reid Method
11 and --

12 A. Sure.

13 Q. -- what that involves?

14 A. Sure. The Reid Method typically is a two-part process,
15 the first part of which is where the detectives or
16 interrogators are trying to assess whether the person they
17 are talking to - call them a suspect at that point - is, in
18 fact, someone guilty, and so they are eliciting information,
19 typically in a congenial environment.

20 The interrogation commences when they have determined
21 that someone is, in fact, guilty. And at that point they
22 typically subject him to a multi-step process, but I think
23 you can summarize it as three principle steps. Would you
24 like me to briefly --

25 Q. Yes, sir.

ALAN HIRSCH - DIRECT BY MR. JORDAN

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1 A. -- cover that?

2 Isolation, confrontation, and minimization.

3 Isolation, as the name implies, entails putting the
4 suspect typically in a small windowless room, crafted for
5 precisely the interrogative process, by himself, not with
6 family, friends, or supportive environment. And assuming
7 he's waived his right to counsel, obviously without counsel.

8 And then the process is designed to break him down.
9 It's already been determined that he's guilty. That's what
10 the interview process was for. And the interrogators,
11 having decided that he's guilty, they attempt to break him
12 down primarily through a two-part process. They confront
13 him with evidence of his guilt, with certainty of his guilt.
14 They aggressively communicate the futility of denying guilt.

15 And this often involves presenting to him evidence, true,
16 and in some cases fabricated, designed to convey to him
17 there is no point in claiming you are innocent; you can't
18 convince us, you never will, we know you are guilty.

19 Often that is accompanied by a second component,
20 minimization, which is any of numerous means by which
21 they -- the interrogators attempt to convey to the suspect
22 that if he confesses, all will not be so bad. It may be by
23 suggesting there was justification for the crime,
24 mitigation, provocation, you need help rather than
25 punishment. There is a whole range of minimizing themes

1 that could be introduced. But the idea is if on the one
2 hand you threaten the defendant -- or, I'm sorry, the
3 suspect, you communicate certainty of his guilt and the
4 futility of denying it, and then you present to him that
5 there is a way out, that it might not be so bad if he
6 confesses, the idea is that that will break people down.
7 The problem with this method is that it works too well. It
8 really does break down the defendants. It really does
9 elicit confessions of guilty people, but also of innocent
10 people.

11 Q. You mentioned an article that you published for the
12 Howard Law Journal?

13 A. Uh-huh.

14 Q. Can you elaborate a little more specifically on that?

15 A. Yes, that was an effort to give an historical context
16 for the Reid Method, so I went back and looked at two
17 hundred years worth of interrogations in America, my
18 hypothesis being that we could learn from things that were
19 accepted as true a long time ago that subsequently had
20 ceased to be. So, for example, in the 19th Century there
21 was strong law outlawing statements which had been preceded
22 by even the slightest implications of promises or the
23 slightest threats. And that was, in part, because out of a
24 legacy of slavery, and I talk about all that, and I talk
25 about what we have learned about interrogative conditions in

1 the 20th Century and how in certain respects they resemble
2 those of an earlier era.

3 So, in any case, as I say, it's an attempt to give an
4 historical context for the Reid Method.

5 Q. Have you worked for both prosecution and defense?

6 A. I have.

7 Q. And have you been called to testify in court as an
8 expert-consulted witness?

9 A. I have.

10 Q. And which courts have you been qualified as an expert?

11 A. Montana, Kentucky and Massachusetts.

12 Q. And what area were you called to qualify?

13 A. False confessions and interrogations.

14 Q. Is the area of false confessions a recognized field of
15 study?

16 A. Oh, absolutely, yeah.

17 Q. And --

18 A. I could give examples of that, or --

19 Q. If you would.

20 A. For example, the American Psychological Society has a
21 quasi official publication and they will devote each issue
22 to a single topic, and they recently invited experts in the
23 field to devote the entire issue to false confessions.

24 The American Psychological Association has submitted
25 amicus briefs in cases, drawing on the literature of false

1 confessions. So I think at this point it's well accepted in
2 the social science area.

3 Q. There is extensive literature to shed knowledge in this
4 area?

5 A. Yes, indeed.

6 Q. Can you tell me a few of the leading publications?

7 A. Sure. I can tell you some that I find most valuable.
8 A 1990 book by Professor Kassin and Professor Wrightsman
9 called Confessions in the Courtroom gave a topology of false
10 confessions, different categories of false confessions. I
11 think that has held up to this day as a seminal work.

12 Some years later Professor Kassin performed a
13 laboratory experiment which helped establish the way
14 confrontation can produce false confessions.

15 ~~Richard Leo has conducted observational studies in~~
16 which he has literally observed interrogators to see which
17 aspect of the Reid Method they use and how frequently.

18 He and Richard Ofshe have written a few articles about
19 decision theory, explaining why confessing falsely can
20 actually be a rational decision, even if a foolish one.

21 More recently there was a study on minimization in
22 2005. Professor Kassin and Gisli Gudjonsson, who is a
23 British expert, written a terrific summary on all of these
24 issues in the literature. Professor Gudjonsson has written
25 a handbook, which is five hundred pages, really the Bible in

1 this area, just a compendium of all the knowledge in this
2 area.

3 And in 2004, there was a very important study by
4 Professor Leo and Professor Stephen Drissen published in the
5 North Carolina Law Review, which documents that 125 proven
6 false confessions and explains why experts in the area are
7 nearly unanimous, and this is just the tip of a large
8 iceberg.

9 Q. And --

10 A. Anyway, there is obviously much larger literature than
11 that and I feel I have contributed to it, but those are a
12 handful of works that I think are seminal.

13 Q. And you are intimately familiar with these?

14 A. All of the above, yes, sir.

15 Q. And you have contributed to them?

16 A. Indeed, sir.

17 Q. What do you do to keep current on the false confessions
18 and interrogations?

19 A. Staying on top of the literature. Just frequently
20 checking, whether there is -- I mean, I'm now at the point
21 where I'm in the loop. So if there is something new that's
22 written or a new case that comes down, I'm likely to have
23 someone send it to me. But just in case not, I'm checking
24 Lexis, Nexus, Westlaw periodically and so forth.

25 Q. Today you would be offering testimony not as to

1 particulars of Mr. Perkins, is that correct?

2 A. That's correct.

3 Q. What would you be offering testimony on today?

4 A. I would offer knowledge on what is known about false
5 confessions, in particular, their surprising frequency, and
6 the interrogation methods known to correlate with them; and
7 the topology, the categories of false confessions.

8 Q. And how would that testimony assist the trier of fact,
9 assist the jury?

10 A. Obviously I'm biased on this, but I think it would be a
11 defense, or I wouldn't have come from Massachusetts to offer
12 it.

13 I think that this is a very counter-intuitive area.
14 Lay people, and even people in the Criminal Justice System,
15 tend to assume that when a person confesses, it must be
16 true. And it's invaluable for them to understand that,
17 well, not necessarily, there are people who confess falsely
18 and there are certain interrogation conditions which tend to
19 bring out false confessions. That obviously would not be to
20 state an opinion at all as to this particular case, which
21 would be for the jury to decide.

22 Q. Okay. I know we have gone over your qualifications and
23 I'm just going to ask you again, how are you qualified to
24 render an opinion on false confessions?

25 A. Well, I'm not going to. I'm simply going to avoid

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1 evaluating the reliability of this particular confession, so
2 the jury can decide all that, they would have heard all the
3 evidence, but I'm qualified to talk about background
4 information about false confessions and interrogation
5 methods, because I have spent the better part of five years
6 reading about it, writing about it, learning about it,
7 thinking about it, testifying about it.

8 Q. The literature and studies on false confessions, you
9 found those to be reliable and helpful in your --

10 A. Enormously helpful. I mean, obviously some are better
11 than others. We are always trying on refine the knowledge
12 in the area, but a tremendous amount has been learned on the
13 subject. I think that no one would disagree with that.

14 MR. JORDAN: Your Honor, we would offer Mr. Hirsch
15 as an expert witness on false confessions, with an emphasis
16 on interrogations.

17 THE COURT: Thank you, Mr. Jordan.

18 Solicitor.

19 CROSS EXAMINATION BY MR. BARFIELD:

20 Q. Mr. Hirsch?

21 A. Yes, sir.

22 Q. Do you -- I'll give you a scenario, a hypothetical. If
23 I'm a school teacher and I spend the next five years of my
24 life reading transcripts of and opinions concerning capital
25 murder cases, would that make me an expert in capital

1 litigation?

2 A. Just reading about it?

3 Q. Yes.

4 A. Probably not.

5 Q. Have you done any studies yourself? Have you done
6 anything other than read?

7 Well, let me back up. Are you a medical doctor?

8 A. No, sir.

9 Q. Are you a psychiatrist?

10 A. No, sir.

11 Q. Are you a psychologist?

12 A. No, sir.

13 Q. Are you a sociologist?

14 A. No, sir.

15 Q. Are you a mental health professional?

16 A. No, sir.

17 Q. You're a lawyer, just like me?

18 A. I'm a lawyer who has devoted myself to making myself
19 expert in a particular slice of the social scientific world,
20 and I believe that those who do have some of those degrees
21 would be the first to say that I have an expertise in this,
22 in that particular slice of social science, which exceeds
23 that of virtually all of the people who have some of those
24 degrees.

25 Q. Now, back to my question again.

1 A. Your hypothetical school teacher, if all she did was
2 read, I would say it was not expert, although she might be
3 expert in a certain lay sense. She might be extremely
4 knowledgeable about it.

5 Q. You have written, is that correct?

6 A. That's correct.

7 Q. And the knowledge that you gain to enable you to write
8 came from reading, is that correct?

9 A. Not exclusively. At this point I also have knowledge
10 gleaned from twenty-four cases in which I have been
11 intimately involved in all aspects of the process.

12 In addition, I worked with Professor Kassin quite
13 sometime before I developed my own area of expertise, so
14 there was a fair amount of consultation and discussion with
15 other experts in the area, so I wouldn't say it's just a
16 matter of reading.

17 Q. Well, let's go to Professor Kassin for a minute. He
18 is, in fact, a Ph.D., is that correct?

19 A. That's correct.

20 Q. And he is a sociologist, is that correct?

21 A. No, he's a psychologist. But, again, I would point
22 out, if I may anticipate, and tell me I'm cutting you off
23 prematurely, he is a psychologist and he is a psychologist
24 who is probably the leading psychologist in this area. And
25 if you go to his website, you will see that he recommends me

1 as a false confessions expert. He recommends --

2 Q. But he is not here today, though, to do that?

3 A. That's true, but you could look at his website. It's
4 right there. It doesn't lie, and he refers cases to me. He
5 works with me, and he refers people to my website as well.
6 So I think he would be the first to agree that the fact that
7 I don't share his degree is not remotely decisive on my
8 expertise, which is also a conclusion the courts have
9 shared.

10 Q. His area of expertise is that he is a social -- he's an
11 expert in social psychology, is that correct?

12 A. He's a social psychologist who is an expert in false
13 confessions and a few other areas as well.

14 Q. Well, I'm quoting you a South Carolina Supreme Court
15 opinion, State v. Myers. And the court --

16 A. Uh-huh.

17 Q. -- frames one of the questions as "did the court err in
18 ruling Dr. Saul Kassin an expert in social psychology."

19 I presumed the court ruled him an expert in social
20 psychology?

21 A. Yeah. I think it's a little imprecise, that they
22 probably ruled him an expert on false confessions and
23 interrogation. He is a social psychologist.

24 Q. Are you a social psychologist?

25 A. No.

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1 Q. Are you a sociologist?

2 A. I thought I have answered those questions.

3 Q. We have. I'm sorry. I shouldn't have asked it again.

4 I apologize.

5 A. That's okay.

6 Q. Have you done any studies yourself, meaning research,
7 other than reading -- and let me distinguish between two
8 kinds of research.

9 A psychiatrist gathers together a certain number of
10 people and studies them over a certain period of time.

11 A. Uh-huh.

12 Q. That's what I'm considering scientific research. My --
13 I have to do a -- write a brief for an appeal and I do legal
14 research by reading stuff that other people have read --

15 have written, and I compile that and give credit where
16 credit is due and write my own brief, based upon that.

17 A. Uh-huh.

18 Q. Have you done any of the former type of research that I
19 have just described?

20 A. No, but can I clarify, Mr. Barfield, that there are
21 fewer than a handful of laboratory studies on false
22 confessions.

23 Q. All right. I'm going to interrupt you. You can come
24 back. Which -- which creates a whole issue about whether
25 the area of false confessions is an area of expertise,

1 doesn't it?

2 A. Well, you are anticipating where I'm going.

3 What there is, though, is a plethora of other material
4 and it all comes together. And the reason that this is
5 increasingly accepted in courts around the country as an
6 area of false -- as an area of expertise, including in South
7 Carolina, is precisely that it isn't just this handful of
8 studies, which you are right, I have not conducted. Very,
9 very few experts have. It is also observational studies.
10 It is also empirical analysis of proven false confessions.
11 It is also legal scholars and social scientists probing all
12 kinds of other aspects of the question.

13 And the reason that the psychological community is
14 congealing around the consensus that this is a real area of
15 social scientific knowledge is precisely that it is all of
16 these different facets to it, and I have contributed to
17 some.

18 Q. Well, and all of these different facets again are the
19 work of other people, is that correct?

20 A. No, no, I have contributed as well.

21 Q. Well, tell me how you have contributed.

22 A. I'm sorry?

23 Q. Tell me how you have contributed to any of that.

24 A. Well, my article --

25 Q. Give me a specific example.

1 A. I think that we have covered this under direct, but
2 I'll be happy to repeat it.

3 My article for Howard Law Journal delves into
4 interrogation methods over two hundred years.

5 Q. Based upon -- I'm sorry?

6 MR. JORDAN: I would ask the solicitor to allow
7 him to finish his answer.

8 MR. BARFIELD: I will. I apologize.

9 A. That's okay. I'm interrupting you sometimes.

10 BY MR. BARFIELD: .

11 Q. I talk southern fast and you talk northern fast.

12 A. Based on probing historical records, legal cases, the
13 literature on false confessions, I pulled all this together
14 to shed light on the Reid Method and to contextualizing it
15 to see where it fit into an understanding that the American
16 Legal System and sociologists and psychologists have had
17 over a period of two decades. I think this is a real
18 contribution to the body of knowledge.

19 Now, certainly you can point to the fact that there are
20 other aspects of this body of knowledge that haven't been --
21 that I haven't contributed to. That would be true of
22 anyone. There is not a single one of the experts that I
23 have mentioned who contributes to all aspects of the
24 literature and the body of knowledge that is emerged by
25 false confessions. We each have our niche to some extent.

1 Q. Is it accurate to say that all your writings have been
2 based upon your research, your paper research, of the work
3 of others?

4 A. No.

5 Q. Then give me an example of something that you have
6 written about that was your own original scientific work.

7 A. Well, I would say the work in Howard -- I mean, when
8 you say the writings of others, you are including unearthing
9 19th Century case law and legal commentary and other
10 materials like that? I mean, just about all research is
11 based on something that has preceded it.

12 Q. Well, we are talking about --

13 A. I would agree with you on the narrow point that I have
14 not conducted laboratory experiments. In that sense I have
15 not done original research. In that sense virtually no one
16 has, including a dozen people who have been qualified in
17 more courts than I have.

18 Q. Would you agree that the whole field of false
19 confessions is based on psychology?

20 A. No.

21 Q. What is it based on then?

22 You are talking about how people react to a particular
23 method of interrogation. Isn't that psychology?

24 A. There is no question it involves components of social
25 psychology, but I think it involves all sorts of other

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1 disciplines that you will point out I don't have degrees in,
2 but I think that to understand false confessions, you need
3 to understand sociology, you need to understand the legal
4 system and the legal protections it confers. You need to
5 understand and pull together a wide range of things. And I
6 believe -- I hope it's not too immodest to say one of the
7 reasons that I have emerged as someone people seek out in
8 this field is because to some extent I bring to it things
9 that some of the other experts don't, which would be my
10 intimate knowledge of the legal system.

11 MR. BARFIELD: Beg the court's indulgence for just
12 one minute.

13 THE COURT: Yes, sir.

14 (Off the record)

15 (Back on the record)

16 BY MR. BARFIELD:

17 Q. Of the twenty-four consultations that you have had,
18 first of all, I presume that you get paid for all of that?

19 A. Yes, sir.

20 Q. Would you agree that most of your living, since this
21 has been your passion for five years, is from your expertise
22 in the field of false confessions?

23 A. I would have to go year by year on my tax returns.

24 Q. Well --

25 A. I think --

1 Q. Generally speaking.

2 A. I'm not getting rich doing this, if that's what you are
3 getting at, but I think probably this year I made more than
4 fifty percent of my income doing it.

5 Q. All right. Do you know who Norton Cartwright is?

6 A. Yes, sir.

7 Q. And that was a case in your home state of
8 Massachusetts --

9 A. Yes, sir.

10 Q. -- that you were consulted on, is that correct?

11 A. That's correct.

12 Q. And you didn't get admitted to testify as an expert
13 beyond the proceedings we are going through similar here
14 today?

15 A. Well, not entirely correct. I was admitted in the
16 suppression hearing and testified, and it is -- I actually
17 do not even know the full outcome of that case. I'm under
18 the impression -- you might know more than I do, it sounds
19 like, to what's happened subsequently.

20 Q. Well, it ain't been to trial with you on the witness
21 stand, has it?

22 A. No.

23 Q. And you are not going to be allowed to testify on the
24 witness stand in your home state on that case, are you?

25 A. Well, I will just need to make two points. One, is

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1 that you -- honestly, I think seriously you may know more
2 than I do, but, two, is Massachusetts is actually a state
3 where I was even surprised that I was able to testify at the
4 suppression hearing, because that's a state where the
5 Supreme Judicial Council, equivalent of the South Carolina
6 Supreme Court, has ruled false confessions experts
7 inadmissible. So when I was contacted on that case, I told
8 the attorney "I'll be happy to consult, but you don't want
9 me as a witness because it will never be allowed." He
10 called me and he said "let's try it anyway," and lo and
11 behold, at the suppression hearing my testimony was
12 admitted. So you do have to go state by state. And the
13 fact is South Carolina is one of the majority of states, as
14 I understand it, which is more amenable than my home
15 state --

16 Q. About --

17 A. -- about false confessions. About false confession
18 testimony.

19 Q. About when was it that this proceeding took place? Do
20 you remember?

21 A. When I testified at the suppression hearing?

22 Q. Yeah.

23 A. If you will forgive me if I get this wrong, I'm not
24 going to swear to this, but roughly a year ago.

25 Q. Okay. And of the twenty-four consultations that you

1 have had, how many of them have been on behalf of a
2 defendant?

3 A. Twenty-three.

4 Q. What about that other? Tell us about that one.

5 A. Yeah. A rather high profile case in New York, a man
6 named Marty Pancliff, confessed to killing his parents,
7 served about twenty years. It was very controversial, was
8 reversed, but on a technicality, and the Attorney General's
9 Office in New York had to decide whether to retry him. And
10 I was consulted and retained by the Attorney General's
11 Office to help make that determination.

12 Q. And which way did it go?

13 A. What do you mean which way -- I got -- which way the
14 Attorney General's Office --

15 Q. What was your opinion in that case? To retry him or
16 not?

17 A. I'm not sure I'm at liberty to discuss the particular
18 advice that I gave counsel --

19 Q. Well, I'm not going --

20 A. -- unless ordered to by the court.

21 Q. Well, I'm not going to ask you for the particular
22 advice that you gave counsel in that case, but did you
23 conclude that the confession in that case was a false
24 confession?

25 A. I -- I want to be careful not to say anything I'm not

1 at liberty to say.

2 Q. You can say yes or no and that ain't a secret.

3 A. I do not opine about whether confessions are true or
4 false. I make a point of not doing that, because that's a
5 determination that can only be made by someone who has
6 seen all the evidence, which includes live testimony, which
7 I obviously didn't.

8 I can tell you that I concluded there were real reasons
9 to doubt the reliability of that confession. And I can tell
10 you I don't think it was necessarily because of me, but that
11 the Attorney General chose not to retry the case.

12 Q. And certainly I understand that was his decision, but
13 it is, therefore, safe to say, fairly accurate to say, that
14 you are 24 and 0 on the side of the defendant with your

15 consultations?

16 A. No, that's not true at all, sir. I don't score it that
17 way. There are no wins and losses, but if you are
18 suggesting that I have told twenty-four attorneys that I
19 thought the confessions were false or unreliable, that's
20 absolutely not true. I give an honest assessment and that
21 is in cases where I have told the attorney "I think this is
22 a reliable confession."

23 Q. Now, your testimony is that the general feeling
24 among -- in your literature says among juries and jurists
25 and everybody else is that it's hard for us to accept that

1 somebody would falsely confess?

2 A. I think there is a very widespread intuition that an
3 innocent person would not confess to a crime.

4 Q. Okay. That same group of people, juries and jurists
5 and lawyers and everybody else, we all know people lie?
6 That's common knowledge, is it not?

7 A. I believe so.

8 Q. And a false confession is, in essence, a lie, is that
9 correct?

10 A. It's a particular kind of lie that brings the
11 particular negative consequences.

12 Q. That's all. Thank you, sir.

13 THE COURT: Anything further on this issue?
14 Anything briefly on this issue.

15 ~~REDIRECT EXAMINATION BY MR. JORDAN:~~

16 Q. You mentioned that or called it a specific slice of
17 social scientific work?

18 A. Uh-huh.

19 Q. Which you are intimately --

20 A. Correct.

21 Q. -- knowledgeable and are qualified to render or to be
22 qualified as an expert?

23 A. That's right.

24 Q. You mentioned that there were lab studies that you had
25 reviewed and studied. Could you go into a few of those?

1 A. Professor Kassin, in 1996, had students at a liberal
2 arts college type data into a computer, into a keyboard, or
3 on a keyboard, and they thought they were being tested for
4 reflexes, or something of that sort. And unbeknownst to
5 them, they were -- well, what would happen is he told them
6 in advance that if they hit the wrong key, the system would
7 crash. At a certain point a confederate of the experimenter
8 would march in and tell the subject that "lo and behold, you
9 have hit the wrong key, the system has crashed." And
10 naturally the subject would deny it, because they hadn't.
11 And through a process of confrontation, that is an alleged
12 eyewitness, another confederate telling the person that they
13 had seen them hit the offending key, it was remarkable, I
14 suppose surprising, that 69 percent proceeded to confess.

15 But what was perhaps even more remarkable is a subset of
16 those, I believe 31 percent, gave details of the confession.
17 So they did what we call confabulation. They actually had a
18 distorted memory of the process, based on being confronted
19 with their certainty of the guilt -- of their guilt.

20 And by the way, just for the record, I think there are
21 flaws in that experiment. If that were the only piece of
22 evidence buttressing the notion that the Reid Method
23 produced false confessions, I would be a skeptic, but it
24 fits with a great deal of other knowledge that we have.

25 Q. And you mentioned observational studies and empirical

1 analysis?

2 A. Uh-huh.

3 Q. Can you just elaborate just briefly?

4 A. Yeah, sure. Well, for example, when Professors Drizin
5 and Leo found 125 cases of proven false confessions,
6 naturally we now have this database to look at these cases
7 to see what do they have in common, and they were able to
8 draw correlations. In a certain percentage of those cases
9 there was a lengthy interrogation; the Reid Method was used
10 quite a bit; the defendants were mentally retarded in a
11 certain number. And, you know, this is part of the slow
12 process of building a body of knowledge, but that body of
13 knowledge has become rather extensive.

14 MR. JORDAN: Your Honor, I obviously have more
15 ~~questions for him, if you render him to be qualified to give~~
16 an opinion, but if you would like me to go through those
17 now, I will, but we do offer him up as an expert in false
18 confessions with an emphases on interrogation.

19 THE COURT: Let me hear the solicitor's position
20 on it.

21 MR. BARFIELD: I would simply just argue that he's
22 not qualified as an expert in this area. He -- for -- I
23 mean, I don't need to rehash it. It's late. You have heard
24 my questions and his answers and I just submit --

25 THE COURT: I have.

1 MR. BARFIELD: -- he's not qualified.

2 THE COURT: And I'm going to qualify him. I find
3 he is qualified, primarily based on -- not just the mere
4 fact that he has been previously in other courts deemed to
5 be qualified and has testified, but he's also published in
6 this area, and then along with the other things. I'm going
7 to find him qualified.

8 MR. JORDAN: Yes, sir.

9 THE COURT: Now, what's next.

10 MR. DUNN: Just before we call the jury, there is
11 two things that are going to have to go on the record. I
12 say we do it right now before we call the jury in.

13 One, we have to decide -- Mr. Perkins has to be
14 asked if he's going to testify. That has to be done at some
15 point.

16 And, two, we need to proffer the witness that the
17 court has indicated to me that is not being called. I'm
18 going to let Brad do that, because Brad is the one that
19 actually talked with her on the phone and will be able to
20 clearly give the facts to what could be testified to. I
21 don't want to jumble it up, but I think there is two things
22 that need to be addressed. And I'm just saying just do it
23 now, because the jury is not here and let's just get it over
24 with.

25 THE COURT: Well, let me ask you this. We are not

1 going to finish this case tonight, are we?

2 MR. BARFIELD: Is Mr. Hirsch going to be your
3 first witness?

4 MR. DUNN: Mr. Hirsch is going to be my first
5 witness, because he's got to go somewhere in the morning.

6 THE COURT: Well --

7 MR. DUNN: And I'm pretty sure that -- he may be
8 my last witness as well.

9 THE COURT: Well, we going to be back here
10 tomorrow?

11 MR. DUNN: Yes, sir, we can put these issues on
12 the record tomorrow. I just --

13 THE COURT: Let's do it tomorrow.

14 MR. DUNN: I want to make sure we don't --

15 ~~THE COURT: You don't get --~~

16 MR. DUNN: That's what I'm worried about it.

17 THE COURT: Mr. Jordan over here reminded me of
18 that.

19 MR. DUNN: Yes, sir.

20 THE COURT: Do you want to leave him here?

21 MR. DUNN: He's fine.

22 THE COURT: Okay. Now, we ready for the jury to
23 come back, or where are we? What are we doing?

24 MR. BARFIELD: The State is ready.

25 MR. DUNN: I'm ready.

1 Mr. Jordan is ready?

2 MR. JORDAN: Ready, Your Honor.

3 Is the court ready?

4 THE COURT: The court is ready.

5 Let's bring our jury back.

6 (The following takes place in the presence of the
7 jury panel)

8 THE COURT: Welcome back again, ladies and
9 gentlemen, and I apologize this time. You know, for the
10 most part I think so far this week when I have told you that
11 we are going to be back with you shortly, we have been back
12 with you shortly. Now, I have been doing this long enough
13 to know that I shouldn't tell you we are going to be back
14 with you in ten minutes. I should just say we are going to
15 be back with you as soon as we can. I apologize once again.

16 I believe we are now ready to receive additional
17 testimony.

18 MR. JORDAN: Yes, Your Honor.

19 Defense would call Alan Hirsch.

20 ALAN HIRSCH, having been first duly sworn,
21 testified as follows:

22 THE CLERK: State your full name.

23 THE WITNESS: Alan Hirsch.

24 MR. JORDAN: May it please the court?

25 THE COURT: Yes.

1 DIRECT EXAMINATION BY MR. JORDAN:

2 Q. Please state your full name.

3 A. Alan Hirsch.

4 Q. And, if you would, Mr. Hirsch, if you would try to
5 speak up so the jury can hear you and the solicitor can hear
6 you.

7 And where do you live?

8 A. Williamstown, Massachusetts.

9 Q. And what do you do there?

10 A. I'm a professor at Williams College, a professor of
11 legal studies.

12 Q. And specifically when you say legal studies, what do
13 you teach?

14 A. Law. I introduce students at a liberal arts college to
15 all aspects of the legal system.

16 Q. Are you married?

17 A. Yes.

18 Q. Do you have children?

19 A. Yes, three children.

20 Q. And, if you would, tell this jury your educational
21 background.

22 A. I graduated from Amherst College in 1981, and from Yale
23 Law School in 1985.

24 Q. And, if you would, briefly go through your work history
25 since Yale Law School.

1 A. Yeah. I worked for a judge on the United States Court
2 of Appeals for the Third Circuit as his law clerk for a
3 year.

4 And I did something similar, it's called a court
5 attorney for a New York state judge for a few years.

6 And then I worked at a place in Washington called the
7 Federal Judicial Center as a lawyer/writer.

8 And for the last fifteen year, or so, most of my
9 professional work has been teaching and writing about the
10 law and doing work as a trial consultant.

11 Q. And for the last five years, what have you been doing,
12 primarily?

13 A. I have devoted myself for the last five years largely
14 to the issue of false confessions.

15 Do you want me to talk about what I have done in that
16 area?

17 Q. Yes, if you would.

18 A. I started the first website devoted exclusively to that
19 subject and I still operate that site, and I write fairly
20 substantially on the subject of false confessions, and I do
21 work as a trial consultant and expert witness.

22 Q. And you said that you have studied false confessions,
23 and what do you mean by that?

24 A. In order to write in the literature, especially
25 scholarly works, in law journals, you need to be acquainted

1 with all aspects of this issue, and there is a very
2 extensive literature on false confessions - dozens of books
3 and scholarly articles.

4 Q. Can you name some of the legal publications on false
5 confessions and elaborate a little bit on those?

6 A. Sure. I think the seminal book in 1990, was called
7 Confessions in the Courtroom by two professors which gave
8 these three categories of false confessions which people had
9 not previously thought of. About a half-dozen years later
10 that same professor did a laboratory experiment, in which he
11 established certain kinds of interrogative pressures, that
12 is, things that police can do with people who are suspects
13 that might produce false confessions.

14 Other experts in the area have done observational
15 ~~studies where they have watched interrogations from a~~
16 two-way mirror, that sort of thing, to see what methods were
17 being used.

18 Other legal scholars and psychologists have written
19 decision theory and other materials which try to explain why
20 someone would confess falsely.

21 In 2004, there was a particularly important study.

22 Let me back up just one second.

23 Earlier DNA exonerations, that is people who were found
24 not guilty who had been convicted of a crime, there were a
25 couple hundred of those in the 1990's, and it turns out

1 roughly a fifth of those false -- wrongly convicted people
2 had confessed. And that led legal scholars and social
3 scientists to start paying more attention to the area and to
4 start digging to see if there were more of those, more where
5 those came from.

6 And the most thorough study to date was done in --
7 published in North Carolina Law Review in 2004, and it
8 identified 125 proven false confessions, which was valuable
9 in and of itself just as an indication that there were more
10 than people thought, but it also gave a base where we could
11 study those confessions. And I think people in the area are
12 virtually unanimous that that 125 was just the tip of a much
13 larger iceberg.

14 Q. You said that you had been published, is that correct?

15 A. That's correct.

16 Q. Have you been published in the area of false
17 confessions?

18 A. Yes, I have.

19 Q. And can you tell the jury about your publications?

20 A. Yeah, about half of them have been in scholarly law
21 journals; one in the Howard Law Journal and one in North
22 Dakota Law Review and one in Berkeley's Criminal Law Law
23 Journal.

24 And I have also been published in more mainstream
25 publications. One is called Legal Times, which is sort of

1 for attorneys, but it's not scholarship in the same weigh,
2 and a couple in the Los Angeles Times.

3 Q. Specifically, if you would, elaborate a little more on
4 the article in the Howard Law Journal.

5 A. The Howard Law Journal was an effort to understand the
6 interrogative process, how it is that police interrogate
7 people and how that may contribute to false confessions, and
8 it was doing that by looking at two hundred years of
9 interrogation; how people used to be interrogated, why that
10 got changed, how it's been changed since, how that fits with
11 current interrogative measures, things like that.

12 Q. And you mentioned your website?

13 A. Uh-huh.

14 Q. What's the name of that website?

15 A. ~~The Truth About False Confessions.~~

16 Q. And tell me what that website does.

17 A. Yeah, the purpose of that website is to educate the
18 general public, but also the legal community, about this
19 phenomenon, and so I have a frequently asked questions link,
20 which gives people the background. I have got recommended
21 literature. There are a number of permanent links, but in
22 addition I'm constantly posting new information, analysis,
23 cases, literature. So I have probably done hundreds of
24 posts since I started.

25 Q. And, in fact, was your website listed as one of the ABA

1 leading criminal law websites?

2 A. The American Bar Association did give it a nice
3 citation last year.

4 Q. And how many cases have you been retained as an expert
5 consultant or witness?

6 A. Twenty-four.

7 Q. And what areas were you asked to consult or be an
8 expert witness in?

9 A. False confessions with an emphasis on interrogations.

10 Q. And have you worked for both prosecution and defense?

11 A. Yes, I have.

12 Q. Have you ever been called to testify in court as an
13 expert consultant?

14 A. Yes, I have.

15 Q. In which states have you been qualified as an expert?

16 A. Massachusetts, Montana, and Kentucky.

17 Q. And what area were you qualified?

18 A. False confessions and interrogations.

19 Q. And is the area of false confessions a recognized field
20 of study?

21 A. Yes, very much so.

22 Q. And would you agree that -- is there an extensive
23 literature - books, scholarly works - related to this field?

24 A. Dozens -- dozens of books and scores of articles of all
25 stripes having to do with all aspects of the issue.

1 Q. And you mentioned some of the leading publications a
2 little bit earlier. Are you intimately familiar with those
3 works?

4 A. Yes, you really have to be, if you are going to
5 contribute to that literature, and I have made it a point of
6 doing that.

7 Q. Okay. And you have contributed to it?

8 A. I have.

9 Q. What exactly do you do to keep current with the area of
10 false confessions and interrogations?

11 A. To some extent that's a matter of checking the legal
12 databases periodically, but at this point I have reached the
13 point where whether a major development, someone usually
14 will let me know, either through my website or one of my
15 colleagues, so I don't have to be out there beating the
16 bushes too much.

17 Q. Mr. Hirsch, are you going to testify in this case as to
18 whether a false confession occurred or not?

19 A. No, I'm not going to testify about that.

20 Q. What is your testimony going to be about?

21 A. That would be for the jury to decide.

22 My testimony will concern the general background about
23 false confessions, what's known about them, and, in
24 particular, with an emphasis on the interrogation methods
25 that have been shown to participants.

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1 MR. JORDAN: Your Honor, we would offer Mr. Hirsch
2 as an expert witness in false confessions, with an emphasis
3 on interrogations.

4 MR. BARFIELD: The same objections I had earlier.

5 THE COURT: The court will note the objection and
6 will grant the motion.

7 MR. JORDAN: Thank you, Your Honor.

8 BY MR. JORDAN:

9 Q. Mr. Hirsch, I show you what's been marked as
10 Defendant's Exhibit No. 4 for identification previously.
11 Can you identify that document?

12 A. That's my curriculum vitae.

13 Q. And is that, I believe with one exception, a current
14 curriculum vitae?

15 A. That's correct.

16 Q. And what needs to be changed on that curriculum vitae?

17 A. It says that I have been retained as an expert
18 consultant and/or witness in twenty-one cases, but now it's
19 twenty-four.

20 Q. Okay. Other than that, is everything accurate?

21 A. Yes, it is.

22 MR. JORDAN: Your Honor, I ask that I be able to
23 publish this to the jury.

24 MR. BARFIELD: No objection. Well, other than my
25 running objection.

1 THE COURT: Running objection, certainly.

2 BY MR. JORDAN:

3 Q. Again, you have not been asked to give an opinion as to
4 what happened in this case?

5 A. That's correct.

6 Q. You are going to testify and help us and the jury
7 understand how false confessions could occur?

8 A. Correct.

9 Q. Do we know exactly how often false confessions occur?

10 A. No, there is no really no way of knowing that.

11 What we do know is there are now up to 250, roughly,
12 proven false confessions, and we have ample reason to
13 believe that this is just a small slice of the total number,
14 but no one is attempting to identify with precision how
15 many. That could not be done.

16 Q. And was there a study done in 2004, documenting 125
17 such cases?

18 A. That's correct.

19 Q. And can you tell the jury a little bit more about that?

20 A. Yeah. Well, one of the interesting things about this
21 study is you would ask how do you identify a proven false
22 confession. And what these authors found is there are four
23 different ways where you would know a confession is false
24 with virtual certainty.

25 One is DNA, and that's the bulk of these cases, is

1 where it turns out that DNA testing is available and it
2 exonerates the defendant, or implicates somebody else, and
3 that's actually a second category, where they find the real
4 culprit and there is no question about it, the proverbial
5 smoking gun.

6 There were also cases, fewer in number, but intriguing
7 where it turns out there was no crime committed at all. So,
8 for example, a murder case where the person shows up alive.

9 And then there were a similar sliver of cases in which
10 it turns out it was physically impossible for the defendant
11 to have committed the crime. For example, in one such case
12 the defendant was in jail on another crime at the time the
13 crime was committed. And there are other cases where it
14 turns out, unknown at the time the person was convicted and
15 his confession accepted as true, that he had an airtight
16 alibi.

17 So with these different categories, they encompass this
18 rather large number of proven false confessions.

19 Q. Was there a more recent book by Professor Richard Leo
20 published in 2008?

21 A. Yes, it was, and Professor Leo building on that study,
22 looking at some confessions that were not part of the 125
23 coerced and some that had occurred afterwards, concluded
24 that now the number is closer to 250.

25 Q. Really that would be just tip of the iceberg?

1 A. That's generally believed and that's my belief.

2 MR. BARFIELD: I object to the leading of the
3 witness.

4 THE COURT: Sustained.

5 MR. JORDAN: I'll move on, Your Honor.

6 BY MR. JORDAN:

7 Q. Are false confessions classified by category?

8 A. Yes, they are.

9 Q. By you and others --

10 A. Yes, there are --

11 Q. -- experts?

12 A. -- typically three kinds of false confessions, although
13 they can be overlap among them. I don't mean to say they
14 are completely separate categories.

15 ~~One is a voluntary false confession, where the~~
16 confessor comes forward - not in an interrogation, he's not
17 a suspect in a case. He will simply show up one day or pick
18 up the telephone and show up one day at the police office
19 and say "I did it."

20 A second category is are what are called coerced
21 compliant, coerced meaning it is in an interrogative
22 situation. The person is under some pressure. He's being
23 interrogated aggressively when he confesses and it turns out
24 falsely.

25 And a third we call coerced internalized. This is a

1 trickier, more unusual situation, but we find it in more
2 cases than you might think, where there is an interrogation,
3 there is pressure, and under that pressure the person
4 actually comes to believe that he or she committed the
5 crime. That's what we mean by internalized. So it's a
6 false confession, but the person actually believes it.

7 Q. Let's start with voluntary. People come forward and
8 confess on their own, is that correct?

9 A. Believe it or not, take a famous example. When the
10 Lindbergh baby was kidnapped, 200 people confessed, who
11 obviously hadn't done it.

12 Q. And what motive do they have for coming forward?

13 A. You know, there are a lot of different motives for a
14 voluntary false confession. As an example, it's notoriety.

15 ~~And I think with John Mark Carr and John Benoit Ramsey, you~~
16 saw something similar, but there are also people may come
17 forward to protect somebody else. It may be because they
18 feel guilty about something else they have done. There are
19 really no shortage of motivations for voluntary false
20 confessions, in my experience.

21 Q. It's not only in famous cases that you have find
22 voluntary false confessions, is it?

23 A. No. No, you pick up the newspaper, you are bound to
24 find one here and there. It happens.

25 Q. Let's talk about internalized false confessions.

1 You said that sometimes people come to believe that
2 they are guilty, or at least have some doubts?

3 A. Correct.

4 Q. Has there been any research done into those types of
5 cases?

6 A. Yes, there is.

7 Q. And can you tell me a little bit about that?

8 A. Well, those cases, not one hundred percent, but they
9 tend to fall into a certain category; that is, the
10 defendant, the false confessor in those kind of cases, in
11 internalized false confessions, tends to be someone who
12 distrusts his memory, maybe someone who has experienced
13 blackouts, maybe someone who has a drinking problem, someone
14 for other reason distrusts his or her memory. And in that
15 ~~circumstance, where the interrogators are telling you "we~~
16 ~~know you did it,"~~ and you don't trust your memory, at a
17 certain point you may begin to think, "huh, maybe I did it,
18 did it during a blackout," that kind of thing, and that's
19 the sort of thing we find with internalized false
20 confessions.

21 Q. And I think the third category was called coerced
22 compliant?

23 A. Correct. So that would be it's interrogative, there
24 are pressures, but the person knows he or she is innocent.
25 But in order to escape an unpleasant situation, and I

1 think -- I'm sure we will talk about this, but
2 interrogations can be a very unpleasant circumstance. In
3 order to escape it, or to gain some implied benefit, you
4 come to believe that you are just better off confessing for
5 some reason or other, the person knowing they are innocent,
6 which is why these are called compliance confessions, they
7 go along, they comply, and they nevertheless confess.

8 Q. So the interrogation techniques work?

9 A. Yeah. I mean, insofar as in that setting, the
10 interrogators are trying to break the person down. It's
11 working too well. It's breaking down an innocent person.

12 Q. Does this approach to interrogation have a name?

13 A. It's often called the Reid Method, because the leading
14 interrogation manual, the leading training group, is Reid
15 and Inbaugh, his partner, so we call it that, but there are
16 plenty of other manuals and teachers that teach roughly the
17 same interrogative strategies.

18 Q. And can you summarize for the jury what the Reid Method
19 is?

20 A. Yeah. It real consists of three essential steps.

21 The first is isolation. The suspect is placed away
22 from friends, family, a support group, and usually in a
23 small windowless interrogation room designed for this very
24 purpose.

25 The second step is what we call confrontation. That

1 involves the interrogators communicating to the suspect that
2 they know he is guilty, nothing he does will convince them
3 otherwise. They aggressively cut off his denial. They may
4 confront him with evidence, true or false, to show how he's
5 not going to convince them otherwise.

6 And then often that is accompanied by a third step,
7 which we call minimization, and that is a whole range of
8 potential comments which are designed to suggest to the
9 defendant that if you do confess, it won't be so bad. So it
10 may be suggested that there was provocation, or
11 justification, or some other mitigating circumstance, or
12 that he will get help rather than be punished, things like
13 that.

14 And the process together can be devastating, because on
15 ~~the one hand if you have convinced the person that you can't~~
16 convince to his innocence, on the other hand, it won't be so
17 bad if he confesses, that can lead people to decide they are
18 actually better off confessing.

19 Q. But how do we know that the Reid Method breaks down
20 innocent suspects?

21 A. We see it in many cases of proven false confessions. I
22 mean, we have also seen these results replicated in
23 laboratory experiments, but I think the most reliable source
24 of information is the cases where we have a proven false
25 confession, and we often see that the Reid Method was

1 resorted to, which is not surprising. It's the common
2 interrogation method.

3 And I should just add it's common for a reason. It's
4 an effective interrogation method. It makes sense that the
5 police would use this method on people they think are
6 guilty. The problem is, as I indicated earlier, this is a
7 method that works too well. It breaks down not only guilty
8 people, but also some who are innocent.

9 Q. You mentioned a lab study --

10 A. Uh-huh.

11 Q. -- that relates to the Reid Method. Could you
12 elaborate on that?

13 A. Yeah, in 1996, a professor had arranged for a bunch of
14 subjects to type an entry into a computer on a keyboard.

15 They thought they were participating in an experiment about
16 reflexes, I believe, and he warned them that if they hit the
17 wrong key, it was the escape key -- that was the alt key,
18 I'm sorry, the whole computer system would crash, so he told
19 them to be careful about that. So they are typing away and
20 someone, a confederate of the experiment, who charges in and
21 says "you hit the alt key. You caused the system to crash."
22 And naturally, originally, the subjects all deny it, that,
23 in fact, they did not hit that key, and, you know, so they
24 maintained their innocence, as you would expect. But it's
25 arranged so if someone who has been sort of hanging out in

1 the area claims to have witnessed the act. So you have got
2 an eyewitness confronting them. "No, you know, I really saw
3 you. You did hit that key." And lo and behold, and to some
4 extent you get the whole interrogative process playing out
5 in which they deny it, they're told "we are sure you are
6 guilty." Eventually a large percentage, I believe the
7 number is 69, actually signed a confession. And
8 interestingly a smaller percentage of those, but I believe
9 it was still a sizeable percentage, I believe at least 31
10 percent, confabulated details. They explained how they did
11 it. They would say "oh, yeah, well, my pinky slipped." And
12 all of this is suggestive of the process where people can
13 actually, first of all, can confess falsely when confronted
14 with alleged proof of their guilt; and secondly, can even
15 ~~come to believe that they did it when they said it.~~ But I
16 wouldn't say that laboratory experiment by itself proves
17 anything about false confessions. I think that it fits with
18 the much larger pattern of what we know, based on empirical
19 analysis and proven false confessions, observational
20 studies, and so forth.

21 Q. How could anyone, anyone who is innocent, think that
22 they are better off confessing?

23 A. One of the articles on this subject is called Rational
24 Choice Irrational Action. And the idea behind that is it
25 makes sense to think you are better off if you genuinely

1 believe you are sunk if you maintain your innocence and it
2 won't be so bad if you confess. Of course, that's not the
3 reality. You confess and you may end up spending your life
4 in jail. But this decision, this cost benefit analysis, is
5 conducted under circumstances which are designed precisely
6 to bring about anxiety, despair, and ultimately desperation.
7 That's what the isolation confrontation and minimization do.
8 They create a circumstance in which people really feel they
9 are actually it's the only escape is to confess, or at least
10 the path of least resistance, for they're cutting their
11 losses, or however you want to put it.

12 Q. Are there cases of false confessions where
13 interrogators utilize either confrontation or minimization,
14 but not the other?

15 A. Yes.

16 Q. Is there any way in which the Reid Method is especially
17 potent against an innocence suspect?

18 A. Yeah, studies find that a suspect who is innocent for
19 obvious reasons is more likely to aggressively deny the
20 accusations and resist the confrontation I have described.
21 And when the interrogator is convinced of guilt, that causes
22 him to ratchet up the confrontation and the aggressiveness
23 and you get this kind of self-spiraling cycle in which
24 things get out of hand fairly quickly and the subject is
25 even more likely to confess because innocent.

1 Q. So that cycle would be likely under those
2 circumstances?

3 A. It would be the under circumstances where, as it's not
4 uncommon with the Reid Method, the interrogator is convinced
5 of guilt.

6 Q. In any particular case, how can you tell whether or not
7 the Reid Method has been used?

8 A. Certainly the easiest way is where you have a fully
9 recorded interrogation and you can watch it.

10 Q. Or listen to it?

11 A. Or listen to it, in the case of it's audiotaped.

12 Q. What if it wasn't recorded? What if the interrogation
13 was not recorded?

14 A. It's very, very hard. I mean, at that point you are at
15 ~~the mercy of the people who were present, which would be the~~
16 interrogator and the suspect. And so often you get very
17 different stories about what happened in the interrogation.
18 So you from our standpoint a recorded interrogation is
19 necessary to give a reliable assessment of what
20 interrogation tactics were used.

21 Q. What if, from your standpoint, it was only a partially
22 recorded or partial --

23 A. Well, as you can imagine, it gives you part of an idea,
24 but it certainly doesn't give you a reliable basis for
25 assessing the extent to which the Reid Method was used.

ALAN HIRSCH - CROSS BY MR. BARFIELD

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1 Q. What about a situation in which a suspect has been
2 interviewed or interrogated several times and only the final
3 interrogation was recorded?

4 A. Yeah, that's not uncommon at all. I mean, one thing we
5 find, often the police rig up the equipment to do the
6 recording after the suspect is ready to confess, so we don't
7 see everything that preceded it. And at that point, since
8 the person is ready to confess, there is no reason to resort
9 to the Reid Method; so it may well have been used prior to
10 the commencement of the recording. So when you see only
11 part of a confession recorded, the reliability in terms of
12 assessing what methods were used, is very shaky.

13 MR. JORDAN: Beg the court's indulgence?

14 THE COURT: Yes, sir.

15 (Off the record)

16 (Back on the record)

17 MR. JORDAN: Please answer any questions that Mr.
18 Barfield may have for you.

19 MR. BARFIELD: Beg the court's indulgence just one
20 moment.

21 (Off the record)

22 (Back on the record)

23 CROSS EXAMINATION BY MR. BARFIELD:

24 Q. Mr. Hirsch, you're an attorney, is that correct?

25 A. Yes.

1 Q. You are not a medical doctor, are you?

2 A. No, sir.

3 Q. You are not a -- you don't have a Ph.D. in anything, do
4 you?

5 A. No, sir.

6 Q. You're not a psychiatrist, are you?

7 A. No, sir.

8 Q. You're not a psychologist, are you?

9 A. No, sir.

10 Q. You're not a mental health professional, are you?

11 A. No, sir.

12 Q. You're not a sociologist, are you?

13 A. No, sir.

14 Q. All right. I believe you testified that over the last

15 ~~five years, or so, you have basically focused your career on~~

16 making yourself an expert in the area of false confessions

17 and interrogations, is that an accurate assessment?

18 A. Largely, yes.

19 Q. And you, in fact, make a living from this?

20 A. Not exclusively. I teach, as I said, but I supplement
21 my teaching income with my consulting work.

22 Q. So you get paid to do what you are doing day, I guess
23 is my question?

24 A. That's correct, yes.

25 Q. And you flew here from Massachusetts sometime Wednesday

1 night, I think it was?

2 A. It seems like awhile ago, but yes.

3 Q. Believe me, you ain't been here as long as we have, but
4 you flew down here and somebody paid for you to fly down
5 here?

6 A. Not yet.

7 Q. Are you -- do you charge by --

8 A. I expect to be compensated.

9 Q. And I hope that you are.

10 A. Thank you.

11 Q. Do you -- Christmas is less than a week away.

12 A. I'll bet it doesn't come that soon, but if you want to
13 push the bureaucracy along, I would appreciate it.

14 Q. You get paid by the hour?

15 A. Yes, sir.

16 Q. And --

17 A. With a limit, usually.

18 Q. Well, how much are you going to bill on this case?
19 Rough, ballpark?

20 A. Can I give you an estimate?

21 Q. Yeah, please.

22 A. I think it will be in the neighborhood of \$6,000, not
23 counting expenses.

24 Q. All right. And on this case --

25 Well, let me back up. You have been consulted with

1 about two dozen -- well, precisely now two dozen times, is
2 that correct?

3 A. That's correct.

4 Q. And of the two dozen times, the twenty-four times that
5 you have been hired --

6 A. Can I question you for just a second?

7 Q. Yes.

8 A. It would be more than two -- those are cases in which I
9 have been retained. I have actually consulted considerably
10 more than that and often assist people without charging.

11 Q. All right. As lawyers, the distinction is this, is it
12 not, if I'm in private practice and I get retained by
13 somebody, that means they come in, we sign a contract, I'm
14 going to work for them, I get paid for it?

15 A. (Shaking head yes)

16 Q. Is that correct?

17 A. Yes.

18 Q. And consult -- being consulted could be something as
19 simple as a lawyer or colleague calling me and saying
20 "Barfield, you know, I got this case coming up and it's got
21 this issue in it. What do you think?" Is that accurate?

22 A. Yes.

23 Q. You have been hired, retained --

24 A. Correct.

25 Q. -- paid in twenty-four cases?

1 A. That's correct.

2 Q. And how many of those -- in how many of those were you
3 retained by the defense?

4 A. Twenty-three.

5 Q. All right, sir.

6 You said a little bit ago a couple of things.

7 Well, let me ask you this. You have been qualified to
8 testify as an expert in false confessions in courts in three
9 states, and congratulations, this is state number four, I
10 guess.

11 A. Thank you.

12 Q. How many have you been disallowed to testify as an
13 expert in false confessions on any prior occasions?

14 A. Well, it's a little fuzzy what you would count, but I
15 would say two or three.

16 Q. All right. One of them has been in your own state, is
17 that correct?

18 A. As I understand it. As I said, you seem to have more
19 information about that than I do.

20 Q. And when I'm referring to that, I'm talking about the
21 case of Norton Cartwright. You are familiar with that case?

22 A. Yes.

23 I should only add that my home state - you make it
24 sound as if this should be a home court advantage or
25 something - happens to be a state which is inhospitable

1 towards false confessions expert. A great many states,
2 including yours, are more hospitable, and I think that's a
3 good thing, and I welcome the southern hospitality.

4 Q. And that explains why you are on the witness stand here
5 but not in Massachusetts.

6 A. There you go, although I have testified in
7 Massachusetts as well.

8 Q. I understand.

9 Would it be accurate to say that you are an expert
10 primarily because, and I know that you will want to qualify
11 this, but primarily because you have studied and researched
12 and talked with other experts in the field?

13 A. I don't know that I would say primarily. I would say
14 the fact that I have written in the field and the fact that
15 ~~I have been retained a few dozen times would certainly~~
16 bolster my credentials.

17 Q. Have you performed any original research of a
18 scientific nature in the area of false confessions?

19 A. Well -- I don't want to quibble about terms, but I can
20 make it easy for you. There have been only a few laboratory
21 experiments in this area and I have not done those.

22 Q. All right. Most of the evidence -- most of the
23 information that forms the field of -- or the area of false
24 confessions is anecdotal evidence, is that correct?

25 A. I don't think that you would call it anecdotal. I

1 mean, I don't know. Again, I don't want to get -- quibble
2 about definitions, but when you have a study that identifies
3 a 125 proven false confessions and then you pick those cases
4 apart and see what features were common to those cases, I
5 don't think that I would call that anecdotal. I think that
6 would be -- if we are going to talk terminology, that would
7 be serious empirical work.

8 Q. When you talk about a hundred and -- the study in the
9 North Carolina Law Review, and I can't recall who you said
10 authored that study. Who is that?

11 A. Professors Drizin Leo.

12 Q. Drizin and Leo. They identified 125 proven false
13 confessions. Do you know over what period of time those
14 false confessions --

15 A. Yeah, it was primarily in the 1990's.

16 Q. Well, when you say primarily, are we talking about over
17 ten years?

18 A. Roughly.

19 Q. All right. And do you know during the 1990's, over
20 that roughly ten year period, in the United States of
21 America how many confessions there are?

22 A. I do not know, because nobody does.

23 Q. The --

24 A. The data on both number of overall confessions and the
25 number of proven false confessions is unknown.

1 Q. And I accept -- I don't necessarily say that I agree
2 with, but I understand that your testimony is that a 125 is
3 the tip of the iceberg?

4 A. Correct, and I could explain why I believe that.

5 Q. Well -- but would you agree that a 125 would be a
6 decimal point and lot of --

7 A. Yes.

8 Q. -- and -- hold on. And on lot of zeros before you even
9 get to a digit of the percentage of total confessions?

10 A. Yes. I believe if 125 were it, there were no more than
11 that, that would be a drop in the bucket of -- the number of
12 true confessions would be 99 percent plus. I agree to that.

13 Q. All right.

14 A. Which is why it's important that we know the 125 proven
15 ~~false confessions are not the limit, even close to it.~~

16 Q. And the reason that you can only tell us about a 125
17 and simply say that I believe that's the tip of the iceberg
18 is because isn't it virtually impossible to identify false
19 confessions, is it not?

20 A. Well, first of all, as I indicated under direct, the
21 number is now up to about 250.

22 Q. I'll give you 250.

23 A. Okay. It is difficult to identify proven false
24 confessions. For example, one of the reasons we are
25 fortunate enough to know that there were 250 is because of

1 DNA testing. Thank God for it. So if the Innocence Project
2 hadn't come along and started testing people who were
3 rotting away in jail, we could be having this discussion and
4 you would be telling me we don't know if there is any more
5 than ten false confessions. So we have been fortunate
6 enough to find that the number is 250, but what percentage
7 of people convicted of crimes who confess, or otherwise, get
8 the benefit of DNA testing?

9 Q. The bottom line is it's kind of hard to pick one out,
10 isn't it, unless we get lucky and there is a DNA
11 exoneration?

12 A. To know that a confession is false, there are the other
13 things I talked about, but you are absolutely right. It's
14 hard to identify them, which is one reason why the number
15 250 to my mind is a very impressive number, even though it's
16 so difficult to get a confession which you know is false, we
17 have still been able to identify 250 in a relatively short
18 period of study.

19 Q. All right. You said DNA exoneration is one way to
20 identify false confession. You gave a couple of others.
21 Physical impossibility, meaning I guess -- maybe an airtight
22 alibi maybe would be a physical impossibility of false
23 confession?

24 A. Correct.

25 Q. And a --

1 A. A crime wasn't committed.

2 Q. No crime was committed. Somebody confesses to
3 something that really didn't even constitute a crime?

4 A. Or the real culprit is apprehended, yeah. Those are
5 the four principle ways.

6 Q. Let's talk about the real culprit is apprehended. Are
7 you familiar with the research which deals with the
8 identification of a false confession under that category,
9 the real culprit is apprehended?

10 A. I am familiar with the study in the North Carolina Law
11 Review, the 125 proven false confessions, that they identify
12 a number of those cases and discuss them, yes.

13 Q. And do you know out of that 125 in the North Carolina
14 Law Review by Leo and Drizin, how many of them were the real
15 guy got caught?

16 A. I should know, but you caught me. The number is a lot
17 smaller than the number of DNA exonerations.

18 Q. All right. And isn't it accurate to say that in a lot
19 of the real-guy-got-caught cases, the real guy got caught
20 because the real guy confessed?

21 A. Yes and no. There would be some of those --

22 Q. I'll take the yes, and you can explain the no.

23 A. There would be some of those. However, where we talk
24 about a proven false confession, it wouldn't be simply
25 because someone else confessed. Those of us who are

1 skeptical of confessions, that's the last thing we would do
2 is say ahh, we know this a false confession because here is
3 someone else who has confessed to the crime, he must have
4 done it. It would be something about the second confession
5 which was corroborated or confirmed.

6 Q. Proven by DNA? Maybe DNA?

7 A. Yes.

8 Q. But maybe also details of the crime that only the
9 person that committed the crime could have known. Is that a
10 way that you can evaluate the truth of a confession?

11 A. One way that you would gauge the reliability of a
12 confession would be to look to see whether it identifies
13 details only the culprit would no, yes.

14 Q. All right, sir.

15 Now, let's talk about the Reid Method briefly.

16 The isolation step in the Reid Method is designed to
17 start wearing the guy down a little bit, kind of -- kind of
18 make him uncomfortable, so to speak, would that be accurate?

19 A. I think that's roughly accurate.

20 Q. And sometimes that can include physically uncomfortable
21 quarters --

22 A. Yes.

23 Q. -- like a room in August, when they got the thermostat
24 on 95?

25 A. It doesn't have to be that uncomfortable, but --

1 Q. But it could?

2 A. It could.

3 MR. JORDAN: Your Honor, I would just ask that the
4 solicitor allow him to finish his answer before he asks
5 another question.

6 THE COURT: Slow it down some, please, sir.

7 MR. BARFIELD: I apologize. I'm sorry.

8 BY MR. BARFIELD:

9 Q. Answer it, if you didn't.

10 A. I thought I did, but could you repeat the question?

11 Q. And I interrupted you again.

12 A. No, I think I acknowledged that you could have a warm
13 room.

14 Q. Okay. Physical discomfort is one way?

15 A. Yes.

16 Q. A person being interrogated, or fixing to be, waiting
17 on the investigator to come in, even to go to the bathroom
18 and not being allowed to go, that's one way --

19 A. Yeah.

20 Q. -- isn't it?

21 A. Yeah.

22 I just want to add, though, unless people get the wrong
23 idea, it often does not involve egregious, rudeness, the
24 sorts of things you are giving. It doesn't have to be a
25 very hot room. It doesn't have to be somebody who hasn't

1 been to the bathroom, but those things can be involved.

2 Q. You would agree, would you not, that the mere fact that
3 someone is in custody and very possibly wearing an orange
4 jumpsuit and real cheap flip-flops is not under good
5 circumstances from the get-go? That's where it all starts,
6 isn't it? He's in custody most of the time?

7 A. I would agree with you that interrogations have an
8 inherently, what I say, unpleasant aspect to them, yes.

9 Q. Now, any physical discomfort adds to the problems that
10 you say the Reid Method imposes?

11 A. Yes, that's correct.

12 Q. Those problems with the Reid Method that you cite are
13 ameliorated, I guess, by making the person being
14 interrogated more comfortable, is that accurate?

15 A. I would say the more comfortable the interrogatee is,
16 at the risk of stating the obvious, the less uncomfortable
17 he is, yes.

18 Q. All right. So when the -- we will call him a
19 defendant. When the defendant needs to go to the bathroom
20 and is allowed to, that kind of takes a part of that edge
21 off, doesn't it?

22 A. It does, but I just want to be careful again not to
23 give the wrong impression. There are certainly many cases
24 where the Reid Method is used and used aggressively and
25 breaks people down, including innocent people, where people

1 are allowed to go to the bathroom.

2 Q. Well --

3 A. But it's worse when they are not. We are in complete
4 agreement about that.

5 Q. Well, let me just -- I'm going to move on from that in
6 just a minute, but if you let him smoke, if you let him go
7 to the bathroom, if you give him a Coca Cola, if you
8 actually let him break the rules and bring the cigarettes
9 and the ashtray and the matches into the interrogation room
10 against Chester County policies, or some county policy or
11 some law enforcement policy, that ameliorates that a little
12 bit, right?

13 A. Yes.

14 Q. Okay. Now, do you know -- do you have any statistics
15 to tell us how often the interrogation is initiated by law
16 enforcement versus being initiated by the inmate --

17 A. No.

18 Q. -- or the defendant?

19 A. I do not.

20 Q. Would you agree that the initiation of an interview by
21 a defendant indicates a willingness of that defendant to
22 talk to the police? Is that one of those other things that
23 you are going to give me that's kind of goes without saying?

24 A. Well, I say it goes without saying that if someone
25 comes forward and asks to talk, that they want to talk, but

1 I would say without knowing what preceded them coming
2 forward, I'm not willing to make a statement about what
3 motivates their eagerness to talk.

4 Q. And you can't. I mean, you are not qualified, and
5 neither am I, to say what motivates anybody to talk, is that
6 accurate?

7 A. I don't know if no one is qualified, but you and I are
8 probably not.

9 Q. You and I are not, I guarantee you.

10 Would you agree that it's different if a defendant
11 says -- initiates the questioning, as opposed to law
12 enforcement summoning the person into the interview room?

13 A. It is different. I mean, I want to qualify that by
14 saying that, as I testified under direct, there are
15 voluntary false confessions, in which the person comes
16 forward. There is no interrogation at all and it's a false
17 confession.

18 But, yeah, it certainly presents a different
19 circumstance when someone is hauled off into an
20 uncomfortable interrogative setting than if somebody
21 volunteers for one.

22 Q. Does the interviewee ever practice the minimization
23 technique? Have you ever seen that?

24 A. I need you to elaborate.

25 Q. Okay.

1 A. I mean, it wouldn't --

2 Q. He is -- does the -- does the -- are you familiar with
3 cases in which the interviewee himself tries to minimize the
4 seriousness, the nature, the consequences of his actions?

5 A. Yes.

6 Q. Okay.

7 A. I resisted your first question, I suppose, because I
8 don't know that I would call it a technique when the
9 interviewee is doing it, but, yes.

10 MR. BARFIELD: Beg the court's indulgence for one
11 moment.

12 THE COURT: Yes, sir.

13 (Off the record)

14 (Back on the record)

15 BY MR. BARFIELD:

16 Q. Oh, let's get back very briefly to the isolation stage,
17 and maybe this doesn't all fall within the isolation stage,
18 but the length of the interrogation is significant, is it
19 not?

20 A. Yes, it is.

21 Q. And a marathon, 10, 12, sometimes 24 hour interview, is
22 potentially problematic, correct?

23 A. You get a lot lower than that in time, and I would say
24 you hit six hours and it's very problematic.

25 Q. All right. Time of day has to a lot to do with sleep